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Transcript of Hearing

Date: March 10, 2017

Case: Flores, Child Daycare (12 Children), In Re:

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Transcript of Hearing
Conducted on March 10, 2017

1 (1 to 4)

<p style="text-align: center;">1</p> <p>1 OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS</p> <p>2 FOR MONTGOMERY COUNTY, MARYLAND</p> <p>3 -----x</p> <p>4 In Re: :</p> <p>5 FLORES, CHILD DAYCARE : Case No. CU 17-08</p> <p>6 (12 CHILDREN) :</p> <p>7 -----x</p> <p>8</p> <p>9 HEARING</p> <p>10 Before Hearing Examiner Martin Grossman</p> <p>11 Rockville, Maryland</p> <p>12 Friday, March 10, 2017</p> <p>13 9:36 a.m.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 Job: 138424</p> <p>24 Pages: 1 - 26</p> <p>25 Transcribed by: Susan W. Wilson</p>	<p style="text-align: center;">3</p> <p>1 P R O C E E D I N G S</p> <p>2</p> <p>3 MARTIN GROSSMAN: Alright, Ms. Flores?</p> <p>4 LILIAN FLORES: Yes sir.</p> <p>5 MARTIN GROSSMAN: Mr. Romero? Alright, thank you.</p> <p>6 Alright, are you ready to proceed?</p> <p>7 LILIAN FLORES: Yes.</p> <p>8 MARTIN GROSSMAN: Alright, court reporter ready? Then</p> <p>9 I'll call the case. Alright, this is a public hearing in</p> <p>10 the matter of Lilian Flores doing business as Kids Corner</p> <p>11 Daycare. OZHA number CU 17-08, an application for a</p> <p>12 conditional use pursuant to Zoning Ordinance, Section</p> <p>13 59.3.4.4d. to allow expansion of an existing family daycare</p> <p>14 into a group daycare for up to twelve children in her home</p> <p>15 at 3800 Little John Street, Silver Spring. The subject site</p> <p>16 is lot 1, block 90 of the Connecticut Avenue Estate Sub-</p> <p>17 division and is zoned R60. A conditional use is required</p> <p>18 for a childcare facility for nine or more children in the</p> <p>19 R60 zone and the site is subject to the 1989 master plan</p> <p>20 for the communities of Kensington Wheaton. My name is</p> <p>21 Martin Grossman. I'm the Hearing Examiner which means I'll</p> <p>22 make the decision in this case and write a report to that</p> <p>23 affect. Will the parties identify themselves for the</p> <p>24 record? State your name for the record please.</p> <p>25 LILIAN FLORES: My name is Lilian Flores.</p>
<p style="text-align: center;">2</p> <p>1 C O N T E N T S</p> <p>2</p> <p>3 TESTIMONY OF LILIAN FLORES PAGE 6</p> <p>4 TESTIMONY OF MILTON LEE 7</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">4</p> <p>1 MARTIN GROSSMAN: Okay, and Mr. Romero?</p> <p>2 FRANCISCO ROMERO: My name is Francisco Romero.</p> <p>3 (inaudible).</p> <p>4 MARTIN GROSSMAN: Okay. Are there any other witnesses</p> <p>5 that you're calling today other than yourselves?</p> <p>6 FRANCISCO ROMERO: No.</p> <p>7 LILIAN FLORES: No.</p> <p>8 MARTIN GROSSMAN: Okay, I see a gentleman in the</p> <p>9 audience. Sir, did you wish to be heard today?</p> <p>10 MILTON LEE: Yes sir. My name is Milton Lee. I'm the</p> <p>11 resident of 3801 Littleton Street. That is the lot, I'm</p> <p>12 also the co-owner of the house and I live across the street</p> <p>13 from the subject site.</p> <p>14 MARTIN GROSSMAN: And you said Milton Lee?</p> <p>15 MILTON LEE: Yes sir.</p> <p>16 MARTIN GROSSMAN: L-E-E?</p> <p>17 MILTON LEE: L-E-E. Yes sir.</p> <p>18 MARTIN GROSSMAN: And what was your address again sir?</p> <p>19 MILTON LEE: 3801 Littleton Street, Silver Spring, MD</p> <p>20 20906.</p> <p>21 MARTIN GROSSMAN: And did you also leave your email</p> <p>22 address when you signed in?</p> <p>23 MILTON LEE: Yes sir, I did.</p> <p>24 MARTIN GROSSMAN: Good, okay. We can send you material</p> <p>25 should it be necessary. And did you wish to be heard in</p>

