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# Transcript of Hearing

**Date:** June 7, 2021

**Case:** Rochambeau Int'l School, The French School (S-862-C)

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Conducted on June 7, 2021

1 (1 to 4)

1	1	3
2	MONTGOMERY COUNTY	
3	OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS	
4	-----x	
5	In Re: :	
6	ROCHAMBEAU, THE FRENCH : Case No. S-862-C	
7	INTERNATIONAL SCHOOL :	
8	-----x	
9	HEARING	
10	Conducted Virtually	
11	Before Hearing Examiner Lynn A. Roberson	
12	Monday, June 7, 2021	
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25	Transcribed by: Molly Bugher	
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2	A P P E A R A N C E S	
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24		
25		
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1	P R O C E E D I N G S	
2	HEARING EXAMINER ROBESON-HANNAN: Now, Mr. -- are	
3	you Pietanza?	
4	MR. PIETANZA: Yes, that is my last name.	
5	HEARING EXAMINER ROBESON-HANNAN: All right. Can	
6	you take your video off?	
7	MR. PIETANZA: Yeah, I will.	
8	HEARING EXAMINER ROBESON-HANNAN: Okay. With	
9	that, let me do this. With that, I'm calling the case of	
10	S862C Rochambeau The French International School, with a	
11	special -- an application for a major modification that was	
12	special exception under the 2004 zoning ordinance for a	
13	private educational institution. The property is located at	
14	9650 Rockville Pike, Bethesda, Maryland. Will the parties	
15	identify themselves for the record, please?	
16	MR. KLINE: Good morning. For the record, this	
17	is Jody Kline; J-O-D-Y, K-L-I-N-E; with the law firm of	
18	Miller, Miller, a& Canby with offices at 200 B Monroe Street	
19	in Rockville, representing Rochambeau The French	
20	International School of Washington, D.C.	
21	HEARING EXAMINER ROBESON-HANNAN: Okay.	
22	MR. BROWN: Good morning. Good morning Ms.	
23	Robison-Hannan. This is Dave Brown with the Maplewood	
24	Citizens Association along with Alan Myers, the president.	
25	HEARING EXAMINER ROBESON-HANNAN: Thank you. So	

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2 (5 to 8)

<p>5</p> <p>1 we are here on remand. I -- a couple of things on the 2 Microsoft Teams. I think you've heard this before, but I do 3 want you to know that I've disabled the chat function 4 because we can't have ex parte communications. And please 5 don't crosstalk, talk over each other. Trying object using 6 the hand button. If that doesn't work, you can yell at me. 7 It does seem like there has been some progress. And I thank 8 both parties for working hard. It sounds like we aren't 9 completely there yet, in agreement, but I do see changes. 10 Are there any preliminary matters? 11 MR. KLINE: Madam Hearing Examiner, I would like 12 to talk just about the format, because I -- the Applicant 13 would like to proceed with what I guess would be a bit of a 14 different format. But it lends itself well to the way you 15 structured the order for remand. The helpful memo that came 16 in from the Maplewood Citizen Association and even Mr. 17 Wilkerson's letter kind of all kind of followed a certain 18 format. So I have a proposal in terms of how to do it I 19 would like to put on the table for you. 20 HEARING EXAMINER ROBESON-HANNAN: Go ahead. 21 MR. KLINE: Thank you. Well, as I said, simply 22 because you had the forethought to list everything that you 23 thought needed to be addressed, we knew that we had 41 24 issues that had to be taken care of. So what I would like 25 to do is do a minor repeat of the presentation we made to</p>	<p>7</p> <p>1 waiting until the end and then having cross-examination of 2 all 41 issues. 3 Because we will go through every one of them 4 because we want to make damn sure that you have all the 5 answers you wanted. 6 HEARING EXAMINER ROBESON-HANNAN: Okay. Mr. 7 Brown, do you have any comments on that? 8 Mr. Brown, I think you're muted. 9 MR. BROWN: I'm sorry. I think that Mr. Kline as 10 thought through the process fairly well and it seems a 11 reasonable and expeditious way to proceed. 12 HEARING EXAMINER ROBESON-HANNAN: Yeah, I agree. 13 So that was a very good suggestion. What I would like to do 14 is hone in at some point on the areas of disagreement. And 15 my major concerns are right now that variance. Not 16 variance, setback. 17 MR. KLINE: I understand. Let me just address 18 that upfront as a preliminary item. We tried to provide you 19 with a lot of information. I'm mindful of the memos you 20 sent to us. And in light of your guidance that this needs 21 to be seriously considered and knowing what it does to the 22 basically to the case today, which we are hoping to move 23 forward, the Applicant will withdraw its request for waiver 24 and we will except a condition that the loop road has to be 25 relocated so that no waiver request would be necessary.</p>
<p>6</p> <p>1 Maplewood Civic Association last Wednesday evening. I 2 believe it was, which would be nothing more than Ms. Fabre 3 basically just sort of explaining what we've done since the 4 order for remand was issued. And then asked Ms. Wagner to 5 give what I would say is a reduced version of the 6 presentation, a PowerPoint presentation she made to the 7 civic association about the TMP, since that's really what 8 the guts are this whole case. 9 And with that as a foundation, I was suggest just 10 taking your order for remand and basically walking through 11 each of the issues, some of which have been agreed upon, 12 some of which probably need some clarification, and 13 basically answer all of that because we are anxious to move 14 forward and we absolutely do not want to finish today 15 without you having every one of your questions answered. 16 I recognize that there are other parties who are 17 not under the scope of Mr. Brown and the MCA who may have 18 individual questions to ask. And I wouldn't forbid -- 19 prohibit that, but we would use MCA sort of agree or 20 disagree kind of as an okay, if anybody wants to have any 21 elaboration at that time we would do it. And I was suggest 22 in order to make it as, maybe not efficient, but as 23 conclusive as possible, is that we allow it in the cross 24 examination on each individual discussion or item of 25 presentation to be conducted at that time rather than</p>	<p>8</p> <p>1 In other words, the road would be moved 13.67 2 feet to the east. And we were put into the record a plan 3 showing that. All of the other features that we had that we 4 would abide by, a new fence, extend fence, taller fence, all 5 of those things which show up on that plan. So we are not 6 going to do anything to step back on and what we thought 7 were appropriate mitigation strategies. But since that 8 roadway seems to be a very touchy issue and a difficult one 9 to address, we would just like to take it off the table. 10 And I hope make our questioning a lot easier also. 11 HEARING EXAMINER ROBESON-HANNAN: You just made 12 my day. 13 MR. KLINE: Hopefully we made Mr. Seid's day 14 also. 15 HEARING EXAMINER ROBESON-HANNAN: The only thing 16 is, you -- I have to have a plan in the record to approve 17 showing everything. Is that what you said you were going to 18 do? 19 MR. KLINE: Well, I assume that you would want 20 the -- what you finally write your opinion on to have a plan 21 in the record showing that revised location. 22 HEARING EXAMINER ROBESON-HANNAN: That's right. 23 Okay. 24 MR. KLINE: So I guess what I would say is -- 25 HEARING EXAMINER ROBESON-HANNAN: Is that --</p>

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3 (9 to 12)

<p>9</p> <p>1 okay.</p> <p>2 MR. KLINE: I'm not sure if I was talking over</p> <p>3 you, but I was going to say I don't think it warrants a</p> <p>4 being sent to Park and Planning commission for review, but I</p> <p>5 do agree the record needs be left open long enough for us to</p> <p>6 get that into the record.</p> <p>7 HEARING EXAMINER ROBESON-HANNAN: That' s--</p> <p>8 MR. KLINE: But we should be able to do that</p> <p>9 within your normal 10-day time frame.</p> <p>10 HEARING EXAMINER ROBESON-HANNAN: Okay. All</p> <p>11 right.</p> <p>12 MR. KLINE: Madam Hearing Examiner, there is a</p> <p>13 bit of a delay when you speak. It doesn't come up right</p> <p>14 away and that's what I'm talking over you and I apologize.</p> <p>15 HEARING EXAMINER ROBESON-HANNAN: No, it's fine.</p> <p>16 I've noticed the same thing from my end. So I will try to</p> <p>17 leave a little bit of room. All right.</p> <p>18 With that, Mr. Brown, do you have any comments on</p> <p>19 that exchange?</p> <p>20 MR. BROWN: It didn't completely make my day, but</p> <p>21 it certainly moved things along.</p> <p>22 HEARING EXAMINER ROBESON-HANNAN: All right. Why</p> <p>23 don't we proceed as you suggest, Mr. Kline? And can you</p> <p>24 tell me what exhibit you would like to see? Is it the</p> <p>25 PowerPoint that you sent?</p>	<p>11</p> <p>1 HEARING OFFICER ROBESON-HANNAN: I'm still not --</p> <p>2 give me a moment. I really did just check this. This is</p> <p>3 very frustrating. Let me go off the record for five minutes</p> <p>4 to see if I can't straighten this out.</p> <p>5 Okay. I enabled screen sharing. So if you can</p> <p>6 share your screen, Ms. Wagner.</p> <p>7 MS. WAGNER: Yes, I can. I think Jody was going</p> <p>8 to have Ms. Fabre talk first. And then I --</p> <p>9 HEARING EXAMINER ROBESON-HANNAN: Well, I'm</p> <p>10 trying to make sure that I can see the screen.</p> <p>11 MS. WAGNER: Oh, okay.</p> <p>12 HEARING EXAMINER ROBESON-HANNAN: Okay. I got</p> <p>13 it. That's it. All right. Go ahead. Thank you for your</p> <p>14 help on that.</p> <p>15 MR. KLINE: Are you ready to proceed then, Madam</p> <p>16 Hearing Examiner?</p> <p>17 HEARING EXAMINER ROBESON-HANNAN: Yes, thank you.</p> <p>18 MR. KLINE: Okay. All right. Will it be</p> <p>19 necessary to swear in the witnesses? Or you just want to</p> <p>20 give us your standard reminder?</p> <p>21 HEARING EXAMINER ROBESON-HANNAN: Since it's on</p> <p>22 remand since I'm still trying to figure out why I couldn't</p> <p>23 share my screen I will swear them because it is remand.</p> <p>24 Please raise your right hand. Do you solemnly</p> <p>25 affirm under penalties of perjury that the statements you</p>
<p>10</p> <p>1 MR. KLINE: Yes. And I did download it this</p> <p>2 morning, the exhibit list. And it looks to me I'm still</p> <p>3 back to about May 17. So apparently what I got doesn't have</p> <p>4 the PowerPoint. But yes, for Ms. Wagner, who would be our</p> <p>5 second witness, that would be the presentation, the document</p> <p>6 she would use. So if you have it in the record, I just</p> <p>7 don't know what the number is.</p> <p>8 HEARING EXAMINER ROBESON-HANNAN: Okay.</p> <p>9 MR. KLINE: I'm at 110 and I seem that is going</p> <p>10 to probably be about 115 is that like that.</p> <p>11 HEARING EXAMINER ROBESON-HANNAN: Let's see what</p> <p>12 this is. That's the TMP is 115. Okay. I think I've got</p> <p>13 it. It's 116, I believe. Hold on one second, please. I've</p> <p>14 got to rotate this. You know, there are times when I would</p> <p>15 like to be back in person.</p> <p>16 MR. BROWN: It's coming.</p> <p>17 HEARING EXAMINER ROBESON-HANNAN: I apologize.</p> <p>18 Let me just -- it should be coming up. I tested this this</p> <p>19 morning. I do apologize. I really did test this.</p> <p>20 MS. CLARK: Carl Wilkerson is sharing his screen</p> <p>21 right now and that may be causing the issue.</p> <p>22 HEARING EXAMINER ROBESON-HANNAN: Oh, can you not</p> <p>23 share your screen, Mr. -- can you --</p> <p>24 MR. WILKERSON: I didn't notice that it was</p> <p>25 shared. Let's see here. Okay. I think we've got it.</p>	<p>12</p> <p>1 are about to make are the truth, the whole truth and nothing</p> <p>2 but the truth?</p> <p>3 MS. FABRE: I do.</p> <p>4 HEARING EXAMINER ROBESON-HANNAN: Okay, go ahead.</p> <p>5 MR. KLINE: Good morning Ms. Fabre. Would you</p> <p>6 please just remind everybody what your role is in all this?</p> <p>7 MS. FABRE: My name is Helene Fabre. I'm the</p> <p>8 executive director of Rochambeau The French International</p> <p>9 school. You want me to spell my name?</p> <p>10 MR. KLINE: Probably a good idea.</p> <p>11 HEARING EXAMINER ROBESON-HANNAN: Yeah.</p> <p>12 MS. FABRE: H-E-L-E-N-E. Last name is Fabre;</p> <p>13 F-A-B, like Bravo, R-E.</p> <p>14 MR. KLINE: Ms. Fabre, I just wanted you to</p> <p>15 basically give an overview of the school's efforts and goals</p> <p>16 since the February 22 publication of the order for remand</p> <p>17 and what you try to accomplish to get us to the point today.</p> <p>18 MS. FABRE: Right. Well, we've ostensibly, last</p> <p>19 few months, working hard on adjusting every single point of</p> <p>20 the remand order that we have received. We've met several</p> <p>21 times with the neighbors that have testified at the hearing</p> <p>22 in January, but also we've met several times with the Board</p> <p>23 of the NLS in order to address the different concerns and</p> <p>24 try to work on solutions together.</p> <p>25 One of our area of focus has been the</p>

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4 (13 to 16)

<p>13</p> <p>1 transportation management plan, which is really a key 2 document in this special exception. And we work together on 3 adding specifics. We went through numerous iterations. 4 We've added more specific language. We get rid of all the 5 loopholes. Mr. Myers has been very good at identifying any 6 that was in that document initially. And we've also really 7 built in a lot of additional control mechanisms from -- for 8 the NLC.</p> <p>9 So as I said, on Wednesday the meeting with the 10 full membership of NLC. I'm not an expert in the TMP area, 11 but I think the document that we have presented to you is 12 really one of the most detailed and strictest among all the 13 private schools in the area. It really gives a lot of power 14 to the neighborhood, a lot of control mechanisms for them to 15 make sure that we're going to be doing what we say we will. 16 We've worked also hard at eliminating all the traffic with 17 the neighborhood.</p> <p>18 I think I will get back to this point, but this 19 is really a key element and we are really happy to have been 20 able to do that. So we really feel that at this point we've 21 worked hard to minimize the impact of our operations on the 22 neighborhood and we also have an audible the supports of the 23 public agencies. And well, we are hoping to be able to 24 demonstrate this to you today.</p> <p>25 MR. KLINE: Ms. Fabre, I realize it's been</p>	<p>15</p> <p>1 not the end -- just for Mr. Kline's -- that's not the end of 2 the inquiry. The end of the inquiry is compatibility.</p> <p>3 MR. KLINE: Yeah. We understand and we --</p> <p>4 HEARING EXAMINER ROBESON-HANNAN: You were going 5 to get to that?</p> <p>6 MR. KLINE: I was going to say, the next witness, 7 Ms. Wagner, is going to put all of her comments in the 8 context of that. I think she probably -- you can probably 9 get more detailed and a technical answer from her if you are 10 okay waiting for that.</p> <p>11 HEARING EXAMINER ROBESON-HANNAN: Okay. Anyone 12 else have any questions of Ms. Fabre?</p> <p>13 MR. BROWN: I do have a question or two. Ms. 14 Fabre, you currently have a transportation management plan 15 in effect for the Forest Road campus, correct?</p> <p>16 MS. FABRE: Yes.</p> <p>17 MR. BROWN: And that plan is administered by the 18 Board of Appeals, correct?</p> <p>19 MS. FABRE: Yes.</p> <p>20 MR. BROWN: The recommendations included from the 21 planning board staff include a condition, 14-D, which says 22 the Applicant must enter into a binding agreement with the 23 planning board to implement in perpetuity, a transportation 24 management plan. Would you have any objection to the 25 transportation management plan for the new campus being</p>
<p>14</p> <p>1 probably a while since you've had an opportunity to read -- 2 reviewed the technical staff's supplemental report to the 3 Hearing Examiner. But it included some additional 4 conditions that they thought needed to be added as a result 5 of our amendments. Are all -- is the text of all of those 6 recommended conditions acceptable to the Applicant?</p> <p>7 MS. FABRE: Yes, they are.</p> <p>8 MR. KLINE: We're glad to answer any questions 9 that anybody might have in response to Ms. Fabre's comments.</p> <p>10 HEARING EXAMINER ROBESON-HANNAN: Mr. Brown, it's 11 open for anyone who wants to -- I have a question. And 12 maybe it's premature. Maybe I should listen to the rest of 13 this presentation. But there's been -- I know one of the 14 sticking points has been that the TMP only covers the peak 15 period. And I know that standard for TMP's because a lot of 16 them aren't related to conditional uses. But the volume of 17 traffic does go -- you know, throughout the day does go to 18 compatibility. And so what's your response, Ms. Fabre to 19 that?</p> <p>20 MS. FABRE: Well, I'm not a technician, of 21 traffic -- I'm not a traffic engineer. So this is difficult 22 for me to argue on this point. I feel that by focusing on 23 the peak hours, we are actually compliant with the LATR.</p> <p>24 And --</p> <p>25 HEARING EXAMINER ROBESON-HANNAN: Well, that's</p>	<p>16</p> <p>1 administered more or less in conjunction with the Forest 2 Road campus plan by the Board of Appeals?</p> <p>3 MR. KLINE: Mr. Brown, if you don't mind, it's a 4 bit of a legal question. I'm not quite even sure I know how 5 to answer. I would --</p> <p>6 MR. BROWN: I'm asking the Applicant about 7 whether or not she sees a practical problem in seeing 8 both -- seeing both of them administered by the same agency 9 in light of her experience with the Forest Road Campus CMP 10 administration.</p> <p>11 MS. FABRE: Right now we have -- our position has 12 been to consider that those two documents were separate and 13 were to remain separate. But, I mean, that's something that 14 we can consider. I'm not sure. I would need to make sure 15 that I understand the consequences of the decision before 16 giving any agreement.</p> <p>17 MR. KLINE: Mr. Brown, may I add a supplement to 18 the answer?</p> <p>19 MR. BROWN: Please.</p> <p>20 MR. KLINE: Thank you. I appreciate that. We 21 understand that the TMP that is part of the special 22 exception process will be administered by the Board of 23 Appeals. And if the MCA or any resident had any concerns, 24 they could file the appropriate action or question with the 25 Board of Appeals. There would be a separate agreement with</p>

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5 (17 to 20)

<p>17</p> <p>1 Park and Planning Commission to the preliminary plan process 2 and we would be -- basically need to follow that as well. 3 So I think the result will be is we will be the subject to 4 two revelatory bodies and basically reviewing the compliance 5 for the TMP. But you -- if -- since we presently live under 6 one for Forest Road, I guess we can live under one with the 7 Board of Appeals. We obviously can live under one with the 8 Board of Appeals for the Rockville Pike campus as well. 9 MR. BROWN: All right. I appreciate that 10 clarification. 11 HEARING EXAMINER ROBESON-HANNAN: Well, to be 12 honest, I see a hand from Ms. Umhofer. I will get to you in 13 a moment, Ms. Umhofer. I see your raised hand. I guess 14 my -- I'm not sure I have jurisdiction to tell the Board of 15 Appeals as well, I guess -- well, because this is under the 16 old standards, they will make the final decision in this 17 case. So possibly it's something I guess I could add to the 18 conditions. I'm just thinking to the legal thing. 19 MR. KLINE: Yes, ma'am. 20 HEARING EXAMINER ROBESON-HANNAN: But you have to 21 go through a preliminary plan. I have to muddle that one, 22 Mr. Brown. 23 MR. KLINE: I didn't want to say something, but I 24 will wait until after Ms. Umhofer because I know she was 25 going to add something.</p>	<p>19</p> <p>1 MR. KLINE: All right. Madam Hearing Examiner, 2 what I wanted to go back to your earlier -- I mean, you will 3 recommend to the Board of Appeals that the Applicant be 4 bound by any presentation or testimony or exhibits that are 5 put into the record. And since the TMP is a critical 6 element of the application, in our opinion but will be bound 7 by the Board of Appeals to comply with the TMP. So you 8 could use your standard condition and don't have to go 9 beyond that to make the TMP binding on us. 10 HEARING EXAMINER ROBESON-HANNAN: Well, DPS 11 doesn't like that phraseology. They want us to be specific 12 in conditions is so we can enforce them. But -- well, let's 13 keep going. I don't want to get too stuck on this now, if 14 that's okay, Mr. Brown. 15 MR. BROWN: That's fine. 16 HEARING EXAMINER ROBESON-HANNAN: I would like to 17 start moving through the testimony. And that something 18 maybe we can hash out after we hear the rest of the case. 19 Did you have any other questions? 20 MR. BROWN: I would just ask Mr. Myers if he has 21 any additional questions because he is my right hand man. 22 MR. MYERS: (inaudible). 23 HEARING EXAMINER ROBESON-HANNAN: Mr. Wilkerson 24 has his hand up. So we will get you in a moment Mr. 25 Wilkerson. Go ahead, Mr. Brown.</p>
<p>18</p> <p>1 HEARING EXAMINER ROBESON-HANNAN: Ms. Umhofer, do 2 you have a question? 3 MS. UMHOFFER: Yes, and I wasn't sure if Ms. Fabre 4 was going to be coming back. But my questions relate to the 5 activity of the Beaumont House, or surrounded the Beaumont 6 House property on the property. 7 HEARING EXAMINER ROBESON-HANNAN: Okay. Hold 8 that question because we aren't there yet. Okay? I do 9 understand. I think Mr. Brown had a suggestion that it -- I 10 think the testimony was that it would be used for, if I'm 11 recalling, used for administrative offices. And I think Mr. 12 Brown had a suggestion that maybe we -- maybe there is a 13 condition that says anything that -- any change to that 14 would have to go through modification. 15 MR. KLINE: That subject will be addressed when 16 we get the point by point analysis. 17 HEARING EXAMINER ROBESON-HANNAN: Okay. So 18 Ms. -- 19 MR. KLINE: But can I add one other thing 20 about -- 21 MS UMHOFFER: I actually am not sure that that was 22 one of the points on remand. And that's why wanted to 23 mention now. 24 HEARING EXAMINER ROBESON-HANNAN: Okay, thank 25 you.</p>	<p>20</p> <p>1 MR. BROWN: Mr. Myers. 2 MR. MYERS: Is my microphone active? 3 HEARING EXAMINER ROBESON-HANNAN: Yes. 4 MR. MYERS: Okay, I thought it was off. No, I 5 don't have anything, but I would like to comment on that 6 after I'm sworn in. Something I've learned about the school 7 that became apparent about a year ago. 8 HEARING EXAMINER ROBESON-HANNAN: Okay. Mr. 9 Wilkerson? 10 MR. WILKERSON: Yes, I have some questions for 11 Ms. Fabre, but I think I don't want to interrupt the flow 12 that Mr. Kline laid out. So as long as the questions aren't 13 answered in the sequence, we can direct questions to her 14 later. 15 HEARING EXAMINER ROBESON-HANNAN: That's fine. 16 MR. WILKERSON: Okay, thank you. 17 HEARING EXAMINER ROBESON-HANNAN: All right. Go 18 ahead, Mr. Kline. 19 MR. KLINE: Ms. Wagner, you made a helpful 20 presentation Wednesday night about how the TMP had evolved. 21 And just so we have a foundation so we can see with the 22 discussions going to be going, can you basically give us an 23 overview of the TMP using the PowerPoint slides I think you 24 have available to you? Go right ahead, please. 25 HEARING EXAMINER ROBESON-HANNAN: And for the</p>

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<p>21</p> <p>1 record, this is Exhibit 116 that's on the screen right now. 2 MS. WAGNER: This is Exhibit 118. 3 HEARING EXAMINER ROBESON-HANNAN: Oh, 118. 4 MS. WAGNER: Yeah. This is the presentation. 5 116 is a different exhibit. 6 HEARING EXAMINER ROBESON-HANNAN: Okay. 7 MS. WAGNER: Do I need to be sworn in? 8 HEARING EXAMINER ROBESON-HANNAN: Yes. 9 Do you solemnly affirm under penalties of perjury 10 that the statements you are about to make are the truth, the 11 whole truth and nothing but the truth? 12 HEARING EXAMINER ROBESON-HANNAN: Okay, go ahead 13 Mr. Kline. 14 MR. KLINE: Ms. Wagner, I really don't have any 15 questions for you. I think you made an elegant 16 presentation. I would just ask you to go ahead and give the 17 same presentation so the Hearing Examiner understands, as I 18 said, the essence of the revised TMP so that all future 19 discussions can be made in the context of the information. 20 MS. WAGNER: Yes. So again, I'm just going to go 21 through the hard work the school and the community have been 22 doing together to come to an agreement to really refine the 23 TMP from where it was when we met with you last time at the 24 hearing. These is just a general introduction of the things 25 that set the really big picture items that we wanted to</p>	<p>23</p> <p>1 dropping off in the parking garage and then exiting out. 2 There is an inbound gate that all vehicles must enter 3 through this gate here. 4 And to exit, they will be exiting out of this 5 outbound security gate. Then the same thing, buses will 6 have a security basket to go through, loop around, and exit 7 back out. This site plan has really not changed as far as 8 circulation. There was just refinement to exactly where 9 people will be stationed in conjunction with our discussions 10 with the neighborhood. 11 As we all remember from last time, the main 12 issues that were brought up during the hearing were school 13 traffic on neighborhood streets, bus traffic on neighborhood 14 streets, the monitoring and enforcement of these policies in 15 the TMP and how exactly that was going to be done, summer 16 camp and Saturday traffic, and then special event traffic 17 and parking management. So since the last time we met, the 18 school has committed to eliminating school traffic on the 19 neighborhood streets. 20 Parents and staff will be instructed to not drive 21 within the Alta Vista neighborhood unless they live in the 22 Maplewood or Locust Hill neighborhood. This was agreed upon 23 with the neighbors that we all agreed that these were 24 neighbors that -- these were the people that lived in the 25 neighborhood and should be allowed to drive to and from the</p>
<p>22</p> <p>1 highlight. 2 Again, a -- it just proposed, where the school 3 has evolved as far as the programmatic information, the 4 summary of the critical transportation issues that the 5 neighborhood had at our last hearing, the school's 6 commitment to limit the traffic throughout the neighborhood, 7 the measures that the school is going to undergo to 8 implement and make sure that they comply with the TMP, the 9 monitoring and enforcement policies that school will be 10 using with the technology that they are making an investment 11 in. 12 And then also establishing policies for special 13 events, Saturdays, and summer camp. Again, a quick overview 14 of where the program evolved to really get more students on 15 buses to eliminate the office space that was proposed to the 16 beginning, and really adjust the arrival of staff to make 17 sure that there is not a large impact on the surrounding 18 roadway networks. 19 Again, the trip generation for the proposed 20 school is less than what the approved office space is for 21 all of the peak hours. The site plan really has not 22 changed. As a reminder, we have one access off of Rockville 23 Pike with vehicles for student pickup and drop off 24 circulating around, dropping off her elementary school 25 students in front of the E building, and nursery students</p>	<p>24</p> <p>1 school and use the neighborhood streets. 2 The shuttles from the Rockville Pike campus to 3 the Forest Road campus will no longer use the neighborhood 4 street. They will be directed to use Cedar Lane to avoid 5 the neighborhood street. The shuttle from the Forest Road 6 campus to the Rockville Pike campus, we will still use the 7 Beech Avenue, Pooks Hill Road route similar to what is being 8 done today. There was great discussion about this route. 9 The school tested going onto the Beltway, going 10 farther north. And this was determined to be the safest 11 option for the students as well as a route that is allowed 12 by buses today and similar to what is being done today. All 13 other bus routes will avoid neighborhood streets unless 14 there are -- is a need for a local stop for students. 15 This graphic here just illustrate exactly the 16 routes. So as you can see, it's traveling down Rockville 17 Pike, Cedar Lane up to the Forest Road campus. And then to 18 get from the Forest Road to Rockville Pike campus, they'll 19 use this route. Since we also last spoke, the school will 20 be utilizing a system called School Pass. This system will 21 help enforce the TMP. It is done by license plate 22 monitoring cameras at the access points for the school. 23 They will be using it to monitor vehicles coming in and out 24 of campus. 25 The system will also be put in at the Forest Road</p>

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<p>25</p> <p>1 campus to make sure that parents that are -- have a student 2 at the Rockville Pike campus are not just being dropped off 3 at the Forest Road campus, that they are writing their 4 assigned bus route. It will allow us to do real-time trip 5 monitoring as well as real-time enforcement and violations. 6 We will be able to also monitor vehicles on Alta Vista Road 7 where if a vehicle passes there will be a camera on the rear 8 of the property. 9 So the vehicle that is not supposed to be 10 traveling on Alta Vista road is seen traveling on Alta Vista 11 road and is associated with the school, they will be issued 12 a TMP violation. The next graphic will detail where exactly 13 the cameras will be placed. So as I said, there will be 14 cameras monitoring vehicles entering and exiting the campus. 15 Then as we remember from last time, if a vehicle was seen 16 trying to travel north, they can't just turn left out of the 17 site driveway. They would need to travel through the 18 neighborhood and use Pooks Hill to go North. 19 We will -- to ensure that parents and staff don't 20 do that movement, there will be a camera on the rear of the 21 property to make sure that they aren't doing that movement. 22 If a vehicle is seen exiting the school and then also 23 observed driving past this camera, they will be issued a 24 violation. And again, there will be cameras at the Forest 25 Road campus monitoring vehicles in an out of the campus.</p>	<p>27</p> <p>1 violation, a third violation of the TMP were to occur, that 2 the students don't want to miss out on their fun afterschool 3 activities or extracurricular activities. And then this 4 would really also impact the parents so they would have to 5 alter their schedules to be able to pick up their children 6 at a time that they are not necessarily used to. 7 And then the fourth will be a three day 8 suspension from school. There are TMP violations detailed 9 in the TMP for Saturday, summer, as well as staff. We also 10 worked with the neighborhood to come up with the exact 11 representatives that should be part of the NLC. And so this 12 list of representatives has evolved since last time we met. 13 Similarly, the discussion points as part of the NLC has also 14 been refined to really reflect the concerns of the 15 neighborhood. 16 There will be quarterly meetings. One of these 17 quarterly meetings will be held with the Forest Road NLC to 18 really make sure that there is a united voice if there are 19 concerns regarding both schools that are -- that are brought 20 up at both meetings. There will be quarterly trip counts 21 collected. And the date of the quarterly trip count will be 22 agreed upon with the NLC. As well as the quarterly trip 23 counts, there will be a violation log provided to the NLC so 24 that they can -- they know how many TMP violations have been 25 occurring as well as the enforcement and how that has been</p>
<p>26</p> <p>1 Another thing that the bus -- that the school 2 that system will do, is track students riding the bus. So 3 when a student gets on the bus, the bus driver is able to 4 monitor saying this student was on the bus. Same with the 5 Forest Road campus that will be used by both campuses. 6 The system that the school will be using is 7 School Pass. They are based out of Rockville. They are 8 being used by number of private schools in the area. They 9 will track the vehicle license plate numbers for any 10 vehicles that are associated with the school. And then any 11 license plate information for schools not -- vehicles not 12 associated with the school will be discarded at the -- 13 immediately and not stored. 14 Another thing that we worked with the 15 neighborhood is really trying to make the penalties more 16 strict and really enforceable and tangible for both parents 17 and students. The first violation remains consistent with 18 what we had last time where a warning was issued so that 19 parents were really aware that they were not following the 20 TMP. A second one is a violation as well as a letter. And 21 then the third violation is a meeting with the head of 22 school who is Ms. Fabre as well as a three day suspension 23 from extracurricular activities. 24 We felt that this was something that would really 25 impact both the student as well as the parents if the</p>	<p>28</p> <p>1 going. And then -- 2 HEARING EXAMINER ROBESON-HANNAN: May I interrupt 3 for a moment? (inaudible) present any necessary amendments 4 to the TMP for comment prior to implementation. I guess 5 that goes to Mr. Brown's question about who ultimately is 6 going to administer the TMP. Because the necessary 7 amendments would go to the planning board. Am I correct in 8 that? 9 MS. WAGNER: Yes, and I -- and this was to be an 10 evolving document. I think it was to also make sure that it 11 didn't get held up before being presented to the planning 12 board with the -- what we are all thinking as far as that 13 went. 14 HEARING EXAMINER ROBESON-HANNAN: Okay. I'm 15 sorry. Go ahead. 16 MS. WAGNER: And then the last thing that was 17 added was working with the NLC to provide an annual calendar 18 of events and making sure that they were aware of those 19 events at the beginning of the school year. There will also 20 be an annual report done in addition to the quarterly counts 21 for this really looks at a lot of the other issues that were 22 more related to what SHA and MCDOT were concerned about 23 where we have a queuing study, where we have any crash data 24 and analyze at the site driveway and it also again, the 25 number of vehicles associated with the school traveling on</p>



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<p style="text-align: right;">29</p> <p>1 Alta Vista Road so that everyone is aware of the issue. 2 Again, we added more details about the special 3 event parking plan and exactly what will be happening with 4 that as well as clarification about the Saturday classes and 5 summer camp that they will both be subject to the same trip 6 cap. So bussing and carpooling will be necessary to 7 increase enrollments to be able to meet the trip caps. And 8 then again, violations for the TMP will be issued for both 9 of those programs. 10 I will also address the issue regarding trip 11 caps. Yes we have Saturday -- we have peak hour trip caps. 12 The reality is these are associated with the times that the 13 school has arrival and dismissal. And so there would not be 14 a significant number of vehicles departing and entering the 15 school outside of those time periods. 16 With that, that was the presentation and happy to 17 answer any questions. 18 MR. KLINE: Ms. Wagner, you saw all the email 19 traffic over the weekend and this morning -- excuse me -- 20 with Mr. Myers about the privacy issue in School Pass. Can 21 you report or clarify your earlier comment about how the 22 license plate reading information is handled to address the 23 concerns of Mr. Myers residence? 24 MS. WAGNER: Yes. So the School Pass is the 25 provider of this monitoring system. And they will -- the</p>	<p style="text-align: right;">31</p> <p>1 could get what you said about the privacy issue in 2 writing -- 3 MS. WAGNER: Yes. 4 MR. MYERS: So stated with the TMP. 5 MS. WAGNER: Yes. You asked on a Sunday. And 6 so -- 7 MR. MYERS: Oh, I know. I know. It was the 8 weekend. I'm sorry. 9 MS. WAGNER: No worries. So we were in contact 10 with School Pass and we do have an email and so we can 11 provide that in writing. 12 MR. MYERS: I appreciate it. 13 HEARING EXAMINER ROBESON-HANNAN: What is the -- 14 I must have missed some of this. What is the privacy issue? 15 MR. MYERS: The privacy issue was that the 16 license plate reader captures all license plates, any 17 vehicle that goes past it. And the question came up over 18 the weekend, what does that -- what happens to all that 19 data. I mean, I think for those people who aren't 20 associated with the school, what privacy do they have. 21 HEARING EXAMINER ROBESON-HANNAN: Okay. And what 22 I heard Ms. Wagner say is she's going to respond. 23 MR. MYERS: I asked her if she would give us what 24 she just said in writing so it's part of the record. 25 HEARING EXAMINER ROBESON-HANNAN: Okay, thank</p>
<p style="text-align: right;">30</p> <p>1 school will have a database where all of the camera 2 information is uploaded. And the school is the only entity 3 that will have access to the system. And if vehicles that 4 are seen exiting the campus and then traveling on Alta Vista 5 Road, that information will be stored in the system because 6 that is relevant and necessary for the school to know about. 7 But all other information will be deleted. They recommend 8 keeping it for 24 hours just to make sure that there is 9 nothing wrong with the system. But after that, all other 10 information will be deleted. 11 MR. KLINE: Thank you. Going back to Mr. 12 Wilkerson's comment, at this point in time, it was our 13 intention to go ahead and proceed through the MCA document, 14 sort of a step-by-step process. But I don't want to have - 15 I don't want to basically limit anybody's ability to ask 16 questions. So I will let the observers sort of ask -- do 17 they want to ask questions of Ms. Wagner's testimony now or 18 when we get to an individual question that may be a little 19 bit more defined or definite. But we are finished with that 20 overview and Ms. Wagner is available for cross examination 21 if wished. 22 HEARING EXAMINER ROBESON-HANNAN: I see three 23 hands, Mr. Myers, Ms. Umhofer, and Mr. Wilkerson. So I'm 24 going to start with Mr. Myers. 25 MR. MYERS: Yes, I've asked Ms. Wagner if we</p>	<p style="text-align: right;">32</p> <p>1 you. Okay. Mr. Myers, do you have any other questions? 2 MR. MYERS: Not at this time, but I do -- when I 3 testify I have a number of issues to talk about. 4 HEARING EXAMINER ROBESON-HANNAN: Okay. If you 5 could put your hand -- 6 MR. MYERS: Take my hand down? Yes. 7 HEARING EXAMINER ROBESON-HANNAN: Ms. Umhofer, 8 I'm going in alphabetical order. 9 MS. UMHOFER: Well, we are at the end of the 10 alphabet here. I'm not usually second. 11 HEARING EXAMINER ROBESON-HANNAN: Well, you are 12 ahead of Mr. Wilkerson. 13 MS. UMHOFER: I see. Thank you. And Katie, 14 thanks so much for handling the exhibits. I don't know if 15 we still have the presentation available, but I wanted to go 16 back to page 3 of that, if that's possible. 17 HEARING EXAMINER ROBESON-HANNAN: I think she's 18 going now. 19 MS. WAGNER: Can you see my screen? 20 MS. UMHOFER: Yes, I can. Thank you. So here 21 you said that it says the current proposal is that 30 22 percent of nursery students will be bused an 82 percent of 23 elementary students will be bused. Is that right? 24 MS. WAGNER: That is at full enrollment what we 25 need to do to meet our trip cap goals, yes.</p>

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<p>33</p> <p>1 MS. UMHOFFER: And this was important to the 2 transportation agencies to get their support is my 3 recollection. 4 MS. WAGNER: Yes. 5 MS. UMHOFFER: I remember from the January hearing 6 in fact that Mr. Anders testified that there was a 7 progression and the transportation agencies kept requiring 8 more and more bussing; is that correct? 9 MS. WAGNER: Yes, that is reflected on -- in this 10 table. 11 MS. UMHOFFER: But the TMP does not actually 12 require that any number of students ride the bus or did not 13 arrive by POV; is that right? 14 MS. WAGNER: That is correct. 15 MS. UMHOFFER: In fact, there are -- 16 MS. WAGNER: Well actually, no. That's not 17 correct because we require students to ride the bus unless 18 they meet that -- the critical threshold. So if they are an 19 elementary school student, they are required to ride the 20 bus. If they are above the age of five, they are required 21 to ride the bus unless they have a sibling that attends the 22 nursery school program and unless they attend the before and 23 after school care program. 24 MS. UMHOFFER: And there is actually a fifth 25 exception on a case-by-case that can just be granted because</p>	<p>35</p> <p>1 the number of hardship exceptions that could be granted? 2 MS. WAGNER: Correct. 3 MS. UMHOFFER: And there is no measure in place in 4 the current TMP that would limit the total daily number of 5 POVs that could come to and from the school? 6 MS. WAGNER: That is correct. 7 MS. UMHOFFER: Now you've provided I know an 8 estimate to Mr. Seid and the rest of us about the number of 9 POVs that would use the loop road. And am I right that that 10 is derivative of the LATR? Those numbers are derivative of 11 the trips predicted in the LATR? 12 MS. WAGNER: Yes. 13 MS. UMHOFFER: And the LATR assumes a certain 14 number of students will be arriving by bus; am I right? 15 MS. WAGNER: Yes. 16 MS. UMHOFFER: So if these exceptions are used in 17 a way that the parts from these predictions on slide three, 18 the numbers of vehicles using the loop road could also 19 depart from what you have estimated; is that right? 20 MS. WAGNER: Yes, but we will still be subject to 21 the trip caps. So they -- yes, while they can vary, they 22 are not -- the school would be out of compliance with the 23 TMP. 24 MS. UMHOFFER: Only if the trips came within the 25 three hours that you have decided to apply a trip cap to?</p>
<p>34</p> <p>1 it's difficult for them to ride the bus, right? 2 MS. WAGNER: Correct. 3 MS. UMHOFFER: So there are five exceptions and 4 there are -- is no numerical cap on any of those exceptions; 5 is that right? 6 MS. WAGNER: Correct. 7 MS. UMHOFFER: So I guess what I was trying to say 8 is that there is no numerical requirement that limits the 9 number of students that will come by personally operated 10 vehicle. 11 MS. WAGNER: That is incorrect because they are 12 trip caps. 13 MS. UMHOFFER: And the more -- okay. But couldn't 14 100 percent of the students arrive for before care? 15 MS. WAGNER: Yes, but that is not feasible from 16 the school's previous operations, that they do not have 17 capabilities for that or intentions for that to happen. 18 MS. UMHOFFER: But there is no limit in terms of 19 the number of people that could -- is there a firm limit in 20 the number of people that could come for before care? 21 MS. WAGNER: I do not know the answer because I 22 don't know the programmatic -- what it takes to exactly run 23 a before school care and if the school would ever be able to 24 expand the program to be that large. 25 MS. UMHOFFER: And there is no current limit on</p>	<p>36</p> <p>1 MS. WAGNER: The three hours associated with the 2 starting of school, and the ending of school. So it was 3 very unlikely that students and staff will be coming outside 4 of those hours. 5 MS. UMHOFFER: Okay. Well, let's talk about that 6 because the morning trip cap in the current TMP is now 7:00 7 to 8:00 a.m.; is that right? 8 MS. WAGNER: Correct, yes. 9 MS. UMHOFFER: And school starts at 8:30; is that 10 right? 11 MS. WAGNER: Yeah. 12 MS. UMHOFFER: So in fact, an unlimited number of 13 cars could arrive between A: 00 and 8:30 and would not be 14 subject to counting in the current proposal; is that right? 15 MS. WAGNER: That is incorrect because the 16 students are not allowed to arrive by car at that time 17 period if they are an elementary school student or if they 18 are a nursery school student above the age of five. 19 MS. UMHOFFER: Unless they are granted one of the 20 exceptions that are unlimited and number for hardships, 21 right? 22 MS. WAGNER: Correct. 23 MS. UMHOFFER: So there's really no mechanism to 24 ensure that the hardship exception doesn't result in many 25 more personally operated vehicles coming between 8:00 and</p>

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<p>37</p> <p>1 8:30 as currently constructed, right?</p> <p>2 MS. WAGNER: That is correct. I would hope that</p> <p>3 the school is not seeking to take advantage of that hardship</p> <p>4 rule, that the hardship rule really is going to be observed</p> <p>5 in a very respectful way, as I wish that the neighborhood</p> <p>6 would recognize with all the efforts that they have gone</p> <p>7 through at this point to make sure that they are in</p> <p>8 compliance with the TMP as well as meeting these trip caps.</p> <p>9 MS. UMHOFFER: Yes. So I -- now this --</p> <p>10 originally -- the original TMP proposed that the peak hour</p> <p>11 would be determined by selecting the single highest hourly</p> <p>12 one hour for inbound and outbound traffic between 6:30 a.m.</p> <p>13 and 9:00 a.m. Does that sound familiar?</p> <p>14 MS. WAGNER: I believe so. I don't remember</p> <p>15 correctly.</p> <p>16 MS. UMHOFFER: Okay, but it now has changed to</p> <p>17 just apply to 7:00 to 8:00 a.m.?</p> <p>18 MS. WAGNER: Yes.</p> <p>19 MS. UMHOFFER: And that will capture all the</p> <p>20 efforts that I believe in the TMP their efforts to get staff</p> <p>21 to come earlier to avoid the close to 8:30 time frame, but</p> <p>22 now we are applying the trip cap to the hour in which you</p> <p>23 are trying to shift traffic to I believe, right?</p> <p>24 MS. WAGNER: Yes, because that was the highest</p> <p>25 hour where cars were coming to the campus where -- and the</p>	<p>39</p> <p>1 coordination with the neighborhood.</p> <p>2 MS. UMHOFFER: And did you bring this change to</p> <p>3 their attention specifically? That it was no longer going</p> <p>4 to be the hour in which there were the most trips, but</p> <p>5 instead just be 7:00 to 8:00 a.m.?</p> <p>6 MS. WAGNER: They are well aware that that is the</p> <p>7 time period that there will be the most trips, yes.</p> <p>8 MS. UMHOFFER: Okay, shifting gears. When you</p> <p>9 testified in January, you were asked a question about why</p> <p>10 the original plan did not anticipate that traffic from the</p> <p>11 school would proceed down Rockville Pike and use West Cedar</p> <p>12 Boulevard instead of using Alta Vista Road. And do you</p> <p>13 recall saying that this was because -- I'm going to find</p> <p>14 it -- you didn't believe it would be believable that no cars</p> <p>15 would turn on Alta Vista so you wanted to provide a more</p> <p>16 accurate representation of the likelihood of how vehicles</p> <p>17 would travel?</p> <p>18 MS. WAGNER: Yes, that is correct. Without a</p> <p>19 mechanism to enforce that, that is correct.</p> <p>20 MS. UMHOFFER: And under the current proposal,</p> <p>21 there's still no mechanism to enforce -- to prevent people</p> <p>22 from turning right on Alta Vista and then executing a U-turn</p> <p>23 and coming back out at that intersection to proceed north;</p> <p>24 is that right?</p> <p>25 MS. WAGNER: There is no mechanism. A camera is</p>
<p>38</p> <p>1 reason for that is because part of traffic management</p> <p>2 protocols is to spread traffic out so it's also not</p> <p>3 associated with the peak commute times. And so that is why</p> <p>4 the staff is arriving when they are, because that is outside</p> <p>5 of the peak arrival time period for the school as well as</p> <p>6 the adjacent roadway network. And so that was why that was</p> <p>7 done. But if you look at the LATR and where the majority of</p> <p>8 trips are coming from, it's between 7:00 and 8:00 number</p> <p>9 which is not at the -- during the roadway peak hour as well</p> <p>10 as what would typically be a school peak hour.</p> <p>11 MS. UMHOFFER: Right. And the odd result of that</p> <p>12 is of course you have a cap now from 7:00 to 8:00 when the</p> <p>13 key congestion in our neighborhood when people are -- the</p> <p>14 public school buses are going and people are taking their</p> <p>15 own kids the bus is actually later than that. It's about</p> <p>16 7:45 to 8:30 at which time you have no trip cap applying to</p> <p>17 the schools traffic?</p> <p>18 MS. WAGNER: Correct. Correct.</p> <p>19 MS. UMHOFFER: Okay. So when this change was made</p> <p>20 to the in fact caps and what hours during which they would</p> <p>21 be applied, was that highlighted for the transportation</p> <p>22 agencies? Because I think this change had been made after</p> <p>23 they endorsed the plan.</p> <p>24 MS. WAGNER: Yes, they have reviewed the document</p> <p>25 and are in agreement with all the changes that were made in</p>	<p>40</p> <p>1 not in place at that location. We have reached out multiple</p> <p>2 times to both SHA and MCDOT to allow us to have that. And</p> <p>3 we are working with the community to get the camera</p> <p>4 relocated closer to the intersection to be able to capture</p> <p>5 that movement.</p> <p>6 MS. UMHOFFER: So absent a mechanism for</p> <p>7 enforcement, I assume you still believe is not reasonable to</p> <p>8 expect that all cars will travel down to West Cedar as</p> <p>9 instructed, right?</p> <p>10 MS. WAGNER: No, that is incorrect. I believe</p> <p>11 that vehicles will -- that we have a TMP in place and will</p> <p>12 expect parents and staff to follow the TMP.</p> <p>13 MS. UMHOFFER: Based solely on your request that</p> <p>14 they do so. You think that that will dramatically change</p> <p>15 their behavior?</p> <p>16 MS. WAGNER: Yes.</p> <p>17 MS. UMHOFFER: Okay. That's all I have for now.</p> <p>18 Thank you.</p> <p>19 HEARING EXAMINER ROBESON-HANNAN: Thank you, and</p> <p>20 you Ms. Umhofer. Mr. Wilkerson?</p> <p>21 MR. WILKERSON: Yes, thank you. And thank you,</p> <p>22 Ms. Wagner. Just a couple of quick questions. Both you and</p> <p>23 Ms. Fabre referenced eliminating all traffic in the</p> <p>24 neighborhood. And I'm a little confused. I understand</p> <p>25 there been a number of changes to reduce it, but in fact it</p>

