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Transcript of Hearing

Date: February 13, 2025

Case: Potomac MMA (CU 24-18)

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1 (1 to 4)

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Transcript of Hearing
Conducted on February 13, 2025

2 (5 to 8)

5	<p>1 PROCEEDINGS</p> <p>2 (Whereupon, the court reporter was duly</p> <p>3 sworn.)</p> <p>4 THE HEARING EXAMINER: My name is Kate</p> <p>5 Byrne, and I'm a Hearing Examiner that has been</p> <p>6 assigned to this matter. We are here today for a</p> <p>7 hearing on the conditional use application for</p> <p>8 home occupation. The application also includes</p> <p>9 two parking waivers for the property located at</p> <p>10 8400 Postoak Road, Potomac, Maryland, property</p> <p>11 assumed on 90. The conditions that we're</p> <p>12 reviewing it under would be Article 59, Section</p> <p>13 3.3.H.5B, and the parking waivers will be reviewed</p> <p>14 under the standard as set forth in Article 59,</p> <p>15 Section 59.6.2.4B, and 59.6.2.5K2B.</p> <p>16 As the Hearing Examiner in this case,</p> <p>17 I'm going to listen to evidence, through testimony</p> <p>18 and through written and visual evidence, that come</p> <p>19 in and render an opinion on the application</p> <p>20 pursuant to the criteria as set forth in the</p> <p>21 standard and under conditional use standard for</p> <p>22 Article 59, Section 7.3.1. If you disagree with</p> <p>23 my decision, you may appeal it to the Board of</p> <p>24 Appeals within ten days after the decision is</p> <p>25 issued.</p>	7
6	<p>1 So what I'd like to do is a little bit</p> <p>2 of housekeeping. So we are in a hybrid hearing</p> <p>3 format, which means that people on Zoom can hear,</p> <p>4 can testify, and participate just as fully as</p> <p>5 those here in the room. We have our Zoom operator</p> <p>6 extraordinaire, Joey, here. So any document that</p> <p>7 you wish to refer to, he will be pulling it up for</p> <p>8 you. We can zoom in, we can move around however</p> <p>9 you need to, to look at those exhibits. And we</p> <p>10 have our court reporter. Our court reporter is</p> <p>11 here and will transcribe the entire proceeding.</p> <p>12 That will be the only official transcript of this</p> <p>13 proceeding. We do not record the Zooms.</p> <p>14 All right. So the first thing that I'd</p> <p>15 like to do is, let's just check on our people on</p> <p>16 Zoom. So I see we have two people present on</p> <p>17 Zoom. I have Antonella. If you could unmute and</p> <p>18 say hello.</p> <p>19 MS. SASSANO: Hello.</p> <p>20 THE HEARING EXAMINER: Hi.</p> <p>21 MS. SASSANO: Good morning, everyone.</p> <p>22 THE HEARING EXAMINER: Hi. Good</p> <p>23 morning, Antonella. Do you intend to testify or</p> <p>24 participate today?</p> <p>25 MS. SASSANO: Yes, of course.</p>	8
	<p>1 THE HEARING EXAMINER: Okay. So when</p> <p>2 the time comes, I'll need you to both unmute and</p> <p>3 turn your camera on. And -- so are you in support</p> <p>4 or in opposition of the application?</p> <p>5 MS. SASSANO: Supporter.</p> <p>6 THE HEARING EXAMINER: Okay. Thank you</p> <p>7 very much. All right. Now, I have Mr. Ted Hopp.</p> <p>8 Mr. Hopp, could you unmute?</p> <p>9 MS. HOPP: Hello. This is actually</p> <p>10 Marsha Hopp. It just says my husband's name here.</p> <p>11 He'll be joining us soon.</p> <p>12 THE HEARING EXAMINER: Okay. And, Ms.</p> <p>13 Hopp, do you intend -- do you and your husband</p> <p>14 intend to participate today?</p> <p>15 MS. HOPP: I'm not sure. I'm here to</p> <p>16 learn and -- and listen, and I -- if I have</p> <p>17 something that occurs to me, I might want to say</p> <p>18 something.</p> <p>19 THE HEARING EXAMINER: Okay. All right.</p> <p>20 So can you say if you're in support or in</p> <p>21 opposition of the application?</p> <p>22 MS. HOPP: Generally in support, but I'd</p> <p>23 like to hear all the details.</p> <p>24 THE HEARING EXAMINER: Okay. Thank you</p> <p>25 very much, Ms. Hopp. All right. So while -- what</p>	

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3 (9 to 12)

9	<p>1 of how many people wish to testify today? Okay.</p> <p>2 So everybody. Can you raise your hand if you're</p> <p>3 in support of the application?</p> <p>4 THE HEARING EXAMINER: Are you in</p> <p>5 opposition to the application? Good. Two. Okay.</p> <p>6 All right. So the way that the procedure will</p> <p>7 work is that the Applicant and their attorney will</p> <p>8 go first with an opening statement. They will</p> <p>9 present all of the information and evidence for</p> <p>10 the facts. The opposing party will proceed with</p> <p>11 their factual case at the conclusion of the</p> <p>12 Applicant's party. Any other interested persons,</p> <p>13 then they may then present a factual case with an</p> <p>14 opportunity for cross-examination. Opposing</p> <p>15 parties will have an opportunity for</p> <p>16 cross-examination, as will the Applicant. So when</p> <p>17 you're testifying, they will have an opportunity</p> <p>18 to ask you questions as well. All right?</p> <p>19 So after the conclusion of the</p> <p>20 Applicant's case, at that point, I'll open it up</p> <p>21 for cross-examination. I find it's best to hold</p> <p>22 cross-examination until the full -- all of the</p> <p>23 factual evidence is in. So for those of you in</p> <p>24 opposition, if you have questions you want to ask</p> <p>25 of the Appellants or the Applicant's witnesses,</p>	11
10	<p>1 please keep them together. So at the conclusion</p> <p>2 of their presentation, if there are any questions</p> <p>3 you wished to ask any of the witnesses before,</p> <p>4 that would be the time to come up and ask those</p> <p>5 questions, right at the conclusion of their</p> <p>6 case-in-chief.</p> <p>7 All right. Has everybody had an</p> <p>8 opportunity to take a look at the exhibit list?</p> <p>9 So the exhibits have been online. We also have</p> <p>10 copies of the exhibit list next to the sign-in</p> <p>11 sheet. Any changes, edits, corrections?</p> <p>12 MS. ROSENFELD: I simply would like to</p> <p>13 enter into the record the original affidavit of</p> <p>14 posting.</p> <p>15 THE HEARING EXAMINER: Yes, and we'll</p> <p>16 accept the original affidavit of posting, and I</p> <p>17 think we have it already marked as, I want to say,</p> <p>18 Exhibit 39. Is that right? Thank you. I might</p> <p>19 have gone away and given away my own exhibit list,</p> <p>20 so everybody hold tight. Let me get myself an</p> <p>21 exhibit list off of the chair. Yes, Exhibit 39.</p> <p>22 All right. So we will accept the affidavit of</p> <p>23 posting, Exhibit 39, into the record.</p> <p>24 THE HEARING EXAMINER: Yes, sir?</p> <p>25 MR. KERRIGAN: So if we choose to refer</p>	12
	<p>1 to one of these, since these got updated two weeks</p> <p>2 ago, is it possible to refer back to the old</p> <p>3 exhibit list? It used to be up to 1 through 12,</p> <p>4 and there were A through F on certain of them, and</p> <p>5 now it's 1 through 37. There were six additional</p> <p>6 added.</p> <p>7 THE HEARING EXAMINER: The -- here, come</p> <p>8 to the table, please. And put your microphone --</p> <p>9 MR. KERRIGAN: Sure. Fine.</p> <p>10 THE HEARING EXAMINER: -- on, because</p> <p>11 we're -- we'll talk about exhibits right now.</p> <p>12 MR. KERRIGAN: Okay.</p> <p>13 THE HEARING EXAMINER: So the -- it'll</p> <p>14 be pretty impossible to refer to the old exhibit</p> <p>15 list --</p> <p>16 MR. KERRIGAN: Okay.</p> <p>17 THE HEARING EXAMINER: -- but everything</p> <p>18 that was on the old exhibit list should be on this</p> <p>19 exhibit list, unless it was replaced.</p> <p>20 MR. KERRIGAN: Okay.</p> <p>21 THE HEARING EXAMINER: Right? So if an</p> <p>22 exhibit was replaced or -- can you just turn your</p> <p>23 microphone on, so people at the front can hear</p> <p>24 you. So if an exhibit was replaced, it was taken</p> <p>25 off, and something else is now in its place.</p>	

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4 (13 to 16)

13	<p>1 MS. ROSENFELD: Thank you.</p> <p>2 THE HEARING EXAMINER: Are you ready?</p> <p>3 MS. ROSENFELD: All right. Yes, I am.</p> <p>4 I just wanted to say that I have a printed copy of</p> <p>5 all of the exhibits, including the ones that were</p> <p>6 filed more recently. I'm happy to let the witness</p> <p>7 take a look --</p> <p>8 THE HEARING EXAMINER: Okay.</p> <p>9 MS. ROSENFELD: -- and review the hard</p> <p>10 copies in the meantime so that he'll -- if he</p> <p>11 hasn't had a chance to see what's been recently</p> <p>12 filed, it will be --</p> <p>13 THE HEARING EXAMINER: Okay.</p> <p>14 MS. ROSENFELD: -- an opportunity to see</p> <p>15 what's --</p> <p>16 THE HEARING EXAMINER: All right.</p> <p>17 MS. ROSENFELD: -- (crosstalk).</p> <p>18 THE HEARING EXAMINER: So, sir, in the</p> <p>19 back, Ms. Rosenfeld says she has printed copies of</p> <p>20 everything, if you'd like to review those now; or</p> <p>21 are you --</p> <p>22 MR. KERRIGAN: That'd be great, if you</p> <p>23 wouldn't mind.</p> <p>24 THE HEARING EXAMINER: Okay.</p> <p>25 (A discussion was held off the record.)</p>	15
14	<p>1 THE HEARING EXAMINER: Okay. So just to</p> <p>2 -- we're going to regroup again on order. So the</p> <p>3 Applicant will go first, and any witnesses that</p> <p>4 they wish to call. Joey will pull up everything</p> <p>5 that you need to -- to look at, review, and see.</p> <p>6 We can zoom in, zoom out.</p> <p>7 At the conclusion of the Applicant's</p> <p>8 case, those who are here in opposition will come</p> <p>9 up to the table and ask questions specifically of</p> <p>10 any of those witnesses that they wish to ask</p> <p>11 questions of. So a reminder; cross-examination is</p> <p>12 not your time to testify. It's to ask questions</p> <p>13 of the individual based on their testimony. So</p> <p>14 when you present your own evidence, right, as</p> <p>15 someone in opposition or someone who's here either</p> <p>16 in support or an interested party, just tell me</p> <p>17 what you want to tell me.</p> <p>18 All right. Let's see. So at the end of</p> <p>19 the opposing party's testimony, any other</p> <p>20 interested parties' testimony, people here in</p> <p>21 support or that just want to make the general</p> <p>22 statements, they will have an opportunity for the</p> <p>23 Applicant for rebuttal testimony. So the</p> <p>24 Applicant gets the last word, because the burden</p> <p>25 of proof is on the Applicant.</p>	16

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5 (17 to 20)

<p>17</p> <p>1 sounds great. Go ahead and call your first 2 witness. 3 MS. ROSENFELD: Okay. Thank you. Mr. 4 Margolis, would you please state your name and 5 address for the record? 6 MR. MARGOLIS: Todd Michael Margolis, 7 8400 Postoak Road, Potomac, Maryland. 8 Whereupon, 9 TODD MARGOLIS, 10 being first duly sworn or affirmed to testify to 11 the truth, the whole truth, and nothing but the 12 truth, was examined and testified as follows: 13 EXAMINATION BY COUNSEL FOR THE APPLICANT 14 BY MS. ROSENFELD: 15 Q Mr. Margolis, would you please start 16 with just giving a brief overview of what your 17 business does? What do you do every day? 18 A We teach martial arts to children and 19 adults. 20 Q And what -- at what address? 21 A At 8400 Postoak Road, Potomac, Maryland, 22 20854. 23 Q And where does that activity occur on 24 the property? 25 A Inside the freestanding garage that was</p>	<p>19</p> <p>1 years. 2 Q Okay. And in the application, you're 3 requesting approval for up to two weeks of summer 4 camp; is that correct? 5 A Correct. 6 Q Each five days? 7 A Correct. 8 Q And what are the hours of operation for 9 the summer camp? 10 A 9:00 to 4:00. 11 Q Okay. And a maximum enrollment of how 12 many students? 13 A 12. 14 Q Okay. And do the students -- is this an 15 overnight camp, or only a day camp? 16 A Day camp. 17 Q And on the property at 8400 Postoak 18 Road, do you live there with your family? Is this 19 -- 20 A I do. 21 Q -- your primary residence? 22 A I do. 23 Q And how many employees do you have for 24 the business? 25 A None, none.</p>
<p>18</p> <p>1 -- that was built. 2 Q Okay. And how many students do you have 3 per class? 4 A 12 in our under-18. 5 Q And could you explain to the Hearing 6 Examiner what your requested hours of operation 7 are for the use? 8 A From 9:00 to 9:00 -- is it 9:00 to 9:00? 9 Q 9:00 to 9:00. 10 A Yeah, from 9:00 to 9:00, although I 11 don't have any morning classes, and haven't had 12 any for a long time. 13 Q And do you have classes on Sunday? 14 A No, ma'am. 15 Q Okay. And how long is each class? 16 A 45 minutes, with the -- the last class 17 is an hour, from 8:00- to 9:00. 18 Q Okay. And in addition to your daily 19 classes, do you have -- do you also host a summer 20 camp? 21 A I do. 22 Q And how many weeks of summer camp do you 23 host? 24 A It's been one. I've done two in the 25 very beginning, but it's been one for the past few</p>	<p>20</p> <p>1 Q You -- you work there -- 2 A I have students that help out, yeah. 3 Q You work there; right? 4 A Exactly, correct. 5 Q You're -- you're an employee. 6 A Yeah, I'm an employee. 7 Q Excuse me. And when -- have you had any 8 experience watching people arrive and leave the 9 property daily -- 10 A Yes. 11 Q -- when they attend classes? 12 A Uh-huh. 13 Q Have you ever experienced any difficulty 14 with parking? Any limitations on parking? 15 A No. 16 Q Okay. Have you ever witnessed any 17 queuing? Have people had to line up in the street 18 in order to find a parking space? 19 A No, no, not since we built the full 20 driveway -- wrap-around driveway. 21 Q Okay. And for the students that are -- 22 that are of school age, or not yet driving age, is 23 there any carpooling, or is there any -- 24 A Yeah. 25 Q -- parents who bring siblings?</p>

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6 (21 to 24)

