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Transcript of Hearing

Date: March 31, 2017

Case: Korean Community Center, In Re:

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Transcript of Hearing
Conducted on March 31, 2017

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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 KOREAN COMMUNITY CENTER : Case No. CU 17-12</p> <p>6 -----x</p> <p>7</p> <p>8 HEARING</p> <p>9 Before Hearing Examiner Martin Grossman</p> <p>10 Rockville, Maryland</p> <p>11 Friday, March 31, 2017</p> <p>12 9:35 a.m.</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 Job: 140535</p> <p>24 Pages: 1 - 102</p> <p>25 Transcribed by: Susan E. Wilson</p>	<p>1 P R O C E E D I N G S</p> <p>2</p> <p>3 MARTIN L. GROSSMAN: Alright. We can call the case</p> <p>4 then. This is public hearing in the matter of Korean</p> <p>5 Community Service Center of Greater Washington Inc.</p> <p>6 (inaudible) number CU 17-12 an application for conditional</p> <p>7 use percent is on the ordinance section 3.4.8B by the Club</p> <p>8 Service Organization to allow operation of a service</p> <p>9 organization in the above grade basement of the existing 1</p> <p>10 family home at 700 Buckingham Drive in Silver Spring.</p> <p>11 Subject site is parcel P 328 of the Hills and Dales</p> <p>12 subdivision and is zoned R60SCU. Conditional use is</p> <p>13 required for a service organization in the R60 zone. My</p> <p>14 name is Martin Grossman, I am the hearing examiner which</p> <p>15 means that I will write a report and a decision in this</p> <p>16 case. Will the parties identify themselves for the record</p> <p>17 please?</p> <p>18 SOO LEE-CHO: Thank you. For the record, Soo Lee-Cho</p> <p>19 of the law firm of Miller, Miller and Canby on behalf of</p> <p>20 the applicant.</p> <p>21 MARTIN L. GROSSMAN: And other then witnesses to be</p> <p>22 called by Ms. Lee-Cho is there anybody in the audience who</p> <p>23 wishes to be heard today? I see no hands. I take it there</p> <p>24 will be no other witnesses other than those you call and</p> <p>25 who do you plan to call today?</p>
<p>1 C O N T E N T S</p> <p>2 PAGE</p> <p>3 OPENING STATEMENTS 13</p> <p>4 TESTIMONY OF ELIZABETH KIM 16</p> <p>5 TESTIMONY OF SOMER CROSS 28</p> <p>6 TESTIMONY OF PHILLIP CHO 73</p> <p>7 TESTIMONY OF WINSTON THAMES 84</p> <p>8 TESTIMONY OF MINE GLASBY 92</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 SOO LEE-CHO: I have 3 witnesses today. A slight</p> <p>2 change from the summary of proof that was previously</p> <p>3 submitted.</p> <p>4 MARTIN L. GROSSMAN: Right. In the summary it said</p> <p>5 Philip S. Cho and Yung Chang.</p> <p>6 SOO LEE-CHO: Correct. I have ELIZABETH KIM who is the</p> <p>7 immediate past Chair of the Korean Community Service Center</p> <p>8 and Mr. Philip Cho who is the current Chair of the</p> <p>9 organization. Mr. Philip Cho will also be wearing a second</p> <p>10 hat as a landscape architect. He will serve as an expert</p> <p>11 witness on an issue related to his field of expertise and</p> <p>12 finally I have Somer Cross but not in that particular</p> <p>13 order. Somer Cross will be the second witness testifying</p> <p>14 and I will be proffering her as a land planner expert</p> <p>15 witness on the case.</p> <p>16 MARTIN L. GROSSMAN: Ok. So she is in effect</p> <p>17 substituting for Yung Chang?</p> <p>18 SOO LEE-CHO: Correct. Mr. Chang was the traffic</p> <p>19 engineer based on the technical staff's analysis of the</p> <p>20 traffic issues we did not feel the need to have him appear</p> <p>21 separately as an expert witness.</p> <p>22 MARTIN L. GROSSMAN: Ok. Alright. Let me explain a</p> <p>23 little bit about the nature of these proceedings for those</p> <p>24 who haven't been here before. We operate pretty much the</p> <p>25 way a court room operates. Witnesses are called. They are</p>

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<p>5</p> <p>1 always sworn in. they are subject to cross examination if 2 there was somebody here to cross examine. Everything is 3 taken down by a court reporter. There will be a transcript 4 of these proceedings which will be available in about 10 5 days and we post it on our website. The process is somewhat 6 a little less formal then a courtroom but generally 7 speaking it operates in the same way. I won't explain since 8 there is no opposition here apparently. I won't go into the 9 difference between a conditional use and the variance other 10 than to say a conditional use is a statutorily permitted 11 use if certain conditions are met and the basis for this 12 hearing is to decide if those conditions set forth in the 13 statute have been met. Alright. Let's turn to preliminary 14 matters. We need an affidavit of posting. See if there is a 15 blank form here. 16 SOO LEE-CHO: We have executed an affidavit and it 17 should be before you. 18 MARTIN L. GROSSMAN: It is indeed. You are always a 19 step ahead of us. Ok. So this will be exhibit 31. Ok. Let 20 me ask, do you accept technical staff's recommended 21 conditions as amended by the Planning Board? 22 SOO LEE-CHO: We do but we do have minor, very minor 23 edits, red lines that we would like to offer. 24 MARTIN L. GROSSMAN: Ok. Let's see what those are. Do 25 you want to proceed just to do it in the course of your</p>	<p>7</p> <p>1 that in advance of the hearing because the record will have 2 to be kept open for commentary both by technical staff and 3 the public to a new plan unless the amendment is very 4 minor, it will be a lesser time period but in any event we 5 will see when that comes up. I just think you should know 6 there has been an issue raised in the past about amendments 7 to plans at the hearing. We believe it is within our 8 authority but there has been a challenge. Alright. Any 9 other preliminary matters which you have? 10 SOO LEE-CHO: I do not have any. 11 MARTIN L. GROSSMAN: Do you wish to make an opening 12 statement? 13 SOO LEE-CHO: Very briefly, yes. 14 MARTIN L. GROSSMAN: You may proceed. 15 SOO LEE-CHO: I did notice on the exhibit list that a 16 Certified Zoning Vicinity Map doesn't appear. So I brought 17 an extra copy. 18 MARTIN L. GROSSMAN: I thought I swore I found it. 19 Maybe I did not. 20 SOO LEE-CHO: Might be in the file but it wasn't 21 listed so I thought I would be careful. 22 MARTIN L. GROSSMAN: Safe. That is a good idea. Better 23 safe than sorry. Let's see here. Alright. Well let's mark 24 that as exhibit 32 then. Certified Vicinity Map. Ok, that 25 will be exhibit 32.</p>
<p>6</p> <p>1 presentation? 2 SOO LEE-CHO: I do have it at the end of my 3 presentation. 4 MARTIN L. GROSSMAN: Ok. Fine. I will let you do it in 5 the order in which you wish to proceed. I was also going to 6 ask you if you accept technical staff's findings as part of 7 your own evidence. 8 SOO LEE-CHO: We do. 9 MARTIN L. GROSSMAN: Ok. 10 SOO LEE-CHO: With some supplemental information to be 11 provided. 12 MARTIN L. GROSSMAN: Right. And I noticed that there 13 are some differences noted in the Planning Board letter 14 indicating number 1) about the bicycle space which may 15 still be in the plans you had, the last plans you submitted 16 to us. Are you submitting amended plans to deal with that? 17 SOO LEE-CHO: Yes. We have an amended conditional use 18 plan that essentially reconciles the Planning Board 19 recommendations and also the development standards that 20 were outlined in the technical staff report to be 21 consistent with what is shown on the conditional use form 22 and I have I was planning to have Ms. Somer Cross go 23 through and enter that revised conditional use plan at the 24 time of her testimony. 25 MARTIN L. GROSSMAN: Ok. Usually a good idea to have</p>	<p>8</p> <p>1 SOO LEE-CHO: So I will use the Certified Zoning Map 2 just to make my brief opening statement and I took the 3 liberty of adding some additional labeling on other 4 institutional uses and things, uses of note in the 5 surrounding area. 6 MARTIN L. GROSSMAN: Are those notations also on 7 exhibit 32? 8 SOO LEE-CHO: They are not. 9 MARTIN L. GROSSMAN: Ok. So let's mark that one as 10 exhibit 33 and we will call it Annotated Zoning Vicinity 11 Map. Would you mark that for me as exhibit 33? 12 SOO LEE-CHO: So the property is a little bit over 13 half an acre in size, located at the corner of University 14 Boulevard and Buckingham Drive in Silver Spring, the 15 Northwest corner. Before I proceed if I might request the 16 identification of folks who just entered in case they are 17 witnesses in this? 18 MARTIN L. GROSSMAN: The folks don't have to identify 19 themselves but a number of people have just entered. Is 20 anybody who entered here wishing to be a witness in this 21 case? 22 MIKE GLASBY: Well, I would like to find out more 23 about what is being planned since I am a homeowner and I am 24 interested in what is going to happen with that property. 25 MARTIN L. GROSSMAN: State your name for the record</p>

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<p style="text-align: right;">9</p> <p>1 please.</p> <p>2 MIKE GLASBY: My name is Michael Glasby. I live at</p> <p>3 9205 Linton Street in Silver Spring, 20901.</p> <p>4 MARTIN L. GROSSMAN: Ok.</p> <p>5 SOO LEE-CHO: I am sorry, Michael?</p> <p>6 MIKE GLASBY: Glasby.</p> <p>7 MARTIN L. GROSSMAN: Alright, Mr. Glasby. Anybody else</p> <p>8 who wishes to be heard today?</p> <p>9 WINSTON THAMES: My name is Winston Thames.</p> <p>10 MARTIN L. GROSSMAN: Alright, Winston Thames.</p> <p>11 WINSTON THAMES: Thames. I am at 506 Loudon Court,</p> <p>12 Silver Spring. I also have a house at 705 Buckingham.</p> <p>13 MARTIN L. GROSSMAN: Ok. Alright. Let me explain a</p> <p>14 little bit about these proceedings as I did earlier when we</p> <p>15 opened.</p> <p>16 SOO LEE-CHO: There is one more.</p> <p>17 MARTIN L. GROSSMAN: Oh sorry Sir. I didn't see you.</p> <p>18 JULIO GONZALEZ: Good morning, Julio Gonzalez. 500</p> <p>19 University Boulevard East, Silver Spring.</p> <p>20 MARTIN L. GROSSMAN: Ok. I am going to repeat pretty</p> <p>21 much what I said earlier on when we first began these</p> <p>22 proceedings at 9:30 and that is that this is an application</p> <p>23 for conditional use. A conditional use is not a variance. A</p> <p>24 conditional use is a statutorily permitted use if certain</p> <p>25 conditions are met. In other words, it doesn't vary from</p>	<p style="text-align: right;">11</p> <p>1 type of private club, what type of service is being applied</p> <p>2 for? As a homeowner I want to know what is coming into my</p> <p>3 community which is less than a quarter of a mile away.</p> <p>4 MARTIN L. GROSSMAN: Yes. Have you had the opportunity</p> <p>5 to look at the Technical Staff Report from the Planning</p> <p>6 Department?</p> <p>7 MIKE GLASBY: The only thing that I have had a chance</p> <p>8 to look at is what is posted on the internet. I have not</p> <p>9 seen anything else.</p> <p>10 MARTIN L. GROSSMAN: Ok. All of these- What happens</p> <p>11 as a routine matter here is when somebody proposes to file</p> <p>12 an application for a conditional use it is first taken down</p> <p>13 to the Planning Department in Silver Spring. They review it</p> <p>14 for completeness of the application. Make sure all the</p> <p>15 things that are required to be in it are in. it is then</p> <p>16 sent to my office, Office of Zoning and Administrative</p> <p>17 Hearings for filing and then a hearing date is set up and</p> <p>18 it is then reviewed in detail. A substance is reviewed by</p> <p>19 the Technical Staff of the Planning Department. They make a</p> <p>20 recommendation to the Planning Board in a written report.</p> <p>21 In this case that report is exhibit 29. The Planning Board</p> <p>22 then reviews it at a public session in which they accept</p> <p>23 testimony and then, although it is not- It is a limited</p> <p>24 time testimony. Unlike here where it is limited by there is</p> <p>25 availability to cross examination and the like and then</p>
<p style="text-align: right;">10</p> <p>1 what the statute permits but the applicant has the</p> <p>2 obligation of showing that they will comply with the</p> <p>3 statutory provisions that are conditions of the granting of</p> <p>4 the conditional use. There are general conditions that</p> <p>5 apply to all conditional uses and there are specific ones</p> <p>6 which apply to this particular type of conditional use, a</p> <p>7 service organization. We proceed here pretty much the way a</p> <p>8 trial proceeds. All witnesses are sworn in. they are</p> <p>9 subject to cross examination and I will permit you to ask</p> <p>10 questions of witnesses if you have questions as this</p> <p>11 proceeds and if you do decide you wish to testify you will</p> <p>12 be sworn in and also subject to cross examination.</p> <p>13 Everything is taken down by a court reporter who is right</p> <p>14 here and in about 10 days after the proceeding the</p> <p>15 transcript comes out. We post that on our website so that</p> <p>16 you will have access to the transcript of the proceeding.</p> <p>17 Also we have been informed by the applicant that there are</p> <p>18 some minor changes proposed to the conditional use site</p> <p>19 plan that has been suggested that has previously been filed</p> <p>20 here and she will make that known as the hearing proceeds.</p> <p>21 Yes Sir?</p> <p>22 MIKE GLASBY: Mr. Grossman if it is not too far into</p> <p>23 the hearing, can we or someone from the organization that</p> <p>24 is applying for this conditional permit explain exactly</p> <p>25 what it is that you are planning to establish here? What</p>	<p style="text-align: right;">12</p> <p>1 they issue a letter which they did in this case addressed</p> <p>2 to me with the Planning Board's recommendation. That is</p> <p>3 exhibit 30 in this case. Then it comes for a hearing here.</p> <p>4 You haven't seen any of that?</p> <p>5 MIKE GLASBY: I have a copy of the letter from you.</p> <p>6 MARTIN L. GROSSMAN: You have the notice?</p> <p>7 MIKE GLASBY: The application notice. That is the only</p> <p>8 thing that I have at this point.</p> <p>9 MARTIN L. GROSSMAN: Ok. Why don't I do this, I am</p> <p>10 going to recess for 5 or 10 minutes. Let's say until 10</p> <p>11 o'clock. It is now 10 to 10 and I will give you, hand you</p> <p>12 my copy of the staff report and the Planning Board letter</p> <p>13 and you can take a look at it and you can also talk to</p> <p>14 council, Ms. Lee-Cho about that. About what is proposed and</p> <p>15 if you need more time then that I will give you more time</p> <p>16 than that. Meanwhile maybe I can have them run off a couple</p> <p>17 of additional copies as well. Thank you and I will recess</p> <p>18 until 10 o'clock. Did I (inaudible)</p> <p>19 SOO LEE-CHO: Yes that is. Thank you.</p> <p>20 MARTIN L. GROSSMAN: So we are back on the record</p> <p>21 again and let me ask Mr. Glasby, Mr. Thames, and Mr.</p> <p>22 Gonzalez have you had time to now look over the materials</p> <p>23 and talk to council for the applicant?</p> <p>24 MIKE GLASBY: I have had the chance to look over the</p> <p>25 material and talk to council.</p>

