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# Transcript of Hearing

**Date:** August 23, 2021

**Case:** Major Modification Audubon Naturalist Society

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10 Before Hearing Examiner Derek Baumgardner	10
11 (Conducted Virtually)	11
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13 9:30 a.m. EST	13
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1 A P P E A R A N C E S	1 P R O C E E D I N G S
2	2 MR. BAUMGARDNER: Today is August 23rd, the time is
3 ON BEHALF OF APPLICANT, AUDUBON NATURALIST SOCIETY:	3 approximately 9:30 a.m. We are convening this hearing.
4 JODY KLINE, ESQUIRE	4 This is a public hearing of the Montgomery County Office of
5 MILLER, MILLER & CANBY	5 Zoning Administrative Hearings in OZHA case number S2643A,
6 200 B Monroe Street	6 an application from the Audubon National Society for a major
7 Rockville, Maryland 20859	7 modification to an existing use of a property for a
8 Phone: (301) 762-5212	8 charitable and philanthropic institution. The property is
9	9 located at 8940 Jones Mill Road located in Chevy Chase, all
10	10 within the state of Maryland and Montgomery County.
11	11 My name is Derek Baumgardner. On the hearing examiner
12	12 for this case, which means I will listen to you here today,
13	13 take in evidence, and write a decision based on that
14	14 evidence. This hearing is being conducted under the prior
15	15 zoning code as a major modification. So my report will go
16	16 to the Board of Appeals. If anyone does not like my
17	17 conclusions or my report, you can request an oral argument
18	18 before the Board 10 days from the issuance of that report.
19	19 Just a couple of very basic procedural issues and rules
20	20 to go through before we turn it over to Mr. Kline to present
21	21 his case in chief. First of all, as you no doubt can tell,
22	22 we are having this hearing on a platform called Microsoft
23	23 Teams. If you have any issues with this particular
24	24 platform, please call our office at 240-777-6663. Again,
25	25 that phone number is 240-777-6663. Our staff will do the

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2 (5 to 8)

<p>5</p> <p>1 best they can if there are any technical issues or if you 2 can't log back in or there is some AV problem with the hook 3 up. As I mentioned earlier, this hearing is being recorded. 4 We also have our court reporter, Mr. Greer, on the line. 5 A couple of ground rules for hearings in general and 6 specifically for virtual hearings. Number one, please mute 7 yourselves when you're not speaking or giving testimony or 8 answering questions. Sometimes background noise can 9 interfere with the proceedings. That being said, we are all 10 under year 2 of COVID special. We are all obviously in 11 different places. I'm in my basement. You will probably 12 hear my kids at some point. They're playing on the floor 13 above me. Kids, pets, noises, they do happen. But if you 14 can meet yourselves when you're not speaking, that would 15 help the proceedings. 16 Secondly, there is a chat feature on Microsoft Teams 17 that we will not be using. So on the top of your screen 18 slightly off to the right there are several icons. The 19 second one in is a chat feature. It allows you to basically 20 type messages to folks. But again, we are not using that. 21 I will not be using it here today. I would advise that 22 participants also not use it. 23 When folks are giving testimony or answering questions 24 or asking questions, please avoid crosstalk. So if someone 25 is asking you a question, please wait until they finish</p>	<p>7</p> <p>1 because I wanted to start not only with the names, but just 2 the location of where they are calling in from because it's 3 quite international. 4 So you have witnesses that will be presented today, Ms. 5 Lisa Alexander with Audubon National Society who is in Nova 6 Scotia today. Ms. Alison Pearce, also with the Audubon 7 Society who is somewhere in New England. And I will let you 8 tell you about that when she gets there. Mr. Greg Hoffmann, 9 who is in lovely Marquette, Michigan. Amy Ritsko-Warren who 10 may have completed her summer vacation is somewhere closer. 11 I'm not quite sure. And Ms. White, who is Nicole White, who 12 will be our traffic engineer probably calling from either 13 Washington, DC or close to that by now. 14 So we would have those four witnesses, I guess five 15 witnesses. You saw my correspondence about Mr. Syke 16 [phonetic] who is the primary author of the forest 17 conservation plan. He is available, but he is available on 18 sort of limited circumstances. And when we finish here, I'm 19 going to ask you whether you would be content with allowing 20 Mr. Hoffmann, his supervisor and manager, to basically 21 verify everything Mr. Syke would have said. Or we will talk 22 about the mechanics about how to get him online. I will 23 leave that up to you. 24 MR. BAUMGARDNER: Thank you. 25 MR. KLINE: So we have, as I said, 4 to 5 witnesses.</p>
<p>6</p> <p>1 their question to provide your answer. If someone provides 2 an answer that you don't like very much, please it just wait 3 your turn. If you're going to be asking questions so that 4 the court reporter can get everything down. When there is 5 crosstalk it can be difficult to understand folks and it can 6 be difficult for the court reporter when they are doing the 7 transcript. All parties will be given the opportunity to 8 speak. So don't worry about not having your voice heard. 9 Now we are going to identify the parties for the record 10 starting with Mr. Kline. And Mr. Kline, if you can identify 11 your clients and/or witnesses and just introduce them, 12 please. Jody, you're muted. 13 MR. KLINE: Hopefully that's the only time that will 14 happen today. Probably not though. Again, Jody Kline, I'm 15 an attorney with the law firm, Miller, Miller, &amp; Camby in 16 Rockville, 200B, Monroe Street, directly across the street 17 from where I hope you will be returning to your office in 18 the near future, Mr. Baumgardner. Or actually maybe you 19 never were in the office at all. 20 MR. BAUMGARDNER: That's correct. I visited the other 21 day for the first time. 22 MR. KLINE: Good. Great. Well, I know the move got 23 accomplished. So hopefully it's set up nicely for you. 24 Before you got on the line, we were having a conversation 25 about I was so pleased to have everybody on the screen</p>	<p>8</p> <p>1 And I'm guessing it's maybe an hour and a half to two hours. 2 I will say that we did have a dialogue. You did ask me to 3 report people who might have an interest in participating 4 and we did verify that the two people who have expressed 5 their continuing interest in this application did receive 6 your notices, adjoining, confronting property owners. And 7 because so many people were out of town, we just did not try 8 and reach them directly. But I know they received the 9 notice of it. 10 MR. BAUMGARDNER: Okay. 11 MR. KLINE: And I will leave it at that. 12 MR. BAUMGARDNER: Thank you, very much. Are there any 13 folks who have logged in or who have called and who have not 14 been identified yet? Either folks from the community or 15 otherwise that are planning on testifying here today? Going 16 down my list of folks who are logged in, and I do not see 17 any names other than those already specified by Mr. Kline, 18 other than our staff as well who are also logged in for any 19 technical issues, but those are the only names that I see 20 logged in on my screen here. 21 Mr. Kline, do we have an affidavit of posting already 22 in the record? 23 MR. KLINE: Not yet, sir. And as a matter fact, over 24 the weekend in preparing I realized that we didn't even have 25 anybody in town who could go by and verify that the sign has</p>

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3 (9 to 12)

<p style="text-align: right;">9</p> <p>1 been posted. So what I would like you to do, if you leave 2 the record open I will make that visit today, verify the 3 signs are posted and get an affidavit to you either today or 4 tomorrow. 5 MR. BAUMGARDNER: That's fine. 6 MR. KLINE: Sorry about that. 7 MR. BAUMGARDNER: That's quite all right. In terms of 8 the nature of today's proceedings, we will do as we always 9 do. We will begin with the Applicant. They will be given 10 the opportunity to give an opening statement if they wish. 11 They will then start their case in chief. They will call 12 their witnesses and provide testimony and any additional 13 documents that we don't already have in the record. 14 You will notice that on OZHA's website under the public 15 hearing link we have all the exhibits that we have received 16 thus far. I have them on my screen. I will be able to pull 17 them up and share them. If witnesses have that ability or 18 Mr. Kline would like a witness to pull up an exhibit 19 themselves, they are certainly welcome to do so. If you 20 would like me to pull up one of the exhibits that we have, I 21 can also do that as well. 22 I will then turn it over to anyone from the community 23 or otherwise any other folks who would like to testify or 24 ask any questions of any of the witnesses. Then we will 25 turn it back over to the Applicant to provide a closing</p>	<p style="text-align: right;">11</p> <p>1 had asked have there been any change of the plants. And I 2 think this is actually the first special exception or 3 conditional use where I didn't actually make major revisions 4 during the review period and is quite simply because the 5 project is fairly benign, albeit major, but it's a fairly 6 benign and fixed project. 7 So the only thing that's really changed much since the 8 beginning, and I bring this up simply because the hearing 9 examiner sometimes I know was getting frustrated that things 10 were moving as fast as she wanted them to. And I just want 11 to give you a little bit of the background. After our 12 application got in and the staff began its review they did 13 something that the staff typically would do and that was 14 they came back and said the property is not subdivided. 15 It's unplatted today. And we think that what you're doing 16 should trigger improvements to the public transportation 17 network and the pedestrian network. 18 And so staff was going to recommend a condition that 19 the property goes through the preliminary plan of 20 subdivision process to dedicate right-of-way for a widening 21 of Jones Bridge Road and also to construct a widening of the 22 road or really more of a bike lane along the road and a 23 sidewalk. The cost to do that if I remember was \$1 million. 24 Alison, is that right? Was \$1 million to do that. And it 25 would have made the project infeasible.</p>
<p style="text-align: right;">10</p> <p>1 statement if they wish to do so. And that will be the 2 conclusion of today's hearing. 3 Were there any issues or questions that we had at the 4 very beginning? I just have one preliminary issue I wanted 5 to raise. But was there anything from the Applicant or Mr. 6 Kline to address before we get started? 7 MR. KLINE: Well, I guess as sort of preliminary 8 comments, first of all, I don't plan on making an opening 9 statement. I know you've read the record. This has 10 unfortunately been in your office a long time. So I'm sure 11 you've had a chance to look at it. It's pretty 12 straightforward. So I have nothing to add. 13 I will say we don't have a land planner involved in 14 this case, but the staff's definition of surrounding 15 neighborhood is acceptable to the Applicant. And our 16 context through our comments will be in that context with 17 using that neighborhood. So we will just go with that if 18 you're comfortable with that. You answered my question 19 about how you would like to call up exhibits. I know how 20 Ms. Hannon likes to do it. So I just assumed that you would 21 probably be controlling the screen. And we have all the 22 exhibits we wanted to call up. And I'll just ask you to 23 pull up Exhibit 8, for instance, when we get to that point 24 in time. 25 I did want to go back for a second though because you</p>	<p style="text-align: right;">12</p> <p>1 So we went back to par complaining is that we are not 2 doing anything that requires a building permit, therefore 3 there would be no normal trigger for a preliminary plan. 4 And I understand why you like to get what you can get when 5 you get a chance to get it. But it's actually quite 6 prejudicial in this case. 7 And after back and forth, we actually came up with a 8 very clever compromise and we expect a condition would be 9 imposed by the hearing examiner -- excuse me -- that when 10 granted, or if granted, the amendment to the special 11 exception, we will go ahead and provide a deed dedicating 12 the right-of-way on both sides of Jones Ridge Road for 13 ultimately what is recommended in the master plan and with 14 an understanding that if and when we get to a point where 15 there is an improvement on the property that triggers a 16 building permit, then we will have to go through the formal 17 preliminary plan process. 18 And that gave Park and Planning and public sector the 19 right-of-way. They knew they had the right-of-way and knew 20 that we couldn't do anything more into we build the 21 improvements that they are looking for. And this gave time 22 for Audubon to basically try and put together a capital 23 campaign to be a take care of those improvements if and when 24 a building permit is necessary. So that's why that's one of 25 the reasons why this has taken so long to get you.</p>

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4 (13 to 16)

