

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS  
FOR MONTGOMERY COUNTY

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:  
PETITION OF SMART-ED EARLY : CU 15-08  
LEARNING CENTER :  
:  
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A hearing in the above-entitled matter was held on June 24, 2016, commencing at 9:38 a.m., at the Office of Zoning and Administrative Hearings, 100 Maryland Avenue, Rita Davidson Memorial Hearing Room, Rockville, Maryland 20850 before:

Martin A. Grossman  
Hearing Examiner

A P P E A R A N C E S

On Behalf of the Petitioner:

Jude Wikramanayake, Esq.

C O N T E N T S

Witnesses:	Direct	Cross	Redirect	Recross
Samina Alizai	15	--	--	--
Nea Mallo	30	--	--	--

P R O C E E D I N G S

1 MR. GROSSMAN: This is a public hearing in the  
2 matter of Samina Alizai doing business as Smart-Ed Early  
3 Learning Center, OZAH No. CU 15-08, an application for a  
4 conditional use pursuant to Zoning Ordinance Section 59-  
5 3.4.4.4(f) to allow a child daycare center for up to 93  
6 children. The subject property is Parcel N-120 in the White  
7 Oak Gardens Apartments, located at 11624 Lockwood Drive in  
8 Units T-1, T-2, and T-3, at 11628 Lockwood Drive, and in  
9 Units T-2 and T-3. I guess the other one is 11624 Lockwood  
10 Drive, Silver Spring, Maryland 20904, in the R-20 zone.  
11 The applicant leases the apartments and the  
12 property owner 72 Barrow Street Realty, has authorized this  
13 application through its agent, Scott Fixell. The previous  
14 operator of the daycare center was Kamini Wayal, under the  
15 name of ABC Scholar. On November 18, 2012, Ms. Alizai  
16 purchased the childcare business from Ms. Wayal. The Board  
17 of Appeals issued a resolution transferring Special  
18 Exception S-82 to Ms. Alizai effective June 23, 2015.  
19 That's Exhibit 43(a). Approval of this conditional use  
20 would increase the number of children by 20 for a total of  
21 93, with the additional children to be located in Unit T-3  
22 at 11628 Lockwood Drive. The addition of Unit T-3 at 11638  
23 Lockwood Drive would also bring to five the total number of  
24 apartment units in the subject site. A conditional use is

1 required for a childcare facility for nine or more children  
2 in the R-20 zone.  
3 My name is Martin Grossman, I'm the hearing  
4 examiner, which means I will write a report and decision in  
5 this case. Will the parties identify themselves, please,  
6 for the record.  
7 MR. WIKRAMANAYAKE: Jude Wikramanayake, on behalf  
8 of the applicant/petitioner. And to my left is Ms. Samina  
9 Alizai, who is the applicant. On my right is Nea Mallo, the  
10 architect.  
11 MR. GROSSMAN: I'm sorry?  
12 MS. MALLO: Nea Mallo, Architect.  
13 MR. GROSSMAN: All right, Ms. Mallo. And, I see  
14 nobody else in the audience here. Obviously, if there were  
15 other people here, they would be able to testify as well.  
16 Do you have any additional witnesses today, other than Ms.  
17 Alizai and Ms. Mallo?  
18 MR. WIKRAMANAYAKE: No.  
19 MR. GROSSMAN: Okay. All right. Let me describe  
20 these proceedings to you. First of all, they are similar to  
21 a courtroom. All witnesses are sworn in. They're subject  
22 to cross-examination, if there were anybody here to cross-  
23 examine. There's a court reporter who takes everything  
24 down, and we put a transcript of the proceedings on our  
25 website, when it's available, usually in a week to 10 days,

1 for your review. It's an oral procedure in that the  
2 witnesses are called, and if there were opposition, then  
3 they would be called.  
4 This is an application for a conditional use. It  
5 used to be called a special exception. Conditional use is a  
6 better term, because people thought when they heard special  
7 exception, that it was like a variance, which it's not. It  
8 is a use that is permitted under the zoning ordinance if  
9 certain criteria are met, both specified general criteria  
10 that apply to all conditional uses, and specific ones that  
11 apply to the one you're applying for.  
12 All right. Let me start out, since we have so few  
13 witnesses here. Would the two witnesses raise their hands,  
14 please. Raise your right hand, I'm going to swear you in.  
15 (Witnesses sworn.)  
16 MR. GROSSMAN: I should note that a motion to  
17 amend the application was noticed on April 15, 2016, Exhibit  
18 98, and was granted automatically when there was no  
19 opposition to that motion to amend received within a 10-day  
20 period. Also, a parking waiver has been requested here  
21 regarding the number of spaces to be provided. And, as  
22 required by the zoning ordinance, the applicant has sent out  
23 a notice of the proposed parking waiver to the required  
24 recipients on May 17, 2016, that's Exhibit 99.  
25 We also need an Affidavit of Posting. Usually my

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1 staff is always way ahead of me, so maybe they've already  
2 done that with you. They have, and it's Exhibit 104. Why  
3 is they're always two steps ahead of me? Ellen is great,  
4 and Sara. Okay, and she already entered that on the list.  
5 Now, I e-mailed me and you acknowledged receiving  
6 it, a list of additional conditions that I may impose if  
7 this conditional use is granted. Some of them are typical  
8 of this kind of case. Some of them come from the report I  
9 filed in a decision in Kamini Wayal case. So let me start  
10 out with, do you accept the Technical Staff's finding in  
11 Exhibit 101, that is the Technical Staff Report, as part of  
12 your own evidence?  
13 MR. WIKRAMANAYAKE: Yes, we accept it, and I'll go  
14 one step further and say that we agree with all the  
15 recommendations that Staff had.  
16 MR. GROSSMAN: Okay. Yeah, then that was the  
17 second part, the first are the findings. The second part  
18 are their recommended conditions in Exhibit 101, which were  
19 accepted by the Planning Board, they had recommended seven  
20 conditions, as I recall. And you accept all of those?  
21 MR. WIKRAMANAYAKE: Yes.  
22 MS. ALIZAI: Yes.  
23 MR. GROSSMAN: Okay. Now, the additional 11  
24 conditions that I e-mailed out to you, that would be 8  
25 through 18, do you accept those if those are imposed?

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1 MR. WIKRAMANAYAKE: We do. I had an opportunity  
2 to -- my client had an opportunity to review them, and our  
3 architect had an opportunity to review them. We would  
4 request some clarification, if possible, on a few of those  
5 items.  
6 MR. GROSSMAN: All right. Well, do you want to  
7 handle that now, or do you want to do it as part of your  
8 presentation of your case? How do you wish to proceed?  
9 MR. WIKRAMANAYAKE: Well, if it's acceptable to  
10 you, I'd like to just ask you now so that I can ask the  
11 appropriate questions when Ms. Alizai testifies.  
12 MR. GROSSMAN: Absolutely.  
13 MR. WIKRAMANAYAKE: And do you prefer to be called  
14 by your full name, or Mr. Wikramanayake? What do you  
15 prefer, sir?  
16 MR. WIKRAMANAYAKE: Whatever you prefer. I mean,  
17 I know I have a long name. I've been called worse but,  
18 counsel or Mr. Wikramanayake is fine, anything you'd like,  
19 Your Honor.  
20 MR. GROSSMAN: Okay. All right, thank you.  
21 MR. WIKRAMANAYAKE: If I may, No. 17, when you say  
22 that the applicant must submit a sign application for the  
23 child daycare facility proposing signs location to the Sign  
24 Review Board for approval, this is the sign to announce to  
25 the public the existence of the use, correct?

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1 MR. GROSSMAN: That's correct.  
2 MR. WIKRAMANAYAKE: Are you requiring a sign, or  
3 are you just saying that any signs currently on the --  
4 MS. ALIZAI: The one which is on.  
5 MR. GROSSMAN: I'm not requiring that you have a  
6 sign posted. What I'm trying to say is that, the zoning  
7 ordinance has pretty strict regulations governing the nature  
8 of signs that are permitted, and it differs from zone to  
9 zone.  
10 MR. WIKRAMANAYAKE: Okay, right.  
11 MR. GROSSMAN: And, so you have to comply with  
12 that. I don't know what is posted now. You can present  
13 that in your evidence. Usually, if a sign is posted it  
14 requires a permit. If, in fact, the sign will, let's say,  
15 be a larger area, and for example, in a residential zone,  
16 ordinarily the sign size permitted is two square feet of  
17 sign. If it's going to exceed that amount, then you have to  
18 get what's called a sign variance. It's not the same as the  
19 variances that you get from the Board of Appeals. It's done  
20 by an application to a sign review board, and then they can  
21 decide. And, you know, unless the sign is outlandish, I  
22 don't think I would have a problem with it. But, you have  
23 to meet the regulations or get a sign variance. What kind  
24 of sign is there now, Mr. Vikramanayake?  
25 MR. WIKRAMANAYAKE: She will --

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1 MS. ALIZAI: It is 18 by -- it is within, you  
2 know, the regulation.  
3 MR. WIKRAMANAYAKE: There's more than one sign.  
4 MR. GROSSMAN: Okay.  
5 MS. ALIZAI: And not one of the signs is more than  
6 two feet.  
7 MR. GROSSMAN: There's more than one sign? I  
8 mean, I haven't looked -- I can't recall getting another  
9 application like this, other than Wayal in the R-20 zone, so  
10 I don't recall off the top of my head what the sign  
11 regulation is for that, because it's not detached  
12 residential zone. So I'm just not sure, and you know, you'd  
13 have to check that out and make sure that the sign, whatever  
14 sign is in existence, you either have a permit for already,  
15 which is possible, because this was probably a requirement  
16 in the Wayal case, or that you get a permit for it, and that  
17 a copy of that permit is on file with us.  
18 MR. WIKRAMANAYAKE: Okay. Just a clarification.  
19 So in essence, for any and all, we'll say signs currently  
20 erected or to be erected, they must meet the approval of the  
21 Sign Review, Board?  
22 MR. GROSSMAN: Well, they have to meet the  
23 approval of the Department of Permitting Services if they  
24 are going to be in excess of what is permitted in the zone,  
25 the Department of Permitting Services will require that you

