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Transcript of Administrative Hearing

Date: August 4, 2017

Case: Robin Rice Day Care Center

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Transcript of Administrative Hearing
Conducted on August 4, 2017

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|----|--|----|--|
| 1 | OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS | 1 | KATHLEEN MASON, Resident |
| 2 | FOR MONTGOMERY COUNTY, MARYLAND | 2 | 17408 Park Mill Drive |
| 3 | -----x | 3 | Derwood, Marilyn |
| 4 | In Re: : | 4 | |
| 5 | Robin Rice Daycare : Case No. | 5 | BARBARA FELDMAN, Resident |
| 6 | Application of Robin Rice : CU 17-14 | 6 | 176800 Mill Creek Drive |
| 7 | -----x | 7 | Derwood, MD |
| 8 | | 8 | |
| 9 | HEARING | 9 | ANDRE POLISSEDIJIAN, Resident |
| 10 | Before Hearing Examiner Martin Grossman | 10 | 18028 Mill Creek Drive |
| 11 | Rockville, Maryland | 11 | Derwood, MD |
| 12 | Friday, August 4, 2017 | 12 | |
| 13 | 9:55 a.m. | 13 | CLAIRE DECLINE, Resident |
| 14 | | 14 | 18037 Mill Creek Drive |
| 15 | | 15 | Derwood, MD |
| 16 | | 16 | |
| 17 | | 17 | JEREMY PFEIFER, Resident |
| 18 | | 18 | |
| 19 | | 19 | NANCY MCGINNIS, Resident |
| 20 | | 20 | 17708 Shady Mill Road |
| 21 | | 21 | Derwood, MD |
| 22 | | 22 | |
| 23 | Job: 155052 | 23 | JOHN DUFFY, Resident |
| 24 | Pages: 1 - 326 | 24 | 7725 Dew Wood Drive |
| 25 | Transcribed by: Molly Bugher | 25 | Derwood, MD |
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| 2 | 80I | Google Earth horizontal look between | 47 | 2 | MARTIN GROSSMAN: Ms. Rice, are you ready? |
| 3 | | Midcounty Highway Shady Grove Road, and | | 3 | ROBIN RICE: Yes. |
| 4 | | Muncaster Mill / Staff Defined Neighborhood | | 4 | MARTIN GROSSMAN: And Mr. Nelson, are you ready? All |
| 5 | 80J | Google Earth view of Staff defined | 49 | 5 | right. Let me call the case. Good morning everybody. Okay. |
| 6 | | neighborhood | | 6 | Let me call the case here. This is a public hearing in the |
| 7 | 80K | Google Earth photo with yellow lines from | 49 | 7 | matter of Robin Rice doing business as The Happy Child Care |
| 8 | | Staff Report | | 8 | Nest, OZA number CU17-14. An application for a conditional |
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| 10 | | site | | 10 | allow a child day care center for up to 30 persons, 30 |
| 11 | 80M | Google Earth image showing .34 mile radius | 51 | 11 | children, in her property at 17505 Park Mill Drive in |
| 12 | | around site | | 12 | Derwood, Maryland. The subject site is Lot 8, Block G of |
| 13 | 80N | Google Earth image showing .41 mile radius | 52 | 13 | the Millcreek Town subdivision and it is zoned R200. A |
| 14 | | around site | | 14 | conditional use is required for a child day care center in |
| 15 | 81 | Photo of houses affected by traffic | 70 | 15 | the R200 zone. My name is Martin Grossman. I'm the hearing |
| 16 | 17 | Parking space layout | 88 | 16 | examiner. I will take evidence here today and write a |
| 17 | 85A | DPS Residential Parking Regulations | 213 | 17 | report and decision in this case. I'd ask -- right now we |
| 18 | 85B | Photo of Tom Johnson's Light Commercial Truck | 215 | 18 | have Mr. Nelson. Are you prepared? You ready? |
| 19 | 85C | Photo of five vehicles parked at Tom | 217 | 19 | G. MACY NELSON: Yes. |
| 20 | | Johnson's property | | 20 | MARTIN GROSSMAN: All right. Ms. Rice, you ready? |
| 21 | 85D | Photo of two light commercial vehicles on the | 217 | 21 | ROBIN RICE: Yes. |
| 22 | | street | | 22 | MARTIN GROSSMAN: All right. I would also ask Ms. |
| 23 | 85E | Photo of vehicles with wheels in street | 218 | 23 | Gregorski to come forward and have a seat at counsel table. |
| 24 | | and on public right-of-way | | 24 | And also Ms. Becker. These are folks who have |
| 25 | 85F | Photo of truck with four wheels | 218 | 25 | submitted -- Is Ms. Becker here? |

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| <p>9</p> <p>1 KATIE BECKER: Right here.</p> <p>2 MARTIN GROSSMAN: Please come forward and have a seat</p> <p>3 at counsel table.</p> <p>4 UNIDENTIFIED FEMALE: The projector is going that way.</p> <p>5 MARTIN GROSSMAN: I've invited people who are</p> <p>6 considered parties of record here. Parties of record, the</p> <p>7 applicant automatically, and people who have submitted</p> <p>8 prehearing submissions as required under our rules. In this</p> <p>9 case, this also, Ms. Becker submitted it along with Joan</p> <p>10 Nadine, Rob and Patty Peterson. We can't fit everybody at</p> <p>11 counsel table so I invited Ms. Becker. If one of the other</p> <p>12 people -- if you prefer to have one of the other people as</p> <p>13 the person at counsel table -- ah, light -- then that could</p> <p>14 be the case too, but since the lead person on that</p> <p>15 submission was Ms. Becker, I've invited her. Okay. And the</p> <p>16 applicant has named as witnesses here, herself, her husband</p> <p>17 Abdon Ackad. Did I pronounce that correctly Mr. Ackad?</p> <p>18 ABDON D. ACKAD, JR.: Correct.</p> <p>19 MARTIN GROSSMAN: Okay. And Emily Tettelbaum who is</p> <p>20 the technical staff person from the Planning Department.</p> <p>21 I've also asked Angela Pryor who is the current operator of</p> <p>22 the facility that is the group daycare that presently</p> <p>23 occupies the site, to attend at 1:30 today. The opposition</p> <p>24 in this case, I -- there are over 60 letters which I have</p> <p>25 read. They are collected in Exhibit 40 in this case. There</p> | <p>11</p> <p>1 client of Mr. Nelson's. Barbara Feldman, Jim Snee, and</p> <p>2 Margaret Urban. Also, I received a communication from</p> <p>3 Claire and John Decline, that they wish to testify today.</p> <p>4 Is there anybody else here who wishes to give testimony</p> <p>5 today that is non-repetitive of the things that you will</p> <p>6 hear?</p> <p>7 G. MACY NELSON: Mr. Grossman, may I address that?</p> <p>8 MARTIN GROSSMAN: Yes.</p> <p>9 G. MACY NELSON: I only represent two individuals.</p> <p>10 MARTIN GROSSMAN: Right.</p> <p>11 G. MACY NELSON: Is Breck sustained in this</p> <p>12 proceeding, or not?</p> <p>13 MARTIN GROSSMAN: Whatever makes you comfortable.</p> <p>14 G. MACY NELSON: Okay. I'm representing just two</p> <p>15 individuals, but I've chatted with many people in the</p> <p>16 community of course. My sense is, there are people who want</p> <p>17 to testify. I've counseled them not to do so in a redundant</p> <p>18 fashion.</p> <p>19 MARTIN GROSSMAN: Right.</p> <p>20 G. MACY NELSON: I've shared with some of them that we</p> <p>21 will have opportunities during the break to see how the</p> <p>22 case is going, think about the schedule, and I'll try to</p> <p>23 coordinate them; that testimony.</p> <p>24 MARTIN GROSSMAN: All right.</p> <p>25 G. MACY NELSON: There is some constraint. One citizen</p> |
| <p>10</p> <p>1 are approximately 242 individuals collected and who</p> <p>2 petitioned against -- in opposition in this case. They are</p> <p>3 collected in Exhibit 70. The central points raised by the</p> <p>4 opposition include child safety, noise, kids playing,</p> <p>5 slamming car doors, et cetera, traffic, parking,</p> <p>6 neighborhood safety from traffic, and on street parking</p> <p>7 especially regarding pedestrian safety, regarding</p> <p>8 pedestrians absent a sidewalk compatibility, for example,</p> <p>9 paving in the front yard, commercial entity in a</p> <p>10 residential zone and impact on property values. There are</p> <p>11 numerous other things mentioned. I won't go through them</p> <p>12 now, but those are the main -- the central points raised in</p> <p>13 the opposition letters which I have read. As I</p> <p>14 mentioned -- I mentioned two other parties of record. Also,</p> <p>15 I should mention that Ms. Gregorski has named additional</p> <p>16 witnesses she plans to call and Mr. Nelson represents two</p> <p>17 individuals and they are -- Mr. Nelson, your clients?</p> <p>18 G. MACY NELSON: Beverly Lloyd, 17501 Park Mill Drive.</p> <p>19 Thomas Johnson, 17509 Park Mill Drive.</p> <p>20 MARTIN GROSSMAN: Okay.</p> <p>21 G. MACY NELSON: These are the adjoining properties.</p> <p>22 MARTIN GROSSMAN: Right, and they are parties of</p> <p>23 record here as represented by Mr. Nelson. Ms. Gregorski has</p> <p>24 named additional witnesses she plans to call; Carol Gannon.</p> <p>25 She mentioned Beverly Lloyd, but of course she is already a</p> | <p>12</p> <p>1 has informed me of course that she has got to be leaving</p> <p>2 before the applicant finishes her case. We will deal with</p> <p>3 that sort of problem.</p> <p>4 MARTIN GROSSMAN: Okay.</p> <p>5 G. MACY NELSON: But I will work with everybody to</p> <p>6 streamline it.</p> <p>7 MARTIN GROSSMAN: All right. So I won't to take a list</p> <p>8 of additional people at this point. I will rely Mr. Nelson</p> <p>9 to let me know if there are additional folks after they've</p> <p>10 heard the testimony, who also wish to be heard today. Let</p> <p>11 me explain a little bit about the nature of these</p> <p>12 proceedings. It's a combination of formality and</p> <p>13 informality. We operate pretty much the way a court room</p> <p>14 operates. People are sworn in. Every witness is sworn in.</p> <p>15 They -- every witness is subject to cross-examination.</p> <p>16 There is a court reporter who takes everything down. There</p> <p>17 will be a transcript of these proceedings. It usually takes</p> <p>18 about 10 days to get through. And it will be published on</p> <p>19 OZA's website. The applicant presents her case first. Her</p> <p>20 witnesses are subject to cross-examination. During that</p> <p>21 cross-examination, I should mention that your questions, if</p> <p>22 any, should not include your own testimony. It's just a</p> <p>23 question, not your testimony. Those who wish to testify</p> <p>24 will be given that opportunity. Given the size and the</p> <p>25 number of people here, I think the best way to proceed, and</p> |

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| <p>13</p> <p>1 since we have counsel for some of the opposition, is to let 2 Mr. Nelson cross-examine any witnesses he wishes to cross- 3 examine that are called by the applicant. And then, if 4 there are additional questions by Ms. Gregorski and Ms. 5 Becker, they could ask their questions. If there are any 6 people in the audience who feel something else needs to be 7 covered, they can raise their hands and talk to Mr. Nelson 8 and we'll try to funnel that through Mr. Nelson. Does that 9 sound acceptable to everybody in counsel table? 10 ROBIN RICE: Yes. 11 MARTIN GROSSMAN: Ms. Rice? Okay. Mr. Nelson? 12 G. MACY NELSON: Yes, we will work with everybody to 13 do it. 14 MARTIN GROSSMAN: Okay. All right. Let me mention a 15 couple of things. One is that I know a number of you may 16 have testified or given your opinions before the Planning 17 Board. The Planning Board record itself, that is the 18 testimony, is not before me because that testimony is not 19 given under oath or subject to cross-examination. The 20 Planning Board letter however, is before me and is part of 21 the record here. The report of the technical staff, in 22 fact, there are two reports from the technical staff, they 23 are both before me and are part of the record. Those 24 are -- Exhibit 68 is the Planning Board letter and the 25 Technical Staff Reports are Exhibit 67 and 72. They both</p> | <p>15</p> <p>1 a conditional use. It does not go through a hearing exam so 2 it is not part of my jurisdiction here. If this conditional 3 use is denied, then you can proceed and complain to the 4 Department of Permitting Services about the current use, 5 but it is not a matter before me at this time. Okay. We 6 have microphones? 7 UNIDENTIFIED FEMALE: Yes. 8 MARTIN GROSSMAN: All right. Usually my dulcet tones 9 can be heard with or without a microphone, but all right. 10 Okay. Oh, a couple of other things. I've mentioned a number 11 of letters I've gotten and petitions and so on. You should 12 know up front that a zoning matter is not a plebiscite. 13 Under court decisions, I am not permitted to just count 14 noses and see how many people are for and how many people 15 are against a particular application. My job, as I 16 mentioned, is to look at the zoning ordinance and determine 17 whether the applicant has met her burden of proof in the 18 case of compliance with the zoning ordinance. All right. 19 Let me explain a little bit about what a conditional use 20 is. It used to be called a special exception. That was 21 changed in the 2014 Zoning Ordinance to conditional use 22 because it was a bit of a misnomer. In fact, a conditional 23 use is not an exception to the zoning ordinance. It is not 24 a variance and it is not a rezoning. It is a use that's 25 permitted under the zoning ordinance if certain conditions</p> |
| <p>14</p> <p>1 recommend against approving the conditional use based on 2 findings that there was insufficient parking for the 3 proposed use, that Park Mill Drive is not designed to 4 handle the proposed level of traffic, and that the 5 intensity of the use is not compatible with the surrounding 6 residential neighborhood. A couple of other things; the 7 actual level of care provided to the children in any child 8 day care center is the province of the state, the Maryland 9 State Board of Education, not the Office of Zoning and 10 Administrative Hearings. This is a zoning hearing. My role 11 is to listen to the evidence and decide whether the 12 applicant has met her burden of showing that she complies 13 or the proposed use would comply with all the conditions 14 set forth in the zoning laws. All right. It is also 15 mentioned here that, or in some of the filings, that there 16 are private covenants. This office or this proceeding does 17 not deal with private covenants. The courts have held that 18 those are a matter to be litigated in the courts and not 19 before an administrative zoning hearing. So that is not an 20 issue before me. Also, some of the letters mentioned a 21 concern about the current certificate of occupancy issued 22 by the Department of Permitting Services for the current 23 group daycare finding that to be excessive. That's not an 24 issue here also because a group daycare for up to 12 25 children is what's called a limited use. That is, it's not</p> | <p>16</p> <p>1 are met and they are specified both specific to the 2 particular type of conditional use, in this case a child 3 day care center, and generally for all conditional uses. 4 There is a whole set of conditions. You can look at them in 5 the Technical Staff Report which lists them. As I mentioned 6 before, it's the applicant has the burden of demonstrating 7 that compliance. It's not a question before me as to 8 whether or not child day care centers should be permitted 9 in residential zones. That is not an issue before me. The 10 Council has decided that in what it put in the zoning 11 ordinance. The question here is very specific to this case. 12 It's not even a question of what may have been decided in 13 other conditional use or special exception applications for 14 daycare facilities because they are very fact bound, those 15 decisions. So I know a number of you have submitted copies 16 of prior decisions which pertain to different sites and not 17 to this site. So the question I have to deal with is, is 18 this child day care center at this particular site in this 19 neighborhood, does that meet the standards of compatibility 20 and other standards set forth in the zoning ordinance. 21 Okay. One last thing and that is, this matter does not go 22 to the County Council. It is to be decided by me based on 23 the record adduced here which includes the testimony, 24 exhibits that will be admitted, and so on. If somebody is 25 dissatisfied with what my decision is, there is an option</p> |

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| <p>17</p> <p>1 to go to the Board of Appeals which must decide the case or 2 the appeal or oral argument based only on the record here. 3 Not new facts, just the record here. All right. I guess 4 that covers all of those things. Let me mention a few other 5 preliminary matters. If there are any new exhibits, they 6 must be accompanied by electronic copies in Microsoft Word 7 or text searchable PDFs for text documents; PDFs or non- 8 text documents. A prehearing issue was raised in this case 9 regarding the identity of the proposed provider of the 10 conditional use services. I ruled that that was a 11 legitimate issue to be raised at the hearing. I think the 12 most efficient way to address that issue is to allow the 13 applicant to put on her evidence and then if Mr. Nelson 14 wishes to press his motion or renew his motion, he may do 15 so and then we will decide it at that point. Is that an 16 agreeable way to proceed Mr. Nelson? 17 G. MACY NELSON: That was my plan, to let the 18 applicant present her case. 19 MARTIN GROSSMAN: All right. Ms. Rice is that 20 agreeable? 21 ROBIN RICE: Yes, thank you. 22 MARTIN GROSSMAN: Okay. All right. I should mention 23 that there is a proposed addition and landscape plan on 24 Page 8 of the Technical Staff Report. It's Exhibit 67. That 25 was included as part of Exhibit 20 in our file, in the OZA</p> | <p>19</p> <p>1 MARTIN GROSSMAN: All right. Ms. Becker? 2 KATIE BECKER: (No audible response.) 3 MARTIN GROSSMAN: Okay. We can proceed directly to the 4 applicant's case. Do you have an opening statement you wish 5 to make Ms. Rice? You are not required to. An opening 6 statement would just be a summary -- 7 ROBIN RICE: Yes. 8 MARTIN GROSSMAN: -- of what your intention -- what is 9 intended to be proved. I will give all the parties an 10 opportunity to make an opening statement if they wish to. 11 Ms. Rice? 12 ROBIN RICE: My application is for 30-client children 13 where the existing use is -- Mrs. Angela Pryor is the 14 provider according to the definition in the state COMAR 15 regulations. 16 UNIDENTIFIED FEMALE: Microphone. 17 ROBIN RICE: It's -- 18 MALE: Microphone. 19 MARTIN GROSSMAN: You should be able to hit it on the 20 button there and -- 21 ROBIN RICE: Okay. My application is for 30-client 22 children where the existing use is Angela Pryor's large 23 family daycare certificate of registration where the 24 definitions under those COMAR regulations is the word 25 provider. My application is to get a conditional use for</p> |
| <p>18</p> <p>1 file. For clarity, last night I changed that to be 20B. 2 There are two exhibits in there. There is an existing 3 layout which I have labeled 20A and it's probably -- that 4 does not appear on the exhibit list that we handed out. And 5 the proposed site layout with the addition is now 20B, as 6 in boy. So I think that -- for clarity for the record, if 7 that's referred to, it's helpful to have that as a separate 8 labeled exhibit; 20A and B. All right. We also need an 9 affidavit of posting. Do you have that Ms. Rice? An 10 executed affidavit of posting? 11 ROBIN RICE: Somewhere in there, yes. 12 MARTIN GROSSMAN: All right. Well, it's not -- it 13 wouldn't be a part of the record until today. You 14 can -- during the break; you can take a look to make sure 15 that you have the current affidavit of posting. 16 ROBIN RICE: Okay. 17 MARTIN GROSSMAN: Okay. All right. Are there any other 18 preliminary matters? We will start with you Ms. Rice? Any 19 other preliminary or procedural matters you need to take up 20 at this point? 21 ROBIN RICE: (No audible response.) 22 MARTIN GROSSMAN: All right. Mr. Nelson? 23 G. MACY NELSON: None. 24 MARTIN GROSSMAN: Ms. Gregorski? 25 ANNE GREGORSKI: None thank you.</p> | <p>20</p> <p>1 30-client children and then get a certificate as a center 2 which is a different set of COMAR regulations and then the 3 definition of who is in charge is the word operator. There 4 is no operator under the state definitions for that. 5 MARTIN GROSSMAN: I don't want to make -- I don't want 6 you to make an argument now. 7 ROBIN RICE: That's all right. 8 MARTIN GROSSMAN: This is a chance for you just to say 9 what you intend to prove. 10 ROBIN RICE: Okay. So I intend to prove that the land 11 that I selected is -- meets the general and specific 12 standards of the zoning ordinance and subject to conditions 13 that you write. 14 MARTIN GROSSMAN: Mr. Nelson, do you have an opening 15 statement that you wish to make? 16 G. MACY NELSON: Very briefly. On behalf of Beverly 17 Lloyd and Tom -- 18 MR. GROSSMAN: Speaker. Microphone. 19 G. MACY NELSON: Thank you. On behalf of Beverly Lloyd 20 and Thomas Johnson, I will be very brief. My clients do 21 oppose the application for the conditional use. My clients 22 support staff's recommendation of disapproval. They support 23 the Planning Board's letter recommending disapproval. They 24 assert all the reasons that staff was made as articulated. 25 And my clients live in the two houses immediately adjacent</p> |

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| <p>21</p> <p>1 to the subject property. So yes, they do oppose and we will 2 present evidence in support of our case. 3 MARTIN GROSSMAN: All right. Ms. Gregorski, do you 4 have an opening statement you wish to make? 5 ANNE GREGORSKI: I do not. Thank you. 6 MARTIN GROSSMAN: Ms. Becker? 7 KATIE BECKER: No, thank you. 8 MARTIN GROSSMAN: Okay. All right. Then let's just 9 proceed to the applicant's case. Yes. 10 ANNE GREGORSKI: I just received notice that Mr. Snee 11 has to go at 11:00. He is one of my witnesses. 12 MARTIN GROSSMAN: All right. Well, the normal order of 13 business is to take the applicant's case first. If Ms. Rice 14 is agreeable, we will allow Mr. Snee to testify out of 15 order since it's not a jury here. 16 JIM SNEE: I can wait for her. 17 MARTIN GROSSMAN: Well, she has to put on her case and 18 I'm not sure how long her case is going to take. Are you 19 Mr. Snee? 20 JIM SNEE: Yes. 21 MARTIN GROSSMAN: But if you -- you have to leave at 22 11:00, you said? 23 JIM SNEE: 11:10, yeah. 24 MARTIN GROSSMAN: All right. So you probably won't be 25 able to do that. Ms. Rice, how do you want to proceed here?</p> | <p>23</p> <p>1 MARTIN GROSSMAN: All right. 2 ROBIN RICE: I spent three years trying to find a 3 piece of property that I could apply for a conditional use 4 for 30-client children. I've been a child care business 5 owner since -- 6 MARTIN GROSSMAN: Are you testify now or are you 7 just -- 8 ROBIN RICE: Yes, sir. 9 MARTIN GROSSMAN: All right. So would you raise your 10 right hand please? 11 ROBIN RICE: Yes, sir. 12 MARTIN GROSSMAN: Do you swear or affirm to tell the 13 truth, the whole truth and nothing but the truth under 14 penalty of perjury? 15 ROBIN RICE: Yes, sir. 16 MARTIN GROSSMAN: All right. You may proceed. 17 ROBIN RICE: Okay. I've been a childcare provider 18 business owner, operator of a center since 1983. And in 19 2013, I started looking for a piece of property to purchase 20 to be able to apply for conditional use for 30-client 21 children. When I was looking at the property, it's very 22 important not to select a piece of property like Muncaster 23 Mill Road because it's a highway and just trying to get in 24 and out is hard. The traffic studies are not required for 25 small childcare centers, but the gaps in the traffic to get</p> |
| <p>22</p> <p>1 Do you want to take Mr. Snee's testimony before you begin 2 so it doesn't -- 3 ROBIN RICE: I think it's appropriate, since I have 4 the preponderance of evidence, that I start my case so that 5 everybody knows what I'm trying to do versus starting to 6 say what they don't want me to do. 7 MARTIN GROSSMAN: I think that's fair. So let's do 8 that and we will try to sneak Mr. Snee in. If there is 9 a -- if there -- if for some reason I've forgotten, please 10 raise your hand, let me know, and then we will try to get 11 you in at that point. All right. 12 ROBIN RICE: I might like to suggest that we change 13 the lighting a little bit so that everybody can see. The 14 majority of my case is -- 15 MARTIN GROSSMAN: Yeah. 16 ROBIN RICE: So that everybody can see. 17 MARTIN GROSSMAN: I don't usually -- we ordinarily use 18 OZA's hearing room downstairs so I'm not familiar with what 19 the controls are here. 20 ROBIN RICE: I think we just turn off some lights so 21 everybody could see. It's just too dim. Can you see okay 22 Mr. Grossman? 23 MARTIN GROSSMAN: I can see. 24 ROBIN RICE: All right. And I will start while we 25 fiddle the lights.</p> | <p>24</p> <p>1 in and out are difficult. The original zoning text 2 amendment had an 80 foot right away condition for site use 3 and I did not want to have the driveway going out to a 4 major street. 5 MARTIN GROSSMAN: Well, hold on one second. You have 6 something on the -- projected there. What is that being -- 7 ROBIN RICE: This is Muncaster Mill Road, a major road 8 that is on the right -- is in the area that I eventually 9 bought a property on, but it's an example of the type of 10 road that I think would not be a good piece of property for 11 a conditional use. 12 MARTIN GROSSMAN: Okay. Is this part of a slideshow 13 under the -- do you have copies? Hard copies? 14 ROBIN RICE: Yes, I've got all the pictures for you. 15 MARTIN GROSSMAN: Okay. Let's make sure we have them 16 labeled as exhibits so that we know what you're referencing 17 when it's projected up there. 18 ROBIN RICE: Yes sir. 19 MARTIN GROSSMAN: What is it that you're 20 talking -- can you show me what you're -- 21 ROBIN RICE: This series is called my selection 22 process and I've got all the pictures that I'm going to be 23 showing you that I will submit either before or after I 24 show the slides. 25 MARTIN GROSSMAN: And I don't want to cut you -- I</p> |

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7 (25 to 28)

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| <p>25</p> <p>1 want you to be able to make your case, but what's the 2 relevance of your selection process to this? 3 ROBIN RICE: Part of it -- 4 MARTIN GROSSMAN: The question here is not what your 5 mindset was. The question -- in terms of selecting, but 6 really what it is that you have proposed. 7 ROBIN RICE: It is -- my burden of proof is did I or 8 did I not choose a good piece of property that can meet the 9 general specific standards. 10 MARTIN GROSSMAN: Right. 11 ROBIN RICE: I want to do five minutes. Please let me 12 show you my selection process so that you understand that I 13 did select a really good location for the business. 14 MARTIN GROSSMAN: Okay. I'm going to let you do it, 15 but I'm saying that the other sites that you may be 16 discussing are not really relevant to this. The question 17 is, whether the site you selected is -- 18 ROBIN RICE: Yes. This is my selection process about 19 why it's a good one. 20 MARTIN GROSSMAN: I'm going to let you do it. 21 ROBIN RICE: Thank you, sir. 22 MARTIN GROSSMAN: So I don't have to -- we don't want 23 to argue about it. 24 ROBIN RICE: Okay. So -- 25 MARTIN GROSSMAN: Let me -- first, let's mark the</p> | <p>27</p> <p>1 whatever you want. 2 MARTIN GROSSMAN: The whole -- you mean the whole set? 3 ROBIN RICE: This is one discussion. 4 MARTIN GROSSMAN: Okay, but they have to be given 5 exhibit numbers. 6 ROBIN RICE: Okay. 7 MARTIN GROSSMAN: So it's fine with me to have them 8 as -- overall as exhibit -- 9 ROBIN RICE: Exhibit 1A -- 1 through 9. 10 MARTIN GROSSMAN: Well, no. It will be Exhibit 70 -- 11 ROBIN RICE: Eight. 12 MARTIN GROSSMAN: We have -- we already have 78 13 exhibits here. So this will be 79. All right. So 79 14 overall, is applicant's site selection process. 15 ROBIN RICE: Yes. 16 MARTIN GROSSMAN: What I would ask you to do is -- Ms. 17 Rice. 18 ROBIN RICE: Yes, sir. 19 MARTIN GROSSMAN: Can you come forward? Grab your 20 exhibits -- or Mr. Nelson, thank you. You're going to get 21 your exercise today I think. I put -- I marked that Exhibit 22 79. On each one, as you present it, as you put it up on the 23 board, we will give it an A, a B, et cetera, okay. 24 ROBIN RICE: Okay. 25 MARTIN GROSSMAN: So this will be 79A. Can you mark</p> |
| <p>26</p> <p>1 exhibits that you are projecting. 2 ROBIN RICE: Okay. 3 MARTIN GROSSMAN: Would you bring them up please? And 4 if there are wires here, don't trip on them. 5 ROBIN RICE: This is the series. 6 MARTIN GROSSMAN: Okay. Thank you, Mr. Nelson. 7 G. MACY NELSON: Do we have a copy? 8 ROBIN RICE: No. 9 MARTIN GROSSMAN: You should really have a copy for -- 10 G. MACY NELSON: We'll be -- 11 MARTIN GROSSMAN: Okay. 12 ROBIN RICE: So the -- 13 MARTIN GROSSMAN: Are these part already of what 14 you've submitted? 15 ROBIN RICE: No. 16 MARTIN GROSSMAN: Okay. 17 ROBIN RICE: So the second -- 18 MARTIN GROSSMAN: Really, these should have been 19 submitted in advance, but given that I -- the 20 circumstances, I will allow this to proceed subject to 21 objection. Let's -- what's -- 22 ROBIN RICE: The second -- 23 MARTIN GROSSMAN: What's the first one that I've got? 24 ROBIN RICE: The first one is -- and maybe we should 25 just mark them as the series in my selection process. But</p> | <p>28</p> <p>1 whichever photograph pertains to what you have on the board 2 as 79A? And what does 79A show? 3 ROBIN RICE: It shows Muncaster Mill Road, Highway 4 115. 5 MARTIN GROSSMAN: Okay. And it's an aerial photograph? 6 ROBIN RICE: Yes. 7 MARTIN GROSSMAN: And when was that taken? 8 ROBIN RICE: It is from Google Earth so I don't know 9 when it was taken, but it's -- 10 MARTIN GROSSMAN: Does it fairly represent the way the 11 situation is today? 12 ROBIN RICE: Yes, Google Earth pretty much updates 13 everything -- 14 MARTIN GROSSMAN: All right. And are all of the 15 exhibits relating to this -- to your selection process, are 16 they all aerial photographs from Google Earth? 17 ROBIN RICE: Yes. 18 MARTIN GROSSMAN: Okay. 19 ROBIN RICE: There is one piece of paper in here 20 that's not. 21 MARTIN GROSSMAN: It's not a -- it's not a photograph 22 or it's not a -- it's not from Google Earth? 23 ROBIN RICE: It's COMAR regulations of (inaudible) 24 outdoor activity, when I get there. 25 MARTIN GROSSMAN: Okay. All right. We'll just say 79,</p> |

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| <p style="text-align: right;">29</p> <p>1 aerial photographs, and we'll mark that other exhibit 2 separately. Okay? 3 ROBIN RICE: Okay. 4 MARTIN GROSSMAN: All right. So this is 79A. 5 ROBIN RICE: Yes. 6 MARTIN GROSSMAN: What about 79A? 7 ROBIN RICE: It -- 8 MARTIN GROSSMAN: It's Muncaster Mill Road and what 9 else? 10 ROBIN RICE: Okay. In my selection process, I didn't 11 think I could meet the general specific standards of the 12 zoning ordinance with a driveway going out to a major 13 highway. The original zoning for child care in the '80s had 14 an 80 foot right away condition because they were concerned 15 about site distance to being able to get out. For 12 16 children, you even have to apply for a conditional use in 17 an R200 zone and in or an E2 zone because of the right-of- 18 way condition. It's not there anymore. So I didn't think a 19 major road to be an appropriate place for a small center. 20 Large, yes. Small, no. Then, if you look into a road going 21 into a residential area, and Mill Run Drive is the example. 22 If you get a property that's with a corner lot or the first 23 couple of houses going from a major road into a primary 24 residential road, which is what it is -- 25 MARTIN GROSSMAN: So is that Mill Run Drive that</p> | <p style="text-align: right;">31</p> <p>1 de-sac at what location? 2 ROBIN RICE: Mill Run Drive. A road off of Mill Run 3 Drive. 4 MARTIN GROSSMAN: What road is that? 5 ROBIN RICE: I don't have the road name of the cul-de- 6 sac. 7 MARTIN GROSSMAN: All right. So it's a cul-de-sac off 8 of Mill Run Drive. 9 ROBIN RICE: Yeah. 10 MARTIN GROSSMAN: All right. 11 ROBIN RICE: Another location that's not good and this 12 photograph is about going off of Midcounty Highway on to 13 Miller Fall, there is a street called Mill Creek Drive. 14 MARTIN GROSSMAN: All right. So this is 79D, as in 15 dog. And this is a photograph of what? 16 ROBIN RICE: This shows that if you go into a 17 residential area and these houses wouldn't be that good 18 because it's right by the entrance. Then you go from a 19 primary street to a secondary street. Then you go way up 20 here. Every house that you go by before you get to the site 21 that you choose is going to have the inherent adverse 22 effect to every single house that you drive by. 23 MARTIN GROSSMAN: But what -- 24 ROBIN RICE: So while you don't want -- 25 MARTIN GROSSMAN: What you -- what is a photograph</p> |
| <p style="text-align: right;">30</p> <p>1 your -- 2 ROBIN RICE: This was Mill Run Drive. 3 MARTIN GROSSMAN: That's a photograph, all right. 4 That's an aerial photograph. Would you mark that one as 5 79B? 6 G. MACY NELSON: B. 7 ROBIN RICE: He's got it. 8 MARTIN GROSSMAN: Okay. 9 ROBIN RICE: So I didn't think any of these properties 10 would be appropriate because the queuing and the gap time 11 would be difficult because they slow down to get into the 12 driveway. Cul-de-sacs are a bad idea. 13 MARTIN GROSSMAN: All right. Now, the photograph that 14 you -- each time you reference something we are looking 15 at -- 16 ROBIN RICE: He'll mark it. 17 MARTIN GROSSMAN: -- here, we want to make sure that 18 the record reflects what it is. 19 ROBIN RICE: Yes. 20 MARTIN GROSSMAN: That's why we go through this. 21 ROBIN RICE: Yeah, no problem. 22 MARTIN GROSSMAN: Okay. So this would be 79C. 23 G. MACY NELSON: C. 24 ROBIN RICE: C. 25 MARTIN GROSSMAN: And this is just a picture of a cul-</p> | <p style="text-align: right;">32</p> <p>1 depicting Ms. Rice? 2 ROBIN RICE: The photograph is depicting a street in 3 the area that shows houses way up here. 4 MARTIN GROSSMAN: You say the area. You mean the site? 5 The area of the site? 6 ROBIN RICE: These pictures are -- 7 G. MACY NELSON: Mill Creek subdivision. 8 ROBIN RICE: -- Mill Creek Towne subdivision between 9 four major roads of Midcounty, Shady Grove, and Muncaster 10 Road. This is just an example of the selection process that 11 trying to find -- getting a site that where you have to 12 drive by house after house after house after house, has the 13 inherent adverse effect of the traffic on all the houses 14 that you drive by. 15 MARTIN GROSSMAN: I understand your statement. 16 ROBIN RICE: Okay. 17 MARTIN GROSSMAN: I just want to make sure when you 18 say, up here, it doesn't mean anything to a court record. 19 ROBIN RICE: Okay. 20 MARTIN GROSSMAN: So what you're talking about is, you 21 pointed to the north. I assume the north is on the top part 22 of this photograph. Is that right? 23 ROBIN RICE: Yes, the -- if you go all the way up to 24 the intersection of Mill Creek Drive and Warbler Lane -- 25 MARTIN GROSSMAN: Okay.</p> |

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9 (33 to 36)

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| <p>33</p> <p>1 ROBIN RICE: -- that would be passing by the largest 2 number of houses having the inherent adverse 3 effect -- affect more houses than it would be if you were 4 closer to the major road. 5 MARTIN GROSSMAN: I understand. 6 ROBIN RICE: So I didn't think selecting a property 7 driving by house after house after house would be as good 8 as something closer. 9 MARTIN GROSSMAN: Okay. 10 ROBIN RICE: My next slide shows a house on my street. 11 And this house is 17575 Park Mill Drive. 12 G. MACY NELSON: 525. 13 ROBIN RICE: 525. This shows a house where the front 14 of the property is next to the backyard of a (inaudible) 15 lot. This -- 16 MARTIN GROSSMAN: This will be Exhibit 79E, as in 17 echo. 18 ROBIN RICE: Yes. 19 MARTIN GROSSMAN: Okay. 20 ROBIN RICE: This property shows the -- there could be 21 a non-inherent, adverse effect of the traffic and the 22 parking in the front of this property versus the corner lot 23 in joining their backyard. So I didn't think that type of 24 selection would be a good one. This one is 17508 Park Mill 25 Drive. And --</p> | <p>35</p> <p>1 MARTIN GROSSMAN: -- that this house -- 2 ROBIN RICE: Okay. This is your hearing, sir, whatever 3 you say goes. 4 MARTIN GROSSMAN: It's not a question of who's hearing 5 it is. It's a question of making sure the record identifies 6 what you're saying. 7 ROBIN RICE: And I appreciate your help in doing that. 8 MARTIN GROSSMAN: All right. 9 ROBIN RICE: So 17508 Park Mill Drive is a good 10 example of a larger lot than what I have, but the backyard 11 does not assist in getting the noise away from neighbors of 12 the back of playground because their backyard is next to 13 that property's backyard. So want to -- you want to take a 14 look at the backyard. Who does it affect? My property is 15 17505 Park Mill, as identified in the next slide. And you 16 can see my little bush. 17 MARTIN GROSSMAN: This is another exhibit. This is -- 18 ROBIN RICE: Yes, sir. 19 MARTIN GROSSMAN: This is 79G. 20 ROBIN RICE: And -- 21 MARTIN GROSSMAN: And this is a picture of what? 22 ROBIN RICE: This is a Google Earth picture showing 23 where my property is and it shows that the backyard my 24 property does not affect any other neighbors to the rear 25 because there is no neighbor backyard next to my backyard</p> |
| <p>34</p> <p>1 MARTIN GROSSMAN: Is this another exhibit? 2 ROBIN RICE: This is another exhibit and my husband 3 has got the -- 4 MARTIN GROSSMAN: All right. Then this is 79F, as in 5 Frank. And this one is -- what's the address on here? 6 ROBIN RICE: 17508 Part Mill Drive. 7 MARTIN GROSSMAN: Okay. 8 ROBIN RICE: This one is across the street and over 9 one house from my property. This little tree is my 10 property. In all these slides, that's a pretty easy way to 11 identify it. This property, the lot size is bigger, but if 12 you have a bigger lot size in the back, then you've got 13 your playground is in the back of other people's backyards. 14 MARTIN GROSSMAN: So when you say this house, you're 15 talking about the house at 17508. 16 ROBIN RICE: 17508. 17 MARTIN GROSSMAN: Okay. 18 ROBIN RICE: Yeah, as an example. 19 MARTIN GROSSMAN: I'm sorry to keep interrupting you, 20 but I want to make sure that the record reflects what 21 you're saying. 22 ROBIN RICE: Yes, sir. 23 MARTIN GROSSMAN: If you don't identify when you say, 24 this, the record won't -- 25 ROBIN RICE: Okay.</p> | <p>36</p> <p>1 as far as it being residential use is concerned. 2 MARTIN GROSSMAN: Your backyard abuts Shady Grove 3 Road. 4 ROBIN RICE: My backyard abuts Shady Grove Road and it 5 abuts a park, not a -- 6 MULTIPLE AUDIENCE MEMBERS: No. 7 MARTIN GROSSMAN: Excuse me. No calling out from the 8 audience. 9 MARTIN GROSSMAN: You will have an opportunity to 10 testify or others will testify about where it is and 11 there's also a map that shows where it is. 12 ROBIN RICE: Okay. It is -- 13 MARTIN GROSSMAN: All right. So you say it abuts a 14 park. 15 ROBIN RICE: It's -- it's -- 16 MARTIN GROSSMAN: You mean the park across Shady Grove 17 Road. 18 ROBIN RICE: Correct. The confronting or lot across 19 the street is a park. 20 MARTIN GROSSMAN: Okay. 21 ROBIN RICE: Okay. 22 RANDOM AUDIENCE ATTENDEE: Major Street. 23 ROBIN RICE: Major Street. 24 MARTIN GROSSMAN: No calling out from the audience, 25 okay.</p> |

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10 (37 to 40)

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| <p>37</p> <p>1 RANDOM AUDIENCE ATTENDEE: The floor --</p> <p>2 G. MACY NELSON: You'll get a turn.</p> <p>3 MARTIN GROSSMAN: If you have something to say, it can</p> <p>4 be posed and a cross-examination question if you have a</p> <p>5 question. If you have testimony, you can give testimony.</p> <p>6 You may not call out. All right. You may proceed.</p> <p>7 ROBIN RICE: The next slide just helps me be organized</p> <p>8 so that I can talk about COMAR 13A childcare centers.</p> <p>9 MARTIN GROSSMAN: All right. So this next slide is the</p> <p>10 text.</p> <p>11 ROBIN RICE: Is the -- is -- but I -- no, I don't have</p> <p>12 a picture of it. I'm just referring to the COMAR</p> <p>13 regulations.</p> <p>14 MARTIN GROSSMAN: I see.</p> <p>15 ROBIN RICE: The back -- the other selection process</p> <p>16 is to make sure that I have a very large backyard for the</p> <p>17 children. The regulations in COMAR Colmar 13A, 13A, 1601,</p> <p>18 19 childcare centers as amended effective July 20, 2015.122</p> <p>19 outdoor activity area; a) says a center shall have an</p> <p>20 outdoor activity area on the premises of, or adjacent to or</p> <p>21 nearby and safely accessible to the center that provides</p> <p>22 adequate usable play space for the approved capacity of the</p> <p>23 center. It is 75 square foot that you need per child for</p> <p>24 the outdoor playground area. My -- about half of my</p> <p>25 property is in the backyard which is about 7000, 8000</p> | <p>39</p> <p>1 G. MACY NELSON: So this is going to be 80A.</p> <p>2 MARTIN GROSSMAN: Okay.</p> <p>3 ROBIN RICE: We will keep going 80A, 80B, until I end.</p> <p>4 So 80A is a Google Earth picture of this kind of rectangle</p> <p>5 where Midcounty Road, Shady Grove Road, Muncaster Mill, and</p> <p>6 then Woodfield, and Washington Grove are. My property is in</p> <p>7 that -- those four major streets.</p> <p>8 MARTIN GROSSMAN: All right.</p> <p>9 ROBIN RICE: This --</p> <p>10 MARTIN GROSSMAN: So that's -- it's Muncaster Mill</p> <p>11 Road.</p> <p>12 ROBIN RICE: Shady Grove Road, Midcounty Road. I'm</p> <p>13 sorry, Midcounty Highway. Thank you. And either Washington</p> <p>14 Grove or Woodfield.</p> <p>15 MARTIN GROSSMAN: Okay. All right.</p> <p>16 ROBIN RICE: This area, residentially zoned area, is</p> <p>17 between the ICC, the dump, Shady Grove Metro, and the</p> <p>18 airport and industrial zones. B just shows a closer picture</p> <p>19 of the same four major streets. Then you can see Shady</p> <p>20 Grove Middle School on the other side of Midcounty Highway.</p> <p>21 So that's B.</p> <p>22 MARTIN GROSSMAN: All right. 80B.</p> <p>23 ROBIN RICE: 80B. C is showing the same area, but a</p> <p>24 major street between Mill Fall Road. If you looked at and</p> <p>25 described the neighborhood as kind of being cut in half</p> |
| <p>38</p> <p>1 square feet which allows about 100 children to be outside</p> <p>2 at one time and play. So I wanted to make sure that I met</p> <p>3 that COMAR regulation of 75 square feet per child. Okay. So</p> <p>4 that's the end of that series.</p> <p>5 MARTIN GROSSMAN: What was up on the -- on the screen?</p> <p>6 I saw something on the screen.</p> <p>7 ROBIN RICE: It's with -- that's more for me to be</p> <p>8 able to talk about it. It's in the COMAR regulations.</p> <p>9 MARTIN GROSSMAN: It's not an exhibit?</p> <p>10 ROBIN RICE: It's not an exhibit because I don't want</p> <p>11 to make it too fat. It's my testimony and the slide is</p> <p>12 helping me to be able to write down the number. Okay.</p> <p>13 MARTIN GROSSMAN: Oh.</p> <p>14 ROBIN RICE: I can turn it off and then read it.</p> <p>15 MARTIN GROSSMAN: I just want to make sure that</p> <p>16 anything that is used --</p> <p>17 ROBIN RICE: Yes sir.</p> <p>18 MARTIN GROSSMAN: -- as demonstrative evidence is</p> <p>19 labeled as an exhibit. If that's not what that was, okay.</p> <p>20 You may proceed.</p> <p>21 ROBIN RICE: Okay. The next thing is the neighborhood.</p> <p>22 Part of my burden of proof is defining the neighborhood, or</p> <p>23 your decision is defining the neighborhood. And my property</p> <p>24 is -- with Google Earth -- and let's make the next exhibit</p> <p>25 number.</p> | <p>40</p> <p>1 here, Mill Fall Road cut in half horizontally.</p> <p>2 MARTIN GROSSMAN: And this is --</p> <p>3 ROBIN RICE: D is --</p> <p>4 MARTIN GROSSMAN: I still didn't quite get -- C is</p> <p>5 what area now? Is the same area?</p> <p>6 ROBIN RICE: C is the same --</p> <p>7 MARTIN GROSSMAN: Okay.</p> <p>8 ROBIN RICE: -- Rectangular shape, but it's a closer</p> <p>9 look that shows where Shady Grove Middle School is. Miller</p> <p>10 Fall Road, which goes from Muncaster Mill to Midcounty</p> <p>11 Highway where the churches are.</p> <p>12 MARTIN GROSSMAN: All right.</p> <p>13 ROBIN RICE: Okay. If the hearing examiner decides</p> <p>14 what the neighborhood is and looks at this area cutting in</p> <p>15 half by this primary residential road, then maybe you would</p> <p>16 decide that this area is the neighborhood. If you looked at</p> <p>17 it on the next slide, which would be D --</p> <p>18 MARTIN GROSSMAN: 80D, yes.</p> <p>19 ROBIN RICE: 80D would be an analysis of what the</p> <p>20 neighborhood is more on a vertical look at these four major</p> <p>21 roads. And then you've got just a different definition of</p> <p>22 what the neighborhood is and you have a conditional use</p> <p>23 over here.</p> <p>24 MARTIN GROSSMAN: What -- what are you -- let me</p> <p>25 explain a little bit to everybody here what we're talking</p> |

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| <p>41</p> <p>1 about in terms of neighborhood. Part of the analysis here 2 requires a definition of the neighborhood. The technical 3 staff, in the Technical Staff Report, Exhibit 67, defined 4 the neighborhood on Page 4 of their report. And it's 5 outlined in yellow and it runs from Miller Fall Road on the 6 west to get Shady Grove Road on the east and a little bit 7 to the north of Warbler Lane to the north, and Midcounty 8 Highway to the south. Now, I take it from what you're 9 saying Ms. Rice, is that -- and by the way, I see -- do you 10 prefer to be called Ms. Rice or Mrs. Ackad? What do you 11 prefer to be called because I know that you filed this as 12 Ms. Rice?</p> <p>13 ROBIN RICE: My legal name is Rice. We've been married 14 34 years and it's his birthday so either one is fine.</p> <p>15 MARTIN GROSSMAN: All right. So we will continue with 16 Ms. Rice because that's the way you've --</p> <p>17 ROBIN RICE: Yeah, that's the legal name.</p> <p>18 MARTIN GROSSMAN: -- in the application.</p> <p>19 ROBIN RICE: So this is the -- more of a kind of 20 vertical cutting of that rectangular area. It's too big for 21 the definition of the neighborhood, but that shows you more 22 about what the area is like.</p> <p>23 MARTIN GROSSMAN: Well, how would you -- how are you 24 proposing to define -- in other words, are you proposing to 25 define the neighborhood differently than the technical</p> | <p>43</p> <p>1 They are legally -- these four -- these properties are 2 legally required, in the application process, to be 3 notified of the conditional use. So these four, the park, 4 the two houses, and the street, the house across from me; 5 those four need to be in the definition of the neighborhood 6 in my opinion. Then the houses along Park Mill, and Mill 7 Creek Run, that the that's most of the traffic, not all of 8 it, but a majority of the traffic would probably drive past 9 these houses. They should be included in the neighborhood. 10 The next slide shows the entire street and the -- 11 MARTIN GROSSMAN: The next slide then, is 80F as in 12 Frank.</p> <p>13 ROBIN RICE: F --</p> <p>14 G. MACY NELSON: Yes.</p> <p>15 ROBIN RICE: -- shows a larger Google Earth picture of 16 the neighborhood that might be included beyond the first 17 two slides. And this shows the houses that are on my same 18 street where traffic might be driving past my house to get 19 to their houses. And it shows the street above it which is 20 Mill Fall, where once they get to this intersection, they 21 will not be driving with the same cars that come to my 22 property. The next slide shows the -- a bigger Google 23 Earth. It's continued to expand the neighborhood and it 24 shows that cars coming into Park Mill Drive from Mill 25 Creek, into Park Mill Drive, the number -- exact number of</p> |
| <p>42</p> <p>1 staff did?</p> <p>2 ROBIN RICE: I'm getting -- if I can get to the 3 slides, I can show you --</p> <p>4 MARTIN GROSSMAN: All right. Go ahead.</p> <p>5 ROBIN RICE: That's where I'm going with this.</p> <p>6 MARTIN GROSSMAN: All right.</p> <p>7 ROBIN RICE: The next slide specifically shows what 8 you would start, in my opinion, what I would start with as 9 far as a definition of the neighborhood. This shows my 10 little tree.</p> <p>11 MARTIN GROSSMAN: Wait a minute. This will be --</p> <p>12 ROBIN RICE: This will --</p> <p>13 MARTIN GROSSMAN: -- 80E as an Edward.</p> <p>14 G. MACY NELSON: Correct.</p> <p>15 ROBIN RICE: Okay.</p> <p>16 MARTIN GROSSMAN: Okay.</p> <p>17 ROBIN RICE: This shows my property.</p> <p>18 MARTIN GROSSMAN: All right. So just a second.</p> <p>19 ROBIN RICE: Mm-hmm, and you need to start -- the 20 first thing to include in the definition of a neighborhood 21 is the site. Then you need to include the adjoining 22 property owners.</p> <p>23 MARTIN GROSSMAN: Right.</p> <p>24 ROBIN RICE: You need to adjoin -- include the 25 confronting property owners which is there and the park.</p> | <p>44</p> <p>1 houses that are affected by the inherent adverse affect of 2 a car driving in front of their house which stops when you 3 get to my house. Anybody after my house is not going to 4 have to drive together with the six cars that I'm asking 5 for to arrive at the same time in a 10 minute time period. 6 Once they get past my house, they are not affected by the 7 inherent adverse effect of driving with my customers on the 8 same street. The houses past my property have another 9 option to be able to get to their property other than 10 driving in front of my house; anyone coming from Shady 11 Grove Road and Mill Creek Road. These properties are not 12 going to drive around my house in a circle to get to their 13 house. They're going to drive straight on Mill Creek Road 14 and continue. Everybody along here, they are not going to 15 drive in front my house.</p> <p>16 MARTIN GROSSMAN: Everybody along here being --</p> <p>17 ABDON D ACKAD, JR.: Miller Drive.</p> <p>18 ROBIN RICE: Along the -- Miller Drive. They're not 19 going to drive on Park Mill to get to Mill Run, to get to 20 their house. Everybody going along here --</p> <p>21 MARTIN GROSSMAN: Along here being --</p> <p>22 ROBIN RICE: Mill -- continuing on Mill Run Drive; can 23 take a left hand turn onto Park Mill Drive to get to this 24 house. They don't have to, but it's another option. They're 25 not --</p> |

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12 (45 to 48)

