

Transcript of Hearing

Date: November 20, 2020

Case: Isaac M. Lopez Group Day Care

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OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
                                                                                         APPEARANCES
                 FOR MONTGOMERY COUNTY, MARYLAND
                                                                     3 ON BEHALF OF THE PETITIONER:
                                                                               ISAAC M. LOPEZ, PRO SE
                             : Case No. CU 21-02
   ISAAC M. LOPEZ
                                                                     15
                                                                               SANDRA MEDRANO, PRO SE
   GROUP DAYCARE
   -----x
                                                                     7 Also Present:
                                                                     8
                          HEARING
                                                                        Mario Panameno, Spanish Interpreter
            Before Hearing Examiner Derek Baumgardner
                                                                           Nana Yaa A. Johnson, OZAH Staff
                                                                          Jon Frey, IT Staff
                      Conducted Virtually
                   Friday, November 20th, 2020
12
                        9:31 a.m. EST
                                                                     12
13
15
17
                                                                     20
22
23 Job No. 337247
24 Pages: 1-22
25 Transcribed by: Megan Wunsch, AAERT CET
        Hearing In Re Isaac M. Lopez Group Daycare held
                                                                                              CONTENTS
   virtually.
                                                                         WITNESSES
                                                                                                                            PAGE
                                                                     3
                                                                           Testimony of Isaac M. Lopez and Sandra Medrano
                                                                     5
                                                                                             EXHIBITS
                                                                                (Exhibits marked prior to hearing; retained.)
                                                                         HEARING EXHIBITS
                                                                                                                            PAGE
        Pursuant to agreement, before Lee Utterback, AAERT CER,
                                                                           Exhibit 1 Exhibit Application
   E-Notary Public in and for the State of Maryland.
                                                                           Exhibit 2 MNCPPC Checklist
                                                                           Exhibit 3 Letter of Authorization
                                                                            Exhibit 4 Statement of Operations
12
                                                                           Exhibit 5 Parking Statement
                                                                           Exhibit 6 Existing Features (Pictures of Daycare
                                                                            both inside and outside)
15
                                                                           Exhibit 7 Record Plat 2770
                                                                           Exhibit 8 Site Plan
                                                                           Exhibit 9 Certified Zoning Map
                                                                           Exhibit 10 List of Adjoining and Confronting
19
                                                                            Property Owner
                                                                     20
                                                                           Exhibit 11 Civic and Homeowners Association
                                                                     21
                                                                            Exhibit 12 Traffic Statement
                                                                           Exhibit 13 Proposed Future Unloading and Loading
22
