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Transcript of Administrative Hearing - Day 3

Date: March 6, 2020
Case: The Primrose School

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<p>1 OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS</p> <p>2 FOR MONTGOMERY COUNTY, MARYLAND</p> <p>3</p> <p>4 -----x</p> <p>5 THE PRIMROSE SCHOOL :</p> <p>6 Applicant : Case No.: CU 18-08</p> <p>7 -----x</p> <p>8</p> <p>9</p> <p>10 HEARING</p> <p>11 BEFORE HEARING EXAMINER LYNN A. ROBESON HANNAN</p> <p>12 Rockville, Maryland</p> <p>13 Friday, March 6, 2020</p> <p>14 9:30 a.m.</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: 292052</p> <p>24 Pages: 1 - 327</p> <p>25 Transcribed by: Christian Naaden</p>	<p>3</p> <p>1 A P P E A R A N C E S</p> <p>2 FOR MONTGOMERY COUNTY OFFICE OF ZONING AND ADMINISTRATIVE</p> <p>3 HEARINGS:</p> <p>4 LYNN ROBESON HANNAN - HEARING EXAMINER</p> <p>5</p> <p>6 FOR THE APPLICANT:</p> <p>7 JODY S. KLINE, ESQUIRE</p> <p>8 MILLER, MILLER & CANBY</p> <p>9 200-B MONROE STREET</p> <p>10 ROCKVILLE, MD 20850</p> <p>11 PHONE: 301.762.5212</p> <p>12 FAX: 301.762.6044</p> <p>13 JSKLINE@MILLERCANBY.COM</p> <p>14</p> <p>15 FOR CAROL KOSARY, PAUL POSEY, CECELIA ENGLISH:</p> <p>16 William J. Chen, Jr., Esquire</p> <p>17 The Law Offices of William J. Chen, Jr. LLC</p> <p>18 200A Monroe Street, Suite 300</p> <p>19 Rockville, MD 20850</p> <p>20 Phone: 301.279.9500</p> <p>21 Fax: 301.294.5195</p> <p>22 wjc@cwmtm.net</p> <p>23</p> <p>24</p> <p>25</p>
<p>2</p> <p>1 Administrative Hearing held at:</p> <p>2</p> <p>3 Montgomery County Office of Zoning and Administrative</p> <p>4 Hearings:</p> <p>5 100 Maryland Avenue</p> <p>6 County Office Building</p> <p>7 Room 200</p> <p>8 Rockville, MD</p> <p>9 (240) 777-6660</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15 Pursuant to agreement before Michael Pawela, notary</p> <p>16 public, in and for the State of Maryland.</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>4</p> <p>1 A P P E A R A N C E S</p> <p>2 (continued)</p> <p>3 ALSO PRESENT:</p> <p>4 Charles Frederick, Esquire - Associate County Attorney</p> <p>5 Eduardo J. Intriago - Witness</p> <p>6 Robin Rice - Community Member</p> <p>7 Terrence W. McPherson - Witness</p> <p>8 Elizabeth Vandermause - Witness</p> <p>9 James Alt - Witness</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>

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2 (5 to 8)

C O N T E N T S			5	7
1				1 (On the record at 9:39:47 a.m.)
2		PAGE		2 HEARING OFFICER HANNAN: Wait a minute. Wait one
3	Transcript of proceedings	6		3 minute. Okay. Is the court reporter ready?
4	Testimony of Mr. Intriago	14		4 MR. PAWELA: All set.
5	Cross of Mr. Intriago	118		5 HEARING OFFICER HANNAN: Thank you. Are the parties
6	Testimony of Mr. McPherson	120		6 ready?
7	Cross of Mr. McPherson	158		7 MALE 1: Yes, ma'am
8	Redirect of Mr. McPherson	162		8 MALE 2: Officially ready, ma'am
9	Testimony of Ms. Vandermause	163		9 HEARING OFFICER HANNAN: Oh, okay. I'm con- -- this is
10	Cross of Ms. Vandermause	220		10 a continuation of the case of CU 18-08, an application for a
11	Testimony of Mr. Alt	245		11 conditional use for a daycare under Zoning Ordinance 59-
12	Cross of Mr. Alt	295		12 3.4.4.F at 7430 Needwood Road, Rockville, Maryland. My name
13	Redirect of Mr. Alt	322		13 is Lynn Robeson, I'm the hearing examiner.
14				14 Is there anyone here today that will testify that has
15				15 not yet testified that will not be called by either Mr. Chen
16				16 or Mr. Kline? Okay. Seeing none, we'll proceed with the
17				17 order of business. I think we left off with, is it Mr.
18				18 Intriago that -- we're picking up on Mr. Intriago's direct
19				19 testimony?
20				20 MR. KLINE: That is correct.
21				21 HEARING OFFICER HANNAN: All right.
22				22 MR. KLINE: Could I do two [inaudible]?
23				23 HEARING OFFICER HANNAN: And identify yourselves for
24				24 the record, please.
25				25 MR. KLINE: Good morning. For the record, my name's
EXHIBITS			6	8
1				1 Jody Kline, Miller, Miller & Canby representing petitioner
2	Exhibit# Description Page			2 in this case.
3	186 Critical Root Zone Survey 8			3 HEARING OFFICER HANNAN: Okay.
4	187A Plat of Subject Property 11			4 MR. CHEN: Good morning, Madame Examiner. My name is
5	187B SDAT Record for Subject Property 11			5 Bill Chen and I represent Carol Kosary, Paul Posey and CC
6	188 Depiction of Site Constraints 16			6 English.
7	189 Alt Design Study 54			7 HEARING OFFICER HANNAN: Thank you.
8	190 DPS Letter - Stormwater Plan 90			8 MR. KLINE: Uh, two preliminary matters --
9	191 Storm Drain Network Rebuild 95			9 HEARING OFFICER HANNAN:
10	192 Merit Real Estate Appraisal Review Report 168			10 MR. KLINE: -- I discussed with Mr. Chen, there was
11	193 Site Details AS2.0 264			11 discussion yesterday about the location of Tree SP-10 [ph]
12	194 Technical Specifications for Privacy Fence 277			12 and the engineers last night basically took their survey
13				13 data and prepared a sketch showing the acc- -- the accurate
14				14 location of the Tree SP-10 and shaded Elmet [ph] as the
15				15 amount of the encroachment in the critical root zone, which
16				16 is determined to be 13 percent of the critical root -- total
17				17 critical root zone area and I'd ask that that be made
18				18 Exhibit 186.
19				19 HEARING OFFICER HANNAN: Okay. Do you have any
20				20 objection to this, Mr. Chen?
21				21 MR. CHEN: Quite bluntly, it's new, but we don't object
22				22 to it.
23				23 HEARING OFFICER HANNAN: Okay.
24				24 MR. CHEN: Yeah. [inaudible]. And we would've preferred
25	P R O C E E D I N G S			25 to have seen it [inaudible], but I understand, you know,

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<p>9</p> <p>1 these things happen. I may even have such an exhibit myself.</p> <p>2 HEARING OFFICER HANNAN: Okay. Now, this will be -- we</p> <p>3 had something marked 186, but we didn't admit it. So this</p> <p>4 will be 186. What do you call this, Mr. Kline?</p> <p>5 MR. KLINE: I'd say critical root zone analysis Tree</p> <p>6 SP-10.</p> <p>7 MR. CHEN: Well, --</p> <p>8 MR. KLINE: Or just study --</p> <p>9 MR. CHEN: -- I think that --</p> <p>10 MR. KLINE: -- study of SP-10.</p> <p>11 MR. CHEN: -- my -- my own concern is the word study or</p> <p>12 analysis. I mean, it's a survey --</p> <p>13 MR. KLINE: That would be fine. We'll -- we'll just say</p> <p>14 --</p> <p>15 HEARING OFFICER HANNAN: Survey shows --</p> <p>16 MR. KLINE: -- location of Tree SP-10.</p> <p>17 MR. CHEN: That's fine.</p> <p>18 MR. KLINE: Okay.</p> <p>19 HEARING OFFICER HANNAN: Now, I did -- on this issue of</p> <p>20 how far to go into the PFCP, I did recall last night a</p> <p>21 rezoning case I had where there was an approved FCP, but the</p> <p>22 Town of Washington Grove presented evidence that the impacts</p> <p>23 of the use were going to -- I -- going to impact their town</p> <p>24 forest.</p> <p>25 So if you want to peruse it, I -- I didn't get the -- I</p>	<p>11</p> <p>1 pointing up, that's good. [chuckles]</p> <p>2 MR. KLINE: So it -- it -- it shows the -- at the time</p> <p>3 of planning, it was actually a lot of 3.03 acres in size.</p> <p>4 HEARING OFFICER HANNAN: I see --</p> <p>5 MR. KLINE: And it's a little hard to read, I -- I</p> <p>6 realize that, but it's --</p> <p>7 HEARING OFFICER HANNAN: -- but what does that say to -</p> <p>8 - so where are you getting the --</p> <p>9 MR. KLINE: Okay. I'll -- well, I'll -- I'll just</p> <p>10 [inaudible].</p> <p>11 HEARING OFFICER HANNAN: You're going to have a witness</p> <p>12 to testify what the actual area --</p> <p>13 MR. KLINE: I'm going to [inaudible].</p> <p>14 HEARING OFFICER HANNAN: Oh -- oh.</p> <p>15 MR. KLINE: So -- and whatever, SD- --</p> <p>16 HEARING OFFICER HANNAN: Well, wait, let me do this,</p> <p>17 187 is plat number 1713?</p> <p>18 MR. CHEN: How about 187A is the plat --</p> <p>19 HEARING OFFICER HANNAN: Okay.</p> <p>20 MR. CHEN: -- and 187B would be the tax account.</p> <p>21 MR. KLINE: SDAT.</p> <p>22 HEARING OFFICER HANNAN: Okay. Plat of su- -- I'm going</p> <p>23 to make 187A the plat of subject property. So anybody that's</p> <p>24 trying to peruse the exhibit list --</p> <p>25 MR. KLINE: [inaudible]</p>
<p>10</p> <p>1 can't remember the case number at the moment, but it was</p> <p>2 Town of Washington Grove, but --</p> <p>3 MR. CHEN: Is that a NOSA [ph] case number or is that a</p> <p>4 circuit court or appellate court?</p> <p>5 HEARING OFFICER HANNAN: No. It is an LMA -- well, I'll</p> <p>6 get it for you.</p> <p>7 MR. CHEN: Okay.</p> <p>8 HEARING OFFICER HANNAN: I just -- so anyway, go ahead.</p> <p>9 MR. KLINE: One other item on [inaudible].</p> <p>10 HEARING OFFICER HANNAN: Mm-hmm.</p> <p>11 MR. KLINE: Yeah. Sure. The other one goes to my</p> <p>12 comment about your recognition of the fact that there seemed</p> <p>13 to be some discrepancy between the area of the land area</p> <p>14 that's a substitute of the conditional use application.</p> <p>15 HEARING OFFICER HANNAN: The 2.58 versus a 2.94?</p> <p>16 MR. KLINE: Correct. So what I'd like to put on the</p> <p>17 record and shared with Mr. Chen a copy of the original plat</p> <p>18 or subdivision from the subject property --</p> <p>19 HEARING OFFICER HANNAN: Okay.</p> <p>20 MR. KLINE: -- and the little -- the line in the middle</p> <p>21 is actually Carnegie Avenue and the lot to the -- let's see,</p> <p>22 it's Lot 8.</p> <p>23 HEARING OFFICER HANNAN: To the -- okay.</p> <p>24 MR. KLINE: Yeah.</p> <p>25 HEARING OFFICER HANNAN: Hey, the north arrow is</p>	<p>12</p> <p>1 MR. CHEN: Don't worry about it.</p> <p>2 HEARING OFFICER HANNAN: Okay. So that's 187A. And then</p> <p>3 187B is the SDAT -- SDAT record for subject property. All</p> <p>4 right.</p> <p>5 MR. KLINE: And the third part of my submission is a</p> <p>6 proffer and that is confirmation by Maser Engineering based</p> <p>7 on an ALTA survey that the land area that they say right</p> <p>8 here on the -- available now is 2.94 acres and that's what's</p> <p>9 shown on all of our drawings. And the discrepan- --</p> <p>10 apparent -- well, all we can assume is the discrepancy --</p> <p>11 HEARING OFFICER HANNAN: But you don't have the survey?</p> <p>12 MR. KLINE: I could get you the survey, I don't have it</p> <p>13 with me today, no, but I will --</p> <p>14 HEARING OFFICER HANNAN: Well, let's get it --</p> <p>15 MR. KLINE: Yeah.</p> <p>16 HEARING OFFICER HANNAN: -- because I'd rather -- if --</p> <p>17 if --</p> <p>18 MR. KLINE: No -- no problem.</p> <p>19 MR. CHEN: If it -- if it makes things easy, if -- if</p> <p>20 all that that will be is a report of 2.94 acres --</p> <p>21 MR. KLINE: It's -- it's --</p> <p>22 MR. CHEN: -- solely that, my suggestion is we make</p> <p>23 that Exhibit 187C --</p> <p>24 MR. KLINE: C to be submitted.</p> <p>25 MR. CHEN: -- to be document --</p>

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<p>13</p> <p>1 HEARING OFFICER HANNAN: Okay.</p> <p>2 MR. CHEN: -- and Madame Examiner, I'll confer with my</p> <p>3 clients but I doubt -- I wish I could see it --</p> <p>4 MR. KLINE: Sure.</p> <p>5 MR. CHEN: -- but my -- my thinking would be --</p> <p>6 MR. KLINE: Well, if --</p> <p>7 MR. CHEN: -- if all that's reporting is that --</p> <p>8 MR. KLINE: -- if -- if I can check, can Maser have</p> <p>9 that email to us and [inaudible] --</p> <p>10 HEARING OFFICER HANNAN: I just don't want to accept it</p> <p>11 as a proffer if it's --</p> <p>12 MR. KLINE: Yeah. I know, no. I'm -- I'm sorry. So if</p> <p>13 we may -- if we -- can we get it here today? Could I give</p> <p>14 you or Ms. Johnson -- or give them Ms. Johnson's email</p> <p>15 address and have it sent? So we'll get that for you and</p> <p>16 we'll make it C, but it will show 2.94 acres and all we can</p> <p>17 assume is that the 2.54 that's in the staff report is a typo</p> <p>18 --</p> <p>19 HEARING OFFICER HANNAN: Okay.</p> <p>20 MR. KLINE: -- because there is nothing that we've seen</p> <p>21 that shows a different number; okay?</p> <p>22 HEARING OFFICER HANNAN: Okay. Thank you.</p> <p>23 MR. KLINE: We'll -- we will get that and give --</p> <p>24 MR. CHEN: Put it in the record then.</p> <p>25 MR. KLINE: That was all I had. Thank you.</p>	<p>15</p> <p>1 survey. We're talking about 13,000. So I want to say a</p> <p>2 little bit over 10 percent without doing the exact math in</p> <p>3 my head approximately.</p> <p>4 MR. KLINE: Okay. Okay. That's fine.</p> <p>5 MR. INTRIAGO: Sir, sorry for not knowing exact number.</p> <p>6 MR. KLINE: No. No. That's fine. So it -- it's been</p> <p>7 said that the -- or been, you know, suggested that the size</p> <p>8 of the building is driving the need for a parking waiver on</p> <p>9 the east side of the property. Is that true?</p> <p>10 MR. INTRIAGO: Well, there's a couple other factors</p> <p>11 that indicate where we are putting the -- the driveway</p> <p>12 underneath for this waiver, which I tried to explain</p> <p>13 yesterday how the building was placed as -- as further west</p> <p>14 as possible using that 50-foot building setback going from</p> <p>15 west to east.</p> <p>16 That means that the driveway will have to go on the</p> <p>17 west side. I also [inaudible] a conditional use so it's a</p> <p>18 little bit more stringent on the requirement on that side.</p> <p>19 MR. KLINE: Okay. From your design experience, do you</p> <p>20 find this to be a constrained site in terms of trying to</p> <p>21 make everything fit under the regulations?</p> <p>22 MR. INTRIAGO: Yes, sir.</p> <p>23 MR. CHEN: Object- -- excuse me, ob- -- objection. The</p> <p>24 gentleman is a civil engineer and I -- I have no problems</p> <p>25 with that.</p>
<p>14</p> <p>1 HEARING OFFICER HANNAN: Thank you. Okay. So well, Mr.</p> <p>2 Intriago returns again. You're still under oath, Mr.</p> <p>3 Intriago.</p> <p>4 MR. INTRIAGO: Yes, ma'am. There's no microphone today?</p> <p>5 HEARING OFFICER HANNAN: That is the microphone.</p> <p>6 MR. INTRIAGO: Oh, okay.</p> <p>7 HEARING OFFICER HANNAN: It's a better microphone.</p> <p>8 MR. INTRIAGO: Oh.</p> <p>9 HEARING OFFICER HANNAN: Okay. Go ahead.</p> <p>10 MR. KLINE: Mr. Intriago, there have been questions</p> <p>11 raised about the -- the size of the building relative to the</p> <p>12 size of the site. What is -- what is the amount of coverage</p> <p>13 of the building relative to the site area?</p> <p>14 MR. INTRIAGO: The amount of coverage -- percentage-</p> <p>15 wise, Mr. Kline? Percentage-wise?</p> <p>16 MR. KLINE: Yes.</p> <p>17 MR. INTRIAGO: If you don't mind, I need to see my</p> <p>18 notes here. Give me one second, sir. I -- I should've known</p> <p>19 this from the top of my head. So Mr. Kline, we're talking</p> <p>20 about 127,000 square feet and then -- so it's about 10</p> <p>21 percent --</p> <p>22 MR. KLINE: So it's -- that's -- that's what, the land</p> <p>23 area?</p> <p>24 MR. INTRIAGO: For -- for -- yeah. For land area right</p> <p>25 now, it's 127,000 square feet of land area measuring our</p>	<p>16</p> <p>1 HEARING OFFICER HANNAN: Yeah.</p> <p>2 MR. CHEN: We're getting into an area that I think goes</p> <p>3 beyond being a civil engineer in explaining the features on</p> <p>4 the site. He's about to express an opinion that I think goes</p> <p>5 more to use, if anything, than reporting the engineering</p> <p>6 features of the application.</p> <p>7 HEARING OFFICER HANNAN: I agree. Maybe you can</p> <p>8 rephrase it to deal with just the constraints or factually</p> <p>9 as to --</p> <p>10 MR. KLINE: We -- we understand. Sorry, didn't --</p> <p>11 didn't mean to make it so leading.</p> <p>12 HEARING OFFICER HANNAN: Yeah. I know.</p> <p>13 MR. KLINE: Okay. Well, Mr. -- did you do a study</p> <p>14 comparing the regulations and how they affected the</p> <p>15 development potential of the property?</p> <p>16 MR. INTRIAGO: Yes, sir. We did.</p> <p>17 MR. KLINE: Okay. Madame Examiner, I'd like to submit</p> <p>18 this into the record. I provided copies to the opposition</p> <p>19 and I'll have Mr. Intriago give you a foundation or</p> <p>20 explanation of what is found on this exhibit.</p> <p>21 HEARING OFFICER HANNAN: Okay. Well, let's mark it as</p> <p>22 188. Do you know if you have an objection yet, Mr. Chen?</p> <p>23 MR. CHEN: I don't know yet.</p> <p>24 HEARING OFFICER HANNAN: Okay.</p> <p>25 MR. CHEN: What -- is there a title for it or --</p>

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<p>17</p> <p>1 HEARING OFFICER HANNAN: We can call it -- what -- what 2 is this, a -- 3 MR. CHEN: Mr. Kline, you got a title for it? 4 MR. KLINE: Yeah. I'd -- I'd say study plan development 5 constraints. 6 HEARING OFFICER HANNAN: Well, let's -- let's just call 7 it -- 8 MR. CHEN: Primrose applicant -- excuse me, Primrose -- 9 HEARING OFFICER HANNAN: -- let's just -- let's just 10 call it -- 11 MR. CHEN: -- constraints. 12 HEARING OFFICER HANNAN: -- my brain is kind -- 13 MR. CHEN: That's okay. 14 HEARING OFFICER HANNAN: -- let's just call it 15 depiction of site constraints. How's that? 16 MR. CHEN: That's fine. 17 HEARING OFFICER HANNAN: Okay. Mr. Intriago -- 18 MR. KLINE: Yeah. 19 HEARING OFFICER HANNAN: -- tell us what this is. 20 MR. KLINE: Yeah. Mr. Intriago, why don't you -- from 21 this -- why don't you start from the southern end, the green 22 on the right-hand side and walk us through the site, tell us 23 what -- well, actually, I take that back. Le- -- let's -- 24 first of all, just point out to us what -- what the yellow 25 is.</p>	<p>19</p> <p>1 sorry, sir. Yes. 2 MR. KLINE: Right. And you work with her in -- in terms 3 of applying all the information that's shown on this and the 4 information that's shown is reflected on the boxes on the 5 bottom? 6 MR. INTRIAGO: Yes, sir. 7 MR. KLINE: Okay. 8 MR. INTRIAGO: Ms. -- Ms. Cross and I worked together - 9 - I mean, she put it together, but we coordinated on putting 10 this exhibit together. 11 MR. KLINE: Ms. Robeson, I believe you're familiar with 12 Ms. Cross. She's been admitted as an expert -- 13 HEARING OFFICER HANNAN: I am. 14 MR. KLINE: -- planner and -- and is an AICP. 15 HEARING OFFICER HANNAN: I'm waiting to see if there's 16 an objection. Is that sufficient for you, Mr. Chen? 17 MR. CHEN: No. Is -- I'm not familiar with -- with Ms. 18 Cross. Is she going to be a witness? 19 MR. KLINE: I can have her be a witness. Yes. 20 MR. CHEN: Well, the reason why I'm -- I'm -- I'm not 21 asking to invite, I'm asking because she's not been 22 previously disclosed as an expert and I mean, that's -- if 23 you're wondering where I am on it. 24 MR. KLINE: The -- sure. The -- the -- the -- the 25 document is nothing more than a ill- -- illustration of the</p>
<p>18</p> <p>1 HEARING OFFICER HANNAN: Well, let's do this, let's lay 2 the foundation for it first just so we know if we can submit 3 it -- 4 MR. KLINE: Yeah. 5 HEARING OFFICER HANNAN: -- who prepared it -- 6 MR. KLINE: Sure. 7 HEARING OFFICER HANNAN: -- and what it's -- what these 8 blocks are. 9 MR. KLINE: Understand. Fine. Mr. Intriago, what's the 10 base drawing, the -- of the underlying drawing? Where'd that 11 come from? 12 MR. INTRIAGO: Well, the underlying drawing is the 13 condition of this plan that was submitted -- 14 MR. KLINE: Mm-hmm. 15 MR. INTRIAGO: -- formerly submitted, sir. 16 MR. KLINE: And the form- -- formulation of the colors 17 and the dimensional information was provided to you by whom? 18 MR. INTRIAGO: You mean the -- the -- the colors this - 19 - 20 MR. KLINE: Who -- who -- who prepared the exhibit? 21 MR. INTRIAGO: It was your office, sir. 22 MR. KLINE: And who was that in our office? 23 MR. INTRIAGO: It was Somer -- -- last name -- 24 MR. KLINE: Ms. -- Ms. Cross. 25 MR. INTRIAGO: Ms. Cross, sorry. Ms. Cross, I'm so</p>	<p>20</p> <p>1 proposal and then an overlay of the various regulations in 2 the zoning ordinance. So the only thing that's sort of 3 discretionary is that you measure something wrong. 4 HEARING OFFICER HANNAN: Who measured? 5 MR. KLINE: Ms. Cross [inaudible]. 6 HEARING OFFICER HANNAN: Ms. Rice, I can't answer 7 questions from the gallery. 8 MS. RICE: I have a procedural objection of not being 9 able to see what you're talking about either on there or 10 [inaudible]. 11 HEARING OFFICER HANNAN: Do you have a copy for Ms. 12 Rice? 13 MR. CHEN: Do you want to give her a copy? 14 MR. KLINE: Sure. Okay. Can we -- can we -- 15 MR. RICE: [inaudible]. Thank you. 16 MR. CHEN: -- in the -- in the interest of moving 17 forward, let's -- if I may suggest, let's go forward with 18 this if as the testimony develops, you know, I have a 19 further concern about it, I'll raise it and -- 20 HEARING OFFICER HANNAN: Well -- 21 MR. CHEN: -- and -- 22 HEARING OFFICER HANNAN: Okay. What I was going to do 23 is let it in and give it the weight it deserves subject to - 24 - 25 MR. CHEN: Right.</p>

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<p>21</p> <p>1 HEARING OFFICER HANNAN: -- cross-examination --</p> <p>2 MR. KLINE: That's fine. Sure.</p> <p>3 HEARING OFFICER HANNAN: -- by Mr. --</p> <p>4 MR. CHEN: Chen.</p> <p>5 HEARING OFFICER HANNAN: -- Chen. I know your name. I</p> <p>6 know your name, I do.</p> <p>7 MR. KLINE: This -- this -- this is not good, it's only</p> <p>8 10:00 in the morning.</p> <p>9 HEARING OFFICER HANNAN: I know.</p> <p>10 MR. KLINE: Imagine what it's going to be like at 5:00</p> <p>11 o'clock on Friday.</p> <p>12 HEARING OFFICER HANNAN: So --</p> <p>13 MR. KLINE: Thank you. Okay.</p> <p>14 HEARING OFFICER HANNAN: All right.</p> <p>15 MR. KLINE: That -- that's -- that's -- that's fine. We</p> <p>16 can -- we can get in the details later on. Sure.</p> <p>17 HEARING OFFICER HANNAN: So let's -- let's go forward.</p> <p>18 MR. KLINE: So I'll basically try and have you explain</p> <p>19 what -- what each of these different colors represents. So</p> <p>20 the yellow is intended to be what?</p> <p>21 MR. INTRIAGO: Yes, sir. The yellow is the building</p> <p>22 envelope. Basically, we drew, in our conditional use --</p> <p>23 When I say me, meaning when I was working with Mason</p> <p>24 Consulting, me and my -- my team, we drew the building</p> <p>25 setbacks from the north, east, south and west and that's</p>	<p>23</p> <p>1 north or --</p> <p>2 MR. KLINE: To --</p> <p>3 MR. CHEN: East --</p> <p>4 MR. KLINE: -- to top?</p> <p>5 MR. INTRIAGO: Yeah.</p> <p>6 HEARING OFFICER HANNAN: -- to the east. This yellow</p> <p>7 strip down the driveway --</p> <p>8 MR. INTRIAGO: Yes.</p> <p>9 HEARING OFFICER HANNAN: -- extends beyond the building</p> <p>10 -- be -- well beyond the building. Why is that yellow?</p> <p>11 MR. INTRIAGO: I would like to explain this, ma'am. So</p> <p>12 the -- the problem here is that the colors overlap. So what</p> <p>13 happens is that you go from the north, we altered that 50</p> <p>14 feet, from the east 17 feet, from the south 35 feet and from</p> <p>15 the west 35 feet and that delineates the yellow that is</p> <p>16 labeled as the --</p> <p>17 HEARING OFFICER HANNAN: So what appears as blue on</p> <p>18 this exhibit is actually part of the building envelope?</p> <p>19 MR. INTRIAGO: That's overlapping colors. Yes. That's</p> <p>20 also -- underneath is yellow there too.</p> <p>21 HEARING OFFICER HANNAN: Okay. Well, that's not clear</p> <p>22 from this, but I'll -- I'll accept that -- so what -- what</p> <p>23 is -- what you're saying the building envelope is on this is</p> <p>24 a -- the -- a combination of yellow and blue?</p> <p>25 MR. INTRIAGO: That is correct. And -- and -- and also</p>
<p>22</p> <p>1 basically -- that delineates the -- the limits of the yellow</p> <p>2 line that Ms. Cross actually painted yellow and she put it</p> <p>3 basically the -- on the lower right corner of this exhibit,</p> <p>4 she basically copied from the code the setbacks that was</p> <p>5 provided on the plans.</p> <p>6 MR. KLINE: So the setback would --</p> <p>7 HEARING OFFICER HANNAN: Wait, I don't get that. Are</p> <p>8 you ta- -- is the yellow the buildable area? What --</p> <p>9 MR. INTRIAGO: The -- the yellow --</p> <p>10 HEARING OFFICER HANNAN: -- under the zoning ordinance</p> <p>11 --</p> <p>12 MR. INTRIAGO: Mm-hmm.</p> <p>13 HEARING OFFICER HANNAN: -- is it the buildable area</p> <p>14 that you're talking -- that you're illustrating? Because it</p> <p>15 goes down the driveway.</p> <p>16 MR. KLINE: Yeah.</p> <p>17 MR. INTRIAGO: The yellow is the location where you can</p> <p>18 actually place a building.</p> <p>19 HEARING OFFICER HANNAN: And -- okay.</p> <p>20 MR. CHEN: What about the strip, though? I mean --</p> <p>21 HEARING OFFICER HANNAN: Yeah. That's what I didn't</p> <p>22 get.</p> <p>23 MR. INTRIAGO: I'm sorry?</p> <p>24 HEARING OFFICER HANNAN: Why does this strip -- I'm</p> <p>25 pointing, for the record, there is a yellow strip to the</p>	<p>24</p> <p>1 green. If you see -- because it's -- it's overtopping the</p> <p>2 red, it's overtopping the blue and it's overtopping the</p> <p>3 green.</p> <p>4 HEARING OFFICER HANNAN: I see.</p> <p>5 MR. INTRIAGO: Okay. It's a -- it's a rec- -- and it's</p> <p>6 not a rectangle, it's like a --</p> <p>7 HEARING OFFICER HANNAN: The green is slightly yellow</p> <p>8 green?</p> <p>9 MR. INTRIAGO: Correct. So that's why it doesn't -- you</p> <p>10 don't notice it --</p> <p>11 HEARING OFFICER HANNAN: One could say chartreuse?</p> <p>12 MR. INTRIAGO: Well, I am colorblind. So --</p> <p>13 HEARING OFFICER HANNAN: Oh, that's not good. This is</p> <p>14 not a good exhibit for you.</p> <p>15 MR. INTRIAGO: I know, because I go by the -- the</p> <p>16 distances, ma'am. I know 50, 35, 17 and 50 [sic].</p> <p>17 HEARING OFFICER HANNAN: Okay. All right.</p> <p>18 MR. KLINE: Well, and -- and you should also comment on</p> <p>19 what I guess I would call the orange on the left-hand or</p> <p>20 northern end. That's part of --</p> <p>21 MR. INTRIAGO: Yes.</p> <p>22 MR. KLINE: -- that is part of the buildable envelope</p> <p>23 where a structure could be located.</p> <p>24 MR. INTRIAGO: That is correct. So -- so --</p> <p>25 HEARING OFFICER HANNAN: If this were a woman's</p>

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<p>25</p> <p>1 clothing catalog, that would be se- -- sepia. 2 MR. INTRIAGO: Okay. I think may- -- 3 HEARING OFFICER HANNAN: Okay. I'll stop. 4 MR. INTRIAGO: -- maybe -- maybe what we -- it would be 5 easier that -- that -- Mr. -- Mr. Kline -- Ms. -- Ms. -- Ms. 6 Cross and I, what -- what we wanted to intend is to overlap 7 all the different requirements in here to see how they 8 overlap. 9 HEARING OFFICER HANNAN: No. I understand, I just 10 couldn't see the colors. 11 MR. INTRIAGO: Mm-hmm. Yes. 12 HEARING OFFICER HANNAN: I was confused, because the 13 yellow shading, I could not see that through the blue, but 14 with your explanation, I understand it. 15 MR. INTRIAGO: Okay. 16 HEARING OFFICER HANNAN: And I also see the shading in 17 the forest con. area and I see the shading that overlaps the 18 pink. 19 MR. INTRIAGO: Perfect. Thank you. 20 HEARING OFFICER HANNAN: Okay. Go ahead. 21 MR. KLINE: So the blue represents what then? 22 MR. INTRIAGO: So the blue basically represents the on- 23 -- I would like to start with -- with -- okay, red- -- 24 reddish, Mr. Kline, if I may, so I can explain the blue 25 after or you want to start with the blue?</p>	<p>27</p> <p>1 basically on the section of the lower left corner. Ms. Cross 2 put a section of the code that specifies that all the 3 parking should be placed -- 4 HEARING OFFICER HANNAN: Okay. When you say lower left, 5 just -- if it's the northwest corner -- 6 MR. INTRIAGO: Lower -- lower left of the -- of the 7 exhibit. 8 HEARING OFFICER HANNAN: So you're talking about the 9 label. 10 MR. INTRIAGO: The labels. Yes. 11 HEARING OFFICER HANNAN: We're holding the exhibit so 12 east is north. East is pointing up; correct? 13 MR. INTRIAGO: Yeah. 14 MR. KLINE: Mm-hmm. 15 HEARING OFFICER HANNAN: So you're talking about the 16 red -- the label that's coded red now? 17 MR. INTRIAGO: Correct. Correct. 18 HEARING OFFICER HANNAN: Okay. 19 MR. INTRIAGO: So the label that ca- -- that -- that -- 20 that's -- that's labeled red on the -- closer to the 21 northwest corner of the page -- of the site, that label 22 basically identifies how we cannot put any parking on the 23 front of the building. So we basically labeled that area -- 24 say, this area right here is prohibited to have parking. 25 HEARING OFFICER HANNAN: Okay.</p>
<p>26</p> <p>1 MR. KLINE: Well -- 2 MR. INTRIAGO: So the -- 3 MR. KLINE: -- go ahead. You do -- 4 MR. INTRIAGO: Okay. Okay. 5 MR. KLINE: -- you do it the -- you do it the way you 6 want. 7 MR. INTRIAGO: The -- the reason why I want to do it 8 this way, Mr. Kline, is because the -- the one that looks, I 9 guess, like red -- I apologize, I'm colorblind. The one 10 that's on the north side -- 11 HEARING OFFICER HANNAN: Wait -- wait -- 12 MR. INTRIAGO: -- the ones on the north side -- 13 HEARING OFFICER HANNAN: -- show me where -- this all 14 looks like red. 15 MR. INTRIAGO: Yeah. 16 HEARING OFFICER HANNAN: It can all be red. 17 MR. INTRIAGO: Correct. So -- 18 HEARING OFFICER HANNAN: So -- so is that -- you're 19 talking about the whole area? 20 MR. INTRIAGO: The north side. The whole area -- 21 HEARING OFFICER HANNAN: Okay. 22 MR. INTRIAGO: -- on the -- on the north side is a 23 reddish color. 24 HEARING OFFICER HANNAN: Yes. 25 MR. INTRIAGO: It's an orange color. That area, that's</p>	<p>28</p> <p>1 MR. INTRIAGO: Okay. So that leads to the only 2 available parking that we have for the site is the parking 3 behind the building that goes to the blue area now, which is 4 the blue area, if I may show -- it's 34-foot from the -- 5 give me one second. So if you're looking on the west -- 6 The label is on the middle west side of the page. 7 That's the blue label. It's [inaudible] parking. So that's 8 where you have a numerical [inaudible] -- 9 HEARING OFFICER HANNAN: Wait, when you say left, just 10 tell -- for the record, tell the record the orientation of 11 this exhibit. East is pointing north. I mean, east is 12 pointing up. That's your orientation; right? 13 MR. INTRIAGO: Yes. East is pointing up. So I said -- I 14 probably -- 15 HEARING OFFICER HANNAN: Never do a plan -- anyway, for 16 the future -- 17 MR. KLINE: I'll -- I'll -- I'll remember this. 18 HEARING OFFICER HANNAN: -- all plans have to have 19 north up. 20 MR. KLINE: Yeah. Very good. 21 HEARING OFFICER HANNAN: Okay. Go ahead. 22 MR. KLINE: [inaudible] 23 MR. INTRIAGO: So on the lower side of the exhibit or 24 the west side of the -- to the west side, we have a blue 25 label that specifies all the parking setbacks in -- in -- on</p>

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<p>29</p> <p>1 the -- a blue label.</p> <p>2 HEARING OFFICER HANNAN: Okay.</p> <p>3 MR. INTRIAGO: All right. So there's a blue rectangle</p> <p>4 behind the building on the south side of the building that</p> <p>5 is shown, that that's the only feasible location with the</p> <p>6 parking setbacks that we can technically put parking based</p> <p>7 on the parking constraints, based on the code.</p> <p>8 So that's what that blue rectangle that goes -- it's</p> <p>9 partially on the yellow and partially on the green.</p> <p>10 MR. KLINE: And that blue would extend all the way up</p> <p>11 to what I'll call the orange, but -- but we didn't show it</p> <p>12 that way, because we've got a building there; right?</p> <p>13 MR. INTRIAGO: Correct, sir, because the building --</p> <p>14 the building -- you cannot put parking where the building</p> <p>15 is.</p> <p>16 MR. KLINE: And it would be more than parking, it would</p> <p>17 be the parking facility --</p> <p>18 MR. INTRIAGO: Correct.</p> <p>19 MR. KLINE: -- meaning the drive lanes here?</p> <p>20 MR. INTRIAGO: Drive route and bas- -- you explained</p> <p>21 that to me, Mr. Kline, which I was mistaken at the</p> <p>22 beginning. Yes. So -- and finally, on the south side of the</p> <p>23 site, in labeling a green hatch that also has yellow and</p> <p>24 some blue, that's the location where we have the proposed</p> <p>25 forest conservation area that Mr. Jolley explained on his</p>	<p>31</p> <p>1 this way, what is the amount of setback required for a</p> <p>2 conditional use in this zone on the east side of the</p> <p>3 property?</p> <p>4 HEARING OFFICER HANNAN: Any conditional use.</p> <p>5 MR. INTRIAGO: Any conditional --</p> <p>6 MR. KLINE: Yeah.</p> <p>7 MR. INTRIAGO: -- for any conditional use application,</p> <p>8 the zo- -- the zoning code says it has to be -- and I can</p> <p>9 refer this section of the code that was written here in my</p> <p>10 documents, but it refers -- it has to be twice -- Mr. Kline,</p> <p>11 if you'll allow me one second, I can find my computation</p> <p>12 here in my notes, if I may.</p> <p>13 Oh, here it is. Per Section 6- -- 59.6.2.2.K.2.B, the</p> <p>14 minimum site parking setback equals two times the minimum</p> <p>15 site setback required for a detached house, which is 17</p> <p>16 times 2 equals 34 feet. For a conditional use, it will only</p> <p>17 be 17 feet.</p> <p>18 MR. KLINE: All right. Thank you.</p> <p>19 MR. INTRIAGO: Any conditional use, sir.</p> <p>20 MR. KLINE: And --</p> <p>21 HEARING OFFICER HANNAN: Is that a building setback or</p> <p>22 the parking facil- --</p> <p>23 MR. INTRIAGO: That's a parking setback, ma'am.</p> <p>24 HEARING OFFICER HANNAN: Okay.</p> <p>25 MR. INTRIAGO: Yes, sir.</p>
<p>30</p> <p>1 testimony.</p> <p>2 MR. KLINE: I'm sorry; I didn't realize you were</p> <p>3 finished. So for a use requiring a conditional use, you're</p> <p>4 showing the setbacks where parking could occur on this site?</p> <p>5 MR. INTRIAGO: Correct, sir. For a conditional use</p> <p>6 application, this blue envelope is the -- the locations</p> <p>7 where they can put the parking.</p> <p>8 MR. CHEN: Objection.</p> <p>9 HEARING OFFICER HANNAN: Yes.</p> <p>10 MR. CHEN: The word used was conditional use</p> <p>11 unqualified. So -- but the question was so this shows the</p> <p>12 parking for the -- a conditional use. What conditional use?</p> <p>13 In fact, when you get into conditionals uses, what type of</p> <p>14 proposal for a specific conditional use?</p> <p>15 Now, obviously, we're talking here about a -- a</p> <p>16 conditional use for a daycare facility for 195 children. So</p> <p>17 I -- I don't want to quibble about that and -- and I'll</p> <p>18 assume that is what the question is talking about for this</p> <p>19 conditional use, but -- HEARING OFFICER HANNAN: Well,</p> <p>20 I'm going to let it -- if -- if it's an objection to his</p> <p>21 testimony, I'm going to let it in, but you can cross-examine</p> <p>22 on that.</p> <p>23 MR. CHEN: Okay. Okay.</p> <p>24 MR. KLINE: So where that takes me to then is the</p> <p>25 yellow strip on the right-hand side -- well, let's raise it</p>	<p>32</p> <p>1 MR. KLINE: Right. And would you just basically walk us</p> <p>2 through the from the eastern property line and tell us what</p> <p>3 is happening within that 34 feet now under this proposal?</p> <p>4 MR. INTRIAGO: Under this proposal for those 34 feet,</p> <p>5 if I may start from the north side -- so like we were</p> <p>6 saying, we put the driveway in a safer location, as far as</p> <p>7 east -- as far west as we could, to be able to have our</p> <p>8 firetruck get in and meander around the building and go to</p> <p>9 the back.</p> <p>10 So in that 34-foot parking setback, we have a 12-foot</p> <p>11 buffer -- landscape buffer, we have 6 inches of curb, we</p> <p>12 have 20 feet of -- of dr- -- and -- and 21.33 feet of</p> <p>13 driving aisle -- 20 feet of a driving aisle.</p> <p>14 MR. KLINE: Okay. And -- and so let me do it the -- the</p> <p>15 other way. What amount of encroachment into the 34-foot</p> <p>16 setback is shown on this plan?</p> <p>17 MR. INTRIAGO: The amount of encroachment that we have</p> <p>18 of the driving aisle, it's 22 feet.</p> <p>19 MR. KLINE: All right. So the varian- -- the parking</p> <p>20 waiver request is 22 feet from the 34 required in this tr- -</p> <p>21 - application; is that right?</p> <p>22 MR. INTRIAGO: Yes, sir. Back down to 10 -- to 12,</p> <p>23 sorry. Yes.</p> <p>24 MR. KLINE: Okay. Fine. Would you reiterate what has</p> <p>25 been done within the non-paving area from the east edge of</p>

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<p>33</p> <p>1 the driveway and to the property line?</p> <p>2 MR. INTRIAGO: From the ea- -- okay. Yes. I can. If I</p> <p>3 may, so on the eastern side, there's a multiple -- there was</p> <p>4 multiple coordination with staff of park and planning to</p> <p>5 develop this situation. So one of the things that we did</p> <p>6 here was -- let's talk about the building buffer.</p> <p>7 So for the building buffer, there's a very specific</p> <p>8 zoning code that it specifies what type of planting, what</p> <p>9 type of fencing and what type of widths were required; okay?</p> <p>10 For -- to -- and the length of which the building has to be</p> <p>11 buffered, which is 50 percent of the length of the building</p> <p>12 on both sides going north and -- north and -- and -- and</p> <p>13 south.</p> <p>14 On the north side, you know, we have to go all the way</p> <p>15 to the end of the property line, because 50 percent of the</p> <p>16 building is -- it's -- it's less, but that's what's left on</p> <p>17 the north and the south side and due to the communication we</p> <p>18 had with staff and based on the communications we had with</p> <p>19 the property neighbors, we went ahead further that required</p> <p>20 on the buffering of the building and we took the -- the</p> <p>21 requirements all the way down to the -- to the south to the</p> <p>22 forest conservation area.</p> <p>23 MR. CHEN: Can we -- can we have a section number of</p> <p>24 the ordinance that he's -- he's talking about?</p> <p>25 MR. INTRIAGO: Yes, sir. If I may look at the landscape</p>	<p>35</p> <p>1 perimeter -- there's parking lot landscaping and perimeter</p> <p>2 landscaping.</p> <p>3 MR. INTRIAGO: Mm-hmm.</p> <p>4 HEARING OFFICER HANNAN: I think 6.5.3 is the perimeter</p> <p>5 landscaping. Am I incorrect?</p> <p>6 MR. INTRIAGO: It's my understanding -- ma'am, I can --</p> <p>7 I'd say it needs to really have the section of the code that</p> <p>8 the one [inaudible] now is for the screen of the building</p> <p>9 itself. So the building screen for their neighbors, not --</p> <p>10 HEARING OFFICER HANNAN: That's the perimeter.</p> <p>11 MR. INTRIAGO: Okay.</p> <p>12 MR. CHEN: Well --</p> <p>13 HEARING OFFICER HANNAN: I think --</p> <p>14 MR. CHEN: -- I think the examiner's correct.</p> <p>15 HEARING OFFICER HANNAN: -- I just want to make sure --</p> <p>16 you're using terms that aren't in the zoning ordinance and I</p> <p>17 want to make sure we understand what we're talking about.</p> <p>18 MR. INTRIAGO: Yes, ma'am.</p> <p>19 HEARING OFFICER HANNAN: So what is 6.5.3?</p> <p>20 MR. KLINE: It -- it -- it reads in the zoning</p> <p>21 ordinance screening requirements.</p> <p>22 HEARING OFFICER HANNAN: Okay. And what's in -- there's</p> <p>23 two types of screening requirements. What's 6.5.3? That's</p> <p>24 the perimeter, I believe.</p> <p>25 MR. KLINE: Oh -- oh, [inaudible]. Three just says</p>
<p>34</p> <p>1 plan? May I? Let's see --</p> <p>2 MR. KLINE: Oh, sorry, Joey.</p> <p>3 MR. INTRIAGO: Let me find it right here. I cannot read</p> <p>4 that. Okay. It's too small for me to read. I wish -- do we</p> <p>5 have the master plan?</p> <p>6 MALE: Yeah. It's on the back [inaudible].</p> <p>7 MR. KLINE: [inaudible]. Here, hold this for me.</p> <p>8 MR. INTRIAGO: Okay. Here it is. On the -- ma'am, I</p> <p>9 don't recall which exhibit number is this. It's the CUP-9 of</p> <p>10 the --</p> <p>11 HEARING OFFICER HANNAN: What is the title?</p> <p>12 MR. INTRIAGO: -- the landscape plan.</p> <p>13 HEARING OFFICER HANNAN: Try 103 -- 103A and B I think.</p> <p>14 MR. INTRIAGO: 103A and -- and -- A and B. So over</p> <p>15 there for the building screening, we have Section 6- --</p> <p>16 6.5.3.</p> <p>17 MR. KLINE: 6.5.3.</p> <p>18 MR. INTRIAGO: 5.3. So in that section --</p> <p>19 MR. CHEN: Is that the only section that we're dealing</p> <p>20 with?</p> <p>21 MR. INTRIAGO: Well, that's for the -- that's for the -</p> <p>22 - that's for the building screen. The other --</p> <p>23 HEARING OFFICER HANNAN: Wait, building screen --</p> <p>24 MR. INTRIAGO: The zoning -- the --</p> <p>25 HEARING OFFICER HANNAN: -- is it the perim- --</p>	<p>36</p> <p>1 screening requirements, C says building type and --</p> <p>2 MR. INTRIAGO: So it's basically the type of -- if you</p> <p>3 go to H, I think it is, if you see the -- the type for a</p> <p>4 conditional use application, we have two options to screen</p> <p>5 the building. So that's what that section of the code is. If</p> <p>6 I -- if I may, Mr. Kline -- may I?</p> <p>7 MR. KLINE: Yes.</p> <p>8 MR. INTRIAGO: So I can read [inaudible].</p> <p>9 MR. KLINE: Read it into the record.</p> <p>10 MR. INTRIAGO: So 6.5 is screening requirements. So</p> <p>11 it's 6.5.3, screening requirements. 6.5.3.C, screening</p> <p>12 requirements by building type and we're talking about number</p> <p>13 7, which is general building with non- --</p> <p>14 HEARING OFFICER HANNAN: That's -- okay. That's -- all</p> <p>15 right. I know where you are. Do you know where we are --</p> <p>16 what he's talking about [inaudible] that?</p> <p>17 MR. KLINE: Okay. I'm -- I'm just --</p> <p>18 HEARING OFFICER HANNAN: I think I know, it's the</p> <p>19 perimeter.</p> <p>20 MR. INTRIAGO: I -- I --</p> <p>21 MR. CHEN: Yes. Perimeter [inaudible]. [inaudible]</p> <p>22 HEARING OFFICER HANNAN: Okay. Okay. I know what we're</p> <p>23 talking about. So --</p> <p>24 MR. INTRIAGO: I -- I -- I --</p> <p>25 MR. KLINE: Well -- well, let me -- okay. Go ahead.</p>

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10 (37 to 40)

<p>37</p> <p>1 HEARING OFFICER HANNAN: I don't want to get bogged 2 down on this. 3 MR. KLINE: Right. Right. Right. 4 HEARING OFFICER HANNAN: So we know we're in 6.5.3.C. 5 MR. INTRIAGO: I -- I can use 7, ma'am, I think, after 6 that. 7 HEARING OFFICER HANNAN: Seven, which is the general 8 building type? 9 MR. INTRIAGO: Yes. 10 HEARING OFFICER HANNAN: Okay. 11 MR. INTRIAGO: So in that option, we have either the 8- 12 foot option or the 12-foot option. What -- 13 HEARING OFFICER HANNAN: It's the one -- it's the menus 14 of options? 15 MR. INTRIAGO: Mm-hmm. 16 HEARING OFFICER HANNAN: Okay. 17 MR. INTRIAGO: Correct. Option B says -- option -- 18 sorry, option A it says that we can provide a eight-foot 19 wide landscape buffer as long as we provide a four-foot 20 fence or wall. You're providing a six-foot fence 21 [inaudible]. 22 HEARING OFFICER HANNAN: Of one side? 23 MR. INTRIAGO: On -- on the side that we need to screen 24 the building, which is between -- between the building and 25 the residential use on the east side.</p>	<p>39</p> <p>1 HEARING OFFICER HANNAN: -- and just testify to the 2 site constraints and don't -- you're trying -- okay. You're 3 getting into the architecture, because that's part of the -- 4 the landscaping, because that's part of the site 5 constraints? 6 MR. INTRIAGO: Correct. 7 HEARING OFFICER HANNAN: Okay. So your interpretation 8 of -- I'm going to let him do it. 9 MR. CHEN: I -- I think I know where you're going, 10 Madame Examiner -- 11 HEARING OFFICER HANNAN: I'm going to get through this. 12 MR. CHEN: -- and I understand your ruling. Yeah. 13 [laughter] 14 I -- I -- I'm -- I'm -- I didn't hear that, I'm sorry. 15 You're -- you're going to allow him to testify? 16 HEARING OFFICER HANNAN: I am. 17 MR. CHEN: Okay. I -- obviously, I will abide by your 18 ruling. At my end, just because I was about to object again, 19 is if this is what this gentleman's testimony is as to their 20 understanding of the site constraints and how they've 21 implemented them -- 22 HEARING OFFICER HANNAN: Well, I was just going there. 23 MR. CHEN: Yeah. 24 HEARING OFFICER HANNAN: We're going to accept it with 25 his understanding, because I'm not 100 percent sure I agree</p>
<p>38</p> <p>1 MR. KLINE: Mr. Intriago, let me just pull you back. 2 MR. INTRIAGO: Yeah. 3 MR. KLINE: All -- all -- all I want you to do is 4 describe what exists between the curb line and the fence. 5 MR. INTRIAGO: Okay. 6 MR. KLINE: Well, not why it's required there. 7 MR. CHEN: I'll object to that -- 8 MR. KLINE: Why? 9 MR. CHEN: -- because -- because your landscape 10 architect did -- testified to that. 11 MR. KLINE: Right. 12 MR. CHEN: If he's -- if he's just -- just repeat what 13 the landscape -- landscape architect testified to, what -- 14 HEARING OFFICER HANNAN: Well, let me -- let me jump 15 in. Is the point of this the site constraints? 16 MR. KLINE: Yes. 17 HEARING OFFICER HANNAN: That's the point? 18 MR. KLINE: Yes. 19 HEARING OFFICER HANNAN: So I'm going to let him 20 testify as to the site constraints to the best of your 21 ability. 22 MR. INTRIAGO: Mm-hmm. 23 HEARING OFFICER HANNAN: See, I thought -- well, I'll 24 let somebody else get to this, because I'm not sure -- 25 MR. KLINE: Mr. Rob- --</p>	<p>40</p> <p>1 with his understanding, but -- 2 MR. CHEN: Yeah. Yeah. I understand. 3 HEARING OFFICER HANNAN: -- that's -- that's -- he can 4 testify to that, you can cross -- 5 MR. CHEN: Yes. I understand. 6 HEARING OFFICER HANNAN: -- and he's presenting them 7 just as a site constraint. 8 MR. CHEN: I understand and we may quarrel about that 9 and if you recognize that -- 10 HEARING OFFICER HANNAN: Whether it's a site constraint 11 -- 12 MR. CHEN: Yes. 13 HEARING OFFICER HANNAN: -- whether there actually is a 14 site constraint, you can -- you can quarrel with always -- 15 MR. CHEN: Thank you very much. 16 HEARING OFFICER HANNAN: -- but I'm going to let it in. 17 MR. CHEN: Thank you. I understand. 18 MR. INTRIAGO: Thank you, Madame. 19 HEARING OFFICER HANNAN: Keep going. 20 MR. INTRIAGO: Yes, sir. You want me to -- 21 MR. KLINE: Just briefly describe what are the features 22 between the -- 23 MR. INTRIAGO: Yeah. 24 MR. KLINE: -- east curb line and the fence. 25 MR. INTRIAGO: Well, it's 12 feet of landscape and the</p>

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11 (41 to 44)

