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Transcript of Hearing

Date: March 20, 2017

Case: Smart Kids Bilingual Group Daycare, In Re:

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<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 SMART KIDS BILINGUAL : Case No. CU 17-10</p> <p>6 GROUP DAYCARE :</p> <p>7 -----x</p> <p>8</p> <p>9 HEARING</p> <p>10 Before Hearing Examiner Lynn A. Robenson</p> <p>11 Rockville, Maryland</p> <p>12 Monday, March 20, 2017</p> <p>13 9:50 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: 139272</p> <p>24 Pages: 1 - 45</p> <p>25 Transcribed by: Susan Wilson</p>	<p>1 P R O C E E D I N G S</p> <p>2</p> <p>3 LYNN ROBESON: Can someone make sure all those lights</p> <p>4 are- There you go. Thank you very much. Is the court</p> <p>5 reporter ready? Ok. I am calling the case of CU 17-10</p> <p>6 Damaris Tovar, an application for a group daycare called</p> <p>7 Smart Kids Bilingual Learning Center at 6015 Johnson</p> <p>8 Avenue, Bethesda Maryland. Would you please identify</p> <p>9 yourselves for the record?</p> <p>10 DAMARIS TOVAR: My name is Damaris Tovar one of the</p> <p>11 owners of Smart Kids.</p> <p>12 JUAN CARLOS GARZON: I am the other owner of Smart</p> <p>13 Kids Bilingual Daycare.</p> <p>14 LYNN ROBESON: Ok. Alright. Now, just a couple of</p> <p>15 things about this. Is there anyone else that wants to</p> <p>16 testify that- Yes sir?</p> <p>17 ETAI NEUMAN: I do. So I am the neighbor. I live</p> <p>18 across the street and I would like to speak on behalf.</p> <p>19 LYNN ROBESON: Ok. Well, why don't you come up and</p> <p>20 give me your name and address for the record.</p> <p>21 ETAI NEUMAN: Sure. Etaí Neuman. Do you need me to</p> <p>22 spell that?</p> <p>23 LYNN ROBESON: Yes I do. For the court reporter's</p> <p>24 benefit and mine.</p> <p>25 ETAI NEUMAN: Sure, E-T-A-I. Last name is Neuman, N-E-</p>
<p>1 C O N T E N T S</p> <p>2 PAGE</p> <p>3 TESTIMONY OF DAMARIS TOVAR 5</p> <p>4 TESTIMONY OF JUAN CARLOS GARZON 8</p> <p>5 TESTIMONY OF ETAI NEUMAN 13</p> <p>6 ADDITIONAL TESTIMONY OF JUAN CARLOS GARZON 32</p> <p>7 ADDITIONAL TESTIMONY OF DAMARIS TOVAR 33</p> <p>8 ADDITIONAL TESTIMONY OF ETAI NEUMAN 35</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>1 U-M-A-N. I live at 6016 Johnson Avenue, Bethesda Maryland</p> <p>2 20817. So, I am directly across the street.</p> <p>3 LYNN ROBESON: Ok. Then a few things about the</p> <p>4 hearing. It is an informal hearing. My name is Lynn</p> <p>5 Robeson. I am the hearing examiner. I am going to be taking</p> <p>6 all the evidence and testimony in the case. So whatever you</p> <p>7 have to say I will issue, I have 30 days after the close of</p> <p>8 the record to issue a decision. If you disagree with my</p> <p>9 decision you have the right to request oral argument before</p> <p>10 the Board of Appeals within 10 days of the decision. A word</p> <p>11 about the oral argument before the Board of Appeals, they</p> <p>12 don't take any testimony. What we do is do a transcript of</p> <p>13 what happens here and all the evidence that you submit and</p> <p>14 the testimony. So, whatever you have to say you have to say</p> <p>15 it here because this is the evidence taking time. The</p> <p>16 hearing is informal but it does have certain due process</p> <p>17 formalities, the testimonies are under oath and subject to</p> <p>18 cross examination. So, when you do cross examination it is</p> <p>19 just a time for questions. Each of you will get a chance to</p> <p>20 say what you want to say in your case in your direct</p> <p>21 testimony. Normally the order of proceeding is we hear from</p> <p>22 the applicant first. Then we hear from anyone else that</p> <p>23 wishes to testify and then you get a chance to respond. Ok?</p> <p>24 So, one thing I do, have you had a chance to read the staff</p> <p>25 report in this case?</p>