                                                                           Exhibit 14 Articles of Organization
                                                                                                                               7
25
                                                                     25 EXHIBITS CONTINUED ON FOLLOWING PAGE
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EXHIBITS 5	7 1 PROCEEDINGS
2 HEARING EXHIBITS PAGE	2 (Exhibits marked prior to hearing.)
3 Exhibit 15 Forest Conservation Law Exemption 7	3 (Mario Panameno, Interpreter, translating the Spanish
4 Exhibit 16 Certificate of Registration 7	4 language into the English language and the English language
5 Exhibit 17 Affidavit of Compliance 7	into the Spanish language for Isaac M. Lopez and Sandra
6 Exhibit 18 SDAT Property 7	6 Medrano.)
7 Exhibit 19 Existing/Proposed Interior Features Plan 7	7 HEARING EXAMINER BAUMGARDNER: And, folks, we are
8 Exhibit 20 7/27/20- Email from Lynn Robeson Hannan	8 going to get started here today. We are going to open our
9 to Applicant; Re resubmit plans label areas 7	9 hearing to let everyone know at the hearing
	10 (Technical interruption.)
	HEARING EXAMINER BAUMGARDNER: We're going to get started here today, if everyone can turn their cameras back
Exhibit 23 7/28/20- Applicants Acceptance of Requirements for Posting of Sign 7	
	13 on.
I	14 (Interpreter, Ms. Medrano, and Mr. Lopez speaking in 15 Spanish.)
15 Exhibit 25 10/23/20- Opposition to Conditional Use	1 '
16 from Azucendra Calindres 7	16 INTERPRETER: Continue.
17 Exhibit 26 11/2/20- Technical Staff Report 7	17 HEARING EXAMINER BAUMGARDNER: And just to let
18 Exhibit 27 11/5/20- Email from Applicant; Re: Spoke	18 everyone know that this hearing is being recorded, both
19 with Azucendra Calindres prior to the Conditional	19 audio and video.
20 Use Application, sent photos as proof 7	20 AUTOMATED VOICE: This meeting is being recorded
21 Exhibit 27(a) Adjoining and Confronting Property	21 and/or transcribed.
22 Owners 7	HEARING EXAMINER BAUMGARDNER: And, as you can tell,
23 Exhibit 27(b) Photos of Backyard 7	23 we have Mr. Panameno here, who is a Spanish-language
24 Exhibit 27(c) Photo of Fence 7	24 translator; he's translating from English to Spanish and
25 EXHIBITS CONTINUED ON FOLLOWING PAGE	25 Spanish to English. We will get him sworn in shortly.
6	8
1 EXHIBITS	MS. MEDRANO: Okay. Question: My camera is not
2 HEARING EXHIBITS PAGE	2 working right now. Is there a problem with that?
3 Exhibit 27(d) Photo of Garbage Can 7	3 HEARING EXAMINER BAUMGARDNER: If you can fix that
Exhibit 27(e) Photo of Tree Cut and Poison Removal 7	4 problem, that would be preferred, but we can proceed without
5 Exhibit 28 Revised Conditional Use Plan 7	5 the camera if that's necessary.
6 Exhibit 29 11/18/20- Affidavit of Posting 7	6 MR. LOPEZ: Yeah, it's okay. So I'm I'm seeing
7	7 everybody here.
10	
8	8 HEARING EXAMINER BAUMGARDNER: All right. So first
9	9 things first, I'm going to do an introduction. We will go
9 10	9 things first, I'm going to do an introduction. We will go 10 through the rules of the hearing. We will swear our
9 10 11	9 things first, I'm going to do an introduction. We will go 10 through the rules of the hearing. We will swear our 11 translator in and any witnesses, and we will get to the
9 10 11 12	9 things first, I'm going to do an introduction. We will go 10 through the rules of the hearing. We will swear our 11 translator in and any witnesses, and we will get to the 12 substantive part of the hearing.
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9 10 11 12 13 14	9 things first, I'm going to do an introduction. We will go 10 through the rules of the hearing. We will swear our 11 translator in and any witnesses, and we will get to the 12 substantive part of the hearing. 13 So this is a public hearing of the Montgomery County 14 Office of Zoning and Administrative Hearings in Case No.
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9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	9 things first, I'm going to do an introduction. We will go 10 through the rules of the hearing. We will swear our 11 translator in and any witnesses, and we will get to the 12 substantive part of the hearing. 13 So this is a public hearing of the Montgomery County 14 Office of Zoning and Administrative Hearings in Case No. 15 CU 21-02, requesting a conditional use for a group daycare 16 located at 12917 Parkland Drive, Rockville, Maryland, 17 located in Montgomery County, Maryland. 18 And, Mr. Translator, can I get you to raise your 19 right hand please? 20 INTERPRETER: Sure. 21 HEARING EXAMINER BAUMGARDNER: And, sir, do you 22 swear or affirm under the penalties of perjury that you will 23 translate accurately and correctly throughout the course of