<p style="text-align: right;">41</p> <p>1 fence.</p> <p>2 MR. KLINE: That's -- that's -- that's simple enough.</p> <p>3 Based on what you just said and what you heard Mr. Jolley</p> <p>4 say yesterday --</p> <p>5 MR. INTRIAGO: Mm-hmm.</p> <p>6 MR. KLINE: -- I'm going to ask you whether you believe</p> <p>7 that the st- -- requirements for a parking waiver are</p> <p>8 justified in this situation?</p> <p>9 MR. CHEN: Say that -- I didn't --</p> <p>10 MR. KLINE: Yeah.</p> <p>11 MR. CHEN: -- you were walking around --</p> <p>12 MR. KLINE: Yeah. Yeah. Sorry.</p> <p>13 MR. CHEN: -- I didn't hear it.</p> <p>14 MR. KLINE: Sure. Yeah. The- -- there are -- well, I'll</p> <p>15 do it this way --</p> <p>16 HEARING OFFICER HANNAN: The justification for a</p> <p>17 parking waiver is in 6.2.10; correct?</p> <p>18 MR. KLINE: Correct. That's -- that's exactly where I</p> <p>19 was going, thank you.</p> <p>20 HEARING OFFICER HANNAN: Okay.</p> <p>21 MR. KLINE: All right. So Mr. Intriago --</p> <p>22 MR. INTRIAGO: Mm-hmm.</p> <p>23 MR. KLINE: -- Section 6.2.10, reading parking waiver,</p> <p>24 says that the deciding body may waive the parking</p> <p>25 requirements provided it meets the standards of 6.2.1. 6.2.1</p>	<p style="text-align: right;">43</p> <p>1 though, did you?</p> <p>2 MR. CHEN: Yeah. I think he got it in.</p> <p>3 MR. KLINE: You did. Okay. So -- so the answer is?</p> <p>4 MR. INTRIAGO: Is yes.</p> <p>5 MR. KLINE: Yes. Okay.</p> <p>6 HEARING OFFICER HANNAN: That was a lot of work.</p> <p>7 MR. KLINE: Yeah. It's -- it's such a pretty exhibit</p> <p>8 too. Mr. Intriago, so, you know, with -- with -- with what</p> <p>9 we have show- -- I'm sorry, what is shown as the constraints</p> <p>10 on the property -- regulatory constraints on the property</p> <p>11 are those are applicable to what variety of uses on the</p> <p>12 property? Would they -- would they be applicable to all</p> <p>13 conditional uses?</p> <p>14 MR. INTRIAGO: Well, it would be applicable to all</p> <p>15 conditional uses but not uses by right. The only change by</p> <p>16 right would be on the A site, the parking setback would be</p> <p>17 less stringent, it would go down to 17 feet.</p> <p>18 MR. KLINE: Okay. What would -- what would happen under</p> <p>19 development of property under its underlying RE- -- RE-1</p> <p>20 zoning for residential development?</p> <p>21 MR. INTRIAGO: So under RE-1 zoning, you can actually -</p> <p>22 - and based on the size of just doing pure math -- based on</p> <p>23 the size of the site and you could technically fit 3 -- 3</p> <p>24 single-family homes there, 40,000-square-foot each, which is</p> <p>25 the minimum requirement for the lots of the homes.</p>
<p style="text-align: right;">42</p> <p>1 says, "The intent of the vehicle in parking, cueing and</p> <p>2 loading requirements is to ensure that the adequate parking</p> <p>3 is provided in a safe and efficient manner."</p> <p>4 In your opinion, based on your experience and your</p> <p>5 design experience, does the parking waiver result in a safe</p> <p>6 and efficient manner for parking and movement on the</p> <p>7 property?</p> <p>8 MR. INTRIAGO: Yes.</p> <p>9 MR. CHEN: Object- -- okay. I object to the question. I</p> <p>10 -- I don't think that this gentleman has proven to come near</p> <p>11 the qualifications to render such an opinion, but in any</p> <p>12 event, it's going to be an opinion, I think, that's going to</p> <p>13 be determined by the hearing examiner so that to me, I</p> <p>14 think, the presentation should be the facts.</p> <p>15 Now, if-- if you're going to allow this gentleman to</p> <p>16 test- -- that's fine, I -- I understand it and you can take</p> <p>17 it for the weight that we'll hear it and --</p> <p>18 HEARING OFFICER HANNAN: I'm going to take it for the</p> <p>19 weight --</p> <p>20 MR. CHEN: Yeah. I --</p> <p>21 HEARING OFFICER HANNAN: -- I -- I understand, us- --</p> <p>22 usually we have someone -- another expert testify to the</p> <p>23 safety of this and the efficiency. I'll let it in and I'll</p> <p>24 take it for the weight it -- it deserves. All right.</p> <p>25 MR. KLINE: I don't think you answered the question,</p>	<p style="text-align: right;">44</p> <p>1 MR. KLINE: Okay. So let me break it down, if someone</p> <p>2 just wanted to tear down the existing house and build a new</p> <p>3 house, would access to the property and anything really</p> <p>4 change at all from what's out there today?</p> <p>5 MR. INTRIAGO: Yes, sir.</p> <p>6 MR. KLINE: What? Why? How?</p> <p>7 MR. INTRIAGO: Well, I think that we'll have to</p> <p>8 probably do a -- a -- a reader [inaudible] of subdivision to</p> <p>9 spit out the three single-family homes.</p> <p>10 MR. KLINE: Well, I'm only talking about -- I -- I -- I</p> <p>11 want you to just tell me one -- one thing at a time.</p> <p>12 MR. INTRIAGO: Uh-huh.</p> <p>13 MR. KLINE: One house, replacement house --</p> <p>14 MR. INTRIAGO: Yes, sir.</p> <p>15 MR. KLINE: -- is it going to change anything on the</p> <p>16 property?</p> <p>17 MR. INTRIAGO: No. I -- sorry, I may not understand</p> <p>18 your question, Mr. Kline, I'm sorry.</p> <p>19 MR. KLINE: Okay. You -- you -- you've told us that</p> <p>20 there is an opportunity to have up to three houses on the</p> <p>21 property.</p> <p>22 MR. INTRIAGO: Yes, sir.</p> <p>23 MR. KLINE: I'm asking you if somebody only wants to</p> <p>24 rebuild a new structure on the property.</p> <p>25 MR. INTRIAGO: Oh, new structure on the property, just</p>

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12 (45 to 48)

<p>45</p> <p>1 like a new family -- sing- -- single-family home?</p> <p>2 MR. KLINE: Yes, sir. Right.</p> <p>3 MR. INTRIAGO: Yes. There would be no problem, they can</p> <p>4 actually go ahead and get a building permit for that. Yes,</p> <p>5 sir.</p> <p>6 MR. KLINE: Okay. So if there were to be two lots --</p> <p>7 two houses --</p> <p>8 MR. INTRIAGO: Mm-hmm.</p> <p>9 MR. KLINE: -- how would that lay out? How would that</p> <p>10 change the existing conditions?</p> <p>11 MR. INTRIAGO: Well, um, they still -- they -- they</p> <p>12 still will have to probably, you know, put the drawing out</p> <p>13 that they are trying to access for the safety purposes that</p> <p>14 we're talking about on the eastern side of the property or,</p> <p>15 you know, somewhere where the old one was and if you're</p> <p>16 going to access a town- -- a -- a single-family in the back,</p> <p>17 because that's the logical part of putting it, then your</p> <p>18 driveway still will have to meander back and try to get to</p> <p>19 the same location and a house in the back.</p> <p>20 MR. KLINE: What is the pro- -- the technical -- or I'm</p> <p>21 sorry, what's the professional term for the lot in the back</p> <p>22 that would be created? How would access be obtained to that?</p> <p>23 MR. INTRIAGO: The stem, I'm sorry -- stem --</p> <p>24 MR. KLINE: Keep working on it.</p> <p>25 MR. INTRIAGO: Yeah.</p>	<p>47</p> <p>1 the limits of the southern end of the parking area?</p> <p>2 MR. INTRIAGO: Yeah. Probably it would, basically.</p> <p>3 MR. KLINE: Yeah. Do me a favor, stand up here at the</p> <p>4 board and just kind of -- [inaudible] here. Where do you</p> <p>5 think somebody developing the property with three houses</p> <p>6 would put the houses and how the driveway to serve them</p> <p>7 would work?</p> <p>8 MR. CHEN: This is his opinion; correct?</p> <p>9 MR. KLINE: Yeah. Right.</p> <p>10 MR. CHEN: Okay.</p> <p>11 MR. INTRIAGO: Yeah. So we're talking approximately</p> <p>12 about 600 -- 600 linear feet of frontage. So more or less</p> <p>13 about from north to south. So appro- -- approximately --</p> <p>14 HEARING OFFICER HANNAN: Six-hundred?</p> <p>15 MR. INTRIAGO: Six- -- 599, if I -- I -- if I recall</p> <p>16 correctly.</p> <p>17 HEARING OFFICER HANNAN: It's okay. I don't need an</p> <p>18 exact number --</p> <p>19 MR. INTRIAGO: Okay.</p> <p>20 HEARING OFFICER HANNAN: -- I just didn't hear what you</p> <p>21 said [inaudible].</p> <p>22 MR. INTRIAGO: It's 6- -- it's approximately 600,</p> <p>23 ma'am. So I'll say, you know -- you know, each single-family</p> <p>24 home will be approximately 200 feet in width and then -- in</p> <p>25 order to meet the 40,000 --</p>
<p>46</p> <p>1 MR. KLINE: Are you -- are you searching for the word</p> <p>2 pipestem?</p> <p>3 MR. INTRIAGO: Yeah. Pipestem. Yes. Yes. Yes. Sorry.</p> <p>4 That's the word.</p> <p>5 MR. KLINE: So because of where -- well -- well, the</p> <p>6 loc- -- the location of the access of the property dictates</p> <p>7 that there would be a driveway on the east side running</p> <p>8 along the east side of the property serving both lots?</p> <p>9 MR. INTRIAGO: Well, that's what I think will -- will</p> <p>10 happen, Mr. Kline. That's in my opinion, yes.</p> <p>11 MR. KLINE: Okay. And if the lot were to be -- I'm</p> <p>12 sorry, if the property were to be subdi- -- redeveloped for</p> <p>13 three houses --</p> <p>14 MR. INTRIAGO: Mm-hmm.</p> <p>15 MR. KLINE: -- what would be the -- would there be any</p> <p>16 differences to that? Or where would the drive lane then go?</p> <p>17 MR. INTRIAGO: Well, the driveway will still be on that</p> <p>18 east side, we're just going to be further south into the</p> <p>19 development, because now we're talking about three -- three</p> <p>20 single-family homes there too; you know? It just will be --</p> <p>21 even impacts more to the southern property -- east so- --</p> <p>22 southeast property, because now that -- it'll be more</p> <p>23 driveway going south to access the further south residential</p> <p>24 home.</p> <p>25 MR. KLINE: So it -- it would -- would it go as far as</p>	<p>48</p> <p>1 HEARING OFFICER HANNAN: Please -- no. Just a second.</p> <p>2 No -- can you keep your voice down? Because I'm having</p> <p>3 trouble hearing the witness. Go ahead.</p> <p>4 MR. INTRIAGO: Yeah. So approximately 200 feet width</p> <p>5 going north-south of each of the lots and at that point,</p> <p>6 based on what we discussed, the driveway most likely will be</p> <p>7 on the -- on the eastern side of -- connected to Needwood</p> <p>8 Road going south and then projecting the driveway -- the</p> <p>9 shared driveway, this -- the -- it would be going south</p> <p>10 along the eastern property line all the way to sort of the</p> <p>11 last home. It would be at the last 200 feet south of the --</p> <p>12 of the property.</p> <p>13 MR. KLINE: So you'd have a -- you would have your</p> <p>14 driveway of possibly more length than exists under this</p> <p>15 proposal?</p> <p>16 MR. INTRIAGO: Probably yes, sir.</p> <p>17 MR. CHEN: Again, [inaudible] --</p> <p>18 HEARING OFFICER HANNAN: Excuse -- we can understa- --</p> <p>19 I can understand it's his opinion.</p> <p>20 MR. CHEN: Fine. Fine.</p> <p>21 HEARING OFFICER HANNAN: You can punch holes in it.</p> <p>22 MR. CHEN: Okay. Sure. Yeah. I know, I wouldn't do</p> <p>23 that.</p> <p>24 HEARING OFFICER HANNAN: I mean, if you can</p> <p>25 [inaudible].</p> <p>MR. INTRIAGO: I have- -- I haven't done a --</p>

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13 (49 to 52)

<p style="text-align: right;">49</p> <p>1 specifically sign for a [inaudible] right now, but just 2 looking at the site and in my opinion and my experience, I 3 think that would be the case. 4 MR. KLINE: And would that residential driveway carry 5 as much traffic as this proposal would? 6 MR. INTRIAGO: Well, it's different than the traffic, 7 Mr. Kline. I will leave that to the traffic expert to answer 8 that question, if I may. 9 MR. KLINE: Okay. Thank you. Go ahead, Eduardo and have 10 a seat. Let me ask you this question -- 11 MR. INTRIAGO: Yes, sir. 12 MR. KLINE: -- were you ever asked to perform a study 13 of development of a property with 12- -- around 13,000- 14 square-foot daycare building without a need for a waiver on 15 the east side of the property? 16 MR. CHEN: Objection; this is a document that should've 17 been pre-filed. 18 HEARING OFFICER HANNAN: I agree. I'm not going to let 19 it in. 20 MR. CHEN: Can we, I guess, mark it for the record or - 21 - 22 HEARING OFFICER HANNAN: What -- you want to proffer, 23 for the record, what it would be and -- 24 MR. CHEN: No. I just -- 25 HEARING OFFICER HANNAN: -- and -- and --</p>	<p style="text-align: right;">51</p> <p>1 thought I should be able to demonstrate that there are other 2 ways to develop the property without a driveway on the east 3 side of the property and -- and want to waiver -- 4 HEARING OFFICER HANNAN: Wait a minute, other ways to 5 develop the property without a driveway? 6 MR. KLINE: The -- going back to your offer -- or 7 proffer, what I was trying to submit was a drawing showing 8 the -- the exact same proposals that we are proposing with a 9 driveway on the east side are doable without a driveway on 10 the east side, but why it is not as pref- -- why it was not 11 as attractive a setting or -- or accomplishes as much as 12 with -- with having a waiver. 13 HEARING OFFICER HANNAN: Well, you could have a 14 driveway on the east side and still meet the setback. So I 15 guess I'm like -- I -- I -- I think it's apples and oranges 16 and I don't want to get into exhibits that haven't been pre- 17 filed when we've known that the waiver is an issue in this 18 case. 19 So he's testified that the driveway generally would 20 have to be on the east side. That's what I'm hearing him 21 say. 22 MR. INTRIAGO: Correct. 23 HEARING OFFICER HANNAN: So I -- I don't see the need - 24 - my -- I'm not going to base my decision on whether 25 residential use could be less impactful or just as</p>
<p style="text-align: right;">50</p> <p>1 MR. CHEN: No. I just want to propos- -- 2 HEARING OFFICER HANNAN: No. I'm asking Mr. Kline. 3 MR. KLINE: Sure. Well -- well, no. I -- 4 HEARING OFFICER HANNAN: Do you want to proffer what it 5 would be? 6 MR. KLINE: Obviously, but -- but let me go back and 7 explain why you didn't see it earlier, because well, as 8 you've heard, we've done a multiple number of study plans. I 9 would have no idea of what we're going to need for this 10 hearing. So I didn't put them all in in advance. 11 HEARING OFFICER HANNAN: Well, I guess my deal is it's 12 not a comparis- -- this case is not a comparison of what 13 could be developed versus what's before me. I've had that 14 argument before and whether three single-family homes is 15 more or less -- 16 MR. KLINE: Right. 17 HEARING OFFICER HANNAN: -- and issue, I'd like to put 18 on verbal testimony, but I don't want to get into exhibits 19 about it, because it's not my criteria. 20 MR. KLINE: Sure. 21 HEARING OFFICER HANNAN: My criteria is does this 22 proposal meet the standards of approval; okay? 23 MR. KLINE: I understand. But -- but the -- the 24 argument against the proposal that's before you is that 25 you're forcing the driveway over against our property and I</p>	<p style="text-align: right;">52</p> <p>1 impactful. 2 MR. KLINE: Yeah. And -- 3 HEARING OFFICER HANNAN: Unless you dis- -- you know, 4 if you disagree -- 5 MR. KLINE: No. 6 HEARING OFFICER HANNAN: -- you know, if you disagree 7 with that, but my question is is this use going to have -- 8 MR. KLINE: Yeah. No. I understand that completely, I'm 9 just -- but it's been said this is -- the only way you can 10 develop a property, and that's true, you can develop it 11 another way, but in our opinion, it is less compatible than 12 what has been proposed. 13 So -- so you say you're -- you're taking the waiver 14 because you're forced to do that because of the size of the 15 building and I'm saying, no, there's a way you can get this 16 building to fit on the property and not have to be on the 17 east side of the property -- have a driveway on the east 18 side of the property. 19 HEARING OFFICER HANNAN: Well, what is your exhibit 20 then? 21 MR. KLINE: The exhibit is a study of what would it 22 take to put a building on a property of the same size but 23 not have a parking waiver on the east side. 24 HEARING OFFICER HANNAN: I see. Okay. Why didn't you 25 prepare this sooner? Because he hasn't had a chance to look</p>

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14 (53 to 56)

<p>53</p> <p>1 at it.</p> <p>2 MR. KLINE: I understand that. Sure. Well, along with a</p> <p>3 lot of-- as I said, along with a lot of other study plans</p> <p>4 we did, just we didn't -- we didn't submit them all. We've</p> <p>5 probably got 10 or 15 alternatives we studied over time.</p> <p>6 MR. INTRIAGO: This came up at the November hearing.</p> <p>7 HEARING OFFICER HANNAN: Well, what I'm going to do is</p> <p>8 this, if we have -- I'm going to reserve a ruling. I want</p> <p>9 you to give it to Mr. Chen and we'll take it up Tuesday if</p> <p>10 we have to.</p> <p>11 MR. KLINE: Okay.</p> <p>12 HEARING OFFICER HANNAN: But -- but you're proffering</p> <p>13 that this shows the same 12,000-square-foot building with a</p> <p>14 driveway on the west side?</p> <p>15 MR. KLINE: Correct.</p> <p>16 HEARING OFFICER HANNAN: Okay. Then I'm going to ask</p> <p>17 that you give it to Mr. Chen. I'm not going to foreclose it.</p> <p>18 Give it to Mr. Chen. I thought it was a comparison of</p> <p>19 residential development. So I apologize, I should've let you</p> <p>20 proffer. So give it to Mr. Chen, we'll take it up on</p> <p>21 Tuesday.</p> <p>22 MR. KLINE: That's fine.</p> <p>23 HEARING OFFICER HANNAN: So he can testify what he</p> <p>24 thinks about development. He can testify now what he thinks</p> <p>25 about the development if it were put -- well, why don't we</p>	<p>55</p> <p>1 HEARING OFFICER HANNAN: Well, why don't we wait until</p> <p>2 it actually comes in.</p> <p>3 MR. KLINE: Sure. Well --</p> <p>4 HEARING OFFICER HANNAN: It's -- and he's had a chance</p> <p>5 to take a look at it.</p> <p>6 MR. KLINE: Yeah. I -- I'd say sure. I -- I understand</p> <p>7 that.</p> <p>8 HEARING OFFICER HANNAN: If it comes in.</p> <p>9 MR. KLINE: Yeah.</p> <p>10 MR. CHEN: If -- if -- if I may, Madame Examiner, I</p> <p>11 would request that we receive testimonies to what this is,</p> <p>12 because, excuse me, just looking at the document alone does</p> <p>13 not tell me what's going on here and I -- I would rather --</p> <p>14 HEARING OFFICER HANNAN: You want to lay a foundation</p> <p>15 now?</p> <p>16 MR. CHEN: I'd like to hear what -- yeah, what this is</p> <p>17 all about.</p> <p>18 HEARING OFFICER HANNAN: Okay. Go ahead.</p> <p>19 MR. KLINE: Do you want to do his testimony or just a</p> <p>20 proffer to --</p> <p>21 HEARING OFFICER HANNAN: Yes. We'll lay -- no. We'll</p> <p>22 lay a foundation and then subject to his objection later.</p> <p>23 MR. KLINE: I understand. Yeah. That's -- that's --</p> <p>24 that's fine.</p> <p>25 HEARING OFFICER HANNAN: Okay. Go ahead.</p>
<p>54</p> <p>1 wait for that until he's had --</p> <p>2 MR. KLINE: To do that.</p> <p>3 HEARING OFFICER HANNAN: -- an opportunity to look at</p> <p>4 this.</p> <p>5 MR. KLINE: Okay. Okay. Yeah.</p> <p>6 HEARING OFFICER HANNAN: Now, I would like a copy just</p> <p>7 so I can mark it --</p> <p>8 MR. KLINE: Yeah. Right.</p> <p>9 HEARING OFFICER HANNAN: -- for our records.</p> <p>10 MR. KLINE: I understand. Right.</p> <p>11 HEARING OFFICER HANNAN: How would you describe this?</p> <p>12 MR. KLINE: Alternative study -- alternate design study</p> <p>13 without -- alternate -- alternate designed study.</p> <p>14 HEARING OFFICER HANNAN: So this is 189, alternate</p> <p>15 design study. And then I'm going to mark on the exhibit list</p> <p>16 not yet admitted. Okay. Keep going.</p> <p>17 MR. KLINE: Well, Mr. Intriago, what I'd like you to do</p> <p>18 is, just because it'll be a subject of discussion at a later</p> <p>19 point and time, just give -- give us an overview of what</p> <p>20 this Exhibit 189 shows. Do you have a copy of it?</p> <p>21 MR. INTRIAGO: Yes.</p> <p>22 MR. KLINE: Okay. You may write on it.</p> <p>23 MR. INTRIAGO: May I, ma'am?</p> <p>24 MR. KLINE: Are you ready to do that?</p> <p>25 MR. INTRIAGO: May I?</p>	<p>56</p> <p>1 MR. KLINE: So Mr. Intriago, were you asked to perform</p> <p>2 a study that had 13- -- up to a 13,000-square-foot child</p> <p>3 daycare building without a waiver -- parking waiver request</p> <p>4 on the east side of the property?</p> <p>5 MR. INTRIAGO: Yes, sir.</p> <p>6 MR. KLINE: Okay. And what's been marked as Exhibit 189</p> <p>7 is a depiction of what that study is?</p> <p>8 MR. INTRIAGO: Yes, sir.</p> <p>9 MR. KLINE: Okay. Could you please walk us through the</p> <p>10 details of what you did in analyzing this or explain what</p> <p>11 this is showing?</p> <p>12 MR. INTRIAGO: Yes, sir. So as -- as it was explained</p> <p>13 on the -- on -- what's the number of this exhibit, ma'am?</p> <p>14 I'm sorry.</p> <p>15 HEARING OFFICER HANNAN: 189.</p> <p>16 MR. KLINE: 188.</p> <p>17 MR. INTRIAGO: Oh, 189.</p> <p>18 HEARING OFFICER HANNAN: Oh, no. No. 188, I'm sorry.</p> <p>19 MR. KLINE: 188. Yeah. Right.</p> <p>20 MR. INTRIAGO: 188?</p> <p>21 HEARING OFFICER HANNAN: Just a second, Ms. Rice, you</p> <p>22 want a copy?</p> <p>23 MS. RICE: Yes.</p> <p>24 HEARING OFFICER HANNAN: When you all give me copies,</p> <p>25 can you provide Ms. Rice with a copy?</p>

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15 (57 to 60)

<p>57</p> <p>1 MR. KLINE: I -- I brought enough to pass around. I 2 just thought it was more for the people at the table before 3 -- 4 HEARING OFFICER HANNAN: I -- I -- I -- I totally 5 understand. And I saw two people walk in. Are those people 6 that want to testify at some point or -- I don't understand 7 the pointing. 8 MS. VANDERMAUSE: Yeah. We're appraisers for -- 9 HEARING OFFICER HANNAN: Okay. I just wanted to make 10 sure -- 11 MR. KLINE: They would be witnesses for this afternoon. 12 Yes. 13 HEARING OFFICER HANNAN: -- it wasn't the community. 14 I'm sorry. 15 MR. KLINE: Yeah. No problem. 16 HEARING OFFICER HANNAN: Go ahead, 188. 17 MR. INTRIAGO: 188. So specifically on Exhibit 188, I 18 would like to refer to the yellow portion of the color here. 19 Basically, what was done was the building -- the -- the -- 20 the -- the same building that we had on the conditional use 21 application was moved as further east as possible. 22 In other words, this building right now is 18 feet from 23 the property line, okay, which allowed for -- 24 HEARING OFFICER HANNAN: The building on 188? 25 MR. INTRIAGO: The -- the -- the building on --</p>	<p>59</p> <p>1 the 44 parking spaces. That meant that the parking -- the 2 parking -- the parking bay got extended. It got much longer. 3 In -- and the final thing that that means is that -- 4 due to the fact of that, we had to eliminate the forest 5 conservation area here, because now that buffer will not be 6 able to meet the minimum requirements of the forest 7 conservation area. 8 So that forest conservation area goes away, sir, 9 because we'll have to find different ways to meet -- to get 10 [inaudible] for either FELU [ph] or -- bands or that would 11 be -- have to be coordinated with -- with -- with park and 12 planning for that matter when that -- if -- if -- when that 13 situation came. 14 MR. KLINE: Does this proposal require a parking 15 variance -- or waiver, I'm sorry? Parking waiver. 16 MR. INTRIAGO: It would not require a waiver for 17 parking on the east side -- side of the property. Yes. 18 MR. KLINE: Does it require any parking waiver? 19 MR. INTRIAGO: Well, Mr. Kline, I see -- I -- we will 20 have to discuss the situation about the driveway now being 21 the 50-foot building setback on -- on Carnegie Avenue, 22 because -- 23 HEARING OFFICER HANNAN: There is a prohibition 24 somewhere that prevents driveways in the front yard, but I 25 could be wrong.</p>
<p>58</p> <p>1 HEARING OFFICER HANNAN: 189. 2 MR. INTRIAGO: -- 1 -- or the building on 189, it's -- 3 let me write that down, ma'am, I'm sorry, 189, 188. So the 4 building on -- on 189 is 18 feet from the property line. 5 That allows me -- the building setback is 17. So I put it 6 one-foot west from it. And then what happens was based on 7 this constraint, I kept, for safety purposes, the driveway 8 in the same location it is. 9 In order to meet the fire -- the fire code turning 10 radius of a firetruck, which is 20 feet on the inside and 50 11 feet on the outside, the -- the -- we had to take the 12 driveway and meander around the building. That meant that 13 the building had to be pushed, you know, south some feet for 14 that situ- -- just to get the firetruck in and meander the 15 driveway and get it through the west side of the property. 16 Immediately after we passed the building we man- -- we 17 took the -- the -- the driving lane back into the -- 18 referring back to Exhibit 188, the blue envelope of the 19 parking, ma'am, if I may refer. So -- so I'm trying to -- if 20 you see the place that -- where we put the parking spaces 21 there on Exhibit 189 it's all within the blue envelope of 22 Exhibit 188. 23 So everything is constrained. That -- what that means 24 is we still need to meet the parking requirements for the 25 county and the parking requirements from Primrose and keep</p>	<p>60</p> <p>1 MR. CHEN: No. You're right. 2 HEARING OFFICER HANNAN: Maybe -- 3 MR. KLINE: No. I -- I -- I -- 4 HEARING OFFICER HANNAN: It's in 4.1 -- or maybe 5 that's drive aisles. Anyway, sorry. 6 MR. KLINE: Yeah. No. No. 7 HEARING OFFICER HANNAN: I'll be quiet. 8 MR. KLINE: Yeah. 9 HEARING OFFICER HANNAN: Okay. 10 MR. KLINE: We -- we approached it that there -- we 11 would probably still need a waiver simply because it's 12 within the 50-foot front yard setback and there may -- you 13 may be right, there may be an additional restriction against 14 that. 15 MR. CHEN: Are we going to hear what waivers would be 16 required by Exhibit 189? 17 MR. KLINE: Only a parking waiver on the west side of 18 the property. 19 MR. CHEN: Is this gentleman going to testify about 20 what -- what -- what the -- the factual basis -- 21 MR. KLINE: Well, I want to -- 22 MR. CHEN: -- for the parking waiver? 23 MR. KLINE: Yeah. Well, I'm going to go at -- 24 HEARING OFFICER HANNAN: If he can. 25 MR. KLINE: -- I'm -- I'm -- I'm -- I'm going to go at</p>

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16 (61 to 64)

<p>61</p> <p>1 it --</p> <p>2 HEARING OFFICER HANNAN: If he can.</p> <p>3 MR. KLINE: -- a different direction --</p> <p>4 MR. CHEN: Okay. I'm sorry.</p> <p>5 MR. KLINE: -- and that is Mr. Intriago, when you came</p> <p>6 up with this plan, why did you not pursue it any further?</p> <p>7 What are the deficiencies from your point of view from civil</p> <p>8 engineering?</p> <p>9 MR. INTRIAGO: Well, there's -- there's -- there's --</p> <p>10 there's a couple of deficiencies I would like to talk about.</p> <p>11 You know, it's a -- it's a little bit -- it would be a</p> <p>12 little bit more challenging for [inaudible] water management</p> <p>13 even -- even though I think it's doable and then, you know,</p> <p>14 you are actually extending the amount of imperviousness,</p> <p>15 which is the goal.</p> <p>16 It's not to increase imperviousness, but reducing</p> <p>17 imperviousness once you try to meander the -- your driveway</p> <p>18 around the building. So you're probably 150 feet more of --</p> <p>19 of -- of pavement that, you know, you wouldn't have to</p> <p>20 happen if we had just straight shot on the east side.</p> <p>21 Additionally, I think a -- a big important item for me</p> <p>22 would be that -- the forest conservation area that we tried</p> <p>23 to preserve in the beginning. We will not have physical</p> <p>24 space to provide that easement area, because there are</p> <p>25 minimum requirements about the -- the width of the forest</p>	<p>63</p> <p>1 HEARING OFFICER HANNAN: Yeah, but --</p> <p>2 MR. INTRIAGO: But it's just in my -- in my opinion you</p> <p>3 would be more intrusive to the neighbors, because the</p> <p>4 building would be much, much closer to them. Instead of</p> <p>5 being -- I can measure it right now, 47.51 feet. We're going</p> <p>6 to be talking about being only 18 feet away.</p> <p>7 MR. KLINE: And does the loss of the landscaping have</p> <p>8 any adverse effect as it relates to what you want to achieve</p> <p>9 for buffering the property to the east?</p> <p>10 MR. INTRIAGO: Correct, sir. You know, that -- that</p> <p>11 plays a -- a -- a good point to that. You know, we have some</p> <p>12 -- like I said, we have some good buffers around the</p> <p>13 southeast and probably south, but it's not the forest area</p> <p>14 that we were proposing originally to be a -- 1- -- if I can</p> <p>15 recall correctly, it's 143.7 feet of buffer of -- of forest</p> <p>16 that we had there before.</p> <p>17 So that will be gone with the -- because what I was</p> <p>18 explaining, ma'am, the -- the constraints of the parking is</p> <p>19 so narrow, based on Exhibit 188, and on this exhibit, you</p> <p>20 know, everything has tried to be constrained to that</p> <p>21 narrowness of that re- -- zoning requirement.</p> <p>22 MR. KLINE: Mr. Intriago, I'm trying to maybe pick up a</p> <p>23 little time here. There are a number of requirements in</p> <p>24 Section 59.6.2.5 dealing with parking standard- --</p> <p>25 MR. CHEN: 6.- --</p>
<p>62</p> <p>1 and the location of the forest.</p> <p>2 So that buffer between our -- our proposal and the</p> <p>3 south -- the south side of [inaudible] will be gone. We</p> <p>4 still have some good -- some good separation there, but --</p> <p>5 but still it would not be the same thing of a -- a -- a</p> <p>6 forest and I will leave that more to whoever is an expert on</p> <p>7 talking about forests, which I am not.</p> <p>8 I only -- I'm only going to give you that -- that tells</p> <p>9 me how much area you need and I'll provide it on my plan.</p> <p>10 For the quality of the forest and what it means, I would</p> <p>11 like you to -- to ask somebody else about that, please.</p> <p>12 MR. KLINE: What are the disadvantages of this plan as</p> <p>13 it relates to the adjacent property owners to the east?</p> <p>14 MR. INTRIAGO: Well, I think there is advantages for</p> <p>15 this. We're still going to be able to comply with the</p> <p>16 minimum -- and ma'am, I'm sorry if I'm not saying it the</p> <p>17 right way, but building screening requirements on the</p> <p>18 section that we talked about earlier.</p> <p>19 We still will have exceeded all the minimum</p> <p>20 requirements for the buffering of the building, but still --</p> <p>21 HEARING OFFICER HANNAN: Would exceeded, did you say?</p> <p>22 MR. INTRIAGO: We -- we -- we -- we could exceed --</p> <p>23 HEARING OFFICER HANNAN: Could --</p> <p>24 MR. INTRIAGO: -- with this situation with the</p> <p>25 proposal.</p>	<p>64</p> <p>1 MR. KLINE: I'm sorry, yeah, I'll do that again.</p> <p>2 MR. CHEN: [inaudible]</p> <p>3 MR. KLINE: 59.6.2.5, which is essentially basically a</p> <p>4 parking section, vehicle parking design standards. And I'm</p> <p>5 going to try and do this -- the rest a little bit quicker.</p> <p>6 Mr. Intriago, do we satisfy the requirements of 6.2.5.B,</p> <p>7 parking design standards in terms of size of spaces,</p> <p>8 orientation spaces?</p> <p>9 MR. INTRIAGO: Yes, sir.</p> <p>10 MR. KLINE: 6.2.5.C, access, how one basically moves</p> <p>11 through the parking lot, do we satisfy that requirement?</p> <p>12 MR. INTRIAGO: Yes, sir.</p> <p>13 MR. KLINE: 6.2.5.D, marking, what kind of</p> <p>14 striping/markings will you have on the property?</p> <p>15 MR. INTRIAGO: I think we have -- we have on the -- on</p> <p>16 the -- we have directional arrows, stop arrows, crosswalks</p> <p>17 and ADA striping as well, sir.</p> <p>18 MR. KLINE: Okay. And -- and will it comply with</p> <p>19 Section 6.2.5.G, dealing with drive aisles -- with the drive</p> <p>20 aisles, do all the drive aisles meet or exceed standards for</p> <p>21 --</p> <p>22 MR. INTRIAGO: Most of the places the drive aisles meet</p> <p>23 exactly the minimum requirements. So in case we're trying to</p> <p>24 minimize the amount of imperviousness --</p> <p>25 MR. KLINE: Mm-hmm.</p>

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17 (65 to 68)

<p>65</p> <p>1 MR. INTRIAGO: -- I minimized the impact also into the 2 buffer for the neighbors as well. So yes, we meet that. 3 MR. KLINE: Okay. In the same section, there's a 4 similar requirement for basically ensuring pedestrian 5 movement. Can you just refresh everyone's recollection of 6 the three pedestrian movement areas on the property? 7 MR. INTRIAGO: Okay. Yes, sir. May I? 8 MR. KLINE: Yes. 9 MR. INTRIAGO: So on Exhibit 148, the one I'm referring 10 to right now, so we have minimal movements of -- of 11 pedestrian movement here. Let me start offsite first. 12 Offsite we have a sidewalk that goes from -- from north to 13 south -- from sou- -- from -- south to north on Carnegie 14 Avenue on the east side of Carnegie Avenue [inaudible] -- 15 MR. KLINE: And yes- -- yesterday you testified that 16 will be in the public right-of-way? 17 MR. INTRIAGO: That will be in the public right-of-way. 18 Yes, sir. It'll be in the public right-of-way. There will be 19 a six-foot sidewalk to meet minimum county standards -- 20 MR. KLINE: Right. 21 MR. INTRIAGO: -- and it will be constructed on the 22 west side of the existing Montgomery County right-of-way, 4- 23 -- 4- -- it will be, at that point, 45-foot right-of-way. 24 Right now it's 40-foot right-of-way. 25 MR. KLINE: You said west side of the right-of-way.</p>	<p>67</p> <p>1 trail, what we -- 2 Originally, we were having a crossing immediately at 3 the -- at the right-of-way on the north side of our -- of 4 our driveway, but then with recommendation of staff, we 5 actually moved that crossing to make a shorter crossing. 6 We moved it -- the ramp towards the property line and 7 then we have the crossover so we can minimize the -- the -- 8 the amount of bicycle, pedestrians or -- bicycle -- bi- -- 9 bike riders or pedestrians -- minimize the length that 10 they're crossing on actual a -- a -- a driveway or a paved 11 area. 12 And then basically, we're connecting to existing eight- 13 foot trail on the north side of the development. Now, 14 talking about internal -- internal sidewalks -- 15 MR. KLINE: Yeah. Do- -- don't bother -- 16 MR. INTRIAGO: Okay. 17 MR. KLINE: -- because the zoning ordinance really is 18 talking about your -- because you're talking about how to 19 move the children inside the fences; right? 20 MR. INTRIAGO: Correct. 21 MR. KLINE: Yeah. 22 MR. INTRIAGO: But this meets also ADA requirements for 23 -- and guidelines to connections to right-of-way. 24 MR. KLINE: Okay. So Section 59.6.2.5.I, we just titled 25 walkways, this pedestrian cir- -- circulation system</p>
<p>66</p> <p>1 MR. INTRIAGO: Oh, I'm sorry, on the east side. I 2 apologize, sir. 3 MR. KLINE: Okay. 4 MR. INTRIAGO: On the east side of that right-of-way. 5 MR. KLINE: Okay. Right. 6 MR. INTRIAGO: Okay. So almost, I want to say, midway 7 through the sidewalk there's a connection proffer on the 8 conditional -- on the conditional use by staff that -- in 9 which we have to provide a 3-foot minimum pathway from the 10 public sidewalk to the main entrance. 11 So basically, we -- we -- we provided a pathway that 12 will connect as such to the south side of the -- the south 13 si- -- the south side sidewalks front in the main entrance 14 of the building just on the south side of the building. 15 So in front -- in front of the building we have a -- an 16 array of sidewalks that either go to the main entrance or go 17 to the east of the property and then back north on the east 18 side of the building, [inaudible] sidewalk, all the way to 19 the right-of-way, which there's some existing eight- -- 20 eight-foot trail. 21 And actually, I -- when I visit that trail, that trail 22 is fairly new, ma'am. It's -- it's -- it's -- it's -- it's 23 been -- I don't know how many years old, but it's -- it's 24 very new. So basically, with the direction of staff, in 25 order to minimize the impact of our development to that</p>	<p>68</p> <p>1 satisfies the requirements of that I Section? 2 MR. INTRIAGO: In my pro- -- professional opinion, it 3 does, sir. Yes. 4 MR. KLINE: Okay. Okay. Tell us where public services 5 are going to be made available on the property. Will we be 6 using public water? 7 MR. INTRIAGO: Yes, sir. We'll be using public water. 8 MR. KLINE: Okay. Tell us where the lines are and how 9 they'll be serving the building. 10 MR. INTRIAGO: May I use my other plan? 11 MR. KLINE: Sure. 12 MR. INTRIAGO: So I'm going to use -- 13 MR. KLINE: And of course, you'll have to tell us what 14 you've got here. 15 MR. INTRIAGO: Yes, sir. I will in a second. I'm going 16 to use Exhibit 93D, if I may. So Ms. Robeson, I would like 17 to say also, for the record, that we have been -- we have 18 been doing a bunch of accommodations with WSSC back and 19 forth with two or three project managers, but a formal 20 submission [inaudible] have not been done yet, because we're 21 not at that stage of engineered documents. 22 But all the location of the water and sewer connections 23 have been -- we have had many minutes meeting with 24 [inaudible] location. 25 HEARING OFFICER HANNAN: What's the -- what's the category?</p>

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18 (69 to 72)

<p>69</p> <p>1 MR. INTRIAGO: It's a category one. 2 HEARING OFFICER HANNAN: For water and sewer? 3 MR. INTRIAGO: Water and sewer. Yes. 4 HEARING OFFICER HANNAN: Okay. 5 MS. RICE: No, it's not. 6 HEARING OFFICER HANNAN: Just a second. We cannot -- I 7 won't have interruptions. 8 MS. RICE: I'm sorry. I'm so sorry. 9 HEARING OFFICER HANNAN: Your testimony is it's S1W1? 10 MR. INTRIAGO: That's my recollection, ma'am, but if -- 11 if you want to -- 12 HEARING OFFICER HANNAN: No. Don't -- is -- is that 13 your recollection? 14 MR. INTRIAGO: That made me doubt myself. Yes. 15 HEARING OFFICER HANNAN: Okay. 16 MR. INTRIAGO: I don't want to doubt myself. Yeah. 17 That's my recollection -- the recollection, ma'am. Yes. 18 HEARING OFFICER HANNAN: Okay. 19 MR. INTRIAGO: Okay. So if I may, so we have right now 20 -- so as you can depict, on the northeast side of the 21 development, I have an NOB -- 22 MR. CHEN: I apologize, but what is the zoning 23 ordinance section we're dealing with at -- at this point? 24 MR. KLINE: Well, the general -- 25 HEARING OFFICER HANNAN: Is this his adequate public</p>	<p>71</p> <p>1 6-inch meter vault at the entrance of the driveway that we 2 have at the main entrance. That meter vault is locating a 3 [inaudible] easement that we have already designed and 4 coordinated to make sure that it's fixed and we don't have a 5 problem later on. 6 So that's been designed to be able to comply with all 7 the bands and the requirements for WSSC. For the record, 8 like I said, Mr. Chen, Ms. -- Ms. -- Ms. -- Madame Robeson, 9 we have submitted formerly to WSSC. We would redo that at a 10 later time, but based on my experience, I would have done 11 before with the [inaudible]. I -- I -- it's my -- my 12 professional opinion that this meets the requirements. 13 So then just to serve fire as well, sir, so we have 14 SET's [ph] water line and we have to have a fire hydrant 15 within 100 feet of the FD- -- of the fire department 16 connection, which I coordi- -- coordinated with Mr. Up [ph] 17 and there's an MTC at the southeast corner of the building, 18 which is less than 100 feet from that proposed fire hydrant. 19 HEARING OFFICER HANNAN: Do you have a propo- -- a -- 20 an approved fire access plan? 21 MR. KLINE: Yes, ma'am. Oh, no. We -- we -- we -- we do 22 not have a letter from Ms. Labaw, we have the plan. 23 MR. INTRIAGO: Correct. 24 MR. KLINE: Yeah. 25 HEARING OFFICER HANNAN: Is it approved?</p>
<p>70</p> <p>1 facilities testimony? 2 MR. KLINE: Yes. Thank you. Yes, ma'am. 3 MR. CHEN: Okay. 4 HEARING OFFICER HANNAN: So it's 7.3.1. 5 MR. CHEN: Okay. Yeah. Sorry, we're just -- we're just 6 trying to figure out where it was coming from. 7 HEARING OFFICER HANNAN: Okay. Go ahead. 8 MR. INTRIAGO: Okay. So if I may establish a -- 9 establish a [inaudible], so on the -- on the -- if you -- if 10 you go to the northeast of the site on Exhibit 93B, I have 11 an NOB, which is 5 feet wide that will be done for a 12 sanitized sewer extension to an existing gravity manhole 13 that is located at the -- at the east side of the driveway 14 of the -- of the [inaudible] property. 15 So there's an existing [inaudible] sewer manhole that - 16 - that -- which inverts, works perfectly fine just to -- to 17 provide a gravity sewer for a property; right? 18 Now, if I may now for the water, we have a straight 19 connection -- there's a -- there's an existing 12-inch water 20 main on the north side of Needwood Road that we are doing a 21 -- a tap and sleeve straight connections with and then we 22 bring in that -- that line -- that 8-inch or 6-inch line, 23 which I think I need to connect with -- with Ms. -- I think 24 it's a 6- -- 8-inch line for that. 25 We're bringing it in to a -- to a -- a meter vault -- a</p>	<p>72</p> <p>1 MR. INTRIAGO: No. 2 MR. KLINE: She has not approved it. Well, let me 3 rephrase that, she's not commented on it and -- 4 MR. CHEN: How long has it been pen- -- pending? 5 MR. KLINE: Huh? 6 MR. CHEN: How long has it -- 7 MR. KLINE: Well, we filed it [inaudible] -- yeah. We - 8 - at the same time -- we filed at the same time we filed all 9 the other application materials. If you want me to bring it 10 out now, I'll do that, but -- 11 HEARING OFFICER HANNAN: I don't want to -- I'm just 12 trying to get a sense of where your approvals are. 13 MR. KLINE: There -- there is -- there is a plan -- 14 there is no reference in the staff report and we do not have 15 a letter of approval from Ms. Labaw. 16 MR. KLINE: Because usually staff requires one before 17 it gets to us. 18 MR. KLINE: They like to have it, but it does- -- they 19 don't always get it. 20 HEARING OFFICER HANNAN: Is a copy of the fire access 21 plan in the record? 22 MR. KLINE: I'm going to have somebody check this when 23 we get -- 24 HEARING OFFICER HANNAN: No. Okay. It is a long list, I 25 understand.</p>

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19 (73 to 76)

<p>73</p> <p>1 MR. KLINE: Yeah.</p> <p>2 HEARING OFFICER HANNAN: So what I'm going to do is</p> <p>3 send it to -- see if -- let me put it this way, if it's not</p> <p>4 in the record, all right, can you provide it to me with a</p> <p>5 copy to all the parties and I will forward it to Ms. Labaw -</p> <p>6 -</p> <p>7 MR. KLINE: Right.</p> <p>8 HEARING OFFICER HANNAN: -- and see if I can get an</p> <p>9 opinion from her?</p> <p>10 MR. KLINE: Yeah. Mm-hmm. I will do that -- over lunch,</p> <p>11 I'll call my office and -- and get it taken care of. We may</p> <p>12 not be able to get it today, but we'll -- we will comply</p> <p>13 with your requirements.</p> <p>14 HEARING OFFICER HANNAN: Okay.</p> <p>15 MR. CHEN: Is that -- if -- if I may, the document</p> <p>16 that's in your hand --</p> <p>17 MR. KLINE: Yes.</p> <p>18 MR. CHEN: -- is -- is that in the record?</p> <p>19 MR. KLINE: We're -- I'm going to have to have somebody</p> <p>20 read through this, because I can't do two things at once.</p> <p>21 MR. CHEN: But you think it is in the record already?</p> <p>22 MR. KLINE: I --</p> <p>23 MR. CHEN: Is it pre-filed.</p> <p>24 MR. KLINE: -- I --</p> <p>25 HEARING OFFICER HANNAN: If you don't know --</p>	<p>75</p> <p>1 MR. KLINE: Are you aware of any treatment issues</p> <p>2 related to the sewer affluent?</p> <p>3 MR. INTRIAGO: I'm not aware of that, sir.</p> <p>4 MR. KLINE: Okay. Are you aware of any transmission</p> <p>5 issues or water pressure issues related to both sewer and</p> <p>6 water?</p> <p>7 MR. INTRIAGO: I'm not aware of that, sir. No.</p> <p>8 MR. KLINE: Okay. Fine. The next question I was going</p> <p>9 to ask had to do with the fire rescue plan. I'll skip that</p> <p>10 and we'll -- I'm trying to also see where the fire plan is.</p> <p>11 Would you talk about any perviousness?</p> <p>12 MR. INTRIAGO: Yes, sir.</p> <p>13 MR. KLINE: Well, recognizing the way it's treated in</p> <p>14 the Rock Creek plan. Would you just describe the impervious</p> <p>15 levels -- imperviousness levels of the subject property?</p> <p>16 MR. INTRIAGO: Okay. So I would like to break it down</p> <p>17 in -- in two different ways, Mr. Kline so I can -- can --</p> <p>18 can be clear. On -- based on DPS requirements, the</p> <p>19 imperviousness of this site itself -- what I mean -- the</p> <p>20 word site it means within the constraints of the limits of</p> <p>21 the property.</p> <p>22 It's approximately 33 percent, if I recall correctly --</p> <p>23 one second, sir. And that's in my [inaudible] computation</p> <p>24 report that I submitted to DPS. 33.6 percent impervious --</p> <p>25 imperviousness within the site and that's assuming a very --</p>
<p>74</p> <p>1 MR. KLINE: Yeah. I [inaudible].</p> <p>2 HEARING OFFICER HANNAN: -- we're -- let's wait until</p> <p>3 he finds out --</p> <p>4 MR. CHEN: Okay.</p> <p>5 HEARING OFFICER HANNAN: -- and we find out --</p> <p>6 MR. KLINE: Okay.</p> <p>7 HEARING OFFICER HANNAN: -- and then we'll worry about</p> <p>8 what to do about it; okay?</p> <p>9 MR. CHEN: Sure.</p> <p>10 MR. INTRIAGO: May I continue, ma'am?</p> <p>11 HEARING OFFICER HANNAN: Yeah.</p> <p>12 MR. INTRIAGO: All right. So going through this on the</p> <p>13 fire, so there's an existing fire hydrant going out on the -</p> <p>14 - the -- the west side of Needwood Road and I actually had</p> <p>15 some phone conversations with -- with -- with Ms. -- Ms.</p> <p>16 Labaw about it. So we meet the 250-foot minimum distance to</p> <p>17 the location of the driveway and 250-foot distance to the</p> <p>18 location of the fire hydrant.</p> <p>19 So I -- even though I don't have an approval from Ms.</p> <p>20 Labaw I have personally through multiple coordination with</p> <p>21 her about the location of the fire hydrants and location of</p> <p>22 many different things from what we have. Okay. So I -- so I</p> <p>23 spoke about fire, I spoke about sewer, I spo- -- talked</p> <p>24 about potable water. Anything else you want me to talk</p> <p>25 about, Mr. Kline?</p>	<p>76</p> <p>1 in my professional opinion, I -- I think -- I'm -- I'm --</p> <p>2 I'm hoping I'm still agreeing to -- to disagreeing with DPS,</p> <p>3 even though I still follow their rules, with my professional</p> <p>4 opinion, even including that this turf was considered</p> <p>5 impervi- -- impervious for my computation. I did --</p> <p>6 HEARING OFFICER HANNAN: Wait, you did consider it</p> <p>7 impervious?</p> <p>8 MR. INTRIAGO: I did. I did.</p> <p>9 HEARING OFFICER HANNAN: Okay.</p> <p>10 MR. INTRIAGO: Even though I disagree with them, I -- I</p> <p>11 think I still have the right to disagree, but I follow the</p> <p>12 rules and I considered it imper- -- impervious for my</p> <p>13 computation.</p> <p>14 HEARING OFFICER HANNAN: Okay.</p> <p>15 MR. CHEN: Just so I'm clear, because it's not clear,</p> <p>16 sir, I apologize, from what you said.</p> <p>17 MR. INTRIAGO: Yes, sir.</p> <p>18 MR. CHEN: Are you saying that the im- -- the play</p> <p>19 areas were included by you as impervious areas?</p> <p>20 MR. INTRIAGO: Yes, sir. Yes, sir. They were. Now,</p> <p>21 within the limits of the NOB, which is the improvements that</p> <p>22 we're doing for the whole site all the way down to the -- to</p> <p>23 the outfall, I have an imperviousness of 51.4 percent, but</p> <p>24 we think the site -- we think the constraints of the site is</p> <p>25 33.6 percent.</p>

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20 (77 to 80)

<p>77</p> <p>1 MR. KLINE: And are -- are there any requirements in 2 the Rock Creek plan for a maximum imperviousness? 3 MR. INTRIAGO: As far as I know, there are not, sir. 4 MR. KLINE: All right. Do you have a stormwater 5 management concept plan that you would like to pull up as an 6 exhibit and describe the features of that plan, please? 7 MR. INTRIAGO: Yes, sir. One second. 8 HEARING OFFICER HANNAN: I just -- I -- I just have one 9 follow-up question on the turf -- the artificial turf. The 10 staff report, which is this document here -- 11 MR. INTRIAGO: Mm-hmm. 12 HEARING OFFICER HANNAN: -- it says that the 13 application proposes an impervious level of 36 to 38 14 percent. Does that in- -- does the staff -- was the staff 15 including the artificial turf? 16 MR. INTRIAGO: Yes. 17 HEARING OFFICER HANNAN: Okay. I just wanted to double- 18 check that. I'm sorry, go ahead. 19 MR. INTRIAGO: Thank you. 20 MR. CHEN: May I have clar- -- just while he's looking 21 at his exhibits, can I have clarification, Mr. Kline used 22 the word Rock Creek plan. What -- what do you mean by that? 23 HEARING OFFICER HANNAN: The master plan? 24 MR. KLINE: Right. That's what I meant. Yes. Yes. 25 MR. CHEN: Okay. I just wanted to -- it's the Rock</p>	<p>79</p> <p>1 were planning on refileing for a major modification and 2 that's in the record that it was to be a -- 3 HEARING OFFICER HANNAN: But to your knowledge, that 4 hasn't be refiled? 5 MR. CHEN: That has not yet been filed, but it's 6 supposed -- we're waiting for it. The -- the representation 7 was that they were going to file for a major modification 8 and they haven't yet done that. 9 HEARING OFFICER HANNAN: Okay. I ju- -- and then just 10 for the record, that property, is that at the corner of 11 Redland and Needwood? 12 MR. CHEN: That's correct. Yes. 13 MR. KLINE: Relatively fa- -- not -- not exactly at the 14 corner, but it's in that jur- -- quadrant. 15 HEARING OFFICER HANNAN: Quadrant. Okay. 16 MR. KLINE: We -- we -- we -- it's shown on the aerial 17 photograph if you want us to get that [inaudible]. 18 HEARING OFFICER HANNAN: Okay. I -- that's -- I wanted 19 to know that. Okay. Go ahead. 20 MR. INTRIAGO: Okay. So if I may explain -- let me go 21 to my [inaudible], sorry. Let me start at the city number 22 here. Mr. Kline, would you please provide me the number 23 [inaudible]? I don't have it here. 24 MR. KLINE: CUP- -- what -- what CUP [inaudible]? 25 MR. INTRIAGO: It would be CU- -- no. CSWM9. HEARING OFFICER HANNAN: Well, wait -- wait. Can you</p>
<p>78</p> <p>1 Creek Master Plan. Rock Creek, I'm sorry. 2 HEARING OFFICER HANNAN: Is there an application in for 3 -- at one point, there was a modification of the Taiwanese 4 Cultural Center pending. Is there an app- -- is that -- 5 where -- what is the status of that application? 6 MR. KLINE: You're looking at me, but I'll defer to Mr. 7 Chen who has personal knowledge of that. 8 HEARING OFFICER HANNAN: Yeah. 9 MR. CHEN: If I may -- 10 HEARING OFFICER HANNAN: Yeah. 11 MR. CHEN: -- there was a -- as you know, there -- 12 obviously, there is a special -- I think it said special 13 exception for the -- 14 HEARING OFFICER HANNAN: For the Taiwa- -- 15 MR. CHEN: -- Taiwanese Cultural Center. There was an 16 administrative approval of an expansion in '9- -- in 2015. 17 MS. RICE: '15. 18 MR. CHEN: Yeah. 2015. That modification was appealed 19 or subject to judicial review for -- for the circuit court. 20 The circuit court reversed that modification approval and on 21 remand- -- and remanded a fact to the board of appeals to 22 enter a resolution that the modification had been, by virtue 23 of judicial decision, reversed. 24 At that hearing, legal counsel for the Taiwanese 25 Cultural Center said that they would in the future and they</p>	<p>80</p> <p>1 read the title of it? 2 MR. INTRIAGO: Yes. It's called proposed drainage area 3 map, stormwater master plan. 4 HEARING OFFICER HANNAN: Hold on one second. 5 MR. KLINE: Yeah. 6 HEARING OFFICER HANNAN: What -- what's the acronym, 7 CS- -- 8 MR. INTRIAGO: CSWM9. 9 MR. KLINE: So I'm in the 90s and I don't see -- 10 HEARING OFFICER HANNAN: I don't either. I think the 11 last most recent plan is 103. 12 MR. KLINE: Yeah. 13 HEARING OFFICER HANNAN: Let -- so I guess we should 14 look at the beginning with the submission materials. There 15 was a major submission on 6/22. 16 MR. CHEN: Madame Examiner, have you looked at 93? I -- 17 I -- I -- I don't know, but -- 18 HEARING OFFICER HANNAN: Yeah. The submission that I've 19 found are 93, 94, 95 and 103 and I do not see it. 20 MR. KLINE: So all -- all these were all CUPs 21 [inaudible]. 22 MR. INTRIAGO: This is the stormwater master plan, this 23 [inaudible]. 24 MR. KLINE: CSW- -- [inaudible] 25 MR. CHEN: [inaudible]</p>

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21 (81 to 84)