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<p>13</p> <p>1 MARTIN L. GROSSMAN: Alright and actually if you would</p> <p>2 like to, if you would pull one more chair up here you could</p> <p>3 all actually sit at council tables since we have room for</p> <p>4 one witness. Would you like to do that or (inaudible)?</p> <p>5 MIKE GLASBY: I am fine.</p> <p>6 MARTIN L. GROSSMAN: Ok. Alright then. When you came</p> <p>7 in Ms. Lee-Cho was beginning her opening statements. So why</p> <p>8 don't we resume that. Ms. Lee-Cho?</p> <p>9 SOO LEE-CHO: Thank you. So as I was stating using</p> <p>10 exhibit 33 which is the annotated version of the certified</p> <p>11 zoning vicinity map, it has been annotated with some</p> <p>12 additional non-residential and institutional uses in the</p> <p>13 surrounding area. The site in question is as highlighted in</p> <p>14 red. Immediately adjacent to the north is what is a</p> <p>15 community known as University Gardens 1 and University</p> <p>16 8Gardens 2 and it is a senior housing project that is also</p> <p>17 owned and managed by the applicant Korean Community</p> <p>18 Services Center.</p> <p>19 MARTIN L. GROSSMAN: Can you point that?</p> <p>20 SOO LEE-CHO: So the red is the site and immediately</p> <p>21 adjacent is the University Gardens.</p> <p>22 MARTIN L. GROSSMAN: Well everything is in red.</p> <p>23 SOO LEE-CHO: Correct.</p> <p>24 MARTIN L. GROSSMAN: But the very center of the</p> <p>25 annotated map is the subject site and just to the north of</p>	<p>15</p> <p>1 the existing residential structure, the basement level of</p> <p>2 the residential structure for its administrative offices</p> <p>3 and a location where its member beneficiaries can come and</p> <p>4 receive benefits such as information, sessions, training,</p> <p>5 any type of integration type of services needed,</p> <p>6 information about healthcare or social security disability</p> <p>7 applications things like that. I have the chair the</p> <p>8 immediate pass Chair Ms. ELIZABETH KIM who will testify</p> <p>9 more to the organization's mission and goal but there is no</p> <p>10 physical change being proposed to this site to accommodate</p> <p>11 KCSC's occupancy of the basement level other than some</p> <p>12 minor restriping that was recommended by the Technical</p> <p>13 Staff to resize the existing parking spaces to meet the</p> <p>14 zoning ordinance requirements as well as a provision of a</p> <p>15 long term (inaudible). Finally we will get into the parking</p> <p>16 setback waiver that was identified by Technical Staff as</p> <p>17 well as perimeter screening waiver that was both of those</p> <p>18 waivers were recommended by Technical Staff for approval</p> <p>19 and we will provide a little more information and</p> <p>20 background as to why that is needed in this case but</p> <p>21 basically it is needed due to existing conditions. To</p> <p>22 reconcile existing conditions with current zoning ordinance</p> <p>23 requirements. Ok? So with that I would introduce my first</p> <p>24 witness. Ms. Kim can you please state your name and spell</p> <p>25 your name for the record?</p>
<p>14</p> <p>1 it is the gardens?</p> <p>2 SOO LEE-CHO: University Gardens site, correct. As we</p> <p>3 are going through the hearing I will use the acronym KCSC</p> <p>4 as a short form of the applicants longer term name. Just</p> <p>5 for the transcript purposes. Other notable uses marked on</p> <p>6 the vicinity map are the area schools. There is Eastern</p> <p>7 Middle School is located at the top of the vicinity map on</p> <p>8 University Boulevard. To the West you have got Oak View</p> <p>9 Elementary School, West of University and then to the East</p> <p>10 you have Montgomery Knolls Elementary School. To the South</p> <p>11 there is a church property and then further North beyond</p> <p>12 North of University Gardens there is Mount Jezreel Baptist</p> <p>13 Church and on that site they also have a school and senior</p> <p>14 housing which came before this body also for approval.</p> <p>15 There are local parks to the Southwest and further to the</p> <p>16 Southwest the Long Branch Library and the Long Branch</p> <p>17 Arliss Neighborhood Park. The area is predominately single</p> <p>18 family residential detached uses in the R60 zone with</p> <p>19 townhouses in the RT12.5 zone interspersed in the center of</p> <p>20 the zoning vicinity map. The corner lot is bound by</p> <p>21 University Boulevard as I indicated which is 120 foot right</p> <p>22 of way. Classification is a highway. Buckingham Drive is</p> <p>23 the road that fronts the property fronts to the South and</p> <p>24 that is a 50 foot right of way. As a brief summary of the</p> <p>25 case, what the applicant is proposing is essentially to use</p>	<p>16</p> <p>1 ELIZABETH KIM: It is Sanghee ELIZABETH KIM.</p> <p>2 MARTIN L. GROSSMAN: Ms. Kim would you raise your</p> <p>3 right hand please? Do you swear or affirm to tell the</p> <p>4 truth, the whole truth, and nothing but the truth under</p> <p>5 penalty of perjury?</p> <p>6 ELIZABETH KIM: I do.</p> <p>7 MARTIN L. GROSSMAN: Alright. You may proceed.</p> <p>8 SOO LEE-CHO: Ms. Kim can you please state your role</p> <p>9 and position as KCSC?</p> <p>10 ELIZABETH KIM: I was the immediate past Chairman of</p> <p>11 the Board.</p> <p>12 SOO LEE-CHO: Can you provide some opening remarks on</p> <p>13 behalf of KCSC with regard to your organizations</p> <p>14 background, history, and its mission?</p> <p>15 MARTIN L. GROSSMAN: Let me jump in for a minute. You</p> <p>16 said immediate past Chairman. Do you hold any official role</p> <p>17 currently?</p> <p>18 ELIZABETH KIM: Yes. I am the Nominating Committee</p> <p>19 Chair and Sub-Committee Chair.</p> <p>20 MARTIN L. GROSSMAN: Nominating Committee for what?</p> <p>21 What is that?</p> <p>22 ELIZABETH KIM: Board members.</p> <p>23 MARTIN L. GROSSMAN: I see and what was the other</p> <p>24 committee?</p> <p>25 ELIZABETH KIM: The Committee for the Fundraising.</p>

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5 (17 to 20)

<p style="text-align: right;">17</p> <p>1 MARTIN L. GROSSMAN: Ok. And can you speak for the</p> <p>2 organization and those roles?</p> <p>3 ELIZABETH KIM: Yes.</p> <p>4 MARTIN L. GROSSMAN: Alright. You may proceed.</p> <p>5 SOO LEE-CHO: Please as I indicated, provide some</p> <p>6 background information on KCSC and its mission?</p> <p>7 ELIZABETH KIM: Ok. So KCSC was founded back in 1974</p> <p>8 by wonderful people who wanted to help the immigrants to</p> <p>9 settle in this great country of ours and we had grown</p> <p>10 steadily. Our main mission is to assist and empower</p> <p>11 immigrants in this society to become fully adjusted to this</p> <p>12 community and contributing members of this society through</p> <p>13 different social services program; education, advocacy, and</p> <p>14 development of different resources. We have been serving</p> <p>15 our community members diligently and we serve about 50,000</p> <p>16 members a year. So it is a well-known community</p> <p>17 organization in this area as well as it is credited by both</p> <p>18 Maryland, Virginia, and DC area. We have about 22 board</p> <p>19 members currently and they are just passionate people who</p> <p>20 want to serve and they are leaders in this community. We</p> <p>21 have 26 staff members that are professionals, highly</p> <p>22 trained, bilingual, mostly bicultural. Just to be able to</p> <p>23 serve our members better. We have about 100 regular</p> <p>24 volunteers supporting various programs that we provide. We</p> <p>25 have many different cultural and linguistic programs that</p>	<p style="text-align: right;">19</p> <p>1 9 to 5, Saturday 10 to 3 to host various programs. We will</p> <p>2 probably have up to 8 meetings a month and if the meetings</p> <p>3 are held in the evening it will probably end before 9 PM.</p> <p>4 The maximum number of employees that will be housed in the</p> <p>5 branch office will be 3.</p> <p>6 SOO LEE-CHO: Are you familiar with the zoning</p> <p>7 ordinance definition for private club service organization?</p> <p>8 ELIZABETH KIM: Yes.</p> <p>9 SOO LEE-CHO: And could you testify as to- Is it your</p> <p>10 belief that KCSC meets that definition?</p> <p>11 ELIZABETH KIM: Yes. The private club, the service</p> <p>12 organization means that we are providing it is for the</p> <p>13 civic and social and cultural services for the benefits of</p> <p>14 the members and it is not open to the public. So we have</p> <p>15 been servicing our programs to the members of our</p> <p>16 organization and will continue to do so with this property,</p> <p>17 at this branch office.</p> <p>18 SOO LEE-CHO: And you mentioned the University Gardens</p> <p>19 property and your staff's current part-time visits to that</p> <p>20 project. Can you detail a bit more about how KCSC's mission</p> <p>21 will be served by the location of the branch office so</p> <p>22 close to University Gardens?</p> <p>23 ELIZABETH KIM: AS you can see from the picture is in</p> <p>24 in walking distance. The University Gardens is a senior</p> <p>25 apartment. So the seniors could walk over to the branch</p>
<p style="text-align: right;">18</p> <p>1 are specific to meet the needs of the needy in our</p> <p>2 community. Mainly because of the language barriers and</p> <p>3 cultural barriers that encompasses the (inaudible) society</p> <p>4 here. We do assist Korean immigrants but as well as other</p> <p>5 immigrants who are in need of our programs and services. We</p> <p>6 have 4 offices in this metro area. Our headquarter is</p> <p>7 located at Annandale Virginia. Our second office is in</p> <p>8 Gaithersburg here in Montgomery County. We have a small</p> <p>9 office in Riverdale as well as we do have part-time staff</p> <p>10 going out to the University Gardens. The University Gardens</p> <p>11 there were 2 units like you have heard before.</p> <p>12 SOO LEE-CHO: Before you get into that, what is the</p> <p>13 tax exempt status of KCSC?</p> <p>14 ELIZABETH KIM: We are 501C3.</p> <p>15 SOO LEE-CHO: Which is a nonprofit?</p> <p>16 ELIZABETH KIM: Correct.</p> <p>17 SOO LEE-CHO: Please proceed in describing what the</p> <p>18 proposed use at KCSC is proposing for 700 Buckingham.</p> <p>19 ELIZABETH KIM: So we have the property, the</p> <p>20 residence, the property has 3 levels and we want to use the</p> <p>21 basement level to have our brand office more permanently</p> <p>22 there rather than just part-time use at the University</p> <p>23 Garden. The first and second floor, like I said, will</p> <p>24 remain as a (inaudible) rental (inaudible) unit and our</p> <p>25 office- We will have our office hours Monday through Friday</p>	<p style="text-align: right;">20</p> <p>1 office and have benefits of the programs that we provide.</p> <p>2 So the University Garden is 92 units with 1 and 2 combined</p> <p>3 and about 110-120 elders live there. So the main purpose of</p> <p>4 the branch office is to serve the people there and also</p> <p>5 through the PR or advertisement would amount the members</p> <p>6 could come in and participate.</p> <p>7 MARTIN L. GROSSMAN: I notice that the Planning Board</p> <p>8 suggested in its letter to me in exhibit 30 that there be a</p> <p>9 path potentially connecting those units with your property.</p> <p>10 Is that contained in the proposed amended conditional use</p> <p>11 plan that you plan to submit?</p> <p>12 SOO LEE-CHO: It is not because the engineering and</p> <p>13 detailing for that path is in process and we are not</p> <p>14 prepared to include it on the conditional use plan at this</p> <p>15 time but it is something that KCSC would be coming back and</p> <p>16 modifying as necessary to implement.</p> <p>17 MARTIN L. GROSSMAN: Yes because I notice that</p> <p>18 although the Planning Board suggested that that could be</p> <p>19 approved on a staff level. That the Planning Department</p> <p>20 would have to come here as a modification maybe just a</p> <p>21 minor modification but a modification. Ok. You may proceed.</p> <p>22 SOO LEE-CHO: Finally, can you just as background can</p> <p>23 you provide a little bit about how KCSC is able to fund and</p> <p>24 make this branch office happen at this location?</p> <p>25 ELIZABETH KIM: Mainly because of our credibility. We</p>

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<p>21</p> <p>1 have been working closely with a lot of the elected 2 officials. We were able to receive \$140,000 in bond bill 3 from Maryland, the state of Maryland. So that was a main 4 source of fund to purchase the house and through our 5 community fundraising events we were able to again save 6 more money to paint the house and have a plan to open up 7 the branch office. We actually, we will be getting another 8 bond bill soon. It is not a public announcement. It is not 9 announced yet but we will be getting an additional bond 10 bill as well.</p> <p>11 SOO LEE-CHO: No further questions for this witness.</p> <p>12 MARTIN L. GROSSMAN: Do you understand Ms. Kim that 13 one of the recommended conditions by the Technical Staff 14 and the Planning Board is that prior to the issuance of a 15 use and occupancy permit the applicant must extinguish the 16 existing approved basic conditional use, it is actually a 17 special acceptance, on this site that is S1591 with the 18 Board of Appeals?</p> <p>19 ELIZABETH KIM: Is that the prior?</p> <p>20 SOO LEE-CHO: Yes.</p> <p>21 ELIZABETH KIM: So we can't get in touch with the 22 prior owner of the property. So we will work with him to 23 get his signature to (inaudible)</p> <p>24 MARTIN L. GROSSMAN: Ok and that would be if this were 25 granted this would likely be a condition that I would</p>	<p>23</p> <p>1 SOO LEE-CHO: And then condition 3 is our suggested 2 modification to clarify, I think, the text proposed by the 3 Planning Board could be misread to be 8 monthly meetings 4 which could be 8 in a year as opposed to what was stated at 5 the applicant's statement of operations as 8 meetings per 6 month.</p> <p>7 MARTIN L. GROSSMAN: I see. Ok.</p> <p>8 SOO LEE-CHO: You would note that Technical Staff's 9 language had in parenthesis per month.</p> <p>10 MARTIN L. GROSSMAN: I see.</p> <p>11 SOO LEE-CHO: So I think there was a bit of a word 12 something change there.</p> <p>13 MARTIN L. GROSSMAN: Ok. Change there. I understand.</p> <p>14 SOO LEE-CHO: But nothing major, substantive in 15 applicant's field.</p> <p>16 MARTIN L. GROSSMAN: It is just essentially clarifying 17 what the language should be?</p> <p>18 SOO LEE-CHO: Correct.</p> <p>19 MARTIN L. GROSSMAN: Have you shown a copy of this to 20 the gentlemen? These are proposed changes. There are 21 conditions that you will see listed in the Planning Board 22 letter and these are proposed changes to those conditions 23 to clarify the language in the first case and then proposed 24 condition 3 to clarify what the number of meetings would be 25 which is 8 meetings per month. That apparently the parking</p>
<p>22</p> <p>1 impose as well.</p> <p>2 ELIZABETH KIM: Ok.</p> <p>3 MARTIN L. GROSSMAN: And let me just explain the 4 terminology conditional use verses special exception. This 5 application is for conditional use. The old terminology for 6 the identical type of use was called a special exception. 7 We felt that was kind of misleading because it really isn't 8 an exception. It is a permitted use if certain statutory 9 conditions are met. So that is why the existing special 10 exception on the property is called a special exception. 11 When the new zoning ordinance was adopted in 2014 they just 12 changed that terminology. Ok.</p> <p>13 SOO LEE-CHO: If I might, the hearing examiner raised 14 the same redline that I had incorporated into the 15 applicant's suggested redline. I would like to provide this 16 at this time for the record and this would be marked as 17 exhibit-</p> <p>18 MARTIN L. GROSSMAN: Exhibit 34.</p> <p>19 SOO LEE-CHO: This redline in addition to correcting 20 the terminology of the conditional use verses special 21 exception. It also corrects the type of in condition 6 the 22 language identified parallel parking spaces when in fact 23 you will see in Technical Staff they are perpendicular 24 spaces.</p> <p>25 MARTIN L. GROSSMAN: Ok.</p>	<p>24</p> <p>1 spaces involved required for perpendicular rather than 2 parallel and changed the terminology of where it says 3 conditional use it is a special exception use and the 4 reason for that distinction has to be clarified that it is 5 that under the recent amendment to the zoning ordinance 6 there is a jurisdictional distinction between who modifies 7 special exceptions and who modifies conditional uses. My 8 office, the office of Zoning and Administrative Hearings 9 can modify a conditional use but it is the Board of Appeals 10 that modifies special exceptions because they are the ones 11 that issue them. So that is why that needs to be clarified. 12 Yes sir?</p> <p>13 MIKE GLASBY: And if we can go back to under number 3 14 and you will just addressing it up to 8 meetings per month 15 but it should be up to 8 meetings annually? Did I hear that 16 correctly?</p> <p>17 SOO LEE-CHO: You have that in reverse.</p> <p>18 MARTIN L. GROSSMAN: Yeah. What they are saying is 19 that the Technical Staff recommended a condition which said 20 8 meetings per month. Let's see how they phrased it. They 21 said up to 8 monthly meetings and then they said per month. 22 So to clarify that what would be allowed if this is 23 permitted is up to 8 meetings per month and but the 24 language was ambiguous the way that they Planning Board set 25 it forth which is to say 8 monthly meetings. So they just</p>

