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Transcript of Public Hearing

Date: March 17, 2023

Case: Osorio Group Daycare, In Re: (CU 23-08)

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Conducted on March 17, 2023

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2 (5 to 8)

<p>5</p> <p>1 PROCEEDINGS</p> <p>2 (Whereupon, the court reporter was duly</p> <p>3 sworn.)</p> <p>4 MS. LEWINTER: Well, it's 9:30, so let's</p> <p>5 get started. This is an public hearing in the</p> <p>6 matter of OZAH, Case Number, CU2023-08, the</p> <p>7 application of 6212 Rockhurst Drive Daycare to</p> <p>8 permit the conditional use of a group daycare at</p> <p>9 6212 Rockhurst Drive, Bethesda, Maryland, in the</p> <p>10 R60 Zone. My name is Andrea LeWinter and I'm</p> <p>11 serving as the hearing examiner today. It is my</p> <p>12 role to listen, take evidence, and write a</p> <p>13 decision regarding the case.</p> <p>14 We are doing this over the Team's</p> <p>15 platform. I see Ms. Diana Osorio present. There</p> <p>16 does not appear to be anybody else particular to</p> <p>17 this case present on Teams. We have two people</p> <p>18 from OZAH and the court reporter, and Ms. Osorio</p> <p>19 has confirmed that she is not represented by</p> <p>20 counsel. I saw the affidavit of posting of the</p> <p>21 property in the record at Exhibit 16. Ms. Osorio,</p> <p>22 is that accurate that that was the -- the exhibit</p> <p>23 that you submitted saying that you posted the</p> <p>24 property?</p> <p>25 THE WITNESS: Yes.</p>	<p>7</p> <p>1 appears, they will have the opportunity to present</p> <p>2 their case in chief with an opportunity for cross</p> <p>3 examination by you. If there are any other</p> <p>4 interested parties that appear, they too can make</p> <p>5 a presentation. If, again, we go in that</p> <p>6 direction, you will have a chance, Ms. Osorio, for</p> <p>7 rebuttal, and then you will have the opportunity</p> <p>8 to make a closing statement, if you desire.</p> <p>9 Approval of the petition is based on the</p> <p>10 criteria set forth in the zoning ordinance, which</p> <p>11 is included in the planning staff report, which is</p> <p>12 in Exhibit 15 in the record. Please address all</p> <p>13 of your testimony to this criteria. Are there any</p> <p>14 other procedural matters that you're aware of, Ms.</p> <p>15 Osorio?</p> <p>16 THE WITNESS: No.</p> <p>17 MS. LEWINTER: Okay. One thing -- and</p> <p>18 Ms. Osorio, why don't I just go ahead and sign you</p> <p>19 in because I -- not sign you in, swear you in.</p> <p>20 Excuse me. Ms. Osorio, the reason I wanted to</p> <p>21 swear you in is I noticed Exhibit 11, which is an</p> <p>22 authorization by Mr. Edward Hernandez who's the</p> <p>23 property owner --</p> <p>24 THE WITNESS: Yeah.</p> <p>25 MS. LEWINTER: -- is not signed actually</p>
<p>6</p> <p>1 MS. LEWINTER: So Ms. Osorio, so you</p> <p>2 know these proceedings are informal with certain</p> <p>3 formalities. This is a remote hearing, as we all</p> <p>4 know, on the Microsoft Teams platform. Please do</p> <p>5 not interrupt when someone -- me or someone else</p> <p>6 is speaking unless you have an objection. This is</p> <p>7 because the court reporter has difficulty</p> <p>8 understanding what people are saying when there is</p> <p>9 crossover talk. Please use the raise hand option</p> <p>10 whenever possible.</p> <p>11 As stated, this session is being</p> <p>12 recorded. It is being recorded both by the court</p> <p>13 reporter and by Microsoft Teams. The Team's</p> <p>14 recording is used only as a backup for the</p> <p>15 reporter. What you will say will be under oath</p> <p>16 and again recorded. You may be asked questions</p> <p>17 about your testimony and the proceedings will move</p> <p>18 forward in the following order. If there's any</p> <p>19 preliminary motions or issues and opening</p> <p>20 statement, there's only you present, but each</p> <p>21 side, if there was two sides, would be able to</p> <p>22 make one.</p> <p>23 We will then go to Ms. Osorio's case in</p> <p>24 chief. If anybody appears, they will have the</p> <p>25 opportunity to cross-examine you. If anybody</p>	<p>8</p> <p>1 by him.</p> <p>2 THE WITNESS: Yes, he signed.</p> <p>3 MS. LEWINTER: He signed? The one in</p> <p>4 the -- in the record is not signed.</p> <p>5 THE WITNESS: I'm -- I'm sorry. I don't</p> <p>6 understand you. So --</p> <p>7 MS. LEWINTER: There's a letter, Exhibit</p> <p>8 11, a letter --</p> <p>9 THE WITNESS: Yeah.</p> <p>10 MS. LEWINTER: -- authorization letter,</p> <p>11 from Mr. Hernandez, but it's not signed -- or the</p> <p>12 copy that I have is not signed by him.</p> <p>13 THE WITNESS: Oh, he signed. Yeah.</p> <p>14 MS. LEWINTER: Okay. So what I'm going</p> <p>15 to ask is the -- the record -- after we finish</p> <p>16 today, the record will stay open for 10 days. If</p> <p>17 you could make sure that Nana Johnson has a signed</p> <p>18 copy of that letter --</p> <p>19 THE WITNESS: Sure. Yeah.</p> <p>20 MS. LEWINTER: -- I'd appreciate it.</p> <p>21 Because the one -- at least, that's -- if you</p> <p>22 click on the links, it's not signed by him.</p> <p>23 THE WITNESS: Sure. Yeah.</p> <p>24 MS. LEWINTER: All right. So Ms.</p> <p>25 Osorio, since you're the only one present, we're</p>