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2 (5 to 8)

5	<p>1 support, in opposition or just commenting?</p> <p>2 MILTON LEE: I'm here both for information and to ask</p> <p>3 questions as far as what mitigation strategies they have</p> <p>4 for addressing a concern.</p> <p>5 MARTIN GROSSMAN: Okay, fine. Why don't you just come</p> <p>6 up and have a seat at counsel table. Alright, let me tell</p> <p>7 you a little bit about the nature of these proceedings. Ms.</p> <p>8 Flores, do you understand what I'm saying? Do you</p> <p>9 understand me?</p> <p>10 LILIAN FLORES: Yes.</p> <p>11 MARTIN GROSSMAN: Okay. We operate pretty much the way</p> <p>12 a courtroom operates in that all witnesses are sworn in.</p> <p>13 They are subject to cross examination so that, when Ms.</p> <p>14 Flores testifies you can, entitled to cross-examine her.</p> <p>15 Everything is taken down by a court reporter. There will be</p> <p>16 a transcript of these proceedings and we will post that</p> <p>17 transcript on our website. Usually it appears about ten</p> <p>18 days after the hearing. The rules of evidence are similar</p> <p>19 to a courtroom but a little bit more relaxed than, it's</p> <p>20 kind of a combination of formality and informality. We're a</p> <p>21 little less formal than in a courtroom. Now this is an</p> <p>22 application for a conditional use and a conditional use is</p> <p>23 not a variance from the Zoning Ordinance. It is actually a</p> <p>24 use that is permitted by the Zoning Ordinance if certain</p> <p>25 conditions are met and those conditions are specified in</p>	7	<p>1 recommended approval of this conditional use with specified</p> <p>2 conditions. The Planning Board's conditions modify somewhat</p> <p>3 the conditions that were specified by the technical staff.</p> <p>4 They eliminated the need for a bicycle park in the space</p> <p>5 and they did one other thing. Instead of a board on board</p> <p>6 vinyl fence, they said that there should be a board on</p> <p>7 board wooden fence at the request of the, those are the</p> <p>8 only two changes to the technical staffing. I'm going to</p> <p>9 give you a copy to look at now so that you have a chance to</p> <p>10 look at it and I'll recess and give you five or ten minutes</p> <p>11 to take a look at it.</p> <p>12 MILTON LEE: (inaudible)</p> <p>13 MARTIN GROSSMAN: Yes, certainly. Just so that Mr. Lee</p> <p>14 is on the same page as the rest of us and I'll come back at</p> <p>15 ten to ten, okay? While we're at it, wait, let me show you</p> <p>16 a copy of the Planning Board letter too.</p> <p>17</p> <p>18 **A recess was taken**</p> <p>19</p> <p>20 MARTIN GROSSMAN: Alright, after you've finished I'd</p> <p>21 like to get those back just so I can use them during the</p> <p>22 hearing. And they are a matter of public record and we can</p> <p>23 make you a copy too. And they're also in the file and you</p> <p>24 can look at the file during business hours at any time that</p> <p>25 you'd like. Alright, let me start out by swearing in the</p>
6	<p>1 the Zoning Ordinance, both general conditions that apply to</p> <p>2 all conditional uses and specific ones that apply to this</p> <p>3 particular type of conditional use; a group daycare. You</p> <p>4 may have seen them listed in the report of the technical</p> <p>5 staff of the Planning Department. Did you get a copy of</p> <p>6 that report and of the Planning Board letter?</p> <p>7 FRANCISCO ROMERO: No, no but we-</p> <p>8 LILIAN FLORES: I have the letter.</p> <p>9 FRANCISCO ROMERO: (inaudible)</p> <p>10 MARTIN GROSSMAN: And Mr. Lee, have you seen a copy of</p> <p>11 the technical staff report and the Planning Board report</p> <p>12 letter?</p> <p>13 MILTON LEE: The Planning, that would be the document</p> <p>14 submitted to the Zoning Office, sir?</p> <p>15 MARTIN GROSSMAN: Yeah, well there are a, each case</p> <p>16 like this, the staff, the technical staff of the Planning</p> <p>17 Department, also called the Maryland-National Capital Park</p> <p>18 and Planning Commission, puts out a report which they</p> <p>19 issued, in this case on February 6th.</p> <p>20 MILTON LEE: I don't have that.</p> <p>21 MARTIN GROSSMAN: Okay, I'm going to give you a copy</p> <p>22 to look at. And they issue that report to the Planning</p> <p>23 Board. The Planning Board then meets and after it completes</p> <p>24 its review, it sends the Hearing Examiner, in this case</p> <p>25 myself, a letter with their recommendations, both</p>	8	<p>1 witnesses as you may testify too. Will you all raise your</p> <p>2 right hands please? Do you swear or affirm to tell the</p> <p>3 truth, the whole truth and nothing but the truth under</p> <p>4 penalty of perjury?</p> <p>5 MILTON LEE: I do.</p> <p>6 FRANCISCO ROMERO: Yes sir.</p> <p>7 MARTIN GROSSMAN: Okay and we need an affidavit of</p> <p>8 posting. Perhaps you've already signed that. Let me see,</p> <p>9 usually my staff is ahead of me on this. Yes, in fact you</p> <p>10 have. And that's Exhibit 30 in the file. That's an</p> <p>11 affidavit that they had the notice sign posted for the</p> <p>12 required period of time. Okay, Ms. Flores, do you accept</p> <p>13 the conditions recommended by the technical staff and</p> <p>14 adopted with some modifications as they modified them by</p> <p>15 the Planning Board. Do you accept those conditions?</p> <p>16 LILIAN FLORES: Yes.</p> <p>17 MARTIN GROSSMAN: We usually add some other</p> <p>18 conditions. If you look at any of our past decisions in</p> <p>19 childcare cases, we add conditions which limit outside</p> <p>20 noise, no amplified music, required that the yard be kept</p> <p>21 clean on a daily basis and that children be escorted to the</p> <p>22 childcare and that they're not left alone and things like</p> <p>23 that that are often added to our cases. Okay, also do you</p> <p>24 accept technical staff's findings in Exhibit's 27 and 29?</p> <p>25 27 is the technical staff report which I handed to Mr. Lee.</p>

