

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY

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:
PETITION OF BROWN DOG'S DAY PET : Case No.: CU 15-03
CARE, LLC :
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A hearing in the above-entitled matter was held on June 1, 2015, commencing at 9:36 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:

Christopher Ruhlen

Lerch, Early & Brewer

3 Bethesda Metro Center

Suite 460

Bethesda, Maryland 20814

P R O C E E D I N G S

1
2 MS. ROBESON: I'm calling the case of Dog's Day
3 Pet Care, LLC, an application for a conditional use to
4 operate an animal care boarding facility at 7235 Damascus
5 Road, Gaithersburg, Maryland on land in the AR zone. The
6 property is also described as parcel 327, tax map number GW
7 43 Griffithsburg. I see that you have submitted an
8 affidavit of posting. That's Exhibit 25.
9 (Applicant's Exhibit No. 25 was
10 marked for identification.)
11 MS. ROBESON: Can the parties identify themselves?
12 MR. RUHLEN: Sure. I'm Chris Ruhlen with the law
13 firm of Lerch, Early & Brewer. We represent the petitioner
14 in this case, Dog's Day Pet Care, LLC. With me today on
15 behalf of the petitioner is Matt Brown who's one of the
16 owners of Dog's Day and Dick Hurney with Nobis Engineering
17 who has assisted in preparing this application. We also
18 have Kelly Brown who is Mr. Brown's wife and one of the
19 owners and operators of the --
20 MS. ROBESON: Okay. And for the record I see no
21 opposition here or no one else here. Just so you know, and
22 I'm sure your attorney knows, but this is an informal
23 hearing but we do have certain formalities. Your testimony
24 is under oath. We don't have to worry about cross-
25 examination. So, are there any preliminary matters that you

C O N T E N T S

Witnesses:	Direct	Cross	Redirect	Recross
Matt Brown				
By Mr. Ruhlen:		12		
Richard Hurney				
By Mr. Ruhlen:		71		

E X H I B I T S

Exhibit No.		Marked/Received
25	Posting Affidavit	4
26	Aerial Photograph	17
27	DNR Letter	67
28	DNR Planting Invoice	68
29	Park and Planning Map	78
30	Revised Site Plan	92
31	Legal Memorandum	--
32	Site Plan	107

1 have?
2 MR. RUHLEN: Sure. Let me just start by saying
3 we're pleased to be here today to discuss this proposal for
4 an animal boarding and care use at the 7235 Damascus Road
5 property in Gaithersburg. This is also going to be the
6 petitioner's residence. As we'll explain, the petition's
7 proposing to provide a cage-free daytime pet sitting and
8 overnight dog boarding services operation within existing
9 buildings and outdoor fenced areas on this property.
10 MS. ROBESON: Okay. Well --
11 MR. RUHLEN: The property is --
12 MS. ROBESON: Well let me stop you because that's
13 your opening statement. I just, if you don't have any
14 preliminary matters --
15 MR. RUHLEN: I was about to get there.
16 MS. ROBESON: Okay, go ahead.
17 MR. RUHLEN: We understand that there was one
18 question that was raised here by the hearing examiner with
19 regard to Section 3.5.1.B.2.m of the Zoning Ordinance --
20 MS. ROBESON: Tell me what that is.
21 MR. RUHLEN: This is the provision regarding TDRs
22 and animal boarding care uses.
23 MS. ROBESON: Yeah.
24 MR. RUHLEN: Okay. So the section states that
25 animal boarding care, animal boarding and care may be

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1 prohibited in the AR zone under Section 3.1.5 which is a
2 different section --
3 MS. ROBESON: Right.
4 MR. RUHLEN: -- of the ordinance. That section,
5 3.1.5, is a list of specific uses that may be prohibited in
6 the AR zone on properties that are subject to TDRs and that
7 list does not actually include animal boarding and care
8 uses. We met with staff early on and with legal before
9 embarking on this process. It was actually very important
10 because I think there's a contrary statement in the record
11 but there are TDRs on this property. So before moving
12 forward --
13 MS. ROBESON: Well do you have TDRs or do you --
14 MR. RUHLEN: There are TDRs that have been severed
15 from this property.
16 MS. ROBESON: All right.
17 MR. RUHLEN: So I believe staff wrote something
18 different in their --
19 MS. ROBESON: They did.
20 MR. RUHLEN: -- statement and that we wanted to
21 correct.
22 MS. ROBESON: They say --
23 MR. RUHLEN: But at the outset, as I mentioned,
24 before moving forward we needed to make sure, you know, what
25 do the provisions mean. We met with staff and we met with

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1 legal and the conclusion was that this was an inadvertent
2 drafting error in the zoning ordinance. We have an e-mail
3 from legal counsel at Park and Planning from the outset of
4 this that I'm happy to submit for the record. This is also
5 a change that has been introduce in the omnibus ZTA --
6 MS. ROBESON: I saw.
7 MR. RUHLEN: -- to clean up the ordinance.
8 MS. ROBESON: I guess I disagree with that. I
9 don't think it conflicts because it just says may and --
10 MR. RUHLEN: Well --
11 MS. ROBESON: -- it's not -- but keep going
12 because there's so --
13 MR. RUHLEN: I would say that that section, 3.1.5,
14 does not have discretion to expand that list and the
15 interpretation that, as we've discussed it with the planning
16 department and their counsel is that it's a circular
17 reference. If you go back and track down each of the uses
18 that are listed in 3.1.5 each of those uses says may be
19 prohibited when you go to the use definitions, may be
20 prohibited under 3.1.5. So the provisions are intended to
21 work together. Here we have one statement which we
22 understand to be inadvertent in the definition of the animal
23 boarding and care but no corresponding identification in
24 3.1.5. That was the basis for their conclusion when you
25 look at the totality of the ordinance and how the provisions

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1 work together.
2 MS. ROBESON: Okay.
3 MR. RUHLEN: Okay. That's the only cleanup item I
4 think that I would like to address kind of at the beginning.
5 MS. ROBESON: Okay, because I've got a lot and --
6 MR. RUHLEN: Sure.
7 MS. ROBESON: -- to be honest I'm really taken
8 aback at, and this is not you, but that it got this far
9 without the information that we need to make all the
10 findings we need to make in the Zoning Ordinance. There's
11 nothing on circulation, the traffic analysis is not
12 complete, there's nothing on deliveries, there's nothing on,
13 there's no parking spaces shown, you are going to have to
14 provide a handicapped space, I don't know where that's going
15 to go.
16 MR. RUHLEN: Well, I'm hopeful that we can address
17 --
18 MS. ROBESON: Well, you know --
19 MR. RUHLEN: -- your concerns through our
20 testimony.
21 MS. ROBESON: -- you're going to have to amend
22 this site -- this is my, I mean, I can't even, I don't know
23 how you got through Park and Planning without -- I need to
24 take a step back. I don't know how this got this far
25 without that stuff being addressed. You're going to have to

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1 amend your site plan to show the parking. You're going to
2 have to amend your statement of operations to deal with
3 deliveries, with traffic, with drop-off/pick-up. You know,
4 typically if you want to do this, you know, with an analogy
5 to childcare we have specific times staggered --
6 MR. RUHLEN: Well --
7 MS. ROBESON: -- and we can get to that but I
8 guess my point is if I go through, I'm happy to go forward
9 with the hearing today, you're going to have to amend your
10 site plan, I'm going to ask for a statement from staff. I'm
11 going to prepare because for whatever reason staff didn't,
12 I'm going to prepare a list of everything that needs to be
13 shown on the site plan and that needs to be added to the
14 statement of operations and if at the end of the day there's
15 something there I need to make a finding on I'm not going to
16 be able, I'm going to have to deny it. And it's not in the
17 record, I'm going to have to deny it. Not that it's a bad
18 use, it's just, it's just there's nothing here.
19 MR. RUHLEN: I appreciate that and I do hope that
20 we can move forward and make our case today and try to
21 answer and address some of these concerns. And as I
22 indicated in my correspondence we're happy to keep the
23 record open to allow Park and Planning to provide whatever
24 is missing from their perspective.
25 MS. ROBESON: Well, part of it is I need to go

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1 through this with a fine tooth comb and for some reason I
2 have to, I am having to tell Park and Planning what to do.
3 MR. RUHLEN: Well, I do think it's important, one
4 of the, one of the reasons that that may be the case is that
5 importantly in this application there's no new development
6 or construction being proposed. It's a residential property
7 in the AR zone.
8 MS. ROBESON: I know. But you have operational
9 issues and you have a site plan that doesn't show everything
10 that needs to be shown. I mean, I don't even know,
11 typically we have had dog kennels before. You know, I mean,
12 and they're wonderful uses. But I don't even know how
13 you're going to stack the people, I don't know when they're
14 coming and I'm just saying, I'm just saying I haven't even
15 finished, I keep finding things. I haven't even finished
16 going through and seeing, making sure that everything that's
17 in here that needs to be in here is in here.
18 MR. RUHLEN: Well, I'm hopeful that we can address
19 a lot of this through our testimony today. We have worked
20 actually very thoroughly with the planning department and --
21 MS. ROBESON: Well then why aren't --
22 MR. RUHLEN: -- staff through this.
23 MS. ROBESON: -- the plans, why aren't the parking
24 spaces shown on the plan?
25 MR. RUHLEN: The parking --

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1 MS. ROBESON: Why isn't there anything about
2 deliveries? Why isn't there anything about lighting? Why
3 isn't there anything about signage.
4 MR. RUHLEN: I would like to address that through
5 our expert witness testimony --
6 MS. ROBESON: Yeah, but I shouldn't be, I
7 shouldn't be hearing it the day of the hearing. But, that's
8 not, I don't think it's your fault.
9 MR. RUHLEN: I would also --
10 MS. ROBESON: I just --
11 MR. RUHLEN: I understand these concerns but I
12 would also say the items that you just raised, the parking,
13 the signage, those things were addressed in the application
14 statement that was submitted with this. So I don't know, it
15 sounds like there's been disconnect. Maybe staff wasn't as
16 thorough with their report. I'm hopeful that they'll be
17 able to get you, I've spoken with them, it sounds like
18 they're planning on getting you whatever information that is
19 needed.
20 MS. ROBESON: Well, I haven't finished telling
21 them what I need.
22 MR. RUHLEN: Okay.
23 MS. ROBESON: That's my issue. So, anyway, why
24 don't we proceed. If you want to proceed and --
25 MR. RUHLEN: Yes, we want to proceed. I'd like to

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1 call, actually I'd like to call our first witness.
2 MS. ROBESON: Yes.
3 MR. RUHLEN: So, Mr. Brown, would you like to go
4 first?
5 MR. BROWN: Sure.
6 MR. RUHLEN: Okay.
7 MS. ROBESON: Well, please raise your right hand.
8 (Witness sworn.)
9 MS. ROBESON: Proceed.
10 MR. RUHLEN: Okay.
11 BY MR. RUHLEN:
12 Q If you could please state your full name and
13 address for the record?
14 A Matt Brown, 8333 Exodus Drive, Gaithersburg,
15 Maryland.
16 Q Okay, great. And if you could briefly describe
17 your experience with providing animal care and services?
18 A I grew up in Montgomery County, was exposed to
19 dogs at a young age. I had cousins in Pennsylvania that I
20 enjoyed visiting. They had a farm with a kennel on it. One
21 of my first jobs was with my aunt at her dog grooming
22 business in Wheaton. Through my teens and my 20s I owned
23 dogs and I trained them just for, for fun, friends' dogs.
24 In my early 20s I first kind of dreamed up the idea of
25 having a farm where I could take care of dogs in an, you

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1 know, open space, off leash where they could kind of, you
2 know, run and play. That kind of got put on the back
3 burner. Got into the coffee business for about 11 years.
4 My wife and I started a family. But about five years ago I
5 left the coffee business and was able once again to focus
6 back on the, you know, the dream of having, you know, a farm
7 with dogs. So, we began the process. I wanted to get more
8 formal experience. I worked at a home-based dog boarding
9 and daycare center in Potomac where they had dogs off leash,
10 similar type concept. I don't know if they had a license or
11 not. But I worked there and gained experience with dogs in
12 group settings and how they interact with each other and you
13 know, reading their body language, that sort of thing. I
14 attended seminars with other dog professionals on, you know,
15 things like training and dog behavior and communication and
16 health. My wife and I volunteered at the Humane Society in
17 Rockville, you know, caring for kennel dogs and walking them
18 and --
19 MS. ROBESON: Sorry, I love puppies. I love dogs
20 too. So that's why I'm smiling.
21 THE WITNESS: Yeah. And I volunteered at a non-
22 profit in Rockville helping to train puppies and that was a
23 lot of fun. We, and then we also started, we're in our
24 fourth year now, my wife and I started Dog's Day Pet Care
25 and we offer dog walking and pet sitting and training.

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1 MS. ROBESON: Was that out of your house?
 2 THE WITNESS: Yeah. But, you know, we go to the
 3 client's houses.
 4 MS. ROBESON: Yeah, I'm not, it's not a trick
 5 question.
 6 THE WITNESS: Yeah.
 7 MS. ROBESON: Go ahead.
 8 MR. RUHLEN: Sure.
 9 BY MR. RUHLEN:
 10 Q So, Mr. Brown, so you're familiar with conditional
 11 use application 15-03 which is what we're talking about
 12 today?
 13 A Yes.
 14 Q Okay. Would you be able to describe the proposal
 15 for this conditional use at the 7235 Damascus Road property?
 16 A Yeah. You know, as stated, we've been operating
 17 Dog's Day Pet Care, you know, offering pet sitting, dog
 18 walking and training services. Even before we started the
 19 dog business we started looking for properties even out of
 20 the county but mostly in the county as we started our dog
 21 business we started focusing in more on the county because
 22 we realize there's a big opportunity there and there's a big
 23 need for this kind of, you know, outdoor, dog's need
 24 exercise and that wasn't being met. So, we started looking
 25 for, you know, we looked for years, it was really difficult.

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1 We finally found 7235 Damascus Road and you know, started
 2 the process, met with Park and Planning and I wanted to get
 3 a good indication that this property met a lot of the or
 4 most of the, from the surface, met the requirements that the
 5 county required and it seemed like it did. So we moved
 6 forward, purchased the property and began the whole process.
 7 Our intention is to, we think it'll be a good, this
 8 particular place, to expand into dog daycare and overnight
 9 boarding. We can, you know, we think that, that, you know,
 10 it's the main reason we purchased the property and we think
 11 that as demonstrated by our application and the
 12 recommendation from the Planning Board that this does fit
 13 well with what our intended use is. It's been a long-time
 14 dream of mine and you know, we're anxious to be able to move
 15 in. It's where we intend to move if this application is
 16 approved.
 17 Q So just to clarify, you are the owner of the 7235
 18 Damascus Road property but you're not living there yet?
 19 A Correct. Yeah, we live at 8333, we intend to move
 20 to 7235. We realized it was a big risk to, to move there.
 21 But like I said, we searched for a long time for the right
 22 property. As a, as a start in Montgomery County one of the
 23 requirements for dog boarding is that outdoor exercise areas
 24 are kept 200 feet away from the nearest property lines and
 25 when you do the math on that really what that means is to

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1 have a decent sized outdoor area you need about eight acres.
 2 So it really eliminates a lot of potential properties. And
 3 you need it centered well. You know, you can't have the
 4 house on the edge of the property line because you wouldn't
 5 be 200 feet away if there's --
 6 MS. ROBESON: Uh-huh.
 7 THE WITNESS: So, we found this and it was kind of
 8 like a needle in a haystack and we thought the other
 9 requirements were met and so we moved forward and purchased
 10 the house.
 11 MS. ROBESON: Okay.
 12 BY MR. RUHLEN:
 13 Q So, I just wanted to authenticate this. This is
 14 an aerial photograph. Does that show the 7235 Damascus
 15 Road --
 16 A Yes.
 17 Q -- property?
 18 MR. RUHLEN: I don't believe that an aerial is in
 19 the record right now.
 20 MS. ROBESON: Yeah, I didn't see one so --
 21 MR. RUHLEN: I would like to move to --
 22 MS. ROBESON: -- I'm going to mark that as Exhibit
 23 No. 27.
 24 MR. RUHLEN: Is it 27 or 26?
 25 MS. ROBESON: 26 I have as the --

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1 MR. RUHLEN: I think 25 is the posting
 2 affidavit --
 3 MS. ROBESON: Hold on, sorry.
 4 MR. RUHLEN: -- or is there --
 5 MS. ROBESON: Yes. I'm sorry. Okay. And I'm
 6 just going to call this aerial photograph of subject
 7 property.
 8 (Applicant's Exhibit No. 26 was
 9 marked for identification.)
 10 MR. RUHLEN: That's fine. Dick, if you, could you
 11 move that site plan, could you swap the site plan with where
 12 I had the aerial just so we can see the aerial a little
 13 easier?
 14 MS. ROBESON: Now --
 15 MR. RUHLEN: Put the site plan to the left?
 16 MR. HURNEY: This?
 17 MR. RUHLEN: Aerial closer and the site plan to
 18 the left.
 19 MS. ROBESON: Now, can you, we make you work here,
 20 experts work. Do you mind marking in the lower right hand
 21 corner just 26? You don't have to write Exhibit No. 26 --
 22 MR. RUHLEN: Just write --
 23 MS. ROBESON: -- just 26.
 24 MR. RUHLEN: Yeah. Thank you.
 25 MS. ROBESON: And we'll fix it up later.

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1 MR. RUHLEN: Thank you.
2 MS. ROBESON: Okay. Continue.
3 BY MR. RUHLEN:
4 Q So, it may make sense to stand close to this
5 photograph for --
6 A Okay.
7 Q -- this question. I'm hoping that you'll be able
8 to use this photograph to just walk through and explain
9 where the different activities associated with the animal
10 boarding and care are going to occur.
11 A Okay.
12 Q And if we could start with identifying the sort of
13 the main house and the out building that are already there?
14 A Okay. So, everything is existing here. This is
15 the main house. And so we will use this for overnight
16 boarding and dog care and --
17 MS. ROBESON: Wait, the main house you're using
18 for overnight boarding?
19 THE WITNESS: There's going to be, there's going
20 to be several and I'll, there's a second outbuilding also --
21 MS. ROBESON: Okay.
22 THE WITNESS: -- that we will also be using.
23 MS. ROBESON: Okay.
24 BY MR. RUHLEN:
25 Q But you're using, the main house is also your

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1 residence and you'll also be using it?
2 A Exactly.
3 Q Right.
4 MS. ROBESON: Okay.
5 THE WITNESS: Yes. So, you know, part of the
6 concept is having dogs, you know, having a home-type
7 environment where people can --
8 MS. ROBESON: I see.
9 THE WITNESS: -- leave their pets and it's a home-
10 type setting. We would have the whole finished basement
11 area as, and it's a large area, my room would be down there,
12 I'd be living with the dogs. It's a big area. And then we
13 would also use this as a daycare and future overnight in
14 addition. So, there would be two separate indoor areas
15 where dogs could be used.
16 MS. ROBESON: Okay. When you say future
17 overnight --
18 THE WITNESS: Uh-huh.
19 MS. ROBESON: -- does that include, is that within
20 the 60 that you're talking about or the 30 --
21 THE WITNESS: Yeah.
22 MS. ROBESON: -- that you're talking about?
23 THE WITNESS: So, we'll skip ahead a little bit.
24 There's overnight where the dogs would stay overnight and
25 then there's also what we call daycare where dogs --

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1 MS. ROBESON: Right.
2 THE WITNESS: -- would come just for the daytime.
3 MS. ROBESON: Right.
4 THE WITNESS: So, there would be daycare dogs in
5 addition to overnight dogs. So we would have up to 30 dogs
6 overnight and then up to an additional 30 dogs during the
7 daytime for a total of 60. So, there would be most likely
8 if we had a situation where there were a maximum of 30 dogs
9 and we don't expect that often at all we would have 15 in
10 here and we would have 15 over in this one. We'd have a
11 pet-sitter living here. There's already an existing --
12 MS. ROBESON: Okay.
13 THE WITNESS: -- space here for that. So, and
14 then we would have, each of the indoor areas there will be
15 separate, there will be separate areas so that we can
16 actually have four groups of dogs indoors at the same times
17 if needed. We don't expect that to happen but, you know, on
18 a, maybe a typical day where there's daycare and there's
19 boarding, you know, we might have two or three groups let's
20 say on a max day which might happen, you know, a couple
21 times a year. We might have two or three groups and one or
22 two groups outside.
23 BY MR. RUHLEN:
24 Q If I may --
25 A Uh-huh.

