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Transcript of Administrative Hearing

Date: October 26, 2018

Case: Teresita Hernandez Childcare

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Administrative Hearing
Conducted on October 26, 2018

1 (1 to 4)

1	OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS	1	A P P E A R A N C E S	3
2	FOR MONTGOMERY COUNTY, MARYLAND	2	FOR MONTGOMERY ZONING BOARD:	
3	-----x	3	MARTIN GROSSMAN, HEARING EXAMINER	
4	In Re: :	4		
5	The Application of :	5	FOR THE APPLICANT TERESITA HERNANDEZ CHILDCARE	
6	TERESITA HERNANDEZ CHILDCARE : Case No. 18-10	6	TERESITA HERNANDEZ, APPLICANT	
7	-----x	7	2801 Randolph Road	
8		8	Silver Spring, MD 20902	
9	HEARING	9		
10	Before Hearing Examiner	10	HERSON HERNANDEZ, WITNESS	
11	MARTIN GROSSMAN	11	602 Rose Street	
12	Rockville, Maryland	12	Baltimore, MD 21224	
13	Friday, October 26, 2018	13		
14	9:42 a.m.	14	SAMANTHA HERNANDEZ, WITNESS	
15		15	8408 Greenway Road	
16		16	Towson, MD 21286	
17		17		
18		18	ALSO PRESENT:	
19		19	AURA RIVERA, WITNESS	
20		20	2802 Randolph Road	
21		21	Silver Spring, MD 20902	
22		22		
23	Job: 214766	23		
24	Pages: 1 - 49	24		
25	Transcribed by: Molly Bugher	25		
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6	Rockville, MD 20850	5	TESTIMONY OF HERSON HERNANDEZ	18
7	(240) 770-6660	6	TESTIMONY OF SAMANTHA HERNANDEZ	18
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2 (5 to 8)

5	7
<p>1 PROCEEDINGS</p> <p>2 HEARING EXAMINER GROSSMAN: Let me find my paperwork.</p> <p>3 All right. This is a public hearing in the matter of</p> <p>4 Teresa C. Hernandez, OZHA number CU 18-10 an application</p> <p>5 for a conditional use pursuant to zoning ordinance section</p> <p>6 59 3.4.4(e); that's 13 to 30 persons, to allow a child</p> <p>7 daycare center for up to 15 children on the first floor of</p> <p>8 her home at 2801 Randolph Road, Silver Spring, Maryland. The</p> <p>9 subject site is Lot 18, Block 16 of the Glenmont Village</p> <p>10 Subdivision and it is zoned R60. A conditional use is</p> <p>11 required for a childcare facility of this size in the R60</p> <p>12 zone. The applicant co-owns the property with Rafael and</p> <p>13 Herson Hernandez, both of whom signed an authorization for</p> <p>14 this application, Exhibit 15. My name is Martin Grossman.</p> <p>15 I'm the hearing examiner which means that I will take</p> <p>16 evidence here and write a report and decision in the case.</p> <p>17 Will the parties state their names for the record please?</p> <p>18 Your name please, and your address?</p> <p>19 MS. TERESITA HERNANDEZ: I'm Teresita Hernandez.</p> <p>20 HEARING EXAMINER GROSSMAN: Okay.</p> <p>21 MS. TERESITA HERNANDEZ: And I live at 2801 Randolph</p> <p>22 Road, Silver Spring, Maryland 20902.</p> <p>23 HEARING EXAMINER GROSSMAN: Okay. And do you have any</p> <p>24 witnesses today in addition to yourself?</p> <p>25 MS. TERESITA HERNANDEZ: My son, and my daughter.</p>	<p>1 was somebody here to cross-examine you, you'd be subject to</p> <p>2 cross-examination. Everything is taken down by a court</p> <p>3 reporter who will produce a transcript. It should be here by</p> <p>4 Tuesday of next week, and it will be published on our</p> <p>5 website so that you can read it if you will. The rules of</p> <p>6 evidence in general apply the way they would in a courtroom.