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Transcript of Administrative Hearing

Date: February 15, 2019

Case: Cindy Yamileth Aguilar Palacios

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Conducted on February 15, 2019

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3	FOR MONTGOMERY COUNTY, MARYLAND	3	FOR MONTGOMERY COUNTY OFFICE OF ZONING AND
4	-----x	4	ADMINISTRATIVE HEARINGS:
5	IN RE: :	5	MARTIN GROSSMAN, HEARING EXAMINER
6	CINDY YAMILETH AGUILAR : Case No.: CU 19-05	6	FOR THE APPLICANT:
7	PALACIOS :	7	CINDY YAMILETH AGUILAR PALACIOS
8	-----x	8	
9	HEARING	9	ALSO PRESENT:
10	Rockville, Maryland	10	DON McCLURE
11	Friday, February 15, 2019	11	2506 Hayden Drive
12	8:30 a.m.	12	Silver Spring, Maryland
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14		14	
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22		22	
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25	Transcribed by: Molly Bugher	25	
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<p>5</p> <p>1 PROCEEDINGS</p> <p>2 HEARING EXAMINER GROSSMAN: Ms. Palacios?</p> <p>3 MS. PALACIOS: Hi.</p> <p>4 HEARING EXAMINER GROSSMAN: Okay. Are you ready to</p> <p>5 proceed?</p> <p>6 MS. PALACIOS: Yes.</p> <p>7 HEARING EXAMINER GROSSMAN: All right. Court reporter</p> <p>8 ready?</p> <p>9 COURT REPORTER: Yes, sir.</p> <p>10 HEARING EXAMINER GROSSMAN: All right. Then I will</p> <p>11 call the case. This is a public hearing in the matter of</p> <p>12 Cindy Yamileth Aguilar Palacios, doing business as Arianna's</p> <p>13 Learning and Play Family Childcare. That's OZAH number CU</p> <p>14 19-05, an application for conditional use pursuant to zoning</p> <p>15 ordinance section 59.3.4.4D, to allow expansion of an</p> <p>16 existing family daycare into a group daycare for up to 12</p> <p>17 children in her home at 2506 Hayden Drive, Silver Spring,</p> <p>18 Maryland. The subject site is Lot 10, Block K of the</p> <p>19 McKinney Hill subdivision and is zoned R60. A conditional</p> <p>20 use is required for a childcare facility for nine or more</p> <p>21 children in the R60 zone. This site is in the area subject</p> <p>22 to the 1982 capital View and Vicinity Sector Plan. My name</p> <p>23 is Martin Grossman, I'm the hearing examiner, which means I</p> <p>24 will take evidence here and write a report and decision in</p> <p>25 this case.</p>	<p>7</p> <p>1 MS. PALACIOS: Palacios, yes, both.</p> <p>2 HEARING EXAMINER GROSSMAN: I'm trying -- okay. All</p> <p>3 right.</p> <p>4 MS. PALACIOS: Sorry. Long name.</p> <p>5 HEARING EXAMINER GROSSMAN: All right. Are there any</p> <p>6 other witnesses to be heard today, or are you the only</p> <p>7 witness?</p> <p>8 MS. PALACIOS: No, I'm the only one.</p> <p>9 HEARING EXAMINER GROSSMAN: Okay. And usually we -- if</p> <p>10 there were people in the audience here, we would acknowledge</p> <p>11 them and ask if they wanted to present testimony here. I</p> <p>12 want to say for the record that there's nobody else in the</p> <p>13 audience here today.</p> <p>14 MS. PALACIOS: Yes.</p> <p>15 HEARING EXAMINER GROSSMAN: Let me explain a little bit</p> <p>16 about the nature of these proceedings. We operate sort of</p> <p>17 like a courtroom. It's a combination here of -- we're a</p> <p>18 little less formal than a courtroom. It's a combination of</p> <p>19 formality and informality.</p> <p>20 MS. PALACIOS: Okay.</p> <p>21 HEARING EXAMINER GROSSMAN: Witnesses are called. They</p> <p>22 are always sworn in. They're subject to cross-examination,</p> <p>23 if there were anyone here to cross-examine. A court reporter</p> <p>24 takes everything down and there will be a transcript of these</p> <p>25 proceedings. I'm actually going to ask that it be on an</p>