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<p>5</p> <p>1 DAMARIS TOVAR: Yes.</p> <p>2 LYNN ROBESON: And that is do you have any</p> <p>3 disagreement or do you think it is inaccurate in anyway?</p> <p>4 DAMARIS TOVAR: No.</p> <p>5 JUAN CARLOS GARZON: No.</p> <p>6 LYNN ROBESON: Ok. Do you wish to- Just one at a time.</p> <p>7 So we are going to start with Ms. Tovar first.</p> <p>8 DAMARIS TOVAR: Ok.</p> <p>9 LYNN ROBESON: Do you want to adopt it as your own</p> <p>10 testimony? Because it covers all the conditions and the</p> <p>11 requirements and do you agree to the conditions of</p> <p>12 approval?</p> <p>13 DAMARIS TOVAR: Yes. (inaudible)</p> <p>14 LYNN ROBESON: Ok. Now I will get to that in a moment.</p> <p>15 Is there anything that and you submitted some exhibits</p> <p>16 including a site plan which is 17, landscape plan.</p> <p>17 DAMARIS TOVAR: Yes.</p> <p>18 LYNN ROBESON: Do those still fairly and accurately</p> <p>19 depict what is on the property as of today?</p> <p>20 DAMARIS TOVAR: Yes.</p> <p>21 LYNN ROBESON: Ok. You know I forgot to swear you in.</p> <p>22 I apologize. I am still- I look down at my gas tank to get</p> <p>23 to this hearing and I realized it was empty. So I</p> <p>24 apologize. So anyway, please raise your right hand. Raise</p> <p>25 your right hand. Do you solemnly affirm under penalties of</p>	<p>7</p> <p>1 LYNN ROBESON: Ok.</p> <p>2 DAMARIS TOVAR: So that is why we decide to apply for</p> <p>3 the conditional use. We also have a video that we made the</p> <p>4 parents who are supporting in the video. So, we want to</p> <p>5 know if we can show the video to you?</p> <p>6 LYNN ROBESON: Yes you may but, I have, before we see</p> <p>7 the video how long is the video?</p> <p>8 DAMARIS TOVAR: It is going to be 5 minutes, 4</p> <p>9 minutes. It is really small.</p> <p>10 LYNN ROBESON: I have a question. I don't quite</p> <p>11 understand, you don't own the property. Do you lease the</p> <p>12 property?</p> <p>13 DAMARIS TOVAR: We are leasing the property and we</p> <p>14 have a authorization letter of near of the house that he</p> <p>15 allow us.</p> <p>16 LYNN ROBESON: That is Mr. Garzon?</p> <p>17 DAMARIS TOVAR: No. He is not here.</p> <p>18 LYNN ROBESON: Ok. So you have authorization from Mr.</p> <p>19 Garzon to operate the use?</p> <p>20 DAMARIS TOVAR: No. The landlord of the house is</p> <p>21 another person. So he give us a authorization letter.</p> <p>22 LYNN ROBESON: Letter, ok.</p> <p>23 DAMARIS TOVAR: We know there are to continue, I mean</p> <p>24 to start the conditional use process. Mr. Garzon is my</p> <p>25 coworker. So we decide to open the business (inaudible)</p>
<p>6</p> <p>1 perjury that the statements you are about to make are the</p> <p>2 truth, the whole truth, and nothing but the truth?</p> <p>3 DAMARIS TOVAR: Yes.</p> <p>4 LYNN ROBESON: And does that apply to the testimony</p> <p>5 you just gave?</p> <p>6 DAMARIS TOVAR: Yes.</p> <p>7 LYNN ROBESON: Ok. Is there anything that you would</p> <p>8 like to add about- is there anything you would like to say</p> <p>9 about to add to the staff report?</p> <p>10 DAMARIS TOVAR: Actually, I already got into the</p> <p>11 (inaudible) with the department of planning. We got into</p> <p>12 their conditions they gave us. We are actively all of their</p> <p>13 recommendations they gave us. Their reason because we</p> <p>14 decide to do the condition I use is because we just have</p> <p>15 one year with our business. We start the business on August</p> <p>16 2015 and we have full capacity now and we are receiving</p> <p>17 calls (inaudible) requesting for our service and also some</p> <p>18 of the parents they are, some of the moms they are</p> <p>19 pregnant. So they are asking from us for more spots.</p> <p>20 LYNN ROBESON: Siblings to come in?</p> <p>21 DAMARIS TOVAR: Yes. So that is why we are requesting</p> <p>22 this condition and actually this part, we are now we have 8</p> <p>23 children. We are going to have 12 children but most of the</p> <p>24 children that are coming are siblings of the children that</p> <p>25 we already have.</p>	<p>8</p> <p>1 LYNN ROBESON: Does he, do you own the business?</p> <p>2 JUAN CARLOS GARZON: We are co-owners.</p> <p>3 LYNN ROBESON: Ok. I see. And did you bring a letter</p> <p>4 today saying that, well Mr. Garzon as co-owner you are not,</p> <p>5 are you willing to abide by all the conditions of approval</p> <p>6 of this- Well let me swear you in. Please raise your right</p> <p>7 hand. Do you solemnly affirm under penalties of perjury</p> <p>8 that the statements that you are about to make are the</p> <p>9 truth, the whole truth, and nothing but the truth?</p> <p>10 JUAN CARLOS GARZON: Yes.</p> <p>11 LYNN ROBESON: Ok. So you are a co-owner of the</p> <p>12 business. Now who lives in the house? That is what I am</p> <p>13 getting confused.</p> <p>14 DAMARIS TOVAR: Me. I am living in the house.</p> <p>15 LYNN ROBESON: You are the resident?</p> <p>16 DAMARIS TOVAR: Yes.</p> <p>17 LYNN ROBESON: And you are the only resident?</p> <p>18 DAMARIS TOVAR: Yes.</p> <p>19 LYNN ROBESON: Ok. Alright. Ok. Now Mr. Garzon is</p> <p>20 there anything you want to add to what Ms. Tovar said?</p> <p>21 JUAN CARLOS GARZON: Oh well, Ms. Tovar explained what</p> <p>22 is the proposed to expand the daycare. So they are this</p> <p>23 because the new plan is we have now is some is our friend.</p> <p>24 So in this case it is for the license. It is better to try</p> <p>25 to expand this place to keeping the children there because</p>

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3 (9 to 12)

<p>9</p> <p>1 we are working with the child for years. So we feel 2 comfortable. The parents feel comfortable. They are happy 3 in our daycare. So we are asking for another space. So we 4 don't have space. That is the reason we try to this 5 process. 6 LYNN ROBESON: Ok. Now let me ask you a question about 7 the video. Do you have a hardcopy of the video? Do you have 8 a cd? 9 JUAN CARLOS GARZON: I have this in car. 10 LYNN ROBESON: Ok. Unfortunately we can't take that 11 into evidence because we don't have the capability of 12 reproducing that on the record. Now, if you wish to print 13 out I don't know if you can but we can't, it has to be in 14 some kind of format that the board of appeals if they had 15 any questions they could read. So we can't take it in and I 16 know you- 17 JUAN CARLOS GARZON: I understand. The other 18 (inaudible) is to show you the location because it is very 19 difficult to talk about some place, you don't know that 20 place, and you don't have idea of that place. (inaudible) 21 LYNN ROBESON: Yes. 22 DAMARIS TOVAR: The other thing is like I mean some 23 parents we are giving some support. So we already give on 24 the applications some letters. 25 LYNN ROBESON: I saw them.</p>	<p>11</p> <p>1 look at the plans and your pictures. So I certainly 2 appreciate your efforts. Alright, with that we are going to 3 move- Oh Mr. Neuman do you have any questions? Just 4 questions not time for your testimony. 5 ETAI NEUMAN: Sure. How long is your lease? 6 DAMARIS TOVAR: Actually, we have an open lease. 7 LYNN ROBESON: What? I am sorry. 8 DAMARIS TOVAR: I mean our lease is no like have no 9 specific time. We were leasing for the first time and now 10 with the landlord we have an open lease. 11 LYNN ROBESON: Ok. Was your initial lease for a year? 12 DAMARIS TOVAR: One year. 13 LYNN ROBESON: So now you are month to month? 14 DAMARIS TOVAR: Yes. 15 LYNN ROBESON: Ok. Any other questions Mr. Neuman? 16 ETAI NEUMAN: Yeah. Do you guys give your customers 17 any instructions about where to park when they drop off the 18 children? 19 DAMARIS TOVAR: Yeah and actually sorry for that but 20 we were telling them like a lot of times that they do not 21 need to park in your place. Because usually we give them 22 our newsletter every month and on the newsletter we put 23 that we have some specific parking spaces for the daycare 24 and I mean so parents they are like- So I am sorry for 25 that.</p>
<p>10</p> <p>1 DAMARIS TOVAR: So I think this is going to support 2 the letters. So I just want to show you the video because 3 we are showing you the place where it is (inaudible) now. 4 So that is why. 5 LYNN ROBESON: Ok. I just can't- because we are more 6 formal then the planning board, we have to have everything 7 that we discuss and all evidence in some kind of format in 8 the record that if this got appealed to the board of 9 appeals they would have it and that is the issue. So 10 unfortunately I can't accept it. If it was on a cd drive or 11 something like that we could take the cd drive in but I 12 can't do the sim card. Anything else you would like to add 13 and then we are going to hear from Mr. Neuman? 14 DAMARIS TOVAR: No. Actually that is where we didn't 15 just decide to do the conditional use. I mean I don't know 16 if you know but the license that we have for the daycare is 17 provided by the department of locations. So we are just 18 approved to have 8 children. So that is why we are applying 19 for the conditional use because we need to receive 20 authorization for them and they were asking us, I mean in 21 order to have 12 children we need to start the process we 22 need that conditional use. So that is why we are applying 23 now. 24 LYNN ROBESON: Ok. Thank you very much and I would 25 love to see the video. I am sure it is very good. I did</p>	<p>12</p> <p>1 LYNN ROBESON: I think I anticipate what your 2 testimony is going to be. Ok. Anything else? 3 ETAI NEUMAN: No. I think that is it. 4 LYNN ROBESON: Ok. Do you have anything to say in 5 response to his questions? 6 DAMARIS TOVAR: I mean we were thinking their reason 7 why he decided to come to the hearing because I mean 8 sometimes the parents are parking in front of his house. So 9 actually as I was telling him and I am going to tell you, 10 we have our newsletter where we explain to the parents what 11 is happening on our place every month and also on the 12 website we are telling them and when we gave them a letter 13 saying that we have a specific spaces for parking. I mean 14 we have in front of the house and also we have the 15 driveway. 16 LYNN ROBESON: You are not using technically the 17 driveway is for your residence and as I read your proposal- 18 Well let me do this. Let me hear from Mr. Neuman and but it 19 is not good enough to say we tell them to do it if they are 20 not listening to you. I mean you got to figure out a way 21 that they are not going to park there. So you think about 22 that and then we are going to hear from Mr. Neuman. Ok Mr. 23 Neuman, go ahead. 24 ETAI NEUMAN: Ok. 25 LYNN ROBESON: Raise your right hand.</p>

