

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY

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:
PETITION OF ABC LOVING CHILD CARE : Case No. SE-13-01
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A hearing in the above-entitled matter was held on June 11, 2013, commencing at 9:40 a.m., at the Office of Zoning and Administrative Hearings, 100 Maryland Avenue, Stella B. Werner Council Office Building, Rockville, Maryland 20850
before:

Tammy CitaraManis
Hearing Examiner

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A P P E A R A N C E S

On Behalf of the Petitioner:

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

2 MS. CITARAMANIS: Today is June 11, 2013. We are

3 calling the case, SE 13-01. It is the Loving Child Care

4 Center reconvening to set another date for rebuttal, sur-

5 rebuttal, closings. So at this point, let's hear from the

6 applicant what the status is of your papers with SHA.

7 MS. LEE-CHO: For the record, Soo Lee-Cho with the

8 law firm of Miller, Miller and Canby on behalf of the

9 petitioner. We have had conversations with the State

10 Highway Administration, as well as Park and Planning Staff,

11 and we do believe that we understand what is being

12 requested.

13 MS. CITARAMANIS: Okay.

14 MS. LEE-CHO: Unfortunately, what is being

15 requested will take some time to prepare. It's not simply

16 a, the narrative reports that have already been generated.

17 The State Highway Administration is looking for a graphic

18 depiction of the site distance for the site which will

19 require taking spot elevations of Layhill Road. A survey

20 crew essentially will have to be sent out and we've made our

21 calls to civil engineering firms that are capable of doing

22 that.

23 The traffic engineers that, at least the traffic

24 engineer for petitioner, Mr. Joe Cutro, he is, he does not

25 have a survey crew capable of doing that type of work. So

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1 it's normally, that type of work is done by civil

2 engineering firms in conjunction with, you know, analysis by

3 traffic engineering. But, so in other words, it will take

4 us two to three weeks to -- that's the estimate that I

5 received from the firm that we consulted yesterday to

6 complete the site distance -- or the survey more and

7 provide, create the graphics that the --

8 MS. CITARAMANIS: Okay.

9 MS. LEE-CHO: -- State Highway is looking for. My

10 understanding is upon submission, the State Highway will

11 take another three weeks for them to respond. So if the

12 Hearing Examiner is looking for the State Highway input and

13 Park and Planning review of that, those profiles before our

14 next hearing, that constrains our ability to schedule.

15 MS. CITARAMANIS: Right.

16 MS. LEE-CHO: Before the Hearing Examiner came in,

17 we had a brief discussion about the dates --

18 MS. CITARAMANIS: Okay.

19 MS. LEE-CHO: -- and I think we can talk about

20 that. For the petitioner, the dates except July 18th and

21 19th.

22 MR. KNOPF: I think that's, those are not

23 available. I mean you can --

24 MS. LEE-CHO: Those are not available then.

25 MR. KNOPF: I mean as a practical matter --

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1 MS. LEE-CHO: As a practical matter, I don't think

2 we can make those dates anyway.

3 MS. CITARAMANIS: I, based on --

4 MS. LEE-CHO: My expert is also not available.

5 MS. CITARAMANIS: Right.

6 MS. LEE-CHO: -- for that, for those dates.

7 MS. CITARAMANIS: Plus for sufficient time for

8 everything, for everybody to review it.

9 MS. LEE-CHO: We are available the dates in

10 August.

11 MS. CITARAMANIS: Okay.

12 MS. LEE-CHO: I think to be conservative, you

13 know, we, that I understand from Mr. Knopf's, his vacation

14 schedule, I don't think -- he's not available.

15 MS. CITARAMANIS: Okay. Well, I'll ask him in

16 just a second. Let me just let you finish.

17 MS. LEE-CHO: I think conservatively August 8th or

18 9th would give sufficient time for State Highway review, but

19 July --

20 MS. CITARAMANIS: Okay. So --

21 MR. KNOPF: Wait a minute. Let's pause on that.

22 It's three weeks --

23 MS. CITARAMANIS: Okay. Let me --

24 MR. KNOPF: -- and then --

25 MS. CITARAMANIS: -- let me ask and then --

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1 MS. LEE-CHO: Well, my, this is my estimate.
2 MS. CITARAMANIS: -- just so that I have the
3 understanding.
4 MS. LEE-CHO: I think petitioner can commit to
5 getting it done by July 1st or getting it to State Highway
6 and --
7 MS. CITARAMANIS: Just your application?
8 MS. LEE-CHO: Right, just our --
9 MS. CITARAMANIS: Okay.
10 MS. LEE-CHO: -- site distance profile. We would
11 get to contract with the civil engineering firm to do the
12 work, but that can be taken care of quickly and then
13 implement. So two to three weeks, July 1st, I think that's
14 fair. From that point on, it's a matter of, you know --
15 MS. CITARAMANIS: State Highway.
16 MS. LEE-CHO: -- State Highway and then however --
17 MS. CITARAMANIS: However, I believe they
18 indicated to me when I was on a conference call with them
19 and Staff was 28 days. They said that there are times that
20 maybe they can do it short, but --
21 MS. LEE-CHO: Right.
22 MS. CITARAMANIS: -- being in the summer,
23 obviously we all have the, you know, the vacation conflicts.
24 It's what we all look forward to. So I hear you on that.
25 MS. LEE-CHO: And I do think that the State

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1 Highway's conclusions or response to what petitioners will
2 impact what I, what we present, frankly, for the terms of a
3 rebuttal case, you know, and mainly certain issues. So I do
4 believe it's important to get that response before we have
5 the next hearing.
6 MS. CITARAMANIS: Well, there's no question that I
7 would like to have it because I have two competing experts
8 and neither one is -- I just, Staff needs to weigh in and
9 Staff won't weigh in without SHA. And if you, there's a
10 process in place to evaluate that for that particular issue,
11 then I think it's essential, okay?
12 All right. So, Mr. Knopf.
13 MR. KNOPF: Well, I'm just trying to understand
14 based on what she said seems, if SHA gets it back July 1 and
15 you said staff needed up to 28 days because it is the
16 summer --
17 MS. CITARAMANIS: SHA indicated that it was a
18 28-day general --
19 MR. KNOPF: Oh, SHA?
20 MS. CITARAMANIS: SHA.
21 MR. KNOPF: I'm sorry. And --
22 MS. CITARAMANIS: Yes. And Staff, no, I think
23 staff would probably be relatively quick once they hear from
24 SHA, once the results of SHA's --
25 MR. KNOPF: Oh, okay. Well, then and once that

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1 gets done --
2 MS. CITARAMANIS: -- so --
3 MR. KNOPF: -- we, of course, want just a little
4 bit of time at least to have our next look at the, whatever
5 they, both agencies produce, we want somebody to look at
6 that.
7 MS. CITARAMANIS: Well, let me ask you this. Have
8 you contacted SHA to find out how or if they will take
9 anything from you or are you looking at it from once they
10 submit it, then you want to be able to have a witness review
11 it and then testify to --
12 MR. KNOPF: Right. We did, we said, look, and
13 here's what we have if it's any help and they indicated that
14 they would weigh -- we sent it to, we sent what we filed
15 with you and they said that they would look at that after
16 they got whatever they were going to request the applicant
17 to do, which we didn't understand.
18 MS. CITARAMANIS: All right.
19 MR. KNOPF: Now I understand it.
20 MS. CITARAMANIS: Yes.
21 MR. KNOPF: She just explained it. So then --
22 MS. CITARAMANIS: That makes sense.
23 MR. KNOPF: -- they're going to look at
24 everything. And then we would need a little bit of time to
25 look at whatever the two agencies said. I'm wondering, that

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1 being said, because I do -- we have some scheduling problems
2 here between me and between our expert. I'm wondering, can,
3 do you think the 25th? That's a date that's --
4 MR. OROBONA: No, July 25th.
5 MR. KNOPF: I don't know whether -- July 25th
6 isn't going to work.
7 MS. CITARAMANIS: But it doesn't sound like July
8 25th would work even for you if you -- assuming they get it
9 in by the 1st, their application in, I mean State Highway
10 might not be able to have anything done before the end of
11 July --
12 MR. KNOPF: July.
13 MS. CITARAMANIS: -- based on their 28-day period.
14 MR. KNOPF: Yes.
15 MS. CITARAMANIS: So it looks like it's --
16 MR. KNOPF: Well, now in August --
17 MS. CITARAMANIS: -- in August.
18 MR. KNOPF: -- the problem --
19 MS. CITARAMANIS: I know that's --
20 MR. KNOPF: Let's see. So if they, so we're going
21 to do -- is it July 1 before the SHA, you're going to have
22 the report back?
23 MS. LEE-CHO: No.
24 MS. CITARAMANIS: No, that's when their --
25 MR. KNOPF: No, that's what you're getting it to?