<p>13</p> <p>1 But I just wanted to let you know that condition is 2 acceptable to the Applicant, although be at a little unusual 3 in this situation. But it was a good solution to an already 4 challenging situation for both the public sector and the 5 private development. 6 And then the last thing I was going to say is Mr. 7 Skyke's involvement. He was -- he is basically a licensed 8 forester. I don't think he is an arborist per se, but a 9 licensed forester. He did lead the preparation of the 10 forest conservation plans. The forest conservation plan is 11 important in the context of the property itself, but not so 12 much in the context of this proposal. It's all very 13 integrated. 14 As I said, he is available, but only by long distance 15 phone call. Mechanically, I'm not sure how you would do 16 that. So I was going to ask if we could, particularly since 17 you have a favorable staff report and I guess a letter from 18 the Planning Board, although I don't remember seeing that. 19 Maybe because it's a final there is only a staff report. 20 But staff had a strong recommendation of approval for the 21 forest conservation plan. 22 And of Mr. Hoffmann, though he is an environmental 23 engineer himself, he did, as manager of the office, the 24 Center for Watershed Protection, did manage all of the 25 preparation of all the plans. He can verify the work that</p>	<p>15</p> <p>1 only one of the features that might need structural work 2 that might have triggered a building permit. That's called 3 the thrush. And if we had to defer that, we would. But we, 4 as I said, the arrangement is no building permit will be 5 needed to implement these plans. 6 MR. BAUMGARDNER: Okay. Thank you, very much. The 7 only other preliminary matter I wanted to bring up is just a 8 disclosure on my part. I am a member of the Board of 9 Directors of a local nonprofit called Trash Free Maryland. 10 They do local work mostly in Maryland with reducing refuse 11 and trash, specifically single use plastics, bottles, bags, 12 et cetera. I wanted to disclose that. 13 It does not impact my ability to be a fair and 14 impartial arbiter of this proceeding. But I do want to 15 disclose that to counsel and to the parties and to anyone 16 who is logged in or signed in if there were any objection to 17 me hearing this case. Trash Free Maryland does partner with 18 Audubon in various events, but I do not personally know 19 anyone from Audubon. I've never been in a meeting with 20 anyone, with any director from the Audubon Society. 21 And my directorship with Trash Free Maryland is purely 22 voluntary. There is no compensation or anything like that. 23 But I did want to disclose that. Is there any objection 24 here today on me hearing this case? 25 MR. KLINE: The petitioner has no objection at all.</p>
<p>14</p> <p>1 was done in its conformance with 22A, if you would accept 2 that proffer. 3 MR. BAUMGARDNER: That will be fine. I'm comfortable 4 with the document itself. I have reviewed it. I may have a 5 question or two about its contents, but not its reliability 6 or its authenticity. 7 MR. KLINE: Sure. 8 MR. BAUMGARDNER: So as Mr. Hoffmann is available, you 9 are able to answer a question or two about that plan, that 10 proffer is fine with me. 11 MR. KLINE: All right. Well, I promise you we have the 12 manpower, or in this case, Ms. Pearce, the woman power, to 13 answer the question because she can tell you every tree on 14 that property and how the forest conservation -- and if you 15 notice, I think it's like 12 pages. Because the property is 16 so big it took that much work to put it all together. So we 17 can answer any questions that come up, yes sir. 18 MR. BAUMGARDNER: Okay, great. In reviewing the 19 file -- I have reviewed all of the exhibits. No permanent 20 structures are being constructed or erected, correct was 21 worth there are several -- I wouldn't call it a structure. 22 There are several elements being added to the property that 23 may have a wall or two, but there is no full-scale building 24 with a foundation, four walls and a roof, correct? 25 MR. KLINE: Yeah, that is correct. There's probably</p>	<p>16</p> <p>1 I'm sure Ms. Alexander is familiar with your organization 2 and does not see where there would be any conflict at all. 3 MR. BAUMGARDNER: Okay. Thank you, very much. That 4 being said, we are going to get started here today. I will 5 turn over to Mr. Kline to begin your case in chief. And as 6 we mentioned earlier, if there is a particular exhibit that 7 you would like me to bring up, Mr. Kline, please let me 8 know. 9 MR. KLINE: Thank you, very much. Ms. Alexander, could 10 you please start us off? Could you please state and spell 11 your name for us and then allow the hearing examiner to 12 swear you? 13 MS. ALEXANDER: Yes. Lisa Alexander's; L-I-S-A, 14 A-L-E-X-A-N-D-E-R. 15 MR. BAUMGARDNER: And Ms. Alexander, what is your 16 professional address? 17 MS. ALEXANDER: 8940 Jones Mill Road, Chevy Chase, 18 Maryland 20815. 19 MR. BAUMGARDNER: And what is a good email address for 20 you? 21 MS. ALEXANDER: Lisa.Alexander@ANSHome.org. That's 22 capital A as an Apple, N as in Nancy, S as in Sam, home; 23 H-O-M-E, dot org. 24 MR. BAUMGARDNER: Thank you very much, ma'am. Can you 25 raise your right hand, please?</p>

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<p>17</p> <p>1 And do you swear or affirm under the penalties of</p> <p>2 perjury that the testimony you are about to give is the</p> <p>3 truth, the whole truth and nothing but the truth?</p> <p>4 MS. ALEXANDER: I do.</p> <p>5 MR. BAUMGARDNER: Thank you, very much. Mr. Kline, the</p> <p>6 floor is yours.</p> <p>7 MR. KLINE: Ms. Alexander, thank you for reminding me</p> <p>8 of the street of which were located. How I can get that</p> <p>9 wrong after all these years amazes me. Jones Mill Road.</p> <p>10 What is your association with the petitioner today?</p> <p>11 MS. ALEXANDER: So I'm the executive director of the</p> <p>12 Audubon Naturalist Society.</p> <p>13 MR. KLINE: And just give us just a brief sort of scope</p> <p>14 of what the job entails.</p> <p>15 MS. ALEXANDER: Well, some people call it chief cook,</p> <p>16 and bottle washer. But really what I am is I'm the chief</p> <p>17 strategist for the organization. I help the organization</p> <p>18 frame long-range plans both in terms of our mission work as</p> <p>19 well as the property that we are discussing today.</p> <p>20 I am governed by a Board of Directors and they serve as</p> <p>21 my bosses. So we currently have 18 directors on the Audubon</p> <p>22 Naturalist Society board. And together we set the course</p> <p>23 for the organization to fulfill its mission, to connect</p> <p>24 people in the DC Metro region to nature, and to live out our</p> <p>25 vision of creating a larger and more diverse community of</p>	<p>19</p> <p>1 it's used today.</p> <p>2 MS. ALEXANDER: So we received Woodend in the 1960s.</p> <p>3 It was a bequest from a member of the Society who was an</p> <p>4 avid birder and she wanted to leave as the property as a</p> <p>5 physical headquarters. It was our first physical</p> <p>6 headquarters, but also as a nature sanctuary. So we used</p> <p>7 that opportune moment of gaining a nature sanctuary to</p> <p>8 really ramp up our education programs in the region.</p> <p>9 When we gained at the sanctuary, it was also the first</p> <p>10 time we gained paid staff. And the executive director from</p> <p>11 the 1960s is still alive and in the area and a member of the</p> <p>12 organization and supporting our work. And with that paid</p> <p>13 staff, we expanded our reach to include education for people</p> <p>14 of all ages, conservation advocacy. Some of our key</p> <p>15 advocacy successes include preserving the CNO canal and</p> <p>16 protecting it from development. And also, more recently</p> <p>17 restoration of the environmental habitats at Woodend Nature</p> <p>18 Sanctuary.</p> <p>19 MR. KLINE: Mr. Baumgardner, I would like to call up an</p> <p>20 exhibit. But I'm not quite sure what to call it. I'm</p> <p>21 looking for Exhibit 8. And it's called the cover sheet.</p> <p>22 And I have -- the sheets I have calls it cover sheet. I'm</p> <p>23 not sure it got labeled as a separate exhibit or not because</p> <p>24 it --</p> <p>25 MR. BAUMGARDNER: So in looking through, can you see</p>
<p>18</p> <p>1 people who treasure the natural world and work to protect</p> <p>2 it.</p> <p>3 MR. KLINE: You probably -- those comments are a good</p> <p>4 segue into my question about -- tell us something about</p> <p>5 Audubon Naturalist Society. What is it? How was it</p> <p>6 created? And what is its mission?</p> <p>7 MS. ALEXANDER: So Audubon Naturalist Society was</p> <p>8 founded in 1897. It's the oldest independent environmental</p> <p>9 organization specifically focused on the DC Metro region.</p> <p>10 When we were founded, we were the Audubon Society of the</p> <p>11 District of Columbia. And our primary mission was the</p> <p>12 conservation of birdlife.</p> <p>13 That mission evolved over time, as did our name. We</p> <p>14 changed our name to Audubon Naturalist Society in the 1960s</p> <p>15 to indicate that we would about more than just the birds.</p> <p>16 And we really see our work here in the DC Metro region as</p> <p>17 being -- giving everyone of all ages and abilities the</p> <p>18 opportunity to enjoy, learn about, and protect nature.</p> <p>19 MR. KLINE: You call the subject property by what name?</p> <p>20 MS. ALEXANDER: We call it Woodend Nature Sanctuary.</p> <p>21 It serves as our headquarters. It's one of two nature</p> <p>22 sanctuaries that we own and operate, Woodend Nature</p> <p>23 Sanctuary is in Chevy Chase, Maryland and Russ Nature</p> <p>24 Sanctuary is in Leesburg, Virginia.</p> <p>25 MR. KLINE: And tell us about Woodend, its size, how</p>	<p>20</p> <p>1 the exhibit list that I have up on the screen right now Mr.</p> <p>2 Kline?</p> <p>3 MR. KLINE: Yes, sir.</p> <p>4 MR. BAUMGARDNER: Which of those might be the cover</p> <p>5 sheet?</p> <p>6 MR. KLINE: One second while it pops back up.</p> <p>7 MS. ALEXANDER: These are site plans, Jody. Maybe it's</p> <p>8 8 site plans.</p> <p>9 MR. KLINE: Well, 8F is a little bit different. So I</p> <p>10 was going off maybe -- let me change lists here. You want</p> <p>11 to work off that list, sir? I was looking at a separate</p> <p>12 one.</p> <p>13 MR. BAUMGARDNER: They should be the same.</p> <p>14 MR. KLINE: Well, we can go with 8A, the site plan. Or</p> <p>15 what I show as 8A. On that one it's --</p> <p>16 MR. BAUMGARDNER: Let's see if 8 includes A through F.</p> <p>17 MR. KLINE: Yeah. Yeah, okay. Right. I see what you</p> <p>18 did. You got 8A through 8F. So is there -- in the group of</p> <p>19 8, is there a sheet called -- yeah, that will do.</p> <p>20 MR. BAUMGARDNER: Okay.</p> <p>21 MR. KLINE: That will do. I wanted to give Ms.</p> <p>22 Alexander an opportunity to kind of put everything in</p> <p>23 context of what you see on this photograph. So which</p> <p>24 exhibit do we have up, Mr. Baumgardner?</p> <p>25 MR. BAUMGARDNER: This is Exhibit 8. I don't know if</p>

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6 (21 to 24)