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4 (13 to 16)

13	<p>1 ETAI NEUMAN: I need to do it either way. I don't</p> <p>2 remember.</p> <p>3 LYNN ROBESON: Do you solemnly affirm under penalties</p> <p>4 of perjury that the statements that you are about to make</p> <p>5 are the truth, the whole truth, and nothing but the truth?</p> <p>6 ETAI NEUMAN: I do.</p> <p>7 LYNN ROBESON: Ok. Go ahead.</p> <p>8 ETAI NEUMAN: Ok. So I wasn't sure what we needed to</p> <p>9 bring here. So I don't have pictures. I am assuming they</p> <p>10 have pictures of the site and the location. The location of</p> <p>11 where the two houses are, my house and their place is right</p> <p>12 on the corner of Ewing and Johnson.</p> <p>13 LYNN ROBESON: Ok. Let me just do this, I have so just</p> <p>14 so I understand-</p> <p>15 ETAI NEUMAN: I just want to explain the street</p> <p>16 because I think there are some dynamics about the street</p> <p>17 that I think would help explain some of my testimony.</p> <p>18 LYNN ROBESON: Ok. Hold on one second. I am just</p> <p>19 trying to get- There is a map in here. Here is a map. If</p> <p>20 you could all approach please. I am showing you exhibit 27</p> <p>21 which is the staff report page 10. Can you mark where your</p> <p>22 house is in relation to- Ok. So just put an X there.</p> <p>23 ETAI NEUMAN: This is my house. That is the daycare</p> <p>24 center. This is marked as the middle school.</p> <p>25 LYNN ROBESON: Alright. That is marked on the map.</p>	15
14	<p>1 ETAI NEUMAN: So, Ewing is a major thoroughfare. There</p> <p>2 are a lot of cars go by and so is Johnson. So all of</p> <p>3 these, all the busses, all the elementary school busses and</p> <p>4 all the middle school busses. So the middle school busses</p> <p>5 go right through here in the morning.</p> <p>6 LYNN ROBESON: When you say go right through here the</p> <p>7 transport doesn't know where-</p> <p>8 ETAI NEUMAN: I am sorry. Ok. I am sorry.</p> <p>9 LYNN ROBESON: It goes through- The busses-</p> <p>10 ETAI NEUMAN: So Johnson is a major thoroughfare for</p> <p>11 the middle school because Johnson is the entrance that all</p> <p>12 of the busses go through when they drop off all of the kids</p> <p>13 in the parking lot for North Bethesda Middle School. So</p> <p>14 anyone who takes a school bus it goes through Johnson or up</p> <p>15 Ewing and then goes in the street.</p> <p>16 LYNN ROBESON: It goes South on Ewing and then right-</p> <p>17 ETAI NEUMAN: Right but most of them come down</p> <p>18 Johnson. It is convenient and come off because there is a</p> <p>19 lot of feeder streets that come in there.</p> <p>20 LYNN ROBESON: Ok.</p> <p>21 ETAI NEUMAN: And the same thing with- My daughter</p> <p>22 actually goes to Wyngate. So Wyngate busses they are after,</p> <p>23 a lot of them come through Johnson and make a right on</p> <p>24 Ewing and head over to Wyngate.</p> <p>25 LYNN ROBESON: Ok. Wyngate-</p>	16
	<p>1 ETAI NEUMAN: Wyngate Elementary. I am sorry. The</p> <p>2 reason I made this point is that this is already a crowded</p> <p>3 street and I think the fact that they have people parking,</p> <p>4 getting out of the car. So people do not park in their</p> <p>5 driveway. I would be very happy if they could find a</p> <p>6 solution where somebody like if they created a circular</p> <p>7 driveway or some kind of drop-off point but what happens</p> <p>8 now is people park on the street. It is already a very</p> <p>9 crowded street. They get out of their car and most of the</p> <p>10 drop-offs are right around this school time. So most of</p> <p>11 their drop-offs are between 7 and 8:30.</p> <p>12 LYNN ROBESON: When are the school times? Is that the</p> <p>13 same peak of the school in your opinion?</p> <p>14 ETAI NEUMAN: Yes. So the busses- So school- I know</p> <p>15 that Wyngate starts at around 8:50. I usually drop my</p> <p>16 daughter off around 8:40. So the busses are coming a little</p> <p>17 bit before then and North Bethesda is about half an hour to</p> <p>18 45 minutes before that.</p> <p>19 LYNN ROBESON: Ok. Now you can take your- You can go</p> <p>20 back and sit.</p> <p>21 ETAI NEUMAN: So, I mean they have two cars that are</p> <p>22 almost always in their driveway. I don't know who lives at</p> <p>23 this residence. I have never really spoken to them. So they</p> <p>24 claim that only one of them lives there but there is always</p> <p>25 two cars in their driveway. They have a small driveway</p>	

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5 (17 to 20)