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| <p>45</p> <p>1 MARTIN GROSSMAN: This house being the northernmost --</p> <p>2 ROBIN RICE: The first house.</p> <p>3 MARTIN GROSSMAN: On your map?</p> <p>4 ROBIN RICE: Yeah.</p> <p>5 MARTIN GROSSMAN: Northwest corner. Northwest --</p> <p>6 ROBIN RICE: The northwest corner when you're turning</p> <p>7 left from Mill Run to Park Mill. And it's more likely for</p> <p>8 this house in particular, or maybe a couple of more houses,</p> <p>9 for them to leave a primary residential road -- no, I'm</p> <p>10 sorry. A secondary residential road of Park Mill, go to a</p> <p>11 primary residential road which is Mill Run, and then go</p> <p>12 that way to get out instead of driving around the corner.</p> <p>13 Totally their choice, but everybody has two options in this</p> <p>14 area after my house on how to get out of their home to a</p> <p>15 major street. They are not blocked in. There's two options.</p> <p>16 In my opinion, the first couple of houses are more likely</p> <p>17 to drive to Mill Run and go that way and they are to go</p> <p>18 around the corner.</p> <p>19 MARTIN GROSSMAN: That way being?</p> <p>20 ROBIN RICE: I'm sorry. Mill Run to go right onto Mill</p> <p>21 Run Drive and get to Shady Grove Road, than they are to</p> <p>22 drive down a secondary residential road on Park Mill, drive</p> <p>23 in front of my property, which they've got every right to</p> <p>24 do, then get to the intersection and then go out to Shady</p> <p>25 Grove Road. So looking at this particular slide, there is a</p> | <p>47</p> <p>1 ABDON D. ACKAD, JR.: This is where you're showing the</p> <p>2 ICC. Your next slide.</p> <p>3 ROBIN RICE: Okay. The next slide is -- shows how</p> <p>4 close we are to the ICC, what's on the other side of</p> <p>5 Midcounty Highway, that the number of houses that are</p> <p>6 affected by the inherent adverse effects are significantly</p> <p>7 less than a zone that has a higher density in it which is</p> <p>8 across the street.</p> <p>9 MARTIN GROSSMAN: Across which street?</p> <p>10 ROBIN RICE: Across Midcounty Highway.</p> <p>11 MARTIN GROSSMAN: Okay.</p> <p>12 ROBIN RICE: The next slide is the Google Earth.</p> <p>13 MARTIN GROSSMAN: And this would be 80I?</p> <p>14 ABDON D. ACKAD JR.: Correct.</p> <p>15 ROBIN RICE: Yeah.</p> <p>16 MARTIN GROSSMAN: How many more photos do we have</p> <p>17 here?</p> <p>18 ROBIN RICE: One, two, three -- very few.</p> <p>19 MARTIN GROSSMAN: Pardon?</p> <p>20 ROBIN RICE: Five.</p> <p>21 MARTIN GROSSMAN: All right.</p> <p>22 ROBIN RICE: This slide shows the Google Earth</p> <p>23 location.</p> <p>24 G. MACY NELSON.: So this is which slide?</p> <p>25 MARTIN GROSSMAN: This is 80I.</p> |
| <p>46</p> <p>1 point where the neighbors are more likely to go to</p> <p>2 Miller -- Mill Creek Drive, and there is a point where you</p> <p>3 go around the corner where they are more likely to use Park</p> <p>4 Mill Drive, but either way, they've got an option of going</p> <p>5 in two different directions. They don't have to drive in</p> <p>6 front of my house if they don't want, but they've got a</p> <p>7 right to. The next slide --</p> <p>8 MARTIN GROSSMAN: Which would be 80G as in George.</p> <p>9 G. MACY NELSON: No, that would be H.</p> <p>10 MARTIN GROSSMAN: Oh, what happened? Which one was G?</p> <p>11 G. MACY NELSON: The last one.</p> <p>12 MARTIN GROSSMAN: And what did G describe? You would</p> <p>13 say once again it was the area, a larger area around the</p> <p>14 site?</p> <p>15 ROBIN RICE: It describes --</p> <p>16 ABDON D. ACKAD, JR.: Just they have an option to go</p> <p>17 out.</p> <p>18 ROBIN RICE: It's shows they have an option and it</p> <p>19 shows the two Street, Park Mill Road and Mill --</p> <p>20 MARTIN GROSSMAN: So around the site driving options.</p> <p>21 ROBIN RICE: Right. Around the site driving options.</p> <p>22 Circular pattern --</p> <p>23 MARTIN GROSSMAN: All right. All right. So now --</p> <p>24 ROBIN RICE: No, a circular pattern for the neighbors.</p> <p>25 MARTIN GROSSMAN: Now, 80H is what?</p> | <p>48</p> <p>1 ABDON D. ACKAD JR.: This is J.</p> <p>2 MARTIN GROSSMAN: Well, what happened with I? What was</p> <p>3 I?</p> <p>4 ABDON D. ACKAD JR.: That's I. The other one. That's</p> <p>5 I.</p> <p>6 ROBIN RICE: That's I.</p> <p>7 MARTIN GROSSMAN: The last one I have was H which said</p> <p>8 the area including the ICC.</p> <p>9 ROBIN RICE: Okay. That's H.</p> <p>10 MARTIN GROSSMAN: Now I.</p> <p>11 ROBIN RICE: I is a Google Earth view of the</p> <p>12 horizontal look between Midcounty Highway, Shady Grove</p> <p>13 Road, and Muncaster Mill. And also shows part of the staff</p> <p>14 defined neighborhood on a satellite view. The staff defined</p> <p>15 neighborhood is Mill Creek, Miller Fall Road, over to Park</p> <p>16 Mill Road down here past school and then out here to Shady</p> <p>17 Grove Road. Okay.</p> <p>18 MARTIN GROSSMAN: And also has, on the southern, has</p> <p>19 Midcounty Highway.</p> <p>20 ROBIN RICE: Right.</p> <p>21 MARTIN GROSSMAN: Of the -- if you are talking about</p> <p>22 the technical staff defined neighborhood.</p> <p>23 ROBIN RICE: There is -- yes. This is a show -- this</p> <p>24 is a closer showing of the tech Staff Reports' definition</p> <p>25 of the neighborhood. So you could see it in a Google Earth</p> |

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13 (49 to 52)

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| <p>49</p> <p>1 view.</p> <p>2 MARTIN GROSSMAN: So 80I you're saying is the staff</p> <p>3 defined neighborhood?</p> <p>4 ROBIN RICE: The --</p> <p>5 MARTIN GROSSMAN: Is that what you're saying?</p> <p>6 ABDON D. ACKAD JR.: It's this one is I.</p> <p>7 ROBIN RICE: 80I shows the entire horizontal view</p> <p>8 between Midcounty Highway and Muncaster Mill Road and Shady</p> <p>9 Grove Road.</p> <p>10 MARTIN GROSSMAN: Oh.</p> <p>11 ROBIN RICE: The next slide --</p> <p>12 MARTIN GROSSMAN: That would be J, 80J. The next</p> <p>13 slide?</p> <p>14 ABDON D. ACKAD JR.: This is J.</p> <p>15 ROBIN RICE: Okay. The next slide is J.</p> <p>16 MARTIN GROSSMAN: And what is that showing?</p> <p>17 ROBIN RICE: That shows a Google Earth satellite view</p> <p>18 of the area that the staff decided is the neighborhood.</p> <p>19 MARTIN GROSSMAN: Okay.</p> <p>20 ROBIN RICE: Okay. Then just -- you got this one</p> <p>21 already, but it shows the yellow outline from the Staff</p> <p>22 Report of what they decided the neighborhood is.</p> <p>23 MARTIN GROSSMAN: And that is --</p> <p>24 ROBIN RICE: J.</p> <p>25 MARTIN GROSSMAN: No, J was --</p> | <p>51</p> <p>1 ROBIN RICE: It is, yes. This is where there is</p> <p>2 traffic, parking, noise, and physical activity for me and</p> <p>3 the people who live in this area and it includes the park.</p> <p>4 If you were to do a radius up to Miller Fall Road, then you</p> <p>5 would pick up --</p> <p>6 MARTIN GROSSMAN: How big a radius is that?</p> <p>7 ROBIN RICE: It is a .32 radius.</p> <p>8 MARTIN GROSSMAN: Point -- I'm sorry.</p> <p>9 ROBIN RICE: Point 32 miles radius. Now you're picking</p> <p>10 up a conditional use for child care on Vestry Court.</p> <p>11 MARTIN GROSSMAN: Well, that smaller than the 1.5 mile</p> <p>12 radius --</p> <p>13 ROBIN RICE: Yeah.</p> <p>14 MARTIN GROSSMAN: You showed me in the --</p> <p>15 ROBIN RICE: It's bigger.</p> <p>16 MARTIN GROSSMAN: So this is slide M, 80M as in</p> <p>17 Martin.</p> <p>18 ABDON D. ACKAD JR.: Yes, but, if I may?</p> <p>19 MARTIN GROSSMAN: Mr. Ackad, yes.</p> <p>20 ABDON D. ACKAD JR.: You said 1.5. It's .15.</p> <p>21 MARTIN GROSSMAN: Oh, okay. She said 1.5 I think.</p> <p>22 ROBIN RICE: I'm sorry.</p> <p>23 MARTIN GROSSMAN: All right. So it's .15 was the</p> <p>24 first --</p> <p>25 ROBIN RICE: Yes.</p> |
| <p>50</p> <p>1 ROBIN RICE: Sorry.</p> <p>2 MARTIN GROSSMAN: J, you said was the staff defined</p> <p>3 neighborhood, right?</p> <p>4 ABDON D. ACKAD JR.: No. (inaudible) is K with the</p> <p>5 yellow line.</p> <p>6 MARTIN GROSSMAN: It's hard to see the yellow line,</p> <p>7 but you say -- oh, I see it now. Okay. So that's the</p> <p>8 staff --</p> <p>9 ROBIN RICE: That's the staff.</p> <p>10 MARTIN GROSSMAN: And that -- which is slide is that?</p> <p>11 ABDON D. ACKAD JR.: K.</p> <p>12 ROBIN RICE: That one's K.</p> <p>13 MARTIN GROSSMAN: And what is J then?</p> <p>14 ROBIN RICE: J is a Google Earth view of the staff</p> <p>15 defined neighborhood.</p> <p>16 MARTIN GROSSMAN: Oh.</p> <p>17 ROBIN RICE: Okay. Then K is the Google Earth from the</p> <p>18 Staff Report with the yellow lines on it. I just thought it</p> <p>19 might be easier to have a picture that is consistent in</p> <p>20 where it is. So the next one is L. One of the ways to look</p> <p>21 at the finding neighborhood is a radius. If you used a 1.5</p> <p>22 mile radius as a definition of the neighborhood, you would</p> <p>23 get the circle of the --</p> <p>24 MARTIN GROSSMAN: So that's a -- so J, 80J -- I'm</p> <p>25 sorry. 80L is a 1.5 mile radius around the site?</p> | <p>52</p> <p>1 MARTIN GROSSMAN: Was L -- is .15 mile radius around</p> <p>2 the site and 80M is a .32 mile --</p> <p>3 ABDON D. ACKAD JR.: Correct.</p> <p>4 MARTIN GROSSMAN: -- Radius around the site. All</p> <p>5 right.</p> <p>6 ROBIN RICE: The next one is a .32 mile radius.</p> <p>7 MARTIN GROSSMAN: That's M, 80M.</p> <p>8 ROBIN RICE: M.</p> <p>9 MARTIN GROSSMAN: M, yes.</p> <p>10 ROBIN RICE: And this radius includes commercial</p> <p>11 zones. It includes, I think the other side of Midcounty is</p> <p>12 R90. It includes a conditional use for child care for 12</p> <p>13 children and it includes the elementary school. If you go</p> <p>14 out all the way to the furthest area that the Staff Report</p> <p>15 looks at, which is .41 miles, and do a radius that way --</p> <p>16 MARTIN GROSSMAN: That's N?</p> <p>17 ABDON D. ACKAD JR.: Correct.</p> <p>18 ROBIN RICE: That's N.</p> <p>19 MARTIN GROSSMAN: 80N, .41 miles radius.</p> <p>20 ROBIN RICE: Yeah. Now you're picking up more of the</p> <p>21 commercial zones in that radius.</p> <p>22 MARTIN GROSSMAN: So what's your point in all this?</p> <p>23 ROBIN RICE: The staff defined --</p> <p>24 MARTIN GROSSMAN: I tried to give you leeway</p> <p>25 because --</p> |

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14 (53 to 56)

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| <p>53</p> <p>1 ROBIN RICE: I know.</p> <p>2 MARTIN GROSSMAN: -- I want to let you make your case,</p> <p>3 but I don't understand. Where are we going with all of</p> <p>4 this?</p> <p>5 ROBIN RICE: The end of this presentation, I would</p> <p>6 like to tell you that the staff defined neighborhood is</p> <p>7 fine with me. I'm okay with the exception of not including</p> <p>8 the park, but I do think it's going all the way</p> <p>9 outside -- behind the school is a little bit too far, but</p> <p>10 this is your decision not mine.</p> <p>11 MARTIN GROSSMAN: Well, but I -- you are entitled to</p> <p>12 give me what your opinion is --</p> <p>13 ROBIN RICE: My opinion --</p> <p>14 MARTIN GROSSMAN: -- to what should be the defined</p> <p>15 neighborhood. Do you have a diagram of your suggested,</p> <p>16 defined neighborhood?</p> <p>17 ROBIN RICE: My -- I have two suggestions. One is to</p> <p>18 use the .15 mile radius.</p> <p>19 MARTIN GROSSMAN: Okay.</p> <p>20 ROBIN RICE: My other suggestion is to use the staff</p> <p>21 defined neighborhood because that's fine with me, but add</p> <p>22 the park.</p> <p>23 MARTIN GROSSMAN: All right.</p> <p>24 ROBIN RICE: And I will respect whatever decision you</p> <p>25 make. I just thought I would give you some options and my</p> | <p>55</p> <p>1 MARTIN GROSSMAN: All right. Thank you.</p> <p>2 ROBIN RICE: I'm trying to give you some options.</p> <p>3 MARTIN GROSSMAN: Oh, I see.</p> <p>4 ROBIN RICE: My next presentation is what I entitled,</p> <p>5 opposition letters.</p> <p>6 MARTIN GROSSMAN: Okay.</p> <p>7 ROBIN RICE: And we will give that a new number. One</p> <p>8 of the letters in the case is 40, and I think it's CC. It's</p> <p>9 a letter from Valerie Nelson. Valerie Nelson wrote a</p> <p>10 letter --</p> <p>11 MARTIN GROSSMAN: Hold on one second. Let me get that</p> <p>12 out so I know what you're talking about.</p> <p>13 ROBIN RICE: Okay. I think it's CC.</p> <p>14 MARTIN GROSSMAN: All right. I can tell you that.</p> <p>15 ROBIN RICE: CC or LL.</p> <p>16 MARTIN GROSSMAN: Well, we can look on the exhibit</p> <p>17 list and that will tell us --</p> <p>18 ROBIN RICE: Valerie Nelson.</p> <p>19 MARTIN GROSSMAN: -- the answer to that question.</p> <p>20 Forty -- yes, Valerie Nelson is 40CC. So let me turn to</p> <p>21 that. Okay.</p> <p>22 ROBIN RICE: Okay. And I will read it into the record.</p> <p>23 MARTIN GROSSMAN: Well, you don't have to. It's in the</p> <p>24 record. You don't have to read it.</p> <p>25 ROBIN RICE: I would prefer to if you --</p> |
| <p>54</p> <p>1 opinion.</p> <p>2 MARTIN GROSSMAN: Okay. So applicant would define</p> <p>3 neighborhood as either Exhibit 80L or staff defined</p> <p>4 neighborhood plus the park across Shady Grove. And in your</p> <p>5 mind -- let's talk about your second alternative; the staff</p> <p>6 defined neighborhood plus the park. What does -- how does</p> <p>7 that change anything question of how does the inclusion of</p> <p>8 the park -- I might agree with you on that, by the way, but</p> <p>9 how does that change anything in this case if the park were</p> <p>10 included as part of the defined neighborhood?</p> <p>11 ROBIN RICE: We are going to be talking about noise,</p> <p>12 physical activity, playground use, safety of children, all</p> <p>13 sorts of things. And fencing and landscaping et cetera. The</p> <p>14 park is -- has no fencing, no landscaping. You can see the</p> <p>15 children playing. It's got a sign on the street.</p> <p>16 MARTIN GROSSMAN: It's across a major road.</p> <p>17 ROBIN RICE: It's across a major road, but it's also a</p> <p>18 required property because it's confronting, to be included</p> <p>19 in the people that I have to notify. I think it should be</p> <p>20 included for that reason. Including it as far as the look,</p> <p>21 the noise, the health and safety, it's something to</p> <p>22 talk -- the park is something to talk about. But either</p> <p>23 way, it's okay with me.</p> <p>24 MARTIN GROSSMAN: Okay. I understand your point.</p> <p>25 ROBIN RICE: Either way is okay.</p> | <p>56</p> <p>1 MARTIN GROSSMAN: No, there is no --</p> <p>2 ROBIN RICE: All right.</p> <p>3 MARTIN GROSSMAN: There is no basis to have an oral</p> <p>4 reading of a letter that's in the record already. It just</p> <p>5 takes time. Move on.</p> <p>6 ROBIN RICE: If your decision is to agree with Valerie</p> <p>7 and you agree with Emily's Staff Report about where the</p> <p>8 neighborhood is, Valerie isn't in the neighborhood. She</p> <p>9 talked about Next-Door website having vociferous supports</p> <p>10 of my expansion of people that don't even live in the</p> <p>11 neighborhood.</p> <p>12 MARTIN GROSSMAN: So you're saying vociferous support?</p> <p>13 What word --</p> <p>14 ROBIN RICE: Valerie --</p> <p>15 MARTIN GROSSMAN: Where are you seeing that?</p> <p>16 ROBIN RICE: Inside of Valerie's letter on the final</p> <p>17 note, she said she became aware of my conditional use</p> <p>18 application and followed a very passionate discussion on a</p> <p>19 website called Next-Door Neighbor.</p> <p>20 MARTIN GROSSMAN: Okay.</p> <p>21 ROBIN RICE: All right. She said that the majority of</p> <p>22 people living in this neighborhood are opposed to the</p> <p>23 expansion.</p> <p>24 MARTIN GROSSMAN: Okay.</p> <p>25 ROBIN RICE: But she realizes that some of the most</p> |

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15 (57 to 60)

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| <p>57</p> <p>1 vociferous supporters of this expansion don't even live in 2 the neighborhood. 3 MARTIN GROSSMAN: Okay. I see what you mean. 4 ROBIN RICE: Okay. She is puzzled about why all of 5 these people on Next-Door are so invested in the issue that 6 they don't have to deal with at all. She is urging you to 7 please consider the residents of the supporters to avoid 8 being swayed by the opinions of people who do not live in 9 our neighborhood and won't be impacted by the decision. 10 I've been a child care provider since 1983 and I could fill 11 this room and building was supporters. Please don't feel I 12 don't have support. My goal is to provide a good service 13 and to diffuse the situation as much is possible when the 14 best -- which is best done by not pitting my supporters 15 against the oppositions in my application. I did not ask or 16 accept the office for my vociferous supporters to attend 17 this hearing. My goal is to bring a child care service. 18 This is a land-use issue as you so eloquently stated at the 19 beginning of this hearing. It is not a voting referendum on 20 a ballot box. Bringing my vociferous supporters, parents 21 and children that live in Mill Creek Towne that I used to 22 care for, I can't seem to go anywhere without finding a 23 little clients in the faces of school-age children and 24 grown adults. There are parents and children that live in 25 Mill Creek Towne that are current customers of Angie as a</p> | <p>59</p> <p>1 exactly. Don't you have a copy of the exhibit list there? 2 ROBIN RICE: Yes, it's in -- 3 MARTIN GROSSMAN: Okay. So you can just look at 4 Exhibit 40 and it has a list; the names of everybody who 5 sent a letter is listed there. You can just read off if you 6 are referencing one. 7 ROBIN RICE: Okay. So the first slide -- we will need 8 a new exhibit number, right? We're on 81 now for this 9 series. 10 MARTIN GROSSMAN: Well, do you have a paper exhibit 11 that you want to offer? 12 ROBIN RICE: I have all these slides here to label. 13 MARTIN GROSSMAN: These are more photographs? 14 ROBIN RICE: Yes, sir. 15 MARTIN GROSSMAN: More aerial photographs. And what 16 are you intending to show with these additional aerial 17 photographs? 18 ROBIN RICE: The adverse effect to the neighborhood 19 depends on the definition of the neighborhood. 20 MARTIN GROSSMAN: Right. 21 ROBIN RICE: I'm trying to show you, in your case 22 record, who is in the staff defined neighborhood and who is 23 not in the staff defined neighborhood. 24 MARTIN GROSSMAN: In terms of the people who wrote 25 letters?</p> |
| <p>58</p> <p>1 provider. 2 MARTIN GROSSMAN: Hold on a minute. I'm going to stop 3 you because what you're saying is essentially hearsay. That 4 is, hearsay is a statement made outside of the hearing room 5 which is offered to prove the truth of what is asserted in 6 the statement. This kind of proceeding allows a certain 7 amount of hearsay, but it to be otherwise reliable and 8 probative. Hearing what you're saying other people who are 9 not going to be witnesses here, not going to be sworn in, 10 not subject to cross-examination and you're saying what 11 they would testify to in effect, is a kind of hearsay I 12 don't think it's fair and reliable because everybody else 13 who is going to offer an opinion today, or their feeling 14 and testimony today, is going to be sworn in and subject to 15 cross-examination. So I don't think you need to go any 16 further on that. Let's not talk about people who are not 17 here, going to be offering evidence. Okay? 18 ROBIN RICE: Okay. Okay. So what I did is look at the 19 opposition letters and I took a look at my site and the 20 staff defined neighborhood and I started looking at the 21 letters that are in the case and tried to figure out who 22 was inside or outside the staff defined neighborhood. I 23 looked at a letter from Andrew which is Exhibit 40CE, 24 maybe. 25 MARTIN GROSSMAN: Forty -- well, we can get it</p> | <p>60</p> <p>1 ROBIN RICE: Yes. 2 MARTIN GROSSMAN: All right. I think that 3 the -- number one, since I haven't ruled on what the 4 neighborhood is, let me just say that it will either be the 5 staff defined neighborhood or the staff defined 6 neighborhood plus the confronting park across Shady Grove 7 Road. 8 ROBIN RICE: Okay. 9 MARTIN GROSSMAN: That would be what I would consider 10 to be -- it would one of those two things would be the 11 defined neighborhood. Does that make it easier for you 12 ma'am? 13 ROBIN RICE: Yes, and I basically thought that's what 14 you would decide. I've prepared this to show you the 15 opposition is not in the neighborhood. 16 MARTIN GROSSMAN: You are saying that some of the 17 letters are written by people who do not live within the 18 defined neighborhood. 19 ROBIN RICE: Most. 20 MARTIN GROSSMAN: Okay. And why don't you just provide 21 a list of those who you suggest are not. You don't need 22 maps to do it. Just give me -- they have addresses 23 on -- each one of those letters has an address on it. 24 Provide them -- 25 ROBIN RICE: Presenting it the way I prepared will</p> |

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16 (61 to 64)

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| <p style="text-align: right;">61</p> <p>1 take maybe five minutes and then we can just say that this</p> <p>2 is exhibit number --</p> <p>3 MARTIN GROSSMAN: Why do we have to do it with maps?</p> <p>4 Just tell me the that identify the exhibit numbers of those</p> <p>5 who you say are not in the defined neighborhood and we will</p> <p>6 go from there.</p> <p>7 G. MACY NELSON: Mr. Grossman.</p> <p>8 ROBIN RICE: Part of my evidence is --</p> <p>9 MARTIN GROSSMAN: Hold on one second. Do you have an</p> <p>10 objection Mr. Nelson?</p> <p>11 G. MACY NELSON: Now, I'm happy to work with the</p> <p>12 applicant at a break to prepare a document that has the</p> <p>13 addresses. And I think we can do that much more</p> <p>14 efficiently.</p> <p>15 MARTIN GROSSMAN: I think that's a good idea. So why</p> <p>16 don't we do that during the break. You and Mr. Nelson can</p> <p>17 put your heads together and just make a list of the people</p> <p>18 who you say wrote objection letters, opposition letters,</p> <p>19 who do not live in the defined neighborhood and then we</p> <p>20 won't have to waste hearing time doing that.</p> <p>21 ABDON D. ACKAD JR.: You want to put this back in?</p> <p>22 ROBIN RICE: No. The neighborhood had a flyer that was</p> <p>23 passed around with some information in it that was</p> <p>24 incorrect. Part of the information on the flyer stated --</p> <p>25 MARTIN GROSSMAN: Is that an exhibit in this case yet?</p> | <p style="text-align: right;">63</p> <p>1 MARTIN GROSSMAN: Okay.</p> <p>2 ROBIN RICE: Okay.</p> <p>3 MARTIN GROSSMAN: That's Exhibit 41.</p> <p>4 ROBIN RICE: Okay. I'm just trying to show the slide</p> <p>5 so that everybody can see what we're talking about.</p> <p>6 MARTIN GROSSMAN: Okay.</p> <p>7 ROBIN RICE: Part of that flyer says that up to two</p> <p>8 thirds of the yard will be paved.</p> <p>9 ANNE GREGORSKI: It is.</p> <p>10 ROBIN RICE: That's inaccurate too. My application --</p> <p>11 MARTIN GROSSMAN: I'm sorry. Did you have an</p> <p>12 objection?</p> <p>13 ANNE GREGORSKI: No, I can address that if you like.</p> <p>14 MARTIN GROSSMAN: Oh, well, you will have an</p> <p>15 opportunity to address any issues either on a cross</p> <p>16 examination question or on your own testimony.</p> <p>17 ROBIN RICE: Okay. Two thirds of my -- my application</p> <p>18 does not have a -- ask for two thirds of the yard being</p> <p>19 paved. It is 30 percent of the front yard is what my</p> <p>20 application shows will be paved and I will not have any on</p> <p>21 street parking. My application suggests that I be allowed</p> <p>22 to use the public right-of-way that has grass on it. Scout</p> <p>23 meetings --</p> <p>24 MARTIN GROSSMAN: When you say -- you're saying there</p> <p>25 will be no on street parking. They will park on the grass.</p> |
| <p style="text-align: right;">62</p> <p>1 ROBIN RICE: Yeah, let's go with 80 --</p> <p>2 MARTIN GROSSMAN: No, I mean is there an exhibit</p> <p>3 showing the flyer already in the record?</p> <p>4 ROBIN RICE: I believe so.</p> <p>5 MARTIN GROSSMAN: Or in the exhibit number?</p> <p>6 ROBIN RICE: But I don't have the number. I just made</p> <p>7 another copy to go with this --</p> <p>8 MARTIN GROSSMAN: All right.</p> <p>9 ROBIN RICE: -- this idea is that I'm talking about.</p> <p>10 MARTIN GROSSMAN: Well, all right. So what is</p> <p>11 the -- this will be Exhibit 81 then.</p> <p>12 G. MACY NELSON: It would be 81 and it's not here.</p> <p>13 ROBIN RICE: Okay. An exhibit that's in the file is a</p> <p>14 flyer that was passed around to the neighbors that had</p> <p>15 incorrect information on it.</p> <p>16 MARTIN GROSSMAN: Well, let's find out what exhibit it</p> <p>17 is so we know what we're talking about. Okay. Forty-one</p> <p>18 perhaps; flyer to residents.</p> <p>19 ROBIN RICE: Okay.</p> <p>20 MARTIN GROSSMAN: Okay. Let's see. Okay. I see the</p> <p>21 flyer.</p> <p>22 ROBIN RICE: Okay.</p> <p>23 MARTIN GROSSMAN: It starts out with; a conditional</p> <p>24 use application has been filed.</p> <p>25 ROBIN RICE: Yes, sir.</p> | <p style="text-align: right;">64</p> <p>1 Is that --</p> <p>2 ROBIN RICE: Not on the street. Not on the paved</p> <p>3 street.</p> <p>4 MARTIN GROSSMAN: But on the grass and --</p> <p>5 ROBIN RICE: I'm not going to put any cars -- but</p> <p>6 there is -- the Park Mill Drive is a secondary residential</p> <p>7 road, open section.</p> <p>8 MARTIN GROSSMAN: Right.</p> <p>9 ROBIN RICE: It's 60 feet wide, 20 feet is paved. On</p> <p>10 both sides, there's 20 feet of grass.</p> <p>11 MARTIN GROSSMAN: Right.</p> <p>12 ROBIN RICE: No sidewalks, okay. The right-of-way. My</p> <p>13 proposal is to park cars on the grass in the public right-</p> <p>14 of-way.</p> <p>15 MARTIN GROSSMAN: All right.</p> <p>16 ROBIN RICE: Okay, but it's on the street.</p> <p>17 MARTIN GROSSMAN: Okay.</p> <p>18 ROBIN RICE: It's on the grass. I think that's what</p> <p>19 they mean, but I'm not going to have cars parked on the</p> <p>20 street.</p> <p>21 MARTIN GROSSMAN: Okay. So it would be on the grass</p> <p>22 abutting the street.</p> <p>23 ROBIN RICE: Right.</p> <p>24 MARTIN GROSSMAN: Okay.</p> <p>25 ROBIN RICE: One of the letters is from Barbara</p> |

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17 (65 to 68)

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| <p style="text-align: right;">65</p> <p>1 Feldman who says that it's two thirds of the yard. She 2 is -- 3 MARTIN GROSSMAN: And you -- let's stick to -- are you 4 done with the flyer now? 5 ROBIN RICE: Yes, sir. 6 MARTIN GROSSMAN: Okay. All right. So the Feldman 7 letter is which exhibit? 8 ROBIN RICE: I don't have the number of the exhibit. 9 MARTIN GROSSMAN: You've got the -- you've got the 10 exhibit list right there. It should tell you. 11 ROBIN RICE: I apologize, but I organized to present 12 my case with the slides and not included exhibit numbers 13 and not using those. 14 MARTIN GROSSMAN: Okay. I see; 40J is Barbara Feldman. 15 ROBIN RICE: Yeah. 16 MARTIN GROSSMAN: Okay. 17 ROBIN RICE: Barbara lives on Mill Creek Drive which 18 is above Miller Fall Road and she actually lives closer to 19 the Sunrise Learning -- Early Learning Center than she does 20 to me. The Sunrise Early Learning Center is one of the case 21 numbers I put in the record. It's a conditional use with 22 over 75 children. Jane Lewis talked about two thirds -- 23 MARTIN GROSSMAN: Where is the Sunrise Learning Center 24 located? Just give me an address. 25 ROBIN RICE: It should be -- I don't have the address.</p> | <p style="text-align: right;">67</p> <p>1 too many that were in the staff defined neighborhood so 2 then I started looking at all of the letters in the 3 -- that were in the Staff Report which was about 30. Not 4 all 60 or the 220 that signed, but I started looking at all 5 of those. And then I start looking at, okay. Let's forget 6 everybody that is outside the staff defined neighborhood 7 and find out who was inside the staff defined neighborhood 8 and particularly who was in the .15 mile radius and who 9 live specifically on Park Mill Drive and Mill Creek Road; 10 Mill Run Drive. Those two roads in that circular pattern 11 which is depicted on this slide. Who live specifically 12 there that is going to be involved in the traffic, parking, 13 noise, physical activity. Okay. So then I found -- 14 MARTIN GROSSMAN: So how many of the -- of the 60 or 15 so letters collected in Exhibit 40 -- 16 ROBIN RICE: The letters and the list of people that 17 are testifying it's what I went through to find out who 18 lives in that circle. 19 MARTIN GROSSMAN: Okay. 20 ROBIN RICE: And I found -- I found one on, I think 21 it's 17433 Mill Creek Run. That's -- 22 MARTIN GROSSMAN: Well, first of all, give me the 23 number of -- 24 ROBIN RICE: I've got one, two, three, kind of at 25 where the dead end is. I've got one, two, three</p> |
| <p style="text-align: right;">66</p> <p>1 It's in -- the case number is in the file. 2 MARTIN GROSSMAN: Wait. 3 ROBIN RICE: This is the geographical distance from 4 Barbara's house. 5 MARTIN GROSSMAN: All right. Show this to Mr. Nelson. 6 G. MACY NELSON: I'll come up there. 7 MARTIN GROSSMAN: And to the other parties at the 8 council table. So what's your point in that? 9 ROBIN RICE: My point is that multiple people, because 10 of the flyer, put down the two thirds of the yard; they got 11 misinformation and a lot of them live outside of the 12 neighborhood and they are closer to the other conditional 13 use than they are to me. One of the letters talked about a 14 traffic issue and that is Exhibit 40H; 40H -- 15 MARTIN GROSSMAN: Many of them talked about traffic 16 issues. 17 ROBIN RICE: Yeah, 40H talked about a traffic issue 18 where they state there are currently several family day 19 care homes within the neighborhood and I have had close 20 calls while walking on two occasions by cars going 21 on -- going in and leaving the residential child care in 22 Cliffborne Court (phonetic). Cliffborne Court is not in the 23 staff defined neighborhood and I just kind of kept going 24 looking at where everybody is that but in letters or are 25 witnesses and looking at the letters. And I couldn't find</p> | <p style="text-align: right;">68</p> <p>1 that -- where the traffic has -- they have to drive with my 2 traffic to get to their house. And I've got four -- about 3 four that are past my house. So what I did was, and you can 4 use this as an exhibit, sort of the conclusion of my 5 analysis; is I took an aerial photograph of the people that 6 are affected. There is only about 12 houses on Park Mill 7 Road and there is -- 8 ABDON D. ACKAD JR.: Drive. 9 ROBIN RICE: Park Mill Drive. And there's about five 10 houses -- no, there are six houses on Mill Creek Road. 11 These are the people that my traffic are going to drive by. 12 MARTIN GROSSMAN: So you're saying that there are 18 13 houses which will have traffic -- 14 ROBIN RICE: In front of their house. 15 MARTIN GROSSMAN: -- through your proposed use that 16 will drive by. 17 ROBIN RICE: Yeah. 18 MARTIN GROSSMAN: That what you're saying? 19 ROBIN RICE: Yeah. 20 MARTIN GROSSMAN: All right. 21 ROBIN RICE: Yeah, with -- 22 MARTIN GROSSMAN: I -- hold on one second. 23 ROBIN RICE: -- 80 percent probability. 24 MARTIN GROSSMAN: Yeah. Well, I don't know where you 25 get the probability from, but Mr. Snee raised his hand</p> |

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18 (69 to 72)

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| <p style="text-align: right;">69</p> <p>1 because it's getting to be 11:00 I think.</p> <p>2 JIM SNEE: I have a question to ask. What type of --</p> <p>3 MARTIN GROSSMAN: You can't. You have to do it in a</p> <p>4 cross examination --</p> <p>5 JIM SNEE: Okay.</p> <p>6 MARTIN GROSSMAN: Of -- when she is finished with her</p> <p>7 direct testimony.</p> <p>8 JIM SNEE: When you restart after lunch?</p> <p>9 MARTIN GROSSMAN: When do I restart after lunch? It</p> <p>10 depends on when we break for lunch and --</p> <p>11 JIM SNEE: Approximately 1:00.</p> <p>12 MARTIN GROSSMAN: Well, we might break at 12:30 or</p> <p>13 1:00 and come back at 1:45, but I'm not exactly sure. It</p> <p>14 depends on where we are in the case, Mr. Snee. Hold on one</p> <p>15 second. You said that there were 18 people or families with</p> <p>16 houses that are on the roads that are going to be most</p> <p>17 affected by traffic produced by your proposed use. Is that</p> <p>18 what I heard?</p> <p>19 ROBIN RICE: Yeah. If we can look at the slide for a</p> <p>20 second and go into Mill Creek Drive -- Mill Run Drive. I</p> <p>21 keep getting it mixed up. I'm sorry. Go into Mill Run</p> <p>22 Drive. There's five -- there's four houses on the right.</p> <p>23 ABDON D. ACKAD JR.: This one. And where do you want</p> <p>24 this exhibit at?</p> <p>25 ROBIN RICE: Just give it to him.</p> | <p style="text-align: right;">71</p> <p>1 in the record prior to the Staff Report. So I made some</p> <p>2 additional copies of it and as -- if people want to say</p> <p>3 that's my house, that there is an extra paper in case they</p> <p>4 want to do that.</p> <p>5 MARTIN GROSSMAN: So I'm not sure. What's your point?</p> <p>6 ROBIN RICE: My point is the inherent adverse effects</p> <p>7 are these people for traffic, parking, noise, and physical</p> <p>8 activity and that's it.</p> <p>9 MARTIN GROSSMAN: Well, no. I thought you said -- you</p> <p>10 just testified that they were 18 houses that would be most</p> <p>11 affected by --</p> <p>12 ROBIN RICE: Yes, the 18 --</p> <p>13 MARTIN GROSSMAN: -- traffic produced by --</p> <p>14 ROBIN RICE: The 18 houses with three in the record</p> <p>15 before the staff opposition -- before the Staff Report that</p> <p>16 said they were in opposition to the conditional use.</p> <p>17 MARTIN GROSSMAN: Well, I'm not sure what's the</p> <p>18 distinction in your mind between people who said it before</p> <p>19 the Staff Report and after the Staff Report.</p> <p>20 ROBIN RICE: Before the Staff Report, I found three. I</p> <p>21 believe there are more, but I didn't continue my research</p> <p>22 and I certainly couldn't add people that I haven't heard</p> <p>23 from before into that. I'm saying that to start with, there</p> <p>24 is three.</p> <p>25 MARTIN GROSSMAN: Well, I don't understand the</p> |
| <p style="text-align: right;">70</p> <p>1 MARTIN GROSSMAN: All right. So --</p> <p>2 ROBIN RICE: There's four houses on the right and</p> <p>3 there's two houses on the left's, okay.</p> <p>4 MARTIN GROSSMAN: Well, what's -- okay. So I take your</p> <p>5 total. Let's say you are saying that the total is about 18</p> <p>6 houses that are going to be most affected by the traffic.</p> <p>7 ROBIN RICE: Yes.</p> <p>8 MARTIN GROSSMAN: And you've just handed me an</p> <p>9 exhibit. Let's label this as Exhibit 81 and this is --</p> <p>10 ROBIN RICE: If I may, I would like to change it to</p> <p>11 this one.</p> <p>12 MARTIN GROSSMAN: Okay. This would be Exhibit 81 is --</p> <p>13 ROBIN RICE: Affected houses.</p> <p>14 MARTIN GROSSMAN: Photo of Park Mill Drive and it</p> <p>15 looks like Shady Grove Road. All right.</p> <p>16 ROBIN RICE: So based on my looking at the letters</p> <p>17 that were in the Staff Report and the witness list, if I</p> <p>18 remember right, I think I have three that are circled in</p> <p>19 red with the house numbers on them.</p> <p>20 MARTIN GROSSMAN: You do have three circled in red.</p> <p>21 ROBIN RICE: Okay. Those are the people prior to the</p> <p>22 hearing with information in the record before the Staff</p> <p>23 Report that are in opposition to the conditional use. I'm</p> <p>24 sure there's more because you have 60 letters and 244</p> <p>25 people sign the flyers, but those are the three that were</p> | <p style="text-align: right;">72</p> <p>1 significance of it that there were three to start with.</p> <p>2 What's the significance of that to me?</p> <p>3 ROBIN RICE: As you're look through the case file</p> <p>4 trying to make a decision --</p> <p>5 MARTIN GROSSMAN: Yes.</p> <p>6 ROBIN RICE: That's how many people in the circle on</p> <p>7 Park Mill Drive, Mill Run Drive, are in opposition to my</p> <p>8 application? How many people have not said that they are in</p> <p>9 opposition? How many people are in opposition that are</p> <p>10 going to be infected by the inherent traffic going from</p> <p>11 Shady Grove Road to Mill Run Drive, turning left on Park</p> <p>12 Mill Road? It's only the 18 houses that can be affected</p> <p>13 because my customers aren't going to drive further than</p> <p>14 that unless they come in from a different direction.</p> <p>15 MARTIN GROSSMAN: Well, I understand. You made that</p> <p>16 point, but that and it's subject to cross-examination and</p> <p>17 other testimony, but I understand your point there. I don't</p> <p>18 understand your distinction between the fact that three of</p> <p>19 them that at least you concluded, at least -- had</p> <p>20 opposition before or after the Staff Report. And I'm not</p> <p>21 counting noses any way as I said before so I don't really</p> <p>22 see that --</p> <p>23 ROBIN RICE: I'm trying personally to figure out who</p> <p>24 will be affected and how many. I don't know the conclusion</p> <p>25 of that analysis because I don't have the other 30 letters</p> |

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19 (73 to 76)

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| <p>73</p> <p>1 that were there after the Staff Report. I didn't go through 2 them and I didn't go -- don't know how many people signed 3 and I don't know how many people are here that did not have 4 the information originally in the record. 5 MARTIN GROSSMAN: Hold on one second. Mr. Snee, I see 6 you're leaving. You want me to try to put you on now? 7 JIM SNEE: I'll come back after lunch. 8 MARTIN GROSSMAN: Oh, okay. That will be fine. Thank 9 you. 10 ROBIN RICE: So I just started an analysis that you 11 will have -- you will have in your records as far as how 12 many of these 18 houses -- 13 MARTIN GROSSMAN: Okay. 14 ROBIN RICE: -- and who was in opposition instead 15 of -- just for your information for your decision. 16 MARTIN GROSSMAN: All right. 17 ROBIN RICE: I'm trying to figure out who out of these 18 18 houses are here and I've started it, but I've not 19 completed it. Okay. 20 MARTIN GROSSMAN: Okay. 21 ROBIN RICE: Is Emily here? 22 MARTIN GROSSMAN: Are you finished with your direct 23 testimony, Ms. Rice? 24 ROBIN RICE: No, but Emily is here and I can pause 25 what I'm doing to be able to have Emily as a witness</p> | <p>75</p> <p>1 that effectively what you are on her report? 2 ROBIN RICE: There are significant factual errors, 3 omissions of documents, mistakes in the report. 4 MARTIN GROSSMAN: I know you made that assertion. So 5 let me start out by identifying Ms. Tettelbaum and 6 introducing her and getting a little background information 7 before you question her. All right. Will you state your 8 full name please? 9 EMILY TETTELBAUM: Emily Tettelbaum. 10 MARTIN GROSSMAN: And your work address? 11 EMILY TETTELBAUM: 8787 Georgia Avenue, Silver Spring. 12 MARTIN GROSSMAN: Would you raise your right hand 13 please? Do you swear or affirm to tell the truth, the whole 14 truth, and nothing but the truth under penalty of perjury? 15 EMILY TETTELBAUM: I do. 16 MARTIN GROSSMAN: All right. Tell us your current 17 occupation, your education, and experience related to land 18 planning, zoning, and site evaluation. 19 EMILY TETTELBAUM: I'm a senior planner at the 20 Montgomery Planning Department. 21 MARTIN GROSSMAN: You have to hit the button for your 22 microphone. 23 EMILY TETTELBAUM: Oh. 24 MARTIN GROSSMAN: It should show red. 25 EMILY TETTELBAUM: It's supposed to show red?</p> |
| <p>74</p> <p>1 because we arranged for her to be here at 11:00. 2 MARTIN GROSSMAN: True. How much more of your own 3 direct testimony is there? 4 ROBIN RICE: I asked for six hours so there is a lot. 5 MARTIN GROSSMAN: Well -- all right. Is it your desire 6 to call Ms. Tettelbaum now in your case? 7 ROBIN RICE: I made a commitment to start with her at 8 11:00 so that's what I want to do. 9 MARTIN GROSSMAN: All right. 10 ROBIN RICE: And pause what I'm doing. 11 MARTIN GROSSMAN: All right. 12 ROBIN RICE: Okay. 13 MARTIN GROSSMAN: Well, we will interrupt your direct 14 testimony for Ms. Tettelbaum. Is she present? 15 EMILY TETTELBAUM: Yes. 16 MARTIN GROSSMAN: All right. Please come forward. 17 There is a -- right over there; I think the microphone is 18 set up. Yes. Is that -- 19 EMILY TETTELBAUM: Yeah, it's okay. 20 MARTIN GROSSMAN: The chair right there. The next one 21 over may be better. That's where the court reporter set up 22 a microphone -- got you. Let me -- I think preliminarily, 23 let me ask, since you've asked Ms. Tettelbaum here and 24 presumably since she report -- recommending against it. You 25 are essentially seeking to cross-examine her. Is that -- is</p> | <p>76</p> <p>1 MARTIN GROSSMAN: Yeah. 2 EMILY TETTELBAUM: Okay. I'm a senior planner at the 3 Montgomery County Planning Department. I went to graduate 4 school at the University of Maryland for community 5 planning. I've been working at the Planning 6 Department -- well, part time since 2009. Well, between 7 2009, 2010, I worked part-time when I was in graduate 8 school and I've been full-time since 2010. Initially I 9 worked on rewriting the zoning code for five years and I've 10 been reviewing zoning cases, conditional uses, local map 11 amendments, preliminary plans, and site plans for the past 12 two years. 13 MARTIN GROSSMAN: And what degrees do you have? 14 EMILY TETTELBAUM: I have an undergraduate degree in 15 biology and a graduate degree in community planning. 16 MARTIN GROSSMAN: All right. Are there any -- do you 17 have any questions regarding this witness's expertise in 18 those areas Ms. Rice? 19 ROBIN RICE: One of my questions is -- 20 MARTIN GROSSMAN: Not as to the facts of this case, 21 but just in general, her expertise in land planning, site 22 evaluations, and zoning. Because let me explain a little 23 bit. When somebody is called who is essentially going to be 24 asked to testify as an expert, we allow the participants, 25 the parties, to ask questions regarding that witness's</p> |

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20 (77 to 80)

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| <p style="text-align: right;">77</p> <p>1 expertise. An expert in this type of proceeding is somebody 2 who can offer information, opinions, that are beyond the 3 ken of an average layman that would be helpful to the 4 finder of fact. And so we have a process called the voir 5 dire in which the question of the witness's expertise can 6 be examined if anybody has a question regarding it. So I 7 turned to Ms. Rice and I asked, do you have any questions 8 regarding this witness's expertise in terms of planning and 9 zoning and site evaluation. 10 ROBIN RICE: One question that I had that she's 11 already answered in the record, I was going to ask again is 12 that; have you ever -- have you analyzed any other 13 childcare applications other than mine? 14 EMILY TETTELBAUM: Analyzing one right now for 200 15 children. 16 ROBIN RICE: Prior to my Staff Report? 17 EMILY TETTELBAUM: I personally haven't done it, but I 18 have proofread a lot of other daycare reports. 19 ROBIN RICE: Okay. So the answer is no then. 20 EMILY TETTELBAUM: Correct. 21 MARTIN GROSSMAN: Okay. Mr. Nelson, do you have any 22 questions regarding this witness's expertise? 23 G. MACY NELSON: I have nothing. 24 MARTIN GROSSMAN: Anybody else at counsel table? 25 ANNE GREGORSKI: No.</p> | <p style="text-align: right;">79</p> <p>1 application was because the drawings weren't to scale; they 2 didn't have North arrows on them. 3 ROBIN RICE: Initially -- 4 EMILY TETTELBAUM: They -- we couldn't evaluate them 5 based on how they were drawn. 6 ROBIN RICE: Do you agree with me that you did not 7 accept my application in March 2016, partially due to that 8 my parking plan was not adequately drawn? 9 EMILY TETTELBAUM: I think that was part of the 10 reason, yes. 11 ROBIN RICE: Okay. So yes. My husband then drew scale 12 drawings of the parking plan to get my application 13 accepted. Both of these drawings had parking space number 14 10 and parking space number 9 on the drawings. 15 MARTIN GROSSMAN: Let's -- 16 ROBIN RICE: In spite of the scale drawings this -- 17 MARTIN GROSSMAN: Hold on one second Ms. Rice. 18 ROBIN RICE: Certainly. 19 MARTIN GROSSMAN: Do you have an exhibit number that 20 you are referencing there? 21 ROBIN RICE: No. It's -- 22 MARTIN GROSSMAN: In other words, the redrawn parking 23 map is that Exhibit 17. Is that what you're talking about? 24 ROBIN RICE: No. I drew the parking plans first. Ms. 25 Tettelbaum didn't accept it. Then my husband drew scale</p> |
| <p style="text-align: right;">78</p> <p>1 MARTIN GROSSMAN: All right. Anybody object to her 2 testimony as an expert in planning, evaluating site plans, 3 and so on in this case? 4 ANNE GREGORSKI: No. 5 MARTIN GROSSMAN: Okay. I accept Ms. Tettelbaum as an 6 expert in land planning, site evaluation, and zoning. All 7 right. Did you prepare two reports regarding this case; 8 Exhibit 67, a report of 6/19/17 and then Exhibit 72 on July 9 19, '17 in response to Ms. Rice's assertions of factual 10 errors? 11 EMILY TETTELBAUM: Yes, I did. 12 MARTIN GROSSMAN: All right. And do you have anything 13 else you wish to add to those reports before I allow Ms. 14 Rice and the other parties to examine you? 15 EMILY TETTELBAUM: No, I do not. 16 MARTIN GROSSMAN: Okay. All right. Ms. Rice. 17 ROBIN RICE: Thank you for coming Emily. When I 18 submitted my application around March of 2016, I drew a 19 plan following the County Council's decisions that 20 residential properties can pave up to 30 percent of their 21 front yard. Do you agree with me that you did not accept my 22 initial application partially due to your decision that my 23 parking plan was not adequately drawn? 24 EMILY TETTELBAUM: I'm not sure exactly what your 25 question is there. The issue with not accepting the</p> | <p style="text-align: right;">80</p> <p>1 drawings. Ms. Tettelbaum didn't accept it. 2 MARTIN GROSSMAN: Oh, okay. So that's another one. 3 Okay. 4 ROBIN RICE: So that's what I'm trying to -- 5 MARTIN GROSSMAN: Okay. 6 ROBIN RICE: -- get in the record. My husband then 7 drew scale drawings of the parking plan to get my 8 application accepted. But that these joints had parking 9 spaces number 10 and number 9 on the drawings. In spite of 10 the scale drawings and the zoning ordinance not 11 specifically requiring architects, you did not accept my 12 application. 13 MARTIN GROSSMAN: Well, let's -- don't -- 14 ROBIN RICE: Do you -- 15 MARTIN GROSSMAN: Don't have it in spite of. Just 16 let's get to the facts. 17 ROBIN RICE: Okay. 18 MARTIN GROSSMAN: Okay. 19 ROBIN RICE: Do you agree that I was extremely 20 stubborn about paying for professional fees for the parking 21 plan that my husband had already drawn to scale? 22 MARTIN GROSSMAN: I'm not going to allow that 23 question. That's a matter of what your feelings were et 24 cetera. It's not relevant here and this witness is not the 25 person to answer that, you are.</p> |

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21 (81 to 84)

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| <p style="text-align: right;">81</p> <p>1 ROBIN RICE: That I ask you to check with hearing zone 2 or whether paying a professional was required? 3 EMILY TETTELBAUM: I think so. 4 ROBIN RICE: Was your response that you urged me to do 5 it? 6 EMILY TETTELBAUM: We all typically urge -- urge 7 applicants to use a professional if we think it's warranted 8 so we can properly evaluate an application. 9 ROBIN RICE: Since you told me that you recommended 10 approval of the parking later, and I had your response for 11 me that you talked to the hearing examiner, I went ahead 12 and paid the architect -- 13 MARTIN GROSSMAN: No, no, no. You can't testify in 14 these questions. You can ask a question, but you can't 15 testify. You can testify on your own, when you're not 16 questioning this witness, as to anything that is relevant 17 here, but you can't testify in the middle of the question. 18 So just ask a question. 19 ROBIN RICE: Did you tell me that you would recommend 20 approval of the parking waiver? 21 EMILY TETTELBAUM: I did not. I said that it was 22 possible to apply for a parking waiver instead of -- I 23 think you were referring to it as alternative compliance. 24 And I said you can apply for a parking waiver. I never said 25 I would support a parking waiver.</p> | <p style="text-align: right;">83</p> <p>1 ROBIN RICE: Okay. The report on page 1 says that 2 staff does not support the applicant's request for a waiver 3 of 22 feet of the 20 foot side parking setback required by 4 section 6.2.5.1.2(b). 5 MARTIN GROSSMAN: All right. That's Exhibit 67. That's 6 the Staff Report of June 19, 2017. 7 ROBIN RICE: Okay. Are you aware that the county text 8 amendment ZTA 16-13 was written in the fall of 2016? 9 EMILY TETTELBAUM: As I wrote in the second 10 supplemental report that I submitted, I'm not sure what 11 evidence number that is -- 12 MARTIN GROSSMAN: It's Exhibit 72. 13 EMILY TETTELBAUM: Exhibit 72; I'm sure that at some 14 point the ZTA did cross my desk, but it happened sometime 15 between our initial discussions at a Staff Report. Yes, 16 that was my error. I did not double check that it was still 17 required when I wrote the report. And you are correct about 18 that. The parking waiver is no longer required. 19 ROBIN RICE: Thank you. 20 EMILY TETTELBAUM: That does not change our 21 recommendation for the -- 22 ROBIN RICE: I'm not asking you that. 23 EMILY TETTELBAUM: Oh. 24 ROBIN RICE: I had a meeting -- after a meeting with 25 Patrick Patterson at 2:00 on March --</p> |
| <p style="text-align: right;">82</p> <p>1 ROBIN RICE: Didn't you say that it would be no 2 problem because of the six-foot fence? 3 EMILY TETTELBAUM: I don't recall saying that. I might 4 have said a fence could help. I really don't remember 5 exactly what I said. 6 ROBIN RICE: You didn't say it will be no problem? 7 EMILY TETTELBAUM: I definitely do not recall saying 8 that. 9 ROBIN RICE: Our memories differ. 10 MARTIN GROSSMAN: What -- Ms. Rice, what difference 11 does that make what -- that exchange that you had? We have 12 plans, whatever the plans are, before us of what are going 13 to be evaluated? I don't understand what the relevance is 14 to any preliminary discussions there might have been 15 regarding what you wanted to file. 16 ROBIN RICE: It took a year to get my application 17 accepted. There was continual requests to have professional 18 drawings. Professional drawings are expensive. I decided to 19 do the professional drawings because Ms. Tettelbaum did 20 tell me that she would -- that the parking waiver would not 21 be an issue because of the six-foot fence. That's why I 22 went ahead and did those drawings. 23 MARTIN GROSSMAN: None of that's an issue. The only 24 thing that's an issue before me is the plans that you have 25 that you intend to proceed on. That's what's before me.</p> | <p style="text-align: right;">84</p> <p>1 MARTIN GROSSMAN: No, you can't testify again. You can 2 only ask the witness a question. 3 ROBIN RICE: Did you -- 4 MARTIN GROSSMAN: You will be able to testify, but not 5 as part of your questioning the witness. 6 ROBIN RICE: Did you receive a copy of the text 7 amendment that I gave to Patrick Patterson at 2:00 on March 8 17th that he emailed to you with a CC? 9 MARTIN GROSSMAN: What possible difference could that 10 make when the witness has testified that she made an error, 11 but she corrected the error in her follow-up report, 12 Exhibit 72, after you pointed out the error? 13 ROBIN RICE: Part of Ms. Tettelbaum's information 14 that's in the record is that she was not aware of the text 15 amendment prior to the Staff Report. Okay. I personally 16 knew about it. I personally gave a copy of it to Patrick 17 Patterson prior to her Staff Report. Her information in the 18 report that is inaccurate is a big difference between 19 having an accurate Staff Report prior to parking planning 20 versus after parking planning. I'm just trying to let the 21 record show that I knew about the text amendment, I had a 22 meeting with the staff member, I gave him a copy of the 23 staff (inaudible), and it was prior to the Staff Report. 24 The information was there available to her prior to the 25 Staff Report. I believe it was an honest mistake, but I</p> |

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22 (85 to 88)

