

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY

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:
PETITION OF DEREJE ZEWDU : Case No. S.E. 13-02
and FEKERTE DESALEGN - :
KIDS' LOVE CHILD CARE :
:
-----X

A hearing in the above-entitled matter was held on
December 19, 2013, commencing at 9:38 a.m., at the Office of
Zoning and Administrative Hearings, 100 Maryland Avenue,
Rita Davidson Memorial Hearing Room, Rockville, Maryland
20850 before:

Lynn A. Robeson
Hearing Examiner

A P P E A R A N C E S

On Behalf of the Petitioner:

David Gardner, Esq.

Gardner Law Firm, P.C.

600 Jefferson Plaza, Suite 308

Rockville, Maryland 20852

C O N T E N T S

Witnesses:	Direct	Cross	Redirect	Recross
Moges Kassa				
By Mr. Gardner:	27			
By Ms. Lauderdale:		98		
By Ms. Johnson:		103		
By Mr. Berry:		105		
Dereje Zewdu				
By Mr. Gardner:	108,271			
By Mr. Berry:		174		
By Ms. Lauderdale:		176,192	206	
Wilma Johnson:				
By Mr. Gardner:	180		187	
Michael Berry:				
By Mr. Gardner:	215		223	
Jo Ann Berry:				
By Mr. Gardner:	248		249	
Eleanor Lauderdale:				
By Mr. Gardner:	250			269
		258		

E X H I B I T S

Exhibit No.		Marked/Received	
60	Affidavit of Posting	8	8
61	Revised site plan	14	
62(a)-(d)	Photographs of site	37	53
63	Photograph of lamppost	58	58
64	Page 4 of staff report		69
65	Parking schedule	87	88
66	Deed	110	114
67	House location survey	113	114
68	Plat	114	114
69	Zoning vicinity map	115	116
70	Photographs	120	
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P R O C E E D I N G S

1

2 MS. ROBESON: Okay. I'm calling the case of S.E.

3 13-02, petition of Zewdu and Desalegn -- am I saying that

4 correctly?

5 MR. ZEWDU: Correct.

6 MS. ROBESON: Okay -- requesting a special

7 exception for a childcare facility for up to 30 children for

8 property located at 921 Northwest Drive, Silver Spring,

9 Maryland 20901. My name is Lynn Robeson and I am the

10 Hearing Examiner, and what I do is take the testimony and

11 evidence in the case and I will write a decision based on

12 what's presented today.

13 The criteria for approval is in these technical

14 staff, the staff report from the Maryland-National Capital

15 Park and Planning Commission, which is Exhibit 59 -- well,

16 it's Exhibit 59 and then several attachments. So there's a

17 long set of criteria. Does everyone have that report?

18 MR. BERRY: No.

19 MS. JOHNSON: No.

20 MS. ROBESON: No?

21 MR. BERRY: No.

22 MS. JOHNSON: No. No, excuse me.

23 MS. ROBESON: Okay. It is in the file. It was in

24 the file. So I can see if I can get copies made. If we can

25 go off the record for one minute, Kathy.

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1 (Whereupon, at 9:40 a.m., a brief recess was
2 taken.)
3 MS. ROBESON: All right. We're back on the
4 record. Will the parties please identify themselves?
5 MR. GARDNER: Thank you. I'm David Gardner. I'm
6 the attorney for the applicant.
7 MS. ROBESON: Yes.
8 MR. GARDNER: The applicant is next to me. Would
9 you state your name?
10 MR. ZEWDU: My name is Dereje Zewdu.
11 MR. GARDNER: His wife won't be here. He's going
12 to speak on both of their behalves.
13 MS. ROBESON: Okay.
14 MR. GARDNER: She has signed an affidavit. I
15 think she has some translation difficulties; so it's better
16 for Dereje to present it. And next to me is the architect.
17 Would you state your name?
18 MR. KASSA: Yeah. My name is Moges Kassa.
19 MS. ROBESON: Okay.
20 MR. GARDNER: He's the one that prepared these
21 plans, and I expect that they will be the only two witnesses
22 testifying.
23 MS. ROBESON: Okay, thank you. And I see some
24 other people here. Would you please identify yourselves for
25 the record?

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1 MS. JOHNSON: I am Wilma Johnson, and I reside at
2 920 Northwest Drive.
3 MS. ROBESON: And are you appearing in opposition
4 to this case?
5 MS. JOHNSON: Absolutely, 100 percent.
6 MS. ROBESON: Okay.
7 MR. BERRY: My wife and I, we're -- Jo Ann and
8 Michael Berry -- we own the house at 917 Northwest Drive,
9 next door to the house in question. And we are in
10 opposition and we would like to testify, if possible.
11 MS. ROBESON: Oh, yes, you'll get a chance to
12 testify.
13 MR. BERRY: Thank you.
14 MS. ROBESON: What we do, this is a request for a
15 special exception, and a special exception is a little bit
16 of a misnomer because legally, if they meet the criteria in
17 the zoning ordinance, that we have to grant it. So that's
18 why I'm copying for you the staff report, because that has
19 the criteria for approval.
20 What we do today is we -- this is an informal
21 hearing, but we do have certain formalities. There's an
22 order of proceeding. The petitioner puts on his evidence
23 first; then you get a chance to put on your evidence. All
24 the testimony and evidence is subject to cross-examination,
25 and everyone who wishes to testify is sworn. So your

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1 testimony is under oath.
2 So you get a chance to ask questions of the
3 petitioner, and the petitioner can ask questions of you.
4 One note: A lot, many people come in -- when it's your time
5 to ask questions, it's limited to just asking questions.
6 When it's your turn to present your case, you'll be able to
7 put your full case on, okay? You'll be able to say what you
8 want to say.
9 So I have an Affidavit of Posting that I am going
10 to mark, which means the sign is on the property. Now, I
11 understand that there was one road that didn't get posted,
12 and I believe I sent a notice out that we will keep the
13 record open for additional time to permit anyone else who
14 wants to comment, to comment on the application. So with
15 that, I'm going to enter this as Exhibit -- unless there's
16 an objection, I'm going to enter this as Exhibit 60.
17 All right. Mr. Gardner, do you have an opening
18 statement?
19 (Exhibit No. 60 was marked
20 for identification and
21 received in evidence.)
22 MR. GARDNER: Oh, certainly. Has that 60 been
23 signed by my client? Is that the affidavit?
24 MS. ROBESON: I believe that's his signature.
25 MR. GARDNER: Madam Hearing Examiner, I apologize,

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1 but I left my blueprint at home today.
2 MS. ROBESON: Yes. Oh, okay.
3 MR. GARDNER: I brought them home with me, the
4 blueprint with the plan --
5 MS. ROBESON: Yes.
6 MR. GARDNER: -- the last one that I filed. Do
7 you have it where I could put it up on an easel and we could
8 use it during the presentation? I think it would make the
9 presentation flow much better.
10 MS. ROBESON: Let me just see. I think it's 47.
11 MR. GARDNER: And I have a number of exhibits --
12 MS. ROBESON: Okay. It is 47.
13 MR. GARDNER: -- that I'll be using during the
14 hearing, most of which have been attached to the various
15 submittals we've made. Now --
16 MS. ROBESON: We'll just mark them as duplicates.
17 MR. GARDNER: Right.
18 MS. ROBESON: I don't like to let them out of the
19 record because once in a while -- here's the revised plan,
20 if you wish to --
21 MR. GARDNER: Well, would it be easier, because I
22 brought three copies, if I just marked the exhibits? Or
23 would it be easier if we refer to what's already in the
24 record?
25 MS. ROBESON: Well, let's mark them and --

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1 MR. GARDNER: Yes, I think that's --
2 MS. ROBESON: Yes.
3 MR. GARDNER: Do you have pre-marked things that I
4 can use?
5 MS. ROBESON: No, I do not.
6 MR. GARDNER: Okay. Should I just write the
7 number on them then?
8 MS. ROBESON: Yes.
9 MR. GARDNER: Okay, perfect.
10 MS. ROBESON: Now, that one we do not mark because
11 it's already marked.
12 MR. GARDNER: Certainly. Let me make some brief
13 opening comments then. In this matter, we have already
14 submitted, we submitted a second amended request --
15 actually, an amended request for waiver of parking standards
16 to reduce the number of parking spaces required from 9:00 to
17 7:00 and to reduce the required side yard setbacks from 16
18 feet to 10 feet. These two items were the issues in
19 contention, if you will, at the hearing before the Planning
20 Board about two weeks ago. Staff had recommended in this
21 case that the number of children at the center be reduced
22 from 30 to 24 because my clients could only provide seven
23 parking spaces on the site and that became an issue of
24 contention. I guess, in order to understand that, let me
25 just briefly give you an overview of what is going to be

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1 proposed here.
2 This is the site, Madam Chairman, Madam Hearing
3 Examiner --
4 MS. ROBESON: That's fine.
5 MR. GARDNER: Right -- at 921 Northwest Drive,
6 Silver Spring. The zoning vicinity map shows -- this is New
7 Hampshire Avenue, and this is --
8 MS. ROBESON: When you say this, you've got to
9 identify it for the record.
10 MR. GARDNER: All right.
11 MS. ROBESON: So the eastern boundary along the --
12 MR. GARDNER: Yes.
13 MS. ROBESON: -- or no. This is weird because the
14 north arrow is pointing down.
15 MR. GARDNER: Right.
16 MS. ROBESON: Why they did that I don't know,
17 but --
18 MR. GARDNER: Mages? But anyway, the north arrow
19 is painted down, pointed down, which would be going up New
20 Hampshire Avenue.
21 MS. ROBESON: And New Hampshire Avenue is on the
22 east side of the property.
23 MR. GARDNER: East side of the property, that's
24 correct. So if you look at this exhibit, 47(f), the site is
25 shown on this exhibit in the middle of the bottom of this

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1 drawing, which shows what is being proposed for the site.
2 And when you look at the site itself, it's basically a
3 single-family home, which is, the front of it is in a
4 northerly direction, facing Northwest Drive, which is a
5 suburban street. It's a signalized intersection at New
6 Hampshire Avenue, and when you go along in the front of the
7 property along Northwest Drive, you come to the light but,
8 before you get to the light, you cross what's called New
9 Hampshire Avenue access road, which is, travels along the
10 left side of the property.
11 MS. ROBESON: Eastern.
12 MR. GARDNER: Eastern side of the property, left
13 side of it as you would be facing the house.
14 MS. ROBESON: Right.
15 MR. GARDNER: So the eastern side of the property
16 is along New Hampshire Avenue. The northern side is along
17 Northwest Drive. It's essentially a corner property. As
18 you go past the property, you would cross the north New
19 Hampshire access road; you come to a signalized intersection
20 which allows you to cross or enter New Hampshire Avenue,
21 which is not shown on this but it's shown on the zoning
22 vicinity map. New Hampshire Avenue is a six-lane highway,
23 basically three lanes in each direction, with a median. And
24 across New Hampshire Avenue is the Food and Drug
25 Administration, which is a large major federal employer,

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1 which my client believes makes this a perfect site for
2 provision of daycare.
3 We attached to our application a master plan
4 analysis, if you will, and staff has agreed that this does
5 make an excellent location for childcare because parents who
6 would be coming and going from FDA can drop their children
7 off here as they continue on their trip into FDA and they
8 would know that their children are right across the street
9 if they ever needed to leave work for an emergency.
10 So returning to the site itself, what is being
11 proposed for the site are essentially no changes to the
12 exterior of the home. It's going to retain its residential
13 appearance. It's currently a split-level home, a
14 fifties-era building. It was actually built in the fifties,
15 along with the rest of this neighborhood. And there's going
16 to be added to it a, we call it, eastern parking facility,
17 and this has, on this drawing, 47(f), five parking spaces,
18 which was prepared after extensive discussions with Renee
19 Kamen, the planning staff member who was responsible for
20 reviewing this plan. Mages, the architect, will testify
21 there were a number of iterations to this plan. This is the
22 one that was finally come upon as what she was seeking.
23 We have an amended plan, which we're going to
24 offer today, which would allow six spaces to be placed in
25 here, and we will be showing you that as we proceed. What

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1 is the next number, because I might make a --
2 MS. ROBESON: 61.
3 MR. GARDNER: 61? If you would like, I can write
4 number 61 on the upper right corner.
5 MS. ROBESON: Yes. Do you have a copy of that
6 that I can look at, because it difficult to see from -- and
7 do you have a copy for those other people here?
8 MR. GARDNER: Here's an extra copy.
9 MS. ROBESON: Okay. So can you mark that Exhibit
10 61? Sorry.
11 MR. GARDNER: Yes.
12 (Exhibit No. 61 was marked
13 for identification.)
14 MS. ROBESON: And this is revised site plan --
15 what's the revision date on that? Is there a revision date?
16 MR. GARDNER: For whatever reason, the architect
17 hasn't been putting the revision dates on his plans.
18 MS. ROBESON: Okay.
19 MR. GARDNER: It's unfortunate because there have
20 been a number of them, and I --
21 MS. ROBESON: Right.
22 MR. GARDNER: -- wish he had done it from the
23 beginning, but when was this revised?
24 MS. ROBESON: No, it's okay. I don't want it
25 without, unless it's the revision date. We'll just say

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1 Exhibit 61.
2 MR. GARDNER: Now, the difference between this
3 plan --
4 MS. ROBESON: Okay. Can you -- excuse me one
5 second. I know this is new to you --
6 MS. LAUDERDALE: I'm sorry.
7 MS. ROBESON: -- and I'll give you a chance,
8 before you put on your testimony, to look it over. But I
9 can't have two people talking at once because this is all
10 recorded and we get a transcript.
11 MS. LAUDERDALE: I thought he was just talking to
12 you at that point in time. I'm sorry.
13 MS. ROBESON: No, but the mics are very sensitive
14 because --
15 MS. LAUDERDALE: Oh, I'm sorry.
16 MS. ROBESON: No, it's okay.
17 MS. LAUDERDALE: I'm sorry.
18 MS. ROBESON: It's because they're recording mics
19 and they're very sensitive. So I'm going to, after he
20 presents his case, I'm going to give you an opportunity to
21 digest this and talk amongst yourselves before you put your
22 case on, all right?
23 MS. LAUDERDALE: I'm sorry.
24 MS. ROBESON: No problem. No problem. I just --
25 MS. LAUDERDALE: Is that during the period we

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1 would have an opportunity to ask questions of these
2 individuals?
3 MR. GARDNER: Yes.
4 MS. ROBESON: Yes.
5 MS. LAUDERDALE: Thank you.
6 MR. GARDNER: Basically, I'm making opening
7 comments right now. I'm not testifying. I'll be asking my
8 two witnesses questions, and when I get through asking them
9 questions, you can ask any questions that you have. I don't
10 know that it's appropriate for them to ask me questions
11 since I'm not --
12 MS. ROBESON: No, because --
13 MR. GARDNER: -- through with making opening
14 remarks.
15 MS. ROBESON: Yes. Yes. As long as -- is your
16 architect going to --
17 MR. GARDNER: Yes. Yes.
18 MS. ROBESON: -- testify as to the site layout and
19 all that --
20 MR. GARDNER: Yes. Yes.
21 MS. ROBESON: -- and not just you?
22 MR. GARDNER: Yes.
23 MS. ROBESON: Okay.
24 MR. GARDNER: Now, the difference between these
25 two plans, there's really only one. If you look at the site

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1 itself -- there've been no differences to the house or the
2 operation itself -- the site itself, what they did is they
3 pulled back the eastern parking area; they made it two feet
4 larger than the original plan. You'll see it only has a
5 16-foot side yard setback to the New Hampshire access road.
6 By doing that, they've added two feet of parking area, and
7 they put six parking spaces in here and taken away the one
8 that was parallel --
9 MS. ROBESON: In the corner.
10 MR. GARDNER: What?
11 MS. ROBESON: In the north, or in the southwest
12 corner, right there.
13 MR. GARDNER: Yes, exactly.
14 MS. ROBESON: Right in the southwest corner.
15 MS. LAUDERDALE: Southwest?
16 MR. GARDNER: Took that one away and where there
17 used to be a large space here, added two parking spaces. On
18 the original plan, it was like one and a half --
19 MS. ROBESON: Yes.
20 MR. GARDNER: -- but by making it two feet wider,
21 maxing out the width of it, if you will --
22 MS. ROBESON: Yes.
23 MR. GARDNER: -- there's enough space to put six
24 eight-foot-wide parking spaces in this area. So what that
25 shows is there can actually be enough space for eight cars.

1 would have a shield so that -- that's on the western side
2 light -- so that it wouldn't be seen by the neighbor next
3 door on the other side of the relocated driveway.

4 This whole relocated driveway issue came up during
5 the staff review of the plan. My client will discuss it,
6 but what was discovered is that there's a triangular piece
7 of property on the western side of the property which goes
8 from a point at the very south corner, southwest corner, it
9 extends alongside the neighbor's property out to the street,
10 at which point is 14 feet across. This roughly triangular
11 property is about 700 square feet -- it's mentioned in the
12 deed, which we'll introduce -- and that was done after 1954
13 when the area was privately subdivided. As a result of
14 that, this driveway was built. When it was plotted and
15 subdivided originally, the piece of property was conveyed
16 but the driveway was never moved. So it actually is on the
17 neighbor's property right now.

18 So as part of this, that driveway is going to be
19 pulled back, removed, grass installed where the driveway is,
20 and a new driveway placed entirely within the applicant's
21 property, which actually will benefit his neighbor by
22 providing a much larger setback to the property than
23 currently exists.

24 The use of these parking areas is also important
25 to understand. What is intended is that the western parking

1 area will be used strictly for staff members. Two staff
2 members will park in the spaces that are marked as six and
3 seven on this Exhibit 57. The five spaces in the eastern
4 parking area are intended to be used by one staff member in
5 the morning, who will arrive at 8:30, and by the part-time
6 staff member, who will arrive at 9:30. What that does is it
7 allows the five parking spaces before 8:30 to be used solely
8 by parents dropping off their children. The two western
9 spaces will be used by staff members. The five in the
10 eastern area will be used strictly by parents dropping off
11 their children. At 8:30 the third full-time staff member
12 will arrive, and he or she will use one of these spaces for
13 their car, leaving four remaining for the pickup and
14 drop-off of children. And the way that Mr. Zewdu has
15 arranged his parking, he has staggered them such that no
16 more than four children will be dropped off after 8:30.

17 So the reason Park and Planning agreed, if you
18 will, that he doesn't need nine spaces for the site is that
19 after 8:30 there'll be three staff members and no more than
20 four children being picked up and dropped off at any
21 half-hour period. So when you do the math, that's four
22 pickup and drop-offs plus three staff or seven total parking
23 spaces that are required.

24 The fourth staff member is part-time. He or she
25 would come at 9:30 and leave at 3:30, the idea being that at

1 that point that staff member would be parking in one of the
2 spaces that was otherwise utilized for pickup and drop-offs
3 but they wouldn't be needed for pickup and drop-off anymore
4 because at 9:30 no more children are being picked up and
5 dropped off. The part-time staff member comes. So she
6 could park there, and then she leaves at 3:30 before pickup
7 and drop-off begin. So at that point, there's a need for
8 really four spaces for the four staff members. Two would be
9 in the western parking area, two would be parking in the
10 eastern parking area, and then at 3:30 the part-timer would
11 leave, leaving four of these parking areas available for
12 pickup and drop-off. And at, I believe it's 4:30, one of
13 the full-time members would leave, staff members, and at
14 that point, the staff member who was parking in this eastern
15 parking area would move their car over to the western
16 parking area, and now there's five spaces, once again,
17 available for pickup and drop-off in the eastern parking
18 area.

19 Now, if the Hearing Examiner, if you do not
20 believe that this is adequate, my client, again, has offered
21 an alternative, which is the new plan, 61, in which he can
22 place six parking spaces here which would only require a
23 waiver of one parking space. The previous plan, 57,
24 requires a waiver of two parking spaces, which I believe
25 Park and Planning basically agreed could be done in this

1 case under these facts, as I've just referenced them. But
2 if six spaces are available in the eastern area and two in
3 the west, now we have eight spaces, and there's actually a
4 nice space available on the New Hampshire access road right
5 here. I'm pointing to the southeast corner of the property
6 where there's a 20-foot area, which is long enough for a
7 car.

8 The reason why staff --
9 MS. ROBESON: Okay. Mr. Gardner, I don't want to
10 stop you, but you're going into a lot of detail --
11 MR. GARDNER: Too much detail.
12 MS. ROBESON: -- and you're not under oath --
13 MR. GARDNER: Okay.
14 MS. ROBESON: -- and I can't have these people ask
15 questions of you.
16 MR. GARDNER: Right.
17 MS. ROBESON: So maybe you could just, you know, I
18 need somebody --
19 MR. GARDNER: Testimony?
20 MS. ROBESON: -- to testify in detail to all this
21 stuff.
22 MR. GARDNER: All right. Well, let me, let me
23 finish up then. That's the site issue. Here is the house
24 shown on the plan. What Mr. Zewdu is doing is he's going to
25 be converting the existing single-family home. He's

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1 removing a few walls to allow basically three rooms of up to
2 10 children in each room. The children that will use the
3 center will be between the ages of 2 and 5. It's expected
4 to be a full-time center for children to use. They'll pick
5 up and drop off their children in the morning and retrieve
6 them in the afternoon. It'll be operated by one full-time
7 director and three staff members in addition, a total of
8 four staff members, who will be licensed by the State of
9 Maryland at all times. And with that, I'll be happy to
10 present my first witness.
11 MS. ROBESON: Okay. That's good.
12 MR. GARDNER: Okay.
13 MS. ROBESON: All right. Please --
14 MR. GARDNER: Moges.
15 MR. KASSA: Yes.
16 MR. GARDNER: Would you --
17 MS. ROBESON: No. Please raise your right hand.
18 (Witness sworn.)
19 MS. ROBESON: Okay. Please state your name again
20 for the record.
21 THE WITNESS: My name is Moges Kassa. I'm the
22 architect of --
23 MS. ROBESON: Can you spell your name for the
24 court reporter, please?
25 THE WITNESS: My first name is Moges and it spells

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1 M-O-G-E-S; last name, K-A-S-S-A.
2 MS. ROBESON: Thank you. Okay, go ahead.
3 MR. GARDNER: Thank you.
4 DIRECT EXAMINATION
5 BY MR. GARDNER:
6 Q Moges Kassa, where do you currently live?
7 A I live in North Potomac, Maryland.
8 Q Are you an architect?
9 A Yes, I am.
10 Q And where is your office?
11 A My office is on Washington, D.C., 7600 Georgia
12 Avenue, Northwest, Washington, D.C. 20012.
13 Q And were you hired by my client in connection with
14 this special exception application?
15 A Yes, I do.
16 Q And when was that? When did you first get
17 involved in this?
18 A That was in 2012, December 2012.
19 Q And what is the business that you operate?
20 A I have been given this job, the layout of the
21 existing building --
22 Q Okay.
23 A -- and also the site plan.
24 Q Oh, jeez.
25 MS. ROBESON: Let me ask you this: Are you

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1 licensed as an architect in Maryland?
2 THE WITNESS: I have a licensed person to do that.
3 MS. ROBESON: I'm sorry?
4 THE WITNESS: Yes, we have in our staff, we have a
5 licensed architect.
6 MS. ROBESON: Are you licensed?
7 THE WITNESS: I am not.
8 MS. ROBESON: Okay. Have you ever been an expert
9 witness before at a trial?
10 THE WITNESS: No.
11 BY MR. GARDNER:
12 Q Are you trained as an architect?
13 A Yes. I have a master's degree.
14 MS. ROBESON: In what?
15 THE WITNESS: In architecture, Washington, D.C.,
16 Catholic --
17 MS. ROBESON: From what university?
18 THE WITNESS: Howard, and also another master's,
19 construction management, in Catholic University.
20 BY MR. GARDNER:
21 Q And as part of that training, have you been
22 trained in preparing site plans?
23 A Yeah, site plans of buildings. I have been doing
24 this over 35 years.
25 Q You operate and understand the design-build

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1 business?
2 A Yes.
3 Q And in connection with that, what involvement do
4 you have in preparing drawings for construction?
5 A Yes, I do own the practice, and we have a staff of
6 engineers and an architect.
7 Q Okay. Did you work with that staff in preparing
8 the plans in this case?
9 A Yes. Yes.
10 Q And do these plans accurately reflect the
11 dimensions of the property?
12 A Yes.
13 Q Do they accurately reflect the size and scale of
14 the home?
15 A Yes.
16 Q And all of the changes that are being proposed for
17 the inside and the outside of the home?
18 A Yes.
19 Q And did you place all those changes on these
20 drawings that have been introduced here?
21 A Yes, I do.
22 Q Okay. And you have the skills and ability to do
23 that?
24 A Yes.
25 Q Through your training?

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1 A Yes.
2 Q At Howard University?
3 A Yes.
4 Q Where you obtained a master's degree?
5 A Yes.
6 Q What year?
7 A That was 1983.
8 Q Okay. And do you understand that if this special
9 exception is approved, there'll need to be more detailed
10 drawings in order to get a building permit, will there not?
11 A Yes.
12 Q Are you also going to prepare those?
13 A Yes, we will.
14 Q And those would need to be prepared by a licensed
15 architect, would they not?
16 A That's right.
17 Q And you have them, one of them in your firm?
18 A Yes.
19 Q Okay. Did you prepare these plans?
20 A Yes --
21 Q And why don't --
22 A -- I am overlooking all this one, but I have a
23 draftsman, who's going to draw. He did all that. That's
24 why we have some mistake.
25 MR. GARDNER: All right. Do you have any further

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1 questions for him --
2 MS. ROBESON: No.
3 MR. GARDNER: -- on that issue? Okay.
4 BY MR. GARDNER:
5 Q Let me turn your attention then, why don't you --
6 which drawing is in front of you?
7 A This one is the one, Exhibit 57.
8 Q Okay. You prepared Exhibit 57?
9 A Yes.
10 Q Okay.
11 A This has been done --
12 Q Is that for the home at 921 Northwest Drive?
13 A That's right.
14 Q And that plan was prepared when?
15 A This has been done --
16 Q Do you see the date on it?
17 A The date over here is December 17 -- no. This is
18 the stamp over it.
19 Q December 2013?
20 A '13.
21 Q Okay. It might help if you stand over on this
22 side, Moges. That way everybody can see, including the
23 Hearing Examiner. Now, that was not your first plan, was
24 it?
25 A No.

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1 Q Okay.
2 A I'm not surprised that this is the 10th one.
3 Q Excuse me?
4 A This might be the 10th one.
5 Q Okay. So when did you prepare the first plan for
6 this property?
7 A The first one is in January or February 2013.
8 Q All right. And there were subsequent changes made
9 to this plan?
10 A Yes.
11 Q Why were those changes made?
12 A Yeah, this is due to the direction of Renee, the
13 architect.
14 Q Renee Kamen?
15 A Yes.
16 MS. ROBESON: Renee is staff of the Planning
17 Department, correct?
18 THE WITNESS: Yes.
19 MS. ROBESON: Yes.
20 BY MR. GARDNER:
21 Q All right. Were you in communication with her?
22 A Yes, I do, but mostly Mr. Zewdu is doing that.
23 Q All right. And then you were given instructions
24 by either she or Mr. Zewdu?
25 A Yes.

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1 Q To make changes?
2 A Yes.
3 Q And did you follow those instructions?
4 A Yeah. I always follow that.
5 Q Okay. Briefly, what did those changes generally
6 relate to?
7 A Mostly the, on the site plan, the --
8 MS. ROBESON: Could you just describe this --
9 usually we have a description of the site first, and then
10 you can go through the --
11 MR. GARDNER: Okay. I can do that.
12 BY MR. GARDNER:
13 Q Let me, Moges, let me ask you now, using this
14 plan, 57 --
15 A 57.
16 Q -- could you briefly show on there the site and
17 describe where it's located?
18 A Well, at the beginning, if I start from the
19 beginning --
20 Q Yes.
21 A -- before we found out that the site was out, that
22 triangular site was out, we, we tried to put the parking,
23 all of them around here. That's why --
24 Q Well, we're not asking for the detail. Just, if
25 you would, tell me where this property is located.

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1 A This property is located on 921 Northwest Drive.
2 Q Okay. And can you describe the roadways?
3 A Well, this property is located on the western side
4 of New Hampshire, where there is an access road between the
5 building there, the site, and New Hampshire, and it's on
6 Northwest Drive. But we tried to put this site, in order to
7 show that the entrances -- usually when we design, we have
8 to show -- the entrance is the major thing.
9 Q I'll get to that later.
10 A Yeah. So --
11 Q I'm just asking you to give us an overview of
12 where the site is located. It's at the corner of two
13 streets, is that right?
14 A Two streets, yeah --
15 Q Okay.
16 A -- Northwest and the access road of New Hampshire.
17 Q Right. Northwest is on which side of the
18 property?
19 A On the front of the north -- north side of the
20 property.
21 Q Okay. That's also the front of the house?
22 A Yes.
23 Q And New Hampshire Avenue access is on which side?
24 A On the west side.
25 Q Okay. It's on the side of the house?

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1 A The side of the house.
2 Q When you say it's a house, can you describe it?
3 A Yeah.
4 MS. ROBESON: Wait. Isn't it on the east side?
5 MR. GARDNER: Yes.
6 THE WITNESS: Oh, east. I'm sorry.
7 MS. ROBESON: Because the north is, I don't know
8 why they did that, but the north is pointing down. So it's
9 on the east --
10 MR. GARDNER: Right.
11 MS. ROBESON: -- isn't it on the east side?
12 BY MR. GARDNER:
13 Q New Hampshire Avenue access is on the eastern
14 side, correct?
15 A Yeah, on the eastern, yes. I'm sorry.
16 Q All right. Is there parking allowed on New
17 Hampshire Avenue access road on the eastern side?
18 A Yes, it is allowed there.
19 Q Does it have a restriction?
20 A There is a restriction, I think two hours'
21 parking.
22 Q Okay. Is there parking allowed on Northwest Drive
23 on the northern side of the property?
24 A There is no parking there.
25 Q Okay. So we have a house here with no parking on

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1 Northwest and two-hour parking on New Hampshire Avenue
2 access, correct?
3 A Yes.
4 Q What style home is it?
5 A This is a split-level house.
6 Q Okay.
7 A Residential house.
8 Q And is it compatible with the other homes in the
9 neighborhood?
10 A Yes.
11 Q Similar in style?
12 A Similar.
13 Q Okay.
14 A There is no changing from the exterior.
15 Q Okay.
16 A We didn't do any change on the exterior part of
17 the living.
18 Q No changes?
19 A No changes.
20 Q Okay. Now, there were some pictures that were
21 submitted in this case. I have them.
22 MR. GARDNER: I'll mark it as Exhibit -- are we up
23 to 62? Yes, I believe so.
24 MS. ROBESON: Yes.
25 MR. GARDNER: All right.

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1 BY MR. GARDNER:
2 Q Let me show you pictures which were previously
3 submitted and just ask if you can take that picture and you
4 could use that, stand up, maybe you can use that to just
5 describe briefly --
6 MS. ROBESON: Do the applicants have copies of
7 these, or --
8 MR. GARDNER: The opposition?
9 MS. ROBESON: -- I mean, the opposition have
10 copies of these?
11 MR. GARDNER: I don't know. I'll be happy to
12 share these with them.
13 MS. ROBESON: Okay. So what I'm going to do is
14 mark these 62(a) through (d), okay? So --
15 (Exhibit Nos. 62(a)-(d) were
16 marked for identification.)
17 MR. GARDNER: Now, the one that I'm handing
18 Mr. Kassa actually has a little white margin. It might be
19 easier to mark that one.
20 MS. ROBESON: Let me see --
21 MR. GARDNER: Do you want me to --
22 MS. ROBESON: -- which one that is.
23 MR. GARDNER: Yes. This is probably easier to
24 use. It's the original, and then I can let him use this.
25 MS. ROBESON: Oh, okay.

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1 MR. GARDNER: Okay?
2 MS. ROBESON: All right.
3 BY MR. GARDNER:
4 Q All right. Moges, could you, using these
5 pictures, just briefly describe the site? This is 62. Do
6 you know, does that reflect --
7 MS. ROBESON: Is that 62(a)?
8 MR. GARDNER: 62(a).
9 MS. ROBESON: Yes.
10 THE WITNESS: Yeah. This is the house, and this
11 house, if you see it, I mean, it's brick on the lower part
12 and siding, wooden siding.
13 BY MR. GARDNER:
14 Q And that's not going to change?
15 A It will not change.
16 Q Okay. Does that reflect the appearance of the
17 house today, that picture?
18 A Yeah.
19 Q And that shows the driveway, which we talked
20 about --
21 A The driveway.
22 Q -- on the western side?
23 A Yeah. This is the existing driveway.
24 MS. ROBESON: And that's facing the house from
25 Northwest Drive, correct?

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1 THE WITNESS: Yes. Yes.
2 BY MR. GARDNER:
3 Q Is that as you're on Northwest, facing the access
4 road, but you're looking to the east?
5 A Yeah, we're looking to the east.
6 Q Okay. And you can see there's a speed bump on
7 that Northwest Drive at that location?
8 A Yes.
9 Q Okay. And there's no parking allowed on Northwest
10 Drive?
11 A No, no parking on Northwest Drive.
12 Q And that driveway that we see there is the one we
13 keep talking about that's going to be relocated?
14 A Relocated. This is going to be changed. Due to
15 that change of site, we're going to relocate the parking
16 over here. This is actually --
17 Q That's going to be removed?
18 A Removed.
19 Q And then the parking will be moved closer to the
20 house?
21 A Closer to the house, and we're going to have a
22 10-foot-wide buffer, green area, with Japanese holly.
23 Q Okay. And that'll be installed basically on top
24 of where that current paving is, is that correct?
25 A Yes.