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<p>25</p> <p>1 clarified that in the proposed changed language. 2 SOO LEE-CHO: And if you look at page 13 of the 3 Technical Staff Report which details the transportation 4 analysis and recommendation. 5 MARTIN L. GROSSMAN: Yes. 6 SOO LEE-CHO: Section C2 had it correct. 7 MARTIN L. GROSSMAN: Ok. So Transportation Analysis of 8 the impact in terms of traffic and part of traffic 9 essentially on the roads was based on the idea of 8 per 10 month? 11 SOO LEE-CHO: Correct. 12 MARTIN L. GROSSMAN: Correct, ok. Did you have 13 something you wanted to say? 14 JULIO GONZALEZ: I have a problem in reference to the 15 (inaudible) picture lineating the property. I think there 16 is something missing over there. 17 MARTIN L. GROSSMAN: No. we are going to let you 18 testify about that if there is something missing but right 19 now this is your opportunity to 1) comment if you want to 20 on the proposed conditions. 21 JULIO GONZALEZ: I have not read that. 22 MARTIN L. GROSSMAN: And you will be given the 23 opportunity, in fact, right now to cross examine this 24 witness. When the applicant has completed calling all of 25 its witnesses then you will be given the opportunity to</p>	<p>27</p> <p>1 when they put up their conditional use site plan and then 2 we can discuss if there is a problem with the way the 3 property is shown, we will discuss it then. Ok? So we have 4 to proceed in an orderly manner here as to what is now the 5 evidence that is before us. Alright. 6 SOO LEE-CHO: Very quickly before I actually have Ms. 7 Kim step away, would just have her state for the record her 8 acceptance of the revised conditions. 9 MARTIN L. GROSSMAN: Ok. Ms. Kim? 10 SOO LEE-CHO: Ms. Kim, have you reviewed the 11 applicant's amended amendments to the Planning Board's 12 recommended conditions? 13 ELIZABETH KIM: Yes. 14 SOO LEE-CHO: And are they all acceptable to KCSC? 15 ELIZABETH KIM: Yes. 16 MARTIN L. GROSSMAN: There may be additional 17 conditions if I were to grant this that I would impose and 18 generally are we always include a catch all conditions 19 about following all regulations and that sort of that and 20 then maybe the additional ones if they come up in the 21 course of this. 22 ELIZABETH KIM: I understand. 23 SOO LEE-CHO: Thank you. 24 MARTIN L. GROSSMAN: Any additional questions? Mr. 25 Glasby do you have any questions of this witness?</p>
<p>26</p> <p>1 testify under oath as to any issues that you see in the 2 case. Ok? So that is kind of like how a courtroom operates. 3 Do you have any questions Mr. Gonzalez of this witness? 4 JULIO GONZALEZ: I have a question in reference to- 5 MARTIN L. GROSSMAN: Ms. Kim, a question for Ms. Kim? 6 JULIO GONZALEZ: No. the question is to reference to 7 the picture. 8 MARTIN L. GROSSMAN: Alright. What is your question? 9 JULIO GONZALEZ: The question is, it shows the 10 property line. It doesn't show the future sidewalk that 11 will be there and that is a must in reference to safety 12 condition. Too many children are walking through there. 13 MARTIN L. GROSSMAN: Ok. That is way beyond where we 14 are right now. That, what you are looking at, if you are 15 looking at exhibit the annotated vicinity map exhibit 33 it 16 wouldn't show things like sidewalks. That is an annotation 17 on official zoning maps. 18 JULIO GONZALEZ: I understand that. 19 MARTIN L. GROSSMAN: But you are going to have- 20 JULIO GONZALEZ: There is a space of property over 21 there that doesn't belong to this property. It belongs to 22 the wrong property. 23 MARTIN L. GROSSMAN: I am going to get- but there is 24 nothing up there right now in which that can be discussed. 25 We are going to give you the opportunity to point that out</p>	<p>28</p> <p>1 MIKE GLASBY: No questions. 2 MARTIN L. GROSSMAN: How about Mr. Thames, any 3 questions for this witness? 4 WINSTON THAMES: No. 5 MARTIN L. GROSSMAN: Ok. Alright. Is this witness the 6 one you have talking about the definition of the 7 surrounding area or is that another witness? 8 SOO LEE-CHO: Ms. Cross. Somer Cross. 9 MARTIN L. GROSSMAN: Ok. Alright. 10 SOO LEE-CHO: Ms. Cross, can you please state and 11 spell your name for the record and state your address? 12 SOMER CROSS: My name is Somer Cross. I work at Miller 13 Miller and Canby at 200b Monroe Street, Rockville Maryland. 14 MARTIN L. GROSSMAN: Would you raise your right hand 15 please? Do you swear or affirm to tell the truth, the whole 16 truth, and nothing but the truth under penalty of perjury? 17 SOMER CROSS: I do. 18 MARTIN L. GROSSMAN: Now, you are calling somebody who 19 works in your office as a witness in a case. There is a 20 problem with having an attorney as a witness in a case. Is 21 Ms. Cross an attorney? 22 SOO LEE-CHO: She is an attorney but she is also a 23 Land Planner and she is here in her capacity as a Land 24 Planner. 25 MARTIN L. GROSSMAN: It does raise issues by the way</p>

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<p>29</p> <p>1 in having- by being a member of your law firm being a 2 witness in the case there are issues that come up as to 3 whether to not an attorney in the case in fact, whether or 4 not she is appearing here as a planner if she can meet the 5 qualifications of that cannot appropriately testify and 6 give fact testimony in a case. So do you want to comment on 7 that at all? 8 SOO LEE-CHO: Sure. Ms. Cross has made an independent 9 review of this matter and reviewed the facts in as I will 10 explore with her in terms of her goals as a Land Planner on 11 this case. Her endeavors there have been a separation of 12 opinion and it is her own that is being expressed today. 13 She may- 14 MARTIN L. GROSSMAN: Does it differ from yours? 15 SOO LEE-CHO: It has differed from mine. 16 MARTIN L. GROSSMAN: In this case? 17 SOO LEE-CHO: Yes it has. 18 SOMER CROSS: Yes. 19 SOO LEE-CHO: And so as I deal with land planners who 20 are outside my firm they are of their own opinion and 21 review materials. I have provided her review of the traffic 22 statement. She has reviewed the master plan, the applicant 23 statements operation, and also the conditional use plans. 24 So she has got, she will be testifying based on her own 25 review and assessment of the matters involving this case.</p>	<p>31</p> <p>1 MARTIN L. GROSSMAN: (inaudible) Ok. Alright. I don't 2 recall that if it was before me. I just don't recall it. 3 But anyways. 4 SOO LEE-CHO: I invite the Hearing Examiner to query 5 Ms. Cross further. I was planning to sort of delve into 6 really her role not on this project but frankly her land 7 planning role in a number of different cases. 8 MARTIN L. GROSSMAN: Oh yeah. She will be voir dire 9 in terms of her expertise. Voir dire is a fancy way of 10 saying that when somebody is proffered as an expert witness 11 there is a separate set of questions that are asked to 12 determine if that person is truly an expert who can aid the 13 fact finder. An expert in litigation is not necessarily 14 somebody who has a particular degree but it is somebody who 15 has information beyond the can of a laymen who can offer 16 that opinion in a way that will help the fact finder make a 17 decision. So we will see in terms of this voir dire, this 18 examination of Ms. Cross whether or not she meets that 19 standard. Ok. 20 MIKE GLASBY: Mr. Grossman if I may? 21 MARTIN L. GROSSMAN: Yes. 22 MIKE GLASBY: Would it be somewhat unique for the 23 witness since the witness is a member of the law firm that 24 is representing the organization to be unbiased? 25 MARTIN L. GROSSMAN: There is a bias issue which is</p>
<p>30</p> <p>1 MARTIN L. GROSSMAN: I will say, to say it is unusual 2 is understated because I have never seen it in the years 3 that I have functioned as a hearing examiner. Nor have I 4 seen it in the many years I practiced as a Civil Litigator 5 and supervised as a Civil Litigator. So it is really 6 unusual to have a member of the firm representing as 7 attorneys also have a person who is proffered as an expert 8 in the case. 9 SOO LEE-CHO: Now, we did internally consult on this 10 issue. We anticipated that the Hearing Examiner might have 11 questions and there was a recollection of a case involving 12 the Columbia Country Club where in that matter it wasn't 13 the applicant's law firm but it was an opposing council's 14 law firm that introduced an expert witness Land Planner in 15 that case and as you know Jody Cline of our office actually 16 objected to that buy lost in his objection and apparently 17 that expert was allowed to testify on that case. 18 MARTIN L. GROSSMAN: That is interesting and do you 19 happen to have the site to that case? 20 SOO LEE-CHO: I do not have off hand but that was also 21 Mr. Cline's recollection that I was working off of. 22 MARTIN L. GROSSMAN: Ok. And who was the attorney and 23 who was the witness? 24 SOO LEE-CHO: We can provide that information if that 25 was- I didn't come prepared with that.</p>	<p>32</p> <p>1 why this is an issue in a case. There is a bias issue and 2 also just a procedural issue and I am going to let you also 3 examine the witness on that question of bias and it is 4 something that would factor into the way the witness's 5 testimony is evaluated by me. 6 MIKE GLASBY: But I am just wondering if whether or 7 not- 8 MARTIN L. GROSSMAN: Whether it excludes- I haven't 9 since I wasn't aware that this was going to happen today. 10 Ms. Cross was not listed as a witness here in the 11 prehearing statements and since that was the case there was 12 no reason for me to look into that as an issue. When I 13 write up my decision in this case, first of all while the 14 record is still open I am going to ask applicant's council 15 to submit a short brief on the question of having somebody 16 who is a member of the law firm testify as an expert in the 17 case and I am going to give- I don't know if you are 18 opposing this or not but I am going to give other 19 participants, other parties in this case and by 20 participating here as you are you are now a party in this 21 case, I will give you an opportunity to respond to whatever 22 Ms. Cross files. I am sorry. Ms. Lee-Cho files. Ok? 23 MIKE GLASBY: Ok. So it is a legitimate issue. I am 24 just concerned of her ability to be fair in this proceeding 25 since she is an employee of-</p>

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<p>33</p> <p>1 MARTIN L. GROSSMAN: It is a very legitimate issue. On 2 the other hand one could argue the same thing about expert 3 witnesses who are paid by the applicant. 4 MIKE GLASBY: Exactly. 5 MARTIN L. GROSSMAN: And that is a legitimate issue 6 also. 7 MIKE GLASBY: I agree. 8 MARTIN L. GROSSMAN: But it is the routine in 9 litigation that experts are hired by a party and they 10 testify in cases. Sometimes there are experts on both 11 sides. So it is maybe an unavoidable thing. I have actually 12 suggested it in times past that a different process was 13 more appropriate in litigation but that is a whole other 14 story. 15 SOO LEE-CHO: I was just about to make mention of that 16 thought because I have used on behalf of applicants have 17 been hired expert witnesses for land planning and all sorts 18 of and when we looked at this before coming today we 19 assessed it. It is really not much different in terms of 20 that context of what we are doing. 21 MARTIN L. GROSSMAN: I am going to give you, I am 22 going to ask you to submit something regarding this issue. 23 This may well have come up before in litigation where this 24 was attempted and I would like to know what the courts have 25 said about it.</p>	<p>35</p> <p>1 that there was a need. I thought that we could based on the 2 straight forward aspect of this case that there wouldn't be 3 any issues of note when Technical Staff identified some 4 parking set back issues and waivers and things like that it 5 just became a little bit not weedy in any real sense but of 6 issue we thought it would be beneficial for the applicant 7 to have its own witness. 8 MARTIN L. GROSSMAN: It may be beneficial. I think 9 that in the future as a matter of practice if there is 10 going to be an amendment to the witness list it should be 11 filed in advance so I know and so that others know and also 12 the change in the conditional use plan. I realize that some 13 of the changes result from the rather recent Planning Board 14 letter but still, there as time to get something in advance 15 so other people could look at it before the hearing. I 16 strongly recommend in the future you do that. Alright. So 17 your questions of Ms. Cross. 18 SOO LEE-CHO: Could you start, Ms. Cross, by 19 summarizing some of your past experience? Well first before 20 I go there what profession and in what capacity are you 21 testifying before the Hearing Examiner today? 22 SOMER CROSS: So I am testifying as the Land Planner. 23 I have a masters in city regional planning and I am AICP 24 Certified which is the American Institute of Certified 25 Planners.</p>
<p>34</p> <p>1 SOO LEE-CHO: Ok. 2 MARTIN L. GROSSMAN: Alright. So I believe I have 3 sworn you in? 4 SOMER CROSS: Yes Sir. 5 MARTIN L. GROSSMAN: Alright. You may proceed then 6 with what your- 7 SOO LEE-CHO: (inaudible) offer the resume of Ms. 8 Cross. 9 MARTIN L. GROSSMAN: Ok. And Ms. Cross's resume. Do 10 you have a copy for the gentlemen there? This will be 11 exhibit 35. Somer Cross resume. Let me ask you, Ms. Lee- 12 Cho, was Ms. Cross called in this case because of another 13 witness was not available or because you had somebody else 14 listed? 15 SOO LEE-CHO: No. I think in preparing for the case 16 and frankly we had a Technical Staff report that 17 substantially covered all the issues rather than leaning 18 too heavily on this Technical Staff report alone we thought 19 it would be helpful to have our own representative who 20 separately analyzed and could add any helpful information 21 for the hearing examiners. 22 MARTIN L. GROSSMAN: Well why wasn't she listed in the 23 prehearing statement that you are required to list your 24 witnesses? 25 SOO LEE-CHO: We didn't at that time find- thought</p>	<p>36</p> <p>1 SOO LEE-CHO: And I take it you have never qualified 2 as an expert witness in the field of land planning before 3 any court of law or zoning body, is that true? 4 SOMER CROSS: Yes. 5 SOO LEE-CHO: Could you detail for us your past 6 experience and other employment beyond your current 7 employment in the field of land planning? 8 SOMER CROSS: So I have both a public and private 9 experience in land planning. I have worked for both the 10 Land Planning Commission and the Council of Governments in 11 the state of South Carolina reviewing, assisting to create 12 new master plans creating publications for communities 13 trying to identify land use issues and explain them in a 14 way to that can be reasonably interpreted by the citizens. 15 I have also worked for the city of Rockville for a number 16 of years. I was part of the small group of people to 17 spearhead the zoning board and (inaudible) revision there. 18 Starting from the beginning creating white papers on a 19 number of different land use issues presenting and sort of 20 getting the city council or (inaudible) council familiar 21 with these land use issues to try to get them to identify 22 what the particular zoning points were that needed to be 23 changed and what we were going to do. Then I worked very 24 closely with a committee of staff citizens, planning 25 commission members, council members working on drafting</p>

