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Transcript of Hearing

Date: June 16, 2017

Case: Tenenholtz/Gomez Accessory Apartment, In re:

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Transcript of Hearing
Conducted on June 16, 2017

1 (1 to 4)

<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 Tenenholtz/Gomez Accessory : Case No. CU 17-13</p> <p>6 Apartment, :</p> <p>7 -----X</p> <p>8</p> <p>9 HEARING</p> <p>10 Before Hearing Examiner Michele LeFaivre</p> <p>11 Rockville, Maryland</p> <p>12 Friday, June 16, 2017</p> <p>13 10:30 a.m.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 Job: 148856</p> <p>24 Pages: 1 - 25</p> <p>25 Transcribed by: Susan Wilson</p>	<p>1 PROCEEDINGS</p> <p>2 MICHELE LEFAIVRE: Good morning. My name is</p> <p>3 Michele LeFaivre. I am the Hearing Examiner in Conditional</p> <p>4 Use Case 17-13. There is a conflict in the advertised and</p> <p>5 public notice of the time for this hearing. The public</p> <p>6 notice stated that the hearing was scheduled for 10 but the</p> <p>7 website currently has it as 10:30 and is a matter of law</p> <p>8 what I have to do is right now recess this hearing and come</p> <p>9 back and start the hearing at 10:30. So with that we are at</p> <p>10 recess until 10:30. Good morning. I am the Hearing</p> <p>11 Examiner. This is a public hearing in the matter of Helena.</p> <p>12 Am I pronouncing that?</p> <p>13 HELENA TENENHOLTZ: Helena.</p> <p>14 MICHELE LEFAIVRE: Tenenholtz and Hector Gomez in</p> <p>15 Conditional Use Case 17-13 which is an application for a</p> <p>16 conditional use to allow an attach accessory apartment in</p> <p>17 the basement of a 1 family detached home at 7006 Braeburn</p> <p>18 Court in Bethesda Maryland. The subject property is</p> <p>19 identified as lot 17 block 3 plat 2388. This hearing is</p> <p>20 being conducted by the Office of Zoning and Administrative</p> <p>21 Hearings. As I said I am Michele LeFaivre the Hearing</p> <p>22 Examiner and what this means is that I will take evidence</p> <p>23 here and write a report and a decision in the case. So some</p> <p>24 background, the Department of Housing and Community, I</p> <p>25 don't know what the A stands for.</p>
<p>1 C O N T E N T S</p> <p>2 PAGE</p> <p>3 OPENING STATEMENTS 5</p> <p>4 TESTIMONY OF HELENA TENENHOLTZ 3</p> <p>5 TESTIMONY OF MARCH GUILLEN 13</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 MARCO GUILLEN: Affairs.</p> <p>2 MICHELE LEFAIVRE: Affairs. I am new but only in</p> <p>3 Montgomery County. Declined an accessory apartment permit</p> <p>4 because the subject's site does not have sufficient onsite</p> <p>5 parking for an accessory apartment and that was relayed to</p> <p>6 the petitioners in the referral notice of February the 7th</p> <p>7 2017 and that is exhibit 3 and the applicants therefor</p> <p>8 filed a petition for a detached accessory apartment</p> <p>9 conditional use under zoning ordinance section 59.3.3.3.A</p> <p>10 and B which allowed deviation from the standard which is</p> <p>11 the requirement to have the onsite parking where I make a</p> <p>12 determination that the on street parking is available and</p> <p>13 before I swear you in will the people sitting before me</p> <p>14 just identify yourselves?</p> <p>15 HECTOR GOMEZ: Sure. Hector Gomez.</p> <p>16 HELENA TENENHOLTZ: Helena Tenenholtz</p> <p>17 RAYMOND TENENHOLTZ: And I am Raymond Tenenholtz.</p> <p>18 MICHELE LEFAIVRE: Would the housing code inspector</p> <p>19 identify himself?</p> <p>20 MARCO GUILLEN: Marco Guillen.</p> <p>21 MICHELE LEFAIVRE: And that is spelled Marco Guillen?</p> <p>22 MARCO GUILLEN: Yes Ma'am.</p> <p>23 MICHELE LEFAIVRE: And I am looking around and there</p> <p>24 does not appear to be anyone in opposition to this</p> <p>25 petition. So let me explain very briefly how we go.</p>

