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Transcript of Administrative Hearing

Date: May 4, 2018

Case: Layhill Property, LLC - Day Care Center

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Transcript of Administrative Hearing
Conducted on May 4, 2018

1 (1 to 4)

1	1	1	3
2	OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS	2	JAMES KASSAY
3	FOR MONTGOMERY COUNTY, MARYLAND	3	ADA ARCHITECTS, INC.
4	-----x	4	17710 Detroit Ave.
5	In Re: :	5	Lakewood, OH 44107
6	Layhill Property, LLC - : Case No. CU 17-16	6	(216) 521-5134
7	Day Care Center :	7	
8	-----x	8	MATHEW TAYLOR
9		9	PRIMROSE
10	HEARING	10	470 Richards Avenue
11	Before Hearing Examiner Martin Grossman	11	Portsmouth, NH 03801
12	Rockville, Maryland	12	
13	Friday, May 4, 2018	13	GLENN E. COOK, Sr. Vice President
14	9:39 a.m.	14	THE TRAFFIC GROUP
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16		16	Baltimore, MD 21236
17		17	
18		18	
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23	Job: 179582	23	
24	Pages: 1 - 129	24	
25	Transcribed by: Molly Bugher	25	
1	2	1	4
2	A P P E A R A N C E S	2	C O N T E N T S
3	ATTORNEY FOR APPLICANT	3	PAGE
4	JODY KLINE, ESQ.	4	TESTIMONY OF MATTHEW TAYLOR 14
5	MILLER, MILLER & CANBY	5	TESTIMONY OF SCOTT WOLFORD 28
6	200-B Monroe Street	6	TESTIMONY OF EDUARDO INTRIAGO 52
7	Rockville, MD 28050	7	TESTIMONY OF JAMES KASSAY 84
8	(301) 762-5212	8	TESTIMONY OF GLENN COOK 95
9	MRUGESH MAJMUDE, Applicant	9	TESTIMONY OF MRUGESH MAJMUDE 121
10	11815 Piney Glen Lane	10	TESTIMONY OF JASMILI MAJMUDE 121
11	Potomac, Maryland	11	
12	JASMILI MAJMUDE, Applicant	12	
13	11815 Piney Glen Lane	13	NEW EXHIBITS
14	Potomac, Maryland	14	NUMBER DESCRIPTION PAGE
15		15	61 Affidavit of posting 09
16	ARCHITECTS FOR APPLICANT	16	62A Board of Appeals opinion S-781 11
17	SCOTT R. WOLFORD	17	62B Board of Appeals opinion S-1307 11
18	EDUARDO INTRIAGO	18	63 Revised site signage plan SK5.0 72
19	Maser Consulting	19	64 Resume of James Kassay, architect 85
20	22375 Broderick Drive, Suite 110	20	65 Rendered elevations 430 90
21	Sterling, VA 20166	21	66 Materials board 92
22	(703) 430-4330	22	67 New additional page of traffic report 100
23		23	
24		24	
25		25	

Transcript of Administrative Hearing
Conducted on May 4, 2018

2 (5 to 8)

<p>5</p> <p>1 PROCEEDINGS</p> <p>2 HEARING EXAMINER GROSSMAN: Mr. Kline, are you ready</p> <p>3 to proceed?</p> <p>4 MR. KLINE: As soon as I get my -- a good exhibit</p> <p>5 list, I'm ready to go, sir.</p> <p>6 HEARING EXAMINER GROSSMAN: Okay.</p> <p>7 MR. KLINE: I'm ready when you are, Mr. Grossman.</p> <p>8 HEARING EXAMINER GROSSMAN: All right. Court reporter</p> <p>9 ready? All right. Then I will call the case. This is a</p> <p>10 public hearing in the matter of Layhill Property LLC,</p> <p>11 trading as the Primrose School. OHZA number CU17-16, an</p> <p>12 application for a conditional use pursuant to zoning</p> <p>13 ordinance section 59 3.4.4(f). That is over 30 persons; to</p> <p>14 allow a child daycare center for up to 200 children in its</p> <p>15 property at 14041, Layhill Road, Silver Spring, Maryland.</p> <p>16 The subject site is Parcel A, Lot B, Layhill Road East, and</p> <p>17 parts of the Lots 5 and 6, Block B, Atwood Knolls. It is</p> <p>18 zoned R200. A conditional use is required for a child</p> <p>19 daycare center in the R200 zone. The property is owned by</p> <p>20 the applicant Layhill Property, LLC. My name is Martin</p> <p>21 Grossman. I'm the hearing examiner. I will take evidence</p> <p>22 here and write a report and a decision in this case. All</p> <p>23 right. Are you ready to proceed Mr. Kline?</p> <p>24 MR. KLINE: Yes, sir.</p> <p>25 HEARING EXAMINER GROSSMAN: All right. Is there</p>	<p>7</p> <p>1 need to have not only hardcopy, but electronic copies if</p> <p>2 there are new exhibits. I note that on pages 12, 18, and</p> <p>3 22 of the staff report, the number of parking spaces for</p> <p>4 drop-off and pickup of children is mistakenly listed as 20.</p> <p>5 And as I understand it under the final plan, it's actually</p> <p>6 25.</p> <p>7 MR. KLINE: Twenty-five, yes sir.</p> <p>8 HEARING EXAMINER GROSSMAN: And that's -- that number</p> <p>9 is included on pages 5 and a table on page 18 in the staff</p> <p>10 report. But there are three places I noticed in the staff</p> <p>11 report where the incorrect number was listed. So just so</p> <p>12 that the record is clear on that, the plan, as I understand</p> <p>13 it, is for 25 of the parking spaces to be reserved for</p> <p>14 drop-off and pickup of children.</p> <p>15 MR. KLINE: It will be so posted. Yes, sir.</p> <p>16 HEARING EXAMINER GROSSMAN: Okay. Do you wish to</p> <p>17 adopt -- other than that, do you wish to adopt the findings</p> <p>18 as corrected and the analysis of the technical staff</p> <p>19 report, Exhibit 53?</p> <p>20 MR. KLINE: There are questions that I was going to</p> <p>21 ask our land planner would say that they agree with it</p> <p>22 (inaudible) definition of the zoning neighborhood and all</p> <p>23 the terms and conditions are acceptable to the applicant.</p> <p>24 HEARING EXAMINER GROSSMAN: Okay. That's all the</p> <p>25 conditions that they have proposed? The 13 conditions they</p>
<p>6</p> <p>1 anybody here who is not a witness to be called by Mr.</p> <p>2 Kline? Any members of the community here? I see no hands.</p> <p>3 So we will proceed. You are aware Mr. Kline; there was an</p> <p>4 opposition letter from a Roland and Jacqueline Shaw,</p> <p>5 neighbors at 14101 Layhill Road, which is in the file</p> <p>6 (inaudible).</p> <p>7 MR. KLINE: Yes, sir.</p> <p>8 HEARING EXAMINER GROSSMAN: Okay.</p> <p>9 MR. KLINE: I have received a copy of that letter and</p> <p>10 I'm aware of it.</p> <p>11 HEARING EXAMINER GROSSMAN: Okay. All right. As you</p> <p>12 know, these proceedings are a combination of formality and</p> <p>13 informality. All witnesses are sworn in subject to cross-</p> <p>14 examination were there somebody here to cross-examine. And</p> <p>15 there is a court reporter who takes everything down and we</p> <p>16 will have a transcript of the proceedings. And of course,</p> <p>17 this is an application for a conditional use, which is a</p> <p>18 statutorily permitted use if conditions specified in the</p> <p>19 zoning ordinance are met. All right. And of course, we</p> <p>20 don't deal with the level of care for the children. That's</p> <p>21 a matter for the Maryland State Department of Education.</p> <p>22 We address here, are zoning issues and whether or not this</p> <p>23 conditional use application meets the standards of the</p> <p>24 zoning ordinance. All right. Let me see. Preliminary</p> <p>25 matters. Of course, if there are any new exhibit, we will</p>	<p>8</p> <p>1 proposed?</p> <p>2 MR. KLINE: Yes, sir.</p> <p>3 HEARING EXAMINER GROSSMAN: But I'm also talking about</p> <p>4 their findings and analysis. Do you accept that?</p> <p>5 MR. KLINE: Those are all -- those are all acceptable</p> <p>6 to the applicant.</p> <p>7 HEARING EXAMINER GROSSMAN: Okay. All right. I note</p> <p>8 that a parking facility side setback waiver is sought here</p> <p>9 from the standards in the zoning ordinance section</p> <p>10 59.6.2.5.K.2.B, which would result in a requirement for a</p> <p>11 24 foot side parking setback. And the request is to reduce</p> <p>12 that to 8.38 feet given the circumstances of this case.</p> <p>13 Which the Technical Staff recommend.</p> <p>14 MR. KLINE: Yes, sir. And that will be addressed in</p> <p>15 our presentation.</p> <p>16 HEARING EXAMINER GROSSMAN: (Inaudible) that's</p> <p>17 discussed in the staff report, Exhibit 53, page 19.</p> <p>18 MR. KLINE: Yes.</p> <p>19 HEARING EXAMINER GROSSMAN: And the affidavit of</p> <p>20 posting, which (inaudible).</p> <p>21 MR. KLINE: Mr. Grossman, I would ask that you make an</p> <p>22 exhibit and record of the case, the affidavit (inaudible)</p> <p>23 signed by Mr. Majmuder of Layhill Properties Inc.</p> <p>24 HEARING EXAMINER GROSSMAN: All right.</p> <p>25 MR. KLINE: Or Layhill Properties LLC. They have</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

3 (9 to 12)

<p style="text-align: right;">9</p> <p>1 verified that the signs were in place as of yesterday. 2 HEARING EXAMINER GROSSMAN: All right. This will be 3 Exhibit 61, is the affidavit of posting. All right. Any 4 other preliminary matters at this time? 5 MR. KLINE: No, sir. And I don't normally make an 6 opening statement, but in this case, I did want to bring to 7 your attention, and you probably, if you had a chance to 8 read the statement -- I'm sorry. Good morning. 9 HEARING EXAMINER GROSSMAN: Good morning. 10 MR. KLINE: I'm Jody Kline with the law firm of 11 Miller, Miller, & Canby, with offices at 200B Monroe 12 Street, here in Rockville, represented that petitioner or 13 the applicant. I guess in our new ordinance, the proper 14 terminology. We anticipate having four extra witnesses and 15 three lay witnesses. I think I originally estimated it 16 would take about four hours, but because of the way the 17 case has come to you with a strong support in both the 18 Planning Board and staff report, I think I can probably 19 shorten that up a bit today. 20 HEARING EXAMINER GROSSMAN: All right. 21 MR. KLINE: And though I don't normally make an 22 opening statement, did want to point out one thing. I 23 guess sort of a legislative history of the property. It is 24 referenced in our statement of justification. I believe I 25 put in copies of previous special exception opinions</p>	<p style="text-align: right;">11</p> <p>1 the Board of Appeals through DPS's sort of culling those 2 special exceptions. I didn't -- I can get you those 3 opinions if you want them. I didn't think they were so 4 important to you. I'm also going to just kind of add to 5 that. The successor used it; the two that didn't get 6 implemented was going to be a church. And we will have a 7 witness testify that Layhill Properties LLC bought the 8 property from the church. I want to just have that in the 9 record. So kind of just part of my closing discussion. 10 HEARING EXAMINER GROSSMAN: Sure. 11 MR. KLINE: Other than that, I didn't have anything 12 else to say. 13 HEARING EXAMINER GROSSMAN: All right. 62A will be 14 the Board of Appeals opinion in S-781 and 62B will be the 15 Board of Appeals opinion in S-1307. Now you indicated just 16 now that you're going to have four experts and three lay 17 witnesses. I think that's one more than you had indicated. 18 MR. KLINE: That's probably true. We were lucky 19 enough to get a principal of Primrose to travel down from 20 Boston and be here today. That basically caused us to sort 21 of shift things around. 22 HEARING EXAMINER GROSSMAN: So I have here as 23 (inaudible). 24 MR. KLINE: (inaudible) 25 HEARING EXAMINER GROSSMAN: Mr. and Mrs. Majmuder,</p>
<p style="text-align: right;">10</p> <p>1 (inaudible) the property. I put a copy of the current 2 conditional use application that's in the file. I guess 3 I should give you the right number on them. So I'm 4 referring to exhibit number 43D, conditional use plan. And 5 without giving you a lot of detail, on this drawing itself, 6 Layhill Road, which is principal (inaudible) is on the 7 left-hand side heading in a north-south direction. Our 8 site is in the southeast quadrant of the intersection of 9 Layhill Road and Queensguard Road. And you can see the -- 10 what's covered here (inaudible) itself for the proposed 11 conditional use. What I wanted to bring to your attention 12 is that there is a respectable zoning history of the 13 property. In 1981, in case number S-781, (inaudible) 14 granted a special exception (inaudible) Boys Club for a 15 private (inaudible) location on this property. In 1986 16 (inaudible) granted in case S-1307 to Kindercare, the 17 operation of a 136 child day care center. 18 HEARING EXAMINER GROSSMAN: Right. 19 MR. KLINE: So the same use has been previously 20 approved on the property. And I would ask that these 21 copies of those decisions be made an exhibit in the record. 22 HEARING EXAMINER GROSSMAN: All right. Yes, as I 23 understand it, these have never actually come to fruition. 24 They've just been approved, but never acted on. 25 MR. KLINE: And in fact, they had been rescinded by</p>	<p style="text-align: right;">12</p> <p>1 Scott Wolford, Edward Intriago, Lynn Cook, and James Ault 2 who was added to the list. 3 MR. KLINE: Okay. Well, Mr. Ault (phonetic) has been 4 replaced by Mr. Kassay; K-A-S-S-A-Y; James Kassay, if I 5 pronounced that correctly. 6 HEARING EXAMINER GROSSMAN: At least we still have the 7 James, right. 8 MR. KLINE: With still -- and they're both architects 9 to boot. 10 HEARING EXAMINER GROSSMAN: James Kassay. I'm sorry. 11 How do you spell that? 12 MR. KLINE: K-A-S-S-A-Y. 13 HEARING EXAMINER GROSSMAN: Okay. And I presume you 14 have a -- 15 MR. KLINE: And we have an additional witness. And 16 that would be Mr. Matt Taylor of Primrose, who was able to 17 travel from out of town to be here today. 18 HEARING EXAMINER GROSSMAN: Okay. I take it Primrose 19 is a franchisor and he just -- 20 MR. KLINE: He's going to go through whole shtick. 21 HEARING EXAMINER GROSSMAN: All right. It's a 22 technical term. All right. Then since you said you have 23 no further statement to make, you may call your first 24 witness. 25 MR. KLINE: Mr. Taylor, can you come up and join me?</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

4 (13 to 16)

<p>13</p> <p>1 Probably someplace that's dry and Ms. --</p> <p>2 MR. TAYLOR: I can see you are cleaning the table</p> <p>3 (inaudible) nicer.</p> <p>4 MR. KLINE: (Inaudible) are cleaning up here now</p> <p>5 (inaudible) move over (inaudible).</p> <p>6 MR. TAYLOR: (Inaudible). All right.</p> <p>7 MR. KLINE: (Inaudible) arrived (inaudible). I just</p> <p>8 misopened this here.</p> <p>9 MR. TAYLOR: Okay.</p> <p>10 MR. KLINE: We are slowly cleaning it up.</p> <p>11 MR. TAYLOR: Okay.</p> <p>12 MR. KLINE: If I talk long enough, the hot air will</p> <p>13 kind of burn it all off.</p> <p>14 MR. TAYLOR: Good morning Mr. Grossman.</p> <p>15 HEARING EXAMINER GROSSMAN: I presume that he has</p> <p>16 paper towels or something in front of them.</p> <p>17 MR. KLINE: They (inaudible) you can see they are --</p> <p>18 FEMALE VOICE: Yeah, he went to get something.</p> <p>19 MR. KLINE: They are slowly helping me clean up their</p> <p>20 mess here.</p> <p>21 HEARING EXAMINER GROSSMAN: All right. Sir, will you</p> <p>22 say your full name please?</p> <p>23 MR. TAYLOR: Matthew Taylor.</p> <p>24 HEARING EXAMINER GROSSMAN: And your work address?</p> <p>25 MR. TAYLOR: 470 Richards; R-I-C-H-A-R-D-S; Avenue in</p>	<p>15</p> <p>1 up and open, we end up working with him closely on a daily</p> <p>2 basis throughout their operation. But we do not own the</p> <p>3 properties. We don't own the businesses, but we do have</p> <p>4 full reign over the operation of the business.</p> <p>5 MR. KLINE: All right. What was it that appealed to</p> <p>6 Primrose about this site itself?</p> <p>7 MR. TAYLOR: Well, we look at sites based on</p> <p>8 demographics, obviously, income, amount of children in the</p> <p>9 area, the need of parents for child care. Did he really</p> <p>10 make that?</p> <p>11 MR. KLINE: He did. He likes to start the day off</p> <p>12 with --</p> <p>13 HEARING EXAMINER GROSSMAN: He's an excellent</p> <p>14 attorney. I didn't know he was such a good basketball</p> <p>15 player.</p> <p>16 MR. TAYLOR: That's impressive. At any rate, we look</p> <p>17 at these parcels really on the basis of need for child</p> <p>18 care. Again, the amount of children in the market, the</p> <p>19 demographics income-wise, and really that the business is</p> <p>20 going to be supported by the need for quality childcare in</p> <p>21 these markets. This is an excellent location for that.</p> <p>22 It's on a great commuter route. We feel a lot of the</p> <p>23 traffic that we will be soliciting with the site is already</p> <p>24 on the routes already. We will be creating some turning</p> <p>25 movements, but really not additional traffic. We do a lot</p>
<p>14</p> <p>1 Portsmouth; P-O-R-T-S-M-O-U-T-H; New Hampshire, 03801.</p> <p>2 HEARING EXAMINER GROSSMAN: Okay. Did you -- when you</p> <p>3 signed in, did you also leave an email address?</p> <p>4 MR. TAYLOR: I did, sir.</p> <p>5 HEARING EXAMINER GROSSMAN: Okay. All right. Would</p> <p>6 you raise your right hand please? Do you swear or from to</p> <p>7 tell the truth, the whole truth, and nothing but the truth</p> <p>8 under penalty of perjury?</p> <p>9 MR. TAYLOR: I do.</p> <p>10 HEARING EXAMINER GROSSMAN: All right. You may</p> <p>11 proceed.</p> <p>12 MR. KLINE: Sure. Mr. Taylor, we've gone through all</p> <p>13 of the -- sort of your personal location and everything.</p> <p>14 Would you just explain your job title in your job</p> <p>15 responsibilities with Primrose?</p> <p>16 MR. TAYLOR: Absolutely. Primrose -- let me start</p> <p>17 with Primrose first. It's probably the best hierarchy. So</p> <p>18 Primrose is a franchise childcare operation. We operate</p> <p>19 close to 400 schools across the country. We solicit</p> <p>20 projects with our franchisees for development. My</p> <p>21 principal role with Primrose is overseeing development of</p> <p>22 those schools in Northeast and through the East Coast</p> <p>23 regions. So that's what brings me here today. Primrose</p> <p>24 works very closely with our franchisees. It feels very</p> <p>25 much unlike a franchise operation because when they're set</p>	<p>16</p> <p>1 of extensive study. And of course, it's much easier now</p> <p>2 with the demographics software that we all have. A lot</p> <p>3 easier than it was 25 years ago, looking at maps and trying</p> <p>4 to figure out where people go. We really have hard data</p> <p>5 and our site selection has become much more in tune because</p> <p>6 of that. But that's why we looked at this site.</p> <p>7 MR. KLINE: All right. And you decided to set the</p> <p>8 number of attendees, the number of children, students,</p> <p>9 whichever the terminology is, at 200. How did you come up</p> <p>10 with that number?</p> <p>11 MR. TAYLOR: Well, there is an operating ratio of age</p> <p>12 of students to the amount of teachers that are required</p> <p>13 based on Maryland state licensing. So we obviously want to</p> <p>14 operate a business model that is going to be efficient, but</p> <p>15 also effective to meet the licensing requirements.</p> <p>16 Primrose actually has additional staff over what the</p> <p>17 Maryland requirements are, and we typically do in most</p> <p>18 states. We have our own operating ratios that are more</p> <p>19 stringent. It's just part of our operating plan. But the</p> <p>20 190 to 200 number, across most of the projects that we</p> <p>21 develop is the most efficient model. And it becomes the</p> <p>22 most efficient model from an income standpoint as well.</p> <p>23 HEARING EXAMINER GROSSMAN: The 190 to 200, that's not</p> <p>24 ratio, that's the number (inaudible).</p> <p>25 MR. TAYLOR: No. No, I'm sorry. Is the number of</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

5 (17 to 20)

