

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY

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PETITION OF ABC LOVING CHILD CARE : Case No. SE-13-01
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A hearing in the above-entitled matter was held on May 14, 2013, commencing at 9:46 a.m., at the Office of Zoning and Administrative Hearings, 100 Maryland Avenue, Rita Davidson Memorial Hearing Room, Rockville, Maryland 20850 before:

Tammy CitaraManis

Hearing Examiner

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1 MR. KNOFF: Good morning.
2 MS. CITARAMANIS: Good morning.
3 MR. KNOFF: Norman Knopf, Knopf & Brown,
4 representing Mr. and Mrs. Schilling, who have adjoining
5 property.
6 MR. AREM: Benjamin Arem, also with Knopf & Brown.
7 MS. CITARAMANIS: And it's Schilling?
8 MS. LEE-CHO: Schilling.
9 MR. AREM: Schilling.
10 MS. CITARAMANIS: Oh, okay. I just thought I
11 heard something else. And, Ms. Lee-Cho, witnesses?
12 MS. LEE-CHO: We have the petitioner, Mr. Mani, as
13 well as Mr. Cherian Eapen --
14 MS. CITARAMANIS: Okay.
15 MS. LEE-CHO: -- will be our expert testimony on
16 traffic issues.
17 MS. CITARAMANIS: Okay.
18 MR. KNOFF: We have Debra Schilling --
19 MS. CITARAMANIS: Okay.
20 MR. KNOFF: -- Schilling and expert witness, Joe
21 Mehra.
22 MS. CITARAMANIS: Okay.
23 MR. KNOFF: If I may, we have in the audience,
24 there are two citizens that are, wish to testify and they've
25 advised me one is going to Europe today and would like to

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1 get on as quick as possible and the other is taking off from
2 work and wondering if it's possible that they could go on
3 first and then we could do the cases and then wouldn't need
4 to be interrupted.
5 MS. CITARAMANIS: I certainly don't have any
6 problem taking them out of order if it's okay with the
7 applicant.
8 MS. LEE-CHO: We have no objection.
9 MS. CITARAMANIS: Okay. And those individuals
10 would be?
11 MR. CAMPBELL: Larry Campbell, like Campbell's
12 soup.
13 MS. CITARAMANIS: Okay. Are you going to Europe?
14 MR. CAMPBELL: No, I'm --
15 MS. CITARAMANIS: Okay.
16 MR. CAMPBELL: -- going back to work.
17 MS. CITARAMANIS: Okay. Okay. And --
18 MR. CAMPBELL: I wish.
19 MS. CITARAMANIS: Yes.
20 MR. BENJAMIN: I'm Ernie Benjamin and I'm here on
21 behalf of Allenwood Gayfield Wilson Hills Gaylord Estate
22 Civic Association.
23 MS. CITARAMANIS: That's a very long civic
24 association's name. Okay. What we -- you won't have any
25 problem with them going now and then do your opening

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1 statements or do you want to do your opening statements?
2 MS. LEE-CHO: We would prefer having the witnesses
3 go forward and then do our statements later.
4 MS. CITARAMANIS: Is that agreeable?
5 MR. KNOFF: That's fine.
6 MS. CITARAMANIS: Okay. All right. Let me just
7 briefly explain this proceeding, it's an informal
8 proceeding, but it is recorded, so everything that you say,
9 one, if you testify you will be under oath, so everything
10 that you say has to be the truth. You are subject to cross-
11 examination. The rules of evidence are a little bit more
12 relaxed in this proceeding. Of course, we have attorneys on
13 both sides, so if there's any objections, we will deal with
14 them as we go.
15 Generally, order of presentation is opening
16 statements by both sides; petitioner/applicant makes their
17 case; supporters, I don't know if we have any supporters
18 that have appeared, we do have a few letters, get to have
19 their testimony. Audience, anybody in the audience that's
20 here as an individual will be given the opportunity to ask
21 any questions of a witness that is on the stand. I just
22 caution you that it's just questions. It's not your
23 opportunity to stand up and say what you think about the
24 proceeding. It's just an opportunity. If you don't have
25 any questions, I'm just going to give you the opportunity.

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1 Then the opposition will present their case.
2 Again, witnesses will be cross-examined by the other side.
3 I can ask questions if I have any. Then petitioners can do
4 a rebuttal case based on the information that they've
5 received at this hearing, and go to surrebuttal. Basically
6 I'm going to make sure everybody has gotten in everything
7 they want to say and then there will be a closing and then I
8 will make a decision.
9 We did get a number of things in the last week, so
10 the record is going to be left open for an extended period
11 after. We'll decide at the very end how much time, at least
12 15 days, and we do have expert, the competing expert
13 opinions on traffic safety, sight distance, which I'm going
14 to submit to technical staff to get their input since they
15 have one of the criteria with regards to that or with
16 regards to traffic safety so there is no traffic safety
17 issue. I want to make sure based on the information that is
18 presented with the experts that their opinion hasn't
19 changed, or if it has, how that is. People will have an
20 opportunity in which to submit written comments. I'll make
21 sure that's all clear at the end.
22 MR. KNOFF: Written comments to the staff?
23 MS. CITARAMANIS: Yes. Yes. So basically once I
24 receive information from staff, the, I'm going to, you know,
25 ask them to do it within a certain period, submit the -- I

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1 think you all actually submitted the traffic sight distance
2 plans, but I don't have anything from them and given the
3 short period of time, I just want them to weigh in. I'll
4 ask them to do it within a certain period of time and then
5 leave it open for at least 15 days after that for you all to
6 comment and/or individuals to comment if they so choose.
7 Certainly based on staff's comments, if either one of you
8 feel that you need to, we have to have another hearing date,
9 you have to request that, otherwise I'm just going to go
10 based on the information that is in the record unless, of
11 course, I think there's a need for another hearing, but at
12 this point this will be, this is the day for the hearing and
13 I don't want to anticipate it, but famous last words, right?
14 And basically for those of you that are not -- but
15 I have a feeling we have a very educated audience -- is,
16 with regards to what a special exception is, a special
17 exception basically, it's, they have -- they can have this
18 use if they meet certain conditions. Those conditions are
19 laid out in the staff report. So if you haven't gotten a
20 copy of the staff report, it's a good thing. You can get a
21 copy from Ellen. I don't know if she put any out. But we
22 do have opposition that's saying that all of those
23 conditions are not met.
24 The petitioner does have the burden of proof.
25 That's why they get to go first and last. Besides that, do

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1 we have any other preliminary matters before I put the
2 witnesses, the individuals on the stand?
3 (No response.)
4 MS. CITARAMANIS: No? Okay. So could -- did you
5 all do rock, paper, scissors, who wants to go first?
6 MR. CAMPBELL: It doesn't matter.
7 MS. CITARAMANIS: Okay. All right. Then, Mr.
8 Campbell, can you come up? Okay.
9 MS. LEE-CHO: Where would you like me?
10 MS. CITARAMANIS: I would like if you could, yes.
11 MR. CAMPBELL: Do you want to go first, Ernie? I
12 don't care.
13 MS. CITARAMANIS: If you could just move that over
14 a little bit? Thank you.
15 MR. CAMPBELL: Mr. Benjamin is going first because
16 of, we just think he should.
17 MR. BENJAMIN: And, I'm sorry, where did you
18 wish --
19 MS. CITARAMANIS: Could you --
20 MR. BENJAMIN: Oh, sure.
21 MS. CITARAMANIS: -- come sit up here?
22 MR. BENJAMIN: Thank you.
23 MS. CITARAMANIS: Because the mic is there. The
24 table is kind of crowded. We can give you some space and --
25 okay, wait a minute. Wait a minute. I need you to raise

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1 your right hand.
2 (Witness sworn.)
3 MS. CITARAMANIS: Okay. I need to state your name
4 and your address.
5 THE WITNESS: Okay. My name is Ernst Benjamin.
6 My address is 1912 Norvale Road in Silver Spring, Maryland
7 20906.
8 MS. CITARAMANIS: And are you here as an
9 individual or on behalf of an association?
10 THE WITNESS: I'm here as president of the
11 Allenwood Gayfield Wilson Hills Gaywood Estates Civic
12 Association, AGWG. I have tried many times to get them to
13 change the name to something I could stand up and say
14 quickly, but I have not succeeded.
15 MS. CITARAMANIS: Okay. And what is your
16 testimony?
17 THE WITNESS: My testimony is --
18 MS. CITARAMANIS: What would you like to say?
19 THE WITNESS: -- that I'm going to object on the
20 record to the proposed, to the proposed exception not
21 because we have any objection whatsoever to providing more
22 daycare opportunities for the people who live in our area.
23 They're getting young again. Daycare is certainly an
24 important thing to provide and that's not our problem. Our
25 problem is basically traffic safety. And before I get into

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1 that, I just want to briefly mention neighborhood issues
2 because we are representing a neighborhood association and
3 we do represent the particular area involved.
4 I noticed that the persons who have written in in
5 opposition are mostly the immediate neighbors who are most
6 directly affected and I don't want to overlook their
7 concerns. I had some feeling that the Planning Board was
8 not as concerned about their concerns as I am. It does
9 create a hardship for several of them and they will be here
10 in part to testify for themselves.
11 But basically it is going to create a problem for
12 the immediate neighbors and I don't think that should be
13 overlooked. For the association as a whole, however, most
14 of us not are immediate neighbors. We're not directly
15 affected by the daycare center. As a daycare center, we are
16 affected by its impact on Layhill Road traffic. And that's
17 the main focus of our concern.
18 So the first thing I want to emphasize is that we
19 started having that concern long before this issue came up,
20 even before the ICC. And I remind you that this daycare
21 center is located just north of the new interchange for the
22 ICC. But long before that, neighbors began to raise
23 concerns because the traffic is very dangerous. Why is it
24 dangerous?
25 North Layhill Road, north of where the ICC now is,

1 is completely different than South Layhill Road south of
 2 where the ICC is. This was a real source of frustration for
 3 me in the other hearing and I'm a faculty member and I just
 4 wanted to raise my hand and say, but in the middle of the
 5 hearing. And the reason was that I had explained the
 6 difference between the north and the south of Layhill Road
 7 and then two of the commissioners said, yes, that sounds
 8 like an inherent condition and then one commissioner said,
 9 but we have given permission for South Layhill Road and
 10 didn't distinguish. So the main thing I want to do today is
 11 make very clear the difference between North and South
 12 Layhill Road.

13 South Layhill Road, that is south of the
 14 interchange, from there all the way down to Georgia Avenue,
 15 has a 40-mile-an-hour speed limit. So does the Layhill Road
 16 north of that ICC. South Layhill Road is a divided four-
 17 lane road. It has shoulders. It has curves. It has
 18 sidewalks. It has turn lanes. It is completely different
 19 than North Layhill Road which is a very narrow, winding up
 20 and down, undulating and just plain not fixed road. It's
 21 rough. It's like driving in the country and it has a 40-
 22 mile-an-hour speed limit and it has a sign for that 40 miles
 23 an hour right across from where the daycare center is.

24 And cars, of course, when you have a 40-mile-an-
 25 hour speed limit typically go 45 to 50. That's what the

1 road engineers plan on. That's fast for that area where
 2 you're going to be taking children in and out, and not just
 3 children, we worry about the adults going through too, but
 4 especially when it's one where we already had problems.
 5 Neighbors report several accidents in that immediate area.
 6 We had done to the State Highway Commission and asked for a
 7 change, the State Highway Board, and asked for changes and
 8 were unsuccessful. They did not want to change it. They
 9 didn't even put in traffic calming devices, much less the
 10 shoulders that we wanted.

11 State Senator Manno has informed us that there are
 12 not to be any changes in it. He himself doesn't want the
 13 road widened, which is fine with us, but they're not going
 14 to do shoulders or anything else. So what you're dealing
 15 with is a situation where the traffic is fast. If you look
 16 it up, just Google it, it's fast any time of day on Google
 17 Map.

18 And so we are not here to complain about traffic
 19 congestion as people so often are. That's not the issue
 20 here. There may occasionally be, but basically the issue
 21 here is speed. Cars are going by fast. When I drive up
 22 there like to a meeting, because most of our constituents
 23 live north of it, I live south of it, I worry about making
 24 the left turn as things are. So do many of them and that's
 25 why they began objecting several years before even the -- so

1 what we would really want to focus on is that set of traffic
 2 concerns far more than anything else.

3 What we're concerned is that when traffic turns
 4 left into the childcare center, it has to stop to allow
 5 southbound traffic to pass. It's not a signed intersection.
 6 All the main roads there, like Baughman Lane, which is just
 7 south of it, have a sign that says Baughman Lane. But where
 8 you have an occasional house along the way that's just a
 9 driveway, as this is, there's no sign. There's no
 10 indication to cars that are coming that there's a problem.
 11 And, again, this state has not been willing to do anything
 12 about any of that.

13 One of our community members identified four
 14 separate traffic accidents in the immediate area. When you
 15 add traffic in and out of a residential driveway in an area
 16 like that where even the turns in and out of marked roads is
 17 difficult, it obviously increases the danger to everyone and
 18 that's -- now there is no stacking lane. I've been looking
 19 along Norbeck, along Layhill and so where, normally if there
 20 is going to be some kind of a facility like this with
 21 multiple people going in and out, there's a stacking lane,
 22 there's a widening, there's something to make that so that
 23 there's accident avoidance room. Here there is just no
 24 accident avoidance room at all.

25 You people have just come over a very narrow

1 bridge, which we've tried to get the state to widen, and
 2 then they're on this very narrow road. In addition, there
 3 are no sidewalks and there is no offsite parking. And if
 4 someone doesn't want to wait to get into the driveway,
 5 there's nowhere else for them to go and park. If they do go
 6 to Baughman Lane, there's legal parking, but then they have
 7 to walk up on the road or across somebody's lawn because
 8 there's no side to the road. So if they're walking with
 9 children, it's very hazardous and I don't want them to harm
 10 a child by not trespassing, but on the other hand we don't
 11 want to create a situation where people routinely would have
 12 to trespass. The same, the other driveways clearly belong
 13 to individuals. In the past, people have driven in and used
 14 private drives when they either, and obviously they
 15 shouldn't do that.

16 Now even with the reduced number of children that
 17 the Planning Board proposed, it looked to them initially as
 18 if there would still be a stacking problem. So then they
 19 had in the area, so then they had this idea of limiting the
 20 number of cars going in and out at any time on a schedule
 21 that we find unrealistic. But let's suppose that all the
 22 parents who work somehow managed to bring in their kids and
 23 pick up their kids on this precise schedule which nobody is
 24 going to be there to monitor and nobody is going to come
 25 back and look at. And let's suppose that the chairs can,

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1 the cars can get in and out. Even then the Planning
2 Commission initially didn't find enough space for one car to
3 pass another, for cars to be parked there and so there was a
4 problem of stacking.
5 So then in the middle of the hearing they started
6 to talk about, well, we'll wide the drive somewhat, we'll
7 provide extra parking spaces somewhere without dealing with
8 the fact that reopened the whole issue of conformity with
9 the master plan with having a front yard that still doesn't
10 look like a parking lot. And what is happening now is that
11 with the changes that may now occur, it may be a little bit
12 safer, at least as far as getting in and out is concerned,
13 but then I'm not sure what happens to that front. And I
14 have looked and there is not much hope of foliage protecting
15 that any time soon.
16 But I, you know, the appearance is obviously not
17 the main thing. The main concern that we have and the
18 reason why our members voted to oppose this in a meeting
19 with no objection last fall, the reason why when I sent out
20 copies of my letters to our members, all 300 of them, as
21 recently as a couple of weeks ago, when I sent out letters
22 like that on the ICC I got irate phone calls, I got e-mails
23 from people who said, but I like the ICC, you've got to
24 represent me too. Nobody has written me or called me and
25 objected to our objection to this center because they all

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1 know that we have this traffic problem. And so there is
2 really no support from within my community for this. And
3 with that, I thank you very much.
4 MS. CITARAMANIS: Okay. Wait a minute please.
5 THE WITNESS: Sure.
6 MS. CITARAMANIS: I just, before we go -- you
7 mentioned that your members voted last fall to authorize you
8 to come here and make this statement?
9 THE WITNESS: Yes.
10 MS. CITARAMANIS: Okay. And is that the November
11 15th meeting --
12 THE WITNESS: I think so.
13 MS. CITARAMANIS: -- I'm looking at your first
14 letter. I have three letters here from you.
15 THE WITNESS: Yes.
16 MS. CITARAMANIS: One is Exhibit 32 dated January
17 6, 2013; Exhibit No. 52, April --
18 THE WITNESS: Yes.
19 MS. CITARAMANIS: -- 15, 2013; and Exhibit 55
20 dated April 29, 2013. And your first letter said
21 membership. I just want to confirm --
22 THE WITNESS: Yes.
23 MS. CITARAMANIS: -- that it was --
24 THE WITNESS: We, in addition, we had a membership
25 meeting about 10 days ago with a rather smaller turnout, but

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1 by then everyone had seen my letters and nobody objected
2 then and I discussed the issue again.
3 MS. CITARAMANIS: Okay. So we'll give Ms. Lee-Cho
4 an opportunity if she has any questions.
5 MS. LEE-CHO: No.
6 MS. CITARAMANIS: No questions? Mr. Knopf?
7 MR. KNOFF: No questions.
8 MS. CITARAMANIS: Okay.
9 MR. KNOFF: Just thank the witness for taking the
10 time to come.
11 MS. CITARAMANIS: Okay.
12 MR. KNOFF: I understand you're the one going to
13 Europe today?
14 THE WITNESS: Yes. Thank you.
15 MS. CITARAMANIS: Real quick, let me just see if
16 there's an individual I didn't go through. We have, of
17 course, the Schillings are represented and Mr. -- okay.
18 There is -- no, everybody else is, looks like an expert. Is
19 there, did anybody come in that's an individual?
20 (No response.)
21 MS. CITARAMANIS: Okay. Thank you very much for
22 coming in and we have all of your letters in the --
23 THE WITNESS: Thank you very much.
24 MS. CITARAMANIS: And enjoy your trip.
25 THE WITNESS: Okay. I'll wait while Larry speaks

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1 and then I'll go.
2 MS. CITARAMANIS: Okay. Okay. Mr. Campbell,
3 you're up. Let me see, where are -- you --
4 MR. CAMPBELL: I think I sent a letter in, but it
5 made reference to the --
6 MS. CITARAMANIS: Exhibit 54.
7 MR. CAMPBELL: -- hearing on the 8th.
8 MS. CITARAMANIS: Okay. You can't talk until I
9 swear you in.
10 MR. CAMPBELL: Okay. Sure.
11 MS. CITARAMANIS: All right. Raise your right
12 hand.
13 (Witness sworn.)
14 MS. CITARAMANIS: Please state your name and your
15 address.
16 THE WITNESS: Larry Campbell, 1905 Norvale Road,
17 Silver Spring, Maryland 20906.
18 MS. CITARAMANIS: And let me just confirm that I
19 think I do have a letter from you dated April 26, 2013, and
20 it's marked as Exhibit 54.
21 THE WITNESS: That's the correct date.
22 MS. CITARAMANIS: That's the correct date? Okay.
23 So why don't you give us your testimony?
24 THE WITNESS: Sure. First of all, I don't
25 represent anyone except myself.

1 MS. CITARAMANIS: Okay. So you're an individual.
 2 THE WITNESS: And I have no objections to daycare
 3 in our area, however, for personal reasons my main concern
 4 is for the children in the cars. They have no way of saying
 5 turn, don't turn, it's okay. They're this innocent people
 6 in the back of those cars.

7 In theory, you could have as many as 52 turns into
 8 that driveway a day. More than likely you won't have that
 9 many, you'll have 40, but you could have up to 52 not
 10 counting any interim trips. That's 52 opportunities for a
 11 child in that back seat to get injured due to side impact or
 12 rear end crashes. Like I said, those children, they can't
 13 say be patient, I know you're running for late, you're
 14 running late for work, but be patient. We all get impatient
 15 and there's 50 some changes a day somebody is going to get
 16 impatient and make a turn and my whole concern is for the
 17 children.

18 I've lived in this area and I've done up and down
 19 Layhill for 23 years. And before that when I was dating my
 20 wife, she went to Sandy Springs Friends School and I used to
 21 go up and down that road and we used to go up and down there
 22 pretty fast because it -- in the late '60's, early '70's,
 23 that was known as the rollercoaster road. And you would
 24 have people from downtown D.C. come out there just to go
 25 fast up and down that road for the thrill, kids.

1 Now you don't have as many because everybody is
 2 hooked to their electronic games, but still you still have
 3 people speeding up and down there, thrill-seeking, people
 4 running late for work trying to get on the ICC and, again,
 5 with that many turns, I'm just concerned about the children
 6 who have no say at all, hey mom, don't turn so quick, be
 7 patient. I know you're running late for work, but wait five
 8 minutes before you make that turn.

9 MS. CITARAMANIS: Okay.

10 THE WITNESS: That's all I've got to say.

11 MS. CITARAMANIS: Okay. Did you have any
 12 questions, Mr. Knopf?

13 MR. KNOPF: No questions.

14 MS. CITARAMANIS: And where, just real quick --

15 THE WITNESS: Sure.

16 MS. CITARAMANIS: -- you're located on --

17 THE WITNESS: I'm Norvale Road, just adjacent to
 18 the ICC and like when I leave my house constantly to go up
 19 to Olney, Maryland, I go up that way. We go grocery
 20 shopping up that way quite a bit. So I'll probably go that
 21 way roughly 10 times a week by the daycare center.

22 MS. CITARAMANIS: Okay. All right. Thank you
 23 for -- there's nobody in the audience? Okay. Thank you for
 24 coming out.

25 THE WITNESS: Sure. Thank you.

1 MS. CITARAMANIS: All right. So we are back on
 2 track. I don't have any other preliminary matters from
 3 either side, so if petitioner would like to make an opening
 4 statement?

5 MR. OROBONA: Sure.

6 MS. LEE-CHO: Opening statement will be made by
 7 Mr. Orobona.

8 MS. CITARAMANIS: Okay.

9 MR. OROBONA: Okay. So good morning.

10 MS. CITARAMANIS: Good morning.

11 MR. OROBONA: Again, David Orobona with the law
 12 firm of Miller, Miller & Canby on behalf of Mr. Mani and his
 13 wife and also the ABC Loving Child Care Center. Mr. Mani
 14 and his wife have been operating this ABC Child Daycare
 15 Center for the past seven years and before they, and prior
 16 to them to purchasing the site, that site had been operated
 17 as another child daycare for 10 years before that. So
 18 there's a 17-year history of a child daycare center located
 19 on that site.

20 Mr. Mani has been very successful. The parents
 21 that he, his clients are very happy with him and to the
 22 point where a lot of them are having new child, new children
 23 now, new brothers and sisters for the children that are
 24 existing, clients of his, I guess, and so he needs to expand
 25 the operation. So he has 11 kids there right now. He's

1 looking to slightly expand this. The next step up, you
 2 know, as you know, 12 children are permitted by right in the
 3 R-200 zone. They need to take the next step up, which is a
 4 child daycare for up to 30 children which obviously requires
 5 a special exception. That's why we're here today.

6 And so he's looking to do this, but with the
 7 existing daycare operation at 12 children, there are, I want
 8 to point out there's no conditions of approval, there are no
 9 standards that he needs to meet as far as our land use
 10 standards and so he was careful in orchestrating his
 11 statement of operations to make sure that the proposed
 12 special exception will have no further impact and, frankly,
 13 has less of an impact than the existing daycare that he has
 14 on site today.

15 He's going to be limiting kids to only eight
 16 children outside at any one time. He's going to be limiting
 17 the times of day that the children come and leave the site
 18 which is, again, conditions that are in place today. You're
 19 going to hear a lot about transportation impacts today, but
 20 I think we're confident that by the end of all the testimony
 21 that you hear, just like planning staff and the Planning
 22 Board, you'll be persuaded that this use won't drastically,
 23 negatively impact the traffic circulation system of the
 24 area.

25 And he's proposing no exterior modifications to

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1 the home. It's going to look like any other single-family
2 home in the neighborhood. And, again, we're confident that
3 you'll be persuaded by the evidence.
4 MS. CITARAMANIS: Okay. Mr. Knopf or Mr. Arem,
5 who is --
6 MR. KNOPF: Norman Knopf.
7 MS. CITARAMANIS: Okay.
8 MR. KNOPF: I'm going to make the opening
9 statement very briefly. We have a number of concerns which
10 lead to the opposition. One is safety in terms of unsafe
11 ingress and egress. There is concern about the adverse
12 impact on the immediate and nearby neighbors. This is
13 concern both noise wise and aesthetically. In terms of
14 aesthetics, we don't believe that there can be any
15 sufficient mitigation of the aesthetic problem due the
16 topography, it just does not lend itself to landscaping, for
17 proper screening and buffering.
18 We believe it is inconsistent with the master
19 plan. We believe there is a problem with the adequacy of
20 drop-off and pick-up, including parking for drop-off and
21 pick-up in staffing. And we praise, we can praise the
22 Planning Board for labeling hard to put on a lot of
23 conditions. They get an A for effort. We do not believe
24 the conditions are practical in the work.
25 And, last, the things that we are complaining

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1 about that we, cause this to be rejected, we believe are
2 non-inherent features of what's been proposed. We thank
3 you.
4 MS. CITARAMANIS: All right. Ms. Lee-Cho, Mr.
5 Orobona, who, would you like to call your first witness?
6 MR. OROBONA: Yes, we'll go ahead and call Mr.
7 Mani.
8 MS. CITARAMANIS: Okay. Mr. Mani.
9 MS. LEE-CHO: Before we begin, I want to clarify
10 for the most part Mr. Orobona will be handling the
11 questioning of the witnesses.
12 MS. CITARAMANIS: Okay.
13 MS. LEE-CHO: But I did want to, in case I had
14 something to add, that you wouldn't have a problem with my
15 asking questions as well?
16 MS. CITARAMANIS: I prefer one attorney will
17 handle it as we go, but it's one attorney, is with the
18 witness. I mean certainly if you have a follow-up question
19 that, you can either ask him to ask it, yes.
20 MS. LEE-CHO: It would be limited, but I just
21 wanted to put that out there.
22 MS. CITARAMANIS: Right. Okay. I just want to
23 make sure Mr. Knopf --
24 MR. KNOPF: I do have a clarifying question. Mr.
25 Orobona, you mentioned 30 in your opening statement. My

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1 understanding this has been modified to 24?
2 MR. OROBONA: It has and, yes, just to confirm for
3 the record I was talking about the categories for special
4 exception --
5 MS. CITARAMANIS: Yes, I believe that's --
6 MR. OROBONA: -- not just 30.
7 MS. CITARAMANIS: -- what he was saying, but --
8 MR. KNOPF: Thank you.
9 MS. CITARAMANIS: -- you're correct, you've
10 amended it to 24.
11 MR. OROBONA: Exactly.
12 MS. CITARAMANIS: Consistent with the staff and --
13 okay. All right. With that, I'm going to ask you to raise
14 your right hand, Mr. Mani.
15 (Witness sworn.)
16 MS. CITARAMANIS: Okay. Your attorney is going to
17 ask you questions. Answer them to the best of your ability.
18 If, of course, you don't understand it, let him know. When
19 they are done, the other side will be able to ask you cross-
20 examination questions and we don't have any individuals that
21 can ask you any questions.
22 THE WITNESS: Okay.
23 MS. CITARAMANIS: And if I have any clarifying
24 questions, but hopefully your attorneys will --
25 THE WITNESS: Okay.

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1 MS. CITARAMANIS: -- clarify everything. Okay.
2 So just take your time really. This is your case, so it's
3 important that everything --
4 THE WITNESS: Yes, ma'am.
5 MS. CITARAMANIS: -- you want to say is said. So
6 if Mr. Orobona wants to begin?
7 DIRECT EXAMINATION
8 BY MR. OROBONA:
9 Q Mr. Mani, go ahead and state your name and address
10 for the record.
11 A My name is Chandasekaran Mani. I live at 15010
12 Layhill Road, Silver Spring, Maryland 20906. The property
13 is also the subject for the proposed special exception for a
14 child daycare center.
15 Q Okay. And so you currently operate a daycare?
16 Can you state your qualifications for the record?
17 A Yes. I was a school teacher and licensed for a
18 daycare center operator by the state of Maryland. I have
19 two master's degree, one in history from Magas University,
20 India, and the other one is in education from Machal Provost
21 (phonetic sp.) University, India. And I have 13 years of
22 experience in daycare programs.
23 Q Okay. And so you're currently operating a daycare
24 on the site. Can you tell us a little bit about it?
25 A Yes. I've been operating this ABC Loving

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1 Childcare Center at my home for the past seven years. It is
2 limited to 12 children. Right now I have only 11 kids in my
3 daycare between the ages of six and five years.
4 Q And is this daycare licensed by the state?
5 A Yes, my program is licensed by the Maryland State
6 Department of Education to provide early learning activities
7 for infants, toddlers and for children.
8 Q And so a daycare was operating on the property
9 even before you purchased it, correct?
10 A Yes. The previous owners operated the childcare
11 center there for 10 years. Then I purchased it in end of
12 2006, end of 2006, and I was operating the daycare. So the
13 daycare is there for the last 17 years.
14 Q Okay. And so with the existing daycare, you can
15 have up to 12 children coming and going at any time of the
16 day right now and are there no limitations or conditions on
17 this child daycare?
18 A Yes.
19 MS. CITARAMANIS: I'm sorry, there are no -- are
20 there any limitations, is that what you're asking?
21 MR. OROBONA: Yes, are there any limitations on
22 the child daycare right now?
23 THE WITNESS: No, I don't have any limitations.
24 BY MR. OROBONA:
25 Q And so when you started to look into this special

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1 exception process, when did you start the special exception
2 process?
3 A I started late 2012.
4 Q Okay. And did you talk to your neighbors before
5 you began the special exception process or while you were
6 beginning the special exception process?
7 A Yes, I talk to all my neighbors. Mr. Schilling is
8 on this side. Mr. Melville on that side, two people living
9 there. I have talked to all four of them. There is only
10 one person I didn't meet, but I was having a letter for them
11 and I hand it off to them --
12 Q Okay.
13 A -- and I talked to them. They said, okay, go
14 ahead and do it. That's what everybody told me. I didn't
15 meet only one person and that person called me by phone and
16 she congratulated me, go ahead and do it. Then I started
17 all those things.
18 Q So this letter that you're referring to that you
19 gave all your adjoining neighbors, that was required by the
20 special exception, correct, and that's an exhibit in this,
21 in the record?
22 A Yes.
23 MS. CITARAMANIS: What's the exhibit number? Do
24 you have --
25 MR. OROBONA: Exhibit 4.

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1 BY MR. OROBONA:
2 Q Okay. And so you spoke to your neighbors and they
3 wished you luck in the process. So at no time in late 2012
4 did your neighbors say that they'd be opposed to the child
5 daycare or tell you that the existing daycare posed any
6 problems?
7 A No, they didn't tell us anything. They said go
8 and start do it. That's what they told me.
9 Q Okay.
10 A So I started everything and finally I heard that I
11 got opposition, a lot of letters came in. That's what they
12 told me.
13 Q Okay. So now, you know, initially when you first
14 talked to them no one had any issues for you, but now just a
15 few months later many of these same people are here
16 testifying about traffic issues, noise issues, children
17 playing outside --
18 A Children playing and all those.
19 MR. KNOPF: Is there a question there or is that
20 testimony?
21 MS. CITARAMANIS: Could you make them direct
22 questions because you're putting in a lot of information.
23 THE WITNESS: You can ask me anything.
24 MS. CITARAMANIS: It sounds like he could answer.
25 Just write the questions down. If you could do that?

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1 MR. OROBONA: Okay. Let's move on.
2 BY MR. OROBONA:
3 Q Can you explain the special exception that you're
4 proposing?
5 MS. CITARAMANIS: Did you hear it?
6 THE WITNESS: Yes.
7 MS. CITARAMANIS: Okay.
8 THE WITNESS: What's that?
9 MR. OROBONA:
10 Q Can you explain the special exception you're
11 proposing?
12 A Yes, we are proposing to increase the enrollment
13 for the child daycare center from 12 to 24 children. Many
14 parents recently had or are expecting babies are requesting
15 enrollment for their infants and many other parents are
16 recommending our daycare to other people.
17 Q Okay. And will the daycare be contained within
18 the existing home?
19 A Yes. I'm using 1,576 square feet out of 2,288
20 square feet.
21 MS. CITARAMANIS: 2,000 and what?
22 THE WITNESS: 2,288 square feet is the whole
23 house, but I'm using 1,576 square feet for the daycare
24 center. I have rooms for the infants, toddlers, 3-year-olds
25 and 4 to 6-year-olds. The main entrance will be the front

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1 door of the house --
2 MR. OROBONA: Okay.
3 THE WITNESS: -- for the kids, to take in and send
4 them off.
5 BY MR. OROBONA:
6 Q Okay. And what hours will the daycare operate?
7 A Yes, we open at 7:00 a.m. and we operate up to
8 6:00 p.m.
9 Q Okay. And will there be a staggered drop-off and
10 pick-up time for the children?
11 A Yes. They're all staggered in three groups of six
12 vehicles each. No more than three vehicles will arrive in
13 half an hour period. They are divided into three groups,
14 group one, two and three. The group one will bring their
15 kids from 7:00 to 8:00 and the group two will bring their
16 kids from 8:00 to 9:00, then the third group will bring from
17 9:00 to 10:00. And the group one will pick up their kids
18 from 3:00 to 4:00 p.m. and the group two will pick up their
19 kids from 4:00 to 5:00 p.m. group 3 will pick up their kids
20 from 5:00 to 6:00 p.m. Many parents are bringing more than
21 two kids, that's why we are able to control the traffic and
22 all those things.
23 Q Okay.
24 A Uh-huh.
25 Q And how many employees will you have in the

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1 daycare?
2 A Almost four, myself and my wife both are living
3 there and operating the daycare. The other two employees
4 are there.
5 Q Okay. Tell me a little bit about the play area,
6 are there going to be any proposed modification to the
7 existing play area?
8 A Uh-huh, yes.
9 MS. CITARAMANIS: Outside or inside?
10 MR. OROBONA: Outside. Outside --
11 THE WITNESS: Outside.
12 MR. OROBONA: -- play area, I'm sorry.
13 THE WITNESS: Outside play area. Yes, we will
14 replace the existing 4-foot picket fence. There will be a
15 6-foot, solid wooden fence to mitigate the noise and screen
16 the backyard play area. All play activities will occur
17 within the home or within the solid fence area.
18 BY MR. OROBONA:
19 Q Okay. And you have no set play times right now
20 with your existing daycare. Are you proposing to have set
21 play times, outdoor play times with the special exception?
22 A Yes. There will be staggered outdoor play time
23 for the children, maybe not any more than eight children
24 outside at any one time, less than the daycare today. There
25 will be two outdoor play times in the morning from 10:00 to

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1 11:00 a.m. and in the afternoon from 3:00 to 5:00 p.m.
2 Q Okay. And so you presented this to the Montgomery
3 County Planning Board on April 18th, what did planning staff
4 and the Planning Board recommend on the application?
5 A Well the planning staff and the Planning Board
6 recommended approval of the special exception from 24
7 children. The Planning Board recommended slightly widening
8 the driveway to allow vehicles to pass by one another, but
9 were also recommended having children sign in from the front
10 door.
11 Q Okay. And are these recommendations acceptable to
12 you?
13 A Yes, the special exception has been modified to be
14 consistent to the Planning Board's recommendations. It's
15 definitely gladly involving in this change.
16 Q So let's walk the Hearing Examiner through how you
17 meet the standards for approval in this child daycare
18 special exception. First, what's the zoning on the
19 property?
20 A Property is on lot 200.
21 Q Okay. And 24 child daycare is a permissible
22 special exception in this zone?
23 A Yes.
24 MS. CITARAMANIS: Well, let me ask you this, it
25 might be, has he read the staff report and does he wish

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1 to --
2 MR. OROBONA: Yes.
3 MS. CITARAMANIS: -- does he agree with those and
4 wish to adopt or is there anything in there that he doesn't?
5 I mean that might be a shorter way to --
6 MR. OROBONA: Okay.
7 MS. CITARAMANIS: -- going through the technical
8 staff report, especially since some of those things require
9 some interpretation.
10 MR. OROBONA: Sure.
11 MS. CITARAMANIS: So if -- that's just a
12 suggestion. You're certainly welcome to go through every
13 single one if you want.
14 MR. KNOPF: Well, I would like to encourage that
15 so I don't have to object because I don't think it's
16 appropriate to ask the witness what the zoning code
17 provides. If he has some expertise in that --
18 MS. CITARAMANIS: Well, I think it makes it more
19 problematic --
20 MR. OROBONA: Yes.
21 MS. CITARAMANIS: -- considering his, you know,
22 he's a lay person and it doesn't mean he's not educated or
23 doesn't know anything, it's just --
24 MS. LEE-CHO: If he, the reason we were going
25 through it, if the Hearing Examiner is amenable and

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1 opposition is amenable to accepting the proposed staff
2 report and the findings therein without objection, then we
3 shall --
4 MS. CITARAMANIS: Well, I'm certainly not going
5 to. I can't, I --
6 MS. LEE-CHO: As the technical staff's
7 recommendations. We were just trying to get on the record
8 through Mr. Mani his understanding of what the technical
9 staff --
10 MS. CITARAMANIS: And his understanding is
11 certainly an acceptable explanation, but I understand --
12 that's why I raised it in terms of generally people I ask
13 them if they've read it or they understand it, did they have
14 any questions, do they wish to adopt it as their own
15 evidence. I certainly can't give you the agreement that I'm
16 going to adopt it because then what would be the point in
17 writing my decision?
18 MS. LEE-CHO: Yes, but we're trying to get it in
19 the record so you understand our point.
20 MS. CITARAMANIS: Oh, okay.
21 MR. KNOPF: So would it be incorrect --
22 MS. CITARAMANIS: Yes. No, and that's fine. So
23 you understand what I'm --
24 MR. KNOPF: No, I understand.
25 MS. CITARAMANIS: -- suggesting?

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1 MR. KNOPF: I mean I --
2 MS. CITARAMANIS: It makes it a little bit --
3 MR. KNOPF: I think it's shorten, it shortens it
4 if --
5 MS. CITARAMANIS: It shortens it.
6 MR. KNOPF: -- it says he accepts what the
7 recommendations are.
8 MS. CITARAMANIS: Right.
9 MR. KNOPF: Obviously, we can recognize that he
10 accepts that, but we're not going to recognize that we
11 accept the findings.
12 MS. CITARAMANIS: Right. And I -- exactly.
13 MS. LEE-CHO: Right. Of course.
14 MS. CITARAMANIS: Right. So --
15 MR. OROBONA: Okay.
16 MS. CITARAMANIS: -- I would just establish that
17 he's read it, he understands it and he wishes to adopt it
18 unless, of course, you all have other advice that there's
19 anything in there that --
20 MR. OROBONA: Yes, I understand.
21 MS. CITARAMANIS: -- you, that's your prerogative,
22 but that is certainly a shortcut to making his testimony a
23 little more, more, a little clearer.
24 MR. OROBONA: Yes.
25 MS. CITARAMANIS: He certainly is, if he accepts

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1 their conclusions, then --
2 BY MR. OROBONA:
3 Q So, Mr. Mani, you have read the technical staff
4 report, correct?
5 A Yes.
6 Q And do you agree with all their findings and
7 recommendations --
8 A Yeah.
9 Q -- on your property?
10 A I agree with all of those.
11 Q Okay.
12 MS. CITARAMANIS: And I believe he also said the
13 Planning Board's report too.
14 BY MR. OROBONA:
15 Q Yes, and the Planning Board's transmittal
16 letter --
17 A Yes.
18 Q -- to the Hearing Examiner? Yes, you've read that
19 and agree with it and accept their --
20 A Yes.
21 Q So, Mr. Mani, let me skip ahead here. What steps
22 will you take to mitigate any noise impacts from your
23 daycare?
24 A Now we will be replacing the current 12-foot
25 picket fence with a 6-foot solid, wooden fence. And outside

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1 also we will send only eight kids to play outside. There is
2 also approximately 75 feet within the play area and the
3 nearest adjoining room, reducing the noise impact. Both
4 planning staff and the Planning Board were satisfied with
5 these mitigating factors.
6 Q Okay. And is the outdoor play area always
7 supervised?
8 A Yes, we always supervise.
9 Q Okay. To further lessen the impacts, are you
10 willing to have your supervising, have a noise monitor out
11 there every time they're out with the children to monitor
12 the noise to make sure it doesn't rise above 65 decibels,
13 which is the Montgomery County noise standard for
14 residential zones?
15 A Yes. Yes, we are willing to do that.
16 MS. CITARAMANIS: I'm sorry, Mr. Knopf.
17 MR. OROBONA: Okay. I believe that's all the
18 questions we have.
19 MS. LEE-CHO: If I might have --
20 MR. KNOPF: Well --
21 MS. CITARAMANIS: Let me ask this. Do you have
22 the site plan, isn't there an amended site plan?
23 MR. OROBONA: We did and we --
24 MS. CITARAMANIS: And --
25 MR. OROBONA: -- e-mailed that yesterday.