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11 (41 to 44)

<p>41</p> <p>1 hasn't eliminated POV traffic in the neighborhood; is that 2 correct?</p> <p>3 MS. WAGNER: We have eliminated the school 4 traffic in the neighborhood except for people that live in 5 the neighborhood are allowed to travel to get to their homes 6 in the most direct route possible.</p> <p>7 MR. WILKERSON: Okay, that's -- I just want to 8 that clarification because the two of you said eliminated, 9 but is not fully eliminated. You indicated to those who can 10 take POVs are people that live in the Maplewood and Locust 11 Hills neighborhood. How do you define the perimeter of 12 Maplewood community for purposes of those able to drive 13 POVs?</p> <p>14 MS. WAGNER: I will go to the TMP, as Exhibit 15 105. And that clearly outlines the -- oh, yeah. The 16 neighborhoods are defined clearly within the TMP that the 17 Maplewood neighborhood is West Cedar Lane, old Georgetown 18 Road, 495, and Rockville Pike. And the Locust Hill 19 neighborhood is West Cedar Lane, Rockville Pike, and 495.</p> <p>20 MR. WILKERSON: Okay. Very good. That's a 21 helpful clarification and I'm glad that it's in that TMP. 22 There was some discussion earlier that the French 23 international school was defining Maplewood to include some 24 homes that were west of old Georgetown Road. So is it 25 correct to understand that would not be permitted for people</p>	<p>43</p> <p>1 you -- and perhaps this is in the record. I didn't see 2 this. What are the weeks in the summer that the summer 3 camps are intended to operate?</p> <p>4 MS. WAGNER: That would be a question for Ms. 5 Fabre. I do not know the answer.</p> <p>6 MS. WILKERSON: Okay. But would you know what 7 the trip cap hour would be for the summer camps either in 8 the morning or at dismissal?</p> <p>9 MS. WAGNER: Yes, I have Exhibit 105 pulled up. 10 And there are clearly defined hours for the Saturday as well 11 as summer school and summer camp trip caps on page 17 of the 12 TMP that outlines in the morning is between 7:00 and 9:00 13 a.m. In the school dismissal peak hour, it's between 2:00 14 and 4:00 p.m. And then in the commuter afternoon peak hour, 15 it's between 5:00 and 7:00 p.m.</p> <p>16 MS. WILKERSON: All right. Very good. Thank 17 you.</p> <p>18 HEARING EXAMINER ROBESON-HANNAN: Okay, Mr. 19 Brown.</p> <p>20 MR. BROWN: Ms. Wagner, I have one question for 21 you relating to page 14 of your PowerPoint presentation. 22 But I want to that before I asked the question, I want to 23 sort of set a premise for the question and you can tell me 24 whether you agree or disagree with that. You have 25 articulated a series of escalating penalties for a violation</p>
<p>42</p> <p>1 to use POVs if they were west of old Georgetown Road?</p> <p>2 MS. WAGNER: That is correct.</p> <p>3 MR. WILKERSON: Okay, very good. In terms of the 4 proposed camera that would be on the new schools property to 5 capture people that took the right turn onto Alta Vista 6 Road, is it correct that if a driver sought to circumvent 7 that camera and take a left on Viking Road, that they could 8 evade that camera and therefore essentially cut to the 9 neighborhood without being caught by the license plate 10 reader?</p> <p>11 MS. WAGNER: Yes, there are ways to avoid the 12 Alta Vista camera, but they -- there are a lot of -- there 13 are turn restriction on Ellesmere and I don't exactly -- 14 Viking Road is not one that I'm familiar with, but there 15 are -- it is a very circuitous route and we will continue to 16 enforce the school policies of telling parents to not drive 17 on the neighborhood streets.</p> <p>18 MR. WILKERSON: Okay. Thank you, very much. Not 19 for the questions.</p> <p>20 HEARING EXAMINER ROBESON-HANNAN: Ms. Wilkerson? 21 Ms. Wilkerson, I think you might be on mute.</p> <p>22 MS. WILKERSON: You are correct. Thank you. 23 Good morning, everyone. I just had a couple of questions 24 following up on the prior questions from Becky on the trip 25 cap count and what hours the school is going to use. Can</p>	<p>44</p> <p>1 of the protocols for the parents driving to and from the 2 school.</p> <p>3 And I would regard that the formation of that 4 series of penalties as a sensitive matter of judgment 5 between -- that should initially be controlled by the school 6 in dealing with the parents. On the other hand, I also 7 think it's important to the community to be sure that the 8 penalty scheme is sufficiently deterred with regard to 9 making sure that the rules are followed. So my question is 10 this; would you agree that included on the items of 11 discussion on page 14 of the PowerPoint should be whether or 12 not there are concerns in the community that the penalties 13 are sufficiently deterrent in effect and actual practice?</p> <p>14 MS. WAGNER: We have been in great discussion 15 with the community, that they saw the violations 16 enforcements and agreed that those were restrictive enough 17 as well as enforceable by the school. As you can see there 18 is a quarterly STC, which stands for -- now I don't 19 remember -- transportation -- school transportation 20 coordinator violation log.</p> <p>21 So as well as -- so there will be information 22 provided to the community about how the violations are being 23 enforced and how many violations have been made within the 24 last three months since our previous meeting.</p> <p>25 MR. BROWN: So just to reset my question, is not</p>

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12 (45 to 48)

<p>45</p> <p>1 out of bounds for the community to question whether or not 2 the penalty scheme is -- need some adjustment and light of 3 actual experience. 4 MS. WAGNER: Yes, that could be a discussion 5 topic. They can have those discussions at the in LC meeting 6 as necessary. 7 MR. BROWN: Thank you. Appreciate it. 8 HEARING EXAMINER ROBESON-HANNAN: Okay. I have 9 Mr. Seid. 10 MR. SEID: Yes, just one quick question. As far 11 as the penalties, is that going to encompass the entire 12 school year, entire summer program and entire Saturday 13 school? Or will that be resetting at some point during the 14 school year? 15 MS. WAGNER: The intention is for it to not 16 reset, that that would be for the entire school year. 17 MR. SEID: Thank you. 18 HEARING EXAMINER ROBESON-HANNAN: Ms. Abeles? 19 Tell me if I'm saying this wrong. Nancy Abeles? 20 MS. ABELES: Abeles, but that's close enough. 21 Thank you. 22 HEARING EXAMINER ROBESON-HANNAN: Abeles. 23 MS. ABELES: Right. Hi. I'm Nancy Abeles with 24 the Bethesda Crest HLA. We are an infill townhouse 25 community within the parameters of their transportation</p>	<p>47</p> <p>1 you give me a street? 2 MR. KLINE: Ms. Wagner, could you bring up one of 3 the exhibits that basically shows the location of property. 4 Some of us know where it is. And the problem is, because 5 their private street, they don't show up on this map. 6 MS. WAGNER: Oh. 7 MR. KLINE: Ms. Abeles -- 8 MS. ABELES: It's down between the Boy Scouts and 9 the old Bethesda meetinghouse. 10 MR. KLINE: All right. 11 (Crosstalk) 12 MS. WAGNER: Direct access road from 355. 13 HEARING EXAMINER ROBESON-HANNAN: Okay. The 14 cursor is pointing at an area that is north of Cedar Lane, 15 just north of Cedar Lane and just East of Rockville Pike. 16 MS. WAGNER: Is that correct? 17 HEARING EXAMINER ROBESON-HANNAN: Ms. Abeles, you 18 are on mute. 19 MS. ABELES: Yes, that's the correct location. 20 HEARING EXAMINER ROBESON-HANNAN: So you are in 21 the Northwest quadrant roughly at the intersection of Cedar 22 Lane and 355? 23 MS. ABELES: Yes, we are between Ellesmere, the 24 old Bethesda meetinghouse, and the Boy Scouts directly on 25 355. And as I say, we have an entry road that is accessible</p>
<p>46</p> <p>1 management plan, but our roads are not indicated on the map. 2 We were -- we never received outreach for this. This 3 presents a potential problem to us if people do seek to 4 evade the plan because our roads are privately owned and 5 maintained. We do self-enforcement. We have no parking, no 6 loitering, only residents and their guests. We -- as I 7 said, we do self-enforcement. We are not covered by County 8 police or traffic or (inaudible). 9 MR. KLINE: Madam Hearing Examiner, could I -- 10 Madam Hearing Examiner, could I interrupt please? I don't 11 think this is a question yet. 12 MS. ABELES: Okay, but we would like to be part 13 of the neighborhood liaison committee because we just want 14 to make sure that this does not become a problem. If that's 15 possible, we would appreciate that. 16 MS. WAGNER: Could you please repeat which 17 neighborhood community you are from? 18 MS. ABELES: We are called Bethesda Crest. We 19 front directly on 355. We have an entrance that would 20 enable cut through to the neighborhood, but is not reflected 21 on your TMP map. 22 HEARING EXAMINER ROBESON-HANNAN: Ms. Abeles, 23 please -- 24 MS. ABELES: Abeles. 25 HEARING EXAMINER ROBESON-HANNAN: Abeles. Can</p>	<p>48</p> <p>1 from 350 5A could potentially enable cut through to the 2 community to enabling somebody to avoid the plan. 3 HEARING EXAMINER ROBESON-HANNAN: Okay. So your 4 question is, can you be part of the neighborhood liaison 5 committee? 6 MS. ABELES: Yes, we would like to be able to 7 observe if we see increased traffic. I don't think we have 8 a way for it to be monitored by the program. And I 9 understand there are other rows that could become cut 10 through's to the neighborhood if somebody uses Ellesmere 11 potentially. But there also is potential that they 12 discovered they can use our roads as well. And we don't 13 have any -- you know, we only have self-enforcement of 14 incorrect through traffic. 15 HEARING EXAMINER ROBESON-HANNAN: Okay. 16 MS. WAGNER: We don't have an issue adding 17 Bethesda Crest to the NLC. 18 MS. ABELES: Great. Thank you. We greatly 19 appreciate it. Thank you, very much. 20 HEARING EXAMINER ROBESON-HANNAN: Okay. I 21 have -- Mr. Wilkerson, do you have another question? 22 MR. WILKERSON: I do. It was a question prompted 23 by some of the inquiries of Mr. Brown and it triggered a 24 thought. I will be quick. Ms. Wagner, the Montgomery 25 Department of Transportation and the supplemental comment</p>

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13 (49 to 52)

<p>49</p> <p>1 letter on this proposal strongly recommended that the TMP 2 include some of the penalty provisions from the Good Counsel 3 high school in Olney, Maryland. And nothing that I can 4 discern appeared in the amended initiative. Is there any 5 reason why the penalties for violation of the TMP modeled 6 after the Good Counsel situation could not be added? 7 MS. WAGNER: The -- we read multiple, multiple 8 TMP's. And the items that we have used as violations work 9 for this age group. The Good Counsel was a high school, and 10 I believe it was for a lot of parking violations. And so 11 they were not necessarily of the concern that this TMP 12 needed to address. And so that's why, while we did consider 13 the Good Counsel TMP, we believe that this TMP actually has 14 some of violation mechanisms for this school as well as the 15 enforcement goes above and beyond what was included in the 16 Good Counsel TMP. 17 MR. WILKERSON: Well, thank you for the 18 explanation. My understanding however was that the 19 distinction is that the Good Counsel TMP penalty is a 20 penalty on the school. In this instance, the penalty is 21 only on the parents for the French international school. 22 And I'm trying to find a means to have an enhanced penalty 23 provision that's not only on parents and the students, but 24 on the school itself for perhaps lax enforcement of-- in 25 monitoring. Is there any way that modeled after Good</p>	<p>51</p> <p>1 permit to place the camera in the right-of-way? 2 MS. WAGNER: Yes, and we have been reaching out 3 with no success of any correspondence back. 4 MR. MYERS: From permitting services? 5 HEARING EXAMINER ROBESON-HANNAN: Yes. Let me do 6 this. I can send a letter. Who did you reach out to? 7 MS. WAGNER: Deepak Somarajan and Shannon Woodrow 8 at SHA. 9 MR. MYERS: Excuse me. Excuse me. Deepak is 10 with MCDOT, not permitting services. And he's the one that 11 sent the letters, notified me of the letter. 12 HEARING EXAMINER ROBESON-HANNAN: Did you reach 13 out to -- they told you to go to permitting services? 14 MR. MYERS: That's correct. 15 HEARING EXAMINER ROBESON-HANNAN: So permitting 16 services -- oh, because as to have a permit to put a 17 structure in the right-of-way. 18 MR. MYERS: Yes. 19 MS. WAGNER: It was our understanding that we 20 needed to reach out to SHA. And so because it was SHA 21 right-of-way and that is why we reached out to SHA. 22 HEARING EXAMINER ROBESON-HANNAN: Now, I 23 understand. I'm just trying to -- but I thought you wanted 24 the camera on Alta Vista. 25 MS. WAGNER: We want it at the intersection of</p>
<p>50</p> <p>1 Counsel, the could be a penalty added for the school in 2 addition to the parents and the students? 3 MS. WAGNER: We can consider that. The 4 enforcement that the school is having to -- in the 5 significant financial costs and enforcement that the school 6 is having to go through to implement this TMP was thought to 7 be enough of a (inaudible). 8 HEARING EXAMINER ROBESON-HANNAN: Well, let me 9 just say that if the provisions of this are made part of the 10 special exception, then violation of the conditions will 11 result in violation and possible revocation of the special 12 exception. Am I wrong Mr. Kline and Mr. Brown? 13 MR. KLINE: I would concur with that 14 understanding. 15 MR. BROWN: Absolutely. 16 HEARING EXAMINER ROBESON-HANNAN: So the choice 17 for them is, if this is made part of the special exception, 18 then a violation of this will because for disciplinary 19 action under the zoning ordinance. So hopefully that 20 answers a question. Mr. Myers? 21 MR. MYERS: Yes, Ms. Wagner, are you aware of a 22 letter from, I believe the date is March 21, I know it's 23 March, from MCDOT telling you that they would not authorize 24 you to place a camera on Alta Vista Road on any of their 25 poles, that you should go to permitting services to get a</p>	<p>52</p> <p>1 Alta Vista and Rockville Pike to capture vehicles turning 2 right onto Alta Vista. 3 HEARING EXAMINER ROBESON-HANNAN: Okay. And Mr. 4 Myers, what was SHA's response? 5 MR. MYERS: From my understanding they haven't 6 been very cooperative. I have reached out to Sen. Lee and 7 her staff was supposed to get back to me because she's -- 8 has offered her help and she also lives on Alta Vista road. 9 HEARING EXAMINER ROBESON-HANNAN: What if the 10 camera is located on the county right-of-way of Alta Vista? 11 MR. MYERS: Yeah, as long as it captures -- from 12 our perspective, as long as it captures the license plates 13 on Alta Vista. I don't know how Ms. Wagner feels about 14 that. 15 MS. WAGNER: That's fine as well. We can 16 continue to try to resolve this issue. Because we 17 understand that this is a very important issue and are doing 18 our best to try to relocate that camera. 19 HEARING EXAMINER ROBESON-HANNAN: Well, who would 20 it be with MCDOT? 21 MR. MYERS: Deepak, but he's the one that said to 22 go to permitting services. It is letter that directed the 23 school to go to permitting services. 24 MS. WAGNER: And we can try that. We were -- it 25 was our understanding we needed to go to SHA. So that's</p>

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14 (53 to 56)

<p>53</p> <p>1 where we went, to SHA and were given a forum and information 2 of how to do that and have not heard back despite our 3 multiple attempts. 4 HEARING EXAMINER ROBESON-HANNAN: Let me do this. 5 Let me reach out to (inaudible). Alta Vista does before I 6 do that, Alta Vista is a county road, right? 7 MR. MYERS: Yes. 8 MR. KLINE: Ms. Robeson-Hannan, if I might add, 9 the gentleman in the Department of permitting services it 10 would have a primary responsibility for investigating this 11 matter is a gentleman by the name of Atiq Panjshiri. So 12 when you send your letter to Mr. (inaudible), you should 13 copy Atiq Panjshiri and we will -- excuse me. We will 14 provide you with a copy of Mr. (inaudible) letter where he 15 makes a reference to referral to DPS so you can say what 16 role do you have in this. Would that help? 17 HEARING EXAMINER ROBESON-HANNAN: Okay. 18 MR. KLINE: Would that be helpful? 19 HEARING EXAMINER ROBESON-HANNAN: It would. 20 Could you spell the name again? It's P-I-Q? 21 MR. KLINE: First name is Atiq; A-T-I-Q. Last 22 name is Panjshiri; P-A-N-J-S-H-I-R-I. And his title is head 23 of right-of-way issues. Something like that. And I will 24 get you his contact information as well is the letter that 25 Ms. Wagner referred to.</p>	<p>55</p> <p>1 HEARING EXAMINER ROBESON-HANNAN: Okay. All 2 right. He didn't -- let me swear him and again. 3 Do you solemnly affirm under penalties of perjury 4 that the statements you are about to make are the truth, the 5 whole truth and nothing but the truth? 6 MR. MYERS: I do. 7 HEARING EXAMINER ROBESON-HANNAN: Okay. So what 8 I would like to do is try to get to the Applicant's remand 9 presentation if we can. And people have been asking good 10 questions, but we want to try to get through this. No more 11 questions for Mr. Wagner -- Ms. Wagner at the moment, 12 correct? 13 MR. MYERS: No. 14 HEARING EXAMINER ROBESON-HANNAN: Okay. 15 MR. KLINE: Do have -- do have two redirect 16 questions though. 17 HEARING EXAMINER ROBESON-HANNAN: Okay. Go 18 ahead. 19 MR. KLINE: Ms. Wagner, can you pull up again the 20 map you had on the drawing earlier? Or on the screen 21 earlier? I'm not sure what (inaudible) it is. 22 MS. WAGNER: Yes, this is Exhibit 118, page 8 of 23 the PDF. 24 MR. KLINE: Okay. So in your initial 25 presentation you were explaining how there would be a camera</p>
<p>54</p> <p>1 HEARING EXAMINER ROBESON-HANNAN: That would be 2 very helpful. Thank you. You guys have had more 3 (inaudible) than I have. So let me see. I know the 4 school's timeframe. But sometimes if I get in the mix they 5 will -- well, whatever. Okay. Miss Abeles, do you mind 6 putting your hand on, please? 7 MS. ABELES: Oh, sorry. 8 HEARING EXAMINER ROBESON-HANNAN: No, it's okay. 9 It's all good. Okay Mr. Myers, did you have any more 10 questions? 11 MR. MYERS: I have no more questions. But I 12 would -- before we go into the other material, I would like 13 to be sworn in so I can make a couple of statements. 14 HEARING EXAMINER ROBESON-HANNAN: Okay. 15 Do you solemnly affirm under penalties of perjury 16 that the statements you are about to make are the truth, the 17 whole truth and nothing but the truth? 18 MR. MYERS: I do. 19 MR. KLINE: Ms. Robinson, can I interject? We're 20 not anywhere close to having completed the Applicant's 21 presentation. Mr. Myers has been very generous. I don't 22 mind letting him make a statement by the way. 23 MR. MYERS: No, I wasn't planning to make it now, 24 but before we launch into that, I just want to be able to 25 make them.</p>	<p>56</p> <p>1 at the driveway entrance, exit on Rockville Pike to take 2 license plate readings on all cars entering and exiting the 3 campus. There you go. Great. The box at the bottom refers 4 to where a camera would be placed on school property that 5 has frontage on Alta Vista Road, correct? 6 MS. WAGNER: Correct. 7 MR. KLINE: Okay. And the problem is there is a 8 gap between everything to the east all the way to Rockville 9 Pike where we are having coverage problems, correct? 10 MS. WAGNER: That is correct. 11 MR. KLINE: Okay. So going back to the question 12 I think from Mr. Wilkerson about the version of traffic, if 13 you came in off the Pike, the first street you would 14 impart -- intersecting street you would encounter would be 15 Alta Vista Court, correct? On the right? 16 MS. WAGNER: Yes. 17 MR. KLINE: All right. The next intersecting on 18 the left, and maybe Mr. Wilkerson can help me, that would be 19 Viking, I take it? 20 (Crosstalk) 21 MR. KLINE: All right. And then the next 22 intersection -- 23 MS. UMHOFFER: I'm sorry. It's actually -- I 24 believe it's Wicket that then connects to Viking. 25 MS. WAGNER: Oh, okay. Thank you.</p>

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15 (57 to 60)

<p>57</p> <p>1 MR. KLINE: Okay. Well actually, I thought the 2 next intersecting street was Wicket. Am I wrong on that? 3 (Crosstalk) 4 MS. UMHOFFER: It connects in two places. Both 5 Wicket -- so Wicket goes around and so yes, you hit Wicket 6 twice on All to Vista. 7 MR. KLINE: All right. I would actually -- okay. 8 So what I'm trying to -- it was because of the road system 9 you can see there, it was your conclusion that it would be 10 basically a lot of movement, a lot of excess movement to 11 avoid the camera if we could install one. Or let me 12 rephrase that. If we only had one on Alta Vista on the 13 school property. That was your conclusion? 14 MS. WAGNER: That is correct. 15 MR. KLINE: Okay. 16 MS. WAGNER: That is correct. 17 MR. KLINE: All right. Would you be a little bit 18 more specific about all of the overtures that you have made 19 in the frequency? And we understand what the results have 20 been, but I think the Hearing Examiner needs to hear the 21 volume of inquiries you made. 22 MS. WAGNER: To staff to get the camera 23 relocated? 24 MR. KLINE: SHA and DOT, correct? 25 MS. WAGNER: Yes, we reached out to both of them</p>	<p>59</p> <p>1 road at all. 2 MS. WAGNER: And we also restart Pepco because 3 there are a number of power poles along Alta Vista Road to 4 try to -- to mount it to something. 5 HEARING EXAMINER ROBESON-HANNAN: Right. 6 MR. KLINE: So we reached out to somebody who 7 really had control over all this and that's why we approach 8 Mr. Myers, correct? 9 MS. WAGNER: Correct, yes. 10 HEARING EXAMINER ROBESON-HANNAN: Okay. I 11 understand. Now can I just get a sense from Mr. Myers. I 12 take it that you want the monitoring on the first block of 13 Alta Vista west of -- 14 MS. WAGNER: Alta Vista Court. 15 HEARING EXAMINER ROBESON-HANNAN: 355? Is that 16 what you're trying to get to? 17 MR. MYERS: Yes, without that, we can't control 18 any of the traffic that would come in there, make U-turns, 19 and go back out, or use Alta Vista Court, Alta Vista Terrace 20 to come around. And we only have two intersections that 21 exit directly onto 355 from the neighborhood that our county 22 roads. One, as Ms. Abeles mentioned were -- are actually 23 private roads. Alta Vista Road is the only signalized 24 intersection. And if you've got a lot of traffic at that 25 light, and it's not a long light, backed up there trying to</p>
<p>58</p> <p>1 initially and then have, as I said, there is an 11 page for 2 developer SHA to be able to mount a camera in SHA right-of- 3 way. And I've reached out multiple times to set up an on- 4 site meeting to discuss this with staff, SHA staff, because 5 this is their intersection at the intersection of Alta Vista 6 and Rockville Pike. We have filled out the form, sent it to 7 them, and then have since followed up with them to try to 8 schedule that meeting once they've had a chance to see 9 exactly what we are talking about. 10 MR. KLINE: And this may be a challenging 11 question, but you recall Mr. and audible comments about why 12 or where they will not allow any signs to be posted on the 13 county DOT need controlled equipment, fixtures? 14 MS. WAGNER: That was what I thought that I 15 remember him saying is we cannot install it on their 16 existing -- on their existing equipment. 17 MR. KLINE: Yeah. And that would cover what? I 18 was trying to get -- 19 (Crosstalk) 20 MS. WAGNER: Signal poles, existing MCDOT 21 equipment. 22 HEARING EXAMINER ROBESON-HANNAN: So they won't 23 let you sort of co-locate? 24 MS. WAGNER: Right. 25 MR. KLINE: On any poles, signs, pictures on the</p>	<p>60</p> <p>1 get out in the morning, it will be very, very hard to exit 2 the neighborhood. 3 HEARING EXAMINER ROBESON-HANNAN: Okay. So are 4 we -- Mr. Kline, do you have any -- or do you have any 5 follow-up questions? 6 MR. KLINE: No, but thank you for the opportunity 7 to just clarify couple of matters. I'm completed -- and we 8 are completed with our questioning of Miss Wagner unless 9 somebody else has any questions. 10 HEARING EXAMINER ROBESON-HANNAN: Okay. Seeing 11 none, why don't you -- let's move on to your next witness. 12 MR. KLINE: My idea of now was to take the 13 Maplewood memorandum that was very helpful and listed all of 14 the items and started off with a list of four items that 15 were sort of out (inaudible) outside of the 1 through 41 16 question. And basically this walk through each of the 17 points on pages one, two -- one and two of the NCA document 18 and just as the appropriate team member for the Applicant to 19 respond if necessary and make that response available for 20 cross-examination if necessary. 21 HEARING EXAMINER ROBESON-HANNAN: That's fine. 22 MR. KLINE: So by way of example, going to the 23 bottom -- 24 HEARING EXAMINER ROBESON-HANNAN: Which -- that 25 was a recent --</p>



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16 (61 to 64)

<p>61</p> <p>1 MR. KLINE: I believe it would be Exhibit 119</p> <p>2 titled Maplewood's position on matters and titled summary of</p> <p>3 Maplewood CA position, 6-4-21, Mr. Brown and Mr. Myers's</p> <p>4 efforts, I believe.</p> <p>5 HEARING EXAMINER ROBESON-HANNAN: Okay. Now, I</p> <p>6 can't -- can any --</p> <p>7 MS. WAGNER: I can share my screen if you would</p> <p>8 like me to.</p> <p>9 HEARING EXAMINER ROBESON-HANNAN: I would. I</p> <p>10 appreciate it. And again, I apologize. Okay. Here we go.</p> <p>11 That's good. So why don't you go -- so why don't we</p> <p>12 continue? Do you have a witness for this? Or --</p> <p>13 MR. KLINE: What I would do is sort of look at</p> <p>14 the question and then call the appropriate witness if we</p> <p>15 felt it required any clarification is necessary. For</p> <p>16 instance, like number one. I think it's very</p> <p>17 straightforward. Could Alta Vista Court be added to the</p> <p>18 list of streets for the residents from that part. Ms.</p> <p>19 Wagner, could you enter that please?</p> <p>20 MS. WAGNER: Yes, we can add that to the list of</p> <p>21 streets.</p> <p>22 MR. KLINE: And that would be part of the TMP?</p> <p>23 MS. WAGNER: Yes.</p> <p>24 MR. KLINE: Very good.</p> <p>25 HEARING EXAMINER ROBESON-HANNAN: Well wait,</p>	<p>63</p> <p>1 anybody had any questions or wanted clarification to ask</p> <p>2 them at this point in time rather than later.</p> <p>3 HEARING EXAMINER ROBESON-HANNAN: Well, I see Mr.</p> <p>4 Myers. Mr. Myers, is your hand up?</p> <p>5 MR. MYERS: My hand is up for two reasons.</p> <p>6 First, going back to something that I said I had a</p> <p>7 preliminary statement regarding the -- where the TMP</p> <p>8 resides. I think it's important for you to understand, it</p> <p>9 became apparent to me last July when the school went for</p> <p>10 putting portable classrooms on the Forest Road campus to</p> <p>11 handle getting back to school because of Covid. But this is</p> <p>12 basically one school with different campuses. It's not too</p> <p>13 different schools.</p> <p>14 In fact, some of the elementary school students</p> <p>15 that cannot be housed in Rollingwood are currently housed at</p> <p>16 the Forest Road. The special exception does not specify the</p> <p>17 nature of the school. It only caps the number of students.</p> <p>18 So that's why I felt that we felt that it should be with the</p> <p>19 Board of Appeals because they have the special exception and</p> <p>20 TMP for the Forest Road campus.</p> <p>21 The other thing with respect to these items in</p> <p>22 general, I should point out that and we are really</p> <p>23 appreciative of all the efforts the school put in to meet</p> <p>24 with us. There were three separate meetings with those of</p> <p>25 us who are parties of record. There were a couple of</p>
<p>62</p> <p>1 can't -- let me just say, can't some of this be just a</p> <p>2 condition of the conditional use?</p> <p>3 MR. KLINE: We have no problem with that.</p> <p>4 HEARING EXAMINER ROBESON-HANNAN: I'm just asking</p> <p>5 because the TMP only includes peak hour, right?</p> <p>6 MR. KLINE: (inaudible).</p> <p>7 MS. WAGNER: No, this is parking on any street.</p> <p>8 MR. KLINE: Yeah, this --</p> <p>9 HEARING EXAMINER ROBESON-HANNAN: Okay.</p> <p>10 MS. WAGNER: And we listed out some streets, but</p> <p>11 this was just our oversight of not including that street.</p> <p>12 HEARING EXAMINER ROBESON-HANNAN: Okay. So you</p> <p>13 are agreeing to add Alta Vista Court?</p> <p>14 MS. WAGNER: Yes.</p> <p>15 HEARING EXAMINER ROBESON-HANNAN: Prohibition on</p> <p>16 parking. Okay. Go ahead.</p> <p>17 MR. KLINE: Number two deals with bus routes.</p> <p>18 Ms. Wagner, can you address that, please?</p> <p>19 MS. WAGNER: Yes, that of buses are used it to</p> <p>20 bring campers to the YMCA for swimming, they will have to</p> <p>21 follow the same routes as the shuttle buses since the YMCA</p> <p>22 is right next to the Forest Road campus.</p> <p>23 MR. KLINE: And I have probably avoided doing</p> <p>24 this properly, but as I said, for each response by the</p> <p>25 Applicants witnesses, I think it would be most efficient if</p>	<p>64</p> <p>1 meetings with our executive committee. And there's been at</p> <p>2 least one meeting with the civic association total</p> <p>3 membership. And that was on 2 June.</p> <p>4 And at the conclusion of the presentation, the</p> <p>5 membership voted to oppose this plan basically because --</p> <p>6 not because we dislike the school or we don't want to see a</p> <p>7 school there, but because there were so many outstanding</p> <p>8 issues and loose ends. And that was the purpose of this --</p> <p>9 generating this document to show the number of issues that</p> <p>10 still had to be resolved before our membership would feel</p> <p>11 comfortable with the -- a school being located at that site.</p> <p>12 HEARING EXAMINER ROBESON-HANNAN: Okay. Mr.</p> <p>13 Kline, let me ask you. Is this what we are doing now?</p> <p>14 Going through the issues that remain outstanding?</p> <p>15 MR. KLINE: That was the intention. And the</p> <p>16 reason I thought this process was the right way to go was</p> <p>17 something that's because we got to make sure there is</p> <p>18 nothing left undecided when we finished today. Or at least</p> <p>19 a Hearing Examiner understands all the issues, because we</p> <p>20 were surprised when we saw the number of items in the NCA</p> <p>21 matter, evidence not presented.</p> <p>22 And that's not accurate. And we want to make</p> <p>23 darn sure that you hear today were all the answers and all</p> <p>24 the documentation of record. I appreciate Mr. Myers sort of</p> <p>25 giving you an overview of everything. But when we finished</p>

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17 (65 to 68)

<p style="text-align: right;">65</p> <p>1 today, I think we'll have a good sense of the distinction</p> <p>2 between the two campuses and why the Rockville Pike campus</p> <p>3 satisfies all the requirements for its special exception</p> <p>4 amendment.</p> <p>5 HEARING EXAMINER ROBESON-HANNAN: Okay. Mr.</p> <p>6 Myers, what if we proceed with his point by point response</p> <p>7 to your issues? And I understand -- I'm glad to hear where</p> <p>8 you are coming from. So let me let him proceed so that we</p> <p>9 can sort of clarify any -- the points that are still</p> <p>10 outstanding.</p> <p>11 MR. MYERS: I might like to rather just be</p> <p>12 questions. I might like to respond directly if I may.</p> <p>13 HEARING EXAMINER ROBESON-HANNAN: Okay. Go</p> <p>14 ahead. And then I'd really like to get through this so we</p> <p>15 can have a record of it. So go ahead. Mr. Myers?</p> <p>16 MR. MYERS: I was waiting for -- I thought Mr.</p> <p>17 Kline was going to go through --</p> <p>18 MR. KLINE: Yeah. Well, yeah. I think Mr. Myers</p> <p>19 was just saying I would rather build to make my answer the</p> <p>20 same time rather than cross-examine. And frankly, I don't</p> <p>21 have a problem with that because my goal is when we finish</p> <p>22 with an item, I want to make sure the Hearing Examiner knows</p> <p>23 everything you need to know in order to make your decision.</p> <p>24 HEARING EXAMINER ROBESON-HANNAN: Okay, that --</p> <p>25 MR. KLINE: So I'm willing to take sort of</p>	<p style="text-align: right;">67</p> <p>1 MR. KLINE: Well, the trip cap focus has been</p> <p>2 subject of a lot of discussion. I mean, we could go back to</p> <p>3 it. I want to make sure -- in fact, I think we will</p> <p>4 probably go back to it on other questions. But do want to</p> <p>5 do it now or do you want to -- and as it comes up as</p> <p>6 individual questions later on?</p> <p>7 HEARING EXAMINER ROBESON-HANNAN: Well, let's</p> <p>8 address number three.</p> <p>9 MR. KLINE: Okay.</p> <p>10 HEARING EXAMINER ROBESON-HANNAN: What your</p> <p>11 response?</p> <p>12 MR. KLINE: Well, Ms. Wagner, why don't you give</p> <p>13 us the overview to prompt the debate with the residents</p> <p>14 about the trip cap issue?</p> <p>15 MS. WAGNER: Yes. This again is the comments on</p> <p>16 trip caps focus only on peak hours and not total number of</p> <p>17 data chips generated by the school use. As I stated</p> <p>18 previously today, that these trip caps are focused on when</p> <p>19 parents and staff are coming to and from the school for the</p> <p>20 start of school, the end of school, the end of afterschool</p> <p>21 activities. And so really there is not a lot of traffic</p> <p>22 that will be generated during the other time periods and</p> <p>23 then as well as the Saturday and summer camps that were</p> <p>24 focused on really when -- that there -- the trip caps are</p> <p>25 focused over a larger period of time to really cover when</p>
<p style="text-align: right;">66</p> <p>1 spontaneous testimony rather than cross-examination if it</p> <p>2 will make the record clearer.</p> <p>3 HEARING EXAMINER ROBESON-HANNAN: Yeah, we could</p> <p>4 go point by point and then just discuss each point with the</p> <p>5 community and the other parties involved.</p> <p>6 MR. KLINE: Very comfortable with that.</p> <p>7 HEARING EXAMINER ROBESON-HANNAN: We've got -- at</p> <p>8 Alta Vista. You say yes. Okay. Number two.</p> <p>9 (Crosstalk)</p> <p>10 MR. KLINE: Our buses -- the buses taking kids</p> <p>11 over to YMCA for swimming classes will follow the same rules</p> <p>12 (inaudible). If anybody has any questions of Ms. Wagner,</p> <p>13 please feel free to ask them or make a statement if that was</p> <p>14 to be done.</p> <p>15 MR. MYERS: I would just like -- Jody, I would</p> <p>16 just like that put into the TMP just so it's clear just we</p> <p>17 don't have to go back to the record of the hearing to -- if</p> <p>18 questions come up.</p> <p>19 HEARING EXAMINER ROBESON-HANNAN: Well, do you</p> <p>20 want in the TMP? Or this I can put in the condition of the</p> <p>21 special exception.</p> <p>22 MR. MYERS: That's fine. One way or the other</p> <p>23 just so there is a record of it so we can refer back to it.</p> <p>24 HEARING EXAMINER ROBESON-HANNAN: Okay. Number</p> <p>25 three.</p>	<p style="text-align: right;">68</p> <p>1 the majority of those camps will be starting and ending --</p> <p>2 (Crosstalk)</p> <p>3 HEARING EXAMINER ROBESON-HANNAN: What are the</p> <p>4 hours for the summer camps? The coverage hours?</p> <p>5 MS. WAGNER: It was -- I will pull that exhibit</p> <p>6 backup because I don't remember off the top of my head. I</p> <p>7 just had it. I believe it was 7:00 to 9:00 a.m., 2:00 to</p> <p>8 4:00 p.m., and then 4:00 to 6:00 p.m. Sorry, I have too</p> <p>9 many things up.</p> <p>10 HEARING EXAMINER ROBESON-HANNAN: I'm sorry for</p> <p>11 the last one was 4:00 to 6:00 p.m.?</p> <p>12 MS. WAGNER: Oh, I'm sorry. It was -- I have</p> <p>13 Exhibit 105, page 17 pulled up. The afternoon peak hour is</p> <p>14 5:00 to 7:00 p.m.</p> <p>15 HEARING EXAMINER ROBESON-HANNAN: So it's 7:00 to</p> <p>16 9:00 and 5:00 to 7:00.</p> <p>17 MS. WAGNER: And 2:00 to 4:00.</p> <p>18 HEARING EXAMINER ROBESON-HANNAN: And what about</p> <p>19 the -- okay. I see it. So that's the summer camp. What</p> <p>20 about the Saturday class? So that includes the Saturday</p> <p>21 schools?</p> <p>22 MS. WAGNER: Yeah.</p> <p>23 HEARING EXAMINER ROBESON-HANNAN: Okay. Mr.</p> <p>24 Myers or Mr. Brown or someone from the community, please</p> <p>25 tell me what your problems -- what concerns you have. I see</p>

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18 (69 to 72)

<p>69</p> <p>1 Ms. Umhofer's and up. What are your concerns about that?</p> <p>2 MS. UMHOFFER: Well, primarily my concern is that</p> <p>3 this has just been an evolving, changing plan. Initially</p> <p>4 the plan looked sort of like what we are seeing here on the</p> <p>5 screen, which is that we will pick the peak hour. The</p> <p>6 October 2020 TMP, I think said they are going to actually</p> <p>7 find the single highest hourly inbound plus outbound traffic</p> <p>8 between 6:30 a.m. and 9:00 a.m.. And then it became the</p> <p>9 morning is going to be 7:30 to 8:30 a.m., which at least</p> <p>10 includes the time that -- right before school starts.</p> <p>11 And then at the last minute they moved it to 7:00</p> <p>12 to 8:00 a.m. And so the constant shifting just gives me a</p> <p>13 lack of confidence that this is really going to be used in a</p> <p>14 way that gives us a robust picture of the total amount of</p> <p>15 traffic coming in and out of the school. And all of the</p> <p>16 problems that we might have our derivative of the total</p> <p>17 number of POVs coming in and out of the school. And at the</p> <p>18 same time, they've eliminated what was previously a firm</p> <p>19 commitment to the number of students that are going to be</p> <p>20 riding the bus. So we have sort of unlimited (inaudible).</p> <p>21 HEARING EXAMINER ROBESON-HANNAN: I don't</p> <p>22 understand how they eliminated -- I thought they had a</p> <p>23 percentage.</p> <p>24 MS. UMHOFFER: No, it's gone.</p> <p>25 MS. WAGNER: We never had a percentage of</p>	<p>71</p> <p>1 to be a certain number of people on the bus, but it is not</p> <p>2 enforced anywhere in the TMP currently.</p> <p>3 HEARING EXAMINER ROBESON-HANNAN: How was the</p> <p>4 trip cap enforced? Traffic counts?</p> <p>5 MS. WAGNER: Yes, the school past -- we will be</p> <p>6 providing quarterly trip counts to the NLC as well as an</p> <p>7 annual report to the planning board with the annual report.</p> <p>8 MS. UMHOFFER: Can I ask one question on that?</p> <p>9 You use the phrase real-time trip cap monitoring in your</p> <p>10 testimony a few minutes ago. And that something that Mr.</p> <p>11 Kline put in writing previously as well. And can you</p> <p>12 explain what is real-time trip cap monitoring?</p> <p>13 MS. WAGNER: They will be counted the number of</p> <p>14 cars coming in and out of the campus every day. If an</p> <p>15 entity needed to get that information, that, at the end of</p> <p>16 the day, they could get that information. It will be</p> <p>17 providing real-time enforcement of the TMP that if a --</p> <p>18 someone is observed driving on Alta Vista road and is not</p> <p>19 supposed to, they will get an email as well as the staff</p> <p>20 will be notified as its -- once it happened.</p> <p>21 So that's really what we mean by real-time, that</p> <p>22 we are not going to have to -- Helene is not going to have</p> <p>23 to decide, Katie, you need to do a trip count right now. We</p> <p>24 go out and set up video cameras to do that. There will be</p> <p>25 cameras out there all of the time.</p>
<p>70</p> <p>1 students that needed to ride the bus in the TMP. And that's</p> <p>2 only for the reason of the evolving nature of the school and</p> <p>3 the students that will be attending the school, that there</p> <p>4 are -- that siblings are not required to take the bus. At</p> <p>5 the initial startup of the school, there will not be 700</p> <p>6 students. So having that many students take the bus won't</p> <p>7 be necessary to meet the trip caps.</p> <p>8 With regards to the time period specifically,</p> <p>9 it's really focus on -- in the -- in Exhibit 105, in the</p> <p>10 TMP, staff are required to not arrive during those peak time</p> <p>11 periods that we were just talking about. And so that is the</p> <p>12 reason why we focused on the earlier time period in the</p> <p>13 morning not focused around the start of school at 8:30, is</p> <p>14 that we specifically have a strategy to avoid having staff</p> <p>15 arrive during the roadway peak hour. And so that is why</p> <p>16 that language changed to be more specific and to be more</p> <p>17 punishing to the school in communication with the DOT and</p> <p>18 SHA staff.</p> <p>19 MR. MYERS: I recall seeing an 82 percent figure</p> <p>20 somewhere.</p> <p>21 MS. WAGNER: That is correct, yes. That's in the</p> <p>22 PowerPoint.</p> <p>23 MS. UMHOFFER: Right. So if it was in the TMP, it</p> <p>24 was certainly presented to the transportation agencies and</p> <p>25 to the community as she just showed us that there is going</p>	<p>72</p> <p>1 MS. UMHOFFER: I understand what you were saying</p> <p>2 about the real-time enforcement, that they will be flagged</p> <p>3 immediately. But I don't understand. If you're counting</p> <p>4 the number of cars every day, who are you sharing that</p> <p>5 information with? And what -- when you say enforcement can</p> <p>6 get it, who?</p> <p>7 MS. WAGNER: There is no mechanism for us to</p> <p>8 report this information. And so that's why we are only</p> <p>9 providing that quarterly because there is -- there is no</p> <p>10 body to send trip counts to every day.</p> <p>11 HEARING EXAMINER ROBESON-HANNAN: Well, wait a</p> <p>12 minute. You are saying -- but you will be providing it, as</p> <p>13 I read, to the -- is it the NLC? Is that the acronym?</p> <p>14 MS. WAGNER: On a quarterly basis, yes.</p> <p>15 HEARING EXAMINER ROBESON-HANNAN: A quarterly</p> <p>16 basis.</p> <p>17 MS. WAGNER: But that is -- another TMP is, that</p> <p>18 is a sufficient mechanism to make sure that they are meeting</p> <p>19 the trip caps.</p> <p>20 MR. MYERS: Well, going back to (inaudible).</p> <p>21 MS. WAGNER: And in consultation with Park and</p> <p>22 Planning staff who reviewed these TMP's.</p> <p>23 MR. MYERS: Going back to something that Becky</p> <p>24 raised before, previous comments and testimony, would that</p> <p>25 be an average trip cap for the whole quarter? Or will we be</p>

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19 (73 to 76)

<p>73</p> <p>1 able to see a daily?</p> <p>2 MS. WAGNER: That will be on the mutually agreed-</p> <p>3 upon date of the quarterly trip cap. The making sure that</p> <p>4 is not a day where there was a large event happening on</p> <p>5 campus or is election day or there is a big storm. It will</p> <p>6 make sure that it happened on a typical school day and that</p> <p>7 was a mutually agreed-upon date as we discussed.</p> <p>8 HEARING EXAMINER ROBESON-HANNAN: So let me ask</p> <p>9 you something. You are going to have the trip counts</p> <p>10 available, correct?</p> <p>11 MS. WAGNER: If someone was to ask us, we could</p> <p>12 provide the information, yes.</p> <p>13 HEARING EXAMINER ROBESON-HANNAN: So why are we</p> <p>14 arguing? Can -- I understand that you want to pick</p> <p>15 representative days and that can go one way or the other.</p> <p>16 It could be favorable to the school or it could be favorable</p> <p>17 to the community. But why couldn't those be available upon</p> <p>18 request?</p> <p>19 MS. WAGNER: They can. If someone were to ask --</p> <p>20 HEARING EXAMINER ROBESON-HANNAN: Why couldn't</p> <p>21 the trip counts be part of what you provide quarterly?</p> <p>22 (Crosstalk)</p> <p>23 MS. WAGNER: They will be. But as providing 100</p> <p>24 days of counts takes time for the school process. And so if</p> <p>25 there was a random day someone wanted to ask for, they could</p>	<p>75</p> <p>1 MS. WAGNER: It's a day that the school and the</p> <p>2 NLC will agree to collect the number of vehicles that</p> <p>3 entered and exited into the campus during each of the</p> <p>4 defined peak hours.</p> <p>5 HEARING EXAMINER ROBESON-HANNAN: So the day is</p> <p>6 that so if I make sure it's a sunny day during the week,</p> <p>7 Tuesday through Thursday, the NLC has to agree to that?</p> <p>8 MS. WAGNER: Yes. So they would agree that March</p> <p>9 24 is the day that the school can collect -- should collect</p> <p>10 counts, not just that the school gets to look at three weeks</p> <p>11 of data and provide the lowest week, that the NLC will</p> <p>12 decide this is the day we want you to provide the counts.</p> <p>13 HEARING EXAMINER ROBESON-HANNAN: How do you feel</p> <p>14 about that Mr. Myers?</p> <p>15 MR. MYERS: I think it's a little loose. I would</p> <p>16 rather see --</p> <p>17 HEARING EXAMINER ROBESON-HANNAN: What do you</p> <p>18 want to see?</p> <p>19 MR. MYERS: My -- I don't understand if we are</p> <p>20 using save school and you have all this license plate</p> <p>21 information, it should -- to my way of thinking, it should</p> <p>22 be readily available almost every day. I mean, I don't say</p> <p>23 they have to provide it every day, but it would be nice if</p> <p>24 they could do a printout for the NLC because the NLC is</p> <p>25 meeting quarterly.</p>
<p>74</p> <p>1 provide that information. It's just a time mechanism to</p> <p>2 process the data on a daily basis is not something that the</p> <p>3 school can easily agree to.</p> <p>4 HEARING EXAMINER ROBESON-HANNAN: Okay. What</p> <p>5 about upon request?</p> <p>6 MS. WAGNER: That would have to be something that</p> <p>7 Helene would have to agree to.</p> <p>8 MS. FABRE: Yeah, I would agree to providing</p> <p>9 information upon request.</p> <p>10 MS. UMHOFFER: What about --</p> <p>11 (Crosstalk)</p> <p>12 HEARING EXAMINER ROBESON-HANNAN: Was the</p> <p>13 criteria for what you apply? What you -- was the criteria</p> <p>14 for what you give the NLC as far as trip counts?</p> <p>15 MS. WAGNER: I'm pulling up the TMP with the NLC</p> <p>16 information. So what we agreed -- this is the TMP, Exhibit</p> <p>17 105 with exactly what we agreed to provide to the NLC. So</p> <p>18 it specifically says, discuss and decide on mutually agreed-</p> <p>19 upon dates for quarterly trip counts to be collected. And</p> <p>20 then it says provide quarterly trip counts, quarterly STC</p> <p>21 violation log, and --</p> <p>22 HEARING EXAMINER ROBESON-HANNAN: What about</p> <p>23 quarterly trip count though? Is that -- I don't understand</p> <p>24 that. Is that a snapshot in time or a particular day? What</p> <p>25 is that quarterly trip count?</p>	<p>76</p> <p>1 It sounds like you're asking the NLC to decide in</p> <p>2 advance what it wants to see it or to pick a date and then</p> <p>3 asked the school to come back and try to figure out what was</p> <p>4 going on on that date. I'm not clear on it. I just think</p> <p>5 if there is a quarterly printout that is available that the</p> <p>6 school does to give to the NLC, it would be the simplest.</p> <p>7 HEARING EXAMINER ROBESON-HANNAN: A quarterly</p> <p>8 printout with the daily counts?</p> <p>9 MR. MYERS: Right.</p> <p>10 HEARING EXAMINER ROBESON-HANNAN: Is that what</p> <p>11 you're saying?</p> <p>12 MR. MYERS: Yes.</p> <p>13 HEARING EXAMINER ROBESON-HANNAN: Ms. Fabre, what</p> <p>14 do you say to that?</p> <p>15 MS. WAGNER: From my experience working with</p> <p>16 School Pass, that is an enormous amount of data processing</p> <p>17 for the school to do, that they -- the information is</p> <p>18 provided in a spreadsheet for each camera. And have to do</p> <p>19 that for every single day of the school year would be an</p> <p>20 enormous burden on the school and why they are really</p> <p>21 looking to --</p> <p>22 HEARING EXAMINER ROBESON-HANNAN: I asked Ms.</p> <p>23 Fabre. I want to know what she says.</p> <p>24 MS. FABRE: Well, we've already discussed this</p> <p>25 and this is exactly I think what -- I agree with what Ms.</p>