<p>21</p> <p>1 A Yeah.</p> <p>2 Q Could you explain that to the Hearing</p> <p>3 Examiner --</p> <p>4 A Yeah.</p> <p>5 Q -- please?</p> <p>6 A So we have multiple siblings, and we</p> <p>7 have kids that walk from the neighborhood, and we</p> <p>8 have kids that carpool with other parents.</p> <p>9 Q Okay. So you wouldn't necessarily have</p> <p>10 12 vehicles if you had 12 students in a class?</p> <p>11 A Generally not. That's -- that would be</p> <p>12 a rarity.</p> <p>13 Q Okay.</p> <p>14 MS. ROSENFELD: We have in Exhibit 16, a</p> <p>15 list of the proposed conditions of approval.</p> <p>16 THE HEARING EXAMINER: Okay.</p> <p>17 MS. ROSENFELD: For this use, and it</p> <p>18 mirrors the hours of operation and the general</p> <p>19 parameters that we just went -- walked through.</p> <p>20 Hours of operation, limited to 9:00 a.m. to 9:00</p> <p>21 p.m. With a maximum of five classes a day, 45</p> <p>22 minutes, with the last class up to 60 minutes, and</p> <p>23 for the -- all but the last class, there would be</p> <p>24 a 15-minute break between the end of one class and</p> <p>25 the start of the next to allow vehicle -- student</p>	<p>23</p> <p>1 THE HEARING EXAMINER: Okay.</p> <p>2 MS. ROSENFELD: -- but I -- I do think</p> <p>3 they look acceptable.</p> <p>4 THE HEARING EXAMINER: Okay.</p> <p>5 MS. ROSENFELD: Thank you. And I think</p> <p>6 that's all the questions that I have for Mr.</p> <p>7 Margolis.</p> <p>8 THE HEARING EXAMINER: All right.</p> <p>9 MS. ROSENFELD: Thank you.</p> <p>10 THE HEARING EXAMINER: Thank you.</p> <p>11 MS. ROSENFELD: I would like to call my</p> <p>12 next witness, Mr. Chris Kabatt. Mr. Kabatt's</p> <p>13 resume is in the record as Exhibit 7, and his</p> <p>14 educational background and expert testimony</p> <p>15 experience is set forth here. I would be happy</p> <p>16 to voir dire him for his expertise, but unless</p> <p>17 there are objections, I would like to submit Mr.</p> <p>18 Kabatt as an expert with respect to transportation.</p> <p>19 THE HEARING EXAMINER: He's admitted as</p> <p>20 an expert based on the information found in his</p> <p>21 resume.</p> <p>22 MS. ROSENFELD: Okay. Thank you.</p> <p>23 Whereupon,</p> <p>24 CHRIS KABATT,</p> <p>25 being first duly sworn or affirmed to testify to</p>
<p>22</p> <p>1 turnover.</p> <p>2 Condition Number 2 would be a maximum of</p> <p>3 12 students per class. Number 3, a maximum of two</p> <p>4 weeks of summer camp, no more than five</p> <p>5 consecutive calendar days between 9:00 and 4:00,</p> <p>6 with a maximum of 12 students per day per camp and</p> <p>7 a maximum of one resident employee. And with</p> <p>8 that, that summarizes the scope of operations and</p> <p>9 the proposed conditions. And I offer Mr. Margolis</p> <p>10 to you for questions if you have any.</p> <p>11 THE HEARING EXAMINER: No. I think that</p> <p>12 just to -- looking at Staff's recommendations and</p> <p>13 reports, how do -- based on the conditions that</p> <p>14 Staff recommend, do you have any objections to</p> <p>15 those conditions, and are they in keeping with the</p> <p>16 ones that you propose in Exhibit 16? I think it</p> <p>17 was on Page 3 of the Staff Report. It looks to be</p> <p>18 -- it looks to track fairly well, but the language</p> <p>19 is just a little different, so I just want to</p> <p>20 confirm.</p> <p>21 MS. ROSENFELD: These look -- these all</p> <p>22 look acceptable to me. I would like to reserve</p> <p>23 the opportunity to speak with my client during a</p> <p>24 break and let you know if there are any proposed</p> <p>25 modifications --</p>	<p>24</p> <p>1 the truth, the whole truth, and nothing but the</p> <p>2 truth, was examined and testified as follows:</p> <p>3 EXAMINATION BY COUNSEL FOR THE APPLICANT</p> <p>4 BY MS. ROSENFELD:</p> <p>5 Q Mr. Kabatt, I would like to direct you</p> <p>6 to Exhibit Number 34, which is your traffic</p> <p>7 statement. Are you familiar with the property</p> <p>8 located at 8400 Postoak Road in Potomac?</p> <p>9 A I am.</p> <p>10 Q And have you reviewed the statement of</p> <p>11 operations and the statement of justification and</p> <p>12 the site plan documents related to this</p> <p>13 application?</p> <p>14 A Yes, I have.</p> <p>15 Q And have you prepared a report with</p> <p>16 respect to your findings in connection with</p> <p>17 traffic impacts, turning radii, and queuing at the</p> <p>18 property?</p> <p>19 A Yes.</p> <p>20 Q Okay. If you would please summarize for</p> <p>21 the Hearing Examiner your findings in those regard</p> <p>22 -- in those regards and, at the same time, also</p> <p>23 point her to the pages in your report that support</p> <p>24 your summary.</p> <p>25 A Okay. Just a matter of clarification</p>

<p>25</p> <p>1 for the record, my last name has two Ts, and -- 2 and it's K-A-B as in Bravo A-T-T. 3 Q So one B two Ts? 4 A One B, two Ts. 5 THE HEARING EXAMINER: All right. I did 6 two Bs and two Ts. 7 MS. ROSENFELD: Okay. I took out one B 8 and one T. 9 THE HEARING EXAMINER: All right. Well, 10 the court reporter is probably the most important 11 person for that, and he's given us a thumbs up, so 12 he's all god. 13 A Thank you. I prepared a traffic 14 statement in -- in accordance with the guidelines 15 and the requirements for local area transportation 16 review. For this case, and reviewing the 17 statement of operations and the classes to be held 18 at Potomac MMA, we determined a trip generation 19 based on person trips per hour for this use. And 20 that's the requirement. Your first step is to 21 determine the trip generation, and then see if 22 additional analysis is required. You can look at 23 -- it's Table 2, which is the fourth page of the 24 memorandum dated September 30th. 25 THE HEARING EXAMINER: Joey, could you</p>	<p>27</p> <p>1 is between 4:00 p.m. and 7:00 p.m. 2 We also -- I also reviewed the 3 circulation of the site. There is a one-way 4 circular driveway that goes from the east side of 5 the property to the west side, and goes around the 6 back of the garage. And actually drove the -- 7 drove it myself, but we did run some -- what is -- 8 are called auto turn exhibits. It's a tool -- a 9 model tool to see if a vehicle can make the turn 10 around the garage. 11 BY MS. ROSENFELD: 12 Q Mr. Kabatt, if I might -- if I might 13 interrupt you just one moment. I'd like to refer 14 the Hearing Examiner to Exhibit Number 36. And 15 Mr. Kabatt, if you could explain what Exhibit 36 16 reflects in the context of your findings? 17 A Sure. Can I just see that? I just want 18 to make sure I'm talking about the right thing. 19 Okay. Yes. So Exhibit 36, there are two -- two 20 exhibits that, I guess -- or two -- two diagrams 21 that make up the exhibit, and -- and the 22 difference between the two is the size of the 23 vehicle. But the one that's up on the screen 24 right now is a -- what we refer to as a design 25 vehicle. And that's, you know, that's your</p>
<p>26</p> <p>1 go to Page 4? Is there a table? There we go. 2 Thank you. 3 A Based on the class schedule and the 4 45-minute classes, we determined that there are 12 5 people in and 12 people out during a 15-minute 6 period, and then the class occurs, and then 7 there's the 15-minute buffer for turnover. And 8 with that, the column that's in the middle ends up 9 being the peak, peak -- peak 15 minutes, which 10 turns into the peak hour because there -- there 11 are no ins and outs during the -- the rest of that 12 hour. But there would be 48-person trips, and the 13 48-person trips is a threshold is below the 14 threshold to the -- to do further local area 15 transportation review. 16 So, we're we're below the 50-person 17 threshold. And -- and then that's the -- the 18 overall gist of the -- of the memorandum. It 19 discusses the the -- the documentation. The first 20 two pages discussed the operation, as was 21 described, the classes being held from 10:00 a.m. 22 to 9:00 p.m., although, as Mr. Margolis had 23 mentioned, he does not have any morning classes. 24 So we measured the -- the time period. That's the 25 typical peak period for Montgomery County, which</p>	<p>28</p> <p>1 largest vehicle or some -- some -- or a, I guess, 2 some safety factors. 3 So it's a -- you could think of it as a 4 large Yukon or -- or Escalade, one of the very, 5 you know, very large vehicles, and that -- it -- 6 what this shows is the path of the vehicle turning 7 into the driveway, and then going around the back, 8 there's the pinch point with the -- with the 9 garage or the -- I guess, the studio. You can see 10 it. It's at the bottom of the page where the -- 11 the dark vehicle is located. But you are able to 12 make that turn. In this case, it does show that 13 the driver would back up, you know, one maneuver, 14 and then -- and then continue to make the 15 turnaround. 16 The next -- the next, if you go to the 17 second page of this -- yes, that exhibit. Well, 18 this orientation, it's just rotated, but this one 19 shows a typical minivan, which, you know, would be 20 a common vehicle or that size vehicle. The size 21 of the vehicle is actually shown in the -- well, 22 if you're -- on the screen, it's the top left 23 corner, shows the size of the vehicle, and it's -- 24 if I could look here, right, get my eyes straight, 25 I think that says 18 feet, or is it 16 feet?</p>

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8 (29 to 32)

<p>29</p> <p>1 Q I think you can zoom in if you want. Is 2 it that -- little -- little guy there?</p> <p>3 A Yes.</p> <p>4 THE REPORTER: Top left.</p> <p>5 MR. KABATT: Top left?</p> <p>6 Q Yeah, there's the car.</p> <p>7 A I believe that says 16 feet.</p> <p>8 Q Okay.</p> <p>9 A And then, what that shows is that 10 vehicle, that size vehicle, which is a typical 11 vehicle that would be using this site, is able to 12 circulate efficiently around -- around the site 13 and into the property and now around the back and 14 out the property. I will point to this exhibit 15 also to show -- you can zoom out now. It's all 16 right. I will point to this exhibit to also show 17 the length of the driveway, and what this does 18 help with is the queuing, if you will, on-site.</p> <p>19 And so, you can see the vehicle would 20 turn if the vehicle was going -- turning right 21 into the site, and then it would go back to the 22 garage. There's a distance, you know, a lengthy 23 distance, to -- to go and drop off, and -- and it 24 does occur over, like, a 15-minute period where -- 25 where people get dropped off, the students, and</p>	<p>31</p> <p>1 THE HEARING EXAMINER: Go ahead and turn 2 your microphone on.</p> <p>3 MR. MARGOLIS: I usually keep my truck 4 on the street --</p> <p>5 THE HEARING EXAMINER: Okay.</p> <p>6 MR. MARGOLIS: -- and then I have 7 another car that my wife usually parks in the back 8 --</p> <p>9 THE HEARING EXAMINER: Okay.</p> <p>10 MR. MARGOLIS: -- and then I have 11 another car that I park on the side and front. So 12 we -- we actually use, like two parking spaces 13 over on the -- if you look at the bottom, so where 14 you're coming out, where there's -- beside the 15 house.</p> <p>16 THE HEARING EXAMINER: Yes.</p> <p>17 MR. MARGOLIS: That's so deep right 18 there. I can fit two cars there. So, like, I'll 19 park -- I park my car all the way against the 20 fence. And then there's another -- if -- I have a 21 stepdaughter, and if she's with us, then she might 22 park behind me there, but she's with us 50/50, and 23 she's getting ready to go off to college.</p> <p>24 THE HEARING EXAMINER: Okay. All right. 25 So no cars are generally parked in the driveway?</p>
<p>30</p> <p>1 then it would continue around to exit. So, we 2 don't anticipate any queuing issues backed up onto 3 Postoak Road. If there was a situation where, you 4 know, a lot of vehicles came at one time, maybe 5 for the pickup, you know, waiting to pick up their 6 child, there is a parking that's available on the 7 street on Postoak.</p> <p>8 Q Okay. So, Mr. Kabatt, the driveway 9 currently exists; correct? The driveway?</p> <p>10 A Yes, the driveway does exist.</p> <p>11 Q And it is in use now by students who 12 arrive to the facility; correct?</p> <p>13 A Yes, that's correct.</p> <p>14 Q Okay. And you say you drove it 15 yourself?</p> <p>16 A I did.</p> <p>17 Q Okay. All right.</p> <p>18 MS. ROSENFELD: I have no further 19 questions of this witness.</p> <p>20 THE HEARING EXAMINER: Okay. Parking 21 for the occupants of the property, where is that 22 in the -- did you observe cars and -- I -- maybe 23 this is a better question for Mr. Margolis.</p> <p>24 So where do you normally keep your car?</p> <p>25 MR. MARGOLIS: Where do I keep my car?</p>	<p>32</p> <p>1 MS. ROSENFELD: We -- we --</p> <p>2 MR. MARGOLIS: In that area where --</p> <p>3 where people in the --</p> <p>4 MS. ROSENFELD: Where people are coming 5 up.</p> <p>6 MR. MARGOLIS: -- We keep that fully 7 clear.</p> <p>8 THE HEARING EXAMINER: Okay.</p> <p>9 MR. MARGOLIS: Yeah.</p> <p>10 MS. ROSENFELD: And we do have a parking 11 exhibit, and Mr. Tilley will be --</p> <p>12 THE HEARING EXAMINER: Okay.</p> <p>13 MS. ROSENFELD: -- reviewing that with 14 you. We -- we will be spending some time on 15 parking.</p> <p>16 THE HEARING EXAMINER: Okay. All right. 17 Sounds good.</p> <p>18 And while I have you, Mr. Margolis, I 19 want to confirm Saturday hours. I -- I don't 20 think I wrote them down. So, your hours on 21 Saturday for students are -- we have 9:00 to 9:00 22 Monday through Friday, and then Saturday was -- is 23 that 9:00 to noon?</p> <p>24 MR. MARGOLIS: I think that's what it 25 was, or maybe to 1:00.</p>