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3 (9 to 12)

<p>9</p> <p>1 going to get started with you. Did you want to 2 say anything as any kind of opening overall 3 statement? And if you want to stay unmuted, it's 4 really just the two of us. Everybody -- the court 5 reporter is just going to stay muted the whole 6 time. Ms. Johnson and Ms. Robeson Hannan are just 7 basically here for administrative purposes, so 8 they're not going to be -- 9 THE WITNESS: I'm sorry, because I have 10 a lot of music in the daycare, but -- so yeah. 11 MS. LEWINTER: Oh, I see the daycare is 12 running. Okay. 13 THE WITNESS: Sure. 14 MS. LEWINTER: Did you want to make any 15 kind of opening statement? 16 THE WITNESS: What is opening a 17 statement? 18 MS. LEWINTER: It's not something -- 19 THE WITNESS: I'm sorry. 20 MS. LEWINTER: That's fine. It's not 21 something you're required to make. It's just kind 22 of an overview of your case, but -- 23 THE WITNESS: Okay. Yep. 24 MS. LEWINTER: Did you want to say 25 anything in particular or should we just move</p>	<p>11</p> <p>1 Q This is the staff report that was -- 2 that was put out. Did you -- 3 A I have that one. 4 Q You have that one? Have you read it 5 through? 6 A Yeah. 7 Q Okay. So if I could just ask you some 8 -- some questions with respect to the staff. 9 A Okay. 10 Q All right. Do you need a minute? No? 11 A No, I'm fine. 12 Q Okay. All right. All right. 13 A Okay. 14 Q All right. So you have fencing in the 15 back of your -- of your yard? 16 A Yes. 17 Q Okay. And there's no signs that are 18 proposed as part of this daycare? 19 A Yeah. 20 Q And you're not going to change your home 21 in any way? 22 A No, no change. 23 Q Okay. Any -- have you ever had any 24 issues or complaints from neighbors regarding the 25 daycare?</p>
<p>10</p> <p>1 forward? 2 THE WITNESS: No, it's -- everything is 3 fine. 4 Whereupon, 5 DIANA OSORIO, 6 being first duly sworn or affirmed to testify to 7 the truth, the whole truth, and nothing but the 8 truth, was examined and testified as follows: 9 EXAMINATION BY HEARING EXAMINER 10 BY MS. LEWINTER: 11 Q Okay. So, basically, this is your 12 opportunity to present your case in chief, which 13 should be your explanation and assertions under 14 the statute as to why you should get permission to 15 have up to 12 children in your home daycare; okay? 16 A Yes. Yes. 17 Q I can't hear you. 18 A Yes. Everything is laid on for 12. 19 Q Okay. Did you -- did you want to say 20 anything specific to the criteria? 21 A No. 22 Q No. Okay. Have you read the staff 23 report, Exhibit 16? It looks -- or like this? 24 Oh, sorry. See that? 25 A Okay.</p>	<p>12</p> <p>1 A No. 2 Q Have you any -- had any noise 3 complaints, anything about traffic or odors, dust, 4 anything like that? 5 A No. 6 Q Okay. And you have two individuals in 7 your home who are working at the daycare and one 8 assistant who doesn't live in your home who works 9 at the daycare? 10 A Yes, two. 11 Q Do you currently have eight children 12 that are there? 13 A Eight children now, yeah. 14 Q Okay. And you plan to expand to 12 15 children? 16 A Yes. 17 Q And you had done a traffic study? 18 A No. There's no traffic. 19 Q No, no. Did you look at when -- sorry. 20 You looked at when people were dropping off and -- 21 and picking up the children? 22 A Oh, no. It's just making a -- a 23 schedule with the parents. 24 Q You're going to make a schedule with the 25 parents?</p>