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20 (77 to 80)

<p>77</p> <p>1 Wagner just said. We're going to have to pay someone to 2 just do all this statistical work. What the system does is 3 it has this information, but in a way that is not easily or 4 readily available to be interpreted. And that -- there is 5 work involved in this.</p> <p>6 So that means another -- having someone who's 7 going to be spending the hours to do this. And that's not 8 something that we anticipated or wish to do. But that's why 9 I would be more comfortable with the approach we had a 10 little bit earlier, which is to provide trip counts upon 11 request because of the amount of work that is involved in 12 this.</p> <p>13 MR. KLINE: Madam Hearing Examiner, can -- and 14 this is Mr. Kline speaking. Can I actually kind of take one 15 step back and say what is the relevance or the focus on the 16 trip cap issue? Clever is it that we're concerned about the 17 impact on the neighborhood. As always our trip enforcement 18 techniques work, there should be no cars going into the 19 neighborhood. So whether they come out the driveway and go 20 down Cedar Lane, that's an irrelevant issue because the 21 annual growth policy in the LATR take care of all that. So 22 why are the trip caps important in terms of the total volume 23 at the school as long as those cars don't go through the 24 Maplewood neighborhood? 25 (Crosstalk)</p>	<p>79</p> <p>1 want to make to Mr. Meyers's comment about Pooks Hill Road? 2 MS. WAGNER: Yes. So Pooks Hill Road, that 3 mitigation measure will be eliminated with -- we are 4 required implement a plan to revise our analysis. And that 5 mitigation measure will be going away because of traffic no 6 longer traveling to the neighborhood. And that's why that 7 mitigation measure was required. So that will be 8 eliminated.</p> <p>9 MS. UMHOFFER: I do want to respond as well if 10 that's okay.</p> <p>11 HEARING EXAMINER ROBESON-HANNAN: Is that Ms. 12 Umhofer?</p> <p>13 MS. UMHOFFER: Yes, Ms. Umhofer. Sorry. Let me 14 turn my cameras on. Yeah, I think the perception that 100 15 percent of parents and staff are going to comply, 16 particularly when there is no enforcement close to Alta 17 Vista and Rockville Pike, it's not credible. I think that 18 even the idea that Wicket Terrace is an inconvenient route 19 and no one will do it is not credible. What becomes 20 convenient is going to be a factor of how much backup is on 21 Rockville Pike.</p> <p>22 And if you remember from the last hearing, I can 23 pull them up again, but the backup is regularly quite 24 substantial such that taken a couple of turns to the 25 neighborhood is not at all inconvenient in comparison. And</p>
<p>78</p> <p>1 HEARING EXAMINER ROBESON-HANNAN: Question. Mr. 2 Brown, Mr. Myers, can you (inaudible)?</p> <p>3 MR. KLINE: Well, it was going to be a cross- 4 examination question for Ms. Umhofer, but I'll take the 5 answer from anybody you want.</p> <p>6 MR. MYERS: I have just one statement to make. 7 If Mr. Kline statement is true, there would be no need to 8 extend the left turn lane on Pooks Hill Road. You know, 9 if -- 10 (Crosstalk)</p> <p>11 MR. MYERS: And I certainly hope it's true.</p> <p>12 HEARING EXAMINER ROBESON-HANNAN: Just a second. 13 No crosstalk, okay. Mr. Myers has the floor.</p> <p>14 MR. MYERS: I certainly hope it's true.</p> <p>15 HEARING EXAMINER ROBESON-HANNAN: Go ahead.</p> <p>16 MR. MYERS: I said we hope it's true and there is 17 no traffic. But we can't be guaranteed of that. I'm -- 18 Jessica is question though. If you got all these different 19 cameras, why couldn't you just use one camera to do the 20 counts in terms of the traffic, like say the traffic exiting 21 the school? Because if they go in, they've got to go out. 22 Why do you have to use all the cameras and combine all that 23 data?</p> <p>24 MR. KLINE: Before we leave the subject, Ms. 25 Wagner, would you clarify or correct the answer I think you</p>	<p>80</p> <p>1 I think realism is required. What's at issue here is the 2 impact, not the authorized impact. The fact that the school 3 doesn't authorize cars coming to the neighborhood is 4 irrelevant in my view.</p> <p>5 HEARING EXAMINER ROBESON-HANNAN: Well, I'm not 6 so sure.</p> <p>7 MS. UMHOFFER: Maybe not irrelevant, but it's 8 certainly not determinative. I think we have to be 9 realistic about what's going to happen. And we can stand -- 10 we have a no -- as some of the turn restrictions already in 11 the neighborhood are routinely violated. You can stand at 12 Linden and Beech in the morning where cars are not permitted 13 to turn left and proceed to Pooks Hill and you can see a 14 regular flow of cars turning left and proceeding to Pooks 15 Hill. Now that's not the fault of the school, but when you 16 introduce an unlimited number of POVs, because we have no 17 daily cap coming to this destination, it's going to have an 18 impact. And that's why I --</p> <p>19 HEARING EXAMINER ROBESON-HANNAN: (inaudible).</p> <p>20 MS. UMHOFFER: (inaudible) the total number of 21 POVs coming is important to me.</p> <p>22 HEARING EXAMINER ROBESON-HANNAN: Mr. Wilkerson 23 and then Ms. Abeles. And then I'm going to make a 24 suggestion. Go ahead Mr. Wilkerson.</p> <p>25 MR. WILKERSON: Okay. Thank you. My view is</p>

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21 (81 to 84)

<p style="text-align: right;">81</p> <p>1 that it's important to have transparent trip caps available. 2 I appreciate the concern Ms. Fabre mentioned about data 3 processing and compiling it. It seems to me the simple 4 solution is in whatever fashion the software company is 5 reporting it to the school, that the school could simply 6 make that transparently available, either posted on the 7 website or making that exact data always available to 8 anybody that requests it. 9 As Ms. Umhofer said, it's a question of 10 credibility. We have a history of the Forest Road school 11 disregarding its ban on summer camps. So representations 12 are made about things, and in this case, trip caps, and we 13 need to ensure that there is integrity and credibility about 14 these limitations. 15 HEARING EXAMINER ROBESON-HANNAN: Okay. Ms. 16 Abeles. 17 MS. ABELES: Yes, I want to agree with Becky 18 Umhofer that there should be a lot of skepticism about this. 19 I would like to speak for my expertise having sat on 20 multiple 355 transportation projects, being familiar with 21 overall traffic counts. I actually am the that I'm the 22 immediate outgoing chair of the transportation board 23 citizens advisory. With planners that I have worked with at 24 the planning department, something stands in my memory 25 indelibly that a former planner, now retired, Larry Cole,</p>	<p style="text-align: right;">83</p> <p>1 HEARING EXAMINER ROBESON-HANNAN: But reluctant, 2 but that's okay. 3 MS. FABRE: Well yeah, I mean if I can make a 4 command, you know we are -- I find the allegations or the 5 suspicions that no one is going to do anything that we have 6 committed to, a little bit upsetting because the school has 7 been in the neighborhood for a long time. Two of our 8 schools are operated under special exceptions. There's 9 never been a complaint filed for -- against the school. So 10 somehow I think we should get a little bit of credit for 11 this. 12 And again, I know Mr. Wilkerson keeps coming back 13 about the summer camp thing. But again, we don't have a 14 summer camp -- you don't hide it away. Everybody knew about 15 it. I've only worked for the school 10 years and it's been 16 there for over 20 years. The time I was there, the first 17 question in the September NLC meeting was always, are we 18 going to have a summer camp this year. 19 So if it was a problem, I think they would have 20 filed a complaint. They would not even raise the question. 21 And we had a large amount of neighborhood kids and that camp 22 as well. So I'm find it a little bit unpleasant to be 23 accused of things we haven't done yet and not even get 24 any -- a little credit for the fact that we've operated in 25 the neighborhood for over 20 years, even 40 years for the</p>
<p style="text-align: right;">82</p> <p>1 the transportation planner at the planning department told 2 me you cannot make people do what they don't want to do. 3 HEARING EXAMINER ROBESON-HANNAN: Let me ask a 4 couple of questions. Thank you for your input. That was 5 very helpful. 6 MS. ABELES: Thank you. 7 HEARING EXAMINER ROBESON-HANNAN: I've a couple 8 of questions. With the school consider -- you've got four 9 penalties with the worst penalty being suspension. Would 10 the school consider a fifth penalty of expulsion? I know 11 that's not how you want to operate, but I'm going out there. 12 And two, this strikes me as a pretty sophisticated 13 neighborhood liaison. What about providing the raw data 14 without the need to work it through? The raw trip count 15 data? 16 MS. FABRE: Am I to respond? 17 MR. KLINE: Yes, please. She does want you to 18 respond, yes. 19 MS. FABRE: Right. So on the fifth violation, 20 this is not how you grow private school I guess. But I can 21 agree to this. The other question was to put the daily 22 data, the raw data on the website. 23 HEARING EXAMINER ROBESON-HANNAN: I couldn't hear 24 whether that was affirmative or negative. 25 MS. FABRE: It's affirmative.</p>	<p style="text-align: right;">84</p> <p>1 Forest Road campus without having a single complaint. I 2 would like that to be heard. That's all. 3 MR. MYERS: May I -- may I make a comment? A 4 response, please? 5 HEARING EXAMINER ROBESON-HANNAN: Very quickly, 6 because I don't want to get into this. I don't want anybody 7 to feel put upon. I just -- I want to get through this 8 hearing. 9 MR. MYERS: Sure. 10 HEARING EXAMINER ROBESON-HANNAN: So, yeah. 11 MR. MYERS: Just respective of Ms. Fabre's 12 comments about the Forest Road campus, there have been 13 numerous violations, especially with respect to cars parking 14 on Montgomery Drive, which is not permitted. Ms. Fabre was 15 out there trying to move them as recently as March. The 16 other issue, the residents actually brought a whole bunch of 17 pictures to Ms. Fabre of the violations at one of the NLC 18 meetings. The NLC doesn't have access, and I will make sure 19 they have, to the TMP for the school and the special 20 exception so they understand these issues. 21 It's very easy to tell -- to ask about that if 22 you don't know about the operation of the school, what is 23 required to do, it's very easy for the TMP to assume it's 24 okay. And that's been -- those things have sort of slid on 25 that. I have not wanted to file and I still do not want to</p>

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22 (85 to 88)

<p>85</p> <p>1 follow complaints with the Board of Appeals unnecessarily. 2 And I'm really hopeful that moving forward both the Forest 3 Road campus and this campus will work smoothly. 4 HEARING EXAMINER ROBESON-HANNAN All right. If I 5 could. Yeah, Mr. Kline? 6 MR. KLINE: Real quickly. We are probably going 7 to talk about this some more and hopefully we will talk 8 about it some more and we can come to some kind of 9 resolution. But to the extent that maybe you are 10 considering an audible condition about what should be 11 reported, that I would say since is predicated on the 12 suspicion or the skepticism that we're going to have a gap 13 of enforcement for the U-turns and encroachments in the 14 neighborhood, then I would say that -- well, this is only 15 step number one. 16 We still have to go to the preliminary plan and 17 that gives us about another eight months to work with SHA, 18 DOT or DPS. The camera would make all these problems go 19 away. In which case, if we can monitor the traffic on Alta 20 Vista Road from the Pike back to the second camera, then 21 these conditions may be talked about right now in terms of 22 reporting can go away because it's no longer an issue and 23 there is no longer that concern about the encroachments in 24 the neighborhood that we aren't able to prohibit. 25 So I'm going to maybe suggest that if you're</p>	<p>87</p> <p>1 MR. KLINE: Yes. 2 HEARING EXAMINER ROBESON-HANNAN Okay. So you 3 agree to that? 4 MS. WAGNER: Yes, and the language is already -- 5 we are saying the language is already there. 6 MR. MYERS: I didn't see it. That's why I was 7 looking for where it says that there is a license plate 8 monitoring system and where it is located. It doesn't say 9 there is a license -- if you turn in Alta Vista Road, we got 10 a camera there that's monitoring your license plate. If you 11 go past -- behind the school, we are monitoring your license 12 plate. 13 MS. WAGNER: Well -- 14 (Crosstalk) 15 MR. KLINE: Katie, can you please pull up 16 someplace on the TMP the monitoring program language? It 17 probably doesn't have as much detail as Mr. Myers is 18 suggesting, but -- 19 (Crosstalk) 20 MS. WAGNER: Yeah, we don't have it specifically 21 called out because we don't want to be committed to a 22 specific -- we call out this operations management platform 23 because we don't -- and we specifically call out that we are 24 tracking vehicles traveling on Alta Vista Road. We don't 25 want to specifically call out a platform that if a different</p>
<p>86</p> <p>1 thinking about that, we offer you some suggestions for a 2 condition that would basically only apply as long as there 3 is for camera coverage on traffic on Alta Vista. 4 MR. MYERS: Thank you. 5 HEARING EXAMINER ROBESON-HANNAN I was actually 6 going there. 7 MR. KLINE: Thank you. 8 HEARING EXAMINER ROBESON-HANNAN Okay. Let's get 9 back to -- Ms. Wagner, can we get back to -- yes. With the 10 Maplewood -- 11 MS. WAGNER: Next one. 12 MR. KLINE: Yes. So we are down to number four 13 again. And Katie, Ms. Wagner, would you please describe 14 what changes were made to the TMP to basically advise the 15 parents of the importance of the monitoring system and the 16 compliance with the TMP? 17 MS. WAGNER: Yes, there are multiple places in 18 the TMP were specifically calls out that the TMP will be 19 included in the contract of the student's enrollment. So 20 the TMP and the license plate monitoring system will be made 21 well aware for the parents and staff. 22 MR. KLINE: My only comment is, no enforcement is 23 better than knowing big brother is watching you. 24 HEARING EXAMINER ROBESON-HANNAN I think that's a 25 good comment, right?</p>	<p>88</p> <p>1 technology comes along or that they switch to a Bluetooth 2 reader or something like that, we don't want to specifically 3 call out exactly the mechanism because we all know that 4 technology evolves quite rapidly. And so that's why we've 5 kept this really as vague but specific as we can. 6 MR. KLINE: Generic? 7 MS. WAGNER: Yes. 8 MR. MYERS: I will accept that. 9 MS. WAGNER: And then we call out that it will be 10 included in the -- that the TMP will be included in the 11 contract. 12 MR. KLINE: Okay. Were there any other questions 13 from anybody else on that subject? Can I roll out of the 14 TMP section been into the neighborhood letter and address 15 the Beaumont House issue, which I know is a concern to Ms. 16 Umhofer. Ms. Fabre, would you go ahead and elaborate on how 17 you think the Beaumont House will be used and what you could 18 commit to? 19 MS. FABRE: Our plan is to use the Beaumont House 20 for a few offices and a few internal meetings. So this is 21 mostly going to be interior use. The exterior, the space 22 around the Beaumont House is -- it's planted with a lot of 23 bushes and trees and it's not like a large, open area where 24 you could have any event. So I'm not saying we would not do 25 meetings outside or we would not do small things, but it</p>

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23 (89 to 92)

<p style="text-align: right;">89</p> <p>1 would definitely be small events just because the space is</p> <p>2 not available and we have other areas where we could do that</p> <p>3 inside the bigger buildings or closer to the main buildings.</p> <p>4 But the Beaumont House --</p> <p>5 HEARING EXAMINER ROBESON-HANNAN How about -- how</p> <p>6 do you feel about a condition limiting it to office,</p> <p>7 offices, and internal meetings and lets you get a change in</p> <p>8 your conditional use -- a special exception -- unless you</p> <p>9 get a major -- or not even a major -- unless you amend your</p> <p>10 special exception?</p> <p>11 MR. KLINE: Okay.</p> <p>12 MS. FABRE: Sure. Yeah, I'm okay. I'm okay with</p> <p>13 it.</p> <p>14 MR. KLINE: We accept that.</p> <p>15 HEARING EXAMINER ROBESON-HANNAN I would you feel</p> <p>16 about a condition saying no amplified music from the</p> <p>17 Beaumont House?</p> <p>18 MS. FABRE: I totally support it.</p> <p>19 HEARING EXAMINER ROBESON-HANNAN Anybody have any</p> <p>20 comments on that?</p> <p>21 MS. UMHOFFER: Just one somewhat related question.</p> <p>22 Do you have any --</p> <p>23 HEARING EXAMINER ROBESON-HANNAN Who's speaking?</p> <p>24 MS. UMHOFFER: This is Becky Umhofer.</p> <p>25 HEARING EXAMINER ROBESON-HANNAN Ms. Umhofer,</p>	<p style="text-align: right;">91</p> <p>1 MS. UMHOFFER: So during recess and summer camp,</p> <p>2 kids outdoor play will not be restricted to the play areas?</p> <p>3 MS. FABRE: Yes, the recess is always under</p> <p>4 supervision and they happen in the playground areas.</p> <p>5 MS. UMHOFFER: So when would I expect kids to be</p> <p>6 roaming the other parts of the property?</p> <p>7 MS. FABRE: Well, just that they have a biology</p> <p>8 class and they want to observe insects for example. There's</p> <p>9 going to be a group of 20 kids with the teacher. So that's</p> <p>10 the kind of thing and the kind of things I'm talking about.</p> <p>11 A class activity.</p> <p>12 MS. UMHOFFER: And camps possibly? Or would camps</p> <p>13 be --</p> <p>14 MS. FABRE: No I don't think camps would actually</p> <p>15 have anything like that. It's --</p> <p>16 MS. UMHOFFER: I guess I'm wondering if we could</p> <p>17 put something -- I -- what you're describing doesn't trouble</p> <p>18 me. And occasional class on your property seems fine. I</p> <p>19 just -- you know, I would like to have some condition that</p> <p>20 perhaps ensures it's not every day outside class with a</p> <p>21 rotating different classroom. Or if there is, is limited in</p> <p>22 numbers of children. It's right next to my property line.</p> <p>23 MS. FABRE: It's a 12 acre lot property.</p> <p>24 MS. UMHOFFER: I know.</p> <p>25 MS. FABRE: I mean, I'm really finding this</p>
<p style="text-align: right;">90</p> <p>1 yeah.</p> <p>2 MS. UMHOFFER: Are there any plans detailed on how</p> <p>3 you would use the, I call it the gazebo lot, the lot that</p> <p>4 is -- I guess it is south of the Beaumont house. There is a</p> <p>5 structure along Alta Vista. And that's a large outdoor area</p> <p>6 that also borders one property. Do you have -- what plans</p> <p>7 are in place for that space?</p> <p>8 MS. FABRE: Well, we are not planning on having</p> <p>9 any weddings there, that's for sure. So we might have a few</p> <p>10 meetings, again, small things. We haven't made any plans</p> <p>11 for because again, it's pretty small and heavily planted</p> <p>12 with lots of bushes. So there's not much you can do here,</p> <p>13 just maybe having a picnic table. So no, we don't have any</p> <p>14 intentions to use that for large events or the use of music</p> <p>15 or no entertainment, nothing.</p> <p>16 MS. UMHOFFER: What about outdoor classes?</p> <p>17 MS. FABRE: Outdoor classes? Well, I do hope</p> <p>18 that the kids are going to take advantage of that 12 acre</p> <p>19 large property to actually have some time outside to observe</p> <p>20 the plants, the trees, the birds, and the bees. But really</p> <p>21 we are not targeting this to happen in the back of the</p> <p>22 Beaumont House specifically or in that pastoral area. But</p> <p>23 you're very likely though to see some kids walking the</p> <p>24 property looking for birds and plants and species, that's</p> <p>25 for sure.</p>	<p style="text-align: right;">92</p> <p>1 unreasonable, honestly.</p> <p>2 HEARING EXAMINER ROBESON-HANNAN Now, just a</p> <p>3 second. Just a second. Ms. Umhofer, I'm not willing to put</p> <p>4 a condition on saying they can't have supervised classes go</p> <p>5 through the natural areas of the property. I can say no</p> <p>6 amplified music during the classes or no amplification, but</p> <p>7 I'm not willing to put a condition on that says they can't</p> <p>8 have classes near the property. It's different from recess.</p> <p>9 MS. UMHOFFER: Right. And so maybe the -- as long</p> <p>10 as it's just limited to one class at a time, that would keep</p> <p>11 the numbers down. I just am concerned that we could end up</p> <p>12 with a large gathering because although she said that small,</p> <p>13 this one space, it's really a full lot on Alta Vista that is</p> <p>14 the pastoral land. So it has space to hold a lot of kids.</p> <p>15 HEARING EXAMINER ROBESON-HANNAN Well, let me</p> <p>16 think about that, okay?</p> <p>17 MS. UMHOFFER: Fair enough.</p> <p>18 HEARING EXAMINER ROBESON-HANNAN Let's keep</p> <p>19 going. So we got Beaumont House in the pastoral land. Let</p> <p>20 me just put a note --</p> <p>21 MR. WILKERSON: Madam Hearing Examiner, this is</p> <p>22 Carl Wilkerson. I had my hand up on the Beaumont House.</p> <p>23 Just a quick question.</p> <p>24 HEARING EXAMINER ROBESON-HANNAN I'm sorry. I'm</p> <p>25 sorry. Go ahead.</p>



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24 (93 to 96)

<p>93</p> <p>1 MS. WILKERSON: I wanted to ask, Ms. Fabre, you 2 said there wouldn't be any activities there at the Beaumont 3 House other than offices and internal meetings and things. 4 So can I enter your response to mean that you wouldn't, for 5 example, do tented activities, fundraisers, social events 6 say on the parking lot? You know how school sometimes will 7 put a tent up and have a fundraiser or a social event? Are 8 you saying you would not be doing those kinds of things 9 adjacent to the Beaumont House?</p> <p>10 MR. KLINE: In what location, Mr. Wilkerson. I'm 11 not sure we know the site as to what you're talking about.</p> <p>12 MR. WILKERSON: On the west side of the Beaumont 13 House there is a parking lot. I'm sorry, the east side. I 14 misspoke, east side.</p> <p>15 MS. FABRE: Around the loop? Around the loop you 16 mean? There is only seven spaces.</p> <p>17 MR. WILKERSON: Well, let's just say (inaudible).</p> <p>18 HEARING EXAMINER ROBESON-HANNAN Well, I think 19 the -- I think the condition that we -- that I was looking 20 at says only administrative offices and internal meetings.</p> <p>21 MR. WILKERSON: That works for me if that's the 22 condition. Just trying to be clear. Thank you.</p> <p>23 HEARING EXAMINER ROBESON-HANNAN Okay. Unless 24 you don't like that, Ms. -- you know, you can comment on 25 those, but I had that written down as a potential condition.</p>	<p>95</p> <p>1 MR. KLINE: It seems to be getting better. I 2 think if you --</p> <p>3 HEARING EXAMINER ROBESON-HANNAN It is.</p> <p>4 MR. KOEHN: Okay.</p> <p>5 MR. KLINE: I think the proximity of the 6 microphone is helping.</p> <p>7 MR. KOEHN: Okay, thank you. I appreciate it.</p> <p>8 HEARING EXAMINER ROBESON-HANNAN Okay. Can --</p> <p>9 MR. KLINE: I will qualify him, but he needs to 10 be sworn first.</p> <p>11 HEARING EXAMINER ROBESON-HANNAN I'm going to do 12 that.</p> <p>13 MR. KOEHN: Okay.</p> <p>14 HEARING EXAMINER ROBESON-HANNAN: Please raise 15 your right hand. Do you solemnly affirm under penalties of 16 perjury that the statements you are about to make are the 17 truth, the whole truth and nothing but the truth?</p> <p>18 MR. KOEHN: I do.</p> <p>19 HEARING EXAMINER ROBESON-HANNAN Okay. Please 20 state your name and business address for the record.</p> <p>21 MR. KOEHN: Okay. My name is Douglas. It's 22 pronounced Koehn. It's spelled; K-O-E-H-N. My -- I'm with 23 the firm of Miller, Beam, and Paginelli. The office address 24 is 12040 S. Lakes Drive in Reston, Virginia.</p> <p>25 HEARING EXAMINER ROBESON-HANNAN Go ahead Mr.</p>
<p>94</p> <p>1 Mr. Kline?</p> <p>2 MR. KLINE: Well, maybe we will try to construct 3 something and send it to you. You will come up with 4 whatever you think is appropriate under the circumstances.</p> <p>5 HEARING EXAMINER ROBESON-HANNAN Okay.</p> <p>6 MR. KLINE: With that, there is no for the 7 questions on the subject, I would move to the question of 8 noise.</p> <p>9 HEARING EXAMINER ROBESON-HANNAN Yes.</p> <p>10 MR. KLINE: Okay. Mr. Koehn, are you on the line 11 with us?</p> <p>12 MR. KOEHN: Yes. Hello. Good morning. This is 13 Doug Koehn with (inaudible) consultant with the firm of 14 Miller, Beam, and Paginelli (inaudible).</p> <p>15 MR. KLINE: Okay. Hold on.</p> <p>16 HEARING EXAMINER ROBESON-HANNAN You're breaking 17 up.</p> <p>18 MR. KOEHN: Oh, I am? Can you hear me?</p> <p>19 HEARING EXAMINER ROBESON-HANNAN I can, yes. It 20 just as in and out.</p> <p>21 MR. KOEHN: Oh, okay.</p> <p>22 HEARING EXAMINER ROBESON-HANNAN (inaudible) 23 phone number. Are you calling in?</p> <p>24 MR. KOEHN: Now, I'm on -- I have a videocam 25 here.</p>	<p>96</p> <p>1 Kline.</p> <p>2 MR. KLINE: Thank you Mr. Koehn. Your resume has 3 been put in the record. Would you please just give us a 4 real quick overview of your professional qualifications and 5 experience?</p> <p>6 MR. KOEHN: Sure.</p> <p>7 HEARING EXAMINER ROBESON-HANNAN Well, let's -- I 8 don't want to cut you off, but I'm going to.</p> <p>9 MR. KLINE: Well, and that's fine because --</p> <p>10 HEARING EXAMINER ROBESON-HANNAN (inaudible). 11 Has everybody seen his resume?</p> <p>12 MR. BROWN: Yeah. Mr. Kline and I agreed that we 13 would stipulate to the qualifications of his experts.</p> <p>14 HEARING EXAMINER ROBESON-HANNAN As an acoustical 15 engineer? Is that what you're qualifying him as, Mr. Kline?</p> <p>16 MR. KLINE: The acoustical part, yes. I would 17 think there may be a slightly different variation on 18 acoustical study expert --</p> <p>19 (Crosstalk)</p> <p>20 MR. KOEHN: It is a -- I guess you could call it 21 acoustical engineer. Acoustical engineers are not licensed 22 engineers like a mechanical engineer.</p> <p>23 HEARING EXAMINER ROBESON-HANNAN Yeah.</p> <p>24 MR. KOEHN: But yeah, my -- I have a degree. I 25 have a Masters degree in acoustics and I've worked</p>

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25 (97 to 100)

<p style="text-align: right;">97</p> <p>1 (inaudible).</p> <p>2 HEARING EXAMINER ROBESON-HANNAN Then you an</p> <p>3 expert in acoustics?</p> <p>4 MR. KOEHN: Yeah, I'm an expert in acoustics,</p> <p>5 correct.</p> <p>6 HEARING EXAMINER ROBESON-HANNAN Okay.</p> <p>7 MR. KLINE: And I appreciate Mr. Brown and Mr.</p> <p>8 Myers reviewing the resume and feeling they had no objection</p> <p>9 to it. But I didn't know if that would apply to everybody</p> <p>10 else. So I guess I should offer him as an expert based on</p> <p>11 his experience and ask if anybody has any objections to</p> <p>12 that.</p> <p>13 MR. BROWN: No.</p> <p>14 HEARING EXAMINER ROBESON-HANNAN Okay, hearing</p> <p>15 none I'm going to qualify him as an expert in acoustics.</p> <p>16 MR. KLINE: Mr. Koehn, you and your firm prepared</p> <p>17 a noise study for the proposed Rockville Pike campus for</p> <p>18 Rochambeau?</p> <p>19 MR. KOEHN: Correct.</p> <p>20 MR. KLINE: Would you please describe the</p> <p>21 methodology of your work in compiling the background</p> <p>22 information and then what your findings and conclusions</p> <p>23 were, please?</p> <p>24 MR. KOEHN: Okay. So let me begin by saying</p> <p>25 that -- let me pull up -- okay. So as part of -- there is a</p>	<p style="text-align: right;">99</p> <p>1 lot of other background noise. So we didn't really get a</p> <p>2 whole lot of good reading it there. But what was</p> <p>3 significant, what we determined was for a group of kids</p> <p>4 playing at one location, at the far end of the parking lot</p> <p>5 you couldn't even really hear that noise above the</p> <p>6 background level. Once you got a certain distance from it</p> <p>7 and based on the background noise that (inaudible) sound was</p> <p>8 (inaudible).</p> <p>9 So at the Rollingwood elementary school the</p> <p>10 conditions allow for better measurements of students</p> <p>11 playing. So we took measurements of about 20 students</p> <p>12 playing and then at a distance of about say 150 feet. And</p> <p>13 from -- and painstakingly eliminated from the measurement</p> <p>14 based on the recordings and the various peaks and tips in</p> <p>15 the noise level came up with an average level for the kids</p> <p>16 playing. And from that we can -- once you have that you</p> <p>17 can -- if you know the number of kids playing and you know</p> <p>18 the distance you can then take this information and expand.</p> <p>19 Well, if you start with 20 kids but then you</p> <p>20 increase that to 40 kids, how much louder is that going to</p> <p>21 be. Well, that's going to be 3 dB louder because you have</p> <p>22 doubled the acoustical energy. Now without going too deep</p> <p>23 into this, the decibel scale is logarithmic meaning that a</p> <p>24 doubling of energy is a 3 dB increase, but then that's</p> <p>25 perceived to be a little louder. At 10 dB increase is a 10</p>
<p style="text-align: right;">98</p> <p>1 request for an objective and quantifiable analysis of noise</p> <p>2 from buses and playground activity. Let me just kind of</p> <p>3 fill you in with the criteria we would use here. Normally</p> <p>4 the noise code for the Montgomery County allows -- has --</p> <p>5 allows for maximum noise levels to be -- not to exceed 65 dB</p> <p>6 during the day and 55 decibels at night. And as a</p> <p>7 reference, active conversation is in the 60 to 65 DBA range.</p> <p>8 But the two areas of concern here, the unamplified human</p> <p>9 voice, whether it's kids playing or public protesting, is</p> <p>10 exempt from the Montgomery County and most all noise codes.</p> <p>11 HEARING EXAMINER ROBESON-HANNAN That's not</p> <p>12 why -- I just need -- this is compatibility. So whether</p> <p>13 it's exempt or not, I'm asking are you going to give me an</p> <p>14 opinion on what the noise would be.</p> <p>15 MR. KLINE: Yeah.</p> <p>16 MR. KOEHN: Okay. Right. I'm just pointing out</p> <p>17 that -- so the noise code, it's good. It can be used kind</p> <p>18 of as a guide. Although it doesn't apply, it's kind of a</p> <p>19 guideline. Like I'd (inaudible) you would like to stay</p> <p>20 within the noise code level. And so as part of our analysis</p> <p>21 we went out and took measurements of the -- produced by</p> <p>22 the -- at the existing schools and that included kids</p> <p>23 playing, students playing at Bradley school and at the</p> <p>24 Rollingwood elementary school.</p> <p>25 Just note that at the Bradley school there was a</p>	<p style="text-align: right;">100</p> <p>1 times increase in energy and that's perceived to be twice as</p> <p>2 loud.</p> <p>3 So from that we applied that to what we expect to</p> <p>4 what the kids are going to be playing at the Rockville Pike</p> <p>5 location. And we were asked to account for a maximum</p> <p>6 capacity which was determined to be about 500 students. If</p> <p>7 we base it on recommended student density we explained that</p> <p>8 you have a maximum density of people at this play area, you</p> <p>9 have maximum for all the -- let's see; there was the hard</p> <p>10 service play area, the large turf area, and to solve play</p> <p>11 areas.</p> <p>12 So what you combine all that, at the closest</p> <p>13 property line the average level was about 64 dB. So with</p> <p>14 maximum -- and so that's -- it's just a little bit below the</p> <p>15 code level. But that assumes a maximum capacity. If you</p> <p>16 take a more realistic estimate such as a 25 percent capacity</p> <p>17 or 125 students as opposed to 500 students, the average</p> <p>18 noise levels fall to about 57 dB at the closest property</p> <p>19 line.</p> <p>20 Now the further you move away from there; the</p> <p>21 noise is just going to diminish more. And similarly, the</p> <p>22 loudest noise are coming from the closest play areas. So</p> <p>23 when people -- and people are just plain in a play area</p> <p>24 that's closer to the center of the -- closer to the center</p> <p>25 of the boundary of the school, those noise levels were in the</p>

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26 (101 to 104)

<p>101</p> <p>1 low 50s. Measurements were also made of the buses because</p> <p>2 there was --</p> <p>3 MR. KLINE: Mr. Koehn, before we move on, can I</p> <p>4 get you just a kind of do a little wrap up on that?</p> <p>5 MR. KOEHN: Yes.</p> <p>6 MR. KLINE: And that is you told us one, the</p> <p>7 human voice is not covered by the county law, correct?</p> <p>8 MR. KOEHN: Right. Yes.</p> <p>9 MR. KLINE: Nevertheless, the students of October</p> <p>10 20 by plane as I would generate noise levels in the range of</p> <p>11 57 DBA at the closest property line?</p> <p>12 MR. KOEHN: Correct. That is correct, yes</p> <p>13 (inaudible).</p> <p>14 MR. KLINE: And you --</p> <p>15 HEARING EXAMINER ROBESON-HANNAN How many</p> <p>16 playing? How many playing? I thought he said 500. For the</p> <p>17 initial --</p> <p>18 MR. KOEHN: For the initial -- 500 students</p> <p>19 resulted in levels of about 64 and that's a maximum capacity</p> <p>20 be which didn't seem, based on our -- based on discussions</p> <p>21 from school personnel, that actually wasn't realistic. So</p> <p>22 if you knock that down to let's say 25 percent capacity, it</p> <p>23 was 57.</p> <p>24 MR. KLINE: Regardless of the county noise</p> <p>25 ordinance, tell us from a practical point of view, what is</p>	<p>103</p> <p>1 bus idling -- come up with a number here -- was, let's say</p> <p>2 (inaudible). Sorry about this. Well, can we just move on?</p> <p>3 So a single bus is going to be -- will idle, but we</p> <p>4 understand that there is going to be 13 buses that are</p> <p>5 distributed throughout this bus loop that's on the</p> <p>6 southeastern side of the property.</p> <p>7 And some of these buses are going to be well</p> <p>8 shielded. So you won't be able to -- or not going to be</p> <p>9 able to see them. You're going to get some noise reduction</p> <p>10 from the hill and the retaining wall, those that are further</p> <p>11 to the west. Those further to the east don't get that. But</p> <p>12 collectively (inaudible). Yeah, so collectively -- yeah,</p> <p>13 all 13 buses just idling would produce noise levels of about</p> <p>14 52 dB at the closest property lines to the south. Yeah, to</p> <p>15 the south of the bus loop.</p> <p>16 And just as a reference, 50, it would be in the</p> <p>17 low -- that's in the low 50s. That's about what the</p> <p>18 existing background noise level I measured on midafternoon</p> <p>19 about the same time you would expect evening bus activity to</p> <p>20 occur. We have background noise levels closer to the</p> <p>21 Rockville Pike side we are in the low 50s. So it's</p> <p>22 estimated that these idling buses are going to produce about</p> <p>23 the same noise level as the existing background noise.</p> <p>24 In addition to just the buses idling, what</p> <p>25 occurs, it's a little louder is when they accelerate. But</p>
<p>102</p> <p>1 57 DBA. Is that a tolerable noise level?</p> <p>2 MR. KOEHN: That would be a tolerable noise</p> <p>3 level. I mean, there is many things -- disruption from</p> <p>4 noise is going to be based on many different factors. It's</p> <p>5 not just how loud it is. It's also going to be the</p> <p>6 character of the sound. It's also the frequency and timing</p> <p>7 of the sound. You know, if the sound is in the middle of</p> <p>8 the night is going to be more disruptive than in the middle</p> <p>9 of the day. It also depends on the background level of the</p> <p>10 sound or the background level of the existing noise like</p> <p>11 this site isn't too far from the Beltway and is right by</p> <p>12 Rockville Pike.</p> <p>13 So there is a good deal of existing traffic</p> <p>14 noise. But yeah so it's -- and again, just using the --</p> <p>15 issues in the Montgomery County noise code as a reference</p> <p>16 with 65 being -- approaching loud or not acceptable, 57 is</p> <p>17 almost half as loud. So it should be considered acceptable</p> <p>18 to most people.</p> <p>19 MR. KLINE: Thank you. I interrupted you and you</p> <p>20 are beginning to talk about buses which is of equal concern</p> <p>21 to the neighborhood.</p> <p>22 MR. KOEHN: Sure. So at the Forest school we</p> <p>23 went and took some measurements of the buses. And we found</p> <p>24 basically -- because we understand on the bus loop there is</p> <p>25 going to be buses sitting and idling. So collective -- one</p>	<p>104</p> <p>1 the buses are not all going to be accelerating at the same</p> <p>2 time. These are more individual events. So where's</p> <p>3 collectively 13 buses idling might be about 52 dB, a single</p> <p>4 bus pulling away moves closer to about 55 dB. So a little</p> <p>5 louder than idling buses and a little louder than the</p> <p>6 existing background noise, but not a whole lot. And again,</p> <p>7 these are short-term events.</p> <p>8 The shortest term event was we noticed when the</p> <p>9 buses arrive and they stop and they park and there is a hiss</p> <p>10 as the air brakes disengage. So the short-term events we</p> <p>11 have been are about 62 dB. So again, it's less than --</p> <p>12 well, okay. It's less than the noise code level, but these</p> <p>13 are again, just short-term like one second events. They</p> <p>14 don't -- are not all that frequent. I would also say that</p> <p>15 bus noise, transportation noise is also exempt from the</p> <p>16 noise code. And so is (inaudible) standards.</p> <p>17 HEARING EXAMINER ROBESON-HANNAN You know, you</p> <p>18 don't have to point that out.</p> <p>19 MR. KOEHN: Okay. Okay. Just some --</p> <p>20 HEARING EXAMINER ROBESON-HANNAN These people</p> <p>21 have to live next to it. All I'm doing is to see -- trying</p> <p>22 to see what they're going to live with.</p> <p>23 MR. KOEHN: Okay. Yeah. And then -- now so</p> <p>24 again these are -- these airbrake noises are occasional</p> <p>25 events that will happen every day, but they're very, very</p>

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27 (105 to 108)

<p>105</p> <p>1 short-term events. Now the final concern from the buses is</p> <p>2 the backup noise from -- you know, as a bus -- as a safety</p> <p>3 feature, when the bus goes into reverse obviously you get</p> <p>4 that beeping, the backup beep. And we would just say that</p> <p>5 from -- based on -- but the buses entering the bus loop are</p> <p>6 not going to -- are never going to back up. So that's not</p> <p>7 some -- so we're not going to expect to have that backup</p> <p>8 beeping.</p> <p>9 The only time there is going to be the backup</p> <p>10 beeping is there are two buses that are going to be located</p> <p>11 on the west side of the site. And I can -- after I -- I</p> <p>12 will tell you how loud I expect those two buses to be just</p> <p>13 sitting idling. When those two -- when one of those</p> <p>14 emergency buses, reserve buses is used, after it leaves is</p> <p>15 going to come back and is going to come into the school and</p> <p>16 is going to turn around in front of the Beaumont building.</p> <p>17 And that, these backup beeps is where we got</p> <p>18 those to be about 55 dB in the neighborhood. Again, a</p> <p>19 little bit louder than the background noise level, but</p> <p>20 probably audible because that's how -- that's what backup</p> <p>21 beepers are designed to be. They're designed to be audible.</p> <p>22 They are made at a frequency that our ears hear. So you</p> <p>23 might be able to -- you will probably -- if somebody is</p> <p>24 paying attention, they will probably be able to hear that.</p> <p>25 But this is an event that happens -- it doesn't</p>	<p>107</p> <p>1 property lines to the west and west eastern locations.</p> <p>2 Now, that's unmitigated if you're standing right</p> <p>3 at the property line. In fact, there is a bit of a -- if</p> <p>4 you -- there is some topographical differences there.</p> <p>5 That's going to provide some noise attenuation. And also we</p> <p>6 understand that there is going to be a barrier that is going</p> <p>7 to be around there too. So that will provide another at</p> <p>8 least 5 dB of sound attenuation (inaudible) that slow-moving</p> <p>9 lane card noise from 55 down to probably less than 50 is</p> <p>10 what we would expect.</p> <p>11 Going onto the -- I also see on this -- on the</p> <p>12 comments here, sound travels on air, wind direction, and</p> <p>13 humidity will affect the rate of attenuation for sound, but</p> <p>14 that's over long distances. And that's not really what</p> <p>15 we're dealing with here. I mean, specifically in my report,</p> <p>16 attenuation from air wasn't considered a factor because</p> <p>17 we're not that we are targeting at most about 200, 300 feet</p> <p>18 to the first property from the noise sources. So that --</p> <p>19 which is -- so went and humidity don't really come into the</p> <p>20 calculations there. And that's pretty much it. That's what</p> <p>21 we came up with.</p> <p>22 MR. KLINE: Mr. Koehn, so you've addressed in</p> <p>23 your report and I guess questions 1, 2, 3 in the noise</p> <p>24 (inaudible).</p> <p>25 MR. KOEHN: Yes, correct.</p>
<p>106</p> <p>1 happen every day. And when it does, it will last for a</p> <p>2 couple -- a few seconds. Yeah. And then just I had</p> <p>3 mentioned -- yeah, there are these two reserve buses are</p> <p>4 expected to be located on the western side of the property.</p> <p>5 And so noise levels from that I believe was that sorry</p> <p>6 (inaudible). I believe that was in the upper 40s range</p> <p>7 yeah, 48. That's what I thought.</p> <p>8 Yeah, two buses, 48 dB. Again, less than 50 and</p> <p>9 comparable -- it's a little bit quieter on that side of the</p> <p>10 property were as background noise levels were above 50 on</p> <p>11 the eastern side close to the Rockville Pike. They're just</p> <p>12 a little under 50 on the western side of the property</p> <p>13 further from Rockville Pike. And then the final concern</p> <p>14 would be the cars picking up students on the loop to the --</p> <p>15 on the west side of the property. And again, slow moving</p> <p>16 cars, as we expect, entering to pick up or drop of students,</p> <p>17 slow moving cars don't really produce a whole lot of sound</p> <p>18 based on our measurements of the other locations.</p> <p>19 Well, first of all we now understand that this --</p> <p>20 that road is now going to be set that's continued to be set</p> <p>21 for the from the property line where it was only about 16</p> <p>22 before. Now it's going to be a little over 30 I believe.</p> <p>23 So that helps diminish the noise. And they say slow moving</p> <p>24 cars don't produce a whole lot of noise. And so we would</p> <p>25 expect that again to be about 55 dB on the -- to the</p>	<p>108</p> <p>1 MR. KLINE: Okay, thank you. Based on your</p> <p>2 professional experience and qualifications, do believe that</p> <p>3 the activities of both the students on the campus and the</p> <p>4 bus circulation storage and vehicles circulation on the</p> <p>5 property can be conducted in a manner that's harmonious and</p> <p>6 compatible with the surrounding residential neighborhood?</p> <p>7 MR. KOEHN: Yes, I do. I mean, these are --</p> <p>8 right. There is already existing transportation noise.</p> <p>9 There is already existing community noise. And there is no</p> <p>10 reason why this (inaudible) would be a commodious -- you</p> <p>11 know, acceptable level of noise.</p> <p>12 MR. KOEHN: I've no further questions of Mr.</p> <p>13 Koehn. He is available for any questions that people may</p> <p>14 wish to ask him.</p> <p>15 HEARING EXAMINER ROBESON-HANNAN Yeah, I have Mr.</p> <p>16 Seid, Mr. Myers, and Mr. Brown. Mr. Seid, do you want to go</p> <p>17 first?</p> <p>18 MR. SEID: Sure. I just have a couple of very</p> <p>19 quick questions. Will the relocation of the setback road</p> <p>20 change the size of the playground at all?</p> <p>21 MR. KOEHN: I don't know if I'm qualified.</p> <p>22 I'm --</p> <p>23 MR. SEID: You're not sure if you're the best --</p> <p>24 MR. KOEHN: Yeah. That's a good question. I was</p> <p>25 wondering that myself. I just became aware of the moving</p>

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28 (109 to 112)

