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Transcript of Hearing - Day 1

Date: November 17, 2025
Case: Holton Arms Inc., In Re:

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OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY, MARYLAND

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In Re: : Case No.:
Holton-Arms, Inc. : CBA 1174-E
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HEARING
Before Hearing Examiner Lynn Robeson Hannan
Rockville, Maryland
Monday, November 17, 2025
9:34 a.m.

Job No.: 609626
Pages: 1 - 80
Transcribed by: Debra McCostlin

1 A P P E A R A N C E S

2 ON BEHALF OF THE APPLICANT:

3 SOO LEE-CHO, ESQUIRE

4 BREGMAN, BERBERT, SCHWARTZ & GILDAY

5 7315 Wisconsin Avenue

6 Suite 800 West

7 Bethesda, Maryland 20814

8 (301) 656-2707

9 ON BEHALF OF THE RESPONDENT:

10 WILLIAM J. CHEN, JR., ESQUIRE

11 THE LAW OFFICE OF WILLIAM J. CHEN, JR.

12 200A Monroe Street

13 Rockville, Maryland 20850

14 (301) 279-9500

15 ALSO PRESENT:

16 PATRICK LA VAY - WITNESS

17 RICHARD BOWE - WITNESS

18 VIVIAN RIEFBERG - WITNESS

19 PENNY B. EVINS - WITNESS

20 JENNIFER SOLOMON - WITNESS

21

22

23

24

25

1 P R O C E E D I N G S

2 HEARING EXAMINER: We're on the record.
3 I'm calling the case of -- well, there's a number
4 of -- it's been -- I don't know if it's been
5 formally consolidated or not, but CBA 1174-E. I
6 think that there's a daycare special exception in
7 there that I don't know if it can be consolidated
8 because it's a separate use. So, and I think
9 that's S-2503-B.

10 MR. CHEN: Yeah.

11 HEARING EXAMINER: Now, and there's an
12 application by Holton-Arms School to increase
13 enrollment -- to modify their existing special
14 exceptions to increase enrollment for property
15 located at 7303 River Road. Will the parties
16 identify themselves for the record?

17 MS. LEE-CHO: Soo Lee-Cho with the law
18 firm of Bregman, Berbert, Schwartz & Gilday.

19 HEARING EXAMINER: What do I do? It's
20 coming through here.

21 I'm talking -- for the record, I'm
22 talking to the tech operator.

23 (Technical issue.)

24 HEARING EXAMINER: I'm sorry to
25 interrupt, Ms. Cho. I can do this again. It's

1 been a while. Please identify yourself for the
2 record.

3 MS. LEE-CHO: Thank you. Soo Lee-Cho
4 with the law firm of Bregman, Berbert, Schwartz &
5 Gilday with addresses at 7315 Wisconsin Avenue in
6 Bethesda on behalf of Holton-Arms School.

7 HEARING EXAMINER: And --

8 MR. CHEN: Thank you, Madam Examiner.
9 My name is Bill Chen and I represent Vivian
10 Riefberg and the Bradley Boulevard Citizens
11 Association. My office is located at 200-A
12 Monroe Street, Rockville, 20850.

13 HEARING EXAMINER: Thank you. Just a
14 few -- just for those in the audience who have
15 never participated in this type of hearing, I'm
16 going to just go through some dos and don'ts, if
17 that's okay. This is a trial type. It's quasi-
18 judicial. It's a -- but it is a trial type
19 hearing, so due process rules apply. Testimony
20 is under oath and subject to cross-examination.

21 I do want to hear, you know, everyone's
22 concerns, including the school's, but I do have
23 the ability to -- if testimony is repetitive, I
24 can exclude it because part of my job is to
25 create an orderly hearing and it reduces your

1 legal fees. No, I'm -- anyway.

2 For those -- during the hearing, please
3 have no cross-talk because -- you can't jump in.
4 The court reporter can't pick it up. The Zoom
5 gets garbled. So please, if you want to speak,
6 if you're not -- Mr. Chen will make objections.
7 If you want to speak, then you can raise your
8 hand on the Zoom meeting.

9 Now, you will get -- the order of the
10 proceeding is the applicant will do preliminary
11 matters first. The applicant gets to make its
12 case. If you have questions of the applicant,
13 you will ask them after they testify. So don't
14 put up hands during their testimony. If
15 you -- you will get a chance to testify. The
16 order of proceedings is the applicant presents
17 its case subject to cross-examination and then
18 anyone in opposition gets to say what they want
19 to say.

20 So with that -- and please don't get
21 into email procedural arguments because you will
22 have the opportunity -- if you don't like an
23 exhibit or something like that, you will have the
24 opportunity at the hearing to challenge it. And
25 you must copy everybody. There's a sign-up sheet

1 out there. I'm sure you have already signed it.
2 Please make sure everything is legible on there
3 because that's our only way of contacting you.
4 Okay.

5 The other thing is, all the evidence
6 and testimony comes in in this hearing. The
7 Board of Appeals is going to make the final
8 determination. You have the right to request
9 oral argument if you don't like my
10 recommendation, but all of that will be on the
11 record of what happened here. So you have 30
12 days, I think, to -- or 10 days.

13 MR. CHEN: 15.

14 HEARING EXAMINER: 30 days to
15 request -- huh?

16 MR. CHEN: Oral argument is 15 --

17 HEARING EXAMINER: Yes.

18 MR. CHEN: -- (indiscernible).

19 HEARING EXAMINER: Just for those of
20 you who don't know me, I was a hearing examiner
21 for OZA for 13 years, and I was director of the
22 office when I retired, and I have done a number
23 of private schools including Rochambeau, the
24 French International School, and Bullis school.
25 So I am familiar with some of the issues here.

1 All right. With that, we're going to
2 go to preliminary matters. Who wants to start?
3 Ms. Lee-Cho?

4 MS. LEE-CHO: Did you want -- good
5 morning. Would you like us to address the forest
6 conservation plan issue or is that resolved?

7 HEARING EXAMINER: That's for the
8 hearing.

9 MS. LEE-CHO: That's not a procedural
10 issue?

11 HEARING EXAMINER: You can address it.

12 MS. LEE-CHO: It was raised as a
13 question, so I will address it. Under Section
14 59G-1.23, subsection D, Forest Conservation, it
15 indicates that if a special exception is subject
16 to Chapter 22A, the board must consider the
17 preliminary for its conservation plan when
18 approving the special exception and must not
19 approve a special exception that conflicts with a
20 preliminary first conservation plan.

21 This is a case involving operational
22 changes only. The forest conservation plan, to
23 the extent that it was required by the planning
24 staff for the applicant to return to address,
25 relates to an off-site intersection improvement

1 that initially we believed would be exempt from
2 forest conservation because it is a right-of-way
3 project, it's a separate off-site improvement
4 being triggered by mitigation for the traffic
5 study.

6 Subsequent to -- during the planning
7 staff review, they determined that because it
8 confronts the subject school that it should be
9 incorporated just for purposes of recordkeeping
10 as part of the school's approval as opposed to
11 just a wholly separate forest conservation plan
12 number, and so that is the only reason why there
13 is a component that relates to forest
14 conservation.

15 But the application that was filed has
16 no site improvements, and so during the intake
17 process that was reviewed by planning department
18 it was determined that a forest conservation plan
19 is not required, and so that's why, because there
20 is no physical change being proposed on the
21 campus.

22 HEARING EXAMINER: Okay. Mr. Chen, do
23 you want to address that?

24 MR. CHEN: Well, thank you, Madam
25 Examiner. Accepting what Ms. Cho has said, it's

1 off site, it's not merely -- I don't think the
2 word operational is an accurate description of
3 what is before you because under the proposal
4 as -- I don't want to use the word amended
5 because there really hasn't been any attempt to
6 amend, but during the course of the processing
7 prior to your hearing, the applicant has said,
8 oh, there are traffic problems, so we're prepared
9 to do some improvements across the street.
10 That's fine. I get it.

11 That does mean, however, during the
12 course of the hearing when you issue your report
13 and recommendation, under the process described
14 by Ms. Cho, you're going to have to address that
15 issue so that, in theory only, if you were to
16 recommend denial of the application, that would
17 be part of what you would address in your
18 recommendation and your report. So to that
19 extent, you know, I understand that.

20 Also, the operational aspect
21 description also bothers me because there's also
22 a request that has been tacked onto this
23 application after it was filed to also
24 permanently authorize the non-residential use of
25 a dwelling on the site to become --

1 HEARING EXAMINER: Is that the Granger
2 House?

3 MR. CHEN: Correct.

4 HEARING EXAMINER: Okay.

5 MR. CHEN: You know, what happened is
6 the original -- let me do this if I may. This is
7 going to come up in this preliminary matter.
8 This is a copy of the application. May I?

9 HEARING EXAMINER: That's in the
10 record, Exhibit 1.

11 MR. CHEN: It is in the record, yeah.

12 HEARING EXAMINER: Thank you.

13 MR. CHEN: I've given you the first
14 page. As you know well, the back side of it has
15 instructions --

16 HEARING EXAMINER: Yes.

17 MR. CHEN: -- of required material.
18 What I can give you is a copy of the application.
19 The document you got is the application. It was
20 filed with the Board of Appeals in December. The
21 Board of Appeals referred it to you with the
22 notation that it would be, if I may, it would be
23 designated as 7411-E. That is the referral
24 resolution of the Board of Appeals. Not any
25 other applications. None whatsoever. And in

1 fact, your office's notice originally referred to
2 1174-E.

3 At some point, and I don't know how or when
4 it happened, your notices included four other
5 special exceptions, and you touched on it in your
6 opening comments. So I'm not sure where we are
7 today because we've got this Granger House that
8 has been tacked onto whatever was filed then in
9 December.