<p>17</p> <p>1 attendees, number of students.</p> <p>2 HEARING EXAMINER GROSSMAN: I see.</p> <p>3 MR. TAYLOR: And put that in perspective, we operate</p> <p>4 as a company, nationally, at about an 80 to 85 percent</p> <p>5 average occupancy. So it's very seldom that one of our</p> <p>6 schools has a maximum capacity. Some do. We design in</p> <p>7 additional capacity. If for some reason we find that there</p> <p>8 is an age group that we didn't feel -- there's an age group</p> <p>9 that comes up that needs to be served more than we thought.</p> <p>10 As an example, there is an influx of three-year-old kids</p> <p>11 that need care versus older age group kids. We have some</p> <p>12 flexibility in how to set the building up to accommodate</p> <p>13 those children so we are not turning someone away. But the</p> <p>14 ratio is maybe more stringent, requiring more square</p> <p>15 footage to do that. So your overall occupancy goes down,</p> <p>16 but we designed the building to a maximum occupancy, if</p> <p>17 that makes sense. I mean I -- it makes sense only because</p> <p>18 I do this every day. I want to make sure I'm not over</p> <p>19 complicating it.</p> <p>20 HEARING EXAMINER GROSSMAN: Sounds (inaudible).</p> <p>21 MR. KLINE: What is part of what you're saying Mr.</p> <p>22 Grossman, on any given day, we don't have 100 percent</p> <p>23 attendance.</p> <p>24 MR. TAYLOR: Typically not, no. Typically not. And</p> <p>25 often times, you will have children that will attend only</p>	<p>19</p> <p>1 hearing examiner kind of wants to understand what's going</p> <p>2 to happen here, what's the level of activity so he can</p> <p>3 assess its impact on the neighborhood.</p> <p>4 MR. TAYLOR: Sure.</p> <p>5 MR. KLINE: So just kind of walk us through a day.</p> <p>6 And you have an exhibit here, as I said, 43D, I think it</p> <p>7 is. And feel free to use that if you want to use it for</p> <p>8 anything.</p> <p>9 MR. TAYLOR: Sure. I think the biggest myth with</p> <p>10 childcare, and I'm sure not the first childcare to present</p> <p>11 a project to you, Mr. Grossman. But often times, the</p> <p>12 feeling is it operates like a private school or elementary</p> <p>13 school where you have 100 parents showing up at 7:00 a.m.,</p> <p>14 and that's not the case. We have a very broad drop off and</p> <p>15 pick up. It happens to work out to be about three hours in</p> <p>16 the morning from about 6:30 a.m. to 9:30 a.m. And in the</p> <p>17 evening from about 3:30 to 6:30 p.m. So there is a</p> <p>18 staggered pickup and drop off. And that's one reason why</p> <p>19 we feel our maximum parking need is somewhere around 45</p> <p>20 spaces. I think here we have somewhere in excess of 50</p> <p>21 something. We have more than enough parking to accommodate</p> <p>22 that. But that seems to be the biggest question, is how do</p> <p>23 people get in and out of the building. How do they get in</p> <p>24 and out of the parking? Plenty of parking to accommodate</p> <p>25 that. We have parking -- the sidewalks that we designed</p>
<p>18</p> <p>1 three days a week or two days a week depending on what the</p> <p>2 parents needs are. A lot of children may attend whose</p> <p>3 parents work part-time or a mother may have other</p> <p>4 obligations or parent may have other obligations that</p> <p>5 require childcare not full-time. So there is a -- there is</p> <p>6 definitely a part-time component to it as well.</p> <p>7 MR. KLINE: Going back to the ratio issue we were</p> <p>8 talking about, you would anticipate how many employees</p> <p>9 associated with this? And I will say at the maximum time.</p> <p>10 Maybe total and at the maximum time period.</p> <p>11 MR. TAYLOR: You know, the total would be somewhere</p> <p>12 between 27 and 30. That would be a maximum, couldn't fit</p> <p>13 another person through the door. But our average would be</p> <p>14 somewhere around 20 to 25 teachers. Often times, teachers</p> <p>15 will work flexible hours. So they are not all full-time,</p> <p>16 some are full-time, but there's people coming and going</p> <p>17 during the day as well. Because again, you might get a</p> <p>18 teacher who has children who are school-aged kids and they</p> <p>19 can work in the morning or what in the afternoon.</p> <p>20 MR. KLINE: The Staff recommended conditions saying a</p> <p>21 maximum of 32 employees may work on site at any one time.</p> <p>22 That would be an adequate amount of staffing to take care</p> <p>23 of the maximum 200 enrollment (inaudible).</p> <p>24 MR. TAYLOR: Absolutely. Absolutely.</p> <p>25 MR. KLINE: All right. I mentioned to you before that</p>	<p>20</p> <p>1 along the frontage of the parking to get to the building.</p> <p>2 So it's a safe environment to walk your children to the</p> <p>3 door. What we require is a parent bringing their</p> <p>4 children -- they have to park their car, bring their</p> <p>5 children to the building, sign them in. It's a secure</p> <p>6 entrance to get through the building, bring them to the</p> <p>7 classroom, meet with their teacher, and return. And that's</p> <p>8 about an 8 to 10 minute process, maximum. And parents</p> <p>9 become more efficient at it, obviously, the more they do it</p> <p>10 depending on how late they are running for work or they're</p> <p>11 trying to go. Same thing at pickup. They have to park the</p> <p>12 car, come in, physically get their child, sign them out of</p> <p>13 the building, and bring them home.</p> <p>14 HEARING EXAMINER GROSSMAN: I generally require in</p> <p>15 childcare cases that the child be accompanied into the</p> <p>16 building by the parents and that they always be under the</p> <p>17 care of a staff member at all times inside and outside the</p> <p>18 building.</p> <p>19 MR. TAYLOR: Absolutely. Yeah, the difference</p> <p>20 sometimes is some schools will operate a pickup or drop-off</p> <p>21 arrangement where someone actually physically takes the</p> <p>22 child out of the car. We do not do that because for that</p> <p>23 very reason. And the unfortunate society we live in in</p> <p>24 parts now where we obviously want to keep the building</p> <p>25 secure and we have a very secure perimeter to the building</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

6 (21 to 24)

<p style="text-align: right;">21</p> <p>1 and only parents have access to that. So it's another 2 reason why we obviously want to make sure everyone is 3 taking care of from point A to point B. 4 HEARING EXAMINER GROSSMAN: One other thing. Usually 5 I add a condition that was not mentioned in the staff 6 report, about no outdoor amplified music or speakers. 7 MR. TAYLOR: Fine with that. 8 HEARING EXAMINER GROSSMAN: Is that a problem in terms 9 of your operation? 10 MR. TAYLOR: Not at all. 11 HEARING EXAMINER GROSSMAN: Okay. 12 MR. TAYLOR: Not at all. And actually, that is a good 13 segue into how we utilize the play areas. The playgrounds 14 are typically rotated with age groups. They are set up 15 with younger to older age groups around the perimeter of 16 the building. Then they are adjacent to the appropriate 17 age classrooms. But never are they going to be 180 kids in 18 the play area at one time. They rotate in 15, 20 kids at a 19 time. So the noise factor is pretty low. I often hear 20 that from potential neighbors wondering, what is this going 21 to be like. An elementary school playground with 200 kids 22 out there, it's not the case. It's not loud. There is 23 pretty good screening with this site as well. But 24 amplified music, we wouldn't have anyway unless -- 25 HEARING EXAMINER GROSSMAN: (Inaudible) only concern</p>	<p style="text-align: right;">23</p> <p>1 off cycle divided by 25 spaces, we have -- each space has 2 more than ample capacity to cover that amount. This is 3 more than I would typically want to be honest with you. 4 Ten to 15 maximum is what I would look for, for the ideal 5 operating site. So we have more than what we need. 6 MR. KLINE: All right. 7 MR. TAYLOR: And I think the positive thing about that 8 is obviously we got handicap parking adjacent in front of 9 the building. It works out well. I like the way this sort 10 of cul-de-sac arrangement looks. I think it will be an 11 easy way to get in and out as well. So it actually kind of 12 lends itself to it. 13 MR. KLINE: Again, take me back. I guess you sort of 14 gone through the drop off in the morning. Just tell us 15 what's going on during the day. The comings and goings of 16 parents or kids outside. 17 MR. TAYLOR: Sure. 18 MR. KLINE: Just kind of (inaudible). 19 MR. TAYLOR: Most of the children will be full-time. 20 But again, as I indicated before, there are some part-time 21 children who may show up off hours between that 9:30 and 22 3:30 time period. But that's not simply the norm. So the 23 traffic during the day is fairly limited. We do have some 24 afterschool programs available. And this school may or may 25 not have them depending on what the demographics, or</p>
<p style="text-align: right;">22</p> <p>1 is that there was a dwelling not that far to the south of 2 the property. 3 MR. TAYLOR: Yeah, I think you can see the outline of 4 it. No, that won't be an issue and I'm happy with that 5 condition. That's fine. 6 HEARING EXAMINER GROSSMAN: Okay. 7 MR. KLINE: (Inaudible) since you heard the opening 8 comment about the number of parking spaces. Let me sort of 9 set the question up this way. So we, on Exhibit 43D, the 10 conditional use (inaudible), we've identified the spaces 11 immediately in front of the building, immediately on the 12 left side in front of the building, and then up on the 13 left-hand side of the parking lot, as being available for 14 parent drop-off. 15 MR. TAYLOR: Yeah. 16 MR. KLINE: And when Ms. Tettelbaum of the Park and 17 Planning commissions as she was concerned that we didn't 18 have enough, I remember you kind of chuckled saying, Jody, 19 we would never need 25. Explain why the turnover 20 (inaudible) require that many parking spaces. 21 MR. TAYLOR: Sure. Yeah, and I started on -- it's a 22 really simple math equation. It's time and folks divided 23 into time. So if we got a three hour period where we 24 are -- say we are trying to accommodate 200 children at a 25 maximum, if you do the math on a 10-minute pickup and drop</p>	<p style="text-align: right;">24</p> <p>1 depending on the need, I should say. We've designed in 2 that capacity. So those kids may show up after school, 3 depending on how this school is operated. But during the 4 day, we have a kitchen facility. The children are fed on 5 site. They rotate in and out of doors depending on the 6 weather. Each class probably gets out a couple times a 7 day. It's a curriculum-based environment. So otherwise 8 they're being engaged in whatever their appropriate age 9 group curriculum is. So very much like a school. So the 10 outdoor activity is really limited to each class going out 11 a couple times a day. And then at the pickup, same thing. 12 You know, 3:30 to 6:30, children start being picked up by 13 their parents. The bulk of that obviously, is probably 14 from 4:30 to 6:30. But there is a big percentage that gets 15 picked up prior to -- I'm always amazed everywhere travel. 16 You start to learn the traffic patterns. I learned them 17 again last night coming down here. There is a lot of it. 18 I think that's probably -- certainly parents will base 19 their pickup and drop-off, obviously, where they are 20 working to try to get to the school on time. I think that 21 staggers things as well. 22 MR. KLINE: Okay. In some instances, your facilities 23 basically have school buses from public schools bring kids 24 after school, to your facility. Has it been determined 25 whether that will occur in this location?</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

7 (25 to 28)

<p>25</p> <p>1 MR. TAYLOR: I don't think that will occur at this 2 location. We have found, lately, that -- and for obvious 3 reasons, the liability associated with the private 4 transportation company dropping children off at a non- 5 residence or a non-bus stop has become problematic. We do 6 have our own transportation as well. We may have a 7 minibus, which is a -- you know, what you call a short 8 wheelbase bus, that will fit in these parking spaces, to 9 pick children up at local elementary schools for an 10 afterschool program. Again, if it's a warranted program 11 We really won't know that -- 12 HEARING EXAMINER GROSSMAN: If it's a what program? 13 MR. TAYLOR: A warranted program. 14 HEARING EXAMINER GROSSMAN: Okay. 15 MR. TAYLOR: If there is a need for it. 16 HEARING EXAMINER GROSSMAN: Okay. 17 MR. TAYLOR: I'm not familiar right now with what the 18 local schools are offering. But often times, there's other 19 programs between the Y and local schools that already offer 20 afterschool care. Most parents opt to take advantage of 21 that because they don't -- their kids aren't being 22 transported. But that would be a needs-based thing as we 23 start marketing during construction. 24 MR. KLINE: All right. You visited the site probably 25 multiple times.</p>	<p>27</p> <p>1 nothing happening there. The parking lot and the building 2 will basically be dark from 7:30 in the evening on. We 3 close the doors around 6:30, usually gone by 7:00. There 4 is some perimeter security lighting, but it's all down lit, 5 very benign. But the parking lot lighting would be off as 6 well, long before it would be a problem for any neighbors. 7 MR. KLINE: I have no further the questions of Mr. 8 Taylor. 9 HEARING EXAMINER GROSSMAN: How long does it take, Mr. 10 Taylor, from the -- if this is approved, and I understand 11 there is also a request to go through a preliminary plan 12 here -- from the time of approval and preliminary plan 13 approval, to get this facility running? 14 MR. TAYLOR: Operating? 15 HEARING EXAMINER GROSSMAN: Yeah. 16 MR. TAYLOR: Our building permit process here is 17 probably going to be 3 to 5 months to get our permits 18 secured. And we are about a 7 to 8 month build. Again, 19 that's weather dependent, what time of year that happens. 20 But our goal, my goal for this site would be to have it 21 ready to operate sometime in late 2019. And I think 22 that -- I think we are trending towards that at this point. 23 HEARING EXAMINER GROSSMAN: Okay. I have no other 24 questions (inaudible). 25 MR. TAYLOR: Wonderful. Thank you, so much.</p>
<p>26</p> <p>1 MR. TAYLOR: Several times, yeah. 2 MR. KLINE: All right. Based on your experience in 3 terms of the operation of a daycare center such as one 4 that's propose, do you feel that this can be operated here 5 in a matter that's consistent with the safe -- safety, 6 health, and welfare of the visitors to the site and the 7 surrounding neighborhood? 8 MR. TAYLOR: Oh, absolutely. A corner location is 9 ideal for us because we are not contending with decel and 10 acceleration getting in and out of the site on a busy road. 11 And I do have a lot of schools that are like that. I think 12 that this is a much safer arrangement. Coming in off 13 Queensland (sic) Road is much better. We don't have the 14 traffic queuing issues. You can get in and out. You're 15 not trying to beat the clock of someone coming down a fast 16 paced road. Absolutely, it's a very safe arrangement. 17 MR. KLINE: Is there any activity, noise, light, 18 sound, fumes that would be bothersome or obnoxious to any 19 surrounding property owner? 20 MR. TAYLOR: No, the nice thing about childcare is 21 it's a five day week operation. So it's dormant on the 22 weekends. So it's really a nice compatible use for any 23 residential people around it. That's what sells it a lot, 24 often times, over other uses for semi-commercial parcels 25 because the weekends there is no noise. There's really</p>	<p>28</p> <p>1 HEARING EXAMINER GROSSMAN: Thank you. 2 MR. KLINE: I call as our next witness, Mr. Scott 3 Wolford, please. 4 HEARING EXAMINER GROSSMAN: All right. Mr. Wolford, 5 would you state your full name and address, please? 6 MR. WOLFORD: Scott Richard Wolford, 16906 Hughes 7 Road, Colesville, Maryland. 8 HEARING EXAMINER GROSSMAN: I'm sorry. What road was 9 that? 10 MR. WOLFORD: Hughes; H-U-G-H-E-S. 11 HEARING EXAMINER GROSSMAN: Okay. Would you raise 12 your right hand, please? Do you swear or affirm to tell 13 the truth, the whole truth, and nothing but the truth under 14 penalty of perjury? 15 MR. WOLFORD: Yes. 16 HEARING EXAMINER GROSSMAN: All right. Sir. 17 MR. KLINE: Mr. Wolford, can you give us your 18 professional association? What firm are you associated 19 with? 20 MR. WOLFORD: I work for Maser Consulting. 21 MR. KLINE: Based in? 22 MR. WOLFORD: It's based in Sterling. It's the -- the 23 professional address is 22375 Broderick Drive, Suite 110, 24 in Sterling, Virginia. 25 MR. KLINE: Okay. Mr. Wolford, your resume is Exhibit</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

8 (29 to 32)

<p>29</p> <p>1 56A in the record of this case. On your resume, you've 2 indicated that you are a land planner and maybe a landscape 3 architect as well or landscape architect with training. 4 But just tell us what your professional qualifications are. 5 MR. WOLFORD: I'm a registered landscape architect in 6 the State of Maryland, and a certified planner. 7 MR. KLINE: Okay. Have you ever qualified in those 8 two fields as an expert before a hearing examiner like Mr. 9 Grossman or some similar hearing? 10 MR. WOLFORD: Yes, numerous times. 11 MR. KLINE: Mr. Grossman in particular or -- 12 MR. WOLFORD: No, but I have been in Montgomery County 13 back when there was the Board of Appeals. And I think I 14 was here under Martin Clobber (phonetic), when he was a 15 zoning hearing examiner. 16 MR. KLINE: That was a long time ago. 17 MR. WOLFORD: Yeah. 18 HEARING EXAMINER GROSSMAN: Yeah, Marty Clobber. 19 MR. WOLFORD: I'm an old man. 20 HEARING EXAMINER GROSSMAN: Join our club (inaudible). 21 MR. WOLFORD: Yeah. 22 MR. KLINE: So you have been qualified as an expert in 23 land planning and landscape architecture or do you -- 24 MR. WOLFORD: Yes, both. 25 MR. KLINE: Both?</p>	<p>31</p> <p>1 B of Atwood Knolls. The immediate property to the east is 2 the East County Recreational Center and the Layhill Park. 3 To the south is what would be a proposed vacant lot, which 4 will become Lot 2 following the preliminary plan in the 5 subdivision. 6 MR. KLINE: Let's go -- 7 MR. WOLFORD: Go ahead. 8 MR. KLINE: And interject for second. So what's shown 9 on Exhibit 43D includes all of the holdings of Layhill 10 Properties, LLC. 11 MR. WOLFORD: Yes. 12 MR. KLINE: But only what -- just show us what part is 13 subject to the conditional use application. 14 MR. WOLFORD: Okay. 15 MR. KLINE: All right. Can you just tell us which 16 is -- 17 MR. WOLFORD: This is Exhibit 8B. 18 MR. KLINE: Okay. Well, actually, it's been -- 19 disregard that for a second. So when you're looking at the 20 existing conditions plan -- 21 MR. WOLFORD: Existing conditions and demolition plan, 22 which is sheet 2 of 8. 23 MR. KLINE: Okay. And that's Exhibit 43C; 11D is the 24 original application. Now we have a later version of it, 25 43C.</p>
<p>30</p> <p>1 MR. WOLFORD: Yes. 2 MR. KLINE: All right. And how long did you say 3 you've been doing this? 4 MR. WOLFORD: Since 1979. Thirty-nine years. 5 MR. KLINE: Mr. Grossman, I'm not sure if you've had a 6 chance to read the resume, but it is actually quite 7 thorough and quite detailed. And based on his professional 8 background and his previous qualification, I would like to 9 offer Mr. Wolford as an expert in land planning and 10 landscape architecture because I like to ask him some 11 questions about the landscaping part. 12 HEARING EXAMINER GROSSMAN: Okay. Based on Mr. 13 Wolford's resume and his testimony here and his licensing, 14 I accept him as an expert in landscaping and landscape 15 architecture. 16 MR. KLINE: Mr. Wolford, you know what you brought 17 with you better than I do. But I think I would like to 18 sort of have you describe the surrounding neighborhood for 19 Mr. Grossman. So I know he's read the record and 20 everything, but just give us a sense of the context in 21 which this property is located. 22 MR. WOLFORD: Well, the property is located on the 23 southeast corner of the intersection of Queensguard Road 24 and Layhill Road. It's made up of 4.22 acres. It's Parcel 25 A, Block B of Layhill Village East, and Lot 5 and 6, Block</p>	<p>32</p> <p>1 MR. WOLFORD: So the entire property is a parcel and 2 two lots. And in the subdivision process, we're going to 3 create two lots, Lot 1 and Lot 2. And the application for 4 the conditional use just covers what is going to be 5 proposed Lot 1, which is the northernmost lot on the corner 6 of Layhill Road and Queensguard Road. 7 MR. KLINE: And the residue will end up being 8 subdivided as -- in accordance with the zoning ordinance. 9 MR. WOLFORD: Yes, some other use is permitted in the 10 zone. 11 MR. KLINE: All right. Great. Thank you. Did you 12 exhaust your description (inaudible)? 13 MR. WOLFORD: Around it? 14 MR. KLINE: Yeah. 15 MR. WOLFORD: Yeah, to the north of Queensguard Road, 16 on the opposite side of the street, are single-family 17 detached homes. Several of those are used as professional 18 offices, dentists and other things. To the east is the 19 recreation complex and Layhill Park, which has several 20 active play fields on it. To the south along Layhill Road 21 are several other single-family detached properties. And 22 then quite a substantial (inaudible) park, the Matthew 23 Henson Trail, which is a combination of a Park and 24 Planning, Montgomery County and state park comes across the 25 property. And on the west side of Layhill Road are single-</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

9 (33 to 36)