<p>6</p> <p>1 MS. PALACIOS: Okay.</p> <p>2 HEARING EXAMINER GROSSMAN: Would you state your name</p> <p>3 please for the record?</p> <p>4 MS. PALACIOS: Yes, my name is Cindy Aguilar.</p> <p>5 HEARING EXAMINER GROSSMAN: Okay. So you go by Aguilar</p> <p>6 rather than Palacios?</p> <p>7 MS. PALACIOS: Both.</p> <p>8 HEARING EXAMINER GROSSMAN: Okay.</p> <p>9 MS. PALACIOS: So Cindy Yamileth Aguilar Palacios.</p> <p>10 HEARING EXAMINER GROSSMAN: Okay. Because your --</p> <p>11 MS. PALACIOS: I --</p> <p>12 HEARING EXAMINER GROSSMAN: Your name as listed on the</p> <p>13 application, last name as Palacios.</p> <p>14 MS. PALACIOS: Correct.</p> <p>15 HEARING EXAMINER GROSSMAN: So should I refer to you</p> <p>16 that way?</p> <p>17 MS. PALACIOS: Sure.</p> <p>18 HEARING EXAMINER GROSSMAN: Okay.</p> <p>19 MS. PALACIOS: Not a problem.</p> <p>20 HEARING EXAMINER GROSSMAN: Okay. Well, I want to make</p> <p>21 sure that is consistent with what you use.</p> <p>22 MS. PALACIOS: Whatever. I use more Aguilar because</p> <p>23 it's my first last name.</p> <p>24 HEARING EXAMINER GROSSMAN: Okay. But do you also used</p> <p>25 Palacios?</p>	<p>8</p> <p>1 expedited basis for this matter, which won't be very long.</p> <p>2 So on a 48-hour turnaround, 48 business hours.</p> <p>3 MS. PALACIOS: Okay.</p> <p>4 HEARING EXAMINER GROSSMAN: Usually it takes 10 days to</p> <p>5 get it. This way you get it a little bit faster. Okay. And</p> <p>6 you're here for a conditional use.</p> <p>7 MS. PALACIOS: Correct.</p> <p>8 HEARING EXAMINER GROSSMAN: It used to be called a</p> <p>9 special exception, but that was a bit of a misnomer because</p> <p>10 it's really not an exception to the law. It's not a</p> <p>11 variance. It is a use that permitted by the code if you meet</p> <p>12 specified conditions in the code, both in the specific kind</p> <p>13 of conditional use and generally, and the conditional use as</p> <p>14 set forth. I take it you've got a copy of the Technical</p> <p>15 Staff Report, the report of the Planning Department's</p> <p>16 technical staff.</p> <p>17 MS. PALACIOS: Yes.</p> <p>18 HEARING EXAMINER GROSSMAN: Okay. And they set forth</p> <p>19 the standards that are usually applied, that are applied in</p> <p>20 this type of case. Okay. Let me deal with a couple of</p> <p>21 preliminary matters. Since you're the only witness here, let</p> <p>22 me swear you in first. Would you raise your right hand,</p> <p>23 please?</p> <p>24 MS. PALACIOS: Okay.</p> <p>25 HEARING EXAMINER GROSSMAN: Raise your right hand.</p>

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<p>9</p> <p>1 MS. PALACIOS: Yeah, sure.</p> <p>2 HEARING EXAMINER GROSSMAN: Do you swear or affirm to</p> <p>3 tell the truth, the whole truth, and nothing but the truth</p> <p>4 under penalty of perjury?</p> <p>5 MS. PALACIOS: Yes.</p> <p>6 HEARING EXAMINER GROSSMAN: Okay. Second thing, you</p> <p>7 have an affidavit of posting? An affidavit that you signed</p> <p>8 with the --</p> <p>9 MS. PALACIOS: Yes.</p> <p>10 HEARING EXAMINER GROSSMAN: Okay. Would you bring that</p> <p>11 up here and we will mark it as an exhibit?</p> <p>12 MS. PALACIOS: Sure. Okay.</p> <p>13 HEARING EXAMINER GROSSMAN: Thank you. All right.</p> <p>14 That will be Exhibit 39, affidavit of posting. And this</p> <p>15 indicates that you've had the notice sign posted on your</p> <p>16 property.</p> <p>17 MS. PALACIOS: In front of the house.</p> <p>18 HEARING EXAMINER GROSSMAN: Which you should leave</p> <p>19 posted until 10 days after I issue my decision because people</p> <p>20 have the right to -- well, only actually a party has the</p> <p>21 right to appeal to the Board of Appeals.