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| <p>85</p> <p>1 gave the information prior to the Staff Report and she had 2 it through Patrick. I don't know. 3 MARTIN GROSSMAN: But the whole point is that it's 4 the -- the parking waiver is not an issue because, as you 5 correctly pointed out, the zoning text amendment removed 6 that requirement from single-family dwellings. 7 ROBIN RICE: Part of the discussion after the Staff 8 Report, is that she would have looked at factual errors 9 prior to writing the Staff Report. I'm trying to get into 10 the record that that information was supplied by me on a 11 specific date to a specific person. 12 MARTIN GROSSMAN: You can testify after that. Okay. 13 ROBIN RICE: I would like to know she got that from 14 Patrick or not. 15 MARTIN GROSSMAN: All right. 16 ROBIN RICE: Did she get the text amendment? 17 EMILY TETTELBAUM: I did not. 18 ROBIN RICE: Okay. 19 MARTIN GROSSMAN: Okay. 20 ROBIN RICE: Copies of the Staff Report show Patrick's 21 name on the report, but the copy I received did not have 22 his initials on it. Did he ever initial the report? 23 EMILY TETTELBAUM: There are two Patrick's that I work 24 with. Patrick Patterson works for the intake division and 25 you met with him as well. Patrick Butler is my supervisor</p> | <p>87</p> <p>1 that -- of the house, now that a parking waiver is no 2 longer required? 3 EMILY TETTELBAUM: Are you asking whether I think it's 4 appropriate or -- 5 ROBIN RICE: No, yes or no. Since there is no parking 6 waiver allowed, can I park there, in your opinion? 7 EMILY TETTELBAUM: In my professional opinion about 8 whether it's compatible? No. 9 ROBIN RICE: No. No. 10 EMILY TETTELBAUM: Can you technically -- 11 ROBIN RICE: Do you know if I put a -- 12 EMILY TETTELBAUM: -- get a permit to park there? 13 ROBIN RICE: Do you know if I park a car on the grass 14 on the side of the house, that is not in the front, can I 15 put a white Jeep on the right side of the house and park it 16 there? 17 MARTIN GROSSMAN: I don't understand that question and 18 I'm not sure -- are you asking the witness whether or not 19 you are required to have a waiver for that parking? Is that 20 what you're asking? 21 ROBIN RICE: No. It's in the record I don't need a 22 waiver. 23 MARTIN GROSSMAN: Okay. So what are you asking now? I 24 don't understand this. 25 ROBIN RICE: Since the zoning text amendment changed</p> |
| <p>86</p> <p>1 and his name was on the Staff Report. 2 ROBIN RICE: Did the Patrick whose name is on the 3 Staff Report to ever initial it? My copy doesn't have his 4 initials on it. 5 EMILY TETTELBAUM: He did not. 6 ROBIN RICE: Okay. 7 EMILY TETTELBAUM: He was out of town when the Staff 8 Report was published. 9 ROBIN RICE: All right. Did you -- so you realized 10 that the parking waiver no longer applies. Does my parking 11 plan now meet the requirements for the side yard parking 12 space for number 10 and number 9 due to zoning text 13 amendment zoning text amendment 16-13? 14 EMILY TETTELBAUM: You would not require a parking 15 waiver for the spaces. 16 ROBIN RICE: Okay. Are those spaces now available to 17 be used? 18 MARTIN GROSSMAN: What does that mean exactly? They 19 don't exist now do they? 20 ROBIN RICE: No, they don't. 21 MARTIN GROSSMAN: Okay. So they can't be available to 22 use. I'm not sure what you mean by that. 23 ABDON D. ACKAD, JR.: Ask if they can be used for 24 parking. 25 ROBIN RICE: May I park vehicles on the side now</p> | <p>88</p> <p>1 and I don't need a waiver anymore -- 2 MARTIN GROSSMAN: Yes. 3 ROBIN RICE: -- part of my parking plan -- 4 MARTIN GROSSMAN: The parking plan being -- is that 5 Exhibit 17? Is that what you're talking about? It's labeled 6 as, parking space layout; childcare facility parking? 7 ROBIN RICE: Yeah. Number 9 and number 10. 8 MARTIN GROSSMAN: Number 9 and 10. What do you mean? 9 ROBIN RICE: These two spaces. 10 MARTIN GROSSMAN: Okay. So I understand, but let's 11 identify the exhibit. This is Exhibit 17; is your -- there 12 is a small copy of it. 13 ROBIN RICE: Okay. 14 MARTIN GROSSMAN: Is your parking space layout and the 15 reference to parking spaces 9 and 10 that you are using. 16 ROBIN RICE: Correct. 17 MARTIN GROSSMAN: Okay. All right. So now what your 18 question about them? 19 ROBIN RICE: Now that a parking waiver is no longer 20 required to be allowed to park there, and you didn't know 21 that before your Staff Report, the ability to park there is 22 no longer an issue as far as being able to do it. The issue 23 is whether you recommend it or not, but these two parking 24 spaces, and your objection to parking there because of the 25 parking waiver, is no longer a valid issue.</p> |

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23 (89 to 92)

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| <p>89</p> <p>1 EMILY TETTELBAUM: The parking waiver is no longer an 2 issue. 3 ROBIN RICE: Okay. 4 EMILY TETTELBAUM: Whether I think it's appropriate or 5 not is a separate issue. 6 ROBIN RICE: Okay (inaudible). In my application in 7 Tab 8, I made a copy of CU 15-02 Lily Pads and CU 1607 8 Fernwood parking plans. Both were granted conditional use 9 applications. The Lily Pads' parking plan shows three side 10 yard parking places on the right side of the house for 11 three cars like 15-02 Lily Pads. Did you look at these 12 examples in my application and make any suggestions that my 13 property could accommodate cars on the side just like CU 14 1502? 15 G. MACY NELSON: Object to relevance. 16 MARTIN GROSSMAN: I'm sorry sir. 17 G. MACY NELSON: Object to relevance the other cases. 18 MARTIN GROSSMAN: All right. What's the relevance of 19 these other cases? 20 ROBIN RICE: The other cases; in my application, I had 21 copies of parking plans for two other conditional uses. One 22 of them had a parking plan showing that parking was allowed 23 on the side of the house; granted conditional use 24 application. I have the staff member who has not done any 25 conditional use childcare applications before and I showed</p> | <p>91</p> <p>1 more to whether the witness knew about them. Is that -- am 2 I understanding you correctly? 3 ROBIN RICE: Knew about them, did any research, looked 4 at any other conditional things. 5 MARTIN GROSSMAN: Okay. 6 ROBIN RICE: One of the reasons I want -- 7 MARTIN GROSSMAN: Well, don't -- I understand and I 8 think it's a legitimate inquiry of the witness. So I will 9 let her answer that question. Were you aware of these other 10 conditional use decisions regarding parking which dealt, in 11 those cases, with parking issues too, when you did your 12 report in this case? 13 EMILY TETTELBAUM: Yes, I did look at those other 14 cases. I think the one you're talking about, if I recall 15 correctly, is on Old Georgetown Road and the parking spaces 16 on the side of the house were already there and they were 17 adjacent to parking on the adjoining property. So to me, it 18 had no relevance to this case. 19 ROBIN RICE: In the parking planning hearing, you made 20 a similar statement. Did you make a similar statement that 21 if the parking was existing on the side of the house, that 22 that would be approved? 23 EMILY TETTELBAUM: I recall saying, when I thought 24 that a parking waiver would be required, that if the 25 parking was already existing on this property, if the</p> |
| <p>90</p> <p>1 her when we were talking for a year; look at this one. They 2 allowed parking on the side. We had an issue because of the 3 parking waiver. That's gone. I'm proposing to put two 4 parking spaces on the right-hand side of the house, okay. 5 Without the parking waiver as a restriction to allow me to 6 do it and with the example of another approved conditional 7 use application, of parking on the right-hand side of the 8 house. That is what I'm trying to get into the record that 9 that example and the elimination of the requirement for the 10 parking waiver will allow me to put cars on the right 11 inside of the house if you approve it. But there is no 12 reason not to anymore because the parking waiver is gone. 13 MARTIN GROSSMAN: Well, I think the objection goes to 14 the relevance presumably because these are different 15 locations. I'm familiar with both of those -- 16 ROBIN RICE: Yeah, I know. 17 MARTIN GROSSMAN: -- cases in that I decided both of 18 them. But the examples concern different areas, different 19 site setups, different roadway locations, and so on. So the 20 question is; how are those two relevant here? I think your 21 question actually went to something other than what Mr. 22 Nelson's objection -- your question actually went to this 23 witness's knowledge of those other cases I think. Is that 24 correct? Rather than you made an argument to me about how 25 they are presumably relevant, but your actual question went</p> | <p>92</p> <p>1 spaces were already there, that's the kind of situation 2 where we would recommend approval for a parking waiver. 3 ROBIN RICE: So if I had known that in March 2016, and 4 I paid -- 5 MARTIN GROSSMAN: No, no, no. You can't argue with the 6 witness. 7 ROBIN RICE: Okay. 8 MARTIN GROSSMAN: You can ask a question. 9 ROBIN RICE: All right. Did you -- 10 MARTIN GROSSMAN: And by the way, in terms of 11 tittering in the audience, this is not easy to do. It's not 12 easy to ask questions that meet the standards in a hearing. 13 So when a layperson is asking questions, let's not titter 14 about it. It's difficult to frame questions in a way that 15 should be -- that is allowable in this situation which does 16 not include -- you can't testify as part of your question. 17 ROBIN RICE: Okay. Your testimony is that existing 18 parking prior to a conditional use application is something 19 that you would approve being used. Is that correct? 20 EMILY TETTELBAUM: Not necessarily, but I think 21 I -- at the Planning Board hearing, brought up one example 22 where we would waive a parking that's where we would 23 request a -- or recommend approval for the waiver of the 24 side parking setback. 25 ROBIN RICE: If it was existing first?</p> |

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24 (93 to 96)

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| <p>93</p> <p>1 EMILY TETTELBAUM: Well, or -- in certain instances, 2 it would be appropriate if it was already existing. 3 ROBIN RICE: I would like to make a motion that the 4 parking planning hearing can go in the record because it's 5 not coming out the same way. 6 MARTIN GROSSMAN: The parking planning hearing. You're 7 talking about the Planning Board hearing? 8 ROBIN RICE: The Planning Board hearing, yes sir. 9 MARTIN GROSSMAN: If you submit specific testimony 10 from the Planning Board hearing, then that could be 11 considered. Do you have a transcript of specific testimony? 12 ROBIN RICE: I don't have a transcript. I've got a 13 link to the record and I've got my own testimony, but 14 that's it. 15 MARTIN GROSSMAN: Is not -- I don't see how it can be 16 examined as part of this as effectively as part of this 17 record in that way. And I'm not sure how relevant it is. 18 Let's say that the Planning Board -- that it wasn't stated 19 that way at the Planning Board. Are you -- you're 20 challenging the Planning Board decision based on that 21 testimony or what? 22 ROBIN RICE: My point is that parking on the side of 23 the house is no longer required as a parking waiver. It's 24 allowed. The testimony from Ms. Tettelbaum at parking 25 planning was if it was existing prior to an application, it</p> | <p>95</p> <p>1 MARTIN GROSSMAN: Well, let's take one at a time. 2 ROBIN RICE: Okay. 3 MARTIN GROSSMAN: The description in the Planning 4 Board and her report to the Planning Board which is Exhibit 5 67 is in the record. So it is whatever it is, okay. 6 ROBIN RICE: Yeah. 7 MARTIN GROSSMAN: We don't know about the -- there is 8 no transcript for the Planning Board hearing. 9 ROBIN RICE: That's okay. 10 MARTIN GROSSMAN: So let's take what her testimony is 11 here. Ask your question about it and are reports. 12 ROBIN RICE: My issue is that the initial report said 13 no sidewalks and Park Mill Road was a secondary residential 14 road and it's not. 15 MARTIN GROSSMAN: Well, you can testify about that or 16 ask this witness. Is that -- she just testified that it is 17 not a secondary road. 18 EMILY TETTELBAUM: This -- 19 MARTIN GROSSMAN: Do you agree with that? 20 EMILY TETTELBAUM: This section of Park Mill Road is a 21 secondary residential road. 22 ROBIN RICE: Did you make a mistake in either of your 23 report stating that there are no sidewalks and not being 24 clear that -- where the secondary road starts and that 25 there are primary roads and sidewalks in the R200 zone that</p> |
| <p>94</p> <p>1 was okay. If I had known that using the right-hand side of 2 the house to make it existing would be the requirement to 3 get approval to use it after the conditional use, I would 4 have paved it. 5 MARTIN GROSSMAN: What I'm going to rely on is your 6 testimony here in which -- is subject to cross-examination 7 which you are effectively doing now. And her testimony here 8 is that would be a consideration depending on the other 9 circumstances. Not that it's necessarily determinative. 10 ROBIN RICE: I believe the sign in front of parking 11 planning was if it was existing, it's okay. So I'm mad at 12 myself for not paving it prior to the hearing. 13 MARTIN GROSSMAN: None. I'm not sure that will change 14 anything. 15 ROBIN RICE: But it's going to be your decision, so I 16 will move on. 17 MARTIN GROSSMAN: Yes, let's move on. 18 ROBIN RICE: I'll move on. You described my property 19 by stating it's in an R200 zone. Did you describe my 20 property by stating that it's in R200 zone with secondary 21 residential streets and no sidewalks? Is that description 22 factually accurate? 23 EMILY TETTELBAUM: Are you referring to my Planning 24 Board testimony or the Staff Report? 25 ROBIN RICE: Kind of both. The --</p> | <p>96</p> <p>1 you were evaluating? 2 EMILY TETTELBAUM: We typically just discuss the 3 section of road where the subject property is located. 4 ROBIN RICE: But you described my property as stating 5 that it's in the R200 zone with a secondary street with no 6 sidewalks. You talked about the zone in at the 7 neighborhood. You didn't talk about right in front of my 8 property. 9 EMILY TETTELBAUM: Well, I mean, the R200 zone has all 10 kinds of different situations where properties are on 11 different street classifications. I don't think that it 12 implied that every property in the R200 zone was located on 13 a road with a certain classification. 14 ROBIN RICE: Your decision was based on -- did your 15 decision base, in your report, statements talking about 16 secondary road, no sidewalks, without including that there 17 are sidewalks and primary residential zones near my 18 property? The initial ones? 19 EMILY TETTELBAUM: I don't understand what your 20 question is here. I didn't make any decision. I made a 21 recommendation to the Planning Board. There is a section 22 of -- I think I emailed you what the section of Park Mill 23 Road is that is a primary residential street with 24 sidewalks, but it's not the section where your property is. 25 That's the most relevant part of the report and our</p> |

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25 (97 to 100)

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| <p>97</p> <p>1 recommendation and the Planning Board's decision. 2 ROBIN RICE: Did your initial report, prior to my 3 talking about factual errors, have any statements in it 4 saying that there were sidewalks and that there were 5 primary residential roads in the area? 6 MARTIN GROSSMAN: As I said, her initial report, 7 Exhibit 67, is in the record, or it will be as -- moved in 8 later and it will be in the record, it speaks for itself. 9 Whatever she said or didn't say is in this written 10 document, Exhibit 67. She doesn't have the answer as to 11 what's in there. It speaks for itself. 12 ROBIN RICE: What's in then there is factually 13 incorrect. 14 MARTIN GROSSMAN: Well, you can testify as to that. 15 ROBIN RICE: All right. 16 MARTIN GROSSMAN: And you can ask her if something is 17 actually incorrect, but you can't ask her what's in your 18 report? The report speaks for itself. 19 ROBIN RICE: All right. I'm pro se. I'm trying my 20 best. 21 MARTIN GROSSMAN: I understand and I -- 22 ROBIN RICE: Okay. When I asked you for information 23 describing -- regarding your description using the 24 terminology of a substandard residential street, you 25 replied to me about the current law. You also stated later</p> | <p>99</p> <p>1 detached residence that could exist in Montgomery County? 2 EMILY TETTELBAUM: What was your question? 3 ROBIN RICE: My question -- my dedicated right-of-way 4 is 60 feet in a single-family, detached zone. Do you know 5 if other single-family detached zones have less than 60 6 feet? 7 EMILY TETTELBAUM: I don't know off the top of my 8 head. I imagine that there are probably places in the 9 county where they have less than a 60 foot right-of-way, 10 but I don't know that for sure. 11 ROBIN RICE: So if you are, then mine would not be 12 narrow. It would be -- 13 MARTIN GROSSMAN: Well, that's your own -- 14 ROBIN RICE: Okay. 15 MARTIN GROSSMAN: Your own conclusion. 16 ROBIN RICE: Did you research any other conditional 17 use applications in R200 zones for 13 to 30 children to 18 prepare your Staff Report? 19 EMILY TETTELBAUM: That's not something we typically 20 do. I did look at the general approvals of the -- of 21 daycares I think the last four years. I don't recall 22 exactly which zones they were in. 23 ROBIN RICE: So you don't know if any other R200 zones 24 with secondary residential streets or streets that are even 25 smaller than 60 feet wide have ever been recommended for</p> |
| <p>98</p> <p>1 that section 49-29 was amended in 2007 and 2014 and that 2 you don't know how many R200 zones exist with substandard 3 residential streets. Is that correct? 4 EMILY TETTELBAUM: Yes, I think so. 5 ROBIN RICE: If I had purchased a different house in a 6 R200 zone with a secondary residential street with no 7 sidewalks, would you have recommended denial in regards -- 8 MARTIN GROSSMAN: I'm not going to allow it. That's 9 speculative and irrelevant. If you had done something else; 10 there are too many if's involved in that kind of question. 11 That's not allowable. 12 ROBIN RICE: Her recommendation is to deny because of 13 the secondary residential street and no sidewalks period; 14 without looking at anything else. 15 MARTIN GROSSMAN: I don't think she said that in her 16 report. I mean, she has -- the way I read the report, she 17 has, on Page 3 I think it is, a couple of paragraphs; 18 actually, Page 2; in which she has addressed this and it's 19 not restricted to what you say. So I don't think that's an 20 accurate summary of her report, but you can read it and 21 reach your own conclusions. That's not a question here. 22 ROBIN RICE: Your report said the street is narrow on 23 the first pages of your report. On Page 9 of your report it 24 says secondary residential street has a 60 foot wide right- 25 of-way. Do you know what the smallest right-of-way with a</p> | <p>100</p> <p>1 approval? 2 EMILY TETTELBAUM: No, I don't. 3 ROBIN RICE: On Page 18, your report states the 4 intensity of the proposed daycare facility on a relatively 5 small lot. Does the zoning ordinance have a statistical 6 measurement of how many square feet are required to apply 7 for a large childcare center? 8 MARTIN GROSSMAN: An enlarged -- 9 EMILY TETTELBAUM: Statistic -- 10 MARTIN GROSSMAN: Hold on. 11 ROBIN RICE: The zoning board rules divides -- 12 MARTIN GROSSMAN: No -- I didn't understand your 13 question. What was the last part of your question? An 14 enlarged daycare centers? 15 ROBIN RICE: For a large childcare center. 16 MARTIN GROSSMAN: A large. 17 ROBIN RICE: The zoning ordinance is 500 square feet a 18 large one and you don't need any square foot analysis for 19 small one. 20 MARTIN GROSSMAN: Okay 21 ROBIN RICE: I'm a small one; 13 to 30. 22 MARTIN GROSSMAN: Yes, you are -- there are two 23 different types of daycare centers. There are actually a 24 number of different types of childcare facilities; family 25 daycare which is up to eight children, a group daycare</p> |

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26 (101 to 104)

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| <p>101</p> <p>1 which is 8 to 12 children; and then there are two types of 2 daycare centers; the small one that Ms. Rice is referring 3 to for the 12 to 30, and then larger daycare centers above 4 30. So that's -- so what exactly is your question? 5 ROBIN RICE: My question is, on Page 18 your report 6 states the intensity of the proposed daycare facility on a 7 relatively small lot. Does the zoning ordinance have a 8 statistical measurement of how many square feet are 9 required to apply for a large childcare center? 10 MARTIN GROSSMAN: I guess the problem is -- the 11 problem is, large childcare. So you mean a daycare center? 12 When you say a large child -- that's not a -- a large is 13 not a word that is susceptible to definition in the zoning 14 board. So that's why -- I don't know what you mean. 15 ROBIN RICE: I believe the verbiage used in the zoning 16 ordinance, and please correct me if I'm wrong, but I 17 believe the verbiage used for 13 to 30 is small childcare 18 centers. 19 EMILY TETTELBAUM: No. 20 ROBIN RICE: And the verbiage used for over 30 is 21 large childcare centers. 22 MARTIN GROSSMAN: Well, I can tell you what it says 23 exactly. 24 ROBIN RICE: But I'm not sure. 25 MARTIN GROSSMAN: The -- okay. It says, for a daycare</p> | <p>103</p> <p>1 MARTIN GROSSMAN: For a daycare center of 13 to 30 2 children, does the zoning ordinance specify a square 3 footage? 4 EMILY TETTELBAUM: I don't think so. 5 ROBIN RICE: Okay. 6 MARTIN GROSSMAN: I mean, the zoning ordinance will 7 speak for itself. 8 ROBIN RICE: Yeah. 9 MARTIN GROSSMAN: But in any event, that is what it 10 says now. 11 ROBIN RICE: So how did you determine that the 12 intensity of the proposed daycare facility is on a 13 relatively small lot? Why did you decide it's a small lot 14 for the intensity of the proposed daycare if you don't know 15 the measurement the zoning ordinance uses for -- not for a 16 small daycare, but for a daycare for 13 to 30 when the 17 measurement for a large daycare is 500 square feet per 18 child? 19 EMILY TETTELBAUM: Well, I think I just this in the 20 second report that I submitted that when I did go back and 21 look at the approvals, there was another approval for a 22 30-child daycare. I don't know what the number is. I don't 23 know what the year is, but it was on a property that was 24 around two acres or maybe even larger. Based on that, based 25 on the fact that this lot does not even meet the</p> |
| <p>102</p> <p>1 center, (13 to 30 persons) defined daycare center, 13 to 30 2 persons means a daycare facility for 13 to 30 people where 3 staffing operations and structure satisfy state and local 4 regulations. A daycare center, 13 to 30 persons, includes a 5 family daycare up to eight persons and a group daycare, 9 6 to 12 persons, where the provider is not a resident and 7 cannot meet the nonresident provider requirement. So that's 8 what you're talking about the first sentence there and I 9 don't see any reference to it as large. 10 ROBIN RICE: Let me rephrase that. 11 MARTIN GROSSMAN: So are you referring to this 13 to 12 30 daycare center in your question? 13 ROBIN RICE: I'm referring to the fact that a 13 to 30 14 childcare center, which is a smaller number -- 15 MARTIN GROSSMAN: Right. 16 ROBIN RICE: -- than a 30 or more childcare center 17 which is a larger number. 18 MARTIN GROSSMAN: Right. 19 ROBIN RICE: So -- that I'm applying for a small 20 number center versus a large number center and that -- 21 MARTIN GROSSMAN: And your question is whether the 22 zoning ordinance has a specific amount of square feet? 23 ROBIN RICE: A specific -- yeah. 24 MARTIN GROSSMAN: Do you know the answer to that? 25 EMILY TETTELBAUM: For a --</p> | <p>104</p> <p>1 requirements of an R200 zone, I think that's also why I 2 said it was a relatively small lot because it's 5000 square 3 feet small. 4 ROBIN RICE: No, my question wasn't -- 5 MARTIN GROSSMAN: No, let her finish answering. 6 ROBIN RICE: Okay. 7 MARTIN GROSSMAN: Go ahead. 8 EMILY TETTELBAUM: I'm not sure what your question is. 9 I mean, that was my professional judgment about the 10 intensity of this use of a lot of that size. That's what 11 our job is as planning staff is to write what our 12 professional judgment is about each given case. 13 ROBIN RICE: Does the zoning ordinance have a 14 statistical measurement that is the minimum that the County 15 Council authorizes the hearing examiner to approve the 16 intensity of the childcare facility? 17 EMILY TETTELBAUM: I don't understand what you mean by 18 statistical measurement. 19 ROBIN RICE: When you are analyzing a childcare center 20 for more than 30 children, the zoning ordinance requires 21 500 square feet of lot size per child. That is a 22 statistical measurement that the County Counsel determined 23 is needed for the ability to see whether you have a 24 relatively small lot for use or not. It's a statistical 25 analysis that you don't seem to be aware of. Your</p> |

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27 (105 to 108)

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| <p>105</p> <p>1 application that you have now that you've testified about 2 is for 200 children. That application requires 500 square 3 feet of lot size per child. That needs to be in your Staff 4 Report, okay. If -- 5 MARTIN GROSSMAN: No, no. Wait. Wait. 6 ROBIN RICE: Oh, sorry. All right. Five hundred -- 7 MARTIN GROSSMAN: Your opinion as to what needs to be 8 in the Staff Report is not the issue. You have a question 9 as to whether or not -- 10 ROBIN RICE: Okay. I don't 11 MARTIN GROSSMAN: -- the zoning ordinance specifies 12 the size -- the minimum size of the lot for the type of 13 application you've made now. Is that correct? 14 ROBIN RICE: My question is; using -- 15 MARTIN GROSSMAN: Well, did I correctly summarize what 16 your inquiry is on this point? Your inquiry is whether the 17 zoning ordinance specifies a minimum lot size for this type 18 of use? Is that your question? 19 ROBIN RICE: No, it's -- it's a statistical 20 measurement of how many square feet the county requires to 21 be able to apply, per child in a childcare use application. 22 Thirteen to -- my question is; does she know 13 to -- 23 MARTIN GROSSMAN: You mean whether or not the zoning 24 ordinance as opposed to the state board of education -- 25 ROBIN RICE: Yeah, this is zoning --</p> | <p>107</p> <p>1 particular site, is under what's normal -- a normal lot 2 size in the R200 zone. Yours I think is 15,000 square feet. 3 Is that correct? 4 ROBIN RICE: Yes, it is. 5 MARTIN GROSSMAN: And that's -- and it usually is 6 20,000 square feet is the normal lot size in an R200 zone 7 so it's an undersized lot in that sense. 8 ROBIN RICE: In that analysis, yes. What I'm trying to 9 get into the record is the County Council has given you 10 authority to approve up to 60 children on this lot because 11 a large -- a center over 30 allows you to approve 250 12 square feet per lot size versus the 500 that's required. 13 Five hundred is required, but you've got the authority to 14 approve 250. 15 MARTIN GROSSMAN: I'm not looking -- 16 ROBIN RICE: And I've got 500. 17 MARTIN GROSSMAN: I'm not looking at what my authority 18 is for a larger one right now. I'm looking at the question 19 of whether or not this proposal will meet the standards of 20 the Council. The Council doesn't give me carte blanche. It 21 sets very specific rules on -- in terms of evaluating this 22 type of use and all types of conditional uses and that's 23 what I will apply here. So let's not go any further afield 24 than you have already gone on this point, okay. 25 ROBIN RICE: Okay.</p> |
| <p>106</p> <p>1 MARTIN GROSSMAN: Whether the zoning ordinance says 2 how many square feet per children there must be in a -- on 3 a lot size or -- 4 ROBIN RICE: To apply for more -- my question is; do 5 you know that it requires 500 square feet of lot size per 6 child to apply for each child when you are applying for 7 more than 30 children? That's the statistical -- 8 MARTIN GROSSMAN: How is that relevant? The 9 larger -- you are not applying for more than 30. 10 ROBIN RICE: Correct, but if she is going to determine 11 in her Staff Report -- 12 MARTIN GROSSMAN: Let's talk -- let's address the 13 application we have here. That is for 30 children. Is your 14 question then as to whether or not the zoning ordinance has 15 a minimum, per child square footage requirement for this 16 type of use? 17 ROBIN RICE: I know it doesn't, but she -- 18 MARTIN GROSSMAN: Okay. 19 ROBIN RICE: The report is stating a relatively small 20 lot. I'm trying to get the statistical measurements that 21 are required for large lot into the record. 22 MARTIN GROSSMAN: It's not relevant. 23 ROBIN RICE: All right. 24 MARTIN GROSSMAN: Okay. She has testified, and I think 25 her report makes clear, that your lot, the lot of this</p> | <p>108</p> <p>1 MARTIN GROSSMAN: Do you have many more questions for 2 this witness? Because I do have to give people a break. 3 I've been accused of -- 4 ROBIN RICE: I'm sorry. 5 MARTIN GROSSMAN: -- challenging people's bladder 6 capacity. 7 ROBIN RICE: I'm trying to go as fast as I can. 8 MARTIN GROSSMAN: So just tell me; do you have many 9 more questions? 10 ROBIN RICE: Yes. I'm on 25 and I've got 57. 11 MARTIN GROSSMAN: All right. So we are going to break 12 now. It's now 10 to 12:00. We are going to break until noon 13 and come back at noon. 14 (Off the record.) (End ZOOM0001) 15 (On the record.) (Begin ZOOM0002) 16 MARTIN GROSSMAN: Let's resume. You have another 17 question? 18 ROBIN RICE: Yeah. 19 ABDON D. ACKAD, JR.: Is this thing on? 20 ROBIN RICE: Yeah. Thanks for your patience Emily. The 21 report shows that my lot is 15,000 square feet and my 22 application is for 30 children. Looking at these two 23 statistical facts about my property and my application, 24 does my property have 500 square feet per child? 25 EMILY TETTELBAUM: I think so.</p> |

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28 (109 to 112)

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| <p>109</p> <p>1 ROBIN RICE: Fifteen thousand divided by five hundred. 2 Okay. Isn't my property with 500 square feet per child just 3 the right size versus your description of a relatively 4 small property when analyzing my application statistically 5 versus a subdivision request? 6 EMILY TETTELBAUM: I mean, that wasn't one of the ways 7 we analyzed your application. 8 ROBIN RICE: My question is; isn't my property, with 9 500 square feet per child, just the right size? 10 MARTIN GROSSMAN: I'm not sure what just the right 11 size means. 12 EMILY TETTELBAUM: Yeah. 13 MARTIN GROSSMAN: She's already testified and both of 14 her reports indicate that she doesn't feel that the 15 property is the right size as part of a -- the total 16 picture here. So I don't know what you mean by just the 17 right size. 18 ROBIN RICE: Her evaluation, correctly, is that 15,000 19 square feet is the wrong size when you're analyzing how 20 many square feet a lot should have in an R200 zone. 21 MARTIN GROSSMAN: Right. 22 ROBIN RICE: She is totally right about that, but that 23 is irrelevant. What's relevant for a childcare conditional 24 use -- 25 MARTIN GROSSMAN: Well, that's arguing.</p> | <p>111</p> <p>1 accommodate 10 cars would turn the front yard into a 2 parking lot. Can you look at my plan please? My plan shows 3 paving for eight cars in the front yard, number one through 4 eight, and room on the paving entrance and exit of the 5 driveway plan for two more cars. That makes 10 spaces in 6 the front. How is -- is that how you counted 10 spaces in 7 the front? 8 EMILY TETTELBAUM: I think I was looking at the 9 overall parking plan for 10 cars. I don't know. I don't 10 have the report in front of me. 11 MARTIN GROSSMAN: Turn on your mic. 12 EMILY TETTELBAUM: Oh, sorry. I think I was looking at 13 the overall parking plan when I said that. I don't have the 14 Staff Report in front of me. So -- 15 ROBIN RICE: Okay. So if your report on Page 16 16 states, in part, the proposed extensive paving in the front 17 yard to accommodate 10 cars will turn the front yard into a 18 parking lot. Are you now saying that there are not 10 19 parking spaces in the front yard? 20 EMILY TETTELBAUM: Well, technically I guess there 21 just eight spaces proposed in the front yard. 22 ROBIN RICE: Okay. Oh, okay. Then your report is 23 inaccurate about how many cars there are in the front yard; 24 turning the front yard into a parking lot. 25 EMILY TETTELBAUM: There -- it does look like there</p> |
| <p>110</p> <p>1 ROBIN RICE: Is if it's -- if it's -- 2 MARTIN GROSSMAN: But you are arguing now. 3 ROBIN RICE: Yeah. Sorry. 4 MARTIN GROSSMAN: I don't know what you mean by just 5 the right size. In your question -- your question is not 6 susceptible to being answered because you've used a term 7 that doesn't mean anything in the context of the zoning 8 ordinance. 9 ROBIN RICE: Okay. Let me rephrase. How many square 10 feet of lot size would you consider a lot being needed to 11 be the right size per child? 12 EMILY TETTELBAUM: I mean, I didn't evaluate this 13 application and I wouldn't, based on a per child basis 14 unless that's part of the zoning ordinance. We are looking 15 at the lot size in relation to a question of whether this 16 is an appropriate land-use for this property. 17 ROBIN RICE: But if you are talking about size, I'm 18 trying to find out what your recommendation is for how 19 much -- 20 MARTIN GROSSMAN: I think she's already asked and 21 answered. 22 ROBIN RICE: -- is that. That's fine. 23 MARTIN GROSSMAN: She's answered that. 24 ROBIN RICE: Okay. On Page 16, your report says, in 25 part, the proposed extensive paving in the front yard to</p> | <p>112</p> <p>1 are proposed eight cars in the front yard. 2 ROBIN RICE: Eight cars. Okay. 3 EMILY TETTELBAUM: I'll say that. 4 ROBIN RICE: All right. Division 59E1; off street 5 parking unloading states, in part, in section 59E2.41, 6 driveways, state, in part; driveways for one-way movements 7 shall be at least 10 feet in length to allow safe and 8 expeditious movement of vehicles. Entrance and exit 9 driveway shall be separately provided whenever possible. 10 Could you look at my parking plan again please? Does it 11 show that entrance and exit driveways are possible? 12 EMILY TETTELBAUM: Yes. 13 ROBIN RICE: Okay. Does -- were you aware of the 14 division 59E1 that I just read in the record? 15 EMILY TETTELBAUM: Well, that is from the 2004 zoning 16 ordinance. It doesn't apply to your application; whatever 17 you just read. 18 ROBIN RICE: Do you agree with it that driveways for 19 one-way movements shall be at least 10 feet in width to 20 allow safe and expeditious movement of vehicles? 21 EMILY TETTELBAUM: For one lane of traffic, yes. 22 ROBIN RICE: Okay. 23 EMILY TETTELBAUM: One lane each way. 24 ROBIN RICE: Okay. And I'm proposing one lane 25 movement, not two. Correct?</p> |

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29 (113 to 116)

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| <p>113</p> <p>1 EMILY TETTELBAUM: No, you are showing two lanes 2 basically, for spaces two, three, four, and five. 3 ROBIN RICE: But I'm showing one-way movement. I'm not 4 going to back them up. I'm going to go in a circle. This is 5 a circular driveway. 6 EMILY TETTELBAUM: Oh, okay. Is that a question? 7 ROBIN RICE: Okay. 8 MARTIN GROSSMAN: Is it -- is that marked on your 9 parking plan that it's one-way traffic? 10 ROBIN RICE: No, I guess it's not. But the discussions 11 I had with Ms. Tettelbaum and my parking planning 12 presentation shows that the traffic will be in one-way 13 movement. I'm not going to have people backing up. It's a 14 circular driveway. 15 MARTIN GROSSMAN: Let me ask you; what is -- you 16 answered that in response to the question about -- that 17 there were 10 parking spaces in front, paved over would 18 give the appearance of a parking lot in a residential area. 19 Do you have the same opinion if there were eight cars 20 parked on a paved area in the front? 21 EMILY TETTELBAUM: Yeah, I do. I think with this 22 configuration, there is 10 cars overall in the front and 23 side yards. Yes, I think this would have a commercial 24 appear. 25 MARTIN GROSSMAN: Okay.</p> | <p>115</p> <p>1 ROBIN RICE: Okay. All right. The County Council 2 determined in the parking -- I'm sorry. I typed that twice. 3 Let me go over the required parking spaces. Do you agree 4 that I need two for residents, four for clients, and one 5 per nonresident staff member? 6 EMILY TETTELBAUM: Off the top of my head, I don't 7 know. Whatever I wrote in the Staff Report is what the 8 requirement is. 9 ROBIN RICE: I put seven nonresident staff members in 10 my application. That makes 13 parking spaces needed. Okay. 11 Do you agree with that? 12 EMILY TETTELBAUM: I don't think that the parking 13 requirement is based on the number; I can't recall right 14 off the top of my head what the parking requirement is in 15 the zoning ordinance. 16 ROBIN RICE: Would you -- 17 EMILY TETTELBAUM: I would have to look at it. I think 18 it's based on the square footage of the daycare and 19 adequate space for pickup and drop off. I think that's what 20 it's based on. 21 ROBIN RICE: Would you believe me if I told you I'm 22 sure it's two for residents, four for clients, and one per 23 nonresident staff member? 24 MARTIN GROSSMAN: Well, it's not a question of belief. 25 It's whatever the zoning ordinance requires.</p> |
| <p>114</p> <p>1 EMILY TETTELBAUM: Much like some of the yards like 2 along the major highways in the county. Like along Georgia 3 Avenue for instance or Georgetown Road where a lot of the 4 front yard is paved. 5 MARTIN GROSSMAN: And your opinion is that -- how does 6 that affect compatibility of this proposed use with the 7 neighborhood? 8 EMILY TETTELBAUM: As I stated in the report, I think 9 this use is incompatible with the neighborhood 10 MARTIN GROSSMAN: Okay. 11 ROBIN RICE: Does the parking ordinance allow a 12 property owner to pave 30 percent of their front yard? 13 EMILY TETTELBAUM: Yes. 14 ROBIN RICE: Does my application and parking plan show 15 that my proposal is to pave up to 30 percent of the front 16 yard? 17 EMILY TETTELBAUM: Yes. 18 ROBIN RICE: So the -- that -- since I can pave 30 19 percent of the front yard as a property owner in a 20 residential zone, isn't that a residential use? 21 EMILY TETTELBAUM: No, it's -- it is allowed in a 22 residential zone, that doesn't mean that I think it's 23 compatible with this residential neighborhood. 24 ROBIN RICE: If I can pave 30 percent anyway -- 25 MARTIN GROSSMAN: Now you're just arguing.</p> | <p>116</p> <p>1 ROBIN RICE: But she doesn't know. 2 MARTIN GROSSMAN: She doesn't recollect, but the 3 zoning ordinance is what will control it. 4 EMILY TETTELBAUM: I'm fairly certain is based on the 5 square footage of the daycare. 6 ROBIN RICE: Okay. 7 EMILY TETTELBAUM: But we could look in the zoning 8 ordinance and confirm that. 9 ROBIN RICE: Does the square footage for child in a 10 daycare, is that required to be 35 square feet? 11 MARTIN GROSSMAN: Are you talking about the Board of 12 Education -- 13 ROBIN RICE: Yeah. 14 MARTIN GROSSMAN: -- rules? 15 ROBIN RICE: Yeah. 16 MARTIN GROSSMAN: Let's -- that's up to the Board of 17 Education. 18 ROBIN RICE: I'm trying to get into the record how 19 many spaces I need per -- that I need four spaces for the 20 customers. She doesn't know. She doesn't remember. I need 21 four spaces for the customers. 22 EMILY TETTELBAUM: I know that the standard is 23 adequate space for pickup and drop off. That's what it says 24 in the zoning ordinance in terms of what's required for 25 pickup and drop off.</p> |

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30 (117 to 120)

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| <p>117</p> <p>1 ROBIN RICE: You just said is per square footage.</p> <p>2 EMILY TETTELBAUM: That's the parking requirement.</p> <p>3 There is another requirement in the use of standards that</p> <p>4 says adequate area for pickup and drop off is required.</p> <p>5 ROBIN RICE: Is that in your report?</p> <p>6 EMILY TETTELBAUM: Yes, it certainly is.</p> <p>7 ROBIN RICE: Where?</p> <p>8 EMILY TETTELBAUM: If someone -- if we could look at a</p> <p>9 copy of my report I can show you.</p> <p>10 MARTIN GROSSMAN: Sure.</p> <p>11 EMILY TETTELBAUM: So the parking requirements are on</p> <p>12 Page 14. So three spaces are required per thousand square</p> <p>13 feet of gross floor area. Two spaces are required per</p> <p>14 dwelling unit.</p> <p>15 G. MACY NELSON.: What page is that?</p> <p>16 EMILY TETTELBAUM: Page 14 of the Staff Report.</p> <p>17 ROBIN RICE: Okay. So do you agree that I need two for</p> <p>18 residents, one for clients, and one per nonresident staff</p> <p>19 member?</p> <p>20 EMILY TETTELBAUM: The requirement is three spaces per</p> <p>21 thousand square feet of gross floor area and two spaces per</p> <p>22 dwelling unit.</p> <p>23 ROBIN RICE: Okay. So when you looked at my floor</p> <p>24 area, how many spaces did you decide I needed for the</p> <p>25 clients?</p> | <p>119</p> <p>1 that's what you need.</p> <p>2 MARTIN GROSSMAN: You need whatever spaces are</p> <p>3 required --</p> <p>4 EMILY TETTELBAUM: Right.</p> <p>5 MARTIN GROSSMAN: -- for safe drop off and pick up of</p> <p>6 children which is part of the standards in -- for the</p> <p>7 particular condition of use. So it may be that you would be</p> <p>8 required 10 or more --</p> <p>9 EMILY TETTELBAUM: Right.</p> <p>10 MARTIN GROSSMAN: -- depending on what is necessary</p> <p>11 for the size of operation. What Ms. Tettelbaum is talking</p> <p>12 about is what the parking requirements are in Article 659.6</p> <p>13 of the zoning laws.</p> <p>14 ROBIN RICE: And my question is; do you agree that I</p> <p>15 need two for residents?</p> <p>16 MARTIN GROSSMAN: She's already answered.</p> <p>17 EMILY TETTELBAUM: Yes, I've --</p> <p>18 ROBIN RICE: Okay. How many do I need according to the</p> <p>19 ordinance for nonresident staff members?</p> <p>20 EMILY TETTELBAUM: You need four for the daycare.</p> <p>21 MARTIN GROSSMAN: It doesn't specify.</p> <p>22 EMILY TETTELBAUM: Three -- that the requirement is</p> <p>23 three spaces per thousand square feet of gross floor area</p> <p>24 of the daycare.</p> <p>25 MARTIN GROSSMAN: And then that Page 10 of the Staff</p> |
| <p>118</p> <p>1 EMILY TETTELBAUM: I think your -- I can't remember</p> <p>2 what the square footage was. I think it was 1200 divided</p> <p>3 by --</p> <p>4 ROBIN RICE: Do you need me to --</p> <p>5 EMILY TETTELBAUM: Four spaces are required for the</p> <p>6 daycare center.</p> <p>7 ROBIN RICE: Okay.</p> <p>8 EMILY TETTELBAUM: It's right there.</p> <p>9 ROBIN RICE: So the question is; do you agree that I</p> <p>10 need two for the residents, four for clients, and one per</p> <p>11 nonresident staff member?</p> <p>12 EMILY TETTELBAUM: Technically it's six total spaces</p> <p>13 that are required for the vehicle parking requirement.</p> <p>14 ROBIN RICE: I don't need any for nonresident staff</p> <p>15 members?</p> <p>16 EMILY TETTELBAUM: That's just -- it's not part of the</p> <p>17 parking requirement.</p> <p>18 ROBIN RICE: Zero for staff members.</p> <p>19 EMILY TETTELBAUM: Well, the four spaces for the</p> <p>20 daycare center are supposed to take care of</p> <p>21 the -- presumably are supposed to take care of the staff</p> <p>22 parking.</p> <p>23 ROBIN RICE: Really? So I only need six parking</p> <p>24 spaces.</p> <p>25 EMILY TETTELBAUM: Right. Well, officially, yes,</p> | <p>120</p> <p>1 Report, it goes into the drop off and pick up. So that's</p> <p>2 discussed on page 10 of the Staff Report. You asked where</p> <p>3 it is in the Staff Report.</p> <p>4 ROBIN RICE: Parking for nonresident staff members is</p> <p>5 a huge issue. I believe the ordinance requires I have a</p> <p>6 parking space for them.</p> <p>7 MARTIN GROSSMAN: Do you have a section you want to</p> <p>8 reference in the ordinance that requires that?</p> <p>9 ROBIN RICE: No. I would have to look it up. I</p> <p>10 apologize, but I thought this was pretty clear on what was</p> <p>11 needed for parking. Two for residents, four for clients,</p> <p>12 and one for nonresident staff members until the hearing</p> <p>13 examiner approves a reduction in the number of parking</p> <p>14 spaces for staff members partially due to the availability</p> <p>15 of public transportation. That's what I read (inaudible)</p> <p>16 and all the ordinance things and all the conditional uses.</p> <p>17 I have to get a reduction in the number of nonresident</p> <p>18 parking spaces from what the zoning ordinance requires.</p> <p>19 MARTIN GROSSMAN: The current ordinance is what it is,</p> <p>20 okay.</p> <p>21 ROBIN RICE: Okay.</p> <p>22 MARTIN GROSSMAN: That's what applies.</p> <p>23 ROBIN RICE: Okay. Let's go over what I have. I have</p> <p>24 one --</p> <p>25 MARTIN GROSSMAN: All right. Let's -- you are</p> |

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31 (121 to 124)

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| <p>121</p> <p>1 examining the witness. Let's finish the examination of this 2 witness so we can move on. 3 ROBIN RICE: Do I have a bike parking spot in the shed 4 proposed? 5 EMILY TETTELBAUM: I believe so, yes. 6 ROBIN RICE: Do I have two on the side of the house 7 proposed? 8 EMILY TETTELBAUM: According to this drawing, yes. 9 ROBIN RICE: Do I have eight in the front? 10 EMILY TETTELBAUM: I mean, what you are showing on the 11 parking plan is eight, yes. 12 ROBIN RICE: Okay. That's a total of 11 spaces. Did 13 you determine how many square feet of driveway were 14 installed in the neighborhood when the property was 15 originally built with the substandard conditions? 16 MARTIN GROSSMAN: Once again, that's not really 17 relevant here. Let's try -- we will be here for a very long 18 time if we don't just stick to the relevant inquiries. 19 ROBIN RICE: Sir, I've got the responsibility of the 20 preponderance of evidence. Another case you heard was six 21 days. I'm asking for six hours. I would appreciate being 22 able to -- 23 MARTIN GROSSMAN: You can have six hours it sticks to 24 relevant questions, okay? 25 ROBIN RICE: Okay. Part of the Staff Report is that</p> | <p>123</p> <p>1 paving their properties. 2 MARTIN GROSSMAN: But you didn't ask about other 3 people. You asked about the site. 4 ROBIN RICE: My question is; did she determine how 5 many square feet of driveway have been added to driveways 6 in the neighborhood since it was originally built? 7 MARTIN GROSSMAN: Oh, I don't think you asked that 8 question, but do you know the answer to that question? 9 EMILY TETTELBAUM: I do not. 10 MARTIN GROSSMAN: Okay. 11 ROBIN RICE: Okay. During your site visit, did you 12 discover any circular driveways in the area? 13 EMILY TETTELBAUM: I don't think I was specifically 14 looking for that, but I have looked on Google Earth to see 15 if there were any in the immediate vicinity and I don't 16 believe I saw any. 17 MARTIN GROSSMAN: There's somebody in the back -- 18 RANDOM AUDIENCE ATTENDEE: When you're using the word 19 neighborhood, I need to know what neighborhood you're 20 referring to because you have the definition of 21 neighborhood. 22 MARTIN GROSSMAN: That's a fair point. 23 RANDOM AUDIENCE ATTENDEE: And then the circular 24 driveways -- 25 MARTIN GROSSMAN: No, no, no. Let's not testify from</p> |
| <p>122</p> <p>1 I'm paving too much of the front of my property in spite of 2 my proposal being 30 percent which is allowed if you deny 3 the application. What I'm trying to do is to ask her 4 questions about how much of other people's properties are 5 paved in the front yard. She is saying mine would be too 6 much. 7 MARTIN GROSSMAN: But you didn't ask that question 8 though I'm afraid. What was your question? 9 ROBIN RICE: My question is; did you determine how 10 many square feet of driveway were installed in the 11 neighborhood when the property was originally built with 12 its substandard conditions? 13 MARTIN GROSSMAN: That was originally installed on 14 your site I presume. 15 ROBIN RICE: No, in the '60s, how much square footage 16 of the driveways were paved? 17 MARTIN GROSSMAN: Of all the driveways in the 18 neighborhood? 19 ROBIN RICE: She is saying -- 20 MARTIN GROSSMAN: Is that -- 21 ROBIN RICE: She is saying mine is too much; my 22 proposal is too much pavement -- 23 MARTIN GROSSMAN: Right. 24 ROBIN RICE: -- based on the neighborhood. I'm trying 25 to show, or get into the record, that other people are</p> | <p>124</p> <p>1 the back. 2 RANDOM AUDIENCE ATTENDEE: -- (inaudible) issue. 3 MARTIN GROSSMAN: The question is: when you said, in 4 the neighborhood, what neighborhood are you referring to? 5 Are you talking about the defined neighborhood that we 6 talked about? The staff defined neighborhood plus the, 7 potentially the -- 8 ROBIN RICE: I found a circular driveway. 9 MARTIN GROSSMAN: Plus, potentially, the park across 10 Shady Grove? 11 ROBIN RICE: I found a circular driveway -- 12 MARTIN GROSSMAN: No, no. I'm asking you questions, 13 right? 14 ROBIN RICE: I'm sorry. 15 MARTIN GROSSMAN: A point was made that you used the 16 term, neighborhood. Are you talking about the defined staff 17 neighborhood? 18 ROBIN RICE: I'm talking -- 19 MARTIN GROSSMAN: Are there other -- you asked what 20 the amount of paving was on driveways in the neighborhood. 21 Are you talking about the staff defined neighborhood? 22 ROBIN RICE: I just said, in the neighborhood. 23 MARTIN GROSSMAN: Right. 24 G. MACY NELSON: What is the neighborhood? 25 MARTIN GROSSMAN: The clarification we are asking for</p> |

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32 (125 to 128)

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| <p>125</p> <p>1 is; what are you referring to equipment when you say the</p> <p>2 neighborhood, do you mean the staff defined neighborhood?</p> <p>3 ROBIN RICE: I guess I'm mean the neighborhood you</p> <p>4 decide which I don't know yet, but --</p> <p>5 MARTIN GROSSMAN: Well, that's -- I had told you. It's</p> <p>6 either going to be the staff defined neighborhood or adding</p> <p>7 the park which won't affect this driveway issue. The park</p> <p>8 across Shady Grove. So are you talking about that</p> <p>9 neighborhood in your question?</p> <p>10 ROBIN RICE: I don't know until I locate the slide to</p> <p>11 figure out whether it's in or outside of the staff defined</p> <p>12 neighborhood. And excuse me, but -- let me move on and my</p> <p>13 husband will see if he combine the picture of the circular</p> <p>14 driveway in the staff defined neighborhood; whether it's in</p> <p>15 there or not. You did a really good job in your report on</p> <p>16 Page 9 showing the transit service available with three</p> <p>17 different ride on routes, all within 30 minute headways.</p> <p>18 The County Council gave the --</p> <p>19 MARTIN GROSSMAN: No, no, no. You've just asked a</p> <p>20 question. You can't give a big preamble as to what was in</p> <p>21 your --</p> <p>22 ROBIN RICE: Just -- okay. With the transit service</p> <p>23 that you identified as being available near my property,</p> <p>24 how many parking spaces do you recommend the hearing</p> <p>25 examiner make available for staff parking?</p> | <p>127</p> <p>1 considered since we are not recommended approval for this</p> <p>2 application.</p> <p>3 ROBIN RICE: The question is; how many parking spaces</p> <p>4 do you think should be reduced because of the public</p> <p>5 transportation that's available that you put in your</p> <p>6 report?</p> <p>7 EMILY TETTELBAUM: I mean, I'm not recommending any</p> <p>8 reduction because I'm not recommending that the hearing</p> <p>9 examiner approve this application.</p> <p>10 ROBIN RICE: I'm just talking about reduction of</p> <p>11 parking spaces needed by nonresident staff members because</p> <p>12 they're going to come on the bus.</p> <p>13 EMILY TETTELBAUM: I mean, nobody is to say they are</p> <p>14 definitely going to come on the bus. It is definitely a</p> <p>15 possibility, but --</p> <p>16 ROBIN RICE: What do you think the odds are with five</p> <p>17 staff members needed, that somebody's going to come on the</p> <p>18 bus?</p> <p>19 RANDOM AUDIENCE ATTENDEE: (Inaudible)</p> <p>20 EMILY TETTELBAUM: I'm not -- I'm not going to speak</p> <p>21 the odds.</p> <p>22 MARTIN GROSSMAN: All right. Let's stop calling out</p> <p>23 from the audience, okay. She has a right to make her record</p> <p>24 without --</p> <p>25 EMILY TETTELBAUM: It's definitely -- it's definitely</p> |
| <p>126</p> <p>1 G. MACY NELSON: What?</p> <p>2 EMILY TETTELBAUM: I --</p> <p>3 MARTIN GROSSMAN: I think the question is, assuming if</p> <p>4 this conditional use were approved, how many parking spaces</p> <p>5 should be made available for staff. Is that -- staff of the</p> <p>6 use. Is that your question?</p> <p>7 ROBIN RICE: Ms. Tettelbaum put in the public</p> <p>8 transport --</p> <p>9 MARTIN GROSSMAN: Is that that is that your question?</p> <p>10 ROBIN RICE: Yes.</p> <p>11 MARTIN GROSSMAN: Okay. That's the question. If this</p> <p>12 condition of use were approved, how many parking spaces</p> <p>13 should be available for staff of the use?</p> <p>14 EMILY TETTELBAUM: I think if you said you were</p> <p>15 epically going to have five on staff -- five staff on site</p> <p>16 at any time, then I would probably say four or five on-site</p> <p>17 parking spaces.</p> <p>18 ROBIN RICE: Four or five parking spaces, but didn't</p> <p>19 you recommend the hearing examiner reduce the required</p> <p>20 parking spaces due to your excellent, superb look at</p> <p>21 transportation --</p> <p>22 MARTIN GROSSMAN: No. Let's not -- let's not gild the</p> <p>23 lily here, okay?</p> <p>24 ROBIN RICE: I'm sorry. How many --</p> <p>25 EMILY TETTELBAUM: Perhaps it's not something we</p> | <p>128</p> <p>1 a possibility. I agree with you.</p> <p>2 ROBIN RICE: Okay, I'm going to skip over some</p> <p>3 questions. When you came to my property for your site</p> <p>4 inspection, where did the car park?</p> <p>5 EMILY TETTELBAUM: The car parked in front of the</p> <p>6 house.</p> <p>7 MARTIN GROSSMAN: You talking about the witness's car?</p> <p>8 ROBIN RICE: Yes.</p> <p>9 MARTIN GROSSMAN: Why is that relevant?</p> <p>10 ROBIN RICE: She took a picture and put in the staff</p> <p>11 record, of the staff car parked on the grass partially, and</p> <p>12 partially blocking the road. That made it difficult for the</p> <p>13 landscaper car to drive by her car because she was</p> <p>14 illegally parking on the street. You're not allowed to park</p> <p>15 on the pavement. That picture also shows that she parked on</p> <p>16 the grass. A big issue, I believe, in this case is whether</p> <p>17 you are going to decide whether or not staff member cars</p> <p>18 can park on the grass, on the 20 foot grass section --</p> <p>19 MARTIN GROSSMAN: Right.</p> <p>20 ROBIN RICE: -- of the -- so the picture that she took</p> <p>21 and the testimony of where she parked on -- parked her car,</p> <p>22 I want to get into the record she parked in the grass and I</p> <p>23 want to get in the record that she blocked part of the</p> <p>24 street that she took a picture of to show that is the</p> <p>25 narrow road. It wouldn't be if she followed the parking</p> |