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1 get a variance from the Sign Review Board.  
2 MR. WIKRAMANAYAKE: Okay, understood. Thank you.  
3 Then on Number 18, I understand that that's pretty standard  
4 language.  
5 MR. GROSSMAN: It is exactly standard language.  
6 We use it in all of our conditional uses.  
7 MR. WIKRAMANAYAKE: Okay. I just wanted to be  
8 clear if there is an opportunity for the applicant to take  
9 advantage of any potential grandfathering conditions that  
10 may exist on the site, I wanted to make sure that there was  
11 no objection that you had if that actually happened.  
12 MR. GROSSMAN: I'm not sure I understand that  
13 question, because when you say grandfathering, you mean  
14 that she would apply a prior regulation or one that  
15 previously existed either in the zoning ordinance or some  
16 other county rule, is that what you're talking about or  
17 what?  
18 MR. WIKRAMANAYAKE: I'm sorry. Let me clarify.  
19 So, the architect has the ability when applying for permits  
20 and approvals to cite the age of the building or the prior  
21 use as a way to request that the governing body that's  
22 issuing the permit or regulation to consider and precisely  
23 which set of regulations apply.  
24 MR. GROSSMAN: Yes.  
25 MR. WIKRAMANAYAKE: So I just didn't want anything

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1 that said in this -- or in your opinion or condition -- to  
2 prevent us from utilizing any potential ability to  
3 grandfather the use, if we could.  
4 MR. GROSSMAN: Okay. Well, the only problem I  
5 have is the use of the term grandfather, because it's taking  
6 on a very specific meaning in the context of the zoning  
7 ordinance, the 2014 zoning ordinance as applied, and there  
8 are very confusing sections in the zoning ordinance applying  
9 or specifying when older zoning ordinances apply, and when  
10 they can be followed. And I say it's an issue that is  
11 currently being discussed as to how we apply it. So, I'm  
12 not sure whether I'd use the term grandfathering, but my  
13 intent is that the applicant, if a conditional use is  
14 granted, follow all applicable laws, regulations, and so on  
15 of the county and the state.  
16 This is not so much aimed at the zoning ordinance  
17 because this procedure is going to determine the following  
18 of the zoning ordinance. I'm talking about safety  
19 regulations, things like that, that are administered by the  
20 fire department, permitting regulations that are  
21 administered by the Department of Permitting Services, and  
22 so on. You have to follow all of those. Regulations of the  
23 state regarding operating a childcare facility. So that's  
24 the intent of this catchall.  
25 MR. WIKRAMANAYAKE: Okay.

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1 MR. GROSSMAN: It's been around for many years.  
2 And we include it in all conditional use applications and  
3 decisions on it. And so does the Board of Appeals.  
4 MR. WIKRAMANAYAKE: Thank you.  
5 MR. GROSSMAN: All right. Let's see where we are  
6 now. Are there any other preliminary or procedural matters  
7 that you want to talk about?  
8 MR. WIKRAMANAYAKE: No. I just wanted to make  
9 sure that all the exhibits were part of the record and there  
10 was no issue with any of the exhibits that are listed.  
11 MR. GROSSMAN: Right. Usually at the end of the  
12 hearing, you'd make a motion to admit all the exhibits, and  
13 we routinely admit all the exhibits.  
14 MR. WIKRAMANAYAKE: Okay. So I'm going to save  
15 that to the end, okay.  
16 MR. GROSSMAN: Do you wish to make an opening  
17 statement then?  
18 MR. WIKRAMANAYAKE: Certainly, yes.  
19 MR. GROSSMAN: Not required, but you may.  
20 MR. WIKRAMANAYAKE: Okay, I'll be brief. This is  
21 an attempt to expand a daycare facility into an adjoining  
22 unit that shares a common wall at 11628 Apartment T-3 to  
23 allow the expansion of an additional 20 children. As one of  
24 the commissioners during the Planning Board said, this is  
25 one of those uses that she actually would like to encourage

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1 more of. It serves the community. It's primarily based in  
2 this neighborhood, so there isn't a lot of vehicular traffic  
3 in. And, Ms. Alizai will testify that from staff to  
4 parents, to obviously the children, they're all within  
5 walking distance, very close proximity. So the impact on  
6 the neighborhood is very minimal, and it's actually  
7 advantageous and consistent with the goals of the master  
8 plan. And frankly, consistent with the planning goals of  
9 our community, to encourage daycare centers and sort of  
10 walking to work type situations to take advantage of the  
11 greenspace in our community.  
12 It's a well-supported application. I think  
13 there's quite a few letters of support that predated even my  
14 involvement, but indicating that this is something that is  
15 desired by members of the community. As the staff at Park  
16 and Planning has submitted, it is compliant with the  
17 applicable zoning regulations, and we would respectfully  
18 request, given that it's not engaging in any new expansion  
19 of footprint, it's in essence an existing use that's just  
20 merely expanding into another room. We would ask that you  
21 approve it subject to all the conditions that you've set  
22 forth, as well as the conditions of the planning staff.  
23 MR. GROSSMAN: All right. And, are there specific  
24 letters of support that you're pointing to in the file?  
25 MR. WIKRAMANAYAKE: Well, I can -- I could

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1 actually submit them if you would give me a moment.  
2 MR. GROSSMAN: I just wondered if they're in the  
3 file already.  
4 MS. ALIZAI: Is that Exhibit 20?  
5 MR. WIKRAMANAYAKE: It might be Exhibit 20. Thank  
6 you. Actually, is there -- may I actually take a look at  
7 the exhibit list, if you have them?  
8 MR. GROSSMAN: You don't have one on the table  
9 there?  
10 MR. WIKRAMANAYAKE: No, no, the actual hard copy  
11 of the exhibits.  
12 MR. GROSSMAN: You mean the file?  
13 MR. WIKRAMANAYAKE: Yes.  
14 MR. GROSSMAN: You're certainly welcome to look at  
15 the file.  
16 MR. WIKRAMANAYAKE: Thank you.  
17 MS. ALIZAI: It's No. 20.  
18 MR. GROSSMAN: And here's the file. There's a  
19 pre-amendment, before you amended it, and the post  
20 amendment. But you're welcome to look at the whole thing.  
21 MR. WIKRAMANAYAKE: Thank you.  
22 MR. GROSSMAN: I just don't recall any -- seeing  
23 them, and maybe you have them.  
24 MR. WIKRAMANAYAKE: I don't know if I actually  
25 copied them.

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1 MR. GROSSMAN: I mean, you've got the letters from  
2 Scott Fixell.  
3 MR. WIKRAMANAYAKE: I saw that. I just --  
4 MR. GROSSMAN: There's letters of reference it  
5 says, No. 20. Take a look at No. 20, (a) through (h).  
6 MR. WIKRAMANAYAKE: Yeah. It is No. 20. There's  
7 approximately eight -- they're tabbed at Exhibit 20.  
8 MR. GROSSMAN: All right.  
9 MR. WIKRAMANAYAKE: They were in Exhibit 20 (a)  
10 through (h), about eight, just some letters of parents that  
11 are supportive of the current situation.  
12 MR. GROSSMAN: Right. It can't hurt. All right,  
13 you may proceed to call your first witness.  
14 MR. WIKRAMANAYAKE: Thank you. If I may call  
15 Samina Alizai, please.  
16 1 MR. GROSSMAN: All right. Ms. Alizai, would you  
17 state your full name and address, please?  
18 DIRECT EXAMINATION  
19 MS. ALIZAI: Yes. My name is Samina Alizai, and  
20 I'm currently operating as Smart-Ed Early Learning Center,  
21 Daycare Center at White Oak Gardens. And, I've completed my  
22 three years and it has been really worth spending my time  
23 there, and being able to serve this community. All these  
24 children, they don't deserve, you know, to be with nannies  
25 and other, you know, helpers who do not really tap into

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1 their learning and grow up needs. Since I have academic  
2 background, I have done research in child development. I  
3 have been head of the department in University of London  
4 teaching Bachelor's courses for early childhood education.  
5 So I went for the best curriculum for children ages three to  
6 five, which has got five star from Maryland State Department  
7 of Education. And we are implementing that.  
8 So all these children, they don't have to go to  
9 the babysitters anymore. Because when moms work only part-  
10 time, they can only afford babysitters. So if they have  
11 one, you know, daycare center at walking distance, not  
12 everybody has got cars. So this daycare has been really a  
13 blessing for this community. They just walk down. It  
14 rains, thunderstorms, snow, but my daycare center is open  
15 because I have staff that is from the same community. So we  
16 operate this daycare center in really a good way, which  
17 facilitates all these moms who are single, other families,  
18 to just bring their children in and these children spend  
19 very, very productive time in the daycare center.  
20 And I was so lucky to have this playground as  
21 well. So they can play. They can learn. And we also  
22 provide them breakfast, lunch and afternoon snack. So, I  
23 never have to advertise it. It's the word of mouth. But  
24 everybody comes in. And, it is such an interesting place.  
25 Dynamics change, you know, every other day. Now, yesterday

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1 I had enrollment of five siblings, which are next door  
2 neighbors. So isn't it a blessing for them. And this is  
3 single dad. He was so happy that the kids he can bring them  
4 here. And since my staff is qualified, obviously as I  
5 mentioned here, I have academic background. I train staff.  
6 So, after all that training, they're being able to provide  
7 the best possible start to these children. So in a way it  
8 is very, you know, good moment for me that I'm being able  
9 to, you know, expand to it. End of the day, this is  
10 business too. So I can see profit as well. I'll be honest.  
11 So this is helping community. They can bring their children  
12 here, and they can go off to work.  
13 MR. GROSSMAN: Okay. Do you have anything  
14 additional?  
15 MR. WIKRAMANAYAKE: I have just a few questions.  
16 MS. ALIZAI: Yes, please, sure.  
17 BY MR. WIKRAMANAYAKE:  
18 Q How many children are there currently on the units  
19 that you're using?  
20 A I have got 73 children.  
21 Q Okay. Do you have them broken down by the current  
22 units?  
23 A I have to comply with office of licensing  
24 requirements. I have to take pre-approval is I make any  
25 minor change. So there is a set pattern of operating this

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1 daycare center, and I'm following the same pattern which was  
2 being followed by Kamini Wayal. I have got infant room. I  
3 have got two-year-old room. I've got three-year-old room.  
4 Four-year-old room, and then before and after care. So  
5 since a Head Start Program has started and it has expanded  
6 in the community, children attend that school for two and a  
7 half hours.