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1 MS. CITARAMANIS: Can you get him to identify
2 it --
3 MR. OROBONA: Sure.
4 MS. CITARAMANIS: -- as far as the photographs
5 that he's -- and did you, all I got was through e-mail did
6 you have a bigger one that --
7 MR. OROBONA: Unfortunately, we only have one
8 copy, but we can make copies.
9 MS. CITARAMANIS: Did you all get a copy of it?
10 MR. KNOPF: We did.
11 MS. CITARAMANIS: Okay.
12 MR. KNOPF: That size, right.
13 MS. CITARAMANIS: Okay. But you don't have the
14 --
15 MR. OROBONA: 8 1/2 by 11 is the size that it was
16 reproduced at.
17 MS. CITARAMANIS: But do you have one, do you have
18 a bigger one?
19 MR. OROBONA: No.
20 MS. CITARAMANIS: Okay. So you just modified the
21 8 by 11?
22 MR. OROBONA: Yes.
23 MR. OROBONA: So, Mr. Mani --
24 MS. CITARAMANIS: Is it marked, does it have an
25 exhibit number, because I -- it's important for the record

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1 that you when you are looking at exhibits that you identify
2 what it is you're looking at first so the record is clear.
3 MS. LEE-CHO: Did you want to -- has this already
4 been entered into, or given --
5 MS. CITARAMANIS: It's been marked, yes. So this
6 would be --
7 MR. KNOPF: 72(b), isn't it?
8 MS. CITARAMANIS: Hold on. Hold on. Let me make
9 sure. Is this -- it is attached to, it is an e-mail from
10 Mr. Orobona dated May 13th and I have it as, marked as
11 68(a).
12 MR. KNOPF: 68(a)?
13 MS. CITARAMANIS: 68(a).
14 MR. OROBONA: Yes, this --
15 MS. CITARAMANIS: And I think that, yes, I think
16 that that's, that's what was attached to the e-mail. So if
17 you could --
18 BY MS. LEE-CHO:
19 Q Mr. Mani, before you is a site plan marked Exhibit
20 68(a). Could you confirm that it is the site plan of your
21 property and that the amended provisions, is that the
22 correct area of the childcare center portion of the home at
23 1,576 square feet?
24 MR. KNOPF: Excuse me, I thought the rules were
25 going to be one lawyer gets to question the witness?

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1 MS. CITARAMANIS: I did say that, but she said
2 that there was a follow-up, so are you --
3 MS. LEE-CHO: I will take it from here in terms of
4 this --
5 MS. CITARAMANIS: Okay.
6 MS. LEE-CHO: -- aspect.
7 MS. CITARAMANIS: And is the reason why Mr.
8 Orobona can't, I mean --
9 MR. OROBONA: Ask him?
10 MS. LEE-CHO: I did this because I also had a
11 couple follow-up questions I thought you didn't want us to
12 go back and forth. I was --
13 MS. CITARAMANIS: Okay. I understand the concern.
14 I want you to have a complete record, but I also, we need
15 one lawyer. So I don't know if -- is this because someone,
16 are you new at doing this or is this -- I don't understand
17 why.
18 MS. LEE-CHO: Yes. This is Mr. Orobona's first
19 hearing --
20 MS. CITARAMANIS: Okay.
21 MS. LEE-CHO: -- before the Hearing Examiner.
22 MS. CITARAMANIS: That's okay.
23 MS. LEE-CHO: And we're trying to --
24 MS. CITARAMANIS: This is my -- I understand that.
25 All right. So I'm going to allow a little leeway, but I'm

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1 going to ask, Mr. Knopf, I understand. We're going to give
2 them a little leeway. But we'll switch over and it will
3 stay with you. And if you have any questions, just ask her.
4 MS. LEE-CHO: And we appreciate that.
5 MS. CITARAMANIS: But it's very, it's just really
6 important, especially when we put citizens up that, you
7 know, they don't feel teamed, double-teamed by a lawyer.
8 We're already scary enough to them.
9 MS. LEE-CHO: We would be, we would be amenable to
10 having Mr. Arem also question our witnesses, it's fine. I
11 just --
12 MS. CITARAMANIS: Yes, but just for consistency
13 sake and I understand -- anyway, just with that explanation
14 --
15 MS. LEE-CHO: I'll take it from here.
16 MS. CITARAMANIS: -- if you can take it from here,
17 that doesn't mean he can't do closing, it doesn't mean he
18 can't, you know, do the expert, but we like for one of you
19 to start and with the witness.
20 MS. LEE-CHO: Understood.
21 MS. CITARAMANIS: Okay.
22 BY MS. LEE-CHO:
23 Q So, Mr. Mani, if you could go ahead and in taking
24 a look at the site plan that was handed to you, confirm that
25 that is the most current version of the site plan that has

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1 been amended with the updated childcare square footage, as
2 well as identifying the alternate play area, I believe, in
3 addition to the play area six. We've amended play area nine
4 as an open grass area that you've indicated the kids
5 sometimes also run and play in that area.

6 MS. CITARAMANIS: He hasn't indicated anything
7 yet, so why don't we just let him -- why don't we just take
8 it, it's a nicely done site plan in terms of area, so if you
9 just want to ask him to explain the different areas and
10 changes because, you know, I know you can sum it up, but I
11 really do need to hear it from him in terms of this area
12 through the changes.

13 THE WITNESS: Yes, yes. This is the latest site
14 plan drawn by a draftsman and we, first, we did some
15 driveway, we corrected, one is the north side, the other one
16 is the south side and the last one is in the middle. And we
17 have submitted to the Planning Office. It's definitely
18 there for us looking at all those things and are good the
19 southern side of the land and she asked me the names of the
20 trees of the playground area. There are 10 trees. She
21 wanted the particular name of the trees that I'm going to
22 plant on the playground and I chose American Holly in that
23 playground and so all 10 trees will be American Holly.
24 That's what I'm going to put that in playground.

25 And area six is the playground. The kids, they go

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1 there and they play. And sometimes when the kids,
2 summertime, they want to run around. They run around in
3 area nine. If they want to play some games or hide and seek
4 or something, or soccer, they come to the area nine and they
5 play around. Most of the time they play in the area six.

6 BY MS. LEE-CHO:

7 Q Mr. Mani, could you testify what improvements are
8 in area six specifically because they are not shown on the
9 site plan?

10 A Well, area six, what's in the photograph?

11 Q What kind of --

12 A I have swings, slides, all those things there in
13 the area six. They just go there and play.

14 Q Then if you could just go ahead and -- okay. Mr.
15 Mani --

16 MS. CITARAMANIS: This is bigger.

17 MS. LEE-CHO: Is it bigger?

18 MS. CITARAMANIS: This is what I have. So I'm
19 just going to -- thank you for giving me a bigger one. We
20 can certainly, if you want a longer one, we can make you a
21 copy of that as well. But you have, you have a copy? Okay.
22 So I am going to -- I'll add that to the record because that
23 was one of the things that I wanted to add. Okay. Go
24 ahead.

25 BY MS. LEE-CHO:

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1 Q Mr. Mani, just going back on what you said about
2 the noise issue, you understand that your immediate
3 neighbors have complained about noise, specifically related
4 to the children playing outdoors. Do you have, in the seven
5 years that you have been operating at this site, have you
6 had any history of complaints filed against your operation
7 with the County, Department of Environment or the state in
8 terms of noise levels of any sort? Have you had an
9 inspector come out and inspect you for noise?

10 A No, nobody has complained anything about the
11 daycare noise or the traffic problem. I didn't have any
12 problem with anybody.

13 Q Has there ever been a, within the seven years or
14 the 10 years were you aware of any similar issues with the
15 previous operation?

16 A No, they didn't tell me anything. They said
17 everything is running fine. That's why I bought the daycare
18 and start learning it.

19 Q In the seven years that you have been operating
20 there, has there been a traffic accident with regard to your
21 parents, you know, leaving the site or coming into the site?

22 A No, nothing has happened.

23 Q Do you know of any issues prior to your purchase
24 of the site with regard to a traffic accident issue at the
25 driveway in the prior 10 years of operation?

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1 A No, they didn't tell me anything and there was no
2 accident because of the parents, no traffic accidents or
3 anything.

4 Q Thank you.

5 MS. LEE-CHO: I don't have anything further.

6 MS. CITARAMANIS: Okay.

7 MR. KNOPF: Okay. Thank you.

8 CROSS-EXAMINATION

9 BY MR. KNOPF:

10 Q Mr. Mani, I noticed in your answering questions of
11 your counsel you were reading something that was in front of
12 you. Do you have -- what do you have in front of you that
13 you are reading from?

14 A I have prepared the answers that they're asking.
15 I want to answer them.

16 Q The answers are there? And are they typed or
17 handwritten?

18 A Typed.

19 Q Did you prepare and type that?

20 A No, I talked to my lawyer and we prepared all
21 those things.

22 Q The lawyer --

23 MS. LEE-CHO: Objection.

24 THE WITNESS: Because most of the things I have,
25 given in my --

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1 MS. LEE-CHO: I object to this line of
2 questioning.
3 MS. CITARAMANIS: Okay. Okay.
4 THE WITNESS: -- statement.
5 MS. CITARAMANIS: There's an objection. When you
6 hear objection, that means you need to stop talking until
7 we --
8 THE WITNESS: Okay.
9 MS. CITARAMANIS: Okay.
10 MS. LEE-CHO: There's no bar against a client-
11 attorney preparing for a hearing in advance of the
12 testimony. There's no basis for this line of questioning at
13 all.
14 MR. KNOPF: There's no bar in my asking where he
15 got those answers from.
16 MS. CITARAMANIS: Okay. And now you know that
17 his, the attorney --
18 MR. KNOPF: Helped him prepare them.
19 MS. CITARAMANIS: -- helped prepare them.
20 MR. KNOPF: Okay. That's fine. That's all I was
21 asking.
22 MS. CITARAMANIS: Okay. Wait until you have
23 another question.
24 THE WITNESS: Okay.
25 MS. CITARAMANIS: We've cleared that up.

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1 BY MR. KNOPF:
2 Q Mr. Mani, did I understand correctly you said you
3 had now have 11 children that are, you're caring for now?
4 A Yeah.
5 Q Is that the maximum that you have had? Have you
6 ever had up to 12?
7 A Yeah, I've had up to 12.
8 Q You have had on occasion? And --
9 A I have only child that's left.
10 Q I see.
11 A Yeah.
12 Q And you've had this daycare center for seven
13 years, is that correct?
14 A Yes.
15 Q And you bought it from someone that previously had
16 it?
17 A Yeah.
18 Q And the people that you bought it from, they
19 didn't tell you of any, of the problems they have
20 experienced, they didn't volunteer that information when you
21 were going to purchase this?
22 A They said they didn't have any traffic problem or
23 any accident problem.
24 Q And if they did, you would have expected them to
25 disclose that to you?

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1 A They said there were, no, nothing.
2 Q Okay.
3 A That's why I bought it and started --
4 Q Okay. Thank you. With regard to the -- right now
5 you have the children all go out at one time or do they go
6 in shifts to outdoor activities?
7 A Outdoor activities, only 11 kids, even when I was
8 having 12 kids, I have babies and less than 2-year-old kids.
9 I don't send them outside, I keep them indoors. I take only
10 the big kids outside, three, four, 5-year-old kids, only I
11 take them outside.
12 Q I see. So you --
13 A So I would say it would be less than eight.
14 Q Less than eight?
15 A Yeah.
16 Q I see. So less than eight. Now you had mentioned
17 that under, what you're proposing you would have no more
18 than eight that would go out at each time period and there
19 would be three time periods, is that correct?
20 A Uh-huh. Yes.
21 Q Am I correct, you said one time period would be in
22 the morning?
23 A Yes.
24 Q And two would be in the afternoon?
25 A Yes.

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1 Q Now you said 3:00 to 5:00 p.m., is that --
2 A Yes, 3:00 to 4:00 and 4:00 to 5:00.
3 Q I see.
4 A So 3:00 to 5:00.
5 Q Wouldn't that mean in the fall and winter the kids
6 are out in the dark between 4:00 and 5:00?
7 A No.
8 Q They're not?
9 A I don't take them outside when the weather is not
10 good or it's raining, or if it's cold I don't take them out.
11 Q Well, but we've had warm weather in November or
12 December in Washington, do we not, where it's, kids need to
13 go out and it's warm enough for them to go out, do you send
14 them out when it's dark, 4:00 to 5:00?
15 A If it dark, I don't take them. I tell them to
16 play inside the daycare.
17 Q You don't send them out earlier or at another
18 time?
19 A Well, if it is dark, I don't take them outside.
20 When the weather is good, I take them outside.
21 Q Okay. Now --
22 A If there is rain or snow out, at that time I don't
23 take them out.
24 Q Now you have four, there will be four people that
25 will be staffing the daycare center, is that correct?

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1 A Yeah, I took, yeah, me and my wife and three
2 people are working full-time and one is a part-time. They
3 come and go.
4 Q And the one that comes, the part-time comes at
5 what time? What -- you and your wife are there at 7:00 in
6 the morning, is that correct?
7 A Yes, 7:00 in the morning, 6:00 in the morning.
8 Q And you have parked cars, you have two cars to be
9 parked in the garage, is that correct?
10 A Yeah.
11 Q Are there spaces for two more parked cars --
12 A Yes.
13 Q -- in front of the garage?
14 A In front of garage.
15 Q So there's a maximum, excuse me, of two extra
16 spaces for people that aren't living in the house --
17 A Uh-huh.
18 Q -- is that correct? Okay. Now you have -- what
19 time does the first non-resident helper come, employee?
20 A 9:00.
21 Q 9:00? And what time does the next employee come?
22 You say you have four.
23 A 11:00.
24 Q 11:00? Now, excuse me, do you currently take care
25 of toddlers?

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1 A Yes.
2 Q And infants?
3 A Yes.
4 Q And there are different staffing requirements
5 imposed by the state, is there not --
6 A Yes.
7 Q -- depending on the age of the child?
8 A Uh-huh. Yes.
9 Q Could you help me, for the infants, what is the
10 staffing arrangement there? How many infants per staff
11 member or staff member per infants?
12 A Infants means, about three infants, one staff.
13 Q Three infants to one staff? And is the next
14 category toddler?
15 A Uh-huh.
16 Q And what is for toddler?
17 A Toddler, five or six. I think toddler is --
18 Q What age, pardon my ignorance, it's been awhile,
19 what age is toddler? What age, what age, how old does the
20 kid have to be or young to fall into that category?
21 A Toddlers?
22 Q Pardon?
23 A Toddlers?
24 Q Yes, toddlers.
25 A One to two, one years to two years, yes.

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1 Q One to two?
2 A Uh-huh.
3 Q And the next category as we go up after two years,
4 what is that category called?
5 A They call them preschoolers.
6 Q Preschoolers. And is that from three --
7 A Three, four, five.
8 Q Three, four and five? So you're saying the same
9 staffing requirements are, if you have a group of three,
10 four or five, it's the same staffing requirements?
11 A Because it's around, because they are having
12 babies still, five or 6-year-old kids, how many kids we
13 have, that many staff will be taking care of the kids.
14 Q Right. But if you have -- what is the staffing
15 like? You said there was one staff member for three
16 infants. How many staff members per so many preschoolers?
17 What is the ratio?
18 A Preschool?
19 Q Yes, from --
20 A Preschool means?
21 Q Well, you said two, up to two is toddler, then we
22 went to three.
23 A Preschoolers, preschool kids. There's three,
24 four, five are preschool kids.
25 Q Yes. And how many staff does the state require

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1 per group of kids, is it one per five?
2 A I don't know.
3 Q You don't know?
4 A I know I know that 10 kids for one teacher.
5 Q Ten -- one to 10?
6 A Ten. One to 10.
7 MS. CITARAMANIS: That's preschool?
8 THE WITNESS: Yes.
9 MS. CITARAMANIS: Preschool? Okay.
10 BY MR. KNOPF:
11 Q Well, I'm going to explain why I'm asking these
12 questions, but let me ask another thing. In terms of your
13 current operation, do you have a specific time that's
14 assigned to any parent, a time window that they have to
15 arrive at to drop off or to pick up?
16 MS. LEE-CHO: I'm sorry, I missed the first part.
17 Is it the current operations?
18 MR. KNOPF: The current, the plan, yes.
19 MS. CITARAMANIS: That's what I understood it to
20 be.
21 MR. KNOPF: Yes.
22 MS. CITARAMANIS: As it's operating right now?
23 MR. KNOPF: That's -- yes.
24 THE WITNESS: I don't have any --
25 MR. KNOPF: You don't have it?

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1 THE WITNESS: -- specific --
2 MR. KNOPF: So you have --
3 THE WITNESS: But they're all coming at different
4 timings.
5 MR. KNOPF: Well, okay.
6 THE WITNESS: So I don't have any problem.
7 BY MR. KNOPF:
8 Q They come when their schedule permits them to
9 come, is that correct?
10 A Uh-huh. Yes.
11 Q So you haven't had any, you have had no experience
12 with setting times or time frames and seeing whether people
13 can meet those in terms of picking up or dropping off?
14 A Yes, I didn't talk to them about all those things
15 because I didn't have any problem about dropping off or
16 picking up, so I didn't talk to them or anything, fixing the
17 time, this time we'll come, this time, like that. I didn't
18 talk to them or anything about that because I don't have any
19 problem with the parents.
20 Q Okay. Well --
21 A So I --
22 Q Under -- I'm sorry. Under what you propose that
23 you have a certain time schedule that certain parents, I
24 believe you said there are three vehicles per half an hour
25 for drop-off in the morning --

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1 A Uh-huh. Drop-off --
2 Q -- between 7:00 and 7:30 and another three
3 vehicles from 8:00 to 8:30, is that correct?
4 A Yes, from the proposed daycare.
5 Q Yes.
6 A If I get 24 kids, I do that.
7 Q And another three would be between 8:00 and 8:30?
8 A So it would be 8:00 --
9 MS. CITARAMANIS: Six an hour --
10 THE WITNESS: -- it would be 8:00 to 9:00, 9:00 to
11 10:00.
12 MS. CITARAMANIS: Yes. It's six an hour. Three
13 every half hour.
14 THE WITNESS: Three every half hour.
15 MS. CITARAMANIS: Okay. Okay.
16 MR. KNOPF: Yes, but they're in half hour
17 segments --
18 MS. CITARAMANIS: Right. Right.
19 MR. KNOPF: -- as I understand. Yes.
20 MS. CITARAMANIS: Correct.
21 BY MR. KNOPF:
22 Q Okay. Well, the reason I'm raising this is how
23 will you be sure that you will have enough staff, assuming
24 the schedules are met, that you will have enough staff at
25 the times that they, the children will arrive? Let me ask

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1 one question before you answer that. Am I correct that what
2 you're agreeing to is that the parents are to bring the
3 child to the front door for drop-off, is that correct?
4 A Uh-huh.
5 MS. CITARAMANIS: You have to answer verbally.
6 THE WITNESS: Yes, ma'am. Yes, sir.
7 MR. KNOPF: Okay.
8 MS. CITARAMANIS: Okay.
9 BY MR. KNOPF:
10 Q And the children, once the children arrive at your
11 daycare and are cared for during the day, where is the
12 location of those rooms? Is that downstairs in your house?
13 A Downstairs, right now I'm having a daycare.
14 Q Yes.
15 A Upstairs I have three rooms.
16 Q Well, will the children be upstairs permanently or
17 downstairs during the day, or will it depend on --
18 A No, they will be brought downstairs and upstairs.
19 Q So what I'm getting at is it will be necessary for
20 you to have staffing for someone at the front door to greet
21 the children --
22 A Yes.
23 Q -- and also staffing in the rooms where the
24 children who have already arrived are there, correct?
25 A Yes.

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1 Q Okay. Well, let's see how that's going to work in
2 terms of how many staffing are actually -- because you have
3 agreed as part of this condition to four staff, a maximum of
4 four, do you understand that?
5 A Yes, for 24 kids?
6 Q Yes.
7 A The County is a lot more.
8 Q Four --
9 A Only four staff.
10 Q Right. And you have parking for four?
11 A Yes.
12 Q And only four?
13 A Uh-huh.
14 Q Okay. So let's see how that might work. Would
15 you agree with me that, if at --
16 MS. CITARAMANIS: Are you operating off of the
17 amended statements of operations?
18 MR. KNOPF: Yes.
19 MS. CITARAMANIS: Okay. 63(b)?
20 MR. KNOPF: I believe that's -- yes.
21 MS. CITARAMANIS: Page --
22 BY MR. KNOPF:
23 Q Okay. If, I'd like -- if between, I'm going to
24 give you a scenario and you tell me if I am correct. If
25 between 7:00 and 8:30 you had say a, one infant that you're

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1 taking care of, you had children three to five, you had one
2 of those, you had four toddlers and you had -- if that --
3 let me go back relating to the staff members. We have one,
4 we have one infant. That would require at least one staff
5 member, correct, to take care of the infant?
6 A One infant?
7 Q Yes.
8 A Three infants, one staff.
9 Q Yes, but we only -- between 8:00 and 8:30 we've
10 got one infant has arrived.
11 A Okay.
12 Q Okay. If we have one staff member, if we have a
13 toddler, four kids, we would need two staff members, would
14 we not? Okay. That would be three staff members. Oh,
15 wait.
16 MS. CITARAMANIS: Did you answer? I didn't hear
17 you?
18 THE WITNESS: No.
19 MR. KNOPF: He's shaking his head.
20 MS. CITARAMANIS: Oh.
21 THE WITNESS: No, I will be greeting the kids to
22 sign in and out of this. I will be standing outside and my
23 wife will be there. She will take care of those kids.
24 MS. CITARAMANIS: She'll be inside?
25 THE WITNESS: She will be inside.

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1 BY MR. KNOPF:
2 Q Well, but, okay. Because you said, let me make
3 this simpler, because you said between 8:00 --
4 A Well, because it's more than --
5 Q It's between 7:00 and 9:00, there's the two of
6 you, you and your wife.
7 A Yes.
8 Q Okay. But three cars can arrive each half hour.
9 A It is right now. Then it is 24, everything will
10 change. I will tell them to come sooner.
11 Q Well, who is the they coming sooner? I'm mixed
12 up. Let me just --
13 MS. CITARAMANIS: We just want to know how many
14 staff members are required once they all start coming in and
15 will we have that staff at that time --
16 MR. KNOPF: Well, what I --
17 MS. CITARAMANIS: -- based on the scheduling?
18 MR. KNOPF: What I'm trying to show is that, one,
19 they will need more staff and, in fact, they're going to
20 need more than four staff, so they need more parking.
21 That's what I'm trying to get out of here.
22 BY MR. KNOPF:
23 Q So would you agree with me between 7:00 and 8:30
24 there could be at least three arriving every half hour, so
25 it's nine children? You have to say yes or no. There will

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1 be nine vehicles?
2 MS. CITARAMANIS: If you understand the
3 question --
4 THE WITNESS: Yes, yes, I understand.
5 MS. CITARAMANIS: Okay.
6 THE WITNESS: But there are all, when I get 24
7 kids, then I can ask the staff to come early and take care
8 of all those things. Not right now. Only 12 kids, I have
9 don't have any problem. That's why I'm running like this.
10 MS. CITARAMANIS: Okay. He wants to know --
11 MR. KNOPF: But you --
12 THE WITNESS: Uh-huh.
13 MS. CITARAMANIS: -- for the proposed staffing, is
14 that --
15 MR. KNOPF: Yes.
16 MS. CITARAMANIS: All right.
17 BY MR. KNOPF:
18 Q But you have stated in your operations that you
19 are limiting yourself to two until 9:00, two staff members.
20 Are you now amending the statement of operations before us?
21 MS. LEE-CHO: We have, if I could clarify? The
22 statement of operations indicates the first arrival of the
23 non-resident staff member at 8:30.
24 MR. KNOPF: But he testified at 9:00.
25 MS. CITARAMANIS: No, and I agree with you because

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1 I did make a note that, and I was going to seek
2 clarification on his arrival time. They varied from this a
3 little bit. So he just wants clarity, I think, is all. I
4 mean --
5 MS. LEE-CHO: I can rehabilitate what I'm --
6 MS. CITARAMANIS: Okay. No, and I think that they
7 just want to know.
8 MR. KNOPF: Apart -- I don't want to get too
9 bogged down.
10 BY MR. KNOPF:
11 Q Would you agree with me that if you have 24
12 children --
13 A Uh-huh.
14 Q -- depending on the mix of the age of the
15 children, how many infants you had, how many toddlers, under
16 the state requirements of having an adult for so many kids,
17 you could well end up needing more than four staff members
18 to satisfy the state requirements, do you agree with that?
19 A Yes, but --
20 Q Thank you.
21 A -- the state only will tell us how many staff
22 members has to work, how many babies I should have, how many
23 toddlers I should have, how many preschoolers I should have.
24 The only, the State Department will tell us. They come and,
25 if I get 24 license, then they will come and tell us how

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1 many toddlers I can have, how many babies I can have, how
2 many preschoolers I can have and they will tell us how many
3 staff members should be there in the daycare.
4 Q And if they tell you you need five, you will get
5 five staff members, is that correct?
6 A I don't know how much they will tell me. If they
7 say five or four, I don't know.
8 Q But if they tell you five, you would have to then
9 get five, is that correct?
10 A No, I only get permission from zoning, then only I
11 can do that.
12 Q So you recognize you have to go back and get
13 permission?
14 A If it is five, because here it says only four. So
15 if the County says five, I have to do that again.
16 Q Well, I'm asking here, have you given thought to
17 your operations would have to be restricted in terms of the
18 number of children of a certain age that you could accept --
19 A Uh-huh.
20 Q -- for example, you might not be able to accept
21 any infants because it would require more staff than what
22 you have? Do you recognize that?
23 A Yeah. Yes.
24 Q And you're proposal for statement of operations
25 does not have, I did not see it, any statement as to how

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1 many of each category you would be accepting, each category
2 of child?
3 A That, Maryland State Department, they will only
4 tell us how many babies I should have, how many toddlers I
5 should have, and how many preschoolers I can have. They
6 only come and give us instructions. Then only I can take.
7 So now I don't know how many they will give me. But if 24,
8 they have the power to give how many babies I can have, how
9 many preschoolers I can have.
10 Q Well --
11 A Then only I can have staff members.
12 Q Let me just --
13 A Uh-huh.
14 Q -- focus now between 7:00 and 8:30.
15 A Okay.
16 Q It is -- during that time with three arriving
17 every half hour, you would think there were nine vehicles,
18 so there would be at least nine children, is that correct?
19 A Maybe, yes, nine children, yes.
20 Q But there could be more because you mentioned that
21 some of your children have --
22 A Yes, two kids are coming in one car.
23 Q -- siblings?
24 A Yes.
25 Q Right. So is it not very likely that -- and so

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1 you have let's say nine children. One person would have to
2 take care of the nine children while the other person goes
3 to the front door to greet the next person? Doesn't that
4 sound like you're going to need more staffing?
5 A Yeah, I need more staff, but the staff has to come
6 earlier.
7 MS. CITARAMANIS: Okay. I --
8 MR. KNOPF: Okay.
9 MS. CITARAMANIS: I understand what you're trying
10 to get at and what I'm hearing from him is that he
11 recognizes that the state is going to come in and tell
12 him --
13 MR. KNOPF: Okay.
14 THE WITNESS: Uh-huh.
15 MS. CITARAMANIS: -- and --
16 BY MR. KNOPF:
17 Q How often does the state come and visit your place
18 now? Do they come weekly to monitor?
19 A They don't come weekly. They come --
20 Q Do they come yearly?
21 A They come surprise visit one time and the other
22 one is for inspection.
23 Q But --
24 A Anytime they can walk in.
25 Q But you said they come for a surprise visit or

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1 inspection. What time period? Is that every year, every
2 other year, every month?
3 A Anytime they say we will walk in any time. That's
4 what they said.
5 Q But your --
6 A But so far they came twice and --
7 Q Twice?
8 A -- there.
9 Q Okay. That's what I wanted to know.
10 A Then inspection one time they come.
11 Q Thanks. That clarifies this. Now I just want to
12 make sure how this works. It's been awhile, but I want to
13 get it on the record. When a parent drops off a child, am I
14 correct they normally are in a, they're in a car seat and
15 they have to be unbuckled, unstrapped and carried to the
16 door if they're small, is that correct?
17 A Uh-huh. Yes.
18 Q Okay. And, similarly, when they get picked up,
19 what, did they -- the parent goes to the door, receives the
20 child, carries the child back that's small or walks the
21 child back to the car and then straps it in the car seat?
22 A Yes, that's what they do.
23 Q Okay. Thank you. Now do you realize that if the
24 state told you you needed more staffing and you came back,
25 you understand you'd have to come back to the, to get

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1 permission on the special exception to get more staffing, is
2 that your understanding?
3 A That's what I feel, but --
4 Q Right.
5 A -- I don't know how she's going to guide us.
6 That's what I want to do.
7 Q What's your understanding, if you need more
8 staffing, where could that person park?
9 MS. LEE-CHO: Objection. I mean --
10 THE WITNESS: I guess --
11 MS. CITARAMANIS: Yes, I --
12 MS. LEE-CHO: You're looking into the future for a
13 special person that we have not asked for.
14 MR. KNOPF: All right.
15 MS. CITARAMANIS: I know what you're trying to
16 say, but the bottom line is he's saying that he will not
17 have more than four staff and what you're saying is the
18 composition might dictate that it be more under the
19 licensing, but --
20 MR. KNOPF: Right. There's no --
21 MS. CITARAMANIS: -- I think he's saying that I
22 don't know what I'm going to have.
23 MR. KNOPF: All right.
24 MS. CITARAMANIS: I mean so --
25 MR. KNOPF: Just another question then.

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1 BY MR. KNOPF:
2 Q It was suggested that in order to monitor the
3 noise there might be a noise machine that would register
4 whether the noise exceeded 65 decibels. Do you now know how
5 much noise a group of eight children or six children or even
6 one screaming boy makes, whether that goes over 65 decibels
7 or not?
8 MS. CITARAMANIS: If you know.
9 BY MR. KNOPF:
10 Q Do you know?
11 A That it's what I read in the, it was, if it's more
12 than 90 decibels means those near, they will become deaf.
13 That's what it says. But the kids, they don't make 90
14 decibel noise.
15 Q There's nobody --
16 A They just play and maybe 80 or 75. That's what
17 they make.
18 Q Well --
19 A It depends. When the distance is longer, it means
20 the decibel goes down.
21 Q Well, if -- excuse me. I'm sorry. Go ahead.
22 A When the noise, when the kids make too much noise
23 in the playground, you know, your house is more than 50 feet
24 yard, 50 feet away from the playground means every, when you
25 double the distance, the decibel goes six decibels down.

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1 MS. CITARAMANIS: Drops?
2 THE WITNESS: Drops. It drops.
3 MR. KNOPF: Well, let me just ask --
4 THE WITNESS: So then the kids make the 80 decibel
5 noise here if you are out, 50 feet away means one feet, then
6 three feet, then six feet, then 12 feet, then 24 feet are,
7 everything goes six decibels down.
8 BY MR. KNOPF:
9 Q If you did have a noise monitor and if it was
10 showing more than 65 decibels due to the children crying or
11 screaming, what -- your lawyer seemed to suggest that then
12 you would take steps to make sure --
13 A Yes, I would take steps.
14 Q -- that -- what would you do, put a gag in the
15 kid's mouth? What, I don't understand.
16 A No, I'd have to use the monitor to check up for
17 the, if it goes more than 65 minutes. I have to tell them
18 stop making noise. They are not supposed to make noise. If
19 I say that, don't scream, don't yell, don't shout. If they
20 do it, I will give them some time out or something, make
21 them calm down. Then I can ask them to play.
22 Q Just one last question. Do you find that
23 sometimes children make noises that are not 65 decibels or
24 more but are rather annoying?
25 A Uh-huh.

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1 Q Thank you.
2 A Yes.
3 Q Okay.
4 MR. KNOPF: I have no further questions. Thank
5 you.
6 MS. CITARAMANIS: Okay. Ms. Lee-Cho.
7 REDIRECT EXAMINATION
8 BY MS. LEE-CHO:
9 Q Mr. Mani, just hitting on the noise issue first,
10 you don't know at this time because you don't currently use
11 a noise meter and having used one to measure --
12 A No, I never used that --
13 Q So --
14 A -- because I didn't have any complaints or any
15 incident.
16 Q So, but you are proffering to monitor because
17 there has been some complaint --
18 A Yeah.
19 Q -- and issue raised in this case?
20 A Yes, ma'am.
21 Q And you are aware that the standards of the County
22 that has been established in terms of the threshold for a
23 nuisance is 65 decibels, right, is it 65 or 75 during the
24 daytime?
25 A 65.

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1 Q 65 during the daytime? And we all can see there
2 are annoying noises, lawnmowers, construction noise outside,
3 but annoying is not the standard, it's a 65 decibel
4 standard?
5 MR. KNOPF: Is there a question there?
6 BY MS. LEE-CHO:
7 Q Do you know?
8 MS. CITARAMANIS: What's your question?
9 MS. LEE-CHO: I will rephrase.
10 MS. CITARAMANIS: No, just --
11 MS. LEE-CHO: Well, he raised the annoying --
12 MS. CITARAMANIS: I know. I think you're --
13 MS. LEE-CHO: -- noise issue.
14 MS. CITARAMANIS: -- doing fine, just ask him the
15 direct questions.
16 BY MS. LEE-CHO:
17 Q In response to the last comment by Mr. Knopf --
18 A Uh-huh.
19 Q -- he indicated that children can make some
20 annoying noises. Do you know the difference between
21 annoying and versus a sound level and will you know that by
22 measuring and be able to measure a 65 decibel limit?
23 A Yes, I can.
24 Q Thank you. And going back and discussing the
25 staffing raised, clearly you are under state regulations,

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1 number of staff per children. If it is determined that you
2 do not have sufficient staff to take a certain type of child
3 that falls under a certain category, infant, for example,
4 seems to be the higher staffing need, what will you do in
5 terms of accepting or declining that infant's entry into
6 your daycare? What would you do? If you don't have enough
7 staff, what will you do?
8 A I will ask the County to advise me, that I will
9 take the child and --
10 Q But you --
11 A -- if I have space, I will take the child.
12 Q In the interim, though, before you can, before the
13 special exception is modified for additional staffing, is it
14 not true that under state regulations you are prohibited
15 from taking that child in if you don't have enough staffing,
16 is that true?
17 A Yes, ma'am.
18 Q So under state regulations you are strictly
19 prohibited from taking certain age levels of children if you
20 don't have the sufficient staff?
21 MR. KNOPF: Excuse me again, I would like some
22 questions rather than some leading answers.
23 MS. CITARAMANIS: Okay. Just break them down,
24 okay?
25 MS. LEE-CHO: So I just wanted to show Mr. Mani

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1 the -- this is the last revised, the statement of
2 operations.
3 MS. CITARAMANIS: And 63(b), is that what you
4 have?
5 THE WITNESS: Yeah.
6 MS. CITARAMANIS: Is that correct?
7 MS. LEE-CHO: 63 --
8 MS. CITARAMANIS: Oh, actually --
9 THE WITNESS: Yes.
10 MS. CITARAMANIS: -- I'm looking at the red line.
11 You're looking at the one --
12 MS. LEE-CHO: So am I.
13 MS. CITARAMANIS: There's a red line and there's
14 also --
15 MS. LEE-CHO: So this is 63?
16 MS. CITARAMANIS: Actually the red line is
17 63(b)(i), but you also provided a clean copy, I'm
18 assuming --
19 MR. OROBONA: Yes.
20 MS. CITARAMANIS: The red line is easier to read.
21 BY MS. LEE-CHO:
22 Q So, Mr. Mani, this is the red line version of the
23 amended statement of operations, Exhibit 63(b)(i), page, not
24 marked with a page.
25 MS. CITARAMANIS: Oh, you're right. So why don't

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1 we mark those really quick?
2 MS. LEE-CHO: It looks like it's page 1 -- third
3 page.
4 MS. CITARAMANIS: What's at the top?
5 THE COURT: At the top is a schedule for groups
6 one, two and three.
7 MS. CITARAMANIS: Okay. Are you all on the same
8 page?
9 MR. OROBONA: Page 3?
10 MS. CITARAMANIS: Yes.
11 MR. OROBONA: Yes.
12 MS. CITARAMANIS: Okay.
13 BY MS. LEE-CHO:
14 Q Mr. Mani, this is the -- is this not the amended
15 statement of operations that you have agreed to abide by?
16 A Yes, ma'am.
17 Q Could you just for the record go through the
18 schedule of arrival of the non-resident staff's working
19 schedule?
20 MS. CITARAMANIS: Can I just, ask a real quick
21 question? It says non-resident staff, but --
22 MS. LEE-CHO: It includes --
23 MS. CITARAMANIS: -- is staff one and two, it
24 doesn't -- okay. I just wanted to make sure.
25 MS. LEE-CHO: Well, let's, so I'll clarify.

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1 MS. CITARAMANIS: Yes.
2 BY MS. LEE-CHO:
3 Q Could you just read through the schedule of
4 arrival times, starting with staff one, and indicate, just
5 read across.
6 A Okay. Non-resident staff working schedule, staff
7 one arrives at 7:00 a.m., departs at 5:00 p.m. That is
8 resident. Staff two comes at 8:00 a.m., leaves at 6:00
9 p.m., resident. And staff three arrives at 8:30 a.m.,
10 departure is at 5:30 p.m. time. Staff four arrives at 9:00
11 a.m., departs at 6:00 p.m., for full-time.
12 Q Is it possible that if you do have some infant
13 children that you can require those children and those
14 parents to arrive at a later time period when you have
15 additional staff arriving at 8:30 and 9:00?
16 A Yes, I can ask the parents to come a little late.
17 Yes, I can do that.
18 Q All right. And just to go through the groupings
19 that you have, I'm sorry, the whispering is a little bit --
20 MS. CITARAMANIS: Okay.
21 BY MS. LEE-CHO:
22 Q Group one, two and three that you have in terms of
23 the schedule --
24 A Uh-huh.
25 Q -- could you just kind of describe to us --

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1 A Yes.
2 Q -- you have some parent, you'll have some parents,
3 well, going back. Currently you don't have any parents
4 grouped up in any type of --
5 A No, I didn't.
6 Q -- segmentation because you're not under any
7 restriction?
8 A Uh-huh.
9 Q And you indicated, is that correct?
10 A Yes.
11 Q So under the special exception, however, you
12 proposed this group one, two and three, is that correct?
13 A Yes, ma'am.
14 Q So under group one you have some parents arriving
15 between 7:00 and 8:00 a.m.?
16 A Yes, 7:00 and 8:00.
17 Q Is that correct?
18 A Uh-huh.
19 Q And group two?
20 A 8:00 to 9:00 --
21 Q 8:00?
22 A -- a.m.
23 Q And what about group three?
24 A 9:00 to 10:00.
25 Q Okay. So is, when you have someone assigned to

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1 group one, does that mean that they then have to pick up in
2 the group one pick-up times or can they also, can they be a
3 group one drop-off and a group three pick-up? Can you
4 combine it flexibly that way so --
5 A Yes, I can --
6 Q -- they come --
7 A Yes, I can.
8 Q Is that something that you can do?
9 A Yeah.
10 Q And that's your intention to just --
11 A Yeah, that's my intention.
12 Q -- spread out the arrival --
13 A Uh-huh.
14 Q -- and arrival and departure times?
15 A Yes, ma'am, that's what I -- thank you.
16 Q And have you in anticipation of the special
17 exception that you're seeking, have you talked to some of
18 your current enrollees, your current parents and talked to
19 them about the potential shuffling of schedules?
20 A Yeah, I talked to some of the parents about all
21 those things and they get more kids, I have guided them
22 according to the time schedule there.
23 Q And based on the preliminary assessment --
24 A Yeah.
25 Q -- of your current enrollment --

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1 A Yes.
2 Q -- do you feel comfortable that you will be able
3 to accommodate your current enrollment and put them into the
4 various group categories?
5 A Yes.
6 Q There was a question related to kids being taken
7 outside in the late afternoon. Do you have any lighting in
8 the backyard at all?
9 A Yeah.
10 MS. CITARAMANIS: I actually did want you to mark,
11 because the lighting is not marked on the site plan, or at
12 least I did not. So if you could get him to identify it?
13 THE WITNESS: No, that, I -- that other plan is
14 there. That is the plan. You can see it.
15 MS. CITARAMANIS: Okay. There's another plan that
16 shows that I didn't see it, the -- we're talking about
17 exterior.
18 MS. LEE-CHO: This is existing, this existing
19 exterior lighting?
20 THE WITNESS: Yes, lighting from the other plan,
21 plan number two. I thought I submitted floor plans, site
22 plan, basement plan, first floor plan and second floor plan,
23 how you say?
24 MS. CITARAMANIS: Exterior lighting would be --
25 THE WITNESS: Yeah.