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1 Q -- I just want to clarify that because I know, I
2 want to ask you a question to clarify that because I know
3 that the way the Planning Board letter is written that maybe
4 the choice, there's one choice of wording in there that I
5 think is a little bit ambiguous. So, if I understood you
6 right, is it correct that you're saying the facility maximum
7 is 60 dogs so essentially the maximum dogs during daytime
8 business hours is potentially up to 60, the maximum is 60?
9 A Correct.
10 Q And the maximum number for overnight is 30?
11 A Correct.
12 Q Okay.
13 MS. ROBESON: Okay. So wait a minute. So the
14 maximum at any one time is 60?
15 THE WITNESS: At any one time, right, and that
16 would be during business hours.
17 MS. ROBESON: Okay.
18 THE WITNESS: Because that would also include the
19 daycare dogs that are only there for the daytime.
20 MS. ROBESON: Okay. And then what was the other
21 limitation? Maximum during the day is -- no --
22 THE WITNESS: Maximum during the day --
23 MS. ROBESON: Is 60.
24 THE WITNESS: -- total is 60. Maximum at
25 nighttime is 30.

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1 MR. RUHLEN: Right.
2 BY MR. RUHLEN:
3 Q So essentially the maximum, is it correct, the
4 maximum boarding overnight is 30?
5 A Correct.
6 Q Right. Yeah.
7 MS. ROBESON: Now, while you're here --
8 THE WITNESS: Sure.
9 MS. ROBESON: -- what do you consider daytime? I
10 mean, do you --
11 THE WITNESS: Daytime --
12 MS. ROBESON: -- when you say daycare --
13 THE WITNESS: Yeah.
14 MS. ROBESON: -- what is, what are those hours?
15 THE WITNESS: Our hours of operation would be 7:30
16 a.m. until 7:00 p.m.
17 MS. ROBESON: Okay. So the daycare is 7:30
18 a.m. --
19 THE WITNESS: Correct to --
20 MS. ROBESON: -- to 7:00 p.m. What do you -- and
21 then boarding is all the time, 24/7?
22 THE WITNESS: Yeah, yeah.
23 MS. ROBESON: Okay. Now, but you're not limiting
24 the daycare to 30?
25 THE WITNESS: Well, we're limiting what we call

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1 daycare which is dogs just coming to the daytime --
2 MS. ROBESON: Uh-huh.
3 THE WITNESS: -- to 30, yes. That's what we --
4 MS. ROBESON: Okay.
5 THE WITNESS: -- we'd be limiting daycare dogs to
6 30.
7 MS. ROBESON: But potentially would you could have
8 trips coming in -- well, okay. And the daycare would be
9 within the 7:30 a.m. to 7:00 p.m.?
10 THE WITNESS: Right, correct.
11 MS. ROBESON: Okay.
12 BY MR. RUHLEN:
13 Q So, I want to keep asking you some questions about
14 the aerial photo. So, we talked about the main building and
15 the outbuilding that already exist. Can you talk about the
16 fenced areas and where those are and where they're going to
17 be?
18 A Yeah. We'll have four outdoor exercise areas, one
19 right here, there's --
20 MS. ROBESON: Well, okay. This is not anything
21 you did but for the record --
22 THE WITNESS: Uh-huh.
23 MS. ROBESON: -- they, if this ever went on
24 appeal, can you just describe what you meant by here?
25 THE WITNESS: Oh, sure. Okay. The immediate

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1 backyard area right behind the house --
2 MS. ROBESON: Okay.
3 MR. RUHLEN: If I may? In answering this
4 question --
5 THE WITNESS: Uh-huh.
6 MR. RUHLEN: -- if Mr. Brown can feel to use,
7 that's the site plan that's already in the record.
8 MS. ROBESON: Okay.
9 MR. RUHLEN: And that shows the fencing as he will
10 explain, some of it is proposed to be new. The site plan
11 has the fencing locations.
12 MS. ROBESON: Okay. Can you --
13 MR. RUHLEN: So --
14 MS. ROBESON: -- put that? I can't see the bottom
15 of that. Do you mind just setting that over the site plan
16 for a moment?
17 THE WITNESS: Sure.
18 MS. ROBESON: I mean the aerial photograph?
19 THE WITNESS: Yeah, sure.
20 MR. RUHLEN: And that's the site plan that's in
21 the record as Exhibit No. 5.
22 MS. ROBESON: Okay.
23 THE WITNESS: So, just from perspective, this is
24 Damascus road right here.
25 MS. ROBESON: Right.

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1 THE WITNESS: This is the driveway coming in.
2 This is the main house.
3 MS. ROBESON: The dark brown is the main house?
4 THE WITNESS: The dark brown is the main house,
5 correct.
6 MS. ROBESON: Okay.
7 THE WITNESS: The immediate backyard area we will
8 call area one, exercise area number one.
9 MS. ROBESON: Is it labeled on there?
10 THE WITNESS: Yup.
11 MR. RUHLEN: Yup.
12 MS. ROBESON: Okay. And that's bright green?
13 THE WITNESS: Exactly.
14 MS. ROBESON: I'm just saying this for the record.
15 THE WITNESS: Yes.
16 MS. ROBESON: Okay. Go ahead.
17 THE WITNESS: Right beyond that and in between --
18 MS. ROBESON: To the east?
19 THE WITNESS: To the east, right. And in between,
20 this is existing horse stables --
21 MS. ROBESON: What you're pointing to is the brown
22 just south, just east of the back yard you just described.
23 THE WITNESS: Exactly. Southeast.
24 MS. ROBESON: Southeast.
25 THE WITNESS: Southeast.

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1 MS. ROBESON: Right.
2 THE WITNESS: Yup. There is an exercise area
3 number two --
4 MS. ROBESON: Okay.
5 THE WITNESS: -- in the bright green also.
6 MS. ROBESON: In the bright green. Okay.
7 THE WITNESS: Yeah. This building right here
8 that's in the brown --
9 MS. ROBESON: North of area two, exercise area
10 two.
11 THE WITNESS: -- north of area, two, yup.
12 MS. ROBESON: The dark brown.
13 THE WITNESS: That dark brown, that is the, will
14 be the indoor daycare and boarding house, the second --
15 MS. ROBESON: Okay.
16 THE WITNESS: -- we're going to call it the
17 daycare house.
18 MS. ROBESON: Okay.
19 THE WITNESS: But there will be boarding there
20 also.
21 MS. ROBESON: All right.
22 THE WITNESS: The third area is further east and
23 it is a gravel area that you can see --
24 MS. ROBESON: Is that kind of a light brown, grey?
25 THE WITNESS: It's, yeah --

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1 MR. RUHLEN: Light grey.
2 THE WITNESS: Exactly. It's a light grey.
3 MS. ROBESON: Okay. And that's slightly northeast
4 of area two?
5 THE WITNESS: Correct.
6 MS. ROBESON: Okay.
7 THE WITNESS: That's area three and it's a blue
8 stone gravel area. It's sand material that some of the
9 Montgomery County dog parks use.
10 MS. ROBESON: Okay.
11 THE WITNESS: This building right here to the
12 north of exercise area three that's in the brown --
13 MS. ROBESON: Yes.
14 THE WITNESS: -- is a pole barn, it's a sheltered
15 area.
16 MS. ROBESON: Okay.
17 THE WITNESS: So we'll, you know, our intention is
18 to use part of that as kind of a sheltered area.
19 MS. ROBESON: A shade --
20 THE WITNESS: Shaded --
21 MS. ROBESON: Uh-huh.
22 THE WITNESS: -- you know, if it's raining but
23 they still want to kind of run around --
24 MS. ROBESON: Yeah.
25 THE WITNESS: -- we can use that. Lastly, the

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1 furthest most north exercise area is this one in bright
2 green that's further north --
3 MS. ROBESON: Okay.
4 THE WITNESS: -- and beyond the gravel area --
5 MS. ROBESON: Right.
6 THE WITNESS: -- beyond the exercise area three.
7 That's the exercise area four.
8 MS. ROBESON: Okay.
9 MR. RUHLEN: Okay.
10 BY MR. RUHLEN:
11 Q And so just to clarify, the buildings that you
12 identified --
13 A Uh-huh.
14 Q -- the main house, the out building, the horse
15 stable and the pole barn, those are existing structures
16 today?
17 A Correct.
18 Q And the fenced areas are, I believe you're
19 proposing a combination of new and existing fencing but
20 essentially you're going to be creating those areas on the
21 property?
22 A That's right.
23 Q Okay.
24 MS. ROBESON: Now what, what kind of materials,
25 typically we go through what kind of materials.

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1 THE WITNESS: Uh-huh.
2 MS. ROBESON: How high is the fence going to be?
3 THE WITNESS: There's going to be two different,
4 it's going to be one of two fences. Immediately in the
5 backyard area it will be a six-foot --
6 MS. ROBESON: Is that area one, exercise area one?
7 THE WITNESS: Yeah, around area one and area
8 two --
9 MS. ROBESON: Okay.
10 THE WITNESS: -- it will be a six-foot wooden
11 privacy fence.
12 MS. ROBESON: Wooden?
13 THE WITNESS: Yup.
14 MS. ROBESON: Okay.
15 THE WITNESS: And around all of the other areas,
16 the exercise area three and four it will be a five-foot
17 welded wire fencing.
18 MS. ROBESON: Okay. Okay.
19 MR. RUHLEN: Okay. Are there any other questions
20 that you have about the fencing materials?
21 MS. ROBESON: Not at the moment, no.
22 MR. RUHLEN: Okay. We may come back to --
23 THE WITNESS: You want to put this back or keep
24 this up?
25 MR. RUHLEN: Yeah, I --

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1 MS. ROBESON: Can you describe, see the rows that
2 are shown there?
3 THE WITNESS: These right here?
4 MS. ROBESON: Yes, the, the medium green.
5 THE WITNESS: This one or this?
6 MS. ROBESON: Well, why don't you tell me what
7 those are.
8 THE WITNESS: Okay.
9 MS. ROBESON: Or do you want the engineer to do
10 that?
11 MR. RUHLEN: That may be, I think Mr. Brown can
12 give a quick answer and then I think we're going to revisit
13 this when we get to the detailed engineering --
14 MS. ROBESON: Okay.
15 THE WITNESS: Yeah.
16 MR. RUHLEN: -- comments.
17 THE WITNESS: These are planted evergreens. So
18 these --
19 MS. ROBESON: Are --
20 THE WITNESS: Okay, so --
21 MS. ROBESON: When you say these, you're looking
22 at a dark green, darker green shaded area parallel to
23 Damascus Road.
24 THE WITNESS: Yeah. In fact, all of these, these,
25 these green areas. This is a little big darker green, this

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1 is lighter green --
2 MS. ROBESON: Yeah.
3 THE WITNESS: -- would you say. So this darker
4 green area along Damascus Road and then along the north side
5 of the property and along part of the south side property --
6 MS. ROBESON: Right.
7 THE WITNESS: -- these are all evergreens.
8 MS. ROBESON: Are they existing?
9 THE WITNESS: They're existing, yeah.
10 MS. ROBESON: Okay.
11 THE WITNESS: They're existing but they're --
12 BY MR. RUHLEN:
13 Q They're, are those the trees --
14 A Those are --
15 Q We're going to be discussing --
16 A Yeah, we're going to discuss further.
17 Q -- the forest stewardship plan so those are part
18 of the trees that are on the --
19 A Right.
20 MS. ROBESON: Okay. I'll let the engineer do
21 that.
22 MR. RUHLEN: Okay.
23 MS. ROBESON: I just wasn't sure.
24 THE WITNESS: Yeah. So the short answer is all of
25 these things that you see, all of these green areas --

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1 MS. ROBESON: Yeah.
2 THE WITNESS: -- those are trees.
3 MS. ROBESON: Okay.
4 BY MR. RUHLEN:
5 Q But there is an important distinction that I think
6 we should make here. If you could separate the site plan I
7 think from the, as you're describing this and --
8 A From the aerial?
9 Q -- show the existing again. The next question I
10 wanted to ask you was to sort of identify the parking area.
11 If you could point to the driveway and where essentially you
12 anticipate the cars are going to be parking?
13 A Okay. So this is Damascus Road. Here's the
14 driveway coming in.
15 MS. ROBESON: Yes.
16 THE WITNESS: This is the parking area. And
17 this --
18 MS. ROBESON: Okay. On the aerial photograph it's
19 a very light grey.
20 THE WITNESS: Light --
21 MS. ROBESON: It's the lightest color.
22 THE WITNESS: -- tan-ish.
23 MS. ROBESON: Yeah.
24 THE WITNESS: This is where we will have available
25 parking. There's, there are two spaces in the garage and

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1 then there's another, enough room for six spaces right here.
2 We don't have the lines put in at this point but there's
3 room for six spaces right here. We do not anticipate
4 needing nearly that much. Most of the drop offs and pick-
5 ups, it's all by appointment. We'll get into that.
6 MS. ROBESON: Okay.
7 THE WITNESS: But there will be a circular kind of
8 drop off area that we'll use probably cones for where
9 clients will drop off and pick up dogs and they'll --
10 MS. ROBESON: And where is that? Is that within
11 that grey area where your parking --
12 THE WITNESS: It's within the same --
13 MS. ROBESON: -- spaces are?
14 THE WITNESS: -- same light tan area. It's hard
15 to tell with the scale from this photograph but this parking
16 area is very large and you can fit six cars right on the
17 north side, this light tan parking area and then to the, to
18 the west of that, or I'm sorry, the east side, to the west
19 of that there will be a circle that the cars can circle
20 around and drop off and pick up.
21 BY MR. RUHLEN:
22 Q I just want to clarify --
23 A Uh-huh.
24 Q -- when you're using the term receiving circle are
25 you intending, are you planning to construct a receiving

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1 circle or is that something else? Can you explain that?
2 A Yeah, it's --
3 Q I believe you just said cones.
4 A It's an existing, this is an existing parking
5 area. We intend to just put cones up to direct cars so it's
6 an, there's sufficient space for cars to just kind of turn
7 around in a circle.
8 Q And we'll get to, we'll get to some questions on
9 how that's going to work and the scheduling of appointments.
10 A Okay.
11 Q I did want you to point out, if you wouldn't mind,
12 so you've shown us the parking, kind of the parking area and
13 the driveway area that exists on the property. I don't
14 believe the site plan right behind you did a very good job,
15 it doesn't show some of the existing natural features. So,
16 are there, is there screening sort of already next to that
17 parking area on the aerial photo?
18 A Yes. There is already screening. These are,
19 these are evergreens that are --
20 MS. ROBESON: When you say these --
21 THE WITNESS: Okay --
22 MS. ROBESON: -- you're talking about the dark
23 green area --
24 THE WITNESS: Yeah, this dark green --
25 MS. ROBESON: -- immediately to the north and

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1 south, well, is there one --
2 THE WITNESS: No, just immediately to the north.
3 MS. ROBESON: To the north.
4 THE WITNESS: To the south is the house.
5 MS. ROBESON: Oh, okay.
6 THE WITNESS: This, this, it's shaded.
7 MS. ROBESON: I just see a little dark dot.
8 THE WITNESS: Oh, are you talking about this?
9 MS. ROBESON: No, south of the --
10 THE WITNESS: South, yeah. That's the shadow
11 from, cast from the --
12 MS. ROBESON: I understand.
13 THE WITNESS: -- the photograph.
14 MS. ROBESON: And those exist obviously because
15 they're shown --
16 THE WITNESS: Yes. Yup. And there's another tree
17 right here and the driveway is lined with trees.
18 MS. ROBESON: Okay.
19 BY MR. RUHLEN:
20 Q If I may jump ahead just a little bit, while
21 you're doing this I think it would also be helpful, are you
22 proposing any signs for this business?
23 A There's an existing sign, it's, you, I don't think
24 you can even see it on the aerial, but it's existing. I
25 think Mr. Hurney has marked it.

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1 MR. HURNEY: It's on the --
2 THE WITNESS: Right here. There's another --
3 MR. HURNEY: Right.
4 THE WITNESS: Yeah, there's another one.
5 MS. ROBESON: Is that on the site plan?
6 MR. HURNEY: Yeah, we -- well --
7 MR. RUHLEN: I believe Mr. Hurney has updated the
8 site plan to try to clarify that and we can leave this --
9 MS. ROBESON: Okay. And --
10 MR. RUHLEN: -- we can enter this in the record
11 when we get to his portion of the --
12 MS. ROBESON: Okay.
13 MR. RUHLEN: -- testimony.
14 BY MR. RUHLEN:
15 Q But so you were saying it's an existing sign?
16 A It's an existing sign for the old farm.
17 MS. ROBESON: Do you know the measurements?
18 THE WITNESS: No, I do not.
19 BY MR. RUHLEN:
20 Q So, if you, do you have plans to reuse that sign
21 or --
22 A We would like to.
23 Q Okay.
24 A We would like to reuse that sign if it's possible
25 and we can go through the, whatever proper channels that it

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1 takes in order to --
2 Q Sure.
3 A -- get that sign up.
4 Q But your plan is not to add a new sign, it would
5 be to --
6 A No.
7 Q -- reuse that existing that?
8 A Exactly, yes.
9 Q I think it would also be helpful, could you point
10 to, are there existing lights in the driveway area for this
11 property?
12 A Yes. There are existing lights.
13 Q They may not be visible on the aerial.
14 A Yeah. There is, to the northeast of the parking
15 area there is a, there's a pole light. You know, it looks
16 like it's on a telephone pole.
17 MS. ROBESON: You know how --
18 THE WITNESS: It's a floodlight.
19 MS. ROBESON: -- big and tall it is?
20 THE WITNESS: It's, I believe it's 20 feet. There
21 are also on the side of the garage that's just adjacent to
22 the parking area there are existing floodlights.
23 MS. ROBESON: On the north side of the garage
24 adjacent to the parking area?
25 THE WITNESS: Yes. To the, to the south side of

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1 the parking area --
2 MS. ROBESON: The parking area.
3 THE WITNESS: -- but on --
4 MS. ROBESON: And what, I'm sorry, what kind of
5 lights are they?
6 THE WITNESS: They're floodlights.
7 MS. ROBESON: Okay.
8 THE WITNESS: And then there are also two existing
9 pole floodlights in the, in the back area between exercises,
10 exercise areas two and three and they're identical to the
11 one that's in the front parking lot area.
12 BY MR. RUHLEN:
13 Q So, is your intention to use those existing lights
14 or will you be adding new lights?
15 A We will not be adding new lights. We'd like to
16 use those existing ones although I don't think that they'll
17 be even necessary.
18 Q Okay.
19 MS. ROBESON: Okay.
20 BY MR. RUHLEN:
21 Q We'll get into some more about the operations but
22 you can have a seat. I think that we've, we've kind of gone
23 through the elements of the photograph. We'll leave it up
24 in case we need to refer to it again.
25 A Okay.