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<p>37</p> <p>1 that language for a number of years and then later worked 2 with staff directly in training about the zoning ordinance 3 changes. 4 SOO LEE-CHO: In the city of Rockville that zoning 5 ordinance- 6 MARTIN L. GROSSMAN: Those changes, you helped make 7 those in Rockville? 8 SOMER CROSS: The Rockville's zoning ordinance change. 9 That happened in 2009. 10 MARTIN L. GROSSMAN: Ok. 11 SOO LEE-CHO: That was going to be my question. Was it 12 eventually adopted by the city of Rockville? 13 SOMER CROSS: Yes. 14 SOO LEE-CHO: Are you done in terms of explaining your 15 past experience? Is there anything in addition you have to 16 add? 17 SOMER CROSS: No, not at this time. (Inaudible) 18 MARTIN L. GROSSMAN: What about your experience with 19 the Montgomery County Zoning Ordinance? 20 SOMER CROSS: So I have worked with Miller Miller and 21 Canby now for almost 9 years. My role is essentially an in 22 house Land Planner. I evaluate properties as clients come 23 in for various land use issues using both state and county 24 materials, GIS, land records, anything that is available 25 both online and in house. Identifying any kind of land use</p>	<p>39</p> <p>1 MARTIN L. GROSSMAN: Alright. Are you familiar with 2 the- Have you worked with the Montgomery County Zoning 3 Ordinance as it affects this particular case? 4 SOMER CROSS: Yes. The zoning ordinance requirements 5 for this case, I have gone over staff's Technical Reports 6 for their standards too. 7 MARTIN L. GROSSMAN: Any other questions? 8 SOO LEE-CHO: No further questions. I request that Ms. 9 Cross be accepted as an expert witness in the field of land 10 planning. 11 MARTIN L. GROSSMAN: Alright. Let me ask you 12 gentlemen, Mr. Glasby do you have any questions regarding 13 this witness's expertise? 14 MIKE GLASBY: No. 15 MARTIN L. GROSSMAN: Alright. How about Mr. Thames? 16 WINSTON THAMES: No, I do not. 17 MARTIN L. GROSSMAN: And Mr. Gonzalez do you have any 18 questions regarding her expertise? 19 JULIO GONZALEZ: No. 20 MARTIN L. GROSSMAN: No. Ok. Alright. Subject to my 21 further review of the legal issues involved with her 22 testifying I accept her as an expert in land planning in 23 this case and then as I say I will make a final decision on 24 that issue on a legal issue of her serving in that capacity 25 following your submission of your brief and any response</p>
<p>38</p> <p>1 issues that might be applicable to that site. Then when an 2 application comes in I review it for zoning ordinance 3 compliance. Make sure that the site will meet all the 4 standards. For instance if we have a floating zone 5 application I will review that site for proximity to 6 community facilities, environmental concerns, I always 7 check for forest conservation, and other zoning 8 requirements. 9 SOO LEE-CHO: And in that capacity how many master 10 plans of the county would you estimate that you have had to 11 become familiar with? 12 SOMER CROSS: Almost all of them at some point or 13 another it seems like. I review and monitor any of the 14 master plan amendments that are going on in the county. 15 Listening to council testimony, reviewing the changes at 16 the staff draft and Planning Commission and all the way to 17 adoption level. I have also for a number of times been 18 asked to (inaudible) on a variety of site plan options that 19 might be presented by another land planner to give my 20 opinion from a land use perspective as to which would be 21 the best course of action for a client. 22 MARTIN L. GROSSMAN: Are you familiar with the master 23 plan involved in this case? 24 SOMER CROSS: Yes I am. The 2000 Silver Spring East 25 Plan.</p>	<p>40</p> <p>1 from the other parties. Ok. You may proceed. Thank you. 2 SOO LEE-CHO: Ms. Cross, you have seen the aerial 3 exhibit that is shown on the board before you, please 4 describe the features of the subject property. Before I 5 have her do that however, I would secondly offer the 6 Hearing Examiner a copy of the aerial that is shown on the 7 board. 8 MARTIN L. GROSSMAN: That is not previously an 9 exhibit? 10 SOO LEE-CHO: It is a new exhibit and it should be 11 marked. 12 MARTIN L. GROSSMAN: Also show a copy to the other 13 parties please. This will be exhibit 36. 14 SOO LEE-CHO: Fortunately I don't have another copy. 15 MARTIN L. GROSSMAN: Alright. I will let them look at 16 this one. 17 SOO LEE-CHO: Ok. 18 MARTIN L. GROSSMAN: Aerial photograph of the site. Is 19 that correct? 20 SOO LEE-CHO: Correct. 21 MARTIN L. GROSSMAN: And immediate surroundings. That 22 is exhibit 36. Thank you. 23 SOO LEE-CHO: Ms. Cross if you could proceed. 24 MARTIN L. GROSSMAN: Hold on a second. I want to give 25 them a second to look at it and then for me to get it back.</p>

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<p>41</p> <p>1 SOO LEE-CHO: Ok.</p> <p>2 MIKE GLASBY: What's the deal of this photograph?</p> <p>3 SOO LEE-CHO: That is a Google Earth Image. I don't</p> <p>4 recall exactly the point (inaudible) in the past year or</p> <p>5 two. Probably about 2013.</p> <p>6 MIKE GLASBY: I don't see my house.</p> <p>7 SOMER CROSS: Let me step up to the exhibit. The</p> <p>8 property is obviously a very long narrow property located</p> <p>9 at the corner of University Boulevard and Buckingham Drive.</p> <p>10 MARTIN L. GROSSMAN: Which way is north on this?</p> <p>11 SOMER CROSS: It is looking north although it is the</p> <p>12 bird's eye view so you are swooping into it.</p> <p>13 MARTIN L. GROSSMAN: Alright. So north is straight up</p> <p>14 on that?</p> <p>15 MIKE GLASBY: University is east and west and north</p> <p>16 would be going into Buckingham-</p> <p>17 SOMER CROSS: Oh that is true. Here is the north arrow</p> <p>18 on here. So it would be this way.</p> <p>19 MARTIN L. GROSSMAN: Alright. Let me (inaudible) make</p> <p>20 sure, I am going to put an arrow for the (inaudible) so we</p> <p>21 know which way north is.</p> <p>22 SOMER CROSS: On the zoning map, what number is- At</p> <p>23 this juncture University is more north then south.</p> <p>24 MARTIN L. GROSSMAN: Ok. I see. So actually it looks</p> <p>25 as in looking at this pretty much north is heading up. I</p>	<p>43</p> <p>1 perimeter and in the rear of the property. There is an</p> <p>2 existing 4 foot chain-link fence along the northern</p> <p>3 boundary which separates it from the adjacent property</p> <p>4 which is University Garden's apartments, as we have already</p> <p>5 heard today. (inaudible) ownership as the applicant.</p> <p>6 MARTIN L. GROSSMAN: That does not appear to be</p> <p>7 visible on this.</p> <p>8 SOMER CROSS: No.</p> <p>9 MARTIN L. GROSSMAN: Too much foliage.</p> <p>10 SOMER CROSS: Yes, exactly. There are a lot of trees</p> <p>11 and over on the east side the one a budding residential</p> <p>12 property there is a 6 foot wooden fence back there. The</p> <p>13 parking was on the rear of the building and accessible only</p> <p>14 through off of Buckingham Drive.</p> <p>15 MARTIN L. GROSSMAN: Ok.</p> <p>16 SOO LEE-CHO: I would like to get into the surrounding</p> <p>17 neighborhood boundary issue. Have you reviewed the</p> <p>18 Technical Staff neighborhood description beginning on page</p> <p>19 6, correct?</p> <p>20 SOMER CROSS: I have.</p> <p>21 SOO LEE-CHO: And are you familiar with the</p> <p>22 applicant's surrounding neighborhood description starting</p> <p>23 on page 2 of the applicant's statement of justification?</p> <p>24 SOMER CROSS: I am. I actually created that exhibit.</p> <p>25 SOO LEE-CHO: Could you please provide a rational or</p>
<p>42</p> <p>1 don't know if it is exactly heading up here. Usually would</p> <p>2 have it as unless you flipped it around. North is up this</p> <p>3 way and here is the property so. So north is pretty much it</p> <p>4 is up. This way. Mike, you are looking at- this is north.</p> <p>5 The Official Zoning Map. North is this way. Here is the</p> <p>6 property and so like this is about the way it is facing</p> <p>7 north it would be up that way. Ok?</p> <p>8 SOMER CROSS: So the Official Zoning Map here is more</p> <p>9 or less straight north.</p> <p>10 MARTIN L. GROSSMAN: Yes. That is a slight angle on</p> <p>11 this. I am going to face it this- I am going to duplicate</p> <p>12 the direction here. Alright. I have drawn a little arrow on</p> <p>13 it. Ok.</p> <p>14 SOMER CROSS: This corner here between University</p> <p>15 Boulevard and Buckingham Drive is a signalized intersection</p> <p>16 with cross walks from the corner of the application site to</p> <p>17 across University and Buckingham</p> <p>18 MARTIN L. GROSSMAN: Ok.</p> <p>19 SOMER CROSS: The site slopes down gradually from</p> <p>20 University Boulevard and flattens off towards the rear.</p> <p>21 MARTIN L. GROSSMAN: So it slopes down to the east?</p> <p>22 SOMER CROSS: Correct.</p> <p>23 MARTIN L. GROSSMAN: Ok.</p> <p>24 SOMER CROSS: And flattens off. There is highly</p> <p>25 vegetated with lots of mature trees both around the</p>	<p>44</p> <p>1 basis for the applicants surrounding neighborhood and any</p> <p>2 concerns that you might have with the Technical Staff's</p> <p>3 proposal?</p> <p>4 MARTIN L. GROSSMAN: I take it then there is a</p> <p>5 difference between the applicant's proposal and the</p> <p>6 Technical Staff's proposal and where is a copy of the</p> <p>7 applicant's proposal?</p> <p>8 SOO LEE-CHO: It is on page 2 of the statement of</p> <p>9 justification which is exhibit 6.</p> <p>10 MARTIN L. GROSSMAN: Ok. Hold on, let me get that.</p> <p>11 SOO LEE-CHO: I would also turn the Hearing Examiner's</p> <p>12 attention to exhibit 22A which was a neighborhood area</p> <p>13 exhibit that was submitted by the applicant.</p> <p>14 MARTIN L. GROSSMAN: I didn't see exhibit 8. Seems to</p> <p>15 go from 5 to 8. You said it is on page-?</p> <p>16 SOO LEE-CHO: Page 2.</p> <p>17 MARTIN L. GROSSMAN: Page 2. Ok. Alright, I see that</p> <p>18 and you say there is another copy other than the larger</p> <p>19 form. There is a slight problem here. We need to stop and</p> <p>20 get some paper towels. Got a gentleman to the rescue there.</p> <p>21 Alright. And ladies. Ms. Lee-Cho, what was the number of</p> <p>22 the other exhibit that you wanted me to look at?</p> <p>23 SOO LEE-CHO: 22A.</p> <p>24 MARTIN L. GROSSMAN: 22A. Ok. And is there a diagram</p> <p>25 somewhere on 22A?</p>

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12 (45 to 48)

<p>45</p> <p>1 SOO LEE-CHO: 22A should be this.</p> <p>2 MARTIN L. GROSSMAN: That is not what it appears to be</p> <p>3 here. 22A looks like-</p> <p>4 SOO LEE-CHO: 22A is a letter. This was an attachment</p> <p>5 to that letter.</p> <p>6 MARTIN L. GROSSMAN: Ok I see. Let me see if there is</p> <p>7 an attachment here. Well apparently we got the letter</p> <p>8 without the attachment. I don't see it.</p> <p>9 SOO LEE-CHO: I have a copy of 22A. Why don't we make</p> <p>10 this a separate exhibit?</p> <p>11 MARTIN L. GROSSMAN: Alright. We could make it 22B if</p> <p>12 it is supposed to be an attachment to that letter. Let's</p> <p>13 see. 22B is that also a copy of the same proposed</p> <p>14 surrounding neighborhoods?</p> <p>15 SOO LEE-CHO: Correct.</p> <p>16 MARTIN L. GROSSMAN: Ok. 22B will be applicant's</p> <p>17 proposed surrounding neighborhood map. That is exhibit 22A.</p> <p>18 The reason why we- I am sorry 22B I misspoke. The reason</p> <p>19 why we are looking to defining the surrounding the defining</p> <p>20 neighborhood is under the zoning ordinance we look to a</p> <p>21 defined neighborhood that contains the area that is most</p> <p>22 likely to be affected by the proposed conditional use and</p> <p>23 that is the defined surrounding neighborhood. We used to</p> <p>24 call it the general neighborhood. The applicant has</p> <p>25 proposed one here and that is shown in exhibit 22B and also</p>	<p>47</p> <p>1 the corner of University Boulevard and Piney Branch Road</p> <p>2 which is a half mile away from the site and it seems to me</p> <p>3 that with only 3 employees suggested at this use that is</p> <p>4 not likely to have much of an impact on that commercial</p> <p>5 area. Then to the north it looks like staff attempted to</p> <p>6 make an equal distant area going another half a mile north</p> <p>7 of the site. Therefore, creating a mile diameter, I guess,</p> <p>8 from top to bottom. Which seemed, again, overly broad for 3</p> <p>9 employees. To the left and right the staff took the</p> <p>10 neighborhood boundary much further into the residential</p> <p>11 areas. Most of the impact, I would believe, for the</p> <p>12 employees they would do most of their traveling on</p> <p>13 University Boulevard because it is a major highway that</p> <p>14 connects to other roads that with this being right there on</p> <p>15 the corner of University Boulevard I could not see that the</p> <p>16 employees would have any impact into either direction</p> <p>17 residential areas.</p> <p>18 MARTIN L. GROSSMAN: You are saying that the earlier</p> <p>19 special exception S1424A was the same property?</p> <p>20 SOMER CROSS: No. That was for the housing development</p> <p>21 to the north but it is the same owner as currently.</p> <p>22 MARTIN L. GROSSMAN: I see.</p> <p>23 SOMER CROSS: Is applying in this application.</p> <p>24 MARTIN L. GROSSMAN: What about the defined</p> <p>25 neighborhood for the actual special exception on the</p>
<p>46</p> <p>1 on page 2 of an earlier submission of theirs and exhibit 6.</p> <p>2 The Technical Staff or the Planning Department looks like</p> <p>3 they defined the neighborhood more broadly. Is that fair to</p> <p>4 say?</p> <p>5 SOO LEE-CHO: Yes.</p> <p>6 MARTIN L. GROSSMAN: The wider definition and now we</p> <p>7 are going to hear from Ms. Cross as to why she thinks her</p> <p>8 proposed defined neighborhood is a better definition.</p> <p>9 SOMER CROSS: So the defined neighborhood that you</p> <p>10 have now on 22B is based entirely on the Hearing Examiner's</p> <p>11 defined neighborhood in the case of S1424A which was an</p> <p>12 application for the Korean Community Service Housing</p> <p>13 Corporation which again is that property immediately to the</p> <p>14 north and under the same ownership.</p> <p>15 MARTIN L. GROSSMAN: That was S?</p> <p>16 SOMER CROSS: 1424A. It was in 2010. So the area that</p> <p>17 the applicant submitted is identical believing that 1) it</p> <p>18 is under the same ownership. 2) It is actually less</p> <p>19 intensive then the use that is currently there. The</p> <p>20 current- the previous use on the property was for a medical</p> <p>21 practitioner which involved up to 4 employees and this will</p> <p>22 only have 3 employees. So it is smaller intensity. My</p> <p>23 concern with the Staff Report's recommended neighborhood</p> <p>24 description is that it is just overly board. It looks like</p> <p>25 staff attempted to incorporate the commercial uses down at</p>	<p>48</p> <p>1 subject property in S1591, what was that?</p> <p>2 SOMER CROSS: I could not find a defined neighborhood</p> <p>3 on that one. It was 2008. I didn't actually look at that</p> <p>4 special exception or the Staff Report on that but it was</p> <p>5 not in any of the reports for the board.</p> <p>6 MARTIN L. GROSSMAN: Well I think that would be an</p> <p>7 even better clue- I appreciate your observation about it in</p> <p>8 terms of total impact but we ought to look at the defined</p> <p>9 neighborhood in the Staff Report for S1591 and if you would</p> <p>10 Ms. Lee-Cho, submit that at the same time as you submit</p> <p>11 your brief on the question of expert witness I would</p> <p>12 appreciate that. Ok.</p> <p>13 WINSTON THAMES: (inaudible) is that what you are</p> <p>14 looking for?</p> <p>15 MARTIN L. GROSSMAN: No that is actually- That is the-</p> <p>16 WINSTON THAMES: (inaudible)</p> <p>17 MARTIN L. GROSSMAN: Yeah that is the Board of Appeals</p> <p>18 opinion and what Ms. Cross was saying is that it didn't</p> <p>19 contain a definition of the surrounding neighborhood that</p> <p>20 she could see but usually the Technical Staff Report the</p> <p>21 equivalent of the one I provided you for this case, would</p> <p>22 have something about the surrounding neighborhood. It</p> <p>23 should anyway. So we are going to look, she is going to</p> <p>24 look back and see how the surrounding neighborhood is</p> <p>25 defined for the special exception that exists now on the</p>

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13 (49 to 52)