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1 MS. CITARAMANIS: -- on the site landscape plan
2 because it's exterior. Everything else is interior, right?
3 Well, other, the --
4 THE WITNESS: The plan has all the lighting.
5 MS. CITARAMANIS: All right. Well, let's --
6 THE WITNESS: Site number --
7 BY MS. LEE-CHO:
8 Q Well, could you describe for us on the back side
9 of your home, do you have any patio lighting?
10 A Yes, I have patio lighting and also the basement
11 daycare front side, there is a light. I have two lights.
12 Q Is there an exit from the basement? There is a
13 walkout basement.
14 A Yes, a walkout basement.
15 Q Are we talking about flood lights, just
16 residential flood lights or what kind of lights?
17 A Right now I have, it's not -- on the deck I have a
18 light. I can focus this to the playground. And there is a
19 light from, in the entrance of the daycare basement. I have
20 a light there that I can focus to --
21 Q You don't have any lights in the area six where
22 the --
23 A No, no lights there.
24 Q We're just talking about attached to your home --
25 A Uh-huh.

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1 Q -- lighting up maybe the area close to the home
2 around area nine, grass area.
3 A Uh-huh.
4 Q But you -- did you also indicate -- the question
5 was in the wintertime when --
6 A Yes.
7 Q -- it gets darker earlier in the day, what is your
8 practice? What has been your practice? Do you let the kids
9 play out in the dark or --
10 A No.
11 Q -- do you bring them in?
12 A They don't play out in the dark. And if it's
13 dark, we don't take them outside. We take them to play
14 inside the daycare. They play inside.
15 Q And you have proffered to limit the number of
16 children that are outside at any one time to eight.
17 MR. KNOPF: Excuse me. Can you please --
18 MS. LEE-CHO: I'm reminding the client --
19 MR. KNOPF: I understand you're reminding your
20 client. I would like the client to remind you.
21 MS. LEE-CHO: I, there is a question here. It has
22 nothing to do with eight.
23 BY MS. LEE-CHO:
24 Q Okay. With regard to the limitation that you've
25 agreed to and children, I would like you to explain for the

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1 morning playtime, that one-hour period, how you will rotate
2 the 24 assuming you have a maximum of 24, how you'll rotate
3 so that you'll have, how many --
4 A That, they play one hour outside, but not all 24
5 are going outside, only -- eight kids are going outside. I
6 tell them to play 20 minutes and they bring in. The other
7 eight kids are going outside. They go and play there. Then
8 I bring them in. Then other eight are going outside and
9 they play. So in one hour all 24 kids will play outside and
10 they will be back.
11 Q Is there some, I guess, state regulation that
12 requires a certain minimum amount of time that, you know, in
13 good weather the kids are required to have some outdoor
14 play?
15 A No, it's not like that. They don't care a lot of
16 things. They can go play outside.
17 Q Well, just to reiterate since it was hammered in,
18 how many staff, under the special exception, how -- what is
19 the maximum number of staff that you can have both non-
20 resident and resident on your site?
21 A If it is 24 kids?
22 Q Just the maximum under the special exception, how
23 many staff?
24 MS. CITARAMANIS: If this were granted.
25 THE WITNESS: Yes, yes.

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1 MS. CITARAMANIS: -- what is your understanding
2 what the maximum number of staff --
3 MS. LEE-CHO: Number of staff --
4 MS. CITARAMANIS: -- that would be permitted?
5 MS. LEE-CHO: -- you've asked for?
6 THE WITNESS: Yes. Maybe four.
7 BY MS. LEE-CHO:
8 Q Isn't it four?
9 A Yeah.
10 Q Isn't that the maximum number of staff --
11 A Maximum number will be four.
12 Q Right.
13 MS. LEE-CHO: Thank you.
14 MR. KNOPF: Yes, a couple questions.
15 RE CROSS EXAMINATION
16 BY MR. KNOPF:
17 Q You mentioned that the area lit in your backyard
18 is not the area six, that area six is the end of your yard,
19 is that correct?
20 A End of the yard, yes.
21 Q Area that's lit is closest to your house, is that
22 correct?
23 MS. CITARAMANIS: Could we have the --
24 THE WITNESS: Yeah.
25 MS. CITARAMANIS: -- plan back?

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1 MS. LEE-CHO: Oh, I'm sorry.
2 MS. CITARAMANIS: Thank you.
3 BY MR. KNOPF:
4 Q The area that's lit is the, is closest to your
5 house?
6 A Yes.
7 Q And that's also closest to Mr. Schilling's house,
8 Mr. and Mrs. Schilling's house, correct, as compared to area
9 six?
10 A Area six is not close to this house.
11 Q No, I'm talking about where the lights are on your
12 house.
13 A The lights --
14 Q Your house is located closer to the Schilling's
15 house than the rest of your yard, is that not correct?
16 A Yes. Yes.
17 Q Okay. And did I understand you to say that you
18 would limit the children to 20 minutes for outside activity?
19 A Yes.
20 Q Those that you have for the whole day would be for
21 20 minutes outside?
22 A Well, in the evening also I have two hours where
23 they can go and play outside. In one hour, I let them all
24 24 play, 20 minutes each.
25 MS. CITARAMANIS: Rotating eight out --

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1 THE WITNESS: Rotating all 24 kids.
2 MS. CITARAMANIS: -- is how I'm interpreting your
3 answer.
4 THE WITNESS: I'm rotating the 24 kids to go play
5 outside 20 minutes, 20 minutes, 20 minutes.
6 MS. CITARAMANIS: The morning hour?
7 THE WITNESS: Then morning, then in the evening
8 they have two hours. Again, they can play 20, 20, 20
9 minutes they can play.
10 MR. KNOPF: Thank you.
11 THE WITNESS: Uh-huh.
12 BY MR. KNOPF:
13 Q Okay. Would you agree with, now in response to
14 questions from your attorney, she said your goal was to
15 spread out the arrival times.
16 A Uh-huh. Yes.
17 Q Would you agree with me that under the current,
18 under the proposed conditions of the statement of operations
19 with three cars, three vehicles are allowed during the first
20 half hour, 7:00 to 7:30, another three vehicles 7:30 to
21 8:00. Would you agree with me that is quite possible
22 parents would drop off the kids, all three cars might arrive
23 within five minutes, say 7:25 to 7:30, and that would still
24 meet the requirements, would that be right?
25 A Yes.

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1 Q And then let's say the next half hour, three cars
2 arrive between 7:30 and 7:35, that would still meet the
3 requirements, is that correct?
4 A Yes.
5 Q Now have you ever had parents tell you that they
6 had difficulty arriving at your place because there were
7 accidents or roads were congested or whatever, so they
8 didn't quite get there at the time they expected to get
9 there?
10 A No, they never told me anything.
11 Q Never told you that? Okay. And one other
12 question. I'm sorry, I forgot to ask this the first time,
13 just one question. You testified that you spoke to all the
14 neighbors and they didn't, no one objected. Did you speak
15 to Mr. Schilling and didn't he object?
16 A Yeah, I went to the home and they mailed the
17 letter and I talked to both of them. They said okay.
18 That's what they said at that time, yes.
19 Q That's your recollection? Thank you.
20 MR. KNOPF: No further questions.
21 MS. CITARAMANIS: Okay. I actually do have
22 some --
23 THE WITNESS: Yes, ma'am.
24 MS. CITARAMANIS: -- questions. In, on page 3,
25 the arrival times, group one through two and group three --

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1 THE WITNESS: Yes, ma'am.
2 MS. CITARAMANIS: -- you had mentioned you have
3 parents that have two kids --
4 THE WITNESS: Yes.
5 MS. CITARAMANIS: -- not one? How will that
6 affect what group you put them in? I mean is that part of
7 your calculation as to when the number of kids that you have
8 coming in and your staffing?
9 THE WITNESS: Yes, ma'am.
10 MS. CITARAMANIS: Do you have in your, as part of
11 your plan, are you waiting for the state to tell you have
12 many babies you can have or do you know what ratio you want
13 to have? I'm not talking about the staff, just the
14 composition of your enrollment.
15 THE WITNESS: I cannot ask them. What they say, I
16 have to do it.
17 MS. CITARAMANIS: Right. I understand. How many
18 babies do you have now?
19 THE WITNESS: Right now --
20 MS. CITARAMANIS: Or do you have babies now?
21 THE WITNESS: Yes, right now I have only one baby.
22 MS. CITARAMANIS: Okay. With regards to the work
23 schedule, I mean I have to, that was one of my concerns was
24 the arrival of potentially six kids and so if those first
25 group of six kids from seven, it looks like you only have

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1 one staff at 7:00. I was wondering how you were going to
2 handle the -- you said your wife was going to be inside the
3 house?
4 THE WITNESS: Yes, ma'am.
5 MS. CITARAMANIS: But you have her arrival time or
6 arrival time at 8:00. So I didn't know if you needed to --
7 THE WITNESS: Yes.
8 MS. CITARAMANIS: -- amend this to --
9 THE WITNESS: Amend this one.
10 MS. LEE-CHO: They do reside there, so --
11 MS. CITARAMANIS: No, I understand that they do
12 reside there, but we have to go off of the statement of
13 operation is certainly any decision will be made on what's
14 in here. The way it's set up, what I'm seeing is the first
15 set of, say they were all toddlers, what would your staff
16 requirement be and how would you handle greeting them at the
17 door as Planning Board staff changed the location to the
18 front door?
19 THE WITNESS: Yes, ma'am.
20 MS. CITARAMANIS: How would you be able to greet
21 and also have somebody inside? I understand your wife works
22 there, but the way you've got it set up here -- so you
23 understand that you probably need to modify this?
24 THE WITNESS: Yes, I can modify this location.
25 MS. CITARAMANIS: And do you understand, and this

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1 is, both sides were trying to get to it, but understand that
2 the limit of four staff, that's the maximum. But assuming
3 this is granted --
4 THE WITNESS: Uh-huh.
5 MS. CITARAMANIS: -- that is what Planning Board
6 staff, as well as technical staff, it's not talking about
7 what the state is going to require. So if the state comes
8 in and says it's going to effectively limit you, that
9 because of your four staff members, it might reduce the
10 number of kids that you would be allowed to take even though
11 the special exception might allow up to 24?
12 THE WITNESS: Okay.
13 MS. CITARAMANIS: Do you understand that?
14 THE WITNESS: Yes.
15 MS. CITARAMANIS: Just because the special
16 exception might allow you up to 24, your staff ratios are
17 going to be dictated by the state.
18 THE WITNESS: By the state.
19 MS. CITARAMANIS: You can't go up over five staff
20 members under the special exception.
21 THE WITNESS: Okay.
22 MS. CITARAMANIS: That's what I was hearing
23 everybody trying to get to.
24 MR. KNOPF: Right.
25 MS. CITARAMANIS: So I just -- and I wasn't sure

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1 if he was clear on that. But I just wanted to make sure you
2 understood that, the two different processes.
3 THE WITNESS: Yes, ma'am.
4 MS. CITARAMANIS: This is the first step, if you
5 can use the property this way.
6 THE WITNESS: Yes.
7 MS. CITARAMANIS: The special exception.
8 THE WITNESS: Okay.
9 MS. CITARAMANIS: Okay. But with regards to the
10 staff's working schedule, I definitely think that if you're
11 going to go based on the three per every half an hour, I
12 mean is it 10 kids for the first toddlers? I mean do you
13 know the ratio?
14 MS. LEE-CHO: I, you know, I mean --
15 MS. CITARAMANIS: Yes.
16 MS. LEE-CHO: -- I personally do know, but --
17 MS. CITARAMANIS: Oh.
18 MS. LEE-CHO: -- as defined, because I'm a mother.
19 You know, I --
20 MS. CITARAMANIS: Yes, mine are in college, so I
21 have no idea.
22 MS. LEE-CHO: I know my current daycare's
23 requirements, let's just say that.
24 MS. CITARAMANIS: Okay. I mean --
25 MS. LEE-CHO: I can't testify to it.

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1 MS. CITARAMANIS: But, no, I know you can't
2 testify, but you understand the deficiency here?
3 MS. CITARAMANIS: Yes. Well, we may have to
4 modify --
5 THE WITNESS: Modify.
6 MS. CITARAMANIS: Right.
7 MR. KNOPF: Just, I think one can say for the
8 record at the COMAR, 13A 6.16.08.03 --
9 MS. CITARAMANIS: Could they make it any longer?
10 MR. KNOPF: No. Well, that's one of the shorter
11 ones.
12 MS. CITARAMANIS: Oh, okay.
13 MR. KNOPF: It's 13A, and repeat, 13A.16.08.03,
14 they do have children two years old, from one to six, and
15 three to four years old is one to 10. The --
16 MS. CITARAMANIS: What was that, three to four?
17 MR. KNOPF: Three to four.
18 MS. CITARAMANIS: Okay.
19 MR. KNOPF: Infants is one to three. Toddlers, 18
20 months to two years, is one to three. And five years and
21 older is one to 15. So I -- and I don't want to get in an
22 argument or anything, but I think the Hearing Examiner has
23 flagged a very narrow window that could be extended with
24 similar problems in terms of staffing. It isn't just
25 between seven and eight. It could rapidly be, as the day

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1 goes on, staffing problems if you have 24 kids until they
2 get over four staff members.
3 MS. CITARAMANIS: Right. I understand what you're
4 saying, but I think the state is also going to participate
5 because the, don't they have a license and it specifically
6 breaks it down.
7 MS. LEE-CHO: Since Mr. Knopf is planning on using
8 COMAR, the type of children could clearly be limited to age
9 three to four as a result. I mean it's just --
10 MS. CITARAMANIS: Right.
11 MS. LEE-CHO: -- you know, it doesn't mean that we
12 can't get to a 24 number, it's just finding that right mix.
13 MR. KNOPF: Well, I'm not saying they couldn't.
14 MS. CITARAMANIS: Right.
15 MR. KNOPF: I'm just saying it doesn't seem to be
16 as easy as was presented in the state of operations. That's
17 all right.
18 MS. CITARAMANIS: Nothing is ever easy, is it?
19 MS. LEE-CHO: No, right, but the statement is the
20 statement and he has to adhere to --
21 MS. CITARAMANIS: Correct.
22 MS. LEE-CHO: -- what's in the statement and so if
23 he has to take a hit, he'll have to take a hit in terms of
24 rejecting a family or so, depending on the mix.
25 MS. CITARAMANIS: Right. The bottom line is if it

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1 is granted, he can't have more than four staff and if state
2 regulations dictate that that means X number of children
3 within a certain age group, needs more than -- and it
4 reduces it below .4, then that's what the state requires.
5 MS. LEE-CHO: Right.
6 MS. CITARAMANIS: But I didn't -- you do need to,
7 I think, amend your working schedule.
8 MS. LEE-CHO: I think we should amend just because
9 that list is confusing. It's non-resident --
10 MS. CITARAMANIS: It is very confusing.
11 MS. LEE-CHO: -- schedule --
12 MS. CITARAMANIS: Exactly.
13 MS. LEE-CHO: -- but it includes the residents,
14 so --
15 MS. CITARAMANIS: Right.
16 MS. LEE-CHO: -- we're all in that.
17 MS. CITARAMANIS: Right. With regards to the,
18 your site plan --
19 THE WITNESS: Yes, ma'am.
20 MS. CITARAMANIS: -- can you explain how the
21 traffic, the cars will pass by where they will temporarily
22 park and we'll just do one half an hour? Where when
23 they're, just describe to me how that will work.
24 THE WITNESS: A stop over, the, they can park even
25 on the driveway. They can park and they can go and get them

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1 and, like if it's a big kid, I mean if it's a walking kid,
2 that means I can take them in and give to my wife and they
3 can sign in and they can go. It won't take more than five
4 minutes.
5 Three cars come at 6 o'clock, come, even area
6 three if we extend the width of the driveway --
7 MS. CITARAMANIS: The width of the south side or
8 the north side?
9 THE WITNESS: South side.
10 MS. CITARAMANIS: The south side? Okay.
11 THE WITNESS: The side is 14 feet, they can park
12 there and the other car can pass them out.
13 MS. CITARAMANIS: Okay. When you say the other
14 car, you're saying the 14, you're saying that's wide enough
15 for two cars?
16 THE WITNESS: Wide, car to --
17 MS. CITARAMANIS: You have one parked --
18 THE WITNESS: Uh-huh.
19 MS. CITARAMANIS: -- and somebody can pass it by?
20 THE WITNESS: Uh-huh.
21 MS. CITARAMANIS: Okay. And I see above that
22 there's another vehicle, it looks like a bump-out. Is that
23 an existing bump-out where it says 22, the width is 22 feet?
24 THE WITNESS: Yeah, that was there, yeah. Before
25 the parents come and park their cars, if it is 22, another

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1 car also can pass them by. So parents park their car and
2 they bring the child to the basement and they take the car
3 and they go. When the parents come, they park the, behind
4 those cars and they drop the kids and they go.
5 MS. CITARAMANIS: Okay. So --
6 THE WITNESS: Then on the 22 feet, that person
7 leaves, then the other person comes. They park the car
8 there and they bring the child in.
9 MS. CITARAMANIS: Okay. So ostensibly you can
10 have, and just if I've got this wrong, just let me know, you
11 have a car that pulls in and parks on the south side?
12 THE WITNESS: Uh-huh.
13 MS. CITARAMANIS: And then you, if another one
14 comes in, they can park in the bump out. And can one park
15 in front of --
16 THE WITNESS: Uh-huh.
17 MS. CITARAMANIS: -- the front walkway and cars
18 can still --
19 THE WITNESS: Yes.
20 MS. CITARAMANIS: -- pass by?
21 THE WITNESS: Yes, pass by, yes, ma'am.
22 MS. CITARAMANIS: Okay. And they will, you will
23 meet them at the front walkway, not walk through area four
24 to the back, correct?
25 THE WITNESS: Oh, no, no, they're not going back

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1 side.
2 MS. CITARAMANIS: You understand that that was --
3 okay.
4 THE WITNESS: They go through the front door.
5 MS. CITARAMANIS: Okay. And you'll have adequate
6 staff to meet them?
7 THE WITNESS: Yes, ma'am, yes. I have asked them.
8 MS. CITARAMANIS: Oh, and on page 2, I just want
9 to make sure under property description, the total area for
10 the daycare you've modified that to 1,567? I believe that's
11 on what you, on your site plan that you're looking at?
12 THE WITNESS: Yes, ma'am.
13 MS. CITARAMANIS: Because here you have 1,500.
14 THE WITNESS: Uh-huh.
15 MS. CITARAMANIS: Is that correct? Did you want
16 to go over any of his pictures? Well, all of the pictures
17 that you entered, should identify them. I can, I have the
18 colored ones here. Do you have a question, Mr. Knopf?
19 MR. KNOPF: Yes, do we, based on your questions --
20 can I ask a question?
21 MS. CITARAMANIS: Oh, sure. Sure. Let me just
22 get them clear to where I am. That's fine. Do you want a
23 few minutes?
24 MR. OROBONA: Yes, please.
25 MS. CITARAMANIS: Absolutely. Just I don't want

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1 to close without those pictures being identified by the
2 person who took them and submitted them. Do you want to --
3 MS. LEE-CHO: I have Exhibits --
4 MS. CITARAMANIS: It might be easier if I just
5 take the other ones out of here. And before you do that,
6 I'm going to let you all ask any questions based on my
7 questions and then you can go back. Here are some -- you
8 must give them back to me. Don't let anyone leave, make
9 sure I have a complete record. And those are the interior
10 and exterior color photos, but let me ask, let me see if my
11 questions generated questions first before you start, Ms.
12 Lee-Cho. Oh, you're ready to go.
13 MS. LEE-CHO: Ready.
14 MS. CITARAMANIS: Okay. Would you like --
15 MR. AREM: Which exhibit are you referring to?
16 MS. CITARAMANIS: I'm going to let him ask. He
17 said he had a question on my questions because -- and then
18 we'll do the pictures.
19 MR. AREM: All right.
20 MS. CITARAMANIS: What was your --
21 MR. KNOPF: Yes, I just have a --
22 MS. CITARAMANIS: My questions obviously generated
23 a question for you. And then if certainly if you want to
24 follow-up with anything, then we'll go to pictures.
25 BY MR. KNOPF:

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1 Q Mr. Mani, in response to the Hearing Examiner's
2 question, I'm looking at the 68(d), the site plan.
3 A Okay.
4 Q Yeah. And I think you referred to a car parked in
5 the driveway in front of the house. You said it's --
6 there's a 14-foot --
7 A 22 feet?
8 Q No.
9 A The south side?
10 Q Going back where it says 14 feet?
11 A Uh-huh.
12 MS. CITARAMANIS: On the south side?
13 MR. KNOPF: I'm sorry?
14 MS. CITARAMANIS: South side?
15 MR. KNOPF: No, no, sort of on the top of the
16 circle.
17 MS. CITARAMANIS: Okay.
18 THE WITNESS: In front of the --
19 BY MR. KNOPF:
20 Q Or I was trying to understand. Did you say a car,
21 one car could pass another car at that point where it shows
22 the --
23 A No, in area three --
24 Q At the 14 feet?
25 A -- wider than the driveway by 14 feet?

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1 Q Yes.
2 A Yes, if the car is parked there, the other car can
3 pass the car.
4 Q Well --
5 A In area three, southern side --
6 Q All right. Wait a minute. I'm in two different
7 locations. I didn't get to three yet. I'm sorry. When you
8 come in -- let's go in the driveway. You go in the
9 driveway --
10 A Uh-huh.
11 Q -- and at that point it says it's 10 feet wide, is
12 that correct?
13 A Yes, it's 10 feet wide.
14 Q And as you turn, start to turn to go around the --
15 A Driveway.
16 Q -- the drive, it then opens up to 14 feet,
17 correct?
18 A Uh-huh.
19 Q And there is a diagram, a little space there of a
20 car --
21 A Uh-huh.
22 Q -- is that correct? Now I didn't understand your
23 testimony. Are you saying that the car, one car could pass
24 another car at that location or you did not? I wasn't
25 clear.

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1 A I don't see anything that southern side of the
2 driveway --
3 Q No, not the southern side. I'm just --
4 A Southern side of the driveway, when you ride out,
5 it will be 14 feet.
6 Q Yes.
7 A So when a car is parked there, the other car can
8 pass the car and get in and get out.
9 Q Now you're talking about area three or --
10 A Area three, southern side.
11 Q Yes. But I'm -- let me go back for a minute. I'm
12 at the top of the circle, so to speak. There's another 14-
13 foot area.
14 A Yeah.
15 Q May I approach if you can't see it or --
16 A Yeah, that's, yeah.
17 MS. LEE-CHO: It was my --
18 BY MR. KNOPF:
19 Q That's also 14 feet?
20 A That's also 14, that's regular, yeah.
21 Q All right. Are you saying a car could pass there
22 also?
23 A No, they cannot pass. The 14-feet, I mean it's
24 wide enough they can pass, so they can also pass --
25 Q They can also pass there?

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1 A Yeah, because that is 14 feet. When you turn
2 sideways, only 10 feet.
3 Q I understand.
4 A When they enter, they're in the -- even two cars
5 pass.
6 Q Would you agree with me that the little diagram
7 that's supposed to be a car at the top of the circle --
8 A The car is, looks bigger and --
9 Q -- would you agree with me another car, if the car
10 was standing there and was stationery because they were
11 bringing the child to the door, another car could not pass
12 if it's located at that location?
13 A Yes, the car is little. It shows bigger.
14 MS. LEE-CHO: We have --
15 THE WITNESS: It shows bigger, that's why -- but
16 two cars can pass in the 14 feet.
17 MS. CITARAMANIS: Right. He's saying, yes, two
18 cars can pass.
19 BY MR. KNOPF:
20 Q Okay. So you're --
21 A Two cars can pass in the 14 feet --
22 Q So --
23 A -- on the southern side 14 feet --
24 Q Okay. So you --
25 A -- two cars can --

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1 Q -- that's your understanding that cars, once they
2 come in the entrance way of 10 feet, it's okay, cars can
3 pass each other?
4 A Yes.
5 Q That's your understanding.
6 A Pass each other. They can pass.
7 MS. CITARAMANIS: Based on 14 feet --
8 THE WITNESS: Yes, because they are 14 feet.
9 MS. CITARAMANIS: -- at the top and on the side?
10 MR. KNOPF: Okay. I just wanted to understand --
11 MS. CITARAMANIS: Yes, no.
12 MR. KNOPF: -- what this is. Thank you.
13 BY MS. LEE-CHO:
14 Q Mr. Mani --
15 A Yes.
16 Q -- isn't it your understanding that the technical
17 staff at Park and Planning specifically required expansion
18 of this area three, the 14 feet, for that very purpose of
19 allowing a car to pass?
20 A Yes, ma'am.
21 Q And you would agree that that 14-foot dimension is
22 available at what I will call the western --
23 MS. CITARAMANIS: Well, the front of the house.
24 THE WITNESS: In front of --
25 MS. LEE-CHO: -- in front of the house?

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1 MS. CITARAMANIS: In front of the house.
2 THE WITNESS: In front of the house, yes, it is 14
3 feet, already it is 14 feet.
4 BY MS. LEE-CHO:
5 Q And so did it not, wasn't it not technical staff's
6 purpose of designing the circulation to allow --
7 A Uh-huh.
8 MR. KNOPF: Objection.
9 MS. CITARAMANIS: I think you -- it's clear. I
10 mean I just wanted to make sure because it's 14 on one side
11 and his understanding that that was enough to pass.
12 MR. KNOPF: That's all I wanted --
13 MS. CITARAMANIS: Yes. That's --
14 MR. KNOPF: It was a little confusing.
15 MS. CITARAMANIS: I mean that's fine and that's
16 why we're here, to clear up all confusion.
17 BY MS. LEE-CHO:
18 Q Mr. Mani --
19 A Yes, ma'am?
20 Q -- before you are some color photos that have been
21 entered and are labeled as part of the exhibit list.
22 A Uh-huh.
23 Q We need you to authenticate who took the photos
24 and what is depicted in the photos?
25 A Yes, ma'am.

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1 MS. LEE-CHO: And to approximate when the photos
2 were taken?
3 MS. CITARAMANIS: Yes. And could you just --
4 MS. LEE-CHO: Identify the exhibit --
5 MS. CITARAMANIS: -- let them know what, so they
6 can pull out their pictures at the same time.
7 MS. LEE-CHO: And they are labeled, so if you
8 could identify before you do that each exhibit number?
9 THE WITNESS: Okay.
10 MS. CITARAMANIS: Let's see -- are you ready?
11 MR. OROBONA: I believe she's referring to Exhibit
12 20.
13 THE WITNESS: Exhibit 20?
14 MS. CITARAMANIS: Yes.
15 THE WITNESS: (a)(4)? Exhibit 20(a)(4), right?
16 Uh-huh.
17 BY MS. LEE-CHO:
18 Q Can you describe that?
19 A Yes, these photos are taken by me and this is the
20 babies' room. This is one of the babies.
21 MS. CITARAMANIS: Well, what room would that be on
22 the floor plan?
23 THE WITNESS: This is in the basement, ma'am.
24 MS. CITARAMANIS: Okay.
25 MR. KNOPF: Could you hold up the picture to help

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1 us just so we can try to match it?
2 MS. CITARAMANIS: Well, you can take sticky off if
3 you want. That's just for me to separate the two.
4 BY MS. LEE-CHO:
5 Q The next photo?
6 A The next is Exhibit 20(a)(5). This photo is taken
7 by me. This is two tables. The yellow table is for dining
8 and the red table is for the kids, they come and do the
9 projects and other things.
10 Q And where is the location of this?
11 A It's in the basement. Both photos are in the
12 basement.
13 MS. CITARAMANIS: What room is that? I'm just,
14 I'm looking at your floor plan. What room does that
15 correspond to?
16 THE WITNESS: Exhibit 20(a)(5). This is room
17 number --
18 MS. CITARAMANIS: Oh, it's the basement plan.
19 THE WITNESS: Yes, ma'am.
20 MS. CITARAMANIS: I see.
21 THE WITNESS: This is room number two, I think.
22 And this is basement, yes, room number two.
23 MS. CITARAMANIS: And what exhibit is that that
24 we're looking at? No, no.
25 THE WITNESS: Room number, this exhibit is -- the

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1 18(b) room.
2 MS. CITARAMANIS: So it's corresponding with the
3 basement plan which is 18(b), I think you said?
4 THE WITNESS: 18(b).
5 MS. CITARAMANIS: Okay.
6 BY MS. LEE-CHO:
7 Q Next photo?
8 A Exhibit No. 20(a)(6). This picture is taken by
9 me. This is also in the basement. You have seen the
10 previous one. This is one side, the other side of the
11 daycare. The other -- and 20(a)(7), this is also the
12 daycare basement. This is the toys and all the, just I want
13 to show. That's why I took this picture.
14 The next exhibit is 20(a)(8). This is the
15 bathroom of the kids. There are two toilets and one sink is
16 there. This is the one.
17 MS. CITARAMANIS: This is still in the basement?
18 THE WITNESS: Uh-huh, it's in the basement, yes.
19 Exhibit 20(a)(15), this is the main entrance. If you enter,
20 you can see this, main entrance, front door. Exhibit
21 20(a)(16). This one is taken by me. This I propose to keep
22 the babies in this room. This is room number one, two,
23 three, I think. This is room number --
24 MS. CITARAMANIS: Where's the first floor? Keep
25 them over there so he can refer to them --

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1 THE WITNESS: No. 3.
2 MS. CITARAMANIS: -- the number for the first
3 floor plan.
4 THE WITNESS: 18(a), Exhibit 18(a), well, it says
5 room number three, entrance. Here I want to keep the
6 infants not from the basement, I want to bring the infants
7 here. That's why I set up here some pictures. Exhibit
8 20(a)(17), this is room number four according to the first
9 floor plan. This I want to keep the toddlers in this room.
10 Exhibit 20(a)(18), this is room number five. I
11 want to keep the 3-year-olds in this room. Exhibit
12 20(a)(19), this is the steps from the first floor to the
13 basement, first floor to the basement. Exhibit 20(a)(20), I
14 took it from the basement. From the basement to the first
15 floor you can go this way. Same steps. Exhibit 20(a)(21),
16 these are the two toilets and one sink in the first floor
17 for the kids. And Exhibit 20(a)(22), this toilet is for the
18 staff.
19 MS. CITARAMANIS: Is that -- where is that?
20 THE WITNESS: This is on the first floor.
21 MS. CITARAMANIS: Okay.
22 THE WITNESS: Exhibit 20(b)(1), 20(b), right?
23 MS. CITARAMANIS: Yes.
24 THE WITNESS: Uh-huh. Yes. 20(b)(1) taken by me,
25 this is the pathway from driveway. This is the pathway.

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1 You can see the driveway there and you can park the car here
2 and you can come this way to the daycare to the basement.
3 MS. CITARAMANIS: Oh, okay, for area four?
4 THE WITNESS: Yeah. Yes, ma'am. 20(b)(2), when
5 you come in the pathway you can see the door and you open
6 the door and come this way and you can go to the basement
7 for the daycare. There's a small door here, bigger door.
8 You can open the door and you can come. When you come in
9 the pathway, yes. Exhibit 20(b)(3), this is the basement
10 daycare entrance.
11 Exhibit 20(b)(9), this picture is taken by me just
12 to show the Layhill Road and my daycare board. You have to
13 show that I have taken this picture. Exhibit 20(b)(10), I
14 am showing that garage and also the in front of the garage
15 that top to park the two cars. Exhibit 20(b)(11), I took
16 this picture to show I planted some trees. To show those
17 trees, I took this picture.
18 MS. CITARAMANIS: Where are those trees located?
19 I mean what are we looking at? What's -- is that your
20 house?
21 THE WITNESS: No, ma'am, this is my neighbor's
22 right side, the doctor's house, this house.
23 MS. CITARAMANIS: That's not the Schilling's
24 house?
25 THE WITNESS: Huh?

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1 MS. CITARAMANIS: It's not Mr. and Mrs.
2 Schilling's house?
3 THE WITNESS: It is not Schilling's house, no.
4 MS. CITARAMANIS: Okay. It's the other side.
5 THE WITNESS: 20(b)(12), I planted the evergreen
6 trees. I took the picture to show the evergreen trees here.
7 This is Schilling's house, their car garage and their house
8 is this side of me.
9 MS. CITARAMANIS: Okay.
10 MR. KNOPF: Which number was that please?
11 MS. CITARAMANIS: What number was that again?
12 THE WITNESS: 20(b).
13 MR. KNOPF: 20(b). Thank you.
14 THE WITNESS: 20(b)(12).
15 MS. CITARAMANIS: (12).
16 THE WITNESS: 20(b)(13), this I want to show the
17 driveway. 20(b)(14), this is the proposed main entrance of
18 the daycare.
19 MS. CITARAMANIS: In front of the house?
20 THE WITNESS: In front of the house, yes.
21 MS. CITARAMANIS: The door? Okay.
22 THE WITNESS: Exhibit 20(b)(23) is the backyard.
23 Area nine you can see, this is area nine.
24 MS. CITARAMANIS: Okay.
25 THE WITNESS: Exhibit 20(b)(24), you can see area

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1 nine. The other angle I took the picture.
2 MS. CITARAMANIS: The other angle in --
3 THE WITNESS: Yes.
4 MS. CITARAMANIS: -- from --
5 THE WITNESS: From Schilling's side. I went to my
6 fence and I took this picture.
7 MS. CITARAMANIS: Okay. So that would be the
8 north side, is that right?
9 MS. LEE-CHO: Would that be the north side?
10 THE WITNESS: Huh?
11 MS. LEE-CHO: North side?
12 THE WITNESS: Uh-huh, no, north side, yes.
13 MS. CITARAMANIS: Okay.
14 THE WITNESS: 20(b)(25), this also from the north
15 side. Just I want to show the area six. Exhibit 20(b)(26),
16 I took this picture from the entrance. If you come up the
17 driveway, you can see a fenced entrance. From there I stood
18 and took this picture to show area six and area nine.
19 Exhibit 20(b)(27), this is the area six
20 playground. Exhibit 20(b)(28), just I took the pictures of
21 the fence to show that I will be allowed to keep without
22 changing this fence, so I took the fence out of the photos.
23 MS. CITARAMANIS: That's the existing fence?
24 THE WITNESS: Huh?
25 MS. CITARAMANIS: That's the fence that's existing

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1 right now?
2 THE WITNESS: Yes, ma'am. 20(b)(29), fence, just
3 I want to show the fence. Thank you. 20(b)(30), same fence
4 I'm showing. You can see Schilling's house here. Same
5 fence because I took three different angles and I want to
6 show the whole fence. 20(b)(31), this is Schilling's house.
7 20(b)(32), this is northern side of the fence. There is one
8 more door here, a small door, but nobody is using this door.
9 MS. CITARAMANIS: Is that gate on the north side?
10 THE WITNESS: Yes, north side, yes, ma'am, north
11 side. Exhibit 20(b)(33), this is the deck. I just took the
12 picture of the deck and you can see the right side mark-up
13 and the daycare, the main entrance. 20(b)(34), this is also
14 the fence, southern side fence. This is the doctor's house.
15 20(b)(35), this I want to show the fence, how far
16 it is going. There's a small dog house is there, but we
17 don't have any dog. The previous people left it, so I also
18 keep it like that, but we don't have any dogs, but the dog
19 house is there. 20(b)(36), again, I'm showing the fence.
20 20(b)(37), fence near the playground, area six, covering the
21 whole. That's all.
22 MS. LEE-CHO: And that concludes the photographs.
23 THE WITNESS: Anything else?
24 MS. CITARAMANIS: Okay. Any other questions, Ms.
25 Lee-Cho?

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1 MS. LEE-CHO: I do not have any questions.
2 MS. CITARAMANIS: Okay. Mr. Knopf?
3 MR. KNOPF: Just one question. On 20(b)(33) --
4 MS. CITARAMANIS: Let me find it. 20(b)(33)?
5 MR. KNOPF: 33. It's near the end.
6 MS. CITARAMANIS: 20(b)(13) --
7 MR. KNOPF: Yes.
8 MS. CITARAMANIS: That's the one I want?
9 MR. KNOPF: Yes. Thank you. You identified the
10 door in the lower right-hand corner as the main entrance to
11 the daycare area. Are you referring to the --
12 THE WITNESS: Basement, basement -- yeah.
13 BY MR. KNOPF:
14 Q That's the existing --
15 A No, no, yeah, existing daycare entrance.
16 Q And you understand that if this is approved, that
17 entrance would not be used by parents dropping and picking
18 up their children?
19 A No, they are bringing the kids this way down there
20 and I'm using this.
21 MS. CITARAMANIS: Right now?
22 THE WITNESS: Right now I'm using this.
23 BY MR. KNOPF:
24 Q But I mean under the, if your application is
25 approved, what is your understanding of what use that door

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1 will have? Will the parents still bring the children --
2 A No, they don't bring this way. If I am approved,
3 the main door will be used to take the kids in.
4 Q And what is your understanding of why that was
5 recommended that that, by the planning staff and Planning
6 Board that it no longer be used as an entrance for bringing
7 in children?
8 A They didn't tell me not to use this one, but I
9 told them I'm not going to use this because they found when
10 they come in the back way and closer to the slope, so I told
11 them I'm not going to use this one because they told me it
12 is a little bit sloped, so you've got to be careful. Then I
13 said I'm not going to use that one, I'm going to use the
14 main door to bring the kids in. When weather is good,
15 summertime, springtime, I can bring the kids that way. But
16 wintertime I don't want to bring, that's what I told them.
17 Q Summer and spring you can bring around the back
18 way?
19 A That's what I told them, I'm using that one, but
20 I'm using right now the same way. They come in the back
21 way, they open the wicker door and they come to this place,
22 in the basement. Now I'm using this one. In future, I
23 don't use that one.
24 Q Was there not -- and how much time did you
25 estimate it takes for a parent currently, in your current

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1 proposal, for a parent to walk the child?
2 A Yes, it takes maybe more than five minutes for
3 them to come and drop the child.
4 Q Okay. Thank you.
5 MR. KNOPF: No further questions.
6 MS. CITARAMANIS: Ms. Lee-Cho?
7 BY MS. LEE-CHO:
8 Q Mr. Mani, you clearly understand that once this
9 special exception is approved, you cannot use that back
10 entrance and you'll always are going to be limited to the
11 front entrance, is that correct?
12 A Yeah, front entrance, I want to use it.
13 Q You understand that that's a requirement of the
14 special exception?
15 A Right. Right.
16 MS. CITARAMANIS: Just so I'm clear, it doesn't
17 mean that he can't use it to let the kids out to go --
18 MS. LEE-CHO: Correct, before they go outside?
19 MS. CITARAMANIS: I'm just making sure.
20 MS. LEE-CHO: For just the drop-off.
21 MS. CITARAMANIS: Just for the drop-off and --
22 MS. LEE-CHO: Pick-up.
23 MS. CITARAMANIS: -- and pick-up, exactly.
24 MS. LEE-CHO: Okay.
25 MS. CITARAMANIS: Any other questions? I did --

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1 on page 3 of the amended where it, under outdoor activities,
2 it says in order to minimize noise and maintain safety for
3 the proposed child has been proposed to have six foot solid
4 fence. Is that, Mr. Mani, is that a solid fence all the way
5 around the yard?
6 THE WITNESS: No, I have to --
7 MS. CITARAMANIS: I want to make sure it wasn't,
8 because the way it's reading, it looks, board on board to
9 cover the whole playground and I didn't know if that was the
10 playground which was area six. You're not fencing that in,
11 correct, you're fencing in the whole backyard?
12 THE WITNESS: The whole backyard.
13 MS. CITARAMANIS: The whole backyard. So, okay,
14 because the way -- it, I just want to make sure you weren't
15 fencing in area six. That would be kind of strange, do you
16 know what I'm saying? Do you understand what I'm saying?
17 THE WITNESS: To cover the whole playground?
18 MS. LEE-CHO: Yes, and I believe --
19 THE WITNESS: To cover the whole playground.
20 MS. LEE-CHO: -- with our revised site plan, which
21 shows area nine as an alternate playground, I think, that
22 makes it consistent with the statement.
23 MS. CITARAMANIS: Oh, okay. But it's the whole
24 backyard?
25 MS. LEE-CHO: Right.