<p>109</p> <p>1 back of the road recently. So if anything, it will help 2 push those -- I assume it would push the play areas further 3 away, which would lower the noise. 4 MR. SEID: And then obviously I'm not a sound 5 engineer, but I am just kind of confused over how the next 6 revelation gets made. Under 25 students would only create 7 57 dB of noise, but as many as 500 would only raise it from 8 57 to 64? 9 MR. KOEHN: Yeah, okay. It's because it's 10 logarithmic is basically it. So again let me just use the 11 example of let's say -- yeah, again, of -- doubling the 12 amount of energy produces a 3 dB increase, but that's almost 13 barely noticeable. Like if you have a stereo system and one 14 speaker goes out, it doesn't get half -- the noise level in 15 the room doesn't get half as loud. It gets a little bit 16 louder and maybe you wouldn't even notice it. 17 So similarly if you have 10 sources and one 18 speaker and then you would need 10 -- you would need to add 19 10 additional speakers for it to go up 10 dB. So that's 20 just -- basically when you double the number of sources, he 21 goes up by 3 dB. Is that a -- if that's not a good enough 22 explanation I would be glad to clarify anything there. 23 MR. SEID: That's good for the moment. Thank 24 you. 25 HEARING EXAMINER ROBESON-HANNAN Anything else</p>	<p>111</p> <p>1 HEARING EXAMINER ROBESON-HANNAN Is it a solid 2 fence? 3 MR. KOEHN: Yes, it needs to be solid. And I 4 understand that it will be solid, yes. 5 MR. MYERS: Okay. So you're estimating? You 6 haven't done any true attenuation study either express in 7 percentage of noise reduction or dB, correct? 8 MR. KOEHN: No. No, it's pretty -- again, it's 9 going to vary with location, but a barrier -- and if it -- 10 as long as it blocks the line of sight, we can expect at 11 least 4 to 5 dB reduction from it. 12 MR. MYERS: Okay, thank you. 13 HEARING EXAMINER ROBESON-HANNAN What about that 14 aren't there -- I had a playground issue once in another 15 case and they had -- they found a sound attenuating fence. 16 It was specifically marketed. 17 MR. KOEHN: Well, I think they got scammed. 18 HEARING EXAMINER ROBESON-HANNAN (inaudible). 19 MR. KOEHN: Yeah, you -- 20 HEARING EXAMINER ROBESON-HANNAN (inaudible). 21 MR. KOEHN: You can make it a little better by -- 22 you could add an absorbent material to it so instead of 23 being hard and reflective -- or being very reflective, that 24 adds a little bit of absorption to it. That can help. That 25 can get you like a couple of decibels or so. But it's</p>
<p>110</p> <p>1 Mr. Seid? 2 MR. SEID: Not at the moment. Thank you. 3 HEARING EXAMINER ROBESON-HANNAN Okay. If you 4 could just take your hand down, that would be helpful. Mr. 5 Myers? 6 MR. MYERS: Just a quick question. Did you do 7 any studies on the site itself? Noise studies on the site 8 itself? 9 MR. KOEHN: Yes, I took some background noise 10 levels at the site, yes. 11 MR. MYERS: Oh, okay. But you are also claiming 12 that there is attenuation with respect for Mr. Seid's 13 property regarding a fence and also for general noise from 14 the buses. But did you do any attenuation studies on the 15 site? Or analysis based on the design and the fence as to 16 how much attenuation it would be? 17 MR. KOEHN: I just became aware of the fence. 18 The noise attenuated the fence (inaudible). A fence or a 19 barrier, it really depends where one is in location to the 20 barrier and where the sources in location to the barrier. 21 Like in this case, the barrier is in a good location because 22 is going to be close to the road. So it should be fairly 23 effective. We would expect, again, depending on where one 24 is standing relative to the barrier, but we would expect at 25 least 5 dB from the barrier.</p>	<p>112</p> <p>1 really -- the height is the most important and as to be 2 solid. 3 HEARING EXAMINER ROBESON-HANNAN So do you have a 4 height that you recommend here? 5 MR. KOEHN: I think I was satisfied with the 6 height that was proposed. I believe that was 6 feet, but I 7 don't want to -- I don't want to -- was there proposed site 8 for the barrier? 9 MR. KLINE: Madam Hearing Examiner, there was an 10 exhibit put into the record back in -- 11 HEARING EXAMINER ROBESON-HANNAN (inaudible). 12 MR. KLINE: Yeah, which I'm not sure it's 13 necessary, but it's a cross-section showing the fence, the 14 road, the side residents. I'm not sure it's fully critical. 15 We will proffer that we would build the optimum noise 16 attenuation fence. 17 MR. KOEHN: Yeah, as long as it's taller not to 18 block the line of sight, then that's good. 19 HEARING EXAMINER ROBESON-HANNAN So the line of 20 sight from a person standing at the play area to Mr. Seid's 21 property? 22 MR. KOEHN: Yeah, or vice versa. 23 HEARING EXAMINER ROBESON-HANNAN Okay. Anything 24 else? Okay. Next I have Mr. Brown. 25 MR. KLINE: Oh, yes. Okay. Sure.</p>

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29 (113 to 116)

<p>113</p> <p>1 HEARING EXAMINER ROBESON-HANNAN And then I have</p> <p>2 Mr. Wilkerson.</p> <p>3 MR. BROWN: Mr. Kang, if buses were not allowed</p> <p>4 to park overnight on the property, buses would come from</p> <p>5 off-site and drop of students in the morning at the bus loop</p> <p>6 and then come back in the afternoon and pick up students in</p> <p>7 the bus loop. My question to you is, in your professional</p> <p>8 opinion, what an operation of that type create less noise</p> <p>9 disturbance in the neighborhood than an operation where the</p> <p>10 buses were parked overnight and had to start up in the</p> <p>11 morning and go pick up students and bring them back and then</p> <p>12 had to start up in the afternoon and pick up students and</p> <p>13 take them home?</p> <p>14 MR. KOEHN: I don't know if I -- I don't believe</p> <p>15 I can answer that question. I guess it would depend on --</p> <p>16 no, you don't -- the noise -- if you can limit the times the</p> <p>17 buses are there or reduce the noise the times the buses are</p> <p>18 there, that would obviously reduce the times that the -- the</p> <p>19 length of the exposure, but I'm not sure if that's --</p> <p>20 HEARING EXAMINER ROBESON-HANNAN I think what is</p> <p>21 asking is, does the starting and stopping of the buses</p> <p>22 generate more noise than if they came --</p> <p>23 (Crosstalk)</p> <p>24 MR. KOEHN: It's my understanding that the buses</p> <p>25 need to sit and idle for a while. And if -- all right. So</p>	<p>115</p> <p>1 didn't address at all? And then I guess that's I think we</p> <p>2 can all agree we do have noise studies. Is there some</p> <p>3 significance in the term noise attenuation study?</p> <p>4 MR. MEYERS: Only -- I think that was answered,</p> <p>5 at least satisfactory to me. Just saying that there was</p> <p>6 none done, but he's got -- he did answer what he would</p> <p>7 expect, but you don't have anything specific that you can</p> <p>8 say the design will reduce it. So that was my concern. You</p> <p>9 really just don't have anything specific, just some</p> <p>10 generalizations.</p> <p>11 MR. KLINE: Thank you. Yeah, the only thing I</p> <p>12 wanted to say in response to Mr. Meyer's comments, Mr.</p> <p>13 Tierney did rule that the French school should not keep its</p> <p>14 buses on the Forest Road campus. But that was not a generic</p> <p>15 statement that buses could not be kept on campus on private</p> <p>16 educational school properties. It was at the time buses</p> <p>17 were being parked immediately adjacent to single-family</p> <p>18 detached houses that are on the first parking area on the</p> <p>19 left inside as you come in. And he felt that that was not a</p> <p>20 compatible situation and that the distance between there and</p> <p>21 the circle where they might have otherwise been part was not</p> <p>22 an adequate separation.</p> <p>23 I think the two campuses are distinguishable in</p> <p>24 terms of the features of where the buses would be parked and</p> <p>25 in terms of proximity to single-family houses. So yes,</p>
<p>114</p> <p>1 let me just stop and think here. If you -- yeah. So if the</p> <p>2 buses didn't have to sit and idle, if they just entered and</p> <p>3 left, would that produce more noise? I think I would have</p> <p>4 to get more information on that.</p> <p>5 HEARING EXAMINER ROBESON-HANNAN Okay. Now</p> <p>6 Mr. --</p> <p>7 MR. BROWN: I'm done. Thank you.</p> <p>8 HEARING EXAMINER ROBESON-HANNAN So are we ready</p> <p>9 to move to the next point?</p> <p>10 MR. MEYERS: Could I make just one observation?</p> <p>11 HEARING EXAMINER ROBESON-HANNAN Absolutely.</p> <p>12 MR. MYERS: And that is with respect to the noise</p> <p>13 report from the previous hearing examiner on the Forest Road</p> <p>14 campus. Since we're dealing with compatibility, if you</p> <p>15 reject our legal argument that he found that park in the</p> <p>16 buses up at Forest Road was not compatible with a</p> <p>17 neighborhood, residential neighborhood. The distances are</p> <p>18 about the same. I will admit this is a different structure</p> <p>19 and design, but he felt that start the school buses in the</p> <p>20 residential neighborhood was not appropriate and compatible.</p> <p>21 HEARING EXAMINER ROBESON-HANNAN I'm going to --</p> <p>22 I -- go ahead Mr. Kline.</p> <p>23 MR. KLINE: Yeah, sure. No, I'm glad Mr. Myers</p> <p>24 brought that up because I want to make sure we dispose of</p> <p>25 that. But can I go back to number four which we really</p>	<p>116</p> <p>1 there was a ruling on the Forest Road campus, but I don't</p> <p>2 believe it carries any weight because both the law, which</p> <p>3 says you can, in our opinion, says you can park on the</p> <p>4 campus. And two, the circumstances in which the buses will</p> <p>5 be parked because of the topographic features and the</p> <p>6 setbacks make it distinguishable from the Forest Road</p> <p>7 ruling. Thank you.</p> <p>8 HEARING EXAMINER ROBESON-HANNAN I'm not sure</p> <p>9 what that was.</p> <p>10 MR. KLINE: Yeah, right. Right.</p> <p>11 HEARING EXAMINER ROBESON-HANNAN But anyone have</p> <p>12 any questions on it?</p> <p>13 MR. BROWN: None here.</p> <p>14 HEARING EXAMINER ROBESON-HANNAN All right. So</p> <p>15 are we finished with noise?</p> <p>16 MR. KLINE: It sounds like the answer is yes.</p> <p>17 And I would like to have Mr. Koehn released.</p> <p>18 MR. KOEHN: I would appreciate that.</p> <p>19 HEARING EXAMINER ROBESON-HANNAN Anybody else</p> <p>20 have any questions on noise before I release Mr. Koehn? All</p> <p>21 right. Hearing none, you may be released, Mr. Koehn.</p> <p>22 MR. KOEHN: Great. Thank you, very much.</p> <p>23 HEARING EXAMINER ROBESON-HANNAN Downtown so</p> <p>24 happy. Okay. It's 12:25 and we are at the bottom of</p> <p>25 whatever page that was. Ms. Wagner, can you -- yeah. We</p>

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30 (117 to 120)

<p>117</p> <p>1 are at the bottom of page 1.</p> <p>2 MR. KLINE: (inaudible).</p> <p>3 HEARING EXAMINER ROBESON-HANNAN How many more</p> <p>4 pages do we have?</p> <p>5 MR. KLINE: Well, we got a lot more pages, but it</p> <p>6 may actually go faster because all of page 2 has been</p> <p>7 removed because at the labor issue. Mr. Wolf is our</p> <p>8 pollution expert. I think he can probably be accomplished</p> <p>9 within 30 minutes. That would be my guess.</p> <p>10 HEARING EXAMINER ROBESON-HANNAN Okay.</p> <p>11 MR. KLINE: And Mr. Wolf, are you there? And am</p> <p>12 I correct in my assumption?</p> <p>13 MR. WOLF: Yes, I'm here. Can you hear me okay?</p> <p>14 MR. KLINE: Okay. Sure. Would you be up to</p> <p>15 estimate what it would take you for your prima facie</p> <p>16 presentation? Not taking into account any cross-examination</p> <p>17 questions.</p> <p>18 MR. WOLF: How long will it take?</p> <p>19 MR. KLINE: Yes, sir.</p> <p>20 MR. WOLF: Maybe 10 minutes, 5 to 10 minutes.</p> <p>21 It's not a long presentation.</p> <p>22 HEARING EXAMINER ROBESON-HANNAN Okay. Well,</p> <p>23 unless anyone has an objection, we will proceed with Mr.</p> <p>24 Wolf. Do I hear any objections to that? And then we will</p> <p>25 take a lunch break. Okay. Hearing none, Mr. Wolf, please</p>	<p>119</p> <p>1 activities on the French school property in response to the</p> <p>2 request from Rochambeau?</p> <p>3 MR. WOLF: Yes.</p> <p>4 MR. KLINE: Could you, within the 10 to 50</p> <p>5 minutes you talked about, give us an explanation of your</p> <p>6 methodology and your findings and conclusions, please?</p> <p>7 HEARING EXAMINER ROBESON-HANNAN Wait. He</p> <p>8 hasn't -- what are you qualify him as?</p> <p>9 MR. KLINE: Oh, I'm sorry.</p> <p>10 HEARING EXAMINER ROBESON-HANNAN He's qualified.</p> <p>11 MR. KLINE: Yeah. I'm looking at your resume,</p> <p>12 Mr. Wolf. I'm not sure -- as with Mr. Koehn, I'm not quite</p> <p>13 sure what you -- what the proper terminology is. I would</p> <p>14 say environmental and industrial hygiene expert.</p> <p>15 MR. WOLF: Yeah, I'm an environmental engineer,</p> <p>16 licensed professional engineer. And I'm also a certified</p> <p>17 industrial hygienist.</p> <p>18 HEARING EXAMINER ROBESON-HANNAN I -- you cut out</p> <p>19 with the word before hygienist. You are a certified</p> <p>20 something hygienist.</p> <p>21 MR. WOLF: Certified industrial hygienist.</p> <p>22 HEARING EXAMINER ROBESON-HANNAN Okay. Any</p> <p>23 objections to qualify Mr. Wolf in those specialties? Okay.</p> <p>24 Hearing none, go ahead Mr. Wolf.</p> <p>25 MR. WOLF: Okay, thank you.</p>
<p>118</p> <p>1 turn your camera on please.</p> <p>2 MR. WOLF: I'm sorry. My camera is not working.</p> <p>3 HEARING EXAMINER ROBESON-HANNAN Okay. Well,</p> <p>4 raise -- is your -- can you raise your right hand?</p> <p>5 MR. WOLF: Yes.</p> <p>6 Please raise your right hand. Do you solemnly</p> <p>7 affirm under penalties of perjury that the statements you</p> <p>8 are about to make are the truth, the whole truth and nothing</p> <p>9 but the truth?</p> <p>10 MR. WOLF: Yes.</p> <p>11 HEARING EXAMINER ROBESON-HANNAN Does anyone</p> <p>12 object to proceeding with Mr. Wolf even though we can't see</p> <p>13 him? All right. I don't hear any objections. So go ahead,</p> <p>14 Mr. Wolf. Or go ahead Mr. Kline.</p> <p>15 MR. KLINE: Sure. Mr. Wolf, I'm not sure we went</p> <p>16 through it. Did you want to swear him (inaudible)? I'm</p> <p>17 sure you did that. So Mr. Wolf, how about just giving us</p> <p>18 the name of your firm.</p> <p>19 MR. WOLF: Sure. Apex Companies LLC.</p> <p>20 MR. KLINE: And what do you classify yourself as</p> <p>21 a professional?</p> <p>22 MR. WOLF: I am an environmental and industrial</p> <p>23 hygiene consultant.</p> <p>24 MR. KLINE: And have you prepared a report</p> <p>25 dealing with noise pollution issues associated with</p>	<p>120</p> <p>1 HEARING EXAMINER ROBESON-HANNAN Go ahead.</p> <p>2 MR. WOLF: Apex performed a diesel exhaust</p> <p>3 assessment at The French International School on Forest Road</p> <p>4 in Bethesda on April 7, 2021. Air monitoring was conducted</p> <p>5 during -- throughout the day, which included school bus drop</p> <p>6 off between 7:25 and 8:35 p.m. in the morning, and pick up</p> <p>7 in the afternoon approximately 2:50 to 3:30 p.m.</p> <p>8 There are six primary airborne diesel engine</p> <p>9 emission constituents that are of concern. And they are</p> <p>10 particular matter, volatile organic compounds, which include</p> <p>11 hydrocarbons, nitrogen oxide, nitrogen dioxide, carbon</p> <p>12 monoxide, and sulfur dioxide. These compounds were</p> <p>13 monitored during bus activity and during periods where there</p> <p>14 was no bus activity or background periods.</p> <p>15 We conducted our testing using fixed monitoring</p> <p>16 stations upwind and downwind of the bus loop, and using</p> <p>17 handheld meters in the pickup and drop off area, the bus</p> <p>18 loop itself. We also set up a weather station to monitor</p> <p>19 wind speed and wind direction throughout the day. Our study</p> <p>20 indicated that none of those -- none of the noted diesel</p> <p>21 constituents were above hazardous levels in the bus area or</p> <p>22 downwind of the bus area.</p> <p>23 We monitored the total volatile organic</p> <p>24 compounds. They ranged from 10 to 20 ppb throughout the day</p> <p>25 with no noticeable change when the buses were there. For</p>

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<p>121</p> <p>1 the reference, there's really no regulatory outdoor air 2 standard for VBOCs, volatile organic compounds. The indoor 3 air standard is 300 ppb, part per billions or parts per 4 billion. So we were well (inaudible) factor of 10 lower 5 than that. We did not detect carbon monoxide, sulfur 6 dioxide, or nitrogen oxide upwind, downwind, or in the bus 7 drop off and pick up area. 8 Particulates averaged anywhere from 13 to 28 9 mcg/m<sup>3</sup> of air. Those concentrations stayed fairly constant 10 throughout the day. There was very little change while the 11 buses were there. The EPA has set an air pollution limit 12 of 150 mcg/m<sup>3</sup> averaging over a 24 hour period. So once 13 again we are well below that EPA limit. Once again, we did 14 not find any of those primary diesel constituents above 15 regulatory limits or near any hazardous limits (inaudible). 16 MR. KLINE: Do I understand then -- I'm sorry. 17 As you reached -- was that the end of your presentation? 18 MR. WOLF: Yes. 19 MR. KLINE: Yeah. So your final conclusion is 20 that the operation of the bus on the property do not result 21 in concentrations of any component that would have a 22 deleterious effect on the surrounding residential 23 neighborhood and are acceptable under the standards that are 24 used to measure these factors? 25 MR. WOLF: Yes, that's correct.</p>	<p>123</p> <p>1 are stored off-site and they come in in the morning with the 2 children and then they come back in the afternoon already 3 warmed up and pick up the children to take them home. Would 4 there be a distinct difference in the amount of pollution 5 between those two scenarios? 6 MR. WOLF: One scenario is where the bus doesn't 7 stop the engine in the bus loop and the other is where he 8 leaves the engine running? 9 MR. BROWN: Right. In the second scenario, there 10 is no warm-up either in the morning or the afternoon because 11 the buses are coming from off-site. I would say based on 12 the concentrations that we see -- that we saw during our 13 study and noting that a lot of the buses -- excuse me -- did 14 arrive and turn off the engine and then restart the engine, 15 although some of them just idle, did not stop the engine, I 16 would say there would not be, in my opinion, would not be 17 any significant increase in any diesel constituents. 18 MR. BROWN: Thank you for that. Nothing further. 19 HEARING EXAMINER ROBESON-HANNAN Mr. Myers? 20 MR. MYERS: Just one quick question. Is not true 21 that diesel engines pollute more in cold weather? 22 MR. WOLF: That is correct. 23 MR. MYERS: So your figures were taken on a warm 24 sunny day, correct? 25 MR. WOLF: Yes. Yes, that's -- yes, it was.</p>
<p>122</p> <p>1 MR. KLINE: Do you feel therefore that the 2 operation of the buses on the property can be conducted in a 3 manner that would be healthy, safe, and harmonious with the 4 surrounding residential neighborhood? 5 MR. WOLF: With respect to those primary emission 6 constituents, yes. 7 MR. KLINE: Thank you. I have no further 8 questions of Mr. Wolf. 9 HEARING EXAMINER ROBESON-HANNAN Okay. I have 10 hands from Mr. Brown and Mr. Myers. Mr. Brown? 11 MR. BROWN: Mr. Wolf, a couple of questions about 12 diesel engines. These buses all have diesel engines, right? 13 MR. WOLF: Yes. 14 MR. BROWN: And do I understand correctly that a 15 diesel engine requires a bit more warming up before you get 16 going that compared to a gasoline engine? 17 MR. WOLF: I would say that's the case, yes. 18 MR. BROWN: I don't know if you heard my 19 questions of Mr. Koehn, but I would like you to compare the 20 pollution impact of two different operations. One operation 21 is where the buses are -- have to be started from scratch 22 and idle before they take off in the morning to pick up 23 kids. And then they have to be started from scratch before 24 they take up -- before they take off in the afternoon to 25 drop off kids, and compare that with a plan where the buses</p>	<p>124</p> <p>1 MR. MYERS: And -- 2 MR. WOLF: I have an EPA study. The EPA actually 3 performed a study on diesel emissions over a large range of 4 temperatures. And the latest study, latest data is from 5 2020. And the only compound that they saw a significant 6 increase -- no, this is based on weather in Bethesda. It's 7 about an average of 40° in the winter and an average of 8 about 75 in the summer. Those probably are exact. So 9 you've got about a 35° temperature change. In this report 10 by EPA, they show (inaudible) hydrocarbons between 40 and 11 75°, an increase of 30 percent in the colder -- in the 12 winter with the colder temperatures. And the total volatile 13 organic compounds included total hydrocarbons. So if you 14 remember the concentrations we detected, 10 to 20 ppb, an 15 additional 30 percent is still going to be well below the 16 300 ppb level. 17 MR. MYERS: If we are starting up buses in the 18 morning, at 6:00 in the morning, while some of the winter 19 weather will be 40 degrees, but it could be considerably 20 colder during the early morning hours in the early months of 21 December and January and February, correct? 22 MR. WOLF: That's great. 23 MR. MYERS: And you did those studies on the 24 proposed site, correct? 25 MR. WOLF: We do the studies on --</p>



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<p>125</p> <p>1 MR. MYERS: Or Forest Road.</p> <p>2 MR. WOLF: The school at Forest Road.</p> <p>3 MR. MYERS: Yeah. So you aren't able to say what</p> <p>4 impact the study -- what you come up with would have on the</p> <p>5 existing conditions near the site which is located at a</p> <p>6 congested intersection, would you?</p> <p>7 MR. WOLF: No, but I would imagine there aren't</p> <p>8 significant differences. This is a fairly high traffic area</p> <p>9 with a major road. I can't imagine how -- could you explain</p> <p>10 what conditions you (inaudible)?</p> <p>11 MR. MYERS: Well, I'm talking -- we got a heavily</p> <p>12 congested area with a lot of traffic stopped, cars stopped</p> <p>13 will pollute more than cars moving. If you've got a</p> <p>14 congested area plus you are adding your buses to the -- the</p> <p>15 schools buses to the mix, what does it do to the overall</p> <p>16 pollution of the area?</p> <p>17 MR. WOLF: Well, the site where we did our</p> <p>18 testing had fairly significant traffic. Unless there is a</p> <p>19 substantial increase of traffic, I can't imagine that it</p> <p>20 would have an effect such that it would increase these</p> <p>21 concentrations to levels that level.</p> <p>22 MR. MYERS: Have you looked at Pooks Hill Road?</p> <p>23 The intersection at the a.m. rush hour?</p> <p>24 MR. WOLF: I have looked at the map.</p> <p>25 MR. MYERS: Yeah, I'm talking about traffic</p>	<p>127</p> <p>1 MS. UMHOFFER: Personally operate a vehicle,</p> <p>2 sorry. Not buses.</p> <p>3 MR. WOLF: Well, diesel emissions were the</p> <p>4 contaminants of concern are very similar for diesel and</p> <p>5 gasoline engines. We have -- the main difference is there</p> <p>6 is more particular matter in diesel admissions, but we still</p> <p>7 have volatile organic compounds. You have carbon monoxide.</p> <p>8 Not a very (inaudible) too much sulfur dioxide and some of</p> <p>9 the nitrogen compounds and much lower concentration.</p> <p>10 MS. UMHOFFER: And I -- it's true that even non-</p> <p>11 diesel engines produce more pollutants when they are idling</p> <p>12 rather than driving; am I right?</p> <p>13 MR. WOLF: I don't think so. I'm not a</p> <p>14 automotive engineer, but I would think when the engine is</p> <p>15 under higher load, higher RPMs using more fuel, that the</p> <p>16 emissions are a higher in some of these compounds. That</p> <p>17 would be my best guess. But like I said, I'm not an expert</p> <p>18 in that area.</p> <p>19 MS. UMHOFFER: Okay. Well, what in the amount of</p> <p>20 pollution generated by cars on the proposed new campus would</p> <p>21 be linked to the number of cars that would come to campus on</p> <p>22 a daily basis, right?</p> <p>23 MR. WOLF: Yes.</p> <p>24 MS. UMHOFFER: So if you had an unlimited number</p> <p>25 of cars, you wouldn't be limiting the amount of pollution</p>
<p>126</p> <p>1 because we got traffic in the morning backed up all the way</p> <p>2 from West Cedar Lane to the Beltway standing. That's why</p> <p>3 I -- Forest Road, old Georgetown Road, doesn't have near the</p> <p>4 traffic. In fact, the interchange at West Cedar Lane Pooks</p> <p>5 Hill Road assisted by the county as one of the most</p> <p>6 congested areas in the county.</p> <p>7 (Crosstalk)</p> <p>8 MR. MYERS: That was my concern. The area around</p> <p>9 Forest Road is nowhere near as congested as Pooks Hill Road</p> <p>10 and that surrounding area.</p> <p>11 MR. WOLF: Okay (inaudible) a lot cleaner than</p> <p>12 (inaudible) I know that (inaudible) vehicles in that</p> <p>13 congestion. I still don't believe that that would be enough</p> <p>14 of a -- would make enough of a contribution to get us up</p> <p>15 over these levels that I discussed.</p> <p>16 MR. MYERS: Okay. That's it for me.</p> <p>17 HEARING EXAMINER ROBESON-HANNAN All right. Ms.</p> <p>18 Umhofer.</p> <p>19 MS. UMHOFFER: Thank you. I'm trying to put my</p> <p>20 hand down. You just mentioned that automobiles burn cleaner</p> <p>21 than diesel engines. And I want to be clear, you didn't do</p> <p>22 any study on the number of POVs that will be passing through</p> <p>23 the new campus and the pollution that they would generate;</p> <p>24 is that right?</p> <p>25 MR. WOLF: POV?</p>	<p>128</p> <p>1 that the neighbors would be exposed to, right?</p> <p>2 MR. WOLF: Based on this data, I would -- my</p> <p>3 opinion would be, no, it would be -- it wouldn't be</p> <p>4 significant enough increase in these constituents to create</p> <p>5 a problem for the neighborhood.</p> <p>6 MS. UMHOFFER: But you didn't look at the number</p> <p>7 of cars all, right?</p> <p>8 MR. WOLF: That were traveling -- we didn't note</p> <p>9 the number of cars. We just noted the number of buses.</p> <p>10 MS. UMHOFFER: Okay. I'm talking about the cars</p> <p>11 that they propose to drive to the new campus to drop off</p> <p>12 students.</p> <p>13 MR. WOLF: (Inaudible) the parents drop off</p> <p>14 students?</p> <p>15 MS. UMHOFFER: Yes.</p> <p>16 MR. WOLF: I would assume that was going on when</p> <p>17 we did our study.</p> <p>18 MS. UMHOFFER: Okay, but not at the new campus?</p> <p>19 MR. WOLF: (Inaudible).</p> <p>20 MS. UMHOFFER: And not under the conditions that</p> <p>21 we had the congestion that Alan just talked about.</p> <p>22 MR. WOLF: Okay.</p> <p>23 (Crosstalk)</p> <p>24 MS. UMHOFFER: I do want to share -- I want to</p> <p>25 share just one exhibit and then I'm finished.</p>

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<p>129</p> <p>1 HEARING EXAMINER ROBESON-HANNAN I think you miss 2 your profession. This is -- is this an exhibit that's in 3 the record? 4 MS. UMHOFFER: Yes, it is. 5 HEARING EXAMINER ROBESON-HANNAN Okay. 6 MS. UMHOFFER: It is hold on. I've got two -- I'm 7 flipping back and forth. Oh, 114C. And what I just want to 8 point out is that you know, I'm not sure we really looked at 9 this. This is the drop off road. And it's a little 10 deceptive, but you can see the width of the road and the 11 very narrow width of the meeting. And that is a row of the 12 Bristol Squares condos. So they are right along the loop 13 road. And I am concerned about not knowing how many cars 14 are going to be passing by these residences and the 15 pollution that could be generated. That's it. 16 MR. KLINE: But Ms. Umhofer, those existed when 17 the (inaudible) was an operation and generating as much 18 traffic as the school is going to generate. 19 MS. UMHOFFER: Well, on a daily basis we don't 20 know how much traffic the school is going to generate on 21 this road. That's exactly my concern. 22 MR. KLINE: Well, using our study said basically 23 so we are generating less traffic than what we were approved 24 for with 170,000 square feet of building. So it's not -- 25 (Crosstalk)</p>	<p>131</p> <p>1 profession? 2 MR. WOLF: A deleterious effect which means 3 that -- I don't understand your question. 4 MR. WILKERSON: Well, you answered yes to Mr. 5 Kline's question that the emissions from the buses would not 6 have a deleterious effect. I'm trying to understand what 7 (inaudible). 8 MR. WILKERSON: What I answered was with respect 9 to these compounds. All I -- all we did was simple the air. 10 We didn't test these buses up and down and figure out if 11 there are any other issues (inaudible). 12 MR. WILKERSON: Yes, I understand. I met with 13 regard to the compounds. 14 MR. WOLF: Yes. Based on our findings, yes. 15 HEARING EXAMINER ROBESON-HANNAN I think what he 16 is trying to find out is how do you define deleterious 17 effect. Doesn't mean it's under EPA standards? Or what 18 does it mean? 19 MR. WOLF: You're asking me? 20 HEARING EXAMINER ROBESON-HANNAN Yeah. 21 MR. WOLF: I'm not sure what that means. All I 22 know is we compared the concentrations to existing outdoor 23 regulations for which some of these compounds don't have 24 regulatory limits outdoors. And whatever standards or other 25 regulations were available were representative. So I guess</p>
<p>130</p> <p>1 HEARING EXAMINER ROBESON-HANNAN Stop. Stop. 2 Okay. I'm not going to get into an argument. I have a 3 question. Where are these -- where are these on the site 4 plan? The town houses? 5 MR. BROWN: Immediately to the north. 6 HEARING EXAMINER ROBESON-HANNAN I see. That's 7 where I was -- all right. Now, do you have questions, Ms. 8 Umhofer? He will get a chance to testify. 9 MS. UMHOFFER: I asked my questions. Thank you. 10 HEARING EXAMINER ROBESON-HANNAN Okay. Mr. 11 Wilkerson. 12 MR. WILKERSON: Thank you. Mr. Wolf, you had 13 testified that the studies indicated that the buses would 14 meet regulatory outdoor air standards and that it would not 15 be hazardous; is that correct? 16 MR. WOLF: With respect to the six compounds that 17 were studied, yes. 18 MR. WILKERSON: Okay. At the conclusion of your 19 testimony, Mr. Kline asked to, so therefore the buses would 20 not have a deleterious effect and you say, yes; is that 21 correct? 22 MR. WOLF: With respect to these emission 23 constituents that I mentioned. 24 MR. WILKERSON: Right, but you -- deleterious 25 effect is not a term -- a legal term of art in your</p>	<p>132</p> <p>1 I'm not sure what deleterious means. 2 MR. WILKERSON: Well, I just wanted to clarify. 3 So you are saying they don't violate the law, they're not 4 hazardous, but you're not offering an opinion. Maybe you 5 didn't mean to say yes, it wouldn't have a deleterious 6 effect for other purposes; is that correct? 7 MR. WOLF: Yeah. Yes. Yes, that's what 8 (inaudible). 9 MR. WILKERSON: Okay. Thank you. No for the 10 question. 11 HEARING EXAMINER ROBESON-HANNAN All right. Ms. 12 Abeles. 13 MS. ABELES: Yes, I would like to point out a 14 factoid that I gleaned from listening to many air-quality 15 conformance reports at the transportation board that 16 actually Eileen does use more fuel and produces more 17 omissions that contribute to pollution then swiftly moving 18 cars. That's actually the whole rationale behind the 19 Beltway widening project onto 70 and 495 -- 20 (Crosstalk) 21 HEARING EXAMINER ROBESON-HANNAN Wait, can you 22 stop just a minute? 23 MS. ABELES: I -- you are providing information. 24 What I'm going to do is have you -- can you turn your camera 25 on?</p>

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<p>133</p> <p>1 MS. ABLES: No, I'm sorry. I can't. But if</p> <p>2 you -- if you just Google --</p> <p>3 HEARING EXAMINER ROBESON-HANNAN Just -- no. Did</p> <p>4 you raise your right hand?</p> <p>5 MS. ABLES: Yes.</p> <p>6 (OATH ADMINISTERED)</p> <p>7 HEARING EXAMINER ROBESON-HANNAN Okay. Now go</p> <p>8 ahead.</p> <p>9 MS. ABLES: Yes, I -- this is what I gleaned</p> <p>10 from air-quality conformance reports and a project that</p> <p>11 project proposals that -- and I also, just to make sure that</p> <p>12 I'm not misspeaking. I'm looking at -- I Googled, do I link</p> <p>13 cars generate more greenhouse gases than swiftly moving</p> <p>14 once. And what came up was something from the Department of</p> <p>15 Energy saying that idling for more than 10 seconds uses more</p> <p>16 fuel and produces more omissions that contribute to smog and</p> <p>17 climate change then moving and stopping and starting.</p> <p>18 And stopping and starting. I guess it has to do</p> <p>19 with the temperature of the car, but that is what I believe</p> <p>20 is the -- one of the rationales behind the Beltway widening</p> <p>21 project that if you add lanes and make the speed of the</p> <p>22 traffic increase it's supposed to reduce the emissions,</p> <p>23 rather than the emissions that come from cars that are only</p> <p>24 going 15 miles per hour.</p> <p>25 MR. WOLF: Well, like I said, I'm not an auto</p>	<p>135</p> <p>1 seconds.</p> <p>2 HEARING EXAMINER ROBESON-HANNAN: Now, but what</p> <p>3 he's trying to do is quantify --</p> <p>4 MS. ABLES: That I can't parse that any further</p> <p>5 for you unfortunately because I am not --</p> <p>6 HEARING EXAMINER ROBESON-HANNAN: No. Well what</p> <p>7 you're saying is excessive idling which we -- that -- what</p> <p>8 you're saying is there's a correlation between idling and an</p> <p>9 increase in harmful emissions?</p> <p>10 MS. ABLES: Yes, I believe there is.</p> <p>11 HEARING EXAMINER ROBESON-HANNAN: Answer your</p> <p>12 question to him is does the temp oral term of, you know, how</p> <p>13 long their going to idle change a result?</p> <p>14 MS ABLES: Well, I personally would imagine that</p> <p>15 they're going to sit, as another child gets into another</p> <p>16 vehicle they're going to move up a little. They're going to</p> <p>17 stop and going to be stop and start.</p> <p>18 HEARING EXAMINER ROBESON-HANNAN: Well, are you</p> <p>19 talking about the cars or the buses?</p> <p>20 MS. ABLES: I could imagine this is applicable to</p> <p>21 both because most highway information includes light and</p> <p>22 heavy vehicle emissions and monitoring.</p> <p>23 HEARING EXAMINER ROBESON-HANNAN: Okay. Well, I</p> <p>24 will tell you that this is coming to us from remand. And I</p> <p>25 gave them specifics things to look at. And the idling of</p>
<p>134</p> <p>1 motive engineer but I, you know, is it the idling period</p> <p>2 compared to the same time. When the car is doing 55 miles</p> <p>3 an hour? Most cars are not idling on the highway or on the</p> <p>4 road. So -- and when we did our study the buses were</p> <p>5 idling. So that's --</p> <p>6 MS. ABLES: I'm not entirely sure but I urge this</p> <p>7 body and I urge the Examiner to get impartial expert advice</p> <p>8 from a transportation agency.</p> <p>9 HEARING EXAMINER ROBESON-HANNAN: Okay. All</p> <p>10 right. Do you have anything else Ms. Abeles?</p> <p>11 MS. ABLES: Yes, I've just been looking at one</p> <p>12 more site and it also says the same thing, it assisted</p> <p>13 idling wastes an enormous amount of fuel and money and</p> <p>14 generates needless greenhouse gas emissions. So again, I</p> <p>15 urge you to get it directly from an agency source. But that</p> <p>16 does just seem to be the prevailing wisdom, and data.</p> <p>17 HEARING EXAMINER ROBESON-HANNAN: Okay. Mr.</p> <p>18 Wolf, what is your response to that?</p> <p>19 MR. WOLF: Well, like I said I'm not an</p> <p>20 automotive engineer so I just offered an opinion. I want to</p> <p>21 understand exactly what the records are saying that for an</p> <p>22 idling for a period of five minutes, a car is idling it's</p> <p>23 more -- it emits more pollution than for a period of five</p> <p>24 minutes when it's --</p> <p>25 MS. ABLES: Well, it actually says after 10</p>	<p>136</p> <p>1 the buses was one of the things, but not the overall</p> <p>2 pollution.</p> <p>3 MS. ABLES: I think that should be examined.</p> <p>4 Speaking as somebody who, you know, I'm in discussions art</p> <p>5 listening to expert discussions of this all the time that</p> <p>6 this should be a matter to be looked into more deeply.</p> <p>7 MR. WOLF: Well, when we did our study, there was</p> <p>8 cars dropping off throughout the day, just, as you talk</p> <p>9 about. As you said, that's a common occurrence. So it</p> <p>10 didn't affect our results.</p> <p>11 MS. ABLES: Well, all I know is entities of --</p> <p>12 obviously you're not an institution on the magnitude of NIH,</p> <p>13 but actually you are on a very busy corridor and greenhouse</p> <p>14 gases are cumulative. I believe you did not do any kind of</p> <p>15 environmental impact study.</p> <p>16 MR. WOLF: No, we did. We did.</p> <p>17 MS. ABLES: I think it's an order that you do --</p> <p>18 (Crosstalk)</p> <p>19 HEARING EXAMINER ROBESON-HANNAN: Mrs. Ables, you</p> <p>20 have to let him finish.</p> <p>21 MS. ABLES: Oh, I'm sorry.</p> <p>22 MR. WOLF: Greenhouse gases are an environmental</p> <p>23 issue. We just did a study based on the constituents on</p> <p>24 people.</p> <p>25 MS. ABLES: Well, I would say it because you're</p>

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<p style="text-align: right;">137</p> <p>1 coming off of 355 which has many heavy vehicles, trucks and 2 so forth, that there are already concerns for people living 3 right along the main road, and it is a cumulative effect, 4 like noise. So I think this should be more closely 5 examined. That's my personal opinion. 6 HEARING EXAMINER ROBESON-HANNAN: Okay. 7 MS. ABLES: Okay. Thank you very much. 8 HEARING EXAMINER ROBESON-HANNAN: Okay. Mr. 9 Myers. 10 MR. MYERS: Yeah, just to point out, the County 11 has monitoring equipment at many intersections that they use 12 for pollution, especially during the summer. It might be 13 interesting to see if we could obtain the readings for the 14 Pooks Hill intersection that that is accounted for. There 15 are also requirements during the time that there are 16 pollution alerts for the -- that affect the operation of the 17 soul vehicles in terms of the amount of time they idle, and 18 can stand. 19 In fact, there are times when people are -- the 20 buses -- the Ride-on buses become free because the pollution 21 becomes so bad. So I think looking at this Pooks Hill 22 intersection, I think it's important in looking and finding 23 out what the pollutant levels are there already and what 24 this might contribute to it. Whether it be POV or with the 25 buses, which were the subject of the remand.</p>	<p style="text-align: right;">139</p> <p>1 (inaudible). Particulate matter is another issue. 2 Particulate matter may, you know -- is a definitely heavier 3 than air in most cases and it's going to settle out 4 eventually so it's possible that that would get some 5 additional or a little bit of extra particulate matter if it 6 was a generated nearby. 7 MR. MCKENNA: Thank you. That's my only 8 question. 9 HEARING EXAMINER ROBESON-HANNAN: Anyone else? 10 Okay. Do you have any questions of Mr. Wolf, any redirect, 11 Mr. Kline? 12 MR. BROWN: You're talking to Mr. Kline, right? 13 HEARING EXAMINER ROBESON-HANNAN: Yes. 14 MR. KLINE: Well, I'm trying to put this into 15 context because it sounds like the volume of cars coming on 16 cumulatively, given the situation may have and add verse 17 environmental impact but I was going to ask Mr. Wolf, what's 18 the biggest project you've ever worked on, a shopping center 19 or a RFK Stadium where we've got thousands of cars coming. 20 I mean, are there concentrations of matters that are 21 unhealthy? I was going to give you a number. How many cars 22 would it take to have driving on this property the four 23 units start getting worried about there being an 24 environmental impact? 25 MR. WOLF: Well, I mean you can look at it this</p>
<p style="text-align: right;">138</p> <p>1 HEARING EXAMINER ROBESON-HANNAN: All right. I 2 see Mr. McKenna; I see a handout from Mr. McKenna. 3 MR. MCKENNA: Yes. Hello, can you hear me? 4 HEARING EXAMINER ROBESON-HANNAN: Yes. Can you 5 give me -- I don't recognize your name it can you give me 6 your name, address, and email for the record, please? 7 MR. MCKENNA: Sure. My name is George McKenna 8 and I live at 5015 Alta Vista Court in Bethesda, Maryland. 9 And my email is several letters FLTSURG@hotmail.com. 10 HEARING EXAMINER ROBESON-HANNAN: Okay. And did 11 you have a question for Mr. Wolf? 12 MR. MCKENNA: I did. I have a question for him. 13 So of those different gases that you measured, my question 14 is, because I live on Alta Vista Court and were actually 15 below where the 13 buses will be stored. And I was 16 wondering if any of those in gases -- is it a possibility 17 that they could settle down? Because we are below them and 18 were in kind of the Valley, that one of those in gases could 19 accumulate in the cul-de-sac if, depending on the prevailing 20 winds that day? 21 MR. WOLF: Most of these compounds are lighter 22 than air so the (inaudible) organic compounds certainly are. 23 Carbon monoxide, sulfur and nitrogen compounds might be 24 slightly heavier than air but it's not a significant enough 25 amount to cause (inaudible) as you mentioned, pool</p>	<p style="text-align: right;">140</p> <p>1 way. The homes that are close to a busy highway or a busy 2 road, there's traffic all night long and all day and all 3 night. So do the levels get up above where they should be 4 periodically? Probably so. But I think the long-term 5 concentrations are (inaudible) standard. 6 HEARING EXAMINER ROBESON-HANNAN: I -- 7 couldn't -- you broke up. Can you say that this you think 8 the long-term levels are what? 9 MR. WOLF: The long-term levels are going to 10 average out to be within regulatory limits. You know if 11 that were the case people in homes along roads like that 12 would be getting sick, but they're not. And I'm not saying 13 that there's no impact. Like I said, the levels can get 14 higher on some days and lower others. But like I said, 15 regulatory limits and EPA guidance levels, they take that 16 into account when they look at the averages over 24 hour 17 periods, sometimes they look at averages over a longer 18 period than that. So it's -- you know, it's an average but 19 if you look at the averages, you know when you stand next 20 your car and fill it up with gas you get some really bad 21 compounds that you breathe that are probably well above 22 regulatory limits but OSHA looks at an eight hour time 23 weighted average so it's all about averages and lengths, and 24 exposure. If that makes sense. 25 MR. KLINE: And that Ms. Hannan, my last comment</p>

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<p>141</p> <p>1 and then I'll shut up is more just sort of procedural and 2 that is at the beginning of the hearing we talk to you today 3 about how we spent a lot of time addressing and focusing on 4 what issues you have listed, and I appreciated what MCA did 5 to contribute.</p> <p>6 But I thought today we were going to dispose of 7 all those issues. And I'm disappointed that we are hearing 8 of a new subject today from someone who hasn't participated 9 in the procedure before. I don't think we should be asked 10 to answer questions on essentially global warming when we 11 answer all the questions we were given in your order of 12 remand, which is why we are here today. Thank you.</p> <p>13 HEARING EXAMINER ROBESON-HANNAN: All right. Mr. 14 Myers, do you have any --</p> <p>15 MR. MYERS: My only comment is sort of rebutting 16 Jody for just a minute and that were not looking at this in 17 a vacuum, and these residents that are near the site have to 18 live with the congestion and the pollution from the 19 Rockville Pike and adding to it has an impact, and I think 20 it needs to be considered whether it would be a significant 21 impact or not and a significant impact on the overall 22 pollution, and if you're talking time durations these people 23 are there 24 hours a day, not feeling up there car with 24 gasoline for five minutes. So I'm just pointing that out. 25 Okay. Miss Ables one more quick comment and then were going</p>	<p>143</p> <p>1 MR. KLINE: If you'd like an answer to that -- 2 (Crosstalk) 3 HEARING EXAMINER ROBESON-HANNAN: Yeah, I do. 4 MR. KLINE: Ms. Wegner, I think you're probably 5 the best authority on that subject. 6 MS. WAGNER: Yes, in the LAT are what we have 7 provided the number -- how every student and staff is 8 getting to school. I don't have the quantified number of 9 what that sum is. I can provide that after lunch, but we 10 have provided that information in the LATR. 11 HEARING EXAMINER ROBESON-HANNAN: All right. 12 Well, with that, I am going to cut off the discussion and 13 were going to go to lunch. So it's now 1:05. We'll be back 14 at 2:00. 15 MR. WOLF: Can I be excused? 16 (A lunch recess was taken.) 17 HEARING EXAMINER ROBESON-HANNAN: I'm pulling up 18 the statement by Maplewood. So I think what we ended with 19 was pollution. 20 MR. MYERS: Yes. 21 HEARING EXAMINER ROBESON-HANNAN: So now, the 22 waiver is gone, so now we're at responses, non-responses to 23 Remand Order. 24 MR. KLINE: I -- 25 MR. SEID: Can I just ask a very weak question, I</p>
<p>142</p> <p>1 to break for lunch.</p> <p>2 MS. ABLES: I just want to reinforce what Alan 3 just said, that I think there needs to be special 4 consideration taken for this particular site because it is 5 on a main road, and there are very many studies documenting 6 that people who live along main roads are already subject to 7 higher health issues because of the proximity. This is 8 statistically known. And I think this is a strong component 9 in this situation.</p> <p>10 HEARING EXAMINER ROBESON-HANNAN: I understand 11 your comment. Okay, are there any other further comments? 12 Okay. We're getting -- Ms. Umhofer, once more, 13 and then were cutting it off.</p> <p>14 MS. UMHOFFER: That's fine. I just do want to 15 note that May 3rd letter to the Planning Board that you 16 received a copy of I made the point that the traffic and 17 pollution impact of this proposal bowl was inextricably 18 connected to the cell number of vehicles coming to the 19 campus. So this is not a new issue.</p> <p>20 HEARING EXAMINER ROBESON-HANNAN: Has the school 21 provided that information? What is the total number of 22 vehicles? 23 MS. UMHOFFER: Well, in their LAT are but they 24 have declined requests to be bound to those numbers on a 25 daily basis.</p>	<p>144</p> <p>1 apologize. This is a David Seid. Do you know when you'll 2 be submitting your new plan regarding the loop road? 3 MR. KLINE: No, I don't. I would think -- 4 presumably the Hearing Examiner will leave the record open 5 for up to 10 days. I would think that we would be 6 submitting it probably 3 to 5 days from now. 7 MR. SEID: Okay. 8 HEARING EXAMINER ROBESON-HANNAN: Mr. Kline, 9 there's some case law saying I have to give parties a chance 10 to respond. So to the extent that we can get it in sooner 11 and I can give a couple of days for people to look at it, 12 that's the better. 13 MR. KLINE: What I'll do, I think -- 14 HEARING EXAMINER ROBESON-HANNAN: I'm not 15 necessarily sending it back to staff. 16 MR. KLINE: Yeah, I know. We're anxious to get 17 it in also. Ms. Clark, whose firm will be preparing the 18 plan is listening to this discussion and I will ask if she 19 can send an email to Ms. Fabre with a suggestion of when she 20 thinks it could be available and we would submit it in the 21 record, but send copies to everybody. 22 MR. SEID: And I'm sorry, one more question if 23 you don't mind. I apologize. But do you know if it's going 24 to be impacting the size of the playground? 25 MR. KLINE: We will discuss that in our testimony</p>