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33 (129 to 132)

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| <p>129</p> <p>1 ordinance and parked all four wheels on the grass. This is 2 a huge issue in this case; whether you're going to let me 3 park staff member cars on the grass or not. 4 MARTIN GROSSMAN: Did you park partially on the grass 5 and partially on the street, Ms. Tettelbaum? 6 EMILY TETTELBAUM: I -- I didn't think -- yeah, I 7 think -- I think I did. It was actually a commission 8 vehicle and one of my colleagues was driving and I think 9 part of the problem with streets like this, is that -- 10 ROBIN RICE: I'm not asking that. 11 EMILY TETTELBAUM: -- Drivers don't want to -- 12 ROBIN RICE: I just asked you -- 13 MARTIN GROSSMAN: She can answer. Let her answer. 14 EMILY TETTELBAUM: Is that drivers don't know where to 15 park. There's no sign saying where you can or cannot park 16 and I don't think there is a prohibition from parking on 17 the street here. I don't think that's part of any parking 18 ordinance. 19 ROBIN RICE: That's a big question. When you parked 20 off the 60 foot public -- when you walked off the 60 foot 21 public right-of-way onto my property, did you walk on the 22 grass and get closer to the residential front door on the 23 left side of the building? 24 MARTIN GROSSMAN: That's irrelevant. Come on. 25 ROBIN RICE: Part --</p> | <p>131</p> <p>1 the grass. 2 ROBIN RICE: Okay. 3 EMILY TETTELBAUM: But it's a simple statement of fact 4 about this plan. 5 ROBIN RICE: If you had parked -- if you had parked in 6 space number seven, would you have been able to open your 7 car door and step out of your car and put your feet on the 8 walkway up to the front door? 9 EMILY TETTELBAUM: I can't tell here exactly where my 10 door would -- where I would exit the car from the parking 11 space. 12 ROBIN RICE: So you don't know if you could get onto 13 the walkway? 14 EMILY TETTELBAUM: I -- I'm not sure where this is 15 going. I'm sure I could somehow easily get onto the walkway 16 from space seven, yes. 17 ROBIN RICE: Thank you. If you are not going to the 18 front door, the entrance to the residential portion of the 19 building and went straight to the single door of the 20 childcare portion of the building, would you have gone on 21 to the walkway to the wrong door? 22 EMILY TETTELBAUM: Can you repeat that question? 23 ROBIN RICE: If you are not going to the front door 24 which is the residential portion of the building, and went 25 straight to the single door of the childcare portion of the</p> |
| <p>130</p> <p>1 RANDOM AUDIENCE MEMBER: Is that -- 2 MARTIN GROSSMAN: Where she walks -- please, no 3 calling out from the audience. Where she walked, it's not 4 an issue here. Okay? 5 ROBIN RICE: Part of the information from Ms. 6 Tettelbaum in the record is that the walkway to the front 7 door will be blocked by a car in parking space number 8 seven. I'm trying to get into the record that you can get 9 to the front door, which is a residential door, without 10 having to be blocked by number seven. 11 MARTIN GROSSMAN: Well, just ask that question. Can 12 you get to the front door without -- even if a car were 13 parking in parking space seven? Is that your question? 14 ROBIN RICE: Okay. Yeah. That's my question. 15 EMILY TETTELBAUM: Yes, you can walk through the grass 16 to the front door, but the walkway, as shown on this 17 parking plan -- 18 ROBIN RICE: I'm not asking that. 19 EMILY TETTELBAUM: -- is blocked. 20 MARTIN GROSSMAN: She can finish answering her 21 question -- your question. Go ahead. What was the rest of 22 your answer? 23 EMILY TETTELBAUM: Oh, so the -- I mean, as I wrote in 24 the Staff Report, and you could see on this drawing, the 25 walkway is blocked by the car. Yes, you can walk through</p> | <p>132</p> <p>1 building, would you have put your feet on the walkway to 2 the wrong door? 3 EMILY TETTELBAUM: I guess so. I would say if you -- 4 MARTIN GROSSMAN: That's a hard question to follow. 5 ROBIN RICE: Okay. 6 EMILY TETTELBAUM: I -- 7 MARTIN GROSSMAN: And it -- doesn't the diagram speak 8 for itself? I mean, this is your Exhibit 17 called your 9 parking space layout. It shows how the cars are to be 10 aligned and numbered and what's blocked off and what isn't. 11 So doesn't that -- isn't the answer inherent in looking at 12 the diagram? 13 ROBIN RICE: The report seems to insinuate that 14 walking on the walkway is going to be blocked. The walkway 15 is to the residential door. It's not to the daycare door. 16 MARTIN GROSSMAN: Well, I'm just asking you, from your 17 Exhibit 17, I see cars two and four and three and five. How 18 do the people get to the walkway from those cars given 19 where six and eight are parked? 20 ROBIN RICE: They will be walking on the grass to the 21 door on the right side of the building. Not to the walkway 22 towards the front part of the building. 23 MARTIN GROSSMAN: Well, let's see. Come up if you 24 word, and show me exactly how they would be doing it. So 25 let's say people in car -- a car parked, number three. How</p> |

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34 (133 to 136)

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| <p>133</p> <p>1 do they get into the building?</p> <p>2 ROBIN RICE: That way.</p> <p>3 MARTIN GROSSMAN: They would be walking on top of</p> <p>4 these other cars wouldn't they?</p> <p>5 ROBIN RICE: No. The parking spaces are 18 feet. They</p> <p>6 can go in between them and then over towards this door.</p> <p>7 They don't have to -- the point is they -- is that they</p> <p>8 don't have to go on the walkway to the front door. They are</p> <p>9 going to be going towards parking spaces.</p> <p>10 MARTIN GROSSMAN: Yes. My question is just looking at</p> <p>11 the diagram that I see, you have cars parked number three</p> <p>12 and number five, and just on the driver side, assuming that</p> <p>13 they were parked this way. I guess it would be pointing</p> <p>14 south. On the driver's side, cars two and four are between</p> <p>15 them and the grass, or the walkway. That's what it appears</p> <p>16 here. I mean, I'm just looking at your own diagram.</p> <p>17 ROBIN RICE: Yeah. The point is that her point is that</p> <p>18 if a car is parked here, this walkway --</p> <p>19 MARTIN GROSSMAN: Here being?</p> <p>20 ROBIN RICE: In number seven. I'm sorry.</p> <p>21 MARTIN GROSSMAN: Number seven.</p> <p>22 ROBIN RICE: That the walkway will be blocked. The</p> <p>23 fact that the walkway may or may not be blocked is</p> <p>24 irrelevant because no one is going to use the walkway to</p> <p>25 get to the front door. They are going to be going in</p> | <p>135</p> <p>1 ROBIN RICE: No, because the width of the parking</p> <p>2 space is fine to be able to open the doors. It's the</p> <p>3 appropriate width; 8½ feet, when the cars aren't that wide.</p> <p>4 MARTIN GROSSMAN: Okay. All right.</p> <p>5 ROBIN RICE: So it's like you are going -- any two</p> <p>6 cars parked in an approved, measured, diagrammed, 8½ foot</p> <p>7 wide parking spot, you open the door, it's tight, but you</p> <p>8 can open the doors.</p> <p>9 MARTIN GROSSMAN: All right. All right. Okay. Let's</p> <p>10 move to something else.</p> <p>11 ABDON D. ACKAD JR.: (inaudible) parking lot the space</p> <p>12 (inaudible)</p> <p>13 ROBIN RICE: Okay. The space is not the size of the</p> <p>14 vehicle. The vehicle space is smaller, for the record.</p> <p>15 MARTIN GROSSMAN: Okay.</p> <p>16 ROBIN RICE: Pardon me if I ask the same question. I</p> <p>17 forgot to check them off. Did you notice when doing your</p> <p>18 site visit that there are a few no parking signs on Mill</p> <p>19 Creek Drive?</p> <p>20 EMILY TETTELBAUM: Do you mean the adjacent street?</p> <p>21 EMILY TETTELBAUM: As you're coming from Shady Grove</p> <p>22 Road, turning from the left into Mill Creek Drive with the</p> <p>23 four houses on the right, two on the left, primary</p> <p>24 residential road, did you notice any no parking signs on</p> <p>25 Mill Creek Drive?</p> |
| <p>134</p> <p>1 through this door.</p> <p>2 MARTIN GROSSMAN: Okay.</p> <p>3 ROBIN RICE: Okay. So that --</p> <p>4 MARTIN GROSSMAN: So by this door you're talking</p> <p>5 about --</p> <p>6 ROBIN RICE: I'm sorry. The daycare door.</p> <p>7 MARTIN GROSSMAN: -- the daycare door to the right.</p> <p>8 ROBIN RICE: There is two front doors.</p> <p>9 MARTIN GROSSMAN: Okay.</p> <p>10 ROBIN RICE: One for the residents and one for the</p> <p>11 daycare.</p> <p>12 MARTIN GROSSMAN: Okay.</p> <p>13 ROBIN RICE: So --</p> <p>14 MARTIN GROSSMAN: That's assuming -- what about the</p> <p>15 person who gets out of the car on the passenger side of</p> <p>16 number seven where it appears that it would be blocked by</p> <p>17 the car in number eight. I'm sorry, number eight spot on</p> <p>18 that side.</p> <p>19 ROBIN RICE: It's the same as any shopping mall</p> <p>20 parking lot.</p> <p>21 MARTIN GROSSMAN: No, no. Just answer my question.</p> <p>22 ROBIN RICE: Okay.</p> <p>23 MARTIN GROSSMAN: Doesn't the way you have it set up,</p> <p>24 wouldn't the passenger side door be blocked for number</p> <p>25 seven by the spot you labeled number eight?</p> | <p>136</p> <p>1 EMILY TETTELBAUM: I don't think so.</p> <p>2 ROBIN RICE: Okay. Did you notice that there aren't</p> <p>3 any no parking signs on Park Mill Drive coming from the</p> <p>4 intersection of Park Mill Drive and Mill Creek Drive?</p> <p>5 EMILY TETTELBAUM: Did I notice that there were --</p> <p>6 MARTIN GROSSMAN: Is it really a question of whether</p> <p>7 the witness noticed them or is it a question of whether</p> <p>8 they are there? If you have evidence that they are they are</p> <p>9 or not there, that's really the issue isn't it?</p> <p>10 ROBIN RICE: Not necessarily because the factual</p> <p>11 errors, the --</p> <p>12 MARTIN GROSSMAN: Okay. Understand --</p> <p>13 ROBIN RICE: -- analysis of not doing the right zoning</p> <p>14 text amendment, her personal opinions, her parking on the</p> <p>15 grass and then saying I can't park on the grass. Taking a</p> <p>16 picture of her obstructing --</p> <p>17 MARTIN GROSSMAN: Okay. I -- that's argument. That's</p> <p>18 argument. But I understand your point.</p> <p>19 ROBIN RICE: Okay.</p> <p>20 MARTIN GROSSMAN: You are attacking the witness's</p> <p>21 credibility or in terms of her -- her report --</p> <p>22 ROBIN RICE: I would phrase it as she made mistakes</p> <p>23 because of her inexperience of writing conditional uses for</p> <p>24 childcare.</p> <p>25 MARTIN GROSSMAN: Understand. Okay.</p> |

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35 (137 to 140)

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| <p>137</p> <p>1 ROBIN RICE: I respect the lady. I don't agree with 2 her opinion. 3 MARTIN GROSSMAN: I understand. I understand. I 4 understand your point. So you can ask that question. 5 ROBIN RICE: Okay. Did you notice that there aren't 6 any no parking signs on Park Mill Drive coming from the 7 intersection on Part Mill Drive and Mill Creek Drive? 8 EMILY TETTELBAUM: Did I notice that there were no 9 parking signs? 10 ROBIN RICE: When -- okay. When you turn left onto 11 Mill Creek Drive, there is a no parking sign. 12 MARTIN GROSSMAN: No. You can't testify as part of 13 this. You have to ask the question. 14 ROBIN RICE: Okay. 15 MARTIN GROSSMAN: And folks, don't call out from the 16 audience because this is a legal proceeding. 17 RANDOM AUDIENCE ATTENDEE: She was giving false 18 information... 19 MARTIN GROSSMAN: This is a -- pardon me? 20 RANDOM AUDIENCE ATTENDEE: She's giving false 21 information. It doesn't have street signs. 22 MARTIN GROSSMAN: Well, ma'am, you will have an 23 opportunity to testify if you want, as to what you consider 24 false or to cross-examine on it, but you can't call out 25 from the audience. You can't be part of the record here. So</p> | <p>139</p> <p>1 ROBIN RICE: Your original report -- did your original 2 report show have some missing documentation between you and 3 Mark Terry as far as a satellite picture that you took and 4 showed to him? 5 EMILY TETTELBAUM: I included the relevant portion of 6 the email. I think when I had originally sent the email, I 7 think it was a satellite image, but I realized that it 8 wasn't very clear when I -- when the email was sent back to 9 me. And so I included a Google image without the satellite 10 just to make it clear where this dead-end was. 11 ROBIN RICE: Okay. And what -- 12 EMILY TETTELBAUM: And I think that was the portion 13 included in the Staff Report; the aerial image without the 14 satellite imagery included. It was just an image of the 15 streets. 16 ROBIN RICE: Did you subsequently send me an email of 17 the satellite picture? 18 EMILY TETTELBAUM: You requested the full email 19 communication so I sent that to you. 20 ROBIN RICE: Yeah, and I appreciate that. The 21 satellite picture that you put in -- that's in the record 22 shows a tree at the dead end and it does not show any 23 driveways at the end of the dead end. There is one driveway 24 that's close to the intersection. Part of your Staff Report 25 referred to Mark's advice about not parking in this area,</p> |
| <p>138</p> <p>1 it's not only disruptive, but it makes it difficult to hear 2 what is part of the record. You cannot call out in the 3 middle of what she is saying. Now, let's stick to a 4 question rather than your own testimony, Ms. Rice. 5 ROBIN RICE: Did you notice any no parking signs 6 anywhere? 7 EMILY TETTELBAUM: I don't remember seeing any no 8 parking signs. 9 ROBIN RICE: In order to determine if parking off-site 10 should be allowed for my conditional use, you asked Mark 11 Terry in an email about parking; Attachment number 3. 12 MARTIN GROSSMAN: Attachment number 3 to what? 13 EMILY TETTELBAUM: To the Staff Report? 14 ROBIN RICE: It's an email to put in the record. I 15 really apologize for not getting the exhibit numbers in. 16 Did you ask Mark Terry about parking at the end of -- at 17 the dead end on -- where the -- where Park Mill Drive ends? 18 Mill Creek (inaudible)? 19 EMILY TETTELBAUM: I did. I originally sent the email 20 to a contact at the Department of Transportation and it 21 eventually was forwarded to Mark Terry. 22 ROBIN RICE: Okay. And did you report miss -- a 23 satellite picture in the record originally? 24 EMILY TETTELBAUM: Did it miss? I'm not sure I 25 understand your question.</p> | <p>140</p> <p>1 but in my -- in your response to my factual informations, 2 did you say that, no, not relevant to this case, to my 3 question there? 4 EMILY TETTELBAUM: I think that -- I think you sent a 5 question to me in an email that's separate from that second 6 report that I did. Is that what you are referring to? 7 ROBIN RICE: Wherever it was that it's displayed in my 8 email the -- my question was; did you do any research or 9 let him, meaning Mark, know if spare cars, assuming he 10 meant unregistered cars, boats, and RVs are only permitted 11 to park off street. 12 EMILY TETTELBAUM: I mean, whatever I answered there 13 is still how I would answer it now. 14 ROBIN RICE: Okay. 15 EMILY TETTELBAUM: But it's not relevant to this case. 16 It wasn't discussed in the Staff Report. 17 ROBIN RICE: If Mark's advice is not relevant to the 18 case, as you state here, then why did you include Mark's 19 advice and rely on Mark's advice as a reason to deny -- to 20 recommend denial of my conditional use? 21 EMILY TETTELBAUM: Well, this part of Mark's advice 22 about what's to stop people from parking spare cars, boats, 23 et cetera, that piece of his email was not relevant, not 24 discussed in the Staff Report. The part of his email that 25 talks about parking in that dead-end in general is what was</p> |

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| <p>141</p> <p>1 included in the Staff Report and I consider relevant.</p> <p>2 ROBIN RICE: He discussed trash trucks picking --</p> <p>3 MARTIN GROSSMAN: That's already asked and answered.</p> <p>4 Now, let's move on.</p> <p>5 ROBIN RICE: Okay. During your visit, did I tell you</p> <p>6 the existing use was for 11 children and would be 12 soon?</p> <p>7 EMILY TETTELBAUM: I don't recall exactly what you</p> <p>8 told me.</p> <p>9 ROBIN RICE: In the factual errors, I discussed that</p> <p>10 there is -- the factual error was that you put eight</p> <p>11 children as the existing use in your report. Is that</p> <p>12 correct?</p> <p>13 EMILY TETTELBAUM: I -- let's see. What page are you</p> <p>14 referring to?</p> <p>15 ROBIN RICE: Look at Page 1 of your Staff Report.</p> <p>16 EMILY TETTELBAUM: Okay.</p> <p>17 ROBIN RICE: On the top.</p> <p>18 EMILY TETTELBAUM: Well, I seem to recall, and</p> <p>19 this -- I might not be recalling it correctly, but you said</p> <p>20 that there were 8 kids in the current daycare and you had</p> <p>21 approval for 11 or 12, based on all kinds of different</p> <p>22 agencies approvals, but I thought you told me that there</p> <p>23 were 8 the existing daycare. And I might have that in an</p> <p>24 email too.</p> <p>25 ROBIN RICE: When I did the factual errors information</p> | <p>143</p> <p>1 because that's what her understanding was of what you said</p> <p>2 was there. Now that you've had other approvals, apparently</p> <p>3 for other --</p> <p>4 ROBIN RICE: I discovered the error in the Staff</p> <p>5 Report. I put a factual error information to your office.</p> <p>6 Her response was, it's still not a factual error because</p> <p>7 she talked about one certificate. I'm just trying to get it</p> <p>8 on the record the factual error that I pointed that out.</p> <p>9 It's still there. It's not that relevant, but it's still</p> <p>10 there.</p> <p>11 MARTIN GROSSMAN: Right. I think you put your finger</p> <p>12 on it. It's not that relevant. I understand you broadly are</p> <p>13 attacking the -- her report and that's why I've let you go</p> <p>14 on with these questions, but I think you've made your point</p> <p>15 there. Let's move to something that's actually relevant to</p> <p>16 this case.</p> <p>17 ROBIN RICE: Will do. On May 10th, I emailed you</p> <p>18 stating the hours of operation for the proposed use would</p> <p>19 be the same as the existing use; 7:00 a.m. to 6:30. Shortly</p> <p>20 after I sent the email, I called you and left you a message</p> <p>21 explaining that while I don't --</p> <p>22 MARTIN GROSSMAN: You're testify now. Ask your</p> <p>23 question.</p> <p>24 ROBIN RICE: Did I -- did you receive an email that I</p> <p>25 shortly -- I'm sorry. I have to rephrase it. Did that you</p> |
| <p>142</p> <p>1 on number one, I said Emily was informed that you went over</p> <p>2 the existing use with 1 through 12 and the MSDEOCC</p> <p>3 certificate was for 11 and that it is now 12 and your</p> <p>4 factual report response was citing pages talking about the</p> <p>5 EUNO and you did not put in your record what the MSDE</p> <p>6 certificate number was.</p> <p>7 EMILY TETTELBAUM: Because is not relevant to --</p> <p>8 ROBIN RICE: Okay.</p> <p>9 EMILY TETTELBAUM: That's our assessment of the land</p> <p>10 use.</p> <p>11 ROBIN RICE: Okay. If it's not relevant to the</p> <p>12 assessment of the land use and it is your testimony and the</p> <p>13 record shows that you did not put the existing number in</p> <p>14 the report of what the MSDE certificate said, why is it</p> <p>15 there on Page 1? Existing eight child daycare facility.</p> <p>16 That's the MSDE --</p> <p>17 MARTIN GROSSMAN: Why are we spending time on the</p> <p>18 current number of children there as opposed to what you are</p> <p>19 proposing?</p> <p>20 ROBIN RICE: Because --</p> <p>21 MARTIN GROSSMAN: How is that relevant here?</p> <p>22 ROBIN RICE: Ms. Tettelbaum's report is filled with</p> <p>23 fact errors.</p> <p>24 MARTIN GROSSMAN: You've made that point. You're</p> <p>25 saying that's an error and she explained why she put eight</p> | <p>144</p> <p>1 are correct that on May 10th I -- on May 10th, did I email</p> <p>2 you stating the hours of operation for the proposed use</p> <p>3 would be the same as the existing use of 7:00 a.m. to 6:30?</p> <p>4 EMILY TETTELBAUM: I -- you did send that to me in an</p> <p>5 email I believe. I don't know the date.</p> <p>6 ROBIN RICE: Okay. Did you receive the phone call</p> <p>7 message that I left explaining to you that while I don't</p> <p>8 want clients before 7:00 a.m., I want the hours of</p> <p>9 operation's condition in the granted conditional used to be</p> <p>10 6:00 to 6:30 as I submitted and documented in Tab 8</p> <p>11 Application Suggestion Conditions number 3? Did you get my</p> <p>12 phone message?</p> <p>13 EMILY TETTELBAUM: I don't recall getting a phone</p> <p>14 message.</p> <p>15 ROBIN RICE: I believe I sent you a follow-up</p> <p>16 email -- or did I send you --</p> <p>17 MARTIN GROSSMAN: Hold on. Once again, over and over</p> <p>18 again, you're doing the same thing. You've already made</p> <p>19 your point about how you think about the inconsistencies.</p> <p>20 In fact, you made in writing in the submission to which the</p> <p>21 witness has responded in writing. So now let's deal with</p> <p>22 what's relevant here, okay?</p> <p>23 ROBIN RICE: What's relevant --</p> <p>24 MARTIN GROSSMAN: What's relevant is you are</p> <p>25 requesting hours of 6:00 to 6:30. Is that -- am I</p> |

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| <p>145</p> <p>1 understanding? Is that correct?</p> <p>2 ROBIN RICE: Okay. That's it.</p> <p>3 MARTIN GROSSMAN: I mean, if that your point it's --</p> <p>4 ROBIN RICE: My point is also the mistake.</p> <p>5 MARTIN GROSSMAN: I understand. You've made that point</p> <p>6 over and over.</p> <p>7 ROBIN RICE: Okay. All right.</p> <p>8 MARTIN GROSSMAN: And I said, now let's move to things</p> <p>9 you -- I've given you sufficient time. Actually, almost two</p> <p>10 hours now --</p> <p>11 ROBIN RICE: Thank you. If I've met my burden --</p> <p>12 MARTIN GROSSMAN: -- just attacking the credibility of</p> <p>13 the witness. So that's enough. So now let's go to relevant</p> <p>14 staff.</p> <p>15 ROBIN RICE: Yeah, not trying -- okay. Did you base</p> <p>16 your decision in part from communication with Ed Axler?</p> <p>17 EMILY TETTELBAUM: My recommendation? Yes.</p> <p>18 ROBIN RICE: Did you include any of his emails in your</p> <p>19 report?</p> <p>20 EMILY TETTELBAUM: No, I typically don't.</p> <p>21 ROBIN RICE: When I asked you for copies of emails,</p> <p>22 did you send me to Mark Pfeiffer where I have to do a</p> <p>23 freedom of information request?</p> <p>24 EMILY TETTELBAUM: So I followed the typical procedure</p> <p>25 when --</p> | <p>147</p> <p>1 information from Ed in the records.</p> <p>2 MARTIN GROSSMAN: She said the basis for her decision</p> <p>3 in two document and she has been here cross-examined by you</p> <p>4 for almost two hours.</p> <p>5 ROBIN RICE: Okay. During your site visit, did you</p> <p>6 take a picture of my backyard gate?</p> <p>7 EMILY TETTELBAUM: Yes.</p> <p>8 ROBIN RICE: Did you walk close enough to see the</p> <p>9 fence to see that there was a large rock and tree stump in</p> <p>10 front of the gate?</p> <p>11 EMILY TETTELBAUM: I recall seeing a rock there.</p> <p>12 ROBIN RICE: Did you walk any closer to the gate than</p> <p>13 you were when you took the picture?</p> <p>14 EMILY TETTELBAUM: I don't remember.</p> <p>15 ROBIN RICE: Did you touch the gate, try to open it,</p> <p>16 or measure the space between the gate and the fence?</p> <p>17 MARTIN GROSSMAN: Was the relevancy of this line?</p> <p>18 ROBIN RICE: She put the picture in the record. I</p> <p>19 ended up with a complaint inspections shortly after that.</p> <p>20 She is that I don't know what the relevancy is of the</p> <p>21 picture, but if the picture is in the case, I should be</p> <p>22 able to find out information about why did she put the</p> <p>23 picture in the case.</p> <p>24 MARTIN GROSSMAN: Okay. Why did you put the picture in</p> <p>25 the case?</p> |
| <p>146</p> <p>1 ROBIN RICE: But did you refer me? Yes or no?</p> <p>2 EMILY TETTELBAUM: Yes.</p> <p>3 ROBIN RICE: Okay. Why didn't you include the emails</p> <p>4 or any other relevant information from Ed like you included</p> <p>5 Mark Terry's emails that you now say had no relevant</p> <p>6 information in them?</p> <p>7 MARTIN GROSSMAN: Once again, these are procedural</p> <p>8 things apparently going to Freedom of Information Act</p> <p>9 request, you have with the Planning Department, it is not</p> <p>10 before me. It's on an issue before me.</p> <p>11 ROBIN RICE: This is missing documentation. Her</p> <p>12 decision is based on Ed's which I didn't even get to read.</p> <p>13 MARTIN GROSSMAN: Now. There isn't a real discovery</p> <p>14 process as part of this land-use thing. If you have -- if</p> <p>15 you pursue a Freedom of Information Act request with the</p> <p>16 Planning Department, that's up to you, but I think she has</p> <p>17 answered sufficiently as to these points.</p> <p>18 ROBIN RICE: Okay.</p> <p>19 MARTIN GROSSMAN: So what email is here or there -- I</p> <p>20 want to deal with the substance of this case?</p> <p>21 ROBIN RICE: The substance of --</p> <p>22 MARTIN GROSSMAN: And you should want me to deal with</p> <p>23 the substance of this case too.</p> <p>24 ROBIN RICE: I do, but how are you going to do that</p> <p>25 when she is basing her decision on Ed when there is no</p> | <p>148</p> <p>1 EMILY TETTELBAUM: Well, I put the picture in, I</p> <p>2 think, in response to a -- I think it was in the second</p> <p>3 report that I submitted when you asked something about it.</p> <p>4 I don't think it was in the original report.</p> <p>5 ROBIN RICE: That's okay.</p> <p>6 EMILY TETTELBAUM: I mean, I think it was a response</p> <p>7 to one of your allegations.</p> <p>8 ROBIN RICE: It was -- you took the picture. I looked</p> <p>9 at the staff -- well, it was in the Staff Report. Was it in</p> <p>10 the Staff Report?</p> <p>11 EMILY TETTELBAUM: I will look right now. No.</p> <p>12 ROBIN RICE: Did I tell you that MSDEOCC, who has</p> <p>13 jurisdiction over the health and safety over childcare, had</p> <p>14 inspected the gate multiple times?</p> <p>15 EMILY TETTELBAUM: I believe so, yes.</p> <p>16 ROBIN RICE: Were you concerned about the safety of</p> <p>17 the children?</p> <p>18 EMILY TETTELBAUM: My colleague and I were concerned.</p> <p>19 Especially my colleague was concerned that a child could</p> <p>20 slip out that back gate because it looked like there was</p> <p>21 a --</p> <p>22 ROBIN RICE: Did you contact CAWS (phonetic) -- I'm</p> <p>23 sorry.</p> <p>24 EMILY TETTELBAUM: Because it looked like there was</p> <p>25 enough space there that a child could.</p> |

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| <p>149</p> <p>1 ROBIN RICE: Did you contact CAWS or have any 2 knowledge that OCC was requested to do a complaint 3 inspection regarding the gate? 4 MARTIN GROSSMAN: OCC standing for? 5 ROBIN RICE: The Office of Childcare. If there is a 6 complaint inspector, they have to come out and take a look 7 at it. 8 MARTIN GROSSMAN: You mean the Department of Education 9 the Office of Childcare? 10 ROBIN RICE: Right. 11 EMILY TETTELBAUM: Yeah. I mean, my colleague was 12 concerned about it enough that she urged me to do it. Yes. 13 ROBIN RICE: Okay. So you contacted them? 14 EMILY TETTELBAUM: Yes, it was -- 15 ROBIN RICE: Did you follow -- 16 EMILY TETTELBAUM: We thought it was a safety concern. 17 ROBIN RICE: That's fine. Did you follow up about your 18 concern for the children and find out what they decided to 19 do about your concern? 20 EMILY TETTELBAUM: I did not. 21 ROBIN RICE: Are you aware that OCC determined that 22 the gate is secure? 23 EMILY TETTELBAUM: I did not. 24 MARTIN GROSSMAN: Ms. Rice, by the way, wouldn't you 25 agree that it's appropriate for -- if a government official</p> | <p>151</p> <p>1 did you read any conditional use applications to help you 2 with your decision? 3 MARTIN GROSSMAN: She's already testified to that. 4 ROBIN RICE: All right. 5 EMILY TETTELBAUM: I mentioned that I did look at the 6 report. 7 ROBIN RICE: Did you look at any that were in the R200 8 zone? 9 EMILY TETTELBAUM: I don't think so. 10 ROBIN RICE: Is my property in a R200 zone? 11 EMILY TETTELBAUM: As everybody knows, yes. 12 ROBIN RICE: Do you have any knowledge of the 13 following five conditional uses that are in our R200 zones? 14 Little Genius Montessori School? 15 G. MACY NELSON: Object to relevance on this line of 16 inquiry. 17 MARTIN GROSSMAN: You object to the relevance? I'm 18 going to let her ask the question. 19 ROBIN RICE: Thank you. 20 MARTIN GROSSMAN: Okay. 21 EMILY TETTELBAUM: Do I know? No. 22 ROBIN RICE: Kitty Academy that's by a bank somewhere 23 in Silver Spring. 24 EMILY TETTELBAUM: No. 25 MARTIN GROSSMAN: Little Genius one, is that the Zhan</p> |
| <p>150</p> <p>1 finds a safety issue, to report it to the appropriate 2 agency? 3 ROBIN RICE: I think it is totally appropriate. 4 MARTIN GROSSMAN: Okay. 5 ROBIN RICE: I think if she had a legitimate concern 6 about it, she would have contacted them to discover what 7 their report was instead of taking the pictures to get in 8 the -- 9 MARTIN GROSSMAN: No, that's not -- that's not -- I 10 don't think that's the point. The point is that if she made 11 it -- if she reported it and she has a safety concern, then 12 you would agree that the appropriate thing for her to do, 13 correct? 14 ROBIN RICE: Absolutely. 15 MARTIN GROSSMAN: Okay. 16 ROBIN RICE: Nothing wrong with it. 17 MARTIN GROSSMAN: So let's move along. What's the 18 point belaboring this? 19 ROBIN RICE: If she has a concern, I wanted to find 20 out whether she found out that it is secure. That the 21 inspection -- 22 MARTIN GROSSMAN: That's not the -- that's not the 23 point. 24 ROBIN RICE: Okay. Since you haven't done any 25 childcare applications in your role with Parking Planning,</p> | <p>152</p> <p>1 (phonetic) case? Little Genius -- 2 ROBIN RICE: Kitty Academy is one that -- 3 MARTIN GROSSMAN: No, is that the Little Genius one 4 you mentioned. 5 ABDON D. ACKAD JR.: The first one. 6 ROBIN RICE: That's a Montessori -- I'm sorry, I'm -- 7 MARTIN GROSSMAN: Yeah. Was the -- what's the CU 8 number on that? Or the S number? What's the number of the 9 case? 10 ROBIN RICE: It's one of the cases I put in -- 11 MARTIN GROSSMAN: Do you have a number of the case in 12 there? 13 ROBIN RICE: Somewhere. 14 MARTIN GROSSMAN: Pardon me. 15 ROBIN RICE: Somewhere. 16 MARTIN GROSSMAN: All right. Go ahead then. 17 ROBIN RICE: Kitty Academy by a bank. It was 77 pages. 18 EMILY TETTELBAUM: No. 19 ROBIN RICE: Summarize Learning Center which is real 20 close to my property? 21 EMILY TETTELBAUM: No. 22 ROBIN RICE: The North Potomac Children's Center that 23 was done in the '80s? 24 EMILY TETTELBAUM: Now, I looked at cases that were 25 approved, I think of the last four years, that I felt were</p> |

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| <p>153</p> <p>1 the most relevant that I should be considering.</p> <p>2 ROBIN RICE: Were any of them in a R200 zone?</p> <p>3 EMILY TETTELBAUM: I don't remember.</p> <p>4 ROBIN RICE: Okay. Thank you. Give me just a minute.</p> <p>5 Okay. During the year I spent trying to get my application</p> <p>6 accepted --</p> <p>7 MARTIN GROSSMAN: No, no, no. Ask a question. Don't</p> <p>8 tell us about what you did. Just ask a question.</p> <p>9 ROBIN RICE: Did I ask you, during the year I tried to</p> <p>10 get my application accepted, to please evaluate how long</p> <p>11 you thought a car would need to be in the driveway to drop</p> <p>12 off or pick up a child?</p> <p>13 EMILY TETTELBAUM: I -- yes, I do think you asked me</p> <p>14 about that.</p> <p>15 ROBIN RICE: Is that important statistical evaluation</p> <p>16 in your report?</p> <p>17 EMILY TETTELBAUM: No, it wasn't because, yeah, it's</p> <p>18 not something we considered relevant here.</p> <p>19 ROBIN RICE: Is, in your report, a comment that it is</p> <p>20 difficult to enforce a 10 minute window?</p> <p>21 EMILY TETTELBAUM: Yes, I believe that that was Ed</p> <p>22 Axler's contribution based on his experience working with</p> <p>23 daycare approvals.</p> <p>24 ROBIN RICE: Please look at the parking plan again. My</p> <p>25 evaluation is that a window of 10 minute should be the time</p> | <p>155</p> <p>1 ROBIN RICE: Okay. I'm sorry. How long do you --</p> <p>2 MARTIN GROSSMAN: You said, please look at, I think.</p> <p>3 ROBIN RICE: Yeah, please look at --</p> <p>4 MARTIN GROSSMAN: Please look at what?</p> <p>5 ROBIN RICE: My evaluation is that -- okay. What is</p> <p>6 your evaluation about the window of time needed in a parent</p> <p>7 agreement to be able to drop off a child to the single door</p> <p>8 for the commercial U and O for the daycare use that's 47</p> <p>9 feet from the hundred foot front property line?</p> <p>10 EMILY TETTELBAUM: I believe the minimum window we</p> <p>11 usually do, and you probably know this better than I would,</p> <p>12 is 15 minutes.</p> <p>13 ROBIN RICE: So your evaluation is 15 minutes to be</p> <p>14 able to park.</p> <p>15 EMILY TETTELBAUM: I'm saying that's what our minimum</p> <p>16 time period for the contracts with parents typically is on</p> <p>17 these approvals.</p> <p>18 ROBIN RICE: Okay. Is that anywhere in your report?</p> <p>19 EMILY TETTELBAUM: Is it in the report?</p> <p>20 ROBIN RICE: Anywhere.</p> <p>21 EMILY TETTELBAUM: I don't think so. I don't -- I</p> <p>22 don't recall putting that in the report. I'm not sure.</p> <p>23 ROBIN RICE: Okay. So 15 minutes.</p> <p>24 EMILY TETTELBAUM: I would have to look at it.</p> <p>25 ROBIN RICE: Okay.</p> |
| <p>154</p> <p>1 condition in a parent agreement.</p> <p>2 MARTIN GROSSMAN: What are you reading from?</p> <p>3 ROBIN RICE: Pardon?</p> <p>4 MARTIN GROSSMAN: What are you reading from?</p> <p>5 ROBIN RICE: My questions.</p> <p>6 MARTIN GROSSMAN: No, I mean, you said please look at.</p> <p>7 What --</p> <p>8 ROBIN RICE: I'm sorry. The driveway parking plan. The</p> <p>9 daycare --</p> <p>10 MARTIN GROSSMAN: No, the 10 minute -- the 10 minute</p> <p>11 that's the quote you just gave. I thought you were quoting</p> <p>12 somebody.</p> <p>13 ROBIN RICE: I just --</p> <p>14 MARTIN GROSSMAN: What was the question you just</p> <p>15 asked?</p> <p>16 ROBIN RICE: Okay. Did I ask to evaluate how long she</p> <p>17 thought a car would need to be in the driveway to drop off</p> <p>18 a child?</p> <p>19 MARTIN GROSSMAN: It was in the question after that?</p> <p>20 ROBIN RICE: Is that statistical evaluation in your</p> <p>21 report?</p> <p>22 MARTIN GROSSMAN: After that.</p> <p>23 ROBIN RICE: Okay. Is it difficult to -- your comment</p> <p>24 is it's difficult to enforce the 10 minute window.</p> <p>25 MARTIN GROSSMAN: Right. After that.</p> | <p>156</p> <p>1 MARTIN GROSSMAN: Are we almost done here with this</p> <p>2 cross-examination?</p> <p>3 ROBIN RICE: I've got one more question.</p> <p>4 MARTIN GROSSMAN: Okay.</p> <p>5 ROBIN RICE: And then landscaping. How many cars would</p> <p>6 you recommend a hearing examiner allow in a parent</p> <p>7 agreement to come at the same time based on my parking plan</p> <p>8 and what you saw at the parking plan? My application was</p> <p>9 for six cars and 10 minutes. What's the maximum number of</p> <p>10 cars you would recommend be allowed in the minimum amount</p> <p>11 of time?</p> <p>12 EMILY TETTELBAUM: Without looking at a proposal, it's</p> <p>13 hard for how many kids you're talking about total,</p> <p>14 it's -- I'm not sure how I can make that evaluation. I</p> <p>15 think we typically do two cars for 15 minutes for smaller</p> <p>16 size daycares.</p> <p>17 ROBIN RICE: Is the maximum number of cars based on</p> <p>18 the number of parking spaces?</p> <p>19 EMILY TETTELBAUM: That's definitely a consideration,</p> <p>20 yeah.</p> <p>21 ROBIN RICE: Considering that four parking spaces are</p> <p>22 needed and you don't think 15 minutes is the correct amount</p> <p>23 of time, would you then recommend four cars be allowed in a</p> <p>24 15 minute time period?</p> <p>25 EMILY TETTELBAUM: Well, four spaces where the cars,</p> |

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| <p>157</p> <p>1 the vehicles can move in and out freely. That's definitely 2 a consideration. 3 ROBIN RICE: Looking at my parking plan again, 4 how -- we've got a circle of -- 5 MARTIN GROSSMAN: Let's move beyond parking. You've 6 already beaten that to death now. Let's move on to 7 something else. 8 ROBIN RICE: Okay. Part of the landscaping zoning text 9 amendment -- I'm sorry. Part of zoning -- you are now aware 10 of -- are you now aware of zoning text amendment number 16- 11 13? 12 EMILY TETTELBAUM: About the parking waiver? 13 ROBIN RICE: The whole ordinance. 14 EMILY TETTELBAUM: I can't remember exactly what the 15 text amendment says. 16 ROBIN RICE: Okay. 17 EMILY TETTELBAUM: There are text amendments passed 18 all the time. 19 ROBIN RICE: Okay. Are you aware that the text 20 amendment also changed landscaping requirements? 21 EMILY TETTELBAUM: I think the screening requirements 22 were changed. 23 ROBIN RICE: So you -- was your Staff Report analyzed 24 in accordance to -- without considering zoning text 25 amendment?</p> | <p>159</p> <p>1 MARTIN GROSSMAN: Well, there's a difference between 2 general screening, which is what I was referencing, and 3 parking lot screening which is a separate -- is a separate 4 issue in the zoning ordinance, by the way. 5 ROBIN RICE: Correct, but she's -- this is a no 6 minimum parking setback is specified, but she is saying -- 7 MARTIN GROSSMAN: What's your question? 8 ROBIN RICE: Okay. Did you write, no minimum parking 9 setback is specified in article 59-4 so the proposed 10 circular driveway is required to have a perimeter 11 parking -- perimeter planting area that is a minimum of 12 eight feet? 13 EMILY TETTELBAUM: Yes. 14 ROBIN RICE: Okay. Looking at the parking plan, 15 isn't -- and looking at number one, which says satisfies 16 the minimum specific parking setback requirements that you 17 are referring to is a minimum of eight feet. Looking at the 18 parking plan, my setback is 20.5 feet. That exceeds your 19 parking setback in number one of 8 feet. 20 MARTIN GROSSMAN: You're testifying now. 21 ROBIN RICE: Does that meet the number one, parking 22 setback of eight feet? 23 EMILY TETTELBAUM: Well, there -- there is no parking 24 setback. The eight feet is referring to the width of a 25 planting bed.</p> |
| <p>158</p> <p>1 EMILY TETTELBAUM: I don't think I discussed the 2 screening of the use because I know that screening is not 3 required for conditional uses in detached houses. 4 MARTIN GROSSMAN: Well, just to make that clear, the 5 specific requirements, which are very particular in the 6 zoning ordinance to screening, the change that you're 7 talking about, the zoning text amendment reduced it to 8 saying that those particular specifics were not required 9 for single detached family homes, but compatibility is 10 still the issue and it is -- that is the issue which will 11 drive that consideration of screening. In fact, that's a 12 big consideration here and you are stuck in the weeds of 13 other things and having -- rather than this bigger 14 compatibility issue. But in terms of screening, that is 15 what is now the standard is the hearing examiner's 16 assessment of compatibility. So you can eliminate all those 17 of the questions for this witness about whether she 18 considered that. 19 ROBIN RICE: On Page 15, under number 3, you've got no 20 minimum parking setback is specified in article 59-4 so 21 that the opposed circular driveway is required to have a 22 perimeter planning area that is a minimum of 8 feet wide. 23 As proposed -- as submitted, the proposed landscape plan 24 does not demonstrate compliance with this requirement. If I 25 look at the --</p> | <p>160</p> <p>1 ROBIN RICE: I don't see that. I see one -- I'm sorry. 2 MARTIN GROSSMAN: Well, no. You can't testify. 3 ROBIN RICE: I'm sorry. 4 MARTIN GROSSMAN: You can only -- you can testify in 5 your own case, but if you're cross-examining the witness, 6 you can ask her the question you've asked her and she's 7 answered. It refers to the screening bed. 8 ROBIN RICE: Where does it show that the proposed 9 circular driveway is required to have a perimeter planting 10 area of a minimum of eight feet? Is it in one, two, or 11 three? 12 MARTIN GROSSMAN: One, two, three of what? 13 ROBIN RICE: On Page 15. 14 EMILY TETTELBAUM: It's in one. 15 ROBIN RICE: One? Can you read that for me? 16 EMILY TETTELBAUM: Well, it says the parking 17 lot -- it's in section 629B; parking lot requirements for 18 conditional uses requiring five to nine spaces. 19 ROBIN RICE: You lost me of where you are. 20 EMILY TETTELBAUM: I'm on Page 15. I'm reading the 21 parking requirement. 22 ROBIN RICE: Okay. 23 EMILY TETTELBAUM: The property with a conditional use 24 requiring five to nine property spaces is abutting 25 agricultural, rural, or residential detached zoned property</p> |

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| <p>161</p> <p>1 that is vacant or approved with an agricultural or 2 residential use, the parking lot must have a perimeter 3 planting area that one satisfies the minimum parking 4 setback under article 59-4. If not specified, it is the 5 minimum of eight feet wide. So the parking lot must have a 6 perimeter planting area that is a minimum of eight feet 7 wide. This -- there is intervening words in between about 8 the parking setback that don't apply here. 9 MARTIN GROSSMAN: Next question please. 10 ROBIN RICE: Mr. Grossman, I could spend a half an 11 hour trying to figure out what in the world she means by 12 the eight foot setback. 13 MARTIN GROSSMAN: It says that -- she read you from 14 the zoning ordinance as it was modified in the zoning text 15 amendment in terms of screening. The change that was made 16 in terms of change for parking facilities there was to 17 raise the minimum from three cars in a parking lot to five, 18 but if you have -- if you had five to nine spaces, then you 19 have to meet certain requirements spelled out in section 20 6.2.9.B. And she read to you number -- sub 1 of that which 21 requires it to be eight feet wide. 22 ROBIN RICE: The bottom of page 15 talks about one, 23 two, and three, and that's in the zoning text amendment. 24 MARTIN GROSSMAN: Right. 25 ROBIN RICE: I don't want to beat this around the</p> | <p>163</p> <p>1 now, just -- you have to ask the witness a question if you 2 have one. 3 ROBIN RICE: I will skip over that. I will discuss the 4 landscaping plan separately then. Thank you so much, Emily. 5 MARTIN GROSSMAN: All right. Well, hold on one second 6 Ms. Tettelbaum. Mr. Nelson, do you have any questions? 7 G. MACY NELSON: Yes, very briefly. Ms. Tettelbaum, 8 before you arrived this morning, we were having a 9 discussion about -- 10 MR. GROSSMAN: Microphone. 11 MARTIN GROSSMAN: Ms. Tettelbaum, before you arrived 12 this morning, we were having a discussion about how one 13 defines the neighborhood. And of course, you in your Staff 14 Report to find it at Page 4. Do you have a copy of your 15 report there in front of you? 16 EMILY TETTELBAUM: I do. 17 MARTIN GROSSMAN: So let's turn together to Page 4. 18 Let me just focus on the Shady Grove Road side of the 19 neighborhood. Do you see that there? 20 EMILY TETTELBAUM: Mm-hm. 21 G. MACY NELSON: The technical question I'm interested 22 in is; why from a land planner's perspective, would you 23 have a boundary of a neighborhood established by a major 24 road such as Shady Grove? Is that of traditional land 25 planning principle?</p> |
| <p>162</p> <p>1 bush. 2 MARTIN GROSSMAN: It also has to contain -- it's an so 3 it has to also contain a hedge, fence, or wall a minimum of 4 4 feet high and has a minimum of one understory or 5 evergreen tree planted every 30 feet on center. 6 ROBIN RICE: If we look at my original landscape -- 7 MARTIN GROSSMAN: No, don't argue with me now. 8 Just -- you can have an option to argue about whatever you 9 want later, but as far as this witness is concerned, are 10 there any additional questions? 11 ROBIN RICE: Do I meet number three in my landscape 12 plan? Having a minimum one understory or evergreen tree 13 planted every 30 feet on center? 14 EMILY TETTELBAUM: Maybe. I don't have a plan in front 15 of me to look at. You might have satisfied that. I can't 16 tell you that off the top of my head. 17 ROBIN RICE: Okay. Number one satisfies the minimum 18 specific parking setback. You've now specified is a minimum 19 of eight feet wide. Am I in compliance with that? 20 MARTIN GROSSMAN: Wait a minute. Wait a minute. You 21 are -- once again, you're arguing. She quoted the statute 22 here. 23 ROBIN RICE: I'm looking at one. 24 MARTIN GROSSMAN: Okay. Well, in any event, 25 let's -- you can argue your point legally later, but right</p> | <p>164</p> <p>1 EMILY TETTELBAUM: Oh. 2 G. MACY NELSON: Yeah, just answer the question. 3 EMILY TETTELBAUM: Typically, a major road like this 4 would form a boundary because a use such as this one 5 probably isn't going to have an impact on the properties on 6 the other side of a major highway. 7 G. MACY NELSON: All right. Ms. Rice was presenting 8 another concept about a neighborhood where she has a radius 9 where she puts up in at the proposed to subject property, 10 the proposed use, and then goes out a radius of X distance 11 to get a circle. Is that a -- that's not a traditional way 12 of defining a neighborhood, is it? In the land-use world? 13 EMILY TETTELBAUM: I -- some of my colleagues do that 14 that work more in the rural areas of the county I think 15 where there are less roads and less well-defined 16 boundaries. So I won't say it's not typical, because it 17 does happen, but in the part of the county that I work in, 18 they are typically enough roads and other kinds of natural 19 barriers and property lines that we can use to define a 20 boundary without using a radius like that. 21 G. MACY NELSON: All right. And then in your own 22 words, just explain to Mr. -- the hearing examiner, why you 23 didn't include the park on the east side of Shady Grove as 24 part of your neighborhood. 25 EMILY TETTELBAUM: Well, like I said before, it's on</p> |

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| <p>165</p> <p>1 the opposite side of a major highway and I don't think it 2 would really be impacted by the proposed use. 3 G. MACY NELSON: That's all I have. Thank you. 4 MARTIN GROSSMAN: Let me ask you Mr. Nelson, do you 5 have an objection to including that part as part of the 6 defined neighborhood? 7 G. MACY NELSON: I want to reflect on that. I'm not 8 sure that I do. I want to reflect on that, but I was 9 just -- I've been so ingrained that highways are edges and 10 then when you were talking about the park and then -- I 11 need to think about that. I don't think I do, but I want to 12 reflect on it. 13 MARTIN GROSSMAN: They are edges. They -- one of the 14 things that I consider in terms of defining a neighborhood 15 is whether there will be traffic on the road. Part of it 16 is, as Ms. Rice pointed out, confronting properties are 17 usually included in a neighborhood definition, but in 18 addition to that, I consider whether or not there is going 19 to be a part of the use that's going to affect an area. And 20 traffic, if there is significant traffic increase on a road 21 that's abutting a property, that would certainly be a 22 consideration of including that within the neighborhood and 23 not cutting it off right at that edge. So there are other 24 considerations. Yes, it's a natural barrier especially a 25 road this big such as Shady Grove Road. But there are other</p> | <p>167</p> <p>1 done. 2 ANNE GREGORSKI: (Inaudible) 3 MARTIN GROSSMAN: I see Mr. Snee is raising his hand. 4 JIM SNEE: May I ask her a question? 5 MARTIN GROSSMAN: Not at this second. Hold on one -- 6 KATIE BECKER: I don't have any questions. Thank you. 7 MARTIN GROSSMAN: You don't have any. Okay. I think 8 the way we are trying to work this out is you can talk 9 to -- if you have additional questions, you can talk to Mr. 10 Nelson and he can pose them 11 G. MACY NELSON: We'll hold on. 12 MARTIN GROSSMAN: Pardon? 13 G. MACY NELSON: We are in good shape here. We don't 14 have any other questions. 15 MARTIN GROSSMAN: Okay. And the court reporter just 16 mentioned that if somebody from the audience has a question 17 they want to make, ask them to get to a mic because then 18 she can get that on the record. That was Mr. Snee who 19 raised a potential issue, but apparently it's not one now. 20 All right. So if there are no further questions -- do you 21 have anything else you need to add, Ms. Tettelbaum? 22 EMILY TETTELBAUM: No. 23 MARTIN GROSSMAN: Okay. All right. I thank you very 24 much for attending here and giving us the benefit of your 25 testimony. All right. Since is now 1:20, I think</p> |
| <p>166</p> <p>1 considerations to go into it. I just want to know if there 2 is really a difference here. Does it make a difference in 3 any way in this case whether or not that park is included, 4 or at least a portion of that park immediately confronting 5 the property? 6 G. MACY NELSON: I think my answer is, there is likely 7 no difference, but I just wanted to explore her thoughts on 8 that one technical point. Other than that, I don't have any 9 other questions, but I appreciate the chair examiner's 10 opposition about the park. 11 MARTIN GROSSMAN: Ms. Gregorski. 12 ANNE GREGORSKI: I have an observation. When Shady 13 Grove Road was built historically, Mill Creek Towne was all 14 one community and Shady Grove Road split it in half. So if 15 you should consider the park, then the residents around the 16 park are also -- they are still part of Mill Creek Towne 17 community. 18 MARTIN GROSSMAN: Well, I don't think that's quite the 19 consideration that -- I mean, you could expand these 20 things -- 21 ANNE GREGORSKI: Exponentially. 22 MARTIN GROSSMAN: -- Exponentially or whatever, but we 23 try to keep it in some -- usually the defined neighborhood 24 is those that will be most directly affected, sight, sound, 25 traffic, by the proposed use. That usually the way it's</p> | <p>168</p> <p>1 that -- thank you very much. I think it's a good time to 2 break for lunch. Who is your next -- well, you haven't 3 finished your testimony yet Ms. Rice. You didn't finish, 4 correct? 5 ROBIN RICE: I'll interrupt it when Ms. Pryor gets 6 here, if that's what you want or I will continue. Whatever 7 you so desire. 8 MARTIN GROSSMAN: Well, I will adapt that to what you 9 tell me Ms. Pryor needs because you have a greater 10 knowledge of what her needs are in terms of the -- because 11 we are going to break now until 2:00, for lunch. 12 ROBIN RICE: Okay. 13 MARTIN GROSSMAN: So do you want to put her on right 14 after we come back from lunch? Is that -- is that best? 15 ROBIN RICE: Let's do that. 16 MARTIN GROSSMAN: Okay. We are trying to accommodate 17 Ms. Pryor's schedule also. 18 ROBIN RICE: Right. 19 MARTIN GROSSMAN: All right. Then -- yes, sir. 20 RANDOM AUDIENCE ATTENDEE: Sorry. Is there any chance 21 that this goes beyond today or this has to ends today? 22 MARTIN GROSSMAN: It doesn't have to end today. If 23 there are more witnesses that have to be heard, yes, we 24 will have another hearing day if need be. 25 RANDOM AUDIENCE ATTENDEE: Is that the next calendar</p> |

