

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY

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

Martin A. Grossman

Hearing Examiner

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A P P E A R A N C E S									
On Behalf of the Petitioner:					1 required for a childcare facility for nine or more children				
					2 in the R-20 zone.				
					3 My name is Martin Grossman, I'm the hearing				
					4 examiner, which means I will write a report and decision in				
					5 this case. Will the parties identify themselves, please,				
					6 for the record.				
Jude Wikramanayake, Esq.					7 MR. WIKRAMANAYAKE: Jude Wikramanayake, on behalf				
					8 of the applicant/petitioner. And to my left is Ms. Samina				
					9 Alizai, who is the applicant. On my right is Nea Mallo, the				
					10 architect.				
					11 MR. GROSSMAN: I'm sorry?				
					12 MS. MALLO: Nea Mallo, Architect.				
					13 MR. GROSSMAN: All right, Ms. Mallo. And, I see				
					14 nobody else in the audience here. Obviously, if there were				
					15 other people here, they would be able to testify as well.				
					16 Do you have any additional witnesses today, other than Ms.				
					17 Alizai and Ms. Mallo?				
					18 MR. WIKRAMANAYAKE: No.				
					19 MR. GROSSMAN: Okay. All right. Let me describe				
					20 these proceedings to you. First of all, they are similar to				
					21 a courtroom. All witnesses are sworn in. They're subject				
					22 to cross-examination, if there were anybody here to cross-				
					23 examine. There's a court reporter who takes everything				
					24 down, and we put a transcript of the proceedings on our				
					25 website, when it's available, usually in a week to 10 days,				
C O N T E N T S									
Witnesses:	Direct	Cross	Redirect	Recross					
Samina Alizai	15	--	--	--					
Nea Mallo	30	--	--	--					
Page 3					Page 5				
P R O C E E D I N G S					1 for your review. It's an oral procedure in that the				
MR. GROSSMAN: This is a public hearing in the					2 witnesses are called, and if there were opposition, then				
matter of Samina Alizai doing business as Smart-Ed Early					3 they would be called.				
Learning Center, OZAH No. CU 15-08, an application for a					4 This is an application for a conditional use. It				
conditional use pursuant to Zoning Ordinance Section 59-					5 used to be called a special exception. Conditional use is a				
6 3.4.4.4(f) to allow a child daycare center for up to 93					6 better term, because people thought when they heard special				
7 children. The subject property is Parcel N-120 in the White					7 exception, that it was like a variance, which it's not. It				
8 Oak Gardens Apartments, located at 11624 Lockwood Drive in					8 is a use that is permitted under the zoning ordinance if				
9 Units T-1, T-2, and T-3, at 11628 Lockwood Drive, and in					9 certain criteria are met, both specified general criteria				
10 Units T-2 and T-3. I guess the other one is 11624 Lockwood					10 that apply to all conditional uses, and specific ones that				
11 Drive, Silver Spring, Maryland 20904, in the R-20 zone.					11 apply to the one you're applying for.				
12 The applicant leases the apartments and the					12 All right. Let me start out, since we have so few				
13 property owner 72 Barrow Street Realty, has authorized this					13 witnesses here. Would the two witnesses raise their hands,				
14 application through its agent, Scott Fixell. The previous					14 please. Raise your right hand, I'm going to swear you in.				
15 operator of the daycare center was Kamini Wayal, under the					15 (Witnesses sworn.)				
16 name of ABC Scholar. On November 18, 2012, Ms. Alizai					16 MR. GROSSMAN: I should note that a motion to				
17 purchased the childcare business from Ms. Wayal. The Board					17 amend the application was noticed on April 15, 2016, Exhibit				
18 of Appeals issued a resolution transferring Special					18 98, and was granted automatically when there was no				
19 Exception S-82 to Ms. Alizai effective June 23, 2015.					19 opposition to that motion to amend received within a 10-day				
20 That's Exhibit 43(a). Approval of this conditional use					20 period. Also, a parking waiver has been requested here				
21 would increase the number of children by 20 for a total of					21 regarding the number of spaces to be provided. And, as				
22 93, with the additional children to be located in Unit T-3					22 required by the zoning ordinance, the applicant has sent out				
23 at 11628 Lockwood Drive. The addition of Unit T-3 at 11638					23 a notice of the proposed parking waiver to the required				
24 Lockwood Drive would also bring to five the total number of					24 recipients on May 17, 2016, that's Exhibit 99.				
25 apartment units in the subject site. A conditional use is					25 We also need an Affidavit of Posting. Usually my				

<p style="text-align: right;">Page 6</p> <p>1 staff is always way ahead of me, so maybe they've already 2 done that with you. They have, and it's Exhibit 104. Why 3 is they're always two steps ahead of me? Ellen is great, 4 and Sara. Okay, and she already entered that on the list. 5 Now, I e-mailed me and you acknowledged receiving 6 it, a list of additional conditions that I may impose if 7 this conditional use is granted. Some of them are typical 8 of this kind of case. Some of them come from the report I 9 filed in a decision in Kamini Wayal case. So let me start 10 out with, do you accept the Technical Staff's finding in 11 Exhibit 101, that is the Technical Staff Report, as part of 12 your own evidence? 13 MR. WIKRAMANAYAKE: Yes, we accept it, and I'll go 14 one step further and say that we agree with all the 15 recommendations that Staff had. 16 MR. GROSSMAN: Okay. Yeah, then that was the 17 second part, the first are the findings. The second part 18 are their recommended conditions in Exhibit 101, which were 19 accepted by the Planning Board, they had recommended seven 20 conditions, as I recall. And you accept all of those? 21 MR. WIKRAMANAYAKE: Yes. 22 MS. ALIZAI: Yes. 23 MR. GROSSMAN: Okay. Now, the additional 11 24 conditions that I e-mailed out to you, that would be 8 25 through 18, do you accept those if those are imposed?</p>	<p style="text-align: right;">Page 8</p> <p>1 MR. GROSSMAN: That's correct. 2 MR. WIKRAMANAYAKE: Are you requiring a sign, or 3 are you just saying that any signs currently on the -- 4 MS. ALIZAI: The one which is on. 5 MR. GROSSMAN: I'm not requiring that you have a 6 sign posted. What I'm trying to say is that, the zoning 7 ordinance has pretty strict regulations governing the nature 8 of signs that are permitted, and it differs from zone to 9 zone. 10 MR. WIKRAMANAYAKE: Okay, right. 11 MR. GROSSMAN: And, so you have to comply with 12 that. I don't know what is posted now. You can present 13 that in your evidence. Usually, if a sign is posted it 14 requires a permit. If, in fact, the sign will, let's say, 15 be a larger area, and for example, in a residential zone, 16 ordinarily the sign size permitted is two square feet of 17 sign. If it's going to exceed that amount, then you have to 18 get what's called a sign variance. It's not the same as the 19 variances that you get from the Board of Appeals. It's done 20 by an application to a sign review board, and then they can 21 decide. And, you know, unless the sign is outlandish, I 22 don't think I would have a problem with it. But, you have 23 to meet the regulations or get a sign variance. What kind 24 of sign is there now, Mr. Vikramanayake? 25 MR. WIKRAMANAYAKE: She will --</p>
<p style="text-align: right;">Page 7</p> <p>1 MR. WIKRAMANAYAKE: We do. I had an opportunity 2 to -- my client had an opportunity to review them, and our 3 architect had an opportunity to review them. We would 4 request some clarification, if possible, on a few of those 5 items. 6 MR. GROSSMAN: All right. Well, do you want to 7 handle that now, or do you want to do it as part of your 8 presentation of your case? How do you wish to proceed? 9 MR. WIKRAMANAYAKE: Well, if it's acceptable to 10 you, I'd like to just ask you now so that I can ask the 11 appropriate questions when Ms. Alizai testifies. 12 MR. GROSSMAN: Absolutely. 13 MR. WIKRAMANAYAKE: And do you prefer to be called 14 by your full name, or Mr. Wikramanayake? What do you 15 prefer, sir? 16 MR. WIKRAMANAYAKE: Whatever you prefer. I mean, 17 I know I have a long name. I've been called worse but, 18 counsel or Mr. Wikramanayake is fine, anything you'd like, 19 Your Honor. 20 MR. GROSSMAN: Okay. All right, thank you. 21 MR. WIKRAMANAYAKE: If I may, No. 17, when you say 22 that the applicant must submit a sign application for the 23 child daycare facility proposing signs location to the Sign 24 Review Board for approval, this is the sign to announce to 25 the public the existence of the use, correct?</p>	<p style="text-align: right;">Page 9</p> <p>1 MS. ALIZAI: It is 18 by -- it is within, you 2 know, the regulation. 3 MR. WIKRAMANAYAKE: There's more than one sign. 4 MR. GROSSMAN: Okay. 5 MS. ALIZAI: And not one of the signs is more than 6 two feet. 7 MR. GROSSMAN: There's more than one sign? I 8 mean, I haven't looked -- I can't recall getting another 9 application like this, other than Wayal in the R-20 zone, so 10 I don't recall off the top of my head what the sign 11 regulation is for that, because it's not detached 12 residential zone. So I'm just not sure, and you know, you'd 13 have to check that out and make sure that the sign, whatever 14 sign is in existence, you either have a permit for already, 15 which is possible, because this was probably a requirement 16 in the Wayal case, or that you get a permit for it, and that 17 a copy of that permit is on file with us. 18 MR. WIKRAMANAYAKE: Okay. Just a clarification. 19 So in essence, for any and all, we'll say signs currently 20 erected or to be erected, they must meet the approval of the 21 Sign Review, Board? 22 MR. GROSSMAN: Well, they have to meet the 23 approval of the Department of Permitting Services if they 24 are going to be in excess of what is permitted in the zone, 25 the Department of Permitting Services will require that you</p>