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Transcript of Hearing
Conducted on November 20, 2020
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	9		11
1	HEARING EXAMINER BAUMGARDNER: Thank you very much.	1	property and the proposed use of the property.
2	INTERPRETER: You're welcome.	2	And, Señor Lopez, can you please raise your right
3	HEARING EXAMINER BAUMGARDNER: My name is Derek	3	hand?
4	Baumgardner. I am the hearing examiner for this case, which	4	MR. LOPEZ (in English): Okay.
5	means that I will listen to you today, take evidence, and	5	HEARING EXAMINER BAUMGARDNER: And, sir, do you
6	write a decision based upon my findings. If any party does	6	swear or affirm under the penalties of perjury that the
7	not like my decision, you can appeal that decision to the	7	testimony you're about to give is the truth, the whole
8	Board of Appeals within ten days of the written decision.		truth, and nothing but the truth?
9	As you can tell, we are using a virtual hearing	8	MR. LOPEZ: Yes, I swear.
ľ	platform called Microsoft Teams. If you have any problems	9	
10		10	HEARING EXAMINER BAUMGARDNER: Thank you. Please
11	with the technology or with logging in or if you are unable	111	provide a background of the operation and explain what the
12	to communicate here, I have a phone number for you to call	12	proposed group daycare will look like.
13	for our office: 240-777-6663.	13	MS. MEDRANO: Okay. So I have a question.
14	In addition to the audio and video recording, we are	14	Although, you know, all the paperwork is refers to Mr.
15	joined by Mr. Utterback who is a court reporter. It is	15	Lopez, who is my husband, refers to him as the owner and
16	important for the court reporter that we only speak one at a	16	the owner, then but I'm the person who runs the operation.
	time.	17	HEARING EXAMINER BAUMGARDNER: So what was filed
18	Moving on to the rules for this virtual hearing.	18	•
19	Please make sure that you are muted in Teams when you are	19	MS. MEDRANO (in English): Okay.
20	not speaking. All parties will be given the opportunity to	20	MR. LOPEZ (in English): Okay.
21	speak, so please don't feel the need to interrupt others	21	HEARING EXAMINER BAUMGARDNER: So if the application
22	when they're speaking; you will have your opportunity.	22	
23	Can the applicant or applicants identify themselves	23	but the operator could be someone else, including yourself.
24	for the record?	24	INTERPRETER: I'm sorry, can you there was
25	MR. LOPEZ: Good morning. This is Isaac Lopez.	25	there was you got cut off. Can you
	10		12
1	MS. MEDRANO: Good morning. I am Sandra Medrano,	1	HEARING EXAMINER BAUMGARDNER: Sure. So if the
2	and I'm Isaac Lopez's wife.	2	application is approved, the conditional use would follow
3	HEARING EXAMINER BAUMGARDNER: Buenos días.	3	under the name of Mr. Lopez, but the operator could be
4	We have also on the line Mr. Frey, who is part of	4	someone else, including Ms. Medrano.
5	county staff for technical purposes. We have the court	5	HEARING EXAMINER BAUMGARDNER: But if you break any
6	reporter, we have the translator, we have a member of our	6	
7	staff, and then we have one call-in participant.	7	MS. MEDRANO AND MR. LOPEZ: We understand. Thank
8	Can the call-in participant, if you're going to be	8	you.
9	providing testimony, please provide your name.	9	HEARING EXAMINER BAUMGARDNER: But if you break any
10	INTERPRETER: Go ahead, sir.	10	rules, the County would come after your husband.
11	(No response.)	11	MS. MEDRANO (in English): I understand. Sorry.
12	HEARING EXAMINER BAUMGARDNER: All right. So that	12	HEARING EXAMINER BAUMGARDNER: Since we're getting
13	looks like that's all of the individuals we have logged in	13	into this already, if Ms. Medrano can raise her right hand,
14	here today.	14	and I will swear her in now as well.
15	So we are going to start the substantive portion of	15	MS. MEDRANO (in English): Okay.
16	the hearing. The way that this works is that the applicant	16	HEARING EXAMINER BAUMGARDNER: And, ma'am, do you
17	will go first. We ask that you provide a background of you	17	swear or affirm under the penalties of perjury that the
18	and your operation and then a description of what you would	18	
19		19	truth, and nothing but the truth?
20		20	MS. MEDRANO: Sure, I do. I I swear.
21	Any member of the public is welcome to join, either	21	HEARING EXAMINER BAUMGARDNER: Muchas gracias.
22		22	Either Mr. Lopez or Ms. Medrano, you can begin to
23	no one logged in from the community right now.	23	describe the use of the property.
24	I will turn it over to the applicant, Mr. Lopez, to	24	TESTIMONY OF ISAAC M. LOPEZ AND SANDRA MEDRANO
	provide an opening statement about the current use of the	25	MS. MEDRANO: Okay, okay. So, right now, the