10 And when you look at what was filed in
11 December, we've got a very minimal description of
12 what this application is all about, and in the
13 last 11 months it has morphed into something else
14 and that is going to be part of, at least from my
15 side, the preliminary issues. So, you know, to
16 come circle back --

17 HEARING EXAMINER: Let's --

18 MR. CHEN: -- the FOP is going to be,
19 excuse me, the forest conservation plan is going
20 to have to be dealt by you.

21 MS. LEE-CHO: If I might respond?

22 HEARING EXAMINER: Yes.

23 MS. LEE-CHO: As Mr. Chen I believe
24 understands, the initial application form is a
25 form only for basic information. The actual

1 application request is contained in the
2 applicant's statement of justification, which was
3 amended to include all of the aspects that are
4 before the hearing examiner today.

5 HEARING EXAMINER: Okay. A couple of
6 things.

7 MR. CHEN: Do you want me to respond?

8 HEARING EXAMINER: Do you want to
9 respond?

10 MR. CHEN: Yeah. I've never heard that
11 proposition of law made before. When you look at
12 the zoning ordinance, the application is what
13 you've got in front of you. If I may, with that
14 application there was filed a statement of
15 justification. That document has had at least
16 two subsequent iterations that I have seen. I
17 don't know that all of them are in the record,
18 but it's my understanding that an application has
19 to be amended if it's going to be changed and
20 indeed under the zoning ordinance there's a
21 process.

22 HEARING EXAMINER: Has there been a
23 notice of motion to amend in this case?

24 MR. CHEN: No. Pardon me. I defer to
25 Ms.Cho. I haven't seen one if there is.

1 MS. LEE-CHO: No, not a formal notice
2 of motion to amend. But that relates only to the
3 Granger House which was --

4 HEARING EXAMINER: Now a part of this.

5 MS. LEE-CHO: Well, it was already
6 approved by the Board of Appeals administratively
7 and it's a housekeeping cleanup matter to include
8 as part of the major modification. It is not a
9 critical component of the enrollment increase
10 request, which is the original application.

11 HEARING EXAMINER: Mr. Chen?

12 MR. CHEN: Respectfully, the resolution
13 that Ms. Cho is referring to was I think in 2023,
14 which was for temporary use of the Granger House.

15 HEARING EXAMINER: That's right.

16 MR. CHEN: Now they want to make it a
17 permanent non-residential use. That's part of
18 the last statement of justification that I've
19 seen that they've added it. So I don't think
20 it's a housekeeping matter. I think it's an
21 actual amendment.

22 Not only that, Madam Examiner, when you
23 look at these other -- and I don't know -- you
24 know better than me, I think. I don't know how
25 this matter is now a modification proceeding

1 involving four applications, and that is what it
2 is all about. It is not now, pursuant to this
3 notice, 1174-E. And when you look at these other
4 applications, they are dovetailing to what is
5 before you on the application that was filed in
6 December. They go to daycare. They go to
7 pupils. They go to those types of matters so
8 that any decision that is made by the Board of
9 Appeals after you issued your report and
10 recommendation, assuming you were to grant a
11 modification, it's going to modify those
12 additional applications. So I don't know how --

13 HEARING EXAMINER: I understand what
14 you're saying.

15 MR. CHEN: Do you? I mean, I
16 apologize. I didn't hear that. Do you
17 understand what I'm saying?

18 HEARING EXAMINER: Yes.

19 MR. CHEN: So, and your notice
20 even -- I apologize for repeating this, but we're
21 no longer before you on 1174-E. We're before you
22 on five, five, board decisions, and there's been
23 no amendment at all that has been filed. And I'm
24 sorry, I respectfully disagree. A statement of
25 justification ain't the application.

1 HEARING EXAMINER: Last word, Ms. Lee-
2 Cho.

3 MS. LEE-CHO: Well, in terms of the
4 Granger House, it is not a critical component of
5 this case. And if it's a technicality, it's not
6 included, it's not an issue for the school. We
7 just thought that because it was part of the
8 administrative process -- and, yes, it was a
9 temporary request initially, but the board calls
10 the school back on an annual basis to sort of
11 check on the status of the Granger House to
12 continue its non-residential use. It can proceed
13 in that manner. It does not need to interrupt
14 this matter if there is a technical issue with
15 having not formally amended it into the
16 application.

17 HEARING EXAMINER: Thank you.

18 Mr. Chen, what are you asking? Are you
19 asking for a postponement? What are you -- are
20 you asking for something?

21 MR. CHEN: Well, thank you. Yes. I
22 don't think this matter is ready to go to
23 hearing. I mean, Ms. Cho wanted to jump into the
24 forest conservation plan, which I respect and
25 defer, but you issued an email last Wednesday.

1 Is that email part of the record?

2 HEARING EXAMINER: Yes.

3 MR. CHEN: Okay.

4 HEARING EXAMINER: If it isn't posted,
5 it's part of the record.

6 MR. CHEN: Okay. You went through
7 that, and Ms. Cho issued a response
8 later -- afterward in which -- I apologize. I
9 got to get my reading glasses. Time passes. You
10 had a series of numbered paragraphs.

11 HEARING EXAMINER: Yes.

12 MR. CHEN: Now, the first one, if I
13 may, you brought to Ms. Cho's attention the
14 requirements. These are zoning ordinance
15 requirements of information involving 59G-1.22,
16 and you laid it out, you know, what's required by
17 the ordinance, and Ms. Cho's answer was, comment
18 acknowledged. I believe that staff will be
19 separately addressing, but applicant's SOJ,
20 statement of justification, will be supplemented
21 to cover as well. Now, that's Wednesday. On
22 Thursday, I received an updated statement of
23 justification and --

24 HEARING EXAMINER: Do you we have that
25 in the record?

1 MS. LEE-CHO: No.

2 MR. CHEN: You've got it
3 electronically.

4 MS. LEE-CHO: We didn't amend --

5 HEARING EXAMINER: What?

6 MS. LEE-CHO: We didn't further -- we
7 did not further amend the statement of
8 justification.

9 MR. CHEN: No. They filed -- I
10 apologize. They filed a prehearing update. Did
11 I --

12 MS. LEE-CHO: Yes.

13 MR. CHEN: If I said statement of
14 justification, I apologize. Now, this document,
15 which came in on Wednesday, does not have an
16 updated statement of justification.

17 HEARING EXAMINER: I know. I looked
18 for it.

19 MR. CHEN: Right. And Ms. Cho refers
20 to, in her filings most recent, I believe, a
21 statement of justification dated September 12,
22 2025. Have you looked for that in the record,
23 Madam Examiner?

24 HEARING EXAMINER: State the date
25 again.

1 MR. CHEN: September 12, 2025.

2 HEARING EXAMINER: What -- do you know
3 the exhibit number?

4 MR. CHEN: I don't because I don't
5 think it's in your file.

6 MS. LEE-CHO: It is.

7 MR. CHEN: What exhibit number is it?
8 I mean, but that's what their --

9 MS. LEE-CHO: Exhibit --

10 MR. CHEN: I'm sorry. Go ahead.

11 MS. LEE-CHO: It is exhibit -- original
12 prehearing submission.

13 MR. CHEN: Well, I have the original
14 prehearing submission.

15 MS. LEE-CHO: Yes. It's Exhibit 45(b).

16 HEARING EXAMINER: Okay.

17 MR. CHEN: Hang on.

18 MS. LEE-CHO: Well, that's -- you know,
19 it was put in the staff report. It appears
20 also -- okay, 30, I'm sorry, Exhibit 30. And it
21 was also attached to the staff report as Exhibit
22 45(e).

23 MR. CHEN: Leaving aside the staff
24 report, my copy of the petitioner's prehearing
25 submission does not include that.

1 MS. LEE-CHO: Right. It was submitted
2 prior to the prehearing submission, Exhibit 30.

3 MR. CHEN: As part of what?

4 MS. LEE-CHO: It's been --

5 MR. CHEN: Do you have that? Do you
6 have an Exhibit 30, Madam Examiner? I mean, this
7 is -- as I understand it, this is the --

8 HEARING EXAMINER: I do have the
9 revised statement of justification, Exhibit 30.

10 MR. CHEN: Okay. Now, that's the one
11 assuming -- do you have a date on that? Do you
12 see it?

13 HEARING EXAMINER: No.

14 MS. LEE-CHO: It should have a date of
15 September 12th.

16 HEARING EXAMINER: Oh, yes.

17 MR. CHEN: You found it?

18 HEARING EXAMINER: It does. You're
19 right.

20 MR. CHEN: So that's the most current
21 statement of justification. Ms. Cho's email
22 response to your email says that there's going to
23 be a revised statement of justification. That
24 was last Thursday or Wednesday. And she also
25 says that staff is going to address it. We don't

1 have it. It's not there.

2 And this is a document that Ms. Cho has
3 characterized as the application. Now, I
4 disagree with the characterization, but certainly
5 a statement of justification is required, not
6 withstanding the fact that it's not the
7 application, and that it's an integral part of
8 the application. And in fact, her email says,
9 yeah, we're going to revise it. I haven't seen
10 it. And it was supposed to be revised to include
11 the inquiry that you raised in your -- this is
12 just your first paragraph.

13 Go to paragraph 2. Other findings
14 required by 59G-2.19, and you filled out in here
15 subparagraph A, noise, telephone, nuisance,
16 information on buffer on athletic fields. And
17 the answer from Ms. Cho is same as response to
18 item 1. So again, we're supposed to have an
19 updated statement of justification that we don't
20 have. And also, that the staff at park and
21 planning, for what it's worth, is supposed to be
22 issuing -- according to Ms. Cho, the staff will
23 be separately addressing.

24 Now, I can go through all of these I
25 think and --

1 HEARING EXAMINER: Okay.

2 MS. LEE-CHO: If I might?

3 HEARING EXAMINER: Yeah.

4 MS. LEE-CHO: So my assumption and
5 intent was through the process of the hearing and
6 my witnesses and testimony elicit answers to the
7 questions raised by the hearing examiner to the
8 extent that they ultimately should be codified
9 into the statement of justification.