<p style="text-align: right;">Page 10</p> <p>1 get a variance from the Sign Review Board.</p> <p>2 MR. WIKRAMANAYAKE: Okay, understood. Thank you.</p> <p>3 Then on Number 18, I understand that that's pretty standard</p> <p>4 language.</p> <p>5 MR. GROSSMAN: It is exactly standard language.</p> <p>6 We use it in all of our conditional uses.</p> <p>7 MR. WIKRAMANAYAKE: Okay. I just wanted to be</p> <p>8 clear if there is an opportunity for the applicant to take</p> <p>9 advantage of any potential grandfathering conditions that</p> <p>10 may exist on the site, I wanted to make sure that there was</p> <p>11 no objection that you had if that actually happened.</p> <p>12 MR. GROSSMAN: I'm not sure I understand that</p> <p>13 question, because when you say grandfathering, you mean</p> <p>14 that she would apply a prior regulation or one that</p> <p>15 previously existed either in the zoning ordinance or some</p> <p>16 other county rule, is that what you're talking about or</p> <p>17 what?</p> <p>18 MR. WIKRAMANAYAKE: I'm sorry. Let me clarify.</p> <p>19 So, the architect has the ability when applying for permits</p> <p>20 and approvals to cite the age of the building or the prior</p> <p>21 use as a way to request that the governing body that's</p> <p>22 issuing the permit or regulation to consider and precisely</p> <p>23 which set of regulations apply.</p> <p>24 MR. GROSSMAN: Yes.</p> <p>25 MR. WIKRAMANAYAKE: So I just didn't want anything</p>	<p style="text-align: right;">Page 12</p> <p>1 MR. GROSSMAN: It's been around for many years.</p> <p>2 And we include it in all conditional use applications and</p> <p>3 decisions on it. And so does the Board of Appeals.</p> <p>4 MR. WIKRAMANAYAKE: Thank you.</p> <p>5 MR. GROSSMAN: All right. Let's see where we are</p> <p>6 now. Are there any other preliminary or procedural matters</p> <p>7 that you want to talk about?</p> <p>8 MR. WIKRAMANAYAKE: No. I just wanted to make</p> <p>9 sure that all the exhibits were part of the record and there</p> <p>10 was no issue with any of the exhibits that are listed.</p> <p>11 MR. GROSSMAN: Right. Usually at the end of the</p> <p>12 hearing, you'd make a motion to admit all the exhibits, and</p> <p>13 we routinely admit all the exhibits.</p> <p>14 MR. WIKRAMANAYAKE: Okay. So I'm going to save</p> <p>15 that to the end, okay.</p> <p>16 MR. GROSSMAN: Do you wish to make an opening</p> <p>17 statement then?</p> <p>18 MR. WIKRAMANAYAKE: Certainly, yes.</p> <p>19 MR. GROSSMAN: Not required, but you may.</p> <p>20 MR. WIKRAMANAYAKE: Okay, I'll be brief. This is</p> <p>21 an attempt to expand a daycare facility into an adjoining</p> <p>22 unit that shares a common wall at 11628 Apartment T-3 to</p> <p>23 allow the expansion of an additional 20 children. As one of</p> <p>24 the commissioners during the Planning Board said, this is</p> <p>25 one of those uses that she actually would like to encourage</p>
<p style="text-align: right;">Page 11</p> <p>1 that said in this -- or in your opinion or condition -- to</p> <p>2 prevent us from utilizing any potential ability to</p> <p>3 grandfather the use, if we could.</p> <p>4 MR. GROSSMAN: Okay. Well, the only problem I</p> <p>5 have is the use of the term grandfather, because it's taking</p> <p>6 on a very specific meaning in the context of the zoning</p> <p>7 ordinance, the 2014 zoning ordinance as applied, and there</p> <p>8 are very confusing sections in the zoning ordinance applying</p> <p>9 or specifying when older zoning ordinances apply, and when</p> <p>10 they can be followed. And I say it's an issue that is</p> <p>11 currently being discussed as to how we apply it. So, I'm</p> <p>12 not sure whether I'd use the term grandfathering, but my</p> <p>13 intent is that the applicant, if a conditional use is</p> <p>14 granted, follow all applicable laws, regulations, and so on</p> <p>15 of the county and the state.</p> <p>16 This is not so much aimed at the zoning ordinance</p> <p>17 because this procedure is going to determine the following</p> <p>18 of the zoning ordinance. I'm talking about safety</p> <p>19 regulations, things like that, that are administered by the</p> <p>20 fire department, permitting regulations that are</p> <p>21 administered by the Department of Permitting Services, and</p> <p>22 so on. You have to follow all of those. Regulations of the</p> <p>23 state regarding operating a childcare facility. So that's</p> <p>24 the intent of this catchall.</p> <p>25 MR. WIKRAMANAYAKE: Okay.</p>	<p style="text-align: right;">Page 13</p> <p>1 more of. It serves the community. It's primarily based in</p> <p>2 this neighborhood, so there isn't a lot of vehicular traffic</p> <p>3 in. And, Ms. Alizai will testify that from staff to</p> <p>4 parents, to obviously the children, they're all within</p> <p>5 walking distance, very close proximity. So the impact on</p> <p>6 the neighborhood is very minimal, and it's actually</p> <p>7 advantageous and consistent with the goals of the master</p> <p>8 plan. And frankly, consistent with the planning goals of</p> <p>9 our community, to encourage daycare centers and sort of</p> <p>10 walking to work type situations to take advantage of the</p> <p>11 greenspace in our community.</p> <p>12 It's a well-supported application. I think</p> <p>13 there's quite a few letters of support that predated even my</p> <p>14 involvement, but indicating that this is something that is</p> <p>15 desired by members of the community. As the staff at Park</p> <p>16 and Planning has submitted, it is compliant with the</p> <p>17 applicable zoning regulations, and we would respectfully</p> <p>18 request, given that it's not engaging in any new expansion</p> <p>19 of footprint, it's in essence an existing use that's just</p> <p>20 merely expanding into another room. We would ask that you</p> <p>21 approve it subject to all the conditions that you've set</p> <p>22 forth, as well as the conditions of the planning staff.</p> <p>23 MR. GROSSMAN: All right. And, are there specific</p> <p>24 letters of support that you're pointing to in the file?</p> <p>25 MR. WIKRAMANAYAKE: Well, I can -- I could</p>

<p style="text-align: right;">Page 14</p> <p>1 actually submit them if you would give me a moment.</p> <p>2 MR. GROSSMAN: I just wondered if they're in the</p> <p>3 file already.</p> <p>4 MS. ALIZAI: Is that Exhibit 20?</p> <p>5 MR. WIKRAMANAYAKE: It might be Exhibit 20. Thank</p> <p>6 you. Actually, is there -- may I actually take a look at</p> <p>7 the exhibit list, if you have them?</p> <p>8 MR. GROSSMAN: You don't have one on the table</p> <p>9 there?</p> <p>10 MR. WIKRAMANAYAKE: No, no, the actual hard copy</p> <p>11 of the exhibits.</p> <p>12 MR. GROSSMAN: You mean the file?</p> <p>13 MR. WIKRAMANAYAKE: Yes.</p> <p>14 MR. GROSSMAN: You're certainly welcome to look at</p> <p>15 the file.</p> <p>16 MR. WIKRAMANAYAKE: Thank you.</p> <p>17 MS. ALIZAI: It's No. 20.</p> <p>18 MR. GROSSMAN: And here's the file. There's a</p> <p>19 pre-amendment, before you amended it, and the post</p> <p>20 amendment. But you're welcome to look at the whole thing.</p> <p>21 MR. WIKRAMANAYAKE: Thank you.</p> <p>22 MR. GROSSMAN: I just don't recall any -- seeing</p> <p>23 them, and maybe you have them.</p> <p>24 MR. WIKRAMANAYAKE: I don't know if I actually</p> <p>25 copied them.</p>	<p style="text-align: right;">Page 16</p> <p>1 their learning and grow up needs. Since I have academic</p> <p>2 background, I have done research in child development. I</p> <p>3 have been head of the department in University of London</p> <p>4 teaching Bachelor's courses for early childhood education.</p> <p>5 So I went for the best curriculum for children ages three to</p> <p>6 five, which has got five star from Maryland State Department</p> <p>7 of Education. And we are implementing that.</p> <p>8 So all these children, they don't have to go to</p> <p>9 the babysitters anymore. Because when moms work only part-</p> <p>10 time, they can only afford babysitters. So if they have</p> <p>11 one, you know, daycare center at walking distance, not</p> <p>12 everybody has got cars. So this daycare has been really a</p> <p>13 blessing for this community. They just walk down. It</p> <p>14 rains, thunderstorms, snow, but my daycare center is open</p> <p>15 because I have staff that is from the same community. So we</p> <p>16 operate this daycare center in really a good way, which</p> <p>17 facilitates all these moms who are single, other families,</p> <p>18 to just bring their children in and these children spend</p> <p>19 very, very productive time in the daycare center.</p> <p>20 And I was so lucky to have this playground as</p> <p>21 well. So they can play. They can learn. And we also</p> <p>22 provide them breakfast, lunch and afternoon snack. So, I</p> <p>23 never have to advertise it. It's the word of mouth. But</p> <p>24 everybody comes in. And, it is such an interesting place.</p> <p>25 Dynamics change, you know, every other day. Now, yesterday</p>
<p style="text-align: right;">Page 15</p> <p>1 MR. GROSSMAN: I mean, you've got the letters from</p> <p>2 Scott Fixell.</p> <p>3 MR. WIKRAMANAYAKE: I saw that. I just --</p> <p>4 MR. GROSSMAN: There's letters of reference it</p> <p>5 says, No. 20. Take a look at No. 20, (a) through (h).</p> <p>6 MR. WIKRAMANAYAKE: Yeah. It is No. 20. There's</p> <p>7 approximately eight -- they're tabbed at Exhibit 20.</p> <p>8 MR. GROSSMAN: All right.</p> <p>9 MR. WIKRAMANAYAKE: They were in Exhibit 20 (a)</p> <p>10 through (h), about eight, just some letters of parents that</p> <p>11 are supportive of the current situation.</p> <p>12 MR. GROSSMAN: Right. It can't hurt. All right,</p> <p>13 you may proceed to call your first witness.</p> <p>14 MR. WIKRAMANAYAKE: Thank you. If I may call</p> <p>15 Samina Alizai, please.</p> <p>16 1 MR. GROSSMAN: All right. Ms. Alizai, would you</p> <p>17 state your full name and address, please?</p> <p>18 DIRECT EXAMINATION</p> <p>19 MS. ALIZAI: Yes. My name is Samina Alizai, and</p> <p>20 I'm currently operating as Smart-Ed Early Learning Center,</p> <p>21 Daycare Center at White Oak Gardens. And, I've completed my</p> <p>22 three years and it has been really worth spending my time</p> <p>23 there, and being able to serve this community. All these</p> <p>24 children, they don't deserve, you know, to be with nannies</p> <p>25 and other, you know, helpers who do not really tap into</p>	<p style="text-align: right;">Page 17</p> <p>1 I had enrollment of five siblings, which are next door</p> <p>2 neighbors. So isn't it a blessing for them. And this is</p> <p>3 single dad. He was so happy that the kids he can bring them</p> <p>4 here. And since my staff is qualified, obviously as I</p> <p>5 mentioned here, I have academic background. I train staff.</p> <p>6 So, after all that training, they're being able to provide</p> <p>7 the best possible start to these children. So in a way it</p> <p>8 is very, you know, good moment for me that I'm being able</p> <p>9 to, you know, expand to it. End of the day, this is</p> <p>10 business too. So I can see profit as well. I'll be honest.</p> <p>11 So this is helping community. They can bring their children</p> <p>12 here, and they can go off to work.</p> <p>13 MR. GROSSMAN: Okay. Do you have anything</p> <p>14 additional?</p> <p>15 MR. WIKRAMANAYAKE: I have just a few questions.</p> <p>16 MS. ALIZAI: Yes, please, sure.</p> <p>17 BY MR. WIKRAMANAYAKE:</p> <p>18 Q How many children are there currently on the units</p> <p>19 that you're using?</p> <p>20 A I have got 73 children.</p> <p>21 Q Okay. Do you have them broken down by the current</p> <p>22 units?</p> <p>23 A I have to comply with office of licensing</p> <p>24 requirements. I have to take pre-approval is I make any</p> <p>25 minor change. So there is a set pattern of operating this</p>