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<p>145</p> <p>1 this afternoon.</p> <p>2 MR. SEID: Okay. Thank you.</p> <p>3 THE COURT: Okay. So Mr. Kline, are we still</p> <p>4 going point by point through Maplewood's response?</p> <p>5 MR. KLINE: I'd like to think that's a good way</p> <p>6 to do it. I was a little bit sort of back and forth but</p> <p>7 that was somewhat because of the way the layout -- the</p> <p>8 questions are a little bit more precise, and I think more</p> <p>9 lend that themselves to more yes and no. So I think that's</p> <p>10 the best way to do it if everyone agrees.</p> <p>11 THE COURT: Okay. Well --</p> <p>12 MR. KLINE: Okay?</p> <p>13 THE COURT: Are you okay with that, Mr. Brown?</p> <p>14 MR. BROWN: Yeah. Just focus on the ones that</p> <p>15 are in bold print and we're ready to go.</p> <p>16 THE COURT: Great.</p> <p>17 MR. KLINE: Well, I understand Mr. Brown was nice</p> <p>18 enough to highlight the issues that were important to him in</p> <p>19 bold. But I also want to make sure the Hearing Examiner</p> <p>20 buys in so that were all in agreement. So I probably will</p> <p>21 just come and check through on each one of them, please.</p> <p>22 THE COURT: All right.</p> <p>23 MR. KLINE: Okay?</p> <p>24 THE COURT: Go ahead.</p> <p>25 MR. KLINE: Okay. So number 1 was basically a</p>	<p>147</p> <p>1 questions on this? It does provide that information.</p> <p>2 MR. WILKERSON: I've got a question. I'm not</p> <p>3 sure if this is the right documents. This is Carl Wilkerson</p> <p>4 speaking (inaudible).</p> <p>5 THE COURT: Okay. And your question is?</p> <p>6 MR. WILKERSON: (inaudible) I -- I'm not</p> <p>7 (inaudible) or else it somewhere else, I don't see the</p> <p>8 carbon gutter that before -- I strike my question. Thanks.</p> <p>9 THE COURT: Okay. Anyone else have any</p> <p>10 questions?</p> <p>11 All right. We'll move on to the next point</p> <p>12 MR. KLINE: Number 2 dealt with the bus --</p> <p>13 basically the physical aspect of the buses.</p> <p>14 THE COURT: Right.</p> <p>15 MR. KLINE: And Ms. Wagner, whereabouts is that</p> <p>16 information located? Is it the next page?</p> <p>17 MS. WAGNER: That again is in Exhibit 95 on the</p> <p>18 following -- on the -- two pages down. On page 4.</p> <p>19 THE COURT: You should -- oh, two pages.</p> <p>20 MS. WAGNER: That page, right there. The</p> <p>21 dimensions are 32-1/2 feet long and each of us is 8 feet</p> <p>22 wide, 10 feet mirrors, and then 12 feet -- 12-1/2 feet with</p> <p>23 the stop sign.</p> <p>24 THE COURT: So I guess the question is do --</p> <p>25 MR. KLINE: There you are.</p>
<p>146</p> <p>1 question about the physical. And our thought there was that</p> <p>2 by virtue of removing all the traffic not related to</p> <p>3 residents in the neighborhood we have essentially taken care</p> <p>4 of that. And at least Maplewood thought that was an</p> <p>5 adequate answer. I wondered if anybody else had any</p> <p>6 comments on it?</p> <p>7 THE COURT: Anyone have any comments?</p> <p>8 MR. MYERS: Surely, I thought I saw some</p> <p>9 documents that said that you had -- to show the width of the</p> <p>10 roads and that sort of material was already incorporated</p> <p>11 into the record in your response?</p> <p>12 MS. UMHOFFER: Yes.</p> <p>13 MR. KLINE: Ms. Wagner, what drawings do we have?</p> <p>14 Is it in the TMP, or it's probably in our comments?</p> <p>15 THE COURT: I think it's inside -</p> <p>16 MS. UMHOFFER: That's in our comments.</p> <p>17 THE COURT: I think on the side -- go ahead.</p> <p>18 MS. WAGNER: This is Ms. Wagner. We have</p> <p>19 submitted that information in Exhibit 95, the responses to</p> <p>20 the remand order, on page 2 of that document.</p> <p>21 THE COURT: Are you seeing it?</p> <p>22 MS. WAGNER: Yes, we are seeing it.</p> <p>23 THE COURT: Okay. Page 2. This is page 2?</p> <p>24 MS. WAGNER: Yes.</p> <p>25 THE COURT: Okay. So does anyone have any</p>	<p>148</p> <p>1 THE COURT: -- Provided information that these</p> <p>2 will fit on the different -- you've named the different</p> <p>3 streets.</p> <p>4 MS. WAGNER: Yes, correct. And again, we took</p> <p>5 buses out of the neighborhood for the buses that are</p> <p>6 traveling between the Rockville Pike campus to the Forest</p> <p>7 Road campus.</p> <p>8 THE COURT: Okay.</p> <p>9 MS. WAGNER: And the buses shown are on a route</p> <p>10 that is currently existing and allowed.</p> <p>11 THE COURT: Okay. Any questions on this?</p> <p>12 And hearing none, number 3.</p> <p>13 MR. KLINE: Well, this is a question about</p> <p>14 queuing analysis and Ms. Wagner, why don't you go ahead and</p> <p>15 explain our position on this?</p> <p>16 THE COURT: Oh there (inaudible) Alta Vista Road?</p> <p>17 MS. WAGNER: Yes. This is the question about</p> <p>18 providing the queuing analysis on Alta Vista Road at</p> <p>19 Rockville Pike. That queuing analysis is provided in the</p> <p>20 LATR. We've also -- this question, we've removed the</p> <p>21 traffic from the intersection and are continuing to work</p> <p>22 with the community as well as staff as we've already talked</p> <p>23 about to move the traffic camera closer to the intersection</p> <p>24 of Alta Vista and Rockville Pike to further address the</p> <p>25 concerns of the neighborhood.</p>

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<p>149</p> <p>1 THE COURT: Are there --</p> <p>2 MR. KLINE: Yeah, while we think the information</p> <p>3 was there, we think it did satisfy everyone's inquiry about</p> <p>4 it.</p> <p>5 THE COURT: Anybody have a question on this?</p> <p>6 Okay. Number 4?</p> <p>7 MR. KLINE: Oh, this was a question about queuing</p> <p>8 analysis at Forest Road.</p> <p>9 THE COURT: Right.</p> <p>10 MR. KLINE: And Maplewood gave us a very good</p> <p>11 response on that. And again, I guess I would ask Ms. Wagner</p> <p>12 to go ahead and address it. Or actually, let me take a step</p> <p>13 back. Let's pat Ms. Fabre on the back a little bit. We had</p> <p>14 seen pictures showing congested issues. What have you done</p> <p>15 to address the thing were talked about at our last hearing?</p> <p>16 MS. FABRE: Well, we've done a number of changes,</p> <p>17 one at a time, so we could actually really measure the</p> <p>18 impact of each. And basically, we've staggered the</p> <p>19 dismissal time the parents wouldn't come within a specific</p> <p>20 timeframe so that we would distribute the traffic over a</p> <p>21 longer period of time. We've also added more personnel on</p> <p>22 the access road. We used to have four, we now have nine in</p> <p>23 the morning and seven in the afternoon.</p> <p>24 We've relocated the police officer at the end of</p> <p>25 Forest Road at the intersection of Forest Road and Beech so</p>	<p>151</p> <p>1 anticipate will be going on next year because we're</p> <p>2 planning -- we're organizing this 21/22 school year based</p> <p>3 upon the assumption that everything will be back to normal.</p> <p>4 So full, in person, normal bus capacity. So this is the</p> <p>5 plan.</p> <p>6 MR. KLINE: So all the techniques you came up</p> <p>7 with to solve the problem, as it is today, will go into a</p> <p>8 toolkit and be available for you to use if necessary next</p> <p>9 fall?</p> <p>10 MS. FABRE: Right, exactly. This is -- at least</p> <p>11 we know that those things can work if needed. So we will</p> <p>12 use this experience and use those -- that toolkit depending</p> <p>13 on those circumstances, or if there is a need to.</p> <p>14 MR. KLINE: And Mr. Myers, with regard -- I'm</p> <p>15 sure the last sentence was your idea about MCA would like</p> <p>16 these techniques to be incorporated into the TMP for the</p> <p>17 Forest Road campus. We wouldn't want to see the Rockville</p> <p>18 Pike special exception have to include that as a condition,</p> <p>19 but just bring it up in the next, NLC meeting for Forest</p> <p>20 Road and we can talk about how to handle it that way.</p> <p>21 MR. MYERS: Well, I have my handbook here. A</p> <p>22 point of reference to this traffic issue. Hopefully, and I</p> <p>23 do commend the school for what it has done to resolve these</p> <p>24 issues. But this issue with the traffic during the normal</p> <p>25 operation of the school has existed since 2012. In fact,</p>
<p>150</p> <p>1 that he would make sure would remain fluid so that there</p> <p>2 would be no gridlock impact -- effect, sorry. They laid the</p> <p>3 bus a departure until after all the cars are actually done</p> <p>4 with the pickup and drop-off so Forest Road remains open for</p> <p>5 cars. And again, we keep the flow moving. I think that's</p> <p>6 a -- we've also talked about; we're looking at changing the</p> <p>7 timing of the traffic lights just to ensure that the flow is</p> <p>8 continuing continuously moving.</p> <p>9 THE COURT: Don't you have to get DOT to do that?</p> <p>10 MS. FABRE: Yeah. We have talked to them, yeah.</p> <p>11 THE COURT: And were they --</p> <p>12 MS. FABRE: They're looking at making some</p> <p>13 changes. So that's what was done.</p> <p>14 MR. KLINE: And were you able to identify what</p> <p>15 was the problem that caused this surge in congestion?</p> <p>16 MS. FABRE: I think the main reason for this</p> <p>17 situation is the reduced capacity we have on our buses right</p> <p>18 now, which is actually a result of the COVID crisis. We</p> <p>19 used to have buses that could accommodate 55 students, but</p> <p>20 because of the guidelines -- guidance and that MSD Maryland</p> <p>21 State Department of Education has put out, we are not to put</p> <p>22 more than 11 students, or families actually, on the buses.</p> <p>23 So that's a reduction of 80 percent of the bus capacity and</p> <p>24 as a result, we had more cars on campus.</p> <p>25 So that situation is not something that we</p>	<p>152</p> <p>1 Helene made my point in that meeting when I said I was</p> <p>2 concerned about parents waiting at the pickup point for</p> <p>3 shuttles that haven't arrived, or if the students were not</p> <p>4 on the shuttle. And that's what she said at that time, she</p> <p>5 thought possibly it was a shuttle problem.</p> <p>6 My concern is that if this is a done and it</p> <p>7 works, then we need to -- it should be incorporated in the</p> <p>8 TMP with one exception that we need to resolve because I</p> <p>9 felt it was a concern. And I mentioned this to Mr. Kline,</p> <p>10 that you using civilians to direct traffic at the bike path</p> <p>11 was not a good idea for purposes of probably -- maybe not</p> <p>12 legal, and also it would put the school at a liability</p> <p>13 issues should one of them being injured or killed on the</p> <p>14 site there. Hopefully, that wouldn't happen on but normally</p> <p>15 the school crossing guards work out on that -- that do that</p> <p>16 are part of the police department, work out of the police</p> <p>17 department.</p> <p>18 But we do think it's a great start. The proof is</p> <p>19 in the pudding as they say, come September and if it works</p> <p>20 fine. I think we need to keep exploring it and hopefully we</p> <p>21 can continue that dialogue and we can come up with -- to</p> <p>22 using these tools so when they do work, and they do get</p> <p>23 incorporated into the TMP for the school so they are reduced</p> <p>24 to writing as a requirement of the school.</p> <p>25 THE COURT: Okay. What I hear is that we don't</p>

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<p>153</p> <p>1 need to address the Forest Road TMP in this proceeding, 2 correct? 3 MR. KLINE: Correct. 4 MR. MYERS: That is (inaudible). 5 THE COURT: Okay. I just wanted to make sure I 6 understood. 7 MR. WILKERSON: This is Carl Wilkerson speaking. 8 I don't agree with that conclusion. 9 THE COURT: Okay. 10 MR. WILKERSON: Because I think traffic at the 11 Forest Road campus, there inexplicably intertwined and 12 (inaudible) -- 13 MR. KLINE: Well, I think there's two answers to 14 that Mr. Wilkerson. One, we will address the volume of 15 traffic at Forest Road in later questions. But secondly, I 16 think what the Hearing Examiner is saying is procedurally 17 she shouldn't be using one application to impose conditions 18 and another special exception. I think Mr. Brown -- I'm 19 sorry. Mr. Myers and Ms. Fabre can work it out through the 20 NLC for Forest Road. 21 MR. WILKERSON: I think yeah, that's part of it. 22 And I don't -- I just don't want to combine the Forest Road 23 campus to be part of the new campus. But the issue is, in 24 terms you did ask for a queuing analysis. And I think what 25 I was trying to say is it seems to solve the problem for</p>	<p>155</p> <p>1 THE COURT: Mr. Wilkerson, I can't hear you. 2 MR. WILKERSON: And I don't really care what 3 (inaudible). 4 THE COURT: Okay. Just -- 5 MR. WILKERSON: (inaudible) 6 THE COURT: Mr. Wilkerson, were not picking you 7 up. 8 MR. WILKERSON: -- with the queuing (inaudible) 9 carved in stone and don't (inaudible) 10 THE COURT: Mr. Myers? 11 MR. WILKERSON: (inaudible). 12 THE COURT: Mr. Myers, can you let him know? Do 13 you have his email? 14 MR. MYERS: I'll send him an email. He's not 15 hearing you and we can't hear him. I'll send them an email. 16 THE COURT: Thank you. 17 I guess my concern about -- 18 MR. WILKERSON: Is this better Alan? 19 MR. MYERS: For now, try again. 20 MR. WILKERSON: Okay. Can you hear me? I'm 21 moving around the house to get a better signal. Is this 22 better? 23 THE COURT: Yes. 24 MR. WILKERSON: Okay. What I was simply trying 25 to say is I appreciate Mr. Kline's response to the comment I</p>
<p>154</p> <p>1 now, but the cueing that we've had in the past, it's 2 undetermined whether it will be resolved (inaudible). 3 THE COURT: Mr. Wilkerson? 4 MR. WILKERSON: -- suggestion. 5 THE COURT: Yes. 6 PD TECHNICIAN: I believe Mr. Wilkins audio, or 7 his connection is breaking up. I can't hear a word he's 8 saying. 9 MR. MYERS: Nor can I. 10 MR. WILKERSON: (inaudible) 11 THE COURT: Mr. Wilkerson? 12 MR. WILKERSON: -- Could be on the TMP's new 13 (inaudible). 14 THE COURT: I can't hear you, Mr. Wilkerson, 15 you're breaking up. 16 MR. WILKERSON: Yes. How about is it (inaudible) 17 can you hear me (inaudible)? 18 THE COURT: It's -- 19 MR. WILKERSON: A device that might be 20 interfering with the signal. 21 THE COURT: I couldn't understand that. 22 MR. WILKERSON: Can you hear me better now? 23 THE COURT: Better. 24 MR. WILKERSON: Okay. I appreciate Mr. Kline's 25 response to my (inaudible).</p>	<p>156</p> <p>1 made. I don't really care about what procedure it is. 2 These queuing measures that are offered up as a solution to 3 part of the problem that would be caused by the 4 transportation between the Forest Road school and the 5 Rockville Pike school are good. They've made an 6 improvement, but they need to be codified and carved into 7 something formally instead of just being an elected option 8 that's convenient at a certain time. 9 So I agree with Alan that they should be added 10 into some record. I also concur with Alan that these 11 problems of backups have existed for decades there. It is a 12 concentrated area. It didn't just start with the pandemic 13 issues. Thank you. 14 THE COURT: All right. I am not -- I don't know 15 if -- I would have to look at whether I have the legal 16 authority to place a condition on the Forest Road school. 17 This may be something to address it via an amendment to the 18 Forest Road school. 19 MR. MYERS: And I think we have recourse in 20 something Helene mentioned this morning, and I've been very 21 reluctant to do it, but if it continues I would go to the 22 Board of Appeals and get it addressed for the Forest Road 23 campus. 24 But I think there is an issue here with respect 25 to the drop-offs on Forest Road for students going to the</p>



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<p>157</p> <p>1 new campus. And that's what I think with it here.</p> <p>2 THE COURT: But that -- and how are those to hide</p> <p>3 together?</p> <p>4 MR. MYERS: I mean the sheer number of people</p> <p>5 being dropped off, it has an impact on the queueing. I mean</p> <p>6 you're talking a school of 750 for the Forest Road campus,</p> <p>7 and depending on how many get dropped off for the new school</p> <p>8 you could significantly increase the number of vehicles</p> <p>9 coming in to that part of the neighborhood.</p> <p>10 At one point, and this may be a little premature,</p> <p>11 during our meetings with -- our second meeting with the</p> <p>12 school do what I suggested in the hearing, is have all drop-</p> <p>13 offs occur at the new campus, to which Ms. Wagner responded</p> <p>14 that you needed for -- that it was needed for the trip caps</p> <p>15 for the new school. That was withdrawn at the third</p> <p>16 meeting. I don't know which way it is. I probably don't</p> <p>17 really care one way or the other, but it is an issue in</p> <p>18 terms of how we -- that the new campus not impact -- further</p> <p>19 impact another portion of the neighborhood where it's not</p> <p>20 located.</p> <p>21 MR. KLINE: Ms. Robeson-Hannan, that comment is</p> <p>22 question number 20 in the -- are virtually the last question</p> <p>23 on the list. We can either move it forward and debated now,</p> <p>24 or wait until we get there. Maybe -- I kind of like to err</p> <p>25 on deferring it because we may come up with some other</p>	<p>159</p> <p>1 say, but you have these five exceptions, or for exceptions,</p> <p>2 I forget.</p> <p>3 MS. WAGNER: No, these exceptions that she's</p> <p>4 talking about are people that are allowed to drive to</p> <p>5 school. Not necessarily -- you have to be allowed to drive</p> <p>6 to school, and then drive to the neighborhood.</p> <p>7 THE COURT: Okay. Got you.</p> <p>8 MR. KLINE: Yeah there --</p> <p>9 MR. MYERS: But there is one thing. You said</p> <p>10 including buses from what I understand the number of shuttle</p> <p>11 buses that currently traverse that route to go to</p> <p>12 Rollingwood, which I don't understand why they go that way</p> <p>13 when you could've gone Old Georgetown to West Cedar would</p> <p>14 increase about three buses from what I understand.</p> <p>15 MR. KLINE: Ms. Wagner,</p> <p>16 MS. WAGNER: Yes, Alan is correct there are</p> <p>17 currently nine buses that travel between the Forest Road</p> <p>18 campus to the Rollingwood campus, which is the same route</p> <p>19 that the shuttles would travel from the Forest Road campus</p> <p>20 to the Rockville Pike campus, and it will increase by three</p> <p>21 shuttle routes throughout the entire day.</p> <p>22 THE COURT: Wait. What will increase? The</p> <p>23 number of shuttle buses through the neighborhood?</p> <p>24 MS. WAGNER: The number of shuttles. Right now</p> <p>25 there are nine buses -- nine shuttles taking this route.</p>
<p>158</p> <p>1 solution as we move through it. But will do whatever you</p> <p>2 would like to do.</p> <p>3 THE COURT: I'm making a note to come back to it.</p> <p>4 MR. KLINE: It is a specific question and it even</p> <p>5 references the author, Mr. Myers, on question number 20.</p> <p>6 THE COURT: Okay.</p> <p>7 MR. KLINE: Okay? So it will come back to 4.</p> <p>8 Number 5 basically, talks about total daily</p> <p>9 number of vehicle trips that will travel on residential</p> <p>10 streets in the Maplewood neighborhood. And I'm sure Ms.</p> <p>11 Wagner's ready to go. But I'd actually like to answer this</p> <p>12 because I'm the one who has the least technical expertise</p> <p>13 but I think can give the simplest understandable answer.</p> <p>14 And that is zero. Because the only people association with</p> <p>15 the school who will be driving on Maplewood streets are the</p> <p>16 people who live there. Staff and parents.</p> <p>17 So there is technically no other vehicle that's</p> <p>18 going through that neighborhood, provided our TMP works the</p> <p>19 way it's supposed to with all of its enforcement mechanism.</p> <p>20 So the direct answer to the question is a zero number. But</p> <p>21 for the 90 students for the 55 families who live in the area</p> <p>22 plus staff, whatever that number is in the area. Those are</p> <p>23 the only trips associated with the school that would be</p> <p>24 going through the Maplewood neighborhood.</p> <p>25 THE COURT: Well, I think Ms. Umhofer is going to</p>	<p>160</p> <p>1 With the new school there will be 12. So it will increase</p> <p>2 in three buses.</p> <p>3 MR. KLINE: Well, and since we are -- well, go</p> <p>4 ahead. Thank you. But Ms. Wagner is available to answer</p> <p>5 any questions you might have about that.</p> <p>6 THE COURT: Well, anyone else have a question?</p> <p>7 MR. SEID: Yes, just a point of clarification</p> <p>8 when Ms. Wagner said before new buses a day, that's twice a</p> <p>9 day for -- in each direction.</p> <p>10 MS. WAGNER: Three new buses throughout the</p> <p>11 entire school day.</p> <p>12 THE COURT: Okay. One at a time. Ms. Wagner,</p> <p>13 what is it?</p> <p>14 MS. WAGNER: Three --</p> <p>15 THE COURT: Three new routes, or three --</p> <p>16 MS. WAGNER: Three buses. One each time.</p> <p>17 Throughout the day.</p> <p>18 MR. SAID: So in six new routes per day? Three</p> <p>19 new buses?</p> <p>20 MS. WAGNER: Three buses will -- there are nine</p> <p>21 buses that do it now. 12 buses will do it in the future.</p> <p>22 MR. SAID: Right. So you will have three go in</p> <p>23 the morning, and three go in the afternoon and --</p> <p>24 MS. WAGNER: No. Three throughout the entire</p> <p>25 day. One in the morning --</p>

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<p>161</p> <p>1 THE COURT: I'm confused. I don't understand 2 what you mean three throughout the -- are you talking trips, 3 are you talking routes? 4 MS. WAGNER: No. In the morning time period, 5 four buses will drive from the Forest Road campus to the 6 Rockville Pike campus. In the afternoon at 3 p.m. four 7 buses will drive from Forest Road to Rockville Pike. At 5 8 p.m., four buses will drive from Forest Road to Rockville 9 Pike. Currently, only three buses do those at each time 10 period. So that's three buses driving that route throughout 11 the entire school day. 12 MR. MYERS: Can we -- I think the point of 13 confusion is the buses versus trips. 14 THE COURT: Right. 15 MR. MYERS: I think it needs to be expressed in 16 terms of trips, not the number of buses moving around. 17 MS. WAGNER: No, the same thing. It's one -- one 18 buses is one trip. 19 MR. MYERS: Huh? 20 THE COURT: Okay. Let's do this. Just backup. 21 It's been a while since I looked at -- how many buses -- I 22 don't want to do that. 23 MS. WAGNER: It's just three trips. It's a three 24 additional trips throughout the entire neighborhood on that 25 route.</p>	<p>163</p> <p>1 THE COURT: Okay. Is everyone clear on that? 2 MR. MYERS: The only thing I would ask is some 3 way that this be clear that if the bus routes -- the number 4 of bus trips change based on the needs of the school that 5 there be a mechanism to change them. 6 MS. WAGNER: The bus routes are described in the 7 TMP in great detail. 8 MR. MYERS: Okay. So it would be through that 9 process. 10 THE COURT: Well, I've got to talk about that 11 process but let's get through this first. 12 MR. MYERS: Okay. 13 THE COURT: So the buses are regulated through 14 TMP? Because -- well, I'll just give you a heads up. But 15 let's finish so that you can put your thinking. 16 But my concern is that I'm basing this approval 17 on the TMP that isn't even signed yet and then, there's a 18 something somewhere, I think it was on the PowerPoint that 19 Ms. Wagner presented saying necessary amendments have to be 20 discussed with the NLC. So I guess I'm a little concerned 21 that I'm approving at thinking this is the TMP, and it may 22 or may not be. 23 MR. KLINE: Well, if I -- if I can do this first. 24 From a legal point of view, a TMP is that different than a 25 TMA, traffic management agreement. So this a document</p>
<p>162</p> <p>1 THE COURT: The Forest Road to Rockville Pike 2 campus? (inaudible) route? 3 MS. WAGNER: I'm sorry, say that again? 4 THE COURT: Isn't there a -- is there a return 5 route? 6 MS. WAGNER: No. As we walked through at the 7 beginning we'll be driving on Cedar Lane. 8 THE COURT: Okay. 9 MS. WAGNER: So that was one of the things that 10 we made a big change with rerouting the buses regarding 11 those shuttles. 12 THE COURT: And the forest -- okay. So these 13 three -- and then what are the three time frames? You've 14 got for from Forest Road to Rockville Pike went? 15 MS. WAGNER: During the morning between 8 and 16 8:30. In the afternoon between 3:30 and 4. In the commuter 17 peak hour between 5:30 and 6, I believe. Yeah. 18 THE COURT: Well, that's a half hour, but you'll 19 have another four? 20 MS. WAGNER: Yes. It's just for at each of those 21 time periods. Currently it's just three at each of those 22 time periods. 23 THE COURT: Okay. I get it. And then returns 24 are done by Cedar Lane? 25 MS. WAGNER: Yes, correct.</p>	<p>164</p> <p>1 doesn't have to be signed. It's a binding element of our 2 special exception amendment application. So the fact that 3 it hasn't been signed is sort of an irrelevant see. The 4 traffic management agreement, which will actually have 5 parties, yes, that one will be signed as well. 6 THE COURT: I see. Okay. Thank you for that 7 clarification. So what I'm seeing is what you're going to 8 do. If you have to change it then that would be an 9 amendment to your special exception? 10 MR. KLINE: Because I -- 11 THE COURT: It doesn't (inaudible) 12 MR. MYERS: We've been down that road with the 13 Forest Road campus because there was a change in 2008 to the 14 TMP there. And there was a question of whether it was -- it 15 was just filed with the Board of appeals, not necessarily as 16 an amendment. They just -- it was just filed, if I'm 17 correct, Mr. Kline file that, right? 18 MR. KLINE: Your memory is better than mine, Mr. 19 Brown. 20 MR. MYERS: I'm reading are minutes from the NLC. 21 MR. KLINE: Yeah. I mean yeah, I would agree 22 that it's a -- it would depend upon the significance, or 23 the -- 24 THE COURT: Can't the board just approve it as a 25 minor amendment?</p>

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<p>165</p> <p>1 MR. KLINE: That's what we did in the other case, 2 yes. And you could do the -- well, let me rephrase that. 3 You could do it. That's how we handled it before because it 4 was -- it did not have a substantial effect on the traffic 5 to impact. 6 THE COURT: But you still had to go through the 7 Board of Appeals? 8 MR. KLINE: We did it that way, yes ma'am. 9 THE COURT: All right. Let's keep going then. 10 MR. KLINE: Well actually, the next one is easy 11 because that really, basically, talks about the way the 12 buses are going to go. External bus routes will have to 13 travel outside of the Maplewood neighborhood, and you just 14 heard Ms. Wagner describe how that would occur. So it's 15 only the shuttles that are using and neighborhood streets. 16 Agreed? 17 THE COURT: And even then, some of them aren't. 18 MS. WAGNER: Correct. 19 THE COURT: Okay. Any questions on that? 20 Okay. Hearing none, keep going. 21 MR. KLINE: Question number seven relates to 22 discussions with the Housing Opportunities Commission. 23 Maplewood is familiar with the status of the situation. Ms. 24 Fabre will tell you about her discussions with HOC. 25 MS. FABRE: Well, we received a formal</p>	<p>167</p> <p>1 MR. SEID: I thought 55 was the number of people 2 in the current Alta Vista neighborhood. I'm talking about 3 the number of families that would fall within the exception 4 where they would be able to drop a student off at one of the 5 schools because they have students in both schools. 6 MR. KLINE: Ms. Wagner or Ms. Fabre can answer 7 that question. But I guess it varies by year. 8 MR. SEID: A general. Again, I realize that can 9 vary, and it might also vary if you move into a school where 10 both campuses are located right next to each other. But if 11 you could just get some idea as to what the current numbers 12 are? 13 MS. FABRE: I don't have this number out of the 14 top of my head I wouldn't want to give a wrong number by 15 guessing. 16 THE COURT: How long would it take you to get the 17 number? 18 Why are you asking, Mr. Seid? 19 MR. SEID: I was just curious again because that 20 goes to the exception, one of the things coming up now is 21 about the number of students that may be getting dropped off 22 at either force road or the new campus because they have 23 students at both schools. So again, I realize that might 24 change given that we're now going to have a school with 25 locations nearby each other. But it did seem relevant to</p>
<p>166</p> <p>1 confirmation that they would not allow us to use that exit 2 for the traffic. The only use that they will authorize will 3 be for emergency egress only. 4 THE COURT: Okay. 5 MR. MYERS: The only thing I would add to that, 6 if HOC doesn't want the cars going through its parking lot, 7 please it be reminded what the impact that it would have on 8 the neighborhood two. I mean if they parking lot versus a 9 neighborhood. And it's really important that they be kept 10 out of the -- the traffic be kept out of the neighborhood. 11 THE COURT: Gotcha. 12 MR. SEID: This is David Seid. I had a quick 13 question going back to something earlier. How many families 14 currently have students that are in both the upper and lower 15 schools? 16 MR. KLINE: 55 families, and 90 students 17 enrolled. 18 THE COURT: Mr. Kline -- 19 MR. SEID: Is that -- I thought those were the 20 ones that that -- 21 THE COURT: Just one second. Just a second. 22 Mr. Kline, you're not testifying. I'm just 23 trying to keep the record clean. 24 MR. KLINE: Sorry about that. 25 THE COURT: So can Ms. --</p>	<p>168</p> <p>1 some of the points being raised earlier. 2 MR. MYERS: I am prepared to discuss that in my 3 testimony on that issue. 4 THE COURT: Okay. Is this -- well, do you want 5 to do your testimony now or -- 6 MR. MYERS: Well, we haven't reached that number. 7 Maybe we ought to get down to it when it talks about the 8 drop off, and your use of the word nearby. That was the 9 number that you asked on the reman, and that's where it 10 becomes pertinent. 11 THE COURT: Okay. Go ahead. 12 MR. MYERS: So, well, at one time, the TMP said 13 that nearby could drop off at the Forest Road campus. And I 14 thought that was unnecessarily vague. The result was it was 15 removed and there's technically -- and this is it related to 16 what Mr. Seid said, there is no standard for how many 17 parents can drop off at either campus. And sometime during 18 our discussions with the school Ms. Fabre said that that 19 they would assign the parent the school to be dropped off. 20 If you leave it to their discretion, and again, it would 21 vary from year to year, the number of siblings in both 22 campuses. And if there are several siblings and 23 matriculate, it could be for an extended period of times 24 that they would have siblings in both campuses, that the 25 numbers could be significant. And that's where I was</p>

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<p>169</p> <p>1 talking about the increase in traffic that the new campus 2 would generate on Forest Road. 3 I think there has to be some standard in terms of 4 how -- who is eligible, or help many are eligible -- parents 5 are eligible to drop off students at either campus. 6 THE COURT: Mr. Kline, do you have a response? 7 Or Ms. Fabre. 8 MR. KLINE: Sure. Well, I'm looking at Ms. Fabre 9 and asking Ms. Wagner, I think maybe the two of you together 10 could answer this question because I realize one is kind of 11 an operation and one is traffic. Katie, can you kind of 12 give us the global view that we can then kind of nail and go 13 down to specifics? 14 MS. WAGNER: Yeah. So the language regarding 15 nearby has been completely removed from the TMP, so that is 16 no longer relevant. We have removed that language. 17 Part of the reason that the school has in 18 invested in the School Path monitoring system is really to 19 address exactly these concerns that the neighbors are 20 bringing up is to make sure that families don't abuse the 21 Forest Road campus. That there will be -- every parent and 22 staff member will have to register their vehicle and will be 23 issued a violation of the TMP if they are found dropping off 24 students at the Forest Road campus when they have an 25 assigned bus route that they are supposed to be using.</p>	<p>171</p> <p>1 nursery school student you could drop them off at the -- 2 MR. MYERS: No. I'm talking if you have a 3 sibling who is at Forest Road. Say a third grader. And you 4 cannot drop them off with the first grader that's going -- 5 I'm sorry. They're both on the same campus. Say a sixth- 6 grader, or a seventh grader. Currently at Forest Road you 7 cannot drop them off, say a third grader going at the new 8 campus who is also going to the new campus? 9 PD TECHNICIAN: Ms. Wagner, you're muted. 10 MR. MYERS: I can't hear you. 11 MS. WAGNER: You have to have a sibling at the 12 Forest Road campus to be able to drop off both children at 13 the Forest Road campus. 14 MR. MYERS: I'm sorry, it was an echo. He said 15 if you have a sibling at Forest Road you can drop them off 16 at the new campus if you also have a student going to the 17 new campus? 18 MS. WAGNER: No. 19 MR. MYERS: No? 20 MS. WAGNER: If you have a student that is a 21 ninth grader, and a student that is a third grader, you can 22 drop off both students at the Forest Road campus. 23 MR. MYERS: Which thus means that you are now 24 saying that something you don't have that in place with 25 Rollingwood elementary school you're saying --</p>
<p>170</p> <p>1 In addition, the school has to allow families 2 with siblings to carpool to and from the schools. It 3 will -- this is something that happens today, that there is 4 a shuttle between the three campuses that if one sibling 5 goes to one school and another goes to another, and take the 6 shuttles between schools. 7 And then, in addition, families are not able to 8 drop off students at the Rockville Pike campus unless that 9 they are designated in the TMP. There are strict policies 10 within the TMP that states exactly the concerns that the 11 neighbors have, that you are not allowed to just drop off a 12 student at the Rockville Pike campus or the Forest Road 13 campus, that they will be issued a violation of the TMP. 14 And those are detailed within the TMP. 15 MR. MYERS: But -- 16 MR. KLINE: And Katie, could you elaborate on 17 that? Explain how you monitor and how you sanctioned it? 18 MS. WAGNER: Yes. That will be the license plate 19 monitoring. If a parent is observed driving onto the campus 20 and they are not supposed to be dropping off their student 21 that is how it will be monitored and enforced. 22 MR. MYERS: What I'm hearing is if you have a 23 sibling at Forest Road you can't drop them off at the new 24 campus; am I right, Katie? 25 MS. WAGNER: If you have a sibling that is a</p>	<p>172</p> <p>1 MS. WAGNER: No, we do have that in place at the 2 Rollingwood elementary school. That is something that 3 happens today. 4 MR. MYERS: Okay. It's part of your lease on the 5 facility? 6 MS. WAGNER: I don't know if it's part of the 7 lease. Helene would have to answer that. But that is part 8 of the bus system that is happening today. 9 MR. MYERS: But that's the bus system. But you 10 don't have a TMP that says you can't drop off at 11 Rollingwood? 12 MS. FABRE: Can I jump in? 13 MR. KLINE: Yeah. 14 MS. WAGNER: You have the floor, Helene. 15 MS. FABRE: I think you misunderstood, Alan. But 16 Katie is staying is the hub is at Forest Road. So today, as 17 we talk, when you have -- parents can carpool, and they can 18 come to the Forest Road campus to drop off a sixth-grader 19 that goes to school there. But if they have a third grader, 20 or a kindergarten student that would be going to Bradley, 21 the parents are also going to drop off those students today 22 so that they get on the shuttle to go to those campuses. 23 So what we are saying is in the future it will 24 happen exactly the same way. It will be no different. 25 MR. KLINE: Ms. Fabre, is it the school's</p>

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<p>173</p> <p>1 position, or expectation that the traffic at the Forest Road 2 campus will not increase as a result of the implementation 3 of the Rockville Pike campus? 4 MS. FABRE: Yes, it is. Just because of what I 5 explained. 6 MR. MYERS: I think I'm finally clear on this. 7 MS. FABRE: Okay. 8 MR. SEID: Just a clarification, Mr. Kline? 9 THE COURT: Hey what about me? No. Go ahead. 10 MR. SEID: Mr. Kline, you just asked Ms. Fabre 11 that the traffic at Forest Road wouldn't increase, but this 12 is allowing more combined students at the Rockville Pike 13 campus than the current combined students at the other two 14 campuses. So to the extent the parents with the siblings 15 are drawing from a greater number, it could increase; is 16 that correct Ms. Fabre? 17 MS. FABRE: Do you mean because the total number 18 of students is going to be bigger? 19 MR. SEID: Yes. You said -- you just answered 20 Mr. Kline to say that the traffic would not increase. But 21 if the pool of students who might have sibling goes up, then 22 the traffic at Forest Road could go up? 23 MS. WAGNER: I can answer that question. 24 THE COURT: Yeah. 25 MS. WAGNER: No. Because there's still a</p>	<p>175</p> <p>1 all your schools, Ms. Fabre? 2 MS. FABRE: It's 1000 and change. It changes 3 every day. 4 THE COURT: What will it be, potentially, Max 5 enrollment at your school after this is approved? 6 MS. FABRE: Well, the max -- the capacity for the 7 new campus is 700 students. 8 THE COURT: Yeah, but that -- 9 MS. FABRE: And we have a On the Forest Road 10 campus of 750 students. So what Katie was saying is 11 actually right, which is the secondary school students 12 should be entitled to come to their school, right? So if in 13 the car you have two or three kids that will actually be 14 carpool to the Forest Road campus, it's not adding traffic. 15 It's just more people in the cars, and then those kids will 16 get on the shuttles, just like they do now, so no change. 17 That's the point. 18 THE COURT: So at full enrollment umbrella 19 condition, special exceptions, you aren't going to exceed 20 the cap on enrollment in Forest Road? 21 MS. FABRE: No. I mean there's a cap of 750, 22 we'll -- 23 THE COURT: I'm just trying to clarify it. 24 MS. FABRE: Well, the answer is no. 25 THE COURT: Okay.</p>
<p>174</p> <p>1 certain -- because Forest Road students still have to get to 2 Forest Road. So the number of students going to Forest Road 3 is not increasing. So it's just that more kids are going to 4 get out of a car at the Forest Road campus. It's not the 5 number of vehicles will increase, just the number of 6 children getting out of vehicles will increase. 7 MR. MYERS: But the vehicles have to get there? 8 MS. WAGNER: They already are going there. 9 They're already going there. 10 MR. MYERS: Well, what Mr. Seid is saying you've 11 got a 500 school enrollment currently at Rollingwood. When 12 you reach the full capacity for the new campus it's going to 13 be 700. So you've got an additional 200. Some of those are 14 going to be siblings, so the potential for an increase at 15 Forest Road for people using that as a hub could increase? 16 MS. WAGNER: No. 17 MS. FABRE: But we -- 18 MS. WAGNER: You have to have a sibling to be 19 able to be dropped off at Forest Road. 20 MR. MYERS: That's what I'm saying. The 21 potential number of siblings -- 22 THE COURT: Okay. Just a second. Just a second. 23 Slow down. 24 MR. MYERS: Okay. 25 THE COURT: What is your current enrollment of</p>	<p>176</p> <p>1 MR. MYERS: I'm still a little confused because 2 Ms. Fabre said currently there is 1000 plus change, but then 3 if you add the 750 Forest Road at the Rockville Pike school, 4 we're talking 1450. So that's an increase in your total 5 students. 6 MR. KLINE: Well, the school has been larger than 7 it is today. 8 MS. FABRE: Yeah, we've lost 100 students due to 9 COVID situations where expatriate families sent to DC, or 10 they have decided to stay in New York where the schools were 11 open. 12 MR. MYERS: Right, I'm just not able to compute. 13 He said there would -- in response to the Hearing Examiner's 14 question that there would not be an increase in students, 15 and it seems to me the total capacity will be 1,450, but you 16 said currently there is 1,000 plus change. 17 MS. FABRE: In total in the school, but we 18 usually are at 1,100 students. That's the level, but the 19 purpose that -- I mean we currently have 550 at the nursery 20 and elementary school so the cap of 700 will allow for some 21 growth, yeah. That's why we're spending \$60 million. 22 MR. MYERS: So the total will potentially go to 23 1,450 in response to the Hearing Examiner's question? 24 MS. FABRE: That's the two -- the addition of the 25 two caps, yes.</p>

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<p>177</p> <p>1 MR. MYERS: All right. Thanks.</p> <p>2 THE COURT: Will wait a minute. That doesn't</p> <p>3 change -- what's your cap on Forest Road?</p> <p>4 MS. FABRE: 750.</p> <p>5 THE COURT: And what's your cap after this at</p> <p>6 Forest Road? Say this gets approved. But you're At Forest</p> <p>7 Road?</p> <p>8 MS. FABRE: It's -- Forest Road stays the same.</p> <p>9 It's 750.</p> <p>10 THE COURT: (inaudible) don't get frustrated.</p> <p>11 Okay. I know you're frustrated. I'm trying to get through</p> <p>12 this, okay?</p> <p>13 MS. FABRE: All right.</p> <p>14 THE COURT: So no matter what happens you're cap</p> <p>15 at Forest Road will still say the same?</p> <p>16 MS. FABRE: Yes.</p> <p>17 THE COURT: Now, your cap at Forest Road stays</p> <p>18 the same; does that mean the number of vehicles being able</p> <p>19 to drive there is going to stay the same?</p> <p>20 MS. WAGNER: Yes. Nobody else is allowed to</p> <p>21 drive there that doesn't have a student that goes to that</p> <p>22 school.</p> <p>23 THE COURT: Okay.</p> <p>24 MS. FABRE: That's why we have the cameras.</p> <p>25 MR. MYERS: That's where I beg to disagree.</p>	<p>179</p> <p>1 one school with different campuses.</p> <p>2 THE COURT: Right. I understand. And, I think</p> <p>3 that may be something to -- that you would have to work out</p> <p>4 in the TMP for Forest Road.</p> <p>5 MR. MYERS: Well obviously, if the TMP prevents</p> <p>6 them from dropping off siblings at the Rockville Pike</p> <p>7 campus, yes.</p> <p>8 THE COURT: But wait, I don't understand that.</p> <p>9 MR. MYERS: Well, there's something Ms. Wagner</p> <p>10 just said, they cannot drop a -- unless they meet the</p> <p>11 requirements to have -- for a student going to the new</p> <p>12 campus, all the other students with siblings would have to</p> <p>13 be dropped off at Forest Road, and take the shuttle bus to</p> <p>14 Rockville Pike.</p> <p>15 MS. WAGNER: You have to ride the bus to go to</p> <p>16 the Rockville Pike campus unless you are a nursery student</p> <p>17 or in before and after school care.</p> <p>18 THE COURT: Well, are there -- I guess are there</p> <p>19 going to be any kids being dropped off at the forest Road</p> <p>20 campus that don't go to Forest Road?</p> <p>21 MS. WAGNER: Unless they have a sibling that goes</p> <p>22 to Forest Road, no. And that is why we have School Pass</p> <p>23 monitoring system to make sure that that is not abused.</p> <p>24 MR. MYERS: I think you misspoke. I think you</p> <p>25 said Forest Road. If they have a sibling at the new campus</p>
<p>178</p> <p>1 Because it's unknown how many more, but if you're going to</p> <p>2 increase in the enrollment cap because it currently is 500.</p> <p>3 It's capped at Rollingwood and the nursery school, but</p> <p>4 you're going to increase the total number of overall</p> <p>5 students that you're going to, and likelihood, have more</p> <p>6 siblings who could be dropped all at Forest Road that have</p> <p>7 to go to the elementary school. Just by virtue of the fact</p> <p>8 that the number -- the potential increase in the size of the</p> <p>9 school. I think that was Mr. Seid's point is going to --</p> <p>10 THE COURT: I understand that. But the bottom</p> <p>11 line is that hasn't happened. They are set at -- no matter</p> <p>12 how the logistics work out with siblings, they can't go</p> <p>13 above 700 and whatever the cap is without a special</p> <p>14 exception amendment.</p> <p>15 MR. MYERS: Right.</p> <p>16 MR. SEID: Except the cap is not on visits to</p> <p>17 campus, it's a cap on the number of students at Forest Road.</p> <p>18 THE COURT: Okay. So what are we trying to solve</p> <p>19 here? Because I'm -- are we trying to solve the backups at</p> <p>20 Forest Road?</p> <p>21 MR. MYERS: Hopefully not. But I think the</p> <p>22 question is just to recognize that there is a potential for</p> <p>23 more siblings drop-offs at Forest Road by the virtue of the</p> <p>24 fact that that the in total enrollment of the school will</p> <p>25 increase. Again, as Mr. Seid said, you've got to think of</p>	<p>180</p> <p>1 then they will be dropped off -- both of them will go to</p> <p>2 Forest Road?</p> <p>3 MS. WAGNER: Yes that is -- yes.</p> <p>4 THE COURT: So --</p> <p>5 MS. WAGNER: Currently what happens today.</p> <p>6 THE COURT: Okay. So they have a that</p> <p>7 effectively controls the number of vehicles going there?</p> <p>8 MR. MYERS: Well, not if they're dropping off</p> <p>9 siblings. Because if you're dropping off a sibling there --</p> <p>10 THE COURT: I've stopped --</p> <p>11 (Crosstalk)</p> <p>12 MR. MYERS: Yes, it does.</p> <p>13 THE COURT: -- the sibling gets bus, right?</p> <p>14 MR. MYERS: Yes, if he goes --</p> <p>15 MS. FABRE: Yes.</p> <p>16 MR. MYERS: If you have a sibling there but</p> <p>17 there's no -- I think the issue is there's no cap on the</p> <p>18 number of students that have to have bussing requirements</p> <p>19 for Forest Road.</p> <p>20 MS. WAGNER: Helene, I believe there is a bussing</p> <p>21 requirement for Forest Road.</p> <p>22 MS. FABRE: Yeah, we had -- yes. We have a --</p> <p>23 MR. MYERS: I haven't seen that in a special</p> <p>24 exception. They found -- they did -- maybe I didn't see it.</p> <p>25 I note - you note the number of student -- the percentage of</p>

