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Transcript of Hearing - Day 2

Date: January 25, 2021

Case: Rochambeau, the French International School

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2 (5 to 8)

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| <p>5</p> <p>1 last hearing was, please do not use the chat function. I 2 cannot check it. There are too many things going on at one 3 time and we don't want ex partake communication. Everybody 4 has to be aware of what's being set on chat. And chat also 5 distracts me from watching the witnesses. And part of my 6 job is to weigh the credibility of witness testimony. 7 So we ask you to object by raising -- if you hover 8 over the -- I think it's called an ellipse. No, there is a 9 hand. If you hover in the middle of your screen, there is a 10 hand. If you wish to object, we ask you to raise your hand. 11 I can monitor that and that's how we ask you to be 12 recognized. We try to avoid crosstalk. Crosstalk is 13 interrupting each other. And the reason is, it makes it 14 harder for the court reporter to understand the -- what's 15 being said. 16 (Indiscernible) Microsoft Teams, and that's only to 17 provide the court reporter with a backup for accuracy of the 18 official transcript. When -- if you have not already and 19 you testify, not expert witnesses because we go through 20 the -- either the attorneys who call the expert witnesses. 21 But for those in the community that wish to testify, please 22 when you are sworn, please you will be asked to raise your 23 right hand and take an oath. You're subject to cross- 24 examination. When you identify your name and address for 25 the record, please add your email address. That really</p> | <p>7</p> <p>1 have another traffic engineer, but he is going to be looking 2 at big picture, which is more than the nuts and bolts we 3 talked about the other day. But that would kind of be 4 wrapping things up. Otherwise, I would call Mr. David 5 Norden, our landscape architect, please. 6 HEARING EXAMINER ROBESON: All right. Mr. Norden, 7 please raise your right hand. 8 Do you solemnly affirm under the penalties of perjury 9 that the statements you're about to make will be the truth, 10 the whole truth, and nothing but the truth? 11 MR. NORDEN: I do. 12 HEARING EXAMINER ROBESON: All right. Go ahead Mr. 13 Kline. 14 MR. KLINE: Mr. Norden, would you please state and 15 spell your name for us? 16 MR. NORDEN: Yes, it's David; D-A-V-I-D; Norden; 17 N-O-R-D-E-N. 18 MR. KLINE: And would you please state your business 19 address? 20 MR. NORDEN: 1775 Greensboro Station Place, Suite 110, 21 Tysons, Virginia 22102. 22 MR. KLINE: And Mr. Norden, what is your profession? 23 MR. NORDEN: I'm a landscape architect. 24 MR. KLINE: And with what firm are you associated? 25 MR. NORDEN: With LSG Landscape Architecture.</p> |
| <p>6</p> <p>1 helps us in these days of covid to get information to you 2 more quickly. All right. With the parties identify 3 themselves for the record, please? 4 MR. KLINE: Good morning. For the record, this is Jody 5 Kline with the law firm of Miller, Miller & Canby with 6 offices at 200 B Monroe Street in Rockville, representing 7 the petitioner, Rochambeau, The French International School 8 of Washington, D.C. Thank you. 9 HEARING EXAMINER ROBESON: Thank you. 10 MR. BROWN: Good morning. It's David Brown of Knopf & 11 Brown representing the Maplewood Citizens Association. 12 HEARING EXAMINER ROBESON: Thank you. Is there anyone 13 else? I do know that some people like Ms. -- I think it was 14 Umhofer. Is there anyone else that's not going to be called 15 by either Mr. Kline or Mr. Brown that wants to testify 16 today? Please just raise your hand. Okay. Ms. Umhofer, 17 are you represented by Mr. Brown? Okay. She is muted. 18 So -- 19 MR. BROWN: I can answer that question. I'm not 20 representing anyone, any individuals. 21 HEARING EXAMINER ROBESON: All right. Okay. With 22 that, I believe we had gotten through the traffic testimony 23 and the civil engineering testimony. Mr. Kline, do you want 24 to call your next witness? 25 MR. KLINE: Yes, ma'am, I'm glad to do so. But I do</p> | <p>8</p> <p>1 MR. KLINE: Thank you. Have you ever qualified as an 2 expert in the field of landscape architecture before a court 3 of law, or a commission, or board, or hearing examiner like 4 we're going through right now? 5 MR. NORDEN: I have not. 6 MR. KLINE: So give us a little bit of your background. 7 Ms. Robeson, Mr. Norden's resume is in the record as Exhibit 8 73(c). 9 HEARING EXAMINER ROBESON: Right. 10 MR. KLINE: And let me just start off by saying: how 11 long have you been a landscape architect? And what have you 12 been doing during your career? 13 MR. NORDEN: Sure. So over 17 years I've been 14 practicing. And I have an undergraduate degree in 15 horticultural science and my graduate -- my master's degree 16 in landscape architecture. I'm also a certified arborist. 17 So work on lots of commercial projects and institutional 18 campuses. 19 MR. KLINE: What professional organizations do you 20 belong to? And what professional certifications do you 21 hold? 22 MR. NORDEN: So I'm a member of the American Society of 23 landscape architects, also International Society of Arboreal 24 Culture, and I'm a registered landscape architect in 25 Maryland and Virginia.</p> |

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3 (9 to 12)

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| <p>9</p> <p>1 MR. KLINE: And --</p> <p>2 MR. NORDEN: And so -- I'm sorry.</p> <p>3 HEARING EXAMINER ROBESON: Are you licensed -- did you</p> <p>4 say you are licensed in Maryland?</p> <p>5 MR. NORDEN: Yes, I am. I have been for a number of</p> <p>6 years.</p> <p>7 HEARING EXAMINER ROBESON: Okay. Let me do this. Let</p> <p>8 me -- and Mr. Brown or anyone else, do you -- based on his</p> <p>9 testimony and resume, do you have any objections to</p> <p>10 qualifying him as an expert in landscape --</p> <p>11 MR. BROWN: No.</p> <p>12 HEARING EXAMINER ROBESON: Okay.</p> <p>13 MR. BROWN: No objections.</p> <p>14 HEARING EXAMINER ROBESON: Anyone else? All right.</p> <p>15 I'm going to qualify him as an expert in landscape</p> <p>16 architecture.</p> <p>17 MR. KLINE: Congratulations Mr. Norden.</p> <p>18 HEARING EXAMINER ROBESON: Yes, you have one more</p> <p>19 resume -- anyway. Go ahead.</p> <p>20 MR. KLINE: Thank you, Mr. Norden. Were you in your</p> <p>21 firm asked to provide landscape -- landscaping services and</p> <p>22 to develop a forest conservation plan for the former FASEB</p> <p>23 property on behalf of the Applicant today?</p> <p>24 MR. NORDEN: That's right. And prior to that, we</p> <p>25 started with the natural resources inventory.</p> | <p>11</p> <p>1 MR. KLINE: It's listed as 12(a) and (b). And I don't</p> <p>2 believe that document has been changed at all. So I think</p> <p>3 that is the applicable document the best.</p> <p>4 HEARING EXAMINER ROBESON: Okay.</p> <p>5 MR. KLINE: 12(a) and (b).</p> <p>6 MR. NORDEN: That's right.</p> <p>7 HEARING EXAMINER ROBESON: Just one second.</p> <p>8 MR. KLINE: Probably it's just 12(a).</p> <p>9 MR. NORDEN: Probably 12(b) would probably be the best</p> <p>10 of the two sheets.</p> <p>11 MR. KLINE: Thank you.</p> <p>12 HEARING EXAMINER ROBESON: Now, I don't know --</p> <p>13 MR. NORDEN: That's the right one.</p> <p>14 HEARING EXAMINER ROBESON: Okay.</p> <p>15 MR. NORDEN: And sorry it doesn't have any color on it.</p> <p>16 But I believe I see the staff report indicated there aren't</p> <p>17 really any particularly interesting environmental features</p> <p>18 on this site other than the existing tree cover and some</p> <p>19 steep slopes. So I would kind of point out those two</p> <p>20 things. On the lower left portion, which is the southwest</p> <p>21 boundary, there is some crosshatching in those couple of</p> <p>22 areas. And those are slopes that are 25 percent or greater.</p> <p>23 And those are kind of indicative of how the adjacent</p> <p>24 residences are at lower elevation relative to the school</p> <p>25 property. And then it may help to zoom in, but there is a</p> |
| <p>10</p> <p>1 MR. KLINE: Very, very good. That is a good place to</p> <p>2 start. Let me -- before I ask you these questions about the</p> <p>3 work you did, would you just step back and give us your</p> <p>4 perspective of your opinions of the property when you first</p> <p>5 saw it and heard the client's program?</p> <p>6 MR. NORDEN: Sure. Well, I will reinforce Ms. Fabre's</p> <p>7 comments on Friday. It's about 11.2 I think acre site. It</p> <p>8 does have the feel of a campus. And looking back at the</p> <p>9 history I did to the process, it was a former estate. And</p> <p>10 over time -- it's a rolling topography (inaudible) I would</p> <p>11 say. And the way that the buildings were added over time,</p> <p>12 it really developed the northern part of the site, but left</p> <p>13 at the bottom two thirds of the side primarily open. And so</p> <p>14 because of that, a lot of very large and mature trees are</p> <p>15 there today. And so there's quite a few trees that are 24</p> <p>16 and 30 inches or larger and there is also several areas</p> <p>17 along the perimeter almost completely continuous of trees</p> <p>18 that are quite large, and many of them are evergreen.</p> <p>19 MR. KLINE: You mentioned the natural resource</p> <p>20 inventory. I believe that's in the record as Exhibit 12(a)</p> <p>21 and (b). Using the -- that's an appropriate exhibit to use.</p> <p>22 Could you just kind of give us -- well, I guess I will call</p> <p>23 it an existing conditions analysis of the property.</p> <p>24 HEARING EXAMINER ROBESON: I'm sorry. Which exhibit</p> <p>25 was that?</p> | <p>12</p> <p>1 scalloped line, I will call it, like a cloud shaped line.</p> <p>2 And that represents -- it's throughout the entire view that</p> <p>3 we are seen here. But that represents existing tree canopy</p> <p>4 which is taken from an aerial photograph.</p> <p>5 HEARING EXAMINER ROBESON: Okay. It's --</p> <p>6 MR. NORDEN: So you can see --</p> <p>7 HEARING EXAMINER ROBESON: It's a -- am I pointing to</p> <p>8 it correctly?</p> <p>9 MR. NORDEN: Yes, you are.</p> <p>10 HEARING EXAMINER ROBESON: It's cloud shaped. I will</p> <p>11 go with that for the record.</p> <p>12 MR. NORDEN: Okay. So even though -- I guess I should</p> <p>13 mention that the circles with the number and they have a</p> <p>14 hexagon shape, those are the state regulated trees. Those</p> <p>15 are 30 inches and larger. And there's quite a few of those.</p> <p>16 If they have a darker pentagon shape, then those are 24</p> <p>17 inches and larger. So those are considered significant. So</p> <p>18 there's quite a few other trees that aren't -- don't have</p> <p>19 their own symbol that are still mature trees and</p> <p>20 particularly along the southern and southwest border, there</p> <p>21 is a -- there is rows of evergreen fir -- fir and other</p> <p>22 evergreen trees which run along there and we are not</p> <p>23 proposing to disturb those. And I guess the one other thing</p> <p>24 I will mention is there are two County champion trees on the</p> <p>25 site which we'll also be preserving in the process.</p> |

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4 (13 to 16)

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| <p>13</p> <p>1 HEARING EXAMINER ROBESON: Okay.</p> <p>2 MR. KLINE: Mr. Norden, would you please talk to us</p> <p>3 about the forest conservation plan? I'm guessing that might</p> <p>4 be best be exhibit -- well it's Exhibit 48(a) throughout.</p> <p>5 Could you help the hearing examiner pull up the exhibit you</p> <p>6 think will best help you explain your program for forest</p> <p>7 conservation?</p> <p>8 MR. NORDEN: Sure. I think Exhibit 69 might be a good</p> <p>9 place to start. It's a component of the forest conservation</p> <p>10 plan. That's it.</p> <p>11 MR. KLINE: So you've titled this tree -- what was the</p> <p>12 exhibit number?</p> <p>13 HEARING EXAMINER ROBESON: 69.</p> <p>14 MR. KLINE: Yeah, tree impact study. So can you</p> <p>15 explain to us all the attractive coloring? What it means?</p> <p>16 MR. NORDEN: Yeah. So the circles that are on here are</p> <p>17 the individual trees that were on the natural resource</p> <p>18 inventory that are at least 24 inches in diameter or larger.</p> <p>19 And if they don't have any color, that means they are not</p> <p>20 being impacted. And I should mention that there is a larger</p> <p>21 circle around the outside. That represents critical root</p> <p>22 zone, which is a calculated area depending on the size of</p> <p>23 the tree or estimating the extent of the roots that are</p> <p>24 essential to the tree.</p> <p>25 The pink circles represent trees that are impacted that</p> | <p>15</p> <p>1 sure why -- I don't have authority. I have to consider it,</p> <p>2 but I don't have the authority to undercut their PFCP</p> <p>3 through law.</p> <p>4 MR. KLINE: I will rephrase the question Ms. Robeson.</p> <p>5 And that is; Mr. Norden, was it your professional opinion</p> <p>6 that your forest conservation plan satisfied the</p> <p>7 requirements of Chapter 22A as confirmed by the Planning</p> <p>8 Board's decision to approve the preliminary forest</p> <p>9 conservation plan?</p> <p>10 MR. NORDEN: Yes, that's right.</p> <p>11 MR. KLINE: Thank you. Great. So then why don't you</p> <p>12 talk to us more about the landscaping? Because that's</p> <p>13 something where you probably have a little bit more hand in</p> <p>14 trying to create character on the property.</p> <p>15 MR. NORDEN: Okay.</p> <p>16 MR. KLINE: And what exhibit do you think would be the</p> <p>17 best one to work with?</p> <p>18 MR. NORDEN: That would be 47(a).</p> <p>19 MR. KLINE: And David, while that's being called up,</p> <p>20 can I go back and ask a question about the forest</p> <p>21 conservation plan? Will you be enforcing any forest</p> <p>22 conservation easements on the property? And if so, in what</p> <p>23 locations? And you can use the exhibit that's up there now</p> <p>24 to answer that question.</p> <p>25 MR. NORDEN: Okay. Yeah, so in order to meet the</p> |
| <p>14</p> <p>1 are 24 or 30 inches and bigger. And then the ones with the</p> <p>2 green -- I'm sorry, the pink are removed. The green are the</p> <p>3 ones that are supposed to be impacted that would be</p> <p>4 preserved. So I guess the pattern I would just point out</p> <p>5 from here is that the -- all of the ones being removed are</p> <p>6 on the northern portion of the site. And really the purpose</p> <p>7 of that is, as I believe it was mentioned Friday, the site</p> <p>8 would be brought up to stormwater management standards.</p> <p>9 Currently there is very little in terms of stormwater</p> <p>10 management occurring on the site formally. There is</p> <p>11 pedestrian accessibility that needs to be improved and then</p> <p>12 the various functions to make this operate like a lower</p> <p>13 school. So all of those things are impacting several of the</p> <p>14 trees around the building footprints. But the majority of</p> <p>15 the bottom part of the site is being preserved to the extent</p> <p>16 possible.</p> <p>17 MR. KLINE: Is it timely now to ask you the questions</p> <p>18 about your computations on how the forest conservation law</p> <p>19 is satisfied on this site?</p> <p>20 MR. NORDEN: Sure. And --</p> <p>21 HEARING EXAMINER ROBESON: Can I just interrupt? I</p> <p>22 think the Planning Board already approved a PFCP, correct?</p> <p>23 MR. KLINE: That is correct. And you should have the</p> <p>24 resolution by now.</p> <p>25 HEARING EXAMINER ROBESON: I do. So I guess I'm not</p> | <p>16</p> <p>1 afforestation requirements, there are three different forest</p> <p>2 conservation easements that are proposed. And you can see</p> <p>3 them on this exhibit. And so it would be the areas on the</p> <p>4 bottom that are -- not the linear areas, but say just to the</p> <p>5 left of the cursor where there is a white crosshatch, that</p> <p>6 right there. And that's a --</p> <p>7 HEARING EXAMINER ROBESON: Crosshatch or a dot? I'm</p> <p>8 just clarifying this for the record. Is it dots or a</p> <p>9 crosshatch?</p> <p>10 MR. NORDEN: You're right. There are little plusses,</p> <p>11 which is why I said cross, but a dot is better.</p> <p>12 HEARING EXAMINER ROBESON: Oh, okay. I'm just</p> <p>13 checking. Maybe I need my reading glasses.</p> <p>14 MR. KLINE: Sure. And Mr. Norden, to locate this, the</p> <p>15 cursor is pointing at an area to the left or to the west of</p> <p>16 the Beaumont mansion, correct?</p> <p>17 MR. NORDEN: That's right.</p> <p>18 HEARING EXAMINER ROBESON: Thank you, Mr. Kline, that's</p> <p>19 very helpful.</p> <p>20 MR. NORDEN: And that area -- there is an additional</p> <p>21 area of further to the left and up, or to the northwest from</p> <p>22 there. And then there is another area that -- to the east</p> <p>23 of the Beaumont House. And that has a denser hatch. And</p> <p>24 that represents a type I forest conservation proposal.</p> <p>25 HEARING EXAMINER ROBESON: Okay.</p> |

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5 (17 to 20)

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| <p>17</p> <p>1 MR. NORDEN: And then there is one of the area that is 2 further to the right and to the east. That's also a type 3 II. And so those forest conservation easements -- 4 HEARING EXAMINER ROBESON: Type II, those are little 5 pluses too, correct. 6 MR. NORDEN: That's the Type II. 7 HEARING EXAMINER ROBESON: Yeah, okay. 8 MR. NORDEN: There's only one area that is the Type I 9 proposed. 10 HEARING EXAMINER ROBESON: Okay. 11 MR. NORDEN: So there is a lot -- a large amount of 12 forest conservation easement proposed. Not all of that can 13 be counted to meet the afforestation requirements. So in 14 addition, there is a portion of the afforestation required, 15 which would be met through an off-site bank. 16 MR. KLINE: Fine. Thank you for going back and 17 elaborating on that. Go ahead and proceed with your answers 18 or comments on the landscaping plan. 19 MR. NORDEN: Sure, okay. Yeah, so I guess in general 20 the intent of the landscape is to enhance and be consistent 21 with the campus of feel, obviously to satisfy the regulatory 22 requirements, and, to the extent possible, we never want to 23 make maintenance more than is necessary. So to that end, 24 there are shrubs and trees proposed around the perimeter to 25 meet the screening requirements. I will mention that where</p> | <p>19</p> <p>1 doesn't -- 2 MR. NORDEN: Those are -- 3 HEARING EXAMINER ROBESON: The transcript doesn't know 4 left and right, when this goes (inaudible) 5 MR. NORDEN: I see. 6 HEARING EXAMINER ROBESON: We ask you to use 7 directional. Okay, go ahead. 8 MR. KLINE: Mr. Norden, identify the driveway that I 9 think the hearing examiner is familiar with. And then, go 10 ahead and talk about the landscape that we see along there. 11 MR. NORDEN: Okay. 12 MR. KLINE: Do you have your cursor over there? 13 MR. NORDEN: The driveway refers to further to the 14 west, further over to the west, directly below the play 15 areas. 16 HEARING EXAMINER ROBESON: I'm sorry. I see it. 17 It's -- 18 MR. NORDEN: Yes, and it's below -- 19 HEARING EXAMINER ROBESON: Is it east of the proposed 20 soft -- it's between two soft surface play areas, correct? 21 MR. NORDEN: It's actually on the bottom side of the 22 driveway, not directly going into the parking garage, but 23 the road that's coming up towards it. 24 HEARING EXAMINER ROBESON: I see. 25 MR. NORDEN: So, to the point of --</p> |
| <p>18</p> <p>1 those crosshatch -- along the southern boundary, it's just a 2 line that is parallel to the property line. There are 3 existing tall evergreen trees along that, which will be 4 preserved. 5 So it's really in the areas where there are a little 6 bit more open or somewhat more of an that we are proposing 7 additional trees and in plantings. So some of the existing 8 buffering if you will, is being used to satisfy that 9 requirement, and other areas are being supplemented. So 10 they goes all the way around the perimeter. There are -- 11 excuse me. There is also lines of smaller circles, which 12 are following the roadways. And those represent mostly -- 13 I'm sorry, within the site. 14 HEARING EXAMINER ROBESON: Oh, I see. 15 MR. NORDEN: Yes, right there. 16 HEARING EXAMINER ROBESON: Around the bus loop? 17 MR. NORDEN: The bus loop. Also -- 18 HEARING EXAMINER ROBESON: South of the bus loop? 19 MR. NORDEN: Yes. 20 HEARING EXAMINER ROBESON: Okay. 21 MR. NORDEN: And further to the west along the driveway 22 going into the garage there. 23 HEARING EXAMINER ROBESON: Further to the west? 24 MR. NORDEN: Yeah, to the west. 25 HEARING EXAMINER ROBESON: Okay. The transcript</p> | <p>20</p> <p>1 HEARING EXAMINER ROBESON: That's part of the -- 2 (inaudible) for the driveway. 3 MR. NORDEN: Exactly. 4 HEARING EXAMINER ROBESON: Okay. 5 MR. NORDEN: And so those trees are -- oh, no problem. 6 Those are oaks and elms and similar types of large type 7 shade trees. The circles that are smaller represent trees 8 that are required to mitigate the variance trees that will 9 be moved. The larger symbols are additional ones to 10 continue the alley, if you will, or a line of trees that 11 follows along the driveway in order to provide a continuous 12 tree line planting. And -- so that's the majority of the 13 paintings that are shown here. 14 HEARING EXAMINER ROBESON: Okay. 15 MR. NORDEN: And also some of the trees around the 16 perimeter are providing some parking screening as well. 17 HEARING EXAMINER ROBESON: Okay. Which parking screen? 18 Which trees around the -- I thought there wasn't any parking 19 except in the garage. 20 MR. NORDEN: Well, the existing parking on the front on 21 the far eastern side north of the entrance -- 22 HEARING EXAMINER ROBESON: Oh, okay. You have a 16 23 space lot there or something? 24 MR. NORDEN: Yes. And the portion that is immediately 25 along the property line --</p> |

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| <p>21</p> <p>1 HEARING EXAMINER ROBESON: Yes.</p> <p>2 MR. NORDEN: Those are existing trees. So some of</p> <p>3 those shrubs, which are the smaller dark symbols that you</p> <p>4 are seeing probably, those are some of what we are referring</p> <p>5 to. There is also some on the far western part of the plan</p> <p>6 that are providing a similar function.</p> <p>7 And all the way past to the proposed synthetic turf</p> <p>8 field. Yeah. And when I say parking, I mean they are also</p> <p>9 used in general for the driveway, not just for parking</p> <p>10 spaces, per se.</p> <p>11 HEARING EXAMINER ROBESON: Right.</p> <p>12 MR. KLINE: Mr. Norden, while we've got this image up</p> <p>13 on the screen right now, I want to ask you about what I'll</p> <p>14 call hotspots or sensitive spots. And on the driveway, the</p> <p>15 arched driveway that we are just talking about, there is a</p> <p>16 lot that has a point that's basically close to the driveway.</p> <p>17 That was Mr. Seid's residence. We heard from him on Friday.</p> <p>18 Could you put the cursor on the Seid property, Ms.</p> <p>19 Robeson? Thank you. Thank you. Great. Yeah, the above</p> <p>20 one. Up. Yeah.</p> <p>21 HEARING EXAMINER ROBESON: The one marked buffer G?</p> <p>22 MR. KLINE: Yes, ma'am.</p> <p>23 HEARING EXAMINER ROBESON: Okay.</p> <p>24 MR. KLINE: Okay. That's 9605 Alta Vista Road and is</p> <p>25 the Seid's residence. Mr. Seid legitimately has some</p> | <p>23</p> <p>1 small portion of the existing trees would be removed. And</p> <p>2 then we are putting -- we're specifying trees to go back in</p> <p>3 that (inaudible).</p> <p>4 HEARING EXAMINER ROBESON: In your --</p> <p>5 MR. NORDEN: As well as (inaudible).</p> <p>6 HEARING EXAMINER ROBESON: Is Mr. Seid going to see</p> <p>7 headlights from -- in the winter or whenever cars and</p> <p>8 traffic coming down this driveway? Down the drop off</p> <p>9 driveway?</p> <p>10 MR. NORDEN: So the pinch point, as I'm calling it,</p> <p>11 is -- by the time a car gets to that point where it is very</p> <p>12 narrow, the car headlights --</p> <p>13 HEARING EXAMINER ROBESON: And when you say narrow --</p> <p>14 are -- where is it very narrow on this plan?</p> <p>15 MR. NORDEN: On the corner of the property line.</p> <p>16 HEARING EXAMINER ROBESON: Of what property line?</p> <p>17 MR. NORDEN: Of this right there.</p> <p>18 HEARING EXAMINER ROBESON: There?</p> <p>19 MR. NORDEN: Where the cursor is. Yes, from there and</p> <p>20 to the edge of the road is approximately 30 feet. So that's</p> <p>21 the pinch point I'm referring to.</p> <p>22 HEARING EXAMINER ROBESON: Okay.</p> <p>23 MR. NORDEN: So by the time (inaudible).</p> <p>24 HEARING EXAMINER ROBESON: Just a second. Just a</p> <p>25 second. So I'm talking -- you are -- you're speaking of the</p> |
| <p>22</p> <p>1 concerns about the roadway that's coming in and the trees we</p> <p>2 are working on. Mr. Norden, you met along with others, with</p> <p>3 Mr. Seid on the property to talk about his concerns?</p> <p>4 MR. NORDEN: Yes. I met with him along with Robert</p> <p>5 Walker from the project team. And that was -- and I believe</p> <p>6 Mr. Walker met with him previously as well. And we were</p> <p>7 really trying to understand if he had concerns. At that</p> <p>8 point when I met with him, he wanted to understand what was</p> <p>9 proposed. And so we explained that there is the driveway</p> <p>10 located -- at one point, it's approximately 30 feet from the</p> <p>11 property line. Although, because the road isn't parallel to</p> <p>12 it, it's wider on either side of that pinch point.</p> <p>13 And so what we explained in terms of what was happening</p> <p>14 with the trees is that the existing crosshatch area that's</p> <p>15 shown on the plan here that's right along the property line,</p> <p>16 those are the existing evergreens which, with the exception</p> <p>17 of that area right next to those two tree circles where the</p> <p>18 cursor is, if you moved to the west of the side of the --</p> <p>19 this house. Right there. And also to the east, the other</p> <p>20 side going down towards the south. Those are the -- that</p> <p>21 crosshatch represents the dense, I would save 50, 60 foot</p> <p>22 tall evergreens which will remain. There is a portion</p> <p>23 that's adjacent to those two trees that because the grade of</p> <p>24 that driveway is up above the grade at the back of this</p> <p>25 property line, there needs to be some grading. So that</p> | <p>24</p> <p>1 northeast corner of Mr. Seid's property versus -- to the</p> <p>2 driveway?</p> <p>3 MR. NORDEN: That's right.</p> <p>4 HEARING EXAMINER ROBESON: Okay. I just want to get it</p> <p>5 clear for the record. That's all. Go ahead.</p> <p>6 MR. NORDEN: So where is the narrowest, a car's</p> <p>7 headlights will be -- will not be pointing towards their</p> <p>8 property at that point. It will be pointing (inaudible).</p> <p>9 So prior to that, if a car comes around from the north and</p> <p>10 is essentially pointing towards his northwestern property</p> <p>11 line, there is still going to be the mature row of trees</p> <p>12 along that boundary, plus sort of an oblique angle view of</p> <p>13 several new trees that are in the way. So it's</p> <p>14 approximately 100 feet, I would say, before the car would</p> <p>15 start to turn where the lights would angle away from their</p> <p>16 house. And I believe that will provide a good buffering of</p> <p>17 the lights to his house.</p> <p>18 HEARING EXAMINER ROBESON: Okay. Mr. Kline?</p> <p>19 MR. KLINE: The second point I wanted to ask you about</p> <p>20 was the bus circle. And that is we see around the bus</p> <p>21 circle I guess, are the circles we see on the southern end</p> <p>22 of the curve or the curl, the arc, are those new trees to be</p> <p>23 added?</p> <p>24 MR. NORDEN: That's right, yes.</p> <p>25 MR. KLINE: Okay. And what's the nature of the forest</p> |

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| <p style="text-align: right;">25</p> <p>1 between there and residential properties to the south?</p> <p>2 MR. NORDEN: Well, the trees that are along that edge</p> <p>3 to the south are all existing or all proposed to remain.</p> <p>4 And I believe it's over 100 feet separation from where the</p> <p>5 buses would be parked at the closest point (inaudible)</p> <p>6 property line. So there will be some buffering by the</p> <p>7 existing vegetation that will remain. And in addition,</p> <p>8 there will be the row of trees. Again there is a shade type</p> <p>9 tree that will start off at approximately 4 inch caliper and</p> <p>10 will get larger of course of the time. And as mentioned</p> <p>11 Friday, the driveway itself is approximately 7 to 8 feet</p> <p>12 below the grade that is behind the retaining wall.</p> <p>13 MR. KLINE: In your opinion, because of the topography</p> <p>14 and the vegetation you've described, is it possible or</p> <p>15 likely that the residents living in the houses on Alta Vista</p> <p>16 Court will be able to see the buses in the bus loop?</p> <p>17 MR. NORDEN: I don't think it will be completely</p> <p>18 screened visually. I think there is -- there may be a</p> <p>19 partial view to them, but given the distance and the amount</p> <p>20 of vegetation. Certainly during the summer months when the</p> <p>21 trees -- the deciduous trees have leaves on them, I think it</p> <p>22 will be minimal.</p> <p>23 MR. KLINE: Thank you. Does the landscaping you</p> <p>24 describe and shown on your plans, meet the standards of the</p> <p>25 zoning ordinance, section 59-E-2.7 dealing with landscaping?</p> | <p style="text-align: right;">27</p> <p>1 retaining wall between a portion of the playground</p> <p>2 (inaudible) backyard is that I believe it's at least 8 to 10</p> <p>3 feet below the grade of the road, the driveway adjacent to</p> <p>4 the playground. So I believe that it will be protected from</p> <p>5 the activity on the playground.</p> <p>6 MR. KLINE: Thank you. To wrap it all up; in terms of</p> <p>7 your professional opinions, do you believe that the</p> <p>8 landscaping plan and the forest conservation plan you</p> <p>9 described today will result in the use not being detrimental</p> <p>10 to the use, or peaceful enjoyment, or potential enjoyment of</p> <p>11 surrounding residential properties?</p> <p>12 MR. NORDEN: I do.</p> <p>13 MR. KLINE: And is there anything about your</p> <p>14 landscaping and forest conservation plan that could</p> <p>15 adversely affect the health, safety, and welfare of the</p> <p>16 people on the property or the people surrounding the</p> <p>17 property?</p> <p>18 MR. NORDEN: No, I don't believe so.</p> <p>19 MR. KLINE: Mr. Norden, and did your firm have a role</p> <p>20 in the preparation for the lighting plan for the subject</p> <p>21 property?</p> <p>22 MR. NORDEN: We did. We took the existing light</p> <p>23 information, fixtures proposed by the architect for the</p> <p>24 exterior of the building and then (inaudible).</p> <p>25 MR. KLINE: And before you leave -- before we leave</p> |
| <p style="text-align: right;">26</p> <p>1 MR. NORDEN: Yes, I believe so.</p> <p>2 MR. KLINE: And doesn't meet the standards of 59-E-2.8,</p> <p>3 parking facilities adjoining residential zones?</p> <p>4 MR. NORDEN: Yes, I believe so.</p> <p>5 MR. KLINE: And finally, and I think you mentioned this</p> <p>6 earlier, but I didn't quite the citation, but does it comply</p> <p>7 with section 59-E-2.9, which is the screening requirement</p> <p>8 for perimeter landscaping?</p> <p>9 MR. NORDEN: Yes, I believe so.</p> <p>10 MR. KLINE: Okay. You heard the discussion yesterday</p> <p>11 about the recreational areas, the outdoor play areas. And</p> <p>12 when we take those --</p> <p>13 Thank you, Ms. Robeson, that's helpful.</p> <p>14 And when we take those and apply your landscaping plan.</p> <p>15 In your professional opinion, is the landscaping shown in</p> <p>16 the plan adequate so that, to quote the zoning ordinance,</p> <p>17 all outdoor sports and recreation facilities are landscaped</p> <p>18 or otherwise buffered so that activities associated with</p> <p>19 those facilities will not constitute an intrusion into</p> <p>20 adjacent residential properties. Can you elaborate or could</p> <p>21 you explain how you believe your plan satisfies that</p> <p>22 requirement?</p> <p>23 MR. NORDEN: Okay. I believe that's the case. There</p> <p>24 is, in addition to the existing vegetation that I described</p> <p>25 that will remain, there are new plantings. There is also a</p> | <p style="text-align: right;">28</p> <p>1 that, could you just step back and explain what you just</p> <p>2 said? There are, I gather, existing fixtures on the</p> <p>3 building that are not to be replaced?</p> <p>4 MR. NORDEN: That's correct. There is existing</p> <p>5 fixtures on the building and as well as within the driveway</p> <p>6 area lights throughout the site, which are proposed to</p> <p>7 remain in addition -- and be supplemented with where the</p> <p>8 driveway is being realigned and where the building is being</p> <p>9 modified.</p> <p>10 MR. KLINE: So did your firm prepare a plan that shows</p> <p>11 the type of fixtures that would be located and added to the</p> <p>12 property and where they would be located? And if so, could</p> <p>13 you get the hearing examiner a reference for that so we can</p> <p>14 look at it?</p> <p>15 MR. NORDEN: Yes. I think 47(b) would be the best</p> <p>16 place to start.</p> <p>17 HEARING EXAMINER ROBESON: 47(b)?</p> <p>18 MR. NORDEN: I'm sorry. D, as in David.</p> <p>19 HEARING EXAMINER ROBESON: Oh, gotcha. Okay.</p> <p>20 MR. MYERS: (Inaudible)</p> <p>21 MR. KLINE: I can't hear you, Allen.</p> <p>22 MR. MYERS: Okay.</p> <p>23 MR. KLINE: She will --</p> <p>24 (Crosstalk)</p> <p>25 MR. NORDEN: So this is the plan. This is the</p> |

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| <p style="text-align: right;">29</p> <p>1 photometric layout, meaning it plots all of the existing 2 fixtures proposed to remain as well as the new fixtures and 3 their lighting levels, the footcandles where it hits the 4 ground. And so this is one of the -- you know, zoning 5 requirements, the exhibits we prepared. And I could explain 6 briefly. Any of the fixtures identified with an E is an 7 existing one to remain. There are -- I apologize it's hard 8 to read.</p> <p>9 Anything that starts with PL represents an area light, 10 I will call it, or a pole mounted light, which is -- will be 11 used for lighting the sidewalks and the roadways. And those 12 are 20 foot tall fixtures. The ones with a dash one have a 13 (inaudible) on them. Dash two has two fixtures on a pole 14 and there are a couple of dash threes with three fixtures on 15 them. And there is also fixtures that is on the same sheet 16 in detail three -- are described as type AI through D1.</p> <p>17 HEARING EXAMINER ROBESON: Wait. Wait. (Inaudible)</p> <p>18 MR. NORDEN: This sheet is --</p> <p>19 HEARING EXAMINER ROBESON: Go ahead.</p> <p>20 MR. NORDEN: So this sheet we are looking at now is -- 21 yes -- it's actually listing fixtures. But on the page 22 previous, there is a schedule, which is detail number three 23 on the sheet before. And that was -- I was simply trying to 24 point out that the one in that -- there we go. Thank you. 25 That are labeled A1 through D1 are all various fixtures that</p> | <p style="text-align: right;">31</p> <p>1 essentially a louver they can be put on them to control the 2 amount of light spill to -- you know, in one direction.</p> <p>3 MR. KLINE: Mr. Norden, drawing your attention to the 4 exhibit that's on the screen right now, the photometric 5 plan. Are there any locations on -- shown on the 6 photometric plan that exceed the 0.1 footcandles at the 7 perimeter of the property or at least on the northern or 8 western side of the property?</p> <p>9 MR. NORDEN: So yes, there are two locations. And the 10 first one I will try and describe where the -- if you were 11 to start at the parking garage, which is -- yes, right 12 there. That's the northern -- northeastern corner of the 13 parking garage. There. Okay. And if you were to go 14 directly north of that point to the property line. I'm 15 sorry. I don't see the cursor. Yes, right there. There is 16 a location there where the light level is 0.2 footcandles. 17 It's right -- just barely extending across the property 18 line.</p> <p>19 And the reason for that -- we've tried to reduce that 20 further. However, there is light contributing from the 21 existing fixtures on the parking garage and along the 22 building, which are contributing to that. It is 0.2 23 footcandles as opposed to 0.1 footcandles. So I would 24 describe that as a minimal increase. The light proposed 25 fixture, PL1, which is adjacent to that location is a new</p> |
| <p style="text-align: right;">30</p> <p>1 would be attached to the building sconces and such, to 2 provide egress, emergency egress lighting, area lighting 3 immediately adjacent to the buildings.</p> <p>4 And there are also -- we already talked about type PL. 5 There are also two other types. F1 is a bollard noted 6 location on the front of the building and the center of the 7 site. And SP1 at the very bottom of the schedule here is a 8 stake mounted light which is at two location for lighting 9 the sign.</p> <p>10 MR. KLINE: Let me kind of jump ahead then. Have the 11 light fixtures that you and your firm have selected to 12 install in the property all have features that would not 13 create any objectionable illumination or glare onto the 14 adjacent properties?</p> <p>15 MR. NORDEN: Yes. I mean, they are all somewhat 16 different, but in general, the type of light distribution, 17 there is different options. And the ones that has been 18 selected for each fixture is such that it directs the light 19 down into a controlled, limited location as much as 20 possible. So that's number one. Number two, with all the 21 fixtures except for the sign light, a stake mounted fixture 22 are full cut off fixtures meaning that the body of the 23 fixture is such that light will not be going -- shining 24 above the horizontal line from the fixture itself. And some 25 of the fixtures also have a house light shield which is</p> | <p style="text-align: right;">32</p> <p>1 pole light to provide (inaudible).</p> <p>2 HEARING EXAMINER ROBESON: Wait. Adjacent to which 3 location? The northeast corner of the -- oh, it's right 4 below the LOD mark?</p> <p>5 MR. NORDEN: Yes, ma'am. That's where I was referring.</p> <p>6 HEARING EXAMINER ROBESON: And is labeled --</p> <p>7 MR. NORDEN: And that is --</p> <p>8 HEARING EXAMINER ROBESON: And it's -- just a second.</p> <p>9 I'm just doing this for the record. It's -- that is to the 10 northeast of the northeast corner of the parking garage.</p> <p>11 Okay. Go ahead.</p> <p>12 MR. NORDEN: So that fixture is proposed and it is 13 contributing as well. However, if we were to eliminate that 14 light to try and reduce the levels, number one, the lighting 15 on the driveway would be less than desirable for safety 16 purposes. But again, the existing fixtures on the parking 17 garage are contributing to the level of 0.2, which is 18 directly to the north on the property line. And I will also 19 mention that there is a row of existing, mature, pine and 20 cedar trees along the entire property line there, which I 21 believe would effectively reduce that light level to be 22 closer to zero by the time it gets into the adjacent 23 townhouses. But there is also an adjacent parking area 24 immediately to the north on the property.</p> <p>25 MR. KLINE: Well we --</p> |

