

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS  
FOR MONTGOMERY COUNTY

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:  
PETITION OF AMBOR PRIMM and : Case No. CU 16-03  
JAMES MOY d/b/a A MUM'S TOUCH :  
:  
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A hearing in the above-entitled matter was held on November 16, 2015, commencing at 9:35 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

C O N T E N T S

Witnesses:	Direct	Cross	Redirect	Recross
Mark North	4	--	--	--
Ambor Primm	15	--	--	--

1 MS. ROBESON: Okay. All right. Have you -- let  
2 me do this. You get a chance to make an opening statement.  
3 I don't know if you wish to do that or just proceed into  
4 your testimony.  
5 MR. NORTH: I think we'd proceed.  
6 MS. ROBESON: Okay. Now, have you had a chance to  
7 review the Staff Report?  
8 MR. NORTH: Yes. Yes, we have.  
9 MS. ROBESON: Why don't both of you raise your  
10 right hands.  
11 (Witnesses sworn.)  
12 MS. ROBESON: Ms. Primm, do you want to state your  
13 name and address for the record?  
14 MS. PRIMM: My name is Ambor Primm. My address is  
15 14227 Woodcrest Drive, Rockville, Maryland 20853.  
16 MS. ROBESON: Okay. Now, have you had a chance to  
17 look at the Staff Report?  
18 MS. PRIMM: Briefly, yes.  
19 MS. ROBESON: Well, I'm going to ask you, it  
20 recommends approval with conditions. Do you wish to adopt  
21 the findings set forth in the Staff Report?  
22 MR. NORTH: Ms. Robeson, we understand there was a  
23 late Friday communiqué.  
24 MS. ROBESON: Did you get a chance to see that?  
25 MR. NORTH: We didn't see if he attached an

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

2 MS. ROBESON: This is a public hearing in the  
3 matter of OZAH No. 16-03, application of James Moy an Ambor  
4 Primm for A Mum's Touch, requesting a conditional use for a  
5 daycare facility for 12 children on approximately 9900  
6 square feet of land in the R-90 zone, located at 14227  
7 Woodcrest Drive, Rockville, Maryland.  
8 My name is Lynn Robeson, I'm the hearing examiner  
9 in this case, and I'm going to take all the evidence and  
10 testimony today, and then I'm going to write a decision.  
11 The decision can be -- if you disagree with my decision, you  
12 have the right, within 10 days, to request oral argument  
13 before the Board of Appeals. After the 10 days, my decision  
14 becomes final. All right? And, just a note, the nature of  
15 the proceedings, they're informal but they do have certain  
16 formalities. We do swear in witnesses. I don't see anyone  
17 here except the applicants, so there's no cross-examination.  
18 The approval is based on the criteria in the code. Those  
19 are set out in the Staff Report. Let me do this. If you  
20 could identify yourselves for the record, please.  
21 MS. PRIMM: I'm Ambor Primm, I'm the applicant.  
22 MS. ROBESON: Okay.  
23 MR. NORTH: My name is Mark North. I'm assisting  
24 Ambor in this application. I'm a Montgomery County  
25 architect.

1 exhibit to that or not.  
2 MS. ROBESON: He did.  
3 MR. NORTH: Okay.  
4 MS. ROBESON: Let me do this, why don't you state  
5 your name and address for the record as well, because there  
6 is a transcript, and if for some reason you disagree with my  
7 decision then, the Board of Appeals hears it just on the  
8 transcript. So, keep that in mind.  
9 MR. NORTH: My name is Mark North. I live at 7613  
10 Dew Wood Drive in Rockville, Maryland 20855.  
11 MS. ROBESON: Are you an architect licensed in  
12 Maryland?  
13 MR. NORTH: I'm a licensed architect in Maryland,  
14 D.C. and Virginia, and I've been a long-time Montgomery  
15 County resident since 1966.  
16 MS. ROBESON: Okay. Do you wish to be qualified  
17 as an expert in architecture?  
18 MR. NORTH: Sure. I have not had that  
19 opportunity, sure, yes.  
20 MS. ROBESON: Have you ever testified an expert  
21 before?  
22 MR. NORTH: No, I have not. Not in this capacity,  
23 no. I have gone before the Board of Appeals on several  
24 cases of residential additions and the like.  
25 MS. ROBESON: Okay. Well, I will qualify you.

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1 There you go.  
2 MR. NORTH: Well, thank you. Thank you very much.  
3 MS. ROBESON: The standard is, can you provide  
4 more expertise than a, you know, a lay person. So being an  
5 architect, I'm assuming that you can.  
6 MR. NORTH: Yes, ma'am. I have quite a bit of  
7 experience. Again, dealing in residential and commercial  
8 architecture. My forte is in health care facilities  
9 architecture and planning.  
10 MS. ROBESON: Oh, okay.  
11 MR. NORTH: But I also do some residential work as  
12 well as additions and renovations in a small way.  
13 MS. ROBESON: Okay. All right. Now, do you want  
14 to make sure that we're all working on the same page here?  
15 Do you want to double check -- I'm looking for what was  
16 sent.  
17 MR. NORTH: Right. We have two pieces. Once  
18 apparently shows some screening, some additional screening,  
19 and another that does not. And I know that late in the day  
20 on Friday there was discussions back with your office from  
21 Mr. Bello.  
22 MS. ROBESON: Yes. Because we can't defer, you  
23 know, we can't say work it out. What we have to know is  
24 exactly what you're going to do. So, he did, and I'm  
25 looking for it now, there was an attachment and I don't see

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1 it in the file. Can I recess for two seconds? I can't do it  
2 off a cell phone. That's the problem.  
3 MR. NORTH: Yes. Certainly that would help,  
4 because we want to be obviously on the right exhibit.  
5 MS. ROBESON: And the right page. We want to make  
6 sure we're all talking the same thing. So if you don't  
7 mind, I'm going to take a two minute break.  
8 MR. NORTH: Okay.  
9 MS. ROBESON: We're off the record.  
10 (Whereupon, a brief recess was taken.)  
11 MS. ROBESON: We're back on the record, and it's  
12 Exhibit 34 which, let me get this -- okay, here we go. Do  
13 you want to approach so you can take a look at what I have?  
14 Because this is what we have in the record. I asked him for  
15 the plant list, because we have to know -- here's the plant  
16 list over here. All I have is the --  
17 MR. NORTH: Got you, right. This is exactly as we  
18 know it.  
19 MS. ROBESON: Okay, so you recognize this?  
20 MS. PRIMM: Yes.  
21 MS. ROBESON: And you say this is what your  
22 landscape plan is going to be?  
23 MS. PRIMM: Yes.  
24 MS. ROBESON: Okay. Now, so let's get back to the  
25 Staff Report. Now, Staff -- I asked Staff, because

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1 according to this you're not providing what would be  
2 required by the code. So, I guess, do you agree with Staff  
3 -- Staff wrote on Friday why a waiver is justified. Have  
4 you had the opportunity to review that?  
5 MR. NORTH: Correct. Was that the alternative  
6 compliance waiver discussion?  
7 MS. ROBESON: Correct. Yes. In various  
8 discussions with Mr. Bello we, working with him on the  
9 screening requirements versus what to put in place versus  
10 the ordinance requirements, and as early as the Board  
11 meeting that we had for the approval, the Board recognized  
12 that the ordinance had some gray areas relative to  
13 residential detached family homes, and in this instance, a  
14 daycare setting, we know that you have seen or the hearing  
15 examiner has seen a similar case where that was brought to,  
16 in which requirements were made, or that the Staff,  
17 Montgomery County Planning decided against providing  
18 additional screening. We asked for that to occur along our,  
19 I guess that's the eastern border. Our southern border,  
20 excuse me, of the site which is adjacent to Mr. Lass, who is  
21 next door to her on the right side of the parcel just to our  
22 right.  
23 MS. ROBESON: Right side as you're looking at  
24 Exhibit 35(a)?  
25 MR. NORTH: Correct, correct. And, apparently,

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1 through the Board discussion, Mr. Lass and his wife  
2 submitted a letter in opposition, but it really wasn't an  
3 opposition. It was not an opposition to expand the daycare,  
4 it was more of an issue about traffic and traffic control on  
5 the street. And, the Staff recommended and agreed, and the  
6 Board agreed, that that doesn't have impact on Ambor Primm's  
7 daycare facility. That these are issues that have to get  
8 worked out internally on the street, and that her business  
9 doesn't impact that because we have the correct, by law,  
10 spaces on the street available as well as the two off street  
11 parking spaces available.  
12 In further discussions, we asked to be relieved of  
13 the screening in the yard facing Mr. Lass because it's a,  
14 first of all, small yard. It's used infrequently in her  
15 program, but an important piece, which is a gardening  
16 program for the children. And heretofore, Mr. and Mrs. Lass  
17 never in any way posed an objection to any of the screening  
18 requirements that are there. It's contained with the fence  
19 line that's five to six feet, and so it's --  
20 MS. ROBESON: Is it a board-on-board fence?  
21 MR. NORTH: It is. It's a full screen, full  
22 privacy screen fencing.  
23 MS. ROBESON: Oh, okay.  
24 MR. NORTH: We have pictures of that too. They're  
25 in the exhibits as well.