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1 Q So, let's talk about the operations. In addition
2 to animal boarding and the pet sitting are you providing any
3 other services?
4 A We, we plan to have, I don't know if they'll be
5 called accessory services or not or if it's included in
6 animal care but some limited grooming, brushing and bathing
7 and pet taxi. But these are --
8 MS. ROBESON: They usually are included as
9 accessory uses. And I guess my question to you is --
10 THE WITNESS: Uh-huh.
11 MS. ROBESON: -- there's that limitation in the
12 code --
13 THE WITNESS: Sure.
14 MS. ROBESON: -- 20 percent of sales. I don't
15 want to go through your, make somebody go through your
16 books.
17 THE WITNESS: Yeah.
18 MS. ROBESON: The thought, maybe we could do it
19 like if you commit to limiting it to a certain floor area
20 and if you can estimate --
21 THE WITNESS: Right.
22 MS. ROBESON: -- how much maximum --
23 THE WITNESS: Yeah.
24 MS. ROBESON: -- would generate 20 percent of your
25 sales --

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1 THE WITNESS: Right.
2 MS. ROBESON: -- in terms of both the grooming and
3 the --
4 THE WITNESS: And the taxi?
5 MS. ROBESON: -- taxi.
6 BY MR. RUHLEN:
7 Q Let me ask you a question about that.
8 A Sure.
9 Q In preparing your application and in preparing
10 your statement of operations did you look at, assuming that
11 bath and brushing would be accessory services --
12 A Uh-huh.
13 Q -- and assuming the pet taxi an accessory service
14 did you look at the total share of revenue that you
15 anticipate to collect from those in relation to the total
16 revenue?
17 A I anticipate that the total between the taxi and
18 the grooming would be under two percent.
19 Q Okay. Let me ask another question.
20 A Uh-huh.
21 Q In order to, if you wanted to increase that
22 percentage --
23 A Uh-huh.
24 Q -- if you decided it was profitable to increase
25 that percentage would you be able to do that with the

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1 operations as you propose them and with the current number
2 of employees that you proposed?
3 A No. What we are proposing to have as a maximum at
4 any one time is five employees and for us to expand, you
5 know, taxi if there were even a possibility of that and
6 grooming we would need beyond five employees. So I think a
7 reasonable way to kind of measure and limit that sort of
8 growth is by the maximum amount of employees.
9 Q And I think maybe to help explain that, you are
10 proposing a number of employees, it's not arbitrary it's
11 based on an industry standard, is that correct?
12 A Yeah. Typically most indoor, you know, when I say
13 indoor most of the, in Montgomery County they're all indoor
14 doggy daycares.
15 MS. ROBESON: Uh-huh.
16 THE WITNESS: And there's typically one staff
17 member for every 15 dogs, sometimes one staff member for
18 every 20 dogs. So, if we have a max capacity of 60 dogs and
19 we have 1 staff member for every 15 that would mean we'd
20 have to have four on there. And say we have, you know, we'd
21 have maybe an extra person for helping to receive the dogs
22 and --
23 MS. ROBESON: Uh-huh.
24 THE WITNESS: -- filling in.
25 MS. ROBESON: Uh-huh.

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1 THE WITNESS: So that's why we are proposing a
2 maximum of five dogs.
3 BY MR. RUHLEN:
4 Q And I anticipate --
5 MS. ROBESON: Five employees.
6 THE WITNESS: I'm sorry, for five employees.
7 MR. RUHLEN: Hopefully not five dogs.
8 THE WITNESS: Yeah.
9 BY MR. RUHLEN:
10 Q I anticipate that one of the problems with trying
11 to restrict it to floor area would be something like the pet
12 taxi, there is no floor area.
13 A Right.
14 MS. ROBESON: Well I was thinking of number of
15 pick-ups for that. But I need something -- okay. But what
16 if you have 10 dogs and you have five employees. How am I
17 going to limit -- do you follow what I'm saying?
18 THE WITNESS: No.
19 MS. ROBESON: See --
20 MR. RUHLEN: That's a good question.
21 MS. ROBESON: -- using employees --
22 THE WITNESS: Uh-huh.
23 MS. ROBESON: -- it's, it works if you have 30 or
24 60 dogs but it doesn't work if you're only having 10 dogs
25 because you have extra employees.

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1 THE WITNESS: Uh-huh.
2 MS. ROBESON: You follow what I'm saying?
3 THE WITNESS: I do, I do. What you're saying is
4 if we only had 10 dogs and we then we had five --
5 MS. ROBESON: Then you could use --
6 THE WITNESS: -- employees --
7 MS. ROBESON: -- more as grooming.
8 THE WITNESS: Yeah, I mean --
9 MS. ROBESON: Do you have an area set aside in
10 your site plan for --
11 THE WITNESS: We would probably, what we would
12 probably do to start is use a bathtub for baths --
13 MS. ROBESON: Uh-huh.
14 THE WITNESS: -- so we might just have a, you
15 know, a bathroom that's dedicated to that. Again, we're not
16 interested in groom. It's --
17 MS. ROBESON: You have a -- okay. You have any
18 suggestions as to --
19 THE WITNESS: I mean, we could designate a room.
20 MR. RUHLEN: Well, if there's a designated area
21 that would work like that either in the main building or in
22 the outbuilding then you could write a condition limiting
23 grooming activities to occur --
24 THE WITNESS: Yeah.
25 MR. RUHLEN: -- within that floor space.

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1 THE WITNESS: We could, if it helped the process
2 we could assign a room for grooming services.
3 MS. ROBESON: I don't know if I need to get that
4 specific but what would help is a --
5 THE WITNESS: Uh-huh.
6 MS. ROBESON: -- square footage and that way DPS
7 can go in and say, you know, you can have, or what would
8 help I think is a square footage.
9 THE WITNESS: Okay.
10 MS. ROBESON: And then wherever it fits in your --
11 MR. RUHLEN: Just for the --
12 MS. ROBESON: I'm not going to mandate, you know,
13 where it has to be.
14 THE WITNESS: Sure.
15 MS. ROBESON: I'm just saying if we could get a
16 square footage so when DPS goes to enforce, you know, they
17 can take their tape measurer. The other thing about the
18 shuttle is, can we limit shuttle pick-ups just --
19 THE WITNESS: You mean taxi? Is that what you
20 mean?
21 MS. ROBESON: Taxi, I'm sorry, yes.
22 THE WITNESS: Okay.
23 MS. ROBESON: Now, I don't know.
24 THE WITNESS: Well --
25 MS. ROBESON: We do have to leave the record open.

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1 THE WITNESS: Yes.
2 MR. RUHLEN: Uh-huh.
3 MS. ROBESON: So this is something you can mull
4 over.
5 THE WITNESS: Yeah.
6 MS. ROBESON: I'm just concerned about employees
7 because --
8 MR. RUHLEN: Well let me, let me take one stab at
9 that. If we leave the record open we can certainly take a
10 look and see if there is a floor area that we can, an amount
11 that we can associate with this activity that we can
12 identify.
13 THE WITNESS: Uh-huh.
14 MR. RUHLEN: The other thing would be,
15 realistically given the existing buildings, I mean if you
16 went in to do an enlargement or something like that it's
17 going to trigger a whole additional process.
18 THE WITNESS: Uh-huh.
19 MR. RUHLEN: So I don't see you, if we identify an
20 amount that's associated, an area that's associated with
21 those activities now I would anticipate that sort that is
22 what it is and any change that he would have to make to grow
23 that amount is probably going to bring him back into sort of
24 a modification posture anyway.
25 MS. ROBESON: Right.

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1 MR. RUHLEN: And that may be the way to --
2 MS. ROBESON: And then he might have more --
3 MR. RUHLEN: -- identify it.
4 MS. ROBESON: -- information on, you know, what
5 percentage of sales --
6 MR. RUHLEN: Right. And then for the taxi, he did
7 identify in his statement of operations limiting, a
8 limitation on the number of ins and outs that that taxi is
9 going to do during the peak hour periods and we can tease
10 that out. I think it would be --
11 MS. ROBESON: The peak period?
12 MR. RUHLEN: The peak hour.
13 MS. ROBESON: The peak hour.
14 MR. RUHLEN: And within the peak period we can
15 talk about that when Mr. Hurney --
16 MS. ROBESON: Okay.
17 MR. RUHLEN: -- starts testifying --
18 MS. ROBESON: All right.
19 MR. RUHLEN: -- and that may help explain how that
20 would work.
21 MS. ROBESON: Okay.
22 MR. RUHLEN: But we'd be happy to look at that and
23 see if we can figure out a, identify an area --
24 MS. ROBESON: I think that would --
25 MR. RUHLEN: -- that's associated with it.

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1 MS. ROBESON: -- be the simplest and if we can
2 just work on that because DPS, neither I, I don't want to
3 retain, I actually asked them to change that in the code --
4 MR. RUHLEN: Uh-huh.
5 MS. ROBESON: -- because I don't know, I'm trying
6 to get it in the omnibus because I don't want to be the tax
7 man and come and say --
8 MR. RUHLEN: Well I'm sure as you've seen there
9 are many little things like that --
10 MS. ROBESON: Yes.
11 MR. RUHLEN: -- in the zoning rewrite that are
12 going to be difficult from an enforcement standpoint. So,
13 we appreciate that and we're happy to take a look at it and
14 see if we can come up with something that makes sense.
15 MS. ROBESON: That would be helpful. If you can
16 come up with something that DPS can really easily enforce,
17 I'm not sure the employee, I see what you're saying but
18 because it's going to vary --
19 MR. RUHLEN: Sure.
20 MS. ROBESON: -- I'm not sure that's a strong
21 enough limitation.
22 MR. RUHLEN: And maybe there's potential to add
23 wording into the condition, as I said, if we identify a
24 space if he was really going to grow that component of the
25 business, if it turns out it's more profitable to having a

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1 grooming operation than a pet sitting operation I believe
2 he'd probably need to, you'd probably need to undertake some
3 renovations or reconfigure the space or get a permit of some
4 kind. And so there might be some wording that could go into
5 the condition to say, you know, any request for --
6 MS. ROBESON: Additional space.
7 MR. RUHLEN: Yeah, yeah, will, you know, require
8 modification of the conditional use. Something like that --
9 MS. ROBESON: Right, right.
10 MR. RUHLEN: -- might help clarify it.
11 MS. ROBESON: Right. Okay.
12 MR. RUHLEN: Okay.
13 MS. ROBESON: Thanks.
14 MR. RUHLEN: So we can take a look at that.
15 BY MR. RUHLEN:
16 Q So I did want to ask you a little bit about the,
17 back to kind of the management of the activities. We talked
18 about your employee number and your ratio that you're trying
19 to maintain. Is that common for other doggy daycares to
20 have the one to 15 or does that number differ?
21 A It seems to be pretty standard that it's one staff
22 member for every 15 dogs but I've seen and heard of, you
23 know, one staff member for every 20 dogs --
24 MS. ROBESON: Uh-huh.
25 THE WITNESS: -- and you know, even more, 30 dogs.

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1 MS. ROBESON: Uh-huh.
2 BY MR. RUHLEN:
3 Q And all of that planning, as you plan the
4 operations and the number of employees that you'll have and
5 the ratios you maintain --
6 A Uh-huh.
7 Q -- that relates back to the maximum number of dogs
8 that you are seeking at the facility at any one time and I
9 believe we talked about that a little bit at the outset. So
10 there may be further questions but that gets us, I believe
11 that takes us back, that's how you're deriving the facility
12 maximum of 60 dogs --
13 A Correct.
14 Q -- during daytime business hours --
15 A Uh-huh.
16 Q -- essentially and the facility maximum of 30
17 overnight --
18 A Correct.
19 Q -- boarding dogs. Yeah. Okay. I wanted to ask
20 you what you're planning to do to make sure that the animals
21 are going to be a good fit for your operations.
22 A We will start with a phone screening process. So,
23 we would interview potential clients on the phone and get a
24 good understanding as to how their dog, you know, acts
25 around other dogs, are they friendly with other dogs, do

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1 they enjoy being around other dogs. And then from, you
2 know, are they incessant barkers. From there if, assuming
3 that it seems like a good fit and we would explain what, how
4 our operations work and I anticipate that, you know, a lot
5 of dog owners would, you know, if they know that their dog's
6 not going to work there they're not going to waste their
7 time to, you know, bring their dog out. If it does seem
8 like a good fit we would then have them out for an on-site
9 visit and evaluation where we would evaluate the dog, we'd
10 have, we'd have their dog meet with our dogs and any dogs
11 that we have on site or maybe select dogs on site. And we
12 could, you know, just by reading the body language and you
13 know, how comfortable the dog is if they're taking treats
14 from us, if their, you know, tail's between their leg, if
15 they're hiding behind their owner. You know, we can get a
16 good understanding as to whether or not their dog might be a
17 good fit.

18 Q So, after, given that you're going to be
19 undertaking that screening process do you anticipate noisy
20 dogs?

21 A No, no. We don't anticipate noisy dogs. Dogs are
22 noisy for a number of different reasons but the majority of
23 the time they're noisy because they're bored, they're
24 scared, they're lonely. Our goal here would be to have
25 happy, friendly, dogs. Now, sometimes dogs can bark during

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1 play. We would train our staff to kind of anticipate these
2 things and if there happens to be a noisy dog there are
3 things that they could do by, you know, distracting them
4 with treats, calling them or bringing them indoors if that
5 is needed. You know, for any incessant barkers that we have
6 we would have to ask them not to come back. You know, we
7 want it to be a pleasant, fun environment for dogs and we
8 don't want to, you know, we don't want it to be noisy.

9 Q And did that also influence essentially your site
10 selection as you were looking at places where you wanted
11 to --

12 A Absolutely. Yeah, absolutely. I mean, we, you
13 know, it was, it kind of worked hand in hand with the
14 requirements of Montgomery County. But because this 7235,
15 it's because of how much space it has and the distance away
16 from the neighbors and it's also kind of, the outdoor
17 exercise areas are partially blocked from some of the
18 buildings and then all of the plantings that we have going
19 on I think it'll be the perfect space for dogs to play
20 outdoors.

21 Q Okay. So, let's talk just a little bit about the
22 pet taxi and the pick-ups and drop-offs and let's start with
23 kind of the pick-ups and drop-offs of your customers. Can
24 you explain how kind of the arrivals and departures, how
25 you're planning on that to work and --

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1 A So, everything would be by appointment. We would
2 know who's coming so this would not be, you can't just, you
3 know, if you have a dog you won't be, you can't just drive
4 by the house and be like, oh there's a doggy daycare I'm
5 going to go drop my dog off. Everything would be
6 prescreened and then we would know when they're coming by.
7 They would make appointments with us and we would know about
8 what time they're coming. We would probably use texting or
9 e-mails to communicate with our clients to know when they're
10 coming.

11 MS. ROBESON: Okay. Do you have an idea of how
12 the appointments are going to be staggered throughout the
13 peak period?

14 THE WITNESS: Well, our hours are --

15 MS. ROBESON: Because typically in kennel cases
16 and --

17 THE WITNESS: Uh-huh.

18 MS. ROBESON: -- and childcare cases --

19 THE WITNESS: Uh-huh.

20 MS. ROBESON: -- they have a lot of similarities
21 but we actually have, you know, how the visits are going to
22 be staggered so we don't get all 30 people coming too close.

23 THE WITNESS: Right, sure.

24 MR. RUHLEN: And Mr. Hurney is prepared to talk
25 about it in some more detail but you're free to --

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1 MS. ROBESON: Oh, oh, okay.

2 MR. RUHLEN: -- to respond too.

3 MS. ROBESON: Well, if you're going to, I don't
4 want to belabor it if Mr. Hurney is going to talk about it.

5 THE WITNESS: Yeah. And he can talk about it more
6 detail but we will be able to stagger it and that's the
7 intention. You know, our hours are 7:30 a.m. until 7:00
8 p.m. We don't anticipate that, I would say that the
9 majority of the drop-offs would be between 8:00 a.m. and
10 9:30 but it will be staggered out really between 7:30 and
11 you know, 11:00 a.m. I mean, they can really come, the
12 drop-offs and pick-ups can really happen all day long so we
13 can really spread it out if needed.

14 MS. ROBESON: Right. Well, but for the daycare
15 it's, I mean, I would guess it's going to be closer to the
16 peak --

17 THE WITNESS: Yeah.

18 MS. ROBESON: -- period.

19 THE WITNESS: The other thing I was going to
20 mention is, you know, I would say that about half of the
21 daytime only dogs would be taxied.

22 MS. ROBESON: Oh, okay.

23 MR. RUHLEN: Right, and --

24 MS. ROBESON: But I thought you were only going to
25 have one taxi during the peak --

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1 MR. RUHLEN: Yeah.
2 BY MR. RUHLEN:
3 Q Let's turn to the taxi --
4 A Sure.
5 Q -- and you can explain how you'd run that --
6 MS. ROBESON: Okay.
7 MR. RUHLEN: -- circuit.
8 THE WITNESS: Well, we would taxi, and it'd be
9 mostly local dogs for daytime care, so we would, you know,
10 we would probably leave at 8:00 a.m. and we would return,
11 we'd go pick up, we wouldn't just pick up one dog at a time,
12 we would go pick up, 10 to 15 dogs.
13 MS. ROBESON: Oh, so this is like a van?
14 THE WITNESS: Yeah.
15 MR. RUHLEN: Yeah.
16 THE WITNESS: Exactly. We'd pick up probably 10
17 to 15 dogs at a time and then return.
18 BY MR. RUHLEN:
19 Q Which is why I believe in your operations
20 statement you identified a number of ins and outs associated
21 with the van. Do you recall you were saying the number of
22 van trips in that morning period?
23 A For our max period it's a little difficult to
24 anticipate that but, you know, my guess is that there would
25 be two, you know, two, you know, taxis, two round-trip

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1 taxis.
2 MS. ROBESON: During what period?
3 THE WITNESS: During the, during the morning time.
4 BY MR. RUHLEN:
5 Q The entire morning period?
6 A The entire morning.
7 MS. ROBESON: Well --
8 THE WITNESS: There would be, there would be no
9 more than --
10 MS. ROBESON: -- define the entire morning.
11 THE WITNESS: From 7:30 a.m. until --
12 MS. ROBESON: To noon?
13 THE WITNESS: -- noon. Yeah. There would be no
14 more than two round trip taxis.
15 MS. ROBESON: Okay.
16 BY MR. RUHLEN:
17 Q While we're on this and again, I know we've
18 touched on a couple of these things but I just think it
19 would help, be helpful to clarify. For the owners that are
20 using the, either service I suppose, but they're arriving in
21 the morning, they're not using the pet taxi, how are they,
22 how do you anticipate the arrivals to be handled when they
23 drive into, pull into the driveway. Are they going to park
24 right there in the driveway or what happens at that point?
25 A They would typically not park in the driveway. So

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1 they would, right before you get to the parking spaces we
2 mentioned on that light tan area in the photograph, before
3 you get to the parking spaces there would be a circular area
4 where they would just pull around. We would have a staff
5 member coming out knowing that the client would be arriving
6 to drop off their dog or pick up their dog and we'd have one
7 of our staff members bring the dog directly from the car
8 inside. So the client doesn't even have to get out of his
9 or her car.
10 Q The circular area that you're placing with cones?
11 A Correct.
12 MS. ROBESON: How, how do you do payment at the
13 evening?
14 THE WITNESS: Payment would typically not be on
15 the evening. We would bill monthly. If we would need a
16 payment they would know in advance and they could just, they
17 could just leave a check or cash but typically we would be
18 billing. These would, our daycare clients would be regular.
19 Generally so are our boarding clients. We anticipate that
20 they would be regular clients that we could bill monthly.
21 MS. ROBESON: Well --
22 THE WITNESS: Send invoices, just like most
23 businesses.
24 MS. ROBESON: What amount of time do you
25 anticipate the drop-off is? We actually do this for, for

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1 childcare --
2 THE WITNESS: Uh-huh.
3 MS. ROBESON: -- with 60 people --
4 THE WITNESS: Yeah.
5 MS. ROBESON: -- we actually, because there can,
6 that's a, that road has no decel (phonetic sp.) lane or so
7 you don't want the queuing to, so how long do you anticipate
8 pick-up and drop, a single pick-up and drop-off to occur?
9 THE WITNESS: You mean for a single drop-off or
10 pick-up how long does it take for them to pull into the --
11 MS. ROBESON: Yeah.
12 THE WITNESS: -- driveway and leave?
13 MS. ROBESON: How many cars are you going to be
14 able to stack or queue in that area?
15 THE WITNESS: Way more than what --
16 MS. ROBESON: Well --
17 THE WITNESS: -- will be needed. It typically
18 would take no more than a minute or two for a dog to get
19 dropped off or picked up.
20 MS. ROBESON: So maybe 15 minutes max, 10 minutes
21 max?
22 THE WITNESS: I mean, if it were going to be 10
23 minutes max, if it were going to be 10 minutes we would have
24 them park but we want them to be in and out within two
25 minutes.