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1 THE WITNESS: Whole backyard and the whole
2 playground. That's what I tell them, the whole playground.
3 MS. CITARAMANIS: Okay. And where in, on the site
4 plan, well, and then you've marked all of the trees. Are
5 the ones in the back new? I guess they are. Never mind.
6 Okay. I don't have any more questions. Did my questions
7 generate any questions?
8 MR. KNOPF: No questions.
9 MS. LEE-CHO: No questions.
10 MS. CITARAMANIS: Okay. Anything else?
11 MS. LEE-CHO: No, I do not have anything else for
12 this witness.
13 MS. CITARAMANIS: We can let Mr. Mani go. I
14 apologize for not asking if you needed to take a break for a
15 moment because two hours have passed. All right. If you
16 have any exhibits over there that I gave you, I need to have
17 them back. I think you've been giving them all to me.
18 THE WITNESS: I handed them all to you.
19 MS. CITARAMANIS: Okay.
20 THE WITNESS: Okay.
21 MS. CITARAMANIS: Okay. You can step down.
22 THE WITNESS: Thank you, ma'am.
23 MS. CITARAMANIS: Thank you for getting through
24 that. All right. Well, it is 10 after 12:00. We'll take a
25 break. I'm sure people are hungry.

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1 MR. KNOPF: Well, they only have one more witness,
2 right?
3 MR. OROBONA: Yes.
4 MR. KNOPF: We can finish that.
5 MS. CITARAMANIS: But it's going to be your
6 expert?
7 MS. LEE-CHO: Yes.
8 MS. CITARAMANIS: Well, do you want -- how much
9 time do you anticipate for your expert?
10 MS. LEE-CHO: One hour.
11 MS. CITARAMANIS: Okay. Yes, and so that's what I
12 was thinking, your expert wouldn't be that much quicker. So
13 I definitely need to take a break for a moment. Do we --
14 I'm asking both sides --
15 MR. KNOPF: Sure.
16 MS. CITARAMANIS: Do, knowing that it's going to
17 take an hour --
18 MR. KNOPF: Yes.
19 MS. CITARAMANIS: -- and then I'm sure your
20 cross --
21 MR. KNOPF: I did not know that when I suggested
22 to you --
23 MS. CITARAMANIS: Okay. Okay. So probably this
24 would be a natural break to take a lunch.
25 MS. LEE-CHO: A short lunch break possibly? It

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1 could be 45 minutes at lunch?
2 MR. KNOPF: Today is Tuesday, so Council is in
3 session. Is that place mobbed?
4 MS. CITARAMANIS: I have no idea. No, let's, it's
5 10 after --
6 MR. KNOPF: Well, that's right, you wouldn't know.
7 I'm sorry. I forgot.
8 MS. CITARAMANIS: -- let's, yes, I'm out of
9 County. So it's 10 after. I think if we can be back here
10 by 1 o'clock that would be enough time to go down to the
11 cafeteria or something. So we will resume back at 1
12 o'clock, okay?
13 MR. KNOPF: Thank you.
14 (Recess)
15 MS. CITARAMANIS: Okay. Are you ready, Mr. Knopf?
16 MR. KNOPF: Yes.
17 MS. CITARAMANIS: Okay. We're back on the record.
18 It's been close to an hour. That's not bad. You will be
19 handling or --
20 MS. LEE-CHO: I will be.
21 MS. CITARAMANIS: Okay. Call your next witness.
22 Somebody is sitting in the chair.
23 MR. EAPEN: Already here.
24 MS. LEE-CHO: I call Cherian Eapen, our traffic
25 consultant.

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1 MS. CITARAMANIS: Okay. Raise your right hand.
2 (Witness sworn.)
3 MS. CITARAMANIS: Okay. And you'll -- you can put
4 your hand down now. State your name and then we'll let Ms.
5 Lee-Cho take over.
6 THE WITNESS: My name is Cherian Eapen.
7 DIRECT EXAMINATION
8 BY MS. LEE-CHO:
9 Q Mr. Eapen, can you please state your name and your
10 business name and address for the record?
11 A Sure, I'll just repeat my name for the record
12 again. My name is Cherian Eapen. I'm principle of my firm,
13 Temoss, LLC, which is a transportation planning, traffic
14 engineering firm.
15 Q Mr. Eapen, I have in front of me your resume and
16 I'd like to just go through some of what's contained here to
17 qualify you as an expert for today's hearing.
18 MR. KNOPF: Excuse me. In order to save time, I
19 want to tell you that we have no objection to qualifying him
20 as an expert.
21 MS. CITARAMANIS: So you don't have any objection
22 to him being as an expert?
23 MR. KNOPF: I, well, we can qualify him as --
24 MS. CITARAMANIS: Let's, yes, exactly. Why don't
25 you just --

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1 MR. KNOPF: No, just the title. Just the --
 2 MS. LEE-CHO: Transportation planning and traffic
 3 engineering.
 4 MR. KNOPF: We have no objection.
 5 MS. CITARAMANIS: Okay. There you go. His
 6 resume --
 7 MS. LEE-CHO: I'll put his resume --
 8 MS. CITARAMANIS: -- is already in the record, or
 9 you submitted that, so
 10 MS. LEE-CHO: Is it in the record?
 11 MR. OROBONA: Yes.
 12 MS. CITARAMANIS: Yes, it was --
 13 MS. LEE-CHO: It is in the record?
 14 MS. CITARAMANIS: So --
 15 MS. LEE-CHO: Well, it's been marked.
 16 MS. CITARAMANIS: Having your agreement, I will
 17 qualify him as an expert in traffic engineering. So --
 18 MR. OROBONA: It's 63(c).
 19 MS. CITARAMANIS: Thank you.
 20 BY MS. LEE-CHO:
 21 Q One aspect I would like to ask Mr. Eapen, could
 22 you discuss your previous work at Park and Planning?
 23 A Sure. I was a planner, planner/coordinator at
 24 Park and Planning --
 25 MS. CITARAMANIS: I thought I recognized the name.

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1 THE WITNESS: -- at Park and Planning Commission
 2 for the last 10 years and I've reviewed over hundreds or a
 3 couple of hundred cases and several special exception zoning
 4 cases and appeared before or provided information for the
 5 Hearing Examiner on several cases and I've covered pretty
 6 much all of Montgomery County at Park and Planning.
 7 BY MS. LEE-CHO:
 8 Q And specifically as it relates to sight distance
 9 analyses, could you estimate in terms of your tenure at Park
 10 and Planning how many sight distance analyses you've had to
 11 evaluate that have been submitted by applicants?
 12 A That will be several. I would say more than a
 13 hundred. Any of the studies that are site plan applications
 14 that come in to Park and Planning Commission would require a
 15 site plan, a sight distance analysis whether it's a state or
 16 County that needs to acquire an access permit or --
 17 Q And I believe you said that you had extensive
 18 experience evaluating specifically child daycare
 19 applications as it relates to the drop-off, pick-up movement
 20 requirements?
 21 MS. CITARAMANIS: I didn't hear any of that.
 22 MS. LEE-CHO: Oh, I thought I did. I'm sorry.
 23 THE WITNESS: Okay.
 24 MS. CITARAMANIS: Did you say that?
 25 THE WITNESS: I think I said special exceptions --

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1 MS. CITARAMANIS: Oh, okay.
 2 THE WITNESS: -- on some cases, so --
 3 BY MS. LEE-CHO:
 4 Q Well, then my question is have you had experience
 5 evaluating child daycare?
 6 A Certainly Park and Planning, several of them, and
 7 most recently three that I can think of, one in Four Corners
 8 and two that was probably closer for about 100 children, and
 9 two special exception cases in the Bethesda/Chevy Chase
 10 policy area for up to 12 children. Those are the three
 11 cases I can think of --
 12 Q Okay.
 13 A -- the last couple of years.
 14 Q Before we get to the onsite circulation issues, I
 15 would like to address the analyses that was prepared by Joe
 16 Cutro and Sarah Navid that was submitted in this case. Have
 17 you had a chance to review their analysis and gone out to
 18 the site yourself?
 19 A Yes.
 20 Q Have you had further conversation with Mr. Cutro
 21 and Ms. Navid in terms of asking them in terms of the
 22 methodology used in creating that analysis?
 23 A Certainly this is also in the background of the
 24 sight distance analysis that was submitted by the
 25 opposition. I followed up with the sight distance study

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1 that was done by Mr. Cutro and Ms. Navid. And we looked at,
 2 they looked at the numbers to quantify how the, what the
 3 sight distance at the site driveways were for turning into
 4 the site, as well as exiting the site from the southern
 5 driveway. So they did their observations and made a chart
 6 of their finding and put it them all. We had a chance to
 7 discuss how they came to their measurements and after
 8 discussing and reviewing and then being on the site myself
 9 and taking a look at both the driveway and the sight
 10 distance and the conditions, I think they have done an
 11 analysis that I can find acceptable and accurate.
 12 MS. LEE-CHO: I wonder if -- I've asked Mr. Eapen
 13 to essentially diagram the measurements that were depicted
 14 in the memo done by Mr. Cutro just to help visualize how the
 15 sight distance measurements and where from which they're
 16 measuring exactly.
 17 MS. CITARAMANIS: No, there's no question that I'm
 18 going to need a visual.
 19 MS. LEE-CHO: I thought --
 20 MS. CITARAMANIS: So it would definitely be very
 21 helpful because in reading both of them, but we're going to
 22 do that --
 23 MR. KNOPF: Well, sure. I just want to say in
 24 order to have my visual, you're going to have to move your
 25 visual.

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1 MS. LEE-CHO: Oh, I will.
2 MS. CITARAMANIS: Okay. So, I mean especially --
3 MR. OROBONA: Yes, I'll sort it out.
4 MS. CITARAMANIS: -- identify it. What's the
5 next -- it's 71. So make that Exhibit 71 and this will be
6 Mr. Eapen's diagram.
7 MS. LEE-CHO: Sight distance analysis --
8 MS. CITARAMANIS: Site --
9 MS. LEE-CHO: -- diagram.
10 MS. CITARAMANIS: Okay. And so basically --
11 THE WITNESS: I'll just put the basics out.
12 I'll --
13 MS. CITARAMANIS: Everybody can see?
14 THE WITNESS: Labels, we know they don't appear as
15 the -- I assume north going --
16 MS. CITARAMANIS: Okay.
17 THE WITNESS: -- up and this is the site. And we
18 have the inbound driveway and the outbound driveway.
19 MS. CITARAMANIS: Somebody's cell phone is --
20 MS. LEE-CHO: I'm sorry. It's probably me.
21 MS. CITARAMANIS: -- shaking the room.
22 MS. LEE-CHO: Sorry.
23 MS. CITARAMANIS: Okay.
24 THE WITNESS: So just to kind of present what Ms.
25 Navid, Sarah Navid and Joe Cutro found in terms of the sight

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1 distance is, I'll just put the numbers down. So I'll start
2 with what they call the stopping sight distance. Basically
3 it's the sight distance needed for somebody, a driver to
4 stop on observing an object that's about 2-feet high in the
5 vicinity of the driver. So with that, I will kind of put
6 the numbers down as to what they measured on the site. So
7 assuming you're coming down in the southbound direction on
8 Layhill Road to basically to the -- there are two
9 measurements they have done. It's a little -- let me try,
10 and here is the second observation which is to this other
11 driveway. These are sort of generalized. I'm not a great
12 drawer, but so basically what their measurement is 514 feet.
13 MS. LEE-CHO: I would just note for the record
14 that he, Mr. Eapen has just marked the distance southbound
15 to the southern driveway.
16 THE WITNESS: Okay. I'll just mark that.
17 MS. CITARAMANIS: Where's the cone? Just where --
18 is that where --
19 THE WITNESS: Yes, and there are pictures that I'm
20 not pretty sure that those were --
21 MS. CITARAMANIS: Yes, there are pictures.
22 THE WITNESS: -- that's part of the record, the
23 pictures of the cones.
24 MS. CITARAMANIS: Do you have them? I have them,
25 too, but just I want to make sure --

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1 MS. LEE-CHO: Well, these are pictures of the
2 cones used. I don't think you have this yet.
3 MS. CITARAMANIS: Okay. Well, let me --
4 MR. KNOPF: Aren't those, oh, they're in a
5 different picture.
6 THE WITNESS: That's the other pictures --
7 MR. KNOPF: You haven't submitted those?
8 MS. LEE-CHO: No.
9 MS. CITARAMANIS: Okay. So the ones that were
10 submitted, just give me a brief moment and find those --
11 that would be 65(a), so there we go. All right. I have
12 65(a)(1) and 65(a)(2). These were attached to the traffic
13 report.
14 THE WITNESS: Correct.
15 MR. KNOPF: We have those.
16 MS. CITARAMANIS: This -- okay. No, that's what -
17 - is that what you're looking at? Okay.
18 MR. KNOPF: No, but she's -- are you handing him
19 another picture?
20 MS. CITARAMANIS: No, that's --
21 MR. KNOPF: Oh, I'm sorry.
22 THE WITNESS: No, they're not.
23 MS. CITARAMANIS: She's handing 65 -- here, let me
24 return it as -- okay. So
25 THE WITNESS: And it was the picture of the cone,

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1 too, right?
2 MS. LEE-CHO: Right.
3 THE WITNESS: Okay. The other measurement we have
4 in there, from their observation is 474 feet to the northern
5 driveway. And as you can see in that exhibit here, they
6 qualified them at a distance that measured because they
7 couldn't, for safety reasons couldn't be at the center of
8 the road where the position of a driveway would be and look
9 down, they had to stay at the edge of the road and done some
10 measuring distances and be able to -- so they had to make it
11 look and judgment as to the distances when they were
12 measuring from the north.
13 I also personally walked up the Layhill Road and
14 had an observation. So what I, if you look at the data they
15 submitted in terms of the measurement --
16 MS. CITARAMANIS: Okay.
17 THE WITNESS: -- the table that's included in
18 their letter --
19 MS. CITARAMANIS: Yes.
20 THE WITNESS: -- where it said qualification, they
21 have a plus mark right next to it --
22 MS. CITARAMANIS: Yes.
23 THE WITNESS: -- with, says that it is, could be
24 measured a little bit more than what they observed for that
25 particular driveway.

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1 MS. CITARAMANIS: So it could be more than 474, is
2 that what you're saying?
3 THE WITNESS: More than 474 because they couldn't
4 be out in the center of the road and recollect this. So
5 those are what they -- I'll just mark these as stopping
6 sight distance. And they measured the same from the south,
7 so what is -- how much farther, from how far he can see the
8 driveway. So what, their measurements came out and said
9 it's more than 1,000 feet, but actually you could see the
10 driveway or an object at least two feet high at the
11 driveways for more than 1,000 feet away. So if you're
12 coming up just past the ICC, you could see those cones
13 because there's a little bit of elevation going -- the road
14 sort of goes up, so I'll just, just mark with that mark
15 somebody -- so the second type of measurements they have
16 here is what they call the section sight distance, which is
17 basically a driver sitting at the driveway be able to see
18 ongoing traffic whether it's northbound, traffic that's
19 coming northbound direction or in the southbound direction.
20 So the measurements that, that's included in the submission
21 is, here it says intersection sight distance to north, so
22 it's basically saying how far a driver can see to, in the
23 northbound direction. So that's a measurement, they have it
24 here. Again, it's in the right direction.
25 They have put, again, that's more than -- but

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1 that's 520. They had to put a cone up there to make sure
2 that the driver could see something at the height of 3.5
3 feet so, again, they had to measure it to the side of the
4 road because they just couldn't, didn't feel like safe being
5 in the middle of the road with the traffic. So they
6 measured with the, siting that object to the side of the
7 road, that's the qualification that they made in the
8 measurement.
9 MS. CITARAMANIS: So you're saying the cone was on
10 the side of the road or they were on the side of the road?
11 THE WITNESS: It's a person here being able to see
12 an object that's 3.5 feet. That's a little bit -- the cone
13 is about two feet. The other object is about 3.5 feet.
14 MS. CITARAMANIS: Okay.
15 THE WITNESS: And it's a much higher, higher than
16 the cone. So that's the distance they measured in terms how
17 far they could see from the driveway. And they measured it
18 from a distance of about 40.5, moving back about 41 feet
19 from the edge of the pavement.
20 BY MS. LEE-CHO:
21 Q Just to clarify then, to clarify for the Hearing
22 Examiner, the cone that was placed to test how far, at this
23 point you could see the cone, you're saying was placed off
24 to the side of the road for safety sake, is that correct?
25 A Yes, the, one person would, the driver would be

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1 here and then would be looking and say, okay, how far can I
2 see that cone, the top of the cone, and --
3 Q I know. But for purposes of doing this test, the
4 cone was placed not where one would normally see a car in
5 the middle of the lane, but off to the side --
6 A It was to the side.
7 Q -- of the road? So that --
8 A That's correct.
9 Q So if the cone --
10 A It was --
11 Q -- what is your professional opinion then if the
12 cone were to be placed in the center of the lane as where a
13 car would be located, what that would do to the
14 measurements?
15 A The sight distance could be better and that's a
16 conclusion that I've been around the field and it may have
17 been, and as well as to draw in certain areas based on their
18 analysis and measurements they have inputted as well.
19 Q What's the approximate, I guess, increase in
20 visibility if that were to be used, the location of the cone
21 were in the center?
22 A Generally, it could probably see up to about 600
23 feet which is more than the required distance of 555 feet.
24 That is the standard that's in the AASHTO guideline. So the
25 conclusion is that you should be able to -- if somebody

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1 could safely be in the road, middle of the road and be
2 measuring that distance, they should be able to observe a
3 car coming at about 600 feet. And those, that is qualified
4 in their memo on page 2 or, yes, page 2.
5 Q Yes, that's the last paragraph.
6 A Let me just put one more measurement that's
7 included, which is the sight distance to the south. So the
8 driver, they need to make an observation about a vehicle
9 coming in the northbound direction, what they're saying it's
10 more than 1,000 feet. So with that, so that's a study they
11 have done and I was able to verify that as well on the site.
12 Q Okay.
13 A Let's see, I wanted to put the standards down
14 which --
15 Q No, I have a few questions just to follow up. So
16 is it your professional opinion that basically the proposed
17 stopping sight distance and intersection sight distance,
18 that the vantage point from the south there is no problem?
19 A That's correct.
20 Q But it's less advantageous to the north, but still
21 meeting the requirements under AASHTO?
22 A Certainly the sight distance requirements to the
23 north could also be met, but that's, you are, about the
24 requirement and certainly some additional improvements could
25 be made to improve the sight distance. Some mitigation

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1 measures such as there is a shrub in the middle of the
2 island.
3 MS. CITARAMANIS: There's a what?
4 THE WITNESS: A shrub.
5 MS. CITARAMANIS: Oh.
6 THE WITNESS: And it's probably right about here.
7 It's within the line of sight, so that could be removed. My
8 suggestion is to remove, in our opinion, is to remove that
9 shrub so it won't be there as an obstruction for somebody
10 trying to exit out to Layhill Road and maybe some selective
11 trimming along Layhill Road, that's also to help with the
12 sight distance. And that -- here.
13 MS. CITARAMANIS: So it helps with the sight
14 distance? I mean you can still see it with the shrub there?
15 THE WITNESS: Sure. You just --
16 MS. CITARAMANIS: Or --
17 THE WITNESS: -- you don't want to have some
18 overgrowth. So, theoretically, somebody do not have to go
19 maintain or make sure that these are trimmed or taken care
20 of. Some sort of a permanent measure would be the best
21 opinion in terms of ensuring that sight distance is
22 maintained.
23 MS. CITARAMANIS: Okay.
24 BY MS. LEE-CHO:
25 Q Have you also had a chance to review a

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1 supplemental memorandum that was prepared by the opposition
2 citing the methodology that was used to prepare earlier
3 studies, also prepared by the opposition?
4 MS. CITARAMANIS: I have that marked as 69(a). I
5 just want to make sure because it came in yesterday.
6 THE WITNESS: Yes, certainly the memo dated,
7 supplemental memo dated May 13th. I did have a chance to
8 review it and the one clarification or I wanted to make that
9 with respect to the findings in the -- or a couple of things
10 I should -- is the fact that the distance, these
11 measurements that are included, while all of, most of them
12 are met except for the, this chart here is suggesting that
13 the stopping sight distance to the north driveway, if you
14 come in the southbound direction, so 474, it's 407 and the
15 standard is 425. So the measurement suggests that it
16 doesn't need to --
17 MS. CITARAMANIS: Which one are you on?
18 THE WITNESS: On page 2, the top line.
19 MS. CITARAMANIS: Page 2? 407, okay.
20 THE WITNESS: The 407. So this is the
21 comparable -- so I'll put that number down I think is
22 what --
23 BY MS. LEE-CHO:
24 Q So you're saying that the comparable measurements
25 is the 407 --

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1 A 407 feet.
2 Q -- that you indicated in the circle?
3 A Yes.
4 Q Which was to the north driveway?
5 A Yes. And the requirement is --
6 MS. CITARAMANIS: Yes, you might want to identify
7 your colors. It's good that you're using colors, but for
8 the record, the record doesn't know.
9 MS. LEE-CHO: Why don't you circle the opposition
10 number?
11 THE WITNESS: Sure.
12 MS. CITARAMANIS: That's a good idea. And -- you
13 can use green and blue and black.
14 BY MS. LEE-CHO:
15 Q So that's the one area of contention?
16 A Let me put all the numbers down, I believe, just
17 for easy reference, so --
18 Q If you could just --
19 A Or just two --
20 Q -- do two, ones that are at issue, the two
21 measurements.
22 A Okay. The other measurement is the sight distance
23 to the north, which is the intersection sight distance the
24 opposition is --
25 Q Okay.

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1 A -- arguing that the distance is 482 feet instead
2 of up to 600 feet that was measured.
3 Q And then if you could circle the 482 in red?
4 MS. CITARAMANIS: So what's in red circled is
5 what's coming from --
6 MS. LEE-CHO: Mr. Mehra.
7 MS. CITARAMANIS: Correct, 69(a), yes, 69(a). Oh,
8 thank you.
9 THE WITNESS: So really from -- the difference in
10 opinion as regarding the sight distance from the exiting
11 driveway to the north and ballpark from the north you can
12 observe some vehicle turning into that northern driveway.
13 So -- but based on the review we have done, I think there is
14 a disagreement, but we kind of feel that based on two
15 observations independently done that there is adequate sight
16 distance for all the driveways for cars to enter and exit
17 the property safely.
18 BY MS. LEE-CHO:
19 Q Okay. Now, Mr. Eapen, Mr. Mehra's initial
20 memorandum dated April 25, 2013 --
21 MS. CITARAMANIS: 46, Exhibit 46, 46, I think,
22 46(a).
23 BY MS. LEE-CHO:
24 Q Apparently you used a methodology, you're using an
25 object height of only six inches as far as for a study

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1 the typical traffic drop-off and pick-up activities are
2 usually spread out over the 3-hour period at these daycare
3 centers.
4 Q Mr. Eapen, have you had an occasion -- I believe
5 you mentioned you went out on a site to observe during a
6 peak hour period. Could you share with us your
7 observations?
8 A Certainly. I was, so I just wanted to see at
9 least some of the peak hour operation, what happens at least
10 along Layhill Road or in adjacent neighborhood, adjacent
11 intersections and how the traffic operates. So I was there
12 yesterday morning and was able to -- the observation which
13 was interesting was there was an exhibit that was created
14 in --
15 MS. LEE-CHO: This was offered as Exhibit 72.
16 MS. CITARAMANIS: Okay. Give it to Mr. Knopf.
17 THE WITNESS: I will keep talking?
18 MS. CITARAMANIS: No, no, hold on. So we'll mark
19 it as 62 and --
20 MS. LEE-CHO: Is it 72?
21 MS. CITARAMANIS: I'm sorry. That's why we have
22 you stop talking --
23 THE WITNESS: Okay.
24 MS. CITARAMANIS: -- since I've lost count. 72?
25 MS. LEE-CHO: Correct. Let me mark it down there

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1 quick.
2 (Exhibit No. 72 was marked for
3 identification.)
4 MS. CITARAMANIS: It's an aerial photograph?
5 BY MS. LEE-CHO:
6 Q Before you begin, Mr. Eapen, could you just
7 describe what is on Exhibit 72?
8 A Sure. The exhibit shows basically the network of
9 area roadways, so basically you see Layhill Road, you know,
10 going north-south. The ICC is sort of to the bottom, east-
11 west, that is the Maryland 100 and Norbeck Road, sort of to
12 the north, to the north going east-west. So basically what
13 was observed and I thought was interesting was --
14 Q Excuse me, I'm sorry, the site is identified on
15 this --
16 A Oh, sorry.
17 Q -- as --
18 A The site is indicated where the red arrow is. And
19 the two signalized intersections to the north and south of
20 the site are marked in that red dotted circle. The one is
21 an interchange, the ICC is an interchange, but there is a
22 signal where you get off and on in the eastbound direction.
23 That is that north link to Layhill Road.
24 And to the north is the intersection of Layhill
25 and Norbeck Road. So what was interesting is the signals at

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1 both these ends was sort of turning the traffic that was
2 coming in the southbound direction and --
3 MS. CITARAMANIS: The what? It sounded like a
4 terminology.
5 THE WITNESS: What I said was the turning,
6 basically it was kind of making a train of cars. So it's
7 just kind of holding the cars at these intersections letting
8 them go when they get the green so they all move together in
9 the southbound or in the northbound direction. So, which
10 was an interesting factor when I was observing the traffic
11 on Layhill Road. So it -- in the morning, I mean you will
12 see that you get a green in the southbound direction.
13 That's a peak direction in the morning, the peak traffic
14 flows in the southbound direction. So they get the green.
15 They all kind of come and pass the site and then there is
16 this, a minute and a half where there is almost no cars
17 coming because they were all held together and let go when
18 they got the green. So the same way in the northbound
19 direction because the signal cycling every two minutes or
20 so, the northbound traffic were all bunched together and was
21 going in the north direction. So what I was trying to get
22 to from an operation standpoint, between the spurts of
23 traffic going up and down on Layhill Road, there's a large
24 amount of gaps where there were hardly any vehicles going up
25 north and south.

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1 So what I thought was interesting in terms of
2 operation of the daycare center was given the nature of the
3 trips that come to the site, sort of the spread out over
4 that three-hour period, they will find ample opportunity to
5 turn left or exit the site. So I thought that was a very
6 interesting occurrence that, particular to -- I mean it's,
7 at least that you could observe here on Layhill Road.
8 Q So in your opinion how would the addition of 12,
9 potentially 12 additional students or, students, children, I
10 don't know how to -- increase in enrollment in the daycare
11 from what exists today, can you extrapolate for us how that
12 would contribute to what you observed on Layhill Road,
13 likely contribute?
14 A Sure. Certainly from an incremental traffic
15 effect there will be minimal impact that I can tell, for
16 example, yesterday the half an hour, obviously they're
17 observing traffic. There was one drop-off that occurred
18 within that half an hour period. So this is very typical of
19 a daycare operations and it's very -- the traffic, in and
20 out traffic is often spread out throughout that peak hour
21 peak period window of three hours in the morning and three
22 hours in the afternoon. And I can speak to that personally
23 from using a daycare in the last 12 years, but the trip
24 generations for, trip generation data for daycares are such
25 that they are, especially something of the intensity they're

1 proposing on this site, the incremental effect will be very
2 negligible on Layhill Road.

3 And the other factor that plays into daycare-type
4 uses is there is a whole lot of traffic that's already in,
5 on this street and many of them are passed by or sometimes
6 by trips that come and use the site. And daycares typically
7 of this do serve the local neighborhood, so are mostly
8 locally generated trips who very well know the traffic
9 operations of the area and so very familiar with the Layhill
10 Road itself. So, however, how to operate them and safely
11 maneuvering them, the site.

12 Q We heard some line of questions and Mr. Knopf
13 suggesting that, in a hypothetical, let's say within, at
14 7:25 conceivably you could have a kind of a clustering of
15 cars, three in the first half hour, three in the second half
16 hour but, you know, a hypothetical where they're all kind of
17 clustered within a 10, 15-minute period. Could you address
18 that potential situation and how, you know, if that will
19 occur and how often that might occur and the likelihood of
20 that to occur?

21 A Yeah. I would say absolutely no such even, never
22 would happen, it may be hard to say, but I think you would
23 have to be reasonable in terms of -- and that's sort of a
24 catastrophic or rare event may occur. I mean it is a rare
25 event. I think it -- I mean a lot of things have to happen

1 together for such a scenario to happen. Six different
2 families have to, or more have to make that trip at the same
3 time is just rarely present. If you look at the operation
4 of daycare center, typically it's spread over that 3-hour
5 window and even when there are many more students, the
6 maximum you would see at a daycare is two to three at any
7 time. I'm talking about maybe 80 students, 100 students in
8 terms of the trips actually cycling in through over that
9 peak 1-hour time. It may be a, a fairly number of trips,
10 but that 5-minute to 10-minute window you're talking of in
11 terms of a parent coming and dropping the kids off and go,
12 it happens throughout the 1-hour period, the peak hour. And
13 often it's never more than one or two or three happening at
14 the same time and given the size of the operation, up to 24
15 children, and especially with an existing operation which
16 didn't appear, at least based on our observation yesterday,
17 that there is a fair amount of traffic going in and out of
18 the site.

19 Q You characterized that as a catastrophic event.
20 Is it standard protocol for the County to design sites for
21 that catastrophic event?

22 A Certainly those kind of events could happen, but I
23 think from a planning standpoint, from a practical
24 standpoint you cannot plan out for that sort of an end game
25 where everything going to happen at the same time. All the

1 drop-offs will occur at the same time. And if there is even
2 -- and even where there's a major traffic issue that parents
3 are held up and typically they would probably call the
4 office and make an arrangement in terms of the pick-up and
5 certainly that's something they could probably potentially
6 manage on the site with the large driveway and just need to
7 be a little bit proactive and work with the parents in terms
8 of addressing that issue. That by itself, from a site plan,
9 if you look at it, they could accommodate that six cars if
10 they wanted, if they would make some effort to do that on
11 the site.

12 Q Are you suggesting double parking, just for the
13 catastrophic event if that ever occurs, that there is
14 ability to accommodate?

15 A Certainly it could, you could do that because the,
16 past that French door, it is about 14 feet. He can manage
17 the traffic in terms if he needed to keep them onsite and
18 manage the in and out traffic. Or if, even if they come in
19 and how will you regulate in terms of how they leave the
20 site, certainly the operator could address that issue if
21 there is, such an event is to happen. Now I don't assume
22 it's going to happen, but from a daycare standpoint these
23 are, as I mentioned, occur over a period of time.

24 Q You're familiar with the technical staff's
25 recommendations of the driveway widening and their

1 recommendation of approval for this special exception. I
2 guess my question is, is it standard for them to not design
3 or require an improvement accommodating for that
4 catastrophic event versus similar common occurrence, what is
5 the standard protocol?

6 A The standard protocol is to design a site to its
7 normal operation, not to a similar, operation from a
8 catastrophic event, for a lack of a better word. So look at
9 how we want to lay out the site and see what is the most
10 reasonable traffic or parking needs that are required for
11 the site and you will, and daycare centers, based on the
12 operations, they'll have, would have -- these are documented
13 operational parameters, how similar these daycares would
14 operate. So all this should be factored in to say there
15 needs to be a reasonable design in terms of a trip
16 generation, what could be expected in terms of, you know,
17 cars and what the need in terms of how much time the parents
18 have to stay on site to drop or pick-up their children, how
19 we need to safely circulate them through the site and help
20 them either get in and out of the site.

21 Q So is it your professional opinion that this site
22 has, in fact, been designed in a safe and adequate manner to
23 accommodate ingress and egress safely --

24 A Yes.

25 Q -- and adequately in accordance with the special

1 exception standards?
 2 A I agree with the road widening that is proposed
 3 for the south driveway and the bulb out, so there is, there
 4 are parked cars that the other parents could bypass those
 5 cars and exit out of the site. One comment I need to be
 6 cognizant just in terms of the landscape, I don't know if
 7 the, some of the plantings in front, again, just going back,
 8 the trimming of the shrub, maybe look at how the plantings
 9 that are proposed to the frame would affect the sight
 10 distance of, that they may, some of the plantings may have
 11 to be moved back. So --

12 Q That's a fair observation. What is your
 13 professional opinion in terms of the placement of the 3-foot
 14 boxwood evergreens along the front?

15 A The front?

16 Q Yes.

17 A So when I was looking at it, again, looking at the
 18 14 1/2 foot position or of the driver, and if you place
 19 yourself -- let me just go back to the -- so right now the
 20 boxwoods are placed right along here. So if you're a driver
 21 and you want to maximize your sight distance, ideally you
 22 want those boxwoods to be behind that 15 feet or something,
 23 so maybe it's, one of the suggestions, along with removal of
 24 the shrub and trim, maybe move the boxwoods, evergreens back
 25 so that it doesn't affect the sight distance to the north

1 and south.

2 Q Thank you, Mr. Eapen. Okay. We heard earlier this
 3 morning some testimony from a Mr. Benjamin lamenting on the
 4 issue of lack of a stacking lane on this portion of Layhill
 5 Road. Could you, I guess, explain for us, you know, when a
 6 stacking lane might be warranted and whether, you know, this
 7 sight would warrant a stacking lane?

8 A Certainly. There are a couple of things that go
 9 into the review of -- this is a state road, so I will just
 10 use state as an agency that will review such a
 11 consideration. So a couple of factors they would look at is
 12 the safety of the driveway, the number of trips that need to
 13 go in and out of the site, the speeds and whether they need,
 14 or the extent of the operation of a particular use that's
 15 being proposed like a shopping center where you could have
 16 much more traffic and really that's what we're really coming
 17 down to. They will look at the amount of traffic that needs
 18 to go in and out of the site. And the other factor I
 19 mentioned earlier with respect to the cars going up and down
 20 on Layhill Road in a bunch together fashion, look at the,
 21 what they call the gaps in the traffic and these, all these
 22 factors, they look in and say, okay, if there is no separate
 23 left unprovided, and I think that's what Mr. Benjamin was
 24 testifying to, do you need a separate lane to enter into the
 25 site so they can be moved from the through lane.

1 But in this case, given the amount of traffic on
 2 Layhill and the character of that traffic, how it goes,
 3 travel up and down on Layhill Road and the limited amount of
 4 traffic that the uses will have, it, I do not think the
 5 State Highway Administration will require a separate left-
 6 hand lane or this will trigger a need to provide a separate
 7 left-hand lane. If you need to really look at a number,
 8 something that -- when these all factor in, but I think from
 9 a threshold standpoint, maybe you're looking at at least 60
 10 cars or something like that requiring it turn into the site
 11 or it could be a good indication for them to maybe consider
 12 even a left-hand lane, so we, in this case the use is not
 13 even quite there in terms of the trip generation to suggest
 14 that a separate turn lane is required.

15 Q I didn't hear that part. So it's 60 trips per
 16 peak hour, for a 1-hour period?

17 A For a peak hour. These are just general
 18 thresholds in terms of some of the numbers the state may use
 19 to say, okay, I need to look at some threshold to justify
 20 that left turn, a separate left turn lane into a site. It
 21 will, from a threshold standpoint it will obstruct the
 22 through traffic, but in this case none of this is really the
 23 case. It was very limited, very low intensity use --

24 Q Okay.

25 A -- and to the best I can tell, the traffic should

1 be able to turn left into the site without much of an issue
 2 or even, in this case, coming into the site. So
 3 certainly --

4 Q What is, and what is the maximum amount of trips
 5 that this site, with the full operation of 24 kids, generate
 6 in an entire day in all likelihood?

7 A The entire day, it's hard to -- I don't have that
 8 number, but generally from a traffic generation standpoint,
 9 when it's -- the guideline, which is the local air
 10 transportation review guidelines that the planning
 11 department staff uses as a requirement to do a traffic study
 12 when you have more than six employees, that's the threshold
 13 when they require a person to do a traffic study. But just
 14 going back to the traffic generation question, when it's
 15 below that threshold of 30 peak hour trips, that's 30 trips
 16 in plus, in plus out during one hour, either the morning or
 17 the evening.

18 You, and really going into the statement of
 19 operation and to see, kind of make a judgment as to what
 20 that trip generation could be, there is no set guideline
 21 from a trip generation, trip generation rate standpoint in
 22 the guidelines, the Local Area Transportation Review
 23 Guidelines that the planning staff uses.

24 Q Did this special exception application warrant a
 25 traffic study?

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1 A No. It, for employees projected, it doesn't meet
2 the threshold for a traffic study. So they inherently
3 assumed that you have low intensity use on the site that
4 doesn't require a traffic study.

5 Q Just to wrap up, Mr. Eapen, because I don't think
6 I had you sum up your professional opinion as far as this
7 special exception's compliance with all of the sight
8 distance requirements, both the intersection and stopping,
9 but I wondered if you could make a statement for the record
10 as far as your professional opinion as to the adequacy of
11 the sight distance?

12 A Sure. Again, based on my observation, not just
13 depending on what the analysis that Mr. Cutro and Ms. Navid
14 did for the applicant, I was able to go out there and take a
15 look at the sight distance and be satisfied that the
16 estimates they have done and the, using their engineering
17 judgment to qualify some of the measurements they made
18 because of the safety, their own safety factors, I think the
19 measured distances or the actual distances of the site will
20 be adequate and satisfactory for the project.

21 Q Okay. Thank you very much.

22 MS. LEE-CHO: I have nothing further.

23 MS. CITARAMANIS: Okay.

24 MR. KNOPF: Could we have a few minutes to get my
25 thoughts organized and then I'll cross-examine.

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1 MS. CITARAMANIS: Okay. We can take a few minute
2 break if you want. I mean it's 2:00. Five after?

3 MR. KNOPF: Sure.

4 MS. CITARAMANIS: Okay.

5 MS. LEE-CHO: I note that it was one hour.

6 MS. CITARAMANIS: Very good.

7 MS. LEE-CHO: Is that a good estimate?

8 MS. CITARAMANIS: That's a great estimate.

9 Lawyers don't, be able to say that very often. All right.
10 So five minutes.

11 THE WITNESS: Oh, let me give this back to you.

12 MS. CITARAMANIS: Okay. And you are still under
13 oath, so you really can't --

14 MS. LEE-CHO: Don't talk to anyone.

15 MS. CITARAMANIS: Don't chat with anybody.
16 (Recess)

17 MS. CITARAMANIS: Are you ready?

18 MR. KNOPF: I think so.

19 MS. CITARAMANIS: Take your time.

20 MR. KNOPF: I'm going to spend an hour.

21 MS. CITARAMANIS: Okay. Don't take an hour.

22 MR. OROBONA: Or two.

23 CROSS-EXAMINATION

24 BY MR. KNOPF:

25 Q Now in response to questions from counsel, I think

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1 in terms of safety and verifying information and so on, you
2 said you took a look. Is that what we're dealing with, you
3 took a look? Did you go out and actually measure --

4 A Yes.

5 Q -- with tape?

6 A That's correct. A couple weeks back, two, my role
7 was to verify what Mr. Cutro and Ms. Navid did, so --

8 Q And you went out and repeated everything they did?

9 A No, they had marked where they measured from,
10 every measurement, markings were they did on the side where
11 it's still there. So that's what I measured. So I
12 confirmed what they measured. I was able to do that and
13 taking pictures of -- just to confirm that what they said is
14 accurate and I was there yesterday, as well as describing to
15 make sure that those distances that I could see from the --
16 I mean maybe the critical question here is the sight
17 distance in the southbound direction, how far north on
18 Layhill Road he could see the driveway. So I was driving, I
19 drove several times to make sure that the point where I
20 measured from when I was there probably on May 7th was
21 accurate, where that measurement is from.

22 Q So you took a measuring tape and went from one
23 point to the other --

24 A Yes.

25 Q -- to measure the --

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1 A Yes.

2 Q -- what they --

3 A And measured on GIS too.

4 Q Okay. Now did you then put the markers out, a
5 cone to do that measurement?

6 A No, what I said was the markers that was put down
7 by Joe Davis and Joe Cutro and Sarah Navid were still there
8 in terms of the marking they did.