8 There is a greater demand for those children who  
9 are four, and since it is -- I mean, if you look at  
10 economic, you know, situation of that place, many families  
11 are eligible, you know, to send their children to Head Start  
12 Program. It is only two and a half hours. If moms go to  
13 work, they need daycare. Since we do before and after care  
14 program, children are dropped off in the morning to the  
15 daycare. They go to school for two and a half hours. A few  
16 children go at two o'clock. A few children go at 12  
17 o'clock. They are on schedules in Head Start schools. so  
18 now there's a greater demand for the daycare for ages 4 to  
19 5. So that those children who have got their school of two  
20 and a half hours at all time, they could be at the daycare  
21 and parents could work.

22 Q Okay. Is the -- can you explain why you desire to  
23 specifically expand to unit T-3? Why age group do you  
24 intend to serve?

25 A Again. I will look at office of childcare

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1 requirements, and then I'm going to go ahead with, you know,  
2 making a decision considering enrollments. I have got more  
3 demand of four to five.

4 Q Is there a present waiting list for your daycare  
5 center?

6 A I have got, as I told you, my enrollment is full.  
7 So at this time I cannot enroll more children but, five  
8 children who have moved to this area, they are obviously  
9 next door neighbors. They are waiting.

10 Q So there is a waiting list.

11 A And the other nine children. So, I do have 14  
12 children on the waiting list.

13 Q Okay.

14 A And many queries in a day. My phone keeps  
15 ringing.

16 Q And, could you tell us in terms of distance where  
17 the majority of the children come from?

18 A Okay. It's White Oak Garden alone. My own  
19 apartment complex I have 14 children, and as you look, you  
20 know, behind the daycare, and they just walk through, you  
21 know, a daycare walkway. I have around 13 children on the  
22 right side, 14 children on the left side, and then, Enclave  
23 Apartments, that is beyond signal, I've got four children.  
24 The rest are all down there in Montgomery Apartments which  
25 is next to my apartment complex. On my side of complex.

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1 Q Would you say that over approximately 90 percent  
2 of your current enrollment --

3 A And, seven children -- sorry to cut you -- seven  
4 children, my own staff children.

5 Q Oh, okay.

6 A And, when I say these children coming in, they are  
7 siblings. So three siblings, four siblings from one family.  
8 Bless them, they have big families.

9 Q Would you say that the vast majority, 90 percent  
10 of the children are within --

11 A You know what, it's more than 90 percent now.

12 Q Okay.

13 MR. GROSSMAN: He has to finish the question. So  
14 let Mr. Wikramanayake finish his question before you answer.

15 THE WITNESS: Okay.

16 BY MR. WIKRAMANAYAKE:

17 Q What percentage of children that are enrolled in  
18 the current center are within less than a quarter mile?

19 A Okay, 90 percent.

20 Q Okay.

21 A Definitely. Thank you.

22 Q Do you expect that trend to continue if you're  
23 permitted to expand into 11628 T-3?

24 A Yes.

25 Q Yes?

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1 A Yes. Definitely.

2 Q Do you advertise or solicit for business outside  
3 that area?

4 A I actually have not done that so far. I've never  
5 done any advertisement. I didn't have to, because this  
6 daycare already had a way good reputation.

7 Q Can you tell us what the traffic situation looks  
8 like on a daily basis, how many cars are typically there  
9 dropping off children?

10 A In the morning I have only school age children who  
11 mostly come between 6:30 to 8:00. And then they are off to  
12 their bus stops. So, between that time I have got four  
13 siblings who walk down from within the apartment complex,  
14 and the other four are my teachers children, so they come  
15 with them. There's just one car that comes in, in the  
16 morning at 6:40 everyday, because mom goes to work in D.C.  
17 So these three siblings come with one car. There is one car  
18 which comes in at 7:00 to drop off my staff. The rest walk.  
19 So around three or four cars come in between 6:30 to 8:00.  
20 And 8:00 to 9:00, I have around six children who come in, in  
21 two cars. The rest all walk.

22 Q Currently how many parking spaces are allocated  
23 for the use?

24 A We have four. And, since Scott has allowed me to  
25 get two more, so all together it's going to be six.

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1 MR. GROSSMAN: That's Mr. Scott Fixell?  
2 THE WITNESS: Yes, please.  
3 BY MR. WIKRAMANAYAKE:  
4 Q So the landlord's representative is Mr. Scott  
5 Fixell, is that correct?  
6 A Scott Fixell.  
7 Q And he's indicated that you will have a total of  
8 six parking spaces --  
9 A Six parking spaces.  
10 Q Okay. Now, do you envision that the parking  
11 spaces based on your current capacity and expected future  
12 capacity, do you think that the six parking spaces will be  
13 fully utilized?  
14 A I mean, it depends. Things change. Currently,  
15 situation that I have seen for last three years, we are  
16 good. So six parking spaces will not create any safety  
17 hazard for my children.  
18 Q But, the parking spaces are generally not used  
19 because people don't use vehicles there, correct?  
20 A Yes.  
21 MR. GROSSMAN: That's a very leading question, but  
22 I understand.  
23 MR. WIKRAMANAYAKE: Okay. Sorry.  
24 THE WITNESS: Yeah. So, I didn't understand your  
25 question.

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1 MR. WIKRAMANAYAKE: I think you answered it.  
2 THE WITNESS: Okay. I'm sorry about that. I  
3 mean, because I have been here for last three years. These  
4 parking spaces are hardly used. One, I had one unannounced  
5 inspection by zoning, and around 19 parking spaces were  
6 there. And then Michael Bello, he also visited, and he came  
7 pretty early in the morning and he saw all parking spaces  
8 empty.  
9 MR. GROSSMAN: Are those parking spaces marked off  
10 as reserved for your use?  
11 THE WITNESS: Yes, please.  
12 MR. GROSSMAN: Okay. They have a little sign  
13 there that says that?  
14 THE WITNESS: Yes. Four of these.  
15 BY MR. WIKRAMANAYAKE:  
16 Q And, will the other two also have the same reserve  
17 designation?  
18 A If you say yes, I will order it tomorrow.  
19 Q It is requested. In fact, have you had an  
20 opportunity to look at the recommendations from Park and  
21 Planning Staff?  
22 A Oh yes, definitely.  
23 Q And I'm referring to the seven conditions on page  
24 2 of the Staff Report.  
25 A Yes, please. Yes.

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1 Q Specifically, the request for a bike rack. Have  
2 you seen that?  
3 A Yes. It is for \$98 only. So, it is being  
4 installed this week.  
5 MR. GROSSMAN: That's Exhibit 101.  
6 BY MR. WIKRAMANAYAKE:  
7 Q Are you able to fully comply with the seven  
8 recommendations set forth in the Park and Planning Staff  
9 Report?  
10 A Definitely.  
11 Q And you've had an opportunity -- we received a  
12 communication from the Office of Zoning and Administrative  
13 Hearings, is that correct?  
14 A Yes.  
15 Q And there were 18 conditions set forth?  
16 A Yes.  
17 Q Which is on Exhibit 103?  
18 A Yes.  
19 Q Are you able to fully comply with those  
20 conditions?  
21 A Yes. Yes, definitely.  
22 Q Could you tell us a little bit about the current,  
23 the specific signs that say that you are in business?  
24 A Okay. I have got these three signs. They're  
25 actually the same size as ABC Scholar had, because I wanted

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1 to be in compliance, no changes were made. Only name was  
2 different.  
3 Q Okay.  
4 A Exactly the same location. I didn't use any new  
5 location to put up a sign.  
6 Q Tell us where the signs are.  
7 A One sign is located right at the entrance of the  
8 daycare center, apartment complex.  
9 Q Is that on the street?  
10 A It is actually before that walkway.  
11 MR. GROSSMAN: Do you have a photograph of that?  
12 Or is it on your site plan?  
13 MR. WIKRAMANAYAKE: I don't believe it is on the  
14 site plan, but let me confirm. Yeah, I don't believe we  
15 have -- we don't -- I don't believe we have a --  
16 MR. GROSSMAN: I don't recall seeing a picture of  
17 it in the staff report.  
18 THE WITNESS: It is -- yeah, staff recommendation  
19 had it.  
20 MR. WIKRAMANAYAKE: Yes, we do have the sign on  
21 the back -- in our exhibits, and I can show you, but it's  
22 not the sign. I don't think it's the sign she's referring  
23 to. I'll proffer there's about four signs. There's one at  
24 the entrance and one at the exit, which she's referring to,  
25 that's not pictured or shown on the site plan. And then

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1 there is a sign right outside the daycare facility, which is  
2 shown on -- it's actually outside the main entrance to the  
3 door.  
4 THE WITNESS: The main entrance.  
5 MR. GROSSMAN: What are you looking at, Mr.  
6 Wikramanayake?  
7 MR. WIKRAMANAYAKE: I'm looking at --  
8 MR. GROSSMAN: Well, there are photos attached to  
9 the staff report. Is that what you're talking about?  
10 MR. WIKRAMANAYAKE: Yes.  
11 MR. GROSSMAN: Okay.  
12 MR. WIKRAMANAYAKE: Attachment 2F.  
13 MR. GROSSMAN: Okay. Oh, I see. Welcome to  
14 Smart-Ed Early Learning Center. Okay, I see that on the  
15 door. All right.  
16 BY MR. WIKRAMANAYAKE:  
17 Q Other than the sign that's on attachment 2F, and  
18 the sign at the entrance and the exit, are there any other  
19 signs?  
20 A That's all.  
21 MR. GROSSMAN: There appears to be a sign -- look  
22 at attachment 2A. And it appears to be a sign on the right  
23 hand side, and I can't read it, it's too small. Is that one  
24 of yours?  
25 THE WITNESS: Yes. This is the daycare center

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1 sign.  
2 BY MR. WIKRAMANAYAKE:  
3 Q Is that one of the two signs that you're  
4 describing?  
5 A Two signs actually are at the entrance of the  
6 apartment complex, and exit of apartment complex.  
7 Q Okay. So that's a different sign?  
8 A This is the third one. I was telling you three  
9 signs.  
10 Q Okay.  
11 A So this is the third sign on the fence.  
12 Q Okay. You don't consider Exhibit 2F --  
13 A This one actually is inside my door, glass door.  
14 So we have put up a poster.  
15 MR. WIKRAMANAYAKE: Okay. So, I think there's  
16 four signs, but perhaps attachment 2, Exhibit F, she doesn't  
17 consider that a sign because it's not --  
18 THE WITNESS: It's a poster.  
19 MR. GROSSMAN: Well, I guess the question is, is  
20 the sign in 2F publicly visible or is it within your  
21 structure?  
22 THE WITNESS: Mr. Grossman, since all my clients  
23 have to come downstairs, so public cannot really -- my  
24 daycare center is not on the eye level if you stand outside  
25 in the parking space.