10 In previous cases, I have amended the
11 statement prior to the record closing to
12 document -- to codify into the record aspects
13 that were discussed at the hearing and that was
14 my intent. The supplemental report is being
15 prepared. It is my understanding, the email that
16 the hearing examiner sent was sent both to myself
17 and to the lead planner at the planning
18 department to address questions, which I have
19 come to understand is a preliminary review matter
20 of course that I often get from the hearing
21 examiner prior to the hearing in terms of a list
22 of issues that you are interested in hearing
23 about that we should be prepared for at the
24 hearing, and that was my intent.

25 HEARING EXAMINER: Okay. Ms. Lee-Cho,

1 I tend to agree with Mr. Chen. The purpose of
2 the staff report is to allow everyone to prepare
3 for the hearing. And the purpose of the planning
4 board recommendation, the requirement that it be
5 seven days in advance, is to put everyone on a
6 level playing field so we can have an orderly
7 hearing and everybody knows the justification. I
8 still -- it's the first day of hearing and I
9 don't know the justification at least for some of
10 the issues.

11 And, you know, the primary
12 criteria -- there's a reason that all these
13 things are required in advance of the public
14 hearing is that, you know, people -- that we have
15 a fair hearing. Everybody is on notice of the
16 issues that are on the table.

17 And I hear from you a lot of -- you
18 know, it's a technical thing, it's an off-site
19 improvement. Where is that in the code? I don't
20 see that in the code. I don't see -- well, we
21 didn't -- you know, I don't see a carve
22 out -- and this is Chapter 22A. I don't see a
23 carve out for we didn't know this in advance. I
24 don't see -- there's no notice of motions to
25 amend, which there should have been, and that

1 puts people on notice of exactly what you're
2 doing.

3 It took me hours to try to go through
4 over 200 pages of planning board resolutions to
5 figure out what was the bottom line. And I
6 had -- you know, at the end of the day, I felt
7 like I couldn't prepare for other aspects of the
8 hearing because -- and also there's some
9 clarifications on your application that I noticed
10 and I'm not sure -- and we'll get to those, but I
11 just -- I do think out of fairness to everybody
12 that we should have all these things on the
13 table.

14 And I don't see a carve out for the
15 forest con plan. I know it's an off-site
16 improvement but then, you know, that's not
17 what -- the code doesn't say if it's an off-site
18 improvement you don't have -- I don't have to
19 have the plan. I don't see that.

20 MS. LEE-CHO: Well, it's an impossible
21 situation because the intersection improvement
22 would not be done by the school unless this
23 application for enrollment increase is approved.
24 So you cannot bring -- I cannot bring a forest
25 conservation plan amendment in advance of the

1 special exception.

2 HEARING EXAMINER: Why can't you show
3 the intersection -- you know what the
4 intersection improvement is, correct?

5 MS. LEE-CHO: Correct.

6 HEARING EXAMINER: And so why can't you
7 show that on the plan and flesh out the changes
8 to the FCP?

9 MS. LEE-CHO: Because while the
10 improvement in concept has been reviewed and
11 approved by State Highway Administration, and
12 Montgomery County Department of Transportation,
13 and the planning department as the appropriate
14 mitigation for this application, the
15 intersection -- the improvement itself has
16 not -- can't be engineered. It won't be
17 engineered or surveyed to be put on a forest
18 conservation plan to get the limits of
19 disturbance. Those details have yet to be worked
20 out. And it doesn't make sense to go down that
21 path prematurely when the school hasn't even been
22 approved the enrollment increase that they're
23 requesting that then would require -- if approved
24 then would require that improvement.

25 HEARING EXAMINER: Well, what's your

1 solution to Chapter 22A?

2 MS. LEE-CHO: Well, it's not a solution
3 to Chapter 22A. It's a reading of 59G-1.23,
4 which says, If a special exception is subject.
5 Today, the application that's before you is not
6 subject to Chapter 22A. There's no aspect of
7 what has been requested as part of this
8 application that triggers Chapter 22A. It is
9 only upon approval of what we've requested that
10 then triggers Chapter 22A.

11 HEARING EXAMINER: But you know there
12 has to be an amendment.

13 MS. LEE-CHO: If approved. So if the
14 enrollment is approved, then we must go and do
15 the intersection improvement that is called for
16 by the traffic study. If not, then -- if not
17 approved, then the school will not be amending
18 its forest conservation plan and there will be no
19 need to touch it.

20 That is the reason why the planning
21 staff included as a condition of approval,
22 assuming that the recommendation is for approval
23 and that ultimately the Board of Appeals approves
24 the enrollment increase, that then at that point
25 the school must go back to the planning

1 department and amend the forest conservation plan
2 to include that. And it doesn't implicate the
3 campus at all. It is a sheet that is --

4 HEARING EXAMINER: The fact is -- the
5 fact is -- go ahead, Mr. Chen.

6 MR. CHEN: Thank you. A couple things.
7 First of all, the problem with the application is
8 it's not merely --

9 HEARING EXAMINER: Yeah. That's where
10 I was going.

11 MR. CHEN: Yeah. Your question goes to
12 density, inherent, non-inherent. But if I may
13 comment on this last point. As Ms. Cho and you
14 know, I've done this a long time. Within the
15 last --

16 HEARING EXAMINER: Longer than me.

17 MR. CHEN: Longer than some people are
18 lawyers. Within the last five years, one of my
19 clients who I had represented who had gotten
20 approval from the board for a building came to me
21 and said we're not doing this building. It was
22 approved, but we're not doing it.

23 Simple matter. Filed a request with
24 the Board of Appeals. There's been a change
25 since your approval. This physical plant

1 building has changed. Now, after going through
2 more detailed construction plans and yada, yada,
3 yada is this, and we would request that this be
4 approved. The board had a work session and said
5 we've got this. It's a minor, you know,
6 adjustment to the approval. We approve it.
7 That's how these things are handled.

8 Ms. Cho has already stated that they've
9 got a draft of it. Well, if you've got a draft
10 of it and if you're going to get approved and
11 down the road there's a revision that has -- it's
12 a simple matter. It's not a big deal. But it is
13 still a matter that is required for this
14 application. They admit it.

15 They admit that for their traffic
16 purposes they can't pass unless they have this
17 improvement, so it has to be considered as part
18 of the application. And that is totally aside
19 from the other things that have to be included in
20 the application that you pointed out expressly in
21 your email that are not in the file. I mean,
22 this case -- you don't have a complete
23 application in front of you.

24 HEARING EXAMINER: Last word.

25 MS. LEE-CHO: The forest -- we

1 just -- it is not prepared. There is -- I mean,
2 we weren't asked to prepare it. This is a
3 concept. The application, planning department,
4 forest conservation review, it was not required
5 prior to the special exception proceeding.

6 HEARING EXAMINER: But it's in the
7 code. I mean, there's a lot of things that are
8 required that aren't in this application. It's
9 like nobody -- I don't know. I don't know. But
10 there's a lot of things that are explicitly
11 required that are not in this application. So
12 whether -- I don't know what to say about that.
13 It just is the way -- it is what it is.

14 Now, one thing we could do, I do agree
15 with Mr. Chen, if you have to come in for a
16 modification, you can do that at the time you
17 hard engineer the improvements. And it would be,
18 my guess is, an administrative -- I think the
19 board would say this is an administrative
20 modification.

21 But the other thing is, the site -- I
22 guess there's so many issues that haven't been
23 addressed. The site plan doesn't show anything.
24 I'm not sure -- it doesn't show everything. I'm
25 not sure the setbacks that you submitted are

1 drawn correctly because it's supposed to be
2 shortest distance to shortest distance, and on
3 that one near the, I want to say, tennis courts,
4 I didn't think it was shortest distance to
5 shortest distance. We can get to that.

6 But I agree that we should postpone and
7 let -- and I'm going to take a break, and I'm not
8 discounting the importance of this to the school
9 and I'm not saying that I'm denying it. I'm just
10 saying we have to know what we're dealing with
11 and right now I can't say that I really know.

12 And as Mr. Chen said, there is
13 so -- you know, I'm confused about what cases
14 we're modifying and what cases we aren't
15 modifying. So, you know, I'm going to take a
16 break, and I would like you to talk to Mr. Chen,
17 and I would like you to find a date that you can
18 think of for all the questions that are still out
19 there.

20 And also, I do really ask that the
21 parties talk with the school and see if you can
22 resolve -- off the record, not here -- but see if
23 you can resolve some of the issues. What I was
24 hearing from reading the record is that there is
25 a concern about enforcement of the traffic

1 mitigation plan, and we went through this in
2 detail in the French school as 862 something.

3 So I encourage that we take a step
4 back. I would like to take as -- you know, we
5 can take 20 minutes. I would like you to speak
6 with Mr. Chen. I cannot accommodate people who
7 want to testify individually. You know, we have
8 to get this case through. But I would like you
9 to meet with Mr. Chen and see if you can come up
10 with a date where you can -- and I also -- I
11 really think it would be helpful just for the
12 future because knowing private schools, there are
13 usually -- if we had a site plan, a real site
14 plan with all the information, because right now
15 you have to go from one plan to another plan to
16 another plan. Even though -- it's very difficult
17 to figure out what is going on.

18 And I also had a couple of questions to
19 clarify because there's some things in one of the
20 statements of justification that aren't in the
21 staff report. So if I could just ask you, if you
22 want somebody to testify, to clarify, we can have
23 someone from the school come and answer my
24 questions and we can do that now.

25 MS. LEE-CHO: What aspect?

1 HEARING EXAMINER: Huh?

2 MS. LEE-CHO: What aspect?

3 HEARING EXAMINER: Well, couple of
4 things. One of the statements of justification
5 said that at all times there would be no more
6 than 807 -- or 870 students on campus, but the
7 staff report doesn't say that. So I didn't know
8 if that was an overall cap or not.