15

16

Transcript of Hearing Conducted on November 20, 2020 basement of the house of the property is used for the family MS. MEDRANO AND MR. LOPEZ: Correct. 2 quarters, and then the first floor is set up for the -- for 2 HEARING EXAMINER BAUMGARDNER: And that -- the drop-3 the daycare. off and pickup times of the children are staggered in the HEARING EXAMINER BAUMGARDNER: What I'm going to do morning and late afternoon, evening? is share my screen, the plans that were submitted to our MS. MEDRANO AND MR. LOPEZ: Correct. 6 office. So can everyone see the plans that I have on the 6 HEARING EXAMINER BAUMGARDNER: They also recommend screen right now? that there's no more than eight children playing outside at MS. MEDRANO AND MR. LOPEZ: Yes. 8 any one time? HEARING EXAMINER BAUMGARDNER: So can you -- can you MS. MEDRANO AND MR. LOPEZ: Yes. 10 describe for me what I'm looking at? 10 HEARING EXAMINER BAUMGARDNER: And that the outside 11 MS. MEDRANO: Okay, all right. So what we have here playtime cannot begin prior to nine o'clock A.M.?

12 is, on the left side, we have a parking now, on -- that's 13 the hallway. Okay? Where you see the car. Then -- that's 14 right.

15 Then, up front, on the front lawn, you see a small

16 playground. Yes. It was suggested to us by the Department 17 of Education to do a playground here -- to do the playground

18 here -- to install the playground here because it's flat,

19 the surface is flat; whereas, in the back, the surface is --

20 it's -- it has an inclination, so this is better for the

21 children.

22 And then you have the layout of the -- of the house

23 next.

25

24 INTERPRETER: (Spanish speaking.)

MS. MEDRANO (in English): Okay.

1 (Interpreter requests clarification.)

accommodate 12 children?

HEARING EXAMINER BAUMGARDNER: And there's a fence that surrounds the front of the property; correct?

MS. MEDRANO AND MR. LOPEZ: Yes.

HEARING EXAMINER BAUMGARDNER: And how tall is that

5 fence?

MS. MEDRANO AND MR. LOPEZ: Okay. So the fence, 6

it's a little over 3 feet tall. Okay? And the gate, it was

approved by the County. They came and checked it out, and

they said it was good.

10 (Exhibit 8 and Exhibit 28 introduced.)

HEARING EXAMINER BAUMGARDNER: So, for the benefit 11

12 of the court reporter, I'm looking at the revised

13 conditional use plan and the current site plan, which are

14 part of the record in this case.

15 MR. LOPEZ (in English): Okay.

HEARING EXAMINER BAUMGARDNER: The Planning 16

17 Department reviewed your application and approved it with

18 conditions; is that correct?

19 MS. MEDRANO: Yes.

20 HEARING EXAMINER BAUMGARDNER: And I'm looking at

21 the conditions that include no more than 12 children and two

22 non-resident employees.

23 MS. MEDRANO AND MR. LOPEZ: Yes, correct.

24 HEARING EXAMINER BAUMGARDNER: And the hours of

25 operation are Monday through Friday, 7 a.m. to 6 p.m.?

INTERPRETER: I'm sorry.

MS. MEDRANO: Correct.

14 the property must obey county code?