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| <p>33</p> <p>1 MR. NORDEN: We --</p> <p>2 MR. KLINE: Yeah, go ahead. I want to -- yeah, this is</p> <p>3 take care that one first I guess. You know, you made a</p> <p>4 comment about -- so what is going on north of the property?</p> <p>5 What is there?</p> <p>6 MR. NORDEN: So there is as you can see a dashed line</p> <p>7 immediately north of the property line where we were just</p> <p>8 looking. And that represents parking spaces. So the people</p> <p>9 who live in the townhouse, the townhouses themselves are</p> <p>10 north of that driveway. So they would parking their parking</p> <p>11 spaces and their lights would be shining into the school</p> <p>12 property. But again, there is a mature evergreen hedge, if</p> <p>13 you will, trees that runs along the property line. Some of</p> <p>14 them are -- most of them I believe are directly on the</p> <p>15 property line.</p> <p>16 MR. KLINE: So there are no single-family detached</p> <p>17 houses north of the property, correct?</p> <p>18 MR. NORDEN: Correct.</p> <p>19 MR. KLINE: But you say they are townhouses rather than</p> <p>20 multifamily structures?</p> <p>21 MR. NORDEN: I believe they are townhouses.</p> <p>22 MR. KLINE: All right.</p> <p>23 MR. NORDEN: And I believe they have patios on the</p> <p>24 ground level.</p> <p>25 MR. KLINE: Okay, thank you.</p> | <p>35</p> <p>1 HEARING EXAMINER ROBESON: And I don't understand why</p> <p>2 the staff report didn't flesh this out. But --</p> <p>3 MR. KLINE: Well --</p> <p>4 MR. NORDEN: Is there -- just a sec. Is there</p> <p>5 something in the old zoning ordinance that gives you a</p> <p>6 waiver of this requirement?</p> <p>7 MR. KLINE: No. No, ma'am.</p> <p>8 MR. NORDEN: You have to apply for a variance?</p> <p>9 MR. KLINE: Well, and actually, yes, it would have to</p> <p>10 be a formal variance, not a waiver. Let me phrase it this</p> <p>11 way. The reason it was not identified earlier -- it wasn't</p> <p>12 identified until after the staff report was published -- was</p> <p>13 simply -- well, I'm not so quite sure. I guess late in the</p> <p>14 preparation of the staff report was simply there was just so</p> <p>15 many numbers on there that nobody caught that there was</p> <p>16 something more than 0.1.</p> <p>17 The way we left it with staff is that we would identify</p> <p>18 what fixtures would be need to be removed if it was</p> <p>19 absolutely necessary to reduce it to 0.1 and we are prepared</p> <p>20 to submit an amended photometric plan if you feel that that</p> <p>21 is mandatory. And the argument I want to make to use I</p> <p>22 don't think the RH zone to the north is the residential,</p> <p>23 quote residential that the zoning ordinance contemplates and</p> <p>24 requiring that 0.1.</p> <p>25 If you don't concur on that, Mr. Norden and Ms. Clark</p> |
| <p>34</p> <p>1 HEARING EXAMINER ROBESON: Why is that (inaudible). I</p> <p>2 just had a question. The staff says you have to reduce -- I</p> <p>3 didn't understand this from staff. The staff report says</p> <p>4 you have to reduce this to 0.1 at preliminary plan. So I'm</p> <p>5 really confused because normally you have to address it now.</p> <p>6 So are you going to reduce it to 0.1? Or -- and do you need</p> <p>7 a variance?</p> <p>8 MR. KLINE: Madam Hearing Examiner, if I could jump in</p> <p>9 and answer that. You are absolutely correct. We have to</p> <p>10 prove at the time of the special exception amendment that we</p> <p>11 meet the lighting standards. And what I was going to ask</p> <p>12 Mr. Norton and Ms. Clark, because she's been working on this</p> <p>13 also, is we are aware of there being at least one problem on</p> <p>14 the north side of the property. We tried to show you why it</p> <p>15 actually is beneficial to be there and it does not have an</p> <p>16 adverse effect.</p> <p>17 And I would argue since the RH -- the property in the</p> <p>18 north is zoned Rh. It's not single-family detached or even</p> <p>19 single -- well, it is not single-family detached, and</p> <p>20 therefore, is it what the parking 0.1 footcandles is</p> <p>21 intended to address? But the bottom line is, Ms. Clark and</p> <p>22 Mr. Norden have --</p> <p>23 HEARING EXAMINER ROBESON: But wait a minute. Okay. I</p> <p>24 don't want to argue about it.</p> <p>25 MR. KLINE: Yeah.</p> | <p>36</p> <p>1 will tell you what fixtures will be removed and will give</p> <p>2 you a new photometric plan that satisfies those</p> <p>3 requirements. So that would be true on the other location</p> <p>4 as well. We will give you what you need.</p> <p>5 HEARING EXAMINER ROBESON: I understand. What -- let's</p> <p>6 go to the -- are you finished with this location?</p> <p>7 MR. KLINE: Mr. Norden, I don't think there's anything</p> <p>8 else to say here, is there?</p> <p>9 MR. NORDEN: I've finished with this location, yes.</p> <p>10 MR. KLINE: Can you give the hearing examiner some</p> <p>11 guidance as to where to go for the other hotspot?</p> <p>12 MR. NORDEN: Yes. So the other location is east along</p> <p>13 the existing parking that we talked briefly about earlier.</p> <p>14 And yes, actually to the left of that where the SP fixtures</p> <p>15 are shown there is --</p> <p>16 HEARING EXAMINER ROBESON: To the west. To the west.</p> <p>17 MR. NORDEN: I'm sorry. To the east.</p> <p>18 HEARING EXAMINER ROBESON: To the east. And oh, right.</p> <p>19 MR. NORDEN: Yes, right there.</p> <p>20 HEARING EXAMINER ROBESON: So there is three SP</p> <p>21 fixtures --</p> <p>22 MR. NORDEN: And to the (inaudible).</p> <p>23 HEARING EXAMINER ROBESON: -- on the eastern border,</p> <p>24 northeastern border.</p> <p>25 MR. KLINE: Can I interrupt Ms. Hannan?</p> |

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| <p>37</p> <p>1 MR. NORDEN: (Inaudible).</p> <p>2 MR. KLINE: Can I interrupt for a second? Since these</p> <p>3 are in the front yard and since the requirement of 0.1</p> <p>4 footcandles is only on the side and rear, I don't think this</p> <p>5 is a nonconforming -- well, let's say the 0.1 doesn't apply</p> <p>6 in this location. So I don't think this is a problem here.</p> <p>7 HEARING EXAMINER ROBESON: Okay, but let's talk about</p> <p>8 it.</p> <p>9 MR. NORDEN: Well, it's similar --</p> <p>10 HEARING EXAMINER ROBESON: The reason I'm asking Mr.</p> <p>11 Kline, it's just I was not familiar -- I didn't see this</p> <p>12 detail in the staff report. So wherever we are going</p> <p>13 legally, I might as well have the testimony in the record.</p> <p>14 So let's go through this if Mr. Norden would. And then he</p> <p>15 can describe it.</p> <p>16 MR. KLINE: Not a problem.</p> <p>17 MR. NORDEN: So similar to the other location in that</p> <p>18 the existing fixtures which are identified here as E76 and</p> <p>19 E70 are contributing, the increase is just over the property</p> <p>20 line along the eastern side, which is next to those three SP</p> <p>21 fixtures. And it goes from 0.2 footcandles again, up to</p> <p>22 0.5. And so I would say again, this is similar in that it's</p> <p>23 contributing from both existing fixtures as well as the new</p> <p>24 ones. We can't eliminate it simply by removing proposed</p> <p>25 fixtures. That's the extent of the locations I'm aware of.</p> | <p>39</p> <p>1 MR. WILKERSON: So I wanted to direct your attention to</p> <p>2 the townhomes on the north edge of the property that would</p> <p>3 be somewhat adjacent to the field. Currently, there is no</p> <p>4 field. So while the school said it wouldn't be open quote,</p> <p>5 competitive, close quote games. There would be games and</p> <p>6 referees and whistles and cheering them things like that</p> <p>7 pretty close to where those homes are and they have</p> <p>8 balconies that look onto the field. Would not the noise and</p> <p>9 whistles and cheering and so forth have an impact on the</p> <p>10 quiet enjoyment on those homes on the north side?</p> <p>11 MR. NORDEN: So the area which you mentioned is over</p> <p>12 adjacent to the townhouses and the field. So I believe --</p> <p>13 if you don't mind going to the west on this image. All the</p> <p>14 way to the -- adjacent to the parking garage. And a little</p> <p>15 bit further west, please. Yes, so that space which I</p> <p>16 believe is the one immediately west of the garage. Is that</p> <p>17 where you are referring to, Mr. Wilkerson?</p> <p>18 MR. WILKERSON: Correct.</p> <p>19 MR. NORDEN: Yeah, okay. Thank you. So the -- I am</p> <p>20 looking at my detailed information just to confirm. So</p> <p>21 first of all, I'm not aware that there are -- would be any</p> <p>22 sort of formal games of any kind here. You know, whistles</p> <p>23 and that sort of thing, I don't know that there would</p> <p>24 necessarily be that sort of thing.</p> <p>25 In terms of the physical condition between that field</p> |
| <p>38</p> <p>1 HEARING EXAMINER ROBESON: Okay.</p> <p>2 MR. KLINE: So Mr. Norden, I will just say it this way;</p> <p>3 (inaudible) prepared to correct the photometric plan if</p> <p>4 directed to do so by the hearing examiner so that we will</p> <p>5 have 0.1 footcandles at all applicable spaces on the</p> <p>6 property.</p> <p>7 MR. NORDEN: Yes. And we would do so by eliminating</p> <p>8 some of the existing features, yes.</p> <p>9 MR. KLINE: Thank you. I have no further questions of</p> <p>10 Mr. Norden.</p> <p>11 HEARING EXAMINER ROBESON: All right. I'm going to</p> <p>12 open it up for cross-examination. Just one point. This is</p> <p>13 for those who wish to cross-examine. This is your time just</p> <p>14 to ask questions. You will have an opportunity (inaudible)</p> <p>15 you will have an opportunity to testify later in this</p> <p>16 proceeding. I see a hand up from Mr. Wilkerson and Ms.</p> <p>17 Umhofer. (Inaudible) have questions for this witness.</p> <p>18 MR. WILKERSON: Yes, I do. Can you hear me?</p> <p>19 HEARING EXAMINER ROBESON: I can.</p> <p>20 MR. WILKERSON: Okay, very good. Mr. Norden, you</p> <p>21 responded to Jody's question about whether the field and the</p> <p>22 lighting would interfere with the quiet enjoyment of the</p> <p>23 neighborhood; is that correct? That you said it would not</p> <p>24 interfere with the quiet enjoyment?</p> <p>25 MR. NORDEN: (Inaudible).</p> | <p>40</p> <p>1 and the adjacent homes, the adjacent homes are located 95</p> <p>2 feet at the closest point to the building and they are the</p> <p>3 lower elevation in the field. Certainly they are more than</p> <p>4 one story. So the -- there is a -- also a median -- let me</p> <p>5 see. I'm just double checking before I say this. Okay.</p> <p>6 Yes, there is a median along the driveway. So immediately</p> <p>7 from the -- yeah, where the cursor is in the proposed</p> <p>8 driveway, immediately north of that there is a median, which</p> <p>9 has the utilities --</p> <p>10 HEARING EXAMINER ROBESON: I apologize. I apologize</p> <p>11 again. I can't say where the cursor is. You can't say</p> <p>12 where the cursor is. So describe where you are referring</p> <p>13 to.</p> <p>14 MR. NORDEN: Okay. So immediately north of the</p> <p>15 proposed field, playfield that's to the west of where you</p> <p>16 are, to the west, to the -- the proposed field is that</p> <p>17 area -- yes. And immediately north of that is the drive</p> <p>18 lane. We are about 50 feet south of the northern property</p> <p>19 line. And that driveway at the northern side where that</p> <p>20 fixture labeled PL2 is located, that's where we are talking</p> <p>21 about. So I was trying to recall the condition there.</p> <p>22 There is a grade the difference between -- essentially, what</p> <p>23 I'm trying to say is there is a feature which will provide a</p> <p>24 visual screen from the houses on the northern side of the</p> <p>25 property line to the area of the field.</p> |

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11 (41 to 44)

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| <p>41</p> <p>1 HEARING EXAMINER ROBESON: Now, I'm --</p> <p>2 MR. NORDEN: In addition to (inaudible).</p> <p>3 HEARING EXAMINER ROBESON: I'm reading the photometric</p> <p>4 plan here and it doesn't look like you are at 0.1 here</p> <p>5 either. It looks like you are 0.3. If you go -- there is a</p> <p>6 midway between the parking garage, all right, you go to PL2.</p> <p>7 And then you go up, it says 0.3.</p> <p>8 MR. NORDEN: I believe that on the school property. Or</p> <p>9 the one to the left of where you are is right on the</p> <p>10 property line. But I believe it looks like to me it's</p> <p>11 different.</p> <p>12 HEARING EXAMINER ROBESON: It looks like (inaudible)</p> <p>13 the one -- there is -- it does look to be like 0.3 at the</p> <p>14 property line at that location, right?</p> <p>15 MR. NORDEN: I see what you are referring to. To me</p> <p>16 that -- and my interpretation of that, it is not above 0.1</p> <p>17 on the adjacent property.</p> <p>18 HEARING EXAMINER ROBESON: Well, it's at the property</p> <p>19 line. Your burden is at the property line.</p> <p>20 MR. NORDEN: I understand. We can look at that more</p> <p>21 closely again.</p> <p>22 HEARING EXAMINER ROBESON: I can tell you these numbers</p> <p>23 a little. These numbers are very little. I mean, they are</p> <p>24 all this little. I'm not saying the Applicant did anything</p> <p>25 wrong. I'm just saying my eyesight isn't up to it. But</p> | <p>43</p> <p>1 about the quiet enjoyment of the surrounding area from the</p> <p>2 field.</p> <p>3 HEARING EXAMINER ROBESON: I understand what you are</p> <p>4 saying.</p> <p>5 MR. WILKERSON: So could I ask -- continue to ask that</p> <p>6 question of Mr. Norden so we have in the record?</p> <p>7 HEARING EXAMINER ROBESON: Well, Mr. Norden, did you do</p> <p>8 a sound analysis?</p> <p>9 MR. NORDEN: I did not.</p> <p>10 HEARING EXAMINER ROBESON: Okay.</p> <p>11 MR. NORDEN: I did not do any sort of formal sound</p> <p>12 analysis.</p> <p>13 HEARING EXAMINER ROBESON: Okay. How was that Mr.</p> <p>14 Wilkerson?</p> <p>15 MR. NORDEN: I really just wondered if Mr. Norden could</p> <p>16 say whether, within his scope of expertise, an opinion about</p> <p>17 quiet enjoyment is within his scope.</p> <p>18 MR. NORDEN: Well, I would say similar to my answer on</p> <p>19 the -- in reference to the other properties, residences on</p> <p>20 the south side. I would say it's similar. You know, taking</p> <p>21 the visual screening and to a less scientific way, the</p> <p>22 sound, you know I believe the condo -- I believe those are</p> <p>23 actually condominiums on the north side. I think I misspoke</p> <p>24 when I said townhouses. I apologize.</p> <p>25 Given the distance between them and the row of existing</p> |
| <p>42</p> <p>1 yeah, that looks like it (inaudible).</p> <p>2 MR. NORDEN: When we respond to the previous discussion</p> <p>3 about the point that's further to the east, we can evaluate</p> <p>4 this as well and take a similar action if (inaudible).</p> <p>5 HEARING EXAMINER ROBESON: Okay. Do you mind checking</p> <p>6 through the rest of the site and just making sure?</p> <p>7 MR. NORDEN: We will do that. And I have done that</p> <p>8 recently, but we will do it again just to make sure there is</p> <p>9 nothing else.</p> <p>10 HEARING EXAMINER ROBESON: Now Mr. Wilkerson, was his</p> <p>11 question about noise or lights? Because you were --</p> <p>12 MR. WILKERSON: I would like to break it -- I would</p> <p>13 like to break into two, but more at this moment try to get</p> <p>14 Mr. Norden to address the noise from the field.</p> <p>15 HEARING EXAMINER ROBESON: Well, he is not qualified as</p> <p>16 a noise expert.</p> <p>17 MR. WILKERSON: So that -- I very much appreciate that</p> <p>18 qualification. Mr. Klein asked him in his professional</p> <p>19 opinion, would the field located there interfere with the</p> <p>20 quiet enjoyment of those homes, the neighborhood including</p> <p>21 those townhouses.</p> <p>22 HEARING EXAMINER ROBESON: I see.</p> <p>23 MR. WILKERSON: And Mr. Norden responded affirmatively.</p> <p>24 So that's exactly what I was getting at, is that within the</p> <p>25 scope of his professional expertise, to be offering opinions</p> | <p>44</p> <p>1 trees that will remain, and as I was not probably very</p> <p>2 clearly explaining, but a little bit of topography</p> <p>3 difference where that median is located against the</p> <p>4 driveway, I believe it will be a similar type of buffering.</p> <p>5 I'm not going to say there will be zero sound or zero</p> <p>6 audible ability to hear things, but I don't believe it will</p> <p>7 be a nuisance or (inaudible).</p> <p>8 MR. WILKERSON: Okay. And again, thank you for that</p> <p>9 response. I'm just trying to clarify. So for weekend</p> <p>10 activities and summer camp activities on that field space,</p> <p>11 there will be -- I just wanted to get your affirmation. It</p> <p>12 will be audible to those people that are in those</p> <p>13 condominiums on the north side; children screaming,</p> <p>14 potential referees, clapping, cheering, et cetera. It won't</p> <p>15 be the same as it is now. Is that correct?</p> <p>16 MR. NORDEN: I don't know. I don't have any reason to</p> <p>17 think there will be referees there. I don't know about -- I</p> <p>18 mean, my understanding is there will not be any sort of</p> <p>19 formal sports or regulated games with referees and whistles.</p> <p>20 I (inaudible) the teachers will be doing --</p> <p>21 MR. WILKERSON: Okay, well let's drop the referee issue</p> <p>22 then. You make a good point. But for people, children who</p> <p>23 are excited chasing a soccer ball, a lacrosse ball, playing</p> <p>24 tag, so forth, there will be audible noises; is that</p> <p>25 correct?</p> |

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12 (45 to 48)

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| <p>45</p> <p>1 MR. NORDEN: I believe there would be, yes. Yes, there 2 would be some noise. Yes. 3 MR. WILKERSON: Okay. And could that interfere with 4 the quiet enjoyment of those folks? 5 MR. NORDEN: I don't anticipate it will be a nuisance 6 when you're located on the adjacent property. 7 MR. WILKERSON: Again, are you offering your personal 8 opinion or a professional opinion? That's all I'm trying to 9 clarify. 10 MR. NORDEN: A professional opinion, but I don't have a 11 sound study type of data that I can use to offer in this 12 case. 13 MR. WILKERSON: All right. Thank you, Mr. Norden. No 14 further questions. 15 HEARING EXAMINER ROBESON: All right. I see a hand 16 waved from Ms. that said thank you Mr. Wilkerson. Can you 17 lower your hand? And next we will go to Ms. Umhofer. 18 MS. UMHOFFER: Thank you. I just have a question about 19 the conservation easement area. If we can go back to, I 20 believe it was Exhibit 47. It looked like it was (a) 21 through (c). And I don't know how they could be one 22 exhibit, but it was where the conservation easement was 23 (inaudible). 24 MR. NORDEN: 47(a) shows -- it's the landscape plan, 25 but it does show the conservation easement on it as well.</p> | <p>47</p> <p>1 that for the record. 2 MR. NORDEN: And -- 3 HEARING EXAMINER ROBESON: Yeah. 4 MR. NORDEN: Thank you. While that, the line that you 5 just described, is the easement boundary. The line I wanted 6 to draw attention to is the line immediately to the east of 7 that, yes, that right there. Exactly. That represents -- 8 HEARING EXAMINER ROBESON: So it is the shorter, solid 9 line east of the conservation easement. 10 MR. NORDEN: Yes, correct. And that line is showing an 11 existing stone wall and steps. And this is a garden that is 12 associated with the Beaumont House. And so because of the 13 limitations that the easement would impose on the garden 14 features, this was excluded with the confirmation of the 15 environmental planning staff. They found that acceptable 16 because it would prohibit maintenance essentially of that 17 into the future. But because that is the landscape feature, 18 the owner did not want to unnecessarily have to remove it, 19 essentially. If that makes sense. 20 MS. UMHOFFER: Okay. That's all I have. 21 HEARING EXAMINER ROBESON: All right. Mr. Seid. Ms. 22 Umhofer, can you unclick your hand? And I'm going to 23 recognize Mr. Seid. Mr. Seid, go ahead, please. 24 MR. SEID: I am here. And I do apologize. I was tied 25 up in a work phone call. So I unfortunately missed most of</p> |
| <p>46</p> <p>1 Then (a) is just the first page of the document. 2 MS. UMHOFFER: Okay, great. Yes, this is it. In the 3 southwest border on that kind of more towards the south. I 4 guess just immediately west of the Beaumont House, there is 5 an area there carved out that does not appear to be included 6 in the easement even though the -- you know, farther north 7 and west of it is. And I'm wondering why that is. 8 MR. NORDEN: Well, I believe the answer is because 9 number one, there is utilities through there and utility 10 easements cannot be part of a conservation easement. So 11 part of it was for simplicity to eliminate that conflict. 12 Number two is because you can see on this plan there is a 13 line running north/south. But immediately to the right of 14 that -- I'm sorry, to the -- further west -- yes, but 15 directly below that. There is -- in the middle of the area 16 (inaudible). 17 HEARING EXAMINER ROBESON: Wait, wait. I -- wait. I'm 18 really sorry to stop you again. It's a dashed line, a light 19 dashed line that extends off-site beginning south of the 20 drop off road to -- whose property is that down there? Ms. 21 Umhofer? 22 MS. UMHOFFER: I believe that is mine, yes. 23 HEARING EXAMINER ROBESON: Okay. Umhofer, I'm sorry. 24 MS. UMHOFFER: That's okay. 25 HEARING EXAMINER ROBESON: Okay. So I just want to say</p> | <p>48</p> <p>1 the presentation. So if I do repeat anything that's already 2 been raised, I apologize. But I did just want to clarify 3 about the playground. As I understand from the testimony 4 that was given on Friday, the playground, the shortest point 5 will be 43 feet from my house. And that's at the 9605 Alta 6 Vista Terrace. 7 HEARING EXAMINER ROBESON: Mr. Seid, can you -- can you 8 first -- Mr. Norden, can you give me an exhibit that would 9 help me find the -- would it be the landscape plan? 10 MR. NORDEN: I believe 47(a) would still be a good 11 starting point to discuss what I believe is Mr. Seid's 12 question. 13 HEARING EXAMINER ROBESON: Okay. And Mr. Seid, I think 14 you identified your house, but I do know there is multiple 15 play areas. Would -- 16 MR. SEID: Sure. So I believe this would be the 17 hardcourt. I think that was the area that was closest to my 18 house was going to be the hardcourt area. 19 HEARING EXAMINER ROBESON: Is that the proposed 20 synthetic -- no. Where is your house -- 21 MR. SEID: It's the -- 22 HEARING EXAMINER ROBESON: On this exhibit? On Exhibit 23 47(a)? 24 MR. SEID: I -- unfortunately, I'm on my phone. So is 25 a little bit harder for me to see it.</p> |

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13 (49 to 52)

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| <p style="text-align: right;">49</p> <p>1 HEARING EXAMINER ROBESON: Okay.</p> <p>2 MR. NORDEN: It's the one that's got the buffer G label</p> <p>3 on it that we looked at earlier.</p> <p>4 HEARING EXAMINER ROBESON: Oh, okay. And then --</p> <p>5 MR. NORDEN: Yes.</p> <p>6 HEARING EXAMINER ROBESON: So are you -- I see it. It</p> <p>7 says, proposed hard surface play area. Okay. I see what</p> <p>8 you're talking about now. Thank you.</p> <p>9 MR. SEID: And I believe -- and I believe on Friday it</p> <p>10 was said that it would be 43 feet from my house, not my</p> <p>11 property line but the house.</p> <p>12 HEARING EXAMINER ROBESON: And your question is?</p> <p>13 MR. SEID: And so my question is, how close is it</p> <p>14 actually to the property line if it's only 43 feet from my</p> <p>15 house?</p> <p>16 MR. NORDEN: Well, I am looking at something that I can</p> <p>17 measure distances off of. I just want to make sure that I'm</p> <p>18 measuring to the correct line. So the exhibit that's there</p> <p>19 the area, as you pointed out that labeled proposed hard</p> <p>20 surface play. And I'm measuring that the actual play area</p> <p>21 to the closest edge to Mr. Seid's property to the northeast</p> <p>22 corner of his property line is 45 feet. And so the house is</p> <p>23 actually farther than that according to what I'm looking at.</p> <p>24 MR. SEID: Okay. But I did want to clarify because on</p> <p>25 Friday --</p> | <p style="text-align: right;">51</p> <p>1 stacking road, how close is that to the property line? And</p> <p>2 I know it's going to be right behind the forest conservation</p> <p>3 area.</p> <p>4 HEARING EXAMINER ROBESON: To your property line, Mr.</p> <p>5 Seid?</p> <p>6 MR. SEID: Yes.</p> <p>7 HEARING EXAMINER ROBESON: Is that what you're asking?</p> <p>8 Okay.</p> <p>9 MR. SEID: Yes, I am. Thank you.</p> <p>10 MR. NORDEN: So from your northeast corner of your</p> <p>11 puppy line to the driveway at the closest point is</p> <p>12 approximately 20 feet. And I said 30 feet --</p> <p>13 MR. SEID: Thank you.</p> <p>14 MR. NORDEN: That was a generalization, but it's</p> <p>15 actually 20 feet.</p> <p>16 MR. SEID: Twenty feet to the property line. So</p> <p>17 basically there would be a fence, the forest conservation</p> <p>18 area, and then behind the forest conservation area would be</p> <p>19 the stacking road?</p> <p>20 MR. NORDEN: Yes.</p> <p>21 MR. SEID: Okay. And then again, I apologize if I'm</p> <p>22 repeating anything because I unfortunately didn't get to</p> <p>23 hear most of your presentation. But when we met a few weeks</p> <p>24 ago, we had discussed about the possibility in the</p> <p>25 conservation area behind the metal fence, which is the</p> |
| <p style="text-align: right;">50</p> <p>1 HEARING EXAMINER ROBESON: Just a second. What are you</p> <p>2 looking at, Mr. Norden? Are you looking at 45(a)?</p> <p>3 MR. NORDEN: Well, I'm looking at that. And I was</p> <p>4 looking in my drawing that produced that, to be able to</p> <p>5 measure accurately at the same time.</p> <p>6 HEARING EXAMINER ROBESON: Okay.</p> <p>7 MR. SEID: Okay. Because I do know that on Friday when</p> <p>8 there was an overall description being said, and I know</p> <p>9 there was a follow-up question that Allen Myers had to</p> <p>10 clarify whether the -- whether the 43 feet was to the house</p> <p>11 or to the property line. Because when French School was</p> <p>12 making the presentation, they said to the house. And then</p> <p>13 we later -- Allen later made a clarifying question and again</p> <p>14 was told that it would be to the house, not the property</p> <p>15 line. So that's why I want to clarify. Are you talking</p> <p>16 about the house or the property line?</p> <p>17 MR. NORDEN: What I -- and I recall -- I mean, I of</p> <p>18 course wasn't the one testifying, but I remember a question</p> <p>19 about -- it may have been a different property in the area.</p> <p>20 But I can testify that it's 45 feet to the northeast corner</p> <p>21 of your property line to the closest edge of that hard play</p> <p>22 surface. In the house itself is approximately 75 feet to</p> <p>23 the house itself.</p> <p>24 MR. SEID: Okay. So I appreciate that as a</p> <p>25 clarification from Friday. And then for the key road or the</p> | <p style="text-align: right;">52</p> <p>1 property line, about the possibility of keeping the existing</p> <p>2 wood fence, which would help preclude any headlights that go</p> <p>3 along that stacking road coming into our property or our</p> <p>4 house. And I don't know that anything you've been able to</p> <p>5 investigate further.</p> <p>6 MR. NORDEN: So Mr. Seid is referring to -- there is an</p> <p>7 existing wooden fence which is in the crosshatched area</p> <p>8 parallel to -- yes -- to his eastern property line to the --</p> <p>9 in the eastern portion behind his house. That's the -- yes,</p> <p>10 that's the eastern portion, where you moved the cursor to.</p> <p>11 And it's parallel to that. And his question was at the</p> <p>12 time, can that remain. And what we told him it is, because</p> <p>13 there is a proposed conservation easement, my understanding</p> <p>14 is they may want any existing fence to be removed because it</p> <p>15 could interfere with -- it could be an interference.</p> <p>16 So I do not have any further information. I don't know</p> <p>17 that they can give me a clear answer until us before then to</p> <p>18 approve or reject. But we can certainly ask them at the</p> <p>19 appropriate time about that.</p> <p>20 HEARING EXAMINER ROBESON: Well, wait.</p> <p>21 MR. SEID: And then two more questions.</p> <p>22 HEARING EXAMINER ROBESON: PFCP is approved.</p> <p>23 MR. NORDEN: Yes.</p> <p>24 HEARING EXAMINER ROBESON: Wouldn't you have the</p> <p>25 information now? Or you just didn't ask the question?</p> |

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14 (53 to 56)

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| <p>53</p> <p>1 MR. NORDEN: It's a question of how they would enforce 2 the -- what's been approved. 3 HEARING EXAMINER ROBESON: Gotcha. 4 MR. NORDEN: So that's become -- recorded as an 5 easement. They may come in and say we have to remove this 6 fence. And the question would be, this homeowner would like 7 it to remain and will they allow that. And I can't answer 8 that question right now. 9 MR. SEID: Okay. And two more questions, if you don't 10 mind. One, and I know we had also discussed and I 11 understand the forest conservation area, initially you're 12 going to be able to treat some of the vines that growing up 13 the trees. And then you indicated that within like a few 14 years you kind of have to just leave the area untouched. 15 And I guess my concern would be since my house does kind of 16 border right up to the conservation area, is that over time 17 vines from the trees end up damaging the trees so they fall 18 on my house or that for the back fence and the side fence 19 I'm going to kind of and up with an eyesore of all these 20 different weeds and vines growing that can't be touched. 21 And so I just want to clarify what the rules or what you are 22 allowed or not allowed to do in that area right around the 23 fence. 24 MR. NORDEN: Okay. Yes. 25 MR. SEID: (Inaudible).</p> | <p>55</p> <p>1 MR. NORDEN: I believe that it is a -- the point of the 2 forest conservation easement is that it's perpetual. So 3 what I don't know is how they enforce it. But I believe the 4 owner will be required to continually manage that. 5 MR. SEID: Okay. And then one last question. I 6 realize you're not going to know the answer to this, but how 7 many feet is it for the existing elementary school between 8 the playground and the nearest house or property line? 9 HEARING EXAMINER ROBESON: Can you describe the 10 existing elementary school? Which building is that? Do you 11 mind -- 12 MR. SEID: That would be the one on the Rollingwood 13 campus, I guess the one that's off Beach Drive. 14 HEARING EXAMINER ROBESON: Oh. Oh, I'm sorry. 15 MR. SEID: Yeah, because I know it had been represented 16 on Friday about having no issues and I was just curious what 17 the distance is from the playgrounds to the property lines 18 or to the houses. 19 MR. NORDEN: I'm sorry. I don't know the answer to 20 that. 21 MR. SEID: Yeah, and I realize you may not be able to 22 answer that because it is kind of an outstanding question 23 that I would like to have answered at some point. 24 HEARING EXAMINER ROBESON: All right. 25 MR. SEID: Thank you.</p> |
| <p>54</p> <p>1 MR. NORDEN: So there is an extensive -- there is a 2 requirement in the approved forest conservation plan for the 3 owner to manage the invasive species and so the -- 4 essentially the -- what I think they will require is 5 initially and then periodically, probably every year, to go 6 in and cut the vines down. In this area there is very 7 extensive English Ivy, which has grown on the trees at the 8 ground level on the school property and up into their 9 canopies. 10 So what's currently specified on the drawings, but that 11 will be cut off at the ground and maybe up arm height up 12 above their head and then periodically as you mentioned, 13 that will tend to grow back. But because it's managed, it 14 will be much less of a problem. I don't know in 10 years if 15 they're going to continue to come back and enforce that. 16 I'm sure they will for the first five, six, seven years. 17 But I believe the requirements will be for them to 18 perpetually manage that. I believe I'm speaking correctly. 19 So I don't think it would ever get back to the point that it 20 is today. 21 MR. SEID: Okay. And then do we have a way to know 22 that -- 23 MR. NORDEN: (Inaudible). 24 MR. SEID: Okay. Well, I would just like a 25 clarification of the requirement.</p> | <p>56</p> <p>1 HEARING EXAMINER ROBESON: Anything else? Okay. Mr. 2 Seid, if you could put your hand down. Mr. Myers. 3 MR. MYERS: Good morning. I will ask this question of 4 Ms. Fabre because the Forest Road campus has a similar issue 5 with invasive species. Are you aware of that? 6 HEARING EXAMINER ROBESON: Well, this is the time to 7 cross-examine -- 8 MR. MYERS: Okay. I can't ask it of her. Okay. We 9 will talk about it later. 10 HEARING EXAMINER ROBESON: Okay. Write it down. All 11 right. I see no other hands. Mr. Seid, is your hand still 12 up? I don't hear him. So I'm going to assume that it's 13 not. All right. Mr. Kline, do you have any redirect? 14 MR. KLINE: A simple question for Mr. Norden. If 15 instructed by the client, are you prepared to work with 16 staff and Parking and Planning Commission during the 17 development of the final forest conservation plan to try and 18 preserve the existing wood fence to give Mr. Seid better 19 protection or keep the protection he has today and lobby 20 with parking planning commission to retain that in the 21 forest conservation area? 22 MR. NORDEN: Yes, I am. 23 MR. KLINE: It's a condition that the Applicant would 24 accept if you wanted to grant -- include that in your 25 decision, Ms. Robeson.</p> |

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15 (57 to 60)

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| 57 | <p>1 HEARING EXAMINER ROBESON: Okay. All right.</p> <p>2 MR. KLINE: Thank you. That's it.</p> <p>3 HEARING EXAMINER ROBESON: Anything else? All right.</p> <p>4 You may be excused, Mr. Norden. Thank you.</p> <p>5 MR. NORDEN: Thank you.</p> <p>6 HEARING EXAMINER ROBESON: Mr. Klein, your next</p> <p>7 witness.</p> <p>8 MR. KLINE: Ms. Schmickel, are you available please?</p> <p>9 MS. SCHMICKEL: I think I'm turned on. Can you see me?</p> <p>10 HEARING EXAMINER ROBESON: I cannot see you.</p> <p>11 MR. KLINE: The lower right-hand corner. We have her</p> <p>12 here.</p> <p>13 MS. SCHMICKEL: No, I think I just need (inaudible).</p> <p>14 HEARING EXAMINER ROBESON: I have -- I've got you.</p> <p>15 MS. SCHMICKEL: Okay.</p> <p>16 MR. KLINE: Ms. Schmickel, you're going to be sworn in.</p> <p>17 If you will, raise your right hand.</p> <p>18 HEARING EXAMINER ROBESON: Do you solemnly affirm under</p> <p>19 penalties of perjury that the statements you're about to</p> <p>20 make are the truth, the whole truth and nothing but the</p> <p>21 truth?</p> <p>22 MS. SCHMICKEL: I do.</p> <p>23 HEARING EXAMINER ROBESON: Okay, Mr. Kline.</p> <p>24 MR. KLINE: Thank you. Ms. Schmickel, would you please</p> <p>25 state and spell your name for us?</p> | 59 | <p>1 jurisdictions as well.</p> <p>2 MR. KLINE: All right. And how long have you been</p> <p>3 practicing architecture?</p> <p>4 MS. SCHMICKEL: 36 years.</p> <p>5 HEARING EXAMINER ROBESON: Do you --</p> <p>6 MR. KLINE: You didn't have to hesitate to answer that.</p> <p>7 MS. SCHMICKEL: Well, I just had my 35th anniversary</p> <p>8 with this firm. So I almost said 35 years.</p> <p>9 HEARING EXAMINER ROBESON: Congratulations. Is there</p> <p>10 anyone on this hearing -- I assume you are working toward</p> <p>11 qualifying Ms. Schmickel as an expert in architecture.</p> <p>12 MR. KLINE: That is correct.</p> <p>13 HEARING EXAMINER ROBESON: All right. Does anyone</p> <p>14 object? Her resumes in the record. Does anyone object to</p> <p>15 qualifying her as an expert in architecture?</p> <p>16 MR. BROWN: No objection from Maplewood.</p> <p>17 HEARING EXAMINER ROBESON: Okay. Hearing none, I will</p> <p>18 so qualify Ms. Schmickel. Ms. Schmickel, go ahead.</p> <p>19 MS. SCHMICKEL: Thank you.</p> <p>20 MR. KLINE: Ms. Schmickel, what exhibit would you like</p> <p>21 to have the hearing examiner bring up so you can kind of</p> <p>22 give us -- it probably should be the existing conditions</p> <p>23 plan. But which one would like her to pull up so you can</p> <p>24 kind of give us an inventory of what we have out there?</p> <p>25 MS. SCHMICKEL: The one I indicate as 38(m), which may</p> |
| 58 | <p>1 MS. SCHMICKEL: Joanna; J-O-A-N-N-A, Schmickel;</p> <p>2 S-C-H-M-I-C-K-E-L.</p> <p>3 MR. KLINE: And please state your business address.</p> <p>4 MS. SCHMICKEL: 2909 M Street Northwest, Washington,</p> <p>5 D.C. 20007.</p> <p>6 MR. KLINE: And what is your profession?</p> <p>7 MS. SCHMICKEL: I'm an architect.</p> <p>8 MR. KLINE: And what is architectural firm with which</p> <p>9 you are associated?</p> <p>10 MS. SCHMICKEL: Cox, Gray, & Speck Architects.</p> <p>11 MR. KLINE: All right. And does Cox Gray Speck</p> <p>12 Architects have a specialty working with private educational</p> <p>13 institutions?</p> <p>14 MS. SCHMICKEL: We do. We work with a lot of</p> <p>15 independent schools in the area.</p> <p>16 MR. KLINE: Have you ever qualified before as an expert</p> <p>17 in the field of architecture before a court of law, or a</p> <p>18 commission, board, or hearing examiner like we're appearing</p> <p>19 before today?</p> <p>20 MS. SCHMICKEL: I have.</p> <p>21 MR. KLINE: Do you have a recollection of when that was</p> <p>22 or what was the matter?</p> <p>23 MS. SCHMICKEL: I recently was with Georgetown Prep at</p> <p>24 a zoning hearing, preparatory school with Height School in</p> <p>25 the past actually with you Mr. Kline, and in other</p> | 60 | <p>1 or may not be existing because I think it might show the new</p> <p>2 buildings. So 38(m) is one I would like to see.</p> <p>3 HEARING EXAMINER ROBESON: Okay. I don't have that</p> <p>4 preloaded.</p> <p>5 MR. KLINE: Right.</p> <p>6 HEARING EXAMINER ROBESON: Go ahead.</p> <p>7 MR. KLINE: Right. I agree. We did not give you that</p> <p>8 to move over to that.</p> <p>9 HEARING EXAMINER ROBESON: Well, let's see if I can</p> <p>10 pull it up from -- oh no, it's not even on the website.</p> <p>11 MS. SCHMICKEL: I think the same numbers apply to</p> <p>12 the -- I want to say 49.</p> <p>13 HEARING EXAMINER ROBESON: Okay. Let me take a look at</p> <p>14 those.</p> <p>15 MS. SCHMICKEL: (Inaudible).</p> <p>16 MR. KLINE: That's not in your quick list either.</p> <p>17 MS. SCHMICKEL: Oh.</p> <p>18 HEARING EXAMINER ROBESON: Okay.</p> <p>19 MS. SCHMICKEL: Are we using the list. This is an</p> <p>20 architectural site plan. And I do have 38 indicated here.</p> <p>21 HEARING EXAMINER ROBESON: I have two computers on my</p> <p>22 computer. So I have to go to my other computer and go into</p> <p>23 our hard drive and see if I can't pull it up.</p> <p>24 MS. SCHMICKEL: Okay.</p> <p>25 HEARING EXAMINER ROBESON: Well let me --</p> |

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16 (61 to 64)