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1 MS. CITARAMANIS: -- application --
2 MR. KNOFF: Application. Okay.
3 MS. CITARAMANIS: Their --
4 MR. KNOFF: So we won't get, we won't get
5 something, let's assume we won't get something back until
6 the end of July from SHA.
7 MS. CITARAMANIS: Correct.
8 MR. KNOFF: Then it goes to Park and Planning and
9 to our experts, whatever they say because we're going to
10 want your guys to look at it too.
11 MS. LEE-CHO: Well, I mean the State Highway
12 Administration is going to render its conclusions. I mean
13 that's, I mean that's -- it is what it is. I'm not going to
14 have my -- and I don't think there's an expert evaluation in
15 State Highway's conclusions per se. I mean maybe in a day's
16 review is sufficient.
17 MR. KNOFF: Yes, I'm not saying a long time.
18 MS. CITARAMANIS: Yes, and based on Staff, I mean
19 Staff, I mean it's down to the isolated issue of site
20 distance and in talking with Staff, they had already -- I
21 mean it was based on their report, they didn't think there
22 was a site distance issue when they issued their report and
23 the reason site distance is being raised is because you have
24 raised it, which is fine, and being a State Highway, State
25 Highway reviewing it is applicable. So in terms of how long

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1 State, Technical Staff will take, I'm going to go with what
2 they said before, which is maybe a couple of days because
3 really they're waiting for the information to come back from
4 State Highway is what I'm --
5 MS. LEE-CHO: And let me, let me clarify. I mean
6 this site distance profile that State Highway is
7 requesting --
8 MS. CITARAMANIS: Yes.
9 MS. LEE-CHO: It essentially is the third
10 verifying survey site distance analysis. So I mean they're
11 not, you know, my civil engineer is not going to take Mr.
12 Cutro's measurements at face value. They're going out there
13 to now verify these numbers and that's what State Highway is
14 looking for.
15 MS. CITARAMANIS: Right. No, it was my
16 understanding that -- it's essentially they're doing their
17 own, but you --
18 MS. LEE-CHO: Right.
19 MS. CITARAMANIS: -- have to apply for it and give
20 them the numbers and then, so it is --
21 MS. LEE-CHO: In a sense, it's kind of a third --
22 it's an arbitration of this issue. It's basically State
23 Highway arbitrating the issue with a different method of
24 looking at it and it is what it is.
25 MS. CITARAMANIS: It is what it is and certainly

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1 the opposition can present whatever --
2 MR. KNOFF: I mean we may agree with you. We may
3 not, but I have to show it to our experts to let you know
4 what the conclusion is.
5 MS. LEE-CHO: Well, they'll have it. You know,
6 the opposition will have it when I submit it to State
7 Highway. I mean they will have the full 28 days to evaluate
8 what I submit to State Highway myself, so, for themselves.
9 MR. KNOFF: No, we need --
10 MS. CITARAMANIS: Just what State Highway said?
11 MR. KNOFF: -- what State Highway --
12 MS. LEE-CHO: Well, let --
13 MS. CITARAMANIS: Exactly. They're -- and so what
14 I'm understanding from you is your have this large
15 application that you have to fill out and a civil engineer
16 survey, all your numbers, graphics, they're going to take
17 that and go out there and do an onsite, confirm those
18 measurements or --
19 MS. LEE-CHO: They will issue a letter.
20 MS. CITARAMANIS: -- and they, then they will
21 issue a letter either confirming or saying --
22 MS. LEE-CHO: There's a problem.
23 MS. CITARAMANIS: -- the numbers are wrong and --
24 MS. LEE-CHO: There's a problem. There may be --
25 MS. CITARAMANIS: Okay.

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1 MS. LEE-CHO: -- remedies, mediation. You may
2 have to do something to improve site distance.
3 MS. CITARAMANIS: Okay. Okay.
4 MR. KNOFF: Okay.
5 MS. CITARAMANIS: So with that in mind --
6 MR. KNOFF: Then the other thing is, I'm just
7 trying to time you, Park and Planning are going to want to
8 have input from them and I just -- we need to be a little
9 leery. That's, now we're up to August and Park and
10 Planning, getting something out of Park and Planning before
11 August. So it would probably have to be in August toward
12 the -- my problem is --
13 MS. CITARAMANIS: You're talking about Technical
14 Staff.
15 MR. KNOFF: Getting back with -- you're going to
16 want to have their comments and I don't -- it could take
17 longer than normal because that is vacation time, at
18 least --
19 MS. LEE-CHO: The Planning Board is out of
20 session, but the Staff is working so --
21 MS. CITARAMANIS: Right. I don't think I have to
22 go back to Planning Board.
23 MR. KNOFF: No, no, no, no, no, no, no.
24 MS. CITARAMANIS: No. It's Technical Staff.
25 MR. KNOFF: But it depends on whether the --

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1 MS. CITARAMANIS: True.
2 MR. KNOFF: -- that staff person is taking a
3 vacation that week or whatever.
4 MS. CITARAMANIS: Okay.
5 MR. KNOFF: Anyway, the problem is we were talking
6 about having it maybe toward the end of August, but you're
7 saying that that's a merits --
8 MR. AREM: Merits.
9 MR. KNOFF: -- not -- my expert is not, that's his
10 vacation. He's already -- so we have a problem.
11 MS. LEE-CHO: I don't see a problem with August
12 9th, so petitioner will, can, I think it's --
13 MR. KNOFF: August?
14 MS. LEE-CHO: -- you know, unless there's some
15 other --
16 MR. KNOFF: August 5th is the only date that I can
17 do. He's going out of the country and that's his, from
18 beyond the 5th to the end of the month he's out.
19 MS. LEE-CHO: August 5th will work.
20 MR. KNOFF: Let's see, what day is August 5th?
21 MS. CITARAMANIS: August 5th?
22 MS. LEE-CHO: It's a Monday.
23 MR. KNOFF: That's a, not --
24 MS. CITARAMANIS: It's a Monday.
25 MR. KNOFF: It's -- see, that's not, now I cannot

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1 do it that week.
2 MS. CITARAMANIS: Okay. You have to speak up so I
3 can hear you.
4 MR. KNOFF: I cannot --
5 MS. CITARAMANIS: You're mumbling to yourself.
6 MR. KNOFF: No, I cannot -- I cannot do it the
7 first two weeks in August. We can do it later in August.
8 (Discussion off the record.)
9 MR. KNOFF: That's a real problem.
10 MS. CITARAMANIS: Well, let Mr. Arem.
11 MR. KNOFF: When is he coming back?
12 MR. AREM: Can we request possibly additional
13 dates in September and then we'll discuss with our expert
14 again, see when, exactly when he'll be returning because my
15 conversations with Mr. Mehra were based solely on the dates
16 provided to us.
17 MS. CITARAMANIS: Right. Well --
18 MR. AREM: Which only went through August 9th. So
19 perhaps --
20 MS. CITARAMANIS: Well, that's all that --
21 MR. AREM: Right, so --
22 MS. CITARAMANIS: -- the front office gave me.
23 MR. KNOFF: Right.
24 MR. AREM: So, I mean perhaps if we could extend a
25 little bit further out, I could find out from Mr. Mehra when

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1 he'd be returning and we can take it from there, but it's
2 kind of hard for me to speak to exactly when he'll be
3 returning from his vacation.
4 MR. KNOFF: Maybe we can just take one, can we
5 take a 5-minute break, we'll try to call him then?
6 MS. CITARAMANIS: Well, we can certainly do that,
7 but I want to hear from the applicant.
8 MS. LEE-CHO: I do think that a further delay of
9 this into September is quite burdensome for the petitioner
10 in light of this issue having been raised only as a result
11 of opposition raising it, we're trying to essentially moot
12 the issue and we believe we can. And then to have this
13 kicked into September because the opposition expert is not
14 available, we're trying to be as accommodating as possible.
15 One other option might be to press State Highway
16 to review more quickly than their 28 time frame. I don't
17 know how successful we'll be. But I'm more inclined to do
18 that and get this thing over with than to push this into
19 September.
20 MS. CITARAMANIS: Okay. I mean that's reasonable,
21 but --
22 MR. KNOFF: I understand that.
23 MS. CITARAMANIS: -- at the same time I want this
24 to be complete.
25 MR. KNOFF: I, I, and that's why I want to call