<p>21</p> <p>1 they are individually --</p> <p>2 MR. KLINE: Yeah, okay. No, you're very good. That is</p> <p>3 the cover sheet. So if you could, scroll back. And what I</p> <p>4 wanted Ms. Alexander to do is just kind of --</p> <p>5 Ms. Alexander, let's start with giving us the perimeter</p> <p>6 of the property showing where you are located on both sides</p> <p>7 of Jones Mill Road and then the features that are there</p> <p>8 today. And then we will talk about the highlighted areas.</p> <p>9 MS. ALEXANDER: Is there an opportunity for me to use a</p> <p>10 cursor on this?</p> <p>11 MR. BAUMGARDNER: You would have to be able to share</p> <p>12 your screen.</p> <p>13 MS. ALEXANDER: Oh, I see. Okay. Well, let me see if</p> <p>14 I can just navigate us by talking about the property. To</p> <p>15 the left side of the screen, you will see kind of -- it</p> <p>16 looks as if it's in the center of a big circle. You will</p> <p>17 see a parking lot area and a building area. A little bit</p> <p>18 lower than that.</p> <p>19 MR. BAUMGARDNER: This is Exhibit 8.</p> <p>20 MS. ALEXANDER: Yes.</p> <p>21 MR. BAUMGARDNER: And I'm looking towards the western</p> <p>22 portion of the property. I'm putting my cursor around what</p> <p>23 looks like a small parking area.</p> <p>24 MS. ALEXANDER: That's correct.</p> <p>25 MR. BAUMGARDNER: And a building right here.</p>	<p>23</p> <p>1 property. So when historic preservation thinks about the</p> <p>2 historic value of the property, that think about these two</p> <p>3 buildings, the mansion and the garage, as the main historic</p> <p>4 features. And so when they are considering projects, they</p> <p>5 think about the proximity of projects as they relate to</p> <p>6 those main historic features.</p> <p>7 MR. KLINE: In other words, the environmental setting</p> <p>8 for the historic designation is the entire property?</p> <p>9 MS. ALEXANDER: That's correct.</p> <p>10 MR. KLINE: All right. Show us where Brierley Road is</p> <p>11 or tell us where Brierley Road is on the west side of the</p> <p>12 property being your western boundary.</p> <p>13 MS. ALEXANDER: So Brierley road is to the far left of</p> <p>14 the screen. That's correct. And then Jones Mill Road</p> <p>15 bisects the property on the right side of the screen.</p> <p>16 MR. KLINE: So you have land on the east side of Jones</p> <p>17 Mill Road that runs all the way down to the creek, correct?</p> <p>18 MS. ALEXANDER: Right, to Rock Creek Park. So we abut</p> <p>19 Rock Creek Park with the 7 acres on the right side of the</p> <p>20 property. And that property, other than a boardwalk that</p> <p>21 connects to Jones Mill Road, doesn't have any improvements</p> <p>22 on it.</p> <p>23 MR. KLINE: What's the general allocation of acreage of</p> <p>24 the two main parts of the campus?</p> <p>25 MS. ALEXANDER: So we have 33 acres on the west side of</p>
<p>22</p> <p>1 MS. ALEXANDER: And so that's our main building. That</p> <p>2 is a mansion designed by John Russell Pope who also designed</p> <p>3 the Jefferson Memorial and Constitution Hall. It was built</p> <p>4 for the Wells family to live in. But now it serves as our</p> <p>5 administrative offices. And we have a wonderful first-floor</p> <p>6 that's quite historic and lovely that we use for classes,</p> <p>7 for events. And upstairs we house the offices.</p> <p>8 If you continue down the driveway to the right, you</p> <p>9 will see the second building. It's another parking lot that</p> <p>10 has hashmarks in it. It's a little closer to the top of</p> <p>11 your screen near a circle on Valley Drive. You see a</p> <p>12 parking lot. It looks like the teeth of a comb down a</p> <p>13 little to the right. Keep going. A little further. There</p> <p>14 ago.</p> <p>15 MR. BAUMGARDNER: Ah, there we go. Got it.</p> <p>16 MS. ALEXANDER: Yeah. And next to that -- oh, excuse</p> <p>17 me. That's the pump for the well. So that's cottage</p> <p>18 living. I apologize for the background noise.</p> <p>19 MR. BAUMGARDNER: It's okay.</p> <p>20 MS. ALEXANDER: That's the second historic resource.</p> <p>21 Near that parking lot is what used to be -- a little bit to</p> <p>22 the left. So behind that parking lot there is a little</p> <p>23 rectangle. It's white. That used to be the very fancy</p> <p>24 garage of the Wells family that is now our nature preschool.</p> <p>25 And those are the two main historic features on the</p>	<p>24</p> <p>1 the property and then 7 acres on the east side that abuts</p> <p>2 Rock Creek Park.</p> <p>3 MR. KLINE: And the driveway coming off the west side</p> <p>4 of Jones Mill Road sort of angling to the north and then</p> <p>5 looping around to Woodend, that's the access and probably</p> <p>6 the primary access to the property?</p> <p>7 MS. ALEXANDER: That is the primary access unless</p> <p>8 you're coming on foot. And we think about the area when we</p> <p>9 are talking with historic preservation, that winding that</p> <p>10 you see, that was actually the stream. So if you go from</p> <p>11 the Brierley Road exit around the mansion and closer to the</p> <p>12 edge of the property on the north, that's the driveway.</p> <p>13 Yeah, there we go. That's the driveway.</p> <p>14 And when we talk with our friends at the Historic</p> <p>15 Preservation Commission about the driveway, we refer to it</p> <p>16 as kind of the landscape corridor. The driveway area is the</p> <p>17 place where we have the most human activity as well as the</p> <p>18 most, what I would call more a botanic garden style of</p> <p>19 approach to the sanctuary. As we get into the forest, we're</p> <p>20 doing a lot more to let nature take its course. But we are</p> <p>21 a little more deliberate along that driveway.</p> <p>22 MR. KLINE: And the two shaded areas on the right-hand</p> <p>23 side of the east or western parcel, those are the areas of</p> <p>24 the nature play space that are the primary focus of this</p> <p>25 application, correct?</p>

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7 (25 to 28)

<p>25</p> <p>1 MS. ALEXANDER: Yes, that's right. The place area 2 itself is the boot shaped shaded area. And then across the 3 driveway is a small parking area that would serve the play 4 space. If you look below that shaded area, you will see 5 there are some existing amenities that have been preapproved 6 and are now constructed. There is a little U shape and a 7 little -- 8 MR. KLINE: Ms. Alexander, could you -- 9 MS. ALEXANDER: And a little -- it looks like teeth 10 almost. That is -- 11 MR. KLINE: Ms. Alexander? 12 MS. ALEXANDER: Yes. 13 MR. KLINE: Can you wait one second? 14 MS. ALEXANDER: Sure. 15 MR. KLINE: Mr. Baumgardner, could you pull up Exhibit 16 51, please? Fine. Ms. Alexander, I believe this is 17 probably -- well, there was a question I wanted to ask you 18 about what was the most recent sort of precursor leading to 19 the nature play space area. And what does this Exhibit 51A 20 show and how is it related to the nature play area? 21 MS. ALEXANDER: Okay. So this is an already approved 22 project that is nearing completion and it had two major 23 components. One component was the restoration of the clean 24 drinking stream that runs through our property. It was a 25 highly eroded stream that was delivering pollution into Rock</p>	<p>27</p> <p>1 That's part of this application. 2 MR. KLINE: Mr. Bungarner, did you have any questions 3 about that? This area or this exhibit or anything she just 4 said before I leave it? Because I was going to take her in 5 a little bit more detail about the nature play space area. 6 MR. BAUMGARDNER: I do not have any further questions. 7 MR. KLINE: All right. Could you bring up that Exhibit 8 8A, which is the site plan for the nature play area? It 9 should be the next one below that. Ms. Alexander, I would 10 like you to kind of give an overview of what you are trying 11 to accomplish here, what you're trying to accomplish and why 12 it was decided to be put here. And referring to Exhibit 8A, 13 site plan. 14 MS. ALEXANDER: Yes. So Audubon Naturalist Society, 15 since it's had Woodend Nature Sanctuary has been hosting 16 school field trips at the site. So kids hop on buses and 17 come to our nature sanctuary and have the opportunity to be 18 guided by our educator naturalist to learn more about the 19 natural world. We do that in coordination with the 20 Montgomery County Public School science curriculum. Of 21 course during the pandemic that's been quite curtailed. But 22 we anticipate that field trip experience coming back to 23 life. 24 One of our hardest situations was now that many 25 children with physical disabilities are mainstreamed into</p>
<p>26</p> <p>1 Creek. And so with the help of Mr. Hoffmann and his team, 2 we created a stormwater conveyance system through our stream 3 that consists of more than 45 little dams and waterfalls 4 that slow the water down, let it pool, let sediment settle, 5 a great habitat for wildlife. 6 And we've had a great sprung with all kinds of wildlife 7 already in this newly restored stream including salamanders, 8 frogs, toads, dragonflies, aquatic insects. So it's already 9 doing its job of creating habitat. The companion project to 10 that that you can see with the brown area on this drawing, 11 is a wheelchair accessible nature trail. We've always had a 12 nature trail in this location, but it was not accessible to 13 people who use mobility assistance devices. 14 So this brown trail is now an entirely accessible trail 15 for people using wheelchairs, walkers, shoulders, canes, you 16 name it. And what I would like to say about the 17 relationship of the wheelchair accessible trail to the 18 nature play space is that the accessible trail puts down a 19 base map for the nature play space. It put in place the 20 main accessible trail work. It also includes -- the 21 wheelchair accessible trail also includes, on the north side 22 of the driveway, to handicap accessible parking spaces and a 23 bus pull out. 24 So that area is already constructed. And what is not 25 constructed is that parking area that's shown to the north.</p>	<p>28</p> <p>1 school classrooms, when field trips would come, kids would 2 get off the bus, whether they had wheelchairs or walkers or 3 were able-bodied. And the kids who were able-bodied had the 4 chance to go into the woods, to go down to the pond, to dip 5 their nets in, to collect apples. But the kids who were in 6 wheelchairs, we had to take the patio of the mansion. And 7 that did not feel like a fair deal for kids with 8 disabilities. 9 In addition, because we have a mission to connect 10 people with the outdoors, even before the pandemic we were 11 feeling this rising tide of kids connected to screens and 12 missing those foundational experiences of being out in 13 nature and having free play in nature, free play that we 14 think is the essential ingredient to becoming a lifetime 15 steward of the environment. 16 If kids never get off their computers and never get to 17 go mess around in the woods, or climb across rocks and a 18 stream, or jump from stone to stone on a path through the 19 woods, they are not going to learn the concepts of nature or 20 the love of nature that we think is essential for protecting 21 nature for the future. So we envisioned the nature play 22 space as a place where parents and teachers and caregivers 23 could feel safe having their kids play in the woods. 24 But then we would give them those foundational 25 developmental experiences that not only help kids fall in</p>



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<p>29</p> <p>1 love with nature, but also give them some great cognitive 2 benefits including things like vocabulary acquisition, and 3 spatial awareness, and gross motor and fine motor skill 4 development and cooperative play, all the things that we 5 probably did as kids in nature without our parents or 6 caregivers even noticing.</p> <p>7 But now we need to be very intentional in making the 8 spaces and places where kids can do that nature play that 9 builds their minds, that builds their bodies. And what was 10 incredibly important to us was making that available for 11 children of all abilities, not just able-bodied kids, but 12 all abilities. And so that's the essence behind the nature 13 play area.</p> <p>14 We assembled a group of early childhood development 15 experts, the play space committee who helped us identify the 16 key features for child development to be included in the 17 nature play space. And in addition we have a special 18 relationship with the Montgomery County Public Schools 19 office of students with physical disabilities and they've 20 been giving us their expert guidance on how to serve as many 21 children with disabilities as possible in our nature play 22 space.</p> <p>23 MR. KLINE: And why did you put it in this general 24 location?</p> <p>25 MS. ALEXANDER: So there are a couple of reasons. The</p>	<p>31</p> <p>1 sanctuary.</p> <p>2 MR. KLINE: Well, Ms. Alexander, how long has ANS been 3 providing these kinds of services or activities for children 4 and for adults for that matter?</p> <p>5 MS. ALEXANDER: Gosh. Well, really since our very 6 beginning. Even in the early 1900s we were going into 7 schools. I have great pictures of ladies with long dresses 8 and poofy sleeves going into schools to teach kids about 9 birds. But we've been hosting the field trips since the day 10 we began being the steward of Woodend Nature Sanctuary. So 11 that's back since the 1960s we've been hosting field trips 12 at Woodend for kids of all ages.</p> <p>13 MR. KLINE: Based on your experience and your 14 familiarity with property and the operations as they are 15 today, do you believe that these activities in this location 16 can be conducted in harmony with the character of the 17 surrounding neighborhood?</p> <p>18 MS. ALEXANDER: Absolutely. I think it's a lovely 19 family neighborhood where we are located, lots of young 20 children. We abut the community pool. And so on any given 21 summer day you just get the sense of how many young children 22 live in our neighborhood. And so I think this is just going 23 to be a wonderful amenity for the folks in the neighborhood, 24 but also for families around the county who don't have 25 accessible places for kids to play in nature.</p>
<p>30</p> <p>1 nature sanctuary is free and open to the public 365 days a 2 year. And it has a whole bunch of lives, lots of different 3 uses. It's used for classes. It's used for events. It's 4 used for summer camp. And what we are trying to do is we're 5 trying to make spaces that are special for different things. 6 So perhaps it would be a conference going up on the mansion. 7 That's way up on the hill.</p> <p>8 And down here separate from that is this tucked away 9 nature play space so that we really could have multiple uses 10 are happening at the sanctuary at one time without people 11 crashing into each other. And the nature play space also 12 has a nice alignment with our nature preschool. And with 13 what we think of as a starting point. If you look at the 14 driveway and how you enter, there is a gathering space that 15 allows classes and teachers and our naturalists to get 16 together, to gather, to begin their experience in the nature 17 play space and then to use it as an invitation to go farther 18 into the woods.</p> <p>19 The idea of the nature play space is to serve our very 20 youngest children and also put an invitation out there for 21 using that accessible trail to dig deeper, to find their way 22 farther into the woods. And so this way we just separate 23 the uses. We have a great starting place for our youngest 24 learners. And using the accessible trail, we provided this 25 great invitation to explore further into the nature</p>	<p>32</p> <p>1 MR. KLINE: I realize Ms. Pearce is going to go into a 2 little bit more detail about the individual features and the 3 level of activity. But based on your planning and your 4 familiarity with the property, in your opinion, will the, 5 what you just described and shown on this exhibit, be 6 detrimental to the use and enjoyment of any surrounding 7 properties?</p> <p>8 MS. ALEXANDER: I can't imagine that the laughter of 9 children would be detrimental to anybody's use. So that's 10 the -- you know, the kind of activity that we expect. The 11 nature play space is kids play together, working together, 12 solving problems together, learning new things together. 13 And children's laughter would be the biggest outcome I think 14 of all that.</p> <p>15 MR. KLINE: So you don't foresee any objectionable 16 noise or fumes or illumination or anything that would be 17 bothersome to surrounding property owners?</p> <p>18 MS. ALEXANDER: No, we are not anticipating putting any 19 lighting. Our sanctuary is open from dawn to dusk. We 20 really don't want folks unless they are invited to a 21 specific event to be there after dark. So we don't plan to 22 light it.</p> <p>23 MR. KLINE: I mentioned we don't have a land use 24 planner involved in this. But you've been personally active 25 in the development of the Bethesda Chevy Chase master plan</p>