<p>33</p> <p>1 family detached homes. And that's the immediate 2 surrounding area.</p> <p>3 MR. KLINE: For purposes of zoning analysis, you had a 4 hand in helping us construct a definition of a zoning 5 neighborhood. And there is an exhibit, Figure 2 in the 6 staff report, it's an exhibit in the record of the case 7 showing the boundaries of what Staff proposed as a zoning 8 neighborhood. Do you concur in those boundaries?</p> <p>9 MR. WOLFORD: Yes, I do.</p> <p>10 MR. KLINE: Okay.</p> <p>11 HEARING EXAMINER GROSSMAN: And that's on Page 4 of 12 the staff report, Exhibit 53.</p> <p>13 MR. KLINE: So what I guess I would like you to do, is 14 using whatever exhibit you like, how about giving us some 15 more details about the site we're dealing with itself. 16 It's shape, size, it's frontages, it's topography, just so 17 we get a feel with the lay of the land.</p> <p>18 MR. WOLFORD: Yeah. It's a rectangle or shape site 19 with the longest side of the rectangle on the east and west 20 side, on the west side it fronts on Layhill Road. That 21 long side is approximately 596 feet of road frontage on 22 Layhill Road. And then the shorter sides of the rectangle 23 are the north and the south side. Those are approximately 24 270 feet in length. The north side being abutting 25 Queensgard Road at the north end.</p>	<p>35</p> <p>1 side of the property. Then, what we have shown on this 2 exhibit, there were two extensive wetlands on the property, 3 one in the northwest corner. It's outlined on this exhibit 4 with a long dash and then a short dot. And showing around 5 that is the 25 foot wetland buffer, which is required by 6 the Corps of Engineers in the State of Maryland, in the 7 northwest corner. In the south --</p> <p>8 MR. KLINE: And before you leave that --</p> <p>9 MR. WOLFORD: Yes.</p> <p>10 MR. KLINE: And the significance of that is, what? No 11 touch?</p> <p>12 MR. WOLFORD: Yeah. We are required by law to find -- 13 explore every alternative we can to develop the property 14 and minimize or eliminate the disturbance of the wetlands 15 themselves. Then the other portion of the wetlands is in 16 the southeast corner of the site. There is a wetlands that 17 is on the common property line between the county property 18 for the rec center and our property. And it's outlined 19 again with the long dash and a short dot. And it has a 20 wetland boundary around it. Then there were -- there was 21 one in between these where we actually had a gap where we 22 could get to the development part -- portion of the 23 property. There was one specimen tree, which we processed 24 a variance on to be able to remove. So we had a pocket in 25 the northwest corner of wetlands an environmental that we</p>
<p>34</p> <p>1 MR. KLINE: Since you've got the existing conditions 2 plan up there, there is a lot of stuff on there. Tell us 3 what are the features of the property that really drove the 4 design because when we had the earlier exhibit up, 43D I 5 guess it was, the building was not located where you might 6 had normally thought it would be. So what were the 7 features of the property that basically affected your 8 layout?</p> <p>9 MR. WOLFORD: Okay. And I'm still on the same 10 exhibit. We were not permitted to get access on Layhill 11 Road. It's a state highway and they didn't want anyone 12 slowing traffic down. It's the safest way to get in here 13 is to come in on to Queensguard Road. There is also a 14 median break out here in Layhill Road at Queensguard. And 15 then this is Punch Street, which is a residential street 16 about the midpoint on the property across the street, 17 across on Queensguard Road. So --</p> <p>18 HEARING EXAMINER GROSSMAN: You said at this point? 19 That's the northern extreme of the exhibit there.</p> <p>20 MR. WOLFORD: Yes.</p> <p>21 HEARING EXAMINER GROSSMAN: Kind of in the middle --</p> <p>22 MR. WOLFORD: Yes.</p> <p>23 HEARING EXAMINER GROSSMAN: Of that whole side.</p> <p>24 MR. WOLFORD: So our access on the property was 25 limited to Queensguard Road at the midpoint of the north</p>	<p>36</p> <p>1 could in touch, a pocket in the southeast corner that we 2 couldn't touch. We had a dictated access point on 3 Queensguard to create the T intersection. We had a long 4 narrow strip along the northeast portion of the property, a 5 small place where we could come through the wetlands 6 without disturbing them. And then a development part, or a 7 real development, intensive development portion, in the 8 southwest corner of the property.</p> <p>9 MR. KLINE: Maybe this is a good time then to pull up 10 the actual conditional use plan just to kind of explain to 11 us how you came up with what you came up with.</p> <p>12 MR. WOLFORD: Okay.</p> <p>13 HEARING EXAMINER GROSSMAN: And you mentioned a 14 variance. You're talking about a tree variance.</p> <p>15 MR. WOLFORD: Yes.</p> <p>16 HEARING EXAMINER GROSSMAN: Not a --</p> <p>17 MR. WOLFORD: Yes, just -- yes.</p> <p>18 HEARING EXAMINER GROSSMAN: Full-fledged (inaudible) 19 variance.</p> <p>20 MR. WOLFORD: Yes, not for setbacks or zoning 21 relations. It's just a requirement of Park and Planning in 22 Montgomery County to remove the specimen tree.</p> <p>23 MR. KLINE: And as I recall, the staff report, there 24 was some incursion into the buffer on one of those wetland 25 buffers, but not into the wetland itself. Is that correct?</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

10 (37 to 40)

<p>37</p> <p>1 MR. WOLFORD: Yes.</p> <p>2 MR. KLINE: Which one is there going to be an</p> <p>3 incursion into?</p> <p>4 MR. WOLFORD: There is a small incursion on the north</p> <p>5 buffer, right here.</p> <p>6 MR. KLINE: Okay.</p> <p>7 MR. WOLFORD: So (inaudible).</p> <p>8 HEARING EXAMINER GROSSMAN: Right here being</p> <p>9 (inaudible).</p> <p>10 MR. KLINE: Just tell us where it is on --</p> <p>11 HEARING EXAMINER GROSSMAN: On the southern end of the</p> <p>12 buffer.</p> <p>13 MR. WOLFORD: Yes.</p> <p>14 MR. KLINE: Yeah.</p> <p>15 MR. WOLFORD: Of the wetland --</p> <p>16 (crosstalk)</p> <p>17 MR. WOLFORD: On the northeast corner or the northwest</p> <p>18 corner of the property, yes.</p> <p>19 HEARING EXAMINER GROSSMAN: Okay.</p> <p>20 MR. WOLFORD: So the wetlands are regulated.</p> <p>21 MR. KLINE: And that was necessarily simply because</p> <p>22 the geometrics of the road and the parking and all the</p> <p>23 curbing and everything. You just couldn't fit it between</p> <p>24 those two areas without some minor encroachment.</p> <p>25 MR. WOLFORD: Yes. And an encroachment into the</p>	<p>39</p> <p>1 back to grade at the south end of Layhill Road. We are</p> <p>2 pretty much -- the site is pretty much on grade with</p> <p>3 Queensguard Road. And then the site generally falls from</p> <p>4 the northwest corner to the southeast corner between 8 and</p> <p>5 10 feet. So they are all -- the whole flow is from the</p> <p>6 northeast as from the northwest to the southeast corner of</p> <p>7 the site.</p> <p>8 MR. KLINE: Was there anything, other features of the</p> <p>9 site, that you wanted -- is there vegetation? Is there any</p> <p>10 waterways?</p> <p>11 MR. WOLFORD: Yeah, if we -- can I go backwards for a</p> <p>12 second here? The site -- and I'm back on the previous</p> <p>13 exhibit, which is -- it's (inaudible).</p> <p>14 MR. KLINE: (Inaudible). Yeah.</p> <p>15 MR. WOLFORD: In existing conditions and demolition</p> <p>16 (inaudible).</p> <p>17 MR. KLINE: It's 43C is the existing (inaudible).</p> <p>18 MR. WOLFORD: I'm sorry to go backwards.</p> <p>19 HEARING EXAMINER GROSSMAN: No problem.</p> <p>20 MR. WOLFORD: So the whole parcel A, which is the</p> <p>21 northern parcel of the site, or the larger piece of the</p> <p>22 north, is completely wooded with mixed hardwood and some</p> <p>23 shrubs scrub in the early successional, not a real mature</p> <p>24 forest state. The southern two lots, Lots 5 and 6, which</p> <p>25 are part of the application, but will be re-subdivided and</p>
<p>38</p> <p>1 wetland buffer is not -- does not require a permit from any</p> <p>2 of the agencies that have regulations over the wetlands</p> <p>3 themselves.</p> <p>4 MR. KLINE: Okay.</p> <p>5 MR. WOLFORD: So I'm on Exhibit 4 of 8. And I don't</p> <p>6 know whether it's --</p> <p>7 MR. KLINE: Well, you've got Exhibit 43D, which is the</p> <p>8 conditional use plan.</p> <p>9 MR. WOLFORD: Yes.</p> <p>10 HEARING EXAMINER GROSSMAN: And I take it that's not</p> <p>11 changing in today's presentation.</p> <p>12 MR. KLINE: We -- unless you have us make some</p> <p>13 annotations to it, it will not need to come in the record.</p> <p>14 HEARING EXAMINER GROSSMAN: Okay. Thank you.</p> <p>15 MR. KLINE: Before I leave, I wanted to kind of give</p> <p>16 the hearing examiner an appreciation of the lay of the land</p> <p>17 and the different topography or levels, I guess is a better</p> <p>18 way, of off-site and on-site so that he understands where</p> <p>19 we sit relative to the road.</p> <p>20 MR. WOLFORD: Yeah, the road is slightly higher than</p> <p>21 the site; Layhill Road, sorry, which is on the west side of</p> <p>22 the property is slightly higher than the site; between 4</p> <p>23 and 8 feet. Four feet at the intersection of Queensguard</p> <p>24 Road and Layhill Road in the north. And then a little bit</p> <p>25 steeper at the south end through the middle, then comes</p>	<p>40</p> <p>1 then be part of the conditional use, or -- have been</p> <p>2 previously cleared with a few specimen trees on them in</p> <p>3 very isolated points and pretty much lower shrubs scrub</p> <p>4 condition.</p> <p>5 HEARING EXAMINER GROSSMAN: How wet are the wetlands?</p> <p>6 Does that represent any danger to children on the property?</p> <p>7 MR. WOLFORD: No.</p> <p>8 HEARING EXAMINER GROSSMAN: No.</p> <p>9 MR. WOLFORD: They are -- I -- the wetland definition</p> <p>10 is, you have to have three factors to be a wetland. You</p> <p>11 have to have the hydrology within 18 inches of the surface</p> <p>12 soil for three weeks of the growing season, which is the</p> <p>13 time of year that we are in right now. So that means that</p> <p>14 the water comes up and inundates the root zone of the plant</p> <p>15 material. You have to have hydrophilic vegetation, which</p> <p>16 is vegetation that can survive in that wet, inundated soil</p> <p>17 condition. And you have to have soils that indicate that</p> <p>18 the water is inundated during those times of year. Which</p> <p>19 means you get some white streaks in the soil and any of the</p> <p>20 iron ore or the iron that's in the soil, oxidizes and</p> <p>21 creates orange dots. So at any point the time of the year,</p> <p>22 you can walk through these wetlands, even this time of year</p> <p>23 with they're inundated. I've been on them, and other staff</p> <p>24 members, to do the studies on this site, have been -- been</p> <p>25 on them. There is no standing water on the site at all.</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

11 (41 to 44)

<p>41</p> <p>1 HEARING EXAMINER GROSSMAN: Okay.</p> <p>2 MR. WOLFORD: And it supports a normal, overweight</p> <p>3 human being like myself.</p> <p>4 HEARING EXAMINER GROSSMAN: Okay.</p> <p>5 MR. KLINE: Can I ask you to put 43C up again there,</p> <p>6 the conditional use plan.</p> <p>7 MR. WOLFORD: Yeah.</p> <p>8 MR. KLINE: So whenever we meet with the neighbors,</p> <p>9 sometimes they say the kids are going to escape and get</p> <p>10 away. Would you explain why, on the site, the children</p> <p>11 will always be in a controlled environment so that they</p> <p>12 won't be getting into the wetlands areas?</p> <p>13 MR. WOLFORD: Yeah. The children will arrive, as Matt</p> <p>14 had said. There is parking, adequate parking. There is --</p> <p>15 and the pedestrian circulation and the vehicular</p> <p>16 circulation and keeping them separated and getting safe</p> <p>17 access to the front of the building was very important. So</p> <p>18 we got that all laid out, that they can come in and park,</p> <p>19 walk on the sidewalk separated for vehicular movement, and</p> <p>20 go into the front (inaudible).</p> <p>21 MR. KLINE: (Inaudible).</p> <p>22 MR. WOLFORD: Yeah.</p> <p>23 MR. KLINE: And before the -- and so where the cars</p> <p>24 are parking, at least up in the upper part, isn't that a</p> <p>25 retaining wall and you've got a height differential between</p>	<p>43</p> <p>1 MR. KLINE: The sizes how large?</p> <p>2 MR. WOLFORD: It's 12,634 square feet.</p> <p>3 MR. KLINE: Okay.</p> <p>4 MR. WOLFORD: And this building -- and the architect</p> <p>5 can get -- and so back to the site design, if I can have</p> <p>6 one second, okay. We have an access point here. We have</p> <p>7 a -- it kind of laid itself out. We had an access point on</p> <p>8 Queensguard Road across from Punch Street. We had a long</p> <p>9 narrow band in the northeast corner of the property, which</p> <p>10 fit the access drive and the parking well. Then we had a</p> <p>11 development envelope to the southwest portion of the</p> <p>12 property. We had to have a fire turnaround, which give us</p> <p>13 the cul-de-sac and gave us the parking close to the</p> <p>14 building. Then the building was -- this building was</p> <p>15 specifically designed to fit exactly on this site. So it's</p> <p>16 in an L shape, which fits around the cul-de-sac drop off</p> <p>17 area and circulation place, then allows the playground to</p> <p>18 be wrapped around the back of the building. So it fit very</p> <p>19 well on the site. It also is depressed slightly, so it's</p> <p>20 not seen from the neighbors across the street. It's a one-</p> <p>21 story building with a gabled roof, it kind of fits into the</p> <p>22 residential character of the neighborhood.</p> <p>23 MR. KLINE: I was going to ask you some questions</p> <p>24 about the master plan. But did you have anything that you</p> <p>25 want to say about sort of site features and what influenced</p>
<p>42</p> <p>1 the parking area and the wetlands (inaudible)?</p> <p>2 MR. WOLFORD: Yeah, there is along the east side and</p> <p>3 then where the, kind of the narrow part between the</p> <p>4 northwest wetland and the southeast wetlands came, there is</p> <p>5 some small retaining walls there to further reduce the</p> <p>6 impact on any of the wetlands, any environmental features.</p> <p>7 MR. KLINE: And that when a child is outdoors playing,</p> <p>8 explain why they would not be able to get out into those</p> <p>9 areas.</p> <p>10 MR. WOLFORD: The way the building is designed -- and</p> <p>11 the architect can get into this better. The play areas are</p> <p>12 all around the back of the building, accessible. In most</p> <p>13 cases, trying to be accessible right from the classroom out</p> <p>14 to the play structure where they are. So the child is in</p> <p>15 the building, in a secured environment; can't get out and</p> <p>16 can't wander. And then there is a perimeter fence securing</p> <p>17 the total area around the play area so that when they do go</p> <p>18 out, they can go to different play structures and different</p> <p>19 things that are out there that they can move around, but</p> <p>20 they can't go from there out onto the site or out on to any</p> <p>21 of the surrounding property.</p> <p>22 MR. KLINE: Okay. The size of the building, we see a</p> <p>23 darkened area on this 43C, that's the footprint of the</p> <p>24 building.</p> <p>25 MR. WOLFORD: Yeah.</p>	<p>44</p> <p>1 the layout of the --</p> <p>2 MR. WOLFORD: No, I think I've covered everything.</p> <p>3 MR. KLINE: Is there anything in the master plan</p> <p>4 dealing with this property that -- are we consistent with</p> <p>5 the master plans recommendation for use of the property?</p> <p>6 MR. WOLFORD: The master plan is the Aspen Hill master</p> <p>7 plan which was approved in 1994. It doesn't have any</p> <p>8 specific language about this particular piece of property,</p> <p>9 but it has some very strong language that supports daycare,</p> <p>10 specifically for the Aspen Hill area. At the time that</p> <p>11 they did it, they had pertinent recommendations about</p> <p>12 daycare facilities in the Aspen Hill master plan. One</p> <p>13 statement was that there is a need and a support from the</p> <p>14 master plan for various types of childcare. A second one</p> <p>15 was that they did a study. They had a higher percentage of</p> <p>16 women with children under six in this particular Aspen Hill</p> <p>17 area worked full-time, which means that they would need</p> <p>18 childcare. They also said in the master plan, there is a</p> <p>19 greater need for daycare in Aspen Hill compared to the</p> <p>20 county as a whole. And that for -- also in the master</p> <p>21 plan, said that the households in the Aspen Hill area rely</p> <p>22 more on organized daycare than they do on in-home daycare.</p> <p>23 So there was some pretty strong language in there to</p> <p>24 support this type of facility. Then the other things that</p> <p>25 they recommended -- then there were just two general</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

12 (45 to 48)

<p>45</p> <p>1 recommendations that it be safe. We've got that. That 2 there be a lot of light and place for people to safely play 3 outside. Safe, convenient access to parking and pedestrian 4 movement, we've taken care of that. And that we don't 5 create any undesirable traffic patterns. And we come in 6 off of a side street and we are safe in the way we come in 7 and out and don't really impact any of the adjoining 8 properties.</p> <p>9 MR. KLINE: I would like you to put up the landscaping 10 plan and ask you some questions drawing on that level of 11 expertise.</p> <p>12 MR. WOLFORD: So the next exhibit up is the lighting 13 and landscape plan. It's sheet 7 of 8 of the conditional 14 use (indiscernible)</p> <p>15 MR. KLINE: And that would be 43H and 43 -- it would 16 be the lighting and landscape plan 43I is the landscape 17 details which I'm not sure we'll be getting to.</p> <p>18 MR. WOLFORD: Okay.</p> <p>19 MR. KLINE: (indiscernible) that one, yeah. So in 20 looking at Exhibit 43H just give us the overview of the 21 landscaping concept first.</p> <p>22 MR. WOLFORD: Well, there was extensive forest 23 conservation and preservation on the site so the whole 24 portion in the northeast, northwest corner of the site is 25 preserved as forest. The extreme northeast corner is</p>	<p>47</p> <p>1 combination of shade trees and taller evergreen and 2 deciduous shrubs.</p> <p>3 MR. KLINE: Okay. Your colleague will be talking 4 about the lighting plan?</p> <p>5 MR. WOLFORD: I can talk about it quickly. Yeah. I'm 6 going to PH1.0.</p> <p>7 HEARING EXAMINER GROSSMAN: Before you go there, you 8 also have an improved forest conservation plan.</p> <p>9 MR. WOLFORD: Yes.</p> <p>10 HEARING EXAMINER GROSSMAN: The Planning Board Exhibit 11 59 and it's --</p> <p>12 MR. WOLFORD: Yes. And another colleague will talk 13 about that.</p> <p>14 MR. KLINE: The photometric plan is Exhibit 43S in the 15 exhibit record. And you wanted to make a comment about 16 that?</p> <p>17 MR. WOLFORD: Yes. What we did was we lighted -- the 18 parking lot's lighted with light standards. They don't 19 interfere with the tree location and then there's low 20 lighting around the building and for the play area and this 21 is the photo -- the photometric foot print candles of 22 everything and the lighting is really all controlled into 23 our activity zone and drops to zero around the perimeter of 24 the property.</p> <p>25 MR. KLINE: So the lighting meets the zoning ordinance</p>
<p>46</p> <p>1 preserved as forest and then the buffer between the 2 proposed facility and the Aspen Hill Park and the 3 recreation center is preserved because of the environmental 4 features and the forests that were there. So we've -- 5 we've come in off of Queensguard at the north end, taken 6 the parking lot in a long linear fashion, come through the 7 two wetlands to develop and envelope. So we've got 8 extensive tree cover already on the site. So what we did 9 with the landscaping was we put numerous parking islands in 10 the parking lot where we planted shade trees. In this case 11 it's a red maple to break the parking lot up, create 12 shadow, kind of keep it a little cooler that we possibly 13 could.</p> <p>14 HEARING EXAMINER GROSSMAN: You're required to do 15 that?</p> <p>16 MR. WOLFORD: Yes. Yes. At the front entrance of the 17 building we've got a lot of low shrubs and what we did in 18 this case was we used a combination of evergreens and 19 deciduous shrubs so there's kind of all year-round some 20 green there and then we put several of the deciduous shrubs 21 in there are flowering to create some seasonal interest as 22 the year goes through. And create kind of a welcoming at 23 the front door of the building. And then across the south 24 property line between what we have as proposed Lot 1 and 25 proposed Lot 2, we've got a pretty extensive buffer of a</p>	<p>48</p> <p>1 requirement for this 50 foot candles.</p> <p>2 MR. WOLFORD: Yes.</p> <p>3 MR. KLINE: And I should have asked you this question 4 before, the -- all the landscaping you described satisfies 5 all of the conditions in the zoning ordinance for coverage 6 --</p> <p>7 MR. WOLFORD: Yes.</p> <p>8 MR. KLINE: And umbrella canopy and all that.</p> <p>9 MR. WOLFORD: Yes.</p> <p>10 MR. KLINE: Okay.</p> <p>11 HEARING EXAMINER GROSSMAN: Mr. Wolford, I thought I 12 saw on the eastern side that there was some photometric 13 readings that did exceed the 0.1 foot candle measurement. 14 Am I incorrect in recalling that?</p> <p>15 MR. WOLFORD: I'm looking right now.</p> <p>16 HEARING EXAMINER GROSSMAN: It sort of towards the 17 middle of that on --</p> <p>18 MR. WOLFORD: Just into the property maybe 10 or 15 19 feet there's a .2 about 8 feet into the property here at 20 the middle there's a .3 and a .4, but pretty much I think 21 at the property line it's all at 0.</p> <p>22 HEARING EXAMINER GROSSMAN: Okay.</p> <p>23 MR. WOLFORD: Just inside the property at the -- 24 because of the grid that's set up they're just slightly 25 above a zero.</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

13 (49 to 52)