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2 (5 to 8)

<p>5</p> <p>1 Although I am sitting here looking very formal this is 2 rather an informal hearing. It is not like a court hearing 3 although there are some formalities involved. We have to 4 make a record of the case and there is a person to your 5 left who is making a transcribing the hearing. The hearing 6 has to proceed in a certain manner. I have to swear you in. 7 The applicants can make an opening statement if you want. 8 We don't have to discuss the opposition because there is 9 none. We are here today, again, on an application for a 10 conditional use which is a statutorily permitted use of 11 certain general and special conditions are met and those 12 conditions were spelled out in the Planning Board Technical 13 Staff Report which is exhibit number 25 and your testimony 14 should therefore address those conditions and any issues 15 that were raised by the Planning Board. Did you get a copy? 16 HELENA TENENHOLTZ: Yes. 17 MICHELE LEFAIVRE: Of the petition? 18 HELENA TENENHOLTZ: Yes. 19 MICHELE LEFAIVRE: Which would look something like, 20 would have come out essentially this week. May the- 21 HELENA TENENHOLTZ: Yeah we got a hardcopy in the 22 mail. 23 MICHELE LEFAIVRE: The hearing report was June the 2nd 24 2017. Do you have a copy of that with you? 25 HELENA TENENHOLTZ: I believe so. I have everything</p>	<p>7</p> <p>1 conclusions? 2 HELENA TENENHOLTZ: Oh I do. 3 MICHELE LEFAIVRE: We will go into that in more detail 4 and I am saying that do you accept them as part of your 5 evidence and do you accept the conditions that were 6 recommended by the Staff Report and there are 3 that you 7 would bound by all submitted statements and materials of 8 records to that the total number of occupants residing in 9 the accessory apartment who are 18 years or older is 10 limited to 2 and 3. No other rental residential uses are 11 allowed to be located on the subject's site. 12 HELENA TENENHOLTZ: Yes. 13 MICHELE LEFAIVRE: Ok and I ask you if you submitted 14 the affidavit of posting and new positing and you did bring 15 that in and that is exhibit 26 notarized on June the 16th 16 2017. Ok. What other questions? What I am essentially going 17 to do Mrs. Tenenholtz, is officially walk you through the 18 process. I want to note for the record that in the folder 19 are copies of Mrs. Tenenholtz and Mr. Gomez's driver's 20 license. Those are ID photos which we need for the 21 petition. Also on file is the site and floor plans and 22 essentially what I want to do is walk you through your 23 statement of the case which is exhibit number 6 and I am 24 looking at particularly the photographs that were 25 submitted. Are these the photographs that you took of the,</p>
<p>6</p> <p>1 MICHELE LEFAIVRE: Let me swear- Who is going to 2 testify? 3 HELENA TENENHOLTZ: I can I suppose. 4 MICHELE LEFAIVRE: Ok. Let me swear you in. Do you 5 solemnly on the penalty of perjury do you solemnly promise 6 to speak truthfully in your testimony? 7 HELENA TENENHOLTZ: I do. 8 MICHELE LEFAIVRE: Please state your name and spell it 9 for the record and give me your address. 10 HELENA TENENHOLTZ: My name is Helena Tenenholtz. I am 11 the homeowner at 7006 Braeburn Court in the Bethesda 12 Maryland, 20817. 13 MICHELE LEFAIVRE: Ok. Do you have a copy of that 14 Staff Report in front of you? 15 HELENA TENENHOLTZ: I am looking for it. 16 HECTOR GOMEZ: What is the date on it? 17 MICHELE LEFAIVRE: June the 2nd. Looks like, the top 18 page looks like this. I am showing them my laptop. 19 HELENA TENENHOLTZ: I remember I scanned the whole 20 document and emailed it to both of you. I know I have it 21 electronically but that is ok. I have read it thoroughly. 22 MICHELE LEFAIVRE: You have read it? 23 HELENA TENENHOLTZ: Yes. I have read it very 24 thoroughly. 25 MICHELE LEFAIVRE: Do you accept the findings and</p>	<p>8</p> <p>1 that you submitted with your statement of the case? 2 HELENA TENENHOLTZ: That is right. 3 MICHELE LEFAIVRE: It begins on page 13. Let's walk 4 through those photographs and tell me what we are looking 5 at. 6 HECTOR GOMEZ: Page 13 of the application? 7 MICHELE LEFAIVRE: In your statement, well your 8 statement of the case is I believe on your- 9 HELENA TENENHOLTZ: If I can't find the exact pictures 10 I think I have a whole copy of the application. 11 MICHELE LEFAIVRE: It would be in your application. So 12 I am looking at particularly- 13 HELENA TENENHOLTZ: Even if you hold it up to me I can 14 speak to it. 15 MICHELE LEFAIVRE: This would be exhibit 14 and 14 is 16 the floor plan. 17 HELENA TENENHOLTZ: Yes, that is- 18 MICHELE LEFAIVRE: New left side addition plan option 19 1 and is this an accurate depiction of option 1? 20 HELENA TENENHOLTZ: So that is the proposed interior 21 floor plan for the accessory apartment in-law suite for my 22 father. 23 MICHELE LEFAIVRE: Can we turn off our cell phones 24 please? 25 RAYMOND TENENHOLTZ: Sure. I am looking for the</p>