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4 (13 to 16)

<p>13</p> <p>1 A Yes.</p> <p>2 Q Have you ever had an issue with many</p> <p>3 parents picking up at the same time, dropping off</p> <p>4 at the same time?</p> <p>5 A No.</p> <p>6 Q Okay. The -- this -- the planning staff</p> <p>7 is recommending that this be approved, but they</p> <p>8 are recommending that you have limited hours from</p> <p>9 6:30 a.m. to 6:00 p.m.</p> <p>10 A Okay.</p> <p>11 Q Is that something that you're</p> <p>12 comfortable with?</p> <p>13 A It's what time?</p> <p>14 Q 6:30 a.m. --</p> <p>15 A 6:30 a.m.? Okay.</p> <p>16 Q -- to 6:00 p.m.</p> <p>17 A Okay.</p> <p>18 Q Okay. And that they want you to have</p> <p>19 staggered drop off and pickup?</p> <p>20 A Yeah.</p> <p>21 Q A maximum of two vehicles at any time?</p> <p>22 A Okay.</p> <p>23 Q Now, you said you've tried to make a</p> <p>24 schedule with the parents?</p> <p>25 A Yes. I have a schedule with the</p>	<p>15</p> <p>1 neighbors on both sides, but the -- adjacent to</p> <p>2 you is a road; correct --</p> <p>3 A Correct.</p> <p>4 Q -- in -- in the back. And are those</p> <p>5 neighbors home during the day, the --</p> <p>6 A I don't think so.</p> <p>7 Q All right. You haven't heard any issues</p> <p>8 from them, any concerns from them?</p> <p>9 A No. No.</p> <p>10 Q And they're aware --</p> <p>11 A I'm so lucky. Yeah.</p> <p>12 Q Yeah. That -- they're aware that you</p> <p>13 have a -- a daycare; right?</p> <p>14 A Right.</p> <p>15 Q Hold on. And where -- when you have --</p> <p>16 where do you park the vehicles for yourself and --</p> <p>17 is it your husband who also works at the daycare</p> <p>18 or --</p> <p>19 A My car? I can show you.</p> <p>20 Q No, you don't have to show me. You can</p> <p>21 just -- can you explain?</p> <p>22 A I can explain. It's just -- it's in the</p> <p>23 front. It's two driveways, but I -- maybe for</p> <p>24 five in my driveway. So he just put my car very</p> <p>25 -- in one spot, so I have available three -- four</p>
<p>14</p> <p>1 parents.</p> <p>2 Q With the parents? So they know what</p> <p>3 time they can come and pick up their kids?</p> <p>4 A Yes. Yes. Sometimes it's pick up 3:30,</p> <p>5 4:00, 5:30, and -- and 5:00. So every 30 minutes,</p> <p>6 sometimes every 15 minutes.</p> <p>7 Q Every 30 or 15 minutes? And do they</p> <p>8 write this down? Do they, like, fill in a -- a --</p> <p>9 A Yeah.</p> <p>10 Q -- spreadsheet or something? Okay.</p> <p>11 Great. And can you just tell me a little bit</p> <p>12 about your neighborhood surrounding the -- the</p> <p>13 other -- you know, surrounding your home, what the</p> <p>14 neighborhood is like?</p> <p>15 A Yes. My neighbor is very quiet, so the</p> <p>16 street is empty and this -- now, it's -- I don't</p> <p>17 have cars in the street. It's very slow, so --</p> <p>18 Q Okay. And is it all single family</p> <p>19 homes?</p> <p>20 A Single family homes.</p> <p>21 Q And the children play outside in the</p> <p>22 back yard?</p> <p>23 A Just play in the back yard, yeah, only</p> <p>24 in the back yard.</p> <p>25 Q In the back yard. And so, you have</p>	<p>16</p> <p>1 more.</p> <p>2 Q You have -- you have space in your</p> <p>3 driveway for four more cars?</p> <p>4 A Yes.</p> <p>5 Q Okay. And you own a vehicle, and is</p> <p>6 there somebody else in your home that owns a</p> <p>7 vehicle?</p> <p>8 A No, just my car.</p> <p>9 Q Okay. So you have one vehicle, just</p> <p>10 your car, and then your assistant, where does that</p> <p>11 person park?</p> <p>12 A It's in -- in the street.</p> <p>13 Q They park in the street?</p> <p>14 A Yeah.</p> <p>15 Q And then when parents come and drop off</p> <p>16 and pick up, they can come into your driveway?</p> <p>17 A In my driveway.</p> <p>18 Q Okay. And is there ever a parking issue</p> <p>19 on your street where people can't find parking?</p> <p>20 A No.</p> <p>21 Q How long have you -- how many years have</p> <p>22 you been running the -- eight --</p> <p>23 A Eight -- eight years. Yeah.</p> <p>24 Q Eight years. And why do you want to</p> <p>25 expand now?</p>