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| <p>61</p> <p>1 MS. SCHMICKEL: I'm trying to likewise look at the 2 exhibit list again. 3 HEARING EXAMINER ROBESON: Which number are you 4 thinking of? 5 MS. SCHMICKEL: Okay. I was using 38(m). And then 6 there was another set of architectural drawings that were 49. 7 HEARING EXAMINER ROBESON: Okay. Hold on. 8 MS. SCHMICKEL: The list that was most recently given 9 to me. 10 HEARING EXAMINER ROBESON: I apologize. This may take 11 some time. 12 MS. SCHMICKEL: 862, I see at the top. 13 HEARING EXAMINER ROBESON: Sometimes when I go in 14 virtually to my work computer, it's pretty slow. So if you 15 can just -- I tell you what. Let's do this. Let's take 16 (inaudible). 17 MS. SCHMICKEL: We could use another site plan. I 18 don't know Mr. Kline if you can help me navigate to it, just 19 because I am, as I have indicated, already I guess on the 20 wrong (inaudible). 21 MR. KLINE: I wasn't looking for anything too 22 sophisticated. And frankly, I probably would've use the 23 aerial photographs that we pulled out of the staff report 24 that we submitted to be included in your quick list. I'm 25 just checking to see what those were. There were four of</p> | <p>63</p> <p>1 MS. SCHMICKEL: Yes. We have, working from the east to 2 the west, the existing office building, which was built and 3 I think 2002. Next to that is the Lee Building. It has 4 five wings, kind of an E shaped building. Those rooms were 5 built that's the one, two, and three, which is the western 6 side of the building, were built from 61, 63, and 66. And 7 then wings four and five, which are the eastern two wings 8 were built in 85. Those two buildings are the buildings we 9 are using to house all of the educational spaces. 10 To the west of the Lee Building is the parking garage, 11 which will be used for school parking. And on the southern 12 (inaudible) is the Beaumont building which does not have 13 educational spaces. 14 MR. KLINE: Ms. Schmickel, the numbers of square 15 footage is in each of the buildings you just described, 16 which are stated in the staff report and are the subject of 17 condition number 1, those numbers are all consistent with 18 your calculations of the square footage of the existing 19 building; is that correct? 20 MS. SCHMICKEL: That's correct. 21 MR. KLINE: So from an architectural point of view, 22 what do you get to add to this to make it better? 23 MS. SCHMICKEL: It is almost exclusively interior 24 renovation. We are adding two vestibules, one just we see 25 the number six, one where you see the number three. Those</p> |
| <p>62</p> <p>1 them. 2 HEARING EXAMINER ROBESON: I have 80(a). Are those the 3 ones? 4 MS. SCHMICKEL: If that's a site plan or an aerial, I 5 can use that. 6 MR. KLINE: Yeah. Actually, unfortunately, I don't 7 have that on my list, but that does sound right. 8 HEARING EXAMINER ROBESON: Oh, you want a -- 9 MS. SCHMICKEL: Either a physical drawing or -- 10 MR. KLINE: The one that at the letters for each of the 11 buildings I thought was probably the easiest one to work 12 with for what I wanted to have Ms. Schmickel start off on. 13 HEARING EXAMINER ROBESON: How is this one? This is 14 80(a). 15 MR. KLINE: It hasn't popped up yet, but -- 16 HEARING EXAMINER ROBESON: 80(a) go ahead. 17 MR. KLINE: We are just waiting for it to come up Ms. 18 Robeson. It's not there yet. 19 HEARING EXAMINER ROBESON: I'm in the wrong -- okay. 20 How's that? 21 MS. SCHMICKEL: That's great. 22 MR. KLINE: There we go, perfect. Ms. Schmickel, using 23 Exhibit 80(a), would you please go ahead and describe what's 24 there and what your assignment was to make it adaptable for 25 the Rochambeau?</p> | <p>64</p> <p>1 are vestibules just so that the entrances comply with the 2 energy code. And then we are adding a small addition at the 3 roof to allow a stair to pop up to provide a second means of 4 egress to the fifth floor, which is a very small portion of 5 the building kind of where you see the words, Lee Building. 6 And then a stair just allows second means of egress from 7 that -- 8 MR. KLINE: I would probably like you to just kind of 9 give the hearing examiner a flavor of the style of 10 architecture, what we've got there, because everyone talks 11 about it being collegiate looking. Ms. Robeson, I was 12 hoping elevations got through to you, but maybe not. But in 13 that 80 -- Exhibit 80 package, were there any elevations at 14 all in there? 15 HEARING EXAMINER ROBESON: No, they didn't. 16 MR. KLINE: Okay. 17 HEARING EXAMINER ROBESON: If you wish -- if you wish, 18 the fastest thing to do, if you want to look at -- address 19 elevations, would be to take just a five minute break and 20 email them to me and I can load them. 21 MR. KLINE: Okay. Well, I think in order to do that -- 22 I wouldn't normally take the time because I know that Ms. 23 Schmickel can give a good reading of what the style is. But 24 you need those elevations to know where they are going to be 25 adding some things. So --</p> |

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17 (65 to 68)

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| <p>65</p> <p>1 HEARING EXAMINER ROBESON: Are they in the staff 2 report. I have the staff report. 3 MR. KLINE: Okay. Okay, great. 4 HEARING EXAMINER ROBESON: I can get to the staff 5 report. 6 MR. KLINE: That's great. I'm looking at page -- 7 figures 6, 7, and 8 on page 13. 8 HEARING EXAMINER ROBESON: Okay. I'm just looking for 9 the exhibit number of the staff report. That's all. 10 MR. KLINE: That's like 45. It's 56. 11 HEARING EXAMINER ROBESON: Okay. It should be up now. 12 Are you seeing it? 13 MR. KLINE: The staff report is there. And if you 14 could scroll through the page 13, that would be great. 15 HEARING EXAMINER ROBESON: 13. 16 MR. KLINE: It's the next page. 17 HEARING EXAMINER ROBESON: There we go. 18 MR. KLINE: There you go. So Ms. Schmickel, this is an 19 excerpt from the technical staff report, Exhibit 56 in the 20 record, found on page 13. And it shows the different 21 elevations of the building. So I guess I'll just maybe have 22 you kind of walk through each of the three elevations that 23 are on this page and just explain what they are showing, 24 what elevation is being portrayed in each drawing. 25 MS. SCHMICKEL: Fantastic. This is -- at the top of</p> | <p>67</p> <p>1 at the roof level, and I'm guessing those are column lines 3 2 and four. There is a small pop-up. It is likely not even 3 visible from grade. When we do our models and look up its 4 tucked way back. It is a stair that pops up to allow 5 egress. Yeah, that's note 7. And then as you move to the 6 second wing, which is the one with the big gable and the 7 portico between column lines 7 and 8 at the first two levels 8 of this wing, you will see a glass enclosure that provides a 9 vestibule under the portico. So the portico projects from 10 the base of the building. The columns are many feet 11 forward. And then underneath that portico we are enclosing 12 the entrance with a glass vestibule. 13 The building continues with three other wings 14 continuing that Georgian style, but we are not doing any 15 physical additions to the outside of the building other than 16 site work, ramps, stairs and sidewalks, et cetera. But 17 the -- any physical space that we've added to the building 18 are all on the first two wings. 19 MR. KLINE: Is there anything on figure 7 or 8 worth 20 noting? 21 MS. SCHMICKEL: You do see the -- on the west end of 22 the north elevation, which is figure 7, you do see those 23 same -- two of the same elements. So to the far right is 24 the west end of the building. Right side of the page is the 25 west end of the building.</p> |
| <p>66</p> <p>1 the sheet, figure 6 is the south elevation of the Lee 2 Building. This is the building that is E shaped in plan. 3 And what you see is on the far left is the end of the first 4 wing. Then the second wing -- 5 HEARING EXAMINER ROBESON: Wait. On the -- 6 MS. SCHMICKEL: Far left of the -- 7 HEARING EXAMINER ROBESON: Plan left? 8 MS. SCHMICKEL: Well, yes, which is the west end of the 9 building. You have a three-story wing that comes toward 10 you. It runs north-south. And then that's wing one, we 11 call it. Wing two is the next wing which runs east west. 12 And that has a two-story portico with like columns and gable 13 end. This is, I would call it Georgian style or Georgian 14 revival. It's not technically Georgian because it was built 15 in the '60s, but it is Georgian style. It has dormers at 16 the fifth floor. 17 And what you see in these two wings are the addition. 18 Working from west to east, the very west edge of the 19 building you see a very small -- on the west end of edge -- 20 on the first west wing, you see very small glass vestibule 21 and it's off to your -- continue to the west edge, continue 22 to the west edge. There you go. A very small glass 23 vestibule that provides enclosure going into the west side 24 of the building for the parking garage. 25 On the top of the west wing at the roof level -- yes --</p> | <p>68</p> <p>1 HEARING EXAMINER ROBESON: I forgot this is the north 2 façade. 3 MS. SCHMICKEL: They are on the north façade. 4 HEARING EXAMINER ROBESON: Yes. 5 MS. SCHMICKEL: We are looking at the north façade -- 6 HEARING EXAMINER ROBESON: Yeah. 7 MS. SCHMICKEL: Which is a pretty unadorned building, 8 just a series of French windows. They are divided 9 (inaudible). It's pleasant, but not as pretty as the south 10 side that faces the campus. And this is all existing. We 11 are adding that vestibule we talked about between -- on the 12 very west end, the glass vestibule. You can also see the 13 stair popping up above the first wing, which is note 7. 14 Note 15 is the vestibule. We've modified a few windows 15 along the north side to provide additional daylight as well. 16 But they do not add any square footage. They do not project 17 beyond the building face. 18 MR. KLINE: And is there anything about figure 8 worth 19 noting? 20 MS. SCHMICKEL: Figure 8 is the north façade. So what 21 is happening here is we are cutting through that vestibule. 22 So where you see notes 15, 6, and 9, that's the vestibule. 23 So it's very small, just big enough to walk over. And we 24 have to provide a ramp inside of it to navigate the 25 elevation change from the garage to the building and keep it</p> |

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18 (69 to 72)

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| <p style="text-align: right;">69</p> <p>1 ADA acceptable. You also see the stair bump up. That's 2 note 7 and it says new addition. You don't see the other 3 vestibule from this perspective. 4 MR. KLINE: And you're saying that the nature of the 5 work that's going to be done as well, not -- I'm sorry. 6 Would you describe the alterations that are occurring in the 7 building both interior and exterior? 8 MS. SCHMICKEL: The exterior alterations, mainly just 9 cleaning and repairing and fixing -- re-caulking windows. 10 And the addition, the additions are very understated. They 11 are classy. They are not intended to compete with the 12 architecture of the building. As noted earlier, it's a 13 handsome building and it definitely kind of creates a sense 14 of collegiate campus as Ms. Fabre said, I think in her 15 testimony. So what we are doing, we're repairing some of 16 the rails of the porticos, roofs and porticos. What we are 17 doing inside of the building is a complete renovation to 18 provide appropriate spaces for classrooms and gathering and 19 administrative spaces. And that's pretty much what's 20 happening in this building. 21 MR. KLINE: We were told that the east building, which 22 isn't really shown on any of these figures, was going to be 23 substantially modified internally to provide two gymnasiums. 24 Will there be no effect on the exterior the building because 25 of that change? It seems rather dramatic.</p> | <p style="text-align: right;">71</p> <p>1 again about 10 feet high. At the moment we are proposing 2 that there's going to be a synthetic stucco, and light 3 color. It will be compatible with the brick and stone of 4 the Lee Building and their white columns and white trim. 5 MR. KLINE: And the latter of the two you said would 6 have bathrooms in storage for the equipment to be used on 7 various recreation areas? 8 MS. SCHMICKEL: Yeah, the larger one which is the 9 number nine figure on the plan. 10 MR. KLINE: Thank you. Ms. Schmickel, since we have 11 the staff report and it had good elevations of the signage, 12 maybe I will just go there rather, because I'm not sure -- 13 so Ms. Robeson, could I draw your attention to pages 16 and 14 17 in the staff report? Thank you. Ms. Schmickel, would 15 you explain what this drawing shows? And then explain the 16 signage associated with each of the different labels that 17 are shown there? 18 MS. SCHMICKEL: The plan shows where signage is going 19 to be located. The -- working from east to west, the signs 20 that are labeled A and B are considered monumental signs. 21 So they have stone piers at the corners and between the 22 stone piers is the signage itself with the channel letters, 23 so the painted colored letter. Those signs are that I can 24 give you the side. There are about 4-1/2 feet tall. And 25 then the signs that's the one labeled A is 11 feet long and</p> |
| <p style="text-align: right;">70</p> <p>1 MS. SCHMICKEL: It is pretty dramatic, but it's all 2 internal to the building. We are removing a floor on two 3 different occasions so as to create a double story space. 4 And the exterior will remain unchanged. The building also 5 has a library and a science classroom and a number of other 6 academic spaces that are being renovated. There are some 7 spaces that we are completely leaving untouched. They're 8 just going to be office spaces for administration. And 9 there currently office spaces and they didn't need any work. 10 MR. KLINE: Ms. Robeson, if you could, return to 11 Exhibit 80(a), which is that aerial showing the 12 improvements. Ms. Schmickel, can -- will you be adding any 13 new structures on the property? And if so, what are they 14 and where they going? 15 MS. SCHMICKEL: Yes, we are adding two -- we're calling 16 them out building number one and outbuilding number two. 17 They are under the circles of numbers 9 and 10 on the plan. 18 Under number nine is a bathroom and storage building for the 19 elementary playfield. And number 10 is just a small 20 bathroom for the nursery playfield. 21 MR. KLINE: What are the dimensions of those buildings 22 and how are they finished off? 23 MS. SCHMICKEL: The dimensions are -- my apologies. 24 The smaller of the two is 14' x 20', about 10 feet high. 25 The larger of the two is about 28 feet square, 28 x 20 8'4",</p> | <p style="text-align: right;">72</p> <p>1 the one labeled B is 13-1/2 feet long. They are going to be 2 illuminated from the stake mounted lights that was part of 3 the earlier testimony. 4 They are intended to provide signage so that the 5 building and the campus is identified from Rockville Pike. 6 Once you get onto the site, there are signs that will be on 7 the -- there are going to be signs that aren't specifically 8 labeled that are directional signs to tell you which 9 direction to turn. The signs C that are on the building are 10 banner type signs. And D and E are standard building signs 11 just making kind of entry names. They are mounted on the 12 building. 13 And you might have the sign types and elevations in the 14 coming drawings. There we go. So that is what I refer to 15 as A and B, the monumental signs. You can see the stone 16 piers. That person is a scale figure, probably about 5-1/2, 17 6 feet tall. So the signs are approximately 4-1/2 feet. 18 The grade change is a tiny bit above 4-1/2 feet. And the 19 larger of the two is the sign that's going to be at 13-1/2 20 feet overall. And that's pier to pier. And again, they're 21 not internally illuminated. They have landscape lights 22 providing illumination. 23 The other signs are on the next page. Okay. So 10 24 mounted signs are at the entrances. They are on the 25 building. In this case, there is that's the first image you</p> |

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19 (73 to 76)

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| <p>73</p> <p>1 see, sign type G, that is the entry between the two 2 buildings, between the Lee Building and the east building. 3 So the sign will be individual letters mounted on the 4 canopy. And then on the right-hand side you see a, what we 5 are calling a banner type sign, sign C. And that is a 6 vertical sign that will be on the entrance to -- I'm sorry, 7 not the interest, but the east side of the east building. 8 I don't know what the next image is. And this shows 9 the 10 mounted letters at each of the porticos in the Lee 10 Building. We refer to them as wings 2 and 4. So over the 11 colonnade there will be a fascia that we can mount letters 12 to. None of these are illuminated. 13 MR. KLINE: Clearly the signage you have just described 14 exceeds 2 square feet in area, which is the requirement for 15 signage for nonresidential use in a residential 16 neighborhood. So the Applicant understands they will need 17 to go to the sign review board to ask for a waiver or a 18 variance to be able to have the signage package? 19 MS. SCHMICKEL: That's true. It will need a waiver. 20 We are using the dimensions allowed for monumental signs. 21 The monumental signs won't require a waiver. 22 MR. KLINE: And the staff and Parking and Planning 23 commission have reviewed this package and recommend that's 24 recommended it's compatible, but subject to approval by the 25 signage review board; is that correct?</p> | <p>75</p> <p>1 many office buildings. 2 MR. KLINE: Can I ask you how many schools, public or 3 private, have you designed and laid out on site plans? If 4 you can guess. 5 MS. SCHMICKEL: Many. Many, many campuses. A dozen, 6 two dozen, more campuses where we've done master plans and 7 have laid out schools. Schools are always in residential 8 areas. So they are -- 100 percent of them I think -- I 9 would say are in residential areas. 10 MR. KLINE: So based on that design experience and 11 seeing them actually get implemented, and your opinion, is 12 the proposal Rochambeau will not result in anything being 13 detrimental to the use, peaceful enjoyment, or development 14 of surrounding properties around the subject property? 15 MS. SCHMICKEL: I think it's very compatible and it 16 won't be detrimental. 17 MR. KLINE: Thank you. I've no further questions of 18 Ms. Schmickel. 19 HEARING EXAMINER ROBESON: All right. I see one hand 20 up from Mr. Wilkerson. Do you want to be recognized Mr. 21 Wilkerson? 22 MR. WILKERSON: Yes, I would. Thank you. 23 HEARING EXAMINER ROBESON: I see Mr. Myer's hand up 24 too. So go ahead Mr. Wilkerson. 25 MR. WILKERSON: Okay. Ms. Schmickel, I wanted to ask</p> |
| <p>74</p> <p>1 MS. SCHMICKEL: That's correct. 2 MR. KLINE: All right. Ms. Schmickel, in your 3 professional opinion as an architect, are the buildings that 4 you described here today and shown images of, 5 architecturally compatible with other buildings in the 6 surrounding neighborhood? 7 MS. SCHMICKEL: Yes, I think they are. They've been 8 there for a very long time. So I think they're quite 9 compatible. 10 MR. KLINE: And can you elaborate on that just a little 11 bit in terms of just materials or size, mass? So why do you 12 feel that they fit in? 13 MS. SCHMICKEL: The main building, the Lee Building 14 is, while a large building, it is broken down into the 15 masking of the individual wing so that it does not come off 16 as a single, huge building. The scale is residential. It 17 has residential scale elements. Windows and dormers and the 18 roofline of the wings 2 and 4 are sloped. There is a gable 19 end. I think that those elements are to feel residential 20 even though it is a large building. 21 And the east building, while an office building, is on 22 Rockville Pike. It is not in the neighborhood. So it's 23 more consistent with the Rockville Pike feel. But it is 24 also broken down by not being a simple box with some 25 undulation and manipulation so as to not feel as heavy as</p> | <p>76</p> <p>1 you some further elaboration on the two gymnasiums that are 2 being designed within the school. What would be the height 3 of the gyms (inaudible)? 4 MS. SCHMICKEL: There is going to be -- the gym spaces 5 are approximately 22 feet, 20 some feet to the underside of 6 structure. 7 MR. WILKERSON: Okay. And would there ventilation, 8 windows, light windows, et cetera on the exterior side? 9 MS. SCHMICKEL: We are not changing the windows or the 10 existing windows. 11 MR. WILKERSON: I didn't mean are you changing them. I 12 just meant are there windows that would be open to the gym 13 (inaudible). 14 MS. SCHMICKEL: I don't think they -- I do not think 15 they are operable windows on any of those. 16 MR. WILKERSON: But you're not sure? 17 MS. SCHMICKEL: I will confirm that quickly. Do you 18 have another question while I'm confirming that? I don't 19 know that any of them are operable. 20 MR. WILKERSON: Okay. 21 MS. SCHMICKEL: But I will note that the gym is on the 22 east side of the east building, facing roughly towards 23 Rockville Pike. 24 MR. WILKERSON: Right. Okay. Mr. Kline asked you in 25 your professional opinion whether any of the architectural</p> |

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20 (77 to 80)

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| <p style="text-align: right;">77</p> <p>1 features such as the gym would be harmful to the quiet 2 enjoyment of the neighborhood in your professional opinion. 3 And you responded that you did not think so. Is that 4 correct? 5 MS. SCHMICKEL: I agree. I do not think the gym is in 6 any way harmful to the experience of the neighborhood. 7 MR. WILKERSON: If the windows were able to be opened 8 and there were games, and referees, and whistles in the gym, 9 with the noise on the outside? 10 MS. SCHMICKEL: The windows are not operable. And if 11 they were, I don't think there would be a lot of noise. 12 There is a gym. One of the class -- one of the gyms is 13 going to be used only for PE classes. And they don't have 14 big competitions. But the windows are all fixed. 15 MR. WILKERSON: Do you know whether the constraint of 16 the gym being used only for PE classes is baked into the 17 application for special exception variance? 18 MS. SCHMICKEL: I don't know if it's in the special 19 exception, but I do know that it's a building code 20 requirement that we cannot use the upper gym for 21 competitions because it's got a limited capacity. 22 MR. WILKERSON: Okay. I'm asking -- 23 MS. SCHMICKEL: And that would be (inaudible). 24 MR. WILKERSON: Okay. And I'm asking the question out 25 of my own ignorance. As part of your architectural</p> | <p style="text-align: right;">79</p> <p>1 of the equipment is going to remain and some replaced. But 2 no, we are not making any major changes. 3 MR. MYERS: Okay, thank you. 4 HEARING EXAMINER ROBESON: Anyone else? Seeing and 5 hearing none. Mr. Kline, you may call your next -- Ms. 6 Schmickel, you may be excused. 7 MS. SCHMICKEL: Thank you. 8 HEARING EXAMINER ROBESON: And Mr. Kline, you may call 9 your next witness. 10 MR. KLINE: Thank you. Mr. Andres, are you with us? 11 MR. ANDRES: Yes, I am. Good morning. 12 HEARING EXAMINER ROBESON: Okay. Hold on one second. 13 MR. KLINE: Can we get your face on here, please? 14 HEARING EXAMINER ROBESON: Okay. Mr. Andres, would you 15 please raise your right hand? 16 Do you solemnly affirm under penalties of perjury that 17 the statements you are about to make will be the truth, the 18 whole truth, and nothing but the truth? 19 MR. ANDRES: I do. 20 HEARING EXAMINER ROBESON: Go ahead, Mr. Kline. 21 MR. KLINE: Mr. Andres, you listened to the hearing 22 yesterday; is that correct? 23 MR. ANDRES: Yes, I have. 24 MR. KLINE: So you have the advantage of having the 25 perspective that some of us don't have. So I'm not going to</p> |
| <p style="text-align: right;">78</p> <p>1 engagement, did you have anything to do with the field 2 configuration, design, et cetera? 3 MS. SCHMICKEL: No, we are working on the buildings 4 only. So you heard from the landscape and the civil 5 engineers who have worked on the outside features including 6 the play fields. 7 MR. WILKERSON: Okay. Very good. Thank you, Ms. 8 Schmickel. No further questions. 9 MS. SCHMICKEL: You're welcome. 10 HEARING EXAMINER ROBESON: Okay. Mr. Myers? 11 MR. MYERS: Yes. Back when the east building was 12 constructed, there was concern about noise from air 13 handlers. Are you changing any of the air handlers in 14 either the buildings and will it be much noise? 15 MS. SCHMICKEL: We're making some changes to the 16 mechanical equipment. And everything that is being changed 17 is more current because is going to be brand-new. And it's 18 going to be more efficient and improved. But I think any -- 19 I don't -- I can't say that I know the decibel level of the 20 air handlers compared to what is there now, but I would 21 propose that newer equipment is generally less noisy. 22 MR. MYERS: And it won't be additional equipment? It 23 will just be replacement? 24 MS. SCHMICKEL: Some will be replaced, but mainly on 25 the east building I think there is some reworking. But some</p> | <p style="text-align: right;">80</p> <p>1 ask you any questions. But I know you have some 2 professional ideas that I would like you to share with the 3 hearing examiner and the audience, please. 4 HEARING EXAMINER ROBESON: Well first, can you kindly 5 state your name and address for the record? 6 MR. KLINE: I guess I do need to qualify him, don't 7 lie? That's great. I'm sorry. 8 HEARING EXAMINER ROBESON: Yeah, I don't know who -- 9 MR. KLINE: Sure. 10 HEARING EXAMINER ROBESON: Is his resume in the record? 11 MR. KLINE: Yeah, it is. But let me do it the proper 12 way. I'm sorry. Mr. Andres, would you please state and 13 spell your name for us, please? 14 MR. ANDRES: My name is Erwin; E-R-W-I-N, Andres; 15 A-N-D-R-E-S. 16 MR. KLINE: And what is your professional address, 17 please? 18 MR. ANDRES: My professional address is 1140 19 Connecticut Avenue Northwest, Suite 600, Washington, D.C. 20 20036. 21 MR. KLINE: And what is your profession? 22 MR. ANDRES: I'm a draft engineer and transportation 23 planner. 24 MR. KLINE: And what is the firm with which you are 25 associated?</p> |

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21 (81 to 84)

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| <p>81</p> <p>1 MR. ANDRES: I am with Gorove/Slade Associates as one 2 of the owners. 3 MR. KLINE: And have you been intimately involved in 4 the preparation of the TIS and the technical memorandum 5 related to the Rochambeau project? 6 MR. ANDRES: I have. 7 MR. KLINE: And you listened to all the testimony 8 provided yesterday? 9 MR. ANDRES: I have. 10 MR. KLINE: Okay. 11 HEARING EXAMINER ROBESON: Yesterday was January 22, 12 correct? 13 MR. KLINE: Actually, you're right. It's just all run 14 together, hasn't it? 15 HEARING EXAMINER ROBESON: I know. I know. Go ahead. 16 I just made it -- I just wanted to make it clear for the 17 record. 18 MR. KLINE: Thank you. Mr. Andres, your resume is in 19 the record as Exhibit 73(b). But could you quickly describe 20 the length of time you've practiced traffic engineering and 21 transportation planning, and your experience in doing so? 22 MR. ANDRES: Yes. I have been practicing traffic 23 engineering and transportation planning for 26 years. I've 24 been formally considered an expert witness at the Board of 25 Appeals for the (inaudible) School back in 1997. I've also</p> | <p>83</p> <p>1 (Automated recording) 2 HEARING EXAMINER ROBESON: Whoever is having a personal 3 conversation on the phone. Would you kindly stop that 4 personal phone call or take it somewhere out of range of 5 this hearing? Okay. I'm going to unmute everybody. Okay. 6 We were getting to the point of Mr. Andres. Mr. Wilkerson 7 is in the batting circle for questions. So Mr. Kline, do 8 you want to continue with your questioning? 9 MR. KLINE: Well, based on that's what I would like to 10 do is offer Mr. Andres based on his experience and his 11 previous qualification as an expert in the fields of traffic 12 engineering and transportation planning. 13 HEARING EXAMINER ROBESON: Does anyone have an 14 objection? Okay. Hearing none and seeing none, Mr. Andres, 15 you are so qualified. Go ahead. 16 MR. KLINE: Mr. Andres, as I said, I don't really have 17 any questions because I was hoping you could help sort out a 18 lot of what we heard yesterday. So why don't you just go 19 ahead and pursue it any way you would like? 20 MR. ANDRES: Yes, great. Thank you for the opportunity 21 to speak. I'm going to try to keep this as short as 22 possible. My colleague Katie Wagner, I believe did a 23 wonderful job of providing the context for the project and 24 answering specific questions. What I would like to do Ms. 25 Robeson, is if you can, pull up Exhibit 63. It's slide 3,</p> |
| <p>82</p> <p>1 appeared before the Montgomery County executive hearing 2 examiner on behalf of Northwood Gateway in 2015 as well. 3 HEARING EXAMINER ROBESON: Well, let me ask you. I do 4 have his resume. Are you qualifying him as a traffic 5 engineer and transportation planner? 6 MR. KLINE: I am. Since he has qualifications in both, 7 I was going to go ahead and qualify him in both. I'm not 8 quite sure what pigeonhole his testimony fits into, but he 9 is qualified in both areas. 10 HEARING EXAMINER ROBESON: Okay. Is there anyone -- 11 Mr. Wilkerson, I see your hand up. Is there anyone that 12 objects to him being qualified? 13 MR. WILKERSON: No objection, just wanted to be in the 14 queue to ask questions after he's done with his testimony. 15 Thank you. 16 HEARING EXAMINER ROBESON: Okay. I'm -- you're way 17 ahead of me. Okay. Yes, who's speaking? 18 (Unrelated virtual conversation.) 19 HEARING EXAMINER ROBESON: Wait. We are here in 20 someone's conversation. 21 (Unrelated virtual conversation.) 22 HEARING EXAMINER ROBESON: I don't want to get in 23 trouble under the wiretap act here. 24 MR. MYERS: We should just mute it all and do a star 25 six.</p> | <p>84</p> <p>1 which says trip generation comparison. I'm going to hit 2 three points relatively quickly. 3 And the first point is, I just wanted to present the 4 project in terms of the context of what has happened over 5 the years. I know there has been discussion about the link 6 the process by which this project has gone through. And I 7 think a lot of it had to do with our coordination with 8 agency. When we first came in, we had a plan that we 9 thought was workable. We had -- it complied with the 10 requirements related to LATR, and that was in that June 1st 11 plan. 12 And what had happened was we were comparing it to the 13 existing office building that was there as well as the 14 existing approvals for that office building to be increased 15 to 200,000 square feet of office. What I wanted to remind 16 everybody on this presentation today, is yeah, to put this 17 in context because 170,000 square feet of office and going 18 up to potentially 210,000 square feet of office is not an 19 insignificant number. There are trips that are currently -- 20 there had been going to the neighborhood when the site was 21 occupied, and obviously going through those approvals. 22 There was a situation where additional trips were 23 proved to be on the network. So as we met with all of the 24 relevant agencies, what our common thing that we heard was, 25 reduce your trips. Is there any way you can reduce your</p> |

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22 (85 to 88)

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| <p>85</p> <p>1 trips? And each time we did so was more of an operational 2 issue that the school had to invest in. They would have to 3 invest in additional resources. They would have to change 4 the culture of the school. And in so doing, we did keep on 5 reducing the number of trips.</p> <p>6 MR. KLINE: Mr. Andres, could you take a step back and 7 maybe elaborate on why we are being told by public agency to 8 reduce the traffic? What were those exterior points of 9 friction that needed to be addressed?</p> <p>10 MR. ANDRES: So their issues related to access. As my 11 colleague Ms. Wagner had identified with agencies had 12 concerns about the southbound U-turns that were occurring at 13 Alta Vista Road and all of the operational considerations 14 associated with that. In some respect, the County was 15 also -- had expressed their concerns of traffic that was 16 related to school using residential streets.</p> <p>17 And so for us, the impetus as a team and as a group, 18 was to reduce the levels such that the school can still be 19 able to manage their operations, albeit more difficult than 20 when they first started. And I think what was critical for 21 us as a team was to identify those traffic levels and get 22 them down to a point that seemed reasonable. And then we 23 thought that the most reasonable opportunity to get those 24 traffic levels down were to get them down to essentially 25 what we were currently approved for.</p> | <p>87</p> <p>1 where I want to end sort of this component of it.</p> <p>2 I think it's important that as part of this we address 3 a lot of the issues that -- or actually, all of the issues 4 the agency brought up. There was a time where, as we talked 5 about, there were considerations for keeping the existing 6 Alta Vista Terrace right-of-way open. There was also a 7 situation where, in trying to mitigate some of our issues, 8 where a new driveway on Alta Vista Road was actually 9 considered. And in both instances, we thought that those 10 were situations that didn't really pose itself to being 11 accepted by the neighborhood.</p> <p>12 So we pivoted to a point where if we reduce the amount 13 of traffic that -- to a point where we were before that's 14 below what we were approved, we thought we were in a 15 situation that A, not only addressed the LATR requirements 16 and issues, but B, also get to a point with the neighborhood 17 at one point in time had agreed to -- with respect to 18 FASEB's potential expansion. So I just wanted to lay that 19 out as context. As I mentioned, I think Ms. Wagner had 20 addressed a lot of the other questions.</p> <p>21 MR. KLINE: Mr. Andres, before you go on, is part two 22 going to talk about some of the techniques you used to get 23 that trip down to the levels you are talking about? Or if 24 it wasn't, can you tell us what some of those were so we 25 understand how you tightened the screws?</p> |
| <p>86</p> <p>1 And so as I mentioned before, FASEB as current 2 approvals to go to 200,000 square feet of office. And if 3 you look at the table that's up on your screen right now, if 4 you look at the bottom line, which was our last plan, our 5 last essentially submittal to all of the agencies, was in 6 February 20 of last year. And if you look at that result in 7 trip generation, that result in trip generation is not too 8 far off the existing condition. And in all cases, it's 9 actually lower than what we are approved for. So that was 10 our goal when we tried to reduce -- you know, when we 11 were -- when it was time in February for us to take another 12 look at a plan that tried to address all the issues, our 13 goal internally was to get --</p> <p>14 HEARING EXAMINER ROBESON: Lower than what FASEB was 15 approved for?</p> <p>16 MR. ANDRES: Yes, that's correct.</p> <p>17 HEARING EXAMINER ROBESON: Okay.</p> <p>18 MR. ANDRES: So our goal internally was that, okay, it 19 was February. At that point the school had gone to this 20 process for over two years. And so February 20th seemed to 21 be, at least as an internal discussion, as our best last 22 opportunity. And so we wanted to take essentially our best 23 shot at addressing all of the issues. And we believe that 24 the only way that we could do that was to get below what we 25 were approved for through our current approvals. So that is</p> | <p>88</p> <p>1 MR. ANDRES: Yeah. So as I mentioned, the agency said, 2 thanks for your new plan, but try harder. And each 3 iteration essentially identified as being more aggressive 4 with buses. I think there was one point where we thought 5 there was a certain level of busing that was started out 6 with that was -- that we thought was appropriate. And then 7 the agency asked if we could do more busing.</p> <p>8 Well, we've got the busing to a point where the only 9 people that aren't getting bused to school our students who 10 are essentially too young not to be bused. And so I think 11 that is a situation where everybody else who are physically 12 possible, physically able to get bused to school, we are 13 doing so. The only exceptions are these younger children 14 who technically aren't allowed to be bused and their 15 siblings. And in addition to that, all of the other people 16 who are driving are part of the before or aftercare.</p> <p>17 MR. KLINE: And Mr. Andres, the busing is certainly the 18 most critical element. But where there are other techniques 19 that you used also to reduce trip generation?</p> <p>20 MR. ANDRES: Yes. So if you look at our -- one of our 21 first studies that were done in June 2018, there was a 22 provision. Given the costs associated with some of these 23 programs, the school was looking to generate revenue by 24 leasing back some of the space to FASEB. And that was in a 25 range of I believe 50,000 square feet 55,000 square feet.</p> |

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23 (89 to 92)

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| <p style="text-align: right;">89</p> <p>1 So in that instance, when we had gotten to sort of our last 2 plan that we believed was the most appropriate and most 3 feasible, it was eliminating that 50,000 square foot office 4 component so that FASEB no longer had access to that, which 5 the school needed to generate revenue for, but they thought 6 reducing the traffic was a bigger priority for that. And 7 it -- 8 MR. KLINE: What did -- maybe I am anticipating what 9 the next thing you're going to say is; what did the school 10 do to try and change the arrival and departure times to get 11 them out of the peak hours? 12 MR. ANDRES: So I guess the next item -- and you 13 anticipated that really well, Jody. So the next item we did 14 was also -- you know, our goal. And when you look at TMPs 15 not only of private institutions, but of even federal 16 agencies, is to disperse the arrival of faculty and staff. 17 Or in a general sense, reduce the impact of the employees. 18 So in that respect, we have identified that Helene and her 19 administration were providing opportunities for them to 20 schedule the arrival of the faculty staff outside of the 21 peak hour. 22 So the -- and so our approach wasn't a silver bullet 23 approach. It's a tiered approach. And typically when you 24 look at TMPs that have been successful at private schools 25 and institutions, the goal is to have a tiered approach</p> | <p style="text-align: right;">91</p> <p>1 I think some of the other improvements that we are 2 incorporating that was requested of us with the agency is we 3 are improving the Pooks Hill Road approach by increasing the 4 stacking that's available today. And we are doing that by 5 modifying the median and expanding some pavement marking. 6 And -- 7 HEARING EXAMINER ROBESON: Can you see -- I'm sorry. 8 When you say Pooks Hill Road approach you're talking 9 eastbound? 10 MR. ANDRES: Yes. 11 HEARING EXAMINER ROBESON: Thank you. 12 MR. ANDRES: So the eastbound approach to Pooks Hill 13 Road where people who are essentially exiting our site and 14 going around the corner to use Pooks Hill to head north, we 15 are actually that's because we are impacting, we are 16 actually improving the condition because we are adding 17 additional stacking there that's not available today. And 18 we are doing that by modifying the median there. There is a 19 median there that we are modifying. We are adding 20 additional pavement markings that aren't currently there. 21 So in that sense, we are providing mitigation measures at 22 that intersection that don't currently exist today. 23 And then the two other items are relative to some of 24 the state highway agency comments. We are creating a 25 barrier, we are introducing a physical barrier that may</p> |
| <p style="text-align: right;">90</p> <p>1 because what you do is, having a tiered approach allows you 2 to address the different elements of the plan and not just 3 one specific one. So that is -- that is sort of an overview 4 of the context. 5 So now what I wanted to get into quickly is that if you 6 were to look at sort of the story -- the first element of 7 the plan was identified how we got to levels, essentially 8 below what was approved. I think the next goal was, okay, 9 that isn't our only obligation here. I think our additional 10 obligation is to see how we make -- now that we've got the 11 level below what's approved, we have an obligation to make 12 things better. 13 And I think the mitigation component of our plan is 14 somewhat understated in our previous testimony. So this is 15 my opportunity to pick that up. And I think what's critical 16 here is to identify what was improved. And I think the 17 improvements were pretty clear. We are providing a 18 consolidated access plan where we essentially eliminate all 19 of the other driveways except for Rockville Pike access. We 20 are providing an accel and decel lane that if we -- if FASEB 21 were still the occupant and the Applicant and they were to 22 increase themselves to 210,000 square feet, their access 23 plan would be consistent with what is out there today. And 24 so you wouldn't get the improvements that we are proposing 25 is part of the school.</p> | <p style="text-align: right;">92</p> <p>1 include bollards, so that people who are exiting our site, 2 they're going to be physically discouraged by bollards to 3 not essentially, get over, weave three lanes, get over make 4 a U-turn. So there's going to be a physical improvement 5 there to prevent them from doing that. 6 And then the last item which state highway had 7 requested of us is to introduce what was called a HIB, which 8 is a hazardous intersection beacon. And in that, what we're 9 doing is we are introducing a beacon as you are heading 10 southbound that will alert motorists who are currently 11 coming down Rockville Pike to be able to see that there is a 12 school at our location and will allow for motorists to be 13 alerted of the fact that there are people trying to get into 14 the decel lane into the site. 15 So it was important for us to not only, like I said, 16 get us to a point where the traffic levels were below what 17 was approved, but also essentially improve what is currently 18 out there today. And then the last item which was brought 19 up a lot in previous testimonies is with the TMP. It's my 20 understanding this road management plan (inaudible) familiar 21 with them, preparing them, as are we. And we just wanted to 22 highlight that what we have in our October TMP are 23 essentially the bones of what we think we can use to move 24 forward. 25 A lot of the elements in the TMP -- you know, I hate to</p> |

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24 (93 to 96)