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1 MS. ROBESON: Okay. Let me see if I can get the  
2 pictures. Because one thing I have to do is have Ms. -- who  
3 took the pictures?  
4 MR. NORTH: That was a combination of Ms. Primm  
5 and myself, I believe.  
6 MS. ROBESON: Okay. Well, why don't you both  
7 approach. What I'm going to do is ask you to describe these  
8 pictures and tell me whether they still fairly and  
9 accurately depict the property at the time. Well, except  
10 for seasonal changes. So, I'm looking at 17(a), can you  
11 describe what these are?  
12 MR. NORTH: The exterior (A) looks like play area  
13 (a) in the exhibit which is just out -- that's their main  
14 play area, which would be, I believe, to the north.  
15 MS. ROBESON: Now, that's not the same type of  
16 fence as the perimeter, correct?  
17 MR. NORTH: That's correct. That is correct.  
18 Exterior (U) picture shows the deck, which the children  
19 aren't really permitted on. And the deck kind of subdivides  
20 the play area (a) from the play area (b).  
21 MS. ROBESON: Okay. Now, I'm showing you 17(b).  
22 MR. NORTH: Exterior (G) is just the, from the  
23 front yard. Exterior (D) is --  
24 MS. ROBESON: And this is the privacy fence that  
25 you have?

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1 MR. NORTH: That's correct.  
2 MS. ROBESON: The wooden privacy fence.  
3 MR. NORTH: That is correct. So we're trying to  
4 get you to the yard, the exact yard we're in. And actually,  
5 this does show it. It is board-on-board across, I'm sorry.  
6 MS. ROBESON: Okay, this is exterior (D) on 17(b)?  
7 MR. NORTH: Yes. Which does show the board-on-  
8 board along the rear, and then a fence again along that side  
9 that borders the residence.  
10 MS. ROBESON: Which side?  
11 MR. NORTH: This?  
12 MS. ROBESON: The privacy fence borders what?  
13 That's shown in exterior (D)?  
14 MR. NORTH: It borders Mr. Lass' property to the  
15 south, I believe, and then, residences also to the east of  
16 them. They're only two residences that abut their property,  
17 the Primm property.  
18 MS. ROBESON: Okay.  
19 MS. PRIMM: So you'd be standing, for this  
20 picture, exterior (D), you're standing where the cars park  
21 and looking in the house.  
22 MS. ROBESON: Okay, so this separates the --  
23 MR. NORTH: This would be play area (b).  
24 MS. ROBESON: Oh, okay, I see.  
25 MR. NORTH: Okay. And the gate is open from the

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1 car parking, the off-site car parking.  
2 MS. ROBESON: I understand, all right.  
3 MR. NORTH: Okay, and the purpose also of trying  
4 to adopt the ordinance planting requirements within this  
5 particular yard, play area (b), would have a dramatic effect  
6 or reduce, because it was an 8 foot swath as recognized --  
7 MS. ROBESON: Yes.  
8 MR. NORTH: -- and 12 feet, I believe.  
9 MS. ROBESON: Yes.  
10 MS. PRIMM: And this is all of our gardening, our  
11 edible gardening that we do with the kids.  
12 MS. ROBESON: Okay, all right.  
13 MR. NORTH: We were very concerned that the  
14 plantings would obviate almost the need for the yard.  
15 MS. ROBESON: Right.  
16 MR. NORTH: And ask that we try to utilize the  
17 plantings in other areas of the property to help other  
18 screening requirements.  
19 MS. ROBESON: Okay. Let me just finish going  
20 through this.  
21 MR. NORTH: Sure.  
22 MS. ROBESON: This is 17(c). Can you briefly  
23 identify or describe what these photos?  
24 MR. NORTH: These are street shots, exterior (M),  
25 (J), (I) and (K) and (G). These are all street shots in the

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1 vicinity of the home looking up and down Bauer (phonetic  
2 sp.) and looking up and down Woodcrest from the property.  
3 MS. ROBESON: Okay, now exterior (M) --  
4 MR. NORTH: Yes.  
5 MS. ROBESON: Can you tell me the prospective of  
6 that one?  
7 MR. NORTH: Yes. That's, we're more east of  
8 Ambor's practice. You can see the two privacy fences at the  
9 corner of Woodcrest.  
10 MS. ROBESON: Okay.  
11 MS. PRIMM: And that's the main play area.  
12 MR. NORTH: That is right. On the other side of  
13 that is the main play area.  
14 MS. ROBESON: Okay.  
15 MR. NORTH: In some of these other shots that  
16 we're seeing on 17(d) --  
17 MS. ROBESON: (d) yeah, okay.  
18 MR. NORTH: Exterior (T), (P), (S), (O), (R), and  
19 (N) are all, again, street shots looking towards the daycare  
20 property and adjoining it. And exterior (O) points out,  
21 again, that privacy fence that completely encompasses play  
22 area (a). Unfortunately, we don't have a really good shot  
23 shown of the back end of or more of the northeast end of the  
24 site to show you where some of the planting, as proposed,  
25 would go, along the back end of that fence.

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1 MS. ROBESON: Okay.  
2 MR. NORTH: The rest of the pictures are interior  
3 shots, I believe.  
4 MS. ROBESON: Okay. Did you submit a floor plan?  
5 MR. NORTH: Yes, we did.  
6 MS. ROBESON: Okay.  
7 MR. NORTH: Those were exhibits as well.  
8 MS. ROBESON: Now, you can have a seat again.  
9 MR. NORTH: I'd be happy to help you learn where  
10 the floor plans are. Let's see, those would be found in  
11 exhibits A through G of the original application.  
12 MS. ROBESON: Okay.  
13 MR. NORTH: We had site plan exhibits.  
14 MS. ROBESON: Is there a number that precedes the  
15 others?  
16 MR. NORTH: The floor plans themselves are Exhibit  
17 E, Exhibit D, G, and F.  
18 MS. ROBESON: Ten?  
19 MR. NORTH: Oh, I'm sorry. Were those?  
20 MS. ROBESON: I think it's 10(d).  
21 MR. NORTH: May I approach?  
22 MS. ROBESON: Yes.  
23 MR. NORTH: Thank you.  
24 MS. ROBESON: Absolutely.  
25 MR. NORTH: Yes. It would be your 10(b). This is

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1 a floor plan indicating the existing layout of the home on  
2 the first floor level, indicating those areas in blue that  
3 are part of the current daycare program, and the areas in  
4 tan are limited areas.  
5 MS. ROBESON: Ms. Primm, can you briefly describe  
6 the areas in blue and what they're used for? Is this on the  
7 first floor?  
8 MS. PRIMM: It's a split-level home.  
9 MS. ROBESON: Okay.  
10 MS. PRIMM: So this is how you would enter the  
11 main entrance to our personal space, basically. The child  
12 care entrance is to, I think, I'm not sure what side of that  
13 is of the house.  
14 MS. ROBESON: Where's the north arrow?  
15 MR. NORTH: I'm sorry. Let's see, that's going to  
16 be, the living area is in the south end.  
17 MS. PRIMM: So this is the south end?  
18 MR. NORTH: Here's the south. This is north.  
19 MS. ROBESON: Okay, you can't say south. So, why  
20 don't you just mark --  
21 MR. NORTH: I'd be happy to.  
22 MS. ROBESON: Just write south on the south end.  
23 For the record, he's marking south and north on this  
24 description. Okay, Ms. Primm?  
25 MS. PRIMM: So the main entrance to the child care