<p>49</p> <p>1 subject property under S1591. 2 SOO LEE-CHO: Now turning to the conditional use plan 3 that was submitted by the applicant as exhibit 14. Are you 4 familiar with what was submitted by the applicant? 5 SOMER CROSS: Yes I am 6 SOO LEE-CHO: Are you familiar with Technical Staff's 7 analysis of how the proposed use complies with the R16 8 development standards? 9 SOMER CROSS: Yes I am 10 SOO LEE-CHO: Could you please highlight for us the 11 changes that have been made to the conditional use plan to 12 reconcile with what was analyzed by technical staff? 13 SOMER CROSS: So reviewing- 14 SOO LEE-CHO: Before I have her do that again I will 15 introduce the revised- 16 MARTIN L. GROSSMAN: Revised conditional use plan? 17 SOO LEE-CHO: Correct. And this is an enlargement of 18 the development standard table which can be a little 19 difficult to read. 20 MARTIN L. GROSSMAN: I can see that. Hold on a second 21 while I mark this. Alright. So the conditional use plan as 22 revised is exhibit 37. And 37A would be the blowup of the 23 zoning standards. 24 SOO LEE-CHO: Both of those items are posted onto the 25 blackboard.</p>	<p>51</p> <p>1 standard was 6 feet. The width at the front lot line we had 2 93. They had 78. 3 MARTIN L. GROSSMAN: Ok. Both of which still meet the 4 requirements? 5 SOMER CROSS: Correct. We had 10% on the maximum lot 6 coverage and they calculated at 8.4%. So we made that 7 adjustment and then the front setback we had it at 33 feet 8 and they measure it at 40 feet. 9 MARTIN L. GROSSMAN: Ok. That all is still meeting the 10 requirements? 11 SOMER CROSS: All meeting the requirements. So the 12 other difference between the standards and on page 12 of 13 the Staff Report and the chart on the plan is that we have 14 incorporated the more stringent requirements for the 15 conditional use requested. They have an area is a little 16 bit higher. They would require twice as much- I am sorry. 17 Yeah twice as much area. So the R60 standard is 6,000 18 square feet. However, for this use it would be 12,000 19 square feet and we have marked that on the plan showing 20 where there is additional requirement. 21 MARTIN L. GROSSMAN: I am looking for that. 22 SOMER CROSS: Topline area. So it is 12,000 square 23 feet and then it has an asterisk. 24 MARTIN L. GROSSMAN: Point to it. 25 SOMER CROSS: Right there. Of the required.</p>
<p>50</p> <p>1 MARTIN L. GROSSMAN: Do you have a copy for the other 2 parties? 3 SOO LEE-CHO: I am afraid I do not. 4 MARTIN L. GROSSMAN: Do you have a copy of your own 5 and you can let them look at for a couple of minutes? Yes. 6 Ms. Cross can use the one on the board that will be 7 helpful. I realize that you didn't know that they were 8 going to be here. So I know, I understand why you didn't 9 have enough copies but some of that would have been solved 10 by submitting this in advance. Alright, so 37 and this is 11 exhibit 37A. Ok. Let's start off by you pointing out what 12 has been changed from the previous- 13 SOMER CROSS: Sure. So in reviewing staff's analysis 14 on page 12 of the report the proposed numbers differed in 15 some aspects from the measurements that we had on the plan. 16 I concurred with all the staff's calculations. So we just 17 incorporated their calculations. Would you like me to go-? 18 MARTIN L. GROSSMAN: Yeah. What other ones that are 19 changed? 20 SOMER CROSS: The minimum lot width is we had 106 21 feet. They measured it as 110 feet. So incorporate that. At 22 the front lot line- 23 MARTIN L. GROSSMAN: You said the minimum lot width or 24 you are talking about the actual? 25 SOMER CROSS: I am sorry. The actual lot width. The</p>	<p>52</p> <p>1 MARTIN L. GROSSMAN: I see the asterisks. I don't see 2 the- Oh I see 12,000 square feet. Ok. Required and they say 3 that is the minimum required even though it is an R60 zone? 4 SOMER CROSS: So what Staff has done is calculated the 5 standards for the R60 zone. What we have done on the plan 6 is calculated the standards for R60 where applicable but 7 also including the conditional use more stringent 8 requirements that are found in section 3.4.8. 9 MARTIN L. GROSSMAN: Because 6,000 square feet would 10 be the standard R60 zone but you are saying that based on 11 this particular section it has to be twice that. It has to 12 be 12,000 square feet. 13 SOMER CROSS: Correct. 14 MARTIN L. GROSSMAN: Ok. And you provide the form 3000 15 ok. What else? 16 SOMER CROSS: Another one of the additional standards 17 for this use is the width of the front lot line has to be 18 twice what it would be required in the R60 zones. So we 19 have an asterisk next to that. Instead of 25 feet as staff 20 has it in their table this conditional use requires 50 feet 21 and we are providing 78. So we meet that standard as well. 22 Then finally coverage is 15% for this use instead of 35% 23 for the R60 zone as staff has it and we provide- Maximum is 24 15% and we provide 8.4%. There is an additional requirement 25 for this use for open space to have at least 15% of the</p>

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<p>53</p> <p>1 site be open space and we have 77% as is on the open space 2 exhibit. 3 MARTIN L. GROSSMAN: I see that as listed on the 4 blowup. 5 SOMER CROSS: I think that is it with those standards. 6 SOO LEE-CHO: Ok great. Thank you. 7 MARTIN L. GROSSMAN: Any physical change? 8 SOMER CROSS: So the parking stripes are the only 9 physical change that are suggested here. We originally in 10 our initial application suggested 8 parking spaces. Staff 11 concluded there is only 7 required and actually suggested 12 in the Technical Report that we remove the compact space 13 for considerations of turn radius and safety and since only 14 7 are required 7 are now proposed. 15 MARTIN L. GROSSMAN: Ok. 16 SOMER CROSS: With the bicycle parking, the 17 calculation for that would be .5 spaces required. Therefore 18 1 space and that would be a long term space. There is some 19 discussion in the Staff Report to have 2 spaces which I 20 believe Ms. Lee-Cho has already addressed and the Planning 21 Board is now only recommending 1 in their exhibit 31. 22 MARTIN L. GROSSMAN: They would love to have a second 23 one they said. 24 SOMER CROSS: I could imagine. 25 MARTIN L. GROSSMAN: They love those bicycle spaces. I</p>	<p>55</p> <p>1 parking lot. Currently there is 15 feet between the 2 northern boundary line and the parking lot. Again the 3 property shares that northern boundary line with another 4 property that is owned by the same company. The same 5 entity. The Korean Community Service Center. Therefore, I 6 would think that you would want to encourage more 7 communication and interaction between the two sites to 8 allow the employees of one to come over and vice versa. It 9 eliminates the need and purpose of the setback. I have 10 reviewed staff's recommendations and their opinion says 11 that something like the difference between a 15 foot 12 setback and a 16 foot setback is not discernable to anybody 13 who is going to be on the site. In addition we are not 14 proposing any other changes on site other than restriping 15 the very minimal that needs to be done and removing an 16 additional foot of that parking lot just seems more 17 (inaudible) then it needs to be in this situation. The 18 parking lot was approved with the medial professional that 19 was put there because 8 feet was all that was required at 20 the time. So it was a preexisting parking lot and doesn't 21 seem to be harming anybody to have a 1 foot waiver. 22 MARTIN L. GROSSMAN: Alright. So in your opinion the 1 23 foot waiver of the parking setback requirement, finish that 24 sentence. 25 SOMER CROSS: Should be granted.</p>
<p>54</p> <p>1 am looking for a map key on this. I think it looks like it 2 is covered up by your, by the listed development standards. 3 That is what it appears to be. Let's make sure we know 4 which way is north on this too. Which we can probably do 5 from the other exhibit. I like to know which way is up. It 6 is very helpful in describing something that I be able to 7 say east and west rather than up and down. So if you don't 8 know which way is pointed that makes it more difficult. 9 Alright. So it looks to me- Match this up with this. I hope 10 I am getting this right but I am going to give it a shot. 11 Put a north arrow there. It looks to me like north is up 12 this way. 13 SOMER CROSS: I would concur. 14 MARTIN L. GROSSMAN: Ok. What else? 15 SOO LEE-CHO: Ms. Cross, are you familiar with the 16 parking setback compliance issue and screening waivers 17 identified by Technical Staff? 18 SOMER CROSS: I am. 19 SOO LEE-CHO: Could you first address the parking 20 setback and first describe the issue and why the site 21 requires a waiver? 22 SOMER CROSS: So the parking setback standards under 23 the code would require twice the minimum setback 24 requirement for the R60 zone which would normally be 8 25 feet. Twice as much would be 16 feet setback for the</p>	<p>56</p> <p>1 MARTIN L. GROSSMAN: Will it affect compatibility with 2 the surrounding neighborhood? 3 SOMER CROSS: It will not affect any compatibility 4 with the surrounding neighborhood. 5 MARTIN L. GROSSMAN: Alright. Thank you. 6 SOO LEE-CHO: Could you discuss the perimeter planting 7 requirement for parking lots with conditional uses between 8 5 and 9 parking spaces and why that should also be waived 9 in this case? 10 SOMER CROSS: Again the perimeter planting requirement 11 on the northern boundary will preclude the interaction 12 between the 2 sites under the same ownership. The whole 13 general purpose when you have a perimeter planting and a 14 setback requirement is to protect neighboring uses from any 15 possible negative characteristics of the use on this site 16 and here when they are under common ownership and common 17 use then you would not necessarily need any kind of 18 perimeter blockade between the 2 uses. What is there now 19 should be sufficient to screen and maintain that 20 residential character. It is already a very highly 21 vegetated site and maintains that residential feel. 22 MARTIN L. GROSSMAN: How much is the- what is the size 23 of the screening now compared to what is required? 24 SOMER CROSS: It would require a depth of 9 feet. 25 There is not quite as much vegetation there. There is some</p>

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15 (57 to 60)

57	<p>1 on the northern boundary which would be on the other side. 2 The Korean Community Housing site which I don't have that 3 specific but on this property there is only a slight- 4 MARTIN L. GROSSMAN: Isn't that the area where that 5 screening waiver would be an issue? 6 SOMER CROSS: Yes. 7 MARTIN L. GROSSMAN: And so you don't know exactly how 8 much vegetation is there? 9 SOMER CROSS: I don't know the depth of that at this 10 point. 11 MARTIN L. GROSSMAN: So you are saying that 9 feet is 12 required but whatever is there now is ok but you don't know 13 what it is? 14 SOO LEE-CHO: Well we have another witness in terms of 15 the landscape that can testify. 16 MARTIN L. GROSSMAN: Ok. 17 SOO LEE-CHO: Ms. Cross your testimony with regard to 18 the justification for the waiver is it based on land 19 planning principles or the actual existence of the amount 20 of landscaping? 21 SOMER CROSS: It is based on the land planning 22 principles of not necessitating separation of these 2 uses. 23 MARTIN L. GROSSMAN: The compatibility is the real 24 issue always for us on the conditional use applications. 25 The Hearing Examiner is required to apply the development</p>	59	<p>1 MARTIN L. GROSSMAN: By previous approvals you are 2 talking about special exception? 3 SOMER CROSS: Special exception 1591, nonresidential 4 medical office. We have already gone through the standards 5 of the requirements. It meets the requirements of the zone. 6 It substantially conforms to the master plan 7 recommendations. I would concur with staff's analysis that 8 while this master plan does not make a specific 9 recommendation for this site, it does in general support 10 this use. In first it confirms the existing zoning that was 11 there when the master plan was adopted which again the 12 medical practitioner special exception office use was 13 already in existence at that time. So there by reconfirming 14 this is a site that would be qualified for a special 15 exception or conditional use. Secondly the master plan 16 repeatedly encourages facilities in this area for social 17 service organizations. This is of course- There is a quote 18 on page 28 of the master plan that talks about some service 19 organizations need larger facilities and new location and 20 this master plan supports effort to address all of these 21 needs. It is almost as if the master plan itself was 22 created for this use. It is a multicultural center in a 23 multicultural area that from a planning perspective is best 24 if it can be located right next door to the other 25 multicultural center that is going to be working with. It</p>
58	<p>1 standards to the extent necessary for compatibility. That 2 is built into the zoning ordinance. So that is really the 3 issue. Will it be compatible with the surrounding uses in 4 the neighborhood if the waivers are granted? 5 SOMER CROSS: It would be compatible. It has an 6 existing- a preexisting use prior to this that was an 7 office and maintained the residential feel for that. 8 Nothing is being changed on the site other than the number 9 of employees and the parking striping that it should 10 maintain that character as well. 11 MARTIN L. GROSSMAN: Ok. 12 SOO LEE-CHO: Moving onto the division 6 requirements 13 of the zoning ordinance cover by Technical Staff on page 19 14 through 20 of the Staff Report. Have you reviewed those? 15 SOMER CROSS: I have. 16 SOO LEE-CHO: And do you agree with Technical Staff's 17 analysis? 18 SOMER CROSS: I do. 19 SOO LEE-CHO: Do you have any additional thoughts or 20 comments to additional thoughts or comments to add to what 21 Technical Staff has analyzed? 22 SOMER CROSS: I would just say that 1) I agree with 23 their finding of previous approvals that it should be 24 removed prior to the use and occupancy of this site with 25 the new use.</p>	60	<p>1 resolves all the environmental impacts. Also discussed in 2 the master plan if the 2 offices can coexist and work 3 together and travel back and forth you would have less air 4 pollution of trying to go find another office location 5 anywhere else offsite. You are going to have less air 6 pollution, less traffic congestion. It should not create 7 any more impact of this use then the preexisting medical 8 office because you are having fewer people on site. 9 SOO LEE-CHO: Just going through very quickly the 10 necessary findings of section 597.3.1E of the zoning 11 ordinance which is also summarized on page 21 through 26 of 12 the Planning Board's staff report. I just would like to go 13 run very quickly and ask for each one whether you have 14 anything additional that you would like to add or whether 15 you have any, you agree or disagree. For section 16 597.3.1.E.1A requires that this use satisfies any 17 applicable previous approval on the subject's site that if 18 not that the previous (inaudible) must be amended and you 19 have indicated you agree with Technical Staff on that 20 issue? 21 SOMER CROSS: Correct. 22 SOO LEE-CHO: Section 597.3.1.E.1B talks about the 23 satisfaction of the requirements of the zone as well as 24 division 593 specific use standards for the conditional 25 use. We have already covered the zone. Can you quickly run</p>

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61	<p>1 through the conditional use standards of the use itself and</p> <p>2 confirm whether you agree with the Technical Staff's</p> <p>3 analysis or any other comments you would like?</p> <p>4 SOMER CROSS: Sure. The standards for this use are</p> <p>5 found in section 3.4.8B2 where private club service</p> <p>6 organization is allowed as a conditional use and may be</p> <p>7 permitted subject to the following standards. The minimum</p> <p>8 lot area required is twice the minimum required for a</p> <p>9 detached house building type in the zone to the maximum of</p> <p>10 3 acres. Again that would be 12,000 square feet required</p> <p>11 and 23,522 feet are provided. B) The minimum lot width of</p> <p>12 the front lot line is twice that required for a detached</p> <p>13 house which would set the standard here required 50 feet</p> <p>14 and 78 feet are provided. The maximum coverage allowed is</p> <p>15 15%. Here the coverage provided is only 8.4. The minimum</p> <p>16 open space requirement is 50%. The open space plan which is</p> <p>17 listed as exhibit number 16 in the record shows that there</p> <p>18 is 77% open space on the property and then this is not in</p> <p>19 an AR zone. So section E does not apply.</p> <p>20 MARTIN L. GROSSMAN: Yes sir?</p> <p>21 MIKE GLASBY: If you will, can you give me- I think I</p> <p>22 know the answer to this but what is the official definition</p> <p>23 of the R60 zone?</p> <p>24 SOMER CROSS: It is a residential lot on 6,000 square</p> <p>25 feet.</p>	63	<p>1 of the country for moderate density residential uses. The</p> <p>2 predominant use is residential in a detached house and</p> <p>3 unlimited number of other building types may be allowed</p> <p>4 under the option record.</p> <p>5 SOO LEE-CHO: You have already covered the master plan</p> <p>6 compliance issue which is required as a necessary finding</p> <p>7 under 59.7.3.1.A1C. So I would like to move on to section</p> <p>8 D. In your opinion, in your professional opinion is this</p> <p>9 use harmonious with and will not alter the character of the</p> <p>10 surrounding neighborhood in a manner inconsistent with the</p> <p>11 master plan?</p> <p>12 SOMER CROSS: Yes. Again it is consistent with the</p> <p>13 recommendations of the master plan to maintain that zoning</p> <p>14 which already had a preexisting special exception use on</p> <p>15 it. It is a reuse of a single family home that will</p> <p>16 maintain that character of a residential district.</p> <p>17 SOO LEE-CHO: Under subsection E moving on is it your</p> <p>18 professional opinion that the proposed use will not when</p> <p>19 evaluated in conjunction with existing and approved</p> <p>20 conditional uses in the neighboring residential detached</p> <p>21 zone increase the number, intensity or scope of conditional</p> <p>22 uses sufficiently to affect the area adversely or alter the</p> <p>23 predominately residential nature of the area?</p> <p>24 SOMER CROSS: Again, it is substantially conforms to</p> <p>25 the master plan recommendation for a site with a</p>
62	<p>1 MIKE GLASBY: I mean how is it in the county's</p> <p>2 records, how does it read? Or if you could tell me where I</p> <p>3 could find it?</p> <p>4 MARTIN L. GROSSMAN: It is defined in the zone</p> <p>5 (inaudible) and chapter 1 or 2 of the zoning ordinance</p> <p>6 defines the zones. Chapter 3 will tell you what conditional</p> <p>7 uses- There is a chart in chapter 3 which will tell you</p> <p>8 which conditional uses are allowed in which zones and that</p> <p>9 will tell you whether this conditional use is permitted in</p> <p>10 the R60 zone.</p> <p>11 MIKE GLASBY: The term is used frequently in here.</p> <p>12 Just for my own implications.</p> <p>13 MARTIN L. GROSSMAN: The idea is that the 60 really is</p> <p>14 6,000 square feet is the minimum lot size for an R60 zone</p> <p>15 but there are many exceptions to that. In this case it is</p> <p>16 quite a bit larger than 6,000 square feet but that is</p> <p>17 usually the minimum defined and there are lots that are</p> <p>18 under that because they preceded the imposition of the R60</p> <p>19 zone and so on but that is the idea behind it. A R90 zone</p> <p>20 has 9,000 square feet.</p> <p>21 MIKE GLASBY: Right. And the R I take is residential?</p> <p>22 MARTIN L. GROSSMAN: The R is residential, yes.</p> <p>23 SOMER CROSS: The intent statement for an R60 zone in</p> <p>24 the zoning ordinance is found in section 4.4.9 and it says</p> <p>25 the intent of the R60 zone is to provide designated areas</p>	64	<p>1 conditional use but it will remain the residential</p> <p>2 character and because in part I still believe that the</p> <p>3 neighborhood boundary should be greatly reduced from the</p> <p>4 staff's recommendations it will not increase the intensity</p> <p>5 of special exceptions in the area or conditional uses in</p> <p>6 the area.</p> <p>7 SOO LEE-CHO: In your opinion how does the replacement</p> <p>8 of the previous special exception with the proposed</p> <p>9 conditional use also assist in making this finding?</p> <p>10 SOMER CROSS: I am sorry, (inaudible)</p> <p>11 SOO LEE-CHO: In your opinion how does the existence</p> <p>12 of a previous special exception on the subject property</p> <p>13 which is being (inaudible) and replace before the</p> <p>14 implementation of the current proposed conditional use also</p> <p>15 facilitates the ability to make this particular necessary</p> <p>16 finding that it won't increase the number in intensity?</p> <p>17 SOMER CROSS: So as requested in the- Well as required</p> <p>18 in the conditions of the staff report and the Planning</p> <p>19 Board's recommendation the existing special exception will</p> <p>20 need to be extinguished before this use can be implemented</p> <p>21 on the site. Therefore it won't be 2 uses at the site. Get</p> <p>22 rid of 1 and then replace it with another. So there is no</p> <p>23 increase in the number of uses.</p> <p>24 SOO LEE-CHO: Thank you. Subsection F talks about the</p> <p>25 whether finding necessary that the proposed use will be</p>