<p>17</p> <p>1 of the staff report.</p> <p>2 ETAI NEUMAN: I don't and I am sorry, who is staff or</p> <p>3 what is staff?</p> <p>4 LYNN ROBESON: Staff is the Montgomery County Planning</p> <p>5 Department.</p> <p>6 ETAI NEUMAN: Ok.</p> <p>7 LYNN ROBESON: And if you could or let me do this let</p> <p>8 me get you a copy because you are going to look- They have</p> <p>9 a number of conditions of approval that are designed to</p> <p>10 address some of your concerns and what I want to know is</p> <p>11 if I want you to look at them and I would also like to see</p> <p>12 how are we going to- We got to find a way to make sure that</p> <p>13 people are parking where they should be parking. So if we</p> <p>14 are going to go off the record for five minutes so that I</p> <p>15 can get you a copy and give you a chance to read it. The</p> <p>16 conditions of approval are on page 2. Ok? So let me- We</p> <p>17 will go off the record for five minutes and I will have a</p> <p>18 copy of this made so that you- Ok, we are back on the</p> <p>19 record. Mr. Neuman if you look at page 2 what staff is</p> <p>20 suggesting is a staggered drop-off time and that they have</p> <p>21 no more than five cars within certain periods of time. I</p> <p>22 guess my question when I read this is how are you going to</p> <p>23 enforce that. They say you must enter into an agreement but</p> <p>24 it doesn't say what happens if they don't obey. Now what I</p> <p>25 can say is this, instead of I can say you must enter into</p>	<p>19</p> <p>1 So we don't have children come in between 8 to 8:30.</p> <p>2 LYNN ROBESON: Well, would you have an issue if I put</p> <p>3 a condition on that says no drop-offs between 8 and 8:30?</p> <p>4 DAMARIS TOVAR: No. I mean we can put that condition.</p> <p>5 Yes because of the time the parents are coming and even</p> <p>6 they are going to start to come in after 8:30. They start</p> <p>7 to come 8:45, 8:40. Sometimes the children arrive at 9.</p> <p>8 LYNN ROBESON: Mr. Neuman, now that you have seen the</p> <p>9 condition do you have any comments on it?</p> <p>10 ETAI NEUMAN: I do. So, a couple of things. Number 1)</p> <p>11 so also my driveway to get out of my driveway there is</p> <p>12 typically they have their customers or somebody parks right</p> <p>13 across from me which makes it very difficult and dangerous</p> <p>14 to come out of my driveway at times. So, imagine this, in</p> <p>15 the morning it is a busy street. There are cars that are</p> <p>16 dropping off their children to either for that hour and a</p> <p>17 half to either North Bethesda or Wyngate as they are coming</p> <p>18 down Johnson either going straight or turning onto Ewing. I</p> <p>19 then am trying to navigate between that and another car</p> <p>20 that is half the time parked or one of their customers that</p> <p>21 is parked and getting out of a car as I am trying to get</p> <p>22 out of my driveway. So I think that makes for a bit of an</p> <p>23 issue. I think that they don't have a drop-off plan that I</p> <p>24 think is in the best interest of the community. I think</p> <p>25 that somebody just parking on the street- If they had</p>
<p>18</p> <p>1 an agreement but I am also going to say that that is the</p> <p>2 way it has to be. This just requires you to enter into an</p> <p>3 agreement but it doesn't say what happens if you don't make</p> <p>4 the agreement.</p> <p>5 DAMARIS TOVAR: Ok. To that what we can do is like</p> <p>6 usually when the parents enroll a child we have a handbook</p> <p>7 and an agreement. So what we can do is like with this</p> <p>8 specific time for parking as a policy in the handbook and I</p> <p>9 mean one of the policies that we have in the handbook is</p> <p>10 that if they don't follow the policies we are going to</p> <p>11 finish the agreement with the parent. So what we are</p> <p>12 thinking we are going to (inaudible) to the park.</p> <p>13 LYNN ROBESON: Ok. So you are saying you are going to</p> <p>14 put in your contract with each parent that you can</p> <p>15 terminate them if they don't park in the right or come at</p> <p>16 the right time?</p> <p>17 DAMARIS TOVAR: Actually I mean, we have some policies</p> <p>18 not just this. I mean this one of the policies that we are</p> <p>19 going to add to the handbook and actually they know that if</p> <p>20 they don't follow some policies the agreement is going to</p> <p>21 end. So that is what we can do and actually regarding to</p> <p>22 the parking, what I know is the North Bethesda, you know</p> <p>23 the school they start at 8:30 and actually right now we</p> <p>24 have like two children or three children come in before 8</p> <p>25 AM and then the other children start to arrive after 8:30.</p>	<p>20</p> <p>1 somebody coming in the driveway-</p> <p>2 LYNN ROBESON: Are you saying that they are parking on</p> <p>3 your side of the street or you are saying you don't have</p> <p>4 enough room to come out?</p> <p>5 ETAI NEUMAN: I think it is both. So sometimes they</p> <p>6 park on my side of the street but sometimes they park on</p> <p>7 the other end which makes it tight to come out of the</p> <p>8 driveway.</p> <p>9 LYNN ROBESON: Do you want to respond to that?</p> <p>10 DAMARIS TOVAR: I get into that. Ok before he was</p> <p>11 saying that we have two cars parking on our driveway all</p> <p>12 the time that is not true. I mean my husband we have two</p> <p>13 cars and my husband is working all day long. So he is</p> <p>14 taking one car with him. Some of the parents they are</p> <p>15 parking on the driveway. Especially we have a parent who is</p> <p>16 parking almost all the time.</p> <p>17 LYNN ROBESON: A what?</p> <p>18 DAMARIS TOVAR: We have a parent.</p> <p>19 LYNN ROBESON: Yeah.</p> <p>20 DAMARIS TOVAR: He is parking sometimes on his side of</p> <p>21 the street but I think he is not taking more than 10</p> <p>22 minutes to park on there because usually they are parking</p> <p>23 in front of Johnson Avenue Street. We have like some stairs</p> <p>24 to getting to the front door. So usually they are parking</p> <p>25 there and we have like three cars they are parking almost</p>

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6 (21 to 24)

<p>21</p> <p>1 the three cars in that way of the street. 2 LYNN ROBESON: The three cars for what? 3 DAMARIS TOVAR: Let's say that three parents are 4 coming to pick up the children. 5 LYNN ROBESON: Yeah. 6 DAMARIS TOVAR: So the three parents are parking on 7 Johnson Street on our side of the street. So and as if I 8 honest with you, we just have one parent or one mom and she 9 is parking in front of his house. It is not in front of his 10 driveway. It is close to the driveway but it is not in 11 front of the driveway. 12 LYNN ROBESON: Ok but if you get this conditional use 13 they have to park where this says they are going to park. 14 DAMARIS TOVAR: Yeah. And I may what also can I add is 15 if we need to make a commitment with the parents where they 16 need to sign we are willing to do it. I mean we understand 17 it is his side of the street and we understand that 18 sometimes this is bothering for him because his house or- 19 LYNN ROBESON: Well he is saying that even when they 20 park on your side of the street he has trouble getting out. 21 JUAN CARLOS GARZON: The street is for three lines the 22 cars. His side are one maybe for go through. It is bigger 23 enough the street. Not one street is smaller than one line 24 car. 25 LYNN ROBESON: How wide is the street?</p>	<p>23</p> <p>1 DAMARIS TOVAR: Not two way, no. 2 JUAN CARLOS GARZON: No because to get that there is- 3 there can be there four lines. Like this case is three 4 lines. There is enough space. 5 LYNN ROBESON: No. Wait. I don't understand what you 6 are saying. 7 JUAN CARLOS GARZON: For four cars space enough. 8 LYNN ROBESON: Wait. Is it your testimony can two way 9 traffic pass with cars parked on both sides of the street? 10 DAMARIS TOVAR: One way, yes. Two ways, no. 11 LYNN ROBESON: Ok. 12 ETAI NEUMAN: I am also looking at this here and I 13 thought that they just gave testimony that they are both 14 co-owners of this business but now I see another person 15 Viviana Ocampo who I have no idea who that is, is also a 16 co-owner or claims to be a co-owner. 17 JUAN CARLOS GARZON: She is my wife. She is this 18 moment walking in the back. 19 LYNN ROBESON: Is she a co-owner or is she an 20 employee? 21 JUAN CARLOS GARZON: (inaudible) is I don't- 22 DAMARIS TOVAR: She is a co-owner but she is working 23 there right now. 24 LYNN ROBESON: Ok. Now how often- We have to deal in 25 specifics. We can't just say it is bad for the community</p>
<p>22</p> <p>1 JUAN CARLOS GARZON: As long as when the car is 2 parking on both sides of the street the bus- 3 LYNN ROBESON: Yeah but when the bus comes down the 4 street is there still room for two? 5 JUAN CARLOS GARZON: Is there no room. This is 6 (inaudible) in the morning always have the cars on both 7 sides to park in the street. 8 ETAI NEUMAN: Can I respond? 9 LYNN ROBESON: Yes. 10 ETAI NEUMAN: Ok. So I think it impacts traffic flow 11 and I don't think it is in the best interest of the 12 community. So, can a bus come down where there are cars 13 parked on both sides, yes. Can two way traffic which is the 14 way we drive here operate when there is two cars parked on 15 either side, no. I think that if they- 16 LYNN ROBESON: Why do you say that? 17 ETAI NEUMAN: I live there. Two cars cannot go. There 18 is not enough room. If there is a car parked on each side 19 two way traffic cannot exist. That is just a fact. You can 20 look at the size of the street it is impossible to do so. 21 LYNN ROBESON: And your response is yes they can, you 22 disagree with him? 23 DAMARIS TOVAR: Yes. 24 ETAI NEUMAN: Two way traffic can go when there is a 25 car parked on each side of the street? No.</p>	<p>24</p> <p>1 because it is a tight squeeze. We have to have evidence 2 saying exactly what is going on there. So what I would like 3 you to do is be more specific about the problems you are 4 experiencing and are there cars aside from the daycare, are 5 there cars parked on your side of the street in front of 6 your house frequently or not? 7 ETAI NEUMAN: No because I am on the corner there is 8 really no- I mean there are cars parked further along the 9 road. 10 LYNN ROBESON: On Johnson? 11 ETAI NEUMAN: Yes. Because not everybody has a 12 driveway on Johnson but in my area no. So that is right 13 where the turn in is. I think it is the fact- It is the 14 compilation of this exact time, the busses coming through, 15 additional traffic coming through. This is if you want to 16 get out to Old Georgetown you would come from Ewing either 17 go on Green Tree or go on Johnson. That goes all the way 18 out. So Johnson is a road that there are several cars that 19 go down and I think them having customers park on either 20 side or both and get out it is impeding the flow of 21 traffic. I think if they had a system where let's say they 22 parked in a driveway, got out I think it would be a lot 23 safer for everybody and would not impede traffic but I 24 don't see them enforcing now. They are claiming well they 25 are not supposed to park on this side, they are not</p>