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| <p style="text-align: right;">93</p> <p>1 say it, there's not a lot of rocket science. It's TMP 2 measures that are in our toolkit that are in the toolkits of 3 many other jurisdictions as well. The whole concept of 4 busing, the whole concept of managing your staff and 5 operations, the whole concept of providing education and 6 outreach to the populations who are using it, we are not 7 reinventing the wheel. And it's shown to be effective all 8 over the county. 9 And the -- I guess the critical elements that we 10 believe that need to be worked out are the monitoring, the 11 pleasing elements. And I think that's where some of the 12 agencies come in. I believe the staff report that I -- that 13 has -- that was a result of the review of our TMP, pushing 14 it out to the preliminary plan allows all of the agencies to 15 confer on some of the elements, which is consistent with a 16 lot of the previous special exceptions for the other private 17 schools. So in that, Mr. Kline, I'm available for questions 18 if there isn't anything additional that you would like 19 covered. 20 MR. KLINE: Well, only to elaborate on -- do you feel 21 that TMPs have become less popular or less functional in the 22 current situation? Or do you find them still to be 23 appropriate devices to regulate conditional uses, special 24 exception uses? 25 MR. ANDRES: I believe that they are -- if anything,</p> | <p style="text-align: right;">95</p> <p>1 system, but I believe the (inaudible) on-site I think there 2 are opportunities here that we are taking advantage of that 3 a lot of other schools don't have. 4 MR. KLINE: I have no further questions of Mr. Andres. 5 HEARING EXAMINER ROBESON: Okay. I have four hands up; 6 Mr. Wilkerson, Mr. Myers, Ms. Umhofer, and Mr. Brown. So 7 Mr. Wilkerson, you've been on base. Go ahead. 8 Mr. Wilkerson? Hello? Okay. We're going to move to 9 Mr. Myers. I don't know if Mr. Wilkerson -- 10 MR. WILKERSON: Can you hear me now? 11 HEARING EXAMINER ROBESON: Yes. 12 MR. WILKERSON: Can you hear me? 13 HEARING EXAMINER ROBESON: Yes. 14 MR. WILKERSON: Okay. The star six (inaudible). 15 HEARING EXAMINER ROBESON: This is Mr. Wilkerson, 16 correct? 17 MR. WILKERSON: That is correct, yes. 18 HEARING EXAMINER ROBESON: Okay, go ahead. 19 MR. WILKERSON: Thank you. Mr. Andres, thank you for 20 your presentation. You had indicated that the traffic 21 levels recommended in your report were intended to be 22 reasonable and lower than the FASEB levels approved; is that 23 correct? 24 MR. ANDRES: Yes. As part of our LATR analysis, what 25 we've identified is the trip generation that we are</p> |
| <p style="text-align: right;">94</p> <p>1 they are more critical than ever. I think the beauty of the 2 TMPs is that I think there are technologies that allow for 3 TMPs to operate more efficiently. In the past, call it 10, 4 15, maybe even 20 years ago, the opportunity to get 5 information out is more limited. I think the ability to 6 provide communications not only to the users of the TMP, but 7 also people looking to enforce it, I think there are 8 opportunities that (inaudible) dealt with that allows for 9 more efficient policing and enforcement that was probably 10 more difficult to take place decades ago. 11 MR. KLINE: Would you call your submission of the TMP 12 the synthesis of a review of other existing TMPs and an 13 assemblage of best management practices appropriate for the 14 situation? 15 MR. ANDRES: Yes. As part of our -- you know, as part 16 of our experience working on private schools, I personally 17 have worked on over a couple of thousand private schools in 18 a region. And so the whole concept of picking elements and 19 synthesizing elements that have been successful in other 20 environments and other jurisdictions -- Mr. Kline, just to 21 give you a sense of scale, we are headquartered in 22 Washington, D.C. where the potential provide 700 linear feet 23 of on-site staffing is a luxury that many schools in the 24 whole region, I would probably say in the whole state, that 25 don't have. I think there are some constraints with our</p> | <p style="text-align: right;">96</p> <p>1 generating during the commuter peak hour will be protected 2 to be lower than the -- what is currently approved for FASEB 3 and only slightly higher in the morning than what is 4 currently existing. 5 MR. WILKERSON: Okay. And currently the special 6 exception for FASEB is 700 employees; is that correct? 7 MR. ANDRES: I -- I'm not familiar with the employee 8 number. What's relevant in the way we do this analysis is 9 per square footage. But if you are -- 10 MR. WILKERSON: Okay, well how many -- 11 MR. WILKERSON: Well, okay. I'll state it differently. 12 How many trips do you maintain that FASEB is currently 13 allowed to do per day? 14 MR. ANDRES: The -- if you were to -- Ms. Robeson, if 15 you would, pull up Exhibit 63 again, and pull up slide 3. I 16 think that would help to answer Mr. Wilkerson's answer -- 17 question. So the short answer, as she pulls it up, is in 18 the morning it's 100 -- there you go. So are you talking 19 about the approval of the approved FASEB or the existing 20 building FASEB? 21 MR. WILKERSON: Existing building FASEB. 22 MR. ANDRES: According to our calculations it's 160. 23 MR. WILKERSON: Okay. Help me out here. So FASEB 24 under their special exception is allowed to have 700 25 employees. I find it a little bit difficult using the</p> |

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25 (97 to 100)

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| <p>97</p> <p>1 standards that it would be the number here you are citing. 2 Surely some of them walk, take bus, some of them may 3 carpool. But to have that that low of a number for capacity 4 of 700 employees doesn't make sense. What am I missing? 5 MR. ANDRES: I'm not quite sure what you're missing. 6 This is that we have an industry standard that allows us to 7 look at square footage and it's not employee base. You 8 know, the -- typically when you look at trips coming in, it 9 is based on some percentage of transit that takes place. 10 And in addition to that, some of the people that come before 11 7:30 and some of the people come before 8:30 -- or come 12 after 8:30. So there is a mix of any office building 13 regardless of where their staff is. There is a big 14 component of people coming in before and after that peak 15 hour. 16 HEARING EXAMINER ROBESON: Wait just a second. You 17 haven't done a peak hour study in FASEB. 18 MR. ANDRES: We have not, no. But if I were to -- 19 HEARING EXAMINER ROBESON: I'm just saying -- keep 20 going. But go ahead. 21 MR. WILKERSON: Okay, thank you. So what you're saying 22 there is with 210 square feet, your estimating a.m. peak of 23 198 and a p.m. peak of 139 for a total of 196; is that 24 correct? 25 MR. ANDRES: Yes, that's correct.</p> | <p>99</p> <p>1 MR. WILKERSON: Okay. 2 MR. ANDRES: One coming in. One coming out. 3 MR. WILKERSON: Okay. So then if you have one school 4 student who was being driven, their parents would come in in 5 the morning and drop them off and leave. That would be two 6 trips. And then never come in the afternoon and pick them 7 up. So that would be two trips for a total of four per 8 student per day; is that correct? 9 MR. ANDRES: That is correct. And to give you -- to 10 give you sort of an accurate component with respect to 11 busing; so 30 percent of all the nursery students are going 12 to be bused. So (inaudible). 13 HEARING EXAMINER: I'm sorry, Mr. Andres. I have to 14 take that I have a family member in medical difficulty. I 15 have to take a call. I apologize to everyone. Can we go on 16 a five minute recess? And I'm sorry to do this midstream. 17 I'm just getting multiple texts. So I do apologize. With 18 that, don't leave the meeting. All those thoughts, 19 everybody in line to speak. And I really do apologize for 20 this. All right. You may want to mute yourselves so your 21 conversations don't -- aren't recorded while you're on 22 recess. So with that, we will be back at 12:00 noon. Thank 23 you. 24 (Recess from 11:55 a.m. to 12:05 p.m.) 25 MR. WILKERSON: Yes, and I think Mr. Andres was in the</p> |
| <p>98</p> <p>1 MR. WILKERSON: Okay. So what does LATR view as a 2 trip? 3 MR. ANDRES: A vehicle either entering a site or a 4 vehicle exiting the site. That is the LATR definition. 5 MR. WILKERSON: Okay. So one in and one out. 6 MR. ANDRES: Just to be clear, one vehicle that comes 7 in is one trip. One vehicle that comes in and comes out is 8 actually two trips. 9 MR. WILKERSON: Okay, yeah. So per the traffic 10 management plan, the school is planning to have 50 percent 11 of the students bused of the total capacity of 700, 350 of 12 which could be dropped off, little kids are kids at siblings 13 and the other school, and then up to 192 staff. 14 MR. ANDRES: So for the -- 15 MR. WILKERSON: So -- 16 MR. ANDRES: So I need to provide you a better sort 17 of -- a better detail of that sort of mix that you talked 18 about. And because everything you had said is not quite 19 accurate. Let me pull that up. But as I do that, if you 20 can give me another question to answer. 21 MR. WILKERSON: Well, what I was trying to contrast is 22 that if you took one FASEB employee who came to work by car, 23 so then park their car, works through the day, and then 24 left, that's one trip under the LATR. Or is that two trips? 25 MR. ANDRES: That's too trips.</p> | <p>100</p> <p>1 middle of answering a question about that slide 2 or page 2 2 of the trip generation comparison. 3 MR. ANDRES: Yes, that's correct. I think I needed to 4 clarify a couple of things that you brought up, Mr. 5 Wilkerson. In terms of the number of nursery students being 6 bused, it's 30 percent of nursery students are to be bused. 7 And of the elementary students, it's 82 percent of the 8 elementary students are going to be bused. And the reason 9 why it's not 100 percent is because those are -- some of 10 those elementary students that will be dropped off as part 11 of the before care program and then some of those elementary 12 students are going to be dropped off because they are 13 siblings of somebody in the nursery school. So that 14 (inaudible). 15 MR. WILKERSON: Okay. So just to clarify then. Under 16 the requested special exception amendment by the school, up 17 to 700 students could attend in total, correct? 18 MR. ANDRES: That's great. That's correct. 19 MR. WILKERSON: Help me understand those two 20 percentages you said. So the 82 percent and the other 21 percentage. How many will not be bused under that 700 22 student maximum? 23 MR. ANDRES: So the way that it's broken out is of the 24 700 students, 200 are nursery and 500 are in elementary. So 25 of the 200 students that are in nursery, 30 percent of them</p> |

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26 (101 to 104)

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| <p>101</p> <p>1 will be bused. The rest will not. And then the same 2 applies with the 82 percent of the 500 elementary school 3 students. 4 MR. WILKERSON: So in total, how many students would 5 that be when you multiply those percentages, please? 6 MR. ANDRES: It's 210. Or excuse me, 30 percent of 200 7 is -- or 70 percent of 200 is -- so 140 students won't be 8 bused. And 18 percent of 500, 90. 9 MR. WILKERSON: All right. So what's that total up to? 10 MR. ANDRES: 210 plus 90 is -- no, excuse me; 7 times 11 200, so 140 plus 90 is 230. But there is potentially -- 12 there is some potential overlap in that 230 (inaudible). 13 MR. WILKERSON: Okay. I'm just trying to calculate 14 total maximum trips under this plan. And then in terms of 15 the two percentages that would be bused, how does the school 16 enforce that those number percentages would actually be met? 17 MR. ANDRES: Well, there is -- 18 MR. WILKERSON: Under the TMP. 19 MR. ANDRES: There are two elements of that, right? 20 There is the school's efforts to schedule and require the 21 busing because as somebody (inaudible) a badge to enter the 22 site to drop somebody off, you wouldn't be allowed to drop 23 somebody off. And then in addition to that, that would 24 obviously be something that they would sign up -- that the 25 parents would sign up for at the beginning of the school</p> | <p>103</p> <p>1 student. You can put your child on the bus, or you can 2 drive to school and drop off your child as part of the early 3 care program. 4 HEARING EXAMINER: How many people in the before and 5 after care? 6 MR. ANDRES: Can I reserve the answer? 7 HEARING EXAMINER: Sure. 8 MR. ANDRES: I'm checking with a colleague. 9 HEARING EXAMINER: I'd rather know for sure then for 10 maybe. And then, what's to prevent -- saying the nursery -- 11 or I'm sorry. The person that has to be bused, say that's 12 what's to prevent that person from just driving? 13 MR. ANDRES: Well, first well first of all, because all 14 of the modes are preregister, there will be an enforcement 15 mechanism that the child either -- as a vehicle holding the 16 child pulls up, there's going to be some sort of 17 identification that requires them to show up in the line. 18 HEARING EXAMINER: Now why -- if that's the case, why 19 do I have to defer it to a TMP? Why can't I just put it as 20 a condition? 21 MR. ANDRES: Well, our plan has -- doesn't identify 22 that particular element of identification. And again, there 23 is some flexibility associated with technology that can 24 allow -- that can provide that sort of registration 25 enforcement. There's apps (inaudible).</p> |
| <p>102</p> <p>1 year. So there is that element. And then the (inaudible). 2 HEARING EXAMINER: Mr. Andres? 3 MR. ANDRES: Yes. 4 HEARING EXAMINER: I missed the first thing. And the 5 second thing is, what are they signing up for? As -- can 6 you go back? I apologize. Go back to Mr. Wilkerson's 7 question and just tell me how it's enforced. 8 MR. ANDRES: Yes. So there's two elements of it. 9 There is the enforcement. There is the registering of 10 students. At the beginning of the year -- 11 HEARING EXAMINER: What does that do? 12 MR. ANDRES: Yeah. So at the beginning of the year, 13 the parents are going to have to -- if they don't have a 14 nursery student that is able to be bused, then they will 15 have the opportunity to drive. So that's the first one. So 16 if you have a nursery student and the student is too young 17 to be put on the bus, that person will be -- will drive. 18 That's going to be part of the enrollment time. 19 HEARING EXAMINER: So, okay. Okay. Back a little bit. 20 I'm sorry. I lost my train of thought. Mr. Wilkerson, 21 keep -- Mr. Wilkerson was doing a great job. You go ahead. 22 MR. ANDRES: So at the beginning of the school year, as 23 part of the enrollment contract, as a parent you have 24 essentially three options. You can either drive to school, 25 but that's only limited to parents who have a nursery school</p> | <p>104</p> <p>1 HEARING EXAMINER: I get that we did that with a 300 2 person daycare where they have to log the people in any way. 3 And so as a (inaudible) I don't want to argue with Mr. Kline 4 about -- but why can't I as part of my special exception 5 just put that condition in so there is a direct 6 enforceability? 7 MR. ANDRES: Well, I'm looking at our TMP and -- 8 HEARING EXAMINER: No, I mean that's okay. Just answer 9 my question. Why can't I put the condition of the TMP in 10 the conditional use approval? 11 MR. ANDRES: Well, there is nothing from a traffic 12 standpoint that would prohibit you from putting any sort of 13 condition on anything, Ms. Robeson. 14 HEARING EXAMINER: That's kind of where I'm going. So, 15 okay. I get that. So do you mind continuing on with Mr. -- 16 the list of enforcement mechanisms? If you could be 17 specific about how are they going to know that these numbers 18 are -- you know, that the targets are being met. How do 19 they monitor that? And Mr. Wilkerson, if I'm not phrasing 20 your question, you are going to have a chance to continue 21 asking, all right? 22 MR. WILKERSON: Very good. Very good. 23 MR. ANDRES: So I do want to couch my responses are 24 essentially best management practices. And I -- you know, 25 we haven't worked out the specific details of the placards</p> |

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27 (105 to 108)

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| <p>105</p> <p>1 or specific details of the technology related to that. But 2 in practice, or in theory, the way that would -- that that 3 would be worked out is some sort of identification system 4 that as a parent approaches purchase with their child and 5 they're not supposed to approach with their child, that 6 parent -- well, we would know who that parent is. 7 HEARING EXAMINER: Do you monitor who gets off the 8 buses? Or is that necessary? You only -- what you are 9 saying is you only have to monitor the cars that are 10 approaching. Is that what you are saying? 11 MR. ANDRES: Yes, because -- 12 HEARING EXAMINER: Okay. 13 MR. ANDRES: You know, we -- yes. The short answer is, 14 yes. 15 HEARING EXAMINER: I'm sorry to jump in. First I 16 jumped out. Then I jumped in. Mr. Wilkerson, keep going. 17 MR. WILKERSON: Okay. So -- 18 MR. ANDRES: I have answers to Mr. Wilkerson's previous 19 question. 20 HEARING EXAMINER: Could you repeat the question, 21 please? 22 MR. ANDRES: Well actually, it was your question, Ms. 23 Robeson. You asked how many students are in before care and 24 how many are in aftercare. And we have projected 136 25 students in morning care and 176 students in aftercare.</p> | <p>107</p> <p>1 MR. ANDRES: The -- yes. 2 HEARING EXAMINER: Okay. Mr. Wilkerson, you raised too 3 many issues. I can't stop interrupting. I will not 4 interrupt from now on. 5 MR. WILKERSON: Not a problem. I think they're helpful 6 clarifications for the record. Okay. So we've got 210 plus 7 192. We are talking close to 400 there potential per day 8 under the request for special exemption variant. On top of 9 that, you might have -- 10 MR. ANDRES: Mr. Wilkerson, so the number is 140 of the 11 nursery students are being driven. Right, so that's 12 (inaudible). And 90 of the elementary students being 13 driven. So that comes up to 230. 14 MR. WILKERSON: All right. Then I'm adding 195 for 15 staff. So that's 425 under the request for special 16 exemption variance if you add staff and students driven. 17 I'm just trying to get the total trips per day. 18 MR. ANDRES: Okay. 19 MR. WILKERSON: So I'm coming up with 425 total trips 20 per day; is that correct? 21 MR. ANDRES: The math sounds correct. So, yes. 22 MR. WILKERSON: Okay, good. I wanted to ask you, are 23 you familiar with permanent traffic counter devices such as 24 a pneumatic road tube or a PVL electric sensor or inductive 25 loops that come into roadways?</p> |
| <p>106</p> <p>1 MR. ANDRES: I guess the real question is, how many 2 children are not going to be arriving by bus. That's the 3 real question. And when -- and when are they arriving? But 4 let's continue with Mr. Wilkerson. 5 MR. WILKERSON: Very good. 6 HEARING EXAMINER: Sorry. 7 MR. WILKERSON: So Mr. Andres, could you again -- we've 8 discussed a couple of different things. But you came up 9 with a total on those percentages of the preschool and the 10 elementary school. What was that total again? 11 HEARING EXAMINER: The preschool and the elementary 12 school. So it was 30 percent of the 200. So that's -- so 13 140 of the nursery school students are being driven and 18 14 percent of the 500, which means 90 of the elementary 15 students are going to be driven. 16 MR. WILKERSON: All right. So 230 total. And then the 17 special exemption modification would allow up to 192 staff; 18 is that correct? 19 HEARING EXAMINER: The number we have is 195. 20 MR. WILKERSON: Okay. Thank you for that 21 clarification. And do you know -- 22 HEARING EXAMINER: Do you have any -- just a second. 23 Do you have statistics on how many -- are your trip 24 generation rates, do they assume that all of the staff are 25 driving?</p> | <p>108</p> <p>1 MR. ANDRES: Yes, we are familiar with all of that 2 technology. 3 MR. WILKERSON: Is there any reason why the school 4 cannot put those at the entrance and exits of the driveway 5 to have a daily, real-time monitoring of the trips that come 6 and go? 7 MR. ANDRES: Well, that's something that we haven't 8 talked to the school about. Again, we've identified as part 9 of the TMP, the general elements with respect to enforcement 10 and policing. Those details are still yet to be determined 11 and to be worked out with, not only the school, but the 12 intent is to work that out with the community as well as the 13 agencies. 14 MR. WILKERSON: Yes, what -- I'm sorry I wasn't as 15 precise in my question as I intended to be. Is there any 16 physical reason that those -- one of those or all three of 17 those types of traffic counters cannot be put it in the two 18 driveways? 19 MR. ANDRES: Well, there is -- you know, there is -- 20 physically speaking, there is a cost associated with that. 21 You know, that equipment -- 22 MR. WILKERSON: I'm not talking about cost. 23 Physically, could the road be cut to put a pneumatic road 24 tube or a PVL electric or inductive loop? -- Is a yes or 25 no.</p> |

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28 (109 to 112)

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| <p>109</p> <p>1 MR. ANDRES: There is technology that allows for that</p> <p>2 to happen. So, yes.</p> <p>3 MR. WILKERSON: Okay. And that would be a real-time</p> <p>4 way of measuring each and every trip into and out of the</p> <p>5 school; is that correct?</p> <p>6 MR. ANDRES: In that case, yes.</p> <p>7 MR. WILKERSON: Okay. And then that 425 total we had,</p> <p>8 the 230 plus the 195 staff, 230 students, 195 staff under</p> <p>9 the special exemption request, you might have some</p> <p>10 additional students picked up by parents whose children may</p> <p>11 have come by bus, but they're going to stay after school for</p> <p>12 an extra afterschool activity; is that correct?</p> <p>13 MR. ANDRES: Well, that's what afterschool is, yes.</p> <p>14 MR. WILKERSON: What I'm trying to say is, one of -- a</p> <p>15 student who didn't get counted in a driveway drop off could</p> <p>16 trigger a driveway pick up because they didn't ride the bus</p> <p>17 home, but they stayed for an afterschool activity. Is that</p> <p>18 correct?</p> <p>19 MR. ANDRES: Yes, that's correct. Or vice versa.</p> <p>20 There could be a student that -- yes. There is some</p> <p>21 fluctuation in that. If that's what you're asking.</p> <p>22 MR. WILKERSON: Okay, very good. Very good. I wanted</p> <p>23 to thank you for the answers to those questions. I'm not</p> <p>24 going to take up too much time. But I wanted to flip to</p> <p>25 Exhibit 63, page 7. If we could, bring that up.</p> | <p>111</p> <p>1 I identified how this project works in context with what's</p> <p>2 existing today, the intent was that we wanted to be able to</p> <p>3 reduce the volume such that the amount that's the number of</p> <p>4 vehicles on Alta Vista Road would be relatively in the same</p> <p>5 range that the FASEB site is currently approved for. As I</p> <p>6 mentioned earlier, the FASEB site is currently approved to</p> <p>7 allow for 80 vehicles to use the Alta Vista Terrace</p> <p>8 entrance. Given that Alta Vista Terrace is essentially a</p> <p>9 dead end and doesn't really go anywhere, it ties into Alta</p> <p>10 Vista Road, which is a neighborhood street. So if those 80</p> <p>11 vehicles were on a neighborhood street, us routing 80</p> <p>12 vehicles on Alta Vista Road is, in context, not that far off</p> <p>13 from what we are currently approved. So --</p> <p>14 MR. WILKERSON: The question is, is there any reason</p> <p>15 why the parents could not use Cedar Lane and the school</p> <p>16 could mandate that they not -- and the site plan best the</p> <p>17 traffic management plan could mandate that's why get that --</p> <p>18 well, let me rephrase it. Could the traffic management plan</p> <p>19 and the school's agreement with the parents mandate that</p> <p>20 they use was to Cedar Lane and not use any of those blue</p> <p>21 routes through the neighborhood?</p> <p>22 MR. ANDRES: Well, there is any plan that can be done</p> <p>23 to do that. As I mentioned before, we believe that this is</p> <p>24 an appropriate route to help support the school and the</p> <p>25 paths taken by the parents.</p> |
| <p>110</p> <p>1 HEARING EXAMINER: I will do so. You should see it.</p> <p>2 MR. ANDRES: Yes.</p> <p>3 MR. WILKERSON: Okay. Mr. Andres, this is the route</p> <p>4 that the buses and the parents were advised to take by the</p> <p>5 French School; is that correct?</p> <p>6 MR. ANDRES: Not advised. We haven't placed any</p> <p>7 restrictions for any of the parents. So in that respect,</p> <p>8 this is a path that we believe that they would take.</p> <p>9 MR. WILKERSON: Right. And then on Friday, Ms. Wagner</p> <p>10 was asked if there was any reason why the path was not to be</p> <p>11 Cedar Lane West going up to Old Georgetown Road. And she</p> <p>12 indicated that the -- your team and figured that the parents</p> <p>13 would be more likely to do this blue line drop to the</p> <p>14 neighborhood. And so that's why it was put in instead of</p> <p>15 with Cedar Lane. Is there any reason why you could not --</p> <p>16 the school cannot have a constraint that forbade parents</p> <p>17 from driving on those routes and buses from those routes,</p> <p>18 but instead of to Cedar Lane or Georgetown?</p> <p>19 MR. ANDRES: Can you reiterate the beginning part of</p> <p>20 that question? Because I want to be clear that the</p> <p>21 characterization of our analysis is such that we believe</p> <p>22 that these are the paths that the parents would take given</p> <p>23 where they could go after leaving the site.</p> <p>24 MR. WILKERSON: Right.</p> <p>25 MR. ANDRES: And the intent was, again, as I said when</p> | <p>112</p> <p>1 MR. WILKERSON: Okay, very good. Are you familiar with</p> <p>2 the roads that are on -- the blue dotted roads there on the</p> <p>3 diagram?</p> <p>4 MR. ANDRES: Yes, I am.</p> <p>5 MR. WILKERSON: You are. One of the questions that Ms.</p> <p>6 Robeson asked Ms. Wagner is whether the roads were guttered</p> <p>7 and curbed, and I believe the answer was yes. Are you</p> <p>8 familiar with Linden Avenue south of Alta Vista Road?</p> <p>9 MR. ANDRES: I am familiar. I'm going to have to</p> <p>10 confer with my notes. So what's the question?</p> <p>11 MR. WILKERSON: Well, are there -- is it fully curbed</p> <p>12 and guttered?</p> <p>13 MR. ANDRES: Let me check my notes. I don't have the</p> <p>14 notes for that. What I do have is the width as Ms. Robeson</p> <p>15 had asked for.</p> <p>16 MR. WILKERSON: Is that an average width or the most</p> <p>17 narrow width?</p> <p>18 MR. ANDRES: I believe it's the width -- we can provide</p> <p>19 this in exhibit as part of any additional filing.</p> <p>20 HEARING EXAMINER: Yeah, these are really good</p> <p>21 questions. My thought is, there is a rebuttal, but -- or</p> <p>22 you can do it later in their case in chief. I would rather</p> <p>23 have the information correct than spend time on not knowing</p> <p>24 what information is.</p> <p>25 MR. KLINE: The Applicant -- this is Mr. Klein. And</p> |

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29 (113 to 116)

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| <p>113</p> <p>1 the Applicant is prepared to go do all those measurements. 2 He just wasn't capable of getting it done over the weekend. 3 And we would like to leave the record open long enough to 4 get that information into the record. 5 MR. WILKERSON: Okay. Is it back to me? 6 HEARING EXAMINER: Yes, the ball is -- the pitch is to 7 you. Go ahead. 8 MR. WILKERSON: Great. Thank you. Let me try this and 9 provide the question so others can ask him. On Beech, does 10 it have curbs and gutters all the way? Are you on mute? 11 MR. ANDRES: I am referring to my notes. On Beech, 12 there are sidewalks. 13 HEARING EXAMINER: Well, I don't -- what are you 14 looking at? Maybe we should include that in the 15 information. Well, go ahead Mr. Wilkerson. 16 MR. WILKERSON: Yeah. I will simplify this Ms. 17 Robeson. Again, maybe if they are going to provide 18 supplemental information, but let me just -- I'm not trying 19 to testify here. I'm trying to move it along. I walked 20 Beech, Linden, and Locust last night and measured the width. 21 Upper Linden has no sidewalks, no curbs, no gutters. Locust 22 has no sidewalks, no curbs, no gutters. And parts of Beech 23 have no curbs and no gutters. The narrowest point on Beech 24 is 21 inches, 21'4" wide. And on Locust it's 2 feet, 4 25 inches wide. So I think we need some additional information</p> | <p>115</p> <p>1 recommendation was raised. And for us, we thought that the 2 more important question is not how many students, but how do 3 the students get there. And that's why in each iteration 4 there was an increased busing percentage that was 5 implemented as part of the plan. 6 MR. MYERS: Okay, thank you. The second question is, 7 you said that the intersection of Pooks Hill Road and 8 Rockville Pike was going to be modified to deal with traffic 9 coming from your (inaudible) north from Pooks Hill Road. 10 HEARING EXAMINER: Mr. -- 11 MR. MYERS: How do you expect them to get there? 12 HEARING EXAMINER: Mr. Myers, I apologize. Your 13 question blanked out. Your audio cut out. 14 MR. MYERS: It's spiking out here at times too. 15 HEARING EXAMINER: Yeah. 16 MR. MYERS: The question was, you said that you 17 expect -- you are working on Rockville Pike and Pooks Hill 18 Road intersection to allow traffic to more -- to have more 19 stacking for traffic from your site to go north. 20 MR. ANDRES: Yes. 21 MR. MYERS: How do you expect them to get to that point 22 of Pooks Hill Road? 23 MR. ANDRES: Well, if you look at the -- to give you 24 some context, Mr. Myers, if you look at graphic, the graphic 25 that shown, parents would, after dropping off the child or</p> |
| <p>114</p> <p>1 in response to where sidewalks are, curbs and gutters, given 2 how this dotted blue line would map it out. So would you be 3 able to do that Mr. Andres? 4 MR. ANDRES: As Mr. Kline said, we -- 5 HEARING EXAMINER: (Inaudible) around to a question. 6 MR. ANDRES: We are -- as Mr. Kline said, in order to 7 address Ms. Robeson's questions from last week, we will 8 prepare an exhibit that has all of the information. And we 9 will include curb and gutter. The question that we had 10 before was sidewalks and roadway widths. But since you're 11 asking the question about curbs and gutters, we will include 12 it. 13 MR. WILKERSON: Okay, very good. I will hand the baton 14 off to other people. I've taken much time. But thank you, 15 Mr. Andres, for your polite answers to my questions. No 16 further questions at this time. 17 MR. ANDRES: Thank you. 18 HEARING EXAMINER: All right. The next up, I have Mr. 19 Myers. 20 MR. MYERS: Yes. Two brief questions for Mr. Andres. 21 During the course of the discussions on how traffic would be 22 mitigated, was a request made to the school to reduce the 23 size of the student enrollment? 24 MR. ANDRES: From -- well, the agencies, as a component 25 of -- in the back and forth, that question was -- that</p> | <p>116</p> <p>1 after they pick them up, would exit the site, turn right 2 onto Rockville Pike, turn right onto the Alta Vista Road, 3 turn right onto Linden. You're not allowed to turn left 4 onto Beech. So you would be required to turn right onto 5 Pooks Hill. And that's how they end up on that Pooks Hill 6 approach. At that Pooks Hill approach, as I mentioned 7 before, we are modifying the median and adding additional 8 striping to allow for two extended left turn lanes at that 9 location. 10 MR. MYERS: Since I'm not sworn, I can't contradict you 11 on one point. 12 HEARING EXAMINER: Yeah, we will get -- let's get to -- 13 MR. MYERS: Well, let me ask one -- the point is -- my 14 question is, if you're doing all that for Pooks Hill Road, 15 what are you doing for the neighborhood that has to absorb 16 this traffic? 17 MR. ANDRES: Well, the -- well, as I mentioned before, 18 the -- in developing our modified program, what we were 19 trying to do is get our traffic levels down below the levels 20 of what is currently approved for the FASEB extension. So 21 as part of that, we are improving all of the access on 22 Rockville Bike. We're closing the Alta Vista Terrace, which 23 currently serves traffic. So in that respect, you know, 24 like I said, we're trying to minimize our activities 25 associated with that.</p> |

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30 (117 to 120)

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| <p>117</p> <p>1 MR. MYERS: Okay. I won't belabor this but I will take 2 care of it in my testimony. 3 HEARING EXAMINER: Thank you. Ms. Umhofer. 4 MS. UMHOFFER: Thank you. You mentioned the 80 vehicle 5 number and that the -- you think that the numbers on this 6 blue route are going to be roughly similar to the 80 vehicle 7 number that was historically allowed out of Alta Vista 8 Terrace. Is that consistent with your testimony? 9 MR. ANDRES: So my testimony is essentially that we, as 10 part of our current special exception, we are allowed 80 11 vehicles to access the Alta Vista Terrace driveway. 12 Vehicles from Alta Vista Terrace eventually end up on Alta 13 Vista Road. So in that respect, the 80 vehicles associated 14 with leaving our site, which is the max, is in the same 15 range of those 80 vehicles that would potentially be on Alta 16 Vista Road. 17 MS. UMHOFFER: So you're saying the total numbers daily 18 of traffic that you expect to go on this blue path down Alta 19 Mr. Road would be roughly 80? 20 MR. ANDRES: No, not at all. You know, like I said, we 21 are comparing the -- so the 80 vehicles that have access to 22 Alta Vista Terrace, that's 80 vehicles. Those vehicles can 23 come in. Those vehicles come out. Those vehicles can come 24 in and out during lunch hour, lunch break. So there is more 25 than just those 80 vehicles that have access to that Alta</p> | <p>119</p> <p>1 HEARING EXAMINER: We may be able to provide it at some 2 point. 3 MR. ANDRES: Yes, we could. Ms. Robeson, we can 4 provide that as part of our additional information that we 5 are providing for the record. We have that number and we 6 can come up with that number, but at this point it's -- I 7 don't want to waste everybody's time doing math again. 8 HEARING EXAMINER: (Inaudible). 9 MS. UMHOFFER: Would you agree -- you mentioned -- we 10 just went to these numbers with Mr. Wilkerson, that 230 11 students in an academic year will be driven. And so would 12 you agree that the number of students leaving the site is 13 going to be -- the trips are going to be much higher than 80 14 that would come down the path? 15 MR. ANDRES: Not necessarily. Not everybody is heading 16 north. The reason why people are heading south to turn 17 right onto Alta Vista is because they are looking to head 18 north or northwest. So in this case, in the mornings, is 19 there a potential for a parent to drop off the child and 20 head into downtown Bethesda because that's where they work? 21 Absolutely. You know, that could be a significant number. 22 But not all 230 students that are being driven are going to 23 end up on Alta Vista. That's unfeasible. 24 MS. UMHOFFER: Okay. Now in the summer -- I want to 25 walk through the summer numbers just as you did with Mr.</p> |
| <p>118</p> <p>1 Mr. Terrace entrance. 2 MS. UMHOFFER: So let me ask the question another way. 3 How many vehicles do you expect to leave the school and turn 4 down Alta Vista Road and then proceed on one of these other 5 routes daily? 6 MR. ANDRES: So there is -- so if you look at that 7 number, there is -- 8 MS. UMHOFFER: I'm not interested in the peak hour. I 9 want the daily total. 10 MR. ANDRES: So again, what -- so what we are 11 responsible for in our analysis is looking at peak hour 12 arrivals. So if you ask -- 13 MS. UMHOFFER: Do you not have an answer about the daily 14 totals? 15 MR. ANDRES: We can find the answer. It will -- 16 MS. UMHOFFER: I would be very interested in that. 17 MR. ANDRES: Okay. 18 HEARING EXAMINER: If I can point out, I know that the 19 preliminary plan focuses on the peak hour. But in special 20 exceptions, you do have a compatibility analysis that can 21 look at other conditions beyond peak hour. So go ahead. 22 MS. UMHOFFER: I think that's really my question. It 23 seems that we don't know that number. 24 HEARING EXAMINER: Well, okay. So -- 25 MS. UMHOFFER: But I --</p> | <p>120</p> <p>1 Wilkerson on the academic year numbers. You've requested 2 approval for 700 students in summer camp with no mandatory 3 busing until you hit a certain threshold number. 4 MR. ANDRES: Yes. 5 MS. UMHOFFER: But once that threshold hits, then my 6 understanding is you would commit to busing 25 percent of 7 the 700 summer campers. So how many summer campers would be 8 driven? 9 MR. ANDRES: So the -- 10 MS. UMHOFFER: (Inaudible). 11 MR. ANDRES: So consistent -- as of right now, there is 12 no summer program. So unlike our school program, our 13 typical school program, we don't have -- excuse me -- we 14 don't have historical information regarding who is being 15 driven or who is being dropped off. What we do know is that 16 the impacts associated with the summer program, we are 17 looking to cap that consistent with what we are doing on a 18 typical school day. So if the school has caps that we will 19 abide by during a typical school day, that will apply for 20 the summer program. So whatever that is, we would work out 21 a busing program that would be commensurable. 22 MS. UMHOFFER: Okay. So where is that written down and 23 what is that proposal? 24 MR. ANDRES: So -- well the TMP for typical school day 25 would be applied to the summer program. And the caps</p> |

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| <p style="text-align: right;">121</p> <p>1 associated with the typical school day are the caps that 2 will be applied to a typical summer program. 3 MS. UMHOFFER: But what is the number? Do you recall 4 the -- I guess I just don't -- if you have 700 students and 5 25 percent are bused, my math shows that that would be 6 650 -- no, 525 campers not being bused in comparison to the 7 230 during the year. So how would you then meet the same 8 restrictions that you have during the academic year? 9 MR. ANDRES: I'm trying to find the -- you cited a 25 10 percent busing number. 11 MS. UMHOFFER: Yeah, I believe that was in the TMP or in 12 the staff report. That's what they had committed to. 13 MR. ANDRES: I'm trying to find that to provide some 14 context to that. So give me two seconds. Can you -- 15 HEARING EXAMINER: Well, I have -- Mr. Andres, this may 16 help. I have up the staff report. And let me just share 17 it. And I think I am where she is referring to. A minimum 18 of 20 -- on Saturday school day and on summer camp day -- 19 MR. ANDRES: Yes. 20 HEARING EXAMINER: -- they have to bus 20 -- is that 21 what you are referring to Ms. Umhofer? 22 MS. UMHOFFER: Yes. 23 MR. ANDRES: Okay. So that's a minimum. When we 24 get -- if for some reason, or if the school is lucky enough 25 to get 700 students -- to get 700 students in their summer</p> | <p style="text-align: right;">123</p> <p>1 spread out the impacts during an hour. 2 For example, as I mentioned our -- the teachers that 3 are driving to school we're requirement them to come extra 4 early because we don't want them to come during the peak 5 hour. And so -- 6 MS. UMHOFFER: So what measure -- if I'm a resident of 7 Alta Vista and I'm worried about 100 extra cars associated 8 with the summer camp driving down my street and you're only 9 restricted on the peak hour what measures would prevent 600 10 camping cars from coming down my street where my kids are 11 walking to Maplewood Alta Vista Park and crossing the street 12 repeatedly? 13 MR. ANDRES: Well, that's what the monitoring is here 14 to do. Is that once you get -- 15 HEARING EXAMINER ROBESON: I think her question is 16 nonpeak hour. What I think she is saying is that TMP 17 doesn't cover nonpeak hour trips; that's what I think she is 18 saying. 19 MS. UMHOFFER: Yeah, I'm asking if it does; because I 20 have to ask you a question. 21 MR. ANDRES: So part of the TMP is to move cars out of 22 the peak hour. 23 MS. UMHOFFER: And I'm asking a different question. I'm 24 just concerned about overall volume on my residential 25 street; what in the TMP address is that? I don't care when</p> |
| <p style="text-align: right;">122</p> <p>1 camp program, there is no way we could fit under those trip 2 caps if we are only doing 25 percent. 3 MS. UMHOFFER: Okay. 4 MR. ANDRES: So these are -- 5 HEARING EXAMINER: So why not just put the trip caps on 6 all of it? 7 MR. ANDRES: Well, that's the intent, is that -- 8 HEARING EXAMINER: I don't understand why the 9 minimum -- 10 MR. ANDRES: The trip caps apply to all of the 11 conditions were that the school day, a Saturday, Saturday 12 day, or summer day. And so we wanted to provide a baseline 13 that, while that -- depending on how many students are 14 there, it will be a minimum of 25 percent. But if we are at 15 a situation where we have 700 students, 25 percent is not 16 going to be enough and we recognize that. And that's why 17 it's written as a minimum, not a maximum. 18 HEARING EXAMINER: Okay. Okay. I will let Ms. Umhofer 19 take it. Go ahead. 20 MS. UMHOFFER: I think this is my last question. And 21 does the trip cap total trips or just peak hour trips? 22 MR. ANDRES: Well, the trip cap is relative to our 23 impacts during the peak hour, consistent with all the other 24 private schools we've worked with. And the trip caps -- and 25 the reason for that is because some of our TDM measures help</p> | <p style="text-align: right;">124</p> <p>1 it happens. It can happen at 10 a.m., it can happen at 7 2 a.m.; I'm concerned about the volume of traffic, so what 3 addresses that? 4 MR. ANDRES: Well, the first thing that we did is we 5 closed off the Alta Vista Terrace driveway. So we know for 6 sure nobody is going to be on Alta Vista Terrace. With 7 respect to the traffic on Alta Vista Road, as I mentioned, 8 you know we're in a situation where we've tried to limit the 9 total peak hour trip generation such that is consistent with 10 what is currently approved. 11 As for the off peak, there are -- there's going to be 12 fluctuations of traffic in the off peak that's enabled us to 13 do that. 14 MS. UMHOFFER: What does that mean? As to the off-peak 15 there are going to be fluctuations that enable you to do 16 what? 17 MR. ANDRES: In the off peak condition the off-peak is 18 going to be relatively limited because the kids will be -- 19 HEARING EXAMINER ROBESON: Well, what about the special 20 events? 21 MR. ANDRES: So the special events is separate from 22 everything that's identified in the TMP, and that special 23 events, as you know, would typically occur outside of any of 24 the peak hours that these special events are occurring. And 25 we would plan such that the parking needs of those are</p> |