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<p>33</p> <p>1 THE HEARING EXAMINER: Okay.</p> <p>2 MR. MARGOLIS: I mean, currently, I only</p> <p>3 have one class on Saturday, so --</p> <p>4 THE HEARING EXAMINER: Well, I guess my</p> <p>5 question is -- because the Staff Report says, 9:00</p> <p>6 to 9:00 Monday through Saturday, and that is</p> <p>7 what's provided --</p> <p>8 MS. ROSENFELD: And that is not what</p> <p>9 you're (crosstalk).</p> <p>10 THE HEARING EXAMINER: Okay. That's</p> <p>11 what I just want to make sure.</p> <p>12 MS. ROSENFELD: Correct.</p> <p>13 THE HEARING EXAMINER: All right.</p> <p>14 MS. ROSENFELD: Correct.</p> <p>15 THE HEARING EXAMINER: Thank you.</p> <p>16 MS. ROSENFELD: And that is set out on</p> <p>17 Page 2 of Exhibit 16.</p> <p>18 THE HEARING EXAMINER: Thank you. I</p> <p>19 just want to -- want to make sure that it was</p> <p>20 consistent for Saturday, that that wasn't a</p> <p>21 difference.</p> <p>22 MR. MARGOLIS: Sure.</p> <p>23 MS. ROSENFELD: Okay.</p> <p>24 THE HEARING EXAMINER: Thank you.</p> <p>25 MS. ROSENFELD: All right. I have no</p>	<p>35</p> <p>1 truth, was examined and testified as follows:</p> <p>2 EXAMINATION BY COUNSEL FOR THE APPLICANT</p> <p>3 BY MS. ROSENFELD:</p> <p>4 Mr. Tilley, I would like to start with</p> <p>5 Exhibit Number 33, which is the site plan and</p> <p>6 layout.</p> <p>7 And I know that often we start these</p> <p>8 hearings with this kind of testimony. The scope</p> <p>9 of the statement of justification and the traffic</p> <p>10 were so limited, I thought it would be helpful to</p> <p>11 go ahead and -- and take care of those.</p> <p>12 EXAMINATION BY COUNSEL FOR THE APPLICANT</p> <p>13 BY MS. ROSENFELD:</p> <p>14 Q Mr. Tilley, looking at Exhibit Number</p> <p>15 33, would you please explain to the Hearing</p> <p>16 Examiner the scope of the subject property, the</p> <p>17 surrounding properties, and what -- what is shown</p> <p>18 on this plan?</p> <p>19 A So this exhibit shows the conditions of</p> <p>20 the site based on a topographic and improvement</p> <p>21 survey that was performed under my responsible</p> <p>22 charge, with some additions showing where parking</p> <p>23 layout will occur on the site. It also shows some</p> <p>24 very minor improvements proposed as part of the</p> <p>25 application.</p>
<p>34</p> <p>1 more questions of Mr. Kabatt.</p> <p>2 THE HEARING EXAMINER: Okay. Thank you,</p> <p>3 Mr. Kabatt.</p> <p>4 MS. ROSENFELD: And I would like to call</p> <p>5 my next witness, Mr. Doug Tilley. Mr. Tilley,</p> <p>6 would you please state your name and record --</p> <p>7 name and address for the record?</p> <p>8 MR. TILLEY: Douglas Tilley with</p> <p>9 O'Connell Lawrence, 17904 Georgia Avenue, Suite</p> <p>10 302, Olney Maryland 20832.</p> <p>11 MS. ROSENFELD: And Mr. Tilley's resume</p> <p>12 is in the record as Exhibit 7A. He's a civil</p> <p>13 engineer and a registered licensed professional</p> <p>14 surveyor. And his educational background and</p> <p>15 prior qualifications as an expert witness are in</p> <p>16 the record, and, unless there's objection, I would</p> <p>17 like to move him as an expert witness.</p> <p>18 THE HEARING EXAMINER: Based on the</p> <p>19 documentation submitted, we'll accept him as an</p> <p>20 expert witness.</p> <p>21 MS. ROSENFELD: Thank you.</p> <p>22 Whereupon,</p> <p>23 DOUGLAS TILLEY,</p> <p>24 being first duly sworn or affirmed to testify to</p> <p>25 the truth, the whole truth, and nothing but the</p>	<p>36</p> <p>1 Essentially, this is intended to show</p> <p>2 parking layout on the site, and also the</p> <p>3 conditions as it exists to -- to this date. We've</p> <p>4 shown certain spot grades in the location. We've</p> <p>5 shown where cars can -- are physically capable of</p> <p>6 parking on the property as it stands to date. We</p> <p>7 have fence information on the property showing the</p> <p>8 fences and the fence heights, and some additional</p> <p>9 information related to the parking area sizing,</p> <p>10 the parking tabulation, and then the parking and</p> <p>11 screening data requires -- associated with this</p> <p>12 individual piece of property.</p> <p>13 That is the -- the portion of the</p> <p>14 application. If you take a look at the middle of</p> <p>15 the -- the middle of the page there, that -- the</p> <p>16 dark line, with the sort of hashed lines on the</p> <p>17 inside, shows the existing house.</p> <p>18 MR. TILLEY: Joe, if you don't mind</p> <p>19 zooming in towards the middle of the site there.</p> <p>20 Thank you.</p> <p>21 A So there's a note that says, 8,400,</p> <p>22 three -- or -- excuse me -- two-story brick with</p> <p>23 basement. That's the existing house line right</p> <p>24 there. If you look to the sort of bottom, or to</p> <p>25 diagonally left, down page, there is a note that</p>

<p>37</p> <p>1 says, Two-story framed MMA studio. That's the 2 subject of the -- that's the subject of this 3 application. That's the -- what we -- has been 4 referred to as the garage or the MMA studio where 5 Mr. Margolis' classes actually take place. You 6 can see a sort of hatched pattern, with a bunch of 7 triangular hatches on the left-hand side. 8 Swinging around the bottom of the page, and then 9 up the right, that's a concrete hatch that shows 10 where a concrete driveway is located. 11 There is also hatching that shows kind 12 of a gravel-looking -- that is gravel or riprap 13 parking area. There's a number of other typical, 14 sort of, site features shown on this -- or shown 15 on the plan that shows the results of the survey 16 that was performed under -- by O'Connell & 17 Lawrence. You can also see a certain amount of 18 information in the public right of way. 19 If you look at the -- there's a 20 triangular shape that surrounds kind of the -- the 21 -- the -- the bulk of the property here. That's 22 called the phantom line type, a long dash, and 23 then two short dashes. That's the -- that is what 24 we understand to be property line for the site. 25 And then outside of that you can see the sidewalk.</p>	<p>39</p> <p>1 offsite parking locations where cars -- or where a 2 car could physically park in between the entrances 3 or off to the sides of the entrances there. There 4 are dimensions off there that show the dimension 5 from where that car would be parked to the far 6 edge of Postoak Road to the travel-way, to show 7 that they're suitable width. 8 The red notes on -- right in that 9 location -- right there -- thank you -- are 10 individual minor upgrades that would be required 11 for fire access only. Those are fire access 12 notes. We have an improved fire access plan 13 that's been entered into the record. I struggle 14 to sort of say that we need 2.8 and 2 foot of curb 15 removal to allow for that, but that's what the 16 math bore out. On the left-hand side of the page 17 -- 18 MR. TILLEY: Go down. 19 -- you can also see a parking and 20 screening data table that discusses individual 21 design standards and the existing site in total 22 required for specific elements that we reviewed as 23 part of this application, including, at the 24 bottom, a certain number of -- sort of starred or 25 -- starred areas where we discuss the waivers that</p>
<p>38</p> <p>1 You can see the Postoak Road to the north of the 2 facility. 3 The colors on the plan -- we ended up 4 color coding this plan for readability purposes, 5 because they can get a little bit -- it can be a 6 little -- it can be a lot when you're just dealing 7 with grayscale. But you can see different types 8 of parks -- or cars that have the ability to park 9 on this facility. There is a parking tabulation 10 table down at the bottom right corner of the page 11 that shows the various types of parking maneuvers 12 that would be required to enter those individual 13 -- so parallel versus perpendicular on site, 14 perpendicular on-site as a compact space. 15 There is a -- there is a space in, sort 16 of, a red color that has a C in the middle, that 17 would be for a compact car, and then blue, 18 perpendicular on site, that is ADA accessible 19 within the carport area. We also -- 20 MR. TILLEY: Joe, if you wouldn't mind 21 going on page -- page top there. 22 THE VIDEOGRAPHER: Got it. Yeah. 23 A You can see a number of orange circles 24 -- or -- excuse me -- orange -- orange rectangles 25 that are adjacent to Postoak Road. Those are</p>	<p>40</p> <p>1 have been requested as part of this individual 2 application. 3 Q And, Mr. Tilley, you -- you mentioned 4 that the fire access plan had been approved by the 5 fire marshal. 6 MS. ROSENFELD: I would like to refer 7 the Hearing Examiner to Exhibit Number 28, which 8 has a memorandum from -- from Marie LaBaw, and the 9 -- the approved fire access plan, which was -- 10 which was just mentioned. 11 Q Okay. Mr. Tilley, just briefly, could 12 you please summarize the features surrounding the 13 site, starting with Postoak Road, to the north? 14 THE HEARING EXAMINER: Go ahead and go 15 back to 33 for me, Joey. 16 Q I think that might be easier to walk 17 through if we put the site plan up. Is that what 18 you want? 19 THE HEARING EXAMINER: Okay. 20 A That would be great. Thank you. So, 21 again, starting on page north, or page up, 22 whatever you want to call it, is Postoak Road. 23 Postoak Road is a 70-foot public right-of-way that 24 was dedicated per the plat that -- per the plat 25 reference that's listed there. It's 80, 405.</p>

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<p>41</p> <p>1 It's a two-lane residential road that is quite 2 wide. You can see the widths, again, to the 3 individual cars or where the parking spaces would 4 be located on the facility there. 5 Moving to page left, the adjoining 6 property on page left is a 250-foot right-of-way 7 for PEPCO that was included as part of-- I 8 believe, included as part of that same plat. It 9 contains a fairly sizable transmission line that 10 runs through there. So there's no immediate 11 neighbor beyond right-of-way for a utility to the 12 -- I guess that would be to the west of the 13 individual property. 14 As you can see, the property is 15 triangular shaped, so it's sort of a unique -- 16 kind of a unique property. It appears to be kind 17 of a leftover in the individual plat, what was 18 remaining. To the right-hand side there is 19 adjoining Lot 1 -- Lot 7 of Regency Estates, and 20 it's a -- it's a zoned R-90; it's a residentially 21 used property, but it -- it does not have entrance 22 from Postoak Road. It enters from a separate road 23 a little bit further -- a little bit further, due 24 east from here. 25 Q And, Mr. Tilley, with respect to Postoak</p>	<p>43</p> <p>1 findings I'm fine with that's submitted. You 2 testified that you are -- you prepared them, 3 you've reviewed the code, and, based on your 4 resume, I'll accept those findings that you made 5 in your report. But I will want you to go 6 through, as -- as -- Ms. Rosenfeld, the -- the 7 standard for the waiver. 8 BY MS. ROSENFELD: 9 Q Okay. Mr. Tilley, I'd like to start you 10 on Page 10 of your report, with the parking and 11 loading requirements. If you would please explain 12 to the Hearing Examiner how the application, as 13 presented, would satisfy the parking and loading 14 requirements and, as necessary, go through the 15 waiver discussion, which starts on Page 16. 16 A So starting with the parking and loading 17 requirements, as discussed, there are a total of 18 14 required parking spaces for the proposed -- for 19 the overall proposed usage of the site, including 20 the application. According to Table 59.6.2.4.b of 21 the zoning -- zoning ordinance, additional use for 22 a major home occupation requires a minimum of one 23 parking space per non-resident employee, plus one 24 additional space per client, per user, using the 25 facility per hour.</p>
<p>42</p> <p>1 Road itself, are there parking restrictions along 2 the frontage -- the property -- 3 A There -- 4 Q -- frontage? 5 A There are not. 6 Q Okay. Thank you. Mr. Tilley, I'd like 7 to turn your attention to what's entered in the 8 record as Exhibit 35, and the -- the -- did you 9 prepare -- you prepared this report? 10 A Yes, I did. 11 Q Okay. Thank you. 12 MS. ROSENFELD: Ms. Hearing Examiner, 13 there are a series of findings that are required 14 under the zoning ordinance, as you had mentioned. 15 These are in the record. They have been in the 16 record for some time. I am happy to walk Mr. 17 Tilley through each of these. I -- if -- I'm also 18 happy to submit, as it were, on -- on the written 19 findings as he has set them forward. 20 THE HEARING EXAMINER: Okay. 21 MS. ROSENFELD: And I will ask you your 22 preference. I will ask him to go through the -- 23 the waiver. Specifically, these are the more 24 general findings. 25 THE HEARING EXAMINER: The more general</p>	<p>44</p> <p>1 So the Applicant, Mr. Margolis, is a 2 resident of the -- is a resident of the home, so 3 that particular clause within the zoning code is 4 -- is not applicable. He doesn't need an 5 additional space for him. Given the previous 6 testimony, we -- and the request for a -- a total 7 of 12 students per hour, there are a total of 12 8 parking spaces required, typically, on-site for 9 this -- for the particular use associated with the 10 MMA studio. Further parking is required for the 11 residents of a dwelling unit in accordance with 12 Table 59.6.2.4.b. Single-unit residential 13 dwelling units within the R-90 zone are required 14 to have two dedicated parking spaces as a baseline 15 minimum. 16 Therefore, if you sum those individuals, 17 a total of 14 defined spaces are required per code 18 as the minimum number of off-street parking 19 spaces. That's how we arrived at the individual 20 number as listed in our report, and then further 21 as in on -- on the plans that were prepared as 22 part of this exhibit. 23 I believe we're going to go through the 24 waivers here momentarily, however, there is a 25 waiver request for a certain amount of off-site</p>

<p>45</p> <p>1 parking for this particular application. And the 2 Applicant, in particular, has requested the -- or 3 requested to have seven additional off-site 4 parking area -- off-site parking spaces as part of 5 his application, and that is the -- the 6 fundamental portion of that individual waiver 7 request.</p> <p>8 Q Okay. Thank you.</p> <p>9 MS. ROSENFELD: And I would like to note 10 that Staff at Park & Planning has recommended 11 approval, including of the waivers, and they find 12 that parking would be satisfactory, even with the 13 waivers that are requested.</p> <p>14 Q Mr. Tilley, are there other waivers that 15 you need to bring to the attention of the Hearing 16 Examiner?</p> <p>17 A There are. So I'd like to direct the 18 Hearing Examiner's attention to Page 16 of our 19 report.</p> <p>20 Q Okay.</p> <p>21 A So within the report there is a -- sort 22 of an extensive discussion on the waivers that 23 were requested as part of this application. 24 Staff, in their conditional use -- or -- excuse me 25 -- in their Staff Report, indicated a total of two</p>	<p>47</p> <p>1 site, but we discussed the numbers in the next 2 section.</p> <p>3 So -- so Waiver Request Number 2, I had 4 briefly touched on that in my prior testimony, but 5 that is a request for additional -- for off-site 6 parking spaces, a total of seven off-site parking 7 spaces. As discussed in the -- momentarily -- a 8 few moments ago in my testimony, the Applicant has 9 requested a total of seven on-site parking spaces 10 and a total of seven off-site parking spaces, as 11 shown on the exhibits prepared as part of this 12 report. That's a waiver request from Section 13 59.6.2.4 of the individual -- excuse me -- of the 14 -- of the zoning ordinance.</p> <p>15 So moving on, we -- the -- the Applicant 16 has also requested a waiver from a parking side 17 setback requirement. So, typically, when you have 18 certain conditional uses, you have to have a 19 certain amount of -- or -- excuse me -- a certain 20 setback from a side parking line immediately 21 adjoining a detached residential zone that is used 22 -- that is used for or is developed or could be 23 developed for a residential property. Given the 24 sort of unique shape of the property -- it's a 25 triangular shape -- it has some limitations</p>
<p>46</p> <p>1 waivers. Our report discusses a total of four, 2 however, essentially, two of them were, I would 3 call administrative, and I'll explain those in a 4 moment, if -- if -- if I may.</p> <p>5 So we have -- excuse me -- specific 6 discussion about the individual waiver request. 7 Waiver Request 1 was from Section 59.6.2.2.a, 8 which I would like to read into the record what I 9 have written here. This particular section of the 10 zoning ordinance requires this potential 11 additional use to recalculate the parking 12 requirements and provide off-street parking for 13 the required number of vehicles as recalculated 14 under Zoning Ordinance Section 59.6.2.</p> <p>15 This particular waiver request is 16 discussed in more depth in Waiver Request Number 2 17 that's within our report, Section 59.6.2.4, 18 because the total number of spaces recalculated 19 under the terms of the zoning ordinance are not 20 proposed to be entirely provided on the subject 21 property; however, this particular waiver request 22 is included herein for completeness. The actual 23 functionality discussion is located below. So, 24 essentially, this was just a waiver request from 25 -- you have to have these individual spaces on</p>	<p>48</p> <p>1 associated. The Applicant has, herein, requested 2 to -- to not meet that individual requirement. So 3 that's discussed in Waiver Request Number 3, which 4 is Section 59.6.2.5.K.2.b of the individual code.</p> <p>5 I'm going to go ahead and read into the 6 record what I had -- what I had previously -- what 7 I had written in my report. As discussed 8 previously in this report, the Applicant is 9 proposing parking area adjacent to a side parking 10 lot. The subject property, which is triangular 11 shaped, has a unique configuration that limits the 12 potential parking area in the area of the 13 building. Consequently, the Applicant has 14 maximized the use of the side yards to place 15 suitable material for on-site parking area to 16 support the MMA studio business. This 17 necessitates parking in the side yards of the 18 property, which is not in accordance with Section 19 59.6.2.5.K.2.b of the zoning ordinance. The 20 Applicant, herein, requests consideration for a 21 waiver from this section of the zoning ordinance.</p> <p>22 This waiver is justified because, by 23 proposing parking in the side yards, the Applicant 24 maximizes the number of on-site parking while 25 maintaining a suitable queuing and turnaround path</p>