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<p>25</p> <p>1 supposed to do this or that and there has been zero 2 enforcement and I just really worry about giving additional 3 cars. So this now says up to five cars, three different 4 times. Twelve children, I know they claim it is the same 5 children but there is no proof it needs to be or not. That 6 could be twelve separate cars now that would just add to 7 what is happening right now with potentially eight cars. I 8 think it would only exacerbate the situation.</p> <p>9 LYNN ROBESON: So now be more specific about the 10 trouble you have getting out of your driveway.</p> <p>11 ETAI NEUMAN: Ok. So when I get out of the driveway in 12 the morning I am reversing and I have to try to navigate 13 between busses and cars that are going-</p> <p>14 LYNN ROBESON: Towards North Bethesda.</p> <p>15 ETAI NEUMAN: Towards North Bethesda as well as cars 16 that are going the other way and if there is a car parked 17 directly across from me that makes it all the harder. It 18 makes my turn tougher. There has been times- Especially if 19 there is a door open and somebody is getting out that is 20 now impeding further out into the street.</p> <p>21 LYNN ROBESON: And have you actually experienced that?</p> <p>22 ETAI NEUMAN: Oh, absolutely.</p> <p>23 LYNN ROBESON: Ok.</p> <p>24 ETAI NEUMAN: I mean that is the time I mean usually 25 my time to go to work is usually between- It depends. Days</p>	<p>27</p> <p>1 DAMARIS TOVAR: He leaves around 5:30 and he is coming 2 back around 4 or 5 PM and at that time I mean there is no 3 busses after school so there is no traffic at that time. So 4 the parents can park in front of the Johnson Avenue Street 5 and if we are not- if we are going to (inaudible) just for 6 the parents we can park on the street.</p> <p>7 JUAN CARLOS GARZON: Ewing Street.</p> <p>8 DAMARIS TOVAR: Yeah, Ewing.</p> <p>9 LYNN ROBESON: So they could use the driveway and then 10 Ewing?</p> <p>11 DAMARIS TOVAR: Yes.</p> <p>12 LYNN ROBESON: Ok.</p> <p>13 DAMARIS TOVAR: And also I was telling you before, we 14 also can make an agreement with the parents that they are 15 not going to arrive between 8 and 8:30 and actually they 16 are not arriving at that time.</p> <p>17 LYNN ROBESON: Now, let's talk a little bit about 18 enforcing. I mean, it sounds like it isn't being- if you 19 have this restriction you have got to enforce it and I am 20 going to change this because just having- I am going to 21 include the condition if I approve this, I am going to 22 include the condition that you have to have the agreement 23 but I am also going to include a condition that says this 24 is the way it has to operate because if Mr. Neuman says 25 they aren't parking the way they are supposed to be</p>
<p>26</p> <p>1 when I have my daughter it is a little bit later because I 2 drop her off at Wyngate. So that is around 8:30 we leave.</p> <p>3 LYNN ROBESON: 8:50?</p> <p>4 ETAI NEUMAN: No because we have- 8:30. We try to get 5 there by 8:40 and days when I don't it is usually around 6 7:30. I think if they had a drop-off situation like some 7 kind of- Whether it was a circular driveway or some kind of 8 place where people, their customers could go in then I 9 think it would alleviate a lot of this situation. I just 10 don't think they have an appropriate safe place to drop-off 11 for a business. I think these are built as residential 12 houses and I think there needs to be appropriations if they 13 want to have customers dropping off and picking up. 14 Especially because it coincides specifically with that high 15 traffic time.</p> <p>16 LYNN ROBESON: Well, let me ask you something. Can you 17 leave the driveway open for drop-offs?</p> <p>18 DAMARIS TOVAR: Yeah sure we can do it.</p> <p>19 LYNN ROBESON: And where are the residential cars 20 going to park then?</p> <p>21 DAMARIS TOVAR: Well I mean that is what I was telling 22 you before. My husband is taking one.</p> <p>23 LYNN ROBESON: When does he leave?</p> <p>24 DAMARIS TOVAR: Excuse me? He is living with me.</p> <p>25 LYNN ROBESON: No no. when does he leave?</p>	<p>28</p> <p>1 parking, then just because the way the condition is worded 2 now all you have to do is have the agreement and so he 3 could- there is an enforcement procedure with the 4 Department of Permitting Services, yes he is smiling. So 5 Mr. Neuman-</p> <p>6 DAMARIS TOVAR: And also I want to add that from the 7 eight parents that we have, two of them they are walking. 8 They are not driving. So we just have six cars.</p> <p>9 LYNN ROBESON: Right but that is what the situation is 10 now. I think what Mr. Neuman is pointing out is that you 11 are not restricted to that. In other words if your parents 12 that walk now want to leave then they have to, you could 13 take somebody else in that doesn't walk. So you know that 14 is an issue. The other thing is it sounds like your 15 employees are coming along at this time as well by car. 16 They get dropped off by car as well.</p> <p>17 DAMARIS TOVAR: Actually, our employees they are 18 arriving around 7. So at that time there is no traffic on 19 the street.</p> <p>20 LYNN ROBESON: Ok. Alright. So, I have to make sure 21 you have enough parking spaces under the code. You are 22 getting a waiver of three. So you agree that you could use 23 the driveway for drop-off and pickup?</p> <p>24 DAMARIS TOVAR: Yes.</p> <p>25 LYNN ROBESON: Ok. Mr. Neuman do you want to comment</p>