</p> <p>22 MS. PALACIOS: Okay.</p> <p>23 HEARING EXAMINER GROSSMAN: All right. Now, since you</p> <p>24 indicate you have received the Technical Staff Report, which</p> <p>25 is Exhibit 36 in this case, do you accept the findings that</p>	<p>11</p> <p>1 p.m.?</p> <p>2 MS. PALACIOS: They suggest me because some of the</p> <p>3 parents, sometimes it's hard to get a 5:30. And usually</p> <p>4 almost all the daycares that expand to 12, they change the</p> <p>5 time until 6:30. So they suggest me, if it will work for me</p> <p>6 in the future. And I say, yes, it wouldn't hurt to move the</p> <p>7 hours.</p> <p>8 HEARING EXAMINER GROSSMAN: Okay. Okay. So it wasn't</p> <p>9 so much that you are expanding your operations or the timing</p> <p>10 of your operations for per say. This is that sometimes</p> <p>11 parents are a little bit late in picking somebody up.</p> <p>12 MS. PALACIOS: Yes.</p> <p>13 HEARING EXAMINER GROSSMAN: So they just suggested</p> <p>14 extending the hours to 6:30.</p> <p>15 MS. PALACIOS: Yes. They told me also that I don't</p> <p>16 have to be open until 6:30, but at least I have the option to</p> <p>17 have it until 6:30, the permission.</p> <p>18 HEARING EXAMINER GROSSMAN: Okay. I notice a gentleman</p> <p>19 has come into the audience. Sir, do you wish to be heard in</p> <p>20 this proceeding?</p> <p>21 MR. MCCLURE: Yes, if I could.</p> <p>22 HEARING EXAMINER GROSSMAN: Okay. And you -- and you</p> <p>23 are?</p> <p>24 MR. MCCLURE: My name is Don McClure. I'm the civic</p> <p>25 association president and a neighbor.</p>
<p>10</p> <p>1 were made in the Technical Staff Report as part of your</p> <p>2 evidence in this case?</p> <p>3 MS. PALACIOS: Yes, I accept.</p> <p>4 HEARING EXAMINER GROSSMAN: Okay. And the technical</p> <p>5 staff also indicated some conditions they recommended.</p> <p>6 MS. PALACIOS: Yes, correct.</p> <p>7 HEARING EXAMINER GROSSMAN: And they were slightly</p> <p>8 modified by the Planning Board. Did you receive a copy of</p> <p>9 the Planning Board letter?</p> <p>10 MS. PALACIOS: Yes, what it says about the time?</p> <p>11 HEARING EXAMINER GROSSMAN: Yes, it says that extended</p> <p>12 the -- it recommended extending your hours for one hour.</p> <p>13 MS. PALACIOS: Yes, correct.</p> <p>14 HEARING EXAMINER GROSSMAN: And also added a condition</p> <p>15 regarding a sign.</p> <p>16 MS. PALACIOS: Yes.</p> <p>17 HEARING EXAMINER GROSSMAN: I'm going to ask you about</p> <p>18 that in a second, but you got that?</p> <p>19 MS. PALACIOS: Yes, I got it.</p> <p>20 HEARING EXAMINER GROSSMAN: And you also accept those</p> <p>21 conditions as recommended?</p> <p>22 MS. PALACIOS: Yes, I do.</p> <p>23 HEARING EXAMINER GROSSMAN: Okay. Now let me turn to</p> <p>24 that question about what the Planning Board did. Did you</p> <p>25 request that the hours be extended from 5:30 p.m. to 6:30</p>	<p>12</p> <p>1 HEARING EXAMINER GROSSMAN: Okay.</p> <p>2 MR. MCCLURE: And I just came in support of the action</p> <p>3 at hand.</p> <p>4 MS. PALACIOS: Thank you.</p> <p>5 HEARING EXAMINER GROSSMAN: Oh, okay. All right, Mr.</p> <p>6 McClure.</p> <p>7 MR. MCCLURE: I just wanted to support if needed.</p> <p>8 HEARING EXAMINER GROSSMAN: Okay. Well, I will leave</p> <p>9 that option to you as you wish.</p> <p>10 MR. MCCLURE: Okay.</p> <p>11 HEARING EXAMINER GROSSMAN: There's nobody else here to</p> <p>12 be heard other than Ms. Palacios. So will be up to you if</p> <p>13 you. If you wish to testify, you certainly can.</p> <p>14 MR. MCCLURE: Okay. Thank you, so much.