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| <p>125</p> <p>1 managed.</p> <p>2 HEARING EXAMINER ROBESON: But you don't have a</p> <p>3 specific plan now?</p> <p>4 MR. ANDRES: For special events, we do not.</p> <p>5 MS. UMHOFFER: Okay. I have one final question and then</p> <p>6 I will let you go. Where in your -- as I'm sure you're</p> <p>7 aware Rockville Pike is incredibly -- southbound Rockville</p> <p>8 Pike is extremely congested in the morning hours. And that</p> <p>9 is not just during one peak hour, is congested for a long</p> <p>10 period of time. When this was an office building employees</p> <p>11 would arrive in the morning and not exit and be forced onto</p> <p>12 South Rockville Pike during the morning rush hour. So I</p> <p>13 guess the counting of trips of employees versus the parents</p> <p>14 dropping students that arrive and then leave, how is that</p> <p>15 reflected in your numbers when you're comparing the peak</p> <p>16 hour trips?</p> <p>17 MR. ANDRES: Well, when we compare the peak hour trips,</p> <p>18 you know regardless of how they get there the site is going</p> <p>19 to generate trip -- the office component at FASEB, those</p> <p>20 trips compared to the peak hour trips of the school is how</p> <p>21 we compare them. As for the individual street (inaudible)</p> <p>22 there's going to be some disparity, and I think that's what</p> <p>23 you're getting at.</p> <p>24 MS. UMHOFFER: Yeah. I guess I'm asking on those, if</p> <p>25 you can go back to that slide that was showing the FASEB</p> | <p>127</p> <p>1 compared to what the school is generating during the evening</p> <p>2 peak hour.</p> <p>3 MS. UMHOFFER: Right. That's -- well, it may or may not</p> <p>4 be, but the southbound Rockville Pike isn't nearly as</p> <p>5 congested in the evening as it is in the morning. And so</p> <p>6 the problem for Alta Vista is, you know, every car that</p> <p>7 exits in the morning is going to be in standstill traffic,</p> <p>8 and that is why I guess I -- is that why you are suggesting</p> <p>9 they turn on Alta Vista just to avoid the standstill traffic</p> <p>10 on Rockville Pike in the morning?</p> <p>11 MR. ANDRES: No. The reason why people are turning</p> <p>12 right on -- at Alta Vista is because A, the state highway is</p> <p>13 essentially preventing anybody leaving the site to cut</p> <p>14 across three lanes of traffic in order to make a U-turn at</p> <p>15 Alta Vista road to head north. Today, in some cases that</p> <p>16 happens. And it's a condition that state highway wants to</p> <p>17 get rid of, and so that's why were required to head south</p> <p>18 and turn right on Alta Vista.</p> <p>19 MS. UMHOFFER: Well, they didn't require you to turn</p> <p>20 right on Alta Vista, did they?</p> <p>21 MR. ANDRES: They didn't require us, but as we</p> <p>22 understand as somebody who is leaving the site that's your</p> <p>23 option to go north.</p> <p>24 MS. UMHOFFER: You could also go down to West Cedar and</p> <p>25 turn right, correct?</p> |
| <p>126</p> <p>1 trips, do we have an indication of how many of those are</p> <p>2 exit trips from FASEB in the morning?</p> <p>3 HEARING EXAMINER ROBESON: Let me get to the slide. I</p> <p>4 think it's 63. And do you know what page it would be?</p> <p>5 MR. ANDRES: I believe it's 7 or 8.</p> <p>6 HEARING EXAMINER ROBESON: Thank you. Okay.</p> <p>7 MR. ANDRES: So I guess to answer your question Ms.</p> <p>8 Umhofer, you're asking how many people will be exiting -- if</p> <p>9 FASEB were to reoccupy the site that driveway. And it's</p> <p>10 probably going to be a low number.</p> <p>11 MS. UMHOFFER: Right.</p> <p>12 MR. ANDRES: If that's what you're asking. Yes.</p> <p>13 And --</p> <p>14 MS. UMHOFFER: And what is the comparison for a school</p> <p>15 exiting in the morning?</p> <p>16 MR. ANDRES: During the morning peak hour, it's 80</p> <p>17 vehicles that are going to be using Alta Vista Road.</p> <p>18 MS. UMHOFFER: Okay. I guess I'm looking at --</p> <p>19 MR. ANDRES: It's 80 versus a very low number; which is</p> <p>20 what your question was.</p> <p>21 MS. UMHOFFER: Well yeah, but I'm asking more</p> <p>22 specifically about exiting. Yeah so exiting in the morning.</p> <p>23 And I guess we don't head out --</p> <p>24 MR. ANDRES: But on the flipside in the evening there's</p> <p>25 going to be a much bigger number associated with FASEB</p> | <p>128</p> <p>1 MR. ANDRES: You're correct.</p> <p>2 MS. UMHOFFER: Okay. That's all I have. Thank you.</p> <p>3 MR. ANDRES: Thank you.</p> <p>4 HEARING EXAMINER ROBESON: Mr. Andres -- and then, I</p> <p>5 have Mr. Brown up. I do have a question. By avoiding peak</p> <p>6 hours, do you have any information on the overall volume</p> <p>7 that will be on the neighborhood roads throughout the day?</p> <p>8 But because by avoiding peak hour, you're stretching out the</p> <p>9 length of time that the activity occurs.</p> <p>10 MR. ANDRES: Well, I --</p> <p>11 HEARING EXAMINER ROBESON: Do you have any information</p> <p>12 on the volume during the day?</p> <p>13 MR. ANDRES: We can provide that information along with</p> <p>14 all the other information and we can --</p> <p>15 HEARING EXAMINER ROBESON: I'm going to turn it over to</p> <p>16 Mr. Brown.</p> <p>17 MR. BROWN: Good morning Mr. Andres, how are you?</p> <p>18 MR. ANDRES: Fine.</p> <p>19 MR. BROWN: I just want to go back to the very first</p> <p>20 part of your testimony. My understanding is that you were</p> <p>21 saying that one of the goals of the school is to reduce the</p> <p>22 number of vehicle trips to below the trip levels previously</p> <p>23 approved for FASEB; is that correct?</p> <p>24 MR. ANDRES: Well, that was our ultimate goal. You</p> <p>25 know we -- there were numerous iterations that you can see</p> |

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| <p>129</p> <p>1 upon this trip generation comparison. We went in in 2018, 2 2019 where we were reducing. If you notice there is a 3 steady reduction in trips until September of '19 where we 4 still weren't getting traction from the agency. 5 MR. BROWN: But my -- well, I understand that that 6 is -- did I correctly characterize your testimony? 7 MR. ANDRES: Yeah. 8 MR. BROWN: All right. I want to focus on the word 9 approved, which you used. Who approved what, and when with 10 regard to FASEB? 11 MR. ANDRES: I am -- I guess it's my understanding, and 12 again Mr. Brown, Mr. Klein may need to help me out with this 13 answer. 14 HEARING EXAMINER ROBESON: Well, he can't help you out. 15 MR. ANDRES: No, no. In terms of -- 16 HEARING EXAMINER ROBESON: Just (inaudible) you can. 17 MR. ANDRES: It's our understanding that FASEB, that's 18 a special exception approval that allowed them to go up to 19 210,000 square feet. And if I mischaracterized that I'm -- 20 you know that's not my intent to mischaracterize it. That 21 is my understanding of their ability to get (inaudible). 22 MR. BROWN: My question is really oriented toward 23 whether or not anyone had ever done any historical 24 accounting of the use of that property and approved a number 25 of vehicle trips or whether it's a maximum, or any other</p> | <p>131</p> <p>1 approving the special exception dated December 17th and if 2 it's not too troubling could you pull that up? That report 3 at page 5? 4 HEARING EXAMINER ROBESON: I think you may be referring 5 to the staff report? 6 MS. WILKERSON: Yes, the staff report. 7 HEARING EXAMINER ROBESON: Okay. I'm going to page 5, 8 preliminary -- okay. Let me just make sure I'm presenting 9 it. Okay. Go ahead, it should be on your screen. 10 MS. WILKERSON: Let's see this is not the exact -- is 11 this dated December 17th? 12 HEARING EXAMINER ROBESON: Yes. 13 MS. WILKERSON: Okay. Can you try paragraph 14D, I had 14 on page 5. 15 HEARING EXAMINER ROBESON: Okay. 16 MS. WILKERSON: I have the right place. I figure it 17 will be just easier to see while I'm talking. 18 HEARING EXAMINER ROBESON: Yeah. 19 MS. WILKERSON: There we are. I just have questions 20 for a moment here. This talks about the approval being 21 granted that they must enter a management plan to perform in 22 perpetuity. If you can look at D, lower case ii; discourage 23 nonlocal traffic through the Maplewood neighborhood. Can 24 you share with me what it is that you anticipate in terms of 25 doing this discouragement, and can we have those items</p> |
| <p>130</p> <p>1 basis for concluding it other than associating the size of 2 the building with a table which shows an approximate number 3 of vehicles for that size building for that size use; is 4 that really all that's going on here when you use the word 5 approved? 6 MR. ANDRES: Not at all. As part of their -- I'm 7 referring to my notes. It's my understanding that there was 8 a traffic impact study done to support the application to 9 allow for that 210,000 square feet. 10 MR. BROWN: Okay. When? When was that done, and who 11 approved it? 12 MR. ANDRES: I'm in the process of conferring with my 13 colleagues to get the date of that traffic impact study. 14 But there was a traffic study because I reviewed it as we 15 went through sort of our analysis. Because that's what we 16 typically do. 17 MR. BROWN: That's all I have, thank you 18 HEARING EXAMINER ROBESON: Thank you. I see Maureen 19 Wilkerson, Jeffrey Komarow, and Mr. Myers again. Ms. 20 Wilkerson would you like to ask a question? 21 MS. WILKERSON: Yes. Hello. Thank you. Can you hear 22 me? 23 HEARING EXAMINER ROBESON: We can. 24 MS. WILKERSON: Wonderful. Thank you. Mr. Andres, I 25 am new to all these zoning matters and we received a report</p> | <p>132</p> <p>1 detailed here for the TMP? Instead of a general statement. 2 HEARING EXAMINER ROBESON: Ma'am, can I add onto that? 3 Do you consider traffic to the school nonlocal? 4 MR. ANDRES: No. So it's our understanding that given 5 that the school is in the neighborhood that origin of 6 destinations and traffic associated with that is not 7 considered as nonlocal cut through traffic. 8 MS. WILKERSON: Well, Mr. Andres, that's your decision 9 or interpretation about what's non local, but clearly to me 10 the staff had some purpose here in using the phrase non 11 local traffic. 12 HEARING EXAMINER ROBESON: Ms. Wilkerson, I think you 13 need to keep it to a question. 14 MS. WILKERSON: A question. Okay. So are you agreeing 15 to this provision as having content or not having content? 16 MR. ANDRES: Well, with respect to -- you know, like I 17 said this was part of an approval that the TMP would be 18 worked out through preliminary plans. And with respect to 19 that process we would coordinate with Park and Planning to 20 get an understanding of what that comment really means and 21 how that could be applied with our project. 22 MS. WILKERSON: That parents or caregivers, everyone 23 has referred to parents, caregivers drive students also. 24 That those persons coming to your school are, per se, local? 25 MR. ANDRES: Yes because the school is local.</p> |

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| <p>133</p> <p>1 MS. WILKERSON: All right. Do you have any zoning 2 decision that comes to that sort of conclusion? 3 MR. ANDRES: Not zoning conditions but I do believe we 4 have literature that we can provide for Ms. Robeson to 5 review as part of that. 6 HEARING EXAMINER ROBESON: Well, just for everybody's 7 benefit you know, we don't have to stick to these -- the 8 trouble I'm having with the TMP, which I did not articulate 9 very well is that I have to make a finding of compatibility 10 outside of LATR and all that. So a lot of the details of 11 what I would consider to be relevant, the compatibility is 12 being pushed down to a TMP. There's nothing wrong with a 13 TMP, but I'm looking for details and conditions on how this 14 traffic -- so just because this says nonlocal, it doesn't 15 mean I am looking for controlling traffic that is 16 incompatible with the area. So just so everybody is clear 17 on what I think what our standards are for a special 18 exception. 19 Okay. Did you have other questions Ms. Wilkerson? 20 MS. WILKERSON: Just one last question. Again, not 21 having the expertise specifically here in zoning. Would it 22 be possible to bifurcate your application to have it 23 initially pertain to the academic year; experience that 24 academic year for some period of time, like a full year, 25 before then applying to have a variance for summer camp?</p> | <p>135</p> <p>1 MR. ANDRES: So in that instance, they would have to be 2 driven in. And in my case, you know, as part of our overall 3 plan we would have to figure out a way how that gets tracked 4 to make sure it's not abused, but again that's one of the 5 details of the team that we still need to work out. 6 MR. KOMAROW: All right. So the type of enforcement 7 mechanism isn't in the TMP right now? 8 MR. ANDRES: No. What would happen is that if somebody 9 missed the bus and they showed up with a child and they're 10 not quote/unquote authorized to drop off a child during the 11 peak hour, then, in that instance, we would know who that 12 person was. And so we would keep a listing of that to make 13 sure that that -- again, that that isn't abused. The other 14 component of that is if you're paying to put your child on a 15 bus, the concept of driving them of that doesn't seem to 16 make sense. So I think it's a situation where it would 17 potentially police itself but we would obviously do our part 18 to police that. 19 MR. KOMAROW: My other question, you got some questions 20 on the traffic volumes on Alta Vista. 21 MR. ANDRES: Yes. 22 MR. KOMAROW: And you have the shuttle buses 23 circulating, going, I guess, westbound on Alta Vista? 24 MR. ANDRES: Yes, that's right. 25 MR. KOMAROW: Nothing would prevent the school from</p> |
| <p>134</p> <p>1 MR. ANDRES: That's a question for the administration. 2 I'm not -- I don't have the authority to make that decision. 3 MS. WILKERSON: Have you ever participated in a 4 situation where a special exception for a private school 5 pertained to the academic year only? 6 MR. ANDRES: No. We're -- I've been involved where 7 typically there is a summer program and any of the sort 8 outlying or nonpeak activities are all included in the same 9 order just so that it's convenient and it's all in one 10 place. 11 MS. WILKERSON: Does the Forest Road special exception 12 allow for summer camps; do you know? 13 MR. ANDRES: I don't know that answer. 14 MS. WILKERSON: All right. Thank you very much. 15 MR. ANDRES: Thank you. 16 MS. WILKERSON: That's all I have. 17 HEARING EXAMINER ROBESON: Okay. I see Mr. Komarow. 18 MR. KOMAROW: Yes. Can you hear me, Madam Examiner? 19 HEARING EXAMINER ROBESON: Yes, thank you. 20 MR. KOMAROW: All right. I think this time I figured 21 out the technology. My name is Jeffrey Komarow. I live on 22 Linden Avenue. I have, I think, two quick questions. One, 23 you had several questions on enforcement. So what happens 24 when hundreds of children who are being bused, they miss the 25 bus?</p> | <p>136</p> <p>1 directing those -- the shuttle buses rather than making a 2 right turn on Alta Vista to continue to go south to Cedar 3 Lane, and then make a right on Cedar Lane, and then a right 4 on Old Georgetown to go back to the Forest Road campus; is 5 that correct? 6 MR. ANDRES: There would be a time issue related to 7 those movements. You know, obviously making that movement 8 to leave the neighborhood to essentially go back into the 9 neighborhood is -- there would be a significant time -- 10 MR. KOMAROW: No, it might cross the school 11 (inaudible) -- 12 MR. ANDRES: -- impact. 13 MR. KOMAROW: That's your answer, right? 14 HEARING EXAMINER ROBESON: I -- 15 MR. KOMAROW: It's under the control of the school, 16 correct? 17 MR. ANDRES: Yes. Yes. 18 MR. KOMAROW: I have no further questions. 19 HEARING EXAMINER ROBESON: Okay. And then, I see Mr. 20 Myers hand up. 21 MR. MYERS: Yes. I'll take it down now. Two 22 questions. Summer camps operate on Saturdays, correct? 23 MR. ANDRES: I don't know. If the summer camp -- the 24 intent of the summer camp language is for during the week. 25 But Ms. Faber would be the --</p> |

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35 (137 to 140)

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| <p>137</p> <p>1 MR. MYERS: Okay. Second question. The school is</p> <p>2 proposing to operate and have some special classes on</p> <p>3 Saturday for up to 700 students, correct?</p> <p>4 MR. ANDRES: Yes. It's -- actually, Mr. Myers I just</p> <p>5 got confirmation that the summer school is only during the</p> <p>6 week it's only a week day operation.</p> <p>7 MR. MYERS: Okay.</p> <p>8 HEARING EXAMINER ROBESON: Who's sending you that</p> <p>9 confirmation?</p> <p>10 MR. ANDRES: Ms. Fabre had sent me a confirmation.</p> <p>11 HEARING EXAMINER ROBESON: Well, I would prefer if, you</p> <p>12 know, you're repeating her information and she's not</p> <p>13 testifying so let's do this. When her time comes to rebut,</p> <p>14 she can testify to it. We have questions, we want answers,</p> <p>15 she'll get a chance to testify rather than you repeating her</p> <p>16 testimony.</p> <p>17 MR. ANDRES: Understood.</p> <p>18 HEARING EXAMINER ROBESON: Go ahead.</p> <p>19 MR. MYERS: So my question was Saturdays. Up to 700</p> <p>20 students involved with classes on a Saturday. Your studies</p> <p>21 are done for peak hours which are weekday traffic. You</p> <p>22 don't have peak hours on Saturdays, so how does that</p> <p>23 compute?</p> <p>24 MR. ANDRES: So it's a based on our experience that</p> <p>25 traffic along Rockville Pike and the surrounding are lower</p> | <p>139</p> <p>1 that are important in this case.</p> <p>2 HEARING EXAMINER ROBESON: And those would be?</p> <p>3 MR. KLINE: Basically, the Counties programs with</p> <p>4 regard to implementation of the LATR guidelines and the</p> <p>5 Counties implementation of executive regulations dealing</p> <p>6 with cut through traffic.</p> <p>7 HEARING EXAMINER ROBESON: Well, why can't the other</p> <p>8 traffic engineers do that? Is his testimony already</p> <p>9 addressed in the staff -- I'm just trying to cut this</p> <p>10 endowment because I have a Council hearing tomorrow and I'm</p> <p>11 not sure I couldn't do a morning. Do you think about it.</p> <p>12 We'll break now and you think about whether you feel like</p> <p>13 you really need him and we can go through it. But I'm just</p> <p>14 looking. How many people from the community want to</p> <p>15 testify?</p> <p>16 I know Mr. Myers. I think Ms. Umhofer wanted to</p> <p>17 testify. Mr. (inaudible) so we still have some time to go.</p> <p>18 So just think about it Mr. Kline and we will adjourn for</p> <p>19 lunch, and we'll be back at 2:00. All right. Now, don't</p> <p>20 leave the meeting but mute your mic or people will be able</p> <p>21 to hear what you say. All right. Thank you.</p> <p>22 MR. KLINE: Thank you, Ms. Robeson. Thank you very</p> <p>23 much, everybody.</p> <p>24 HEARING EXAMINER ROBESON: Thank you.</p> <p>25 MR. KLINE: Thanks.</p> |
| <p>138</p> <p>1 on Saturdays.</p> <p>2 MR. MYERS: So there was no LATR?</p> <p>3 MR. ANDRES: No, there was not.</p> <p>4 MR. MYERS: Thank you.</p> <p>5 HEARING EXAMINER ROBESON: Okay. Mr. Komarow you still</p> <p>6 have your hand up; do you want to put that down, please?</p> <p>7 Okay. Anyone else that has questions? Okay. Seeing</p> <p>8 and hearing none, Mr. Kline do you have redirect?</p> <p>9 MR. KLINE: Ms. Robison, it's 1:05 and I'm --</p> <p>10 HEARING EXAMINER ROBESON: I --</p> <p>11 MR. KLINE: I'd like to suggest we take a break and it</p> <p>12 would give me an opportunity to go back and read several</p> <p>13 pages of notes to see what questions I might want to</p> <p>14 redirect. But I can't find them all now.</p> <p>15 HEARING EXAMINER ROBESON: Okay. That's fine. How</p> <p>16 many more witnesses do you have?</p> <p>17 MR. KLINE: One more on case in chief.</p> <p>18 HEARING EXAMINER ROBESON: And who is that and what</p> <p>19 would he be testifying to?</p> <p>20 MR. KLINE: That would be Mr. Welke and it would be</p> <p>21 traffic testimony.</p> <p>22 HEARING EXAMINER ROBESON: Well, wait. We've had three</p> <p>23 traffic engineers is there some reason that he needs to add</p> <p>24 something?</p> <p>25 MR. KLINE: He has the expertise in subject matters</p> | <p>140</p> <p>1 (Lunch recess 1:07 p.m. to 2:02 p.m.)</p> <p>2 HEARING EXAMINER ROBESON: Okay. Mr. Kline, proceed</p> <p>3 with Mr. Welke?</p> <p>4 MR. KLINE: Well, I had asked -- you had asked me</p> <p>5 whether I had any questions for Mr. -- or redirect for Mr.</p> <p>6 Andres.</p> <p>7 HEARING EXAMINER ROBESON: Oh, yes. I apologize.</p> <p>8 You're right.</p> <p>9 MR. KLINE: No, no, that's fine because we're mindful</p> <p>10 of your goal of trying to move this thing forward. So yes,</p> <p>11 I would like to call Mr. Welke.</p> <p>12 HEARING EXAMINER ROBESON: Okay. IS Mr. Welke there?</p> <p>13 MR. WELKE: I should be there now.</p> <p>14 HEARING EXAMINER ROBESON: I see you.</p> <p>15 MR. WELKE: All right.</p> <p>16 HEARING EXAMINER ROBESON: Please raise your right</p> <p>17 hand.</p> <p>18 Do you solemnly affirm under penalties of perjury that</p> <p>19 the statement you're about to make her the truth, the whole</p> <p>20 truth, and nothing but the truth?</p> <p>21 MR. WELKE: Yes, I do.</p> <p>22 HEARING EXAMINER ROBESON: Thank you.</p> <p>23 Go ahead, Mr. Kline.</p> <p>24 MR. KLINE: Thank you. Mr. Welke, could you please</p> <p>25 spell your name for us?</p> |

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| <p>141</p> <p>1 MR. WELKE: Sure. It's Ron Welke, R-O-N, W-E-L-K-E.</p> <p>2 MR. KLINE: And please state your business address?</p> <p>3 MR. WELKE: My business address is my home address,</p> <p>4 7078 Catalpa, C-A-T-A-L-P-A, Road, Frederick, Maryland.</p> <p>5 MR. KLINE: And what is your profession?</p> <p>6 MR. WELKE: I'm a traffic engineer/transportation</p> <p>7 planner.</p> <p>8 MR. KLINE: And what is your educational background?</p> <p>9 MR. WELKE: I have a bachelor's degree in civil</p> <p>10 engineering, and a master's degree in civil engineering with</p> <p>11 a major in transportation.</p> <p>12 MR. KLINE: Ms. Robeson, consistent with your past</p> <p>13 practice, I'm glad to go in more detail but if there are no</p> <p>14 objections I'd like to offer Mr. Welke as an expert in the</p> <p>15 field of traffic engineering and transportation planning.</p> <p>16 HEARING EXAMINER ROBESON: Does anyone object to that?</p> <p>17 Okay. Hearing none, and seeing no (inaudible) he's</p> <p>18 admitted.</p> <p>19 MR. KLINE: Mr. Welke, you've heard the dialogue ahead</p> <p>20 with the hearing examiner about why Mr. Welke? So what I'd</p> <p>21 like you to do is explain your work experience and your</p> <p>22 background and what that expertise adds to this application.</p> <p>23 MR. WELKE: Sure. I've been in the field of traffic</p> <p>24 engineering and transportation planning for over 43 years.</p> <p>25 Over half of that, 25 years, I was with the Montgomery</p> | <p>143</p> <p>1 MR. WELKE: Yes, it did. Particularly with Parking</p> <p>2 Planning. I co-authored two updates to the LATR guidelines</p> <p>3 in my eight years there. Like I say, I reviewed, and wrote</p> <p>4 reports to the Planning Board on traffic studies that were</p> <p>5 submitted in conformance with the guidelines, and frequently</p> <p>6 testified before the Planning Board.</p> <p>7 MR. KLINE: This may be more anecdotal or</p> <p>8 parenthetical, but have you ever seen an application that's</p> <p>9 taken so long to get through the transportation review</p> <p>10 process?</p> <p>11 MR. WELKE: Never. Not in my many years of experience</p> <p>12 have I been a part of a study that has been this long, and</p> <p>13 this involved.</p> <p>14 MR. BROWN: I object to the relevance of the question.</p> <p>15 HEARING EXAMINER ROBESON: Yeah I --</p> <p>16 MR. KLINE: It had been asked and I had somebody who</p> <p>17 could put it in context; I understand the point. But Mr.</p> <p>18 Welke, could you just kind of -- you don't need to enumerate</p> <p>19 but can you just highlight the features of the review that</p> <p>20 did cause the extension of time to get it finished?</p> <p>21 MR. WELKE: Sure.</p> <p>22 HEARING EXAMINER ROBESON: Well -- wait, Mr. Kline. We</p> <p>23 already know this has been -- you been working with this</p> <p>24 through various agencies. Why do we have to go into it?</p> <p>25 And I am mindful of the time, to be honest. I'm very</p> |
| <p>142</p> <p>1 County Department of Transportation. Five years as</p> <p>2 assistant division chief traffic engineering and 20 years as</p> <p>3 chief, division of traffic engineering. And then, I took an</p> <p>4 early out from the County, bless them. And then was eight</p> <p>5 years with Maryland National Capital Park and Planning in</p> <p>6 Silver Spring where I was supervisor of development review</p> <p>7 in the transportation division and for eight years I</p> <p>8 reviewed every case that came in and the traffic elements of</p> <p>9 it. So I have that experience.</p> <p>10 Ant then, since then I've worked, and in between those</p> <p>11 jobs I worked for several other private traffic consultants</p> <p>12 where I've actually done traffic studies.</p> <p>13 MR. KLINE: Normally, I would've ask you this question</p> <p>14 earlier, but it's appropriate now as well. And that is,</p> <p>15 have you ever testified before the hearing examiner's or</p> <p>16 other bodies, basically in charge of making land use</p> <p>17 decisions with traffic implications?</p> <p>18 MR. WELKE: Yes. I have testified before the County</p> <p>19 Council, the hearing examiner, and I have also testified in</p> <p>20 my role with Park and Planning many times before the</p> <p>21 Planning Board on traffic issues.</p> <p>22 MR. KLINE: Did your experience in the two county</p> <p>23 positions you mentioned both with DOT and MNCPPC familiarize</p> <p>24 you with the application of the local-area transportation</p> <p>25 guidelines?</p> | <p>144</p> <p>1 concerned.</p> <p>2 MR. KLINE: Sure. Ms. Robeson, my question really</p> <p>3 wasn't to explain the time as much as to explain the issues</p> <p>4 that came up that needed to be addressed. Because -- and</p> <p>5 let me go at it this way.</p> <p>6 Mr. Welke, in your opinion was the initial submission</p> <p>7 of the special exception amendment and the traffic impact</p> <p>8 statements submitted at that time in full compliance with</p> <p>9 the local area transportation guidelines?</p> <p>10 MR. WELKE: Yes, it was.</p> <p>11 MR. KLINE: Then why didn't the County DOT and SHA</p> <p>12 immediately recommend approval to let it go forward?</p> <p>13 MR. WELKE: They had issues beyond the requirements of</p> <p>14 the LATR guidelines and they have been enumerated by Katie</p> <p>15 and Erwin. I can repeat them if you'd like but they had to</p> <p>16 do with access, they had to do with neighborhood impacts.</p> <p>17 They had to do with circulation and it just took several</p> <p>18 enumerations of the traffic study as the numbers changed in</p> <p>19 order to minimize the impact in addressing issues that the</p> <p>20 County and State had raised.</p> <p>21 MR. KLINE: And those are --</p> <p>22 MR. BROWN: I object to this. I must object to this</p> <p>23 hearsay generalized testimony. If we're talking about</p> <p>24 specific issues and specific statements that people may</p> <p>25 find. But this is all generalized hearsay of no value to</p> |

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| <p>145</p> <p>1 this hearing.</p> <p>2 HEARING EXAMINER ROBESON: Well, I -- Mr. -- what do</p> <p>3 you want to accomplish with this witness Mr. Kline? Just</p> <p>4 proffer what you want to accomplish.</p> <p>5 MR. KLINE: Sure. Well I was going to give Mr. Welke</p> <p>6 the opportunity to say SHA and DOT had legitimate concerns</p> <p>7 that went beyond the LATR guidelines and that we took each</p> <p>8 one of them in order, whether it's the weaving, whether it's</p> <p>9 the impact on Pooks Hill.</p> <p>10 HEARING EXAMINER ROBESON: Right.</p> <p>11 MR. KLINE: And what it took to solve all those</p> <p>12 problems and I was just going to ask him to just basically</p> <p>13 kind of enumerate them again. If you say, Jody, I think we</p> <p>14 understand that well enough we don't have to go through</p> <p>15 that.</p> <p>16 HEARING EXAMINER ROBESON: Well, I did hear all that</p> <p>17 through -- I'm sorry.</p> <p>18 MR. KLINE: Mr. Andres or Ms. Wagner.</p> <p>19 HEARING EXAMINER ROBESON: Yes.</p> <p>20 MR. KLINE: Okay. Fine.</p> <p>21 HEARING EXAMINER ROBESON: So Mr. Brown, weigh in on</p> <p>22 this?</p> <p>23 MR. BROWN: Well, I don't understand what this</p> <p>24 witness's personal knowledge is of the regulatory process in</p> <p>25 this particular case?</p> | <p>147</p> <p>1 is that this application has the duration that it's had</p> <p>2 simply because there were items that were beyond the normal</p> <p>3 scope of an LATR guideline recommendation that we were asked</p> <p>4 to address. Not that they weren't legitimate, but that, in</p> <p>5 fact, we met the letter of the law the day we filed. And</p> <p>6 then, we were asked to address other issues which -- and the</p> <p>7 expert comment I want to get in the end was that those have</p> <p>8 put the application into a point where it satisfies now, the</p> <p>9 additional requirements of these other transportation review</p> <p>10 agencies beyond the LATR, which is what we would normally be</p> <p>11 dealing with.</p> <p>12 HEARING EXAMINER ROBESON: But we know that anyway</p> <p>13 because the LATR is just congestion levels.</p> <p>14 MR. KLINE: Well, given your comments, Madam Hearing</p> <p>15 Examiner, it seems to me --</p> <p>16 HEARING EXAMINER ROBESON: Well, why --</p> <p>17 MR. KLINE: -- I've got to go beyond that.</p> <p>18 HEARING EXAMINER ROBESON: Why? Because --</p> <p>19 MR. KLINE: Well, because --</p> <p>20 HEARING EXAMINER ROBESON: He would testify -- I don't</p> <p>21 think anybody has raised Rockville -- well, Ms. -- I'm</p> <p>22 sorry, Ms. Wagner raised why they, SHA, asked what they</p> <p>23 asked for. So we know that. Is there anything you were</p> <p>24 going to add, Mr. Welke?</p> <p>25 MR. WELKE: I think they mentioned the</p> |
| <p>146</p> <p>1 MR. KLINE: Well, how can you say that, Mr. Brown, when</p> <p>2 he's been a member of the team and has been involved in all</p> <p>3 of the meetings with all of the agencies? Did I not clearly</p> <p>4 qualify him as a being a member of the Applicant's</p> <p>5 professional team?</p> <p>6 HEARING EXAMINER ROBESON: Maybe we -- we may have,</p> <p>7 when I qualified him early, you know maybe we skipped over</p> <p>8 that.</p> <p>9 MR. BROWN: I thought he was an expert witness, not a</p> <p>10 fact witness.</p> <p>11 MR. KLINE: Well, I haven't gotten to my expert --</p> <p>12 MR. BROWN: Is he a fact witness, or is he an expert</p> <p>13 witness?</p> <p>14 MR. KLINE: He is an expert witness to the extent I'm</p> <p>15 asking him did our application comply with the local area</p> <p>16 transportation review guidelines.</p> <p>17 HEARING EXAMINER ROBESON: Well, we've already --</p> <p>18 MR. KLINE: That's a fair question.</p> <p>19 HEARING EXAMINER ROBESON: We've already had that</p> <p>20 testimony.</p> <p>21 MR. KLINE: Okay. And is it accepted --</p> <p>22 HEARING EXAMINER ROBESON: Is your question really</p> <p>23 illustrating that it was a difficult process? Is that what</p> <p>24 you're saying?</p> <p>25 MR. KLINE: No. It's -- the point I'm trying to make</p> | <p>148</p> <p>1 acceleration/deceleration lane. The State had a big concern</p> <p>2 about that. I think that's been mentioned. The U-turns.</p> <p>3 HEARING EXAMINER ROBESON: And then the (inaudible).</p> <p>4 MR. WELKE: We -- yes. To answer your question I think</p> <p>5 the issues I would raise -- all I want to clarify for Mr.</p> <p>6 Brown is, I am a member of FIS team and I've been a member</p> <p>7 for two years. So expert witness versus fact witness, help</p> <p>8 me out.</p> <p>9 MR. BROWN: Ms. Robeson, here's my point. You have</p> <p>10 been asking repeatedly to distinguish between the peak hour</p> <p>11 traffic impact that is addressed in the LATR and</p> <p>12 neighborhood concern about traffic generally as an issue of</p> <p>13 compatibility. I don't want this witness to be trying to</p> <p>14 attempt to address the notion that the length of the process</p> <p>15 that this thing went through in any way addressed your</p> <p>16 compatibility concerns and less he has specific knowledge</p> <p>17 about what and how that process addressed your compatibility</p> <p>18 issue. And I haven't heard it.</p> <p>19 HEARING EXAMINER ROBESON: Mr. Kline?</p> <p>20 MR. KLINE: Thank you. No, and I understand Mr.</p> <p>21 Brown's point and he's accurate. What I just haven't had a</p> <p>22 chance to, I guess, go to the next step is, and that is talk</p> <p>23 about the -- each of the items that came up, let's say the</p> <p>24 weaving and -- the weaving issue. We had to come up with a</p> <p>25 solution that made the traffic on Rockville Pike better. So</p> |

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| <p>149</p> <p>1 I wanted to try and have Mr. Welke give his expert opinion 2 about how those additional conditions that were imposed on 3 us beyond LATR had been addressed and taken care of. And 4 that deals with the compatibility issues such as Pooks Hill, 5 such as in the weaving aspect, and things like that. 6 HEARING EXAMINER ROBESON: We've already had -- I guess 7 what I'm missing is we've already had that testimony. 8 MR. KLINE: Okay. I don't think it's a bad to have it 9 from somebody who has the level of experience Mr. Welke has 10 though to confirm what we've done is correct. 11 HEARING EXAMINER ROBESON: Well, we just had -- I 12 qualified Ms. Wagner as an expert. I just don't see what 13 the point is. If you want to -- if you want to address 14 something beyond the Pooks Hill Road and the weaving and the 15 U-turn southbound on Rockville Pike and the accel/decel 16 lane, you know, we could do that. I don't know -- 17 MR. KLINE: Well, I'll make it easy for all of us and 18 I'll conclude my questions on that subject. But I did have 19 a section of questions to ask him because of his expertise 20 on a very specific item that does come up in the context of 21 compatibility. 22 Mr. Welke, are you familiar with Executive Regulation 23 number 17-94 that's in the record as Exhibit number -- 24 MR. BROWN: 70(c). 25 MR. KLINE: Thank you. Could you explain your</p> | <p>151</p> <p>1 I enter that for your consideration. 2 The final thing I'll say is as part of the TMP, the 3 school has committed to abide by all existing traffic 4 restrictions and all future traffic restrictions that may be 5 imposed in the future. 6 MR. KLINE: Is it fair to say that Executive 7 Regulation 17-94 creates a device and a mechanism for the 8 neighborhood to basically ask DOT to analyze the amount of 9 traffic through their neighborhood and control it if it's 10 deemed to be an adverse impact on the neighborhood? 11 MR. WELKE: Yes. 12 HEARING EXAMINER ROBESON: Well, isn't this conditional 13 use hearing another mechanism? 14 MR. KLINE: Sure. Sure. But it's a special exception 15 amendment and we certainly have heard how you would like to 16 maybe try and make the special exception the controlling 17 device and I don't disagree that nobody wants to have to 18 invoke regulation 17-94, but it is available and basically 19 is a safety net for anything going on in the neighborhood. 20 But we want to put our weight and our money into the -- 21 a TMP proposal, not have to rely on this document. I just 22 wanted the record to reflect that it is available if people 23 don't think the TMP is doing what it should do. 24 HEARING EXAMINER ROBESON: Well, the TMP doesn't put 25 restrictions on going through the -- first of all, does this</p> |
| <p>150</p> <p>1 familiarity with that regulation? 2 MR. WELKE: Yes, I can. that regulation was approved 3 by County Council in November of 1994. I retired from the 4 County in September 1994 so me and my staff were the ones 5 that prepared that regulation for consideration by the 6 Council. I also was involved in establishing the initial 7 set of residential traffic controls in Montgomery County in 8 the 1970s, which was a pioneer program in the United States. 9 The objectives of that regulation are twofold. One is 10 to enhance neighborhood traffic safety, and maintain livable 11 residential environments. The second is to balance the 12 needs of all impacted parties while maintaining the 13 efficient and appropriate use of County streets. That 14 regulation has several steps. I won't enumerate those 15 steps, but a citizens association has to apply, a study is 16 done, results are reviewed, a public hearing is held. And 17 that pertains to A, amount of traffic on a residential 18 street, and then how much of that traffic is through 19 traffic. 20 I've struggled with that question in the context of 21 this hearing; is the school a destination in the 22 neighborhood or not. And my professional opinion is that it 23 is. And if it is a destination in the neighborhood, then 24 traffic that departs that destination and reenters the 25 neighborhood, in my professional opinion, is local traffic.</p> | <p>152</p> <p>1 even apply if it's not local traffic? 2 MR. KLINE: Well, that would be a determination -- 3 HEARING EXAMINER ROBESON: If it's local traffic, does 4 this even apply? 5 MR. KLINE: Well, I'm going -- 6 MR. WELKE: Yes, it does. Yes, it does, Madam Hearing 7 Examiner in that a percentage of the -- more than half of 8 the traffic has to be determined to be through traffic in 9 order for the regulation to be implemented. 10 HEARING EXAMINER ROBESON: Right. But if the school 11 traffic, all right, is not -- the school traffic is not 12 going to be counted toward that according to your testimony. 13 MR. WELKE: In my opinion, that is correct. 14 HEARING EXAMINER ROBESON: Okay. 15 MR. KLINE: Ms. Robeson, I have completed my questions 16 of Mr. Welke. He is available for any cross-examination. 17 HEARING EXAMINER ROBESON: Okay. Any cross- 18 examination, please? 19 MR. WILKERSON: Yes. Carl Wilkerson. 20 HEARING EXAMINER ROBESON: Just one second. One 21 second. Okay, Mr. Wilkerson, go ahead. 22 MR. WILKERSON: Yes. We've danced around this question 23 throughout this hearing about the definition of cross 24 traffic, cut through traffic and whether because of the 25 school is in the neighborhood anything having to do with it</p> |