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3 (9 to 12)

<p style="text-align: right;">9</p> <p>1 And 29 is an exchange I had with technical staff over a 2 couple of things that I didn't see in the report. I 3 mentioned, I asked about whether there were any signs other 4 than the notice sign, any signs that you had posted about 5 your daycare and technical staff indicated you had no 6 signs. Is that correct? 7 LILIAN FLORES: Yes. 8 MARTIN GROSSMAN: Okay, and so I wanted to make sure 9 that, also I had a question about the size of the driveway 10 because the aerial photo in the technical staff report 11 showed a smaller driveway than the plan did and technical 12 staff indicated to me that it had been widened. So that's 13 in 29. So anyway, there are various findings made in the 14 technical staff report. Do you accept those as part of your 15 evidence in this case? 16 LILIAN FLORES: Yes. 17 MARTIN GROSSMAN: You have to speak up so the court 18 reporter can take that down. Okay do you have any other 19 preliminary or procedural matters that you want to discuss 20 before I let you make your case? Do you have anything else 21 that you want to say? 22 LILIAN FLORES: No. 23 MARTIN GROSSMAN: No? Okay, alright. Okay let me turn 24 to you Mr. Lee in terms of procedural or preliminary 25 matters. Do you have anything that you want to mention at</p>	<p style="text-align: right;">11</p> <p>1 upset because she say she cannot afford to pay the 2 (inaudible) for the kids (inaudible). It's more higher 3 priced than what I do and so it's kind of sad to see those, 4 a lot of people need it, need to work and then they bring 5 somebody to take care of their children and all my 6 neighborhood, most of them, they offer me if I need 7 (inaudible), but some of them, the one next to me, she said 8 (inaudible). 9 MARTIN GROSSMAN: That's a form of what we call 10 hearsay and generally speaking we can't accept some hearsay 11 in this type of proceeding. Hearsay is information that was 12 uttered outside of the hearing room that you offer to prove 13 the truth of what was asserted. So what your neighbor said 14 to you really shouldn't be admitted here unless your 15 neighbor is here to testify. 16 LILIAN FLORES: Oh ok. Yes I made a mistake. I didn't- 17 MARTIN GROSSMAN: If you send in the letters, we 18 accept letters here, if they've sent them in already. I 19 think you- 20 LILIAN FLORES: Yeah, I sent some letters but 21 MARTIN GROSSMAN: And we take the- 22 LILIAN FLORES: I would say are you, (inaudible), they 23 so happy now to, I have (inaudible)- 24 MARTIN GROSSMAN: Letters that are signed, letters 25 that are submitted are considered, and people who send us</p>
<p style="text-align: right;">10</p> <p>1 this time, of that nature? I'm going to give you the 2 opportunity to testify after the- 3 MILTON LEE: Oh, I know. 4 MARTIN GROSSMAN: Alright then, why don't we start 5 out, Ms. Flores do you want to put on any evidence? Do you 6 wish to testify about what you want to do and- 7 LILIAN FLORES: Yes. Yes. The first year I opened my 8 day care I had to only allow four and people from my 9 neighborhood, they were calling me about they want to, 10 vacant for children (inaudible) help them because all the 11 things are full. So my husband and I start to research how 12 we can increase the number of children in my daycare. We 13 find out we need a bigger space so we put the addition to 14 our house and we didn't know we have to get the conditional 15 use so we send the application to the office and then they 16 say you need to do this one and they explain me. And then 17 after, so now on here I want to follow all of the 18 recommendations. (inaudible) a lot of family like 19 (inaudible) feel so bad because one of my neighbors is very 20 close and when she wants to, her daughter have a baby, 21 she's sixteen year and then she had to back to school next 22 Monday and she didn't have, I don't have a space for her. I 23 wish I could help her and I say I'm sorry because she had 24 been waiting since she was pregnant and I say I still don't 25 have any space (inaudible) for your baby. So she was pretty</p>	<p style="text-align: right;">12</p> <p>1 letters are considered participants. They're not parties of 2 record in the case unless they come and testify or 3 otherwise are proved as parties of record. Mr. Lee will be 4 a party of record in this case because he's come here to 5 participate in the hearing. But in any event we do consider 6 them. They're not given as much weight as witness who come 7 and are subject to cross examination. Now you understand 8 that this is a Zoning matter that we are discussing today. 9 That is, we're concerned with effects on the neighborhood 10 and that sort of thing. The actual governance of your day 11 to day operations, that sort of thing, is governed by state 12 law. You understand you have to have, be certified by the 13 state and meet any regulations they have for the care of 14 children. 15 FRANCISCO ROMERO: Yes. 16 MARTIN GROSSMAN: You have to answer so that the- 17 LILIAN FLORES: Yes. 18 MARTIN GROSSMAN: Okay, alright. Let me turn to your 19 site plan, which is Exhibit 10 in this case. And you filed 20 a diagram of your home and backyard labeled as Exhibit 10 21 in this case. Does that fairly describe the situation today 22 in your, at your home and on your property? 23 LILIAN FLORES: Yes. 24 MARTIN GROSSMAN: On your site home? Okay, alright, I 25 believe they're also photographs and we'll look at Exhibit</p>