<p style="text-align: right;">Page 18</p> <p>1 daycare center, and I'm following the same pattern which was 2 being followed by Kamini Wayal. I have got infant room. I 3 have got two-year-old room. I've got three-year-old room. 4 Four-year-old room, and then before and after care. So 5 since a Head Start Program has started and it has expanded 6 in the community, children attend that school for two and a 7 half hours.</p> <p>8 There is a greater demand for those children who 9 are four, and since it is -- I mean, if you look at 10 economic, you know, situation of that place, many families 11 are eligible, you know, to send their children to Head Start 12 Program. It is only two and a half hours. If moms go to 13 work, they need daycare. Since we do before and after care 14 program, children are dropped off in the morning to the 15 daycare. They go to school for two and a half hours. A few 16 children go at two o'clock. A few children go at 12 17 o'clock. They are on schedules in Head Start schools. so 18 now there's a greater demand for the daycare for ages 4 to 19 5. So that those children who have got their school of two 20 and a half hours at all time, they could be at the daycare 21 and parents could work.</p> <p>22 Q Okay. Is the -- can you explain why you desire to 23 specifically expand to unit T-3? Why age group do you 24 intend to serve?</p> <p>25 A Again. I will look at office of childcare</p>	<p style="text-align: right;">Page 20</p> <p>1 Q Would you say that over approximately 90 percent 2 of your current enrollment --</p> <p>3 A And, seven children -- sorry to cut you -- seven 4 children, my own staff children.</p> <p>5 Q Oh, okay.</p> <p>6 A And, when I say these children coming in, they are 7 siblings. So three siblings, four siblings from one family. 8 Bless them, they have big families.</p> <p>9 Q Would you say that the vast majority, 90 percent 10 of the children are within --</p> <p>11 A You know what, it's more than 90 percent now.</p> <p>12 Q Okay.</p> <p>13 MR. GROSSMAN: He has to finish the question. So 14 let Mr. Wikramanayake finish his question before you answer.</p> <p>15 THE WITNESS: Okay.</p> <p>16 BY MR. WIKRAMANAYAKE:</p> <p>17 Q What percentage of children that are enrolled in 18 the current center are within less than a quarter mile?</p> <p>19 A Okay, 90 percent.</p> <p>20 Q Okay.</p> <p>21 A Definitely. Thank you.</p> <p>22 Q Do you expect that trend to continue if you're 23 permitted to expand into 11628 T-3?</p> <p>24 A Yes.</p> <p>25 Q Yes?</p>
<p style="text-align: right;">Page 19</p> <p>1 requirements, and then I'm going to go ahead with, you know, 2 making a decision considering enrollments. I have got more 3 demand of four to five.</p> <p>4 Q Is there a present waiting list for your daycare 5 center?</p> <p>6 A I have got, as I told you, my enrollment is full. 7 So at this time I cannot enroll more children but, five 8 children who have moved to this area, they are obviously 9 next door neighbors. They are waiting.</p> <p>10 Q So there is a waiting list.</p> <p>11 A And the other nine children. So, I do have 14 12 children on the waiting list.</p> <p>13 Q Okay.</p> <p>14 A And many queries in a day. My phone keeps 15 ringing.</p> <p>16 Q And, could you tell us in terms of distance where 17 the majority of the children come from?</p> <p>18 A Okay. It's White Oak Garden alone. My own 19 apartment complex I have 14 children, and as you look, you 20 know, behind the daycare, and they just walk through, you 21 know, a daycare walkway. I have around 13 children on the 22 right side, 14 children on the left side, and then, Enclave 23 Apartments, that is beyond signal, I've got four children. 24 The rest are all down there in Montgomery Apartments which 25 is next to my apartment complex. On my side of complex.</p>	<p style="text-align: right;">Page 21</p> <p>1 A Yes. Definitely.</p> <p>2 Q Do you advertise or solicit for business outside 3 that area?</p> <p>4 A I actually have not done that so far. I've never 5 done any advertisement. I didn't have to, because this 6 daycare already had a way good reputation.</p> <p>7 Q Can you tell us what the traffic situation looks 8 like on a daily basis, how many cars are typically there 9 dropping off children?</p> <p>10 A In the morning I have only school age children who 11 mostly come between 6:30 to 8:00. And then they are off to 12 their bus stops. So, between that time I have got four 13 siblings who walk down from within the apartment complex, 14 and the other four are my teachers children, so they come 15 with them. There's just one car that comes in, in the 16 morning at 6:40 everyday, because mom goes to work in D.C. 17 So these three siblings come with one car. There is one car 18 which comes in at 7:00 to drop off my staff. The rest walk. 19 So around three or four cars come in between 6:30 to 8:00. 20 And 8:00 to 9:00, I have around six children who come in, in 21 two cars. The rest all walk.</p> <p>22 Q Currently how many parking spaces are allocated 23 for the use?</p> <p>24 A We have four. And, since Scott has allowed me to 25 get two more, so all together it's going to be six.</p>

<p style="text-align: right;">Page 22</p> <p>1 MR. GROSSMAN: That's Mr. Scott Fixell?</p> <p>2 THE WITNESS: Yes, please.</p> <p>3 BY MR. WIKRAMANAYAKE:</p> <p>4 Q So the landlord's representative is Mr. Scott</p> <p>5 Fixell, is that correct?</p> <p>6 A Scott Fixell.</p> <p>7 Q And he's indicated that you will have a total of</p> <p>8 six parking spaces --</p> <p>9 A Six parking spaces.</p> <p>10 Q Okay. Now, do you envision that the parking</p> <p>11 spaces based on your current capacity and expected future</p> <p>12 capacity, do you think that the six parking spaces will be</p> <p>13 fully utilized?</p> <p>14 A I mean, it depends. Things change. Currently,</p> <p>15 situation that I have seen for last three years, we are</p> <p>16 good. So six parking spaces will not create any safety</p> <p>17 hazard for my children.</p> <p>18 Q But, the parking spaces are generally not used</p> <p>19 because people don't use vehicles there, correct?</p> <p>20 A Yes.</p> <p>21 MR. GROSSMAN: That's a very leading question, but</p> <p>22 I understand.</p> <p>23 MR. WIKRAMANAYAKE: Okay. Sorry.</p> <p>24 THE WITNESS: Yeah. So, I didn't understand your</p> <p>25 question.</p>	<p style="text-align: right;">Page 24</p> <p>1 Q Specifically, the request for a bike rack. Have</p> <p>2 you seen that?</p> <p>3 A Yes. It is for \$98 only. So, it is being</p> <p>4 installed this week.</p> <p>5 MR. GROSSMAN: That's Exhibit 101.</p> <p>6 BY MR. WIKRAMANAYAKE:</p> <p>7 Q Are you able to fully comply with the seven</p> <p>8 recommendations set forth in the Park and Planning Staff</p> <p>9 Report?</p> <p>10 A Definitely.</p> <p>11 Q And you've had an opportunity -- we received a</p> <p>12 communication from the Office of Zoning and Administrative</p> <p>13 Hearings, is that correct?</p> <p>14 A Yes.</p> <p>15 Q And there were 18 conditions set forth?</p> <p>16 A Yes.</p> <p>17 Q Which is on Exhibit 103?</p> <p>18 A Yes.</p> <p>19 Q Are you able to fully comply with those</p> <p>20 conditions?</p> <p>21 A Yes. Yes, definitely.</p> <p>22 Q Could you tell us a little bit about the current,</p> <p>23 the specific signs that say that you are in business?</p> <p>24 A Okay. I have got these three signs. They're</p> <p>25 actually the same size as ABC Scholar had, because I wanted</p>
<p style="text-align: right;">Page 23</p> <p>1 MR. WIKRAMANAYAKE: I think you answered it.</p> <p>2 THE WITNESS: Okay. I'm sorry about that. I</p> <p>3 mean, because I have been here for last three years. These</p> <p>4 parking spaces are hardly used. One, I had one unannounced</p> <p>5 inspection by zoning, and around 19 parking spaces were</p> <p>6 there. And then Michael Bello, he also visited, and he came</p> <p>7 pretty early in the morning and he saw all parking spaces</p> <p>8 empty.</p> <p>9 MR. GROSSMAN: Are those parking spaces marked off</p> <p>10 as reserved for your use?</p> <p>11 THE WITNESS: Yes, please.</p> <p>12 MR. GROSSMAN: Okay. They have a little sign</p> <p>13 there that says that?</p> <p>14 THE WITNESS: Yes. Four of these.</p> <p>15 BY MR. WIKRAMANAYAKE:</p> <p>16 Q And, will the other two also have the same reserve</p> <p>17 designation?</p> <p>18 A If you say yes, I will order it tomorrow.</p> <p>19 Q It is requested. In fact, have you had an</p> <p>20 opportunity to look at the recommendations from Park and</p> <p>21 Planning Staff?</p> <p>22 A Oh yes, definitely.</p> <p>23 Q And I'm referring to the seven conditions on page</p> <p>24 2 of the Staff Report.</p> <p>25 A Yes, please. Yes.</p>	<p style="text-align: right;">Page 25</p> <p>1 to be in compliance, no changes were made. Only name was</p> <p>2 different.</p> <p>3 Q Okay.</p> <p>4 A Exactly the same location. I didn't use any new</p> <p>5 location to put up a sign.</p> <p>6 Q Tell us where the signs are.</p> <p>7 A One sign is located right at the entrance of the</p> <p>8 daycare center, apartment complex.</p> <p>9 Q Is that on the street?</p> <p>10 A It is actually before that walkway.</p> <p>11 MR. GROSSMAN: Do you have a photograph of that?</p> <p>12 Or is it on your site plan?</p> <p>13 MR. WIKRAMANAYAKE: I don't believe it is on the</p> <p>14 site plan, but let me confirm. Yeah, I don't believe we</p> <p>15 have -- we don't -- I don't believe we have a --</p> <p>16 MR. GROSSMAN: I don't recall seeing a picture of</p> <p>17 it in the staff report.</p> <p>18 THE WITNESS: It is -- yeah, staff recommendation</p> <p>19 had it.</p> <p>20 MR. WIKRAMANAYAKE: Yes, we do have the sign on</p> <p>21 the back -- in our exhibits, and I can show you, but it's</p> <p>22 not the sign. I don't think it's the sign she's referring</p> <p>23 to. I'll proffer there's about four signs. There's one at</p> <p>24 the entrance and one at the exit, which she's referring to,</p> <p>25 that's not pictured or shown on the site plan. And then</p>