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1 is on the north side of the home.  
2 MS. ROBESON: Is that a side entrance?  
3 MS. PRIMM: Yes.  
4 MS. ROBESON: Okay. And then, what is this large  
5 daycare activity room?  
6 MS. PRIMM: So this is the main room that we use.  
7 The kids are in this space the majority of the day. And  
8 then, these are the stairs to go up into our main living  
9 room. We utilize the space for -- minimally -- but we have  
10 it licensed, so we show that as our licensing space. And so  
11 this is, if you were to walk into the home, this would be  
12 the main floor, and then you'd walk down to go into the main  
13 floor for the children's space.  
14 MS. ROBESON: Okay. All right. And these just  
15 show the different areas that you --  
16 MR. NORTH: Yes. This exhibit, which would be our  
17 Exhibit G, your 10(a), is a indication of where the photos  
18 are taken on that floor plan. So, for instance --  
19 MS. ROBESON: I see. When it says interior (e)  
20 that's what it's showing. Oh, that's good. You're good.  
21 That's actually one of the best, okay.  
22 MS. PRIMM: We've been told.  
23 MS. ROBESON: Enough of that. And that's your  
24 deed. And, okay, you can be seated. So the landscape plan,  
25 you do have some additional landscaping that you're going to

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1 propose?  
2 MR. NORTH: That is correct. The Staff from  
3 Montgomery County Planning has proposed a variety of plants.  
4 Again, in the spirit of the ordinance, they tried to have  
5 plantings that are a variety of sizes, I presume. And so, a  
6 vast majority of these are smaller low shrubs in the liriope  
7 range. We have some medium shrubs. We have an under story  
8 tree, I believe, and then a canopy tree, which we wanted to  
9 note for the record, too, and the position of the canopy  
10 tree, which would be in the northeast corner, excuse me, in  
11 the southeast corner of the property, is right adjacent to  
12 another canopy tree that's on the neighbor's property, but  
13 right at the edge. Unfortunately, Mr. Bello didn't have the  
14 adjacent property landscaping to go by. But nonetheless, we  
15 accept this. We just might shift it slightly, so it gets  
16 off the root ball of a canopy tree. That's all.  
17 MS. ROBESON: Oh, okay.  
18 MR. NORTH: So there may be, and Mr. Bello did  
19 tell us that there might be some --  
20 MS. ROBESON: How much, when you say shift?  
21 MR. NORTH: A foot to two feet at the most.  
22 MS. ROBESON: Okay, all right.  
23 MS. PRIMM: Closer to the fence, probably.  
24 MR. NORTH: Right.  
25 MS. ROBESON: Okay. Now, I'd like you to look at

1 the Staff Report, which is Exhibit 27. Do you wish to adopt  
2 -- is there anything in the report you disagree with, and do  
3 you wish to adopt the findings of the report? Except for  
4 the conditions, we'll get to that in a moment. Do you wish  
5 to adopt the findings of the Technical Staff Report as your  
6 own testimony? She has to answer.

7 MS. PRIMM: Yes, we do.

8 MS. ROBESON: Okay. Now, I'd like to, Ms. Primm  
9 to answer some questions, my questions about the operation.

10 MS. PRIMM: Okay.

11 MS. ROBESON: And, what Staff did to find that the  
12 traffic was okay is, they require you to stagger drop-off  
13 and pick up of no more than two vehicles every 15 minutes.  
14 How are you going to ensure that that happens?

15 MS. PRIMM: Well, I think we showed the time frame  
16 and how we would have people pick up, and we currently work  
17 with our clients and, I mean, at this time, we have, you  
18 know, three siblings for one family, which takes up a  
19 significant part of the children.

20 MS. ROBESON: Drop-offs, yeah.

21 MS. PRIMM: And, my goal for my center is to allow  
22 for siblings to be together. It's part of our practice.  
23 So, a lot of the families are picking up two to three  
24 children at a time. And, but it's very easy for me to start  
25 the day off at 7:30 and have a couple children at a time,

1 and so that it's pretty easy to be staggered. It's rare  
2 right now as parents pick up whenever they need to. It's  
3 rare to have more than one to two parents ever.

4 MS. ROBESON: Okay. I think Staff said that you  
5 were, the applicant must provide parental agreements to the  
6 hearing examiner indicating that, to be no -- is that, are  
7 you going to? We've had other daycares where they either in  
8 their contract or in their parent policy handbook, they  
9 require people to have assigned drop-off times or to ensure  
10 that the traffic doesn't, you know, come in a balloon.

11 MS. PRIMM: Yes.

12 MS. ROBESON: I don't know if I need a parental  
13 agreement, but there typically is some kind of thing saying,  
14 in your parent policy manual, you have to come at an  
15 assigned time. The other option is, you're on a corner,  
16 right?

17 MS. PRIMM: Uh-huh, yes. We do have a parking  
18 agreement for the parents. We basically, I took this and  
19 told them where parking is allowed. And then, it's pretty  
20 easy for me to find clients that fit our needs as far as the  
21 timing goes. And that's with our staffing as well. So, we  
22 have our policy book that has all of our parking  
23 requirements. I'm probably going to implement a fine if  
24 parents don't follow that parking requirement. And then, I  
25 also, when the parents sign up and they do a contract with

1 me, it's with specific drop-off and pick ups, and they have  
2 to, they must talk to me if they're going to come up  
3 earlier, or if they're going to come later. And if the  
4 parents wants to come earlier or later, those typically,  
5 those parents are walking parents. They're all very local.  
6 So, it would be easy for me to control and make sure that  
7 we're finding clients that can fit that need.

8 MS. ROBESON: Okay. Would you have an issue with  
9 a condition of requiring you to do what you just said?

10 MS. PRIMM: No. That's actually pretty much  
11 already implemented.

12 MS. ROBESON: And so, you would have a condition  
13 requiring the parents to come within specified times or  
14 notify you first so that you can ensure that the two car  
15 requirement is met?

16 MS. PRIMM: Yes.

17 MS. ROBESON: Okay, all right. So, with that, do  
18 you have any problems with the -- now, the other thing is,  
19 outdoor play times must be staggered. What's your position  
20 on outdoor -- we have daycares where we actually say, no  
21 more than -- well, he does have no more than some amount of  
22 children, maybe, no more than eight. We do have daycares  
23 where we say, okay, play times must be between X and X a.m.  
24 and, you know, 9:00 and 10:30 and 2:00 and 4:00. Do you  
25 have a hour, do you have a schedule like that or?

1 MS. PRIMM: We have a schedule, but I would, I  
2 really, I caution us on forcing us to do a specific schedule  
3 for that because it would not allow us to work with the  
4 children if, you know, if it's been raining for three days  
5 and the kids need to get out. We're not going to take all  
6 12 children out into one space. Typically, we're going to  
7 have infants, and those infants will be, you know, staggered  
8 in and out depending. And we have, we go to parks, and we  
9 also take, it'll be very rare to actually have all 12

10 children here because, we have four children that would go  
11 to preschool, because we have them aged in a specific bunch.

12 MS. ROBESON: What are your ages?

13 MS. PRIMM: We do, we focus right now, currently,  
14 on six months to school age, but a lot of our children are  
15 about to go into kindergarten next year. So, we are looking  
16 at doing a before and after school care possibly. Probably  
17 more after school care, just for the children who have  
18 siblings currently with us. If I can do that with our  
19 staffing and requirements for the 12 children. But, for the  
20 most part, the plan would be to do field trips and the  
21 children that are currently with us that are in the older  
22 group go to preschool half of the day.