<p>49</p> <p>1 HEARING EXAMINER GROSSMAN: Okay. But in any event 2 those are adjacent to the rec center, not to a lot occupied 3 by a single-family residence. 4 MR. WOLFORD: Yes. The property use on the east side 5 is a parking lot and a drop off for the rec center and 6 that's also a lighted parking lot and driveway. So it's 7 our lighted parking lot adjacent to their lighted parking 8 lot. 9 HEARING EXAMINER GROSSMAN: So in your opinion the 10 lighting complies with the zoning ordinance requirement? 11 MR. WOLFORD: Yes. 12 HEARING EXAMINER GROSSMAN: Okay. 13 MR. KLINE: Unless you had any other exhibits you 14 wanted to talk from I was just going to ask you some wrap- 15 up questions. 16 MR. WOLFORD: I don't have anything else, no. 17 MR. KLINE: Okay. So based on your experience as an 18 expert in land planning and landscape architect or, in your 19 opinion is this use and this design harmonious with the 20 character of the surrounding neighborhood as you described 21 it? 22 MR. WOLFORD: Yes. 23 MR. KLINE: Okay. Will the proposed use alter the 24 character of the neighborhood? 25 MR. WOLFORD: No.</p>	<p>51</p> <p>1 with the surrounding neighbors in terms of its -- the use 2 itself with the intensity of the use? 3 MR. WOLFORD: Yes. 4 MR. KLINE: Okay. I have no further questions for Mr. 5 Wolford. 6 HEARING EXAMINER GROSSMAN: Nor do I, and I hope to 7 see you again before me Mr. Wolford because you seem to 8 know your stuff very well. 9 MR. WOLFORD: Thank you so much. 10 MR. KLINE: You may regret that because we've got to 11 in the pipeline you're going to see soon. 12 MR. WOLFORD: We get good at this. Thank you so much, 13 sir. 14 HEARING EXAMINER GROSSMAN: Thank you. 15 MR. KLINE: I'll call Mr. Intriago as our next 16 witness, sir. 17 HEARING EXAMINER GROSSMAN: Okay. 18 MR. INTRIAGO: Good morning, Mr. Grossman. 19 HEARING EXAMINER GROSSMAN: Good morning, Mr. 20 Intriago. Would you state your full name and address, 21 please? 22 MR. INTRIAGO: Yes, sir. For the record my name is 23 Eduardo Jose Intriago. Home address 21812 Kings Crossing 24 Terrace, Ashburn, Virginia 20147. 25 HEARING EXAMINER GROSSMAN: All right. Would you</p>
<p>50</p> <p>1 MR. KLINE: What is the character of the 2 neighborhood? 3 MR. WOLFORD: It's kind of an eclectic mix. There's a 4 Plaza Del Mercado retail center. There's a Sandy Spring 5 bank. There's the Argyle Middle School. There single- 6 family detached homes, there's parks, there's the rec 7 center, it's kind of eclectic and I think that this, as a 8 land-use, fits in with the overall makeup and fabric of 9 that community to sort of kind of round the community out 10 and to serve the needs of the residents that are there. 11 MR. KLINE: You did emphasize that in your 12 professional opinion are the design sensitive to the 13 environmental features of the site? 14 MR. WOLFORD: Yes. Yet we have a letter from the 15 Corps of Engineers that says that we have no disturbance 16 and they are okay with the delineation of the wetlands that 17 are out there. We worked carefully with the staff at Park 18 and Planning, the environment staff at Park and Planning to 19 meet the forest conservation ordinance and the cover 20 requirements for the property. 21 MR. KLINE: Do you find this proposed use to be 22 consistent with the recommendations such as they are in the 23 master plan? 24 MR. WOLFORD: Yes. 25 MR. KLINE: Okay. And you find the use compatible</p>	<p>52</p> <p>1 raise your right hand please? 2 MR. INTRIAGO: Yes, sir. 3 HEARING EXAMINER GROSSMAN: Do you swear or affirm to 4 tell the truth, the whole truth and nothing but the truth 5 under penalty of perjury? 6 MR. INTRIAGO: Yes, sir. 7 HEARING EXAMINER GROSSMAN: All right, you may 8 proceed, counselor. 9 MR. KLINE: Mr. Intriago, would you please describe 10 your professional affiliation. What firm are you 11 associated with? 12 MR. INTRIAGO: Yes, sir. I work for the company 13 named Maser Consulting, and I am a professional civil 14 engineer. 15 MR. KLINE: Mr. Grossman, Mr. Intriago's resume is in 16 the record as Exhibit 56C. 17 HEARING EXAMINER GROSSMAN: Yes. 18 MR. KLINE: Well, Mr. Intriago, just tell us a little 19 bit about your background, your education, your 20 professional associations. What you've been doing while 21 you've been a civil engineer. 22 MR. INTRIAGO: Yes, sir. Well I graduated from 23 engineering back in 2000. And then I practiced the first 24 two years of my profession in my country, home country, 25 back from Ecuador, South America. I came to America for a</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

14 (53 to 56)

<p>53</p> <p>1 Masters degree in natural science in the University of 2 Illinois, (indiscernible).and then I graduated from there 3 back in December or January 2003, 2004. And then I've been 4 practicing land development since then. Before I also 5 practiced construction administration and pavement design 6 engineering. 7 HEARING EXAMINER GROSSMAN: Okay. 8 MR. KLINE: Do you remember what your civil 9 engineering number is, because Mr. Grossman usually -- 10 HEARING EXAMINER GROSSMAN: Should say the Maryland 11 license number. 12 MR. KLINE: Yeah, the Maryland license number. 13 MR. INTRIAGO: I do. I can tell you from here if you 14 will bear with me one second. My license number is 46513. 15 HEARING EXAMINER GROSSMAN: All right. 16 MR. KLINE: And give us an example of -- or give us 17 some examples of the kinds of problems you've been working 18 on that Mr. Grossman will be familiar with. I know you and 19 I have got a fistful of them, but -- 20 MR. INTRIAGO: I would like to also start saying that 21 I've been working on licensing the Commonwealth of Puerto 22 Rico, Florida, Virginia, North Carolina, New York, West 23 Virginia, District, and Maryland as well. I'm licensed and 24 I'm working in all the states. I'm working (indiscernible) 25 a project from residential, commercial, and institutional</p>	<p>55</p> <p>1 Maryland, in front of you, sir. 2 MR. KLINE: And in any of those hearings did anybody 3 ever qualify you as an expert in civil engineering like Mr. 4 Grossman has been doing here today? 5 MR. INTRIAGO: Mr. Grossman, it is the first time I've 6 been qualified formally as an expert. On my other 7 proceedings that has not been that requirement. I have 8 only been involved in the engineering issues and 9 discussions in front of the planning boards, but there was 10 no such thing as a formal qualification as an expert. 11 HEARING EXAMINER GROSSMAN: Okay. 12 MR. KLINE: Based on his resume and based on his 13 explanation of his background, his -- and I guess I should 14 ask you. What professional associations do you belong to? 15 MR. INTRIAGO: Well, I belong to the American Society 16 of Civil Engineers. I also belong to a bunch of civil 17 engineer associations like the Puerto Rico Association of 18 Civil Engineers, Florida Board of Professional Engineers 19 and all the other states that I've been a part of being 20 involved in having license and also having a project in 21 those other states. 22 MR. KLINE: I'd like to offer Mr. Intriago -- I and 23 I'm proud to offer him as an expert in civil engineering. 24 HEARING EXAMINER GROSSMAN: Yes, based on Mr. 25 Intriago's resume and his description here I accept him as</p>
<p>54</p> <p>1 projects. Mr. -- our client and I have been working on a 2 bunch of day care centers. I have experience in apartment 3 complex, residential facilities, townhomes, I've been 4 involved in probably between 100 and 150 McDonald's sites 5 in different stages. I've done banks and very different 6 institutions so I have a wide variety of experience in the 7 engineering field in design and construction 8 administration. 9 MR. KLINE: Tell him what you're doing with the 10 (indiscernible) Center up in Clarksburg. 11 MR. INTRIAGO: Yeah in the (indiscernible) Center -- 12 MR. KLINE: Well, next door to it. 13 MR. INTRIAGO: Cabin Branch? 14 MR. KLINE: Cabin Branch. 15 MR. INTRIAGO: Yes. In Cabin Branch I'm working with 16 Mr. Kline. We have a property that has three parcels 17 there. We have a -- it's around 2½ acres. We have a 18 convenience store with a wine rack, a Starbucks and a Jiffy 19 Lube. And we're going through a (indiscernible) amendment 20 through the -- from Montgomery County and also some -- and 21 also the engineering approvals for that as well. 22 MR. KLINE: And you've testified before the Planning 23 Board on some of these other projects? 24 MR. INTRIAGO: I have testified Planning Board in 25 Florida and a hearing in Virginia, and now a hearing in</p>	<p>56</p> <p>1 amply qualified as a civil engineer, as an expert in civil 2 engineering. 3 MR. INTRIAGO: Thank you, sir. 4 HEARING EXAMINER GROSSMAN: So now you can go home and 5 say you are an expert. Every time somebody would qualify 6 me I could tell my wife, I'm an expert. 7 MR. INTRIAGO: Tell that to my wife. I don't think 8 that will fly, but we will see. 9 MR. KLINE: You heard Mr. -- well, your colleague, Mr. 10 Wolford's description about how we had to kind of 11 manipulate around certain -- but I got a feeling that from 12 the civil engineering the site it was a lot more 13 complicated to come up with the site plan. So kind of take 14 the same idea just explain to us the civil engineering 15 issues you had to wrestle with in terms of making this site 16 work. 17 MR. INTRIAGO: Mr. Grossman, I'll appreciate it if I'm 18 repeating myself if you could tell me so I will not repeat 19 myself. But there's a couple of things that we have in 20 common with what Mr. Wolford, had said. I would like to -- 21 excuse me. 22 MR. KLINE: Sure. Just pick whatever exhibit works 23 best for you. 24 MR. INTRIAGO: I would like to use my -- just a 25 second, sir. Where is my conditional use sheet? Of</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

15 (57 to 60)

<p>57</p> <p>1 course, the last one. Okay.</p> <p>2 HEARING EXAMINER GROSSMAN: That's always the way it</p> <p>3 is.</p> <p>4 MR. INTRIAGO: Yes. So like Mr. --</p> <p>5 MR. KLINE: So we're back on Exhibit 43C, sir.</p> <p>6 MR. INTRIAGO: Yes, sir, the conditional use sheet.</p> <p>7 HEARING EXAMINER GROSSMAN: Yes.</p> <p>8 MR. INTRIAGO: So like Mr. Wolford was saying we had a</p> <p>9 little challenge is first of all to get an access and that</p> <p>10 would be access for our site. We did a -- specifically we</p> <p>11 matched the location of the street across from us to have a</p> <p>12 perfectly alignment for our driveway and that street right</p> <p>13 there. Originally we went -- (indiscernible) iterations</p> <p>14 about -- through -- with Staff in order to be able to come</p> <p>15 up with is the layout. It say, I want to say a good 6 to 8</p> <p>16 month process. So the first thing you will see here is the</p> <p>17 is the alignment of the road that comes from Queensguard</p> <p>18 Road from the north, and it makes a turn going south to --</p> <p>19 in order to avoid the two big (indiscernible) that we have</p> <p>20 on site. The other main concern or constraint that we had</p> <p>21 is that we were -- was a concern about having water</p> <p>22 (indiscernible) on the site which we were proven by the</p> <p>23 letter of the Army Corps of Engineers that we don't have</p> <p>24 that problem in our specific site. Now, the second</p> <p>25 challenge that we have when we were addressing this is that</p>	<p>59</p> <p>1 wall?</p> <p>2 MR. INTRIAGO: Meaning, sir, that you have already an</p> <p>3 existing grade so instead of filling to put a wall, you</p> <p>4 are cutting the grade to be able to retain the existing</p> <p>5 dirt, soil on the back.</p> <p>6 HEARING EXAMINER GROSSMAN: So does that wall extend</p> <p>7 above the ground or not?</p> <p>8 MR. INTRIAGO: Yes, it does extend above ground.</p> <p>9 Above -- yes, sir.</p> <p>10 HEARING EXAMINER GROSSMAN: And how much does it</p> <p>11 extend above the ground?</p> <p>12 MR. INTRIAGO: That wall is approximately four feet</p> <p>13 high.</p> <p>14 HEARING EXAMINER GROSSMAN: Okay. Four feet above</p> <p>15 ground level?</p> <p>16 MR. INTRIAGO: Four feet above level and then it goes</p> <p>17 back to existing grade going back to the -- from here it</p> <p>18 goes back to existing grade (indiscernible) the road.</p> <p>19 HEARING EXAMINER GROSSMAN: What about the walls along</p> <p>20 the parking -- along the driveway?</p> <p>21 MR. INTRIAGO: Well, the highest wall that we have,</p> <p>22 sir is this. This wall right here is about 14 feet high.</p> <p>23 MR. KLINE: Just identify where it is relative</p> <p>24 building or something.</p> <p>25 MR. INTRIAGO: Apologize sir. On the southwest corner</p>
<p>58</p> <p>1 we were to -- we had to comply with the fire marshal and be</p> <p>2 able to provide access for a -- for a fire truck. And be</p> <p>3 able to access the site. That's the reason we have a</p> <p>4 roundabout. It looks nice, but there's an engineering</p> <p>5 reason for it that we have a roundabout in -- at the main</p> <p>6 entrance of the site. Now, this roundabout went to the</p> <p>7 minimal design standards. In other words these 45 feet in</p> <p>8 radius in order to accommodate a fire truck to go around</p> <p>9 it, get in and service the site and get out. Unfortunately</p> <p>10 the site was not -- we were trying to get service from</p> <p>11 Layhill Road but it didn't meet the requirements so we have</p> <p>12 to provide that roundabout. So that was the second</p> <p>13 engineering constraint. The third main constraint that we</p> <p>14 had was that the difference in elevation between the site</p> <p>15 and actually the surrounding roads, Layhill Road and</p> <p>16 Queensguard Road. So this site we have to actually provide</p> <p>17 it in order to avoid impact of the wetlands and also be</p> <p>18 able to do an engineering well done design we have to</p> <p>19 provide a retaining wall from the side of the site entrance</p> <p>20 and around the play area of the facility. For example, the</p> <p>21 wall that we have here on the west side of the building</p> <p>22 that's a cut wall. So that was because we were lower than</p> <p>23 the existing grade site so we have to cut on that side and</p> <p>24 provide that cut wall.</p> <p>25 HEARING EXAMINER GROSSMAN: What does that mean, a cut</p>	<p>60</p> <p>1 of the site --</p> <p>2 HEARING EXAMINER GROSSMAN: Southeast corner?</p> <p>3 MR. INTRIAGO: Southeast corner of the site, to the</p> <p>4 east of the building we have the highest portion of the</p> <p>5 wall. That's approximately 14 feet high. The reason why</p> <p>6 it's 14 feet high, sir, is because we couldn't grade back</p> <p>7 into the wetlands because of the proximity of the wetlands</p> <p>8 and the way the grade worked when we were trying to bring</p> <p>9 the building to a dryable slopes on the roads. So that's</p> <p>10 why this is the highest portion. Now, the wall -- the</p> <p>11 menacing height, although you're going -- while you're</p> <p>12 going north on the driveway to zero when you're getting all</p> <p>13 the way at the entrance of the road. So it's a gradual --</p> <p>14 the grades go -- the drainage of the site goes from the</p> <p>15 Northwest to the southeast. So that's why the wall gets</p> <p>16 lower in height as you're approaching the entrance of the</p> <p>17 site.</p> <p>18 HEARING EXAMINER GROSSMAN: Yeah, I didn't realize</p> <p>19 that at one point there on the southeastern corner that it</p> <p>20 actually had a 14 foot wall. Was that constructed out of?</p> <p>21 MR. INTRIAGO: That's a concrete retaining wall.</p> <p>22 HEARING EXAMINER GROSSMAN: And what does it look like</p> <p>23 from the outside?</p> <p>24 MR. INTRIAGO: So --</p> <p>25 HEARING EXAMINER GROSSMAN: In terms of what the</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

16 (61 to 64)

<p>61</p> <p>1 neighbors see?</p> <p>2 MR. INTRIAGO: Well, we had that discussion with</p> <p>3 Staff. This side of the wall right here it's on the west</p> <p>4 side of the building of the site. It's facing the --</p> <p>5 HEARING EXAMINER GROSSMAN: The east side of the site?</p> <p>6 MR. INTRIAGO: The east side of the site is facing the</p> <p>7 recreational facility. There is no constraint about how</p> <p>8 the wall is going to look on the east side. The real</p> <p>9 concern the Staff had was how the wall -- because</p> <p>10 originally we had a retaining wall on the south side of the</p> <p>11 building to avoid the impact of the root zone of Tree ST3,</p> <p>12 which is the one that you were concerned about. We were</p> <p>13 removing one tree, tree number 5, which is here in the</p> <p>14 middle of the road between the two wetlands. And the ST3,</p> <p>15 which is at the south side of the property is impacted 10</p> <p>16 percent of the root mass. So in order to avoid that we</p> <p>17 were trying to put a retaining wall to the south side of</p> <p>18 this building. If I may put please the grading plans so I</p> <p>19 can show you what I'm talking about.</p> <p>20 HEARING EXAMINER GROSSMAN: Sure.</p> <p>21 MR. KLINE: This will be Exhibit 43E in the record,</p> <p>22 sir.</p> <p>23 HEARING EXAMINER GROSSMAN: All right.</p> <p>24 MR. INTRIAGO: Sir, if you see here on the southern</p> <p>25 part of the building have right now how we're grading down</p>	<p>63</p> <p>1 tall is the wall at that point, right around there?</p> <p>2 MR. INTRIAGO: This wall around here it will be around</p> <p>3 eight feet high, sir.</p> <p>4 HEARING EXAMINER GROSSMAN: Okay. And that's eight</p> <p>5 feet from the surface of the roadway, the parking area, or</p> <p>6 eight feet from the area around it?</p> <p>7 MR. INTRIAGO: The road will be eight feet higher than</p> <p>8 its adjacent land that which is (indiscernible) on the east</p> <p>9 direction towards the recreational center.</p> <p>10 HEARING EXAMINER GROSSMAN: I see.</p> <p>11 MR. INTRIAGO: But you have, also I would like to</p> <p>12 point out, sir, that once it goes -- it's low, but it</p> <p>13 slopes up again towards the recreational center.</p> <p>14 HEARING EXAMINER GROSSMAN: Okay. And going back to</p> <p>15 the extreme southern end of the site where you have, I</p> <p>16 believe you said it was up to an eight foot, well, after</p> <p>17 you graded that out what's the size of the wall that will</p> <p>18 actually be --</p> <p>19 MR. INTRIAGO: There's no wall on the south side</p> <p>20 anymore.</p> <p>21 HEARING EXAMINER GROSSMAN: Okay. None at all?</p> <p>22 MR. INTRIAGO: No.</p> <p>23 HEARING EXAMINER GROSSMAN: Okay.</p> <p>24 MR. INTRIAGO: We replaced the wall --</p> <p>25 HEARING EXAMINER GROSSMAN: With the grading?</p>
<p>62</p> <p>1 at 3 to 1 in order to avoid the wall. Before we had a wall</p> <p>2 here that was, at the highest elevation, was eight feet</p> <p>3 high. So that wall was going to show -- it would be a</p> <p>4 graffiti heaven for people. And then once the neighbor</p> <p>5 moved from the south side, we would not like that wall. So</p> <p>6 what we agreed with Staff to do was to try to grade this</p> <p>7 back at 3 to 1 and be able -- we impacted tree ST3 here on</p> <p>8 the south. This one right here, if you can see the south</p> <p>9 side between, I want to say it will be around 20 feet from</p> <p>10 the property line, about in the middle of the -- towards</p> <p>11 the south west of the property. So once you draw the</p> <p>12 critical root zone is 10 percent of that critical root zone</p> <p>13 is being impacted. So the only real -- and also the wall</p> <p>14 on this side of the wetlands being so low compared to the</p> <p>15 road and the fact that the Layhill is just a road, Staff</p> <p>16 was not concerned about the look of the wall itself on</p> <p>17 those two locations. Now, talking about the graffiti part</p> <p>18 this wetland -- these walls on both side of the driveway</p> <p>19 would not be accessible to people due to the fact that it</p> <p>20 will be heavily wooded and have a lot of wetlands and there</p> <p>21 was not a concern by Staff or by, you know, the applicant</p> <p>22 or the engineer about that -- the look of that wall. But</p> <p>23 it will be a concrete wall.</p> <p>24 HEARING EXAMINER GROSSMAN: All right. So taking the</p> <p>25 middle of the, about half-way down along the driveway, how</p>	<p>64</p> <p>1 MR. INTRIAGO: With grading, heavy landscape to comply</p> <p>2 with the buffering of the building, between the building</p> <p>3 and a residential facility to comply with the zoning code.</p> <p>4 HEARING EXAMINER GROSSMAN: Right.</p> <p>5 MR. INTRIAGO: And we also put a six foot high opaque</p> <p>6 fence to limit the visibility of students playing, and the</p> <p>7 neighbors seeing the students playing and any type of noise</p> <p>8 whatsoever. So we have -- it's a difference of elevation.</p> <p>9 There is the fence and there's the landscape buffer as</p> <p>10 well, sir.</p> <p>11 HEARING EXAMINER GROSSMAN: Okay. All right.</p> <p>12 MR. KLINE: Where should I -- should I take you to</p> <p>13 storm water management from now? Is this a good segue to</p> <p>14 storm water management?</p> <p>15 MR. INTRIAGO: Yes, sir. That would be a good point.</p> <p>16 I also would like to point out, if I may, about the</p> <p>17 photometric plan. Mr. Wolford was perfectly right in what</p> <p>18 he was saying. We worked very close with Staff about the</p> <p>19 foot candles of what we had there. There was -- the</p> <p>20 requirement of the code is it has to be less than .5 foot</p> <p>21 candles at the property line. We made that all around the</p> <p>22 side, especially on the south side where the residential</p> <p>23 property is. And so Staff and the photometric specialists</p> <p>24 and myself worked very closely to make sure that we were</p> <p>25 meeting the zoning requirement and that it doesn't provide</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

17 (65 to 68)