9 MS. LEE-CHO: 870 students during the
10 academic year?

11 HEARING EXAMINER: Yeah.

12 MS. LEE-CHO: Yes, that's a cap.
13 That's the overall cap.

14 HEARING EXAMINER: That's an overall
15 cap. So you're saying -- well, can I get this in
16 testimony because -- well, let me go through my
17 questions and then maybe after the break we can
18 clarify them, but what I --

19 MR. CHEN: If I may -- pardon me.
20 Look, I have no problem with stipulating if Ms.
21 Cho can provide the information rather than --

22 HEARING EXAMINER: Okay.

23 MR. CHEN: That's fine by me.

24 HEARING EXAMINER: So what your
25 position is is that this overall cap, the traffic

1 has been done for this overall cap --

2 MS. LEE-CHO: Correct.

3 HEARING EXAMINER: -- and so it doesn't
4 matter how many students are in which programs.
5 Is that what I'm hearing?

6 MS. LEE-CHO: Correct. Correct. You
7 mean the lower, middle, and upper schools?

8 HEARING EXAMINER: No, no, I mean the
9 discovery program, the internal rentals, all the
10 different items.

11 MS. LEE-CHO: So the 870 is the
12 academic student enrollment cap.

13 HEARING EXAMINER: Well, that's the
14 student enrollment cap, but you want to rent the
15 facilities. This is what I'm confused about.

16 MS. LEE-CHO: Right.

17 HEARING EXAMINER: So does the 870, is
18 that just the students or does that include
19 rental of the facility?

20 MS. LEE-CHO: That's just the students.
21 The rental of the facilities happens when the
22 students are not there. So the rental of the
23 facilities is an auxiliary function. It is not
24 overlapping with the daily academic use or
25 student use of the campus.

1 HEARING EXAMINER: So the auxiliary
2 functions you're saying will never rise to -- the
3 combo of all the auxiliary functions --

4 MS. LEE-CHO: Correct.

5 HEARING EXAMINER: -- will never rise
6 above 870?

7 MS. LEE-CHO: Right. And they will not
8 overlap because the school's primary function is
9 to educate the 870 students that are enrolled at
10 Holton-Arms. That is the primary function.

11 HEARING EXAMINER: No, I understand
12 that.

13 MS. LEE-CHO: Yeah.

14 HEARING EXAMINER: I just want to
15 clarify exactly what's going on. Now, is there a
16 time frame cutoff in the --

17 MS. LEE-CHO: Yes.

18 HEARING EXAMINER: And what's the
19 cutoff? I didn't quite get that.

20 MS. LEE-CHO: For the school student?

21 HEARING EXAMINER: No, for all the
22 activities on the site. Because you've got swim
23 team before 8:15 -- or whatever the peak hour is,
24 7:15 or 8:15. I can't remember. You have swim
25 team before, but no time. And then you have -- I

1 couldn't find anything capping evening
2 activities.

3 MS. LEE-CHO: Correct, but they -- for
4 the -- it's different for outdoor activities
5 versus the indoor. Indoor use of classrooms and
6 other programs could run later. The outdoor
7 fields would end at 7:30 at night twice a week
8 and 7:00 p.m. on weeknights during the summer.
9 But also, the fields are not lit, so the ability
10 to use within those time frames is limited by
11 season and daylight hours.

12 HEARING EXAMINER: So what about summer
13 camp? Are there outdoor activities for the
14 summer camp or are they all inside?

15 MS. LEE-CHO: They are outside as well,
16 but it's during the day.

17 HEARING EXAMINER: But when -- how late
18 do they go?

19 MR. CHEN: Excuse me. Can I help
20 maybe?

21 HEARING EXAMINER: Yeah.

22 MR. CHEN: Madam Examiner, why don't
23 you state your areas of inquiry and allow the
24 school to come back with it?

25 HEARING EXAMINER: That's what I'm

1 trying to do. Okay. I see.

2 MR. CHEN: Yeah.

3 HEARING EXAMINER: Go ahead.

4 MS. LEE-CHO: We have this all laid
5 out. I apologize it's not on top of mind. But
6 through the testimony of our --

7 HEARING EXAMINER: Okay. I want
8 it -- okay. Where is it?

9 MS. LEE-CHO: In the submission.

10 HEARING EXAMINER: Can you just do
11 this? Can you give me a chart?

12 MS. LEE-CHO: Yes. It's in there.

13 HEARING EXAMINER: It's in there.
14 Okay. All right.

15 MS. LEE-CHO: So if you look at the
16 first slide --

17 HEARING EXAMINER: Okay. I was busy
18 reading the over 200 pages of old decisions.

19 MS. LEE-CHO: So summer camp hours are
20 9:00 to 3:00 p.m.

21 HEARING EXAMINER: But not rentals?

22 MS. LEE-CHO: No. So the rentals don't
23 overlap either the summer camp or the academic
24 year.

25 HEARING EXAMINER: What I tried to do

1 is make a list for every day of what could occur
2 on the site and my pea brain couldn't do it.

3 MR. CHEN: Yeah.

4 HEARING EXAMINER: So I would like
5 that. I would like a revised -- a real site plan
6 that shows the lighting because there's no bottom
7 line here as far -- the next amendment, we can't
8 go through five different plans and the existing
9 condition -- one of the existing condition plans
10 looks like a CAD drawing, but I don't know. So I
11 would like to see that. I would like to see a
12 summary of the old opinions and exactly which
13 ones you're modifying.

14 MS. LEE-CHO: We are only modifying CBA
15 1174-E to the extent that these old numbers were
16 different numbers tracking use by the Board of
17 Appeals.

18 HEARING EXAMINER: Okay. But you're
19 modifying --

20 MR. CHEN: That's right. That's right.
21 They're modifying the activity authorized in the
22 prior decisions.

23 HEARING EXAMINER: That's what I'm
24 getting at. And also, I would like to see your
25 plan -- I would like to see -- because I have

1 read all the letters and what I'm hearing as an
2 issue is how are they going to enforce the TMP?
3 And that was a huge issue in the French school.
4 And you may have an expert that says this will
5 work, you don't need to enforce it, but I do
6 think --

7 MS. LEE-CHO: No, there is an
8 enforcement mechanism built into the TMP.

9 HEARING EXAMINER: And that would
10 be --

11 MS. LEE-CHO: Annual review and --

12 HEARING EXAMINER: But not with the
13 citizens. That's an annual review by the
14 planning board. That's traffic, correct?

15 MR. CHEN: Yes.

16 HEARING EXAMINER: It's the annual
17 review by the planning board --

18 MS. LEE-CHO: State Highway and DOT to
19 make sure that the target transportation demand
20 measurement figures, the target percentages are
21 the best --

22 HEARING EXAMINER: When you say
23 targets, what I'm hearing is -- when I went
24 through the TMP it says goals. Now, you got to
25 forgive me. It was -- I went through absolutely

1 as much as I could before the hearing.

2 MS. LEE-CHO: So my problem is that we
3 can't -- it's all in the traffic study and will
4 be covered in the testimony by Katie Wagner and
5 it's impossible for me to summarize all of that
6 in advance.

7 HEARING EXAMINER: Okay.

8 MS. LEE-CHO: So if it is -- I assure
9 you that we intended to fully cover all of the
10 issues that you raised in the testimony of Katie
11 Wagner, including the specificity and all the
12 hours of operation, what aspects were studied
13 under the traffic study, what aspects are
14 not -- no need to be touched, which is the
15 daycare. That's not even changing under this
16 application.

17 HEARING EXAMINER: You didn't touch
18 noise.

19 MS. LEE-CHO: Noise will be a separate
20 issue addressed by Pat La Vay from Macris
21 Hendricks.

22 HEARING EXAMINER: But you should do
23 it -- the only thing I read about noise is
24 they're not changing the buildings.

25 MS. LEE-CHO: I mean --

1 MR. CHEN: If I may. You're taking my
2 case. So if I may --

3 HEARING EXAMINER: I don't mean to come
4 down on you. I'm very sorry.

5 MS. LEE-CHO: That's perfectly fine. I
6 inherited this case so --

7 HEARING EXAMINER: This is just what I
8 have been trying to figure out for hours and
9 hours.

10 MR. CHEN: And you're not alone. Trust
11 me. You're not alone. And to maybe at least
12 bring some clarity, Madam Examiner, candidly, I
13 am not going to agree to a statement of
14 operations that, as far as my client is
15 concerned, is hunky-dory and, you know, filed by
16 a certain date.

17 What I think is appropriate and what I
18 think should be done is Ms. Cho choose a date
19 when you are going to file your application with
20 everything that the law requires to be filed and
21 we go to hearing on that because, you know,
22 that's fair to the school. It gives them a
23 chance to virtually include everything they've
24 got to have for their modification and they're
25 the best judge of that, not me and not my client.

1 MS. LEE-CHO: Everything that's
2 required was filed.

3 HEARING EXAMINER: No, it --

4 MS. LEE-CHO: Well, there are issues
5 outstanding that remain to be resolved and we
6 have witnesses to resolve them. If this
7 application was accepted, Madam Examiner --

8 HEARING EXAMINER: We don't do the
9 acceptance. Okay.

10 MS. LEE-CHO: Yeah. It was accepted by
11 the planning --

12 HEARING EXAMINER: By the board.

13 MS. LEE-CHO: Correct.

14 HEARING EXAMINER: The planning
15 department.

16 MS. LEE-CHO: Correct.

17 HEARING EXAMINER: And, you know --

18 MS. LEE-CHO: And because it was --

19 HEARING EXAMINER: -- that's not my
20 job. My job -- the only real thing I do is to
21 make sure that we have -- we complied with the
22 zoning ordinance and that we have enough
23 information to assess the impact of the use and
24 decide whether it meets the standard. Now, I
25 disagree with Mr. Chen. I don't think you have

1 to file a brand new application.