23 So, we're really only looking at having all 12  
24 children in our space from nap time to 5:30 pick up, 5:30,  
25 6:00 pick up. And, typically, at the very end of the day

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1 when children are being picked up, we let them free-play  
2 outside after nap. Though we could easily stagger that,  
3 especially since we have infants that are often not walking.  
4 I would just hate to adhere to a specific schedule because  
5 the children's needs can change.  
6 MR. NORTH: If I may add too, her program  
7 predominantly uses the play area (a) for this segment, which  
8 is, again, north of the home, and is somewhat isolated from  
9 at least the south resident. It is close in proximity to  
10 the east resident, but again, there have been no complaints  
11 or issues in the current practice and in the current daycare  
12 program. Nor have any of the neighbors, you know, had any  
13 upset feelings about screening requirements or noise, or  
14 times of day for noise. So, yeah, we would, it would suit  
15 the applicant best if we didn't have necessarily a time  
16 limit for those based upon history of the daycare program,  
17 and also the ability of the neighbors to have voiced a gripe  
18 at this point or at least approached Ambor on any complaints  
19 or problems.  
20 MS. ROBESON: Okay, well, let me ask you this, I  
21 know you're saying we need flexibility, and I understand  
22 that. Are you okay with an eight child limit?  
23 MS. PRIMM: Of only allowing eight kids outside?  
24 MS. ROBESON: Yes.  
25 MS. PRIMM: Well, you could be separating infants

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1 from their siblings. So infants up to two are teetering and  
2 tottering. They're not going to be outside for lengthy  
3 periods of time. I guess, what I'm asking for is to have  
4 permission to at least allow all of our children to play  
5 freely together outside at pick up time, which is, Bauer is  
6 a very busy road, it's very loud anyway. I don't see, I  
7 just don't see it being a noise issue for an hour max during  
8 the summer months when we're outside and doing free play  
9 with the children. If we have to stagger the children to go  
10 outside, I just, I feel like we're leaving some kids out at  
11 that point, and the chances of us have 12 children out there  
12 is small, but I don't want to -- I would hate to make that  
13 requirement and adhere to that, and not give our children  
14 time to be outside. A big part of our program is being  
15 outside with the kids as much as we possibly can.  
16 MR. NORTH: With due respect, was this on  
17 recommendation from the Staff?  
18 MS. ROBESON: Yeah.  
19 MR. NORTH: From Planning Staff?  
20 MS. ROBESON: Yeah.  
21 MR. NORTH: Which was never --  
22 MS. PRIMM: He would never discuss that.  
23 MR. NORTH: Never discussed that with the  
24 applicant.  
25 MS. ROBESON: That's --

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1 MR. NORTH: It was never discussed.  
2 MS. PRIMM: Yeah. I mean --  
3 MS. ROBESON: Did you say anything to the Planning  
4 Board?  
5 MS. PRIMM: They never discussed it. Most of the  
6 Planning Board was concerned about the planting. And I'm  
7 okay with, I'm okay if we have to, I will do it.  
8 MS. ROBESON: Twelve, I'll be honest with you.  
9 Twelve is a lot for a daycare to have out. The most I've  
10 seen is, without like some kind of -- they have these sound  
11 mitigation fences, which you don't want to buy for 12, but  
12 12 is a lot. How much of your program is, because believe  
13 it or not, we've had sound engineers come in and the --  
14 anyway, I won't bore you with the details.  
15 MS. PRIMM: Okay. I mean, I can limit it to -- I  
16 can certainly, I don't see my program having all 12 children  
17 out extended periods of time. Typically, kids are being  
18 picked up at 4:30, all the way from 4:30 to 6:30. So, we go  
19 outside around pick up time, but kids are starting to be  
20 picked up at that point. So technically, I mean, I guess we  
21 could easily adhere to it, and I could just make sure that  
22 we make the arrangements. I would just like to have the  
23 flexibility of every once in a while if we have all the  
24 children to be able to take them out for 15 to 20 minutes  
25 and have them free play. But, if that's going to be an

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1 issue, I'm more than willing to --  
2 MS. ROBESON: How much -- well, I just, my problem  
3 is this, Staff put the condition in, and I need a, you know,  
4 some kind of basis to disagree with Staff. Just let me  
5 finish. How much of your program are infants?  
6 MS. PRIMM: Four. There will always be four.  
7 MS. ROBESON: But that's the way it is now. But  
8 is that the way it's going to be in the future?  
9 MS. PRIMM: Yes. In the future, because I do this  
10 for my family, most of my own children are in this program,  
11 my family is going to grow and the kids in the families that  
12 we currently work with are going to go to preschool, and  
13 they're going to go to school. At that point I'll probably  
14 take a couple infants at a time, but I foresee my program  
15 dwindling into more of a before and after school program for  
16 families that want it. That might not be that much. And  
17 possibly limiting, I mean, we might have 12 children for the  
18 next five years, at the most, as my needs as a mom have. If  
19 that makes any sense.  
20 MS. ROBESON: Well, okay, let me ask you this,  
21 would you be okay with a condition limiting the, or  
22 requiring the program that four of the children be infants?  
23 What's an infant?  
24 MS. PRIMM: It is two and under. Or 18 months and  
25 under, if you go to a large family child care.

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1 MR. NORTH: Requiring the program, that might be  
2 rough.  
3 MS. PRIMM: If it came down to that, then I can  
4 agree to the terms of the Staff required. Like I said, I  
5 would hate to limit my program to what the neighborhood  
6 needs are, and if all of a sudden all of our infants are two  
7 year olds, but we're taking all eight children to preschool,  
8 or eight of our kids are in kindergarten, and we're still  
9 required to have infants at that point, so I guess it would  
10 be easier for me to agree with the Staffing and accept that  
11 proposal.  
12 MS. ROBESON: Okay, let me do this, hold on one  
13 second. Did Staff include a reason in here why they limited  
14 it to eight people?  
15 MS. PRIMM: I don't recall this conversation.  
16 MR. NORTH: We don't have any knowledge of that,  
17 I'm sorry. And the other issue with the Staff Report --  
18 MS. PRIMM: I mean, I recall talking about pick up  
19 and drop-offs.  
20 MR. NORTH: Yes, correct. Our only discussions  
21 with them, and really, nothing with the Board at all about  
22 noise or issues related to that.  
23 MS. ROBESON: Well, let me just see if they put  
24 anything in the Staff Report.  
25 MR. NORTH: Thank you.

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1 MS. ROBESON: If you look at page 18 of the Staff  
2 Report --  
3 MR. NORTH: Sorry, yes, go ahead.  
4 MS. ROBESON: If you look at little number 2, it's  
5 the second item on page 18.  
6 MR. NORTH: Okay, I'm sorry. We don't happen to  
7 have the Staff Report with us. I'm so sorry.  
8 MS. ROBESON: Oh, okay. Do you want to approach  
9 and that may be the best way to do this.  
10 MR. NORTH: Yes, thank you.  
11 MS. ROBESON: It's right there. Now, one of the  
12 things your special exception can't do is generate undue  
13 noise.  
14 MR. NORTH: Noise, odors, dust.  
15 MS. ROBESON: Yeah. So, the question is, and to  
16 meet that requirement, he said the staggered play times.  
17 MR. NORTH: Right.  
18 MS. ROBESON: So, why should I not agree with him?  
19 MR. NORTH: It's the staggered drop-off and pick  
20 up schedule.  
21 MS. ROBESON: So, what I need to hear from you is  
22 -- he said, he doesn't completely explain it. But he said,  
23 you know, if you stagger them like this, there won't be  
24 noise. So, what I need -- let me do this, you take a look  
25 at -- let's go off the record. I'm going to recess, we'll

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1 get this over this over this morning, don't worry.  
2 MR. NORTH: Okay, thank you.  
3 MS. ROBESON: But, let me go off the record,  
4 because what I have to do is make sure that I have evidence  
5 that every single requirement is met. So, I'm going to go  
6 off the record for 15 minutes and give you an opportunity to  
7 discuss amongst yourselves how you would like to address it.  
8 Okay, so with that, we're off the record. If you need more  
9 time, go to Ellen Forbes of our office.  
10 MR. NORTH: Okay.  
11 (Whereupon, a brief recess was taken.)  
12 MS. ROBESON: We're back on the record. All  
13 right, have you had a chance to muddle through this?  
14 MS. PRIMM: Yes. Thank you for providing that  
15 time.  
16 MR. NORTH: Yes. We focused straight away on the  
17 Staff recommendation piece on that second page which  
18 highlights --  
19 MS. ROBESON: The conditions of approval?  
20 MR. NORTH: Yes. And in their staff  
21 recommendations, if we may go over these?  
22 MS. ROBESON: Yes.  
23 MR. NORTH: Number one indicates the daycare is  
24 limited to all children up to five years of age --  
25 MS. ROBESON: Yes.