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1 MR. RUHLEN: But may I ask --
2 THE WITNESS: But we don't need --
3 BY MR. RUHLEN:
4 Q All of these folks are arriving by appointment?
5 A Correct.
6 Q So, would you plan to schedule simultaneous
7 appointments for pick-up and drop-off or would you stagger
8 those?
9 A We would stagger those.
10 Q Okay.
11 MS. ROBESON: And what is your staggering,
12 anticipated staggering?
13 THE WITNESS: I would say we'd stagger them apart
14 by, you know, five to 10 minutes.
15 MS. ROBESON: What happens if somebody shows up
16 early or late?
17 THE WITNESS: If needed we could have them park
18 but the circular area that we're anticipating could
19 accommodate at least three or four cars.
20 BY MR. RUHLEN:
21 Q Okay. Why don't we talk, if you wouldn't mind,
22 you've indicated the number of maximum employees that you
23 intend to be five overall.
24 A Uh-huh.
25 Q Five at any one time. Would you be able to talk

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1 about their shifts and how you're going to be scheduling
2 those?
3 A Yes. We would, our plan is to have daytime
4 employee shifts from 8:00 a.m. until 3:00 p.m. and 3:00 p.m.
5 until 7:30. So, the first shift would be 8:00 a.m. until
6 3:00, second shift from 3:00 p.m. until 7:30. And then for
7 max times we would have an overnight shift from 7:30 p.m.
8 until 8:00 a.m.
9 MS. ROBESON: I'm sorry, can you say the last one?
10 THE WITNESS: Sure.
11 MS. ROBESON: The overnight.
12 THE WITNESS: Yeah, the overnight shift would only
13 be during max times and it would be from 7:30 p.m. until
14 8:00 a.m.
15 BY MR. RUHLEN:
16 Q Max times being like Christmas?
17 A Yeah, yeah, max capacity times during our very
18 peak times.
19 Q And otherwise your employee scheduling is
20 essentially going to be a function of demand?
21 A Correct.
22 MS. ROBESON: Okay. I'm sorry, how many employees
23 do you anticipate at the, say as a max, how many employees
24 would you anticipate at the 8:00 a.m. to 3:00 p.m. shift?
25 THE WITNESS: For a max, for a max I would say

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1 that we'd have a max of five employees.
2 MS. ROBESON: Okay. And the same with the later
3 daytime shift?
4 THE WITNESS: Yeah.
5 BY MR. RUHLEN:
6 Q Including yourself in that number?
7 A Exactly, including my wife and I. Yeah, it would
8 be, for both of the two daytime shifts it would be a maximum
9 of five employees.
10 MS. ROBESON: Okay. And overnight do you have any
11 maximum or is it going to --
12 THE WITNESS: I would put the max at three.
13 BY MR. RUHLEN:
14 Q Including yourself?
15 A Yeah. I would put it --
16 MS. ROBESON: Well, you've got to get some sleep
17 some --
18 THE WITNESS: Well, yeah.
19 MS. ROBESON: I'm teasing you.
20 THE WITNESS: That's true. Kelly, you're on.
21 What I would say is a maximum of four in case, you know --
22 MS. ROBESON: Overnight?
23 THE WITNESS: Yeah, maximum of four overnight.
24 The other thing I should mention is there might be an
25 overlap, you know, from shifts. So there might be, you

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1 know, a 15 minute period where you've got the arriving shift
2 and the departing shift that are overlapping.
3 MS. ROBESON: Right.
4 THE WITNESS: But remember, these are only three
5 employees besides Kelly and I.
6 MS. ROBESON: Right.
7 BY MR. RUHLEN:
8 Q Right. And just out of curiosity, I know that two
9 parking spaces I believe you said are in the garage?
10 A Yes.
11 Q So do you plan to be using the garage space? I
12 mean, is that for your vehicles each of you? Are you
13 factoring, I guess when you're thinking of, when I'm
14 thinking about parking, I don't know if we were clear about
15 this in the application, but there is a space planned I
16 think for each of you?
17 A Yeah. So, typically my wife and I would use the
18 garage parking to free up all the other spaces.
19 MS. ROBESON: Okay. And what do you anticipate
20 for deliveries?
21 MR. RUHLEN: That was my next question.
22 THE WITNESS: We only anticipate --
23 MS. ROBESON: Oh, I'm sorry.
24 MR. RUHLEN: That's okay.
25 THE WITNESS: We'd only anticipate any delivery

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1 trucks other than the normal UPS and FedEx that would, and
2 there's plenty of room for them to pull in and turn around.
3 We don't plan or even care to sell any products. You know,
4 we're not going to be grooming so we're not going to be
5 getting, you know, wholesale, you know, large amounts of
6 soap or anything like that.
7 BY MR. RUHLEN:
8 Q How about food?
9 A Yeah, food, our clients would bring their own
10 food. You know, it's important for the dogs to continue
11 with the diet they're used to for their, you know, a lot of
12 them have stomach issues if they change diets so they would
13 bring their own food.
14 Q Okay.
15 MS. ROBESON: You don't anticipate selling food?
16 THE WITNESS: No.
17 MS. ROBESON: Do you have an issue with a
18 condition saying you're not going to sell food?
19 THE WITNESS: No, I don't have a --
20 MS. ROBESON: Okay.
21 THE WITNESS: -- problem with that. Well, the
22 only time I could see selling food to be an issue is if the
23 client forgot their food and then we might have a small
24 charge just to provide food for the dogs. So, but as far
25 as --

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1 MS. ROBESON: But you don't anticipate that
2 necessitating a large delivery truck?
3 THE WITNESS: No, never.
4 MS. ROBESON: Okay.
5 BY MR. RUHLEN:
6 Q Just a couple of other --
7 MS. ROBESON: So not a prohibition, just -- all
8 right.
9 MR. RUHLEN: Yeah. And I think that gets back to
10 what we talked about before on the accessory service revenue
11 point as well. It probably all ties together, that
12 provision in the Zoning Ordinance talks about selling
13 products and services.
14 MS. ROBESON: Right.
15 BY MR. RUHLEN:
16 Q I did want to ask you just a couple final
17 questions before we turn to Mr. Hurney. Can we talk about
18 pet waste and your plans for managing that?
19 A Uh-huh. Yeah, our staff will be, you know,
20 trained to clean up after the dogs and also, you know, in
21 case there's anything missed we'll have at least one daily
22 sweep, you know, we'll call it to pick up any missed waste
23 and they'd all be placed into a lined trash bin that we
24 would then empty and it would go to another designated space
25 at the end of the night and then we would have a, you know,

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1 we'd have a, you know, a contracted trash removal company
2 come pick up the trash probably at the end of the driveway
3 at the end of the road, you know.
4 MS. ROBESON: Well I was going to ask where is the
5 trash truck going to pick up the waste.
6 THE WITNESS: Well they would have room to turn
7 around if needed but I, my guess is that it would be out at
8 the edge of the road.
9 BY MR. RUHLEN:
10 Q They'll be collecting at the edge of the road?
11 A Yeah.
12 Q Roadside.
13 A Right.
14 MS. ROBESON: So you're going to the residential
15 roadside service, is that what you're saying?
16 THE WITNESS: Yes.
17 MS. ROBESON: Is there --
18 THE WITNESS: It's not --
19 MS. ROBESON: -- residential roadside service out
20 there or --
21 BY MR. RUHLEN:
22 Q No, I believe you're saying if I heard you right
23 that you would be contracting with a trash removal company
24 to come and do the pick-ups but the pick-ups would occur
25 likely roadside?

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1 A Correct. And this would not be a, we're not
2 talking about a large volume despite the number of dogs but
3 as far as trash goes it's not a large volume.
4 Q Okay. I did want to ask you just some final
5 questions before we turn it over about the alternative
6 compliance request portion of this application and just to
7 establish some background facts on that. Is it correct
8 you've been working with the Maryland Department of Natural
9 Resources on a forest stewardship plan for the Damascus Road
10 property?
11 A Yes.
12 Q And when did you begin talking to DNR about that
13 idea?
14 A Very early on. In fact I think even before we
15 closed on the house.
16 Q Okay. Did the Department of Natural Resources
17 provide you with documentation of that forest stewardship
18 plan?
19 A Yes, they did, some limited documentation. It's
20 been a pretty informal process with them. There is --
21 MS. ROBESON: What does that involve
22 documentation-wise? Is there a contract you sign?
23 THE WITNESS: I have not signed any contracts with
24 them and it's possible that there still will be one but
25 they've made no indication that there is any sort of, you

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1 know, written contract.
2 BY MR. RUHLEN:
3 Q So just to explain I think, you have a January
4 16th letter from the Department of Natural Resources
5 confirming their intent to work with you on this forest
6 stewardship plan and that I believe is already in the record
7 as Exhibit No. 10.
8 A Correct.
9 Q Have you received a subsequent documentation since
10 the filing of this application back in January?
11 A Yes.
12 Q And is that this letter that I have in front of me
13 here?
14 A Yeah, yes, it is.
15 Q Okay.
16 A It's a tree planting plan.
17 MR. RUHLEN: I would like to move to enter this
18 letter dated February 6th, 2015 from the Maryland Department
19 of Natural Resources into the record. This would be as
20 Exhibit No. 27.
21 MS. ROBESON: Okay.
22 MR. RUHLEN: And this is a letter providing some
23 more details about the forest stewardship plan for this
24 property.
25 MS. ROBESON: Okay.

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1 MR. RUHLEN: Can I approach?
2 MS. ROBESON: Yes.
3 MR. RUHLEN: Okay. Thank you.
4 MS. ROBESON: Thank you
5 BY MR. RUHLEN:
6 Q But at this point is it correct that --
7 MS. ROBESON: Wait, let me just --
8 MR. RUHLEN: Sure.
9 MS. ROBESON: I'm going to mark it as a DNR forest
10 stewardship plan tree planting plan.
11 MR. RUHLEN: Okay.
12 MS. ROBESON: Okay. DNR stewardship forest
13 planting plan. And that'll be 27.
14 (Applicant's Exhibit No. 27 was
15 marked for identification.)
16 MS. ROBESON: Go ahead.
17 MR. RUHLEN: While we're doing that, if I may ask
18 a follow-up question I think there's something else to admit
19 for the record.
20 BY MR. RUHLEN:
21 Q Have the plantings now been completed on the
22 property?
23 A Yes.
24 Q And do you know the, are you aware of the final
25 number of plantings that were installed?

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1 A Yes, the final number was 2,960 I believe.
2 Q Okay. And do you recognize this invoice?
3 A Yes.
4 Q Okay. And is this, does this invoice confirm the
5 final number of plantings?
6 A Yes.
7 Q Okay.
8 MR. RUHLEN: So I'd also like to admit as
9 Exhibit --
10 MS. ROBESON: 28?
11 MR. RUHLEN: -- 28 --
12 MS. ROBESON: Planting invoice?
13 MR. RUHLEN: A planting invoice just documenting
14 that the DNR plantings have now been completed as described
15 in --
16 MS. ROBESON: Okay, great.
17 MR. RUHLEN: -- the last submittal that I just
18 walked up. May I approach?
19 MS. ROBESON: Yes.
20 MR. RUHLEN: Okay. Thank you.
21 MS. ROBESON: Thank you.
22 (Applicant's Exhibit No. 28 was
23 marked for identification.)
24 BY MR. RUHLEN:
25 Q Okay, so so far in this process with DNR are those

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1 the only documents that they've provided you in connection
2 with the forest stewardship plan?
3 A Yes.
4 Q Okay. And I believe that if, if one were to read
5 the letters detailing the plan it discusses ongoing
6 compliance and there are next steps with them --
7 A Uh-huh.
8 Q -- laid out in those letters?
9 A Yes.
10 Q Okay. Okay, great. Is the forest stewardship
11 plan something that you undertook on this property because
12 of the conditional use application or was it a separate
13 endeavor?
14 A No, it was something that we wanted to do anyway
15 and separately. But we think, you know, as we move forward
16 with the process of the license of the conditional permit it
17 seemed to really fit well and fit better than, you know,
18 what the, you know, the screening requirements that was, so
19 I think it'll provide a much better screening and shelter
20 for what our planned use is.
21 Q Sure. And we can ask Mr. Hurney for his opinion
22 on that too. A couple of final questions for you. Have you
23 reviewed the conditions of approval that were transmitted by
24 the Planning Board for this application?
25 A Yes.

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1 Q And did you find those conditions to be
2 acceptable?
3 A Yes. All conditions are acceptable.
4 Q Okay.
5 MR. RUHLEN: For now that's all I have for Mr.
6 Brown if we could turn to Mr. Hurney.
7 MS. ROBESON: Sure. I just have one more
8 question. Did you ever -- so you're saying your
9 appointments are going to be staggered every five to 10
10 minutes?
11 THE WITNESS: Yes.
12 MS. ROBESON: Okay. But you don't know yet a
13 timeframe when you think the most appointments are going to
14 be?
15 THE WITNESS: I anticipate that the most
16 appointments will be between 8:00 a.m. and 9:00 a.m. if
17 you're looking for a one hour time period it would be
18 between 8:00 a.m. and 9:00 a.m.
19 MS. ROBESON: Okay. And what about the evening?
20 THE WITNESS: It'll be more spread out in the
21 evening but if I had to pick a time I would guess between
22 5:00 and 6:00 p.m.
23 MS. ROBESON: Okay. What I am going to do, I'm
24 going to write more conditions of approval than staff has
25 depending on --

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1 THE WITNESS: Sure.
2 MS. ROBESON: -- filling in some of this
3 information hopefully. But I'm going to give you a, what
4 I'd like to do is when I leave the record open I'd like to
5 get recommendations from staff and then let you get a chance
6 to see them so that you have an opportunity before we impose
7 the conditions to take a look and see --
8 THE WITNESS: Right.
9 MS. ROBESON: -- if they're impossible or --
10 THE WITNESS: Uh-huh. That would be good, yeah.
11 MS. ROBESON: So, I'm going to try and build in
12 time for the record for you to have that opportunity, okay?
13 THE WITNESS: I appreciate that. Sure.
14 MS. ROBESON: All right. Thank you for your
15 testimony.
16 THE WITNESS: You're welcome.
17 MS. ROBESON: Your next witness?
18 MR. RUHLEN: Sure. I would like to call Richard
19 Hurney up. Just state your name after being sworn in.
20 MS. ROBESON: Well, please raise your right hand.
21 (Witness sworn.)
22 MS. ROBESON: Okay. Go ahead, Mr. Ruhlen.
23 MR. RUHLEN: Thank you.
24 BY MR. RUHLEN:
25 Q Mr. Hurney, would you please state your full name

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1 and primary occupation for the record?
2 A Yes. I'm Richard Hurney. I'm vice president with
3 Nobis Engineering and I'm a professional engineer.
4 Q How long have you been employed as a civil
5 engineer?
6 A 42 years.
7 Q And you also have experience as a land planner?
8 A Yes, I do.
9 Q Okay. Please describe your professional
10 educational background and any designations or
11 accreditations that you've received.
12 A I have a bachelor's in civil engineering, I'm a PE
13 in six states, I'm a member of ASCE, American Society of
14 Civil Engineers, NSPE, National Society of Professional
15 Engineers and ACEC, American Council of Consulting
16 Engineers.
17 Q Great. And is one of those six states that you're
18 licensed in Maryland?
19 A Yes, I am.
20 Q Okay, good. What is your current position with
21 Nobis Engineering again and what are your responsibilities?
22 A I'm a vice president of Nobis Engineering. I'm
23 responsible for all the sites civil, I'm responsible for all
24 the QAQC, of all the plans and --
25 MS. ROBESON: I think you've, have you ever

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1 testified before --
2 THE WITNESS: Yes.
3 MS. ROBESON: -- us, before --
4 THE WITNESS: Yes.
5 MS. ROBESON: -- as an expert in civil
6 engineering?
7 THE WITNESS: Yes.
8 MS. ROBESON: You looked familiar and your name
9 was familiar.
10 THE WITNESS: Right.
11 MS. ROBESON: I don't have a problem, are you
12 seeking to qualify him as an expert --
13 MR. RUHLEN: Yeah, just qualifying for the record.
14 MS. ROBESON: -- in civil engineering?
15 MR. RUHLEN: And that was my next question, his
16 prior experience in testifying before this body.
17 MS. ROBESON: All right.
18 THE WITNESS: Yes, I have, in engineering and land
19 planning.
20 MR. RUHLEN: Yes, so I just wanted to move that
21 Mr. Hurney be admitted in an expert in civil engineering,
22 site development and land use planning.
23 MS. ROBESON: And you were qualified as a land use
24 planner?
25 THE WITNESS: Land planning, yes, for Montgomery

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1 which is the area in red basically closer to the Etchison
2 rural village area which again is shown in red down here in
3 the lower part of the photograph. Everything else in the
4 area is AR.
5 MS. ROBESON: Do you mind taking a pen and just
6 putting 29 --
7 THE WITNESS: Yeah.
8 MS. ROBESON: -- on the bottom right --
9 THE WITNESS: Sure.
10 MS. ROBESON: -- corner, please?
11 (Applicant's Exhibit No. 29 was
12 marked for identification.)
13 MR. RUHLEN: I was just going to ask that and it's
14 possible that --
15 MS. ROBESON: It may already be in the record but
16 I don't want to take a chance.
17 MR. RUHLEN: What I was going to say is it looks
18 to me like the --
19 MS. ROBESON: She hasn't caught up with all of
20 those.
21 MR. RUHLEN: Yeah, the correspondence from Park
22 and Planning isn't already exhibitized here so --
23 MS. ROBESON: Yes.
24 MR. RUHLEN: -- so probably after the end of the
25 hearing today that will be a final.