</p> <p>15 HEARING EXAMINER GROSSMAN: All right. The next</p> <p>16 question as far as the addition of a suggested condition by</p> <p>17 the Planning Board for a sign. Do you plan to have a sign?</p> <p>18 Are you requesting to have a sign for your --</p> <p>19 MS. PALACIOS: Not for now, but I would like to have it</p> <p>20 open in the future.</p> <p>21 HEARING EXAMINER GROSSMAN: Okay.</p> <p>22 MS. PALACIOS: Just a regular two feet sign.</p> <p>23 HEARING EXAMINER GROSSMAN: Two square feet.</p> <p>24 MS. PALACIOS: Two square feet, sorry. Yes.</p> <p>25 HEARING EXAMINER GROSSMAN: Which is the limit in a</p>

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<p>13</p> <p>1 residential zone.</p> <p>2 MS. PALACIOS: Yes.</p> <p>3 HEARING EXAMINER GROSSMAN: All right. Yeah, I noticed</p> <p>4 that the Planning Board suggested, okay, limit to the --</p> <p>5 what's allowed in the statute, unless you get a variance from</p> <p>6 what they call a sign variance from the sign review board. I</p> <p>7 wouldn't include that option in -- if I -- when I'm going to</p> <p>8 set conditions. If I grant this conditional use, I would not</p> <p>9 give the option of a variance from that sign. In other</p> <p>10 words, I would want the statutory limit to apply; no larger</p> <p>11 than two square foot.</p> <p>12 MS. PALACIOS: Yeah, sure.</p> <p>13 HEARING EXAMINER GROSSMAN: For compatibility reasons.</p> <p>14 MS. PALACIOS: Sure. No problem.</p> <p>15 HEARING EXAMINER GROSSMAN: And in fact, I usually have</p> <p>16 some additional conditions that I impose in childcare</p> <p>17 facility cases in addition to the ones suggested by the</p> <p>18 technical staff. So I wanted to mark those as an exhibit so</p> <p>19 you can look those over. And if you have any issues, that</p> <p>20 you can raise the now. We will make this Exhibit 40, I think</p> <p>21 it is. Yes, 40. And let's see -- okay. Ms. Palacios, would</p> <p>22 you come forward and take a copy?</p> <p>23 MS. PALACIOS: Sure.</p> <p>24 HEARING EXAMINER GROSSMAN: These are conditions likely</p> <p>25 to be imposed by the Hearing Examiner if conditional use</p>	<p>15</p> <p>1 other preliminary matters that you want to discuss before I</p> <p>2 ask you about any testimony you wish to offer?</p> <p>3 MS. PALACIOS: Not for now.</p> <p>4 HEARING EXAMINER GROSSMAN: Okay. All right. Then do</p> <p>5 you wish to say something in support of your application?</p> <p>6 MS. PALACIOS: Yes. If you allow us to improve -- I</p> <p>7 mean to expand our daycare, we will follow all of the</p> <p>8 conditions that they put on. And we will be very careful of</p> <p>9 giving very good service to the parents and also to help our</p> <p>10 community too.</p> <p>11 HEARING EXAMINER GROSSMAN: Okay. Well, that's good.</p> <p>12 You understand, you're going to have to -- this hearing and</p> <p>13 this proceeding addresses only the land-use questions.</p> <p>14 Everything else in terms of the running of the facility is</p> <p>15 dictated by the Maryland Department of Education and their --</p> <p>16 MS. PALACIOS: Yes.</p> <p>17 HEARING EXAMINER GROSSMAN: Whatever they require and</p> <p>18 also any code provisions by the Department of Permitting</p> <p>19 Services, fire department, et cetera.</p> <p>20 MS. PALACIOS: Yes.</p> <p>21 HEARING EXAMINER GROSSMAN: But we are concerned with</p> <p>22 the land-use impacts of any facility. That is, any impacts</p> <p>23 there might be on the neighbors. And that's why we have</p> <p>24 conditions such as no outdoor amplified music and limiting</p> <p>25 the amount of time and staggering arrival so that it will be</p>