<p style="text-align: right;">Page 26</p> <p>1 there is a sign right outside the daycare facility, which is 2 shown on -- it's actually outside the main entrance to the 3 door. 4 THE WITNESS: The main entrance. 5 MR. GROSSMAN: What are you looking at, Mr. 6 Wikramanayake? 7 MR. WIKRAMANAYAKE: I'm looking at -- 8 MR. GROSSMAN: Well, there are photos attached to 9 the staff report. Is that what you're talking about? 10 MR. WIKRAMANAYAKE: Yes. 11 MR. GROSSMAN: Okay. 12 MR. WIKRAMANAYAKE: Attachment 2F. 13 MR. GROSSMAN: Okay. Oh, I see. Welcome to 14 Smart-Ed Early Learning Center. Okay, I see that on the 15 door. All right. 16 BY MR. WIKRAMANAYAKE: 17 Q Other than the sign that's on attachment 2F, and 18 the sign at the entrance and the exit, are there any other 19 signs? 20 A That's all. 21 MR. GROSSMAN: There appears to be a sign -- look 22 at attachment 2A. And it appears to be a sign on the right 23 hand side, and I can't read it, it's too small. Is that one 24 of yours? 25 THE WITNESS: Yes. This is the daycare center</p>	<p style="text-align: right;">Page 28</p> <p>1 MR. GROSSMAN: Okay. 2 THE WITNESS: So as you come down and open the 3 door, you definitely see this. 4 MR. GROSSMAN: Okay. I guess the answer would be, 5 Department of Permitting Services would have to determine 6 whether that fits within the strictures of whatever's 7 allowed in this zone for signs, and they can make that 8 determination and then, if you're required to get a sign 9 variance, I mean, I don't find any of the signs offensive, 10 I'm just saying that if you're required to get a sign 11 variance from the Sign Review Board, then you'd have to do 12 that. But, we just want to make sure. 13 MR. WIKRAMANAYAKE: We agree. 14 MR. GROSSMAN: You said four signs though. Are 15 there four or three? 16 THE WITNESS: I have three signs. And this is the 17 fourth one that we see on the entrance. 18 MR. GROSSMAN: Oh, I see. 19 THE WITNESS: Which is not for public. 20 MR. GROSSMAN: Oh, I see, okay. So they're four 21 including the one on the entrance. Now, where are the other 22 three exactly? 23 THE WITNESS: Entrance of the apartment complex, 24 exit of the apartment complex, and third one on the fence, 25 as you walk, you know, along the walkway.</p>
<p style="text-align: right;">Page 27</p> <p>1 sign. 2 BY MR. WIKRAMANAYAKE: 3 Q Is that one of the two signs that you're 4 describing? 5 A Two signs actually are at the entrance of the 6 apartment complex, and exit of apartment complex. 7 Q Okay. So that's a different sign? 8 A This is the third one. I was telling you three 9 signs. 10 Q Okay. 11 A So this is the third sign on the fence. 12 Q Okay. You don't consider Exhibit 2F -- 13 A This one actually is inside my door, glass door. 14 So we have put up a poster. 15 MR. WIKRAMANAYAKE: Okay. So, I think there's 16 four signs, but perhaps attachment 2, Exhibit F, she doesn't 17 consider that a sign because it's not -- 18 THE WITNESS: It's a poster. 19 MR. GROSSMAN: Well, I guess the question is, is 20 the sign in 2F publicly visible or is it within your 21 structure? 22 THE WITNESS: Mr. Grossman, since all my clients 23 have to come downstairs, so public cannot really -- my 24 daycare center is not on the eye level if you stand outside 25 in the parking space.</p>	<p style="text-align: right;">Page 29</p> <p>1 MR. GROSSMAN: All right. 2 THE WITNESS: Thank you. 3 MR. GROSSMAN: Now let me take a look at the site 4 plan for a second while we're discussing that. Site plan, 5 77. Here it is. 6 MR. WIKRAMANAYAKE: Could you tell us what's our 7 exhibit number on there? We have our own -- 8 MR. GROSSMAN: Oh, you have your own numbering 9 system. You have C-100, Exhibit 9. 10 MR. WIKRAMANAYAKE: Okay. 11 MR. GROSSMAN: But the official OZAH Exhibit 12 Number is 77. 13 MR. WIKRAMANAYAKE: Please bear with me for one 14 moment. 15 MR. GROSSMAN: Sure. Take your time. 16 MR. WIKRAMANAYAKE: I have it, and I'm going to 17 actually share it with the architect, as she is the producer 18 of this document. 19 MR. GROSSMAN: Sure. 20 MR. WIKRAMANAYAKE: Do you have a question about 21 the document? 22 MR. GROSSMAN: Yeah, I do. What I'd like to do is 23 get an amended site plan which indicates the location of the 24 signs. 25 MR. WIKRAMANAYAKE: Okay.</p>

<p style="text-align: right;">Page 30</p> <p>1 MR. GROSSMAN: So that you don't have a question 2 later when the Department of Permitting Services inspector 3 comes out, they don't question the fact that you have the 4 signs, and you'll have the signed permits as well. I take 5 it also, I don't recall, but I didn't look for it 6 specifically but, a copy of your license from the state. Is 7 that in the file? Is there an exhibit number? 8 THE WITNESS: Sure. Yeah, sure, it is. 9 MR. WIKRAMANAYAKE: It might be an existing 10 exhibit, if you want me to come and take a look. 11 MR. GROSSMAN: You can look at the exhibit list, 12 that might be a faster way. I see you have the affidavit of 13 compliance, which I don't -- I'm not even sure that's a 14 required affidavit anymore -- but, let me take a look. 15 MR. WIKRAMANAYAKE: We can, just to make it 16 easier, we can provide you a copy of the current license as 17 a supplement. 18 MR. GROSSMAN: All right. I'm just looking to see 19 if I see it listed here. We had a lot of e-mails. I know 20 we have that. Child Development Program, 42D. Okay, here 21 it is. I mean, that's for the total of 73. Obviously, 22 you'd need to get that expanded before you can operate. 23 THE WITNESS: Yes. 24 MR. GROSSMAN: And when you submit the amended 25 site plan, make sure please that I get also an electronic</p>	<p style="text-align: right;">Page 32</p> <p>1 that Exhibit -- oh, you're looking at the staff report. 2 MR. GROSSMAN: First I was looking at the staff 3 report, yeah. And then the other photos are in Exhibit 83, 4 A-X. 5 MR. WIKRAMANAYAKE: Which is, I guess, our Exhibit 6 15. 7 MR. GROSSMAN: I'd have to look to -- go back in 8 there and see. Hold on. 9 MS. ALIZAI: So, are we looking at these pictures? 10 MR. GROSSMAN: We're going to look at all of them 11 in a second. But, I just want to make sure that they 12 correctly identify -- let's see, I don't know that you -- 13 it's your Exhibit 15. 14 MR. WIKRAMANAYAKE: Right. It's our Exhibit 15, 15 they used it as part of their staff report, so. 16 MR. GROSSMAN: Okay. Some of them are the same, 17 or are they all the same? Well, they have A through X, they 18 only used some of them. 19 MR. WIKRAMANAYAKE: Yeah. 20 MR. GROSSMAN: Let's just make sure. We'll go 21 through theirs and just make sure that they're accurately 22 reflecting the captions, because yours are not particularly 23 captioned. They captioned theirs. So we're going to go 24 through -- start out with Attachment 2 to the staff report. 25 Number A, it says sidewalk leading from the parking lot.</p>
<p style="text-align: right;">Page 31</p> <p>1 copy of that as well, a .pdf of that as well. 2 MS. MALLO: I just want to have a clarification. 3 You just want the locations of the existing sign posted on 4 the site plan? 5 MR. GROSSMAN: Or whatever, you say existing 6 signs, if there are any additional signs planned beyond what 7 are existing, they should be shown to. In other words, the 8 site plan should reflect whatever signage there is, and what 9 there will be, because it'll be -- the site plan that the 10 Department of Permitting Services will look at to determine 11 whether or not you are in compliance. 12 MS. MALLO: Do you need photographs also? 13 MR. GROSSMAN: Well, you have a couple of them. 14 It would not hurt to have photographs of the signs, and 15 then, you know, we can go from there. It certainly wouldn't 16 hurt. And while we're on the subject of photographs, it 17 would not be a bad time, I suppose, if it's all right with 18 you, Mr. Wikramanayake, to identify various photos that are 19 in the file, in Exhibits 83 A-X, and in fact, make sure that 20 the captions on the staff report photos are correct. But 21 why don't we start with that since we referred to the staff 22 report, Exhibit 101, attachment 2 has a series of 23 photographs A-F, and Ms. Alizai, can you take a look at 24 those photographs in Attachment 2 on the staff report. 25 MR. WIKRAMANAYAKE: Just for clarification, is</p>	<p style="text-align: right;">Page 33</p> <p>1 MS. ALIZAI: That's right. 2 MR. GROSSMAN: That accurately depicts that? 3 MS. ALIZAI: Correct. 4 MR. GROSSMAN: And, did you take this photograph? 5 Did you take these photographs? 6 MS. ALIZAI: Ms. Nea Mallo took these photographs. 7 MR. GROSSMAN: Okay. All right. And let me turn 8 to Ms. Mallo, did you take these photographs recently? When 9 did you take the? 10 MS. MALLO: Yes. Just before we prepared the last 11 deadline, when we submitted. 12 MR. GROSSMAN: Okay, so it was this year? 13 MS. MALLO: When did we submit this to you? 14 MR. GROSSMAN: You mean the amended application? 15 MS. MALLO: Yes. No, no, the 30th I think. We 16 submitted on December 30th. 17 MR. WIKRAMANAYAKE: Yeah, it was due late 2015, 18 December 2015. 19 MR. GROSSMAN: Okay. All right. And do these 20 photographs accurately represent the site as it exists now? 21 MS. MALLO: Yes. 22 MR. GROSSMAN: Okay. All right. So let's go back 23 to A, you said was correct. B says sidewalk continuing to 24 front entry. Is that accurate? 25 MS. ALIZAI: Yes.</p>