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<p>33</p> <p>1 as it relates to this property; am I correct?</p> <p>2 MS. ALEXANDER: Yes.</p> <p>3 MR. KLINE: All right. And basically, what does the</p> <p>4 master plan say should occur on this property?</p> <p>5 MS. ALEXANDER: So the two main points of the master</p> <p>6 plan are that Woodend as a nature sanctuary should retain</p> <p>7 its open space character, which we think the play space does</p> <p>8 nicely. We are adding some rustic play features like log</p> <p>9 scrambles and sand pits. But the open space nature is the</p> <p>10 first emphasis in the master plan for Woodend. And then the</p> <p>11 second emphasis is a respect for the historic character of</p> <p>12 the property, which we have done especially by locating the</p> <p>13 play space pretty far away from the main historic feature.</p> <p>14 MR. KLINE: And most of the questions I just asked all</p> <p>15 had to do with the relationship of the use for the</p> <p>16 community. Would you describe -- and I realize you don't</p> <p>17 have to do this completely. But give us an overview of your</p> <p>18 outreach efforts and your community engagement efforts with</p> <p>19 the larger neighborhood.</p> <p>20 MS. ALEXANDER: Right. So with the help of the</p> <p>21 planning staff and the Planning Board, we began to host</p> <p>22 community liaison meetings twice a year. We sent email</p> <p>23 notices to all of our neighbors and we encourage them to</p> <p>24 join us. Of course lately has been on Zoom, but we have</p> <p>25 done them in person in the past. And what we do is we alert</p>	<p>35</p> <p>1 the background. So you are hearing my well pump go and the</p> <p>2 crickets singing in the background. So I apologize for</p> <p>3 cottage noises.</p> <p>4 MR. KLINE: Appropriate for Audubon Naturalist Society</p> <p>5 to have that kind of background noise. Ms. Alexander, let</p> <p>6 me wrap up with this and say, are the conditions that were</p> <p>7 recommended in the technical staff report and the Planning</p> <p>8 Board's recommendation, are they acceptable to the</p> <p>9 Applicant?</p> <p>10 MS. ALEXANDER: Yes, they are.</p> <p>11 MR. KLINE: Mr. Baumgardner, I have no further</p> <p>12 questions of Ms. Alexander this time.</p> <p>13 MR. BAUMGARDNER: Just a couple of quick follow-ups</p> <p>14 just to make sure I have a good understanding of the current</p> <p>15 operations. You mentioned that there is a preschool, a</p> <p>16 nature preschool on-site; is that correct?</p> <p>17 MS. ALEXANDER: That's correct.</p> <p>18 MR. BAUMGARDNER: Can you describe that use for me</p> <p>19 including where folks drop off kids and park and numbers and</p> <p>20 things like that?</p> <p>21 MR. KLINE: You might want to go --</p> <p>22 MS. ALEXANDER: Yeah, I'm going to turn over to --</p> <p>23 MR. KLINE: You might want to go back to the campus map</p> <p>24 again. I guess that was 8, Exhibit 8.</p> <p>25 MS. ALEXANDER: Yeah, and I think I might want to turn</p>
<p>34</p> <p>1 the neighbors of things we are planning to do, the status of</p> <p>2 other projects that they've been aware of, give them a</p> <p>3 chance to ask questions, provide feedback.</p> <p>4 And so that's been a really important part of this</p> <p>5 whole process is working with our neighbors. And one of the</p> <p>6 pleasures of the process now is meeting our neighbors on the</p> <p>7 new accessible trail and hearing their just delight at being</p> <p>8 able to see the restoration and process, see the nature</p> <p>9 trail and all of its accessibility.</p> <p>10 We had a group from the Montgomery County Recreation</p> <p>11 Department seniors come on their buses with their</p> <p>12 wheelchairs and their walkers and get out there in space.</p> <p>13 So I think our community outreach has been constant. We</p> <p>14 always have an email address where people can ask questions.</p> <p>15 We meet with individual neighbors on-site if they want to go</p> <p>16 look at something more closely. So we try to be really</p> <p>17 responsive to our neighbors.</p> <p>18 MR. KLINE: You mentioned the fact that Woodend is a</p> <p>19 historically designated site. Have you obtained an historic</p> <p>20 area work permit to authorize what you are proposing in this</p> <p>21 conditional -- I'm sorry -- special exception amendment?</p> <p>22 MS. ALEXANDER: Yes, we do have a historic area work</p> <p>23 area permit that includes the nature play space. And I just</p> <p>24 want to -- I don't know if you can hear it, but in true</p> <p>25 cottage living, a cricket has joined to me and is singing in</p>	<p>36</p> <p>1 this over to Alison because we were closed last year due to</p> <p>2 the pandemic. And there is a slight reconfiguration for</p> <p>3 this year that I think Alison has better statistics on.</p> <p>4 MR. BAUMGARDNER: In that case, then we can -- I will</p> <p>5 hold my question and wait for Ms. Pearce's testimony to ask</p> <p>6 the question about the nature preschool. That was really</p> <p>7 the only follow-up I had.</p> <p>8 But just to confirm for my earlier (inaudible) the</p> <p>9 nature play space, there are no permanent structures being</p> <p>10 erected that would have electricity or plumbing or concrete</p> <p>11 foundations, things that would require a building permit.</p> <p>12 So what's being proposed, which we will get into in a little</p> <p>13 more detail from Mr. Kline's presentation through the</p> <p>14 witnesses. But just to confirm that there is no building</p> <p>15 permit required and that we are not constructing any</p> <p>16 permanent buildings; is that correct?</p> <p>17 MS. ALEXANDER: I would just like to add that in the</p> <p>18 previous project of the stream and trail restoration, we did</p> <p>19 have approved, a composting toilet facility. So we do --</p> <p>20 it's already in place. It's a two stall wheelchair</p> <p>21 accessible composting toilet facility. But that was</p> <p>22 approved in the previous project.</p> <p>23 MR. BAUMGARDNER: Okay. Thank you, very much. Back to</p> <p>24 you, Mr. -- or I should say, are there any questions from</p> <p>25 anyone else who is locked in of Ms. Alexander from her</p>

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<p>37</p> <p>1 testimony here today? You can raise your hand. 2 I forgot to mention during my intro, there is also a 3 virtual raising your hand feature towards the top of your 4 screen, middle right, the third icon in. If you put your 5 cursor over that, there is a little emoticon with a raised 6 hand. You can click on the hand and that is a virtual 7 raised hand feature if you have a question or some issue 8 that you would like to bring to my attention. 9 So is there anyone logged on right now that as a 10 question for Ms. Alexander? Please raise your physical hand 11 or raise your virtual hand or otherwise indicate to me that 12 you have a question. Seeing none, we thank Ms. Alexander 13 for her testimony and turned back over to counsel to 14 continue his examination. 15 MR. KLINE: Thank you. Ms. Pearce, could you please 16 state and spell your name for us? 17 MS. PEARCE: Yes, I'm Alison Pearce, which is spelled; 18 A-L-I-S-O-N. Last name Pearce; P-E-A-R-C-E. 19 MR. KLINE: And your business address, please? 20 MS. PEARCE: It is also 8940, Jones Mill Road, Chevy 21 Chase, Maryland 20815. 22 MR. KLINE: And your association with the petitioner? 23 MS. PEARCE: I'm the deputy director for programs for 24 the Audubon Naturalist Society. 25 MR. KLINE: Mr. Baumgardner, would you like to swear in</p>	<p>39</p> <p>1 probably the same exhibit that we had up before, which is 2 the site plan, which was 8A, if we could have that back up 3 Mr. Baumgardner. 4 MR. BAUMGARDNER: Sure. It should be coming up 5 momentarily. 6 MR. KLINE: We've got it. So Ms. Pearce, all of these 7 sort of circles and octagons or whatever they are, are they 8 a locational feature for each of the different pieces of 9 equipment that are talked about? 10 MS. PEARCE: Yeah. 11 MR. KLINE: Just -- kind of just explain what this 12 shows. 13 MS. PEARCE: Sure. So I might start with site 14 circulation. So the idea would be if you are arriving in a 15 car you would pull in from Jones Mill Road and park either 16 in the accessible spots. A bus would park in the existing 17 bus pull off and cars would pull in to that 18 spot parking 18 lot. And then he would be able to walk from there to the 19 sidewalk area by the accessible parking and onto the 20 accessible trail. So the play space really serves as a sort 21 of special trailhead to the accessible trail. 22 As Lisa mentioned, the trail through the play space, 23 sort of that secondary white trail, was already approved and 24 is in the process of being built right now. And at the 25 trailhead, the rectangle sort of closest to our driveway is</p>
<p>38</p> <p>1 Ms. Pearce for testimony? 2 MS. PEARCE: I would. And Ms. Pearce, what is your 3 business email address? 4 MR. KLINE: Is Alison; A-L-I-S-O-N; dot Pearce; 5 P-E-A-R-C-E; at ANSHome.org. 6 MR. BAUMGARDNER: Thank you very much, ma'am. Can you 7 please raise your right hand? 8 Do you swear or affirm under the penalties of perjury 9 that the testimony you are about to give is the truth, the 10 whole truth and nothing but the truth? 11 MS. PEARCE: I do. 12 MR. BAUMGARDNER: Thank you, very much. Mr. Kline, the 13 witnesses yours. 14 MR. KLINE: Thank you. Ms. Pearce, just give us an 15 overview of your job responsibility. 16 MS. PEARCE: Sure. So I'm responsible for overseeing 17 the restoration of Woodend Sanctuary's habitats and trails 18 and visitor amenities. And I also supervise all of our 19 education staff. 20 MR. KLINE: I used the comment, you are in charge of 21 where the rubber hits the road, right? 22 MS. PEARCE: Several roads, yes. 23 MR. KLINE: What I wanted to do is have you come back 24 and go through a little more detail about what's actually 25 going to occur in this play space area. And I thought</p>	<p>40</p> <p>1 a gathering area. Yes, there. So that would be a gathering 2 area with like a pergola where -- that could serve as an 3 initial gathering space close to that composting toilet 4 facility. It's not an enclosed building. It just has a 5 shade structure. It would maybe have picnic tables there. 6 And then off to the east or the right from that area, 7 the kind of small circles, yes, that area, is accessible and 8 is a kind of construction zone where there would be a water 9 sluice and sand pits and loose parts. So that's sort of 10 where you can imagine kids building things with their hands 11 using natural materials. And we are working really 12 carefully with designers to make sure that that's accessible 13 to all children by using sand tables and water tables, 14 really thinking carefully about height and accessibility to 15 that walkway so that all children can engage in that type of 16 play. 17 Just to the south of there, you see two sort of 18 small -- yes, that area. Those are two playhouses. And we 19 are working with the company that has an accessible design 20 so that children in wheelchairs can access those playhouses. 21 And we always have playhouses in sets of two because we find 22 that a lot of children's games require groupings of two. As 23 part of their social and emotional development is forming 24 groups that interact with each other in different ways. So 25 that is an area for imaginative play.</p>

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11 (41 to 44)