<p>65</p> <p>1 any heavy impact toward none of the neighbors, sir.</p> <p>2 HEARING EXAMINER GROSSMAN: You said .5. I think it's</p> <p>3 .1.</p> <p>4 MR. INTRIAGO: 0.5.</p> <p>5 HEARING EXAMINER GROSSMAN: I think it's 0.1 if I</p> <p>6 recall. Let me see. Yes, it's Sections 59 6.4.4(e),</p> <p>7 outdoor lighting for conditional use must be redirected,</p> <p>8 shielded, or screen to be sure that illumination is 0.1</p> <p>9 foot candles or less at any lot line that abuts a lot with</p> <p>10 a detached house building type not located in a</p> <p>11 commercial/residential or employment zone.</p> <p>12 MR. KLINE: Would you bring up the detail sheet for the</p> <p>13 lighting plan?</p> <p>14 MR. INTRIAGO: Yes, sir.</p> <p>15 HEARING EXAMINER GROSSMAN: I think you comply with</p> <p>16 that largely.</p> <p>17 MR. INTRIAGO: Yes, we do sir.</p> <p>18 MR. KLINE: Besides the photometric would you bring up</p> <p>19 the fixtures that actually show the fixtures.</p> <p>20 MR. INTRIAGO: Yes, sir.</p> <p>21 MR. KLINE: It was in there. I saw it earlier.</p> <p>22 MR. INTRIAGO: It's right here, sir. One second.</p> <p>23 It's right here.</p> <p>24 MR. KLINE: So the fixtures that would be located in</p> <p>25 the area where there's a question about what numbers we're</p>	<p>67</p> <p>1 MR. KLINE: Okay.</p> <p>2 MR. INTRIAGO: Correct.</p> <p>3 MR. KLINE: Can you pull back up to the conditional</p> <p>4 use site plan? Okay. I'm going to skip, or hold off on</p> <p>5 the storm water management. But just confirm for us the</p> <p>6 number of required parking spaces.</p> <p>7 MR. INTRIAGO: Yes, sir.</p> <p>8 MR. KLINE: And of the number of provided parking</p> <p>9 spaces.</p> <p>10 MR. INTRIAGO: We have a total of -- we have a</p> <p>11 requirement of 38 parking spaces and we are providing 52</p> <p>12 parking spaces, sir. Out of which two are ADA spaces.</p> <p>13 MR. KLINE: And would you locate on this Exhibit 43B</p> <p>14 where the designated spaces for parent drop-off are, and</p> <p>15 how you're labeling them?</p> <p>16 MR. INTRIAGO: The designated spaces for drop-off is</p> <p>17 happening (indiscernible) as close as possible to the</p> <p>18 entrance of the building. And they are 25 spaces. They</p> <p>19 are labeled with specific signage and they are adjacent to</p> <p>20 the north side of the building, we have four. Then to the</p> <p>21 east of the northern playground we have another four. And</p> <p>22 then along the west side of the entrance we have 12, and on</p> <p>23 the west side of the entrance we have another 5. That</p> <p>24 totals 25 parking spaces.</p> <p>25 MR. KLINE: Very good.</p>
<p>66</p> <p>1 dealing with, which of the fixtures that are --</p> <p>2 MR. INTRIAGO: Yeah. So these fixtures right here are</p> <p>3 LED fixtures. Also we have some shields so there would not</p> <p>4 be spillover on any other adjacent property on any type of</p> <p>5 (indiscernible). That specific new -- it's top of the</p> <p>6 line, new type of lighting fixtures that we are using here,</p> <p>7 sir.</p> <p>8 HEARING EXAMINER GROSSMAN: Okay.</p> <p>9 MR. KLINE: That was the point. I wanted to you to</p> <p>10 show that we're using a box so no --</p> <p>11 MR. INTRIAGO: Yes, sir.</p> <p>12 MR. KLINE: -- no spillovers.</p> <p>13 HEARING EXAMINER GROSSMAN: Right. But I didn't want</p> <p>14 there to be any confusion in the record. It's not a 0.5,</p> <p>15 or a 0.1 foot candles at the property line. It --</p> <p>16 especially if there is a single-family detached house. Now</p> <p>17 on the eastern side, of course, it's a rec center not a</p> <p>18 single-family detached house. So I don't think that's the</p> <p>19 one area that I saw when I looked over that photometric</p> <p>20 plan where there were some exceedances of the 0.21 foot</p> <p>21 candle shown on the eastern side, but it's not adjacent to</p> <p>22 a single-family detached house so it didn't concern me in</p> <p>23 terms of the statute. But I just wanted to make sure the</p> <p>24 record is clear we're at the 0.1 measure, and not a 0.5.</p> <p>25 MR. INTRIAGO: Yes, sir.</p>	<p>68</p> <p>1 HEARING EXAMINER GROSSMAN: You mentioned the signage.</p> <p>2 I notice that the staff report they talk about the</p> <p>3 residential sign requirements if you have a plan for a</p> <p>4 monument sign on the northwest corner where -- that you'd</p> <p>5 have to get a variance, a signed variance for --</p> <p>6 MR. KLINE: Yeah, we'll need a variance both, from</p> <p>7 probably, well undoubtedly on the size of it and I think</p> <p>8 it's sitting in the right-of-way as well?</p> <p>9 MR. INTRIAGO: Yes, sir.</p> <p>10 HEARING EXAMINER GROSSMAN: Yeah, the State highway.</p> <p>11 MR. KLINE: So if it's going to go in that location</p> <p>12 will have to get permission from the State on a revocable</p> <p>13 permit.</p> <p>14 HEARING EXAMINER GROSSMAN: But I also note that there</p> <p>15 is some ambiguous language in the zoning ordinance</p> <p>16 regarding signs in residential areas at a subdivision.</p> <p>17 MR. KLINE: Yeah.</p> <p>18 HEARING EXAMINER GROSSMAN: And since you are going to</p> <p>19 be subdivided, as a subdivision or, I forget, institutional</p> <p>20 building of some kind. Since you are going to be</p> <p>21 subdividing I'm not sure if, and to what extent, that would</p> <p>22 apply here and give you some flexibility, but it's</p> <p>23 something that you might want to explore with the</p> <p>24 Department of Permitting Services and the Sign Review</p> <p>25 Board.</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

18 (69 to 72)

<p>69</p> <p>1 MR. KLINE: Yeah, definitely. I will say though that 2 based on discussions I've had with Mr. Waterstreet over the 3 years -- 4 HEARING EXAMINER GROSSMAN: Yes. 5 MR. KLINE: -- that ordinance provision really -- 6 those are kind of the monumental signs you would see, 7 welcome to Fortune Terrace resident. Or -- 8 HEARING EXAMINER GROSSMAN: Right. 9 MR. KLINE: -- welcome to Fortune Terrace Office Park 10 sort of thing, and not so much the individual site. 11 HEARING EXAMINER GROSSMAN: I think that's a sensible 12 interpretation of it, but it doesn't -- it's not clear in 13 the statutory language. 14 MR. KLINE: If we can avoid having to get a signed 15 variance we are going to do it, that's for sure. 16 HEARING EXAMINER GROSSMAN: Yeah. I'm not so sure 17 that you should be able to avoid it but I do know that 18 there is that ambiguity. 19 MR. KLINE: Thank you for that hint. 20 HEARING EXAMINER GROSSMAN: There was one other thing. 21 Let me see what that was. 22 MR. KLINE: And if you don't mind I'll ask him some 23 questions about the parking variance because you brought 24 that up earlier also. 25 HEARING EXAMINER GROSSMAN: Okay. Sure.</p>	<p>71</p> <p>1 that we have on the record so this is not the one that we 2 have revised. 3 MR. KLINE: Well, are you telling me that what's in 4 the record is the -- are we changing it? 5 MR. INTRIAGO: What I'm saying, sir, is that by the 6 time that you submitted the documents to Mr. Grossman we 7 had (indiscernible) and the time that we were negotiating 8 and discussing that with Ms. Emily -- 9 HEARING EXAMINER GROSSMAN: Tettelbaum. 10 MR. INTRIAGO: -- Tettelbaum. So if we may add 11 another exhibit here for the record. Gee what did we have 12 that -- oh, I see it now. It's detail number 8. How do I 13 call this exhibit for the record? 14 MR. KLINE: Well, just put it up there and we will 15 give it a number. Just -- yeah. So Mr. Intriago, so this 16 is a revision to an exhibit in the record that shows a new 17 sign for -- is this a monument sign or is this a -- 18 MR. INTRIAGO: It's right here at the bottom of the 19 page called SK5, which is of the site signage plan. We 20 have -- I located detail number 10, that that detail shows 21 the construction height and specific language for the 22 signage for the 15 minute parking. It reads, "15 minute 23 drop-off parking only." And that's been approved by Staff 24 already. 25 HEARING EXAMINER GROSSMAN: Okay. So that's 43R as in</p>
<p>70</p> <p>1 MR. KLINE: But I'll let you -- 2 HEARING EXAMINER GROSSMAN: Just one second if you 3 would. 4 MR. KLINE: Sure. 5 HEARING EXAMINER GROSSMAN: Yeah, one of the 6 conditions that Staff recommended, the 13th condition. 7 Prior to approval by the Hearing Examiner Sheet SK5.0 must 8 be amended to add a detail of the signs indicating a 15 9 minute parking for certain vehicle parking spaces. What -- 10 has that been done or is that -- 11 MR. INTRIAGO: Yes, sir. 12 HEARING EXAMINER GROSSMAN: Yes, sir. 13 MR. INTRIAGO: If I may? 14 HEARING EXAMINER GROSSMAN: Yes. 15 MR. INTRIAGO: I've been in direct contact with Emily, 16 uh -- 17 HEARING EXAMINER GROSSMAN: Tettelbaum? 18 MR. INTRIAGO: Yes, sir. And then I actually 19 personally coordinated with her the exact language that she 20 wanted to have on that signage. Mr. Jim Kassay at ADA 21 Architect has already prepared the exhibit. We have shown 22 it to us Staff and staff has okayed the way that we have 23 shown that sign and the language on the sign. If I may -- 24 MALE VOICE: (Indiscernible) the first one. 25 MR. INTRIAGO: Bear with me one -- and this is the one</p>	<p>72</p> <p>1 Robert, is the site signage plan. 2 MR. KLINE: Okay. 3 HEARING EXAMINER GROSSMAN: And so you're saying the 4 one that you're holding up, sir, that is not in the record 5 yet. This is just something you've discussed was Staff and 6 it hasn't been filed with -- 7 MR. INTRIAGO: Correct, sir. 8 HEARING EXAMINER GROSSMAN: -- with this office. 9 MR. INTRIAGO: Correct, sir. It was in the interim 10 between all the files were submitted to you and then we got 11 the Staff report and I wanted to make sure that I had these 12 revised by the time we come here to see you, sir. 13 HEARING EXAMINER GROSSMAN: Okay. 14 MR. KLINE: So could we make this exhibit -- 15 HEARING EXAMINER GROSSMAN: Yes. 16 MR. KLINE: -- a revised SK5.0 site signage plan? 17 HEARING EXAMINER GROSSMAN: Yes. Well, why don't we 18 call it, since it falls into that 43 sequence, I guess we 19 could, you know, we could give it Exhibit 63 or we could 20 give it a 43R1. What do you think? 21 MR. KLINE: I like 63 simply because -- 22 HEARING EXAMINER GROSSMAN: Okay. All right. So 23 we'll make this Exhibit 63. 24 MR. KLINE: You can go ahead and take it down. Just 25 for right now. We'll give it to the Hearing Examiner</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

19 (73 to 76)

<p style="text-align: right;">73</p> <p>1 (indiscernible)</p> <p>2 HEARING EXAMINER GROSSMAN: This is revised site</p> <p>3 signage plan, SK5.0. We'll have to keep the record open</p> <p>4 for 10 days to allow any comment on it.</p> <p>5 MR. KLINE: Sure.</p> <p>6 HEARING EXAMINER GROSSMAN: But I don't see that as a</p> <p>7 big problem because we have to wait for the transcript in</p> <p>8 any event.</p> <p>9 MR. KLINE: Understood, right.</p> <p>10 HEARING EXAMINER GROSSMAN: And we'll have to ask Ms.</p> <p>11 Tettelbaum to formally send something to us saying --</p> <p>12 MR. KLINE: Yeah, and actually we told her that that</p> <p>13 inquiry would be coming.</p> <p>14 HEARING EXAMINER GROSSMAN: Okay.</p> <p>15 MR. KLINE: While we've got 43C up there, would you</p> <p>16 just describe the situation that necessitates the parking</p> <p>17 waiver on the east side of the property?</p> <p>18 MR. INTRIAGO: Yes, sir. So after a lot of discussion</p> <p>19 with Staff, in order to avoid any further impacts to the</p> <p>20 wetland buffer we weren't able to meet the 24 foot</p> <p>21 requirement, which is the required setback for parking</p> <p>22 between us and the adjacent property to the east. So due</p> <p>23 to the fact of the nature of the use on the east side of</p> <p>24 the property, it's compatible with what we're already doing</p> <p>25 on our property. Staff believed and thought it was</p>	<p style="text-align: right;">75</p> <p>1 MR. INTRIAGO: Parking and driving on the -- you know,</p> <p>2 to the east of us.</p> <p>3 HEARING EXAMINER GROSSMAN: Right. Which was the</p> <p>4 basis for Technical Staff saying that they didn't feel that</p> <p>5 that was -- would raise a compatibility issue because</p> <p>6 what's next door is just another parking lot from an</p> <p>7 institutional use. Do you agree with that analysis?</p> <p>8 MR. INTRIAGO: Yes, sir. I do agree with that, sir.</p> <p>9 HEARING EXAMINER GROSSMAN: All right. Yeah I was</p> <p>10 even thinking that well, it says 8.38 feet if I grant the</p> <p>11 waiver just to make it 8 feet and give you a third of a</p> <p>12 foot to --</p> <p>13 MR. KLINE: He would love that wiggle room, just to --</p> <p>14 because we nail this down so tight sometimes we're worried</p> <p>15 about can we really do that. So that would be very</p> <p>16 helpful.</p> <p>17 HEARING EXAMINER GROSSMAN: If compatibility is</p> <p>18 accommodated sufficiently by 8.38 feet, I would think that</p> <p>19 8 feet would do the same, but -- all right.</p> <p>20 MR. KLINE: Thank you. But for that dimensional</p> <p>21 requirement does the application comply with all of the</p> <p>22 other dimensional requirements that are set forth in the</p> <p>23 zoning ordinance or the underlying zone?</p> <p>24 MR. INTRIAGO: Yes, sir. All of the varying standards</p> <p>25 are met, sir, with the exception of that parking setback</p>
<p style="text-align: right;">74</p> <p>1 appropriate to warrant this waiver from 24 to 8.38 feet</p> <p>2 setback.</p> <p>3 MR. KLINE: And what's driving that is, I guess, the</p> <p>4 dimensional requirements for the parking and the drive</p> <p>5 lanes and just the area you've got to work with?</p> <p>6 MR. INTRIAGO: Correct. We have -- there's minimal</p> <p>7 requirements for the width of the sidewalk, the parking and</p> <p>8 the driving aisle. We met all those minimal requirements</p> <p>9 and even we put a retaining wall to be able to, you know,</p> <p>10 don't impact that any more. And we also have a storm water</p> <p>11 management facility that was sized appropriately to</p> <p>12 accommodate all these storm water management requirements,</p> <p>13 which actually we have two of them. But I can talk about</p> <p>14 that at a later time.</p> <p>15 MR. KLINE: So the only way you could avoid having --</p> <p>16 getting the variance is to encroach into the</p> <p>17 environmental --</p> <p>18 MR. INTRIAGO: That is correct.</p> <p>19 MR. KLINE: -- (indiscernible). Okay.</p> <p>20 MR. INTRIAGO: That is correct.</p> <p>21 MR. KLINE: Okay. So this is a trade-off and</p> <p>22 immediately adjacent to us on the east is, it looks like</p> <p>23 parking and drive lanes?</p> <p>24 MR. INTRIAGO: Yes, sir.</p> <p>25 MR. KLINE: Okay.</p>	<p style="text-align: right;">76</p> <p>1 where the variance that we requested.</p> <p>2 HEARING EXAMINER GROSSMAN: Okay.</p> <p>3 MR. KLINE: Okay. How about walking us through storm</p> <p>4 water management just real quickly?</p> <p>5 MR. INTRIAGO: Yes, sir. I would like to get my trays</p> <p>6 (indiscernible) here it is. I would like to talk about</p> <p>7 sheet number 508 called ESD storm water management plan,</p> <p>8 for the record.</p> <p>9 HEARING EXAMINER GROSSMAN: That's Exhibit 43F --</p> <p>10 MR. KLINE: 43.</p> <p>11 HEARING EXAMINER GROSSMAN: -- I believe.</p> <p>12 MR. KLINE: Okay.</p> <p>13 MR. INTRIAGO: In order to meet the full intent of the</p> <p>14 code and the full ESD requirements we had to provide two</p> <p>15 storm water management facilities. They are called planter</p> <p>16 boxes. We have one on the west side of the entrance and</p> <p>17 one on the east side of the entrance. The requirement for</p> <p>18 this type of facility is that no more than .46 acres need</p> <p>19 to drain to them in order to be able to be acceptable. So</p> <p>20 we have the facility going exactly to the west we have .4</p> <p>21 acres draining to it. And the facility draining to the</p> <p>22 east we have .36 acres draining to it, which meets the</p> <p>23 requirement. Now at the same time -- so with these two</p> <p>24 facilities we're meeting the volume, the (indiscernible)</p> <p>25 required to meet the statute. This design has been</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

20 (77 to 80)

<p>77</p> <p>1 submitted to DPS, the reviewer is Mr. Tom Wheaton 2 (phonetic). He's been informed -- we have not resubmitted 3 back to him because there was a bunch of discussions and 4 changes on the site and we wanted to make sure that when we 5 submitted it back to him we had a full approval, Planning 6 Board approval of the layout so there will be no further 7 changes. The only comment, the first final comments that 8 we have from him only had two comments. His only concerns 9 were access and it was only concern about the construction 10 of it. But we -- I personally spoke with Mr. Wheaton and I 11 explained that -- how we were going to build these 12 facilities and how they meet the code, and he's perfectly 13 comfortable and he's just waiting for us to resubmit to 14 him. 15 HEARING EXAMINER GROSSMAN: Well that's a classic 16 hearsay issue here, what he's comfortable with -- do we 17 have some kind of a letter from Mr. Wheaton, the Department 18 of Permitting Services regarding this issue? 19 MR. KLINE: Normally we would but apparently Staff had 20 just telephonic conversations with -- but made Ms. 21 Tettelbaum feel comfortable enough she could go ahead and 22 let it go. But -- 23 HEARING EXAMINER GROSSMAN: Did -- will this have to 24 be resolved at preliminary plan? 25 MR. KLINE: Oh, yes. Oh yeah.</p>	<p>79</p> <p>1 MR. INTRIAGO: One hundred percent meet, sir. 2 HEARING EXAMINER GROSSMAN: Okay. All right. 3 MR. KLINE: I know you've got a forest conservation 4 plans here. 5 MR. INTRIAGO: Yes. 6 MR. KLINE: But rather than getting into the details 7 the -- Mr. Grossman, in the record exhibit number 49 is a 8 resolution of the Planning Board approving the forest 9 conservation plan. 10 HEARING EXAMINER GROSSMAN: Yes. 11 MR. KLINE: So why don't you just give us a quick 12 overview of what is of the concept of how the -- you're 13 meeting the requirements for forest conservation. 14 HEARING EXAMINER GROSSMAN: It's actually 59, not 49. 15 MR. KLINE: Oh, I'm sorry, yes, sir. 16 MR. INTRIAGO: (Indiscernible) sir? Just quickly? 17 MR. KLINE: Well, yeah, just whichever way you want to 18 do it. 19 MR. INTRIAGO: I just want to show, graphically show 20 the locations that will help me explain what I'm trying to 21 say. So I would like to use the sheet PFCP2, called 22 preliminary forest conservation plan. 23 HEARING EXAMINER GROSSMAN: That's exhibit -- 24 MR. INTRIAGO: There is an existing forest 25 conservation easement of 0.62 acres between the --</p>
<p>78</p> <p>1 HEARING EXAMINER GROSSMAN: So at that point because 2 this is a case in which -- which is going to preliminary 3 plan that's somewhat -- 4 MR. KLINE: Right. 5 HEARING EXAMINER GROSSMAN: It eliminates the hearing 6 examiner's responsibility to determine adequacy of public 7 services. 8 MR. KLINE: Right. Right. 9 HEARING EXAMINER GROSSMAN: So I would include that. 10 However, it doesn't eliminate my compatibility issues. So 11 I do want to get your opinion as to whether or not the 12 proposed management of storm water accesses or whatever 13 would be compatible with the surrounding area. 14 MR. INTRIAGO: In my professional opinion, sir, these 15 would be compatible. These two facilities are allowed and 16 in the handbook for -- from DPS. And you see we also would 17 be blending perfectly with the surroundings because it 18 would be a -- like a landscape planter for lack of a better 19 term. 20 HEARING EXAMINER GROSSMAN: And will they be 21 consistent with environmental requirements? 22 MR. INTRIAGO: Yes, sir. It will be an environmental 23 site design. 24 HEARING EXAMINER GROSSMAN: Yes, do you completely 25 meet environmental site design requirements?</p>	<p>80</p> <p>1 HEARING EXAMINER GROSSMAN: Hold on one second while 2 we identify the exhibit. 3 MR. KLINE: Well, it's a series of actually four 4 sheets. 5 HEARING EXAMINER GROSSMAN: All right. 6 MR. KLINE: So it's 43J through M. 7 HEARING EXAMINER GROSSMAN: Okay. All right. Thanks. 8 MR. INTRIAGO: So I would like to, first of all, say 9 that we have an existing forest conservation easement on 10 site of 0.62 acres from which we're going to impact or 11 reduce, eliminate 0.15 acres. On the south side of the 12 property, on exhibit called preliminary forest conservation 13 plan there is a hatched area that delineates the .15 acres 14 that we're going to be eliminating from -- sorry. Right 15 where the building is located that's the area, the forest 16 conservation to be eliminated. So it's right next to the 17 southeast corner of the building. That area is .15 acres. 18 Based on the requirements by the County and using the 19 calculations provided by the County we needed to provide 20 1.47 acres, which is the .15 that we are taking out plus 21 the required calculation of 1.32. That comes out to be 22 1.49 acres of proposed easement required. We're proposing 23 1.49 acres for the site, which is the area highlighted on 24 the -- 25 HEARING EXAMINER GROSSMAN: I think those two numbers</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

21 (81 to 84)