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<p>29</p> <p>1 on some of this?</p> <p>2 ETAI NEUMAN: Sure. So I think as I state here page 2</p> <p>3 site B they have a one car garage. So the driveway is</p> <p>4 small. It is basically a one car. They park another one on</p> <p>5 the side. I just don't believe that it will be so</p> <p>6 synchronized in the drop-off and pickup that it will be one</p> <p>7 car coming in and then it will be blocked. So then another</p> <p>8 car will still park- I mean that is just how these things</p> <p>9 work. I know that I walk my dog- I live across the street.</p> <p>10 The drop-offs occur sometimes simultaneously different</p> <p>11 areas and I just think this is not, I don't see this as a</p> <p>12 really good solution and I think that while I don't want to</p> <p>13 impede on their ability to conduct business, that is now</p> <p>14 what I am here for. I am just here for trying to understand</p> <p>15 what is appropriate and I worry that by extending the</p> <p>16 number then without what I think even right now is a</p> <p>17 feasible plan for drop-off pickup I think it only would</p> <p>18 potentially exacerbate the situation. I think if they had a</p> <p>19 really good plan for drop-off and pickup. I think, once</p> <p>20 again I say a circular driveway. I think normally if I</p> <p>21 understand it correctly, I am not a lawyer. I don't</p> <p>22 necessarily going to pretend to understand these things but</p> <p>23 without the waiver they will have to then increase the</p> <p>24 number of parking spots available. Is that correct?</p> <p>25 LYNN ROBESON: Yes.</p>	<p>31</p> <p>1 again how you are going to inforce some of these</p> <p>2 restrictions?</p> <p>3 DAMARIS TOVAR: So surely what I was telling you the</p> <p>4 way that we can do that this works is like offering the</p> <p>5 parents like an agreement and a commitment. They are going</p> <p>6 to park.</p> <p>7 LYNN ROBESON: What if they break the agreement though</p> <p>8 what are you going to do? What if they go park on Mr.</p> <p>9 Neuman's side?</p> <p>10 DAMARIS TOVAR: So, actually as I was telling you we</p> <p>11 have some policies, so they have to follow the policies.</p> <p>12 LYNN ROBESON: What happens if they don't?</p> <p>13 DAMARIS TOVAR: So what I think is if they are not</p> <p>14 following the policies they are going to finish the</p> <p>15 contract. I mean we have some policies and we are-</p> <p>16 LYNN ROBESON: They are going to what, have to do?</p> <p>17 DAMARIS TOVAR: We have to finish the contract because</p> <p>18 that is going to be something that is not really good for</p> <p>19 our business. I mean we are trying to offer this service</p> <p>20 but they know when they are (inaudible) there are all the</p> <p>21 children and they have to follow the policies.</p> <p>22 LYNN ROBESON: Ok.</p> <p>23 ETAI NEUMAN: I just don't see- It hasn't been</p> <p>24 enforced thus far. I don't see how anything would change</p> <p>25 and I just don't believe that if they really felt that way</p>
<p>30</p> <p>1 ETAI NEUMAN: Yeah, I think that is what you typically</p> <p>2 would need for a business in order to not impede and to be</p> <p>3 able to safely and appropriately have your customers pickup</p> <p>4 and drop-off the children. I think there is a reason why</p> <p>5 that is written into the, you know why that is typically</p> <p>6 what is recommended for this type of situation for the best</p> <p>7 that I understand it. I understand why they are asking for</p> <p>8 a waiver because they are renters. I think that is another</p> <p>9 thing. They don't own it. But I think if you want to run a</p> <p>10 business you have to appropriately make sure that it</p> <p>11 doesn't impact everyone around you also and that it is safe</p> <p>12 and correct for everyone taking part in it. So once again I</p> <p>13 am not trying to do this to impact their ability to conduct</p> <p>14 business.</p> <p>15 LYNN ROBESON: I understand.</p> <p>16 ETAI NEUMAN: And I sure they run a great daycare.</p> <p>17 They are good neighbors. I have no issues with them. I just</p> <p>18 don't think this pickup- I think this pickup drop-off right</p> <p>19 now is a bit of an issue. I am just not someone who likes</p> <p>20 to file. I don't want to have to file when they don't- they</p> <p>21 are clearly not keeping their customers to what they should</p> <p>22 be doing now. I see no reason as to why if you were to</p> <p>23 allow them to increase and not force them to increase the</p> <p>24 parking spots why it wouldn't get worse.</p> <p>25 LYNN ROBESON: Ms. Tovar do you want to just address</p>	<p>32</p> <p>1 why haven't they been enforcing it thus far and increased</p> <p>2 people means increased cars. To your point there might be</p> <p>3 two walkers now, children get older, there could be more</p> <p>4 cars. More cars just amplifies the situation without a</p> <p>5 solution. I think there needs to be a solution which is</p> <p>6 typically provide more parking. I think that is why it was</p> <p>7 written in here and if they provide more parking and have a</p> <p>8 solution for drop-off I think that is great. I think that</p> <p>9 makes sense.</p> <p>10 LYNN ROBESON: Ok but we have no guarantee that you</p> <p>11 will be able to add the siblings. I mean we have no</p> <p>12 guarantee that the future people are not going to increase</p> <p>13 the current number of cars. Correct?</p> <p>14 DAMARIS TOVAR: I mean actually as I was telling you</p> <p>15 before the people who is coming in after we have the</p> <p>16 condition (inaudible) they are siblings. So I don't know</p> <p>17 how can I let you know that they are not going to bring</p> <p>18 more cars.</p> <p>19 LYNN ROBESON: What if I condition a special exception</p> <p>20 or the conditional use on, I don't know if I can do that.</p> <p>21 Ok. Alright. Well, anything else? Ms. Tovar or Mr. Garzon</p> <p>22 anything else you would like to say?</p> <p>23 JUAN CARLOS GARZON: We never had meeting, a special</p> <p>24 (inaudible)when all partners come in together in this case</p> <p>25 we never going to have maybe the twelve cars parking at the</p>

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9 (33 to 36)