</p> <p>7 It's a bit more relaxed on hearsay evidence, but I don't</p> <p>8 have to get into much into that technicality. This is an</p> <p>9 application for a conditional use. Some people think of that</p> <p>10 as a variant; it's not a variance. A conditional use is a</p> <p>11 statutorily permitted use if you meet certain conditions</p> <p>12 which are spelled out pretty much in the Technical Staff</p> <p>13 Report. You should have a copy of that as well as -- do you</p> <p>14 have a copy of the report of the Technical Staff of the</p> <p>15 Planning Department? That was --</p> <p>16 MS. TERESITA HERNANDEZ: This is the -- this one?</p> <p>17 HEARING EXAMINER GROSSMAN: Yes.</p> <p>18 MS. TERESITA HERNANDEZ: Yeah.</p> <p>19 HEARING EXAMINER GROSSMAN: You have a copy of that.</p> <p>20 MS. TERESITA HERNANDEZ: Yeah.</p> <p>21 HEARING EXAMINER GROSSMAN: And you've seen the letter</p> <p>22 from the Planning Board approving -- or recommending</p> <p>23 approval?</p> <p>24 MS. TERESITA HERNANDEZ: Yes. We do have that.</p> <p>25 THE COURT: Okay. So those are the -- those two</p>
6	8
<p>1 HEARING EXAMINER GROSSMAN: Are they going to testify</p> <p>2 in the case?</p> <p>3 MS. TERESITA HERNANDEZ: Yes.</p> <p>4 HEARING EXAMINER GROSSMAN: Okay. And what are their</p> <p>5 names please?</p> <p>6 MR. HERNANDEZ: My name's Herson Hernandez.</p> <p>7 HEARING EXAMINER GROSSMAN: Okay.</p> <p>8 MR. HERNANDEZ: And I am her son.</p> <p>9 MS. SAMANTHA HERNANDEZ: My name is Samantha</p> <p>10 Hernandez, and I'm her daughter.</p> <p>11 HEARING EXAMINER GROSSMAN: All right. Samantha you</p> <p>12 said?</p> <p>13 MS. SAMANTHA HERNANDEZ: Yes.</p> <p>14 HEARING EXAMINER GROSSMAN: And how do you spell that?</p> <p>15 MS. SAMANTHA HERNANDEZ: S-A-M-A-N-T-H-A.</p> <p>16 HEARING EXAMINER GROSSMAN: Okay. All right. And</p> <p>17 usually at this time I ask if there's anybody in the</p> <p>18 audience here who wishes to be heard either for or against</p> <p>19 this application. But I see nobody in the audience here, so</p> <p>20 I take it that you are the only witnesses, and the record</p> <p>21 will so reflect. Let me explain a little bit about the</p> <p>22 nature of these proceedings. It's kind of a combination of</p> <p>23 formality and informality. It's formal in the sense that we</p> <p>24 proceed pretty much the way a courtroom does. Everything you</p> <p>25 say has to be under oath and I'll swear you all in. If there</p>	<p>1 documents are automatically a part of our record. Okay. Let</p> <p>2 me start out by swearing you all in. Would you all raise</p> <p>3 your right hands, please? Do you swear or affirm to tell the</p> <p>4 truth, the whole truth, and nothing but the truth under</p> <p>5 penalty of perjury?</p> <p>6 MS. TERESITA HERNANDEZ: Yes.</p> <p>7 MR. HERNANDEZ: Yes.</p> <p>8 MS. SAMANTHA HERNANDEZ: Yes.</p> <p>9 HEARING EXAMINER GROSSMAN: Okay. All right. Let me</p> <p>10 ask you a couple of the questions about this. Have you</p> <p>11 determined that you can meet all the minimum space</p> <p>12 requirements that are set forth by the State in its</p> <p>13 requirements?</p> <p>14 MS. TERESITA HERNANDEZ: Yes.</p> <p>15 HEARING EXAMINER GROSSMAN: With 15 children?</p> <p>16 MS. TERESITA HERNANDEZ: Yes.</p> <p>17 HEARING EXAMINER GROSSMAN: Okay. You have to</p> <p>18 understand, this is -- I asked that question but this is a</p> <p>19 land-use proceeding. We don't deal with the regulation of</p> <p>20 what happens inside of the facility. We just determine</p> <p>21 impacts on the neighborhood and compliance with the</p> <p>22 standards that are set out in the zoning ordinance. But I</p> <p>23 don't want you to go through the whole process and then not</p> <p>24 have the facility.</p> <p>25 MS. TERESITA HERNANDEZ: Yes.</p>