<p>81</p> <p>1 added up to 1.47, correct? And then you're --</p> <p>2 MR. INTRIAGO: The required is 1.47, the provided is</p> <p>3 1.49.</p> <p>4 HEARING EXAMINER GROSSMAN: .49, okay.</p> <p>5 MR. INTRIAGO: And the area we highlighted on the</p> <p>6 exhibit that I just mentioned has two areas, one being</p> <p>7 31,000 square feet and the other one being 12,000 square</p> <p>8 feet which add up to the 1.49 acres.</p> <p>9 HEARING EXAMINER GROSSMAN: Okay.</p> <p>10 MR. INTRIAGO: So we are exceeding the requirements of</p> <p>11 the 1.47 acres required by Staff.</p> <p>12 MR. KLINE: And this was accepted by Staff and</p> <p>13 approved by the Planning Board.</p> <p>14 MR. INTRIAGO: It was accepted by Staff and approved</p> <p>15 by Planning Board. Yes.</p> <p>16 MR. KLINE: Okay. Mr. Intriago, in your professional</p> <p>17 opinion will the proposed use respect the important</p> <p>18 environmental features of the property?</p> <p>19 MR. INTRIAGO: Yes, sir.</p> <p>20 MR. KLINE: Will the property be served by adequate</p> <p>21 public services such as sewer and water?</p> <p>22 MR. INTRIAGO: Yes, sir.</p> <p>23 MR. KLINE: In your investigation were there any</p> <p>24 transmission or treatment capacity problems with the sewer</p> <p>25 system?</p>	<p>83</p> <p>1 yeah.</p> <p>2 MR. KLINE: Obviously, yeah.</p> <p>3 HEARING EXAMINER GROSSMAN: But not the hearing</p> <p>4 examiner.</p> <p>5 MR. KLINE: Sure, right. I have no further questions.</p> <p>6 HEARING EXAMINER GROSSMAN: Okay. And thank you Mr.</p> <p>7 Intriago.</p> <p>8 MR. INTRIAGO: Thank you, sir.</p> <p>9 HEARING EXAMINER GROSSMAN: Congratulations on being</p> <p>10 certified as an expert.</p> <p>11 MR. INTRIAGO: Thank you, sir.</p> <p>12 HEARING EXAMINER GROSSMAN: All right.</p> <p>13 MR. KLINE: I'll call Mr. Kassay.</p> <p>14 HEARING EXAMINER GROSSMAN: All right. Let's take a</p> <p>15 five-minute break here and --</p> <p>16 MR. KLINE: We have two witnesses left and I think it</p> <p>17 will be fairly succinct.</p> <p>18 HEARING EXAMINER GROSSMAN: Okay.</p> <p>19 MR. KLINE: Okay.</p> <p>20 (Off the record 11:13:52 a.m.)</p> <p>21 (On the record 11:23:27 a.m.)</p> <p>22 HEARING EXAMINER GROSSMAN: Okay. We're back on the</p> <p>23 record. Your next witness.</p> <p>24 MR. KLINE: All right. Mr. Kassay, and I probably</p> <p>25 mispronounced that.</p>
<p>82</p> <p>1 MR. INTRIAGO: No, sir.</p> <p>2 MR. KLINE: All right. From an engineering point of</p> <p>3 view is there anything that you can -- anything that you</p> <p>4 observed that would cause any safety or health or welfare</p> <p>5 issues to people on the property or in the surrounding</p> <p>6 neighborhood?</p> <p>7 MR. INTRIAGO: No, sir.</p> <p>8 MR. KLINE: I have no further questions of Mr.</p> <p>9 Intriago.</p> <p>10 HEARING EXAMINER GROSSMAN: What are the sewer and</p> <p>11 water categories currently?</p> <p>12 MR. INTRIAGO: If I go to (indiscernible) I see a</p> <p>13 thing that says W3 and S1, no W1 and S3. That's, I think</p> <p>14 what it is, sir.</p> <p>15 HEARING EXAMINER GROSSMAN: Okay.</p> <p>16 MR. KLINE: Well, let me put it this way; are sewer</p> <p>17 and water lines adjoining the property in the right of way?</p> <p>18 MR. INTRIAGO: Yes, sir. The water line is located on</p> <p>19 Queensguard Road on the north side of the property. And</p> <p>20 the connection is straight there. And then the -- that's</p> <p>21 the water. The sewer line, there's a manhole on the</p> <p>22 southwest side of the property from which we would have a</p> <p>23 cleanout from which that we are going to connect.</p> <p>24 HEARING EXAMINER GROSSMAN: Okay. And once again,</p> <p>25 that's another area that becomes part of preliminary plan,</p>	<p>84</p> <p>1 HEARING EXAMINER GROSSMAN: Okay.</p> <p>2 MR. KLINE: Yeah, I'm sure. Would you please state</p> <p>3 and spell your name and give us your business address?</p> <p>4 MR. KASSAY: James Kassay, K-A-S-S-A-Y. I work for</p> <p>5 ADA Architects at 17710 Detroit Avenue, in Lakewood, Ohio</p> <p>6 44107.</p> <p>7 HEARING EXAMINER GROSSMAN: Would you raise your right</p> <p>8 hand please? Do you swear or affirm to tell the truth, the</p> <p>9 whole truth, and nothing but the truth under penalty of</p> <p>10 perjury?</p> <p>11 MR. KASSAY: I do.</p> <p>12 HEARING EXAMINER GROSSMAN: You came a long way from</p> <p>13 Ohio -- did you -- are you based in Ohio too?</p> <p>14 MR. KASSAY: We're based in Ohio, yeah. We do a lot</p> <p>15 of --</p> <p>16 HEARING EXAMINER GROSSMAN: Are you local to this area</p> <p>17 or --</p> <p>18 MR. KASSAY: I'm not. I'm from Cleveland, the</p> <p>19 Cleveland area.</p> <p>20 HEARING EXAMINER GROSSMAN: Okay.</p> <p>21 MR. KASSAY: We do quite a bit of work on the East</p> <p>22 Coast. That's --</p> <p>23 MR. KLINE: Well, and that's probably a good segue</p> <p>24 into your expertise and why you're here. But before I do</p> <p>25 that, I'll give you a copy of his resume, and I apologize</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

22 (85 to 88)

<p>85</p> <p>1 for the interlineation on that document.</p> <p>2 HEARING EXAMINER GROSSMAN: All right. Thank you. So</p> <p>3 this will be Exhibit, I think we're up to 64. Exhibit 64</p> <p>4 is the resume of James Kassay, architect. All right.</p> <p>5 MR. KLINE: Mr. Kassay, I guess Mr. Taylor saw fit to</p> <p>6 fly you in from Ohio for this, so you must be important.</p> <p>7 So tell us what your expertise is relative to our</p> <p>8 application before us today.</p> <p>9 MR. KASSAY: I've worked predominantly in doing</p> <p>10 childcare projects for over 10 years for not just Primrose,</p> <p>11 for other major national providers, and have done work in</p> <p>12 quite a few jurisdictions over 27 states in a lot of major</p> <p>13 metropolitan complicated jurisdictions, like New York City</p> <p>14 and Los Angeles; and a lot on the East Coast, Philadelphia,</p> <p>15 Boston, a lot of work in DC. And we, aside from the build</p> <p>16 projects we've looked at hundreds and have worked on</p> <p>17 hundreds and hundreds -- over 500 different facilities in</p> <p>18 different locations, so we have extensive knowledge of the</p> <p>19 different licensing requirements with the state and local</p> <p>20 jurisdictional requirements.</p> <p>21 HEARING EXAMINER GROSSMAN: Okay.</p> <p>22 MR. KLINE: I didn't really have a chance to look at</p> <p>23 your resume, but have you -- well, you've heard us go</p> <p>24 through the qualification process. Have you ever been</p> <p>25 asked to be qualified as an expert in the field of</p>	<p>87</p> <p>1 licensed architect in Maryland?</p> <p>2 MR. KASSAY: Yes.</p> <p>3 HEARING EXAMINER GROSSMAN: Okay.</p> <p>4 MR. KLINE: And in fact, he'll probably be designing</p> <p>5 it, but he'll be signing and sealing the plans.</p> <p>6 MR. KASSAY: Correct.</p> <p>7 MR. KLINE: Yeah.</p> <p>8 HEARING EXAMINER GROSSMAN: Okay. All right. Based</p> <p>9 on Mr. Kassay's background as indicated in his resume and</p> <p>10 in his testimony, I accept him as an expert in</p> <p>11 architecture.</p> <p>12 MR. KLINE: Thank you very much. Mr. Kassay, I</p> <p>13 normally do go through some questions, but because this</p> <p>14 building -- well, is this the building custom designed for</p> <p>15 this site as you, and I'm going -- that's sort of just a</p> <p>16 tee off so you can just use whatever exhibit you've got and</p> <p>17 just tell us what it is.</p> <p>18 MR. KASSAY: Sure. It is a custom building, in part</p> <p>19 due to the challenges with the site and so the shape is not</p> <p>20 prototypical, the L shape.</p> <p>21 HEARING EXAMINER GROSSMAN: What is prototypical? I</p> <p>22 assume that every building of this type would have to be</p> <p>23 designed for the site, for a particular site. There is</p> <p>24 some prototypical site for this kind of childcare center?</p> <p>25 MR. KASSAY: There is a prototypical footprint so that</p>
<p>86</p> <p>1 architecture in some board or commission you appeared</p> <p>2 before like you've heard today?</p> <p>3 MR. KASSAY: I believe I had to do that and it was</p> <p>4 some years ago in New Jersey. So I don't know if that</p> <p>5 was -- if there's exact terminology. But --</p> <p>6 MR. KLINE: Yeah, right. Exactly.</p> <p>7 MR. KASSAY: But it was very similar to this.</p> <p>8 MR. KLINE: Well, based on his explanation and his</p> <p>9 expertise in this area particularly, and his number of</p> <p>10 years of practicing architecture, specializing in child</p> <p>11 daycare centers I would like to offer Mr. Kassay as an</p> <p>12 expert in the field of architecture with a specialty in</p> <p>13 child daycare facilities.</p> <p>14 HEARING EXAMINER GROSSMAN: I note that in your resume</p> <p>15 it says you're licensed -- it doesn't indicate a license in</p> <p>16 Maryland. Is that correct?</p> <p>17 MR. KASSAY: That's correct. I'm licensed in Ohio and</p> <p>18 New York. Our firm is licensed in Maryland and the</p> <p>19 principle holds a license -- the principle of our firm that</p> <p>20 I work directly under holds in a licensed in Maryland.</p> <p>21 HEARING EXAMINER GROSSMAN: All right. And who is</p> <p>22 that?</p> <p>23 MR. KASSAY: Robert J. Acciari, A-C-C-I-A-R-R-I.</p> <p>24 HEARING EXAMINER GROSSMAN: Okay. So whoever is</p> <p>25 designing this a building, the subject of this case, is a</p>	<p>88</p> <p>1 the -- there's two versions of it. They call it an S type</p> <p>2 and an L type of for an entrance on the short side or an</p> <p>3 entrance on the long side. But it's the same layout so</p> <p>4 there is some efficiency in that layout. And there are</p> <p>5 occasional minor modifications we have to make based on the</p> <p>6 capacities that state licensing requires. But this is the</p> <p>7 prototypical footprint would not work on this site. So</p> <p>8 we --</p> <p>9 HEARING EXAMINER GROSSMAN: Well, this is an L. This</p> <p>10 is different from the L you were thinking of?</p> <p>11 MR. KASSAY: Yeah. L stands for long elevation.</p> <p>12 HEARING EXAMINER GROSSMAN: Oh, I see.</p> <p>13 MR. KASSAY: The entrance on the long elevation.</p> <p>14 HEARING EXAMINER GROSSMAN: All right.</p> <p>15 MR. KASSAY: It is confusing. So the floor plan was</p> <p>16 generated. It is not prototypical. It was generated from</p> <p>17 scratch essentially and to conform with the shape of the</p> <p>18 site. We try and bring in a lot of the prototypical -- we</p> <p>19 have to bring in the prototypical amenities and classrooms.</p> <p>20 They're just in a different configuration. The exterior of</p> <p>21 the building is also custom-designed. We -- which I'll get</p> <p>22 to next. I'll talk about the floor plan. It's -- there is</p> <p>23 a main entry with a vestibule where parents can come in.</p> <p>24 It's a secure vestibule. There is a keypad and access.</p> <p>25 There is a doorbell for new parents, but nobody can get</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

23 (89 to 92)

<p style="text-align: right;">89</p> <p>1 past the vestibule unless they have the access code. Then 2 they come to a reception area with the director's office 3 and a reception desk. There's a conference room to meet 4 with parents. There's a room to store car seats for 5 parents. And there is a warming pantry where they do 6 warming with convection ovens and microwaves. 7 MR. KLINE: If I can interrupt for a second. It's 8 kind of interesting how you can have the doors from all the 9 classrooms right out into the play area associated with 10 that. So just explain how you set that up. 11 MR. KASSAY: Yeah. And the school is arranged kind of 12 in the two wings so the younger children are to the east 13 side of the building and the older children are on the 14 opposite end. And the corresponding playgrounds are 15 located in those areas. The doors, they don't all open 16 directly to the playground. There is a corridor that ends 17 for example, the infants and toddlers have a playground to 18 the east end of the building. We worked with Emily and 19 Atul with Planning. They didn't want to have fencing along 20 the front of the building so we pulled that back and we do 21 have to go through the corridor for that. Aside from that 22 all the other classrooms have direct access out to the 23 playground. 24 MR. KLINE: Mr. Kassay, if I could interrupt for a 25 second. I'm not sure that Mr. Grossman has run into Atul</p>	<p style="text-align: right;">91</p> <p>1 you some materials, a board, but would you like that in the 2 record as well, or is it that just too cumbersome for your 3 filing system? 4 HEARING EXAMINER GROSSMAN: What are you talking 5 about? The board itself? 6 MR. KLINE: Yeah, he's -- he's actually -- he wanted 7 you to understand -- 8 HEARING EXAMINER GROSSMAN: Oh, well I -- 9 MR. KLINE: He wanted you to understand the palette -- 10 HEARING EXAMINER GROSSMAN: I see. 11 MR. KLINE: -- of the materials and I just wondered if 12 you would like it (indiscernible) 13 HEARING EXAMINER GROSSMAN: Well if we're going to -- 14 if you're going to refer to them here they have to be, 15 so -- 16 MR. KLINE: Very good. 17 HEARING EXAMINER GROSSMAN: I once had a, very early 18 on in my career here, had an auger bit introduced which was 19 quite heavy. And part of -- it was a government contract 20 case. 21 MR. KLINE: Well as long as your staff won't be mad at 22 us for (crosstalk) 23 HEARING EXAMINER GROSSMAN: They probably will be but 24 I'll just say it's your fault so it's okay. 25 MR. KLINE: All right. Mr. Kassay, if you could, just</p>
<p style="text-align: right;">90</p> <p>1 yet, so can you -- 2 MR. KASSAY: Okay. 3 MR. KLINE: -- describe a full name because I'm not 4 even sure I remember his last name. 5 MR. KASSAY: I believe it's Atul Sharma, who's a -- 6 whose consulting on some of the exterior design. 7 MR. KLINE: He's a member of the staff of the Park and 8 Planning Commission and, as I think you would agree is a 9 talented designer himself? 10 MR. KASSAY: Yes. 11 MR. KLINE: From architecture. Hence, would it be -- 12 well, do you mind if I take you to the elevations 13 themselves or were you finished with that? 14 MR. KASSAY: Sure. 15 MR. KLINE: Mr. Grossman, this is a rendered version 16 of what I believe is 430, and I would ask that it be made 17 an exhibit in the record. 18 HEARING EXAMINER GROSSMAN: Okay. 19 MR. KLINE: Would you -- can you leave that? 20 HEARING EXAMINER GROSSMAN: Yeah. 21 MR. KLINE: So it will -- 22 HEARING EXAMINER GROSSMAN: So this will be Exhibit 23 65, the rendered elevations 430. Okay. 24 MR. KLINE: And if I could ask a question. I know 25 it's probably been a while since anybody came and brought</p>	<p style="text-align: right;">92</p> <p>1 to using the exhibit that we just marked as 66, the 2 elevations, and this materials board. 3 MR. KLINE: Okay, so this is going to be 66, this 4 materials board? 5 MR. KLINE: Yeah, I guess so. Yes, sir. 6 HEARING EXAMINER GROSSMAN: Okay. So 66. 7 MR. KLINE: Feel free to just bounce us back and forth 8 about what is going to look like and what the materials are 9 going to be. 10 MR. KASSAY: Sure. We started with elements and 11 features of the prototypical building to kind of maintain 12 some of the brand awareness and consistency. And then we 13 made some adjustments. We worked quite extensively with 14 Emily Tettelbaum and Atul Sharma to make adjustments to 15 this. We've added some additional gables with some stone 16 features. We've reduced the pitch of the roof to a lower 17 pitch. The roof is not as dominant a feature. We've added 18 some dormers to three of the elevations to the west, to the 19 south and the north elevations. We have added some 20 architectural brackets to the gable elements, to the gable 21 element at the entrance and to the awnings on the south and 22 west elevations. The materials are prototypical materials. 23 The brick is a prototypical material and the stone and we 24 felt, and Emily agreed, that the materials are consistent 25 with what's in the area. The shingled roofs, the profile</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

24 (93 to 96)

<p style="text-align: right;">93</p> <p>1 of the building has a very residential feel.</p> <p>2 MR. KLINE: So what's on Exhibit 66, these are</p> <p>3 representative of the kinds of masonry, paint palette, the</p> <p>4 colors. I guess that's a shingled roof?</p> <p>5 MR. KASSAY: Yes.</p> <p>6 MR. KLINE: Is that what those all are?</p> <p>7 MR. KASSAY: It's an asphalt shingle roof sample.</p> <p>8 There's a stone sample, a brick veneer, and then the paint</p> <p>9 for the trim, and for the -- the brackets are painted an</p> <p>10 olive color.</p> <p>11 HEARING EXAMINER GROSSMAN: So these, I take it, all</p> <p>12 of the little features are to make this more compatible</p> <p>13 with the residential area?</p> <p>14 MR. KASSAY: Yes. Yes. The discussions were to</p> <p>15 reduce the scale and make it a little less institutional</p> <p>16 and more residential.</p> <p>17 HEARING EXAMINER GROSSMAN: Okay. And in your opinion</p> <p>18 did they succeed in doing that?</p> <p>19 MR. KASSAY: Yeah, I believe it does. I think it's a</p> <p>20 nice looking building. Those features do help bring down</p> <p>21 the scale and give it a residential character.</p> <p>22 HEARING EXAMINER GROSSMAN: And would this, in your</p> <p>23 opinion, be architecturally compatible with the surrounding</p> <p>24 area?</p> <p>25 MR. KASSAY: Yes.</p>	<p style="text-align: right;">95</p> <p>1 proceed.</p> <p>2 MR. KLINE: Mr. Grossman, I think on this one I'm</p> <p>3 ahead of the curve and I believe Mr. Cook has qualified</p> <p>4 before you before as an expert in transportation planning</p> <p>5 and traffic management. And I would like to offer him</p> <p>6 again in that category.</p> <p>7 HEARING EXAMINER GROSSMAN: Traffic engineering or --</p> <p>8 MR. KLINE: Traffic engineering, I'm sorry, yes.</p> <p>9 MR. COOK: Yes.</p> <p>10 HEARING EXAMINER GROSSMAN: Okay. Do you have</p> <p>11 anything you wish to add to that Mr. Cook?</p> <p>12 MR. COOK: No. That's fine.</p> <p>13 HEARING EXAMINER GROSSMAN: All right. Based on his</p> <p>14 previous testimony as an expert in that field and his</p> <p>15 resume I accept Mr. Cook as an expert in transportation</p> <p>16 planning and traffic engineering.</p> <p>17 MR. KLINE: Mr. Cook, you were asked to prepare a</p> <p>18 traffic report about the proposed use. Could you just</p> <p>19 summarize for us your methodology and your findings and</p> <p>20 conclusions?</p> <p>21 MR. COOK: Sure. The -- interestingly this traffic</p> <p>22 study has been pretty highly scrutinized. This was one of</p> <p>23 the first studies that were done under the new procedures</p> <p>24 for the local area transportation review. So we worked</p> <p>25 very closely with Staff to make sure we were following the</p>
<p style="text-align: right;">94</p> <p>1 HEARING EXAMINER GROSSMAN: Okay.</p> <p>2 MR. KLINE: I have no further questions for Mr.</p> <p>3 Kassay.</p> <p>4 HEARING EXAMINER GROSSMAN: I don't think I do either.</p> <p>5 Thank you, sir.</p> <p>6 MR. KASSAY: Thank you.</p> <p>7 HEARING EXAMINER GROSSMAN: I used to torture the</p> <p>8 architect and the witnesses and question them about their</p> <p>9 expertise as to what they thought of the, at that time,</p> <p>10 proposed Clinton Library architecture because I had a</p> <p>11 very -- an opinion about that myself. But I don't do that</p> <p>12 anymore.</p> <p>13 MR. KLINE: I'm just marking these as exhibits, Mr.</p> <p>14 Grossman. Mr. Cook, could you give us your name and your</p> <p>15 business address, please?</p> <p>16 MR. COOK: Sure. My name is Glenn Cook. I am the</p> <p>17 senior vice president with The Traffic Group. Our office</p> <p>18 is located at 9900 Franklin Square Drive, Suite H,</p> <p>19 Baltimore, Maryland 21236.</p> <p>20 HEARING EXAMINER GROSSMAN: Mr. Cook would you raise</p> <p>21 your right hand, please? Do you swear or affirm to tell</p> <p>22 the truth, the whole truth, and nothing but the truth under</p> <p>23 penalty of perjury?</p> <p>24 MR. COOK: I do.</p> <p>25 HEARING EXAMINER GROSSMAN: All right. You may</p>	<p style="text-align: right;">96</p> <p>1 guidelines.</p> <p>2 HEARING EXAMINER GROSSMAN: It took a long time for</p> <p>3 those to actually get out.</p> <p>4 MR. COOK: Sure did. And we had 22 meetings as a</p> <p>5 committee to try to get them nailed down. But they're</p> <p>6 there, and they seem to work very well. So this study was</p> <p>7 done based on the new guidelines even though the new</p> <p>8 guidelines had not formally been adopted by the County</p> <p>9 Council yet. But it was just a matter of a vote really</p> <p>10 wants the thing was presented back to them. The traffic</p> <p>11 study methodology is pretty much the same as the old</p> <p>12 methodology was, in that we look at existing traffic, we</p> <p>13 look at the background traffic, which is traffic from other</p> <p>14 developments that are approved in the area. We looked at</p> <p>15 total traffic which includes our site and then we conduct</p> <p>16 the analysis. Under the new guidelines depending on the</p> <p>17 area that you're located in determines what methodology you</p> <p>18 analyze the intersections with. In this particular case we</p> <p>19 had two different methodologies that we had to use. We had</p> <p>20 to use what's referred to as a critical lane volume. We</p> <p>21 had to use the highway capacity software which are the same</p> <p>22 as before. So the results are based on those. In certain</p> <p>23 areas you use what we refer to as CLD and if that exceeds</p> <p>24 1350 then we have to do the highway capacity but as far as</p> <p>25 the traffic generation for the site it's done very similar</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