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1 MR. NORTH: Five years old. And two, non-resident  
2 full-time employees not including the owner/operator who is  
3 a resident. There is in the application showed that we do  
4 have a part-time employee as well that's part of this mix.  
5 MS. ROBESON: Oh, in addition to?  
6 MS. PRIMM: It would be -- I mean, it would be the  
7 part-time employee or the part-time employee is just a  
8 substitute for when I'm not there. So, but I guess at any  
9 given time there would be two employees when I'm physically  
10 there. So, but I do need the possibility of a substitute.  
11 MS. ROBESON: I guess sometimes we have brand new  
12 staff.  
13 MS. PRIMM: Okay.  
14 MS. ROBESON: See that affects the parking.  
15 Although, now let me think it through, let's think it  
16 through. It doesn't affect the parking because your part-  
17 time person is there when you're not there. So it doesn't  
18 affect the parking.  
19 MR. NORTH: And we do, also, we do have available  
20 parking on Bauer Drive that's open to the public, and it's  
21 right a her curb. So whenever the part-time --  
22 MS. ROBESON: What parking? On-street you mean?  
23 MR. NORTH: On-street parking.  
24 MS. ROBESON: Okay.  
25 MR. NORTH: There is on-street parking.

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1 MS. ROBESON: So, let me ask you something.  
2 MR. NORTH: Yes?  
3 MS. ROBESON: Would you agree to a condition  
4 saying the part-time person will be there only when you're  
5 gone?  
6 MS. PRIMM: Infrequently, yes. I can do that.  
7 MS. ROBESON: Okay. So, hold on, let me write it  
8 down.  
9 MS. PRIMM: Like I said, the part-time employee  
10 parks in my driveway, in that space where I park.  
11 MS. ROBESON: Okay.  
12 MR. NORTH: Right. There's oodles of opportunity  
13 for them to park, right.  
14 MS. ROBESON: Wait. What are you saying? What do  
15 you want the condition to be?  
16 MS. PRIMM: There would be a spot. The condition  
17 would be that the part-time employee, a third employee, when  
18 needed, would park in the owner's parking space.  
19 MR. NORTH: Off-street.  
20 MS. PRIMM: Off, yes.  
21 MR. NORTH: Off-street and in the driveway.  
22 MS. ROBESON: Wait. I'm sorry. I'm thinking  
23 about Staff.  
24 MR. NORTH: Today, the resident has two parking  
25 spaces off-street in their driveway.

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1 MS. ROBESON: Right. And then, on-street parking.  
2 MR. NORTH: And then we have on-street available  
3 in front of her house on Woodcrest, as well as on-street  
4 parking on Bauer, available. And there's three spots along  
5 Bauer available, by measurement. And so --  
6 MS. ROBESON: Yeah, but --  
7 MR. NORTH: Now, the part-time employee typically  
8 has parked out on Bauer but, when Ambor's not there, that  
9 employee can take her spot in the driveway, off-street park  
10 --  
11 MS. ROBESON: Yeah, but what I've got from Staff  
12 is --  
13 MS. PRIMM: We did say a part-time employee was in  
14 there.  
15 MR. NORTH: We did. We did.  
16 MS. ROBESON: In your statement of operations?  
17 MR. NORTH: Uh-huh.  
18 MS. PRIMM: And we also, yeah.  
19 MR. NORTH: Yes. We do mention it in the  
20 application.  
21 MS. PRIMM: We have two adults are --  
22 MR. NORTH: I'm sorry. Employees. One 40 hour,  
23 one 15 to 30 hours --  
24 MS. PRIMM: That's current.  
25 MR. NORTH: -- not including the owner/operator.

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1 MS. ROBESON: Okay, are you talking two -- wait a  
2 minute, we can do this. Are you talking one full-time non-  
3 resident and one part-time?  
4 MS. PRIMM: So, the licensing requirements for 12  
5 children would be three people. If we have all 12 children  
6 there.  
7 MS. ROBESON: Right.  
8 MS. PRIMM: So, and as the director, I would be  
9 there part-time because I'm typically driving four kids  
10 around. So, if we have more than eight children there and I  
11 have three kids out on a field trip, then we would need a  
12 substitute there to meet requirements for licensing. So, it  
13 would be an infrequent part-timer. But I guess, and the  
14 part-timer, I guess, it almost doesn't, maybe it doesn't  
15 until five.  
16 MS. ROBESON: Okay. Tell me how many non-  
17 residents you're looking at?  
18 MS. PRIMM: Consistently would be two full-time  
19 non-residents and one part-time non-resident employee.  
20 MS. ROBESON: And then part-time is to take your  
21 place when you're not there?  
22 MS. PRIMM: Yes.  
23 MS. ROBESON: You know what, this is what I'm  
24 going to do. I don't want to hamstring this application if  
25 it doesn't need to be hamstrung, hamstrung. So, I have to

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1 leave the record open for 10 days anyway, so we can get the  
2 transcript in.  
3 MS. PRIMM: Okay.  
4 MS. ROBESON: All right, what I'm going to do is  
5 e-mail back to Staff and say that you clarified X, Y, and Z,  
6 and comment, ask him to comment on having all the children  
7 outside.  
8 MS. PRIMM: Okay.  
9 MS. ROBESON: I mean, I know that you're anxious  
10 to get this done, but long term, I don't want you agreeing  
11 to conditions that you don't need to agree to. Do you  
12 follow what I'm saying?  
13 MS. PRIMM: I understand, yes.  
14 MS. ROBESON: If you want me to go with the eight  
15 children, I'll go with the eight children, but if you, now  
16 I'm on the playing outside at one time.  
17 MS. PRIMM: I mean, we were saying, if there was a  
18 way to limit maybe 20, maybe give us the flexibility of only  
19 having 12 children out there for 20 minutes in any given  
20 period of the day, so that it gives me the flexibility. So  
21 if we do happen to have 12 children and we want to do an  
22 outdoor activity, we can do that without having to be  
23 worried about leaving somebody out.  
24 MS. ROBESON: Right.  
25 MR. NORTH: So, she's willing to concede that.

1 MS. PRIMM: I'm willing to work with that and just  
 2 limit the amount of time.  
 3 MS. ROBESON: Okay. Well, the full time though,  
 4 that's kind of a big deal because it affects a lot of  
 5 different things. I have to do this within -- I have to  
 6 leave the record for 10 days anyway.  
 7 MS. PRIMM: Okay.  
 8 MS. ROBESON: I will do my best to get your report  
 9 out not within -- we have 30 days to write the decision. I  
 10 will do my best to get the decision out in less time, so  
 11 that you don't have to suffer further delays.  
 12 MR. NORTH: Thank you.  
 13 MS. ROBESON: Even though you've conceded to the  
 14 20 minutes, you know, 12 children for 20 minutes, I'm going  
 15 to ask him anyway because it's worth a shot.  
 16 MR. NORTH: Sure.  
 17 MS. ROBESON: Since I have to do, I have to refer  
 18 back the additional half employee.  
 19 MS. PRIMM: Okay.  
 20 MS. ROBESON: So, I'm going to refer back, you  
 21 know, he doesn't say any reason why he limited the number of  
 22 children to eight. So I don't know if it's a big deal or  
 23 not, except that, you know, noise. But, if four of your  
 24 kids are babies. So, we will -- well, I can't tell you what  
 25 my decision is going to be, but this will end. I'm just

1 saying. And, so let me try and get back to Staff. Perhaps  
 2 you can get more flexibility, because he doesn't even say  
 3 why he limited it to eight children.  
 4 MR. NORTH: Right. We have some other commentary  
 5 that might help with this, too.  
 6 MS. ROBESON: Okay. Let me just ask you  
 7 something. What's your rationale for having all 12 out?  
 8 MS. PRIMM: If we have a project that we're doing,  
 9 specifically, in the Summer months, and we want to play with  
 10 all the children, it would be exclusive, or is that the  
 11 right word, exclusive?  
 12 MS. ROBESON: Limited.  
 13 MS. PRIMM: It would be limiting or excluding a  
 14 child in the activity and, I would prefer to have the  
 15 flexibility of including all the children if we have an  
 16 activity outside. But the activities outside are limited.  
 17 They're not, you know, it's not for an hour long free play.  
 18 It would be a 20 minute activity where we have all the  
 19 children involved.  
 20 MS. ROBESON: Now, can I go back to parking for a  
 21 moment?  
 22 MS. PRIMM: Yes.  
 23 MS. ROBESON: Okay. On the parking, are you  
 24 willing to have a condition saying that the part-time  
 25 person, is the part-time person generally there when you're