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3 (9 to 12)

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<p>1 HEARING EXAMINER GROSSMAN: I know that there has been</p> <p>2 some discussion between you and Technical Staff. When I</p> <p>3 refer to Technical Staff it's the Planning Board Staff there</p> <p>4 that produced that report --</p> <p>5 MS. TERESITA HERNANDEZ: Yes.</p> <p>6 HEARING EXAMINER GROSSMAN: -- about whether or not</p> <p>7 you can meet all the requirements of that the Department of</p> <p>8 Permitting Services, fire safety and all of that. And you've</p> <p>9 decided to go ahead for 15 children, even though there are</p> <p>10 additional standards they require as I understand it?</p> <p>11 MS. TERESITA HERNANDEZ: Yes.</p> <p>12 HEARING EXAMINER GROSSMAN: Okay. Because you will</p> <p>13 have to go through that use and occupancy permit and so on</p> <p>14 with the Department of Permitting Services if this</p> <p>15 conditional use is approved. Where will the non-resident</p> <p>16 staff park, and where will you drop off and pick up children</p> <p>17 if this is approved? How was that going to be set up?</p> <p>18 MS. TERESITA HERNANDEZ: It's going to be in my</p> <p>19 driveway.</p> <p>20 HEARING EXAMINER GROSSMAN: Everything will be in your</p> <p>21 driveway?</p> <p>22 MS. TERESITA HERNANDEZ: In the driveway. The pickup</p> <p>23 and drop off.</p> <p>24 HEARING EXAMINER GROSSMAN: And you have --</p> <p>25 MS. TERESITA HERNANDEZ: Fifteen minutes it's two</p>	<p>1 any reports and decisions that I've previously issued in</p> <p>2 this type of case, but I usually impose some additional</p> <p>3 conditions. And I should mention that I -- I notice that the</p> <p>4 exhibit list that was passed out is missing Exhibit 30. The</p> <p>5 one -- do you have a copy of the exhibit list? If you look</p> <p>6 at the last page, it's only going to 29.</p> <p>7 MS. TERESITA HERNANDEZ: Okay.</p> <p>8 HEARING EXAMINER GROSSMAN: But there is a 30th</p> <p>9 exhibit in the file and that is the email on October 18 from</p> <p>10 Lori Shirley (phonetic) to you forwarding a copy of the</p> <p>11 Planning Board letter. So that's Exhibit 30. You might want</p> <p>12 to mark that on your list, so you know what's there, as I've</p> <p>13 done on this list. Exhibit 31 will be the affidavit of</p> <p>14 posting which you have signed and is notarized.</p> <p>15 (Whereupon Exhibit 31 was marked for identification.)</p> <p>16 MR. HERNANDEZ: I'm sorry. Can you repeat that, 31?</p> <p>17 HEARING EXAMINER GROSSMAN: Yeah. Exhibit 31 is the</p> <p>18 affidavit of posting which was handed up. And it's just an</p> <p>19 affidavit that's signed that indicates that the sign has</p> <p>20 been there since the application was filed and will remain</p> <p>21 there until after the order or the decision is issued. Okay.</p> <p>22 And Exhibit 32 is going to be a list of -- and I'm going to</p> <p>23 hand you a copy -- of the conditions of the type that I</p> <p>24 usually impose in -- would you come up and get this first --</p> <p>25 that I usually impose in this type of case. So take a look</p>
10	12
<p>1 kids, two children every 15 minutes.</p> <p>2 HEARING EXAMINER GROSSMAN: Okay.</p> <p>3 MS. TERESITA HERNANDEZ: And it's going to -- you</p> <p>4 know. And then in an hour it's going to be -- have eight</p> <p>5 children to be dropped off, 15 every minutes every two</p> <p>6 children.</p> <p>7 HEARING EXAMINER GROSSMAN: Okay.</p> <p>8 MS. TERESITA HERNANDEZ: So.</p> <p>9 HEARING EXAMINER GROSSMAN: So it's by vehicular drop</p> <p>10 off?</p> <p>11 MS. TERESITA HERNANDEZ: Yes.</p> <p>12 HEARING EXAMINER GROSSMAN: I don't have any concern</p> <p>13 if somebody walks their child into your facility. That</p> <p>14 restriction is to prohibit excessive traffic for your</p> <p>15 neighbors. And so that's why that provision is there. And</p> <p>16 there will be room in your -- I know that it's a large area</p> <p>17 with a large -- there will be room there for the drop-off</p> <p>18 and pickup in addition to the parking of the -- of your non-</p> <p>19 resident help?</p> <p>20 MS. TERESITA HERNANDEZ: Yes.</p> <p>21 HEARING EXAMINER GROSSMAN: Okay. All right. I know</p> <p>22 that the Technical Staff imposed conditions, or recommended</p> <p>23 certain conditions in the Staff Report, which is Exhibit 26.</p> <p>24 Let me pull that out. Now, I usually -- they requested on</p> <p>25 page 2, four conditions. I don't know if you've looked at</p>	<p>1 at that and make sure that there's nothing problematic for</p> <p>2 you. I don't think there will be in those proposed</p> <p>3 conditions.</p> <p>4 (Pause)</p> <p>5 MS. TERESITA HERNANDEZ: Yeah.</p> <p>6 HEARING EXAMINER GROSSMAN: Are those okay?</p> <p>7 MS. TERESITA HERNANDEZ: Yes, that's all right.</p> <p>8 HEARING EXAMINER GROSSMAN: Okay. All right. And Mr.</p> <p>9 Hernandez, I did -- are you at the same address, or are you</p> <p>10 a different address?</p> <p>11 MR. HERNANDEZ: I'm at a different address.</p> <p>12 HEARING EXAMINER GROSSMAN: Okay. And what's your</p> <p>13 address?</p> <p>14 MR. HERNANDEZ: It's 602 South Rose Street.</p> <p>15 HEARING EXAMINER GROSSMAN: Rose, R-O-S-E?</p> <p>16 MR. HERNANDEZ: R-O-S-E, in Baltimore, Maryland.</p> <p>17 HEARING EXAMINER GROSSMAN: So you had to brave the</p> <p>18 traffic to come in here today?</p> <p>19 MR. HERNANDEZ: Yeah. And I had to wake up really</p> <p>20 early just to get through the city.</p> <p>21 HEARING EXAMINER GROSSMAN: Okay. And what's your ZIP</p> <p>22 code?</p> <p>23 MR. HERNANDEZ: 21224.</p> <p>24 HEARING EXAMINER GROSSMAN: And do you have an email</p> <p>25 address?</p>