<p>14</p> <p>1 CU 19-05 is granted. And you can take your seat and take a</p> <p>2 minute to look that over and make sure that you don't have</p> <p>3 any issues with the conditions that I would likely impose if</p> <p>4 I grant this.</p> <p>5 MS. PALACIOS: Okay.</p> <p>6 HEARING EXAMINER GROSSMAN: Actually Mr. McClure, I</p> <p>7 have an extra copy here if you want to take a look at it.</p> <p>8 MR. MCCLURE: Thank you so much, sir.</p> <p>9 HEARING EXAMINER GROSSMAN: Sure.</p> <p>10 MS. PALACIOS: I agree.</p> <p>11 HEARING EXAMINER GROSSMAN: You are agreeable to those</p> <p>12 conditions in Exhibit 40?</p> <p>13 MS. PALACIOS: Yes.</p> <p>14 HEARING EXAMINER GROSSMAN: Okay. Good. All right.</p> <p>15 And that last one, by the way, is a condition that we put in</p> <p>16 all of our conditional uses. It's a standard condition that</p> <p>17 we impose.</p> <p>18 MS. PALACIOS: Okay.</p> <p>19 HEARING EXAMINER GROSSMAN: By the way, I want to</p> <p>20 compliment you on your application. It's probably the most</p> <p>21 complete application for a childcare use by a non-attorney</p> <p>22 that I have seen, and I've been here for a number of years.</p> <p>23 So I want to compliment you on how complete application is.</p> <p>24 MS. PALACIOS: Thank you.</p> <p>25 HEARING EXAMINER GROSSMAN: Okay. Do you have any</p>	<p>16</p> <p>1 too much traffic coming in. All of those are intended to</p> <p>2 minimize the impacts on the neighbors. Every conditional use</p> <p>3 might have some effects on the neighbors, but that's</p> <p>4 recognized. And the balance is that it's a use to the</p> <p>5 community to have a childcare facility such as yours.</p> <p>6 MS. PALACIOS: Okay.</p> <p>7 HEARING EXAMINER GROSSMAN: And so the Council permits</p> <p>8 it, but we try to ameliorate any impacts on the community.</p> <p>9 MS. PALACIOS: Sure.</p> <p>10 HEARING EXAMINER GROSSMAN: All right. Let's turn</p> <p>11 to --</p> <p>12 MS. PALACIOS: Can I add something else?</p> <p>13 HEARING EXAMINER GROSSMAN: Yes. Yes, ma'am.</p> <p>14 MS. PALACIOS: And also, what I think, it's good, also</p> <p>15 benefit to us is that we have many parents that they come</p> <p>16 walking too.</p> <p>17 HEARING EXAMINER GROSSMAN: Right.</p> <p>18 MS. PALACIOS: And this is one of the -- we know</p> <p>19 they're not going to be for the whole life, but at least they</p> <p>20 also came from 0 to 5 years with us. And they are coming by</p> <p>21 bicycles. They're coming walking. Not only with their cars.</p> <p>22 HEARING EXAMINER GROSSMAN: Right. And I saw that you</p> <p>23 have five or six letters of support from parents.</p> <p>24 MS. PALACIOS: Yes.</p> <p>25 HEARING EXAMINER GROSSMAN: And also something from</p>

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5 (17 to 20)

<p>17</p> <p>1 another lady who has a more official --</p> <p>2 MS. PALACIOS: Yes, Paulina.</p> <p>3 HEARING EXAMINER GROSSMAN: Capacity. And also in your</p> <p>4 application, you included a number of photographs. And those</p> <p>5 are in Exhibit 11 for the exterior photographs, and Exhibit</p> <p>6 12 for interior photographs.</p> <p>7 MS. PALACIOS: Sure.</p> <p>8 HEARING EXAMINER GROSSMAN: And so I wanted to find out</p> <p>9 who took those photographs. Did you take those photographs?</p> <p>10 MS. PALACIOS: I did.</p> <p>11 HEARING EXAMINER GROSSMAN: Okay. And do they</p> <p>12 accurately represent the conditions of the facility as they</p> <p>13 exist now, both inside and outside?</p> <p>14 MS. PALACIOS: Yes, correct.</p> <p>15 HEARING EXAMINER GROSSMAN: All right. And were they</p> <p>16 taken recently?</p> <p>17 MS. PALACIOS: Yes. The day --</p> <p>18 HEARING EXAMINER GROSSMAN: About when?