<p style="text-align: right;">41</p> <p>1 MR. KLINE: Ms. Pearce, before you go on, let me just 2 as the hearing examiner a question. 3 MS. PEARCE: Sure. 4 MR. KLINE: Mr. Baumgardner, I know you've read the 5 record and everything. But frankly we'd kind of like to 6 brag a little bit about what we are going to do. Some of 7 these pieces of equipment are very unique and very unusual. 8 I would love to pull them up. And as you said, Mr. Kline, I 9 saw the rocks, I saw the nests, I saw the thrush, I don't 10 really need to see them again. But if you wouldn't mind, we 11 probably would like to pull a couple of them up simply 12 because they are so cute and clever. 13 MR. BAUMGARDNER: Sure. I'm happy to pull up any of 14 the exhibits that you like. 15 MR. KLINE: Fine. 16 MR. BAUMGARDNER: I don't know where on the list those 17 visuals were. 18 MR. KLINE: Yeah. I've got the exhibit numbers. So 19 Alison, if you get to something and you say, hey, this is 20 worth showing, let me know and I will tell the hearing 21 examiner what page it's on. 22 MS. PEARCE: Sure. So just to the south of those play 23 areas, I call it the kidney bean shaped on the east, that is 24 really an area for climbing and big kinetic play. So what 25 you're looking at is basically a set of boulders there. And</p>	<p style="text-align: right;">43</p> <p>1 component of nature play. There would be things in this 2 area like anatomical sculptures of different wildlife so 3 that children could experience what the wildlife looks like 4 in our region. 5 And then to the west of their is another larger log 6 scramble. So another concept that we had as we developed at 7 the play space was that you would have different areas that 8 were designed for different age groups. So this is really 9 designed for children six and older who are getting more 10 confident in their climbing ability. So it would be a more 11 ambitious log scramble kind of transitioning them into the 12 natural woods. 13 And everything kind of to the south of the trail there, 14 that transitions into a wooded area. You can see all of the 15 little circles are actually the trees from our survey. And 16 none of those have been disturbed. So this is the area 17 where we would encourage children to do things like build 18 forts in the woods. But they do already in other parts of 19 the property. So we would be encouraging that activity 20 here. 21 And the next structure that you witnessed is off to the 22 east in that area there, which would be like an overlook 23 that is designed to look like a birds nest. So you get that 24 feeling of height. Maybe you could imagine you are in 25 eaglet in a nest.</p>
<p style="text-align: right;">42</p> <p>1 we may have some log elements in that space as well that 2 will really be about climbing and taking measured risks. 3 You know, your typical, what we call the perfect plastic 4 playgrounds, all of the climbing activities are very 5 regular. There is the same amount of space from one step to 6 another. 7 Whereas in nature play, children learn to evaluate risk 8 for themselves and to deal with sort of less regular 9 materials. So that is the kind of activity that will happen 10 there. And then kind of the hexagonal polygon in the 11 middle, that is where that wood thrush structure would be, 12 which is partly sculptural. So it's partly just to sort of 13 inspire the imagination. 14 The wood thrush is the official bird of the District of 15 Columbia and it's special to us because it requires a 16 particular type of forest habitat that we are working to 17 restore at Woodend. So we say that we know that we will 18 have been successful with our habitat restoration when we 19 have a nesting pair of wood thrush. So that's why we chose 20 that bird for that special feature. 21 But this will be another really gathering area that 22 will serve as a classroom space that will also have lots of 23 smaller elements like art boards and weaving board and will 24 be fully accessible as well. The wood thrush itself would 25 have shelving for loose parts that are a very important</p>	<p style="text-align: right;">44</p> <p>1 MR. KLINE: Mr. Baumgardner, could you pull up say 2 Exhibit 8D, as in dog? 3 MR. BAUMGARDNER: Let's see if it loads. There we go. 4 MR. KLINE: There we go. 5 MS. PEARCE: Yeah. So these of course are not the 6 actual features since they are not built yet, kind of 7 inspiration photos. So in the top left you have a 8 playhouse. Now of course the one pictured here would not be 9 accessible. So we will be custom designing ours to be 10 accessible for children who use wheelchairs. We have -- oh, 11 the number two is simply showing how we will use post and 12 rope to create areas. 13 There is an extensive planting plan for the play space, 14 and of course little feet and plantings don't always work 15 well together. So we've designed the spaces so that there 16 are opportunities to plant native plants for wildlife and 17 for learning opportunities and protect them from foot 18 traffic. 19 Rustic chalkboards and art boards will be throughout 20 the space, things like log circles and stumps. And then 21 number five there is showing an example of the water sluice. 22 So what -- we have water on site already with a water 23 fountain. And we will be adding a water pump that would 24 allow children to have that kind of experimentation that a 25 lot of us did in small creeks where you make a little dam</p>

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12 (45 to 48)

<p>45</p> <p>1 and see what happens to the water and learn about gravity 2 and flow. 3 And so this water sluice will flow right into our sand 4 area as well and so children can experiment with building 5 with sand of different wetness and that kind of thing. 6 We're considering a swing, like the one in item number 7 6 that children who use wheelchairs can be transferred into 8 a swing like this. It has enough support for children with 9 certain disabilities to be able to use and of course all 10 children enjoy a big nest swing like that. 11 And then if you scroll down a little bit. Item number 12 8 is the example of a larger log scramble. 13 MR. KLINE: That looks interesting. 14 MS. PEARCE: Yeah. So they -- they're obviously very 15 heavy but they're pinned together and they would also have 16 small concrete footings that would hold that all in place 17 and the area, even though it's not playground equipment -- 18 traditional playground equipment it will meet playground 19 safety standards. So there are actually companies that 20 provide elements like this that satisfy playground safety 21 standards. 22 MR. KLINE: And maybe, Mr. Bumgardner, could you scroll 23 down one more below this just so -- I don't want to continue 24 this, but the thrush is so interesting I just wanted to get 25 the picture up on the screen. There we go.</p>	<p>47</p> <p>1 THE COURT: It's a very impressive structure, or an 2 impressive feature. So going back to exhibit -- and this is 3 8A, Mr. Kline? 4 MR. KLINE: Yeah. Right. 5 THE COURT: It's (inaudible) as well. 6 MR. KLINE: Yeah I would like to get to the one after 7 that, 8B, please? 8 THE COURT: Sure. 9 MR. KLINE: And focusing on the north hand side. So 10 you heard Ms. Alexander kind of talk about what's in there 11 already. Maybe you can reiterate that and then explain what 12 you are adding and how it's going to work. 13 MS. PEARCE: Sure. So what we would be adding is a 14 parking area for 18 cars, using a permeable approach called 15 gravel pave. So you've probably seen these before. There 16 are sort of a milk crate type structure that that into the 17 ground with gravel, that allows storm water to flow through 18 while also creating an appropriate substrate for cars to 19 park. 20 So we sited this it this way, you know it looks a 21 little bit strange that the way it is sited but it really 22 was the outcome of a couple of processes. One was Historic 23 Preservation Commission. We showed them actually several 24 iterations of parking design and this is the one that they 25 were very happy with.</p>
<p>46</p> <p>1 MS. PEARCE: All right. So this is all built from the 2 wood; and the idea is that you would actually be able to 3 enter into the belly of this wood thrush and there might be 4 a periscope, for example so that you could see, as if you 5 were sitting out the eyes of the bird itself. 6 But the area around would be available for gathering. 7 Since this was designed, this was sort of an earlier design 8 that had climbing around the outside, but since then we have 9 swapped out that idea for more the idea of art boards and 10 weaving and things that all children could participate in 11 because we really wanted the most exciting central area of 12 the play space to be fully accessible to all children. 13 MR. KLINE: Ms. Pearce, was there anything else you 14 wanted to talk about in terms of the play space area, and if 15 not, I would draw your attention to the north side of the 16 driveway, the parking area. 17 MS. PEARCE: Yeah, unless there are questions I think 18 we've covered it. 19 MR. KLINE: In which case, could we have exhibit 8B, 20 which is -- no, I'm sorry 8A, which is again the site plan. 21 THE COURT: Sure. When Ms. Pearce was explaining the 22 wood thrush, I was expecting either a nest with a 2 to 3 23 foot bird. I was not expecting a wood thrush that size. 24 That is quite spectacular. That is very interesting. 25 MS. PEARCE: So it's about 20 feet tall to give you --</p>	<p>48</p> <p>1 What they were concerned about was keeping this area 2 out of the view shed to the mansions so they were very 3 concerned with the arrival of a car coming to this bend in 4 the road, which is where they feel that John Russell Pope 5 intended for you to get your first glimpse of the mansion 6 that he designed. So they were very happy with this design 7 that kept the parking well away from that view shed. 8 But we also, in this area we worked very hard back in 9 2013 to restore a native meadow. So we have about 4 to 5 10 acres of meadow on the property but they're all in sort of 11 different states of ecological health. They would have been 12 old fields that would have been dominated by European 13 grasses. And there is an area here at the front of the 14 property where we worked very hard to replace those European 15 grasses -- a little bit more to the south actually, yeah, 16 and to the west -- with native grasses and wildflowers. 17 So the last thing we wanted to do was put a parking 18 area right on top of all of that work. And so this is sited 19 so that it's in an area of old fields that really has not 20 been restored. It's still dominated by European grasses and 21 we also worked hard to avoid the existing trees. There is a 22 black walnut tree in that area that the parking area bends 23 away from. So the design was really intended to preserve 24 the existing natural and cultural resources as much as 25 possible. And of course, to also be permeable so we were</p>

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13 (49 to 52)

<p style="text-align: right;">49</p> <p>1 not adding more stormwater problems. We have a goal of 2 treating 100 percent of Woodend storm water before it leaves 3 the property. 4 MR. KLINE: Alison you mentioned 18 spaces, so give us 5 a breakdown because I gather you've got sort of -- buses are 6 going to handle the school traffic and the 18 spaces are for 7 more private individuals? 8 MS. PEARCE: Yeah. So the buses will not enter this 9 space at all. They will come along the drive to this bus 10 pull out that was already approved that we knew we would 11 need regardless of whether we had permission to build the 12 play space because it will serve the trail as well. The 13 spaces are, yes, for the general public. But we also have 14 another type of field trip which is a carpooling, usually a 15 preschool field trip. So sometimes our preschool field 16 trips will have up to about 15 or 16 cars that will come, 17 carpooling those children with parent chaperones. 18 So this would serve both of those uses. The general 19 public coming to use the play space or the trail when we 20 didn't have programming, as well as field trips that 21 carpool. 22 MR. KLINE: In a minute I'm going to ask you a question 23 about sort of levels of activity. And of course, the 24 hearing examiner wants to know your hours of operation, 25 which will probably take you half an hour to explain all the</p>	<p style="text-align: right;">51</p> <p>1 are native to the Chesapeake Bay watershed because that's a 2 value that we have that wouldn't -- we choose native species 3 because they provide the best support for local wildlife, 4 and they also give us our particular sense of place in the 5 DC area. 6 So we have, first of all, the smaller circles are all 7 existing trees. So the area surrounding this parking area, 8 has lots of existing mature trees and then we will be adding 9 trees and shrubs in order to screen this area, both from 10 John's Mill Road and from our neighbors to the north. So a 11 lot of the trees that you see on the northern part of this 12 parking area are evergreens. So those are eastern red 13 cedars so that the parking area will be screened regardless 14 of season from our neighbors. 15 What you can't really see in this exhibit, or probably 16 any exhibit, is that we've been working already to screen 17 those, there are about three houses there to screen them 18 along the north fence line. There are about 25 really 19 mature cedar trees in that area and sort of below that 20 canopy we've been adding shrubs and trees over, I would say, 21 the past four or five years. Most recently, as part of the 22 stream and trail project we added 37 3-inch caliper trees 23 that are about 8 feet tall along the fence line. 24 So in addition to the screening directly at the parking 25 area we were also trying to provide screening along that</p>
<p style="text-align: right;">50</p> <p>1 permutations. 2 MS. PEARCE: Yes, yes. 3 MR. KLINE: But basically, when are most of the traffic 4 you envision these areas that are shown on the north upper 5 part of the screen, the 18 spaces and the bus area, when do 6 you generally expect those areas will be in the greatest 7 use? 8 MS. PEARCE: Sure. So our programming generally is 9 heaviest between 10 a.m. and 2 p.m. so generally field 10 trips, because children have to arrive at school first, and 11 need to be back at school before dismissal, those field trip 12 programs really happen between 10 a.m. and 2 p.m., sometimes 13 9:30. 14 The general visiting public, while the play space would 15 be open to them in the early morning hours before that 10 16 a.m. I suspect that the most general public use would be 17 after 2 p.m., so sometime between 2 and 5 p.m. 18 MR. KLINE: Mr. Baumgardner, could we please have 19 Exhibit 8B which is the following slide? And this is the 20 planting plan. And Alison, I realize you are not a 21 landscape architect, but I know you were intimately involved 22 in the selection of the species and of the configuration. 23 Can you explain what's shown on this exhibit, both in terms 24 of what was selected and why it was selected? 25 MS. PEARCE: Sure. First of all, it's all species that</p>	<p style="text-align: right;">52</p> <p>1 fence line itself, which is about 30 feet from -- 32 feet 2 from the closest edge of the proposed new parking. 3 MR. KLINE: And while landscaping on the northern edge 4 is important because of its proximity to residences, can you 5 scroll down Mr. Baumgartner, and maybe just give us a quick 6 overview of the in-fill landscaping around the features? 7 MS. PEARCE: Yeah. So also plenty of trees and shrubs 8 here. I would like to mention that part of why the play 9 space is sited where it is, is that that area was one of the 10 most ecologically degraded areas of the sanctuary. It 11 didn't qualify as forest because it didn't have enough tree 12 is in good health and was really dominated by invasive 13 shrubs like Asiatic Bush Honeysuckle. 14 And so that seemed like a good place to build something 15 like this. And so we planned the stream and trail project 16 along with the play space project so that we could take as 17 much advantage of an area to improve and not be disturbing 18 areas multiple times. So this was the staging area for the 19 stream and trail project, so the place where the heavy 20 equipment entered, where the large boulders, and sand piles, 21 and mulch piles were stored during the stream and trail 22 project. 23 So right now, this area is fenced off and it is slowly 24 being stabilized as that contractor demobilize this. So 25 what you see here is really a big improvement in terms of</p>