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| <p>169</p> <p>1 day or is that scheduled?</p> <p>2 MARTIN GROSSMAN: Not necessarily. It will depend on</p> <p>3 whether this room is available and I -- it could be this</p> <p>4 next Monday or Tuesday or could be 10 days in advance. It</p> <p>5 depends on availability, and other people schedules. Mr.</p> <p>6 Nelson.</p> <p>7 G. MACY NELSON: Mr. Grossman, I think at lunch break</p> <p>8 I will be asked, what's the anticipated schedule for the</p> <p>9 balance of the day. I just want to be able to give them an</p> <p>10 answer.</p> <p>11 MARTIN GROSSMAN: Yeah, I think we're going to have</p> <p>12 Ms. Pryor testify first because Ms. Gregorski asked that</p> <p>13 she be in attendance and I will ask her a few questions and</p> <p>14 ask her whether she brought any documents with her. Then</p> <p>15 after her testimony, we will let Ms. Rice finish her case</p> <p>16 and after that there will be cross-examination, obviously,</p> <p>17 of Ms. Rice. And she indicated her husband Mr. Ackad is</p> <p>18 going to be a witness also. When she finishes that, it will</p> <p>19 move on to the opposition case. So that's the schedule and</p> <p>20 a lot depends on how long it takes Ms. Rice to finish her</p> <p>21 case. She has a right to put on her -- make her record. Yes</p> <p>22 ma'am, in the back.</p> <p>23 RANDOM AUDIENCE ATTENDEE: How late are you going</p> <p>24 today?</p> <p>25 MARTIN GROSSMAN: I can go very late. I'm not sure how</p> | <p>171</p> <p>1 Ms. Pryor. Could you state your full name and address</p> <p>2 please?</p> <p>3 ANGELA PRYOR: Angela Marie Pryor.</p> <p>4 UNIDENTIFIED FEMALE: Use the mic.</p> <p>5 MARTIN GROSSMAN: The red button, or the button there.</p> <p>6 ANGELA PRYOR: It's green. Press that?</p> <p>7 MARTIN GROSSMAN: But it shouldn't be read if your mic</p> <p>8 is hot.</p> <p>9 ANGELA PRYOR: Angela Pryor. My address is 17505 Park</p> <p>10 Mill Drive.</p> <p>11 MARTIN GROSSMAN: And would you raise your right hand,</p> <p>12 please? Do you swear or affirm to tell the truth, the whole</p> <p>13 truth, and nothing but the truth under penalty of perjury?</p> <p>14 ANGELA PRYOR: I do.</p> <p>15 MARTIN GROSSMAN: All right. Okay. Hold on a second.</p> <p>16 Okay. And what's your occupation?</p> <p>17 ANGELA PRYOR: I am a daycare owner.</p> <p>18 MARTIN GROSSMAN: Okay. You say owner, do you own the</p> <p>19 property? Well, which daycare do you own?</p> <p>20 ANGELA PRYOR: Happy Child Care Nest. It is under my</p> <p>21 name. It is my daycare, and I do on the daycare.</p> <p>22 MARTIN GROSSMAN: Okay. And do you live in the</p> <p>23 premises at 17505 Park Mill Drive, in Derwood, Maryland?</p> <p>24 ANGELA PRYOR: I do.</p> <p>25 MARTIN GROSSMAN: Okay. Do you have any agreements</p> |
| <p>170</p> <p>1 late the court reporter can go. Ma'am, what's your --</p> <p>2 COURT REPORTER: As long as you need.</p> <p>3 MARTIN GROSSMAN: Okay. So the answer mostly is a</p> <p>4 question of -- I'm not sure -- I don't usually use this</p> <p>5 room so I'm not sure if they have a requirement about</p> <p>6 shutting down at 5:00, but ordinarily, we got to 5:00. I</p> <p>7 don't have a particular restriction on me. A lot depends on</p> <p>8 other people's schedules. Okay. All right then. We will</p> <p>9 break until 2:00. There is a cafeteria on the second floor.</p> <p>10 (Off the record.)(END ZOOM0002)</p> <p>11 (On the record.)(BEGIN ZOOM0003)</p> <p>12 MARTIN GROSSMAN: We're back on the record and I think</p> <p>13 where we left it was Angela Pryor was going to be the next</p> <p>14 witness. Would you mind coming forward Ms. Pryor and --</p> <p>15 ANGELA PRYOR: To where?</p> <p>16 MARTIN GROSSMAN: Right up here on the table. There is</p> <p>17 a microphone set up here so that --</p> <p>18 ANGELA PRYOR: Can I have my records up there?</p> <p>19 MARTIN GROSSMAN: You certainly can.</p> <p>20 ANGELA PRYOR: Am I sitting here? Here?</p> <p>21 MARTIN GROSSMAN: That, yes. That's -- Okay. All</p> <p>22 right. I asked Ms. Pryor to attend because she runs the</p> <p>23 current -- the facility that's currently operating on the</p> <p>24 subject site, and because Ms. Gregorski asked her to</p> <p>25 attend. Let me ask you a few questions to start out with,</p> | <p>172</p> <p>1 with the property owner, Robin Rice regarding your role, if</p> <p>2 any, in the proposed a daycare center for that site?</p> <p>3 ANGELA PRYOR: I do have a no agreement with her, at</p> <p>4 this time.</p> <p>5 MARTIN GROSSMAN: Okay. And I asked you if you had any</p> <p>6 documents regarding any such agreement, to bring them with</p> <p>7 you, so you were saying you --</p> <p>8 ANGELA PRYOR: I do not have any agreement, and no</p> <p>9 documents.</p> <p>10 MARTIN GROSSMAN: Okay. Have you received any</p> <p>11 complaints from the neighbors about the current operations</p> <p>12 at the site?</p> <p>13 ANGELA PRYOR: Not personally, to me.</p> <p>14 MARTIN GROSSMAN: Are you aware of any?</p> <p>15 ANGELA PRYOR: I am.</p> <p>16 MARTIN GROSSMAN: And what are they?</p> <p>17 ANGELA PRYOR: I don't know if you would say they were</p> <p>18 complaints, but every so often I'll get a phone call or</p> <p>19 licensing will show up about a complaint that somebody has</p> <p>20 filed. It's anonymous, and they're not allowed to tell me.</p> <p>21 MARTIN GROSSMAN: Okay.</p> <p>22 ANGELA PRYOR: I mean those sort of things; yes I've</p> <p>23 been getting those.</p> <p>24 MARTIN GROSSMAN: And when they -- what were the</p> <p>25 complaints that they showed up to investigate?</p> |

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| <p>173</p> <p>1 ANGELA PRYOR: One was about the gate in the back of 2 my yard, which was replaced. 3 MARTIN GROSSMAN: Okay. 4 ANGELA PRYOR: And after it was replaced I got a 5 complaint that the kids could let themselves out of the 6 gate. So licensing came to check that. 7 MARTIN GROSSMAN: Okay. 8 ANGELA PRYOR: About a tree limb that was hanging over 9 the play yard. 10 MARTIN GROSSMAN: Okay. 11 ANGELA PRYOR: Which was not technically hanging over 12 the play yard. She came and she checked that, and 13 everything was fine. There was -- the children were not in 14 any danger at all. And I got a phone call about parking on 15 the grass. Nobody is allowed to park on the grass. I did 16 not know that. 17 MARTIN GROSSMAN: I'm sorry. Who told you nobody was 18 to park on the grass? 19 ANGELA PRYOR: I got a phone call, a message from a 20 Mr. Calloway -- 21 MARTIN GROSSMAN: Okay. 22 ANGELA PRYOR: -- About a complaint about parking on 23 the grass. 24 MARTIN GROSSMAN: The grass on your property, or the 25 grass on the side of the road?</p> | <p>175</p> <p>1 ANGELA PRYOR: I do have insurance. Yes, I do. 2 ANNE GREGORSKI: Do you pay for it? 3 ANGELA PRYOR: Yes, I do. 4 ANNE GREGORSKI: Does that come out of the \$2400 a 5 month that you pay to Robin Rice? 6 ANGELA PRYOR: It does not. 7 ANNE GREGORSKI: Okay. Taxes. Do you report taxes? 8 ANGELA PRYOR: Yes, I do. 9 ANNE GREGORSKI: And you report them in your name? 10 ANGELA PRYOR: Yes, I do. 11 ANNE GREGORSKI: And your business name? 12 MARTIN GROSSMAN: I'm going to stop you now. Why is 13 any of that relevant to the current application that's 14 before me? 15 ANNE GREGORSKI: Because if she's an employee then the 16 conditional use application is void. If she's -- I know 17 she's the provider. 18 MARTIN GROSSMAN: No, wait. No wait. If she's an 19 employee currently? 20 ANNE GREGORSKI: Of Robin Rice, as opposed to an 21 owner. 22 MARTIN GROSSMAN: Right. And you say the conditional 23 use application is void? 24 ANNE GREGORSKI: Well -- 25 MARTIN GROSSMAN: What does that mean?</p> |
| <p>174</p> <p>1 ANGELA PRYOR: The grass on the side of the road. 2 MARTIN GROSSMAN: And what department is Mr. Calloway 3 from? 4 ANGELA PRYOR: I'm not quite sure. 5 MARTIN GROSSMAN: Okay. All right. Ms. Gregorski. 6 ANNE GREGORSKI: Yes, sir. 7 MARTIN GROSSMAN: Since you requested Ms. Pryor's 8 presence, do you have questions of her? 9 ANNE GREGORSKI: Okay. Thank you for coming. Yes, you 10 said that you owned the business? 11 ANGELA PRYOR: Yes, I do. 12 ANNE GREGORSKI: Okay. So why didn't you file for the 13 conditional use application? 14 ANGELA PRYOR: Because once the conditional use goes 15 through and then it will be no longer my business. I have 16 the choice to make an agreement with Ms. Robin, if I choose 17 to or I can give her 30 days notice and I can move. 18 ANNE GREGORSKI: Okay. So I noticed you have a 19 Rottweiler there at the premises. You know I love dogs, 20 (inaudible) dogs. 21 MARTIN GROSSMAN: What don't you testify, ma'am. 22 ANNE GREGORSKI: I'm sorry. 23 MARTIN GROSSMAN: Just ask a question. 24 ANNE GREGORSKI: Okay. Do you pay for the insurance on 25 the Rottweiler and the daycare?</p> | <p>176</p> <p>1 ANNE GREGORSKI: Well, because there would be no 2 provider if she's an employee. 3 MARTIN GROSSMAN: Well what, as I understand it, I 4 mean this is an issue that has come up as to who the 5 provider -- if Ms. Rice is the provider, why do you suggest 6 that? 7 ANNE GREGORSKI: No -- 8 MARTIN GROSSMAN: And what does that have to do with 9 her paying taxes? 10 ANNE GREGORSKI: No, if Angela's the provider -- 11 MARTIN GROSSMAN: What does that -- 12 ANNE GREGORSKI: -- the provider who is -- you know, 13 but I see Robin getting the mail, but I don't want to 14 testify. I -- 15 MARTIN GROSSMAN: No. All I'm asking you is what's the 16 basis for asking this witness questions about whether she 17 pays her taxes? I don't understand that. 18 ANNE GREGORSKI: Pays them for the business. Whether 19 it comes out of the -- what kind of an arrangement she has 20 with Angela. I mean, you know, she says she does not have 21 anything in writing, but there has to be an arrangement. 22 MARTIN GROSSMAN: No. She's testified that there is no 23 arrangement as to the proposed conditional use. Not as to 24 what she's doing at the group daycare. 25 ANNE GREGORSKI: Oh.</p> |

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| <p>177</p> <p>1 MARTIN GROSSMAN: Yeah.</p> <p>2 ANNE GREGORSKI: Oh.</p> <p>3 MARTIN GROSSMAN: That was her testimony.</p> <p>4 ANNE GREGORSKI: Well, do you have a contract with Ms.</p> <p>5 Rice?</p> <p>6 ANGELA PRYOR: I do not. I pay her rent. Every month.</p> <p>7 MARTIN GROSSMAN: All right.</p> <p>8 ANNE GREGORSKI: And when the repair personnel coming</p> <p>9 in do you pay them?</p> <p>10 ANGELA PRYOR: Well, when the house needs repair it's</p> <p>11 not --</p> <p>12 ANNE GREGORSKI: Did do you pay for the fence?</p> <p>13 ANGELA PRYOR: -- It's not my house. So the home</p> <p>14 repairs is the landlord responsibility, is what I'm saying.</p> <p>15 ANNE GREGORSKI: Okay.</p> <p>16 ANGELA PRYOR: Is that clear?</p> <p>17 ANNE GREGORSKI: And the lighting and the -- that was</p> <p>18 put in and the defense that was put in --</p> <p>19 ANGELA PRYOR: What lighting?</p> <p>20 ANNE GREGORSKI: -- that was (inaudible) when that</p> <p>21 fence was put in the guy had a light there.</p> <p>22 ANGELA PRYOR: The decorations?</p> <p>23 ANNE GREGORSKI: Uh-huh.</p> <p>24 ANGELA PRYOR: They're decorations.</p> <p>25 ANNE GREGORSKI: Okay.</p> | <p>179</p> <p>1 questions?</p> <p>2 G. MACY NELSON: Just a few. Yeah, just a few.</p> <p>3 MARTIN GROSSMAN: Okay.</p> <p>4 G. MACY NELSON: Ms. Pryor, I'm Macy Nelson, I</p> <p>5 represent -- Ms. Pryor, my name is Macy Nelson, and I</p> <p>6 represent Ms. Lloyd --</p> <p>7 UNIDENTIFIED FEMALE: Put the mic on.</p> <p>8 G. MACY NELSON: It is on.</p> <p>9 MARTIN GROSSMAN: Your mic, Mr. Nelson. Is your mic</p> <p>10 on?</p> <p>11 G. MACY NELSON: It's on.</p> <p>12 MARTIN GROSSMAN: Oh it's on. Okay.</p> <p>13 G. MACY NELSON: It's red.</p> <p>14 UNIDENTIFIED FEMALE: I can't hear him.</p> <p>15 G. MACY NELSON: And, Mr. Johnson, on the other side.</p> <p>16 Just a few questions for you. You moved in when?</p> <p>17 THE ANGELA PRYOR: Last summer. Towards the end of June.</p> <p>18 G. MACY NELSON: June 2016?</p> <p>19 THE ANGELA PRYOR: Yes.</p> <p>20 G. MACY NELSON: All right. And you lived there with</p> <p>21 whom?</p> <p>22 THE ANGELA PRYOR: My husband and my two children.</p> <p>23 G. MACY NELSON: And how old are your children?</p> <p>24 THE ANGELA PRYOR: Thirteen and 15.</p> <p>25 G. MACY NELSON: All right. And how many vehicles do</p> |
| <p>178</p> <p>1 ANGELA PRYOR: Does it matter who pays for a</p> <p>2 decoration?</p> <p>3 MARTIN GROSSMAN: Oh, no, no, you can't -- you can't</p> <p>4 ask her questions.</p> <p>5 ANGELA PRYOR: I mean what -- there's decorations.</p> <p>6 MARTIN GROSSMAN: This is an opportunity for her to</p> <p>7 ask you questions, but they have to be a relevant to the</p> <p>8 matter that's before me. Whether the operation of the</p> <p>9 current home there is not a matter that's before me. And in</p> <p>10 the real question before me is what is the proposal for the</p> <p>11 conditional use for a day care center of 30 children.</p> <p>12 That's the question. So if you have any questions to her</p> <p>13 that go to that issue, please ask them. I don't review the</p> <p>14 operation of the group daycare. That's a limited use, not a</p> <p>15 conditional use. It's not supervised by my office. It's not</p> <p>16 authorized by my office, didn't go through my office. It's</p> <p>17 a zoning ordinance; it doesn't go through that process for</p> <p>18 the R200 zone.</p> <p>19 ANNE GREGORSKI: Okay. So when you have your business</p> <p>20 and if the conditional use is approved then the business of</p> <p>21 The Happy Childcare Nest stays with you?</p> <p>22 ANGELA PRYOR: That is my business. If I choose to</p> <p>23 take my business elsewhere I can do that.</p> <p>24 ANNE GREGORSKI: No more questions.</p> <p>25 MARTIN GROSSMAN: Okay. Mr. Nelson, do you have any</p> | <p>180</p> <p>1 you -- does your family have?</p> <p>2 THE ANGELA PRYOR: Two.</p> <p>3 G. MACY NELSON: Two. Mm-hmm. Now how long have you</p> <p>4 been in the daycare business?</p> <p>5 MARTIN GROSSMAN: Let me just stop you for a second.</p> <p>6 Why is that relevant to -- right now as the provider of the</p> <p>7 proposed daycare center, why is that relevant to this</p> <p>8 inquiry?</p> <p>9 G. MACY NELSON: All right. You know, I think you're</p> <p>10 right. I was just trying to get a feel for -- I take your</p> <p>11 point. I'll move on.</p> <p>12 MARTIN GROSSMAN: Yeah. I mean I want to be fair to</p> <p>13 Ms. Pryor. She shouldn't be asked to respond to questions</p> <p>14 that don't pertain to this inquiry.</p> <p>15 G. MACY NELSON: That's all I have. Thank you.</p> <p>16 MARTIN GROSSMAN: Okay. All right. Ms. Becker, do you</p> <p>17 have any questions?</p> <p>18 KATIE BECKER: No, thank you.</p> <p>19 MARTIN GROSSMAN: All right. How about you Ms. Rice,</p> <p>20 any questions?</p> <p>21 ROBIN RICE: No. Just, if you want them, I'm sorry.</p> <p>22 It's (inaudible) are these copies of two of the complaint</p> <p>23 inspections that were done by SEC for your business?</p> <p>24 MARTIN GROSSMAN: Let's mark them if you're going to</p> <p>25 show the witness. Okay.</p> |

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| <p>181</p> <p>1 ROBIN RICE: Sure.</p> <p>2 MARTIN GROSSMAN: Thank you. Let's mark them as</p> <p>3 Exhibits 82, A and B. 82A is inspection report of Ms.</p> <p>4 Pryor's daycare dated May 16, 2017. That's 82A. And then</p> <p>5 Exhibit 82B is an inspection report of Ms. Pryor's daycare</p> <p>6 dated 7/31/17. Other parties wish to look at these before</p> <p>7 they are shown to the witness? No. Okay. Do you recognize</p> <p>8 exhibits 82A and B, and tell us what they are?</p> <p>9 ANGELA PRYOR: Eighty-two A was for -- double check.</p> <p>10 No. This one was a complaint about the -- replacing the</p> <p>11 gate.</p> <p>12 MARTIN GROSSMAN: Which one is that, 82A?</p> <p>13 ANGELA PRYOR: Yes.</p> <p>14 MARTIN GROSSMAN: Okay.</p> <p>15 ANGELA PRYOR: And the gate was replaced. When she</p> <p>16 came out about the gate she said that it was okay as it</p> <p>17 was, but it should be replaced because it was old.</p> <p>18 MARTIN GROSSMAN: Okay. And what about 82B?</p> <p>19 ANGELA PRYOR: This one was about the tree limb that</p> <p>20 was hanging on the side of the back yard over to the</p> <p>21 neighbor's house.</p> <p>22 MARTIN GROSSMAN: Okay.</p> <p>23 ANGELA PRYOR: And --</p> <p>24 MARTIN GROSSMAN: And what was the conclusion on that?</p> <p>25 ANGELA PRYOR: She said it was not loose at all. She</p> | <p>183</p> <p>1 and Occupancy certificate? Is that in the record already?</p> <p>2 ROBIN RICE: I think so. I'm not sure.</p> <p>3 MARTIN GROSSMAN: Okay. All right. We'll mark it, just</p> <p>4 to make sure. And this will be Exhibit 83, is U and O</p> <p>5 certificate dated 2/9/17 for the subject site, 12 children,</p> <p>6 and Exhibit 84 is Maryland Department of the Environment,</p> <p>7 inspection certificate 740515 dated 1/29/17. All right.</p> <p>8 ROBIN RICE: Or those two certificates required for</p> <p>9 you to be able to get your large family (inaudible)</p> <p>10 childcare license in your name?</p> <p>11 MARTIN GROSSMAN: Large family, you're talking about a</p> <p>12 group daycare license?</p> <p>13 ROBIN RICE: Yeah. The state changed it to large</p> <p>14 family in 2012.</p> <p>15 MARTIN GROSSMAN: All right. For us, were talking</p> <p>16 about for a group daycare.</p> <p>17 ROBIN RICE: Yes sir.</p> <p>18 MARTIN GROSSMAN: For 12 --</p> <p>19 ROBIN RICE: Yes, sir. It's 12.</p> <p>20 ANGELA PRYOR: Yes. All these papers are required.</p> <p>21 ROBIN RICE: Okay. Thank you. That's it.</p> <p>22 MARTIN GROSSMAN: Okay. All right. Any further</p> <p>23 questions? No. All right. Thank you for coming down, Ms.</p> <p>24 Pryor.</p> <p>25 ANGELA PRYOR: Thanks.</p> |
| <p>182</p> <p>1 put her whole weight on it and pushed it. It would not</p> <p>2 move.</p> <p>3 MARTIN GROSSMAN: Okay.</p> <p>4 ANGELA PRYOR: So I'm assuming, I don't know when</p> <p>5 fell, before I moved in, it just kind of healed itself</p> <p>6 back.</p> <p>7 MARTIN GROSSMAN: Okay.</p> <p>8 ANGELA PRYOR: It's perfectly fine.</p> <p>9 MARTIN GROSSMAN: All right. Anything else?</p> <p>10 ROBIN RICE: Am I your landlord?</p> <p>11 ANGELA PRYOR: Yes, you are.</p> <p>12 ROBIN RICE: Do you (inaudible) your landlord use and</p> <p>13 occupancy certificate? (Crosstalk)</p> <p>14 MARTIN GROSSMAN: You have to speak up. Ma'am, I'm</p> <p>15 just going to show her -- Ms. Rice?</p> <p>16 ROBIN RICE: Oh. I'll give that to you then.</p> <p>17 MARTIN GROSSMAN: Ms. Rice, if you're going to show</p> <p>18 her documents, first show it to counsel and other parties</p> <p>19 at the table.</p> <p>20 ROBIN RICE: Okay.</p> <p>21 MARTIN GROSSMAN: And then we'll mark it as an</p> <p>22 exhibit.</p> <p>23 UNIDENTIFIED FEMALE: So these (inaudible)</p> <p>24 MARTIN GROSSMAN: Just hand them to me so we can mark</p> <p>25 them. Thank you. Okay. Is this in the record already? A Use</p> | <p>184</p> <p>1 MARTIN GROSSMAN: Sorry to take you away from your</p> <p>2 busy day --</p> <p>3 ANGELA PRYOR: You're welcome. (inaudible)</p> <p>4 MARTIN GROSSMAN: If you'll just hand them back to me.</p> <p>5 That's great. Thank you. All right. Now, I guess we'll go</p> <p>6 back to -- yes, Mr. Nelson?</p> <p>7 G. MACY NELSON: Just an inquiry. I've had a -- there</p> <p>8 have been a lot of citizens here since 9:30.</p> <p>9 MARTIN GROSSMAN: Yes. I've put a lot of pressure on</p> <p>10 them to be here because as everyone knew it was important.</p> <p>11 MARTIN GROSSMAN: Yes.</p> <p>12 G. MACY NELSON: They asked for times. I said I can't</p> <p>13 give them a time.</p> <p>14 MARTIN GROSSMAN: Yes.</p> <p>15 G. MACY NELSON: But I would ask whether the applicant</p> <p>16 would consider allowing some of the citizens to testify out</p> <p>17 of turn now. I fear that we won't complete the case today.</p> <p>18 Ms. Mason, for example, has to leave for three to care for</p> <p>19 her husband.</p> <p>20 MARTIN GROSSMAN: Right.</p> <p>21 G. MACY NELSON: There are other people in the</p> <p>22 audience who have similar constraints. So that's the</p> <p>23 question for the applicant.</p> <p>24 MARTIN GROSSMAN: Okay. What about that, Ms. Rice?</p> <p>25 ROBIN RICE: I have put six hours in the</p> |

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| <p>185</p> <p>1 application --</p> <p>2 MARTIN GROSSMAN: I know. That's not the question.</p> <p>3 ROBIN RICE: -- to deal with this application.</p> <p>4 MARTIN GROSSMAN: It's a convenience question. There</p> <p>5 are a lot of citizens here who want to be able to give</p> <p>6 their testimony and they have been sitting here all day. We</p> <p>7 won't -- that stop you from putting on the rest of your</p> <p>8 case. It's a question of whether we can interrupt to your</p> <p>9 case to allow some testimony from other citizens who are</p> <p>10 here.</p> <p>11 ROBIN RICE: I think if my testimony was heard first,</p> <p>12 it will alleviate a lot of the concerns and misconceptions</p> <p>13 about my application.</p> <p>14 MALE AUDIENCE MEMBER: We'll be the judge of that.</p> <p>15 FEMALE AUDIENCE MEMBER: I don't think so.</p> <p>16 MARTIN GROSSMAN: Okay. Okay. No calling out from the</p> <p>17 audience. All right. There may be a legitimate point there,</p> <p>18 but I think in terms of convenience for the citizens would</p> <p>19 you be agreeable to allowing them --</p> <p>20 ROBIN RICE: Your decision, sir.</p> <p>21 MARTIN GROSSMAN: Okay. All right. Then I'm agreeable</p> <p>22 with that. How shall we proceed then, Mr. Nelson?</p> <p>23 G. MACY NELSON: If I could have three minutes in the</p> <p>24 hall all try to organize them and put them in the right</p> <p>25 order and find out who's going to testify in the next hour.</p> | <p>187</p> <p>1 MARTIN GROSSMAN: No. I -- this is a mic for the court</p> <p>2 reporter. A separate mic. One for the room, one for the</p> <p>3 court reporter.</p> <p>4 KATHLEEN MASON: I see.</p> <p>5 MARTIN GROSSMAN: All righty. Will you state your full</p> <p>6 name and address please?</p> <p>7 KATHLEEN MASON: I'm Kathleen Mason. I live at 17408</p> <p>8 Park Mill Drive.</p> <p>9 MARTIN GROSSMAN: Oh, you have to -- there's a red</p> <p>10 button there, or a button that will make it a hot mic.</p> <p>11 Let's see if you can get that on. There we go.</p> <p>12 KATHLEEN MASON: Oh. Okay. Kathleen Mason. I live at</p> <p>13 17408 Park Mill Drive, Derwood Marilyn. I live about six</p> <p>14 houses up from the day care center. And --</p> <p>15 MARTIN GROSSMAN: Hold on one second.</p> <p>16 KATHLEEN MASON: Okay. Would you raise your right hand</p> <p>17 please?</p> <p>18 KATHLEEN MASON: Okay.</p> <p>19 MARTIN GROSSMAN: Do you swear or affirm to tell the</p> <p>20 truth, the whole truth, and nothing but the truth under</p> <p>21 penalty of perjury?</p> <p>22 KATHLEEN MASON: Yes.</p> <p>23 MARTIN GROSSMAN: All right. By the way, please</p> <p>24 picture that we get your email address as well because</p> <p>25 automatically in testifying you become a party to this case</p> |
| <p>186</p> <p>1 If I can have three minutes to do that I'll do that.</p> <p>2 MARTIN GROSSMAN: Three minutes sound sufficient. All</p> <p>3 right. Well, it sounds reasonable anyway. Come back at 2:30</p> <p>4 then. Is that fair? We'll recess for five minutes.</p> <p>5 (Off the record.) (END ZOOM0003)</p> <p>6 (On the record.) (START ZOOM0004)</p> <p>7 G. MACY NELSON: Mr. Grossman.</p> <p>8 MARTIN GROSSMAN: Yes.</p> <p>9 G. MACY NELSON: With your permission, and we</p> <p>10 appreciate it, there's two witnesses whose schedule would</p> <p>11 really be accommodated, so we'll call two now.</p> <p>12 MARTIN GROSSMAN: Okay.</p> <p>13 G. MACY CY NELSON: Just to save (inaudible) --</p> <p>14 MARTIN GROSSMAN: All right.</p> <p>15 G. MACY NELSON: The first is Kathleen Mason.</p> <p>16 MARTIN GROSSMAN: All right. And the second one would</p> <p>17 be?</p> <p>18 G. MACY NELSON: Claire Decline. And she'll spell the</p> <p>19 name, I'm not really accurate.</p> <p>20 MARTIN GROSSMAN: And all right. So --</p> <p>21 G. MACY NELSON: Ms. Mason.</p> <p>22 MARTIN GROSSMAN: We'll call Kathleen Mason. Please</p> <p>23 have a seat over here, because there's a mic. The mic may</p> <p>24 be buried under that exhibit.</p> <p>25 KATHLEEN MASON: This is (inaudible)</p> | <p>188</p> <p>1 and we want to make sure that you get a copy of whatever is</p> <p>2 sent out, okay.</p> <p>3 KATHLEEN MASON: Okay. When I signed in, I put my</p> <p>4 email address on that.</p> <p>5 MARTIN GROSSMAN: Great.</p> <p>6 KATHLEEN MASON: Okay.</p> <p>7 MARTIN GROSSMAN: Perfect.</p> <p>8 G. MACY NELSON: Ms. Mason, let me just ask you a few</p> <p>9 questions. We're going to move this along --</p> <p>10 MARTIN GROSSMAN: Yes, sir.</p> <p>11 G. MACY NELSON: -- if that's acceptable to Mr.</p> <p>12 Grossman. We've seen the map of the two roads, Park Mill</p> <p>13 Drive, and Mill run.</p> <p>14 KATHLEEN MASON: Mill Run.</p> <p>15 G. MACY NELSON: And if we are walking down Park Mill</p> <p>16 past the Lloyd residence, past the Johnson residence, and</p> <p>17 past Ms. Rice's place, how do we get to your house? If we</p> <p>18 are walking past of those three houses, and those houses</p> <p>19 are on our left, how do we get to your house?</p> <p>20 KATHLEEN MASON: You just continue until you go up the</p> <p>21 hill.</p> <p>22 G. MACY NELSON: Okay.</p> <p>23 KATHLEEN MASON: Okay. And as soon as the hill then</p> <p>24 we're on the right-hand side, so we're the opposite side of</p> <p>25 the street --</p> |

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| <p>189</p> <p>1 G. MACY NELSON: Okay.</p> <p>2 KATHLEEN MASON: -- from Mrs. Rice's house.</p> <p>3 G. MACY NELSON: Roughly six houses up?</p> <p>4 KATHLEEN MASON: Yes.</p> <p>5 G. MACY NELSON: And you've lived there for how long?</p> <p>6 KATHLEEN MASON: Over 30 years.</p> <p>7 G. MACY NELSON: So you know the neighborhood pretty</p> <p>8 well, I imagine?</p> <p>9 KATHLEEN MASON: Yes.</p> <p>10 G. MACY NELSON: All right. Direct your comments to</p> <p>11 Mr. Grossman. Now, is your residence in the vicinity of</p> <p>12 this dead end area that people have been talking about for</p> <p>13 overflow parking?</p> <p>14 KATHLEEN MASON: Yes.</p> <p>15 G. MACY NELSON: Tell us about that, and what your</p> <p>16 thoughts are about that idea for parking.</p> <p>17 KATHLEEN MASON: Okay. I stated this in my letter too,</p> <p>18 that the dead end at Mill Run Drive, there is always, or</p> <p>19 frequently there's -- the Verizon trucks are in there and</p> <p>20 as many as five big ones can be in there. So one day my</p> <p>21 husband and I went in there and talk to the employees and</p> <p>22 told them what was going on, that this area might be used</p> <p>23 for parking for employees, and they said no, that's really</p> <p>24 not possible, so --</p> <p>25 MARTIN GROSSMAN: Well, I'm going to stop you.</p> | <p>191</p> <p>1 you have a hearsay objection to it.</p> <p>2 ROBIN RICE: Okay. I do.</p> <p>3 MARTIN GROSSMAN: And I intervene because I know you</p> <p>4 are a layperson, not an attorney, but it is an issue</p> <p>5 I -- part of my responsibility is to make sure that we have</p> <p>6 testimony here that's reliable and probative and fair, and</p> <p>7 I just want to make sure to see whether or not you have an</p> <p>8 issue with her --</p> <p>9 ROBIN RICE: I object to the frequency. Not to the</p> <p>10 fact that sometimes the Verizon thing is there.</p> <p>11 MARTIN GROSSMAN: Okay.</p> <p>12 G. MACY NELSON: I'll ask a few questions.</p> <p>13 MARTIN GROSSMAN: Go ahead, Mr. Nelson.</p> <p>14 G. MACY NELSON: I'm trying to move it --</p> <p>15 MARTIN GROSSMAN: Yes.</p> <p>16 G. MACY NELSON: Don't tell us what they told you. I'm</p> <p>17 interested in hearing what you've seen. You said you saw</p> <p>18 Verizon trucks there?</p> <p>19 KATHLEEN MASON: Yes. Because they go --</p> <p>20 G. MACY NELSON: Don't tell us what the workers told</p> <p>21 you.</p> <p>22 KATHLEEN MASON: Okay.</p> <p>23 G. MACY NELSON: What -- did you observe the workers</p> <p>24 performing work, or do you not -- do you have an</p> <p>25 understanding as to why they are there?</p> |
| <p>190</p> <p>1 KATHLEEN MASON: Okay.</p> <p>2 MARTIN GROSSMAN: I'm going to stop you right here</p> <p>3 because, although I didn't hear any objection from Ms.</p> <p>4 Rice, that is a form of hearsay. That is, you're offering</p> <p>5 their statements outside of this hearing and presumably in</p> <p>6 an effort to prove that that's true. That they</p> <p>7 can't -- people can't park there for whatever sort of --</p> <p>8 G. MACY NELSON: Let me try to ask the questions to</p> <p>9 address your legal concerns.</p> <p>10 MARTIN GROSSMAN: I don't know, if maybe you don't</p> <p>11 object to that testimony, Ms. Rice, but I mean I have a</p> <p>12 concern about any time I hear statements made outside of</p> <p>13 the room for the same reason I mention in regard to your</p> <p>14 statement about people supporting you. So what -- I'm happy</p> <p>15 to hear her testimony.</p> <p>16 MS. RICE: I object then.</p> <p>17 MARTIN GROSSMAN: But it's up to you, if you want to</p> <p>18 oppose that objection or not.</p> <p>19 MS. RICE: May I say something besides object?</p> <p>20 MARTIN GROSSMAN: All right. Go ahead.</p> <p>21 MS. RICE: My proposal in the application shows a</p> <p>22 possibility for you to consider parking at the dead end.</p> <p>23 MARTIN GROSSMAN: That's not really the question.</p> <p>24 MS. RICE: Okay.</p> <p>25 MARTIN GROSSMAN: The question now is whether or not</p> | <p>192</p> <p>1 KATHLEEN MASON: Yes. They have two boxes and they</p> <p>2 have two cables. And they're --</p> <p>3 G. MACY NELSON: The two boxes, tell us what a box is.</p> <p>4 KATHLEEN MASON: Well, once pretty good size.</p> <p>5 G. MACY NELSON: I know. But what's the box for?</p> <p>6 KATHLEEN MASON: I guess their wiring.</p> <p>7 G. MACY NELSON: Okay. And let me show Ms. Rice,</p> <p>8 Attachment 44 to Ms. Gregorski's prehearing statement and</p> <p>9 then I'll show it to the witness. Can we remark that?</p> <p>10 MARTIN GROSSMAN: No. If you have this, it already</p> <p>11 part of the --</p> <p>12 G. MACY NELSON: Yes. It's Attachment 44 to Ms.</p> <p>13 Gregorski's prehearing statement. Let me show it to --</p> <p>14 ROBIN RICE: I object to the exhibit, Sir.</p> <p>15 UNIDENTIFIED FEMALE: It has a page number on it.</p> <p>16 MARTIN GROSSMAN: I'm sorry?</p> <p>17 ROBIN RICE: I object to the exhibit.</p> <p>18 MARTIN GROSSMAN: And why do you object to the</p> <p>19 exhibit?</p> <p>20 ROBIN RICE: Because the exhibit says Verizon a right</p> <p>21 of way and there's no facts in evidence of that right of</p> <p>22 way for the street belongs to Verizon.</p> <p>23 MARTIN GROSSMAN: All right. Well, hold on one second</p> <p>24 and let me take a look at the exhibit in here. Here's a</p> <p>25 copy of it.</p> |

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| <p>193</p> <p>1 ROBIN RICE: I don't object to the picture, just the 2 Verizon right of way. It's not their -- 3 MARTIN GROSSMAN: Yeah, I wonder if we mark it also as 4 a -- specifically in here we usually do our own numbering 5 system. Of course it's going to be the last one I look at 6 I'm sure. It may really be the last one I look at. Well, 7 can you find it, Mr. Nelson, as an attachment for? 8 MS. RICE: Sir, I don't object to it being a new 9 number if that helps. 10 MARTIN GROSSMAN: Well -- 11 ROBIN RICE: If we crossed out Verizon right-of-way I 12 don't -- 13 MARTIN GROSSMAN: I got you. 14 ROBIN RICE: I wouldn't object. 15 MARTIN GROSSMAN: So I just missed it going through. 16 All right. So this is marked as our own Exhibit 71I. 17 G. MACY NELSON: All right. Let me show you what's 18 been marked as Exhibit 71I. 19 MARTIN GROSSMAN: All right. 20 G. MACY NELSON: Do you recognize this photograph, the 21 subject matter of the photograph? 22 KATHLEEN MASON: Yes. 23 G. MACY NELSON: Okay. And what does that photograph 24 depict? 25 MARTIN GROSSMAN: I'll rule on your objection in a</p> | <p>195</p> <p>1 MS. GREGORSKI: Yes. 2 MARTIN GROSSMAN: I see. 3 MS. GREGORSKI: By the gentleman that worked there. 4 MARTIN GROSSMAN: All right. So what I'm going to do 5 is, I mean, technically right now we are not dealing with 6 an admission. It hasn't been moved in. Usually at the end 7 of these cases we ask if everybody wants their exhibits 8 moved and we move them in. I'm going to say that subject to 9 that objection, that it can come in, but subject to the 10 question, which is unresolved as to whether or not that is 11 truly a Verizon right-of-way. 12 G. MACY NELSON: That's acceptable. 13 MARTIN GROSSMAN: And I'm not going to consider it, 14 unless I hear some other evidence that answers that 15 question, I'm not going to consider it a Verizon right-of- 16 way since I haven't heard anybody submit evidence to that 17 effect. So this is -- but the testimony about it being a 18 dead end where there are Verizon trucks there, that's 19 perfectly admissible. 20 G. MACY NELSON: All right. Okay. We're almost done 21 then with -- 22 MARTIN GROSSMAN: Okay. 23 KATHLEEN MASON: Okay. 24 G. MACY NELSON: All right. Now, I want to direct your 25 attention to the testimony of the applicant this morning,</p> |
| <p>194</p> <p>1 minute. Let's hear what the witness says about the 2 depiction. 3 KATHLEEN MASON: Well, it shows to Verizon trucks and 4 the man outside. 5 G. MACY NELSON: All right. Is that the area, the dead 6 end, that you were describing? Can you tell that? Very 7 well, I'll move on. 8 KATHLEEN MASON: Yeah, I think so. 9 G. MACY NELSON: There was testimony earlier -- 10 MARTIN GROSSMAN: Well, let's not leave this exhibit 11 before we address Ms. Rice's objection. She's objecting to 12 it being entitled Verizon right of way. Do you have any 13 information about whether it is somehow a Verizon right-of- 14 way? 15 KATHLEEN MASON: No. I just think if it's going to be 16 used by somebody parking they should contact Verizon. 17 MARTIN GROSSMAN: Okay. Ms. Gregorski, since you 18 submitted this exhibit, do you have any information as to 19 whether or not this is actually a Verizon right-of-way? 20 MS. GREGORSKI: Well, just as you did with her, you 21 would consider it hearsay. I was told that that was -- what 22 part was -- belonged to the Verizon right-of-way, but it's 23 hearsay. 24 MARTIN GROSSMAN: All right. You were told by somebody 25 at Verizon?</p> | <p>196</p> <p>1 and I don't quote verbatim, but I just want to direct your 2 attention to it. And the applicant was making -- advancing 3 the thesis that the people who live near where you live but 4 not drive all along Park Mill, but would go the other way 5 around to the major road. Do you remember that portion of 6 her testimony? 7 KATHLEEN MASON: Yes. Yes. 8 G. MACY NELSON: Tell us, you've been there over 30 9 years. Which way do you go, and why? 10 KATHLEEN MASON: Well, I drive down Park Mill all the 11 way to the end to Mill Run Drive. I passed the daycare 12 center and I have two reasons for doing that. In the 13 wintertime, there's two hills to get to Shady Grove Road 14 from my house. One is on Park Mill right next to my house. 15 The other one is on Mill Run which, at the bottom of the 16 hill is this intersection and for me it's slippery in the 17 winter time I would rather slide on my little hill going 18 down than to slide on the other hill and end up may be 19 causing an accident at the intersection. But then it also 20 the reason I do that is that intersection has become quite 21 dangerous and that if you're on Mill -- 22 G. MACY NELSON: This is the intersection of -- 23 KATHLEEN MASON: At Mill Run Drive and Park Mill 24 Drive. It's where the school -- to get to the school. So if 25 you're coming down Mill Run Drive down the hill, people</p> |

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50 (197 to 200)

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| <p>197</p> <p>1 don't always stop for you. They just pull out. I think they 2 think it's a four way stop. I'm not sure. But I just find 3 it's easier for me to just go down Park Mill Drive and stop 4 at this stop sign and look and make sure. So -- 5 MARTIN GROSSMAN: Okay. All right. 6 G. MACY NELSON: Ms. Mason, this is your opportunity 7 to use your own words and to explain to Mr. Grossman 8 whether you support this application for this day care 9 center or whether you are opposed to it, and if so why? 10 MARTIN GROSSMAN: Or just have any comments. 11 KATHLEEN MASON: Oh. I think probably my real 12 objection would be to the county counsel for allowing this 13 to occur in a residential area is because I feel like when 14 a person buys their house it's their sanctuary and now when 15 you get a commercial property you lose that feeling of 16 being safe and secure and quietness. For me personally if 17 somebody moved in next to me that had a day care center, I 18 don't think I could cope with it because I have my husband 19 at home who is on home hemodialysis five days a week which 20 I have to give him, which is why I can't stay too long 21 today. And then I have my 99-year-old mother who has all 22 the symptoms of Alzheimer's, but she's doing pretty well, 23 and she walks the street in Park Mill Drive and, you know, 24 we all need -- not just that, but she'll get me up at four 25 in the morning or two in the morning because she wants to</p> | <p>199</p> <p>1 So it's not like the Council set up the process that just 2 says you can have any kind of facility in the middle of a 3 residential area. It's a very thoroughly reviewed. Anyway. 4 KATHLEEN MASON: Well, I hope so. 5 MARTIN GROSSMAN: I hope that answers some of your 6 concerns. Ms. Gregorski, did you have any questions of this 7 witness? 8 MS. GREGORSKI: No questions, thank you. 9 MARTIN GROSSMAN: All right. Ms. Becker, did you have 10 any questions? 11 KATIE BECKER: No thank you. 12 MARTIN GROSSMAN: Any cross examination questions? 13 MS. RICE: Just to -- you do think Mill -- Park Mill 14 Drive is safer than Mill Run Drive to drive on? 15 KATHLEEN MASON: Yes. 16 MS. RICE: And you do have another way out though, 17 right? 18 KATHLEEN MASON: If I'm going to Shady Grove Road 19 it's -- going to Mill Run Drive, but I don't like that 20 intersection of having to come down that hill and not 21 knowing if people are going to stop or not. So -- I've had 22 a lot of close calls, so -- 23 MS. RICE: Okay. 24 KATHLEEN MASON: I take the safe way. 25 MS. RICE: Oh. My question though is, do you have a no</p> |
| <p>198</p> <p>1 go home, or she wants to go to church at 2:00 in the 2 morning so we all need our, and, you know, I think it's an 3 imposition to the residence to have this. And I don't -- I 4 guess I can understand somewhat why it's happening because 5 I know there's a big need, but I still think it's an 6 imposition to the county residents to have to change our 7 lifestyles were have to cope with children when we're 8 getting up in our age where we are not, you know, able to 9 do that as much anymore. So -- 10 MARTIN GROSSMAN: I don't speak for the Counsel. 11 KATHLEEN MASON: Okay. 12 MARTIN GROSSMAN: But there is always a balancing of 13 legislation and there's a need, as you mentioned, for 14 childcare and there's also the balance of a concern of 15 impact on the community; so what the Counsel did was set up 16 a process, this process, which includes a lot of stages of 17 review from the Planning Department, technical staff person 18 which you -- who you heard earlier. The Planning Board, to 19 me, and then if somebody doesn't like my decision, up to 20 the Board of Appeals and, conceivably, later, to a court. 21 So there's a lot of layers of review to see that, and there 22 are standards that are set by the Council to evaluate this 23 type of thing, and compatibility and so on with the nearby 24 residents is certainly always an issue, and a lot depends 25 on the size, and impact, potential impact on the community.</p> | <p>200</p> <p>1 other way to go out that does not have to drive in front of 2 my house? 3 KATHLEEN MASON: The. But it's -- 4 MS. RICE: Okay. 5 KATHLEEN MASON: -- why should I -- 6 MS. RICE: That's the question. 7 KATHLEEN MASON: -- why shouldn't I? 8 MS. RICE: Totally your choice, ma'am. 9 KATHLEEN MASON: Okay. 10 MS. RICE: Totally your choice. The intersection of 11 Park Mill and Mill Run if you're driving down Mill Run -- 12 G. MACY NELSON: North or South there's (inaudible) 13 MARTIN GROSSMAN: Fair question -- 14 MS. RICE: Towards -- 15 MARTIN GROSSMAN: -- but don't call out. Which 16 direction, north, south, you said down. 17 MS. RICE: If I can describe it as going towards Shady 18 Grove Road. 19 MARTIN GROSSMAN: Okay. 20 MS. RICE: If you're driving towards Shady Grove 21 Road -- 22 KATHLEEN MASON: Okay. 23 MS. RICE: -- or even from Shady Grove Road and 24 staying on Mill Run Drive that intersection. 25 MS. RICE: Can you drive from Shady Grove Run -- Road,</p> |

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51 (201 to 204)

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| <p>201</p> <p>1 on Mill Run Drive without seeing, or having to stop by a 2 stop sign? 3 KATHLEEN MASON: From Shady Grove? 4 ROBIN RICE: From Shady Grove Road can you just keep 5 going without a stop sign on Mill Run Drive? 6 KATHLEEN MASON: That's how I usually go when I come 7 from Shady Grove. But if I'm going to Shady Grove I go the 8 other way. 9 ROBIN RICE: Okay. So then 50 percent of the time 10 you're driving in front of my property? 11 KATHLEEN MASON: Right. 12 ROBIN RICE: Okay. When you're coming from Park Mill 13 Drive in front of my property is there a stop sign there 14 before you turn right? 15 KATHLEEN MASON: Yes. 16 ROBIN RICE: Okay. 17 MARTIN GROSSMAN: This is before you turn right onto 18 what? 19 ROBIN RICE: Onto Mill -- 20 MARTIN GROSSMAN: Mill Run? 21 KATHLEEN MASON: Mill Run. 22 ROBIN RICE: -- Run Drive. 23 MARTIN GROSSMAN: Okay. 24 ROBIN RICE: So there's no -- you can go from Shady 25 Grove Road and keep going without stopping on Miller Run</p> | <p>203</p> <p>1 conditional use application hearing. The applicant had 2 applied for a number of non-resident staff members that 3 were needed to comply with state licensing regulation. The 4 problem that I saw was while the applicant applied for the 5 correct number for the state regulations; they needed one 6 more to comply with the zoning regulations. An inspector 7 for the state would not count a staff member until they 8 were with the children. That doesn't happen until the car 9 is parked and the staff member is in the building or the 10 playground. A state inspector -- oops. An inspector for 11 zoning would count both cars unless one staff member used 12 public transportation. The solution to comply with the 13 state and the zoning in a hearing examiner condition was to 14 have a five minute overlap condition so the business owner 15 would be in compliance with both the state and the county 16 regulations. Part of the missing documentation in the Staff 17 Report is my email trying to explain overlap situations 18 regarding a seventh nonresident staff member. The number of 19 staff members needed for a small 30 client childcare center 20 with two rooms with infants is six staff members. That's 21 how many my application needs to be able to do the 30 22 client children with two infant rooms, if I'm full. Two of 23 the nonresident staff members need to be qualified teachers 24 who are most likely to have a car. Three of the nonresident 25 staff members can be aides who are most likely not to have</p> |
| <p>202</p> <p>1 Drive and when you're coming from Park Mill there's a stop 2 sign to turn right, correct? 3 KATHLEEN MASON: Yes. 4 ROBIN RICE: Okay. Thank you so much, ma'am I 5 appreciate it. 6 MARTIN GROSSMAN: Okay. Thank you very much -- 7 KATHLEEN MASON: Thank you. Thank you. 8 MARTIN GROSSMAN: -- for coming down and sharing your 9 concerns. It's very valuable in this type of hearing to 10 hear from the citizens for a whole variety of reasons, in 11 order to properly decide the case. 12 KATHLEEN MASON: Okay. 13 MARTIN GROSSMAN: So thank you once again. All right. 14 Next witness. 15 G. MACY NELSON: I appreciate that opportunity. Let's 16 go with the other witness. I think she can come back, so we 17 don't need to disrupt the applicant's case. 18 MARTIN GROSSMAN: Okay. 19 G. MACY NELSON: But this did accommodate this 20 witness. Thank you. 21 MARTIN GROSSMAN: All right. Great. Thank you. Ms. 22 Rice. The ball's in your court again. 23 ROBIN RICE: All right. 24 MARTIN GROSSMAN: And you're still under oath. 25 ROBIN RICE: Okay. All right. Years ago, I showed at a</p> | <p>204</p> <p>1 a car and use public transportation that's available. It's 2 not the number of staff members that needs to be regulated 3 by conditional use decisions, it's the number of cars. Just 4 like a parent agreement, operators of a childcare center 5 have employee agreements. Whatever number of cars the 6 conditional use grants to be parked on site in the public 7 right-of-way, on the grass in my case, or within the 8 distance the zoning ordinance stipulates, and the dead in 9 is within that distance, equals the number of employee 10 agreements that can include a provision that they can come 11 to work with a car. There should be no restriction on the 12 number of staff members that can be on a conditional use 13 site. There should be a condition in my opinion, on the 14 number of staff members that can have an employer agreement 15 that they can park in accordance with the hearing 16 examiner's conditions. I put down seven nonresident staff 17 members because you can't -- 18 MARTIN GROSSMAN: Well let me -- what about traffic 19 though? I understand your point about the parking, 20 presumably your point being that if a employee is not going 21 to create a parking demand then there's no reason to 22 restrict that. That's your argument there. What about, from 23 a zoning standpoint, the additional traffic of -- 24 ROBIN RICE: I believe I put the staff members cars, 25 as far as 21 is concerned, but if I had 100 people willing</p> |

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52 (205 to 208)