<p>81</p> <p>1 MR. KLINE: [inaudible] 2 MR. INTRIAGO: [inaudible] 3 MR. CHEN: Is it possibly, Mr. Kline, 93H? You want to 4 look at that? 5 MR. INTRIAGO: 93H, stormwater management plan -- no. 6 No. No. That's -- I can use mine if you want. 7 MR. KLINE: Well, since our filing is sometime in 8 October 29th, it does not include the plan you're showing 9 here, I think you should use the plan. So if you can use 10 CUP-8 -- 11 MR. INTRIAGO: I could use that one, sir. Yeah. No 12 problem. 13 MR. KLINE: All right. Just do that. 14 MR. INTRIAGO: I -- it's -- it's -- [inaudible]. It's 15 the same thing, but I can actually use that [inaudible]. 16 HEARING OFFICER HANNAN: Thank you. 17 MR. INTRIAGO: This matches exactly [inaudible]; okay? 18 So Mr. Kline, H -- 93H? 19 MR. KLINE: 93H. Correct. 20 MR. INTRIAGO: Just for my records, let me write this 21 here. All right. May I? Okay. So this plan that is -- I have 22 right here is labeled Exhibit 93H and the name of it is ESD 23 stormwater management plan. It's basically a summary of the 24 plans that I submitted to DPS for stormwater management 25 concept approval.</p>	<p>83</p> <p>1 MR. INTRIAGO: So it works as a berm kind of. 2 HEARING OFFICER HANNAN: I see. Okay. 3 MR. INTRIAGO: Yeah. So -- so at the middle -- almost 4 at the middle of the property there's an existing -- on the 5 west property line, there's an existing culvert that was 6 placed in there after the gravel road was placed to be able 7 to convey the water underneath that road into the -- going 8 west into where it was drained. 9 Now, I can bring a bigger plan to show you, but the -- 10 the watershed or the -- the branch where this water is going 11 is -- you know, at the end of the day, it's exactly the same 12 watershed, just that in this case, the water is going west 13 and then around these properties and then back into the -- 14 the upper stream of the branch. 15 What we're proposing is the same branch, the same 16 watershed, just channel the water into a -- into -- like the 17 -- the -- the previous expert witness said, into 18 approximately 1,100 feet of pipe towards the south -- going 19 south into the subdivision, which is a -- which are public 20 structures into the outflowing through the same watershed 21 into the same branch. 22 So per -- right now, if I may say, just to go back a 23 little bit, so what we did hear was we -- we got the -- the 24 Montgomery County requirements and standards and the state 25 requirements and standards and we met the -- it's called the</p>
<p>82</p> <p>1 So just to start a little bit at the beginning, the 2 current flow of the water is going from east to west and I 3 want to say without knowing that number exactly in my head 4 90 percent of the -- of the site actually drains in that 5 direction. 6 There's a small area that, on the southeast side, is 7 actually draining towards Ms. Kosary's property, but we're 8 not touching that in our plans as stated the way it is, 9 because that's where the forest conservation [inaudible] 10 later. Now, the way I think this happened was at one point 11 during this -- the history of the Carne- -- Carn- -- 12 Carnegie -- Carnegie Avenue right-of-way, somebody pulled 13 like a -- 14 The water already was, in my -- in my int- -- in my 15 interpretation, just shift flowing to the west. So at one 16 point, somebody put a gravel driveway on Carnegie Avenue 17 where that served like an embankment or a berm for the water 18 that was coming from the east towards the west. 19 In an effort to do that, whoever put that driveway they 20 placed a -- an existing CMP culvert, which is located approx- 21 -- approximately in the -- at the middle of the site -- 22 HEARING OFFICER HANNAN: Where on Carnegie is the berm? 23 MR. INTRIAGO: It's not a berm, ma'am, it's -- it's a 24 driveway. 25 HEARING OFFICER HANNAN: Oh.</p>	<p>84</p> <p>1 ESD to the MEP, which it means Environmental Site Design to 2 the Maximum Extent Practical [sic]. 3 Montgomery County interprets Maximum Extent Practical 4 [sic], you're meeting the entirety of the code. Whatever the 5 state code says you need to do you need to provide. So 6 that's what we did hear. So what happened here is like every 7 single -- every single -- we've provided three facilities 8 here that we're proposing, but those facilities cannot drain 9 more than 20,000 square feet to each of the facilities to 10 meet the state requirements. 11 So basically, you can see on micro-bioretenention number 12 three, which is approximately on the southwest corner of the 13 building, that facility is draining the entire 13,000- 14 square-foot of building plus a portion of the -- of the 15 turf. That goes into that one facility. 16 The -- the micro-bioretenention facility in number two is 17 draining, I want to say, almost the entire portion where we 18 have the parking on the south side of the building going to 19 that facility. 20 And micro-bioretenention number one is basically taking 21 from the -- from the main entrance on the north, that whole 22 driving aisle and sidewalks draining to micro-bi- -- into 23 micro-bioretenention number one. 24 With those three facilities, we meet -- we meet the 25 required, as I said, ESD to the MEP and we exceeded and --</p>

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22 (85 to 88)

<p>85</p> <p>1 HEARING OFFICER HANNAN: For the one-year storm; right?</p> <p>2 MR. INTRIAGO: No, ma'am. It's -- it's not really a</p> <p>3 one-year storm. It's not categorized like that in the -- in</p> <p>4 the -- in the state code.</p> <p>5 HEARING OFFICER HANNAN: Okay.</p> <p>6 MR. INTRIAGO: It just says that based on the formulas</p> <p>7 in the state manual, you have to provide a certain amount of</p> <p>8 volume of water quality and the way it -- the way the code</p> <p>9 reads specifically is that if you meet the ESD to the MEP,</p> <p>10 your land -- your piece of land is --</p> <p>11 MR. CHEN: Mr. Kline, I apologize, could you -- I -- I</p> <p>12 sincerely apologize. Clearly pronounce -- SE- --</p> <p>13 MR. INTRIAGO: S- -- ESD --</p> <p>14 MR. KLINE: ME- --</p> <p>15 MR. CHEN: ESD --</p> <p>16 MR. INTRIAGO: ESD, which is Environmental Site Design</p> <p>17 --</p> <p>18 MR. CHEN: Okay. To --</p> <p>19 MR. INTRIAGO: -- to the MEP, Maximum Extent Practical</p> <p>20 [sic].</p> <p>21 MR. CHEN: Okay.</p> <p>22 HEARING OFFICER HANNAN: Practicable.</p> <p>23 MR. INTRIAGO: Practicable.</p> <p>24 HEARING OFFICER HANNAN: But anyway.</p> <p>25 MR. INTRIAGO: Practicable.</p>	<p>87</p> <p>1 MR. INTRIAGO: Sorry.</p> <p>2 HEARING OFFICER HANNAN: Go ahead.</p> <p>3 MR. INTRIAGO: Okay. So basically, when we meet this</p> <p>4 minimum volume requirement dictated by state and also by</p> <p>5 Cou- -- by Montgomery County, the intent of the code -- it</p> <p>6 says -- on the state code says that this property of land is</p> <p>7 considered to be woods in good conditions and that could --</p> <p>8 I could phrase that directly from the code.</p> <p>9 HEARING OFFICER HANNAN: Wait, can -- I'm sorry; I'm</p> <p>10 having a little trouble.</p> <p>11 MR. INTRIAGO: Yeah.</p> <p>12 HEARING OFFICER HANNAN: I don't know if it's my</p> <p>13 hearing or what.</p> <p>14 MR. INTRIAGO: It's my accent probably. Yeah. Sorry.</p> <p>15 HEARING OFFICER HANNAN: What is -- what did the -- was</p> <p>16 the state standard?</p> <p>17 MR. INTRIAGO: The state standard says once -- if you</p> <p>18 meet the minimum volume requirements --</p> <p>19 HEARING OFFICER HANNAN: Right.</p> <p>20 MR. INTRIAGO: -- for the water quality --</p> <p>21 HEARING OFFICER HANNAN: Correct.</p> <p>22 MR. INTRIAGO: -- okay --</p> <p>23 HEARING OFFICER HANNAN: Got you.</p> <p>24 MR. INTRIAGO: -- your property of land is determined -</p> <p>25 - is considered to be as is -- acting as woods in good</p>
<p>86</p> <p>1 HEARING OFFICER HANNAN: Go ahead now.</p> <p>2 MR. INTRIAGO: All right. All right. So --</p> <p>3 MR. KLINE: Be- -- before you lead out, because Ms.</p> <p>4 Robeson asked a question and basically came up you heard</p> <p>5 testimony yesterday from Mr. Berg --</p> <p>6 HEARING OFFICER HANNAN: Mm-hmm. Yeah.</p> <p>7 MR. KLINE: -- and Mr. Berg's testimony was it was only</p> <p>8 one-year control and I'd like you to continue to answer</p> <p>9 that.</p> <p>10 HEARING OFFICER HANNAN: Yes.</p> <p>11 MR. KLINE: But the second question, I think, relates</p> <p>12 to what you're saying now and that is that no quality</p> <p>13 controls are being provided by the applicant and I can --</p> <p>14 MR. INTRIAGO: Correct. Let me -- I will expound on</p> <p>15 that.</p> <p>16 HEARING OFFICER HANNAN: Who said that?</p> <p>17 MR. INTRIAGO: I don't -- I don't --</p> <p>18 MR. KLINE: That -- that was Mr. Berg's testimony</p> <p>19 yesterday. I quoted it.</p> <p>20 MR. CHEN: That's right.</p> <p>21 MR. KLINE: No quality controls are being provided by</p> <p>22 the applicant.</p> <p>23 HEARING OFFICER HANNAN: Okay. Go ahead --</p> <p>24 MR. INTRIAGO: Okay. So bas- --</p> <p>25 HEARING OFFICER HANNAN: -- Mr. --</p>	<p>88</p> <p>1 condition.</p> <p>2 HEARING OFFICER HANNAN: Woods?</p> <p>3 MR. INTRIAGO: Woods.</p> <p>4 HEARING OFFICER HANNAN: Woods?</p> <p>5 MR. INTRIAGO: W-o-o-d-s.</p> <p>6 HEARING OFFICER HANNAN: I see. Okay. I get it.</p> <p>7 MR. INTRIAGO: Yes.</p> <p>8 HEARING OFFICER HANNAN: So --</p> <p>9 MR. KLINE: So -- so you're saying that -- that natural</p> <p>10 condition?</p> <p>11 MR. INTRIAGO: Correct. So that --</p> <p>12 HEARING OFFICER HANNAN: -- if you ha- -- if -- if you</p> <p>13 fulfill their standards to the maximum --</p> <p>14 MR. INTRIAGO: Yes.</p> <p>15 HEARING OFFICER HANNAN: -- then you're the same as</p> <p>16 woods; is that what you're saying colloquially?</p> <p>17 MR. INTRIAGO: Correct. That's the way --</p> <p>18 HEARING OFFICER HANNAN: Okay.</p> <p>19 MR. INTRIAGO: -- code is -- right. Specific on Chapter</p> <p>20 5 of the code; all right? So what does that mean?</p> <p>21 MR. KLINE: Before you -- before you lead that --</p> <p>22 MR. INTRIAGO: Yeah.</p> <p>23 MR. KLINE: -- don't you have the phraseology</p> <p>24 backwards? Isn't that the standard --</p> <p>25 MR. INTRIAGO: That's --</p>

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23 (89 to 92)

<p style="text-align: right;">89</p> <p>1 MR. KLINE: -- that you are -- you are supposed to 2 achieve -- 3 MR. INTRIAGO: Correct. 4 MR. KLINE: -- the water con- -- quality that would 5 occur from -- 6 MR. INTRIAGO: Correct. 7 MR. KLINE: Very good. 8 MR. INTRIAGO: So when you meet that volume, what 9 happens -- it's also in the code -- on the -- on the code 10 before 2010, you still need to meet other requirements, like 11 QB-10 or other types of requirements. 12 With these types of changes after 2010, if you meet 13 these requirements, you don't need to attenuate for the 2, 14 you don't need to attenuate for the 10, because it's 15 considered already woods, in good condition, because the 16 requirements are more stringent. So you're providing a lot 17 more water quality for -- if -- if -- if I can phrase it a 18 different way; all right? 19 The only reason why jurisdiction can ask you to do 20 something, even if there's a problem by floating downstream 21 over a 100-year storm is the only reason when I previously 22 have done attenuation on this site or if I have not met the 23 minimum water quality volumes on site. 24 So the only reasons you provide attenuations are you 25 don't meet the minimum volume, you need to attenuate for</p>	<p style="text-align: right;">91</p> <p>1 him. Clearly it's not been pre-filed, but because it comes 2 from a government agency, I'm going to let it in. 3 MR. INTRIAGO: So just to [inaudible] -- 4 HEARING OFFICER HANNAN: I -- I do have some questions. 5 When we get through Mr. Intriago, I do have some questions 6 about whether we have all the exhibits in advance for some 7 things, okay -- 8 MR. KLINE: During rebuttal. Yeah. 9 HEARING OFFICER HANNAN: -- but not related to him 10 necessarily -- 11 MR. INTRIAGO: Okay. 12 HEARING OFFICER HANNAN: -- but let's go through this. 13 So this is 190. This is DPS letter -- DPS letter stating 14 stormwater management is -- concept plan is acceptable. 15 Okay. Go ahead. 16 MR. INTRIAGO: So -- so to finalize my conclusion that 17 we're having here, we have a plan that provides all of the - 18 - the state and county requirements for stormwater 19 management, for quality and attenuation, based on the 20 approval that we received -- based on my experience on what 21 I do with the plans and the approvals and conversations we 22 had with DPS and -- and -- and their -- and their staff. 23 MR. KLINE: With regard to quantity, just -- with 24 regard to quantity, you heard Ms. Mitchell who lives across 25 Carnegie Road from the new -- the new residents --</p>
<p style="text-align: right;">90</p> <p>1 that, or you meet the minimum volume but the jurisdictions 2 have a problem downstream of flooding. Not erosion, not -- 3 not -- not conveyance, flooding and then they're asking you 4 to do additional attenuation on site. 5 In this case, as was proven by the approval that I got 6 from Montgomery County and the DPS, we had all those 7 discussions, this plan meets the minimum -- the ESD to the 8 MEP. We got stormwater management approval through DPS and 9 Mr. Etheridge. 10 MR. KLINE: Ms. Robeson, if I could put an exhibit in 11 the record, letter of November 4th -- 12 HEARING OFFICER HANNAN: Can you give one to Ms. Rice 13 and -- and Mr. Chen? 14 MR. KLINE: Sure. 15 MR. CHEN: What is the -- the exhibit number? 16 HEARING OFFICER HANNAN: It would be 190 I think, hold 17 on. 18 MR. CHEN: Okay. Just -- 19 HEARING OFFICER HANNAN: 190. This is a new exhibit? 20 MR. KLINE: Yes, ma'am. 21 MR. CHEN: This -- this is dated November 4? 22 MR. KLINE: 2019. Yes. 23 MR. CHEN: It's not been pre-filed? 24 MR. KLINE: Mm-mm. 25 HEARING OFFICER HANNAN: Okay. You don't have to ask</p>	<p style="text-align: right;">92</p> <p>1 MR. INTRIAGO: Mm-hmm. 2 MR. KLINE: -- she was -- was concerned that there was 3 water ponding in the back of her property and she was 4 concerned whether our development, because of its 5 imperviousness, would increase that. Do you expect that your 6 stormwater management system will address that issue? 7 MR. INTRIAGO: Yes, sir. Actually, like I said, the 8 water right now, on the existing conditions, is being -- is 9 -- goes -- goes from east to west, it gets burned by the 10 gravel driveway and gets collected by an existing, in very 11 bad shape, CMP that was put in there, concentrated and 12 [inaudible] -- 13 MR. KLINE: C- -- CMP? 14 MR. INTRIAGO: CMP. 15 MR. KLINE: [inaudible] 16 MR. INTRIAGO: That's Corrugated Metal Pipe. 17 MR. KLINE: Thank you. 18 MR. INTRIAGO: Yes. And then it goes to the other -- to 19 the other property and that's causing the problem. Right now 20 in my proposed conditions or -- sorry, in my client's 21 proposed conditions, we are taking every single drop of 22 water that comes from our site that is drained right now to 23 the we- -- to the -- to the -- to the west, not the portion 24 of water that's going to the east, because that's ex- -- 25 standing existing conditions [inaudible] it is.</p>

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24 (93 to 96)

<p style="text-align: right;">93</p> <p>1 That's going to be discussed here, which is just the 2 forest. We're doing no improvements there. All the water 3 that's been improved are imper- -- every single drop of 4 impervious -- impervious of the site is being collected and 5 channeled through approximately 1,100 feet of pipe going 6 south into the subdivision to the south. And I can show that 7 here, if I may. So I have -- 8 HEARING OFFICER HANNAN: So where does it outfall? 9 MR. INTRIAGO: The outfall, it's -- I can show you as 10 well, ma'am. May I have one second? So let me start on this 11 exhibit right here on Exhibit 93H. 12 It has -- the first public manhole right here is public 13 manhole A9, which is almost where the previous existing 14 culvert was and it runs from north to south along the -- 15 along the eastern side of the right-of- -- of Carnegie 16 Avenue right-of-way to manhole A4 or micropost manhole A4 17 and then goes south- -- southwest to A3 and then keeps going 18 south to A2. Let me find [inaudible] to pass the rest. 19 MR. KLINE: Yeah. While you're -- while you're doing 20 that, Mr. Intri- -- 21 HEARING OFFICER HANNAN: I think we had an exhibit 22 yesterday -- 23 MR. KLINE: Yeah. I -- I was going to -- 24 HEARING OFFICER HANNAN: -- that showed the whole line. 25 MR. KLINE: -- I was going to say -- yes. I -- I was</p>	<p style="text-align: right;">95</p> <p>1 HEARING OFFICER HANNAN: Yes. 2 MR. KLINE: Yeah. 3 MR. INTRIAGO: Yeah. I see that one [inaudible]. 4 HEARING OFFICER HANNAN: And I will find it. What was 5 it -- what did you have it labeled as? 6 MR. KLINE: I -- well, he -- he had it labeled as 93G, 7 but I think that's probably from his -- 8 HEARING OFFICER HANNAN: No, but what was it called, 9 Mr. Chen, do you remember? 10 MR. CHEN: I think it was just storm drain network 11 rebuild/extension. 12 HEARING OFFICER HANNAN: Storm -- it's 191 now. 13 MR. CHEN: 191? 14 HEARING OFFICER HANNAN: Yes. 15 MR. INTRIAGO: Ma'am, and I forg- -- I -- I -- you'll 16 have to forgive me, but I -- my eyes, I'm getting old and I 17 cannot read the structure numbers, but I can walk you 18 through it, if I may. 19 HEARING OFFICER HANNAN: Okay. Mm-hmm. 20 MR. INTRIAGO: So when I stop here -- so we get to that 21 A3. So from A3, so we go south through the one that should 22 be called A2 and then we connect to the one that is called 23 A1 at -- I want to say -- where's north here? Okay. Here. So 24 going south on Carnegie Avenue right when you start heading 25 east to go back to -- so in other words, on A1, which is the</p>
<p style="text-align: right;">94</p> <p>1 just waiting for the number. Mr. Berg used Exhibit, we'll 2 call it, 93G, but I don't know what you labeled it. 3 MR. INTRIAGO: 93G. 4 HEARING OFFICER HANNAN: No. It -- 5 MR. KLINE: Mr. Berg did hand out, yeah, the drawing 6 yesterday called storm drain network rebuild/extension on 7 Carnegie Avenue that he listed as 93G, but that's unrelated, 8 I think, to our rec- -- record and I couldn't find it in my 9 -- 10 MR. CHEN: Do you want to renumber it then maybe? 11 MR. KLINE: Did you mark -- 12 MR. INTRIAGO: [inaudible] 13 MR. KLINE: -- [inaudible]. 14 HEARING OFFICER HANNAN: You know what, I updated this 15 exhibit list. So if I missed it, it's my fault. 16 MR. CHEN: Do you have a -- the new number for it? 17 HEARING OFFICER HANNAN: Well, I'm just going to add it 18 to the end. 19 MR. KLINE: Yeah. That's fine. 20 HEARING OFFICER HANNAN: It's easier for me to track 21 the incoming -- 22 MR. KLINE: Okay. 23 HEARING OFFICER HANNAN: -- exhibits rather than -- so 24 -- 25 MR. KLINE: 191 then?</p>	<p style="text-align: right;">96</p> <p>1 first connection going south -- 2 HEARING OFFICER HANNAN: Mm-hmm. 3 MR. INTRIAGO: -- that's the first connection we -- 4 when we meet the existing -- the existing pipe system. So 5 right here at A1; okay? So what -- the analysis was done 6 after that. So the -- that -- that pipe system was designed 7 to serve that subdivision. So it was designed properly for 8 that. 9 So what happened was the existing pipes that we have in 10 the system from -- ma'am, from A1 all the way to the final 11 outfall at the end of it, that pipe system -- this -- this - 12 - this analysis that you're having here, Mr. -- right here 13 is the one that my office and my team put together on how we 14 did change the location of the pipes, but we resized the 15 pipes to be able to convey the water safely without having 16 any problems and meeting the Montgomery County code. 17 Now, we did a bunch of coordination of that redesigning 18 of the storm system -- conveyance system with the right-of- 19 way, because at one point, we were talking to MCDOT and they 20 said, you know -- you know, they -- MCDOT reviewed the 21 conditional use, they approved the conditional use, but they 22 -- they deferred to right-of-way to keep going with the 23 details of -- of the design of -- because it's their system. 24 It's their -- it's their -- it's their storm pipe system. 25 HEARING OFFICER HANNAN: Mm-hmm.</p>

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25 (97 to 100)

<p style="text-align: right;">97</p> <p>1 MR. INTRIAGO: So since -- at that point and in order 2 to be able to have a conversation in this forum, my team put 3 together a study of what would it take to redesign those 4 pipes? And we went back and forth with Mr. Tick [ph] and his 5 team at the right-of-way team. The actual person we spoke 6 with was Sam Mujare [ph] and -- 7 HEARING OFFICER HANNAN: Wait, whose team, WSSC? 8 MR. INTRIAGO: The -- the -- the -- the right-of-way 9 team. 10 MALE: Sir, what's the name of that team? 11 HEARING OFFICER HANNAN: He can't answer. The right-of- 12 way team? 13 MR. INTRIAGO: Basically, it's a -- 14 HEARING OFFICER HANNAN: DOT? 15 MR. INTRIAGO: -- MCD -- one team is MCDOT, that was 16 the comments that we received from Mr. Deepak -- 17 HEARING OFFICER HANNAN: Yes. 18 MR. INTRIAGO: -- and then a different team is the 19 people who review the right-of-way [inaudible]. 20 HEARING OFFICER HANNAN: The utilities. Okay. 21 MR. INTRIAGO: In Montgomery County. 22 HEARING OFFICER HANNAN: All right. Okay. That's good 23 enough. 24 MR. INTRIAGO: Okay. So there they want [inaudible] 25 responsible to do the final approval of this conveyance</p>	<p style="text-align: right;">99</p> <p>1 MR. CHEN: If I may, Madame Examiner, the applicant has 2 offered this morning evidence that either should've been 3 pre-filed with the application months ago and it's being 4 amplified by the witness saying what apparently other people 5 have said. 6 I understand that your rules of evidence are such that 7 you accept hearsay and you've made a determination 8 [inaudible] in one of these exhibits because it's been 9 issued by a government agency, it did not have to be pre- 10 filed. I take -- I object to that, quite frankly. I don't 11 think it matters where -- 12 HEARING OFFICER HANNAN: I'm not saying it has -- 13 doesn't have to be pre-filed, I was saying as far as 14 foundationally we typically accept those letters. I 15 understand your position about the failure to pre-file. 16 MR. CHEN: So it's in and we abide by your ruling, just 17 be aware of the looseness of the acceptance of evidence when 18 my clients are putting on evidence. 19 HEARING OFFICER HANNAN: Well, you can object -- 20 MR. CHEN: I have, but I mean -- 21 MR. KLINE: Well -- well -- well, I -- I object to the 22 premise and I believe that everything he testified from is 23 in the record in terms of the exhibits. 24 MR. CHEN: We just went -- this -- 25 HEARING OFFICER HANNAN: What about the emails from DOT</p>
<p style="text-align: right;">98</p> <p>1 system. 2 So we went back and forth with the right-of-way team 3 that is going to be only in this system [inaudible] day with 4 my design and we have a [inaudible] of information that Mr. 5 Kline, I -- I -- I think he has in the record, of my 6 coordination with that team, that they feel that the design 7 is going in a good direction. 8 HEARING OFFICER HANNAN: Wait, I haven't seen that. Is 9 that in the record? 10 MR. KLINE: There -- there is email traffic. I can -- 11 HEARING OFFICER HANNAN: Okay. But you don't -- 12 MR. INTRIAGO: Okay. Right. 13 HEARING OFFICER HANNAN: -- if it's in the record? 14 MR. KLINE: I'm sure it's not in the record. 15 MR. INTRIAGO: I don't know. 16 HEARING OFFICER HANNAN: Okay. He can go ahead. Yes. 17 MR. INTRIAGO: So we -- I have confirmation that I did 18 the coordination with the team for the design of this system 19 and even though he cannot provide an approval at that point 20 because there's getting a formal submission to them, he 21 basically said that we were going in the right direction, 22 the pipes are going to be redesigned as -- as -- as noted 23 and just need to do a formal submission of -- formal 24 submission of the engineering plans for final review and 25 approval.</p>	<p style="text-align: right;">100</p> <p>1 saying they find it acceptable -- this system acceptable? 2 MR. KLINE: Sure. Yeah. Did -- did -- yeah. Did not 3 submit them thinking that email traffic was not something 4 you wanted to see, but -- 5 HEARING OFFICER HANNAN: Well, what I want to see -- he 6 just ha- -- this -- okay. Let's get through -- 7 MR. KLINE: Yeah. 8 HEARING OFFICER HANNAN: -- I'm going to -- le- -- gi- 9 -- let me put it this way, Mr. Chen, I'm giving it the 10 weight it -- it deserves. Mr. Chen had his expert on 11 yesterday. He didn't have the benefit of this testimony. 12 MR. CHEN: That's right. 13 HEARING OFFICER HANNAN: You know, having to keep 14 bringing in expert witnesses is expensive for everybody, but 15 I -- I do want to go over some things. At this point, I'm 16 going to let his -- the hearsay in that they're saying 17 you're going in the right direction. That's what his 18 testimony is. It doesn't say approved. 19 MR. KLINE: Yeah. 20 HEARING OFFICER HANNAN: I'll give it the weight it 21 deserves, but I need -- I'm asking you to minimize the use 22 of new exhibits that this is a hotly contested case that's 23 been pending for a long time. So I'm asking you to minimize 24 the use of new exhibits. 25 MR. KLINE: Sure.</p>

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26 (101 to 104)

<p>101</p> <p>1 HEARING OFFICER HANNAN: The questions I have -- we</p> <p>2 don't have -- well, I'll just go into them now, but we don't</p> <p>3 have -- we typically get a rendering -- or details on</p> <p>4 fences. I don't have details on the opaque fence, I don't</p> <p>5 have details on the playground fence, I don't have details</p> <p>6 on the sign.</p> <p>7 The sign isn't in here at all. So, you know -- and I'm</p> <p>8 kind of at the point where we can put them in, but the whole</p> <p>9 community -- we're midway through the hearing and the whole</p> <p>10 community hasn't had a chance to see any of it. So that's</p> <p>11 concerning me. And also, I hope -- I really hope there are</p> <p>12 no exhibits on operations, because we tend to get far much -</p> <p>13 - far much more in advance on operations.</p> <p>14 This is unusual at the lack of information on</p> <p>15 operations. So I'm telling you I really hope that there are</p> <p>16 no exhibits on operations, because I don't want to add them,</p> <p>17 because nobody's -- nobody's been able to address them and I</p> <p>18 think a lot of the citizens that came in here the other day</p> <p>19 have good cause for concern and part of that may be avai- --</p> <p>20 ameliorated by your operational statement, but they didn't</p> <p>21 ha- --</p> <p>22 Nobody had the benefit of it and that's what causes me</p> <p>23 concern. I -- I don't know why -- typically, when we get a</p> <p>24 daycare like this, I don't know why the lack of detail was</p> <p>25 in -- not in the staff report. I don't know. So those are --</p>	<p>103</p> <p>1 okay?</p> <p>2 MR. KLINE: Right. Yeah. Right.</p> <p>3 HEARING OFFICER HANNAN: That's what the argument is.</p> <p>4 MR. KLINE: All right.</p> <p>5 HEARING OFFICER HANNAN: But I'm going to let it in and</p> <p>6 give it the weight --</p> <p>7 MR. KLINE: Yes. Sure. Okay.</p> <p>8 HEARING OFFICER HANNAN: -- it -- it'll deserve.</p> <p>9 MR. KLINE: Well, to -- to sort of take care of your</p> <p>10 future problems, we did talk about the fence yesterday. We</p> <p>11 do have those exhibits. They'll be presented to you this</p> <p>12 afternoon. The -- the sign is on the architectural drawings</p> <p>13 and is in the record and will be testified [inaudible].</p> <p>14 HEARING OFFICER HANNAN: Oh, it is on the archi- -- I'm</p> <p>15 -- then I apologize, I was looking -- usually we get it on</p> <p>16 the landscape plan.</p> <p>17 MR. KLINE: [inaudible]</p> <p>18 HEARING OFFICER HANNAN: So why it's -- I will take a</p> <p>19 look then. Then --</p> <p>20 MR. KLINE: Well, just -- just wait until the architect</p> <p>21 testifies.</p> <p>22 HEARING OFFICER HANNAN: -- you know, I've been mean.</p> <p>23 MR. KLINE: No. No. No. The -- it was be- -- simply</p> <p>24 because it was done in this case by the architect rather</p> <p>25 than by the landscape architect.</p>
<p>102</p> <p>1 I'm telling you my concerns. I definitely want -- want --</p> <p>2 I'm asking you to submit a copy of the sign -- or details on</p> <p>3 the sign, because I'm assuming --</p> <p>4 MR. KLINE: Yeah. I got -- I did --</p> <p>5 HEARING OFFICER HANNAN: -- you're going to need a</p> <p>6 variance in the two fences.</p> <p>7 MR. KLINE: -- I -- I'd like to go back and argue about</p> <p>8 what Mr. Berg knew when he sat in here yesterday, but I'm</p> <p>9 not going to do that.</p> <p>10 HEARING OFFICER HANNAN: Okay.</p> <p>11 MR. KLINE: Okay. Because he -- because everything was</p> <p>12 in the record that we just testified about and it was</p> <p>13 available to you.</p> <p>14 MR. CHEN: No.</p> <p>15 MR. KLINE: But -- but for the --</p> <p>16 MR. CHEN: [inaudible]</p> <p>17 MR. KLINE: -- [inaudible] of the letter --</p> <p>18 HEARING OFFICER HANNAN: Except for -- except for the</p> <p>19 WSSC -- or except for, I'm sorry --</p> <p>20 MR. CHEN: With the S.</p> <p>21 MR. KLINE: No. What Mr. Chen is --</p> <p>22 HEARING OFFICER HANNAN: -- the right-of-way team,</p> <p>23 whoever that is.</p> <p>24 MR. KLINE: Yeah. Right. Right.</p> <p>25 HEARING OFFICER HANNAN: Except for their acceptance;</p>	<p>104</p> <p>1 HEARING OFFICER HANNAN: Okay.</p> <p>2 MR. KLINE: So [inaudible].</p> <p>3 MR. CHEN: And just to -- the statement Mr. Kline just</p> <p>4 said that everything that Mr. Berg re- -- relied on was in</p> <p>5 the record, that's not an accurate statement. Quite frankly,</p> <p>6 Exhibit 190 was not in the record. I have people -- experts</p> <p>7 such as Mr. Berg review filings and certainly had my client</p> <p>8 -- particularly Mr. Berg, had the benefit of Exhibit 190.</p> <p>9 Quite candidly, I -- I don't know what his testimony</p> <p>10 would've been now, because he didn't have the benefit of a -</p> <p>11 - of a document that's dated November 4, 2019. I mean, he --</p> <p>12 he -- he should've had it.</p> <p>13 HEARING OFFICER HANNAN: Well, should've, would've,</p> <p>14 could've.</p> <p>15 MR. CHEN: Yes.</p> <p>16 HEARING OFFICER HANNAN: The question is I'm letting it</p> <p>17 in.</p> <p>18 MR. CHEN: Yeah. I know.</p> <p>19 HEARING OFFICER HANNAN: If you need to recall Mr. Berg</p> <p>20 -- I know. If you need to recall Mr. Berg, you're welcome --</p> <p>21 you can do that.</p> <p>22 MR. CHEN: I will tell you right now -- I apologize.</p> <p>23 HEARING OFFICER HANNAN: I know what you're go- --</p> <p>24 well, go ahead.</p> <p>25 MR. CHEN: I -- I contacted Mr. Kline a couple weeks</p>

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27 (105 to 108)

<p>105</p> <p>1 ago about Mr. Berg and we reached an agreement. There's a</p> <p>2 letter that I sent about -- about that. Mr. Berg is not</p> <p>3 available today, Monday or Tuesday.</p> <p>4 That's the reason why we reached an agreement to</p> <p>5 present him on the 5th and I know -- I would be surprised if</p> <p>6 upon seeing at least Exhibit 190 that Mr. Berg would not</p> <p>7 have something to say as a consequence of receiving that</p> <p>8 information.</p> <p>9 HEARING OFFICER HANNAN: Well, what I will do -- you</p> <p>10 know, we can do a couple of things. We can -- I don't want</p> <p>11 to -- we can schedule another hearing date or he's welcome</p> <p>12 to submit written comments.</p> <p>13 MR. CHEN: Well, there's a problem with cross-</p> <p>14 examination if there was written comments and certainly, if</p> <p>15 I were Mr. Kline, I -- I -- that would not work for -- for</p> <p>16 me.</p> <p>17 HEARING OFFICER HANNAN: Well --</p> <p>18 MR. KLINE: The --</p> <p>19 MR. CHEN: But let -- let's --</p> <p>20 MR. KLINE: -- the -- the DPS concept approval letter</p> <p>21 is confirmation of the plan that was described today, is</p> <p>22 acceptable to county. So there's no reason why Mr. Berg,</p> <p>23 having looked at that plan, would have any disagree- -- he</p> <p>24 might disagree with DPS conclusions, but the simple fact of</p> <p>25 the matter is it's approved and he -- he had to know that,</p>	<p>107</p> <p>1 process.</p> <p>2 MR. CHEN: Let's -- let's -- let's see how we are going</p> <p>3 today, Monday and Tuesday.</p> <p>4 HEARING OFFICER HANNAN: Okay. Let's get through Mr.</p> <p>5 Intriago, Mr. Kline.</p> <p>6 MR. KLINE: Yeah.</p> <p>7 HEARING OFFICER HANNAN: I -- I had one question of Mr.</p> <p>8 Intriago.</p> <p>9 MR. KLINE: Yes.</p> <p>10 HEARING OFFICER HANNAN: Stormwater man- -- the pipe --</p> <p>11 MR. INTRIAGO: Mm-hmm.</p> <p>12 HEARING OFFICER HANNAN: -- the -- the capitol pro- --</p> <p>13 is it capitol project?</p> <p>14 MR. INTRIAGO: Ma'am, that -- this project's being</p> <p>15 proposed by our client. I will be fine in clarifying. So the</p> <p>16 discussion we have with everybody is that the cli- -- my</p> <p>17 client is the one that will be responsible for those</p> <p>18 improvements. So it's -- it's a -- it's a -- it's a property</p> <p>19 --</p> <p>20 HEARING OFFICER HANNAN: Yes, but --</p> <p>21 MR. CHEN: It's a what?</p> <p>22 MR. INTRIAGO: It's a -- it's a -- it's a property</p> <p>23 improvement that will be for public right-of-way.</p> <p>24 HEARING OFFICER HANNAN: I thought they had to go</p> <p>25 through the C- -- C- --</p>
<p>106</p> <p>1 because, you know, they -- they did their own research.</p> <p>2 We know that they called everybody else in the county.</p> <p>3 So I know that they were aware they had been approved.</p> <p>4 MR. CHEN: I will say that --</p> <p>5 HEARING OFFICER HANNAN: Okay.</p> <p>6 MR. CHEN: -- if I may be heard.</p> <p>7 HEARING OFFICER HANNAN: Yeah.</p> <p>8 MR. CHEN: We have been tracking DPS on this. My</p> <p>9 clients have been tracking -- we -- and we pre-filed</p> <p>10 everything that was going through DPS on this issue and we</p> <p>11 pre-filed it.</p> <p>12 Now, you know, Mr. Kline can presume what Mr. Berg</p> <p>13 would say, but he does not know what Mr. Berg would say and</p> <p>14 he has not had the benefit of this document and it should've</p> <p>15 been pre-filed months ago so at least months ago Berg</p> <p>16 would've had the ability to look at it and his testimony may</p> <p>17 have been different than he gave yesterday, I don't know.</p> <p>18 HEARING OFFICER HANNAN: Well, I will give you the</p> <p>19 opportunity to -- to either bring Mr. Berg back or submit</p> <p>20 written comments to which Mr. Kline can respond. Those are</p> <p>21 the ways to address it.</p> <p>22 MR. CHEN: Thank you.</p> <p>23 MR. KLINE: Thank you.</p> <p>24 HEARING OFFICER HANNAN: And it's up to you. I will</p> <p>25 reconvene a hearing, if you wish, and provide the due</p>	<p>108</p> <p>1 MR. INTRIAGO: It has to go through right-of-way to be</p> <p>2 approved.</p> <p>3 HEARING OFFICER HANNAN: Isn't it --</p> <p>4 MR. INTRIAGO: Sorry.</p> <p>5 HEARING OFFICER HANNAN: Okay.</p> <p>6 MR. INTRIAGO: [inaudible] your question.</p> <p>7 HEARING OFFICER HANNAN: All right. Go ahead.</p> <p>8 MR. KLINE: Well, let me --</p> <p>9 HEARING OFFICER HANNAN: Keep testifying.</p> <p>10 MR. KLINE: All right. So -- yeah. So the question was</p> <p>11 asked yesterday who's going to pay for the storm drain</p> <p>12 improvements for the -- for the -- the length of the 1,100</p> <p>13 feet? Who's going to pay for that?</p> <p>14 MR. INTRIAGO: From my experience from previous</p> <p>15 projects and my conversations with [inaudible] project --</p> <p>16 MR. KLINE: Who's going to pay for it?</p> <p>17 MR. INTRIAGO: Mr. Srikanth Mandava is the per- --</p> <p>18 person responsible to build the project to the county</p> <p>19 standards at which point county will take ownership of this</p> <p>20 conveyance system as a property improvement.</p> <p>21 MR. KLINE: And what do you expect to hear from the</p> <p>22 county when the storm drain system goes in and we have</p> <p>23 outflow at the end of the pipe? What do you expect's going</p> <p>24 to happen [inaudible]?</p> <p>25 MR. INTRIAGO: Well, there will be a --</p>

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28 (109 to 112)

<p>109</p> <p>1 MR. KLINE: I'll let it go.</p> <p>2 HEARING OFFICER HANNAN: He's an expert, he can testify</p> <p>3 on hypotheticals.</p> <p>4 MR. CHEN: Okay. Yeah. I understand.</p> <p>5 HEARING OFFICER HANNAN: Assuming it's approved. Go</p> <p>6 ahead.</p> <p>7 MR. KLINE: Yeah.</p> <p>8 MR. INTRIAGO: Well -- so once we have the conveyance</p> <p>9 pipe approved, which technically, I don't see any reason why</p> <p>10 we wouldn't, we have -- I don't want to be any technical</p> <p>11 about it here, but it's basically make sure that the amount</p> <p>12 of water in that pipe is held by the pipe.</p> <p>13 And I heard yesterday that it -- that we -- basically,</p> <p>14 what we're doing of the proposal -- the intent of the design</p> <p>15 that we're doing is keeping this -- the pipe alignment</p> <p>16 almost exact- -- from the point that we connect to the</p> <p>17 existing pipe alignment to the outfall, the horizontal</p> <p>18 alignment of the pipe will be exactly the same.</p> <p>19 The vertical alignment of the pipe will -- will have</p> <p>20 minor modifications and the -- the -- the -- the main part</p> <p>21 of the modifications is that the pipe sizes are going to</p> <p>22 change to be able to convey the amount of water that we have</p> <p>23 now safely within the conveyance system.</p> <p>24 So I -- I anticipate the -- once we submit -- formerly</p> <p>25 submit this to the right-of-way team they will be ultimately</p>	<p>111</p> <p>1 books today that you have to address as part of this</p> <p>2 application, if you know of any?</p> <p>3 MR. INTRIAGO: I -- I don't know of any, sir. I'm</p> <p>4 sorry, I --</p> <p>5 MR. KLINE: All right. Okay.</p> <p>6 MR. INTRIAGO: -- was hoping to get --</p> <p>7 MR. KLINE: Okay. Does the use satisfy the requirements</p> <p>8 of the underlying RE-1 Zone in terms of the stand- -- the</p> <p>9 dimensional standards and requirements?</p> <p>10 MR. CHEN: Wait a minute, excuse me, how -- how did you</p> <p>11 last word that? You said dimensional?</p> <p>12 MR. KLINE: 59.3.1.6, the use tables in terms of the</p> <p>13 development standards in the RE-1 Zone.</p> <p>14 MR. CHEN: Oh, okay.</p> <p>15 MR. KLINE: Does it -- does it say --</p> <p>16 MR. CHEN: Whoa -- whoa -- whoa --</p> <p>17 HEARING OFFICER HANNAN: Wait, just a second. Which</p> <p>18 section of the code are you getting at?</p> <p>19 MR. KLINE: 59.3.1.6.</p> <p>20 HEARING OFFICER HANNAN: 59.3- -- oh, so you're going</p> <p>21 through the limited use standards?</p> <p>22 MR. KLINE: Yes, ma'am. Well, the -- the conditional</p> <p>23 use standards. Yeah.</p> <p>24 HEARING OFFICER HANNAN: I mean, conditional use</p> <p>25 standards. Okay. So -- okay. So --</p>
<p>110</p> <p>1 responsible to -- to take ownership of this system, to</p> <p>2 maintain the system that, you know, will be some back and</p> <p>3 forth of the approval process.</p> <p>4 MR. KLINE: I'm going to do some final questions then;</p> <p>5 okay? So 7.3.1. Mr. Intriago, are there any previous</p> <p>6 approvals that render the subject property that must be</p> <p>7 complied with in conjunction with this redevelopment</p> <p>8 approval, if you know of any?</p> <p>9 MR. INTRIAGO: Would you please rephrase that question,</p> <p>10 Mr. Kline?</p> <p>11 MR. KLINE: Sure.</p> <p>12 MR. INTRIAGO: I want to make sure I understand your</p> <p>13 question.</p> <p>14 MR. KLINE: Well, just is there any -- any -- as I say,</p> <p>15 any land development approvals that would con- -- alter the</p> <p>16 -- what you're proposing to do or have to be addressed as</p> <p>17 part of our development?</p> <p>18 MR. INTRIAGO: Well, you might've [inaudible] your</p> <p>19 question correctly, Mr. Kline. After -- if we successfully</p> <p>20 go through the conditional use, the next step will be to</p> <p>21 prepare engineering documents and engineering documents of</p> <p>22 WSSC.</p> <p>23 MR. KLINE: Okay.</p> <p>24 MR. INTRIAGO: No.</p> <p>25 MR. KLINE: Oh, no. Is there anything that's on the</p>	<p>112</p> <p>1 MR. KLINE: And -- and would also be -- include 7.3.</p> <p>2 Yeah.</p> <p>3 HEARING OFFICER HANNAN: Because it incorporates this?</p> <p>4 MR. KLINE: Yeah. Right.</p> <p>5 HEARING OFFICER HANNAN: Okay. So go -- go ahead.</p> <p>6 MR. KLINE: So very simply --</p> <p>7 HEARING OFFICER HANNAN: Let me -- let me just ask your</p> <p>8 question c- -- go ahead.</p> <p>9 MR. KLINE: Yeah. Does the pro- -- proposal meet the</p> <p>10 development standards of the RE-1 Zone?</p> <p>11 MR. INTRIAGO: Yes, sir.</p> <p>12 MR. KLINE: Okay. All right. And does the -- well, I</p> <p>13 want to just -- does the use comply with the standards set</p> <p>14 forth in Section 3.4.4.F, which for everybody in the room,</p> <p>15 that is the development standards for a child daycare center</p> <p>16 of over 30 children.</p> <p>17 MR. INTRIAGO: Yes, sir.</p> <p>18 MR. KLINE: Okay. All -- is all required parking behind</p> <p>19 the front building line?</p> <p>20 MR. INTRIAGO: Yes, sir.</p> <p>21 MR. KLINE: Okay. Is there adequate area for the pickup</p> <p>22 and discharge of children provided? And you probably --</p> <p>23 using Exhibit 148 probably ought to explain your answer.</p> <p>24 MR. INTRIAGO: Yes, sir. I explained that yesterday,</p> <p>25 but I can do it again.</p>

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29 (113 to 116)

<p>113</p> <p>1 MR. KLINE: Just quickly.</p> <p>2 MR. INTRIAGO: Yeah. Quickly. Yes. It does. We have 12</p> <p>3 spaces assigned for that drop-off. There may be the -- the</p> <p>4 one- -- there'll be the ones closer to the main entrance on</p> <p>5 the south side of the building and some on the west side of</p> <p>6 the parking aisle as well. The rest will be assigned for</p> <p>7 staff and administrators.</p> <p>8 MR. KLINE: I don't have the code section on this, but</p> <p>9 there is a standard that there has to be enough land area to</p> <p>10 have at least 500 square feet per child. Do you meet that</p> <p>11 standard?</p> <p>12 MR. INTRIAGO: Yes, sir. We do meet that standard as</p> <p>13 well.</p> <p>14 MR. KLINE: Do you exceed that standard?</p> <p>15 MR. INTRIAGO: We exceed that standard as well.</p> <p>16 MR. KLINE: Do you happen to know the [inaudible]</p> <p>17 ratio?</p> <p>18 MR. INTRIAGO: I do have the number, if I may. Give me</p> <p>19 one second. So the net little area after [inaudible]</p> <p>20 location is 1- -- 122,401 square feet divided by 9- -- 195</p> <p>21 students, that's 627-square-foot per child.</p> <p>22 MR. KLINE: Right. That's in excess of 500?</p> <p>23 MR. INTRIAGO: Yes, sir.</p> <p>24 MR. KLINE: Thank you. Section 59.7.3.1.E, or the</p> <p>25 necessary findings for conditional use, from your civil</p>	<p>115</p> <p>1 services and the --</p> <p>2 MR. INTRIAGO: -- we -- we -- what we studied was we --</p> <p>3 I created a fi- -- fire lane exhibit that we discussed and</p> <p>4 submitted to me. So --</p> <p>5 HEARING OFFICER HANNAN: No. No. No. Oh, I thought you</p> <p>6 were talking about the adequacy of fire stations and police</p> <p>7 stations.</p> <p>8 MR. KLINE: Yeah. Do you -- do you -- well, I -- I bel-</p> <p>9 -- that actually should've been Mr. Wolford. So I'll -- I'll</p> <p>10 just withdraw that question.</p> <p>11 HEARING OFFICER HANNAN: Okay.</p> <p>12 MR. INTRIAGO: Yeah. Yeah. I didn't do that, sir.</p> <p>13 MR. KLINE: Is there anything from an engineering point</p> <p>14 of view that would have an adverse effect on the use and</p> <p>15 peaceful enjoyment of adjoining properties?</p> <p>16 MR. CHEN: Objection.</p> <p>17 HEARING OFFICER HANNAN: He's not asking for -- I'm</p> <p>18 going to let it in, give it the weight it deserves</p> <p>19 recognizing that he's not a land planner.</p> <p>20 MR. KLINE: Yeah. Well -- but I think, like Ms. --</p> <p>21 HEARING OFFICER HANNAN: Mitchell.</p> <p>22 MR. KLINE: Ms. Mitchell, thank you. Yeah. There was a</p> <p>23 question [inaudible] --</p> <p>24 HEARING OFFICER HANNAN: I understand. So I'm -- that's</p> <p>25 why I'm letting it in.</p>
<p>114</p> <p>1 engineering point of view, do you believe that the use, as</p> <p>2 you've described today, would be harmonious with and not</p> <p>3 alter the character of the surrounding neighborhood?</p> <p>4 MR. CHEN: Objection; that's beyond his expert</p> <p>5 expertise.</p> <p>6 HEARING OFFICER HANNAN: Because -- what?</p> <p>7 MR. CHEN: Among other things, it's beyond his</p> <p>8 expertise and -- and he's an engineer. I mean, he can't give</p> <p>9 an opinion that's a [inaudible].</p> <p>10 HEARING OFFICER HANNAN: For what it's worth, you have</p> <p>11 Mr. Wolford, I believe, testify to that. So I don't think</p> <p>12 he's --</p> <p>13 MR. KLINE: Yeah.</p> <p>14 HEARING OFFICER HANNAN: -- technically, Mr. Chen is</p> <p>15 correct.</p> <p>16 MR. KLINE: Thank you. Will the use be served by</p> <p>17 adequate public services, such as what you described and</p> <p>18 others, such as fire, rescue and those services?</p> <p>19 MR. INTRIAGO: Yes, sir.</p> <p>20 MR. KLINE: Okay. From a -- a civil engineering</p> <p>21 perspective, is -- do you see any potential harm surrounding</p> <p>22 prop- --</p> <p>23 HEARING OFFICER HANNAN: Wait a minute --</p> <p>24 MR. INTRIAGO: Well --</p> <p>25 HEARING OFFICER HANNAN: -- did you study the fire</p>	<p>116</p> <p>1 MR. CHEN: Well, it gets to that point, Ms. Mitchell is</p> <p>2 -- is a neighbor. She was testifying as a layperson of</p> <p>3 observations and concerns that she had. This area of</p> <p>4 expertise is an engineer. The question, though, goes beyond</p> <p>5 merely engineering capability for the proposed land use.</p> <p>6 It goes to an opin- -- a professional opinion as far as</p> <p>7 it's harmony and compatibility within adjacent properties</p> <p>8 and respectfully -- and I -- I understand your ruling, but</p> <p>9 just for the record, respectfully I believe that that type</p> <p>10 of information from this type of witnesses is not for -- is</p> <p>11 not appropriate and he's not qualified to do it and quite</p> <p>12 frank- -- I think -- frankly, I don't think it's even been</p> <p>13 disclosed that he would give this type of an opinion, but I</p> <p>14 abide by your ruling.</p> <p>15 HEARING OFFICER HANNAN: I -- I heard what he said as</p> <p>16 far -- do -- do you want --</p> <p>17 MR. KLINE: I -- I --</p> <p>18 HEARING OFFICER HANNAN: -- I think you caveated it by</p> <p>19 --</p> <p>20 MR. KLINE: -- I qualified it as a civil en- -- civil</p> <p>21 engineering --</p> <p>22 HEARING OFFICER HANNAN: -- an engineering --</p> <p>23 MR. KLINE: -- background. Yes.</p> <p>24 MR. CHEN: Yes. Yes.</p> <p>25 HEARING OFFICER HANNAN: So I'm -- I'm going to let him</p>

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30 (117 to 120)

<p>117</p> <p>1 proceed with those questions and give them the weight they</p> <p>2 deserve recognizing that he is not a land planner and has</p> <p>3 not characterized the neighborhood and has -- so --</p> <p>4 MR. KLINE: Okay. Thank you.</p> <p>5 HEARING OFFICER HANNAN: -- you can continue solely</p> <p>6 from your --</p> <p>7 MR. KLINE: Yes.</p> <p>8 HEARING OFFICER HANNAN: -- experience as an engineer.</p> <p>9 MR. INTRIAGO: Yes, ma'am. Would you please repeat the</p> <p>10 question, Mr. Kline? I forgot.</p> <p>11 MR. KLINE: From a civil engineering perspective, do</p> <p>12 you envision any adverse effect on surrounding properties?</p> <p>13 MR. INTRIAGO: Well, Mr. Kline, as a civil engineer, we</p> <p>14 -- my desire is always for the safe and welfare of -- of --</p> <p>15 of the public. So I don't foresee any safety problems with</p> <p>16 the design I put on this -- on this plan from the safety and</p> <p>17 welfare of the -- of the public.</p> <p>18 MR. KLINE: That will conclude my questioning of Mr.</p> <p>19 Intriago.</p> <p>20 HEARING OFFICER HANNAN: Okay. We're going to take a --</p> <p>21 what time do you -- how much time do you think we will need</p> <p>22 for the two appraisal witnesses?</p> <p>23 MR. CHEN: Mr. Kline and I briefly spoke about that</p> <p>24 beforehand. We -- I think both of us would like to have both</p> <p>25 of those witnesses appear this afternoon and we would like</p>	<p>119</p> <p>1 MR. CHEN: -- to then present it to [inaudible].</p> <p>2 HEARING OFFICER HANNAN: Now, I did check with the</p> <p>3 court reporter, he can stay later than 5:00.</p> <p>4 MR. CHEN: Yes. I under- -- I checked too. I asked that</p> <p>5 also.</p> <p>6 MR. KLINE: I -- I might ask if we might change that a</p> <p>7 little bit and the reason I say that is I have a -- a</p> <p>8 witness who's come from Ohio and does not -- had not planned</p> <p>9 to spend the weekend here.</p> <p>10 MR. CHEN: Well --</p> <p>11 MR. KLINE: So I want to make sure that I dispose --</p> <p>12 MR. CHEN: Okay.</p> <p>13 MR. KLINE: -- of the architect, which I think is</p> <p>14 probably a 30 to 45-minute --</p> <p>15 MR. CHEN: Okay.</p> <p>16 MR. KLINE: -- so it's either a matter of --</p> <p>17 MR. CHEN: Well, let me ask you this question, Counsel,</p> <p>18 if we push Mr. Intriago behind everybody --</p> <p>19 MR. KLINE: Right.</p> <p>20 MR. CHEN: -- that's acceptable to the -- the applicant</p> <p>21 to do --</p> <p>22 MR. KLINE: Yeah. Yeah.</p> <p>23 MR. CHEN: -- I mean, to -- I mean, I -- I'm</p> <p>24 sympathetic to what Mr. --</p> <p>25 HEARING OFFICER HANNAN: So what do you want, the</p>
<p>118</p> <p>1 them to be as short as possible because of time constraints.</p> <p>2 I will tell you that I have adjusted my questioning, both</p> <p>3 cross-examination and direct, to streamline the questioning.</p> <p>4 There's written reports from both witnesses --</p> <p>5 HEARING OFFICER HANNAN: Right.</p> <p>6 MR. CHEN: -- in the record. So --</p> <p>7 MR. KLINE: I -- I guess, 45 minutes apiece including</p> <p>8 cross-examination.</p> <p>9 HEARING OFFICER HANNAN: I guess my question is do you</p> <p>10 want to follow up after -- it's quarter to 12:00.</p> <p>11 MR. KLINE: Yeah.</p> <p>12 HEARING OFFICER HANNAN: We can break for lunch and</p> <p>13 follow up with cross-examination or we can postpone Mr.</p> <p>14 Intriago's cross-examination to make sure we get the two</p> <p>15 appraisers in.</p> <p>16 MR. CHEN: Good question. I'm thinking that we can get</p> <p>17 -- I -- I think we can get all three, meaning finishing --</p> <p>18 HEARING OFFICER HANNAN: Okay.</p> <p>19 MR. CHEN: -- I -- I mean, the -- the goal from my end</p> <p>20 today is to conclude Mr. Intriago's testimony and then both</p> <p>21 of the appraisers and probably logically the way to handle</p> <p>22 it is have a luncheon break, then pick up with Mr. Intriago</p> <p>23 to get that out of the way and we should still, knock on</p> <p>24 wood, be early enough in the -- in the day --</p> <p>25 HEARING OFFICER HANNAN: Okay.</p>	<p>120</p> <p>1 architect and then the two appraisers?</p> <p>2 MR. CHEN: Yeah. Why don't we --</p> <p>3 MR. KLINE: I -- I think the appraisers we can knock</p> <p>4 off in an hour and a half and that would give us enough</p> <p>5 time, I think, for the architect as well and then --</p> <p>6 MR. CHEN: Okay. Then we'll bring --</p> <p>7 MR. KLINE: -- and then there may -- I think there's</p> <p>8 maybe some people going to show up who's going to want to</p> <p>9 testify at the end of the day today also.</p> <p>10 MR. CHEN: But yeah, are they --</p> <p>11 MR. KLINE: I -- I -- I would -- I would --</p> <p>12 MR. CHEN: -- are they your -- are they your witnesses</p> <p>13 that are going to be --</p> <p>14 MR. KLINE: -- I just know we're going to have one. I'm</p> <p>15 just not sure if he's coming back. I -- I would suggest that</p> <p>16 Mr. Intriago would be the one we would push off.</p> <p>17 MR. CHEN: Okay.</p> <p>18 MR. KLINE: I -- I -- I think that hurts you more than</p> <p>19 me.</p> <p>20 MR. CHEN: Okay.</p> <p>21 MR. KLINE: So you have to make that call.</p> <p>22 MR. CHEN: Look -- look, I -- I understand the problem</p> <p>23 with witnesses and so- -- someone should not have to stay</p> <p>24 over the weekend if they weren't planning. So we'll go along</p> <p>25 with what Mr. Kline is proposing.</p>