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<p>181</p> <p>1 students when we're talking the 2002 special exception that</p> <p>2 you had something like between 50 and 60 percent of the</p> <p>3 students being bussed to that campus. Bu I don't think it</p> <p>4 was as requirement, who has to be on the bus to go to that</p> <p>5 campus.</p> <p>6 MR. KLINE: Can we le Ms. Fabre, please answer</p> <p>7 that?</p> <p>8 MR. MYER: Sure.</p> <p>9 Ms. FABRE: Yeah, there's a percentage we have to</p> <p>10 bus. That's why we have such an aggressive bussing</p> <p>11 operation. It's because we have to have over 50 percent of</p> <p>12 students on the bus.</p> <p>13 THE COURT: At Forest Road?</p> <p>14 MS. FABRE: Yes. And again, because we're going</p> <p>15 to have the cameras on Forest Road, no parent that doesn't</p> <p>16 have a student attending the Forest Road campus will be</p> <p>17 authorized. If they do it is a violation. That's precisely</p> <p>18 why we have this camera there, just to address your concern.</p> <p>19 MR. KLINE: But --</p> <p>20 MS. FABRE: And we cannot prevent students who</p> <p>21 attend the Forest Road school to come to the Forest Road</p> <p>22 school if we are within the cap of enrollment and we are</p> <p>23 abiding by the TMP.</p> <p>24 MR. MYERS: If you -- by your own admission</p> <p>25 there's something like 40 percent of the students could come</p>	<p>183</p> <p>1 it is going out of my head, but -- staggered departures and</p> <p>2 that kind of thing? Would you agree to something like that?</p> <p>3 MR. KLINE: Can I insert myself in there just to</p> <p>4 go back to suggest what --</p> <p>5 THE COURT: Yeah.</p> <p>6 MR. KLINE: Thank you. I think the answer is we</p> <p>7 want to make the school work. The school is the optimistic</p> <p>8 that things will work next year and knows the tools. But it</p> <p>9 would want something to trigger having to implement programs</p> <p>10 that don't otherwise need to be necessary. So I would leave</p> <p>11 that with the NLC to work that out.</p> <p>12 MR. MYERS: I'm a little weary of that Mr. Kline,</p> <p>13 just simply because of the length of time that we have gone</p> <p>14 on to try and resolve the traffic problems on Forest Road.</p> <p>15 It started in 2012 and I've gotten numerous NLC meetings</p> <p>16 when the issue of trying to resolve traffic up and did not</p> <p>17 get resolved prior to COVID.</p> <p>18 THE COURT: Well, the other --</p> <p>19 MS. FABRE: I don't believe --</p> <p>20 THE COURT: You know, the other thing I could do</p> <p>21 is say in one year the NLC will review the operation of the</p> <p>22 Forest Road school. I mean we could do something like that.</p> <p>23 And report back. If the Board of Appeals wants to retain</p> <p>24 jurisdiction for a year, they used to do that.</p> <p>25 MR. MYERS: There special exception from the</p>
<p>182</p> <p>1 by POV to Forest Road?</p> <p>2 MS. FABRE: That's an agreement with the current</p> <p>3 TMP and the current special exception.</p> <p>4 MR. MYERS: Yeah, I --</p> <p>5 (Crosstalk)</p> <p>6 MS. FABRE: -- to a campus.</p> <p>7 MR. MYERS: Just seeing, looking at numbers</p> <p>8 compared to the --</p> <p>9 MS. FABRE: But that's not against anything that</p> <p>10 is specified in this special --</p> <p>11 (Crosstalk)</p> <p>12 MR. MYERS: No, I know that. I know that. I'm</p> <p>13 just stating that's for the record in terms of the number</p> <p>14 of -- the potential number of people who could drive to</p> <p>15 Forest Road compared to the other campus.</p> <p>16 THE COURT: Well, I guess I have to go back to</p> <p>17 what we're trying to accomplish. Are we trying to prevent</p> <p>18 backups at Forest Road?</p> <p>19 Mr. MYERS: Well, the backups hopefully we've</p> <p>20 solved. If we haven't then we're looking at what might</p> <p>21 compound it.</p> <p>22 THE COURT: Well, you know the best -- Ms. Fabre,</p> <p>23 your trip measures at Forest Road, it sounds like they've</p> <p>24 been working. Would you agree to a condition that you</p> <p>25 continue to implement traffic control and the other part of</p>	<p>184</p> <p>1 board for the high school says that they do -- the school is</p> <p>2 responsible for the behavior of its parents on the</p> <p>3 neighborhood streets and the Board of Appeals is retaining</p> <p>4 jurisdiction over that special exception.</p> <p>5 THE COURT: Right. But I guess what's making me</p> <p>6 uncomfortable is I don't have that special exception in</p> <p>7 front of me.</p> <p>8 MR. MYERS: I can send it to you. I've got it,</p> <p>9 but I can't show it to you.</p> <p>10 THE COURT: No, no. I mean that's not in this</p> <p>11 application.</p> <p>12 MR. MYERS: Okay.</p> <p>13 THE COURT: Except it is. But I mean it's the</p> <p>14 fact of, like you said that operate in conjunction with each</p> <p>15 other. Now, I could take a voluntary condition saying that</p> <p>16 you will revisit the Forest Road. Requiring it, I'm</p> <p>17 uncomfortable with. Unless Mr. Brown to give me more</p> <p>18 comfort. But I know what you're dealing with, you're</p> <p>19 dealing with one entity that has an impact on the</p> <p>20 neighborhood in two different locations.</p> <p>21 MR. MYERS: Correct.</p> <p>22 THE COURT: And so the question is how far can I</p> <p>23 go to regulate the second location? Now, I do regulate</p> <p>24 operations at this location is that columns whatever is at</p> <p>25 the second location, but it sounds to me like the issues are</p>

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<p>185</p> <p>1 that the Forest Road campus.</p> <p>2 So I guess what I'm saying is you know, I could</p> <p>3 put an overall condition that the board retain jurisdiction</p> <p>4 for a year to review the operations of the combined</p> <p>5 campuses.</p> <p>6 MR. MYERS: That sounds logical to me.</p> <p>7 THE COURT: Now, I know that --</p> <p>8 MR. KLINE: Now, that could --</p> <p>9 THE COURT: Well, wait a minute. I need to hear</p> <p>10 from the school because, you know I know I'm kind of hitting</p> <p>11 you cold with this Mr. Kline, so do you want to comment?</p> <p>12 MR. KLINE: Yeah. But it's not going to be very</p> <p>13 well thought out. I'm really uncomfortable time the two</p> <p>14 together. I just don't think it should be done. I thought</p> <p>15 this question dealt more with what Mr. Wilkinson's concern</p> <p>16 is, and that is more traffic to the site, not the</p> <p>17 operational problems that seem to have been addressed. So I</p> <p>18 think it's -- so I think we're coming up for solutions, were</p> <p>19 basically talking about instituting programs to solve the</p> <p>20 problem that we don't think it's necessarily going to be</p> <p>21 there.</p> <p>22 You have the right to basically put a condition</p> <p>23 saying one year from now the Rockville Pike, or one year</p> <p>24 from operation the Rockville Pike application should be</p> <p>25 brought in just to see how it's working out. And</p>	<p>187</p> <p>1 be very narrowly targeted to the inter-relationship issue.</p> <p>2 THE COURT: Right.</p> <p>3 MR. KLINE: To go back to the condition. Have we</p> <p>4 reached any understanding of what we think is the effect</p> <p>5 of -- on the Forest Road campus with the operation of the</p> <p>6 Rockville Pike campus? I have a feeling we probably haven't</p> <p>7 totally come to a consensus on that.</p> <p>8 MR. MYERS: I think that was listed as one of the</p> <p>9 items on remand. It wasn't answered.</p> <p>10 THE COURT: I think what I said is should the</p> <p>11 Forest Road campus be amended at the same time as this, and</p> <p>12 is it a non-inherent adverse impact if you've got two</p> <p>13 conditional -- two special exceptions in the neighborhood</p> <p>14 operating as one.</p> <p>15 MR. KLINE: And in pursuing that, I actually</p> <p>16 think the Hearing Examiner may be surprised to hear me say</p> <p>17 this, but I actually think it probably is a non-inherent</p> <p>18 problems. But we thought we solved that by virtually</p> <p>19 eliminating all the cut through traffic through the</p> <p>20 neighborhood. So we didn't think it was a problem any</p> <p>21 longer.</p> <p>22 MR. KLINE: Okay. Well, I understand the issue.</p> <p>23 That's part of the goal. I'm not sure how far I could go on</p> <p>24 it. And I'm just going to have to think that through.</p> <p>25 MS. UMHOFFER: Can I ask one question that might</p>
<p>186</p> <p>1 derivatively from them, probably the question of four stroke</p> <p>2 will come up. And that's, I think, as far as you can go</p> <p>3 because as you pointed out you don't have any jurisdiction</p> <p>4 over the Forest Road special exception in this proceeding.</p> <p>5 THE COURT: Right.</p> <p>6 MR. KLINE: Mr. Brown?</p> <p>7 MR. MYERS: Is he here?</p> <p>8 THE COURT: Mr. Brown?</p> <p>9 MR. BROWN: I think that's a somewhat cramped</p> <p>10 diversion of your authority. You have the authority to</p> <p>11 recommend denial of the special exception, and I think that</p> <p>12 within that authority is the authority to recommend</p> <p>13 conditional approval on any condition that is rationally</p> <p>14 related to making sure that the operation at the Rockville</p> <p>15 Pike campus is efficacious.</p> <p>16 And if that includes a condition that impacts the</p> <p>17 interrelated other campus I think that that is a natural and</p> <p>18 logical connection that you could make. And I think it</p> <p>19 would be completely defensible.</p> <p>20 THE COURT: Well, let's do this. If anybody</p> <p>21 wants to submit a condition of look at it and I need to</p> <p>22 think through it. I don't know -- I want the (inaudible) to</p> <p>23 work correctly. So let me think through that. That's all I</p> <p>24 can say right now.</p> <p>25 MR. BROWN: If we do submit a condition, it will</p>	<p>188</p> <p>1 help clarify?</p> <p>2 THE COURT: Uh-huh.</p> <p>3 MS. UMHOFFER: And this is probably for Ms.</p> <p>4 Wagner, or for Ms. Fabre. I know that -- I think one of the</p> <p>5 concerns that has been articulated that we haven't discussed</p> <p>6 today is that when you have the Forest Road campus acting as</p> <p>7 the hub, you may have parents arrived there and then have to</p> <p>8 wait for their student to arrive by shuttle from the other</p> <p>9 campuses, and that creates some of the backup because they</p> <p>10 can't just pull through, get their student, and leave.</p> <p>11 And I wonder if we could, but, if addressing that</p> <p>12 is one of the key ways we could adjust the problem there?</p> <p>13 MS. FABRE: Well, the way we address this is</p> <p>14 about making the parents part because we have a parking lot</p> <p>15 on Access Road that we are aggressively using so far, that</p> <p>16 we are using. So that the parents that are waiting don't</p> <p>17 actually slow the pickup process. So we are using the</p> <p>18 parking lot.</p> <p>19 MS. UMHOFFER: So this was a new measure that you</p> <p>20 just implemented that perhaps we want to make permanent; is</p> <p>21 that correct?</p> <p>22 MS. FABRE: Well, something that already existed,</p> <p>23 we are just forcing it now.</p> <p>24 MR. MYERS: Yeah but I think what my concern is</p> <p>25 with the all these tools in the toolbox and I think what</p>



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<p>189</p> <p>1 triggers in them being done and how we get them implemented 2 rather than just saying we'll deal with it when it occurs, 3 it's something we have to work out we don't want to be in a 4 situation where in another couple of years down the road we 5 are still arguing over the amount of traffic that is backing 6 up on Montgomery Drive and Beech Avenue. I think we need 7 to -- I don't know if we can do it through this proceeding, 8 which I'm hearing pretty much it's kind of hard to deal 9 with, but we have to be able to address the Forest Road 10 traffic issue. And my goal, as I said in the original 11 hearing, is I don't want to do anything with the new campus 12 to make it worse for the Forest Road campus. 13 THE COURT: All right. Well, I'm not sure were 14 going to reach agreement on how to handle this. Does anyone 15 else have a comment? And I'm going to look at it. The best 16 I can think of off the top of my head, is some requirement 17 that the board retain jurisdiction to look at the traffic -- 18 for a year to assess the traffic operations of the school, 19 which would bring in Forest Avenue. 20 So unless somebody else has a suggestion, we can 21 move on from that. 22 MR. KLINE: Then, we'll go to something easy; 23 children playing outside. 24 THE COURT: Well, what I don't want to do is 25 reopen an examination. I would limit it to traffic impact.</p>	<p>191</p> <p>1 MR. KLINE: So maybe the best thing to do is just 2 have Ms. Fabre just sort of highlight what this tell us. 3 MS. FABRE: Sure. So we are showing -- we have 4 detailed the number of recess per day, the length, the 5 duration of each recess. So we have one in the morning, 20 6 minutes; one at lunchtime, 30 minutes; another one at 7 lunch -- in the afternoon for 20 minutes. We've indicated 8 in the little table that you have on the following page, 9 hopefully you can see the times. 10 So we've staggered the recess periods so that we 11 would minimize the number of students present on the 12 playgrounds at one point in time. And in order to determine 13 the maximum capacity we've used a ratio that is used by the 14 childcare service of 75 square feet per child for playground 15 areas. So you have the -- as the little table shows it 16 there is a total capacity of 550 students and we are going 17 to be having a maximum of 390 during the first rotation, and 18 290 during the second rotation. 19 THE COURT: And those numbers include the two 20 playgrounds on the north side -- or the playground on the 21 north side, right? Those total -- 22 MS. FABRE: The -- the two playgrounds on the 23 north side are dedicated to the two-year-olds only. And so 24 it's only 24 students that will use that playground on the 25 north side.</p>
<p>190</p> <p>1 I don't want to reopen examination of Forest Road. I would 2 just look at the traffic impact because that's the biggest 3 tie between the two. 4 MR. MYERS: Yes. 5 THE COURT: And I don't want to reopen everything 6 in Forest Road. 7 MR. MYERS: No, we weren't looking to do that. 8 THE COURT: All right. Let's move on. I have -- 9 where are we now? 10 MS. WAGNER: 8. 11 THE COURT: Okay. No response -- well, what is 12 8? 13 MS. WAGNER: Jody, you're on mute. 14 MR. KLINE: Thank you. Sorry about that. Yeah, 15 question number 8 deals with outdoor activities during the 16 academic year, summer camps and Saturday classes. It's said 17 that there was no response, but in fact, if you take a look 18 at Exhibit 95, pages A 40 and 41 as the attachment to the 19 staff report, or the supplemental staff report it does lay 20 out the activities. 21 MS. WAGNER: Page 8. 22 THE COURT: 8? 23 MS. WAGNER: 8. 24 THE COURT: I thought you said 41. 25 Okay.</p>	<p>192</p> <p>1 THE COURT: Okay. 2 MR. KLINE: Madam Hearing Examiner, since we're 3 talking about the activity levels on the fields, maybe this 4 would be an appropriate opportunity to address Mr. Seid's 5 question about what happens to the athletic fields or the 6 playgrounds when the road moves. 7 THE COURT: Okay. And Ms. Clark, are you there? 8 MS. CLARK: Yeah. 9 MR. KLINE: Okay. Ms. Clark, are you in a 10 position to be able to put up an exhibit that would show us 11 probably -- and obviously, you don't have a new exhibit 12 showing a relocated road, but can you basically pull up an 13 exhibit and explain to the parties involved what the 14 relocation of the road 16, 15, 13 feet to the east is going 15 to do to the playfields? 16 MS. CLARK: Yes, I can do that. 17 MR. KLINE: Do you have what you need or does the 18 Hearing Examiner need to help you? 19 MS. CLARK: I have it up, if I can share it if 20 that's the easiest. 21 THE COURT: You should be able to. 22 MS. CLARK: Okay. Can that be seen? 23 THE COURT: Yes. 24 MS. CLARK: Okay. 25 THE COURT: And can you give me -- I can't read</p>

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<p>193</p> <p>1 it so can you give me --</p> <p>2 MS. CLARK: I apologize. It is number 94-A.</p> <p>3 THE COURT: Okay. Thank you.</p> <p>4 MS. CLARK: Okay. Now, this shows obviously, the</p> <p>5 existing loop road. We haven't had a chance to revise the</p> <p>6 plan. But the loop road will come in farther and cut off a</p> <p>7 portion -- a small portion -- a small corner of the</p> <p>8 synthetic turf field here and then also it will come in and</p> <p>9 cut off about 25 percent of that asphalt hard surface play</p> <p>10 area for the elementary school students.</p> <p>11 THE COURT: So -- okay. Let me just say the</p> <p>12 transcript doesn't recognize here.</p> <p>13 MS. CLARK: I apologize.</p> <p>14 THE COURT: Can you just describe what the</p> <p>15 portions that it will lop off?</p> <p>16 MS. CLARK: Sure. The loop road will move to the</p> <p>17 north, as Jody said, 13.7 feet to accommodate that setback</p> <p>18 which will cut into the asphalt play area for the elementary</p> <p>19 school students.</p> <p>20 THE COURT: Okay.</p> <p>21 MS. CLARK: Which is currently shown as 7,725</p> <p>22 square feet. The new hard surface play area will be more on</p> <p>23 the order of 6,000.</p> <p>24 THE COURT: Okay.</p> <p>25 MS. CLARK: So it will be about a 25 percent</p>	<p>195</p> <p>1 MR. KLINE: So does that information answer</p> <p>2 question number 8 about the use of the -- when they're going</p> <p>3 to be outside, and now, in what areas?</p> <p>4 THE COURT: It does for me. If anyone else has</p> <p>5 any questions, please weigh in.</p> <p>6 Okay. Hearing none. Why don't we go to the next</p> <p>7 item?</p> <p>8 MR. KLINE: Number 9 was a question with a</p> <p>9 request to have a, basically a professional study done</p> <p>10 identifying noise levels for the play areas. And on</p> <p>11 mentioned number 10 also since it was similar, just with the</p> <p>12 bus issues. Mr. Kane addressed both subjects. So it's a</p> <p>13 been addressed. I don't know if it's been addressed to the</p> <p>14 satisfaction of the parties, so I guess we will be available</p> <p>15 to answer any questions. We released Mr. Kane, but we could</p> <p>16 try and answer any questions you might have, if any.</p> <p>17 THE COURT: Anyone have questions?</p> <p>18 MR. MYERS: No, not from me.</p> <p>19 THE COURT: Okay. Hearing none, let's move on.</p> <p>20 MR. KLINE: And so number 11 is again, another</p> <p>21 noise question. And if Mr. Seid will allow me to sort of</p> <p>22 summarize Mr. Kane's testimony, a fence can provide some</p> <p>23 attenuation, although the more solid defense is the more</p> <p>24 effective it is. We will build the most noise type fence</p> <p>25 and sight type fence possible, and I think it would be fair</p>
<p>194</p> <p>1 reduction in that play area. The loop road will then tie</p> <p>2 back in into what were previously showing, before it cuts</p> <p>3 into any additional playgrounds. So it will really only</p> <p>4 affect the synthetic turf field slightly and then the</p> <p>5 majority of the effects will be felt by that hard surface</p> <p>6 play area.</p> <p>7 THE COURT: Okay.</p> <p>8 MS. CLARK: This will reduce the capacity of that</p> <p>9 using the 75 square foot rule of thumb that we were using to</p> <p>10 determine the capacity of our playgrounds. It will reduce</p> <p>11 it by about 25 students.</p> <p>12 THE COURT: And are you saying that's sufficient?</p> <p>13 MS. CLARK: Yes. Per the table that Jody just</p> <p>14 showed, showing the breakdowns of the students that still is</p> <p>15 within the tolerances for the breakdown.</p> <p>16 THE COURT: Okay.</p> <p>17 MR. KLINE: Mr. Seid, does that answer your</p> <p>18 question, sir?</p> <p>19 MR. SEID: Yes it does, thank you. So you would</p> <p>20 still have the capacity, I think you are at 427, so you</p> <p>21 would still have a capacity for about 402 students, but the</p> <p>22 maximum would only be 300?</p> <p>23 MS. CLARK: Thereabouts, yes. Again, the plan</p> <p>24 hasn't been finalized but it's in that neighborhood.</p> <p>25 MR. SEID: Thank you.</p>	<p>196</p> <p>1 to say Mr. Kane said, it will have a nominal affect, it</p> <p>2 doesn't make it all go away, but it will certainly help, and</p> <p>3 probably, I think, if I remember what he said is moving the</p> <p>4 road 13 feet to the east probably, or 16 feet to the east</p> <p>5 probably will have more effect than the fence itself in any</p> <p>6 event.</p> <p>7 Mr. Seid?</p> <p>8 MR. SEID: Yeah, I do have one question, I guess</p> <p>9 that this goes to the road and noise. So it moves that 13,</p> <p>10 13-1/2 feet or so, are there going to be plant -- what's</p> <p>11 actually going to be in that space? Is there going to be</p> <p>12 some plantings or something?</p> <p>13 MR. KLINE: Ms. Clark, can you bring up the</p> <p>14 exhibit you had earlier, if the Hearing Examiner will allow</p> <p>15 you to do that and maybe you can help us --</p> <p>16 THE COURT: Yeah, go ahead.</p> <p>17 MR. KLINE: 94-A? So Ms. Clark, can you</p> <p>18 basically help the Hearing Examiner understand where the</p> <p>19 fence is today and where it will remain and where it will be</p> <p>20 extended. And then, what landscaping is to go on in there,</p> <p>21 if you know.</p> <p>22 MS. CLARK: Okay. This is the existing fence to</p> <p>23 the --</p> <p>24 THE COURT: Okay. What is "this"?</p> <p>25 MS. CLARK: East of his property is the line with</p>

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<p>197</p> <p>1 the two dashes; that is the fence that is existing that is 2 to remain. Our proposed fence is not currently shown on 3 this plan, but it will run parallel to the proposed driveway 4 and tie into the existing fence. 5 THE COURT: Okay. Are you clear on that Mr. 6 Seid? 7 MR. SEID: Yes, and I apologize because I have a 8 dog barking in the background. Right. So extending -- 9 MS. CLARK: The fence is going to un close to the 10 property lines so any additional plantings and screenings 11 would be on the school side of the fence and would have 12 limited impact. 13 MR. SEID: I apologize for the dog barking. 14 Because I realize the fence is actually in the forest 15 conservation area. So anything you plant would have to be 16 behind the fence and into your property. But are you 17 expecting to have some type of additional plantings or 18 something? 19 MS. CLARK: Potentially. We haven't looked into 20 that. But I don't know how much they would really add any 21 additional screening past the fence. 22 MR. KLINE: And Ms. Clark, will the fence extend 23 to the north and then wrap around the corner so headlights 24 of vehicles on the road, though they're much higher above 25 the Seid house, would avoid shining onto the house?</p>	<p>199</p> <p>1 MR. MYERS: No, but -- 2 MS. CLARK: And then -- 3 MR. MYERS: Yeah. 4 MS. CLARK: I'm getting there. And then 5 replacing it with plantings to the extent that we can within 6 the limits of disturbance. 7 MR. MYERS: Okay. Thank you. 8 MS. CLARK: Sod basically. 9 MR. MYERS: Okay. 10 THE COURT: Okay. Anything else? 11 MR. KLINE: Number 12 is an acoustical question 12 again, and I'll just ask if Mr. Seid was comfortable with 13 Mr. Cody's explanation of the noise level from the cars 14 moving, hopefully slowly, along the drive lane. 15 MR. SEID: Yeah, I guess the only question I had 16 on that, is that as I understand people coming in off 17 Rockville Pike there is going to be, I guess an area where 18 people are getting there say before 7:00 a.m. that they are 19 going to be able to line up. That there is a gate that they 20 would be able to line up, if I remember correctly. 21 MR. KLINE: Ms. Wagner, could you pull up that 22 exhibit? 23 MS. WAGNER: Yes. 24 MR. SEID: Because that would just lead into a 25 follow-up question.</p>
<p>198</p> <p>1 MS. CLARK: Correct. 2 THE COURT: And it'll be opaque, right? 3 MS. CLARK: Yes. It will be a standard board-on- 4 board wooden fence. 5 THE COURT: Well, I think what I heard the sound 6 expert say, I'm not sure board-on-board. He said the best 7 sound attenuation is from a solid fence. I don't know if 8 what you call is board-on-board, but he said a solid fence, 9 which would also be opaque. 10 MS. CLARK: Yes. I mean, it would essentially be 11 a solid fence as the boards are placed adjacent to each 12 other. At one point we had a detail of the fence in the 13 records. I can't -- 14 THE COURT: I'll look for it. 15 MS. CLARK: But it's a solid a fence as you could 16 get without it being one sheet, which wouldn't really 17 constitute a fence. That would be a wall. 18 THE COURT: Yes. Okay. Okay. Any other 19 questions? 20 MR. MYERS: Can I just ask one thing of her? 21 The -- it's really something that's come up a little later, 22 but the current access point from Alta Vista Terrace is 23 going to be torn up; what's going to happen to that land? 24 MS. CLARK: We're going to replace it with curb 25 and gutter at the right-of-way.</p>	<p>200</p> <p>1 MR. KLINE: Sure. 2 THE COURT: I thought the gate was on the north 3 side. 4 MR. KLINE: Well, that's what he's talking about. 5 MR. SEID: Yeah, it's on the other side but the 6 question I had is, is that gate past the entrance to the 7 parking garage for faculty that will be showing up? So in 8 other words, will cars actually be able to stack along that 9 line, or are they going to have to continue past it in order 10 to allow faculty to be able to enter the garage? 11 MS. WAGNER: The gate will be open for faculty 12 and staff to get in without having to stop and wait. They 13 will be able to continue -- when staff are arriving they 14 will continue into the campus. 15 MR. SEID: Because I thought staff have to go all 16 the way around the link. I thought they were going to go 17 straight into the garage. Am I'm missing something? Or 18 have -- in other words, if somebody gets there at 5 to 7:00 19 that wants to drop off a kid and they have to wait how does 20 a faculty person getting there at 5 to 7:00 get all the way 21 around or something? Or just how does that work? 22 MS. WAGNER: I don't believe we changed that. 23 Jody or -- 24 MR. SEID: I don't think it has changed; I'm just 25 trying to understand how it works.</p>

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<p>201</p> <p>1 MS. WAGNER: Yeah, no. it's staff would make 2 this loop around here and then enter the parking garage and 3 then park. And when they're exiting they will exit out of 4 the parking garage and travel towards the entrance following 5 the same route that they came in.</p> <p>6 MR. SEID: So if someone gets there early that's 7 going to be dropping off a kid, where, exactly, are they 8 waiting?</p> <p>9 MS. WAGNER: They will -- the -- they will drive 10 into the campus; they will pass through the security gate 11 because the security gate will recognize their license plate 12 and continue into campus and either drop or -- drop off 13 their student to park and then exit back out.</p> <p>14 MR. SEID: But where are they wait if they're 15 there early? That's what I'm trying to understand. Would 16 they be waiting -- and you're not going to be able to see 17 what I'm pointing at. But are they going to be waiting near 18 the parking garage and the gate there or are they going to 19 be waiting at the other end of the loop by the drop-off 20 site?</p> <p>21 MS. WAGNER: They will be waiting by the inbound 22 security gate.</p> <p>23 MR. SEID: And the inbound security gate. And 24 then so how do -- how does faculty get past a car waiting?</p> <p>25 MS. WAGNER: We won't try to have cars be</p>	<p>203</p> <p>1 they would just be in front of the school waiting until the 2 exact time that it arrives. Or they will park in the 3 parking garage to walk the student into school.</p> <p>4 MR. SEID: So there could be some queuing of 5 people --</p> <p>6 MS. WAGNER: And this would be a matter of one or 7 two cars parked for a few minutes on campus.</p> <p>8 THE COURT: Your basic question is there a 9 situation where cars are going to queue around the northern 10 part near your drive -- near your house; is that what your 11 question is? Are you going to have queues going right --</p> <p>12 MR. SEID: Correct. If they're going to be 13 back --</p> <p>14 THE COURT: Why don't we -- let me ask I that 15 way. Ms. Wagner -- whoever wants to answer; is there a 16 probability, or a likelihood that queues could occur in that 17 area of the loop or the access drive?</p> <p>18 MS. WAGNER: No, there is a very minimal to none 19 likelihood that cars will be queuing behind Mr. Seid's 20 property.</p> <p>21 THE COURT: And that's because why?</p> <p>22 MS. WAGNER: Because there are so few elementary 23 school students being dropped off as well as there is a 24 giant parking garage for staff and nursery school students 25 to be parking in.</p>
<p>202</p> <p>1 waiting.</p> <p>2 MR. SEID: Well, if they're there at -- if two 3 cars are arriving at 5 to 7, one is a faculty who obviously 4 has a right to get in and one is a student and it's before 5 the 7:00 opening, where -- I'm just confused as to where 6 that student has to wait or where does that car go?</p> <p>7 MS. WAGNER: I think that the fact that they will 8 just buzz the front gate and let them into the campus. The 9 front desk.</p> <p>10 MR. SEID: So they could arguably be stacking and 11 kind of all the way around at the end of the loop or just 12 waiting to (inaudible) to do the drop-off?</p> <p>13 MS. CLARK: Aren't the time staggered, Katie? Or 14 staff and parents dropping --</p> <p>15 MS. WAGNER: I think what he's saying -- I think 16 he's saying if people arrive when they're not supposed to be 17 arriving.</p> <p>18 MR. SEID: Well, it would be kind of (inaudible) 19 they're not supposed to because the pre -- if the precare 20 starts at 7, and you don't want stacking on Rockville Pike 21 that means students have to be able to come in and be in the 22 school property. And so I'm just trying to understand where 23 are they waiting within --</p> <p>24 MS. WAGNER: Then it depends on how old the 25 student is. If they are an elementary school student then</p>	<p>204</p> <p>1 THE COURT: Okay. Any other questions?</p> <p>2 Okay. Hearing none, let's go to the next 3 checklist item.</p> <p>4 MR. KLINE: Number 13, deals with the calendar of 5 school programs. IT said the information was not provided, 6 but I think you'll find on page 11 of the Applicant's 7 response to your order, page 11 and 12. If you pull up 8 14 --</p> <p>9 THE COURT: Yeah, I remember seeing that. Let me 10 just see. It should be on your screen. Is this what you're 11 referring to?</p> <p>12 MR. KLINE: Yes, ma'am.</p> <p>13 THE COURT: Okay.</p> <p>14 MR. KLINE: And we'd be glad to answer any 15 questions about it, but I think it does detail in quite a 16 lot of detail the various activities and what they are 17 involved and a lot of features related to each of those 18 activities.</p> <p>19 THE COURT: Does anyone have any questions on 20 this?</p> <p>21 Okay. Hearing none, let's go back to 119.</p> <p>22 MR. KLINE: And I think paragraph 14 is a similar 23 question and I think the same chart applies.</p> <p>24 THE COURT: Okay. Any questions on 14?</p> <p>25 Okay. Hearing none, we'll go to 20.</p>

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<p>205</p> <p>1 MR. KLINE: Okay. Well, so you're --</p> <p>2 THE COURT: I thought the whole -- you want to</p> <p>3 hear -- you want to go through all of them so you --</p> <p>4 MR. KLINE: No. Well, no ma'am. I'm -- the</p> <p>5 Applicant is comfortable with 15 through 19. I just want to</p> <p>6 make sure that's true of all the parties because this is an</p> <p>7 MCA document.</p> <p>8 THE COURT: Okay. Does anyone have any questions</p> <p>9 on -- let's see. I think the remand that's the lighting,</p> <p>10 the wooden fence abutting Mr. Seid's property, and overflow</p> <p>11 parking at special events.</p> <p>12 Does anyone have any questions on the response to</p> <p>13 that? Okay. Hearing none, let's go to -- now, did we do</p> <p>14 19? 19 is --</p> <p>15 MR. KLINE: Stormwater management.</p> <p>16 THE COURT: Okay. Do you want to say anything on</p> <p>17 that Mr. Kline?</p> <p>18 MR. KLINE: I -- Ms. Clark would love to brag</p> <p>19 about what they're doing, but it's probably unnecessary if</p> <p>20 nobody has any questions.</p> <p>21 THE COURT: Does anyone have any questions on the</p> <p>22 Petitioner's response to the remand item 19?</p> <p>23 MS. UMHOFFER: Yes, I have one. I know in one of</p> <p>24 the -- this is Becky Umhofer. In one of the earlier</p> <p>25 presentations they told us about how the stormwater would be</p>	<p>207</p> <p>1 the property will be reduced which causes the decrease in</p> <p>2 runoff.</p> <p>3 MS. UMHOFFER: You're saying the impervious area</p> <p>4 will be reduced?</p> <p>5 MS. CLARK: Yes. The area which is straining to</p> <p>6 your property. You can see the area A in the top, the</p> <p>7 existing shows a corner parking lot that drains toward your</p> <p>8 property.</p> <p>9 MS. UMHOFFER: Okay.</p> <p>10 MS. CLARK: On the top, that parking area is</p> <p>11 being removed. And you see in the area which she has up for</p> <p>12 right now that our new impervious area is curbed and doesn't</p> <p>13 drain towards your property in the post-development</p> <p>14 condition. So it's just pervious -- the woods and grass</p> <p>15 that's going to drain to your property in the post-</p> <p>16 development, which causes a reduction in flow.</p> <p>17 MS. UMHOFFER: Great. Thank you. Now, and if</p> <p>18 any -- I don't know who can answer this question, but if you</p> <p>19 did choose at some future time to put a patio outside the</p> <p>20 Beaumont House, for instance, what procedure would you have</p> <p>21 to go through to make sure that that didn't create a</p> <p>22 drainage problem?</p> <p>23 MS. CLARK: That would depend on the size of the</p> <p>24 patio and the disturbance.</p> <p>25 THE COURT: Well it would be an amendment to the</p>
<p>206</p> <p>1 reduced in certain zones in the zone that my house was in,</p> <p>2 and was told they would have to get back to me. So I'm</p> <p>3 wondering if Ms. Clark is the right person to talk to talk</p> <p>4 through that?</p> <p>5 MS. CLARK: Yes. Exhibit 94-D. I can share</p> <p>6 that.</p> <p>7 THE COURT: I've got it.</p> <p>8 MS. CLARK: Do you want to pull it up, or would</p> <p>9 you like me to share it?</p> <p>10 THE COURT: It should be -- oh. I think what I</p> <p>11 did. It's coming. Okay. Do you see it?</p> <p>12 MS. CLARK: Yes. So initially we had -- I had</p> <p>13 done computations for areas B and C for the storm drainage.</p> <p>14 Area A is that which relates to your property. And these</p> <p>15 computations detail that the reduction of drainage in your</p> <p>16 property will be on the magnitude of between 14 and 30</p> <p>17 percent, depending on the storm intensity. That's the table</p> <p>18 in the lower right-hand corner.</p> <p>19 THE COURT: Let me see if I can --</p> <p>20 MS. UMHOFFER: It's okay. I can -- if she's</p> <p>21 reading it that's fine; 14 to 30 percent?</p> <p>22 MS. CLARK: Yes. The number is the actual</p> <p>23 numbers of volume and cubic feet per storm are calculated</p> <p>24 there for your drainage area as I said is A, as it relates</p> <p>25 to your property. The impervious area on the school side of</p>	<p>208</p> <p>1 conditional use.</p> <p>2 MS. CLARK: Yes, which would then kick us into a</p> <p>3 storm water management concept, at which point those issues</p> <p>4 would have to be addressed.</p> <p>5 MS. UMHOFFER: Okay thank you. That's all I have.</p> <p>6 THE COURT: Okay. Anything else from anyone?</p> <p>7 Okay. So our next --</p> <p>8 MR. KLINE: Paragraph 20 is it basically a</p> <p>9 question of how are you going to enforce the TMP, the</p> <p>10 license plate survey. And I'd like to be optimistic and</p> <p>11 think that part is understood by everybody?</p> <p>12 MR. MYERS: Yes, based on the testimony this</p> <p>13 morning.</p> <p>14 THE COURT: Now, I would like some language from</p> <p>15 you Mr. Kline, on how to write that the school is going to</p> <p>16 post the raw data from the traffic counts. If you can come</p> <p>17 up with something like that.</p> <p>18 MR. KLINE: Yeah, glad to do so. Thank you.</p> <p>19 THE COURT: I don't know what raw data -- I mean</p> <p>20 I don't know what the names of the stuff is and all that</p> <p>21 kind of stuff.</p> <p>22 Okay. Any more questions on 20? How about 21?</p> <p>23 MR. MYERS: I think we did --</p> <p>24 MR. KLINE: I think the library is mentioned --</p> <p>25 THE COURT: Yes, I shouldn't -- I was going to</p>

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<p>209</p> <p>1 skip over that one.</p> <p>2 MR. MYERS: Yes, please.</p> <p>3 THE COURT: Okay. Now we're at analysis items.</p> <p>4 Are we all (inaudible)?</p> <p>5 MR. KLINE: Well, there are four subcategories</p> <p>6 and since they are sort of critical I think I probably would</p> <p>7 like to break them down individually.</p> <p>8 THE COURT: That's fine.</p> <p>9 MR. KLINE: Okay. So A is traffic --</p> <p>10 THE COURT: I think --</p> <p>11 MR. KLINE: Go ahead --</p> <p>12 THE COURT: Go ahead. No, you go.</p> <p>13 MR. KLINE: Thank you. Sure. So A is can</p> <p>14 traffic for both schools, including shuttles be routed south</p> <p>15 to Cedar Lane and north on Old Georgetown Road and that is a</p> <p>16 very intrinsic part of the TMP, but for the shuttles that we</p> <p>17 talked about earlier. But everything else is supposed to</p> <p>18 use those perimeter roadways.</p> <p>19 THE COURT: Anyone have any questions on that?</p> <p>20 Okay. Hearing none, we will move on to number</p> <p>21 2 --</p> <p>22 MR. KLINE: Well, actually there's four</p> <p>23 subcategories in 1, A, B, C, D.</p> <p>24 THE COURT: Oh, okay. Go ahead.</p> <p>25 MR. KLINE: Right. And B is does the HOC access</p>	<p>211</p> <p>1 THE COURT: Well, then wait. Which special</p> <p>2 exception?</p> <p>3 MR. MYERS: For Forest Road.</p> <p>4 THE COURT: For Forest Road?</p> <p>5 MR. MYERS: Yes. I think that's on file with</p> <p>6 you.</p> <p>7 THE COURT: Okay. Well, I'll look for a</p> <p>8 condition.</p> <p>9 MR. MYERS: Very good.</p> <p>10 THE COURT: I think the condition that I had</p> <p>11 spoken of was looking at the overall traffic related to the</p> <p>12 operation of the school.</p> <p>13 MR. KLINE: Of the Rockville Pike application.</p> <p>14 THE COURT: Right.</p> <p>15 MR. BROWN: Mr. Myers and I will discuss this and</p> <p>16 get back to you in a timely fashion.</p> <p>17 THE COURT: That would be good. I mean, the</p> <p>18 alternative is that if Ms. Fabre is comfortable that you do</p> <p>19 something outside of this case with the neighborhood to</p> <p>20 address their concerns; that's an option as well.</p> <p>21 MR. KLINE: Understand.</p> <p>22 THE COURT: Okay.</p> <p>23 MR. KLINE: And 1 D is the easy one. What would</p> <p>24 be the impact of keeping the Alta Vista Terrace entrance?</p> <p>25 And I think it's safe to say that nobody even thinks about</p>
<p>210</p> <p>1 remain a viable option. Ms. Fabre has explained to you her</p> <p>2 discussions with HOC and we are allowed to retain it as an</p> <p>3 emergency entrance but not a viable full-scale entrance for</p> <p>4 operations.</p> <p>5 THE COURT: Okay.</p> <p>6 MR. KLINE: Number 3, this goes back to something</p> <p>7 you alluded to earlier. Should a modification of the</p> <p>8 special exception for Forest Road be considered in</p> <p>9 conjunction with this modification to better coordinate and</p> <p>10 analyze the traffic impact of both operations. And you then</p> <p>11 invited us to submit suggested conditions for you on that</p> <p>12 subject.</p> <p>13 THE COURT: And did you?</p> <p>14 MR. KLINE: No. You invited them today. We</p> <p>15 haven't started writing yet.</p> <p>16 THE COURT: Okay.</p> <p>17 MR. KLINE: But I've been mindful that to be</p> <p>18 effective we need to do it quickly so that people can look</p> <p>19 at it and comment on it.</p> <p>20 MR. MYERS: I think also, then this is something</p> <p>21 Mr. Brown and I, and Mr. Kline discussed earlier whether we</p> <p>22 want -- whether there was going to be a modification to the</p> <p>23 special exception for Forest Road based on the traffic and</p> <p>24 we said -- we agreed there would be no modification to the</p> <p>25 special exception in and of itself.</p>	<p>212</p> <p>1 that any longer.</p> <p>2 THE COURT: (inaudible) I got -- was shot down on</p> <p>3 that one. I thought it might divert traffic off of Alta</p> <p>4 Vista, but apparently not. So okay.</p> <p>5 MR. KLINE: Number 2 was your question about the</p> <p>6 non-inherent situation. And as I said, the Applicant's</p> <p>7 position is yeah, having those two schools coming together</p> <p>8 could cause a problem, but we feel that we have addressed</p> <p>9 that by eliminating the non-resident traffic from using the</p> <p>10 local streets. So I think that addresses -- means that it's</p> <p>11 no longer a non-inherent characteristic that would be a</p> <p>12 problem.</p> <p>13 THE COURT: Well, you've still got the bus</p> <p>14 traffic, correct?</p> <p>15 MR. KLINE: Yea, but we're going from 8 to 12, 9</p> <p>16 to 12 so we didn't think that was a significant change.</p> <p>17 THE COURT: Well, it could be non-inherent, but</p> <p>18 not justify denial. So -- you know what I'm saying? You</p> <p>19 can have a non-inherent condition that doesn't require</p> <p>20 denial. I think it's a non-inherent characteristic to have</p> <p>21 one school at two locations in the same neighborhood.</p> <p>22 Now, that doesn't mean it gets every non-inherent</p> <p>23 characteristic is denied if you have worked to get rid of</p> <p>24 that impact.</p> <p>25 MR. KLINE: We understand.</p>

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<p>213</p> <p>1 THE COURT: But you can argue that it's not. 2 That's fine. 3 MR. KLINE: Well, Grace Episcopal School has two 4 campuses and the -- basically one on Georgia Avenue and one 5 on Connecticut Avenue but I don't believe they bus to each 6 other. So they just don't have any relationship and 7 therefore there's no non-inherent problem 8 MR. MYERS: But they're not in the same 9 neighborhood. 10 THE COURT: Well, this does bus to each other. 11 MR. KLINE: Yes, I understand that. That's why 12 we concede it probably could be but we've eliminated that 13 possibility. 14 THE COURT: To some -- well, you've still got the 15 shuttles going through, right? 16 MR. KLINE: We still would have the shuttles 17 going through and we just did not think that, and 18 particularly the increase had an adverse effect on the 19 neighborhood. 20 THE COURT: I understand. That's different from 21 non-inherent, but it's okay. I understand your position. 22 MR. KLINE: Can we move on then? 23 THE COURT: Yes. 24 MR. KLINE: This is probably, might bring up a 25 little bit more discussion. So number 3 reads, does the</p>	<p>215</p> <p>1 THE COURT: I'm still confused. Why -- if 2 they're capped at 750 vehicles, it's just -- are they capped 3 at 750 vehicles including buses? 4 MR. MYERS: 750 students. 5 MR. KLINE: Students. 6 MR. MYERS: The enrollment. 7 MR. KLINE: Oh, yeah, that's it. 8 MR. MYERS: It's the nature of the enrollment and 9 the increase in enrollment that may result in more siblings 10 being dropped off on Forest Road to go to the new campus. 11 MS. WAGNER: But again, you are correct that in 12 it's still 750 students can be dropped off, but you can't 13 just drop off a student if you don't go there. So it's 14 just -- there won't be an increase in the number of vehicle. 15 THE COURT: What you're saying is under existing 16 conditions it's not going to change? 17 MS. WAGNER: Yeah. Correct. 18 THE COURT: Now the question is -- 19 MS. WAGNER: It's still 750 students, but it's 20 just that there are going to be more kids getting out of the 21 cars. 22 THE COURT: Right. 23 MR. MYERS: Well -- 24 THE COURT: They'll all be going to -- 25 MS. WAGNER: Getting on a shuttle to go to a</p>
<p>214</p> <p>1 current traffic circulation plan, meaning in the proposal, 2 focuses westbound and northbound traffic and trips between 3 campus on neighborhood streets particular Alta Vista? And 4 MCA's position was it's been resolved except of the sibling 5 drop-offs. And I guess that takes us back to the 6 conversation we had earlier and I didn't know if you wanted 7 to bring it up again or -- let me rephrase that. 8 I mean, ask it again or just bypass it at this 9 point in time? 10 THE COURT: Well, what is the issue with the 11 sibling drop-offs? Is that the backup on Beech Drive that 12 were occurring off of Old Georgetown Road? That testimony? 13 MR. KLINE: Yes. Well, it's probably the volume 14 and input, and a potential congestion problem, depending on 15 operational circumstances. 16 But Mr. Myers, this is more your crusade so I'll 17 just defer to you. 18 MR. MYERS: Well, as I said and I don't want to 19 rehash it. It's been around since 2012, if we can resolve 20 it fine. But it does focus -- it does have a potential 21 (inaudible) simply because of the increase in the total 22 enrollment of the school with lot more sibling drop offs at 23 Forest Road than currently it is today. 24 MR. KLINE: And maybe you would like to invite 25 some kind of written --</p>	<p>216</p> <p>1 different campus. 2 MR. MYERS: Let me put that in somewhat a 3 perspective, if I may, and an example. Right now, say 4 somebody has three students that are all going to -- well, 5 it's the reverse. If students who go to the Forest Road 6 campus now, and there's three of them and they all go to 7 Forest Road, fine, they all get off at Forest Road. 8 But if two of them -- one of them goes to Forest 9 Road and two go to the new campus, you're still going to 10 have the same vehicle, but you're going to have more 11 student -- more sibling drop-off. Well, I think I've boxed 12 myself in. I think it's the fact that -- 13 MR. KLINE: Thank you, Alan. Thank you. 14 THE COURT: Maybe we should go out for beer and 15 discuss this. 16 MR. MYERS: I think it's the fact that the TMP is 17 prohibiting drop-offs at the new campus that could cause a 18 problem. I need to talk to -- I need to find out exactly 19 what's going on with Rollingwood and I have that capability, 20 as far as limitations on drop-offs at Rollingwood to verify 21 what Helene said. 22 MR. KLINE: Well, I thought that Ms. Wagner was 23 flirting with what I thought was a very simplistic answer, 24 and that is, if you cannot drive onto the Forest Road campus 25 unless you have a child in your car that goes to that</p>