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1 Q Okay. Why don't you turn to the next picture,
2 62(b).
3 MS. ROBESON: (B).
4 BY MR. GARDNER:
5 Q Now, does that show the front of that house?
6 A This is the front, that same -- it's a little
7 closer to the east, and this, all this will not be changed.
8 The parking --
9 Q By all this, the record needs to show what you're
10 talking -- you're talking about the --
11 A Walkway and the steps.
12 MS. ROBESON: The front walkway from Northwest
13 Drive?
14 THE WITNESS: Yeah. It will stay as is.
15 BY MR. GARDNER:
16 Q It's currently brick?
17 A It's currently brick pavers.
18 Q That'll stay?
19 A Yeah, that will stay.
20 Q Then the landscaping we're talking about, where's
21 that going to be installed --
22 A The landscape --
23 Q -- as you look at that picture?
24 A According to this picture, the landscaping will be
25 on the concrete, the one we're going to take out on the --

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1 Q Driveway?
2 A -- existing driveway.
3 Q Why don't you show it to the madam.
4 A Going to be here. This is the existing driveway.
5 MS. ROBESON: On the asphalt driveway --
6 THE WITNESS: Yeah.
7 MS. ROBESON: -- on the right-hand side of this
8 picture.
9 THE WITNESS: Yeah. That will be demolished, and
10 we're going to put green grass and Japanese holly.
11 BY MR. GARDNER:
12 Q Those two evergreen trees that you see in this
13 picture --
14 A Yeah.
15 Q -- over here?
16 A Yeah. This --
17 Q Hold it so she can see it.
18 MS. ROBESON: To the right of the house?
19 BY MR. GARDNER:
20 Q To the right of the house --
21 MS. ROBESON: Yes.
22 BY MR. GARDNER:
23 Q -- between the house and the driveway, these two
24 evergreen trees, are they going to stay?
25 A No, they will go, and we're going to put --

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1 MS. ROBESON: More --
2 THE WITNESS: -- new Japanese holly. That will be
3 taken out.
4 MS. ROBESON: Okay.
5 BY MR. GARDNER:
6 Q Okay. And along the front of this house is there
7 going to be landscaping installed?
8 A Yeah, there will be landscaping over here with --
9 MS. ROBESON: Wait. I can't see.
10 BY MR. GARDNER:
11 Q Show --
12 A Around here.
13 MS. ROBESON: So under those smaller windows --
14 THE WITNESS: Yes.
15 MS. ROBESON: -- is that what you're talking
16 about?
17 THE WITNESS: Yes.
18 MS. ROBESON: Okay.
19 THE WITNESS: Under those we're going to have the
20 Japanese holly. So we'll take the existing one out, and
21 we're going to put a new Japanese holly.
22 MS. ROBESON: Okay.
23 BY MR. GARDNER:
24 Q And, all right, no other changes will be made to
25 the front, or other changes will be made?

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1 A The only change we're going to have on that access
2 road, from the parking.
3 Q But you don't see that on this picture?
4 A No.
5 Q Okay. There's also going to be, I understand, a
6 sweet gum tree installed, is that correct?
7 A Yes.
8 Q On your plan, do you show it?
9 A Yeah. We're going to have a new tree addition to
10 the existing one. This is the existing.
11 Q Yes.
12 A We're going to have another tree there, which
13 is --
14 Q Okay. That's shown on Exhibit 57?
15 A Yeah, sorry.
16 Q All right. Why don't you go to the next picture.
17 MS. ROBESON: 62(c).
18 MR. GARDNER: Yes.
19 BY MR. GARDNER:
20 Q 62(c), what does that look like?
21 A This is the back of the, no, of the backyard.
22 Q Hold it up so she can see what you're talking
23 about. That's the backyard?
24 A The backyard. That's the --
25 Q Okay. And that shows an existing six-foot-tall

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1 privacy fence?
2 A Yes --
3 Q Okay. Did you show that --
4 A -- that's going to remain. It will stay.
5 Q Okay. Do you show that on Exhibit 57 --
6 A Yes.
7 Q -- your site plan?
8 A On the site plan, yes.
9 Q Okay. Show us where that is on the site plan.
10 A It's in --
11 MS. ROBESON: It's on the southwest corner.
12 THE WITNESS: Pardon me? No, no, it shouldn't be.
13 BY MR. GARDNER:
14 Q We're looking at the southwest corner, is what the
15 Hearing Examiner is stating, along here, right?
16 A Okay. Yes. Yes.
17 Q And that's the fence that's shown on this picture.
18 A That's the fence, okay.
19 Q Right?
20 A And then this will --
21 Q By this, you mean the --
22 A The shed.
23 Q -- fence along the south?
24 A The shed, yes.
25 MS. ROBESON: Or what about the shed?

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1 THE WITNESS: The shed will go.
2 MS. ROBESON: The shed will go, okay.
3 BY MR. GARDNER:
4 Q But the fence will remain?
5 A The fence will remain.
6 Q And then there'll be playground equipment
7 installed on that yard?
8 A On this yard.
9 Q All right.
10 MS. ROBESON: Wait. Which? The yard we're
11 looking at in 62(c)?
12 THE WITNESS: The yard right, right here.
13 MS. ROBESON: Okay. You're pointing to --
14 MR. GARDNER: 57.
15 MS. ROBESON: -- the yard shown on 62(c).
16 THE WITNESS: 62, yeah.
17 BY MR. GARDNER:
18 Q Right. The yard shown in 62(c) is going to have
19 playground equipment installed on it, correct?
20 A Yes.
21 Q All right. And this walkway, the brick walkway
22 down to --
23 A Down --
24 Q -- this brick patio, is that going to remain?
25 A That will remain. That will stay.

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1 Q What is here?
2 A This is the side of it. This is the entrance, the
3 sliding door.
4 MS. ROBESON: On the right-hand side.
5 THE WITNESS: Yeah. It's right here, yeah. This
6 is the one.
7 BY MR. GARDNER:
8 Q And that's actually the big yard, right?
9 A Oh, yeah.
10 MR. GARDNER: And he's referring to 57.
11 BY MR. GARDNER:
12 Q The house itself, the southeast corner has a
13 sliding glass door?
14 A Yes.
15 MS. ROBESON: On the upper level.
16 MR. GARDNER: Right.
17 THE WITNESS: Yes.
18 MR. GARDNER: Right, on the upper -- and it's in
19 the upper left corner of that house.
20 THE WITNESS: And this has the steps.
21 BY MR. GARDNER:
22 Q And that's the door that's shown in this
23 picture --
24 A This corner.
25 Q -- 62(c)?

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1 A Yes.
2 Q All right. And that's the sliding glass door
3 that's going to be the access for the children to the
4 backyard?
5 A That's correct.
6 Q All right. Move to the next picture.
7 MS. ROBESON: And this is what's been marked as
8 62(d).
9 MR. GARDNER: (D)? Okay.
10 BY MR. GARDNER:
11 Q Okay. 62(d), if you can hold that up so --
12 A This is --
13 Q That shows the entire property now?
14 A Yeah, the front.
15 MS. ROBESON: The entire front.
16 THE WITNESS: Yeah, that's --
17 BY MR. GARDNER:
18 Q The entire front. Now, does that show where this
19 eastern parking area is going to be located?
20 A Yes.
21 MS. ROBESON: On the left side of the picture.
22 THE WITNESS: On the left side, right here, is
23 going to be the parking, but still we don't have the whole
24 thing, but it's going to be located here.
25 BY MR. GARDNER:

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1 Q And there's going to be the removal of some trees?
2 A Yes. There are two trees. These big trees will
3 be removed.
4 Q Okay. And what are they going to be replaced
5 with?
6 A We're going to have an asphalt parking lot, which
7 is going to be here. Those two trees are one, two.
8 Q And you're showing the two trees that are on
9 Exhibit 57 --
10 A 57.
11 Q -- which were marked Trees to be Removed?
12 A Removed --
13 Q Okay.
14 A -- one, two of them.
15 Q Okay. And what landscaping will be installed
16 there? Go ahead and use 57 and describe it, if you would.
17 A Okay. We're going to, we're going to landscape
18 the area over here. We will have -- one, two, three, four,
19 five, six, seven, eight new trees are going to be planted,
20 and we're going to have, also, that Giant Green --
21 MR. ZEWDU: Green Giant.
22 THE WITNESS: Green Giant shrubs will be on this
23 side and also on the far east of the, east side of the
24 access road and around here, and this one will stay.
25 MS. ROBESON: Where's here?

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1 THE WITNESS: Huh?
2 MS. ROBESON: You mean around the --
3 BY MR. GARDNER:
4 Q You can't say here because you're referring to an
5 exhibit --
6 A Okay.
7 Q -- and the record won't explain what that means.
8 A Okay. The entrance of the parking, we're going
9 to --
10 Q The eastern parking area?
11 A Oh, the eastern parking area, the new eastern
12 parking area, we're going to have the shrubs, the Green --
13 Q Green Giant.
14 MS. ROBESON: I think they're marked on the plan.
15 THE WITNESS: Green Giant, okay.
16 MR. GARDNER: I think what he's trying to describe
17 -- they're marked on the plan, but it doesn't specify which.
18 It gives you two alternatives.
19 BY MR. GARDNER:
20 Q The applicant has selected, has he not, Green
21 Giant --
22 A Green Giant on this side.
23 Q -- to be installed all around the eastern parking
24 area?
25 A Yes.

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1 MS. ROBESON: Correct.
2 BY MR. GARDNER:
3 Q And then Japanese holly would be the preferred
4 choice along the front of the house and along the border on
5 the west?
6 A On the west.
7 Q Is that right?
8 A That's correct.
9 Q Okay. And they would be planted how far apart?
10 A They're going to be planted five feet apart.
11 Q And how big are they going to be at installation?
12 A Six foot. No. At installation they're going to
13 be three feet.
14 Q Correct. And eventually they'll --
15 A Eventually it goes up to six feet.
16 Q So the intent is to install them at three feet in
17 height initially, five feet apart, and they would grow to
18 six feet in height --
19 A Six feet, yeah.
20 Q -- right?
21 A Yes.
22 Q And what's the purpose of that?
23 A To shield the area from the neighbors so that they
24 will not be disturbed.
25 Q And they won't see the parking area?

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1 A And they won't see the parking area --
2 Q And do you believe that --
3 A -- and anyway, the parking, it's -- at that time,
4 no see it anyway. This is -- that's why we have it all the
5 way on this, on the New Hampshire side. At the back it's
6 already, there is a big fence, and, which is a doctor's
7 office actually, and then never would unless -- even when
8 they were driving through the Northwest, they cannot see it.
9 Q And would that provide an adequate buffer to this
10 parking area?
11 A That's correct. That's the purpose of it.
12 Q And the fence along the back is going to be
13 supplemented, the existing fence --
14 A Yeah.
15 Q -- with the new six-foot fence?
16 A Six-foot fence, the one I just said, this is a new
17 fence, which is going to be six feet high.
18 Q And you're pointing to the area to the rear of the
19 property --
20 A Yes.
21 Q -- on the --
22 MS. ROBESON: South.
23 THE WITNESS: South.
24 BY MR. GARDNER:
25 Q -- southeast side?

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1 A Yes.
2 Q Okay. That's the only addition of new fence,
3 correct?
4 A New fence, yeah, that's the only one --
5 Q Now --
6 A -- except we got to renew the front on this side.
7 Q Okay. Well, you can't say this one. We have to
8 be specific. Is that -- you're referring to which area?
9 MS. ROBESON: Let me just take --
10 THE WITNESS: The western.
11 MS. ROBESON: Let me just explain a minute. She
12 is -- what we get is a transcript of everything that was
13 said at the hearing so you can read everything that was
14 said. And if you say here or this, then when we read the
15 transcript, we don't know what you're pointing to because
16 we're just reading words. So in your testimony, for
17 everyone, if you could be specific as to the southwest side
18 or the front yard, that will speed things up. So that's why
19 we're, Mr. Gardner keeps saying you can't just say this or
20 here. You have to say, describe what you're pointing to.
21 BY MR. GARDNER:
22 Q So let me ask it --
23 A Okay.
24 Q -- this way: You've described one area of fence
25 to the southeast on the rear of the property where a new

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1 fence will be installed to what you called the doctor's
2 office?
3 A Yes.
4 Q Okay. Talk a little bit more about that. Where
5 is this doctor's office?
6 A The doctor's office is at the --
7 Q Southeast?
8 A -- the southeast part of this property.
9 Q And that's basically in the backyard?
10 A At the backyard.
11 Q All right. There's --
12 MS. ROBESON: Okay. Before we get into that, let
13 me just ask if there are any objections to admitting these.
14 And when I say objections, the types of things that we are
15 looking for is, is there any reason you have to believe that
16 these are inaccurate. It's not the time to present your
17 case. It's just, is there something wrong with these that
18 they aren't accurate, okay?
19 (No audible response.)
20 MS. ROBESON: Okay. Seeing no objection, I'm
21 going to admit these.
22 (Exhibit Nos. 62(a)-(d) were
23 received in evidence.)
24 MR. GARDNER: Thank you. I'll offer 62(a) to (d).
25 MS. ROBESON: Okay.

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1 BY MR. GARDNER:
2 Q And the doctor's office, then, is currently used
3 as a special exception; is that what you understand?
4 A Yes, that's true.
5 Q And what is the style of that house to the south
6 of this property along New Hampshire Avenue?
7 A Are you talking about ours or the doctor's?
8 Q The doctor's office house, as you called it.
9 A It's exactly the same type of housing.
10 MS. JOHNSON: No, it isn't.
11 BY MR. GARDNER:
12 Q The same type of house?
13 MS. JOHNSON: No. No.
14 MS. ROBESON: No. You'll get your chance. You
15 can ask questions.
16 BY MR. GARDNER:
17 Q It's a residential home? Is it a residential
18 home?
19 A I don't know really.
20 Q Okay. All right. So moving along then to the
21 western parking area, correct? There's an area of fence
22 that's going to be removed and replaced, is that correct?
23 A Yes.
24 Q Can you show us where that fence is located?
25 A The western part of the fence are, used to be the

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1 existing fence, but since we want a secured entrance and a
2 secured fence, we got to change that fence with a similar --
3 Q You mean you're going to remove the driveway?
4 A Yes.
5 Q And you're going to replace the fence?
6 A Anyway, we're demolishing part of that.
7 Q Demolition?
8 A Yeah, when we take out the driveway.
9 Q And you're looking at the piece of fence that's
10 going to be directly behind the new driveway?
11 A Yes.
12 Q Just to the south of the new driveway?
13 A Yes.
14 Q Okay. That's going to be removed and replaced
15 with a new fence?
16 A With a new fence.
17 Q Will it match the existing?
18 A The new door. Yeah, it's going to match, except
19 the door is going to be --
20 Q Well, you're showing a door there --
21 A Yes.
22 Q -- correct?
23 A Yes.
24 Q Okay. Now --
25 A And that door is going to be used only by the

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1 staff, with a lock, and the key will be owned by the staff
2 only --
3 Q All right.
4 A -- the kids will not.
5 Q And you show that fence then traveling northward
6 along the eastern corner of that new proposed parking area?
7 A Yeah, which --
8 Q That'll be a new piece of fence?
9 A Yeah.
10 Q And then it will extend. There's a little section
11 from Parking Space 7 over to the house --
12 A Yeah. That --
13 Q -- and that'll be a new piece of fence?
14 A Yeah, we'll make it new.
15 Q And will that secure the backyard?
16 A That, yeah, that will secure it. If you see,
17 there's a step over there; so we have to secure that.
18 Q And the only way for children to come in and out
19 of the backyard will be from where?
20 A From the first floor. It's only on this side with
21 that slide door --
22 MS. ROBESON: Describe this.
23 BY MR. GARDNER:
24 Q Don't say this side. Don't say this side.
25 A The room, Room No. 3.

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1 Q Okay.
2 MS. ROBESON: Shown on the site plan.
3 THE WITNESS: On the site --
4 MS. ROBESON: Yes.
5 THE WITNESS: -- on the floor plan. We have a
6 sliding door --
7 MS. ROBESON: Okay.
8 THE WITNESS: -- six foot wide, and that's the
9 only way they can access to the outside play area.
10 BY MR. GARDNER:
11 Q Now, have you described all of the -- no, I don't
12 think you've described yet -- show me the lighting that's on
13 the site plan, on Exhibit 57.
14 A Okay. We have existing lights on the building
15 over here which is attached to the walls. We have, on the
16 -- we have, on the western side, two; and there is a motion
17 detector, also, at the back of the building. The two ends
18 of the building we have a motion, two motion detector
19 lights, and the front of the building, on the west side,
20 attached, wall-attached lighting, two of them. And we have
21 another one, two, three, four -- we have eight lights, new
22 one. It's with a pole, nine feet high, and which is similar
23 to the neighborhood. So that the light will not disturb the
24 others, we're going to have a backing, backboard attached to
25 it.

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1 MS. ROBESON: A backboard, you mean the light
2 fixture?
3 THE WITNESS: On the light fixture --
4 BY MR. GARDNER:
5 Q You're going to have a shield placed on it?
6 A A shield. A shield.
7 MS. ROBESON: Okay.
8 BY MR. GARDNER:
9 Q Let me show you what I'm marking as Exhibit 63.
10 (Exhibit No. 63 was marked
11 for identification.)
12 BY MR. GARDNER:
13 Q Is this the type of light that will be installed
14 there?
15 A Yes.
16 Q Okay. It's called a Hampton Bay?
17 A Hampton Bay, yes.
18 Q Okay. And this lantern --
19 MS. ROBESON: Okay. Any objections?
20 (No audible response.)
21 MS. ROBESON: Did you give them a copy?
22 MR. GARDNER: I just gave them a copy.
23 MS. ROBESON: Okay.
24 (Exhibit No. 63 was received
25 in evidence.)

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1 BY MR. GARDNER:
2 Q So the lantern is at the top of a six-foot pole,
3 correct?
4 A Yes.
5 Q Now, on that lantern you can place panels to
6 shield it so that it only goes in one direction and not in
7 the other?
8 A That's right.
9 Q Is the applicant proposing to do that?
10 A Yes.
11 Q Okay. And which lanterns would have that
12 shielding, and what direction would they shield the light
13 from transmitting?
14 A Well, in order to have it -- anyway, those lights
15 are around this area.
16 Q This area meaning --
17 A On the eastern --
18 Q -- the eastern parking?
19 A -- parking, the new eastern parking --
20 Q Okay.
21 A -- area. Even though there is a fence, six-foot
22 fence at the back, and also where are trees around the front
23 area, we still, if it's required, we're going to put the
24 shield from the street and then from the back.
25 Q And also on the side? Look at the western parking

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1 area.
2 A The western? Yeah. Well, this is --
3 Q The western parking area. There's one light right
4 here, is that correct?
5 A No. This is existing, attached to the wall.
6 Q Okay. There's no new lampposts --
7 A No.
8 Q -- proposed over here?
9 A No. These are, these are only --
10 Q I thought that's a new one right there.
11 A Yeah.
12 Q That's a new one? Okay.
13 A Okay.
14 Q So there's one new lamppost right next --
15 A Yeah. That's the only one, was right -- yes.
16 Q Right. That's next to Space No. 6 on the western
17 parking area?
18 A Yes.
19 Q Okay. So there'll be a shield --
20 MS. ROBESON: Wait. Space No. 6 on the western?
21 MR. GARDNER: Yes.
22 THE WITNESS: On the west side by the two
23 parking --
24 MS. ROBESON: There is no space -- oh. Oh, you're
25 looking at the old plan. Okay.

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1 MR. GARDNER: Yes, 57. I'm sorry. We took that
2 out of your file.
3 MS. ROBESON: No, it's okay. I understand.
4 BY MR. GARDNER:
5 Q So Space 6, there's one lamp there?
6 MS. ROBESON: What exhibit is that? 57.
7 MR. GARDNER: 57.
8 THE WITNESS: 57.
9 MR. GARDNER: On the new plan --
10 MS. ROBESON: Yes.
11 MR. GARDNER: -- 61, let me show you.
12 MS. ROBESON: It's near 7.
13 MR. GARDNER: Yes. There we go.
14 BY MR. GARDNER:
15 Q Oh, this is --
16 A 57.
17 Q Okay. This is 61. Referring to Plan No. 61, that
18 new space would be located where? I mean, the new lamppost
19 next to the house is next to Parking Space 7, correct?
20 A Yes.
21 Q All right. And that, you could put a shield on it
22 from -- prevent the light from spilling off in what
23 direction?
24 A On the western side.
25 Q Okay. Toward the neighbor's house?

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1 A Yes.

2 Q All right. And staff has recommended that those

3 lights only be used during the hours of operation of the

4 center. Do you know that?

5 A Yes.

6 Q Well, I can ask Mr. Zewdu about that. Are there

7 any other proposed changes to the exterior that you have not

8 referenced?

9 A Not really.

10 Q Is that all of them?

11 A That's all.

12 Q Okay. Now, we've been talking about Plan No. 57.

13 Now, there is a new plan, 61, correct?

14 A Yes.

15 Q Okay. You have 61 in front of you. Can you

16 describe the changes between 57 and 61?

17 A Yeah. On this plan the only thing we changed is

18 on that, the eastern, the new, the eastern parking lot. We

19 just took -- see, the setback requires only 16 foot, and by

20 following that one, we added one parking. No. Actually, we

21 can accommodate six of them on that lot. So we have enough

22 space, which is eight foot wide by 18 --

23 MS. ROBESON: Are any of them handicapped?

24 THE WITNESS: We can provide one handicapped on

25 that side, yeah.

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1 MS. ROBESON: On that site plan --

2 THE WITNESS: Yes.

3 MS. ROBESON: -- you have enough room to make one

4 handicapped?

5 THE WITNESS: That's true.

6 BY MR. GARDNER:

7 Q How wide are those six parking spaces on Exhibit

8 61?

9 A Eight foot.

10 Q Eight foot wide?

11 A Yes.

12 Q And what do they need to be?

13 A The car is six foot, but we have provided eight

14 feet for each car.

15 Q Okay.

16 MS. ROBESON: Although, to be handicapped, it's

17 got to be exclusive, designated exclusively for --

18 THE WITNESS: Yeah, but the size is going to be,

19 stay the same. It's not a bigger size --

20 MS. ROBESON: So you're saying any of them --

21 THE WITNESS: Yeah.

22 MS. ROBESON: -- could be handicapped?

23 THE WITNESS: Yeah. Most probably, the farther,

24 the sixth one is, going to put --

25 BY MR. GARDNER:

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1 Q The last one?

2 A The last one.

3 Q Would be the one that if --

4 A Yeah.

5 Q -- it needed to be --

6 A Yeah. In the first place, you see our ramp is

7 right there --

8 Q Okay.

9 A -- it's closer to that. We're going to --

10 Q Well, let's talk about that ramp. We didn't talk

11 about that. There is a proposed sidewalk, is there not?

12 A Yes.

13 Q Where is the sidewalk shown on that plan, 61?

14 A It's at the front. Just assume a new parking

15 area. On the west side of that parking, in order to take us

16 to the building entrance, see, we're going to have a long

17 handicapped ramp.

18 Q Okay. And then that sidewalk would also extend

19 then to the western side of the property?

20 A Yes. This is existing one. We have one that

21 existed here.

22 Q To the driveway?

23 A Yes.

24 Q On the west?

25 A On the west.

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1 Q Okay. And you're saying a ramp would be installed

2 on the parking as it travels to the east?

3 A To the east.

4 Q Okay. And that would be in what type of material?

5 A It's concrete asphalt.

6 Q Okay. What color is that?

7 A It's similar to the -- it's gray --

8 Q Okay.

9 A -- but I'm proposing, also, we can use the brick

10 paver too.

11 Q Now, you understand that the side yard setbacks

12 for a special exception are 16 feet?

13 A Yes.

14 Q Can a 16-foot side yard setback be provided on the

15 western side of the property and allow for construction of a

16 driveway on the western side?

17 A Yes.

18 Q No. Can a 16-foot side yard setback west?

19 A West.

20 Q No, west. Thank you.

21 A Oh, yeah. On the west side over here, we

22 changed --

23 Q Can a 16-foot --

24 A No.

25 Q No?

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1 A No.
2 Q Okay. So what are you proposing?
3 A We're proposing a 10-foot-wide with green grass
4 and a tree.
5 Q And you understand that requires a waiver of six
6 feet from the required 16-foot setback?
7 A Yes. That's why --
8 Q Is that six-foot waiver the minimum necessary?
9 A That's minimum what, what we need.
10 Q Okay. And that's what you need in order to
11 provide the 10-foot-wide?
12 A That's correct.
13 Q And would the side yard setback to the adjoining
14 property be better after this is done?
15 A It's going to be better and beautiful.
16 Q Okay. And that's why?
17 A That's why.
18 Q No. You tell me why. Describe it verbally.
19 A We need the -- the 10-foot-wide, with the green
20 grass and the trees, that will shield whatever the weather,
21 and you don't need a 16-foot --
22 MS. ROBESON: Is it more of a setback than what
23 exists today?
24 THE WITNESS: Yeah.
25 MR. GARDNER: Okay. Did I introduce the Hampton

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1 Bay, 63?
2 MS. ROBESON: Yes.
3 MR. GARDNER: Yes. Okay.
4 BY MR. GARDNER:
5 Q Let me show you Exhibit 64. Okay? This is a page
6 from the staff report. You've read this, have you not?
7 A Yes, sir.
8 Q Okay. Now, using Exhibit 64, which is page 4 from
9 the staff report, let me ask you a couple of questions about
10 that. 64 shows the approximate location of the current
11 driveway, correct?
12 A Correct.
13 Q And you've been on this property, is that
14 accurate?
15 A That's correct.
16 Q And does that show where the current driveway --
17 A With the black line is the current one.
18 Q Right. And it's located on the neighbor's
19 property, a big part of it, correct?
20 A Yes.
21 Q All right. And does that show the area that you
22 intend the applicant will be removing?
23 A That's correct.
24 Q Okay. And then it shows behind that, in, I guess,
25 the orange, the proposed relocated driveway, correct?

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1 A That's correct.
2 Q And that was when there were four spaces being
3 proposed on that side of the property?
4 A That's correct.
5 Q That's one of your earlier drawings?
6 A Yes.
7 Q Okay. And that's now been pulled back to two?
8 A Pulled -- yeah. Yeah.
9 Q What?
10 A By 14 foot at the entrance and zero at the back,
11 that portion has been taken out. So we have to move it to
12 the east.
13 Q Fourteen feet in front?
14 A Yes.
15 Q Okay. And zero in the back?
16 A At the back, yeah.
17 Q That's 10 feet, but then it'll all be moved so
18 that a 10-foot-wide green space can be provided?
19 A Can be provided there.
20 Q Which is a wider setback to the neighbor's
21 property than there currently exists?
22 A That's true.
23 Q Currently there's no setback?
24 A No, no setback.
25 Q There's actually an intrusion?

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1 A That's right.
2 Q Okay.
3 MR. GARDNER: All right. I'd like to offer, what
4 is this, 64, which is page 4 from the staff report.
5 MS. ROBESON: Okay. Any objections?
6 (No audible response.)
7 MS. ROBESON: Okay. Being none, it's admitted.
8 (Exhibit No. 64 was received
9 in evidence.)
10 BY MR. GARDNER:
11 Q Now, can you talk briefly now about the inside --
12 well, no. Before I do that, the front yard setbacks
13 required by the zoning ordinance, do you understand that's
14 25 feet?
15 A Twenty-five feet.
16 Q Have you provided a --
17 A Yeah. Yeah, we --
18 Q -- 25-foot setback?
19 A That's correct, we provided that.
20 Q Is that provided to the new eastern parking
21 facility?
22 A Yeah.
23 Q That's west. Go to the east.
24 A The eastern, the eastern part we have, from the
25 property, we have 15.

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1 Q Okay. That's the street setback?
2 A To the parking. We don't have any building over
3 there.
4 Q I'm sorry?
5 A We don't have any building there. The parking is,
6 start from 15 feet from the property line of Mr. Zewdu's
7 property.
8 Q And then are you providing a 16-foot side yard
9 setback?
10 A Yes. Okay. The western side we have 25.
11 MS. ROBESON: Wait, the southern side.
12 THE WITNESS: The southern, the southern.
13 BY MR. GARDNER:
14 Q This is the east.
15 MS. ROBESON: Why don't you turn it upside down,
16 and then the north arrow will be pointing up. There.
17 BY MR. GARDNER:
18 Q Okay. The side yard setback to New Hampshire
19 Avenue access road --
20 A From -- okay.
21 Q -- you have a 16-foot --
22 A That's 16, yes.
23 Q And that's on this new exhibit, 61?
24 A That's right.
25 Q You can meet that 16-foot -- you actually made

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1 that two feet wider, or narrower, did you not, with this new
2 plan?
3 A Yes.
4 Q 57, Exhibit 57, you had an 18-foot.
5 A Eighteen.
6 Q Right?
7 A That's correct.
8 Q Now you narrowed that to 16 feet?
9 A Sixteen.
10 Q Which is the minimum required?
11 A Required.
12 Q And by doing that, have you found space for six
13 parking spaces?
14 A That's correct. That's how we did.
15 Q Okay. And does that comply with the rear yard
16 setback?
17 A Yes.
18 Q Twenty-five feet?
19 A Twenty-five feet.
20 Q That hasn't been changed?
21 A No.
22 Q Okay. And it's 15 feet from the front yard?
23 A That's correct.
24 Q Which is the minimum required?
25 A That's correct.

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1 Q But it's 10 feet from the side yard, which
2 requires the six-foot waiver?
3 A Yeah. That's what we're asking.
4 Q Okay. And if eight spaces are placed on the site,
5 then there's only a need for a waiver of one parking
6 requirement?
7 A One parking, that's correct.
8 Q Can one car also park on the New Hampshire Avenue
9 access road?
10 A That's correct. Since this space have two hours,
11 any drop-off can park over here.
12 Q Where is here?
13 A By the western -- the eastern side of the
14 property.
15 Q And now we're looking at the southeastern side,
16 correct?
17 A Yes.
18 Q All right. Twenty feet is adequate for one car to
19 park there?
20 A For one car, yeah. All we need is 18.
21 Q Okay. You have green area shown on the site plan.
22 This is all meaning it'll be in grass?
23 A In grass.
24 Q The area that's shown as green area?
25 A Yes.

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1 Q The front yard, the rear yard?
2 A Yes.
3 Q With that being said, why don't you move to the
4 inside of the house and tell me what changes you're
5 proposing for the inside of the house.
6 MS. ROBESON: And we're looking at 61?
7 MR. GARDNER: 1, yes.
8 BY MR. GARDNER:
9 Q And that hasn't been changed from any other plan,
10 has it?
11 A No.
12 Q Along this process, from February/today, you've
13 made changes to the outside of the plans to comply with Park
14 and Planning's comments, yes?
15 A That's right.
16 Q But no changes to the inside?
17 A No.
18 Q All right. So tell us then what --
19 A This is the entrance of the building, the main
20 building. You go, enter. There is, what we did, we have
21 the -- this is a residential building, and we're trying to
22 convert this residential property to this daycare. The only
23 thing we did on this property on the inside is we just
24 demolished some walls, and there is an inside over here, the
25 living room. It had a depressed floor. We raised that

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1 floor and make it one-level floor. The living room and the
2 dining and the kitchen will be one area, one room, big room,
3 and we followed that for the kids. For each kid we need 35
4 square foot. For that, we're going to provide -- we have
5 431 square foot of area on Room 3. When we enter the
6 building, there is a reception hall. That reception hall,
7 we're going to use it as a resting and an office area. We
8 go straight through the reception, the kids, they can go to
9 the Room 3.

10 And there is another room that goes up, which is,
11 we didn't change any steps; that steps are existing. We go
12 up -- it's a street-level building -- we go up and we have
13 Room No. 2 and we have Room No. 1. And Room, Room No. 1 is
14 also a big area. We have over there 410 square foot of
15 area. On this one we have a locker room, where we can put
16 the kids' --

17 MS. ROBESON: Okay. What --
18 BY MR. GARDNER:
19 Q Don't say this one.
20 A Well, the --
21 Q Don't say this one.
22 MS. ROBESON: What are you pointing to?
23 BY MR. GARDNER:
24 Q Where are you referring to?
25 A On the upper bedroom.

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1 Q Okay. In between the two Room 1s, if you will,
2 the area that's marked as Room 1?
3 A Room 1, and then Room 1 --
4 Q There's sort of a box in the middle of that?
5 A Yes. That is a closet, the, where we --
6 Q Locker area?
7 A Locker area for the --
8 Q Okay. And then you have a Room --
9 A -- the stuff for the kids.
10 Q You have a Room 2 upstairs. What's that for?
11 A Room 2 is a nap; they can take a nap in that area,
12 in that room, Room 2.
13 Q So on the first --
14 A We have --
15 Q -- on the first level, you're proposing one large
16 room, 431 square feet, yes?
17 A Yes. Yes.
18 Q For how many children?
19 A That room divided --
20 Q How many children would utilize that room? Do you
21 understand it's 10 children?
22 A Ten children, yes.
23 Q Okay. And they have to have 35 square feet by
24 state law?
25 A By state law, yeah, that's what's required.

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1 Q So this has more than --
2 A More than --
3 Q -- 350?
4 A Yes. We have 410 square foot.
5 Q And you're going to be removing the existing
6 kitchen?
7 A We're going to remove the existing kitchen, but
8 we --
9 Q And replace it with?
10 A -- we provide a bathroom.
11 Q A bathroom?
12 A Yeah.
13 Q And you're going to include a reception area in
14 the front?
15 A At the front, yeah.
16 Q Okay. With desks?
17 A With desks and a seat.
18 Q Then you'll walk upstairs in this split-level home
19 to the area with Rooms 1 and 2?
20 A Yes.
21 Q And that shows a bathroom up there?
22 A That is a bathroom --
23 Q Okay.
24 A -- and a locker also.
25 Q A locker, as you call it, which is that square in

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1 the middle?
2 A Yes.
3 Q And then Room 1 is currently two bedrooms, is it
4 not?
5 A Yes, it is, but --
6 Q You'll be removing the wall between those two --
7 A The wall between the two. There are two rooms
8 upstairs -- on this level. So we took the wall out when we
9 joined them.
10 Q When you say you took the wall out, you took it
11 out on this plan; it hasn't been done yet?
12 A Not yet.
13 Q Right. Okay.
14 A On the plan.
15 Q And then Room 2 is an existing bedroom that'll
16 remain?
17 A It will remain.
18 Q And that'll be used as a nap/quiet area for all
19 the children in the center --
20 A Yes.
21 Q -- if they need to take a nap?
22 A Yes.
23 Q All right. Does that complete the changes to the
24 upstairs?
25 A Except we have, we have changes -- there is an

Page 78

1 existing bathroom. That bathroom used to have a shower. We
2 took out those and we --
3 Q Is that what you called a diaper-change area?
4 A Diaper-change area.
5 Q Okay. That is an existing shower that'll be taken
6 out and turned into a diaper-change area?
7 A Yes.
8 Q Okay. So now, moving downstairs.
9 A Downstairs, when we go down, we, we have Room No.
10 4, we called it, and there is 355 square foot of area.
11 We're going to have another 10 kids --
12 Q Okay.
13 A -- at this level.
14 Q And you'll be adding a kitchen down there?
15 A Yes, we're going to have a kitchen, where can
16 prepare the food, the kitchen area.
17 Q That's in the rear of this drawing?
18 A Yes, at the rear of that.
19 Q And there'll be a bathroom downstairs?
20 A There is a bathroom which was existing. We
21 modified a little by changing the wall, right.
22 Q And you'll take out the shower and install a
23 second toilet?
24 A The shower and we provided another toilet.
25 Q And then in front of that bathroom is this little

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1 area. What is that?
2 A This one is the mechanical room, where we have --
3 utility room.
4 Q Okay. And you show that with that little circle
5 in the square. That's the mechanical room?
6 A Yeah, and so water heater and mechanical.
7 Q Okay. Are those the extent of the -- well, no.
8 There's also an outdoor from downstairs, correct?
9 A Yeah. From the kitchen --
10 Q Yes.
11 A -- there is an access for the employee only.
12 Supply, whatever they're going to get, they go to that -- if
13 we go back to the site, there is an entrance and there is a
14 step to take them out to that door, to the employee parking.
15 MS. ROBESON: Okay.
16 BY MR. GARDNER:
17 Q Okay. Now, I'm going to ask you a few questions.
18 Do you believe that after the construction of this plan, as
19 you've described it, that the end result would be consistent
20 with the general plan for the physical development of the
21 district, including any master plan adopted by the
22 Commission?
23 A That's correct. That's correct.
24 Q And the master plan talks in terms of providing
25 childcare in appropriate locations. Do you believe this is

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1 an appropriate location for the provision of childcare?
2 A Yes.
3 Q Why is that?
4 A It's -- well, this location, if you see, there is
5 a big government office across the street --
6 Q Yes.
7 A -- and that employees, they need --
8 MS. ROBESON: Across New Hampshire Ave?
9 THE WITNESS: Across New Hampshire.
10 BY MR. GARDNER:
11 Q A large government facility?
12 A Large government facility there, and also, this is
13 the only daycare area around that, around that area.
14 Q Now, another factor in the master plan is to be
15 compatible with their surrounding. Do you believe that
16 after this is constructed, that it will be compatible with
17 its surrounding neighborhood?
18 A That's correct.
19 Q And it seeks to have the front yard setback
20 maintained. Does this maintain the front yard setback?
21 A Yes, that's correct.
22 Q Okay. No changes to that have been proposed?
23 A No, no change, no.
24 Q Does it avoid front yard parking?
25 A It will avoid, yeah.