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4 (13 to 16)

13	<p>1 17. And these are exhibits that you filed. Did you take</p> <p>2 these photographs?</p> <p>3 LILIAN FLORES: Yes.</p> <p>4 MARTIN GROSSMAN: Exhibit 17?</p> <p>5 LILIAN FLORES: Yes.</p> <p>6 MARTIN GROSSMAN: And when did you take these</p> <p>7 photographs, approximately?</p> <p>8 LILIAN FLORES: The day before I (inaudible) the</p> <p>9 application.</p> <p>10 MILTON LEE: Just before you filed the application?</p> <p>11 LILIAN FLORES: Yes.</p> <p>12 MARTIN GROSSMAN: Okay. So that would have been, you</p> <p>13 filed this in November of 2016 so approximately then?</p> <p>14 LILIAN FLORES: Yes.</p> <p>15 MARTIN GROSSMAN: And do they accurately represent</p> <p>16 your property?</p> <p>17 LILIAN FLORES: Yes.</p> <p>18 MARTIN GROSSMAN: Okay. So the first page of Exhibit</p> <p>19 17, there were two photographs and the top one says front</p> <p>20 stairs where the children enter. So that's, this depicts</p> <p>21 where the children enter the daycare?</p> <p>22 LILIAN FLORES: Yes.</p> <p>23 MARTIN GROSSMAN: And then the bottom photograph says</p> <p>24 front door access for kids and parents. Is that the same</p> <p>25 door?</p>	15
14	<p>1 LILIAN FLORES: Yes.</p> <p>2 MARTIN GROSSMAN: Okay, so that's a different view of</p> <p>3 the same door. And then you have, on the second page of</p> <p>4 that exhibit it says, fenced playground. And that I take it</p> <p>5 is the play area that you have and there's a fence there</p> <p>6 but that's going to be replaced with board on board fence?</p> <p>7 LILIAN FLORES: Yeah, I already replaced.</p> <p>8 MARTIN GROSSMAN: You already replaced it?</p> <p>9 LILIAN FLORES: Yes.</p> <p>10 MARTIN GROSSMAN: So it's not photographed here, the</p> <p>11 replacement?</p> <p>12 LILIAN FLORES: No.</p> <p>13 MARTIN GROSSMAN: Do you happen to have a photograph</p> <p>14 of it?</p> <p>15 LILIAN FLORES: No.</p> <p>16 MARTIN GROSSMAN: Alright, then the bottom one shows</p> <p>17 your driveway and parking for four cars. Is that correct?</p> <p>18 LILIAN FLORES: Yes.</p> <p>19 MARTIN GROSSMAN: And then on the last page there are</p> <p>20 two photographs. The top one of course, to show Littlejohn</p> <p>21 Street, parking for employees and parents. Is that correct,</p> <p>22 the top one?</p> <p>23 LILIAN FLORES: Yes.</p> <p>24 MARTIN GROSSMAN: And the bottom ones that shows</p> <p>25 Connecticut Avenue?</p>	16
	<p>1 LILIAN FLORES: Yes, yes, that's Connecticut Avenue.</p> <p>2 MARTIN GROSSMAN: Let me see if there are any</p> <p>3 additional, I think those same photographs are the ones</p> <p>4 that are attached to the Staff report. Okay, did you have</p> <p>5 anything else you wanted to add?</p> <p>6 LILIAN FLORES: No.</p> <p>7 MARTIN GROSSMAN: Mr. Romero, you've indicated, you</p> <p>8 filed a statement indicating that you consent to this</p> <p>9 application. Is that correct?</p> <p>10 FRANCISCO ROMERO: Yes I do.</p> <p>11 MARTIN GROSSMAN: Okay, is there anything else you</p> <p>12 want-</p> <p>13 FRANCISCO ROMERO: The only thing I can tell is that I</p> <p>14 support my wife on that project.</p> <p>15 MARTIN GROSSMAN: Alright, Mr. Lee did you wish to</p> <p>16 cross-examine these witnesses.</p> <p>17 MILTON LEE: Yes. So the paper that Mr. Grossman, or</p> <p>18 Judge Grossman had provided me, it indicated that the</p> <p>19 parking spaces were expanded to four. Is the purpose of the</p> <p>20 four parking spaces to accommodate parking for your</p> <p>21 clientele or is it for the residence of the home?</p> <p>22 FRANCISCO ROMERO: The only requirement-</p> <p>23 MARTIN GROSSMAN: Are you asking Ms. Flores?</p> <p>24 MILTON LEE: (inaudible) Ms. Flores.</p> <p>25 LILIAN FLORES: He can answer.</p>	

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5 (17 to 20)