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1 MS. ROBESON: She'll send you out --
2 MR. RUHLEN: Okay.
3 MS. ROBESON: -- an up to date. It was going so
4 fast.
5 MR. RUHLEN: Yes.
6 MS. ROBESON: She'll send you out an up to date
7 exhibit list and --
8 MR. RUHLEN: Sure. I just wanted to make sure we
9 didn't lose track and --
10 MS. ROBESON: No.
11 MR. RUHLEN: -- that's probably a final one that
12 just needs to be added to the list. I believe that when
13 that's added this map will be part of the correspondence
14 received --
15 MS. ROBESON: Right.
16 MR. RUHLEN: -- both from Mr. Boyd but we're happy
17 to leave this.
18 MS. ROBESON: I'd rather have it --
19 MR. RUHLEN: Yeah. So we'll call it --
20 MS. ROBESON: -- if we're going to talk about it
21 at the hearing.
22 MR. RUHLEN: Correct.
23 BY MR. RUHLEN:
24 Q Okay, so back to the master plan quickly. So does
25 the master plan, you said it doesn't specifically identify

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1 the property but does it say anything about sort of the
2 general direction for properties in this --
3 A Yeah, general direction for AR recommends they
4 continue in the uses for the AR zone.
5 Q Okay, okay. And does it speak to the character of
6 the area?
7 A Yeah, the character is basically large lots, 25
8 acres or more, that are used for agricultural uses or
9 somewhere to those.
10 Q Okay. Are you familiar with the zoning ordinance
11 in Montgomery County including its provisions for the AR
12 zone?
13 A Yes, I am.
14 Q And does --
15 MS. ROBESON: As much as we all are.
16 MS. ROBESON: Right, right.
17 BY MR. RUHLEN:
18 Q Does the Zoning Ordinance --
19 A More pre-October.
20 MS. ROBESON: Right.
21 BY MR. RUHLEN:
22 Q Does the Zoning Ordinance include specific
23 development standards that apply to the property?
24 A Yes.
25 Q Okay. Does, in this property with existing uses,

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1 how do those standards apply? I'm sorry, with existing
2 structures.
3 A The existing structures?
4 Q Yeah.
5 A Well most of the existing structures are on the
6 property so that, at the adoption or the ordinance back in
7 October they were existing structures so --
8 MS. ROBESON: Right.
9 THE WITNESS: -- they were grandfathered in as far
10 as the structures --
11 MS. ROBESON: Well, the only thing I disagree with
12 is the, I think you're well within just eyeballing this but
13 I think that there's a development standard in the A-4 zone
14 relating to the square footage of -- oh, I didn't print the
15 chart -- of the accessory buildings. They are limited to a
16 certain percentage of the square lot and what I'd like you
17 to do, I think that exemption only applies as I read the
18 standard to buildings currently used for agriculture. So
19 what I'm going to ask you to do, I mean, just eyeballing it,
20 you've got 25 acres and not that many accessory structures
21 so --
22 MR. RUHLEN: Right.
23 MS. ROBESON: -- but I would like you to just
24 provide me, you don't have to do it now, but just provide me
25 with the square footage of, I think it applies to only the

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1 accessory structures.
2 MR. RUHLEN: It's a provision section. It was
3 actually my next question for Mr. Hurney. Section 59
4 4.2.1.F.a --
5 MS. ROBESON: That's right.
6 MR. RUHLEN: -- and this is a building coverage
7 limitation to 50 percent of the floor area of the main
8 structure in the AR zone.
9 MS. ROBESON: Right.
10 MR. RUHLEN: That's not used, that's used for sort
11 of non-farming uses.
12 MS. ROBESON: Right.
13 MR. RUHLEN: And so the question was, we're happy
14 to look at that if that information is not already
15 identified on the floor plans that were submitted with the
16 application. But I think that the point, the point that Mr.
17 Hurney was speaking to was the exemption provision in the
18 Zoning Ordinance 7.7.1.A.1. This is the new differentiation
19 between grandfathering of structures and site designs and
20 then --
21 MS. ROBESON: Wait, can you give me that number
22 again?
23
24 MR. RUHLEN: Yes, sure, 7.7.1.A.1 and I apologize
25 that they identified --

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1 MS. ROBESON: They did those to us?
2 MR. RUHLEN: -- the provisions that way. This
3 would be page 7-39 if you go by page numbers. And I believe
4 what Mr. Hurney is about to highlight here is how this
5 differentiation between the grandfathering structures and
6 site designs versus the grandfathering of uses addresses
7 this building coverage limitation.
8 MS. ROBESON: Okay. Wait a minute, can you give
9 me just a second --
10 MR. RUHLEN: Sure.
11 MS. ROBESON: -- to get to 7.7.1 --
12 MR. RUHLEN: I think the page numbers are easier.
13 7-39 page number.
14 MS. ROBESON: Okay. All right. Okay. Structure
15 and site design?
16 MR. RUHLEN: Right.
17 MS. ROBESON: Okay. Go ahead.
18 BY MR. RUHLEN:
19 Q So, Mr. Hurney, could you explain this provision,
20 the grandfathering of structures and site designs?
21 A Yeah, the, the existing buildings I believe are
22 grandfathered based on their use beforehand. And none of
23 these buildings are over 50 percent of the footprint of the
24 main building as far as the square footage goes. Because
25 you've got to remember, the main building is a two-story

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1 building, these are each one story buildings. So --
2 Q Okay.
3 MS. ROBESON: Can you get me, just humor me --
4 THE WITNESS: The --
5 MS. ROBESON: -- and you don't have to at the
6 moment --
7 THE WITNESS: Okay.
8 MS. ROBESON: -- because the record is going to be
9 open but --
10 MR. RUHLEN: 2,304.
11 THE WITNESS: 2,304 feet is the square footage of
12 the --
13 MS. ROBESON: I'm sorry, what is it?
14 THE WITNESS: 2,304 is the square footage of the
15 daycare building.
16 MS. ROBESON: Is that the, what is that called on
17 the site plan?
18 THE WITNESS: It's actually labeled as the daycare
19 house --
20 MS. ROBESON: Okay.
21 THE WITNESS: -- which is on the north side --
22 MS. ROBESON: Okay.
23 THE WITNESS: -- and it's proposed area two.
24 MS. ROBESON: Okay.
25 THE WITNESS: And the total square footage of the

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1 main building is around 6,700 square feet.
2 MR. RUHLEN: 6,763.
3 MS. ROBESON: Did you just add that up?
4 MR. RUHLEN: Well I just added the two floors.
5 MS. ROBESON: You're good. Okay. So that's the
6 main dwelling?
7 THE WITNESS: Yes.
8 MS. ROBESON: And is the daycare house, is that
9 the only accessory structure?
10 THE WITNESS: No, there's a, like an open pole
11 barn here that, again, it's wide open on this side, it's
12 kind of more like just a shelter that you can --
13 MS. ROBESON: Well how big is that? I don't know
14 if it counts or not yet but --
15 THE WITNESS: I don't have the exact figures on
16 that because didn't get that.
17 MS. ROBESON: Okay.
18 THE WITNESS: We can get that to you.
19 MS. ROBESON: Can you get that to me?
20 THE WITNESS: Yeah. And then there's a little
21 shed over on, to the south of area --
22 MS. ROBESON: Two.
23 THE WITNESS: Right.
24 MS. ROBESON: And what, how big is that? Do you
25 have that on you?

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1 THE WITNESS: Again, I don't have that --
2 MS. ROBESON: Okay.
3 THE WITNESS: -- measured.
4 MS. ROBESON: Can you get those two?
5 THE WITNESS: Will do. We can --
6 MS. ROBESON: And I'm not saying I'm counting them
7 or not counting them.
8 MR. RUHLEN: Sure.
9 MS. ROBESON: I just want to know --
10 MR. RUHLEN: For the record.
11 MS. ROBESON: -- and then I'll figure it out.
12 THE WITNESS: And for the record, you know, we
13 list the, we call out the main, the structures are the main
14 house, the daycare house which is the one we just gave the
15 information --
16 MS. ROBESON: Yeah.
17 MR. RUHLEN: -- on, the existing barn which is
18 basically a pole barn with this open front side to the
19 building.
20 MS. ROBESON: Right.
21 THE WITNESS: It's more like a lean-to or a
22 sheltered area.
23 MS. ROBESON: Right, right, right.
24 THE WITNESS: And then there's a, like a little
25 shed over here --

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1 MS. ROBESON: Right.
2 MR. RUHLEN: -- that basically, you know, that you
3 can put small equipment in or, you know.
4 MR. BROWN: The one to the south?
5 THE WITNESS: To the south.
6 MR. BROWN: Yeah, those are horse stables.
7 THE WITNESS: Right. That's right.
8 BY MR. RUHLEN:
9 Q But if I may turn back to, again, to the page 7-
10 39, the grandfather provision 7.7.1.A.1, does that provision
11 make buildings and site designs existing before, on or
12 before October 30th, 2014 conforming?
13 A If they were conforming beforehand, yes.
14 Q Right.
15 A Yes.
16 Q And does that provision also allow buildings and
17 site designs continue and to be renovated and repaired and
18 reconstructed?
19 A Yeah. The coverage limitation is not triggered
20 because there's no increase in the floor area, there's no
21 building or construction being done so they're going to
22 continue the way they presently are.
23 Q But again, and this is sort of on the themes I
24 think we've been talking about some of the new limitations
25 that are presented on the use by virtue of this new law, if

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1 Mr. Brown were to increase floor area of the buildings or
2 put on an addition that's taller or something or increase
3 footprint, would those standards of the new AR zone come
4 into play for this site?
5 A Yeah, if he changed it.
6 Q Yeah, if he changed it.
7 A Yeah.
8 Q Okay. Are you familiar with the Zoning Ordinance
9 requirements for conditional use approval?
10 A Yes, I am.
11 Q And are you also --
12 MS. ROBESON: Good for you.
13 THE WITNESS: Well, I've read them several,
14 several times.
15 BY MR. RUHLEN:
16 Q Are you also familiar with the division six, the
17 general development requirements?
18 A Yes, I am.
19 Q Okay, great. I would like to ask you a series of
20 questions based on your knowledge of the zoning ordinance,
21 your familiarity with this project and your expertise.
22 MR. RUHLEN: And I think that this portion of our
23 testimony may be a little bit tedious just going through and
24 addressing the many requirements of the code but I think it
25 makes sense for me to walk Mr. Hurney through each of the

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1 applicable provisions and we'll see if we can answer some of
2 these.
3 BY MR. RUHLEN:
4 Q So let me first ask you, is the animal boarding
5 and care use allowed in the AR zone?
6 A Yes, as a conditional use.
7 Q Okay. Does the conditional use comply with the
8 Zoning Ordinance standards and requirements for animal
9 boarding and care use?
10 A Yes.
11 Q Great.
12 MR. RUHLEN: The specific provisions of Section
13 3.5.1.B.I I would just note are where of the requirements
14 for animal boarding and care are located.
15 MS. ROBESON: Yeah.
16 THE WITNESS: Okay.
17 MR. RUHLEN: And so I think we should go through
18 each one of these. The first one is subparagraph A. I'm
19 going to, I think what would make sense is for me to reach
20 each one of these conditions and allow Mr. Hurney to
21 respond.
22 MS. ROBESON: I'm sorry, is it 3.1.5?
23 MR. RUHLEN: It's 3.5 --
24 MS. ROBESON: It's 3.5.1.
25 MR. RUHLEN: 3.5.1.

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1 MS. ROBESON: Okay.
2 MR. RUHLEN: I actually believe it's the very
3 beginning of 3 --
4 MS. ROBESON: I think you're right.
5 MR. RUHLEN: -- 5.
6 MS. ROBESON: Since it's an A.
7 MR. RUHLEN: I'm trying not to comment on --
8 MS. ROBESON: No, I am too.
9 MR. RUHLEN: -- how user friendly --
10 MS. ROBESON: I'm just saying --
11 MR. RUHLEN: -- this is supposed to be. It's page
12 3-41.
13 MS. ROBESON: You should see -- well, anyway,
14 that's another story for another day.
15 BY MR. RUHLEN:
16 Q All right. If I may, we are under b, b.i where
17 the requirements for the AR zone for this particular
18 conditional use are located and I'm going to go through each
19 one of these requirements and ask you to address them. So,
20 (a), the (a) states the minimum lot area is two acres or the
21 minimum lot area required for a detached house or building
22 type in the zone, whichever is greater. Does this
23 conditional use satisfy that?
24 A Yes, it does. The lot area is 25.02 acres.
25 Q Okay. I also want to ask, was the lot area

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1 correctly identified on the site plan that's been previously
2 submitted with this application?
3 A There was a note on the site plan that was
4 originally submitted that said I think 24.5 acres. That was
5 taken from some GIS information that we got from the county
6 records. We subsequently went back and checked the land
7 records and the land records and the tax assessment all
8 agree that it's 25.02 acres.
9 MS. ROBESON: Right. Okay.
10 MR. RUHLEN: Okay.
11 THE WITNESS: Yeah.
12 MR. RUHLEN: And --
13 THE WITNESS: And that's --
14 BY MR. RUHLEN:
15 Q Have you corrected that on the site plan?
16 A Yes, I have.
17 MR. RUHLEN: Mr. Hurney has prepared an updated
18 site plan. I don't know if you would like that to be
19 submitted to the record now.
20 MS. ROBESON: Yes, I would so I can --
21 MR. RUHLEN: Yeah.
22 MS. ROBESON: -- study it.
23 MR. RUHLEN: Why don't I leave, would you like one
24 copy or more?
25 MS. ROBESON: One is fine. What I'd really like

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1 is a CD --
2 MR. RUHLEN: Okay.
3 MS. ROBESON: -- of the new site plan and any
4 additional --
5 MR. RUHLEN: Sure.
6 MS. ROBESON: Well, I don't need the staff aerial
7 photo but I would like if you have your aerial photo --
8 MR. RUHLEN: Sure, sure, sure.
9 MS. ROBESON: And this will be 30 and this will be
10 revised site plan.
11 (Applicant's Exhibit No. 30 was
12 marked for identification.)
13 MR. RUHLEN: Okay.
14 BY MR. RUHLEN:
15 Q And I believe, Mr. Hurney, does this revised plan
16 also have the locations of the existing sign and the
17 existing lights that we discussed earlier?
18 A Yes, it does. We added the existing sign location
19 and all the existing light locations.
20 MS. ROBESON: Okay. Then I just need the
21 measurement of the sign so I know --
22 THE WITNESS: Right, sure.
23 MS. ROBESON: -- that it doesn't need a variance
24 or something.
25 THE WITNESS: Right.

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1 MR. RUHLEN: May I approach?
2 MS. ROBESON: Yes, sir.
3 MR. RUHLEN: Thank you. And that was Exhibit 30,
4 is that correct?
5 MS. ROBESON: 30, yes. Actually, if you have an
6 electronic copy can you shoot this to staff too --
7 MR. RUHLEN: Sure.
8 MS. ROBESON: -- so he can, whatever he does --
9 MR. RUHLEN: Sure, sure, sure.
10 MS. ROBESON: And is there any way you can put the
11 parking spaces on it?
12 THE WITNESS: The parking is actually indicated on
13 the site plan.
14 MS. ROBESON: I don't see the spaces though.
15 THE WITNESS: They're not individually marked but
16 I mean we can --
17 MS. ROBESON: But you've got to show --
18 THE WITNESS: -- do that. I mean, at 100 scale
19 they basically look like white lines on top of each other.
20 MS. ROBESON: Can you just do a detail to show --
21 THE WITNESS: Yeah, we can do a blow up.
22 MS. ROBESON: -- you have room for the
23 handicapped --
24 THE WITNESS: Okay.
25 MS. ROBESON: -- parking and that's not going to

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1 affect the circulation?
2 THE WITNESS: All right. Sure.
3 MS. ROBESON: I know this is a large parcel, so --
4 THE WITNESS: Right. Okay.
5 MR. RUHLEN: So, if I may, I'll resume --
6 MS. ROBESON: The tedious part?
7 MR. RUHLEN: Yeah, going through the man criteria.
8 MS. ROBESON: I see Mr. Brown's eyes kind of
9 glazing over but that's okay, we have to do this.
10 MR. RUHLEN: So, we are again at 3.5.1.B.2.b.i,
11 the requirements for conditional use in the AR zone.
12 MS. ROBESON: Okay, I have a headache.
13 MR. RUHLEN: And we've addressed (a), we're now on
14 (b). I'm going to read it to Mr. Hurney.
15 BY MR. RUHLEN:
16 Q The existing areas used to exercise, walk or keep
17 animals must be set back a minimum of 200 feet from any lot
18 line and screened under division 6.5. Would you be able to
19 address this?
20 A Yes. All the areas are at least 200 feet from the
21 adjoining property line. In some locations it's up to like
22 790 feet from a property line.
23 Q Okay. And I think that leads right into the next
24 one, (c), all exterior exercise areas and runs must be
25 fenced.

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1 A Yes. There is existing fencing out there at the
2 present time and as the applicant stated he's going to add
3 some additional fencing, some wood fence and some --
4 Q Welded wire.
5 A -- welded wire fence --
6 Q Okay.
7 A -- in the additional areas and those areas are
8 indicated on the site plan as proposed fencing.
9 Q Right. Okay, (d), animals are prohibited from
10 being outdoors between 9:00 p.m. and 7:00 a.m.
11 A Yes, the petitioner has agreed to that.
12 Q (e), Animals must only be walked or exercised in
13 on-site outdoor areas.
14 A Yes, they will be and they'll be in those dark
15 green shaded areas shown on the exhibit.
16 Q Okay, (f), the sound level of the nearest property
17 line must satisfy Chapter 31B of the county noise ordinance.
18 A Yes, it will. We actually had an acoustical study
19 performed. We found a --
20 Q Is that the analysis that's included in the record
21 as Exhibit No. 9?
22 A Yes, this one's an exhibit in the record. We
23 found a firm, Acoustical Design Collaborative, who had
24 actually done some studies on dog facilities in the past and
25 had done their own monitoring and verification of dog

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1 barking and sounds and averaged them out over different
2 breeds and different times. They came up with their
3 analysis of, you know, the dog, the barking levels and how
4 many dogs would be in the facility and what that decibel
5 level would be at the property line and shown on their
6 table, you know, the maximum is 61 at the anticipated thing
7 and it would be 64 if they're up to 30 dogs outside.
8 Q At what time of day?
9 A Anytime during the day, during the daycare, not in
10 the evening.
11 MS. ROBESON: You know what we've done in daycares
12 but I don't know how this fits with your operation? What
13 we've done to ensure that it stays below the, because
14 believe it or not children screaming can have pretty big
15 sound levels too.
16 MR. BROWN: My wife and I know.
17 MS. ROBESON: And we limit the outside dogs, you
18 know, the outside time to X amount at one time.
19 MR. BROWN: Uh-huh.
20 MS. ROBESON: And I'm just asking you, that's
21 something you could do but I have to know, I would have to
22 know, you know, how many dogs --
23 MR. BROWN: Right.
24 MS. ROBESON: -- you would have to tell me how
25 many dogs.