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<p>49</p> <p>1 on the subject property, and, thus, improving 2 operations on-site and on Postoak Road. As 3 discussed in Waiver Request Number 2, the on-site 4 parking is suitable for the operations of the 5 facility. The placement within the side setback 6 promotes effective operations. In OCNL's 7 (phonetic) opinion, this waiver request is 8 justifiable.</p> <p>9 Further, the Applicant has also 10 requested Waiver Request Number 4, Section 11 59.6.2.9.B.1. Again, this is sort of part and 12 parcel to what -- to Waiver Request Number -- 13 excuse me -- Number 3, as discussed. So, 14 typically, you are also required to have a -- 15 within your sort of setback area you're -- you're 16 -- you're required to have a perimeter planting 17 area, and operating under the assumption that the 18 previous waiver request is granted, and you're 19 parking up to the side setback line, said -- said 20 planting area would not exist. So that was 21 included for -- you wouldn't -- there simply isn't 22 room. So you would not -- we included that for 23 completeness as well.</p> <p>24 I would also like to read this section 25 into the record, just to be --</p>	<p>51</p> <p>1 properties.</p> <p>2 Q Thank you, Mr. Tilley. In the Planning 3 Board Staff Report, which is Exhibit Number 35 -- 4 I'm sorry -- 38 --</p> <p>5 THE HEARING EXAMINER: 38.</p> <p>6 Q -- 38, in that, the Planning Staff 7 reviewed the various parking waivers, which -- 8 which requires, in part, that the intent of the 9 vehicle and bicycle parking, queuing, and loading 10 requirements is to ensure that adequate parking is 11 provided in a safe and efficient manner.</p> <p>12 On Page 18 of that Exhibit 38, Staff 13 concludes that there are a total of 19 parking 14 spaces available between those that are provided 15 on site, as well as those that would be available 16 on the public parking areas on Postoak. Do you 17 have any reason to think that there would not be 18 19 spaces available for parking?</p> <p>19 A I do not.</p> <p>20 Q And is it your opinion that the 21 on-street and on-site parking, combined, provide 22 adequate parking, queuing, and loading 23 requirements so that adequate parking is provided 24 in a safe and efficient manner?</p> <p>25 A That is my opinion, yes.</p>
<p>50</p> <p>1 Q Sure.</p> <p>2 A -- clear. As discussed in Waiver 3 Request Number 3 above, the Applicant is 4 maximizing the use of the side yard for parking 5 area as a means of facilitating parking and 6 queuing operations. Consequently, the Applicant 7 hereby requests a waiver under Section 59.6.10 of 8 the zoning ordinance for reference section above, 9 which typically requires a perimeter planting area 10 satisfying a side setback requirement.</p> <p>11 OCNL, as previously described by the 12 Applicant, has chosen to use this area for parking 13 and has previously noted that placing parking in 14 this location allows for safe and efficient 15 parking and queuing operations on the subject 16 property. For this reason -- for these reasons -- 17 excuse me -- it is OCNL's opinion that this waiver 18 request is justifiable.</p> <p>19 OCNL also notes that the Applicant 20 currently meets or is proposed to meet the 21 requirements in Section 59.6.2.b of the zoning 22 ordinance, as previously discussed in this report. 23 Further, OCNL notes that landscaping exists on the 24 opposite side of the fence and helps to screen the 25 subject property from the adjoining residential</p>	<p>52</p> <p>1 Q Thank you. And looking, overall, at the 2 expert report that you provided, the expert 3 testimony and reports provided by Mr. Kabatt, and 4 the testimony and written submissions provided on 5 behalf of the Applicant with respect to the 6 statement of operations, is it your expert opinion 7 that this application satisfies the collective 8 zoning requirements for a major home occupation?</p> <p>9 A Pending waiver granting, yes, it does.</p> <p>10 MS. ROSENFELD: Okay. I have no further 11 questions of this witness.</p> <p>12 THE HEARING EXAMINER: Just checking my 13 notes real quickly. Okay. I think -- I think you 14 covered any questions that I had regarding the 15 waivers. All right. Thank you.</p> <p>16 MR. TILLEY: Thank you.</p> <p>17 THE HEARING EXAMINER: Okay.</p> <p>18 MS. ROSENFELD: So -- and that -- you 19 know -- that concludes our case in chief.</p> <p>20 THE HEARING EXAMINER: Okay.</p> <p>21 MS. ROSENFELD: Thank you.</p> <p>22 THE HEARING EXAMINER: All right. So if 23 you guys could stay close. So I'm -- I'm looking 24 to the back of the room, so we have two people 25 here in opposition. Do you have any questions for</p>

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<p>53</p> <p>1 any of these witnesses?</p> <p>2 MR. NORTHRIDGE: I might want to say</p> <p>3 something.</p> <p>4 THE HEARING EXAMINER: Okay. If you can</p> <p>5 come on up to the table, please, and turn the</p> <p>6 microphone on. And could you please state your</p> <p>7 name for the record?</p> <p>8 MR. NORTHRIDGE: Michael Northridge.</p> <p>9 THE HEARING EXAMINER: Mr. Northridge, I</p> <p>10 interned for you at UPA --</p> <p>11 MR. NORTHRIDGE: Yeah, I was sitting</p> <p>12 back there. I'm like, wow.</p> <p>13 THE HEARING EXAMINER: -- when I was</p> <p>14 young, and as my husband says, had a future.</p> <p>15 MR. NORTHRIDGE: The light bulb went out</p> <p>16 for me back then.</p> <p>17 THE HEARING EXAMINER: Yeah, it did, it</p> <p>18 did. Hi. Nice to see you.</p> <p>19 MR. NORTHRIDGE: Good to see you. Ms</p> <p>20 Byrne.</p> <p>21 THE HEARING EXAMINER: All right. So I</p> <p>22 haven't -- I haven't seen Mr. Northridge in</p> <p>23 probably 25, maybe 30 years, something like that.</p> <p>24 MR. NORTHRIDGE: Yeah.</p> <p>25 THE HEARING EXAMINER: Yeah. Holy</p>	<p>55</p> <p>1 you could come back up and sit next to Mr.</p> <p>2 Northridge?</p> <p>3 MR. NORTHRIDGE: That's my only</p> <p>4 question.</p> <p>5 THE HEARING EXAMINER: That's your only</p> <p>6 question?</p> <p>7 MR. NORTHRIDGE: Other stuff later, but</p> <p>8 --</p> <p>9 THE HEARING EXAMINER: Okay.</p> <p>10 MR. TILLEY: So the exhibit that -- I</p> <p>11 apologize, I missed your name -- the gentleman who</p> <p>12 asked a question is referring to is Staff's</p> <p>13 analysis. It's the Staff Report; it's not</p> <p>14 something that was prepared by OCNL. With that</p> <p>15 being said, within the Staff Report on Page 17,</p> <p>16 there appears to be what Staff has deemed that --</p> <p>17 what -- where Staff has sort of generated that</p> <p>18 analysis. You can see --</p> <p>19 Joey, would you mind going to Page 17?</p> <p>20 MR. NORTHRIDGE: Yeah, you're right. I</p> <p>21 should have just looked at the prior page. I</p> <p>22 should have just looked at the prior page.</p> <p>23 MR. TILLEY: And -- and the blue boxes</p> <p>24 on there are what I interpret Staff to have meant</p> <p>25 by additional parking. That is not what's shown.</p>
<p>54</p> <p>1 cannoli. Okay. If you could raise your right</p> <p>2 hand for me? Do you promise to tell the truth,</p> <p>3 the whole truth, and nothing but the truth?</p> <p>4 MR. NORTHRIDGE: I do.</p> <p>5 THE HEARING EXAMINER: All right.</p> <p>6 THE HEARING EXAMINER: Thank you. What</p> <p>7 questions do you have and who do you --</p> <p>8 MR. NORTHRIDGE: For Mr. Tilley, it just</p> <p>9 --</p> <p>10 THE HEARING EXAMINER: Oh, I'm sorry.</p> <p>11 I'm sorry. Address?</p> <p>12 MR. NORTHRIDGE: 8210 Postoak Road. I'm</p> <p>13 a neighbor. So it just -- just dawned on me just</p> <p>14 a second ago, this seems to be Mr. Tilley's</p> <p>15 testimony. I'm looking at -- yeah, because I</p> <p>16 hadn't seen -- I hadn't looked at the stuff since</p> <p>17 Thanksgiving. The -- it says eight spaces west</p> <p>18 of the house. I'm looking on Page 18 of the -- of</p> <p>19 the whatever exhibit this is.</p> <p>20 THE HEARING EXAMINER: Exhibit 38.</p> <p>21 MR. NORTHRIDGE: So, Mr. Tilley, is</p> <p>22 that, like, four on the north side, four on the</p> <p>23 south side, or is that eight all on the south side</p> <p>24 of the street?</p> <p>25 THE HEARING EXAMINER: Mr. Tilley, if</p>	<p>56</p> <p>1 That's not the same as what's shown on our</p> <p>2 exhibit. We didn't show quite as far west down on</p> <p>3 Postoak Road. However, to answer this gentleman's</p> <p>4 question, it appears to be all on the south side</p> <p>5 of Postoak Road, is the way that Staff is</p> <p>6 interpreting that.</p> <p>7 THE HEARING EXAMINER: Okay.</p> <p>8 MR. NORTHRIDGE: I guess this is not a</p> <p>9 factual question. Later, I'm just going to</p> <p>10 compare that with the Staff's recommendation about</p> <p>11 parking in front of the power line, but we'll save</p> <p>12 that for later, I guess.</p> <p>13 THE HEARING EXAMINER: Okay. All right.</p> <p>14 MR. NORTHRIDGE: Thank you.</p> <p>15 THE HEARING EXAMINER: Any other</p> <p>16 questions for any other witnesses? Okay.</p> <p>17 MR. TILLEY: Thanks.</p> <p>18 THE HEARING EXAMINER: Okay. So, now --</p> <p>19 well, let's check in with our people online. So,</p> <p>20 Joey, could you do -- take the exhibit down? And</p> <p>21 let's -- let's see. Because it looks like we have</p> <p>22 -- we have additional people here. Based on the</p> <p>23 Applicant's testimony, is there anybody online</p> <p>24 here who wishes to testify in opposition? So just</p> <p>25 feel free to unmute and speak. I see no -- no one</p>

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15 (57 to 60)

57	<p>1 unmuting or speaking. All right. We will move 2 now to those that are present and in opposition. 3 And so, please come and have a seat and -- 4 MR. KERRIGAN: Are we still asking 5 questions? 6 THE HEARING EXAMINER: Oh, yes. I'm 7 sorry. You are still asking questions. Yes, you 8 can -- you can still ask questions for 9 cross-examination. And what's your name, sir? 10 MR. KERRIGAN: Michael Kerrigan. 11 THE HEARING EXAMINER: Mr. Kerrigan. 12 MR. KERRIGAN: My address is 11910 Enid 13 Drive, Potomac, Maryland 20854. I am the 14 next-door neighbor of the Applicant. 15 THE HEARING EXAMINER: Okay. 16 MR. KERRIGAN: I have the abutting 17 address. 18 THE HEARING EXAMINER: Okay. And if you 19 could raise your right hand for me? Well, 20 actually, you're cross-examining, but I'm still -- 21 we'll -- we'll do the swearing-in now anyway. Do 22 you promise to tell the truth, the whole truth, 23 and nothing but the truth? 24 MR. KERRIGAN: Absolutely, yes. 25 THE HEARING EXAMINER: Thank you. Okay.</p>	59	<p>1 possibly bring up Exhibit 38, Page 5? I think 2 that's the one. Actually, can we leave it right 3 here? This would be perfect, right here. So, Mr. 4 Margolis, you asked -- you were asked where cars 5 are typically parked, and you said something to 6 the extent of the driveway typically remains 7 clear. You have an electric car. Where's that 8 typically parked for charging purposes? 9 MR. MARGOLIS: It's parked in the back. 10 The charger is around the other -- on the -- on 11 the side. 12 THE HEARING EXAMINER: Joey, could you 13 zoom in a little bit on the picture? 14 MR. MARGOLIS: So if you look at the car 15 in the back, that's the back door entrance. 16 That's where my wife generally parks her car. The 17 charger, because of where the electric is, is on 18 the other side. And so, if we charge it, then it 19 -- it's during the day, or we'll do it at night. 20 After everybody's gone, we'll move the car around 21 and charge it so it's not in the spot, blocking 22 traffic. I keep the traffic, obviously, open, 23 because I need it to be open. 24 MR. KERRIGAN: The proposed ADA parking 25 that's part of your carport, are there plans to</p>
58	<p>1 And who would you like to speak to? 2 MR. KERRIGAN: I have a few questions 3 for Mr. Margolis. 4 THE HEARING EXAMINER: Right. Sure. 5 MR. KERRIGAN: Let's see. So you 6 testified that your hours are from 9:00 a.m. until 7 9:00 p.m. But it's known you have a public 8 website out there that states that you also have a 9 wrestling and sparring class that starts at 8:30 10 at night on Tuesdays and Thursdays and continues 11 until 9:15. While it may not be a class, it's 12 still an hour of operation. It goes past the 9:00 13 p.m. I guess I'll ask that part first. 14 MR. MARGOLIS: Yeah. Like, we talked 15 about it a couple of days ago. That class hasn't 16 been in -- in effect since before COVID, so I 17 haven't updated the website. But everything will 18 be updated properly based on -- 19 MR. KERRIGAN: Okay. 20 MR. MARGOLIS: -- what we have. 21 MR. KERRIGAN: This is the part just for 22 asking questions; right, not if there's any -- 23 THE HEARING EXAMINER: Right. 24 MR. KERRIGAN: Can I ask -- I -- I 25 guess, related to -- where is it -- can we</p>	60	<p>1 clear that out? Currently, it doesn't seem like 2 there's any way to park anything there. 3 MR. MARGOLIS: Correct. 4 MR. KERRIGAN: Okay. Correct, I believe 5 that's it for cross-examination. Yeah, thank you. 6 THE HEARING EXAMINER: Thank you. 7 MR. MARGOLIS: Thanks, Mike. 8 THE HEARING EXAMINER: Any redirect? 9 MS. ROSENFELD: No. Thank you. 10 THE HEARING EXAMINER: Okay. So, now, 11 we have time for opposition testimony. So now 12 that you guys have walked back and forth, if you 13 wish, you can both come up, if you wish to speak 14 and tell me what you'd like to tell me. Come on 15 up. 16 THE HEARING EXAMINER: And you turn your 17 microphone back on. And just, again, since I 18 already swore you in, you're ready to go, and 19 just, again -- 20 MR. KERRIGAN: Michael Kerrigan again. 21 THE HEARING EXAMINER: -- restate 22 Michael Kerrigan. All right. Thank you. 23 MR. KERRIGAN: Do you need address or 24 anything like that again? 25 THE HEARING EXAMINER: No. I think our</p>