9 Q They left the cones?

10 A Not the cones. They have marked on the pavement
11 where they measured these from.

12 Q Well, then how could you tell what was two feet
13 high if it's just a mark on the pavement?

14 A Well, you know, surely, but what I was doing is
15 they've done on the field the measurements. So what I was
16 truly measuring is the confirming the distances they
17 measured, whether they measured the distances in terms of --
18 because they did, they observed the corner and they laid out
19 where they measured the distance and my, the concern was
20 whether they, what they measured was accurate in terms of
21 the distances. So basically I went back and reconfirmed
22 what they did.

23 Q So you verified the distances as marked, but you
24 couldn't verify the sites because you didn't have --

25 A Yeah, I mean --

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1 Q -- a cone to see it --
2 A -- already --
3 Q -- is that correct?
4 A -- a professional engineer already went out there
5 and measured this distance. I didn't need to reconfirm.
6 The only thing I wanted to make sure that these are correct
7 distances they measured and that's what I did.
8 Q So I'm correct you did not verify the site in
9 terms of your visual --
10 MS. LEE-CHO: Asked and answered.
11 MR. KNOPF: -- your visual --
12 MS. LEE-CHO: Asked and answered.
13 MS. CITARAMANIS: I --
14 MR. KNOPF: As long as we've got the answer,
15 that's fine. Let me --
16 MS. CITARAMANIS: There were no cones is what
17 you're --
18 THE WITNESS: Yes.
19 MS. CITARAMANIS: -- basically --
20 MR. KNOPF: Fair enough.
21 MS. CITARAMANIS: That's correct?
22 THE WITNESS: Yes.
23 MS. CITARAMANIS: I think that's what the --
24 BY MR. KNOPF:
25 Q You're familiar with the photos that were attached

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1 to the Cutro report?
2 A Yes.
3 Q And they purport to show photos of the sight
4 distance?
5 A Yes, they're based on the measurements they --
6 Q Pardon?
7 A That's one of the pictures, right?
8 Q Yes. Yes. There are two.
9 MS. CITARAMANIS: You're on --
10 MR. KNOPF: I'm on --
11 MS. CITARAMANIS: -- 65(a)?
12 MR. KNOPF: 65(a) and then 65(b).
13 THE WITNESS: Yes, this is the same -- okay.
14 MR. KNOPF: Right. Well, let's just look at
15 65(a).
16 BY MR. KNOPF:
17 Q There is, they say the site stopping distance is
18 514 feet, correct, that's what's on the photo?
19 A Yes.
20 Q Now under AASHTO, am I correct that you're
21 supposed to then measure the sight distance by being 3 1/2
22 feet, a measurement of, the observer is 3 1/2 feet tall?
23 A That's correct.
24 Q But is this photo taken from 3 1/2 feet from a
25 car? I don't see any windshield. It looks like it's taken

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1 outside of the car.
2 A No, I just don't want to put two and two together.
3 Q Yes, it's the same. I have one from my --
4 A This is just a general picture of what it is. I'm
5 not saying this is the actual measurement. When they put
6 the cone down and did the measurement as to the actual, how
7 you measure the sight distance, this is, to the best -- I
8 don't want to vouch for them, whether they measured it, this
9 3 1/2 foot height eyesight, I don't know, I can't tell.
10 Q But wouldn't you agree with me that this looks
11 like it was taken by somebody standing on the road and then
12 they --
13 A No, I can't -- sorry, I cannot tell.
14 Q You can't tell either that it's taken at 3 1/2
15 feet, can you?
16 MS. LEE-CHO: If I might, this picture has not
17 been proffered as being representative of that particular
18 event. Their content of the report in narrative expresses
19 their official findings.
20 MR. KNOPF: Well, so --
21 MS. LEE-CHO: This is a representative photo that
22 they took.
23 MR. KNOPF: Unfortunately, I was taking the photo
24 the way it stated in the language, so are you telling me I
25 should disregard the two photos as being proof of anything?

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1 It says here figure one southbound, approximately --
2 MS. LEE-CHO: This photo, this figure one --
3 MR. KNOPF: -- 480 feet.
4 MS. LEE-CHO: -- is representative of their
5 findings in terms of the narrative. The narrative
6 represents --
7 THE WITNESS: The distance is actually measured
8 because the picture, you know, I'm not here for Joe or Sarah
9 to say this, whether this was taken at 3 1/2 feet, but what
10 they had done per the extra guidelines is a summary that's
11 laid out here in terms of the measured distances.
12 MS. LEE-CHO: To simply this, we can withdraw the
13 photograph since I can't authenticate these photographs.
14 MS. CITARAMANIS: These were taken by the other --
15 MS. LEE-CHO: Joe Cutro and --
16 MS. CITARAMANIS: It's up to you.
17 MS. LEE-CHO: I mean I, if that's the objection --
18 MS. CITARAMANIS: And can I ask you a question
19 because you raised a three-point prod. Someone needs to
20 tell me what that represents.
21 MR. KNOPF: Oh, the, and then can we go back to,
22 we'll go back to the other issue. Let me straighten that
23 out.
24 BY MR. KNOPF:
25 Q AASHTO requires for sight distance that the, you

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1 measure the sight distance by observing at a 3 1/2 foot
2 level, is that correct?
3 A That's correct.
4 Q And is that because that's what one is presumed to
5 be at that level driving a car?
6 A Yeah, the height --
7 Q Sitting that high?
8 A -- of the eye level of driver.
9 Q Eye level. Okay. And would you agree with me,
10 again, that this photo does not appear to be taken at 3 1/2
11 feet?
12 A I'm not agreeing on anything like that. I said I
13 don't know. I'm not agreeing.
14 Q Would you agree with me that this was attached to
15 their report --
16 A Sure.
17 Q As part of their report to support the report, is
18 that correct?
19 A I mean I think all this is an exhibit that kind of
20 show what it is, what they measured. It's not -- I do not,
21 I do not think this is to any way accurately depict what
22 they measured on the side. What they measured on the site
23 is in the summary table they brought it as part of the memo.
24 So I would just take it for what you see out there if you,
25 if they could have stepped back 10 feet and taken that

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1 picture not right at the spot. But that's why I'm saying
2 that the picture tells me a story in terms of what you see,
3 but really the measurement is what is relevant here for the
4 purpose of this case.
5 Q Well, I'm looking on the next page, which is (a)
6 and (b). I mean it says figure two northbound, Layhill
7 Road, 425 feet south of 1501 driveway. The safe stopping
8 distance is 50 miles per hour. Note that the cones are
9 fully visible. Does this purport to be some supporting
10 documentation for their calculations and we don't know
11 whether it was taken, that calculations were made by
12 somebody standing up with a camera or sitting in the car.
13 MS. LEE-CHO: Again, this witness has no
14 information to answer these questions. If you need to
15 continue a second hearing at which we bring Joe Cutro to
16 authenticate the photos, I have no problem with that.
17 MR. KNOPF: If you want to withdraw those as the
18 report --
19 THE WITNESS: Yes. I --
20 MR. KNOPF: -- we understand that he does not
21 know.
22 THE WITNESS: And I would say the pictures are not
23 really relevant to the -- really the key things are these
24 measurements, that they --
25 MR. KNOPF: All right. Well, let's get to those

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1 measurements.
2 THE WITNESS: Sure.
3 MR. KNOPF: Good point.
4 MS. CITARAMANIS: Okay. Let me --
5 MR. KNOPF: Excuse me, I'm sorry.
6 MS. CITARAMANIS: So what would you like the -- we
7 can talk about them later since, if you --
8 MS. LEE-CHO: We can defer them.
9 MS. CITARAMANIS: -- we can defer it if you would
10 like and then discuss how you want to handle whether we
11 withdraw them or you ask for a second hearing to bring in
12 the person to authenticate those photos. And maybe he
13 explained what he sees, but --
14 MR. KNOPF: You said that --
15 MS. CITARAMANIS: -- your point is taken.
16 MR. KNOPF: Excuse me. I'm sorry.
17 MS. CITARAMANIS: No, no, I --
18 BY MR. KNOPF:
19 Q You said the measurement, the measurements are
20 important. I guess you're referring to page one of -- okay.
21 Well, let's look at those measurements. Well, let's look
22 for page two. At the bottom paragraph it says to summarize,
23 and it's in bold,
24 "We found that all the appropriate sight
25 distance requirements for the site driveways are

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1 met and exceeded."
2 Do you see that language?
3 A Uh-huh.
4 Q But then when you turn to page one, the first,
5 sorry, the one, two, one, two, three, the fourth number
6 down, it doesn't meet the AASHTO guidelines. It's less than
7 the AASHTO guidelines. So isn't that a little inconsistent
8 between what's on page one and what's on page two? It says
9 520 feet measured, but the AASHTO guidelines are 555 feet.
10 A Yes, and if you keep reading on page two, the rest
11 of the paragraph and they tell you the reasons why they
12 measured that --
13 Q Well, that's what I wanted you to explain because
14 I couldn't quite understand that. And maybe you want to --
15 A Okay.
16 Q -- use your chart too? Would you agree with me,
17 it's sort of unusual to say that everything is measured, but
18 then the figures show it isn't?
19 A Not necessarily, because you have to physically
20 stop the traffic on Layhill Road to be in a position where
21 you can safely measure. So in terms of using --
22 Q So you have to stop the traffic?
23 A They were using their best engineering judgment --
24 Q Oh.
25 A -- and then this property --

1 Q This is the traffic, though? You just testified
2 that there's huge gaps in plenty of time?

3 A Yes, but then you are facing, with your back, I
4 mean you have your back to the traffic and you really don't
5 know when there is a car coming. You really don't want to
6 be in that situation. So if you're facing this way and you
7 can see a car coming, that's one thing to get out of the
8 way. But if you're turning with your back and the other
9 person is down there holding -- you're holding a cone for
10 the person and the other person is probably 500 feet away,
11 and there's nobody to warn you there is a car coming. I
12 mean just the practical difficulty of measuring something on
13 a road with no, almost no shoulder, or because you have to
14 get to the middle of the road or basically where the
15 eyesight of the eye position of the driver will be and take
16 a few seconds. It's not to say just get there and, okay,
17 you're done. You have to physically go there and make sure
18 and look and it takes an effort to look and make sure you
19 see the top and have to somehow communicate between the two
20 people and say, okay, you're good and mark that distance
21 down, So just a practical difficulty and that's where they
22 use their engineering judgment to say I can measure up to
23 this point quite safely, but feel that if I get to the
24 middle of the road and look at that from that particular
25 height, I could, I should be able to see up to the distance

1 that is required. So --

2 Q Well, let me just ask on that, I'm looking at the
3 second page of photos on -- the photo on the right-hand
4 corner --

5 MS. CITARAMANIS: Where are you now?

6 MR. KNOPF: This is on Exhibit 65.

7 MS. CITARAMANIS: 65?

8 MR. KNOPF: The photo --

9 MS. CITARAMANIS: One second.

10 MR. KNOPF: There's two photos attached and it's
11 the second page of photos.

12 MS. CITARAMANIS: Isn't that --

13 MS. LEE-CHO: Is that where we differed?

14 MS. CITARAMANIS: That's the one we just
15 deferred --

16 MR. KNOPF: Right.

17 MS. CITARAMANIS: Is that --

18 MR. KNOPF: Yes, but I have a question just about
19 what he testified to.

20 BY MR. KNOPF:

21 Q Because you just said you don't want to be in the
22 middle of the road, it's dangerous. Aren't the cones in the
23 middle of the road? So they did manage to get them into the
24 middle of the road to do some testing?

25 A Yes, I think that's what I was saying. It's one

1 thing to just go, you see both, look both directions, place
2 the cone and get out of the traffic, whereas standing in a
3 little travel lane for maybe 30, 40 seconds to make sure
4 that these pictures that you were referring to is taken from
5 the southbound direction. So, and as far as the sight
6 distance, you can see that there is plenty of sight distance
7 to the south. They didn't really have to get in the way of
8 the traffic even so they could do that at least in the
9 south, to the south they could take these pictures without
10 much of an issue because the sight distance was not a
11 critical factor in the --

12 Q Well, isn't the picture next to it a northbound
13 distance with the cone there?

14 MS. LEE-CHO: No

15 THE WITNESS: That's the same. Both are on the
16 south, pictures from the south.

17 BY MR. KNOPF:

18 Q All right. Go to, if you could, I'm sorry, I
19 interrupted you. Go to the chart. I want to ask -- again,
20 you're about to explain why -- there's some figures that say
21 it's deficient, but then under the explanation --

22 MS. CITARAMANIS: And I just want to make sure I'm
23 on the same page. You're on the intersection sight distance
24 to the north, the 520, the plus and the --

25 MR. KNOPF: Right.

1 MS. CITARAMANIS: That's what you're asking him
2 to --

3 MR. KNOPF: To explain.

4 MS. CITARAMANIS: -- to explain? Okay.

5 MR. KNOPF: That's the 5.0 --

6 MS. CITARAMANIS: That's what I thought.

7 MR. KNOPF: -- and the actual guideline is 555.

8 MS. CITARAMANIS: Okay. So do you understand the
9 question?

10 THE WITNESS: I don't know what the question was.

11 MS. CITARAMANIS: What's the question?

12 BY MR. KNOPF:

13 Q You said that there was a full explanation or is
14 that what you just stated?

15 A I think we just went over the factor that was
16 required then to make a safe, be safe first and make an
17 assessment in terms of what, how much, how far they could
18 see. It's one thing then to get into the middle of the road
19 and that's engineering judgment they used in terms to say
20 five can't be at 3.5 feet high at that location in the
21 middle of the road and how far can I see and that's where I
22 can make the judgment. They could be an additional 680 more
23 feet at least and be, still be able to see the cones here at
24 the driveway, the north driveway. That's what they were
25 measuring. So they comparison numbers are, I'm sorry, the

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1 520, oh, this one. Yes, this measurement.
2 So when that person is standing here and taking
3 that measurement, the second person is standing up here and
4 to direct them, I mean this person is looking this way and
5 trying to work with the other person who is here and back
6 turned to the traffic and that's really the issue in terms
7 of getting out there and doing this safely.
8 Q This is probably just me, I'm sorry.
9 A Okay. That's fine.
10 Q I thought -- isn't it the way the sight distance
11 was supposed to be taken? Are they supposed to be at 3 1/2
12 feet on the road looking down to the driveway or there is
13 supposed to be 3 1/2 feet in the driveway looking up to the
14 cone? I'm a little bit confused.
15 A Okay. I can --
16 Q I thought I was 3 1/2 feet from --
17 A So there are two different measurements.
18 Q Right.
19 A There is stopping sight distance. Stopping sight
20 distance, you are at the 3 1/2 feet high, the eye level in
21 measuring the top of something where you can see something
22 two feet high.
23 Q Right.
24 A So that's the stopping sight distance. The other
25 is the corner sight distance --

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1 Q Right.
2 A -- or the intersection sight distance. So it's
3 set back --
4 MS. CITARAMANIS: The what?
5 THE WITNESS: The intersection of the corner --
6 MS. CITARAMANIS: Oh, intersection.
7 THE WITNESS: -- sight distance.
8 MS. CITARAMANIS: -- okay.
9 THE WITNESS: So you sit back at the distance that
10 is recommended and so you're already at that 3.5 feet eye
11 level and you're looking, sitting in the car, vehicle and
12 trying to observe the top of the vehicle, which is also 3
13 1/2 feet high. So that's what you're measuring. And these
14 have the AASHTO standards in them and that's what you're
15 trying to observe at that point. Those are the criteria in
16 terms of the two measurements that you take.
17 BY MR. KNOPF:
18 Q All right. So you're saying one direction is two
19 feet and the other direction is 3 1/2 feet?
20 A That's correct.
21 Q Well, let me ask an easier question so I can
22 understand the -- the sight line that you drew on there,
23 let's see, you have a sight line from the southern driveway,
24 yes, and it goes all the way up right there. Now you're
25 going through there, but you're going -- that line goes

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1 through the site itself and then it goes through the
2 Schilling's property and it goes on to whoever's property is
3 beyond. Now when you're 14 1/2, I think you said you took
4 that at 14 1/2 feet back?
5 A Yes, that's what they --
6 Q And does that not, I think you'd agree that that
7 poses some problems in terms of sight if there's brush
8 growing in that area, is there not?
9 A That's right. That's, we talked about that brush
10 and was also talking about probably possibly moving some of
11 the --
12 Q Moving some plants, yes. Didn't Mr. Cutro or
13 Sarah Navid report to you that they actually went out or
14 some people with them went out and cut the brush before they
15 took these measurements?
16 A Yes.
17 Q Now what, and I gather that's probably not, it's
18 probably common, is it not, that brush can grow along the
19 road and block people's views coming up to an intersection?
20 A Yes.
21 Q So in order to have the sight distances, stopping
22 distances you're talking about, we are assuming someone is
23 going to make sure to cut the brush or remove the brush on
24 all these properties, is that correct?
25 A Well, not obvious, but I think we'll start with

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1 the property applicant and they can do whatever necessary
2 along their property front to address this issue. So the
3 next step in terms of the adjacent property owner is
4 probably even look at whether the growth extend into the
5 public right-of-way. So that's sort of the determination,
6 where they're working with the state to make sure that the
7 overgrowth happened is, in fact, occurring in the public
8 right-of-way, then they can trim it back and --
9 Q And what's your experience been as a traffic
10 engineer with the state probably cutting brush at all
11 driveways, I'm not talking about intersections, I'm talking
12 about private driveways to make sure that there's sight
13 distances or the distances aren't blocked? It's pretty
14 poor, isn't it?
15 A I can't tell the state what they have to do or not
16 do, but I think it's certainly something of concern they
17 should be addressing.
18 Q I see. Let me ask -- you said that the, there
19 were two stoplight and intersections, Route 28 and Inter-
20 County Connector. And I believe I may have used the wrong
21 term, but there is sort of a bunching of cars because of
22 those stoplights?
23 A Yes.
24 Q Am I correct that there is about a mile and a half
25 distance between those two intersections?

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1 A Yes.

2 Q And isn't that more than sufficient time, assuming

3 you're correct that the cars were bunched, that the cars

4 become unbunched as they travel along the road?

5 A It is normally, very well could happen. But

6 what's interesting here, you can probably see in the picture

7 itself, so between Norbeck Road and the ICC, there's really

8 nothing between those two except for the residence that are

9 there.

10 Q Except for the residence?

11 A Let me finish.

12 Q I'm sorry.

13 A So, I mean your question was about the bunching

14 aspect?

15 Q Yes.

16 A So what I'm trying to say is when you, when a car

17 sort of turned, they pretty much go to the next intersection

18 to a developed area or a downtown area where people go other

19 places or there maybe are an office building. What I'm

20 trying to say is there isn't an office building that will

21 take a lot of that traffic away from Layhill Road. They are

22 already grouped together. If most of this is pass through

23 traffic that comes through, so they coming, whether to

24 Howard County or Sandy Spring or Olney, they come through

25 and their intention is to get to the ICC or to the Glenmont

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1 area. So it's not really a local traffic, they just keep

2 going without -- there's no other point of interest between

3 this and the other location. That's what I was trying to

4 get at. So we will maintain the integrity of that group of

5 cars going together.

6 Q Well, apart from removal, don't different cars

7 travel at different speeds so that the first car say in the

8 bunching might move faster than the car behind it and sort

9 of gradually spreads out the cars, does it not? It's a

10 common phenomenon.

11 A Yes, I was there, probably drove up and down

12 Layhill 10 times that day. I mean there's really, there is

13 that sweet spot at 40 miles or something that people, or

14 their entire case, but probably people are traveling a

15 little faster, but you pretty much maintain that integrity

16 up and down, at least appeared to be that --

17 Q And this was one day on Monday, correct?

18 A Yes, but --

19 Q Was Monday --

20 A Sure.

21 Q Monday day traffic engineers are not supposed to

22 take tests because they're not typical, Mondays and Fridays?

23 A Yes. Again, the point I'm trying to prove is not

24 a count or something from an operational characteristic,

25 what happens on the road and these are, and I wasn't making

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1 a relationship to any of the traffic numbers, but from an

2 operational standpoint something, there are two kind of

3 restricting factors at both ends of that road that kind of

4 make the traffic function whether it's an additional 100 or

5 200 cars, it's going to do the same thing because of this

6 metering effect.

7 Q Let me ask about that. On the Inter-County

8 Connector is there a way for cars, actually there's a way,

9 is there a means, provided that you get off the Inter-County

10 Connector and go north without hitting the stoplight?

11 A Well, certainly. Again --

12 Q So they're not, those cars wouldn't be bunched

13 then?

14 A Yes, and I think I have been very clear that it is

15 the through traffic on Layhill Road. There are traffic that

16 come in locally and jointly over and certainly from ICC

17 those turning right could potentially join the traffic

18 streams. I agree, again, that is not the predominate

19 movement. It's the traffic up and down Layhill Road. If

20 you take the numbers, it is what the more predominate and --

21 Q Now you're saying -- what are you basing this

22 predominate on? How many hours or days were you out there?

23 You were only out there one day and for how many hours?

24 A I have -- I've looked at some data that was on,

25 stayed that side too. But you can see that it's northbound,

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1 north-south traffic is much more pared down and based on

2 experience. I have experience of covering these Montgomery

3 County and Layhill area, Sandy Spring Court the last 10

4 years, so I know from a traffic planner standpoint, I know

5 most of the street roads, how they operate, so I know pretty

6 well which direction the traffic is and how -- I mean it's

7 not just yesterday's, it's over 10 years of experience.

8 Q So you're saying it's east-west and not north-

9 south?

10 MS. CITARAMANIS: I don't -- you mean east-west?

11 THE WITNESS: It is --

12 MR. KNOPF: He said the predominant. I don't

13 understand.

14 MS. CITARAMANIS: Yes.

15 THE WITNESS: I'm talking about Layhill Road.

16 BY MR. KNOPF:

17 Q Layhill Road, right.

18 A Yes. It's close enough.

19 MS. CITARAMANIS: That's what I thought.

20 BY MR. KNOPF:

21 Q Let me, you mentioned something which I have to

22 agree with. You said except for the houses along Layhill,

23 there, you're relying on the traffic generated by 28 and

24 intersections of 28 and the Inter-County Connector. Aren't

25 there numerous houses that access Layhill Road between Route

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1 28 and the Inter-County Connector?
2 A Yes, again, I'm --
3 Q Those wouldn't bunch, would they? You're not
4 claiming that those, they would all wait and get together
5 and come out in a bunch on Layhill, are you?
6 A No, I'm not, just the same way the daycare
7 wouldn't bunch either. I mean the traffic is spread out
8 too.
9 Q And how many hundreds of houses do you think are
10 in there, do you know that access this Layhill that the
11 roads lead directly to Layhill?
12 A Yeah, I know. I've been a planner in this area,
13 so I certainly know what --
14 Q And are we talking about hundreds of houses?
15 A I don't know quite the number, but I work on
16 Norbeck Road, the project and ICC. So I probably know the
17 density and these are 200, there's really so much density in
18 that area. It's not hundreds of thousands like in Silver
19 Spring or something, but --
20 Q Would you agree --
21 A -- or Bethesda, for example.
22 Q Would you agree with me that assuming there is
23 bunching and the cars are bunched, that the people who live
24 along Layhill, I understand between 28 and the ICC and I
25 guess the ICC forms the bottom of it --

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1 A Yes, they have the orange line?
2 MS. CITARAMANIS: Yes. Yes.
3 BY MR. KNOPF:
4 Q Would you agree with me that if I were a resident
5 there and there was bunching on Layhill, I would wait until
6 the bunching went by and then I would go out on Layhill --
7 A That's a number.
8 Q -- adding to, adding cars to that so-called gap?
9 A Okay. Again, I mean even -- within 100 houses
10 there would generate over a period of one hour maybe around
11 40 trips. Not all of them probably will go in one
12 direction. There are other connecting roadways as well to
13 28 also. So and there are also several point of connection
14 to Layhill Road. So what I'm trying to get to is that even
15 if there is this much density in that little triangular
16 area, there are several roads for this traffic to dissipate.
17 So it's not just a one point where everybody acts the same
18 to get in and out of the neighborhood. The effect is that
19 it's spread out.
20 Q This is the, Layhill is the only access road that
21 connects with the Inter-County Connector at this location,
22 correct? I mean if somebody wanted to go to the Inter-
23 County Connector, they've got to go to Layhill?
24 A That's one direction.
25 Q And, similarly, if they want to get onto, well,

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1 but you're saying, I think, you don't even know how many
2 houses are in there and yet you can predict that only 40
3 would leave during an hour, say during rush hour?
4 A Yeah. I mean I'm not really sure that it is
5 relevant --
6 MS. LEE-CHO: He's responding to a question.
7 THE WITNESS: -- to these calculations at all.
8 MS. LEE-CHO: And then being attacked.
9 MS. CITARAMANIS: Okay. Just let him finish his
10 answer.
11 MS. LEE-CHO: Attacked.
12 MS. CITARAMANIS: Yes, okay. No, I know what
13 you're saying. Take your time.
14 THE WITNESS: Yes. I, you know, again, the amount
15 of traffic that gets out to Layhill Road is quite
16 negligible, even from the neighborhood we consider that 100,
17 I'm just guessing 100 houses. The other gentleman said they
18 have 300 houses in their civic association, so which is even
19 to the, probably, I'm not quite sure to hold your breath,
20 but for a civic association with 300, that's -- we're not
21 talking about large numbers. When you put that trip
22 generator into a peak hour factor, even with .3 per during
23 the peak hour, that's 120 trips over one hour and, you know,
24 when you dissipate that traffic, put the traffic on this
25 different connecting street, the impact, overall impact

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1 would be much less.
2 BY MR. KNOPF:
3 Q Okay. The state has -- doesn't the state have
4 traffic counts of an average daily flow over the state
5 roads?
6 A Yes.
7 Q Did you review that as to how many cars use
8 Layhill at a given hour on an average basis, a daily basis?
9 A If you want to submit this to -- this is, what I
10 have is --
11 MS. CITARAMANIS: Let's see if this is what she
12 wants to put in. I have to mark it first and then show it
13 to Mr. Knopf.
14 MS. LEE-CHO: I would like to enter this and mark
15 the exhibit.
16 MS. CITARAMANIS: Why don't you show it to him
17 real quick and then I'll connect it. So this would be --
18 THE WITNESS: And that's from March 2013, the
19 latest data.
20 MS. CITARAMANIS: Okay. So --
21 THE WITNESS: Layhill has about, to the north of
22 ICC, about 11,000 cars per day.
23 MS. CITARAMANIS: Okay. Let her -- okay.
24 MS. LEE-CHO: On the --
25 MS. CITARAMANIS: Yes.

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1 MS. LEE-CHO: Before you --
2 MS. CITARAMANIS: I need to mark it. Please don't
3 write on it.
4 MR. KNOPF: Oh, I'm sorry.
5 MS. CITARAMANIS: Okay.
6 MR. KNOPF: I'm just trying to find, if he could
7 point to where he's talking about?
8 MS. LEE-CHO: He hasn't testified.
9 MS. CITARAMANIS: Okay. Let me mark it and then
10 their experts can certainly look at it as well.
11 MR. KNOPF: Thank you.
12 MS. CITARAMANIS: Exhibit, let's see, that would
13 be 73.
14 (Exhibit No. 73 was marked for
15 identification.)
16 MS. LEE-CHO: Mr. Eapen, could you describe what
17 it is I'm looking at, what's just been labeled Exhibit 73
18 and where you obtained it?
19 THE WITNESS: Sure.
20 MS. CITARAMANIS: Okay. We're going to have to
21 take a moment. If you need to take a break, let's get
22 through your cross-examination and I need to be able to hear
23 him. I understand -- you can certainly --
24 MR. KNOPF: I'm sorry.
25 MS. CITARAMANIS: -- communicate with him once his

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1 cross is so you can do whatever you need to do, but you have
2 the floor.
3 THE WITNESS: Before that, let me ask if I could
4 include one other data from the state's website?
5 MS. LEE-CHO: Let me mark 73(a) and then 73(b).
6 MS. CITARAMANIS: Okay.
7 Exhibit Nos. 73(a) and 73(b) were
8 marked for identification.)
9 MS. LEE-CHO: I'll have him explain what this --
10 MS. CITARAMANIS: And then --
11 MR. KNOPF: 73 --
12 MS. CITARAMANIS: Show this to --
13 MR. KNOPF: 73(a) and what title are we putting on
14 them?
15 MS. CITARAMANIS: That's a good idea. When you
16 describe it, I'll write it down.
17 MS. LEE-CHO: Okay.
18 MS. CITARAMANIS: If you could just show it to him
19 and make sure so he sees it and then we'll -- that one was
20 (b), right -- so can you describe it? I'll give you a
21 moment to write it down.
22 THE WITNESS: So really these are traffic data
23 from state's website that I could obtain and two different
24 kinds of data. So the 73(a) is something that the State
25 Highway Administration publishes annually, what they call

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1 the Montgomery County Traffic Volume Map of 2012.
2 MS. CITARAMANIS: Montgomery County?
3 THE WITNESS: Traffic Volume map.
4 MS. LEE-CHO: Volume.
5 MS. CITARAMANIS: Volume? Okay.
6 THE WITNESS: Yes. This is 2012 and dated, and
7 it's published March 15, 2013. So it's very new. So what
8 they have for the southern part of Montgomery County is the
9 count location which is just south of Norbeck Road, it's
10 just the 28. It is a point somewhere right about here, just
11 south of the Norbeck Road intersection.
12 MS. CITARAMANIS: Okay.
13 THE WITNESS: Right about here, where it says
14 Norwood Park.
15 MS. CITARAMANIS: Okay.
16 THE WITNESS: Just generally in that vicinity. So
17 what they measured as an ADT, it's an annual average data,
18 ADT. It's 11,161. It's too small, sorry.
19 MS. LEE-CHO: Can you repeat again what that is,
20 ADT?
21 THE WITNESS: It's the average, annual average
22 daily traffic. So it's over 24-hour period. It's --
23 they're measuring 11,161 vehicles over that one day. And
24 what that tells me, you know, just give -- usually these
25 ADT, or ADT numbers are helpful in kind of making an

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1 assessment of what the peak traffic on Layhill Road could be
2 up and down and you, you sometimes use a peak hour factor to
3 say, okay, this is peak hour traffic represents about eight
4 to 10 percent of the daily traffic. This may be the morning
5 hour or the evening, so this could indicate maybe the
6 traffic is about 12,000 cars up and down on Layhill Road
7 during one peak hour in the morning and the afternoon.
8 So the other information I tried to look in is to
9 kind of quantify there is actually -- these are when they
10 put the tube and just count the traffic that goes up and
11 down, but not any turning traffic. So what I tried to
12 supplement with this is turning movement count, so an
13 intersection count look for in the vicinity. So there was a
14 count. This is dated --
15 MS. CITARAMANIS: Okay. So you're looking at
16 73(b)?
17 THE WITNESS: 73(b).
18 MS. CITARAMANIS: What are you calling that?
19 THE WITNESS: I can describe what it is. It's
20 Maryland State Highway Administration turning movement count
21 for September 5, 2012. It's a Wednesday. The location is
22 Layhill Road at Longmead Crossing Drive. So which is just
23 south of ICC. So it's -- to compare what they show in terms
24 of a daily number is about 13,000. The correct number is
25 12,969 vehicles. So which is kind of comparable to -- you

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1 can expect that the traffic to the north maybe is a little
2 less than what is to the south of the ICC and it has a peak
3 hour numbers during that range of 1,582 in the morning and
4 1,561 in the afternoon. So these numbers are fairly
5 comparable with what you expect on Layhill Road. That's
6 really where I use my judgment in making sure that these
7 numbers are in the ballpark that you would submit and the
8 peak directional information is also documented in the
9 turning movement count and you can show, see that, the peak
10 direction that's reflected on those counts.
11 MS. CITARAMANIS: Okay. Just so I'm clear, this
12 use doesn't require a traffic study. This is just
13 background to describe the traffic that's on the --
14 THE WITNESS: Layhill Road.
15 MS. CITARAMANIS: -- that's on Layhill Road?
16 MS. LEE-CHO: Right. Exactly correct. Mr. Eapen
17 is --
18 MR. KNOPF: He said only one morning and so this
19 gives you a bigger picture.
20 MS. CITARAMANIS: Okay.
21 MR. KNOPF: Yes.
22 MS. LEE-CHO: Mr. Eapen is essentially on his feet
23 assessing a traffic study on this site as a result of the
24 questioning.
25 MS. CITARAMANIS: Okay. Go ahead. Do you have

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1 another question?
2 MR. KNOPF: I just wanted --
3 MS. CITARAMANIS: You can go ahead and sit back
4 down if you want.
5 MR. KNOPF: I have no further questions.
6 MS. CITARAMANIS: Ms. Lee-Cho?
7 MS. LEE-CHO: Just very quickly.
8 REDIRECT EXAMINATION
9 BY MS. LEE-CHO:
10 Q There seemed to have been some confusion as far as
11 the brush and the location as far as the neighbors'
12 property. I just wondered if you could clarify what does
13 this represent, this area?
14 A That is the central --
15 MS. CITARAMANIS: You can go up there.
16 THE WITNESS: Okay.
17 MS. CITARAMANIS: And describe the area for me
18 because she's saying this, this.
19 MS. LEE-CHO: I'm sorry, the area in between the
20 north and south driveway.
21 MS. CITARAMANIS: Okay.
22 THE WITNESS: I insert a flat, grassy area. I
23 will go ahead and mark it up. They do have a lamp post
24 somewhere here and the sign is, for the special exception is
25 posted there. It's a temporary sign. But granted, it's a

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1 flat, grassy area which you can see through to the north.
2 And there is that brush there which what I was suggesting
3 and I think Mr. Cutro's summary as well, they talk about
4 clearing some of that to make sure that there was the
5 continued sight distance.
6 BY MS. LEE-CHO:
7 Q There was a suggestion, however, in terms of
8 maintenance of that sight distance, that there may be, you
9 know, limited access and I just wanted you to clarify based
10 on the site plan the parameters of the site in terms of the
11 property line and how it essentially -- I understand your
12 diagram is not perfect, but --
13 A Yes, we struggle --
14 Q Where --
15 A Yes.
16 MS. CITARAMANIS: Demonstrative. Not drawn to
17 scale.
18 BY MS. LEE-CHO:
19 Q Not drawn to scale, but in terms of a sight line,
20 there, the property does extend beyond the north driveway
21 some distance?
22 A Certainly. So the applicant could be correct and
23 then whether, and in the new planning they're proposing on
24 the site and making sure there is no shrubbery that
25 obstructs the view for somebody trying to exit the property.

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1 Q I just, and I just wanted to clarify the
2 additional data that you had studied to assess the site,
3 they all came from the State Highway website?
4 A That's correct.
5 Q Did you look at any other studies that have
6 occurred in the area by other projects, data counts,
7 anything of that nature?
8 A I did not find anything readily.
9 MS. LEE-CHO: I have nothing further.
10 MS. CITARAMANIS: Mr. Knopf?
11 RECROSS EXAMINATION
12 BY MR. KNOPF:
13 Q Do you know how many feet there are between the
14 northern entrance driveway and property line?
15 A No, I don't.
16 Q Thank you.
17 MS. CITARAMANIS: That was actually one of my
18 questions.
19 THE WITNESS: I don't want to make a judgment
20 call, but if the central island is supposed to be 40 feet
21 width and if you make that same judgment, it's about 50 to
22 60 feet that, to the north from the northern driveway to the
23 property line.
24 BY MR. KNOPF:
25 Q And you're estimating?

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1 A Yeah. Purely --
2 Q Purely a --
3 A -- a guess.
4 Q -- guess? Okay.
5 MS. CITARAMANIS: So you're talking about the
6 hatched area up there, is that what you're talking about?
7 THE WITNESS: No. No, this distance.
8 MS. CITARAMANIS: Oh, that distance?
9 THE WITNESS: He was asking about this distance.
10 MS. CITARAMANIS: I thought he was asking the area
11 three.
12 MS. LEE-CHO: That's scale, right?
13 MS. CITARAMANIS: What's --
14 THE WITNESS: Oh, this is 40 feet.
15 MS. CITARAMANIS: That's 40 feet?
16 THE WITNESS: Yes.
17 MS. CITARAMANIS: Is that what you were asking?
18 MR. KNOPF: Well, I think instead of guessing, I'm
19 asking you to look at 68(a), revised site plan.
20 MS. CITARAMANIS: That's what I'm looking at.
21 MR. KNOPF: Oh, right.
22 MS. CITARAMANIS: Okay.
23 MR. KNOPF: And that is to scale, is it not?
24 THE WITNESS: I didn't prepare it, so I cannot
25 say.

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1 MS. CITARAMANIS: Well, it says scale on it.
2 MR. KNOPF: Maybe you --
3 MS. CITARAMANIS: But it doesn't have a number.
4 THE WITNESS: I'm sorry, number what?
5 MS. CITARAMANIS: They used -- are you looking at
6 the width of the medium, is that what you're talking about?
7 MR. KNOPF: No, I was looking at the distance
8 between the northern driveway --
9 MS. CITARAMANIS: Okay.
10 MR. KNOPF: -- and the property line.
11 MS. CITARAMANIS: Oh.
12 MR. KNOPF: Because he was talking about there
13 could be brush and we agreed what's on the board now is not
14 to scale.
15 MS. CITARAMANIS: Right.
16 BY MR. KNOPF:
17 Q And I just thought it would be helpful to look at
18 something at scale because this seems to be a rather
19 difference between the scale version and the non-scale
20 version in terms of how much area land is available there
21 and I'm just asking if you could eyeball that, would you
22 agree with me it's probably less than 30 feet?
23 A No, not less than 30 feet. I mean I can't, I mean
24 that's what I said. If you look at it, it seems like at
25 least 40 feet based on the central island is, the central

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1 island is more than 40, or close to 40 feet.
2 Q I think you have a reduced burden.
3 MS. CITARAMANIS: You have a -- let me see.
4 MR. KNOPF: You said that you have --
5 THE WITNESS: Is that to scale? Maybe the best
6 way to put --
7 MS. CITARAMANIS: Well, let me give you the one
8 that we have that's already been marked.
9 THE WITNESS: I have a scale.
10 MS. CITARAMANIS: There you go. It's been marked.
11 Show him that.
12 MR. KNOPF: This is Exhibit 68(a).
13 MS. CITARAMANIS: And I'd like to see what area
14 you're referring to at this --
15 MR. KNOPF: 68(a) and what I'm referring to is --
16 MS. CITARAMANIS: You can come up, Ms. Lee-Cho.
17 MR. KNOPF: And just the area where the driveway,
18 the northern edge of the driveway to the front.
19 MS. CITARAMANIS: Got it. Okay.
20 THE WITNESS: First, let me make sure this is
21 correct. That's 22 feet. This measures to scale. So that
22 is 40. See, up to here, over there, it's about 30 feet.
23 The island is 30 feet, I think that the distance would be
24 the center line, the center line is 40 feet.
25 MS. CITARAMANIS: Okay. We're going to have to --

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1 any other?
2 MR. KNOPF: No, that's it. Thank you. I'm sorry.
3 MS. CITARAMANIS: Okay. Did you get your exhibit
4 back?
5 MS. CITARAMANIS: Yes, I did. And just, I'm sure
6 it's confusing on the record, so area three, the, you just
7 said you measured that and --
8 THE WITNESS: Yes, the one we marked, should I
9 mark my -- I can mark --
10 MR. KNOPF: I think describe --
11 THE WITNESS: Okay.
12 MR. KNOPF: -- the northern edge of the northern
13 property, of the northern driveway at Layhill to the
14 property line going north.
15 MS. LEE-CHO: That's the measurement you asked
16 for. I'm asking for the one for --
17 THE WITNESS: I'm sorry, center island.
18 MS. CITARAMANIS: And that's good, I'm glad you
19 did that.
20 MR. KNOPF: I'm sorry. I missed that.
21 MS. CITARAMANIS: But I'm also looking for the
22 measurement of the, between the two driveways what that,
23 what that space area is.
24 THE WITNESS: Can I mark with the pen or a pencil?
25 MS. CITARAMANIS: Well, no, if we're going to, if

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1 you're going to mark it, then you need to use something that
2 won't, can't be erased.
3 MS. LEE-CHO: I think we can just testify to it.
4 MS. CITARAMANIS: Yes, you can just measure it and
5 tell me what it is.
6 MS. LEE-CHO: The width of area three?
7 MS. CITARAMANIS: Width of proposed --
8 MS. LEE-CHO: Width of proposed driveway
9 expansion.
10 THE WITNESS: It's 25 feet.
11 MS. CITARAMANIS: Okay.
12 THE WITNESS: This is the new edge right here.
13 MS. CITARAMANIS: The new edge is right, yes, it's
14 with the expansion. Mr. Knopf, just so that you know, this
15 is, I just -- you just marked --
16 THE WITNESS: The 25 feet for this?
17 MS. CITARAMANIS: -- with the new proposed -- do
18 you want to come up, Mr. Eapen, so you can -- I just wanted
19 to know the distance between, now with the --
20 MR. AREM: Is this including the proposed file?
21
22 MS. CITARAMANIS: I think it's with --
23 THE WITNESS: No, not including the driveway, the
24 wider -- not, just a new island that will be created.
25 MR. AREM: So with the cutout 29 feet?