2 MR. CHEN: No, I'm not saying that.

3 Pardon me. I'm not saying -- excuse me for
4 interrupting. I'm not saying that. Just file
5 whatever has to be filed in accordance with the
6 zoning ordinance and the rules and by a certain
7 date. That's all I'm asking.

8 MS. LEE-CHO: What Mr. Chen did say is
9 he's not going to accept a statement of
10 justification that everything is hunky-dory,
11 which I am going to say everything is hunky-dory.

12 MR. CHEN: Well, that's fine.

13 HEARING EXAMINER: Well, that's -- I
14 don't think that's what he was saying.

15 MS. LEE-CHO: Well, but that's the
16 applicant's --

17 HEARING EXAMINER: I understand. I
18 don't think he was saying that.

19 MS. LEE-CHO: I'm not going to litigate
20 myself, is what I'm saying.

21 HEARING EXAMINER: I get that. I get
22 that. And I think he was saying you have to back
23 up some of the findings. That's what I think he
24 was saying.

25 MS. LEE-CHO: And those findings can be

1 made at the hearing. This is --

2 HEARING EXAMINER: I am not going
3 through a hearing when I don't even know
4 what -- don't feel like I know and I don't feel
5 the citizens know exactly and fully what you're
6 requesting --

7 MR. CHEN: Right.

8 HEARING EXAMINER: -- because the stuff
9 isn't here. And the whole process is setup so
10 all this stuff is fleshed out at the planning
11 board, addressed by the -- even if I had not
12 written that thing the day before, they said I
13 wrote it the day before the hearing, but even if
14 I had not written that, the planning board
15 hearing was less than the required time before
16 this hearing.

17 MS. LEE-CHO: I'm saying --

18 HEARING EXAMINER: I don't want to hear
19 more. Well, go ahead.

20 MS. LEE-CHO: There wasn't supposed to
21 be a planning board hearing.

22 HEARING EXAMINER: Well, that caught me
23 by surprise too.

24 MS. LEE-CHO: It caught us by surprise
25 as well. So --

1 HEARING EXAMINER: I was told there was
2 no planning board hearing, so I was trying to
3 review everything and get the comments to you
4 before the hearing and then I find out -- so I
5 can't speak for any of that. All I know is that
6 lets get it right. I think it will go much more
7 smoothly, and eliminate a lot of objections, and
8 I think the hearing --

9 MS. LEE-CHO: I highly doubt that
10 but --

11 HEARING EXAMINER: Huh?

12 MS. LEE-CHO: I highly doubt that it
13 will eliminate objections regardless of --

14 HEARING EXAMINER: Well, he's doing his
15 job, and you're doing your job, and both of you
16 do very -- you do very well job -- very good jobs
17 and that's -- and I've had both of you in cases
18 before and I think you were the Bullis School,
19 right?

20 MS. LEE-CHO: Correct.

21 HEARING EXAMINER: So we may not get
22 through without any objections, but from my
23 perspective, I think the hearing will go more
24 smoothly.

25 MS. LEE-CHO: Well, it took -- with the

1 previous hearing examiner assigned to this case,
2 it took almost over two weeks of emails back and
3 forth to identify these two dates this week.

4 HEARING EXAMINER: Well, I'm not going
5 to do that. If people can't testify on a
6 particular date, you know, I can't accommodate 60
7 people in scheduling.

8 MS. LEE-CHO: It was only the three
9 initial parties that we couldn't get dates.

10 HEARING EXAMINER: Well, can you guys
11 work that out? Can you try?

12 MS. LEE-CHO: We can provide additional
13 dates, yes.

14 HEARING EXAMINER: Huh? Try to work it
15 out. And I think if we can just take a moment
16 and back up, I'm asking the citizens -- you're
17 going to be heard, but I encourage you to try to
18 work with the school about your concerns.
19 What -- there's finger pointing going on.

20 MS. LEE-CHO: Yeah. I just want to
21 make sure my -- the person that's going to be
22 responsible for preparing certain things, I need
23 to understand.

24 HEARING EXAMINER: Mr. La Vay?

25 MR. LA VAY: Yes.

1 COURT REPORTER: For the record.

2 MR. LA VAY: For the record, Patrick La
3 Vay with MHG.

4 HEARING EXAMINER: And MSG is what?

5 MR. LA VAY: MHG. We're a civil
6 engineering firm.

7 HEARING EXAMINER: Okay. And why
8 didn't -- is he going to testify?

9 MS. LEE-CHO: You know, just timing in
10 terms of preparing the site plan.

11 HEARING EXAMINER: Well, if he's going
12 to say -- then we go off the record --

13 MS. LEE-CHO: We can go off the record.

14 HEARING EXAMINER: -- and then you guys
15 have that conversation. I can go off until 11:00
16 and give you some flexibility. If you need more
17 time, you can tell Nana Johnson of our office.
18 So with that, I'm going to go off the record
19 until 11:00 and we'll come back on the record.

20 MR. LA VAY: Can I make just one
21 comment?

22 MS. LEE-CHO: One question. Well,
23 yeah.

24 HEARING EXAMINER: Yeah.

25 MR. LA VAY: One question for the

1 examiner.

2 HEARING EXAMINER: Yeah.

3 MR. LA VAY: I think one thing we need
4 to clarify with your involvement is what needs to
5 be submitted. This application is not -- it's a
6 modification. It's not a traditional new special
7 exception application, so some things like site
8 plans, and you mentioned lighting and things,
9 that are not being modified but may be missing
10 from the record of previous cases, we need to
11 clarify exactly those things we need to prepare
12 because that will fall on the timing.

13 HEARING EXAMINER: But a major -- if
14 you read the code, a major modification follows
15 the same procedures as an original modification.
16 So yes, you need all that stuff. And I think
17 that's what's kind of caught you in a bind
18 here --

19 MR. LA VAY: Right.

20 HEARING EXAMINER: -- because you were
21 assuming that we have to put together, you know,
22 multiple site plans and exhibits, like the topos
23 on one plan and the --

24 MR. LA VAY: Right. Well, for example,
25 like for landscaping we'll say for example. Do

1 you need a plan that shares all of the existing
2 landscape with all of the existing species of
3 trees that are, you know, affected by this
4 application?

5 MS. LEE-CHO: Yes, I'm sure.

6 MR. LA VAY: Like all the --

7 HEARING EXAMINER: I need something
8 because you rely on landscaping or the school
9 relies on landscaping to mitigate noise. You
10 rely on --

11 MR. LA VAY: Landscaping isn't
12 mitigating noise.

13 HEARING EXAMINER: What?

14 MR. LA VAY: The landscaping doesn't
15 mitigate noise.

16 HEARING EXAMINER: I know that. I have
17 had enough testimony in my -- that's why when I
18 read it -- I don't want to be the expert here,
19 but I know enough to know that's what you said.

20 MR. LA VAY: Right.

21 HEARING EXAMINER: So you need to re-
22 read your application. You also said -- now topo
23 can, but I'm trying to look at the topo plan and
24 this, and I can't do it. And I think it would
25 benefit. So, yeah, put the land -- just if you

1 have to do blurbs of where the landscaping is and
2 say mix of, you know, I don't know.

3 MR. LA VAY: Well, I don't think we
4 want to be caught in a situation where we're back
5 here and being told that the information is
6 inadequate.

7 HEARING EXAMINER: I understand.

8 MR. LA VAY: So, I think --

9 HEARING EXAMINER: I just haven't had
10 a -- I just know it says landscaping. So if you
11 have the landscaping -- do you know what
12 landscaping is on there?

13 MR. LA VAY: Well, the historical plans
14 I'm sure show landscaping, but there's no new
15 landscaping proposed because --

16 HEARING EXAMINER: I thought I saw
17 green stuff on a plan.

18 MS. LEE-CHO: Aerials?

19 HEARING EXAMINER: No, no, no.

20 MS. LEE-CHO: The architect site plan
21 has some trees on it.

22 MR. LA VAY: Right, but they're not
23 new. They're all existing.

24 MS. LEE-CHO: They're existing.

25 HEARING EXAMINER: Well, that's not the

1 point.

2 MR. LA VAY: Yes.

3 HEARING EXAMINER: This is what -- I
4 don't want to go through this again. The point
5 is you relied on landscaping and topo to mitigate
6 noise. I don't know. There's nothing in the
7 record on where the landscaping is and it's
8 required. So I just -- I think there was a
9 sense, what I'm gathering, that if you're just
10 increasing the enrollment and not changing any
11 physical sites that nothing else -- it's like,
12 yeah, that's grandfathered but it didn't
13 disappear. And to the extent that you rely on
14 it, you better show it because nobody can assess.

15 MR. CHEN: If I may, and I sincerely
16 apologize. These folk are trying to get you to
17 agree to something and, quite frankly, I object
18 to that. The zoning ordinance applies. The
19 zoning ordinance has been enforced for decades.

20 HEARING EXAMINER: Especially this one.

21 MR. CHEN: Yes, exactly. If they don't
22 know what the zoning ordinance requires and can't
23 give it to you then maybe the application should
24 be withdrawn or a different engineer or whatever,
25 but it's laid out in the zoning ordinance.

1 Macris, Hendricks, and Glascock is a very fine
2 engineering firm. They do this type of work
3 almost every day I would expect. They know the
4 zoning ordinance. And, you know, the law is the
5 law. I don't understand why we're talking around
6 what does the law mean. It's there.