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13	<p>1 MR. HERNANDEZ: Yeah. It is HH75927@gmail.com.</p> <p>2 HEARING EXAMINER GROSSMAN: Okay. And Ms. Hernandez,</p> <p>3 are you -- do you live in the same address as your mother?</p> <p>4 MS. SAMANTHA HERNANDEZ: No, I don't.</p> <p>5 HEARING EXAMINER GROSSMAN: Okay. And so what's your</p> <p>6 address?</p> <p>7 MS. SAMANTHA HERNANDEZ: 8408 Greenway Road, Towson,</p> <p>8 Maryland 21286.</p> <p>9 HEARING EXAMINER GROSSMAN: Hold on one second.</p> <p>10 Towson. I'm a slow writer and I can't read it after I write</p> <p>11 it anyway, so I don't know why I bother but -- and what's</p> <p>12 the ZIP code?</p> <p>13 MS. SAMANTHA HERNANDEZ: 21286.</p> <p>14 HEARING EXAMINER GROSSMAN: My wife used to be a</p> <p>15 second-grade teacher and she would show the children my</p> <p>16 handwriting as an example of what can happen to you if you</p> <p>17 don't pay attention in handwriting class. Okay. And what's</p> <p>18 your email address?</p> <p>19 MS. SAMANTHA HERNANDEZ: SHERNA10@students.towson.edu.</p> <p>20 HEARING EXAMINER GROSSMAN: Okay. And Mrs. Hernandez,</p> <p>21 I'm not sure that we have an email address for you. Do you</p> <p>22 have an email address?</p> <p>23 MS. TERESITA HERNANDEZ: Yes.</p> <p>24 HEARING EXAMINER GROSSMAN: And what is that?</p> <p>25 MS. TERESITA HERNANDEZ: P-E-R-R-E-S-25 at yahoo dot</p>	15
14	<p>1 com (PERRES25@yahoo.com).</p> <p>2 HEARING EXAMINER GROSSMAN: At what?</p> <p>3 MS. TERESITA HERNANDEZ: At Yahoo dot com.</p> <p>4 HEARING EXAMINER GROSSMAN: Oh, Yahoo, I see.</p> <p>5 MS. TERESITA HERNANDEZ: I felt like everybody knows</p> <p>6 that.</p> <p>7 HEARING EXAMINER GROSSMAN: Yeah, everybody knows</p> <p>8 that, I just didn't understand it. Okay. All right. All</p> <p>9 right. Let me turn to the Technical Staff Report. They've</p> <p>10 made a number of findings and conclusions in their report.</p> <p>11 Do you accept their findings and conclusions as part of your</p> <p>12 evidence?</p> <p>13 MS. TERESITA HERNANDEZ: Yes.</p> <p>14 HEARING EXAMINER GROSSMAN: Okay. They also submitted</p> <p>15 an additional presentation, a PowerPoint presentation, to</p> <p>16 the Planning Board which is also a part of our record here.</p> <p>17 That's Exhibit 29. And that has other findings and</p> <p>18 conclusions. Do you accept those part of your evidence in</p> <p>19 the case?</p> <p>20 MS. TERESITA HERNANDEZ: PowerPoint presentation, yes.</p> <p>21 HEARING EXAMINER GROSSMAN: Yes?</p> <p>22 MS. TERESITA HERNANDEZ: Yes.</p> <p>23 HEARING EXAMINER GROSSMAN: Okay. You want to make</p> <p>24 sure you speak up clearly so that the court reporter gets it</p> <p>25 down.</p>	16
	<p>1 MS. TERESITA HERNANDEZ: Okay. Sorry.</p> <p>2 HEARING EXAMINER GROSSMAN: Okay. Do you have</p> <p>3 contracts with the parents? I know you've indicated that you</p> <p>4 have a staggered arrival system for the children to avoid a</p> <p>5 traffic problem. Do you have contracts with the parents that</p> <p>6 specify their arrival times?</p> <p>7 MS. TERESITA HERNANDEZ: Yes.</p> <p>8 HEARING EXAMINER GROSSMAN: Okay do you have a -- I</p> <p>9 don't see a sample of that in the record I don't think. Do</p> <p>10 you have a copy of one of those with you? If you don't you</p> <p>11 can submit it afterward and I'll hold the record open.</p> <p>12 MS. TERESITA HERNANDEZ: Yes, I can.</p> <p>13 HEARING EXAMINER GROSSMAN: Okay. Because I like to</p> <p>14 make sure that -- one of the conditions I believe that I</p> <p>15 usually impose is that there be some sort of a contractual</p> <p>16 arrangement. Yes, number 5. The arrivals must be staggered</p> <p>17 and through contractual arrangement between the operator of</p> <p>18 the daycare center and the parents so that a maximum of two</p> <p>19 vehicles may arrive every 15 minutes to drop off and pick up</p> <p>20 children.</p> <p>21 MS. TERESITA HERNANDEZ: Uh-huh.</p> <p>22 HEARING EXAMINER GROSSMAN: So if you would, I'll hold</p> <p>23 the record open and you can submit a sample of one of those</p> <p>24 contracts that you have for the record. Okay?</p> <p>25 MS. TERESITA HERNANDEZ: Okay.</p>	

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5 (17 to 20)