HEARING EXAMINER BAUMGARDNER: And that any signs on

HEARING EXAMINER BAUMGARDNER: In your opinion,

HEARING EXAMINER BAUMGARDNER: And are there any

MS. MEDRANO: Okay. Yes. So what's being used

MS. MEDRANO AND MR. LOPEZ: Correct.

would increasing the number of children from eight to up to

20 are requesting the amount of children to be increased from

MS. MEDRANO: Okay. Yes. So that's correct. We

12, is the current house compatible for that use?

structural alterations planned for the property to

right now is one room and also the living room for the

daycare, but we are adding two more rooms to the use -- for

5 the use of the daycare to accommodate this many number of

children.

21 eight to 12.

12

13

15

16

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14

I have sent already too the photographs. I sent

this to the -- to show the County.

HEARING EXAMINER BAUMGARDNER: Okay. Is there -- is

there space in front of the property for parents to drop

their children off, or do they have to park elsewhere and

then walk their children to the building?

MS. MEDRANO: Okay. So there's plenty of space. 13

14 This is an avenue; we have plenty of space for the parents

15 to drop off their children. Also, we -- the hallway, we --

we have -- we cleared the hallway, so it can be also

available in the mornings for the parent.

HEARING EXAMINER BAUMGARDNER: If this application

19 is approved to go from eight children to 12 children, do you

20 believe that that will change the character of this

21 residential neighborhood?