<p style="text-align: right;">Page 34</p> <p>1 MR. GROSSMAN: All right. And C, the steps 2 leading down from the sidewalk to the entrance level? 3 M. ALIZAI: Yes. 4 MR. GROSSMAN: All right. That's, I take it, the 5 entrance level to your facility? 6 MS. ALIZAI: Yes. 7 MR. GROSSMAN: Okay. D, sidewalk to the front 8 entrance? 9 MS. ALIZAI: Yes, please. 10 MR. GROSSMAN: And then E, steps down to the front 11 entrance? 12 MS. ALIZAI: Yes. 13 MR. GROSSMAN: And, F is the entrance to your 14 daycare center? 15 MS. ALIZAI: Yes, please. 16 MR. GROSSMAN: Okay. All right. So now let's 17 turn to -- 18 MS. ALIZAI: G. 19 MR. GROSSMAN: There is no G. 20 MS. ALIZAI: Okay. We submitted. 21 MR. GROSSMAN: Oh, I take that back. I actually 22 didn't notice that on the flip side, yes. It's G, okay. It 23 says play area. It's a fenced-in play area that services 24 your entire facility? 25 MS. ALIZAI: Yes, please.</p>	<p style="text-align: right;">Page 36</p> <p>1 79. 2 MR. GROSSMAN: Okay. Circulation daycare plan. 3 MR. WIKRAMANAYAKE: Actually, you can look at 79, 4 but if you can also look at 81, since we're on the subject 5 of the play area, Ms. Mallo can state that those are the 6 areas where the pictures were taken from. I think they're 7 demarcated by the -- 8 MS. MALLO: By the sign. 9 MR. GROSSMAN: All right, so you have two fenced- 10 in areas, and one not fenced-in, outside of T-3 does not 11 look like it's fenced-in. 12 MR. WIKRAMANAYAKE: Yes. Ms. Mallo, as part of 13 the plans, are you going to create a fence in the play area 14 of unit T-3? 15 MS. MALLO: Yes. 16 MR. WIKRAMANAYAKE: And if we're looking at Exhibit 17 81, and we're looking at the crosshatching which consists of 18 Exhibit T-3, there appears to be a demarcation of the fenced 19 area, is that right? 20 MS. MALLO: Yes. 21 MR. WIKRAMANAYAKE: Your Honor, do you see that on 22 Exhibit 81? 23 MR. GROSSMAN: On Exhibit 81, I see that two of 24 them indicate they're fenced-in, and the third one opposite 25 T-3, does not indicate it's fenced-in.</p>
<p style="text-align: right;">Page 35</p> <p>1 MR. GROSSMAN: Okay. And, H also play area? 2 MS. ALIZAI: Yes, please. 3 MR. GROSSMAN: Just from a different angle, it's 4 the same play area? 5 MS. ALIZAI: Yes. We have got three play areas, 6 actually. 7 MR. GROSSMAN: Okay. 8 MS. ALIZAI: So this is the second part of that. 9 MR. WIKRAMANAYAKE: Let me just clarify. There's 10 a large play area that faces the rear of the units. It's 11 centrally located, and Exhibit 9 would be a good place to -- 12 MR. GROSSMAN: Right. Our Exhibit No. 77, the 13 site plan. 14 MR. WIKRAMANAYAKE: Right, the site plan. 15 MR. GROSSMAN: And, it actually shows two fenced- 16 in areas. 17 MR. WIKRAMANAYAKE: Correct. 18 MS. MALLO: This Exhibit 11, I don't know what -- 19 this one shows you the play equipment in more detail. The 20 circulation of the play. 21 MR. GROSSMAN: Okay, let's see what that's called. 22 I don't want to get too much confusion. Let's try to call 23 it by our exhibit numbers so that we know what we're talking 24 about. 25 MR. WIKRAMANAYAKE: So, it's going to be Exhibit</p>	<p style="text-align: right;">Page 37</p> <p>1 MR. WIKRAMANAYAKE: There's a proposed line there. 2 MR. GROSSMAN: Can I see the one you're looking 3 at, because it's not on my Exhibit 81. 4 MR. WIKRAMANAYAKE: May I approach? 5 MR. GROSSMAN: Sure. 6 MR. WIKRAMANAYAKE: So this is the -- and I'm 7 pointing to sort of like what's going to be a rectangle 8 area, that is going to be the new proposed fence for T-3. 9 MR. GROSSMAN: I see. 10 MR. WIKRAMANAYAKE: And it's actually outlined. 11 MR. GROSSMAN: So it's a little rectangular area. 12 It's not as large as these other fenced-in areas. 13 MR. WIKRAMANAYAKE: No. And, in fact, if you look 14 at Exhibit 79, which was C-102 -- so we've highlighted the 15 proposed new fence area. 16 MR. GROSSMAN: I see. Okay. Good. So when you 17 do your revised site plan, you should add that in as well, 18 just so your site plan reflects everything that your 19 subplans reflect. Consistent all around. 20 MR. WIKRAMANAYAKE: To be clear, so Exhibit 77 is 21 the site plan, and we will have the -- 22 MR. GROSSMAN: That's the way I think it's been 23 designed on the exhibit list. If you disagree that that 24 should be -- that's the way it's designated. Site plan, the 25 layout showing building complex and location of proposed</p>

<p style="text-align: right;">Page 38</p> <p>1 expansion. If you think one of the other exhibits is more 2 accurately the site plan, then we can -- 3 MR. WIKRAMANAYAKE: No. I think that's the 4 correct one. And so we'll put in the fenced area for 11628, 5 T-3, as well as the signage for our amendment. 6 MR. GROSSMAN: Okay. 7 MR. WIKRAMANAYAKE: Obviously, if there's anything 8 else as well. 9 MR. GROSSMAN: All right, so let's go back to the 10 photographs again. 11 MR. WIKRAMANAYAKE: Yes. If I may point out, Ms. 12 Mallo indicates that on Exhibit 81, if you open that up, Ms. 13 Mallo has demarcated various sites where she's taken 14 photographs from, and they correspond to a letter. And to 15 our exhibit, which if you want to take a look at Exhibit 83, 16 which should be a set of pictures like this. 17 MR. GROSSMAN: Yes. 18 MR. WIKRAMANAYAKE: If you look at Exhibit 83 -- 19 MR. GROSSMAN: Let me take that out of the file so 20 I can handle it better. Okay, so these identify the 21 direction of the pictures that are depicted there? 22 MR. WIKRAMANAYAKE: Correct. 23 MR. GROSSMAN: All right. Well, before we get to 24 that, let's finish identifying the ones that are on 25 attachment 2, which are also your pictures, I take it. But,</p>	<p style="text-align: right;">Page 40</p> <p>1 MR. GROSSMAN: Pardon me? 2 MS. MALLO: Yeah, someone from my staff. We 3 recorded it. 4 MR. GROSSMAN: Okay. And, I take it that all of 5 the pictures depicted in Exhibit 83 A-X accurately depict 6 the scene as it exists? 7 MS. MALLO: As it existed in December. 8 MR. GROSSMAN: How about now? 9 MS. MALLO: Yes. I mean, I haven't visited the 10 daycare in the last week, but it should be the same. 11 MR. WIKRAMANAYAKE: Would you like Ms. Alizai to 12 look at the pictures? 13 MR. GROSSMAN: Just so we make sure that we're 14 talking about the same thing here, this expansion. 15 MR. WIKRAMANAYAKE: If you could, what has been 16 marked as Exhibit 83, pictures designated A-Z -- 17 MS. ALIZAI: All these are entirely correct, and 18 daycare center is far more green now, today. 19 MR. WIKRAMANAYAKE: Do they accurately reflect the 20 state and what the daycare center looks like both internally 21 and the exterior as of today? 22 MS. ALIZAI: Absolutely, yes. 23 MR. GROSSMAN: And just to make it a little more 24 complicated, I notice that the last photo on your Exhibit 25 83, even though it's designated X, it should say Z.</p>
<p style="text-align: right;">Page 39</p> <p>1 G and H were play areas and they're both -- I take it they 2 depict the two play areas that are fenced-in in the as 3 shown? 4 MS. ALIZAI: Yes. 5 MR. GROSSMAN: Okay. Then there's a third one 6 that says play areas, that's I, attachment 2I, is that 7 depicting essentially the same general area? 8 MR. WIKRAMANAYAKE: If I could just -- I might be 9 able to help out a little bit. If you look at our pictures 10 on Exhibit 83, the staff reports G, H, I and J are equal to 11 our W, X, Y, and Z. 12 MR. GROSSMAN: Of course. All right, I see that. 13 So that'll be depicted on your chart that shows where 14 they're taken from? 15 MR. WIKRAMANAYAKE: Yes. 16 MR. GROSSMAN: All right. Okay. Well, that does 17 clarify. So I take it that Exhibit 81 is showing 18 essentially all of the photographs that are in attachment 2, 19 plus some additional ones? 20 MR. WIKRAMANAYAKE: Yes. 21 MR. GROSSMAN: As well as the locations they're 22 taken from. And, Ms. Mallo, you took all of these photos 23 also? 24 MS. MALLO: Yes, my staff actually. Yes, we 25 recorded it.</p>	<p style="text-align: right;">Page 41</p> <p>1 MR. WIKRAMANAYAKE: Yes, that's right. Yes. 2 That's correct. I'll note that it's correct on Exhibit 81, 3 so that second X, which is after Y, is actually the Z. 4 MR. GROSSMAN: Okay. So, if nobody objects, I'm 5 going to actually cross out the X in Exhibit 83, A through 6 X, and I'm going to write Z instead, just so we don't get 7 too confused, since we're linking it to Exhibit 81. And, 8 the designation on the exhibit list, I'm going to change 9 that X to a Z, so it's 83 A through Z. Interestingly, on 10 the exhibit list it does say A through Z. But on the 11 exhibit itself, it says A through X. 12 MR. WIKRAMANAYAKE: They were one step ahead of us 13 too. 14 MR. GROSSMAN: She's always ahead of me, I'm 15 telling you. All right. Exhibit 82 in here, your Exhibit 16 14, that's the same as your -- that's just a smaller version 17 of your circulation daycare one, so all of these, you have 18 smaller versions of these in here. Okay. Now with the 19 corrections that we've talked about here, that is, adding 20 the indication of the fence, the proposed fence on the site 21 plan and the addition of the signs, do the plans you 22 submitted accurately reflect what you intend as the 23 operating plans of the facility? 24 MS. ALIZAI: Yes, definitely. 25 MR. GROSSMAN: Okay.</p>