17	<p>1 evidence is supplied by the technical staff report which is</p> <p>2 already in the record here, and we'll move it into evidence</p> <p>3 at the conclusion here. But if there's something else you</p> <p>4 want to say about it that's fine, you should proceed to say</p> <p>5 whatever you want to say.</p> <p>6 MS. TERESITA HERNANDEZ: So, but everything is in here</p> <p>7 already that I read this off?</p> <p>8 HEARING EXAMINER GROSSMAN: Okay.</p> <p>9 MS. TERESITA HERNANDEZ: So do I need to read it</p> <p>10 again?</p> <p>11 MS. TERESITA HERNANDEZ: You don't have to say</p> <p>12 anything else if you don't want to.</p> <p>13 MS. TERESITA HERNANDEZ: Yes.</p> <p>14 HEARING EXAMINER GROSSMAN: You said you were going to</p> <p>15 call your son and daughter as witnesses.</p> <p>16 MS. TERESITA HERNANDEZ: Yes. He can --</p> <p>17 HEARING EXAMINER GROSSMAN: Okay.</p> <p>18 MS. TERESITA HERNANDEZ: He can also say something.</p> <p>19 HEARING EXAMINER GROSSMAN: Mr. Hernandez?</p> <p>20 MR. HERNANDEZ: I'm just here supporting my mom,</p> <p>21 testifying, and saying that she has done -- put in the</p> <p>22 efforts to make sure that she is giving -- has a quality</p> <p>23 space and a safe area for the children that she's been</p> <p>24 taking care of for the past couple of years. And I think</p> <p>25 that she has taken the steps that she needs to do to really</p>	19	<p>1 MS. SAMANTHA HERNANDEZ: We are required, but you</p> <p>2 know, we've put in a lot of effort and I think that, you</p> <p>3 know, she deserves this, and I support it as well.</p> <p>4 MS. TERESITA HERNANDEZ: Just like I put, like, a safe</p> <p>5 place like home for all the parents.</p> <p>6 HEARING EXAMINER GROSSMAN: Right. Well --</p> <p>7 MS. TERESITA HERNANDEZ: I said like, you put your</p> <p>8 trust on me, so I need to do everything to make the parents</p> <p>9 happy and the children.</p> <p>10 HEARING EXAMINER GROSSMAN: It's evident that you did</p> <p>11 a great job with your children, so I'm sure you do a great</p> <p>12 job caring for the others. Okay. Now, let me have you</p> <p>13 identify photographs that are in the file already and your</p> <p>14 plans. Just so we make sure that they're identified for the</p> <p>15 record. Let me see if I can find the site plan.</p> <p>16 MS. TERESITA HERNANDEZ: Is that the right --</p> <p>17 HEARING EXAMINER GROSSMAN: The -- it's been</p> <p>18 identified here. And the site plan, because there's got to</p> <p>19 be a site plan so let me see if the Staff Report, which I</p> <p>20 believe did identify something. All right. They have a</p> <p>21 Figure 4 on page 6 of the Staff Report. Let me see if</p> <p>22 there's a copy in here. Let's see. If you look at page 4 of</p> <p>23 the Staff Report, Figure 4 page 6 of the Staff Report, I</p> <p>24 should say.</p> <p>25 MS. TERESITA HERNANDEZ: Yes.</p>
18	<p>1 to expand on her passion and dreams. And I think that</p> <p>2 everything that I reviewed this a little bit, and I think</p> <p>3 that what it says is everything is -- I support it.</p> <p>4 HEARING EXAMINER GROSSMAN: All right. Thank you. And</p> <p>5 Ms. Hernandez?</p> <p>6 SAMANTHA HERNANDEZ: I'm just here to support my mom</p> <p>7 as well and she has put in a lot of effort making sure that</p> <p>8 she, you know, complied with all that she needed to comply</p> <p>9 with. She's talked to neighbors. She's made sure that the</p> <p>10 kids have a safe environment and that we weren't disrupting</p> <p>11 anybody. We expanded our driveway just to make sure that</p> <p>12 there is enough, you know, parking spaces for everyone.</p> <p>13 HEARING EXAMINER GROSSMAN: Right.</p> <p>14 MS. SAMANTHA HERNANDEZ: We made sure we added lights.</p> <p>15 We're looking at adding fire, what are they called?</p> <p>16 HEARING EXAMINER GROSSMAN: Sprinklers?</p> <p>17 MS. TERESITA HERNANDEZ: Sprinklers.</p> <p>18 MS. SAMANTHA HERNANDEZ: Sprinklers into our home.</p> <p>19 HEARING EXAMINER GROSSMAN: You may be required. I</p> <p>20 don't know that will be determined by the --</p> <p>21 MR. HERNANDEZ: Yeah.</p> <p>22 HEARING EXAMINER GROSSMAN: -- Department of</p> <p>23 Permitting Services.</p> <p>24 HEARING EXAMINER GROSSMAN:</p> <p>25 MS. TERESITA HERNANDEZ: Yeah.</p>	20	<p>1 HEARING EXAMINER GROSSMAN: Does that -- is there a</p> <p>2 copy of that in your submission? What they have as Figure 4,</p> <p>3 is there a copy of that in what you submitted --</p> <p>4 MS. TERESITA HERNANDEZ: Yes.</p> <p>5 HEARING EXAMINER GROSSMAN: -- as a separate plan?</p> <p>6 MS. TERESITA HERNANDEZ: I do have a big copy over</p> <p>7 here and I do have -- they do, all of them has -- Ms.</p> <p>8 Shirley and --</p> <p>9 HEARING EXAMINER GROSSMAN: I don't see it marked,</p> <p>10 that's why I just want to make sure that a copy of that's in</p> <p>11 the file.</p> <p>12 MS. TERESITA HERNANDEZ: Yeah.</p> <p>13 HEARING EXAMINER GROSSMAN: Did you submit that with</p> <p>14 your papers?</p> <p>15 MS. TERESITA HERNANDEZ: Yes, I did.</p> <p>16 HEARING EXAMINER GROSSMAN: Okay. I found the boundary</p> <p>17 survey, it's Exhibit 7. Listed as plat in the exhibit list.</p> <p>18 Now let me -- you say you have a copy of it? Can you hand</p> <p>19 that up to me, so we make sure we get that in the record</p> <p>20 because I don't see it here in the record. Thank you. And</p> <p>21 it's not quite -- it's not labeled the way the --</p> <p>22 MS. TERESITA HERNANDEZ: The way the -- yeah.</p> <p>23 HEARING EXAMINER GROSSMAN: Figure 4 is in the Staff</p> <p>24 Report. Do you have anything that's been labeled in that</p> <p>25 fashion?</p>

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6 (21 to 24)