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<p>9</p> <p>1 document on my phone.</p> <p>2 MICHELE LEFAIVRE: Make sure they are at least muted.</p> <p>3 Maybe checking your text messages. You may look for your</p> <p>4 document.</p> <p>5 HELENA TENENHOLTZ: I was going to say the space where</p> <p>6 the accessory apartment would go there is currently nothing</p> <p>7 there. It is dirt. So this would be built onto the existing</p> <p>8 home where there had been a deck previously. A deck and a</p> <p>9 screen porch that was derelict when we bought the house. So</p> <p>10 that has been torn down and in its place we are going to</p> <p>11 intend to build this in-law apartment with a new deck over</p> <p>12 the top and that is the proposed layout of the interior of</p> <p>13 that apartment.</p> <p>14 MICHELE LEFAIVRE: And then I am looking at exhibit 13</p> <p>15 are actually photographs of your property. There are 1, 2,</p> <p>16 3, 4, 5, 6, 7, 8, 9, 10 photographs. Do you have those with</p> <p>17 you?</p> <p>18 HELENA TENENHOLTZ: I thought I had an entire full</p> <p>19 copy of all the application and everything with it. I think</p> <p>20 it is in here. But I know what those photographs cover. It</p> <p>21 is views of the side of the house where this proposed</p> <p>22 apartment would be built on.</p> <p>23 MICHELE LEFAIVRE: Did they accurately depict-</p> <p>24 Obviously these were taken, when were these taken?</p> <p>25 HELENA TENENHOLTZ: Not long ago. Within the last few</p>	<p>11</p> <p>1 MICHELE LEFAIVRE: We previously looked at option A</p> <p>2 and option 1 and what is the difference- Well let's look at</p> <p>3 option 2 which is on page- I don't believe I have option 2.</p> <p>4 The official file and how it is- Explain to me option 1 and</p> <p>5 option 2 and the difference between the 2 of these.</p> <p>6 HELENA TENENHOLTZ: Sure. So option 1, actually the</p> <p>7 floor plan for the interior of the in-law suite is the</p> <p>8 same.</p> <p>9 MICHELE LEFAIVRE: Is the same.</p> <p>10 HELENA TENENHOLTZ: So the option and these are only</p> <p>11 what is proposed. The difference between the options is</p> <p>12 really what is going on top of the roof if you speak of the</p> <p>13 in-law suite which is either like a full deck or a raised</p> <p>14 deck. It is two different sort of ideas for what could be</p> <p>15 put on top but nothing changes in terms of what is inside</p> <p>16 of the unit.</p> <p>17 MICHELE LEFAIVRE: Maybe I misunderstood. There were</p> <p>18 differences in entrances?</p> <p>19 HELENA TENENHOLTZ: Oh I see. There is one that has an</p> <p>20 option for the front door to the apartment being in the</p> <p>21 back and one that has the door on the side.</p> <p>22 MICHELE LEFAIVRE: You haven't decided which one you</p> <p>23 are going to do yet?</p> <p>24 HELENA TENENHOLTZ: I think whatever makes sense with</p> <p>25 permitting and the code and what is allowed and appropriate</p>