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1 Mr. Mehra, but I would just like you to know that one delay
2 was due to the vacation schedule of the applicant and
3 another delay was due to the vacation schedule of Mr. Cutro.
4 So it isn't all on us.
5 MS. CITARAMANIS: No.
6 MR. KNOFF: These things happen.
7 MS. CITARAMANIS: These things happen, I
8 understand --
9 MR. KNOFF: And --
10 MS. LEE-CHO: And I clarify --
11 MS. CITARAMANIS: -- but let's --
12 MS. LEE-CHO: -- we never continued because of Mr.
13 Cutro's vacation schedule. We went forward with the hearing
14 without Mr. Cutro.
15 MR. KNOFF: I know, but now we have --
16 MS. CITARAMANIS: Okay.
17 MR. KNOFF: If we could try to call, because we
18 just do not --
19 MS. CITARAMANIS: Okay.
20 MR. KNOFF: Find out from --
21 MS. CITARAMANIS: If you could try and call and
22 see the 5th, but let me throw out even another idea that may
23 be acceptable, if it's acceptable to applicant, both sides,
24 that if this analysis is based on reviewing what State
25 Highway has to say, whether you would accept a written

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1 report from him in lieu of testimony unless, of course, you
2 can certainly put him back up, but if that is an option
3 that --
4 MR. KNOPF: Well, my understanding is, though,
5 that Mr. Cutro is going to testify as part of the sur-
6 rebuttal. So --
7 MS. LEE-CHO: Just --
8 MR. KNOPF: -- in part --
9 MS. CITARAMANIS: Rebuttal.
10 MR. KNOPF: Excuse me.
11 MS. CITARAMANIS: Rebuttal.
12 MR. KNOPF: Rebuttal. And so we would want our
13 expert to hear what he has to say and then --
14 MS. LEE-CHO: I mean it really does depend on the
15 State Highway coming back.
16 MR. KNOPF: That's right.
17 MS. LEE-CHO: I mean if --
18 MS. CITARAMANIS: Okay. I just wanted to throw
19 that out there as an option, but it would certainly require
20 your side to accept it and not say you need to cross-examine
21 him, which you have every right to, but if -- to move it
22 forward. Okay. So then why don't we just take a few minute
23 break so he can call his expert and see if the 5th -- did
24 you say just the 5th or the 8th?
25 MR. KNOPF: No, to see whether more toward the end

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1 of -- I --
2 MR. AREM: In August right now, Mr. Mehra is
3 available August 5th --
4 MR. KNOPF: And I'm not.
5 MS. CITARAMANIS: Okay.
6 MR. AREM: -- and he leaves --
7 MS. CITARAMANIS: And you're not?
8 MR. KNOPF: But we want to see when he's coming
9 back from out of the country, if there's other dates in
10 August. We didn't go beyond what, the dates you gave us.
11 MR. AREM: Right.
12 MS. CITARAMANIS: Right.
13 MR. KNOPF: We went up to -- it went up --
14 MS. CITARAMANIS: Okay.
15 MR. KNOPF: Yes. So he may be coming back --
16 MS. CITARAMANIS: When does he leave out of the
17 country?
18 MR. AREM: After August 5th. Yes, I mean because
19 the 8th and the 9th he has stricken as a possible.
20 MR. KNOPF: So he's gone for two weeks and then we
21 can do it, but let's not say that --
22 MS. CITARAMANIS: So your side is not available in
23 August at all?
24 MR. KNOPF: No, no. No, he -- I mean the, he may,
25 if he's coming back from vacation in mid-August or

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1 something, maybe we can get to do it --
2 MS. CITARAMANIS: Oh, okay.
3 MR. KNOPF: That's what we have to find out. We
4 stopped at the 9th. He was not available the 8th or the 9th
5 because he was going out of the country. We didn't ask him
6 when he was coming back because we didn't have any dates
7 beyond that. Now that's what we're going to call and ask.
8 MS. CITARAMANIS: Okay. Well, let me make sure
9 this side wouldn't have any problem with if they would come
10 back with a date two weeks --
11 MS. LEE-CHO: We'd have to check with our expert.
12 We also only checked through the 9th.
13 MS. CITARAMANIS: Yes. I thought this was plenty
14 of time, plenty of dates, so --
15 MS. LEE-CHO: Because it's -- I mean I guess the
16 first step is to find out Mr. Mehra's availability beyond
17 the 9th in the month of August.
18 MS. CITARAMANIS: Right. And I also have to see
19 what availability is and I think generally they don't hold
20 hearings in August.
21 MR. KNOPF: Very wise decision.
22 MS. CITARAMANIS: Because of this reason. Okay.
23 So why don't you -- you do that. Do you want to -- SHA, is
24 there a possibility you can contact them and see if --
25 MS. LEE-CHO: I can try to reach Mr. Newill.

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1 MS. CITARAMANIS: I mean I would hate for it all
2 to fall apart if they think they can do it, but then they
3 end up not being able to. So --
4 MS. LEE: I mean I think most certainly they can.
5 I just, I think they give you a standard 20-day
6 turnaround --
7 MS. CITARAMANIS: Yes.
8 MS. LEE: -- just to give them their --
9 MS. CITARAMANIS: Okay.
10 MS. LEE: -- sufficient time.
11 MS. CITARAMANIS: All right. So we'll take a few
12 minute break and I'll go in there and get other dates just
13 in case, okay?
14 MR. AREM: Okay.
15 MR. KNOPF: Okay.
16 MS. LEE: Just one note though, Mr. Orobona made a
17 good point. I think oftentimes their motivation to get it
18 done faster may be directed by a request by a hearing
19 examiner to do so. I mean I -- it just depends -- I guess
20 if you're willing to kind of put that type of pressure on
21 State Highway or not. If I call and ask, he'll probably --
22 MR. OROBONA: He's going to say no.
23 MS. LEE-CHO: -- just give us, you know, the
24 standard 28 days.
25 MS. CITARAMANIS: Right. Okay. Well, with that

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1 option, then we're still only looking at the 22nd or the
2 25th --
3 MS. LEE-CHO: 25th.
4 MS. CITARAMANIS: -- of July. If that is the
5 case, did you have responses, was the only two dates that
6 Mehra wasn't available was the 8th and the 9th? You could,
7 you could --
8 MR. KNOPF: We could do the 22nd or the 25th.
9 MR. AREM: No, the only potential conflict with
10 the 25th is Mr. Mehra has a Planning Board hearing, but he's
11 not sure of the timing yet. So I'm not sure when on the
12 25th he would be available.
13 MR. KNOPF: Because that's a Thursday?
14 MR. AREM: Right.
15 MS. CITARAMANIS: Does the Planning Board meet
16 during the day or the evening?
17 MR. KNOPF: Yes.
18 MS. CITARAMANIS: I was on the Planning Board in
19 Howard County. We met at night.
20 MS. LEE-CHO: They start at 9:30 in the morning.
21 MR. KNOPF: And frequently go into the evening,
22 but --
23 MS. CITARAMANIS: Oh, okay. All right.
24 MR. KNOPF: But that would perhaps work.
25 MS. CITARAMANIS: Right, because they could put on

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1 their case and maybe he could get asked to be heard first.
2 MR. KNOPF: That's the 28th? They haven't
3 scheduled it yet. He could be asked and okay. Let's see
4 what we can do.
5 MS. CITARAMANIS: Okay. So, no, I don't have any
6 problem asking SHA to be complete before the 25th so that,
7 give you a few -- you're thinking.
8 MR. KNOPF: Yes. No, I, I, since I don't know
9 enough about it, but I think I know enough that our,
10 depending on the study, our expert may want to look at it
11 and he might want to check something. So I don't want to
12 have one of these where they hit the report that night and
13 he goes on and testifies the next morning.
14 MS. CITARAMANIS: Well, is --
15 MR. KNOPF: That's, you see --
16 MS. LEE-CHO: This is my point. Your expert will
17 have what I submit to State Highway on July 1st.
18 MR. KNOPF: Oh.
19 MS. LEE-CHO: So he can take that and --
20 MR. KNOPF: Well, I need what the Highway is going
21 to find, the State Highway Administration is going to find.
22 MS. LEE-CHO: But the, what I'm going to provide,
23 State Highway will have, you know, the numbers and it's not
24 something that State -- it will be transparent. It's not
25 like it goes into a black box, State Highway does something

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1 with it and then it, you know.
2 MS. CITARAMANIS: State Highway is going to --
3 MR. KNOPF: Just review them.
4 MS. CITARAMANIS: -- have all of the applications.
5 It sounds like it's fairly extensive and it's going to have
6 all the numbers and the role of State Highway is to review
7 it and say we've gone out and we've tested it and these
8 numbers are correct or we've gone out and we've tested it
9 and this number is not correct and this is what, and this is
10 what you would need to do to make it correct.
11 MS. LEE-CHO: Right.
12 MS. CITARAMANIS: So it's a checks and balances
13 kind of thing. So what -- I don't think what you're going
14 to be getting back is going to be a 10-page new report of
15 more than just I have this report and I'm going to verify
16 that it's correct. Is that a correct --
17 MS. LEE-CHO: And the graphic depiction is
18 essentially, the State Highway wants to see the, I guess,
19 the elevation of --
20 MS. CITARAMANIS: Yes.
21 MS. LEE-CHO: -- Layhill Road at the, you know, as
22 it --
23 MS. CITARAMANIS: It should be very helpful.
24 MS. LEE-CHO: -- crests and all of that. So I
25 mean I think your expert can evaluate it.