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1 Q What? Does it avoid front yard parking, the
2 special exception application?
3 A That's correct, avoid that.
4 Q And is the side and rear parking screened from the
5 view of the surrounding neighborhood?
6 A Yes. Yes.
7 Q And that's been done by the providing of this
8 landscaping?
9 A Landscape and a fence.
10 Q Okay. Are any new buildings going to be proposed?
11 A No.
12 Q Okay. All right. Does it place a large
13 impervious area in the Paint Branch watershed?
14 A Yes.
15 Q No.
16 A No.
17 MS. ROBESON: No, you can't supply him with the
18 answer.
19 MR. GARDNER: Oh, boy.
20 MS. ROBESON: So if --
21 BY MR. GARDNER:
22 Q Is a large --
23 MS. ROBESON: -- you don't know, don't say it,
24 okay?
25 BY MR. GARDNER:

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1 Q Is a large impervious surface being constructed
2 here?
3 A No.
4 Q Okay, thank you. Do you believe that this
5 application will be in harmony with the general character of
6 the neighborhood, considering population density, scale and
7 bulk of any proposed new structures, intensity and character
8 of activity, traffic and parking condition, and a number of
9 similar uses?
10 A That's correct.
11 Q It will be in harmony?
12 A In harmony.
13 Q What?
14 A Yes.
15 Q Okay. Do you believe it will be detrimental to
16 the use, peaceful enjoyment, economic value, or development
17 of surrounding properties or the general neighborhood at the
18 subject site?
19 A No.
20 Q Okay. Will it cause any objectionable noise?
21 A No.
22 Q Fumes, odors, dust --
23 A No, no dirt.
24 Q -- or physical activity?
25 A No dirt.

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1 Q Okay. When considered in conjunction with
2 existing and approved special exceptions in this nearby
3 one-family residential area, will it increase the number,
4 intensity or scope of special exception uses sufficiently to
5 affect the area adversely or alter the predominantly
6 residential nature of the area?
7 A No.
8 Q Okay. You understand there is a special exception
9 next to it for the doctor's office?
10 A Yes.
11 Q Okay. And there was one approved across the
12 street?
13 A Across the street too.
14 Q Do you know if that's still being used as a
15 special exception?
16 A I really don't know that.
17 Q Okay. There's no evidence that it is?
18 A No.
19 Q Will it adversely affect the health, safety,
20 security, morals, or general welfare of residents, visitors,
21 or workers in the area at the subject site?
22 A No.
23 Q Okay. Will it be served by adequate public
24 facilities, to your knowledge -- water, sewer, schools, and
25 the like?

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1 A It will have that, yeah.
2 Q Okay. And it meets with all of the required
3 setbacks except for the one on the side yard that we've been
4 through, correct?
5 A That's correct, yeah.
6 Q Okay. And it meets with all of the parking
7 requirements with the exception of the number of parking
8 spaces?
9 A That's correct.
10 Q Okay. And do you believe that the waiver of this
11 parking requirements, if granted, that the parking
12 facilities plan, which is being included -- that would be
13 the one on the east and the west -- provide for the
14 protection of the health, safety, and welfare of those who
15 use the adjoining land or public road that abuts the parking
16 facility? In other words, does it have reasonable control
17 of noise, glare or reflection from automobiles, automobile
18 lights, parking lot lighting, and automobile fumes?
19 A Yes, we have.
20 Q Okay. Does it provide for the safety of
21 pedestrians and motorists within these facilities?
22 A Yeah, it does.
23 Q Adequately?
24 A Adequately.
25 Q And does it provide the optimum safe circulation

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1 of traffic within the parking facility and the proper
2 location of entrances and exits to public roads so as to
3 reduce or prevent traffic congestion?
4 A Yes.
5 Q Okay. Does it provide appropriate lighting if the
6 parking is to be used after dark?
7 A Yes.
8 Q Okay. And you understand those lights are going
9 to be shut off when the center is not in use?
10 A After 6:30, yeah.
11 Q After 6:30?
12 A Yes.
13 Q Is that correct?
14 A That's correct.
15 Q Okay. And in granting this waiver under
16 59-G-2.13.1 parens 2 of the zoning ordinance, you understand
17 the number of parking spaces may be reduced by the Hearing
18 Examiner if Mr. Zewdu demonstrates that the full number of
19 spaces required in 59-E-3.7 is not necessary because there
20 are existing parking spaces available on adjacent property
21 or the street abutting the site that satisfy the number
22 required, or a reduced number of spaces would be sufficient
23 to accommodate the proposed use without adversely affecting
24 the surrounding area or creating safety problems?
25 A That's correct.

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1 Q Do you believe that a reduced number of spaces
2 would be sufficient to accommodate the proposed use without
3 adversely affecting the surrounding area or creating safety
4 problems?
5 A Yes, that's correct.
6 Q And can you just briefly explain why?
7 A We have -- if we follow the schedule Mr. Zewdu
8 proposed, I mean, we don't have any problem.
9 Q Okay. And why do you say that?
10 A Because we have provided seven parking lots. With
11 this last drawing, we have eight parking --
12 Q So in Exhibit 57 you had seven, but you've redone
13 it so you can now --
14 A With this one, the new one --
15 Q Number, Exhibit 61.
16 A With the new, Exhibit 61.
17 Q You now have eight spaces?
18 A Eight spaces, and --
19 Q Okay. But that's still one less --
20 A It's still --
21 Q -- than the required nine?
22 A Yeah. The one, we're going to have it on the
23 western access road, one parking, which is to be used by
24 the, by the parents --
25 Q Okay.

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1 A -- if they don't stay more than two hours.
2 Q Right. So that, you could actually have nine
3 spaces?
4 A Nine. We have nine, right.
5 Q But if parents don't use that one on New Hampshire
6 Avenue and there's eight, why is it we don't need nine?
7 A They will have a scheduled -- according to
8 Mr. Zewdu, the schedule has been done when we need only
9 seven.
10 Q Now, let me show you what's been marked --
11 MR. GARDNER: I'll mark it now as Exhibit 65.
12 (Exhibit No. 65 was marked
13 for identification.)
14 BY MR. GARDNER:
15 Q Is this the parking schedule that you're referring
16 to?
17 A Yes.
18 Q Is that the revised schedule that Mr. Zewdu did?
19 A Yes.
20 Q Okay. And --
21 MS. ROBESON: Is this the same as the one that was
22 already submitted, if you --
23 MR. GARDNER: Yes. It was submitted about two
24 weeks ago --
25 MS. ROBESON: Okay.

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1 MR. GARDNER: -- and it's attached to the
2 transmittal letter.
3 MS. ROBESON: Okay.
4 MR. GARDNER: It hasn't changed.
5 BY MR. GARDNER:
6 Q So using that, just briefly describe why the use
7 of nine spaces is not necessary at the center.
8 A I believe --
9 Q What?
10 MS. ROBESON: Any objections to this coming in?
11 (No audible response.)
12 MS. ROBESON: It's already in --
13 BY MR. GARDNER:
14 Q Can you briefly describe that? Or do you want
15 Mr. Zewdu -- I'll reserve that question for Mr. Zewdu later.
16 MS. ROBESON: That's fine.
17 MR. GARDNER: Thank you.
18 MS. ROBESON: Okay. Seeing no objections, I'll
19 admit this.
20 (Exhibit No. 65 was received
21 in evidence.)
22 MR. GARDNER: Thank you.
23 BY MR. GARDNER:
24 Q Is an adequate area for the discharge and pickup
25 of children provided?

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1 A Yes.
2 Q Okay. And that's the eastern parking area?
3 A The eastern, yeah.
4 Q Where would staff members be parking?
5 A On the western side, the two parking.
6 Q Okay. Those are the two staff members, would park
7 there?
8 A The two staff there, and according to the
9 schedule, some of the staff, I mean, the other two might
10 park to the western side.
11 Q Eastern side.
12 A The eastern side.
13 Q Okay.
14 A So I think that explanation will be given by
15 Mr. Zewdu. He knows the schedule of --
16 Q All right, thank you. All right. I think that
17 concludes my questions. Have I asked you everything that,
18 or is there anything else that you want to say in connection
19 with this application?
20 A No.
21 MR. GARDNER: Okay. I'd make him available for
22 questions.
23 MS. ROBESON: All right. It's your time for
24 questions. What I'm going to do, though, is take a
25 10-minute break, and let me just explain why. I have to --

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1 because this is an alternate plan, Exhibit 61, I'm required
2 to refer it back to technical staff for their review.
3 So I'm going to try and get Ms. Kamen to see when
4 she could complete a review so I know how long to keep the
5 record open. Okay? When an amendment comes in, the zoning
6 ordinance requires me to send it back. They don't have to
7 comment, but we do get their comments frequently. Yes,
8 ma'am.
9 MS. LAUDERDALE: I came a little late, sorry.
10 I've got a cast --
11 MS. ROBESON: Oh, dear, that's not good.
12 MS. LAUDERDALE: -- and I couldn't find a place to
13 park close enough. Let me ask you, maybe -- I'm a little
14 confused about the scope of this hearing. I didn't think it
15 was going to be technically whether this facility fits into
16 the community, but I thought the scope of it was whether it
17 should be, regardless of its architectural structure.
18 I see now that we're kind of getting bogged down
19 into the architectural structure of it, and I thought the
20 question was, should there be a daycare center there,
21 regardless of how beautiful it looks or regardless of what
22 it is. I guess, maybe you probably made a statement before
23 I came in, and so maybe that's why I'm a little lost.
24 MS. ROBESON: Well, that's a good question. What
25 I did is make copies, the way -- this is a petition for a

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1 special, what they call a special exception --
2 MS. LAUDERDALE: Yeah.
3 MS. ROBESON: -- which sounds like it's an
4 exception but it's not really. There's a set of standards
5 that they have to meet.
6 MS. LAUDERDALE: I submitted a letter; so I read
7 all those standards. You know, I'm an attorney; so I did
8 look this up, you know, before I wrote my letter, but I also
9 see my letter is not included in the record. And what --
10 MR. GARDNER: It's attached to the staff report, I
11 believe. She's probably --
12 MS. LAUDERDALE: I did submit it.
13 MS. GARDNER: -- the lady that wrote this letter.
14 MS. ROBESON: What is your name?
15 MS. LAUDERDALE: Eleanor Lauderdale.
16 MR. GARDNER: Yes. It's attached, Exhibit 4 to
17 the staff report, Attachment 4.
18 MS. ROBESON: Okay.
19 MS. LAUDERDALE: Oh, okay. I didn't see it in the
20 list of exhibits.
21 MR. GARDNER: It's --
22 MS. LAUDERDALE: So that's --
23 MS. ROBESON: No, it's not. That's because it's
24 attached to another exhibit.
25 MS. LAUDERDALE: To another exhibit. Okay, I got

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1 that now. So I guess I'm a little bit confused because now
2 we appear to be discussing how this is going to look or how
3 it is going to fit into the community as opposed to whether
4 it's going to be allowed.
5 MR. GARDNER: Well, I'm just putting on my case,
6 and I'm doing the best job I can.
7 MS. ROBESON: Okay. Let me --
8 MS. LAUDERDALE: No. I said --
9 MS. ROBESON: -- let me answer the question.
10 MS. LAUDERDALE: -- I'm asking the Hearing
11 Examiner that I don't understand something.
12 MS. ROBESON: Okay. I understand your question.
13 It's a good question. What Mr. Gardner and Mr. Zewdu and
14 their witnesses are doing, there are requirements that it
15 be, what they call residential in character --
16 MS. LAUDERDALE: Uh-huh.
17 MS. ROBESON: -- and I'm rephrasing, and a lot of
18 those questions that Mr. Gardner just asked go to the
19 specific requirements for approval, which are set out in the
20 staff report. There's a long list of things you have to
21 prove.
22 MS. LAUDERDALE: Right. So are you talking about
23 with Montgomery County Ordinance No. 59- --
24 MS. ROBESON: G- --
25 MS. LAUDERDALE: -- G-1.2.blank.

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1 MS. ROBESON: Correct.
2 MS. LAUDERDALE: Right.
3 MS. ROBESON: And one of the things you have to
4 prove, for instance, is that the light isn't going to cause
5 glare and the house is going to be residential in character.
6 And so his testimony was pertinent to -- and you have to
7 prove you meet the development standards, and if you ask for
8 a parking waiver, you have to prove that the full number of
9 spaces isn't needed or you can provide the parking on street
10 and it's not going to have an adverse impact on the
11 neighbor. Now, that's just a few of the criteria that I
12 mentioned.
13 So he's got to prove at this hearing, yes, it's
14 got to meet all of that criteria. If you oppose this, you
15 -- the best way to oppose it is to say why he doesn't meet
16 these particular criteria.
17 MS. LAUDERDALE: Oh, this one likely does. I
18 just, I just didn't know why we were getting so technical.
19 I thought that we were coming here to address the
20 petitioner, not the architect, because I think I was not
21 prepared to, for questions for the architect as opposed to,
22 I do have questions for the petitioner.
23 MR. GARDNER: Well, he's going to testify next.
24 MS. ROBESON: Well, the petitioner is going to
25 testify next.

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1 MR. GARDNER: You weren't here --
2 MS. LAUDERDALE: Oh, okay.
3 MR. GARDNER: -- at the beginning. I said I was
4 presenting testimony --
5 MS. LAUDERDALE: Well --
6 MR. GARDNER: -- from both. You'll have plenty of
7 opportunity --
8 MS. LAUDERDALE: As I, as I said, I came --
9 MS. ROBESON: Just, just, just a minute. Don't
10 answer for me.
11 MR. GARDNER: Okay.
12 MS. LAUDERDALE: I said I came in late to which I
13 apologized --
14 MS. ROBESON: No, it's fine, and I need --
15 MS. LAUDERDALE: -- and if there was a statement
16 that was made --
17 MS. ROBESON: I understand.
18 MS. LAUDERDALE: -- that I wanted to get the gist
19 of it.
20 MS. ROBESON: Yes. You're fine. If you have
21 questions for the petitioner, he is going to be testifying
22 now.
23 MS. LAUDERDALE: Okay. That's all.
24 MS. ROBESON: What we're on is cross- --
25 MS. LAUDERDALE: Direct.

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1 MS. ROBESON: -- cross-examination of the
2 architect --
3 MS. LAUDERDALE: The direct.
4 MS. ROBESON: -- and as you know, that is simply
5 asking questions based on his testimony, but after Mr. Zewdu
6 testifies and is cross-examined, you will get a chance to
7 say whatever you want to say but particularly in reference
8 to these criteria. The only reason I have to take a break
9 now is that Mr. Gardner, or Mr. Zewdu submitted an amended
10 plan with more parking, with one additional space, and I
11 need to contact technical staff to see how long it's going
12 to take them to review that change.
13 So I'm going to take a 10-minute break. When we
14 come back, we're going to have questions of the architect,
15 cross-examination of the architect limited to what he
16 testified on. It's not your turn to testify. You are going
17 to get a turn, trust me, and you will get to say whatever
18 you wish to say. So you may, it may be helpful during this
19 break, if you, if there are questions you want to ask the
20 architect, you kind of get those together so you have them
21 ready to go.
22 So I need to -- I'm going to go off the record for
23 10 minutes. I'm going to call technical staff at the
24 Planning Department and see how long it's going to take them
25 to review this amendment.

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1 MS. LAUDERDALE: One other question. Can we have
2 15 minutes? I had to park on the street --
3 MS. ROBESON: Yes.
4 MS. LAUDERDALE: -- because I couldn't find
5 municipal parking.
6 MS. ROBESON: Yes.
7 MS. LAUDERDALE: I need to go put money in that
8 meter.
9 MS. ROBESON: Yes. Yes, you can do that. Yes,
10 sir.
11 MR. BERRY: I'm sorry. Earlier you indicated that
12 you were going to have someone copy the criteria for us.
13 Could we have that?
14 MS. ROBESON: I think she, the technical staff,
15 it's -- I thought she gave that to you.
16 MR. GARDNER: She did.
17 MR. BERRY: Do we have another copy of that
18 somewhere?
19 MS. JOHNSON: Here.
20 MR. BERRY: I don't want to take yours.
21 MS. JOHNSON: You are more affected than I am.
22 MR. BERRY: Okay.
23 MS. ROBESON: Now --
24 MR. BERRY: All right. I'll look at this. Is
25 this available on the Internet later?

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1 MS. ROBESON: Yes, it is. It's posted --
2 MR. BERRY: Okay, fine. Thank you.
3 MS. ROBESON: -- it's posted under the Planning
4 Board's website.
5 MR. BERRY: Okay.
6 MS. ROBESON: And let me just tell you, because I
7 have -- I had trouble finding them the first time. Up in
8 the, when you go to the Planning Board's agenda --
9 MR. BERRY: Uh-huh.
10 MS. ROBESON: -- you will see a date up there that
11 the Planning Board heard the case, and I think it's 11/14.
12 So you have to click on 11/14 and find it in the list of
13 matters they discussed, and the staff report will be there.
14 MR. BERRY: Thank you very much.
15 MS. ROBESON: Okay. With that, we'll take 15
16 minutes.
17 MR. GARDNER: Thank you.
18 (Whereupon, at 11:17 a.m., a brief recess was
19 taken.)
20 MS. ROBESON: All right. We're back on the
21 record. This is cross-examination of the petitioner's
22 architect. Does anyone have any questions from those
23 opposing?
24 Yes. Can you identify your name and address for
25 the record?

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1 MS. LAUDERDALE: All right. For the record, my
2 name is Eleanor Lauderdale. I'm at --
3 MS. ROBESON: You can come forward to --
4 MS. LAUDERDALE: Okay. I will. I'm at 901
5 Northwest Drive, five houses west --
6 MS. ROBESON: Okay. This isn't -- this is just
7 questions now.
8 MS. LAUDERDALE: Okay. I'm just telling --
9 MS. ROBESON: Okay.
10 MS. LAUDERDALE: -- I didn't know whether you
11 wanted --
12 MS. ROBESON: Yes.
13 MS. LAUDERDALE: -- the location more than just
14 the address.
15 MS. ROBESON: No. No. When you testify, yes,
16 okay?
17 MS. LAUDERDALE: Okay. But I'm, okay, I'm going
18 to do this. Let me --
19 MS. ROBESON: Right now, just questions of the
20 architect.
21 CROSS-EXAMINATION
22 BY MS. LAUDERDALE:
23 Q Is there -- has there been an allowance for
24 residential space in there? Is there an area that will be
25 residential space?

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1 A On that area?
2 Q In the house. Is part of the house --
3 A No.
4 Q -- laid out for residential living?
5 A With the new plan, no.
6 Q No. So this will no longer be a residential
7 house; it's being converted to --
8 A A daycare.
9 Q -- a commercial enterprise, is that correct?
10 A Yeah, a daycare, yes.
11 Q All right. So no one will be living there --
12 A No.
13 Q -- at any time?
14 A No.
15 Q And so will all the walls of -- you said one of
16 the walls of two of the bedrooms will be broken down. So
17 there will no longer be even a -- I don't know whether
18 that's a three- or four-bedroom house.
19 A No, it will not.
20 Q It will be what?
21 A It will be only a hall for --
22 Q It will become a hall?
23 A A hall, yeah. It's a big area. It's going to be
24 a hall for the kids only, and there is a closet where they
25 can put their stuff, playing and coloring, all that, the

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1 books.
2 MS. ROBESON: You're talking about Room 1. Is
3 that what you're talking about?
4 THE WITNESS: Yeah, most of that. Room 1 --
5 MS. ROBESON: Do you have the site --
6 MS. LAUDERDALE: Let me --
7 MS. ROBESON: -- here, take my copy of the site
8 plan.
9 MS. LAUDERDALE: Let me look at your copy.
10 MS. ROBESON: This is Exhibit 61 I'm handing.
11 MS. LAUDERDALE: Okay.
12 BY MS. LAUDERDALE:
13 Q On Exhibit 61, on the upper level --
14 A Uh-huh.
15 Q -- we're looking at the upper level --
16 A Yes.
17 Q -- it's showing Room 1 --
18 A Yes.
19 Q -- as one, Room 2, and Room 3?
20 A Yes.
21 Q Okay.
22 A There is no -- this time, no, they convert it to a
23 bedroom.
24 MR. GARDNER: Wait for a question, please.
25 MS. LAUDERDALE: I'm trying to get to that. Okay.

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1 MS. ROBESON: No. He was talking to his witness.
2 MS. LAUDERDALE: Oh. Oh, okay. I thought he
3 was --
4 MS. ROBESON: We know you're getting --
5 MS. LAUDERDALE: -- telling me to ask a question.
6 MS. ROBESON: No.
7 MS. LAUDERDALE: I'm sorry. I'm sorry. I didn't
8 hear him.
9 BY MS. LAUDERDALE:
10 Q Room 3 is going to remain, with no walls broken
11 down, is that correct? You aren't going to remove walls
12 there?
13 A Room 3?
14 Q Right, the one with the bathroom, Room 3.
15 A No. No. There's no wall, but we have --
16 Q Okay. Room 1 --
17 A -- we're going to put a partition.
18 Q You're going to put a partition.
19 A Where the visitors' section, in that. See,
20 previously it was, you can enter it from that side.
21 Q Okay. So Room 4 is what used to be, going down
22 the level to a lower level, Room 4 --
23 A Yeah. Yeah, basement.
24 Q -- is what, in most of the houses there, is the
25 living room/dining area?

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1 A Room 4 of the other --
2 Q Room 4.
3 A Yeah, that's the basement.
4 Q That's on the first level when you enter, is that
5 correct? Or is that --
6 A Room 4 is downstairs.
7 Q It's the lower level?
8 A The lower level.
9 Q And you're going to build a new kitchen down
10 there?
11 A Yes.
12 Q Okay. And so nowhere is there space for anybody
13 to live?
14 A No.
15 Q It's not going to be a house anymore --
16 A No.
17 Q -- is that correct? All right.
18 MS. LAUDERDALE: I don't have any questions.
19 MS. ROBESON: Anyone else?
20 Yes, ma'am. Can you state your name again?
21 MS. JOHNSON: Wilma Johnson.
22 MS. ROBESON: I didn't get the spelling of your
23 first name.
24 MS. JOHNSON: W-I-L-M-A.
25 MS. ROBESON: Okay. I'm sorry.

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1 MS. JOHNSON: That's okay.
2 MS. ROBESON: I don't know why I didn't get that.
3 Go ahead.
4 BY MS. JOHNSON:
5 Q I just need some clarification in terms of what I
6 think that I heard. Did I understand you to say that
7 currently parking is not permitted on Northwest Drive?
8 A Currently?
9 Q Yes.
10 A No.
11 Q I'm not so sure that that is correct because --
12 A Currently? You mean --
13 MS. ROBESON: Okay. This is the only, only -- you
14 can say that when you get to your testimony, but this is
15 only asking him questions right now.
16 MS. JOHNSON: Okay. So he said parking is not
17 allowed. Did I understand that correct?
18 MS. ROBESON: On Northwest Drive, yes.
19 MS. JOHNSON: Right. Okay. So I have to wait
20 until some other time to explain why --
21 MS. ROBESON: Exactly.
22 MS. JOHNSON: Okay.
23 BY MS. JOHNSON:
24 Q Could you tell me the size of the backyard where
25 you indicated you would have play equipment or something?

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1 A The back where there's a play area? That's what
2 -- that's the existing one. Are you asking me for the new
3 one?
4 Q Are you going to expand the backyard?
5 A No, we don't.
6 Q I'm asking, my specific question is, what is the
7 current size of this backyard?
8 A It is 3,000 square foot.
9 Q Okay.
10 A Three thousand eleven actually, yeah.
11 Q Do you plan to have any type of security?
12 A Security?
13 Q Yes.
14 A For the -- entering the backyard for the play
15 area, yes, we do.
16 Q Okay. And what is that?
17 A A lock.
18 Q Okay. Let me rephrase another part of my
19 question. In the unlikely event someone attempted to break
20 in when you are closed, that is the kind of security my
21 question relates to.
22 A Oh, there is security lights and --
23 Q Do you anticipate having any sort of alarm
24 system --
25 A Yes, we're going to --

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1 Q That's -- okay.
2 A -- yeah, we're going to do that.
3 MS. JOHNSON: Okay. Those are all my questions.
4 MS. ROBESON: Okay.
5 MS. JOHNSON: Thank you.
6 MS. ROBESON: Yes, sir.
7 MR. BERRY: Thank you.
8 BY MR. BERRY:
9 Q I have a few questions, and if I do something
10 wrong here, I apologize ahead of time, because my first
11 question is going to be asking you about something you
12 didn't testify on and that's the electrical situation in the
13 house.
14 MR. GARDNER: Just before we start, for the
15 record, could we get his name on the record?
16 MR. BERRY: Oh, I'm sorry. I'm very sorry. My
17 name is Mike Berry. My standing is, I'm the next-door
18 neighbor at 917 Northwest Drive.
19 MR. GARDNER: Thank you.
20 MS. ROBESON: Okay.
21 MR. BERRY: And in my previous experience, the
22 architect handled in rebuilding electrical stuff, and if
23 that's not appropriate, someone tell me to stop.
24 BY MR. BERRY:
25 Q But I'm wondering if you are planning to do any

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1 extensive electrical work in this building, and let me tell
2 you why I ask. The, one of the previous owners called me
3 over one day --
4 MR. GARDNER: I'm going to object.
5 MS. ROBESON: Okay. Let's wait for that until
6 your testimony.
7 MR. BERRY: Okay.
8 MS. ROBESON: You can ask him -- he didn't testify
9 to that, but I'm going to let you ask him, are you planning
10 to do --
11 MR. BERRY: Okay. That'll be my question.
12 BY MR. BERRY:
13 Q Are you planning to do any major electrical
14 rewiring?
15 A No.
16 Q No. Okay. And the next question is sort of my
17 ignorance. You testified that, in your opinion, noise would
18 not be an issue. In my opinion, eight children playing
19 outside can make a considerable amount of noise. So here's
20 my ignorance: Are there standards for this, and if so, do
21 you believe that eight children playing outside would meet
22 that? I understand there'll be some attenuation of the
23 noise by the trees in the summer but not much in the winter.
24 Are there standards?
25 MR. BERRY: Does anyone know, other --

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1 MR. GARDNER: Is that your question?
2 MR. BERRY: That is my question.
3 BY MR. BERRY:
4 Q Are there standards?
5 MR. GARDNER: All right. Can you answer it?
6 MS. ROBESON: If you know.
7 THE WITNESS: I do not know. I don't know.
8 BY MR. BERRY:
9 Q You do not know. Okay.
10 MR. BERRY: Can I ask that to -- does anyone know
11 if there are standards?
12 MS. ROBESON: When you're --
13 MR. BERRY: Okay. I'm sorry.
14 MS. ROBESON: There are standards in the county
15 code, and I'll explain that to you later. Let's --
16 MR. BERRY: Thank you very much.
17 MS. ROBESON: -- let's go through the witness now.
18 MR. BERRY: That's all I have.
19 MS. ROBESON: Okay. Anyone else?
20 (No audible response.)
21 MS. ROBESON: Thank you very much. You guys are
22 very quick learners and you're very good. I think you've
23 missed your calling. All right. You may be --
24 THE WITNESS: Thank you.
25 MS. ROBESON: -- excused as a witness.

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1 THE WITNESS: Right. Thank you.
2 MS. ROBESON: Okay. Mr. Gardner.
3 MR. GARDNER: Thank you. I would call Mr. Zewdu.
4 Should he remain seated or should -- is that okay?
5 MS. ROBESON: He can remain seated, yes.
6 MR. GARDNER: Thank you.
7 MS. ROBESON: Please raise your right hand.
8 (Witness sworn.)
9 MS. ROBESON: Okay. Please state your name and
10 address for the record.
11 THE WITNESS: My name is Dereje Zewdu,
12 D-E-R-E-J-E; last name, Z-E-W-D-U. I live at 13117
13 Broadmore Road, Silver Spring, Maryland 20904.
14 DIRECT EXAMINATION
15 BY MR. GARDNER:
16 Q Mr. Zewdu, you are the applicant in this case?
17 A Yes.
18 Q And do you own the property at issue?
19 A Yes.
20 Q Who do you own it with?
21 A With my wife.
22 Q The address of the property is?
23 A 921 Northwest Drive, Silver Spring, Maryland
24 20901.
25 Q Now, you have an accent; so you'll keep your voice

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1 slow so it can be --
2 A Okay.
3 Q -- recorded by the court reporter.
4 MR. GARDNER: Do you have any problems?
5 THE REPORTER: Not yet.
6 MR. GARDNER: Okay, thank you.
7 BY MR. GARDNER:
8 Q She'll let us know if you do.
9 A Sure.
10 Q What do your wife and you intend to do with this
11 property?
12 A We would like to open a daycare. And I was
13 really, when I learned first FDA, Food and Drug
14 Administration, is moving to that place, I thought that is
15 the right place for a daycare, and I put it on the market.
16 So my intention is to have a daycare, up to 30 students, in
17 that property.
18 Q All right. And you bought this property when?
19 A In 2008, August.
20 MR. GARDNER: I'll mark what's been previously
21 submitted. What are we up to? 60? Apologize.
22 MS. ROBESON: No, that's fine. I don't have it
23 right in front of me.
24 MR. GARDNER: I think I'll have it -- I have it in
25 my notes, I believe. I think I got up to 60 --

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1 MS. ROBESON: 66 is what we're on now.
2 MR. GARDNER: Okay. All right.
3 BY MR. GARDNER:
4 Q Let me show you what I'm having marked as Exhibit,
5 oh, boy, 66.
6 (Exhibit No. 66 was marked
7 for identification.)
8 BY MR. GARDNER:
9 Q What is that?
10 A That's the deed.
11 MS. ROBESON: I'm sorry. The deed?
12 THE WITNESS: The deed of the property.
13 BY MR. GARDNER:
14 Q All right. And that shows that it's owned by you
15 and your wife. What's her name?
16 A My name is Dereje Zewdu, and my wife's name is
17 Fekerte Desalegn.
18 Q Okay. I guess somehow I got -- all right. And it
19 shows the property was purchased July 11, 2008?
20 A Yes.
21 Q And what's it been used for since then?
22 A I mean, as soon as I bought, I mean, I couldn't
23 open right away. So I let my friend live in the house, and
24 he lived in the house, yeah.
25 Q He lived in it until when?

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1 A Until last September and it's vacant after
2 September.
3 Q Now, you received the Park and Planning report in
4 this case that contained a letter from Eleanor Jenkins
5 Lauderdale?
6 A Yes.
7 Q And you read that letter?
8 A I did.
9 Q And she complained that the property was not
10 maintained very well?
11 A Parking lots too.
12 Q Oh, okay. And why is that?
13 A I didn't live in the house; so my friend lived in
14 the house. I hired a contractor to take care of the lawn.
15 Sometimes he failed. So the contractor is to go there
16 and --
17 Q Sometimes he what?
18 A He failed. He didn't --
19 Q Failed?
20 A Yeah, he --
21 Q Okay.
22 A So, I mean, so he didn't probably take care of the
23 lawn as I contracted him to do, but it's not the way the
24 letter was written. It seems for me that's a little bit
25 exaggerated.

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1 Q So you believe that it was exaggerated in the
2 letter?
3 A Yes.
4 Q And so since September has anything changed in the
5 condition of the property since your friend left?
6 A Yes. After September I hired another person, and
7 the grass was cut and all the lawns was done very well and
8 that time, at spring, it seemed very good condition.
9 Q Now, if this is approved for a special exception,
10 what steps will you take to maintain the exterior appearance
11 of the property?
12 A As I -- as we showed in the site plan, there'll be
13 a lot of extensive working on the garden. So it would be
14 grass and trees. So I will hire a licensed contractor to
15 take care of the lawn.
16 Q Okay. And do you believe it'll be in better,
17 worse, or the same maintenance as it's been in the past?
18 A It's going to be better.
19 Q Better?
20 A Yes.
21 Q Okay. Now, in this deed did you discover that the
22 piece of the property has actually been conveyed to your
23 neighbor at 917 Northwest Drive?
24 A I didn't discover until Renee, the planner --
25 Q Until what?

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1 A Renee, the --
2 Q Renee?
3 MS. ROBESON: Renee.
4 THE WITNESS: Renee, sorry.
5 BY MR. GARDNER:
6 Q That's Renee Kamen?
7 A Yeah. The Planning Department staff mentioned to
8 me the driveway was on my neighbor's property. That's the
9 first time I learned about that.
10 Q All right. And that was discovered by the
11 language in that deed, correct?
12 A Yes.
13 Q All right. Now, let me show you what I'll mark as
14 Exhibit 67.
15 (Exhibit No. 67 was marked
16 for identification.)
17 MS. ROBESON: And what is that?
18 MR. GARDNER: This is the house location survey.
19 It was attached as Exhibit A to one of my previous
20 submissions. I believe it's attached as Exhibit A to my
21 second amended request for a waiver.
22 BY MR. GARDNER:
23 Q Is this the lot location survey that you saw when
24 you purchased the property?
25 A Yes.