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| <p>153</p> <p>1 would not be cut through traffic. Nowhere -- and what I'm 2 asking the last witness is you stated that your professional 3 opinion, you're not citing any regulation, any ordinance, or 4 legal term of art that defines it in the way you have 5 expressed it; is that correct?</p> <p>6 MR. WELKE: No, that's not correct. The regulation 7 that hasn't been entered into the record specifically 8 defines through traffic, and I'm quoting, "vehicular traffic 9 entering or exiting a neighborhood without origin or 10 destination in that neighborhood."</p> <p>11 MR. WILKERSON: Okay. So using that definition, a 12 parent entering the neighborhood for that destination would 13 be cut through traffic, as I heard you read it; is that 14 correct?</p> <p>15 MR. WELKE: No. That is not correct. A parent going 16 to the school has a destination in the neighborhood. 17 Therefore, they can't get out of that school without coming 18 back out onto Rockville Pike, the way it's designed, but 19 they are still local with the destination in the 20 neighborhood, therefore I believe that they are considered 21 local traffic if they choose to reenter the neighborhood to 22 either go home or to get north on Rockville Pike, wherever 23 they might want to go.</p> <p>24 HEARING EXAMINER ROBESON: Well, are you saying that we 25 can't regulate that traffic at all then?</p> | <p>155</p> <p>1 MR. KLINE: Objection. He's asked the question before. 2 HEARING EXAMINER ROBESON: Well, I don't know what he's 3 going to ask. 4 MR. KLINE: Well, it's the same question he asked twice 5 before. 6 HEARING EXAMINER ROBESON: What are you asking Mr. 7 Wilkerson? 8 MR. WILKERSON: That we can read the words on the paper 9 but the current witness is adding his own personal 10 interpretation to it. 11 HEARING EXAMINER ROBESON: Well, I don't think that's a 12 fair characterization. What I am concerned about is that 13 you are not going to be able to utilize this regulation. 14 The community is not going to be able to utilize this 15 regulation to cover traffic from the school. So it either 16 has to be controlled through the conditional use, or 17 possibly the TMP. But he fairly -- it's fair for him to say 18 that's how it's known in the trade because that's what he's 19 an expert in. 20 MR. WILKERSON: Okay. I think you stated that well 21 that we have to put a condition on the application, 22 conditional use that states it exactly as I was hoping. 23 Thank you. No further questions of this witness. 24 HEARING EXAMINER ROBESON: I see a hand from Ms. 25 Umhofer.</p> |
| <p>154</p> <p>1 MR. WELKE: You can regulate it through your hearing 2 process, or you can regulate it through the regulation. 3 HEARING EXAMINER ROBESON: But if we go through the 4 regulation, then all the traffic going to and from the 5 school is not going to be counted because it's not local. 6 MR. WELKE: It is local, in my opinion. 7 HEARING EXAMINER ROBESON: Wait. Wait. 8 MR. WELKE: It's not through traffic. 9 HEARING EXAMINER ROBESON: But I -- that's what I mean. 10 IT won't be counted as nonlocal cut through traffic. 11 MR. WELKE: Correct. 12 HEARING EXAMINER ROBESON: (inaudible) okay. So -- 13 okay. 14 MR. WILKERSON: And again, just to reconfirm, that's 15 your opinion? 16 MR. WELKE: Based on the definition which is common in 17 the trade and is in the regulation. 18 MR. WILKERSON: And it's an interpretation of the 19 regulation, we don't have a point of law, or a term of art 20 that unequivocally confirms your interpretation; is that 21 correct? 22 MR. WELKE: Again, it is a part of that regulation, and 23 it is on the screen right now. 24 MR. WILKERSON: And again, you are saying that in your 25 opinion --</p> | <p>156</p> <p>1 MS. UMHOFFER: Yes. Just one quick question. I wonder 2 if Mr. Welke heard the architect's testimony and at one 3 point she mentioned the building closest to Rockville Pike, 4 and she said something akin to because it faces Rockville 5 Pike it's not really part of the neighborhood. Did you hear 6 that testimony? 7 MR. WELKE: I did hear her testimony. Saying I don't 8 specifically recall her saying that. 9 MS. UMHOFFER: Well, would you agree or disagree with 10 the statement such of that kind? 11 MR. WELKE: Would you stated again, please? 12 MS. UMHOFFER: The building -- the largest office 13 building on the property faces Rockville Pike and therefore 14 it's not really part of the neighborhood and doesn't need to 15 be consistent with the nature -- the character of the 16 neighborhood. 17 MS. UMHOFFER: Well, as a professional traffic engineer, 18 I would disagree with that statement. 19 MS. UMHOFFER: Okay. Thank you. 20 HEARING EXAMINER ROBESON: Any other questions of Mr. 21 Welke. Seeing none. Mr. Kline, your next witness, please. 22 (Crosstalk (03:51:31)) 23 HEARING EXAMINER ROBESON: Mr. Welke. No, I'm sorry. 24 Mr. Kline, you have redirect. 25 MR. KLINE: Mr. Myers has a question.</p> |

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| <p>157</p> <p>1 HEARING EXAMINER ROBESON: Oh, I'm sorry. Mr. Myers?</p> <p>2 MR. MYERS: Yeah, I thought my hand was up and it was</p> <p>3 down. I don't know if it was down, but I thought it was up.</p> <p>4 It gets a little confusing at times.</p> <p>5 HEARING EXAMINER ROBESON: It does.</p> <p>6 MR. MYERS: Yes, a question. Mr. Welke and I are well</p> <p>7 acquainted with each other. He may not remember some --</p> <p>8 MR. WELKE: I do remember, Allen.</p> <p>9 MR. MYERS: Right.</p> <p>10 MR. WELKE: I do remember very well. Thank you.</p> <p>11 MR. MYERS: Over a certain street light. Okay. We'll</p> <p>12 talk about that later, but --</p> <p>13 MR. WELKE: Sure.</p> <p>14 MR. MYERS: But the other issue -- the question is just</p> <p>15 assuming arguendo, if we eventually decide to use this</p> <p>16 regulation to deal with traffic, it can't be done</p> <p>17 prospectively, correct?</p> <p>18 MR. WELKE: What do you mean by prospectively?</p> <p>19 MR. MYERS: I mean, the study is done at current levels</p> <p>20 of traffic, right. The study that's conducted?</p> <p>21 MR. WELKE: It is based on existing traffic, it is.</p> <p>22 MR. MYERS: Right. And it would not take into account</p> <p>23 any traffic that would come in on say Alta Vista Road and</p> <p>24 make a U-turn or go up Alta Vista Terrace and turn around</p> <p>25 there to go back, correct?</p> | <p>159</p> <p>1 amount of traffic was justified and that restrictions were</p> <p>2 not needed?</p> <p>3 MR. WELKE: As long as the requirement for support from</p> <p>4 the neighborhood is met, I believe it would be implemented.</p> <p>5 MR. MYERS: But you just said others can testify. So</p> <p>6 the French school, in theory, could testify. Parents could</p> <p>7 testify and they can say that they need that, correct?</p> <p>8 MR. WELKE: They could, yes.</p> <p>9 MR. MYERS: Okay. So that's why I say there's no</p> <p>10 guarantees?</p> <p>11 MR. WELKE: But keep in mind, this is based on existing</p> <p>12 traffic.</p> <p>13 MR. MYERS: Yeah.</p> <p>14 MR. WELKE: And right now the school is not there.</p> <p>15 MR. MYERS: I know. So we got to wait until the school</p> <p>16 is there to address this, correct?</p> <p>17 HEARING EXAMINER ROBESON: Well, wait a minute. The</p> <p>18 school wouldn't -- traffic the school wouldn't even be</p> <p>19 counted.</p> <p>20 MR. MYERS: Well, it would be part of the background.</p> <p>21 HEARING EXAMINER ROBESON: Because your position is,</p> <p>22 Mr. Welke, that it's not -- it's local traffic. So I guess</p> <p>23 I'm wondering why we're even going down this road because it</p> <p>24 doesn't control traffic from the school.</p> <p>25 MR. MYERS: Let me ask you though, that's an</p> |
| <p>158</p> <p>1 MR. WELKE: It would be based on two-way traffic on</p> <p>2 Alta Vista Road during any hour, or hours of a typical</p> <p>3 weekday.</p> <p>4 MR. MYERS: And if the study did not show the amount of</p> <p>5 traffic required, how long would it be before another study</p> <p>6 could be conducted?</p> <p>7 MR. WELKE: I believe it's three years.</p> <p>8 MR. MYERS: And if-- there's a hearing part of this</p> <p>9 process; is that correct?</p> <p>10 MR. WELKE: Yes.</p> <p>11 MR. MYERS: Who can attend that hearing?</p> <p>12 MR. WELKE: Anyone can participate in that; it's a</p> <p>13 public hearing.</p> <p>14 MR. MYERS: How long do you figure from start to finish</p> <p>15 on if this -- if a request because comes in until there's a</p> <p>16 result?</p> <p>17 MR. WELKE: I would guess at least six months, maybe</p> <p>18 longer.</p> <p>19 MR. MYERS: I'll talk about that in my direct</p> <p>20 testimony, I guess. But -- and there's no guarantee that</p> <p>21 after we requested, after the hearing that the neighborhood</p> <p>22 would prevail that it could wind up as is?</p> <p>23 MR. WELKE: As is?</p> <p>24 MR. MYERS: Well, I mean the amount of traffic, you</p> <p>25 know, after they make a study that could determine that the</p> | <p>160</p> <p>1 interesting question how would you determine where that</p> <p>2 traffic is coming from? Since they count (inaudible) the</p> <p>3 car coming down Alta Vista Road, did that come from</p> <p>4 Rockville, did it come from White Flint, and indeed came</p> <p>5 from the school?</p> <p>6 MR. WELKE: Well, that can be done by a license tag</p> <p>7 study, cameras set up -- a camera would have to be set up at</p> <p>8 the driveway to the school on Rockville Pike and another</p> <p>9 driveway, or license plate person would have to be down at</p> <p>10 Alta Vista and Rockville Pike and then have to determine if</p> <p>11 someone who came out of the school in fact, turned right</p> <p>12 onto Alta Vista Road.</p> <p>13 MR. MYERS: Thank you very much.</p> <p>14 MR. WELKE: You're welcome.</p> <p>15 HEARING EXAMINER ROBESON: Anyone else? Okay. Seeing</p> <p>16 none, Jody, -- or Mr. Kline, it's your time for redirect.</p> <p>17 MR. KLINE: Sure. Only one question, Mr. Welke. If I</p> <p>18 understood when you described your historical familiarity</p> <p>19 with Executive Regulation 17-94, you and another person, I</p> <p>20 assume Ms. Navid, or the authors of this document?</p> <p>21 MR. WELKE: Yes, that's correct.</p> <p>22 MR. KLINE: All right. So is your current</p> <p>23 interpretation, as you expressed today consistent with</p> <p>24 your -- the intent of the language when it was originally</p> <p>25 written in 1994?</p> |

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| <p>161</p> <p>1 MR. WELKE: Yes. And my answer was in the context of</p> <p>2 my being and that seat of chief division of traffic</p> <p>3 engineering, which is the addressee that any request through</p> <p>4 this regulation would be made to.</p> <p>5 MR. KLINE: Thank you. I have no further redirect</p> <p>6 questions.</p> <p>7 HEARING EXAMINER ROBESON: Okay. Any questions based</p> <p>8 on Mr. Kline's questions? Okay. Hearing none, Mr. Myers,</p> <p>9 you still have your hand up. So I don't know if you --</p> <p>10 okay. Thank you.</p> <p>11 Mr. Kline, do you have any more questions?</p> <p>12 MR. KLINE: I have no more questions, and I have no</p> <p>13 more witnesses, but I probably would like to just go back to</p> <p>14 the comments you made when we finished off the morning</p> <p>15 session you have given us a fairly -- a heavy load to lift.</p> <p>16 I'm sorry. A lot of information you're seeking and I think</p> <p>17 we take it all is good to go in the record.</p> <p>18 My suggestion is that we go ahead and hear from the</p> <p>19 opposition, and then I would like to request that you leave</p> <p>20 the record open all the materials that you have asked for</p> <p>21 and within that, Ms. Fabre has a board meeting on Thursday</p> <p>22 evening. At that time, she would discuss with her board</p> <p>23 what happened today and some of the suggestions that I</p> <p>24 heard.</p> <p>25 Mr. Wilkerson, I think, kind of hit the nail on the</p> | <p>163</p> <p>1 you. Mr. Brown?</p> <p>2 MR. BROWN: I don't have any problem with Mr. Kline's</p> <p>3 procedures as long as we have a reasonable amount of time to</p> <p>4 deal with and possibly respond.</p> <p>5 HEARING EXAMINER ROBESON: Okay.</p> <p>6 MS. UMHOFFER: Yes, and I think he suggested a couple of</p> <p>7 days, and I'm not sure that that is adequate time for the</p> <p>8 neighbors to learn what has now been proposed because this</p> <p>9 proposal has been changing multiple times over the last two</p> <p>10 years. The current proposal we only learned about right</p> <p>11 before the Christmas holidays. And so now, if they were</p> <p>12 going to propose it again --</p> <p>13 HEARING EXAMINER ROBESON: I understand. I'd like</p> <p>14 to -- okay. Mr. Kline, go ahead. I like --</p> <p>15 MR. KLINE: So you --</p> <p>16 HEARING EXAMINER ROBESON: -- to get to the citizens</p> <p>17 testimony.</p> <p>18 MR. KLINE: Yeah.</p> <p>19 HEARING EXAMINER ROBESON: So that I know what issues</p> <p>20 are out there. So let me do that.</p> <p>21 MR. KLINE: And if I can only comment. The only reason</p> <p>22 I mentioned a couple of days was I was -- the Applicant has</p> <p>23 the last say, and I was just offering to do that as quickly</p> <p>24 as possible. I know the hearing examiner would probably</p> <p>25 want to give the community an adequate amount of time, and I</p> |
| <p>162</p> <p>1 head; are there conditions that we could come to agreement</p> <p>2 on that would basically make both of us feel comfortable?</p> <p>3 And I would like enough time to get you the information you</p> <p>4 requested and the potential of being able to come back to</p> <p>5 you with a proposal for a more detailed TMP, hopefully to</p> <p>6 address the concerns of the hearing examiner and the</p> <p>7 opposition.</p> <p>8 But I would just need time to do that. We just can't</p> <p>9 get everything you've asked for done within the normal 10</p> <p>10 days, I think that you need to leave the record open to get</p> <p>11 the record open to get the transcript. So my suggestion is</p> <p>12 let the opposition have their testimony today and then</p> <p>13 reserve -- I mean, ideally what I would say is pick a date</p> <p>14 sometime in the future when the Applicant has to submit all</p> <p>15 the material plus a proposal for a more detailed TMP, give</p> <p>16 the opposition an opportunity to comment on that. Give the</p> <p>17 Applicant a couple of days to make any final comments, close</p> <p>18 the record, and you decide what you think the TMP should</p> <p>19 look like.</p> <p>20 HEARING EXAMINER ROBESON: Mr. Brown, do you have a</p> <p>21 comment on that? I see Ms. Umhofer's hand up.</p> <p>22 MS. UMHOFFER: Yeah, I just --</p> <p>23 MR. BROWN: I don't --</p> <p>24 MS. UMHOFFER: Go ahead, Mr. Brown.</p> <p>25 HEARING EXAMINER ROBESON: I'm sorry, I asked both of</p> | <p>164</p> <p>1 would rely on your decision how long that would take.</p> <p>2 But I should take one another step back. You reminded</p> <p>3 me of something yesterday when you asked about is the</p> <p>4 parking facility setback issue a variance or a waiver? And</p> <p>5 I answered incorrectly. I actually mixed it up with a</p> <p>6 cemetery conditional use in your office for which there's a</p> <p>7 variance. This is actually a waiver request but you are --</p> <p>8 HEARING EXAMINER ROBESON: Do you have a section</p> <p>9 number?</p> <p>10 MR. KLINE: Yes, ma'am. Just give me one second.</p> <p>11 MR. BROWN: That's 59 E 4.5.</p> <p>12 MR. KLINE: Thank you, sir.</p> <p>13 And it does require notice. And I realized when you</p> <p>14 said that we had not coordinated with Ms. Johnson to ask her</p> <p>15 to make sure that was included in the notice that you mailed</p> <p>16 out, in which case, I do think that to have everything above</p> <p>17 board, we do need to have a notice go out. So I was</p> <p>18 proposing to submit to you all the details of the waiver</p> <p>19 request, you could advertise that and that would inherently</p> <p>20 give the opposition a couple of weeks at least, I would</p> <p>21 think, to comment.</p> <p>22 So we are not trying to shortcut their chance to come</p> <p>23 up with what they had to say about what we're doing. I just</p> <p>24 said if you'll help us pick a date for our submission and</p> <p>25 set a date for their submission, and then our final</p> |

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| <p>165</p> <p>1 submission would be very shortly after that.</p> <p>2 HEARING EXAMINER ROBESON: Okay. Let me think -- thank</p> <p>3 you. Let me -- I'd really like to hear from the community.</p> <p>4 Mr. Brown, do you want to have Mr. Myers testify first?</p> <p>5 MR. BROWN: Yes. I'd like to make a very brief</p> <p>6 supplement to my opening statement and turn it over to Mr.</p> <p>7 Myers after that. First of all, I want to reemphasize that</p> <p>8 we are not traditional opponents in the sense that we are</p> <p>9 trying to defeat this project. We're trying to make it</p> <p>10 better for the community and our whole focus is on making</p> <p>11 sure that in your review of the application you are provided</p> <p>12 the information and tools necessary to ensure the maximum of</p> <p>13 compatibility.</p> <p>14 Our only witness is going to be Mr. Myers. Mr. Myers</p> <p>15 is going to refer to the documents that were included in</p> <p>16 Exhibit 59 documents 59(a) through (g). And over the past</p> <p>17 couple of weeks Mr. Myers and I have been working on his</p> <p>18 written testimony -- on his oral testimony. It turned out</p> <p>19 to be fairly lengthy, and we decided, based almost on the</p> <p>20 spur of the moment that it would be best for you to have a</p> <p>21 copy of that oral testimony in writing, as we go along with</p> <p>22 his testimony.</p> <p>23 HEARING EXAMINER ROBESON: I just received it.</p> <p>24 MR. BROWN: So I just sent it to you. And I sent it to</p> <p>25 Mr. Kline. And what I'm asking Mr. Myers to do is to go</p> | <p>167</p> <p>1 to our bylaws, the stated purpose of the Association is, and</p> <p>2 I quote, "To stimulate of community responsibility of the</p> <p>3 Maplewood community, Montgomery County, Maryland." The</p> <p>4 Maplewood neighborhood consists of 1,000 mostly single</p> <p>5 family detached homes. The northern boundary of the</p> <p>6 Association is the Capital Beltway and the southern is West</p> <p>7 Cedar Lane; the eastern is Rockville Pike, and the western,</p> <p>8 Old Georgetown Road.</p> <p>9 Maplewood is thus a large residential area situated</p> <p>10 between two major state roads with north and southbound</p> <p>11 traffic. South of the Capital Beltway east and westbound</p> <p>12 traffic must use West Cedar Lane to directly connect between</p> <p>13 Rockville Pike and Old Georgetown Road. At the northern</p> <p>14 portion of the neighborhood is Pooks Hill Road. At one</p> <p>15 time, this road was intended to connect Rockville Pike with</p> <p>16 Old Georgetown Road, but that was found to be unfeasible</p> <p>17 because of the alignment of the on-ramp from northbound Old</p> <p>18 Georgetown Road to the Beltway.</p> <p>19 Consequently, cut through traffic attempting to get</p> <p>20 from one of the two state roads to the other must enter our</p> <p>21 neighborhood via either Linden or Beech Avenues. To prevent</p> <p>22 a high volume of cut through traffic during peak hours the</p> <p>23 county has implemented restrictions that prevent left turns</p> <p>24 from Pooks Hill Road onto Linden Avenue between 7 and 9 a.m.</p> <p>25 and 3 to 6 p.m.; left turn restrictions from Beech Avenue</p> |
| <p>166</p> <p>1 through it, read through it slowly, but at least you won't</p> <p>2 have to furiously be taking notes and because you're going</p> <p>3 to have --</p> <p>4 HEARING EXAMINER ROBESON: Yes.</p> <p>5 MR. BROWN: -- a written copy in front of you.</p> <p>6 HEARING EXAMINER ROBESON: Okay.</p> <p>7 MR. BROWN: I am not going to interrupt Mr. Myers</p> <p>8 except at one point where I will offer you a legal citation</p> <p>9 or two because he's going to make reference to having talked</p> <p>10 to me. But with that, I will turn it over to Mr. Myers.</p> <p>11 HEARING EXAMINER ROBESON: Okay. Go ahead.</p> <p>12 MR. MYERS: Okay.</p> <p>13 Good afternoon, since we've been together anyway. I am</p> <p>14 Allen Myers, residing at 9319 Fresno Road in Bethesda, which</p> <p>15 is in the Maplewood community. While I was born in Chicago,</p> <p>16 I have lived in the Bethesda/Chevy Chase area since 1950,</p> <p>17 except for my college years and my time in the Navy.</p> <p>18 My parents about the house on Fresno Road in 1977,</p> <p>19 which coincidentally, is the year the French International</p> <p>20 School purchased the site on Forest Road, formerly occupied</p> <p>21 by a religious institution. After my mother died I moved</p> <p>22 into the house on Fresno Road in 2001. (Inaudible) campus</p> <p>23 who we are.</p> <p>24 Since 2001 it has been my privilege to serve as the</p> <p>25 president of the Maplewood Citizens Association. Pursuant</p> | <p>168</p> <p>1 onto Linden Avenue are in effect for the same time periods.</p> <p>2 Just to clarify one point that was made earlier today,</p> <p>3 there is no turn restriction from Linden Avenue onto Beech.</p> <p>4 The turn restrictions are memorialized in the BCC master</p> <p>5 plan and at the request of Maplewood may be modified</p> <p>6 pursuant to MCDOT regulations.</p> <p>7 What we desire: Maplewood is not opposed to the idea of</p> <p>8 turning the FASEB property into a new campus for FIS, but</p> <p>9 there are issues that need to be addressed in the form of</p> <p>10 conditions for approval. One, there is no immediate way for</p> <p>11 traffic exiting the proposed school site and to proceed</p> <p>12 north from it. We therefore expect a dramatic increase in</p> <p>13 traffic on streets near the proposed new school. The</p> <p>14 proposed TMP does not provide a way to limit that traffic.</p> <p>15 This must be rectified by this proceeding.</p> <p>16 MCA also seeks improvements in the site plan for the</p> <p>17 school to protect abutting residents and those living nearby</p> <p>18 the school from noise and pollution generated on the site.</p> <p>19 After a brief preliminary statement I will provide detailed</p> <p>20 comments on one, the historical use of the site. Two,</p> <p>21 previous traffic flow from FASEB. Three, the contrast with</p> <p>22 FIS's proposed use of the site. Four, anticipated traffic</p> <p>23 on Maplewood streets near the site. Five, shuttlebus and</p> <p>24 other bus operations through the neighborhood. Six, a</p> <p>25 proposal to allow parental drop off of elementary school</p> |

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43 (169 to 172)

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| <p>169</p> <p>1 children at the Forest Road campus. Seven, parking the 2 school buses on the site. Eight, Section 59-G.2 19.5 B 3 proposed uses for the site. And nine, the establishment of 4 a neighborhood liaison committee between FIS and the 5 neighborhood.</p> <p>6 Preliminary statement. The comments that I will make 7 on behalf of the Maplewood Citizens Association are not 8 intended to reflect on the quality of the educational 9 institution, that is Rochambeau, the French International 10 School. Some residents of Maplewood have chosen to live in 11 our community specifically because the current Forest Road 12 campus is located here. MCA does not oppose the current FIS 13 proposal out right, but is operations on Forest Road have 14 had, and continue to have, and impact on Maplewood, 15 something that is often brought to my attention by the 16 residents.</p> <p>17 The proposal to create a new elementary school will 18 compound the issues most dealing with traffic that we have 19 encountered. In preparing this testimony I have tried to 20 reflect the consensus of the residence who had participated 21 in meetings of the Association dealing with this matter in 22 May, and September 2018, and in December 2020.</p> <p>23 I have encourage the residents who wish to express 24 their own opinions regarding the proposal -- the proposed 25 school to do so throughout this approval process, which is</p> | <p>171</p> <p>1 exits.</p> <p>2 As part of its special exception FASEB was granted the 3 use of an alleyway onto Alta Vista Terrace for up to 80 4 vehicles a day. That was for exit only and the use of it 5 was controlled by passes. Records were kept of the passes 6 and when employees use the gate to allow vehicles to exit. 7 MCA was provided these records annually. The current 8 proposal eliminates these protections for our community 9 imposed by the FASEB special exception.</p> <p>10 In May 2006 FASEB entered into a license agreement with 11 Montgomery County Housing Opportunities Commission. The 12 operator of the Pooks Hill Apartments at 3 Pooks Hill Road 13 to create an exit for FASEB employees through the apartment 14 parking lot to Pooks Hill Road. This change immediately 15 decreased the number of vehicles using the Alta Vista 16 Terrace gate as the Pooks Hill connection obviated the need 17 to utilize Maplewood streets to proceed north on Rockville 18 Pike.</p> <p>19 During the course of Friday's hearing in response to an 20 email I sent, the current FASEB executive director, Frank 21 Krause responded and informed me that FASEB did not 22 terminate the license and that as late as 2019 FASEB 23 employees were entering and exiting the site from the Pooks 24 Hill Apartments.</p> <p>25 FIS proposed use of the site. FIS proposes to have up</p> |
| <p>170</p> <p>1 our Exhibits 77(a), (b), and (c). I have not tried to 2 influence their comments in any way other than to suggest 3 that they should the individual comments.</p> <p>4 Historical use of the proposed site. In its proposal, 5 FIS (indiscernible) its proposed use to that of the previous 6 owner of the site, the Federation of Societies for 7 Experimental Biology, FASEB, a 501(c)3 entity. First, it is 8 important to understand that FASEB is not an educational 9 institution. It purchased the Holloway Estate in 1953 and 10 began operations. The Holloway Estate was 38 acres; all the 11 existing 11 acres were sold for real estate development on 12 which are located the existing houses that today abut, and 13 are near the site.</p> <p>14 When the 1977 BCC Master Plan was adopted there was a 15 need to find a way to keep FASEB on the site and it was 16 given a special exception for an educational institution. 17 But in fact, FASEB never had students, never had buses 18 arriving and departing, teaching staff or children engaged 19 in play on this campus.</p> <p>20 Previous traffic flow from FASEB. FASEB used the site 21 for administrative offices and occasional conferences in a 22 small auditorium. The traffic generated to and from the 23 site was by private vehicle with employees arriving in the 24 morning and departing in the afternoon. All entrances to 25 the site were made from Rockville Pike as well as most</p> | <p>172</p> <p>1 to 126 plus 69 "auxiliary" staff consisting of day care 2 personnel, recess boss, bus monitors, cleaning crew and 3 school club advisors who will also be on the campus daily, 4 thus bringing the actual total number of employees there to 5 195. There will be up to 15 school buses involved with the 6 operation of the school, and while we applaud the school's 7 aggressive program to reduce vehicle traffic on the street 8 surrounding the school there will still be, based on our 9 calculations from the information provided by FIPS 230 10 students in the morning arriving by POV, and 285 students 11 departing that way in the afternoon. All of this is going 12 to constitute a significant increase in traffic over what 13 Maplewood has experienced over the years with FASEB for 14 several reasons that I will now detail.</p> <p>15 Anticipated increase in traffic on the streets near the 16 school. Because FIPS is not proposing an exit to Pooks Hill 17 Road that alone would increase traffic on Maplewood Street 18 even if the overall traffic were not increasing, but it is, 19 and traffic will face challenges. The intersection of 20 Rockville Pike and West Cedar Lane is listed as one of the 21 most congested intersections in Montgomery County. During 22 the AM peak southbound 355 traffic routinely backs up past 23 the FASEB property to the Capital Beltway. There is no 24 northbound ramp from the Capital Beltway to Rockville Pike 25 so traffic coming from the Beltway for that connection must</p> |

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44 (173 to 176)

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| <p>173</p> <p>1 proceed south, make a U-turn at the first intersection which 2 is Alta Vista Road. 3 This will not change with the advent of the AFIS and 4 the heavy southbound traffic of 355 will provide no 5 opportunity for traffic leaving the new school to make a U- 6 turn at this intersection. We disagree with the AFIS claim 7 that the closure of the former FASEB gate will reduce 8 traffic in the neighborhood from the site. We expect that 9 most drivers desiring to proceed north will likely use Alta 10 Vista Road and make a U-turn on it to exit with the traffic 11 signal at Rockville Pike. Others may use nearby Alta Vista 12 Court to turn around. 13 Maplewood residents residing on these street have 14 informed me that they currently observe such traffic 15 movements. The number of these movements would only 16 increase with vehicles leaving the school. The alternative 17 for drivers not wanting to turn around Alta Vista Road would 18 it be to continue westward to Linden and beach avenues in 19 order to exit on to Rockville -- onto Old Georgetown Road. 20 While AFIS has included language in its proposed TMP to ask 21 its parents and staff not to drive through Maplewood 22 streets, this is in reality simply unenforceable POVs 23 directly departing the FIS campus to utilize West Cedar 24 Lane. 25 There simply is no (inaudible) onto Alta Vista Road for</p> | <p>175</p> <p>1 Maplewood streets to shuttle students between campuses was 2 shown. The current plan now calls for buses with each of us 3 making three trips through the neighborhood in the morning 4 and another three in the afternoon, for a total trip -- for 5 a total of 12 trips in daily in each direction. While FIS 6 may desire to avoid rush-hour traffic on the main roads, it 7 should be noted that its current shuttle operation between 8 the Forest Road campus and its other site, at the closed 9 MSPS Rollingwood School, and Braswell Boulevard nursery and 10 preschool campuses successfully used main roads during peak 11 travel periods. 12 The county defines such roads -- I'm sorry. The roads 13 proposed for the shuttle route are all designated as primary 14 residential streets. The county defines such roads as a 15 road meant to primarily for circulation in residential 16 zones, although some through traffic is expected. The 17 shuttle buses are not through traffic. The point of origin 18 and destination are both within the neighborhood. But 19 neither is the circulation associated with residents. 20 The primary purpose and use of a residential zone is 21 heavy commercial traffic generated in association with a 22 business that happens to be allowed in a residential zone if 23 there are no adverse impacts. While there is other 24 commercial traffic on these streets, such as deliveries and 25 trash collection, those activities are much more closely</p> |
| <p>174</p> <p>1 many -- it is also making these drivers -- asking these 2 drivers to refrain from something that all drivers from 3 southbound Rockville Pike may legally do. Nevertheless, we 4 appreciate this language and would also ask that any 5 communications with parents providing direction to and from 6 the school would direct routes involving the major roadways 7 and not through our residential neighborhood, as well as 8 directing parents not to park on our residential streets to 9 walk children to the school. 10 In its recommendation to you on the special exception 11 the Planning Board said that securing the FASEB former north 12 exit from the site should be investigated. MCA concurs with 13 this and believes that if the exit is secured the traffic 14 through our neighborhood from the new school may be reduced 15 significantly. 16 Shuttle bus operations through our neighborhood. In 17 May 2018, when FIS presented its plan for the proposed 18 school to Maplewood residents the proposed shuttle bus 19 operations for the new school were shown to run on the main 20 roads surrounding our community, not through it in 21 consideration of our residents. In that last part was a 22 direct quote from our minute, what the school told us. 23 However, a month later in June of that year at a 24 community meeting required under Parking and Planning 25 regulations, a proposal for one or two buses utilizing</p> | <p>176</p> <p>1 associated with the residential nature of the streets. 2 Similarly, the two daily Montgomery County school buses 3 are also associated with residential purposes of the streets 4 as they pick up and drop off students from within the 5 neighborhood. Finally, the Ride-On route operating on 6 Linden and Beech Avenue serves as a proposed transportation 7 for residents. In contrast, the proposed shuttles are 8 merely taking the shortest route between two points while 9 providing nothing in the way of general service to the 10 neighborhood. 11 In addition to the noise, fumes, and vibrations that 12 will disturb the tranquility of residents on the streets of 13 their proposed routes, the buses will surely adversely 14 impact those streets. Due to the daily parade of 12 buses 15 over them. The buses weigh considerably more than private 16 vehicles. The roads on which these buses are proposed trial 17 have not been surfaced in the memory of most Maplewood 18 residents. They were to have been resurfaced 10 years ago 19 but the County ran out of money for its residential 20 resurfacing program and then moved on to resurface 21 residential streets in other neighborhoods leaving the 22 streets only to be patched. 23 If you want to bring up Exhibit 59(a) please? 24 HEARING EXAMINER ROBESON: It should be up. 25 MR. MYERS: That's it. Okay.</p> |

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45 (177 to 180)

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| <p>177</p> <p>1 Other FIS bus routes in the neighborhood. Another</p> <p>2 concern of a residents is with FIS buses other than shuttles</p> <p>3 using the neighborhood streets. As you can see from the map</p> <p>4 the transportation area from the FIS website, a large</p> <p>5 portion of the surface area is located north of the proposed</p> <p>6 new school.</p> <p>7 And if you can sort of put your cursor where it is,</p> <p>8 it's just down here down in -- right where 495 just comes</p> <p>9 across.</p> <p>10 HEARING EXAMINER ROBESON: Oh, where the school is.</p> <p>11 I'm sorry.</p> <p>12 MR. MYERS: Yeah. You can see where the -- east.</p> <p>13 East. East. Do you see the 495 sign up there?</p> <p>14 HEARING EXAMINER ROBESON: There.</p> <p>15 MR. MYERS: Yeah, right about there. That's the</p> <p>16 junction right about there. That's approximate. So you get</p> <p>17 an idea how far -- how many routes are actually north of the</p> <p>18 neighborhood and if they exit south they have to somehow</p> <p>19 manage to get north.</p> <p>20 It is a strong desire of residents of Maplewood that</p> <p>21 all FIS buses other than those proposed engaged in picking</p> <p>22 up and dropping off students in the neighborhood should</p> <p>23 utilize roads external to the neighborhood.</p> <p>24 Also, the TMP for the Forest Road campus requires FIS</p> <p>25 field trips to leave and arrive between 10 p.m. and 7 a.m.</p> | <p>179</p> <p>1 Road campus, so far unrequested. The TMP for the Forest</p> <p>2 Road campus was predicated on the authorized enrollment for</p> <p>3 that school and did not contemplate students from other FIS</p> <p>4 campuses utilizing the POV drop-off and pickup location for</p> <p>5 students.</p> <p>6 All transfers of students at Forest Road ought to be</p> <p>7 accomplished through the bus system as specified in the 2002</p> <p>8 hearing examiner's report for the expansion of the Forest</p> <p>9 Road campus. In a November meeting with the MCA executive</p> <p>10 committee, FIS stated that it's currently allowing parents</p> <p>11 with students enrolled in both the Forest Road campus and</p> <p>12 its Rollingwood school to be dropped off at Forest Road.</p> <p>13 Neither the FIS neighborhood liaison nor MCA was informed of</p> <p>14 this change of operations, which may explain the increase in</p> <p>15 traffic and frequent backups that occurred during the</p> <p>16 afternoon on Beech Avenue.</p> <p>17 HEARING EXAMINER ROBESON: What page are you reading</p> <p>18 from?</p> <p>19 MR. MYERS: 20 he talks about the bus system.</p> <p>20 HEARING EXAMINER ROBESON: Okay. Okay.</p> <p>21 MR. MYERS: The public school use to transport -- by</p> <p>22 contrast the county school does not use buses that I -- I</p> <p>23 can't move the thing. He talks about that all the</p> <p>24 (inaudible) are being -- are being accomplished by shuttle</p> <p>25 from one -- students getting off of one bus onto another</p> |
| <p>178</p> <p>1 to use a site that is remote from the school. This language</p> <p>2 was included to prevent late bus and POV traffic on our</p> <p>3 residential streets and to maintain peace and quiet around</p> <p>4 the school during those hours. While traffic and buses</p> <p>5 associated with field trips from the new site would not only</p> <p>6 utilize our residential streets, we believe that a similar</p> <p>7 prohibition for the new school would prevent disturbing the</p> <p>8 residents, some of them who live as close as 120 feet from</p> <p>9 the bus pickup area.</p> <p>10 I'm going to ask you to please bring up I guess 59(b),</p> <p>11 please.</p> <p>12 This is the TMP report and if you go down to page 20</p> <p>13 and 23, you'll see what I'm talking about on here.</p> <p>14 Proposed use of the Forest Road campus to drop off</p> <p>15 elementary school children. The TMP submitted with its --</p> <p>16 in its -- in the TMP submitted with its proposal FIS states</p> <p>17 that it plans to allow elementary school children who live</p> <p>18 nearby the Forest Road campus to be dropped off by their</p> <p>19 parents and then board the shuttle bus to the new school.</p> <p>20 This proposal needs careful scrutiny. First, the</p> <p>21 definition of nearby is unnecessarily vague and needs to be</p> <p>22 defined. Secondly, if the children live nearby the Forest</p> <p>23 Road campus there are also nearby the proposed new facility.</p> <p>24 Second, this change may implicate the need for a</p> <p>25 modification of the FI as special exemption for the Forest</p> | <p>180</p> <p>1 bus, not being (inaudible) not being dropped off.</p> <p>2 And on page 23, I'll go that later because I'm going to</p> <p>3 move on to one of the other exhibits in a minute because I</p> <p>4 need that, page 23, on another -- in another matter.</p> <p>5 Anyway. The locations of the YMCA, FIS, and Bethesda</p> <p>6 Country Day School are all located within a tenth of a mile</p> <p>7 of each other, and consequently, traffic congestion is</p> <p>8 extremely heavy in peak hours on beech Avenue. I have had</p> <p>9 residents tell me that they have to allow an additional 10</p> <p>10 minutes to their commute just to exit the neighborhood in</p> <p>11 the morning. In the afternoon, there are frequent backups</p> <p>12 from the FIS parental pickup area located off of Montgomery</p> <p>13 Drive to Beech Avenue.</p> <p>14 Traffic has been even backed up from that point to Old</p> <p>15 Georgetown Road, a distance of over a quarter of a mile.</p> <p>16 When that situation occurs there is no way for traffic to</p> <p>17 turn from either northbound or southbound Old Georgetown</p> <p>18 Road onto Beech Avenue. The following pictures taken by a</p> <p>19 resident depict this.</p> <p>20 And if you can bring up 59(c) and (inaudible). This</p> <p>21 was taken in 2018. This is not an unusual situation.</p> <p>22 You're looking eastbound on Beech Avenue. The hashmarks are</p> <p>23 the Bethesda Trolley Trail crossing. Note the double yellow</p> <p>24 line. Note the car driving down the wrong side of the road</p> <p>25 because the traffic, if you're looking to the left here</p> |

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46 (181 to 184)