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16 (61 to 64)

<p>61</p> <p>1 court reporter has got it. 2 Whereupon, 3 MICHAEL KERRIGAN, 4 being previously duly sworn or affirmed to testify 5 to the truth, the whole truth, and nothing but the 6 truth, was examined and testified as follows: 7 MR. KERRIGAN: Okay. Thank you. I just 8 have a couple of questions. We just had Exhibit 9 38 up, I think. It was Page 17, I think. 10 THE HEARING EXAMINER: Right. 11 MR. KERRIGAN: Can we possibly go to, I 12 think, Page 5? I think that might tell another 13 story. 14 THE HEARING EXAMINER: Page 5 is a 15 close-end up there. 16 MR. KERRIGAN: This is great. Yeah. 17 This just gives the general scenario of the 18 backyard right now. You can see my house is the 19 one on the right side of the picture right now. I 20 will state, I'm not generally against this 21 proposal. You know, Todd is generally a good 22 neighbor. He tries to do his best on, you know, 23 informing on most things. I do have an issue with 24 one of the proposed parking spaces. 25 THE HEARING EXAMINER: Okay.</p>	<p>63</p> <p>1 MR. KERRIGAN: There is one designated 2 parking space, that is here. Back of my house is 3 right here. When there are cars parked there, the 4 sound bounces off this area and comes directly at 5 our back -- 6 THE HEARING EXAMINER: Okay. 7 MR. KERRIGAN: -- versus when they're 8 over here, it's not so bad. It can go out to 9 Postoak Road, but the fact that it's concrete 10 underneath and the house, sound bounces directly 11 at our house -- 12 THE HEARING EXAMINER: Okay. 13 MR. KERRIGAN: -- it causes a little bit 14 of a nuisance when waking up in the morning, 15 especially if a car needs to be warmed up at night 16 or in the morning. I will say, historically, 17 there have been some louder cars that have been 18 there, and it has created more of a nuisance. 19 THE HEARING EXAMINER: Okay. 20 MR. KERRIGAN: Mr. Margolis and I have 21 talked about this in the past, and he made some 22 suggestions in the past about potentially putting 23 certain cars there at certain times. I would like 24 it more concrete than occasionally. I really 25 don't want a car parked there, or if it is, it has</p>
<p>62</p> <p>1 MR. KERRIGAN: The reason I asked for 2 this exhibit to be up here is partially because a 3 noise nuisance that it has created with the 4 parking space in the back and when cars are parked 5 directly in the back. I point to -- there's a 6 corner piece between the house and his back patio 7 where a car is parked. And I guess this isn't 8 maybe the best picture. 9 THE HEARING EXAMINER: Okay. 10 MR. KERRIGAN: I'm trying to think. 11 THE HEARING EXAMINER: Do you want to 12 stand up and point to me? 13 MR. KERRIGAN: Sure. Okay. 14 THE HEARING EXAMINER: And then -- and 15 then -- 16 MR. KERRIGAN: The parking space right 17 in this -- right here. 18 THE HEARING EXAMINER: All right. So 19 the -- so the play-by-play for our court reporter 20 -- because I'm going to look at the transcript, 21 I'm going to be like, I've got no idea where he's 22 pointing -- 23 MR. KERRIGAN: Sorry. 24 THE HEARING EXAMINER: -- is in that -- 25 kind of that nook to the east --</p>	<p>64</p> <p>1 to be -- I don't know how you would regulate a 2 quiet car. It -- it has just created a sound 3 nuisance that I have not enjoyed. 4 THE HEARING EXAMINER: Okay. So, I mean 5 -- and, obviously, these are conversations we can 6 have now with with Ms. Rosenfeld. So that spot, I 7 think -- Mr. Margolis, did you say that your wife 8 parks there a lot? 9 MR. MARGOLIS: Yeah. And the car that 10 he's talking about is my personal car. 11 THE HEARING EXAMINER: Okay. 12 MR. MARGOLIS: It's not a client car. 13 THE HEARING EXAMINER: Okay. 14 MR. MARGOLIS: And -- and since he asked 15 me about it, I moved it over off on the side and 16 haven't put it back there in the past -- how many 17 months have we talked about that, Mike? But I 18 moved it immediately. He said, hey, can you move 19 that car? I moved the car, but it's my personal 20 car, so -- 21 THE HEARING EXAMINER: Okay. 22 MR. MARGOLIS: Yeah. 23 MR. KERRIGAN: But, still, occasionally, 24 his truck is put back there sometimes -- I noticed 25 earlier this week and things like that -- as</p>

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17 (65 to 68)

<p>65</p> <p>1 opposed to the electric car, which is very quiet, 2 it's usually back there. 3 THE HEARING EXAMINER: Uh-huh. 4 MR. MARGOLIS: My truck is incredibly 5 quiet. It's -- it's -- I mean, there's -- it'll 6 sneak up on you if -- 7 THE HEARING EXAMINER: If -- if there's 8 a condition that no student parked there, but that 9 a car remained, like one of their vehicles is 10 remained parked there during operating hours, 11 would that -- there would be less come -- there'd 12 be less door opening, door closing, door, opening, 13 door closing during the operating hours. So 14 restricting that space for an occupant versus a 15 student, would that -- would that go a long way to 16 solve your problem? 17 MR. KERRIGAN: Yeah. I'll leave it at 18 that. Yeah. 19 THE HEARING EXAMINER: Is that -- is 20 that reasonable? 21 MR. MARGOLIS: Yeah. It's always for 22 our personal cars that are there. 23 MR. KERRIGAN: Okay. So that'll work 24 for that. 25 THE HEARING EXAMINER: Okay.</p>	<p>67</p> <p>1 understanding -- because this is a home 2 occupation, like the one ways and all of that kind 3 of stuff, there's -- there's no real signage, 4 obviously, at street level, and I don't think 5 there's a -- there's not a proposed sign with 6 this; correct? 7 MS. ROSENFELD: Correct. 8 THE HEARING EXAMINER: But seeing as how 9 this is in the back, a sign for -- that says, no 10 student parking, I think -- I don't think that 11 runs us afoul of the zoning ordinance and signage. 12 Can you weigh in on that? 13 MR. TILLEY: I agree with your position 14 there, yes. I -- there is no -- there's nothing I 15 can think of that would -- if you put a sign that 16 said, house occupant only or no student parking or 17 something to that effect, there's nothing I can 18 think of that would be -- that would run afoul in 19 zoning ordinance. 20 THE HEARING EXAMINER: Okay. All right. 21 Thanks. I just wanted to check. My father-in-law 22 used to have a sign that said parking for Irish 23 only. You know what I mean? So, I mean, it runs 24 into something like that, like, a small sign where 25 you can just let your students know that -- that</p>
<p>66</p> <p>1 MR. KERRIGAN: That's right. 2 THE HEARING EXAMINER: And, Mr. Tilley, 3 is that feasible based on the parking waiver? 4 Come on up. So I don't know what number -- what 5 number spot that is. 6 MR. TILLEY: So given the fact that the 7 parking waiver encompasses the entirety of the 8 site, which is a total of 14 spaces, but two of 9 those individual cars are for vehicles -- excuse 10 me, are for owner -- the owner of the site, that 11 seems -- 100 percent appears to be feasible to me. 12 THE HEARING EXAMINER: Okay. Because I 13 think it's like in the Staff Report, on Page 9, I 14 think that's identified as Parking Space 5. Does 15 that -- does that look right? 16 MR. TILLEY: Based on this gentleman's 17 testimony, yes, that appears to be correct to me. 18 THE HEARING EXAMINER: Okay. All right. 19 MR. TILLEY: So it's my opinion that 20 that is feasible, yes. 21 THE HEARING EXAMINER: Okay. 22 MR. MARGOLIS: Would there be any need 23 for signage and things like that? 24 THE HEARING EXAMINER: I guess -- Mr. 25 Tilley, can you stay? Because -- it's my</p>	<p>68</p> <p>1 they can't park there. So, I'll -- I'll -- I'll 2 leave that up to -- to that. Thank you, Mr. 3 Tilley. 4 MR. KERRIGAN: Second question I had -- 5 . 6 Can we possibly bring up Exhibit 15? 7 There are two pictures at the end of it, probably 8 the last picture. Probably that's the very end of 9 this. Great. 10 So this is the end of the wraparound 11 loop of -- of my neighbor's property. It -- it 12 demonstrates, from my perspective, walking my 13 children back and forth and my dog up and down the 14 street and seeing neighbors. There is not a large 15 gap between -- when thinking about sight lines, 16 when people are coming out of here, and seeing 17 neighbors walking down the street, particularly 18 from the house down, I wish that there was some 19 kind of safety signs, inside internally -- 20 THE HEARING EXAMINER: Okay. 21 MR. KERRIGAN: -- to remind people. I 22 have seen cars not stop and come straight through 23 and almost hit people -- 24 THE HEARING EXAMINER: Okay. 25 MR. KERRIGAN: -- not dangerous really</p>

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18 (69 to 72)

<p>69</p> <p>1 hurting people, but --</p> <p>2 THE HEARING EXAMINER: Right.</p> <p>3 MR. KERRIGAN: -- scary.</p> <p>4 THE HEARING EXAMINER: Like, so if he</p> <p>5 could put a sign on the inside of the fence, that</p> <p>6 says caution --</p> <p>7 MR. KERRIGAN: Yeah, so if you go up one</p> <p>8 page --</p> <p>9 THE HEARING EXAMINER: -- watch for</p> <p>10 pedestrians, something like that --</p> <p>11 MR. KERRIGAN: Something like that,</p> <p>12 yeah.</p> <p>13 THE HEARING EXAMINER: -- looking at it</p> <p>14 inside? Something --</p> <p>15 MR. KERRIGAN: Just something right</p> <p>16 there.</p> <p>17 THE HEARING EXAMINER: Right in there?</p> <p>18 MR. KERRIGAN: Yeah, to remind them.</p> <p>19 THE HEARING EXAMINER: Just to remind</p> <p>20 people?</p> <p>21 MR. KERRIGAN: Yeah.</p> <p>22 MR. MARGOLIS: That -- that picture</p> <p>23 actually shows where I parked the car. Actually</p> <p>24 that's a perfect illustration.</p> <p>25 THE HEARING EXAMINER: So the --</p>	<p>71</p> <p>1 application?</p> <p>2 THE HEARING EXAMINER: So the way</p> <p>3 enforcement works is, once a conditional use is</p> <p>4 issued, there are specific conditions that are put</p> <p>5 into the report in recommendation. Enforcement</p> <p>6 falls, generally, on zoning enforcement that comes</p> <p>7 under the Department of Permitting Services. They</p> <p>8 are a complaint-driven organization, but their</p> <p>9 responsibility is to make sure that -- businesses</p> <p>10 operate within the confines of those conditions.</p> <p>11 MR. KERRIGAN: Okay.</p> <p>12 THE HEARING EXAMINER: So they come out,</p> <p>13 they inspect, they follow up on any kind of</p> <p>14 report, and they'll make sure that Mr. Margolis is</p> <p>15 following the conditions as set forth in the</p> <p>16 report and recommendation.</p> <p>17 MR. KERRIGAN: Okay. Thank you. I</p> <p>18 guess -- to that end, then, I guess my other</p> <p>19 question or statement is that, Todd and I have</p> <p>20 talked in the past. He has previously made</p> <p>21 statements that, you know, I want no further</p> <p>22 development of this; if I need to, I will move to</p> <p>23 a offsite commercial property. Is there anything</p> <p>24 -- or are there any ordinances, laws, that would</p> <p>25 say this is the end? Where -- where is,</p>
<p>70</p> <p>1 MR. MARGOLIS: Yeah, I'm fine with the</p> <p>2 sign.</p> <p>3 THE HEARING EXAMINER: With, okay --</p> <p>4 MR. MARGOLIS: Yeah. It's never been</p> <p>5 brought up to me before.</p> <p>6 THE HEARING EXAMINER: Okay.</p> <p>7 MR. MARGOLIS: That's totally fine.</p> <p>8 THE HEARING EXAMINER: All right.</p> <p>9 Sounds good. So if I make both of these signages</p> <p>10 a condition -- and I think, Ms. Rosenfeld, you're</p> <p>11 going to talk to your client when we take a -- we</p> <p>12 can take a brief break to look at Staff's</p> <p>13 conditions, as well. I'll put those -- both those</p> <p>14 signs as a condition. Okay, any other things</p> <p>15 you'd like -- like me to know or --</p> <p>16 MR. KERRIGAN: I guess -- so, Mr.</p> <p>17 Margolis noted earlier that -- I -- I brought up</p> <p>18 about his website, potomacmma.com. That has a</p> <p>19 schedule on it. There remains the one class or</p> <p>20 wrestling/grappling session from 8: 30 to 9:15.</p> <p>21 When I was walking past last month, on January</p> <p>22 23rd, there were still 18 cars outside of his</p> <p>23 house at 9:15 at night. My bigger question is</p> <p>24 what are the concerns or implications for not</p> <p>25 following the rules of what's listed here in this</p>	<p>72</p> <p>1 essentially, the end of development on this</p> <p>2 property?</p> <p>3 THE HEARING EXAMINER: So, right now, if</p> <p>4 the conditional use were to be issued, it'd be</p> <p>5 issued with those very specific conditions. So</p> <p>6 he's basically said that the maximum students he's</p> <p>7 going to have is 12 per hour. If he wanted to do</p> <p>8 15 per hour, that would be a modification of this</p> <p>9 conditional use. He would have to reapply for</p> <p>10 that modification.</p> <p>11 There are two types of modifications you</p> <p>12 can apply for. You can apply for one as a minor</p> <p>13 modification, and you can apply for one as a major</p> <p>14 modification. Generally speaking, whenever</p> <p>15 there's an increase in an intensity of a use, it's</p> <p>16 considered a major modification. Not always, but</p> <p>17 for the most part, any intensity in that</p> <p>18 particular use would be considered, by the Hearing</p> <p>19 Examiner, to be a major modification.</p> <p>20 Major modification is exactly where we</p> <p>21 are today. It would go through a public hearing</p> <p>22 process. You would hear -- so, adding additional</p> <p>23 students would add additional traffic, so that</p> <p>24 would change the balance of that traffic report.</p> <p>25 The traffic engineer would have to come back out,</p>

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19 (73 to 76)