<p>33</p> <p>1 same time for some meeting or something special in the day. 2 We going to use a different place for that because we 3 understand that it is too many cars. This is not the place. 4 We are thinking in that. So we want to have one event, a 5 special meeting for when I need to meet all the parents we 6 are going to- 7 LYNN ROBESON: Do it off site? 8 JUAN CARLOS GARZON: Yes. Off site. Yes because we 9 understand that. 10 LYNN ROBESON: Ok. Alright. Well, let me do this. Mr. 11 Neuman, well they get the last word. So I think I 12 understand the issues and what I am going to do, I have to 13 hold the record open for 10 days to receive the transcript 14 and then I have 30 days to write my decision. If anyone 15 disagrees with my decision you have the right to request 16 oral argument before the board of appeals but you don't 17 have the right to ask for, to introduce new testimony. Ok? 18 So, 10 days from today would be March 31st. So the record 19 will close on March 31st and then I have 30 days to write 20 the report and decision and you will all be notified once I 21 do that. Ok? Yes ma'am. 22 DAMARIS TOVAR: I also got, I mean I also have 23 something to add. As you know we already have a hearing 24 with the Planning Department and the person who was helping 25 us with the hearing she went to the house. So I think if</p>	<p>35</p> <p>1 DAMARIS TOVAR: We are also going to meet with the 2 parent and we are going to make a commitment with them. 3 Because actually we don't want that, the conditional use be 4 revoked or something of that I mean that person she is a 5 (inaudible) so I am sure she is going to help. So and the 6 parents that we have there they are really like reliable 7 persons. So they are going to listen to us. So I think this 8 is going to work out. 9 ETAI NEUMAN: Can I make one more comment? 10 LYNN ROBESON: Yeah. 11 ETAI NEUMAN: So I am looking, sorry, as I am reading 12 through this and it just makes sense. So I think if they 13 would commit or if you could commit to having their people 14 come on Ewing Drive that would alleviate any issues that I 15 have. So they are claiming that there are two spots and I 16 know there is, two temporary parking spots just north of 17 the bus stop on Ewing Drive. Now I understand that is maybe 18 not the most convenient for their customers but that would 19 certainly alleviate any of the issues and problems. Ewing 20 is a much larger street. You can't compare Ewing to 21 Johnson. 22 LYNN ROBESON: I see that just from the picture. 23 ETAI NEUMAN: Yeah. So I am just looking at page 11. 24 So if you could have your people drop like park at like 25 Ewing and just walk the kids over then it wouldn't be the</p>
<p>34</p> <p>1 she was I mean agree with what she sees she was thinking 2 the recommendation to approve us. I mean she was looking at 3 the house, she was looking at the parking spaces. So she 4 was giving us this recommendation but she was- 5 LYNN ROBESON: Did she go during the morning? 6 DAMARIS TOVAR: Yes. She went to the house, she was 7 taking some pictures and she was waiting with us when she 8 went to make the- So and also I know she was giving you a 9 recommendation letter for the applying for the permit. So, 10 as I was telling you before she meet us and she was looking 11 what parking spaces we were going to use and they gave us 12 an approval recommendation. I think we are going to go to 13 work on how the parents are going to park and the parents 14 that we have they are like they are listen to what we said. 15 I mean we have the problem with this specific parent but 16 sure they are not parking all the time there. I mean 17 usually when they- 18 LYNN ROBESON: You have an existing problem and what I 19 am saying is you can't have that kind of problem. If you 20 get the conditional use you can't let that go on. 21 Technically if someone wants to report you then DPS will 22 come in and talk to Mr. Neuman and they can revoke it. So 23 you can't- if we put conditions in here you can't just say 24 we have a parent that won't listen to us. They can revoke 25 the conditional use.</p>	<p>36</p> <p>1 issue of 1) like the busses and everyone coming at that 2 time and then also I literally almost hit a car 3 times 3 pulling out because the street is just not that big. Do you 4 know what I mean? 5 LYNN ROBESON: Well let's count parking space for a 6 minute because what I need, I need 2 for the residents. 7 Right? You are getting a waiver of 3. How many spaces does 8 it say, I can't remember how many spaces are on Ewing? 2? 9 ETAI NEUMAN: It says here Ewing can also accommodate 10 2 temporary parking spots. I mean that is what is says. 11 There are more spots further down the street and you are 12 allowed to park on Ewing. That is what it says on page 11 13 under site access parking and circulation. 14 LYNN ROBESON: So you have got 2 spots on Ewing. You 15 have got at least 1 spot in the driveway, correct? 16 DAMARIS TOVAR: And also 2 in front of Johnson Avenue. 17 LYNN ROBESON: But he is saying it is the Johnson 18 Avenue ones that are problematic. You see what, is that 19 what you are saying? 20 ETAI NEUMAN: That is correct. 21 LYNN ROBESON: So, hold on one minute and let me get 22 to the- I am trying to find where it says- How many 23 employees do you have? Never mind that. Where is the 24 parking tabulations? 25 DAMARIS TOVAR: It is on page 11.</p>

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10 (37 to 40)

<p>37</p> <p>1 LYNN ROBESON: So you need 5 spaces. You are getting a 2 waiver- So you need 2 spaces. So the problem is we have to 3 meet the residential requirements. So you need 2 spaces 4 because you are getting a waiver of the employee spaces. 5 The trouble is you have- I am just thinking this through. 6 The trouble is you have 5 people coming in the staggered 7 shifts. According to their chart if you look at page 12. 8 Look at page 12 and I am asking you to help me think this 9 through because my brain is- Ok, so you got- No, look at- 10 That is the current. Look at page 13. Let's just play this 11 out where people are going to park. So Mr. Neuman, your 12 peak is 7:30 to 8:30, that is when you are departing or 13 earlier, 7 to 8:15? 14 ETAI NEUMAN: I think 7:30 to 8:30 is fair. 15 LYNN ROBESON: Ok. And she is estimating- The staff in 16 this chart is estimating 5 people staggered between 6:45 17 and 8 but you are saying- Ok. So that is a half hour into 18 Mr. Neuman's window. Now if 5 people come, this is like law 19 school exam. You didn't take the law school exam but this 20 is a lot like it. If 5 people come all at 7:30 you can't 21 accommodate that without parking on Johnson Avenue right? 22 So, I am just getting to the nitty gritty. Are you 23 following me? 24 DAMARIS TOVAR: Yes. 25 LYNN ROBESON: Ok. If you scheduled pickups- Well,</p>	<p>39</p> <p>1 happens that way. Everyone is dropping off within a 10-15 2 minute window because they are all trying to get to work 3 around a similar time and I think if there is a way to try 4 to alleviate that, that still makes sense for their 5 business I think that is great. I just don't know how to do 6 that. 7 LYNN ROBESON: So if there is staggered times. If you 8 could have no drop-off, what if I have a condition that 9 just says no drop-offs on Johnson Avenue between 7:30 and I 10 think I would have to do 8:45. No drop-offs on Johnson 11 Avenue. They can well, no drop-offs. They can use the 12 driveway and they can use Ewing. That is 4 spaces but no 13 drop-offs because this- It sounds to me like this is the 14 peak period both for the school and for activity on Johnson 15 activity. Your activity. So what if I put in a condition 16 that says no drop-offs on Johnson Avenue between 7:30 and 17 8:45? 18 ETAI NEUMAN: Could you make it 7:15 or is that too 19 much? 20 LYNN ROBESON: I am not saying no drop-offs. I am 21 saying no drop-offs on the street in Johnson Avenue. 22 DAMARIS TOVAR: So they can park on the driveway? 23 LYNN ROBESON: They can park on the driveway, they can 24 park on Ewing but they can't drop-off on Johnson on the 25 street. So 7:15 to 8:45 and I am dead serious-</p>
<p>38</p> <p>1 first of all, could you schedule drop-offs, no drop-offs 2 between 7:30 and 8:30? 3 DAMARIS TOVAR: Yes. 4 JUAN CARLOS GARZON: Yes. 5 LYNN ROBESON: But you have to live by it. You really, 6 I mean I am going to write a condition that forget the 7 agreement if you don't do it they are going to revoke it. 8 DAMARIS TOVAR: No, we are going to. 9 LYNN ROBESON: Ok. So, Group A on this chart, if you 10 make Group A if I change that to say 6:45 to 7:30? 11 DAMARIS TOVAR: Yes. 12 LYNN ROBESON: Group B, if I change Group B to say 13 8:30 to 9 or I could say and then I would have to say no 14 drop-off on Johnson Avenue between 7:30 and 8:30. I could 15 do that. 16 DAMARIS TOVAR: Yes. 17 LYNN ROBESON: But you would really absolutely have to 18 abide by it. I remember when my kids were in childcare and 19 it was like this huge rush in the morning. 20 ETAI NEUMAN: That is my point. I am not trying to be 21 but everyone's hours are probably very similar to mine and 22 that is what happens is while- and once again I am not 23 trying to make this difficult but I am trying to make 24 something that is amiable for everybody. It is just 25 everyone's schedule is similar to mine and it always</p>	<p>40</p> <p>1 JUAN CARLOS GARZON: I have one issue. You say I can 2 drop-off all days I drop-off my wife at 7:30-7:20. I park 3 only 30 seconds. Can I do that? 4 LYNN ROBESON: Nope. 5 JUAN CARLOS GARZON: Oh ok. 6 LYNN ROBESON: And I am serious. The way I am going to 7 draft it, I am not going to say anything about an agreement 8 because that is kind of like if you don't enforce your 9 agreement you have technically met the conditions. I am 10 just going to say if you don't meet the conditions they can 11 come and revoke this special exception. 12 JUAN CARLOS GARZON: Ok, another point. What about the 13 cars that is parking but is not coming to the daycare? 14 Because sometimes around Ewing the street across the 15 daycare is building a house. Sometimes (inaudible) people 16 is parking in our- it is not in the street on the Johnson 17 Street but it is not our problem. So then we can do in that 18 case because they have people at 7 in the morning. 19 LYNN ROBESON: Where are they parking? On Johnson or 20 are they parking-? 21 JUAN CARLOS GARZON: Everywhere. On Johnson 22 (inaudible) on Johnson, Ewing they are building a house and 23 that is problem because in this idea it is coming in 24 (inaudible) so it is a lot- 25 LYNN ROBESON: There is only so- All I can do is</p>