<p style="text-align: right;">Page 42</p> <p>1 MS. ALIZAI: Thank you.</p> <p>2 MR. GROSSMAN: All right, Mr. Wikramanayake?</p> <p>3 MR. WIKRAMANAYAKE: Yes.</p> <p>4 BY MR. WIKRAMANAYAKE:</p> <p>5 Q Have you received any indication from neighbors or</p> <p>6 other members of the community of any nuisances or hazards</p> <p>7 or annoyances of the site?</p> <p>8 A Not yet. And I hope not in the future too.</p> <p>9 Q No complaints, in other words?</p> <p>10 A No complaints at all.</p> <p>11 Q And you have been operating from this center for</p> <p>12 how many years?</p> <p>13 A April 2013 I started working here, so it has been</p> <p>14 three years.</p> <p>15 Q April 2000?</p> <p>16 A Thirteen.</p> <p>17 Q Have you partially noticed any adverse or negative</p> <p>18 effects that your operation has had on the neighborhood?</p> <p>19 A No.</p> <p>20 Q Do you believe that the operation of the current</p> <p>21 daycare has provided a benefit to the neighborhood and the</p> <p>22 community?</p> <p>23 A Definitely. Loads of benefits.</p> <p>24 Q Is it your expectation that the expansion of the</p> <p>25 daycare unit would have a positive benefit to the</p>	<p style="text-align: right;">Page 44</p> <p>1 graduated, whom I'm planning to hire. One is my current,</p> <p>2 you know, child who is attending the daycare's auntie. So,</p> <p>3 she lives right in the apartment complex.</p> <p>4 Q I'm sorry, she's your current child, did you --</p> <p>5 A Current, you know, child attending the daycare</p> <p>6 center.</p> <p>7 Q And it's her aunt, did you say?</p> <p>8 A Yes.</p> <p>9 Q Okay.</p> <p>10 A So since that child walks, aunt is going to walk</p> <p>11 as well, and they live right in the daycare center, you</p> <p>12 know, apartment complex.</p> <p>13 Q All right. How many staff do you anticipate</p> <p>14 hiring for the expansion?</p> <p>15 A I would need three, definitely.</p> <p>16 Q Okay, and what hours would they typically work?</p> <p>17 A Usually opening time. It depends on schedule of</p> <p>18 children. If babies, infants, are scheduled, I need to have</p> <p>19 infant staff in the morning. So, around four to five staff</p> <p>20 are there by 7:30. And then, 8:30 I have all eight. At ten</p> <p>21 o'clock, they start taking their break. So, usually they</p> <p>22 get overtime as well. But currently 12 staff, it works for</p> <p>23 me. That staffing pattern.</p> <p>24 Q Twelve staff?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 43</p> <p>1 neighborhood and the community?</p> <p>2 A It is an asset to the community because two staff</p> <p>3 members that I'm going to hire are living, you know, right</p> <p>4 across the complex, so it will be an opportunity for</p> <p>5 employment, of people living in closer community, and</p> <p>6 obviously, they are going to come to the daycare as well,</p> <p>7 children living close.</p> <p>8 Q Let's discuss the staffing. When you determine</p> <p>9 who works at the daycare center are one of the factors, the</p> <p>10 proximity to the center?</p> <p>11 A Actually, since I am the only person who does</p> <p>12 hiring, I believe in going for the staff who lives very</p> <p>13 close to the daycare. Yeah.</p> <p>14 Q How many staff members drive to work?</p> <p>15 A One is dropped off in the car. The rest live way</p> <p>16 close to the daycare.</p> <p>17 Q So none of the staff members use the parking</p> <p>18 areas? They don't park there?</p> <p>19 A One elderly teacher, she usually, the day she has</p> <p>20 doctor's appointment, she brings car and she goes to the</p> <p>21 doctor, and that is the only day. Otherwise, no. They all</p> <p>22 walk.</p> <p>23 Q Do you expect that trend to continue with the</p> <p>24 expanded?</p> <p>25 A I interviewed actually two bachelors, girls who</p>	<p style="text-align: right;">Page 45</p> <p>1 Q So once the expansion occurs, what will be the</p> <p>2 total staff?</p> <p>3 A That will be 15.</p> <p>4 MR. GROSSMAN: And, so there would be a total of</p> <p>5 15 on site at any given time? Or a maximum of 15 is what</p> <p>6 the --</p> <p>7 MS. ALIZAI: There are shifts as well, Mr.</p> <p>8 Grossman. It depends on attendance of children as well. I</p> <p>9 have to stay in compliance.</p> <p>10 MR. GROSSMAN: Right.</p> <p>11 MS. ALIZAI: So, if I need more staff, they will</p> <p>12 definitely be on the premises. And in case, like I mention</p> <p>13 here, two and a half hours school of children. So that two</p> <p>14 and a half hour school of children, if children are out, I</p> <p>15 don't need two staff for 10 children. One will take break.</p> <p>16 So they kind of have flexible schedule.</p> <p>17 MR. GROSSMAN: Right. Let me explain what I'm</p> <p>18 getting at. There's a maximum imposed by the recommended</p> <p>19 condition of the planning staff, of 15 non-residential</p> <p>20 employees.</p> <p>21 MS. ALIZAI: Yes, please.</p> <p>22 MR. GROSSMAN: Will there be any occasion that you</p> <p>23 would need to exceed that maximum of 15 employees?</p> <p>24 MS. ALIZAI: No, no.</p> <p>25 MR. GROSSMAN: Then I'm sure there are also</p>

<p style="text-align: right;">Page 46</p> <p>1 minimum requirements that the state imposes.</p> <p>2 MS. ALIZAI: Yes.</p> <p>3 MR. GROSSMAN: So you're between the maximum and</p> <p>4 the minimum, I take it?</p> <p>5 MS. ALIZAI: Yes, please.</p> <p>6 MR. GROSSMAN: Okay. Because I'm not interested</p> <p>7 in restricting your staff in a way that will cause you a</p> <p>8 problem under the state regulations.</p> <p>9 MS. ALIZAI: Thank you so much.</p> <p>10 MR. GROSSMAN: But I just want to make sure that</p> <p>11 that's what's suggested here as the recommended maximum.</p> <p>12 The reason why the county planning staff imposes a maximum</p> <p>13 is because of traffic. They're interested in making sure</p> <p>14 that any conditional use does not impose an unfair burden on</p> <p>15 the community in terms of traffic. So that's the reason it</p> <p>16 imposes a maximum.</p> <p>17 Also, as a witness noted in one of my earlier</p> <p>18 childcare cases, sometimes there's an overlap when staff</p> <p>19 shifts over. That is, when you have some who are coming and</p> <p>20 some are leaving, and so occasionally you have to put in</p> <p>21 some language that says, if there's a five minute overlap</p> <p>22 while some staff arrive, and some leave, so make sure the</p> <p>23 children are attended, that's not an issue with us. It's</p> <p>24 just that's the general maximum of 15 for non-residential</p> <p>25 employees on site at any give time.</p>	<p style="text-align: right;">Page 48</p> <p>1 breaking a wall, I suppose.</p> <p>2 MR. WIKRAMANAYAKE: Yes. Correct, we're</p> <p>3 expanding. We're not going to create a new footprint.</p> <p>4 We're not creating any new space. We're just using current</p> <p>5 space.</p> <p>6 MS. ALIZAI: Yes, please.</p> <p>7 BY MR. WIKRAMANAYAKE:</p> <p>8 Q And to your knowledge, you've been in compliance</p> <p>9 with all the requirements of the two special exceptions that</p> <p>10 you're presently operating under, is that correct?</p> <p>11 A Yes.</p> <p>12 Q And, have you received any notification from the</p> <p>13 government or any other, Department of Permitting Services,</p> <p>14 or anybody that you're not in compliance?</p> <p>15 A Never.</p> <p>16 Q And you've had an opportunity to review the</p> <p>17 statement of case that we submitted?</p> <p>18 A Oh yes.</p> <p>19 Q Which includes some representations concerning</p> <p>20 number of staff, number of parents, and the transportation</p> <p>21 issues, is that correct?</p> <p>22 A Yes.</p> <p>23 Q Are the factual representations in the statement</p> <p>24 of case true and accurate to the best of your knowledge?</p> <p>25 A Yes. Yes, it's true.</p>
<p style="text-align: right;">Page 47</p> <p>1 And, I want to also ask you about one of the</p> <p>2 conditions that I suggested, in terms of the bus stop. Is</p> <p>3 one of your staff, this is my -- the one I numbered, number</p> <p>4 10, children shall be escorted to and supervised at school</p> <p>5 bus stops by an adult or a staff member of the daycare</p> <p>6 center. So, do you have a staff member who --</p> <p>7 MS. ALIZAI: They are always escorted, yeah, with</p> <p>8 a staff member.</p> <p>9 MR. GROSSMAN: I just want to make sure that</p> <p>10 children --</p> <p>11 MS. ALIZAI: And senior staff.</p> <p>12 MR. GROSSMAN: -- are supervised at all times.</p> <p>13 MS. ALIZAI: Oh yes they are. Yes.</p> <p>14 MR. GROSSMAN: Okay. All right. Mr.</p> <p>15 Wikramanayake?</p> <p>16 BY MR. WIKRAMANAYAKE:</p> <p>17 Q And, are you going to expand the footprint of the</p> <p>18 building? Are you going to create or are you going to</p> <p>19 require more building space?</p> <p>20 A No, we don't need to do that.</p> <p>21 Q Everything that you're going to do will be within</p> <p>22 the current confines of what's already built?</p> <p>23 A Exactly. Yeah.</p> <p>24 MR. GROSSMAN: Well, they're adding an apartment,</p> <p>25 but it's not going to be constructed, it's already -- you're</p>	<p style="text-align: right;">Page 49</p> <p>1 Q Are you seeking to expand the hours of operation</p> <p>2 at all?</p> <p>3 A No.</p> <p>4 Q Is there a buffer between the entrance and exit to</p> <p>5 the daycare center and the main road? When I say buffer, is</p> <p>6 there an adequate amount of distance so that the children</p> <p>7 are not right next to the road?</p> <p>8 A Oh no. There is space. We have put our daycare</p> <p>9 sign, so around four feet concrete area is there where</p> <p>10 children stand and wait for their buses. Outside my daycare</p> <p>11 center it's a basic dropout and pick up. Because it is a</p> <p>12 dead end, and nobody else is using that space, other than</p> <p>13 daycare.</p> <p>14 MR. GROSSMAN: In other words, those are the last</p> <p>15 parking spaces in the row?</p> <p>16 MS. ALIZAI: Yes.</p> <p>17 BY MR. WIKRAMANAYAKE:</p> <p>18 Q And, if we look at Exhibit 77, Ms. Alizai, if you</p> <p>19 look at Exhibit 77 --</p> <p>20 A Yes.</p> <p>21 Q -- you see that the daycare center is located some</p> <p>22 distance from Lockwood Drive. Do you see that?</p> <p>23 A Yes.</p> <p>24 Q What is to the back of the center?</p> <p>25 A We have plantation at the backside of the center,</p>

<p style="text-align: right;">Page 50</p> <p>1 and obviously, my fence, which is six feet high. So beyond 2 that fence, plantation. And then, you know, that is 3 backside of the other apartment complex, at a greater 4 distance. 5 MR. GROSSMAN: What do you mean plantation? What 6 does that mean? 7 MS. ALIZAI: We have got trees and bushes, and 8 those are behind our fence. 9 MR. GROSSMAN: Okay. 10 MR. WIKRAMANAYAKE: 11 Q Have you been in continuous operation since you 12 took over the business? 13 A Yes. 14 Q Does your daycare facility fit within the 15 character of the neighborhood? 16 A Oh yes. 17 Q To your knowledge, has your daycare center and 18 operation ever created any traffic issues or parking issues 19 at the site? 20 A Never. 21 Q You've never heard of any complaints? 22 A No, no. 23 Q Never seen any issues? Never seen any -- 24 A Never. Never. 25 Q Are you planning on adding any additional signage</p>	<p style="text-align: right;">Page 52</p> <p>1 MR. WIKRAMANAYAKE: And so, if I may proffer, 2 we're only going to get six spaces for the site, so this is 3 an additional basis for you to consider granting us the 4 parking waiver, as you think I did in S EO3-4. The landlord 5 isn't going to be able to give us another seven parking 6 spaces. So really, six is all we're going to get. It's all 7 we need. But this is additional -- 8 MR. GROSSMAN: So you're just saying that you 9 couldn't get them even if you wanted them? 10 MR. WIKRAMANAYAKE: That's correct. We wouldn't 11 be able to get more parking spaces, correct? 12 MS. ALIZAI: We actually don't need that. At the 13 moment we have empty parking spaces all the time. 14 MR. GROSSMAN: Well, what he's trying to say is 15 that, you know, he understands you don't need them, but 16 since the law, unless you got a waiver, the law would 17 require it. He's asking you if it's possible to get them if 18 you needed them? 19 MS. ALIZAI: No, it is not possible. 20 MR. GROSSMAN: And, well, let me ask you a 21 question. Looking at Exhibit 77, I see that you have the 22 designated six parking spaces, and then right next to it, it 23 says student drop off, pick up. And it looks like it's 24 right in the middle of other parking spaces. So, is that 25 arrow supposed to be pointing to the other parking spaces</p>
<p style="text-align: right;">Page 51</p> <p>1 to the current signage that you have now? 2 A I don't need to. 3 Q So, no? 4 A No. 5 Q And just to be very clear, the six current parking 6 spaces that you will have if you're given the opportunity to 7 expand, will that adequately serve the requirements and 8 needs of your center? 9 A Yes. Yes, please. 10 Q As you can see on the site plan, Exhibit 77, 11 parking spaces are designated by the landlord, is that 12 correct? 13 A Yes, please. 14 Q Is it possible for you to get an additional seven 15 parking spaces? 16 A I do not really need it. 17 MR. GROSSMAN: They're not requesting seven. 18 MR. WIKRAMANAYAKE: No, we're not. I guess what 19 I'm -- if I may proffer, the landlord isn't going to give 20 them more parking spaces. Other than the two that we're 21 getting. 22 MR. GROSSMAN: Yes. 23 MR. WIKRAMANAYAKE: Because I know that part of 24 this is a parking waiver. 25 MR. GROSSMAN: Right.</p>	<p style="text-align: right;">Page 53</p> <p>1 that are not designated as yours, or is it pointing to the 2 middle area there, which is what it appears to be? Ms. 3 Mallo? 4 MS. MALLO: It is the middle. So, when we did the 5 plans, and the client is here to see it, when I visited the 6 site, all those spots in front of it is always empty, and 7 it's basically the spot, it's just the space in the middle. 8 That's where the kids get dropped off. There's no like 9 additional place for the student, for the kids to be dropped 10 off. 11 MR. GROSSMAN: Yes, but what about the spaces that 12 are -- I don't know which way is, is north designated on 13 your plan here? Where is north on this plan? 14 MS. MALLO: So the student drop off is -- 15 MR. GROSSMAN: Tell me where north is on the plan? 16 MS. MALLO: I don't see it here. 17 MR. GROSSMAN: If I might suggest, it's always a 18 good idea because when we refer to a spot on the plan, it's 19 so much easier if you can say it's to the east of it, to the 20 west of it, or whatever. But if you don't have a 21 designation -- 22 MS. MALLO: I will add that in the amendment. 23 MR. GROSSMAN: But in the meantime, can you tell 24 me by looking at any of your area things where north is? 25 MR. WIKRAMANAYAKE: New Hampshire Avenue is</p>