</p> <p>19 MS. PALACIOS: The day that I submit the application.</p> <p>20 HEARING EXAMINER GROSSMAN: Okay. All right.</p> <p>21 MS. PALACIOS: That was the date I took.</p> <p>22 HEARING EXAMINER GROSSMAN: And you also included an</p> <p>23 updated -- a program for the arrivals and departures of the</p> <p>24 children.</p> <p>25 MS. PALACIOS: Correct.</p>	<p>19</p> <p>1 you are not planning any?</p> <p>2 MS. PALACIOS: No, not for now.</p> <p>3 HEARING EXAMINER GROSSMAN: Okay. All right. So the</p> <p>4 lighting will --</p> <p>5 MS. PALACIOS: I think we have enough space that we</p> <p>6 don't need to be changing.</p> <p>7 HEARING EXAMINER GROSSMAN: And the lighting will</p> <p>8 remain as it is?</p> <p>9 MS. PALACIOS: Yes.</p> <p>10 HEARING EXAMINER GROSSMAN: The residential style</p> <p>11 lighting out here?</p> <p>12 MS. PALACIOS: Yes, it will be the same.</p> <p>13 HEARING EXAMINER GROSSMAN: Okay. All right. I take</p> <p>14 it you would want all of your exhibits to be admitted? That</p> <p>15 would be 1 through 40 and their subparts admitted into</p> <p>16 evidence here?</p> <p>17 MS. PALACIOS: Sure. Yes.</p> <p>18 HEARING EXAMINER GROSSMAN: Yes, they are hereby</p> <p>19 admitted. Do you have anything else you wish to say about</p> <p>20 your application?</p> <p>21 MS. PALACIOS: Not for now.</p> <p>22 HEARING EXAMINER GROSSMAN: Okay. All right. Let me</p> <p>23 invite Mr. McClure up to the table. Sir. All right. And all</p> <p>24 witnesses in our proceedings are sworn in and subject to</p> <p>25 cross-examination. So would you raise your right hand,</p>
<p>18</p> <p>1 HEARING EXAMINER GROSSMAN: That's in Exhibit -- the</p> <p>2 updated version was in Exhibit 33A, transportation statement.</p> <p>3 And that accurately reflects what you would anticipate having</p> <p>4 as the staggered arrivals?</p> <p>5 MS. PALACIOS: Sure. Yes.</p> <p>6 HEARING EXAMINER GROSSMAN: You notice that I added a</p> <p>7 provision that you should contractually bind clients, the</p> <p>8 people that -- the parents, to these arrival times so that</p> <p>9 they are required to follow that?</p> <p>10 MS. PALACIOS: Yes.</p> <p>11 HEARING EXAMINER GROSSMAN: Okay.</p> <p>12 MS. PALACIOS: I think that will be great.</p> <p>13 HEARING EXAMINER GROSSMAN: All right. Now, you</p> <p>14 included also, plans for -- you have -- let's see. Which is</p> <p>15 the -- the current site plan is Exhibit 14 in the file. And</p> <p>16 then you have your Exhibit 17, an existing and proposed</p> <p>17 interior features plan. And 18, existing exteriors features</p> <p>18 plan. And then you have map keys to it. Are those -- to</p> <p>19 those plans accurately reflect the -- your plan for your</p> <p>20 operations currently and as they will be laid out?</p> <p>21 MS. PALACIOS: Yes. Correct.</p> <p>22 HEARING EXAMINER GROSSMAN: And as I understand it, you</p> <p>23 don't plan any exterior changes for this expansion.</p> <p>24 MS. PALACIOS: No.</p> <p>25 HEARING EXAMINER GROSSMAN: Okay. No meaning you do --</p>	<p>20</p> <p>1 please? Do you swear or affirm to tell the truth, the whole</p> <p>2 truth and nothing but the truth under penalty of perjury?</p> <p>3 MR. MCCLURE: I do.</p> <p>4 HEARING EXAMINER GROSSMAN: All right. Will you state</p> <p>5 your full name and address, please?</p> <p>6 MR. MCCLURE: Donald B. McClure, Jr. My address is</p> <p>7 2502 Hayden Drive, Silver Spring, Maryland 20902. Okay. Do</p> <p>8 you have an interest also?</p> <p>9 MR. MCCLURE: Sure. DonnieMcClure@yahoo.com.</p> <p>10 HEARING EXAMINER GROSSMAN: Okay. All right. And what</p> <p>11 did you wish to say, sir?