<p>17</p> <p>1 Flores-</p> <p>2 MARTIN GROSSMAN: I'm going to let you do that in</p> <p>3 testimony in a second. First of all, do you have any other</p> <p>4 questions of them?</p> <p>5 MILTON LEE: Are there any additional, is there any</p> <p>6 additional signage that you're going to add just in order</p> <p>7 to direct your clientele, as far as where to go or where to</p> <p>8 park in general?</p> <p>9 FRANCISCO ROMERO: Not, I don't think that's required.</p> <p>10 MARTIN GROSSMAN: It's not required and if they post a</p> <p>11 sign they would have to get a sign permit and they can't</p> <p>12 post one in this case, without it being approved by my</p> <p>13 office. By me in this case or, and by getting a signed</p> <p>14 permit from the Department of Permitting Services. And it's</p> <p>15 limited for a residential area. A sign cannot be more than</p> <p>16 two square feet, unless they get a sign variance from the</p> <p>17 Department of Permitting Services sign board which probably</p> <p>18 wouldn't be granted in this kind of case. But in any event</p> <p>19 they have to ask for it and once again, we'd have to make a</p> <p>20 determination of compatibility here for that. They haven't</p> <p>21 asked for it and so it's not part of this approval.</p> <p>22 MILTON LEE: Gotcha. Thank you.</p> <p>23 MARTIN GROSSMAN: Alright, anything you wanted to-</p> <p>24 LILIAN FLORES: No.</p> <p>25 MARTIN GROSSMAN: Any redirect you wanted to do? Okay,</p>	<p>19</p> <p>1 MARTIN GROSSMAN: Okay. I'll need to respond to that</p> <p>2 briefly before you go on and that is, of course it's always</p> <p>3 a great thing to just talk to the neighbor like that.</p> <p>4 That's what you do and that's always the best way to</p> <p>5 approach these things but also when a conditional use is</p> <p>6 approved it then falls under the Department of Permitting</p> <p>7 Services to enforce it and they inspect every year. And</p> <p>8 also, if there are complaints you can file a complaint</p> <p>9 either with them or with my office, if there is a violation</p> <p>10 of a condition of the conditional use and that will be</p> <p>11 investigated by the Department of Permitting Services. If</p> <p>12 they uphold it and it's not corrected, there can be a</p> <p>13 hearing and the conditional use can be revoked. So there is</p> <p>14 an enforcement process and a process for you to file any</p> <p>15 complaints that you might have.</p> <p>16 MILTON LEE: Okay. And then the second element was,</p> <p>17 it's only a recommendation. Obviously it's not a</p> <p>18 requirement but just maybe purchase an extra trash</p> <p>19 receptacle because my wife, she's actually a Special Ed</p> <p>20 Content teacher herself, so I know, she obviously gets to</p> <p>21 see the materials that the kids use and she recognizes the</p> <p>22 materials and on a weekly basis when trash is picked up she</p> <p>23 and I, and it's also due to other debris that's flown</p> <p>24 around but myself, I have personally picked up items that</p> <p>25 are related to gummies, children's items. My wife</p>
<p>18</p> <p>1 Mr. Romero, anything you wanted to add?</p> <p>2 FRANCISCO ROMERO: No.</p> <p>3 MARTIN GROSSMAN: Let Mr. Lee then state whatever you</p> <p>4 wanted to state.</p> <p>5 MILTON LEE: Well the only thing, concerns that I had</p> <p>6 expressed to the Flores's was just that with the expansion</p> <p>7 in terms of the number of families I see are the papers</p> <p>8 that the drop off and pick-ups are staggered. However, in</p> <p>9 terms of the personal impact that my household has had,</p> <p>10 initially and I did approach Ms. Flores and she addressed</p> <p>11 it, to her defense. They had a previous client that on more</p> <p>12 than one occasion was parking not just in front of their</p> <p>13 house but on top of our property, on the grass.</p> <p>14 MARTIN GROSSMAN: Really?</p> <p>15 MILTON LEE: So that actually caused, the damaged that</p> <p>16 it causes where basically you have no growth and then,</p> <p>17 myself as a homeowner I have to spray weed killer and all</p> <p>18 of that stuff so I brought it to her attention and she did</p> <p>19 speak to the gentleman and he stopped parking there but</p> <p>20 with the residents that are in the household, I just wanted</p> <p>21 to insure that I had some kind of avenue for in the future</p> <p>22 maybe addressing anything if there are any issues with</p> <p>23 clientele doing, performing actions that obviously do have</p> <p>24 an impact on my household. I don't know about the other</p> <p>25 neighbors and their situation.</p>	<p>20</p> <p>1 (inaudible) had expressed to you. I know you're shaking</p> <p>2 your head but this Wednesday, my wife, when she was taking</p> <p>3 the trash, the same morning of (inaudible) our property</p> <p>4 from other homes, she actually witnessed when they dropped</p> <p>5 off the trash, just maybe due to it not being tied up</p> <p>6 appropriately or closed up, some of the trash falling out</p> <p>7 of the bags. So just those types of-, being honest.</p> <p>8 MARTIN GROSSMAN: I can actually-</p> <p>9 MILTON LEE: But that's just a request. I'm not asking</p> <p>10 that you not approve their permit. I'm just asking for that</p> <p>11 consideration, that's all. And I wanted it on record.</p> <p>12 MARTIN GROSSMAN: Okay, and actually, I can include a</p> <p>13 condition, which I suspect they would not object to, that</p> <p>14 says that there must be adequate trash receptacles and then</p> <p>15 trash properly secured from the use. Is that agreeable Ms.</p> <p>16 Flores?</p> <p>17 LILIAN FLORES: Yes. We do try to keep-</p> <p>18 MARTIN GROSSMAN: That makes it an enforceable</p> <p>19 condition which we can impose, which doesn't; I know all of</p> <p>20 these conditional uses always have conditions attached to</p> <p>21 protect the neighbors and so that it reduces the imposition</p> <p>22 on the neighborhood of any such activity, whether it's this</p> <p>23 kind of conditional use or others. And this would be just</p> <p>24 one of the conditions which would normally be expected for</p> <p>25 somebody to follow but it would be an enforceable condition</p>


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6 (21 to 24)