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1 Q And this shows the property without that
2 triangular piece being conveyed to your neighbor, correct?
3 A Correct.
4 Q Okay. And let me show you what I'm marking as 68.
5 (Exhibit No. 68 was marked
6 for identification.)
7 BY MR. GARDNER:
8 Q Is this a copy of the plat plan as it was
9 originally developed for the neighborhood back in 1955?
10 A Yes.
11 Q And this is a close-up portion of that. Your
12 property is shown on this as Lot 11, is that correct?
13 A That's correct.
14 MR. GARDNER: Okay. I'd like to offer 66, the
15 deed; 67, the site plan, or house location survey; and 68,
16 which is the plat.
17 MS. ROBESON: Any objections to admitting these,
18 just to admitting these?
19 MS. LAUDERDALE: Not to them.
20 MS. ROBESON: Okay. They're admitted.
21 (Exhibit Nos. 66-68 were
22 received in evidence.)
23 BY MR. GARDNER:
24 Q Now, your lot on the plat, which is 68, is Lot 11?
25 A Correct.

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1 Q And that shows a rectangular property, doesn't it?
2 A It is.
3 Q What?
4 A Correct.
5 Q Okay. And let me show you a blowup portion, which
6 I'll mark as 69, of the zoning vicinity map.
7 (Exhibit No. 69 was marked
8 for identification.)
9 BY MR. GARDNER:
10 Q Your lot is also shown as 11 on that, correct?
11 A Correct.
12 Q Okay. And that one shows, Exhibit 69 shows the
13 little triangular piece that was conveyed to your neighbor
14 at 917 Northwest Drive, is that correct?
15 A That's correct.
16 Q Okay. And that's now shown on the newer plats?
17 A Correct.
18 Q And that was done sometime between 1955 and when
19 you got the property in 2008, is that correct?
20 A Again, it's correct.
21 MS. ROBESON: Okay. I'm sorry. I can't have you
22 talking --
23 MS. LAUDERDALE: Oh, I'm sorry.
24 MS. ROBESON: -- because she won't be able to
25 hear.

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1 MS. LAUDERDALE: I do understand that. I'm sorry.
2 MS. ROBESON: That's all right.
3 MR. GARDNER: Okay. I'd like to offer 69, Your
4 Honor.
5 MS. ROBESON: Any objections?
6 (No audible response.)
7 MS. ROBESON: Okay. This is the zoning vicinity
8 map.
9 (Exhibit No. 69 was received
10 in evidence.)
11 BY MR. GARDNER:
12 Q And after discovering that, did you discover that
13 a piece of your driveway, which you thought was yours, is
14 actually located on 917 Northwest Drive?
15 A Correct.
16 Q Okay. And that is depicted on page 4, excuse me,
17 yes, on page 4 of the staff report, a copy of which was
18 previously introduced through your architect, is that right?
19 A That's right.
20 Q And on page 4 of the staff report, the planner
21 showed the location of the driveway which encroaches on 917
22 Northwest, correct?
23 A Correct.
24 Q And then on page 17 of the staff report --
25 MR. GARDNER: Am I going too fast?

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1 MS. ROBESON: No.
2 MR. GARDNER: Okay.
3 BY MR. GARDNER:
4 Q On page 17 of the staff report, Ms. Kamen showed
5 what the staff of the Planning Board recommended be done
6 with that so that a 10-foot-wide green space could be
7 provided next to your neighbor at 917 Northwest?
8 A Correct.
9 Q And on that drawing on page 17, did you ask your
10 architect to follow that?
11 A Yes.
12 Q And did, to your knowledge, he do so with Exhibits
13 57 and 61, which we've reviewed this morning?
14 A Yes, he did.
15 Q Okay. And the intent of that is to do what?
16 A Because the driveway was located in my neighbor.
17 So following the recommendation from the planning staff, we
18 decided to relocate the driveway in order to give more
19 setback to my neighbor.
20 Q And you originally had proposed to put a six-foot
21 fence there, a six-foot-high privacy fence to create a
22 buffer to your neighbor, right?
23 A Correct.
24 Q You since amended that, and now you're proposing
25 on your newer plan to do what?

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1 A To do a 10-foot-wide green area and to place
 2 Japanese holly instead of the fence.
 3 Q Now, the Japanese holly, if you can look at that
 4 drawing on page 17 of the staff report, are those Japanese
 5 holly going to be installed along -- in that 10-foot-wide
 6 green space?
 7 A Correct.
 8 Q Also along the front of your house?
 9 A Correct.
 10 Q And how large are they going to be?
 11 A At the time of planting, three feet and can grow
 12 up to six feet.
 13 Q And they'll be how many feet apart?
 14 A Five feet apart.
 15 Q Okay. And then around the parking area on the
 16 eastern side of your property, what are you going to propose
 17 to be planted?
 18 A Giant Green.
 19 Q Giant what?
 20 A Giant Green.
 21 Q Giant Green?
 22 A Yeah. Let me, let me get the --
 23 MS. ROBESON: Shrubs?
 24 THE WITNESS: Yeah. I'm sorry, Green Giant.
 25 BY MR. GARDNER:

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1 Q Green Giant?
 2 A Sorry, yeah. Yeah.
 3 Q And they'll also be three feet high at planning,
 4 five feet apart?
 5 A Correct.
 6 Q And they grow to six feet also?
 7 A Correct.
 8 Q And what is the intent of planting those?
 9 A The intent to -- I mean, we would like to keep the
 10 property residential. So we'd like to shield the parking
 11 from the eyes of the neighbors, so that we'll plant with
 12 shrubs and trees.
 13 Q All right. And you're also planning to put in
 14 some deciduous trees, correct?
 15 A Correct.
 16 Q What are those? What kind?
 17 A They are sweet gum.
 18 Q Sweet gum?
 19 A Yeah.
 20 Q And those are on the locations on the plan?
 21 A Yes.
 22 Q And the purpose of those?
 23 A Is to give 70 percent shield for the parking.
 24 Q Okay. And to maintain the what?
 25 A To maintain the residential look of the property.

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1 Q Now, are you planning to make any exterior changes
 2 to the house itself?
 3 A No.
 4 Q Now, let me show you what I'll have marked as
 5 Exhibit -- what am I up to? 68?
 6 A Oh, God.
 7 Q What?
 8 A Yes, 68.
 9 Q I just gave you one. What was that?
 10 A No, 69.
 11 Q 69. All right. I'm going to show you as 69,
 12 there were some pictures attached to the staff --
 13 A 70.
 14 Q 70. All right, 70. All right, 70. I don't know
 15 why I'm --
 16 (Exhibit No. 70 was marked
 17 for identification.)
 18 MS. ROBESON: What is Exhibit 70? Photographs?
 19 MR. GARDNER: 70 is the photographs, Attachment 2
 20 to the staff report.
 21 BY MR. GARDNER:
 22 Q Let me show you Exhibit 70 and ask, can you go
 23 through these pictures? They were taken by Renee Kamen of
 24 staff at Park and Planning?
 25 A Yes.

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1 MS. ROBESON: Now, these should be in the staff
 2 report that you have a copy of, in the back. It's
 3 Attachment 2.
 4 MR. GARDNER: Yes.
 5 BY MR. GARDNER:
 6 Q All right. Do they accurately reflect the
 7 appearance of the property today?
 8 A Yes.
 9 Q Okay. Why don't you go through them. Using
 10 Figure No. 1, property frontage, tell us what that shows us.
 11 A That shows the property on the front side of the
 12 property on Northwest Drive, and Figure 2 shows the street
 13 on Northwest Drive when you're looking west. Figure 3 is on
 14 Northwest Drive when you're looking east.
 15 Q Well, let's, you're going a little fast here,
 16 okay? Figure 2, Northwest Drive, looking west?
 17 A West, yes.
 18 Q That's looking, if you will, from New Hampshire
 19 Avenue access road up the road?
 20 A Yes.
 21 Q So you're more or less at the light there?
 22 A Yes.
 23 Q Okay. And Figure 3 is Northwest Drive, looking
 24 east?
 25 A East.

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1 Q Is that looking toward New Hampshire?
2 A Toward New Hampshire, yes.
3 Q Actually, I think -- are you sure? It seems like
4 it's backwards.
5 MS. ROBESON: Wait a minute. That's not right.
6 MR. GARDNER: Yes.
7 MS. ROBESON: First of all, did you all find the
8 pictures?
9 MS. JOHNSON: I didn't.
10 MS. ROBESON: Okay. Do you have an extra copy of
11 these or not?
12 MR. GARDNER: I do. Here, I'll give them this.
13 BY MR. GARDNER:
14 Q All right. So it appears that Figure 2, looking
15 west, actually Renee Kamen made a mistake. That's actually
16 looking east, isn't it? You can see the parking bump, and
17 then it appears to be the light out there.
18 A Yeah. Yeah, that's looking west.
19 Q No. It's looking --
20 A East.
21 Q -- east.
22 MS. JOHNSON: East.
23 BY MR. GARDNER:
24 Q It's actually inaccurate.
25 A Yeah. We take them both --

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1 Q It says looking west, but in reality it's looking
2 east --
3 A Looking east.
4 Q -- is it not?
5 A Uh-huh.
6 Q Okay, thank you. And that parking bump there is
7 before your property, is it not?
8 A Yes.
9 Q Okay. It's not right in front of your property,
10 as you can see in Figure 1?
11 A No, it is not.
12 Q Okay. So if I'm looking at Figure 1, it would be
13 to the right, yes?
14 A Yes.
15 Q Okay. So if you're coming down Northwest Drive,
16 approaching New Hampshire Avenue, you cross the parking bump
17 and then you come up to your property?
18 A Correct, yeah.
19 Q And your property would be on the right-hand side?
20 A Correct.
21 Q Okay. Then Figure 3 --
22 MS. ROBESON: Now, wait a minute. Figure 2 is
23 looking west --
24 MR. GARDNER: Well, it's --
25 MS. ROBESON: -- because if you're looking at New

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1 Hampshire, that's west.
2 MR. GARDNER: You'd be looking east from that.
3 MS. LAUDERDALE: No, that's looking -- that's
4 looking east.
5 MR. GARDNER: It's actually, if you were -- it's a
6 picture of somebody standing back here, which is the right
7 corner of Exhibit 61, facing easterly, past the property
8 toward New Hampshire Avenue.
9 MS. ROBESON: No, that's westerly.
10 MR. GARDNER: No, that's, that's east. This is
11 east of the property on the left side of these exhibits.
12 MS. ROBESON: Oh, you're right. I'm sorry.
13 MR. GARDNER: Yes, because that's why we called it
14 the eastern parking bay.
15 MS. ROBESON: Yes.
16 MR. BERRY: You're confused by the location of the
17 camera. It's --
18 MR. GARDNER: Yes.
19 MR. BERRY: -- in front of the Runletts' (phonetic
20 sp.) house and it's looking east. It is --
21 MR. GARDNER: Yes.
22 MR. BERRY: -- not in front of the 921 house.
23 MS. ROBESON: I got you. Okay, the --
24 MR. GARDNER: It's up the road.
25 MS. ROBESON: -- the bump, the speed bump.

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1 MR. BERRY: Yeah.
2 MS. ROBESON: Okay. I'll swear you in later.
3 MR. BERRY: I'm sorry.
4 MS. ROBESON: No, it's okay --
5 MR. GARDNER: No, I don't mind.
6 MS. ROBESON: -- but it was helpful. Thank you.
7 MR. GARDNER: I think the speed bump is more or
8 less in front of his property.
9 MS. ROBESON: Okay, so looking east. All right.
10 THE WITNESS: East.
11 MR. GARDNER: Yes. That's a misnomer.
12 MS. ROBESON: And then this Figure 3 is looking
13 west then.
14 MR. GARDNER: Correct.
15 BY MR. GARDNER:
16 Q So Figure 3 then is actually looking, if you will,
17 from somebody more or less in the front of your property,
18 out in the street, looking up into the neighborhood, is that
19 right?
20 A That's right.
21 Q Okay. Now, Figure 4 shows your existing driveway
22 and a six-foot picket fence?
23 A Correct.
24 Q You're proposing what happens to that fence?
25 A I'm going to put a new fence, the same wood fence.

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1 Q Okay. So that's going to be removed when that
2 driveway is removed?
3 A Correct.
4 Q And it'll be replaced with a new one that matches
5 the existing?
6 A Correct.
7 Q And a new door will be put in it, correct?
8 A Correct.
9 Q All right. Figure 5 shows the New Hampshire
10 Avenue service road, which is a signalized intersection,
11 correct?
12 A Correct.
13 Q All right. Now, that's looking across the street
14 from your property?
15 A Yes.
16 Q And --
17 MS. ROBESON: Across which street?
18 MR. GARDNER: Across Northwest.
19 THE WITNESS: Across Northwest, yes.
20 MS. ROBESON: Okay.
21 BY MR. GARDNER:
22 Q Correct?
23 A Correct.
24 Q All right. And then that's looking up that New
25 Hampshire Avenue intersection, up toward the commercial

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1 center of the neighborhood?
2 A Correct.
3 Q What's that? White Oak --
4 A Yes, sir.
5 Q -- up there?
6 A Yeah, White Oak.
7 Q All right. A similar street in appearance then
8 travels beyond, past your property, correct?
9 A Correct.
10 Q And then that is a service road with a median. On
11 the other side of that median then is New Hampshire Avenue?
12 A Correct.
13 Q And you can see that in Figure 5?
14 A Yes.
15 Q New Hampshire Avenue, I described it earlier as a
16 six-lane highway, three lanes on each side --
17 A Correct.
18 Q -- is that accurate?
19 A Correct.
20 Q All right. And then Figure 6 is the New Hampshire
21 Avenue service road, looking north. Is that looking past
22 your property? No. I don't know where that's looking.
23 MR. KASSA: It's looking north.
24 THE WITNESS: Yes, correct.
25 BY MR. GARDNER:

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1 Q It's what?
2 A It's looking north.
3 MS. LAUDERDALE: Uh-huh.
4 THE WITNESS: Uh-huh.
5 BY MR. GARDNER:
6 Q Oh, is this then taken from below your property,
7 looking past your property?
8 A I think she took from past my property.
9 Q Okay. So --
10 MS. ROBESON: It's looking south of the property,
11 along the service road, toward the intersection of Northwest
12 and New Hampshire.
13 BY MR. GARDNER:
14 Q So was that somebody that was south of your --
15 MS. ROBESON: Can you turn that thing upside down
16 again, because I -- put the north arrow pointing up --
17 MR. KASSA: Yeah.
18 MS. ROBESON: -- next time, okay?
19 MR. KASSA: Okay, will do.
20 MR. GARDNER: All right.
21 MS. ROBESON: Okay.
22 MR. GARDNER: There we go.
23 BY MR. GARDNER:
24 Q So the person taking that picture was standing to
25 the south of your property?

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1 A Correct.
2 Q And facing north?
3 A Correct.
4 Q Okay. So that Figure 6 shows on the left side the
5 side yard of your property?
6 A Correct.
7 Q And that's the area in which the entrance to your
8 property will be placed for the eastern parking bay --
9 A Correct.
10 Q -- correct?
11 A Correct.
12 Q And that's shown on this figure, 61, the entrance,
13 the 20-foot-wide entrance in and out of this parking area,
14 correct?
15 A Correct.
16 Q All right. And the access to that will be by
17 virtue of that access road?
18 A Correct.
19 Q All right. Who else has access to that access
20 road there? Anybody?
21 A I'm not sure.
22 Q Your neighbor to the south of you, do they use
23 that access road?
24 A I cannot tell. I don't know.
25 Q Okay. To the north of you, do they use the access

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1 road? I guess they do. You can see that, right --
2 A Yeah. That's --
3 Q -- on Figure 5?
4 A Yeah. That's a straight, continuous.
5 Q Okay, the access road, and some people have access
6 to driveways off the access road?
7 A Correct.
8 Q But in your case, it's the side of your property,
9 not the front?
10 A Yes, correct.
11 Q All right.
12 MS. ROBESON: Well, it's a corner lot; so -- but
13 that's okay. It has two fronts.
14 MR. GARDNER: Yes.
15 BY MR. GARDNER:
16 Q The front of your property faces Northwest Drive.
17 A Correct.
18 Q And do you propose the only access to Northwest
19 Drive is going to be the existing driveway that's going to
20 be relocated?
21 A Correct.
22 Q All right. Now, let me get back to the operation
23 of the property. Tell us a little bit about the children's
24 center that you intend to operate there.
25 A The children will be from age 2 to 5, and it's

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1 going to be a full-time daycare center. There is no
2 after-hours. The plan is to have 30 students, and the
3 parking lots, as the architect explained, are going to be
4 staggered, and pretty much, it's going to be just a daycare
5 for 30 students, for 30 children.
6 Q So it'll be a daycare for 30 students?
7 A Correct.
8 Q You're going to have how many staff?
9 A I will have three full-time and one part-time
10 staff.
11 Q How many staff does the State of Maryland require
12 you to have per student?
13 A One staff per 10 students.
14 Q Per 10?
15 A Yes.
16 Q Okay. These students are between the age of 2 and
17 5?
18 A Correct.
19 Q And you want three full-time staff members to
20 watch the 30 children?
21 A Correct.
22 Q And where will they be assigned, those three
23 full-time staff, or where will they be assigned?
24 A There are three rooms. So each staff member will
25 be assigned for each room for 10 students.

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1 Q So each room would have one staff member?
2 A Correct.
3 Q Now, you also have a part-time staff member,
4 correct?
5 A Correct.
6 Q And the part-timer is going to be what hours?
7 A From 9:30 to 3:30.
8 Q I know you're trying to get that in. I think we
9 introduced it before, the --
10 MS. ROBESON: It's Exhibit 65. Is that --
11 MR. GARDNER: Yes.
12 MS. ROBESON: -- what you're looking for?
13 MR. GARDNER: Yes. Unfortunately, I gave my
14 copy --
15 MS. ROBESON: Oh.
16 MR. GARDNER: -- my only copy away. So if I could
17 get it back.
18 MS. JOHNSON: I'll let you borrow it.
19 BY MR. GARDNER:
20 Q All right. You have 65 up there. So -- do you
21 have it?
22 A Yeah.
23 Q Now, Exhibit 65 shows the times when your children
24 will arrive in to park, your employees arrive in to park,
25 correct?

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1 A Correct.
2 Q Do you agree to be bound by this?
3 A Yes.
4 Q All right. Now, why have you staggered those
5 times the way you have?
6 A Because I have seven parking space. In order to
7 use the parking space effectively, when I discussed with
8 Renee, she asked me to come up with staggering plan, and the
9 plan I came up, this satisfies the seven parking. And with
10 that, since we're following this plan, I can satisfy that
11 parking requirement.
12 Q All right. Now, let's start in the morning.
13 You're going to have four children come and go at 6:30,
14 between 6:30 and 7:00, correct?
15 A Correct.
16 Q And the two employees will arrive that same half
17 hour?
18 A Correct.
19 Q The whole thing is based on half-hour staggering,
20 is that right?
21 A That's correct.
22 Q All right. The only times you're going to have
23 five are at 7:00 and 8:00?
24 A That's correct.
25 Q Now. At 7 o'clock you'll have how many employees

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1 at the center?
2 A Two.
3 Q And how many children will be arriving?
4 A Five.
5 Q So how many parking spaces will you need?
6 A Seven.
7 Q And those will be provided in which of the parking
8 bays?
9 A The two employees parking on the west side and the
10 parents parking on the east side.
11 Q So the two employees will park in the driveway on
12 the west side?
13 A Correct.
14 Q And you're going to instruct them to always park
15 there?
16 A Correct.
17 Q And then the parking area on the east side will be
18 used by the five parents dropping off their children?
19 A That's correct.
20 Q All right. And you've agreed to prepare a
21 contract which would specify that the parents will use that
22 eastern parking area?
23 A Yes.
24 MS. ROBESON: How are you going to enforce that?
25 I mean, say somebody has an early meeting one day and they

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1 come, you know, an hour early. I mean, you can have it in
2 their contract, but I guess I'm like, how are you going to
3 make sure that that happens?
4 THE WITNESS: I mean, during the registration, I
5 strictly, I'm going to explain to them how they use the
6 parking space.
7 MS. ROBESON: But what happens if they don't?
8 THE WITNESS: That's why we asked a waiver on
9 the --
10 BY MR. GARDNER:
11 Q No. Understand her question. What happens if
12 they don't comply?
13 A Yeah. According to the contract we set, the
14 contract will be canceled.
15 MS. ROBESON: Yes, but -- so you'll kick them out
16 of the daycare?
17 THE WITNESS: I mean, it's in the contract. I
18 mean, that --
19 MR. GARDNER: Let's offer the contract.
20 MS. ROBESON: No, no. Let's -- yes, because what
21 you're saying is you don't need all the parking required
22 because you have this staggered schedule. That's what
23 you're saying, right?
24 THE WITNESS: Correct, uh-huh.
25 MS. ROBESON: So my question is, how are you going

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1 to make sure that people stick to this schedule?
2 THE WITNESS: I mean, emergencies come up, but I
3 mean, they signed the contract; that's our base. And
4 emergencies may happen. I mean, cannot, we cannot avoid
5 emergency, but I mean, the contract is a contract. You go
6 by the contract. If they repeatedly do that, next step
7 is --
8 MS. ROBESON: I guess my question is, are you
9 going to kick them out of the daycare? I mean, what's the
10 penalty if they --
11 THE WITNESS: If it is repeated, yes. I mean,
12 that means they're violating their contract.
13 BY MR. GARDNER:
14 Q Now, if you will, why don't you turn to page 2 of
15 the contract.
16 A Sure.
17 MS. ROBESON: Well, let's --
18 MR. GARDNER: Exhibit --
19 MS. ROBESON: -- is this marked as Exhibit 72?
20 MR. GARDNER: Yes, Exhibit 72.
21 MS. ROBESON: What was Exhibit 71? I missed an
22 exhibit.
23 MR. GARDNER: 71 was the, I keep handing away my
24 copies, so -- hold on. What did I just hand you?
25 MS. ROBESON: The last exhibit --

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1 MS. JOHNSON: I have 70. That's the only one I
2 have.
3 MS. ROBESON: I have Exhibit 70, which is the
4 pictures.
5 MS. JOHNSON: Uh-huh.
6 MR. GARDNER: The pictures? Okay. Well, then if
7 this -- oh, okay. So this is 71. I apologize then.
8 MS. ROBESON: That's all right.
9 BY MR. GARDNER:
10 Q 71. Mark 71 on this.
11 A Okay.
12 (Exhibit No. 71 was marked
13 for identification.)
14 BY MR. GARDNER:
15 Q Okay. Let me show you Exhibit 71. Is that a copy
16 of the contract you intend to use?
17 A Yes.
18 Q Okay. And turn your attention first to page 2 of
19 the contract.
20 A Sure.
21 Q Parking policy.
22 A Okay.
23 Q Can you read that?
24 A Yes.
25 Q This would be a contract a parent who's using your

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1 center would sign and agree to, correct?
2 A Correct.
3 Q And what did it say?
4 A When I drop off and pick up my children, I will
5 always park in one of the parking space located in the
6 parking lot on the eastern side of the property, next to the
7 New Hampshire Avenue access road. Under no circumstance
8 will I park my vehicle in the driveway on the western side
9 of the property off Northwest Drive.
10 Q Okay. Under no circumstance will I park my
11 vehicle in the driveway on the western side, correct?
12 A Correct.
13 MS. ROBESON: Well, don't you want to say, I
14 thought -- don't you want to also preclude them from parking
15 on Northwest Drive?
16 MR. GARDNER: Okay. We can add the wording, or on
17 Northwest Drive, to this.
18 MS. ROBESON: Okay.
19 BY MR. GARDNER:
20 Q Do you agree to that?
21 A Yes.
22 Q Okay. Now, let me move on to page 3.
23 A Uh-huh.
24 Q Page 3 has a statement regarding pickup and
25 drop-off times --

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1 A Uh-huh.
2 Q -- and it says: The pickup and drop-off times for
3 the children using the center vary but must be adhered to
4 because there is a limited number of parking spaces at the
5 center.
6 A Uh-huh.
7 Q I agree to pick up and drop off my child at the
8 following times, and then you'll give an arrive time, a
9 half-hour window, and pickup time, one half-hour window,
10 correct?
11 A Correct.
12 Q And then it goes on to state what can be done if
13 they do not. You've read this, correct?
14 A Yes.
15 Q This is what they're going to be required. If
16 they're -- fail to do this, you will be considered late and
17 a late fee assessed as provided below. If you are
18 consistently late or do not adhere to the arrival and
19 departure time window provided above, KLCC, which is Kids'
20 Love Child Care, reserves the right to terminate your
21 child's enrollment in the program.
22 A That's correct.
23 Q And is that what you're referring to when you say
24 that if they're violated consistently, they can be expelled?
25 A Yes.

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1 Q All right. And then the late fees are \$5 for the
2 first five minutes and \$1 for every additional minute?
3 A Correct.
4 MS. ROBESON: I remember those days.
5 MR. GARDNER: Yes. We all dreaded it, didn't we?
6 MS. ROBESON: I was sweating those additional
7 minutes. Okay.
8 MR. GARDNER: That's right.
9 BY MR. GARDNER:
10 Q So --
11 MS. ROBESON: But that's neither here nor --
12 BY MR. GARDNER:
13 Q -- do you intend to use this contract for all of
14 your incoming children?
15 A Correct.
16 Q And you'll make that one modification to include
17 no parking on Northwest Drive?
18 A Correct.
19 Q All right. Now, going back to Exhibit, then, 65,
20 do you have that?
21 A Yes.
22 Q Now, at 8:30, or at 8 o'clock you have five
23 children arriving at the center and there'll be two
24 employees.
25 A Correct.

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1 Q Again, the reason you only need seven parking
2 spaces is?
3 A That's correct.
4 Q Is what?
5 A Because I have two employees and five parents and
6 I have seven parking spaces.
7 Q Okay. And then at 8:30 you'll have how many
8 employees?
9 A Three.
10 Q The third one arrives?
11 A Yes.
12 Q And you have four pickup and drop-offs?
13 A Correct.
14 Q And, again, therefore you only need seven spaces?
15 A Yes.
16 Q Now, what happens at 9:30?
17 A 9:30 one part-time employee comes.
18 Q And at that point, you'll have how many employees?
19 A Three.
20 Q And then the part-timer?
21 A Plus part-timer.
22 Q And that part-time will arrive after the pickup
23 and drop-off of the four children?
24 A That's correct.
25 Q All right. And then that part-timer leaves at

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1 3:30?
2 A Correct.
3 Q Before the pickup and drop-off begins?
4 A Yes.
5 Q All right. And at that time, at 3:30, how many
6 parking spaces will you need?
7 A I need four for the parents and three for
8 employees.
9 Q Three for the employees --
10 A Yeah.
11 Q -- because the part-timer has left?
12 A Yes.
13 Q All right. And you continue to need those same
14 seven spaces until 4:30?
15 A Correct.
16 Q And at 4:30 one of the full-timers leaves?
17 A Yes.
18 Q So now how many spaces will you need?
19 A Four plus two.
20 Q Six.
21 A Six.
22 Q All right. You continue to need six until 6
23 o'clock, correct?
24 A Correct.
25 Q And at 6:00 you have five students coming and

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1 going in that half-hour window?
2 A Correct.
3 Q So how many spaces do you need at 6:00?
4 A Seven.
5 Q And then at 6:30 I guess you need seven again?
6 A Correct.
7 Q Okay. And is that --
8 MS. ROBESON: Well -- okay, go ahead.
9 BY MR. GARDNER:
10 Q Is that the reason why you're asking the Hearing
11 Examiner to waive the nine required parking spaces and
12 reduce it to seven?
13 A Correct.
14 Q That you only need seven based upon your parking
15 schedule?
16 A Correct.
17 MS. ROBESON: Well, let me ask you something.
18 What happens -- I cannot remember the threshold off the top
19 of my head for ADA requirements. What happens, to be -- I
20 do know that a handicapped spot has to be exclusively for
21 handicap. So you can't -- if a handicapped spot is
22 required, this schedule may be altered, and can you state
23 how you're going to deal with that?
24 THE WITNESS: I mean --
25 MS. ROBESON: In other words, you have a potential

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1 for -- you got one space on the service road, correct?
2 THE WITNESS: Correct.
3 MS. ROBESON: And then you have eight, eight
4 spaces. So you have nine potential spaces --
5 THE WITNESS: Correct.
6 MS. ROBESON: -- if you don't park on Northwest
7 Drive.
8 THE WITNESS: Correct.
9 MS. ROBESON: So how does that factor into your
10 analysis? And the reason I'm asking, it's my recollection
11 that if you have six or more spaces, and it's just --
12 they're going to require a handicapped spot. Now, I don't
13 know if that's the case or not, but if you're basing the
14 waiver on the, you know, staggering times and the number of
15 spaces, if one has to be handicapped, can you still
16 accommodate the traffic on the site?
17 THE WITNESS: Yes. I mean, basically, the eighth
18 parking space -- we planned to build only seven parking
19 space. So I'm going to have one extra parking space when
20 it's -- by one parking space. So that can be used by
21 handicapped.
22 MS. ROBESON: Okay. So what you're saying is your
23 maximum -- the maximum number of parking spaces that you're
24 going to need, based on this schedule, is seven?
25 THE WITNESS: Seven, yes.

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1 BY MR. GARDNER:
2 Q But you've revised the plan now, Exhibit 61, so
3 that you can provide eight spaces?
4 A Yes.
5 MS. ROBESON: Okay.
6 BY MR. GARDNER:
7 Q Now, the handicapped person, I would assume, would
8 be subject to the same half-hour window that everybody else
9 is subject to?
10 A That's true.
11 MS. ROBESON: Well, I don't know if you can --
12 MR. GARDNER: Do that?
13 MS. ROBESON: Well, basically, depending on how
14 many, you could do that. I don't know. I don't know. Yes,
15 I think you probably could because you're treating them
16 equally. It's just -- as long as they have a space to go to
17 that's accessible, I think you probably could.
18 BY MR. GARDNER:
19 Q Now, currently you don't operate a center.
20 A Yes.
21 Q When you operate this center, you intend to hire
22 who as the director?
23 A I will hire a director.
24 Q And the director has to be licensed?
25 A Yes.

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1 Q By who?
2 A By Maryland Department of Education.
3 Q Right. And there are certain requirements that
4 have to be followed in connection with that?
5 A Yes. There is a qualification requirement and
6 experience requirement.
7 Q It's an associate's of arts degree or 90 credit
8 hours of college and two years' experience in childcare?
9 A Correct.
10 Q And you will make sure that that person complies
11 with that?
12 A Yes.
13 Q Now, once the part-time person arrives at the
14 center, you'll have three full-timers to watch the three
15 rooms?
16 A Correct.
17 Q And at that point, what will the director start
18 doing?
19 A When the part-time come in, she's going to give
20 relief to the director in order to, the director continue
21 administrative work.
22 Q And I call the director a floater. Is that right?
23 A Correct.
24 Q Between 9:30 and 3:30?
25 A Yes.

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1 Q The director is going to float from room to room?
2 A From room to room and the director give a break
3 for other staff members.
4 Q Right. And take care of --
5 A And take care of --
6 Q -- the business of the center?
7 A Correct.
8 Q Okay. So you need really four employees to run
9 this place?
10 A Correct.
11 Q Three, one to each room, and one as an extra?
12 A Correct.
13 Q Correct?
14 A Correct.
15 Q Okay. But you don't need an extra from 6:30 to
16 9:30?
17 A Yes, I don't.
18 Q And you don't need an extra from 3:30 to 6:30?
19 A Correct.
20 Q But you need one in the middle of the day?
21 A That's correct.
22 Q Okay. And that's what the director is going to
23 provide?
24 A Yes.
25 Q Okay. And the three staff members, are one of

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1 them going to be your wife?
2 A Yes.
3 Q She'll be working there?
4 A Yes.
5 Q All right. And they have to also be licensed by
6 the State of Maryland?
7 A Yes.
8 Q And you have signed affidavits in this case,
9 correct?
10 A That's correct.
11 Q Both you and your wife?
12 A Correct.
13 MR. GARDNER: Okay. I'll mark those again as --
14 what are we up to?
15 MS. ROBESON: 72.
16 MS. JOHNSON: 72.
17 MR. GARDNER: 72 and 73.
18 (Exhibit Nos. 72-73 were
19 marked for identification.)
20 BY MR. GARDNER:
21 Q Let me first ask you to identify what I'm marking
22 as Exhibit 72. What is that?
23 A That's my signature on Affidavit of Compliance.
24 Q That's your signature on what?
25 A On the Affidavit of Compliance.

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1 Q Affidavit of Compliance?
2 A Yes.
3 Q Okay. And what are you agreeing to there?
4 A I agree to comply with and satisfy all applicable
5 state and county requirements, correct any deficiencies
6 found in any government inspection, and be bound by the
7 affidavit, a condition approved by the special exception.
8 Q What do you understand that to mean? If you take
9 away the lingo, what do you mean by that?
10 A I do understand, when I run the center, I follow
11 each and every government regulations and policies.
12 Q Okay. And does that mean that you will make sure
13 that the people running the center are properly licensed?
14 A Correct.
15 Q And you'll comply with all state requirements from
16 the education department about the operation of the center?
17 A Correct.
18 Q The health and safety of the children in the
19 center?
20 A Correct.
21 Q And let me ask you about Exhibit 73. Who signed
22 that?
23 A I don't have it.
24 Q Here.
25 A That's signed by my wife.

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1 Q Okay. What's her name?
2 A Fekerte.
3 Q Fekerte, F-E-K-E-R-T-E?
4 A Correct.
5 Q Last name?
6 A Desalegn.
7 Q D-E-S-A-L-E-G-N?
8 A Correct.
9 Q And as I said, or you said before, she intends to
10 work there?
11 A Yes.
12 Q She'll be one of the three full-time staff
13 members?
14 A Correct.
15 Q Okay. And she'll get the proper licensing?
16 A Yes.
17 Q All right. Tell us a little bit about the
18 backyard and what's going to be done with that.
19 MS. LAUDERDALE: Excuse me. Are those documents
20 being moved in or are they in?
21 MS. ROBESON: Do you have any objections?
22 MS. LAUDERDALE: Well, I do object to his wife's
23 affidavit. We can't cross-examine an affidavit.
24 MS. ROBESON: Unfortunately, it's a requirement of
25 the code that she submit one. So she --

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1 MS. LAUDERDALE: For this process, though?
2 MS. ROBESON: Yes.
3 MS. LAUDERDALE: As well?
4 MS. ROBESON: They require an affidavit that you
5 agree to -- that you agree to abide by all government
6 regulations and we can revoke the special exception if they
7 do not comply with any state or other applicable
8 regulations.
9 MS. LAUDERDALE: Right, but then wouldn't she have
10 to be here to testify to that affidavit?
11 MS. ROBESON: Well, the law just requires
12 submittal of the affidavit.
13 MS. LAUDERDALE: I know, but I mean, this process.
14 This process, wouldn't it require her to be here to testify
15 to her affidavit?
16 MS. ROBESON: No, because it's notarized and it's
17 an exhibit in the case.
18 MS. LAUDERDALE: Okay.
19 MS. ROBESON: So she's not attesting to anything
20 that's occurring now. She's agreeing to do something in the
21 future.
22 MS. LAUDERDALE: Okay.
23 MS. ROBESON: But good point.
24 MR. GARDNER: Anyway, I'd like to offer them, if I
25 haven't.