</p> <p>12 MR. MCCLURE: Oh, I came in support of the exhibit list</p> <p>13 as far as standing the daycare center. I am the president of</p> <p>14 the civic association but I am here as a neighbor of the</p> <p>15 facility.</p> <p>16 HEARING EXAMINER GROSSMAN: Okay. What civic</p> <p>17 association is that?</p> <p>18 MR. MCCLURE: McKenney Hills Carroll Knolls Civic</p> <p>19 Association.</p> <p>20 HEARING EXAMINER GROSSMAN: Carroll --</p> <p>21 MR. MCCLURE: Knolls.</p> <p>22 HEARING EXAMINER GROSSMAN: Knolls, okay. But I</p> <p>23 understand you're here on your own behalf?</p> <p>24 MR. MCCLURE: Correct.</p> <p>25 HEARING EXAMINER GROSSMAN: Okay. And you are in</p>

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6 (21 to 24)

<p>21</p> <p>1 support of the application to expand to 12 children?</p> <p>2 MR. MCCLURE: I am.</p> <p>3 HEARING EXAMINER GROSSMAN: Do you have a child who has</p> <p>4 been in this daycare?</p> <p>5 MR. MCCLURE: No. But I have been a neighbor for quite</p> <p>6 a few years and I've witnessed the care. I've witnessed the</p> <p>7 drop off and pickups, and expanding wouldn't be a problem in</p> <p>8 the neighborhood.</p> <p>9 HEARING EXAMINER GROSSMAN: Okay.</p> <p>10 MR. MCCLURE: And I've been in the facility many times.</p> <p>11 HEARING EXAMINER GROSSMAN: Do you have anything else</p> <p>12 you wish to add?</p> <p>13 MR. MCCLURE: No, I'm just here in support of the</p> <p>14 application.</p> <p>15 HEARING EXAMINER GROSSMAN: All right. Do you wish to</p> <p>16 brutally cross-examine this witness?</p> <p>17 MS. PALACIOS: No.</p> <p>18 HEARING EXAMINER GROSSMAN: All right. Well thank you</p> <p>19 very much, Mr. McClure, for coming down here and taking the</p> <p>20 time to appear. It's always helpful to hear from the</p> <p>21 neighbors in these cases whether they are in support of, or</p> <p>22 in opposition to, so that we can make appropriate</p> <p>23 adjustments. But it's nice to hear support in the</p> <p>24 neighborhood.</p> <p>25 MR. MCCLURE: Great.</p>	<p>23</p> <p>1 here today. I have 30 days after the close of the record. I</p> <p>2 can extend that time; I never do as a practical matter. But</p> <p>3 I expect that I would have a report out in this case much</p> <p>4 before that.</p> <p>5 MS. PALACIOS: Okay.</p> <p>6 HEARING EXAMINER GROSSMAN: Any party, and Mr. McClure</p> <p>7 is now automatically a party because he's here to testify,</p> <p>8 any party can appeal my decision to the Board of Appeals</p> <p>9 within 10 days after I issued the decision. We will send out</p> <p>10 a notice to you and to Mr. McClure when the decision is</p> <p>11 issued.</p> <p>12 MS. PALACIOS: Okay.</p> <p>13 HEARING EXAMINER GROSSMAN: That will be a written</p> <p>14 notice, and a copy of the full report will be on our website,</p> <p>15 on OZHA's website.</p> <p>16 MS. PALACIOS: Sure. Thank you.</p> <p>17 HEARING EXAMINER GROSSMAN: Okay? All right.</p> <p>18 MS. PALACIOS: And just a quick question. So when I</p> <p>19 decide to have the sign --</p> <p>20 HEARING EXAMINER GROSSMAN: Yes.</p> <p>21 MS. PALACIOS: Then I have to let you know here, right?</p> <p>22 HEARING EXAMINER GROSSMAN: Yes, you have to --</p> <p>23 MS. PALACIOS: Before I put it?</p> <p>24 HEARING EXAMINER GROSSMAN: Right. You have to get a</p> <p>25 sign permit; that shouldn't be an issue since you'll be</p>