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| <p>181</p> <p>1 you'll see the traffic all waiting to enter the gate, 2 backing up to Beech. Beech backs up -- 3 HEARING EXAMINER ROBESON: Wait. Can you just orient 4 me a little. 5 MR. MYERS: Yeah. 6 HEARING EXAMINER ROBESON: Am I looking eastbound? 7 MR. MYERS: You're looking east. 8 HEARING EXAMINER ROBESON: On what street? 9 MR. MYERS: On Beech Avenue. 10 HEARING EXAMINER ROBESON: And what is this cross -- 11 MR. MYERS: That is Montgomery Drive. 12 HEARING EXAMINER ROBESON: Okay. Gotcha. 13 MR. MYERS: The entrance to the pickup area is off of 14 Montgomery Drive. 15 HEARING EXAMINER ROBESON: Okay. 16 MR. MYERS: And they've reached the point where they're 17 all the way back to the street and people come along and 18 want to make a left turn and there's no place for them to go 19 and they get caught. And then the people all get caught up 20 behind whether they're coming into the neighborhood to go to 21 the school or whether they're going elsewhere in the 22 neighborhood or just cutting through the neighborhood to get 23 to Alta Vista Road. 24 HEARING EXAMINER ROBESON: And what was at the site 25 when this backup occurred? Is that FASEB?</p> | <p>183</p> <p>1 MR. MYERS: I can't move my cursor over it. You can 2 see -- you see the -- you see where I've drawn the line 3 between the two points? 4 HEARING EXAMINER ROBESON: Yeah. 5 MR. MYERS: Yeah. Right where that dot -- right where 6 that dot is, just before she is -- that's Montgomery Drive. 7 But right there where that little dot is where -- 8 HEARING EXAMINER ROBESON: I see it. I see it. 9 There's -- 10 MR. MYERS: Yeah. She was sitting, it took her seven 11 minutes to get from that point to her house down Montgomery 12 Drive that evening that there was the traffic backup. 13 HEARING EXAMINER ROBESON: Okay. 14 MR. MYERS: So I'm just trying to point out. You know, 15 we've got a bad situation now; it's only going to get worse 16 if we have additional children being dropped off there. 17 If you will go to 59(f), please. About why -- I'll 18 state my statement and come back to you. 19 Addition (inaudible) busing students may serve as an 20 incentive for parents to drop off their children at the 21 Forest Road campus. As you can see from the FIS 22 transportation price list parents with two children who 23 reside less than a mile from the school would pay 24 approximately \$3,600 to have them bused round trip daily. 25 Depending on the charge for the shuttle but this fee would</p> |
| <p>182</p> <p>1 MR. MYERS: That -- this was -- no. This is Montgomery 2 Drive on the east side of the neighborhood. 3 HEARING EXAMINER ROBESON: Okay. Oh, I see. Okay. 4 MR. MYERS: They're proposing to allow parents to 5 pick -- to drop off children here and I'm only showing what 6 we're seeing here on a daily basis where -- 7 HEARING EXAMINER ROBESON: I understand. 8 MR. MYERS: -- or quite frequently. 9 HEARING EXAMINER ROBESON: I get it. 10 MR. MYERS: And this type of operation with a car 11 driving the wrong side of the street is bound to eventually 12 cause an accident. If you want to bring up 59 -- the next 13 exhibit 59(d), please. 14 Yeah. This was -- a neighbor took this. This is 15 Montgomery on another day. Montgomery Drive backed up. She 16 can't even get out of her driveway. 17 HEARING EXAMINER ROBESON: And what -- and this is the 18 same stretch of road? 19 MR. MYERS: Same stretch of road, Montgomery Drive. If 20 you look -- if you're willing to go a little further to the 21 right you would find the entrance to the pickup area. 22 HEARING EXAMINER ROBESON: Okay. 23 MR. MYERS: I'll show you, if you go to 59(e), I think 24 is the map that I -- yes, 59(e) I can orient you. Yeah. 25 HEARING EXAMINER ROBESON: I see.</p> | <p>184</p> <p>1 greatly be reduced by driving to the Forest Road Campus. 2 And I -- if you look across at the top line, it's -- you can 3 see where I came up with the 3,600 approximately. 4 HEARING EXAMINER ROBESON: Okay. 5 MR. MYERS: And if you go down further you see one way 6 and still -- there's still a substantial saving even if they 7 have -- if they bring the children to Forest Road in the 8 morning and let them take the bus home in the afternoon, or 9 in the reverse. 10 A possible way to relieve traffic in this area and 11 avoid having to amend a second special exception would be to 12 prohibit elementary school students from being dropped off 13 at Forest Road. While it may seem acceptable to allow 14 elementary school children with siblings at Forest Road to 15 be dropped off at that location a better approach would be 16 for them to be dropped off and picked up at the new 17 elementary school. The design of the new facility reveals 18 better facilities and circulation for this and it would be 19 the older children rather than the younger that are bused 20 between the campuses. 21 Proposed school bus overnight and day time parking at 22 the school. If you want to bring up while I'm reading, 23 59(g), please. FIS proposes to store 15 school buses at the 24 proposed new elementary school. In a September 2018 meeting 25 the Maplewood Citizens Association voted its opposition to</p> |

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47 (185 to 188)

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| <p>185</p> <p>1 the parking the school buses on the site. The opposition 2 was --this opposition was predicated on past experience with 3 the FIS parking the school buses on the Forest Road campus. 4 In its 2002 application to amend the Forest Road campus 5 AFIS made efforts to screen the noise and fumes of the buses 6 from nearby residents. A similar effort is being proposed 7 for the site currently under consideration. However, as 8 with its 2002 application AFIS has presented no noise and 9 environmental studies to demonstrate that these issues would 10 be abated by its current efforts. In 2002 the situation was 11 noted by the hearing examiner Mr. Tierney in his report and 12 recommendation he recommended the buses be moved to a remote 13 location which is where they are stored in park today. It 14 should also be noted that the homes on Alta Vista Court are 15 only 120 feet away from the proposed storage location. 16 If you want to go back to the Tierney report you'll 17 find it on page 23 to what I'm referring. But you don't 18 have to, if you don't want to. 19 HEARING EXAMINER ROBESON: No, I'll stick here. 20 MR. MYERS: Okay. Mow over, in 2011 Section 59 C 1 of 21 the zoning ordinance was revised to prohibit the property 22 that is zoned R 60 from being used to park large commercial 23 vehicles. Large commercial vehicles are defined by the 24 ordinance as, one, greater than 10,000 pounds gross vehicle 25 weight. Two, rated by the manufacturer with a load capacity</p> | <p>187</p> <p>1 MR. BROWN: Mr. Myers, I want to interrupt you here and 2 give the hearing examiner a couple of legal citations 3 underlying this paragraph. First of all, the reference to 4 Section 59 C 1 is a reference to section 59 C 1.3.1 B a 5 transportation related permissive -- permission and special 6 exception uses in the R-60 zone. 7 Secondly, I want to distinguish parking requirements 8 under 59 E 4.5 from the prohibition on use variances in 9 Section 59 G 3.1 d. It is our position that the parking of 10 heavy commercial vehicles is a use that is not allowed in 11 the R-60 zone and the hearing examiner and everyone else has 12 no authority to grant a use variance. Therefore, those 13 buses have to be parked off site. 14 Go ahead, Mr. Myers. 15 MR. MYERS: Okay. Section 59-G-2-19 b proposed uses 16 for the site. FIS is also opposing language classes at the 17 new school on Saturdays for up to 700 students. This would 18 be a radical departure from the present for residents near 19 the site because the campus was usually empty on Saturdays. 20 MCA believes that these classes along with a proposed summer 21 camp for up to 700 children fall under the provisions of 22 Section 59-G-2-19 b which requires traffic attributable to 23 these added activities to a normal educational special 24 exception to be accounted for in evaluating traffic impacts. 25 The Planning Board staff report states that once</p> |
| <p>186</p> <p>1 of more than one ton. Three, 21 feet or longer measured 2 from the extremes of the vehicles, and any object on the 3 vehicle. Or four, more than 8 feet high with properly 4 inflated tires measured from the ground to the highest part 5 of the vehicle, including any racks, but not excluding any 6 antennas. 7 The bus fleet currently be operated by FIS currently 8 consists of category B and C school buses that meet this 9 definition as the application states, the buses are 36 feet 10 long. What you are looking at here is a type B on the left 11 which has the engine up front, the part of it is extended 12 into the -- under the dashboard of the bus. The type C 13 buses are the buses with the engine completely in the front 14 of the bus. There's actually a type D bus which I don't 15 think the school has. Montgomery county does, the engines 16 are in the rear. 17 HEARING EXAMINER ROBESON: All right. 18 MR. MYERS: Okay. The bus fleet -- and thus, it 19 appears that the zoning ordinance precludes any overnight 20 parking of the buses as well as for parking them during the 21 day when the buses are not loading or unloading the 22 students. Furthermore, I have been informed by our counsel, 23 Mr. Brown, that the zoning ordinance specifically precludes 24 that the board of appeals from granting a variance from 25 their use requirements of the ordinance.</p> | <p>188</p> <p>1 enrollment in these activities reaches 150 FIS will bus at 2 least 25 percent of the children. If the campus is occupied 3 on Saturdays with 700 students, and also 700 campers in the 4 summer, this would result in up to 525 students plus staff 5 trips arriving and departing by POV. There is no document 6 on file with the Planning Board that discussed a TMP for 7 these two activities. 8 Additionally, while the staff report is provided 9 weekend traffic kinds on Rockville Pike and several points 10 near the proposed school and has stated that at least summer 11 traffic volumes would be similar to winter weekend traffic, 12 no specific LATR was made for the additional traffic 13 generated by the school on weekends and in association with 14 the summer camps. MCA believes that the analysis provided 15 thus far is insufficient to meet the requirements of the 16 zoning ordinance for these activities. 17 FIS has informed MCA that it expects children older 18 than elementary school age to participate in its summer 19 camp, yet FIS has failed to show how outdoor activities for 20 these children could be accomplished at a school designed 21 for elementary school children. Moreover, since summer 22 camps involve more outdoor activity than school recess FIS 23 has failed to identify where this activity will take place 24 and one efforts have been made to screen it from nearby 25 residents as well as to reduce noise associated with summer</p> |

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| <p>189</p> <p>1 camp activities.</p> <p>2 Moreover, at the hearing on Friday, FIS stated the</p> <p>3 residents nears its Forest Road and Rollingwood schools</p> <p>4 facility have not complained about noise from children</p> <p>5 playing outside. However, both of these facilities were</p> <p>6 already existing schools. In contrast, as I have mentioned</p> <p>7 earlier the proposal before you is a school at a site where</p> <p>8 none had existed previously.</p> <p>9 Future neighborhood liaison committed. MCA is pleased</p> <p>10 that FIS intends to establish a neighborhood liaison</p> <p>11 committee similar to the one for its Forest Road campus.</p> <p>12 However, MCA recommends some modifications to the</p> <p>13 composition of the NLC. First, it appears to be patterned</p> <p>14 closely to the one created in 2002 for Forest Road. At that</p> <p>15 time the Office of People's Counsel participated on that NLC</p> <p>16 as well as other liaison committees throughout the county.</p> <p>17 Since that office was abolished, no County official has</p> <p>18 attended the Forest Road NLC.</p> <p>19 While MCA has no objection to the county being</p> <p>20 represented on the NLC, we believe that the specific county</p> <p>21 agency or department that will attend should be specified.</p> <p>22 Likewise, the NLC states that a representative from Pooks</p> <p>23 Hill Road will be in attendance. This language is of a</p> <p>24 considering that there are three high-rise apartment</p> <p>25 complexes and several townhouse developments on that road.</p> | <p>191</p> <p>1 it had a lot of stuff that I would need actually witness is</p> <p>2 to rebut rather than to have material to (inaudible).</p> <p>3 I guess the only thing I would say is I know you've</p> <p>4 heard testimony today, Mr. Myers, that the camp will only be</p> <p>5 week a day. Saturday classes are obviously on a Saturday.</p> <p>6 Therefore, there would not be the overlap, would there, that</p> <p>7 you described in your testimony?</p> <p>8 MR. MYERS: I don't understand the question.</p> <p>9 MR. KLINE: Will there be summer camp based on Saturday</p> <p>10 events?</p> <p>11 MR. MYERS: No, I concede there won't be any Saturdays,</p> <p>12 but there are Saturday activities scheduled for the school.</p> <p>13 MR. KLINE: Yes.</p> <p>14 MR. MYERS: A number of students.</p> <p>15 MR. KLINE: For the Saturday French language classes.</p> <p>16 MR. MYERS: Yes during the -- yes.</p> <p>17 MR. KLINE: All right. Ms. Robeson, that's actually</p> <p>18 all the questions I have but it was a very comprehensive</p> <p>19 testimony and reiterates my point that we need more time to</p> <p>20 get organized so that we can basically come back with a</p> <p>21 proposal to answer the questions that were raised by Mr.</p> <p>22 Myers. Thank you.</p> <p>23 HEARING EXAMINER ROBESON: Okay. Who would like to go</p> <p>24 next? Oh. I have Mr. Wilkerson and then Ms. Umhofer. Mr.</p> <p>25 Wilkerson, you go first.</p> |
| <p>190</p> <p>1 It should also be noted that although the planning board</p> <p>2 provided notices to several residents of Pooks Hill Road as</p> <p>3 well as their HOA, there was no participation from them at</p> <p>4 the January 7th, Planning Board hearing for this</p> <p>5 modification. Still, it would seem prudent to reserve</p> <p>6 representatives from the Crystal Square condominiums there</p> <p>7 that about site.</p> <p>8 Also, a representative from Alta Vista court should be</p> <p>9 on the in LC. The street is located off of Alta Vista Road</p> <p>10 and between Rockville Pike and Alta Vista Terrace. As</p> <p>11 noted, previously residents on this street occupy homes</p> <p>12 closest to the site. Finally, experience with the Forest</p> <p>13 Road NLC has shown that most of the issues discussed by that</p> <p>14 group involve transportation. Therefore, the school's</p> <p>15 transportation coordinator should be tasked with attending</p> <p>16 NLC meetings in addition to other AFIS staff shown.</p> <p>17 Conclusion. As I stated at the beginning of my</p> <p>18 testimony we do not oppose the creation of the school, but</p> <p>19 as I hope my testimony has demonstrated there are legitimate</p> <p>20 concerns with the proposal before you that needs to be</p> <p>21 addressed. Thank you very much.</p> <p>22 HEARING EXAMINER ROBESON: Thank you, Mr. Myers. Mr.</p> <p>23 Klein, do you have questions?</p> <p>24 MR. KLINE: Not as many as you would think simply</p> <p>25 because Mr. Myers presentation was very well organized. But</p> | <p>192</p> <p>1 Mr. Wilkerson?</p> <p>2 UNIDENTIFIED SPEAKER: Yes.</p> <p>3 HEARING EXAMINER ROBESON: Is Mr. Wilkerson there?</p> <p>4 Okay. Let me let Ms. Umhofer go and we'll circle back to</p> <p>5 Mr. Wilkerson. And I also see Mr. Seid's hand up. So</p> <p>6 Mr. -- Ms. Umhofer, can you raise your right hand, please?</p> <p>7 MS. UMHOFFER: Yes.</p> <p>8 MR. MYERS: You didn't swear me in either?</p> <p>9 HEARING EXAMINER ROBESON: What?</p> <p>10 MR. MYERS: You didn't swear me in?</p> <p>11 HEARING EXAMINER ROBESON: I was too fascinated. Let</p> <p>12 me go back to Mr. Myers. Mr. Myers, please raise your right</p> <p>13 hand.</p> <p>14 Do you solemnly affirm under penalties of perjury that</p> <p>15 everything you've stated here is the truth, the whole truth,</p> <p>16 and nothing but the truth?</p> <p>17 MR. MYERS: I do.</p> <p>18 HEARING EXAMINER ROBESON: And going forward,</p> <p>19 everything is going to be the truth and nothing but the</p> <p>20 truth?</p> <p>21 MR. MYERS: Yes.</p> <p>22 HEARING EXAMINER ROBESON: Thank you.</p> <p>23 Okay. Ms. Umhofer.</p> <p>24 MS. UMHOFFER: Yes.</p> <p>25 HEARING EXAMINER ROBESON: Raise your right hand. Do</p> |

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| <p>193</p> <p>1 you solemnly affirm under penalties of perjury that the</p> <p>2 statements you're about to make are the truth, the whole</p> <p>3 truth, and nothing but the truth?</p> <p>4 MS. UMHOFFER: Yes.</p> <p>5 HEARING EXAMINER ROBESON: Go ahead.</p> <p>6 MS. UMHOFFER: Okay.</p> <p>7 HEARING EXAMINER ROBESON: Please state your name and</p> <p>8 address for the record, and if you have not provided your</p> <p>9 email address to Nana please state that too.</p> <p>10 MS. UMHOFFER: Will do. I'm Becky Umhofer, a resident</p> <p>11 at 5031 Alta Vista Road which bordered the site that's the</p> <p>12 subject of today's hearing. And I've lived here for 18</p> <p>13 years. Ms. Johnson does have my email address.</p> <p>14 HEARING EXAMINER ROBESON: Great.</p> <p>15 MS. UMHOFFER: I want to just step back and talk about</p> <p>16 the big picture a little bit because the Applicant has added</p> <p>17 some context about how long this process has been, and it</p> <p>18 certainly has. Also, though, want to underscore the fact</p> <p>19 that there are traffic challenges with this property should</p> <p>20 have been no secret. Anyone who is familiar with this</p> <p>21 corridor absolutely knows that they were proposing a large</p> <p>22 school on one of the most congested thoroughfares in the</p> <p>23 county.</p> <p>24 And as Allen aptly described, just congestion is backed</p> <p>25 up routinely pass their site. My husband has, for years,</p> | <p>195</p> <p>1 focus on any peak hour really is irrelevant to the concerns</p> <p>2 surrounding neighborhood traffic.</p> <p>3 And one of our key concerns, of course, is when this</p> <p>4 traffic exits the site the immediate ability to turn around</p> <p>5 is on Alta Vista. And one thing that hasn't been addressed,</p> <p>6 and I know I believe someone testified that they did not --</p> <p>7 I think it was Ms. Wagner, they did not examine this is the</p> <p>8 frequent U-turns at the Alta Vista and Rockville Pike</p> <p>9 intersection. As Mr. Myers testified this is something that</p> <p>10 residents on Alta Vista see frequently. Currently, it</p> <p>11 happens mostly in the afternoon from people exiting, I think</p> <p>12 it's 270 and the Beltway need to turn around if they want to</p> <p>13 head north because they have no northbound exit.</p> <p>14 And so they do it sometimes by doing a U-turn on</p> <p>15 Rockville Pike, and other times by turning onto Alta Vista</p> <p>16 and doing a quick U-turn. But this is often executed in a</p> <p>17 way that is certainly a nuisance to those who live near that</p> <p>18 intersection and can be dangerous. And I want to show, I</p> <p>19 have a picture of a maneuver. Ms. Johnson kindly loaded it</p> <p>20 for me. It's Exhibit 81(a).</p> <p>21 HEARING EXAMINER ROBESON: Okay. I am looking for it.</p> <p>22 I know it --</p> <p>23 MS. UMHOFFER: It should be near the bottom. I think</p> <p>24 she just loaded it in this weekend for me.</p> <p>25 HEARING EXAMINER ROBESON: Let me do this really</p> |
| <p>194</p> <p>1 walked to the Metro and he routinely walks past cars on his</p> <p>2 way to the NIH Metro. So the fact that this was a laborious</p> <p>3 process should not have been a surprise and it does not</p> <p>4 excuse an inability to address the neighborhood concerns,</p> <p>5 that I think the testimony to date has been either</p> <p>6 incomplete or in adequate towards the conclusion is that</p> <p>7 there won't be an impact on the neighborhood. And I'm going</p> <p>8 to address some specific reasons why this is so.</p> <p>9 So we heard testimony that the plan is to use</p> <p>10 residential streets as the northbound driveway because they</p> <p>11 don't have one. I think that's fundamentally incompatible</p> <p>12 with a residential neighborhood. In particular, because of</p> <p>13 the way the southbound Rockville Pike is so congested, I</p> <p>14 want to underscore that that congestion starts as early as</p> <p>15 6:30 or 7 a.m. and you can confirm that by looking at the</p> <p>16 turn restrictions that are currently in place along</p> <p>17 Rockville Pike.</p> <p>18 Currently, if I head north on Rockville Pike and try to</p> <p>19 get back to my house I have a no left turn on Alta Vista</p> <p>20 starting at 7 a.m. so if I go to the gym in downtown</p> <p>21 Bethesda and I come back up northbound I can't to turn left</p> <p>22 onto Alta Vista because southbound traffic is presumed to be</p> <p>23 so heavy at that time that they do not allow left-hand turn</p> <p>24 restrictions either at Elsmere, West Cedar or Alta Vista;</p> <p>25 the whole core door is so typically backed up. And so the</p> | <p>196</p> <p>1 quickly. Okay. Am I looking at it now? Can you see</p> <p>2 what --</p> <p>3 MS. UMHOFFER: No, I don't see it yet.</p> <p>4 HEARING EXAMINER ROBESON: Okay.</p> <p>5 MS. UMHOFFER: Looking at Rochambeau --</p> <p>6 HEARING EXAMINER ROBESON: Okay. Just one second.</p> <p>7 Okay. How's that?</p> <p>8 MS. UMHOFFER: Yes, that's it. If you can -- now this</p> <p>9 photo, I actually went down to confirm I was right about</p> <p>10 the -- this is the sign at Elsmere and Rockville Pike</p> <p>11 showing that there is already a no right turn restriction in</p> <p>12 the mornings to prevent traffic from heading down Elsmere.</p> <p>13 But as I was there, trying to confirm the time on that this</p> <p>14 white car executed the kind of U-turn, exactly what we see</p> <p>15 at Alta Vista, very near the intersection of Rockville Pike.</p> <p>16 So what is the most scary is when you're trying to take a</p> <p>17 right on Alta Vista and someone is doing that immediately</p> <p>18 around the corner because you can't anticipate that there's</p> <p>19 going to be a car sideways doing a U-turn.</p> <p>20 And I'll underscore that the Alta Vista intersection</p> <p>21 is -- while it appears wide, once you stack up cars parked</p> <p>22 in front of the residences they are a bus turning right is</p> <p>23 going to have a difficult time making that sharp right turn</p> <p>24 12 times a day on the proposed shuttle route.</p> <p>25 HEARING EXAMINER ROBESON: Alta Vista permits on street</p> |

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| <p>197</p> <p>1 parking?</p> <p>2 MS. UMHOFFER: Yes, on both sides. In the way that</p> <p>3 intersection is laid out typically at that light you have</p> <p>4 some cars -- there are sort of three lanes of traffic. Some</p> <p>5 cars are going to try to take a right on Alta Vista. I mean</p> <p>6 on Rockville Pike. And some are going to go left, usually,</p> <p>7 or straight, but most of the traffic will head left or</p> <p>8 right. And then there is usually one lane left for incoming</p> <p>9 traffic. So there is a kind of queuing at the three lane</p> <p>10 intersection, and I am concerned that the buses will have a</p> <p>11 difficulty making that turn.</p> <p>12 HEARING EXAMINER ROBESON: And this is eastbound</p> <p>13 approaching Rockville Pike, correct?</p> <p>14 MS. UMHOFFER: Correct. I was a little confused. I</p> <p>15 feel like -- I think Ms. Wagner may have indicated that</p> <p>16 there is no left turn available at that intersection in the</p> <p>17 morning, and if that was her testimony, that is not</p> <p>18 currently accurate. You can turn left at that light but it</p> <p>19 is a very short light and as my next topic will talk about</p> <p>20 why that is not a good -- well-functioning intersection to</p> <p>21 take that left.</p> <p>22 So yes. If a lot of cars, as I anticipate, will do</p> <p>23 this now in the morning it's going to cause a backup down</p> <p>24 Alta Vista because the length of that light is very short</p> <p>25 and the intersection is very frequently block by southbound</p> | <p>199</p> <p>1 HEARING EXAMINER ROBESON: I don't understand what I'm</p> <p>2 looking at here. Can you just give me an idea? You're --</p> <p>3 MS. UMHOFFER: I am exiting my neighborhood trying to</p> <p>4 make a left to go to the Grosvenor Metro. I'm trying to</p> <p>5 take a left on Rockville Pike.</p> <p>6 HEARING EXAMINER ROBESON: Okay.</p> <p>7 MS. UMHOFFER: And so this is the Alta Vista Rockville</p> <p>8 Pike intersection. My light turns green but I can't proceed</p> <p>9 because the southbound Rockville Pike is backed up all the</p> <p>10 way to the Beltway and traffic just goes into the</p> <p>11 intersection. So although we get a green light, we cannot</p> <p>12 exit and take a left.</p> <p>13 So routing additional traffic down this street will</p> <p>14 exacerbate an existing problematic intersection. And to the</p> <p>15 extent that cars do take a U-turn, or go around the block</p> <p>16 and try to exit the neighborhood at this light to head</p> <p>17 north, which they certainly will, they would just contribute</p> <p>18 to a backup along Alta Vista which will then, you know, trap</p> <p>19 neighbors in their driveways because this light doesn't</p> <p>20 function well.</p> <p>21 And I'll add, there's a bit of a noise nuisance related</p> <p>22 to this problem for the people right next to the light</p> <p>23 because people do conch once there's -- you know, you're</p> <p>24 sitting there and there's traffic in your intersection,</p> <p>25 people start laying on their horns. And I'm sure for those</p> |
| <p>198</p> <p>1 Rockville Pike traffic that doesn't respect the</p> <p>2 intersection. So you may have a 12 second green light, but</p> <p>3 you may only get two or three cars through because you have</p> <p>4 to wait for the intersection to clear.</p> <p>5 HEARING EXAMINER ROBESON: Okay.</p> <p>6 MS. UMHOFFER: And I have photos of the blocked</p> <p>7 intersection; I'm not making it up, 81(d) and 81(f) are two</p> <p>8 different days that I is. It's this. And this was back in</p> <p>9 2019 but when we knew that --</p> <p>10 HEARING EXAMINER ROBESON: Oh, that's -- sorry. 81(d),</p> <p>11 are you seeing it?</p> <p>12 MS. UMHOFFER: Not quite yet.</p> <p>13 HEARING EXAMINER ROBESON: Okay. This is what I have</p> <p>14 as 81(d).</p> <p>15 MS. UMHOFFER: Yes. So this is me at that intersection.</p> <p>16 I'm heading east on Alta Vista and that is my green light</p> <p>17 and a car in front of me on blocking that intersection. And</p> <p>18 this is a frequent experience for those who try to use that</p> <p>19 intersection to head left to go north on Rockville Pike.</p> <p>20 HEARING EXAMINER ROBESON: Okay.</p> <p>21 MS. UMHOFFER: And 81(f) is a similar shot on a</p> <p>22 different day. One was April 15, 2019 and one was in June.</p> <p>23 HEARING EXAMINER ROBESON: Is this it?</p> <p>24 MS. UMHOFFER: This is the same light blocked again.</p> <p>25 It's blocked --</p> | <p>200</p> <p>1 that live right there that it's annoying.</p> <p>2 So I mentioned in some of my cross-examination my</p> <p>3 concern about pedestrian safety, but I do to underscore</p> <p>4 that. Alta Vista has historically had multiple stops of</p> <p>5 MCPS school buses along it. I have a senior in high school</p> <p>6 and her entire time riding the bus there's been at least one</p> <p>7 MCPS route with multiple stops on Alta Vista Road, and for</p> <p>8 several years there was another routed bus that would</p> <p>9 proceed down Alta Vista but not stop; it was going somewhere</p> <p>10 else in the neighborhood.</p> <p>11 So we have frequently seen cars pass the buses while</p> <p>12 they are stopped. We have speeding traffic that parents way</p> <p>13 that to slow them down, and then there is also Maplewood-</p> <p>14 Alta Vista Park. It is on the north side of Alta Vista, so</p> <p>15 any children going to the park from -- towards West Cedar</p> <p>16 from Alta Vista across the street frequently. And so I am</p> <p>17 concerned that routing a large amount of additional traffic</p> <p>18 is not consistent with the County's efforts to minimize</p> <p>19 pedestrian injury.</p> <p>20 Regarding the summer camp, I think we've talked about</p> <p>21 the current TMP and the staff report really do not make it</p> <p>22 clear that the proposed trip limit should apply to the</p> <p>23 summer camp. So reading what has been presented in the file</p> <p>24 it (inaudible).</p> <p>25 HEARING EXAMINER ROBESON: Ms. Umhofer? Ms. Umhofer.</p> |

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| <p>201</p> <p>1 MR. MYERS: She may have gotten cut off on the 2 Internet. She had that problem earlier. 3 HEARING EXAMINER ROBESON: Oh, she did? Okay. Let's 4 give her a few minutes to try to get her connection back. 5 MR. MYERS: While you're waiting for her, can I offer a 6 couple of comments in regard to what was said throughout the 7 proceeding? You asked about sidewalks on Beech Avenue. It 8 has a sidewalk on the north side, not on the south side 9 except a little area by Bethesda Country Day School to get 10 to a bus. And it does not have standard curbs and gutters. 11 If you're interested and need the gate reports, I have a 12 couple of them in digital form I can submit them if you want 13 them. And I can also forward to you the email I received 14 from FASEB regarding the north gate. 15 HEARING EXAMINER ROBESON: What's a gate report? 16 MR. MYERS: Every time that gate opened in the past it 17 recorded who -- the pass had it, when -- what time it was. 18 I don't know if it would be of interest to you, it's just 19 information that I have. I do have the months for 2015 and 20 2017 on my computer. 21 HEARING EXAMINER ROBESON: Okay. 22 MR. MYERS: Also, one other point of reference is at 23 one time when FASEB first got its special exception to 24 expand the facility the light at Alta Vista didn't exist. 25 It only -- later on until about three or four years ago</p> | <p>203</p> <p>1 MS. UMHOFFER: Yes. 2 HEARING EXAMINER ROBESON: I had to get an ethernet 3 connection. 4 MS. UMHOFFER: All right. Let me just -- I'm almost 5 finished. 6 HEARING EXAMINER ROBESON: Take your time. 7 MS. UMHOFFER: So I believe when I got cut off I was 8 talking about the lack of information and a mechanism to 9 count traffic for the summer school and the Saturday school. 10 And that is a big concern for the residents even though 11 there may be more technical road capacity on Rockville Pike, 12 those are the very times when children are playing at the 13 park, they're learning to ride their bike on our residential 14 streets, and it's flowing down residential streets. 15 HEARING EXAMINER ROBESON: Okay. 16 MS. UMHOFFER: And then, I went to pick up on a point 17 that Allen mentioned about road maintenance. And I just 18 want to underscore that along Alta Vista this has been a big 19 problem right in front of our house. I have some photos of 20 the current potholes, and we've been in -- 21 HEARING EXAMINER ROBESON: This is -- did you submit 22 those into the record? 23 MS. UMHOFFER: I did. 24 HEARING EXAMINER ROBESON: Yes, I saw those. 25 MS. UMHOFFER: Okay. So we maybe don't need to look at</p> |
| <p>202</p> <p>1 allowed only a right turn during peak hours, which I think 2 is one of the reasons they wanted that back gate so badly 3 because there was no way out for them to get out easily. 4 They now have -- that, of course changed -- 5 HEARING EXAMINER ROBESON: You mean the back gate 6 through the HOC? 7 MR. MYERS: Alta Vista Terrace. 8 HEARING EXAMINER ROBESON: Oh, on Alta Vista Terrace. 9 MR. MYERS: And then they were able to realize they 10 were kind of limited and instead of having to go through the 11 neighborhood once they got the Pooks Hill Apartment exit. 12 It was an interest as well, but it didn't make much point in 13 trying to go in there if you were just going to go a few 14 more feet down the road and turn into their own driveway. 15 But it really reduce the amount of traffic because people 16 could go straight through Pooks Hill and then turn and head 17 north instead of having to go through the neighborhood to 18 Old Georgetown Road. 19 HEARING EXAMINER ROBESON: Okay. I see Ms. Umhofer 20 back. Ms. Umhofer are you there? Now, it looks like she's 21 frozen. Ms. Umhofer? She may be muted. 22 MS. UMHOFFER: Sorry, I got bumped off the Internet. 23 Now, I am back. 24 HEARING EXAMINER ROBESON: This stuff uses a lot of 25 bandwidth.</p> | <p>204</p> <p>1 those now. I also did submit correspondence with the 2 County, I think it's Exhibit 81. My husband's been emailing 3 the County for a couple of years trying to get our road 4 resurfaced and no dice. We've been told not FY 2021 or 5 2022. 6 HEARING EXAMINER ROBESON: And do you see -- I put that 7 up on the screen. 8 MS. UMHOFFER: Yes, that's the email I'm talking about. 9 HEARING EXAMINER ROBESON: We put the potholes two. 10 Can you tell me, let's see if I can find potholes. 11 MS. UMHOFFER: They were 81(b), (c), and (e) I believe. 12 HEARING EXAMINER ROBESON: B as in boy? 13 MS. UMHOFFER: Yes. This is just looking across Alta 14 Vista Road. And as you can see that is a house length of 15 just one pothole after another. And they -- 16 HEARING EXAMINER ROBESON: Where is this along Alta 17 Vista Road? 18 MS. UMHOFFER: This is right in front of -- this is my 19 driveway you're looking at, 5031 on my side of the street 20 and I'm looking across at my across the street neighbor. 21 HEARING EXAMINER ROBESON: Okay. And is there another 22 picture that we can just make sure we understand? 23 MS. UMHOFFER: Yes. Look at (inaudible). 24 HEARING EXAMINER ROBESON: Yes. 25 MS. UMHOFFER: C and E are different perspectives of the</p> |

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| <p style="text-align: right;">205</p> <p>1 same area.</p> <p>2 HEARING EXAMINER ROBESON: Okay.</p> <p>3 MS. UMHOFFER: Yeah, it's just one big patch.</p> <p>4 HEARING EXAMINER ROBESON: Is this where the backups</p> <p>5 occur or is this separate from that area?</p> <p>6 MS. UMHOFFER: Currently the backups don't come this</p> <p>7 far. I'm -- so again, they may if enough cars start using</p> <p>8 this road, but they don't currently. But this though, is</p> <p>9 the proposed bus shuttle route, which is my key concern.</p> <p>10 That 12 buses down this road in addition to creating a noise</p> <p>11 and pollution nuisance are also going to be contributing to</p> <p>12 the poor maintenance of the road. It's also, of course,</p> <p>13 where the school currently proposed to route all traffic</p> <p>14 that wants to go northbound. So in addition to the shuttle</p> <p>15 bus we're talking about hundreds of extra cars.</p> <p>16 HEARING EXAMINER ROBESON: Okay.</p> <p>17 MS. UMHOFFER: That's really it in terms of my --</p> <p>18 HEARING EXAMINER ROBESON: I have a question. Were you</p> <p>19 the one that talked about the stormwater runoff or was that</p> <p>20 Mr. Seid?</p> <p>21 MS. UMHOFFER: I do experience that same problem on our</p> <p>22 property. There is testimony before the Planning Board and</p> <p>23 I think it was George McKenna in Alta Vista Court who had</p> <p>24 submitted a letter about the same thing happening on his</p> <p>25 property.</p> | <p style="text-align: right;">207</p> <p>1 HEARING EXAMINER ROBESON: Yes, I can, Mr. Wilkerson.</p> <p>2 MR. WILKERSON: Are you able to hear me now?</p> <p>3 HEARING EXAMINER ROBESON: Yes.</p> <p>4 MR. WILKERSON: Okay. Thank you. I wanted to offer a</p> <p>5 couple of opening observations. I wanted to thank Ms.</p> <p>6 Robeson for providing a very fair and thorough hearing for</p> <p>7 all the parties involved. And I think it's been a great</p> <p>8 experience. (inaudible).</p> <p>9 HEARING EXAMINER ROBESON: Now, Mr. Wilkerson, I can't</p> <p>10 hear you. Whatever you did I can't -- hello?</p> <p>11 MR. WILKERSON: Can you hear me now, better?</p> <p>12 HEARING EXAMINER ROBESON: Well, there's a lot of</p> <p>13 feedback. Do you have your phone --</p> <p>14 MR. WILKERSON: Can you hear me now?</p> <p>15 HEARING EXAMINER ROBESON: Yes.</p> <p>16 MR. WILKERSON: Okay. I'm sorry for the -- we have a</p> <p>17 bandwidth question here. I can't hear you. Can you just</p> <p>18 let me know and you can hear me?</p> <p>19 HEARING EXAMINER ROBESON: I can hear you.</p> <p>20 MR. WILKERSON: Okay. Very good. All right. Sorry</p> <p>21 for the confusion. Also, I wanted to begin by saying I have</p> <p>22 tremendous respect and admiration for the French nation and</p> <p>23 the French people, the culture, the language, the French</p> <p>24 education. And as Allen said, it's not in opposition to the</p> <p>25 school that would be devoted to those goals. It's an</p> |
| <p style="text-align: right;">206</p> <p>1 HEARING EXAMINER ROBESON: And what happened?</p> <p>2 MS. UMHOFFER: Well, every time it rains there is just</p> <p>3 dirt flowing down to our sidewalk from the FASEB property.</p> <p>4 So there just seems to be erosion along that hillside. They</p> <p>5 actually -- their property comes down to Alta Vista at a</p> <p>6 point between my house and the house to the east, near what</p> <p>7 they -- most of their maps don't show this; there's a gazebo</p> <p>8 and they have a property that abuts Alta Vista Road right</p> <p>9 next to my house. And there, after a heavy rain, there's</p> <p>10 just a flow of mud. So there's a lot of erosion.</p> <p>11 And then, what I was mentioning to Ms. Fabre is that</p> <p>12 people walk their dogs on their property now and have</p> <p>13 enjoyed the beautiful campus. So it is open and that's how</p> <p>14 I noted that there is a sinkhole near this area where the</p> <p>15 mud flows.</p> <p>16 HEARING EXAMINER ROBESON: Okay. Thank you. Anything</p> <p>17 else?</p> <p>18 MS. UMHOFFER: No, that's it. Thank you so much for all</p> <p>19 your time.</p> <p>20 HEARING EXAMINER ROBESON: Thank you for coming back.</p> <p>21 We're going to try Mr. Wilkerson again. Mr. Wilkerson, are</p> <p>22 you ready? Mr. Wilkerson? I don't hear him. He's muted</p> <p>23 himself and may have walked away for a minute.</p> <p>24 Well, is there anyone --</p> <p>25 MR. WILKERSON: Can you hear me?</p> | <p style="text-align: right;">208</p> <p>1 opposition to the excessive traffic that would be inflicted</p> <p>2 on the neighborhood.</p> <p>3 If you would like to swear me again, I can do that.</p> <p>4 HEARING EXAMINER ROBESON: Please raise your right</p> <p>5 hand.</p> <p>6 Do you solemnly affirm under penalties of perjury that</p> <p>7 the statements you're about to make are the truth, the whole</p> <p>8 truth, and nothing but the truth?</p> <p>9 MR. WILKERSON: Yeah. And my name is Carl Wilkerson.</p> <p>10 I'm 5214 Acacia Avenue, Bethesda, Maryland, and I had</p> <p>11 comments that appear at Exhibit 77(c). I have resided in</p> <p>12 Maple --</p> <p>13 HEARING EXAMINER ROBESON: Before you do that, have you</p> <p>14 given your email address to Ms. Johnson of our office?</p> <p>15 MR. WILKERSON: Yes, I have.</p> <p>16 HEARING EXAMINER ROBESON: Okay. Thank you. Go ahead.</p> <p>17 MR. WILKERSON: I have lived in the Maplewood and</p> <p>18 neighborhood for over 56 years on both Linden Avenue and</p> <p>19 Acacia Avenue, four generations of my family ranging from</p> <p>20 age 4 to 94 currently live in three different homes in the</p> <p>21 Maplewood neighborhood. The traffic volume in Maplewood has</p> <p>22 mushroomed over this period as numerous commercial and</p> <p>23 housing developments have evolved.</p> <p>24 The FIS proposal, without further amendment, would</p> <p>25 greatly exacerbate the already hazardous traffic flow. In</p> |