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| <p>205</p> <p>1 to help out take care of the day care and they all came on 2 the bus, it wouldn't affect traffic or parking. 3 MARTIN GROSSMAN: No. But people can come in the car 4 in the dropped off too. I mean that's -- 5 ROBIN RICE: That's true. That's true. 6 MARTIN GROSSMAN: I understand you're talking about 7 parking, but -- 8 ROBIN RICE: This information is more about where do 9 they park when they get there, not so much the vehicle 10 traffic. 11 MARTIN GROSSMAN: Okay. 12 ROBIN RICE: Okay. 13 MARTIN GROSSMAN: So you mentioned six staff members, 14 two with cars likely, three with aides not likely to have 15 cars, that accounts for five, what about the other one? You 16 said six staff members; you mentioned likely with cars, 17 three with no cars, that's five. Where's the -- what about 18 the sixth staff one? 19 ROBIN RICE: The six staff members that are needed for 20 a full capacity, 30-client children facility with two rooms 21 for infants are likely to have three teachers and three 22 aides. 23 MARTIN GROSSMAN: Oh, three aides. I thought you said 24 two. 25 ROBIN RICE: Okay.</p> | <p>207</p> <p>1 when both staff members have cars. The resident staff 2 member is at the doctor overlap. The resident staff member 3 is on vacation overlap, and overlaps that can happen when 4 the applicant -- that the applicant might not think of, 5 like a resident staff member receiving a subpoena overlap. 6 Most of the overlaps are because the resident staff 7 member's car is a leaving and a nonresident staff member is 8 coming. And only a five minute overlap is needed. The 9 solution to the number of staff members is to write a 10 condition allowing the absolute maximum number of staff 11 members that applicant asked for, and then decide how many 12 cars are permitted. Six (inaudible) cars counting the 13 resident cars will meet the needs of the 30-client 14 childcare centers with public transportation available. The 15 other options regarding the number of staff members is to 16 improve what is needed to implement the conditional use 17 application and then have modification requests to increase 18 the number of staff members in the future as they are 19 needed. I've been reading conditional use decisions for 30 20 years. I've written suggestions to the County Council to 21 consider when they made zoning ordinance decisions. A lot 22 of them were adopted in the ordinance. I've testified in 23 front of the County Council, the Maryland Senate, and the 24 Maryland Delegate Hearings. I can handle the stress of 25 applying for a modification request in the future, and it's</p> |
| <p>206</p> <p>1 MARTIN GROSSMAN: So three teachers and three aides. 2 ROBIN RICE: Right. 3 MARTIN GROSSMAN: Okay. 4 ROBIN RICE: The teachers are more likely to have a 5 car. The aides are more likely not to. 6 MARTIN GROSSMAN: Okay. I misheard you. I thought you 7 said to teachers. Okay. All right. 8 ROBIN RICE: So my anticipation is that I need three 9 cars for nonresident staff members, and I've got another 10 presentation for you that I'll do later to explain the 11 flow, and a little bit more information on this. But when 12 I'm doing an application, Emily correctly wrote down seven, 13 all right. Because I don't believe you can approve more 14 than I asked for. Okay. So I put down seven. And the five 15 minute overlap is -- 16 MARTIN GROSSMAN: You put down seven cars, or seven -- 17 ROBIN RICE: Non-resident staff members. 18 MARTIN GROSSMAN: You put down seven nonresident staff 19 members. Okay. 20 ROBIN RICE: Okay. I'm hoping, in your opinion, you 21 will tell me how many nonresident staff members can park 22 and where. Seven nonresident staff members takes care of 23 multiple overlap situations and then I can think of that 24 won't happen for years. There is a 30 minute walk a child 25 to the elementary school overlap. A five minute overlap</p> | <p>208</p> <p>1 my opinion that getting what you need in the future is 2 easier than -- to get granted than a modification request 3 that's in the initial hearing. In my opinion applying for 4 what you need now -- I'm sorry, I just said that. In my 5 opinion applying for what you need now and doing 6 modifications for what you need in the future only 7 continues the stress for everyone. My opinion of 8 conditional use applications is that more are not 9 implemented after their granted, then they are that are 10 denied. Getting a use and occupancy permit it for more than 11 12 children is expensive. Less than 30-client children 12 might not be financially feasible. The expenses to allow an 13 employee to be a resident is extremely expensive. In my 14 opinion, with less than 30, with a resident employee, might 15 not be residentially feasible. In my opinion, less than 30 16 without a residential employee, particularly with a second 17 site -- worse. Okay. 18 MARTIN GROSSMAN: I didn't understand the sentence. 19 ROBIN RICE: Okay. 20 MARTIN GROSSMAN: What would be worse? 21 ROBIN RICE: The use and occupancy permit that 22 currently exists with the property is for 12 children. 23 MARTIN GROSSMAN: Right. 24 ROBIN RICE: To get a use and occupancy permit for 25 more than 12 children is phenomenally expensive. If I get a</p> |

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53 (209 to 212)

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| <p>209</p> <p>1 use and occupancy permit that is an RE2 residential mixed- 2 use and an E use and occupancy permit, educational, I have 3 to have a two-hour fire wall between a mixed use -- one- 4 hour fire wall between a mixed use resident and educational 5 U and O; it's extraordinarily expensive. I don't know if 6 expenses are -- have any consideration at all but if one of 7 the conditional uses that I put in your packet was Hannah 8 Weiser. I think you did that one. 9 MARTIN GROSSMAN: I did. 10 ROBIN RICE: You approved her for 15, marvelous. Then 11 she discovers she needs a U and O, this is a mixed 12 use -- with the firewall. She can't do 15; she's only went 13 up to 12. It's too expensive to go past 12 until you get to 14 the point where it's financially feasible for you to get 15 this mixed-use U and O occupancy (inaudible) okay. If you 16 were to approve something smaller, like 22, or to start 17 with 22 and then tell me I could do a modification request 18 later, like you did with Marianne Drive -- 19 MARTIN GROSSMAN: Marianne. 20 ROBIN RICE: Now I don't know if I'm ever going to get 21 to 30. And the huge expense of getting the U and O for over 22 12, I don't know whether I could implement it or not. 23 MARTIN GROSSMAN: There's nothing in the zoning 24 ordinance that lets me consider the costs. 25 ROBIN RICE: No. No. But I want -- I'm just trying to</p> | <p>211</p> <p>1 negative effect to the neighborhood. Like, if I got 22 for 2 example, and then later on I've got every right to modify 3 it and increase it to 30, but maybe I'll decide not to and 4 just have it vacant, unless you put a condition saying I 5 have to have a resident -- 6 RANDOM AUDIENCE ATTENDEE: You know it -- 7 ROBIN RICE: -- it gets complicated. 8 MARTIN GROSSMAN: Please don't call out. 9 RANDOM AUDIENCE ATTENDEE: (Inaudible) 10 MARTIN GROSSMAN: Do not. I don't know who was 11 talking, but do not call out from the audience, or you will 12 be excluded from the hearing. All right. 13 ROBIN RICE: So my cost, I recognize my cost is my 14 responsibility. But, like Hannah, if -- 15 MARTIN GROSSMAN: I understood. I understood your 16 point. Your point is that if I were to restrict it to a 17 lower number of children and you would not have necessarily 18 have a resident employee because of your financial 19 considerations. If I allowed you to go to 30 children you 20 didn't have to have that restriction, you could have a 21 resident employee and that would be better for the 22 neighborhood. 23 ROBIN RICE: Those are -- 24 MARTIN GROSSMAN: That was your point? 25 ROBIN RICE: Yes, sir. Those are more likely, I don't</p> |
| <p>210</p> <p>1 get information -- 2 MARTIN GROSSMAN: I mean I never try to make it more 3 expensive for somebody, but I can't consider costs. 4 That's -- it's not part of the standards that I'm -- 5 ROBIN RICE: I didn't think you could. 6 MARTIN GROSSMAN: -- required to apply. 7 ROBIN RICE: I didn't think you could. But, I've got 8 choices here. What is going to this property is a big 9 concern for everybody. So I just like you to know that one 10 of my options is to not have a resident employee in the 11 building. If I don't have a resident employee in the 12 building it's probably financially feasible to do something 13 like 22. If I do have a resident employee in the building 14 then, I think I need 30 because it's so much more expensive 15 to get that different U and O. And that, now we are talking 16 about a difference in the residential character of the 17 neighborhood because if most conditional uses for childcare 18 don't have anybody living there. It's empty at night and on 19 the weekends. I don't want to build that. I want to build a 20 mixed use 30-client children daycare center with a resident 21 employee that's part of the neighborhood. I want to offer 22 that job to Ms. Pryor, and that's what I want to do. If I 23 get something that's more financially feasible by having 24 her move out and that's what you approve, I want you to 25 understand that that is a, to me, to me I think is a</p> | <p>212</p> <p>1 know. I have to go to the next level and figure out the 2 fire code. That's in this book. Okay. I don't know. I have 3 no clue on what the financial differences are. But my thing 4 with the modifications, do I asked now, or do I ask later? 5 MARTIN GROSSMAN: Well, once again, I can't tell you 6 what to ask for. I can tell you that I cannot consider 7 financial considerations because it's not part of the 8 standards in the zoning ordinance. 9 ROBIN RICE: I got it. After granting the 30-client 10 children, deciding on the maximum number of staff cars 11 allowed, and where they can park, deciding on the number of 12 cars for parking, for drop-off and pickup per time period, 13 and implementation schedule. As soon as you sign the 14 granted conditional use, the expense and time needed to get 15 a U and O for more than 12 children can take a year to 16 complete. Once that's completed what improvements have to 17 be done to care for, for example, 13 children. I have to 18 get the U and O for 13 children to get the center licensed 19 in my name. 20 MARTIN GROSSMAN: Well, can we get back to the 21 question of whether or not you meet the standards for 22 conditional use? You're talking about a lot of potential 23 problems you would have following the grant of a 24 conditional use, if one were granted. Let's get back to the 25 questions that are relevant here, in this hearing.</p> |

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54 (213 to 216)

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| <p style="text-align: right;">213</p> <p>1 ROBIN RICE: Okay.</p> <p>2 MARTIN GROSSMAN: I have no control over those other</p> <p>3 practices that are required.</p> <p>4 ROBIN RICE: This goes more towards if modification</p> <p>5 requests are going to happen, or if an (inaudible) schedule</p> <p>6 would be better.</p> <p>7 MARTIN GROSSMAN: Okay. But a modification request is</p> <p>8 not before me. The only thing before me is your current</p> <p>9 application for a conditional use for a child day care</p> <p>10 center for 30 children.</p> <p>11 ROBIN RICE: Okay. Okay. All right. Part of the</p> <p>12 testimony and part of my requirements is to look at</p> <p>13 residential -- at the uses in the neighborhood. Okay. And I</p> <p>14 have exhibits. Sir, what's the next exhibit number?</p> <p>15 G. MACY NELSON: The next exhibit number is 85.</p> <p>16 ROBIN RICE: Okay. 85, number one, or 85A, I'm sorry,</p> <p>17 is a copy of the county's parking and motor vehicles on</p> <p>18 your resident property zones 200.</p> <p>19 MARTIN GROSSMAN: I'm sorry. It's a copy of what?</p> <p>20 ROBIN RICE: Of --</p> <p>21 ABDON D. ACKAD, JR.: Just read the title of it.</p> <p>22 ROBIN RICE: Parking Motor Vehicles on Your</p> <p>23 Residential Property, Zones R200, R150, R90, R60, R400.</p> <p>24 MARTIN GROSSMAN: I'm sorry, but what are you reading</p> <p>25 from? What is that?</p> | <p style="text-align: right;">215</p> <p>1 Tom Johnson. This is a picture of the Exhibit number 80B of</p> <p>2 his light commercial truck.</p> <p>3 MARTIN GROSSMAN: Eighty B or do you -- is it a new</p> <p>4 exhibit?</p> <p>5 ROBIN RICE: I'm sorry --</p> <p>6 MARTIN GROSSMAN: Eighty-five B.</p> <p>7 UNIDENTIFIED FEMALE: I've already got 85 --</p> <p>8 ROBIN RICE: Eighty-five B.</p> <p>9 UNIDENTIFIED FEMALE: It says B.</p> <p>10 G. MACY NELSON: Is this going to be 85 now?</p> <p>11 ROBIN RICE: I'm sorry. What number is that?</p> <p>12 COURT REPORTER: Eighty five.</p> <p>13 ROBIN RICE: Okay. So let's do 80 -- sorry. 85B. That</p> <p>14 one's 85A.</p> <p>15 MARTIN GROSSMAN: Have you got any more? All right. A</p> <p>16 was the DPS regulations and B is --</p> <p>17 ROBIN RICE: Yes, sir.</p> <p>18 MARTIN GROSSMAN: -- is a photo of what?</p> <p>19 ROBIN RICE: B is a picture of this light commercial</p> <p>20 truck that operates a roofing business in the neighborhood.</p> <p>21 The owner's name is Tom Johnson. He's my next-door</p> <p>22 neighbor.</p> <p>23 MARTIN GROSSMAN: And you're saying it's in this</p> <p>24 neighborhood?</p> <p>25 ROBIN RICE: It's -- he's my next-door neighbor, sir.</p> |
| <p style="text-align: right;">214</p> <p>1 ROBIN RICE: Oh, I'm sorry. It's a copy of the parking</p> <p>2 code.</p> <p>3 MARTIN GROSSMAN: Do you mean the zoning ordinance, or</p> <p>4 are you talking about some other parking?</p> <p>5 ABDON D. ACKAD, JR.: DPS</p> <p>6 ROBIN RICE: DPS, Department of Planning Services.</p> <p>7 MARTIN GROSSMAN: Parking regulations?</p> <p>8 ROBIN RICE: This is information about parking.</p> <p>9 Pardon?</p> <p>10 MARTIN GROSSMAN: Part of DPS regulations? Why don't</p> <p>11 you bring it up and let me take a look at what you --</p> <p>12 ROBIN RICE: Okay.</p> <p>13 MARTIN GROSSMAN: Okay. All right. Why don't you show</p> <p>14 this to counsel, and to the other parties? What's the</p> <p>15 regulation number, by the way, on that?</p> <p>16 ROBIN RICE: I'm sorry. I --</p> <p>17 MARTIN GROSSMAN: There's no number on it? Okay. I'm</p> <p>18 just listing it 85A as DPS Residential Parking Regulations.</p> <p>19 ROBIN RICE: Okay.</p> <p>20 MARTIN GROSSMAN: Okay.</p> <p>21 ROBIN RICE: Part of my preponderance of evidence is</p> <p>22 the residential character of the neighborhood. For decades,</p> <p>23 or for years, at least one year that I know of, I'm sorry,</p> <p>24 the character of the neighborhood includes a commercial</p> <p>25 business, a occupancy, a roofing business by my neighbor,</p> | <p style="text-align: right;">216</p> <p>1 MARTIN GROSSMAN: Next-door, when you say your, you</p> <p>2 don't live there.</p> <p>3 ROBIN RICE: My property, my property is next door</p> <p>4 yeah.</p> <p>5 MARTIN GROSSMAN: Your property. Okay.</p> <p>6 ROBIN RICE: The next exhibit, C, is a picture of the</p> <p>7 five vehicles that Mr. Johnson, next door to my property,</p> <p>8 owns. There are three trucks, I quite commercial vehicle,</p> <p>9 and a trailer, as you can see depicted on my slide. That's</p> <p>10 C.</p> <p>11 MARTIN GROSSMAN: All right.</p> <p>12 ROBIN RICE: So if you --</p> <p>13 MARTIN GROSSMAN: Mr. Nelson, after you get a chance</p> <p>14 to look at those would you mind handing them up to me so I</p> <p>15 can take a look at what they are?</p> <p>16 ROBIN RICE: Sir, I'm also putting them on the screen</p> <p>17 if that helps.</p> <p>18 MARTIN GROSSMAN: Oh. Yeah, it's a little hard to see.</p> <p>19 But I (inaudible) --</p> <p>20 ROBIN RICE: All right.</p> <p>21 MARTIN GROSSMAN: -- but I'd rather look at the</p> <p>22 pictures close-up. The others too, if you would, Sir.</p> <p>23 ROBIN RICE: D is a picture --</p> <p>24 MARTIN GROSSMAN: Hold on one second. I'm sorry, so I</p> <p>25 can take a look.</p> |

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| <p>217</p> <p>1 G. MACY NELSON: The other exhibits that --</p> <p>2 MARTIN GROSSMAN: All right. So C is the trucks you</p> <p>3 say that are parked in the driveway across the street?</p> <p>4 G. MACY NELSON: No, it was the same side.</p> <p>5 MARTIN GROSSMAN: Is that on the same side of the</p> <p>6 street as your --</p> <p>7 ROBIN RICE: Yes.</p> <p>8 MARTIN GROSSMAN: Okay. And okay. And that's the same</p> <p>9 with the 85D, that's a truck that belongs to the same</p> <p>10 gentleman?</p> <p>11 ROBIN RICE: Yes.</p> <p>12 MARTIN GROSSMAN: Mr. Johnson.</p> <p>13 ROBIN RICE: This shows all of the equipment parked at</p> <p>14 my property's next door. Three trucks, a trailer, and a</p> <p>15 passenger car. Part of the truck and the trailer are</p> <p>16 parking in the public right-of-way, which I believe is</p> <p>17 permitted because it's on a paved surface. On the right-</p> <p>18 hand side it's not paved, it's gravel, but I believe it's</p> <p>19 all right because it was prior to a zoning ordinance, or a</p> <p>20 parking ordinance, that requires it to be paved. So I think</p> <p>21 he's okay with that. But it's showing that that my</p> <p>22 neighbor, Tom, is using the public right-of-way to park</p> <p>23 vehicles used for a business, and that this has been</p> <p>24 acceptable by neighbors. Exhibit number D shows Tom putting</p> <p>25 two of his the light commercial vehicles together on the</p> | <p>219</p> <p>1 Mr. Johnson still?</p> <p>2 ROBIN RICE: No. On the right-hand side there's</p> <p>3 another property that uses parking on the street and on the</p> <p>4 grass. They're doing some construction.</p> <p>5 MARTIN GROSSMAN: I just want to make sure. Which are</p> <p>6 the ones that are Mr. Johnson's of these exhibits?</p> <p>7 ROBIN RICE: They're all Mr. Johnson.</p> <p>8 MARTIN GROSSMAN: Okay.</p> <p>9 ROBIN RICE: The picture that I just talked about</p> <p>10 shows a little bit more of another resident who uses on</p> <p>11 street, and grass parking.</p> <p>12 MARTIN GROSSMAN: You're talking about 85J? Which</p> <p>13 exhibit shows somebody other than Mr. Johnson?</p> <p>14 ROBIN RICE: I'm sorry. That's too hard for me to see.</p> <p>15 Okay this is the one that was number J.</p> <p>16 MARTIN GROSSMAN: All right. J. Okay.</p> <p>17 ROBIN RICE: It shows, and it shows up here Andrews,</p> <p>18 he's doing construction (inaudible).</p> <p>19 MARTIN GROSSMAN: Andrew, what last name?</p> <p>20 ROBIN RICE: I'd have to look it up.</p> <p>21 MARTIN GROSSMAN: You mean he's -- it's an ongoing</p> <p>22 construction at the house or something? Or is it --</p> <p>23 ROBIN RICE: Since about last September he's been</p> <p>24 doing a large construction job and so there's a lot of</p> <p>25 parking there.</p> |
| <p>218</p> <p>1 street. Number E shows two vehicles parked with all four</p> <p>2 wheels on the street and one in the public right-of-way one</p> <p>3 his driveway. F shows one of his trucks parked with all</p> <p>4 four wheels --</p> <p>5 MARTIN GROSSMAN: Did I miss E?</p> <p>6 ROBIN RICE: I'm sorry.</p> <p>7 MARTIN GROSSMAN: I see, I have D was the one with</p> <p>8 maybe I --</p> <p>9 G. MACY NELSON: I have D and E here with the</p> <p>10 (inaudible) one second.</p> <p>11 MARTIN GROSSMAN: Okay.</p> <p>12 ABDON D. ACKAD, JR.: And F.</p> <p>13 G. MACY NELSON: D, E, and F.</p> <p>14 MARTIN GROSSMAN: Okay. Okay. So all of these exhibits</p> <p>15 go to Mr. Johnson's vehicles?</p> <p>16 ROBIN RICE: Yes, sir. G shows the view of his parking</p> <p>17 from my property. H shows the trailer that is blocking some</p> <p>18 of the street.</p> <p>19 MARTIN GROSSMAN: Thank you.</p> <p>20 ROBIN RICE: I shows the trailer and the truck.</p> <p>21 MARTIN GROSSMAN: Okay.</p> <p>22 ROBIN RICE: J shows his parking and on the right-hand</p> <p>23 side, up a bit, parking from Andrews property by employees</p> <p>24 of him or construction workers.</p> <p>25 MARTIN GROSSMAN: Well, by him, you're talking about</p> | <p>220</p> <p>1 MARTIN GROSSMAN: It's not part of his business? It's</p> <p>2 just that --</p> <p>3 ROBIN RICE: No, no. It's strictly dealing with</p> <p>4 construction. But he's parking on the grass, and he's</p> <p>5 parking in the street.</p> <p>6 MARTIN GROSSMAN: All right.</p> <p>7 ROBIN RICE: Or, it's the workers, (inaudible).</p> <p>8 MARTIN GROSSMAN: So I take it all of these photos are</p> <p>9 an effort to show that it's not a purely residential</p> <p>10 neighborhood? That at least next door there's a neighbor</p> <p>11 who has got trucks parked regarding his own business? Is</p> <p>12 that the idea?</p> <p>13 ROBIN RICE: Yes, and --</p> <p>14 MARTIN GROSSMAN: Maybe in violation of the Department</p> <p>15 of Parking Service Regulation.</p> <p>16 ROBIN RICE: My -- on the street for a year. In my</p> <p>17 opinion, four wheels on the pavement, not allowed. I have</p> <p>18 to call the police against him. I have not done it. I don't</p> <p>19 want to. Parking on the grass seems to be such an iffy</p> <p>20 thing I don't know what the decision is --</p> <p>21 MARTIN GROSSMAN: No. I'm not saying he's guilty of</p> <p>22 anything, I'm just saying that if I understood your point</p> <p>23 that it is that Mr. Johnson, your next-door neighbor, has</p> <p>24 some kind of a business in which he has trucks that are</p> <p>25 parked in the neighborhood, some of which may be parked in</p> |

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| <p style="text-align: right;">221</p> <p>1 violation of DPS regulations. I don't know if they are or 2 if they aren't, but that's your point. Is that correct? 3 ROBIN RICE: My point is that -- that's correct. 4 MARTIN GROSSMAN: Okay. 5 ROBIN RICE: But my point is this is not a residential 6 neighborhood -- residential characteristics with this 7 business and nobody complaining about it. 8 MARTIN GROSSMAN: Just one second folks. Once again, 9 don't call out. She has a right to make her case but 10 then -- and part of her case is to show that, in her 11 opinion, this is not an entirely residential neighborhood. 12 ROBIN RICE: It's a mixed use where the properties are 13 residential. 14 MARTIN GROSSMAN: Okay. 15 ROBIN RICE: But there's a lot of mixed use of home 16 occupations, commercial building permits -- 17 RANDOM AUDIENCE ATTENDEE: No. 18 RANDOM AUDIENCE ATTENDEE: Objection. 19 ROBIN RICE: -- a roofing business. 20 MARTIN GROSSMAN: Folks, you can't object from the 21 audience. Okay. If somebody at counsel table wants to 22 object they can object, or cross-examined on the point. 23 Please. Thank you. 24 ROBIN RICE: So these are additional pictures -- 25 RANDOM AUDIENCE ATTENDEE: (inaudible)</p> | <p style="text-align: right;">223</p> <p>1 summarizes -- or adversarial fairly summarizes -- 2 ROBIN RICE: I got it. 3 MARTIN GROSSMAN: -- the ongoing proceeding. 4 ROBIN RICE: K is a picture of Tom's blue over white 5 truck. 6 MARTIN GROSSMAN: Which number is that? 7 ROBIN RICE: K. 8 COURT REPORTER: K. 9 ROBIN RICE: I'm sorry L, I think. 10 MARTIN GROSSMAN: Well, what I -- then I don't have K. 11 UNIDENTIFIED FEMALE: K's right here. 12 MALE AUDIENCE ATTENDEE: Could I ask a question? 13 Just -- 14 ROBIN RICE: M shows a picture of Tom's truck 15 parking -- 16 MARTIN GROSSMAN: I think we have enough truck 17 pictures of Tom's trucks don't we? Why -- 18 ROBIN RICE: Well, I'm getting to Tom's. There's only 19 a few more. Just bear with me, sir. 20 MARTIN GROSSMAN: What do they add? I mean after the 21 first eight pictures what do they add? 22 ROBIN RICE: They -- no. The next picture is of Tom's 23 truck and a neighbor parking with all four wheels on the 24 grass. In my opinion, Tom's truck is in violation of the 25 parking code and the other one on the grass is not. The</p> |
| <p style="text-align: right;">222</p> <p>1 MARTIN GROSSMAN: Hold it a second. 2 ROBIN RICE: -- 85K. 3 MARTIN GROSSMAN: Yeah. Hold on a second. 4 G. MACY NELSON: Folks. The hearing examiner 5 understands what's relevant. One of the issues in the case 6 is whether it's a residential neighborhood. Our adversary 7 is trying to make an argument that she's permitted to do, 8 so please just cool it. Everything is going to be fine. All 9 right. No more catcalls. Thank you, Mr. Grossman. 10 MARTIN GROSSMAN: All right. 11 ROBIN RICE: I do object to being referred to as an 12 adversary. I am an applicant trying to get a conditional 13 use to provide a good public service business in a 14 residential zone according to what the county counsel 15 decided. 16 MARTIN GROSSMAN: Well, yeah. I mean, yes. 17 ROBIN RICE: Okay. 18 MARTIN GROSSMAN: Nobody's challenging that you're an 19 applicant here, but -- 20 ROBIN RICE: He said adversary. 21 MARTIN GROSSMAN: -- you're in an adversarial position 22 because you're applying for something that other 23 people's -- 24 ROBIN RICE: All right. 25 MARTIN GROSSMAN: -- opposed so adversary fairly</p> | <p style="text-align: right;">224</p> <p>1 next picture shows a lot of vehicles further up the road. 2 They are by a house on -- picture number O that has been 3 going under construction since about last August. 4 MARTIN GROSSMAN: Thank you so much. 5 ROBIN RICE: P, is a picture showing the -- 6 MARTIN GROSSMAN: What is the -- once again I see, and 7 I see a truck here. What is 85N supposed to be showing me? 8 ROBIN RICE: I'm sorry. I'm losing the numbers. 9 MARTIN GROSSMAN: In N I see a truck on one side, a 10 small -- 11 ROBIN RICE: And a car on the other. 12 MARTIN GROSSMAN: And a car on the other, on the 13 grass. 14 ROBIN RICE: That is -- that is my opinion about Tom's 15 truck is not in compliance with the parking code. I have to 16 call the police to get him to remove it or ask him. The 17 other car, I believe, is isn't compliance with the parking 18 code because all four wheels are on the grass. 19 MARTIN GROSSMAN: I know, but I mean just because a 20 neighbor may or may not be in compliance with the parking 21 code doesn't necessarily convert the neighborhood. But I 22 don't understand what 85N is. What is that supposed to show 23 me? 24 ROBIN RICE: That shows a picture of more vehicles, 25 not Tom's, that are parking on the grass and in the street.</p> |

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| <p style="text-align: right;">225</p> <p>1 MARTIN GROSSMAN: Okay. So in 85 --</p> <p>2 ROBIN RICE: The next picture just shows a closer</p> <p>3 picture of the cars showing that summer parking with all</p> <p>4 four wheels on the grass and some are parking with two</p> <p>5 wheels.</p> <p>6 MARTIN GROSSMAN: Okay.</p> <p>7 G. MACY NELSON: Mr. Grossman, the -- enough is</p> <p>8 enough.</p> <p>9 MARTIN GROSSMAN: I'm with that. I mean I just don't</p> <p>10 see how many additional pictures of people parking --</p> <p>11 ROBIN RICE: They're -- they're different, sir, and</p> <p>12 I've only got a few more and they're different. Please</p> <p>13 allow me to do my --</p> <p>14 MARTIN GROSSMAN: How many is a few more.</p> <p>15 ROBIN RICE: -- preponderance of evidence. I've got</p> <p>16 four more in front of me.</p> <p>17 MARTIN GROSSMAN: That will be fine.</p> <p>18 ROBIN RICE: And they're different.</p> <p>19 MARTIN GROSSMAN: Hold on.</p> <p>20 KATIE BECKER: I just have a clarifying question. I</p> <p>21 keep hearing the public right-of-way. Is the public right-</p> <p>22 of-way the asphalt road? Is the public right-of-way the</p> <p>23 grass that the county owns between the asphalt and the</p> <p>24 ditch? Or is the public right-of-way also the driveway</p> <p>25 portion between the asphalt and the ditch? Because one of</p> | <p style="text-align: right;">227</p> <p>1 ROBIN RICE: So S shows that he's trying harder, which</p> <p>2 I appreciate.</p> <p>3 MARTIN GROSSMAN: I don't see how it's relevant</p> <p>4 whether he was trying harder or not.</p> <p>5 ROBIN RICE: Okay.</p> <p>6 MARTIN GROSSMAN: Okay.</p> <p>7 G. MACY NELSON: I (inaudible) I have an objection as</p> <p>8 far as that, because I believe that she's pro se, and</p> <p>9 should be permitted to try and make her case and also</p> <p>10 because they depict my client's property, but they're not</p> <p>11 relevant to the question of whether the applicant can meet</p> <p>12 her burden of proof to satisfy the requirements for the</p> <p>13 special exception.</p> <p>14 MARTIN GROSSMAN: Well, her argument here is that</p> <p>15 they're showing that the neighborhood is not entirely</p> <p>16 residential. So I can't say that showing pictures of trucks</p> <p>17 is not in any way relevant to the question. I guess you</p> <p>18 could show enough trucks to say that an area is not fully</p> <p>19 residential. I don't -- you know, I'm not going to issue an</p> <p>20 opinion on that now. I'm just saying that that's my</p> <p>21 understanding of her claim and her reason for introducing</p> <p>22 these photographs.</p> <p>23 G. MACY NELSON: Right. My only point is that I didn't</p> <p>24 raise the objection until after roughly, 30 photographs.</p> <p>25 MARTIN GROSSMAN: Right. Right. I think it's</p> |
| <p style="text-align: right;">226</p> <p>1 the pictures that went by you said that Mr. Johnson was</p> <p>2 parked in the right-of-way, but the truck was on his</p> <p>3 driveway. So I just need clarification of --</p> <p>4 MARTIN GROSSMAN: The right-of-way can extend well</p> <p>5 beyond the paved surface of the road. And (inaudible) --</p> <p>6 KATIE BECKER: But would it be a driveway? Would it be</p> <p>7 someone's driveway between the ditch and the road?</p> <p>8 MARTIN GROSSMAN: It could be the driveway; the apron</p> <p>9 of the driveway could be in the county's right-of-way. It</p> <p>10 could happen, yes. I don't know in this particular case,</p> <p>11 I'm just saying that sometimes the right-of-ways extend</p> <p>12 considerably further than people might ordinarily think,</p> <p>13 just looking at the road.</p> <p>14 ROBIN RICE: Number R shows a picture of the car</p> <p>15 parked for Mr. Johnson where he stores personal and/or</p> <p>16 business material. I asked Mr. Johnson to please stop</p> <p>17 parking with four wheels on the street blocking part of the</p> <p>18 street, I'm sorry, that was R, and I think he's tried</p> <p>19 harder, which I appreciate. I'm sorry, what was the number?</p> <p>20 Give me back the last one.</p> <p>21 G. MACY NELSON: R.</p> <p>22 ROBIN RICE: And what exhibit number are we on?</p> <p>23 G. MACY NELSON: Eighty-five.</p> <p>24 MARTIN GROSSMAN: Eighty-five R was the last one I've</p> <p>25 heard mentioned.</p> | <p style="text-align: right;">228</p> <p>1 excessive, but now she's done, right?</p> <p>2 ROBIN RICE: I have two more papers that are not</p> <p>3 photographs. My point is that Tom's a lovely person. I've</p> <p>4 enjoyed --</p> <p>5 MARTIN GROSSMAN: No, no, no.</p> <p>6 ROBIN RICE: Okay.</p> <p>7 MARTIN GROSSMAN: I don't want to hear how lovely Tom</p> <p>8 is. I want relevant evidence.</p> <p>9 ROBIN RICE: All right. My point in bringing this up</p> <p>10 is that none of the neighbors that are living there now</p> <p>11 have registered complaints about his business parking in</p> <p>12 the street, the number of cars and trucks that are on his</p> <p>13 property, the visibility of it that's not screened off by</p> <p>14 landscaping, et cetera. The only complaints that I found</p> <p>15 about his business were exhibit number T, and Exhibit 85U.</p> <p>16 Those complaints against him, the former owner told me she</p> <p>17 filed them and Tom told me she filed them against him. My</p> <p>18 point is that the business use of his roofing company, his</p> <p>19 parking habits, the site of his trucks, the site of the</p> <p>20 construction trucks by the other property owner is not the</p> <p>21 depiction that the opposition is trying to tell you of what</p> <p>22 the neighborhood looks like. That's all.</p> <p>23 MARTIN GROSSMAN: Well, apparently somebody complained</p> <p>24 about the trucks.</p> <p>25 ROBIN RICE: It was the former property owner, yeah.</p> |

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| <p style="text-align: right;">229</p> <p>1 But not the existing people.</p> <p>2 MARTIN GROSSMAN: I understand the point you're</p> <p>3 making. I'm not sure that it establishes what you're trying</p> <p>4 to prove, but I understand the distinction you're making.</p> <p>5 ROBIN RICE: Just the characteristics --</p> <p>6 MARTIN GROSSMAN: So I let you put them all in.</p> <p>7 ROBIN RICE: Just characteristics of the neighborhood.</p> <p>8 Okay. I wish you could see this better.</p> <p>9 MARTIN GROSSMAN: Thank you. While your cogitating,</p> <p>10 Ms. Rice, I think that when it 4:00 or so we should start</p> <p>11 thinking about whether or not this is going to complete</p> <p>12 today or whether we need to pick another date while we</p> <p>13 still have access to people and know the schedule in this</p> <p>14 room. So I let you go ahead, but bear in mind, if you think</p> <p>15 it's possible to conclude today then we've got to move it</p> <p>16 along.</p> <p>17 ROBIN RICE: All right. For a year I've been trying to</p> <p>18 figure out the parking on the grass issue. And I have, if I</p> <p>19 can, just do it in one exhibit, all the slides, all the</p> <p>20 information for your review. I think we are allowed to park</p> <p>21 on the grass. In the decision on Genius -- Little Genius</p> <p>22 Montessori School that you wrote on Marianne Drive, the</p> <p>23 technical staff specifically said if there wasn't enough</p> <p>24 room on a lot, you can park in the grass. In your opinion,</p> <p>25 you didn't agree with technical staff that they can park on</p> | <p style="text-align: right;">231</p> <p>1 to walk on. A car is about six feet wide. That gives you</p> <p>2 another 12 feet to be able to walk on the grass and not</p> <p>3 walk on the street. Okay. That's my opinion. The grass</p> <p>4 deterioration by excessive use, it seems to be some sort of</p> <p>5 an issue. So I took pictures of the grass where I've been</p> <p>6 parking in front of my property, and I took pictures of</p> <p>7 everybody else's, and I took pictures of the construction</p> <p>8 site. So as exhibit number -- what's our exhibit number?</p> <p>9 MARTIN GROSSMAN: The next one up, the next exhibit up</p> <p>10 would be 86.</p> <p>11 ROBIN RICE: Eighty-six. So I would like to, in the</p> <p>12 interest of time is Exhibit 86 -- it's -- well, it's really</p> <p>13 good. It's like 30 pages, but I'll have my husband --</p> <p>14 MARTIN GROSSMAN: And what is it? How would you</p> <p>15 summarize what it is?</p> <p>16 ROBIN RICE: This is an email that I sent to Christina</p> <p>17 asking her can I park on the grass. This is a response from</p> <p>18 Brian Jeeves (phonetic) saying - -</p> <p>19 MARTIN GROSSMAN: Well this is exchanges regarding</p> <p>20 whether you can park on the grass?</p> <p>21 ROBIN RICE: Right. And then my request, okay, if I</p> <p>22 can't park on the grass, where is the regulation about it.</p> <p>23 And then that Brian Jeeves said I was unable to --</p> <p>24 MARTIN GROSSMAN: You don't have to read them all.</p> <p>25 ROBIN RICE: Okay.</p> |
| <p style="text-align: right;">230</p> <p>1 the grass because Marianne Drive has the same parking on</p> <p>2 the grass issue. But, you determined there was enough space</p> <p>3 on the property so it wasn't something to consider. If you</p> <p>4 determine I don't have enough space on the property when I</p> <p>5 do with the reduction of staff because of the bus stop,</p> <p>6 then they kind of continuation of can you park on the grass</p> <p>7 decision is there. I think parking on the grass is allowed</p> <p>8 by residents, gas, et cetera, et cetera. If it's a limited</p> <p>9 use, parking on the grass for the three nonresident staff</p> <p>10 members is okay. That's my opinion. I think whether I can</p> <p>11 park on the grass or not is under your authority. You</p> <p>12 decide whether I can or cannot, for nonresident staff</p> <p>13 members. So part of the discussion is if you park on the</p> <p>14 grass you're going to cause tire (inaudible) ruts.</p> <p>15 MARTIN GROSSMAN: Well there's also, in the staff</p> <p>16 report, the question of if you park on the grass, aside</p> <p>17 from the fact of what it looks like in the neighborhood,</p> <p>18 there's also a question of whether or not it forces people</p> <p>19 to walk on the street was another issue that was raised by</p> <p>20 letters and by (inaudible).</p> <p>21 ROBIN RICE: Part of the staff report was that people</p> <p>22 must walk on the street, which is not true because they can</p> <p>23 walk on the grass. What's stopping them from walking on the</p> <p>24 grass, stopping them from walking on the grass is if a car</p> <p>25 is parked there filling all 20 feet of -- that's available</p> | <p style="text-align: right;">232</p> <p>1 MARTIN GROSSMAN: I just wanted to get an idea of what</p> <p>2 you were talking about. So there are --</p> <p>3 ROBIN RICE: Yeah.</p> <p>4 MARTIN GROSSMAN: -- I'm just going to call 86</p> <p>5 exchanges about parking on the grass, right?</p> <p>6 ROBIN RICE: Exchanges and DPS inspection reports and</p> <p>7 pictures and diagrams of what a road looks like.</p> <p>8 MARTIN GROSSMAN: Okay. So exchanges, reports, and</p> <p>9 diagrams about parking on the grass.</p> <p>10 ROBIN RICE: Picture of grass erosion by the neighbor</p> <p>11 who's doing the construction. Pictures of other people's</p> <p>12 grass deterioration. Pictures of parking, of driveways</p> <p>13 being expanded beyond what was originally --</p> <p>14 MARTIN GROSSMAN: Okay. I get -- that's enough --</p> <p>15 ROBIN RICE: Approved - -</p> <p>16 MARTIN GROSSMAN: -- to describe it.</p> <p>17 ROBIN RICE: And --</p> <p>18 MARTIN GROSSMAN: I have it as exchanges, reports,</p> <p>19 diagrams and pictures about parking on the grass.</p> <p>20 ROBIN RICE: Parking on the grass and driveway</p> <p>21 expansion.</p> <p>22 MARTIN GROSSMAN: On the grass and driveway expansion.</p> <p>23 ROBIN RICE: Okay.</p> <p>24 MARTIN GROSSMAN: All right. Would you be so kind as</p> <p>25 to show that to --</p> |

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| <p>233</p> <p>1 ROBIN RICE: Okay. Can he just give it back to me so 2 my husband can mark each page 86? 3 UNIDENTIFIED FEMALE: Do you want to mark it first? 4 ROBIN RICE: It will take too long, just go ahead 5 and -- 6 MARTIN GROSSMAN: We can just clip it together. 7 ROBIN RICE: Okay. And it's done with Binder 1. I've 8 got two. I really wish you could see the slides. 9 ABDON D. ACKAD, JR.: With the kind of light you can hardly 10 see them 11 MARTIN GROSSMAN: Well, I can see them. But it's -- 12 ROBIN RICE: Okay. What number is this, 86? 13 UNIDENTIFIED FEMALE: You said that this was going to 14 be 87. 15 ROBIN RICE: I'll put this together in a package as 16 Exhibit number 87 and I'm calling it where the daycares 17 are. The reason to put this into the record is evidence of 18 that child care -- how many childcare facilities there are 19 in the county, how many are where. 20 MARTIN GROSSMAN: You have it throughout the whole 21 county? You're presenting? Are just in this neighborhood? 22 As defined? 23 ROBIN RICE: Slide number 1 is both. Slide number 1 is 24 that there are 847, what's called -- 25 G. MACY NELSON: Mr. Grossman --</p> | <p>235</p> <p>1 it's not an issue. 2 ROBIN RICE: Part of the opposition is that property 3 values will go down if there beside a childcare center in a 4 residential zone. 5 MARTIN GROSSMAN: That's true. 6 ROBIN RICE: It's hard to find a property -- 7 MARTIN GROSSMAN: And when I say that's true it's part 8 of the allegation. 9 ROBIN RICE: Right. It's hard to find a property where 10 there is into childcare in a residential zone. So I'm 11 trying to quickly in about five minutes make this one 12 packet a exhibit so there's evidence in the record that you 13 can't live anywhere without finding childcare in a 14 residential zone. 15 MARTIN GROSSMAN: On that basis I'm going to overrule 16 the objection, Mr. Nelson, and let her put it in. 17 ROBIN RICE: Thank you. And very quickly, there's 847 18 family daycare providers in the county. There's 40 what's 19 called a letter of compliance which is a church, not really 20 complying with the regulations because of the separation of 21 church and state. There are 33 what's called a large family 22 childcare center which is what Ms. Pryor has as her 23 business in it. There are 448 childcare centers in the 24 county. 25 MARTIN GROSSMAN: I'm sorry. What was the last one?</p> |
| <p>234</p> <p>1 ROBIN RICE: -- family daycare providers. 2 MARTIN GROSSMAN: Hold on one second. 3 G. MACY NELSON: May I be heard? I object to the 4 relevance. There is no need requirement that I'm aware of 5 for this conditional use. I'm trying to resist the urge to 6 object. I've done a pretty good job, I think. 7 MARTIN GROSSMAN: Yes. You've been very tolerant. 8 G. MACY NELSON: You know, and I'm feeling like it's 9 time for me to start saying I object. And I do object. This 10 is burdensome to a lot of people. It's expensive. We're now 11 guaranteed a second day, and much of the first day has been 12 spent on testimony that I believe is not, not all, but much 13 is not relevant to this special -- conditional use 14 criteria, so I object. 15 MARTIN GROSSMAN: All right. So you're objecting to 16 Exhibit 87 of where all the daycares are. 17 G. MACY NELSON: And the (inaudible) inquiry regarding 18 where the daycare centers are countywide. 19 MARTIN GROSSMAN: What's the relevance of where the 20 daycare centers are countywide? 21 ROBIN RICE: Part of the opposition letters, part of 22 the testimony is of that child care should not be in 23 residential zones. It should be in commercial zones. 24 MARTIN GROSSMAN: It's not an issue here. I mean the 25 Council has said that they can be in residential zones, so</p> | <p>236</p> <p>1 ROBIN RICE: Four hundred and forty-eight childcare 2 centers. The numbers are on the papers that I'm going to 3 submit. There are 10 family day care homes in the ZIP Code 4 where my property is. 5 MARTIN GROSSMAN: I don't know how large a ZIP Code 6 is, so -- 7 ROBIN RICE: That (inaudible) about five -- I don't 8 have a ZIP code area. 9 MARTIN GROSSMAN: How about in the neighborhood? 10 That's really the -- 11 ROBIN RICE: The most accurate site to look at doesn't 12 do it by neighborhood. They do that by ZIP Codes... 13 RANDOM AUDIENCE ATTENDEE: Approximately 2000 residences. 14 MARTIN GROSSMAN: Don't call out. 15 ROBIN RICE: So there's 10 family daycare providers in 16 the ZIP Code which includes Mill Creek Park. There are none 17 in the -- 18 RANDOM AUDIENCE ATTENDEE: (inaudible) 19 ROBIN RICE: -- staff defined neighborhood. 20 MARTIN GROSSMAN: There are none in the defined 21 neighborhood? 22 ROBIN RICE: Not in the staff defined neighborhood. 23 That little area. There are two large family daycare 24 providers, me and the conditional use for 12 on the other 25 side of me and County Highway. Some of the papers -- this</p> |

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| <p>237</p> <p>1 paper shows Ms. Pryor's certificate for 12. Another shows 2 the location of the other conditional use for 12 on the 3 other side of Midcounty Highway. There are 10 now, 4 childcare centers in the ZIP Code. I've identified three of 5 them as being in commercial zones instead of being in a 6 residential zone. So it's 75 percent residential to 7 commercial. One of them is in the elementary school at -- 8 that is -- there is one actually. 9 MARTIN GROSSMAN: Can you address just daycare centers 10 in residential areas? 11 ROBIN RICE: There's one -- 12 MARTIN GROSSMAN: Not -- hold on a second. And I'm 13 talking specifically about not group daycare home, not 14 group homes, not family daycares, but just daycare centers. 15 How many daycare centers are there in residential areas of 16 the county? 17 ROBIN RICE: There's no answer to that question 18 because you have to compare the conditional uses versus 19 who's licensed. And I don't have that figure for you. For 20 the 20855 ZIP Code area there's 10 centers and they're -- I 21 believe seven of them are in residential zones and three 22 are in commercial zones, out of the centers. One of the 23 residential zone daycare centers is in the Staff Report 24 defined neighborhood because it's in Mill Creek Towne 25 Elementary School. It's 45 children and it's in the area.</p> | <p>239</p> <p>1 commercial zone is Kinder Care Learning Center. They 2 are -- they back up to Shady Grove Road in a -- 3 MARTIN GROSSMAN: Well, I don't care if they're in a 4 commercial zone. I think your point is that there are day 5 care centers in residential areas that's all I care about. 6 ROBIN RICE: Right. And they're in -- 7 MARTIN GROSSMAN: Okay. So you said it's summarized in 8 your -- 9 ROBIN RICE: Okay. 10 MARTIN GROSSMAN: -- Exhibit 87, right? 11 ROBIN RICE: Summarizing; I've got more pictures and 12 information about day care centers in the 20855 ZIP Code as 13 well as some in the 20877 ZIP Code which includes Sunrise 14 Learning, Early Learning Center, a conditional use that 15 is -- I depicted where it is geographically before. I'd put 16 a picture of their conditional use and I've got a picture 17 of -- with yellow dots on it where I've identified child 18 care centers to be. So that's the end of that one. 19 MARTIN GROSSMAN: All right. 20 G. MACY NELSON: I'm sorry is this all one exhibit? 21 ROBIN RICE: Yeah. That's just -- 22 MARTIN GROSSMAN: Yeah, that's all the Exhibit 87. 23 Thank you sir. 24 ROBIN RICE: The next one is about property appraisal 25 information and it's very thick. I'm sorry, what number are</p> |
| <p>238</p> <p>1 So I -- 2 MARTIN GROSSMAN: So one daycare center is in the 3 defined neighborhood? 4 ROBIN RICE: Yes. It is the Bar-T Club. They're very 5 popular in the elementary schools. They've locked down most 6 of the leases and this particular one has 45 children in 7 it. 8 MARTIN GROSSMAN: And what's the name of it? 9 ROBIN RICE: Bar-T. 10 MARTIN GROSSMAN: Bar-T. 11 RANDOM AUDIENCE ATTENDEE: That's an after care. 12 RANDOM AUDIENCE ATTENDEE: That's aftercare. 13 RANDOM AUDIENCE ATTENDEE: It doesn't matter. 14 RANDOM AUDIENCE ATTENDEE: An aftercare -- 15 MARTIN GROSSMAN: Ladies and gentlemen, please. If I 16 ask about daycare centers whether it's aftercare or not is 17 not the issue. 18 ROBIN RICE: The one in -- one of the day care centers 19 that isn't in (inaudible) one of the day care centers in 20 the ZIP code is -- 21 MARTIN GROSSMAN: This is Exhibit? 22 ROBIN RICE: -- Kinder Care -- 23 G. MACY NELSON: Eighty-six. 24 MARTIN GROSSMAN: Eighty-six, okay. 25 ROBIN RICE: One of the day care centers that is in a</p> | <p>240</p> <p>1 we at? 2 MARTIN GROSSMAN: You're up to 88. 3 UNIDENTIFIED FEMALE: You're up to 88. 4 ROBIN RICE: This is more in the rebuttal of the 5 neighbor -- of the neighborhood property value. I'd really 6 like to go through it thoroughly, but it's going to take an 7 hour. I could submit it in one package if you want to and I 8 have a question about whether the expert witness is going 9 to be here for the property appraisal so I can rebut his 10 report. 11 MARTIN GROSSMAN: You mean the one listed by Mr. 12 Nelson? 13 ROBIN RICE: Yeah. 14 MARTIN GROSSMAN: Do you have your expert witness 15 here, Mr. Nelson? 16 G. MACY NELSON: No, sir, our intention was to rely on 17 the report. 18 MARTIN GROSSMAN: I see. Okay. 19 ROBIN RICE: Okay. I object to the report because the 20 property appraisal that was submitted is comparing a 21 conditional use application versus on identified commercial 22 property being next to Muncaster Mill Road. I don't know -- 23 MARTIN GROSSMAN: Well, he hasn't introduced it yet, 24 other than sending it along with some papers but if he 25 intends to use it as an exhibit, introduce it as an</p> |

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| <p>241</p> <p>1 exhibit, in the case and then you can object then. 2 ROBIN RICE: All right. And then I will save this for 3 rebuttal. 4 MARTIN GROSSMAN: I'll leave you as to what your case, 5 that you're presenting, is. But in terms of the specific 6 exhibit that you're talking about, which is an attachment 7 to the file and his prehearing statement, as I recall, when 8 he is putting on his case, presumably, he will introduce 9 that and then you can object on whatever grounds you have. 10 ROBIN RICE: And then I can present my rebuttal 11 evidence? 12 MARTIN GROSSMAN: You can have rebuttal, you have a 13 rebuttal cases if you wish, yes. 14 ROBIN RICE: Okay. I just don't want to -- 15 MARTIN GROSSMAN: Usually, I will say that usually 16 rebuttal isn't addressed to things that were filed as part 17 of a direct case, as part of the evidence that, in, but I 18 will allow you to do that if you think that's a more 19 efficient way of doing. Usually rebuttal is to rebut 20 something that was an anticipated. But you are allowed 21 rebuttal in this proceeding, in this kind of proceeding. So 22 if he introduces the appraisal report, since we assumed it 23 was coming in as part of an expert's statement, you can 24 then introduce. You can object, and if it's allowed into 25 evidence then you can introduce your rebuttal.</p> | <p>243</p> <p>1 witness here. I recognize this. But we are in and an 2 administrative, informal proceeding and I think that the 3 practice is usually that the Administrative Law Judges use 4 their discretion to accept an expert report where the 5 expert is not present and gives it the weight that the 6 examiner thinks it ought to be given. So that's my response 7 to the first point. With respect to the applicant's 8 objection to some of the language that the appraisal used 9 in the report about the commercially zoned property next 10 door as opposed to conditional use, you know, we can parse 11 words and argue that. But I think that's fair game for 12 argument. But it doesn't go to the admissibility, in my 13 view, of the report. So for those reasons, I would urge you 14 to deny the motion. But I'm happy to, at a break, to meet 15 with the applicant to see if we can't reach some sort of 16 stipulation as to the documents she has in an effort to 17 streamline that part of her case. I'm happy to do that. 18 MARTIN GROSSMAN: All right. Ms. Gregorski, you want 19 to hop in on this issue? 20 ANNE GREGORSKI: No thank you. 21 MARTIN GROSSMAN: I don't blame you. (Laughter) Ms. 22 Becker? 23 KATIE BECKER: No, thank you. 24 MARTIN GROSSMAN: Okay. All right. Maybe we take a 25 break now, a five-minute break, and you can talk to the</p> |
| <p>242</p> <p>1 ROBIN RICE: Okay. So I'd like to put this aside 2 because I -- 3 MARTIN GROSSMAN: And I will say, I mean you do 4 realize that there were many letters that complained about 5 the effect on their property values. 6 ROBIN RICE: Correct. 7 MARTIN GROSSMAN: So if you think that's part of your 8 case in chief, then you can present it now. Okay. 9 ROBIN RICE: Okay. It's going to take an hour. 10 MARTIN GROSSMAN: You can take whatever time you need 11 I guess because if it's a -- if that's what it really 12 takes, that is to produce relevant points on it. 13 ROBIN RICE: In the interest of time can I make a 14 motion that the property appraisal the -- 15 MARTIN GROSSMAN: Excluded? 16 ROBIN RICE: Excluded because the expert witness isn't 17 here and the property appraisal does not talk about being 18 next to a conditional use. It talks about being next to 19 commercially zoned property. It's not an appropriate 20 appraisal to compare a conditional use versus a zoning 21 change of being next to commercial property. 22 MARTIN GROSSMAN: All right. Mr. Nelson, you want to 23 respond to that? 24 G. MACY NELSON: With respect to the first point, if 25 we were in a court proceeding of course, we would need the</p> | <p>244</p> <p>1 applicant about that issue. Before we do though, one other 2 thing. The question about who is the provider, which as I 3 said, was a -- who was going to be the provider, was a 4 legitimate issue to be addressed here. I don't know, do you 5 have any other evidence on this point? I mean it was 6 address, I guess, as part of Ms. Pryor's testimony. Do you 7 have any other evidence that you wanted to present on that 8 point, Ms. Rice? 9 ROBIN RICE: I think I already said the application 10 requirements are you must be the property owner, which I 11 am. The property owner must authorize anyone applying for a 12 conditional use. The only person I'm authorizing is me. 13 That's it. 14 MARTIN GROSSMAN: Okay. Does anybody else want to be 15 heard on this point? Mr. Nelson, did you want to say 16 anything further on this question of whether or not there 17 was something deficient in this application because Ms. 18 Rice is the applicant, that she's the property owner, but 19 is not the current operator of the facility there? 20 G. MACY NELSON: Well, at the end of the applicant's 21 case I was going to make a motion to dismiss on that 22 grounds. And do I understand you to be suggesting this is 23 the time for me to make such a motion? 24 MARTIN GROSSMAN: I think it makes sense, because as 25 she's not going to have any additional evidence on the</p> |