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1 THE WITNESS: What is the cutout?
2 MS. CITARAMANIS: Right, because that would be,
3 because it's going from 10 to 14, so -- yes.
4 THE WITNESS: Okay.
5 MS. CITARAMANIS: No, that's what I was asking.
6 And my other question with regards to the setback of the
7 proposed, and I don't know if you would know this or if you
8 build into it, the landscaping along the front, I don't
9 think there's anything in the staff report that says it has
10 to be at a certain place. You're recommending that it be at
11 15 feet so that it meets that, it's --
12 THE WITNESS: Yes, so --
13 MS. CITARAMANIS: -- five feet back or how --
14 THE WITNESS: Yes, ideally you want to measure
15 that 15 feet from the edge of pavement and place it because
16 you do not want the driver to be obstructed by a box that's
17 going to grow three feet or whatever the plant is.
18 MS. CITARAMANIS: Okay.
19 THE WITNESS: So, I mean if you're going to plant
20 it, you want to be planting so that --
21 MS. CITARAMANIS: The recommendation that it be
22 planted --
23 THE WITNESS: -- you don't obstruct the --
24 MS. CITARAMANIS: -- 15 feet off the --
25 THE WITNESS: Yes. I don't know if there is an

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1 engineer who is going to site locate that, but my general
2 recommendation would be to set it 15 feet from the edge of
3 pavement.
4 MS. CITARAMANIS: Do you understand what we're
5 talking about? Okay. And I think you also mentioned the
6 pole, there's a pole, a --
7 THE WITNESS: Oh, the -- the light pole?
8 MS. CITARAMANIS: The street lights.
9 THE WITNESS: No, it's, I think it is a pole
10 probably installed by the applicant. It's a light pole.
11 It's a presidential light pole.
12 MS. CITARAMANIS: Okay.
13 THE WITNESS: Maybe if you're doing the work,
14 maybe it's a good idea to move it back to that, the line.
15 MS. CITARAMANIS: Is that a state pole?
16 THE WITNESS: No, no, no, I think it's a property
17 owner, but there is a light in front.
18 MS. LEE-CHO: I don't have it on the site plan, so
19 I'm not sure exactly --
20 THE WITNESS: Yes, maybe it's not there, but that
21 time I Google it, I saw it.
22 MS. CITARAMANIS: Did you have any more questions
23 because I can ask my questions.
24 MR. KNOFF: Yes, that's it.
25 MS. CITARAMANIS: You're done? Because let's see

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1 if my questions generate any questions. Just so that I'm
2 clear, looking at your Exhibit 71, you identified -- we're
3 on the south drive, that black dot you have next to it, I
4 think it says 514, and you did the measurement going
5 south --
6 THE WITNESS: Yes. Yes, let me get there.
7 MS. CITARAMANIS: From that --
8 THE WITNESS: This is the driver.
9 MS. CITARAMANIS: That's what?
10 THE WITNESS: The driver.
11 MS. CITARAMANIS: Right. Okay. So you've
12 identified that that is the driver is 14 1/2 feet back.
13 When you're looking south, you're saying the, it has to be
14 two feet, what they have to see is -- I need the difference
15 between what the two feet means --
16 THE WITNESS: Okay.
17 MS. CITARAMANIS: -- and the 3.5 feet means?
18 THE WITNESS: Yes, actually that was -- that is
19 documented in Mr. Cutro's memo on page 2.
20 MS. CITARAMANIS: I mean I understood it, but I
21 want you to clarify --
22 THE WITNESS: Sure.
23 MS. CITARAMANIS: -- the difference in terms of if
24 you're looking south.
25 THE WITNESS: Okay. It's, again, they're going

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1 typically the daycare centers are either diverted trips or
2 pass by trips because parents are on their way to where to
3 drop their kids off.
4 MS. CITARAMANIS: Okay. The driveway is going to
5 be one direction?
6 THE WITNESS: Yes.
7 MS. CITARAMANIS: Is it, is this a situation that
8 you would do a ride in and ride out? Would this type of
9 situation justify a ride in and ride out in terms of people
10 not turning left off of Layhill into -- how would that work?
11 THE WITNESS: Yes. Interesting that you ask that
12 question because there's one other consideration when I
13 looked at it as to how the concern was a sight distance to
14 the north, how would you address? Maybe this is one way to
15 do it, but having done a couple of the site visits, one of
16 the things, as I said, there is the intensity of traffic
17 along Layhill is not high to prohibit certain movement and I
18 strongly believe that sight distance is adequate, so that
19 concern is also, is not a factor.
20 So the couple of the things that kind of factored
21 into making such a decision, it's not really significant in
22 this case. And the third thing, when you think about who a
23 daycare like this would serve and it is the local community.
24 And to, when you put these kind of restrictions, you're
25 really hurting the community itself in terms of invariably

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1 to get in and out. If I lived south of the site, I have to
2 do all this running around to get to the site that's a right
3 turn in where it says, there is not justifiable reason why
4 they couldn't make that left turn into the site.
5 MS. CITARAMANIS: Yes, that's why --
6 THE WITNESS: The same thing --
7 MS. CITARAMANIS: -- I'm asking.
8 THE WITNESS: When I leave, if I was leaving the
9 north of the site, then I would circulate through, somehow
10 through the neighbor and get to the point I need to.
11 MS. CITARAMANIS: Okay. And is there elevation?
12 I mean you talked about mitigation, that the, coming in
13 south, it's raised up a little bit? I mean --
14 THE WITNESS: Uh-huh.
15 MS. CITARAMANIS: -- are you saying that
16 topography 14 1/2 feet back is higher than it would be if it
17 was at, closer to the road?
18 THE WITNESS: At six feet. That's correct. And,
19 again, what it does, artificially elevates your height to
20 eye level and being able to see a little further and which
21 helps in this case.
22 MS. CITARAMANIS: And is that the same case on the
23 north side where people would be turning in left?
24 THE WITNESS: Not really because there are the
25 cases you're -- a driver being able to see the car making a

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1 left, unlike the other case, you are a driver and the driver
2 trying to look in both directions.
3 MS. CITARAMANIS: Okay.
4 THE WITNESS: You want to be higher.
5 MS. CITARAMANIS: Okay.
6 THE WITNESS: So that's the distinction.
7 MS. CITARAMANIS: Okay. Did my questions generate
8 any questions, Ms. Lee-Cho, and then I'll ask Mr. Knopf?
9 MS. LEE-CHO: I think I recall something, well,
10 I'll pass. It's fine. I think it's in the record.
11 MS. CITARAMANIS: Okay.
12 MR. KNOPF: No questions.
13 MS. CITARAMANIS: No questions? Okay. Thank you
14 very much.
15 MR. KNOPF: Thank you.
16 MS. CITARAMANIS: It was a little bit more than an
17 hour, but I helped.
18 MR. KNOPF: We do have a timing problem.
19 MS. CITARAMANIS: Okay.
20 MR. KNOPF: Debra Schilling will be gone --
21 MS. CITARAMANIS: I'm sorry?
22 MR. KNOPF: Our main witness will be gone if we
23 don't get her on this afternoon, will be out of the country.
24 So I'm hoping she'll go next.
25 MS. CITARAMANIS: Leaving today?

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1 MS. SCHILLING: No, no, no. I'm leaving on
2 Thursday, Thursday.
3 MS. CITARAMANIS: What's today? Today is Tuesday.
4 Oh, no, we'll get you in today.
5 MR. KNOPF: I would hope we could get everything,
6 but at least we've got to get her because --
7 MS. CITARAMANIS: Yes, I --
8 MR. KNOPF: -- we all want to go overseas to --
9 MS. CITARAMANIS: We will, I mean it's up to you
10 all whether you're -- I mean I don't know that -- if we're
11 going to go, we'll go today until we get to --
12 MR. KNOPF: Oh, that would be good.
13 MS. SCHILLING: That would be wonderful.
14 MS. LEE-CHO: I have to leave at 5 o'clock.
15 MR. KNOPF: Oh.
16 MS. SCHILLING: Oh, come on.
17 MR. KNOPF: Well, Mr. --
18 MS. CITARAMANIS: Okay.
19 MR. KNOPF: Can we have --
20 MS. CITARAMANIS: Yes. It is what it is and
21 that's okay. I mean we said it was going to be all day.
22 All right. Well, then we have to decide whether we take --
23 how long do your --
24 MR. KNOPF: No, I'm -- I do not think we'll get
25 Ms. Schilling on if we start with our traffic experts, so --

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1 MS. CITARAMANIS: How long do you think you'll
2 take with him?
3 MR. KNOPF: I think he's going to take at least a
4 half an hour by me and another half hour by her.
5 MS. CITARAMANIS: Okay. So it's three.
6 MR. KNOPF: It's, I don't want to run the risk.
7 If she's going to leave at 5:00, we've got to get Ms.
8 Schilling on next because he can come back if he has to and
9 she can't.
10 MS. CITARAMANIS: Okay. Well, do you have any
11 objection to taking her out of order?
12 MR. KNOPF: It's not out of order. They're
13 finished with their case. Now it's my case.
14 MS. LEE-CHO: Yes, we presented all of our
15 witnesses.
16 MS. CITARAMANIS: Yes, you're right. It's okay.
17 MR. KNOPF: So -- you're right. They are finished
18 with their case.
19 MR. KNOPF: And I would prefer to lead with the
20 traffic expert --
21 MS. CITARAMANIS: So you want to start with Ms.
22 Schilling?
23 MR. AREM: -- but my -- yes. I think --
24 MS. CITARAMANIS: Well, by all means. Then --
25 MS. LEE-CHO: I'm not a roadblock to this

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1 discussion.
2 MS. CITARAMANIS: Exactly. My apologies. I was
3 losing track of who was on first.
4 MR. KNOPF: I understand.
5 MS. CITARAMANIS: Okay. So are you ready to begin
6 yours or do you need a minute?
7 MR. KNOPF: We're ready.
8 MS. CITARAMANIS: You're ready to go? Okay.
9 MS. SCHILLING: Am I up?
10 MR. KNOPF: Yes, you're up.
11 MS. CITARAMANIS: You're up. You get to sit in
12 the --
13 MS. SCHILLING: In the hot seat?
14 MS. CITARAMANIS: -- the hot seat, hot room. Is
15 it hotter up here than down there?
16 MS. SCHILLING: Hi.
17 MS. CITARAMANIS: It's definitely hotter up here,
18 I think. Okay. Let me just -- give me two seconds to get
19 these experts. Okay. The highlight of your trip. Raise
20 your right hand.
21 MS. SCHILLING: I've had more fun elsewhere, I
22 must say.
23 (Witness sworn.)
24 MS. CITARAMANIS: Okay. Mr. Knopf is going to be
25 handling?

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1 MR. KNOPF: Yes.
2 MS. CITARAMANIS: Okay. And listen to his
3 questions. You've been here all day. You know what the
4 routine is.
5 I think for timing sake, Ms. Cho, you have a statement that
6 you wish
7 DIRECT EXAMINATION
8 BY MR. KNOPF:
9 Q I think for timing sake, Ms. Schilling, you have a
10 statement that you wish to make?
11 MS. CITARAMANIS: Well, I'd like you to identify
12 yourself first and your --
13 MR. KNOPF: Yes, please.
14 MS. CITARAMANIS: -- and your address.
15 THE WITNESS: Certainly.
16 MR. KNOPF: Yes, thank you.
17 MS. CITARAMANIS: That's all right.
18 THE WITNESS: For the record, my name is Debra
19 Schilling. I reside at 33 Aspen Grove, Queenstown, New
20 Zealand 9300. Can I commence?
21 MS. CITARAMANIS: Well, let me ask you this. Is
22 she reading her statement that's already, that she's already
23 submitted --
24 MR. KNOPF: No, she --
25 MS. CITARAMANIS: -- or, I mean --

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1 MR. KNOPF: No, this is just --
2 THE WITNESS: No, I took notes.
3 MR. KNOPF: No, she took note.
4 THE WITNESS: I need notes so I wouldn't mis-
5 speak.
6 MS. CITARAMANIS: Okay.
7 MR. KNOPF: It's --
8 MS. CITARAMANIS: Let me ask --
9 MR. KNOPF: It's not in the record.
10 MS. CITARAMANIS: It's not in the record. Are you
11 going to ask her questions?
12 MR. KNOPF: I will be interrupting her to ask
13 questions.
14 MS. CITARAMANIS: It would be --
15 MR. KNOPF: Yes.
16 MS. CITARAMANIS: You need to ask her questions.
17 So wait for his questions --
18 MR. KNOPF: Well, no, I --
19 MS. CITARAMANIS: -- and answer them.
20 MR. KNOPF: I would like her start and then I will
21 ask questions when she gets to certain --
22 BY MR. KNOPF:
23 Q Would you explain your relationship to --
24 A Certainly. I am the daughter of --
25 Q to you, to the --

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1 A -- Fay and Bill Schilling. They're the owners and
2 residents of 15012 Layhill Road. It's a property directly
3 adjacent, but to the north of the applicant's daycare
4 center.
5 Q And could you explain in addition how you acquired
6 your familiarity with the, with this property next door, how
7 you became familiar with your parents' property and the
8 property --
9 A Okay.
10 Q -- next door?
11 A I, as you all have surmised, live in New Zealand
12 and I come to the United States approximately three months
13 out of every year to be with my parents and to help them and
14 to visit. So I am no stranger to the neighborhood or to the
15 adjacent properties.
16 Q I would like -- this is quicker. She has some
17 statements I would like her to read her statement, in part,
18 and I will interrupt and ask questions and have her identify
19 exhibits.
20 MS. CITARAMANIS: Do you have any problem with her
21 reading her statement? I mean it's up --
22 MR. KNOPF: Her client read a statement.
23 MS. CITARAMANIS: Well, they asked questions as
24 they went along, but I'm just --
25 MS. LEE-CHO: Well, I guess it's one or the other.

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1 I mean is she going to read a statement like the other
2 witnesses we had from the community and then we could have a
3 question period --
4 MS. CITARAMANIS: Okay.
5 MS. LEE-CHO: -- or I mean I would rather --
6 MS. CITARAMANIS: Well, no, you're definitely
7 going to have a question period. I mean I --
8 MS. LEE-CHO: Right. Right.
9 MS. CITARAMANIS: -- that you'll be able to ask
10 questions if it makes it smoother.
11 MS. LEE-CHO: If she'd like to read her statement,
12 I don't have a problem with that.
13 MS. CITARAMANIS: Okay.
14 MS. LEE-CHO: And then we can have the questioning
15 afterwards.
16 MS. CITARAMANIS: Okay.
17 THE WITNESS: That would be my preference. It
18 would be easier for everybody.
19 MS. CITARAMANIS: Well, you can sit here.
20 THE WITNESS: I'm sorry.
21 MS. CITARAMANIS: Okay. Go ahead and read your
22 statement.
23 THE WITNESS: Okay. So I am opposing this special
24 exception for the expansion of the daycare center from 12 to
25 24 children and my point here today is that I'm testifying

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1 as a daughter concerned for the welfare of her parents, as a
2 former physical therapist and as an affected party myself.
3 And I will, for reasons that I will explain later on, if
4 this special exception is permitted, the increase in noise
5 and traffic will most certainly adversely affect my parent's
6 health, their safety, their quality of life and my ability
7 to spend time with them and most certainly it will affect my
8 ability to communicate with them when I am in New Zealand.
9 Just so that you know my background, I have a
10 bachelor's of science in physical therapy from the
11 University of Maryland and I specialized in treatment of
12 neurological patients after receiving advanced education in
13 the Bogue Bath (phonetic sp.) method of neuro-developmental
14 training. I've been a former director of rehabilitation at
15 Fort Washington Rehabilitation Center and I've had my own
16 clinical practice. So that my father has Parkinson's
17 disease makes my neurological knowledge, my practical
18 experience and my overall testimony, I think, relevant to
19 this special exception hearing.
20 I think it's important to realize that my parents
21 moved into their house on Layhill Road in 1987. It was out
22 in the country and their enclave of homes was entirely
23 residential. They relied on the County zoning as a
24 residential area when they chose their new home. And so my
25 parents, like the other adjacent and affected neighbors have

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1 been long-term residents whose arrival all pre-dated the
2 applicant's. So, for example, we have Phuong-mai Do, who
3 you've heard from. You've heard from Mimi Tadesse and her
4 husband, Dereje Waretu. They moved into the neighborhood in
5 1999.
6 Mr. and Mrs. Barbieri, who are opposers of the
7 daycare center. They're Exhibit 31, by the way, they moved
8 in in 1998. Lynda Mulvany, Exhibit 35, purchased her house
9 in 1977. So the applicant is the relative newcomer here,
10 only purchasing their home in November of 2006. And so
11 you've heard mentioned that the previous owners at 15010
12 also had a daycare, but that too is relatively recent and
13 not of long duration because while they did operate a small
14 daycare center that never exceeded 10 or so children, they
15 did decide to expand. And when they did, they moved their
16 facility offsite so that the residential home was not a
17 large daycare center.
18 For many reasons, my parents' home is ideal for
19 them apart from the daycare center. The geographic location
20 is really convenient. They're close to their friends, their
21 physicians, their shopping, social groups, senior activities
22 and church. The house has ample space to entertain their
23 many friends. My brother and I can both bring our families
24 there simultaneously without having to go to a hotel so that
25 we can share the experience of being together as a family.

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1 But most importantly, the house is large enough for my
2 father to navigate around the furniture with his cane and,
3 unfortunately, very soon with his walker.
4 So for many reasons, moving elsewhere is not an
5 option for them. And in particular, relocation at their
6 advanced age with their health concerns would be a really
7 significant stress for them. It would be a hardship for
8 them to leave their dream home of 26 years, which they
9 maintain in really excellent condition.
10 So under the daycare center's current operations,
11 they'll be allowed 12 children, my parents are finding it
12 difficult to cope with disturbances that the daycare center
13 causes. I've been really concerned for them for some time
14 now, and especially for my father's health. So I feel that
15 increasing the number of children in any amount without
16 doubt would exacerbate the many already existing problems
17 that are there, it would create new problems for my parents'
18 health and their level of mental and physical stress, and
19 their general well-being and the use and enjoyment of their
20 home.
21 Parkinson's disease has cost my dad's voice to
22 soften to the point where he can't project his voice very
23 loudly. So when the children from the daycare center are
24 out playing in the backyard, and this is, as you've heard
25 mentioned, unscheduled, so it's frequent, it's longer in

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1 nice weather, even I with my training find it difficult to
2 hear my father over the telephone. And that's my primary
3 means of communication with my parents when I'm in New
4 Zealand.
5 So there's so much background noise emanating from
6 the children next door that even the phone picks it up and I
7 have asked daddy to count the number of kids that are
8 outside playing when this happens and there has been four,
9 five and six children. So to boost the number up to eight
10 is going to make the noise that much harder for him and for
11 me.
12 And you've heard that Phuong-mai Do, who lives at
13 15002, she has the same problem when she's working at home,
14 when she has her telephone conferences with her colleagues,
15 that they can hear the noise on the other end of the line.
16 My mom has a hearing loss, so she has to wear hearing aids
17 in both of her ears. And with the hearing loss, background
18 noise interferes even with hearing aids with the quality of
19 sound that you're getting through your hearing aids. And so
20 when the kids are shouting and they're screaming and there
21 are car doors slamming, it makes it very hard for her to
22 even hear my father during normal conversation when they're
23 in the same room and the noise level makes it difficult for
24 her to hear anyone else over the telephone.
25 We have another problem in that my brother lives

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1 in Honolulu and he's not able to visit as often as I am and
2 so speaking on the telephone to mom and dad is really
3 precious to him. He has a letter of exception, opposition I
4 should say. It's marked as Exhibit 41 and he tells you in
5 that letter that it's hard for him to have a conversation
6 with mom or with dad because either mom can't hear him or he
7 has a hard time hearing my dad when the kids are outside
8 playing.
9 Now I've mentioned before that I'm there three
10 months out of the year and during that time I need to
11 conduct my own business. And I, too, have found it hard to
12 do so and I found the best place for me to do my business is
13 in the walk-in closet when the kids are outside playing
14 because it buffers out to some extent the background noise.
15 I think it's really critical to understand that
16 this is just not a problem for us and for our house. You've
17 heard that again from Mai Do, he has a problem with the
18 noise. Mimi Tadesse and her husband, Derge, were, have
19 indicated the exact same thing. You have a letter on the
20 record from Jennifer and Lee Bailey.
21 MS. CITARAMANIS: I'm going to interrupt you one
22 second. How many pages is this?
23 THE WITNESS: I have, I'm on page three.
24 MS. CITARAMANIS: And it's sounding like a closing
25 argument actually.

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1 MR. KNOPF: Well, this is her, this is --
2 MS. CITARAMANIS: No, I'm just -- how many pages?
3 MR. KNOPF: Let's see. I'm going to --
4 MS. CITARAMANIS: Six pages?
5 MR. KNOPF: Six pages.
6 THE WITNESS: Yes.
7 MR. KNOPF: And this is, she is our sole factual
8 witness.
9 MS. CITARAMANIS: The Schillings are not going to
10 be --
11 MR. KNOPF: No, it's, no.
12 MS. CITARAMANIS: Okay.
13 MR. KNOPF: This is all, but she, that's why she's
14 pulling it all together.
15 MS. CITARAMANIS: And I understand that, but
16 summarizing what the evidence is that I have in front of me
17 from other people is not necessary. I'm just --
18 MR. KNOPF: I understand.
19 MS. CITARAMANIS: I'm expressing what I'm hearing
20 and so she's on page three of six?
21 MR. KNOPF: I think that's -- I think she's
22 through the summary almost. After the testimony, she'll be
23 done.
24 MS. CITARAMANIS: Okay.
25 THE WITNESS: What would you like me to do?

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1 MR. KNOPF: Just keep talking because otherwise
2 it's going to take a longer time to re-organize.
3 MS. CITARAMANIS: Okay. I just --
4 THE WITNESS: So, okay.
5 MS. CITARAMANIS: -- just trying to find out where
6 we are.
7 THE WITNESS: Just to summarize, the Baileys are,
8 they live next door to mom and dad on the north side and
9 they have a problem with the noise level and it interferes
10 with Jennifer Bailey being able to sleep during the day.
11 She's a physician. She works irregular hours.
12 MS. LEE-CHO: I'm sorry, is there a letter from
13 the Baileys?
14 MR. AREM: There is.
15 MS. CITARAMANIS: There is a letter from the
16 Baileys. This is my problem is that she's telling me about
17 somebody else's and --
18 MR. KNOPF: Why don't you go to the next
19 paragraph?
20 THE WITNESS: Okay. We'll just leave that out.
21 MS. CITARAMANIS: Well, really I need to hear from
22 your experience --
23 THE WITNESS: Okay.
24 MS. CITARAMANIS: -- because you've already
25 established that you've been there --

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1 THE WITNESS: Sure.
2 MS. CITARAMANIS: -- three months out of the year
3 and worked there. You're testifying under oath, so I need
4 your, your personal knowledge --
5 THE WITNESS: Okay.
6 MS. CITARAMANIS: -- and experience.
7 THE WITNESS: I can do that.
8 MS. CITARAMANIS: Okay. Good.
9 THE WITNESS: All right. So to summarize, there's
10 a lot of noise, all right, and it doesn't matter whether the
11 kids are happy and shouting or crying or fighting, there is
12 a lot of noise. And part of that noise begins to be
13 generated at 7:00 a.m. My parents are woken up literally
14 every day somewhere between 6:50 and 7:00 a.m. with the
15 arrival of the first child.
16 And while there's not a rule right now for
17 staggered drop-off and pick-up, that's essentially what
18 happens. It goes over about a 2-hour period in the morning
19 and a 2-hour period in the evening. And the point to this
20 is that once they're awoken with the congestion starting,
21 they can't get back to sleep. So right now we have, let's
22 just call it a 4-hour opportunity in the morning for
23 children to arrive, a 2-hour opportunity in the morning and
24 a 2-hour in the evening and so that's four hours that their
25 day is interrupted. And then when you add in the play

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1 periods, so now, you know, there's a proposed play period
2 three times during the day, that increases the amount of
3 ongoing noise during the day.
4 And the issue with that is that with my dad's
5 Parkinson's disease, it's a neurological condition that is
6 really fatiguing because there's ongoing tremors, there's
7 involuntary motion that medication can control to some
8 extent, but the addition of stress exacerbates that all the
9 much more. So just normal things like buttoning his shirt,
10 sitting in a chair, getting up from a chair, eating takes
11 all that much longer to do and when you add in the
12 bradykinesia, which is a slowness of movement, you're
13 increasing the amount of time it takes to do just the
14 simplest of everyday things for us. And all of that is
15 really fatiguing and it requires a substantial amount of
16 rest during the day and certainly a good night's sleep.
17 And when I was practicing physical therapy, I
18 would see Parkinson's patients quite often. And always my
19 first question was how well do you sleep at night and how
20 much rest do you get during the day because it did affect
21 their motor performance. And so when there's stress in the
22 environment, motor function is not as good, balance is not
23 as good, coordination is not as good and so it puts patients
24 at risk for their own safety.
25 And I am particularly concerned about my dad

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1 because the daycare center is stressful. And the thing to
2 realize is that they come to visit me, not as often as I
3 would like, but when they do come, I'm able to witness the
4 change in my dad. He's able to sleep until at least 9:00
5 a.m. My mom sleeps longer. I have a really quiet
6 environment. I don't have a really big enclave of homes
7 around me. And so they get to sleep longer at night and dad
8 gets to take a nap during the day. And the difference in
9 the quality of his movements and the safety of his movements
10 is very profound.
11 So I can truly attest to the fact that the noise,
12 the commotion, the stress of the daycare center has a very,
13 very negative impact on my dad. And I'm very concerned with
14 any increase in the number of children.
15 The other problem is that my parents' home has a
16 very open floor plan and so there's really nowhere that they
17 can go in the house where they're not going to hear the
18 noise of the children next door. It's a particular problem
19 with their bedroom because it's on the south side and it
20 faces the applicant's home. So they have windows that face
21 the front of the applicant's yard. They have windows on the
22 side of the property that face the side of the applicant's
23 house and the parking areas where staff would park, for
24 example. And they have windows on the rear that face the
25 playground.

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1 And so it's not a haven for them to get any rest
2 up there. As I said, they're up very early because of the
3 daycare center. It's not a place where dad can go to take a
4 nap. Really there's not any place within the house because
5 it is such an open floor plan that he can comfortably go
6 take a nap and expect to get any sleep because of the
7 children playing outside. Yes, they're not outside
8 constantly but, again, you can't, you can't pick a point in
9 a day to say this is when I'm tired, this is when I have to
10 rest and take a nap. It doesn't -- Parkinson's doesn't work
11 that way.
12 The other really big issue is that like the other
13 adjacent homeowners, mom and dad's property sits on much
14 higher ground, so they have a very big top down view to the
15 back of the applicant's yard and the playground. So to say
16 that a 6-foot fence and the planting of some evergreen trees
17 is going to be a mitigation measure that screens their
18 backyard is incorrect. A 6-foot fence would, perhaps, hide
19 their view of the backyard if they were living in their
20 basement, but not on the first floor and definitely not on
21 the second floor. It's still --
22 BY MR. KNOPF:
23 Q Excuse me, I'm going to interrupt you at this
24 point and show you Exhibit 59(b), which is a --
25 MS. CITARAMANIS: Can you just hold it up for a

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1 second? Is that the one from --
2 MR. KNOPF: It's from Park and Planning with the
3 planting.
4 MR. AREM: It's like little steps.
5 MS. CITARAMANIS: Yes. And it was attached to
6 the -- because the picture I got is black and white and I
7 was going to ask to see the color one because I --
8 MR. AREM: If you would like to have that one, we
9 have another color photo.
10 MS. CITARAMANIS: It might be --
11 MR. KNOPF: Yes.
12 MS. CITARAMANIS: It might be in here. If it's
13 not, that would be great.
14 BY MR. KNOPF:
15 Q You were referring to the elevation difference
16 between your parents' house and the applicant's site?
17 A I was.
18 Q And I want to show you, hand you 59(b). And is
19 that, in the foreground is there a deck that you establish
20 that has emerged?
21 A That's my, the corner of my parents' deck.
22 Q And are they, and what view do you see then from
23 the deck that's shown there?
24 A I see clearly into the backyard and --
25 Q That's the applicant's backyard?

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1 A The applicant's backyard.
2 Q And do you see a, the fence, there's a board
3 fence, a solid fence there. Does that fence exist today or
4 is that Park and Planning's suggestion to put it there?
5 A It does not exist today. It would be, I presume,
6 your idea of what a 6-foot fence would look like if it were
7 erected.
8 Q And the green plantings on the opposite side of
9 the fence from your parents' house, is that what Park and
10 Planning had suggested in terms of plantings --
11 A I would --
12 Q -- as part of this --
13 A I would believe so --
14 Q -- planting plan?
15 A -- having read the Park and Planning report.
16 Those trees do not exist currently.
17 Q And did Park and Planning suggest 6-foot high
18 trees to start to be planted?
19 A They did. They --
20 Q And are those trees that they show you in this
21 photo six feet?
22 A No.
23 Q How can you be sure?
24 A Well, I presume that -- I don't. I don't know.
25 Q Well, how tall is the fence?

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1 A If the fence is six feet, then those trees need to
2 be higher than that.
3 MS. CITARAMANIS: This is the digitally altered --
4 MR. KNOPF: Yes, this is --
5 MS. CITARAMANIS: Okay.
6 MR. KNOPF: -- the digitally altered.
7 THE WITNESS: Yes.
8 BY MR. KNOPF:
9 Q Because you were talking about the topography,
10 it's your understanding topography of your parents' home,
11 you couldn't adequately screen the next door site, is that
12 correct?
13 A That is absolutely correct.
14 Q And do these plantings, what is your view of these
15 plantings either support or contradict what you said?
16 A This, I think, shows that the fence and the
17 plantings are insufficient to provide any level of visual
18 screening or sound barrier for the daycare center next door.
19 Q And this is presumably not your plantings since
20 they're more than 6-feet tall because of the green trees?
21 A That would be correct.
22 Q Thank you. You can continue your --
23 A Well, now that we have this photograph --
24 Q We're going to hear a lot more.
25 A I thought that the recommendation by the Park and

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1 Planning Board is wholly inadequate --
2 MR. AREM: Here's another one.
3 THE WITNESS: They recommended five tree varieties
4 that the applicant might consider planting and I looked up
5 online the growth rates of some of these trees and I noticed
6 that in the list of exhibits, the applicant seems to have
7 adopted planting American Holly. It was one of the
8 suggested trees. It has a growth rate of six inches per
9 year. And this information I got from numerous nursery
10 websites.
11 My problem with that or with even a faster growing
12 tree with a growing, faster growth rate is that in what is
13 left of my parents' lifetime, those trees won't even begin
14 to make a sporadic coverage. So, in essence, they would be
15 ineffective at the time of planting and 10 years from now
16 they would be ineffective at providing any sort of
17 mitigation measure. So I feel quite strongly that other
18 than erecting perhaps a 30-foot high fence, there's nothing
19 that's going to be able to screen the applicant's backyard
20 and the play area from view from my parents' home and that's
21 whether it's from the deck or it's from the dining room
22 window, the kitchen window, the bedroom windows, it's just,
23 you know, not going to happen.
24 BY MR. KNOFF:
25 Q Okay. Let me interrupt at this point. I don't

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1 know mechanically how to do this, but there's numerous
2 pictures I want to ask her questions about and I'm thinking
3 the easiest thing to do is I would give all, I have about 80
4 pictures, give it to the whole staff now rather than going
5 in in time and then --
6 MS. CITARAMANIS: Absolutely. Let's go through
7 the whole stack now --
8 MR. KNOFF: Right.
9 MS. CITARAMANIS: -- and walk down --
10 MR. KNOFF: I have put on here 1 through 15, but
11 you need to have a number to --
12 MS. CITARAMANIS: Okay.
13 MR. KNOFF: -- so far, I would give you the color.
14 MS. CITARAMANIS: Yes. But you can use that to
15 her.
16 MR. KNOFF: Yes.
17 MS. CITARAMANIS: But let me -- you've got them in
18 order and I will -- what number are we on, 74. So when you
19 refer to it, they're 74 and --
20 MR. KNOFF: Yes, I have the exhibit numbers. I
21 just have --
22 MS. CITARAMANIS: One, five --
23 MR. KNOFF: Well, it's because those were the
24 originals, but I cut back on the pictures.
25 MS. CITARAMANIS: Okay. So then what I'm going to

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1 do is I'll do 74(a), 74(b) and then I'll give you this back
2 too, 74(c), 74(d), 74(e), 74(f), (g) -- okay. Hold these.
3 (Exhibit No. 74 was marked for
4 identification.)
5 MR. KNOFF: I note for the record that there is
6 typing on the back which explains the picture on the front.
7 So it is a two-sided --
8 MS. CITARAMANIS: Okay. So why don't you give --
9 MR. KNOFF: And she can use the black and white.
10 MS. CITARAMANIS: You can give me the black and
11 white because these have little stickies on them.
12 MR. KNOFF: I have, I have the color.
13 MS. CITARAMANIS: Just so long as, well, she
14 doesn't have the numbers in front of her.
15 MR. KNOFF: I wrote them on there.
16 MS. CITARAMANIS: Oh, you did?
17 MR. KNOFF: Yes.
18 MS. CITARAMANIS: All right. Are you all on the
19 same page? Okay. So we have her -- first of all, who took
20 these?
21 MR. KNOFF: Did you take all of these pictures
22 that's Exhibit 74(a) through --
23 MS. CITARAMANIS: If you could just go one-by-one
24 as to those questions?
25 MR. KNOFF: All right. Okay. 74 --

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1 MS. CITARAMANIS: They're not all -- if she didn't
2 take them all, we might as well go from -- oh, she did.
3 THE WITNESS: I did. I'm just running through,
4 yeah, it's all my writing.
5 BY MR. KNOFF:
6 Q And those are your notes on each of the pages?
7 A That is correct.
8 Q Okay. Now could you identify what 74(a) is?
9 A That is --
10 Q Is that taken from your parents' property line?
11 A It is taken from my parents' property line looking
12 at the applicant's parking bay in front of their garage and
13 the uppermost part of their U-shaped driveway.
14 Q So this is from the front yard of your parents'
15 house --
16 A That's correct.
17 Q -- looking into the front yard of the applicant's?
18 A That's correct.
19 Q And that is the area that would, that Park and
20 Planning recommended there would have to be screening
21 between your parents' house and the applicant's house?
22 A I don't recall Park and Planning making a
23 recommendation for the front yard.
24 Q Okay. What -- but right now if you, it's,
25 there's, it's an unobstructed view from --

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1 A It's an unobstructed view.
2 Q Okay.
3 A I would like for them to make a recommendation for
4 the front yard.
5 Q And is it your understanding that where there is a
6 parked car perpendicular to the house, that that is where
7 if this special exception is granted, that will be the
8 parking area for the two parked cars for staff?
9 A Correct.
10 Q Okay. Could you go on to 74(b)?
11 A Yes.
12 Q Okay. Could you identify that?
13 A That is looking into the applicant's backyard at
14 the playground from my parents' deck.
15 Q Now you had mentioned the elevation differences.
16 Does that show the playground at a lower elevation than your
17 parents' property --
18 A It does.
19 Q -- not only the deck, but the property, it goes
20 down toward that direction?
21 A That's correct.
22 Q And can you identify 70, the next exhibit, 74(c)?
23 A I, this is looking from the ground level of my
24 parents' property into the playground area of the applicant,
25 their rear yard.

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1 Q And, again, is this the area that you were talking
2 about previously that Planning Board staff said if you put
3 up a 6-foot fence and some plantings it would be screened
4 totally from your parents' house?
5 A That's correct.
6 Q Okay. Thank you. Could you identify the next
7 exhibit, read the number?
8 A This is 75(d) for delta. I think it's (d). Let
9 me just look --
10 Q Yes, that's my (d).
11 A That's (d)?
12 Q And is that toward the end of your parents'
13 backyard?
14 A Yes, it is at the rear section of my parents'
15 backyard. I am standing in front of the creek that runs
16 back there and I am looking down the property line.
17 Q Okay. Thank you. Would you go on to the next?
18 A 74(e) for echo is taken from the inside my
19 parents' automobile looking to the south of Layhill Road.
20 Q And the property immediately to the south is?
21 A The applicant's property.
22 Q I see. And I see -- could you identify on whose
23 property all those bushes are that are along Layhill on the
24 same side of Layhill as your parents?
25 A For the most part, they're on my parents'

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1 property, but they've been there for so many years that they
2 have also been expanded into the applicant's property.
3 MS. CITARAMANIS: Okay. I'm looking at this
4 picture, the brown bushes or the green bushes?
5 THE WITNESS: These ones.
6 MR. KNOFF: It's black and white, so --
7 MS. CITARAMANIS: Oh, okay.
8 THE WITNESS: I'm talking about this.
9 MS. CITARAMANIS: Yes, okay.
10 MR. KNOFF: Well, you can speak to them, so --
11 MS. CITARAMANIS: Yes.
12 THE WITNESS: I'll just answer speaking about
13 these.
14 MS. CITARAMANIS: Okay. So it's, I don't know if
15 you have, this is black and white too. I was asking if it
16 was this or this. She was talking about the brown bushes.
17 You say that's on your parents' property?
18 THE WITNESS: It's actually now on both because
19 the bushes have expanded.
20 MS. CITARAMANIS: Okay. Thank you.
21 THE WITNESS: The next one?
22 BY MR. KNOFF:
23 Q Yes. Well, identify your -- this is looking
24 south, is that correct?
25 A It is looking south.

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1 Q Okay. Thank you. Could you identify the next one
2 please?
3 A Okay.
4 MS. CITARAMANIS: Mr. Knopf, you're like -- you
5 need to keep you near a mic so get you -- so you're on
6 74(f). What is that?
7 THE WITNESS: 74(f) is a view from the communal
8 driveway, I'm standing in the communal driveway. It's the
9 driveway that's shared by 15002, 15004, 15006 and 15008.
10 And I am looking north on Layhill Road.
11 BY MR.KNOFF:
12 Q Can I ask you to take Exhibit 72 and see if
13 there's a place that you can identify the road?
14 MS. CITARAMANIS: Well, I was, I was wondering --
15 no, I'm just thinking at the last hearing I pulled out the
16 zoning map and asked what that road was and --
17 MR. KNOFF: Now you can get some answers.
18 MS. CITARAMANIS: Exactly. I was going to ask one
19 of you to explain because, or somebody to tell me what that
20 road was and I think -- here it is. It's a zoning map I
21 have as 14, Mr. Knopf.
22 MR. KNOFF: I believe that's --
23 MS. CITARAMANIS: And I don't know if it's on
24 there. I mean -- actually there's no road on there.
25 MR. KNOFF: We might have something better. I'm

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1 going to hand you this and have her identify this.
2 MS. CITARAMANIS: Okay. Let me, let's show Ms.
3 Lee-Cho first. Okay. Let me -- she's still looking at it.
4 Let me mark that. We're on 75, I believe.
5 (Exhibit No. 75 was marked for
6 identification.)
7 MS. CITARAMANIS: We're informal, but --
8 MR. KNOPF: Okay. Okay. She was giving me --
9 BY MR. KNOPF:
10 MS. CITARAMANIS: She was the one --
11 THE WITNESS: He was just describing what it is.
12 MS. CITARAMANIS: He's not supposed to be
13 describing what it is.
14 MR. KNOPF: I apologize. Okay.
15 MS. CITARAMANIS: You are.
16 THE WITNESS: Okay.
17 MS. CITARAMANIS: Okay. So what number did I say?
18 THE WITNESS: 75.
19 MS. CITARAMANIS: 75. Okay. If you want to ask
20 her to describe that?
21 BY MR. KNOPF:
22 Q Did you, I'm showing you Exhibit 75, and could you
23 say what that is and whose handwriting that is on here?
24 A Oh, this is easy. This is in my handwriting.
25 MS. CITARAMANIS: Perfect. That's why we're

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1 showing you.
2 THE WITNESS: I provided it because the situation.
3 MS. CITARAMANIS: What is it first?
4 THE WITNESS: Oh, okay.
5 MS. CITARAMANIS: First, why don't you tell me
6 what it is?
7 THE WITNESS: It is a, I guess I'm not sure of the
8 terminology here any more --
9 MS. CITARAMANIS: Is it a zoning map?
10 MR. KNOPF: Is it --
11 THE WITNESS: It's a Maryland Department of
12 Assessment and Taxation real property data search. So it's
13 a map from going into that area of the web page and you
14 just, you click on map and it pulls up specific geographic
15 locations.
16 MS. LEE-CHO: I would, suggest SDAT tax map.
17 THE WITNESS: Oh, thank you.
18 MS. CITARAMANIS: SDAT tax map. There we go.
19 MR. KNOPF: Thank you.
20 MS. CITARAMANIS: Thank you very much. Okay.
21 BY MR. KNOPF:
22 Q And on that tax map have you written some notes?
23 A Yes. I have identified the addresses and the
24 property owners that relate to the sections on the map, the
25 lot sections, I recall those.