22 MS. MEDRANO: Okay. So I don't think so. We have a

good rapport with the -- with the parents and also with the

neighbors. I don't see any problem with that. We actually

25 have an increase in demand. Okay? We have a waiting list,

	17		10
1	and I think this will be a good a good help to the	1	19 HEARING EXAMINER BAUMGARDNER: Can't quite tell if
2	community.		Mr. Panameno is still with us or not.
3	HEARING EXAMINER BAUMGARDNER: And are you aware of	3	Can everyone else hear me?
4	any other daycare establishments, businesses, or other	4	(No response.)
5	institutional uses, like schools or office buildings, within	5	HEARING EXAMINER BAUMGARDNER: Okay. We might have
6	the immediate vicinity of this property?	1	lost
7	MS. MEDRANO: Okay. So across the street from us,	7	INTERPRETER: I'm sorry, sir. Something is is
8	we have Wheaton Woods. This is an elementary school.	8	happening here.
9	HEARING EXAMINER BAUMGARDNER: And, lastly, this	9	HEARING EXAMINER BAUMGARDNER: That's okay. Let's
10		1	see if we can get Mr. Panameno back.
11	MS. MEDRANO AND MR. LOPEZ: Yes.	11	INTERPRETER: I'm here.
12	HEARING EXAMINER BAUMGARDNER: And increasing the	12	HEARING EXAMINER BAUMGARDNER: Okay.
13	children from eight to 12 will not have any undue stress on	13	INTERPRETER: Yes.
14	either of those systems; correct?	14	HEARING EXAMINER BAUMGARDNER: So I can see you, and
15	MS. MEDRANO AND MR. LOPEZ: Correct.		I can hear you.
16	HEARING EXAMINER BAUMGARDNER: Those are all the	16	INTERPRETER: Okay.
17	questions I have. Do you have any final comments on this	17	HEARING EXAMINER BAUMGARDNER: Can you hear me?
18	application?	18	INTERPRETER: Yes, I can, sir.
19	MS. MEDRANO: No, we don't. I would like to thank	19	HEARING EXAMINER BAUMGARDNER: All right. Well,
			we're going to close this hearing. Are there any final
21	HEARING EXAMINER BAUMGARDNER: You're welcome.		questions?
22	(Exhibit 29 and Exhibit 25 introduced.)	22	MS. MEDRANO: Okay. No. Everything is clear in
23	HEARING EXAMINER BAUMGARDNER: For the record, the		everything that you told us today. Thank you very much.
	OZAH record also has a affidavit of posting so that the	24	HEARING EXAMINER BAUMGARDNER: I would like to thank
	property was posted correctly.		our court reporter, and I'd like to thank our translator for
			± /
	18		20
1	And also in the record we have one letter from a	1	being with us today.
	And also in the record we have one letter from a		being with us today.
1 2 3	And also in the record we have one letter from a community member with some neighborhood complaints, but	1 2 3	being with us today. INTERPRETER: You're very welcome, sir.
2	And also in the record we have one letter from a	2	being with us today. INTERPRETER: You're very welcome, sir. MS. MEDRANO (in English): Thank you.
2	And also in the record we have one letter from a community member with some neighborhood complaints, but those complaints do not apply to the proposed conditional use.	2 3 4	being with us today. INTERPRETER: You're very welcome, sir. MS. MEDRANO (in English): Thank you. HEARING EXAMINER BAUMGARDNER: And I hope everyone
2 3 4	And also in the record we have one letter from a community member with some neighborhood complaints, but those complaints do not apply to the proposed conditional use. MR. LOPEZ (in English): Okay.	2 3 4	being with us today. INTERPRETER: You're very welcome, sir. MS. MEDRANO (in English): Thank you. HEARING EXAMINER BAUMGARDNER: And I hope everyone has a good morning.
2 3 4 5	And also in the record we have one letter from a community member with some neighborhood complaints, but those complaints do not apply to the proposed conditional use. MR. LOPEZ (in English): Okay. HEARING EXAMINER BAUMGARDNER: At this time, if	2 3 4 5	being with us today. INTERPRETER: You're very welcome, sir. MS. MEDRANO (in English): Thank you. HEARING EXAMINER BAUMGARDNER: And I hope everyone
2 3 4 5	And also in the record we have one letter from a community member with some neighborhood complaints, but those complaints do not apply to the proposed conditional use. MR. LOPEZ (in English): Okay.	2 3 4 5 6	being with us today. INTERPRETER: You're very welcome, sir. MS. MEDRANO (in English): Thank you. HEARING EXAMINER BAUMGARDNER: And I hope everyone has a good morning. (Interpreter, Ms. Medrano, and Mr. Lopez speaking in
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2 3 4 5 6 7 8 9	And also in the record we have one letter from a community member with some neighborhood complaints, but those complaints do not apply to the proposed conditional use. MR. LOPEZ (in English): Okay. HEARING EXAMINER BAUMGARDNER: At this time, if there are no final comments from the applicant, I am going to close this case. The time is 10:03 a.m.	2 3 4 5 6 7 8 9	being with us today. INTERPRETER: You're very welcome, sir. MS. MEDRANO (in English): Thank you. HEARING EXAMINER BAUMGARDNER: And I hope everyone has a good morning. (Interpreter, Ms. Medrano, and Mr. Lopez speaking in Spanish.) HEARING EXAMINER BAUMGARDNER: This closes Conditional Use CU 21-02 of the Office of Zoning and
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1	CERTIFICATE OF COURT REPORTER - E-NOTARY PUBLIC	
2	I, Lee Utterback, AAERT CER, the officer before whom the	
3	foregoing proceedings were taken, do hereby certify that	
4	said proceedings were electronically recorded by me; and	
5	that I am neither counsel for, related to, nor employed by	
6	any of the parties to this case and have no interest,	
7	financial or otherwise, in its outcome.	
8		
9	V	
10	My Htm/ml	
11	Lee Utterback, AAERT CER, Court Reporter	
	Lee Otterback, AAERT CER, Court Reporter	
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1	22 CERTIFICATE OF TRANSCRIBER	
1		
2	I, Megan Wunsch, do hereby certify that	
3	the foregoing transcript is a true and correct record of the	
4	recorded proceedings; that said proceedings were transcribed	
5	to the best of my ability from the audio recording and	
6	supporting information; and that I am neither counsel for,	
7	related to, nor employed by any of the parties to this case	
8	and have no interest, financial or otherwise, in its	
	and have no interest, imancial of otherwise, in its	
9	outcome.	
	outcome.	
10	outcome.	
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10 11 12 13	Magan Wunsch	
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10 11 12 13 14 15	Megan Wunsch, AAERT CET	
10 11 12 13 14 15	Megan Wunsch, AAERT CET November 25, 2020	
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