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1 MR. GROSSMAN: Okay.  
2 THE WITNESS: So as you come down and open the  
3 door, you definitely see this.  
4 MR. GROSSMAN: Okay. I guess the answer would be,  
5 Department of Permitting Services would have to determine  
6 whether that fits within the strictures of whatever's  
7 allowed in this zone for signs, and they can make that  
8 determination and then, if you're required to get a sign  
9 variance, I mean, I don't find any of the signs offensive,  
10 I'm just saying that if you're required to get a sign  
11 variance from the Sign Review Board, then you'd have to do  
12 that. But, we just want to make sure.  
13 MR. WIKRAMANAYAKE: We agree.  
14 MR. GROSSMAN: You said four signs though. Are  
15 there four or three?  
16 THE WITNESS: I have three signs. And this is the  
17 fourth one that we see on the entrance.  
18 MR. GROSSMAN: Oh, I see.  
19 THE WITNESS: Which is not for public.  
20 MR. GROSSMAN: Oh, I see, okay. So they're four  
21 including the one on the entrance. Now, where are the other  
22 three exactly?  
23 THE WITNESS: Entrance of the apartment complex,  
24 exit of the apartment complex, and third one on the fence,  
25 as you walk, you know, along the walkway.

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1 MR. GROSSMAN: All right.  
2 THE WITNESS: Thank you.  
3 MR. GROSSMAN: Now let me take a look at the site  
4 plan for a second while we're discussing that. Site plan,  
5 77. Here it is.  
6 MR. WIKRAMANAYAKE: Could you tell us what's our  
7 exhibit number on there? We have our own --  
8 MR. GROSSMAN: Oh, you have your own numbering  
9 system. You have C-100, Exhibit 9.  
10 MR. WIKRAMANAYAKE: Okay.  
11 MR. GROSSMAN: But the official OZAH Exhibit  
12 Number is 77.  
13 MR. WIKRAMANAYAKE: Please bear with me for one  
14 moment.  
15 MR. GROSSMAN: Sure. Take your time.  
16 MR. WIKRAMANAYAKE: I have it, and I'm going to  
17 actually share it with the architect, as she is the producer  
18 of this document.  
19 MR. GROSSMAN: Sure.  
20 MR. WIKRAMANAYAKE: Do you have a question about  
21 the document?  
22 MR. GROSSMAN: Yeah, I do. What I'd like to do is  
23 get an amended site plan which indicates the location of the  
24 signs.  
25 MR. WIKRAMANAYAKE: Okay.

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1 MR. GROSSMAN: So that you don't have a question  
2 later when the Department of Permitting Services inspector  
3 comes out, they don't question the fact that you have the  
4 signs, and you'll have the signed permits as well. I take  
5 it also, I don't recall, but I didn't look for it  
6 specifically but, a copy of your license from the state. Is  
7 that in the file? Is there an exhibit number?  
8 THE WITNESS: Sure. Yeah, sure, it is.  
9 MR. WIKRAMANAYAKE: It might be an existing  
10 exhibit, if you want me to come and take a look.  
11 MR. GROSSMAN: You can look at the exhibit list,  
12 that might be a faster way. I see you have the affidavit of  
13 compliance, which I don't -- I'm not even sure that's a  
14 required affidavit anymore -- but, let me take a look.  
15 MR. WIKRAMANAYAKE: We can, just to make it  
16 easier, we can provide you a copy of the current license as  
17 a supplement.  
18 MR. GROSSMAN: All right. I'm just looking to see  
19 if I see it listed here. We had a lot of e-mails. I know  
20 we have that. Child Development Program, 42D. Okay, here  
21 it is. I mean, that's for the total of 73. Obviously,  
22 you'd need to get that expanded before you can operate.  
23 THE WITNESS: Yes.  
24 MR. GROSSMAN: And when you submit the amended  
25 site plan, make sure please that I get also an electronic

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1 copy of that as well, a .pdf of that as well.  
2 MS. MALLO: I just want to have a clarification.  
3 You just want the locations of the existing sign posted on  
4 the site plan?  
5 MR. GROSSMAN: Or whatever, you say existing  
6 signs, if there are any additional signs planned beyond what  
7 are existing, they should be shown to. In other words, the  
8 site plan should reflect whatever signage there is, and what  
9 there will be, because it'll be -- the site plan that the  
10 Department of Permitting Services will look at to determine  
11 whether or not you are in compliance.  
12 MS. MALLO: Do you need photographs also?  
13 MR. GROSSMAN: Well, you have a couple of them.  
14 It would not hurt to have photographs of the signs, and  
15 then, you know, we can go from there. It certainly wouldn't  
16 hurt. And while we're on the subject of photographs, it  
17 would not be a bad time, I suppose, if it's all right with  
18 you, Mr. Wikramanayake, to identify various photos that are  
19 in the file, in Exhibits 83 A-X, and in fact, make sure that  
20 the captions on the staff report photos are correct. But  
21 why don't we start with that since we referred to the staff  
22 report, Exhibit 101, attachment 2 has a series of  
23 photographs A-F, and Ms. Alizai, can you take a look at  
24 those photographs in Attachment 2 on the staff report.  
25 MR. WIKRAMANAYAKE: Just for clarification, is

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1 that Exhibit -- oh, you're looking at the staff report.  
2 MR. GROSSMAN: First I was looking at the staff  
3 report, yeah. And then the other photos are in Exhibit 83,  
4 A-X.  
5 MR. WIKRAMANAYAKE: Which is, I guess, our Exhibit  
6 15.  
7 MR. GROSSMAN: I'd have to look to -- go back in  
8 there and see. Hold on.  
9 MS. ALIZAI: So, are we looking at these pictures?  
10 MR. GROSSMAN: We're going to look at all of them  
11 in a second. But, I just want to make sure that they  
12 correctly identify -- let's see, I don't know that you --  
13 it's your Exhibit 15.  
14 MR. WIKRAMANAYAKE: Right. It's our Exhibit 15,  
15 they used it as part of their staff report, so.  
16 MR. GROSSMAN: Okay. Some of them are the same,  
17 or are they all the same? Well, they have A through X, they  
18 only used some of them.  
19 MR. WIKRAMANAYAKE: Yeah.  
20 MR. GROSSMAN: Let's just make sure. We'll go  
21 through theirs and just make sure that they're accurately  
22 reflecting the captions, because yours are not particularly  
23 captioned. They captioned theirs. So we're going to go  
24 through -- start out with Attachment 2 to the staff report.  
25 Number A, it says sidewalk leading from the parking lot.

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1 MS. ALIZAI: That's right.  
2 MR. GROSSMAN: That accurately depicts that?  
3 MS. ALIZAI: Correct.  
4 MR. GROSSMAN: And, did you take this photograph?  
5 Did you take these photographs?  
6 MS. ALIZAI: Ms. Nea Mallo took these photographs.  
7 MR. GROSSMAN: Okay. All right. And let me turn  
8 to Ms. Mallo, did you take these photographs recently? When  
9 did you take the?  
10 MS. MALLO: Yes. Just before we prepared the last  
11 deadline, when we submitted.  
12 MR. GROSSMAN: Okay, so it was this year?  
13 MS. MALLO: When did we submit this to you?  
14 MR. GROSSMAN: You mean the amended application?  
15 MS. MALLO: Yes. No, no, the 30th I think. We  
16 submitted on December 30th.  
17 MR. WIKRAMANAYAKE: Yeah, it was due late 2015,  
18 December 2015.  
19 MR. GROSSMAN: Okay. All right. And do these  
20 photographs accurately represent the site as it exists now?  
21 MS. MALLO: Yes.  
22 MR. GROSSMAN: Okay. All right. So let's go back  
23 to A, you said was correct. B says sidewalk continuing to  
24 front entry. Is that accurate?  
25 MS. ALIZAI: Yes.

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1 MR. GROSSMAN: All right. And C, the steps  
2 leading down from the sidewalk to the entrance level?  
3 M. ALIZAI: Yes.  
4 MR. GROSSMAN: All right. That's, I take it, the  
5 entrance level to your facility?  
6 MS. ALIZAI: Yes.  
7 MR. GROSSMAN: Okay. D, sidewalk to the front  
8 entrance?  
9 MS. ALIZAI: Yes, please.  
10 MR. GROSSMAN: And then E, steps down to the front  
11 entrance?  
12 MS. ALIZAI: Yes.  
13 MR. GROSSMAN: And, F is the entrance to your  
14 daycare center?  
15 MS. ALIZAI: Yes, please.  
16 MR. GROSSMAN: Okay. All right. So now let's  
17 turn to --  
18 MS. ALIZAI: G.  
19 MR. GROSSMAN: There is no G.  
20 MS. ALIZAI: Okay. We submitted.  
21 MR. GROSSMAN: Oh, I take that back. I actually  
22 didn't notice that on the flip side, yes. It's G, okay. It  
23 says play area. It's a fenced-in play area that services  
24 your entire facility?  
25 MS. ALIZAI: Yes, please.