<p>73</p> <p>1 take a look at it. It could throw things into 2 requiring a full traffic study rather than a 3 traffic statement. We don't know until that 4 application is submitted. 5 So anything that would, essentially, 6 intensify that use would require another public 7 hearing. We have to go back through Planning. 8 Everything would have to be, again -- once again, 9 taken -- taken a look at. 10 MR. KERRIGAN: Okay. Thank you. Double 11 checking. I do have one question regarding Waiver 12 Number 4, which is regarding the lack of 13 landscaping. 14 THE HEARING EXAMINER: Okay. 15 MR. KERRIGAN: And one of the 16 stipulations that they have in there is that, on 17 my side of the property, that there is 18 landscaping, so they don't need to put it there. 19 What if I remove the landscaping -- I guess, is 20 one of my questions -- would that impact his 21 Waiver for Number 4? 22 THE HEARING EXAMINER: No. So we're 23 talking about landscaping on your property? 24 MR. KERRIGAN: Right, which, he put as a 25 condition for why he didn't need to have</p>	<p>75</p> <p>1 take note of, is that if a conditional use is 2 issued and it says, your hours of operation are 3 9:00 to 9:00, and your website says that you are 4 operating until 9:15 or 9:30, if I'm an inspector 5 and I'm going to go out there, I'm going to be 6 like, Well, he's obviously operating in violation. 7 You could get a violation notice based 8 on, potentially, what's on your website, right, 9 depending on the inspector that necessarily goes 10 out there, then that causes angst and problems for 11 you. To -- the point is, if those things don't 12 necessarily match, that's one piece of evidence 13 that they'll have to say, hey, you're outside -- 14 you're operating outside the scope. 15 When you go all the way down that road, 16 you know, and -- and if DPS doesn't feel that you 17 are in compliance, they'll file a show cause with 18 me to say, you know, Madam Hearing Examiner, bring 19 him back in and have him show cause as to how he 20 is not complying with the terms and conditions. 21 So I have a guy that's coming in every single 22 month, because he is completely out of compliance 23 with his conditional use issuance. So it's, you 24 know, do the right thing and be smart. 25 I mean, is -- is -- is -- so -- so that,</p>
<p>74</p> <p>1 landscaping on his. 2 THE HEARING EXAMINER: So, if you were 3 to remove that landscaping, it wouldn't affect the 4 -- the waiver condition. 5 THE HEARING EXAMINER: Okay. 6 THE HEARING EXAMINER: I mean, it's an 7 argument as to why they're asking for the waiver. 8 The other things that they take a look -- that we 9 would look at, we're going to look at uniqueness. 10 We're going to look at the fence, essentially, as 11 screening. For the most part, fences are better 12 than landscaping at providing both visual and 13 sound screening for parking. So that's just, when 14 we're looking at boxes to check, it's just one 15 additional box; it's not the only box. 16 MR. KERRIGAN: Okay. Quick 17 double-checking my notes. I guess I have one 18 additional thing. Being that the website is up 19 there, is there any requirement for his website to 20 actually be in compliance with what's in his 21 application, or not? 22 THE HEARING EXAMINER: Well, to me -- 23 and I'm just saying this as -- as an enforcement 24 perspective; right? So -- and Mr. Margolis, this 25 is something you should, you know, also kind of</p>	<p>76</p> <p>1 I think -- hopefully, that -- that answers your 2 question. It's -- and DPS Zoning Enforcement, 3 they're pretty good. 4 MR. KERRIGAN: Thank you very much. 5 MR. MARGOLIS: I -- I'll get that 6 squared away. I mean, I've sent an e-mail to the 7 people that work on it for me. I don't do the 8 websites, and, obviously, I'll get it squared 9 away. 10 THE HEARING EXAMINER: Okay. 11 MR. KERRIGAN: Thank you. That was it 12 for me. 13 THE HEARING EXAMINER: Okay. 14 MR. MARGOLIS: Thank you. 15 THE HEARING EXAMINER: Anyone else wish 16 -- Mr. Northridge, (indiscernible)? 17 Whereupon, 18 MICHAEL NORTHRIDGE, 19 being previously duly sworn or affirmed to testify 20 to the truth, the whole truth, and nothing but the 21 truth, was examined and testified as follows: 22 MR. NORTHRIDGE: Michael Northridge. 23 Yes, I was just looking at these -- the Planning 24 Board Staff and the ten recommended conditions. 25 It just strikes me, some of them may not be</p>

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20 (77 to 80)

<p>77</p> <p>1 terribly realistic or really enforceable. I'll 2 keep it brief, just two or three minutes. 3 So, like, Recommended Condition Number 4 8, Use all the on-site parking and use the Postoak 5 Road street spaces in front of the house before 6 you park in front of the power line -- and, that 7 was one reason I was asking before -- I was a 8 little confused because the Staff shows parking in 9 front of the power line and they're -- they're 19. 10 I'm not quite sure what the Planning Board Staff 11 -- if they reconciled those -- those two, or 12 whatever, but it seems like they're incompatible 13 concepts. 14 But, you know, if anything, you know, 15 maybe that Staff recommendation should be changed 16 and -- and it should be, after all the onsite 17 spaces are full, then park in front of the power 18 line. Because you do have that -- when Mr. 19 Kerrigan was referencing the sight line problem, 20 down by the -- the pedestrian crosswalk and the 21 stop sign, you know, maybe that's safer to park in 22 the -- in front of the power line than it is, you 23 know, right down by the -- by the pedestrian 24 crosswalk. And -- and this -- so, you know, for 25 -- for the safety of pedestrians, maybe that'd be</p>	<p>79</p> <p>1 you know, it's Todd's livelihood. He's trying to 2 raise a family. He wants to, you know, maximize 3 revenue, and he may want to expand and, you know 4 -- and it kind of goes to, you know, Mike 5 Kerrigan's point at the end there, you know, when 6 does this stop, you know, when -- when -- you just 7 have these potential for incremental coming back, 8 so that's why I appreciate your explanation of 9 what the process is. 10 But I just wanted to -- to note for the 11 record that -- that's really the -- the concern. 12 Like, when -- when is this going to max out and 13 stop? You have these commercial spaces nearby. 14 They're boarded up, and they're not even being 15 used. You know, how -- how much further are we 16 going to be in this residential neighborhood and 17 just how big is it going to get? I understand 18 there will be conditions here kind of setting the 19 maximum, but then, really, how realistic and 20 enforceable are some of those? So, that's all I 21 have. 22 THE HEARING EXAMINER: Okay. 23 MR. NORTHRIDGE: Thank you. 24 THE HEARING EXAMINER: Thank you. Is 25 there anyone else that wishes to testify in</p>
<p>78</p> <p>1 a consideration. 2 THE HEARING EXAMINER: Uh-huh. 3 MR. NORTHRIDGE: Yeah. And -- yeah. So 4 I -- I'm not even sure how enforceable it is, make 5 sure all the on-site spaces are -- are used first 6 before -- before you do that stuff. I -- I -- I 7 have some doubts about some of the recommendations 8 that the Staff has made. 9 Similarly, just glancing at some of 10 these other conditions. You know, how do you 11 enforce no queuing? How do you enforce, you know, 12 no additional employees? I think Mr. Margolis 13 mentioned, you know, maybe giving a couple bucks 14 to the older kids helping out, you know, but it 15 just -- it's just not -- I don't know. I just 16 have some doubts where some of the stuff is really 17 terribly realistic or -- or really enforceable. 18 And I appreciate it. I didn't know that whole 19 thing about how the Zoning Board -- how the 20 enforcement gets -- works out. That was a 21 question I had, but you answered it. Yeah, I'll 22 just close. Keep it short. 23 So yeah. Then, Condition 4A, you know, 24 talking about no more than, you know, X number of 25 classes per day, it -- it -- it kind of goes to,</p>	<p>80</p> <p>1 opposition of the application? And I'm including 2 those online as well. 3 MS. HOPP: Yes, I would. 4 THE HEARING EXAMINER: Okay, Ms. Hopp? 5 MS. HOPP: Yes, this is Ms. Hopp. This 6 is -- 7 THE HEARING EXAMINER: Ms. Hopp, before 8 you start -- before you start. Could you please 9 spell your first and last name for the court 10 reporter? 11 MS. HOPP: Yes, my first name is Marsha, 12 M-A-R-S-H-A, and my last name is Hopp, H-O-P-P. 13 THE HEARING EXAMINER: And where do you 14 live? What's your address, Ms. Hopp? 15 MS. HOPP: In -- I live at 8309 Postoak 16 Road. 17 THE HEARING EXAMINER: Okay. 18 MS. HOPP: So I have a clear view of Mr. 19 Margolis' house from my front door. 20 THE HEARING EXAMINER: Okay. And, Ms. 21 Hopp, before you start, is it possible for you to 22 turn your camera on for us? 23 MS. HOPP: Oh, let's see if I can manage 24 that. 25 THE HEARING EXAMINER: There you are.</p>

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21 (81 to 84)

<p>81</p> <p>1 MS. HOPP: All right. So, you can hear 2 me now. 3 THE HEARING EXAMINER: All right. 4 MS. HOPP: All right. 5 THE HEARING EXAMINER: And is that Mr. 6 -- is that Mr. Hopp with you? 7 MS. HOPP: Yes, my husband, Mr. Hopp, is 8 here. 9 THE HEARING EXAMINER: Are -- are -- are 10 you both planning on speaking? 11 MR. HOPP: No -- 12 THE HEARING EXAMINER: Just Ms. Hopp? 13 MS. HOPP: -- except to say no. 14 THE HEARING EXAMINER: You're a wise 15 man, Mr. Hopp. 16 Whereupon, 17 MARSHA HOPP, 18 being first duly sworn or affirmed to testify to 19 the truth, the whole truth, and nothing but the 20 truth, was examined and testified as follows: 21 THE HEARING EXAMINER: Thank you, Ms. 22 Hopp. What would you like to say? 23 MS. HOPP: This -- this refers to the 24 future, but I have to think about that. There are 25 plans that the County has -- and as far as I know,</p>	<p>83</p> <p>1 development, whether it's on private land, public 2 land, or land that's owned by a utility, they take 3 a look at the existing conditional uses; they take 4 a look at what's been approved and what hasn't 5 been approved. So if Mr. Margolis' conditional 6 use is approved and that parking is put up to that 7 trail before they develop that trail, they're 8 going to have to look at what is currently there 9 and currently in existence, and how would that 10 alter or change that path and what steps would 11 need to be taken in that area for that path? 12 It's like a first-come/first-serve kind 13 of situation when we're taking a look at how 14 property will be developed. So, if that does get 15 developed at some point, there is a possibility 16 that they would have to look at this particular -- 17 they would have to look at this particular 18 conditional use. The County has a great tool 19 called MC Atlas that you can go on and you can put 20 all these different layers on, and you can find 21 what conditional uses exist, what proposed 22 development is happening, to see all of this 23 information. So prior to that development, they 24 would have to take into consideration an existing 25 conditional use.</p>
<p>82</p> <p>1 there's actually been some funding for it -- to 2 extend the power line trail. Are you familiar 3 with that? It's in the up county now, but along 4 the Pepco power lines that come through, and it's 5 supposed to -- the next phase, the one I believe 6 they're working on now -- they're working on plans 7 for -- comes through the Pepco easement -- Pepco 8 -- excuse me -- right of way, not easement -- 9 right of way that is adjacent to Mr. Margolis' 10 house. 11 So if that comes through -- it's a bike 12 trail, so, there's going to be, you know, curb 13 cuts on both sides of Postoak, so the bikers can, 14 you know, go from one side to the other. And so, 15 that there will be bike traffic there, and, of 16 course, you'll lose parking places along -- along 17 the area, and you'll have more -- and you'll have 18 more traffic, because people will want to use the 19 bike trail, so they'll bring their cars there. So 20 what -- what kind of additional review or 21 re-evaluation would go in when and if the plans 22 for that trail start to get -- get move -- get, 23 you know, bumped up? 24 THE HEARING EXAMINER: So what happens, 25 generally, when any -- there's any kind of</p>	<p>84</p> <p>1 MS. HOPP: I see. Well, does there need 2 to be some communication early on this to the 3 people who are working on the Powerline Trail that 4 this may impact whatever design efforts they are 5 going through? I mean, it seems that there's a 6 collision course here, if you will, on possible, 7 you know, whatever, because the Powerline Trail is 8 a big public amenity, and to have it be, you know 9 -- have to be limited in our neighborhood, I mean, 10 it's a -- a use that I would be looking forward to 11 in our neighborhood, to have an extensive bike 12 trail. That would be a real -- a real 13 neighborhood plus here, and to have some parking, 14 you know, a conditional use parking thing have to 15 impact the -- the potential for this -- this great 16 neighborhood improvement seems -- seems 17 questionable to me. I mean, it seems that there 18 should be some way to coordinate on that. 19 THE HEARING EXAMINER: Well, the -- 20 actually, the good thing is, is that everything 21 goes through Maryland-National Capital Park and 22 Planning. So this conditional use application 23 went through Maryland National Capital Park and 24 Planning. The planning and development of that 25 trail is also part of Maryland National Capital</p>

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22 (85 to 88)

<p>85</p> <p>1 Park and Planning. So I can't -- I can't predict 2 the future. I don't know what they would do or 3 not do, but I know that the two sides do work 4 together and in conjunction. But I hear your 5 concerns.</p> <p>6 MS. HOPP: All right. So you're saying 7 there is some communication there?</p> <p>8 THE HEARING EXAMINER: Oh, absolutely.</p> <p>9 MS. HOPP: All right. As I say -- well, 10 that's good news. But as I say, that is -- that 11 is my concern. It's not about Mr. Margolis' 12 operation, per se, but it's about a very important 13 public amenity that could be coming to our 14 neighborhood within, you know, the foreseeable 15 future.</p> <p>16 THE HEARING EXAMINER: Yeah. The two 17 sides work together.</p> <p>18 MS. HOPP: All right. Thank you for 19 your time.</p> <p>20 THE HEARING EXAMINER: Thank you, Ms. 21 Hopp. Is there anyone else that wishes to testify 22 in opposition either in the room or on Zoom? 23 Okay. Hearing none, so, we will turn to any other 24 interested party that would like to make a 25 statement. Let's go with our Zoom people first,</p>	<p>87</p> <p>1 being first duly sworn or affirmed to testify to 2 the truth, the whole truth, and nothing but the 3 truth, was examined and testified as follows: 4 THE HEARING EXAMINER: Okay. What would 5 you like to tell me?</p> <p>6 MR. HAZEL: I would just like to say a 7 few words in support of Mr. Margolis' situation. 8 I think it's a net positive for the neighborhood. 9 I don't have any kids or anyone that I know that 10 attends the academy, but I have referred, you 11 know, parents and their kids to it that live on my 12 street, and they really seem to enjoy it.</p> <p>13 So it's a type of thing I wish was there 14 when I was a kid, because I was a kid in that 15 neighborhood, and I grew up in that neighborhood. 16 I think it's a great -- it's a very genius use of 17 the land the way that, you know, the parking has 18 worked, and I just see it as a great thing. I 19 don't know.</p> <p>20 THE HEARING EXAMINER: Okay.</p> <p>21 MR. HAZEL: Uh huh.</p> <p>22 THE HEARING EXAMINER: Thank you, sir.</p> <p>23 MR. HAZEL: All right. Come on.</p> <p>24 THE HEARING EXAMINER: And then, who 25 else would like to tell me -- testify? All</p>
<p>86</p> <p>1 if that's okay for the -- those in the audience, 2 since we seem to be on the Zoom.</p> <p>3 UNIDENTIFIED SPEAKER: They're in the 4 comfort of their own home. (Crosstalk). I have 5 to get back to work.</p> <p>6 THE HEARING EXAMINER: Do you got to get 7 back to work? All right. All right. Sorry, Zoom 8 people. Stay home, stay tight. I'll defer to the 9 crowd here. So, let's start with those who wish 10 to -- wish to testify. I'll let you guys order 11 however you want to order.</p> <p>12 MR. HAZEL: I just had a fall last year. 13 I just got out of a wheelchair not too long ago.</p> <p>14 THE HEARING EXAMINER: Alright, take 15 your time. Don't worry about it.</p> <p>16 MR. HAZEL: Oh. All right. Okay.</p> <p>17 THE HEARING EXAMINER: Okay. Hello, 18 sir. What's your name?</p> <p>19 MR. HAZEL: Brian Hazel.</p> <p>20 THE HEARING EXAMINER: And, Mr. Hazel, 21 what's your address?</p> <p>22 MR. HAZEL: 8503 Wilkesboro Lane, 23 Potomac, Maryland.</p> <p>24 Whereupon, 25 BRIAN M. HAZEL,</p>	<p>88</p> <p>1 right.</p> <p>2 MR. O'LONE: Good morning. Andrew 3 O'Lone, 8404 Wild Olive Drive, Potomac, Maryland. 4 Whereupon, 5 ANDREW O'LONE, 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 MR. O'LONE: Neighbor of Todd's, live 10 right around the corner. I'm in support of it. I 11 also believe what Mr. Hazel said. I truly believe 12 it's a community asset. I look at it as sports 13 team concept. You know, not everybody can play a 14 varsity sport in their high school, but if they're 15 involved in something that builds confidence and 16 leads them to you know, a better life, great. I'm 17 all for it, you know, subject to the -- maybe the 18 sign for caution, you know, pedestrian crossing, 19 you know, slight modifications. I -- I'm all for 20 the project.</p> <p>21 THE HEARING EXAMINER: Thank you, sir.</p> <p>22 MR. O'LONE: Thanks.</p> <p>23 MR. BOZOF: Good morning.</p> <p>24 THE HEARING EXAMINER: Good morning. 25 Your name, sir?</p>