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<p>53</p> <p>1 the ecological health of that area. There will be a diverse 2 group of native trees like sycamores, and red maples, and 3 oaks as well as understory shrubs and wildflowers. 4 And as I mentioned before they are sort of carefully 5 planned so that they are out of the main foot traffic areas, 6 and they can serve as learning opportunities for the 7 children, hopefully attract pollinators, provide things like 8 different sensory experiences, smells, and textures that 9 are -- that people that -- Lisa mentioned earlier the Office 10 for Students with Physical Disabilities. They've really 11 emphasized to us their autism program and how important 12 those sensory experiences will be. So we are really excited 13 to see this take shape. 14 MR. KLINE: Ms. Pearce, Mr. Baumgartner is used to 15 seeing a plan showing lighting fixtures and a photometric 16 study. We heard Ms. Alexander, but would you confirm there 17 will be no lights installed in conjunction with this 18 program? 19 MS. PEARCE: No lights. 20 MR. KLINE: And why is that? 21 MS. PEARCE: Well, it's really intended for daytime 22 use. The last thing we want to do is sort of encourage that 23 nighttime visitation which is probably not going to be by 24 the age group we are targeting. 25 MR. KLINE: So that's actually a good segue because</p>	<p>55</p> <p>1 This year we are running those both on a similar schedule. 2 One is 8:30 to 1:30 and the other is 9:00 to 2:00. In the 3 past, the younger group had a morning and afternoon program 4 instead of an all-day program. But with COVID we decided we 5 wanted to maintain more stable pods for our teachers so 6 rather than have the teachers for those younger kids sort of 7 one group of kids in the morning and another in the 8 afternoon we decided to just have one group. So that is the 9 difference that Lisa was talking about. 10 If we ever went back to that model we would be serving 11 more like 50 families because you would have 16 younger kids 12 in the morning, 16 in the afternoon, and then the older kids 13 there all day, which is 18 kids. 14 MR. KLINE: Well Alison, could you distinguish between 15 what we are doing now and what you want to do in the future? 16 Because the hearing examiner wants to -- 17 MS. PEARCE: Sure. 18 MR. KLINE: -- project that, or at least know that 19 there may be some changes. 20 MS. PEARCE: Yes. Yeah. So the play space itself 21 really would not change anything about our preschool 22 program. Our preschool program is licensed for the use that 23 we have. It would not increase. 24 The changes that we are expecting with the play space 25 is in our field trip program for schools that come to us. A</p>
<p>54</p> <p>1 early on I told you that the hearing examiner wants to 2 finish the hearing with a good understanding of the level of 3 activity of what's going to be going on here and when it is 4 going to be occurring. So I made a -- probably a facetious 5 comment about your schedule, when you are open and when you 6 are closed. And you have lots of variations on it so could 7 you walk through, kind of slowly, for the hearing examiner 8 in your openings and closings, and seasons and how many 9 people you expect to have in those various times? 10 MS. PEARCE: Sure. So the property is open to the 11 public, we say from dawn to dusk. We do have gates at the 12 front and back entrances to that driveway. Up until now our 13 practice has been to leave them open even through the night, 14 but we do have the ability to close them should it become 15 necessary in the future. 16 We do have lots of different kinds of programs and 17 there is a bit of a difference between the academic year and 18 the summer. So in the academic year we have our preschool 19 which Lisa mentioned that we had a change in operation. We 20 were closed this last year entirely. We are getting 21 ready -- today actually is the first day that our preschool 22 teachers are back to work, getting ready for the year. 23 This year, we will have about 34 families. We have two 24 classes, we have a class which is a kindergarten class, the 25 forest kindergarten, and then a class for 3 to 4-year-olds.</p>	<p>56</p> <p>1 teacher bringing their school to us. And again, we don't 2 actually expect any increase in the number of students on 3 any particular day. What we expect is that we might be a 4 more popular location for a field trip, so rather than 5 having a field trip -- now this is of course, pre-COVID, 6 because again last year we had zero field trips. 7 But prior to that, we had maybe 2 to 3 field trips a 8 week, and we are anticipating that we might be booked. We 9 might have 4 to 5 field trips per week. So the increase in 10 use is really on a weekly basis rather than a daily. But 11 those field trips, they wouldn't have any more children, or 12 buses than they have had in the past. So the maximum we 13 would expect is 2 buses per day with about 60 children total 14 on any particular day. But that might happen 4 to 5 times a 15 week rather than 2 to 3 times a week. 16 And then, the other change we might anticipate is just 17 that families will come on their own in that afternoon times 18 more than they have in the past. We already have families, 19 particularly our own preschool families who use Woodend in 20 the afternoons and but we expect with this really great play 21 space we may have more of that day-to-day visitation by the 22 general public. Hopefully, a lot of the families in the 23 neighborhood will find it a really great amenity. 24 MR. KLINE: Maybe just give us a real quick explanation 25 of how the kids on the buses will be brought in and dropped</p>

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15 (57 to 60)

<p>57</p> <p>1 off. Do the buses stay, or do they come back? How does it 2 all work?</p> <p>3 MS. PEARCE: They typically stay. And again, they 4 won't enter this new parking area. So what our buses do now 5 is -- or did pre-COVID. They arrived from Jones Mill Road 6 and come all the way up that drive to an area by the back 7 exit that has gravel. And they would park there and unload. 8 And so really what we're just changing is the location of 9 that activity. So now, they would come in and pull up on 10 that bus pull off that already exists now, it was just 11 built. It was approved with our prior application.</p> <p>12 They would either remain there, or they might go to the 13 bus pull off at the exit and wait for the children there, if 14 the children made the whole loop on the accessible trail to 15 the back exit. But they would always be in a bus pull off 16 along our main driveway. They would never enter this new 17 proposed parking lot. And they would always enter at Jones 18 Mill Road and exit at Brierley.</p> <p>19 MR. KLINE: Do you, based on your experience of how 20 things work today and how you have described that it is 21 going to work in the future, do you believe that the arrival 22 of the buses and the activity of the children can be 23 conducted and not be objectionable to surrounding property 24 owners?</p> <p>25 MS. PEARCE: Absolutely. Yeah, neither of those bus</p>	<p>59</p> <p>1 from grade.</p> <p>2 MR. KLINE: Alison, there is a specific condition in 3 this associated with this use, and I will read it to you. 4 "Outdoor activities must be located, landscaped or otherwise 5 buffered so that the activities associated with the facility 6 will not constitute an intrusion into adjacent residential 7 properties."</p> <p>8 Based on the testimony and the description of the 9 facilities and everything, the features, you've talked 10 about, do you believe that the proposed nature play space 11 will meet that standard, and why?</p> <p>12 MS. PEARCE: Yeah. Absolutely. The play space itself, 13 the closest residential lot line is 350 feet away. And in 14 between the play space and that lot line is all of that 15 landscaping that we discussed. In addition to the existing 16 mature vegetation, we will have 53 new trees and 254 new 17 shrubs. So I feel confident that it will be well screened.</p> <p>18 MR. KLINE: Thank you. Mr. Baumgardner, I have no 19 further question of Ms. Pearce.</p> <p>20 THE COURT: So from your testimony, I'm gathering that 21 the nature play space is kind of complementary to existing 22 programming; is that correct?</p> <p>23 MS. PEARCE: Yeah. In fact, one of the ideas of the 24 play space is that that families that we serve a lot are 25 very comfortable playing with their children in the woods.</p>
<p>58</p> <p>1 pull offs are very close to residential properties at all. 2 And I would also mention we don't allow buses to idle. We 3 have a no idling zone signs up on the property so we don't 4 allow them to run their engines while they are on the 5 property.</p> <p>6 MR. KLINE: Ms. Pearce, I know you have coordinated 7 with Mr. Hoffmann and his firm to ensure that the 8 application meets all of the development standards set forth 9 in both the zone and the conditional -- I'm sorry, the 10 special exception use itself. Without asking you to go 11 through each of the items listed in the staff report it's 12 your understanding that the proposal meets all of the 13 applicable development standards for this use and for this 14 zone?</p> <p>15 MS. PEARCE: Yes, definitely. And I think in all cases 16 it far, far exceeds them in terms of setbacks.</p> <p>17 MR. KLINE: And everybody always wants to know about 18 the height of buildings. We've got a 35 foot height limit 19 in the zone, anything that is going to be close to that 20 height in this area?</p> <p>21 MS. PEARCE: Well, I will just point out that our 22 historic mansion itself, which predates that regulation is 23 36 feet, and the height is 35 feet. But that is not 24 anything to do with this new proposal. The wood thrush 25 would be the tallest structure and it won't exceed 22 feet</p>	<p>60</p> <p>1 We have an area deep in the woods that we call wood hollow 2 that we'll often come upon parents with their children. Who 3 maybe their children went to camp with us or went to 4 preschool with us.</p> <p>5 But there are other families that really aren't 6 comfortable with that kind of play, and so this is kind of a 7 bridge, or a transition. So it looks a little bit more 8 familiar. A little bit more like a traditional playground 9 but presents a lot of opportunities that that promote more 10 natural play provides. And we will also have, not large 11 signs, but small directional signs so that it really gives 12 parents permission, for example, you know, we might have a 13 sign that says jump here, or dig here. So that they 14 understand that some of those behaviors that they might ask 15 the children not to do in other places are encouraged here.</p> <p>16 So yes, it's definitely complementary. We don't 17 anticipate having any new kinds of programs because of the 18 play space. We just anticipate inviting a wider audience to 19 participate, both families like that who might be less 20 acquainted with nature play, as well as being sure that we 21 can include people of all abilities in terms of physical 22 disabilities.</p> <p>23 THE COURT: And any increased intensity of use would 24 just be if there was an increased popularity of the site, 25 the property; if more families were aware of it or field</p>



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16 (61 to 64)