1 not there?  
 2 MS. PRIMM: Yes.  
 3 MS. ROBESON: Are you willing to have a condition  
 4 saying the part-time person is going to be limited, or do  
 5 you want to say that they'll park -- that somebody will park  
 6 on-street?  
 7 MR. NORTH: Well, yes. I'm sorry. And we told  
 8 Staff that, that the part-time --  
 9 MS. ROBESON: I know.  
 10 MR. NORTH: And the part-time person and even the  
 11 full-time employee can park off, park on the street.  
 12 There's plenty of public parking facility. And, they agreed  
 13 with us.  
 14 MS. ROBESON: Well --  
 15 MR. NORTH: That's what I don't get the report  
 16 doesn't indicate the part-time person.  
 17 MS. PRIMM: So you're asking if I'm okay to agree  
 18 with having them parking --  
 19 MS. ROBESON: Well, no, I'm not sure I need to if  
 20 you're saying there's enough parking.  
 21 MS. PRIMM: We do have an ample parking.  
 22 MS. ROBESON: So, I won't ask him about that  
 23 particular condition, I'm just going to say, do you have a  
 24 problem with this? Is there any reason you have a problem?  
 25 And then, everybody's covered, okay?

1 MR. NORTH: Cool. Very good.  
 2 MS. ROBESON: So, okay. Now, let's go back to the  
 3 conditions of -- they didn't give you a copy of this?  
 4 MS. PRIMM: No. Actually, this has been, we've in  
 5 the blind for quite, a huge chunk of this process.  
 6 MR. NORTH: The day of the Board of Appeals  
 7 hearing --  
 8 MS. ROBESON: The Planning Board hearing.  
 9 MR. NORTH: The Planning Board, excuse me. Is  
 10 when -- you're correct, I'm sorry -- the Planning Board when  
 11 we met before them we got his recommendations like 15  
 12 minutes before that. And even though we've had discussions  
 13 with Mr. Bello, he was doing his utmost to try to facilitate  
 14 us, but we didn't get the information until late in the  
 15 game. And yet, we didn't want to delay anything further.  
 16 We wanted to carry on, and you know, frankly, these  
 17 recommendations that you're seeing, we haven't seen these at  
 18 all, and they weren't presented to the Board. They may have  
 19 been presented by Staff Report, but they weren't articulated  
 20 during our hearing, which is surprising.  
 21 MS. PRIMM: There are a couple of typos in here  
 22 that are, that would cause a problem, because it says that  
 23 I'm, I can only have up to five years old, and licensing  
 24 would allow me up to 12, and I do want to be able to provide  
 25 my children to be with us after school, if we're able to

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1 provide that with space. And, so that would limit me to  
2 five years old. And also, it also says --  
3 MS. ROBESON: Where did the five years old come  
4 from?  
5 MS. PRIMM: I don't know.  
6 MR. NORTH: That's in the first statement, and I  
7 think he may have gleaned that from what the application, in  
8 which we told him the current existing operation has -- we  
9 call out the ages of the children, the current children,  
10 which, yeah, here we are -- the planned proposed operational  
11 change is to have four infants, three months to two years  
12 old, four toddlers, two to three years old, and four  
13 preschool age, four to five years old. He took the five  
14 year off of that, I'm sure. And yet, that's what she  
15 expects. But she's expects but, you know, she's allowed by  
16 licensing to have up to 12 year olds.  
17 MS. PRIMM: I guess if we had seen this, we would  
18 have addressed it.  
19 MR. NORTH: Yeah, we would have absolutely told  
20 him, no, the five year old limit is not anything that we're  
21 understanding, and the ordinance does not say anything about  
22 ages of the children.  
23 MS. ROBESON: You want up to 12 years old?  
24 MS. PRIMM: Yes.  
25 MR. NORTH: Yes, which is --

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1 MS. ROBESON: You want 12 children up to 12 years  
2 old? They won't all be up to --  
3 MS. PRIMM: We, no. I don't want my house to have  
4 12 children, 12 years old.  
5 MS. ROBESON: I was going to say, you're crazy.  
6 MS. PRIMM: It would be a mix, yeah.  
7 MS. ROBESON: It would be still be a mix, but you  
8 want to be able to have your own children up to 12 years  
9 old?  
10 MS. PRIMM: Well, planning purposes, my own  
11 children, we're going to have three, we have two currently,  
12 but we're planning for a third, not pregnant yet. But so, I  
13 mean, I would like to, my vision for the business is to  
14 provide for my own children, you know, people to play with  
15 after school, and so it would be a handful of children up to  
16 12, probably. I don't want, that would be, I do not want 12  
17 children, 12 years old. So, it would be a mix of kids from  
18 ages, you know, six months up to 12, that we could  
19 potentially in the next, you know, five to six years provide  
20 for it.  
21 MR. NORTH: But there's no desire to go to the  
22 full end of that --  
23 MS. PRIMM: Right. I don't want all two year  
24 olds. I don't want 12 two year olds. I don't want 12 five  
25 year olds. I don't want 12 12-year-olds. It would

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1 definitely be a mixed age group.  
2 MS. ROBESON: You definitely don't want 12 19-  
3 year-olds. I'm sorry, that's how old mine are right now.  
4 Okay.  
5 MR. NORTH: Excellent. If you're good so far with  
6 that, then we move to the next piece which is the hours of  
7 operation, limited from 7:30 until 5:30, which he gleaned  
8 correctly from our application. However, he says with the  
9 first non-resident employee arriving at 8:30 a.m., which is  
10 not what we discussed in the report. We said that person  
11 would arrive at 7:30, as early as 7:30, not 8:30. Is that  
12 correct?  
13 MS. PRIMM: That's correct.  
14 MR. NORTH: And when you're ready --  
15 MS. ROBESON: Is that in your statement, just out  
16 of curiosity?  
17 MS. PRIMM: That's in the proposed planning  
18 operation changes.  
19 MR. NORTH: It's in the proposed plan operation  
20 changes within the application that we sent him, or that  
21 they referenced. Sort of the irony of that, and a quick  
22 statement is that, when we met with Staff on this, we gave  
23 them our application.  
24 MS. ROBESON: How many times did you meet with  
25 him, just out of curiosity?

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1 MS. PRIMM: With Mike?  
2 MR. NORTH: Three times.  
3 MS. PRIMM: In person or?  
4 MR. NORTH: Yeah, well, yeah, and then several  
5 times on the phone but, I think two primarily in his office,  
6 and one of those times was with Mike and the rest of the  
7 staff. The first initial meeting.  
8 MS. PRIMM: Yes.  
9 MR. NORTH: And so, anyhow, we walked through --  
10 MS. ROBESON: It's okay. I mean, it's okay, you  
11 don't have to -- I don't want this on -- we're fine, we're  
12 good.  
13 MR. NORTH: We did walk through the whole  
14 application piece with them, and then they asked for us to  
15 give them an executive summary, so that could summarize sort  
16 of thing. And which, this was a part of. The number of  
17 employees, the parking, also.  
18 MS. ROBESON: Okay, it's fine. It's fine. Okay,  
19 go ahead.  
20 MS. PRIMM: So then, sorry, going on.  
21 MR. NORTH: Number three, the applicant must  
22 schedule staggered drop-offs and pick ups and no more than  
23 two vehicles every 15 minutes to distribute the vehicle  
24 trips to and from the site for safe on-site and off-street  
25 circulation. That's not an issue.