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1 MS. CITARAMANIS: So --
2 MR. KNOPF: Wait. As long as we have the
3 understanding, because I can think of things, what you
4 submitted and the State Highway said okay and our guy said,
5 no, they'll only consider A, B and C, we will know then
6 early in July and then we can take steps if that, if that
7 remote possibility comes true. I don't want to try and
8 delay anything. I just -- if there is a problem, let me
9 talk to our expert. He may be able to do his study,
10 correct? Just, that's not what you want, what you want.
11 You're going to want to have State Highway come in on that
12 problem.
13 MS. CITARAMANIS: We need State Highway --
14 MR. KNOPF: Right.
15 MS. CITARAMANIS: -- so that Technical Staff can
16 weigh in and, you know, modify the report and say we stand
17 by our original report and find that there is no traffic
18 safety issue or whatever. I mean that's what they're
19 waiting for is the input from the State Highway.
20 MR. KNOPF: Well, let me talk to our expert
21 because it would be better if, I mean we'll know after I
22 talk to him.
23 MS. CITARAMANIS: Okay.
24 MR. KNOPF: Let's try to get --
25 MS. CITARAMANIS: Okay. All right. We'll take a

1 few minute break.

2 (Recess)

3 MS. CITARAMANIS: Okay. So what, where are you,
4 Mr. Knopf?

5 MR. KNOPF: The, he has confirmed that there is a,
6 he could well, once he gets their report and then he sees
7 the State Highway Commission's, State Highway
8 Administration's response, he could well, decide that there
9 is additional, there are problems and he's going to have to
10 check out. So he can't -- he'd need a little time,
11 otherwise it could be -- and I have certain things in mind,
12 but I'm not about to start speculating here.

13 MS. CITARAMANIS: What do you mean you have
14 certain things in mind?

15 MR. KNOPF: That may have to be checked out. He
16 may need to do some more study.

17 MS. LEE-CHO: Why does it depend on State
18 Highway's response? Why can't he check out -- he's going to
19 have what I submit.

20 MR. KNOPF: Because what he, what I'm concerned
21 about for my client is if State Highway comes back and says
22 there are the same deficiencies that my expert is going to
23 identify, I don't want to have my client needlessly spend
24 money to do the study that the State Highway Administration
25 is going to say you have to do because yours was deficient.

1 MS. LEE-CHO: The package that we submit will have
2 the number, so if it's deficient, you'll see it on July 1st.
3 Now what State Highway decides to do with that deficiency is
4 their opinion. But you will see on July 1st whether the
5 numbers are closer to my expert's or your expert's. So --

6 MR. KNOPF: If your, if the State Highway says you
7 did not -- this, you cannot use this number because you
8 didn't do A, B and C, I understand you'll have to go back
9 and do A B&C and I don't want my client to pay for that
10 needlessly and, when you're going to have to do it anyway.
11 So we need a little bit of time.

12 MS. CITARAMANIS: I'm not sure I understand --

13 MS. LEE-CHO: Yes, I don't understand.

14 MS. CITARAMANIS: -- what you're trying to convey.
15 Why would your client have to do it if State Highway --

16 MR. KNOPF: Because we will not have had the
17 benefit of State Highway's comments yet and we're going to
18 be going on the next day with our case because it's going to
19 be such a short time frame.

20 MS. CITARAMANIS: Well, this is, this is what I'm
21 hearing --

22 MR. KNOPF: Right.

23 MS. CITARAMANIS: -- we're all in the same room,
24 is that July 1st your expert, all, everybody will have what
25 they submit to State Highway. So whatever -- your expert

1 can certainly point out deficiencies and be prepared for
2 those waiting for State Highway to come back and either
3 point them out -- are you saying he can't point them out
4 without going out and doing additional studies?

5 MR. KNOPF: Well, he can point them out, but I
6 suspect you're, you're going to want to say, well, what
7 difference does that make?

8 MS. LEE-CHO: And he will, he can testify to that.

9 MR. KNOPF: No, because he has to go out and then
10 do the measurements to say that's what distance it is.

11 MS. CITARAMANIS: He can't do -- you're saying he
12 can't do the measurements? How much time does he have to do
13 to measure it? I mean --

14 MS. LEE-CHO: Well --

15 MS. CITARAMANIS: I mean I can't --

16 MR. KNOPF: This is, she -- okay. So let's take
17 an easy one, it measured from the wrong place, I'm not
18 saying you would do this, they measured from the wrong place
19 in the driveway, so the site distances are not correct from
20 our expert's standpoint. Now if State, if the State Highway
21 Administration says, no, we don't have a problem with that,
22 our expert might need to go on and explain to you why that
23 is a problem and, by the way, look at the difference now in
24 the site distances, I went out there and measured this, if
25 you do it at the right place and so on. I, but why should

1 he have to -- he needs a little time to do that because if
2 the State Highway Administration comes back with the same
3 criticism, then they're going to have to correct it. This
4 is putting --

5 MS. CITARAMANIS: Okay.

6 MR. KNOPF: I'm, frankly, I'm very upset right
7 now. They are the ones that had two separate postponements
8 and I don't see why my client now has to suffer and be
9 rushed into this.

10 MS. LEE-CHO: This is --

11 MS. CITARAMANIS: Okay.

12 MR. KNOPF: This is an interference with our
13 expert's ability to comment.

14 MS. LEE-CHO: He has an entire month during, after
15 he gets our submission, he can start day two, July 2nd,
16 reviewing and actually raising the issues with State Highway
17 and lobbying State Highway to influence their decision.
18 They'll have that opportunity. The expert will have the
19 month of July before State Highway even, you know, renders
20 its final decision. So I don't understand. And if the
21 final decision that State Highway still defers with Mr.
22 Mehra's opinion that we did it wrong or a civil engineer did
23 it wrong, then he can come here on July 25th and explain to
24 the Hearing Examiner why he still disagrees with State
25 Highway's conclusions.

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1 MR. AREM: If I may, I think what's being missed
2 here was that even though Mr. Mehra will have the benefit of
3 the SHA application that you'll be submitting to him,
4 because there are additional steps he may have to take which
5 could be duplicative if SHA comes back and says the same
6 thing, it creates an undue expense on our end having to pay
7 for our expert to perform studies that SHA would on their
8 own say are required and --
9 MS. LEE-CHO: You know what, this study is
10 generated as a result of opposition raising this issue. We
11 are incurring undue expense at this moment. So, you know,
12 the use of that as -- you know, that is opposition's
13 problem. If you want to raise issues with what we submit,
14 you need to expend the funds and resources to do it.
15 MR. KNOPF: Let me -- you have the burden of proof
16 of showing safe ingress and egress that is a requirement for
17 the special exception.
18 MS. CITARAMANIS: Right. And that's what we're,
19 that's, that's why --
20 MR. KNOPF: Right.
21 MS. CITARAMANIS: -- we're even in this process.
22 MR. KNOPF: Right. And then we should have a fair
23 opportunity to prepare to comment on that. And we're not
24 going to have that if we have to go based on what they
25 submit to SHA without hearing back from SHA and the Planning

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1 Board and then reacting to that. If she's compressing the
2 time, we could end up -- if we have a hearing on the 25th of
3 July, whatever, we could end up with SHA and the Planning
4 Board getting their report back on the 24th.
5 MS. CITARAMANIS: It's not the Planning Board,
6 just so we're clear.
7 MS. LEE-CHO: The Staff.
8 MS. CITARAMANIS: We're just making sure because
9 we're to blame.
10 MR. KNOPF: The Staff. The Staff.
11 MS. CITARAMANIS: Right.
12 MR. KNOPF: And we need an opportunity to get what
13 they have and take a look at it. And then we have to run
14 our own studies. We will, but if in the interim they have
15 gotten the same criticism and they have to correct it, then
16 let's not postpone the hearing coming down the 25th and say,
17 hey, we got this on the 24th and we haven't had a chance to
18 run the studies. We're running more risk. We're running
19 more risk and I, it's, we're talking about, you know, we're
20 talking about up to August. We're talking about another 30
21 days and it, I think we need this time and I don't see why
22 the burden is on us to prove what they have to prove.
23 MS. CITARAMANIS: Well, nobody is putting the
24 burden on you to prove. You want to be able to --
25 MS. LEE-CHO: Unprove.