<p>61</p> <p>1 trips and more schools became aware of it that that may lead 2 to an increase in the number of visits. But as you just 3 said, there is no planned increase in specific programming 4 that might --</p> <p>5 MS. PEARCE: That's right.</p> <p>6 THE COURT: -- increase capacity. Okay, I understand.</p> <p>7 MS. PEARCE: Yeah, that's exactly right. You know our 8 preschool and camp programs, the limits on them are really 9 interior spaces. So no, we wouldn't be intensifying those 10 activities.</p> <p>11 THE COURT: Okay. Those are the only follow-up 12 questions I had, Mr. Kline.</p> <p>13 Is anyone who has logged in, called in that has any 14 questions for Ms. Pearce? Please raise your physical hand, 15 your virtual hand, or otherwise indicate to me that you have 16 a question for Ms. Pearce.</p> <p>17 Seeing and hearing none, we think are very much for her 18 testimony and I turn it back over to Mr. Kline for any 19 follow-up questions based on mine, or any other further 20 questions.</p> <p>21 MR. KLINE: Thank you. No redirect questions. And I 22 will proceed to our next witness if that is okay with you, 23 sir?</p> <p>24 THE COURT: Fine with me. Thank you.</p> <p>25 MR. KLINE: Mr. Hoffmann. You know how this works.</p>	<p>63</p> <p>1 guess its name probably tells us what -- my question, but 2 what does the Center for Watershed Protection focus on?</p> <p>3 MR. HOFFMANN: Well, we are a nonprofit organization 4 and we have a superlong mission on our website, but the 5 really short version of that is we try and give stormwater 6 and watershed practitioners the tools they need to do their 7 job. So we try and be the science and engineering behind 8 organizations like DNS that are trying to restore their 9 environment.</p> <p>10 MR. KLINE: And what is your profession yourself?</p> <p>11 MR. HOFFMANN: I am an environmental engineer. And at 12 the Center, I am the director of stormwater services. So I 13 oversee all of our stormwater design work, also our 14 stormwater regulation and guidance work.</p> <p>15 MR. KLINE: Would you describe your academic 16 background, please?</p> <p>17 MR. HOFFMANN: Yes. I have a bachelors degree in 18 environmental engineering and a masters of engineering from 19 Michigan Tech University.</p> <p>20 MR. KLINE: And in what jurisdictions do you have 21 licenses to practice your expertise?</p> <p>22 MR. HOFFMANN: I have licenses in Maryland, Virginia, 23 Washington, DC, and the state of Michigan.</p> <p>24 MR. KLINE: Mr. Bumgardner, what you like, as Ms. 25 Hamman would ask for his license number for Maryland.</p>
<p>62</p> <p>1 Could you please give us your name and spell it for us, and 2 your business address?</p> <p>3 MR. HOFFMANN: Yes. My name is Gregory Hoffmann, 4 G-R-E-G-O-R-Y, H-O-F-F-M-A-N-N. My business address is 5 11711 E. Marketplace, Suite 200, Fulton, Maryland.</p> <p>6 MR. KLINE: And your --</p> <p>7 THE COURT: I'm sorry, Mr. Hoffmann, what is your email 8 address?</p> <p>9 MR. HOFFMANN: GPH@CWP.org.</p> <p>10 THE COURT: And just as an FYI to people, we ask email 11 address merely so we have a contact to send our report to. 12 I promise you that we are not selling your information to 13 outside third parties.</p> <p>14 Mr. Hoffmann, can you please raise your right hand?</p> <p>15 And sir, do you swear or affirm under the penalties of 16 perjury that the testimony you are about to give is the 17 truth, the whole truth, and nothing but the truth?</p> <p>18 MR. HOFFMANN: Yes.</p> <p>19 THE COURT: Thank you very much. Mr. Kline, the floor 20 is yours.</p> <p>21 MR. KLINE: Thank you.</p> <p>22 Mr. Hoffmann, please give us the name of the company 23 with which you are associated.</p> <p>24 MR. HOFFMANN: The Center for Watershed Protection.</p> <p>25 MR. KLINE: And just give us a brief description -- I</p>	<p>64</p> <p>1 THE COURT: Just to get it on the record, sure.</p> <p>2 MR. HOFFMANN: One second. I've got my stamp here.</p> <p>3 There it is. Okay. My license number is 35532.</p> <p>4 THE COURT: Thank you very much sir, I believe you.</p> <p>5 MR. KLINE: Mr. Hoffmann I didn't hear you -- at least 6 I didn't listen, maybe. But I didn't ask or didn't hear you 7 say when you graduated and got your degrees and everything. 8 But I would like to know, how long you have been practicing 9 environmental engineering?</p> <p>10 MR. HOFFMANN: I have been practicing for 19 years. I 11 worked for five years at a firm in Michigan that did 12 municipal consulting and have been at the Center for 13 Watershed Protection for little over 13 years now.</p> <p>14 MR. KLINE: And the scope of your work is in the 15 stormwater management area?</p> <p>16 MR. HOFFMANN: That is correct.</p> <p>17 MR. KLINE: Have you ever qualified as an expert in the 18 field of environmental engineering before at a similar body 19 like this, hearing examiner, commission, or a court of law?</p> <p>20 MR. HOFFMANN: No.</p> <p>21 MR. KLINE: What professional associations do you 22 belong to?</p> <p>23 MR. HOFFMANN: Well, the Center for Watershed 24 Protection Association, I have been a member of the American 25 Society of Civil Engineers, and also of the American Water</p>

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17 (65 to 68)

<p>65</p> <p>1 Resources Association.</p> <p>2 MR. KLINE: Mr. Bumgardner, based on Mr. Hoffmann's</p> <p>3 academic background and his professional associations, and</p> <p>4 his scope of work over the last 20 years I would like to</p> <p>5 offer him as an expert in environmental engineering with a</p> <p>6 specialty in stormwater management.</p> <p>7 THE COURT: Do we have his resume on file?</p> <p>8 MR. KLINE: It was, I believe, attached to the</p> <p>9 pre-hearing statement that I belatedly submitted to you.</p> <p>10 THE COURT: Got it. Just want to make sure we have it</p> <p>11 in the record.</p> <p>12 MR. KLINE: Yeah.</p> <p>13 THE COURT: One second, just pulling it up now.</p> <p>14 Yes, it is part of Exhibit 50, the pre-hearing</p> <p>15 statement. Mr. Hoffmann is so deemed admitted into the</p> <p>16 field of environmental engineering with a subspecialty of</p> <p>17 stormwater management.</p> <p>18 MR. KLINE: And Mr. Hoffmann, with that qualification,</p> <p>19 would you describe the stormwater management issues</p> <p>20 associated with the property and the development of the</p> <p>21 nature play space and what your solutions and programs are</p> <p>22 for that?</p> <p>23 MR. HOFFMANN: Sure. Well, as with all developments,</p> <p>24 the stormwater problems are similar. With more impervious</p> <p>25 cover comes more stormwater runoff. And with more</p>	<p>67</p> <p>1 parking lot itself will be a permeable pavement. That was</p> <p>2 removed from the concept design early on because we weren't</p> <p>3 pursuing permitting for it at the time.</p> <p>4 MR. KLINE: I would normally ask you a question about</p> <p>5 is there adequate public sewer and water service to the</p> <p>6 property but you corrected me in terms of what is the</p> <p>7 situation on the property. So could you elaborate on the</p> <p>8 answer to that question?</p> <p>9 MR. HOFFMANN: Sure. There is -- while there is public</p> <p>10 sewer and water serving the property, it is not intended to</p> <p>11 really serve this area. That is why the composting toilets</p> <p>12 were installed so that a sanitary sewer connection is not</p> <p>13 required. And then there is one water fountain being</p> <p>14 installed and that is connected to existing water lines on</p> <p>15 the property. So no additional sewer or water connections</p> <p>16 are required as part of the project.</p> <p>17 MR. KLINE: With regard to the issue of land</p> <p>18 disturbance and the impact of the stormwater management, in</p> <p>19 your professional opinion, will the use that has been</p> <p>20 described today adversely affect the health, safety, and</p> <p>21 welfare of visitors to the property, people working on the</p> <p>22 property, or the surrounding neighborhood?</p> <p>23 MR. HOFFMANN: No, it will not.</p> <p>24 MR. KLINE: And can you just sort of elaborate on why</p> <p>25 that would be the case?</p>
<p>66</p> <p>1 stormwater runoff comes more pollutants, both nutrients and</p> <p>2 sediment, and more potential for erosion. So those are the</p> <p>3 potential problems with any development project.</p> <p>4 The Woodend is unique in that there is not a lot of</p> <p>5 development and not a lot of impervious cover there but</p> <p>6 there is a fair amount of topography. It is a kind of a</p> <p>7 hilly site so something we need to keep an eye on.</p> <p>8 For the proposed play space area, we have two micro</p> <p>9 bioretention areas, one on either side of the road. One</p> <p>10 treats the actual play space area; one treats the parking</p> <p>11 lot portion that has already been constructed. And both of</p> <p>12 those are sufficiently sized to handle the runoff created by</p> <p>13 the new construction areas.</p> <p>14 For the one on the -- for the micro bioretention area</p> <p>15 on the south side of the road that treats the play space it</p> <p>16 was constructed for that development that was done, and the</p> <p>17 disturbance that was done for the stream project. But we</p> <p>18 were -- we accounted for any of the structures that would be</p> <p>19 installed as part of the play space.</p> <p>20 MR. KLINE: And does your program have a concept</p> <p>21 stormwater management approval from the Montgomery County</p> <p>22 Department of Permitting Services?</p> <p>23 MR. HOFFMANN: Yes. Not just concept approval but we</p> <p>24 got final approval since the micro bioretention areas were</p> <p>25 constructed as part of the stream and trail project. The</p>	<p>68</p> <p>1 MR. HOFFMANN: Prior to the implementation of this</p> <p>2 project there was really no stormwater management installed</p> <p>3 to catch runoff from this area. And while there is some</p> <p>4 additional impervious cover as part of the project, overall</p> <p>5 there's going to be more stormwater management relevant to</p> <p>6 the development than there was before. So I believe there</p> <p>7 will be both less runoff and cleaner runoff from the site</p> <p>8 than there was before the development.</p> <p>9 MR. KLINE: Going back to the dialogue that I had with</p> <p>10 Mr. Bumgardner early on about the force conservation plan,</p> <p>11 would you describe your familiarity and relationship with</p> <p>12 the preparation of the final forest conservation plan</p> <p>13 prepared by the Center for Watershed Protection?</p> <p>14 MR. HOFFMANN: Yes. The forest conservation plan was</p> <p>15 prepared by my colleague, Ryan Sikes [phonetic] who</p> <p>16 previously worked for the Center for Watershed Protection.</p> <p>17 He is a licensed forester. I am -- I was Ryan Sikes manager</p> <p>18 for this project and overall supervisor so I was -- I stayed</p> <p>19 abreast of what he was doing both mainly in internal</p> <p>20 (inaudible) at CWP for this project.</p> <p>21 MR. KLINE: And are you familiar with the</p> <p>22 recommendations of the technical staff, the Park and</p> <p>23 Planning Commission that are in the record of the file on</p> <p>24 the forest conservation plan recommending its approval?</p> <p>25 MR. HOFFMANN: Yes, I am.</p>

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18 (69 to 72)