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1 MS. PRIMM: That's not an issue, we agree.  
2 MS. ROBESON: Oh yeah, okay good.  
3 MR. NORTH: Number four, the applicant must  
4 provide parental agreements to the hearing examiner,  
5 indicating that the drop-off and pick up times of all  
6 children in the daycare will be limited to no more than two  
7 vehicles at any one time.  
8 MS. PRIMM: Which we can provide, if you need.  
9 MS. ROBESON: Well, what I propose is requiring  
10 you to put in your parent policy manual that they have to  
11 arrive within the times you schedule. I need you to do a  
12 parent policy manual.  
13 MS. PRIMM: It's there. It's actually, it's  
14 already in the parent policy.  
15 MS. ROBESON: And, they have to arrive within  
16 certain times or call you first.  
17 MS. PRIMM: Or contact me, yes.  
18 MS. ROBESON: So, that would be my condition. All  
19 right.  
20 MR. NORTH: And she currently has that.  
21 MS. PRIMM: It's already --  
22 MS. ROBESON: Okay, all right.  
23 MR. NORTH: Good. Then, number five, employees  
24 for the child daycare facility must park off-site on nearby  
25 streets or where on-street parking is allowed. And on-

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1 street parking is allowed immediately adjacent to her  
2 business at Woodcrest, and also on Bauer.  
3 MS. ROBESON: Okay.  
4 MR. NORTH: And there is an exhibit within the  
5 application that indicates that.  
6 MS. ROBESON: Okay.  
7 MR. NORTH: And so, Staff, in their discussions  
8 with us, said that was no issue, the employees will be out  
9 there on the street, you have plenty of parking available.  
10 MS. ROBESON: Oh, so you don't need the part-time  
11 employee to park in the driveway?  
12 MR. NORTH: We don't. We really don't need the  
13 employee to park out there.  
14 MS. ROBESON: Okay, all right.  
15 MR. NORTH: But, they could. And then I also  
16 wanted to point out that Ambor's husband is not a part of  
17 this process, so he's up and gone out of the two parking  
18 spaces in the driveway, he's up and gone, which enables some  
19 of the drop-off to be even more easily done, because his car  
20 is gone.  
21 MS. PRIMM: Yes. I mean, currently he doesn't get  
22 back until 6:00, he's actually not home during most of the  
23 operational hours, and so most of the time the parents park  
24 in his parking spot, anyway, for pick up and drop-off.  
25 MR. NORTH: Which is safer, and better approach.

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1 MS. ROBESON: Okay.  
2 MR. NORTH: Let's see, outdoor, number six,  
3 outdoor play times must be staggered and may not start prior  
4 to 9:00 a.m., and we don't know where that came from other  
5 than to say the program begins as early as 7:30, 8:00,  
6 and --  
7 MS. PRIMM: I understand not having a bunch of  
8 children at 7:30, but we would like to have kids be able to  
9 play at 8:00 a.m. in the summer months.  
10 MR. NORTH: Not at 9:00 start.  
11 MS. PRIMM: So, I would hate to have my hands tied  
12 with a 9:00 a.m.  
13 MR. NORTH: Don't have any idea where that came  
14 from.  
15 MS. PRIMM: And again, we just, these are kids.  
16 We would like to be able to have them outside when possible.  
17 MR. NORTH: Also, want to point out the fact that  
18 noise ordinances, as you're probably aware, in the county  
19 permit increased noise at 8:00 on weekday mornings.  
20 MS. ROBESON: Yeah, at 65 dba, the property line.  
21 MR. NORTH: Yes.  
22 MS. ROBESON: We've had this issue in childcare,  
23 but I'm just writing down, okay.  
24 MR. NORTH: Because currently in my neighborhood,  
25 we have the, you know, the weed --

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1 MS. ROBESON: The weed whackers.  
2 MR. NORTH: Yes, oh my goodness.  
3 MS. ROBESON: Leaf blowers.  
4 MR. NORTH: Yeah, incredible stuff. Number seven,  
5 no more than eight children are permitted to play outdoors  
6 at any one time. We'd like to try to augment that up to 12  
7 children for 20 minute periods.  
8 MS. PRIMM: And only in the late afternoon, if  
9 that would help that process.  
10 MS. ROBESON: Okay. Oh, you mean like after  
11 school?  
12 MS. PRIMM: Yeah. Well, after nap time.  
13 MS. ROBESON: Or before pick up.  
14 MS. PRIMM: It would be after nap time. So that  
15 would be, sorry, nap time. So that would be in the late  
16 afternoon, so 2 o'clock and up.  
17 MS. ROBESON: Okay, keep going.  
18 MR. NORTH: And then, on the final comment, the  
19 applicant must provide --  
20 MS. ROBESON: Well, that's resolved. You don't  
21 have to address that, because that's what they resolved.  
22 MR. NORTH: Yes, correct. By the exhibit, right?  
23 MS. ROBESON: Exactly. If you're comfortable with  
24 the 34(a) exhibit that I showed you earlier, as well as his  
25 justification for the waiver, we don't have to discuss that

1 last condition. That's been superseded.

2 MR. NORTH: We're good to go on that.

3 MS. ROBESON: All right. Is there anything else  
4 you'd like to say about your operation? Not the process,  
5 just your operation now?

6 MS. PRIMM: Well, I mean, the operation benefits,  
7 obviously, of providing, you know, child care for the  
8 immediate neighborhood, which is a huge need. And, I mean,  
9 I have a waitlist of 10 people, who really want to get in.

10 MS. ROBESON: Why don't we do this. Why don't you  
11 tell me your overall philosophy as far as your childcare.  
12 Do you have a --

13 MS. PRIMM: We are a Montessori inspired, we're  
14 not licensed to be a Montessori, but we, the approach is  
15 very organic. We like to be outside playing in the dirt  
16 digging. We do lots and lots of walks. We walk to the  
17 park. We do -- I also try to, once the kids are potty-  
18 trained and ready to get out of the house, which is  
19 something that, you know, I think is missing in childcare.  
20 We take them on field trips, and we get out of the house,  
21 where doing the Summer months, I think, I'm pretty much out  
22 with the children four days out of the week.

23 And we do, we're basically, our philosophy is to  
24 be an extension to families, and do I have an opportunity to  
25 go into a center, yes, but I don't want to. I want to stay

1 with 12 children, because at 12 max, I still can have a  
2 family environment where the kids are getting dirty, going  
3 outside playing, doing things that, you know, children  
4 really should be doing with lots of free play and learning  
5 through play. But, we're an extension of those families,  
6 and keeping it 12 children, I can still be in constant  
7 communication with the families, and working together, more  
8 of a co-op situation where the families, you know, request,  
9 you know, what they want their children to be doing. And I  
10 work with them, and we work together as a parental unit.  
11 And, I think, I'm in high demand because of those things.  
12 Those are things that go above and beyond what most  
13 childcare centers are able to provide. And, we have a  
14 lengthy line out the door.

15 We have a growing neighborhood with lots of  
16 children being, you know, a lot of the houses are flipping.  
17 We have older people that are retiring, and babies popping  
18 up everywhere.

19 MS. ROBESON: That's fun.

20 MR. NORTH: It is.

21 MS. PRIMM: And it's a huge, it's a need. It's a  
22 huge need in the neighborhood, and for quality. And, we,  
23 our goal is to provide structure, to have them kindergarten  
24 ready, but also to provide as much outdoor activities as I  
25 can, because it's something I feel is missing in childcare.

1 Obviously, we do a lot of gardening, that's a huge part of  
2 the program, is learning where the food comes from. And  
3 you'd be surprised what those kids eat out of the garden,  
4 but they won't eat when you put it on the plate. So, it's  
5 just exposing them to everything that is not the common  
6 thing that most childcare providers provide. So we're  
7 definitely a niche. That's our program or philosophy, I  
8 suppose.

9 MS. ROBESON: Okay, any other thoughts?

10 MR. NORTH: The neat part about her program, if I  
11 may say, just from an observational standpoint is, she's  
12 embedded in this very large community and so, kind of the, a  
13 really neat thing is her program attracts folks that can  
14 walk to her daycare program, which is really unique.

15 MS. PRIMM: All but one family walks, actually.

16 MR. NORTH: And that's just a terrific, terrific  
17 complaint to this program in the community. It's one that's  
18 needed. Obviously, daycare is something that we're seeing  
19 exploding in the Washington suburbs. We need it.

20 MS. ROBESON: How many walk right now?

21 MS. PRIMM: All but one family can walk to our  
22 daycare. And the children that we would be accepting who  
23 are on our waitlist can all walk as well. And they do.