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1 Q The property --
2 A The properties.
3 Q These are the properties of many of the people
4 that testified the first day of hearing?
5 A Well, the --
6 Q The location of their --
7 MS. CITARAMANIS: Can I see those please?
8 MR. KNOPF: As the Hearing Examiner may recall,
9 they are very odd-shaped lots and we were trying to locate
10 where and --
11 MS. CITARAMANIS: Okay. Okay. And do you have
12 the actual, I don't have it in the file, I actually have an
13 SDAT record for the petitioner. Do you have the, I mean
14 it's all good and well that she can identify it, but we can
15 mark those as well to make sure we've got the right lot.
16 MR. AREM: Those are the, sorry, the two
17 individuals who had testified at the last hearing Phuong-Mai
18 Do and Mimi Tadesse and Dereje Woreta --
19 MS. CITARAMANIS: Uh-huh.
20 MR. AREM: -- those are the actual SDAT records to
21 the lots.
22 MS. CITARAMANIS: Okay. I mean and that's easy
23 enough for, to run those and add those --
24 MR. KNOPF: Sure.
25 MS. CITARAMANIS: -- because, but --

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1 MR. KNOPF: We can keep those separate and --
2 MS. CITARAMANIS: No, we can, we can add that
3 we're at 75(a) and (b). So, Ms. Lee-Cho, make sure.
4 BY MR. KNOPF:
5 Q What we started out for with this was whether you
6 could locate, you had referred to a driveway from which you
7 took the picture?
8 A Right.
9 Q And I'm wondering if --
10 A Yes.
11 Q -- Exhibit 75, is that shown on Exhibit 75?
12 MS. CITARAMANIS: Do you want a pen?
13 THE WITNESS: I have one, thank you. It is.
14 MR. KNOPF: Is it all right if she marks it?
15 MS. CITARAMANIS: Yes, marks it and identifies
16 what it is. I mean --
17 THE WITNESS: So just to be clear, I'm marking
18 where I stood to take the photograph in 74 Foxtrot?
19 MS. CITARAMANIS: Yes.
20 THE WITNESS: Okay.
21 MS. CITARAMANIS: Yes, that's very clear.
22 THE WITNESS: All right.
23 MS. CITARAMANIS: And identify that's your
24 handwriting on there?
25 THE WITNESS: It is, indeed.

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1 MS. CITARAMANIS: Okay.
2 THE WITNESS: So I've put a blue dot. Do I need
3 to do something more exceptional?
4 MS. CITARAMANIS: You --
5 MR. KNOPF: Why don't you put photo taken --
6 MS. CITARAMANIS: Yes, you can --
7 MR. KNOPF: Exhibit 74(f) photo --
8 MS. CITARAMANIS: Right.
9 MR. KNOPF: -- location. Is that all right?
10 MS. CITARAMANIS: Yes, that's fine. That's fine.
11 And it's a driveway or it's an actual road?
12 THE WITNESS: It's a driveway.
13 MS. CITARAMANIS: Okay.
14 MR. KNOPF: I believe it's the communal driveway.
15 MS. CITARAMANIS: Communal driveway?
16 MR. KNOPF: Yes, it connects the various houses
17 that are way back. Do you remember those odd, big lots?
18 MS. CITARAMANIS: Flag lots?
19 MR. KNOPF: Yes.
20 THE WITNESS: They're flag lots, yes.
21 MS. CITARAMANIS: Okay.
22 MR. KNOPF: Thank you.
23 THE WITNESS: You're welcome.
24 MS. CITARAMANIS: Okay. Did you want to see
25 these? Just make sure. I don't think she saw the last two.

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1 BY MR. KNOPF:
2 Q Okay. Could you identify, I'm sorry.
3 MS. CITARAMANIS: I just want to make sure she
4 viewed the SDAT.
5 MS. LEE-CHO: Okay. Thank you.
6 BY MR. KNOPF:
7 Q Could you identify the next Exhibit 74(g)?
8 A It is. It's 74(g). I took this photo standing in
9 the middle of the road just a little north to the property
10 at 15206 Layhill Road. That would be the Barbieri property.
11 Q Is that the property to the north of your parents'
12 home?
13 A It is, it is to the north of mom and dad. There
14 is one home in between, though.
15 MS. CITARAMANIS: The Baileys?
16 THE WITNESS: The Baileys, yes.
17 BY MR. KNOPF:
18 Q And does that, it gets hard in black and white.
19 MS. CITARAMANIS: Do you want this?
20 BY MR. KNOPF:
21 Q Does that photo reflect brush also growing along
22 the highway?
23 A It does.
24 Q Would you go on to the next photo please?
25 A This is 74, hotel.

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1 MS. CITARAMANIS: What did you say, the --
2 THE WITNESS: 74(h).
3 MS. CITARAMANIS: Yes, sorry, my handwriting is --
4 well, that's his handwriting actually. Mine is -- we didn't
5 do very well on our H's.
6 BY MR. KNOPF:
7 Q All right. Can you identify that?
8 A Again, I am standing in the communal driveway of
9 the flag lot properties. I am now standing just a little
10 south from the photo taken. It's just a few feet south of
11 74 Foxtrot.
12 Q And the next photo? Let me ask you, is that, is
13 that a photo of the front yard of the applicant's property?
14 A It is, yes.
15 Q Is it fair to say that the elevation rises from
16 Layhill as you go toward the house? The yard rises, is that
17 correct?
18 A That's correct.
19 Q And you understand that the Park and Planning has
20 recommended three feet, 3-foot plantings be put in the front
21 to screen the activities on the site?
22 A I have.
23 Q And will those 3-foot plantings screen the cars
24 given the elevation?
25 A They will not.

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1 Q Do you know who put those plantings in that are
2 visible here now?
3 A I did not witness the plants being planted. I can
4 assume the applicant had them planted.
5 Q I interrupted you. Can you continue as a
6 remainder of your statement here again?
7 A It's near the end, I promise. So just to
8 backtrack a little bit, my parents are in their '80's, soon
9 to be 81 and 83. So by the time any trees grow that are
10 supposed to provide adequate screening or some sort of
11 mitigation from noise that might be of any benefit to them,
12 they will most likely be deceased.
13 I know that we've had lots of testimony on traffic
14 issues here, but it is, I need to talk about that a little
15 bit because it is a real problem. I disagree that there are
16 umpteen opportunities of a safe break in traffic to exit my
17 parents' driveway. I go in and out of that driveway a lot
18 and, yes, there are times that we can be very lucky and
19 there's a space and we can head out without having to wait.
20 But, for example, coming here today, we left at 8:30.
21 Fifteen cars we had to wait go by before we could make a
22 right turn. Another example is that on May 6th when we came
23 to the hearing, again, we left at 8:30. That time we waited
24 for 13 cars to go by. And the particular problem with my
25 parents' driveway is that there is the hill just to the

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1 north and when a break in traffic comes, you have to hope
2 that it's a true break because you can't really see cars
3 that may be cresting the hill, which means that anyone
4 leaving that driveway has to quickly with some speed
5 accelerate out of it.
6 And the particular problem that presents to us
7 often, but specifically it presented to us on May 6th when
8 we were coming here, was that there was a client of the
9 daycare center waiting on Layhill Road to turn left into the
10 driveway. And he tried to take advantage of the break in
11 traffic as we were and so as we are accelerating out of the
12 driveway, he is turning right in front of us and we've had
13 to slam on our brakes. This is not an uncommon occurrence.
14 It's, it's a danger.
15 And even though the traffic light at Norbeck Road
16 does stop this flow of traffic southbound, the traffic
17 coming from both the east and west has gotten so much more
18 prevalent that it presents a rather regular flow, even if
19 the southbound traffic on Norbeck Road is stopped at the
20 traffic light. And while there may be gaps in traffic, the
21 six streets that are north to my parents have residents
22 feeding into these breaks as they occur during rush hour, or
23 any time really, and so as the traffic progresses southward,
24 the farther south it gets, the fewer breaks there really
25 are. So that it takes quite a while to wait and have a safe

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1 break in traffic that we can exit our driveway.
2 Q Are you aware of any accidents in that area on
3 Layhill, vehicular accidents?
4 A Vehicular accidents? Yes. I know of four that
5 happened between, two on my parents' property and one at the
6 communal drive and another one somewhere between the
7 communal drive and my parents' property. I mean I couldn't
8 give you exact feet but, yes, there have been four.
9 Q Okay.
10 A Just a minute, I've just to go recollect because
11 I'm not reading. So the reality is that whether you're a
12 daycare center or whether you're a resident living on
13 Layhill Road, every time you're heading north and you need
14 to make a left into your own driveway, traffic tends to back
15 up behind you while you wait to gain a safe break in traffic
16 so that you can turn into the driveway. The other problem
17 is, because there is a hill just north to my parents'
18 property, people on the other side of that hill can't see
19 that you need to stop and pause momentarily to make a right
20 into your own driveway. And so I have a fear every time I
21 am just making a right into my parents' driveway that the
22 possibility is real and it's true that I could very easily
23 be rear-ended just because the speed of the traffic. Yes,
24 it's marked 40 miles per hour, but not often obeyed,
25 unfortunately. 50 miles an hour is just not uncommon. So I

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1 think Larry Campbell was very right to present to you his
2 fear for the children because, you know, you have these kids
3 in the backseat and whether you're turning left into the
4 driveway or, you know, you're making a right-hand turn,
5 there's just a real possibility that there can be a
6 collision with southbound traffic.
7 So I feel that the daycare center, along with its
8 level of noise, is going to create way more traffic issues
9 than have been presented by the opposition's traffic expert.
10 There is no one that I have spoken to in this neighborhood
11 that is supporting the applicant's petition for special
12 exception. And all of the exhibits that I have read in the
13 record attest to the fact that with 12 or less children now,
14 he daycare center presents a real problem for the use and
15 enjoyment of the residential homes in that area.
16 I feel that it would be very detrimental to my
17 parents for this daycare center to expand. I hope that I
18 have indicated what a problem the noise level is for my
19 parents and getting adequate rest and how that very much
20 adversely affects my father's Parkinson's disease and I can
21 only urge you to decline the special exception.
22 Q Thank you. I just have one last question. Did
23 you hear Mr. Mani say that none of the neighbors said they
24 objected to his proposal? Do you know whether your father
25 objected to the proposal?

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1 A I know that my dad objected quite strongly.
2 Q Thank you.
3 MR. KNOFF: I have no further questions.
4 MS. CITARAMANIS: Ms. Lee-Cho.
5 MS. LEE-CHO: Just a few questions.
6 CROSS-EXAMINATION
7 BY MS. LEE-CHO:
8 Q Thank you for the photos. I found them very
9 helpful. I just wanted to clarify the date-stamped and the
10 time-stamp that's indicated on all the photos. To your
11 knowledge, whatever photo equipment you were using, is that
12 an accurate date and time-stamp?
13 A The -- I cannot attest to the time-stamp. I can
14 attest that I have no idea how to fix that stamp so it
15 corresponds to reality. So the date is not correct. What
16 is correct is the date the photograph is taken, that it
17 would be listed on the back of the photograph.
18 Q So can you possibly go through and indicate the
19 time of day that these photos were taken?
20 MS. CITARAMANIS: Do you have the back part on the
21 back of the picture? Do you have the --
22 MS. LEE-CHO: I do.
23 MS. CITARAMANIS: Oh, okay.
24 MS. LEE-CHO: Unless, you know, the dates are
25 fine, but the time of day?

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1 MS. CITARAMANIS: Oh, okay. Do you want to go
2 through these?
3 THE WITNESS: I'd have to look at them and
4 comment.
5 MS. CITARAMANIS: Okay. That's fine. Just make
6 sure when you talk about it, you identify the, on the right-
7 hand side the number --
8 THE WITNESS: Sure.
9 MS. CITARAMANIS: -- so you're all on the same
10 page.
11 MR. KNOPF: I can have her look at these and --
12 MS. CITARAMANIS: No, she's fine.
13 THE WITNESS: No, I'm okay.
14 BY MS. LEE-CHO:
15 Q And if you don't recall specifically, I'd much
16 prefer you indicate that than guess as to the time of day.
17 MS. CITARAMANIS: Well, it was obviously during
18 one of your visits.
19 THE WITNESS: Yes. I was here in December.
20 MS. CITARAMANIS: Okay.
21 THE WITNESS: They were not all taken on the same
22 day, I believe. And I can tell you that they would have
23 been taken between the hours of most probably 10:30 and 3:00
24 p.m.
25 BY MS. LEE-CHO:

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1 Q All of them?
2 A To the best of my recollection, yes.
3 Q Because you're correct that none of the time
4 stamps fall within that time frame, so we can -- your
5 testimony is that the time stamp and the date stamps are all
6 incorrect?
7 A Absolutely.
8 Q Okay. Thank you.
9 MS. CITARAMANIS: What about the month, is the
10 month correct?
11 MS. LEE-CHO: I don't know.
12 MS. CITARAMANIS: I mean she said she was --
13 MR. KNOPF: But you --
14 MS. CITARAMANIS: No, I mean you can clarify. You
15 can --
16 MR. KNOPF: She has on the back the correct dates.
17 MS. LEE-CHO: Oh, okay.
18 MS. CITARAMANIS: Well, I think -- oh, okay.
19 MS. LEE-CHO: I'm just talking about the stamps on
20 the photos.
21 MS. CITARAMANIS: Oh, okay. The front.
22 THE WITNESS: If I could, if I compare the date
23 stamp on the front with the date recorded on the back, it
24 appears to me that the date stamp is correct, the time stamp
25 is incorrect. Just checking. What I had not done earlier

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1 was check absolutely every date on the front with what was
2 written on the back. Now that I am doing that more
3 accurately, I can see that the date stamp and the date
4 written on the back correspond. It is the time stamp that
5 is incorrect.
6 MS. LEE-CHO: Okay. Thank you. I don't have any
7 other questions.
8 MR. KNOPF: Thank you very much.
9 MS. CITARAMANIS: Okay. Thank you. Okay. So
10 either one of them want to come up and ask them to join in
11 her testimony?
12 MR. KNOPF: Well, they would join in her
13 testimony, but it's stressful.
14 MS. CITARAMANIS: Okay.
15 MR. KNOPF: Unless the Hearing Examiner feels the
16 need to confirm something --
17 MS. CITARAMANIS: No, I'm just curious, you know.
18 MR. KNOPF: Yes, that's why they're --
19 MS. CITARAMANIS: That's fine.
20 MR. KNOPF: To be honest with you, I didn't make
21 them testify at Park and Planning and then --
22 MS. CITARAMANIS: All right.
23 MR. KNOPF: That's why she came all the way from
24 New Zealand. We would like --
25 MS. CITARAMANIS: I just wanted to check before we

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1 went --
2 MR. KNOPF: I appreciate that. And we would like
3 to call now our expert witness.
4 MS. CITARAMANIS: Okay. Just -- okay, come on up.
5 Just looking at the time, Ms. Lee-Cho needs to leave at
6 5:00. So and you say it's about a half an hour? Certainly
7 I don't want to take away --
8 MR. KNOPF: Well, I'm guessing.
9 MS. CITARAMANIS: -- from your time.
10 MR. KNOPF: You need to take as much time as you
11 need. We have a lot to be --
12 MS. CITARAMANIS: Yes, but --
13 MR. KNOPF: -- put --
14 MS. CITARAMANIS: The possibility that cross won't
15 be until another time is what I am suggesting.
16 MR. KNOPF: May I -- can we go off the record? I
17 just want to --
18 MS. CITARAMANIS: Yes, we can go off the record
19 for a moment.
20 MR. KNOPF: The witness, just let me ask the
21 witness how --
22 MS. CITARAMANIS: Let's --
23 MR. KNOPF: Thank you. I appreciate it.
24 (Recess)
25 MR. KNOPF: It's not that we don't love you, but

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1 we don't want to come back.
2 MS. LEE-CHO: Okay. I'm good.
3 MS. CITARAMANIS: You're good?
4 MR. KNOPF: Oh, yeah.
5 MS. CITARAMANIS: Yeah, everybody. Okay. So
6 we'll go back on the record.
7 MS. LEE-CHO: So this will cost you.
8 MS. CITARAMANIS: Oh. We all know that. Okay.
9 So is the court reporter -- you've been so quiet over there.
10 Okay. All right. So we're back on the record. We're going
11 to stay until the end, the bitter end.
12 (Witness sworn.)
13 MS. CITARAMANIS: Great. State your name and your
14 address and then wait for Mr. Knopf to ask you questions.
15 THE WITNESS: Okay. My name is Joe Mehra. I'm
16 the president of MCV Associates. I'm located at 4605
17 Pinecrest Office Park in Alexandria, Virginia.
18 DIRECT EXAMINATION
19 BY MR. KNOPF:
20 Q Mr. Mehra, have you qualified as an expert in, as
21 a traffic engineer in any proceedings in Montgomery County
22 involving OZAH?
23 A Many, many times, including this very room before.
24 Q You recognize the room. And have you been
25 qualified as an expert in traffic engineering in any court

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1 proceedings?
2 A Several, Virginia, Maryland, St. Louis, Texas,
3 several locations.
4 Q And am I correct you have a professional
5 engineering degree from what school?
6 A I have a master's from University of Buffalo. I
7 am a licensed professional engineer in Maryland, Virginia,
8 Delaware and Texas.
9 MS. LEE-CHO: If I may, I have no objection to Mr.
10 Mehra --
11 MR. KNOPF: Good.
12 MS. LEE-CHO: -- as an expert, although I object
13 to some of his findings.
14 MS. CITARAMANIS: Okay. I think we all understand
15 that, but qualified as an expert in traffic engineering,
16 you're okay with that?
17 MS. LEE-CHO: I am okay with that.
18 MR. KNOPF: Mr. Mehra --
19 MS. CITARAMANIS: You can go on. Thank you.
20 BY MR. KNOPF:
21 Q Did your shop and under your supervision prepare
22 some, a traffic studies, maybe traffic studies is not the
23 right word, traffic studies, traffic stop and studies?
24 A Yes, we did.
25 Q And did you -- were you here today to hear the

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1 testimony of the applicant's traffic engineer?
2 A Yes.
3 Q You heard that? Okay. I'm trying to be as
4 efficient as possible and quick as possible with the
5 question, could you explain in your supplemental memorandum
6 or report what you found? So explain to the Hearing
7 Examiner what your findings were and how you arrived at
8 those findings?
9 MS. CITARAMANIS: Let's make sure the right
10 exhibit number, 69(a)? Do you know which one that is?
11 MR. KNOPF: It's a supplemental --
12 THE WITNESS: A May 13th --
13 MS. CITARAMANIS: Statement.
14 MR. KNOPF: Yes, May 13th.
15 THE WITNESS: Yes. I think if I may just kind of
16 state that Layhill Road is a straight road and it's guided
17 by Maryland State Highway criteria and standards. One of
18 the things about Maryland State Highway's requirements for
19 sight distance and intersection stopping distance, two
20 things that you've heard before, are based on the AASHTO
21 guidelines which is the American Association of State
22 Highway Transportation Officials. Prior to 2001, the AASHTO
23 guidelines said that all sight distances should be based on
24 an object which is six inches high. This particular
25 residence was built prior to 2001. So based on the fact

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1 that it was built prior to 2001, the applicable standards
2 for the sight driving were based on standards prior to 2001.
3 When you look at those standards and you look at
4 the sight distance analysis using an object height of six
5 inches and a driver height of 3 1/2 feet, which you've heard
6 about those two things, the sight distances do not meet or
7 did not meet the Maryland State Highway and AASHTO standards
8 in effect at the time the house was built back in, I
9 believe, 1986. So it is prior to 2001. So our first
10 analysis was based on the fact that these were the criteria
11 in effect when the house was built.
12 BY MR. KNOPF:
13 Q And you're referring there to the April 25, 2013
14 report?
15 A That's correct. Then subsequently --
16 Q And I think that's Exhibit 46?
17 MS. CITARAMANIS: 46(a).
18 MR. KNOPF: Thank you.
19 MS. CITARAMANIS: And, yes, 46(a)
20 THE WITNESS: And subsequently we went back and
21 did a site analysis based on the current AASHTO standard,
22 which is the year 2011, around December 2011. And we did
23 this analysis on Wednesday, May 8th. We did the two types
24 of measurement. One was the stopping sight distance which,
25 again, you see on that chart where you measure the distance

1 between the, let's say the north driveway and at a point
 2 where you can see an objection or the word you've been
 3 using, the traffic cone --
 4 MS. CITARAMANIS: Okay.
 5 THE WITNESS: -- which is two feet high. So at
 6 what point on the travel way can you see that traffic cone?
 7 So that is the stopping sight distance.
 8 Now what we did was we actually drove the vehicle
 9 because the driver height is supposed to be 3 1/2 feet from
 10 the ground. So you sit in a sedan, not an SUV or a truck,
 11 but in a typical sedan. You sit in that and then you
 12 observe the traffic cone placed on the side of the road on
 13 the driveway and see at what point you can see that cone.
 14 So that is on the north side. So that is your obstructing
 15 side. So we actually measured it while we drove the
 16 vehicle.
 17 Then the second measurement we did was
 18 intersection sight distance. The intersection sight
 19 distance is the distance sitting on the south driveway
 20 looking at the north to see how far you can see from there.
 21 And I believe there was some discussion about six feet and
 22 14 1/2 feet. The AASHTO manual requires that the driver eye
 23 has to be set about 14 1/2 feet from the edge of the Layhill
 24 Road pavement in this particular case.
 25 Now one of the issues was which I discussed with

1 Mr. Knopf that was the prior property, should we go there
 2 and park a car 14 1/2 feet from the travel lane. So he said
 3 I should, that since it's private property, we don't want to
 4 trespass. So there is a public right-of-way which is part
 5 of the property where the driveway is. So that's the reason
 6 we sent a vehicle right on the edge of the pavement, there's
 7 a white line there, edge of the pavement so when you measure
 8 from there to the, where the driver was sitting, that's six
 9 feet. So that is the reason we came up with six feet and
 10 nothing to do with Montgomery County guidelines or anybody's
 11 guidelines. It essentially was limited by the fact that we
 12 didn't want to trespass on somebody's property.
 13 MS. CITARAMANIS: So six feet you came off the
 14 property line, is that what you said?
 15 THE WITNESS: Yes, six feet from the property
 16 line. So the other thing we did which is different from
 17 what Mr. Eapen said, that they had, they wanted to put a
 18 cone in the middle of the road which incidentally they did,
 19 what we did was we had a vehicle, so we had two vehicles.
 20 One stopped on the exit driveway on the south side. Then we
 21 had one vehicle drive southbound on Layhill Road and we had
 22 more drivers with their cell phone on, with their blinkers
 23 on and they were talking to each other. And when they saw
 24 each other, that's the spot where we acquired the sight,
 25 intersection sight distance. So it was based on actual

1 measurements, not based on cones that were set on the side
 2 of the road and then you come up with 520 feet and then you
 3 say, okay, based on the fact that we didn't measure from the
 4 center line, so it should be 600 feet, which is pretty
 5 obligatory to me anyway. So our measurements are actually
 6 based on the AASHTO guidelines which says that the driver
 7 height has to be 3 1/2 feet, the vehicle height is not --
 8 Mr. Eapen mentioned that it's the top of the vehicle. It's
 9 not actually the top of the vehicle.
 10 The top of vehicle is normally 4 1/2 feet. But
 11 the height to which you measure is 3 1/2 feet because what
 12 they want to do is they want a vehicle to be, quote,
 13 "Visible," so the top of the vehicle may be something,
 14 another vehicle. So this area has to be 3 1/2 feet, not 4
 15 1/2 feet. I don't know if that's clear. You do not measure
 16 to the top of the vehicle, which is 4 1/2 feet, but you
 17 measure to the 3 1/2 feet. So we did that and we came up
 18 with --
 19 BY MR. KNOPF:
 20 Q Mr. Mehra, wait a minute, because I think -- I
 21 know I'm getting a little bit lost, so I'd like you -- this
 22 is very clear to you, I'm sure. But, first of all, let me
 23 see if I understand something. You used two vehicles --
 24 A Right.
 25 Q -- to do your measurements and the people talked

1 to each other?
 2 A Right.
 3 Q And is it your understanding on the study that was
 4 submitted by the applicant they didn't use two vehicles or
 5 they didn't measure the distance?
 6 A Well, what I understood was from Mr., what Eapen
 7 said that they used a cone. First of all, the cone is,
 8 could be two feet to three feet. I have not seen a cone
 9 more than three feet. I mean there may be, but I have not
 10 seen that. So to really do the measurement, you've got to
 11 be 3 1/2 feet.
 12 Q Right.
 13 A So, there again --
 14 MS. CITARAMANIS: The cone needs to be 3 1/2 feet,
 15 is that what you're saying? I thought it was the driver?
 16 THE WITNESS: Well, well, either, whichever way.
 17 Whatever object, whatever object height you're using, it's
 18 got to be 3 1/2 feet.
 19 BY MR. KNOPF:
 20 Q I mean if you're substituting the driver --
 21 A The driver of the --
 22 Q -- by a cone, it should be the same height as the
 23 driver is supposed to be, 3 1/2 feet, is that correct?
 24 A Yes. For example, on the south driveway --
 25 Q I think --

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1 A -- we had a --
2 Q I think we still have some confusion.
3 A Okay.
4 MS. CITARAMANIS: When you say the driver, the
5 driver in the vehicle that's approaching? I mean that's
6 the --
7 MR. KNOPF: She's, we're --
8 MS. CITARAMANIS: I think you need to --
9 THE WITNESS: You really, you need, both of them
10 need to see. You have a vehicle coming southbound on
11 Layhill Road.
12 MS. CITARAMANIS: Okay.
13 THE WITNESS: He needs to see the vehicle which is
14 on the driveway, he needs to see that. The vehicle on the
15 driveway also needs to see the southbound vehicle because --
16 MS. CITARAMANIS: Right.
17 THE WITNESS: -- I mean unless he sees that, he
18 can't make a stop. So they have this line of sight between
19 the vehicle waiting to make the turn and the vehicle driving
20 on Layhill Road. So they need to sort of see each other in
21 some way. But --
22 BY MR. KNOPF:
23 Q But you're talking about, for simplicity sake,
24 Exhibit 71. You're saying a driver exiting the south side -
25 -

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1 A The south side, right.
2 Q -- looking north --
3 A And you have a vehicle --
4 Q -- needs to see the vehicle --
5 A -- coming southbound.
6 Q -- on the south, north, but coming south?
7 A Southbound, yes.
8 Q The two need to see each other before there's a
9 crash, or there is a big collision, is that what you're
10 saying?
11 A Yeah. Yeah.
12 Q Now in terms of --
13 A And both have to be about 3 1/2 feet.
14 Q That's what --
15 A So there's no two feet in there.
16 Q No two feet?
17 A No two feet in there.
18 Q And --
19 A So if I'm saying, that if you're using a cone and
20 there's a vehicle on the south driveway, the cone has to be
21 3 1/2 feet.
22 MS. CITARAMANIS: I see.
23 BY MR. KNOPF:
24 Q So just in your study, you had two cars and each
25 car, there's somebody sitting, so and I presume you didn't

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1 use an SUV or something --
2 A No.
3 Q -- to raise it?
4 A Never. I mean one of the, Toyota Corolla, the
5 other one is a Mazda, both sedans --
6 Q So --
7 A -- not SUV.
8 Q -- each driver met the 3 1/2 feet criteria?
9 A Well, I mean within the --
10 Q Within the range?
11 A Within the range. I mean you have a --
12 Q And those were the way the measurements were
13 taken. Now what was your understanding of the way that the
14 applicants' measurements were taken, if you could understand
15 it?
16 A I'm sorry, I didn't really follow. I know he said
17 that they always put a cone 14 1/2 feet behind the pavement.
18 MS. LEE-CHO: I object. It's in the record in
19 terms of the testimony. I don't think we need this witness
20 regurgitate what's in the record.
21 MS. CITARAMANIS: I think he's just saying what
22 his understanding is as to, I mean that's the question that
23 I heard, it's his understanding --
24 MR. KNOPF: That's right.
25 MS. CITARAMANIS: -- as to how he did it. It

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1 doesn't mean that that's how it was done.
2 MS. LEE-CHO: Right. But in terms of if he's
3 going to be asking opinion as far as how it was done, I
4 think he should accurately maybe it be read from the record
5 as to what the testimony was in terms of how it was done and
6 then give an opinion as to how it was done as opposed to
7 speculate.
8 MR. KNOPF: I think you'll hear --
9 MS. CITARAMANIS: Okay.
10 MR. KNOPF: -- there's a difference in the results
11 and I'm asking him to explain the difference in results from
12 his studying the applicant's study and he's --
13 MS. LEE-CHO: Well, I can already --
14 MR. KNOPF: -- explaining what his understanding
15 is to justify that.
16 MS. LEE-CHO: I can already tell that Mr. Mehra
17 misunderstood what was testified to as to how the study was
18 done from our consultant.
19 MR. KNOPF: Well, then you can bring that out --
20 MS. CITARAMANIS: Okay. Well --
21 MR. KNOPF: -- on cross-examination.
22 MS. CITARAMANIS: Yes, that's something that you
23 can cross-examine him on. I mean he's going based on what
24 his impression is of this. It could be completely wrong --
25 MS. LEE-CHO: Okay.

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1 MS. CITARAMANIS: -- is what -- I mean I recognize
2 that --
3 MS. LEE-CHO: All right.
4 MS. CITARAMANIS: -- and, but it's certainly
5 something that you can cross on. I mean I've heard Mr.
6 Eapen's testimony as well and so just if you want to make
7 sure it's clear that this is, he's understanding
8 recollection and if it's wrong, I believe he'll correct it.
9 MR. KNOPF: Let me, let me re-ask the question.
10 MS. CITARAMANIS: Okay.
11 BY MR. KNOPF:
12 Q Your testimony for your study was that there were
13 two different cars used and two drivers talked to each other
14 regarding when they could see each other?
15 A Right.
16 Q Okay. Now what was your -- and you measured the
17 distances, in your report, supplemental report, you put down
18 those distances based upon where those cars were when they
19 saw each other?
20 A Right. The difference was that that one vehicle
21 of the driver was six feet behind the white line from the
22 edge of the pavement versus the standard which is 14 1/2
23 feet.
24 Q Right.
25 A So that is the only difference in terms of what we

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1 did compared to what AASHTO says we should do.
2 Q All right. Now you arrived at a figure for the
3 sight distance to the north which is different than the
4 figure that their traffic expert testified about?
5 A Yeah, there are two separate differences.
6 Q Yes.
7 A One is the stopping sight distance where ours is
8 70 feet or something less than your number. The second one
9 is the intersection sight distance where ours is a little
10 less than theirs. The thing is that when you look at their
11 intersection sight distance, what's stated in their report,
12 it does not meet AASHTO standards.
13 Q Right. Now you're referring -- let's nail that
14 down. You're referring to page one of Exhibit 65? Do you
15 have that in front of you? You may not have it in front of
16 you?
17 A No, I don't have the number, but if you're
18 referring to the --
19 MS. CITARAMANIS: Well, let's make sure you have
20 the right --
21 BY MR. KNOPF:
22 Q Is your report dated May 7th?
23 A Yes.
24 MS. CITARAMANIS: Yes.
25 THE WITNESS: Yes, that's the one.

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1 MR. KNOPF: Okay. Just want to make sure we're
2 both --
3 MS. CITARAMANIS: Yes.
4 BY MR. KNOPF:
5 Q May 7th. Now are you referring to --
6 A I'm referring to the first page of intersection
7 sight distance to the north. They measured 520 feet with a
8 plus written next to it.
9 Q And then this --
10 A And then the AASHTO guideline is 555 feet.
11 Q So if we just stop there for a moment, you would
12 say it did not, by their own study, it didn't --
13 A It did not meet the AASHTO standards.
14 Q And now you heard their expert say by the time you
15 got done it said it did meet, what is your, can you explain
16 how you believe he arrived at that and whether you agree
17 with that?
18 A I was trying to understand that but, I'm sorry, I
19 could not figure that out. Their report does not talk about
20 using a vehicle or cones or anything. They basically say
21 the driver height is 3 1/2 feet, the object height is just
22 two feet, et cetera, et cetera, but they don't really say
23 how they did the measurements, what tools they used to
24 compute the sight distance or the intersection, intersection
25 sight distance or the stopping sight distance. So they do

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1 not define how they did that.
2 Q They handed up, on page one there's 520 feet they
3 said measured and then the witness testified now there was
4 600 feet. Are you saying you couldn't figure out how they
5 got from 520 to 600?
6 A Right.
7 Q That's what I'm trying to --
8 A I think if Joe Cutro, the author of this document,
9 wanted it to be 600 feet, I think somebody would have
10 mentioned that based on my observations it's 600 feet or
11 something to that effect.
12 Q But he didn't, he just listed 520?
13 A I did not see it in this document.
14 Q So by their own study using what they said at the
15 bottom of page one, it does fail one of the AASHTO?
16 A That's correct.
17 Q And in your study you failed, excuse me, you found
18 that it failed two of the AASHTO requirements?
19 A Yes, we feel along the north side at the stopping
20 sight distance to the north driveway.
21 Q Could you just use the chart and go over there and
22 point out to --
23 MS. CITARAMANIS: Yes. Thank you.
24 BY MR. KNOPF:
25 Q Use the chart and use the, pick the actual

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1 figures. I think you're referring to, are you not, on your
2 supplemental report, 69(a), you're referring to the second
3 page, the figures that are on that chart? Just get the --
4 A I think the thing is it's right here. Our figure
5 for stopping sight distance is 407 feet. The other is 474.
6 And the standard requirement is 425 feet for this particular
7 stopping sight distance.
8 Q So in short, about 20 feet?
9 A It's shy by about 18 feet here. And --
10 Q Now, wait a minute. Wait a second. Wait a
11 minute. Was there --
12 MS. CITARAMANIS: We're talking about the, just
13 making sure, it measured 474, but the standard is 425?
14 THE WITNESS: That was their measurement.
15 MS. CITARAMANIS: But, no, I'm looking under --
16 just making sure that I have, that I understand.
17 MR. KNOPF: No, okay. Right. No, now we're
18 looking at his measurements.
19 MS. CITARAMANIS: Okay.
20 MR. KNOPF: Which, yes.
21 MS. CITARAMANIS: Oh, okay. See, you got --
22 MR. KNOPF: 69(a), the second page --
23 MS. CITARAMANIS: Okay. Okay. And which -- 447?
24 THE WITNESS: No, 407. 447 is for the south
25 driveway.

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1 MR. KNOPF: The first, the first --
2 MS. CITARAMANIS: Got it.
3 THE WITNESS: So the south driveway's meets the
4 sight distance requirement.
5 MS. CITARAMANIS: Got it. So it's the first one?
6 THE WITNESS: It's the north driveway where you
7 have a, sitting on the stopping sight distance.
8 MS. CITARAMANIS: Okay.
9 BY MR. KNOPF:
10 Q So, okay, now to get -- she's now on page 69(a),
11 the second, these are your figures. So, again, if you could
12 use those figures again and show --
13 A Right.
14 Q -- point to what, not only the figures, but what
15 it means, what the distances is there.
16 A Then the second one is the intersection sight
17 distance which is, we measured here six feet from the edge
18 of the pavement looking north. We came up with 482 feet.
19 And the standard is 555 feet.
20 Q And that is the second --
21 A And --
22 Q -- the second from the bottom tier of figures?
23 A Right, second from the bottom on the 482 feet on
24 this table. And the other number in the other part, that
25 would be 520 feet, which is also less than the standard of

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1 555 feet. Now one of the things I wanted to clarify is that
2 the six feet wasn't 14 1/2 feet.
3 Q The six feet versus the --
4 A 14, I mean that we had a vehicle that was the
5 driver was six feet from the edge of the pavement --
6 Q Yes.
7 A -- versus the AASHTO requirement that it be 14 1/2
8 feet --
9 Q Back from the pavement?
10 A -- from the edge of Layhill. And I know Mr. Eapen
11 mentioned that when you go 14 1/2 feet, the driver is a
12 little bit higher than six feet. But you really look at the
13 line of sight, if you draw a line from 14 1/2 feet and so,
14 you know, there's a big Crepe Myrtle here, if you draw a
15 line there and go to the edge, what you find is that the
16 sight distance will actually get better with our measurement
17 than with yours because when we are six feet away, we
18 actually bypass all the vegetation. So we have better clear
19 line of sight than you do when you are 14 1/2 feet in sight.
20 I think that's, when I was there on a Saturday, I saw the
21 landscaping people out there, so I'm sure they're doing the
22 trimming to create more line of sight.
23 MS. CITARAMANIS: Okay.
24 MR. KNOPF: I think that's about it.
25 BY MR. KNOPF:

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1 Q So if I understand this correctly, you have two
2 measurements which you found fail the AASHTO requirement?
3 A That's correct. The --
4 Q And --
5 A -- more to the north.
6 Q Right.
7 A More to the north.
8 Q To the north? They're both to the north? And the
9 applicant in terms of this chart found one failure, but then
10 explained, gave an explanation and said that there wasn't a
11 failure that, as shown on the chart, that the chart figures
12 weren't correct according to the applicant?
13 A Yes, some -- in the paragraph after that, they
14 talk about actual sight distance being later than about 600
15 feet by estimation, at which point AASHTO prevents
16 lengthier, visual detection.
17 Q Now is, do, before I go on to another topic,
18 traffic, but is that -- do you have other comments you want
19 to make comparing your study with theirs?
20 A No, I think that will be it.
21 Q Let me ask you as a traffic engineer, I presume
22 have you done studies trying to evaluate the safety of given
23 roads?
24 A Yes.
25 Q And have you done -- has this caused you to

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1 observe driver behavior?
2 A No, we try to stay away from that. Primarily we
3 look at accident records --
4 Q Right.
5 A -- and see, you know, the reasons for the crash,
6 the things like that, but not try to analyze driver
7 behavior, no.
8 Q I see. Well, okay, let me go on from there. I'd
9 like to call your attention just, do you have a copy of the
10 site plan?
11 A Yeah, I do.
12 Q This is, I guess, 68 --
13 MS. CITARAMANIS: (a).
14 MR. KNOPF: -- (a).
15 MS. CITARAMANIS: Do you have it?
16 THE WITNESS: Yes.
17 MS. CITARAMANIS: Okay.
18 BY MR. KNOPF:
19 Q I wanted to, do you think 68(a), the northern
20 driveway, the entranceway, has a 10-foot, it's 10 feet in
21 width, is that correct?
22 A That's right, showing 10 feet in the --
23 Q Now I hate to ask you the obvious, but am I
24 correct that obviously two cars couldn't pass each other in
25 a 10-foot wide driveway?

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1 A That's correct.
2 Q Now as we move around the driveway, and by around
3 I mean we're going up toward the house and going out the
4 southern part, by the way, there's a square, I guess there
5 are squares in the driveway or rectangles, excuse me, what
6 are those supposed to depict?
7 A Excuse me, on the dotted lines?
8 Q Yes, the dotted lines. Are those supposed to show
9 cars?
10 A I see it shows, very clever, a car.
11 Q And are those, is that the standard traffic
12 engineer things to put something of that size to give you an
13 idea of the ability of cars to ingress and egress?
14 A Well, I, it doesn't show the measurement but, yes,
15 something to that scale.
16 Q Something to that scale? Now as we go around, the
17 driveway widens to 14 feet, doesn't it?
18 A That's correct, right in the center there.
19 Q Now does that 14 feet there right in front of the
20 house permit a car to stop and park and another car to go
21 around it?
22 A I don't think so. The AASHTO guidelines say that
23 the typical vehicle is 7-foot wide.
24 Q Seven feet wide?
25 A Seven feet wide. So if you park the vehicle, you

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1 need room for the driver to open the door, come out of the
2 car and given that it's 14 feet and in the two-way, they
3 would be literally touching each other or a driver, if he
4 opens the door or she opens the door, the other vehicle
5 cannot pass by.
6 Q And now that would be true in front of the house
7 and would that also be true, the 14 feet extends on the
8 southern portion of the driveway going toward Layhill, is
9 that --
10 A Yes, I think the southern portion is going to be
11 even worse because the driver is going to pull the vehicle
12 over at least two feet away from the edge of the pavement.
13 So, again, open the door and step out. So you need about
14 two feet of space to open the door.
15 Q Is that --
16 A So when you're looking at a 7-foot vehicle width
17 and two feet of space to open the door, right there you're
18 taking nine feet away out of the 14 feet. So you've got
19 five more feet left for another vehicle to pass by.
20 Q How about the minicars, would they make it? I
21 mean --
22 A All right.
23 Q Let me ask, now I did skip one area. I didn't
24 necessarily mean to. There's an area where it shows 22
25 feet, I guess we've been referring to that as a bump out.