<p>22</p> <p>1 HEARING EXAMINER GROSSMAN: Thank you so much. All</p> <p>2 right. Is there anything else you wish to add Ms. Palacios?</p> <p>3 MS. PALACIOS: I think that will be all.</p> <p>4 HEARING EXAMINER GROSSMAN: All right. Everything has</p> <p>5 been admitted into evidence. What we'll do here is since I'm</p> <p>6 ordering an expedited transcript of this, that should be</p> <p>7 in -- I think Monday is a holiday, so it should be in on</p> <p>8 Wednesday of next week, which is let's see --</p> <p>9 MS. PALACIOS: The 20th.</p> <p>10 HEARING EXAMINER GROSSMAN: Okay. So we can close the</p> <p>11 record when that comes in, yes, February 20 --</p> <p>12 MS. PALACIOS: February 21st, I think it is.</p> <p>13 HEARING EXAMINER GROSSMAN: I think it's the 20th. I</p> <p>14 jotted down the 20th myself so I think that's probably</p> <p>15 correct.</p> <p>16 MS. PALACIOS: Yeah, the 20th.</p> <p>17 HEARING EXAMINER GROSSMAN: So Wednesday. I usually</p> <p>18 wait for the transcript to come in because I need that to</p> <p>19 prepare my report and decision.</p> <p>20 MS. PALACIOS: Okay.</p> <p>21 HEARING EXAMINER GROSSMAN: And we'll close the record</p> <p>22 at the close of business on February 20, 2019 since there are</p> <p>23 no further changes in the plan. If there were changes in the</p> <p>24 plans I would have to keep the record open for any further</p> <p>25 comments on the change of plans. But that's not the case</p>	<p>24</p> <p>1 staying within the statutory requirement.</p> <p>2 MS. PALACIOS: Yes.</p> <p>3 HEARING EXAMINER GROSSMAN: You get a sign permit, and</p> <p>4 you would file a copy of the sign here with just a brief</p> <p>5 statement --</p> <p>6 MS. PALACIOS: That is a good --</p> <p>7 HEARING EXAMINER GROSSMAN: -- that it is an</p> <p>8 administrative modification, are a minor modification to add</p> <p>9 the sign there so that your plan, and you should indicate on</p> <p>10 your plan so that when the Department of Permitting Services</p> <p>11 comes out to inspect to make sure that you're in compliance</p> <p>12 with the conditional use, they see that there's a sign, and</p> <p>13 they know that it's on your plans.</p> <p>14 MS. PALACIOS: Okay. No problem.</p> <p>15 HEARING EXAMINER GROSSMAN: So we automatically</p> <p>16 transmit -- when we issue our decision, we transmit a copy to</p> <p>17 the Department of Permitting Services, and a copy of all the</p> <p>18 plans so that they can enforce all of the conditional uses in</p> <p>19 a community.</p> <p>20 MS. PALACIOS: Okay. Thank you.</p> <p>21 HEARING EXAMINER GROSSMAN: And you should -- after, if</p> <p>22 there's no -- if this is granted and there is no appeal after</p> <p>23 10 days, you can return the sign. If it's in reusable</p> <p>24 condition you will get \$100 back on your deposit.</p> <p>25 MS. PALACIOS: Okay. Thank you.</p>

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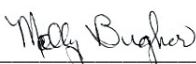
7 (25 to 28)

25

1 HEARING EXAMINER GROSSMAN: All right. Anything
2 further?
3 MS. PALACIOS: No I think that will be all.
4 HEARING EXAMINER GROSSMAN: Anything further, Mr.
5 McClure?
6 MR. MCCLURE: No, thank you.
7 HEARING EXAMINER GROSSMAN: Thank you very much.
8 MS. PALACIOS: Thank you.
9 HEARING EXAMINER GROSSMAN: And we are adjourned. Have
10 a great weekend.
11 MS. PALACIOS: Thank you.
12 (Off the record at 10:00 a.m.)
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1 CERTIFICATE OF TRANSCRIBER
2 I, Molly Bugher, do hereby certify that the foregoing
3 transcript is a true and correct record of the recorded
4 proceedings; that said proceedings were transcribed to the
5 best of my ability from the audio recording and supporting
6 information; and that I am neither counsel for, related to,
7 nor employed by any of the parties to this case and have no
8 interest, financial or otherwise, in its outcome.
9

10 
11 _____
12 Molly Bugher
13 DATE: February 19, 2019
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