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17 (65 to 68)

<p>65</p> <p>1 served by adequate public facilities services and 2 facilities. In this case there was a traffic statement that 3 was provided. Have you reviewed that? 4 SOMER CROSS: I have. 5 SOO LEE-CHO: The finding indicates that if an 6 approved adequate facilities test is currently valid and 7 the impact of the conditional use is equal to or less than 8 what was approved a new public facilities test is not 9 required. In your review of the traffic statement what was 10 the finding made in that analysis? 11 SOMER CROSS: So the traffic statement which was 12 listed as exhibit 28A in the record says it was based on a 13 general office use calculation because there is no more 14 specific uses typically calculated. Based on that there 15 will be actually 2 fewer total morning trips and 3 fewer PM 16 trips. So there is a reduction of trips on and off the 17 site. As for the rest of the adequate public facilities it 18 seems that everything else would be met. 19 SOO LEE-CHO: And your conclusion in that regard is 20 based on what information? 21 SOMER CROSS: There will be no impact of schools. 22 There is no new residential use requested. Water and sewer 23 is addressed in the master plan and found to be adequate 24 for this area. Fire and police seem sufficient. There is a 25 fire station located only 3 quarters of a mile to the north</p>	<p>67</p> <p>1 noise, odors, dust elimination or lack of parking and 2 finally health, safety or welfare of neighboring residents, 3 visitors or (inaudible). Is it your professional opinion 4 that in your opinion that this proposed use will not cause 5 harm to the neighborhood in these aspects? 6 SOMER CROSS: It is. I don't see any- 7 MARTIN L. GROSSMAN: Is that by the way was a legal 8 question. You really should ask her what is her 9 professional opinion. 10 SOO LEE-CHO: What is your professional opinion in 11 that regard? 12 SOMER CROSS: My opinion is that there is no negative 13 impact likely to be generated from this proposed use. The 14 application is maintaining the existing residential 15 structure and parking. No onsite changes other than the 16 restriping are proposed. Therefore, it will maintain the 17 residential character that existed there at least since the 18 medical practitioner established in 2008. The existing 19 landscaping and vegetation will be continue to be 20 maintained providing a lot of screening to the south and 21 east of the property. We don't expect any other noninherent 22 effects. In fact as I just mentioned before the traffic 23 numbers are going to be reduced from what was there before. 24 My opinion is there is no inherent effects. Negative 25 inherent effects.</p>
<p>66</p> <p>1 from this site. It is station 16 in Silver Spring and I 2 agree with this Staff Report's recommendations that there 3 is no building square footage increase and it is going to 4 generate fewer trips and therefore it meets the APF 5 requirements. 6 SOO LEE-CHO: Just as a point of clarification, the 7 proposed application is not requesting, is focused on the 8 office- 9 SOMER CROSS: The office, yes. 10 SOO LEE-CHO: However, there is a residential use on 11 the property? 12 SOMER CROSS: But no new residential. 13 SOO LEE-CHO: No new residence. So could you just 14 restate the whole schools (inaudible)? 15 SOMER CROSS: There is no new residential use proposed 16 in this application therefore it will have no impact on the 17 schools. 18 SOO LEE-CHO: Ok thank you. Subsection G is required, 19 finding is required that the proposed use will not cause 20 harm to the neighborhood as a result of non-inherent 21 adverse effect along or the combination of an inherent and 22 noninherent adverse effect of any of the following 23 categories. First the use; peaceful enjoyment, economic 24 value or development potential of a budding and confronting 25 properties or the general neighborhood. In addition traffic</p>	<p>68</p> <p>1 SOO LEE-CHO: I think the final finding that I believe 2 you have already touched upon but section 7.3.1.E2 requires 3 that any structure to be constructed, reconstruction or 4 altered in a residential detached zone be compatible with 5 the character of the residential neighborhood. First is 6 there anything being proposed that would require 7 construction or reconstruction or alteration of an existing 8 structure? 9 SOMER CROSS: There is no new structure or alteration 10 to the structure proposed. 11 SOO LEE-CHO: In your opinion is the existing 12 structure compatible with the character of the residential 13 neighborhood? 14 SOMER CROSS: Yes it is very much a single family home 15 appearance in the exterior. 16 SOO LEE-CHO: And just in that regard I would call 17 attention to exhibit 13A through D which are the photos of 18 the existing structure for the (inaudible). With that, that 19 concludes my questioning of Ms. Cross. 20 MARTIN L. GROSSMAN: We will turn to cross examination 21 in a moment. Let's see here. Alright. The pictures in 13A 22 through D are identified by captions. Do those captions- 23 First of all who took these pictures? 24 SOMER CROSS: I took the pictures. 25 MARTIN L. GROSSMAN: Alright. Ms. Cross and when did</p>

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18 (69 to 72)

69	<p>1 you take these pictures?</p> <p>2 SOMER CROSS: I believe last summer. The end of last</p> <p>3 summer.</p> <p>4 MARTIN L. GROSSMAN: Do they accurately represent the</p> <p>5 premises, the site as it exists today?</p> <p>6 SOMER CROSS: Yes.</p> <p>7 MARTIN L. GROSSMAN: And their captions, do those</p> <p>8 captions accurately reflect what they are predicting?</p> <p>9 SOMER CROSS: Yes they do.</p> <p>10 MARTIN L. GROSSMAN: Alright. We are going to break</p> <p>11 for 5 minutes before we turn to cross examination of Ms.</p> <p>12 Cross and I just wanted to mention Mr. Thames, Mr.</p> <p>13 Gonzalez, Mr. Glasby did you when you signed in did you put</p> <p>14 your email addresses in there? Did you all put your email</p> <p>15 addresses so that we can reach you more easily?</p> <p>16 MIKE GLASBY: Yes.</p> <p>17 MARTIN L. GROSSMAN: Ok. Alright. We will break for 5</p> <p>18 minutes and we will come back at about 5 to 12. Before we</p> <p>19 begin the cross examination now I want to mention Ms. Lee-</p> <p>20 Cho did you bring electronic copies with you of all the new</p> <p>21 exhibits? Very good. Would you mind bringing that up? Thank</p> <p>22 you.</p> <p>23 SOO LEE-CHO: In Word and PDF.</p> <p>24 MARTIN L. GROSSMAN: Wow. And also of the various maps</p> <p>25 and things? Ok great. We name this as exhibit 38. The</p>	71	<p>1 some point. We don't have that in the current plans as Mr.</p> <p>2 Grossman mentioned. If that does happen through well any</p> <p>3 point in the future once we get the engineering design for</p> <p>4 it we will have to come back here to resubmit an amendment</p> <p>5 to this application. So at this time there is nothing on</p> <p>6 the site other then restriping the parking lot.</p> <p>7 MARTIN L. GROSSMAN: I can read to you the paragraph</p> <p>8 in exhibit 30 which is the Planning Board letter to me of</p> <p>9 March 20 2017. The third paragraph, during the hearing the</p> <p>10 Planning Board heard testimony from staff, the applicant,</p> <p>11 and the applicant's attorney. The (inaudible) property to</p> <p>12 the north also owned by the applicant is developed as a low</p> <p>13 income elderly housing complex for Asian-Americans. The</p> <p>14 applicant stated that the subject conditional use will also</p> <p>15 provide service to these residents. Planning Board Chair,</p> <p>16 Kacey Anderson noted that given the relationship between</p> <p>17 these 2 uses the applicant should consider a path</p> <p>18 connecting between the 2 properties if the subject</p> <p>19 conditional use is approved by the Hearing Examiner.</p> <p>20 (inaudible)Chair Anderson stated that if a path were added</p> <p>21 to the property this modification could be reviewed at the</p> <p>22 staff level without the need for a hearing by the Planning</p> <p>23 Board. I mentioned earlier it might have been before you</p> <p>24 arrived, I am not sure, that if they were to request that</p> <p>25 change even though it might be reviewed at the staff level</p>
70	<p>1 electronic copies of exhibits introduced at the hearing.</p> <p>2 Alright. Mr. Gonzalez the only thing that happened in your</p> <p>3 absence was that applicant's council handed me a disc of</p> <p>4 the electronic copies which is a requirement for any</p> <p>5 exhibits introduced and she brought that with her today.</p> <p>6 Alright, cross examination of Ms. Cross. Mr. Thames do you</p> <p>7 wish to begin since you are at the council table? Do you</p> <p>8 have questions of this witness?</p> <p>9 WINSTON THAMES: To some degree. She said there would</p> <p>10 be no additional construction. From what I understand I</p> <p>11 think I heard her say that. Now there was also earlier</p> <p>12 testimony that there would be a crosswalk built in-between,</p> <p>13 the fence would have to be removed to put a crosswalk from</p> <p>14 one building to another. So how can you say there is none,</p> <p>15 I mean I would say minimal construction maybe but it has to</p> <p>16 be something to build a sidewalk from one property to</p> <p>17 another property and remove part of a fence.</p> <p>18 MARTIN L. GROSSMAN: Ms. Cross do you want to respond</p> <p>19 to that?</p> <p>20 SOMER CROSS: So with this application there is no</p> <p>21 proposal right now to make that path between the 2</p> <p>22 buildings. What happened was and I believe Mr. Grossman</p> <p>23 mentioned this earlier was at the Planning Board which is</p> <p>24 another entity that reviewed this application, they made</p> <p>25 the recommendation that that path should be put there at</p>	72	<p>1 by the Planning Board they would have to submit something</p> <p>2 to my office requesting a minor modification and showing</p> <p>3 the new plans and then we would act on that minor</p> <p>4 modification in according to the zoning ordinance. It</p> <p>5 wouldn't necessarily require a hearing but it might</p> <p>6 depending on the nature. Ok?</p> <p>7 WINSTON THAMES: Ok. Thank you.</p> <p>8 MARTIN L. GROSSMAN: Any other questions?</p> <p>9 WINSTON THAMES: Well I have a question but I am not</p> <p>10 sure this is the right time for that.</p> <p>11 MARTIN L. GROSSMAN: This is the time for cross</p> <p>12 examination of this witness and I will give you the</p> <p>13 opportunity during your testimony to ask any questions you</p> <p>14 would like. Ok. Mr. Glasby did you have any questions?</p> <p>15 MIKE GLASBY: No questions. Again, my only concern was</p> <p>16 what we talked about earlier and the fact that Ms. Cross is</p> <p>17 employed by the firm that is representing the organization</p> <p>18 that is asking for the special exemption and just that is</p> <p>19 it. Other than that I am fine.</p> <p>20 MARTIN L. GROSSMAN: I understand the issue. Mr.</p> <p>21 Gonzalez, did you have any questions of this witness?</p> <p>22 JULIO GONZALEZ: No. I have no questions. My only</p> <p>23 concern is only the safety in that particular area.</p> <p>24 MARTIN L. GROSSMAN: We are going to get to that. We</p> <p>25 are going to get to that because you are going to have the</p>

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19 (73 to 76)

<p style="text-align: right;">73</p> <p>1 opportunity to testify about any concerns that you have. 2 Ok. The way this works, like a trial, if you have ever seen 3 a trial on TV one side goes and then the other side goes. 4 So it will be your turn after the applicant finishes to 5 have, to say any concerns that you have. Ok. And you will 6 be able to cross examine any witnesses that the applicant 7 calls. They have 1 more witness, a transportation- No, 8 you're not in transportation. Ok. So they won't have an 9 additional witness. Alright. Ok. 10 SOO LEE-CHO: I have one other but it is a landscape 11 architect. 12 MARTIN L. GROSSMAN: A landscape architect, I am 13 sorry. Ok. Alright. Let's turn to the other witness. Thank 14 you Ms. Cross. 15 SOO LEE-CHO: Mr. Cho can you come here? 16 MARTIN L. GROSSMAN: Alright. Ready to proceed. 17 SOO LEE-CHO: Mr. Cho can you please state and spell 18 your name and address for the record? 19 PHILIP CHO: Philip Cho. 20 MARTIN L. GROSSMAN: Can you raise your right hand 21 please? Do you swear or affirm to tell the truth, the whole 22 truth, and nothing but the truth under penalty of perjury? 23 PHILIP CHO: I do. 24 MARTIN L. GROSSMAN: Alright. You may proceed. 25 SOO LEE-CHO: Before we get to your field of expertise</p>	<p style="text-align: right;">75</p> <p>1 39. Resume of Philip Cho. Alright. You may proceed. 2 SOO LEE-CHO: Will you begin by summarizing your 3 education background? 4 PHILIP CHO: I earned my BSTB from University of 5 Maryland 1985 and then went to University of Illinois 6 Champaign-Urbana. Got my masters of landscape architecture 7 1990. 8 SOO LEE-CHO: Have you- 9 PHILIP CHO: Any experience? I started working at the 10 University of Maryland as a landscape architect starting in 11 1986 until 2003 and then I went to Prince George County as 12 a project manager landscape architect for the Department of 13 Resources, Environmental Resources and then UNBC called me 14 upon to ask me to serve as project manager and landscape 15 architect. 16 SOO LEE-CHO: And in those capacities could you 17 provide a bit more detailed information as to what you are 18 required, what your role is, what you are required to 19 analyze and assess on behalf of those entities and 20 organizations? 21 PHILIP CHO: Yes. As a landscape architect I do 22 planning on and site analysis and district, the 23 relationships with the (inaudible) land uses and of course 24 and analyze all the landscape issues and maintenance issues 25 of development and post development issues for the campus.</p>
<p style="text-align: right;">74</p> <p>1 could you also state what is your role or position in KCSC? 2 PHILIP CHO: I am present Chairman of the Board for 3 KCSC. 4 SOO LEE-CHO: And again before we begin on the 5 landscape being issues do you have anything that you would 6 like to add to the testimony provided by Ms. Kim at opening 7 of the hearing? 8 PHILIP CHO: No. She did a good job. 9 SOO LEE-CHO: Mr. Grossman, do you have any questions 10 with regard to the organization of Mr. Cho at this time? 11 MARTIN L. GROSSMAN: I don't think so. 12 SOO LEE-CHO: Mr. Cho, can you state what is your 13 profession? 14 PHILIP CHO: I am (inaudible) landscape architect. My 15 registration number is 1168. 16 MARTIN L. GROSSMAN: 1168? 17 PHILIP CHO: Yes sir. 18 SOO LEE-CHO: For the record, this is Mr. Cho's 19 resume. 20 MARTIN L. GROSSMAN: Thank you. Since you have the 21 same last name as Mr. Cho, I take it there is no-? 22 SOO LEE-CHO: There is no relation. My last name is 23 actually Lee-Cho. But no. No relation to my husband's 24 family. 25 MARTIN L. GROSSMAN: I see. Ok. This will be exhibit</p>	<p style="text-align: right;">76</p> <p>1 SOO LEE-CHO: Have you ever qualified as an expert 2 witness in the field of landscape architecture before a 3 court of law or a zoning agency? 4 PHILIP CHO: Not really. 5 SOO LEE-CHO: Based on Mr. Cho's resume despite his 6 lack of ever having qualified as an expert witness in a 7 court proceeding I would request his acceptance as an 8 expert in the field of landscape architecture. 9 MARTIN L. GROSSMAN: Alright. Any questions regarding 10 his expertise Mr. Thames? Mr. Glasby? 11 MIKE GLASBY: No sir. 12 MARTIN L. GROSSMAN: Mr. Gonzalez? 13 JULIO GONZALEZ: No. 14 MARTIN L. GROSSMAN: Ok. Yes based on his background 15 and education and experience in landscape architecture I 16 accept him as an expert in landscape architecture. I always 17 regretted that nobody, I never testified and certified as 18 an expert so I could tell my wife hey, I am an expert. 19 Don't say that I am an expert. 20 SOO LEE-CHO: Mr. Cho can now go home and do that very 21 thing tonight. Going back to the landscape screening issue 22 that we touched upon earlier with the previous witness, 23 could you assist us in understanding what exists on the 24 site in terms of vegetation and plantings first? Why don't 25 we start with that? Can you please do that first?</p>