21	1 MR. HERNANDEZ: That's this right -- 2 MS. TERESITA HERNANDEZ: No. I labeled it, but I think 3 I don't know where they put it like this. I did that. Like I 4 put this, but I submit it to them so -- but I can label it 5 like they did. 6 HEARING EXAMINER GROSSMAN: Did you ever submit it to 7 OZHA? Did you ever submit it to my office? 8 MS. TERESITA HERNANDEZ: To Ms. Lori. 9 HEARING EXAMINER GROSSMAN: Oh, no. I mean here. 10 MS. TERESITA HERNANDEZ: Because I didn't -- 11 HEARING EXAMINER GROSSMAN: Did you ever submit it 12 here? 13 MS. TERESITA HERNANDEZ: No. 14 HEARING EXAMINER GROSSMAN: To Ms. Johnson? 15 MS. TERESITA HERNANDEZ: No, not to Ms. Johnson. 16 HEARING EXAMINER GROSSMAN: Okay. 17 MS. TERESITA HERNANDEZ: But to Ms. Lori Shirley. 18 HEARING EXAMINER GROSSMAN: Okay. Let me see if she 19 attached it in her cover of attachments. 20 MS. TERESITA HERNANDEZ: I don't -- I think. 21 HEARING EXAMINER GROSSMAN: Yeah. 22 MS. TERESITA HERNANDEZ: Okay. I do have it here. 23 HEARING EXAMINER GROSSMAN: Great. 24 MS. TERESITA HERNANDEZ: I think. Yeah. 25 MR. HERNANDEZ: This one?	23	1 HEARING EXAMINER GROSSMAN: Okay. Let me see, maybe 2 it's even possibly in the PowerPoint presentation. Yes, 3 there's a version of it in the PowerPoint presentation. And 4 I assume it's identical here. Not exactly identical because 5 she's got some measurements on her version. That is the 6 Planning Department version. But I think this will be 7 sufficient. Did you submit something to her -- are these her 8 markings of the measurements? 9 MS. TERESITA HERNANDEZ: Yes. I did -- 10 HEARING EXAMINER GROSSMAN: She also says green -- 11 MS. TERESITA HERNANDEZ: Green area. 12 HEARING EXAMINER GROSSMAN: And below it she put, in 13 parenthesis, she put the word grass. 14 MS. TERESITA HERNANDEZ: Yeah, I'm the one who did 15 that. I 16 HEARING EXAMINER GROSSMAN: You did that? 17 MS. TERESITA HERNANDEZ: I put grass. It means to say 18 green area is grass. 19 HEARING EXAMINER GROSSMAN: Okay. And you have -- do 20 you have a copy of the site plan that has everything on it? 21 That has every marking that you made on it with grass and 22 all those other measurements? 23 MR. HERNANDEZ: This is the exact one. 24 HEARING EXAMINER GROSSMAN: Do you have like -- 25 MS. TERESITA HERNANDEZ: I don't --
22	1 MS. TERESITA HERNANDEZ: Yeah, I labeled it. I think 2 this is a copy of what I gave. Yeah, that is the copy. 3 HEARING EXAMINER GROSSMAN: Great. Thank you. That 4 will help. Okay. So we will label this as the site plan and 5 that will be Exhibit 33. You always have to have a site plan 6 because every year the Department of Permitting Services 7 will come out and will inspect your property and make sure 8 you're in compliance with your site plan. So that's one of 9 the things that is required. 10 MS. TERESITA HERNANDEZ: So I guess I need to have a 11 copy myself, right? 12 HEARING EXAMINER GROSSMAN: Yes. 13 MS. TERESITA HERNANDEZ: In case. 14 HEARING EXAMINER GROSSMAN: It's a good idea, yes. 15 MS. TERESITA HERNANDEZ: Yes, a good idea. 16 HEARING EXAMINER GROSSMAN: Okay. 17 MR. HERNANDEZ: You have it right here. 18 MS. TERESITA HERNANDEZ: Yeah, I do have it. I just 19 need to label it the same thing. 20 HEARING EXAMINER GROSSMAN: Well, we can make you a 21 copy of this one. 22 MS. TERESITA HERNANDEZ: Okay. 23 HEARING EXAMINER GROSSMAN: Ms. Johnson can make you a 24 copy of that. 25 MS. TERESITA HERNANDEZ: Okay. Thank you.	24	1 MR. HERNANDEZ: That one didn't have the -- 2 MS. TERESITA HERNANDEZ: I don't have a copy of that. 3 HEARING EXAMINER GROSSMAN: Okay. 4 MS. TERESITA HERNANDEZ: Because when I did it I gave 5 it to her. 6 HEARING EXAMINER GROSSMAN: Okay. 7 MS. TERESITA HERNANDEZ: So that is the reason why she 8 has a small like this because I think she make it smaller. 9 But -- 10 HEARING EXAMINER GROSSMAN: Okay. 11 MS. TERESITA HERNANDEZ: I can -- 12 HEARING EXAMINER GROSSMAN: What we can do since you 13 don't have a copy of it, why don't I do this? We will see if 14 we can make a blown-up version of what's in the Staff Report 15 and list that as 33A. 16 MS. TERESITA HERNANDEZ: 33A. 17 HEARING EXAMINER GROSSMAN: It will be Modified Site 18 Plan from Staff Report. Okay? 19 MS. TERESITA HERNANDEZ: Okay. 20 HEARING EXAMINER GROSSMAN: So we'll have that. We'll 21 do that. 22 MS. TERESITA HERNANDEZ: Thank you. 23 HEARING EXAMINER GROSSMAN: But the version that's in 24 the Staff Report, page 6, and in the PowerPoint presentation 25 on page 4, those versions are an accurate rendition of your