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1 MS. CITARAMANIS: -- prevent the evidence, that
2 it's not correct and there's a problem and this is -- that's
3 my understanding of what it is that you're -- because you've
4 raised the issue. But let me ask you this. Once you were
5 to receive their application to SHA, your expert would have
6 it, what was your intention in terms of having them consider
7 your information before they even finished the process,
8 because that's where we started last week when we were
9 talking that you wanted SHA to consider --
10 MR. KNOPF: Right.
11 MS. CITARAMANIS: -- your side as well before they
12 rendered their opinion. So what is to stop you from -- I
13 mean they're going to have the, this application on their
14 desk and you want to look at it and say this is the problem
15 we have with it and we need you to consider it so that when
16 SHA goes out there to actually confirm or deny these
17 numbers, you've already raised it to them that there's a
18 problem.
19 MR. KNOPF: Well, two things. One is we raised
20 the problems based on the prior study. I don't know where
21 they're going to start taking the measurements and the
22 points from this study. It's going to be a different study,
23 different locations. And so our comments on the prior don't
24 exactly --
25 MS. CITARAMANIS: No, your comments would be on

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1 the application they submit to SHA --
2 MR. KNOPF: Right.
3 MS. CITARAMANIS: -- now.
4 MR. KNOPF: Right, but you would suggest we had
5 already commented, providing those comments --
6 MS. CITARAMANIS: Right.
7 MR. KNOPF: -- on the prior and that that may not
8 be applicable.
9 MS. CITARAMANIS: I mean for all intents and
10 purposes --
11 MR. KNOPF: That's what I'm saying.
12 MS. CITARAMANIS: Right. But, right, but at this
13 point --
14 MR. KNOPF: Then the second point --
15 MS. CITARAMANIS: -- if they're putting their
16 application in, I mean you all want SHA to know that this is
17 your position and that's what, that's --
18 MR. KNOPF: No.
19 MS. CITARAMANIS: -- what I understood during our
20 conference call.
21 MR. KNOPF: What the problem is, I don't know that
22 SHA goes out and double-checks this. I think they simply
23 take the engineering study and look at the paper.
24 MS. CITARAMANIS: Based on my conference call with
25 Technical Staff and Nick Driban from SHA, Driban, he said,

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1 no, they actually go out into the field with the application
2 and it's not that they just read it in their office. I mean
3 that was my understanding. Is that applicant's
4 understanding?
5 MS. LEE-CHO: I don't know. I can't express an
6 opinion on that. But let me just say what you had from Joe
7 Cutro and Mr. Mehra are site distance observations. These
8 are, this is different from what we are submitting now to
9 State Highway. We're talking about site distance, engineer
10 profiles. So, you know, Mr. Mehra can talk to State
11 Highway, can object to how it's done. You know, that's his
12 call. But --
13 MS. CITARAMANIS: Let her finish please.
14 MS. LEE-CHO: -- we're being requested to provide
15 pretty extensive package of information to State Highway.
16 You will have the benefit of that at the time that we
17 submit. If you want to hire your own civil engineer to
18 evaluate objectively, that is opposition's burden. If you
19 want to rebut, that's your burden. But this is our burden
20 to present our package to State Highway and to get the
21 result from State Highway. And I, you know, what you, what
22 opposition is essentially asking for is additional time to
23 rebut State Highway, to -- and that argument can occur at
24 the hearing date.
25 State Highway is not going to be -- once they

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1 render their approval or comment, there's no going back and
2 lobbying them after that. It's all going to be done
3 beforehand.
4 MS. CITARAMANIS: And I understand that.
5 MS. LEE-CHO: And that beforehand is the month of
6 July. And so delaying this into September after we get
7 State Highway's comment letter is fruitless. There is no
8 point.
9 MR. KNOPF: May I ask a question? My
10 understanding is one of the things you will have to do is
11 you will not be taking sight distances from where the sight
12 distances were taken in this case because you have made
13 changes to the driveway. That's the case --
14 MS. LEE-CHO: We don't know if that's true.
15 MR. KNOPF: Well --
16 MS. CITARAMANIS: Let me ask --
17 MR. KNOPF: -- but it could be true.
18 MS. CITARAMANIS: Let me -- I'm not --
19 MR. KNOPF: It's a whole different thing.
20 MS. CITARAMANIS: One of my questions that came
21 out of the last hearing was, I mean we had two different --
22 MS. LEE-CHO: Methods.
23 MR. KNOPF: Methods.
24 MS. CITARAMANIS: -- two different methods, one,
25 two different methods and people standing at different

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1 spots. One was 14 1/2, one was six, for various reasons.
2 What's the guideline for -- is it AASHTO? I mean isn't that
3 where the rules come into play, that State Highway would
4 have to follow that or --
5 MS. LEE-CHO: The AASHTO, the AASHTO guidelines
6 provide the distances, that those are the guidelines.
7 MS. CITARAMANIS: Right.
8 MS. LEE-CHO: State Highway has its own access
9 manual that provides the point-by-point requirements in
10 terms of what needs to be shown on these engineer profiles
11 to meet their standards. That's what we're going to be
12 required to do, State Highway access manual requirements for
13 these profiles. So if they want to hire an expert to
14 evaluate whether we did it properly, that's their call. But
15 we will be judged by State Highway who -- they're the
16 experts in terms of how their access manual is properly
17 implemented.
18 MR. KNOPF: Yes. And part of that is they have
19 requirements for commercial driveways which --
20 MS. CITARAMANIS: Okay.
21 MR. KNOPF: -- this doesn't meet. So if they have
22 to redo the driveways, which I'm not saying they do, but
23 they could, then the site distances change depending on the
24 height and the width and the location of the driveway. So
25 these are all --

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1 MS. LEE-CHO: That's part --
2 MR. KNOPF: -- these are all things that we need
3 a chance to evaluate and not overnight. And we'd like to
4 hear back from the State Highway, for example, says your
5 driveway doesn't meet the commercial requirements, you need
6 to redo it. Then why -- then they would tell them they have
7 to redo their study and we want to have that opportunity
8 to --
9 MS. LEE-CHO: That's not --
10 MR. KNOPF: -- look at that kind of comment.
11 MS. CITARAMANIS: Well, that's looking --
12 MS. LEE-CHO: That's not the case.
13 MS. CITARAMANIS: -- we, that we don't know
14 that --
15 MS. LEE-CHO: That it's none of that because
16 I've --
17 MS. CITARAMANIS: Okay.
18 MS. LEE-CHO: -- talked to State Highway.
19 MS. CITARAMANIS: Okay.
20 MR. KNOPF: Well, then that may be one of the
21 deficiencies we're going to have.
22 MS. CITARAMANIS: But the point that you're
23 making, is it, are these points that you can put in whether
24 your expert or questions that you will need to be answered
25 so that they consider it as part of their -- I mean so you

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1 raised the commercial driveway aspect of it so that they can
2 do, argue in the alternative or -- I mean --
3 MR. KNOPF: Well, it's a little hard to say, hey,
4 it doesn't meet the commercial driveway thing when you don't
5 know exactly what --
6 MS. LEE-CHO: You would --
7 MR. KNOPF: We -- the normal procedure is they
8 present, we hear back from the agency, then we can comment
9 on this. We can try to comment beforehand, but they,
10 frankly, weren't interested. They said first they have to
11 get the application and this is the problem. We sent --
12 MS. CITARAMANIS: So if they get the application
13 July 1st, then you could, you would be able to comment --
14 MR. KNOPF: When they then go out and do it, if
15 they're going to go out and do some of their own studies --
16 MS. CITARAMANIS: So you're saying you don't want
17 to comment until they go out? You don't want to comment at
18 all on the application until they've actually gone out?
19 MR. KNOPF: I don't -- I have, I didn't --
20 MS. LEE-CHO: Plus --
21 MR. KNOPF: No.
22 MS. CITARAMANIS: I'm just asking. I'm just --
23 MR. KNOPF: I wanted the ability to be able to
24 comment on both of them and what I'm worried about is we're
25 being short cut in terms of the time because by the time we