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11 (41 to 44)

<p>41</p> <p>1 condition your use. I can't control- I mean if it is not 2 your people. 3 ETAI NEUMAN: I mean they really park on Ewing. At the 4 end of the day I think the options are at least as far as I 5 am concerned I think we need to keep Johnson open and I 6 think they are worried about the construction people 7 parking on those spots on Ewing but that is public parking. 8 If they want to create more parking which is why I think 9 typical zoning- 10 LYNN ROBESON: I understand. Ok. I think I can't 11 control as I said it is on street parking and you have 12 applied for a waiver. So I can't control what the 13 construction people do. Yes? 14 DAMARIS TOVAR: Ok. I get your point. So, what you are 15 saying is at this time there can be no cars on that side, 16 on the Johnson Street right? 17 LYNN ROBESON: Right. 18 DAMARIS TOVAR: But sometimes the parent of the school 19 they are parking on our side of the street at that time. 20 When the school starts- 21 LYNN ROBESON: I am not regulating their cars. I am 22 just regulating your cars. Ok? 23 DAMARIS TOVAR: Ok. 24 LYNN ROBESON: So, I can't- I am not saying nobody can 25 park on the street. I am just saying your drop-off can't</p>	<p>43</p> <p>1 associated with the daycare. 2 ETAI NEUMAN: I think that would maybe alleviate- I 3 think what they were worried about and maybe I shouldn't be 4 pleading their case but I am trying to help out. I am not 5 trying to be difficult. I think they were worried about 6 someone else parking there and them getting into trouble 7 for it. 8 LYNN ROBESON: They are and what I am saying- 9 ETAI NEUMAN: I understand that too. 10 LYNN ROBESON: What I am saying to you is, it is not, 11 I can only control you. So it is your, if somebody else is 12 parked there on Johnson Street at 8:45 that is not going to 13 be a violation. 14 DAMARIS TOVAR: Ok. 15 LYNN ROBESON: It is if one of your people park there. 16 Ok? I can ask you to keep a record of the license plates. 17 As I said most daycares- 18 DAMARIS TOVAR: Yeah we have more. 19 LYNN ROBESON: And we can do it that way and say no 20 parking on Johnson frontage between 7:15 and 8:45 which is 21 sounds to me like the peak period of congestion on your 22 street. They can park in the driveway and the garage or 23 they can park on Ewing. 24 DAMARIS TOVAR: Ewing. 25 LYNN ROBESON: Ewing. Correct. And then if you keep</p>
<p>42</p> <p>1 occur. I can only ask you to be responsible for your cars. 2 DAMARIS TOVAR: Ok. 3 LYNN ROBESON: Not whoever parks on the street. 4 DAMARIS TOVAR: Ok. 5 LYNN ROBESON: Ok. So- 6 ETAI NEUMAN: How do you delineate that? I am just 7 curious. That it is a drop-off verses someone else because 8 couldn't they just claim it is somebody else? 9 LYNN ROBESON: We have actually had daycare cases and 10 as part of the contract they have to keep- Well I can ask 11 you as part of your contract to keep the registration, the 12 license numbers of all your parents. 13 ETAI NEUMAN: Oh I see. There you go. That is easy. 14 LYNN ROBESON: Most daycares- 15 DAMARIS TOVAR: Yeah we have. Like that in (inaudible) 16 or something like that. We have that. 17 LYNN ROBESON: Most daycares already have that because 18 if the child gets- 19 ETAI NEUMAN: Sick or picked up? 20 LYNN ROBESON: Or they do it as a child you know 21 abduction they make sure that the right person is picking 22 up and things like that. So I can make a condition saying 23 that you in your contract you have to keep records of the 24 license plates and that is how DPS enforces it. They go out 25 and they say you know that is not a license plate</p>	<p>44</p> <p>1 the license and registration plates then DPS if he 2 complains you can say that wasn't our person. 3 DAMARIS TOVAR: Ok. Yeah we can do that. 4 LYNN ROBESON: But you cannot control the 5 construction. I am not saying that construction people 6 can't park there. I am just saying that you can't have your 7 people park there. Ok? Alright. With that, anything else? 8 DAMARIS TOVAR: No. 9 LYNN ROBESON: I see a question. 10 ETAI NEUMAN: No. I was just looking. I mean it sounds 11 like they were trying to put, so it says here no more than 12 2 cars arriving and leaving within a 15 minute window. I 13 just don't think these things are enforced. But I think by 14 you putting in the specifics around 7:15-8:45 I think would 15 alleviate all this, all this issue. Yes, I feel confident 16 about that. 17 LYNN ROBESON: Ok good. 18 ETAI NEUMAN: That will include the employees' cars 19 also? 20 LYNN ROBESON: I think the employee- Yes it is all 21 cars. But your employees- Oh yes they get dropped off by 22 car right? Right. It would include the employees' cars as 23 well. But I am not saying you don't have any dropped off. 24 You have Ewing and you have if you want to leave the garage 25 open. However you want to do it you can do that as well.</p>

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12 (45 to 48)

45

1 DAMARIS TOVAR: Ok.
2 LYNN ROBESON: Ok. Anything else? Alright. Thank you
3 very much. I am going to keep the record open until March
4 31st. My report is due 30 days after that and you have if
5 you disagree with anything in the report you have the right
6 to request oral argument before the board of appeals within
7 10 days of the date of my report. Ok? So and you will be
8 notified when you get the report. Alright. Ok with that I
9 am going to adjourn the hearing. Ok.
10 ETAI NEUMAN: Thanks. Would I also be notified or is
11 there a way-
12 (Off the record at 11:06 a.m.)
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9 outcome.
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11

12 
13 _____
14 Susan E. Wilson
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