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25	<p>1 property and the site plan for your property?</p> <p>2 MS. TERESITA HERNANDEZ: Yes.</p> <p>3 HEARING EXAMINER GROSSMAN: With the additional</p> <p>4 labels? With or without the additional label, I take it?</p> <p>5 MS. TERESITA HERNANDEZ: Yes.</p> <p>6 HEARING EXAMINER GROSSMAN: Yes. Okay. So we can do</p> <p>7 that on our own here.</p> <p>8 MS. TERESITA HERNANDEZ: An engineer is the one who</p> <p>9 did this for me.</p> <p>10 HEARING EXAMINER GROSSMAN: Pardon me?</p> <p>11 MS. TERESITA HERNANDEZ: An engineer is the one who</p> <p>12 did that for me.</p> <p>13 HEARING EXAMINER GROSSMAN: Okay. He didn't submit it</p> <p>14 as an official engineering document because if he did state</p> <p>15 law would require that he certify it, and seal it.</p> <p>16 MS. TERESITA HERNANDEZ: Oh.</p> <p>17 HEARING EXAMINER GROSSMAN: It's a state law that</p> <p>18 requires that any public entity cannot accept a submission</p> <p>19 from a professional engineer, surveyor, landscape architect,</p> <p>20 and so on unless they sign, seal, and dated it. But it's</p> <p>21 okay. If he just advised you on it and then put it together</p> <p>22 I understand.</p> <p>23 MS. TERESITA HERNANDEZ: Okay.</p> <p>24 HEARING EXAMINER GROSSMAN: I don't want to be overly</p> <p>25 technical but that is a state law.</p>	27	<p>1 MS. TERESITA HERNANDEZ: Correct.</p> <p>2 HEARING EXAMINER GROSSMAN: Okay. And that's a fair</p> <p>3 rendition of what you plan for this property?</p> <p>4 MS. TERESITA HERNANDEZ: Correct, yes.</p> <p>5 HEARING EXAMINER GROSSMAN: Okay. All right. Then they</p> <p>6 list site plan on page -- or as an attachment, Attachment 1.</p> <p>7 They list that as a site plan but actually it's not labeled</p> <p>8 the way the others are. But I guess that's the site plan</p> <p>9 before all the labeling. It's really a plat, correct? But</p> <p>10 that's what your -- you also accept this as a site plan of</p> <p>11 your property, the Attachment 1 to the Staff Report? It's</p> <p>12 attached to the end of the Staff Report.</p> <p>13 MS. TERESITA HERNANDEZ: Oh at the end.</p> <p>14 HEARING EXAMINER GROSSMAN: Yes. Good morning?</p> <p>15 MS. RIVERA: May I please enter?</p> <p>16 HEARING EXAMINER GROSSMAN: You may, certainly.</p> <p>17 MS. RIVERA: I know I'm late and I apologize for that.</p> <p>18 HEARING EXAMINER GROSSMAN: Come on in.</p> <p>19 MS. RIVERA: Thank you.</p> <p>20 MS. TERESITA HERNANDEZ: Right here. Right here.</p> <p>21 MR. HERNANDEZ: An attachment --</p> <p>22 HEARING EXAMINER GROSSMAN: Do you wish to offer</p> <p>23 testimony today, or are you just here to observe?</p> <p>24 MS. RIVERA: I haven't --</p> <p>25 HEARING EXAMINER GROSSMAN: Well, if you --</p>
26	<p>1 MS. TERESITA HERNANDEZ: I understand.</p> <p>2 HEARING EXAMINER GROSSMAN: Okay. All right let's look</p> <p>3 at some of the photographs. I guess we can start out with</p> <p>4 ones that are in the Staff Report.</p> <p>5 MS. TERESITA HERNANDEZ: Okay.</p> <p>6 HEARING EXAMINER GROSSMAN: And I have on page 3 of</p> <p>7 the Staff Report, and once again that's Exhibit 26. They</p> <p>8 have an aerial photo of your property. Does that accurately</p> <p>9 reflect your property?</p> <p>10 MS. TERESITA HERNANDEZ: Yes, it's in here.</p> <p>11 HEARING EXAMINER GROSSMAN: Okay.</p> <p>12 MS. TERESITA HERNANDEZ: It's this corner lot.</p> <p>13 HEARING EXAMINER GROSSMAN: All right. And then on the</p> <p>14 next page they have their own map of your neighborhood. Is</p> <p>15 that a fair rendition and aerial photograph of your</p> <p>16 neighborhood on page 4 of the Staff Report?</p> <p>17 MS. TERESITA HERNANDEZ: Correct.</p> <p>18 HEARING EXAMINER GROSSMAN: Okay. Then they have this</p> <p>19 plat on page 5 of the Staff Report. Is that an accurate</p> <p>20 rendition of the plat of your property?</p> <p>21 MS. TERESITA HERNANDEZ: Yes.</p> <p>22 HEARING EXAMINER GROSSMAN: Okay. And that's also an</p> <p>23 exhibit in the file. And then page 6, which we already</p> <p>24 discussed Figure 4, there's a copy of your modified site</p> <p>25 plan. Is that correct?</p>	28	<p>1 MS. RIVERA: No, they are -- gosh. My only concern --</p> <p>2 HEARING EXAMINER GROSSMAN: Well, no, no. I don't want</p> <p>3 you to state your concern right now.</p> <p>4 MS. RIVERA: No?</p> <p>5 HEARING EXAMINER GROSSMAN: Because I have to have you</p> <p>6 identified and be sworn in.</p> <p>7 MS. RIVERA: Okay.</p> <p>8 HEARING EXAMINER GROSSMAN: But I just want to know if</p> <p>9 you wish to just observe, you're welcome to do that. If you</p> <p>10 wish to offer testimony, then I have to get your</p> <p>11 identification, and have you sworn in.</p> <p>12 MS. RIVERA: All right.</p> <p>13 HEARING EXAMINER GROSSMAN: So what do you want to do</p> <p>14 today?</p> <p>15 MS. RIVERA: Testimony.</p> <p>16 HEARING EXAMINER GROSSMAN: Testimony. Okay. So would</p> <p>17 you state your name please?</p> <p>18 MS. RIVERA: Yes. My name is Aura Rivera.</p> <p>19 HEARING EXAMINER GROSSMAN: All right. Hold on one</p> <p>20 second while I get that down. Aura, how do you spell that?</p> <p>21 MS. RIVERA: A-U-R-A.</p> <p>22 HEARING EXAMINER GROSSMAN: Rivera?</p> <p>23 MS. RIVERA: Yes, sir.</p> <p>24 HEARING EXAMINER GROSSMAN: R-I-V --</p> <p>25 MS. RIVERA: R-I-V-E-R-A.</p>