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23 (89 to 92)

<p>89</p> <p>1 MR. BOZOF: My name is Isaac Bozof, 2 B-O-Z-O-F. 3 THE HEARING EXAMINER: Okay, Isaac. All 4 right. Hold on one second. We're we're going to 5 let the court reporter -- 6 MR. BOZOF: Okay. 7 THE HEARING EXAMINER: -- catch up with 8 spelling here. Cards are always helpful. Okay. 9 And your address, sir? 10 MR. BOZOF: My address is at 12119 11 Little Creek Drive, Potomac. 12 Whereupon, 13 ALEXANDER ISAAC BOZOF, 14 being first duly sworn or affirmed to testify to 15 the truth, the whole truth, and nothing but the 16 truth, was examined and testified as follows: 17 MR. BOZOF: So, I live directly around 18 the corner, and, actually, these two gentlemen are 19 in my neighborhood as well. So it's a very -- 20 very compact area. I'm an attorney. I do 21 commercial litigation, and it's kind of why I have 22 to go -- but I'm also a real estate agent, 23 developer side. Where I grew up, there were 24 several -- in another state, there were several 25 small businesses in the neighborhood where kids</p>	<p>91</p> <p>1 Post Oak, there's a school. There's a middle 2 school right up the street from it. The -- the -- 3 the traffic overflow from that middle school has a 4 far greater negative impact on the neighborhood 5 than his -- his business does, because the -- at 6 pickup time and drop off time, cars line up all 7 the way down the street, and I'm talking -- it's a 8 very long block that they line up on, and that -- 9 that -- and sometimes even when there's events, it 10 even skips over past my street on -- continuing 11 down Post Oak. 12 So I -- you know, the -- the -- the time 13 -- and I wanted to go back to when my son was 14 there, my son would walk there. I knew of at 15 least one other child who is my son's age, who 16 would walk there to his class, and I knew of at 17 least one family that was going. So, when I hear 18 these occupant -- occupancy parking discussions, I 19 don't feel that they're realistic because, from my 20 perspective, you could have 16 or 18 people in 21 classes because the actual number of cars that 22 that's going to produce is going to be much lower. 23 Most of the people in his classes are high school 24 age or younger -- much younger, even. 25 I believe, now, he -- or, at one point</p>
<p>90</p> <p>1 could walk to them, And it was a very important 2 part of my childhood. 3 I met Mr. Margolis, maybe seven -- seven 4 or eight years ago now, when my son, who was 10 at 5 the time, started taking classes, and it was an 6 incredible benefit having that business in that 7 location where my son could easily walk to it. As 8 far as walkable neighborhoods, this neighborhood 9 we all live in is a desert. It's an absolute 10 desert. There -- it is very difficult for kids to 11 walk to places. Most of those streets don't have 12 sidewalks. So having a business like this, where 13 my son could literally walk there in three or four 14 minutes, you know, safely, is a Godsend. 15 And, you know, from my perspective as a 16 real estate developing agent and an attorney who 17 does these types of deals, having this type of 18 business in a neighborhood is a net -- absolute 19 net positive because, you know, when -- when 20 people are asking questions about a neighborhood, 21 like, what's here, what's there, what's in -- I 22 was like, wow, there's a school right here, 23 there's a -- there's a martial arts training 24 school right here. 25 I would also add, on that street, on</p>	<p>92</p> <p>1 -- I don't know now because my son's older. But 2 he had classes with very young kids in it, and 3 parents would come in with two or three kids. 4 When you're talking about occupants and you're 5 saying 12, two or three of them are coming in the 6 same car, mom and dad come in there and bringing 7 them in, it's -- it's a -- it's a much lower 8 impact parking wise and traffic wise in the 9 neighborhood. So I wholeheartedly endorse it. 10 And, you know, Mr. Margolis has been a fantastic 11 neighbor, and is just an amazing person, 12 personally. 13 THE HEARING EXAMINER: Okay. Thank you. 14 MR. BOZOF: Thank you. 15 MR. DOURIAN: Good morning. 16 THE HEARING EXAMINER: Good morning. 17 How are you? 18 MR. DOURIAN: I'm fine. Thank you. Nick 19 Dourian, N -- 20 THE HEARING EXAMINER: You know what? 21 He's going to ask you to come over and write your 22 name down after, so we can -- 23 MR. DURIAN: Okay. 8500 Wild Olive 24 Drive. 25 Whereupon,</p>

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24 (93 to 96)

93	<p>1 NICK DOURIAN, 2 being first duly sworn or affirmed to testify to 3 the truth, the whole truth, and nothing but the 4 truth, was examined and testified as follows: 5 THE HEARING EXAMINER: What would you 6 like to tell me, sir? 7 MR. DOURIAN: I live directly across the 8 street, actually, the -- the street behind Post 9 Oak, adjacent to Mr. O'Lone. In my back yard, 10 particularly in the fall and the winter, when the 11 leaves have dropped their -- when the trees have 12 dropped their leaves, I have a direct access view 13 to the front of Todd's house. I walk my 14 neighborhood probably, in spring and summer, five 15 miles with my dog twice a day, and then in the 16 winter and fall, probably close two and a half to 17 three miles. Post Oak is a routine path that I 18 take. I've passed by his house at various hours 19 throughout the day, mornings, evenings, 20 summertime, wintertime. I've yet to see a 21 condition. 22 And I've lived in my neighborhood for 20 23 years, so the experiences I'm relaying to this 24 committee are not one off or from just the past 25 couple of months or so. It's over the course of</p>	95	<p>1 the moon bounce for all the neighborhood kids, and 2 they're in there for six hours. And he asks for 3 nothing in return. There's no sign outside that 4 says, support Potomac MMA; he just does it because 5 he's a good guy and he wants to support the 6 neighborhood. 7 My relationship with Todd is not one 8 that's based on families going over for dinner at 9 each other's houses. I've stepped foot in his -- 10 I've never stepped foot in his house. I've 11 stepped foot on his property twice, and he's been 12 on my property once. So there could be no 13 allegation that, you know, I'm a close friend of 14 his and, therefore, I'm supporting him. I just 15 believe in supporting small business, and Todd is 16 just that, trying to support his family and the 17 kids he has. 18 And I'll give you some anecdotal 19 evidence. I believe if the Antonella lady that's 20 on the Zoom is the same Antonella that I met in 21 his driveway, this is a couple that I met simply 22 by walking my dog at a certain hour of the 23 afternoon, and I happened to stumble across this 24 couple, built a friendship with them, and now 25 we're friends. They've been over at our house for</p>
94	<p>1 20 years. I've never seen conditions where there 2 were kids loitering outside, or there were any 3 parking nuisances, noise nuisances, anything of 4 the like. If anything, the -- Isaac just 5 testified to the amount of traffic that the 6 elementary school up the street from us has. 7 That's more of an annoyance than anything else, 8 especially on event days when they have back to 9 school nights and so on and so forth. 10 So, listen, we live in a very tight 11 neighborhood. So one of the reasons we moved to 12 the neighborhood was because of that elementary 13 school. So I have nothing negative to say about 14 the traffic; it just happens. We just accept it; 15 it's part of the community. You can't have an 16 idealistic society. If you wanted that, you would 17 move into an HOA neighborhood where everything was 18 controlled. So I think -- all in all, I think 19 Todd is a tremendous value add. 20 In our block, we have an annual 21 neighborhood block party where I -- because of my 22 background in law enforcement, I -- I coordinate 23 with the fire department and the police 24 department. They roll out units for show and tell 25 for the kids. Todd is gracious enough to sponsor</p>	96	<p>1 dinner, so on and so forth. And their child -- 2 and speaking to Antonella, their child developed 3 tremendous self-confidence from having attended 4 his conditioning programs, MMA programs. 5 So I can speak to the property and 6 whether or not the business operating on that 7 property creates a nuisance and annoyance. Then, 8 I can also speak to the character of the 9 individual himself and the years that I've known 10 him by having ten-minute conversations with him in 11 passing on the sidewalk in his driveway and vice 12 versa. I think if you had a wonderful guy, but 13 the business was creating a problem, it's a 14 nonstarter. Something's going to have to give. 15 And vice versa. It's also true, if you 16 had a tremendous business in compliance with 17 everything, but the guy was just a jerk and would 18 make all kinds of noise, that's a non-starter as 19 well. I don't think you have that here. I think 20 you've got an honest guy trying to make an honest 21 living, and he is trying to utilize on what his 22 skill sets are and providing a tremendous -- as 23 Isaac testified, a tremendous value to the 24 neighborhood. 25 I know, for a fact, the high school kids</p>

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25 (97 to 100)

<p>97</p> <p>1 train -- the wrestling team and some other 2 athletes at the local high school train with him 3 for conditioning programs for strengthening. And 4 more importantly, given his life experiences at 5 the elite levels of the MMA, they learn from him, 6 not just in physical aspects, but they learn from 7 him from all of his trials and tribulations and so 8 on and so forth. So from that standpoint, I'm all 9 in support of this. I think the property is very 10 uniquely situated and I think he's done everything 11 to be in compliance for the rules and regulations 12 imposed on him.</p> <p>13 I drive a full-size pickup truck, and I 14 can navigate that turn without having to back up. 15 And I've made that turn on one occasion. It did 16 occur to me like, wow, this thing goes pretty 17 deep. So I think he has done everything he can to 18 be in compliance, and I think this Committee 19 should approve the -- the petition that's in front 20 of it.</p> <p>21 THE HEARING EXAMINER: Okay. Thank you, 22 sir.</p> <p>23 MR. DOURIAN: Uh-huh.</p> <p>24 THE HEARING EXAMINER: Anyone else here 25 that would like to testify in support? Yes, yes,</p>	<p>99</p> <p>1 opportunity. I was on the way -- I work in DC, 2 live in Potomac, and I remembered that this 3 hearing was this morning, hence my outfit, but I'm 4 here because I feel, personally, incredibly 5 strongly about this application, and it's from 6 life experience.</p> <p>7 So I'm in a slightly different position 8 than everybody else in the room. Everyone else in 9 the room seems to be the Postoak Road 10 neighborhood. I don't live on Postoak Road; I 11 live in Abanel, not too far away, in Potomac. But 12 I think I am the only person in this room who 13 trains at Todd's School and who has a child who's 14 now 12, who trains at Todd's School. I just like 15 to offer two observations in that spirit; one, a 16 general observation, and secondly, an observation 17 of traffic, because I may also be the only person 18 in this room who has driven that unique driveway 19 hundreds of times.</p> <p>20 First, the personal observation about 21 Todd and the school -- and I completely agree with 22 some of the testimony that we just heard. My son 23 is now 12. He's been training with Todd for 24 several years. He was born with gross motor 25 challenges that made things like catching a ball</p>
<p>98</p> <p>1 anyone that has testified, can feel free to go 2 ahead and leave, if they need to. Ms. Hopp, if you 3 would hang out? Because -- and for those of you 4 who are on Zoom, I need to get e-mail addresses 5 from you all as well, because I want to make sure 6 that -- and those of you who have signed in, make 7 sure you have your e-mail address, because that's 8 the best way for me to make sure that we get the 9 information out to everybody when we're done. So 10 make sure your e-mail address is on that sign-in 11 sheet and legible. And those of you on Zoom, 12 please hang out after so I can get that information.</p> <p>13 Yes, sir, your name?</p> <p>14 MR. BEALE: Thank you. It's Kenneth 15 Beale, and address is 9708 Avenue Farm Drive, 16 Potomac, Maryland.</p> <p>17 THE HEARING EXAMINER: And could you 18 spell your last name Mr. Beale?</p> <p>19 MR. BEALE: B-E-A-L-E.</p> <p>20 Whereupon, 21 KENNETH BEALE, 22 being first duly sworn or affirmed to testify to 23 the truth, the whole truth, and nothing but the 24 truth, was examined and testified as follows:</p> <p>25 MR. BEALE: So, first, thank you for the</p>	<p>100</p> <p>1 or basic sports quite difficult. I'm going to get 2 potentially even emotional talking about him. His 3 experience with Todd has been life-changing, 4 really life-changing, and I'm incredibly grateful 5 for that. You have an applicant in front of you, 6 but you also have someone who is a world-champion 7 athlete, a Maryland State wrestling champion, a 8 phenomenal coach, and a mentor. My son is now on 9 his school's wrestling team. He can catch a ball. 10 He is physically where he should be. More 11 importantly, he's a kid who has integrity and who 12 is a straight-A student, and a lot of that is due 13 to Todd's coaching and mentoring.</p> <p>14 Look, I get all of the arguments pro and 15 con, these conditional use applications, and you 16 have to make your decision is based on the law and 17 the regulations. But these applications have 18 real-world effects, and one of the real-world 19 effects is other kids will have the opportunity to 20 experience what my son has experienced. That's my 21 first observation.</p> <p>22 Second observation is the traffic 23 observation. I have driven that traffic circle 24 numerous times. Now, I don't have an extra large 25 Chevy Suburban, but I do have an SUV. I've never</p>

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26 (101 to 104)