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1 MS. CITARAMANIS: Yes, a bump out.
2 BY MR. KNOPF:
3 Q Yes. And they have a car parked there, I guess
4 that little symbol is a car. In your opinion as a practical
5 matter, would, if the car were parked there, would other
6 cars be able to readily pass that car?
7 A I think that when you're at an angle, you need
8 about 11 feet of space for the vehicle to park at an angle
9 depending on the, you know, how closely you can maneuver the
10 vehicle. So assuming you can park as close to the edge of
11 the paved driveway and you take about 11 feet, I would guess
12 there would be another 11 feet of space around it for a
13 vehicle to park and maneuver beyond that.
14 Q It could maneuver?
15 A Right.
16 Q What about the turning radius?
17 A The turning radius is about 11 feet for a sedan
18 vehicle. You know, looking at a big SUV and other vehicles
19 and you, you know, you're talking about a different turning
20 radius.
21 Q Oh, really, with an SUV?
22 A I don't have those figures, but --
23 Q No, I'm saying --
24 A -- right.
25 Q -- but is it --

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1 A For a typical actual vehicle, it's about 11 feet.
2 Q Would you expect a daycare center people dropping
3 off a couple of kids, that they might have a more than
4 average SUV ratio?
5 A I would assume, you know, the different types of,
6 a mixed array.
7 Q Vans? Yeah. If the -- if someone bringing their
8 child, children to the daycare came at a time where there
9 were no other vehicles in that roadway, in the driveway and
10 they pulled up to be close to the walkway, you see the sign
11 says walkway for the main entranceway there?
12 A Right.
13 Q And they parked the car there rather than taking
14 the time to maneuver, as you said, to park in the bump out,
15 would that result in effectively blocking anyone else from
16 going by?
17 A Yes, probably, yes.
18 Q Now I think there was testimony, and which I
19 forgot to ask their traffic expert, but he said he saw that
20 this driveway could accommodate six cars if I remember
21 correctly. Do you see how this could accommodate six cars
22 for pick-up and drop-off and passing each other?
23 MS. CITARAMANIS: I'm not sure I recall him saying
24 that.
25 THE WITNESS: Well, you --

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1 MR. KNOPF: I think he said six, it could
2 accommodate six.
3 MS. CITARAMANIS: I don't. It will be in the
4 record.
5 THE WITNESS: Well, you need about 22 feet
6 probably of vehicle space. So if you can measure those six
7 times, 22 is 120, 132 feet of straight line space.
8 BY MR. KNOPF:
9 Q And that would assume that somebody parked not too
10 far away necessarily from another car, right?
11 A Yeah.
12 Q Okay. Now the Planning Board staff recommended
13 that there be a 14, well, about -- a widening of the
14 driveway on the southern side to 14 feet and you can see
15 that there. And they said that would, they recommended that
16 in order to ensure two vehicles could pass each other. Am I
17 understanding you to say that that, they did not achieve
18 their goal?
19 A I would say so, yes.
20 Q Okay. Thank you.
21 MR. KNOPF: I have no further questions.
22 MS. CITARAMANIS: Ms. Lee-Cho.
23 CROSS-EXAMINATION
24 BY MS. LEE-CHO:
25 Q Let's just start with the onsite preparations

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1 since that's the last thing that we brought. I'm showing
2 the witness Exhibit 74(a), which is one of the photographs
3 taken by Ms. Schilling.
4 MS. CITARAMANIS: 74(a), did you say?
5 MS. LEE-CHO: 74(a).
6 MS. CITARAMANIS: Okay. Do you want the color
7 one?
8 MS. LEE-CHO: Well --
9 MS. CITARAMANIS: That might be a little more
10 helpful if I can find it. Here you go.
11 BY MS. LEE-CHO:
12 Q Mr. Mehra, could you identify in that photograph
13 for me the, I guess the island, the turnaround area at the
14 top of the site plan?
15 MR. KNOPF: Which exhibit are you referring to?
16 MS. CITARAMANIS: 74(a).
17 BY MS. LEE-CHO:
18 Q The island area, area three.
19 A Uh-huh.
20 Q I guess the farthest west side of area three on
21 this photograph, the western edge.
22 A East or west is right here.
23 Q So this is the end?
24 A Yeah.
25 Q Okay. Could I, could you mark this exhibit with

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1 where you see the island, area three?
2 MS. CITARAMANIS: Okay.
3 MS. LEE-CHO: The western edge of area three.
4 MS. CITARAMANIS: Did he identify --
5 MS. LEE-CHO: This is marked the western edge.
6 MR. KNOPF: The western edge? Okay. I was
7 thinking of the northern edge. That's the western edge?
8 Okay.
9 MS. LEE-CHO: Well --
10 MR. AREM: It's the eastern edge of the property.
11 MS. LEE-CHO: I marked them wrong, I guess.
12 MS. CITARAMANIS: No, this is --
13 MS. LEE-CHO: This is the western edge. I'm
14 seeking --
15 MS. CITARAMANIS: No, I --
16 MS. LEE-CHO: -- this edge here.
17 MS. LEE-CHO: Well --
18 THE WITNESS: You are not straight up.
19 MR. KNOPF: Okay.
20 MS. LEE-CHO: This is marked.
21 MR. KNOPF: Okay.
22 MS. CITARAMANIS: Okay. Well --
23 BY MS. LEE-CHO:
24 Q This is the western edge, is that correct?
25 A Yes.

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1 Q Could you confirm for me the western edge?
2 A Yeah. It goes this way.
3 Q Okay. Mr. Mehra, can you, based on that photo
4 observe a curve or any type of barrier from the edge of the
5 asphalt to the grass area?
6 A No, it looks like grass over there.
7 Q And I know that that the site plan may not be
8 clear, but are you aware that no curb is actually proposed,
9 it's just an expansion of the asphalt?
10 A I guess if you say so. I haven't seen any plans
11 to, you know, contrary to that.
12 Q Are you aware that the expansion of the southern
13 edge of the driveway to 14 feet was a recommendation from
14 the Park and Planning staff?
15 A Yes.
16 Q Okay. Would you agree that, assuming that there's
17 no curb that is supposed to be installed, that clearly an
18 asphalt width of 14 from edge of asphalt to edge of asphalt,
19 that just transfers onto a grassy area, there could be room
20 for two cars to actually pass each other if that need arose?
21 A Well, I think the thing is, as I explained, if one
22 is stopped and the driver has to get out of the car, yeah,
23 if the person parks right at the edge of the pavement and
24 steps onto the grass, but on a wet day, rainy day, snowy
25 day, they're not going to do that. They're going to park

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1 two feet away from the edge of the pavement, open their
2 door, step out and then go to the back seat to unbuckle
3 their child. I think you need the room to do that. So on
4 the driver's side, they are going to park two feet away. I
5 think it's maybe knowing driver behavior, as you mentioned
6 here, that's something I think they will do. So that leaves
7 technically, you know, if you take a 7-foot vehicle, take
8 two feet, you've got nine feet. So you've got five feet
9 left over. Yes, and there's grass on the other side,
10 somebody can drive on the grass and bypass the spot.
11 Q Well, sure, but -- and it would be if, since it's
12 this grass, if there is a need to extend the asphalt area
13 further than 14 feet to accommodate, there doesn't seem to
14 be anything appearing to prevent that?
15 A Yeah, I mean I typically go with 16 feet,
16 driveway, 14, so --
17 Q Thank you.
18 MS. CITARAMANIS: Here's the other one.
19 BY MS. LEE-CHO:
20 Q I'd just like to address your April 25th
21 memorandum which is -- I mean that's the first memo that you
22 utilized the 2001 standards?
23 A No, it's not, it's not 2001. It couldn't be 2001.
24 In 2001, they changed the standards.
25 Q And you indicate in your testimony that that was

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1 because at the time the home was built, the pre-2001
2 driveway standards would have been applicable?
3 A Right.
4 Q Okay. Would you agree, though, based on the
5 purpose of the sight distance analysis that you were asked
6 to do for this case, that that has no bearing or relevance
7 in terms of the issue at hand, which is the safe ingress and
8 egress and operation of the special exception?
9 A Well, I think the -- it all goes back to the fact
10 that the driveway should not have been permitted back in '86
11 or whenever that thing was. And really speaking, when you
12 look at the actual guidelines when they switched over in
13 2001 to, from six inches to two feet, one of the, one of the
14 main reasons was cost because they found that it cost too
15 much money to make a road, to level it to the point where
16 you can see an object six inches high. So that was one of
17 the main reasons why AASHTO changed its standards. The
18 second reason was, of course, they found that the safety was
19 not compromised that much to the extent that they could
20 change from six feet to two, excuse me, six inches to two
21 feet, yeah.
22 Q Okay. But we're talking about a driveway that is
23 an existing driveway, an existing home under today's
24 applicable standards. Would you not agree that that's the
25 relevant analysis and the pre-2001 standard has been

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1 overruled in a sense and has no bearing in this case?
2 A Well, I'm not a lawyer in the sense that what's
3 standard in criteria should be applied or can you
4 retroactively go back and do anything. Obviously, obviously
5 not. It's -- I mean the house is built. It was approved.
6 So it's there right now, yes.
7 Q Well, it seems to me based on your explanation of
8 why they changed from the standards is to, like you said,
9 flatten out the roads and --
10 A It costs more money, that's right.
11 Q -- it costs too much money. So that doesn't seem
12 to me to have anything to do with the house per se, but a
13 road issue?
14 A No, you're talking about the, why the, their
15 design standard would change from six inches to two feet as
16 to the pre-2001 versus the post-2001.
17 Q Okay. Okay. So in, I'll just switch over to your
18 May 13th memo then. You continue to maintain that the six
19 inch based analysis is valid and it's based on, like I said,
20 standard in effect when the driveway was constructed. So
21 for what purpose are you saying that it's still valid, that
22 it is of relevance for consideration in this case?
23 A Well, I think the point I was trying to make is
24 that there was, I don't know what the legal term is, an
25 error or something when this house was approved or the

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1 driveway was approved because you do not meet the state
2 requirements.

3 MS. CITARAMANIS: Well, I think we have a
4 conflict. Can you hold that thought for a moment?
5 THE WITNESS: Sure.
6 MS. CITARAMANIS: Okay. Let's take a few minute
7 break.
8 (Recess)
9 MS. CITARAMANIS:
10 Q The Board needs this room in the morning and staff
11 has to clean it and make it presentable, so we're just
12 running up against time in terms of having to leave by 5:30.
13 We need to wrap it up. Do we think that's a doable -- I
14 know you got an extension past 5:00.
15 MS. LEE-CHO: I think so.
16 MS. CITARAMANIS: But --
17 MR. KNOPF: We should be able to finish this
18 witness by then.
19 MS. CITARAMANIS: Okay. I mean that's what I
20 figured, we were on cross, but I didn't realize -- I've
21 never stayed this late. So that's why Ms. Robeson --
22 MR. KNOPF: We're in big trouble now, huh?
23 MS. CITARAMANIS: Yeah, that's what, yeah, Ms.
24 Robeson came in to make me aware of that. So I apologize
25 for interrupting your cross-examination. So if you want to

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1 go ahead?
2 MS. LEE-CHO: I just --
3 MS. CITARAMANIS: Repeat the question or --
4 BY MS. LEE-CHO:
5 Q I understand your point, Mr. Mehra, on the, on
6 your defense of looking at the 2001 standard. We'll just
7 leave that as is. One other question I had, you said you
8 said you used cars to measure and it's just out of
9 curiosity, the car that was for the intersection sight
10 distance that was driving southbound on Layhill Road --
11 A Uh-huh.
12 Q -- toward the driveway, you said the blinkers were
13 on and they were on the cell phones and the point at which
14 they saw each other --
15 A Southern, right.
16 Q -- they told each other. So then at that point
17 what happened? I mean did the guy get out of his car and --
18 A Well, he put a marker on the pavement and then he
19 pulled the car over somewhere and then went back and
20 measured the distance with a measuring needle. So the
21 distance was measured using a measuring needle, not the
22 odometer or any such thing. I just want to make clear
23 because odometer readings are not accurate.
24 Q But, okay, so would you agree then, though, the
25 applicable AASHTO standards to properly measure sight

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1 distance for the purpose that you were asked to do in this
2 case the second time is under the 2011 standards, would you
3 agree with that?
4 A I'm sorry, you said the proper?
5 Q AASHTO standards, the proper --
6 A Yeah.
7 Q -- AASHTO standards --
8 A Yeah.
9 Q -- from 2011?
10 A They were 2011.
11 Q Not the 2001, pre-2001?
12 A Well, I mean that was done more to show that the
13 current setting did not meet the requirements that were in
14 effect when the house was built.
15 Q But for what, what I don't understand is what
16 purpose that and what relevance that lends to what we're
17 trying to assess here?
18 MR. KNOPF: I think you already asked that and he
19 answered it.
20 MS. CITARAMANIS: No, I'm a little confused too.
21 I think that trying to just find out that if you were to do
22 a study for somebody else, you'd have to use the AASHTO
23 standards for today.
24 MS. LEE-CHO: Right. If the --
25 MS. CITARAMANIS: Correct?

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1 MS. LEE-CHO: If the --
2 MS. CITARAMANIS: Is that -- no?
3 MS. LEE-CHO: If your witness, witness can see the
4 error and we can move on, but he's continuing to assert --
5 MR. KNOPF: Yes.
6 MS. LEE-CHO: -- that there is a valid --
7 MR. KNOPF: Yes, because he doesn't believe there
8 is an error and I can bring it out on recross. So why don't
9 we get him there?
10 BY MS. LEE-CHO:
11 Q So you're --
12 A Either way, we've done, we've done the analysis
13 both ways. We've done the old guidelines with the six
14 inches object height and we've done it with the new one with
15 the two feet object height. And we did these measurements
16 before we got any results from anyone. It was our
17 understanding that, to make sure we cover all bases. We did
18 both ways.
19 Q Would you agree, though, that your April 25th
20 report makes no mention of the fact that you were doing a
21 pre-2001 based study?
22 A No.
23 Q Does anywhere in your report indicate other than
24 you're doing a sight distance analysis --
25 A No, we thought --

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1 Q -- for a safe ingress and egress?
2 A Yeah, I don't remember seeing that in there, so we
3 probably didn't do it.
4 Q Okay. I understand that there is discrepancy in
5 numbers and we will obviously get clarification as indicated
6 by the Hearing Examiner with technical staff, but I guess
7 what I am confused about is you're asserting that this
8 house, the driveway, the way it was sided, it shouldn't have
9 been sided there back when it was built pre-2001. However,
10 it seems to me under current standards within the realm of,
11 and we'll figure out the discrepancies, but how do you
12 reconcile the fact that under current standards the siding
13 of the driveway doesn't seem to be a whole, significantly
14 off, but you're still hanging on to this pre-2001 analysis
15 that you did as having any relevance?
16 A I actually did not say that that's the standard
17 that should be applied and what I said was, as a matter of
18 fact, in my presentation I did briefly touch upon the fact
19 that it absolutely does not meet the pre-2001 standard
20 either to the north or to the south, no direction.
21 Q Why does that matter?
22 A But then what I also said is that we did it using
23 the new guidelines also and the new guidelines and the test
24 every day showed that the stopping sight distance to the
25 north and the intersection sight distance also to the north

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1 both do not meet the current 2011 AASHTO standards.
2 Q Right. And we agreed to disagree with that
3 discrepancy --
4 A Right.
5 Q -- on that issue. I'm just trying to understand
6 why your first statement still has any need to be made, but
7 --
8 A I say it's, either way --
9 Q I've asked it several ways and I'm not getting an
10 answer.
11 MS. CITARAMANIS: Well, it sounds like he's saying
12 that it doesn't meet it under either one, one or two.
13 THE WITNESS: Yes, that's --
14 MS. CITARAMANIS: That's what I'm hearing.
15 THE WITNESS: -- that's basically it, yeah.
16 BY MS. LEE-CHO:
17 Q Why does it matter that it doesn't meet the pre-
18 2001? I'm just trying to get out why --
19 MS. CITARAMANIS: Right.
20 MS. LEE-CHO: -- it matters and I'm not getting an
21 answer.
22 MS. CITARAMANIS: Right.
23 MS. LEE-CHO: So why not?
24 MS. CITARAMANIS: You're not.
25 MS. LEE-CHO: Yes, okay.

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1 BY MS. LEE-CHO:
2 Q You did read the entirety of Mr. Cutro's report,
3 did you not?
4 A Yeah.
5 Q And I noticed then that you focused in on the
6 table on page 1, but you do agree that on page 2 he does
7 explain, which as was testified by Mr. Eapen, the
8 explanation for why there's a plus sign next to the 520 foot
9 measurement for the intersection, that distance to the
10 north? And I wondered if you could just read into the
11 record so we're all clear --
12 A Well, the --
13 Q -- the last paragraph.
14 A The paragraph does mention certain things. Well,
15 what confuses me is that except for the, I think somewhere I
16 read that for safety, personal safety concerns we went from
17 measuring to the center of the southbound lane. Now I've
18 seen some photographs where they're actually performed in
19 the middle of the road. So I'm kind of confused as to they
20 could do that in the middle of the road, but at the same
21 time they could not put a cone to do this, the intersection
22 sight measurement.
23 Q I think that was explained that --
24 MR. KNOPF: Let him, let him finish his answer.
25 BY MS. LEE-CHO:

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1 Q That was explained by my --
2 MS. CITARAMANIS: Well, he's --
3 THE WITNESS: Yes, I'm just saying that --
4 MR. KNOPF: Go ahead. You can finish your answer.
5 THE WITNESS: -- if they can put a cone in the
6 middle of Layhill Road to make some measurement, they could
7 have done the same thing on the north side. Now to avoid
8 that, to avoid going in the middle of the road, I had my
9 staff do a different measurement which is the same thing,
10 but using two automobiles, one here and one on Layhill Road.
11 So nobody, no individual is on the middle of the road trying
12 to do any measurements. I would not go and put a cone in
13 the middle of the road. I --
14 Q I --
15 A -- unless I have a measurement of traffic plan
16 with signs and everything, you know, some way, or some other
17 things.
18 Q All I would like to clarify is that you have
19 presented as part of your testimony that Mr. Cutro's
20 conclusion of 520 feet was contrary to the AASHTO and, in
21 fact he explains that measurement and he actually concludes
22 otherwise on page two. And I just wondered if you had read
23 his actual conclusion?
24 A Well, I've --
25 Q Of, and if you could read the beginning on the

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1 middle of that paragraph where it says however, that entire
2 sentence constitutes his actual conclusion as far as the
3 measurement that he --
4 A He is also saying that the limitation for the
5 sight distance along the edge line is due to roadside
6 vegetation.
7 Q Correct.
8 A The actual sight distance in the center of the
9 southbound lane is somewhat greater.
10 Q Okay.
11 A But I think, again, as I pointed out earlier, if
12 you are 14 1/2 feet behind and you do a line of sight,
13 you're going to have vegetation, so how can you say that the
14 measurement is going to be 600 feet? You can't actually do
15 that.
16 Q I understand that.
17 A That's my assumption.
18 Q I understand you question it, but I just want --
19 you represented that Mr. Cutro's conclusion was --
20 A I said it was arbitrarily.
21 Q But his --
22 A I mean I'll say it again.
23 Q -- conclusion has stated --
24 MR. KNOPF: Would you let him finish please?
25 THE WITNESS: Yes, I say he did not, you know,

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1 measure the 600 feet distance. He measured 520 feet, excuse
2 me, and then he said because he could not go in the middle
3 of the road. I assume that it would be more like 600 feet.
4 BY MS. LEE-CHO:
5 Q Understood. In the middle of that paragraph --
6 MR. KNOPF: Excuse me.
7 BY MS. LEE-CHO:
8 Q -- page two, middle of page two, per AASHTO
9 Greenbrook recommendations, does it not state, "The
10 following positional dimensions were used in our
11 measurement?"
12 A Yes, that was 3902, yes.
13 Q But it indicates the height at which the
14 measurements were all taken?
15 A Right.
16 Q Okay.
17 MS. LEE-CHO: I have nothing further.
18 MS. CITARAMANIS: Go ahead, Mr. --
19 REDIRECT EXAMINATION
20 BY MR. KNOPF:
21 Q Mr. Mehra, am I correct that your measurements
22 were taken, the actual measurements using the two cars to
23 determine the number of feet distance, correct?
24 A That's correct.
25 Q Mr. Cutro's study on page two, which she just

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1 asked you to read in terms of this intersection sight
2 distance to the north, this is on page one of Exhibit 65, he
3 found 520 feet, correct, in that chart?
4 A That's correct.
5 Q And that was below what AASHTO required, is that
6 correct?
7 A That's correct.
8 Q Then on page two, he, am I correct he arrives at
9 600 feet by, quote, "Estimation," unquote, rather than by
10 actual measurement, is that correct?
11 A That's correct, yeah.
12 Q Okay. And -- thank you. Just one last question.
13 If the year was pre-2001 and there were land, there was land
14 along Layhill where these properties are located, and a
15 developer came along and said he was going to put up houses
16 and went to the state and said I'm putting driveways here
17 and there just where they are today, do I understand you
18 correctly the state would have said, no, you cannot do that?
19 A They should have on this particular driveway.
20 Q What?
21 A I don't know about the other driveway.
22 Q Okay. I'm sorry, this particular driveway. Thank
23 you.
24 A Yes, I went down the --
25 Q Is that because the state, when it had an AASHTO

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1 standard of six inches, if you didn't meet that standard,
2 they would not allow subdivision or other development for
3 fear of not safe ingress and egress?
4 A Well, that's the guideline. That State Highway, I
5 mean if you really, they literally took the paragraph from
6 the access manual, from straight out of the access manual
7 and put in my report, the state said if it does not meet the
8 requirement, you are to mitigate. Well, one of the ways to
9 mitigate is to cut the crest off or, you know, raise the
10 height of the driveway --
11 Q So let me --
12 A -- or some other things.
13 Q So if the applicant had built a house and wanted a
14 daycare center in, or in 1999, whatever, the state would
15 have said no because they would be placing the driveway
16 right where it is today and I understand the state would
17 have said no?
18 A That's correct.
19 Q Okay. And is that why you used that standard to
20 show that this would not have been permitted at the time the
21 house was developed?
22 A That's correct.
23 Q Okay.
24 MR. KNOPF: I have no further questions.
25 MS. CITARAMANIS:

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1 MS. LEE-CHO: I plead the Fifth.
2 MS. CITARAMANIS: All right. Well, I'm trying to
3 understand the methodology in terms of, it sounds like there
4 are two different methodologies, one with the cone, one with
5 the car. Does AASHTO specifically say that you have to use
6 a car so people can see each other or is using cones an
7 acceptable methodology in which to do it?
8 THE WITNESS: I think you can do either way. The
9 only problem I have is I have not seen cones that are 3 1/2
10 feet high. Now you can probably put some padding underneath
11 it and raise the cones or do some other things to get the
12 height to be 3 1/2 feet. But we found that, you know, the
13 driver heights of the two automobiles are both 3 1/2 feet
14 above ground, which meets the AASHTO requirement. So we
15 decided to do that rather than trying to put a cone and go
16 through all of that. But if they put the cones at the right
17 height --
18 MS. CITARAMANIS: Okay.
19 THE WITNESS: -- you could, you could do that.
20 MS. CITARAMANIS: So the use of cones was okay,
21 you just, you're not sure that they were at the right
22 height?
23 THE WITNESS: Right.
24 MS. CITARAMANIS: Is that what I'm hearing --
25 THE WITNESS: Yes.

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1 MS. CITARAMANIS: -- you say?
2 THE WITNESS: That's one thing.
3 MS. CITARAMANIS: Okay.
4 THE WITNESS: And then the second thing is they,
5 in their statement they say they measured from the edge of
6 the pavement rather than the center line, but I think it's
7 really where the driver would be. So it's not even the
8 center line of Layhill Road. It would be probably a couple
9 of feet inside.
10 MS. CITARAMANIS: So you're saying the cone has to
11 be in center of the lane, not down the yellow line?
12 THE WITNESS: Not on the yellow line, but where
13 the driver will be and the driver will be sitting in a
14 vehicle --
15 MS. CITARAMANIS: Oh, okay.
16 THE WITNESS: -- probably, you know, driving in
17 the middle of that Layhill Road, which is about 11 feet, I
18 think, per lane. So if your vehicle is seven feet, you have
19 four feet on either, four feet total, so you've got two feet
20 on either side if you're driving in the middle of the road.
21 So you've got the two feet, then you're probably going to
22 have another foot or so space between the edge of the car
23 and where the driver's eyes are. So you're looking at
24 roughly about three feet from the center line.
25 So when they, when they explain that it measured

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1 to the edge of the pavement and then they extrapolated to
2 600 feet by measuring it to the center line, so that also is
3 really not correct because you are not measuring where the
4 driver will be, you're measuring to the center of the road.
5 MS. CITARAMANIS: Okay. And with regards to the
6 14 1/2 feet off, what I was hearing you say was that you
7 measured six feet off and you had a, the, it was --
8 THE WITNESS: It's got, with a line of sight.
9 MS. CITARAMANIS: The line of sight --
10 THE WITNESS: Yeah.
11 MS. CITARAMANIS: -- vegetation was not in your
12 way, but if you actually moved back to the 14 1/2, which is
13 the AASHTO standard, are you saying that you didn't have any
14 line of sight because of the bushes or --
15 THE WITNESS: Well, they will --
16 MS. CITARAMANIS: -- I was trying to --
17 THE WITNESS: There will be a certain point where
18 either the bushes or the crest of the road will obstruct
19 your line of sight. One thing, when you go 14 1/2 feet
20 behind, the vegetation is going to come in and block your
21 view before the, even the road cresting will do that. As a
22 matter of fact, I mean I don't know how to take the Maple
23 Crest, but if you look at the site plan and you do a line of
24 sight at 14 1/2 feet, what you do is you're cutting off your
25 line of sight to open.

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1 MS. CITARAMANIS: Right. Okay. So let's say the
2 bushes are out of there.
3 THE WITNESS: Then it improves the sight distance.
4 MS. CITARAMANIS: Okay. So the testimony was that
5 being 14 1/2 feet back, the driveway is up just a little bit
6 more?
7 THE WITNESS: I, probably I don't remember --
8 MS. CITARAMANIS: You don't recall if it sloped
9 up?
10 THE WITNESS: No, it does slope up but, you know,
11 if you're looking at that from six feet to 14 feet, a 8-foot
12 distance, you know, it could be a couple of inches higher.
13 I don't think it's like, you know, a foot high that will
14 make a really significant impact --
15 MS. CITARAMANIS: Okay.
16 THE WITNESS: -- on sight distance.
17 MS. CITARAMANIS: Okay. And your actual
18 measurements that you were indicating is based on -- were
19 the vehicles moving when they saw each other --
20 THE WITNESS: Yes, well --
21 MS. CITARAMANIS: -- or were they --
22 THE WITNESS: They were driving very slow but,
23 yeah, they were moving because you had to, you had to come
24 in the line of view. So you -- I mean --
25 MS. CITARAMANIS: How did you --

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1 THE WITNESS: -- one way it goes stationary. The
2 one on the driver's is stationary. The one on the
3 southbound Layhill Road is moving.
4 MS. CITARAMANIS: And moving in --
5 THE WITNESS: At a slow speed and so when they
6 kind of see each other, they --
7 MS. CITARAMANIS: How do you mark the road? I
8 guess that's what I was trying to figure out, if these were
9 the cell phone --
10 THE WITNESS: Actually --
11 MS. CITARAMANIS: -- and --
12 THE WITNESS: What we did was we have an orange,
13 heavyweight item --
14 MS. CITARAMANIS: Okay.
15 THE WITNESS: -- so we threw on the --
16 MS. CITARAMANIS: You dropped it out?
17 THE WITNESS: Dropped it out.
18 MS. CITARAMANIS: Okay.
19 THE WITNESS: And then we made it from there to
20 the edge of the driveway --
21 MS. CITARAMANIS: Okay.
22 THE WITNESS: -- with the measuring needle.
23 MS. CITARAMANIS: I didn't, I wasn't quite sure
24 how --
25 THE WITNESS: Right.

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1 MS. CITARAMANIS: -- they were blocked off the
2 road.
3 THE WITNESS: Well, we, we do this all the time,
4 so --
5 MS. CITARAMANIS: Okay. And you always do it with
6 vehicles? Do you ever do it with cones?
7 THE WITNESS: Well, the cones we do on the, if
8 you're doing the stopping sight distance --
9 MS. CITARAMANIS: Okay.
10 THE WITNESS: -- because they need the object
11 height of two feet and that, you have to use a cone when you
12 go to that, yeah.
13 MS. CITARAMANIS: All right. Did my questions
14 generate any questions, Ms. --
15 MS. LEE-CHO: On the cone issue.
16 BY MS. LEE-CHO:
17 Q Taking a look at Joe Cutro's memo, in terms of, on
18 page two where it indicates the positional dimensions --
19 A Uh-huh.
20 Q You indicated that the report did not specify
21 exactly how and what they did in terms of the cone and as
22 you have testified how you've done, how you did the
23 measurement with the vehicles. But do you -- it does
24 represent, do you see where it represents the driver's eye
25 height for all measurements, what they used?

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1 A Yes.
2 Q Is -- can you confirm it is 3 1/2 feet?
3 A Yes, it's 3 1/2 feet.
4 Q So is it not conceivable that they held the cone
5 up to that 3 1/2 foot --
6 A Yes, yes, yes, it is inconceivable.
7 Q But you don't know?
8 A I don't know.
9 Q But you don't know? Okay. We don't have that.
10 A No, that's why I mentioned just now that --
11 MS. CITARAMANIS: Yes.
12 THE WITNESS: -- they could have put something
13 under the cone to raise it or --
14 BY MS. LEE-CHO:
15 Q Or held it?
16 A Or held it.
17 Q You don't know?
18 A Yeah. Yeah.
19 Q Okay. Thank you.
20 MS. CITARAMANIS: Mr. Knopf?
21 MR. KNOPF: No questions. Thank you.
22 MS. CITARAMANIS: Okay.
23 THE WITNESS: Okay.
24 MR. KNOPF: I thank the witness.
25 THE WITNESS: Thank you.

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1 MR. KNOPF: Thank you. Thank you for allowing --
2 MS. CITARAMANIS: Thank you very much.
3 MR. KNOPF: -- this to go on and get over with
4 today. We appreciate that.
5 MS. CITARAMANIS: Yes. Okay. Thank you. All
6 right. It is -- we have, do we have anything else?
7 MR. KNOPF: Well, I do believe we should have an
8 opportunity for closing argument, not necessarily now, but I
9 just --
10 MS. CITARAMANIS: Right. No, and that's what I
11 was going to talk to you about. I didn't know if the
12 petitioner had a rebuttal case that they wanted to do.
13 MR. KNOPF: I do.
14 MS. CITARAMANIS: Okay. And so then that means it
15 won't be today obviously. So we will need to set it in for
16 another hearing and that will certainly give time for me to
17 get these reports to technical staff.
18 MR. KNOPF: Oh, right.
19 MS. CITARAMANIS: I would like to hear from them
20 considering the, both experts gave their methodology and
21 we've just got two numbers that aren't matching up and I, I
22 will need that reconciled.
23 MR. KNOPF: I do have a question.
24 MS. CITARAMANIS: Okay.
25 MR. KNOPF: I mean normally what the Hearing

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1 Examiner does is you send the two reports in and ask staff
2 for comment. Since I do believe staff did not go out and do
3 any measurements, nor do I expect them to go out and
4 actually measure --
5 MS. CITARAMANIS: So I don't know what to expect.
6 I don't know what they will do, but I figure --
7 MR. KNOPF: I'm just wondering whether the staff
8 doesn't need more, they need this explanation what the
9 difference is rather than just the two reports because I
10 don't think that two reports explain what was just explained
11 here in testimony.
12 MS. CITARAMANIS: So what are you suggesting?
13 MR. KNOPF: Maybe the transcript when it's ready
14 gets sent to them?
15 MS. CITARAMANIS: Well, I --
16 MR. KNOPF: Well, just this portion, not the whole
17 thing.
18 MS. CITARAMANIS: Well --
19 MR. KNOPF: Or the best way, we're free to talk to
20 staff.
21 MS. CITARAMANIS: I mean we have the --
22 MS. LEE-CHO: I can't imagine the planning staff
23 reading through the transcript.
24 MS. CITARAMANIS: Yes, I can't imagine that they
25 will either.

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1 MR. KNOPF: Well, are we allowed to contact staff
2 and explain it? I don't want to do anything improper,
3 because I do think it needs -- unfortunately, I don't think
4 either report is self-explanatory, let's put it that way.
5 MS. LEE-CHO: If I may? Normal protocol, I do
6 believe that both reports should be transmitted from the
7 hearing examiner --
8 MS. CITARAMANIS: Okay.
9 MS. LEE-CHO: -- with a request for further
10 information and input from technical staff and that will
11 require some explanation as to what your question is. It
12 does need to be presented as a question from the Hearing
13 Examiner to be answered by the planning staff --
14 MS. CITARAMANIS: Okay.
15 MS. LEE-CHO: -- is my belief.
16 MS. CITARAMANIS: No, I mean that certainly makes
17 sense and I agree that I don't think they would read the
18 transcript. But they have made a finding on the safety so
19 that there is no vehicular safety issue, I mean that's what
20 I found --
21 MR. KNOPF: But they did it without any study.
22 MS. CITARAMANIS: Well, that's why I want to go
23 back because we have two competing experts that say
24 differently and if that is going to make a difference in
25 their opinion with that information, certainly they can have

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1 clarifying questions and I would make sure that you all are
2 included in that because it's, you know, I want to make sure
3 that you all know what is being asked and everything will be
4 on the record and put into the record if there's any email
5 correspondence, although I don't particularly like to do
6 that as a matter of course, but we can certainly -- to get
7 the traffic reports to them and they can certainly come back
8 and say we need more information --
9 MR. KNOPF: Well --
10 MS. CITARAMANIS: -- or whatever. We're going to
11 send our traffic person out and this is what we would do. I
12 mean we could ask Mr. Eapen with his past experience, but we
13 won't.
14 MR. KNOPF: The question then becomes do you sent
15 that out before we have -- I assume the rebuttal is going to
16 include some traffic testimony?
17 MS. LEE-CHO: And I have a logistical issue. Mr.
18 Cutro and Ms. Navid will not be back in the country until
19 after March, May 29th.
20 MS. CITARAMANIS: I was going to say, March, wow.
21 MS. LEE-CHO: I'm sorry, May 29th.
22 MS. CITARAMANIS: I'd get in real trouble if I
23 didn't --
24 MS. LEE-CHO: So --
25 MS. CITARAMANIS: -- finish this before then.

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1 MS. LEE-CHO: -- that's the reason why we do not
2 have --
3 MS. CITARAMANIS: Well, so you're saying after
4 when?
5 MS. LEE-CHO: May 29th --
6 MS. CITARAMANIS: Okay. Well --
7 MS. LEE-CHO: -- is their return date, I believe.
8 MS. CITARAMANIS: Okay.
9 MS. LEE-CHO: So that gives us a little time.
10 MS. CITARAMANIS: And so we need June dates then?
11 MR. KNOPF: So you're talking about having for
12 rebuttal Cutro and/or both?
13 MS. LEE-CHO: I think there have been questions
14 raised with regard to how --
15 MR. KNOPF: Well, I'm not arguing, I just wanted
16 to know.
17 MS. CITARAMANIS: Yes, no, it sounds like she's
18 going to bring them in to testify to their report and --
19 MR. KNOPF: My question simply was whether to
20 avoid having to send two inquiries to staff --
21 MS. CITARAMANIS: True.
22 MR. KNOPF: -- maybe you may want to get it all
23 together and then send the inquiry to staff after we --
24 MS. CITARAMANIS: After -- we can certainly do
25 that. I mean I'm -- I will put it at least out there to

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1 find out if there's something else that they will need, but
2 they will certainly, I mean they'll have his report. I'll
3 send him everybody's report.
4 So I'm going to have to go and find out -- I only
5 have dates through May 28th, so I have to go get some June
6 dates and we will do it as soon as possible in June. Let me
7 -- does anybody know off the top of their head whether they
8 have any, attorneys have any conflict with June?
9 MR. KNOPF: Yes.
10 MS. CITARAMANIS: You do or you don't?
11 MR. KNOPF: With June? I do. June 4 I have a
12 prehearing conference in Frederick.
13 MS. CITARAMANIS: Well, it's much more fun here.
14 MR. KNOPF: Actually, it is.
15 MS. CITARAMANIS: Okay. Well, what --
16 MS. LEE-CHO: Aside from June 7th. It's my son's
17 graduation.
18 MR. KNOPF: No, no, it has to be June 7th.
19 MS. LEE-CHO: It's only preschool graduation.
20 MS. CITARAMANIS: We can go off the record now.
21 I'm going to --
22 MR. KNOPF: Well, wait, we have another --
23 MS. CITARAMANIS: -- my first child's graduation
24 is Saturday, so I was just doing preschool. Let me go get
25 dates.

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1 MR. KNOPF: The 14th.
2 (Recess)
3 MS. CITARAMANIS: Okay. So we are going to
4 continue this hearing to June 11th, 9:30 a.m. in this room
5 and also a second, third -- did I put a third hearing date,
6 of June 24th as well, 9:30. Certainly if on June 11th we
7 complete --
8 MR. KNOPF: So June -- the next hearing date, I
9 gather, will be their rebuttal and then closing, so --
10 MS. CITARAMANIS: That would be my hope that we
11 would have rebuttal and then everybody would do their
12 closings. Okay. And before we go, I want to admit the
13 exhibits. Do we have any objections to the exhibits at this
14 point? If not, then I'm going to -- oh, we need to -- do
15 you want to hold out Exhibit 65(a), the photos for the
16 rebuttal?
17 MS. LEE-CHO: Yes.
18 MS. CITARAMANIS: Because this is the one we
19 deferred. Mr. Eapen was -- am I saying your name correctly?
20 MR. EAPEN: It's Eapen.
21 MS. CITARAMANIS: Oh, Eapen, okay. Do you recall?
22 MR. KNOPF: Yes, those are the ones that are
23 attached to 65?
24 MS. CITARAMANIS: Yes, so I won't admit these.
25 We'll wait until the rebuttal because this is, I believe,

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1 Mr. Cutro --
2 MS. LEE-CHO: Cutro.
3 MS. CITARAMANIS: -- will be able to authenticate
4 --
5 MS. LEE-CHO: Authenticate.
6 MS. CITARAMANIS: -- these. So, but for today I'd
7 like to admit all of the exhibits into the record with the
8 exception of 65(a)(1) and 65(a)(2), the photos that were
9 attached to Mr. Cutro's report into the record. No
10 objection from Mr. Knopf?
11 MR. KNOPF: No.
12 MS. CITARAMANIS: And, Ms. Lee-Cho, no objection?
13 MS. LEE-CHO: No objection.
14 MS. CITARAMANIS: That being the case, all of the
15 exhibits are admitted into the record and I thank everybody
16 for your patience and getting through this long day. We
17 will see you back here on June 11th, 9:30, in this room and
18 I will sent off the reports to staff and ask for them to
19 review it and get back to us if they need something else and
20 we'll go from there, okay?
21 MS. LEE-CHO: Thank you.
22 MS. CITARAMANIS: All right.
23 MR. KNOPF: Thank you.
24 MS. CITARAMANIS: Thank you, everybody, and we are
25 --

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1 MR. KNOPF: Thank you.
2 MS. CITARAMANIS: -- adjourned for the day. I'll
3 see you on the 11th.
4 (Whereupon, at 5:26 p.m., the hearing was
5 concluded.)
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C E R T I F I C A T E

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

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

By:

Tracy Hahn, Transcriber

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