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1 get back from State Highway, we then put on the hearing the
2 next day and it could be very close and that's because
3 that's the problem.
4 MS. LEE-CHO: The concerns that are being raised
5 are they're just not legitimate. What State Highway is
6 asking for, our existing condition study as exists in site
7 distance. Okay. We are not -- the fact is we have to,
8 we'll have to show the radius of the driveway, the width at
9 the apron. That's part of what we've been requested by
10 State Highway, along with the site distance profile, a site
11 plan that shows the driveways. That's going to be reflected
12 as is as today's condition.
13 If State Highway, why would that, coupled with the
14 site distance measurements today conclude that in order,
15 there's a deficiency and in order to remedy that deficiency
16 that driveway needs to be widened to a certain width or meet
17 certain commercial driveway standards? That's, this is why
18 State Highway is looking at this. That's part of what they
19 will be reviewing.
20 So I am not -- you know, sight distance is not a
21 moving target. It is what it is out there today and that's
22 what we are being requested to provide State Highway. Now
23 State Highway will then judge whether what is out there
24 today is sufficient or whether changes need to be made
25 either to the driveway, to whatever it is, to make it

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1 sufficient. That's what their review is about. Or if there
2 is nothing that can be done to make it sufficient, that's
3 their expertise.
4 MR. KNOPF: Then --
5 MS. CITARAMANIS: And will your application
6 include the changes, the widening of the south side of the
7 drive?
8 MS. LEE-CHO: Well, that doesn't really have a --
9 that's not relevant to --
10 MS. CITARAMANIS: Okay.
11 MS. LEE-CHO: -- the sight distance.
12 MR. KNOPF: No, it's --
13 MS. LEE-CHO: It's the driveway, the entrance.
14 MS. CITARAMANIS: I didn't know, at the apron
15 where --
16 MS. LEE-CHO: The interior, the interior drive,
17 State Highway has no --
18 MS. CITARAMANIS: It won't matter?
19 MS. LEE-CHO: -- jurisdiction. Their jurisdiction
20 is just right at the right-of-way line where the driveway
21 apron meets that right-of-way --
22 MS. CITARAMANIS: Okay.
23 MS. LEE-CHO: -- and that width. And that's what
24 they will be looking at. That's part of --
25 MS. CITARAMANIS: Okay.

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1 MS. LEE-CHO: -- whether we have the 25-foot
2 commercial width that we were told. We've already been
3 informed of that issue.
4 MR. KNOPF: Well, she just made my case. They
5 come back and say here's the sight distance as occurring, it
6 exists, for commercial standards, for our standards you have
7 to widen the driveway. You may have to -- this could result
8 in the raising or whatever, I don't know, but they do have a
9 wider commercial standard. And then we need the sight
10 distance from those wider -- their revised driveway.
11 MS. LEE-CHO: They don't.
12 MR. KNOPF: Well, of course, they will need a
13 sight distance.
14 MS. LEE-CHO: No, you don't.
15 MR. KNOPF: Well, that --
16 MS. LEE-CHO: That's their conclusion is that the
17 sight distance will be acceptable if you do X, Y and Z.
18 Those are conditions of approval for an access permit.
19 MR. KNOPF: Well, then -- fine. Then we're going
20 to say, oh, okay, now we have a different driveway, possibly
21 a different height, a little wider. That's your
22 measurement. We want to check that out.
23 MS. LEE-CHO: No.
24 MR. KNOPF: That's --
25 MS. CITARAMANIS: You think that's what SHA might

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1 say?
2 MR. KNOFF: No, I'm saying --
3 MS. CITARAMANIS: Oh.
4 MR. KNOFF: -- we may want to check it, we might.
5 There are lots of regulations about driveways and she's -- I
6 don't, I can understand why she doesn't want us to have a
7 full opportunity.
8 MS. CITARAMANIS: I'm not hearing that. I'm not
9 hearing that at all, so just -- we're just trying to figure
10 out a way to expeditiously move this --
11 MS. LEE-CHO: I would like to figure out what
12 makes sense.
13 MS. CITARAMANIS: -- this, I need the information
14 from both sides. So the issue is whether we figure out how
15 to accommodate everybody and have the hearing July 25th or
16 we move it to the first week of September. So it sounds
17 like August -- I mean I have more dates in August, a few
18 more dates in August, at the end of August.
19 MR. KNOFF: But Mr. Mehra is out of the country
20 then and this --
21 MS. CITARAMANIS: How long is he out of the
22 country to?
23 MR. AREM: Until September 10th is his first
24 availability.
25 MS. CITARAMANIS: So that's not even the first

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1 week of --
2 MR. KNOFF: No, it's --
3 MS. LEE-CHO: That's the second --
4 MS. CITARAMANIS: That's the second week.
5 MR. KNOFF: No, Labor Day is the second.
6 MS. CITARAMANIS: Okay. It's a Tuesday. Sorry.
7 (Discussion off the record.)
8 MS. CITARAMANIS: Okay.
9 MR. KNOFF: Yes.
10 MS. CITARAMANIS: When does he -- in August --
11 MR. KNOFF: It could be the 9th, the 9th --
12 MS. CITARAMANIS: -- oh, and you're out August
13 5th? Okay. Well,
14 MR. KNOFF: It's just, that's what happens in
15 August.
16 MS. CITARAMANIS: Did you check with your experts,
17 your expert?
18 MS. LEE-CHO: I was waiting to hear the dates in
19 August.
20 MS. CITARAMANIS: Okay. I mean unless Mr. Arem
21 wants to proceed without Mr. Knopf?
22 MR. KNOFF: Do you have something you want to say?
23 MS. CITARAMANIS: All right. Well, I mean the
24 bottom line is you have to get your application in and I'm
25 willing to provide the time for them to respond. Certainly

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1 we won't go beyond this next hearing in terms of -- if you
2 don't have your ducks in order then, I mean that certainly
3 isn't petitioner's, applicant's problem. I know that -- I'd
4 like for -- it doesn't look like we have any time in August.
5 I'm not sure that the 25th will provide enough time unless
6 SHA can get it done in the next, or do you think it's
7 possible you can have your --
8 MS. LEE-CHO: By the 20th --
9 MS. CITARAMANIS: Let's see, which --
10 MS. LEE-CHO: -- if we get State Highway?
11 MS. CITARAMANIS: Let me ask you this. We're on
12 the 11th. You --
13 MS. LEE-CHO: 19th.
14 MS. CITARAMANIS: -- you don't think you -- pardon
15 me?
16 MS. LEE-CHO: If I could get --
17 MS. CITARAMANIS: If you could get your --
18 MS. LEE-CHO: -- it in before the first, some, the
19 week of the 24th.
20 MS. CITARAMANIS: There's the -- or next week. I
21 mean --
22 MS. LEE-CHO: Well, no, I --
23 MS. CITARAMANIS: No?
24 MS. LEE-CHO: They need two -- is it, I was given
25 two or three weeks. So if I push them for the 2-week, you

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1 know, I could probably push my civil engineer and better
2 than, and push State Highway with the help of the Hearing
3 Examiner and Park and Planning Staff.
4 MS. CITARAMANIS: Well, I mean all I could ask is
5 that they please get it in by the -- I mean I can't order
6 them.
7 MS. LEE-CHO: If we can get --
8 MS. CITARAMANIS: I can order them.
9 MR. AREM: She knows that.
10 MS. LEE-CHO: The 19th, the 19th --
11 MS. CITARAMANIS: SHA to get it in.
12 MS. LEE-CHO: I think so. By the 19th?
13 MR. KNOFF: No.
14 MS. LEE-CHO: Three weeks. That --
15 MS. CITARAMANIS: I don't know.
16 MS. LEE-CHO: -- gives them three weeks. I was
17 told, and I think Mr., in an email that I saw between Mr.
18 Arem and the State Highway Administration, they said three
19 weeks. So the --
20 MS. CITARAMANIS: They said --
21 MS. LEE-CHO: 3-week review for State Highway and
22 said that the 28th --
23 MS. CITARAMANIS: But --
24 MS. LEE-CHO: That's what I saw in an email.
25 MR. KNOFF: Well, that's good.