101	<p>1 once backed up. I have never once experienced any 2 impediment or anything blocking the traffic 3 circle. As I think the gentleman in the blue 4 shirt said, it's a somewhat ingenious and very 5 unique property feature. I've never seen anything 6 quite like that before. 7 You know, I take the gentlemen who are 8 in opposition -- I completely, you know, 9 understand and sympathize with their perspectives 10 as well. I will say in years of going to this -- 11 well, both for myself and for my son, I have never 12 seen, you know, cars stacked up. I've never seen 13 18 cars. Now, that's not to say it hasn't 14 happened. I wasn't there on the 31st, but I've 15 never seen anything remotely like that. I think 16 Todd, you know -- and he's talked to me about this 17 -- is very mindful and very conscientious about 18 being a good neighbor and not sort of being that 19 guy who's got a business with 15 cars that's, you 20 know, creating an eye sore, creating a traffic 21 issue. I've been there for years, and I have 22 never seen that in the entire time that I have 23 been there. So I'll end with that, but simply to 24 say, you know, I'm very glad to be here today and 25 hopeful that you'll grant the application.</p>	103	<p>1 being first duly sworn or affirmed to testify to. 2 the truth, the whole truth, and nothing but the. 3 truth, was examined and testified as follows: 4 THE HEARING EXAMINER: What would you 5 like to say? 6 MS. SASSANO: I am -- of course, I'm 7 totally in support of Mr. Margolis, first because 8 of my own experience. I have my son. Lorenzo is 9 a 17-years-old kid. He's a student in Mr. 10 Margolis's gym, and I can tell you this incredible 11 thing. Lorenzo -- so my son -- the -- wrote, 12 his a college application essay based on his 13 experience with the martial arts. And I can tell 14 you that because of martial art, he had a very 15 terrible bullism experience in his life, and that 16 helped him a lot. So far, this essay is working 17 very well. He's getting in all the colleges' 18 apply. We are still waiting for more answers. 19 Just to tell you that again, I 20 personally see only positive things about having 21 this place in our neighborhood. What I would 22 encourage is that, really, what we need to work on 23 is to change people mentality. Instead of driving 24 kids to places in our neighbors, why the kids 25 don't walk, like my son does? He walks to the</p>
102	<p>1 THE HEARING EXAMINER: Thank you, sir. 2 Is there anyone else that I haven't -- oh, I've 3 got to get to our online people. So I think -- is 4 that everybody here in the room? All right. So, 5 now, we're going to switch to our online people. 6 So we've heard from Ms. Hopp. Who else do we -- 7 Joey, can you tell me who else we have? 8 THE VIDEOGRAPHER: Ms. Antonella. We 9 also have Jason -- 10 THE HEARING EXAMINER: Ms. Antonella, I 11 see you. 12 MS. SASSANO: Hi. 13 THE HEARING EXAMINER: Hi. I see you. 14 MS. SASSANO: Yes. 15 THE HEARING EXAMINER: Everything's on 16 there. So Ms. Antonella, can you give me your 17 first and last name, please? 18 MS. SASSANO: Yes. Antonella Sassano, 19 A-N-T-O-N-E-L-A, S-A-S-S-A-N-O. 20 THE HEARING EXAMINER: Okay. Good. All 21 right. And where do you live, Ms. Antonella? 22 MS. SASSANO: 11716 Devilwood Street, 23 very close to Mr. Margolis's house. 24 Whereupon, 25 ANTONELLA SASSANO,</p>	104	<p>1 gym. Instead of driving them to all these other 2 places far away, it's an incredible plus to have 3 something close to our houses that kids can -- can 4 take advantage of. 5 Having the school and our neighbors, 6 it's full of kids. I'm very frustrated because 7 when Lorenzo was going to the elementary school, I 8 used to be extremely frustrated because Lorenzo 9 was the only kid walking at school. It's not 10 because our home is particularly close. It is 11 close, but there are other kids even closer, and 12 they still drive to school. That is really what I 13 wish we could change in our neighborhood. And 14 that's it. 15 I -- I'm very emotional because I love 16 the entire Margolis family, and they are amazing 17 people. I -- this is incredible. I'm a scientist 18 at NH. He -- even one -- twice, actually, he came 19 to one of our get-togethers and help me with 20 organization for free -- exactly -- for nothing 21 else, just because he's a good person. He loves 22 to help people. He loves to help kids, and 23 please, please let support him all the way. And 24 that's it. 25 THE HEARING EXAMINER: Thank you, Ms.</p>

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27 (105 to 108)

<p>105</p> <p>1 Antonello. So you just please sit tight. We'll 2 get to our next person, who I think is Jason. Is 3 that right? 4 THE VIDEOGRAPHER: Yes, yeah, that's all 5 I got. I have Jason. 6 THE HEARING EXAMINER: So, Jason, if you 7 would like to tell me anything or speak, if you 8 could unmute and turn your camera on. If not, if 9 you're just here to observe, that's fine too. All 10 right. Hearing -- hearing no -- no, yeah, no nay, 11 I'm going to say you're here just to observe, so 12 thank you, sir. So Ms. Rosenfeld, we're back to 13 you for rebuttal? 14 MS. ROSENFELD: Yes, thank you very 15 much. It's just a couple of points. And then, 16 I'd like to close with a short closing statement. 17 THE HEARING EXAMINER: Sure. 18 Whereupon, 19 TODD MARGOLIS, 20 being previously duly sworn or affirmed to testify 21 to the truth, the whole truth, and nothing but the 22 truth, was examined and testified as follows: 23 RE-EXAMINATION BY COUNSEL FOR THE APPLICANT 24 BY MS. ROSENFELD: 25 Q Mr. Margolis, I'd like to turn your</p>	<p>107</p> <p>1 Q And Page 004 of Exhibit 17? 2 A Ophelia Suarez. And she's my other 3 direct neighbor. So I have two direct neighbors. 4 She is the one at 8403 Postoak Road. 5 MS. ROSENFELD: Thank you. So I just 6 wanted to bring those to your attention as 7 additional letters of support for people in the 8 immediate neighborhood. As well, with respect to 9 the opposition, I just would like to point out 10 that the concerns that were raised either with 11 respect to signage or parking, we have indicated 12 we will comply with those additional conditions. 13 And I did not hear anybody who requested denial of 14 this application. There were some questions and 15 concerns. And I think that's it. 16 For purposes of rebuttal, I just would 17 have a very short closing statement. 18 THE HEARING EXAMINER: Okay. Did you 19 have an opportunity to look at Planning's 20 conditions with your client? 21 MS. ROSENFELD: Thank you for reminding 22 me. Yes, we -- we concur with those conditions. 23 THE HEARING EXAMINER: Okay. I mean, 24 Mr. Ruthridge makes a good point. Some of these 25 are super hard to enforce, and that's so -- so the</p>
<p>106</p> <p>1 attention to Exhibit Number 17. 2 MS. ROSENFELD: And I just would like to 3 point out to the Hearing Examiner, this is not 4 directly rebuttal, but it's additional information 5 in the record I'd like to bring to your attention. 6 THE HEARING EXAMINER: Okay. 7 BY MS. ROSENFELD: 8 Q Exhibit 17, which is Page 001, these are 9 letters of support, and I promise you I'm not 10 taking you through all of these. Would -- could 11 you please tell me who this letter is from and 12 where this property owner is located? 13 A Amdo Hafid Garza, and he's at 8401 14 Postoak Road, which is directly across the street 15 from me. 16 Q And this -- this letter just speaks for 17 itself, but I believe it's a letter of support 18 from somebody who has a direct view of the subject 19 property. I'd also would like to bring your 20 attention to Page 003. 21 A Yes. And that's from Mitra Faruz, and 22 she lives at 8408 Postoak Road, which is on the 23 other side. So if you go up the power line -- so 24 she's my neighbor across the power line on the 25 same side that I'm on.</p>	<p>108</p> <p>1 structure of -- like, for example, they say no 2 queuing on Postoak Road is permitted. How do you 3 convey that? Conveying that to your individual 4 clients would be a requirement. So I assume, when 5 you have -- when people come, right, they fill 6 out some form application, you give them 7 information about not only the classes, what 8 they're going to do, what they're not going to do, 9 but there's behavior issues, right? So you expect 10 everybody to come in and behave and follow 11 instructions, and you expect the same of parents 12 when it comes to parking. 13 So conveying to those individuals that 14 there will be no queuing on Postoak Road, that you 15 would fill in in such an order. While you can 16 convey that information, like, having as much 17 specific enforceable detail in a condition is as 18 much for your benefit as it is for the enforcement 19 purposes of DPS. So you know, these conditions, 20 when they deal with the operations of your clients 21 that come in, are going to need to be communicated 22 to them. 23 So there's the, you know, I'm going to 24 be adding some language to these conditions, 25 right, that would hopefully make them clearer for</p>

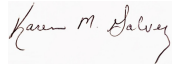
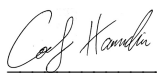
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28 (109 to 112)

<p>109</p> <p>1 you, more enforceable for DPS, in order to</p> <p>2 communicate. Obviously, people do what people do,</p> <p>3 right? You can't control every single thing and</p> <p>4 aspect, but it -- you know, as a business owner,</p> <p>5 you're responsible for the people that come to</p> <p>6 your property, right? So just make sure</p> <p>7 maintaining and keeping and knowing all of that.</p> <p>8 MR. MARGOLIS: Yes, ma'am. May I -- may</p> <p>9 I add to that?</p> <p>10 THE HEARING EXAMINER: Sure.</p> <p>11 MR. MARGOLIS: And I take that very</p> <p>12 seriously. And I -- if a parent is -- if they</p> <p>13 don't know -- let's say they're new, right? So</p> <p>14 that is always a part. I walk them the entire</p> <p>15 property, I show them where to go, and I'll go out</p> <p>16 and -- and direct to make sure that they're moving</p> <p>17 in the right direction. And I'm very much on top</p> <p>18 of that, because it makes everything run smoother</p> <p>19 for me in the business for them to come -- for the</p> <p>20 kids to come in and out in a safe manner. The</p> <p>21 parents need to be in that -- doing -- where they</p> <p>22 need to be parking and creating that queuing in</p> <p>23 that correct vein. So I'm 100 percent in</p> <p>24 agreement with that.</p> <p>25 THE HEARING EXAMINER: I mean, I think</p>	<p>111</p> <p>1 standards and requirements of the zoning</p> <p>2 ordinance, including with approval of the waivers.</p> <p>3 And with respect to the testimony that</p> <p>4 you have received here today, there were several</p> <p>5 witnesses who testified as opposition witnesses.</p> <p>6 To the extent that concerns were raised with</p> <p>7 respect to the operation of the business, there</p> <p>8 were some requests for signage and location of</p> <p>9 parking. We have concurred with those. Again, I</p> <p>10 don't -- I did not hear any witness request denial</p> <p>11 of this application, simply modification of some</p> <p>12 of the conditions.</p> <p>13 The other thing that I would like to</p> <p>14 point out is that you heard a number of witnesses</p> <p>15 testify in corroboration of the fact that there is</p> <p>16 currently not queuing. There's not queuing on</p> <p>17 Postoak. There have been -- there's been no</p> <p>18 testimony about difficulty with parking. I think</p> <p>19 the support that you heard from the community --</p> <p>20 the testimony and support from the community, to</p> <p>21 the extent it went to the operational features of</p> <p>22 this use, it corroborated both what we've</p> <p>23 proffered in terms of the scope of operations, as</p> <p>24 well as how it practically functions. That also</p> <p>25 includes children walking from the neighborhood</p>
<p>110</p> <p>1 we're all of the age that everybody here has seen</p> <p>2 Mr. Mom. Remember when he did the first drop off?</p> <p>3 Like, you're going the wrong way, buddy that got</p> <p>4 kind of thing.</p> <p>5 MR. MARGOLIS: Exactly.</p> <p>6 THE HEARING EXAMINER: Like, making sure</p> <p>7 --</p> <p>8 THE VIDEOGRAPHER: I'm not that old.</p> <p>9 THE HEARING EXAMINER: All right, Joey.</p> <p>10 So you have, you know, you have a</p> <p>11 mechanism in order to communicate that to your</p> <p>12 students and clients before they come?</p> <p>13 MR. MARGOLIS: 100 percent, yes ma'am.</p> <p>14 THE HEARING EXAMINER: Okay. And I'll</p> <p>15 try to make that as clear as possible in the</p> <p>16 conditions.</p> <p>17 MR. MARGOLIS: Yes, ma'am.</p> <p>18 THE HEARING EXAMINER: Okay. So if</p> <p>19 you'd like to finish with your close?</p> <p>20 MS. ROSENFELD: I would. Thank you.</p> <p>21 And this will be fairly brief. Based on the</p> <p>22 written evidence that has been provided to you in</p> <p>23 the record and the testimony of our experts that</p> <p>24 was presented here today, we have an application</p> <p>25 that we believe fully conforms with all of the</p>	<p>112</p> <p>1 and carpooling.</p> <p>2 So I would just ask that -- and to be</p> <p>3 clear, if I didn't mention this before, we do</p> <p>4 concur with the conditions as proffered by Staff</p> <p>5 and with the recognition that they will be edited</p> <p>6 and clarified as necessary. So with that, I would</p> <p>7 request that you approve this application subject</p> <p>8 to the conditions that were discussed here today.</p> <p>9 THE HEARING EXAMINER: Okay. Thank you.</p> <p>10 I want to thank everyone for coming for</p> <p>11 participating, for the great testimony that came</p> <p>12 from both sides, the courteousness that you all</p> <p>13 have shown each other. I truly appreciate that.</p> <p>14 So the record will be left open for a period of</p> <p>15 ten business days. The reason the record is left</p> <p>16 open is so that our court reporter can generate</p> <p>17 the transcript for me.</p> <p>18 Once the record closes, I'll have 30</p> <p>19 days within which to issue my conditional use</p> <p>20 opinion. Everyone who gives me an e-mail address</p> <p>21 will get e-mail notification of when the opinion</p> <p>22 is issued. The opinion itself will be uploaded</p> <p>23 onto our OSA website, so you'll be able to see it</p> <p>24 and have access of it that way. And that, I</p> <p>25 believe -- let me make sure I have everything</p>

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29 (113 to 116)

<p>113</p> <p>1 here. Let's see.</p> <p>2 Anyone who objects to my decision has</p> <p>3 ten days within which, after the decision is</p> <p>4 issued, to appeal that to the Board of Appeals.</p> <p>5 And with that, we're going to conclude the</p> <p>6 hearing, and we'll go off the record. Thank you.</p> <p>7 MR. MARGOLIS: Thank you very much.</p> <p>8 (Off the record at 11:31 a.m.)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>115</p> <p>1 CERTIFICATE OF TRANSCRIBER</p> <p>2 I, Karen M. Galvez, do hereby certify</p> <p>3 that this transcript was prepared from the digital</p> <p>4 audio recording of the foregoing proceeding; that</p> <p>5 said proceedings were reduced to typewriting under</p> <p>6 my supervision; that said transcript is a true and</p> <p>7 accurate record of the proceedings to the best of</p> <p>8 my knowledge, skills, and ability; and that I am</p> <p>9 neither counsel for, related to, nor employed by</p> <p>10 any of the parties to the case and have no interest,</p> <p>11 financial or otherwise, in its outcome.</p> <p>12</p> <p>13 </p> <p>14 _____</p> <p>15 KAREN M. GALVEZ</p> <p>16 PLANET DEPOS, LLC</p> <p>17 February 24, 2025</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>114</p> <p>1 CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC</p> <p>2 I, Cody Handlir, the officer before whom</p> <p>3 the foregoing proceedings were taken, do hereby</p> <p>4 certify that any witness(es) in the foregoing</p> <p>5 proceedings were fully sworn; that the proceedings</p> <p>6 were recorded by me and thereafter reduced to</p> <p>7 typewriting by a qualified transcriptionist; that</p> <p>8 said digital audio recording of said proceedings</p> <p>9 are a true and accurate record to the best of my</p> <p>10 knowledge, skills, and ability; and that I am</p> <p>11 neither counsel for, related to, nor employed by</p> <p>12 any of the parties to this case and have no</p> <p>13 interest, financial or otherwise, in its outcome.</p> <p>14</p> <p>15 </p> <p>16 _____</p> <p>17 CODY HANDLIR, NOTARY PUBLIC</p> <p>18 FOR THE STATE OF MARYLAND</p> <p>19 February 24, 2025</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	

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