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31 (121 to 124)

<p>121</p> <p>1 HEARING OFFICER HANNAN: Okay. So as I hear it, we're</p> <p>2 going to break for lunch, we'll come back at 1:00 o'clock --</p> <p>3 MR. KLINE: Yeah.</p> <p>4 HEARING OFFICER HANNAN: -- or we can come back at --</p> <p>5 if you think you have enough time, we can come back at</p> <p>6 12:45. Mr. Chen?</p> <p>7 MR. CHEN: Let's do 1:00 o'clock.</p> <p>8 HEARING OFFICER HANNAN: Okay. 1:00 o'clock. We're</p> <p>9 going to excuse Mr. Intriago for the time being, but he</p> <p>10 needs to come back for cross-examination. We will take the</p> <p>11 two appraisers and then the architect; all right?</p> <p>12 MR. CHEN: Yeah. And I --</p> <p>13 HEARING OFFICER HANNAN: Okay.</p> <p>14 MR. CHEN: Question --</p> <p>15 HEARING OFFICER HANNAN: Yeah.</p> <p>16 MR. CHEN: -- what's the order of the appraisers?</p> <p>17 HEARING OFFICER HANNAN: I'm sorry?</p> <p>18 MR. CHEN: What is the order of the testimony of the</p> <p>19 two appraisers?</p> <p>20 HEARING OFFICER HANNAN: Well, it would be Mr. Kline's</p> <p>21 case in chief first and then we're essentially letting you</p> <p>22 take your rebuttal out of order. So it would be Mr. Kline</p> <p>23 and then your appraisers --</p> <p>24 MR. KLINE: Yes. Yeah.</p> <p>25 HEARING OFFICER HANNAN: -- unless you want something</p>	<p>123</p> <p>1 HEARING OFFICER HANNAN: All right.</p> <p>2 MR. KLINE: That's fine.</p> <p>3 MR. CHEN: Excellent.</p> <p>4 HEARING OFFICER HANNAN: Okay. With that, we're off the</p> <p>5 record until 1:00 o'clock.</p> <p>6 (Off the record at 11:48:27 a.m.)</p> <p>7 (Back on the record at 1:11:15 p.m.)</p> <p>8 HEARING OFFICER HANNAN: Is the court reporter ready?</p> <p>9 And are the parties ready?</p> <p>10 MR. KLINE: The petitioner's ready.</p> <p>11 MR. CHEN: Yes.</p> <p>12 HEARING OFFICER HANNAN: All right. We're back on the</p> <p>13 record at 1:15. I believe -- are we starting with the</p> <p>14 architect?</p> <p>15 MR. CHEN: No.</p> <p>16 HEARING OFFICER HANNAN: Is -- no?</p> <p>17 MR. CHEN: The -- the plan that Mr. Kline and I have</p> <p>18 discussed is we're going to go with the appraisers right now</p> <p>19 --</p> <p>20 HEARING OFFICER HANNAN: Okay. That's fine.</p> <p>21 MR. CHEN: -- and we're -- we're trying to get through</p> <p>22 as much this afternoon as possible.</p> <p>23 HEARING OFFICER HANNAN: Okay.</p> <p>24 MR. KLINE: And we also did come up with an agreement</p> <p>25 on the sequence of witnesses.</p>
<p>122</p> <p>1 different.</p> <p>2 MR. CHEN: Well, the -- the issue that I have is that</p> <p>3 you do not have your applicant's experts' report in the</p> <p>4 normal courts. What I have read is a response to my experts'</p> <p>5 report. So when I've read it and I've rea- -- gone through</p> <p>6 it, all that the Primrose appraiser is talking about is the</p> <p>7 report --</p> <p>8 HEARING OFFICER HANNAN: So you're suggesting that you</p> <p>9 go first and then have Mr. Kline's --</p> <p>10 MR. CHEN: Yeah.</p> <p>11 HEARING OFFICER HANNAN: -- expert respon- -- Mr.</p> <p>12 Kline, I leave that to you. Do you have a preference one way</p> <p>13 or the other?</p> <p>14 MR. KLINE: Well -- well, I -- I -- I certainly</p> <p>15 disagree with characterization of the appraisal, because it</p> <p>16 does have two parts, but it's -- whatever is most efficient.</p> <p>17 I -- I guess I probably ought to talk to my appraisers and</p> <p>18 say -- I'll -- I'll talk to him, but I -- I'm --</p> <p>19 HEARING OFFICER HANNAN: Well, let's do this then,</p> <p>20 let's break for lunch until 1:00 o'clock and when you get</p> <p>21 back, you can deci- -- you can tell me if you've reached an</p> <p>22 agreement on who should go first.</p> <p>23 MR. KLINE: Sure.</p> <p>24 MR. CHEN: Fine.</p> <p>25 MR. KLINE: Yeah.</p>	<p>124</p> <p>1 MR. CHEN: Yeah.</p> <p>2 HEARING OFFICER HANNAN: Okay.</p> <p>3 MR. KLINE: Mr. -- Mr. Chen's witnesses is going to go</p> <p>4 first and my witness will go second.</p> <p>5 HEARING OFFICER HANNAN: Okay.</p> <p>6 MR. CHEN: Yeah.</p> <p>7 HEARING OFFICER HANNAN: Great.</p> <p>8 MR. CHEN: And if there's anything new comes out and</p> <p>9 Mr. Kline's witness I'll recall, but the hope is that that</p> <p>10 won't happen because I'm going to combine everything in his</p> <p>11 direct --</p> <p>12 HEARING OFFICER HANNAN: Okay.</p> <p>13 MR. CHEN: -- including the criticism</p> <p>14 HEARING OFFICER HANNAN: I see what you're saying.</p> <p>15 Okay. Okay. Then you can call your expert.</p> <p>16 MR. CHEN: Thank you very much. My next witness would</p> <p>17 be Terrence McPherson. No. No. No. No. No. No. No.</p> <p>18 HEARING OFFICER HANNAN: That's his? Oh -- oh,</p> <p>19 coronavirus [inaudible]. I may have another one, but --</p> <p>20 MR. MCPHERSON: I'm good.</p> <p>21 MR. CHEN: Thank you.</p> <p>22 HEARING OFFICER HANNAN: All right. Please raise your</p> <p>23 right hand. Do you solemnly affirm under penalties of</p> <p>24 perjury that the statements you're about to make are the</p> <p>25 truth, the whole truth and nothing but the truth?</p>

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32 (125 to 128)

<p>125</p> <p>1 MR. MCPHERSON: I do.</p> <p>2 HEARING OFFICER HANNAN: Please state -- oh, go ahead,</p> <p>3 Mr. Chen.</p> <p>4 MR. CHEN: Mr. McPherson, would you please state your</p> <p>5 full name and your office address?</p> <p>6 MR. MCPHERSON: Yes. It's Terrence W. McPherson. My</p> <p>7 address is 7360 Guilford Drive, Suite 200, Frederick,</p> <p>8 Maryland 21704.</p> <p>9 MR. CHEN: And what is your occupation, sir?</p> <p>10 MR. MCPHERSON: I'm a real estate appraiser and</p> <p>11 consultant.</p> <p>12 MR. CHEN: Okay. You have filed a report in this</p> <p>13 proceeding; isn't that correct?</p> <p>14 MR. MCPHERSON: I have.</p> <p>15 MR. CHEN: And your credentials, as far as your</p> <p>16 background and -- and your licenses, is a part of that</p> <p>17 report; is that right?</p> <p>18 MR. MCPHERSON: It is.</p> <p>19 MR. CHEN: Madame Examiner, that is Exhibit 115F. I've</p> <p>20 had some conversations with Mr. Kline. Madame Examiner, I'm</p> <p>21 offering Mr. McPherson as a expert witness as a real estate</p> <p>22 appraiser.</p> <p>23 HEARING OFFICER HANNAN: Do you have any objection?</p> <p>24 MR. CHEN: No objection. Mr. McPherson's reputation is</p> <p>25 known by both myself and my -- our appraiser.</p>	<p>127</p> <p>1 value of the property and I decided to use a before and</p> <p>2 after analysis, which is a three-step method that's</p> <p>3 typically used in partial takings in a condemnation setting.</p> <p>4 And the first step involves estimating the value of the</p> <p>5 property without the influence of the conditional use and</p> <p>6 then the second step involves estimating the value of the</p> <p>7 property assuming the conditional use is constructed and</p> <p>8 that's subject to a hypothetical condition and the</p> <p>9 difference between the before and the after, that would be</p> <p>10 the diminution in value or the adverse effect in this case</p> <p>11 of a conditional use.</p> <p>12 MR. CHEN: And you've undertaken that type of an</p> <p>13 analysis in the -- in this case?</p> <p>14 MR. MCPHERSON: I have. Yes.</p> <p>15 MR. CHEN: Okay. And you've explained how you did that</p> <p>16 in your report; is that right, sir?</p> <p>17 MR. MCPHERSON: Yes. I did [inaudible].</p> <p>18 MR. CHEN: Okay. And based upon utilizing that analysis</p> <p>19 and those methodologies, what were your conclusions?</p> <p>20 MR. MCPHERSON: In the before situation, before the</p> <p>21 conditional use was constructed, I estimated the value of</p> <p>22 \$650,000, then in the hypothetical after valuation, assuming</p> <p>23 the conditional use was constructed, that value was</p> <p>24 \$585,000. The difference is \$65,000, which is attributed to</p> <p>25 the diminution in the economic value of the property due to</p>
<p>126</p> <p>1 HEARING OFFICER HANNAN: And you've text- -- testified</p> <p>2 as an expert in other pro- -- trial-type proceedings?</p> <p>3 MR. MCPHERSON: Yes. And -- in -- in those proceedings</p> <p>4 -- or in -- be- -- before this board -- not before you but</p> <p>5 before another examiner, I've testified at -- at -- with the</p> <p>6 department of justice and the federal court --</p> <p>7 HEARING OFFICER HANNAN: Okay.</p> <p>8 MR. MCPHERSON: -- bankruptcy court --</p> <p>9 HEARING OFFICER HANNAN: You -- you've convinced me. I</p> <p>10 just wanted to [inaudible].</p> <p>11 [laughter]</p> <p>12 Okay. Go ahead, Mr. Chen.</p> <p>13 MR. CHEN: Thank you. Mr. McPherson, I just referenced</p> <p>14 your report. You have prepared and filed a report that is in</p> <p>15 the record; is that right?</p> <p>16 MR. MCPHERSON: That's correct.</p> <p>17 MR. CHEN: Okay. Could you please, sir, since the --</p> <p>18 the written document is in the record and -- and I</p> <p>19 understand that the examiner has reviewed it and I'm sure</p> <p>20 Mr. Kline has -- could you just, in summary form, sir, give</p> <p>21 orally your -- the gist of your reporting, including your</p> <p>22 methodology in what you did and your -- your conclusions?</p> <p>23 MR. MCPHERSON: Yes. Excuse me. I was asked to estimate</p> <p>24 -- render an opinion of value as to whether the proposed</p> <p>25 conditional use would be -- adversely affect the economic</p>	<p>128</p> <p>1 the conditional use.</p> <p>2 MR. CHEN: Okay. Now, one of the properties in the</p> <p>3 immediate vicinity that I believe you addressed was the</p> <p>4 property located at 7- -- at 7500 Needwood Road; is that</p> <p>5 correct?</p> <p>6 MR. MCPHERSON: That's correct.</p> <p>7 MR. CHEN: And what was your -- and -- and I think</p> <p>8 you've got some updated information on that?</p> <p>9 MR. MCPHERSON: I do.</p> <p>10 MR. CHEN: Okay. Could you explain that property to the</p> <p>11 examiner and -- and then include with it your updated</p> <p>12 information?</p> <p>13 MR. MCPHERSON: Okay. Yes. The -- that property is</p> <p>14 located at the corner of Carnegie and Needwood. It's a --</p> <p>15 it's a new house. It was recently constructed and it -- it's</p> <p>16 recently sold. Just a little history, the -- the -- the lot</p> <p>17 was purchased in September, 2017 prior to the application</p> <p>18 for the conditional use.</p> <p>19 The -- Mr. Abebe paid \$280,000. I spoke to Mr. Abebe on</p> <p>20 February 24, 2020. He said that had he known that the</p> <p>21 conditional use was going to be applied for he wouldn't had</p> <p>22 purchased the -- the lot. He started construction, he said,</p> <p>23 in 2018 -- in January, 2018. He constructed the house and</p> <p>24 listed it with a Terring Wang and I believe it's August --</p> <p>25 or October, 2018 for \$1,499,000.</p>

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33 (129 to 132)

<p>129</p> <p>1 The price of the -- the -- the house was lowered -- the 2 list price was lowered to \$1,100,000 and then it was -- the 3 listing expired and it was relisted in June, 2019 for 4 \$995,000 and then it subsequently sold in July 30, 2019 for 5 \$920,000.</p> <p>6 So I asked Mr. Abebe what impact that -- the 7 conditional use application had and he said that each 8 realtor that had listed the property kept logs of the 9 comments from individuals considering buying the property 10 and he said there was a large number of responses of 11 potential buyers not wanting to purchase the property due to 12 the pending conditional use in anticipation that it would be 13 approved.</p> <p>14 And I asked Mr. Abebe what he thought the impact, if 15 any, was on this conditional use application and he said he 16 -- he couldn't quantify it, but he did say that the original 17 listing agent, Terry [sic] Wang, had called him -- or 18 Terring Wang after she found out what it sold for and she 19 indicated -- she said, if you didn't have the conditional 20 use, the property would've probably sold between \$1,100,000 21 to \$1,200,000, which would be a 16 percent to 23 percent 22 discount off the ultimate sale price.</p> <p>23 MR. CHEN: Okay. Now, the -- two methodologies that you 24 have employed --</p> <p>25 MR. MCPHERSON: Yes.</p>	<p>131</p> <p>1 the fact that the -- the houses that have sold -- or that 2 sold were entry-level housing. They were 1,300 square feet 3 and less, they fronted on New Hampshire Avenue, which is a 4 4-lane divided highway and it relates to the -- the economic 5 principle of mobility.</p> <p>6 When you don't have the income levels to -- and the 7 choices of where you can buy, then you're much more willing 8 to accept potentially negative influences, in this case, a 9 Citgo Gas Station. So I -- I thought it was relevant and 10 that's why I used it, plus there weren't -- there just 11 wasn't that -- there wasn't any data except for this that we 12 could find.</p> <p>13 So I adjusted each of the comparable sales and the 14 paired data sales in this case. Sale one was the property 15 between the Citgo and -- and the veterinarian clinic, sale 16 two was to the north and even -- it -- the veterinarian 17 clinic and sale two were separated by a road named Snyder 18 [ph] Road or Snyder Lane, I believe, but it was located 19 across from a church.</p> <p>20 So I adjusted for the differences between the two in 21 terms of number of bathrooms, basements, physical features 22 so then at the end of the day at the -- the adjusted price, 23 the only thing that was different between sale one, which is 24 located -- sandwiched between the two nonresidential uses 25 and sale two, which was adjoining the -- or north of the</p>
<p>130</p> <p>1 MR. CHEN: -- could -- could -- just for clarity in the 2 records, I would like you to identify each methodology and 3 why you utilized --</p> <p>4 MR. MCPHERSON: Okay.</p> <p>5 MR. CHEN: -- your particular methodologies.</p> <p>6 MR. MCPHERSON: Okay. So -- so now we're moving into 7 the after valuation. We -- I valued the property before 8 without the conditional use in place and the first step 9 would be to find comparable sales that have the same 10 situation, a residential dwelling, cu- -- preferably custom, 11 because that's what the -- the subject property is, it's a 12 custom-built house and that would be my comparable set.</p> <p>13 The problem was there weren't any sales and in the 14 absence of sales data, there are two other approaches you 15 can use. One is a paired data analysis where you find two 16 properties that are similar and then you isolate one of the 17 sales for the item you're trying to extract.</p> <p>18 In this case, what would be the impact of a residential 19 property sandwiched between two nonresidential uses and that 20 was the one approach and that involved two houses up on -- 21 excuse me, up on New Hampshire Avenue. The first sale was a 22 property that was sandwiched a Citgo Gas Station and a 23 veterinarian clinic.</p> <p>24 The Citgo Gas Station is more intense than what is 25 proposed with a subject, but I thought that was mitigated by</p>	<p>132</p> <p>1 veterinarian clinic and across from the church was the fact 2 that you had a residential property sandwiched and that 3 difference attribu- -- reduced to about 12 percent.</p> <p>4 And so again, in this whole process, since we don't 5 have sales, I'm trying to extract a -- an adjustment with a 6 negative impact or the -- the impact of a non- -- of a 7 residential property sandwiched between two nonresidential 8 uses. Then the next method that you -- that is accepted and 9 recognized is it's a survey method.</p> <p>10 You survey participants in the marketplace that are 11 experienced and have knowledge and in this case, we chose 12 residential and brokers that were active in the area. I sent 13 out an email --</p> <p>14 MR. CHEN: Yeah.</p> <p>15 MR. MCPHERSON: -- to obtain the site plan that was 16 proposed, an aerial showing the subject on the plan and a 17 series of questions and then after the realtor had that 18 information, they were called and interviewed to determine 19 what impact, if any, that they thought that the -- the 20 proposed Primrose Daycare would have on the subject 21 property.</p> <p>22 And we were fortunate enough to have five people 23 respond and that information is summarized on Page 46, 47 24 and I believe it is 48. And we also, as part of this 25 process, tried to find realtors that were very active in the</p>

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<p>133</p> <p>1 marketplace. In fact, the five realtors that we ana- -- or 2 interviewed for the past three years, they've sold over \$190 3 million worth of real estate. 4 So they were seasoned, they were -- these sales were 5 within a two-mile radius of the subject prop- -- or the 6 sales of these individuals that we interviewed, more than a 7 two-mile radius of the subject. 8 So we -- we felt that that was a -- would be a good 9 indication and the responses from the interviews range from 10 no effect, and that was a Mr. Klaus Breitsameter and in that 11 case, we felt that was an outlier, because Mr. Breitsameter 12 had a very strong accent and we weren't sure we were 13 conveying -- he was understanding what we were asking. 14 And then the rest of them ranged from 8 percent to 30 15 percent and then the Mr. Abebe's assessment was at 16 to 23 16 percent, which also falls within that range. 17 So as a result of the two different methodologies, I 18 selected a 10 percent negative impact due to the proposed 19 conditional use and I adjusted the value of the property 20 before the take downward 10 percent and that would be a 21 value of \$585,000 reflecting the construction of the daycare 22 and then the difference between these -- these two, the 23 values before and after, of \$65,000 is attributed to the 24 conditional use and that was my conclusion. 25 MR. CHEN: Now, is that a conservative conclusion?</p>	<p>135</p> <p>1 it's -- I think it's probably - -if I can just turn to -- to 2 Page 2- -- 47, when we interviewed the -- the realtors, none 3 of the real estate agents surveyed had encountered a similar 4 sized dwelling located between two nonresidential uses. 5 And so you're talking about five brokers that had sales 6 of over \$180 million and to not have a situation is 7 certainly an -- it's an indication that it's -- it's very 8 rare. 9 MR. CHEN: Okay. 10 HEARING OFFICER HANNAN: May I just interrupt one 11 second? 12 MR. CHEN: Go right ahead. 13 HEARING OFFICER HANNAN: I had a question. I -- I think 14 I remembered you testified, but I remember having a question 15 last night. When you did this survey -- 16 MR. MCPHERSON: Yes. 17 HEARING OFFICER HANNAN: --- did you -- was it any -- 18 did you ask them any conditional use or did you forward -- I 19 think you said you forwarded them this plan. 20 MR. MCPHERSON: Yes. If you -- if you turn to the -- 21 the -- the -- the back of the report, that was the -- 22 HEARING OFFICER HANNAN: I'm not sure I got there. No, 23 I'm teasing, go ahead. 24 MR. MCPHERSON: Okay. It's -- it's a cover letter dated 25 October 29, 2019.</p>
<p>134</p> <p>1 MR. MCPHERSON: Well, I guess it's in the eye of the 2 beholder. The -- certainly, I could've been higher, but the 3 data -- I could've supported a higher adjustment, but I just 4 didn't have the data that -- I mean, there was so little 5 data I felt uncomfortable going any higher than that. 6 Somebody else could've looked at it and said, you know, 7 it was -- it was conservative. 8 MR. CHEN: Okay. So you utilized, for your report and 9 your conclusion, two separate methodologies? 10 MR. MCPHERSON: Correct. 11 MR. CHEN: Okay. Are you comfortable that those -- both 12 of those methodologies were appropriate for this type of an 13 analysis? 14 MR. MCPHERSON: Absolutely. Yes. 15 MR. CHEN: And you undertook those analyses utilizing 16 those methodologies in -- in accordance with normal and 17 usual standards and evaluation guidelines? 18 MR. MCPHERSON: Yes. That's -- that's what I would -- 19 that's what I do in any case and I felt that this captured 20 what I was after, what I was trying to isolate and that was 21 -- they were the best two approaches given the limited data. 22 There -- there was so little data. 23 MR. CHEN: And you've explained this through your 24 report? 25 MR. MCPHERSON: Yes. I have. And -- and also, it's --</p>	<p>136</p> <p>1 HEARING OFFICER HANNAN: Okay. 2 MR. MCPHERSON: And so that was sent as a PDF in an 3 email and then you -- if you flip the next page, there were 4 some more -- other questions and then if you keep flipping 5 the page, you can show -- you can see the site plan. 6 HEARING OFFICER HANNAN: Okay. All right. That was my 7 question. All right. Thank you. 8 MR. MCPHERSON: And so they -- and not everyone 9 responded. We tried other -- other realtors. We're not 10 paying them, they're -- it's out of -- we have to, I guess, 11 schmooze, I don't know -- we have to ask them -- because it 12 does take time and it took a lot of time to -- first, to 13 locate people that were active in this area, realtors -- 14 HEARING OFFICER HANNAN: Mm-hmm 15 MR. MCPHERSON: -- and the ones that would respond and 16 -- and that's -- that's what we did. 17 HEARING OFFICER HANNAN: Okay. 18 MR. CHEN: Now, the information that you've just 19 provided include the 7500 Needwood Road property; is that 20 right? 21 MR. MCPHERSON: Yes. It did. 22 MR. CHEN: And you reported your discussion with the 23 former owner of the property? 24 MR. MCPHERSON: Correct. 25 MR. CHEN: Now, that information you did not have at</p>

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<p>137</p> <p>1 the time you prepared your written report; is that correct?</p> <p>2 MR. MCPHERSON: That's correct. We --</p> <p>3 MR. CHEN: So it's not included in your re- -- report?</p> <p>4 MR. MCPHERSON: -- that's correct. We got that</p> <p>5 information -- as appraisers, you try to find cell phones,</p> <p>6 email addresses and we could never make contact with Mr.</p> <p>7 Abebe and finally we got a cell phone. He was kind enough to</p> <p>8 call me back and then he was kind enough to go through the</p> <p>9 interview.</p> <p>10 HEARING OFFICER HANNAN: And what was the percentage</p> <p>11 discount that you estimated as a result -- your opinion is</p> <p>12 as a result of this use? What was the --</p> <p>13 MR. MCPHERSON: Ten percent.</p> <p>14 HEARING OFFICER HANNAN: Ten percent. Okay.</p> <p>15 MR. MCPHERSON: Yes.</p> <p>16 MR. CHEN: Now, at the bot- -- I want to be clear, the</p> <p>17 Abebe information is not part of your written report?</p> <p>18 MR. MCPHERSON: It -- it is not. It is -- this is --</p> <p>19 these are the notes that I -- that I took from my</p> <p>20 conversation.</p> <p>21 MR. CHEN: I understand. Yeah. I -- you testified you</p> <p>22 tried, but you -- you didn't --</p> <p>23 MR. MCPHERSON: Right.</p> <p>24 MR. CHEN: -- when was the connection you've made with</p> <p>25 Abebe -- Abebe?</p>	<p>139</p> <p>1 should've put on the data valuation of my report was October</p> <p>2 27, 2019.</p> <p>3 MR. CHEN: I want to now update on the information that</p> <p>4 you received from, I think it's M- -- Mr. Posey?</p> <p>5 MR. MCPHERSON: Yes.</p> <p>6 MR. CHEN: Okay. Ma- -- Madame Examiner, just at this</p> <p>7 point, Mr. Posey will be testifying and I proffer that the</p> <p>8 information that was provided to Mr. McPherson will be</p> <p>9 provided through Mr. Posey and subject to full cross-</p> <p>10 examination.</p> <p>11 HEARING OFFICER HANNAN: Okay. Well, he can -- he can</p> <p>12 testify on a hypothetical too. So --</p> <p>13 MR. KLINE: Yeah. May I -- may I make a point?</p> <p>14 HEARING OFFICER HANNAN: Yeah.</p> <p>15 MR. KLINE: Mr. Chen was kind enough to file an -- a</p> <p>16 supplementary --</p> <p>17 HEARING OFFICER HANNAN: Right.</p> <p>18 MR. KLINE: -- pre-hearing statement. I'm surprised to</p> <p>19 hear that the information from the Abebe conversation and</p> <p>20 the Corey [sic] Posey conversation was not included in that,</p> <p>21 because this is all new to us and we're -- well -- well, one</p> <p>22 of the questions we're asked in preparation has anything</p> <p>23 changed, Jody, and I said, no, nothing's changed and we're</p> <p>24 hearing new numbers now today.</p> <p>25 MR. CHEN: We're not presenting new numbers, we're</p>
<p>138</p> <p>1 MR. MCPHERSON: February 24th.</p> <p>2 MR. CHEN: Okay. It's that recent that you got that</p> <p>3 information?</p> <p>4 MR. MCPHERSON: Yes. It's -- yes.</p> <p>5 MR. CHEN: Okay. Now, you have also received some</p> <p>6 additional information; isn't that correct, about -- about</p> <p>7 the property from the property owners?</p> <p>8 MR. MCPHERSON: Yes. It's -- it's involving assessment</p> <p>9 appeal.</p> <p>10 MR. CHEN: Okay. What --</p> <p>11 HEARING OFFICER HANNAN: Wait, about which property,</p> <p>12 the --</p> <p>13 MR. MCPHERSON: The subject -- subject property.</p> <p>14 MR. CHEN: The Kosary property.</p> <p>15 MR. MCPHERSON: Kosary.</p> <p>16 HEARING OFFICER HANNAN: Kosary. Okay.</p> <p>17 MR. MCPHERSON: Well, the subject property.</p> <p>18 MR. CHEN: Sorry, I apologize.</p> <p>19 HEARING OFFICER HANNAN: I wasn't sure if you were</p> <p>20 talking about the Mitchell's or -- okay. The Kosary</p> <p>21 property.</p> <p>22 MR. CHEN: I apo- -- that was my fault. That was my</p> <p>23 fault.</p> <p>24 HEARING OFFICER HANNAN: Go ahead.</p> <p>25 MR. MCPHERSON: And -- and the other thing I guess I</p>	<p>140</p> <p>1 relying upon the written report. There's been updated</p> <p>2 information that quite candidly, I did not have at the time</p> <p>3 we filed the supplemental, but we are relying upon the</p> <p>4 written report and what -- we're giving the examiners</p> <p>5 ongoing information developed since then.</p> <p>6 HEARING OFFICER HANNAN: Well, I gave Mr. Intriago some</p> <p>7 leeway.</p> <p>8 MR. KLINE: Right. I understand.</p> <p>9 HEARING OFFICER HANNAN: So I'm going to give Mr. Chen</p> <p>10 some leeway.</p> <p>11 MR. KLINE: I -- I am -- I --</p> <p>12 HEARING OFFICER HANNAN: I understand.</p> <p>13 MR. KLINE: -- I'm trying to make a point. Yeah.</p> <p>14 HEARING OFFICER HANNAN: I -- I do understand your</p> <p>15 point.</p> <p>16 MR. CHEN: And as I said, this information has been re-</p> <p>17 -- recently shared by Mr. Posey to Mr. McPherson and Mr.</p> <p>18 Posey will be testifying hopefully even today, certainly on</p> <p>19 Monday, providing this information. Okay. Mr. McPherson,</p> <p>20 what is the information that you've received from Mr. Posey?</p> <p>21 MR. MCPHERSON: It was a letter to the State Department</p> <p>22 Assessments and Taxation requesting a reduction of the</p> <p>23 assessment and the letter indicated was due to the proximity</p> <p>24 to the adjoining church and that -- there was a subsequent</p> <p>25 reassessment notice that was sent out that resulted in a 7.1</p>

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<p>141</p> <p>1 percent decline or reduction in the assessed value with full 2 cash value, which is equivalent to market. 3 MR. CHEN: Right. Okay. Is that -- 4 MR. MCPHERSON: And that was in 2018. That was when the 5 request was sent out. 6 MR. CHEN: -- is that information consistent with your 7 conclusion? 8 MR. MCPHERSON: It falls within the range of the people 9 that I surveyed, yes, of the realtors. 10 HEARING OFFICER HANNAN: Well, what -- well, you say 11 the first one was 7.1 percent -- 12 MR. MCPHERSON: Yes. 13 HEARING OFFICER HANNAN: -- and then there was an 14 additional reduction, did you say? 15 MR. MCPHERSON: No. No. It was -- it was just the -- 16 there was a request to reduce the -- the assessment, but 17 they got an assessment notice that -- and -- and the 18 assessment went up and it was appealed and then the State 19 Department of Assessments and Taxation reduced it and that 20 reduction equaled 7.1 percent. 21 HEARING OFFICER HANNAN: Okay. 22 MR. CHEN: Now, you've also, as I understand it, had an 23 opportunity to receive and read a copy of a report that has 24 been prepared by Merit Real Estate Analysis; is that 25 correct, sir?</p>	<p>143</p> <p>1 infill development on the subject property and then there 2 was a partial review of my appraisal. 3 MR. CHEN: Okay. Let -- let me just stop you just 4 briefly. On the neighborhood? 5 MR. MCPHERSON: Yes. 6 MR. CHEN: Was there a difference in neighborhoods that 7 was being considered by the two reports? 8 MR. MCPHERSON: I'm not -- I -- I think -- I'm not 9 totally sure, but I -- I -- I think the neighborhood that 10 was considered was the Rock Creek Area Master Plan 11 boundaries and mine were more condensed. I cut my boundary 12 off at Redland Road, because on the west side, it's more 13 multifamily intensive development. 14 And so I -- my boundaries were Redland Road to the 15 west, Rock Creek Regional Park to the east, Needwood Golf 16 Course, Crabbs Branch and Crabbs Branch Way to the south and 17 to the north, Mill Creek Valley Park. 18 MR. CHEN: Okay. Okay. And go -- I interrupted you, now 19 continue. 20 MR. MCPHERSON: Okay. Good. And then I also mentioned 21 in my neighborhood that there was some limited infill in -- 22 in -- in my immediate neighborhood. 23 MR. CHEN: Okay. 24 MR. MCPHERSON: Okay. And so on Pages 9, 18 and 23, it 25 was mentioned that I didn't really address where the subject</p>
<p>142</p> <p>1 MR. MCPHERSON: Yes. Yes. 2 MR. CHEN: And that report has criticisms of your 3 report; isn't that correct, sir? 4 MR. MCPHERSON: Yes. 5 MR. CHEN: Okay. Can you address -- and I'm asking you 6 to do this in a summary form, but I want you to be as 7 comprehensive as possible. 8 MR. MCPHERSON: Okay. 9 MR. CHEN: The criticisms that have been levied at your 10 report by the report by Merit Real Estate Analysis -- 11 [inaudible] understand -- I apologize on the -- Judge, do 12 you have the exhibit number on that? 13 MR. KLINE: [inaudible] on the Merit report? 14 MR. CHEN: Yeah. I should've pulled it -- 15 HEARING OFFICER HANNAN: 163A. Wait, are you talking 16 about -- 17 MR. CHEN: Yes. You've got it. 18 HEARING OFFICER HANNAN: -- here, 163A? 19 MR. MCPHERSON: Yeah. That's right. 20 MR. CHEN: Yeah. That -- that's 163A. 21 HEARING OFFICER HANNAN: That's what I was wondering. 22 MR. CHEN: So -- 23 MR. MCPHERSON: Okay. Yes. All right. The -- so the 24 review was -- it's -- actually, it's two parts. One was a 25 description of the -- of the neighborhood and the impact of</p>	<p>144</p> <p>1 property fit in terms of location and infill. I didn't 2 expand greatly on it, but I did mention on Page 17 there's 3 been limited recent building the immediate area due to the 4 available established nature of the area, but I think we all 5 agree it's an established subdivision. 6 It's just the impact of the infill that -- that -- that 7 may be the reason for the -- for the disagreement. 8 HEARING OFFICER HANNAN: What page is that? 9 MR. MCPHERSON: On my report, it's Page 17 and then on 10 Ms. Vandermause's, it's on Page 9, 18 and 23, I believe. 11 HEARING OFFICER HANNAN: Okay. 12 MR. MCPHERSON: And so it was mentioned that -- and I'm 13 not sure what page, but that there had been some infill 14 development. There had been infill development gradually 15 taking place in the neighborhood. 16 MR. CHEN: Is that by -- by Merit? 17 MR. MCPHERSON: Yes. 18 MR. CHEN: Okay. Go ahead. 19 MR. MCPHERSON: Yes. And that -- it mentioned that 20 after the subject house at depose Kasory property was built 21 in 1996, that there had been a gradual change of infill, but 22 I looked in the immediate area and the only ones I could 23 find in 24 years or -- or quarter of a century there were 2 24 projects. 25 One was 7500 Needwood, which is the new devel- -- new</p>

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<p>145</p> <p>1 house and the other is the Taiwanese Presby- -- Presbyterian 2 Church to the east. 3 MR. CHEN: Okay. So you said 25 years, quarter of a 4 century? 5 MR. MCPHERSON: Yes. 6 MR. CHEN: What is -- what are you -- how do you get to 7 that? 8 MR. MCPHERSON: Well, the house was -- was built in 9 1996. Today -- 10 MR. CHEN: Whose house? 11 MR. MCPHERSON: The Kosary's, the subject property -- 12 MR. CHEN: Okay. So -- okay. 13 MR. MCPHERSON: -- 7416 Needwood. 14 MR. CHEN: Okay. 15 MR. MCPHERSON: And today is 2020. So -- 16 MR. CHEN: Okay. 17 MR. MCPHERSON: -- it's 24 years. 18 MR. CHEN: Okay. So it's your testimony that based upon 19 your research, at least, during the intervening 25 years, as 20 far as any, quote, "infill development," it's been the 2 21 properties that you've just identified? 22 MR. MCPHERSON: It's -- right. It's -- they're very 23 limited, which is consistent with what I'd said. And then on 24 Page 23 -- 25 HEARING OFFICER HANNAN: Of which report?</p>	<p>147</p> <p>1 redevelopment for -- for a subdivision. 2 HEARING OFFICER HANNAN: Okay. 3 MR. MCPHERSON: Okay. That's -- that's it. And you can 4 see that there's a -- there's a red bullet and that's the 5 subject. 6 HEARING OFFICER HANNAN: Yes. 7 MR. MCPHERSON: Right above that, that is the -- 8 HEARING OFFICER HANNAN: Oh. 9 MR. MCPHERSON: -- this -- the house that is older and 10 would be potentially redeveloped. So the -- I -- I just 11 think it needs to be made clear that infill development can 12 take two ways. It can be residential, it can be commercial 13 or nonresidential. The change in the neighborhood and infill 14 development with residential uses actually en- -- can 15 enhance the values of the property. 16 It's -- it's -- it's conformity. And so even though a 17 house may be built in front of -- of the Kosary's and 18 redeveloped with a house there's no way can compare that to 19 a daycare or -- or a -- or a -- a nonresidential use. So I - 20 - I just thought that needed to -- to be made -- made clear. 21 MR. CHEN: Are we in the right location for that 22 property? 23 MR. MCPHERSON: Yes. 24 MR. CHEN: Because you're saying north -- I mean, I'm 25 not --</p>
<p>146</p> <p>1 MR. MCPHERSON: Of the Merit report. 2 HEARING OFFICER HANNAN: Okay. 3 MR. MCPHERSON: Let's see here, it's the second 4 paragraph on the bottom. It -- it mentions that development 5 -- east of Redland Road was primarily residential 6 subdivisions of detached houses and it highlights the areas 7 of -- of discussion and then the last paragraph said 16 of 8 the 24 properties highlighted in yellow are improvement 9 homes built between 1933 and 1965. 10 These homes are susceptible to redevelopment, case in 11 point and it mentions the -- the -- the property to the west 12 of the subject and -- 13 MR. CHEN: 75- -- 7500? 14 MR. MCPHERSON: 7500 Needwood, I'm sorry, yes. 15 MR. CHEN: Okay. 16 MR. MCPHERSON: And so I guess that -- 17 HEARING OFFICER HANNAN: Wait, I -- I'm looking at 7420 18 Needwood. These homes are susceptible to redevelopment, a 19 case in point. Is the dwelling just to the north of the 20 subject prop- -- 21 MR. MCPHERSON: Okay. Well, that is the over- -- 22 HEARING OFFICER HANNAN: -- am I on the wrong page? 23 MR. MCPHERSON: No. You're right and that's -- that's a 24 good point. The -- the -- the property to the north of the 25 subject is an older house that would be of potential for</p>	<p>148</p> <p>1 MR. MCPHERSON: Yes. If you -- if you look at the -- 2 the red bullet or the red dot -- 3 MR. CHEN: Yes. 4 MR. MCPHERSON: -- that's the subject and then the 5 property immediately -- 6 MR. CHEN: Okay. Got you. Okay. Got you. 7 MR. MCPHERSON: -- to the other one. Yeah. So that 8 would -- that would be the -- it's -- it's a little bungalow 9 type house that's -- that's -- that's older. 10 MR. CHEN: And so in that regard, the potential is for 11 redevelopment with another residential property? Is that -- 12 MR. MCPHERSON: If -- if it would be residential, that 13 would actually be an enhancement in value I think as 14 compared to -- 15 MR. CHEN: Given the nature of the property as it 16 currently exists? 17 MR. MCPHERSON: Right. Well, the -- the whole 18 neighborhood is -- is residential, it's RE, it's large lots 19 and -- and that's one thing I -- I didn't touch on, but all 20 of the realtors that we interviewed said that this 21 neighborhood is attractive because it has large lots, it's 22 closer to the Metro, it's close to major roads and they felt 23 that the typical buyer liked the privacy of their backyard. 24 And so the adverse effect by the conditional use would 25 really have that negative impact on -- on the economic value</p>

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<p>149</p> <p>1 of the -- of the property -- the fair market value. So let's 2 see -- okay. On Page 25 and 26, that's the 7500 Needwood on 3 Page 25. 4 HEARING OFFICER HANNAN: Okay. 5 MR. MCPHERSON: And then at the bottom, it -- it -- it 6 mentions that -- of -- of 25, it mentions that the -- that 7 the property is susceptible to change and I think later in - 8 - in the report it references the height of the -- of the 9 detached house, which is just a traditional colonial 10 residential. 11 So it's -- it is in conformity with the neighborhood. 12 So that -- that would not be an issue and I think that's 13 addressed on Page 26, yes, that the -- the height is -- of a 14 modern 2-story house is typically 2- -- 30 to 35 feet, which 15 is larger or -- or taller than -- than the -- than the 16 existing house in the neighborhood and -- but my point is 17 that it's residential, it's -- it's consistent, it's with -- 18 with the neighborhood. 19 Then on Page 27, there was some discussions about the 20 impact of the church next door and how that -- that is a 21 permitted use and -- and could -- could also be fit on the 22 school site -- the -- the daycare site, but what's not 23 mentioned is that the intensity of the use for the Primrose 24 Daycare as compared to the church hours the perimeter of the 25 church is -- or the perimeter of the daycare is 5 days a</p>	<p>151</p> <p>1 MR. CHEN: In your opinion? 2 MR. MCPHERSON: In my opinion. Everything I'm saying is 3 my opinion. Yes. And so let's see, then on Page 28, it 4 mentions that -- apologize, let's see, lose my place. On -- 5 okay. Then on -- on -- on Page 29, it mentions on the next 6 page down at the bottom of the page, last paragraph on the 7 bottom, "On the next page is an illustration of a single- 8 family detached dwelling stacked on a long parcel served by 9 a common driveway." 10 And if you turn to Page 30, it shows a configuration of 11 pre-lots that are stacked, but the main difference, which 12 this is significantly different than the subject, it's not 13 sandwiched between two uses, also the distance -- I have 14 this -- I measured the distance from the parking lot to the 15 -- to the edge of the property line and to the west, it's 16 about 6- -- let's see, 6- -- 17 Oh, I'm -- I'm sorry, it's 94 feet from the edge of the 18 -- the -- the drive lane or the parking area to the property 19 line and that's the -- you can see that's the panhandle lot 20 and then there's also another parking area would be, I 21 guess, to the south and that's about 1- -- or 8- -- 68 feet 22 from the property line. 23 So it's completely different than the 12 feet that the 24 drive aisle will be on the subject property. It's -- it's 25 significantly set back. So I -- I don't think that's a good</p>
<p>150</p> <p>1 week 6:00 to 6:30 p.m., the church operates on weekends and 2 then a couple days in the evening. So it's -- it's -- it's 3 significantly different in terms of -- of intensity of use. 4 MR. CHEN: At least in your opinion? 5 MR. MCPHERSON: In my opinion it is, yes. And then 6 let's see, there's one other -- on Page 29 -- 7 HEARING OFFICER HANNAN: Can I ask you on 27 -- 8 MR. MCPHERSON: Yes. 9 HEARING OFFICER HANNAN: -- is that photograph -- are 10 you standing on the Kosary -- no, you're standing on the 11 church property? 12 MR. MCPHERSON: That was -- 13 HEARING OFFICER HANNAN: At the bottom of 27. 14 MR. MCPHERSON: -- that was the other appraiser's -- 15 MR. CHEN: That's in the Merit report. 16 HEARING OFFICER HANNAN: Oh, yes. Okay. I'm sorry. I 17 apologize. 18 MR. CHEN: You were about to get into another area. 19 MR. MCPHERSON: Yes. Okay. The -- on Page 29, it's 20 mentioned even single-family development and detached 21 development on perimeter site will have its impacts on the 22 environment of the subject, but the impacts would be 23 consistent with the -- if it's residential detached would be 24 consistent with the neighborhood, which would tend to 25 enhance the value of -- of -- of the property, not --</p>	<p>152</p> <p>1 comparison. 2 MR. CHEN: And by the way, these pipestem lots are re- 3 -- it's residential development; isn't that right? 4 MR. MCPHERSON: Yes. It's -- yes. It's all residential, 5 there's no sa- -- there's no commercial use of sandwiching 6 the properties. That's correct. Then beginning on Page 31, 7 there was a -- there was a discussion with a det- -- 8 detrimental conditions description, which is -- is part of 9 my analysis or my appraisal. It was mentioned that -- that - 10 - let's see, just a second. 11 I had my pages on -- I had my pages messed up, I'm 12 sorry. On Page 32, it mentions that on the third paragraph 13 from the bottom, the second sentence, some of the changed 14 conditions that this person has pointed out for the planned 15 daycare can also be experienced as a re- -- result of new 16 home development on adjacent properties. 17 Recreational amenities like tennis, basketball courts, 18 swimming pools, detached garages, accessory buildings, 19 including accessory dwellings can be added to the noise and 20 illumination that will cause change -- a setting -- and a 21 setting for the owners of the subject property. 22 And so there's a significant difference between 23 residential uses as compared -- compare- -- compared to 24 nonresidential commercial uses. For example, the 25 recreational amenities, you may have three to six children</p>

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<p>153</p> <p>1 playing basketball in the driveway or playing in the tennis 2 courts in the backyard or swimming pool. 3 At Primrose, we're going to have 195 kids -- children 4 of various ages. The noise, you could have six -- three to 5 six children for a school bus drop-off or playing in the 6 front yard or on their driveway versus 195 children that'll 7 be dropped off, picked up in the morning and in the evening, 8 plus you have 32 employees. 9 In terms of illumination, the -- a detached house would 10 typically have a streetlight, maybe a wall-mounted fixture 11 as compared to commercial-grade 20-foot high -- high lamp L- 12 -- LED fixtures. 13 MR. CHEN: That would be conditional use fixtures? 14 MR. MCPHERSON: Yes. That -- that -- assuming the 15 conditional use is approved. 16 MR. CHEN: Right. 17 MR. MCPHERSON: Yes. A resi- -- dri- -- a residential 18 driveway, I think it's 17 feet off the property line, 19 probably hold 1 to 3 cars. Here we have a commercial 20 driveway 12 feet off the property line -- 21 MR. CHEN: Twenty feet wide? 22 MR. MCPHERSON: Twenty feet wide. Yeah. 23 MR. CHEN: Right. 24 MR. MCPHERSON: And that's going to handle 195 children 25 in the morning and in the evening and have 32 employees. So</p>	<p>155</p> <p>1 MR. MCPHERSON: And then on Page 35 of the Merit 2 appraisal, I had referenced in this analysis on -- in my 3 report that I made a comparison to the Candlewood Elementary 4 School and the FAR of that property and that FAR was, I 5 believe, .06 and I used that to compare the intensity of 6 development and -- but if you look at -- 7 Actually, it's a good picture. If you look on Page 35, 8 you can see how the -- the parking lot areas are set back 9 much further than the -- and the drives than the 12 feet 10 proposed for the subject. Okay. And then one other point 11 that was made, and -- and again, I addressed this partially 12 when I was -- 13 I'm referring now to Page -- beginning of Page 9- -- 37 14 of the Merit appraisal and continuing to Page 41 and the 15 issue, which is -- is valid, is that the -- the -- one of 16 the paired sales that I used, sale number 1, to use my 17 extraction was the -- was -- was a Cit- -- a Citgo Gas 18 Station -- a service station and that is a more intense use, 19 but again, as I mentioned, I felt that the -- these 20 properties were entry level, they were 45 percent smaller 21 than the subject, they were fronting on a 4-lane state 22 highway and I just didn't feel that another adjustment was 23 required to sale 1 because of the exposure to the Citgo and 24 I guess that's more of a reason people disagree, I guess, or 25 my interpretation.</p>
<p>154</p> <p>1 I -- I don't think it's a -- it's a correct comparison. 2 There will be change, but the change will be much less of an 3 impact for a -- from a residential standpoint. 4 Let's see, then in my appraisal report, there was an 5 issue with my analysis of the FAR and -- 6 HEARING OFFICER HANNAN: I'm sorry, which report? 7 MR. MCPHERSON: In my -- in my appraisal. 8 HEARING OFFICER HANNAN: Yeah. 9 MR. MCPHERSON: And we can actually start -- what I 10 typically do in -- in -- when I analyze a property, I look 11 at the usable area. So if you look at Page 20 in my 12 appraisal report, I took out the panhandle driveway, because 13 it's not usable and I looked at the usable land area, which 14 is 1.2 acres for the subject. 15 And then if you turn back on Page 38, the floor to area 16 ratio, if you exclude the conservation easement on the 17 subject, it's 1.24 acres. If you include the conservation 18 area and in other words, use the whole land area, it -- it's 19 lowered to 1.10 and that's -- that's an interpreta- -- I 20 mean, that's the way I normally analyze properties of usable 21 area, but that was a -- that was a criticism. 22 HEARING OFFICER HANNAN: 1.10? 23 MR. MCPHERSON: Yes. Or excuse me, .10. I'm sorry, .10. 24 HEARING OFFICER HANNAN: Well, I could've heard wrong, 25 that's why I asked.</p>	<p>156</p> <p>1 And let's see, on Page 41, it's the second paragraph 2 below the results of my survey. It's -- it's interesting 3 observation made on Page 46 of Mr. McPherson's report. None 4 of the surveyed real estate agents had encountered a similar 5 sized detached house located between two nonresidential 6 units. 7 I interpret that as -- as very telling, because it 8 appears that the zoning in place today, for whatever reason, 9 there -- there are very few, if any, houses of this size 10 custom designed that are sandwiched between two 11 nonresidential uses. 12 As an aside, we obtained a list of churches from the 13 Montgomery County and went around using Google maps to try 14 to locate situations that were similar and -- and we 15 couldn't find them. So I -- I -- I -- I think it's -- it's 16 telling. 17 MR. CHEN: And that's, again, coming back to why you 18 utilized two different methodologies? 19 MR. MCPHERSON: That's correct. That's correct. And 20 then on 42, there's a disagreement. I thought that you 21 should give less weight to Mr. Klaus Breitsameter, because I 22 thought it was an outlier. Ms. -- Ms. Vandermause didn't 23 think that was the case. 24 And then lastly, on Page 43, at the last paragraph, she 25 -- it was concluded that the -- the 10 percent change in</p>

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<p>157</p> <p>1 value for the subject, speaking of me now, as a result of 2 the development of the Primrose School without discussing 3 the lack of market data or weaknesses in that data leads to 4 a misleading conclusion that the estimate of the price 5 change is well supported by market data and the performance 6 of the market data concluded. 7 The only way I can respond to that, I -- I thought I 8 had adequately disclosed in the report there wasn't any 9 data. We used the best data that we had. We used two sources 10 and in my professional experience, I -- I couldn't have done 11 anything else different. There was no other data sources 12 that I could find. 13 HEARING OFFICER HANNAN: All right. [inaudible]. Mr. 14 Kline -- are you finished? 15 MR. CHEN: I was just going to -- I -- I was just going 16 to say -- 17 HEARING OFFICER HANNAN: I'm sorry. 18 MR. CHEN: -- the bottom line is that you are trying to 19 deal with a situation where there's an attenuative effect of 20 two nonresidential uses sandwiching the residential use; is 21 that right? 22 MR. MCPHERSON: That's correct. That -- I mean, that 23 was the problem trying to find comparable data in the after 24 valuation. 25 MR. CHEN: I have no further questions.</p>	<p>159</p> <p>1 evidence of any sales in this area of \$1.1 million or \$1.2 2 million? 3 MR. MCPHERSON: No. 4 MR. KLINE: Okay. All right. In your conversation with 5 Mr. Posey, have you been provided any information indicating 6 the basis for the reduction in the assessment granted by the 7 State Department Assessments and Taxation? 8 MR. MCPHERSON: From the assessor? 9 MR. KLINE: Yes. Thank you. 10 MR. MCPHERSON: No. I have not. 11 MR. KLINE: Okay. Well, will we be hearing that from 12 Mr. Posey? 13 MR. MCPHERSON: Yeah. 14 MR. CHEN: He -- he will be testifying about that -- 15 about the reduction in the assessment. Yeah. 16 MR. KLINE: Yeah. Will he be getting us something from 17 the assessor that will explain why they reduced it? 18 MR. CHEN: I haven't looked at -- it's been a while 19 since I've looked at it, but my recollection, there's a 20 letter and there is then a -- a reduction notice or -- and 21 an -- and an assessment. I believe that's what he has. 22 MR. KLINE: Okay. Okay. If I recall correctly, you -- 23 you came in to join us for all of our fun this morning; 24 correct? 25 MR. MCPHERSON: Yes.</p>
<p>158</p> <p>1 HEARING OFFICER HANNAN: Mr. Kline. 2 MR. KLINE: Mr. McPherson, you've obviously visited the 3 site? 4 MR. MCPHERSON: Yes. 5 MR. KLINE: Yeah. Do you do residential appraisers -- 6 or appraisals for acquisition situations? 7 MR. MCPHERSON: Yes. I recently finished two. One was - 8 - both was for the -- 9 MR. KLINE: Just -- yes or no? 10 MR. MCPHERSON: Oh, yes. 11 MR. KLINE: Okay. [inaudible]. Well, what -- what -- 12 what is your feel for what's sort of average price range of 13 the residences in this neighborhood? 14 MR. MCPHERSON: The -- let me look up -- I think the 15 survey -- just a second, let me get that. I think -- if you 16 turn to Page 29, the -- the median price is -- is provided 17 of the comparable properties, \$495,000. In the prior 6 18 months, it was \$535,000 and then \$465,000. 19 MR. KLINE: What -- what I'm -- what I'm leading up to 20 is a -- is a question about the information that was relayed 21 to you by Mr. Abebe -- I'm sorry, about -- from Mr. Wang's 22 observations via Mr. Abebe. Do you feel this is a million- 23 dollar neighborhood? 24 MR. MCPHERSON: No. 25 MR. KLINE: Okay. Is there any -- so there's no</p>	<p>160</p> <p>1 MR. KLINE: Okay. So you heard Mr. Intrigo talk about 2 what the three-lot residential single-family detached 3 dwelling unit layout would look like? 4 MR. MCPHERSON: Yes. 5 MR. KLINE: Okay. And it looks kind of like that 6 Baileys Lane example what you had here. So you agree that 7 those lots would end up being developed with pipestems to 8 Needwood Road and have a driveway running along the east 9 side of the property? 10 MR. MCPHERSON: No. I -- I can't say that. I -- I -- I 11 don't know what the -- is it possible but would it actually 12 be approved? I don't know. That's speculation on my part. 13 MR. KLINE: Right. Right. So let me put it this -- this 14 way then, so if it was developed that way like in accordance 15 to the Baileys Lane example, you would end up having a 16 driveway adjacent to the Corey property just as is proposed 17 on this plan; correct? 18 MR. MCPHERSON: No. It -- it's different. The -- that 19 would be a residential -- if Baileys Lane was residential. 20 This is more commercial in nature and the intensity of use 21 of the lane is -- is -- is totally different, because on the 22 Baileys Lane, you have 1 house, 2 houses or -- or 3, 23 whatever it is, but here you're going to have 195 kids in 24 the morning and evening and then you're going to have 32 25 employees. So it's -- it's -- it's much different.</p>