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<p>217</p> <p>1 campus, who cares how many other kids you have in the car 2 that you're going to put on shuttle buses. It will not 3 increase the number of cars coming onto Forest Road. 4 THE COURT: Well, I guess the question is if they 5 are too young for shuttle buses, and then they will be 6 driving neighborhood street 7 MR. MYERS: Correct. 8 MS. WAGNER: They'll be restricted from driving 9 on the neighborhood streets. 10 MR. MYERS: How? 11 MS. WAGNER: And then you would just drop off 12 your students at the Rollingwood -- at the Rockville Pike 13 campus because you're allowed, and your Forest Road students 14 would have to get out of the car and take the shuttle the 15 other way. 16 THE COURT: Yeah, I didn't get that. So what 17 happens -- say I've got a three-year-old and -- 18 MS. WAGNER: A three-year-old and a ninth grader. 19 THE COURT: I was never late for dropping off. 20 But anyway, let's say I have one to drop off at Forest Road, 21 and then I get to drop off another one at the French 22 school -- at Rockville Pike. Where do I go? 23 MS. WAGNER: You would go to the Rockville Pike 24 campus, drop off your three-year-old -- 25 THE COURT: No, how? How?</p>	<p>219</p> <p>1 MS. WAGNER: People with students. 2 THE COURT: No, I know -- 3 MS. WAGNER: With siblings. I'm sorry. 4 THE COURT: I know that, but -- 5 MS. WAGNER: You got that part. 6 THE COURT: Which campus -- who starts at 7 Rockville and goes to Forest Road? And who starts at Forest 8 Road and comes to Rockville? 9 MS. WAGNER: Okay. 10 THE COURT: You said if I had a preschooler -- 11 MS. WAGNER: Yes. 12 THE COURT: I would go to Rockville and drop the 13 preschooler off. 14 MS. WAGNER: Yes. 15 THE COURT: Is there anything prohibiting me from 16 going to Forest Road and dropping the older -- the other 17 child off and then coming to Rockville and dropping the 18 preschooler off? 19 MS. WAGNER: Yes. Because the school would at 20 the Rockville Pike campus. 21 THE COURT: And why is that? 22 MS. WAGNER: Because they would have an 23 assignment knowing that they have siblings and that you'd 24 have to take the shuttle bus you can't just drive back and 25 forth between the two campuses.</p>
<p>218</p> <p>1 MS. WAGNER: How? 2 THE COURT: Do I -- 3 MS. WAGNER: Well, you wouldn't drive to both 4 campuses. The school would have you drop off both students 5 at the Rockville Pike campus and your three-year-old would 6 get out of the car and go to nurse school. Your ninth 7 grader would get out of the car and take the shuttle bus to 8 the Forest Road campus, and that's why there are shuttle 9 buses between the two schools. (inaudible) situation. 10 MR. KLINE: Ms. Wagner, I think the Hearing 11 Examiner is saying and how did you get to the Rockville Pike 12 Campus and the answer is not using Maplewood streets. 13 MS. WAGNER: Correct. Yes. 14 MR. MYERS: But there's nothing to prevent them 15 from using the streets, except for the restrictions at Beech 16 and Linden in terms of the turning movements. 17 MS. WAGNER: But they don't have to come from the 18 Forest Road campus so there's -- they would be coming 19 from -- 20 MR. MYERS: Well, they don't have to come from -- 21 MS. WAGNER: -- All the directions that we've 22 assumed in the traffic study. 23 THE COURT: Who gets dropped off at Rockville and 24 takes the bus to Forest Road? And who gets her dropped off 25 at Forest Road and takes the bus to Rockville?</p>	<p>220</p> <p>1 THE COURT: Okay. Well now, were getting closer. 2 So how do you decide which campus they start at? 3 MS. WAGNER: If they are going to the Rockville 4 Pike campus they have to be dropped off only if they are a 5 nursery student or they are participating in before and 6 after school care program, or, if they have one of those 7 hardship exemptions. Otherwise, they need to be dropped off 8 at the Forest Road campus, or take the buses. 9 MR. MYERS: That was a question I had. If you 10 have a child that is supposed to ride the bus to Forest 11 Road, but that also have a child that meets the requirements 12 for being -- or can't be bussed or is in the before school 13 program at the new campus, how does that mesh out with the 14 child that supposed to be on the bus going to Forest Road? 15 Or are they automatically excluded and this is the way they 16 will have to do it throughout the school year? 17 MS. WAGNER: They can take the shuttle. There is 18 a shuttle from the Rockville Pike campus to the Forest Road 19 campus. 20 MR. MYERS: Right. But you've got 21 THE COURT: Now are you going to -- think you 22 have -- which age group is Forest Road? 23 MS. WAGNER: There sixth grade and above. 24 THE COURT: They were the middle schoolers. 25 Okay.</p>



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<p style="text-align: right;">221</p> <p>1 MS. WAGNER: 6 to 12, so they are also high 2 schoolers. 3 THE COURT: Okay. So if you have a preschool 4 one, and then a middle school or, you would just drop off 5 the preschool and the others would take the bus? 6 MS. WAGNER: They would take the shuttle bus from 7 the Rockville Pike campus to the Forest Road campus, yes. 8 THE COURT: I'm still having trouble seeing how 9 the trips are going to increase at Forest Road. 10 MS. WAGNER: They're not. That's why we were all 11 laughing because Alan backed himself into the corner. 12 MR. MYERS: No, I only backed myself into the 13 corner because I was trying to take out the numbers in terms 14 of the -- only the children's agent groups. But what is 15 still a fact -- a factor is the potential for more siblings 16 having to use Forest Road simply because the number of 17 enrollment -- enrollment is going up. 18 MS. WAGNER: Yes. 19 MR. MYERS: And also, the shuttle situation is 20 not a problem in the morning as much as it is in the 21 afternoon because parents get there and they wait for the 22 shuttle to come from the other school. 23 (Crosstalk) 24 MS. WAGNER: And hopefully the schools being 25 closer together but the shuttles are able to run more</p>	<p style="text-align: right;">223</p> <p>1 we are unable to get the traffic monitoring as it is 2 envisioned by the TMP. 3 THE COURT: Okay. 4 MR. KLINE: Maybe to be determined. 5 MR. MYERS: I was going to ask one question, and 6 I hate to drag us back; do the children who ride the shuttle 7 count in the bussing in your overall commitment to bussing, 8 if they ride the shuttle from -- say I've got a middle 9 school and a third grader that I drop off at Forest Road. 10 Is the third grader considered part of the bussing or not? 11 MS. WAGNER: Yes, they are considered part of the 12 bussing because all elementary school students have to 13 arrive by bus. 14 MR. MYERS: Okay. 15 MS. WAGNER: And again, with number 4 we did 16 provide a safety analysis looking at the crashing data and 17 that is provided on page 20 of our responses. 18 THE COURT: And did you also in that chart of 19 streets in the neighborhood, you included Linden I know. 20 Did you include Beech? 21 MS. WAGNER: Yes. Yes, we included all of those 22 streets. 23 THE COURT: All right. We're on 5. Well, is 24 that the same thing? 25 MR. KLINE: Yeah.</p>
<p style="text-align: right;">222</p> <p>1 efficiently. 2 MR. MYERS: That's true. 3 MS. WAGNER: As well as Helene having experienced 4 from this year being able to, as we discussed, implement 5 strategies to help with enforcing parents have to park if 6 there waiting for that shuttle. 7 THE COURT: All right. We don't have any more of 8 these in here, Mr. Kline. No, I get it. I do get it and 9 I'm having trouble seeing how it's going to increase 10 potential traffic at Forest Road. So anyway, if you want to 11 proceed to the next analysis item we can do that. 12 Or does anybody have any more questions on that? 13 Okay. Hearing that none let's move on. 14 MR. KLINE: Frankly, number four dealt with 15 school related traffic issues within the community, and the 16 response was answered in part by elimination of the proposed 17 shuttle, but Beech and Linden Avenue pedestrian safety 18 issues are not addressed. And actually I think maybe I 19 would like to ask either Mr. Brown or Mr. Myers to address 20 that, just that last sentence so that Ms. Wagoner can answer 21 it directly. 22 MR. MYERS: Well, I think this is what we've been 23 talking about. You're still going to have the shuttle on 24 Beech and Linden although you removed the bus problem on 25 Alta Vista, Linden and Beech, and POV would be a problem if</p>	<p style="text-align: right;">224</p> <p>1 THE COURT: Does anyone have any questions on 5? 2 Okay. Hearing none -- oh, is that Ms. Umhofer, do you have 3 a question on 5? 4 MS. UMHOFFER: Not really a question. I do want 5 to reiterate that we don't have enforcement to actually 6 prevent all of the POVs from using neighborhood streets and 7 even if we get the camera on Alta Vista, you know, people 8 can turn on Elsmere, they can turn on other streets. So 9 it's not as if it's entirely eliminated. 10 THE COURT: Okay. Anyone else? 11 Okay. Hearing none, we're on item 6. 12 MR. KLINE: I think that's an okay. And I think 13 we can just pass over it. The composition of the NLC has 14 been decided and maybe even increased. 15 THE COURT: Except we're adding -- 16 MS. WAGNER: The Bethesda Crest to the 17 neighborhood. 18 THE COURT: Bethesda Crest, right. 19 MR. KLINE: Yeah. 20 THE COURT: Okay. Anyone have any questions on 21 6? 22 Hearing none, we'll move to 7. Resolved by 23 elimination of proposed shuttle on Alta Vista. Anyone have 24 any questions on that? 25 Okay. Hearing none, we're going to 8. If the</p>

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<p>225</p> <p>1 license plate monitoring system proposed is fully 2 implemented and enforced U-turns generated by traffic from 3 the school should be greatly reduced or eliminated. 4 However, planning staff erred when it said that mid-block U- 5 turns are illegal; they are not. 6 MR. MYERS: Yes. I -- when that come down from 7 the planning staff saying that mid-block U-turns were 8 illegal I contacted them, they referred me to MCT DOT. They 9 said no they are definitely not illegal and also I was 10 looking at the citation they had in there which is a manual 11 for signals, traffic signals, which as far as I could 12 determine was a Federal Highway Administration document to 13 standardize traffic signals throughout the country and had 14 nothing to do with U-turns. 15 MS. WAGNER: Let me just provide a little bit of 16 clarification. They cited the MUTCD, the Manual of Uniform 17 Traffic Control Devices so those are traffic signals and 18 traffic signs, not just traffic signals. What they were 19 referring to is also that they will not be able to put 20 signage to restrict U-turns because that would be confusing 21 for other drivers that they would be anticipating U-turns at 22 that location or U-turns being performed mid-block. And so 23 that's why they will not put signage to restrict U-turns. 24 THE COURT: I don't understand that at all. 25 They're saying if we say it's prohibited here everybody will</p>	<p>227</p> <p>1 confused. 2 THE COURT: I have what she just read. 3 MR. MYERS: I'm looking at the remand order where 4 it says nine; is it an enforceable method to prevent school 5 related traffic from speeding on residential streets, that's 6 what the written -- 7 THE COURT: Okay. 8 MS. WAGNER: Yeah, we got these switched up. 9 MS. FABRE: And mine is switched. 10 MS. WAGNER: And we just talked about this one. 11 And now were talking about number eight; is there an 12 enforceable method to prevent school related traffic from 13 speeding on residential streets? 14 THE COURT: And is there? 15 MS. WAGNER: We revised the TMP to restrict 16 vehicles from traveling on a residential street so that's 17 why we did not provide a mechanism to do that. 18 MR. MYERS: They're treated a little differently 19 than any other County residents speeds. But if it's like 20 the Forest Road campus where it an appeal said the school is 21 responsible for the behavior of its her drivers on 22 neighborhood street, if it were brought to the attention of 23 the NLC is the drivers, and bus drivers, which I hear about 24 periodically, and others who are not complying with the 25 county regulations regarding the speed limit, then it's</p>
<p>226</p> <p>1 think it's not prohibited elsewhere? 2 MS. WAGNER: Exactly. Yeah. 3 MR. MYERS: Seems a little weird. 4 MS. WAGNER: An sol that's why we just 5 continue -- we're going to continue to work on replacing 6 that -- giving the traffic -- getting the camera closer to 7 the interstation to be able to capture this movement. 8 Mr. MYERS: I've seen blocks where U-turns were 9 prohibited. But it's based on the block. So what would 10 happen is the people would not make a U-turn on that block, 11 then just move up to the next a block and make the U-turn. 12 But it's sort of a moot point, I think 13 But it does seem a little weird. That they 14 would say that's what they were intending. 15 THE COURT: Okay. Just talk that will not. I 16 don't mean to ignore it. I just mean it seems 17 counterintuitive, but it's okay. 18 Number nine. Are there any other questions on 19 eight? Okay. Hearing none, we'll go to number nine. 20 Number nine is -- 21 MS. WAGNER: Is there an enforceable method to 22 prevent school related private vehicles from performing U- 23 turns on residential streets to return to Brockville Pike? 24 MR. MYERS: Nine is (inaudible). 25 MS. WAGNER: Oh. They're out of order. We got</p>	<p>228</p> <p>1 something that the NLC should probably be able to address. 2 THE COURT: Okay. All right. Is there any other 3 comments? Okay. Hearing none let's go to -- well, are we 4 at 10? 5 MS. WAGNER: Yes, that one is -- it was just 6 those two that were mixed up. 7 THE COURT: Review whether headlights -- well, we 8 have an opaque fence on Mr. -- across from Mr. Seid, 9 correct? 10 MR. KLINE: We are proposing what I call a sight 11 tight fence, so there should be no leakage of a light, 12 lights from cars turning the curve on the loop road onto the 13 Seid property. 14 THE COURT: And is that -- okay. And that's in 15 the exhibits? 16 MR. KLINE: It will definitely be in the 17 revised -- there should be a drawing that we submitted 18 earlier talking about extending the fence, but it will 19 definitely be shown on the revised site plan with the road, 20 the loop road relocated. 21 THE COURT: Okay. That's good. All right. Any 22 questions on that? 23 Okay, let's go to 11. Is there more precise 24 language -- I think staff came up with something on that. 25 Didn't they?</p>

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<p>229</p> <p>1 MR. MYERS: I haven't seen anything but my eyes 2 may have deceived me. 3 THE COURT: I thought their staff report had a 4 revised condition, but I could be wrong. 5 MS. WAGNER: What's the question we're 6 discussing? 7 THE COURT: It's the -- 8 MR. MYERS: Number 11. 9 (Crosstalk) 10 MS. WAGNER: Exhibit 95 has a response where we 11 provided language. 12 MS. FABRE: Yes, in your statement. 13 MR. KLINE: Yeah. 14 (Crosstalk) 15 THE COURT: Maybe that's what I read. I thought 16 the planning report had something 17 MS. FABRE: We did. 18 MR. KLINE: Right. Well, I merely tried to 19 basically get it away from something that would have 20 officiating with whistles, crowds, parents, stuff like that, 21 not that that wouldn't occur to some extent with the club 22 sports, but just things that were interscholastic 23 competition that would draw people to campus for cheering 24 and bringing cars to the property. So now were allowed to 25 have sorted internal team games but not battles with</p>	<p>231</p> <p>1 on. 2 MR. WILKERSON: Okay. I withdraw any question, 3 thanks. 4 THE COURT: Okay. Should maximum enrollment -- I 5 heard a big no on that one. 6 MR. KLINE: Well I -- but it sounds better when 7 you hear it in French, so I'd like to ask Ms. Fabre to 8 explain. You heard her throw an economic number on the 9 table today that maybe will explain why no is the answer. 10 But she should be allowed to explain it. 11 MS. FABRE: So it's no, if you want to hear it in 12 French. No, we provided some explanation already in Jody's 13 a document on page 24. But I really want to reinforce that 14 for us, this is not something that is acceptable. As I 15 mentioned earlier this morning we are investing \$60 million, 16 six zero million dollars in this project, which is really a 17 strategic objective for the future development of the 18 school. I think throughout this kind of tedious process 19 we've gone through today you really seeing that we've worked 20 really hard to try to address all the concerns, respond to 21 all the questions and even gone above and beyond. I think 22 Park and Planning has even put it several times in their 23 report. We really wanted to express all the concerns that 24 the neighbors have express, that you have echoed in your 25 remand order and to minimize the impact of our operation on</p>
<p>230</p> <p>1 different schools. 2 THE COURT: (inaudible) 3 MR. KLINE: Yeah. 4 THE COURT: Okay. Any questions on that? 5 Okay. Hearing none, let's go to number 12. 6 Yeah, I thought that had been added too. 7 MR. KLINE: Ms. Wagner, can you just confirm that 8 the TMP is been modified? 9 MS. WAGNER: Yeah, the TMP is been modified to 10 say that both programs will be subject to the same trip caps 11 as the typical school day. 12 THE COURT: Okay. Is there any questions or 13 challenges to this? 14 All right. Hearing none, will go to the next 15 item. Wait, was that Mr. Myers? 16 MR. MYERS: No, Ms. Wilkerson had her hand up for 17 a second, did she take it down? 18 MR. WILKERSON: I took it down Alan, but just to 19 make a point, maybe it will come up and going through the 20 submissions that I made that there is a presupposition that 21 the campus will begin immediately with the approval of the 22 special exception, and I didn't know what that wasn't yet 23 determined that the school would be permitted to do this 24 summer camps beyond -- 25 MR. MYERS: That's to be discussed a little later</p>	<p>232</p> <p>1 the neighborhood. 2 I think that would be -- and that that cap just 3 makes it impossible for us to proceed, there's no sense. 4 And just as a side comment we already have 550 students in 5 the nursery and elementary school, so a cap of 500 would 6 really make no sense. 7 Also, I wanted to add that again, as I said this 8 morning, we are not new to the special exception world and 9 we've been operating our other two schools under a special 10 exception for over 20 years one campus and over 40 years for 11 the other one, there is no complaint that was filed to the 12 board and we would like to just get credit for that. 13 I personally am in the school and I personally 14 take the commitments that are going to be listed in that 15 special exception and the TMP very, very seriously. I've 16 worked on this project really hard; I'm committed to making 17 sure that were going to do what it takes to make it work, 18 and I will be there to address any concerns and questions. 19 I'm not going anywhere, I'm here to stay another 10 years so 20 I'm not trying to escape my responsibilities. 21 And I think everything that we've modified and 22 the new things we've done on Forest Road show that we have 23 the stability and we'd like 24 MR. KLINE: To get that credit. Could I extend 25 the answer to that question by asking Ms. Fabre to address</p>

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<p>233</p> <p>1 paragraph 14 also, which is should there be a phase-in 2 program in terms of growing over time, because we're not 3 going to open with 1,450 kids on day 2 of the Rockville Pike 4 campus. So could you explain how long you think it will 5 take you to ramp up to the full enrollment that you're 6 allowed to have?</p> <p>7 MS. FABRE: Well, we believe, and that's provided 8 in the answers, the document from Jody Kline on page 24, 9 that the enrollment is going to ramp up very slowly. That 10 is going to take 5 to 7 years to actually get to the maximum 11 enrollment cap of 700 students. And this is a projection, 12 you don't know how things are going to go, but that's our 13 goal.</p> <p>14 And so every single year it means were going to 15 add maybe 20 or 25 more students. It's going to be very 16 progressive. I don't really have anything that tells me the 17 following year after opening the campus were going to have 18 (inaudible) students. I don't know where they would be 19 coming from.</p> <p>20 So it's going to be a naturally phased process. 21 So that for the kind of school operations. When it comes to 22 the summer camps, as I said, we currently don't have any 23 camps. We don't operate any camps. So again, same thing. 24 It's not going to be day 1, or even year 1, or year 2 that 25 we reach that number. It's going to take it years, and I</p>	<p>235</p> <p>1 I'm mindful of their expenditure, but on the 2 other hand the impact of leaving it open ended and assuming 3 that the numbers that are projected for the school will not 4 result and problems for the neighborhood is somewhat 5 speculative at this time, and I don't think we should 6 speculate that far.</p> <p>7 MS. FABRE: But I think you need to be cognizant 8 of the amount of control and power you have through the -- 9 we've agreed to almost everything you've asked, or 10 everything you've asked. You have -- you're going to have 11 the daily trip counts; you're going to have the sanctions 12 that are really super strict. I mean, the cameras are going 13 to be in place.</p> <p>14 It's not going to be a school; it's going to be a 15 bunker. And you were joking this morning about big brother 16 being watching us, yeah, it's the way it's going to feel for 17 our parents. Basically, they can't just do anything, they 18 are going to be caught on camera, they're going to be 19 sanctioned, they're going to be excluded. They're going to 20 be exposed.</p> <p>21 I mean -- and I'm fine with it. I understand 22 that you need to have something that reassures you and gives 23 you the means to control the school's operations, but I 24 think we've given them all to you at this point.</p> <p>25 MR. MYERS: I'm not seeking to control the</p>
<p>234</p> <p>1 don't even know that we would ever reach that number.</p> <p>2 In the same thing for the Saturday classes. This 3 is a new program would want to be able to introduce because 4 it is also a way to feed our school with new students. But 5 this program does not exist, so again, you need to build it, 6 you need to operate, you need to market it, and it's going 7 to take years before we actually build on the enrollment and 8 we reach that number.</p> <p>9 THE COURT: All right.</p> <p>10 MR. MYERS: Can I --</p> <p>11 THE COURT: Any questions?</p> <p>12 MR. MYERS: Just basically, I don't want to go 13 tit-for-tat with Helene, but there have been continued 14 violations of the TMP with Forest Road, some of which I have 15 brought to her attention directly. Others have been raised 16 in the NLC. Shakespeare said it in the Tempest what's past 17 is prologue. I don't want to condemn the school based on 18 past practices, but on the other hand I don't want to see 19 problems come up that we are speculating that could arise 20 until it is proven that they won't arise.</p> <p>21 And I think it's the best if they are capped. If 22 you don't cap it at 500, cap it what they currently have 23 rather. And then let's see if the TMP actually works, 24 parents are abiding by, the school is enforcing it, and then 25 we can seek to expand.</p>	<p>236</p> <p>1 school's operation. I'm seeking to control the impact that 2 the school has on the neighborhood and the residents who 3 live near it and on traffic. I'm not controlling how you 4 operate the school whatsoever. But the TMP, which is part 5 of that, is important to us and the numbers that we are 6 potentially dealing with, and any potential problems, I 7 think it's the best to see if they're working so we can move 8 on.</p> <p>9 You yourself just said today that the tools that 10 you have in the toolbox to resolve the Forest Road traffic 11 situation need to be evaluated based on the situation. I'm 12 saying the same thing with this. Evaluate the traffic with 13 God and see if it's working and then we move on from there.</p> <p>14 MS. FABRE: But that's what the in LC is going to 15 be doing. We're going to be meeting quarterly.</p> <p>16 MR. MYERS: The NLC doesn't have authority. The 17 NLC doesn't</p> <p>18 THE COURT: Just a second. Stop. The NLC does 19 not have authority to --</p> <p>20 MS. FABRE: No.</p> <p>21 THE COURT: -- bring an enforcement action.</p> <p>22 MR. MYERS: Right.</p> <p>23 THE COURT: Well, it could file a complaint with 24 the --</p> <p>25 MS. FABRE: Right. That's the power it has,</p>

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<p style="text-align: right;">237</p> <p>1 yeah.</p> <p>2 THE COURT: But, I think that there's that's just</p> <p>3 what I'm saying is there may be some skepticism between the</p> <p>4 parties here, and that's fine. And it may be just a matter</p> <p>5 of working together for a time. And then everybody will get</p> <p>6 more comfortable. So it's not -- that's not a ding on</p> <p>7 anybody. It's just the way it -- that's what I'm hearing</p> <p>8 that there's a little distrust, and that's okay. Because we</p> <p>9 hit much more distrust in many cases. So what we're trying</p> <p>10 to do is forge a -- essentially a working agreement or</p> <p>11 something that both sides can work with without making</p> <p>12 anybody --</p> <p>13 It's not intended to make the French school feel</p> <p>14 that they've been punished. It is an intensive use. You've</p> <p>15 got 1,000 children in one neighborhood so it is an</p> <p>16 intense -- and Sunday and Saturday classes and summer camps.</p> <p>17 So it is an intensive use. We're just trying to make it</p> <p>18 workable, and perhaps hopefully, at some point, you can</p> <p>19 trust each other enough that some of what you perceive as</p> <p>20 onerous conditions aren't necessary anymore.</p> <p>21 So we'll go from here. Let's get back to the</p> <p>22 points we were going through. What I hear is that you do</p> <p>23 not want -- that Mr. Myers would like to see some enrollment</p> <p>24 phase sin and the French school doesn't. So I hear both of</p> <p>25 your viewpoints, and I'll take them into consideration.</p>	<p style="text-align: right;">239</p> <p>1 filed a complaint against it with the Board of Appeals --</p> <p>2 THE COURT: Well, that's --</p> <p>3 MR. MYERS: As a representative on the in LC, but</p> <p>4 the Association could because we are an entity outside of</p> <p>5 that.</p> <p>6 THE COURT: That's one --</p> <p>7 MR. MYERS: They generally don't even vote; they</p> <p>8 just discuss issues of concern and try and resolve them.</p> <p>9 THE COURT: That's true. And that's one reason</p> <p>10 the transparency with the counts --</p> <p>11 MR. MYERS: Yes, I agree. It is important.</p> <p>12 THE COURT: It is important to building trust.</p> <p>13 And again, at some point, you know, you may move beyond it.</p> <p>14 You may not. But it's in there. So whoever it's in there</p> <p>15 to be able to enforce.</p> <p>16 Okay. Let's go on to -- I can't remember where</p> <p>17 we were. We were on</p> <p>18 MR. KLINE: It's the definition of a restore, and</p> <p>19 Ms. Clark could tell you what brought it up but it's -- the</p> <p>20 Maplewood memo suggests the parking Planning staff addresses</p> <p>21 the subject. So I don't think it's a subject we need to</p> <p>22 devote any time to.</p> <p>23 THE COURT: Okay. That was a question of the</p> <p>24 Applicant at the first hearing.</p> <p>25 MR. KLINE: It was our concern because we didn't</p>
<p style="text-align: right;">238</p> <p>1 Ms. Umhofer, you have your hand up?</p> <p>2 MS. UMHOFER: Yes, I have a question about the</p> <p>3 NLC's ability to bring a complaint and how that sort of</p> <p>4 affects the burden of proof. I don't know the law on this</p> <p>5 point, but I know the Applicant here has the burden to</p> <p>6 demonstrate that there won't be an impact, or create a</p> <p>7 nuisance. And what I don't want to have happen is have that</p> <p>8 burden shifted by approval of these large enrollments, the</p> <p>9 big impact that you were just discussing, even though they</p> <p>10 may not reach it for some time, if that shifts of the burden</p> <p>11 to the neighbors to have to demonstrate something</p> <p>12 THE COURT: No. I mean the bottom line is you</p> <p>13 will write a condition -- a decision if we approve it, it</p> <p>14 will have conditions and you are able to take whatever</p> <p>15 evidence you want to DPS and they will do whatever</p> <p>16 investigation they feel is necessary, and based on that, it</p> <p>17 will come back to the Board of Appeals as an enforcement</p> <p>18 action. Do you follow what I'm saying?</p> <p>19 So the NLC's involvement, and not starting out --</p> <p>20 or starting up at maximum does it impact the long-term</p> <p>21 enforceability of the conditions, any conditions of</p> <p>22 approval.</p> <p>23 MR. MYERS: The in LC, in part because there is</p> <p>24 comprised of both parties, really could never really agreed</p> <p>25 to -- I don't think the school would agree to have the in LC</p>	<p style="text-align: right;">240</p> <p>1 want to have to worry about waiting to get release on the</p> <p>2 bonds before we could actually start work.</p> <p>3 THE COURT: Right. Okay. We're not doing the</p> <p>4 parking waiver setback. So now were on 17.</p> <p>5 MR. MYERS: Yeah, 17 addresses the delivery times</p> <p>6 and being out of schedule and it does not necessarily</p> <p>7 address, as far as I can see, I law regarding where those</p> <p>8 vehicles go.</p> <p>9 THE COURT: Do you have a witness that can</p> <p>10 briefly take people through the truck traffic and the</p> <p>11 delivery traffic?</p> <p>12 MR. KLINE: Ms. Fabre will have to answer the</p> <p>13 question based on an operational side because it's never</p> <p>14 really a traffic issue. I mean what we said, is to the</p> <p>15 extent that as we enter into contracts with fixed service</p> <p>16 providers we will do our best to encourage them and even</p> <p>17 force them, if we can, not to use Maplewood streets to</p> <p>18 access the property. But there will undoubtedly be some</p> <p>19 single deliveries that we won't even know where they're</p> <p>20 coming from so we won't really have any control over. Ms.</p> <p>21 Fabre, what do you think you can do to try and encourage</p> <p>22 your service providers to not use Maplewood streets?</p> <p>23 MS. FABRE: Well, we can certainly make it a</p> <p>24 clause in the agreements that we sign with them. That's</p> <p>25 another problem, we can commit to that quite happily.</p>

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<p>241</p> <p>1 THE COURT: Quite what? I'm sorry. 2 MS. FABRE: Quite willingly, quite happily. 3 THE COURT: Okay. Does that address your 4 concerns? 5 MR. MYERS: It would if I -- I would love to see 6 that language at an NLC meeting just so the NLC is aware of 7 it. If somebody said I saw a truck come through the 8 neighborhood, a trash truck that you could provide a copy of 9 the contract to the NLC that has that language? 10 MS. FABRE: I don't think I need the NLC -- a 11 copy of the NLC to justify to a provider or a contractor or 12 a vendor -- 13 MR. MYERS: No, I'm not saying that. 14 MS. FABRE: -- that I have this requirement. 15 MR. MYERS: I'm saying if the NLC, it came up at 16 an NLC meeting that there was a problem with a trash 17 provider going through the neighborhood that you could 18 provide a copy of the contract language that you gave to 19 that provider? 20 MS. FABRE: Uh-huh. 21 MR. MYERS: Could you do that? 22 MS. FABRE: Well, yeah. 23 MR. KLINE: Probably with some deletion of some 24 economic information, but yeah. 25 MR. MYERS: Oh definitely. I would redirect it,</p>	<p>243</p> <p>1 THE COURT: Okay. 2 MR. KLINE: And I was going to say that we were 3 surprised that the answer on the MCA comment was not 4 answered because we thought that the restriction of the 5 number of employees -- I'm sorry, staff and parents who 6 couldn't drive within the community was basically a master 7 plan compliance action. So we thought that what we did 8 there satisfied the master plan and guidance. 9 MR. MYERS: I guess I can say there was no 10 response is why I put that in. It probably should have been 11 an N/A. 12 MR. KLINE: Gotcha. Thank you. 13 THE COURT: Okay. So anything else on that item? 14 Okay. So were on the next item. I have to keep flipping 15 back and forth. 16 MR. KLINE: Well, it reads should the proposed 17 TMP included traffic from the Forest Road campus, and I 18 think you've actually given us some suggestions about how we 19 might be able to address that in some condition. 20 THE COURT: Does anyone have anything else on 21 that issue? 22 MR. WILKERSON: No, but you will hear from us. 23 THE COURT: Okay. Number -- 24 MR. WILKERSON: With a recommended condition.. 25 That's all.</p>
<p>242</p> <p>1 yes. I know. 2 THE COURT: Okay. Any other questions on that 3 item? Okay. So we're going on -- I asked them to master 4 plan language be interpreted to exclude the impact of 5 traffic. 6 MR. MYERS: Yeah, this is the timing of the term 7 restrictions of Beech and Linden, there are so at Pooks Hill 8 and Linden. They are in the master plan. They are at the 9 request of the option of the neighborhood to modify them. 10 In fact the DOT was trying to tell me to make it also in no 11 right turn onto Linden which would basically did in Beech 12 which you couldn't do, and would require something other 13 than what is contemplated. 14 It's designed to prevent cut through traffic 15 through Beech, Linden, and Pooks Hill Road, and the reverse. 16 And it applies to everybody. The school people, and are 17 residents who sometimes don't believe in it. And others, 18 anybody that goes through there. 19 The hours can be changed at our request if, for 20 example, the arrival of the staff poses a problem earlier 21 because it starts at 7:00 a.m., but the staff are coming in 22 at 6:30 and folks on Linden tell us that there is a lot of 23 traffic on Linden at that time, we can go to DOT and request 24 that it be modified. And it should be able to be modified. 25 But it's not specific to the school.</p>	<p>244</p> <p>1 THE COURT: Okay. 2 MR. WILKERSON: That's all it will be for Friday. 3 THE COURT: Okay. How about number 20? 4 MR. MYERS: I think we spent a lot of time on 5 that and I think I was answered earlier on when -- 6 THE COURT: Right. Right. Okay. 7 MR. KLINE: Anatomy Hearing Examiner, that does 8 complete the analysis of the list of comments from the 9 Maplewood Civic Association. Mr. Wilkerson wrote a lengthy 10 letter. I know he would like to have his questions 11 addressed. Can we go through the same exercise using his 12 letter? 13 THE COURT: Yes. If I can -- let me just get 14 what's best for you have an exhibit number for that? 15 MR. KLINE: Give me one second. Well, it came in 16 probably so late it -- oh yeah, it's number 121. 17 THE COURT: Oh, okay. I don't have that one 18 downloaded. All right. 19 MR. KLINE: I'm sure Mr. Wilkerson can help us -- 20 THE COURT: Mr. Wilkerson do you have a copy of 21 that letter? 22 MR. WILKERSON: Yes, I do. 23 THE COURT: Can you put it in -- do you know how 24 to share your screen? 25 MR. WILKERSON: I do not but I can -- if you walk</p>

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<p>245</p> <p>1 me through it.</p> <p>2 THE COURT: You know what, why don't you just</p> <p>3 take us through it.</p> <p>4 MS. WAGNER: This is Ms. Wagner; I'm sharing my</p> <p>5 screen with the letter.</p> <p>6 THE COURT: Okay.</p> <p>7 MR. WILKERSON: So Ms. Wagner, do you have it on</p> <p>8 your screen?</p> <p>9 MS. WAGNER: Yes, can everybody see it?</p> <p>10 MR. KLINE: Yeah, we can see it here.</p> <p>11 MR. WILKERSON: Okay.</p> <p>12 THE COURT: Yes, I can see it. Let's go --</p> <p>13 MR. KLINE: Mr. Wilkerson, I think actually had a</p> <p>14 good idea, you're probably the better person to interpret</p> <p>15 the questions in the order, and the tone you wanted. So can</p> <p>16 we ask you to help walk us through your letter?</p> <p>17 MR. WILKERSON: Yes. Why don't we just skip all</p> <p>18 of page 1 and really all of page 2. I think those have been</p> <p>19 answered, or I might refer to some of those things in a wrap</p> <p>20 up. But we can abandon that. So if you go to the bottom of</p> <p>21 2, really the top of 3, summer camp and afterschool camps.</p> <p>22 THE COURT: Okay.</p> <p>23 MR. WILKERSON: I just, again, just trying to</p> <p>24 keep the record straight as to quests admitted evidence and</p> <p>25 what is not. I had a concern about an explanatory letter</p>	<p>247</p> <p>1 understand the need that the FIS would like to have for a</p> <p>2 concentrated campus, more convenient, et cetera, et cetera</p> <p>3 you, and the \$60 million investment.</p> <p>4 The camps I don't see as an inextricable part of</p> <p>5 the educational process, at least to start. And as you,</p> <p>6 Madam Hearing Examiner, have observed there is some level of</p> <p>7 discomfort with the track record. So I think for the summer</p> <p>8 camps that that should be phased in after the school can</p> <p>9 demonstrate compliance with the various conditions.</p> <p>10 Lastly, it ties into the next question about</p> <p>11 penalties, for violation. While the penalties for the</p> <p>12 driving violations may have an impact on actual students of</p> <p>13 this rule, as Ms. Fabre pointed out, they're using it as a</p> <p>14 feeder for other students that might be interested in</p> <p>15 school. But it has less of an impact on somebody who isn't</p> <p>16 not of that is tied into the school through the student</p> <p>17 process. So I don't few the penalty to have a really</p> <p>18 significant impact on that.</p> <p>19 So maybe I should hand the baton back to Mr.</p> <p>20 Kline or Ms. Fabre to respond.</p> <p>21 THE COURT: All right. Well, let me ask -- okay,</p> <p>22 let me have your response, Ms. Fabre.</p> <p>23 MR. KLINE: Yes she would like to hear from us on</p> <p>24 the question of penalties, right?</p> <p>25 MR. WILKERSON: Well, just that it seems to be an</p>
<p>246</p> <p>1 that Mr. Kline submitted about the Rollingwood special</p> <p>2 exception which may have camps. In his cover letter said</p> <p>3 that it wasn't due to a concern about the camps, but more</p> <p>4 that Rollingwood or the French school didn't want to expend</p> <p>5 the money for an expanded driveway.</p> <p>6 My concern is that the special exception says.</p> <p>7 So it really the written explanation that Mr. Kline has</p> <p>8 provided is hearsay that shouldn't be in the record. He is</p> <p>9 not an expert witness and authenticated, so I just want to</p> <p>10 make sure that it didn't carry any weight with regard to the</p> <p>11 summer camp special exception at Rollingwood.</p> <p>12 MR. KLINE: Well, Mr. Wilkerson, since you were</p> <p>13 so kind in your comments, let me correct you because it was</p> <p>14 the Bradley Boulevard opinion you asked for, not</p> <p>15 Rollingwood.</p> <p>16 MR. WILKERSON: Okay. I thank you for the</p> <p>17 correction.</p> <p>18 MR. MYERS: Rollingwood is not a special</p> <p>19 exception as a at least Montgomery County facility, MCPS</p> <p>20 property.</p> <p>21 THE COURT: So continue, Mr. Wilkerson.</p> <p>22 MR. WILKERSON: Okay. So I don't know if I'm</p> <p>23 going to roll over something that the MTA isn't going to</p> <p>24 raise, but the sort of presupposition that there will be</p> <p>25 some camps here at the new Rockville Pike campus, I</p>	<p>248</p> <p>1 insufficient penalty. I'm not, as it says on the middle of</p> <p>2 page 3, I don't even know that after a fourth of violation a</p> <p>3 student incurring a three-day absence is a very tough</p> <p>4 penalty. There was discussion this morning about a fifth, I</p> <p>5 think I'm hearing the examiner suggested expulsion as a</p> <p>6 fifth penalty option.</p> <p>7 But for summer school students neither of those</p> <p>8 have much impact if they're not affiliated with the school.</p> <p>9 So there's a two (inaudible) question, I don't know exactly</p> <p>10 how Mr. Kline or Ms. Fabre would like to respond, and I know</p> <p>11 this is hard to address.</p> <p>12 But the presupposition that -- well, let me ask</p> <p>13 this. Is the summer camp a foregone conclusion in the eyes</p> <p>14 of the FIS in its application? And secondly, is there some</p> <p>15 other more severe penalty that could be imposed on summer</p> <p>16 school students who violate the driving?</p> <p>17 THE COURT: Well, I'll answer. I think it is --</p> <p>18 that's what they applied for. But Ms. Fabre can so we can</p> <p>19 get to the second question.</p> <p>20 MR. KLINE: Well, let me lodge, actually I'd like</p> <p>21 to ask her to reiterate her phasing in and the likelihood</p> <p>22 and the timing for a potential summer camp.</p> <p>23 MS. FABRE: Right. Well the phasing is even more</p> <p>24 true than for the Saturday classes just because there are a</p> <p>25 lot of competitive offers in the area. Most private schools</p>

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<p>249</p> <p>1 offer summer camps, they are very popular, they are really 2 well established. They have a good reputation and it's 3 going to take time for us just to get started, get known, 4 and get a positive word-of-mouth. So this is not going to 5 happen overnight. That's for sure. But this is definitely 6 something that we would like to start at the same time as we 7 open the new campus. 8 And just on the sanctions, I know in the TMP on 9 page 16, will actually 15 and 16 we list the violations and 10 the sanctions. When you have four violations of the TMP 11 you're going to be excluded for three days. You know, when 12 you pay for a two week long summer camp and your excluded 13 for three days it is a significant financial sanction. 14 Because then the parents end up having the kids with them 15 and they have no one to take care of them during the summer. 16 That's why summer camps are so popular. So it is a 17 significant penalty. Just this comment I wanted to make. 18 MR. KLINE: And I wouldn't disagree with Mr. 19 Wilkerson, there's probably not an awful lot of sort of 20 regulation, there's no template for this sort of thing. But 21 the staff at Park and Planning Commission which it does see 22 all of these programs did feel that the school's enforcement 23 regimen was appropriate and was stronger than they were used 24 to seeing for other private schools. 25 MR. BROWN: The membership of the Association</p>	<p>251</p> <p>1 meaningful penalty. Again, I raised the issue that the 2 Montgomery County DOT suggested that there be the imposition 3 of a penalty modeled after the Good Counsel High School. 4 They feel that the response this morning was addressing 5 that, and I urge that to be considered by the Hearing 6 Examiner in reviewing this. 7 I think we fully address the trip monitoring 8 data, the transparency 9 THE COURT: I don't have those -- are those 10 penalties in the record, the Good Council ones? 11 MR. WILKERSON: Yes. It's in their record, and I 12 think I've obtained a copy of it. I do have to -- 13 THE COURT: No, no, in my record. Have you 14 submitted them to me? 15 MR. WILKERSON: No, I have not, but I -- both the 16 best before the Park and Planning staff, Mr. Coleman 17 referenced them and also the Montgomery County Department of 18 Transportation recommended they be included as well. And 19 nothing was done in response to that DOT recommendation. 20 THE COURT: Okay. Can anybody submit those into 21 the record so I know what they are? 22 MR. WILKERSON: I can do that. I have a copy. 23 THE COURT: I don't know what -- what did this 24 take to do? What's in their enforcement? 25 MR. WILKERSON: I'm paraphrasing here and</p>
<p>250</p> <p>1 also agreed that they would like to see the strong language, 2 Jody. So that I will commend it. I think where -- the 3 thing between truth and fiction comes is that if it's indeed 4 enforced. If it indeed in force then we should be very 5 happy. If it's in there in words and not in force then we 6 run into the trust issues. 7 MR. WILKERSON: May be this could answer my 8 question. Ms. Fabre, your summer school camps what cycle 9 are they on? Are they a two week period, a one week period, 10 a month period; how does that work? 11 MS. FABRE: Well, they don't exist yet. But we 12 would probably be looking at something that runs over -- 13 with a two week period. 14 MR. WILKERSON: Right. So that sort of helps 15 highlights my concern. So over 10 days somebody could have 16 four violations and really suffer minimal consequences. 17 That sort of the point. If they have to have four 18 violations, you know. Four out of 10, they don't care. So 19 I just would offer to you -- 20 MS. FABRE: Well, 21 MR. WILKERSON: -- if you tweak that to have more 22 meaning for somebody that has no connection to the school. 23 MS. FABRE: Well, will agree to disagree I guess. 24 MR. WILKERSON: Well, I will go on. I think 25 we've taken care of the show the middle of three about the</p>	<p>252</p> <p>1 collecting from memory. But essentially, as Alan had 2 mentioned earlier, they violated their daily trip caps. And 3 so they -- 4 THE COURT: But what was the penalty? 5 MR. WILKERSON: That they had to reduce the 6 attendance at the school. But I should -- I'm recalling 7 from distant memory and let's let the documents for itself. 8 And if they can model it after whatever is in the Good 9 Counsel Special Exception that would be fine by me. 10 THE COURT: All right. I'm not making a decision 11 one way or the other. I'm just listening to taking in the 12 information. 13 MR. WILKERSON: Very fine. Fully understood. 14 THE COURT: So was somebody about to say 15 something? 16 MS. WAGNER: Yeah. We should look at that Good 17 Council because we -- we reviewed a lot of TMPs and again, 18 we have made ours what we felt was appropriate for this 19 school, and much stricter than all of the TMP's we reviewed. 20 MR. WILKERSON: Okay. I think the point of it 21 was, it was building in a consequence for failure to meet 22 the -- on the school, for failure to meet the trip caps and 23 so forth, the parent drop-off. 24 THE COURT: I don't know if that was a 25 preliminary plan TMP, or a conditional use TMP. But the</p>



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<p style="text-align: right;">253</p> <p>1 bottom -- just so everyone understands, the way a 2 conditional -- a violation of a conditional use is 3 investigated by DPS. The if DPS confirms there is a 4 violation comes back to the Board of Appeals for a hearing, 5 and then the Board of Appeals can tailor a particular 6 remedy. 7 I'd like to see the Good Council one. 8 MR. WILKERSON: Right. 9 THE COURT: And whether that was a preliminary 10 plan or a conditional use. But -- 11 MR. WILKERSON: No, it was an amendment to their 12 initial special exception. They wanted to enlarge the 13 enrollment and they were permitted to do so, but I believe 14 there was a condition in there because they had -- 15 THE COURT: Okay. 16 MR. WILKERSON: -- violated their trip caps. 17 That if they did it again they would have to reduce 18 enrollment. 19 THE COURT: Okay. 20 MR. WILKERSON: But let me just share it with you 21 and the rest of the group and let it speak for itself 22 instead of me paraphrasing. 23 MR. WILKERSON: I think we've covered the next 24 two bold-faced topics on 3 and the top of 4. In terms of 25 the bus routes I'm one of the people that has direct</p>	<p style="text-align: right;">255</p> <p>1 convenient location, consolidating the schools and I get 2 that, and I appreciate the \$60 million investment. But in 3 considering compatibility with the neighborhood there are 4 other alternatives that could be considered to avoid using 5 Beech, Linden and Pooks Hill Road for the buses and any 6 parent traffic. 7 THE COURT: And what would those be? 8 MR. WILKERSON: Well, one that's been discussed 9 and rejected was having the buses not use those three 10 streets and go to the Beltway. There was a concern about 11 the danger and the delay on the Beltway. Another 12 alternative is the buses could go to Grosvenor Lane which is 13 a bigger arterial road, take a right on Rockville Pike and 14 then enter the campus. 15 And then a third would be that the buses that are 16 used these 12 buses that are used for their -- or 12 trips 17 that are used for the shuttle between the two campuses could 18 be smaller and they could make the U-turn at Rockville Pike 19 and Pooks Hill Road and then enter into the direct main 20 entrance of the campus. So there are alternatives to 21 those -- impacting those three streets that are already 22 heavily impacted. 23 THE COURT: What was your second one? 24 MR. WILKERSON: To go to Grosvenor Lane north 25 the intersection for Beech Avenue and Old Georgetown Road.</p>
<p style="text-align: right;">254</p> <p>1 concerned about Beech and Linden and they already are near 2 gridlock at different times. As a matter of a fact today 3 when I was sitting on the line, my wife was just driving at 4 2:45 to 3:15 along Beech by the Bethesda Country Day School 5 and there was a gridlock there, notwithstanding the very 6 commendable extended efforts that Ms. Fabre has indicated. 7 So we have three streets that get very much 8 impacted between the schools that are going to be 9 concentrated in this vector. And most of the traffic is 10 being steered on those streets. As Mr. Kline has noted that 11 the no left turn sign is (inaudible) the Montgomery County 12 police indicate they don't have the resources to enforce it. 13 So it's basically a meaningless restriction, or driving to 14 and from the school that could be caused by the French 15 School, the Forest Road school drop-offs, pickups as well as 16 going to the new school. 17 So I'm just voicing for those in along Beech, 18 Linden and Pooks Hill Road that there is a saturation of 19 traffic with no enforcement and to say that -- I think Ms. 20 Wagner said that it's the same number of buses currently 21 permitted. Well, the difference is they're spread over 22 three different neighborhoods right now. We're 23 concentrating it in on neighborhood and we're concentrating 24 on three streets. So that's the point. 25 I understand the need for the school to have a</p>	<p style="text-align: right;">256</p> <p>1 It's the next big artery after the Beltway -- 2 THE COURT: Right. 3 MR. WILKERSON: -- North. 4 THE COURT: Right. 5 MR. MYERS: AT our meeting on the 2nd, I 6 mentioned it to the neighborhood; nobody objected. But I am 7 speaking as a neighborhood association, I would hate to be 8 held accountable if an accident, God forbid, happened on the 9 Beltway with a bus full of elementary school children and 10 the response would come back to that the neighborhood 11 wouldn't let the bus through. I just don't feel comfortable 12 putting -- 13 MR. WILKERSON: But Alan, there was no objection 14 to the side of using Grosvenor Lane or shorter buses. 15 MR. MYERS: Grosvenor wasn't brought up though was 16 it, as I recall. But anyway. It is an option, I agree 17 Grosvenor is. It's quite a bit further but that's something 18 for the Examiner, I think to take into consideration whether 19 she would feel Grosvenor would be appropriate. But as a 20 neighborhood, I didn't feel comfortable with recommending 21 that the bus go to the Beltway. 22 MR. WILKERSON: Are you speaking on behalf of MCA, 23 or are you speaking as Alan Myers? 24 MR. MYERS: Speaking on behalf of MCA, putting, 25 as a neighborhood, putting children on the Beltway is not</p>