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1 MS. LAUDERDALE: My objection is on the record.
2 MS. ROBESON: Yes, they're in the record, but --
3 MR. GARDNER: Yes. Thank you.
4 BY MR. GARDNER:
5 Q Let me show you Exhibit --
6 MS. ROBESON: -- they're admitted.
7 (Exhibit Nos. 72-73 were
8 received in evidence.)
9 BY MR. GARDNER:
10 Q -- 74, which is attached to the second amended
11 statement of operations. What is Exhibit 74?
12 A That is a recess time schedule.
13 Q And do you --
14 MS. ROBESON: I'm sorry. What is it?
15 THE WITNESS: That's a recess --
16 MR. GARDNER: Recess time schedule.
17 MS. ROBESON: Oh.
18 BY MR. GARDNER:
19 Q Do you agree to adhere to that?
20 A Yes.
21 Q Okay. And based upon that, you're going to have
22 the children in outdoor recess during half-hour times,
23 correct?
24 A That's correct.
25 Q Ten at 10 o'clock, 10 at 10:30, and 10 at 11:00 in

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1 the morning?
2 A That's correct.
3 Q And then similarly in the afternoon, you'll have
4 10 at 2:00, 10 at 2:30, and 10 at 3:00?
5 A That's correct.
6 Q So you've agreed to limit the number of children
7 who will be outside at any one time to a group of 10,
8 correct?
9 A Correct.
10 Q All right.
11 MS. ROBESON: And I don't have an Exhibit 74.
12 MR. GARDNER: I'm going to offer it now. Thank
13 you.
14 MS. ROBESON: Any objections?
15 (No audible response.)
16 MS. ROBESON: It's admitted.
17 (Exhibit No. 74 was received
18 in evidence.)
19 BY MR. GARDNER:
20 Q Now, in this backyard you have, on Exhibit 57,
21 which is before us, and Exhibit 61, the latest iteration,
22 you have playground equipment shown, correct?
23 A Correct.
24 Q Can you talk a little bit about that? Where is it
25 going to be, and what's it going to consist of?

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1 A Yeah, the playground is going to be in the back
2 side of the house, and it's going to be a playground, and
3 the equipments will be according to the Department of
4 Education guidelines.
5 Q Department of Education guidelines?
6 A Correct.
7 Q So this is illustrative; this isn't exactly the
8 position or type of equipment, correct?
9 A Correct.
10 Q But you'll make sure that it complies with
11 Department of Education guidelines?
12 A Correct.
13 Q Regarding the type and --
14 A Kind of.
15 Q -- kind of equipment?
16 A Equipment.
17 Q And the way it's to be constructed and installed?
18 A Correct.
19 MS. LAUDERDALE: Excuse me, madam. I just have to
20 object to, counsel is just about testifying. These are not
21 questions. He's really testifying.
22 MS. ROBESON: You're saying he's asking leading
23 questions.
24 MS. LAUDERDALE: I don't even think it's leading.
25 I think it goes beyond leading. He's giving the answer and

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1 saying is that right. I mean, that's, that's --
2 MS. ROBESON: Can you rephrase?
3 MS. LAUDERDALE: -- he's beyond leading.
4 MR. GARDNER: Okay.
5 MS. ROBESON: Can you stick with direct questions?
6 MR. GARDNER: Oh, sure.
7 BY MR. GARDNER:
8 Q Tell us what type of equipment will be installed
9 there and who is, whose approval is required.
10 A The type of equipment will be on the, depend on
11 the Department of Education guidelines. So I will follow
12 what that -- what kind of guidelines they have and what kind
13 of equipment they allow based on their regulations.
14 Q And what would it be for?
15 A It would be for recess time.
16 Q Now, Exhibit 62(c) was previously introduced. Can
17 you use that and show us where that equipment will be
18 located?
19 A Yeah. This is the back side of the house. This
20 shed is going to go away. So the play equipment is going to
21 be around this area.
22 MS. ROBESON: Okay. Describe this area.
23 BY MR. GARDNER:
24 Q Describe this area. You heard what we did with
25 Moges.

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1 A It's going to be back side of the house, and this
2 fenced area is going to be in the backyard of the house.
3 Q That's the grass area?
4 MS. ROBESON: Are you talking around the center of
5 this --
6 THE WITNESS: It's going to be in the center of
7 the backyard.
8 BY MR. GARDNER:
9 Q And that backyard is completely enclosed by that
10 six-foot privacy fence?
11 A That's correct.
12 Q And that's the one shown on that?
13 A Yes.
14 Q Okay. Now, using Exhibit 57, you heard what Moges
15 said about, your architect, about the installation of new
16 fencing?
17 A Yes.
18 Q Can you show us where that's going to be?
19 A Okay. So all these fences, I mean, the new fence
20 is going to be on the south side of the house. That's
21 between my property and the doctor's office. So it's going
22 to be a wood fence, I mean, this line to the New Hampshire
23 access road, and this existing --
24 Q That's the eastern --
25 A The eastern --

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1 Q -- western side.
2 A The western side of the house, the existing fence
3 is going to be replaced by new fence. It's going to be the
4 same wood fence.
5 MS. ROBESON: Is that going to be a board-on-board
6 privacy fence?
7 THE WITNESS: That's correct.
8 BY MR. GARDNER:
9 Q Is it going to be similar in composition to what's
10 shown on 62(c)?
11 A That's correct.
12 Q Okay. Is it intended to match that or be
13 different?
14 A It's going to be the same.
15 Q Be the same?
16 A Uh-huh.
17 Q Is there going to be a gate in it?
18 A There's a gate to replace the gate access road as
19 well.
20 Q Okay. And you've heard questions asked about the
21 security of the house in the backyard. How will that be
22 provided for?
23 A Actually, right now the house has ADT security
24 installed in the house.
25 Q ADT?

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1 A Yes.
2 Q Okay.
3 A So --
4 Q Do you intend to continue that?
5 A I plan to continue the same security service.
6 Q All right. And how about the security of the
7 children when the center is opened -- how will that be
8 provided for?
9 A There is only one entrance. We use the front
10 door. So any kids come in and out with the front door. And
11 there's only one door, sliding door; that's where they're
12 going to get access to the playground. So we limit the
13 access. In addition, that this door is only used by the
14 employee --
15 Q This door, you mean the door to the fence off the
16 western driveway?
17 A Yeah. The door on the driveway is used by the
18 employees, and it will be kept locked.
19 Q You'll have a lock on that door?
20 A I have a lock on that door.
21 Q Okay. Then there'll be access to that door by the
22 basement, is that right? Here, if you look on --
23 A Yeah.
24 MS. ROBESON: Wait. Access to what? The
25 playground?

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1 MR. GARDNER: The side door out of the house --
2 THE WITNESS: There is a side door --
3 BY MR. GARDNER:
4 Q Is there a side door --
5 MS. ROBESON: Let him, let him answer.
6 MR. GARDNER: Okay.
7 THE WITNESS: This is the basement; so there is
8 access to the backyard.
9 MS. ROBESON: Yes.
10 THE WITNESS: So this is the door where the
11 employees, because we're going to put the kitchen here --
12 MS. ROBESON: Okay.
13 THE WITNESS: -- so we don't want to use, kids use
14 this entrance.
15 MS. ROBESON: Okay.
16 THE WITNESS: So we limited this entrance only for
17 employees, and we keep this door always locked.
18 MS. ROBESON: Okay.
19 THE WITNESS: So this door is only used by
20 employees.
21 MS. ROBESON: I understand.
22 BY MR. GARDNER:
23 Q And that would then access the stairway to the
24 basement by the kitchen, correct?
25 A Correct.

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1 Q And that's only for who?
2 A For employees.
3 Q Okay. The children have access to the backyard by
4 what entrance?
5 A By the sliding door in Room 3 of this -- well,
6 this is the door the children will use to get access to the
7 backyard.
8 Q And will there be any changes to that door? I
9 think it's shown in one of those pictures.
10 A No.
11 Q Okay. And that -- it's the same one. 62(c) I
12 guess shows the exit, correct?
13 A That's correct.
14 Q Okay. And there's some stairs there?
15 A Yeah, stairs there, yes.
16 Q And a patio?
17 A Correct.
18 Q Will there be any changes made to that?
19 A No.
20 Q Okay. Now, on this exhibit, 61/57, there is some
21 external lighting, correct?
22 A Correct.
23 Q Can you talk about that? What changes are going
24 to be made to the external lighting, and what lighting
25 exists? First, start with what exists. Show us what

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1 exists.
2 A Okay. There are one, two, three motion sensors
3 already --
4 MS. ROBESON: On the north-south, the --
5 THE WITNESS: On the south side of house, the two
6 corners of the south side of the house --
7 MS. ROBESON: Okay.
8 THE WITNESS: -- and there's another light in the
9 front entrance. These are the existing one.
10 BY MR. GARDNER:
11 Q Okay. The motion sensors are on those two on the
12 south, correct?
13 A Correct.
14 Q They're shown by a symbol here, motion safety
15 light.
16 A Yes.
17 Q And then the front you have what kind of lamp?
18 MS. ROBESON: Let him testify. He can do this.
19 So where -- just describe, but when you describe it, say
20 where you're pointing to.
21 THE WITNESS: Okay. So on the east side of the
22 parking, we're going to put one, two, three, four, five, six
23 pole lights that match the --
24 MS. ROBESON: On the eastern parking lot.
25 THE WITNESS: On the eastern parking lot, we're

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1 going to put one --
2 MS. ROBESON: Are those pole lights or --
3 THE WITNESS: They are pole lights, yes. And as
4 the architect mentioned, we're going to put a panel on the
5 back of it to shade the light to remain to the property.
6 And we're going to put one, two, three lights. One --
7 BY MR. GARDNER:
8 Q Well, I think you doubled your counts. You
9 counted one, two --
10 MS. ROBESON: Well, wait.
11 BY MR. GARDNER:
12 Q -- three, four, five, six.
13 MS. ROBESON: Be careful on what you say, because
14 she is correct that he can't lead you. So --
15 THE WITNESS: Sure.
16 MS. ROBESON: -- really look at the plan.
17 THE WITNESS: Sure. So we have one, two, three,
18 four, five, six pole lights on the east side of the
19 parking --
20 MS. ROBESON: Okay.
21 THE WITNESS: -- surrounding the parking lot.
22 MS. ROBESON: Okay.
23 THE WITNESS: And we're going to have one, two
24 lights on the front side of the house --
25 MS. ROBESON: Okay.

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1 THE WITNESS: -- the same pole lights.
2 MS. ROBESON: Okay.
3 THE WITNESS: And all of them are shield by the
4 panel.
5 MS. ROBESON: Okay.
6 BY MR. GARDNER:
7 Q You heard the architect talk about this shield
8 panel?
9 A Yes.
10 Q Can you talk a little more about what does that do
11 and how it'll be installed in the lamp?
12 A I mean, each pole has three bulbs. So we're going
13 to put four 40-watt bulbs in --
14 Q Three bulbs?
15 A Three bulbs, yeah.
16 Q You'll put three 40-watt bulbs in each lamp?
17 A Correct, and as the architect mentioned, we would
18 like to keep the light remain to the property. That's why
19 we're going to put panels on each of the poles.
20 Q You'll put a panel where on these lights?
21 A On the back of the poles.
22 Q So you're pointing to the poles on the south side
23 of the eastern parking lot, correct?
24 A Correct.
25 Q On the back side of them as they face in what

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1 direction?
2 MS. ROBESON: Toward the exterior property line.
3 THE WITNESS: Yeah.
4 MR. GARDNER: I'm trying not to lead him.
5 MS. ROBESON: No, I know. It's -- yes, I know.
6 Go --
7 BY MR. GARDNER:
8 Q Is that correct?
9 A That's correct.
10 Q Okay. And you'll also place them on the one on
11 the western side, the panel?
12 A Yeah. There's one on the western side, and one's
13 here on the front side, and we're going to put panel on both
14 these in order to keep the light stay on the property.
15 Q Okay. Now, the landscaping I think the architect
16 described. The plants along the eastern parking lot would
17 be what variety?
18 A They'll be -- the planting on the eastern part of
19 the parking, on the New Hampshire access, they'll be Green
20 Giant and going to -- another Green Giant on the front side
21 of the east parking. And we're going to have Japanese holly
22 on the side of, on the east side of the house and in the
23 front side of the house, and we're going to have another
24 Japanese holly on the west side of the house, west of my
25 neighbor.

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1 Q And you're going to do what with the existing
2 driveway?
3 A The existing driveway, as the Commission deemed
4 now in my neighbor's property, so I agreed to relocate to
5 agreement in my property. That give us a 10-foot green
6 panel, and so I give some more setback of that to my
7 neighbor.
8 Q Okay. Now, talk about the inside of the property
9 and the rooms and where the business will be conducted using
10 this exhibit, 57.
11 A Okay. Right now the property has three bedrooms.
12 So our plan is to remove the back of the wall and then I'll
13 make --
14 Q You're looking at Room 1?
15 A I'm looking at Room 1. So we're going to break
16 the room and we're going to make one large room. That's for
17 10 children. Room No. 2 don't make any change. It's going
18 to be a locked room and don't make any change on that. When
19 it comes to the entrance, right now there is no wall between
20 the hallway and the living room. So we're going to put wall
21 so that we make this one the reception area.
22 MS. ROBESON: The entrance? Right at the
23 entrance?
24 THE WITNESS: Yes, by the entrance.
25 MS. ROBESON: Yes.

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1 THE WITNESS: Right now there is a kitchen in,
2 going to say Room 3. So --
3 BY MR. GARDNER:
4 Q The rear of the property?
5 A The rear of the property. So we're going to move
6 the kitchen to the downstairs; instead, we're going to put a
7 toilet here that can be used by children in Room 3. When it
8 comes to downstairs, we don't make that much change to this
9 area, I mean, this --
10 Q Which room is that?
11 A This one is Room 4.
12 Q Okay. That's downstairs?
13 A That's downstairs, remain the same. The -- okay.
14 Right now, here, you have the shower. That's --
15 Q You're looking at the rear of the property in the
16 bathroom?
17 A Looking at rear of the property in the bathroom.
18 So only the shower right now will be converted to toilet,
19 and we're going to add a kitchen in the basement that can be
20 accessed from outside.
21 Q And what's the kitchen for?
22 A The kitchen for, it depends. Some parents bring
23 the food, their own food supply. So we're going to need
24 that to prepare foods.
25 Q Is that strictly for the children and the staff?

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1 A Strictly for children and staff.
2 Q Okay. Will there be, I mean, in conjunction with
3 the questions that were asked the architect, will there be
4 any residential use of this house when it's converted to a
5 childcare center?
6 A No.
7 Q Nobody will be living there?
8 A No one's living there.
9 Q And the hours of the operation will be what?
10 A From 6:30 a.m. to 6:30 p.m.
11 Q Okay. And after 6:30 p.m. will the house be kept
12 lit or dark?
13 A Yeah, all the parking -- I mean, the lights on the
14 east side of the parking will be turned off, and the same
15 thing, the parking on the, the lights on the west side will
16 be turned off. The only lights are going to be the motion
17 sensor light. That one you turn it on only when, like, have
18 motion.
19 Q Let me show you what I'm marking as Exhibit 75,
20 which is a copy of the transmittal letter from Francoise
21 Carrier, the Planning Board chairman, to the Hearing
22 Examiner's office. You have a copy of that, but --
23 MS. ROBESON: I don't think you need to introduce
24 that as a new exhibit.
25 MR. GARDNER: Okay.

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1 MS. ROBESON: I mean, that's Exhibit 59 and he can
2 refer to that without --
3 MR. GARDNER: All right.
4 BY MR. GARDNER:
5 Q Let me refer to Exhibit 59, which is the
6 transmittal letter.
7 A Okay.
8 Q You have seen the conditions that were included in
9 that transmittal on page 2, correct?
10 A Correct.
11 Q And you'll see some of these are changes and some
12 of these are no changes from the staff report's recommended
13 conditions, correct?
14 A Correct.
15 Q You have the staff report in front of you as well.
16 A Yes.
17 Q Why don't you, using these together, look at page
18 2 of the staff report, okay, because she has, No. 1, no
19 change. Do you see Condition 1 in the staff report, and
20 then Ms. Carrier had said no change to that?
21 A Correct.
22 Q Do you agree to that condition?
23 A I do.
24 Q And did you attempt to comply with that with the
25 latest site plan?

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1 A Correct.
2 Q Okay. And you agree that you'll include a
3 10-foot-wide green panel?
4 A Yes.
5 Q And you'll put pavement markings or signs,
6 indicating Parking Space 5 is for 10-minute parking only?
7 A Yes.
8 Q Now, the problem with that is you've now done a
9 new plan, No. 61.
10 A Yes.
11 Q And 5 used to be what?
12 A 6.
13 Q Okay.
14 A So --
15 Q Parking Space 5 doesn't exist on Plan 61, right?
16 A That's correct.
17 Q So, actually, that condition would come out --
18 A Correct.
19 Q -- is what your proposal is, correct?
20 A Correct.
21 Q All right. And Condition C was Space 4 of 57,
22 which is up there. Do you want to show us where that is?
23 Stand up there.
24 A Sure.
25 Q Space No. 5, show us where 5 was first.

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1 A Uh-huh.
2 Q 5 was supposed to be 10-minute parking only,
3 right?
4 A Yes, uh-huh.
5 MS. LAUDERDALE: Why don't we just have
6 Mr. Gardner testify, because --
7 MS. ROBESON: No. He -- I understand your
8 objection, but let me ask you this. I think it's shorter to
9 do it this way. So you're looking at 1(a)?
10 THE WITNESS: Yes.
11 MS. ROBESON: 1(a) stays the same?
12 THE WITNESS: Correct.
13 MS. ROBESON: Correct.
14 THE WITNESS: Uh-huh.
15 MS. ROBESON: Okay. You're saying with the
16 revised plan you don't need 1(b)?
17 THE WITNESS: Correct.
18 MS. ROBESON: Okay. Where are your staff-only
19 parking now under Exhibit 61, the revised plan? Which
20 spaces are staff-only? Don't get up, Mr. Gardner.
21 MR. GARDNER: Oh, I'm just going to flip it for
22 him.
23 MS. ROBESON: Well -- okay.
24 THE WITNESS: The west side of the parking.
25 MS. ROBESON: So 7 and 8 are staff-only. Is --

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1 THE WITNESS: Yes.
2 MS. ROBESON: -- there any other staff-only?
3 THE WITNESS: And one parking space on the east
4 side of the parking.
5 MS. ROBESON: Will be staff-only?
6 THE WITNESS: Yes. No. They're going to use,
7 because of the staggered schedule --
8 MS. ROBESON: Yes.
9 THE WITNESS: -- for example, the part-time --
10 MS. ROBESON: No, no. No.
11 THE WITNESS: Yeah.
12 MS. ROBESON: What I'm asking you is, what -- are
13 there any other spaces that are going to be, I know staff is
14 going to park at different times --
15 THE WITNESS: Yes.
16 MS. ROBESON: -- on the eastern side.
17 THE WITNESS: Yes.
18 MS. ROBESON: My question is, what -- are there
19 any other spaces that are only going to be staff --
20 THE WITNESS: No.
21 MS. ROBESON: -- exclusively for staff?
22 THE WITNESS: No, only two spaces.
23 MS. ROBESON: Okay. So only 7 and 8?
24 THE WITNESS: Correct.
25 MS. ROBESON: All right. So then you would like

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1 us to do, in the Planning Board, you would like, as far as
2 No. 2, do you agree -- in the Planning Board's transmittal,
3 which is Exhibit 59 --
4 THE WITNESS: Yes, I do.
5 MS. ROBESON: -- do you have any changes that you
6 suggest in that?
7 THE WITNESS: Except the parking, the six parking.
8 BY MR. GARDNER:
9 Q Well, no. Look at -- you can sit back down, I
10 think. What she's asking you, Exhibit 59 --
11 A Okay.
12 Q -- No. 2 --
13 MS. ROBESON: Do you have any change, do you --
14 THE WITNESS: No.
15 BY MR. GARDNER:
16 Q You agree to comply with this condition, correct?
17 A I do.
18 Q Okay. Exhibit 3 --
19 MS. ROBESON: I mean, 59, No. 3, do you agree to
20 comply with that?
21 THE WITNESS: Yes.
22 BY MR. GARDNER:
23 Q Okay. And 59, Exhibit -- No. 4, do you agree to
24 that condition?
25 A Yes.

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1 Q And is that what we've attempted to include in
2 Exhibit 71, the contract?
3 A Correct.
4 Q All right. Exhibit No. 5, I mean, excuse me, Item
5 5 on Exhibit 59, do you agree to that condition?
6 A Correct.
7 Q Okay. Number --
8 MS. ROBESON: Well, do you agree to a condition --
9 as far as 5, do you agree to comply with this --
10 THE WITNESS: Yes.
11 MS. ROBESON: -- which is Exhibit 74, your recess
12 time schedule?
13 THE WITNESS: Yes.
14 MS. ROBESON: All right.
15 BY MR. GARDNER:
16 Q And that's intended to comply with this
17 condition --
18 MS. ROBESON: I know.
19 BY MR. GARDNER:
20 Q -- No. 5?
21 A Correct.
22 Q All right. And No. 6, referring back then to the
23 staff report, you can see she has no change, Ms. Carrier.
24 Number 6, you're asking for a waiver of the maximum six-foot
25 setback, parking setback waiver for a maximum of six feet

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1 along the western driveway, correct?
2 A Correct.
3 Q And that's the minimum necessary to comply with
4 the setback?
5 A Correct.
6 Q All right. And you're asking for a waiver of two
7 parking spaces if Exhibit No., the site plan No. 57, is
8 constructed, but if you're allowed to construct it with
9 eight parking spaces, as shown on Exhibit 61, you're only
10 seeking a waiver of one --
11 A One.
12 Q -- parking space, correct?
13 A Correct.
14 Q Okay.
15 MR. GARDNER: And I have no further questions.
16 MS. ROBESON: Okay. Questions for Mr. Zewdu.
17 MR. BERRY: I'm going to try to do this right. I
18 apologize if I make an error.
19 MS. ROBESON: No, you're doing great.
20 CROSS-EXAMINATION
21 BY MR. BERRY:
22 Q I have two questions. They're the same question,
23 but one refers to Exhibit 57 and one refers to Exhibit 61 --
24 MS. ROBESON: Okay.
25 THE WITNESS: Okay.

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1 BY MR. BERRY:
2 Q -- and the question is the same for both of them.
3 A Okay.
4 Q Which space is going to be the 96-inch-wide van
5 ADA-required space? The only one I see is, the wide one, is
6 a staff one. Can you point to them? Can you explain how
7 the -- which space is the 96-inch-wide space? And I'm
8 sorry. My name is Mike Berry, and my status is --
9 MS. ROBESON: Oh, you don't have to, you don't --
10 MR. BERRY: Okay.
11 MS. ROBESON: -- have to re-identify yourself.
12 MR. BERRY: I'm trying to be --
13 MS. ROBESON: No, you're doing, you're doing
14 wonderfully.
15 THE WITNESS: Actually, all of them are 96 --
16 BY MR. BERRY:
17 Q They're all 96 van-accessible?
18 A Yeah.
19 Q Okay. And is that the same answer for the other
20 exhibit?
21 A This one is a little bit wider.
22 Q Yeah. I mean, I'm sorry, not --
23 A Number 7 is wider.
24 Q -- that space, but the, the other exhibit, 61.
25 A That's correct, yeah. They are all --

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1 Q They are all van-accessible spaced. Thank you.
2 MR. BERRY: That's all the questions I have.
3 THE WITNESS: Okay.
4 MS. ROBESON: Anyone else?
5 BY MS. LAUDERDALE:
6 Q I have a few questions.
7 A Sure.
8 Q When you purchased this home, did you ever
9 purchase it to live in it?
10 A No.
11 Q No? So you purchased it for the sole purpose of
12 setting up the daycare center?
13 A Actually, our first plan was to move to that
14 property and to use part of the house for daycare. Then --
15 Q Oh, you were going to have part of it, you said --
16 A Yes.
17 Q -- as a living and part as daycare?
18 A Correct.
19 Q But now it's going to be all daycare?
20 A Correct.
21 Q Okay. Now, you said you live on Broadmore?
22 A Correct.
23 Q Is that in Tamarack?
24 A One block up.
25 Q Huh?

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1 A One block up from Tamarack.
2 Q Okay. Did you ever consider converting your home
3 into a daycare center?
4 A No.
5 Q Why not?
6 MS. ROBESON: Okay. Okay.
7 MR. GARDNER: Objection.
8 MS. ROBESON: That's --
9 MS. LAUDERDALE: Okay. I'm sorry.
10 MS. ROBESON: -- that's not relevant to the --
11 MS. LAUDERDALE: I'm sorry. I'm sorry. You're
12 right.
13 MS. ROBESON: You can express your frustration in
14 your direct testimony.
15 MS. LAUDERDALE: Okay. You're absolutely right.
16 BY MS. LAUDERDALE:
17 Q Now, you said that one of the requirements is that
18 any change in the property be compatible with the community.
19 How do you think that this house -- which is now going to be
20 completely non-residential, it's going to have commercial
21 hours, open and close -- how do you think that's compatible
22 with the homes on Northwest Drive, Babington, and Arrington,
23 which make up Burnt Mills Estates?
24 A Sure. I, I extensively work with the planning
25 staff department. As our architect mentioned, this is maybe

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1 the 10th or the 11th version of the plan. Our very
2 intention was to keep the property residential. So that's
3 why --
4 MS. ROBESON: Residential in appearance?
5 THE WITNESS: Residential appearance, that's
6 right. So -- can I finish?
7 BY MS. LAUDERDALE:
8 Q Go ahead.
9 A So I know that planting is more expensive than
10 putting, placing wood fence, but I agreed to put expensive
11 trees around the place in order to shield the parking. I
12 know that cost me money, but I'd like to keep residential
13 appearance now. So the parking entrance is on the New
14 Hampshire Avenue. That's a six-lane highway. So you don't
15 see any parking from Northwest side. So still there is
16 nothing going to be done on the outside of the house, the
17 extensive gardening and trees. So that place is going to be
18 much better, beautiful than it is now.
19 Q Okay. So I understand you that -- what you're
20 saying is that, aesthetically, from the outside it's going
21 to appear as a house in the community. How is the nature --
22 MS. ROBESON: Wait. Wait. Wait. Are we losing
23 you?
24 MS. JOHNSON: You have to because I have a
25 scheduled appointment. I didn't know this was going to last

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1 this long.
2 MS. LAUDERDALE: Oh, do you want to ask your
3 questions first?
4 MS. ROBESON: Well, or we can, you can testify
5 now. We can --
6 MS. JOHNSON: Oh, I'd love to. That would help me
7 greatly.
8 MS. LAUDERDALE: She can go ahead. She can go
9 ahead. I'll --
10 MS. ROBESON: Do you have any objection?
11 MR. GARDNER: I have no objection if you want --
12 MS. ROBESON: Okay.
13 MR. GARDNER: -- to take her out of turn, and then
14 we can resume the cross-examination later.
15 MS. JOHNSON: Okay. Thank you so very much.
16 MS. ROBESON: So if anyone else has a schedule
17 issue, please let me know, because we can take the witnesses
18 out of turn.
19 MS. JOHNSON: Okay.
20 MS. LAUDERDALE: I do. I need to be at work, but
21 I'm going to let her go because --
22 MS. JOHNSON: Oh, thank you so much. No, I have a
23 meeting. So --
24 MS. ROBESON: Please raise your right hand.
25 (Witness sworn.)

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1 MS. ROBESON: Did you already state your name and
2 address?
3 THE WITNESS: I did, but I'll do it again if
4 you --
5 MS. ROBESON: Okay.
6 THE WITNESS: Wilma Johnson, 920 Northwest Drive,
7 Silver Spring.
8 MS. ROBESON: And would you please tell me where
9 you live in relation to this property? You can sit. Have a
10 seat.
11 THE WITNESS: Okay. Across the street. I'm --
12 MS. ROBESON: Directly facing this house?
13 THE WITNESS: There's one house directly facing
14 the subject property.
15 MS. ROBESON: Oh, okay.
16 THE WITNESS: I'm the next house.
17 MS. ROBESON: Okay.
18 THE WITNESS: Okay.
19 MS. ROBESON: What would you like to say?
20 DIRECT EXAMINATION
21 THE WITNESS: What I would like to say is -- and I
22 could be wrong -- I heard that currently there's no parking
23 on Northwest Drive. Unless I was given some incorrect
24 information, I had a problem with, there are no signs saying
25 two-hour parking, nothing.

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1 MS. ROBESON: Yes. There's correspondence with
2 DOT, saying, where's the sign?
3 THE WITNESS: Exactly. And the problem I had,
4 there were people, after FDA moved in, parking on Northwest
5 Drive. So I called and was told that unless there is a sign
6 limiting parking to a specific -- unless there is a sign,
7 you can park there any time, all day long. And there are no
8 signs, so which means someone can park in front of my house
9 or anyone else's house and nothing will happen.
10 MS. ROBESON: You know what? Well, go ahead.
11 THE WITNESS: Okay. That's the first concern. So
12 if the daycare should be approved, there should be a sign
13 either limiting parking to one hour or two hours or no
14 parking. Something has to give because people are going to
15 park on Northwest Drive, okay? That's --
16 MS. ROBESON: Now, he just agreed to a condition.
17 I can make a condition, saying no parking on Northwest
18 Drive.
19 THE WITNESS: But that won't work because --
20 MS. ROBESON: But -- okay. Okay. Back up --
21 THE WITNESS: Okay.
22 MS. ROBESON: -- for one minute, because I -- only
23 DOT department --
24 THE WITNESS: Exactly.
25 MS. ROBESON: -- can put a sign up.

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1 THE WITNESS: Right.
2 MS. ROBESON: So I can keep him from, his clients
3 and staff, parking on Northwest Drive, but I can't make DOT
4 put up a sign. Now -- just one second -- if you look at the
5 file --
6 THE WITNESS: Yes.
7 MS. ROBESON: -- there's an e-mail exchange --
8 THE WITNESS: Uh-huh.
9 MS. ROBESON: -- between staff at Park and
10 Planning --
11 THE WITNESS: Uh-huh.
12 MS. ROBESON: -- and staff at DOT --
13 THE WITNESS: Okay.
14 MS. ROBESON: -- and they're saying there, we
15 don't know where -- it should be restricted but there's no
16 sign. So I'm saying to you, you may want to follow up with
17 these e-mail addresses. It's Exhibit 54.
18 THE WITNESS: Okay.
19 MS. ROBESON: And I can have our staff, if you --
20 did you sign the sign-in sheet?
21 THE WITNESS: Yes, I did.
22 MS. ROBESON: Did you put your e-mail address
23 down?
24 THE WITNESS: No, I didn't do that, but I will on
25 the way out.

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1 MS. ROBESON: Okay. I can have them forward to
2 you this exhibit so you know exactly who to speak with --
3 THE WITNESS: That would be extremely helpful.
4 MS. ROBESON: -- because they're confused --
5 THE WITNESS: Right.
6 MS. ROBESON: -- I mean, they're saying it should
7 be restricted and they don't know where the signs went.
8 THE WITNESS: I've been there since '82, '83, and
9 there's never been any signs, but there are signs on the
10 service road. It's limited to two hours.
11 MS. ROBESON: Right. You made, so --
12 THE WITNESS: Okay.
13 MS. ROBESON: -- I'll have Ellen, that's our staff
14 person, send this e-mail to you. I can't make them do
15 something. I can keep Mr. Zewdu's clientele from parking on
16 Northwest Drive.
17 THE WITNESS: Okay.
18 MS. ROBESON: Now, I didn't mean to get so --
19 interrupt you so much. So --
20 THE WITNESS: That's okay. That's okay. I only
21 have a couple more things to go. If I heard you correctly,
22 you stated that if they meet the criteria in the zoning
23 ordinance, it's almost automatically approved? Or did I
24 misinterpret?
25 MS. ROBESON: Well, they have to prove they meet

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1 the criteria, but yes.
2 THE WITNESS: Okay. So what happened to tenants
3 on the street's ability to enjoy quiet enjoyment? I'm
4 getting a little confused here.
5 MS. ROBESON: Well, one of the, okay, one of the
6 -- that's a good question -- one of the criteria they have
7 to prove is that it's not going to cause disturbing noise --
8 THE WITNESS: Okay. Okay.
9 MS. ROBESON: -- or traffic congestion or things
10 like that, no -- I think it's phrased, no objectionable
11 noise. And what we interpret that, to answer Mr. Berry's
12 question --
13 THE WITNESS: Uh-huh.
14 MS. ROBESON: -- the county has a noise
15 ordinance --
16 THE WITNESS: Uh-huh.
17 MS. ROBESON: -- and I believe it's in Chapter
18 31(b) of the code, that limits noise during particular hours
19 in residential zones to 65 dBA, which is a decibel level,
20 okay?
21 THE WITNESS: Okay. All right. My final comment,
22 hopefully, is -- and I'm not sure what agency would do it or
23 whose responsibility it is -- but did someone from Maryland,
24 of course, look at the area, the way the growth has taken
25 place over the years, and it is still felt that it's

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1 appropriate for another commercial-type facility?
2 MS. ROBESON: Well, okay, they, why don't you just
3 tell me -- that's what Planning Department staff --
4 THE WITNESS: Okay.
5 MS. ROBESON: -- is supposed to do.
6 THE WITNESS: Okay.
7 MS. ROBESON: Why don't you tell me what your
8 concerns --
9 THE WITNESS: Okay.
10 MS. ROBESON: -- are about the growth.
11 THE WITNESS: Okay. Number one, we have -- my
12 next-door neighbor, it's a doctor's office. There's already
13 one doctor's office, which is commercial. Fortunately, he
14 has turned the backyard into parking. So there's no problem
15 with parking.
16 Okay. The second thing is -- well, of course, we
17 can't control that -- FDA now and that was a huge, huge one,
18 but that's okay, I can deal with that. I mean, I have no
19 choice. And, two, has anyone looked in to see whether or
20 not FDA plans a daycare facility, because that's a huge
21 governmental agency and they got lots of land --
22 MS. LAUDERDALE: And they all have daycares.
23 THE WITNESS: -- and I sort of think that in the
24 future that might be in their plans. I mean, you know --
25 and plus we already have a couple of people on the street.