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<p>161</p> <p>1 MR. KLINE: And in terms of intensity of --</p> <p>2 MR. MCPHERSON: Yes.</p> <p>3 MR. KLINE: -- frequency -- I understand. There would</p> <p>4 be no requirement, though, would there, to basically have to</p> <p>5 have a fence to screen it?</p> <p>6 MR. MCPHERSON: It would be like any other residential</p> <p>7 subdivision, neighbors sometimes put them up, neighbors</p> <p>8 sometimes don't put them up.</p> <p>9 MR. KLINE: Well --</p> <p>10 MR. MCPHERSON: It would be their -- it would be their</p> <p>11 determination.</p> <p>12 MR. KLINE: -- or landscaping?</p> <p>13 MR. MCPHERSON: No, because it wouldn't be -- it would</p> <p>14 be residential. It would be a -- a use that conforms to the</p> <p>15 neighborhood. So you wouldn't need that buffer and you</p> <p>16 wouldn't need that landscaping. There would be a use that</p> <p>17 fits right in.</p> <p>18 MR. KLINE: Yeah. But -- but a lot of it's still they</p> <p>19 could plant trees so we can't see our neighbor's houses;</p> <p>20 correct?</p> <p>21 MR. MCPHERSON: Some do.</p> <p>22 MR. KLINE: Last thing, and I -- I know -- I know you</p> <p>23 corrected yourself but I'd like you to say it again, the FAR</p> <p>24 -- or question I asked Mr. Intriago, coverage of the --</p> <p>25 basically, the subject property for the conditional use is</p>	<p>163</p> <p>1 20 feet wide either -- or no -- no requirement for 20 feet?</p> <p>2 MR. MCPHERSON: Yeah. It would be residential.</p> <p>3 MR. CHEN: Yeah. Okay.</p> <p>4 HEARING OFFICER HANNAN: Anything else? All right. You</p> <p>5 may be excused. Thank you.</p> <p>6 MR. MCPHERSON: Thank you.</p> <p>7 HEARING OFFICER HANNAN: Mr. Kline, is it time -- oh,</p> <p>8 okay.</p> <p>9 MR. KLINE: If you want to use that [inaudible], go</p> <p>10 ahead and use it. Be careful.</p> <p>11 HEARING OFFICER HANNAN: When you get settled, please</p> <p>12 raise your right hand. Do you solemnly affirm under</p> <p>13 penalties of perjury that the statements you are about to</p> <p>14 make are the truth, the whole truth and nothing but the</p> <p>15 truth?</p> <p>16 MS. VANDERMAUSE: I do.</p> <p>17 HEARING OFFICER HANNAN: All right. Go ahead, Mr.</p> <p>18 Kline.</p> <p>19 MR. KLINE: Ms. Vandermause, would you please state</p> <p>20 your name and spell your name and give us your business</p> <p>21 address?</p> <p>22 MS. VANDERMAUSE: Okay. It's Elizabeth Vandermause, V-</p> <p>23 a-n-d-e-r-m-a-u-s-e, address is 2409 Hannon, H-a-n-n-o-n,</p> <p>24 Court, Ellicott City, 21042.</p> <p>25 MR. KLINE: And you are an employee of what</p>
<p>162</p> <p>1 how much?</p> <p>2 MR. MCPHERSON: I think it's .101, but I'll verify</p> <p>3 that.</p> <p>4 MR. KLINE: Okay. That's fine. That's --</p> <p>5 MR. MCPHERSON: Okay.</p> <p>6 MR. KLINE: -- I just want to make sure -- not the 10.1</p> <p>7 that accidentally --</p> <p>8 MR. MCPHERSON: Right. [inaudible]</p> <p>9 MR. KLINE: Thank you. No -- no further questions.</p> <p>10 MR. CHEN: Just a follow-up. That driveway that Mr.</p> <p>11 Kline was talking about, for the conditional use, that's a</p> <p>12 20-foot wide concrete curb to curb driveway; isn't that</p> <p>13 correct?</p> <p>14 MR. MCPHERSON: Right. It's commercial grade. Correct.</p> <p>15 MR. CHEN: Okay. It's not a residential driveway with</p> <p>16 three pipestem lots?</p> <p>17 MR. MCPHERSON: No. That's correct.</p> <p>18 HEARING OFFICER HANNAN: You were finished. Your cro- -</p> <p>19 - your cross-exam?</p> <p>20 MR. KLINE: Yeah. I was finished and I have no further</p> <p>21 --</p> <p>22 HEARING OFFICER HANNAN: Okay.</p> <p>23 MR. KLINE: --- questions.</p> <p>24 HEARING OFFICER HANNAN: Okay.</p> <p>25 MR. CHEN: Yeah. I think I was just saying it won't be</p>	<p>164</p> <p>1 corporation?</p> <p>2 MS. VANDERMAUSE: Merit Real Estate Analysis.</p> <p>3 MR. KLINE: And your profession is what?</p> <p>4 MS. VANDERMAUSE: Commercial real estate appraiser and</p> <p>5 consultant.</p> <p>6 MR. KLINE: Have you ever qualified --</p> <p>7 MR. CHEN: I'm sorry; I didn't hear that last part.</p> <p>8 MS. VANDERMAUSE: Real estate appraiser and consultant.</p> <p>9 MR. CHEN: And consultant. Thank you.</p> <p>10 MR. KLINE: Have you ever qualified as an expert in</p> <p>11 appraisal work and real estate consulting work before a</p> <p>12 similar board or a court of law?</p> <p>13 MS. VANDERMAUSE: Yes.</p> <p>14 MR. KLINE: Could you just give a couple examples?</p> <p>15 MS. VANDERMAUSE: Well, department -- department of</p> <p>16 justice for Metro and Ramada cases and for -- well, I have</p> <p>17 it down here.</p> <p>18 MR. KLINE: Well, it's okay. Just --</p> <p>19 MS. VANDERMAUSE: Oh, U.S. [inaudible] Court, Maryland</p> <p>20 State Court and I did an arbitration case in the State of</p> <p>21 Maryland.</p> <p>22 MR. KLINE: Okay. Ms. Robeson, the résumé of Ms.</p> <p>23 Vandermause is in the record. I'd like to offer her as an</p> <p>24 expert in appraisal and real estate consulting.</p> <p>25 MR. CHEN: I have no problems with accepting this</p>

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<p>165</p> <p>1 witness as a real estate appraiser.</p> <p>2 HEARING OFFICER HANNAN: I'll -- I'll accept her as a</p> <p>3 real estate appraiser. Okay.</p> <p>4 MR. KLINE: Ms. Vandermause, you were asked to prepare</p> <p>5 a -- a report on this -- on -- related to this matter that's</p> <p>6 been put in the record as Exhibit 163A; am I correct?</p> <p>7 MS. VANDERMAUSE: Correct.</p> <p>8 MR. KLINE: Okay. Would you please describe your --</p> <p>9 your [inaudible] -- basically, your methodology of analysis</p> <p>10 and your findings and your conclusions?</p> <p>11 MS. VANDERMAUSE: Okay. Well, we were asked -- we</p> <p>12 looked at the intended use of the appraisal and the intended</p> <p>13 users and we had to answer the question will development of</p> <p>14 the property cause change to the neighborhood or undue harm?</p> <p>15 So we did some res- --</p> <p>16 HEARING OFFICER HANNAN: Well, wait, change to the</p> <p>17 neighborhood and undue harm?</p> <p>18 MS. VANDERMAUSE: Well, undue harm too.</p> <p>19 HEARING OFFICER HANNAN: Well, I thought your testimony</p> <p>20 is whether it -- because you're --</p> <p>21 MS. VANDERMAUSE: We focused on --</p> <p>22 HEARING OFFICER HANNAN: -- focused on real estate</p> <p>23 values; correct?</p> <p>24 MS. VANDERMAUSE: Yeah. Maybe I -- no. So it's -- does</p> <p>25 it change the neighborhood? We had to see how it changed.</p>	<p>167</p> <p>1 HEARING OFFICER HANNAN: I -- I understand. Thank you.</p> <p>2 MR. KLINE: Sorry, Ms. Vandermause.</p> <p>3 MS. VANDERMAUSE: That's okay.</p> <p>4 MR. KLINE: [inaudible]</p> <p>5 MS. VANDERMAUSE: Well, we -- we broke our analysis</p> <p>6 into two parts and we -- we put a little bit more focus on</p> <p>7 the neighborhood and surrounding development, because</p> <p>8 location makes a big difference when valuing real estate and</p> <p>9 then we also did a partial review of the McPherson report.</p> <p>10 And so we have a handout. So they are pages from our</p> <p>11 report so you don't have to flip through our entire report</p> <p>12 and that'll highlight the points that we're trying to make.</p> <p>13 MR. CHEN: Should -- should we mark this as 163- --</p> <p>14 HEARING OFFICER HANNAN: I think we're higher than</p> <p>15 that.</p> <p>16 MR. CHEN: Well, I -- well, I apologize, I was --</p> <p>17 HEARING OFFICER HANNAN: I -- Mr. Chen --</p> <p>18 MR. CHEN: -- I was going by --</p> <p>19 HEARING OFFICER HANNAN: -- I'm go- -- I'm just going</p> <p>20 to add it to the end; okay?</p> <p>21 MR. CHEN: Okay. Okay.</p> <p>22 HEARING OFFICER HANNAN: I understand your logical</p> <p>23 mind, but that's for many reasons.</p> <p>24 MR. KLINE: Right, but I did want to stress not a new</p> <p>25 exhibit, just excerpts on the report. Could we -- this be</p>
<p>166</p> <p>1 Does it impact the property next door, the one that was the</p> <p>2 subject property that we were focusing on?</p> <p>3 HEARING OFFICER HANNAN: All right.</p> <p>4 MR. KLINE: All right. May I -- I've still got -- well,</p> <p>5 what I asked her to do was answer the zoning ordinance</p> <p>6 requirements, undue -- adverse undue effect based on real --</p> <p>7 economic value.</p> <p>8 HEARING OFFICER HANNAN: Based on economic value. So</p> <p>9 your --</p> <p>10 MR. KLINE: Economic val- -- well --</p> <p>11 HEARING OFFICER HANNAN: -- your questions are going to</p> <p>12 relate to the economic value of the properties?</p> <p>13 MS. VANDERMAUSE: Yeah.</p> <p>14 MR. KLINE: -- well -- well, my -- my questions are</p> <p>15 actually related to her critique of the appraisal that was</p> <p>16 given to you that covered that subject.</p> <p>17 HEARING OFFICER HANNAN: Okay.</p> <p>18 MR. KLINE: All right.</p> <p>19 HEARING OFFICER HANNAN: All right. Go ahead.</p> <p>20 MR. KLINE: Okay.</p> <p>21 HEARING OFFICER HANNAN: I just needed to clarify that.</p> <p>22 MR. KLINE: Yeah. No. I understand.</p> <p>23 MS. VANDERMAUSE: I'm sorry, but --</p> <p>24 MR. KLINE: I mean, we -- we -- we're trying to keep it</p> <p>25 within the zoning ordinance parameters.</p>	<p>168</p> <p>1 made an exhibit if you need to do so?</p> <p>2 HEARING OFFICER HANNAN: Yes. I need to know</p> <p>3 [inaudible] the number we're on.</p> <p>4 MR. KLINE: We're up to about 191 I think. This would</p> <p>5 be 192, I believe.</p> <p>6 HEARING OFFICER HANNAN: Yes. So 192 will be -- how do</p> <p>7 you -- excerpts of Merit appraisal review report.</p> <p>8 MR. KLINE: Excellent. All right. Go ahead, Mr. -- do</p> <p>9 you have any -- I assume you have no objection?</p> <p>10 MR. CHEN: No. Not with an excerpt.</p> <p>11 MR. KLINE: It's all in --</p> <p>12 MR. CHEN: Yeah. I'm sure it is.</p> <p>13 HEARING OFFICER HANNAN: Okay. Go ahead, Ms. Van- --</p> <p>14 MS. VANDERMAUSE: So the -- just real quickly, the --</p> <p>15 the quick overview of the neighborhoods. The subject</p> <p>16 property is not in a planned subdivision. It's a location</p> <p>17 that's prime for develop- -- redevelopment. Buyers and</p> <p>18 sellers coming to the market can already see the</p> <p>19 neighborhood redevelopment.</p> <p>20 It's a location that's going to experience more than</p> <p>21 it's already started and you can look at that infill is</p> <p>22 going to take place. So if you go to Page 23 of the handout</p> <p>23 and you can see that we highlighted this little pocket of</p> <p>24 lots that have -- that don't represent a -- it's a prime</p> <p>25 infill location for redevelopment.</p>

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<p>169</p> <p>1 The houses in this -- the average age of these houses 2 are almost 60 years old and that includes averaging the new 3 house on 7500 Needwood into that and the -- and the subject 4 property. So buyers and sellers who come to this 5 neighborhood are going to look and see there are going to be 6 changes in this neighborhood.</p> <p>7 And we also made a point that if you look at the 8 assessment records, the land value is outpacing the value of 9 the improvements and that's another indication that 10 redevelopment is going to be taking place. So the changes in 11 the neighborhood and what buyers and sellers will see is 12 already there.</p> <p>13 They're going to come and say if I buy this house -- 14 the subject property house, it's not going to stay the same. 15 Something's going to be built on the property next to it. 16 And we looked at -- and the other point I want to make is 17 that the -- all the elements are in place. It's -- it's near 18 the Metro, it's near bus lines, it's near the Intercounty 19 Connector.</p> <p>20 There's no doubt -- and it -- it takes over time -- 21 and, you know, the State of Maryland has supported smart 22 growth and they want infill where there's infrastructure 23 taking place. That's why these sites are -- are prime and I 24 understand the county like -- accepts that philosophy that 25 infill is important.</p>	<p>171</p> <p>1 would change the setting for the subject. So that's the 2 point. The market would know that. So when it comes to 3 impacting the value of the subject, it's already there.</p> <p>4 It doesn't matter if it's a -- if it -- you know, as 5 long as the permitted -- you know, the su- -- the daycare 6 center's a conditional use; it's not a denied use and it's 7 not out of the question somebody would consider that a 8 conditional use might happen. So they'll -- they'll take it 9 and we call it baked into the cake. So impact on property 10 values in the area is already --</p> <p>11 MR. CHEN: What's the phrase?</p> <p>12 MR. KLINE: Could you rephra- -- yeah. You better 13 rephrase that for us.</p> <p>14 MS. VANDERMAUSE: What, baked into the cake?</p> <p>15 MR. CHEN: Well, I -- just say it slowly.</p> <p>16 MS. VANDERMAUSE: Oh, baked into the cake.</p> <p>17 MR. CHEN: Baked into the cake?</p> <p>18 MS. VANDERMAUSE: You know how it's already there? It's 19 -- you know, buyers coming to that market --</p> <p>20 HEARING OFFICER HANNAN: But what -- what -- what's 21 baked into the cake?</p> <p>22 MS. VANDERMAUSE: The changes, how -- if you're coming 23 to that neighborhood and you're a buyer, you're going to see 24 this area's changing, it's not going to stay the same. That 25 lot that's next to their house is going to be developed.</p>
<p>170</p> <p>1 So what are -- if you -- you -- we've brought up the 2 fact -- if you go to Page 24 of the handout, that's an 3 example. That was the house we were talking about that sits 4 in front of the subject property. It's an old house. It's 5 not going to stay very long. And if you go to -- and you can 6 see the changes already taking place.</p> <p>7 If you go to Page 26 -- and this is what you should 8 expect in terms of permitted uses. Well, just one of the 9 permitted uses is a new home and that's significantly larger 10 than the houses in the neighborhood already. So it's going 11 to -- it's going to bring change. Another permitted use --</p> <p>12 You know -- and we did talk about, you know -- when we 13 talked about how the subject -- or the Primrose site could 14 be developed, it is very possible that three houses of this 15 mass in size could be constructed on the property and it 16 will change the setting for the subject. It'll -- they won't 17 have the secluded setting that they have now, because the 18 lot next door is built -- is not built on and there's no 19 stopping change, it's going to happen.</p> <p>20 And so permitted uses would possibly -- it's -- it's 21 conceivable that three houses could be stacked on that long 22 narrow lot. And in addition, a -- a church -- another church 23 is a permitted use, which will be another -- they could be 24 sandwiched and there's no -- you know, it's permitted.</p> <p>25 If another church wanted to buy the property, that</p>	<p>172</p> <p>1 There's going to be -- they're going to lose their private 2 setting.</p> <p>3 They're going to be much bigger houses, because we've 4 already seen what land values are worth when they see that 5 house at 7500 Needwood Road. That's a large two-story house 6 and it's 57- -- is it 5,400 square feet? It's significantly 7 larger than any house, it is larger than any house in the 8 neighborhood and three houses, if you put three houses of 9 similar size on that Primrose site, that's going to end up 10 being the highest density of development out of a possible 11 church or a daycare center. So if changing the character of 12 the subject setting and losing their privacy and having more 13 density, that's going to happen whether it's a daycare or a 14 church or three houses.</p> <p>15 HEARING OFFICER HANNAN: Well, one of my criteria is it 16 doesn't change the character. But you're saying it will.</p> <p>17 MS. VANDERMAUSE: How -- the market -- if the market 18 says I want to buy the subject property and I want it to be 19 open space forever, it's not going to be. They're not going 20 to buy it under that condition. So whatever the buyers look 21 at and say if the property next door was built on, I don't 22 want to buy it, or I don't care. Those are the -- it can go 23 anywhere from and McPherson's survey said exactly that. Zero 24 -- more people said zero than any other number by building 25 on the site next door. Now they happen to --</p>

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<p>173</p> <p>1 HEARING OFFICER HANNAN: Wait. Wait. More people what?</p> <p>2 MS. VANDERMAUSE: In the responses that in the</p> <p>3 McPherson's survey.</p> <p>4 HEARING OFFICER HANNAN: Yeah.</p> <p>5 MS. VANDERMAUSE: -- the agents.</p> <p>6 HEARING OFFICER HANNAN: Yes.</p> <p>7 MS. VANDERMAUSE: More agents -- more agents responded</p> <p>8 zero, no impact all the way up to 30 percent and the</p> <p>9 responses that he got which are on page 42 of the handout.</p> <p>10 HEARING OFFICER HANNAN: So, what you're saying is the</p> <p>11 neighborhood's going to change. And this is -- this</p> <p>12 conditional use is consistent with the change that's going</p> <p>13 to happen. Is that what you're saying?</p> <p>14 MS. VANDERMAUSE: It's one of the things that the</p> <p>15 market would take into consideration. It's not a denied use;</p> <p>16 a church could happen in the same -- it would -- buyers</p> <p>17 would look at it the same way. Is that site going to be</p> <p>18 built on? Does that explain it or no?</p> <p>19 HEARING OFFICER HANNAN: I get it.</p> <p>20 MS. VANDERMAUSE: Okay. Yeah, so if we're talking about</p> <p>21 the buyers think they're going to buy the house -- the</p> <p>22 subject property and it's going to stay -- the house lot</p> <p>23 next door is going to stay the same, that's not going to</p> <p>24 happen.</p> <p>25 HEARING OFFICER HANNAN: So you're saying that no</p>	<p>175</p> <p>1 HEARING OFFICER HANNAN: Where right next door? This</p> <p>2 property?</p> <p>3 MS. VANDERMAUSE: The Primrose site. There's already --</p> <p>4 there's somebody interested in buying it and it's already an</p> <p>5 indication of change coming. That's why we're here. It's</p> <p>6 coming. So you can't stop the change. You know, you look at</p> <p>7 the permitted uses and a church could come in there and buy</p> <p>8 it and it's permitted use.</p> <p>9 Residential development can come in and we've seen the</p> <p>10 newest -- they've almost broke the million-dollar barrier in</p> <p>11 that neighborhood. So they're bring -- coming in with</p> <p>12 bigger, more expensive homes, which helps the neighborhood</p> <p>13 that won't impact -- negatively impact the subject property.</p> <p>14 It should help the subject property and a daycare of all the</p> <p>15 -- between -- if a church is developed next door in the site</p> <p>16 similar to the density to the church that's already there in</p> <p>17 the neighborhood, that's a little bit more intense use than</p> <p>18 this proposed daycare center.</p> <p>19 And this daycare center leaves the back part of their</p> <p>20 lot open, so they won't be like a -- if you did residential</p> <p>21 house, there'd be a house right there next to their house,</p> <p>22 but a daycare leaves the forest conservation area, and open</p> <p>23 parking lot. So the --</p> <p>24 HEARING OFFICER HANNAN: But that -- I don't think my</p> <p>25 criteria is that change is going to happen. That's where I'm</p>
<p>174</p> <p>1 matter what Mr. Kosary does --</p> <p>2 MS. VANDERMAUSE: Okay, I get it.</p> <p>3 MR. KLINE: Ms. Vandermause, actually, I'd like you to</p> <p>4 answer the question that didn't get asked because I know you</p> <p>5 have an opinion about that. Sitting there, what's going to</p> <p>6 happen around them?</p> <p>7 MS. VANDERMAUSE: Sitting?</p> <p>8 HEARING OFFICER HANNAN: If you're the co-owner, what</p> <p>9 is going to happen from a market standpoint only surrounding</p> <p>10 the Kosary property. Am I saying Kosary right?</p> <p>11 MR. CHEN: Yes, but I'm objecting to the question. If</p> <p>12 you're going to ask the question, you ought to ask where is</p> <p>13 it going to happen? I mean this is -- you have one lot here</p> <p>14 that's being the subject of a conditional use. If there's</p> <p>15 going to be change in this neighborhood, I think that is</p> <p>16 your question or Mr. Kline's question, where? You know,</p> <p>17 that's the question where is that going to happen?</p> <p>18 MS. VANDERMAUSE: In the neighborhood?</p> <p>19 MR. CHEN: Yeah.</p> <p>20 MS. VANDERMAUSE: Well it gradually that area, that</p> <p>21 highlighted area that we said, is going to start -- the</p> <p>22 houses are going to be torn down and start being rebuilt.</p> <p>23 But the house -- the and here's a prime example right next</p> <p>24 door to him. There's already somebody who wants to come and</p> <p>25 build on it. That's an indication --</p>	<p>176</p> <p>1 getting lost.</p> <p>2 MS. VANDERMAUSE: Okay.</p> <p>3 HEARING OFFICER HANNAN: Where is that criteria in the</p> <p>4 zoning ordinance for me to determine based on --</p> <p>5 MS. VANDERMAUSE: You're saying if the site is</p> <p>6 developed next door, that it's going to impact --</p> <p>7 HEARING OFFICER HANNAN: Which -- the subject site.</p> <p>8 MS. VANDERMAUSE: If the Kosary property, yeah --</p> <p>9 HEARING OFFICER HANNAN: If the subject site is</p> <p>10 developed.</p> <p>11 MS. VANDERMAUSE: Okay, so if the property next door --</p> <p>12 you were talking about being sandwiched between two special</p> <p>13 purpose uses, okay.</p> <p>14 HEARING OFFICER HANNAN: Okay?</p> <p>15 MS. VANDERMAUSE: So, you have a Kosary house has a</p> <p>16 nice open lot next to them</p> <p>17 HEARING OFFICER HANNAN: You're saying that the</p> <p>18 Kosary's are not going to be looking at what exists on the</p> <p>19 property now in the future.</p> <p>20 MS. VANDERMAUSE: Correct. It's not going to stay</p> <p>21 vacant.</p> <p>22 HEARING OFFICER HANNAN: But we don't know what it's</p> <p>23 going to be developed with. It could be developed with this;</p> <p>24 it could be developed with three single family detached</p> <p>25 homes.</p>

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<p>177</p> <p>1 MS. VANDERMAUSE: And that's the point. When the market 2 comes in to say, how much would I be willing to buy the 3 Kosary house for? That's why I said there's -- the market's 4 smart enough to know that vacant lot is not going to stay 5 vacant forever. Here's an example -- 6 HEARING OFFICER HANNAN: So, you're -- all you're 7 saying then is that Mr. Kosary doesn't have a right to 8 expect that there won't be any change. That's what you're 9 saying. 10 MS. VANDERMAUSE: Right. 11 HEARING OFFICER HANNAN: Okay, I get that. 12 MS. VANDERMAUSE: It's like, you know, we had 13 somebody's family bought a condo with an ocean view ten 14 years ago knowing they would -- that ocean view was not 15 going to stay. They got to enjoy it for 10 years and there 16 were going to be high rise zoning -- 17 HEARING OFFICER HANNAN: But the question I have to 18 answer is is this use going to reduce his property value? 19 That's my question. 20 MS. VANDERMAUSE: Okay. 21 HEARING OFFICER HANNAN: I mean yeah, the neighborhood 22 could change any way from Sunday. Is it going to reduce his 23 property value? Am I missing something? 24 MR. KLINE: Well, no but at some point, the way you 25 phrase the question, maybe you need Mr. Chen and I because I</p>	<p>179</p> <p>1 to know what's going to happen in the future. 2 When they come into this neighborhood and see the 3 Kosary house and all this vacant land and old houses and 4 spree development already starting to take place, they're 5 going to say I'm going to factor into what I'm willing to 6 pay for the Kosary house that change is going to happen. And 7 it doesn't matter if they know for sure, but they could step 8 back and look in the neighborhood and it's already there. 9 There's already a church. There's already a new home 10 and one of the other permitted uses is another church so and 11 three new homes possibly. So any buyer comes in, that's when 12 I said it's already there. Change and impact on value -- if 13 there's going to be an impact on value, it's there because 14 they are not in a protected setting. They're in a pocket -- 15 HEARING OFFICER HANNAN: So you're saying unrelated to 16 this particular plane -- 17 MS. VANDERMAUSE: Right. 18 HEARING OFFICER HANNAN: There is a decrease in value 19 because of the potential for a conditional use or an intense 20 use. 21 MS. VANDERMAUSE: There could be a change. It's not 22 going to be the same so when a buyer comes in and says -- 23 HEARING OFFICER HANNAN: So, have you -- have you 24 estimated that decrease in value that he's already 25 experiencing?</p>
<p>178</p> <p>1 think you phrase it different than the way I thought it was. 2 If I will -- if you'll entertain me for a second. If there 3 are -- if there's basically some inherent defect -- when the 4 County Council decided we would allow child day care centers 5 to go to residential neighborhoods, there may be some 6 economic effect. I think the question is would this use 7 create a more undue effect than what it would have 8 automatically have happened? 9 HEARING OFFICER HANNAN: I see. 10 MR. KLINE: I'm and then I may be wrong with my -- 11 HEARING OFFICER HANNAN: Well, I'm going to let her 12 testify and mull it over and you'll have cross. I do 13 understand what you're saying and I'll let you cross and go 14 ahead. 15 MS. VANDERMAUSE: This might make it a little bit 16 clearer. If the Kosary house was in a plain -- 17 HEARING OFFICER HANNAN: I think I get it. 18 MS. VANDERMAUSE: Okay. 19 HEARING OFFICER HANNAN: If you want to supplement it, 20 I'm not going to stop you. 21 MS. VANDERMAUSE: Well, if it was in a planned 22 subdivision and everything was already set around it, then 23 most buyers would come into the market and say, oh I'm 24 protected; I'm buying a house in a subdivision and the area 25 is not going to change so they would -- they would be fine</p>	<p>180</p> <p>1 MS. VANDERMAUSE: Well, it doesn't necessarily have to 2 be a decrease. 3 HEARING OFFICER HANNAN: Well, can you -- well can you 4 tell me one way or the other? 5 MS. VANDERMAUSE: Okay, Well, here you go. You say 6 okay, I'm moving to this area and I don't know what's going 7 to be built on the site and [inaudible] on the Primrose 8 site. But right at 7500 Needwood, there is a house that 9 almost made a million dollars and that's going to help the 10 value of the Kosary site. So there's change. The market's 11 will say, okay it could be million-dollar home; it's going 12 to be fine. 13 It could be a church. Then they have to weigh well a 14 church could impact the value and some people are not going 15 to want to live next to a church. Other people would say 16 it's okay and McPherson's survey actually is exactly the way 17 the market -- you would expect the market to respond. Some 18 people said no to the school; it's not going to change all 19 the way up to 30 percent. And you would -- when you go in 20 and say buyers will buy -- 21 HEARING OFFICER HANNAN: All the way up to 30 percent - 22 - 23 MS. VANDERMAUSE: Thirty percent negative change. Okay? 24 And when you ask the agents who are familiar with market and 25 even the agent who sold the property. the 7500, said zero to</p>

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<p>181</p> <p>1 negative five that the school would impact. So, the survey - 2 - you would expect to get a wide range and that's exactly 3 what the market -- you're going to get buyers that are going 4 to say no impact, some impact, you know, maybe higher than 5 the 30 percent that the agents are willing to report. And 6 but that's already going to happen because they know 7 something's going to change on that site. They happen to say 8 zero more often than not for a daycare center. And that's on 9 this table that we set out on page in the handout. 10 HEARING OFFICER HANNAN: I guess I just have a problem 11 with that because what if you have a daycare center that was 12 -- it wouldn't happen but say you had a daycare center that 13 was a quarter of this size. Would his property be devalued 14 as much? 15 MS. VANDERMAUSE: You can't -- but you know is -- 16 HEARING OFFICER HANNAN: But you're saying because it's 17 unknown, that devaluation has already occurred. 18 MS. VANDERMAUSE: No, I'm not saying it's devalued. The 19 market is saying when they come into the neighborhood, the 20 neighborhood is already experienced change and any number of 21 things can happen. And the market is smart enough to know 22 that if I'm going to buy that house, that lot next door is 23 not going to stay vacant. 24 And if they go down looking to see permitted uses are 25 going to change the private setting that they have, a church</p>	<p>183</p> <p>1 property, the Kosary house, the highest density of 2 development that will change if the setting there is single 3 family detached homes because they're bigger, taller; they 4 could be up to 30 feet high for a modern house. In that 5 [inaudible] that we showed you the example of the new house. 6 The least impact, the least density of development from 7 these three examples is a daycare and it leaves that side 8 yard open. So the market would take that into consideration. 9 When the agents reported no impact to 30, that's a really 10 good indication, but more people were willing to say no 11 impact than any other number. 12 HEARING OFFICER HANNAN: Okay, I understand what you're 13 saying. 14 MS. VANDERMAUSE: Okay. Sorry. Now, when we get to his 15 paired sales analysis, Mr. McPherson said there was a 10 16 percent overall decrease in value when he did his analysis. 17 And that's an important thing to point out. If we go to the 18 handout on page 37, here's another way he was trying to 19 support decrease in value by being sandwiched between two 20 uses. So, 37 shows where the Citgo station is and then you 21 go from that -- 15545 New Hampshire is the house that's 22 sandwiched between the veterinary clinic and the gas 23 station. Then you have a side yard, you see the clinic, the 24 Cloverleaf Animal Clinic -- 25 HEARING OFFICER HANNAN: Wait, which page are you on?</p>
<p>182</p> <p>1 -- another church could change it and they have to weigh 2 whether they're going to be willing to buy the Kosary house 3 not knowing what the future could bring. That's already 4 there. 5 HEARING OFFICER HANNAN: But say they do know what the 6 future brings. Say it brings this. 7 MS. VANDERMAUSE: Okay. 8 HEARING OFFICER HANNAN: What does this do to the 9 property? 10 MS. VANDERMAUSE: McPherson -- Mr. McPherson's had his 11 survey which said that if you go to page -- the table that 12 we had here, this one on page 42 in the handout. You can see 13 these were the respondents. These were the responses. They 14 said zero, zero, zero and every agent gave two responses of 15 range. And this next chart after that table said this is the 16 number of responses. 17 Three people were willing or said zero. Two people said 18 negative five percent, one person said negative eight, 19 another person said negative 10, another person said 20 negative 12, one person said one and a half percent, minus 21 15; one person said 20 and one person said 30. More people 22 said zero to five percent would change the value of the 23 Kosary property. Okay? 24 So when you look at the adverse conditions and if 25 you're looking at density of development as an impact on the</p>	<p>184</p> <p>1 MR. KLINE: Thirty-seven. 2 MS. VANDERMAUSE: Thirty-seven. See the aerial photo? 3 HEARING OFFICER HANNAN: Okay. 4 MS. VANDERMAUSE: Okay. So here's what I'm going to get 5 to on this one so we can follow through. He said 12.1 6 percent difference in price from somebody willing to buy a 7 house not -- that was a negative impact, the one that was 8 sandwiched between a gas station and a veterinary clinic. 9 That's what the market reflected that there was a 12 percent 10 decrease. And when he took this example of the gas station, 11 the house, the animal clinic and then the other house, flip 12 the page and here's the -- here's the problem with this 13 analysis. 14 First of all, the top picture on page 38 you can see 15 where the animal clinic is and the house that sandwiched at 16 sale number one, and on the bottom page, it shows sale 17 number one and it shows the house located next to the gas 18 station. The house located next to the gas station is 19 exposed all the way open up to the operation and the 20 lighting and the noise at the gas station. There's no 21 buffer. And that house sold for less than when you flip the 22 page and you go to the house that -- there's the veterinary 23 clinic on the right. 24 And then there's that other house all the way to the 25 left. And that house that sits on the left, that sold for</p>

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<p>185</p> <p>1 more that was only next to the veterinary clinic, not 2 sandwiched between. But he had not made any adjustment that 3 the house that was at the end there had a side yard buffer; 4 it had a street between them and had another side yard 5 buffer. And if he had made adjustments for those buffers, 6 that would have changed the percentage difference that the 7 house that was sandwiched would have been less. 8 So it would have been less than 12 percent. But then, 9 you have to just step back and say okay, how can you compare 10 a 12 percent decrease in price of a gas station to a daycare 11 center? And that chart on page 40 runs through how a gas 12 station does a much more intense use and it has adverse 13 effects compared to the Prinrose Daycare Center. You go 14 down. The chart says hours of operation, the gas station is 15 more intense use. The days of operation, the gas station is 16 more intense use than a daycare center. The exterior 17 lighting it could be similar because they're going to have 18 commercial lighting; traffic noise gas station's going to 19 have more; the hours of operation, the constant traffic 20 that's -- the gas station's worse. 21 The noise between a daycare center like the playground 22 and the repair bays and the noise in the gas station is 23 going to be worse. There's fumes from a gas station. There's 24 hazardous conditions in the gas station and the approximate 25 distances of different things like the dumpsters and the</p>	<p>187</p> <p>1 thing. [inaudible] we started to do the before and after, 2 not only did you have to find sales of houses outside of a 3 planned subdivision that were next to a special-purpose use. 4 That was the before. 5 You had to find sales in the after situation sandwiched 6 between two special purpose uses that have sold. You can't 7 just find the situation where things are next -- the 8 properties have to sell. They didn't exist and that was 9 confirmed by our initial research of the markets. They 10 weren't there. Mr. McPherson found the same thing. They 11 weren't there. That's a good way -- the before and after is 12 a good approach, but the data wasn't there. 13 The paired sales analysis which he did with the gas 14 station, only said 12 percent and it makes no sense to try 15 to compare a 10 percent when he notched it back down to 10, 16 it makes -- he's used a gas station which is much worse. So 17 we're saying if a gas station went next to the subject 18 property, the impact would be 12 percent. How can you 19 compare a daycare to a gas station? It's got to be less. 20 HEARING OFFICER HANNAN: So you're saying simply by 21 virtue of the fact that he has a redevelopment -- Mr. Kosary 22 has a redevelopable lot next to him, his property is 23 devalued? 24 MS. VANDERMAUSE: No, it's going to change and even Mr. 25 McPherson said and we have that house at 7500 Needwood,</p>
<p>186</p> <p>1 driveway. The gas station wins every time; it's worse. So 2 when you took his adjustment and use this 12 percent as one 3 of his ranges and then took the survey that he did from the 4 agents and just went right in the middle, not taking into 5 consideration -- it wasn't a bell-shaped curve. Bell shape 6 curve says preponderance of responses are usually at the top 7 of the curve and he said more people are willing to say 8 this. 9 Well in this case more people are willing to say zero. 10 Take the gas station. He said it was 12. So what you're 11 saying is if there was a gas station next to the subject 12 property on the Prinrose site, the market says that for two 13 percent difference from what the McPherson adjusts for, 14 they'd be willing to settle for a gas station next door that 15 sits with no buffer right up against the property line to 16 Kosary house with all the activity. 17 That's exactly what that analysis says. The market only 18 applied a 12 percent discount. And that makes no sense. You 19 can't support a negative adjustment with this example. It 20 was only 12. So it's like it's got to be less for a daycare 21 center. 22 HEARING OFFICER HANNAN: So, where are your 23 comparables? 24 MS. VANDERMAUSE: I didn't need them because Mr. 25 McPherson said that when we went -- we all both did the same</p>	<p>188</p> <p>1 people are going to come and say they almost broke the 2 million dollar barrier. So that could be a case for the 3 development on the house property next door and they will 4 have three houses stacked up. One house will be right there, 5 no fencing, driveway opposite his house. 6 HEARING OFFICER HANNAN: Well, I just, you know, I'm 7 having a little problem. I'm going to let Mr. Chen take 8 over. I'm having a little problem, you know. your example 9 that the gas station isn't the same as the daycare. I'm 10 having a little problem getting to three residential homes 11 are the same as a 200-person daycare. 12 MS. VANDERMAUSE: It goes right back to the survey, two 13 things. Some people said no change with the data. 14 HEARING OFFICER HANNAN: I see it. 15 MS. VANDERMAUSE: Okay, so that's well, that's within 16 the range of whether the market is going to react. 17 HEARING OFFICER HANNAN: Okay. 18 MS. VANDERMAUSE: And the other thing why I kept 19 bringing up the neighborhood and they say well it's already 20 baked into the cake; they can't keep the setting. The market 21 is going to recognize the changes coming to the area. Some 22 people may love to be next to a million-dollar house. 23 HEARING OFFICER HANNAN: I know, I understand that. 24 MS. VANDERMAUSE: Okay. 25 HEARING OFFICER HANNAN: I do get that. I'm done with</p>

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<p>189</p> <p>1 my questions. Mr. Chen?</p> <p>2 MR. CHEN: Let me just go to page 41 that from Mr.</p> <p>3 McPherson's report that you use. Do you got -- do you have</p> <p>4 it ma'am?</p> <p>5 MS. VANDERMAUSE: His --</p> <p>6 MR. CHEN: It's in your handout.</p> <p>7 MS. VANDERMAUSE: Oh, my handout. That's from our --</p> <p>8 MR. CHEN: It's 41 in the McPherson report. It's part</p> <p>9 of your handout. You got page 41?</p> <p>10 MS. VANDERMAUSE: This is from our report in the</p> <p>11 handout.</p> <p>12 MR. CHEN: Page 41 is from your report?</p> <p>13 MS. VANDERMAUSE: Yeah. The results of McPherson's</p> <p>14 survey or real estate agents --</p> <p>15 MR. CHEN: Oh, okay. Let's look at it --</p> <p>16 HEARING OFFICER HANNAN: Wait, which exhibit are we on?</p> <p>17 MS. VANDERMAUSE: It's in the handout.</p> <p>18 MR. CHEN: We're on exhibit 192, page 41.</p> <p>19 MS. VANDERMAUSE: Right.</p> <p>20 MR. CHEN: Now, you have here a list of six real estate</p> <p>21 agents, right?</p> <p>22 MS. VANDERMAUSE: Correct.</p> <p>23 MR. CHEN: Let's go to the top of, Klaus Breitsameter.</p> <p>24 MS. VANDERMAUSE: Right.</p> <p>25 MR. CHEN: And I apologize to the gentleman. He says</p>	<p>191</p> <p>1 MR. CHEN: So, that's a negative also, right? The next</p> <p>2 one down is Robert Kerxton. Do you see that?</p> <p>3 MS. VANDERMAUSE: Correct.</p> <p>4 MR. CHEN: And what's his position?</p> <p>5 MS. VANDERMAUSE: Minus 10 to minus 15.</p> <p>6 MR. CHEN: Okay, and then the final one is Audrey Romano</p> <p>7 who apparently is the agent on the 7500 lot, right?</p> <p>8 MS. VANDERMAUSE: Right.</p> <p>9 MR. CHEN: And what was her position?</p> <p>10 MS. VANDERMAUSE: She said zero to minus five.</p> <p>11 MR. CHEN: To five. So I'm just getting clarification</p> <p>12 because you said in your testimony, ma'am, that only one of</p> <p>13 these realtors who were surveyed said that there was an</p> <p>14 adverse impact. Whereas I think it's just the opposite, that</p> <p>15 --</p> <p>16 MS. VANDERMAUSE: I didn't -- that's how you heard it.</p> <p>17 I didn't say that.</p> <p>18 MR. CHEN: Okay. I apologize.</p> <p>19 MS. VANDERMAUSE: No, no --</p> <p>20 MR. CHEN: I misheard it then.</p> <p>21 MS. VANDERMAUSE: No, I pointed out the chart that is</p> <p>22 on this blue one?</p> <p>23 MR. CHEN: Yes.</p> <p>24 MS. VANDERMAUSE: This is what they reported.</p> <p>25 MR. CHEN: Yes.</p>
<p>190</p> <p>1 there's no impact, right?</p> <p>2 MS. VANDERMAUSE: That's what he reported.</p> <p>3 MR. CHEN: Okay, and Mr. McPherson recognized that; he</p> <p>4 addressed it. Okay. The next one down, Stephen Bradley, what</p> <p>5 is his response?</p> <p>6 MS. VANDERMAUSE: He said negative five percent for</p> <p>7 homes under \$550, negative eight for homes over \$550.</p> <p>8 MR. CHEN: So that gentleman, that real estate agent</p> <p>9 says it is an adverse impact.</p> <p>10 MS. VANDERMAUSE: Yes.</p> <p>11 MR. CHEN: Okay. Then you drop down to Theresa Helfman-</p> <p>12 Taylor.</p> <p>13 MS. VANDERMAUSE: Right.</p> <p>14 MR. CHEN: And what was her position?</p> <p>15 MS. VANDERMAUSE: She said it was borderline</p> <p>16 unmarketable from - \$75,000 to minus \$100,000.</p> <p>17 MR. CHEN: So she's negative also?</p> <p>18 MS. VANDERMAUSE: Right.</p> <p>19 MR. CHEN: Then below that you have Michael Matese with</p> <p>20 Long and Foster. What is -- where is he?</p> <p>21 MS. VANDERMAUSE: He's minus 20 to minus 30 and he said</p> <p>22 over --</p> <p>23 MR. CHEN: Yeah, and the market 70, 75 percent</p> <p>24 [inaudible]</p> <p>25 MS. VANDERMAUSE: Right.</p>	<p>192</p> <p>1 MS. VANDERMAUSE: Right. And they reported three people</p> <p>2 -- three responses when they both -- all gave a range, three</p> <p>3 people said zero.</p> <p>4 MR. CHEN: Okay.</p> <p>5 MS. VANDERMAUSE: And then you can see one person says</p> <p>6 zero to five, five to eight, 10 to 15 to --</p> <p>7 MR. CHEN: This is a chart?</p> <p>8 HEARING OFFICER HANNAN: What page is that chart on?</p> <p>9 MR. KLINE: This is after page 42 and Ms. MS.</p> <p>10 Vandermause, why do you have 12 -- apparently 12 people</p> <p>11 listed there?</p> <p>12 HEARING OFFICER HANNAN: Yeah, that's a question and</p> <p>13 that's where I'm --</p> <p>14 MR. KLINE: And only six people mentioned.</p> <p>15 HEARING OFFICER HANNAN: Let Mr. Chen finish his</p> <p>16 questions.</p> <p>17 MR. CHEN: I'm just trying to get some clarity, please.</p> <p>18 So, the chart -- you made the chart? That's not Mr.</p> <p>19 McPherson chart?</p> <p>20 MS. VANDERMAUSE: It's his data.</p> <p>21 MR. CHEN: What do you mean by that?</p> <p>22 MS. VANDERMAUSE: It's the results of this survey.</p> <p>23 MR. CHEN: And is that the same as what you're</p> <p>24 reporting on page 41?</p> <p>25 MS. VANDERMAUSE: Correct.</p>

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<p>193</p> <p>1 MR. CHEN: Okay, I can't tell you if the chart's 2 correct, but let's just go back to 41. 3 MS. VANDERMAUSE: Okay. 4 MR. CHEN: As I understand your testimony, of the -- 5 MR. KLINE: Excuse me a second. Are we doing -- are we 6 doing cross-examination -- 7 MR. CHEN: Yeah. 8 MR. KLINE: -- or are you asking for clarification? 9 MR. CHEN: Same -- the same thing. 10 HEARING OFFICER HANNAN: Well, we're on cross. 11 MR. CHEN: Yeah. 12 HEARING OFFICER HANNAN: Did you -- wait, I thought I 13 asked you, did you have any more questions or -- 14 MR. CHEN: Yeah. 15 MR. KLINE: I would -- actually, I haven't asked any 16 questions at all. She was actually just testifying. 17 MR. CHEN: But you were asked if you had any more 18 questions and you said no. 19 HEARING OFFICER HANNAN: Okay. Let's stop. Do you have 20 questions? 21 MR. KLINE: I only want to have her finish her 22 testimony. 23 HEARING OFFICER HANNAN: Are you finished -- 24 MR. KLINE: I don't believe -- I don't believe -- 25 HEARING OFFICER HANNAN: Well, I cut her off. I said I</p>	<p>195</p> <p>1 yards -- 200 feet -- 2 HEARING OFFICER HANNAN: Are we talking about the 3 Candlewood? 4 MR. KLINE: No. She said -- 5 MS. VANDERMAUSE: No, no -- 6 HEARING OFFICER HANNAN: I'm sorry. I'm lost. 7 MR. KLINE: You're on page 32 of her report. 8 HEARING OFFICER HANNAN: Okay, I'm sorry. 9 MS. VANDERMAUSE: I'm sorry too. 10 HEARING OFFICER HANNAN: Tell me what real document 11 we're on. 12 MS. VANDERMAUSE: All right. Well, we had finished the 13 -- 14 HEARING OFFICER HANNAN: Are we in your report? 15 MS. VANDERMAUSE: Yes. 16 HEARING OFFICER HANNAN: Okay. Tell me what page? 17 MS. VANDERMAUSE: Well, in my report we talked about 18 the adverse conditions that McPherson had reported. 19 HEARING OFFICER HANNAN: Okay. And is that addressed in 20 your report or is that what you want to testify to? 21 MS. VANDERMAUSE: Well, I was going to testify in more 22 detail. 23 HEARING OFFICER HANNAN: Okay, so -- 24 MS. VANDERMAUSE: He was talking -- 25 HEARING OFFICER HANNAN: -- in his report, where are</p>
<p>194</p> <p>1 didn't need to hear anymore when she started explaining and 2 I apologize if I was too dense to get it. Are you finished 3 saying what you wanted to say? 4 MR. KLINE: I think you were still working on the 5 comparison of the McPherson report. 6 MS. VANDERMAUSE: Yeah. Well we were talking about -- 7 I went launched into the gas station. 8 HEARING OFFICER HANNAN: Yes. 9 MS. VANDERMAUSE: The comparison and then I talked 10 about the -- he did talk about detrimental conditions. He 11 had a section about that that we went over in his -- 12 HEARING OFFICER HANNAN: And where is that on 192? 13 MS. VANDERMAUSE: Okay, you've got to go to your 14 handout which will make it -- let's see. Oh, we were talking 15 about -- the detrimental conditions, I was just going to 16 summarize for you verbally because he talked about like the 17 location of the driveway. Well, he talked about where the 18 driveway was in relationship to the property line boundary 19 and he was exaggerating the detrimental conditions a little 20 bit because the driveway is up against a property line, but 21 the actual -- there's a landscape buffer and then there's -- 22 the house is actually 85 feet from the driveway, not against 23 a property line. So we're talking about how the school 24 driveway impacts the house. It's 85 feet away from the house 25 and the drop-off area is like 70 yards. It's actually 70</p>	<p>196</p> <p>1 the adverse conditions? Is that the Citgo station? 2 MS. VANDERMAUSE: We can go to my report. The 30 -- no, 3 the Citgo station is just an example of how -- 4 MR. KLINE: Give us -- give us a page. 5 MS. VANDERMAUSE: Oh, okay. Well, let's go to -- to my 6 report, we talked about detriment conditions description. 7 MR. KLINE: Page? 8 MS. VANDERMAUSE: Thirty-one, and then on page 32, it 9 talks about the driveway, the drop-off area, the lighting, 10 the dumpster. 11 HEARING OFFICER HANNAN: I see. Okay, now I have the 12 context. I understand. 13 MS. VANDERMAUSE: All right, so we're finished with the 14 gas station. The point I wanted to make here is that's a 15 much harsher use so you should expect that if somebody would 16 buy gas -- property next door to a gas station and pay 12 17 percent less, because he applied, then it should be far 18 less, the market would say a daycare center with the back of 19 the property still open, it's not going to be the same as a 20 gas station. And when he picked his 10 percent, that's very 21 close to the impact of the gas station. So the market would 22 save that's way too big of a deduction because a gas station 23 is significantly different than a daycare center. So that's 24 how I ended that. 25 MR. CHEN: Are we on your detrimental -- I don't see a</p>

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50 (197 to 200)

<p>197</p> <p>1 gas station on this list. I thought you were listing --</p> <p>2 MS. VANDERMAUSE: No, no, that was Mr. McPherson's</p> <p>3 example. I just wanted to sum up where I left off.</p> <p>4 MR. CHEN: Well --</p> <p>5 HEARING OFFICER HANNAN: She's saying --</p> <p>6 MS. VANDERMAUSE: Before we got into detrimental</p> <p>7 conditions.</p> <p>8 HEARING OFFICER HANNAN: Well, I don't know. Okay,</p> <p>9 stop. Take a deep breath.</p> <p>10 MS. VANDERMAUSE: Okay.</p> <p>11 HEARING OFFICER HANNAN: I'll take a deep breath.</p> <p>12 MS. VANDERMAUSE: Okay.</p> <p>13 HEARING OFFICER HANNAN: Go back and tell us exactly --</p> <p>14 when you're talking about these discounts, give us the</p> <p>15 background of what you're talking about and where in your</p> <p>16 report it is. If you want to add to something in your</p> <p>17 report, let's go to the report itself.</p> <p>18 MS. VANDERMAUSE: Okay, let's -- let's -- before I</p> <p>19 launch -- okay --</p> <p>20 HEARING OFFICER HANNAN: Or do you have another way you</p> <p>21 want to do it? I'd be welcome to do that. I just --</p> <p>22 MS. VANDERMAUSE: Well, I think we were going through</p> <p>23 those pictures of where the gas station was and we were</p> <p>24 going through comparables.</p> <p>25 HEARING OFFICER HANNAN: And you were saying -- and it</p>	<p>199</p> <p>1 daycare being next to the Kosary house and 12 percent to be</p> <p>2 next to a gas station, then the market would say, oh well</p> <p>3 for two percent difference --</p> <p>4 HEARING OFFICER HANNAN: I understand.</p> <p>5 MS. VANDERMAUSE: Okay, so that's what the gas station</p> <p>6 was. So, it's got to be below 10. It just has to be.</p> <p>7 MR. CHEN: What's your number?</p> <p>8 MS. VANDERMAUSE: I don't --</p> <p>9 HEARING OFFICER HANNAN: You can -- she can -- she's</p> <p>10 testifying as to her opinion and it may not be what you want</p> <p>11 but --</p> <p>12 MR. CHEN: No, I just want a --</p> <p>13 MS. VANDERMAUSE: An appraiser doesn't do magic. You</p> <p>14 don't have to come up with a number; you reflect the market.</p> <p>15 You see what the buyers and sellers do --</p> <p>16 HEARING OFFICER HANNAN: Wait, stop.</p> <p>17 MS. VANDERMAUSE: Okay.</p> <p>18 MR. CHEN: I apologize.</p> <p>19 MS. VANDERMAUSE: I'm sorry.</p> <p>20 HEARING OFFICER HANNAN: Are we on cross- examination</p> <p>21 or not.</p> <p>22 MR. KLINE: I think it's still over here.</p> <p>23 HEARING OFFICER HANNAN: So, are there points and you</p> <p>24 can -- are there points you haven't covered?</p> <p>25 MS. VANDERMAUSE: Yes, okay. So we finished with the</p>
<p>198</p> <p>1 was your testimony I believe that this is more -- that this</p> <p>2 is less intense than the gas station.</p> <p>3 MS. VANDERMAUSE: Correct.</p> <p>4 HEARING OFFICER HANNAN: So if the gas station -- your</p> <p>5 testimony I believe is so, if the gas station is 12 percent,</p> <p>6 this discount should be less.</p> <p>7 MS. VANDERMAUSE: For the daycare, correct.</p> <p>8 HEARING OFFICER HANNAN: For the daycare, okay.</p> <p>9 MS. VANDERMAUSE: And to add to that, we have that</p> <p>10 table where we're talking about how -- how many ways a gas</p> <p>11 station is different from a daycare center.</p> <p>12 HEARING OFFICER HANNAN: Okay.</p> <p>13 MS. VANDERMAUSE: And it -- the gas station was much</p> <p>14 more intense and adverse effects than the daycare. So if</p> <p>15 you're willing to say the market pays 12 percent less to be</p> <p>16 next to a gas station, which is a much more intense,</p> <p>17 intrusive use than being next to a daycare center that</p> <p>18 operates part of the day, five days a week, no evenings, no</p> <p>19 weekends, no holidays and it's a school, the market's not</p> <p>20 going to apply the same discount as they would as a gas</p> <p>21 station.</p> <p>22 So it's got to be below 12. And then I took it one</p> <p>23 little step further when he finally concluded that the</p> <p>24 overall adverse effect of the day care center is 10 percent,</p> <p>25 then you say, oh, so if he said it's 10 percent for the</p>	<p>200</p> <p>1 paired sales analysis and now we're talking about the</p> <p>2 detrimental conditions and the point we want --</p> <p>3 HEARING OFFICER HANNAN: Now, I don't understand that.</p> <p>4 What -- where is that in your report?</p> <p>5 MS. VANDERMAUSE: Okay, in my report, it's on page 32.</p> <p>6 HEARING OFFICER HANNAN: Okay, I do -- I did understand</p> <p>7 it. Okay, these are the detrimental conditions.</p> <p>8 MR. CHEN: And you're comparing them with the</p> <p>9 McPherson's which are on page 38 of the McPherson report,</p> <p>10 right?</p> <p>11 MS. VANDERMAUSE: Or I can do --</p> <p>12 HEARING OFFICER HANNAN: Mr. Chen, don't object. This</p> <p>13 is her testimony. Are you -- or you can object, just don't</p> <p>14 jump in there.</p> <p>15 MR. CHEN: I apologize, but when she, you know, we've</p> <p>16 been covering -- jumping around but I --</p> <p>17 HEARING OFFICER HANNAN: Yeah, but I just don't want</p> <p>18 her to be badgered even though I'm badgering her.</p> <p>19 MR. CHEN: I apologize if I seem to be badgering but</p> <p>20 the lady when she first hit on this subject, she referred to</p> <p>21 the McPherson report and I was just giving her the page</p> <p>22 number.</p> <p>23 HEARING OFFICER HANNAN: Okay, all right.</p> <p>24 MS. VANDERMAUSE: No, that's fine.</p> <p>25 HEARING OFFICER HANNAN: Okay, Ms. Rice.</p>

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51 (201 to 204)