25 (97 to 100)

<p style="text-align: right;">97</p> <p>1 to the old procedures. We used the Institute of 2 Transportation engineers trip generation report to 3 determine the number of peak hour trips that are going to 4 be generated by a facility of this size. And then the new 5 guidelines make you -- allow you to reduce for various 6 modes of transportation. Transit, bus, pedestrians, and 7 things of that nature so that you reduce the trips in 8 certain areas of by certain percentages to be reflective of 9 what travel patterns are in that area. We did that in this 10 report. We added that to the existing road network and 11 what we found was that the three -- we looked at three 12 study area intersections. Maryland 182 and Bel Pre, 13 Maryland 182 and Queensguard, and then Maryland 182 and, 14 what's at Midvale? Middlevale, which is to the south. And 15 what we found in all cases was that these three 16 intersections would operate within the standards that have 17 been established by the new guidelines. The original 18 report was based on 195 students, which is what was on the 19 plan at the time we were asked to do this. Since that time 20 we have gotten a letter from Emily Tetinbaum -- 21 HEARING EXAMINER GROSSMAN: Tettelbaum. 22 MR. COOK: Tettelbaum, okay, requesting us to provide 23 an update for the 200 students, so that our findings were 24 consistent with what's shown on the plan. We provided that 25 update to her; it increased the number of trips that we</p>	<p style="text-align: right;">99</p> <p>1 had something in addition below your calculation. Is that 2 what you're talking about? 3 MR. COOK: No. Actually this is an extra copy that -- 4 HEARING EXAMINER GROSSMAN: Okay, great. 5 MR. COOK: -- we could submit. That's my original 6 email to Emily. 7 MR. KLINE: Yeah, I'm sorry Mr. Grossman. It looks 8 like maybe I didn't get you all the pages. So I think 9 Exhibit 10 (indiscernible). 10 HEARING EXAMINER GROSSMAN: Right. 11 MR. KLINE: But what you don't seem to have is the CLD 12 analysis, of the 13th. 13 HEARING EXAMINER GROSSMAN: Okay. 14 MR. KLINE: (indiscernible) that you've got 15 (indiscernible). 16 HEARING EXAMINER GROSSMAN: All right. So we'll make 17 this 67, Exhibit 67 and 67-A will be the new Exhibit 10. 18 It is actually different. This 67-B is going to be the 19 additional page, but -- 20 MR. COOK: You may just have this because this is what 21 we -- 22 HEARING EXAMINER GROSSMAN: Your 67-A differs from 23 47-A. 24 MR. KLINE: If you don't mind, I'm going to ask Mr. 25 Cook to come up and show you so he's showing me here and</p>
<p style="text-align: right;">98</p> <p>1 would be generating by about three during each of the peak 2 periods. 3 HEARING EXAMINER GROSSMAN: And that update is 4 Exhibit -- 5 MR. KLINE: 47, I believe. 6 HEARING EXAMINER GROSSMAN: Yes, 47-A is the actual 7 new page that replaced placed the -- what was Exhibit 10 to 8 your report. 9 MR. COOK: Right. There should have been -- 10 HEARING EXAMINER GROSSMAN: (Crosstalk) 11 MR. COOK: -- there should have actually been two 12 pages. There should have been an Exhibit 10 and an Exhibit 13 13. One showed the number of trips, the change in the 14 calculation of trips, and then the change in the results of 15 the analysis was the second page. 16 HEARING EXAMINER GROSSMAN: Gee, I don't know that I 17 got a second page. Let me look. 18 MR. KLINE: Yeah. I -- 19 HEARING EXAMINER GROSSMAN: Let me get back to what 20 I've got. Well we've got a 47-A and added on, it's not a 21 separate page but I notice when I compare the two from your 22 previous Exhibit 10. Your previous Exhibit 10 had, and 23 this is not OHZA's exhibit list but your exhibit number 10 24 on yours. That was it. I crossed it out in there and I 25 added the other page that was added in. But the new page</p>	<p style="text-align: right;">100</p> <p>1 maybe I'm not smart enough to be able to understand each of 2 these pages. 3 HEARING EXAMINER GROSSMAN: This is what I received. 4 MR. COOK: Right. This is what we had sent originally 5 with the email. 6 HEARING EXAMINER GROSSMAN: Okay. 7 MR. COOK: And they came back and asked us to spell 8 all of it out down here in a table form. So this 9 information here -- 10 HEARING EXAMINER GROSSMAN: Yes. 11 MR. COOK: It is the same as this. This is just a 12 further explanation that they requested. 13 HEARING EXAMINER GROSSMAN: All right. So what you're 14 telling me here is that -- well what about 67-B, that's 15 fully additional, is that what you're saying? 16 MR. COOK: That's it -- we sent that with the original 17 submission to Emily to show the change in the levels of 18 service at the intersections. 19 HEARING EXAMINER GROSSMAN: And does 67-B illustrate 20 the final analysis? 21 MR. COOK: Yes, yes it does for 200 students. 22 HEARING EXAMINER GROSSMAN: Okay. All right. So 23 maybe what we should do here is just include -- do you have 24 a separate page of this? Of -- 25 MR. COOK: I have this one --</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

26 (101 to 104)

<p>101</p> <p>1 HEARING EXAMINER GROSSMAN: No, that's different 2 version. 3 MR. COOK: But that's -- oh, of that one? 4 HEARING EXAMINER GROSSMAN: Yes. 5 MR. COOK: No. I just had the one. 6 HEARING EXAMINER GROSSMAN: All right. Let's -- to 7 avoid confusion why don't we just call -- just to use this 8 page, take this part. And give this back, and this will be 9 Exhibit 67 as the new additional page. And so new page in 10 traffic report substituting for traffic report Exhibit 13, 11 and what I'll do if everybody agrees, is I'll add this 12 Exhibit 67 into Exhibit 15 in the same way I added -- 13 MR. KLINE: Thank you. 14 HEARING EXAMINER GROSSMAN: -- added 47-A. 15 MR. KLINE: No objection. 16 HEARING EXAMINER GROSSMAN: -- and I crossed out the 17 original Exhibit 10 noting that it was going to be changed, 18 right into the exhibits. So if somebody were to look at 19 this they would -- the traffic report they would see 20 everything. Okay. All right. So we'll do that. I take 21 it that -- have you looked at the staff report which 22 described the traffic situation and analysis and did that 23 correctly reflect everything that's in your new -- 24 MR. COOK: I did not see a copy of the final 25 (indiscernible).</p>	<p>103</p> <p>1 MR. TAYLOR: Yeah, you haven't seen the last of 2 Primrose. 3 HEARING EXAMINER GROSSMAN: All right. Thank you. 4 MR. TAYLOR: Thank you so much. 5 HEARING EXAMINER GROSSMAN: Thank you for coming in. 6 I appreciate it. 7 MR. TAYLOR: Yeah thanks, appreciate it. Jody, thank 8 you. 9 MR. KLINE: Yeah. 10 MR. TAYLOR: Everyone, have a great weekend. 11 MR. COOK: Mr. Grossman, to answer your question, the 12 tables that they show in the Staff report are consistent 13 with the most recent ones that I provided to you. 14 HEARING EXAMINER GROSSMAN: Okay. Very good. 15 MR. COOK: But I -- as I told you we were working very 16 closely through the new procedures. 17 HEARING EXAMINER GROSSMAN: Yes, all right. I'm glad 18 that we all -- I mean technically speaking the -- I don't 19 analyze adequacy of the public facilities -- transportation 20 facility because there's a preliminary plan required, so 21 that goes back to the Planning Board. 22 MR. COOK: Right. 23 HEARING EXAMINER GROSSMAN: However, once again, 24 traffic is an issue in terms of compatibility or adverse 25 consequences which is one of the standards I still review.</p>
<p>102</p> <p>1 MR. KLINE: When we submitted that we asked Ms. 2 Tettelbaum to communicate to you that what we submitted was 3 responsive to her request for additional information. You 4 may not have gotten anything other than a phone call but I 5 know that that was what she told me she was looking for. 6 HEARING EXAMINER GROSSMAN: So would you give Mr. Cook 7 a copy of the staff report and let him compare what's in 8 the staff report analysis to his corrected, changed 9 submissions for the 200 children estimate, just to make 10 sure that we are on the same page in terms of analysis. 11 MR. TAYLOR: Mr. Grossman, I apologize. 12 (Indiscernible) I need to catch a flight. 13 HEARING EXAMINER GROSSMAN: Okay. All right. 14 MR. TAYLOR: Thank you very much for your time. 15 HEARING EXAMINER GROSSMAN: Thank you, Mr. Taylor. 16 MR. TAYLOR: Looking forward, I'm sure over going to 17 see each other more. There's some more (indiscernible) 18 coming up. 19 HEARING EXAMINER GROSSMAN: Well, probably not. Once 20 I issue my report and decision in the case, that's probably 21 the end of it for my involvement. 22 MR. TAYLOR: (indiscernible) 23 MR. KLINE: He's got other cases. 24 (Crosstalk) 25 THE COURT: Oh, I see other cases. I see, okay.</p>	<p>104</p> <p>1 So that would be the central question here. It's not so 2 much a question of the adequacy of public facilities; it's 3 a question of any adverse impacts from traffic and added 4 traffic that might result from this proposal. So that's 5 what I would ask you to address yourself too. 6 MR. COOK: Okay. Okay. The traffic that's generated 7 by the proposed site is approximately 50 new trips coming 8 into the neighborhood during the morning peak hour and then 9 during the evening peak hour. Testimony earlier talked 10 about a day care center and that most of the trips are 11 coming from people on their way to and from work or school 12 and things of that nature, and that was a very true 13 statement. So that cuts down on the amount of additional 14 traffic that's being added to the road network. So 15 normally a facility or a use such as this doesn't 16 overburden the road network. In this particular case in 17 our analysis based on our analysis based on our analysis 18 regardless of the adequacy what we found was that all of 19 the intersections are capable of supporting the additional 20 traffic that would be generated by this facility and 21 therefore would not have a negative impact on the 22 community. 23 HEARING EXAMINER GROSSMAN: Okay. 24 MR. COOK: Okay. 25 HEARING EXAMINER GROSSMAN: What about safety</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

27 (105 to 108)

<p>105</p> <p>1 concerns?</p> <p>2 MR. COOK: There are -- okay to bring the letter up?</p> <p>3 MR. KLINE: The answer is yes.</p> <p>4 MR. COOK: Okay.</p> <p>5 HEARING EXAMINER GROSSMAN: You just did so</p> <p>6 (crosstalk)</p> <p>7 MR. KLINE: Well my next question was going to be Mr.</p> <p>8 Shaw's letter.</p> <p>9 MR. COOK: About the letter, right.</p> <p>10 MR. KLINE: Well, and let me set it up this way. I</p> <p>11 was -- I wanted to -- I knew that these gentlemen had to</p> <p>12 leave and I was -- but now that they're gone, you can take</p> <p>13 all the time you need. And you've got -- so you've got a</p> <p>14 copy of Mr. Shaw's letter.</p> <p>15 MR. COOK: I have it right here.</p> <p>16 MR. KLINE: I was going to ask you to actually use the</p> <p>17 Exhibit 43C and just kind of explain why you think things</p> <p>18 are going to be better.</p> <p>19 MR. COOK: Okay.</p> <p>20 HEARING EXAMINER GROSSMAN: I would say in that</p> <p>21 context that the Planning Board also mentioned in its</p> <p>22 letter that there was a witness before the planning -- but</p> <p>23 the Planning Board proceedings themselves don't technically</p> <p>24 get into my record because the witnesses are not under</p> <p>25 oath, et cetera. But they sent a letter which it does get</p>	<p>107</p> <p>1 is Exhibit 8-C.</p> <p>2 MR. KLINE: That was 43C. It's now numbered 43C.</p> <p>3 MR. COOK: Okay. Exhibit 49-C --</p> <p>4 HEARING EXAMINER GROSSMAN: 43C.</p> <p>5 MR. COOK: Okay. That one, I'll use as a reference</p> <p>6 point. The Mr. Shaw letter, Mr. Shaw lives up here on the</p> <p>7 north side of Queensguard, right? East of Layhill Road.</p> <p>8 HEARING EXAMINER GROSSMAN: Right.</p> <p>9 MR. COOK: East of Layhill Road.</p> <p>10 HEARING EXAMINER GROSSMAN: Okay.</p> <p>11 MR. COOK: He has a driveway that comes out onto</p> <p>12 Queensguard here at this location. Today parking is</p> <p>13 allowed along both sides of Queensguard Road from Layhill</p> <p>14 Road well down past our site and the community center site</p> <p>15 and everything.</p> <p>16 MR. KLINE: And why would anybody park there?</p> <p>17 MR. COOK: Well, actually what we found out, there is</p> <p>18 parking along here in the morning.</p> <p>19 HEARING EXAMINER GROSSMAN: Along here being?</p> <p>20 MR. COOK: I'm sorry. On the south side of</p> <p>21 Queensguard, east of Layhill Road. We, at first thought,</p> <p>22 that that traffic was attributed to the community center</p> <p>23 being here. But based on two different people making field</p> <p>24 observations out here what we found out that the community</p> <p>25 center I understand begins operation at 9:00. Cars are</p>
<p>106</p> <p>1 into the record and in that letter the Chair mentioned that</p> <p>2 a community member testified in opposition to the</p> <p>3 application and was concerned about noticing of the</p> <p>4 application, parking overflow from the proposed daycare on</p> <p>5 to Layhill Road, staffing of the day care, trash</p> <p>6 collection, traffic congestion, impacts on nearby pond and</p> <p>7 competition with the afterschool program at the adjacent</p> <p>8 Mid-County Recreation Center. They mentioned that the --</p> <p>9 in the Planning Board letter that Staff explained that the</p> <p>10 proposed parking was more than adequate and they'd exceeded</p> <p>11 the required amount. The letter doesn't go into any other</p> <p>12 questions raised about notification, trash collection,</p> <p>13 traffic congestion, the pond, et cetera. So to the -- any</p> <p>14 extent you think is appropriate you can address those</p> <p>15 issues.</p> <p>16 MR. KLINE: Okay.</p> <p>17 HEARING EXAMINER GROSSMAN: Which were raised for the</p> <p>18 first time. I mean the traffic was raised by the Shaw</p> <p>19 letter.</p> <p>20 MR. KLINE: Right.</p> <p>21 HEARING EXAMINER GROSSMAN: Traffic, safety, and</p> <p>22 congestion.</p> <p>23 MR. KLINE: That's what I had asked him to address,</p> <p>24 yeah.</p> <p>25 HEARING EXAMINER GROSSMAN: Okay. Okay. The -- this</p>	<p>108</p> <p>1 parked along here --</p> <p>2 HEARING EXAMINER GROSSMAN: Here being?</p> <p>3 MR. COOK: I'm -- on the south side of Queensguard</p> <p>4 east of Layhill. Are parked there beginning at 7:00 in the</p> <p>5 morning. And what -- we observed two things. One, some</p> <p>6 people were parking on the south side of Queensguard Road,</p> <p>7 getting out of their car and walking to the bus stop.</p> <p>8 Other ones were leaving their cars and being picked up by</p> <p>9 other people. And don't know where they went to after they</p> <p>10 were picked up, obviously. But based on the area at the</p> <p>11 shopping center in the northwest quadrant of the Layhill</p> <p>12 and Bel Pre intersection, the Plaza Del --</p> <p>13 MR. KLINE: Del Mercado --</p> <p>14 MR. COOK: (Crosstalk)</p> <p>15 MR. KLINE: The Del Mercado.</p> <p>16 MR. COOK: Right. Its parking lot is heavily posted</p> <p>17 for no parking for commuter traffic because what people, we</p> <p>18 believe people are doing is they're meeting to carpool to</p> <p>19 go to Route 200 to the north. Queensguard Road is really</p> <p>20 the last opportunity for them to do that before they get</p> <p>21 any further to the north as they approach 200. So we</p> <p>22 believe there some carpooling that's actually occurring</p> <p>23 along here. In fact, it's people leaving their cars and</p> <p>24 using the transit system</p> <p>25 HEARING EXAMINER GROSSMAN: And along here being?</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

28 (109 to 112)

<p>109</p> <p>1 MR. COOK: The south side of Queensguard Road, east of 2 Layhill Road. So one of the things that that we -- and 3 that presents several problems. And in Mr. Shaw's letter 4 he repeated it many times; that he felt Queensguard Road 5 wasn't wide enough to be a four-lane roadway. And 6 Queensguard Road is not meant to be a four-lane roadway. 7 It's two travel lanes, one in each direction and then 8 parking on both the north and the south side. The 9 cross-section of Queensguard Road ranges between 33 and 36 10 feet so when you have parking on both sides that's 16 feet 11 of pavement that you're using, so you're down to two, 12 10-foot lanes, which is narrow. And you know some people 13 it wouldn't faze, other people get uptight about that so 14 they'll pull over where there's an opening to let the other 15 people go. That was one of Mr. Shaw's major concerns. One 16 of the things that we were recommending, based on a comment 17 that we had received from MCDOT and one thing that we had 18 talked about after we had actually met with Mr. Shaw was 19 the segment of Queensguard Road between our proposed 20 access, which is directly opposite Punch Road and Layhill 21 Road, would be that we would try to get the County to allow 22 parking to be restricted along this area. So there's 23 multi-purposes. One, it provides a better site lines for 24 vehicles coming out of our site to be able to see up to 25 Layhill Road.</p>	<p>111</p> <p>1 entire day. There is parking permitted -- 2 HEARING EXAMINER GROSSMAN: You mean 24 hours a day? 3 MR. COOK: Twenty-fours a day. There is parking, you 4 know, permitted east of the community center. 5 HEARING EXAMINER GROSSMAN: Right. 6 MR. COOK: But with that segment at least between 7 Punch and Layhill Road we would like to see it restricted 8 for 24 hours a day. 9 HEARING EXAMINER GROSSMAN: It seems to me it would be 10 a sensible idea in terms of, because now you're going to 11 have a -- if this is approved you're going to have a 12 significant volume of traffic during certain hours coming 13 in to the center, and you're right about the site lines. 14 What about the site lines? 15 MR. COOK: The site lines from our entrance, you can 16 see clearly up to the intersection. 17 HEARING EXAMINER GROSSMAN: How far is it from the 18 entrance to the intersection? 19 MR. COOK: The centerline of Punch is about 200 feet 20 to the curb line of Layhill Road. 21 HEARING EXAMINER GROSSMAN: Okay. 22 MR. COOK: Okay. The -- so that way we would get the 23 maximum benefit. There are no obstructions through here if 24 we remove the parking. So we have clear sight lines. 25 MR. COOK: The other issue, one of the other issues</p>
<p>110</p> <p>1 MR. KLINE: Yes. 2 MR. COOK: The other thing it would allow us to do is 3 the segment of Queensguard between Punch and Layhill, we 4 would re-stripe so that today it operates pretty much as 5 one lane going out, one lane coming in because of the 6 parked cars over here. If we remove the parking through 7 this area we could mark it as three lanes so that we have 8 two outbound lanes and one inbound lane. 9 HEARING EXAMINER GROSSMAN: Just so I understand. Is 10 the parking restriction as proposed for both sides of 11 Queensguard, or just the side -- the south side? 12 MR. COOK: It would be for both sides. 13 HEARING EXAMINER GROSSMAN: Okay. 14 MR. COOK: Because the roadway through the segment 15 between Punch and Layhill is 36 feet. So we would want to 16 have two, 11-foot lanes, and a 14-foot lane for instance. 17 So we would have to restrict parking on both sides. 18 HEARING EXAMINER GROSSMAN: By restrict you're saying 19 prohibit? 20 MR. COOK: Yes. 21 HEARING EXAMINER GROSSMAN: Prohibit it for certain 22 hours or just prohibit it in general? 23 MR. COOK: In our opinion we need to -- we obviously 24 need to clear this with MCDOT and meet with them, but it 25 would be our recommendation that it be restricted for the</p>	<p>112</p> <p>1 that Mr. Shaw brought up in his letter is the queuing of 2 vehicles going westbound along Queensguard at 182 backing 3 up and possibly blocking his driveway and blocking Punch 4 Road. 5 HEARING EXAMINER GROSSMAN: Right. 6 MR. COOK: And making it difficult for cars to come 7 off of that. Based on the traffic study that we did, what 8 we found was if we had two outbound lanes along Queensguard 9 Road we would have 125 feet of storage that we would need 10 before we get back in this area by Punch, which I had 11 mentioned was 188 feet to 190 feet. So the queue of 12 vehicles in two lanes would be almost cut in half compared 13 to what it would be if we left parking along this stretch 14 of roadway. 15 HEARING EXAMINER GROSSMAN: So are vehicles allowed to 16 turn left from Queensguard onto Layhill? 17 MR. COOK: Yes, they are. 18 HEARING EXAMINER GROSSMAN: So I'm not sure that you 19 have doubled your capacity -- storage capacity for turning 20 right have you? 21 MR. COOK: It depends on the time of day. During the 22 morning the left turn movement off of Queensguard is a 23 little heavier than the right turn is, and vice versa. But 24 when you split the -- look at the total volume on there and 25 again, it varies every 15-20 minutes depending on where the</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