<p>10</p> <p>1 months.</p> <p>2 MICHELE LEFAIVRE: And who took these photographs?</p> <p>3 HELENA TENENHOLTZ: I believe I took them.</p> <p>4 MICHELE LEFAIVRE: Do they accurately depict the</p> <p>5 current conditions or conditions at the time they were</p> <p>6 taken?</p> <p>7 HELENA TENENHOLTZ: Oh yes.</p> <p>8 MICHELE LEFAIVRE: Again when were they taken?</p> <p>9 RAYMOND TENENHOLTZ: Right before the application.</p> <p>10 HELENA TENENHOLTZ: Yeah it was probably, I imagine it</p> <p>11 is sort of wintery in the pictures actually. It could be</p> <p>12 January or February.</p> <p>13 MICHELE LEFAIVRE: The application also includes your</p> <p>14 photo ID's. The application includes your state of Maryland</p> <p>15 Department of Assessments and Taxations documents, the</p> <p>16 statement of the case. Just go through here. List of</p> <p>17 adjoining and confronting property owners, list of</p> <p>18 Homeowners Associations, a (inaudible) statement or study</p> <p>19 accepted for review by the Planning Director, a location</p> <p>20 survey, a location survey showing the location of the</p> <p>21 addition.</p> <p>22 HELENA TENENHOLTZ: Here are the pictures.</p> <p>23 MICHELE LEFAIVRE: The zoning map and then we are</p> <p>24 looking at the photographs.</p> <p>25 HELENA TENENHOLTZ: I have the photographs.</p>	<p>12</p> <p>1 for access is what we will do. So we are leaning towards</p> <p>2 the door in the back, that option.</p> <p>3 MICHELE LEFAIVRE: Ok. One question or one issue that</p> <p>4 I didn't see in the Staff Report is you need to provide a</p> <p>5 walkway to that entrance and I didn't see that in any of</p> <p>6 the documents and there are some, I believe, permit</p> <p>7 requirements for lighting and I am going to ask the when</p> <p>8 the inspector testifies I am going to ask him some</p> <p>9 questions about that. So as a condition of approval would</p> <p>10 you agree that you install a walkway that is in compliance</p> <p>11 with all regulations and meets all permits including any</p> <p>12 lighting permits?</p> <p>13 HELENA TENENHOLTZ: Of course. And we received this</p> <p>14 letter just this past week ahead of this hearing that</p> <p>15 stipulated a list of what is required for permitting and</p> <p>16 the lighting was on there and the walkway for access was on</p> <p>17 there. So that will, those will be turned over to the</p> <p>18 builder as part of the design and build. All of that will</p> <p>19 be incorporated.</p> <p>20 MICHELE LEFAIVRE: Ok. Let's go through- Before we go</p> <p>21 through my evaluation of the petition with the standards do</p> <p>22 you have anything else you want to tell me?</p> <p>23 HELENA TENENHOLTZ: No.</p> <p>24 MICHELE LEFAIVRE: Ok. Your statement of the case was</p> <p>25 pretty thorough. Let me swear, I am going to mispronounce</p>