<p>201</p> <p>1 MS. RICE: I'm really sorry, but you have four 2 interested parties and our copy that we're hearing is 3 missing pages that you're talking about. Can I get pages -- 4 MR. KLINE: I only have copies of the handouts and some 5 pages are not included in those handouts because she wasn't 6 talking from. 7 MS. RICE: So, interested parties have no idea what 8 you're talking about without being on the easel -- 9 HEARING OFFICER HANNAN: Wait, just a second. 10 MS. RICE: Okay. 11 HEARING OFFICER HANNAN: What exhibit are you missing? 12 MS. RICE: The exhibit -- I'm missing the pages that 13 you're talking about right now. 14 HEARING OFFICER HANNAN: This excerpt? 15 MR. KLINE: No, she doesn't have it. 16 FEMALE: Yeah, there may be pages missing so we -- 17 MS. RICE: You're talking about page 32 and I can't see 18 it here. 19 HEARING OFFICER HANNAN: I don't know -- show me what 20 you're missing. 21 MS. RICE: The page you're talking about, page 32 in 22 this report. It's not -- that page is not here and we're 23 sharing it with four people. 24 HEARING OFFICER HANNAN: Well that report -- I don't 25 know what you mean. Is this that report?</p>	<p>203</p> <p>1 to be? 2 MS. KLINE: Would you move to the next phase of your 3 testimony, please? 4 MS. VANDERMAUSE: So, what -- 5 HEARING OFFICER HANNAN: Whatever that is. 6 MS. VANDERMAUSE: I'm sorry -- 7 MR. CHEN: Detrimental -- just detrimental. 8 HEARING OFFICER HANNAN: I don't know whose -- tell me 9 what you're talking about. 10 MS. VANDERMAUSE: We're reviewing McPherson's report. 11 HEARING OFFICER HANNAN: Okay. So, are you talking -- 12 MS. VANDERMAUSE: So, when I'm commenting, I'm talking 13 about how McPherson came to his conclusions of -- 14 HEARING OFFICER HANNAN: And can you give me a page 15 number on the McPherson report? Where are his -- in what 16 context -- what am I looking for? Is it detrimental effects 17 of this use? 18 MS. VANDERMAUSE: He lists how the daycare center is 19 going to impact -- 20 HEARING OFFICER HANNAN: Is it McPherson -- 21 MR. KLINE: Is it 38? 22 MS. VANDERMAUSE: Yeah, 38, his conclusion analysis. 23 HEARING OFFICER HANNAN: Okay. So, you're comparing 24 what you think the detrimental effects are to what Mr. 25 McPherson thinks the detrimental effects are.</p>
<p>202</p> <p>1 MS. RICE: This one. 2 MR. KLINE: Can I help you for a minute on this? 3 HEARING OFFICER HANNAN: So you want the full report? 4 MS. RICE: I want to follow what she's talking about 5 either on the easel or in a copy. 6 HEARING OFFICER HANNAN: Okay. Okay. This is an excerpt 7 from the full appraisal reports which we had available to 8 the public for months. 9 MS. RICE: Okay, but if she's pointing to it, shouldn't 10 it be on the easel? 11 HEARING OFFICER HANNAN: I can't put it on the easel 12 because this is what the reports look like. 13 MS. RICE: Okay, thank you. 14 HEARING OFFICER HANNAN: These -- these have been in 15 our public file for months. 16 MS. RICE: Okay. 17 MR. KLINE: Yes. Both of these reports. I mean quite 18 candidly for my clients I object to having to copy full 19 reports that have been in the public record for months. If 20 people are interested, quite bluntly, they should have taken 21 the time to come down here like other people do and look in 22 the file. 23 HEARING OFFICER HANNAN: Well, it says that in the 24 notice -- in the hearing notice. Now, let's get back to Ms. 25 Vandermause. Why -- can you start her where we're supposed</p>	<p>204</p> <p>1 MS. VANDERMAUSE: When Mr. McPherson described what the 2 detrimental effects were, he went through the list and said 3 that the driveway is this distance and the garbage trucks 4 are this distance and the dumpsters are this but -- 5 HEARING OFFICER HANNAN: And you disagree? 6 MS. VANDERMAUSE: Well, he didn't portray it -- he 7 exaggerated it. 8 HEARING OFFICER HANNAN: And in what way? 9 MS. VANDERMAUSE: Okay, like say for instance the 10 driveway he said is within 10 feet of the subject property. 11 But that 10 foot area has a landscaping buffer and it has a 12 six foot high fence, which he didn't mention that. 13 HEARING OFFICER HANNAN: So, he didn't mention the 14 landscaping? 15 MS. VANDERMAUSE: Right. And he said the school 16 driveway is approximately 85 feet from the subject house. So 17 when you mention that the driveway is 10 feet from the 18 property line, the driveway is really 85 -- also 85 feet 19 from the Kosary house. It's a point of clarification. It's - 20 - the impact is further away. 21 And then when he described the drop-off area and the 22 associated noise starting at 6 a.m., the building, the 23 school building is 70 yards from the subject house, 24 building. So that's -- that's not right up against the 25 house. It's 70 yards away where the drop-off area is. So</p>

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<p style="text-align: right;">205</p> <p>1 that's a little bit less of an exaggeration.</p> <p>2 That's the case where it's going to be. It's not going</p> <p>3 to be that bad, as bad as he described, and the same with</p> <p>4 the parking lot and the lights are in proximity to the</p> <p>5 subject patio and fountains. Well, he's next to the patio</p> <p>6 and fountains, but the parking lot is 85 feet from the</p> <p>7 house. And then the dumpster pad faces the subject but the</p> <p>8 dumpster pad is 71 yards from the rear patio. And then he</p> <p>9 said there's excess noise, light and infringement on owners'</p> <p>10 peaceful enjoyment because of the garbage trucks coming up.</p> <p>11 How often is that going to happen?</p> <p>12 HEARING OFFICER HANNAN: Well, we don't know because</p> <p>13 that testimony hasn't given.</p> <p>14 MS. VANDERMAUSE: Just and it's 71 yards. That's three-</p> <p>15 quarters of a football field away from the house.</p> <p>16 HEARING OFFICER HANNAN: Okay. I have an objection.</p> <p>17 What?</p> <p>18 MR. KLINE: Let's just get it done. I want cross-</p> <p>19 examination, please.</p> <p>20 HEARING OFFICER HANNAN: No, we're on --</p> <p>21 MR. KLINE: I know; I want cross-examination at the</p> <p>22 appropriate time.</p> <p>23 HEARING OFFICER HANNAN: All right. I tell you what?</p> <p>24 We'll finish this. Go ahead.</p> <p>25 MS. VANDERMAUSE: Okay, so the point I was making there</p>	<p style="text-align: right;">207</p> <p>1 MS. VANDERMAUSE: It's Moss, like M-o-s-s.</p> <p>2 HEARING OFFICER HANNAN: Okay, Vandermause. So, you are</p> <p>3 -- we are -- you have described to us the differences in</p> <p>4 what the -- or you have gone -- have you finished going</p> <p>5 through where you disagree with Mr. McPherson's report of</p> <p>6 the adverse impacts?</p> <p>7 MS. VANDERMAUSE: There's one more point I want to</p> <p>8 make.</p> <p>9 HEARING OFFICER HANNAN: Okay, let's go.</p> <p>10 MS. VANDERMAUSE: And I think this exhibit is probably</p> <p>11 something --</p> <p>12 MR. KLINE: So, you're referring to Exhibit 148 on the</p> <p>13 board here?</p> <p>14 MS. VANDERMAUSE: Is that what that is?</p> <p>15 MR. KLINE: That's number 148, yeah.</p> <p>16 MS. VANDERMAUSE: 148, right. Okay, so when we talk</p> <p>17 about and we ran down the list, the driveway, the lighting,</p> <p>18 the garbage truck, okay, no matter what is built --</p> <p>19 MR. KLINE: Be specific when you're putting your finger</p> <p>20 on stuff so that the record will reflect that, please.</p> <p>21 MS. VANDERMAUSE: No matter what is built and I'm</p> <p>22 pointing to the Primrose School site --</p> <p>23 HEARING OFFICER HANNAN: On Exhibit 148, right?</p> <p>24 MS. VANDERMAUSE: Right. There's going to be</p> <p>25 detrimental -- if you'd like to call them detrimental</p>
<p style="text-align: right;">206</p> <p>1 when you're talking about detrimental conditions, when you</p> <p>2 read his report, he exaggerated and we added a little more</p> <p>3 detail to what's really going on.</p> <p>4 MR. CHEN: I want to --</p> <p>5 MR. KLINE: Object to my questions, not her testimony.</p> <p>6 HEARING OFFICER HANNAN: What --</p> <p>7 MR. CHEN: I apologize.</p> <p>8 HEARING OFFICER HANNAN: You know what? We're going to</p> <p>9 take a five-minute break.</p> <p>10 (Off the record at 3:01:15 p.m.)</p> <p>11 (Back on the record at 3:14:52 p.m.)</p> <p>12 HEARING OFFICER HANNAN: Is the court reporter ready?</p> <p>13 Yes. I see he's nodding yes. For the person who asked for an</p> <p>14 extra copy of the appraisal report, I had a copy made for</p> <p>15 you.</p> <p>16 It should be coming. Please be respectful -- we are</p> <p>17 short-staffed as you may have noticed. Please be respectful</p> <p>18 of our staff. We cannot as I said we're down 50 percent of</p> <p>19 our staff. If you want to see copies, I suggest that you</p> <p>20 familiarize yourself in advance with exhibits that have been</p> <p>21 submitted and if there's anything you want copies of, you</p> <p>22 can make an appointment and come in and they'll get the</p> <p>23 copies for you. Okay? We don't have the capability right now</p> <p>24 to ad hoc fulfill these requests. Okay, we were -- we're</p> <p>25 continuing with Ms. Vander -- is it moose or hoose?</p>	<p style="text-align: right;">208</p> <p>1 conditions from any development. It's not exclusive to the</p> <p>2 daycare center.</p> <p>3 Ms. ROBESON: Okay.</p> <p>4 MS. VANDERMAUSE: And with the daycare center, some of</p> <p>5 the advantages if you want to point out the things that are</p> <p>6 different like --</p> <p>7 MR. CHEN: Objection, this was not in her report. This</p> <p>8 whole area was not in her report. She attached -- the report</p> <p>9 was a critique of the McPherson report. There was nothing in</p> <p>10 her report about the advantages to having --</p> <p>11 MS. VANDERMAUSE: I can phrase that differently, okay?</p> <p>12 HEARING OFFICER HANNAN: Would you proffer what you</p> <p>13 would say? Would you proffer? Do you know what she's going</p> <p>14 to say?</p> <p>15 MR. CHEN: I think it comes best from her, yes.</p> <p>16 HEARING OFFICER HANNAN: What are you getting ready to</p> <p>17 say?</p> <p>18 MS. VANDERMAUSE: Okay, we're talking about detrimental</p> <p>19 conditions and that's going to change the Kosary's setting</p> <p>20 for their house. And the daycare center, you could go to</p> <p>21 page -- the very front page --</p> <p>22 HEARING OFFICER HANNAN: Just give me an idea of what</p> <p>23 point you want to make.</p> <p>24 MR. KLINE: Elizabeth, Betty, stop. Let me try after</p> <p>25 all, if I may. Okay. It just takes -- the question is going</p>

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<p style="text-align: right;">209</p> <p>1 to be a little involved setting up. Ms. Vandermause, I like 2 the Hearing Examiner's question about if this is only a one- 3 quarter size or a 50-student daycare center, would the 4 impact be the same as if it was a 200 -- 5 MR. CHEN: Objection. This is not a land planner at 6 all. This is the -- 7 MR. KLINE: No -- 8 MR. CHEN: This is way beyond the report. 9 MR. KLINE: Well, it seems to me I'm asking her in 10 terms of valuation does the intensity of the use which is 11 basically a standard as it appears in both of the appraisal 12 reports, does the intensification of use have an effect on 13 the reduction in the price? 14 MR. CHEN: That's not an accurate statement. What -- 15 what was and while you were referred to before the break to 16 pages 32 of Ms. Vandermause's report and page -- 17 MR. KLINE: Thirty-eight -- 18 MR. CHEN: -- 38 of the first -- 19 MR. KLINE: -- of the redevelopment. 20 MR. CHEN: Excuse me, excuse me, of the McPherson 21 report, the very first item, she tracked them. She listed 22 them on page 32 of her report. She left out because that's 23 my cross examination, she left out intensity of use. So when 24 she went and gave you supposedly the detrimental use impacts 25 that she was criticizing McPherson for, she left out the top</p>	<p style="text-align: right;">211</p> <p>1 13,000 square foot building with a 128,156 square foot land 2 area, which is an FAR of .101. And then McPherson on page 37 3 calculates the FAR of the proposed Primrose School, not a 4 .101 but rather .124 and he explained that because he 5 deducted the forest conservation area which was in error. He 6 shouldn't have done it and that came up with the higher 7 density of development by excluding that open space land. So 8 the Primrose School is going to be only a .101 FAR when you 9 include the forest conservation area and then that reduces 10 the impact on the Primrose School development if you include 11 -- if you include the forest conservation area, there's less 12 of an impact than he stated. So when you're saying he 13 overstated the detrimental conditions. 14 And the part of the forest conservation area in this 15 use with a daycare center provides a non-developable area 16 consistent with about half of the common property line 17 between the subject and the Primrose School. 18 HEARING OFFICER HANNAN: Where are you -- where are 19 you? 20 MS. VANDERMAUSE: Page 34. 21 HEARING OFFICER HANNAN: Thirty-four? 22 MS. VANDERMAUSE: Of my report. 23 HEARING OFFICER HANNAN: Of your report. 24 MS. VANDERMAUSE: So that's where we address intensity 25 of development.</p>
<p style="text-align: right;">210</p> <p>1 one which was intensity use. So, I'm objecting at this point 2 for any attempt by Mr. Kline to rehabilitate his client and 3 her report. She left it out. 4 MR. KLINE: I didn't consider the question to be a 5 rehabilitation. I considered it to be basically a 6 clarification. 7 HEARING OFFICER HANNAN: Well, I tell you what. This is 8 what I would like to do. 9 MR. KLINE: Sure. 10 HEARING OFFICER HANNAN: I would like to hear her 11 testimony -- I would like some response from Mr. McPherson 12 if he's able to make a response. Normally this -- you would 13 not have gone first, you tried to anticipate, you know, what 14 she was going to say. I'd like just a brief -- a brief 15 roundup if he can do that. You would normally have that 16 opportunity because I would be interested in what he would 17 like to say. So I'm going to let her continue to testify and 18 you can cross, but I would like to recall Mr. McPherson. 19 MR. KLINE: That's fine. 20 HEARING OFFICER HANNAN: Okay, let's go. What were you 21 going to say? 22 MS. VANDERMAUSE: Well, we addressed on page 34 of our 23 report, which is not in the handout but we did have a 24 section on intensity of development. And it says the 25 proposed Primrose School has a floor area ratio of .101,</p>	<p style="text-align: right;">212</p> <p>1 HEARING OFFICER HANNAN: Okay. 2 MS. VANDERMAUSE: So, then on page 35, Mr. McPherson 3 talk about the Candlewood Elementary School, which is 11.78 4 acres site and he tries to compare the Candlewood Elementary 5 School to the Primrose site and that is a far less intense 6 use, but it's a -- it's a totally different animal. It's -- 7 it's not a -- it's a .06 FAR. So, he was trying to make a 8 case that's a less intense use. But the Primrose -- so the 9 Primrose School is .101 is slightly less than the FAR of the 10 Presbyterian Church that's east of the subject which is an 11 FAR of .108. And the new single-family detached dwelling at 12 700 Needwood Road is -- if you put three similarly sized 13 houses on the Primrose School site, you would have a much 14 larger density of development, intense development than what 15 they're proposing for the daycare center and those 16 developments -- 17 HEARING OFFICER HANNAN: Wait a minute, wait a minute. 18 MS. VANDERMAUSE: Okay. 19 HEARING OFFICER HANNAN: Five houses on this -- 20 MR. KLINE: Three houses. 21 MS. VANDERMAUSE: Three houses. 22 HEARING OFFICER HANNAN: Three houses, you would have 23 more intense -- is that what you're saying? 24 MS. VANDERMAUSE: Yes, because they're going to be 25 taller --</p>

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<p style="text-align: right;">213</p> <p>1 HEARING OFFICER HANNAN: Okay, keep going. I just 2 wanted to be sure I had the right property. 3 MS. VANDERMAUSE: Yes, so if you take the Primrose 4 School site and you put three single-family detached homes 5 on it that are at least two stories much -- and big 6 buildings, they're going to -- with no buffer, no landscape, 7 no fencing, that's going to be a more intense development 8 than the daycare center. And that's -- 9 HEARING OFFICER HANNAN: You don't think they're going 10 to require landscaping and fencing? 11 MS. VANDERMAUSE: For single family homes? 12 HEARING OFFICER HANNAN: Yeah. 13 MS. VANDERMAUSE: Well, look at the 7500 Needwood. If 14 they put a house on the site and -- 15 HEARING OFFICER HANNAN: Yeah, but I'm not sure they 16 had to subdivide that but go ahead. I digress; I'm not going 17 to get into it. Go ahead. 18 MS. VANDERMAUSE: Okay. I mean fences are not supplied 19 by builders and stuff. 20 HEARING OFFICER HANNAN: Go ahead. 21 MS. VANDERMAUSE: So, if we're going to look at 22 intensity of development and you want to -- when you -- if 23 you look at the daycare, a church or three homes, the 24 daycare ends up being the less intense development and it 25 supplies fencing and it supplies landscaping and it's a use</p>	<p style="text-align: right;">215</p> <p>1 price range of the house was. I've had one agent said oh my 2 God, I'm going to use this in my sales meeting with my 3 agents, because it shows the relationship. 4 So even though the seller wanted more for that house, 5 he did a very brave thing by trying to break the million- 6 dollar barrier but now he has and now the market -- that 7 gains acceptance and it's going to encourage, you know, not 8 scare other people off. So that's the point with that. So 9 with a daycare they will have that open space. The church 10 would be more intense use. It presents some other -- some of 11 the similar things but it's going to be -- just look at the 12 property that's already there, the church next door. So that 13 was the point I wanted to make when I was going up to the 14 exhibit to just to point out and we can do it with my hand 15 out. 16 HEARING OFFICER HANNAN: No, it's fine. I understand. 17 MS. VANDERMAUSE: All right, so that's -- 18 MR. KLINE: Are you finished? 19 MS. VANDERMAUSE: Well, I want to just wrap up. 20 MR. KLINE: Yeah. 21 MS. VANDERMAUSE: Okay. So, like our final conclusions? 22 MR. KLINE: Yes. 23 MS. VANDERMAUSE: Okay. And the market survey that Mr. 24 McPherson did provides the best support. 25 MR. CHEN: I apologize.</p>
<p style="text-align: right;">214</p> <p>1 that's only used five days a week, no evenings, no weekends, 2 no holidays. So that's how you compare -- 3 HEARING OFFICER HANNAN: When you say intensity, are 4 you speaking of FAR? 5 MS. VANDERMAUSE: Mass and density. 6 HEARING OFFICER HANNAN: Okay. 7 MS. VANDERMAUSE: So, that's why we included those 8 pictures of the brand new home. You could see how 9 significantly larger that home is. That's what the trend is. 10 That's what the market wants and it's in keeping with what 11 land values are worth. Because there's a relationship 12 between the price of the land and the total value of the 13 property and that house at 7500 Needwood fit the formula 14 because the builder will pay -- if you paid \$280,000 for 15 that lot, you would expect to pay -- build a house that's 16 worth \$900,000, you know, and they sold it for -- between 17 \$900,000 and a million and it fits perfectly, Because 18 \$280,000 ended up being 30 percent of the total price of the 19 house. 20 So no matter what the seller envisioned or hoped for, 21 the market responded exactly the way we've seen it. We've 22 seen it -- it's a formula that works a lot and I've done 23 these comparisons and even showed them to brokers and say 24 not in this case, but other cases I'll say look here's what 25 they paid for the land and here's what the house -- the</p>	<p style="text-align: right;">216</p> <p>1 MS. VANDERMAUSE: Oh, I'm sorry. The market survey 2 provides the best support. 3 HEARING OFFICER HANNAN: Wait, the market survey -- 4 MS. VANDERMAUSE: [inaudible] Mr. McPherson when he 5 interviewed those agents and got that wide range of 6 responses. And his range was what we talked about was like 7 no change at all was within range of the survey up to a 8 negative 30 percent. And that's an accurate reflection of 9 the market. You're going to see people who are going to -- 10 like they're going to weigh these different things. Some 11 people are going to like the contemporary-style home. Some 12 aren't; some want to be in a protected -- 13 HEARING OFFICER HANNAN: What contemporary -- 14 MS. VANDERMAUSE: The Kosary house is a contemporary 15 house. So, we're talking about the impact of value on that 16 house, right? 17 HEARING OFFICER HANNAN: Okay. 18 MS. VANDERMAUSE: Okay. So we're going to -- Mr. 19 McPherson said it was a minus 10 percent value deduction on 20 the Kosary house. 21 HEARING OFFICER HANNAN: Okay, keep going. 22 MS. VANDERMAUSE: Okay, when the market comes in and 23 we're trying to explain why he got such a wide range in the 24 survey, it's exactly what you would expect to get because 25 some people are going to like the contemporary house, some</p>

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<p style="text-align: right;">217</p> <p>1 aren't. Some want to be in a subdivision, some people like 2 the fact that it's not in a planned subdivision. 3 Some people are going to like the energy efficient 4 items that are in the subject property. There's going to be 5 -- people are going to like that area because it's close to 6 the metro, main highways and commercial development, but 7 then the Kosary house -- they're unable to buffer their 8 house from development on the surrounding parcels. They just 9 don't have enough and that's there no matter what. 10 So we already talked about what -- the possibilities of 11 permitted uses that go on the site that's going to impact 12 the value of the Kosary house, some people are going to like 13 it; some aren't. 14 So, the existing church parking lot, the wooded buffer 15 to the South is a wooded buffer is a single family detached 16 subdivision. That's the planned subdivisions to the south of 17 the Kosary house. They have an existing wooded buffer there; 18 that's going to stay. 19 And then the forest conservation easement along half of 20 the property border on the Primrose site and the parking lot 21 along half of the property border behind the six foot high 22 fence and landscaping. So that's what they'll get with the 23 daycare center, open space and fencing and change is coming 24 to the properties in that area, especially on, you know, 25 when we know it's going to be on the properties that are</p>	<p style="text-align: right;">219</p> <p>1 question. But the reason I think it's legitimate is because 2 there are factors that are stated in both of the reports as 3 to what affect the value of -- the diminution of value and I 4 think that's one thing that we all think is reflective of 5 how intense is the use is going on. 6 MR. CHEN: No, that's not accurate because if you're 7 going to allow the hypothetical give the square footage of 8 the building, give the number of vehicles coming in addition 9 to the students, give the amount of staff and everything 10 else. 11 HEARING OFFICER HANNAN: I see what you're saying, and 12 I'm not prepared with a scenario like that. So, I agree. I 13 do agree. He's saying that there's so many things that go 14 into it that just reducing the square footage is probably 15 not a good comparison. 16 MR. KLINE: You mean reducing the pupils. Well, I could 17 give you the hypothetical of all those other, but it's more 18 trouble than it's worth. 19 HEARING OFFICER HANNAN: Okay, thank you. 20 MR. KLINE: Thank you. That's all I have to say. That 21 is the end of our examination. 22 HEARING OFFICER HANNAN: Thank you. Mr. Chen? 23 MR. CHEN: Thank you very much. As I understand your 24 last testimony, ma'am, you said the market is exactly what 25 to expect from a daycare center. Is that -- is that your</p>
<p style="text-align: right;">218</p> <p>1 adjacent. 2 And because the subject cannot buffer itself against 3 these changes, the environment for the subject will change. 4 And some changes could create some detrimental conditions 5 for the subject and the market will react in terms of price 6 or marketing time or a combination of both. 7 HEARING OFFICER HANNAN: Okay. 8 MS. VANDERMAUSE: I think I'm done. 9 MR. KLINE: Any argo of the land use bar that people 10 are up here at the table, not the front, density is both 11 activity as well as volume and property. 12 HEARING OFFICER HANNAN: Do you have an objection? 13 MR. CHEN: Yes, she's already testified what it is. She 14 said it was three units, the use. 15 HEARING OFFICER HANNAN: What's your question without 16 the explanation? What are you asking? 17 MR. KLINE: My question is the same question I asked a 18 minute ago and that is will a buyer pay the same amount of 19 money for the Kosary house if it is adjacent to a 50-student 20 daycare center or a 200 student daycare center? 21 MR. CHEN: I object. It's not in her report at all. 22 This came up a half hour a go. 23 MR. KLINE: I believe that -- 24 MS. ROBESO: I think I asked it. 25 MR. KLINE: Well, the question -- I'm plagiarizing your</p>	<p style="text-align: right;">220</p> <p>1 testimony? 2 MS. VANDERMAUSE: You said the market survey? 3 MR. CHEN: Yes. You agree with it? The survey we're 4 talking about. 5 MS. VANDERMAUSE: Yeah, I say that you would get a wide 6 range of responses. 7 MR. CHEN: Yes, and of those like we did question. I 8 don't have to go through it again. But of the six realtors, 9 five of the realtors said there would be a negative impact 10 and you acknowledge that. Isn't that correct? 11 MS. VANDERMAUSE: Yes, that's correct. 12 MR. CHEN: Okay. I mean they went from a range -- there 13 was one that said nothing. Do you remember? No impact. 14 MS. VANDERMAUSE: Well, he said no impact at all. So 15 when you count his, it's a zero, zero. 16 MR. CHEN: I said -- 17 HEARING OFFICER HANNAN: Just answer his questions, 18 okay? 19 MR. CHEN: One said no impact, isn't that correct? 20 MS. VANDERMAUSE: Right. 21 MR. CHEN: But the other five all went from zero to 22 five I think was the next guy and the others were up to 23 \$30,000, 30 percent. Isn't that correct? Let me show you -- 24 your -- 25 MS. VANDERMAUSE: Yeah, I know but --</p>

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<p>221</p> <p>1 MR. CHEN: Well, it's yes or no.</p> <p>2 MS. VANDERMAUSE: Well, if you're counting the range.</p> <p>3 HEARING OFFICER HANNAN: No, okay, this is his time to</p> <p>4 ask questions. If you don't understand the question, say I</p> <p>5 don't understand. If you do understand the question, you can</p> <p>6 answer yes or no.</p> <p>7 MS. VANDERMAUSE: Then technically the way --</p> <p>8 HEARING OFFICER HANNAN: You have an attorney here</p> <p>9 that's ready to jump in afterward and rehabilitate any --</p> <p>10 MS. VANDERMAUSE: Okay.</p> <p>11 MR. CHEN: I'm directing your attention to page 41</p> <p>12 which is in Exhibit 192. Sorry, it's out of your report.</p> <p>13 MS. VANDERMAUSE: Okay.</p> <p>14 MR. CHEN: I'm utilizing your information on your</p> <p>15 chart.</p> <p>16 MS. VANDERMAUSE: Yeah, 41.</p> <p>17 MR. CHEN: So, as I understand it, the chart reflects</p> <p>18 the interview information received from six realtors. Is --</p> <p>19 am I correct on that?</p> <p>20 MS. VANDERMAUSE: Correct.</p> <p>21 MR. CHEN: Okay. So the range of their reaction to the</p> <p>22 survey about the installation establishment of a daycare</p> <p>23 center that's being proposed here was from top one was Mr.</p> <p>24 Breitsameter, who said no impact or nearly no impact.</p> <p>25 MS. VANDERMAUSE: Right.</p>	<p>223</p> <p>1 MS. VANDERMAUSE: Well, I did. I --</p> <p>2 MR. CHEN: If it's at five. Assume -- we're -- we're</p> <p>3 taking your number.</p> <p>4 MS. VANDERMAUSE: Yeah. [Inaudible].</p> <p>5 MR. CHEN: Assuming it's a five --</p> <p>6 MS. VANDERMAUSE: There's -- there's -- if you take all</p> <p>7 the responses, there's three zeros. If you have -- everybody</p> <p>8 gave a range --</p> <p>9 MR. CHEN: Where are the -- where's -- where are the</p> <p>10 three zeros?</p> <p>11 MR. KLINE: May I -- may I -- may I [inaudible]?</p> <p>12 MR. CHEN: No. Witness. Identify the three zeros.</p> <p>13 MS. VANDERMAUSE: Okay. If -- if we're saying everybody</p> <p>14 said a range of that -- of -- of negative impact, the first</p> <p>15 guy said zero. So that's zero, zero.</p> <p>16 MR. CHEN: That's --</p> <p>17 MS. VANDERMAUSE: No impact at all.</p> <p>18 MR. CHEN: That's one.</p> <p>19 MS. VANDERMAUSE: Okay. And then the last guy said</p> <p>20 zero, but negative five.</p> <p>21 MR. CHEN: Okay.</p> <p>22 MS. VANDERMAUSE: And that's the person -- the only</p> <p>23 person who sold a house in that neighborhood.</p> <p>24 MR. CHEN: Okay. That's --</p> <p>25 HEARING OFFICER HANNAN: Well, that's not what he's</p>
<p>222</p> <p>1 MR. CHEN: Okay, then of all the rest the range went</p> <p>2 from zero to five percent which was Romano who sold the</p> <p>3 7500-address property, right?</p> <p>4 MS. VANDERMAUSE: Correct. Yeah. Yeah. Yeah. Yeah.</p> <p>5 MR. CHEN: And it goes up to 20 percent to 30 percent</p> <p>6 is Matis [ph]. It goes up to 75 to 100,000 by ca- -- health</p> <p>7 retailer. It goes from fi- -- 5 percent under -- for houses</p> <p>8 under 550 to 8 percent for houses over 550. Isn't that</p> <p>9 correct?</p> <p>10 MS. VANDERMAUSE: Correct.</p> <p>11 MR. CHEN: Okay. So that of the five of the six surveys</p> <p>12 say there's a negative impact. Yes or no?</p> <p>13 MS. VANDERMAUSE: No.</p> <p>14 MR. CHEN: How do you get -- how do you get no? Tell me</p> <p>15 how you get to no.</p> <p>16 MS. VANDERMAUSE: Because the -- the last one on the</p> <p>17 chart said there could be a negative -- I mean, a zero</p> <p>18 impact. So that would be --</p> <p>19 MR. CHEN: No. It doesn't say that.</p> <p>20 MS. VANDERMAUSE: Zero to five.</p> <p>21 MR. CHEN: Yeah. It doesn't say could. It says zero to</p> <p>22 5 percent.</p> <p>23 MS. VANDERMAUSE: Well, that's what zero means.</p> <p>24 MR. CHEN: Oh. You're just limiting it at zero. Suppose</p> <p>25 you limit it at five.</p>	<p>224</p> <p>1 asking.</p> <p>2 MS. VANDERMAUSE: Okay. Well, if we're going to be</p> <p>3 consistent with the data.</p> <p>4 HEARING OFFICER HANNAN: No. I know. Get --</p> <p>5 MS. VANDERMAUSE: All right.</p> <p>6 HEARING OFFICER HANNAN: This is not --</p> <p>7 MS. VANDERMAUSE: Okay. That's fine.</p> <p>8 HEARING OFFICER HANNAN: You need to an- -- just answer</p> <p>9 his questions.</p> <p>10 MS. VANDERMAUSE: All right.</p> <p>11 HEARING OFFICER HANNAN: Just focus on that.</p> <p>12 MS. VANDERMAUSE: Okay.</p> <p>13 MR. CHEN: Am I correct that five out of six are</p> <p>14 indicating a negative impact?</p> <p>15 MS. VANDERMAUSE: Yeah.</p> <p>16 MR. CHEN: Okay. Now, you list -- by the way, you're a</p> <p>17 commercial realtor. Is that right?</p> <p>18 MS. VANDERMAUSE: Well, I do --</p> <p>19 MR. CHEN: Your testimony says you're a real- -- a</p> <p>20 commercial realtor. Apprais- -- I apologize.</p> <p>21 MS. VANDERMAUSE: Well, I'm a -- I'm a real estate</p> <p>22 appraiser and I do ---</p> <p>23 MR. CHEN: Well --</p> <p>24 MS. VANDERMAUSE: -- a -- a wide range, which can</p> <p>25 include residential.</p>

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<p>225</p> <p>1 MR. CHEN: And most of your work that you've listed is 2 for railroads. Is that correct? 3 MS. VANDERMAUSE: No. 4 MR. CHEN: No. Railroads are not most of your practice. 5 MS. VANDERMAUSE: No. 6 MR. CHEN: Okay. When's the last time you did a real 7 estate appraisal other than this space? You didn't do an 8 appraisal, but -- 9 MS. VANDERMAUSE: I'm in the middle of some now. 10 MR. CHEN: Okay. You -- when's the last time you did 11 it? 12 MS. VANDERMAUSE: Last month. 13 MR. CHEN: Okay. Where was it? 14 MS. VANDERMAUSE: I know I'm active in both Prince 15 George and Montgomery County. 16 MR. CHEN: Okay. 17 MS. VANDERMAUSE: I'm updating something in Montgomery 18 County now. 19 MR. CHEN: Okay. Okay. Let's make it simple. Are any of 20 them involving appraisal [inaudible] this situation where 21 it's a -- a residentially zoned property next to a church 22 and on the other side, it's a hunk of land -- a parse of 23 land that is being proposed for a daycare center? 24 MS. VANDERMAUSE: No. 25 MR. CHEN: Okay. And by the way, I think you were here</p>	<p>227</p> <p>1 examiner is he? 2 MS. VANDERMAUSE: He -- he corrected the -- the 3 deficiencies. 4 MR. CHEN: You -- he corrected the deficien- -- 5 MS. VANDERMAUSE: Well, the -- the -- the overstatement 6 of the -- of the FAR by not including the forest 7 conservation. 8 MR. CHEN: But he explained it in his written report. 9 It's noted. 10 MS. VANDERMAUSE: Yeah. 11 MR. CHEN: So where's the deficiency? 12 MS. VANDERMAUSE: Well, I'll take that word back. He -- 13 he -- 14 MR. CHEN: Okay. 15 MS. VANDERMAUSE: -- explained that. 16 MR. CHEN: Now, the -- on -- on your handout -- 17 MS. VANDERMAUSE: Correct. 18 MR. CHEN: -- page 24, you have this photograph. Do -- 19 do you see that? 20 MS. VANDERMAUSE: Mm-hmm. That's the 7420. That's the 21 house in front of the [inaudible]. 22 MR. CHEN: Is that the house that -- that's the house 23 in front of [inaudible]. 24 MS. VANDERMAUSE: Right. 25 MR. CHEN: And this would be subject to redevelopment</p>
<p>226</p> <p>1 when Mr. McPherson testified; is that right? 2 MS. VANDERMAUSE: Correct. 3 MR. CHEN: And you did hear his testimony that he 4 explained the Ci- -- CITGO station and how difficult it was 5 to get comparables. You heard that. 6 MS. VANDERMAUSE: I agree with that. 7 MR. CHEN: And -- yes. And he fully disclosed all that 8 in his testimony -- 9 MS. VANDERMAUSE: Right. 10 MR. CHEN: -- to the hearing examiner; didn't he? 11 MS. VANDERMAUSE: Yeah. 12 MR. CHEN: Okay. In addition to that, he also pointed 13 out specifically the FAR issue; isn't that correct? 14 MS. VANDERMAUSE: That's correct. 15 MR. CHEN: And he fully explained that; didn't he? 16 MS. VANDERMAUSE: Yes. 17 MR. CHEN: And he disclosed how -- the differences by -- 18 - with the tree, including the conservation area and not; 19 isn't that correct? 20 MS. VANDERMAUSE: That's correct. 21 MR. CHEN: Okay. So that -- in both his written report, 22 he noted the differential with the FAR and in his testimony 23 today unprompted, he explained it; isn't that right? 24 MS. VANDERMAUSE: That's right. 25 MR. CHEN: So he -- he's not misleading the hearing</p>	<p>228</p> <p>1 with a bigger house. 2 MS. VANDERMAUSE: It's -- it's likely. 3 MR. CHEN: Okay. [Inaudible]. 4 MS. VANDERMAUSE: Mm-hmm. 5 MR. CHEN: So your testimony is that three residential 6 lots with development current standards that you say they 7 want big houses comparable to 7,500 and is your testimony 8 that that development on the Primrose site -- 9 MS. VANDERMAUSE: Uh-huh. 10 MR. CHEN: -- is more intense than the conditional use 11 of Primrose is proposing. 12 MS. VANDERMAUSE: If you're talking about FAR, size of 13 the -- the total building. 14 MR. CHEN: Okay. 15 MS. VANDERMAUSE: Three houses and -- and as opposed to 16 a one story daycare center to a two story house, that the 17 dense -- the intensity of development, there's going to be 18 more mass. 19 MR. CHEN: Okay. So when you use the word intensity, 20 you're talking about size of the building. 21 MS. VANDERMAUSE: Part of it. Yes. 22 MR. CHEN: What's the other part of it other than the 23 size? 24 MS. VANDERMAUSE: The height. 25 MR. CHEN: That's part of -- okay. The height.</p>

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<p>229</p> <p>1 MS. VANDERMAUSE: Yeah.</p> <p>2 MR. CHEN: Okay. What else?</p> <p>3 MS. VANDERMAUSE: And how it -- there will be no open</p> <p>4 space. If they're going to lay out three houses, there won't</p> <p>5 be any open space left at the back of the site.</p> <p>6 MR. CHEN: Well, let's talk about that for a minute.</p> <p>7 MS. VANDERMAUSE: Okay.</p> <p>8 MR. CHEN: You do acknowledge, don't you, that on</p> <p>9 residentially developed land --</p> <p>10 MS. VANDERMAUSE: Right.</p> <p>11 MR. CHEN: -- on lots -- separate lots -- pipes,</p> <p>12 [inaudible], or otherwise --</p> <p>13 MS. VANDERMAUSE: Mm-hmm.</p> <p>14 MR. CHEN: -- that there's open space; isn't that</p> <p>15 correct?</p> <p>16 MS. VANDERMAUSE: Not always, but there -- there can be</p> <p>17 some parts of the land that's not developed.</p> <p>18 MR. CHEN: Yeah. How about a front lawn, a side lawn,</p> <p>19 the backyard, is that open space?</p> <p>20 MS. VANDERMAUSE: That's -- not -- well, if you're</p> <p>21 going to say open space, non-developable can never be</p> <p>22 developed.</p> <p>23 MR. CHEN: It's okay.</p> <p>24 MS. VANDERMAUSE: Well, it's --</p> <p>25 MR. CHEN: A lawn is open.</p>	<p>231</p> <p>1 on the Primrose site developed residential use how much</p> <p>2 would be in front lawn side, rear yard?</p> <p>3 MS. VANDERMAUSE: I can't answer that --</p> <p>4 MR. CHEN: Okay.</p> <p>5 MS. VANDERMAUSE: -- without a site plan.</p> <p>6 MR. CHEN: I appreciate your candor. Okay. That's fine.</p> <p>7 Now, with the residential development of three lots, do</p> <p>8 you know what kind of driveway will be installed for</p> <p>9 residential?</p> <p>10 MS. VANDERMAUSE: Are you talking about the surface --</p> <p>11 the hard surface?</p> <p>12 MR. CHEN: I'm just talking about do you know what kind</p> <p>13 of driveway would be installed for the two pipe stem and the</p> <p>14 regular residential lot?</p> <p>15 MR. KLINE: Not so much objection, just a</p> <p>16 clarification. We're talking the width of the roads,</p> <p>17 materials of the road in -- in more details?</p> <p>18 MR. CHEN: Do you -- do you know how wide they would be</p> <p>19 and material that would be used?</p> <p>20 MS. VANDERMAUSE: Well, for a residential use where</p> <p>21 there's cars and delivery trucks going down --</p> <p>22 MR. CHEN: A residential -- a residential driveway.</p> <p>23 MS. VANDERMAUSE: It's usually less than commercial.</p> <p>24 They don't have it as wide. And the -- the building</p> <p>25 standards are typically less for residential use than a</p>
<p>230</p> <p>1 MS. VANDERMAUSE: It's -- it's outside the footprint of</p> <p>2 the building. Yes.</p> <p>3 MR. CHEN: Yes.</p> <p>4 MS. VANDERMAUSE: You're going to have lawns --</p> <p>5 MR. CHEN: And this --</p> <p>6 MS. VANDERMAUSE: -- and side yards and front yards and</p> <p>7 backyards. Sure.</p> <p>8 MR. CHEN: Thank you. And in this case, the land</p> <p>9 planner yesterday testified that the southern portion of</p> <p>10 this site, aside from the forest area, which would be open,</p> <p>11 it's going to have grassland. Do you remember that test- --</p> <p>12 you weren't here for that test- -- are you aware that the</p> <p>13 land planner has noted that a substantial percentage of the</p> <p>14 site -- the Primrose site --</p> <p>15 MS. VANDERMAUSE: Mm-hmm.</p> <p>16 MR. CHEN: -- the southern portion is not only going to</p> <p>17 be forested, but it's going to be grass?</p> <p>18 MS. VANDERMAUSE: Mm-hmm.</p> <p>19 MR. CHEN: And that's open space, right?</p> <p>20 MS. VANDERMAUSE: Yes.</p> <p>21 MR. CHEN: Are you aware of how much of the percentage</p> <p>22 of the Primrose site is an open space?</p> <p>23 MS. VANDERMAUSE: I don't have that number.</p> <p>24 MR. CHEN: Okay. and are you aware of any -- on three</p> <p>25 pe- -- pipes -- I guess two pipe stem, but one regular lot</p>	<p>232</p> <p>1 commercial use.</p> <p>2 MR. CHEN: Okay. Are you aware that in this particular</p> <p>3 case that the Primrose is recognized to be a commercial use?</p> <p>4 MS. VANDERMAUSE: I'd say it's -- it's -- yeah. It's</p> <p>5 non-residential.</p> <p>6 MR. CHEN: Yeah. It's a -- their testimony -- I --</p> <p>7 MS. VANDERMAUSE: Yeah.</p> <p>8 MR. CHEN: I don't want to take advantage of --</p> <p>9 MS. VANDERMAUSE: No. That's -- that's --</p> <p>10 MR. CHEN: Their testimony says it's res- -- it's</p> <p>11 commercial.</p> <p>12 MS. VANDERMAUSE: Sure.</p> <p>13 MR. CHEN: Okay. And they're using a commercial</p> <p>14 driveway.</p> <p>15 MS. VANDERMAUSE: I would hope so. Yeah.</p> <p>16 MR. CHEN: It's going to be 20 feet wide with a curb.</p> <p>17 MS. VANDERMAUSE: Right.</p> <p>18 MR. CHEN: A curb -- the curb will be right up to 10</p> <p>19 feet of the -- excuse me -- 12 feet of the property line</p> <p>20 with the [inaudible] property.</p> <p>21 MS. VANDERMAUSE: Okay.</p> <p>22 MR. CHEN: Do you know how many vehicles will be using</p> <p>23 that driveway on a daily basis?</p> <p>24 MS. VANDERMAUSE: I would say if the po- -- you take</p> <p>25 the -- I'm sure it has a -- the study -- I wasn't in on</p>

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<p>233</p> <p>1 that.</p> <p>2 MR. CHEN: You -- I just said did you know?</p> <p>3 MS. VANDERMAUSE: It's going to be a combination of</p> <p>4 people driving and walking to the school. So I don't know.</p> <p>5 It's going to be more than a house.</p> <p>6 HEARING OFFICER HANNAN: Well -- okay.</p> <p>7 MR. CHEN: Okay. So you do know that the use of that</p> <p>8 commercial driveway for the Primrose application will be</p> <p>9 more than for three detached dwelling units on the same</p> <p>10 site.</p> <p>11 MS. VANDERMAUSE: Yes.</p> <p>12 MR. CHEN: Okay. And certainly, in theory, each of the</p> <p>13 three dwelling units on the site would not have 32</p> <p>14 administrators.</p> <p>15 MS. VANDERMAUSE: I hope not. Yeah.</p> <p>16 MR. CHEN: Okay. I'm just trying to get to --</p> <p>17 MS. VANDERMAUSE: Yeah.</p> <p>18 MR. CHEN: You know, your -- [inaudible] your test- --</p> <p>19 did some comparison --</p> <p>20 MS. VANDERMAUSE: Right. No. That's fine.</p> <p>21 MR. CHEN: -- you know, you're talking about intensity</p> <p>22 and bulk and -- and FAR. I understand that and I appreciate</p> <p>23 it.</p> <p>24 MS. VANDERMAUSE: Mm-hmm.</p> <p>25 MR. CHEN: But by the same token, there's other</p>	<p>235</p> <p>1 five what I characterize as mini paragraphs in bold</p> <p>2 headings.</p> <p>3 MS. VANDERMAUSE: Mm-hmm.</p> <p>4 MR. CHEN: Okay? Do you see that?</p> <p>5 MS. VANDERMAUSE: Yes.</p> <p>6 MR. CHEN: When I look at those and I look at page 38</p> <p>7 of Mr. McPherson's report under conclusion and analysis,</p> <p>8 he's got the same six that you have in bold; is that right?</p> <p>9 MS. VANDERMAUSE: He has six.</p> <p>10 MR. CHEN: Yeah. And --</p> <p>11 MS. VANDERMAUSE: And I have five.</p> <p>12 MR. CHEN: Yes. You're listing -- yeah. I -- I --</p> <p>13 you're listing five and you're using -- am I correct? It</p> <p>14 looks identical lan- -- language that -- that he is using.</p> <p>15 MS. VANDERMAUSE: Yeah. Because we were reviewing his</p> <p>16 report.</p> <p>17 MR. CHEN: You compare it. Yeah. Your -- your five</p> <p>18 listed detriment areas on page 32 of your report are</p> <p>19 identical to five of the six that McPherson has on page 38.</p> <p>20 MS. VANDERMAUSE: Well, my report is a re- -- is a</p> <p>21 review of McPherson's report. So it restates what he</p> <p>22 considered a detriment.</p> <p>23 MR. CHEN: Yeah. You're using the same identical</p> <p>24 listings as -- as he is.</p> <p>25 MS. VANDERMAUSE: Correct. Yeah.</p>
<p>234</p> <p>1 components of that.</p> <p>2 MS. VANDERMAUSE: Right.</p> <p>3 MR. CHEN: And they are -- have not been mentioned by</p> <p>4 you in talking about comparison with the Primrose and I'm</p> <p>5 just trying to explore that --</p> <p>6 MS. VANDERMAUSE: That's fine.</p> <p>7 MR. CHEN: -- see where you are. Okay. So when you --</p> <p>8 when you said at one point that 7,500 needed was higher</p> <p>9 density, you were talking about the height and the size.</p> <p>10 MS. VANDERMAUSE: That's a big house. Yes.</p> <p>11 MR. CHEN: Yes. Going back to your -- it's not in your</p> <p>12 handout. It's here. Your report has, on page -- did you take</p> <p>13 my copy? On page 32 of your report, you -- are you there?</p> <p>14 MS. VANDERMAUSE: Yeah. It's on here.</p> <p>15 MR. CHEN: Okay. You -- you list detriments, correct?</p> <p>16 And you track the detriments listed by Mr. McPherson; is</p> <p>17 that correct?</p> <p>18 MS. VANDERMAUSE: Correct.</p> <p>19 MR. CHEN: Okay. Do you have with you the McPherson</p> <p>20 report?</p> <p>21 MS. VANDERMAUSE: Yes.</p> <p>22 MR. CHEN: And -- thank you. Will you go to page 38</p> <p>23 man- -- man- -- do you have that -- both exhibits as well?</p> <p>24 MS. VANDERMAUSE: Okay.</p> <p>25 MR. CHEN: Now, on page 32 of your report, you have</p>	<p>236</p> <p>1 MR. CHEN: Now, couple of things. You are also in</p> <p>2 regular type af -- under each one of those bold headings,</p> <p>3 you provide information; isn't that right?</p> <p>4 MS. VANDERMAUSE: Right.</p> <p>5 MR. CHEN: And if you look at page 38 of the McPherson</p> <p>6 report, there's other language further up, including under</p> <p>7 paragraph of site improvements.</p> <p>8 MS. VANDERMAUSE: Right.</p> <p>9 MR. CHEN: Do you see anything that he is not stating</p> <p>10 that's accurate compared to your analysis that you're</p> <p>11 showing on page 32?</p> <p>12 MS. VANDERMAUSE: He talks about the width of the</p> <p>13 driveway.</p> <p>14 MR. CHEN: Mm-hmm.</p> <p>15 MS. VANDERMAUSE: And the paved area.</p> <p>16 MR. CHEN: He's giving the site improvements.</p> <p>17 MS. VANDERMAUSE: Right.</p> <p>18 MR. CHEN: Yeah.</p> <p>19 MS. VANDERMAUSE: And the conditional use indicator.</p> <p>20 MR. CHEN: Yeah. Do you [inaudible] with any of that</p> <p>21 information?</p> <p>22 MS. VANDERMAUSE: Well, he's reporting what he sees at</p> <p>23 the site plan, how they're going to develop 22 foot wide</p> <p>24 driveway. I don't have any basis to say that's wrong.</p> <p>25 MR. CHEN: Okay. But assuming he is taking information</p>

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<p>237</p> <p>1 off the application, you're not disagreeing with any of it. 2 MS. VANDERMAUSE: Right. 3 MR. CHEN: Just out of curiosity, his first listed area 4 under conclusion and analysis is intensity of development. 5 MS. VANDERMAUSE: Correct. 6 MR. CHEN: I -- I don't see that on your page 32. In 7 fact, I don't see any paragraph that has that same bold 8 heading. Am I missing -- could be. I -- I -- I'm not saying 9 I'm not. 10 MS. VANDERMAUSE: Well, on page 34, we go into -- we 11 just separated it from his list. That's where we wanted to 12 make that point. 13 MR. CHEN: Oh. Okay. Okay. That's fine. And then that's 14 -- and your first issue on that is the FAR issue. 15 MS. VANDERMAUSE: Right. 16 MR. CHEN: Okay. And he's reported that already. We 17 know that. And he's even discussed it today. 18 MS. VANDERMAUSE: Mm-hmm. 19 MR. CHEN: Okay. Do you know what the setback is for a 20 detached house driveway? I apologize. A de- -- a setback for 21 a detached house. 22 MS. VANDERMAUSE: No. Not -- 23 MR. CHEN: Side yard [inaudible]. 24 MS. VANDERMAUSE: Not a site plan. 25 MR. CHEN: Okay. Oh. You use a term infill --</p>	<p>239</p> <p>1 discussing infill and the relationship with Smart Growth 2 Policy, things of that nature, did you have occasion to do 3 any research as to the relationship of the Primrose site to 4 that Smart Growth Policy or priority funding areas? 5 MS. VANDERMAUSE: Well, could actually -- I called the 6 county, the planners, and I was asking them about how 7 Montgomery County handles smart growth. And I said, I know 8 the state of Maryland was promoting building where if a 9 structure exists, it'll keep spreading development further 10 and further out. And that that was some way that you could 11 control the sprawl. 12 And they said that Montgomery County does not have that 13 in their -- I don't know what the right doc- -- in their 14 thing. But they say if they agree with the smart growth and 15 they try to promote smart growth, but there's nothing 16 official in there. 17 MR. CHEN: Are you aware that part of Montgomery County 18 is under that program within priority funding areas? 19 MS. VANDERMAUSE: No. 20 MR. CHEN: Okay. Is it fair to say that it is your 21 professional opinion that this is an area where growth is 22 coming and things are going to change? 23 MS. VANDERMAUSE: Well, what appraisers do is reflect 24 the market. We don't need to have an opinion. We can see 25 that change is coming. And all you have to do is go to the</p>
<p>238</p> <p>1 MS. VANDERMAUSE: Right. 2 MR. CHEN: -- is that right? 3 MS. VANDERMAUSE: Mm-hmm. 4 MR. CHEN: And you -- you also talk about Maryland 5 Smart Growth -- 6 MS. VANDERMAUSE: Right. 7 MR. CHEN: -- Policy. Is -- isn't that how you combine 8 -- your -- your -- your discretion, I saw, was utilizing 9 infill in the context of Maryland Smart Growth Policy; is 10 that right? 11 MS. VANDERMAUSE: It has -- yes. Some of the -- 12 MR. CHEN: Do you know the requirements for the 13 Maryland Smart Growth Policy? 14 MS. VANDERMAUSE: No. 15 MR. CHEN: Do you know anything about priority funding 16 areas? 17 MS. VANDERMAUSE: I know some areas where they want to 18 promote redevelopment. And they put -- make it priority 19 funding. 20 MR. CHEN: And that's under the Smart Growth Policy? 21 MS. VANDERMAUSE: I don't know. 22 MR. CHEN: You don't know. Do you know if this site is 23 within a Maryland Priority Funding Area? 24 MS. VANDERMAUSE: I don't know. 25 MR. CHEN: When you were preparing your report and</p>	<p>240</p> <p>1 neighborhood and -- and see change is coming. And all you 2 have to do is look at the -- the life cycle of the 3 neighborhood. 4 And if we want to go back to what Mr. McPherson said in 5 his report, which was the focus of our report here, is that 6 he said it's a desirable area. It's -- it's got transit. 7 It's growing. And that's exactly what you see when you go to 8 the neighborhood. 9 MR. CHEN: So -- and -- and I've -- I have here in 10 quotes that there's going to be change in this area. 11 MS. VANDERMAUSE: Right. 12 MR. CHEN: That's -- that's what I have. 13 MS. VANDERMAUSE: Mm-hmm. 14 MR. CHEN: And that's your statement, there's going to 15 be change. 16 MS. VANDERMAUSE: Well, it's -- 17 MR. CHEN: Is that -- 18 MS. VANDERMAUSE: It's there. 19 MR. CHEN: Yeah. You're saying that's happening. 20 MS. VANDERMAUSE: Mm-hmm. 21 MR. CHEN: It's -- it's not a matter of -- are you 22 saying that's not a matter of opinion, it's a matter of fact 23 that this is an -- an area where there's going to be change? 24 MS. VANDERMAUSE: It has -- it has all the elements 25 that attract change.</p>