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1 THE WITNESS: I think we --
2 MR. BROWN: I may have missed it.
3 MS. ROBESON: No, I may have missed it.
4 MR. BROWN: In our proposal we proposed to have a
5 maximum of 30 dogs outside at one time.
6 MS. ROBESON: Okay.
7 MR. RUHLEN: So no more than 30 outside.
8 MS. ROBESON: No more than 30 but that's getting
9 you to the 64 dBA which is right at, it's one decibel under
10 the --
11 MR. RUHLEN: Well, let me ask one question about
12 that noise level.
13 BY MR. RUHLEN:
14 Q That noise level that's hitting the 64 dBA which
15 is within the daytime noise standard but where on the
16 property is that occurring? I believe there was a
17 measurement in the analysis.
18 A Right. That's to the property to the north.
19 That's the --
20 MS. ROBESON: The closest line?
21 THE WITNESS: That's where the dBA would be the
22 highest and that's a vacant parcel at the present time.
23 BY MR. RUHLEN:
24 Q Let's show the aerial. What is the current use of
25 that parcel actually?

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1 MS. ROBESON: Use the large --
2 MR. RUHLEN: Use the large aerial.
3 MS. ROBESON: -- 26.
4 THE WITNESS: The large one? It's over to the
5 northwest of the existing property. It's basically an
6 agricultural use at the present time.
7 MS. ROBESON: Does it have a TDR easement on it do
8 you know?
9 MR. RUHLEN: We haven't run title on that --
10 THE WITNESS: I don't know that.
11 MR. RUHLEN: -- piece of property but it wouldn't
12 be surprising.
13 THE WITNESS: Right. But again, the setback in
14 the AR --
15 MS. ROBESON: From the existing dwelling.
16 THE WITNESS: -- to the existing dwelling would
17 have to be another, I think it's 40 or 50, on a side --
18 MS. ROBESON: Yeah, I'm just wondering --
19 THE WITNESS: -- so it'd be beyond that.
20 MS. ROBESON: -- if that's going to be
21 agricultural for --
22 MR. RUHLEN: Let me ask one other question.
23 THE WITNESS: The other thing is is that the sound
24 level that he did is a theoretical maximum because a decibel
25 reading is an instantaneous reading.

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1 MS. ROBESON: Right.
2 THE WITNESS: So the 64 would be the maximum at
3 any one specific point in time. So it wouldn't be --
4 MR. RUHLEN: All the dogs barking.
5 THE WITNESS: -- it wouldn't be 64 continuous. It
6 would be --
7 MR. RUHLEN: Every dog --
8 THE WITNESS: -- like if you hit a horn blast or
9 something like that which, you know, again, a car honking
10 its horn would be over 65 decibels.
11 MS. ROBESON: Right.
12 THE WITNESS: But, you know --
13 BY MR. RUHLEN:
14 Q Well, is that also before, we haven't talked yet
15 in detail about the alternative compliance but is that
16 without anticipating any mitigation from the fencing that's
17 going to be installed and without the trees that are going
18 to be planted?
19 A Correct. The noise study was done prior to the
20 planting of the trees and everything else. So, the trees
21 and the buffer around there will further reduce --
22 MS. ROBESON: Over time.
23 THE WITNESS: -- the amount of noise that would be
24 generated.
25 MS. ROBESON: Okay.

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1 MR. RUHLEN: Okay.
2 THE WITNESS: The same thing with the board on
3 board fence would further reduce it too --
4 MS. ROBESON: Right.
5 THE WITNESS: -- the wood fence in those areas.
6 MR. RUHLEN: Right.
7 MS. ROBESON: Well actually I've had too many
8 childcare cases, but go on, it does and it doesn't. If it's
9 a special kind of fence it does.
10 THE WITNESS: Right.
11 MS. ROBESON: Go ahead.
12 MR. RUHLEN: All right.
13 BY MR. RUHLEN:
14 Q Going back to the requirements let's turn our
15 attention to (g), buildings and accessory structures must be
16 set back a minimum of 75 street from any lot line.
17 A Yes, they're set back at least 190 feet.
18 Q All right. All litter an animal waste must be
19 contained and controlled on the site.
20 A Yes, the petitioner has addressed that he's going
21 to do that.
22 Q Okay. Let's talk about (i), any accessory
23 operation such as the sale of pet food and supplies must be
24 in the statement of operations and must be limited as an
25 accessory activity to a maximum of 20 percent of sales.

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1 A Yes, I think we've discussed that earlier with
2 petitioner's testimony.
3 Q Okay, (j), the hearing examiner may regulate hours
4 of operation. The hearing examiner may also regulate the
5 number of animals that may be boarded, exercised, walked or
6 kept in runs or similar areas and how the animals are
7 boarded, exercised, walked or kept.
8 A I think we've discussed that with the 30 overnight
9 and the 60 maximum at any one time.
10 Q Okay. Just out of, just a follow-up question,
11 given the size of the property, have you looked at kind of
12 what the proposed maximum number of dogs looks like sort of
13 from a density standpoint and is that a typical, you know,
14 sort of an animal per square foot kind of amount?
15 A Yeah, I mean, basically on the size of a property
16 of 25 acres with the number of dogs on there the density per
17 acre would be very, very well below any type of operation of
18 that type.
19 Q Is that unusual for an AR zone?
20 A The lowers numbers probably because I think you
21 could have a lot more animals of any type in the 25 acres
22 exceeding the number of dogs that would be on the property.
23 Q Agricultural animals.
24 A Agricultural animals.
25 Q Okay, (k), if the proposed use is located in an

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1 area that uses well water and septic facilities the
2 applicant must prove the use will not have any negative
3 effect or septic.
4 A Right, this is a, it was approved in Montgomery
5 County for well and septic for four bedroom facility and the
6 amount of water and waste that would be in line with the use
7 of well water and septic.
8 Q Okay. This is along --
9 MS. ROBESON: Is that because, is that because the
10 dog waste will be disposed of --
11 THE WITNESS: Right.
12 MS. ROBESON: -- separately?
13 THE WITNESS: The dogs' waste will be disposed of
14 separately. They will not be a high generator of water
15 usage. I mean, there will be some cleaning and hosing down
16 and everything but, you know, with a four bedroom house, you
17 know, you'd be anticipating up to --
18 MS. ROBESON: So you don't anticipate in excess of
19 residential use?
20 THE WITNESS: Correct. For that size of a house.
21 MS. ROBESON: Right.
22 THE WITNESS: Yup.
23 BY MR. RUHLEN:
24 Q (I) is very long, I'm going to sort of paraphrase.
25 The applicant must submit the following acoustical

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1 engineering studies, detailed floor plans and site plans
2 showing the layout. Can you address that?
3 A Yeah, the agricultural, I mean, the acoustical
4 study has been submitted along with the site plan and I
5 think that it's shown and we discussed on the acoustical
6 that it meets the noise requirements for Montgomery County.
7 Q Okay. And the final criteria under this section,
8 in the AR zone this use may be prohibited under Section
9 3.1.5, transferrable development rights. We addressed that
10 in the beginning but I mentioned that we did have an e-mail
11 from Park and Planning legal staff on that and I don't
12 believe that we moved to introduce that to the record.
13 MS. ROBESON: I would like to see that.
14 MR. RUHLEN: Okay.
15 MS. ROBESON: So, I mean, at the end of the day
16 it's our legal call but --
17 MR. RUHLEN: Right, right.
18 MS. ROBESON: -- we --
19 MR. RUHLEN: It might provide some background
20 on --
21 MS. ROBESON: Right.
22 MR. RUHLEN: -- the ZTA. Why don't we move to,
23 move to admit that as Exhibit No. 31?
24 MS. ROBESON: Okay. That's admitted.
25 (Applicant's Exhibit No. 31 was

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1 marked for identification.)
2 MR. RUHLEN: May I approach?
3 MS. ROBESON: Yeah.
4 MR. RUHLEN: Okay. Thank you.
5 MS. ROBESON: Thanks.
6 BY MR. RUHLEN:
7 Q Okay, moving on. Let's talk about the general
8 development requirements. This is division six. Does the
9 conditional use comply with the general development
10 requirements?
11 A Yes, it does with the one exception is the
12 screening which we're proposing the alternative compliance.
13 MS. ROBESON: Now does, are you saying that that
14 counts for not just buffering the use but screening the
15 parking facility, et cetera, you don't, is it your call that
16 the planting plan doesn't require the parking facility
17 screening?
18 MR. RUHLEN: I believe there's a separate answer
19 on the parking which we can --
20 MS. ROBESON: Okay.
21 MR. RUHLEN: -- which we can jump forward to if
22 you want.
23 MS. ROBESON: Then I won't, I just want to --
24 MR. RUHLEN: Okay.
25 MS. ROBESON: -- make sure I get this list of

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1 questions down but go ahead.
2 MR. RUHLEN: Sure. Well, if you would prefer to
3 start there we're happy to do that.
4 MS. ROBESON: No, why don't you go through and --
5 MR. RUHLEN: Okay.
6 BY MR. RUHLEN:
7 Q Why don't we talk about then, you mentioned the
8 alternative method of compliance, can you explain sort of
9 what is being proposed? And I presume you're referring to
10 the DNR forest stewardship plan and can you explain how that
11 works on this site in comparison to what the Zoning
12 Ordinance would otherwise require?
13 A Yeah. The Zoning Ordinance would require
14 basically a buffer along the property lines and it's kind of
15 a thin buffer area that's 26 plantings in 100 feet, linier
16 feet, a screening.
17 MS. ROBESON: Uh-huh.
18 BY MR. RUHLEN:
19 Q And does that run --
20 A With a buffer, a buffer width of 12, 12 feet wide.
21 Q Under the Zoning Ordinance, does that run the
22 whole length of the property or --
23 A No, it doesn't. It's just along the areas of the
24 uses and stuff. So, as you can see on the exhibit there's a
25 much larger perimeter area because of the 25 acres than you

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1 would have associated with a much smaller site and the
2 perimeter landscaping that is recommended in the Zoning
3 Ordinance.
4 Q And you're referring to the site plan exhibit
5 showing the, we had previously identified the different
6 colored plantings --
7 A Right.
8 Q -- and those are the plantings that have been --
9 A Right.
10 Q -- installed?
11 MS. ROBESON: You know, I'm not sure I have that
12 rendered site plan --
13 MR. RUHLEN: Would that be helpful?
14 MS. ROBESON: -- in the record. Can we add that
15 as 31?
16 MR. RUHLEN: Yeah.
17 MS. ROBESON: But that has, that one hasn't been
18 revised, right?
19 MR. RUHLEN: Correct.
20 MS. ROBESON: Okay. So, with that note that it
21 has -- I mean, 32.
22 MR. RUHLEN: 32?
23 MS. ROBESON: Yeah, because I think the legal
24 memorandum is 31.
25 MR. RUHLEN: So any updates that need to be --

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1 MS. ROBESON: I'll just say rendered site plan.
2 THE WITNESS: Because the rendered site plan,
3 Exhibit No. 32, does not have any of the notes on there.
4 MS. ROBESON: Right.
5 (Application's Exhibit No. 32 was
6 marked for identification.)
7 THE WITNESS: It's a little bit different than the
8 site plan which is exhibit, the one that was entered in 30.
9 MR. RUHLEN: Okay.
10 THE WITNESS: But this one has the, it's color-
11 coded with all of the structures and I think that the major
12 point is is that each one of the areas are identified. The
13 areas are definitely color-coded separately to point out
14 what was always referred to as the light grey area --
15 MS. ROBESON: Uh-huh.
16 THE WITNESS: -- is actually concrete paved area.
17 MS. ROBESON: okay.
18 THE WITNESS: So for parking and ADA it works,
19 we'll address that in our blow-up on the site plan. It's
20 hard to see back from far away but the existing tree area is
21 designated with a purple line --
22 MS. ROBESON: Okay.
23 THE WITNESS: -- all the way around.
24 MS. ROBESON: All right.
25 THE WITNESS: So there is some existing tree areas

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1 that are showing up on the property.
2 MS. ROBESON: Okay.
3 THE WITNESS: The darker green areas that are
4 shown are all the plantings that were put in by the forest
5 stewardship plan. The really dark ones with the lines
6 through them that are supposed to be on the perimeter of the
7 property are evergreens. The remaining ones that are a
8 little bit lighter are deciduous and --
9 MS. ROBESON: Yes.
10 THE WITNESS: -- so those are distinguished. As
11 can be seen, most of the evergreens were planted around the
12 areas of the buffer which would, more than meets what the
13 zoning requirement is and they are, you know, three deep
14 which is basically almost 36 feet in width versus the 12
15 feet width that the Zoning Ordinance requires, more than,
16 and there are more plantings and everything. So you end up
17 with more, basically more screening around the perimeter
18 than you would with the zoning plus you also have the
19 additional trees that have been planted.
20 BY MR. RUHLEN:
21 Q Right. And that's the, well I presume that's
22 essentially the general approximate location of the
23 plantings?
24 A Yes, that's right. We took those from the DNR
25 stewardship exhibit that they provided the applicant, put

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1 them on the plan.
2 MS. ROBESON: Okay.
3 THE WITNESS: So, they obviously weren't surveyed
4 in the field.
5 MR. RUHLEN: Right.
6 THE WITNESS: But the number is correct.
7 BY MR. RUHLEN:
8 Q Why don't we talk about, if that's sufficient on
9 the screening because I know we want to get to the
10 additional follow-up on the parking area, but I think it
11 would be helpful just to explain for the record the parking
12 requirements for this property, the number that the Zoning
13 Ordinance requires.
14 A Okay. The parking requirement is, you know, one
15 per employee plus three additional spaces. So there's eight
16 spaces total.
17 Q Required?
18 A Required. As we were showing on the plan, since
19 the applicant will be there, you know, will be two of the
20 employees they will be parking in the garage. So we had two
21 spaces indicated as garage parking and then we showed an
22 area of six spaces along the westerly part of the concrete
23 driveway which abuts fenced area number one. That area was,
24 it's almost like 60 by 60 so, you know, we can get the six
25 spaces in there. We were designating six spaces there. We

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1 weren't showing on the parking but we can include that in
2 the area there.
3 MS. ROBESON: And the one, I'm 99 percent sure
4 from the childcare cases that if you have more than five you
5 have to have --
6 THE WITNESS: An ADA spot.
7 MS. ROBESON: Yup.
8 THE WITNESS: Yeah. So, we'll show the ADA spot
9 with that accessibility.
10 BY MR. RUHLEN:
11 Q And you factored in the ADA spot in your analysis?
12 A Yes, yes. There's plenty of room for, we could've
13 actually put more spaces in than the eight but we just met
14 the requirement.
15 MS. ROBESON: Okay.
16 MR. RUHLEN: Okay.
17 THE WITNESS: There's sufficient area for that.
18 MS. ROBESON: Okay.
19 MR. RUHLEN: And we can provide a little bit of
20 detail while the record is open.
21 THE WITNESS: We'll provide a detailed everything
22 for the, and the spacing and the spots.
23 BY MR. RUHLEN:
24 Q So, the hearing examiner asked, pivoting on this
25 of the parking and then sort of connected to the alternative

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1 compliance, whether the parking lot requirements of 59 6.2.9
2 including parking lot lighting are addressed with this
3 application, can you speak to that?
4 A Well, basically this is in a, for a residential
5 building and everything and the driveway and the area up
6 here is very similar to what you'd have at a residential
7 building. And the lighting out there along the driveway and
8 the areas are basically the types of lights that you would
9 have in the agricultural zone or large residential zone in
10 this area.
11 MS. ROBESON: Now, he said flood lights on the
12 pole lights.
13 THE WITNESS: Right, right. I mean, it's
14 basically just one, you know, like flood light on the pole
15 which, you know, I don't know exact wattage but I mean I
16 think it's very similar to what you have --
17 MS. ROBESON: Well can I ask you this, usually we
18 have them directed down --
19 THE WITNESS: Right.
20 MS. ROBESON: -- so they don't show glare and in
21 that special, I can't think of the name right now, do you,
22 are the trees going to prevent that light, you know,
23 assuming they grow at some point, are the trees going to
24 prevent that light from --
25 THE WITNESS: Yeah. The trees that are on the

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1 side will prevent the light because there are two lights on,
2 there are two or three lights on the edge of the garage --
3 MS. ROBESON: Are they motion sensor do you
4 know? Are they motion --
5 MR. BROWN: No.
6 MS. ROBESON: No. They're just --
7 THE WITNESS: And then there's a pole light over
8 here basically in the same area. The other two pole lights
9 are behind --
10 MS. ROBESON: Okay.
11 THE WITNESS: -- and so they would be screened
12 from Damascus by the structure here and you've have almost
13 800, 900 feet --
14 MS. ROBESON: Right.
15 THE WITNESS: -- back here plus it's a sharp
16 incline --
17 MS. ROBESON: Right.
18 THE WITNESS: -- so I don't think those would have
19 any impact. And the ones over here, again, they're very
20 typical for, you know, residential driveways and
21 agricultural in this area.
22 BY MR. RUHLEN:
23 Q Well, the requirement actually speaks to
24 compliance with Section 6.4.4, general outdoor lighting
25 requirements. Have you reviewed that section and does it

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1 actually apply to existing lighting?
2 A No, these are existing lights.
3 MS. ROBESON: Yeah, but we count it in the special
4 -- it's one thing if you're just living there.
5 MR. RUHLEN: Uh-huh.
6 MS. ROBESON: It's another thing when you come and
7 get the special exception. So we do include, we do it with
8 every conditional use --
9 MR. RUHLEN: Okay.
10 MS. ROBESON: -- even if it's existing.
11 MR. RUHLEN: Okay.
12 BY MR. RUHLEN:
13 Q One other thing and I think it's important to note
14 because you started with the lighting requirement but the
15 additional piece of the provision talks about the screening
16 issue --
17 A Right.
18 Q -- and I think there are sort of related facts
19 here in that, and again, you're going to be jumping between
20 the site plan and the aerial. I believe Mr. Brown testified
21 to a tree row --
22 MS. ROBESON: I see them on the aerial.
23 MR. RUHLEN: Yeah, that's already existing and I
24 think --
25 MS. ROBESON: Along the parking area. North of

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1 the parking area.
 2 THE WITNESS: To the north of the concrete parking
 3 area --
 4 MS. ROBESON: Yeah.
 5 THE WITNESS: -- there is a heavy screening of
 6 evergreen trees --
 7 MS. ROBESON: Okay.
 8 THE WITNESS: -- which would again buffer any kind
 9 of lighting from that area.
 10 BY MR. RUHLEN:
 11 Q Are they taller than the light pole?
 12 MR. BROWN: Yes.
 13 THE WITNESS: Yeah, yeah. And the applicant has
 14 indicated too that they will be providing some additional
 15 trees that are to be planted --
 16 MR. BROWN: There's three planted already.
 17 THE WITNESS: There's three planted in this area
 18 to the --
 19 MS. ROBESON: In the area of the parking area?
 20 MR. BROWN: To the east.
 21 THE WITNESS: To the east side of the parking
 22 area.
 23 BY MR. RUHLEN:
 24 Q And is that also the area where fencing --
 25 A Yes. And there will also be fencing back here and

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1 there's, you know, the shed is back here also so that would
 2 also block any type of --
 3 MS. ROBESON: Okay. --
 4 THE WITNESS: -- light.
 5 MS. ROBESON: And can you just provide at some
 6 point the height of the poles?
 7 THE WITNESS: Right.
 8 MR. RUHLEN: Sure.
 9 MS. ROBESON: Just a description --
 10 THE WITNESS: Okay.
 11 MS. ROBESON: -- of the different heights and are
 12 they wall mounted or whatever.
 13 MR. RUHLEN: Sure.
 14 MS. ROBESON: Part of what the Zoning Ordinance
 15 did was remove any necessity for site plans of you're a
 16 special exception so in a way the special exception is just
 17 as detailed, I don't know if, well, not making any comments
 18 but if you could provide me with that information that would
 19 be helpful.
 20 MR. BROWN: Sure, sure, sure.
 21 BY MR. RUHLEN:
 22 Q So turning back to those provisions, we've
 23 addressed sort of the applicable standards for the lighting
 24 but we've also talked about the screening. Is it your
 25 opinion that the screening is being provided essentially by

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1 the trees that are there and the fencing that will go in and
 2 we didn't talk about it but I presume also, Mr. Brown
 3 testified to the row of trees lining the driveway that lead
 4 up in the front of this.
 5 A The existing trees, the fencing and the trees that
 6 are being planted definitely --
 7 Q And that, yeah --
 8 A -- provide all the screening necessary.
 9 Q And so even if those existing features and then
 10 the fencing that's going to be installed, even if that did
 11 not satisfy what that provision of the Zoning Ordinance is
 12 calling for you still have the alternative compliance that's
 13 being requested for the overall screening for the property
 14 and that would also provide additional screening?
 15 A Correct.
 16 Q Okay. Continuing on those lines in some of those
 17 detail, very detailed provisions of the Ordinance, there are
 18 commercial vehicle parking restrictions in the Ordinance.
 19 Do those apply in this case to this property?
 20 A No, I don't believe there will be any commercial
 21 vehicles coming to the property other than --
 22 MS. ROBESON: What about the van?
 23 THE WITNESS: -- the, other than a UPS.
 24 MS. ROBESON: What about the van, the taxi?
 25 MR. RUHLEN: Well, if we can turn, Mr. Hurney, can

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1 I have you read, and I don't know if you have it,
 2 59.6.2.5.L. If you could bear with me for one second in
 3 case you don't have that provision in front of you I can
 4 find it.
 5 THE WITNESS: Which one?
 6 MS. ROBESON: Dot two --
 7 MR. RUHLEN: 59.6.2.5.L and this would be the,
 8 almost had it, sorry, this is on page 6-13 of the Zoning
 9 Ordinance, commercial vehicle parking for properties with a
 10 residential use. There's a provision here in the AR zone,
 11 L.2.c and this is basically applicability in the AR zone, c
 12 is right there.
 13 THE WITNESS: Right.
 14 BY MR. RUHLEN:
 15 Q Will you be able to read that provision?
 16 A When any lot or parcel more than two acres there
 17 are no restrictions on commercial or recreational vehicle
 18 parking.
 19 Q So, under that provision would it be your
 20 contention that even if the van is a commercial vehicle does
 21 that section apply to this 25 acre property?
 22 A Yes.
 23 Q It applies but it --
 24 A There's no --
 25 Q -- there's no requirement?