7 HEARING EXAMINER: Ms. Lee-Cho?

8 MR. LA VAY: And Mr. Chen is correct,
9 we do modify plan -- work on these kind of plans
10 all the time. When you're talking about a
11 modification to a case, it is a little bit
12 different and so --

13 HEARING EXAMINER: No, it is not.

14 MR. LA VAY: With regards to the plans,
15 there are always specifics that are addressed in
16 the modification and we don't always go back and
17 revisit all of the campus features that are in
18 the previous record. Now, we can do that. I
19 just want to -- that's why I was asking the
20 question. I want to make sure that we provide
21 what you need to review this.

22 HEARING EXAMINER: I didn't even say
23 anything about an NRIFSD, which is also required.

24 MR. LA VAY: There's a forest --

25 HEARING EXAMINER: I am saying to

1 you -- I know that there's a forest conservation easement.
2 So I am saying to you, I don't understand quite
3 this mindset where because we're not changing
4 anything on site, nothing on site matters.

5 I see you rolling your eyes, Ms. Lee-
6 Cho.

7 MS. LEE-CHO: No, I'm not rolling my
8 eyes. I'm just having a cough attack due to
9 allergies.

10 HEARING EXAMINER: So I really don't
11 want to argue about it anymore.

12 MS. LEE-CHO: We're just trying to get
13 a sense of how long it's going to take to prepare
14 plans that you are asking for. So I think --

15 HEARING EXAMINER: And that's --

16 MS. LEE-CHO: -- we've got a good
17 sense.

18 MR. LA VAY: I think we'll
19 just -- yeah, I think fair enough.

20 HEARING EXAMINER: There's a provision
21 in some of the ordinance -- now I'm getting my
22 2014 and 2004 ordinance mixed up, but there are
23 some provisions -- I can't remember them now so I
24 don't want to say it, but I guess the bottom line
25 is, if you rely on something in your statement of

1 justification, and here this -- you just told me,
2 which I knew, that landscaping doesn't mitigate
3 noise, but that's what you say in your statement
4 of justification. So what am I supposed to do
5 with that?

6 MS. LEE-CHO: It doesn't fully, but --

7 HEARING EXAMINER: It doesn't
8 mitigate -- I've heard a lot of -- well, I would
9 like the site plan to show what's on the site.
10 You can blurb out the forest con. Just
11 say -- oh, and the split zoning, I don't think
12 that's shown on the plan.

13 MS. LEE-CHO: It's on the certified
14 zoning map.

15 HEARING EXAMINER: Yeah, but it would
16 be -- that's the thing. I go from one thing to
17 another thing and the topo is over here. I sound
18 like I'm coming down hard on you, but it's the
19 pushback that I'm getting that is --

20 MS. LEE-CHO: We understand.

21 HEARING EXAMINER: I understand your
22 position. So, you know, I would like the split
23 zone shown on -- I want the setbacks, and when
24 you do the setbacks, I did look at that thing you
25 submitted and for instance --

1 MR. LA VAY: Those were not intended to
2 be setbacks for the school. Those are
3 setbacks -- just miscellaneous ones of those
4 adjoining houses to the various features on
5 campus. So we will --

6 HEARING EXAMINER: No, but I'm saying
7 that one of the setbacks -- well, I can't find it
8 now -- doesn't pick the shortest distance between
9 the field and the closest house that's angled.

10 MR. LA VAY: We'll double check that.
11 I think that was a markup on the architectural
12 site plan. We'll certainly prepare something
13 that's civil engineering.

14 HEARING EXAMINER: And school, are you
15 the representative of the school?

16 MS. LEE-CHO: No. This is my
17 associate.

18 HEARING EXAMINER: Oh. I don't know
19 you. That's because he's young.

20 MS. LEE-CHO: He's new.

21 HEARING EXAMINER: And I'm old. It's
22 nice to meet you. Who is here from the school?

23 MS. LEE-CHO: We have the head of
24 school here.

25 HEARING EXAMINER: Head of school.

1 Head of -- I see your name in the record. I just
2 want you to know that we -- this is not a pre-
3 decision on the application by any means. It's
4 just trying -- and I read the supplemental
5 statement about how badly you need the increase
6 of enrollment. It is just to get to the bottom
7 of what kind of impact all these changes are
8 going to have. Okay. So it's not a
9 predetermination.

10 MS. LEE-CHO: I understand. Thank you.

11 HEARING EXAMINER: Now with that, I'm
12 going to let Mr. Chen and Ms. Lee-Cho duke it out
13 as to time frames. Okay. And we will take a
14 break until 11:15. And is there another
15 question?

16 MR. LA VAY: I'm sorry. Is the forest
17 conservation plan something that needs to
18 be -- we didn't address that.

19 HEARING EXAMINER: Well, my thought is
20 this, two things on the forest con. Depending on
21 when you could do -- yes, it is.

22 MS. LEE-CHO: So I think what we could
23 do is work up a forest conservation draft with a
24 tentative LOD that if then -- to show you the
25 plan.

1 HEARING EXAMINER: That. And
2 then -- no, I need an approved one.

3 MS. LEE-CHO: Yes.

4 HEARING EXAMINER: But I think what Mr.
5 Chen is saying is correct. You can come
6 back -- if the engineering shifts it a little,
7 you can come back for a minor modification.

8 MR. LA VAY: You mentioned you needed
9 an approved one prior to the hearing or --

10 HEARING EXAMINER: The Board of
11 Appeals. No, not prior to the hearing.

12 MR. LA VAY: Okay. Okay.

13 HEARING EXAMINER: But it has to be in
14 my record. So I guess however long it takes, you
15 can get -- you know, I can keep the record open
16 and we'll proceed with the case and then --

17 MS. LEE-CHO: That case I think is the
18 easiest case.

19 HEARING EXAMINER: Yeah.

20 MS. LEE-CHO: You know, it was the
21 chicken and the egg, as you know, and --

22 HEARING EXAMINER: I under --

23 MS. LEE-CHO: But we do have planning
24 department -- I guess they have agreed on a
25 process if that is the case. If you ask for that

1 then we've already sort of --

2 HEARING EXAMINER: Good.

3 MS. LEE-CHO: -- gotten some guidance
4 on how that would work.

5 HEARING EXAMINER: Good news.

6 MS. LEE-CHO: Yeah. So that's the
7 easiest part.

8 HEARING EXAMINER: Okay.

9 MS. LEE-CHO: This is a timing issue.

10 HEARING EXAMINER: Okay. Well, as I
11 said, I can leave the record open until I
12 actually, you know, issue the decision and so we
13 can do something. Okay. Now we have more
14 minutes, so I'm going to let you confer until
15 11:15 and we'll be back.

16 MR. CHEN: Thank you.

17 (Off the record.)

18 HEARING EXAMINER: It is 11:05 and
19 we're back on the record. Do we have dates?

20 MS. LEE-CHO: Yes. In consultation
21 with our engineer and understanding the request,
22 we think we can -- we will provide the plans by
23 mid-February. So February 13th is a Friday.
24 February 13th.

25 MR. LA VAY: Sure.

1 MS. LEE-CHO: And then so Mr. Chen has
2 requested 30 days for review, putting us after
3 mid-March or mid-March or thereafter for a
4 hearing date.

5 HEARING EXAMINER: Okay.

6 MS. LEE-CHO: We have -- the week of
7 the 16th is available for the school, but the
8 following week is spring break and a lot of the
9 folks who need to testify will not be in town.
10 And so then, alternatively, we would be looking
11 at the week of the 30th into April.

12 MR. BOWE: Madam Commissioner, may I
13 speak for a moment?

14 MR. CHEN: Identify yourself.

15 MR. BOWE: My name is Richard Bowe.
16 I'm one of the residents of Al Marah.

17 HEARING EXAMINER: No. State your name
18 and address for the record.

19 MR. BOWE: My name is Richard Bowe. My
20 address is 7713 Zulima Court, Bethesda.

21 HEARING EXAMINER: Okay.

22 MR. BOWE: I'm a resident of Al Marah.

23 HEARING EXAMINER: Okay. And are you
24 going to tell me something?

25 MR. BOWE: Yes, I want --

1 HEARING EXAMINER: Please raise -- just
2 a second. Please raise your right hand.

3 (Witness sworn.)

4 HEARING EXAMINER: Go ahead.

5 MR. BOWE: Excuse me. With respect to
6 the dates of the hearing, as you may -- as I'm
7 sure you know, we've been very much involved in
8 this proceeding, and as residents, and we're not
9 the only residents involved, but we would -- the
10 date of -- the week of March 30 through April 4
11 would be very difficult for us to attend. We'll
12 be out of the country. The week of the 23rd we
13 would be fine, or the week of the 16th would be
14 fine of April, or excuse me, of March for the
15 hearing, or the first week I guess in April. But
16 we would ask if we could accommodate that request
17 that March 30th through April 3rd not be used for
18 the hearing.

19 HEARING EXAMINER: Okay. So March 16th
20 though -- the week of March 16th --

21 MR. BOWE: March 16 is fine for us.
22 And obviously I'm not speaking on behalf of all
23 the residents, just some of us who were --

24 HEARING EXAMINER: But was that one of
25 the weeks that was okay with you?

1 MS. LEE-CHO: March 16th?

2 HEARING EXAMINER: Yeah.

3 MS. LEE-CHO: The week of March 16th is
4 available.

5 HEARING EXAMINER: Okay. So we can
6 shoot for that.

7 MS. LEE-CHO: The 23rd is not available
8 for the school, the week of the 23rd.

9 HEARING EXAMINER: Right. That's the
10 spring break, right?

11 MS. LEE-CHO: Correct.

12 HEARING EXAMINER: So we have -- well,
13 to give you the most time to do the plan, we have
14 March 19th which is a Friday.

15 MS. LEE-CHO: It's a Thursday, I
16 believe.

17 HEARING EXAMINER: Oh, you're right.
18 We have Thursday and Friday. Wait. Let me go to
19 the OZA schedule. I apologize. Okay. They
20 don't have anything scheduled right now. So that
21 week looks good. We could do the 19th or the
22 20th.