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1 MR. GROSSMAN: Okay. And, H also play area?  
2 MS. ALIZAI: Yes, please.  
3 MR. GROSSMAN: Just from a different angle, it's  
4 the same play area?  
5 MS. ALIZAI: Yes. We have got three play areas,  
6 actually.  
7 MR. GROSSMAN: Okay.  
8 MS. ALIZAI: So this is the second part of that.  
9 MR. WIKRAMANAYAKE: Let me just clarify. There's  
10 a large play area that faces the rear of the units. It's  
11 centrally located, and Exhibit 9 would be a good place to --  
12 MR. GROSSMAN: Right. Our Exhibit No. 77, the  
13 site plan.  
14 MR. WIKRAMANAYAKE: Right, the site plan.  
15 MR. GROSSMAN: And, it actually shows two fenced-  
16 in areas.  
17 MR. WIKRAMANAYAKE: Correct.  
18 MS. MALLO: This Exhibit 11, I don't know what --  
19 this one shows you the play equipment in more detail. The  
20 circulation of the play.  
21 MR. GROSSMAN: Okay, let's see what that's called.  
22 I don't want to get too much confusion. Let's try to call  
23 it by our exhibit numbers so that we know what we're talking  
24 about.  
25 MR. WIKRAMANAYAKE: So, it's going to be Exhibit

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1 79.  
2 MR. GROSSMAN: Okay. Circulation daycare plan.  
3 MR. WIKRAMANAYAKE: Actually, you can look at 79,  
4 but if you can also look at 81, since we're on the subject  
5 of the play area, Ms. Mallo can state that those are the  
6 areas where the pictures were taken from. I think they're  
7 demarcated by the --  
8 MS. MALLO: By the sign.  
9 MR. GROSSMAN: All right, so you have two fenced-  
10 in areas, and one not fenced-in, outside of T-3 does not  
11 look like it's fenced-in.  
12 MR. WIKRAMANAYAKE: Yes. Ms. Mallo, as part of  
13 the plans, are you going to create a fence in the play area  
14 of unit T-3?  
15 MS. MALLO: Yes.  
16 MR. WIKRAMANAYAKE: And if we're looking at Exhibit  
17 81, and we're looking at the crosshatching which consists of  
18 Exhibit T-3, there appears to be a demarcation of the fenced  
19 area, is that right?  
20 MS. MALLO: Yes.  
21 MR. WIKRAMANAYAKE: Your Honor, do you see that on  
22 Exhibit 81?  
23 MR. GROSSMAN: On Exhibit 81, I see that two of  
24 them indicate they're fenced-in, and the third one opposite  
25 T-3, does not indicate it's fenced-in.

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1 MR. WIKRAMANAYAKE: There's a proposed line there.  
2 MR. GROSSMAN: Can I see the one you're looking  
3 at, because it's not on my Exhibit 81.  
4 MR. WIKRAMANAYAKE: May I approach?  
5 MR. GROSSMAN: Sure.  
6 MR. WIKRAMANAYAKE: So this is the -- and I'm  
7 pointing to sort of like what's going to be a rectangle  
8 area, that is going to be the new proposed fence for T-3.  
9 MR. GROSSMAN: I see.  
10 MR. WIKRAMANAYAKE: And it's actually outlined.  
11 MR. GROSSMAN: So it's a little rectangular area.  
12 It's not as large as these other fenced-in areas.  
13 MR. WIKRAMANAYAKE: No. And, in fact, if you look  
14 at Exhibit 79, which was C-102 -- so we've highlighted the  
15 proposed new fence area.  
16 MR. GROSSMAN: I see. Okay. Good. So when you  
17 do your revised site plan, you should add that in as well,  
18 just so your site plan reflects everything that your  
19 subplans reflect. Consistent all around.  
20 MR. WIKRAMANAYAKE: To be clear, so Exhibit 77 is  
21 the site plan, and we will have the --  
22 MR. GROSSMAN: That's the way I think it's been  
23 designed on the exhibit list. If you disagree that that  
24 should be -- that's the way it's designated. Site plan, the  
25 layout showing building complex and location of proposed

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1 expansion. If you think one of the other exhibits is more  
2 accurately the site plan, then we can --  
3 MR. WIKRAMANAYAKE: No. I think that's the  
4 correct one. And so we'll put in the fenced area for 11628,  
5 T-3, as well as the signage for our amendment.  
6 MR. GROSSMAN: Okay.  
7 MR. WIKRAMANAYAKE: Obviously, if there's anything  
8 else as well.  
9 MR. GROSSMAN: All right, so let's go back to the  
10 photographs again.  
11 MR. WIKRAMANAYAKE: Yes. If I may point out, Ms.  
12 Mallo indicates that on Exhibit 81, if you open that up, Ms.  
13 Mallo has demarcated various sites where she's taken  
14 photographs from, and they correspond to a letter. And to  
15 our exhibit, which if you want to take a look at Exhibit 83,  
16 which should be a set of pictures like this.  
17 MR. GROSSMAN: Yes.  
18 MR. WIKRAMANAYAKE: If you look at Exhibit 83 --  
19 MR. GROSSMAN: Let me take that out of the file so  
20 I can handle it better. Okay, so these identify the  
21 direction of the pictures that are depicted there?  
22 MR. WIKRAMANAYAKE: Correct.  
23 MR. GROSSMAN: All right. Well, before we get to  
24 that, let's finish identifying the ones that are on  
25 attachment 2, which are also your pictures, I take it. But,

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1 G and H were play areas and they're both -- I take it they  
2 depict the two play areas that are fenced-in in the as  
3 shown?  
4 MS. ALIZAI: Yes.  
5 MR. GROSSMAN: Okay. Then there's a third one  
6 that says play areas, that's I, attachment 2I, is that  
7 depicting essentially the same general area?  
8 MR. WIKRAMANAYAKE: If I could just -- I might be  
9 able to help out a little bit. If you look at our pictures  
10 on Exhibit 83, the staff reports G, H, I and J are equal to  
11 our W, X, Y, and Z.  
12 MR. GROSSMAN: Of course. All right, I see that.  
13 So that'll be depicted on your chart that shows where  
14 they're taken from?  
15 MR. WIKRAMANAYAKE: Yes.  
16 MR. GROSSMAN: All right. Okay. Well, that does  
17 clarify. So I take it that Exhibit 81 is showing  
18 essentially all of the photographs that are in attachment 2,  
19 plus some additional ones?  
20 MR. WIKRAMANAYAKE: Yes.  
21 MR. GROSSMAN: As well as the locations they're  
22 taken from. And, Ms. Mallo, you took all of these photos  
23 also?  
24 MS. MALLO: Yes, my staff actually. Yes, we  
25 recorded it.

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1 MR. GROSSMAN: Pardon me?  
2 MS. MALLO: Yeah, someone from my staff. We  
3 recorded it.  
4 MR. GROSSMAN: Okay. And, I take it that all of  
5 the pictures depicted in Exhibit 83 A-X accurately depict  
6 the scene as it exists?  
7 MS. MALLO: As it existed in December.  
8 MR. GROSSMAN: How about now?  
9 MS. MALLO: Yes. I mean, I haven't visited the  
10 daycare in the last week, but it should be the same.  
11 MR. WIKRAMANAYAKE: Would you like Ms. Alizai to  
12 look at the pictures?  
13 MR. GROSSMAN: Just so we make sure that we're  
14 talking about the same thing here, this expansion.  
15 MR. WIKRAMANAYAKE: If you could, what has been  
16 marked as Exhibit 83, pictures designated A-Z --  
17 MS. ALIZAI: All these are entirely correct, and  
18 daycare center is far more green now, today.  
19 MR. WIKRAMANAYAKE: Do they accurately reflect the  
20 state and what the daycare center looks like both internally  
21 and the exterior as of today?  
22 MS. ALIZAI: Absolutely, yes.  
23 MR. GROSSMAN: And just to make it a little more  
24 complicated, I notice that the last photo on your Exhibit  
25 83, even though it's designated X, it should say Z.

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1 MR. WIKRAMANAYAKE: Yes, that's right. Yes.  
2 That's correct. I'll note that it's correct on Exhibit 81,  
3 so that second X, which is after Y, is actually the Z.  
4 MR. GROSSMAN: Okay. So, if nobody objects, I'm  
5 going to actually cross out the X in Exhibit 83, A through  
6 X, and I'm going to write Z instead, just so we don't get  
7 too confused, since we're linking it to Exhibit 81. And,  
8 the designation on the exhibit list, I'm going to change  
9 that X to a Z, so it's 83 A through Z. Interestingly, on  
10 the exhibit list it does say A through Z. But on the  
11 exhibit itself, it says A through X.  
12 MR. WIKRAMANAYAKE: They were one step ahead of us  
13 too.  
14 MR. GROSSMAN: She's always ahead of me, I'm  
15 telling you. All right. Exhibit 82 in here, your Exhibit  
16 14, that's the same as your -- that's just a smaller version  
17 of your circulation daycare one, so all of these, you have  
18 smaller versions of these in here. Okay. Now with the  
19 corrections that we've talked about here, that is, adding  
20 the indication of the fence, the proposed fence on the site  
21 plan and the addition of the signs, do the plans you  
22 submitted accurately reflect what you intend as the  
23 operating plans of the facility?  
24 MS. ALIZAI: Yes, definitely.  
25 MR. GROSSMAN: Okay.