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1 A No requirement.
2 Q Okay. Thank you. Sorry about that. What about
3 vehicle queuing standards? That's, again, very detailed
4 requirements, 6.2.7 are the provisions for vehicle queuing
5 in the new ordinance.
6 A Yeah. The queuing standard basically is for drive
7 through lanes for drive use, drive through uses. We are
8 not, we will not have drive through lanes so those standards
9 do not apply. But even if you did look at a queuing, the
10 driveway from the road is over 250 so you would be able to
11 stack 12 cars there.
12 MS. ROBESON: How wide is that driveway?
13 THE WITNESS: It's like 14 feet, 12 to 14, your
14 typical driveway.
15 MS. ROBESON: Is that, can two cars, is it wide
16 enough for two cars to pass each other?
17 THE WITNESS: They would have, you know, it would
18 be very tight but again we are not anticipating, looking at
19 the, the numbers and how the drop-offs are going to be, you
20 know, they're going to be staggered so we don't anticipate
21 there --
22 MS. ROBESON: Yeah, but if they're staggered only
23 10 to 15 minutes apart, even that, even two minutes apart
24 you can have a line of people coming in and going out,
25 right?

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1 THE WITNESS: Well, if you're dropping them off
2 and it takes an average of let's say three minutes, you
3 know, you would not have an overlap. At the most you'd have
4 is maybe one car that would overlap and I believe there's
5 definitely sufficient room for two cars to get by.
6 MR. BROWN: Kelly and I have passed each other on
7 the driveway and it also --
8 MS. ROBESON: Is it paved?
9 MR. BROWN: It's, I believe it's gravel coming in.
10 THE WITNESS: Right.
11 MR. BROWN: And it widens at --
12 THE WITNESS: It widens up toward the end
13 especially, so --
14 MR. RUHLEN: And we're going to get to traffic
15 momentarily.
16 MS. ROBESON: Towards the road?
17 MR. BROWN: By the road and by the parking lot.
18 MR. RUHLEN: Right. And we're going to get to
19 traffic momentarily which I believe will give us the
20 opportunity to --
21 MS. ROBESON: Okay.
22 MR. RUHLEN: -- to talk about some of the details
23 on that.
24 BY MR. RUHLEN:
25 Q Let's turn to, Mr. Hurney, are you familiar with

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1 the findings required for a conditional --
2 MS. ROBESON: But if a truck -- okay, just go
3 ahead.
4 MR. RUHLEN: Oh, no, that's okay if you're looking
5 at it.
6 MS. ROBESON: No, I'm on traffic and you're going
7 to get to that, right?
8 MR. RUHLEN: Yeah, it's coming up in --
9 MS. ROBESON: So keep going.
10 BY MR. RUHLEN:
11 Q So why don't we start reviewing the conditional
12 use standards? These are the standards in 7.3.1.E of the
13 Ordinance. Are you familiar with those standards?
14 A Yes, I am.
15 Q Okay. Let me ask for your opinions on these
16 required findings. Are there any previous approvals that
17 apply to this property or impose conditions which require
18 compliance?
19 A No, there's nothing previously approved or nothing
20 to be amended.
21 Q Okay. Is it your opinion that the conditional use
22 satisfies the requirements of the AR zone, the use standards
23 under Article 59-3 and the applicable general requirements
24 under 59-6?
25 A Yes, it does.

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1 Q Okay. Does the conditional use substantially
2 conform with the master plan?
3 A Yes, animal boarding and daycare will be
4 complementary to the uses in the surrounding area and I
5 don't think it has any effect on the area's rural culture.
6 Nothing new is being proposed, no new buildings or anything,
7 so I think it's in compliance with the area.
8 Q Okay. Will the conditional use be in harmony with
9 the general character of the neighborhood?
10 A Yes. I mean, as I said, the general area, as you
11 can see, it's large properties surrounded by land for
12 agricultural uses. Animal oriented uses are typical in the
13 AR zone --
14 Q Okay.
15 A -- size of the property and the combination of the
16 screening and everything is definitely in character with the
17 rural character.
18 Q Will it be increasing the number, intensity or
19 scope of conditionals uses in the area?
20 A No. Proposed use is entirely consistent with the
21 AR zone --
22 MS. ROBESON: Well, are there any special
23 exception uses in the area? Have you checked?
24 THE WITNESS: Um, I --
25 MR. RUHLEN: I'm not aware of any --

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1 THE WITNESS: -- aware of any --
2 MR. RUHLEN: -- except that there may be possibly,
3 possibly in the rural village overlay zone --
4 THE WITNESS: Overlay zone.
5 MR. RUHLEN: -- but I think that that --
6 MS. ROBESON: Well --
7 MR. RUHLEN: -- commercial overlay zone allows for
8 a lot of what's going on over there.
9 MS. ROBESON: Well, can you check and let me know?
10 You can go to that --
11 MR. RUHLEN: Sure.
12 MS. ROBESON: -- Montgomery Maps.
13 THE WITNESS: Okay.
14 MR. RUHLEN: And I think that, I think that it's
15 an ambiguity in the Ordinance but when it talks about the
16 area --
17 THE WITNESS: Right.
18 MR. RUHLEN: -- it's a little bit questionable
19 what the area is because if we're talking about the
20 neighborhood on the exhibit that staff identified, that
21 excludes that overlay zone which is all further to the
22 south. So, we can check but it may be a question of what
23 are we checking if we want to look at the area that staff
24 had identified.
25 MS. ROBESON: Well I could tell you what you're

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1 checking. You're checking within the boundaries unless you
2 disagree with the boundaries of technical staff's --
3 MR. RUHLEN: No, no, that's fine.
4 MS. ROBESON: -- neighborhood.
5 MR. RUHLEN: That's great.
6 MS. ROBESON: Then that's where you're looking.
7 THE WITNESS: Okay.
8 MR. RUHLEN: That's fine.
9 BY MR. RUHLEN:
10 Q Okay, will this conditional use be served by
11 adequate public services and facilities including schools,
12 police and fire protection, water, sanitary, sewer, public
13 roads, storm drains, et cetera?
14 A Yes. And again, as I said, there's no new
15 development proposed so there won't be any residential so
16 it'll be no impact on the school facilities. The property
17 is a little over 12 miles from the Germantown Police
18 Station, also 3.7 miles from the Laytonsville Fire
19 Department and you know, I might add I live out in that area
20 now, the police now that Laytonsville has expanded their
21 fire department they're using that as basically a little
22 substation. There's always two or three cop cars in the
23 parking lot there.
24 Q Sure.
25 MS. ROBESON: Good to know.

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1 THE WITNESS: Yeah, yeah. And the site, as we
2 said earlier, is on well and septic which is sufficient and
3 there's no reported problems with those systems.
4 BY MR. RUHLEN:
5 Q Okay. So turning to traffic, specifically under
6 that finding, was a traffic report required for this
7 application?
8 A No.
9 Q Did you examine the thresholds for what triggers a
10 traffic report?
11 A Yes, we did. We took a look at them and looked at
12 the regulations to see and what those, what those
13 requirements were with a 30 hour, 30 trips on the peak hour.
14 Q Did your firm then prepare, if a traffic report
15 was not required then a traffic exemption statement was
16 likely required?
17 A Right, we prepared a traffic exemption statement
18 for that in preparation of that statement. We also looked
19 at a couple of other special exceptions that were provided
20 and approved for daycare, I mean dog daycare and boarding
21 facilities. There was two recently done, well, fairly
22 recently. One was special exception S-2239 which is a site
23 in Laytonsville that has animal vet care and --
24 MS. ROBESON: Right, is that the Fairland
25 Hospital? No.

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1 THE WITNESS: It's not, it's on Sundown Road.
2 MR. RUHLEN: It's called Laytonsville Animal
3 Hospital.
4 THE WITNESS: It's Laytonsville Animal Hospital.
5 And in that case we looked at that and the applicant stated
6 that they're going to have two vets, two full-time employees
7 for a support staff of 10 and they will work in split shifts
8 and through their analysis of the split, the split shifts
9 were basically the same thing from 8:00 a.m. to 7:00 p.m.,
10 they were also open Saturdays from 8:00 to 4:00 but with the
11 10 people and the two vets and everything the Park and
12 Planning and their transportation staff basically came up
13 saying that the peak hour trips would be limited to 14, 14
14 peak hours. You know, we looked at that, our staff is, you
15 know, going to be five versus 10, we're not going to have
16 the veterinary care --
17 MS. ROBESON: I don't think it's a matter of
18 staff. We -- well, keep going.
19 THE WITNESS: And then we looked at the special
20 exception down in Silver Spring that was recently approved.
21 MS. ROBESON: TJW Dogs?
22 THE WITNESS: Pardon me?
23 MS. ROBESON: TJW Dogs?
24 THE WITNESS: I believe that's what it was.
25 MR. RUHLEN: I think that's correct.

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1 THE WITNESS: Yeah. And I think they came up
2 with, since they were in a central business district and
3 people could walk them there and everything but with pass-by
4 trips they were looking at like four peak hour trips. So,
5 and then we went to the ITE manual. There is no --
6 MS. ROBESON: Trip generation.
7 THE WITNESS: -- trip generation for that. So we
8 basically took the information that we had and from the
9 petitioner with the number of employees coming and then also
10 with the taxi service and then backed into that and said,
11 okay, if you had three drop, a drop-off every three minutes
12 that would basically generate 13 trips which would be 26.
13 So, the maximum you could have --
14 MS. ROBESON: Did you count the van, the taxi?
15 THE WITNESS: Yeah, the taxi, that's what I was
16 saying, we count the shuttle and you count the employee trip
17 coming in and then one leaving.
18 MS. ROBESON: And what about the -, drop-off?
19 THE WITNESS: And as I said, that, if you have one
20 employee leave and one coming in that's two trips.
21 MS. ROBESON: Right.
22 THE WITNESS: You have the shuttle going in and
23 out which is two trips which leaves you 26.
24 BY MR. RUHLEN:
25 Q You're starting with, you're starting with the

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1 number of trips that is specified, if you are at that trip
2 level or under you provide a traffic exemption statement --
3 A Right.
4 Q -- rather than a traffic report --
5 A Right.
6 Q -- and that number is --
7 A It's under, it has to be under 30.
8 Q -- 30?
9 A Right.
10 Q Has to be under 30?
11 A Has to be under 30.
12 Q So, from the 30 trips you were backing into,
13 subtracting out the trips associated with the employees that
14 you just described and the arrival and departure of the
15 shuttle that you just described --
16 A Of the shuttle, right.
17 Q -- leaves you essentially with an envelope of
18 trips?
19 A An envelope of trips and the petitioner stated
20 that it's going to be every five, you know, like five
21 minutes. So that would be like 12. Even if you had two
22 more than that you'd still be under the 30 trip.
23 Q In the peak hour?
24 A In the peak hour.
25 Q And we've heard the testimony from Mr. Brown about

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1 being able to schedule all of the appointments for the
2 arrival and departure --
3 A Right, right.
4 Q -- so if there is a number in the peak hour that
5 he needs to be in compliance with in order to make sure that
6 he's within that 30 trip number --
7 A Right.
8 Q -- that number would be, are you saying it's 12?
9 A No, the total number, he could have 13 trips in an
10 hour.
11 Q Ins and outs?
12 A Ins and outs, right.
13 Q Ins and outs, not including --
14 A Yeah, if he's scheduling --
15 Q -- not including the van?
16 A -- it every five minutes he's below that.
17 Q And those are the customer trips, not the
18 employee --
19 A And those are customer trips.
20 Q -- and van trips?
21 A Right. So, with that, and I think looking, and
22 that assumes --
23 MS. ROBESON: Or, and that --
24 THE WITNESS: -- that's the worst case scenario.
25 MS. ROBESON: -- doesn't assume a delivery.

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1 THE WITNESS: And that assumes no pass-by trips.
2 I mean, if you, and you know some of those drop-offs are
3 going to be --
4 MS. ROBESON: I guess I'm less worried about the
5 LATR than I am about the circulation and access --
6 THE WITNESS: Okay.
7 MS. ROBESON: -- but --
8 THE WITNESS: All right.
9 MS. ROBESON: -- I understand, I need, see part of
10 this is, I just need that information --
11 THE WITNESS: Yeah, okay.
12 MS. ROBESON: -- because I can't make the
13 finding --
14 MR. RUHLEN: And I believe --
15 THE WITNESS: Okay, we --
16 MS. ROBESON: -- and I don't know what happened,
17 well, okay.
18 MR. RUHLEN: I believe staff is working on that.
19 MS. ROBESON: All right.
20 MR. RUHLEN: So --
21 MS. ROBESON: Did you provide all these
22 assumptions to staff?
23 MR. RUHLEN: We did file our traffic exemption --
24 THE WITNESS: Exemption statement.
25 MR. RUHLEN: -- statement which is in --

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1 MS. ROBESON: But that didn't have enough, I'm not
2 by any means criticizing --
3 MR. RUHLEN: I believe it addressed what Mr.
4 Hurney was just explaining.
5 THE WITNESS: Right.
6 MR. RUHLEN: And the statement of operations also
7 talked about the --
8 MS. ROBESON: It didn't address, I looked at it,
9 it didn't address pass-by, it didn't --
10 MR. RUHLEN: Not pass-by --
11 THE WITNESS: Right.
12 MR. RUHLEN: -- the thresholds, go ahead, Mr.
13 Hurney.
14 THE WITNESS: I think what we put on there was,
15 the statement was, it does not even take into account pass-
16 by traffic. We were under the 30 threshold I think at a
17 worst case scenario. So if we went into a more detailed and
18 did the pass-by trips it would drop it down even further.
19 So I think that's why, in discussions with the staff --
20 MS. ROBESON: Yeah, but the pass-by trips, even
21 though they're discounted, they're going to be added. In
22 other words --
23 THE WITNESS: Right, but what I'm saying is that
24 if he does one every five minutes he's got 12 trips. We're
25 saying he can do 13 without any problems. So, if even three

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1 or four of them are pass-by trips that further reduces that
2 number down so he can increase the number of people that --
3 MS. ROBESON: Oh, I see what you're saying.
4 THE WITNESS: It gives him more of a buffer.
5 MR. RUHLEN: You're saying --
6 MS. ROBESON: Well, see, I didn't have the --
7 THE WITNESS: I guess we didn't --
8 MS. ROBESON: -- give minute delivery, or five
9 minute drop-off information.
10 THE WITNESS: Right.
11 MR. RUHLEN: So I think that if you were to, I
12 mean, I understand staff is, Park and Planning staff is
13 working on their memo --
14 THE WITNESS: Right.
15 MR. RUHLEN: -- but --
16 MS. ROBESON: Now you also are going to have
17 visits to check out the facility, right?
18 BY MR. RUHLEN:
19 Q But would those visits occur during the peak hour
20 period?
21 A Probably not.
22 Q I mean, then you'd be scheduling those as well.
23 MS. ROBESON: Well --
24 MR. BROWN: Are you saying client visits?
25 MR. RUHLEN: Yeah.

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1 MS. ROBESON: Yeah, to get the dog used --
2 MR. BROWN: For evaluations?
3 MS. ROBESON: -- to the --
4 MR. RUHLEN: Right.
5 MR. BROWN: Those would always be during non-peak
6 times.
7 MS. ROBESON: Non-peak period times? Peak period
8 is 6:30 to 9:30 --
9 MR. BROWN: Yeah.
10 MS. ROBESON: -- a.m. and what is it, 3:30 to 6:30
11 p.m.
12 MR. BROWN: Yeah, it would be, they would
13 generally be from about noon until, you know, 2:00, 2:30.
14 THE WITNESS: And again, that is something that is
15 scheduled by the applicant so those trips can be controlled.
16 MR. RUHLEN: Those times in the latest LATR for
17 the peak periods are 6:30 a.m. to 9:30 a.m. I think that's
18 what we just stated.
19 MS. ROBESON: Right.
20 MR. RUHLEN: And 4:00 p.m. to 7:00 p.m.
21 MS. ROBESON: Is that what it is?
22 MR. RUHLEN: Yeah, for the periods.
23 MS. ROBESON: I haven't looked lately.
24 MR. RUHLEN: Yeah.
25 MS. ROBESON: I guess people are working longer.