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<p style="text-align: right;">257</p> <p>1 something I would want to be -- have it come back at me at 2 some point in time if there were an accident there. 3 MR. WILKERSON: Okay. 4 MR. MYERS: I mean the neighborhood. 5 MR. WILKERSON: So Mr. Kline, and Ms. Fabre, I 6 don't know if you feel the need to respond, I was just going 7 down the points in the letter, and trying to do it as 8 quickly as possible. 9 THE COURT: Is that your last point? 10 MR. WILKERSON: But to hear. No, there's one -- 11 THE COURT: Why don't you finish your -- 12 MR. WILKERSON: Two concluding points that I 13 think we've partially covered that I do think the 14 interrelated impact of the Forest Road campus because of the 15 shuttling and the sibling, the before and after school and 16 the hardship exception needs to be factored into this. 17 While I understand the Hearing Examiner's authority is not 18 over at this time the Forest Road special exception, there 19 should be a way, and I think it sounded like you were 20 working toward that to build in some protections in this 21 special exception. 22 And then lastly, to quickly conclude I do support 23 incorporation of the TMP in this special exception as has 24 been discussed several times and not leaving it solely to 25 the oversight of the planning board.</p>	<p style="text-align: right;">259</p> <p>1 Exhibit 110 said that the camera system will, quote 2 theoretically allow the school to monitor and police all 3 turning movements on Alta Vista Road. And the school has 4 said they'll, quote, eventually install a monitoring device. 5 And while I appreciate these gestures, you know, 6 that's not the legal standard to theoretically address the 7 impact on the neighborhood. And so I want to be sure that 8 we don't, as I said, shift the burden of the possible 9 failure of this onto the neighbors. 10 And my other key point is I think I have made 11 clear is that I think for a number of reasons we need a 12 total trip cap on the total number of trips in and out of 13 the campus. This, I think, will prevent any -- well, it 14 will reinforce the original commitments to make sure 15 students are -- a large number of the students are actually 16 arriving by bus. And by doing that, it will contain the 17 possible traffic impact on the neighborhood as well as the 18 possible pollution impact of the vehicles coming in and out. 19 And it will contain the number of vehicles using the loop 20 road so close to residences. 21 And without sort of an overall limits, in line 22 with what they have promised in the LATR I think the 23 unrestrained use of that road is problematic. 24 THE COURT: As I read the TMP there's three hours 25 of trip caps, right?</p>
<p style="text-align: right;">258</p> <p>1 So I appreciate the opportunity to have written 2 and expressed these things and I thank you for your time. 3 THE COURT: Thank you. 4 Okay. Who would like -- I did understand Mr. 5 Myers' point and Ms. Fabre do you have some responses to 6 that or anybody on your team? 7 MS. FABRE: I don't. 8 THE COURT: Okay. And that means you don't -- 9 you don't agree with any of his suggestions? 10 MS. FABRE: Correct. 11 THE COURT: Okay. 12 Anybody else have any questions? Hearing none, 13 are there any other points we have to go over? 14 MR. KLINE: There was a letter from Ms. Umhofer 15 and I guess I'd like to give her an opportunity if she would 16 like to talk about the points from her letter, if they 17 haven't been covered already today. 18 MS. UMHOFFER: Thank you. I think many of them 19 have been covered so I'm just going to hit a couple of 20 points that -- to sum up some of my positions. 21 First, you know, we've talked a lot about the 22 camera and the need to put it closer to Alta Vista and 23 Rockville Pike. And I just want to reiterate that, you 24 know, right now some of the written response to my concerns 25 about that say things like, I think it was Mr. Kline in</p>	<p style="text-align: right;">260</p> <p>1 MS. UMHOFFER: Yes. 2 THE COURT: In the morning there is -- early 3 afternoon, and then there's an evening. 4 MS. UMHOFFER: Correct. 5 THE COURT: Okay. So why do you think a total 6 trip cap -- that the major hours of the day, why do you 7 think a total trip cap is necessary? 8 MS. UMHOFFER: Well, my main concern is the 9 morning trip cap doesn't include the half an hour right 10 before school starts. They've shifted it to 7:00 to 8:00 11 a.m. and school starts at 8:30. 12 MS. WAGNER: This is Ms. Wagner. I can direct 13 you to the LATR where we have detailed out specifically when 14 students and staff will be arriving and that shift of time 15 period, again, is the highest hour where the most trips are 16 going to be captured. 17 MS. UMHOFFER: And I guess that's -- this is the 18 problem I'm having with this system because that is all 19 built on assumptions that a certain number of children will 20 go to before care and after care and ride the bus. But then 21 we have no way to confirm that that's what actually happens. 22 So if in fact, those things don't happen then you'll have 23 more traffic coming from 8 to 8:30 and there's no mechanism 24 to measure that. 25 MS. WAGNER: You will though because then they</p>

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<p>261</p> <p>1 would be violating the TMP and you would be getting the 2 violation log at your quarterly NLC meetings. 3 (Crosstalk) 4 MS. UMHOFFER: What would they be violating 5 because there's no -- well, I guess it depends unless you 6 granted exceptions to them, then they wouldn't be violating 7 anything. 8 MS. WAGNER: And again, the school -- this is 9 that trust -- 10 THE COURT: Well, wait a minute. What if they 11 all came -- the hours changed and I don't have the hours in 12 my head. What is the morning hour? 13 MS. WAGNER: The trip cap is between 7:00 and 14 8:00 a.m., and that is to capture all the students in that 15 before school care because if we had shifted the trip cap 16 between 7:30 and 8:30 we would be hearing the opposite 17 argument of -- that we didn't capture the students doing 18 daycare. And so that's where we're trying to be forthcoming 19 and really the highest hour of when -- most exceptions are 20 granted in that before school time period. That if you are 21 an elementary school student you have to be riding the bus. 22 THE COURT: Does that give you any comfort, Ms. 23 Umhofer? 24 MS. UMHOFFER: Not really. I guess I just don't 25 see why is it so problematic to give us all the numbers?</p>	<p>263</p> <p>1 do. 2 MS. WAGNER: And again, I'll just 3 (Crosstalk) 4 MS. UMHOFFER: It's page 19, not 24 that you're 5 looking at. 6 MS. WAGNER: Yes, sorry. On the PDF in the 7 exhibit it's 24. 8 MS. UMHOFFER: Okay. 9 MS. WAGNER: And a you can see, it's really the 10 7:00 to 7:30 time period is when most vehicles will be 11 coming got and from the school. 12 THE COURT: So but I -- 13 MS. WAGNER: And when (inaudible) captured that 14 time period. 15 MS. UMHOFFER: So I'm seeing the 756 trips. 16 MS. WAGNER: Yes, if you notice, see there's 17 an -- if you look at where I'm highlighting on my screen, 18 there is a total provided for both the morning to a happy 19 time hours as well as the afternoon time period. Another 20 reason why we've done that is to highlight exactly how each 21 student, and each staff member is getting to school and how 22 they are departing the school in the afternoon, and that's 23 why it's provided in this format. 24 THE COURT: So I guess, Ms. Umhofer, I'm having 25 trouble understanding why a total trip cap -- you've got a</p>
<p>262</p> <p>1 You're capturing them at the -- with the cameras anyway. 2 THE COURT: Why have -- what is the trip count 3 projected for the entire day? 4 MS. WAGNER: In Exhibit number 64-B we have the 5 trip generation in the LATR. For the between 7:00 and 9:30 6 a.m. and between 3:00 and 7:30 p.m., again capturing the 7 hours when most people will be driving and that is adding 8 those two numbers up together is 1,274 trips. 9 THE COURT: That's of four hours? 10 MS. WAGNER: That is between 7:00 and 9:30 a.m. 11 so that's 2-1/2 hours and then between 3:00 and 7:30 p.m., 12 which is again 4-1/2 hours. So we have 4-1/2 and 2-1/2 so 13 then we have 7 -- 8 hours of time period. 14 MS. UMHOFFER: And I'm sorry. Where are you 15 looking? This is in the LATR? 16 MS. WAGNER: Uh-huh. 17 THE COURT: It's in their traffic study. Do you 18 have an exhibit number for r-- 19 MS. WAGNER: Exhibit 64-B, page 24. I'm showing 20 it on my screen right now. And again, an office of this 21 size that is approved for the campus would be generating 22 over 1,700 trips per day just to put it in a frame of 23 reference. 24 THE COURT: Well, I get that. I really get that. 25 I really just want to figure out if there's something we can</p>	<p>264</p> <p>1 lot of the day, why is a total trip cap necessary? 2 MS. UMHOFFER: Well the complicated uses that have 3 there are, you know, there are afterschool activities, 4 there's after care, I think that they have based their 5 assumptions on who's coming when on a survey of current 6 parents and what they think they're going to -- the 7 enrollment levels are going to be in programs that don't 8 even exist yet. 9 We also don't know what the summer camp is going 10 to look like. We don't know how the Saturday school is 11 going to be structured. And they are going to apply these 12 limits to those programs that we don't know specifically 13 what those programs look like yet. 14 THE COURT: Well, they do have the schedule for 15 the program. And as I understand it, and correct me if I'm 16 wrong, Mr. Wagoner, it seems -- I think I read that -- that 17 you're going to have the same trip limitation on the summer 18 camp and Saturday classes; and I incorrect in that? 19 MS. WAGNER: No, you're correct and we talked 20 about that earlier today where we will have the same -- I'm 21 pulling up Exhibit 105 and going to page 14 of the TMP where 22 we specifically outlined that the Saturday and summer school 23 programs will have the same trip cap as the typical school 24 day, and again, we had the language in the trip cap 25 monitoring program where we are not specifically outlining</p>

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<p>265</p> <p>1 one hour. But we're extending that to typical hours when 2 these programs would be released, that are in line with 3 commuter trip caps, trip hours as well as summer and 4 Saturday programs. 5 THE COURT: Now, did you use the ITE trip 6 generation rates? 7 MS. WAGNER: No we did not. Our trip generation 8 in the LATR was done -- I'll highlight this table up here, 9 where we specifically outlined exactly when each student 10 is -- that if you notice that we have when each student is 11 coming to and from campus. So that we have 200 students 12 arriving in the morning for the nursery school program, and 13 500 elementary school students leaving in the after -- in -- 14 arriving. 15 THE COURT: So existing counts of students? 16 Existing -- the current counts of students? 17 MS. WAGNER: We just did the 700 students. We 18 know that we have 200 elementary school students and we had 19 to figure out how they're getting to campuses and so we just 20 took every single student and figured out exactly how 21 they're going to get to campus. 22 THE COURT: Okay. 23 MS. UMHOFFER: And based on a survey as to what 24 some people said they -- when they would come, right? 25 MS. WAGNER: Yes. And so we've taken those and</p>	<p>267</p> <p>1 MS. UMHOFFER: But for Saturday isn't there a 2 half-day program? So that you're going to have people 3 coming in at noon and we have no measure of them? 4 MS. WAGNER: Correct, and that's again why we 5 worked with staff to really look at the roadway volumes in 6 the areas, Saturday volumes on local roadway networks are 7 significantly lower than what they are during the typical 8 weekday. So if somebody is out at noon they still can't 9 drive on neighborhood streets but we all know driving around 10 there -- nobody is trying to get to NIH or Walter Reed and 11 traffic volumes are significantly lower on a Saturday. But 12 they still cannot drive through the neighborhood o there 13 should be minimal impact to the neighborhood. 14 THE COURT: Now, let me just get -- I saw Mr. 15 Seid with his hand raised. Mr. Seid, do you want to jump in 16 here or are you -- 17 MR. SEID: Yeah, I just had a quick question 18 because I understand that assumptions and things can be 19 made. But I just want to get a clarification because 20 something Becky had raised early this morning. Your traffic 21 management plan had changed the peak hour from 7:30 to 8:30 22 and then I changed to 7:00 to 8:00. Was it something where 23 the peak hour should have been 7:00 to 8:00 all along or did 24 the underlying assumptions change so it led you to change 25 the peak hour?</p>
<p>266</p> <p>1 projected them into the trip counts and the school has to 2 meet these trip counts or they are out of compliance with 3 the TMP. 4 MS. UMHOFFER: And the Saturday school isn't there 5 a possibly -- 6 THE COURT: But the survey, I have to say the 7 survey is a standard -- we do this with other uses and the 8 survey is a standard method of tracing this information. 9 Ms. UMHOFFER: Well, in this case with the survey 10 of what folks are going to do during the school year be 11 applicable to what they're going to do for summer camp? 12 MS. WAGNER: It doesn't matter. They have to 13 meet the trip cap goals and there as no survey taken because 14 this program does not exist. But the school has committed 15 to meeting these goals and again, if they are not meeting 16 these trip cap goals they have to get students on the bus or 17 they have to reduce enrollment. 18 MS. UMHOFFER: I know, but what I'm asking is you 19 have assumed a certain number of student are going not come 20 to the before care but might that be different for the 21 summer campers? 22 MS. WAGNER: Yes, significantly different. And 23 yet, we're now, so you know, in summer we're only going to 24 be looking at the peak hour from -- well, we did expand it 25 for summer.</p>	<p>268</p> <p>1 MS. WAGNER: Sorry, can you repeat your question? 2 My internet cut out right in the beginning of that. 3 MR. SEID: Sure. So your peak hour in the TMP 4 had changed from 7:30 to 8:30 to 7:00 to 8:00. Was that 5 something where it was an error in all your earlier TMPs to 6 have listed 7:30 to 8:30 instead of 7:00 to 8:00 or did your 7 underlying assumptions about the traffic change that led you 8 to make that change? 9 MS. WAGNER: No, we just didn't capture the -- 10 see how this -- these numbers between 7:30 and 8:30 here on 11 page 24 of our LATR were 27 plus 148 is not -- is much 12 smaller than -- 13 MR. SEID: So in other words your LATR had the 14 correct numbers all along and your TMP just was an error for 15 a number until you finally revised it? 16 MS. WAGNER: Yes. Yeah. And that's just we -- 17 it was one draft of a TMP and we hadn't gone -- and staff 18 comments or neighborhood comments and it was just a draft 19 that had not been reviewed. 20 MR. SEID: I thought it was more than one draft 21 of the TMP, but that's -- whatever. 22 MS. WAGNER: Sorry about that. 23 MS. UMHOFFER: And wasn't the original idea that 24 you would pick -- 25 THE COURT: Wait. Who's speaking?</p>

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<p style="text-align: right;">269</p> <p>1 MS. UMHOFFER: Oh, sorry. It's Becky Umhofer 2 again. I -- 3 THE COURT: Okay. Now I have Ms. -- Maureen 4 Wilkerson, or maybe it's her waiting as well. So you go -- 5 you were going through your letter so you continue Ms. 6 Umhofer. 7 MS. UMHOFFER: Okay. I think this may be my final 8 question, but the original TMP used a method to pick the 9 peak hour based on the actual volumes within the morning 10 hours, not the prediction and that's what you have now 11 decided to do for the summer and Saturday schools, and I 12 wonder why we aren't doing that for the school day as well? 13 MS. WAGNER: Because we want to make sure that 14 we're getting cars to the campus before you're driving to 15 work. Before the commuter peak hour happens. So in that 16 early morning time period. And to making sure that 17 people -- we are -- for traffic control and traffic 18 mitigation measures is you shift time periods and you make 19 sure that people are arriving in a staggered time -- a 20 staggered way and so that's why it was shifted. 21 MS. UMHOFFER: But if you just said the AM peak 22 hour is going to be determined by selecting the single 23 highest hourly inbound plus hourly outbound between 6:30 24 a.m. and 9:00 a.m.; wouldn't that accomplish that? 25 MS. WAGNER: Yes, I guess. But we just wanted to</p>	<p style="text-align: right;">271</p> <p>1 of the traffic generated and making sure that we're in 2 alignment with what SHA and MCDOT wanted us to analyze. 3 THE COURT: And why did they -- is 7:00 to 8:00 4 the peak hour? Just -- 5 MS. WAGNER: No, it's not. Not of the local 6 roadway network. No. But it's when the school will be 7 generating the most traffic. 8 THE COURT: So Ms. Umhofer's question is how do 9 we know that that's when the school was generating the most 10 traffic? So how do we know that? 11 MS. WAGNER: Well, they -- 12 (Crosstalk) 13 MR. KLINE: I'm just trying to make sure Ms. 14 Umhofer understands. How do we know there won't be way more 15 trips after 8:00 because there's no enforcement during that 16 period? 17 MS. WAGNER: Because there is enforcement with 18 the cameras that they will be issued a TP violation, that 19 they are not supposed to be driving to school at that time. 20 THE COURT: But how -- but there is no cap after 21 8:30, so where is the violation? 22 MS. WAGNER: Well, so we also -- part of the 23 reason why we've shifted it to this time period is that we 24 don't want people to be taking advantage of the before 25 school care program that we -- like, that Ms. Umhofer has</p>
<p style="text-align: right;">270</p> <p>1 make sure we captured that we were doing that we were doing 2 what we were -- said we were going to do in the TMP, as far 3 as the mitigation of moving staff and not -- and if we let 4 staff just arrive -- weren't following that that they could 5 then be arriving closer to the start of school which is when 6 you would be driving to work and we were trying to avoid 7 that and trying to follow what we were outlining in the TMP. 8 MS. UMHOFFER: But I think you've actually done 9 the opposite. Because you've capped the number that can 10 arrive from 7:00 to 8:00 which is when you're saying you're 11 trying to encourage them to come. 12 THE COURT: Well, they -- 13 MS. WAGNER: Well, no. We're trying to get them 14 to not come during the other time periods. 15 THE COURT: I understand what you've done. 16 They're trying to -- the cap is the maximum people that are 17 projected to come at any period of time. So the cap is the 18 upper range of what can come. And so if you're coming 19 outside the cap do you -- are you saying the cap should be 20 two hours? And not the same amount over two hours, but 21 there should be a two-hour cap; is that what you're saying 22 Ms. Umhofer? 23 MS. WAGNER: And part of why we did this is from 24 comments from MCDOT and SHA that this is what we analyze in 25 our LATR and so this is why we have captured the peak hour</p>	<p style="text-align: right;">272</p> <p>1 described of that we don't know how many students are going 2 to be doing that, so that's why we put that trip cap on that 3 time period; so that people aren't abusing that system. 4 That they are riding a bus. 5 THE COURT: Because the bulk of your students 6 will be bus, is that why? 7 MS. WAGNER: Yes. Yeah. That we're -- we're 8 assuming that all of the elementary school students except 9 for those that are in the before and after school care 10 program will be bused, and so that's why -- they will be 11 issued a violation of the TMP if they are supposed to be on 12 the bus and they arrived by car, or they will be captured in 13 the trip, the before school care program -- 14 THE COURT: Gotcha. 15 MS. WAGNER: -- and we captured -- we are trying 16 to capture both, either they are issued a violation of the 17 TMP, or were out of compliance with the TMP. 18 THE COURT: So the catch is, or the enforcement 19 is that if they arrive after 8:00 they should have been on 20 the bus? 21 MS. WAGNER: Yes. 22 THE COURT: Am I wrong in that? 23 MS. WAGNER: You are correct in that. 24 THE COURT: Most likely. Most likely they should 25 have been on the bus.</p>

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<p>273</p> <p>1 MS. WAGNER: Yes.</p> <p>2 THE COURT: The 7:00 to 8:00 period is trying to</p> <p>3 make sure that the preschool before and after care don't --</p> <p>4 MS. WAGNER: Get out of hand..</p> <p>5 THE COURT: Right.</p> <p>6 MS. WAGNER: And 70 percent of our elementary</p> <p>7 school students don't enroll in the program.</p> <p>8 THE COURT: Right.</p> <p>9 So do you understand that, Ms. Umhofer?</p> <p>10 MS. UMHOFFER: I do. And I guess the one</p> <p>11 remaining, whole that's been creating is this ability to</p> <p>12 issue hardship exceptions that would prevent people from</p> <p>13 having to take the bus and then they could arrive between</p> <p>14 8:00 and 8:30.</p> <p>15 THE COURT: Ms. Wagner, do you know what the</p> <p>16 hardship -- what kind of -- anybody, Ms. Fabre, do you know</p> <p>17 what it hardship exception is? Is that maybe somebody who's</p> <p>18 disabled or --</p> <p>19 MS. WAGNER: Yes.</p> <p>20 THE COURT: What is a hardship exemption?</p> <p>21 MS. WAGNER: Ms. Fabre, can you elaborate on</p> <p>22 that, but I believe it is exactly what --</p> <p>23 THE COURT: What does the school consider a</p> <p>24 hardship exemption?</p> <p>25 MS. FABRE: Students that are on crutches and</p>	<p>275</p> <p>1 MS. UMHOFFER: Does that cover bus transport?</p> <p>2 MS. FABRE: It does, yes.</p> <p>3 THE COURT: Okay. So do you plan on continuing</p> <p>4 the procedures that you've used in the past requiring</p> <p>5 doctors certification prior to giving the hardship</p> <p>6 exception?</p> <p>7 MS. FABRE: Yes of course. Yes we do,</p> <p>8 definitely.</p> <p>9 THE COURT: Okay. Anything -- Ms. -- I think it</p> <p>10 helps, I think that may be you have knowledge that we don't</p> <p>11 have, all the details of. So Ms. Umhofer, do you -- I have</p> <p>12 Ms. -- I see Ms. Wilkerson with her hand up. But I'd like</p> <p>13 you to really get --</p> <p>14 MS. UMHOFFER: I think I am finished. Thank you.</p> <p>15 THE COURT: Okay. Ms. Wilkerson do you -- is it</p> <p>16 Mr. Wilkerson or Ms. Wilkerson that --</p> <p>17 MR. WILKERSON: Mr. Wilkerson, were sharing a</p> <p>18 computer. A very quick question for Ms. Wagner. For the</p> <p>19 survey, how many people responded, or were given a survey in</p> <p>20 whom responded; if you can recall?</p> <p>21 MS. WAGNER: Helene, do you remember?</p> <p>22 MS. FABRE: Honestly, I don't.</p> <p>23 MS. WAGNER: It was a lot of students, and it was</p> <p>24 a while ago.</p> <p>25 MR. WILKERSON: Just trying to figure out the</p>
<p>274</p> <p>1 can't go on the bus because we don't have any -- we can't</p> <p>2 have a wheelchair on our buses so that would make it</p> <p>3 difficult to ride the buses. Someone who, yeah, for medical</p> <p>4 reasons something like that.</p> <p>5 THE COURT: What, in the past has been a hardship</p> <p>6 exception?</p> <p>7 MS. FABRE: Well, like I said, a real inability</p> <p>8 to ride the bus. So something that is a physical reason for</p> <p>9 not being able to ride the bus.</p> <p>10 MS. WAGNER: I think also somebody that may be</p> <p>11 immunocompromised with COVID, just any one of those a number</p> <p>12 of things.</p> <p>13 THE COURT: So you're saying medical reasons that</p> <p>14 make it impossible or difficult or they shouldn't be</p> <p>15 writing. Do you require a note?</p> <p>16 MS. FABRE: Always, yes. Always.</p> <p>17 THE COURT: From a doctor not to ride the bus?</p> <p>18 MS. FABRE: We do ask for a medical certificate,</p> <p>19 yes.</p> <p>20 THE COURT: Okay.</p> <p>21 MS. UMHOFFER: So what about a financial hardship,</p> <p>22 the family is unable to pay for the bus, how do you handle</p> <p>23 that?</p> <p>24 MS. FABRE: We have financial aid that we provide</p> <p>25 to our families.</p>	<p>276</p> <p>1 response rate. Was it 50 percent?</p> <p>2 THE COURT: Ms. Wagner, do you remember the</p> <p>3 response rate?</p> <p>4 MS. WAGNER: Helen, Ms. Fabre conducted the</p> <p>5 survey.</p> <p>6 MS. FABRE: I would say it was above 60 percent,</p> <p>7 but I would have to double check. Honestly, it -- I think</p> <p>8 that's what it was. I can look for it real quick.</p> <p>9 MR. WILKERSON: Oh well, just a point of</p> <p>10 clarification. If you want to look for it and we can move</p> <p>11 on, that's fine. That's all I had.</p> <p>12 MS. FABRE: Okay.</p> <p>13 THE COURT: Okay. Thank you. Mr. Seid.</p> <p>14 MR. SEID: Yes, I just have a quick question. So</p> <p>15 as I understand from all the discussions that we had after</p> <p>16 the remand, you are not -- and also the discussions today,</p> <p>17 you're not actually limiting the number that could be in</p> <p>18 pre-and after care, but you're implicitly doing so based on</p> <p>19 the trip caps?</p> <p>20 MS. WAGNER: Yes, that is correct.</p> <p>21 MR. SEID: That's a fair way to describe it?</p> <p>22 MS. WAGNER: Yeah.</p> <p>23 MR. SEID: So at some point if somebody wants to</p> <p>24 be in before or after care you could actually say no you</p> <p>25 can't be in before and after care because we've already hit</p>

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<p style="text-align: right;">277</p> <p>1 our trip cap limit?</p> <p>2 MS. WAGNER: Yes. Or you have to carpool.</p> <p>3 MR. SEID: That's it for me. Thank you.</p> <p>4 THE COURT: Okay. Who am I on? Mr. Myers</p> <p>5 MR. MYERS: I'm still trying to work my way out</p> <p>6 of my box. And I just thought of something.</p> <p>7 THE COURT: Oh no. Oh no.</p> <p>8 MR. MYERS: I'm simply trying just one thought.</p> <p>9 THE COURT: No, it's okay. I'm teased as you</p> <p>10 know I'm teasing you.</p> <p>11 MR. MYERS: I know. But I've got to redeem</p> <p>12 myself somehow. Anyway, I'm trying to figure out here, if</p> <p>13 you have a child, Ms. O'Neill or Ms. Fabre can answer this.</p> <p>14 You've got a child in seventh grade in a child in third</p> <p>15 grade. Both are signed to ride the bus. If a parent said</p> <p>16 look, and with respect to the fact of a child getting on the</p> <p>17 shuttle counts as being on the bus, is there anything that</p> <p>18 prevents a parent from saying I don't want to have my child,</p> <p>19 my seventh grade were on the bus anymore. I want to bring</p> <p>20 them to the Forest Road campus. The third-grader will still</p> <p>21 get credit for riding the bus. Under what circumstances</p> <p>22 would you allow that parent to change their method of</p> <p>23 getting their seventh grader to school?</p> <p>24 MS. FABRE: That is one of the --</p> <p>25 MS. WAGNER: Nobody is required to ride the bus</p>	<p style="text-align: right;">279</p> <p>1 aren't required --</p> <p>2 THE COURT: But why would the person -- client</p> <p>3 would the parent deliver the person and have them ride the</p> <p>4 bus? I don't understand.</p> <p>5 MR. MYERS: Let's say I working Gaithersburg and</p> <p>6 I drive to Bethesda.</p> <p>7 THE COURT: Yeah.</p> <p>8 MR. MYERS: And I've got a third grader has to</p> <p>9 ride the bus to the new campus because that's required by</p> <p>10 the TMP.</p> <p>11 THE COURT: Right.</p> <p>12 MR. MYERS: You have a seventh grader who doesn't</p> <p>13 have to ride the bus, so I'm going to bring the seventh</p> <p>14 grader to Forest Road along with the third-grader and then</p> <p>15 let the third-grader ride the bus to the new campus from</p> <p>16 Forest Road on the shuttle. And the school meets its TMP</p> <p>17 but we've got another delivery to Forest Road.</p> <p>18 MS. WAGNER: Why would you have done that to</p> <p>19 begin with?</p> <p>20 MR. MYERS: Cost, for one. Because there's a --</p> <p>21 MS. WAGNER: I think that -- Helene maybe you</p> <p>22 could speak to the cost for bussing is minimal.</p> <p>23 MR. MYERS: \$2000 a year?</p> <p>24 MS. FABRE: Well, this is actually half of the</p> <p>25 cost, so the school does already sponsor the transportation</p>
<p style="text-align: right;">278</p> <p>1 for the Forest Road campus, they just have to meet their</p> <p>2 projections included in the TMP.</p> <p>3 MR. MYERS: So back to the -- it leads me to</p> <p>4 believe that parents who want to get to the -- if the child</p> <p>5 has to ride the bus to Forest Road -- to the new campus</p> <p>6 could come to Forest Road and get the same amount of credit</p> <p>7 is one who comes in say from Gaithersburg or downtown DC?</p> <p>8 MS. WAGNER: Yes, they are arriving by bus.</p> <p>9 MR. MYERS: That's my point on the sibling drop</p> <p>10 off.</p> <p>11 THE COURT: No, wait, wait.</p> <p>12 MS. WAGNER: But nobody's required to ride the</p> <p>13 bus to the Forest Road campus. So that's why it -- there</p> <p>14 still could be driving to the Forest Road campus.</p> <p>15 MR. MYERS: Right. So if a person that normally</p> <p>16 would be required -- would be considered bussing but because</p> <p>17 I've got now I've got two children that I have to pay for</p> <p>18 bussing instead of the one, I've got a third-grader and a</p> <p>19 seventh grader I'm going to let the child, the seventh</p> <p>20 grader, I'm going to drive to the school and a third-grader</p> <p>21 I put on the bus.</p> <p>22 MS. WAGNER: Yes. Nobody is required to ride a</p> <p>23 bus to the Forest Road campus.</p> <p>24 MR. MYERS: That's why I still feel that will</p> <p>25 wind up with more traffic on Forest Road. Because they</p>	<p style="text-align: right;">280</p> <p>1 program heavily. And the plan is to actually include the --</p> <p>2 some of the bussing in the tuition.</p> <p>3 MR. MYERS: Okay I was going off of what I</p> <p>4 presented at the last hearing with regard to the fee</p> <p>5 schedule for the buses.</p> <p>6 MS. FABRE: That's what they are currently.</p> <p>7 MR. MYERS: Are you going to charge for the</p> <p>8 shuttle, because you do now currently from Rollingwood. Are</p> <p>9 you going to --</p> <p>10 MS. FABRE: We do charge for the shuttle, yeah.</p> <p>11 We charge. I mean it does not cover the reality of the cost</p> <p>12 but we do charge, yes.</p> <p>13 MR. MYERS: At one time you told us you weren't</p> <p>14 the charge for the shuttle.</p> <p>15 MS. FABRE: Well, that's what I just said what</p> <p>16 we're going to be looking at is either charging or another</p> <p>17 option is to include that fee in the tuition.</p> <p>18 MR. MYERS: Okay. I just say for financial</p> <p>19 reasons. Some parents may choose to drive to Forest Road</p> <p>20 and put their child on the show rather than have both of</p> <p>21 them on buses.</p> <p>22 MS. FABRE: Well, if you actually do a little bit</p> <p>23 of benchmarking on the transportation things that we charge</p> <p>24 and look at the other private schools we are the cheapest</p> <p>25 around.</p>

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<p>281</p> <p>1 MR. MYERS: I'm not getting into that, no. 2 THE COURT: We're not, yeah. He's just bringing 3 up scenarios. 4 MR. MYERS: I'm just bringing up a natural 5 situation. If I'm a parent looking at a cost factor, you 6 know if I can save money by bringing a child to force road, 7 I'm going to save money. 8 MS. FABRE: Sure. 9 THE COURT: Well, I guess, have you ever 10 surveyed -- I guess I'm dealing with to the possibility that 11 things will happen or the probability. So I guess what I'm 12 asking you is, you know, have you ever done -- I'm asking 13 Ms. Fabre. Have you ever done a -- have you ever asked or 14 done that as a survey? 15 I assume that you may know; is there a camera on 16 the Forest Road campus? 17 MS. FABRE: Yes, there will be. 18 THE COURT: So I assume that you will know -- 19 will you know who will do that if people do that? 20 MS. FABRE: Yes, we will. 21 MR. MYERS: Well, I was thinking not with the 22 campus because the camera will enforce if you're supposed to 23 be on a bus going to Forest Road that the child is on the 24 bus. And you can't drive there without it. I'm just saying 25 if you're not supposed to be on that bus, the camera is</p>	<p>283</p> <p>1 THE COURT: They enroll to drop off one child who 2 takes the bus to Rockville? 3 MR. MYERS: Correct. And the other child is 4 brought to Forest Road. 5 THE COURT: But that still wouldn't -- 6 MR. MYERS: They're going to bring the child to 7 Forest Road anyway, but I'm just saying that maybe the 8 parents may -- more parents may elect to do that rather than 9 have a child on a bus to Forest Road. Or more children on 10 the bus to Forest Road and having the children both get off 11 the bus at Forest Road and take the shuttle over to -- the 12 other child will take the shuttle over to Rockville Pike 13 because that's part of their operation. The students and 14 get off a bus, one bus and get on another. 15 THE COURT: Well, I guess -- 16 MS. WAGNER: And that's what's happening today, 17 and the Forest Road still has to bus 55 percent of their 18 students. 19 MR. MYERS: Correct. 20 MS. WAGNER: So I think we're arguing over, like 21 a -- 22 MR. MYERS: Well, she said there was no 23 requirement for children to be bus. You said it was a 24 requirement that they have to bus 55 percent. 25 MS. WAGNER: But not specific children like there</p>
<p>282</p> <p>1 meaningless. 2 MS. FABRE: Why would you not supposed -- 3 MR. MYERS: Because the camera only catches 4 people who are assigned to a bus if they are not assigned to 5 a bus and the parent chooses to drop the child at Forest 6 Road rather than bus that child to Forest Road you're not 7 going to know that. 8 MS. WAGNER: Yes, they will because their license 9 plates are registered. 10 THE COURT: Yeah, I thought they go by license 11 plate? 12 MS. FABRE: We are. 13 MR. MYERS: If they are assigned to -- yes, you 14 will have a license plate registered saying yeah you're 15 authorized to bring your -- what I'm trying to say is the 16 camera only enforces who is supposed to be on the bus and is 17 coming by bus. If they choose not to be on the bus than the 18 license plate reader will be for bringing the vehicle there, 19 but it won't affect whether the child is not being dropped 20 off. Or is being dropped off, sorry. It won't affect 21 whether the child is being dropped off because that is the 22 choice of the parent, not the school. 23 THE COURT: So you're saying the parent will 24 enroll to drop off one child, but actually drop off to? 25 MR. MYERS: Two.</p>	<p>284</p> <p>1 are at the Rockville Pike. 2 MR. MYERS: By grade level, yeah. 3 MS. WAGNER: So the actions of one student is not 4 a violation with their TMP. It's an overall strategy. 5 MR. MYERS: But basically 45 percent of the 6 parents who could elect to do what I suggest which is to 7 drop everybody there, as a maximum. 8 MS. WAGNER: Yes. Yeah. And that's not changing 9 with the implementation of the Rockville Pike campus. 10 MR. MYERS: Well yes and no. I mean the child 11 that goes from Forest Road to the Rockville Pike campus 12 still is credited as being on the bus. 13 MS. WAGNER: Yeah. 14 THE COURT: But that doesn't affect -- I'm still 15 missing how that affects the number of trips. 16 MR. MYERS: Only not really. I mean the 17 potential -- it remains the same but I'm saying you may have 18 some parents who would normally ride the bus and go above 19 that 55 percent and then choose not to simply because they 20 can drop the child there. That's all I'm saying I don't 21 want to be labor this. It's long and it's late. But I'm 22 just saying there's a potential for more people to go there. 23 THE COURT: I see Mr. Wilkerson, is your hand up 24 again, or is it just not put down? 25 Okay I don't -- he may be on mute so I'm going to</p>



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<p style="text-align: right;">285</p> <p>1 assume he put it down.</p> <p>2 Are there any more questions on this, Ms.</p> <p>3 Umhofer's -- this is Ms. Umhofer's letter.</p> <p>4 Okay. Ms. Umhofer, what other -- oh, that's the</p> <p>5 wrong thing. Do you have other points in your letter? I</p> <p>6 don't have the letter up in front of me at the moment.</p> <p>7 MS. UMHOFFER: I think the other one was a concern</p> <p>8 about the Beaumont House which we discussed. And I think</p> <p>9 there's a proposed condition which seems fine to me.</p> <p>10 THE COURT: Okay. Good. All right. Anything</p> <p>11 else? Mr. Wilkerson, do you want to say something, or</p> <p>12 MR. WILKERSON: no, I'm sorry that was an</p> <p>13 inadvertent hand. My apologies.</p> <p>14 THE COURT: That's okay. I'm just glad we</p> <p>15 confirmed it.</p> <p>16 Okay. I'm going to open it up and give anybody a</p> <p>17 chance to say anything if they wish to, on the topics that</p> <p>18 we discussed. I don't want to go way off topic but is there</p> <p>19 anybody from the community that wants to say something?</p> <p>20 Or have we all talked each other out? Okay. I'm</p> <p>21 not hearing anything so let's talk next steps.</p> <p>22 Mr. Kline, I know that this has all been quick,</p> <p>23 but have you got a handle on when you -- there's two things</p> <p>24 I want to cover, and then let me give you some of my</p> <p>25 thoughts so that both sides -- if both sides are going to</p>	<p style="text-align: right;">287</p> <p>1 that if I accept a conditional use plan after the hearing I</p> <p>2 have to give people a chance to comment on it. And I know</p> <p>3 you've got a time line going. So what can you do as far as</p> <p>4 turnaround time for revised plans?</p> <p>5 MR. KLINE: Ms. Clark has listened to our</p> <p>6 discussion and she's advised that by Friday she would be</p> <p>7 able to have a plan prepared that would show the features on</p> <p>8 the site that we talked about in terms of relocation of the</p> <p>9 loop road, the detail of the fence. There may be a couple</p> <p>10 of other things that I just don't remember.</p> <p>11 But anything that basically we talked about today</p> <p>12 that was either a correction, or a clarification, or</p> <p>13 confirmation of something; that would all be available and</p> <p>14 would be transmitted to everyone on Friday.</p> <p>15 THE COURT: Is everybody in agreement to add</p> <p>16 Bethesda Crest as a member of the TMP?</p> <p>17 MR. MYERS: Yes.</p> <p>18 MR. BROWN: Absolutely.</p> <p>19 THE COURT: Is that -- how about from the school?</p> <p>20 MS. FABRE: Yes.</p> <p>21 MR. KLINE: No objection.</p> <p>22 THE COURT: Okay. So what I'm going to do, by</p> <p>23 Friday I have 10 calendar days. It takes 10 calendar days</p> <p>24 to get me the -- for Planet Depos to get me the transcript.</p> <p>25 So if the plan today is the 7th, if the plan comes in on</p>
<p style="text-align: right;">286</p> <p>1 turn in conditions, which I would highly welcome, you know I</p> <p>2 am a little struggling with the operation of the two schools</p> <p>3 because they are tied together, even though I thought Ms.</p> <p>4 Wagner did a good job of showing us, you know, maybe it's</p> <p>5 not going to have the huge effect that it could have. -- I</p> <p>6 guess one is can I look at the other</p> <p>7 But there is a -- so one is a condition to can I</p> <p>8 look at the other school, but also, how people feel about</p> <p>9 the board retaining jurisdiction for a year to discuss the</p> <p>10 operations of the Rockville campus so that's one.</p> <p>11 I also have notes that there were conditions on</p> <p>12 the Belmont House.</p> <p>13 You're good -- you already have a detail of the</p> <p>14 fence, correct? Is that the fence you're going to put up</p> <p>15 opposite Mr. Seid?</p> <p>16 MR. KLINE: There is a detail of the fence in the</p> <p>17 landscaping plan but we will go ahead and add it onto the</p> <p>18 conditional -- for the special exception site plan that Ms.</p> <p>19 Clark will be preparing with the relocated drive line.</p> <p>20 THE COURT: Okay. So I guess, after this</p> <p>21 discussion what I would like to see from the parties is</p> <p>22 proposed conditions that we've discussed. And I -- the</p> <p>23 next -- that becomes the next question. I will look at the</p> <p>24 Tierney decision and the bus storage issue.</p> <p>25 I guess the next question is, there is case law</p>	<p style="text-align: right;">288</p> <p>1 Friday. Friday is --</p> <p>2 MR. KLINE: The 11th.</p> <p>3 THE COURT: Do people think -- well, what about</p> <p>4 this. Can you get me comments by the 16th for those in</p> <p>5 opposition?</p> <p>6 MR. BROWN: I don't see a problem.</p> <p>7 THE COURT: Anybody else?</p> <p>8 Ms. Clark, can you -- when you send the plan to</p> <p>9 me can you send it electronically to the parties?</p> <p>10 MS. CLARK: Sure.</p> <p>11 THE COURT: And then, Mr. Kline, can you respond</p> <p>12 by -- I can leave the record open one extra day to give you</p> <p>13 a chance to respond to any comments that come in.</p> <p>14 MR. KLINE: Exactly what I was going to ask for.</p> <p>15 If you could give me to the 17th to respond to anything that</p> <p>16 would be focused solely on comments on incoming, nothing</p> <p>17 new.</p> <p>18 THE COURT: Okay. Now, when can you guys get the</p> <p>19 conditions to me? The proposed -- if people have proposed</p> <p>20 conditions when can you get those to me?</p> <p>21 MR. KLINE: Well, I'd say by -- from the</p> <p>22 Applicant's point of view certainly by Friday the 11th if</p> <p>23 not sooner. I mean, I think we -- the team -- the</p> <p>24 Applicant's team would like to probably have a conversation</p> <p>25 to talk about all this, but I would think that we could have</p>

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<p>289</p> <p>1 it done by Thursday, or Friday.</p> <p>2 THE COURT: Okay. So we can get your conditions</p> <p>3 and your plan by Friday, correct?</p> <p>4 MR. KLINE: That's my -- yes, ma'am</p> <p>5 THE COURT: Okay. And then how about those in</p> <p>6 opposition -- or I don't know how to characterize it, but --</p> <p>7 MR. BROWN: Two or three days after that.</p> <p>8 THE COURT: Okay. So the 16th as well. So we'll</p> <p>9 do the plans and the comments and then Mr. Kline you get the</p> <p>10 final say on it, the comment if you have anything else</p> <p>11 you -- I can either let you have an extra day and submit</p> <p>12 them by the 18th, which is Friday or the 17th.</p> <p>13 MR. KLINE: The 17th would be fine, unless</p> <p>14 there's something that just really requires something</p> <p>15 special and I would let you know at that point in time. But</p> <p>16 we're prepared to respond within 24 hours after receiving</p> <p>17 the comments from the other parties.</p> <p>18 THE COURT: Okay. So the way it will work is the</p> <p>19 plan and proposed conditions will come in on 6/11 from the</p> <p>20 Petitioner. And responses to the plan and proposed</p> <p>21 conditions will come in from the community on June 6th --</p> <p>22 16th. And then Mr. Kline will have final comments on the</p> <p>23 17th. How's that?</p> <p>24 MR. KLINE: Acceptable to the Applicant.</p> <p>25 MR. BROWN: Fine with us.</p>	<p>291</p> <p>1 MR. WILKERSON: Wilkerson will forward it.</p> <p>2 THE COURT: And when can you forward that?</p> <p>3 MR. WILKERSON: No later than tomorrow.</p> <p>4 THE COURT: Okay. Let me see if I can get Nana.</p> <p>5 Okay. I don't know if there is a way to -- that</p> <p>6 it can automatically come down. So I'm going to try to stop</p> <p>7 it. But if there is something you want we will try to get</p> <p>8 it to you electronically.</p> <p>9 MR. SEID: Very good. Thank you.</p> <p>10 THE COURT: Anything else? Well, hearing none, I</p> <p>11 do want to say thank you. I know The French School has done</p> <p>12 a lot. I know the citizens have put a lot of time into this</p> <p>13 and you've been very civil. So -- but you did a lot of hard</p> <p>14 work, so thank you for that.</p> <p>15 MR. BROWN: Thank you for conducting a very</p> <p>16 orderly hearing.</p> <p>17 MR. MYERS: Thank you for your time and effort</p> <p>18 too.</p> <p>19 MR. KLINE: Madam Hearing Examiner, I was going</p> <p>20 to say I don't think Mr. Brown and I are disappointed in not</p> <p>21 having an opportunity to make closing arguments because</p> <p>22 frankly, today's conversation, unique format but it was</p> <p>23 collaborative and helpful and in which case I don't think</p> <p>24 there's any issues in the case that you need to be reminded</p> <p>25 about in order to make your decision.</p>
<p>290</p> <p>1 THE COURT: Speak now or forever hold your piece.</p> <p>2 MR. SEID: Just a question about the record</p> <p>3 remaining open and the exhibit that Ms. Johnson has</p> <p>4 indicated that at the conclusion of today she was going to</p> <p>5 wipe the exhibits off of the storage location. Is there any</p> <p>6 way they can be held so that we can look at these things to</p> <p>7 respond?</p> <p>8 THE COURT: What we advise people to do, I'll try</p> <p>9 to get her tonight, but what we try to do is tell people you</p> <p>10 can download them from the web. It's actually pretty easy</p> <p>11 and if anybody has Outlook you can download all of it. But</p> <p>12 you can download it from the web to your computer or to a</p> <p>13 thumb drive.</p> <p>14 Does anyone have issues with that?</p> <p>15 MR. SEID: I just was wondering if we had more</p> <p>16 than -- I think she said it was going to shut off at the</p> <p>17 close of business today.</p> <p>18 THE COURT: That's because we have other</p> <p>19 hearings. I can try calling her and seeing if I can get her</p> <p>20 and have her not do it. But the timing is we have to put up</p> <p>21 hearing -- the exhibits for the next hearing.</p> <p>22 So are there particular -- the other option is if</p> <p>23 there's particular exhibits -- oh. And I want to see the</p> <p>24 Good Counsel TMP. If someone could -- who's going to</p> <p>25 forward that?</p>	<p>292</p> <p>1 THE COURT: Well, it was very thorough so that</p> <p>2 was a good suggestion.</p> <p>3 Okay. Thank you everyone.</p> <p>4 MS. FABRE: Thank you.</p> <p>5 THE COURT: For now, this hearing is adjourned.</p> <p>6 And nothing keeps you from talking to each other still. You</p> <p>7 know you can still talk to each other.</p> <p>8 MR. BROWN: We always do.</p> <p>9 THE COURT: I know. Hearing adjourned we're off</p> <p>10 the record.</p> <p>11 (The recording concluded.)</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

Transcript of Hearing  
Conducted on June 7, 2021

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CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC

I, Michael Vito Pietanza, the officer  
before whom the foregoing deposition was taken, do  
hereby certify that said proceedings were  
electronically recorded by me; and that I am  
neither counsel for, related to, nor employed by  
any of the parties to this case and have no  
interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set  
my hand and affixed my notarial seal this 4th day  
of June, 2021.

Notary Registration No.: 7847833  
My Commission Expires: 8/31/23

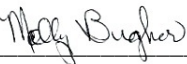


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FOR THE COMMONWEALTH OF VIRGINIA

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I, Molly Bugher, do hereby certify that the  
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Molly Bugher, CDLT-161  
June 16, 2021

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Transcript of Hearing  
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Transcript of Hearing  
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