<p style="text-align: right;">Page 54</p> <p>1 north/south, which is like here. So this north. North 2 would be -- 3 MS. MALLO: Facing up. 4 MR. WIKRAMANAYAKE: Facing up. South facing down. 5 MR. GROSSMAN: I love it when north faces up, 6 because it's so confusing when it doesn't. But in any 7 event, all right, so then, looking at your plan, 77, so 8 directly to the east of the demarked parking spaces that 9 belong to the, or that will be marked off for this site, is 10 where you have a student drop off. And then, to the east of 11 that are additional parking spaces that have no markings on 12 them as designated for this use. Are those used by the 13 community in general? 14 MS. ALIZAI: By residents. 15 MR. GROSSMAN: By residents, okay. So when 16 children come and are dropped off, I take it that they are 17 dropped off right, just to the east of your demarcated 18 parking spaces, and then they enter on the concrete walking 19 immediately to the north of that, is that the idea? 20 MS. ALIZAI: Yes. They get down from their cars, 21 these are four parking spaces, and once they get down, they 22 are obviously escorted with their parents, and using the 23 walkway they come to the daycare. 24 MR. GROSSMAN: Okay. I just wanted to make sure I 25 knew what was happening with these other parking spaces that</p>	<p style="text-align: right;">Page 56</p> <p>1 to be parked, and then the kid is going to come out. So, 2 maybe the -- again, this is kind of like a gray area, 3 because when you say drop off and pick up, if the car is 4 parked, they are going to be to the designated parking area 5 and the kid comes out and go. 6 MR. GROSSMAN: Right. 7 MS. MALLO: And I am not sure, and Ms. Alizai can 8 say that, do anytime, do the people just come and does your 9 staff come up there and open the door and take the child 10 from the car? 11 MS. ALIZAI: Actually, daycare center is not 12 really right at the level of street. 13 MS. MALLO: Okay. 14 MS. ALIZAI: So all staff is there taking care of 15 children, and parents, it's their mainly responsibility to 16 bring children with them and sign in. That is the state 17 requirement. 18 MS. MALLO: Okay. So I would amend those arrow to 19 mark at the parking which are reserved, because from what -- 20 MR. GROSSMAN: You mean -- 21 MS. MALLO: At the six parking spot. 22 MR. GROSSMAN: Okay. Well, whatever accurately 23 reflects it is all. 24 MS. MALLO: Yeah. Because then it's more accurate 25 to what she's saying that they have to park the car, take</p>
<p style="text-align: right;">Page 55</p> <p>1 are along the east side of that lot. But they're not part 2 of your operation at all? 3 MS. ALIZAI: Yes. 4 MR. WIKRAMANAYAKE: No, they're not part of -- 5 MS. ALIZAI: They're not part of my operation. 6 MR. WIKRAMANAYAKE: Just to clarify. The bulk of 7 the children are not actually driven to the site, they 8 actually walk, is that correct? 9 MS. ALIZAI: They walk, yes. 10 MR. WIKRAMANAYAKE: So the drop off area is used 11 by what percentage of the enrolled children? 12 MS. ALIZAI: Around 10 percent, eight percent, 13 nine percent. 14 MR. GROSSMAN: Well, whatever percent, we want it 15 to be safe. 16 MR. WIKRAMANAYAKE: Absolutely. 17 MS. ALIZAI: Yeah, exactly. 18 MR. WIKRAMANAYAKE: I didn't want to give the 19 impression that it was sort of like a caravan of people 20 coming in. 21 MR. GROSSMAN: I understood that. 22 MS. MALLO: Can I clarify something? 23 MR. GROSSMAN: Yes, Ms. Mallo. 24 MS. MALLO: When I do the amendment site plan, 25 from what you're saying, it's accurate that the cars going</p>	<p style="text-align: right;">Page 57</p> <p>1 the child and go downstairs and sign in. 2 MR. GROSSMAN: Okay. Where's the bus stop that 3 we're talking about? 4 MS. ALIZAI: Okay. 5 MR. WIKRAMANAYAKE: Why don't you reference the 6 site plan. 7 MS. ALIZAI: Okay. So, Ms. Mallo, if you could -- 8 MR. WIKRAMANAYAKE: And we can designate that in 9 our amendment. 10 MS. ALIZAI: If you could identify that place on 11 this plan, entrance of the daycare center, exit of the 12 daycare center. 13 MR. WIKRAMANAYAKE: He wants to know where the bus 14 stop is. 15 MS. ALIZAI: Okay. Here is the bus stop, right at 16 the rental office. 17 MR. WIKRAMANAYAKE: Why don't you mark something 18 so that we can put it on the record, so I can explain 19 exactly where it is. If I may proffer, Your Honor, if you 20 go to the -- there are two entrances to the apartment 21 complex, with north and south arrows. There is -- if you 22 look to the east entrance, which there is traffic allowed to 23 come both ways, north and south arrows, Ms. Alizai marked a 24 bus stop on Lockwood Drive to the west, immediate west of 25 the entrance.</p>

<p style="text-align: right;">Page 58</p> <p>1 MR. GROSSMAN: Okay.</p> <p>2 MR. WIKRAMANAYAKE: And if you go further west to</p> <p>3 the, I guess the west entrance and exit, on Lockwood Drive</p> <p>4 there's a bus stop immediate to the east of the entrance.</p> <p>5 Those are where the two bus stops are. And we will</p> <p>6 designate that on our amendment.</p> <p>7 MR. GROSSMAN: And you say you have staff members</p> <p>8 that are there?</p> <p>9 MS. ALIZAI: Yes, please. And I would add to</p> <p>10 that, if you allow me to. For children who are 4-year-olds</p> <p>11 and who attend Head Start, their buses come inside the</p> <p>12 complex.</p> <p>13 MR. GROSSMAN: Okay.</p> <p>14 MS. ALIZAI: So we don't have to walk them down to</p> <p>15 the bus stop.</p> <p>16 MR. GROSSMAN: Then they drop kids off right at</p> <p>17 the area marked student drop off and pick up in their bus?</p> <p>18 MS. ALIZAI: Yes.</p> <p>19 MS. MALLO: Is that accurate? Where do they get</p> <p>20 dropped off?</p> <p>21 MR. WIKRAMANAYAKE: I apologize. Could you ask</p> <p>22 that question again?</p> <p>23 MR. GROSSMAN: So, Ms. Alizai said that students</p> <p>24 who are the younger ones, 4 years old and younger, I take</p> <p>25 it, they are dropped off directly on the site with the bus.</p>	<p style="text-align: right;">Page 60</p> <p>1 that. Just so the record and the site plan reflects all</p> <p>2 that. All right.</p> <p>3 MR. WIKRAMANAYAKE: May I?</p> <p>4 MR. GROSSMAN: Please.</p> <p>5 BY MR. WIKRAMANAYAKE:</p> <p>6 Q Is your current facility fully compliant with all</p> <p>7 state and local laws?</p> <p>8 A Yes.</p> <p>9 Q Do you agree that your expansion will also comply</p> <p>10 with all state --</p> <p>11 A Yes, yes.</p> <p>12 MR. GROSSMAN: Please let him finish the question</p> <p>13 before you answer yes or no.</p> <p>14 MS. ALIZAI: Okay.</p> <p>15 MR. WIKRAMANAYAKE:</p> <p>16 Q Now, do you understand that through this</p> <p>17 application process we are, assuming that you're given the</p> <p>18 conditional use, you are abandoning your special exception</p> <p>19 S-82? You understand that?</p> <p>20 A It is a little puzzling because --</p> <p>21 MR. GROSSMAN: We'll guarantee that it's puzzling,</p> <p>22 but let me explain it to you, if I can.</p> <p>23 MS. ALIZAI: Yes, please.</p> <p>24 MR. GROSSMAN: You have a couple of different</p> <p>25 special exceptions. One I granted for Ms. Wayal, which</p>
<p style="text-align: right;">Page 59</p> <p>1 So I just wanted to know where that bus stops when it drops</p> <p>2 off on the site.</p> <p>3 MS. ALIZAI: Ms. Mallo, here. If you want to</p> <p>4 explain this. Buses come here.</p> <p>5 MR. WIKRAMANAYAKE: So the bus comes here to drop</p> <p>6 off the younger children?</p> <p>7 MS. ALIZAI: Yes, please. And since the stop sign</p> <p>8 is there, teacher takes them there, and no car can come</p> <p>9 beyond this point.</p> <p>10 MR. WIKRAMANAYAKE: Near the trash area?</p> <p>11 MS. ALIZAI: Yes, please.</p> <p>12 MR. WIKRAMANAYAKE: If you would look --</p> <p>13 MR. GROSSMAN: I see the marked area marked trash.</p> <p>14 MR. WIKRAMANAYAKE: Right. The bus -- Ms. Alizai,</p> <p>15 does the bus carrying the younger children come to the area</p> <p>16 marked near where it says trash?</p> <p>17 MS. ALIZAI: Yes, please.</p> <p>18 MR. WIKRAMANAYAKE: And the bus drops off the</p> <p>19 children and your staff meets the children there?</p> <p>20 MS. ALIZAI: Yes, please.</p> <p>21 MR. WIKRAMANAYAKE: And then the bus exits the</p> <p>22 area?</p> <p>23 MS. ALIZAI: Yes.</p> <p>24 MR. GROSSMAN: That could be marked on there as</p> <p>25 well, for a child bus stop or however you want to designate</p>	<p style="text-align: right;">Page 61</p> <p>1 hasn't been formally transferred over to you by me. The</p> <p>2 Board of Appeals purported to do it, although there's a</p> <p>3 question as to whether they have jurisdiction in that sense,</p> <p>4 over ones that I grant. But, in any event, so you have</p> <p>5 that, and you have one that they granted. Now the question</p> <p>6 is, well, what happens when this conditional use is</p> <p>7 approved? And, you can't have both this conditional use</p> <p>8 that you're applying for here, and you applied for it</p> <p>9 because it adds on an additional apartment to the facility,</p> <p>10 you can't have both this one that is overall, and the</p> <p>11 earlier ones that were approved for smaller portions of it.</p> <p>12 And so once this is approved, we need to do away</p> <p>13 with the old ones so you only have one conditional use which</p> <p>14 you have to follow, the rules of which you have to follow,</p> <p>15 and that conditional use will govern everything that happens</p> <p>16 in the facility, and the Department of Permitting Services,</p> <p>17 when they come around for enforcement or inspection, they</p> <p>18 will be able to just look at one set of rules that governs</p> <p>19 that conditional use.</p> <p>20 So in order to get rid of the old ones, they</p> <p>21 have to be formally abandoned. But, and this is an unusual</p> <p>22 situation, and any order that abandons them will note that</p> <p>23 they've been superceded by this conditional use. So that's</p> <p>24 the idea.</p> <p>25 MR. WIKRAMANAYAKE: Understand. Thank you.</p>