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4 (13 to 16)

<p>13</p> <p>1 your name again, Mr. Guillen. 2 MARCO GUILLEN: Yes. 3 MICHELE LEFAIVRE: Let me swear you in. On the- Under 4 penalty of perjury do you solemnly promise to speak 5 truthfully in the testimony you are about to give? 6 MARCO GUILLEN: Yes. 7 MICHELE LEFAIVRE: Please state your name, spell it 8 for the record. 9 MARCO GUILLEN: Marco Guillen. 10 MICHELE LEFAIVRE: Ok. What do you have to tell me? 11 MARCO GUILLEN: I have been to the property. The only- 12 We are here because the property doesn't have a driveway 13 and that is why it is a conditional use. There is on street 14 parking. There is behind this house there is a public or 15 community walkway that leads to a community pool there and 16 behind there is a street that has a dead-end and on the day 17 of the inspection there was plenty of available parking in 18 that area without any requires for the parking. So you 19 mentioned something about the lighting, we also do give a 20 report with the findings on our inspection and that was 21 listed on our report also. 22 MICHELE LEFAIVRE: Do I have that in the record? 23 Should I have that in the record? I know we got a letter. 24 MARCO GUILLEN: Yes a letter. I believe you got it. 25 MICHELE LEFAIVRE: That should have been, that should</p>	<p>15</p> <p>1 has to be onsite parking space and it does not meet that. 2 So then you are subject to further analysis. The additional 3 standard is that the gross floor area including any floor 4 area used for an accessory apartment in the cellar must be 5 less than 50% of the total floor area in the principle 6 dwelling including any floor area used for an accessory 7 apartment in the cellar for the principle dwelling and it 8 can't be larger than 1200 square feet and you are proposing 9 an 18 foot by 38 foot or 680 square foot apartment and I 10 think the Staff Report refers to that and maybe incorrect 11 as 740 and I think that is measured gross. 12 MARCO GUILLEN: Yeah, the exterior walls. 13 MICHELE LEFAIVRE: It includes the walls but you net 14 out the walls on the actual square footage. That is what I 15 thought. That is 50% less than the floor area in the 16 dwelling which is 1,716 feet and it is less than 1200 17 square feet and then with the addition of the basement area 18 with a deck above it the additional square footage would be 19 about 2,400 square feet and it would still be 50% less and 20 it can't be more than 800 square feet if the addition 21 increases the footprint. The addition will be below grade 22 and will contain the apartment which is 684 square feet. 23 You can't have more than 2 occupants and although I know 24 there is 1, the maximum is 2 and it can't be located on a 25 lot where there is another rental unit and there is none.</p>
<p>14</p> <p>1 be an exhibit. Let's see if it is marked as an exhibit. No. 2 let's see if it is- 3 MARCO GUILLEN: Dated June 5th. 4 MICHELE LEFAIVRE: Yes. That would be exhibit number 5 24 and the it does note the housing code requirements, 6 install exterior lighting fixtures to provide adequate 7 lighting along walkway and stairway, stairs leading to the 8 accessory apartment and install exterior light fixture 9 above entrance door for accessory apartment. So are you 10 agreed that I commit those also as conditions of approval? 11 HELENA TENENHOLTZ: Yes. 12 MICHELE LEFAIVRE: Ok. Then let me walk everyone 13 through the Zoning Ordinance Requirement for approving that 14 and there are many but they are fairly easy. The standards 15 are contained in section 59.3.3.A2 and one of the use 16 standards is that it is permitted as a limited use if it 17 satisfies the following standards. One is only one 18 accessory apartment is permitted for each lot and there is 19 only one accessory apartment proposed. The second condition 20 is that the, it is not applicable because it was not 21 approved as a conditional use before May the 20th 2013. The 22 third condition which is subsection III is that the 23 apartment have the same street address as the principle 24 dwelling and it does. Subsection, there has to be a better 25 way. Subsection iiiB which is the critical issue that there</p>	<p>16</p> <p>1 There are requirements for when you are located in an 2 agricultural or rural residential zone and you are not 3 located in those areas. You are located in R60 zone. You 4 are not required to screen. So we don't need to make a 5 finding under that. You are not subject to any transfer 6 development right requirements because you are located in 7 the R60 zone and the big issue in this case is the 8 deviation from the number of onsite parking spaces. The 9 statement of the case in the Staff Report states that there 10 is currently no onsite parking and you could not provide 11 onsite parking because there is a specimen tree in front 12 and we don't want that taken down. So you would have to 13 deviate from that in order to be eligible for the 14 conditional use and the statement of the case, the 15 application, and the Technical Staff Report says that there 16 is, as I believe, about 57 square feet of on street parking 17 area which would accommodate 3 reasonably sized vehicles 18 and that is our major issue. The additional requirement is 19 that you not be located within 300 feet of another attached 20 or detached accessory apartment and the statement of the 21 case, the application, and the Staff Report states that 22 there are none. The nearest is 1,000 square feet and again 23 you, this is all coming from the Technical Staff Report and 24 you have accepted their findings and the major issue is 25 fewer off street spaces are allowed if there is adequate on</p>