<p>21</p> <p>1 in the conditional use.</p> <p>2 MILTON LEE: Just as I do expect for there to be</p> <p>3 additional materials with the expansion, that's all.</p> <p>4 MARTIN GROSSMAN: Alright.</p> <p>5 FRANCISCO ROMERO: I have a question about that. We</p> <p>6 are trying to do all (inaudible). He was mentioning about</p> <p>7 the trash, people pick up the trash, had dropped some down</p> <p>8 there. I don't think there's much we can do with that or-</p> <p>9 MARTIN GROSSMAN: If the people picking it up dropped</p> <p>10 trash, I agree with you. No doubt about it. The only</p> <p>11 question is whether or not you're overwhelming the trash-</p> <p>12 MILTON LEE: Sometimes (inaudible) out of the bins</p> <p>13 because there isn't enough space.</p> <p>14 MARTIN GROSSMAN: Okay, and so that this is requiring.</p> <p>15 We're not going to, nobody is going to hold you responsible</p> <p>16 if the people picking up the trash drop a piece of trash.</p> <p>17 That would not be fair.</p> <p>18 FRANCISCO ROMERO: If it's something that I go, maybe</p> <p>19 not about the trash but I go (inaudible) if nobody, if it's</p> <p>20 one of our customer was violating the law about the parking</p> <p>21 stuff, because he mentioned that a customer parked on his</p> <p>22 property grass.</p> <p>23 MARTIN GROSSMAN: Yes.</p> <p>24 FRANCISCO ROMERO: I don't really think that should</p> <p>25 because nobody, but I think, well I don't know, I might be</p>	<p>23</p> <p>1 this grass.</p> <p>2 FRANCISCO ROMERO: So they were blocking the sidewalk?</p> <p>3 MILTON LEE: So two of the tires, no-</p> <p>4 MARTIN GROSSMAN: Not on the sidewalk.</p> <p>5 MILTON LEE: Two tires were on the street, two tires</p> <p>6 were on the grass.</p> <p>7 FRANCISCO ROMERO: Oh okay. Okay.</p> <p>8 MARTIN GROSSMAN: I think sometimes on those types of</p> <p>9 curbs, you see those, because it's angled different and</p> <p>10 it's easy to roll up on that-</p> <p>11 LILIAN FLORES: That happened two years ago and I</p> <p>12 talked to my customer. I didn't see. He comes to talk to me</p> <p>13 so I talked to my customer and he didn't park anymore in</p> <p>14 front, anymore.</p> <p>15 FRANCISCO ROMERO: There are, I think the police were</p> <p>16 in contact because he asked if anybody (inaudible). We do</p> <p>17 our part.</p> <p>18 MARTIN GROSSMAN: Right.</p> <p>19 FRANCISCO ROMERO: We do our part but in this case, if</p> <p>20 I park on your property, I probably, somebody is supposed</p> <p>21 to apply the law.</p> <p>22 MARTIN GROSSMAN: That's true, but on the other hand</p> <p>23 you're bringing-, (inaudible), when you're operating a</p> <p>24 business in a residential community, you are responsible</p> <p>25 for doing what you can to lessen the impact on the</p>