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<p>241</p> <p>1 MR. CHEN: Okay. And do you -- you recognize that 2 dwelling units and churches are permitted uses. 3 MS. VANDERMAUSE: Correct. 4 MR. CHEN: Is that correct? 5 MS. VANDERMAUSE: Mm-hmm. 6 MR. CHEN: And are you saying that if there's going to 7 be change, right -- 8 MS. VANDERMAUSE: Mm-hmm. 9 MR. CHEN: -- that therefore, conditional uses should 10 just be accepted comparable to permitted uses? 11 MS. VANDERMAUSE: Conditional uses are not denied. They 12 require another layer of scrutiny. Is that the right word? 13 Or research to -- to determine what the impact will be. And 14 you're concerned about what happens to property values. 15 MR. CHEN: So those increased scrutiny and requirements 16 -- 17 MS. VANDERMAUSE: Right. 18 MR. CHEN: -- are -- are part of the zoning law. Is 19 that your understanding? 20 MS. VANDERMAUSE: I know you're looking at it 21 differently than a permitted use. 22 HEARING OFFICER HANNAN: Now, don't -- just tell him -- 23 MS. VANDERMAUSE: Okay. Ask him -- yeah. 24 HEARING OFFICER HANNAN: -- what is -- is it your 25 under- -- is that your understanding?</p>	<p>243</p> <p>1 MS. VANDERMAUSE: Thank you. 2 MR. CHEN: Are you familiar with the scrutiny or the 3 standards for conditional uses for a child daycare facility 4 in the zoning ordinance? 5 MS. VANDERMAUSE: No. 6 MR. CHEN: Okay. That's all I got. 7 HEARING OFFICER HANNAN: That's all? 8 MR. CHEN: Well, hang on. Yeah. Yeah. We're going 9 [inaudible]. 10 HEARING OFFICER HANNAN: Okay. Redirect? 11 MR. KLINE: No, thank you. 12 HEARING OFFICER HANNAN: Okay. You may be excused. All 13 right. I'd like to -- where are we on time? 14 MR. KLINE: Going on 4:00. 15 HEARING OFFICER HANNAN: How about -- what is your 16 architect? 17 MR. KLINE: I'd definitely like to dispose Mr. Alt 18 today so he can go home for the -- 19 HEARING OFFICER HANNAN: We don't want to use the word 20 dispose. 21 MR. KLINE: Complete his testimony. 22 HEARING OFFICER HANNAN: Okay. 23 MR. KLINE: And I -- I'm -- I estimate it probably an 24 hour duration with cross-examination. 25 HEARING OFFICER HANNAN: Do you want to -- is Mr.</p>
<p>242</p> <p>1 MS. VANDERMAUSE: Can you ask again, please? 2 MR. CHEN: Yes. Are those requirements standards that - 3 - I think you used the word requirements or scrutiny -- are 4 part of the zoning ordinance? 5 MS. VANDERMAUSE: Right. 6 MR. CHEN: Okay. Are you aware of what are the 7 standards and requirements for a daycare conditional use and 8 the zoning ordinance? 9 MS. VANDERMAUSE: No. 10 MR. KLINE: Objection. Objection in the sense that I -- 11 I've only asked her to testify about the economic valuation. 12 She doesn't have a need, as part of her testimony, to know 13 the rest of the standards for conditional use [inaudible]. 14 HEARING OFFICER HANNAN: I -- I understand the 15 distinction. I'll let it in, but I understand that. 16 MR. CHEN: I -- I'm only going here because the witness 17 talked about permitted uses and what were permitted uses. 18 You know, that came up in her testimony, particularly as 19 dwelling units and churches. 20 HEARING OFFICER HANNAN: Yes. Okay. 21 MR. CHEN: And I think we -- did you answer the last -- 22 did she answer the last question? I think I heard an answer, 23 but I don't know whether -- Mr. Kline got into it. 24 HEARING OFFICER HANNAN: Why don't you restate your 25 question, please?</p>	<p>244</p> <p>1 McPherson available Monday? Or do you want to try and get 2 him on now? 3 MR. CHEN: We -- we can't [inaudible]. Mr. McPherson 4 just told me he can make himself available on Monday. 5 HEARING OFFICER HANNAN: Thank you. 6 MR. CHEN: So I defer to you, Mr. Kline. [Inaudible]. 7 HEARING OFFICER HANNAN: Thank you. I would like to get 8 that witness out. I do want -- I would like you to come back 9 and just comment on what Ms. Vandermause said. If you can't, 10 please let me know. And we do have a court reporter that 11 said he can stay as long as we need him. 12 MR. CHEN: Why don't -- we're going to start at 9:30 on 13 Monday? 14 HEARING OFFICER HANNAN: Yes. 15 MR. CHEN: Why -- why don't we do this? Let's go take a 16 break for Mr. -- 17 MR. KLINE: Alt. 18 MR. CHEN: -- Mr. Alt. And if we finish him today and 19 there's still time today, maybe Mr. McPherson can come back. 20 HEARING OFFICER HANNAN: Sounds good. 21 MR. CHEN: If we don't, we'll do it Monday. 22 HEARING OFFICER HANNAN: Let's -- let's go with Mr. 23 Alt. 24 MR. KLINE: Mr. Alt, will you come on up to the front 25 here when you're ready?</p>

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<p>245</p> <p>1 HEARING OFFICER HANNAN: The architectural plans, are 2 they 93? [Inaudible]. 3 MR. KLINE: That sounds about right. 4 HEARING OFFICER HANNAN: I think I [inaudible]. Let me 5 just get them in advance so I don't have to -- well, let's 6 let him go and I will find them. 7 MR. KLINE: Okay. Will you bear with us one moment? 8 MR. CHEN: Yes. 9 HEARING OFFICER HANNAN: Yes. 10 MR. CHEN: Can we take maybe a five-minute break? 11 HEARING OFFICER HANNAN: Okay. We'll go off the record. 12 Mr. Kline, we're going off the record for five minutes. 13 (Off the record at 4:01:02 p.m.) 14 (Back on the record at 4:15:13 p.m.) 15 Okay. We're back on the record. Mr. Alt, please raise 16 your right hand. Do you solemnly affirm under penalties of 17 perjury that the statement you're about to make is the 18 truth, the whole truth, and nothing but the truth? 19 MR. ALT: I do. 20 HEARING OFFICER HANNAN: Thank you. Mr. Kline. 21 MR. KLINE: Mr. Alt, would you please state and spell 22 your name and give us your business address? 23 MR. ALT: First name James, J-a-m-e-s; last name A-l-t, 24 Alt. 2440 Dayton-Xenia Road, spelled with an X, Xenia, Suite 25 B, Beavercreek, one word, Ohio 45434.</p>	<p>247</p> <p>1 MR. CHEN: Okay. 2 MR. KLINE: Madam Examiner, I'd stipulate that Mr. Alt 3 is an expert witness as an architect. 4 HEARING OFFICER HANNAN: Okay. I'll accept him as such. 5 Go ahead, Mr. Kline. 6 MR. KLINE: Mr. Alt, do you have a specialty area of 7 practice? 8 MR. ALT: Early childhood education and assisted 9 living. Yes. 10 MR. KLINE: And are you licensed to practice 11 architecture in the state of Maryland? And if so, do you 12 happen to recall your number? 13 MR. ALT: I knew you would ask. 14 MR. KLINE: I wasn't going to ask, but I can tell you - 15 - 16 MR. CHEN: What is that secondary -- real quick while 17 you're looking at that. Early childhood education and -- 18 MR. ALT: Early childhood education, daycare. And 19 assisted living for seniors. So at both ends of the -- 20 MR. CHEN: Yeah. 21 MR. ALT: -- demographic. And Maryland, it's 18371 is 22 my registration. 23 MR. KLINE: Thank you. Mr. Alt, I -- I'd -- I'd like to 24 start with -- because you've heard a number of questions 25 asked about is this building proposed by Primrose</p>
<p>246</p> <p>1 MR. KLINE: And you're affiliated with what company? 2 MR. ALT: The name of the firm is ALT Architecture, 3 Inc. 4 MR. KLINE: All right. And what is your profession, 5 sir? 6 MR. ALT: I'm an architect and land planner. 7 MR. KLINE: How long have you been doing this, Mr. Alt? 8 MR. ALT: We're in the midst of our -- wrapping up our 9 40th year. 10 MR. KLINE: Have you ever been approved as an expert in 11 the field of architecture before a board commission or some 12 -- or a court of law? 13 MR. ALT: Yes. Many times. Many jurisdictions. 14 MR. KLINE: I'd like to offer a copy of Mr. Alt's 15 resume, which is already in the record. And based on what it 16 says and his years of experience, offer him as an expert in 17 the field of architecture. 18 HEARING OFFICER HANNAN: Mr. -- 19 MR. CHEN: [Inaudible]. 20 MR. KLINE: It would be an attachment for greater 21 submission. I'll have to check it out. 22 MR. CHEN: 111C782. 23 MR. KLINE: 11111? Oh. 111. I'm sorry. 24 MR. CHEN: Yeah. 111C. 25 MR. KLINE: Yeah. That's correct. Yeah.</p>	<p>248</p> <p>1 prototypical -- can you answer that question? Is this a 2 prototypical Primrose School building? 3 MR. ALT: Yes. It is. 4 MR. KLINE: Okay. How many prototypical Primrose School 5 buildings are there? 6 MR. ALT: About 400. It changes almost each day. 7 MR. KLINE: Okay. And when this site was brought to 8 your attention, how did you conclude -- which of your 9 "prototypical designs" you would use on this site and why? 10 MR. ALT: The information that's provided to me by 11 PSFC, Primrose School Franchising Company -- or Corporation 12 includes a variety of data that they have assembled along 13 with their efforts on behalf of the applicant, Mr. Mandava 14 and his family. And it includes instructions on how many 15 classrooms, where the site has finally been settled upon to 16 propose. 17 And on that basis then, we examine the documents that 18 are provided to us by corporate. And that typically will 19 include guidance on what kind of a building to explore. 20 Let's put it that way. A 12 classroom. Looking at the site, 21 it's likely to be a single story and so forth. 22 MR. KLINE: Okay. You mentioned classroom. Is that sort 23 of the general program for Primrose School? 24 MR. ALT: Yes. 25 MR. KLINE: Okay. Does that drive -- does that result</p>

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<p>249</p> <p>1 in a change in features of the building due to requirements 2 in the state of Maryland for early childhood education? 3 MR. ALT: We immediately -- we examine the documents 4 that are provided to us. Typically that includes an overview 5 of the -- an -- shorthand here, AHJ, authorities having 6 jurisdiction, including this body. As to what kind of 7 characteristics the building can have, including -- as an 8 example, not in this case, there is -- we -- I've done a 9 school that had to reflect western Connecticut architecture 10 in northern Ohio and so forth. 11 But yeah. There -- there's a variety of ways in which 12 we -- we are influenced by the authorities having 13 jurisdiction as to how the building is going to be sited, 14 sized, and appear. 15 MR. KLINE: Okay. Pursuing that subject, can you 16 describe for us what you did to contextualize or make it 17 more consistent with the vernacular of the surrounding area? 18 MR. ALT: Vernacular's a good word. We worked very 19 closely with our consultant civil engineering firm Maser. 20 Prior testimony by Eduardo Intriago. And over the course of 21 -- of the development to get us to today, this project, I 22 think, is a -- a 2016 project. And so we've been at it for 23 about four years. And there have been a variety of analyses 24 performed in response to input by the various AHJs, 25 including how the building is to be sited.</p>	<p>251</p> <p>1 MR. ALT: Oh. 2 MR. KLINE: -- the examiner's [inaudible]. 3 MR. ALT: Sorry, ma'am. 4 HEARING OFFICER HANNAN: Mm-hmm. I can see now. Thank 5 you. 6 MR. ALT: One -- one of the overarching controls is 7 that depending upon the age of the -- of the children -- 8 HEARING OFFICER HANNAN: Mm-hmm. 9 MR. ALT: -- below 30 months or above 30 months and 10 whether or not the building is going to have certain 11 features, like fire suppression and so on. And this is 12 embedded into the regulations with childhood services at the 13 state level and at the building code at the national level 14 that classrooms have to have direct access to the outside. 15 Not into a hallway, but directly to the outside. 16 And so what you see the wing -- the wings that are 17 shown here and the axes that show reflect that. So 18 fundamentally, this is a building that's a corridor with 19 classrooms on either side. And keep everything oriented, 20 give or take the same way. 21 Needle is up, north. [Inaudible] is to the left or 22 west. The driveway access as it now is to the right or east. 23 The parking lot and the main entrance face south. And 24 there's been months and years of [inaudible] associated with 25 that. And I'll -- and I'll provide you with a response to</p>
<p>250</p> <p>1 Challenges by traffic, neighborhood concerns, neighbor 2 concerns, and so forth. 3 MR. KLINE: The footprint of the building as we see it 4 on exhibit 148 is -- he -- he's -- 5 MR. CHEN: What exhibit number? I'm sorry. 6 MR. KLINE: I'm sorry. 148 is the exhibit number. 7 MR. ALT: Yeah. 148. 8 MR. KLINE: Right. To what extent is what we see on the 9 outside a function of what's going on inside the building? 10 MR. ALT: Very much so. I mean, it -- it's a building 11 that's designed from the inside out. 12 MR. KLINE: Okay. 13 MR. ALT: So we don't create a -- a -- a monument shell 14 and then squeeze everything into it. We do it the other way 15 around. 16 MR. KLINE: I've heard Frank [inaudible] say the same 17 thing. So do you have a floor plan and can you give us a 18 quick overview of what's going on inside so we can 19 understand how things work? 20 MR. ALT: Significant governing principle is -- one -- 21 one of the layers of AHJ is Maryland's Department of Early 22 Childhood Education. And the result of that is that -- 23 depending on the age of classes -- 24 MR. KLINE: Mr. Alt, can you do me a favor? I think you 25 might be blocking --</p>	<p>252</p> <p>1 that in a moment. 2 MR. KLINE: Mr. Alt, before you go any further -- 3 MR. ALT: Yes. 4 MR. KLINE: Am I -- am I looking at sheet A10? 5 MR. ALT: A1.0. 6 MR. KLINE: Okay. So that would be exhibit 79 in the 7 record. 8 HEARING OFFICER HANNAN: Okay. Thank you. 9 MR. ALT: And this is an exploded version of the floor 10 plan. And it's oriented the same way as on the site plan. So 11 Needwood is to the top or the north. The main entrance is to 12 the bottom or the south. This wing is to the west or the 13 left. 14 MR. KLINE: Yeah. Yeah. I'm sorry. [Inaudible]. 15 MR. ALT: Okay. 16 MR. KLINE: Okay. Yeah. 17 MR. ALT: And the long axis is north-south and the bulk 18 of these classrooms are facing east or to the driveway 19 access. 20 And so you have a main entrance, which the half of -- 21 so much of this very definitely reflects the input that 22 we've received over the last four years from various 23 reviewing entities. The main entrance is facing away from 24 the road on Needwood, facing to the south where the parking 25 field is. Parking field being away from Needwood.</p>

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<p style="text-align: right;">253</p> <p>1 Main entrance through a foyer and an airlock. 2 Reception, administration, and then -- 3 MR. KLINE: Could -- could you just -- lower right hand 4 corner or something -- 5 MR. ALT: Oh. I'm sorry. 6 MR. KLINE: -- when you're pointing at something. Yeah. 7 MR. ALT: Yeah. To the south, inside the south main 8 entrance to the bottom of the page is the foyer reception 9 administration. And then because mom typically is carrying 10 at a ca- -- in a car carrier an infant, infant classrooms 11 are immediately inside the front door. 12 And then as you proceed up north up the spine of the 13 building, the ages generally increase up through 60 months. 14 And depending upon the time of day and the program, it may 15 go slightly beyond that. 16 So there's a central corridor running north and south. 17 And a corridor running east and west at -- near the north 18 end or the top of the -- top of plan. And the same thing at 19 about the midpoint that comes to another -- another wing of 20 classrooms. 21 MR. KLINE: Mm-hmm. Yeah. Since I have you here and 22 there was a question that came up the other day about the 23 dining and ecological factors. Maybe using this -- tell us 24 about where we do our food [inaudible] preparation and how 25 it's distributed.</p>	<p style="text-align: right;">255</p> <p>1 small children, not to mention the decision makers that 2 control their lives, their parents. And therefore, this is a 3 softly contemporary, forgive my use of the terms, but it's 4 not bright yellows and bright greens and bright oranges and 5 loud noise and all kinds of things like that. 6 It's a warm, soft, comforting environment on the 7 inside. And oh. By the way, that's how the outside will look 8 when -- when we get to that. 9 MR. KLINE: Okay. Thank you. Keep going. Is it appr- -- 10 timely to go to the 148, the site plan? It's underneath 11 there, I think. 12 MR. ALT: Go back to that. Okay. 13 MR. KLINE: I -- I guess I want to take you back there 14 -- I guess sort of my question's about why it is and where 15 it's located. Can you explain basically the location of the 16 building and its orientation of the building? 17 MR. ALT: I'll explain orientation and then that can 18 take us to the exterior elevations. The way it's set up 19 right now, I'm -- I'm a mom and I'm typically -- 20 prototypically -- forgive the sexism. We're driving down the 21 road and we make either a right or left turn into the 22 driveway at the intersection of our curb cut and Needwood 23 Road across the top of the sheet the way it's oriented now. 24 The north end. 25 Proceed down the drive into the parking field. Get out</p>
<p style="text-align: right;">254</p> <p>1 MR. ALT: Okay. There is no cooking. There is no 2 exhaust with odor. Food arrives refrigerated or frozen and 3 is warmed in a warming kitchen with a microwave or a 4 convection oven. Or it's served at room temperature. And 5 that occurs in a core near the intersection of the main 6 north-south corridor and the first east-west corridor. 7 And so along with that is fairly substantial 8 refrigeration and freezer capacity so that in a -- Mr. 9 Mandava, the -- the franchise owner will be able to speak to 10 the nuances of that at a later date. We don't receive food 11 service deliveries daily. They're on a -- on an extended 12 schedule. 13 MR. KLINE: Okay. And we warm them up and then transfer 14 it on dollies or something to the classrooms? 15 MR. ALT: Yes. 16 MR. KLINE: Okay. Fine. Thank you. Is there anything 17 else with the inside of the building you'd like to mention 18 or -- 19 MR. ALT: Well, I can expand a little bit on that and 20 then get to -- that'll take me to the outside of the 21 building. 22 MR. KLINE: Yeah. Sure. Go ahead. 23 MR. ALT: Madam Examiner, the -- the whole point of 24 this is to create an -- a warm, friendly, and -- and -- and 25 inviting and reassuring and comforting environment for very</p>	<p style="text-align: right;">256</p> <p>1 of the car and more often almost than not, there are 2 multiple children being brought. One is such a success that 3 mom and dad decide the second and then -- and even the 4 third. And again, Mr. Mandava, the fran- -- the FO can 5 explain that at greater detail. 6 So although there may be a -- a total of 195 population 7 and we get in -- and Mr. Man- -- Mandava can get into that 8 in much greater detail later, very commonly it's a toddler 9 and -- and an infant in a baby carrier going into the 10 school. And the rules are that you don't drop them to the 11 front door. You take them to the class and then hand them 12 off to the instructor. 13 MR. KLINE: Okay. 14 MR. ALT: So in the parking field, out of the car, up 15 to the front door, in the front door, and then you -- and 16 then you check in. You get through security. And then take 17 your children to your classrooms. And that's, by the way, 18 one of the reasons why the infant carrier is right inside 19 the front door. Mom can hand off and then proceed with a 20 toddler or the slightly older to the second classroom. 21 So all of a sudden, the number of vehicles coming onto 22 the property is perhaps less than has been speculated about. 23 Then let's see. We can talk about -- there's -- you can 24 see the building -- the gray mass for the building. The dark 25 green area around that is a turf, which is, in this</p>

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<p>257</p> <p>1 particular case, is all artificial turf. Heaven forbid 2 children should come home with a little bit of mud on them. 3 So al- -- almost always or very, very, very frequently now, 4 our Primroses are all ar- -- artificial turf. Which, despite 5 the state of Maryland, is about 99 percent permeable. 6 But Mr. Intriago, I can sympathize for him -- with him 7 because the state rules require it to be treated as 8 impermeable, but it is truly permeable. It's an artificial 9 turf. Under which is a drainage course. Under that, another 10 drainage course. 11 And then it's fenced. The perimeter of it is fenced. 12 And I have details. A six foot what we call a full rod iron, 13 which is either a steel or aluminum vinylized spindle, which 14 is probably one of the most heavily regulated elements in 15 the whole property because the CPSC, Consumer Product Safety 16 Commission, in the state of Maryland and Primrose all have 17 progressively more strict rules about the spacing of those 18 spindles of either -- either being at a certain minimum so 19 that a child's head can't go through or so wide that their 20 whole body could go through. And that is to six feet. And 21 that's the perimeter. And then -- and I have a detail for 22 that. 23 And then within that -- 24 MR. KLINE: And before you go -- I -- actually, can I 25 take you back a little bit?</p>	<p>259</p> <p>1 toward -- very hard to preserve, enhance the residential 2 character of Needwood Road. And we were even directed to the 3 -- to take a look at the church and see the way it gabled 4 facing Needwood. 5 And so in addition to that, we -- we -- we even -- and 6 I'll show you on the elevations. We modified the elevation 7 of -- north elevation of the building that is closest to 8 Needwood, number one, to add a layered gable. So we have a 9 gable and a gable. 10 And then we -- and then we also brought the building -- 11 in the course of putting the parking south of the -- of the 12 -- of the building. Brought the building up so that the 13 rhythm of the street was ottered [ph] by taking a look at 14 the church, taking a look at the -- the mansions across the 15 street. Forgive my term. So that we -- we're catching the 16 same kind of spacing front yards, massing, and so on. And so 17 that's how the building came to be ran that way. 18 MR. KLINE: And was it your intention to try and give 19 it a front -- front -- front look also as if it was the 20 front door, even though it isn't the front door? 21 MR. ALT: That's a fair statement. Yes. It is. We did - 22 - we did work at that scaling, the combinations of brick and 23 so on. 24 MR. KLINE: You can -- you can remind of that when you 25 get to the elevations.</p>
<p>258</p> <p>1 MR. ALT: Sure. 2 MR. KLINE: I -- I guess I'd like to talk a little bit 3 more about the building. I -- I think we've heard enough 4 about why it's set where it is from the east side of the 5 property because of the driveways and everything. And that 6 the -- the wing on the building in the midsection there, 7 that's set on -- what is that set on? Let me put it that 8 way. 9 MR. ALT: Set on -- 10 MR. KLINE: On the -- on the 50 yard foot front yard 11 setback. 12 MR. ALT: I would prefer to let -- 13 MR. KLINE: Okay. 14 MR. ALT: -- prior testimony -- 15 MR. KLINE: Sure. 16 MR. ALT: -- because I -- 17 MR. KLINE: [Inaudible]. 18 MR. ALT: -- I don't have the in- -- 19 MR. KLINE: Fine. 20 MR. ALT: Now, examiner, this building has been left, 21 right, up, down, flipped, flipped over the past four years. 22 MR. KLINE: Explain then why you have what I guess I'll 23 call a narrow end facing Needwood Road. 24 MR. ALT: Well, we received re- -- really well regard - 25 - well received, well appreciated input that we worked</p>	<p>260</p> <p>1 MR. ALT: Okay. 2 MR. KLINE: But why don't you -- why don't you go back 3 to the use of the playground area? And you heard the hearing 4 examiner say she's interested in seeing what those fence 5 look like. 6 MR. ALT: Okay. Now, something else to keep in mind is 7 -- and -- and I know, Mr. Intriago shared math on that. But 8 a point of fact, we never have all the children on the 9 playground at once. 10 HEARING OFFICER HANNAN: I think I -- I do know -- I 11 know that. 12 MR. ALT: Okay. It's a rotating schedule. And oh. By 13 the way, an order -- we have the advantage of all the 14 classrooms having an exterior door. So you don't have the 15 chaos or the -- the chatter, chatter, chatter of lo- -- 16 moving a classroom of children through the halls. They're 17 able to go directly outside. 18 And in addition to that, to honor the state of 19 Maryland's rules for early childhood education, we can't mix 20 certain age groups so there's no bullying. Wouldn't be any 21 anyway. But -- so as to avoid any conflicts between age 22 groups. 23 So we have sub-divided the playground based upon 24 anticipated occupant loads from the classrooms anticipating 25 the age groups.</p>

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<p>261</p> <p>1 MR. KLINE: You always make it sound like you don't put 2 the fences up until you see what the enrollment is. 3 MR. ALT: Not quite. Because we know what the maximum 4 load is -- 5 MR. KLINE: Understand. 6 MR. ALT: -- or FTEs, full-time equivalents, are going 7 to be per classroom. 8 MR. KLINE: Mm-hmm. 9 MR. ALT: So we can anticipate the square footage that 10 way. And what it is -- that's the least attractive, but it's 11 within the fence. We have a fence that divides that's only 12 four feet high that divides various playground areas. And 13 that's a vinylized chain link. 14 MR. KLINE: Is it appropriate to show the hearing 15 examiner the specifications for the perimeter fencing now? 16 MR. ALT: Sure. I can do that. It's always the last 17 one. 18 HEARING OFFICER HANNAN: What exhibit is that? Do you 19 know? 20 MR. ALT: It'll be whatever the exhibit contained for 21 the construction drives. 22 MR. KLINE: It'll be -- 23 MR. CHEN: Seventy-nine. 24 MR. ALT: Because that -- that exhibit number applied 25 to several sheets.</p>	<p>263</p> <p>1 elevations. 2 MR. ALT: And I see the flow to metrics. 3 HEARING OFFICER HANNAN: Yes. It's not in the CUP; 4 correct? Not in the conditional use permit. 5 MR. ALT: I don't think so. 6 MR. KLINE: Now, I -- I would have expected it would 7 have been part of the submission on June the 27th along with 8 all the other materials, but I just don't see it broken down 9 there. 10 MR. ALT: I see all the flow to metrics. 11 HEARING OFFICER HANNAN: I have AS1, site signage plan. 12 That's exhibit 26. 13 MR. ALT: This is AS2.0 that does not include the 14 signage. 15 MR. KLINE: Well, we -- rather than wasting your time, 16 we -- could I just ask these be made an exhibit in record 17 and I'll try to find it later on? 18 HEARING OFFICER HANNAN: Well, we can. Mr. Chen, do you 19 have a objection proceeding that way? That's what I was 20 trying to avoid. Oh. Wait. I'm getting -- no. Let me just go 21 through -- finish going through this. 22 MR. KLINE: Okay. Sure. 23 HEARING OFFICER HANNAN: A4? 24 MR. ALT: No. That's the exterior elevations for the 25 building.</p>
<p>262</p> <p>1 MR. KLINE: Yeah. Would've been part of the 2 architectural plan. 3 MR. ALT: Yes. Absolutely. 4 MR. KLINE: Seventy-nine. 5 HEARING OFFICER HANNAN: I just want to make sure it's 6 in the record. 7 MR. KLINE: [Inaudible]. 8 HEARING OFFICER HANNAN: Talking about it. 9 MR. KLINE: Yeah. 10 MR. ALT: [Inaudible]. Yes. 11 MR. KLINE: Well, since it had the dumpster and other, 12 it had to be in there. I'm just not sure which one it is. 13 MR. ALT: This particular sheet is AS2.0. And it 14 contains the elevations and floor plans for the dumpster 15 enclosure which matched the exterior finishes of the 16 building and color. And -- and it also includes selected 17 elevations for the gate and fence elements of what I 18 previously referred to as the faux rod iron. 19 MR. CHEN: I don't see it. 20 MR. ALT: Or the vinylized aluminum spindles. I see 21 parts of it there. 22 HEARING OFFICER HANNAN: You do? Well, you can help me. 23 These are -- 24 MR. ALT: I see the exterior elevations. 25 HEARING OFFICER HANNAN: That's the exterior</p>	<p>264</p> <p>1 MR. KLINE: Well, we may have to proceed as if it's a 2 new exhibit. So -- 3 MR. ALT: So Ms. Robeson, [inaudible]. 4 MR. CHEN: 193? 5 HEARING OFFICER HANNAN: Exhibit 19- -- oh. No. I think 6 we have 193. It's Ms. Vandermause excerpt. 7 MR. CHEN: No. 192 is her excerpt. I've got it. 8 HEARING OFFICER HANNAN: Oh. You're right. Okay. 9 MR. KLINE: So -- 10 HEARING OFFICER HANNAN: So this will be 193. 11 MR. KLINE: And okay. Maybe this is the trick. Maybe it 12 says site details. Maybe that's what it is. I think I did 13 see that. 14 I can't find it, ma'am. Could I ask if exhibit AS2.0, 15 titled site details, be made an exhibit in the record of the 16 case? 17 MR. CHEN: That's what we were just talking about. 18 HEARING OFFICER HANNAN: Yes. 19 MR. CHEN: 193. 20 HEARING OFFICER HANNAN: So that'll be 192 -- three. 21 MR. ALT: 193. Would you like to label this? 22 HEARING OFFICER HANNAN: Yes, please. 23 MR. ALT: 193. 24 HEARING OFFICER HANNAN: Correct. Can you give me the 25 numbers again, Mr. Kline? The AS -- I just can't see it.</p>

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<p>265</p> <p>1 MR. KLINE: 2.0. AS2.0.</p> <p>2 HEARING OFFICER HANNAN: Okay.</p> <p>3 MR. KLINE: Correct.</p> <p>4 HEARING OFFICER HANNAN: Okay. And that's the site</p> <p>5 details.</p> <p>6 MR. ALT: Yes. On that sheet are the -- are probab- --</p> <p>7 previously may have been included in other exhibits for the</p> <p>8 dumpster enclosure, which we provided to Maser, Mr.</p> <p>9 Intrigo. And so you may discover that elsewhere on another</p> <p>10 exhibit.</p> <p>11 It also includes sample elevation specification for the</p> <p>12 six foot perimeter fence and gates. Black and vinylized</p> <p>13 anonized [ph] aluminum.</p> <p>14 HEARING OFFICER HANNAN: Can you point out which --</p> <p>15 okay.</p> <p>16 MR. ALT: The bottom left hand --</p> <p>17 HEARING OFFICER HANNAN: Oh. Where it's labeled</p> <p>18 ornamental fence?</p> <p>19 MR. ALT: Correct. Ornamental fence, ornamental gate.</p> <p>20 HEARING OFFICER HANNAN: Okay.</p> <p>21 MR. KLINE: And it's Primrose's policy practice to have</p> <p>22 see-through fences on the perimeter of their property?</p> <p>23 MR. ALT: Yes. And a quick sidebar. Security being</p> <p>24 every -- paramount. Also that -- and again, Mr. Mandava will</p> <p>25 get into this, but many, many, many of the children in our</p>	<p>267</p> <p>1 MR. KLINE: And it's 78. I doubt that what we've -- oh.</p> <p>2 We did give you [inaudible]. Okay. Great.</p> <p>3 MR. ALT: Yeah. [Inaudible].</p> <p>4 MR. CHEN: So 78 are the card ones or the non-card</p> <p>5 ones?</p> <p>6 MR. KLINE: They are -- they are rendered. Yes.</p> <p>7 MR. CHEN: So the -- call it new number then?</p> <p>8 MR. KLINE: No.</p> <p>9 HEARING OFFICER HANNAN: I couldn't -- I couldn't hear</p> <p>10 you.</p> <p>11 MR. CHEN: I -- I was asking is -- this is 78, is 78</p> <p>12 rendered?</p> <p>13 HEARING OFFICER HANNAN: This -- yes. This is my 78</p> <p>14 that's in the file.</p> <p>15 MR. CHEN: Okay.</p> <p>16 MR. ALT: And I'm hoping [inaudible] that's exactly</p> <p>17 what I have.</p> <p>18 MR. KLINE: And did you want to make a correction, if</p> <p>19 that's the right term, on the descriptions?</p> <p>20 MR. ALT: Would you like me to number this the same as</p> <p>21 that one is numbered?</p> <p>22 MR. KLINE: Not a bad idea.</p> <p>23 MR. CHEN: That's exhibit 78, right?</p> <p>24 MR. KLINE: Seventy-eight.</p> <p>25 HEARING OFFICER HANNAN: Well, wait. Are you going to</p>
<p>266</p> <p>1 care are -- have court orders for non-custodial and also to</p> <p>2 allow multi-generational pickup -- drop-off and pick up.</p> <p>3 Grandpa, grandma, and so on. And therefore, occasionally, we</p> <p>4 have a conflict and therefore we want to be able to see if a</p> <p>5 non-custodial or non-qualified adult is on the perimeter.</p> <p>6 HEARING OFFICER HANNAN: Okay.</p> <p>7 MR. ALT: Therefore the -- we desired to have the fence</p> <p>8 not exactly transparent, but not opaque.</p> <p>9 HEARING OFFICER HANNAN: Okay.</p> <p>10 MR. KLINE: And then to repeat your testimony, that's</p> <p>11 the perimeter fencing. And then interior, you have a four</p> <p>12 foot fence of what material?</p> <p>13 MR. ALT: Vinylized chain link.</p> <p>14 HEARING OFFICER HANNAN: Is that on that plan?</p> <p>15 MR. ALT: No. It's not.</p> <p>16 HEARING OFFICER HANNAN: Okay.</p> <p>17 MR. ALT: I was assuming that everyone on the planet</p> <p>18 knows what chain link looks like. Vinylized, black, chain</p> <p>19 link, four foot high.</p> <p>20 HEARING OFFICER HANNAN: Okay.</p> <p>21 MR. KLINE: Is it time to move to the elevations</p> <p>22 themselves?</p> <p>23 MR. ALT: Sure.</p> <p>24 MR. KLINE: This number I do have.</p> <p>25 HEARING OFFICER HANNAN: Seventy-eight?</p>	<p>268</p> <p>1 mark on it?</p> <p>2 MR. ALT: May I? Or shall I not?</p> <p>3 HEARING OFFICER HANNAN: Well --</p> <p>4 MR. KLINE: It's already in the record. We don't need</p> <p>5 to mark it. Agreed?</p> <p>6 HEARING OFFICER HANNAN: Okay.</p> <p>7 MR. KLINE: Yeah.</p> <p>8 MR. ALT: Okay.</p> <p>9 MR. CHEN: Well, if it's going to be in the record for</p> <p>10 post-testimony, then the document of record --</p> <p>11 HEARING OFFICER HANNAN: You can mark this one.</p> <p>12 MR. ALT: And what is the number, 78?</p> <p>13 HEARING OFFICER HANNAN: Seventy-eight.</p> <p>14 MR. CHEN: It's already marked. That should be already</p> <p>15 marked.</p> <p>16 HEARING OFFICER HANNAN: It's already marked.</p> <p>17 MR. ALT: That's [inaudible] see it. Ah. Okay.</p> <p>18 MR. CHEN: But you make a correction to it?</p> <p>19 MR. ALT: With an official stamp.</p> <p>20 MR. KLINE: He's -- he's going to explain the</p> <p>21 descriptions of the elevations.</p> <p>22 MR. ALT: I'm going to offer the opportunity for a</p> <p>23 correction.</p> <p>24 HEARING OFFICER HANNAN: Okay. Go ahead.</p> <p>25 MR. ALT: As I commented earlier, this building has</p>

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<p style="text-align: right;">269</p> <p>1 gone up and down, left and right, and been flipped. Meaning,</p> <p>2 north, south, east, west, and mirrored. And not keeping up</p> <p>3 with the changes on one of the sheets and referencing the</p> <p>4 site, it's really evident --</p> <p>5 MR. KLINE: I'll hold it for you.</p> <p>6 MR. ALT: Okay. One of-- one of the characterizations</p> <p>7 -- one of the characterizations of the building that we made</p> <p>8 on behalf of site -- me- -- me- -- introducing site</p> <p>9 specificity and responding to input that we were receiving</p> <p>10 from Mr. Kline and the AHJs and from Maser, we mirrored the</p> <p>11 building and we added a series of additional gables on the</p> <p>12 east elevation. And in the course of mirroring the building</p> <p>13 in doing that, we didn't catch up with the labeling on the</p> <p>14 sheet that you have in front of you, Madam Examiner.</p> <p>15 And so -- actually, I called your attention to the</p> <p>16 multiple gables that were added and they are on the east</p> <p>17 facing elevation. And on this sheet, it says west.</p> <p>18 HEARING OFFICER HANNAN: Okay.</p> <p>19 MR. ALT: So it's really east.</p> <p>20 HEARING OFFICER HANNAN: Well, why don't we correct</p> <p>21 that? Is -- is the east elevation really west?</p> <p>22 MR. ALT: Yes. West is really east and east is really</p> <p>23 west. The south is south and the north is north.</p> <p>24 HEARING OFFICER HANNAN: I'm really glad to hear that.</p> <p>25 So do you want -- do you have an objection if he relabels</p>	<p style="text-align: right;">271</p> <p>1 was we original and an ear- -- not originally but in an</p> <p>2 earlier version and in many of the prototypes we had</p> <p>3 irregular spaced gables on this elevation. Now the east</p> <p>4 elevation. I got it right.</p> <p>5 And I was asked -- it was asked rather aggressively,</p> <p>6 couldn't you make it more symmetrical? And so that's what we</p> <p>7 have here. And it was a little bit of a chore because we do</p> <p>8 design from the inside out. And so the classrooms reflect</p> <p>9 where we need to have windows.</p> <p>10 So we adjusted the window locations a little bit in</p> <p>11 order to make the east elevation more symmetrical.</p> <p>12 MR. KLINE: And by symmetrical -- maybe using middle</p> <p>13 gable as an example of what they've asked you to try and</p> <p>14 achieve.</p> <p>15 MR. ALT: Well, we have a -- we now have a nice</p> <p>16 rhythmic structure where we have a center gable. And then we</p> <p>17 alternated with the brick and the stone on the -- on the --</p> <p>18 the next two to the right left and then went back to the</p> <p>19 stone on the outward ones. And so it's very nicely</p> <p>20 symmetrical.</p> <p>21 MR. KLINE: Okay. Now, and -- probably that's a good</p> <p>22 opportunity to segue into what kind of materials are you</p> <p>23 showing here? And describe the materials in the palette.</p> <p>24 MR. ALT: Some of our competitors like bright yellow,</p> <p>25 bright red, and so forth. We find as a part of the</p>
<p style="text-align: right;">270</p> <p>1 exhibits --</p> <p>2 MR. CHEN: No. I think it has to be for accuracy.</p> <p>3 HEARING OFFICER HANNAN: So why don't you --</p> <p>4 MR. ALT: On your plan?</p> <p>5 HEARING OFFICER HANNAN: Yeah.</p> <p>6 MR. CHEN: That's -- that's the one in the file.</p> <p>7 MR. ALT: Okay.</p> <p>8 HEARING OFFICER HANNAN: And just cross -- all you have</p> <p>9 to do is cross the east and west and write the correct</p> <p>10 direction.</p> <p>11 MR. ALT: This is every client's fantasy. Oh. Couldn't</p> <p>12 we just try it the other way? Because it's all in the</p> <p>13 computer, right?</p> <p>14 HEARING OFFICER HANNAN: Okay.</p> <p>15 MR. KLINE: Mr. Alt?</p> <p>16 MR. ALT: Mm-hmm.</p> <p>17 MR. KLINE: I think the word you were trying to think</p> <p>18 of was I reported to you staff and [inaudible] commission</p> <p>19 said could you reconsider the symmetry of the building. And</p> <p>20 so would you describe what was the -- the essence of that</p> <p>21 comment and how you approach that and adopted it -- adapted</p> <p>22 it into the plan?</p> <p>23 MR. ALT: Everyone's an architect. And so -- and -- and</p> <p>24 well intentioned. And so we were asked to do precisely --</p> <p>25 paraphrasing what Mr. Kline just said. And so what we did</p>	<p style="text-align: right;">272</p> <p>1 contextualization of our concept that because we aren't out</p> <p>2 on a -- we prefer not to locate on a state highway where</p> <p>3 there's high speed traffic and parents are in that</p> <p>4 [inaudible] to make left and -- left and right turns.</p> <p>5 Despite whatever characterizations made about Needwood,</p> <p>6 we prefer to be in a transitional area. And this is by all -</p> <p>7 - by all means a transitional neighborhood. And therefore,</p> <p>8 we're trying to honor the neighbors by going to earth tones.</p> <p>9 And witness -- like I said, we've had -- we have over 400 of</p> <p>10 these. And counting around the country again and again and</p> <p>11 again in the more than 500 times I've made this presentation</p> <p>12 in 40 years not just for Primrose, we are urged -- required</p> <p>13 to get to earth tones as a palette. And therefore, what you</p> <p>14 see here is really close to what we're proposing.</p> <p>15 We have brick and stone. And we're very selective about</p> <p>16 that. I mean, we drive our suppliers crazy. The stone is of</p> <p>17 an irregular product. It's a -- in a fixed product that's</p> <p>18 not a -- a true stone. And so we have quite a flexibility on</p> <p>19 the color. And the brick.</p> <p>20 And we work very hard with -- and even -- and if we use</p> <p>21 the same brick specification in different parts of the</p> <p>22 country, the industry doesn't ship that brick from Texas to</p> <p>23 Maryland. We have local quarries for some of the product for</p> <p>24 some of the materials that go into the brick. And -- and so</p> <p>25 there's always going to be a -- a very slight color</p>

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<p>273</p> <p>1 variation.</p> <p>2 But it's a -- it's a medium dark tone clay to brown red</p> <p>3 brick and stone with highlights in that color palette. Beige</p> <p>4 and -- and so forth for the trims.</p> <p>5 MR. KLINE: The zoning ordinance requires that a</p> <p>6 conditional use in a residential zone have a residential</p> <p>7 flavor. Can you, using the elevations, describe why you</p> <p>8 believe that's been achieved with this outlay -- plan?</p> <p>9 MR. ALT: The -- first of all, it's a gabled roof. It's</p> <p>10 a shingled roof. And even the shingles are reflective of</p> <p>11 that -- of that palette, which is very -- I mean, there</p> <p>12 might be one or two houses in this neighborhood that has a</p> <p>13 standing [inaudible] metal roof, but it's not typical. It's</p> <p>14 got to be a shingle.</p> <p>15 And it isn't going to be a painted on five year</p> <p>16 shingle. It's going to be a -- a very heavy, shadow [ph]</p> <p>17 line, timber line, 40 year or 50 year shingle. Very high</p> <p>18 quality. And that's reasonably accurately portrayed here on</p> <p>19 the color elevations. So that's number one.</p> <p>20 It's a gable -- it's a -- it's a -- a ridge line that</p> <p>21 tries to reflect probably 95 or 98 percent of the residences</p> <p>22 in the neighborhood. Not the flat roofs that are more common</p> <p>23 to the commercial structures.</p> <p>24 The brick, the detailing, the use of articulating the</p> <p>25 vents in the -- in the gables with a -- with a -- with a</p>	<p>275</p> <p>1 MR. ALT: -- there's kind of a shadowed area right here</p> <p>2 and now I'm going to jump back to the site plan for -- for a</p> <p>3 moment and I can also show it on the -- on the --</p> <p>4 MR. KLINE: Site details?</p> <p>5 MR. ALT: On the site details. Yes.</p> <p>6 MR. KLINE: So, returning to Exhibit 148 --</p> <p>7 MR. ALT: It's -- I'm pointing to a -- a -- a -- an</p> <p>8 indentation between two wings facing west, and on that slab,</p> <p>9 there's a slab right there, sit the condensers for the</p> <p>10 units. And, oh by the way, they're not [utterance] tick,</p> <p>11 tick, tick kind of technology anymore, I think you know.</p> <p>12 These condensers are almost silent. They're a very low hum.</p> <p>13 And there will be approximately eight, nine, or ten of them</p> <p>14 depending on the mechanical design for this particular area.</p> <p>15 And the -- the furnaces themselves are horizontal units and</p> <p>16 they're in the attic. So, the only part of the mechanical</p> <p>17 system, heating and air conditioning system, you see are the</p> <p>18 condensers and they're fenced. And they're fenced with a</p> <p>19 solid fence and laboratory [??] --</p> <p>20 MR. KLINE: Yeah, site details. They -- we marked --</p> <p>21 MR. ALT: -- well, actually --</p> <p>22 MR. KLINE: -- Exhibit 193.</p> <p>23 MR. ALT: Oh.</p> <p>24 MR. KLINE: Oh, oh.</p> <p>25 MR. ALT: Well, we can do that or we can --</p>
<p>274</p> <p>1 brick detailing overhangs awnings over the windows, shingles</p> <p>2 -- or I'm sorry. I just went blank. The term on -- on either</p> <p>3 -- the enclosures on either side of the windows. Even the</p> <p>4 doors themselves that are -- that are coloring, their</p> <p>5 detailing, the [inaudible] pattern of the doors being a</p> <p>6 half-light, not a full slab of glass. In general a -- a --</p> <p>7 an American vernacular residential -- if you go back all</p> <p>8 these details pop up on Barnes. We have s- -- multiple</p> <p>9 generations of this -- this vocabulary and we honor that.</p> <p>10 MR. KLINE: There -- you heard testimony yesterday</p> <p>11 about -- from Miss Mitchell who's concerned about being</p> <p>12 across the road and was concerned more -- she came up more</p> <p>13 in the context of noise, but HVAC equipment of generators, I</p> <p>14 don't see anything on the exterior of the building, so do</p> <p>15 you have any mechanical equipment that would detract from</p> <p>16 the residential quality you just described?</p> <p>17 MR. ALT: Actually, we -- it's here. It's in -- it's in</p> <p>18 this shadow area. On the --</p> <p>19 HEARING OFFICER HANNAN: I'm sorry, I couldn't see</p> <p>20 where you pointed to.</p> <p>21 MR. ALT: Yeah, right. I'm -- I'm pointing at the west</p> <p>22 elevation --</p> <p>23 HEARING OFFICER HANNAN: Okay.</p> <p>24 MR. ALT: -- between the two primary gables --</p> <p>25 HEARING OFFICER HANNAN: Now I see it. Okay.</p>	<p>276</p> <p>1 MR. KLINE: Well, let's -- let's not do that one yet.</p> <p>2 Let's --</p> <p>3 MR. ALT: Oh, yeah. All right. Site details.</p> <p>4 MR. KLINE: This was Exhibit 9- -- 1- 190 -- -3? Is</p> <p>5 that right?</p> <p>6 HEARING OFFICER HANNAN: Yes.</p> <p>7 MR. ALT: Actually, this is going to be the -- the best</p> <p>8 --</p> <p>9 HEARING OFFICER HANNAN: No, that's the site signage</p> <p>10 plan.</p> <p>11 MR. ALT: Right, well it does --</p> <p>12 HEARING OFFICER HANNAN: That's -- that's different.</p> <p>13 MR. KLINE: Yeah, you just got to flip over. No, we're</p> <p>14 okay. You --</p> <p>15 MR. ALT: Actually, the best version of that fence is</p> <p>16 this col- -- is -- is this colored.</p> <p>17 MR. KLINE: Okay. Oh, I -- I thought you were talking</p> <p>18 about how you were going to screen the HVAC units.</p> <p>19 MR. ALT: Yes, sir.</p> <p>20 MR. KLINE: Oh.</p> <p>21 MR. ALT: It's using the exact same --</p> <p>22 MR. KLINE: So you're using the same thing, okay. Then</p> <p>23 the question came up yesterday that we didn't have -- have</p> <p>24 any exhibits showing the fence to be installed along the</p> <p>25 perimeter of the east property line to screen the adjacent -</p>

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70 (277 to 280)

<p style="text-align: right;">277</p> <p>1 -</p> <p>2 HEARING OFFICER HANNAN: I see --</p> <p>3 MR. KLINE: -- properties.</p> <p>4 HEARING OFFICER HANNAN: -- okay.</p> <p>5 MR. ALT: You remember that.</p> <p>6 MR. KLINE: Mr. Alt's firm was able to generate that</p> <p>7 and send it to us and if you can give me a couple copies</p> <p>8 because, apparently, it's going to be used for the screening</p> <p>9 of the mechanical equipment as well?</p> <p>10 MR. CHEN: These are next exhibits?</p> <p>11 MR. KLINE: Yeah. Yes.</p> <p>12 HEARING OFFICER HANNAN: We'll mark it as 194. What is</p> <p>13 this -- the technical specifications for the --</p> <p>14 MR. ALT: Yes. And there's a very attractive color --</p> <p>15 HEARING OFFICER HANNAN: Okay.</p> <p>16 MR. ALT: -- photograph --</p> <p>17 HEARING OFFICER HANNAN: Just --</p> <p>18 MR. ALT: -- there --</p> <p>19 HEARING OFFICER HANNAN: -- hold on one second. So,</p> <p>20 this is 194 technical specifications for privacy fence.</p> <p>21 MR. KLINE: It says extruded privacy fence on it, but -</p> <p>22 - okay.</p> <p>23 HEARING OFFICER HANNAN: Well, I don't know what that</p> <p>24 means, so --</p> <p>25 MR. KLINE: Okay.</p>	<p style="text-align: right;">279</p> <p>1 MR. ALT: At four feet.</p> <p>2 HEARING OFFICER HANNAN: Four feet.</p> <p>3 MR. ALT: And it's a -- it's a heavy-duty commercial</p> <p>4 grade extruded vinyl fence, solid vinyl fence system</p> <p>5 MR. KLINE: Does it have any noise attenuation</p> <p>6 qualities?</p> <p>7 MR. ALT: I can attest to it but I'm not a sound</p> <p>8 engineer, acoustics engineer.</p> <p>9 MR. CHEN [??]: Well --</p> <p>10 MR. ALT: But it -- it does -- it directs the sound</p> <p>11 outward.</p> <p>12 HEARING OFFICER HANNAN: Just -- just -- just a second.</p> <p>13 Do you have an objection?</p> <p>14 MR. KLINE: I think he just -- just disclosed that he's</p> <p>15 not confident to test [inaudible].</p> <p>16 HEARING OFFICER HANNAN: Yeah. We'll --</p> <p>17 MR. ALT: For some attenuation --</p> <p>18 HEARING OFFICER HANNAN: That --</p> <p>19 MR. ALT: -- that's correct.</p> <p>20 HEARING OFFICER HANNAN: -- just a second.</p> <p>21 MR. ALT: Apologies.</p> <p>22 HEARING OFFICER HANNAN: Okay. We're not going to let</p> <p>23 him go there, go ahead.</p> <p>24 MR. KLINE: Fine. Um, when we had testimony yesterday</p> <p>25 of the description of the fence it was going to be along the</p>
<p style="text-align: right;">278</p> <p>1 HEARING OFFICER HANNAN: -- I just -- it said --</p> <p>2 MR. CHEN: Pr- --</p> <p>3 HEARING OFFICER HANNAN: -- privacy.</p> <p>4 MR. CHEN: That -- that word -- that's -- that's for --</p> <p>5 it's a -- so it's a privacy fence.</p> <p>6 MR. KLINE: Right.</p> <p>7 HEARING OFFICER HANNAN: Yes.</p> <p>8 MR. KLINE: Mr. Alt -- let -- let's just finish on the</p> <p>9 -- the mechanical equipment first and then I -- I got a</p> <p>10 question for you about that.</p> <p>11 MR. ALT: Okay. The condenser furnace, we refer to it,</p> <p>12 occupies an area -- that I mentioned to you and it's</p> <p>13 convenient to use the site plan again -- tucked in between</p> <p>14 these two wings; the two west facing wings of the building</p> <p>15 and enclosed in a privacy fence. The condensers themselves</p> <p>16 are about 30 to 42 inches high. They're ganged for</p> <p>17 efficiency and they're screened and enclosed by the fence</p> <p>18 exhibit that you have in your hand only that one -- that one</p> <p>19 happens to be six feet high for the east perimeter screening</p> <p>20 of the building from the property to the east, which we can</p> <p>21 talk about later, but that is a -- the same version, the</p> <p>22 same fence system that we were -- we commonly typically use</p> <p>23 in a white or a beige or a clay or color to be determined to</p> <p>24 screen the condensers.</p> <p>25 HEARING OFFICER HANNAN: That's six feet high?</p>	<p style="text-align: right;">280</p> <p>1 east property line, was opaque board on board fence.</p> <p>2 Subsequently, we spoke with you and you had a different</p> <p>3 suggestion, and I'd like you to explain why you believe what</p> <p>4 you have shown now as Exhibit 194 is a preferred -- well,</p> <p>5 why -- why you -- why you recommending we use 194?</p> <p>6 MR. ALT: What Mr. Jolley, the landscape architect with</p> <p>7 Maser suggested at the time was what col- -- colloquially we</p> <p>8 are -- we know as what -- a good neighbor fence, which is an</p> <p>9 alternating vertical slat fence which -- and again, I can't</p> <p>10 get into the acoustic nature of it, but if you -- if you</p> <p>11 shine headlights at an angle you go through the fen- -- you</p> <p>12 can go through the fence. This is a -- this is a solid</p> <p>13 fence.</p> <p>14 MR. KLINE: So, does that mean it's not opaque? And I</p> <p>15 ask that question --</p> <p>16 MR. ALT: Well, it is --</p> <p>17 MR. KLINE: -- [inaudible], it is --</p> <p>18 MR. ALT: -- opaque.</p> <p>19 MR. KLINE: -- is it opaque.</p> <p>20 MR. ALT: It is opaque.</p> <p>21 MR. KLINE: Okay.</p> <p>22 MR. ALT: It's a solid fence, opaque.</p> <p>23 MR. KLINE: Okay. So, it -- it would be capable of</p> <p>24 allowing no light from vehicle cars to shine through the</p> <p>25 glass?</p>

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71 (281 to 284)

<p>281</p> <p>1 MR. ALT: Up to its height. 2 MR. KLINE: Okay. 3 MR. CHEN: How about below? 4 MR. ALT: Say again, I'm -- I'm sorry, Mr. Lynn. 5 MR. CHEN: How far off the ground is it? 6 MR. ALT: Four inches. Convenient for lawn care. 7 MR. KLINE: Could I take you back to the elevations, 8 please? 9 MR. ALT: Okay. 10 MR. KLINE: The height of the building is how much? 11 MR. ALT: I have that written down. The land examiner 12 zoning documents have different ways of treating the height 13 of the building. Some say to mid-point of the slope, some 14 say to the ridge. I don't know the rule here, so what I'm 15 going to give you is the ridge -- 16 HEARING OFFICER HANNAN: Well, that's marked on Exhibit 17 78, right? You've got the ridge and -- 18 MR. ALT: Oh, yeah. Thank you. 19 HEARING OFFICER HANNAN: -- up at the top. 20 MR. ALT: Twenty-two feet nine inches. 21 HEARING OFFICER HANNAN: Well, that's not what that 22 had. 23 MR. ALT: Well this -- 24 HEARING OFFICER HANNAN: I have 21 feet 7 inches. 25 MR. ALT: Twenty-one feet 7 inches on the --</p>	<p>283</p> <p>1 MR. ALT: Devices to -- to climb on. There aren't any 2 bells or gongs or any -- any noise making. We've progressed 3 a ways -- we don't torture our children quit so much any 4 more with those -- those devices that spin and make you barf 5 and so on -- and we don't do that. So -- no, I apologize 6 that had -- that -- that has not been determined yet. 7 MR. KLINE: Yeah. As -- 8 MR. ALT: And -- 9 MR. KLINE: -- determined by the mix of children, the 10 ages category? 11 MR. ALT: That -- that's correct. 12 MR. KLINE: Yeah. 13 MR. ALT: And budget. I mean, we're looking at -- we 14 are looking at easily \$300,000 worth of equipment, so it -- 15 it's going to be fairly -- and there's soccer opportunities 16 and things of that nature. 17 MR. KLINE: Going back to the building and talk- -- was 18 talking about the height of the building, how -- how does it 19 relate to other buildings around it, its residential neigh- 20 -- the residential neighborhood? 21 MR. ALT: Well, we're a single-story building. 22 MR. KLINE: Mm-hmm. 23 MR. ALT: And, so, bearing -- the bearing height of the 24 trusses of the ro- -- roof trusses is right at about eight 25 feet, give or take an inch or two. And I've given you the</p>
<p>282</p> <p>1 HEARING OFFICER HANNAN: Oh -- oh -- 2 MR. ALT: -- on the wing. The primary access of the -- 3 of the building is 22, 9; and then, yeah, you have two 4 different heights for the wings. One is -- well they vary, 5 18, 10; 19 feet; 22, 9. But the -- the long access to the 6 building, that ridge, the highest point is 22, 9. 7 MR. KLINE: Before I -- before I move on with more 8 questions about the building, I -- I should have asked you 9 about the play lot areas. Will there be any children's 10 equipment in those areas and if so, what -- and if so, when 11 will that decision be made? 12 MR. ALT: There is age specific playground equipment 13 provided on a -- on a national contract by Little Tikes. The 14 decision on what is -- that's going to consist of has not 15 been made. However, from the point of view of color, it's 16 absolutely all going to be earth tones. 17 MR. KLINE: Could you give kind of examples within the 18 range of the ages? Do we -- do we have a swing set for the 19 six months old's? 20 MR. ALT: There are -- yes, there are -- there are 21 swing sets. There are interactive devices for toddlers. 22 There are the normal prototypical -- I rely upon your 23 familiarity with typical playgrounds, but there are -- 24 there's a basketball net scaled for five and six year old's. 25 MR. KLINE: Mm-hmm.</p>	<p>284</p> <p>1 ridge heights and because the main access of the building is 2 the widest element, that's why our -- our ridge is at 20- -- 3 what did we say -- 22, 9. Anyway, it's a single-story 4 building, whereas our -- our newest neighbor, is at least -- 5 and I'm -- I'm estimating now, 10 feet higher. 6 MR. KLINE: That being the property where? 7 MR. ALT: To the immediate west. 8 MR. KLINE: Okay. 9 MR. ALT: The new residence to the immediate west. 10 MR. KLINE: Okay. The staff report on page 31 and 32, 11 has a paragraph titled two-story building option and the 12 staff asked us to consider a two-story option in order to -- 13 MR. CHEN: What page are you on? 14 MR. KLINE: I'm on page 31 and 32 of the staff -- 15 technical staff report. And the paragraph is titled two- 16 story building option. Would you explain why the staff asked 17 us to consider a two-story option and how you evaluated that 18 proposal? 19 MR. ALT: The staff request was well intentioned. What 20 they were looking at was an opportunity to help us a little 21 bit on site coverage. And we looked at it very carefully. 22 The point being that if we're at, give or take just under 23 13,000 square feet for a single story, a two-story is not 24 going to be one-half of that. 25 What ends up happening with the State of Maryland</p>