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<p>17</p> <p>1 street parking, on street parking is inadequate if the 2 available on street parking for residents within 300 feet 3 of the proposed accessory apartment would not permit a 4 resident to park on street near his or her residents on a 5 regular basis and just this is Mrs. Tenenholtz again, your 6 verbal testimony that on that is what? 7 HELENA TENENHOLTZ: That there is adequate parking in 8 the cul-de-sac and in the public access street that is also 9 to the side of our house. Plenty of options. 10 MICHELE LEFAIVRE: You have also- Would you also 11 please describe the nearby residences which have off street 12 parking, the number etc.? Describe the immediate 13 neighborhood of what is available for the park? 14 HELENA TENENHOLTZ: Yeah. This neighborhood was built 15 in the 1950's and many of the houses are being, the old 16 homes are being flipped for larger new homes which require, 17 part of building a new home, a drive and garage or off 18 street parking. So a number of the new homes right around 19 us have been torn down and new houses have been built that 20 have driveways and garages. So there is only 2 other houses 21 on our cul-de-sac, well our house and that house next to us 22 that are the original 1950's build that have been renovated 23 and maintained in the original neighborhood style that 24 don't have a driveway or garage. So there is really not a 25 lot of competition for parking in the cul-de-sac or up and</p>	<p>19</p> <p>1 on the door leading to the main house that is operated from 2 the owner's side only. 3 HELENA TENENHOLTZ: That is right. 4 MICHELE LEFAIVRE: Are there any fire code wall 5 separations for that potential access that would apply? 6 MARCO GUILLEN: The door. 7 MICHELE LEFAIVRE: Just the door itself? 8 MARCO GUILLEN: The existing door that they have right 9 now. 10 MICHELE LEFAIVRE: The subsection B is that the house 11 be at least 5 years old and the house was built when? 12 HELENA TENENHOLTZ: 1951. 13 MICHELE LEFAIVRE: Yes. And there are other 14 requirements relating to the applicable to the apartment if 15 they are in other zones but it is not applicable to this 16 petition because it is located in the R60 zone and again 17 that the R60 zone must be located at least 300 feet from 18 any other attached or detached accessory apartment measured 19 in a line from the sideline to the sideline and the report 20 demonstrates that it is not because there are no other 21 apartments. Do you Mrs. Tenenholtz, do you have anything 22 else that you wish to add? 23 HELENA TENENHOLTZ: No, not at this time. I feel like- 24 MICHELE LEFAIVRE: Inspector is there anything else 25 that you wish to add? Have we covered everything that we</p>
<p>18</p> <p>1 down the street. 2 MICHELE LEFAIVRE: And under section 59.3.3.3.B2 there 3 are very specific use standards and subsection A requires a 4 separate entrance and again please tell me where the 5 entrance would be. 6 HELENA TENENHOLTZ: It would be in the back of the 7 property. 8 MICHELE LEFAIVRE: You actually submitted 2 options. 9 One would be the back and one would be the side. Either 10 would meet the code based on your testimony and the 11 exhibits 2 and 6 which contain photographs and plans for 12 the proposed addition one on the side and one on the rear 13 and you are not specifically wed to either because 14 potential cost differences, something that I don't want to 15 feed you testimony. 16 HELENA TENENHOLTZ: Well we could go with either but 17 we are leaning towards the one in the back because we have 18 a basement door to the main house in the back and that 19 would allow the in-law apartment to connect to the house if 20 my dad wanted to come through that way. 21 MICHELE LEFAIVRE: Ok but you have to be on the county 22 code requirements for entrances on internal entrances 23 within the other part. Do you want to weigh in on that 24 inspector? 25 MARCO GUILLEN: They have to install a locking device</p>	<p>20</p> <p>1 need for you? 2 MARCO GUILLEN: Yes. 3 MICHELE LEFAIVRE: Ok. Just for the record I want to 4 go through the exhibit list. You may not have all of these. 5 I am not completely sure what you would get but the file 6 contains all the documents pertinent to this case. I want 7 to walk them through this. Exhibit 1 is the Maryland 8 National Capital Parks and Planning Commissions checklist 9 of 2016. Exhibit 2 is your accessory apartment application 10 and that application is a truthful representation of what 11 you are proposing to do. Exhibit 3 is the Department of 12 Housing and Community Affairs referral notice of 2017 and 13 that accurately (inaudible) the fact that it could not be 14 approved through the permitting process and you agree with 15 that. There is also exhibit 4 which is the letter from DHCD 16 February 7th 2017 denying the permit because you don't have 17 onsite parking. Exhibit 5 is the State Assessments Property 18 Identifier. Exhibit 6 is the statement of the case. Exhibit 19 7 is the list of adjoining and confronting property owners. 20 Exhibit 8 is the list of Homeowners Associations within a 21 half mile. Exhibit 9 is the traffic exhibit and that 22 traffic statement and that statement said that you would 23 not be subject to a traffic study because you would only 24 generate one additional car during rush hour. Did you get a 25 copy of that?</p>