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| <p>245</p> <p>1 point and so we could get rid of one legal issue before we 2 move on to the next one. 3 G. MACY NELSON: All right. So on behalf of my 4 clients, Ms. Lloyd and Mr. Johnson, we do move to dismiss 5 the application. We believe that it's deficient because the 6 applicant, Ms. Rice, is not provider. We've heard the 7 undisputed testimony from Ms. Pryor that it's her business. 8 She said that emphatically. This is my business, and she's 9 not the applicant. So for those reasons we do move to 10 dismiss. And I note that the Chair issued an order June 11 7th, asking for clarification from the applicant and the 12 applicant never disputed, in response to that order that 13 Ms. Pryor was the actual proposed provider at this 14 property. So for all those reasons, we do move to dismiss 15 the application as being legally deficient. 16 MARTIN GROSSMAN: What I don't quite understand about 17 this motion is, she is not -- I mean Ms. Pryor is the owner 18 of the current business on the site. But as I understand 19 the application and from Ms. Rice, it is to have an 20 entirely new business on the site called The Child Day Care 21 Center, in which she is going to be the provider. She's the 22 applicant, and she is the provider. She may later hire 23 employees and be bound all the rules and regulations and 24 conditions if this were granted, but I don't 25 understand -- because it seems to me that you're</p> | <p>247</p> <p>1 meets all of the other qualifications is another issue. But 2 that she cannot apply for a day care center -- 3 G. MACY NELSON: Well, I've made my argument, and I 4 don't have more to add to the argument. 5 MARTIN GROSSMAN: Ms. Gregorski, do you have anything 6 to say on this point? 7 ANNE GREGORSKI: Well, you stated that Robin Rice 8 would be the provider, but she's not the provider. She's, 9 according to this letter, in her reply to your order she 10 said she is the proposed operator. And she was -- the 11 original certificate -- her last name is the additional 12 adult and now she is the director. So she's not a child 13 care provider and that's the whole key to a child care 14 center, is to be the -- 15 ROBIN RICE: Objection. 16 MARTIN GROSSMAN: Well, no, she can make her point and 17 you can respond to it. 18 ROBIN RICE: Okay. 19 MARTIN GROSSMAN: I'll let you respond. 20 ANNE GREGORSKI: So as an operator or a director 21 that's -- the property owner it is totally a business, 22 there's nothing residential about it, which means that it 23 is no longer a residence. It's a business. 24 MARTIN GROSSMAN: Yes, but I don't see that that 25 answers -- I agree with you, it would -- well, it could be</p> |
| <p>246</p> <p>1 referencing back to what exists on the site now, not to 2 what is intended in the application if it's approved. And 3 isn't it my responsibility to look at what is proposed as 4 the business on the site, not what is there now? 5 G. MACY NELSON: Yes. I think you are. I think that's 6 correct. But I think that the evidence in this case is that 7 that the -- that she is not going to be. There's -- what 8 I'm trying to say is the testimony that I heard from Ms. 9 Pryor was I'm here. This is my business, you know, and I'm 10 going to make a bid and enter into a contract on this 11 property and -- 12 ROBIN RICE: Objection. 13 MARTIN GROSSMAN: She didn't say that. 14 G. MACY NELSON: Well, I -- 15 MARTIN GROSSMAN: She can move her business elsewhere. 16 Right now she's a tenant and according to -- Ms. Rice has 17 applied for the -- as the owner of the property, has 18 applied for the conditional use. I don't want us to be 19 stuck; it seems to me, on what's there now. You know, it 20 could be something completely different than a day care 21 that happens to be there now. Right now it's a group 22 daycare which is a different kind of facility than a day 23 care center that is proposed here. So I'm not sure I 24 understand how the fact that there is a group daycare there 25 now means that Ms. Rice cannot apply, at least. Whether she</p> | <p>248</p> <p>1 operated as a residence too. There's nothing that says it 2 couldn't be. But -- 3 ANNE GREGORSKI: It would -- Exhibit number 52 -- 4 MARTIN GROSSMAN: Right. I'm just not sure that -- I 5 don't need to dance on the head of what you -- whether you 6 call it a provider or director, owner as long as the 7 applicant, it seems to me, is the person who is bound, if 8 it's granted, is bound by the -- all the conditions and 9 anybody that operates through her is bound by all the 10 conditions. If this were to be granted any conditions that 11 would be imposed would make it clear that it binds not only 12 the owner of the property but whoever operates the day care 13 center on it, if this were to be granted. So I'm not sure I 14 understand the distinction that's being about that she 15 can't apply by herself as the owner of the property for a 16 day care center. 17 ANNE GREGORSKI: Because it's being in words alone, 18 she started her entry into the neighborhood was with some 19 small day care center and we all thought it was so cute, 20 and we loved it. And then we heard when she wanted the nine 21 foot sign that she was going to have 30 children and then 22 at the Planning Board she said she's going to have 60 23 children and it is a business. It is no longer a quiet 24 neighborhood child care center. 25 MARTIN GROSSMAN: That's not the issue I'm addressing.</p> |

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| <p style="text-align: right;">249</p> <p>1 There are lots of arguments that can be made about whether 2 this is appropriate for this site. I'm not asking that 3 question now. This is just a very small legal question 4 because an issue was raised at the inception of this 5 application as to whether or not she was actually properly 6 classified as the provider. My -- 7 ANNE GREGORSKI: But if her idea was at the very 8 beginning to have the 30 to 60 children then the initial 9 day care is no longer the question. It was her osmosis into 10 this. 11 MARTIN GROSSMAN: I agree, it's not the -- the initial 12 day care group home is not the question. The only question 13 is whether she is entitled to have a day care center for up 14 to 30 children. That's the only question now. And there are 15 many issues that has obviously been raised in all the 16 letters that I read about that, which she is trying to 17 address, but now I'm specifically addressing this specific 18 one as to should she somehow be disallowed or required to 19 have a co-applicant on this in order to -- there are all 20 kinds of conditional uses, for example, telecommunications 21 towers that require you to have the provider, the, let's 22 say Verizon if it's got a tower, plus the owner of the 23 property both have to be -- they have to be co-applicants. 24 There's nothing in the Code that says specifically that the 25 owner of the property can't apply as a day care center. So</p> | <p style="text-align: right;">251</p> <p>1 MARTIN GROSSMAN: I'm going to deny this motion to 2 dismiss. I don't think that the application is deficient 3 from that standpoint. That in no way affects the -- my 4 evaluation of the case, compatibility and all the other 5 standards that are in the zoning ordinance. All right. Now 6 let's do that break for five minutes so you can, Mr. 7 Nelson -- 8 G. MACY NELSON: Can I -- understand I am going to 9 look at the documents and see if we can stipulate the 10 documents and just have them go in. Is that -- that was 11 sort of my -- 12 MARTIN GROSSMAN: The question of you -- the question 13 is you have an appraisal report but no expert, and Ms. Rice 14 has documents regarding the appraisal value. If you have 15 some stipulation you want to reach that the other parties 16 can agree to also, well I'll be happy to look at that. 17 Okay. So we'll break for five minutes so you can discuss it 18 with Ms. Rice. Okay. 19 (Off the record.) (END ZOOM0004) 20 (On the record.) (START ZOOM0005) 21 MARTIN GROSSMAN: And we're back on the record. What 22 have we learned? 23 G. MACY NELSON: I helped the applicant review the 24 documents. I propose that we stipulate that they be 25 admitted and allow you to give them whatever weight you</p> |
| <p style="text-align: right;">250</p> <p>1 I wondered what, you know, whether there is any I'm not 2 noticing that somebody should tell me here about this. Yes? 3 ANNE GREGORSKI: What term will you call her then, 4 just the applicant? 5 MARTIN GROSSMAN: Yes. Usually that's the way the 6 things are -- 7 ANNE GREGORSKI: But not the provider, because -- 8 MARTIN GROSSMAN: As we impose the conditions on the 9 applicant and/or somebody (inaudible) through them, yes. Or 10 successors as sometimes new people are put in there. All 11 right. Ms. Becker, did you have anything to add to this 12 fray? 13 KATIE BECKER: Oh, no thank you. 14 MARTIN GROSSMAN: Okay. All right. Did you want to 15 respond to this before I (inaudible). 16 ROBIN RICE: I think you got it, but the existing use 17 and the word provider is a definition under the regulations 18 that -- 19 MARTIN GROSSMAN: Yeah. I don't need to dance on the 20 head of the -- 21 ROBIN RICE: Okay. 22 MARTIN GROSSMAN: -- what's a provider and what's not. 23 It's really a question of who's the applicant and is there 24 anything deficient in your application as the owner. 25 ROBIN RICE: Okay.</p> | <p style="text-align: right;">252</p> <p>1 deem is appropriate. Allow the lawyers to argue those. My 2 goal is to streamline the process because I think this case 3 is going to come down to compatibility and that's where I'm 4 interested in getting to. 5 MARTIN GROSSMAN: All right. What about you Ms. Rice, 6 how do you feel about this? 7 ROBIN RICE: No. I object to it being entered into the 8 record at all. Because if you look at -- 9 MARTIN GROSSMAN: So there's no stipulation, in other 10 words? 11 ROBIN RICE: If the appraisal identified a property 12 that was next to a conditional use -- 13 MARTIN GROSSMAN: You're arguing. I'm asking you 14 whether you are stipulating with Mr. Nelson to introduce 15 the appraisal report and whatever he had (inaudible) 16 G. MACY NELSON: Let me clarify. 17 MARTIN GROSSMAN: Okay. 18 G. MACY NELSON: What I was proposing was all the 19 exhibits, our appraisal, and she has a packet there where 20 she has SDSDA data we're expecting -- 21 MARTIN GROSSMAN: Right. 22 G. MACY NELSON: -- She's got data about sale prices, 23 put it in and we can talk and argue it. That's what I'm 24 proposing, not just in my report. 25 MARTIN GROSSMAN: Right. That's what I -- I mean --</p> |

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| <p style="text-align: right;">253</p> <p>1 G. MACY NELSON: She's got a stack of things that --</p> <p>2 MARTIN GROSSMAN: What about that, Ms. Rice?</p> <p>3 ROBIN RICE: I have the burden of the preponderance of</p> <p>4 evidence. I have a complete thing that I worked on for a</p> <p>5 long time to try to explain to you why the appraisal is not</p> <p>6 appropriate, it's wrong. All of the statistical</p> <p>7 information --</p> <p>8 MARTIN GROSSMAN: I know, you have to stop for a</p> <p>9 second and listen to me.</p> <p>10 ROBIN RICE: Okay. Yes, sir.</p> <p>11 MARTIN GROSSMAN: I am not asking you to argue now.</p> <p>12 I'm asking you whether you are interested in stipulating as</p> <p>13 Mr. Nelson has offered to introduce not only his appraisal</p> <p>14 report but all of your documents regarding this issue</p> <p>15 without objection. In other words all of yours would come</p> <p>16 in as well as his appraisal report.</p> <p>17 ROBIN RICE: I profusely object to that suggestion.</p> <p>18 MARTIN GROSSMAN: Okay.</p> <p>19 ROBIN RICE: Because what he's trying to do is prevent</p> <p>20 me --</p> <p>21 MARTIN GROSSMAN: So fine. In you don't have to argue</p> <p>22 with me.</p> <p>23 ROBIN RICE: Okay.</p> <p>24 MARTIN GROSSMAN: It's a question of whether you want</p> <p>25 to stipulate.</p> | <p style="text-align: right;">255</p> <p>1 court, as I said, an hour ago, we would meet him here.</p> <p>2 We're in an administrative proceeding where you have</p> <p>3 discretion, that if you've got to seek to exercise it, to</p> <p>4 admit it. So that's a discretionary matter. I think you</p> <p>5 should, with respect to this characterization that he was</p> <p>6 factually in error in the report, or -- she keeps saying he</p> <p>7 said it was a commercial property next door. That was the</p> <p>8 theme of the objection. I'm just reading it, "this home",</p> <p>9 meaning my client's home, Mr. Johnson's, "This home is</p> <p>10 located in close proximity to the proposed expanded day</p> <p>11 care facility." Then he talks about other homes in the</p> <p>12 area. Then he has a description market conditions and</p> <p>13 another description in adverse site conditions, this is</p> <p>14 sort of the basis of his opinion. I'm just going to read it</p> <p>15 to you. I mean I'm hearing this all commercial, commercial,</p> <p>16 commercial. "The subject is also located next door to a</p> <p>17 licensed day care center that is currently in the process</p> <p>18 of acquiring permission from the county to expand her</p> <p>19 facilities." That's not too far off the mark to me. So I,</p> <p>20 as a factual matter, her characterization is flawed. I'm</p> <p>21 not saying that you need to accept, admit this and accept</p> <p>22 it at face value. I'm advocating that you accept it and</p> <p>23 give it the weight that you think is appropriate after you</p> <p>24 hear our arguments, that's what I'm asking.</p> <p>25 MARTIN GROSSMAN: And if this matter goes onto until</p> |
| <p style="text-align: right;">254</p> <p>1 ROBIN RICE: I'm trying to understand stipulate versus</p> <p>2 objection.</p> <p>3 MARTIN GROSSMAN: Okay. So if you don't want to</p> <p>4 stipulate then there's no stipulation.</p> <p>5 ROBIN RICE: Okay.</p> <p>6 MARTIN GROSSMAN: Now the only question is whether or</p> <p>7 not his appraisal report should come in without an expert,</p> <p>8 and you've made the argument that the appraisal report does</p> <p>9 not address this type of situation precisely because it's</p> <p>10 not a conditional use next door, and you feel it's,</p> <p>11 therefore, not -- does not apply directly to this.</p> <p>12 ROBIN RICE: And how can you enter a professional</p> <p>13 opinion where I have no opportunity to cross-examine or ask</p> <p>14 questions of the person who wrote it? Why did they write</p> <p>15 down busy and commercial for Muncaster Mill Road when it's</p> <p>16 the highway? And why are they saying commercial? What's</p> <p>17 commercial around this property? We can't get that</p> <p>18 information in the record unless the expert witnesses here</p> <p>19 to answer the questions. If we are going to do Tuesday and</p> <p>20 he will come, but this appraisal is totally wrong, totally</p> <p>21 different situations and I need to ask why, you know,</p> <p>22 what's this and was this and was this -- to who?</p> <p>23 MARTIN GROSSMAN: You want to respond to that, Mr.</p> <p>24 Nelson?</p> <p>25 G. MACY NELSON: Yes. As a legal matter if we were in</p> | <p style="text-align: right;">256</p> <p>1 next Tuesday, could this witness be available?</p> <p>2 G. MACY NELSON: We can explore that. I think the</p> <p>3 answer is likely no, but I have another problem Tuesday. My</p> <p>4 client Ms. Johnson is not available on Tuesday; is not</p> <p>5 available all next week so since we can't -- I was going to</p> <p>6 propose that when we leave today I will arrange to confer</p> <p>7 with your administrative person and the applicant and we'll</p> <p>8 pick a date that works.</p> <p>9 MARTIN GROSSMAN: Okay.</p> <p>10 G. MACY NELSON: But Tuesday is not going to work.</p> <p>11 MARTIN GROSSMAN: All right. And I will -- I'm not</p> <p>12 going to decide on the objection. I think there are</p> <p>13 legitimate grounds for objecting here, and it is true that</p> <p>14 often in administrative proceedings documents are admitted</p> <p>15 subject to the weight to be given them. This kind of issue</p> <p>16 on effect on property values has significance in this case</p> <p>17 so whether I do that or not it's a legitimate question. So</p> <p>18 based on that he may be available at a later date and if</p> <p>19 we're not going to finish today then I'll just take that</p> <p>20 question under advisement right now. All right.</p> <p>21 ROBIN RICE: Excuse me. I need to catch my breath for</p> <p>22 a second.</p> <p>23 MARTIN GROSSMAN: Oh, all right.</p> <p>24 ROBIN RICE: Give me that back.</p> <p>25 ABDON D. ACKAD, JR.: Hmm?</p> |

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| <p style="text-align: right;">257</p> <p>1 ROBIN RICE: Give me what I just gave you back. Part 2 of the appraisal talks about property values. Part of the 3 appraisal talks about foreclosures. 4 MARTIN GROSSMAN: Well, we're past the appraisal. 5 ROBIN RICE: I know. 6 MARTIN GROSSMAN: For now. 7 ROBIN RICE: I thought the appraiser would be her, but 8 what I want to do then is enter into the record a series of 9 pictures showing the property condition, I wish you could 10 see that better, of the property prior to my purchase. It 11 was a foreclosure and if you can see the picture you can 12 see the blue tarp on the top. And the trees on the bottom. 13 (inaudible) better. 14 MARTIN GROSSMAN: I'm sorry, how is that relevant to 15 the question now? 16 ROBIN RICE: Characteristics of the neighborhood, 17 property values -- 18 MARTIN GROSSMAN: It doesn't exist that way now, 19 correct? 20 ROBIN RICE: It does not, but my -- the property that 21 I purchased was in deplorable foreclosure condition. My 22 purchase has increased the property value, not decreased 23 it. 24 MARTIN GROSSMAN: Right. 25 ROBIN RICE: So the condition the --</p> | <p style="text-align: right;">259</p> <p>1 in the future depending on your decision about the sign 2 issue. 3 G. MACY NELSON: Object to relevance. 4 MARTIN GROSSMAN: While let's hear her question first. 5 ROBIN RICE: You have the authority to reduce the size 6 of the fine that the sign variance people approved. It's 7 bigger than the county counsel permits. I have not applied 8 for a permanent sign permit because you could decide that 9 it's too big and to make it smaller. 10 MARTIN GROSSMAN: What just to make sure I understand 11 which sign we are talking about. I read the Board of 12 Appeals opinion regarding the sign proposed along Shady 13 Grove Road. 14 ROBIN RICE: Correct. They denied -- 15 MARTIN GROSSMAN: They denied -- they said that you 16 could not get a variance, a sign variance. 17 ROBIN RICE: Right. They denied the variance because I 18 did not prove to them a significant economic impact of not 19 having the sign on Shady Grove Road. I lost that 20 (inaudible). 21 MARTIN GROSSMAN: Well, they also said that on balance 22 it didn't -- there were a number of reasons they gave. That 23 was one of them. But in any event -- 24 ROBIN RICE: My burden -- 25 MARTIN GROSSMAN: What are you asking now?</p> |
| <p style="text-align: right;">258</p> <p>1 MARTIN GROSSMAN: The question is not whether it 2 increased your property value. The question is whether or 3 not -- 4 ROBIN RICE: It increased it for the entire 5 neighborhood because the condition was so deplorable. 6 MARTIN GROSSMAN: Yes, maybe it did. But that's not 7 the question facing me; the question facing me as whether 8 or not if a day care center is established there will it 9 adversely affect neighboring property values. That's the 10 question that's before me. So what happened before that is 11 really not a relevant issue. I don't doubt that if you 12 fixed up a house that was in deplorable condition that you 13 may have helped the neighbors in terms of property values, 14 but the question for me is what goes on from the day that a 15 day care center is established there. 16 ROBIN RICE: Okay. 17 MARTIN GROSSMAN: So that's what I would be interested 18 in. 19 ROBIN RICE: All right. One of the issues is the sign 20 issue. Where's my slide of this? Sorry. 21 MARTIN GROSSMAN: Well, I thought the sign issue was 22 decided by the Board of Appeals, wasn't it? You're talking 23 about the nine foot sign? 24 ROBIN RICE: My sign variance request that I applied 25 for. There's a couple of possibilities of what will happen</p> | <p style="text-align: right;">260</p> <p>1 ROBIN RICE: My burden of proof is economic hardship 2 and -- 3 MARTIN GROSSMAN: Well, what are you asking me that's 4 what I need to -- 5 ROBIN RICE: In the future, in my opinion, you can 6 decide to reduce the size of my sign that the Park and 7 Planning allowed be to have to the size that the County 8 Council determined I can have. 9 MARTIN GROSSMAN: You mean the sign -- we're not 10 talking -- I just want to make sure I know what sign you're 11 talking about. 12 ROBIN RICE: Okay. 13 MARTIN GROSSMAN: Are you talking about the Shady Gove 14 Road sign? 15 ROBIN RICE: The sign that -- 16 MARTIN GROSSMAN: Wait, let me finish a sentence. 17 ROBIN RICE: Yes, sir. 18 MARTIN GROSSMAN: Are you talking about the sign on 19 Shady Grove Road that the Board of Appeals has already 20 ruled on? Are you talking about a sign in your front yard 21 at the -- on Mill Creek -- 22 ROBIN RICE: Park Mill. The sign -- I'm talking about 23 the sign on Park Mill that was approved to be larger than 24 the County Counsel permits. 25 MARTIN GROSSMAN: You mean larger than two square</p> |

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66 (261 to 264)

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| <p>261</p> <p>1 feet?</p> <p>2 ROBIN RICE: Correct.</p> <p>3 MARTIN GROSSMAN: Okay.</p> <p>4 ROBIN RICE: You have the authority to make it smaller</p> <p>5 again.</p> <p>6 MARTIN GROSSMAN: Right.</p> <p>7 ROBIN RICE: You could -- I don't know if your</p> <p>8 authority allows you to make it smaller than the County</p> <p>9 Council determines, two square feet. Okay. If you decide to</p> <p>10 make it smaller, or if I decide that I don't want the sign</p> <p>11 in the front, I want a sign in the back, do I have the</p> <p>12 right -- I do have the right to put a two foot sign in the</p> <p>13 back as long as it's two square feet, five feet tall, and</p> <p>14 five feet back because the County Council gave me the</p> <p>15 authority to do that. I can do that.</p> <p>16 MARTIN GROSSMAN: When the County Council gave the</p> <p>17 authority, the County Council enacted the zoning ordinance</p> <p>18 which has sign regulations. Is that what you're talking</p> <p>19 about?</p> <p>20 ROBIN RICE: Yes, sir.</p> <p>21 MARTIN GROSSMAN: You didn't appear before the County</p> <p>22 Council?</p> <p>23 ROBIN RICE: No. It's a permitted use for me to put a</p> <p>24 sign --</p> <p>25 MARTIN GROSSMAN: Of two square feet in a residential</p> | <p>263</p> <p>1 back because the two square feet is my limit. I want to</p> <p>2 take the one in the front down and put it in the back.</p> <p>3 Which I can now do because the hardship of the height of</p> <p>4 the fence is gone.</p> <p>5 MARTIN GROSSMAN: All right. I can't give you an</p> <p>6 advance what I'm going to rule on anything here as to the</p> <p>7 sign. Essentially my rulings on signs are governed by</p> <p>8 compatibility with the neighborhood. And obviously in a</p> <p>9 case like this in which you've already had a Board of</p> <p>10 Appeals ruling on a sign that was attempted in the rear, I</p> <p>11 would have to look that and make sure I didn't have a</p> <p>12 conflict with the rationale of the Board of Appeals for the</p> <p>13 sign in the rear. But, I don't see any of that on your</p> <p>14 plans so, you know, you wouldn't have any sign unless your</p> <p>15 plans indicate a sign and where it is. Do you have any plan</p> <p>16 that has a sign on it?</p> <p>17 ROBIN RICE: Then I will have -- I need to modify my</p> <p>18 application and submit a drawing of the sign that I want in</p> <p>19 the back which is five feet, five feet, two feet.</p> <p>20 MARTIN GROSSMAN: And when you say five feet, five</p> <p>21 feet, you mean that the sign area --</p> <p>22 ROBIN RICE: Five feet tall. Five feet back, two</p> <p>23 square feet. That's all I'm allowed.</p> <p>24 MARTIN GROSSMAN: Two square feet of sign.</p> <p>25 ROBIN RICE: I'm going to put it horizontally in</p> |
| <p>262</p> <p>1 area.</p> <p>2 ROBIN RICE: Yeah, two square feet, five feet and five</p> <p>3 feet.</p> <p>4 MARTIN GROSSMAN: A single (inaudible) yes.</p> <p>5 ROBIN RICE: The reason I applied for the sign</p> <p>6 variance was because there as a six-foot fence there. I</p> <p>7 didn't know if it was mine or not. It is mine. When</p> <p>8 I -- during this process I wanted to replace the gate. When</p> <p>9 I got approval and found out it's my fence I made the gate</p> <p>10 shorter. Now I don't have a hardship to put a five foot,</p> <p>11 five foot, two square feet sign in the back. I can do that.</p> <p>12 It will be visible. That's what I want, to put it in the</p> <p>13 back. Okay. So I need to know from you -- basically saying</p> <p>14 my sign request is to not have one in the front at all, and</p> <p>15 to put one in the back, five feet, five feet, two feet.</p> <p>16 MARTIN GROSSMAN: What's on your plan, proposed plan,</p> <p>17 now, for the site layout as far as a sign is concerned?</p> <p>18 That's Exhibit 20B, as in boys.</p> <p>19 ROBIN RICE: Honestly, I don't know what my proposal</p> <p>20 is. But whatever it is I want to modify it to have one</p> <p>21 of -- to do whatever you want, but my modification of the</p> <p>22 sign situation is that I want to do what the zoning</p> <p>23 ordinance allows me to do, which is five feet, five feet,</p> <p>24 two feet. That's what I want to do. I want to put it in the</p> <p>25 back. I can't have the one in the front if I put one in the</p> | <p>264</p> <p>1 yellow with what I can fit about six feet tall -- six</p> <p>2 inches tall.</p> <p>3 MARTIN GROSSMAN: But I note that the Board of</p> <p>4 Appeals' opinion also had a concern about having a sign in</p> <p>5 the back.</p> <p>6 ROBIN RICE: I realize that --</p> <p>7 MARTIN GROSSMAN: It wasn't just the size.</p> <p>8 ROBIN RICE: I realize that but the Board of Appeal</p> <p>9 and the sign review's authority is whether I can have a</p> <p>10 sign variance or not. What I'm asking you, is without a</p> <p>11 sign variance which I -- which denies me the right to put a</p> <p>12 bigger sign on Shady Grove Road, can I exercise my rights</p> <p>13 as a property owner, to get a sign that does not need a</p> <p>14 sign variance? If I can exercise my right to do that I'm</p> <p>15 going to put it in the back. If I put it in the back the</p> <p>16 square footage of two square feet that I use in the back</p> <p>17 means I can't have one in the front; I'll take it down.</p> <p>18 MARTIN GROSSMAN: All right. You can amend your -- or</p> <p>19 attempt to amend your application as long as the other</p> <p>20 parties here are given an opportunity to respond. So since</p> <p>21 we're obviously going to have a another hearing day here,</p> <p>22 you know, I don't see why you can't apply to amend. File a</p> <p>23 motion to amend your application. We'll give them an</p> <p>24 opportunity to respond, and if you're adding, you know,</p> <p>25 adding a sign at a particular location it will then be</p> |

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| <p>265</p> <p>1 reviewed as part of your application. 2 ROBIN RICE: Okay. I'll amend it, draw it up and 3 submit it. 4 G. MACY NELSON: Does the staff review that? 5 MARTIN GROSSMAN: Well I will -- any amendment to the 6 plans are always referred back to staff to take a look at. 7 G. MACY NELSON: And will we have the staff feedback 8 before we -- 9 MARTIN GROSSMAN: We can -- yes. Usually I ask the 10 staff to respond within 10 days after I get something like 11 that. And I would ask you to send a copy of any proposed 12 amendments to staff as well. 13 ROBIN RICE: Okay. 14 MARTIN GROSSMAN: Maybe this is not a bad time to ask 15 is there anybody else who would have difficulty coming to 16 another day and who wants to be heard now, while we're 17 still in session today? 18 G. MACY NELSON: I chatted with people. I think we'll 19 -- I think they can come back. 20 MARTIN GROSSMAN: Okay. All right, Ms. Rice. 21 ROBIN RICE: The Staff Report, in my opinion, 22 evaluated the landscaping requirements without zoning text 23 amendment with (inaudible). I believe I submitted a 24 landscaping plan that meets the requirements. I don't 25 understand what Emily was talking about with the eight</p> | <p>267</p> <p>1 read? 2 ROBIN RICE: Right. I just have no clue. But, the 3 backyard landscaping is now a moot point because of the 4 text amendment and my statement of operations that I will 5 put a six foot board on board fence between me and Tom, 6 which is Lot 7. After I bought the property I put a six 7 foot board on the board fence between my property and Lot 8 9, which is Beverly in the back. So any landscaping 9 analysis in the backyard is a moot point. 10 MARTIN GROSSMAN: Correct. I think she's talking about 11 the front. 12 ROBIN RICE: Correct. 13 MARTIN GROSSMAN: The -- if you look at Page 15 of the 14 technical staff report, Exhibit 67, you have to understand 15 that there are screening requirements in the parking parts 16 of the Code in addition to the general screening 17 requirements for -- in landscaping. The general screening 18 in landscaping requirements for changed and one of the 19 ZTAs, maybe not the one by number that you referenced, but 20 one of the ZTAs, to eliminate a lot of those specifics for 21 a single-family detached dwelling. And to substitute that 22 the hearing examiner had to find compatibility. There was 23 also a change made in the -- as far as parking lot 24 screening, in which it used to say three -- it use to we'd 25 have these requirements if you had more than three cars.</p> |
| <p>266</p> <p>1 feet. 2 MARTIN GROSSMAN: You're talking about Exhibit 20B? 3 ROBIN RICE: Yes, sir. 4 MARTIN GROSSMAN: Which you've entitled Proposed 5 Addition and Additional Fencing Landscaping. 6 ROBIN RICE: Right. 7 MARTIN GROSSMAN: And I call it it the site 8 plan -- proposed site layout. 9 ROBIN RICE: Yeah. It's that one. That's what I 10 submitted with the application. 11 MARTIN GROSSMAN: Well, it's hard for me to see that. 12 ROBIN RICE: Yeah, I'm sorry. I wish it was more 13 clear. 14 MARTIN GROSSMAN: And -- 15 ROBIN RICE: Anyway, this was done to comply with the 16 landscaping prior to the text amendment. 17 MARTIN GROSSMAN: Yeah, I think we're looking at the 18 same thing. 19 ROBIN RICE: Right. 20 MARTIN GROSSMAN: Yes. And it's got -- it's actually 21 got lighting as well as landscaping in there. 22 ROBIN RICE: Right. 23 MARTIN GROSSMAN: And you are just saying that you 24 think that's compliant and you don't know what she's 25 talking about regarding the section of the Code that she</p> | <p>268</p> <p>1 They changed that to five, but you are in that territory 2 and Section 596.2.9.B says, "Parking lot requirements for 3 conditional uses requiring 5 to 9 spaces, if a property 4 with a conditional use requiring 5 to 9 spaces is a budding 5 agricultural, rural, residential are residentially detached 6 zone property and that is a vacant, or has a residential 7 use, the parking lot must have a perimeter planting area." 8 And that's what she's talking about. It has to have a 9 perimeter planting area that one satisfies the minimum 10 specified property setback under article 594, or if not 11 specified is a minimum of eight feet wide. 12 ROBIN RICE: Okay. 13 MARTIN GROSSMAN: She's saying if it specifies it 14 that's what it had to be, a perimeter planting area eight 15 feet wide. And then "2) contains a, fence, or wall a 16 minimum of four feet high, and 3) has a minimum of one 17 understory or evergreen tree planted every 30 feet on 18 center." So that's what she's talking about. 19 ROBIN RICE: Okay. And -- 20 MARTIN GROSSMAN: That's the parking perimeter 21 screening requirement. 22 ROBIN RICE: I think I've got it in the plan. 23 MARTIN GROSSMAN: Well, you may. I don't know. 24 ROBIN RICE: But if I don't have it -- I'm 25 interpreting the eight-foot parking setback as being where</p> |

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| <p>269</p> <p>1 the parking pavement has to be eight feet away from the 2 side property lines. That's the way I'm interpreting it. I 3 might be wrong, but I don't know what she means if I'm not 4 right. 5 MARTIN GROSSMAN: Okay. Well I'm not interpreting it 6 right now. I'm just -- 7 ROBIN RICE: Okay. Yeah. 8 MARTIN GROSSMAN: I'm just listening. 9 ROBIN RICE: No. Yeah. Okay. So if I'm right that the 10 paved parking has to be eight feet away from the property 11 line, I'm good with number 1. Number 3, is the number of 12 understory plants that you need, and with my submission 13 I've got three evergreen plants between me and number 9, 14 which is Beverly. This bush is huge, that it still counts 15 as an understory. When you go over to the middle, I'm 16 planning on putting an understory, which counts the 30 foot 17 on center; and then I go over more towards Lot 7, which is 18 Tom's property and if a dog would counts, I'm good for the 19 understory bushes. Okay. So I think I'm good with the 20 eight-foot parking away and I think I'm good with the 21 understory bushes; number 1 and number 3. I think I'm good. 22 If I'm not, I'm glad to add another plant, but I think I'm 23 good. 24 MARTIN GROSSMAN: Okay. 25 ROBIN RICE: Okay. If I --</p> | <p>271</p> <p>1 MARTIN GROSSMAN: Who is also -- 2 ROBIN RICE: The nice man with the trucks. 3 MARTIN GROSSMAN: And a member of the opposition here, 4 represented by Mr. Nelson. 5 JIM SNEE: Can I ask that exhibit number? 6 MARTIN GROSSMAN: Of? 7 JIM SNEE: That one. 8 MARTIN GROSSMAN: Oh. Yes. That exhibit is Exhibit 9 20B, as in boy. That was on the Exhibit List as part of 10 Exhibit 20, but I, at the very beginning of the hearing I 11 announced that I had split that off because the 20A, which 12 is the current setup and the 20B which is the proposed 13 setup and site layout. 14 ROBIN RICE: So I really think that I'm good to go 15 with what I proposed. I am exceptionally willing to do 16 whatever you want with this issue. I'm exceptionally 17 willing to add more plants. I think it'd be a good idea. 18 MARTIN GROSSMAN: I'm not sure there's room to add 19 plants -- 20 ROBIN RICE: It's hard because there's so many plants 21 there already, but in the -- where I've got that red dot, 22 where there's 39 linear feet. 23 MARTIN GROSSMAN: Yeah. 24 ROBIN RICE: Okay, that I'm proposing to put in a 25 Bloodgood, a Japanese Bloodgood tree there. That area, 39</p> |
| <p>270</p> <p>1 MARTIN GROSSMAN: I -- and don't take that okay as an 2 approval. I'm just saying I understand. 3 ROBIN RICE: No, no, no, no. No, no, no. This is what 4 I'm trying to figure out. 5 MARTIN GROSSMAN: All right. 6 ROBIN RICE: Now, if I look at number 2, number 2 7 talks about -- number 2 says, contains a hedge, fence, or 8 wall a minimum of 4 feet high. If I look at my original 9 landscape plan and I look at the three little evergreen 10 trees that I'm planning on putting by the red push near 11 Beverly, Lot number 9, I put in a proposal that they be 2 12 feet high. If I change that to 4 feet high, I think I'm 13 good with number 2. I think I'm good with all of them. 14 However, the front yard landscaping fencing plants, I am so 15 willing to do whatever you want me to do. I'll add plants; 16 we can do fencing instead of a wall or a hedge, whatever 17 you want. Tom and I discussed a fence going from the back 18 of the property up to where both of our sheds are. 19 MARTIN GROSSMAN: You're talking about Tom Johnson? 20 ROBIN RICE: Yes. 21 MARTIN GROSSMAN: Okay. 22 ROBIN RICE: He's the property owner on one side. 23 MARTIN GROSSMAN: I understand. The man with the 24 trucks. 25 ROBIN RICE: The man with the trucks.</p> | <p>272</p> <p>1 feet wide, I'd like to put more plants in there. It'd be 2 fine to put more plants in there. I won't put plants in 3 there if you don't want me to. Whatever you decide is okay 4 with me. And I thought some of the neighbor testimony might 5 help design a parking plan with landscaping that they would 6 prefer, I'm willing to do. Between me and Tom a four foot 7 fence, that's be fine. If Beverly wants a fence on her side 8 in the front yard, four feet, that's fine with me. I am 9 planning on putting a six-foot fence on the side of the 10 property all the way up to the front of the house. I don't 11 know whether it would be a good in front of the house to 12 continue with fencing, put in more landscaping, to a hedge, 13 whatever. 14 MARTIN GROSSMAN: And you have to understand, I can't 15 sit here and give you advice as to what you -- all I can do 16 is look at the plan recipient and evaluated based on what 17 evidence is what staff recommends, okay. So I'm not sitting 18 in an advisory capacity here. 19 ROBIN RICE: I understand. 20 MARTIN GROSSMAN: On what you should do. 21 ROBIN RICE: I -- because the Step Report has not 22 evaluated it according to the current zoning text amendment 23 I don't know what to add or -- 24 MARTIN GROSSMAN: The only thing I don't see that they 25 didn't address is the parking setback issue, they said that</p> |

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69 (273 to 276)

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| <p style="text-align: right;">273</p> <p>1 you didn't need that and that was the zoning text amendment 2 you're talking about. 3 ROBIN RICE: My -- 4 MARTIN GROSSMAN: The other zoning text amendments 5 they have evaluated in connection with the other -- the way 6 the screen is required under the current zoning ordinance. 7 ROBIN RICE: The bottom line with landscaping is after 8 the neighbor's testimony I can have -- do a modification of 9 this, if there's anything wrong with it I'll be glad to do 10 it. 11 MARTIN GROSSMAN: I understand. But the way this 12 system works you have to put a proposal up. Everybody has 13 to have an opportunity to respond to it and you just can't 14 change it on the fly. So I understand you're professing 15 flexibility and I appreciate that but the problem is that I 16 can't continually change the plan in the middle of the 17 hearing. And I do allow changes in plans if I give 18 the -- if there's going to be another hearing date and 19 people have an opportunity to respond to it. But you have 20 to, at some point, you have to have a stop and say okay. 21 ROBIN RICE: I understand. 22 MARTIN GROSSMAN: This is my plan, I've looked at all 23 of these regulations now, I want to make these changes and 24 there will be another hearing date and people can analyze 25 that.</p> | <p style="text-align: right;">275</p> <p>1 case for such an approach, I don't think. We've been at 2 this. Staff has counseled her, you know, from the staff 3 report, not to proceed. Planning Board was unequivocal in 4 its views about the challenges the applicant faced. We're 5 now at 5:00, and we started at 9:30 in a case that should 6 have been done in two hours. We're talking now about a 7 second day. We're talking now about a revised plan. And we 8 say no. We object to that. We want resolution. It's too 9 much time and money over an application that Staff told the 10 applicant years ago not to proceed with. And which the 11 Planning Board said not even close. So we object. 12 MARTIN GROSSMAN: I understand. I'm going to overrule 13 the objection because I can't decide that she can't 14 perceive just because the Planning Department recommended 15 against it, and the Planning Board recommended against it. 16 G. MACY NELSON: Well I was saying, I was objecting to 17 the leave that the Chair was granting the applicant to file 18 an amended application for a special exception with these 19 provisions to the plan. That's what I'm objecting to. 20 MARTIN GROSSMAN: Right. Well, she's already -- the 21 question also came up about assigned, and she now has to 22 put -- I do allow some flexibility in amending a proposal, 23 and since this is going on to a second day regardless, it 24 seems to me that it would be not fair to the applicant if I 25 said no, you can't propose an amended plan to come correct</p> |
| <p style="text-align: right;">274</p> <p>1 ROBIN RICE: Maybe it would be best if I modified my 2 application and put a four foot fence around the whole 3 thing and then -- 4 MARTIN GROSSMAN: Well, I'm telling you what to do -- 5 ROBIN RICE: Okay. 6 MARTIN GROSSMAN: I'm telling you -- and you can talk 7 to staff about it. 8 ROBIN RICE: All right then. All right. 9 MARTIN GROSSMAN: About any of those plans. 10 ROBIN RICE: All right. I will put in a modification 11 and put a four foot fence around the entire thing. 12 MARTIN GROSSMAN: Well, once again, I'm not suggesting 13 you should do that, I'm telling you that you might want to 14 consult with staff about what's the best way to handle 15 this. But, you know, whatever you decide to do, or have 16 them review it as a plan, it will then go to all the 17 parties here and then it will be subject to whatever 18 comments or objections and say on that they have. 19 ROBIN RICE: Okay. I'll do a modification. Thank you. 20 G. MACY NELSON: Can I be heard on that? 21 MARTIN GROSSMAN: Yes, sir. Sure. 22 G. MACY NELSON: I've been in cases where it had been 23 modifications where the (inaudible) would stop, application 24 was modified, the staff does review, would come back. You 25 know, I've had that experience. This is not an appropriate</p> | <p style="text-align: right;">276</p> <p>1 some perceived problem with the -- with her current plans, 2 especially since it's going on to a second day. If there 3 were not a second day of hearing then I would not allow it 4 because that would not give you, the opposition, sufficient 5 time to make their concerns heard. Yes, ma'am? 6 BARBARA FELDMAN: This will be the fourth day of 7 hearings though, because there was a Sign Board hearing 8 which the sign board said the Shady Grove Oaks sign would 9 be an abomination and a danger, and they made that very 10 clear. Then we had the Park and Planning Board meeting 11 which was last month, I guess, and then there's this 12 meeting and then Ms. Rice would like another meeting in 13 order to project this as long as possible until people give 14 up, and that would be the fourth meeting on this issue. 15 MARTIN GROSSMAN: Well, ordinarily -- 16 UNIDENTIFIED FEMALE: And these are our homes. 17 MARTIN GROSSMAN: -- I mean the Sign Board review is 18 not a usual part of this proceeding beforehand. This is 19 something that happened in terms of her current operation, 20 not in terms of what's proposed, so that's not fairly part 21 of this evaluation. In every conditional use case and there 22 are, with some very few exceptions for reasons that don't 23 pertain here, there is a review by technical staff and 24 there's a Planning Board review. So this happens in every 25 case. Now admittedly this hearing has gone on long and then</p> |

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| <p style="text-align: right;">277</p> <p>1 the vast majority of hearings. But occasionally they do 2 come on for a long time and Ms. Rice has a right to put on 3 her case, even if I may think, or you make the that it's 4 overly lengthy. She has a right to put on her case and I 5 try to be fair to both sides. Yes sir? 6 ANDRE POLISSEDJIAN: Absolutely, the applicant has got 7 to be given the benefit of the doubt for what she's 8 applying for. But given the fact that we're four days into 9 this and now we're projected to go one additional day -- 10 MARTIN GROSSMAN: What do you mean by four days into 11 this? What do you mean four days? 12 ANDRE POLISSEDJIAN: Well, based on what -- 13 MARTIN GROSSMAN: Admittedly you've had a Planning 14 Department review which was not a hearing. You had a 15 Planning Board review, which you may have appeared; this is 16 the first day of a hearing examiner -- 17 ANDRE POLISSEDJIAN: Well, that -- I accept it. I 18 understand. However, at some point, Mr. Grossman, are you 19 able to make a cut? In other words, we're going to devote 20 another eight or nine hours next time. If a decision is not 21 reached, can we set a benchmark to get this done by the end 22 of the following day? 23 MARTIN GROSSMAN: When you say a benchmark, do you 24 mean have the hearing terminated at some point? It won't go 25 on --</p> | <p style="text-align: right;">279</p> <p>1 given? 2 MARTIN GROSSMAN: As long -- yes, as long as they 3 produce relevant, nonrepetitive evidence, I don't limited 4 to two or three minutes. That's a -- that's why -- one of 5 the difference between a Planning Board review and this. 6 People come in and they testify, and they say what they are 7 concerns are, and so on and they're not limited to two 8 minutes. 9 CLAIRE DECLINE: Do you mean nonrepetitive, do you 10 mean the individual doesn't keep repeating the same 11 argument, or if individual number one says something and 12 then individual number two is not able to say that same 13 thing from their perspective? 14 MARTIN GROSSMAN: Yes, ma'am. Definitely on number one 15 that is a person should not be -- one individual should not 16 be repeating him or herself, but also if it becomes -- if 17 the same point becomes unduly repetitive that is, it is 18 said over and over again, then yes, I could put some limits 19 on that. That's what the standard is. 20 CLAIRE DECLINE: But don't you feel these individuals 21 who have waited so long -- 22 MARTIN GROSSMAN: I realize that. 23 CLAIRE DECLINE: -- and been so patient -- 24 MARTIN GROSSMAN: So I have no -- 25 CLAIRE DECLINE: -- Should be given the time that they</p> |
| <p style="text-align: right;">278</p> <p>1 ANDRE POLISSEDJIAN: At some point -- 2 MARTIN GROSSMAN: It will go on the on the next 3 hearing date if that's your question. 4 ANDRE POLISSEDJIAN: Well, as long as we've got a 5 commitment of that, then I think we can accept it. 6 MARTIN GROSSMAN: But Ms. Rice did ask for six hours 7 to present her case and given her facts -- 8 ANDRE POLISSEDJIAN: Well, we heard that. 9 MARTIN GROSSMAN: And usually in a case like this, 10 usually in a conditional use case they are handled in one 11 day of hearings. You -- very often a few hours. 12 ANDRE POLISSEDJIAN: No, I know that's the norm, but 13 it ain't happening here. 14 MARTIN GROSSMAN: I understand. 15 CLAIRE DECLINE: Do we each get six hours no matter 16 (inaudible) 17 ROBIN RICE: I only -- 18 FEMALE AUDIENCE ATTENDEE: Exactly. 19 MARTIN GROSSMAN: I couldn't hear. 20 CLAIRE DECLINE: Are you going to limit the people who 21 want to provide any further testimony to 2 to 3 minutes or 22 3 to 5 minutes R-- 23 MARTIN GROSSMAN: No. 24 CLAIRE DECLINE: -- Or will they be given an unlimited 25 amount of time like it appears the applicant has been</p> | <p style="text-align: right;">280</p> <p>1 may feel they need, or, and are entitled to represent their 2 opinion? 3 MARTIN GROSSMAN: Surely. And I don't the anybody has 4 ever left one of my hearings feeling that they haven't been 5 heard. So I don't think you have to worry about that. 6 Anybody in the community who wishes to be heard will be 7 heard. 8 CLAIRE DECLINE: I will feel I have not been heard if 9 you schedule at a time that I'm not able to make it. 10 MARTIN GROSSMAN: Well let's see if we can schedule at 11 a time you can make it. I mean it's hard to, when you have 12 a group this size, it's sometimes hard to get a date that 13 everybody can -- 14 CLAIRE DECLINE: And yet here we were. Here we were. 15 MARTIN GROSSMAN: Well, that's why I wanted to give 16 you, and in fact, I said earlier that I would put you on if 17 you can't come back. I would put you on now before we leave 18 today. 19 CLAIRE DECLINE: That was very limited. There's a 20 number of people here, you should've just opened it up for 21 a period of time. You could have given them two hours 22 perhaps to voice their opinions and then let her come back 23 for what she needed to say. 24 G. MACY NELSON: May I make a proposal? 25 MARTIN GROSSMAN: Well, I offered to do that exactly</p> |

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| <p>281</p> <p>1 that --</p> <p>2 G. MACY NELSON: (Inaudible)</p> <p>3 MARTIN GROSSMAN: Yes?</p> <p>4 G. MACY NELSON: I share what you're saying. I propose</p> <p>5 that when we recessed, we get some potential dates, and I</p> <p>6 will work diligently to communicate with everybody and</p> <p>7 worked very hard to get a date that works for people. And I</p> <p>8 think I'll be able to accomplish that.</p> <p>9 MARTIN GROSSMAN: I don't we do this. If there are</p> <p>10 people who want to be heard now and they're worried about</p> <p>11 there not being able to come back, stay later. The court</p> <p>12 reporter has said she can stay later. We'll stay later and</p> <p>13 hear from you now. Would you like to do that, ma'am?</p> <p>14 CLAIRE DECLINE: Are you asking me?</p> <p>15 MARTIN GROSSMAN: Yes.</p> <p>16 CLAIRE DECLINE: Yeah, I would like to.</p> <p>17 MARTIN GROSSMAN: Okay. Let's do that.</p> <p>18 CLAIRE DECLINE: I have no problem speaking out.</p> <p>19 MARTIN GROSSMAN: Yes, sir.</p> <p>20 ANDRE POLISSEDIAN: Well, one additional point real</p> <p>21 quick. Robin Rice has gotten her six hours, or we think. I</p> <p>22 mean is that six hour requirement in her presentation done</p> <p>23 with, satisfied, and no more to go? Where do we stand on</p> <p>24 that? We've been here since 9:30.</p> <p>25 MARTIN GROSSMAN: That's a legitimate question. Ms.</p> | <p>283</p> <p>1 MARTIN GROSSMAN: Yes. Yes.</p> <p>2 JEREMY PFEIFFER: On things like, you know, she failed</p> <p>3 to mention that we have one (inaudible) --</p> <p>4 MARTIN GROSSMAN: Well, no, don't testify now before</p> <p>5 you're under oath. Let's start out. Madame, would you come</p> <p>6 forward?</p> <p>7 MAIL AUDIENCE MEMBER (audible)</p> <p>8 MARTIN GROSSMAN: Yes, sir?</p> <p>9 MALE AUDIENCE MEMBER: Are we to point out the sheer</p> <p>10 on untruths and false statements that she made?</p> <p>11 MARTIN GROSSMAN: You can point out anything you want</p> <p>12 in your testimony that's relevant. Absolutely.</p> <p>13 ROBIN RICE: (Inaudible)</p> <p>14 CLAIRE DECLINE: Do you need to come up there?</p> <p>15 MARTIN GROSSMAN: Yes, please. Be seated, yes,</p> <p>16 (inaudible)</p> <p>17 CLAIRE DECLINE: Here?</p> <p>18 MARTIN GROSSMAN: Yes, that's. Perfect.</p> <p>19 COURT REPORTER: State your name.</p> <p>20 CLAIRE DECLINE: I will.</p> <p>21 MARTIN GROSSMAN: And is the red light on there for</p> <p>22 you?</p> <p>23 CLAIRE DECLINE: Yes, it's on.</p> <p>24 MARTIN GROSSMAN: Great.</p> <p>25 CLAIRE DECLINE: And you can all hear me? I'm --</p> |
| <p>282</p> <p>1 Rice? Are you about done?</p> <p>2 ROBIN RICE: We started; I'm sorry do you want me to</p> <p>3 answer --</p> <p>4 MARTIN GROSSMAN: Are you about done with your</p> <p>5 presentation?</p> <p>6 ROBIN RICE: No. No.</p> <p>7 MARTIN GROSSMAN: Okay. And how much longer do you</p> <p>8 figure it would take you?</p> <p>9 ROBIN RICE: I would like to make a suggestion.</p> <p>10 MARTIN GROSSMAN: No. Answer my question first. How</p> <p>11 much longer do you think you have in terms of your</p> <p>12 presentation?</p> <p>13 ROBIN RICE: Without rebuttal two hours.</p> <p>14 CLAIRE DECLINE: That's unacceptable, absolutely.</p> <p>15 MARTIN GROSSMAN: Okay. Well, we'll review that at the</p> <p>16 next session. But right now let's turn to people who wish</p> <p>17 to be heard now because they are fearful that they may not</p> <p>18 be available at another date. Yes, sir?</p> <p>19 JEREMY PFEIFFER: May I (inaudible) one other point.</p> <p>20 MARTIN GROSSMAN: Yes sir.</p> <p>21 JEREMY PFEIFFER: Just (inaudible) did not consider</p> <p>22 (inaudible) of the neighborhood (inaudible) she is</p> <p>23 available but not a lot of people about our neighborhood,</p> <p>24 and being that I am all of .43 miles away from the property</p> <p>25 address, will I be allowed to speak?</p> | <p>284</p> <p>1 MARTIN GROSSMAN: Can you state your full name please,</p> <p>2 and address?</p> <p>3 CLAIRE DECLINE: Claire Decline, at 18037 Mill Creek</p> <p>4 Drive, in Derwood. I'm sorry to say I been told I'm not in</p> <p>5 MARTIN GROSSMAN: Well, hold on one second.</p> <p>6 CLAIRE DECLINE: Oh, okay.</p> <p>7 MARTIN GROSSMAN: Hold on. I'm sorry, what was your</p> <p>8 address again.</p> <p>9 CLAIRE DECLINE: I'll withhold my apologies.</p> <p>10 MARTIN GROSSMAN: Ms. Decline, I know that you wrote</p> <p>11 me and emailed me the other day, what's your address again?</p> <p>12 CLAIRE DECLINE: My street address?</p> <p>13 MARTIN GROSSMAN: Yes.</p> <p>14 CLAIRE DECLINE: 18037 Mill Creek Drive.</p> <p>15 MARTIN GROSSMAN: Okay. Would you raise your right</p> <p>16 hand please? Do you swear or affirm to tell the truth, the</p> <p>17 whole truth, and nothing but the truth under penalty of</p> <p>18 perjury?</p> <p>19 CLAIRE DECLINE: Yes, I do affirm.</p> <p>20 MARTIN GROSSMAN: All right. You may go forward.</p> <p>21 CLAIRE DECLINE: I took a few notes here, so I hope</p> <p>22 you don't -- I hope patient with me as I try to cover some</p> <p>23 of these things. Regarding the background selection site</p> <p>24 that Ms. Rice talk about, I thought I might say to you the</p> <p>25 background of our selection of site. Twenty-nine years ago</p> |