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1 MS. ALIZAI: Thank you.  
2 MR. GROSSMAN: All right, Mr. Wikramanayake?  
3 MR. WIKRAMANAYAKE: Yes.  
4 BY MR. WIKRAMANAYAKE:  
5 Q Have you received any indication from neighbors or  
6 other members of the community of any nuisances or hazards  
7 or annoyances of the site?  
8 A Not yet. And I hope not in the future too.  
9 Q No complaints, in other words?  
10 A No complaints at all.  
11 Q And you have been operating from this center for  
12 how many years?  
13 A April 2013 I started working here, so it has been  
14 three years.  
15 Q April 2000?  
16 A Thirteen.  
17 Q Have you partially noticed any adverse or negative  
18 effects that your operation has had on the neighborhood?  
19 A No.  
20 Q Do you believe that the operation of the current  
21 daycare has provided a benefit to the neighborhood and the  
22 community?  
23 A Definitely. Loads of benefits.  
24 Q Is it your expectation that the expansion of the  
25 daycare unit would have a positive benefit to the

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1 neighborhood and the community?  
2 A It is an asset to the community because two staff  
3 members that I'm going to hire are living, you know, right  
4 across the complex, so it will be an opportunity for  
5 employment, of people living in closer community, and  
6 obviously, they are going to come to the daycare as well,  
7 children living close.  
8 Q Let's discuss the staffing. When you determine  
9 who works at the daycare center are one of the factors, the  
10 proximity to the center?  
11 A Actually, since I am the only person who does  
12 hiring, I believe in going for the staff who lives very  
13 close to the daycare. Yeah.  
14 Q How many staff members drive to work?  
15 A One is dropped off in the car. The rest live way  
16 close to the daycare.  
17 Q So none of the staff members use the parking  
18 areas? They don't park there?  
19 A One elderly teacher, she usually, the day she has  
20 doctor's appointment, she brings car and she goes to the  
21 doctor, and that is the only day. Otherwise, no. They all  
22 walk.  
23 Q Do you expect that trend to continue with the  
24 expanded?  
25 A I interviewed actually two bachelors, girls who

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1 graduated, whom I'm planning to hire. One is my current,  
2 you know, child who is attending the daycare's auntie. So,  
3 she lives right in the apartment complex.  
4 Q I'm sorry, she's your current child, did you --  
5 A Current, you know, child attending the daycare  
6 center.  
7 Q And it's her aunt, did you say?  
8 A Yes.  
9 Q Okay.  
10 A So since that child walks, aunt is going to walk  
11 as well, and they live right in the daycare center, you  
12 know, apartment complex.  
13 Q All right. How many staff do you anticipate  
14 hiring for the expansion?  
15 A I would need three, definitely.  
16 Q Okay, and what hours would they typically work?  
17 A Usually opening time. It depends on schedule of  
18 children. If babies, infants, are scheduled, I need to have  
19 infant staff in the morning. So, around four to five staff  
20 are there by 7:30. And then, 8:30 I have all eight. At ten  
21 o'clock, they start taking their break. So, usually they  
22 get overtime as well. But currently 12 staff, it works for  
23 me. That staffing pattern.  
24 Q Twelve staff?  
25 A Yes.

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1 Q So once the expansion occurs, what will be the  
2 total staff?  
3 A That will be 15.  
4 MR. GROSSMAN: And, so there would be a total of  
5 15 on site at any given time? Or a maximum of 15 is what  
6 the --  
7 MS. ALIZAI: There are shifts as well, Mr.  
8 Grossman. It depends on attendance of children as well. I  
9 have to stay in compliance.  
10 MR. GROSSMAN: Right.  
11 MS. ALIZAI: So, if I need more staff, they will  
12 definitely be on the premises. And in case, like I mention  
13 here, two and a half hours school of children. So that two  
14 and a half hour school of children, if children are out, I  
15 don't need two staff for 10 children. One will take break.  
16 So they kind of have flexible schedule.  
17 MR. GROSSMAN: Right. Let me explain what I'm  
18 getting at. There's a maximum imposed by the recommended  
19 condition of the planning staff, of 15 non-residential  
20 employees.  
21 MS. ALIZAI: Yes, please.  
22 MR. GROSSMAN: Will there be any occasion that you  
23 would need to exceed that maximum of 15 employees?  
24 MS. ALIZAI: No, no.  
25 MR. GROSSMAN: Then I'm sure there are also

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1 minimum requirements that the state imposes.  
2 MS. ALIZAI: Yes.  
3 MR. GROSSMAN: So you're between the maximum and  
4 the minimum, I take it?  
5 MS. ALIZAI: Yes, please.  
6 MR. GROSSMAN: Okay. Because I'm not interested  
7 in restricting your staff in a way that will cause you a  
8 problem under the state regulations.  
9 MS. ALIZAI: Thank you so much.  
10 MR. GROSSMAN: But I just want to make sure that  
11 that's what's suggested here as the recommended maximum.  
12 The reason why the county planning staff imposes a maximum  
13 is because of traffic. They're interested in making sure  
14 that any conditional use does not impose an unfair burden on  
15 the community in terms of traffic. So that's the reason it  
16 imposes a maximum.  
17 Also, as a witness noted in one of my earlier  
18 childcare cases, sometimes there's an overlap when staff  
19 shifts over. That is, when you have some who are coming and  
20 some are leaving, and so occasionally you have to put in  
21 some language that says, if there's a five minute overlap  
22 while some staff arrive, and some leave, so make sure the  
23 children are attended, that's not an issue with us. It's  
24 just that's the general maximum of 15 for non-residential  
25 employees on site at any give time.

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1 And, I want to also ask you about one of the  
2 conditions that I suggested, in terms of the bus stop. Is  
3 one of your staff, this is my -- the one I numbered, number  
4 10, children shall be escorted to and supervised at school  
5 bus stops by an adult or a staff member of the daycare  
6 center. So, do you have a staff member who --  
7 MS. ALIZAI: They are always escorted, yeah, with  
8 a staff member.  
9 MR. GROSSMAN: I just want to make sure that  
10 children --  
11 MS. ALIZAI: And senior staff.  
12 MR. GROSSMAN: -- are supervised at all times.  
13 MS. ALIZAI: Oh yes they are. Yes.  
14 MR. GROSSMAN: Okay. All right. Mr.  
15 Wikramanayake?  
16 BY MR. WIKRAMANAYAKE:  
17 Q And, are you going to expand the footprint of the  
18 building? Are you going to create or are you going to  
19 require more building space?  
20 A No, we don't need to do that.  
21 Q Everything that you're going to do will be within  
22 the current confines of what's already built?  
23 A Exactly. Yeah.  
24 MR. GROSSMAN: Well, they're adding an apartment,  
25 but it's not going to be constructed, it's already -- you're

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1 breaking a wall, I suppose.  
2 MR. WIKRAMANAYAKE: Yes. Correct, we're  
3 expanding. We're not going to create a new footprint.  
4 We're not creating any new space. We're just using current  
5 space.  
6 MS. ALIZAI: Yes, please.  
7 BY MR. WIKRAMANAYAKE:  
8 Q And to your knowledge, you've been in compliance  
9 with all the requirements of the two special exceptions that  
10 you're presently operating under, is that correct?  
11 A Yes.  
12 Q And, have you received any notification from the  
13 government or any other, Department of Permitting Services,  
14 or anybody that you're not in compliance?  
15 A Never.  
16 Q And you've had an opportunity to review the  
17 statement of case that we submitted?  
18 A Oh yes.  
19 Q Which includes some representations concerning  
20 number of staff, number of parents, and the transportation  
21 issues, is that correct?  
22 A Yes.  
23 Q Are the factual representations in the statement  
24 of case true and accurate to the best of your knowledge?  
25 A Yes. Yes, it's true.

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1 Q Are you seeking to expand the hours of operation  
2 at all?  
3 A No.  
4 Q Is there a buffer between the entrance and exit to  
5 the daycare center and the main road? When I say buffer, is  
6 there an adequate amount of distance so that the children  
7 are not right next to the road?  
8 A Oh no. There is space. We have put our daycare  
9 sign, so around four feet concrete area is there where  
10 children stand and wait for their buses. Outside my daycare  
11 center it's a basic dropout and pick up. Because it is a  
12 dead end, and nobody else is using that space, other than  
13 daycare.  
14 MR. GROSSMAN: In other words, those are the last  
15 parking spaces in the row?  
16 MS. ALIZAI: Yes.  
17 BY MR. WIKRAMANAYAKE:  
18 Q And, if we look at Exhibit 77, Ms. Alizai, if you  
19 look at Exhibit 77 --  
20 A Yes.  
21 Q -- you see that the daycare center is located some  
22 distance from Lockwood Drive. Do you see that?  
23 A Yes.  
24 Q What is to the back of the center?  
25 A We have plantation at the backside of the center,

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1 and obviously, my fence, which is six feet high. So beyond  
2 that fence, plantation. And then, you know, that is  
3 backside of the other apartment complex, at a greater  
4 distance.  
5 MR. GROSSMAN: What do you mean plantation? What  
6 does that mean?  
7 MS. ALIZAI: We have got trees and bushes, and  
8 those are behind our fence.  
9 MR. GROSSMAN: Okay.  
10 MR. WIKRAMANAYAKE:  
11 Q Have you been in continuous operation since you  
12 took over the business?  
13 A Yes.  
14 Q Does your daycare facility fit within the  
15 character of the neighborhood?  
16 A Oh yes.  
17 Q To your knowledge, has your daycare center and  
18 operation ever created any traffic issues or parking issues  
19 at the site?  
20 A Never.  
21 Q You've never heard of any complaints?  
22 A No, no.  
23 Q Never seen any issues? Never seen any --  
24 A Never. Never.  
25 Q Are you planning on adding any additional signage

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1 to the current signage that you have now?  
2 A I don't need to.  
3 Q So, no?  
4 A No.  
5 Q And just to be very clear, the six current parking  
6 spaces that you will have if you're given the opportunity to  
7 expand, will that adequately serve the requirements and  
8 needs of your center?  
9 A Yes. Yes, please.  
10 Q As you can see on the site plan, Exhibit 77,  
11 parking spaces are designated by the landlord, is that  
12 correct?  
13 A Yes, please.  
14 Q Is it possible for you to get an additional seven  
15 parking spaces?  
16 A I do not really need it.  
17 MR. GROSSMAN: They're not requesting seven.  
18 MR. WIKRAMANAYAKE: No, we're not. I guess what  
19 I'm -- if I may proffer, the landlord isn't going to give  
20 them more parking spaces. Other than the two that we're  
21 getting.  
22 MR. GROSSMAN: Yes.  
23 MR. WIKRAMANAYAKE: Because I know that part of  
24 this is a parking waiver.  
25 MR. GROSSMAN: Right.