<p style="text-align: right;">69</p> <p>1 MR. KLINE: Okay. Are you confident and comfortable</p> <p>2 that the forest conservation plan in the record is prepared</p> <p>3 in accordance with the requirements of Chapter 22A of the</p> <p>4 Montgomery County Code on forest conservation issues?</p> <p>5 MR. HOFFMANN: Yes.</p> <p>6 MR. KLINE: Thank you. In your professional opinion</p> <p>7 will the implementation of the nature play space proposal,</p> <p>8 in accordance with the plans prepared by your firm that you</p> <p>9 described today result in a development that will be safe</p> <p>10 and adequate and not have any adverse effect from either an</p> <p>11 environmental -- well, will it have any environmental impact</p> <p>12 on surrounding properties?</p> <p>13 MR. HOFFMANN: Yes, I am confident that it will not</p> <p>14 have any adverse effects.</p> <p>15 MR. KLINE: Thank you. I have no further questions for</p> <p>16 Mr. Hoffmann.</p> <p>17 THE COURT: Mr. Hoffmann, are there any large specimen</p> <p>18 or species trees and/or large groves of trees that will be</p> <p>19 removed in order to construct or install the play space?</p> <p>20 MR. HOFFMANN: Not that I'm aware of. There are some</p> <p>21 trees that will be slightly -- could be impacted by the</p> <p>22 construction of the parking lot, but we have noted those on</p> <p>23 the forest conservation plan, even though they are not part</p> <p>24 of the main forest, that there is potential impacts to them</p> <p>25 but not so much that we feel the need that they be removed.</p>	<p style="text-align: right;">71</p> <p>1 examination of Mr. Hoffmann and would call our final</p> <p>2 witness, please.</p> <p>3 Ms. White, would you please state and spell your name</p> <p>4 and give us your professional address?</p> <p>5 MS. WHITE: Hi. Good morning. Yes, Nicole White. You</p> <p>6 want me to spell that? N-I-C-O-L-E. White, W-H-I-T-E.</p> <p>7 Business address 727 15th St. NW. Washington, DC 20005, and</p> <p>8 my email address is NWhite@symmetradesign.com.</p> <p>9 THE COURT: Thank you very much, ma'am. Could you</p> <p>10 please raise your right hand?</p> <p>11 Do you swear or affirm under the penalties of perjury</p> <p>12 that the testimony you are about to give is the truth, the</p> <p>13 whole truth, and nothing but the truth?</p> <p>14 MS. WHITE: I do.</p> <p>15 THE COURT: Thank you very much. Mr. Kline, I turned</p> <p>16 the witness back over to you.</p> <p>17 MR. KLINE: Ms. White, in preparation for the hearing</p> <p>18 today -- well, let me qualify you first of all. What is</p> <p>19 your profession, Ms. White?</p> <p>20 MS. WHITE: Yes, I am a traffic engineer and founding</p> <p>21 principal of Symmetra Design.</p> <p>22 MR. KLINE: And have you qualified as an expert in</p> <p>23 traffic engineering and transportation planning before Mr.</p> <p>24 Bungardner, yourself?</p> <p>25 MS. WHITE: I don't know about Mr. Bungardner, but in</p>
<p style="text-align: right;">70</p> <p>1 THE COURT: Thank you. That was the only follow-up</p> <p>2 question I had; Mr. Kline, any questions based upon my</p> <p>3 questions, sir?</p> <p>4 MR. KLINE: No redirect. Thank you.</p> <p>5 THE COURT: Anyone from the public or anyone who is</p> <p>6 signed in or called in -- does anyone have any questions</p> <p>7 from Mr. Hoffmann at this time, please raise your physical</p> <p>8 hand, your virtual hand, or otherwise indicate to me that</p> <p>9 you have a question. Seeing none, we thank him very much</p> <p>10 for his testimony.</p> <p>11 I do want to follow up. I do have one follow-up</p> <p>12 question, I'm sorry. You had mentioned the two micro</p> <p>13 bioretention facilities that were currently in place for the</p> <p>14 previously approved stream line project. Were there -- what</p> <p>15 additional measures are being taken for the play space if</p> <p>16 any? Or the parking lot?</p> <p>17 MR. HOFFMANN: So the parking lot will be constructed</p> <p>18 with permeable pavement which really allows the parking lot</p> <p>19 to treat itself in the sense of stormwater management. So</p> <p>20 that is the only additional stormwater (inaudible) that will</p> <p>21 be needed.</p> <p>22 THE COURT: Thank you very much.</p> <p>23 That was all I had, Mr. Kline. I turn it back over to</p> <p>24 you.</p> <p>25 MR. KLINE: Thank you very much. I've completed my</p>	<p style="text-align: right;">72</p> <p>1 front of a previous hearing examiner I have.</p> <p>2 MR. KLINE: Thank you. How recently?</p> <p>3 MS. WHITE: Last year.</p> <p>4 MR. KLINE: Probably, I think we did it a couple of</p> <p>5 times last year?</p> <p>6 MS. WHITE: Yeah, there were three projects in sort of</p> <p>7 recent history where I appeared before the hearing examiner.</p> <p>8 MR. KLINE: All right. Mr. Bungardner, you do have --</p> <p>9 well, let me just say. Ms. White has qualified numerous</p> <p>10 times before the hearing examiner as an expert in</p> <p>11 transportation planning and traffic engineering and I would</p> <p>12 like to offer her as an expert in that field.</p> <p>13 THE COURT: Ms. White is so recognized as an expert in</p> <p>14 transportation planning and traffic engineering and she is</p> <p>15 deemed admitted for the purposes of this hearing.</p> <p>16 MR. KLINE: Thank you very much. Ms. White, given the</p> <p>17 scope of the traffic issues in this case, I was surprised</p> <p>18 how big your traffic study was in terms of volume. And I</p> <p>19 see that though we may have a qualified for a traffic</p> <p>20 study -- I'm sorry, a traffic statement, you actually did a</p> <p>21 traffic study. So what I would like you to do is explain</p> <p>22 for Mr. Bungardner, sort of start from the beginning the</p> <p>23 scoping process, the development process, and then what were</p> <p>24 your methodology, and your findings and conclusions.</p> <p>25 MS. WHITE: Sure. So we started with looking at a</p>


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19 (73 to 76)

<p style="text-align: right;">73</p> <p>1 preliminary trip generation associated with the programmatic 2 improvements and site improvements and realized the site 3 would -- the proposed improvements would result in fewer 4 than 50 peak hour person trips. And so we advised that a 5 traffic study was not needed and an exemption could be 6 submitted. 7 However, Audubon wanted to be very responsive and 8 proactive and look at a full traffic impact study. So we 9 did proceed with scoping a full study with Parking and 10 Planning and had an approved scope for analysis assumptions 11 in the study area. 12 MR. KLINE: So why don't you go ahead and just, as I 13 say, give us your methodology, and as I said, your findings 14 and conclusions. 15 MS. WHITE: Sure. The traffic study indicated that the 16 proposed afterschool program and the play space area would 17 not have an adverse impact on the study area. The study 18 area intersections are operated within acceptable levels of 19 service and Park and Planning accepted our methodology was 20 prepared in accordance with local area transportation review 21 guidelines. 22 MR. KLINE: Are you familiar with the circulation plan 23 on the site and the testimony that you have heard today? 24 MS. WHITE: Yes, I am. 25 MR. KLINE: And do you feel that that circulation</p>	<p style="text-align: right;">75</p> <p>1 other than the new parking area, and then the bus pull in 2 area, are obviously changes that are being added. But there 3 is no rerouting of traffic; there is no new circulation 4 pattern other than the bus pull in area and the new gravel- 5 paved parking area on the north side of the property; is 6 that correct? 7 MS. WHITE: That is correct. And in fact we use -- we 8 made observations back in October 2019 before COVID to 9 really understand those existing patterns. And we talked it 10 over with Amy and Alison just to confirm that there wouldn't 11 be any changes so our future changes are, in fact, -- our 12 site distribution was based on those existing patterns. 13 THE COURT: And this is something that does come up 14 rather frequently, but I think because of the size, is it 15 your opinion and your view that because of the size of this 16 site, because it is rather large, that there is sufficient 17 room, both parking spaces on side and enough length of the 18 drive aisle that you would not have any kind of queuing or 19 stacking, or otherwise impeding traffic on surrounding roads 20 for cars or vehicles entering or exiting the site? Is that 21 kind of a good summary? 22 MS. WHITE: So in terms of parking, we didn't get into 23 a lot of details about parking, per se, other than to 24 understand that the parking wouldn't specifically generate 25 traffic but is to support the vehicles required. But I</p>
<p style="text-align: right;">74</p> <p>1 system, both pedestrian and vehicular, is safe, adequate, 2 and efficient since we are dealing with children, and is it 3 going to be a good operation? 4 MS. WHITE: Yes, I do. 5 MR. KLINE: Are you -- I noticed that the staff had 6 some concerns. Is there adequate stacking room so there is 7 no likelihood that vehicles would back up onto either one of 8 the perimeter roadways, public street? 9 MS. WHITE: Yes, there is. 10 MR. KLINE: Okay. In your opinion then, based on your 11 work, do you believe that the surrounding transportation 12 network is adequate to accommodate the traffic to be 13 generated by the proposed use? 14 MS. WHITE: Yes. 15 MR. KLINE: I have no further questions of Ms. White 16 who was very patient and waiting for that limited number of 17 questions. 18 THE COURT: I am simply going through. I reviewed the 19 report yesterday evening; I have it up on my screen right 20 now. I don't feel the need to share it, but I'm just going 21 through the report again as a review to make sure I don't 22 have any follow-up questions. So give me just two minutes. 23 I think my only follow-up question would be, Ms. White, 24 from your understanding of the project there is no rerouting 25 of traffic; there is no change in the current operation</p>	<p style="text-align: right;">76</p> <p>1 can't necessarily speak to -- I don't think we evaluated the 2 parking ratios and the zoning requirements, if any. So I 3 may not be the best person to answer that. But in terms of 4 circulation and looking at that, that certainly is adequate. 5 THE COURT: Okay. Mr. Kline, any questions based off 6 of my questions? 7 MR. KLINE: No redirect, sir. Thank you. 8 THE COURT: Are there any questions for Ms. White from 9 anyone signed in or called in, please raise your physical 10 hand, your virtual, or otherwise indicate to me that you 11 have a question as it relates to transportation or traffic. 12 Seeing none, we thank Ms. White for her testimony here 13 today and turn it back over to counsel to continue your case 14 in chief. 15 MR. KLINE: Mr. Bumgardner that presentation by Ms. 16 White concludes our presentation. I have to say that this 17 has probably been the most efficient and best Zoom meeting 18 I've ever conducted, which is astonishing considering the 19 distribution of where everybody is. Maybe Zoom actually 20 works, I'm not sure I actually agree with that but this has 21 gone very well, and I think that the flow of the testimony 22 has been very nice. And I think you've gotten all the 23 information that you need. 24 I don't have a closing statement other than to say that 25 we have been working probably for three or four years trying</p>

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20 (77 to 80)

<p>77</p> <p>1 to upgrade a number of facilities on the property and this 2 is really the crown jewel to really make it a lot more 3 attractive and interesting to a larger and more diverse 4 group of people. And the Audubon Society would hope that 5 you agree that it is a very good use and that it meets all 6 the standards of the zoning ordinance. But that does 7 complete our presentation. 8 THE COURT: Well, thank you very much for your 9 presentation, Mr. Kline. And we thank all of the witnesses 10 here today. Thank you for taking the time. 11 I am going to hold the record open for 10 days to 12 receive the transcript. I don't believe there are any 13 remaining matters other than the affidavit of posting that 14 we need to get in the record. All the exhibits that we do 15 have, which are listed online, and then with the addition of 16 the affidavit of posting, and the transcripts are deemed 17 admitted into the record. Again, that record will be held 18 open for 10 days; today's date being 23 August, and the 19 record will close on -- help me out here. Is August a month 20 with 30 days or 31 days? 21 MR. KLINE: Thirty-one days. 22 THE COURT: So we have September 9th would be our -- 23 that's not right. I can't do math. September 4th; is that 24 correct? From the date of today, we will hold the record 25 open until that date to receive those items.</p>	<p>79</p> <p>1 on S2643A, a major modification requested on behalf of the 2 Audubon Naturalist Society for property located at 8490 3 Jones Mill Road, Chevy Chase, Maryland. Thank you all. 4 Have a good rest of your morning and a good afternoon. 5 Happy Monday to you. 6 MR. KLINE: Thank you. 7 THE COURT: Thank you very much, we are off the record. 8 (The recording was concluded.) 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p>78</p> <p>1 Were there any final remarks and/or closing items that 2 we need before we conclude this hearing today? 3 MR. KLINE: Nothing from counsel. Ms. Alexander, I'm 4 sure you would like to wrap it up. 5 THE COURT: We'd be happy to hear from her. 6 MS. ALEXANDER: Thank you Mr. Kline. I just feel like 7 that this is a great opportunity for Montgomery County to 8 have an accessible place spaces that would get all of our 9 kids into nature. 10 I think the one thing I forgot to say, that I wish I 11 had said is that one of the partnerships that we have is 12 with the Montgomery County Housing Partnership, and we have 13 been working with their daycare centers to get those little 14 kids who are in community supported housing connected with 15 nature. And I just can't wait to bring both their 16 caregivers and those kids to Woodend to really immerse 17 themselves into all the benefits that nature play bring to 18 children. So we feel optimistic and hopeful that we will 19 get permission to proceed. And I heard from you Mr. 20 Bumgardner that you have children, so maybe they will get to 21 visit the nature play space. 22 THE COURT: Thank you very much. 23 Thank you all very much for your time. We are 24 concluding this hearing today. The date is again, August 25 23rd, the time is 11:21 a.m. and this concludes OZHA hearing</p>	<p>80</p> <p>1 CERTIFICATE OF TRANSCRIBER 2 I, Molly Bugher, do hereby certify that the foregoing 3 transcript is a true and correct record of the recorded 4 proceedings; that said proceedings were transcribed to the 5 best of my ability from the audio recording as provided; and 6 that I am neither counsel for, related to, nor employed by 7 and of the parties to this case and have no interest, 8 financial or otherwise, in its outcome. 9 10 11  12 _____ 13 Molly Bugher, CDLT-161 14 September 1, 2021 15 16 17 18 19 20 21 22 23 24 25</p>

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