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72 (285 to 288)

<p style="text-align: right;">285</p> <p>1 rules, we have to introduce a number of things on the second 2 floor for security and for management and for child care. 3 So, and then -- then, of course, in -- in addit- -- in 4 addition to that we have two stair cores, we have an 5 elevator core, we have an elevator equipment room, we have 6 additional resource rooms on the second floor. 7 We end up with a food delivery issue and so forth, so, 8 the -- the total bulk of the building ends up increasing 9 from about 29 feet to another give or take 12 feet, so now 10 we're well above in terms of bulk, the mas- -- and massing 11 of -- well above the neighbor and neighbors across the 12 street. And we've increased the total built square feet of 13 the building well north of 14,000 sq- -- square feet total, 14 approaching 15,000 square feet by the time we add in all 15 those additional features. 16 In addition to that, we're limited as to what age 17 children we can put on the second floor of the building, 18 generally, no child under the age of 30 months. In addition 19 to that, we have a management issue. The -- the cost of the 20 building, the cost of the operation of the building does 21 slightly increase. We -- we feel and -- and then we -- 22 because we don't have every classroom with an extra door 23 straight to the outside, we have to conduct the children 24 that are on the second floor in a less -- well, we -- what I 25 would deem to be a less than satisfactory, certainly less</p>	<p style="text-align: right;">287</p> <p>1 are two elements to this of greatest interest, one is a foot 2 candle or a lum- -- general illumination level and the other 3 is glare. We have two sources of illumination other than 4 what comes through the windows on the outside of the 5 building. One is the sconces that are at each exit door on 6 the outside, seven feet up from the ground. The other is the 7 parking lot lighting which is 20 feet up. 8 HEARING OFFICER HANNAN: Mm-hmm 9 MR. ALT: Both fixtures are a Cree, C-r-e-e, which is 10 in -- in the spec data sheets are included in -- in our 11 submittals, in -- in the exhibits. 12 HEARING OFFICER HANNAN: Right. 13 MR. ALT: Both honor those rules. By that I mean, 14 there's no direct illumination horizontally, it all goes to 15 the ground. Second, the actual luminaire glare opportunity 16 is shielded, so you -- if you're -- if you're standing -- if 17 you're standing under the -- under the par- -- under the 18 parking lot lighting looking up at 20 feet up, you're going 19 to be able to see the luminaire. But if you're at the 20 perimeter of the site, you cannot see the luminaire. So, we 21 have a 0.1 or 0.0 -- I think we have one spot looking at the 22 -- 23 HEARING OFFICER HANNAN: Yeah, I -- 24 MR. ALT: -- photometrics where it was 0.1. 25 HEARING OFFICER HANNAN: -- I wondered that. Is it on</p>
<p style="text-align: right;">286</p> <p>1 than saf- -- not the safest environment, we have to conduct 2 them through the core -- through the hallways to the 3 stairwells or to the elevators to get to the ground floor to 4 get to the outside for play. 5 So, we -- we gave it a lot of consideration. We thought 6 very carefully about it. And, again, the franchise owner, 7 Mr. Mandava can speak to that more thoroughly than I from an 8 operational standpoint. 9 MR. KLINE: Mr. Alt, your firm prepared a land- -- a 10 lighting plan for the proposed use; is that correct? And if 11 so, could you pull out the photometric plan for us. This 12 should be Exhibit -- 13 MR. CHEN: 94A and B? 14 MR. ALT: That's correct. 15 MR. CHEN: Which one is up there, though? 16 MR. ALT: Looks like 94A. 17 MR. KLINE: Yeah. 18 [talking in background, inaudible] 19 HEARING OFFICER HANNAN: Yes, PMA1. 20 MR. ALT: So, A is up. 21 MR. KLINE: And -- yeah. Right. So, would you just 22 describe first of all the fixtures that are pr- -- proposed 23 to be used, what light spread qualities or features will be 24 included in those? 25 MR. ALT: Madam Examiner, as you probably know, there</p>	<p style="text-align: right;">288</p> <p>1 the western side? 2 MR. ALT: On the eastern side. 3 HEARING OFFICER HANNAN: I get mixed up, eastern and 4 western. Can you -- can you turn that -- 5 MR. ALT: Sure. 6 HEARING OFFICER HANNAN: -- so north and south. 7 MR. ALT: North is up. 8 HEARING OFFICER HANNAN: North is up. Okay, where is 9 that spot? It's -- is it -- so, it's -- you're saying it's 10 zero all around except for one spot where it's 0.1. Is that 11 what you're saying? 12 MR. ALT: Foot candles, yes. 13 HEARING OFFICER HANNAN: And where is that one spot? 14 MR. ALT: It's directly adjacent -- get my glasses, 15 directly adjacent to one of the light poles. And we were -- 16 we were studying it and if push -- well that's -- here we go 17 right here. 18 HEARING OFFICER HANNAN: Okay. 19 MR. KLINE: Can you identify kind of the location where 20 that is? 21 HEARING OFFICER HANNAN: Approximately. 22 MR. ALT: East -- east boundary. Twenty-five feet south 23 of the main entrance to the building on the west -- on the 24 east property line. And immediately beneath one of the 25 parking lot poles.</p>

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<p>289</p> <p>1 HEARING OFFICER HANNAN: Okay.</p> <p>2 MR. KLINE: So, there should be no lights spreading off</p> <p>3 the property on to a surrounding prop- -- a residential</p> <p>4 properties?</p> <p>5 MR. ALT: Yes. Especially, if you consider the fact</p> <p>6 that we have a six-foot fence right at that location as</p> <p>7 well.</p> <p>8 MR. KLINE: Okay. You -- you have been instructed by</p> <p>9 the applicant to install cut-offs with the lights as well.</p> <p>10 MR. ALT: Absolutely. Yeah.</p> <p>11 MR. KLINE: Okay. And --</p> <p>12 MR. ALT: The -- all the -- all illum- -- all</p> <p>13 illuminate sources are LED now and so we can -- we can</p> <p>14 really dial them to make them that way, make them absolutely</p> <p>15 aschometric so they fit into the property illumination goes</p> <p>16 like this. As you come down to the vertical, it diminishes</p> <p>17 to zero.</p> <p>18 MR. KLINE: And I probably didn't phrase my question</p> <p>19 properly, you've been instructed to have cutoffs so the</p> <p>20 lights will go off when the property is not in use?</p> <p>21 MR. ALT: We're absolutely prepared. We've already --</p> <p>22 we've already discussed this with a firm- -- with the owner.</p> <p>23 We're absolutely prepared to accept any reasonable</p> <p>24 requirement.</p> <p>25 We do that all the time. In this community, in this</p>	<p>291</p> <p>1 MR. KLINE: Yeah --</p> <p>2 HEARING OFFICER HANNAN: -- there --</p> <p>3 MR. KLINE: -- which one [inaudible].</p> <p>4 HEARING OFFICER HANNAN: -- you're talking about</p> <p>5 Exhibit --</p> <p>6 MR. ALT: Needwood Road about 25 --</p> <p>7 HEARING OFFICER HANNAN: -- no. The -- the --</p> <p>8 MR. KLINE: She needs the num- -- she needs the number.</p> <p>9 HEARING OFFICER HANNAN: -- 90- --</p> <p>10 MR. ALT: Oh.</p> <p>11 MR. KLINE: Yeah.</p> <p>12 MR. CHEN: 4A.</p> <p>13 HEARING OFFICER HANNAN: 94A.</p> <p>14 MR. ALT: And I have L --</p> <p>15 HEARING OFFICER HANNAN: So, on 94A, there's a black</p> <p>16 mark showing the sig- -- locations assigned.</p> <p>17 MR. ALT: Of the monument sign.</p> <p>18 HEARING OFFICER HANNAN: Okay.</p> <p>19 MR. KLINE: So, that is -- looks like it's to the left</p> <p>20 of the entrance driveway?</p> <p>21 MR. ALT: To the west of the entrance --</p> <p>22 MR. KLINE: Okay.</p> <p>23 MR. ALT: -- it looks to be about 20 feet west of the</p> <p>24 primary curb cut. Curb cut on the -- I'm showing my -- my</p> <p>25 finger is describing where it occurs off Needwood.</p>
<p>290</p> <p>1 neighborhood, we feel -- we're willing to accept 9:00</p> <p>2 o'clock by the time the cleaning staff have left, that all</p> <p>3 parking lot pole lights are off. 9:00 o'clock.</p> <p>4 We would also be in a position to discuss anything that</p> <p>5 you might want to do with the -- with the lights at the</p> <p>6 doors.</p> <p>7 Those could go down to 90 percent and soft glow if</p> <p>8 nothing else just to identify where the doors are. There's</p> <p>9 enough ambient light in the neighborhood that that -- that</p> <p>10 shouldn't be a problem.</p> <p>11 HEARING OFFICER HANNAN: Okay.</p> <p>12 MR. KLINE: Mr. Alt, Exhibit 26 in the record of --</p> <p>13 hearing examiner had it up there a minute ago, is the</p> <p>14 signage plan, there's two pieces of signs. There's a -- a</p> <p>15 logo or an icon on the building but I think the hearing</p> <p>16 examiner's more interested in the monument sign. Where would</p> <p>17 it be located?</p> <p>18 MR. CHEN: What exhibit are we on?</p> <p>19 HEARING OFFICER HANNAN: Twenty-six.</p> <p>20 MR. KLINE: Twenty-six.</p> <p>21 MR. ALT: Well, we can stay with this one for the</p> <p>22 moment, if that's all right. There's a very convenient black</p> <p>23 rectangle there. Now, I can go to other --</p> <p>24 HEARING OFFICER HANNAN: Well, you're saying --</p> <p>25 MR. ALT: -- sheets.</p>	<p>292</p> <p>1 MR. KLINE: Okay.</p> <p>2 MR. ALT: At about 20 feet south of the right-away</p> <p>3 line.</p> <p>4 MR. KLINE: Do you have a -- an elevation of the --</p> <p>5 what the sign would look like? It's on Exhibit 26 on the</p> <p>6 left-hand side you have a monument sign. Can you give us the</p> <p>7 details and materials, the size, etcetera?</p> <p>8 MR. ALT: Okay. Short answers are, it's not digital.</p> <p>9 It's fixed signage, fixed letters. All colors on the sign</p> <p>10 match the building.</p> <p>11 HEARING OFFICER HANNAN: Is it illuminated?</p> <p>12 MR. ALT: We would like to have it illuminated from the</p> <p>13 ground with a -- an approved light source that does not</p> <p>14 interfere with traffic. Kind of, typically, if you'll</p> <p>15 forgive me, rather than aiming it perpendicular to the face</p> <p>16 of the sign, we direct -- we come forward just a little bit</p> <p>17 and then direct it so that it's just slightly away from the</p> <p>18 traffic.</p> <p>19 MR. KLINE: No internal illumination though?</p> <p>20 MR. ALT: No internal illumination. No digital</p> <p>21 illumination. No chi- -- no changing the sign and it'll take</p> <p>22 -- and the corp- -- the corporate standard is generally is</p> <p>23 that the text is as -- exactly as shown or -- or the name</p> <p>24 may change but it -- right now it -- it says Primrose School</p> <p>25 of Derwood. Maybe it'll become Shady Grove, maybe it'll</p>

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74 (293 to 296)

<p style="text-align: right;">293</p> <p>1 become something else as we a -- as we -- if we obtain 2 approval and then there's a tag across the bottom that says 3 the -- the leader in early education and care. 4 And the -- once again, the material is stone or brick 5 mimic the building. And this detail -- and it's our 6 understanding that we have a variance path to approval of 7 this, but seven feet high, ten feet wide for the structure 8 with a medallion of the logo in the center of it. With the 9 height of the -- the height of the text for the signage 10 would be two foot eight plus one foot ten; three feet, four 11 foot six to the top of the panel that contains the text and 12 then the logo would be above that. And that would be two fa- 13 -- two faces perpendicular to Needwood, so two sides. 14 MR. KLINE: And since it exceeds two square feet, which 15 is permitted to the residential zone, it will require 16 variance from the Sign Review Board, correct? Which -- 17 MR. ALT: That's correct -- 18 MR. KLINE: -- you're prepared to accept a condition to 19 seek that and obtain it and provide a copy of the decision 20 of the Hearing Examiner? 21 MR. ALT: Yes. 22 HEARING OFFICER HANNAN: Okay. 23 MR. KLINE: Mr. Alt, just to wrap up, does the building 24 incorporate residential features to give it a residential 25 appearance and feel?</p>	<p style="text-align: right;">295</p> <p>1 question, sir, how many buildings did you compare it to? 2 MR. ALT: How many buildings in the -- this building 3 and this neighborhood? 4 MR. CHEN: Well, yeah. You -- it says -- expressed an 5 opinion, as I understood it, that the design -- 6 MR. ALT: I -- 7 MR. CHEN: -- is compatible with the building to the 8 neighborhood. What neighborhood and what building? 9 MR. ALT: I did two things. One, I -- before I came 10 here, I drove the site on Google and then I came to the site 11 and drove the site and compared the -- the scale and the 12 detailing of the building that I and my staff prepared to 13 the most immediate -- let -- let -- I'm going to say, one to 14 two blocks in both directions on -- east and west on 15 Needwood. I then made note of the fact that there were 16 similarly detailed -- that there was a particular 17 vernacular, a particular color of finish, a particular 18 combination of finishes and detailing present on a number of 19 the residences across the street. At that time, the 20 residents immediately to the west across Curgee [ph] wasn't 21 there. 22 MR. CHEN: So, when did you drive the site? 23 MR. ALT: I'd have to look at my logs, but it was in 24 May -- April or May of '19. And then I was also here for the 25 first edition of this hearing.</p>
<p style="text-align: right;">294</p> <p>1 MR. ALT: Yes. 2 MR. KLINE: And is the proposed building harmonious 3 with and will -- harmonious with its surrounding residential 4 neighbors? 5 MR. CHEN: Objection. 6 MR. ALT: My professional opinion -- 7 HEARING OFFICER HANNAN: Just a second. 8 MR. ALT: Sorry. 9 HEARING OFFICER HANNAN: Um -- 10 MR. ALT: [inaudible] 11 HEARING OFFICER HANNAN: -- can you ask this a 12 different -- I know what he's -- I'm assuming he's objecting 13 because the land planner usually testifies to this, not the 14 -- an architect. He can say that, you know, doesn't incorp- 15 -- I don't know. 16 MR. KLINE: Well, may- -- maybe the mistake is I'm 17 trying to use the words of the security ordinance. 18 HEARING OFFICER HANNAN: I do think that. 19 MR. KLINE: Yeah. Do you believe that the design of the 20 building is compatible with the surrounding neighborhood 21 from a design -- architectural point of view? 22 MR. ALT: Yes. 23 MR. KLINE: No further questions. 24 HEARING OFFICER HANNAN: All right. Mr. Chen. 25 MR. CHEN: Well, it's that -- this is the last</p>	<p style="text-align: right;">296</p> <p>1 MR. CHEN: Yes. We -- we drove -- the question was when 2 did you drive the site? 3 MR. ALT: April or -- April -- it was April or May of 4 '19. 5 MR. CHEN: And as I understand it, you drove on 6 Needwood for one to two blocks? 7 MR. ALT: Yes. I also spent a fair amount of it a -- 8 atten- -- I gave quite a bit of attention to the church 9 because in prior communication, I had been asked to look at 10 the church. Those were staff comments forwarded to me 11 through Mr. Intriago. 12 MR. CHEN: And the church is on Needwood so that was 13 within that -- 14 MR. ALT: East. 15 MR. CHEN: -- driving -- 16 MR. ALT: About that, yes. 17 MR. CHEN: Okay. 18 MR. ALT: To get there I had -- 19 MR. CHEN: [inaudible] -- 20 MR. ALT: -- to drive greater lengths on Needwood. Yes. 21 MR. CHEN: And when did you drive the site on Google? 22 MR. ALT: Back in '17 in -- 2017 when we first got 23 notified of the project. 24 MR. CHEN: And -- and did you -- what was the area that 25 you drove that --</p>

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75 (297 to 300)

<p style="text-align: right;">297</p> <p>1 MR. ALT: The same.</p> <p>2 MR. CHEN: Okay. When you talked about building height,</p> <p>3 you've -- you've not been out and done any actual</p> <p>4 measurements. I think you said the outside, 7500 Needwood</p> <p>5 was 20 feet higher than the building height compared to the</p> <p>6 neighbors. Is that right?</p> <p>7 MR. ALT: I did not -- no. If you do the math, I didn't</p> <p>8 -- I didn't use the term 20 feet.</p> <p>9 MR. CHEN: Oh, okay. Higher, you said -- I thought you</p> <p>10 said it was 20 feet higher. 7500, now, I'm doing the --</p> <p>11 MR. ALT: Okay. No --</p> <p>12 MR. CHEN: -- address.</p> <p>13 MR. ALT: -- that's the new --</p> <p>14 MR. CHEN: Yes.</p> <p>15 MR. ALT: -- residence to the immediate west --</p> <p>16 MR. CHEN: Yeah.</p> <p>17 MR. ALT: -- it's --</p> <p>18 MR. CHEN: Yeah.</p> <p>19 MR. ALT: -- I did an estimate not ph- -- physically</p> <p>20 field measuring it --</p> <p>21 MR. CHEN: Okay.</p> <p>22 MR. ALT: -- I observed in my opinion that it would be</p> <p>23 at least 12 feet taller, a minimum of 12 feet taller than</p> <p>24 the ridge of our building as proposed.</p> <p>25 MR. CHEN: And is the ridge the exterior portion of the</p>	<p style="text-align: right;">299</p> <p>1 MR. KLINE: Could you take a step back, Jim.</p> <p>2 MR. ALT: Oops, sorry. Proposed six-foot-high opaque</p> <p>3 screening fence is notated from as close to Needwood as</p> <p>4 traffic engineering will allow, south to the southern-most</p> <p>5 point of the parking field on the plan.</p> <p>6 HEARING OFFICER HANNAN: Okay.</p> <p>7 MR. ALT: Approximately where the conservation area</p> <p>8 begins, forest countr- -- conservation area begins.</p> <p>9 MR. CHEN: And how tall will the top of this fence be</p> <p>10 from the ground?</p> <p>11 MR. ALT: To give you an exact to the inch measurement,</p> <p>12 I will have to look at the sheet details and examine it and</p> <p>13 decide but the -- the posts with that neural at the top of</p> <p>14 each post, I'm going to say will be a minimum of six feet to</p> <p>15 that point.</p> <p>16 MR. CHEN: Okay. So, the top of the fence will be six</p> <p>17 feet off the ground --</p> <p>18 MR. ALT: Minimum.</p> <p>19 MR. CHEN: -- within inch -- with minim- -- within</p> <p>20 inches difference.</p> <p>21 MR. ALT: Correct.</p> <p>22 MR. CHEN: Give or take in some inches.</p> <p>23 MR. ALT: Correct.</p> <p>24 MR. CHEN: And it's all ready -- and it will be four</p> <p>25 inches to begin with, the fence part, not the post, the</p>
<p style="text-align: right;">298</p> <p>1 roof?</p> <p>2 [Whispering: It's the top.]</p> <p>3 MR. ALT: Yes, the very top most.</p> <p>4 MR. CHEN: Yeah. And as I understand it, the -- as of</p> <p>5 your testimony, the opaque fence on the east side is now</p> <p>6 going to be the type of fence that is shown on Exhibit 194,</p> <p>7 correct?</p> <p>8 MR. ALT: Yes.</p> <p>9 MR. CHEN: Color?</p> <p>10 MR. ALT: It -- clay. Matching as nearly as possible</p> <p>11 the brick --</p> <p>12 MR. CHEN: [inaudible]</p> <p>13 MR. ALT: -- on the building.</p> <p>14 MR. CHEN: And for what portion of the eastern boundary</p> <p>15 will it go? Will it go from Needwood to the very end of the</p> <p>16 property to the south or --</p> <p>17 MR. ALT: I would need --</p> <p>18 MR. CHEN: -- [inaudible] --</p> <p>19 MR. ALT: -- to refer to Mr. Intriago's site plan to</p> <p>20 determine that.</p> <p>21 MR. CHEN: Okay.</p> <p>22 [talking in background, inaudible]</p> <p>23 MR. CHEN: And Mr. Lynn, I'm referring to -- Madam</p> <p>24 Examiner, I'm referring to Exhibit -- and it looks like 93D.</p> <p>25 And --</p>	<p style="text-align: right;">300</p> <p>1 fence will be four inches off the ground.</p> <p>2 MR. ALT: Yes.</p> <p>3 MR. CHEN: And what is the elevation of the backyard of</p> <p>4 the Kosary property? And what is the elevation of the</p> <p>5 driveway?</p> <p>6 MR. ALT: I don't know.</p> <p>7 MR. CHEN: Has anybody conducted any measurements of</p> <p>8 those two elevations?</p> <p>9 MR. ALT: I would -- I don't know.</p> <p>10 MR. CHEN: Okay. And as I understand it, you have one</p> <p>11 20-foot high pole that is on the eastern boundary line and</p> <p>12 you identified the location of that; is that right, sir, on</p> <p>13 the photometric you -- you identified it?</p> <p>14 MR. ALT: There may be more than that. I'll have to</p> <p>15 take a look. My memory is not clear, the number of -- that</p> <p>16 fixture --</p> <p>17 MR. CHEN: The 20 foot one.</p> <p>18 MR. ALT: -- on the -- on the west -- I'm sorry, on the</p> <p>19 east property line that Cree on the property line --</p> <p>20 MR. CHEN: When you say Cree, what do you mean by that,</p> <p>21 sir?</p> <p>22 MR. ALT: That's the manufacturer.</p> <p>23 MR. CHEN: It -- it's a -- it's a type then of pole?</p> <p>24 MR. ALT: It's a manufacturer name -- manufacturer's</p> <p>25 name.</p>

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76 (301 to 304)

<p>301</p> <p>1 MR. CHEN: Yes. You're identifying the manufacture of 2 the pole in question. 3 MR. ALT: Pole and -- and -- and -- 4 MR. CHEN: And -- and the light. 5 MR. ALT: -- yeah -- 6 MR. CHEN: Okay. 7 MR. ALT: -- it's three -- 8 MR. CHEN: Okay. 9 MR. ALT: Yes. And that is -- that's in the exhibits. 10 And I'm having difficulty reading it. 11 MR. CHEN: Want my reading glasses? I -- I'm -- I'm -- 12 I'm sympathetic, that's meant as a symp -- sympathetic -- 13 MR. ALT: Okay. They're very difficult to pick out. 14 There are -- the reason I'm taking the time, Mr. Lynn, is 15 because you said one. 16 HEARING OFFICER HANNAN: Mr. Chen. 17 MR. ALT: Mr. Chen, 18 MR. CHEN: Yes. Lynn is a different [inaudible]. 19 MR. ALT: I thought you said one and I thought there 20 were two. 21 MR. CHEN: Well, why don't we do it this way. Do you 22 know where the 20-foot Cree lights are to be located on the 23 site? 24 MR. ALT: That's exactly what I'm trying to determine. 25 MR. CHEN: Is there possibly another exhibit that shows</p>	<p>303</p> <p>1 time. I'm just trying -- I know you got to get a plane, Mr. 2 Kline has to get downtown, I'm actually trying to help -- 3 MR. ALT: Yes. 4 MR. CHEN: -- so, and Mis- -- since Mr. Intriago's 5 coming back, it -- 6 MR. ALT: I could defer to him; we've located six of 7 the eight. 8 MR. CHEN: That's -- so long as Mr. Intriago is capable 9 of identifying the location and to talk about what these -- 10 well, let me even try some more on that. When you say 11 they're 20-foot high, sir, what -- what -- where does that 12 height go to? Does it go to the pole, does it go to a 13 fixture? Where's it go? 14 MR. ALT: In the exhibits there is a detail that shows 15 that the 20 foot is to the height -- the top of the f- -- 16 the top of the luminaire itself. 17 MR. CHEN: When you -- and when you say luminaire, 18 you're talking about the actual lighting fixture, right -- 19 MR. ALT: The height. 20 MR. CHEN: -- at the top of the pole. 21 MR. ALT: Right. 22 MR. CHEN: Okay. So, that to the top of the fixture is 23 20 feet from the ground? 24 HEARING OFFICER HANNAN: Yes, Mr. Kline. 25 MR. KLINE: Well, I'm -- I'm -- there -- there is a</p>
<p>302</p> <p>1 the location -- 2 MR. ALT: It may be highlighted on a different exhibit. 3 Madam Examiner, do they have a -- does the version you have 4 in your possession, do they have highlights on them? 5 MR. CHEN: It's in our -- 6 HEARING OFFICER HANNAN: Of the photometric study? 7 MR. ALT: Of -- of the pole locations? 8 HEARING OFFICER HANNAN: They should be on the CUP, the 9 conditional use plan. 10 MR. ALT: Not that I saw. They're really tricky to pick 11 out [inaudible]. 12 [talking over each other, inaudible] 13 HEARING OFFICER HANNAN: I -- it -- I don't see it on 14 here. I'm looking at CUP and I don't see it anywhere. 15 [talking over each other, inaudible] 16 MR. CHEN: Does -- does Mr. Intriago know where they're 17 located. 18 MR. ALT: Mr. Intriago, if you don't object just 19 helping me locate -- 20 MR. CHEN: Yeah, I'm -- I'm not really objecting, I'm - 21 - I'm -- I'm trying to get to it. Does Mr. Intriago know 22 where they are located? 23 MR. ALT: I believe. So, we're -- we're attempting 24 together with the -- 25 MR. CHEN: Well, then -- just -- I'm trying to save</p>	<p>304</p> <p>1 exhibit, light pole and lamp details, they -- Exhibit 77, 2 that's not photometric planned and it may have a -- it 3 either has the details we thought -- but maybe it actually 4 shows a location -- 5 MR. CHEN: Which -- please -- 6 MR. KLINE: -- I'm waiting for -- 7 MR. ALT: It shows exactly 20 feet -- 8 MALE: 77. 9 [talking over each other, inaudible] 10 MR. ALT: Sorry, Madam Examiner, it's 20 feet exactly 11 at the top of the head -- 12 HEARING OFFICER HANNAN: What -- do you know what the 13 exhibit -- 14 MR. KLINE: Okay, never -- never -- never mind, he just 15 found it. It's PM2 and it -- it only shows the details, but 16 it doesn't show the location. 17 HEARING OFFICER HANNAN: Okay. 18 MR. KLINE: Thank you. 19 MR. ALT: But -- but it does have a full elevation of 20 the pole and the fixture. 21 MR. CHEN: Is -- is PM2, is that an Alt exhibit or is 22 that a Maser exhibit? 23 MR. ALT: That's an Alt exhibit. 24 MR. CHEN: Okay. And what does -- and what exhibit is 25 that? Is that 77, Mr. Kline?</p>

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77 (305 to 308)

<p>305</p> <p>1 MR. KLINE: Correct.</p> <p>2 MR. CHEN: Okay. And what does 77 -- Exhibit 77 show?</p> <p>3 MR. ALT: It shows as -- an elevation of the pole and</p> <p>4 the head.</p> <p>5 MR. CHEN: Could --</p> <p>6 MR. ALT: -- and the pedestal that it mounts to.</p> <p>7 MR. KLINE: It's titled light pole and lamp detail</p> <p>8 sheet, PM2.</p> <p>9 MR. CHEN: And is that just the 20-foot lights? Okay.</p> <p>10 And -- and that's -- therefore exhibit will have the</p> <p>11 information that -- I think you've already answered about</p> <p>12 and Mr. Intrigo can give us the location of -- of them.</p> <p>13 MR. ALT: A companion sheet to that exhibit shows the</p> <p>14 photometrics that indicates the location of the heads of the</p> <p>15 poles, yes.</p> <p>16 MR. CHEN: Fine. Okay. Now, you -- you also used the</p> <p>17 term scones [sic].</p> <p>18 MR. ALT: Scones.</p> <p>19 MR. CHEN: Scones. I -- I -- how do you spell that,</p> <p>20 sir?</p> <p>21 MR. ALT: S-c-o-n-c-e.</p> <p>22 MR. CHEN: Okay. Now, and they're seven foot up, you</p> <p>23 said.</p> <p>24 MR. ALT: Yes, that's correct.</p> <p>25 MR. CHEN: And are these lights that go next to the</p>	<p>307</p> <p>1 [talking over each other, inaudible]</p> <p>2 MALE: But -- but you could eat them as well.</p> <p>3 HEARING OFFICER HANNAN: I just want to --</p> <p>4 [talking over each other, inaudible]</p> <p>5 MR. CHEN: Okay. So, each one of those doors will have</p> <p>6 one of these scones. And the rear -- I take it the rear --</p> <p>7 what I call the rear or the main entry at -- façade of the</p> <p>8 building --</p> <p>9 MR. ALT: Yes.</p> <p>10 MR. CHEN: -- will that -- will that doorway entrance</p> <p>11 have one of these scones?</p> <p>12 MR. ALT: Yes.</p> <p>13 MR. CHEN: How many?</p> <p>14 MR. ALT: One on each side of the entrance. [inaudible]</p> <p>15 elevation, you'll have to, once again, help me out on the --</p> <p>16 MALE: What exhibit [inaudible].</p> <p>17 MR. ALT: On Exhibit Number --</p> <p>18 HEARING OFFICER HANNAN: Well, what -- there's some --</p> <p>19 light exhibits around 77. And I don't know, they have PM- --</p> <p>20 PM1A and PM1B and PM2, is that what you're looking for or</p> <p>21 no?</p> <p>22 MR. ALT: There is -- this requires a bit of an</p> <p>23 explanation. Please be patient with me. The entrance and</p> <p>24 there are two entrances. I am pointing at foyer or the</p> <p>25 vestibule --</p>
<p>306</p> <p>1 doors?</p> <p>2 MR. ALT: Correct.</p> <p>3 MR. CHEN: Exterior doors?</p> <p>4 MR. ALT: Yes.</p> <p>5 MR. CHEN: All exterior doors?</p> <p>6 MR. ALT: Yes.</p> <p>7 MR. CHEN: And how many exterior doors are there as --</p> <p>8 particularly on the east side of the building? How many</p> <p>9 doors are there?</p> <p>10 MR. ALT: The east elevation being across the top of</p> <p>11 the page --</p> <p>12 MR. CHEN: What exhibit are you on, sir?</p> <p>13 MR. ALT: A1.0, you'll have to -- tell me what the</p> <p>14 [inaudible].</p> <p>15 MR. KLINE: Go ahead, I'll -- I'll get the number for</p> <p>16 you.</p> <p>17 MR. CHEN: Okay.</p> <p>18 MR. ALT: There are one, two, three, four, five, six</p> <p>19 exterior doors facing east.</p> <p>20 MR. CHEN: And I take it, how many scones [sic] will</p> <p>21 each door have?</p> <p>22 MR. ALT: One.</p> <p>23 MR. CHEN: Okay.</p> <p>24 HEARING OFFICER HANNAN: Scones.</p> <p>25 MR. CHEN: Scones.</p>	<p>308</p> <p>1 HEARING OFFICER HANNAN: On what exhibit, the floor</p> <p>2 plan?</p> <p>3 MR. ALT: Yes.</p> <p>4 HEARING OFFICER HANNAN: Okay. So, that is --</p> <p>5 MR. KLINE: 79.</p> <p>6 HEARING OFFICER HANNAN: Okay.</p> <p>7 MR. ALT: There is one door on the vestibule --</p> <p>8 MR. CHEN: Facing east.</p> <p>9 MR. ALT: That faces east and then we'll have one</p> <p>10 light. One scones -- scone. And I'm pointing at it on sheet</p> <p>11 A1.0 at the vestibule door that faces east on the floor</p> <p>12 plan.</p> <p>13 MR. CHEN: And --</p> <p>14 HEARING OFFICER HANNAN: But there will also be scones</p> <p>15 -- scone lights on the exterior on the other exit doors. Is</p> <p>16 that what you're saying?</p> <p>17 MR. ALT: Yes.</p> <p>18 HEARING OFFICER HANNAN: Okay. On the east side.</p> <p>19 MR. ALT: Mr. Chen asked me --</p> <p>20 MR. CHEN: C-h-e-n.</p> <p>21 MR. ALT: Chen?</p> <p>22 MR. CHEN: Yes.</p> <p>23 MR. ALT: Asked me which -- asked me about the doors</p> <p>24 facing east.</p> <p>25 HEARING OFFICER HANNAN: Right. Okay.</p>

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78 (309 to 312)

<p>309</p> <p>1 MR. CHEN: Now, are those doors solid, sir?</p> <p>2 MR. ALT: They're what we call a half-light; bottom</p> <p>3 panel half of the door is solid, top half is safety glass.</p> <p>4 MR. CHEN: So you can see in and see out. And how many</p> <p>5 windows are on the east side, totally aside from the doors?</p> <p>6 MR. ALT: I'd like to show you the color elevation</p> <p>7 first. That might help.</p> <p>8 HEARING OFFICER HANNAN: I think that's 78.</p> <p>9 MR. ALT: The color elevation, Exhibit --</p> <p>10 [talking in background, inaudible]</p> <p>11 MR. KLINE: Don't forget that. I appreciate that. Thank</p> <p>12 you for helping me. [inaudible].</p> <p>13 MR. ALT: -- Sheet A4.0, Madam Examiner.</p> <p>14 HEARING OFFICER HANNAN: That's 78.</p> <p>15 MR. CHEN: You're looking at the elevations, correct,</p> <p>16 sir?</p> <p>17 MR. ALT: I'm looking at Sheet A4.0 exterior elevations</p> <p>18 in color, east -- east elevation facing the property to the</p> <p>19 east</p> <p>20 MR. KLINE: And that's on the bot- -- the bottom</p> <p>21 elevation.</p> <p>22 MR. ALT: Bottom elevation and I'm reassured to know we</p> <p>23 have correctly illustrated each one of the classroom doors</p> <p>24 is technically called a half-light and then there are one,</p> <p>25 two, three, four, five, six windows facing east.</p>	<p>311</p> <p>1 other locations we -- we -- we have elected to ask for later</p> <p>2 hours.</p> <p>3 MR. CHEN: Right.</p> <p>4 MR. ALT: And in this case, we felt upon reflection</p> <p>5 that 9:00 o'clock was a good time, given a six-foot fence</p> <p>6 that 9:00 o'clock would be a safe time.</p> <p>7 MR. CHEN: Did you do any inquiry as to that type of</p> <p>8 problem in this particular neighborhood?</p> <p>9 MR. ALT: No.</p> <p>10 MR. CHEN: Are you aware of the location of the</p> <p>11 Taiwanese Cultural Center down the road?</p> <p>12 MR. ALT: What I refer to as the church?</p> <p>13 MR. CHEN: No. Taiwan- --</p> <p>14 MR. ALT: No, I'm not familiar with the Taiwanese</p> <p>15 Cultural Center.</p> <p>16 MR. CHEN: There -- there's a church immediate- --</p> <p>17 immediately on the eastern side of the Kosary property.</p> <p>18 You're on the west side of it, but further down Needwood</p> <p>19 there is a -- another special exception slash conditional</p> <p>20 use for an organization called the Taiwanese Cultural</p> <p>21 Center.</p> <p>22 MR. ALT: I became aware of it only today.</p> <p>23 MR. CHEN: Oh, okay. Okay.</p> <p>24 [talking in background, inaudible]</p> <p>25 MR. CHEN: Oh, yes, okay. Is there a gate at the end of</p>
<p>310</p> <p>1 MR. CHEN: By the way, are the sconces shown in that</p> <p>2 elevation?</p> <p>3 MR. ALT: Yes, they are.</p> <p>4 MR. CHEN: Good. And do those windows, are they going</p> <p>5 to have curtains on there?</p> <p>6 MR. ALT: Yes, they will. Keeping in mind that school</p> <p>7 is over at 6:00 and there will be a cleaning staff in the</p> <p>8 building for a couple of hours thereafter.</p> <p>9 MR. CHEN: And -- and then what happens?</p> <p>10 MR. ALT: The lights all go off.</p> <p>11 MR. CHEN: Okay. And you talked about the lights -- the</p> <p>12 exterior lights going off.</p> <p>13 MR. ALT: Correct.</p> <p>14 MR. CHEN: And --</p> <p>15 MR. ALT: And we offered --</p> <p>16 MR. CHEN: I understand --</p> <p>17 MR. ALT: -- 9 feet -- 9:00 o'clock.</p> <p>18 MR. CHEN: And that I -- I interpret that in your</p> <p>19 testimony to mean all -- all exterior lights would go off.</p> <p>20 MR. ALT: All exterior lights.</p> <p>21 MR. CHEN: Okay. Are you aware of any vandalism issues</p> <p>22 in this community?</p> <p>23 MR. ALT: I thought very carefully before I responded</p> <p>24 to that and made that offer to Madam -- Madam Examiner and I</p> <p>25 discussed it with the -- the owner. And, yes, in the past at</p>	<p>312</p> <p>1 the driveway at Needwood?</p> <p>2 MR. ALT: For the -- for the street? For our driveway,</p> <p>3 no.</p> <p>4 MR. CHEN: Is there any way to bar, I guess that's the</p> <p>5 right word, motor vehicles from entering this property after</p> <p>6 business hours?</p> <p>7 MR. ALT: I'm sure there is.</p> <p>8 MR. CHEN: Is there any proposed?</p> <p>9 MR. ALT: No.</p> <p>10 MR. CHEN: Okay. As I understand your testimony, sir,</p> <p>11 this particular building is the -- is one of the Primrose</p> <p>12 prototypical buildings, correct?</p> <p>13 MR. ALT: Yes.</p> <p>14 MR. CHEN: And it has 400 prototypical buildings.</p> <p>15 MR. ALT: Approximately --</p> <p>16 MR. CHEN: Approximately.</p> <p>17 MR. ALT: -- 400 and growing.</p> <p>18 MR. CHEN: And this particular prototypical building,</p> <p>19 is for a particular child populous; is that right sir?</p> <p>20 MR. ALT: A prototypical child populous, yes.</p> <p>21 MR. CHEN: In this case, it's 195 children.</p> <p>22 MR. ALT: Yes.</p> <p>23 MR. CHEN: Okay. I mean, I -- I'm not -- I'm not</p> <p>24 forgetting your testimony about maybe there'll be two</p> <p>25 children in a family, so it would be one vehicle trip for</p>

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<p>313</p> <p>1 two. I understand that. But in this case, Primrose is 2 seeking permission to have a 195 children. 3 MR. ALT: In order to gain a better understanding of 4 that, I recommend that you ask that question of the 5 operator. 6 MR. CHEN: Okay. 7 MR. ALT: Mr. Mandava. 8 MR. CHEN: I-- I'm not going down that road. 9 HEARING OFFICER HANNAN: Well, I'm not sure what your 10 question is. 11 MR. CHEN: I -- I just want to make su- -- I -- if you 12 bear with me at this point -- 13 HEARING OFFICER HANNAN: Okay. 14 MR. CHEN: -- it comes back to testimony from Mr. 15 Taylor who's from -- 16 HEARING OFFICER HANNAN: Matthew Taylor -- 17 MR. ALT: Matt Taylor. Yeah. 18 MR. CHEN: And are there any other prototypical 19 buildings for 195 children and 32 staff? 20 MR. ALT: Yes. 21 MR. CHEN: Are they -- is there any reason why any of 22 those were not chosen for this particular site? 23 MR. ALT: I don't know. 24 MR. CHEN: Okay. So, you were given this particular 25 prototypical building from, I guess, Primrose?</p>	<p>315</p> <p>1 MR. ALT: Yeah, I was -- 2 MR. KLINE: I -- I -- I know what the answer is but I 3 don't think he would. 4 HEARING OFFICER HANNAN: Well, why don't you say -- 5 MR. ALT: I can offer -- 6 HEARING OFFICER HANNAN: -- why don't you try to 7 answer. 8 MR. ALT: I can -- I can try to answer that because 9 I've experienced that in the past. What happens is, we very 10 carefully have designed the lighting to go down. Police 11 departments, public safety departments dislike building 12 mounted lighting that shines in their eyes, they can't see 13 if someone -- a perpetrator is hiding behind the bush; 14 therefore, the way we design the lighting is intended to 15 accommodate that. 16 You, if you take the time to interview the local 17 authorities, will discover that they have a lot of respect 18 for their own ability to shine illumination on a building 19 and observe people. We are consistently told we don't care 20 about the parking lot lighting. I'm not speaking for Derwood 21 -- 22 MR. CHEN: I know. Or Montgomery County. 23 MR. ALT: -- or Montgomery County, sheriffs or local 24 police authorities, I merely saying that it's a matter of 25 opinion --</p>
<p>314</p> <p>1 MR. ALT: Yes. 2 MR. CHEN: And told this is what we want on this site? 3 MR. ALT: Yes. 4 MR. CHEN: And your testimony tonight, as I understand 5 it, only pertains to the building itself and the lighting 6 that you've identified; is that right, sir? 7 MR. ALT: Yes. 8 [talking in background, inaudible] 9 MR. CHEN: I -- I -- I apologize, sir, just -- I had to 10 get some clarification. Is it your testimony that I guess 11 it's a condition of the conditional use approval that the 12 applicant will turn off all exterior lights at a given time? 13 MR. ALT: Yes. Mr. Chen that is not a difficult thing 14 to agree to. It's a common feature of this kind of a -- a 15 review, a body -- a -- an authority having jurisdiction to 16 agree to something of this nature. 17 MR. CHEN: What if the police did not want lights 18 turned off because of a problem with the people do -- 19 getting on to sites and doing inappropriate things? 20 MR. ALT: I'm aware -- 21 MR. KLINE: Excuse me -- 22 HEARING OFFICER HANNAN: It's been -- 23 MR. KLINE: -- not that I'm objecting -- 24 HEARING OFFICER HANNAN: -- [inaudible] -- 25 MR. KLINE: -- but I don't think he can answer that.</p>	<p>316</p> <p>1 MR. CHEN: Okay. 2 MR. ALT: -- and I'm really not able to give you a 3 definitive answer. 4 MR. CHEN: Have you had circumstances where lot -- 5 exterior lighting that your client has agreed to turn off at 6 a certain hour -- 7 MR. ALT: Yes. 8 MR. CHEN: -- have been pursuant to a request from 9 local authorities had the lights turned on? 10 MR. ALT: Changed, yes. 11 MR. CHEN: So, be -- that can happen. Well, your client 12 in good faith is offering to turn off the exterior lights, 13 we don't know -- I take it you don't know what Montgomery 14 County authorities may request at this location with 15 exterior lights. 16 MR. ALT: Correct. 17 [whispering in background, inaudible] 18 MR. CHEN: I -- have you identified all exterior 19 lights, sir? 20 MR. ALT: I have. I have not as to number. I told you 21 that there were two exterior light sources, 20 foot on a 22 pole, 7 foot on sconces on the wall. 23 There are going to be, and I can't predict wha- -- 24 there are going to be other light sources, I would imagine, 25 at some future date in some future location, I am not</p>

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80 (317 to 320)

<p>317</p> <p>1 attesting to those.</p> <p>2 I am merely telling you, and this is not a catch, I'm</p> <p>3 merely telling you that we are illuminating the site and the</p> <p>4 building with those two fixtures, that's it. Oh --</p> <p>5 MR. CHEN: I'm not --</p> <p>6 MR. ALT: -- by the way --</p> <p>7 MR. CHEN: -- I'm -- I'm --</p> <p>8 MR. ALT: -- Madam Examiner asked about whether or not</p> <p>9 the monument sign was going to be illuminated, so you can</p> <p>10 see where I'm headed, I'm --</p> <p>11 MR. CHEN: No, I'm not --</p> <p>12 MR. ALT: -- racking my brain trying to figure out --</p> <p>13 HEARING OFFICER HANNAN: Wait, I'm -- okay. How many</p> <p>14 lights? Do we have the number of how many 20-foot poles?</p> <p>15 MR. ALT: Yes, we do. It's on the drawings.</p> <p>16 HEARING OFFICER HANNAN: Okay.</p> <p>17 MR. ALT: I think it's eight.</p> <p>18 HEARING OFFICER HANNAN: Okay.</p> <p>19 [talking in background, inaudible]</p> <p>20 HEARING OFFICER HANNAN: And we have the testimony on</p> <p>21 the sconces --</p> <p>22 MR. ALT: Twenty.</p> <p>23 HEARING OFFICER HANNAN: -- and then we have the</p> <p>24 testimony of the lights.</p> <p>25 MR. ALT: For the monument sign.</p>	<p>319</p> <p>1 MR. ALT: There's always -- there's always a</p> <p>2 clarification of that.</p> <p>3 MR. CHEN: Okay.</p> <p>4 MR. ALT: Mr. Chen.</p> <p>5 MR. CHEN: Chen, C-h-e-n.</p> <p>6 MR. ALT: The fire light safety code requires if all</p> <p>7 the lights in here were turn- -- suddenly turned off, they</p> <p>8 wouldn't all go off.</p> <p>9 MR. CHEN: Fine.</p> <p>10 MR. ALT: It's called night lights and they're intended</p> <p>11 for me, who I'm -- I'm huddled under the desk because I</p> <p>12 wondered what happened and I pop my head up and I make my</p> <p>13 way to the exit via one or two lights in this room and one</p> <p>14 periodically every 50 feet going down the hall --</p> <p>15 MR. CHEN: Aww --</p> <p>16 MR. ALT: -- that are now operating on battery --</p> <p>17 MR. CHEN: -- got you.</p> <p>18 MR. ALT: -- so there's never a short answer to that</p> <p>19 kind of a question.</p> <p>20 MR. CHEN: Okay.</p> <p>21 HEARING OFFICER HANNAN: Well, don't use this facility</p> <p>22 as your answer [inaudible].</p> <p>23 [laughing]</p> <p>24 MR. ALT: So, I'd still be under the desk.</p> <p>25 HEARING OFFICER HANNAN: We had a fire drill here the</p>
<p>318</p> <p>1 [whispering in background, inaudible]</p> <p>2 MR. ALT: Two.</p> <p>3 MR. CHEN: So, I just so --</p> <p>4 MR. ALT: And you can just tell me where you're headed</p> <p>5 with this, I might be able to answer it.</p> <p>6 MR. CHEN: I'm -- I'm trying to get some clarity and</p> <p>7 I'm not challenging, so please, I just --</p> <p>8 MR. ALT: Sure.</p> <p>9 MR. CHEN: -- so, as I understand your testimony, the</p> <p>10 only exterior lights on this property will be the 20 foot --</p> <p>11 the lights on 20-foot poles and the sconces next to the</p> <p>12 doors.</p> <p>13 MR. ALT: Yes.</p> <p>14 HEARING OFFICER HANNAN: Well, he also just said the</p> <p>15 illumination of the sign.</p> <p>16 MR. CHEN: And the -- that -- but the sign's not part</p> <p>17 of the building. So -- so, the -- I'm talking about the</p> <p>18 building right now. Any other lights would be interior</p> <p>19 lights, correct, sir?</p> <p>20 MR. ALT: Yes.</p> <p>21 MR. CHEN: And as I understand your testimony, and I</p> <p>22 know you're not operatience [ph] -- operations person, but</p> <p>23 you did get into it, that after the maintenance crew were to</p> <p>24 leave by 9:00 o'clock, all interior lights are turned off</p> <p>25 also.</p>	<p>320</p> <p>1 other drill and --</p> <p>2 [talking in background, inaudible]</p> <p>3 HEARING OFFICER HANNAN: -- they couldn't find the fire</p> <p>4 panel. Go ahead.</p> <p>5 MR. CHEN: So, as I understand your testimony --</p> <p>6 HEARING OFFICER HANNAN: It wasn't a drill. Go ahead.</p> <p>7 MR. CHEN: -- as I understand your testimony that there</p> <p>8 will be some kind of lighting inside the building 24/7 of</p> <p>9 some sort.</p> <p>10 MR. ALT: Yes.</p> <p>11 MR. CHEN: Okay.</p> <p>12 MR. ALT: It's called night lighting.</p> <p>13 MR. CHEN: Okay. And -- and it's for the purpose that</p> <p>14 you've just described that if something happens at 2:00</p> <p>15 o'clock in the morning and somebody needs to be in there,</p> <p>16 there's some lighting.</p> <p>17 But the police have to go to the site at 10:00 o'clock</p> <p>18 a- -- p.m., there's lighting there.</p> <p>19 MR. ALT: Yes.</p> <p>20 MR. CHEN: Can you tell us where that'll be --</p> <p>21 MR. ALT: No.</p> <p>22 MR. CHEN: -- and what it will be? Okay.</p> <p>23 MR. ALT: I can't.</p> <p>24 MR. CHEN: I'm -- I'm -- I appreciate that. I'm not</p> <p>25 trying to put you in a box, I -- but -- and I appreciate</p>



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<p>321</p> <p>1 your candor. There's no similar exterior lighting at all, 2 like there's no lighting over the main entrance way at night 3 -- 4 MR. ALT: Correct. 5 MR. CHEN: -- aside from the scones [sic] next -- 6 MR. ALT: Correct. 7 MR. CHEN: -- to -- 8 MR. ALT: If there's a fire event one of those sconces 9 periodically is going to illuminate on battery. 10 MR. CHEN: Okay. Yeah, but that's an emergency 11 situation, which -- 12 MR. ALT: That's correct. 13 MR. CHEN: -- [inaudible] fire. Okay. I think I'm 14 [inaudible]. 15 [whispering in background, inaudible] 16 MR. CHEN: What are the illuminates on the lights 17 again, sir? 18 MR. ALT: Less -- at the property line, less than a 19 tenth of a foot candle. The -- 20 MR. CHEN: And -- and the sconces -- scones -- Jesus -- 21 MR. ALT: Sconces. 22 MR. CHEN: -- sconces, what are they? 23 [whispering in background, inaudible] 24 MR. ALT: I'm going to have to look. 25 MR. CHEN: Okay.</p>	<p>323</p> <p>1 MR. CHEN: So, he can drive to Wheeling, West Virginia 2 [inaudible]. 3 MR. ALT: That's where my hotel. 4 HEARING OFFICER HANNAN: Hey, what's wrong with 5 Wheeling? 6 MR. ALT: No, I'm not -- 7 HEARING OFFICER HANNAN: I grew up in Garrett County. 8 MR. ALT: Oh, really. 9 HEARING OFFICER HANNAN: Yes. 10 MR. ALT: Oh, that's not -- he's almost correct. I'm 11 staying in Morgantown tonight. 12 HEARING OFFICER HANNAN: Well, I know exactly, exactly 13 where that is. 14 MR. ALT: Cool mountaineers. I thank you. It only took 15 two trips to get this done. I was here -- I was here in 16 November or whenever it was, left without having to -- 17 HEARING OFFICER HANNAN: For you. Two trips for you. 18 Okay. 19 MR. KLINE: So -- 20 HEARING OFFICER HANNAN: Yes, sir. 21 MR. KLINE: Well, no, I was just going to say, so we'll 22 see you Monday morning at 9:30. I think Mr. Chen and I are 23 going to talk over the weekend, just try -- we're trying to 24 organize things between -- 25 HEARING OFFICER HANNAN: Okay.</p>
<p>322</p> <p>1 MR. KLINE: Just on the east side of the building. 2 MR. CHEN: I'm compar- -- about the east side 3 [inaudible]. 4 MR. ALT: Okay. First of all, they're not regulated. 5 The only regulation is at the property line and, so, the -- 6 it looks like we peak directly under a light fixture. The -- 7 the highest number that I see is 8.1 foot candles directly 8 under one of the sconces. 9 MR. CHEN: Okay. And your client is prepared to reach 10 an agreement to have those lights turned off at a given p.m. 11 hour. 12 MR. ALT: Yes, sir. 13 [whispering in background, inaudible] 14 MR. CHEN: I have no further questions. 15 HEARING OFFICER HANNAN: Redirect? 16 MR. KLINE: I have two quick questions. Could you pull 17 up just the elevation quickly. Oh. So, the -- the question 18 is, what is the height of the -- of the top-level window 19 from grade along that east side? 20 MR. ALT: That's seven feet, top of the door. It -- 21 it's the same brick coursing. 22 MR. KLINE: Only question. Thank you. 23 HEARING OFFICER HANNAN: Okay. You may be excused Mr. 24 Alt. 25 MR. ALT: Thank you.</p>	<p>324</p> <p>1 MR. KLINE: -- both of us [inaudible]. 2 HEARING OFFICER HANNAN: So, do we have -- we have two 3 witnesses to call back. Mr. Intrigo and Mr. McPherson. When 4 is your operations person coming? 5 MR. KLINE: I anticipate the last witness and I guess I 6 -- 7 HEARING OFFICER HANNAN: Okay. 8 MR. KLINE: -- I -- I -- I -- I was figuring it was 9 going to be Monday maybe late today but that didn't work 10 out, so I'd say Monday. 11 HEARING OFFICER HANNAN: Okay. 12 MR. KLINE: I will -- and we have to -- 13 HEARING OFFICER HANNAN: No, I just -- 14 MR. KLINE: -- [inaudible] -- 15 HEARING OFFICER HANNAN: -- if you -- I wondered if you 16 had a plan for if -- 17 MR. KLINE: I -- I do. 18 HEARING OFFICER HANNAN: -- when -- I'm trying to get a 19 sense of -- 20 MR. KLINE: I understand. 21 HEARING OFFICER HANNAN: All right. So, with that, 22 we're going to continue this hearing to 9:30 a.m. this 23 coming Monday, which is -- 24 MR. CHEN: The 9th. March 9th. 25 HEARING OFFICER HANNAN: -- March 9th. 9:30 a.m. Okay.</p>

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Conducted on March 6, 2020

82 (325 to 328)

<p style="text-align: right;">325</p> <p>1 We're off the record. Thank you. If you could -- you don't 2 have to stay on the record. If you could -- if you -- 3 (Off the record at 6:00 p.m.) 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 CERTIFICATE OF COURT REPORTER 24 I, Michael Pawela, the officer before whom the 25 foregoing proceedings were taken, do hereby certify that</p>	<p style="text-align: right;">327</p> <p>1 proceedings; that said proceedings were transcribed to the 2 best of my ability from the audio recording and supporting 3 information; and that I am neither counsel for, related to, 4 nor employed by any of the parties to this case and have no 5 interest, financial or otherwise, in its outcome. 6 7  8 9 Christian Naaden 10 DATE: March 12, 2020 11 12 13 14 15 16 17 18 19 20 21 22</p>
<p style="text-align: right;">326</p> <p>1 said proceedings were electronically recorded by me; and 2 that I am neither counsel for, related to, nor employed 3 by any of the parties to this case and have no interest, 4 financial or otherwise, in its outcome. 5 6 7  8 9 Michael Pawela, Court Reporter 10 11 12 13 14 15 16 17 18 19 20 21 22 23 CERTIFICATE OF TRANSCRIBER 24 I, Christian Naaden, do hereby certify that the foregoing 25 transcript is a true and correct record of the recorded</p>	

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