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1 MR. WIKRAMANAYAKE: And so, if I may proffer,  
2 we're only going to get six spaces for the site, so this is  
3 an additional basis for you to consider granting us the  
4 parking waiver, as you think I did in S EO3-4. The landlord  
5 isn't going to be able to give us another seven parking  
6 spaces. So really, six is all we're going to get. It's all  
7 we need. But this is additional --  
8 MR. GROSSMAN: So you're just saying that you  
9 couldn't get them even if you wanted them?  
10 MR. WIKRAMANAYAKE: That's correct. We wouldn't  
11 be able to get more parking spaces, correct?  
12 MS. ALIZAI: We actually don't need that. At the  
13 moment we have empty parking spaces all the time.  
14 MR. GROSSMAN: Well, what he's trying to say is  
15 that, you know, he understands you don't need them, but  
16 since the law, unless you got a waiver, the law would  
17 require it. He's asking you if it's possible to get them if  
18 you needed them?  
19 MS. ALIZAI: No, it is not possible.  
20 MR. GROSSMAN: And, well, let me ask you a  
21 question. Looking at Exhibit 77, I see that you have the  
22 designated six parking spaces, and then right next to it, it  
23 says student drop off, pick up. And it looks like it's  
24 right in the middle of other parking spaces. So, is that  
25 arrow supposed to be pointing to the other parking spaces

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1 that are not designated as yours, or is it pointing to the  
2 middle area there, which is what it appears to be? Ms.  
3 Mallo?  
4 MS. MALLO: It is the middle. So, when we did the  
5 plans, and the client is here to see it, when I visited the  
6 site, all those spots in front of it is always empty, and  
7 it's basically the spot, it's just the space in the middle.  
8 That's where the kids get dropped off. There's no like  
9 additional place for the student, for the kids to be dropped  
10 off.  
11 MR. GROSSMAN: Yes, but what about the spaces that  
12 are -- I don't know which way is, is north designated on  
13 your plan here? Where is north on this plan?  
14 MS. MALLO: So the student drop off is --  
15 MR. GROSSMAN: Tell me where north is on the plan?  
16 MS. MALLO: I don't see it here.  
17 MR. GROSSMAN: If I might suggest, it's always a  
18 good idea because when we refer to a spot on the plan, it's  
19 so much easier if you can say it's to the east of it, to the  
20 west of it, or whatever. But if you don't have a  
21 designation --  
22 MS. MALLO: I will add that in the amendment.  
23 MR. GROSSMAN: But in the meantime, can you tell  
24 me by looking at any of your area things where north is?  
25 MR. WIKRAMANAYAKE: New Hampshire Avenue is

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1 north/south, which is like here. So this north. North  
2 would be --  
3 MS. MALLO: Facing up.  
4 MR. WIKRAMANAYAKE: Facing up. South facing down.  
5 MR. GROSSMAN: I love it when north faces up,  
6 because it's so confusing when it doesn't. But in any  
7 event, all right, so then, looking at your plan, 77, so  
8 directly to the east of the demarked parking spaces that  
9 belong to the, or that will be marked off for this site, is  
10 where you have a student drop off. And then, to the east of  
11 that are additional parking spaces that have no markings on  
12 them as designated for this use. Are those used by the  
13 community in general?  
14 MS. ALIZAI: By residents.  
15 MR. GROSSMAN: By residents, okay. So when  
16 children come and are dropped off, I take it that they are  
17 dropped off right, just to the east of your demarcated  
18 parking spaces, and then they enter on the concrete walking  
19 immediately to the north of that, is that the idea?  
20 MS. ALIZAI: Yes. They get down from their cars,  
21 these are four parking spaces, and once they get down, they  
22 are obviously escorted with their parents, and using the  
23 walkway they come to the daycare.  
24 MR. GROSSMAN: Okay. I just wanted to make sure I  
25 knew what was happening with these other parking spaces that

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1 are along the east side of that lot. But they're not part  
2 of your operation at all?  
3 MS. ALIZAI: Yes.  
4 MR. WIKRAMANAYAKE: No, they're not part of --  
5 MS. ALIZAI: They're not part of my operation.  
6 MR. WIKRAMANAYAKE: Just to clarify. The bulk of  
7 the children are not actually driven to the site, they  
8 actually walk, is that correct?  
9 MS. ALIZAI: They walk, yes.  
10 MR. WIKRAMANAYAKE: So the drop off area is used  
11 by what percentage of the enrolled children?  
12 MS. ALIZAI: Around 10 percent, eight percent,  
13 nine percent.  
14 MR. GROSSMAN: Well, whatever percent, we want it  
15 to be safe.  
16 MR. WIKRAMANAYAKE: Absolutely.  
17 MS. ALIZAI: Yeah, exactly.  
18 MR. WIKRAMANAYAKE: I didn't want to give the  
19 impression that it was sort of like a caravan of people  
20 coming in.  
21 MR. GROSSMAN: I understood that.  
22 MS. MALLO: Can I clarify something?  
23 MR. GROSSMAN: Yes, Ms. Mallo.  
24 MS. MALLO: When I do the amendment site plan,  
25 from what you're saying, it's accurate that the cars going

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1 to be parked, and then the kid is going to come out. So,  
2 maybe the -- again, this is kind of like a gray area,  
3 because when you say drop off and pick up, if the car is  
4 parked, they are going to be to the designated parking area  
5 and the kid comes out and go.  
6 MR. GROSSMAN: Right.  
7 MS. MALLO: And I am not sure, and Ms. Alizai can  
8 say that, do anytime, do the people just come and does your  
9 staff come up there and open the door and take the child  
10 from the car?  
11 MS. ALIZAI: Actually, daycare center is not  
12 really right at the level of street.  
13 MS. MALLO: Okay.  
14 MS. ALIZAI: So all staff is there taking care of  
15 children, and parents, it's their mainly responsibility to  
16 bring children with them and sign in. That is the state  
17 requirement.  
18 MS. MALLO: Okay. So I would amend those arrow to  
19 mark at the parking which are reserved, because from what --  
20 MR. GROSSMAN: You mean --  
21 MS. MALLO: At the six parking spot.  
22 MR. GROSSMAN: Okay. Well, whatever accurately  
23 reflects it is all.  
24 MS. MALLO: Yeah. Because then it's more accurate  
25 to what she's saying that they have to park the car, take

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1 the child and go downstairs and sign in.  
2 MR. GROSSMAN: Okay. Where's the bus stop that  
3 we're talking about?  
4 MS. ALIZAI: Okay.  
5 MR. WIKRAMANAYAKE: Why don't you reference the  
6 site plan.  
7 MS. ALIZAI: Okay. So, Ms. Mallo, if you could --  
8 MR. WIKRAMANAYAKE: And we can designate that in  
9 our amendment.  
10 MS. ALIZAI: If you could identify that place on  
11 this plan, entrance of the daycare center, exit of the  
12 daycare center.  
13 MR. WIKRAMANAYAKE: He wants to know where the bus  
14 stop is.  
15 MS. ALIZAI: Okay. Here is the bus stop, right at  
16 the rental office.  
17 MR. WIKRAMANAYAKE: Why don't you mark something  
18 so that we can put it on the record, so I can explain  
19 exactly where it is. If I may proffer, Your Honor, if you  
20 go to the -- there are two entrances to the apartment  
21 complex, with north and south arrows. There is -- if you  
22 look to the east entrance, which there is traffic allowed to  
23 come both ways, north and south arrows, Ms. Alizai marked a  
24 bus stop on Lockwood Drive to the west, immediate west of  
25 the entrance.

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1 MR. GROSSMAN: Okay.

2 MR. WIKRAMANAYAKE: And if you go further west to

3 the, I guess the west entrance and exit, on Lockwood Drive

4 there's a bus stop immediate to the east of the entrance.

5 Those are where the two bus stops are. And we will

6 designate that on our amendment.

7 MR. GROSSMAN: And you say you have staff members

8 that are there?

9 MS. ALIZAI: Yes, please. And I would add to

10 that, if you allow me to. For children who are 4-year-olds

11 and who attend Head Start, their buses come inside the

12 complex.

13 MR. GROSSMAN: Okay.

14 MS. ALIZAI: So we don't have to walk them down to

15 the bus stop.

16 MR. GROSSMAN: Then they drop kids off right at

17 the area marked student drop off and pick up in their bus?

18 MS. ALIZAI: Yes.

19 MS. MALLO: Is that accurate? Where do they get

20 dropped off?

21 MR. WIKRAMANAYAKE: I apologize. Could you ask

22 that question again?

23 MR. GROSSMAN: So, Ms. Alizai said that students

24 who are the younger ones, 4 years old and younger, I take

25 it, they are dropped off directly on the site with the bus.

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1 So I just wanted to know where that bus stops when it drops

2 off on the site.

3 MS. ALIZAI: Ms. Mallo, here. If you want to

4 explain this. Buses come here.

5 MR. WIKRAMANAYAKE: So the bus comes here to drop

6 off the younger children?

7 MS. ALIZAI: Yes, please. And since the stop sign

8 is there, teacher takes them there, and no car can come

9 beyond this point.

10 MR. WIKRAMANAYAKE: Near the trash area?

11 MS. ALIZAI: Yes, please.

12 MR. WIKRAMANAYAKE: If you would look --

13 MR. GROSSMAN: I see the marked area marked trash.

14 MR. WIKRAMANAYAKE: Right. The bus -- Ms. Alizai,

15 does the bus carrying the younger children come to the area

16 marked near where it says trash?

17 MS. ALIZAI: Yes, please.

18 MR. WIKRAMANAYAKE: And the bus drops off the

19 children and your staff meets the children there?

20 MS. ALIZAI: Yes, please.

21 MR. WIKRAMANAYAKE: And then the bus exits the

22 area?

23 MS. ALIZAI: Yes.

24 MR. GROSSMAN: That could be marked on there as

25 well, for a child bus stop or however you want to designate

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1 that. Just so the record and the site plan reflects all

2 that. All right.

3 MR. WIKRAMANAYAKE: May I?

4 MR. GROSSMAN: Please.

5 BY MR. WIKRAMANAYAKE:

6 Q Is your current facility fully compliant with all

7 state and local laws?