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1 It's not a daycare facility, but whatever this is within
2 Maryland that you're allowed to keep up to two or three
3 kids, whatever that --
4 MS. ROBESON: Oh, I think --
5 THE WITNESS: Yeah, whatever that --
6 MS. ROBESON: -- it's eight children.
7 THE WITNESS: Well, whatever that is, we already
8 have two of those on the street.
9 MS. ROBESON: Okay.
10 THE WITNESS: So these are my concerns, and if it
11 is approved, I can assure you that it is just an accident
12 waiting to happen because in the afternoon -- I'm home most
13 of the afternoons --
14 MS. ROBESON: Yes.
15 THE WITNESS: -- you should see the traffic up and
16 down Northwest. In fact, there's a tree in front of my yard
17 that I'm so afraid -- at some point in time, somebody's
18 going to hit it --
19 MS. ROBESON: Okay.
20 THE WITNESS: -- because it is, the traffic is --
21 because it's used as a shortcut to Lockwood Drive and FDA.
22 It's a residential --
23 MS. ROBESON: Oh, it's like a cut-through.
24 MR. BERRY: Uh-huh.
25 THE WITNESS: Exactly right, exactly. In fact, I

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1 myself have to be extremely careful when I'm working in my
2 front yard, you know, because cars are just going up and
3 down there so fast.
4 MS. ROBESON: Okay.
5 THE WITNESS: Okay. So those are my concerns.
6 MS. ROBESON: Okay.
7 THE WITNESS: And thank you for allowing me to say
8 it, and thank you.
9 MS. ROBESON: I do appreciate -- one second. I've
10 got to let Mr. --
11 THE WITNESS: You're welcome.
12 MS. ROBESON: -- see if Mr. Gardner has any
13 questions for you.
14 THE WITNESS: Okay.
15 CROSS-EXAMINATION
16 BY MR. GARDNER:
17 Q I'm going to show you page 5 from the staff
18 report.
19 A Uh-huh.
20 Q There's a picture there on page 5. Do you see it?
21 A Uh-huh.
22 Q And you can see the property labeled site --
23 A Uh-huh.
24 Q -- and then Northwest Drive.
25 A Uh-huh.

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1 Q Which is your house?
2 A Where's the house in question, where the daycare
3 center is going to be?
4 Q The one that says site.
5 A Okay. It's either this one or this one. I can't
6 tell.
7 Q Well, this is the neighbor --
8 A Oh, no, no, no. I'm not on that side. I'm --
9 Q You're across the street.
10 A -- I'm, where am I?
11 Q Yes. Assume that's your house.
12 A Yeah, okay, that's right.
13 MS. ROBESON: Well --
14 BY MR. GARDNER:
15 Q Okay. So hold this up so that the Hearing
16 Examiner can see. I'll hold it up. It's the house just
17 below the word Northwest on that picture.
18 A Okay.
19 Q Correct?
20 A Yes.
21 Q Okay. So the house you said has a doctor's office
22 is to the left of your house on that picture, right on the
23 access drive?
24 MS. LAUDERDALE: Uh-huh.
25 THE WITNESS: Yes. Yes.

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1 BY MR. GARDNER:
2 Q Okay. And you're saying their parking is in their
3 backyard; so it doesn't bother anybody?
4 A That is correct, because it faces my backyard,
5 their parking.
6 Q But their access to that parking goes up Northwest
7 Drive?
8 A That is correct.
9 Q Okay. So that contributes to this driving up and
10 down Northwest Drive you're referring to?
11 A Exactly.
12 Q Now, you realize the parking for this childcare
13 center that's proposed on the site is going to come off New
14 Hampshire Avenue access road; so it's not going to go
15 up/down Northwest Drive?
16 A That's what you are saying but that's not the way
17 it's going to take place.
18 MS. LAUDERDALE: Is he asking a question, or is
19 he --
20 MS. ROBESON: Just a second.
21 MS. LAUDERDALE: -- testifying again? I'm
22 objecting.
23 THE WITNESS: No. No.
24 MS. ROBESON: Just --
25 MR. GARDNER: I asked a question. She answered

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1 it.

2 THE WITNESS: Okay. You --

3 MS. ROBESON: You did. Okay.

4 THE WITNESS: Yeah, I answered you. I understand

5 what you were saying, but when they come out of that parking

6 lot, a lot of them -- well, depending on where they live, a

7 lot of them are going to go straight down Northwest Drive to

8 Lockwood.

9 BY MR. GARDNER:

10 Q Where's Lockwood? Up here to the right of this

11 drawing somewhere?

12 A No. It's --

13 Q Do you go up --

14 A -- to the left. You go, you go down Lockwood, I

15 mean, on Northwest, and you're going to come into Lockwood.

16 MS. LAUDERDALE: Go west.

17 BY MR. GARDNER:

18 Q Okay. But the ones that come down New Hampshire

19 would go right into this Northwest -- New Hampshire Avenue

20 access drive and into the site, correct?

21 A Right. Right.

22 Q Okay. You're worried about ones that might be

23 driving up and down Northwest Drive?

24 A That is correct. That, and plus the parking is

25 what I'm mainly interested in, because I do not want anyone

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1 parking in front of my house.

2 Q And you understand, they have agreed to that?

3 They've agreed not to have anybody park on Northwest.

4 A Agreed to it and it not being done are two

5 different things --

6 Q Well, if they provide enough --

7 A -- if there's no law that would prohibit it.

8 Q If they provide enough spaces in this parking bay

9 on the east side, which has access, direct access to a

10 walkway right into the house, why would a parent want to

11 park in front of your property instead of park where the

12 access is immediate to the home? I mean, that would mean

13 that they'd have to walk across Northwest Drive and then up

14 into this house, which is much further than the parking bay

15 that's being provided on site.

16 A You have to realize all kinds of things happen in

17 this world that we live in. It could be that there was no

18 space, someone parked there illegally. Different things

19 happen.

20 Q Well, that's why they're asking access to one

21 additional space on New Hampshire Avenue access road --

22 A Okay. I understand, but I -- okay.

23 Q -- which is much closer to the property than your

24 house.

25 MS. ROBESON: Okay.

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1 THE WITNESS: And I understand what you're saying.

2 All I'm saying is, you know, I don't know what might happen,

3 but I can assure you --

4 BY MR. GARDNER:

5 Q Okay.

6 A -- I'm the type of neighbor, if anything is going

7 wrong, I'll be with the appropriate agency within the State

8 of Maryland. Thank you so much.

9 MS. ROBESON: Okay. Make sure to leave your

10 e-mail address.

11 THE WITNESS: I definitely will.

12 MS. ROBESON: Did you have more questions?

13 MR. GARDNER: No, I guess not.

14 MS. LAUDERDALE: Well, I don't know if those were

15 questions.

16 MS. ROBESON: No. Did you?

17 MR. GARDNER: No, I didn't.

18 MS. ROBESON: Okay. All right. Just a second.

19 Just a second. Okay. We're back on your cross-examination

20 of Mr. Zewdu, correct?

21 MS. LAUDERDALE: Yes. Yes.

22 (Witness previously sworn.)

23 CROSS-EXAMINATION (Resumed)

24 BY MS. LAUDERDALE:

25 Q Now, your last statement was that you were going

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1 to keep the facade, everything was going to be

2 residential-looking, and you were going to have trees and

3 all of that. So I understand that, aesthetically, it's

4 going to look residential from the front. When I said

5 compatible, is it going to be compatible with the nature of

6 Burnt Mills Estates, which is families living in homes?

7 A Yes.

8 Q Okay. What family is going to be living in that

9 home?

10 A Nobody's living in that house.

11 Q Okay. So how, then, is it compatible with the

12 residential nature of Burnt Mills Estates?

13 MS. ROBESON: Well, let me just explain what my

14 criteria is. It's, it's that it can't -- it's going to be

15 slightly more activity than a single-family home, that's a

16 given, but it can't cause any adverse impacts. So --

17 MS. LAUDERDALE: Let me say one thing.

18 MS. ROBESON: -- just because it's a different use

19 is --

20 MS. LAUDERDALE: Well, the use, though, comes in

21 in Montgomery County Ordinance No. 59-G-1.21(a)(7), which

22 says that a special exception will be granted only if it,

23 quote, will not, when evaluated in conjunction with existing

24 and approved special exceptions in neighboring one-family

25 residential area, increase the number, intensity or scope of

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1 special exception uses specifically to affect the area
 2 adversely or alter the predominantly residential nature of
 3 the area. Special exception uses that are consistent with
 4 the recommendations of a master plan do not alter the nature
 5 of an area. So --
 6 MS. ROBESON: Have you read the staff report,
 7 because they said it did comply with the master plan?
 8 MS. LAUDERDALE: But that is incorrect because the
 9 nature, the nature of Burnt Mills Estates is totally
 10 residential. It is residential. They're, none of the
 11 houses --
 12 MS. ROBESON: Okay. I understand. I see where
 13 you're going with it. He's admitted it's not going to be
 14 residential.
 15 MS. LAUDERDALE: Okay. So what I'm saying is,
 16 when you talk --
 17 MS. ROBESON: No. When you testify, you can say
 18 more.
 19 MS. LAUDERDALE: I'm asking him about --
 20 MS. ROBESON: Oh.
 21 MS. LAUDERDALE: -- he said that he finds it to be
 22 compatible with the residential nature of the community.
 23 What I'm asking him is, how is a business that is operating
 24 12 hours a day and it is a business, how is that compatible
 25 with every other home on Northwest Drive, Arrington Drive,

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1 Babington Drive, where people are living 24 hours in family
 2 settings.
 3 MS. ROBESON: Okay. Can you answer that?
 4 THE WITNESS: Yes. I mean, when we talk about
 5 compatible, we said it's going to keep the residential
 6 appearance because of the things we are doing outside,
 7 because of the trees and the landscaping. But, when it come
 8 to inside, we cannot say -- for example, a household living
 9 five people cannot have the same activity the household
 10 living two people, must be some difference, because yes,
 11 children are coming in and out. And the staff, the planning
 12 staff, and we discussed all this stuff. They made a study.
 13 It's not going to be a significant change or disturbance in
 14 the neighborhood.
 15 MS. LAUDERDALE: Okay. I'm not going to get an
 16 answer to that question. I'm going to move on.
 17 BY MS. LAUDERDALE:
 18 Q Now, you said that you're going to put this
 19 Japanese holly up. Do you know that Japanese holly is
 20 prickly?
 21 A I saw it. I went to the garden shop. He showed
 22 me, and like, I got advice from the person: that's going to
 23 be good look and it's going to grow up to six feet.
 24 Q Right.
 25 A Yeah.

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1 Q Do you know that Japanese holly is used for
 2 security because it's prickly?
 3 A I don't know that.
 4 Q Okay. Do you know that the county is going to
 5 license you if you have Japanese, prickly, prickly Japanese
 6 holly around?
 7 A I don't know that.
 8 Q Okay. Now, do you plan on having various signs --
 9 first of all, the name of the facility, a sign for the
 10 parking, a sign for the handicapped parking, a sign to
 11 connote the entrance -- are there going to be various signs
 12 around the facility?
 13 A Yeah. Actually, that's a very good question. I
 14 forget to mention about the signage. Okay. The signage is
 15 regulated by Department of Maryland, Department of
 16 Education. So --
 17 MS. ROBESON: No. It's regulated by Montgomery
 18 County --
 19 THE WITNESS: Oh, sorry, I forgot.
 20 MS. ROBESON: -- Department of Permitting
 21 Services.
 22 THE WITNESS: Yeah. So going to be a signage, is
 23 one foot by two, and there's only one small signage with the
 24 name of the daycare and telephone number that will be on the
 25 east side of the property. The other thing, yes, we're

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1 going to make --
 2 BY MS. LAUDERDALE:
 3 Q What size is that going to be?
 4 A One foot by two. One foot high, two foot wide,
 5 and that is the standard. And the other signs, yes, we're
 6 going to put probably parking numbers on the parking lot and
 7 probably we're going to say maybe entrance and that's going
 8 to be the only sign.
 9 Q Okay. Do you notice that there are really,
 10 basically, two or three style homes in Burnt Mills Estates?
 11 A Yes.
 12 Q That they all look pretty much the same?
 13 A Not all the same, yes.
 14 Q Yeah. I mean, two or three -- there are two or
 15 three varieties, is that correct?
 16 A That's correct.
 17 Q And basically, the houses look the same --
 18 A Correct.
 19 Q -- is that correct?
 20 A Uh-huh.
 21 Q How is this going to be compatible? How is it
 22 going to look the same when it has signs around it and
 23 parking, numbered parking spaces? How is it going to look
 24 like the rest of the community?
 25 A First of all, we don't do anything on the outside

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1 of the house. So the house --

2 Q The signs are going to be inside?

3 A The sign is going to be on the edge and --

4 Q So they're going to be outside?

5 A Yes, but one thing. Look, first, when we start,

6 we start the entrance on the Northwest side, and the

7 planning staff advise us to make the entrance on the New

8 Hampshire access avenue. The reason is because, if you see

9 the New Hampshire access avenue, it is on, off the six-lane

10 highway. So you don't see any signage or anything from the

11 Northwest side of the property.

12 Q Okay. Let me ask you something. You say on the

13 six-lane highway. That's not going to be on --

14 MR. GARDNER: Can you let him finish his answer

15 before we interrupt?

16 THE WITNESS: Yes. He needs to finish his answer.

17 MS. LAUDERDALE: Oh.

18 MR. GARDNER: Please.

19 THE WITNESS: So I believe -- the entrance is on

20 the side of the New Hampshire, so probably may put numbers

21 on the parking lot, one signage on the east side of the

22 property, and I don't think that's going to make a big

23 difference and tell that this property is -- I mean, that

24 make that property different and doesn't affect the

25 residential look of the house.

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1 BY MS. LAUDERDALE:

2 Q Okay. Now, you and your attorney keep referring

3 to the entrance is going to be off a six-lane highway. Is

4 that accurate, or is it in fact going to be off a service

5 lane?

6 A Off the New Hampshire service road, correct.

7 Q Off the service lane?

8 A Yeah.

9 Q So it's not going to really be facing the, New

10 Hampshire Avenue itself. It's going to be the New Hampshire

11 Avenue service lane. Is that correct?

12 A But still --

13 Q Okay.

14 A -- still passing the New Hampshire Avenue.

15 Q Okay. And what is the house next door to your

16 house or your store that you just purchased? What's going

17 to be next door to it? What is next door to it?

18 MR. GARDNER: Objection. Nobody's purchased a

19 store. I think that's inaccurate to refer to it that way.

20 MS. ROBESON: I get -- that's fine.

21 BY MS. LAUDERDALE:

22 Q What's next door to it?

23 A Next door to my property?

24 MR. GARDNER: On which side?

25 BY MS. LAUDERDALE:

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1 Q Yes, to the right.

2 MS. ROBESON: Mr. Berry's property?

3 MS. LAUDERDALE: No. No, facing New Hampshire.

4 If you look at New Hampshire.

5 MS. ROBESON: Oh.

6 THE WITNESS: That's a doctor's office.

7 BY MS. LAUDERDALE:

8 Q It's a doctor's office.

9 A Uh-huh.

10 Q Does it have parking space cut out of the grass?

11 A No --

12 Q No.

13 A -- as to my knowledge, I don't remember, yeah,

14 what.

15 Q No. Are there any more than two or three cars

16 parked there at any one time?

17 A I don't remember.

18 MS. BERRY: And has a family in it.

19 BY MS. LAUDERDALE:

20 Q And does anyone live there?

21 A I don't know.

22 MS. LAUDERDALE: Okay. Now, I have some pictures,

23 and I'm sorry, I could not download them. So I would like

24 to leave the record open for those. They would not come off

25 my camera.

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1 MS. ROBESON: Well, that'll be, you can talk about

2 that in your testimony. We still haven't got -- this is

3 just your --

4 MS. LAUDERDALE: Okay. I just want to ask you,

5 because I wanted to ask him about --

6 MS. ROBESON: Well, the record is going to be open

7 for --

8 MS. LAUDERDALE: -- I wanted to ask him about the

9 upkeep.

10 BY MS. LAUDERDALE:

11 Q Now, you said that since September the property

12 has been kept up, is that --

13 A Yes.

14 Q -- is that accurate?

15 A That's accurate.

16 Q So if I show you some pictures where the grass is

17 this long, with dated pictures, how would you refute that?

18 A It depends on the day you take the picture,

19 because the grass can grow today and can be cut tomorrow.

20 Q Okay. Let me ask you something else. When the

21 trash people come on Wednesday and they invariably spill

22 stuff, is there someone there who picks it up from your

23 property --

24 A Because nobody's living --

25 Q -- when stuff is spilled?

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1 A Because nobody's living in the property since
2 September, there is no trash going out. So that doesn't
3 apply to this.
4 Q Okay. So if someone comes down from, say they're
5 walking from the McDonald's and they're walking down towards
6 Hillandale and they dump a McDonald's cup on your lawn, is
7 there someone there -- have they been generally picked up?
8 A I mean, I often go to my property. I check every
9 time, not every day, but whenever I see something, yes, I
10 pick it up.
11 Q Okay. So this house, if it were defined, say it
12 were a comparable in our community, if I were selling my
13 house, which I'm going to do if you get this daycare
14 center --
15 MR. GARDNER: Objection.
16 BY MS. LAUDERDALE:
17 Q -- if I were selling my house --
18 MS. ROBESON: Ms. Lauderdale, please don't insert
19 those in your questions. I mean --
20 MS. LAUDERDALE: I'm sorry. I'm sorry. I'm
21 sorry. I'm so upset. I'm sorry. That's very
22 unprofessional.
23 MS. ROBESON: I can tell you're upset. I, what I
24 need to do is focus this hearing on the criteria.
25 MS. LAUDERDALE: Okay. I'm sorry.

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1 BY MS. LAUDERDALE:
2 Q Let me ask you, how would this house show up in
3 the comparables? Would it be a house or would it show up as
4 a business?
5 MR. GARDNER: Objection. It's irrelevant. I
6 don't know what she means by comparables anyway.
7 MS. LAUDERDALE: Oh, what I mean by comparables
8 is, we have a community and this is supposed to be
9 compatible with the community. If I were selling my
10 house --
11 MR. GARDNER: You asked about --
12 MS. ROBESON: Okay. Just a second. You two, just
13 a second. Okay. You are asking the same question over and
14 over about the fact that this is not a residence but maybe
15 is a commercial use.
16 MS. LAUDERDALE: But I'm also asking him how would
17 we define it in the comparables.
18 MS. ROBESON: And you tell me which of the
19 criteria that goes to.
20 MS. LAUDERDALE: That goes to, back to the
21 Montgomery County ordinance that, that they cannot alter the
22 nature of the area. So if the nature of the area is
23 residential and I'm selling my home and we're looking at the
24 comparables, are we looking at this as a business on the
25 corner or are we looking at this as a house on the corner

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1 that is no longer a four-bedroom --
2 MS. ROBESON: I -- okay.
3 MS. LAUDERDALE: -- house? I'm trying to find
4 out --
5 MS. ROBESON: I understand what you're saying.
6 That is not how the criteria has been interpreted. The
7 criteria residential in character is interpreted as are the
8 commercial aspects sufficiently mitigated to not appear to
9 be commercial, as commercial, not to be significantly
10 commercial --
11 MS. LAUDERDALE: Uh-huh.
12 MS. ROBESON: -- and an example would be, if
13 somebody came and wanted to put a McDonald's there, you
14 know, there would be very little they could do to make it
15 residential in character. But what the criteria goes to is,
16 does it have the appearance of residential, is the
17 activity --
18 MS. LAUDERDALE: Residential.
19 MS. ROBESON: -- it can be slightly increased,
20 but --
21 MS. LAUDERDALE: Uh-huh.
22 MS. ROBESON: -- is it going to really turn
23 everything topsy-turvy.
24 MS. LAUDERDALE: Uh-huh.
25 MS. ROBESON: So asking how comparables would

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1 value this property doesn't -- it's really the activities,
2 the appearance, those kind of things. So if --
3 MS. LAUDERDALE: So if I wanted to turn my house
4 into a bakery and just leave it looking like it is, that
5 would be okay?
6 MS. ROBESON: Well, that's not permitted. This is
7 by special exception. This is permitted by special
8 exception.
9 MS. LAUDERDALE: No, I mean, if I asked for that
10 exception.
11 MS. ROBESON: No, not in this zone. They go
12 through -- when they do a zoning ordinance, they go through
13 and say this use might be acceptable but we're going to make
14 sure, we're going to put it through this special process --
15 MS. LAUDERDALE: Uh-huh.
16 MS. ROBESON: -- so all the --
17 MS. LAUDERDALE: Certain criteria are met.
18 MS. ROBESON: -- we can control the impact.
19 MS. LAUDERDALE: Uh-huh. Uh-huh.
20 MS. ROBESON: So a bakery is, it would be very
21 difficult; you'd have delivery trucks and all that kind of
22 stuff. So I don't want to get into a debate with you --
23 MS. LAUDERDALE: I don't want to debate.
24 MS. ROBESON: -- but I am trying to get through
25 this hearing, and that, what you're asking, is not relevant

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1 to my decision.
2 MS. LAUDERDALE: Oh, if it's not relevant, then
3 that's the beginning and the end of that question.
4 MS. ROBESON: Okay.
5 MS. LAUDERDALE: I mean, I can't debate you on
6 that. I asked about the signage.
7 BY MS. LAUDERDALE:
8 Q You did say you purchased the home in 2008.
9 A Correct.
10 Q Did you ever live in that house?
11 A No.
12 Q Okay.
13 MS. LAUDERDALE: I don't have any other questions.
14 MS. ROBESON: Okay. Cross-examination.
15 MR. GARDNER: Redirect?
16 MS. ROBESON: I mean, redirect. I'm sorry.
17 MR. GARDNER: Thank you. It's been a long
18 morning.
19 REDIRECT EXAMINATION
20 BY MR. GARDNER:
21 Q Do you intend to comply with the noise ordinance?
22 A Yes, sir.
23 Q When children are in the backyard, are there going
24 to be people watching them?
25 A Correct.

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1 Q Who?
2 A One of the staff go out with the kids.
3 Q Are you're going to keep that entirely enclosed by
4 a six-foot-high board-on-board fence?
5 A Correct.
6 Q Will that mitigate the noise?
7 A Correct.
8 MS. ROBESON: Now, let me ask you something. The
9 Planning Board suggested that I retain jurisdiction to
10 monitor the noise. What mitigation could you do if the
11 noise is too, too loud?
12 THE WITNESS: Yeah. I tried -- in the beginning,
13 we tried to put the playground, I mean, as far as from my
14 neighbor's property. So that's why we select --
15 MS. ROBESON: How far is -- well, he can, I'll ask
16 him that.
17 THE WITNESS: Yeah. So this is going to be very
18 far, because this is 3,000 square feet; so it's a very big
19 plus. So we can, I mean, put this equipment, as we can, as
20 far from --
21 MS. ROBESON: I see.
22 THE WITNESS: -- from the property, and we have a
23 six-foot fence around the property.
24 BY MR. GARDNER:
25 Q So you're going to place the playground equipment

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1 as far as possible from the --
2 A Correct.
3 Q -- backyard and the side yard?
4 A Yes.
5 Q And you'll have a staff member out there to
6 monitor the children?
7 A Correct.
8 MS. LAUDERDALE: Make them quiet.
9 BY MR. GARDNER:
10 Q And the purpose of that would be?
11 A To watch the kids.
12 MS. ROBESON: Because there are sound-reducing
13 fences.
14 THE WITNESS: Okay.
15 MS. LAUDERDALE: Make them quiet when they play.
16 MS. BERRY: Right.
17 MS. ROBESON: Just a second, please.
18 MS. LAUDERDALE: I'm sorry.
19 MS. ROBESON: There are sound-reducing fences, Tek
20 Tracks (phonetic sp.) or I can't remember, sound-reduction
21 fences. We've had some daycares put them in. Now, I don't
22 -- I'm saying this because -- and I don't know whether I'm
23 going to approve this yet or not -- I'm telling you because
24 you wouldn't want to, if I retain jurisdiction and you
25 exceed the sound limits, you know, you wouldn't want to put

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1 a new board-on-board fence in and then have to replace it
2 with a sound-reduction fence.
3 THE WITNESS: Yes.
4 MS. ROBESON: So I'm just mentioning that. Okay.
5 BY MR. GARDNER:
6 Q So if she retains, if the Hearing Examiner retains
7 jurisdiction and then a year from now tells you that there
8 have been reports that it's too noisy and recommends that
9 something be done to beef up the fence, you would agree to
10 do that?
11 A Yes.
12 Q Okay.
13 MS. ROBESON: What if I required at the end of the
14 year, at the end, say, of a year, that you do a sound
15 analysis, a sound study?
16 MR. GARDNER: I don't know what that would
17 include. Do you?
18 MS. ROBESON: It's hiring a guy that comes and
19 does sound readings.
20 MR. GARDNER: I didn't see --
21 MS. ROBESON: I don't know what it would include.
22 MR. GARDNER: Yes. Yes.
23 MS. ROBESON: I mean, I do know -- we get these
24 experts -- I do know that there are noise experts. The
25 Department of the Environment also has noise -- Maryland

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1 Department of the Environment has people that used to come
2 out, whether they still do, and do noise readings --
3 MR. GARDNER: The problem --
4 MS. ROBESON: -- because right now you don't have
5 any noise, expert noise levels in the record.
6 MR. GARDNER: Well, the problem is it's people
7 noise; it's not object noise. It's not --
8 MS. ROBESON: Yes, I know. That's what they
9 measure.
10 MR. GARDNER: Usually, when you have a noise study
11 done, it's because there's, you know, going to be a fan or
12 trucks.
13 MS. ROBESON: No, no. I have childcare cases that
14 do noise studies.
15 MR. GARDNER: Oh.
16 MS. ROBESON: So I guess my question is, would you
17 agree to something like that at the end of a year?
18 THE WITNESS: Yes, I do.
19 MS. ROBESON: I know you don't know the price tag.
20 I don't know the --
21 MR. GARDNER: Right.
22 MS. ROBESON: -- price tag, but you don't have any
23 expert evidence, saying the noise is going to be, meet the
24 county standards.
25 MR. GARDNER: And it's hard to do until it's in

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1 operation anyway.
2 MS. ROBESON: Exactly.
3 BY MR. GARDNER:
4 Q So if she took jurisdiction for a year and, at the
5 end of the year, asked you to conduct a noise study and hire
6 an expert to put that in the record, you would agree to
7 comply with that condition?
8 A Yes, I agree.
9 Q Okay.
10 MS. ROBESON: I'm trying to remember. I'd give
11 you the case number with the guy's -- anyway.
12 MR. GARDNER: I could certainly find out later.
13 MS. ROBESON: Yes.
14 MR. GARDNER: Somebody in your office, Ellen, I'm
15 sure, would have that information.
16 MS. ROBESON: Yes.
17 BY MR. GARDNER:
18 Q Did staff at Park and Planning see your proposal
19 to include Japanese holly as one of the landscape elements?
20 A Yes.
21 Q And did they agree to that?
22 A Yes, they agree.
23 Q Did anybody along the way tell you that you need
24 to get some kind of special license because these have
25 stickers on -- thorns?

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1 MS. LAUDERDALE: Prickles?
2 THE WITNESS: No.
3 BY MR. GARDNER:
4 Q Prickles? Okay. That's news to you?
5 A That's new for me.
6 Q But you understood, staff looked at this and
7 approved the use of those, correct?
8 A Correct.
9 Q All right. And to address the lady's question
10 that left, are any of the people using this going to park on
11 Northwest Drive?
12 A No.
13 Q All right. The intent is that they're all going
14 to park in the eastern parking bay --
15 MS. ROBESON: Wait. Wait. You're doing redirect
16 -- oh, okay. Go ahead.
17 MR. GARDNER: Yes. She left --
18 MS. ROBESON: Go ahead. Go ahead.
19 MR. GARDNER: Well, she was cross-examining him,
20 making comments.
21 MS. ROBESON: Right.
22 BY MR. GARDNER:
23 Q They're all going to park in the eastern parking
24 bay, and the only on-street access that you're asking
25 parking is on the access road?

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1 MS. ROBESON: Well, she wasn't cross-examining
2 him.
3 MR. GARDNER: Well, it was -- okay.
4 MS. ROBESON: So just keep going.
5 MR. GARDNER: All right.
6 MS. ROBESON: We're doing --
7 BY MR. GARDNER:
8 Q Would be on the access road, correct?
9 A Correct.
10 Q All right.
11 MR. GARDNER: I have no further questions.
12 MS. ROBESON: Okay. Now -- no. What?
13 MS. LAUDERDALE: Can we take a break, because I've
14 got to keep --
15 MS. ROBESON: I'm not going to take a lunch break.
16 If you need to --
17 MS. LAUDERDALE: But, no, I got to keep feeding
18 this meter because I don't know where to park around here.
19 I had to park on the street.
20 MS. ROBESON: You can park -- did you try the
21 juror parking lot?
22 MR. GARDNER: Right behind the building, you can
23 park in --
24 MS. LAUDERDALE: Yeah, but it said jurors, and I'm
25 not a juror.

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1 MS. ROBESON: Well, you can park there after 9:30.
2 MS. LAUDERDALE: I did not know that. So --
3 MS. ROBESON: Yes.
4 MS. LAUDERDALE: -- I'm on the street.
5 MS. ROBESON: Okay. Why don't we do this: You
6 are going to testify and you are going to testify.
7 MR. BERRY: Uh-huh.
8 MS. ROBESON: So why don't we take a half-hour
9 lunch break. You can move your car, or -- or we can keep
10 going.
11 MS. LAUDERDALE: I just need to put some money in
12 that meter because the guy is going around on that little
13 Segway, giving tickets.
14 MS. ROBESON: Okay. Why don't you do that, and
15 I'm going to have Mr. Berry -- I'm going to finish the
16 opposition testimony. So, you know, I have to control the
17 hearing and get this hearing done.
18 MS. LAUDERDALE: I understand you --
19 MS. ROBESON: So --
20 MS. LAUDERDALE: -- but there's nowhere -- no one
21 tells you where to park here and it's been difficult, and I
22 didn't know I could park in that juror parking place.
23 MS. ROBESON: Well, it's -- yes, I know. Okay.
24 MR. GARDNER: There's a garage right behind the
25 building. You can just drive in and park all day.

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1 MS. ROBESON: Yes, there's a garage --
2 MR. GARDNER: Paid.
3 MS. ROBESON: -- if it's not full, the one behind
4 the --
5 MS. LAUDERDALE: You know what? I can't spin
6 around here any more than I spun around this morning looking
7 for a parking space. I just, going around in circles.
8 MS. ROBESON: Okay. Mr. Berry, please raise your
9 right hand.
10 (Witness sworn.)
11 MS. ROBESON: Okay. What would you like to tell
12 us?
13 DIRECT EXAMINATION
14 THE WITNESS: Okay. I had some prepared remarks,
15 but they're all ridiculous now. So I'm going to try to put
16 this together as best I can. I apologize if it's, doesn't
17 seem to be logical or anything like that.
18 MS. ROBESON: That's fine.
19 MR. GARDNER: Is this cross still? Did he --
20 MS. ROBESON: Oh.
21 MR. GARDNER: I think it is.
22 MS. ROBESON: Just a sec. Ms. Lauderdale, before
23 you leave, do you have any questions on his redirect?
24 MS. LAUDERDALE: No. You know what? I don't
25 know. I'm just really afraid of getting my car towed or

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1 something.
2 MS. ROBESON: Okay. Well, I'll let you have an
3 opportunity when you come back, if you have any more
4 questions.
5 MS. LAUDERDALE: Okay.
6 MS. ROBESON: Okay. So there's no
7 cross-examination. Mr. Berry --
8 THE WITNESS: Okay. Again, with --
9 MS. ROBESON: -- your testimony.
10 THE WITNESS: -- with apologies of the lack of
11 organization here, I asked a question of the architect about
12 electrical, and I was dismayed to hear that you don't intend
13 to do a lot of work there, although it may not -- I may not
14 have up-to-date stuff here.
15 I was called to that house a couple of years ago
16 by a previous owner. They had a blown circuit breaker, and
17 I went, found the box and reset it, but I was really
18 dismayed to see the age and the condition of the electrical
19 wiring. Maybe it's been improved since then. For a -- it's
20 much worse than our house. I thought they were all the
21 same. For, you know, one person living there alone, I don't
22 know, but if you're going to have 30 kids there and you said
23 you were going to build a kitchen in the basement, which may
24 require some heavy-duty cooking things, I'd be very
25 concerned about the electrical thing. Now, maybe I should

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1 just -- maybe it's irrelevant or maybe the code or some
2 inspection will cover that, but I'd like to at least wave
3 that flag that at one time, in the last 10 years or so, I
4 looked at the electrical wiring there and it wasn't, it
5 wasn't good.
6 And, again, my name is Mike Berry and I'm -- my
7 status is I'm the neighbor. I've lived there since 1973,
8 and what I have here was sort of based on my reading of the
9 White Oak Master Plan.
10 MS. ROBESON: Okay.
11 THE WITNESS: And I understand here -- now, I
12 didn't know this before -- that staff has come up with an
13 opinion that this is in compliance with the master plan, and
14 I really have a big issue with that, not only specifically
15 but also in general. But let's go through some specifics
16 first, and I just had a few seconds to read this, and the
17 one thing that stands out here on page 7 is they're
18 concerned with overconcentration, which is one of the
19 concerns that I had also. And the master plan indeed
20 addresses overconcentration. Page 24, a quote here --
21 MS. ROBESON: Thank you.
22 THE WITNESS: -- excessive concentration of
23 special exception uses and non-residential uses along major
24 transportation corridors should be avoided. This is
25 especially a concern along New Hampshire Avenue.

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1 Now, concentration here. If we're talking about
2 the service road, there is a gynecologist who has paved over
3 his front yard and it's all parking. Next, there is the
4 house on the corner we've talked about before --
5 MS. ROBESON: Is that, wait, is that the doctor's
6 house?
7 THE WITNESS: Unfortunately, we've used the word
8 doctors here, and there are at least four doctors involved
9 here. So it just leads to confusion.
10 MS. ROBESON: Oh, can you -- let's see. Is there
11 a map, a vicinity map, or a --
12 THE WITNESS: Yes.
13 MS. ROBESON: Do you have page 5 of the staff
14 report?
15 THE WITNESS: Yes, I do, and that doesn't --
16 that's not good enough.
17 MS. ROBESON: It doesn't show it?
18 THE WITNESS: No.
19 MS. ROBESON: How about page 6?
20 THE WITNESS: Page 6 will be adequate. If we
21 start at the very tiptop on page 6, in the C-2 zoning --
22 MS. ROBESON: Yes.
23 THE WITNESS: -- block, the first circle there --
24 oh, no, I'm sorry. No. This map is correct, but it's not
25 detailed enough to work from. I'm sorry.