<p>22</p> <p>1 mistaken but I believe in the neighborhood, the curb, they</p> <p>2 have the city grass or whatever that space is called. I was</p> <p>3 trying to Google that. It says it's called (inaudible) or</p> <p>4 city grass.</p> <p>5 MARTIN GROSSMAN: And this is on Littlejohn, you're</p> <p>6 talking about?</p> <p>7 FRANCISCO ROMERO: Littlejohn Street, and then this</p> <p>8 sidewalk into his property? That drive would have to be</p> <p>9 blocking the whole sidewalk.</p> <p>10 MILTON LEE: No, no. I'm not saying they were on the</p> <p>11 driveway. I'm saying that they were on the street parked.</p> <p>12 That their tires, instead of being parked on the street,</p> <p>13 their tires were onto the grass.</p> <p>14 FRANCISCO ROMERO: City grass or whatever they call</p> <p>15 it-</p> <p>16 MILTON LEE: That's still part of my property. Maybe</p> <p>17 I'm mistaken.</p> <p>18 FRANCISCO ROMERO: I don't think it's-</p> <p>19 MARTIN GROSSMAN: Perhaps Mr. Lee, could you come up</p> <p>20 and show me on this photograph, which is on the third page</p> <p>21 of the Exhibit 17. This is your house?</p> <p>22 MILTON LEE: This is my house and they were actually</p> <p>23 parked on this grass.</p> <p>24 MARTIN GROSSMAN: I see. Okay. So, Mr. Lee is saying</p> <p>25 that this is his property and they were actually parked on</p>	<p>24</p> <p>1 neighbors. I take it that in this photograph, the top</p> <p>2 photograph on the third page of Exhibit 17, your home is</p> <p>3 the one depicted with the wall. Is that correct? Do you</p> <p>4 want to come up and see it, so you can see it? I take it,</p> <p>5 Mr. Lee, you're directly-</p> <p>6 MILTON LEE: Directly across-</p> <p>7 MARTIN GROSSMAN: Why don't we call it confronting</p> <p>8 neighbor? Okay, so this is your property, on this side? Is</p> <p>9 that correct?</p> <p>10 FRANCISCO ROMERO: Yeah, that's correct.</p> <p>11 MARTIN GROSSMAN: I'm going to, if nobody objects, I'm</p> <p>12 going to label that. I'm going to say, pointing to Flores-</p> <p>13 Romero property. Put an arrow and then I'm going to do</p> <p>14 likewise over here saying Lee property so then that's clear</p> <p>15 and graphic. Okay, who wants to see that, just had written</p> <p>16 that on that photograph so that we'll know where the</p> <p>17 properties are at. Alright, is there anything else that</p> <p>18 anybody-</p> <p>19 MILTON LEE: (inaudible)</p> <p>20 MARTIN GROSSMAN: Okay, and let me just explain about</p> <p>21 the procedure from here on. We'll keep the record open for</p> <p>22 ten days to get the transcript in. As I said it will be, it</p> <p>23 will be posted on our website. I have thirty days under the</p> <p>24 Zoning Ordinance to write up a report and (inaudible) and I</p> <p>25 almost always keep within that deadline although I have the</p>