8 A Yes.

9 Q Do you agree that your expansion will also comply

10 with all state --

11 A Yes, yes.

12 MR. GROSSMAN: Please let him finish the question

13 before you answer yes or no.

14 MS. ALIZAI: Okay.

15 MR. WIKRAMANAYAKE:

16 Q Now, do you understand that through this

17 application process we are, assuming that you're given the

18 conditional use, you are abandoning your special exception

19 S-82? You understand that?

20 A It is a little puzzling because --

21 MR. GROSSMAN: We'll guarantee that it's puzzling,

22 but let me explain it to you, if I can.

23 MS. ALIZAI: Yes, please.

24 MR. GROSSMAN: You have a couple of different

25 special exceptions. One I granted for Ms. Wayal, which

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1 hasn't been formally transferred over to you by me. The

2 Board of Appeals purported to do it, although there's a

3 question as to whether they have jurisdiction in that sense,

4 over ones that I grant. But, in any event, so you have

5 that, and you have one that they granted. Now the question

6 is, well, what happens when this conditional use is

7 approved? And, you can't have both this conditional use

8 that you're applying for here, and you applied for it

9 because it adds on an additional apartment to the facility,

10 you can't have both this one that is overall, and the

11 earlier ones that were approved for smaller portions of it.

12 And so once this is approved, we need to do away

13 with the old ones so you only have one conditional use which

14 you have to follow, the rules of which you have to follow,

15 and that conditional use will govern everything that happens

16 in the facility, and the Department of Permitting Services,

17 when they come around for enforcement or inspection, they

18 will be able to just look at one set of rules that governs

19 that conditional use.

20 So in order to get rid of the old ones, they

21 have to be formally abandoned. But, and this is an unusual

22 situation, and any order that abandons them will note that

23 they've been superceded by this conditional use. So that's

24 the idea.

25 MR. WIKRAMANAYAKE: Understand. Thank you.

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1 MS. ALIZAI: Yeah. Thank you.  
2 MR. GROSSMAN: It took us a while before we all  
3 worked this out, because when this application was first  
4 filed, we saw that there was an issue. There was a problem  
5 because you couldn't have a new, and the Department of  
6 Permitting Services had a concern that you were asking for a  
7 conditional use just to add an apartment, and they wanted to  
8 have one that reflected the whole ball of wax because it  
9 really was operating as one larger facility and so on. So,  
10 after we all got our heads together, I talked to the Board  
11 of Appeals people, and we talked to your attorney, and so  
12 on, and after we all figured that out, we decided the best  
13 way to proceed under the new code, since this is a new  
14 application, was to have it all as one ball of wax. Okay?  
15 MS. ALIZAI: Thank you.  
16 BY MR. WIKRAMANAYAKE:  
17 Q So, with that understanding, are you prepared to  
18 abandon the special exceptions S-82 and S-03-4?  
19 A I would do that but, I still have a few questions  
20 though. I hope it is not going to have any impact on my  
21 business. New regulations or anything, but I'm willing to  
22 do that if, you know, doesn't have any impact on my  
23 business.  
24 MR. GROSSMAN: Well, I don't know. I mean, I  
25 didn't look at, and nor would it be my position to look at

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1 whether or not there are other regulations that apply, other  
2 than the land use regulations. The ones that concern me are  
3 the zoning ordinance requirements, and they will be  
4 specified in this case.  
5 MS. ALIZAI: Yes.  
6 MR. GROSSMAN: So I can't answer the other  
7 question for you. Your attorney can answer it, but I  
8 cannot.  
9 MR. WIKRAMANAYAKE: Well, I mean, I can't put on  
10 the record, the requirements and regulations to get permits  
11 and other areas of compliance are, you know, that's also an  
12 issue for the architect. I hate to keep passing the buck  
13 but --  
14 MR. GROSSMAN: Well, let's put it this way. If  
15 this is approved, you would be required to abandon the old  
16 special exceptions, because you can't have all of them at  
17 the same time. So, that's just going to be a condition. If  
18 you want approval of this, it's a condition that the others  
19 be eliminated.  
20 MS. ALIZAI: Okay.  
21 MR. WIKRAMANAYAKE: I actually don't have anything  
22 further for Ms. Alizai. I would, however, open her up for  
23 any questions you may have.  
24 MR. GROSSMAN: I don't have any additional  
25 questions. I think I've badgered her enough while you were

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1 asking.  
2 MS. ALIZAI: Thank you so much. Thank you.  
3 MR. GROSSMAN: Do you want to call Ms. Mallo, or  
4 is there any additional questions? She also participated.  
5 MR. WIKRAMANAYAKE: She has participated. No, I  
6 don't think it's necessary, other than I'm going to, we're  
7 going to submit an amended site plan. Do you have a time  
8 frame on when you'd like that?  
9 MR. GROSSMAN: What's good for you, sir?  
10 Ordinarily, I keep the record open usually for 10 days in  
11 any event, to wait for the transcript, because I require  
12 that to write my report. So, if 10 days is good for you, we  
13 could do that.  
14 MS. MALLO: Yeah, 10 days is good. I guess I  
15 don't know if a question for you or Ms. Alizai, how many  
16 copies?  
17 MR. GROSSMAN: We only require one copy for us.  
18 One hard copy and one electronic copy. However, we do need,  
19 whenever there's an amendment to a site plan, we do need to  
20 have a copy down to the planning department, technical  
21 staff. And so you'd be required to file that with them as  
22 well. And, we usually give them some time to respond if  
23 they have any issues. So I'd give them a week to respond,  
24 and then the record would close upon their response, or I  
25 give you another three days if you have anything -- I can't

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1 imagine them saying anything because all we're doing is  
2 reflecting things that they already know about. But they're  
3 just reflecting on the plan. But, just to give you the  
4 option, I can do that. We could say, if you needed 10 days,  
5 or if you need less time, we could make it less time for you  
6 to submit the amended plan.  
7 MS. MALLO: Ten days is good.  
8 MR. GROSSMAN: Okay. So, let me pull out a  
9 calendar here.  
10 MS. MALLO: Can I ask you one more question?  
11 MS. GROSSMAN: Yes, ma'am.  
12 MS. MALLO: The bus stop on Lockwood Drive is  
13 designated by the county. The one next to the trash, I  
14 didn't see a designation of a bus stop inside the property.  
15 MR. GROSSMAN: You can indicate that as location  
16 where bus drops off four year old children or whatever.  
17 MS. MALLO: I just wanted to make sure.  
18 MR. GROSSMAN: Yeah. You don't have to call it a  
19 formal bus stop.  
20 MS. MALLO: Because from where I stand, I'm going  
21 to be going to the permits with this, and I don't want to  
22 open another, because if I say it's a bus stop.  
23 MR. GROSSMAN: You don't have to say bus stop.  
24 Just however you want to designate to show what it's  
25 function is.

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1 MS. MALLO: Okay. I'll just have a designation  
2 and a function.  
3 MR. GROSSMAN: Okay. All right. So, we are at  
4 June 24.  
5 MS. MALLO: We have a holiday weekend.  
6 MR. GROSSMAN: Yes, a holiday weekend. It would  
7 come out on July 4th. So, I think you, in fairness, should  
8 have at least until July 5. Does that give you enough time?  
9 MR. WIKRAMANAYAKE: Sure. You want July 6?  
10 MS. MALLO: July 6, please.  
11 MR. GROSSMAN: July 6, okay. So, amended site  
12 plan, that's Exhibit 77, of you'll have a new designation  
13 for an exhibit number when you file it but, by July 6. And  
14 that'll go both to our office and down to Silver Spring in  
15 the Planning Department.  
16 MS. MALLO: I'm just going to give it to Mr. Jude.  
17 MR. WIKRAMANAYAKE: I'll take care of it. And the  
18 electronic copy, would that be something we can e-mail, or  
19 you want it on a disc?  
20 MR. GROSSMAN: You can e-mail it to me, or you  
21 can, you know, put it on a CD. Whatever is more convenient  
22 for you. As long as the e-mail not too large because, you  
23 know -- in other words, if it exceeds our capacity then that  
24 would be a problem. All right. And, so we can give them  
25 until July 13 for any staff response. May I suggest a cover

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1 letter on the amended site plan so that staff knows what's  
2 happening. And just say these added things that were  
3 already understood, but a north/south designation on the  
4 plan, and where bus stops are, and where the fence is going  
5 to be and so on, so that it's clear to them that it's not  
6 adding anything that wasn't already presented to them in  
7 the, you know, earlier for their review. And, so they would  
8 be respond by the 13th, and then by July 18 any response  
9 from the applicant to staff's comment. The record will then  
10 close on July 18th. Is that agreeable, Mr. Wikramanayake?  
11 MR. WIKRAMANAYAKE: Yes.  
12 MR. GROSSMAN: All right. It actually will not be  
13 open for further public commentary after today. It's only  
14 being held open to receive the amended plan, comments from  
15 staff, any response from you, and the transcript. All  
16 right. I take it you would wish to have the exhibits moved  
17 into evidence?  
18 MR. WIKRAMANAYAKE: I would. I would move the  
19 admission of all exhibits 1 through 103.  
20 MR. GROSSMAN: Well, it's 104 including the  
21 affidavit of posting, and we'll accept those into evidence,  
22 and their subparts. And, I will admit into evidence the  
23 revised site plan that you submit, any comments on those as  
24 well.  
25 MR. WIKRAMANAYAKE: Thank you.

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1 MR. GROSSMAN: All right. Then do we have  
2 anything further we need to cover?  
3 MR. WIKRAMANAYAKE: We don't. I'm going to waive  
4 a closing. I think we've covered everything.  
5 MR. GROSSMAN: Yes. And I think that, you know,  
6 the Technical Staff Report, which analyzed, made findings  
7 and conclusions of law regarding the zoning ordinance,  
8 you've adopted. So I think that covers that field. If  
9 there's nothing further then, we are adjourned. Thank you  
10 all.  
11 (Whereupon, at 11:18 a.m., the hearing was  
12 concluded.)  
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C E R T I F I C A T E

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:

Petition of Smart-Ed Early Learning Center  
CU 15-08

By:

Keena Lukacinsky, Transcriber

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