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1 MS. ROBESON: That's okay. So the green circle
2 south of the red circle, which is the subject property, is
3 that the gynecologist?
4 THE WITNESS: No.
5 MS. ROBESON: No.
6 THE WITNESS: That is Dr. Burkett --
7 MS. ROBESON: Oh.
8 THE WITNESS: -- and that, with the exception of
9 her sign, looks like a regular old house. It's --
10 MS. ROBESON: What's the one immediately north of
11 this, across Northwest Drive?
12 THE WITNESS: Okay. That was a podiatrist office,
13 but once again, the yard there has been totally paved over,
14 and it's used now as overflow parking for the gynecologist,
15 who would be one notch to the north of that, and there is no
16 marking on this page 6 map for that. So north --
17 MS. ROBESON: So there, wait, there's a -- okay.
18 So now it's parking for the gynecologist, which is not
19 marked on this map?
20 THE WITNESS: That's right. There is a
21 gynecologist and a podiatrist office north of Northwest
22 Drive. There's only one circle there, but there are two
23 what used to be homes which are now --
24 MS. BERRY: The one on the corner has people
25 living in it.

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1 THE WITNESS: Yeah, has people living in it, but
2 it's, it's usage is basically an extension of the
3 gynecologist. At any rate, if you drive there and look, it
4 looks like there are two doctors' offices with paved over
5 front yards that are used for parking. Then there's
6 Northwest Drive. Then there's the 921 building, which is
7 what we're talking about today. The next building to the
8 south is Dr. Burkett's home, which really does look more
9 like a home, to tell you the truth. Then there is McCeney
10 Avenue, and then on --
11 MS. ROBESON: Is that off this map on page 6?
12 THE WITNESS: No. McCeney Avenue is labeled on
13 that map.
14 MS. ROBESON: Oh, I see it. I see it. I'm sorry.
15 THE WITNESS: And just to the south of McCeney
16 Avenue is Dr. McLaughlin, a dentist, who also has paved over
17 much of his yard -- not all of it like the other ones, but
18 much of it -- for parking.
19 So we really have, excluding 921, we have one,
20 two, three, four doctors in a row, three of which have paved
21 over their front yards for parking, and you know, when you
22 use the words excessive concentration, that's sort of vague
23 but I'm sort of going to suggest that that's excessive
24 concentration, particularly when the master plan is already
25 expressing this, and I quote, this is especially a concern

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1 along New Hampshire Avenue. I'm disagreeing with staff
2 here, and I don't know whether that's an appropriate thing
3 for me to do.
4 MS. ROBESON: No. That's what, that's what we
5 want to hear.
6 THE WITNESS: I had all kind of other things that
7 I pulled from the master plan, but I'm going to save you
8 that because we've covered them and beat them to death
9 already. But they are things like, quote, the master plan
10 envisions the area remaining residential in nature, things
11 like that; the residential neighbors -- this is page 10 --
12 the residential neighbors are single-family detached in
13 nature and are very stable. There's a strong sense of
14 community within these neighborhoods, blah, blah, blah.
15 There is, however, the start of a change of character along
16 New Hampshire Avenue and Powder Mill Road --
17 MS. ROBESON: Where are you reading?
18 THE WITNESS: -- as the number of special
19 exception uses increases and replaces single-family
20 residences.
21 MS. BERRY: She lost you, Mike.
22 THE WITNESS: I'm sorry. I --
23 MS. ROBESON: What page are you reading from?
24 THE WITNESS: I copied and pasted that from page
25 10, and I'm beginning to worry that there may be more than

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1 one page 10. I don't have the master plan in front of me.
2 MS. ROBESON: It's okay. Don't worry. I'll find
3 it.
4 THE WITNESS: The staff report, here again -- now,
5 let's go back to page 7 of the staff report. They're sort
6 of talking here, the next to the bottom paragraph: Staff
7 does not believe this to be an overconcentration of special
8 exception uses along New Hampshire for two reasons: one,
9 the master plan refers to a larger area, not the
10 staff-defined neighborhood. Well, gee, I think when they're
11 talking about New Hampshire Avenue and they're talking about
12 this, it seems to me that it is referring to that. Again,
13 I'm disagreeing with staff and maybe, who am I? It's not my
14 area of expertise --
15 MS. ROBESON: Well, you live there.
16 THE WITNESS: -- but it doesn't seem right.
17 I could go on and read you all these kind of
18 things about, you know, non-commercial and residential that
19 I copied and pasted, but you get the idea. I won't, I won't
20 waste your time. I'll just read you my wonderful concluding
21 paragraph here.
22 The specific examples we have, that I have -- we,
23 my wife and I -- have excerpted certainly run counter to any
24 commercialization of our residential neighborhood. We
25 believe an overall reading of the plan gives the impression

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1 that picking away at the residential character by exceptions
2 is not what the planners had in mind.
3 Now, the plan was approved by the County Council
4 back in 1997. Although it may be argued it is old, it may
5 be due for revision, we -- again, my wife and I -- believe
6 that the principles that it states are still in the best
7 interest of the county and a reexamination of the area would
8 only emphasize the need to vigilantly guard against the
9 erosion of the neighborhoods by commercialization.
10 Our neighborhood is certainly not as nice as it
11 was when we moved in back in 1973. Development, both large
12 scale and small scale, like this proposal, has damaged it.
13 We believe it's got to stop. I thank you for the
14 opportunity to speak, and I apologize for what errors I made
15 earlier.
16 MS. ROBESON: No, that's fine. Okay. Questions
17 from Mr. Gardner.
18 MR. GARDNER: Sure.
19 CROSS-EXAMINATION
20 BY MR. GARDNER:
21 Q Mr. Berry, can I ask you to look at the staff
22 report? Do you have it with you?
23 A Sure.
24 Q Okay. Look at page 5.
25 A Yeah. Okay.

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1 Q Okay. Now, you see the site?
2 A Yes.
3 Q Right. And your house is the one just to the
4 right of that?
5 A Yeah.
6 Q When this is constructed by my client, if he gets
7 this approved --
8 A Uh-huh.
9 Q -- he's going to remove a piece of his driveway --
10 A Uh-huh.
11 Q -- that goes on your property, correct?
12 A Uh-huh, that's right.
13 Q And he's then going to give you a 10-foot-wide --
14 A Uh-huh.
15 Q -- setback to your property?
16 A Uh-huh.
17 Q So his driveway on the right side is actually
18 going to be more compatible with your property than it is
19 now, correct?
20 A Uh-huh. Well, I had -- you know, when this
21 happened, one of the previous owners, we had a very informal
22 conversation, and they had a surveyor out there and they
23 wanted to make a modification to the driveway. And their
24 surveyor really didn't think that that driveway was going to
25 be on my property at all, but they did admit that it was

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1 going to be too close, and they wondered if I cared. And I
2 got along with them fine, and I said, I really don't care,
3 do whatever you want to. That's how that came about. So --
4 Q Can you tell me --
5 A -- I'm not really upset by the situation right
6 now.
7 Q Can you tell me when that was?
8 A Not -- under oath I would really prefer not to put
9 a date on that, but it must have been on the order of 15
10 years ago or so. But please don't quote me on that, and I
11 understand I'm under oath and really hate to do that.
12 MS. ROBESON: No, it's -- you're unsure, but --
13 THE WITNESS: I'm unsure, yes.
14 BY MR. GARDNER:
15 Q I understand, but it's in the neighborhood of 15
16 years ago, long before my client bought the property, is
17 that --
18 A Oh, yes, absolutely, yes --
19 Q Okay.
20 A -- long before.
21 Q So when did this little triangular piece of land
22 get conveyed to you or the owner of your property, your
23 predecessor, if you know?
24 A No, and I'm not sure I understand the question.
25 It --

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1 Q How long --
2 A -- seems like it was conveyed away from me.
3 Q How long have you lived there?
4 A I moved in in 1973. That's 40 years.
5 Q Okay. Now, if you look at my client's deed --
6 A Uh-huh.
7 Q -- if I can approach you, No. 66 --
8 A Uh-huh.
9 Q -- you see, he owns Lot 11.
10 A Uh-huh.
11 Q Exempting therefrom the following described, and
12 there's an exempting therefrom. This is the triangular
13 piece --
14 A Uh-huh.
15 Q -- that's described in this narrative.
16 A Uh-huh.
17 Q All right. So what happened is originally the, if
18 I have all these exhibits -- I gave them to the people that
19 were sitting here. I guess she left with them.
20 MS. ROBESON: Well, the plat is 68.
21 MR. GARDNER: Yes. I just don't have a copy of it
22 with me.
23 MR. ZEWDU: There.
24 MR. GARDNER: Do you have 68 now? Okay, here we
25 go.

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1 BY MR. GARDNER:
2 Q All right. Here's 67. This is the plat
3 originally.
4 A Yeah.
5 Q And then what happened is -- 67, 68 is the plat
6 originally.
7 A Uh-huh.
8 Q And then what happened is -- here we go, thank you
9 -- 69, that little triangular --
10 A Yeah.
11 Q -- piece of land --
12 A Uh-huh.
13 Q -- got conveyed to your property.
14 A Got conveyed to my property.
15 Q That's why it says exempting therefrom the
16 following described --
17 MS. ROBESON: Basically, you have more land --
18 MR. GARDNER: Yes.
19 MS. ROBESON: -- than you realize.
20 THE WITNESS: Okay. This is the first time that
21 I've heard anything formal about this at all --
22 BY MR. GARDNER:
23 Q And what --
24 A -- so I don't really, I --
25 MS. ROBESON: No, it's fine.

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1 THE WITNESS: Yeah.
2 BY MR. GARDNER:
3 Q You probably don't know the answer then --
4 A No, I don't know.
5 Q -- as to when that was conveyed. Okay. So --
6 A I don't, I do not know. I'm sorry.
7 Q So are you saying the existing driveway was
8 constructed at this -- about 15 years ago?
9 A Yes. There was a completely different driveway
10 there when we moved in.
11 Q Oh, okay. So, but it -- you recognize it'll be
12 moved back onto --
13 A Yes, I do, uh-huh.
14 Q -- my client's property, and there'll be more
15 setback provided than there currently exists if this is
16 approved?
17 A I do realize that, yes.
18 Q Okay. And do you like the idea of putting these
19 plants along the side of that driveway?
20 A Yes. As a matter of fact, one of the things that
21 I didn't read to you, one of my big objections was the
22 visibility of parking, but you seemed to have covered that;
23 so I didn't even bring it up. So I'm happy with the efforts
24 that you appear to want to make to use plantings to hide the
25 parking. That seems to be --

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1 Q Thank you.
2 A -- that seems to be okay. The only real external
3 appearance thing that I have trouble with is the sign. I
4 have seen daycare signs -- you know, up New Hampshire Avenue
5 there's a Dee Dee's Place, you may have seen that, and
6 there's a large colorful sign there. I hope you're not
7 going to do anything quite that gaudy.
8 Q Okay. Well --
9 MS. ROBESON: Well, he's, he is mandated. What
10 you see -- do you have a picture of the sign? Oh, it's on
11 Exhibit 61.
12 THE WITNESS: Yeah, there's a general drawing
13 there, but I'm talking about color, really.
14 MS. ROBESON: Oh, the color.
15 BY MR. GARDNER:
16 Q Oh, color.
17 A Yeah. I mean, gaudy, I used the word. I should
18 have meant colorful.
19 Q Well, the sign is going to be limited --
20 MS. LAUDERDALE: No. Gaudy is --
21 BY MR. GARDNER:
22 Q The sign is going to be limited to six feet off
23 the ground, one feet high. So it'll only be one-and-a-half
24 feet high --
25 A Uh-huh.

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1 Q -- in toto, and two feet wide --
2 A Okay.
3 Q -- which is what the zoning ordinance --
4 MS. ROBESON: I think, is it going to be red?
5 MR. GARDNER: I don't know.
6 MS. LAUDERDALE: Six feet is taller than me. I
7 mean, you know, that --
8 THE WITNESS: Well --
9 MR. GARDNER: I guess I'll ask my client to
10 testify --
11 THE WITNESS: -- I prefer no sign at all, to tell
12 you the truth, but that's --
13 MS. ROBESON: Just a second, Ms. Lauderdale.
14 MS. LAUDERDALE: I'm sorry.
15 THE WITNESS: -- that's, you know, I don't want to
16 be in a situation of me against you. What I tried to do in
17 this presentation was leave me out of it and go for the
18 things that I believe violated the master plan.
19 MS. ROBESON: Okay. That's fine.
20 THE WITNESS: So --
21 BY MR. GARDNER:
22 Q Okay.
23 A -- the sign looks to me like a me-against-you
24 thing. I really don't want a sign there. I don't want to
25 see any sign or any evidence that this is a commercial

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1 thing, but I can't tell you that that's in violation of
2 anything. If you get an exception and they approve the
3 sign, I lose.
4 Q Okay. Let me move on now. On page 5 --
5 A Yeah.
6 Q -- of the staff report, once again, you mentioned
7 the house that's to the south of the site.
8 A Yes.
9 Q All right. That's at the top of that picture,
10 correct?
11 A Yes. It's a --
12 Q Now, that's a doctor's office, I understand?
13 A Yeah. They actually live there.
14 Q And it's been approved as a special exception,
15 according to the illustration on page 6.
16 A Yes. That's been grandfathered in. It was long
17 ago a dentist, a Dr. Drewyer, who --
18 Q So --
19 A -- actually lived there longer than we did.
20 MS. ROBESON: Mr. Gardner, what page of the staff
21 report are you on?
22 MR. GARDNER: Page 5.
23 MS. ROBESON: Okay.
24 THE WITNESS: The picture.
25 MS. ROBESON: Okay.

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1 THE WITNESS: And --
2 BY MR. GARDNER:
3 Q So the house there that has a special exception --
4 A Uh-huh.
5 Q -- the owner or the -- is it a doctor?
6 A It is now a doctor, yes.
7 Q Okay. And he lives there with his family?
8 A It's a woman, and she lives there with her family
9 and her dog, Buddy.
10 Q And it appears from this picture --
11 A Uh-huh.
12 Q -- that there is no on-site parking provided in
13 conjunction with that.
14 A That is true.
15 Q So the people that use it, the occasional -- are
16 they occasional visitors or --
17 A It's like any doctor's office. It's not a super
18 busy one, but the people park on the service road.
19 Q They park on that New Hampshire Avenue service
20 road?
21 A Yes, they do, uh-huh.
22 Q Okay. So no modifications have been made to the
23 exterior of that structure at all?
24 A Now, that's something I can't, I can't verify.
25 You note that there's a, shall we say, a vertical and a

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1 horizontal element to that cluster.
2 Q They look like buildings, right?
3 A Yeah --
4 Q Yes. What are they?
5 A -- and it's really, the usage of that is, the
6 vertical member is the home and the horizontal thing is the
7 dentist, or the, now it's doctor's office. And I would --
8 boy, you know, you're going to have me guess here and
9 speculate under oath, and I really don't want to do that.
10 Q Okay. Well, then don't. So --
11 A Yeah.
12 Q -- there's the house. You can see that quite
13 clearly as a house on the very top of that picture, right?
14 A Yeah.
15 Q And then the building behind it that looks almost
16 like a long garage-type building --
17 A Yeah, uh-huh.
18 Q -- you're speculating that that might be where he
19 conducts his doctor's office?
20 A Yes.
21 Q But that was there when you bought your house --
22 A Yes.
23 Q -- some 30 years ago?
24 A Yes.
25 Q So there's been no modifications to that site in

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1 the last 30 years that you know of?
2 A That is correct.
3 Q Okay. So -- now, let me move on to the, across
4 the street from the subject site, the house right on the New
5 Hampshire Avenue access --
6 A Yes.
7 Q -- correct?
8 A Uh-huh.
9 Q That is, according to the drawings on page 6, or
10 the map --
11 A Uh-huh.
12 Q -- an existing special exception.
13 A Yes.
14 Q Now, that, you said, was what kind of a doctor's
15 office?
16 A Okay. At one time, it was a podiatrist office.
17 Q Now is it abandoned?
18 A No --
19 MS. LAUDERDALE: No.
20 THE WITNESS: -- not at all.
21 BY MR. GARDNER:
22 Q What's it being used for?
23 A They've rented out the home portion of that. It
24 was, once again, one of these combination home-office
25 things. And there is a family living in there in the home

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1 part of it, and I don't believe the doctor's office is in
2 use, but the parking area -- and you can see the parking
3 there; there's a line --
4 MS. ROBESON: Is it fronting the service road?
5 THE WITNESS: No. It fronts Northwest Drive, but
6 the entrance --
7 MS. ROBESON: Oh, I see it.
8 THE WITNESS: -- to that parking lot is, is on the
9 service or access road, and it is continuously paved --
10 MS. ROBESON: Oh.
11 THE WITNESS: -- with the next building, which is
12 not on this photograph. And the parking, it is overflow
13 parking for the next house to the north, which you can't see
14 here, and by the way, north is down on this photo again.
15 BY MR. GARDNER:
16 Q Okay. So --
17 MS. ROBESON: Yes, what is it with that?
18 BY MR. GARDNER:
19 Q -- what's the address of that, if you know, that
20 property?
21 A I'm sorry, I don't.
22 Q You don't know the address?
23 A No.
24 Q But it's no longer being used as a doctor's
25 office; it's being used as a rented out house?

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1 A The one in the photo is -- I don't want to say
2 that under oath. I don't know. It may be being used.
3 Q Okay. But you understand the parking for that is
4 being used for overflow parking for the house that's below
5 it --
6 A That's right.
7 Q -- on this drawing?
8 A That's right. That is correct.
9 Q But that house below it, if it was used as a
10 doctor's office, would be in violation because it doesn't
11 have a special exception?
12 A The house below it, which we don't see on the
13 picture, is that what you're referring to?
14 Q Yes. Yes.
15 A Wow, that was a -- that's been a gynecologist
16 office with several different gynecologists since, before we
17 moved in there. I actually know a guy who grew up there and
18 I know the history of that.
19 MS. LAUDERDALE: Dr. Lord.
20 THE WITNESS: Dr. Friedel before that.
21 MS. LAUDERDALE: But it's Dr. Lord now.
22 THE WITNESS: Yes, but it's Dr. Lord now, that's
23 correct, and I can't comment on whether that's a legal use
24 or not. That's beyond my pay grade.
25 BY MR. GARDNER:

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1 Q Okay. But the parking for that comes off the
2 access drive?
3 A Yes, indeed --
4 Q Doesn't come off --
5 A -- in both cases, yes.
6 Q Doesn't come off Northwest Drive?
7 A That is -- well, not exactly. There, there are, I
8 believe there are multiple entrances. There is one on
9 Northwest Drive that is also used for, for the parking.
10 MS. BERRY: For the family.
11 THE WITNESS: For, certainly for the family, and I
12 believe it accesses the lot. Again, I'm on thin ice here
13 under oath.
14 BY MR. GARDNER:
15 Q All right. Do you see much traffic going through
16 that, that driveway off Northwest Drive?
17 A Do I see much traffic on that driveway? No. The
18 primary access to those two -- and it's actually one big
19 parking -- is from the access road.
20 Q Okay. Now, you reviewed the master plan, correct?
21 A I, yes, I did.
22 Q All right. And I gather, in connection with this
23 application, you went back and looked at it? Yes?
24 A Now, I --
25 Q Or you just --

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1 A -- really didn't see the application until today.
2 So when I, when I looked at that master plan --
3 Q Yes.
4 A -- I was working off a whole bunch of assumptions
5 I had, many of which are wrong and that's why I didn't read
6 my carefully crafted presentation.
7 Q Now, page 24 of the master plan --
8 A Uh-huh.
9 Q -- I gather you have a copy of this?
10 A Yeah. That was sort of the highlight of it, page
11 24 for me --
12 Q That's right.
13 A -- the concentration.
14 Q Well, page 24 is where it specifically talks about
15 special exceptions, right?
16 A Uh-huh, yes.
17 Q And it says, to evaluate new requests for special
18 exception uses and their impact on the character and nature
19 of the residential neighborhoods in which they are proposed,
20 and it makes recommendations that they request along major
21 transportation corridors and in residential communities be
22 compatible with their surroundings and, at once, the front
23 yard setbacks --
24 A Uh-huh.
25 Q -- should be maintained, correct?

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1 A Uh-huh, yes. Yes.
2 Q Now, you understand this --
3 A I do.
4 Q -- application maintains the front yard setback?
5 A Yes, I do understand that, yes.
6 Q Okay. And --
7 A The compatibility, the only compatibility concern
8 I have is that sign. I'm very concerned about the sign, but
9 setback is not an issue for me.
10 Q And you understand a sign is allowed of this size
11 for a child daycare?
12 A It is allowed and specific, but I believe in
13 spirit it violates the plan.
14 Q Okay. And it asks that you avoid front yard
15 parking. This --
16 A Uh-huh.
17 Q -- does that, correct?
18 A Yes. Well, you do have -- you strictly do have
19 front yard parking, two spaces.
20 Q Well, that's in a driveway that looks residential
21 in nature --
22 A That's right.
23 Q -- does it not? I mean, that driveway --
24 A I said strictly. I said strictly, yeah.
25 Q But I'm asking another question.

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1 A Uh-huh.
2 Q Would that driveway not appear consistent and
3 compatible with the neighborhood in that it's the same type
4 of driveway every other home has?
5 A I repeat what I just said. The sign is what my
6 inconsistency is based on.
7 Q But I'm going on to another question.
8 A Okay.
9 Q It's the same type of driveway the neighborhood
10 has, correct?
11 A Yes.
12 Q All right. And then it asks that side and rear
13 parking -- the only parking proposed here is side yard, a
14 new side yard --
15 A Uh-huh.
16 Q -- correct?
17 A That's correct.
18 Q Should be screened from view of surrounding
19 neighborhoods. Do you agree that he's done everything
20 possible to screen that from the surrounding neighborhood?
21 A Once again, I have already stated that I am
22 satisfied with that.
23 Q Okay. And it asks that new buildings or
24 modifications be compatible. You understand there'll be no
25 new buildings, correct?

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1 A I understand that.
2 Q And that they'll be avoiding large impervious
3 surfaces. He's not --
4 A Yes, I understand that too.
5 Q -- intending to install one, correct?
6 A Yes, right. Uh-huh.
7 Q Okay. So as far as these are concerned, these
8 recommendations on page 24, he's met all of those with the
9 exception of the sign, you're saying --
10 MS. BERRY: And noise.
11 BY MR. GARDNER:
12 Q -- correct?
13 A Yeah. My wife just piped up here, noise. I do
14 have instrumentation to measure audio levels, and I --
15 MS. ROBESON: You do?
16 THE WITNESS: Yes, and I'm familiar with its use.
17 It's --
18 MS. ROBESON: How did you get that?
19 THE WITNESS: You don't want to waste everyone's
20 time going into my background --
21 MS. ROBESON: Okay. All right. Yes, that was
22 neither here nor there.
23 THE WITNESS: -- but 65 is going to be awfully
24 hard to meet in the winter. In the summer, leaves --
25 MS. ROBESON: When you say --

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1 THE WITNESS: -- absorb things.
2 MS. ROBESON: Wait. When you say meet, does that
3 mean it's going to be hard to --
4 THE WITNESS: You suggested that --
5 MS. ROBESON: No, wait. When you say meet --
6 THE WITNESS: Uh-huh.
7 MS. ROBESON: -- you're saying it's going to be
8 hard to stay under that level --
9 THE WITNESS: Yes, that's what I am saying, yeah.
10 MS. ROBESON: -- or get to that level?
11 BY MR. GARDNER:
12 Q And if there was a violation then, you would have
13 the equipment to let the Hearing Examiner know, correct?
14 A Yes, I would, and I won't charge anything. So it
15 doesn't matter how much expensive -- how expensive it is.
16 Q Now, could you look at page 67 of the master plan?
17 A No. I'm sorry, I don't have the master plan with
18 me.
19 Q Okay. Now, it says on page 67 -- I have a copy --
20 A Uh-huh. Okay.
21 Q -- here, and I'll let you look over my shoulder --
22 it says it encourages the provision of child daycare
23 facilities --
24 A Yes.
25 Q -- at appropriate locations in the planning area.

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1 A I missed that. You're right.
2 Q Okay. Do you not agree that locating one directly
3 across from the largest employment center in the planning
4 area is a great location?
5 A It's a great location, business plan-wise. I
6 mean, if I were, if I were doing a business plan, I'd be
7 real happy with that. I don't think it's a great location
8 for, for master plan considerations. You -- that came up
9 earlier. I believe, was it Ms. Johnson asked why, why it
10 was a great location? And, yes, I mean, it is a wonderful
11 location, business plan-wise. That doesn't make me happy,
12 though.
13 Q It actually says on the page before that --
14 A Uh-huh.
15 Q -- about daycare, there are a number of childcare
16 facilities --
17 A Yes. I missed all of this. I'm sorry.
18 Q -- the County Department of Health and Human
19 Services offers its service to all parents --
20 A Uh-huh. Uh-huh.
21 Q -- locate appropriate daycare --
22 A Uh-huh.
23 Q -- to meet their needs. In general, parents tend
24 to look for facilities close to their place of employment or
25 near easily accessible transit.

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1 A Yeah. I'm sorry.
2 Q So this is the largest employment center in the
3 area, correct?
4 A Uh-huh. All I found was -- you know, it's my
5 mistake --
6 Q Well, I'm asking you --
7 MS. ROBESON: Okay. Just --
8 THE WITNESS: -- all I found was efforts to find
9 elder care and senior citizen housing and stuff like that,
10 and I don't know where that was --
11 BY MR. GARDNER:
12 Q Mr. Berry, if I could just --
13 A -- but it's irrelevant.
14 Q -- ask some questions.
15 MS. ROBESON: Okay. Let him answer -- ask
16 questions.
17 BY MR. GARDNER:
18 Q This is the largest place of employment --
19 A Yes, it is.
20 Q -- in the master plan?
21 A Uh-huh.
22 Q It's also near easily accessible transit, is it
23 not?
24 A Yes.
25 Q There's bus service up and down New Hampshire

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1 Avenue?
2 A Yes. Yes. Yes. Yes. Uh-huh.
3 Q And that is the major transportation corridor in
4 the planning area, is it not, New Hampshire Avenue?
5 A No. 29 would be.
6 MS. LAUDERDALE: 29.
7 BY MR. GARDNER:
8 Q Okay. Well, we could quibble over that, but
9 they're both large --
10 A They're both big deals, yes.
11 Q -- large six-lane highways?
12 A And that was one of my points here too, but go
13 ahead.
14 Q Okay. No, no, it's fine.
15 MR. GARDNER: I have no further questions. Thank
16 you.
17 MS. ROBESON: Okay. Anything you'd like to say in
18 response to the questions? I have a question. Well,
19 actually, it's for the applicant. Do you have a location on
20 this drawing where the sign is going to go?
21 MR. GARDNER: Yes, I believe so. He'll show you.
22 MS. LAUDERDALE: It's on the east side of the
23 house at the corner.
24 MS. ROBESON: Oh, I see. So it's not in the front
25 yard --

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1 MR. ZEWDU: No.
2 MS. ROBESON: -- as I read 61?
3 MS. BERRY: Well, basically.
4 MS. ROBESON: No, I just, I just am trying to
5 figure this out.
6 MR. GARDNER: Right. It's back up, adjoining the
7 eastern parking area.
8 MS. ROBESON: Okay.
9 MR. GARDNER: Okay.
10 MS. ROBESON: I'm not making a decision. I simply
11 want to really fully understand all the issues.
12 MR. GARDNER: And I could ask him if he's willing
13 to move that location, if she asks you to --
14 MR. ZEWDU: I will.
15 MR. GARDNER: -- of the sign.
16 MS. ROBESON: Would it help you if he moved the
17 location of the sign?
18 THE WITNESS: No. I don't care where the sign is.
19 I just don't want the sign at all.
20 MS. ROBESON: I see. Okay. I'm just asking.
21 THE WITNESS: Uh-huh.
22 MR. GARDNER: Since we seem to be taking him a
23 little out of order, could I ask him what the design of the
24 sign is, what color it's going to be, what it's going to
25 look like? Do you know? Have you made a decision?

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1 MR. ZEWDU: Actually, we didn't make a decision,
2 but I try to make happy my neighbor if he come up, if he
3 doesn't like any color.
4 MR. GARDNER: You'd be willing --
5 THE WITNESS: It designates it as a commercial
6 thing for someone who comes by. That's --
7 MR. GARDNER: Would you be willing to share with
8 him the design before it's finalized?
9 MR. ZEWDU: Yes.
10 MR. GARDNER: And receive his input and consider
11 that in designing the color of the sign?
12 MR. ZEWDU: Yes.
13 MR. GARDNER: The only thing you need to put on it
14 is its -- it's indicated -- the name of the daycare, which
15 is Kids' Love Child Care?
16 MR. ZEWDU: Correct.
17 MR. GARDNER: And then it's going to say Daycare
18 Center?
19 MR. ZEWDU: Correct.
20 MR. GARDNER: And a phone number?
21 MR. ZEWDU: Correct.
22 MR. GARDNER: And you might include a logo if you
23 later develop a logo?
24 MR. ZEWDU: That's correct.
25 MR. GARDNER: And that's all that you know that

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1 you intend to include on this, right?
2 MR. ZEWDU: Correct.
3 MR. GARDNER: And the color of it, you haven't
4 selected yet?
5 MR. ZEWDU: Yes.
6 MS. ROBESON: Okay.
7 MS. BERRY: Can I say something? Or is it too
8 late?
9 MS. ROBESON: It's never too late. Let me just
10 ask your husband, is there anything else you want to add?
11 THE WITNESS: I believe that's it. Thank you very
12 much for the opportunity to speak.
13 MR. GARDNER: Thank you, Mr. Berry.
14 MS. ROBESON: It was a pleasure. Okay.
15 Mrs. Berry, is there -- first I have to swear you in. Are
16 you able to raise your right hand? You don't have to. You
17 don't have to.
18 MS. BERRY: Okay.
19 (Witness sworn.)
20 MS. ROBESON: Okay. And just your first and last
21 name?
22 THE WITNESS: Jo Ann Berry.
23 MS. ROBESON: Okay.
24 DIRECT EXAMINATION
25 THE WITNESS: Someone, I think it was you or

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1 Mrs. Johnson, said that Northwest Drive was used as a
2 shortcut between Lockwood Drive and New Hampshire.
3 MS. ROBESON: Yes.
4 THE WITNESS: It's really a shortcut between New
5 Hampshire Avenue and 29 --
6 MS. ROBESON: Oh.
7 THE WITNESS: -- and there's considerable traffic
8 on it, and a few years ago speed bumps were put in there --
9 MS. ROBESON: Yes.
10 THE WITNESS: -- hopefully to cut down on it, but
11 they didn't work. So there's a lot of traffic, and I'm
12 assuming this would add to it. It's awful.
13 MS. ROBESON: Okay. Any questions, Mr. Gardner?
14 CROSS-EXAMINATION
15 BY MR. GARDNER:
16 Q How long ago were the speed bumps put in?
17 A I would say maybe like 10 to 15 or --
18 Q Okay.
19 A -- 12 years.
20 Q Okay.
21 MR. GARDNER: No, no further questions.
22 MS. ROBESON: Okay. Anything else you'd like to
23 say?
24 THE WITNESS: No.
25 MS. ROBESON: Thank you for sitting here.

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1 Ms. Lauderdale.
2 MS. LAUDERDALE: Okay. Let me start by saying,
3 before I get to my statement, I just want to rebuke
4 something that's been said: FDA is over there; this daycare
5 center is near this FDA. First of --
6 MS. ROBESON: Oh, wait. I'm really sorry. I
7 didn't swear you in. I don't do --
8 MS. LAUDERDALE: I thought I was sworn in before.
9 Okay.
10 MS. ROBESON: I don't think I did, and I don't do
11 well --
12 MS. LAUDERDALE: Oh, okay.
13 MS. ROBESON: -- without food; so -- okay.
14 (Witness sworn.)
15 MS. ROBESON: Okay. I'm sorry to interrupt. Go
16 ahead.
17 DIRECT EXAMINATION
18 THE WITNESS: Okay.
19 MR. GARDNER: And could we have her address,
20 maybe, for the record?
21 MS. ROBESON: Oh, I thought she gave it, but --
22 MR. GARDNER: Did she?
23 THE WITNESS: I gave my name and -- I can give it
24 again.
25 MS. ROBESON: Give it again.