24 MR. NORTH: And generally, do. They can and do.

25 MS. PRIMM: We're definitely community.

1 MS. ROBESON: I'm sorry, all of the children on  
2 your waitlist walk?

3 MS. PRIMM: Well, all the children that were on  
4 the waitlist are all directly within a walking distance of  
5 the facility. And want us because they have, you know,  
6 we're quality and it's easy for them to, it's close for them  
7 for their homes. And actually, I think, there's a lot of,  
8 we have a lot of support letters that were in the  
9 application as well, and the parents expressed the challenge  
10 of trying to find childcare near their home, is just huge.

11 MS. ROBESON: Okay, all right. Anything else  
12 before we close?

13 MR. NORTH: Just a real quick question.

14 MS. ROBESON: Yes?

15 MR. NORTH: Did you have access to our application  
16 booklet as well, or is that something that Staff retained?  
17 It was quite a verbose compilation of trying to address each  
18 of the points of the ordinance. And thought maybe that  
19 might be helpful to you.

20 MS. ROBESON: I do not see it in our file.

21 MR. NORTH: Okay.

22 MS. ROBESON: I have -- hold on one second. I do  
23 have -- is it bound?

24 MR. NORTH: It was bound, yes.

25 MS. ROBESON: Well, I have something here that

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1 looks like OZAH amended checklist for conditional use?  
2 MS. PRIMM: No, that's our summary.  
3 MR. NORTH: That's perhaps our summary, our  
4 executive summary.  
5 MS. ROBESON: Oh, okay, no, I don't have that in  
6 the record.  
7 MR. NORTH: Okay. Would that be helpful for you  
8 to have?  
9 MS. ROBESON: Yes. In fact, that would be very  
10 helpful. I would ask that you submit it within the 10 days,  
11 preferably as soon as possible.  
12 MR. NORTH: May we do so by e-mail to Ellen?  
13 MS. ROBESON: You can submit it to Ellen Forbes of  
14 our office. Well actually, you can submit it directly to  
15 me.  
16 MR. NORTH: Okay.  
17 MS. ROBESON: My e-mail is, Lynn, L-Y-N-N, dot  
18 Robeson, R-O-B-E-S-O-N, at montgomerycountymd.gov. Oh, it  
19 says number of -- now see, on this summary, which is Exhibit  
20 15, it says number of employees, two full-time, not  
21 including the owner. But, the confusion is, I think the  
22 confusion is that, well, I don't know what the confusion is,  
23 but we'll work it out, okay?  
24 MR. NORTH: Okay.  
25 MS. PRIMM: I apologize for that.

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1 MS. ROBESON: So, let's do that. Let's see, today  
2 is the 16th. The 26th is that, okay, the 26th is  
3 Thanksgiving, so I'm going to hold the record open, it  
4 shouldn't unduly delay your case, but I'm going to hold the  
5 record open until 11/30 Monday, the Monday following  
6 Thanksgiving. And then, we'll ask, I'm going to ask Staff  
7 for its comments by the 25th, so that you'll have a chance  
8 to respond to anything they write. All right?  
9 MR. NORTH: Okay.  
10 MS. ROBESON: If you want to do that. If you need  
11 more time, tell me.  
12 MR. NORTH: No, we're good, thank you. And  
13 appreciate the diligence that you're presenting to this,  
14 thank you. It's important.  
15 MS. ROBESON: Well, you know, you want it to work  
16 and you want the flexibility to achieve as much as possible,  
17 what you want to achieve. And hopefully, you know, I'm sure  
18 that we'll work something out. So, I will ask for comments  
19 from Staff by -- well, why don't I do it by the 24th and let  
20 them ask for more time, and that'll give you the day before  
21 Thanks--, you know, that'll give you more business time to  
22 look at it. And then, we will see if we can't, we'll see  
23 what we can do. After the record closes, again, I have 30  
24 days to write the report. If you disagree with my decision,  
25 you have 10 days to appeal to the, or request oral argument

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1 to the Board of Appeals. Now, we will be in touch after  
2 Staff -- you have the opportunity, really at any time, to  
3 submit additional comments while the record's open. So the  
4 sooner, you know, you can send comments to me or you can  
5 speak with staff. You're not limited by those dates.  
6 That's just the outside time frame.  
7 MR. NORTH: Okay.  
8 MS. ROBESON: All right?  
9 MR. NORTH: Very good. We will endeavor to get  
10 you the application copy.  
11 MS. ROBESON: Yeah, the booklet. That would be  
12 very helpful. And, why don't you as well get me your  
13 parking policy, just so it's in the record.  
14 MS. PRIMM: Okay.  
15 MS. ROBESON: And we'll cover all of the bases.  
16 MR. NORTH: Great.  
17 MS. ROBESON: And, with that, I'm going to leave  
18 the record open until 11/30. I'm going to request Staff to  
19 get its revised comments to me by -- if you can just humor  
20 me. I want to make sure I've got the checklist of all this  
21 stuff.  
22 MR. NORTH: Okay.  
23 MS. ROBESON: Okay, let me go back to this. I  
24 just want to make sure that we don't drop the ball as far as  
25 missing something. Now, you will see an e-mail, my e-mail,

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1 you will get a copy of what I communicate to Staff, all  
2 right?  
3 MR. NORTH: Okay.  
4 MS. ROBESON: So, if I say something wrong, get in  
5 there and the record's open. But, what I have down as your  
6 issues are, you need the extra part-time employee, non-  
7 resident employee, correct?  
8 MS. PRIMM: Yes.  
9 MS. ROBESON: Okay. You're okay with the hours of  
10 operation, correct?  
11 MS. PRIMM: 7:30 to 5:30, yes.  
12 MS. ROBESON: Okay, but you want the extra  
13 employee coming at 7:30?  
14 MS. PRIMM: The ability to come at 7:30, yes.  
15 MS. ROBESON: Okay, that was the one on that. I  
16 think we're okay on the condition three, correct?  
17 MS. PRIMM: Yes.  
18 MS. ROBESON: Okay. I think we're okay on  
19 condition four if you provide the parking policy.  
20 MR. NORTH: Yes.  
21 MS. ROBESON: I have here, outdoor play times, you  
22 want to be able to start at 8:00 a.m. in the Summer?  
23 MS. PRIMM: Yes.  
24 MR. NORTH: Correct.  
25 MS. PRIMM: And, not with 12 children. There

1 won't be 12 children there at 8:00.  
 2 MS. ROBESON: Okay.  
 3 MS. PRIMM: It'd be a minimum amount of children,  
 4 if that helps them.  
 5 MS. ROBESON: Okay. And then you want 12 children  
 6 total. No, 12 children after 2:00 p.m.?  
 7 MS. PRIMM: Yes. The flexibility of being able to  
 8 go outside with 12 children after 2:00 p.m.  
 9 MS. ROBESON: Okay. And then the landscaping. Do  
 10 you have any other, did I get it all?  
 11 MR. NORTH: Yes.  
 12 MS. ROBESON: Well, I tell you what, you'll get a  
 13 copy of what I send to Staff. So, when you get that copy  
 14 and I outline what I'm asking them to refer, if I say  
 15 anything wrong, I'll ask you to comment, or if I leave  
 16 anything out, I'll ask you to comment, okay?  
 17 MS. PRIMM: Okay, thank you.  
 18 MS. ROBESON: No, thank you. All right. So, with  
 19 that, we are going to adjourn. I'm going to ask for  
 20 comments on the revisions we've discussed at this hearing  
 21 from Staff by 11/24, and the record, at this point, unless  
 22 anyone wants more time to respond, will close on 11/30, all  
 23 right? Thank you very much, have a nice Thanksgiving.  
 24 (Whereupon, at 11:11 a.m., the hearing was  
 25 concluded.)

1 C E R T I F I C A T E  
 2 DEPOSITION SERVICES, INC., hereby certifies that  
 3 the attached pages represent an accurate transcript of the  
 4 electronic sound recording of the proceedings before the  
 5 Office of Zoning and Administrative Hearings for Montgomery  
 6 County in the matter of:  
 7  
 8 Petition of Ambor Primm & James Moy d/b/a A Mum's Touch  
 9  
 10 CU 16-03  
 11  
 12 By:  
 13  
 14  
 15  
 16 Keena Lukacinsky, Transcriber  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

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