29 (113 to 116)

<p>113</p> <p>1 cars are going to. But it would give us plenty of storage 2 space between the two intersections. We have adequate 3 storage space between these two intersections today. 4 HEARING EXAMINER GROSSMAN: Between? 5 MR. COOK: With -- between Layhill Road and Punch 6 Road, even with just the one outbound lane. 7 HEARING EXAMINER GROSSMAN: What about up to his -- up 8 to the driveway? 9 MR. COOK: To Mr. Shaw's driveway? 10 HEARING EXAMINER GROSSMAN: Mr. Shaw's driveway. 11 MR. COOK: Mr. Shaw's driveway is here in the middle. 12 There are -- 13 HEARING EXAMINER GROSSMAN: That's about -- that's 14 about 90 feet or so on -- 15 MR. COOK: On the north side. 16 HEARING EXAMINER GROSSMAN: -- from the intersection? 17 MR. COOK: Yes. Yes. He's a very close to Layhill 18 Road. 19 HEARING EXAMINER GROSSMAN: I see. 20 MR. COOK: And we will have short periods of time 21 where his driveway may be blocked. But it would only 22 remain for a short period of time. 23 HEARING EXAMINER GROSSMAN: What does it -- does the 24 State have any input on the question of parking restriction 25 on Queensguard?</p>	<p>115</p> <p>1 MR. COOK: Okay. 2 MR. KLINE: So the answer to your question yes we are 3 meeting Tuesday at 10:30 because the Recreation Center 4 basically had some questions; who are you, what are you 5 doing, are you going to be using our parking lot? Are you 6 going to have your kids playing around? We're going to 7 basically answer all of their questions so they don't have 8 any concern and also they have -- I think you saw some 9 improvements that we're going to make that will facilitate 10 the movements in and out of their property as well. And, 11 yeah, that was a question. 12 MR. COOK: I mean it's possible that we could get them 13 to restrict parking through this segment which would allow 14 them better site lines as well. 15 MR. KLINE: Right. Sure. 16 MR. COOK: But that's -- 17 MR. KLINE: The discussion triggered by the gentleman 18 who is a periodic attendee at the Recreation Center which 19 got incorporated in the Planning Board's letter to you 20 basically said will you be coming back (indiscernible) 21 preliminary plan and will address all of this at that point 22 in time. Our meeting next Tuesday is because we're about 23 to file the preliminary plan now in anticipation of a 24 favorable result here. So we'll basically start the 25 dialogue with the Rec Center. We'll have a community</p>
<p>114</p> <p>1 MR. COOK: No. That would be a County decision. 2 HEARING EXAMINER GROSSMAN: And what's the process 3 that would have to be gone through and how long would it 4 take before the parking restrictions would be installed? 5 MR. COOK: We would have to meet with the Department 6 of Transportation from Montgomery County and discuss it 7 with them. I can't speak for them as to how long it would 8 take but this is something -- a relatively minor request. 9 And in talking with them my hope would be that we meet 10 with, explain the advantages to eliminating the parking 11 through there. They agree with our conclusions and say 12 they are fine with that. We would then work up a plan that 13 would show how we would re-stripe Queensguard Road between 14 Punch and Layhill to give to them and show the removal of 15 the parking signs on both sides. And then they would 16 approve that plan. 17 HEARING EXAMINER GROSSMAN: So Mr. Klein, how do you 18 think that should be factored in to this process? 19 MR. KLINE: Sure. Well, let me ask a question and it 20 will be (indiscernible). Next Tuesday will you be able to 21 join us in a meeting with the County at the Mid-County 22 Recreation Center to talk about traffic issues? 23 MR. COOK: I can double check my calendar but I 24 believe I can. 25 MR. KLINE: Okay, 10:30 on Tuesday.</p>	<p>116</p> <p>1 meeting to talk about transportation improvements and I 2 would suggest it would be the subject of (indiscernible) an 3 APF issue at the time of the preliminary plan. 4 HEARING EXAMINER GROSSMAN: Okay. I mean the question 5 about notice, I'm not sure exactly what -- because that 6 Planning Board proceeding is not directly a part of my 7 record here. He's talking about notice of the Planning 8 Board meeting or notice of this hearing? 9 MR. KLINE: It was -- it wasn't this meeting. It was 10 the previous one. I think it actually had to do with the 11 community meeting that we conducted at the Mid-County Rec 12 Center because he -- we sent it to the people who were 13 required in the design development manual and he just 14 didn't get a copy of the letter is my recollection. 15 HEARING EXAMINER GROSSMAN: Well, I'm not clear why 16 the Rec facility should have not have realized that there 17 was this proceeding given that you presumably have a sign 18 posted -- 19 MR. KLINE: They -- 20 HEARING EXAMINER GROSSMAN: -- on Queensguard and one 21 on -- one or two on Layhill. 22 MR. KLINE: Well, it goes a little bit more than that. 23 I mean my attitude is when we had our community meeting, 24 which was not a requirement for this application. 25 HEARING EXAMINER GROSSMAN: Right.</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

30 (117 to 120)

<p>117</p> <p>1 MR. KLINE: We just did it as a courtesy. I did leave 2 a message with the director that we would be getting back 3 in touch with them. And in fact I didn't do that. And I 4 have since apologized for that. But I thought they were 5 aware we were there. The gentleman who testified at the 6 Park and Planning Commission said nobody at the Rec Center 7 knew anything about this at all. And we kind of chuckled, 8 well; we met here in your building, so I think you should 9 have known something about it. But that was all -- he was 10 just saying you hadn't coordinated very well with the Rec 11 Center and Mr. Greg Assant (phonetic) and the Department of 12 General Services, he got the letter on behalf of the County 13 as the property owner. He forwarded it to the DOT and the 14 Correct Center. That triggered a dialogue, let's all get 15 together, and that's what we are doing next Tuesday. 16 HEARING EXAMINER GROSSMAN: Okay. All right, so 17 getting back to this original question of the -- well not 18 the original, midpoint question of the parking on 19 Queensguard, as I said it sounds like a sensible thing. I 20 just don't know from what you are saying you believe that 21 will be part of the preliminary plan discussion and is not 22 a necessary part of anything I would have to condition. 23 MR. KLINE: Well, I'll take the technical answer is 24 from an adequate public facilities point of view there is 25 not an issue. There is a quote congestion issue I guess,</p>	<p>119</p> <p>1 safe and efficient? 2 MR. COOK: In my opinion it is, yes. 3 HEARING EXAMINER GROSSMAN: Okay. Mr. Kline? 4 MR. KLINE: I was reading through the Staff report 5 because I was -- I knew that Mr. Axler (phonetic) would 6 never concern -- as much concerned as Mr. Shaw was. So 7 Staff just did a -- it wasn't a red flag for the Staff. I 8 was looking to see if there was something in there. They 9 did talk about a queuing analysis that they anticipated 10 would occur at the time of preliminary plan. So Staff is 11 expecting us to do something basically to come up with a -- 12 address the issue. 13 HEARING EXAMINER GROSSMAN: Right. 14 MR. COOK: And that's the recommendation for getting 15 the two outbound lanes to help address the queuing issue. 16 HEARING EXAMINER GROSSMAN: Okay. And in terms of 17 just the volume issue your testimony is that all 18 intersections that are appropriately studied in this case 19 will continue to operate within assigned capacities? 20 MR. COOK: Yes. 21 HEARING EXAMINER GROSSMAN: Okay. 22 MR. KLINE: I have no further questions of Mr. Cook. 23 Nor do I have any other witnesses to present. 24 HEARING EXAMINER GROSSMAN: Oh, I thought you were 25 going to be presenting two additional witnesses.</p>
<p>118</p> <p>1 or a circulation issue that we are aware is there and we 2 intend to address it. We didn't make it part of our 3 application for conditional use approval because we didn't 4 think it was strictly needed at this point in time. 5 HEARING EXAMINER GROSSMAN: All right. Well, there's 6 a sight line issue to it seems to me. 7 MR. KLINE: Yeah, right. 8 HEARING EXAMINER GROSSMAN: So that's a safety 9 concern. Okay. All right. I think I have a fix on that. 10 Are you saying that Mr. Cook, whether or not a parking 11 restriction is approved between the access point on 12 Queensguard and the intersection at Layhill that access to 13 the facility proposed here would be safe and efficient? 14 MR. COOK: It would still be safe even if parking was 15 there. But as you know, when you do have parked cars you 16 need to nose out a little bit further than you normally 17 would. 18 HEARING EXAMINER GROSSMAN: Sure. 19 MR. COOK: Where we try to have the proper site 20 distance sitting beyond the curb line, so it was still be 21 okay to have that there but it would be much more desirable 22 to ban parking along the south side of Queensguard. 23 HEARING EXAMINER GROSSMAN: And is on site 24 circulation -- traffic circulation, I guess I would include 25 pedestrian, bicycle, and auto since that's the modern look,</p>	<p>120</p> <p>1 MR. KLINE: I talked to Mr. and Ms. Majmuder who don't 2 mind not testifying. 3 HEARING EXAMINER GROSSMAN: Okay. 4 MR. KLINE: But I would like to wrap it up. I don't 5 always do that but just to wrap it up a little bit. And 6 the reason I say that is because I wanted to say this down 7 at the Planning Board but we spent so much time listening 8 to the neighbor I just didn't feel it was necessary. But, 9 you know, you've heard planners and architects here appear 10 before you and say, you know, this property wants to be 11 something. And my comment is when you look at the history 12 that I have given you with the Board of Appeals cases and 13 the fact that the current owner bought it from a church who 14 thought about building a church there, it just doesn't seem 15 to want to be a single-family detached house. It wants to 16 be a transitional semi -- well, institutional use but it 17 doesn't look like an institutional use. And given the 18 zoning history of uses that are institutional in nature I 19 just think that this turned out to be a much more 20 environmentally sensitive treatment of what the property 21 seems to be gravitating itself toward. 22 HEARING EXAMINER GROSSMAN: Okay. I would like to 23 hear from either Mr. or Mrs. Majmuder. 24 MR. KLINE: Sure. Actually you get one, you get them 25 both. So come on up here folks.</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

31 (121 to 124)

<p>121</p> <p>1 HEARING EXAMINER GROSSMAN: All right.</p> <p>2 MR. KLINE: And if we're going to do that, then I'll</p> <p>3 kind of ask a couple of questions of my own if that's all</p> <p>4 right?</p> <p>5 HEARING EXAMINER GROSSMAN: That would be great.</p> <p>6 MR. KLINE: Could you please state individually your</p> <p>7 own name and address, please?</p> <p>8 MR. MAJMUDER: Yes. Mrugesh Majmuder. M-R-U-G-E-S-H,</p> <p>9 Majmuder, M-A-J-M-U-D-E-R. We live at 11815 Piney Glen</p> <p>10 Lane, Potomac, Maryland.</p> <p>11 MS. MAJMUDER: May name is Jasmili Majmuder, and we</p> <p>12 live at 11815 Piney Glen Lane, Potomac, Maryland.</p> <p>13 HEARING EXAMINER GROSSMAN: All right. Would you both</p> <p>14 raise your right hands? Do you swear or affirm to tell the</p> <p>15 truth, the whole truth, and nothing but the truth under</p> <p>16 penalty of perjury?</p> <p>17 MS. MAJMUDER: Yes.</p> <p>18 MR. MAJMUDER: I do.</p> <p>19 HEARING EXAMINER GROSSMAN: Okay.</p> <p>20 MR. KLINE: You folks are the principles of Layhill</p> <p>21 Properties, LLC, the owner of the property?</p> <p>22 MR. MAJMUDER: Yes.</p> <p>23 MR. KLINE: Is that correct?</p> <p>24 MS. MAJMUDER: Yes.</p> <p>25 MR. KLINE: And you bought the property from a church</p>	<p>123</p> <p>1 HEARING EXAMINER GROSSMAN: All right. And you are</p> <p>2 prepared to comply with all state regulations in addition</p> <p>3 to the local regulations regarding childcare facilities?</p> <p>4 MR. MAJMUDER: Yes.</p> <p>5 MS. MAJMUDER: Yes.</p> <p>6 HEARING EXAMINER GROSSMAN: All right. I'm a little</p> <p>7 concerned just because in every prior childcare case that</p> <p>8 I've had somebody who was a licensed person or somebody who</p> <p>9 has experience in childcare has appeared that will run the</p> <p>10 organization what's your --</p> <p>11 MR. KLINE: Sure. I understand. Well, actually,</p> <p>12 Prinrose has a -- Prinrose's proper name is Prinrose</p> <p>13 Franchising Corporation. They are not operators per se.</p> <p>14 They are basically the developers of the property and they</p> <p>15 provide the expertise but they will step in and train these</p> <p>16 folks for the things that they may not intuitively already</p> <p>17 know. They have other Prinroses in the Montgomery counties</p> <p>18 so I'm sure that there have been other -- this situation</p> <p>19 has come up before. And in fact, we have another one in</p> <p>20 the pipeline you'll see in a couple of weeks with exactly</p> <p>21 the same situation. So I thought about asking Mr. Taylor</p> <p>22 to get into that. He did talk about how they basically,</p> <p>23 inculcate into their franchisees the expertise to run the</p> <p>24 facility. But they are also basically sort of looking over</p> <p>25 your shoulder with all the expertise, I guess, to answer</p>
<p>122</p> <p>1 with the intention of pursuing this course of action?</p> <p>2 MR. MAJMUDER: Yes.</p> <p>3 MS. MAJMUDER: Yes.</p> <p>4 MR. KLINE: Okay. You have lots of real estate</p> <p>5 experience, but this daycare operation would be new for</p> <p>6 you, correct?</p> <p>7 MR. MAJMUDER: Yes.</p> <p>8 MR. KLINE: Okay. You're -- well, I'll just leave it</p> <p>9 there. You are prepared as the operators to ensure</p> <p>10 conformance with any terms and conditions that may be</p> <p>11 imposed by a conditional use if it's approved -- rec --</p> <p>12 approved by Mr. Grossman?</p> <p>13 MR. MAJMUDER: Yes.</p> <p>14 MS. MAJMUDER: Yes.</p> <p>15 MR. KLINE: That was the only questions I had, sir.</p> <p>16 HEARING EXAMINER GROSSMAN: Okay. So you don't have</p> <p>17 any experience in childcare facilities, is that correct?</p> <p>18 MR. MAJMUDER: Yes.</p> <p>19 HEARING EXAMINER GROSSMAN: And -- well, are you</p> <p>20 familiar -- first of all do you have any licensing to run a</p> <p>21 childcare facility?</p> <p>22 MR. MAJMUDER: We will go through the appropriate</p> <p>23 requirements both at Prinrose as well at the State and the</p> <p>24 local licensing to meet and qualify before we start and</p> <p>25 operate the daycare.</p>	<p>124</p> <p>1 any questions that they may have. So I wanted you to meet</p> <p>2 them because they were going to be the local face and</p> <p>3 everything. But they have the benefit of a large national</p> <p>4 organization with a lot of expertise to assist them.</p> <p>5 HEARING EXAMINER GROSSMAN: Well, will there be a</p> <p>6 separate kind of head person that runs in the -- that has</p> <p>7 expertise who runs the facility, where is this going to be</p> <p>8 done by the Majmuders?</p> <p>9 MR. MAJMUDER: Yes. So we will definitely have a</p> <p>10 school director and assistant director that will help us</p> <p>11 with --</p> <p>12 MS. MAJMUDER: Who will be experienced.</p> <p>13 MR. MAJMUDER: Who will be experienced, yes.</p> <p>14 Substantially experienced to help us run this.</p> <p>15 HEARING EXAMINER GROSSMAN: Okay. All right. All</p> <p>16 right, I think that's the essence of what I -- because I</p> <p>17 hadn't seen or heard anything about that. But you are</p> <p>18 actually -- so Layhill Property, LLC is a limited liability</p> <p>19 corporation that you are the owners of? Is that the idea?</p> <p>20 MR. MAJMUDER: Yes.</p> <p>21 HEARING EXAMINER GROSSMAN: Okay.</p> <p>22 MR. KLINE: And Mr. Grossman, if I can just</p> <p>23 gratuitously add this. Because I -- you your questions are</p> <p>24 not surprising or anything, and I thought maybe you would</p> <p>25 say well, why did you apply in the name of Layhill</p>

Transcript of Administrative Hearing
Conducted on May 4, 2018

32 (125 to 128)

<p>125</p> <p>1 Properties, LLC, rather than Primrose? And the answer is</p> <p>2 because one, they are the property owner, and secondly</p> <p>3 because the arrangement with Primrose is the building that</p> <p>4 will be constructed they will build and they will own. So</p> <p>5 they --</p> <p>6 HEARING EXAMINER GROSSMAN: They being?</p> <p>7 MR. KLINE: I'm sorry. The Majmuders will own it.</p> <p>8 HEARING EXAMINER GROSSMAN: Okay.</p> <p>9 MR. KLINE: So Primrose will basically be delivering</p> <p>10 the operational information but won't have really any</p> <p>11 ownership interest in the assets. And at some point in</p> <p>12 time the relationship with Primrose will expire and it will</p> <p>13 either be renewed or they could leave. And these folks</p> <p>14 wanted to be able to control the conditional use so they</p> <p>15 could find another operator.</p> <p>16 HEARING EXAMINER GROSSMAN: Okay.</p> <p>17 MR. KLINE: So that's why they are involved because</p> <p>18 they really have the largest property interest in the</p> <p>19 asset.</p> <p>20 HEARING EXAMINER GROSSMAN: All right. I think I</p> <p>21 understand. All right. I don't think I have any other</p> <p>22 questions then.</p> <p>23 MR. KLINE: All right, fine.</p> <p>24 HEARING EXAMINER GROSSMAN: Did you have some</p> <p>25 summation you (crosstalk)</p>	<p>127</p> <p>1 course, the rendered elevations, Exhibit 65. I will need</p> <p>2 an electronic copy of that. And okay. And then today is</p> <p>3 May 4, so the 14th is a Monday. Shall we say the record</p> <p>4 will close on May 15, is that -- does that make sense?</p> <p>5 MR. KLINE: That would be fine. That would be more</p> <p>6 than adequate time for us to get to you what you request.</p> <p>7 HEARING EXAMINER GROSSMAN: And all state publicly</p> <p>8 that any comments from Staff or the public regarding</p> <p>9 exhibits introduced for the first time at this hearing is</p> <p>10 welcome, up until May 15, close of business; May 15, 2018.</p> <p>11 Let's see. I don't think there's anything else in here for</p> <p>12 you to get to me, is that correct? I think we have --</p> <p>13 MR. KLINE: Yeah. Yeah, it --</p> <p>14 HEARING EXAMINER GROSSMAN: Other than the electronic</p> <p>15 copies.</p> <p>16 MR. KLINE: Well, normally -- we must have done</p> <p>17 something right because normally there's a long checklist.</p> <p>18 HEARING EXAMINER GROSSMAN: We must've done something</p> <p>19 right.</p> <p>20 MR. KLINE: I'm glad it worked out.</p> <p>21 HEARING EXAMINER GROSSMAN: All right. Okay. Is</p> <p>22 there anything else that we need to address before we</p> <p>23 adjourn?</p> <p>24 MR. KLINE: We're okay, sir.</p> <p>25 HEARING EXAMINER GROSSMAN: All right. Well, thank</p>
<p>126</p> <p>1 MR. KLINE: No, you had -- my summation was the</p> <p>2 property wants to be what we're suggesting it should be.</p> <p>3 HEARING EXAMINER GROSSMAN: All right. And so I</p> <p>4 presume you want Exhibits 1 through 67 and they're subparts</p> <p>5 to be admitted into evidence?</p> <p>6 MR. KLINE: Yes, please.</p> <p>7 HEARING EXAMINER GROSSMAN: Okay. They are admitted.</p> <p>8 And in terms of closing the record, so we'll need to have</p> <p>9 it open for 10 days in order to allow anybody to comment on</p> <p>10 a couple of new exhibits. I'll need to get electronic</p> <p>11 copies of the couple of new exhibits. That's 67, page -- I</p> <p>12 don't know how you make an electronic copy of the materials</p> <p>13 board, but --</p> <p>14 MR. KLINE: Yeah, the --</p> <p>15 HEARING EXAMINER GROSSMAN: I'll leave that to you to</p> <p>16 figure out.</p> <p>17 MR. KLINE: Yeah. Sure.</p> <p>18 HEARING EXAMINER GROSSMAN:</p> <p>19 HEARING EXAMINER GROSSMAN:</p> <p>20 HEARING EXAMINER GROSSMAN: If I can't torture you in</p> <p>21 some way --</p> <p>22 MR. KLINE: Well, the people in my office are smart</p> <p>23 enough, I know, to take a picture; I guess we could send</p> <p>24 you that.</p> <p>25 HEARING EXAMINER GROSSMAN: And there's also, of</p>	<p>128</p> <p>1 you all. We are adjourned. Have a great day.</p> <p>2 MR. KLINE: And I will deliver to your staff the</p> <p>3 things that I have marked already.</p> <p>4 HEARING EXAMINER GROSSMAN: Okay. Thank you.</p> <p>5 (Off the record 12:22 p.m.)</p> <p>6</p> <p>7</p> <p>8</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>

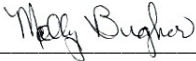
Transcript of Administrative Hearing
Conducted on May 4, 2018

33 (129 to 132)

129

CERTIFICATE OF TRANSCRIBER

I, Molly Bugher, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording and supporting information; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.



Molly Bugher

DATE: May 15, 2018