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1 MS. LEE-CHO: But I think that there's some wiggle
2 room here, a possibility to try to make that --
3 MS. CITARAMANIS: Now I'm all for wiggle room, but
4 I also -- I don't know that them getting it on the 24th and
5 having the hearing on the 25th, I --
6 MS. LEE-CHO: I would agree with that. I think --
7 MS. CITARAMANIS: I don't think anybody really
8 wants that --
9 MS. LEE-CHO: But I think if we can get it back --
10 MS. CITARAMANIS: -- at the end of the day.
11 MS. LEE-CHO: -- from State Highway by the 19th,
12 which is a Friday, they'll have the weekend and three
13 business days to evaluate State Highway's conclusion.
14 MR. KNOPF: Well, see then we have the problem so
15 it isn't done. Then we have to have another one of these
16 sessions.
17 MS. CITARAMANIS: Okay. Well, let's take one
18 problem at a time. Let's not worry ahead too far.
19 MR. KNOPF: I don't know that three days is enough
20 time. We have to run our own study. If we have to go out
21 and do our own measurements --
22 MS. CITARAMANIS: Well, the thing is we can only
23 ask them to go to the mat as far as they can go and --
24 MR. KNOPF: I understand.
25 MS. CITARAMANIS: -- you all would need to do the

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1 same. So I mean we're in June 11th now. So knowing this,
2 everybody can be prepared to act.
3 MR. KNOPF: Right, but if we, let's pick a date
4 that we have to have the comments back from --
5 MS. CITARAMANIS: Right.
6 MR. KNOPF: -- the State Highway and I would, and
7 if you need two weeks, I mean it should -- two weeks from
8 today would be 18, so it's the 25th.
9 MS. CITARAMANIS: Two weeks from today.
10 MR. KNOPF: I'm sorry, I'm in July.
11 MS. CITARAMANIS: Yes, we're still in June.
12 MR. KNOPF: Yes.
13 MS. CITARAMANIS: Two weeks from today would be
14 June 25th.
15 MR. KNOPF: Okay. So it goes over to the -- if
16 they had their things in by the 20th, if they could --
17 MS. CITARAMANIS: Well --
18 MR. KNOPF: No, that's only a week.
19 MS. CITARAMANIS: I --
20 MR. KNOPF: I'm just trying to work out a
21 schedule. If they had two weeks to get their stuff in and
22 State Highway, we say, gives two weeks, then --
23 MS. LEE-CHO: Where I'm saying July 19th, I think
24 it's a fair, reasonable time period for State Highway to get
25 back with a comment letter.

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1 MS. CITARAMANIS: And it could come earlier?
2 MS. LEE-CHO: Yes.
3 MS. CITARAMANIS: And if it comes earlier --
4 MS. LEE-CHO: It could come earlier.
5 MS. CITARAMANIS: -- that's only a benefit, but
6 the question is if you can get it in -- the SHA is, their
7 opinion is in by the 19th, you have from the 19th into --
8 MR. KNOPF: Business days, three business days to
9 get something done.
10 MS. LEE-CHO: And you can prepare for that?
11 MR. KNOPF: Oh, I can prepare for that, but you
12 can't get your thing done in two weeks, I'm sorry.
13 MS. LEE-CHO: You have the whole week. You have,
14 you have, no, you have from now until that planned time
15 to --
16 MR. KNOPF: If we have to do a study, we will do
17 the study after State Highway comes back. I would --
18 MS. LEE-CHO: That's your choice.
19 MR. KNOPF: -- like at least three business days
20 of time. But why don't we shorten your date?
21 MS. CITARAMANIS: So what is -- throw out a
22 number. I mean --
23 MR. KNOPF: Okay.
24 MS. CITARAMANIS: -- a reasonable number.
25 MR. KNOPF: No, right. If they would get their

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1 report to us by July 17th.
2 MS. CITARAMANIS: So you want two more days?
3 MR. KNOPF: Yes.
4 MS. LEE-CHO: Well, what does it have to do with
5 what you're doing because this is --
6 MR. KNOPF: Because we --
7 MS. LEE-CHO: -- State Highway. State Highway
8 said three weeks for their review. So we get -- if we get
9 our study to them by June 25th, then one, two, three, July
10 16th?
11 MS. CITARAMANIS: Right.
12 MS. LEE-CHO: Three weeks?
13 MS. CITARAMANIS: It's three weeks.
14 MR. KNOPF: So good. So can --
15 MS. LEE-CHO: That gives you three more business
16 days.
17 MR. KNOPF: No, I only asked for --
18 MS. CITARAMANIS: Wait.
19 MR. KNOPF: -- July 17th, so you're giving me July
20 16th. That's better yet. That's --
21 MS. CITARAMANIS: July 17th.
22 MS. LEE-CHO: Okay.
23 MR. KNOPF: That's fine, July 16th.
24 MS. LEE-CHO: I thought he said June 17th for my
25 submission.

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1 MS. CITARAMANIS: Oh, oh --
2 MR. KNOFF: No, no, no.
3 MS. CITARAMANIS: See, we've got to get our months
4 correct.
5 MS. LEE-CHO: Okay.
6 MS. CITARAMANIS: Okay. So --
7 MS. LEE-CHO: Fine, July 17th.
8 MS. CITARAMANIS: -- could you --
9 MR. KNOFF: July 16th. No --
10 MS. CITARAMANIS: July?
11 MR. KNOFF: -- I'll take your 16th. July 17th.
12 Okay. 7/17.
13 MS. CITARAMANIS: 7/17. Okay. So, let's see, a
14 report and then that gives you, get it on the 17th, I mean
15 hopefully your expert is prepared --
16 MR. KNOFF: Ready. Ready.
17 MS. CITARAMANIS: -- ready, should be ready to
18 roll. You need to tell him he needs to be ready to roll.
19 MR. KNOFF: Right.
20 MS. CITARAMANIS: And we will set it in for a
21 hearing on the 25th.
22 MR. KNOFF: Now the only problem with that is you
23 do have the Planning Board thing. I'm going to try --
24 MS. CITARAMANIS: Oh. And I have a hearing on the
25 26th, so it can't be on the 26th.

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1 MR. KNOFF: No, the --
2 MS. CITARAMANIS: I'm just --
3 MR. KNOFF: Right, but what I was going to suggest
4 is that usually, I'm just going to try to get the Planning
5 Board to schedule it. He says he has to be here. Usually
6 it's easier to schedule I was going to say in the mornings,
7 but you're playing Russian roulette. I mean --
8 MS. CITARAMANIS: Well, certainly been now and
9 then you can make a request of the Planning Board that --
10 MR. KNOFF: We need to announce today what the
11 time of the hearing is.
12 MS. CITARAMANIS: Oh, I will, but I think between
13 now and then you --
14 MR. KNOFF: Well, actually --
15 MS. CITARAMANIS: -- should be able to --
16 MR. KNOFF: Oh, yes, work that out.
17 MS. CITARAMANIS: -- make a request to them and
18 let them know --
19 MR. KNOFF: And let you know.
20 MS. CITARAMANIS: -- because they will obviously
21 be putting on --
22 MR. KNOFF: Actually, you have more than 10 days
23 so you're not under that -- and you have a 10-day notice to
24 send out requirement, but certainly before 10 days --
25 MS. CITARAMANIS: I can announce it at this

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1 hearing and it's --
2 MR. KNOFF: Wait, that's what I'm saying. I don't
3 know what time you announce because he has to work it out --
4 MS. CITARAMANIS: Oh.
5 MR. KNOFF: -- with the Planning Board. That's
6 what I'm saying.
7 MS. CITARAMANIS: Oh, well, I was, I mean 9:30 is
8 when I was going to set it unless we have -- I mean I'd
9 rather have the whole day.
10 MR. KNOFF: Well, he won't be available the whole
11 day though, our expert, that's what I'm saying.
12 MS. CITARAMANIS: No, but -- okay.
13 MR. KNOFF: So I will try to have him go on in the
14 afternoon and see if we can work that out with, negotiations
15 with the Planning Board, then to see --
16 MS. LEE-CHO: How much flexibility does a Hearing
17 Examiner have on the day of the 25th at what time we start
18 the hearing? Does it have to be in the morning?
19 MS. CITARAMANIS: I'm flexible. It's -- I do have
20 a hearing the next day, so I don't want to be here until --
21 I don't want to spend the night here.
22 MS. LEE-CHO: Okay.
23 MS. CITARAMANIS: But --
24 MR. KNOFF: Okay. Well, we can get busy to see
25 what we can do with the Planning Board.

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1 (Discussion off the record.)
2 MS. CITARAMANIS: Okay. Okay.
3 MS. LEE-CHO: Do we have the time?
4 MR. KNOFF: What the 25th you already have an
5 agenda?
6 MS. LEE-CHO: I do.
7 MR. KNOFF: For July? I mean they've already set
8 it for July? That's --
9 MS. CITARAMANIS: I want to go off the record for
10 a moment.
11 (Recess)
12 MS. CITARAMANIS: You had it? Starting, SHA
13 report, this is the plan, that it's back, done by the 17th
14 because you're going to try and get your application in
15 hopefully by the 25th, to give SHA the requisite amount of
16 time to do the report.
17 MR. KNOFF: And that would be emailed to us by
18 that date rather than the mail, right, or delivered?
19 MS. LEE-CHO: I don't know that it can be emailed,
20 but we'll get it to you on the date --
21 MS. CITARAMANIS: If not --
22 MR. KNOFF: I just don't want it mailed that day,
23 that's all.
24 MS. CITARAMANIS: Somebody will get it to you.
25 MR. KNOFF: Yes, okay.