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20 (77 to 80)

<p>77</p> <p>1 PHILIP CHO: As Ms. Cross actually stated several 2 times that this entire lot is kind of heavily vegetated 3 with mature plants except the structure and paved surface 4 area. Now I think this is stage of I guess thinning out for 5 the neighbors rather than planting more trees. 6 SOO LEE-CHO: And on site, what have you observed in 7 terms of the existing screening that exists on the eastern 8 property line as well as along the northern property line? 9 PHILIP CHO: On the east side the short area, I mean- 10 SOO LEE-CHO: And you are looking at exhibit 36 which 11 is the aerial exhibit. 12 PHILIP CHO: There is an actual, I think the 13 (inaudible) board fencing is existing right here. 14 MARTIN L. GROSSMAN: Right here being on the eastern 15 portion of the lot? 16 PHILIP CHO: Yes with the screening. 17 MARTIN L. GROSSMAN: It is very hard to see. 18 PHILIP CHO: Yes sir. It is there because I assessed 19 all the existing trees before I came up with the plan. 20 MARTIN L. GROSSMAN: Alright. 21 PHILIP CHO: And on the north side (inaudible) on the 22 apartments about 2/3rd of area is kind of packed 23 (inaudible) that is existing and then rest of area is open 24 but there is a lot of tree on the corner. It is not really 25 necessary to put a screening because on the other side</p>	<p>79</p> <p>1 MARTIN L. GROSSMAN: Ok. What is the width? That was 2 an issue the width of that space to the north of the 3 parking lot? 4 SOO LEE-CHO: The length you mean? 5 MARTIN L. GROSSMAN: I thought the question was the 6 depth of the planting was the issue to the north of the 7 parking lot. One of the waivers you are requesting is of 8 the, isn't it of the depth of the planting north of the 9 parking lot? 10 SOO LEE-CHO: The waiver actually is the Technical 11 Staff found that based on the existing tree plantings and 12 fencing along even the northern side. Is there a fence 13 along the northern side? 14 PHILIP CHO: There is fencing. 15 SOO LEE-CHO: There is fencing along the northern and 16 eastern and based on that the waiver could be supported for 17 the gap that exists along the parking lot. 18 MARTIN L. GROSSMAN: Right but I am just trying to 19 find out the 2 waivers requested. 1 is the setback. 20 SOO LEE-CHO: Correct. 21 MARTIN L. GROSSMAN: Which you already testified to 22 and (inaudible). The other one is for, I thought, was the 23 depth of the planting screening that is required around the 24 parking lot and- 25 SOO LEE-CHO: The waiver is to request, is to- There</p>
<p>78</p> <p>1 here, the apartment there is a, you can see the big pine 2 trees really adding to that kind of function. So having 3 another screening on the other side is going to be, again, 4 heavily vegetating with mature trees. It is not going to 5 really help the tree may not or the trees may not survive 6 in that situation. 7 MARTIN L. GROSSMAN: Are both of those buildings to 8 the north, are both of them part of the University Garden 9 Apartments? 10 PHILIP CHO: Yes sir. They are all connecting with 11 this way right here. 12 MARTIN L. GROSSMAN: Ok. So they are both part of 13 that-? 14 PHILIP CHO: Yes. 15 SOO LEE-CHO: And you are familiar with the zoning 16 ordinance section 6.29.B which discusses the minimum of 1 17 understory evergreen tree planted every 30 feet on center 18 are you not? 19 PHILIP CHO: I do. 20 SOO LEE-CHO: In your professional opinion is there a 21 space or ability to plant evergreen trees for an understory 22 planting every 30 feet on center along the perimeter of the 23 eastern and northern boundaries? 24 PHILIP CHO: There is no space. Not a space that can 25 accommodate new plantings.</p>	<p>80</p> <p>1 is no planting in that parking lot gap between the 2 properties. So it would be a complete waiver. 3 MARTIN L. GROSSMAN: I see. I am just looking at it I 4 see plants there. That is all. I see something along there. 5 Am I not seeing- In the aerial photo, just looking at it? 6 SOO LEE-CHO: Do those plantings qualify under the 7 evergreen tree and- 8 PHILIP CHO: There is unnecessary trees growing in 9 that crowd. 10 MARTIN L. GROSSMAN: There is no- The required trees 11 are not there, is that what you are saying? 12 SOO LEE-CHO: Correct. 13 MARTIN L. GROSSMAN: So the waiver is not for the 14 depth of the planting but for the number of trees that are 15 supposed to be there in terms of the zoning ordinance. Is 16 that what the waiver is? 17 SOO LEE-CHO: Right and an entire section that has no 18 plantings that a full waiver. 19 MARTIN L. GROSSMAN: Ok. And Mr. Cho in your opinion 20 would the lack of trees or plantings in other areas affect 21 compatibility with the surrounding property? 22 PHILIP CHO: No sir. 23 SOO LEE-CHO: The final exhibit that I would like to 24 enter is already it was a slight modification of an 25 existing exhibit. 28C on the exhibit list is an existing</p>

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21 (81 to 84)

<p>81</p> <p>1 conditions lighting and planting plan. 2 MARTIN L. GROSSMAN: Ok. 3 SOO LEE-CHO: And I would like to introduce 4 essentially the same plan but with the compact space 5 previously testified by Ms. Cross as being recommended for 6 removal, this version of the landscape planting plan seems 7 to be consistent with the conditional use plan in that 8 regard. 9 MARTIN L. GROSSMAN: Alright. Let's make that exhibit 10 40 and this is a revised. 11 SOO LEE-CHO: Existing conditions. 12 MARTIN L. GROSSMAN: Revised existing conditions. 13 SOO LEE-CHO: Lighting and planting plan. 14 MARTIN L. GROSSMAN: Lighting and planting plan 15 exhibit 28C right? 16 SOO LEE-CHO: You are making this exhibit 28? 17 MARTIN L. GROSSMAN: No. that is what the existing one 18 is. This replaces, this is to revise. 19 SOO LEE-CHO: Correct. 20 MARTIN L. GROSSMAN: Now this is- So this will be 21 exhibit 40 but what I am not sure is, is this a revision to 22 the existing, the description of the existing situation or 23 is this a revision of what you are planning for lighting 24 and planting? 25 SOO LEE-CHO: It was always a plan that showed only</p>	<p>83</p> <p>1 That is what I said. This is a mature tree. Now we have to 2 maintain properly, thin out instead of planting more trees. 3 MIKE GLASBY: Instead of planting you are looking- 4 when you say thinning out can you help me? 5 PHILIP CHO: Thinning out, pruning, removing for the 6 maintenance purpose. Not for this purpose. 7 MARTIN L. GROSSMAN: I think that is a very good 8 question. When you say thinning out, removing. Are you 9 saying you are removing the tree or removing branches, what 10 are you talking about? 11 PHILIP CHO: Maintenance purpose, removing branches. 12 MIKE GLASBY: Branches, not the trees? 13 PHILIP CHO: Not the trees. 14 MARTIN L. GROSSMAN: Ok. 15 MIKE GLASBY: That goes from the area beyond the 16 existing parking lot? 17 PHILIP CHO: Right. What I said was at this stage of 18 the vegetation is not- I am talking about what our plan is. 19 This stage of the vegetation matured. I mean the vegetation 20 this is not the stage of the new planting but a stage of 21 thinning out. That is what I said. In general terms not 22 planning terms. 23 MIKE GLASBY: Do you see a period of planting new 24 trees any time in the future? 25 PHILIP CHO: No sir. Not necessary.</p>
<p>82</p> <p>1 existing. We are not proposing any new lighting or new 2 planning. 3 MARTIN L. GROSSMAN: Ok. That is true throughout. So 4 this will both be existing and planned. 5 SOO LEE-CHO: Correct. 6 MARTIN L. GROSSMAN: Alright. 7 SOO LEE-CHO: Literally the only thing that has 8 changed is the compact, the labeling of the compact space 9 has been removed on exhibit 40. 10 MARTIN L. GROSSMAN: Ok. So really the only thing that 11 you are changing is the striping right? 12 SOO LEE-CHO: Correct. And the addition of a bike 13 locker. 14 MARTIN L. GROSSMAN: And the addition of a bike 15 locker. Anything further? 16 SOO LEE-CHO: I do not have anything further for Mr. 17 Cho. 18 MARTIN L. GROSSMAN: Ok. Cross examination. Mr. 19 Thames? 20 WINSTON THAMES: No. 21 MARTIN L. GROSSMAN: Glasby? 22 MIKE GLASBY: Yes. And maybe I misheard you. You 23 mentioned removal of trees from an area. Where exactly and 24 how many trees? 25 PHILIP CHO: No sir. I said stage of thinning out.</p>	<p>84</p> <p>1 MARTIN L. GROSSMAN: Mr. Gonzalez, do you have any 2 questions for this witness? 3 JULIO GONZALEZ: No questions. 4 MARTIN L. GROSSMAN: Ok. Any redirect? Ok. Thank you 5 Mr. Cho. I appreciate it. Does that complete your case? 6 SOO LEE-CHO: That does complete my case. 7 MARTIN L. GROSSMAN: Alright. So now let's start with 8 Mr. Thames do you want to come forward and state any 9 comments you have, I will put you under oath? State your 10 full name and address. 11 WINSTON THAMES: My name is Winston Thames. I am at 12 506 Loudon Court, Silver Spring Maryland, 20901. 13 MARTIN L. GROSSMAN: Will you raise your right hand 14 please? Do you swear or affirm to tell the truth, the whole 15 truth, and nothing but the truth under penalty or perjury? 16 WINSTON THAMES: I do. 17 MARTIN L. GROSSMAN: Ok. You may proceed. 18 WINSTON THAMES: Thank you. I am concerned about the 19 wording of this proposal where it says a permit to bring in 20 a private club service organization. I have heard the 21 testimony that they do have the same organization in the 22 building for where they are right now. They want to move 23 from that building to another building. The word private is 24 what bothers me because when you say private that means 25 that you can exclude, as far as my understanding of the</p>

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22 (85 to 88)

<p>85</p> <p>1 English language, you can exclude anybody that you feel the 2 need to. So you are bringing this in. you are saying this 3 is a service organization for me if I need help in trying 4 to get some kind of services. Well, if it is private would 5 you or would anybody else walk in asking for services or 6 just walk in to get information because it says private so 7 that means that it is for a select group of people and all 8 you have to do if you want to keep it that way and 9 eliminate other people is just hand out cards. Say you are 10 an automatic member. You can charge me a penny or \$100 or 11 whatever you want to charge me but I am a member of this 12 club which means that it is exclusive. So, if they were 13 saying it was a service organization I would say that 14 sounds good but already I am looking at I have been in that 15 neighborhood since 1976. I have a house at 705 which is 16 from here to a couple of times the distance from here to 17 the elevator from this particular property. I have, I was 18 there when the complex was developed. I was there when they 19 came in and talked about building the complex and it was 20 supposed to be for everybody and like I stated earlier I 21 personally do not see that. 22 MARTIN L. GROSSMAN: The complex. You are talking 23 about the property to the north of the subject site? 24 WINSTON THAMES: Right. The whole bit complex there. 25 MARTIN L. GROSSMAN: The apartments.</p>	<p>87</p> <p>1 reason why private club is part of the application. 2 WINSTON THAMES: Which you could use in the future if 3 you wanted to say that this is a private club, you are not 4 invited or you can't use the facility. If the wording is 5 there. Come on I mean, be honest about it. 6 MARTIN L. GROSSMAN: Hold on a second. First of all 7 she is correct about the fact that the designation in the 8 zoning ordinance is and it is section 59.3.4.8.B and the 9 designation is private club, service organization. So that 10 is the category she has to be under. This applicant would 11 have to be under. The next question is how is it defined. 12 Do you have a copy of that portion? My copy here only is 13 the standards. So if you turn to B1 or actually maybe even 14 (inaudible) and see how it is defined? 15 SOO LEE-CHO: I do. The definition is, it is under 16 3.4.8 as well but I believe a subsection before the 17 conditional use standards. It reads private club, service 18 organization means an association for civic, social, 19 cultural, religious, literary, political, recreational or 20 like activities operated for the benefit of its members and 21 not open to the public. 22 MARTIN L. GROSSMAN: Alright. So it is basically the 23 definition which is what is permitted in the zoning 24 ordinance allows the restriction that in fact that part of 25 the definition is it is not open to the public in general.</p>
<p>86</p> <p>1 WINSTON THAMES: I do not see where that has been 2 anything but a private setup for a certain select group of 3 people. Now they are telling me that there are people there 4 of this nationality or this or that and that group. I have 5 been there since day 1 when the place was, when they were 6 digging the hole and put the place in there and I missed 7 all of this but I still have a problem with this privacy 8 thing. If you are coming into the neighborhood then why do 9 you have to separate yourself and say this is a private 10 affair? 11 MARTIN L. GROSSMAN: Do you want to respond to that 12 Ms. Lee-Cho? 13 SOO LEE-CHO: Well the terminology of private club, 14 service organization is how the zoning ordinance describes 15 the category but when you look at the definition of that 16 use category. It is very broadly defined and in this 17 particular instance number 1) I don't think it would be 18 prohibitive if even if it were to be a private club per 19 say. However, in this particular instance KCSC is a service 20 organization. It is not a club in the manner and I think 21 respect that is being testified to. I think you have heard 22 testimony in regard to the mission and goal of the 23 organization. It is a service organization but none the 24 less the application has to be under the terminology 25 private club, service organization. That is really the only</p>	<p>88</p> <p>1 People have the right to associate, freedom of association, 2 the have the right to associate with those they want to 3 associate. If they are offering a public accommodation then 4 there requirements, statutory requirements as to openness 5 but people have a right to have a private club and restrict 6 admission. That is part of your rights. So that answers 7 your question. It is something permitted in the zoning 8 ordinance if they meet the specified requirements in the 9 zoning ordinance and there Ms. Lee-Cho went through those 10 specified requirements. As to the housing to the north I 11 don't know the situation there. I have no idea. It is not 12 before me. So I think that is the answer to your question. 13 Did you have any further comments or concerns that you 14 wanted to add? 15 WINSTON THAMES: No. none that I did want, I mean I 16 came here because I wanted to know what the private club 17 was going to be and how many people were going to be coming 18 in and this type of thing and I did find out from what they 19 were telling us that it is going to be a minimum amount of 20 people. Less than what was there before which I don't know 21 (inaudible) that is what we have been told. So we have to 22 accept that but I- 23 MARTIN L. GROSSMAN: Well you don't have to accept it 24 if you have other evidence to the contrary. 25 WINSTON THAMES: Well it says private club, I saw</p>