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| <p>209</p> <p>1 my view, the recommendations and report of the Capital Park 2 and Planning Commission failed to consider the pre-existing 3 and comprehensive traffic pressure confronting Maplewood 4 from profound developmental changes that the neighborhood 5 has experienced. Notwithstanding, the LATR which is based 6 on estimate and formulas, but not the reality of the heavily 7 burdened roads.</p> <p>8 As I mentioned in my letter, like a fully saturated 9 sponge the neighborhood traffic along Beech Avenue, Linden 10 Avenue, Pooks Hill Road and Alta Vista Road has passed the 11 tipping point. And the FIS proposal would exacerbate the 12 already excessive traffic in the Maplewood neighborhood. In 13 my view, the traffic measurement plan is impotent and would 14 impair the safety of Maplewood residents and their enjoyment 15 of their neighborhood.</p> <p>16 There are, however, solutions that can be implemented 17 to allow the FIS initiative while also protecting the 18 residents of Maplewood. The monitoring, reporting, and 19 absence of penalties in the TMP need enlargement and 20 permanent installation in the special exception request. As 21 I had mentioned in some of the cross-examination over half 22 of the streets in Maplewood have no sidewalk, curbs, or 23 gutters and pedestrians and cyclists walk frequently on the 24 street and would be endangered.</p> <p>25 Alta Vista Road has a Maplewood recreational park on</p> | <p>211</p> <p>1 traffic lights and delays that are on Rockville Pike, Old 2 Georgetown Road, et cetera, as the prior speaker mentioned.</p> <p>3 And it can be expected that the FIS parents will drive 4 through the neighborhood despite the once a year FIS 5 explanation about the aspirational, but unenforced driving 6 patterns.</p> <p>7 On Friday we heard Ms. Fabre highlight the benefits of 8 having the French International School combine its 9 operations here on the site. Almost all of the reasons that 10 she cited would be (inaudible) although helpful to the 11 school, and would increase the already burdensome traffic. 12 She mentioned one of the benefits with centralization of 13 three existing schools. Well, that currently has traffic 14 spread over several neighborhoods but this would concentrate 15 the already spread out traffic in Maplewood from those three 16 sites. She mentioned the efficiency for the school and 17 parents, but did not mention the profoundly harmful 18 inefficiency for Maplewood residents, traffic, pedestrians, 19 and walkers.</p> <p>20 As I had said at the Planning Commission, this is not 21 NIMBY; this is simply trying to accommodate both goals, 22 protecting the neighborhood while permitting the school. 23 The problem is that the dangerous traffic in the location 24 that it would inflict on the neighborhood. But there is a 25 win/win process that can be achieved with significant</p> |
| <p>210</p> <p>1 weekends and during the week pre-covid and hopefully post- 2 covid many people used that for baseball games, football 3 games and other activities. You have kids running across 4 the street on Maplewood, parents on the sidewalks, et cetera 5 and the weekend activities on Alta Vista would be of 6 particular danger to them. But also, for the football 7 practices and baseball practices and ballet that goes on on 8 the Maplewood rec center, they could be impaired heavily by 9 the traffic that would come along Alta Vista Road.</p> <p>10 Others mentioned that the neighborhood is circumscribed 11 by extreme traffic loads, but I thought I'd mention Walter 12 Reed on the former Navy medical site has doubled in size in 13 terms of the traffic volume and the patients coming there. 14 We have the rush-hour traffic to and from the NIH, traffic 15 flow from the Beltway and 270 spur going south on Rockville 16 Pike because of the lack of a cloverleaf. And as has been 17 mentioned, anyone wanting to go north has to make that 18 dangerous U-turn at Alta Vista Road very near the entrance 19 to the French International School proposal.</p> <p>20 There's also the increased traffic from the rebuilding 21 of downtown Bethesda on Rockville Pike and the relocation of 22 the new Marriott international headquarters. There are 23 already pending approvals for two new towers on the Bethesda 24 Marriott property on Pooks Hill Road. Many, many of the 25 commuters to the sites already use Maplewood to avoid severe</p> | <p>212</p> <p>1 further enhancements to the special exception amendment.</p> <p>2 The request for a special exception amendment is not a 3 win/win situation now, it's more of a zero sum initiative 4 and there are critical modifications necessary, including a 5 requirement that FIS traffic on any street in Maplewood 6 should be strictly prohibited by the special exception. All 7 FIS parents and bus traffic should be explicitly restricted 8 to Cedar Lane, Old Georgetown Road, Rockville Pike and the 9 Beltway.</p> <p>10 The special exception should impose significantly more 11 meaningful monitoring of the FIS traffic than a "single 12 typical school day in the fall semester," as proposed in the 13 TMP. And there should be required the establishment of 14 permanent electronic devices either cameras, and/or traffic 15 monitoring calculators at the entrance to the new school to 16 unequivocally measure and verify compliance with the traffic 17 load that the school has committed to do. And monthly 18 reporting of the traffic volume should take place, not an 19 annual report, that's too long of a gap.</p> <p>20 And lastly, there should be significant financial 21 penalties for each violation of the traffic management plan. 22 As it stands now, the parents would be penalized if a child 23 (inaudible) violations had not followed the instructions 24 they would be expelled. There is no penalty for the school 25 and the school should be also suffering a financial penalty.</p> |

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| <p style="text-align: right;">213</p> <p>1 There is precedent for that; Our Lady of Good Counsel High 2 School in Olney, Maryland on Route 108, a much larger road 3 then Maplewood streets had a financial penalty baked into 4 their approval to expand the school and expand the 5 facilities. The Parking and Planning commission has 6 authority to do that and president to do that and a 7 financial penalty should be imposed here to enforce the 8 condition. 9 So I don't think there's been a proper cost-benefit 10 analysis, only a benefit analysis in the traffic plan. 11 During the cross-examination today, it became clear that 12 there is imprecision in the total number of students in the 13 afterschool and the weekend activities. We need precision 14 on that. And we got clarified that there would be 425 daily 15 trips, not counting after school, weekend, and summer. We 16 need to get that clarified. 17 Enhancement of the monitoring and in enforcement of the 18 financial penalty, unfortunately are necessary because of 19 the FIS has historic noncompliance with the special 20 exception requirements. As has been mentioned, the high 21 school has a constraint on it special exception that there 22 be no summer's camps. Ms. Fabre who said she was at the 23 school for nine years told Mr. Myers on cross-examination 24 that there were summer camps. Indeed, Maplewood and others 25 have gotten postcards inviting people to join their summer</p> | <p style="text-align: right;">215</p> <p>1 Bethesda Country Day School, which in the morning drop-offs 2 heading east on Beech Avenue gets a little backed up getting 3 into the Bethesda Country Day School. Some of the people 4 dropping off at the French International School don't want 5 to wait so they will cross over into the eastbound traffic 6 creating the same sort of potential danger that Mr. Myers 7 demonstrated with his photographs; and he had mentioned 8 that's very near the Bethesda Trolley Trail. People walk, 9 ride bikes, strollers, walk dogs, et cetera. It's just a 10 terrible place for somebody to be driving on the wrong side 11 of the road. 12 So those are reasons why the application needs to have 13 significant amendments. We should have required the 14 installation of permanent traffic counting devices on the 15 driveways to the proposed new school such as pneumatic road 16 tubes laid across the roadway, (indiscernible) electronic 17 sensors embedded in the roadway, conductive loops into the 18 roadway or a combination of these. There's no reason to 19 avoid this active quantifiable traffic monitoring as a 20 condition of the application. The cost is low and the 21 maintenance is minimal. If the FIS is committed to the TMP 22 it should not object to mechanical monitoring. 23 If they intend to comply with the traffic entrance and 24 total number of drivers it should be fully transparent. 25 They shouldn't have any objection to having quantifiable</p> |
| <p style="text-align: right;">214</p> <p>1 camps even though there's been explicit prohibition of their 2 special exception. 3 So it appears (inaudible) there unintentional or 4 purposive there are violations. We have to have better 5 monitoring, enforcement, and financial penalties. The 6 restrictions in their application are meaningless words on 7 paper without active monitoring, enforcement, and financial 8 penalties. 9 Another example of the FIS noncompliance with traffic 10 commitments; as mentioned, the FIS came to a Maplewood 11 Citizens Association in 2018 and one of the individuals 12 presenting was the superintendent of their bus operations. 13 And he made a representation that no buses would cut through 14 any of the streets in Maplewood. I live on a Acacia Avenue 15 and we had regular FIS buses bolting down our street at 16 excessive rates, and much faster than what we observed on 17 the Montgomery County school buses. 18 We also have an unfortunate incident where there was a 19 standoff between the bus driver and a driver in the opposite 20 direction. The driver got out of the bus and confronted the 21 driver. Fortunately, there was no physical harm, but it was 22 regrettable and indicates that the school doesn't live up to 23 its commitment about its bus traffic. 24 As one of the photographs also demonstrated by coming 25 at a different time, there is a regular in front of the</p> | <p style="text-align: right;">216</p> <p>1 (inaudible). 2 HEARING EXAMINER ROBESON: Mr. Wilkerson. Mr. 3 Wilkerson, I think you are -- you're not muted. You must be 4 in and out. Let me give him a few minutes. We don't 5 usually have this problem. Maybe because so many people are 6 on this one. 7 Well, let me give him a few minutes to come back. I 8 have Mr. Komarow's hand up. Mr. Komarow? 9 MR. KOMAROW: Yes, Ms. Roberson. 10 HEARING EXAMINER ROBESON: Did Mr. Wilkerson come 11 back? Mr. Wilkerson? 12 Okay. Let's go to you and then we'll come back when 13 MR. Wilkerson is able to. Please raise your right hand, Mr. 14 Komarow. 15 Do you solemnly affirm under penalties of perjury that 16 the statements you're about to make are the truth, the whole 17 truth, and nothing but the truth? 18 MR. KOMAROW: I do. 19 HEARING EXAMINER ROBESON: Please state your name and 20 address for the record, and if you haven't given it to Nana 21 Johnson of our office, please give us your email. 22 MR. KOMAROW: I have given my information to Ms. 23 Johnson. 24 HEARING EXAMINER ROBESON: Lovely. 25 MR. KOMAROW: My name is Jeffrey Komarow.</p> |

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| <p>217</p> <p>1 K-O-M-A-R-O-W. I live at 9511 Linden Avenue, which is 2 between Beech on the north and Alta Vista on the south. So 3 the 12 buses that are the shuttle buses would rumbled by my 4 house every weekday. I have lived at 9511 Linden Avenue 5 since 1985 and I can testify, as Mr. Wilkerson did, to the 6 great amount of additional traffic that has developed in the 7 neighborhood over time.</p> <p>8 In the interest of brevity, I'm not going to try to 9 repeat what Mr. Wilkerson has testified to thus far, Ms. 10 Umhofer and Allen Myers. I would simply say that I have 11 seen with my own eyes the traffic conditions that Ms. 12 Umhofer testified to on Alta Vista Road. It is very 13 difficult -- it will be very difficult for the FIS buses to 14 make that right turn from Rockville Pike onto Alta Vista 15 Road because of the configuration of that intersection.</p> <p>16 And there's no reason that those buses have to make 17 that right turn. FIS has control over those buses and can 18 route them so that they won't go down Alta Vista and Linden. 19 I mean they can't stay entirely out of the neighborhood but 20 they can go southbound on Rockville Pike, make that right 21 turn on Cedar Lane and then make the right turn on Old 22 Georgetown Road to come back to the FIS campus.</p> <p>23 And that completes my testimony.</p> <p>24 HEARING EXAMINER ROBESON: Thank you. Thank you. Any 25 questions of Mr. Komarow?</p> | <p>219</p> <p>1 your right to ask question, Mr. Kline? He had a number of 2 suggestions --</p> <p>3 MR. KLINE: Yeah.</p> <p>4 HEARING EXAMINER ROBESON: -- and positions as I 5 recall.</p> <p>6 MR. KLINE: Ms. Roberson I think most of what he said 7 that I would sort of take issue with, I wouldn't have the 8 information to be able to formulate a question. I'd 9 probably be better doing it through, basically rebuttal 10 testimony but -- so I didn't have any questions for him so 11 far.</p> <p>12 HEARING EXAMINER ROBESON: Okay.</p> <p>13 MR. KLINE: After he's finished.</p> <p>14 HEARING EXAMINER ROBESON: Well, that is the last.</p> <p>15 MR. WILKERSON: Excuse me.</p> <p>16 HEARING EXAMINER ROBESON: Yes, who is this?</p> <p>17 MR. WILKERSON: This is Carl Wilkerson. I (inaudible) 18 realize I was talking for a long time and I may have not --</p> <p>19 HEARING EXAMINER ROBESON: We wondered where you went. 20 Do you want to finish your testimony? My notes --</p> <p>21 MR. WILKERSON: Okay. I just don't know where it was 22 that I dropped off. So I read through the whole thing I was 23 planning to do and then realized at the end, I wasn't 24 getting through.</p> <p>25 MR. KLINE: Mr. Wilkerson, if I can help you. That --</p> |
| <p>218</p> <p>1 MR. KLINE: This is Mr. Kline speaking. Only one 2 question, sir. You currently see Rochambeau buses going 3 past your house, correct?</p> <p>4 MR. KOMAROW: Yes, actually I just saw one now. It's 5 pretty noisy.</p> <p>6 MR. KLINE: Okay. Thank you. You heard the testimony 7 at yesterday's hearing -- or I'm sorry, in Friday's hearing 8 that the number of buses that will be going by your house 9 will be reduced as a result of this program? Isn't that a 10 good thing?</p> <p>11 MR. KOMAROW: I don't believe that -- I did not 12 understand it that they would be reduced.</p> <p>13 MR. KLINE: If I was --</p> <p>14 MR. KOMAROW: I have doubts about that.</p> <p>15 MR. KLINE: Okay. Well, if I told you that that would 16 be a binding element of the application that there would be 17 a reduction in the amount of buses you would consider that 18 to be of beneficial thing, would you not?</p> <p>19 MR. KOMAROW: If it's true, then I guess a reduction of 20 buses would be a good thing.</p> <p>21 MR. KLINE: Thank you. No further questions.</p> <p>22 HEARING EXAMINER ROBESON: Okay. I'm going to ask 23 again, Mr. Kline you had the ability to ask Mr. Wilkerson 24 questions. I don't know if Mr. Wilkerson can hear us yet or 25 not. Is Mr. Wilkerson there? Well, would you like to waive</p> | <p>220</p> <p>1 oh yeah. You were talking about the pneumatic or basically 2 counters at the gate and the school should be willing to 3 accept that because the maintenance was low and the cost was 4 low.</p> <p>5 HEARING EXAMINER ROBESON: Yes. And I have there 6 should be a quantifiable, mechanical monitoring. That's my 7 notes.</p> <p>8 MR. WILKERSON: Okay. Well I think we got pretty close 9 to the end. I think just to reiterate that I think it's 10 critically important to increase and bake into the special 11 exception monitoring and enforcement and penalties. And I 12 thank you very much for the opportunity to (inaudible) 13 administrative opportunities in this hearing. Thank you 14 very much.</p> <p>15 HEARING EXAMINER ROBESON: Don't go away yet because 16 Mr. Kline may have some questions.</p> <p>17 MR. KLINE: No, as I mentioned a while Mr. Wilkerson 18 was off line, I had written a lot of things down but I 19 didn't have any cross examination questions for him.</p> <p>20 HEARING EXAMINER ROBESON: Okay. Thank you. Okay. Is 21 there anyone else that would like to testify for the 22 community or from the community? Mr. Brown, do you have any 23 other witnesses?</p> <p>24 MR. BROWN: No, we're all wrapped up.</p> <p>25 HEARING EXAMINER ROBESON: Okay. I see no one is</p> |

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| <p style="text-align: right;">221</p> <p>1 raising their hand, or I've heard no one who would like to 2 testify saying that like to testify. Mr. Kline, and Mr. 3 Brown, what's your wish? 4 MR. KLINE: Well, if I can put something on the table 5 and let Mr. Brown and his colleagues comment on it. 6 Clearly, you've given us a lot of information to look at. 7 The dialogue has been informative and to the extent that we 8 feel we obviously have to go back and give you one, at a 9 minimum, more information and probably more commitment. But 10 the scope of that and the scale of that is just not 11 something I can answer right now. 12 So what I would like to do is ask that you leave the 13 record open, that I will promptly submit a request for a 14 waiver on the parking set back and that will trigger sending 15 out a notice that would give people an amount of time to 16 respond. And I'm doing that more of a placeholder than 17 anything else to just give us some time. 18 We would basically sit down after the Rochambeau board 19 meeting on Thursday and take a look and see how far we can 20 go to try and address of the issues that have come up, and 21 then I would propose to come back to you with that proposal, 22 probably in the form of a tighter TMP and then ask that 23 you -- well, I would be copying everybody on it. But then 24 people would be given X amount of days, whatever that is. 25 I'm assuming you're thinking 10 days to 2 weeks to respond</p> | <p style="text-align: right;">223</p> <p>1 management. I think Ms. Wagner, or was it Ms. Clark? It 2 was Ms. Clark who said, well, we don't have to do it. Well, 3 I guess maybe under the state regs you don't have to fix the 4 problems, you don't have to, what do you call it, mitigate 5 for that area, but your conditional use or special exception 6 is subject to compatibility and whoever owns it, you're 7 causing runoff on the neighboring properties. 8 So I guess -- and the other thing I was thinking is, 9 what about these queues on the residential street? That 10 wasn't part of the analysis. And so I guess -- I'm playing 11 with remanding this case back to Planning staff and part of 12 that is much of this stuff, you know, I think a lot of 13 people were focused with good cause on the traffic issues. 14 But a lot of this stuff is something that we typically 15 consider, especially, you know, and as part of a special 16 exception. 17 And what I'm thinking is, you know, it's not -- and I'm 18 not opposed to this by any means, but I -- my sense is 19 listening to the neighborhood that it's not quite ready for 20 prime time. And I don't mean -- I certainly don't mean to 21 be pejorative by that, and I'm not opposed to the use. But 22 I think there are significant concerns here that are not 23 adequately addressed. 24 And so I think that was where -- and to be fair, or I 25 to give notice it was of the driveway -- what did you say it</p> |
| <p style="text-align: right;">222</p> <p>1 to that, and then the Applicant would have its findings say, 2 whatever that is, and the record would close. 3 Then, you could go forward with what I guess, in 4 essence would be not so much an amended application but 5 possibly an amended TMP. 6 HEARING EXAMINER ROBESON: Okay. Well, let me tell you 7 where I am because there are a lot of loose ends. There's 8 the lighting plan doesn't comply. That's one. I do think 9 that the enforcement mechanisms are not fleshed out enough. 10 I am concerned about the status of the streets. I don't 11 have that information. 12 MR. KLINE: And by that do you mean the width, 13 sidewalks, gutters, all that detail you mentioned before? 14 HEARING EXAMINER ROBESON: Yes. 15 MR. KLINE: Okay. Thank you. 16 HEARING EXAMINER ROBESON: That's right. There's the 17 waiver, and there's virtually no evidence on noise. And we 18 haven't done these cases, believe it or not, there are -- 19 there's no limitations on playtime, or people in the 20 playground. There's no evidence of noise volumes from 21 either the buses or the play areas, and we've done these 22 cases before and children -- you know, different age groups 23 have different (inaudible) decibel levels. But you know, 24 sometimes it can be fairly stringent. 25 And the other thing I'm concerned about is stormwater</p> | <p style="text-align: right;">224</p> <p>1 was, a waiver? Were I to give notice of the driveway waiver 2 it would have to be 60 days notice because the hearing -- 3 what it would have gone out as is with the hearing notice 4 and that's a required 60 day notice. So that's -- let me 5 just make sure if you will indulge me. 6 MR. KLINE: And while you're doing that, Ms. Robeson, 7 didn't we have this conversation before about another 8 matter. Because we're under the old ordinance, wasn't it 9 actually a 30-day notice? 10 HEARING EXAMINER ROBESON: No. That's where I -- 11 MR. KLINE: The other way around? 12 HEARING EXAMINER ROBESON: It's the other way around. 13 MR. KLINE: Okay. Thank you. Okay. 14 HEARING EXAMINER ROBESON: Someday all we'll have to 15 remember is one ordinance. He kindly listened to me saying, 16 can you postpone this other case because it's 60 days. So 17 it's burned in my memory now, and he's kindly, kindly, 18 adjusted. 19 So I mean, my real concerns are how is all this going 20 to work? Have you looked at the queues on the neighboring 21 streets? Have you studied the noise? And a lot of times 22 when we get these uses they actually have conditions. I 23 mean, the one lot, I think is only 45 feet or something from 24 a playground. And when we do these uses they usually 25 have -- okay, who's going to play when? And what is that</p> |

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57 (225 to 228)

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| <p>225</p> <p>1 sound going to generate?</p> <p>2 So the lighting, unless you -- I don't know if there's</p> <p>3 a waiver provision. I didn't realize how much of the</p> <p>4 lighting was off. And that's something that's part of a</p> <p>5 special exception. I don't know why staff doesn't send it</p> <p>6 to preliminary plan because they don't do lighting in</p> <p>7 preliminary plan.</p> <p>8 So I just want to be fair, so I give you a sense of</p> <p>9 everything. I think the condition for the summer camp needs</p> <p>10 to be reworded not to be a minimum, but a solid target based</p> <p>11 on evidence. And I really am concerned about the pictures I</p> <p>12 saw about the state of the roads and the queuing in the</p> <p>13 neighborhood, so I would like that to be addressed.</p> <p>14 And I think that's all I have, but I have to -- I've</p> <p>15 been starring things in my notes when I was concerned. But</p> <p>16 part of me feels like there's so many loose ends it would be</p> <p>17 better -- oh, a parking plan for special events. I don't</p> <p>18 have a list. Normally, we say okay, these are our special</p> <p>19 events. You know this is how many people. Now, Ms. -- is</p> <p>20 it [Fab' ra] or [Fab' re]?</p> <p>21 MS. FABRE: [Fab' ra].</p> <p>22 HEARING EXAMINER ROBESON: [Fab' ra]. My brother lived</p> <p>23 in Nice for two years. I don't know what you're doing here,</p> <p>24 but Nice is nice.</p> <p>25 MS. FABRE: I agree.</p> | <p>227</p> <p>1 that may have slipped under the cracks, or between the</p> <p>2 cracks. My clients are quite concerned about the parking of</p> <p>3 the buses on the property overnight. Not simply from a</p> <p>4 legal perspective, but also from a compatibility perspective</p> <p>5 in the neighborhood. I have advised them that the parking</p> <p>6 of the buses overnight is not just a compatibility issue,</p> <p>7 but a legal issue.</p> <p>8 If the hearing examiner were to approve this project</p> <p>9 with the plan for the buses to be part on the site, I would</p> <p>10 have to advise my clients that you have authorize a use</p> <p>11 variance which is something in excess of your authority,</p> <p>12 which could be challenged in circuit court. That's much</p> <p>13 different than a judgment call about compatibility.</p> <p>14 So I strongly urge Mr. Kline, if he thinks I'm mistaken</p> <p>15 on this point too, as part of his response, directly address</p> <p>16 that question.</p> <p>17 MR. KLINE: Thank you, Mr. Brown. I'm glad to do so.</p> <p>18 Unfortunately, I couldn't write down the code citation</p> <p>19 quickly enough. I think you said 59-C- something.</p> <p>20 MR. BROWN: 3.1 delta, which prohibits use variances,</p> <p>21 basically arising out of limitations on the authority of the</p> <p>22 board of appeals from the regional district aspect.</p> <p>23 HEARING EXAMINER ROBESON: But I have a question as you</p> <p>24 were going. I was going to look it up later.</p> <p>25 MR. KLINE: Could I ask Mr. Brown if he could actually</p> |
| <p>226</p> <p>1 HEARING EXAMINER ROBESON: You know, we usually have it</p> <p>2 really tied down. This is what our schedule is for the play</p> <p>3 areas and the play camps. I think somebody, I don't</p> <p>4 remember, said okay, what's going to go on in the summer</p> <p>5 school? You know, are people going to be outside all day?</p> <p>6 So those are just issues that I think need to be fleshed out</p> <p>7 and can be addressed.</p> <p>8 But the distance just from what I've heard here, we</p> <p>9 have an acoustical -- Ms. Wagner says you can't estimate the</p> <p>10 bus traffic. Well, an acoustical engineer, as you probably</p> <p>11 know, don't tell you that a dog barking behind a cement wall</p> <p>12 from 10 feet away is 85 decibels. And then that sound</p> <p>13 attenuates over this distance by, you know, -- they have a</p> <p>14 formula. And so I think to make this work or to make my</p> <p>15 findings I would feel more comfortable having that</p> <p>16 bolstered.</p> <p>17 I'm not ready to approve it, I guess is what I'm</p> <p>18 saying. And it has nothing to do with the mission or the</p> <p>19 quality of the school, or the mission of the school. It's</p> <p>20 just from what I've seen from the evidence.</p> <p>21 MR. KLINE: Well, you were kind enough to let me speak</p> <p>22 first, and maybe I shouldn't say anything until Mr. Brown</p> <p>23 speaks, if he would like to say anything.</p> <p>24 MR. BROWN: I think that the hearing examiner's put out</p> <p>25 a fairly comprehensive list. I just want to add one item</p> | <p>228</p> <p>1 give me the citation? You said a change in the county law,</p> <p>2 but I think that was the 59-C section you mentioned?</p> <p>3 MR. BROWN: That's the --</p> <p>4 MR. KLINE: That's the one we're on to start.</p> <p>5 MR. BROWN: That's -- basically, that's the use table.</p> <p>6 The old familiar use table. C 1.3 1 b, transportation uses</p> <p>7 in various zones. And it's permitted the parking of</p> <p>8 commercial vehicles other than large commercial vehicles as</p> <p>9 a permitted use in the zone under certain circumstances.</p> <p>10 But not large commercial vehicles. That's the analysis.</p> <p>11 MR. KLINE: Thank you for the clarification and I --</p> <p>12 you will get what you asked for.</p> <p>13 MR. BROWN: Okay.</p> <p>14 HEARING EXAMINER ROBESON: Okay. So what I would like</p> <p>15 to do is issue an order remanding this. And just specifying</p> <p>16 if I can -- I can't do it tomorrow because I'll be at the</p> <p>17 Council, but I'd like to go through the notes to make sure I</p> <p>18 don't leave you -- I want you to be able to address the</p> <p>19 concerns and not be hit with concerns later on in the</p> <p>20 process.</p> <p>21 But if anyone has an objection, I know the school's</p> <p>22 meeting Thursday night. I can hold off issuing an order</p> <p>23 until Friday if you would like to do that and with those</p> <p>24 specific issues to be addressed.</p> <p>25 MR. KLINE: Well, thank you, Ms. Robeson. May I</p> |

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58 (229 to 232)

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| <p style="text-align: right;">229</p> <p>1 suggest this? I think that Ms. Fabre can talk to the 2 people -- her board directly so that I can get you a 3 response by tomorrow. Is that possible? Yeah. I can get 4 back to you tomorrow saying can you hold off or go ahead and 5 remand it; as it actually sounds like a good course of 6 action to get the most comprehensive analysis. 7 HEARING EXAMINER ROBESON: And when you go back to 8 staff, will staff -- will you be working with the community? 9 I don't know how staff works it these days? 10 MR. BROWN: They didn't on this. They asked for our 11 comments is all you got. All, they reported out was a 12 narrative of email conversations I had with the staff. No 13 real response or dialog. 14 Can I mention one other thing? Two other things 15 really. One, with respect to the parking buses; a little 16 history on this change of the regulation in 2011 was -- 17 MR. KLINE: I would -- Ms. Robeson, this is testimony. 18 Not right now. I think we're trying to get past all this. 19 MR. BROWN: All right. But then from a perspective of 20 the neighborhood I need -- if I'm going to meet with the 21 neighbors in the neighborhood I need a little time to be 22 able to have a meeting and discuss things because basically 23 we had two motions regarding this project. And that's all I 24 had which was the buses and the TMP had to address all uses 25 of the site. If we're going to look to have new material</p> | <p style="text-align: right;">231</p> <p>1 HEARING EXAMINER ROBESON: I just worry just 2 logistically because I don't want you to get held up, Mr. 3 Kline. In the time you realize Mr. Myers has to get it 4 to -- I guess you guys can work that out but timing wise he 5 has to give it to his people and I don't know what his 6 meeting time frame is. 7 MR. MYERS: My meeting time frame -- since we've built 8 the newsletter I'm putting everything through email 9 notification. I can get a meeting fairly fast. A little 10 hard doing the voting by on Zoom because it's kind of hard 11 to count hands. But we'll try. 12 HEARING EXAMINER ROBESON: So you can do voice, how's 13 that? 14 MR. MURPHY: Have you ever tried to have 30 people 15 speak at the same time on a Zoom meeting? 16 HEARING EXAMINER ROBESON: Actually it is tough, but I 17 know you can overcome that obstacle. 18 MR. MURPHY: I will do my best. All I ask is that we 19 have an opportunity to look at it and we do have the 20 involvement because I think that's been the biggest concern 21 the residents have had that they weren't really involved in 22 this and things changed. We went from 2018 to 2020 and 23 that's when we found things were significantly different 24 than we had originally seen. 25 HEARING EXAMINER ROBESON: Okay. And there may be --</p> |
| <p style="text-align: right;">230</p> <p>1 and new things to look at for us to consider I need a 2 little -- 3 HEARING EXAMINER ROBESON: Okay. Let me ask Mr. Kline 4 this, then. I see where you're going because you need to 5 get back to your people and then Ms. Fabre has to get back 6 to her people. So Mr. Kline, and giving you the best 7 outline I can based on my notes right now to what 8 information I'd like to see, (inaudible) you think you can 9 get it? And then, whatever you submit to me you would 10 provide it to the citizens? 11 MR. KLINE: Right. 12 HEARING EXAMINER ROBESON: And I know it's a lot. So 13 I'm kind of putting you on the spot at the moment. 14 MR. KLINE: Well, I was actually going at it in a 15 little bit different direction, and that is we don't do a 16 good job of involving the community in whatever revisions 17 are going to occur, were going to end up going through this 18 again. And I don't think any of us want to do that. So I 19 think Mr. Myers -- I envision that there would be much more 20 coordination with the community for the -- on the remand to 21 avoid having -- we may have things we disagree on but it 22 will be very narrow I think, at that point in time. So I 23 envision a lot more collaboration between the two sides of 24 the issue during the remand phase. 25 MR. BROWN: Jody --</p> | <p style="text-align: right;">232</p> <p>1 you know, I think you could -- well, I'll let you work out, 2 look at the stormwater. And you know, it doesn't come from 3 any new impervious area, but it is coming from your site. 4 And you know, if you can adjust, you're going to hate me for 5 this, but the forest con easement or do -- there's just got 6 to be a way to fix it. I'm just saying. 7 I didn't look up -- the Planning Board just sent me a 8 rezoning that had stormwater management facilities in the 9 buffers, in the stream valley buffers. So I'm just saying. 10 Maybe there is something there. 11 So with that, I am going to adjourn this hearing. And 12 I will issue an order remanding the case back to staff. You 13 guys contact me when you're ready to proceed further. Okay? 14 Well, I know you don't like it but -- 15 MR. BROWN: I definitely agree. 16 HEARING EXAMINER ROBESON: Well, you ox isn't -- you 17 know, anyway. I'm sorry to do this, I just can't, in good 18 conscience, feel that some of the issue still need to be 19 worked out. Okay. 20 With that -- 21 MR. MYERS: Thank you. 22 HEARING EXAMINER ROBESON: -- I will adjourn the 23 meeting and we'll get -- I'm going to leave the record open 24 for now for 10 days to get the transcript. If somebody 25 wants to submit anything related to my proposed course of</p> |


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59 (233 to 236)

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| <p>233</p> <p>1 action you may and then the record will close. Today's the 2 25th, so the record will close 10 days from today and if the 3 10th day falls on a legal holiday or a weekend it will be 4 the next day. 5 MR. KLINE: I'm sorry, Ms. Robeson, would you repeat 6 that? You say you're closing the record in 10 days? 7 HEARING EXAMINER ROBESON: Yeah because I'm remanding 8 it back. 9 MR. KLINE: But -- okay. So then you're just going to 10 reopen it when Park and Planning submits whatever it sends 11 back up to you? 12 HEARING EXAMINER ROBESON: Yes. 13 MR. KLINE: Okay. Okay. 14 HEARING EXAMINER ROBESON: Yes. Yes. Yes. 15 MR. KLINE: Yeah, okay. 16 HEARING EXAMINER ROBESON: Correct. 17 MR. KLINE: Because I know that we could not -- a lot 18 of the things I talked about or anticipated us submitting we 19 would not be able to get them done in 10 days. But it 20 probably works better to just give it to you all at one time 21 later on anyway. 22 HEARING EXAMINER ROBESON: That's what I was thinking 23 when everybody has the chance to digest all the issues. 24 So for that reason, I'm not just going to keep this 25 record open. I'm just going to remand it after 10 days and</p> | <p>235</p> <p>1 MR. KLINE: Thank you. 2 HEARING EXAMINER ROBESON: Okay. With that, I see -- 3 Mr. Myers, your hand is raised. Did you want to say 4 anything else? 5 MR. MYERS: That was an accident. I put it up earlier 6 when we were talking about something. Sorry. 7 HEARING EXAMINER ROBESON: Okay. Thank you very much. 8 With that I'm going to adjourn this meeting. I will 9 keep the record open for 10 days to receive the transcript 10 and you will get a remand order in the mail, and I will try 11 to be as thorough as possible about -- the other thing I 12 wonder before -- 13 Is there any way to keep the traffic -- not the -- not 14 maybe the shuttle buses. I understand that, but -- well, I 15 guess just in general, is there any way to keep the traffic 16 out of the neighborhood? 17 MR. BROWN: That was my concern. The shuttle buses can 18 be addressed through a TMP or through the special exception 19 process. But the traffic -- it's legal to make a right turn 20 there. And the -- that executive regulation from what I was 21 hearing today and from Mr. Welke, I tend to agree. It won't 22 do us any good. 23 HEARING EXAMINER ROBESON: Well, just -- I'm just 24 putting that to you, Mr. Kline. If there is any kind of 25 thing that would a least incentive people at a minimum to</p> |
| <p>234</p> <p>1 then the Planning Board, whenever you want to reschedule a 2 hearing contact our office and we'll go ahead and do it. 3 The only problem is there is got 60 day notice period. The 4 one thing I will do with the remand order is add that 5 waiver. Can you get -- and so everybody has notice of that 6 waiver. 7 Do you know what section you need to -- if you send 8 my -- send me something by email of the exact section and 9 the waiver you're requesting. I can include that in the 10 order -- the remand order. And then we -- 11 MR. KLINE: I understand. 12 HEARING EXAMINER ROBESON: And then we can consider 13 that taken care of. 14 MR. KLINE: I anticipate doing what we would do when we 15 amend the application where I try and send you a summary so 16 you know what each of the plans -- 17 HEARING EXAMINER ROBESON: That would be great. 18 MR. KLINE: -- are and what each one does. And I'll do 19 the same thing to give you all the technical information so 20 you can include it in the waiver notice. 21 HEARING EXAMINER ROBESON: Right. And I'm not saying, 22 you know -- I don't want you to feel like it has to be six 23 months. You can do it however short -- well, I guess what 24 I'm telling you is we will work with our scheduling to make 25 sure you can get in.</p> | <p>236</p> <p>1 incentive people? I see Mr. Seid's hand up. Mr. Seid? 2 MR. SEID: And I -- it might be too late for me to say 3 anything because I had a work phone call over the last hour 4 or so so I -- 5 HEARING EXAMINER ROBESON: Oh. 6 MR. SEID: (inaudible) Allen testified, I wasn't able 7 to hear anything so I realize it may be too late for me to 8 say anything that hasn't already been said. 9 HEARING EXAMINER ROBESON: Well, we (inaudible) so you 10 can in a few minutes, if you'd like. Unless you have an 11 objection, Mr. Brown? 12 MR. BROWN: No objection. 13 HEARING EXAMINER ROBESON: Mr. Kline? 14 MR. KLINE: Yes, ma'am? 15 HEARING EXAMINER ROBESON: Mr. Seid was called away for 16 a work meeting and he would still like to say something. Do 17 you have an objection? 18 MR. KLINE: We do not have an objection. 19 HEARING EXAMINER ROBESON: Mr. Seid, go ahead. 20 MR. SEID: Okay. 21 HEARING EXAMINER ROBESON: Well, first raise your right 22 hand. 23 MR. SEID: Let me get myself on the video there. There 24 we go. 25 HEARING EXAMINER ROBESON: Okay. Please raise your</p> |

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| <p style="text-align: right;">237</p> <p>1 right hand.</p> <p>2 MR. SEID: I'm not showing that I'm on there. Hold on.</p> <p>3 Can you see me because I'm not showing on my screen. Okay.</p> <p>4 I am raised, I don't know why I'm not showing up. Yes, I am</p> <p>5 raised.</p> <p>6 HEARING EXAMINER ROBESON: Okay.</p> <p>7 MR. SEID: Okay.</p> <p>8 THE COURT: Okay. Do you solemnly affirm under</p> <p>9 penalties of perjury that the statements you're about to</p> <p>10 make are the truth, the whole truth, and nothing but the</p> <p>11 truth?</p> <p>12 MR. SEID: I do.</p> <p>13 HEARING EXAMINER ROBESON: Please state your name and</p> <p>14 address for the record and if you haven't already given your</p> <p>15 email address to Ms. Johnson of our office, please let us --</p> <p>16 give us your email address.</p> <p>17 MR. SEID: Sure. My name is David Seid, S-E-I-D at</p> <p>18 9605 Alta Vista Terrace, and my email is DavidSeid3@gmail.</p> <p>19 And my house borders the property both in the back and the</p> <p>20 side and I'll be very brief. I know obviously, traffic</p> <p>21 concerns and the parking of buses on site has been addressed</p> <p>22 rather extensively. I just wanted to reiterate a couple of</p> <p>23 points that come up in my question that I had asked earlier.</p> <p>24 One, the concern about the waiver on the setback with</p> <p>25 respect to noise from the stacking related, as well as the</p> | <p style="text-align: right;">239</p> <p>1 say, you know, what you should do.</p> <p>2 MR. KLINE: You're -- you can include them on your list</p> <p>3 but we picked it up in his questioning before with Mr.</p> <p>4 Norden and just wrote it down so we'll cover it.</p> <p>5 HEARING EXAMINER ROBESON: Okay. Thank you. And so</p> <p>6 anyone else with any questions for Mr. Seid? Okay. Thank</p> <p>7 you Mr. Seid.</p> <p>8 All right. With that I will adjourn the hearing. I'm</p> <p>9 going to remand it back to staff and the record will be open</p> <p>10 for 10 days and I will try my best to outline the issues to</p> <p>11 be studied on remand. All right.</p> <p>12 Thank you very much. With that I'll adjourn.</p> <p>13 (The recording was concluded.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> |
| <p style="text-align: right;">238</p> <p>1 closeness of the playground. And my understanding that</p> <p>2 there would be no noise studies done. I know that came up</p> <p>3 on Friday about the possibly of doing that. I don't know if</p> <p>4 that's required or not, or if they can be asked to do that.</p> <p>5 And then, with respect to the forest conservation area</p> <p>6 there are two quick concerns again, which were addressed</p> <p>7 earlier. One about the possibility of keeping that wood</p> <p>8 fence and maintaining it that would allow both noise barrier</p> <p>9 as well as headlights that I might see from cars that go</p> <p>10 into our house.</p> <p>11 And then, also about the treatment of the vines and</p> <p>12 invasive species that would grow in the forest conservation</p> <p>13 area. I know it was mentioned by David Norden about</p> <p>14 initially it would be maintained and then it's supposed to</p> <p>15 be done in perpetuity, but that there's not necessarily any</p> <p>16 way to enforce it so there would be a concern over how that</p> <p>17 would actually be enforced over time.</p> <p>18 And I'll stop right here. I'll keep it very short.</p> <p>19 HEARING EXAMINER ROBESON: Okay. Mr. Kline, do you</p> <p>20 have any questions of Mr. Seid?</p> <p>21 MR. KLINE: No, thank you.</p> <p>22 HEARING EXAMINER ROBESON: Are those things that you</p> <p>23 can look at on remand?</p> <p>24 MR. KLINE: Absolutely.</p> <p>25 HEARING EXAMINER ROBESON: I just say look at, I don't</p> | <p style="text-align: right;">240</p> <p>1 CERTIFICATE OF NOTARY PUBLIC</p> <p>2</p> <p>3 I, Lee Utterback, Notary Public of the the District</p> <p>4 of Columbia, do hereby certify that on September 15,</p> <p>5 2017, the witness Earl Hooks was sworn before me at</p> <p>6 1310 L Street, Northwest, Suite 750, Washington, D.C.</p> <p>7 20005 and that I am neither counsel for, related to,</p> <p>8 nor employed by any of the parties to this case and</p> <p>9 have no interest, financial or otherwise, in its outcome.</p> <p>10 IN WITNESS WHEREOF, I have hereunto set my hand and</p> <p>11 affixed my notarial seal this 29th day of September,</p> <p>12 2017.</p> <p>13</p> <p>14</p> <p>15 </p> <p>16 _____</p> <p>17 Lee Utterback</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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CERTIFICATE OF TRANSCRIBER

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



Molly Bugher, CDLT-161
February 3, 2021

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