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5 (17 to 20)

<p>17</p> <p>1 A Because it's -- some mommies have the 2 same babies, so is waiting for me. So I have the 3 toddlers, but for mom, it's the same thing now. 4 So it is waiting this spot for -- that is the 5 reason I want 12 now. 6 Q So you have -- currently have some 7 toddlers in your daycare who are going to become 8 big brothers, big sisters -- 9 A Yes. 10 Q -- and their -- their moms want to place 11 the new babies with you? 12 A Yes. 13 Q So do you -- will you have the capacity 14 for four infants? 15 A Just only four infants. And -- and with 16 the -- for infants and for toddlers with home day 17 cares. 18 Q Okay. 19 A But for 12, it's four infants and -- 20 Q Eight -- 21 A -- and eight toddlers. Yes. 22 Q And -- okay. All right. I don't think 23 I have any other questions for you. Is there 24 anything else that you think that I need to know? 25 A No. No.</p>	<p>19</p> <p>1 questions. 2 MS. LEWINTER: Okay. All right. Well, 3 thank you and we'll be in touch. Okay. 4 THE WITNESS: Thank you so much. I 5 really appreciate it. 6 MS. LEWINTER: All right. Thank you. 7 THE WITNESS: Bye. 8 MS. LEWINTER: Bye. 9 (Off the record at 9:45 a.m.) 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p>18</p> <p>1 Q Okay. Was there anything -- when you 2 read through the conditional use planning staff 3 report, was there anything that occurred to you 4 that was incorrect or improper? 5 A It's correct. 6 MS. LEWINTER: Okay. All right. So Ms. 7 Osorio, what will happen now is, again, I need you 8 to get me a signed letter from Mr. Hernandez. 9 THE WITNESS: Yeah. 10 MS. LEWINTER: The record is going to 11 close in 10 days, so we're going to close for 12 testimony now, but if anything comes up in 10 13 days, everything will be completely closed, and 14 then I will have 30 days from that date to issue 15 you a written decision. 16 THE WITNESS: Okay. 17 MS. LEWINTER: And if you have any 18 questions, in the meantime, you should direct 19 those to Ms. Johnson, and we'll take it from 20 there. But, again, I really do need that signed 21 letter from Mr. Hernandez. Do you have -- 22 THE WITNESS: Thank you. 23 MS. LEWINTER: Do you have any questions 24 for me? 25 THE WITNESS: No, I don't have any</p>	<p>20</p> <p>1 CERTIFICATE OF COURT REPORTER 2 I, Brendon Cuenca, the officer before 3 whom the foregoing proceedings were taken, do 4 hereby certify that said proceedings were 5 electronically recorded by me; and that I am 6 neither counsel for, related to, nor employed by 7 any of the parties to this case and have no 8 interest, financial or otherwise, in its outcome. 9 10  11 _____ 12 Brendon Cuenca, Court Reporter 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

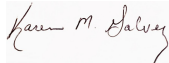
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6 (21 to 24)

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CERTIFICATION OF TRANSCRIPT

I, Karen M. Galvez, do hereby certify
that the foregoing transcript, to the best of my
ability, knowledge, and belief, is a true and
correct record of the proceedings; that said
proceedings were reduced to typewriting under my
supervision; and that I am neither counsel for,
related to, nor employed by any of the parties to
this case and have no interest, financial or
otherwise, in its outcome.