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6 (21 to 24)

<p>21</p> <p>1 HELENA TENENHOLTZ: Yes. The threshold was like 50</p> <p>2 trips or something.</p> <p>3 MICHELE LEFAIVRE: Yes. Exhibit 10 is a copy of the</p> <p>4 plat which we discussed. Exhibit 11 is a copy of the plat</p> <p>5 showing the addition which we have discussed. Exhibit 12 is</p> <p>6 the zoning map. Exhibit 13 is the photos of the property</p> <p>7 which you took and we have discussed those as accurately</p> <p>8 reflecting the current conditions or recent conditions</p> <p>9 because there is some photographs showing people working on</p> <p>10 the property and some of that work may have been completed.</p> <p>11 Exhibit 14 are the addition plans which we have discussed.</p> <p>12 Exhibit 15 are the addition costs. What is the- Addition</p> <p>13 costs which we did not discuss and there was no testimony</p> <p>14 to that. Is there anything about that that you wish to</p> <p>15 testify to? It is simply there for informational purposes.</p> <p>16 Exhibit 16 is the Forest Conservation Waiver. Did you get a</p> <p>17 copy of that? Do you agree with that?</p> <p>18 HELENA TENENHOLTZ: Yes.</p> <p>19 MICHELE LEFAIVRE: Exhibit 17 is the DHCA accessory</p> <p>20 apartment map. Do you have a copy of that?</p> <p>21 HELENA TENENHOLTZ: Yes.</p> <p>22 MICHELE LEFAIVRE: Exhibit 18 is the information</p> <p>23 letter on other accessory apartments. We have discussed</p> <p>24 that. Exhibit 19 is the certified zoning map. Exhibit 20 is</p> <p>25 the CD of exhibits 2-19. Exhibit 21 is the tax assessment</p>	<p>23</p> <p>1 total number of occupants residing in the accessory</p> <p>2 apartment who are 18 years or older is limited to 2 and</p> <p>3 that no other essential rental residential uses are allowed</p> <p>4 and you have also agreed to, we have discussed the issue of</p> <p>5 the walkway which you will need to provide and that will be</p> <p>6 a condition of approval and that is addressed in the, a</p> <p>7 memorandum from DHCE of June the 5th which state the</p> <p>8 following housing code requirements must be met and- So</p> <p>9 this will be condition number 4. Install exterior lighting</p> <p>10 fixtures to provide adequate lighting along the walkway</p> <p>11 which you will have to provide and stairs leading to the</p> <p>12 accessory apartment and condition number 5 would be install</p> <p>13 exterior light fixture above entrance door for the</p> <p>14 accessory apartment and you agree with all 5 conditions?</p> <p>15 HELENA TENENHOLTZ: Yes.