23 MS. LEE-CHO: I would suggest that we
24 block off three days of hearings.

25 HEARING EXAMINER: Okay. We can do the

1 17th, 19th, and 20th.

2 MS. LEE-CHO: That would be fine with
3 the applicant.

4 HEARING EXAMINER: Does that work for
5 you, Mr. Chen, and your witnesses?

6 MR. CHEN: Yes.

7 MS. RIEFBERG: Yeah. I would like to
8 just --

9 HEARING EXAMINER: I can't see who is
10 speaking. Hi.

11 MS. RIEFBERG: Hi.

12 HEARING EXAMINER: Please state your
13 name and address for the record.

14 MS. RIEFBERG: Vivian Riefberg, 8504
15 Beech Tree Court, Bethesda, Maryland. Mr. Chen
16 is representing me. I wanted to just point out
17 that week I would be making a massive
18 accommodation to the school. I would be missing
19 public company board meetings in order to
20 accommodate the school. I am willing to do that,
21 but I would prefer that we actually move to the
22 first week after the second week of April if that
23 is at all possible for all parties considered.

24 HEARING EXAMINER: The second week of
25 April would be April 13th?

1 MS. RIEFBERG: April --

2 MS. LEE-CHO: No. It would be April
3 6th.

4 MS. RIEFBERG: April 6th. April 6th.
5 That's correct. Thank you.

6 HEARING EXAMINER: Okay. And the
7 school, do you have a comment on that?

8 MS. EVINS: If you could give me just a
9 moment to look.

10 HEARING EXAMINER: That's fine.

11 MS. RIEFBERG: And I realize that you
12 can't accommodate every calendar, so I'm making
13 the request, if possible. And Bill, you're okay
14 with that week?

15 MR. CHEN: It's before May.

16 MS. RIEFBERG: It's before May, right.
17 He has a wife who will not allow some things.

18 HEARING EXAMINER: And are Mr. Chen's
19 witnesses okay with that? And I'm going to wait
20 and see if --

21 MS. EVINS: It's Easter. It's Easter
22 Monday and Passover is that week in terms of our
23 community.

24 HEARING EXAMINER: I'm sorry. Could
25 you --

1 MS. EVINS: It's Easter.

2 HEARING EXAMINER: You have to come
3 forward.

4 MS. RIEFBERG: Easter is on Sunday.

5 HEARING EXAMINER: Stop talking.

6 Sorry. I have to get you on the mic.

7 MS. EVINS: Okay.

8 HEARING EXAMINER: So please come up
9 and get on the mic. The court reporter is going.

10 MS. EVINS: Sorry.

11 HEARING EXAMINER: So please state your
12 name and business address for the record, please.

13 MS. EVINS: My name is Penny Evins and
14 I'm head of school at Holton-Arms, 7303 River
15 Road, Bethesda, Maryland 20817.

16 HEARING EXAMINER: Okay. So do
17 you -- I just do this out of -- even though we're
18 not getting into substantive testimony, just to
19 protect the record. Can you raise your right
20 hand, you and Ms. Riefberg.

21 (Witnesses sworn.)

22 HEARING EXAMINER: Okay. Now you can
23 say what you want to say.

24 MS. EVINS: I was just answering Sue's
25 question.

1 HEARING EXAMINER: I didn't hear the
2 exchange. So do you mind?

3 MS. EVINS: Of course. She was asking
4 about dates and I was expressing that Monday is
5 Easter Monday and the week is Passover, and I
6 will make anything work.

7 HEARING EXAMINER: Oh. You're okay
8 with that week?

9 MS. EVINS: Yes. I was just pointing
10 out that Monday is Easter Monday because --

11 HEARING EXAMINER: Oh, for everyone
12 else. Did everyone hear that? Is it -- they
13 did.

14 MS. LEE-CHO: So I believe we should
15 avoid Monday.

16 HEARING EXAMINER: Okay. I have the
17 7th, 9th, and 10th of that week. Let me just
18 check the OZA. They didn't have anything until
19 after February. Okay.

20 MR. CHEN: Can you check on -- pardon
21 me, Madam Examiner. Could you check also, if
22 we're doing that, the room?

23 HEARING EXAMINER: Yeah. The only
24 problem with the room is that that's budget
25 season.

1 MR. CHEN: Oh.

2 HEARING EXAMINER: I will try to get
3 the room, but it's a little hard. So I will try
4 to get the 7th floor, but during the budget, the
5 council tends to appropriate a lot of the rooms.

6 MR. CHEN: If I may, the old
7 auditorium, I came in through that way.

8 HEARING EXAMINER: Yeah.

9 MR. CHEN: They now call it a lecture
10 room.

11 HEARING EXAMINER: Yeah, lecture hall.

12 MR. CHEN: Thank you.

13 HEARING EXAMINER: We can use that if
14 it's available.

15 MS. LEE-CHO: I would object. That
16 room is not capable of presenting a case
17 properly.

18 MR. CHEN: Oh. You can't do Zoom in
19 there?

20 MS. LEE-CHO: The last time I checked,
21 I did not see a screen in there.

22 HEARING EXAMINER: When was that, just
23 out of --

24 MS. LEE-CHO: That was where they used
25 to hold the sign review board hearings, I believe

1 is what you're talking about.

2 HEARING EXAMINER: Yeah, but they just
3 did --

4 MS. LEE-CHO: They re-did it?

5 HEARING EXAMINER: I think before I
6 retired, I think it was in 2020 maybe, they did a
7 huge renovation. So it's got all the tech now, I
8 believe.

9 MS. LEE-CHO: If that's the case then
10 that's fine.

11 HEARING EXAMINER: I tell you what, if
12 you want to check it out on the way back, but I
13 can -- well, I have to set a location now or we
14 have to send out notice. So what I'll do is
15 this. I'll say it will be in room 200 and then
16 we can amend it later if we need to.

17 MR. CHEN: What are those dates again?

18 HEARING EXAMINER: Well, I have the
19 6th, 7th, 9th, and 10th.

20 MS. LEE-CHO: Not the 6th.

21 HEARING EXAMINER: Not the 6th. So
22 7th --

23 MS. RIEFBERG: The request by the
24 school, not the 6th.

25 HEARING EXAMINER: I could actually do

1 7, 8, 9, or 10.

2 MR. CHEN: Why don't we do all four?

3 HEARING EXAMINER: Okay.

4 MR. CHEN: Just in case.

5 HEARING EXAMINER: So it will be 4/7
6 through 4/10. Did I get that correctly?

7 MS. LEE-CHO: Yes.

8 HEARING EXAMINER: One thing I also
9 failed to mention before when you were asking,
10 you know, what information you might want to
11 provide, in the past when we have done these
12 schools, we have had information on the number of
13 children. I mean, you can take a look at the
14 French school special exception that gives you an
15 idea of what aspects we've looked at. That was a
16 modification. But we asked for the number of
17 people outside so we can assess the noise and the
18 proximity to residences and things like that. So
19 I'm just trying to -- I don't want this to
20 be -- anybody to be upset about the application
21 is not complete again.

22 MS. LEE-CHO: No, we understand.

23 HEARING EXAMINER: So we -- that is a
24 typical request. And the Bullis school was an
25 issue too. I remember that. So the playground

1 and the (indiscernible). And we're not going to
2 argue about it, but -- so I forgot that in my
3 list of things.

4 So does anyone else have anything they
5 want to say? Yes, sir, Mr. Bowe.

6 MR. BOWE: I would like to confirm what
7 is necessary at this point for parties to be
8 added to become parties of record. If
9 individuals have signed the sign-up sheet that is
10 outside this meeting room for this meeting, does
11 that automatically make them parties of record?

12 HEARING EXAMINER: Under OZA's
13 rules -- well, you're a party of record since
14 you've shown up under OZA's rules. And part of
15 this is just logistic notice -- logistics of us
16 getting out notice because we've had cases with
17 300 people, 400 people dragged in. So you are
18 now a party of record because you've appeared at
19 the hearing.

20 Under OZA's rules, you don't become a
21 party unless you're pre-certified by the hearing
22 examiner as a party, but there's a requirement
23 for that, and the requirement is that you have to
24 get -- to become a party in advance, you have to
25 have an injury that's not represented by anybody

1 else. So you become a party when you actually
2 testify at the public hearing and then you're a
3 party of record. So you are a party of record.

4 Now, I know that there's a lot of
5 people that are interested in this case. The
6 hard part about a party of record is you have to
7 notify everybody else every time you communicate.
8 So we have Mr. Chen who is representing the
9 Bradley Boulevard Civic Association.

10 MS. RIEFBERG: Citizens Association.

11 HEARING EXAMINER: He will get all the
12 notices. You will now get notices. But unless
13 you're -- and of course the school will get
14 notices, and there were a couple of people that
15 earlier became parties of record. But unless
16 that criteria is going to apply to you, I -- and
17 we do post things on the website, so you can
18 follow along. But I recommend that you work
19 through Mr. Chen unless for some reason you do
20 have some situation that's different from
21 everybody else.

22 MR. BOWE: Thank you.

23 MS. LEE-CHO: Just one point of
24 clarification. Now that the date is shifted,
25 just so I understand, I assume that the 30-day

1 prehearing submission that the applicant makes,
2 that's when I will -- that's the no later than
3 day for submission.

4 HEARING EXAMINER: Yes. So that would
5 be -- if we do 4/7 through 4/10, it would be 30
6 days in front of --

7 MS. LEE-CHO: So March 6th.

8 HEARING EXAMINER: And then the
9 opposition I think is ten days before the
10 hearing. But that would be the operative date,
11 yes.