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1 BY MR. RUHLEN:
2 Q And you did look at sort of the peak, within those
3 peak periods you looked at, when you prepared the traffic
4 exemption, the peak hours within those peak periods, is that
5 correct?
6 A Right.
7 Q And those hours were?
8 A As the applicant said, between 8:00 and 9:00 and
9 5:00 and 6:00.
10 Q And 5:00 and 6:00, okay. And so within the peak
11 hour there is a theoretical number of trips that could be
12 ins and outs associated with customers that would still keep
13 him in compliance, keep him under 30 trips?
14 A Correct.
15 Q And so he could agree to limit the customer
16 arrival and departures in the peak hour that you've
17 identified to no more than that number of customers which
18 would keep everything below --
19 A Correct.
20 Q -- below the 30?
21 A Correct.
22 Q And the maximum number for customer arrival and
23 departures --
24 MS. ROBESON: But what is the peak hour? That's
25 the thing. If I say --

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1 MR. RUHLEN: Right.
2 MS. ROBESON: Pick an hour.
3 MR. RUHLEN: Right, right.
4 MS. ROBESON: I think he said 8:00 to 9:00.
5 MR. RUHLEN: Yeah, he said 8:00 --
6 MR. BROWN: 8:00 to 9:00 in the morning.
7 MR. RUHLEN: -- to 9:00 and he said 5:00 to, I
8 think also said 5:00 to 6:00.
9 THE WITNESS: 5:00 to 6:00. That is right.
10 MR. RUHLEN: Yeah. Right. And that's based on
11 residential versus employment patters in this area of the
12 county, when people would be leaving to get to job centers
13 and that kind of thing and school.
14 THE WITNESS: Right.
15 BY MR. RUHLEN:
16 Q Okay. And that number is a maximum of 13?
17 A Correct.
18 Q Okay.
19 A If you have the shuttle service and the employee
20 service.
21 Q Okay.
22 MS. ROBESON: Now, if you provide anything to
23 staff for further help on their traffic analysis I'm asking
24 you to give me a copy of it as well.
25 MR. RUHLEN: Okay.

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1 THE WITNESS: Sure.
2 MS. ROBESON: Or if you have provided anything
3 else to staff.
4 MR. RUHLEN: No, we have not. We've discussed
5 this throughout this process. Okay. Moving on from
6 parking, are we ready to move on, or from trips, are we
7 ready to move on from that issue?
8 MS. ROBESON: Yeah. Did you address 6.2.7 which
9 is the circulation standards?
10 MR. RUHLEN: We talked about the queuing standard
11 but I don't believe we talked --
12 MS. ROBESON: Oh, that's right, okay.
13 MR. RUHLEN: Right.
14 MS. ROBESON: All right. Okay, go ahead.
15 MR. RUHLEN: Okay.
16 BY MR. RUHLEN:
17 Q We're back into the conditional use requirements
18 so 7.1.3.E.g, will the conditional use cause harm to the
19 neighborhood due to inherent or non-inherent effects? Mr.
20 Hurney, did you take a look at that?
21 A Yes. I mean, the use is compatible so there won't
22 be any impact.
23 Q What did you look at in terms of precedent for
24 inherent effects on that question?
25 A It won't cause any harmful traffic, noise, odor,

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1 dust, you know, illumination.
2 MS. ROBESON: Well, is it, what are the inherent
3 effects of a dog daycare?
4 MR. RUHLEN: Right.
5 BY MR. RUHLEN:
6 Q And have those previously been identified in --
7 A Yeah.
8 Q -- in these kinds of cases?
9 A Right. The four inherent characteristics are
10 usually the vehicle trips to and from, the noise and odor,
11 deliveries and mail parcels and the drop-off and pick-up of
12 dogs.
13 Q And you mentioned a couple of cases but one of
14 them was the special exception in Silver Spring. I believe
15 you were referring to --
16 A Correct.
17 Q -- S-2769?
18 A Right.
19 Q Okay. In that case those were the factors that
20 were identified as the inherent effects?
21 A Yes, they were.
22 Q Okay. How about, I believe we've heard testimony
23 on all of those items but how about non-inherent effects?
24 Are there any that were identified in that case that would
25 be applicable here or are there any non-inherent adverse

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1 effects that you see?
2 A No, there no non-inherent adverse effects that
3 were identified there and I don't see any in this area
4 because of the rural character of the area.
5 Q Right. So that case, S-2769, that property was
6 located in Silver Spring. That was not an agricultural
7 area, correct?
8 A Correct.
9 Q Okay. And the size of the property in that case?
10 A It was a little over an acre I think.
11 Q Okay. Okay. So, in your opinion, balancing those
12 factors and based on much of what we've gone through today,
13 does this use, is this use associated with any harms that
14 would result to the neighborhood from inherent effects and
15 non-inherent effects combined or non-inherent effects on
16 their own?
17 A No. It won't have any effect on this --
18 Q Okay.
19 A -- area.
20 Q In your opinion does this application satisfy all
21 of the applicable Zoning Ordinance requirements?
22 A Yes, it does.
23 Q Okay. And did the Planning Board make a
24 recommendation on this use?
25 A Yes, it did.

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1 Q What did it --
2 A It recommended approval with conditions.
3 Q Okay. Is there anything else that you wanted to
4 add to this?
5 A No.
6 Q Okay.
7 MR. RUHLEN: With that, I know we've had a lot of
8 discussion and many questions. Before we conclude if the
9 hearing examiner has additional questions that you'd like we
10 can have Mr. Hurney or Mr. Brown address those.
11 MS. ROBESON: Yeah, I was just looking through
12 this. I gave you some information I still need. What I'd
13 like to do, I'm going to leave the record open. I'd like to
14 leave the record open for 20 days --
15 MR. RUHLEN: Okay.
16 MS. ROBESON: -- just to give staff time. I'm
17 going to e-mail staff an update on some of the information
18 that you've testified to today.
19 MR. RUHLEN: Okay.
20 MS. ROBESON: And so I want to give them some time
21 to, and if you could e-mail the revised site plan to
22 staff --
23 MR. RUHLEN: Sure.
24 MS. ROBESON: -- that would be helpful. And I've,
25 just going on my notes but I'm going to follow-up, I'm going

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1 to go through everything and make sure I've covered
2 everything and the only reason is I don't want to get to the
3 end of the day and close the record and not have the stuff
4 that I need to make the findings.
5 MR. RUHLEN: Staff indicated that they, that they
6 believe that they'll be able to get their materials likely
7 by this week. I advised them they --
8 MS. ROBESON: Yeah, I know but he doesn't --
9 MR. RUHLEN: should take some more time in case --
10 MS. ROBESON: -- I don't --
11 MR. RUHLEN: I --
12 MS. ROBESON: He doesn't have all the information
13 he needs.
14 MR. RUHLEN: Right, okay.
15 MS. ROBESON: And why he doesn't realize that I
16 don't know but he doesn't have all the information he needs.
17 So, I'm going to forward some of what you've testified about
18 today. I'm going to CC you on everything.
19 MR. RUHLEN: Okay.
20 MS. ROBESON: So if I get it wrong or you disagree
21 you hop in or have Mr. Ruhlen hop in there because I'm not
22 trying to sandbag everybody --
23 MR. BROWN: Sure.
24 MS. ROBESON: -- I just have to have the
25 information in the record.

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1 MR. BROWN: Understood.
2 MS. ROBESON: Okay. So I need to size of the
3 sign, the size of the pole lights, any description of the
4 fixtures. I've got the testimony about the woods, the
5 forest screening it.
6 MR. BROWN: By fixtures description you mean --
7 MR. RUHLEN: The lights.
8 MR. BROWN: -- details of the lights and if the
9 shielding --
10 MS. ROBESON: Yeah, just are they wall mounted,
11 what's the wattage, we usually include all that and that way
12 if anybody says, well if anybody says later, well he's got a
13 flood light and I can see it through this gap in the trees
14 we can say, no, no, you barely can't see it that much.
15 MR. RUHLEN: Yeah.
16 MS. ROBESON: So, that, it's for everybody's
17 protection.
18 MR. BROWN: Sure.
19 MR. RUHLEN: Sure.
20 MR. BROWN: I'm sorry, did I miss one after the
21 description? Was there another point that you mentioned
22 about the --
23 MR. RUHLEN: The size of the signs and the size of
24 the lights in terms of --
25 MS. ROBESON: Size of the lights --

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1 MR. BROWN: Uh-huh.
2 MS. ROBESON: -- I'm just looking --
3 MR. BROWN: You mentioned something about the
4 plantings or the --
5 MS. ROBESON: Oh, I'd like you to, if you want to
6 proffer a condition about how to work with the sales
7 revenue, I would really prefer not to go, have to send an
8 inspector our there --
9 MR. BROWN: Okay.
10 MS. ROBESON: -- and go through your books.
11 MR. BROWN: Okay. So a condition limited to area
12 or something?
13 MS. ROBESON: Something that DPS can just take a
14 tape measure to or something like that.
15 MR. BROWN: Okay.
16 MS. ROBESON: And you say the trees are in the
17 ground, is that correct?
18 MR. BROWN: Correct.
19 MS. ROBESON: Okay. Do you have a problem if I
20 say you have to comply with -- where's that letter, with
21 this forest, it has some maintenance requirements.
22 MR. RUHLEN: No, I think that would be appropriate
23 and I believe that that program operates for a period of 15
24 years which would be prior that Mr. Brown is anticipating --
25 MS. ROBESON: Okay.

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1 MR. RUHLEN: -- complying with it. But as I said,
2 as he testified, that's the documentation that he has so
3 far. There may be more documentation coming, there probably
4 is, but that's where it is today. That's all we have --
5 MS. ROBESON: Okay, that's fine.
6 MR. RUHLEN: -- it's sort of formalizing it today.
7 But, yes, he has a, the very back of that correspondence he
8 has a detailed sort of list of next steps. There's an
9 inspection in the fall and then there's sort of a, an
10 enumeration of kind of ongoing requirements for that
11 program. And maybe the condition there should say
12 something, compliance with the schedule outlined in the --
13 MS. ROBESON: Okay, got you.
14 MR. RUHLEN: -- the DNR plan for so long --
15 MS. ROBESON: That's a good idea.
16 MR. RUHLEN: -- as he, and maybe the best way, for
17 so long as that's being used as the method to satisfy, as a
18 method of alternative compliance --
19 MS. ROBESON: Okay.
20 MR. RUHLEN: -- and if it were to change for some
21 reason, come out of the program before that 15 year period
22 then maybe the condition should say he would have to pursue,
23 you know, the --
24 MS. ROBESON: That's a good idea.
25 MR. RUHLEN: -- a modification for the screening.

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1 MS. ROBESON: Comply with schedule as long as it's
2 used as a conditional --
3 MR. RUHLEN: Yeah.
4 MS. ROBESON: -- as long as the conditional use --
5 MR. RUHLEN: Yeah.
6 MS. ROBESON: -- is being operated.
7 MR. RUHLEN: Yeah.
8 MR. BROWN: Okay.
9 MS. ROBESON: Now, if I can just keep you a moment
10 more, I'm going to go through these and this, are you sure
11 your trash truck is going to be roadside?
12 THE WITNESS: I know, as I said, I live just
13 outside of Laytonsville --
14 MS. ROBESON: Yeah.
15 THE WITNESS: -- and ours is roadside. We take it
16 down and they come by and pick it up. It's out, that area
17 it's all private service it's not the County --
18 MS. ROBESON: Yeah.
19 THE WITNESS: -- other than recycling.
20 MS. ROBESON: Right, right.
21 THE WITNESS: But we do that. Ours comes twice a
22 week but I have to take it down to the curb.
23 MS. ROBESON: Now that's residential service
24 but --
25 THE WITNESS: Right, but I think all of the --

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1 MS. ROBESON: Waste can be done by residential
2 service?
3 THE WITNESS: I think they all do the same, right,
4 right.
5 MS. ROBESON: Okay.
6 MR. BROWN: I can find out for sure too.
7 MS. ROBESON: If you could provide me with that?
8 I really, I'm not saying I'm not going to approve it --
9 MR. BROWN: Uh-huh.
10 MS. ROBESON: -- I just want to make sure --
11 MR. BROWN: Yeah.
12 MS. ROBESON: -- oh, the details of the parking
13 plan showing the --
14 THE WITNESS: Right.
15 MS. ROBESON: -- ADA space.
16 THE WITNESS: Right.
17 MS. ROBESON: Well that's all I have for now.
18 So --
19 MR. RUHLEN: Well I have, there are a couple of
20 additional things --
21 MS. ROBESON: Yeah, go ahead.
22 MR. RUHLEN: -- but we will, we can, I'll go
23 through my notes and if there's anything else we'll provide
24 it anyways but I know we were going to get the electronic
25 copy of the updated site plans.

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1 MS. ROBESON: Oh, yes, I --
2 MR. RUHLEN: I know that --
3 MS. ROBESON: -- definitely need that.
4 MR. RUHLEN: -- also if there's an update that's
5 needed for that rendered site plan --
6 MS. ROBESON: Yes.
7 MR. RUHLEN: -- and then --
8 MS. ROBESON: Just be -- okay.
9 MR. RUHLEN: And then confirm the special
10 exception numbers within the staff neighborhood which I
11 don't know if we'll find any but we'll take a look and see.
12 MS. ROBESON: Okay.
13 MR. RUHLEN: And then you are also looking for
14 a --
15 MS. ROBESON: Conditional use --
16 MR. RUHLEN: -- a memo from staff on the traffic
17 issues.
18 MS. ROBESON: Right.
19 MR. RUHLEN: Okay. And I think between what I
20 just said and what you previously said I think we've --
21 MS. ROBESON: I'll tell you what, I'll just do a
22 follow-up e-mail to you, Mr. Ruhlen --
23 MR. RUHLEN: Okay.
24 MS. ROBESON: -- and just see if I can capture
25 everything.

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1 MR. RUHLEN: That's fine.
2 MS. ROBESON: And then we'll wait for staff and
3 hopefully be good to go.
4 MR. RUHLEN: Sure.
5 MS. ROBESON: The procedure now under the new
6 ordinance is I have 30 days to write a report. I do try to
7 get them out more quickly. This one unfortunately had a
8 delay because I'm going to keep the record open for 20 days
9 which would be June 21st unless that's a Saturday and if
10 it's a Saturday it would be the following Monday.
11 MR. RUHLEN: Okay.
12 MS. ROBESON: If that's, if that's not enough time
13 for staff I'll e-mail you back.
14 MR. RUHLEN: Sure. Sure, sure.
15 MS. ROBESON: But --
16 THE WITNESS: I believe the 21st is a Sunday.
17 MS. ROBESON: Okay. Thank you, sir. June 22nd.
18 And I'm going to try to get all staff's part of it in within
19 10 days and then you have 20 days to respond.
20 MR. RUHLEN: Sure.
21 MS. ROBESON: I'd really be interested in the
22 condition, you know, if it makes sense I'll accept a
23 condition you write about how to deal with the 20 percent --
24 MR. RUHLEN: With the revenue.
25 MS. ROBESON: -- sales issue, yeah.

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1 MR. RUHLEN: Have you, did you indicate that you,
2 you suggested to staff that that should also be included in
3 the ZTA --
4 MS. ROBESON: Yeah.
5 MR. RUHLEN: -- Omnibus? Okay. Would it be
6 helpful for us to follow-up with them about that and just
7 find out --
8 MS. ROBESON: That would be fine. I don't know if
9 I copied Fred Boyd on it but I did copy the ZTA --
10 MR. RUHLEN: I don't think it's a substitute for
11 the condition because we don't know how long it will take to
12 do that ZTA but it would be good to know if that's in the
13 works, so.
14 MS. ROBESON: Yeah. And then if you ever want to
15 modify it at least you'll have a --
16 MR. RUHLEN: Yeah, I can just write a letter and
17 maybe do a minor modification --
18 MS. ROBESON: Yeah, exactly. And you know, you
19 may want to estimate, I know you don't want to do grooming
20 now --
21 MR. BROWN: Uh-huh.
22 MS. ROBESON: -- but I tell you, the kennel we
23 take our dog to, getting our dog back from vacation all
24 cleaned up, that's a pretty nice thing.
25 MR. BROWN: Sure, yeah.

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1 MS. ROBESON: So, I don't want to force your hand
2 but if you want to go to the max, I'm not requiring you to
3 locate it in a particular place --
4 MR. BROWN: Okay.
5 MS. ROBESON: -- but you may want to take the
6 maximum that you think would generate 20 percent of the
7 business, you have to provide me with a reason why --
8 MR. BROWN: Sure.
9 MS. ROBESON: -- that square footage correlates to
10 20 percent of the revenue.
11 MR. RUHLEN: Maybe it's a number of facilities --
12 MS. ROBESON: Stations.
13 MR. RUHLEN: -- stations or something like that.
14 MS. ROBESON: It could be that.
15 MR. RUHLEN: Maybe we identify, you know, you have
16 how many faucets in an area that are going to be used and if
17 you were to increase the number you've got, you're going to
18 need more.
19 MS. ROBESON: Yeah.
20 MR. RUHLEN: Something like that.
21 MS. ROBESON: Something, that's --
22 MR. RUHLEN: We'll take a look at it.
23 MS. ROBESON: That's not a bad, that makes more
24 sense that you can do one or two at a time, but --
25 MR. RUHLEN: Well, Mr. Brown, you know, tried to

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1 contend with that requirement and tried to address that but
2 we understand why it's difficult especially from an
3 enforcement standpoint but we really do appreciate you
4 putting the attention on it because I think it would be a
5 little egregious for the conditional use inspectors to come
6 around and demand access to your Excel sheets.
7 MS. ROBESON: Well, I used to do all the zoning
8 and other code enforcement for Anne Arundel County --
9 MR. RUHLEN: Yeah.
10 MS. ROBESON: -- so I'm very attuned to --
11 MR. RUHLEN: Right.
12 MS. ROBESON: -- people not wanting --
13 MR. RUHLEN: Right, sure.
14 MS. ROBESON: -- you know, their tax returns in a
15 zoning case, so.
16 MR. RUHLEN: Sure.
17 MS. ROBESON: Anyway --
18 MR. RUHLEN: Well we appreciate it and do you have
19 any further questions for us today?
20 MS. ROBESON: I think I'm good. I'm going to
21 follow-up hopefully today by e-mail with --
22 MR. RUHLEN: Okay.
23 MS. ROBESON: -- the list of items that we came up
24 with. I'm going to e-mail it to Fred. I'm going to add
25 some of the details you brought up mostly about the traffic.

1 You're going to send in a site plan. If I've got something
2 wrong, Mr. Ruhlen, you jump in --

3 MR. RUHLEN: Okay.

4 MS. ROBESON: -- and I don't, I can't send an e-
5 mail to you personally --

6 MR. RUHLEN: That's right, it's fine, it's fine.

7 MS. ROBESON: I will send it to you. If you see
8 anything wrong jump in --

9 MR. RUHLEN: Okay.

10 MS. ROBESON: -- and we'll get this thing on the
11 road.

12 MR. RUHLEN: Okay.

13 MS. ROBESON: Okay?

14 MR. RUHLEN: Well we appreciate your time today.

15 MS. ROBESON: Okay. I appreciate your working --

16 MR. BROWN: Thank you.

17 MS. ROBESON: -- with us.

18 THE WITNESS: Thank you.

19 MS. ROBESON: Thank you very much.

20 MR. RUHLEN: Thank you.

21 MR. BROWN: Thank you.

22 (Whereupon, at 12:05 p.m., the hearing was
23 concluded.)

24

25

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 Petition of Brown Dog's Day Pet Care, LLC
8 Case No. CU-15-03

9

10 By:

11

12

13

14

15 Brandon Fields, Transcriber

16

17

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A	56:25;57:5;82:3;84:18; 90:2;93:5,12;95:18,24; 97:25;100:7;107:16; 110:13;112:23;113:1	affect (1) 94:1	72:13,15	61:15;65:6;66:10; 69:12,24;74:21,24; 76:10;82:16;91:2; 111:3;124:7;137:20
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