Karen M. Galvez
Planet Depos, LLC
March 29, 2023

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<p style="text-align: center;">A</p> <p>ability 21:4</p> <p>able 6:21</p> <p>about 6:17, 12:3, 14:12</p> <p>accurate 5:22</p> <p>actually 7:25</p> <p>address 7:12</p> <p>adjacent 15:1</p> <p>administrative 1:2, 3:7, 9:7</p> <p>affidavit 5:20</p> <p>affirmed 10:6</p> <p>after 8:15</p> <p>again 6:16, 7:5, 18:7, 18:20</p> <p>agreement 2:13</p> <p>ahead 7:18</p> <p>all 6:3, 7:12, 8:24, 11:10, 11:12, 11:14, 14:18, 15:7, 17:22, 18:6, 19:2, 19:6</p> <p>also 3:13, 15:17</p> <p>andrea 3:14, 5:10</p> <p>any 6:18, 7:3, 7:13, 9:2, 9:14, 11:21, 11:23, 12:2, 13:21,</p>	<p>15:7, 15:8, 17:23, 18:17, 18:23, 18:25, 20:7, 21:8</p> <p>anybody 5:16, 6:24, 6:25</p> <p>anything 9:2, 9:25, 10:20, 12:3, 12:4, 17:24, 18:1, 18:3, 18:12</p> <p>appear 5:16, 7:4</p> <p>appears 6:24, 7:1</p> <p>applicant 1:8</p> <p>application 5:7</p> <p>appreciate 8:20, 19:5</p> <p>approval 7:9</p> <p>approved 13:7</p> <p>asked 6:16</p> <p>assertions 10:13</p> <p>assistant 12:8, 16:10</p> <p>authorization 7:22, 8:10</p> <p>available 15:25</p> <p>avenue 3:8</p> <p>aware 7:14, 15:10, 15:12</p> <p style="text-align: center;">B</p> <p>babies 17:2, 17:11</p> <p>back 11:15, 14:22,</p>	<p>14:23, 14:24, 14:25, 15:4</p> <p>backup 6:14</p> <p>based 7:9</p> <p>basically 9:7, 10:11</p> <p>because 6:7, 7:19, 8:21, 9:9, 17:1</p> <p>become 17:7</p> <p>been 16:22</p> <p>before 2:13, 20:2</p> <p>behalf 3:3</p> <p>being 6:11, 6:12, 10:6</p> <p>belief 21:4</p> <p>best 21:3</p> <p>bethesda 1:6, 5:9</p> <p>big 17:8</p> <p>bit 14:11</p> <p>both 6:12, 15:1</p> <p>brendon 1:25, 2:13, 20:2, 20:12</p> <p>brothers 17:8</p> <p>building 3:9</p> <p>bye 19:7, 19:8</p> <p style="text-align: center;">C</p> <p>can't 10:17, 16:19</p> <p>capacity 17:13</p>	<p>car 15:19, 15:24, 16:8, 16:10</p> <p>cares 17:17</p> <p>cars 14:17, 16:3</p> <p>case 1:5, 5:6, 5:13, 5:17, 6:23, 7:2, 9:22, 10:12, 20:7, 21:9</p> <p>certain 6:2</p> <p>certificate 20:1</p> <p>certification 21:1</p> <p>certify 20:4, 21:2</p> <p>chance 7:6</p> <p>change 11:20, 11:22</p> <p>chief 6:24, 7:2, 10:12</p> <p>children 10:15, 12:11, 12:13, 12:15, 12:21, 14:21</p> <p>click 8:22</p> <p>close 18:11</p> <p>closed 18:13</p> <p>closing 7:8</p> <p>come 14:3, 16:15, 16:16</p> <p>comes 18:12</p> <p>comfortable 13:12</p> <p>complaints 11:24, 12:3</p>
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