<p style="text-align: right;">Page 62</p> <p>1 MS. ALIZAI: Yeah. Thank you.</p> <p>2 MR. GROSSMAN: It took us a while before we all</p> <p>3 worked this out, because when this application was first</p> <p>4 filed, we saw that there was an issue. There was a problem</p> <p>5 because you couldn't have a new, and the Department of</p> <p>6 Permitting Services had a concern that you were asking for a</p> <p>7 conditional use just to add an apartment, and they wanted to</p> <p>8 have one that reflected the whole ball of wax because it</p> <p>9 really was operating as one larger facility and so on. So,</p> <p>10 after we all got our heads together, I talked to the Board</p> <p>11 of Appeals people, and we talked to your attorney, and so</p> <p>12 on, and after we all figured that out, we decided the best</p> <p>13 way to proceed under the new code, since this is a new</p> <p>14 application, was to have it all as one ball of wax. Okay?</p> <p>15 MS. ALIZAI: Thank you.</p> <p>16 BY MR. WIKRAMANAYAKE:</p> <p>17 Q So, with that understanding, are you prepared to</p> <p>18 abandon the special exceptions S-82 and S-03-4?</p> <p>19 A I would do that but, I still have a few questions</p> <p>20 though. I hope it is not going to have any impact on my</p> <p>21 business. New regulations or anything, but I'm willing to</p> <p>22 do that if, you know, doesn't have any impact on my</p> <p>23 business.</p> <p>24 MR. GROSSMAN: Well, I don't know. I mean, I</p> <p>25 didn't look at, and nor would it be my position to look at</p>	<p style="text-align: right;">Page 64</p> <p>1 asking.</p> <p>2 MS. ALIZAI: Thank you so much. Thank you.</p> <p>3 MR. GROSSMAN: Do you want to call Ms. Mallo, or</p> <p>4 is there any additional questions? She also participated.</p> <p>5 MR. WIKRAMANAYAKE: She has participated. No, I</p> <p>6 don't think it's necessary, other than I'm going to, we're</p> <p>7 going to submit an amended site plan. Do you have a time</p> <p>8 frame on when you'd like that?</p> <p>9 MR. GROSSMAN: What's good for you, sir?</p> <p>10 Ordinarily, I keep the record open usually for 10 days in</p> <p>11 any event, to wait for the transcript, because I require</p> <p>12 that to write my report. So, if 10 days is good for you, we</p> <p>13 could do that.</p> <p>14 MS. MALLO: Yeah, 10 days is good. I guess I</p> <p>15 don't know if a question for you or Ms. Alizai, how many</p> <p>16 copies?</p> <p>17 MR. GROSSMAN: We only require one copy for us.</p> <p>18 One hard copy and one electronic copy. However, we do need,</p> <p>19 whenever there's an amendment to a site plan, we do need to</p> <p>20 have a copy down to the planning department, technical</p> <p>21 staff. And so you'd be required to file that with them as</p> <p>22 well. And, we usually give them some time to respond if</p> <p>23 they have any issues. So I'd give them a week to respond,</p> <p>24 and then the record would close upon their response, or I</p> <p>25 give you another three days if you have anything -- I can't</p>
<p style="text-align: right;">Page 63</p> <p>1 whether or not there are other regulations that apply, other</p> <p>2 than the land use regulations. The ones that concern me are</p> <p>3 the zoning ordinance requirements, and they will be</p> <p>4 specified in this case.</p> <p>5 MS. ALIZAI: Yes.</p> <p>6 MR. GROSSMAN: So I can't answer the other</p> <p>7 question for you. Your attorney can answer it, but I</p> <p>8 cannot.</p> <p>9 MR. WIKRAMANAYAKE: Well, I mean, I can't put on</p> <p>10 the record, the requirements and regulations to get permits</p> <p>11 and other areas of compliance are, you know, that's also an</p> <p>12 issue for the architect. I hate to keep passing the buck</p> <p>13 but --</p> <p>14 MR. GROSSMAN: Well, let's put it this way. If</p> <p>15 this is approved, you would be required to abandon the old</p> <p>16 special exceptions, because you can't have all of them at</p> <p>17 the same time. So, that's just going to be a condition. If</p> <p>18 you want approval of this, it's a condition that the others</p> <p>19 be eliminated.</p> <p>20 MS. ALIZAI: Okay.</p> <p>21 MR. WIKRAMANAYAKE: I actually don't have anything</p> <p>22 further for Ms. Alizai. I would, however, open her up for</p> <p>23 any questions you may have.</p> <p>24 MR. GROSSMAN: I don't have any additional</p> <p>25 questions. I think I've badgered her enough while you were</p>	<p style="text-align: right;">Page 65</p> <p>1 imagine them saying anything because all we're doing is</p> <p>2 reflecting things that they already know about. But they're</p> <p>3 just reflecting on the plan. But, just to give you the</p> <p>4 option, I can do that. We could say, if you needed 10 days,</p> <p>5 or if you need less time, we could make it less time for you</p> <p>6 to submit the amended plan.</p> <p>7 MS. MALLO: Ten days is good.</p> <p>8 MR. GROSSMAN: Okay. So, let me pull out a</p> <p>9 calendar here.</p> <p>10 MS. MALLO: Can I ask you one more question?</p> <p>11 MS. GROSSMAN: Yes, ma'am.</p> <p>12 MS. MALLO: The bus stop on Lockwood Drive is</p> <p>13 designated by the county. The one next to the trash, I</p> <p>14 didn't see a designation of a bus stop inside the property.</p> <p>15 MR. GROSSMAN: You can indicate that as location</p> <p>16 where bus drops off four year old children or whatever.</p> <p>17 MS. MALLO: I just wanted to make sure.</p> <p>18 MR. GROSSMAN: Yeah. You don't have to call it a</p> <p>19 formal bus stop.</p> <p>20 MS. MALLO: Because from where I stand, I'm going</p> <p>21 to be going to the permits with this, and I don't want to</p> <p>22 open another, because if I say it's a bus stop.</p> <p>23 MR. GROSSMAN: You don't have to say bus stop.</p> <p>24 Just however you want to designate to show what it's</p> <p>25 function is.</p>

<p style="text-align: right;">Page 66</p> <p>1 MS. MALLO: Okay. I'll just have a designation 2 and a function. 3 MR. GROSSMAN: Okay. All right. So, we are at 4 June 24. 5 MS. MALLO: We have a holiday weekend. 6 MR. GROSSMAN: Yes, a holiday weekend. It would 7 come out on July 4th. So, I think you, in fairness, should 8 have at least until July 5. Does that give you enough time? 9 MR. WIKRAMANAYAKE: Sure. You want July 6? 10 MS. MALLO: July 6, please. 11 MR. GROSSMAN: July 6, okay. So, amended site 12 plan, that's Exhibit 77, of you'll have a new designation 13 for an exhibit number when you file it but, by July 6. And 14 that'll go both to our office and down to Silver Spring in 15 the Planning Department. 16 MS. MALLO: I'm just going to give it to Mr. Jude. 17 MR. WIKRAMANAYAKE: I'll take care of it. And the 18 electronic copy, would that be something we can e-mail, or 19 you want it on a disc? 20 MR. GROSSMAN: You can e-mail it to me, or you 21 can, you know, put it on a CD. Whatever is more convenient 22 for you. As long as the e-mail not too large because, you 23 know -- in other words, if it exceeds our capacity then that 24 would be a problem. All right. And, so we can give them 25 until July 13 for any staff response. May I suggest a cover</p>	<p style="text-align: right;">Page 68</p> <p>1 MR. GROSSMAN: All right. Then do we have 2 anything further we need to cover? 3 MR. WIKRAMANAYAKE: We don't. I'm going to waive 4 a closing. I think we've covered everything. 5 MR. GROSSMAN: Yes. And I think that, you know, 6 the Technical Staff Report, which analyzed, made findings 7 and conclusions of law regarding the zoning ordinance, 8 you've adopted. So I think that covers that field. If 9 there's nothing further then, we are adjourned. Thank you 10 all. 11 (Whereupon, at 11:18 a.m., the hearing was 12 concluded.) 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 67</p> <p>1 letter on the amended site plan so that staff knows what's 2 happening. And just say these added things that were 3 already understood, but a north/south designation on the 4 plan, and where bus stops are, and where the fence is going 5 to be and so on, so that it's clear to them that it's not 6 adding anything that wasn't already presented to them in 7 the, you know, earlier for their review. And, so they would 8 be respond by the 13th, and then by July 18 any response 9 from the applicant to staff's comment. The record will then 10 close on July 18th. Is that agreeable, Mr. Wikramanayake? 11 MR. WIKRAMANAYAKE: Yes. 12 MR. GROSSMAN: All right. It actually will not be 13 open for further public commentary after today. It's only 14 being held open to receive the amended plan, comments from 15 staff, any response from you, and the transcript. All 16 right. I take it you would wish to have the exhibits moved 17 into evidence? 18 MR. WIKRAMANAYAKE: I would. I would move the 19 admission of all exhibits 1 through 103. 20 MR. GROSSMAN: Well, it's 104 including the 21 affidavit of posting, and we'll accept those into evidence, 22 and their subparts. And, I will admit into evidence the 23 revised site plan that you submit, any comments on those as 24 well. 25 MR. WIKRAMANAYAKE: Thank you.</p>	<p style="text-align: right;">Page 69</p> <p>1 2 C E R T I F I C A T E 3 DEPOSITION SERVICES, INC., hereby certifies that 4 the attached pages represent an accurate transcript of the 5 electronic sound recording of the proceedings before the 6 Office of Zoning and Administrative Hearings for Montgomery 7 County in the matter of: 8 Petition of Smart-Ed Early Learning Center 9 CU 15-08 10 11 By: 12 13 14 Keena Lukacinsky, Transcriber 15 16 17 18 19 20 21 22 23 24 25</p>

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