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1 MS. CITARAMANIS: And we will have the hearing on
2 Thursday, July 25th, 9:30, 9:00, I mean 9:30 works for
3 everybody?
4 MS. LEE-CHO: Yes.
5 MR. KNOPF: Subject to Mr. Mehra's schedule.
6 MS. CITARAMANIS: Okay. Subject to Mr. Mehra.
7 Mr. Mehra, you're going to try and get him in the Planning
8 Board in the afternoon because I really don't want to hold
9 up --
10 MR. KNOPF: Right.
11 MS. CITARAMANIS: I don't want us all sitting
12 around waiting for Mr. Mehra.
13 MR. KNOPF: Oh, yes, oh, no, absolutely.
14 MS. CITARAMANIS: -- frankly, so --
15 MR. KNOPF: The alternative would be, obviously,
16 that they put him on first thing in the morning and then we
17 could go in the afternoon.
18 MS. CITARAMANIS: Okay. Well, if you let them
19 know that he has a hearing in the morning, then --
20 MR. KNOPF: Sometimes it works, sometimes it
21 doesn't, sorry.
22 MS. CITARAMANIS: Okay. Well, you need to use
23 your powers of persuasion.
24 MR. KNOPF: I say that often over there, but
25 sometimes I don't have much power.

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1 MS. CITARAMANIS: Well, I mean because I think
2 that this is a compromise for everybody.
3 MR. KNOPF: Right.
4 MS. CITARAMANIS: And so everybody has to make it
5 work, but we'd like to complete this hearing by hopefully
6 the 25th.
7 MR. KNOPF: Oh, absolutely.
8 MS. CITARAMANIS: Okay. And any other questions,
9 any other issues? Let me make sure I look at my notes and
10 make sure I don't have any other -- okay. And so how we
11 will proceed on July 25th, 9:30, we will resume the hearing,
12 is basically we will go to the applicant's rebuttal and then
13 sur-rebuttal. Everybody will have the opportunity to cross-
14 examination. It's not an opportunity for additional -- I
15 think we've had all the citizens.
16 MR. KNOPF: Right.
17 MS. CITARAMANIS: So and then be prepared for
18 closings --
19 MR. KNOPF: Closings.
20 MS. CITARAMANIS: -- and we will take a lunch
21 break, so build in a lunch break because we don't take
22 vacations. You have to eat. Anything else? Okay.
23 MR. KNOPF: Thank you very much for your patience.
24 MS. CITARAMANIS: Good enough. We are off the
25 record at close to quarter of 11:00. Okay.

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1 (Whereupon, at 10:48 a.m., the hearing was
2 concluded.)
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C E R T I F I C A T E

DEPOSITION SERVICES, INC., hereby certifies that the attached pages represent an accurate transcript of the electronic sound recording of the proceedings before the Office of Zoning and Administrative Hearings for Montgomery County in the matter of:

Petition of ABC Loving Child Care
Special Exception No. SE-13-01

By:

Tracy Hahn, Transcriber

<p style="text-align: center;">A</p>	<p>21:2 applicable (2) 10:25;33:8 applicant (5) 3:6;8:16;16:7;17:2, 23 applicant's (3) 34:3;44:3;55:12 application (17) 6:7;9:9;10:1,2; 12:15;30:3;32:5,13; 33:1,16;34:1;38:11,12, 18;40:5;43:24;53:14 applications (1) 24:4 apply (1) 11:19 approval (2) 35:1;41:18 apron (3) 39:9;40:14,21 arbitrating (1) 11:23 arbitration (1) 11:22 AREM (18) 14:8;15:10,12,18,21, 24;19:2,6,11,18;21:14; 22:9,14;30:1;42:23; 43:20;45:9,18 argue (1) 38:2 argument (1) 34:23 around (1) 54:12 aspect (1) 38:1 assume (1) 10:5 assuming (1) 9:8 August (34) 5:10,17;9:16,17; 13:9,11,11;14:6,11,13, 16,19,20,21;15:7,7,18; 19:2,3,10,18,23;20:17, 20;31:20;42:17,17,18, 18;43:10,12,15,19;44:4</p>	<p>15;19:9,15,25;20:6,10; 24:14;26:21;27:8;28:2; 29:2;30:5,25;31:4; 35:1;37:4;38:8;39:1; 41:5;46:9;47:4,25; 48:17;53:13 balances (1) 24:12 based (10) 5:3;7:14;9:13;10:18, 21;15:15;17:24;30:24; 32:20;33:24 basically (2) 11:22;55:12 beforehand (3) 35:3,5;38:9 behalf (1) 3:8 benefit (4) 27:17;30:2;34:16; 48:5 better (3) 25:21;45:1;49:20 beyond (5) 14:18;19:10;20:7,16; 44:1 bit (4) 8:4,24;15:25;27:11 black (1) 23:25 blame (1) 31:9 Board (15) 13:19,22;22:10,15, 18;31:1,4,5;50:23; 51:5,9;52:5,15,25;54:8 both (4) 8:5;17:23;38:24; 42:14 bottom (1) 43:24 box (1) 23:25 break (6) 16:5;18:23;21:12; 26:1;55:21,21 brief (1) 4:17 build (1) 55:21 burden (6) 30:15;31:22,24; 34:18,19,19 burdensome (1) 16:9 business (5) 46:13;48:8,8,19; 49:15 busy (1) 52:24</p>	<p>call (12) 6:18;16:5,25;17:17, 21;18:23;20:7;21:21; 33:20,24;34:12;36:14 calling (1) 3:3 calls (1) 3:21 came (2) 4:16;35:20 can (64) 4:19,23;5:2;6:4,12, 20;9:2;12:1;14:12,16; 15:3,7,12;16:1,4,4,6, 12;18:2,23;19:21;20:1, 24,25;21:2,4;23:4,19; 24:25;25:3,6,15;28:1,5, 8;29:15,23;34:10,11, 23;37:23;38:1,8,9; 40:2;42:6;44:6,7;45:7, 8;46:9,22,23;47:2; 48:6,10,11;49:14;51:9, 25;52:14,24,25;53:19 Canby (1) 3:8 capable (2) 3:21,25 Care (2) 3:3;6:12 case (10) 3:3;7:3;21:13;22:5; 23:1;27:18;35:12,13; 37:12;41:4 Center (1) 3:4 certain (5) 7:3;26:11,14;39:16, 17 certainly (10) 11:25;16:6;18:2,19; 21:4;28:1;43:25;44:2; 51:8,24 chance (2) 31:17;37:3 change (1) 36:23 changes (3) 35:13;39:24;40:6 check (7) 20:11;23:11;26:10, 18;41:22;42:4;43:16 checked (2) 20:12;26:15 checks (1) 24:12 Child (1) 3:3 choice (1) 48:18 CITARAMANIS (241) 3:2,13;4:8,15,18;5:3, 5,7,11,15,20,23,25;6:2, 7,9,15,17,22;7:6,17,20,</p>	<p>22;8:2,7,18,20,22;9:7, 13,15,17,19,24;10:1,3, 7,18;11:8,15,19,25; 12:10,13,20,23,25; 13:3,5,13,21,24;14:1,4, 21,24;15:2,5,10,17,20, 22;16:6,20,23;17:5,7, 11,16,19,21;18:9,11, 18;19:5,7,12,14,16,22; 20:2,8,13,18,22;21:1,7, 9,11,25;22:4,15,18,23, 25;23:5,14;24:2,4,12, 20,23;25:1,13,15,23, 25;26:3,13;27:12,14, 20,23;28:11,15;29:5, 11;30:18,21;31:5,8,11, 23;32:1,11,25;33:3,6,9, 12,15,19,24;34:13; 35:4,16,18,20,24;36:7, 20;37:11,13,17,19,22; 38:12,16,22;40:5,10, 14,18,22,25;41:25; 42:3,8,13,21,25;43:4,6, 8,10,12,16,20,23;44:9, 11,14,17,20,23;45:4,8, 11,15,20,23;46:3,7,10, 17,22,25;47:5,9,11,13, 17,19;48:1,3,5,21,24; 49:2,11,13,18,21;50:1, 3,6,8,10,13,17,20,24; 51:2,8,12,15,17,20,25; 52:4,7,12,19,23;53:2,9, 12,21,24;54:1,6,11,14, 18,22;55:1,4,8,17,20, 24 citizens (1) 55:15 civil (8) 3:21;4:1;6:11;11:11; 12:15;29:22;34:17; 45:1 clarify (2) 11:5;17:10 clear (1) 31:6 client (5) 26:21,23;27:9,15; 29:8 close (2) 39:2;55:25 closer (1) 27:5 closings (3) 3:5;55:18,19 coming (7) 15:11;18:15;19:8,15, 25;20:6;31:16 comment (12) 29:13;30:23;35:1,7; 37:10;38:8,9,13,17,17, 24;47:25 commented (1) 33:5</p>
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