12 MR. CHEN: When is the operative date?

13 MS. LEE-CHO: March 6th would be the
14 30-day prehearing submission.

15 HEARING EXAMINER: The operative date
16 to count back from --

17 MR. CHEN: Yeah.

18 HEARING EXAMINER: -- is 4/7.

19 MS. LEE-CHO: 4/7.

20 MR. CHEN: What's the date for the
21 opposition, did you say?

22 HEARING EXAMINER: This is terrible. I
23 can't remember the rules. I want to say it's ten
24 days --

25 MR. CHEN: No. 20.

1 HEARING EXAMINER: 20.

2 MR. CHEN: Okay. So I just want to be
3 on the same page.

4 HEARING EXAMINER: Yeah.

5 MS. RIEFBERG: Organized represented
6 opposition.

7 MR. CHEN: Yes. I'm sorry. That's
8 correct.

9 HEARING EXAMINER: Yes. Unless
10 you -- if somebody is calling their own expert,
11 you would have to do a --

12 MS. RIEFBERG: But if someone is just
13 speaking --

14 HEARING EXAMINER: But if somebody
15 just -- they don't have to file something.

16 MS. RIEFBERG: Right.

17 HEARING EXAMINER: Now, we have a lady
18 here. Can you come --

19 MS. SOLOMON: I could just say my name
20 and address to properly --

21 HEARING EXAMINER: Yes.

22 MS. SOLOMON: I guess I should probably
23 become a party. Is it complicated?

24 MS. RIEFBERG: No.

25 MS. SOLOMON: Okay. Hi. I'm Jennifer

1 Soloman. I live at 7303 Burdette Court, which
2 directly abuts the school, and I want to become a
3 party of record and I have listed my name and
4 address out in the corridor. The issue I have is
5 a little different than --

6 HEARING EXAMINER: Well, wait, wait,
7 wait.

8 MS. SOLOMON: Okay. Sorry.

9 HEARING EXAMINER: Raise your right
10 hand.

11 MS. SOLOMON: Oh, yes.

12 (Witness sworn.)

13 HEARING EXAMINER: Okay. We typically
14 do make people that abut the property parties of
15 record in advance of the hearing.

16 MS. SOLOMON: Two lots between me and
17 the property.

18 HEARING EXAMINER: Okay.

19 MS. SOLOMON: But I'm on Burdette Court
20 and I have been impacted by a noise issue, which
21 hasn't been brought up quite often, and I
22 did -- know this isn't the time for the
23 testimony, but I would like to become a party of
24 record because I want to be involved in this in
25 more than just a casual manner.

1 HEARING EXAMINER: Well, you can do
2 that when the hearing comes.

3 MS. SOLOMON: Okay. So we won't be
4 able to speak?

5 HEARING EXAMINER: Because noise -- I
6 think I've raised noise a couple of times.

7 MS. SOLOMON: You have and I was very
8 happy to hear that.

9 HEARING EXAMINER: So I think that you
10 can become a party when you testify.

11 MS. SOLOMON: Okay. Great. All right.

12 HEARING EXAMINER: We are going to hear
13 as many people -- as long as we're not just
14 repeating each other --

15 MS. SOLOMON: Sure.

16 HEARING EXAMINER: -- we are going to
17 try and hear as many people -- well, everybody
18 that needs to testify.

19 MS. SOLOMON: Okay. Great.

20 HEARING EXAMINER: And that's why I
21 think Mr. Chen has asked for -- is it four days?

22 MR. CHEN: Yeah.

23 HEARING EXAMINER: Yeah. So --

24 MS. SOLOMON: Okay. Thank you.

25 HEARING EXAMINER: Thank you.

1 Anything else? Questions? Concerns?

2 No from Ms. Lee-Cho?

3 MS. LEE-CHO: No, nothing more from the
4 applicant.

5 HEARING EXAMINER: No. Okay. So with
6 that, we are going to postpone this hearing. We
7 will not have a hearing on 11/20. We are going
8 to postpone this hearing to Tuesday, April 7th,
9 2026 and dates continuing thereafter in this room
10 and if this room changes you will be notified.
11 And also, it will be -- has everybody seen the
12 OZA website with all of the exhibits listed? I'm
13 seeing nods. Okay. Yes. Okay. The date -- the
14 location and date will be on the OZA website if
15 the second floor changes.

16 MS. LEE-CHO: May I make a request?
17 Since the applicant is -- the case-in-chief goes
18 first, it would be my request to have it in this
19 room for the first two days because that's the
20 anticipated time.

21 HEARING EXAMINER: What about the 7th
22 floor if I can get it?

23 MS. LEE-CHO: I would prefer to stay in
24 this room. It's just --

25 HEARING EXAMINER: Because the tech is

1 upstairs too.

2 MS. LEE-CHO: I would prefer --

3 HEARING EXAMINER: Why do you prefer
4 this room?

5 MS. LEE-CHO: It's just a personal
6 preference of mine for the case-in-chief that we
7 have it in this room. Plus, the request for the
8 larger room I believe is for the opposition's
9 case and folks coming to testify on their behalf.

10 MR. CHEN: Well, excuse me. Not me.
11 Just that I've heard that there's going to be
12 individuals in the community, who I do not
13 represent, who I don't coordinate with, but I've
14 been told people want to testify. That's where
15 I'm coming from. And from my experience, that
16 usually means this room is tight. But, you know,
17 they're not my clients and --

18 MS. LEE-CHO: Understood.

19 MR. CHEN: -- I don't presume to speak
20 for them.

21 MS. LEE-CHO: But the time for that
22 testimony is not going to be during the case-in-
23 chief of the applicant.

24 HEARING EXAMINER: Well, we don't know
25 about two days. Do you think you'll need two

1 days?

2 MS. LEE-CHO: I do.

3 HEARING EXAMINER: Well, going back to
4 my administrative law days that we have to
5 accommodate as many people as want to come within
6 reason --

7 MS. RIEFBERG: Yes, I don't. The
8 people on Zoom are texting me saying that --

9 HEARING EXAMINER: Just a second.

10 UNIDENTIFIED SPEAKER: Stop. Stop.

11 MS. RIEFBERG: Okay.

12 HEARING EXAMINER: Don't talk -- they
13 call this the gallery.

14 MS. RIEFBERG: Sorry. Sorry. Sorry.

15 HEARING EXAMINER: Don't talk from the
16 gallery. If you want to say something, you can
17 come up.

18 MS. RIEFBERG: I have received several
19 texts from different neighbors and friends who
20 say they cannot hear anything going on right now
21 on the Zoom. They cannot hear the hearing
22 examiner. They cannot hear Ms. Soo Lee-Cho.
23 They cannot hear Mr. Chen. That's all I wanted
24 to clarify so that everyone, whoever is on the
25 Zoom can hear it.

1 HEARING EXAMINER: Okay. Is it my mic?

2 TECHNICIAN: Yeah. Just turn your mic
3 on.

4 HEARING EXAMINER: What mic? This one?

5 TECHNICIAN: Yeah. There you go.

6 HEARING EXAMINER: Okay. Well, I was
7 going to say something but I'm not going to
8 say -- about me. I assume that they can hear
9 now. Okay. I'm remembering things as I go
10 along. So anyway, we will -- we can try it here.

11 I guess I -- Mr. Chen can give me an idea
12 of -- you know, I think we're going to have to
13 try and get the 7th floor. Whether we can or
14 can't -- we may not be able to anyway.

15 MR. CHEN: Right.

16 HEARING EXAMINER: But it does have the
17 tech and I know that they were up there -- the
18 IT -- the council's IT person was up there this
19 morning checking it because of what they thought
20 would be a Thursday hearing.

21 MS. LEE-CHO: I mean, I do know for
22 sure the 8th --

23 HEARING EXAMINER: I can't believe this
24 was off the whole time.

25 MS. LEE-CHO: The 8th is a Wednesday

1 and we're not going to be able to be here.

2 HEARING EXAMINER: What do you mean the
3 8th is a Wednesday and --

4 MS. LEE-CHO: The Board of Appeals.

5 HEARING EXAMINER: Oh, that's right.

6 MS. LEE-CHO: So, I mean, just the
7 first day here and then we would have to move it
8 anyway.

9 HEARING EXAMINER: Well, if I turn my
10 mic on, okay, we can do the first day for your
11 case. And I will turn my mic on. But the rest
12 of the days will be on the 7th floor. And the
13 reason is she's going to do her case, it's going
14 to be her witnesses.

15 Now, you have the ability to -- Mr.
16 Chen, if there's an individual that wants to ask
17 a question, you have the opportunity to answer
18 questions, but we will be on Zoom and I promise I
19 will have my mic on. So we can do the first day
20 here and I will try to get -- let me just make a
21 note of that. And then the last three days, I
22 will try to get the 7th Floor.

23 The other thing we have done before is
24 try to coordinate -- if we can't get the 7th
25 floor, we have tried to coordinate witnesses so

1 that only certain -- you can watch it on Zoom,
2 but try to coordinate who is going to testify on
3 what day so everybody fits in this room. But
4 that's complicated, so if we can just reserve one
5 day for you, we'll try to get the larger room for
6 the rest of the time.

7 MS. LEE-CHO: Agree.

8 HEARING EXAMINER: Anything else?
9 Hearing nothing, we will adjourn or postpone this
10 hearing until 4/7/2026 in Room 200 of the council
11 office building. Thank you.

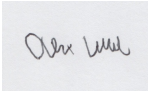
12 MS. LEE-CHO: Thank you.

13 (Off the record at 11:31 a.m.)

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CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC

I, Alex White, the officer before whom
the foregoing proceedings were taken, do hereby
certify that any witness(es) in the foregoing
proceedings were fully sworn; that the
proceedings were recorded by me and thereafter
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counsel for, related to, nor employed by any of
the parties to this case and have no interest,
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ALEX WHITE,

NOTARY PUBLIC FOR THE STATE OF MARYLAND

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I, Debra McCostlin, do hereby certify
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Debra McCostlin

DEBRA MCCOSTLIN

NOVEMBER 26, 2025

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