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23 (89 to 92)

89	1 private club I am thinking there may be a wedding planned 2 here or the whole parking lot is gone from the trees and I 3 mean I am trying to get home it takes me an extra 15 4 minutes to get to the light and turn left. I was very 5 concerned about that. 6 MARTIN L. GROSSMAN: There are restrictions and also 7 what happens if this is granted there will be a list of 8 conditions and you see that they are listed in the Planning 9 Board letter as well as the other the Staff Report I showed 10 you that limits basically what they can do, number of 11 employees, and so on. if there are other conditions which 12 you think would be appropriate I would consider them 13 because I can propose whatever conditions are necessary to 14 protect compatibility with the surrounding neighborhood but 15 right now the ones that and as I said there always are some 16 additional ones that we add on (inaudible) following all the 17 legal regulations and so on. if the conditions are breached 18 in some way, if you have a complaint about it these are 19 enforced by the Department of Permitting Services and you 20 can file a complaint with them and they will look into it 21 and if in fact there is a violation of the conditions they 22 will serve you a notice and if they don't rectify that 23 there can be a shared cause hearing why the condition 24 should now be revoked. So it is enforceable procedure. 25 WINSTON THAMES: Thank you.	91	1 to somebody else. How many space, parking spaces are 2 allocated for the people that live on the first floor? 3 MARTIN L. GROSSMAN: Ms. Lee-Cho? 4 SOO LEE-CHO: The residential dwelling is allocated 2 5 parking spaces. 6 MARTIN L. GROSSMAN: 2 parking spaces for the 7 residents. 8 JULIO GONZALEZ: I see they are using about 4 or 5. 9 MARTIN L. GROSSMAN: I don't know- Is the special 10 exception has been abandoned or is no longer being used at 11 all that is there or is it being used still? 12 SOO LEE-CHO: It has been abandoned. It is not being 13 used. 14 MARTIN L. GROSSMAN: So what Mr. Gonzalez is 15 suggesting is that right now they parking spaces there are 16 more than 2 are being used by the residents. Mr. Cho did 17 you want to come forward and say something else? You are 18 still under oath. 19 PHILIP CHO: I am observing that the parking situation 20 since we bought the property that now, those or some 21 vehicles parked illegally. We don't have any policy yet to 22 tow it. So we know that there are 2 cars parked from 23 residents that is all and that we occasionally use when we 24 visit, I use the parking now when I visit to collect mail 25 and stuff. So maybe Mr. Gonzalez you may have seen 5 cars
90	1 MARTIN L. GROSSMAN: You are welcome. Mr. Gonzalez, 2 did you want to come forward? 3 JULIO GONZALEZ: Something came to my mind. 4 MARTIN L. GROSSMAN: Ok. Come on forward and sit at 5 the council table. 6 JULIO GONZALEZ: The (inaudible) is going to be only 7 the basement. 8 MARTIN L. GROSSMAN: Come forward and sit at the 9 council table and I am going to have to swear you in if you 10 want to- 11 JULIO GONZALEZ: The first floor- 12 MARTIN L. GROSSMAN: Hold on one second sir. 13 JULIO GONZALEZ: Ok. 14 MARTIN L. GROSSMAN: State your full name and address. 15 I am going to swear you in, so state your full name. 16 JULIO GONZALEZ: My name is Julio Gonzalez 17 MARTIN L. GROSSMAN: Ok. You are raising your right 18 hand. Do you swear or affirm to tell the truth, the whole 19 truth, and nothing but the truth under penalty of perjury? 20 JULIO GONZALEZ: Yes I do. 21 MARTIN L. GROSSMAN: Ok. Now you may proceed. 22 JULIO GONZALEZ: Ok. The way that I am understanding 23 reference to the usage of the building the basement is 24 going to be for the club and it will be some parking spaces 25 allocated for that purpose. Now, the first floor is leased	92	1 at the time that somebody illegally parked there. 2 2 residents and my car and we hired painters to paint 3 interior and you saw some contractor's car. That is not all 4 the time. 5 MARTIN L. GROSSMAN: Ok. Any other concerns or 6 questions Mr. Gonzalez? 7 JULIO GONZALEZ: No. No more questions. 8 MARTIN L. GROSSMAN: Ok. Thank you sir. Did you have 9 any cross examination? I should have asked. 10 SOO LEE-CHO: No I don't. 11 MARTIN L. GROSSMAN: Alright. Last but not least. 12 MIKE GLASBY: Thank you Mr. Grossman. 13 MARTIN L. GROSSMAN: Once again state your full name 14 and- 15 MIKE GLASBY: My full name is Michael Keith Glasby and 16 I live at 9205 Linton Street, Silver Spring Maryland, 17 20901. 18 MARTIN L. GROSSMAN: Alright. Mr. Glasby would you be 19 kind enough to raise your right hand? Thank you. Do you 20 swear or affirm to tell the truth, the whole truth, and 21 nothing but the truth under penalty of perjury? 22 MIKE GLASBY: I do. 23 MARTIN L. GROSSMAN: Alright. You may proceed. 24 MIKE GLASBY: Just this was very useful for me. This 25 was very helpful because the only information that was

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24 (93 to 96)

<p>93</p> <p>1 available was the signage that was out on Buckingham Drive 2 and University Boulevard and to make matters worse when I 3 went online I couldn't find a lot of information. So that 4 made matters worse. So the first comment is more or less a 5 suggestion like when you are planning to do something like 6 that if you would reach out to the civic associations that 7 are directly adjacent to both. You have Franklin Knolls 8 Civic Association and the (inaudible) Association. I am a 9 former President of the (inaudible) Civic Association and it 10 would have been great to have you come and just talk and 11 say here is what we are planning to do instead of having 12 rumors and people saying they are going to do this, they 13 are going to cut down all the trees, they are going to have 14 clubs, they are going to be parties, there are going to be 15 cars all around the place because that impacts people's 16 lives and I have a residence not far from there and I look 17 at my property value and things that impact the property 18 value and this certainly impacts the property value and so 19 I am concerned. So again not a question on that part. Just 20 a recommendation. For instance if you plan to do something 21 in the future. There is a question about public funding. 22 Will there be any public funding going toward this? Any 23 moneys from Montgomery County residents? Are my tax dollars 24 in any way supporting this? 25 MARTIN L. GROSSMAN: Well if you want to have somebody</p>	<p>95</p> <p>1 I am permitted to look into- This is a land use proceeding. 2 All I am permitted to look into is the conditions that are 3 set up in the zoning ordinance both general conditions 4 which Ms. Lee-Cho went through that apply to all 5 conditional use applications and those that apply to this 6 specific kind of conditional use application. I don't see 7 anything in those standards that deal with funding. So I am 8 somewhat limited in what I can consider. I understand the 9 public policy issue you are raising but it is not something 10 that is technically before me. I have to follow a code. 11 MIKE GLASBY: That is the only question and again 12 going back to my previous statement, the (inaudible) Parks 13 Civic Association is holding a meeting on the 24th of April 14 and even though I am not still the President I will extend 15 an invitation to you and I will touch base with the 16 President to have you or your representative come and 17 explain exactly what it is you are doing and the impact on 18 the community that it will have. 19 MARTIN L. GROSSMAN: It is always a great idea to have 20 contact with the community. In some cases where larger 21 organizations such as a private school or something like 22 that is set up we arrange to have what they call a 23 community liaison council. Some regular meeting process 24 with the community for the organization. This is a very 25 small operation that is proposed here. So it is probably</p>
<p>94</p> <p>1 answer lets have I don't care if it is which one from the 2 organization but- Ok you are still under oath. Ok. Can you 3 respond to that? 4 ELIZABETH KIM: As part of my testimony I did state 5 that we did receive bond bill and we will be receiving bond 6 bill from the State of Maryland. 7 MIKE GLASBY: So there will be public dollars used? 8 ELIZABETH KIM: For maintenance purpose, yes. 9 MIKE GLASBY: For maintenance purposes but not for 10 operational purposes? 11 ELIZABETH KIM: No. in the bond bill, the public 12 proceeding we had to submit how the estimate of cost of 13 different kinds of renovations to the property. So yes the 14 bond bill is specific to the renovation of the property. 15 MIKE GLASBY: So, and this goes back to Mr. Thames 16 position about the use of private facility. I mean it is a 17 private facility but you are using public dollars to help 18 establish it, correct? 19 ELIZABETH KIM: It is a nonprofit organization's 20 property. 21 MIKE GLASBY: Ok. 22 ELIZABETH KIM: So we are here to serve the public 23 members. 24 MARTIN L. GROSSMAN: I would say that that is beyond 25 the parameters that I can look into because all I can, all</p>	<p>96</p> <p>1 not warranted but in those larger ones we do have that and 2 we require reports back as to those meetings. So there is 3 that communication but it is always a great idea and it is 4 great that the members from the community came down today 5 to voice their concerns. It always makes a difference. 6 MIKE GLASBY: My reason for being here again is to 7 find out more, to understand what you are doing, and again 8 because it has an impact on me and the others that live in 9 the community. If I can get your name or email address I 10 can have our President of the Civic Association touch base 11 with you and extend a formal invitation. 12 SOO LEE-CHO: While I have Ms. Kim here because the 13 Hearing Examiner expressed there is freedom of association 14 and the definition of the private club it doesn't prohibit 15 it being private per say but I did want to give Ms. Kim an 16 opportunity to state KCSC's intended purpose, mission, and 17 it's availability of the services to other communities. 18 ELIZABETH KIM: I could state different examples but 19 our mission is to help the needy to be well adjusted in the 20 society so that they could have happier lives. We have 21 several programs that we partner with. Different ethnic 22 groups. So it is not just Koreans. When we talk about 23 University Garden there are 92 units, 110 residents living 24 in that apartment. About 10% of those are non-Korean 25 residents. So it is open and it is a first come first</p>

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25 (97 to 100)

<p style="text-align: right;">97</p> <p>1 serve. A lot of the programs that we provide, the services 2 that we provide and it is advertised. Yes we do heavily 3 advertise in the Korean newspapers, Korean media because of 4 the language and cultural issues but it is open. So if 5 anyone is interested they could always make call to make an 6 appointment or register into those programs. It is somewhat 7 open. 8 MARTIN L. GROSSMAN: Ok. Alright. Anything further 9 then? Ok is there any rebuttal testimony? 10 SOO LEE-CHO: No. 11 MARTIN L. GROSSMAN: Ok. Now let's talk about first of 12 all exhibits. I take it that you want the exhibits 13 submitted into evidence? 14 SOO LEE-CHO: Yes. The applicant requested. 15 MARTIN L. GROSSMAN: Ok so we have exhibits 1 through 16 40 and their subparts. Is there any objection to any 17 exhibits? Hearing no objection. They are admitted into 18 evidence exhibits 1 through 40 and their subparts. We will 19 also admit into evidence the anticipated brief that you are 20 going to file on the question of attorneys in the case 21 testifying or members of the attorney's office testifying 22 as an expert in their case and your submission of one other 23 thing. 24 SOO LEE-CHO: Staff Report for the- 25 MARTIN L. GROSSMAN: The Staff Report for the present</p>	<p style="text-align: right;">99</p> <p>1 here before I lose track of them myself. Ok so April 10-17 2 is the brief, attorney as expert and- 3 SOO LEE-CHO: Just so it is clear, she is not an 4 attorney. 5 MARTIN L. GROSSMAN: She is not acting as an attorney 6 in this case but she is a member of the law firm and so as 7 you know sometimes if one member of a law firm is 8 disallowed ethically then that generally bars all the other 9 members of that firm. So this is not an ethical issue but 10 it is an I don't know what you would call it. 11 SOO LEE-CHO: I just want to clarify that she is not a 12 practicing attorney at the firm. 13 MARTIN L. GROSSMAN: I understand. Ok. And you can 14 certainly clarify that with what you file but we just want 15 to get, make sure that we are not running afoul of some 16 court decision that says no you can't consider even though 17 it was helpful under the circumstances but we just want to 18 make sure we are kosher here. Ok. So special exception, the 19 second thing is the neighborhood definition. Ok. That is by 20 April 10th. Also would you today make sure that Technical 21 Staff gets a copy of all the new filings? 22 SOO LEE-CHO: Yes. 23 MARTIN L. GROSSMAN: Ok. So they have their 24 (inaudible) because then I will give them until April 10 25 will also be the date by which the staff and other parties</p>
<p style="text-align: right;">98</p> <p>1 special acceptance to show what the defined neighborhood 2 was and so would 10 days be sufficient or do you need more 3 time? For that we brought a calendar. I am going to also 4 give that time, that same time period when we need time to 5 give Technical Staff the opportunity to respond to the 6 revised exhibits and you will please send them a copy of 7 all the revised exhibits, the new exhibits and for the 8 other parties here an opportunity to respond to the newly 9 admitted exhibits or they have an opportunity at the 10 hearing. They didn't have an opportunity to see them 11 beforehand. So they are not disadvantaged. They will have 12 further opportunity. Is 10 days sufficient for you to 13 submit the additional materials or do you want more time? 14 SOO LEE-CHO: I can certainly submit the brief in, 15 research the Staff Report for the existing special 16 exception within that timeframe. 17 MARTIN L. GROSSMAN: Ok. So this is the- 18 SOO LEE-CHO: I am a little unclear on the review 19 time. Did you want- 20 MARTIN L. GROSSMAN: I am going to get to that in a 21 second. So if we give you 10 days. Today is the 31st. That 22 would take you until I guess the 10th which is a Monday. Is 23 that sufficient for you? 24 SOO LEE-CHO: Yes. 25 MARTIN L. GROSSMAN: Ok. Let me jot down these dates</p>	<p style="text-align: right;">100</p> <p>1 submit further comments to the new exhibits if they wish 2 to. Not required to but it is an option because you are 3 seeing them for the first time here today and then I will 4 give them another period of time to respond to your brief. 5 That will be let's say until the 17th of April, that is a 6 week. Is that sufficient time gentlemen? 7 MIKE GLASBY: It is. 8 MARTIN L. GROSSMAN: Ok. April 17-17 for other parties 9 to respond to applicant's brief filed by 4-10. Ok. Then do 10 you want a few days to respond to anything that other 11 parties may file? 12 SOO LEE-CHO: Sure. 13 MARTIN L. GROSSMAN: Well, it is up to you. 14 SOO LEE-CHO: Yes. 15 MARTIN L. GROSSMAN: Ok. So we will say until, I will 16 give you 4 days, until the 21st. 17 SOO LEE-CHO: That will be acceptable. 18 MARTIN L. GROSSMAN: Alright. 4-21-17 any response 19 from applicant and then the record will close at the close 20 of business on April 21-17. 21 SOO LEE-CHO: I am sorry? 22 MARTIN L. GROSSMAN: The record will close. 23 SOO LEE-CHO: When? 24 MARTIN L. GROSSMAN: At the close of business April 25 21. After you file your-</p>


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26 (101 to 104)

101

1 SOO LEE-CHO: Oh when you said 17 I thought you meant
2 the 17th.
3 MARTIN L. GROSSMAN: April 21-2017. Ok so what does
4 that mean when I say the record will close? It means that
5 nothing else will be accepted for filing after that point.
6 That is the record on which I will reach my decision and
7 write my report. That will be due 30 days after that date,
8 after April 21. I can extend that time but I almost never
9 do. I haven't in years. So then when I file my report and
10 decision you will each get a formal notification by mail of
11 that decision and if it is granted it will have the list of
12 conditions in there as well and the full decision which
13 will be quite a bit longer then the notice is posted on our
14 website and can review the full decision and can appeal to
15 the Board of Appeals if you so desire within 10 days after
16 I issue it. Ok. Is there anything further that we need to
17 address? And all of your submissions as a result of the
18 listed, the calendar dates I just listed, all of those
19 submissions will be admitted into the record. Ok. Anything
20 further? Anybody? No? I thank you all for coming down here.
21 Isn't it Friday today?
22 SOO LEE-CHO: Yes it is.
23 MARTIN L. GROSSMAN: Have a great weekend.
24 (Off the record.)
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1 CERTIFICATE OF TRANSCRIBER
2 I, Susan E. Wilson, do hereby certify that the
3 foregoing transcript is a true and correct record of the
4 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 for,
7 related to, nor employed by and of the parties to this case
8 and have no interest, financial or otherwise, in its
9 outcome.
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12 
13 _____
14 SUSAN E. WILSON
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