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1 THE WITNESS: Eleanor Lauderdale and my address is
2 901 Northwest Drive --
3 MS. ROBESON: Yes, she --
4 THE WITNESS: -- Silver Spring 20901. First, we
5 keep talking about the FDA, this being a perfect location,
6 and just before I get to my statement, I just have to put
7 this on the record first, this being the perfect location
8 because FDA needs a daycare center. Well, I work for the
9 American Federation of Government Employees, and I represent
10 employees all day long. There are -- I don't know of any
11 federal agency in which there is not an on-site daycare.
12 Now, FDA is new at that site. So they may not have set up
13 their daycare yet, but every single federal agency has an
14 on-site daycare.
15 So to use the FDA as having some need toward
16 daycare, that's ludicrous, especially when you have a campus
17 as large as FDA. I mean, NIH has more than one daycare
18 center because of the largeness of its campus. So that's
19 not -- that's neither here nor there. And furthermore, even
20 if that were the case, if FDA did need a daycare, that does
21 not mean the destruction of my community for the benefit of
22 FDA. FDA, that would be their problem.
23 Let me say that I have been at 901 Northwest
24 Drive. My husband and I purchased the house in 1983. It's
25 where we did our child-rearing. It's where I did my, when

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1 my mom became widowed, taking care of my mom. When my
2 husband passed away, I wanted to move and, well, my daughter
3 came to me and said, I want the memories. So I stayed. I
4 would love to stay in my house, and as Mr. Berry said, the
5 area has become more and more commercial.
6 With Sandy and with Pepco cutting our trees, we've
7 also lost a number of trees in the community, and I've
8 planted a number. I've got 17 trees in my yard. I don't
9 want to leave all that. I don't want to leave my Kwanzan
10 cherry trees just as they've become totally mature. I want
11 to stay there, I want to look at that, but as my
12 neighborhood is being changed and people coming in who don't
13 even live there -- okay? This gentleman does not live in
14 the community. He buys a piece of property in the community
15 and converts our community to commercial use. I am already
16 fighting with the house at 808 Northwest Drive because they
17 seem to be repairing cars on the premises and no one seems
18 to be able to address that problem.
19 I also have an application to stop the traffic
20 from going through Northwest Drive into FDA. The only
21 reason I haven't submitted it yet is that I was told by
22 Councilwoman -- oh, God, what's her name -- Valerie Ervin's
23 office that if, excuse me, if I submit the request for a
24 traffic study on the street and the traffic study fails,
25 that I don't get to do another one, there won't be another

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1 traffic study done for three years. So I'm kind of
2 wondering, when is the best time to put this application in?
3 But the traffic is coming through Northwest Drive from 29
4 and Lockwood, coming across Northwest Drive, and what
5 they're not supposed to do, the arrow says go left or go
6 right, they're going directly into the FDA.
7 MS. ROBESON: Is the FDA there yet?
8 THE WITNESS: The FDA is there, full force. It is
9 there and it is big.
10 MR. BERRY: Uh-huh.
11 THE WITNESS: So we've got enough of those
12 problems going already, and what I looked at -- now, one of
13 the things I did write in my letter was, ever since they've
14 owned that house, it's been a total mess. So I've got a lot
15 of nasty pictures of it, you know, with grass high to my
16 waist -- that is not an exaggeration -- and with trash
17 inside the grass. Who wants to live -- I don't even know
18 how you live next door to it -- who wants to live with that?
19 Second of all, what the county code says -- now, I
20 don't care what the Planning Board said -- what the county
21 ordinance says is that you're supposed to maintain the
22 residential nature of a residential area. This is a
23 residential area. When you look at what Burnt Mills Estates
24 consists of, it consists of Northwest Drive, Babington
25 Drive, Arrington Drive. All of that are houses with

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1 families inside of houses. There are no commercial
2 enterprises.

3 Here we come, we're going to put right on the
4 corner, just as people are turning into your neighborhood, a
5 big commercial enterprise for -- and I thought originally
6 that this was going to be -- there is a woman on our block
7 who lives diagonally across from me, she keeps about four
8 kids every day. There's no sign at her house. There's no
9 parking at her house. People pull into her driveway,
10 because, you know, it's not a whole group of people coming,
11 people pull into her driveway, take the kids in; they leave.
12 Someone else comes in after them -- four kids, I think she
13 keeps four kids. No one has a problem with that, and also,
14 she keeps her lawn very well mowed and her shrubs looking
15 good and she's a good neighbor, she and her husband, very
16 good neighbors.

17 Now what you're talking about is putting a
18 commercial enterprise in, bringing more traffic than we
19 already have, cutting across to go to the FDA. And
20 Mr. Gardner makes it sound like everybody's going to come
21 down New Hampshire Avenue and cut into the service lane,
22 then cut out of the service lane, go back on New Hampshire
23 Avenue. No. There's a lot of people who are going to want
24 to cross over Northwest Drive to get to Lockwood or to get
25 to 29.

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1 So a bunch of people are going to want to go that
2 way to get to the Trader Joe's or to get to Starbucks.
3 People are going to use that street because it's convenient.
4 I will, at some point, put in my request for a traffic
5 study. I have not done it yet, but this is a
6 quasi-commercial enterprise. It's not even going to have
7 people living in there 24 hours a day. It has business
8 hours. So that says squarely it is a business, right on the
9 corner from us.

10 Now, the doctor's house, which would be to the
11 right, well, if you're facing it -- okay, let's say, would
12 be south of 921, that is a house that is occupied by people,
13 with an office that is used by the doctor -- a whole
14 different character -- no trash, no dirt, no anything, a
15 beautiful gold little sign, beige with a little green, says,
16 Dr. So-and-So, very, very, very nice facility, and it does
17 face, all the way, the service lane. None of it faces
18 Northwest Drive, none of it.

19 So when we're talking about keeping the atmosphere
20 here, we're talking now about putting a business on the
21 corner, not putting a house, a residence where someone
22 part-time does a business, no. We're talking about taking a
23 house and converting it from a house. It won't even be
24 really a house anymore. It's not going to have bedrooms, as
25 the schematic shows you. It's not going to have bedrooms

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1 anymore. It's not going to have a normal kitchen anymore.
2 It's not going to have a living room. It's not going to
3 have anything that, that are the aspects of a house. There
4 is no such thing as a house without bedrooms. This is just
5 going to be a facility, which would be better situated if
6 they found somewhere in Hillandale Shopping Center or White
7 Oak Shopping Center and rented it out to make a commercial
8 enterprise. It does not, as the county ordinance say, it
9 does not fit in with the nature of the area.

10 So we're not just talking about the aesthetics of
11 it, of the exterior. We're talking about the nature of it.
12 It's bringing more and more people into our community that
13 we don't know, just coming in and being there. If you
14 wanted that type of lifestyle, I think we probably would all
15 live downtown Silver Spring or downtown D.C., you know, but
16 we don't. We live in a residential community for a reason:
17 because we want it to be residential. But I'm sitting here
18 and I feel almost like this plan is a fait accompli.

19 So I'm very upset. I know probably this weekend I
20 have to go out, start house-hunting because I, I cannot stay
21 there if this happens. And I feel like people are chasing
22 me out of my neighborhood. I mean, I really feel like I am
23 being chased out, and I feel that it is wrong to chase
24 people who wanted and who -- people bought 40, 30 years ago
25 into this community. We just, all we're asking is that it

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1 be kept as a residential community so that we don't feel
2 like we have to run, because when that happens, more will
3 happen, more commercialization will come. People will say,
4 well, if they set that business up, why should I go rent
5 somewhere in the nearest shopping center to run my business,
6 I'll set my business up, why should I have that extra
7 expenditure, I can set my business up right here in the
8 house. It does not help the character of the community stay
9 what it is.

10 And so I am here, saying I don't care about the
11 sign outside, I don't care where the parking is, I don't
12 care -- I mean, I was totally bored this morning because the
13 gist of my complaint is not whether there's going to be room
14 for the kids, where the kids are going to play, what their
15 playground equipment is going to look like. That's not my
16 complaint. My complaint is that this is no place to put a
17 daycare. I don't care whether you make it look like a small
18 Taj Mahal. It's nowhere to put a daycare in my community.
19 So with that, I'm going to stop but I'm also going to ask,
20 if this is a fait accompli, and I will --

21 MS. ROBESON: Why do you think that?
22 THE WITNESS: Huh?
23 MS. ROBESON: Why do you think that?
24 THE WITNESS: I don't know. I just get that vibe.
25 You know, I do -- okay. I --

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1 MS. ROBESON: Now, I ask him questions -- would
2 you agree to this, would you agree to that -- but that
3 doesn't mean I've decided what I'm going to do. I just want
4 to know what tools there are to work with if I do decide.
5 So, you know, there's no fait accompli here.
6 THE WITNESS: Okay. Okay. And I guess what I
7 didn't do when I was looking at the special exceptions and
8 ordinances and trying to get my letter together, what I
9 didn't do was look at what's the appeal process from here.
10 So I guess I would ask that or where to find it.
11 MS. ROBESON: No, well, whatever I decide to do --
12 THE WITNESS: Uh-huh.
13 MS. ROBESON: -- the way to appeal will be at the
14 bottom of that notice with a phone number; so -- and so you
15 know who to call and how to do it, okay? It's to the Board
16 of Appeals but, and you -- I can't remember the time
17 deadline off the top of my head. I think it's 30 days from
18 the date my decision comes out.
19 THE WITNESS: Okay.
20 MS. ROBESON: Okay. Cross-examination,
21 Mr. Gardner.
22 MR. GARDNER: Thank you.
23 CROSS-EXAMINATION
24 BY MR. GARDNER:
25 Q Let me show you what I've marked as --

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1 MR. GARDNER: Well, what's the next exhibit
2 number? 70 -- I don't know, apologize. I don't know. 70 I
3 introduced, and --
4 MR. ZEWDU: I think, 74.
5 MR. GARDNER: What?
6 MR. ZEWDU: 74.
7 MS. ROBESON: 74 is the --
8 MR. GARDNER: 74?
9 MR. ZEWDU: Yeah.
10 MS. ROBESON: -- recess time schedule.
11 (Exhibit No. 75 was marked
12 for identification.)
13 BY MR. GARDNER:
14 Q Okay. I'm going to ask you on this, page 6 of the
15 staff report --
16 A Uh-huh.
17 Q -- which I've now marked as Exhibit 74, can you
18 put an X where your house is located, because I'm not really
19 sure where your house is in relationship --
20 A I don't even know where --
21 Q Okay. Let me, let me help you.
22 A -- Silver Spring is on here. I don't know what
23 this is.
24 Q Let me help you. This is the subject site --
25 MS. ROBESON: What are you looking at,

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1 Mr. Gardner?
2 MR. GARDNER: Page 6 of the staff report.
3 BY MR. GARDNER:
4 Q This is the subject site. This is Lockwood
5 Drive --
6 A Lockwood?
7 Q -- or not -- Northwest, excuse me. This is
8 Northwest.
9 A Oh.
10 Q This is New Hampshire. This is New Hampshire
11 access.
12 A Oh, okay. Okay. Okay. Okay. So I can show you.
13 Q Do you see where --
14 A I can show you. I'm coming in. This is their
15 house --
16 Q Don't draw on it. I just wanted you to try to
17 mark an X where your house is so we all get an idea of where
18 you are in relation to the site.
19 A Right here. Wait a minute. Right here.
20 Q Well, draw a big X. Draw a big X. Okay. So
21 you're on the same side of Northwest as the site --
22 A Yes.
23 Q -- the same side?
24 A Yes.
25 Q And what are you -- about six or eight homes up

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1 from the site?
2 A I'm --
3 Q Five homes?
4 A I'm, what -- one, two, three, four, five. I'm the
5 sixth house. So I'm five houses away from --
6 Q Okay. Now, this was a study of the special
7 exceptions in the area done by staff. They showed one
8 special exception up here on the, above Northwest Drive.
9 A Yes. That's Dr. Diaz. That's my --
10 MR. BERRY: Uh-huh.
11 THE WITNESS: -- that's my doctor, Dr. Diaz.
12 MR. BERRY: Uh-huh.
13 MS. ROBESON: Wait. Wait.
14 THE WITNESS: She faces --
15 BY MR. GARDNER:
16 Q Can I write --
17 A -- Lockwood Drive.
18 Q Can I write Dr. Diaz next to that so we know what
19 we're talking about?
20 A Uh-huh. That's Dr. Diaz.
21 Q Okay. Now, okay, so that's across Northwest Drive
22 and to the left?
23 A It's not, it's not on Northwest at all. It --
24 Q Correct.
25 A -- faces Lockwood Drive --

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1 MR. BERRY: Uh-huh.
2 THE WITNESS: -- totally.
3 BY MR. GARDNER:
4 Q Okay. And that's your doctor?
5 A Yes.
6 Q And now, you said there's some four kids that are
7 watched in a home that are nearby. Where's that?
8 A Let me see where Nora's house is. Now I'm turned
9 around again. Hold on. I'm coming in. There's my house.
10 Nora is over here.
11 MR. BERRY: Uh-huh.
12 BY MR. GARDNER:
13 Q Oh, you put an N for that?
14 MR. BERRY: Uh-huh.
15 THE WITNESS: For Nora.
16 BY MR. GARDNER:
17 Q So Nora's house is across Northwest, on the other
18 side of Northwest from you --
19 A Uh-huh.
20 Q -- and closer to the subject site, right?
21 A Yes.
22 Q She watches four kids?
23 A Yes, and she sent -- she and her husband sent a
24 letter in.
25 Q And you marked that with the N?

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1 A Yes.
2 Q Okay. And the X that's you, why don't we put --
3 A That's me.
4 Q -- why don't you put a letter for you next to
5 that.
6 A L.
7 Q L. Okay. So that'll, I think, help the Hearing
8 Examiner understand.
9 MS. ROBESON: Yes.
10 BY MR. GARDNER:
11 Q Now, you heard Mr. Berry testify he's right next
12 to my client's site?
13 A Yes. He is.
14 Q And then right below my client's site, there's a
15 circle to the south --
16 A Uh-huh.
17 Q -- where this doctor's office is that you said, I
18 think, is very nice, they live there, and it's --
19 A They live there, uh-huh.
20 Q -- not a problem?
21 A They're not carpetbaggers.
22 Q Okay. And then on the other side of Northwest is
23 where this special exception is located. Do you see that
24 circle that staff put there?
25 A Uh-huh. Uh-huh.

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1 Q Okay. And that's the one that you say borrows the
2 parking from the house next door?
3 A I don't know about that.
4 MR. BERRY: It's the other way around.
5 BY MR. GARDNER:
6 Q Okay.
7 A I don't know.
8 Q The house next door borrows their parking?
9 MS. ROBESON: What's the other way around?
10 MR. BERRY: There should be two circles there on
11 the north of Northwest Drive.
12 MS. ROBESON: North of Northwest.
13 MR. BERRY: I'm sorry. Is it appropriate for me
14 to speak now?
15 MS. ROBESON: Yes. I just --
16 MR. BERRY: There should be two circles to the
17 north of Northwest Drive on the New Hampshire Avenue service
18 road. One I've referred to as Dr. Lord; the other, the
19 podiatrist.
20 MS. ROBESON: Okay.
21 MR. GARDNER: But apparently they discovered that
22 there's only one special exception granted. So somebody --
23 MR. BERRY: Okay.
24 MR. GARDNER: -- is a non-conforming use.
25 MR. BERRY: Okay.

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1 MS. ROBESON: Well, I actually am going to check
2 that out with staff and see if they can verify what the
3 status of the one that's not showing up is.
4 MR. GARDNER: Okay.
5 BY MR. GARDNER:
6 Q Have you seen a traffic study for Northwest Drive?
7 A No, I have not. I have been in touch with
8 Mr. DeLong at the Maryland Department of Transportation, and
9 he said that the traffic study would have to be requested by
10 me. Valerie Ervin's office sent me an application. When I
11 read it, as I said, I saw that if I put it in and they do a
12 study on Saturday at 2 o'clock or whatever, if it doesn't
13 show a significant increase or a significant number of cars
14 going through there, I will have another three years before
15 I could submit for another study. So I've just been very
16 careful about when I want to submit the study.
17 Q So, to your knowledge, when is the last time one
18 was done?
19 A Mr. DeLong told me. I cannot recall.
20 Q You can't recall?
21 A No.
22 Q Okay. So there's no study, to your knowledge,
23 that shows that there's excessive traffic on Northwest
24 Drive?
25 A No, but you know what? When I go out every

1 morning and I go to work every morning, I used to, before
2 the FDA came there, just go out, turn to New Hampshire
3 Avenue, make that right and keep it moving. Now what I have
4 to do is sit behind seven or eight cars. So just from my
5 own experience I know.

6 There was a time when there would never be like a
7 candy wrapper on my lawn. Come out now, I see where, you
8 know, people are driving along, they've got a candy wrapper,
9 they just throw it out their window, throw it on your lawn.
10 So, yeah, I can tell from my own experience how it's
11 changed.

12 Q Now, the gynecologist office, is that the one
13 that's just on the opposite side of Northwest Drive from the
14 site?

15 A No. She's on Lockwood. She's on the corner of
16 Lockwood --

17 Q Oh, that's your doctor.

18 A -- oh, you're talking about Dr. Lord. Dr. Lord
19 faces New Hampshire totally.

20 Q Okay. That's the one on New Hampshire. Did that
21 business get started after you moved into your house?

22 A No. It was always there.

23 Q Okay. And you moved into your house despite the
24 fact that Dr. Lord's office was there?

25 A Yeah.

1 Q It didn't bother you so much that you felt that it
2 was altering the residential neighborhood and you didn't
3 want to live there?

4 A Yeah, I didn't like it being there, but my husband
5 didn't have a problem with it. I did not like it being
6 there. I thought it was -- I thought it did mess with the
7 residential nature, but I'm a lot more bucolic than my
8 husband was. So, yeah, it did bother me --

9 Q And then --

10 A -- it didn't bother him; so I had to compromise.

11 Q -- the doctor that you use that's in this planning
12 area that you marked on that exhibit --

13 A That faces Lockwood.

14 Q -- that faces Lockwood, that's been there for how
15 long? Was that approved after you moved in or before?

16 A After --

17 Q Okay. And you didn't move --

18 A -- long after.

19 Q You didn't move out --

20 A She just, she just --

21 Q -- when that came in, did you?

22 A No. She's not near me at all.

23 Q Well, does that alter the residential character of
24 the neighborhood?

25 A Yeah, it does.

1 Q Okay. But has anybody moved out as a result that
2 you know of?

3 A Yeah, quite a few, quite a few people have, and
4 there are quite a few signs up there now. Quite a few
5 people were very angry that she put her office there.

6 Q Okay. And how about the doctor's office to the
7 south of my client's site, the one that you said is very
8 nice, they live there?

9 A That was always there and --

10 Q That was --

11 A -- always very nice, and it fit in with the
12 community. There's no different change to her structure.
13 It's a beautiful home. There's no big tacky six-foot sign.
14 There's a little sign about, about, I would say -- if you
15 don't know that doctor's there, you don't know it -- it's
16 about a three-foot sign, I don't know, just very, very well
17 done.

18 MR. GARDNER: No further questions.

19 MS. ROBESON: Okay. What I'm going to do, on this
20 map you marked up, I'm going to make this a separate exhibit
21 of Exhibit 5, showing the location -- I mean, Exhibit 75 --
22 showing the locations of the doctors' offices.

23 MR. GARDNER: I think I made it 75. Didn't I
24 write that on there?

25 MS. ROBESON: No. It says -- it was old Exhibit

1 74, which is -- 74 is the recess time schedule.

2 MR. GARDNER: Oh, well, then let me offer 74, if I
3 didn't previously, and that's 75. I just -- somebody told
4 me the next exhibit number was 74. That's why I put 74 on
5 it.

6 MS. ROBESON: Oh, okay.

7 MR. GARDNER: Okay.

8 MS. ROBESON: All right. So you don't have any
9 other cross-examination?

10 MR. GARDNER: No.

11 THE WITNESS: I wanted to make one other
12 statement.

13 MS. ROBESON: Well, it's your time to do that.
14 You can make --

15 REDIRECT EXAMINATION

16 THE WITNESS: Okay. Let me just say this: One
17 thing I held off on -- I saw what you had done with your
18 house with the room, what Mr. Berry had done with, I guess
19 was the garage --

20 MR. BERRY: Uh-huh.

21 THE WITNESS: -- how you had converted it.

22 MR. BERRY: Uh-huh.

23 THE WITNESS: I had planned to do that type of
24 conversion and add that side onto --

25 MR. BERRY: Uh-huh.

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1 THE WITNESS: -- my house and that's why I planted
2 those new trees along there --
3 MR. BERRY: Uh-huh.
4 THE WITNESS: -- however, once that sign went up,
5 I stopped in my tracks. I said I'm not going to make that
6 big change to my house. I already put on a \$40,000 kitchen,
7 and I said I'm not going to invest any more money in this
8 house when I don't know what this community is going to be
9 like. So I did not make the conversion -- and I was copying
10 off of you guys --
11 MR. BERRY: Uh-huh.
12 THE WITNESS: -- I did not make that conversion
13 simply because I don't know whether I'm -- well, I know I'm
14 not going to want to stay there if this comes to fruition,
15 and so it has already stopped me in my tracks. And when
16 that sign went up -- I guess the sign went up in July or
17 August of some time -- I had planned to have the work done
18 and have it done before Christmas so I could host my whole
19 family but that all got changed around.
20 MS. ROBESON: Okay.
21 THE WITNESS: But I just think that stopping my
22 life for other people to intrude into my neighborhood is
23 just wrong.
24 MS. ROBESON: Okay. Thank you. Do you have any
25 further questions of --

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1 MR. GARDNER: No.
2 MS. ROBESON: -- based on her --
3 MR. GARDNER: No.
4 MS. ROBESON: Okay. Do you have any rebuttal?
5 (Witness previously sworn.)
6 REBUTTAL DIRECT EXAMINATION
7 BY MR. GARDNER:
8 Q Let me ask, Mr. Zewdu, if electrical work is
9 needed -- well, no, strike that.
10 Are you going to get DPS permits before work is
11 done in the house?
12 A Yes.
13 MS. ROBESON: Why don't you explain DPS.
14 BY MR. GARDNER:
15 Q Department of Permitting Services. And you
16 understand that if they require electrical work, are you
17 going to do that?
18 A Yes.
19 Q All right. And you'll comply with whatever
20 requirements they impose on you --
21 A Yes.
22 Q -- to get building permits and do the construction
23 inside the house?
24 A Yes.
25 Q All right. And I think I've already asked you, if

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1 the Hearing Examiner retains jurisdiction to require that
2 you do a traffic, I mean, excuse me, a noise study, you will
3 do that?
4 A Yes.
5 Q And install whatever appropriate noise attenuation
6 devices are necessary?
7 A Yes.
8 Q How high is the grass today?
9 A It's very short.
10 MS. LAUDERDALE: It's winter.
11 MS. ROBESON: Okay. Please --
12 MS. LAUDERDALE: I'm sorry.
13 MS. ROBESON: No, really, Ms. Lauderdale --
14 MS. LAUDERDALE: I'm so sorry. I mean, we can
15 just --
16 MS. ROBESON: -- I'm not getting through this
17 hearing because of these interruptions. Now --
18 MS. LAUDERDALE: I'm sorry.
19 MS. ROBESON: -- we need to get through. Okay.
20 Mr. Gardner, ask it again.
21 BY MR. GARDNER:
22 Q How high is the grass today?
23 A It's very short, but I don't know how high.
24 Q And do you agree that you will comply with good
25 maintenance techniques in maintaining the grass and the

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1 exterior landscaping of the property?
2 A Yes.
3 Q You're going to employ professional landscapers to
4 do that for you?
5 A Yes.
6 Q And are you going to give your employees any
7 instructions on cleaning the trash that might be deposited
8 on this property?
9 A Yes.
10 Q What would those be?
11 A Sorry?
12 Q What would those instructions be?
13 A I mean, first, the outside is, be taken by the
14 professional landscape, and the employees are not allowed to
15 put trash outside.
16 Q What if trash is discarded there by others -- what
17 will the instructions be?
18 A Every employee has to pick up any trash found in
19 the property.
20 Q Okay.
21 MR. GARDNER: I believe that's all the questions I
22 have, Your Honor.
23 MS. ROBESON: All right. Any closing statement?
24 MR. GARDNER: Certainly.
25 MS. ROBESON: And then you'll get a chance for

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1 closing statement, but be brief --
2 MR. GARDNER: I will.
3 MS. ROBESON: -- because I think we've been
4 through the testimony quite extensively.
5 MR. GARDNER: Yes. I think my client is intending
6 to do everything possible to make this property compatible
7 with the neighborhood. It's actually somewhat of an ideal
8 site for childcare because it is across from a major
9 employment center, which the master plan does recognize as
10 an ideal location for daycare. The question is whether, on
11 this particular site, it can be located there.
12 And the general conditions of a special exception,
13 the inherent characteristics are mentioned by staff. They
14 include the increase in traffic, which this has but that's
15 something that's already permitted under this special
16 exception ordinance in this zone; the noise, which children
17 generate -- again, it's what is automatically going to be
18 assumed to be created by children in this zone.
19 The non-inherent effects were mentioned by staff,
20 which are the property's location, a corner lot; a
21 signalized intersection; parking restrictions along both
22 frontages; and intensity to proposed use. Well, the
23 property's location as a corner lot actually makes it ideal,
24 to a certain extent, because the front yard is avoided -- no
25 parking, which is what the master plan talks about.

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1 MS. ROBESON: But you know a corner lot has two
2 front yards.
3 MR. GARDNER: Okay.
4 MS. ROBESON: So you're saying the front yard from
5 Northwest Drive --
6 MR. GARDNER: Correct.
7 MS. ROBESON: -- facing the residential.
8 MR. GARDNER: Which is the road that's actually
9 more, more to be considered, if you will, the impact on
10 that. You've heard from the neighborhood witnesses that
11 they don't want traffic on Northwest Drive, and my client is
12 doing his utmost to keep that from happening. He's --
13 MS. ROBESON: But you don't have a traffic study
14 either, correct?
15 MR. GARDNER: Right, but there's been no evidence
16 -- Park and Planning's looked at this -- that there's
17 excessive traffic on Northwest Drive. Apparently it's used
18 as a cut-through, like many roads are, but that doesn't mean
19 that it has too much traffic to allow additional traffic on
20 this site. Most of the traffic to use this site is expected
21 to come down New Hampshire and use the access road and then
22 they will go into the site. The --
23 MS. ROBESON: Well, wait. Stop. I didn't hear
24 that testimony.
25 MR. GARDNER: Okay. Well, I mean, some traffic

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1 could come down Northwest, some could come down New
2 Hampshire.
3 MS. ROBESON: And you don't have a traffic study.
4 So you don't know what direction it's going to come from,
5 correct?
6 MR. GARDNER: Correct. Okay.
7 MS. ROBESON: So I would leave that out.
8 MR. GARDNER: All right. But, I mean, there are
9 obviously two ways traffic can come here: there's a
10 six-lane highway right outside it, and then there's a little
11 two-lane residential street alongside it. I would just
12 think it's logical to infer that most traffic --
13 MS. ROBESON: Okay. I'll --
14 MR. GARDNER: -- would come down the highway, but
15 that's --
16 MS. ROBESON: You can make the argument.
17 MR. GARDNER: That would be my argument. But, in
18 any event, whether they come down one or the other, the
19 access into the site is going to be from this, for the
20 parents, from this eastern parking area, which is an ideal
21 location for it because it's on New Hampshire Avenue's
22 access road; it's not visible to the neighborhood. The
23 people that are going to see it are coming down New
24 Hampshire Avenue that could look to the right and see this
25 entrance into the parking area, but people on Northwest

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1 Drive, which are in the neighborhood, aren't going to see
2 that. It's going to be shielded, as best as possible, by
3 appropriate landscaping. Even Mr. Berry said he had no
4 objections to that. He, I think, liked the way it's being
5 landscaped. So it's being buffered, as much as possible, by
6 landscaping from the view of residents on Northwest Drive.
7 And based on its location, it's going to impact, as least as
8 possible, as little as possible, with traffic on Northwest
9 Drive in the sense that the turning movements aren't going
10 to occur on Northwest Drive and cars aren't going to be
11 parked there.
12 As far as the western parking area, that is
13 strictly compatible with a residential neighborhood. Even
14 Mr. Berry acknowledged it's more or less in keeping with
15 other two-car driveways in the neighborhood, and in fact, it
16 will improve the buffer to his house. It'll actually
17 improve the capability of this house with the neighbors.
18 The -- you've heard my client's testimony on how
19 it's to be operated, the number of staff, the way a waiver
20 can be granted because it will only require seven parking
21 spaces. I don't want to belabor that, but he's come up with
22 a better plan now that provides eight parking spaces.
23 Depending on what Park and Planning's comments to Your Honor
24 are, he's going to either build the seven-space or the
25 eight-space, the revised plan or the older plan.

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1 The Planning Board revised the seven-space plan,
2 and I guess we apologize that we didn't come up with the
3 eight-space plan sooner, but based on her comments, which
4 kind of came at the very end, where she said we want to go
5 with 24, they went back to the drawing board and came up
6 with the eight spaces that they can now provide, along with
7 one on New Hampshire Avenue access, which they don't want to
8 use. They want to keep everything on the site and impact on
9 the neighborhood as little as possible, which they can do
10 with the site that they have, and we'd request that you
11 grant the approval.
12 MS. ROBESON: Okay.
13 MR. GARDNER: Thank you.
14 MS. ROBESON: Does anyone want to make a closing
15 statement, just summarizing your testimony or the -- it's to
16 summarize the reasons you disagree.
17 MS. LAUDERDALE: Okay. Just let me say one thing.
18 Mr. Gardner sort of couched Mr. Berry's testimony in terms
19 of he's happy with the landscaping. I really think that
20 what Mr. Berry's saying is, if it is a fait accompli, then
21 I'm happy you're going to have this, I don't want this, but
22 if you're going to have it, I'm happy with the landscaping.
23 Summing up what I said, and it's just a single,
24 single word, this is a commercial business. It's run from
25 6:00 a.m. or 6:30 to 6:30, whatever. It's run for 12 hours.

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1 I would like to see this gentleman succeed in whatever
2 business he does. I understand, you know, he's from
3 somewhere else, he's come to America. He should have the
4 American dream. I would love to see that come to fruition.
5 I just don't want to see it come to fruition on Northwest
6 Drive. I don't want my community infringed upon.
7 I would, at some point, like for this to be
8 concluded, whether we, it's denied, whether the exception is
9 granted. That way I don't feel that my life is now hanging
10 in limbo. As I feel like my life is hanging in limbo, I
11 can't do the things I want to do to my home because I just
12 don't know what's happening with this. This is wrong.
13 There is no other house, if you look at Burnt Mills Estates,
14 the houses that make up Burnt Mills Estates, none of those
15 houses have any commercial use. The doctors' houses to
16 which he referred, they are not a part of Burnt Mills
17 Estates. None of those houses are. Burnt Mills Estates is
18 totally residential, and I think that that needs to be
19 looked at and it needs to be kept that way.
20 Montgomery County, and they had a big thing this
21 summer about going green, a big green initiative that they
22 kicked off downtown Silver Spring --
23 MR. GARDNER: I'm going to object. This is really
24 more direct testimony. It's not closing argument.
25 MS. LAUDERDALE: -- and what I'm saying, is

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1 going --
2 MS. ROBESON: Okay. Are you --
3 MS. LAUDERDALE: No.
4 MS. ROBESON: You can't introduce things.
5 MS. LAUDERDALE: Okay. I don't want to introduce
6 any more, but we talked about, it does go to this parking
7 lot that's going to be put on the side. We did testify to
8 that, right?
9 MS. ROBESON: Yes.
10 MS. LAUDERDALE: Okay. But that --
11 MS. ROBESON: But you can't bring in what
12 Montgomery County said.
13 MS. LAUDERDALE: The green space, okay, I
14 understand. Okay. But putting this lot on there, there is
15 no assurance that people are coming down New Hampshire
16 Avenue. I don't know where that concept comes from, that
17 everyone's going to come off New Hampshire Avenue. Some
18 people are going to come off Lockwood. If I live on 29,
19 then I'm going to come across, some street I'm going to come
20 across to get there.
21 MS. ROBESON: I understand. You're saying that
22 it's not just New -- that it's a cut-through area.
23 MS. LAUDERDALE: Yes.
24 MS. ROBESON: Yes. Okay. I'm just stopping you
25 because I don't want to --

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1 MS. LAUDERDALE: Okay. And it's --
2 MS. ROBESON: -- bring in new evidence.
3 MS. LAUDERDALE: Okay. It's cut through -- no, we
4 brought in the evidence before -- it is cut through with
5 FDA --
6 MS. ROBESON: Right.
7 MS. LAUDERDALE: -- and now we're talking about
8 having another, adding another element --
9 MS. ROBESON: Right.
10 MS. LAUDERDALE: -- to that, which is this
11 commercial enterprise. And I want you to look at every
12 house in Burnt Mills Estates. This would be the first one
13 to go commercial.
14 MS. ROBESON: Okay.
15 MS. BERRY: May I say something?
16 MS. ROBESON: Yes, you may, Mrs. Berry.
17 MS. BERRY: When I have friends come visit who
18 maybe haven't been here before, I really want them to see
19 that I live in a nice neighborhood, and --
20 MS. LAUDERDALE: Yes.
21 MS. BERRY: That's all. I --
22 MS. ROBESON: I understand.
23 MS. BERRY: Yeah.
24 MS. ROBESON: Anything else?
25 MR. BERRY: Just a real quick clarification. We

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1 spoke about people moving out. Yes, several long-term
2 residents have moved out, and they moved out -- Reichs I'm
3 thinking of right now, and there were others -- because of
4 the commercialization of the area. I'm sorry we took up so
5 much of your time. Thank you.

6 MS. ROBESON: Oh, no. No, I'm glad you came out,
7 and you sat here all day and moved your cars. So I do
8 appreciate it. This is what -- now, I need you to pay
9 attention because I'm going to give you some dates. I did
10 talk to Renee Kamen. She is the planner with Park and
11 Planning that is reviewing this application. How soon can
12 you get Exhibit 61 to her?

13 MR. GARDNER: Do you want a big map or just one of
14 them?

15 MS. ROBESON: Well, it's up to her, yes, but --

16 MR. GARDNER: I can send a PDF to her later today,
17 and I could messenger --

18 MS. ROBESON: Would you cc --

19 MR. GARDNER: -- I'll messenger one of these.
20 I'll cc everybody if I get their e-mails.

21 MS. ROBESON: Okay. When you leave, please --
22 there's a sign-up sheet outside of the door -- please leave
23 your e-mails, because you're entitled to notice of the
24 decision and some other things; so -- and, also, you'll get
25 e-mails of the correspondence going back and forth with

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1 planning staff.

2 Now I'm going to get to the dates. Technical
3 staff said that they could review the application by
4 December 30th, all right? I'm going to give you -- I don't
5 know what she's going to say, and she doesn't either because
6 she hasn't seen it -- I'm going to give you all until
7 January 6th to -- if you want to say, if anyone wants to say
8 anything about her comments, both parties, either side, you
9 have until January 6th, okay? And so I'm going to leave the
10 record open until January 6th to receive those comments.

11 The other thing I'm going to do -- I am confused
12 about these doctors' offices -- I am going to ask her to
13 investigate whether they should have a special exception,
14 they had a, you know, they just started there. I just want
15 to know, sometimes Park and Planning's maps don't pick up
16 everything, and so if there are more special exceptions
17 there that we don't know about, I think that's pertinent to
18 the report. So I am going to ask her to do that, all right,
19 as well. And I'm also going to ask her to get, to let me
20 know about the handicapped spot because we need to know how
21 much of a waiver you need, all right? If it's granted, we
22 would ask how much -- I would want to specify how much the
23 waiver would be.

24 MR. GARDNER: All right.

25 MS. ROBESON: All right? So with that, I am going

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1 to adjourn the hearing and the record will be open until
2 January 5th for the reasons I described. Thank you.
3 (Whereupon, at 2:43 p.m., the hearing was
4 adjourned.)

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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 Dereje Zewdu and Fekerte Desalegn -
Kids' Love Child Care
Special Exception No. 13-02

By:

Wendy Campos, Transcriber

	62:21;85:23;86:2; 144:16	address (14) 93:19;97:24;98:14; 108:10,22;180:2; 182:22;192:10;212:9; 235:19,22;250:19; 251:1;252:18	25;149:1,7;150:23,23; 151:4,10,12,15	104:23
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