</p> <p>16 MICHELE LEFAIVRE: And again for the walkway you are I</p> <p>17 am just noticing for the record I am not making any</p> <p>18 conclusions. The location survey shows the addition close</p> <p>19 to a property line and you will have to locate that walkway</p> <p>20 within the required setbacks or the permitted encroachment</p> <p>21 and Planning Staff will have to approve that. Any final</p> <p>22 comments? I am approving the requested conditional use. I</p> <p>23 will, because we need to allow time for the transcript to</p> <p>24 be provided. So we have admitted the exhibits. The record</p> <p>25 is going to be held open until June the 27th which is 10</p>
<p>22</p> <p>1 notice. I am not sure if you provided that or we provided</p> <p>2 that but it is the official tax document that shows that</p> <p>3 you are the current property owners identifying when you</p> <p>4 purchased it and other information. Do you need to see a</p> <p>5 copy of that or do you accept that?</p> <p>6 HELENA TENENHOLTZ: I accept that.</p> <p>7 MICHELE LEFAIVRE: Ok. Exhibit 22 was a March 10th 2017</p> <p>8 email to you regarding the sign and you posted that sign</p> <p>9 and there was some information on that sign saying you</p> <p>10 could return it if it wasn't essentially beat up by bad</p> <p>11 weather. That is generally what happens. Exhibit 23 is the</p> <p>12 May 4th 17 notice of public hearings scheduled for 6-17 and</p> <p>13 you got a copy of that and there was as we discussed at the</p> <p>14 beginning of the hearing some discrepancy about the actual</p> <p>15 time and exhibit 24 which we have discussed is the June 8th</p> <p>16 notice by HCDA Inspector and exhibit 25 which we have</p> <p>17 discussed is the final Staff Report of June the 2nd and</p> <p>18 Exhibit 26 is the affidavit of posting. Do you accept all</p> <p>19 of these exhibits and the findings and comments etc.</p> <p>20 contained therein?</p> <p>21 HELENA TENENHOLTZ: Yes.</p> <p>22 MICHELE LEFAIVRE: So the conditions of approval as we</p> <p>23 initially discussed, the conditions of approval that were</p> <p>24 recommended by DH Planning Staff was that you be bound by</p> <p>25 all submitted statements and materials of records that the</p>	<p>24</p> <p>1 days from today and then the record will close and then I</p> <p>2 am required to issue a decision and order within 30 days of</p> <p>3 that decision. So with that this hearing is concluded and</p> <p>4 thank you.</p> <p>5 (Off the record at 11:09 a.m.)</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

Transcript of Hearing
Conducted on June 16, 2017

7 (25 to 28)

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CERTIFICATE OF TRANSCRIBER

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



Susan E. Wilson