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| <p style="text-align: right;">285</p> <p>1 we searched for a house, for property to meet our 2 particular and specific needs. Ultimately, we bought a 3 house in Mill Creek Towne neighborhood. The whole 4 neighborhood, not any limited circular radius. We saw a 5 residential neighborhood of single-family, and town houses 6 which were across from Shady Grove Road from where we live, 7 that included a park and a pool, but no commercial 8 businesses within the Mill Creek Towne neighborhood 9 boundaries. This was, and is, our major lifetime investment 10 predicated on it remaining a residential neighborhood. Ms. 11 Rice testified in 30 minutes, and not the 5 minutes that 12 she had promised, that she spent three years looking at 13 property, but her intent was to change the environment she 14 was buying into. Hers is a business, and she has a profit 15 motive. Her intent is contrary to what Mill Creek Towne is 16 and has been. Not too many years ago there was a business 17 at 17605 Park Mill Drive, which I believe, although I 18 couldn't see your slides very clearly from the lighting and 19 the angle, but I believe that is in your circle radius. And 20 that was a commercial business and that got to the point 21 where there was parking on what everybody's been talking 22 about is the right-of-way, and that was a land use issue 23 which I think is something that you were emphasizing at the 24 very beginning. This is a land use issue. So that was 25 inside the neighborhood. That business was questioned as to</p> | <p style="text-align: right;">287</p> <p>1 the number of children in a day care center that would 2 affect the neighborhood and not the many residents who have 3 lived many years in that neighborhood and have invested in 4 the homes in that neighborhood. They are sitting here 5 telling you now, that's what you're asking for affects the 6 neighborhood and affects the nature of the neighborhood. 7 That's what I have to say. 8 MARTIN GROSSMAN: Okay. Thank you. (Applause) Mr. 9 Nelson, any cross examination? 10 G. MACY NELSON: Not now. 11 MARTIN GROSSMAN: Ms. Gregorski? 12 MS. GREGORSKI: No thank you. 13 MARTIN GROSSMAN: Becker? 14 KATIE BECKER: No, thank you. 15 MARTIN GROSSMAN: Ms. Rice? 16 ROBIN RICE: (No audible response) 17 MARTIN GROSSMAN: No. All right. Thank you very much 18 for coming down and sharing. 19 CLAIRE DECLINE: You're welcome. 20 MARTIN GROSSMAN: All right. The next person who wants 21 to be heard. Ma'am, come forward, please. Oop, don't trip. 22 Who knows that the County has insurance. We don't to get 23 anybody hurt. 24 BARBARA FELDMAN: Especially not me. 25 MARTIN GROSSMAN: One chair over.</p> |
| <p style="text-align: right;">286</p> <p>1 its propriety in the neighborhood and it moved out, which I 2 think emphasizes that this is a residential neighborhood 3 and we are trying to keep it as a residential neighborhood. 4 Traffic patterns were mentioned regarding how people get to 5 your day care center. I haven't studied that thoroughly but 6 I do think that from what I saw you present, you didn't 7 include traffic that could be going down Mill Creek Drive 8 towards your day care center. Anybody coming from Latonia 9 or anybody knowing the short cut from Muncaster Mill 10 through Latonia would be coming down Mill Creek Drive to go 11 to your neighborhood. That would be traffic in front of our 12 house. Today at about 3:00 p.m. if your transcript is time 13 stamped, at about 3:00 p.m. today, I noted the time because 14 I didn't know if there would be another meeting or if I 15 could get to it, and I knew that I would probably want to 16 submit something if I was able to; you stated, Ms. Rice, 17 that, and my quote won't be exact, but it's going to be 18 awfully close. You stated that you could affect the nature 19 within a neighborhood based on the size of your day care. 20 Yep, that's exactly what we're saying. A six child day care 21 center is appropriate in a neighborhood like ours. There's 22 no problem. I don't think anybody has a problem with that, 23 but I don't really speak for them. But a 30 child day care 24 is a business. It's nothing but a business. And I'd have to 25 question why you are able to determine the threshold as to</p> | <p style="text-align: right;">288</p> <p>1 BARBARA FELDMAN: Oh. 2 MARTIN GROSSMAN: One chair over if you would. Thank 3 you. 4 BARBARA FELDMAN: No, I'm sorry. 5 MARTIN GROSSMAN: Because she has her own microphone. 6 BARBARA FELDMAN: oh, okay. Is that better? 7 MARTIN GROSSMAN: All right. And will you state your 8 full name and address please? 9 BARBARA FELDMAN: Yes. My name is Barbara Feldman. I 10 live at 17800 Mill Creek Drive, Derwood, Maryland. 11 MARTIN GROSSMAN: Okay. Ms. Feldman. Would you raise 12 your right hand, please? Do you swear or affirm to tell the 13 truth, the whole truth, and nothing but the truth under 14 penalty of perjury? 15 BARBARA FELDMAN: I do. 16 MARTIN GROSSMAN: All right. You may proceed. 17 BARBARA FELDMAN: Thank you. When my husband and I 18 bought our house in Mill Creek Towne in 1968 in our newest 19 neighbors bought their house six weeks ago we all had the 20 same reasons for buying into this pleasant neighborhood. We 21 were looking for a place that would be quiet and safe for 22 walking, and biking in the friendly noncommercial 23 neighborhood, as well green and safe to raise children 24 possibly to have visiting grandchildren. For this we 25 willingly signed of the covenants that made this kind of</p> |

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| <p style="text-align: right;">289</p> <p>1 neighborhood possible. We also accepted longer commutes to 2 work and to shops, and willingly acceded to much higher 3 taxes in Montgomery County. Then a few months ago, by sheer 4 chance, we found out that an investor had purchased a home 5 in our residential neighborhood with the express intention 6 of creating a commercial venture; a day care facility for 7 30 children. This venture would definitely destroy the type 8 of residential neighborhood we all thought we had bought 9 into. One, with at least 65 to 70 cars a day running back 10 and forth the idea of friendly walks with neighbors or safe 11 bike riding for children would be destroyed. Two, with the 12 paving in of much of the yard in order to create parking 13 facilities the idea of green open space would completely 14 vanish. Three, with the accommodation of 30 children, the 15 size of at least two kindergarten classes in Montgomery 16 County Public schools, in a house built for a family of 17 four or five, the notion of a residential, rather than a 18 commercial community would be destroyed. Four, with the 19 owner living elsewhere in another community, excuse me. Let 20 me read that again. With the owner living elsewhere in 21 another community entirely, not even in Mill Creek Towne 22 itself, the idea of a community of neighbors helping one 23 another would vanish completely. Five, with the very real 24 possibility that one such commercial enterprise would most 25 certainly lead to many other such ventures, the idea of a</p> | <p style="text-align: right;">291</p> <p>1 idea where that would be. Okay. But people driving from 2 Latonia would definitely go through Mill Creek Drive, so 3 yes, it would affect everyone on my street, as it will 4 affect me. Park Mill, and Mill Run, which she put in her 5 circle, are two streets. Well, Mill Creek Towne is composed 6 of several hundred houses. So to say that two streets 7 covers that in the circle of acceptance is simply not 8 realistic. And she talked of sidewalks. There is sidewalk 9 in Mill Creek Towne anyone here can tell me where it is. 10 It's directly in front of Mill Creek Elementary School, to 11 make sure the children don't get killed. She talks of a 12 drop off very quickly in her house, in her day care center 13 there. A drop off needs to be 8 or 10 minutes so that 14 parents can explain why the child is crying or not feeling 15 well, or to find out what happened during the day. Unless 16 she's thinking that this is McDonald's drive off, you know, 17 a drive-through. The cul-de-sac on Park Mill that she 18 talked of as a place of possible parking, I'm sure, is 19 often needed by fire and response vehicles and the 20 sanitation in order to be able to back up and move around. 21 That was told to the Park and Planning Commission. The sign 22 in the backyard, she was told at that meeting would cause 23 accidents on Shady Grove Road that would be really 24 horrendous because that road is quite often used. She 25 mentioned the Sunrise Learning Center which is supposed to</p> |
| <p style="text-align: right;">290</p> <p>1 residential community rather than a commercial strip is a 2 near certainty. Six, with the presence of such a business 3 in the community very real possibility of a decrease in 4 property value is an almost foregone conclusion. As you 5 people here, and one member of the panel, contemplate the 6 allowance of this enterprise, please keep in mind that this 7 is no warm, loving stay-at-home mom helping out parents of 8 four or five neighbors' children. This is unquestionably a 9 blatant commercial enterprise barging into a residential 10 neighborhood, masquerading as a community service. And I 11 have (inaudible) and I have listed here as Ms. Rice was 12 speaking, several items that I feel she didn't adequately 13 discuss. First of all, she says Mill Fall Road divides the 14 neighborhood. Mill Fall Road does not divide the 15 neighborhood. It is one of the roads everyone refuses to 16 get around the development. Two, when Shady Grove Road and 17 Mill Run come together the mornings and the evening rush 18 hours backup right now to five, six, seven cars sometimes 19 to try to get in to get on to or get off Shady Grove Road. 20 Her facility will certainly make that more enhanced. 21 Sometimes she isn't even sure of the names of the roads 22 that she's discussing. Okay. I've lived in Mill Creek Towne 23 for 49 years. I back onto a woods. She called my name out 24 and said that my house would be much closer to, I don't 25 know, some learning center. I back onto a woods, I have no</p> | <p style="text-align: right;">292</p> <p>1 be close to my house. Well, I have behind my house there is 2 a deep woods, and which used to be a farm but has become a 3 woods, and then there are two housing developments, but I 4 have no idea where this Learning Center is and how it can 5 possibly be close to my home, closer than her day care 6 center. She mentions Tom Johnson's trucks, and yes, I can 7 see where that would annoy her since she would be right 8 next-door to that, but the one thing they do not do is 9 cause a lot of traffic, which is one of the main issues 10 that we have right now. The addition of a truck down the 11 street from her is gone now because from -- I walk my dog 12 there frequently, every day just about, and I know that 13 they were building an addition to the house. So of course 14 that truck is gone now. It was -- Pat's took almost a year 15 but it was a large addition they put on that house. 16 Generally parking on the grass is acceptable in Mill Creek, 17 but only for temporary parking. The mailman parks there 18 while he is giving us the mail. Workmen doing work in our 19 house, if they have a big truck and can't put it in the 20 driveway, they may use part of the grass. Visitors coming 21 for the evening or something for dinner might do that. The 22 thing is, that 8 to 12 children might be reasonable. I even 23 think 12 is a bit much, but 30 is definitely commercial. It 24 is no longer residential. And those centers in Mill Creek 25 School that they mentioned, they're afterschool care only,</p> |

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| <p style="text-align: right;">293</p> <p>1 as far as I know. I don't think there for anything else. At 2 any rate on. Worried, truly, about a commercial venture 3 that is masquerading as something else. 4 MARTIN GROSSMAN: Ms. Feldman, hold on a second. We 5 have to give the members -- 6 BARBARA FELDMAN: Oh, oh, I'm sorry. 7 MARTIN GROSSMAN: -- An opportunity to cross-examine 8 if they wish to... Mr. Nelson? 9 G. MACY NELSON: You know. 10 MARTIN GROSSMAN: Ms. Gregorski? 11 ANNE GREGORSKI: (No audible response.) 12 MARTIN GROSSMAN: Ms. Becker? 13 KATIE BECKER: No, thank you. 14 MARTIN GROSSMAN: Ms. Rice? 15 ROBIN RICE: No (inaudible). 16 MARTIN GROSSMAN: Thank you very much for coming down 17 and sharing your thoughts. Been waiting all day to do that. 18 All right, sir, you want to come forward? 19 ANDRE POLISSEDJIAN: No, just a comment. 20 MARTIN GROSSMAN: Yes, sir. What? 21 ANDRE POLISSEDJIAN: Robin Rice is not the only 22 adamant person in the (inaudible) 23 MARTIN GROSSMAN: Well, hold on a second. You can't 24 just comment. 25 ANDRE POLISSEDJIAN: Okay.</p> | <p style="text-align: right;">295</p> <p>1 MARTIN GROSSMAN: And would you raise your right hand 2 please? 3 ANDRE POLISSEDJIAN: Yes. 4 MARTIN GROSSMAN: Do you swear or affirm to tell the 5 truth, the whole truth, and nothing but the truth under 6 penalty of perjury? 7 ANDRE POLISSEDJIAN: I do. 8 MARTIN GROSSMAN: All right. You may proceed? 9 ANDRE POLISSEDJIAN: The point I was trying to make, 10 and I apologize for just barging up here but we're running 11 out of time today. If I can be so permitted to make an 12 additional point, I am persistent about the time allowance 13 that Robin has been given, or asked for, in light of the 14 fact that we've been here all day. Everyone realizes that. 15 And at some point short of counting the hours she's 16 monopolized the entire day. So for all intents and purposes 17 I chalked that up as or using up her six hour allowance and 18 for to have the gall to come out and say well, I think I'll 19 need two more hours. Well, is that part of the game plan? 20 And at some point, Mr. Grossman, do you have any sort of 21 leverage on behalf of the group to cut this short? I know 22 you want to give the applicant ample opportunity to present 23 her case, blah, blah, blah, but we just need to know that 24 it's going to come to an end. And that's really the main 25 point I'm trying to make. I know we're coming back for</p> |
| <p style="text-align: right;">294</p> <p>1 MARTIN GROSSMAN: If you're on the record you have to 2 come testify to be on the record. The courts have said that 3 all of our hearings, which are due process hearings, have 4 to be under oath on the record. 5 ANDRE POLISSEDJIAN: I understand. That's fine. 6 MARTIN GROSSMAN: Okay. 7 ANDRE POLISSEDJIAN: It will be short and sweet. 8 MARTIN GROSSMAN: Next chair though. 9 ANDRE POLISSEDJIAN: This one? 10 MARTIN GROSSMAN: That one. That's right. 11 ANDRE POLISSEDJIAN: Okay. I've been outnumbered. 12 MARTIN GROSSMAN: Not yet. 13 ANDRE POLISSEDJIAN: (Inaudible) I'll take it. Okay. 14 MARTIN GROSSMAN: All right. Sir, would you state your 15 full name and address, please? 16 ANDRE POLISSEDJIAN: Andre Polissedjian, 18028 Mill 17 Creek Drive, Derwood. 18 MARTIN GROSSMAN: And how do you spell your last name? 19 ANDRE POLISSEDJIAN: Uh -- 20 MARTIN GROSSMAN: I didn't mean to stump you with a 21 tough one there. 22 ANDRE POLISSEDJIAN: Okay. Give me about 10 minutes. 23 It's P, as in Paul, O-L-I-S-S-E-D-J-I-A-N. 24 MARTIN GROSSMAN: Okay. 25 ANDRE POLISSEDJIAN: Polissedjian.</p> | <p style="text-align: right;">296</p> <p>1 another day. Hopefully it will be a full day again, but I 2 know that if Robin is going to do her act for another day 3 that's going to eat up quite a good portion of our 4 following day. So to give everyone else, we counted nearly 5 70 heads in this room this morning, and to give ample time 6 for other people who may be wanting to testify, or, are 7 contemplating testifying, to give them enough time to do 8 so. It is not a one man show, as the people in this room 9 can attest for. So let's really be fair about this. And 10 give everyone an opportunity, not just Robin in presenting 11 their side. I propose; if I can be so permitted to do this, 12 tell Robin her times up. She got her six hours. With 13 perhaps, some flux, but from what I can tell 9:30 to lunch 14 break time and then the last 3½ to 4 hours gives her the 6 15 hours she asked for. That's all I need to say. 16 MARTIN GROSSMAN: Okay. I'll respond briefly to some 17 of the points you raised, and that is, number one, yes. I 18 can cut it all at any time I think it's appropriate. I 19 don't think it's appropriate to cut off an applicant in 20 certain circumstances, and to do so prematurely, that is to 21 prevent her from making her case can be considered an 22 error. And so, I don't want to build error into the system, 23 number one. And number two, I want to be fair to everybody. 24 Everybody who appears here who wants to be heard, who has 25 relevant evidence to offer will be heard. So I think we'll</p> |

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| <p>297</p> <p>1 try to be fair to everybody here. Any cross-examination?</p> <p>2 G. MACY NELSON: No.</p> <p>3 MARTIN GROSSMAN: No. Ms. Rice?</p> <p>4 G. MACY NELSON: Well, I can respect that. Thank you.</p> <p>5 MARTIN GROSSMAN: Cross-examination?</p> <p>6 ROBIN RICE: No.</p> <p>7 MARTIN GROSSMAN: Thank you, sir.</p> <p>8 ANDRE POLISSEDIAN: Thank you.</p> <p>9 MARTIN GROSSMAN: I appreciate you coming down here</p> <p>10 and sharing your views. All right. Yes, Mr. Snee, will you</p> <p>11 come forward? Will you state your full name and address,</p> <p>12 please?</p> <p>13 JAMES SNEE: My name is James Snee, 18006 Mill Creek</p> <p>14 Drive, Derwood.</p> <p>15 MARTIN GROSSMAN: All right. Would you raise your</p> <p>16 right hand, please? Do you swear or affirm to tell the</p> <p>17 truth, the whole truth, and nothing but the truth under</p> <p>18 penalty of perjury?</p> <p>19 JAMES SNEE: I do.</p> <p>20 MARTIN GROSSMAN: All right. You may proceed.</p> <p>21 JAMES SNEE: To start out with, I've got multiple</p> <p>22 issues, but number one I'd like to address is the water on</p> <p>23 all throughout the community that I haven't heard much of</p> <p>24 anything lately. And I've been at both meetings. And what</p> <p>25 the situation is, throw out Mill Creek Towne there's in</p> | <p>299</p> <p>1 to erosion, it will lead to compaction of the dirt, and</p> <p>2 there will be no absorption in those locations. Temporary</p> <p>3 parking, but day after day after day, multiple use, the</p> <p>4 ground absorption will be deviation in that factor. So in</p> <p>5 that situation the amount of water that's absorbed will</p> <p>6 change. There'll be more water runoff, plus the fact that</p> <p>7 everybody knows that sometimes we get knee-high packed snow</p> <p>8 when the plows go through. I'm curious how those cars are</p> <p>9 going to park on the grass land. There's no way it can</p> <p>10 happen, and that can go for weeks on before there's any</p> <p>11 parking off the paved asphalt. Sometimes you can't even</p> <p>12 park on the paved asphalt. If at the time that they do use</p> <p>13 the paved parking for the use of temporary parking, then</p> <p>14 when an emergency vehicle comes down Park Mill Road it will</p> <p>15 have to take a three quarter of a mile detour when he hits</p> <p>16 the cars on both sides of the street because he can't get</p> <p>17 through the middle, and he'll have to go back to the other</p> <p>18 route that she proposes for most of the neighbors. And</p> <p>19 that's a three quarter of a mile delay. If your wife or</p> <p>20 daughter or any family member is having a heart attack you</p> <p>21 surely don't want that three quarter of a mile detour for</p> <p>22 an emergency vehicle. At the same time, the cul-de-sac that</p> <p>23 she's proposing for parking, I can't confirm, but there</p> <p>24 are, a known fact that there are utility easements</p> <p>25 throughout Mill Creek Towne. Whether this Verizon has a</p> |
| <p>298</p> <p>1 excess of 8, possibly 15 natural springs that are pumping</p> <p>2 out water into the various drainage dishes across the</p> <p>3 county, or across the community. And these, even during</p> <p>4 drought times are putting water runoff through these</p> <p>5 ditches. So, you know, is to completely ignore this</p> <p>6 situation, there is water runoff and sometimes there's so</p> <p>7 much water runoff every household has a drainage ditch in</p> <p>8 front of it for the sole purpose of water absorption during</p> <p>9 snow times and rain times, along with water runoff for</p> <p>10 things that cannot be absorbed.</p> <p>11 MARTIN GROSSMAN: Hold on one second. I haven't heard</p> <p>12 anybody mention water runoff in this case.</p> <p>13 JAMES SNEE: That's why I'm making this statement.</p> <p>14 MARTIN GROSSMAN: (Inaudible) are you suggesting that</p> <p>15 the proposed use by Ms. Rice would somehow make water</p> <p>16 runoff worse?</p> <p>17 JAMES SNEE: She is got both pervious and impervious</p> <p>18 parking land use along with the parking on the grass land.</p> <p>19 MARTIN GROSSMAN: All right. So you're saying that the</p> <p>20 addition of additional impervious surface would worsen the</p> <p>21 water runoff situation?</p> <p>22 JAMES SNEE: Yes.</p> <p>23 MARTIN GROSSMAN: Okay.</p> <p>24 JAMES SNEE: In the case of parking on the grass,</p> <p>25 still on the county right-of-way, eventually this will lead</p> | <p>300</p> <p>1 utility easement for that particular place is unknown. But,</p> <p>2 at the same time what's preventing from the</p> <p>3 neighbors -- the one that testified earlier today, or</p> <p>4 anybody else, from parking a second or third vehicle in</p> <p>5 there, so she can't use it for staff parking. At the same</p> <p>6 time, according to the chart she put up there, 80F, it</p> <p>7 showed that that cul-de-sac is a quarter of a mile away</p> <p>8 from her facility. And she's going to have staff parking a</p> <p>9 quarter of a mile away during a blizzard, snowstorm, or</p> <p>10 torrential downpour. Not possible. It is possible, but not</p> <p>11 probable. Those people would just go park on the street</p> <p>12 right next to the facility. There are no rules, no laws</p> <p>13 that anybody's going to enforce and there will be a traffic</p> <p>14 jam. At the same time, by her definition of neighborhood,</p> <p>15 she included the intersections of Park Mill and Mill Run</p> <p>16 Drive, both a half a block away from the school and at</p> <p>17 Shady Grove entrance and exit. There are four entrances and</p> <p>18 exits on both sides of Shady Grove to Mill Creek Towne.</p> <p>19 There is only one intersection that has electronically</p> <p>20 controlled signals. If you want to go out and enter into</p> <p>21 Midcounty Highway, Muncaster Mill Road, or Shady Grove, or</p> <p>22 Redland Road, probably want to go out onto Shady Grove</p> <p>23 where there's an electronic traffic signal. In the</p> <p>24 meantime, during the morning, especially during school</p> <p>25 years, traffic can back up on Mill Run Drive onto Park</p> |

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| <p>301</p> <p>1 Mill, both right and left sides coming from the school or 2 people bucking traffic that is coming from the school, and 3 you can have that intersection, so you might have to wait 4 two traffic lights to even exit onto Shady Grove 5 (inaudible). In fact, this also impacts the people on the 6 other side of Shady Grove because the other side of Shady 7 Grove, a vast majority of those people are coming out and 8 want to make a left turn onto Shady Grove and head in the 9 direction of the Metro. They can't do it if the Park Mill 10 people from her day care, the schools, or us residential 11 people want to go straight. Those people, I've seen, wait 12 three traffic lights in order to make a left turn. So, you 13 know, in that situation both sides of Shady Grove, she says 14 are not, well, by her definition the pool and the 15 commercial area were in her neighbor and she did not 16 include my house, Barbara Feldman's, or anybody else, even 17 though we all use that same intersection that's in her 18 neighborhood. We don't have another option. You go out on 19 Miller Fall Road either end, the North or the South side 20 you've got a traffic problem galore during rush hour. It's 21 almost impossible, plus the fact the one on Lancaster Mill 22 has a hill that you can't even see the oncoming traffic so 23 any fool will be using the Park Mill exit down to the Mill 24 Run Drive exit through the electronic traffic signal. This 25 includes people from Latonia, not just Mill Creek. The</p> | <p>303</p> <p>1 foliage or anything else. So, like I said, in all these 2 parking spots that she's got listed as 10, only four are 3 valid where you can go in, and not be blocked to exit. 4 So -- and then the other issue is she talked about the non, 5 or excuse me, the non-resident staff member parking. Some 6 of them would be parking in position 9 and 10, some of them 7 would be parking down in the cul-de-sac. After more than 8 likely most of them would be parking on the street. So the 9 situation is, but she never addressed, was currently there 10 are four people living in that house. Of those four people, 11 two already are of driving age. I don't know how many 12 vehicles they have -- 13 MARTIN GROSSMAN: But they testified already that they 14 have two, but they wouldn't necessarily be living there 15 depending on the situation and if it were granted. 16 JAMES SNEE: Okay. But the issue of if there is any 17 residents there at all, they may or may not be staff 18 members and they may or may not have vehicles. And if there 19 are non-staff residents with a vehicle, where are their 20 parking spots? 21 MARTIN GROSSMAN: They are required to have two 22 additional parking spots for any resident, if it's used as 23 a residence. 24 JAMES SNEE: All right. 25 MARTIN GROSSMAN: All right. Any cross-examination --</p> |
| <p>302</p> <p>1 Latonia people do not exit through their path. They come 2 through Mill Creek Towne, and use the same street that she 3 says she's not going to impact. The other thing is, I 4 mentioned back to the water runoff, there are times, 5 multiple times during the year that there are white water 6 rapids going down the drainage ditch. We all saw it last 7 week. And people are not going to park on that grassland 8 when they've got to get out of their car into white water 9 rapids. All right. I think I've covered just about 10 anything. Oh, the other issue is all of her parking 11 situations she showed pervious pavers going into the staff 12 parking location. I don't believe those staff parking 13 locations are eight feet away from the property line, but I 14 could be wrong. It was impossible to tell on chart 20B, so 15 the other thing about her drawing up there, there was no 16 way you could put more than four vehicles without at least 17 one being blocked. And -- 18 MARTIN GROSSMAN: There is another plan here. 19 JAMES SNEE: Well, that's the one I'm talking about. 20 MARTIN GROSSMAN: Of the parking. All right. Yeah. 21 This is the parking plan; 20B is actually the combination 22 site layout and -- 23 JAMES SNEE: Okay. So this two parking spots she's got 24 through pervious pavers, they're not eight feet off the 25 property line. And they won't have any kind of fencing or</p> | <p>304</p> <p>1 JAMES SNEE: That's all I've got. 2 MARTIN GROSSMAN: -- Mr. Nelson? 3 G. MACY NELSON: Just a few. Mr. Snee, I'll be brief, 4 but you live on what road, sir? 5 JAMES SNEE: Mill Creek Drive, which is the other end 6 of Park Mill Drive. 7 G. MACY NELSON: Right. So, and you've been in the 8 community for how many years? 9 JAMES SNEE: Thirty-six, 37. 10 G. MACY NELSON: All right. So I imagine you have, on 11 occasion walked down Park Mill Drive? 12 JAMES SNEE: I try not to. (Laughter) But yes. That's 13 fair. 14 G. MACY NELSON: But -- 15 JAMES SNEE: I rarely go past Mill Run, but yes. 16 G. MACY NELSON: All right. And you mentioned drainage 17 swales along the road. What were you referring to when you 18 talked about the drainage areas adjacent to the road? 19 JAMES SNEE: Where she's proposing parking. 20 G. MACY NELSON: Right. But so is it fair to say that 21 there's a drainage area that runs parallel to the road on 22 each side of the road? 23 JAMES SNEE: Yes. 24 G. MACY NELSON: Okay. 25 JAMES SNEE: Throughout the whole community.</p> |

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| <p>305</p> <p>1 G. MACY NELSON: Okay. And have you ever --</p> <p>2 ROBIN RICE: Objection. There's --</p> <p>3 MARTIN GROSSMAN: Time out. I'm sorry, what's your</p> <p>4 objection, ma'am?</p> <p>5 ROBIN RICE: In front of my property is 20 feet of</p> <p>6 grass. There's no drainage --</p> <p>7 MARTIN GROSSMAN: Well, let me hear, what was the</p> <p>8 question and answer again? The question?</p> <p>9 G. MACY NELSON: All right.</p> <p>10 MARTIN GROSSMAN: What was the question posed?</p> <p>11 G. MACY NELSON: I'm trying to understand the land on</p> <p>12 Park Mill Drive and whether there is a swale in the grass</p> <p>13 that runs parallel to the road.</p> <p>14 JAMES SNEE: There are some of them are --</p> <p>15 MARTIN GROSSMAN: Okay. Hold on. Hold on one --</p> <p>16 JAMES SNEE: Some of the are across --</p> <p>17 MARTIN GROSSMAN: -- second. Hold on one second. Do</p> <p>18 you have an objection to that question?</p> <p>19 ROBIN RICE: Yes. Because I don't -- there's not a</p> <p>20 swale.</p> <p>21 MARTIN GROSSMAN: Well, I know, but you're not the</p> <p>22 witness.</p> <p>23 ROBIN RICE: I'm objecting because the facts in</p> <p>24 evidence -- there are no facts in evidence that there is a</p> <p>25 swale.</p> | <p>307</p> <p>1 G. MACY NELSON: Right.</p> <p>2 MARTIN GROSSMAN: Or what are you talking about?</p> <p>3 G. MACY NELSON: Well, you seen water accumulate along</p> <p>4 the roads in your community, have you not?</p> <p>5 JAMES SNEE: Throughout the community.</p> <p>6 G. MACY NELSON: All right.</p> <p>7 JAMES SNEE: There are -- sometimes it stays there</p> <p>8 days.</p> <p>9 G. MACY NELSON: All right.</p> <p>10 JAMES SNEE: So when, and if you start using the</p> <p>11 grassland for parking you're going to have people stuck in</p> <p>12 the mud.</p> <p>13 G. MACY NELSON: So let me show you a photograph that</p> <p>14 my client, Mr. Johnson, just took very recently. And we'll</p> <p>15 have this marked as --</p> <p>16 MARTIN GROSSMAN: Oh well, I guess we're up to, if I</p> <p>17 can find the exhibit list, we're up to 88. Well, you can</p> <p>18 put it on. Exhibit 88.</p> <p>19 JAMES SNEE: That's exactly what I'm talking about.</p> <p>20 G. MACY NELSON: Now hold on. Hold on. Now, Mr. Snee,</p> <p>21 let me show you what we marked as Exhibit 88. Mr. Johnson</p> <p>22 took this photograph very recently and you can see one of</p> <p>23 the -- Mr. Johnson's trailers. This photograph was taken</p> <p>24 really from the front yard of the applicant's property. And</p> <p>25 just orient yourself on that, sir. And let me ask you</p> |
| <p>306</p> <p>1 MARTIN GROSSMAN: There doesn't have to be facts in</p> <p>2 evidence. He's going to ask the question whether there is a</p> <p>3 swale which is what he asked.</p> <p>4 ROBIN RICE: I'm not --</p> <p>5 MARTIN GROSSMAN: He's asking whether there's a swale.</p> <p>6 There doesn't have to be facts in evidence. Besides it's</p> <p>7 cross-examination so --</p> <p>8 ROBIN RICE: Okay.</p> <p>9 MARTIN GROSSMAN: You can answer that question.</p> <p>10 JAMES SNEE: My definition of a swale is anything</p> <p>11 lower than adjacent property.</p> <p>12 G. MACY NELSON: Right.</p> <p>13 JAMES SNEE: It could be ankle deep or it could be</p> <p>14 knee deep.</p> <p>15 G. MACY NELSON: All right.</p> <p>16 JAMES SNEE: And there is a swale throughout Mill</p> <p>17 Creek Towne.</p> <p>18 G. MACY NELSON: All right. Now in your years in this</p> <p>19 community driving around and walking around have you ever</p> <p>20 seen water accumulated in any of the swales that run</p> <p>21 parallel to Park Mill Drive? Have you ever seen that?</p> <p>22 JAMES SNEE: I can't be sure about Park Mill Drive.</p> <p>23 G. MACY NELSON: All right.</p> <p>24 MARTIN GROSSMAN: And when you say parallel to it, you</p> <p>25 mean alongside the roadway?</p> | <p>308</p> <p>1 whether you recognize that part of Park Mill Drive. Do you</p> <p>2 see that, sir?</p> <p>3 JAMES SNEE: This is probably facing towards Park Mill</p> <p>4 Road.</p> <p>5 G. MACY NELSON: Okay.</p> <p>6 JAMES SNEE: And Mill Run Drive.</p> <p>7 G. MACY NELSON: Okay. And what is that photograph</p> <p>8 illustrate that's relevant to what you been describing to</p> <p>9 Mr. Grossman, the hearing examiner?</p> <p>10 JAMES SNEE: An overabundance of water in the parking</p> <p>11 area that she's perceived she's going to use.</p> <p>12 G. MACY NELSON: All right. Now in this exchange we</p> <p>13 had a moment ago the applicant said in response to my</p> <p>14 question, there was no swale there. No indentation. Now,</p> <p>15 does this photograph inform the question of whether water</p> <p>16 can accumulate there in her front yard?</p> <p>17 JAMES SNEE: This is at least ankle deep.</p> <p>18 G. MACY NELSON: Mm-hmm. Mr. Chairman, I would like</p> <p>19 to -- Mr. Examiner, I would like to move into evidence</p> <p>20 Exhibit 88.</p> <p>21 MARTIN GROSSMAN: All right, well let's consider.</p> <p>22 ROBIN RICE: I have an objection, sir.</p> <p>23 MARTIN GROSSMAN: Well, we'll consider moving into</p> <p>24 evidence later, but in any event let me, let me hear the</p> <p>25 objection.</p> |

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| <p>309</p> <p>1 ROBIN RICE: In the past couple of weeks we've had 2 severe, torrential rain that has flooded Montgomery County 3 everywhere. I'd just like a date and an acknowledgement of 4 it was done in a very severe thunderstorm. 5 MARTIN GROSSMAN: Is Mr. Johnson here today? 6 G. MACY NELSON: I'll find out what date it was. 7 MARTIN GROSSMAN: Okay. So you can put him on after 8 this witness to identify, properly identify the exhibit. 9 JAMES SNEE: I have seen episodes like this at least 10 once every year, throughout the community. 11 MARTIN GROSSMAN: Okay. 12 JAMES SNEE: And some years multiple times. 13 MARTIN GROSSMAN: Any other questions of this -- 14 G. MACY NELSON: I have none, but I'll proffer -- I 15 can call him but -- folks. 16 ROBIN RICE: Now. 17 G. MACY NELSON: He took these in the last week or so, 18 but we can prove it all later. 19 MARTIN GROSSMAN: Yeah, just so we have -- 20 ANNE GREGORSKI: I sent it to him. 21 G. MACY NELSON: All right, it's not important. Let me 22 just, one more exhibit. 23 MARTIN GROSSMAN: Sure. 24 G. MACY NELSON: Let's mark this 89. 25 MARTIN GROSSMAN: Okay. We'll mark it.</p> | <p>311</p> <p>1 the applicant's property looking the opposite direction and 2 you can see the trailer from the other side. 3 MARTIN GROSSMAN: Okay. So this -- 88 is actually 4 showing on the applicant's property. The foreground. 5 G. MACY NELSON: The photographer is (inaudible) 6 JAMES SNEE: Or Mr. and Mrs. Lloyd's property. 7 G. MACY NELSON: Right. In other words, the Lloyd 8 property is where I am, you are where the applicant's 9 property is and Mr. Johnson's property is -- 10 JAMES SNEE: Where the trailer is. 11 G. MACY NELSON: In the background where the trailer 12 is. 13 MARTIN GROSSMAN: Okay. 14 G. MACY NELSON: I'm not sure exactly where 15 (inaudible) are. But we can prove all those facts. 16 MARTIN GROSSMAN: Yes. 17 ANNE GREGORSKI: July 28th. 18 G. MACY NELSON: We think it was July 28th, but we'll 19 nail it down, but it was 2017, recently. That's all I have 20 for Mr. Snee. Thank you, Mr. Snee. I'll take that exhibit 21 from you, sir. And if you have both 88 and 89? 22 MARTIN GROSSMAN: I do, thank you. 23 G. MACY NELSON: Thanks. 24 MARTIN GROSSMAN: All right. Ms. Gregorski, do you 25 have any questions?</p> |
| <p>310</p> <p>1 G. MACY NELSON: Let me show you what's been marked as 2 Exhibit 89. This is the (inaudible) looking from the other 3 direction. What is that photograph tell you? More of the 4 same? 5 JAMES SNEE: More of the same. Some of it exceeded 6 into the right-of-way, paved asphalt; abundance of it, 7 within the parking area that she perceives as in her plan. 8 G. MACY NELSON: Mm-hmm. 9 MARTIN GROSSMAN: And Mr. Nelson, I presume that this 10 is showing -- you mentioned Mr. Johnson's property is next 11 door to -- 12 G. MACY NELSON: This is the reverse image of the same 13 thing. 14 MARTIN GROSSMAN: Right. The -- next door to the 15 applicant's property. I take it that this is a picture 16 depicting water on the applicant's property. Is that 17 correct? Or -- 18 G. MACY NELSON: We're looking at Exhibit 89, I 19 believe. 20 MARTIN GROSSMAN: Exhibit 89, yes. 21 G. MACY NELSON: And so what we're looking at -- we're 22 standing in the applicant's property is behind that 23 trailer. So we're looking towards the applicant's property. 24 MARTIN GROSSMAN: Okay. 25 G. MACY NELSON: In contrast Exhibit 88 is standing on</p> | <p>312</p> <p>1 ANNE GREGORSKI: No. you've handled everything well. 2 Thank you. 3 MARTIN GROSSMAN: Ms. Becker? 4 KATIE BECKER: No, thank you. 5 MARTIN GROSSMAN: Ms. Rice? 6 ROBIN RICE: Eighty-eight has the white car in it? 7 JAMES SNEE: I didn't hear you? 8 ROBIN RICE: Sorry. Exhibit number 88 has the white 9 car in it. 10 MARTIN GROSSMAN: Yes. 11 JAMES SNEE: Huh? 12 ROBIN RICE: (inaudible) and 89 -- 13 MARTIN GROSSMAN: Eighty-nine is more distant. 14 ROBIN RICE: Is in reverse. Okay. And they were taken 15 on one day, and 89 -- 88 is standing on my property? 16 JAMES SNEE: Or Mrs. Lloyd's. I'm not sure. I will 17 wait for the next testimony. 18 ROBIN RICE: Okay. And 89 is standing on the other 19 side of Tom's property, not my property? 20 JAMES SNEE: True. 21 ROBIN RICE: Okay. Okay. 22 MARTIN GROSSMAN: Again, thank you, Mr. Snee. You did 23 raise some issues that hadn't been discussed before and I 24 appreciate that. Hold the applause. Does somebody else wish 25 to be heard today? Yes? Please come forward. The seat just</p> |

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| <p>313</p> <p>1 the other side. Yes, that's the hot seat.</p> <p>2 NANCY MCGINNIS: I can see the red button. My name is</p> <p>3 Nancy McGinness and I live at 17708 Shady Mill Road, in</p> <p>4 Mill Creek Towne.</p> <p>5 MARTIN GROSSMAN: 1770 --</p> <p>6 NANCY MCGINNESS: Eight.</p> <p>7 MARTIN GROSSMAN: Eight on?</p> <p>8 NANCY MCGINNESS: Shady Mill Road.</p> <p>9 MARTIN GROSSMAN: And McGinness is spelled?</p> <p>10 NANCY MCGINNESS: M-C-G-I-N-N-E-S-S.</p> <p>11 MARTIN GROSSMAN: All right. Would you raise your</p> <p>12 right hand, please? Do you swear or affirm to tell the</p> <p>13 truth, the whole truth and nothing but the truth under</p> <p>14 penalty of perjury?</p> <p>15 NANCY MCGINNESS: Yes, I do.</p> <p>16 MARTIN GROSSMAN: All right. You may proceed.</p> <p>17 NANCY MCGINNESS: My family has lived in the</p> <p>18 Gaithersburg, Rockville area for more than 300 years. I</p> <p>19 have been in Mill Creek Towne for almost 50 years and when</p> <p>20 my cousins ask me where I live, I tell them I live in Watt</p> <p>21 Farmer's back field, and that's -- we've been around so</p> <p>22 long. I also knew and my father knew, intimately, the</p> <p>23 people who built our development, and in fact their company</p> <p>24 is still in business doing business in Montgomery County</p> <p>25 and building houses. In fact they built an addition on my</p> | <p>315</p> <p>1 MARTIN GROSSMAN: Okay.</p> <p>2 NANCY MCGINNESS: It's been a wonderful neighborhood</p> <p>3 to raise kids and what I find very, very enlightening is</p> <p>4 that on my street, which is a very short street, there are</p> <p>5 at least two people on that street, young couples, they're</p> <p>6 young people who have bought houses in the development not</p> <p>7 where their parents live, but they actually grew up in the</p> <p>8 development and have not bought the house because they</p> <p>9 liked the philosophy of what Mill Creek Towne is. And that</p> <p>10 is a nice community where you can raise kids and there</p> <p>11 is -- it is for a residential. The other thing I wanted to</p> <p>12 say is when my children were young and I was not -- I was</p> <p>13 home with my children, I did accounting services, so</p> <p>14 essentially I had some business in my home. However, I went</p> <p>15 to the client's houses all the time. I never once, did a</p> <p>16 client ever come to my house. When my child, my youngest</p> <p>17 child went to school full time, I wanted to start a</p> <p>18 business where I could actually support myself, and I went</p> <p>19 to all scenarios that I could do and the one that I could</p> <p>20 not do is I could not have a business in Mill Creek Towne.</p> <p>21 That is something that was totally against the whole</p> <p>22 philosophy of the community and therefore when I actually</p> <p>23 went back to work I actually went to work outside of Mill</p> <p>24 Creek Towne in an office somewhere else. And that's really</p> <p>25 what I wanted to talk about is just the philosophy of the</p> |
| <p>314</p> <p>1 house several years ago. That company -- those people that</p> <p>2 ran -- that built the development, Herbish (phonetic)</p> <p>3 Builders had a philosophy for their communities. Not just</p> <p>4 for Mill Creek Towne, but all the communities that they</p> <p>5 built in the county and they've done 20 of them. And that</p> <p>6 philosophy was reflected in the covenants that we had when</p> <p>7 we bought our houses 50 years ago, which says that we're</p> <p>8 running a residential community with single family dwelling</p> <p>9 houses.</p> <p>10 MARTIN GROSSMAN: You understand by the way I don't</p> <p>11 know if you were here or not when at the very beginning</p> <p>12 when I mentioned that this hearing cannot enforce --</p> <p>13 NANCY MCGINNESS: Oh, I understand that.</p> <p>14 MARTIN GROSSMAN: -- private covenants.</p> <p>15 NANCY MCGINNESS: Yes. And I'm talking about the</p> <p>16 philosophy of --</p> <p>17 MARTIN GROSSMAN: Okay.</p> <p>18 NANCY MCGINNESS: Understand that this is not a legal</p> <p>19 document, that's what I understand --</p> <p>20 MARTIN GROSSMAN: Well, I don't say it's not a legal</p> <p>21 document.</p> <p>22 NANCY MCGINNESS: No, no, no. I understand that.</p> <p>23 MARTIN GROSSMAN: But it's not before me.</p> <p>24 NANCY MCGINNESS: I'm just telling you the philosophy</p> <p>25 of (inaudible)</p> | <p>316</p> <p>1 community and what it was set up for and what it has been</p> <p>2 for 50 years and there's been young people coming back in</p> <p>3 and buying those houses with that same philosophy.</p> <p>4 MARTIN GROSSMAN: Thank you. Any cross-examination</p> <p>5 questions, Mr. Nelson?</p> <p>6 G. MACY NELSON: None.</p> <p>7 MARTIN GROSSMAN: Ms. Gregorski?</p> <p>8 ANNE GREGORSKI: No, thank you.</p> <p>9 MARTIN GROSSMAN: Ms. Becker:</p> <p>10 KATIE BECKER: No, thank you.</p> <p>11 MARTIN GROSSMAN: Ms. Rice?</p> <p>12 ROBIN RICE: When you went back to work where were</p> <p>13 your children?</p> <p>14 NANCY MCGINNESS: I beg your pardon?</p> <p>15 ROBIN RICE: When you went back to work, where were</p> <p>16 your children?</p> <p>17 NANCY MCGINNESS: My children, they were in school?</p> <p>18 ROBIN RICE: Before and after school?</p> <p>19 NANCY MCGINNESS: At my parents' house.</p> <p>20 ROBIN RICE: Thank you.</p> <p>21 MARTIN GROSSMAN: Thank you very much for coming in</p> <p>22 and sharing your view. All right. Do we have anybody else</p> <p>23 who -- anybody else who wishes to be heard today? Sir, did</p> <p>24 you want to be heard today? I know that you had --</p> <p>25 MALE AUDIENCE ATTENDEE: I (inaudible).</p> |

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| <p>317</p> <p>1 MARTIN GROSSMAN: Okay. All right. I don't see any 2 other hands. All right so, oop. I do see one other hand. A 3 late hand. 4 JOHN PATRICK DUFFY: Yes. 5 MARTIN GROSSMAN: All right. Would you state your full 6 name and address please. 7 JOHN PATRICK DUFFY: Sure. John Patrick Duffy, 7725 Dew 8 Wood Drive. And so there was a -- 9 MARTIN GROSSMAN: Hold on. Hold on one second. 10 JOHN PATRICK DUFFY: Oh, I'm sorry. 11 MARTIN GROSSMAN: Hold on one second. This is 7725 -- 12 JOHN PATRICK DUFFY: Dew Wood Drive. 13 MARTIN GROSSMAN: D-U? 14 JOHN PATRICK DUFFY: D-E-W. 15 MARTIN GROSSMAN: Okay. D-E-W. 16 JOHN PATRICK DUFFY: Space W-O-O-D. 17 MARTIN GROSSMAN: Okay. And your name is John 18 Patrick -- 19 JOHN PATRICK DUFFY: Duffy. D-U-F-F-Y. 20 MARTIN GROSSMAN: Y. Would you raise your right hand 21 please? Do you swear or affirm to tell the truth, the whole 22 truth and nothing but the truth under penalty of perjury? 23 JOHN PATRICK DUFFY: I do. 24 MARTIN GROSSMAN: Okay. You may proceed. 25 JOHN PATRICK DUFFY: Thank you. Well, there was a</p> | <p>319</p> <p>1 be parents trying to make it within this 10-minute window 2 that's been discussed, racing to make sure they make their 3 time slot. I don't know if late fees are involved or what, 4 but to me that was just a concern as a parent. So the more 5 I've heard today the more concerned I've become about this 6 whole application, and so I would urge you to reject it as 7 just not compatible with the philosophy and the kind of the 8 whole character of the neighborhood, so. 9 MARTIN GROSSMAN: All right. Mr. Nelson, any cross- 10 examination? 11 G. MACY NELSON: Nothing. 12 MARTIN GROSSMAN: Ms. Gregorski? 13 ANNE GREGORSKI: No, thank you. 14 MARTIN GROSSMAN: Ms. Becker? 15 KATIE BECKER: No, thank you. 16 MARTIN GROSSMAN: Ms. Rice? 17 ROBIN RICE: Who takes care of your children during 18 the work-week? 19 JOHN PATRICK DUFFY: My wife does. 20 MARTIN GROSSMAN: Anything else? 21 ROBIN RICE: No. 22 MARTIN GROSSMAN: All right. Thank you very much Mr. 23 Duffy. 24 JOHN PATRICK DUFFY: Thank you. 25 MARTIN GROSSMAN: All right then. Let's talk about,</p> |
| <p>318</p> <p>1 comment made about some of the young families that have 2 purchased in the neighborhood and I thought, you know, 3 that, I kind of represent that demographic, I would say. 4 Purchased this last August and as were kind of thinking 5 through looking at the communities and the neighborhood, 6 one of the things that we did looking at Mill Creek, that 7 we were impressed by was the community here, and kind of 8 the philosophy that was mentioned, as we talked to some of 9 the neighbors. We drove through the neighborhood at 10 different times during the day over a number of weeks. We 11 kind of learned you know, kind of the character. We kind of 12 looked, you know to try to get a sense for what the 13 community was about. And the thing that we kept coming back 14 to was, you know, this is a very peaceful place. You know, 15 you see people out walking their dogs, kids out with their 16 bikes, with our kids 4 and 8, I thought that this would be 17 a place where they can, you know, learn to ride their 18 bikes. We could take them out. And I am very concerned, 19 particularly, there was a comment made earlier about how 20 cut through traffic could be coming down Latonia Drive and 21 then that, you know, I started thinking about that, you 22 know, that is -- that traffic would be coming right there, 23 I'm close on Dew Wood Drive, close to that corner and 24 that's where, you know, my kids are out, you know, riding 25 their bikes and they, you know, the idea that there could</p> | <p>320</p> <p>1 since obviously we're not finishing today. Mr. Nelson, you 2 indicated that you would talk to other folks who may want 3 to be heard and talk about a date. I would ask you to also 4 discuss it with Ms. Rice and Ms. Gregorski and Ms. Becker 5 to see if there's a date that can be agreed to. And it has 6 to be a date obviously that -- and also contact when you 7 all have some dates that you can -- that are agreeable 8 contact Sarah Bohana (phonetic) of my office. 9 G. MACY NELSON: What's her phone number? 10 MARTIN GROSSMAN: Her number? You can call 240 -- 11 G. MACY NELSON: I may (inaudible) 12 MARTIN GROSSMAN: Pardon me? 13 G. MACY NELSON: I'm sorry. Go ahead, 240 -- 14 MARTIN GROSSMAN: 240-777-6660. That's the general 15 number for the office and she can be reached on that 16 number. And what we want to do is to have a date that this 17 room is available and it's most convenient for the most 18 people. And then we -- depending on whether or not this 19 large a crowd will come we may be able to fit the number of 20 people who are here now in our regular hearing room, but I 21 don't know, it would be close. So we'll try to plan on this 22 room. And, but I would ask Ms. Rice if you plan to submit 23 any proposed amended plans that you do so promptly and 24 maybe we should set a deadline for that. How long will you 25 need to figure out what, if any, plan changes you are going</p> |

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| <p>321</p> <p>1 to submit?</p> <p>2 ROBIN RICE: I'll meet any deadline you tell me.</p> <p>3 MARTIN GROSSMAN: All right. So let's see, pull out a</p> <p>4 calendar here. How about a week from today. Is that --</p> <p>5 ROBIN RICE: That's fine.</p> <p>6 MARTIN GROSSMAN: Okay. So that would be August 11.</p> <p>7 That's for any motion to amend plans, and that includes if</p> <p>8 you plan on a sign that should be included in your plan, or</p> <p>9 any change in landscaping. Or anything else for that</p> <p>10 matter. All right. And we'll give people 10 days to respond</p> <p>11 to that which would be by August 21 which is a Monday.</p> <p>12 People should bear in mind that if they object to an</p> <p>13 amendment that allowing an amendment does not approve the</p> <p>14 plan, it just allows the applicant to present an amended</p> <p>15 plan. At the same time as you submit any amended plan to my</p> <p>16 office submit a copy to the other parties and to the</p> <p>17 technical staff.</p> <p>18 ROBIN RICE: To the other parties meaning Mr. Nelson</p> <p>19 or everybody in this room and that's been in this room?</p> <p>20 MARTIN GROSSMAN: Well, actually now it includes</p> <p>21 everybody who has testified. And as well as the people who</p> <p>22 are at counsel table. Okay.</p> <p>23 ROBIN RICE: And your office will have the list for me</p> <p>24 or I've got to --</p> <p>25 MARTIN GROSSMAN: Well, we have a list of the people</p> | <p>323</p> <p>1 sign in sheet. And in fact the sign in sheet should be</p> <p>2 downstairs and then, and then you could make -- and you can</p> <p>3 then know who to send copies to.</p> <p>4 ROBIN RICE: I'm assuming, I should send copies</p> <p>5 through the mail at their address versus email.</p> <p>6 MARTIN GROSSMAN: I couldn't hear you, ma'am</p> <p>7 ROBIN RICE: I'm assuming I should send copies to</p> <p>8 their address instead of their emails?</p> <p>9 MARTIN GROSSMAN: I think it's sufficient if you send</p> <p>10 emails to people that you have the email addresses for with</p> <p>11 copies of attached as a PDF to them. That probably should</p> <p>12 be sufficient. Does anybody object to that as a process?</p> <p>13 Rather than depending on mail I would depend on emails if</p> <p>14 we have email addresses. Okay.</p> <p>15 ROBIN RICE: I'll, you know, just do those.</p> <p>16 MARTIN GROSSMAN: Okay. All right. And Mr. Nelson I</p> <p>17 would ask that you get back to me then as soon as possible</p> <p>18 as to a new date but let's try to do it by, you know, by</p> <p>19 next -- by the 11th of August so we figure out a date so we</p> <p>20 can issue -- I have to give, since I'm not announcing the</p> <p>21 specific date at this public session I have to give -- I</p> <p>22 have to publish notice and give 10 days to do that.</p> <p>23 G. MACY NELSON: Well, Monday I'll call Ms. Bohana</p> <p>24 with some dates from your office after August 21.</p> <p>25 MARTIN GROSSMAN: Okay.</p> |
| <p>322</p> <p>1 who are at counsel table as to all the people who have</p> <p>2 testified if you don't have them in your notes I have the</p> <p>3 names of the people who have testified if you need that.</p> <p>4 ROBIN RICE: Okay.</p> <p>5 MARTIN GROSSMAN: So. Okay. All right. And so -- and</p> <p>6 we're going to give technical staff, when you submit it to</p> <p>7 technical staff also please mention that as -- that Ms.</p> <p>8 Tettelbaum respond with any comments she has also by August</p> <p>9 21.</p> <p>10 ROBIN RICE: Okay.</p> <p>11 MARTIN GROSSMAN: Okay. All right. And so whatever</p> <p>12 hearing date you pick up, you pick on should be after that</p> <p>13 August 21 date. So there's a fair chance it goes into</p> <p>14 September. Or it could be at the end of August. All right.</p> <p>15 Is there anything else that we -- yes, Mr. Snee.</p> <p>16 JAMES SNEE: You asked for an email address for some</p> <p>17 people, do you need it from everybody?</p> <p>18 MARTIN GROSSMAN: Everybody who's testified becomes a</p> <p>19 party by our rules. And so I would ask that they supply not</p> <p>20 only their address, but there was a sign in sheet. I</p> <p>21 hope --</p> <p>22 JAMES SNEE: (inaudible) email address.</p> <p>23 MARTIN GROSSMAN: Okay. It would be helpful to put an</p> <p>24 email address on there because then you can be reached more</p> <p>25 readily, and a telephone number too for that matter. On the</p> | <p>324</p> <p>1 G. MACY NELSON: And circulate them and (inaudible).</p> <p>2 MARTIN GROSSMAN: Well, I'm pretty flexible and if we</p> <p>3 use this room it's a question of what -- you know what</p> <p>4 dates this room is available. Our hearing room is never</p> <p>5 available on Wednesdays because the Board of Appeals, well,</p> <p>6 they may be adjourning for the summer so maybe it will be</p> <p>7 available. But in any event, you know, I'm relatively</p> <p>8 flexible towards the end of August. Okay.</p> <p>9 ROBIN RICE: May I request to find out if your</p> <p>10 appraiser is going to attend the next hearing or not?</p> <p>11 MARTIN GROSSMAN: That's a legitimate question.</p> <p>12 G. MACY NELSON: Well, I don't intend to bring him</p> <p>13 here live.</p> <p>14 MARTIN GROSSMAN: Do you not intend to bring him?</p> <p>15 G. MACY NELSON: I do not.</p> <p>16 MARTIN GROSSMAN: Don't bring him dead either.</p> <p>17 G. MACY NELSON: I don't intend to bring him to the</p> <p>18 hearing. The -- we believe that our -- with respect to the</p> <p>19 document has merit and that's our current plan.</p> <p>20 MARTIN GROSSMAN: Okay. All right. Anything else that</p> <p>21 needs to be resolved before we adjourn for the day? Once</p> <p>22 again, I thank you all for coming down. I know it's a time</p> <p>23 consuming process, but it is what is prescribed in the</p> <p>24 zoning ordinance and I think in the end it's the most fair</p> <p>25 way to do it for everybody. Thank you all.</p> |

Transcript of Administrative Hearing
Conducted on August 4, 2017

82 (325 to 328)

325

(Off the record at 5:52 p.m.)

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CERTIFICATE OF TRANSCRIBER

I, Molly Bugher, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording as provided; and that I am neither counsel for, related to, nor employed by and of the parties to this case and have no interest, financial or otherwise, in its outcome.



Molly Bugher

August 14, 2017