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<p>25</p> <p>1 power to extend it. And after that a notice will be sent 2 out. A notice will be sent to you and a notice will be sent 3 to you, Mr. Lee, that the decision has been rendered and 4 the full decision, it will list, if it's granted it will 5 also list any conditions that are imposed and it will 6 reference our website and a full decision will be on our 7 website as well. And then if anybody wishes to appeal to 8 the Board of Appeals you have ten days to do that and there 9 can be a cross-appeal in five days after that. The sign 10 should remain posted during this whole period of time. Not 11 until the case is over do you take it down. Okay, are there 12 any other questions? Alright I take it we have thus far, we 13 have Exhibits, we have Exhibits 1 – 30 that have been 14 lodged and I take it you want all those exhibits admitted 15 into evidence?</p> <p>16 LILIAN FLORES: (inaudible) 17 FRANCISCO ROMERO: (inaudible) 18 MARTIN GROSSMAN: As a formality that, these that are 19 already filed with us are not in evidence in the case 20 unless we admit them into evidence. And so traditionally at 21 the end of the hearing we admit into evidence all of the 22 exhibits unless there's an objection and then we, we look 23 into the objection. So these are the exhibits that we'll 24 file. All the things you filed, the Technical Staff Report, 25 the Planning Board letter, my exchange with the Technical</p>	<p>27</p> <p>1 CERTIFICATE OF TRANSCRIBER 2 I, Susan Wilson, do hereby certify that 3 the foregoing transcript is a true and correct record 4 of the recorded proceedings; that said proceedings were 5 transcribed to the best of my ability from the audio 6 recording as provided; and that I am neither counsel 7 for, related to, nor employed by any of the parties to 8 this case and have no interest, financial or otherwise, 9 in its outcome.</p> <p>10 11 12 13  14 _____ 15 SUSAN WILSON</p> <p>16 17 18 19 20 21 22 23 24 25</p>
<p>26</p> <p>1 Staff, all of that and the Affidavit of Posting, all of 2 those would be exhibits admitted into the record. Is that 3 agreeable?</p> <p>4 LILIAN FLORES: Yes. 5 MARTIN GROSSMAN: Okay. Alright, so all of the 6 exhibits are admitted, exhibits 1-30, and their sub-parts. 7 Okay, is there anything else that we need to address? 8 MILTON LEE: No sir. 9 MARTIN GROSSMAN: Alright, then I'll take a quick look 10 at my-, the record will close, today is the 10th. Let's see 11 what the 20th of March is. I'll get my calendar out here. I 12 used to keep a calendar on this desk. I don't suppose that 13 was too good of an idea because it's not here anymore. 14 Alright, so the record will close on March 20, 2017. 15 Alright, if nothing further then we are adjourned. Thank 16 you all and thank you Mr. Lee for coming down. It's always 17 better when the neighbors come down and share their 18 concerns so that we can address them in conditions in the 19 conditional use. Thank you Mr. Romero and Ms. Flores.</p> <p>20 21 22 23 24 25</p>	