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29	1 HEARING EXAMINER GROSSMAN: Okay. And your address? 2 MS. RIVERA: 2802 Randolph Road, Silver Spring, 3 Maryland 20902. 4 HEARING EXAMINER GROSSMAN: All right. Ms. Rivera, 5 would you raise your right hand, please? Do you swear or 6 affirm to tell the truth, the whole truth, and nothing but 7 the truth under penalty of perjury? 8 MS. RIVERA: Yes, sir. 9 HEARING EXAMINER GROSSMAN: Okay. You can have a seat 10 at the table since there's nobody else here if you would 11 like. 12 MS. RIVERA: Okay. Sure. 13 HEARING EXAMINER GROSSMAN: And are you here to offer 14 testimony and comments, or support, or opposition to the 15 application? 16 MS. RIVERA: Well, I think it's just a little bit of 17 everything. I'm so sorry. 18 HEARING EXAMINER GROSSMAN: Okay. 19 MS. RIVERA: I've never been to one of these to be 20 honest with you. 21 HEARING EXAMINER GROSSMAN: Sure. 22 MS. RIVERA: And Teresita and I have been, you know, 23 neighbors and I like her a lot. But I just only have one 24 concern. 25 HEARING EXAMINER GROSSMAN: Okay. I'll get to that	31	1 MS. TERESITA HERNANDEZ: Yes. 2 HEARING EXAMINER GROSSMAN: And did you take that 3 photograph or? 4 MS. TERESITA HERNANDEZ: Yes, I did. 5 HEARING EXAMINER GROSSMAN: Okay. And about when did 6 you take it? 7 MS. TERESITA HERNANDEZ: That is before I -- you mean 8 to say the date I? 9 HEARING EXAMINER GROSSMAN: Approximately. 10 MS. TERESITA HERNANDEZ: Approximately the week before 11 I gave it to Ms. Lori. 12 HEARING EXAMINER GROSSMAN: Okay. 13 MS. TERESITA HERNANDEZ: So it's June, no -- yeah, 14 June. 15 HEARING EXAMINER GROSSMAN: Of this year? 16 MS. TERESITA HERNANDEZ: This year. 17 HEARING EXAMINER GROSSMAN: Of 2018? 18 MS. TERESITA HERNANDEZ: Yes. This -- the front house 19 is facing Randolph Road. 20 HEARING EXAMINER GROSSMAN: Right. And it accurately 21 reflects the front of your house still? 22 MS. TERESITA HERNANDEZ: Yes. 23 HEARING EXAMINER GROSSMAN: Okay. All right. Let's 24 turn to the next one which is Photo 2. She didn't label them 25 on here unfortunately, but what is that?
30	1 before we finish here I'll get to that. And you should know 2 that anything you say, your subject to cross-examination. 3 Everything is taken down by a court reporter and there will 4 be a transcript of those proceedings. 5 MS. RIVERA: Okay. 6 HEARING EXAMINER GROSSMAN: Okay? 7 MS. RIVERA: Thank you. 8 HEARING EXAMINER GROSSMAN: And if you testify you'll 9 get a copy of -- when I render my decision you'll get a copy 10 of a notice of the decision, and the decision will be posted 11 on our website. 12 MS. RIVERA: Okay. 13 HEARING EXAMINER GROSSMAN: Okay? 14 MS. RIVERA: Thank you. 15 HEARING EXAMINER GROSSMAN: And we'll come back to 16 you, Ms. Rivera. 17 MS. RIVERA: Sure. 18 HEARING EXAMINER GROSSMAN: All right. All right. So I 19 think you indicated that the site plan in Attachment 1 is an 20 accurate rendition, Ms. Hernandez? 21 MS. TERESITA HERNANDEZ: Yes. 22 HEARING EXAMINER GROSSMAN: Okay. Let's turn to 23 Attachment 2. They have a number of photographs and the 24 first one looks like the front of your home and part of the 25 play area. Is that correct?	32	1 MS. TERESITA HERNANDEZ: That is showing the fences 2 around the play area. 3 HEARING EXAMINER GROSSMAN: Okay. And it also shows -- 4 MS. TERESITA HERNANDEZ: And that is facing Randolph 5 also. 6 HEARING EXAMINER GROSSMAN: Okay. Facing Randolph and 7 it shows your walkway? 8 MS. TERESITA HERNANDEZ: Yes. It's showing walkway 9 going to my front door. 10 HEARING EXAMINER GROSSMAN: Okay. You took this 11 photograph also? 12 MS. TERESITA HERNANDEZ: Yes, I did. 13 HEARING EXAMINER GROSSMAN: Okay. And it accurately 14 depicts the situation as it is today? 15 MS. TERESITA HERNANDEZ: Yes, yes. 16 HEARING EXAMINER GROSSMAN: Okay. Took it about the 17 same time? 18 MS. TERESITA HERNANDEZ: The same time. 19 HEARING EXAMINER GROSSMAN: Is that true of all of 20 these photographs? 21 MS. TERESITA HERNANDEZ: Yes. 22 HEARING EXAMINER GROSSMAN: Okay. 23 MS. TERESITA HERNANDEZ: The exact same time. 24 HEARING EXAMINER GROSSMAN: Okay. The next page is 3 25 and what am I looking at here? Did you take this photograph

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33	<p>1 too?</p> <p>2 MS. TERESITA HERNANDEZ: Yes. That is facing Terrapin.</p> <p>3 That is showing the retaining wall.</p> <p>4 HEARING EXAMINER GROSSMAN: Okay.</p> <p>5 MS. TERESITA HERNANDEZ: That is new. And it's showing</p> <p>6 the street that if in case there's a lot of cars they can</p> <p>7 park over there. According to Ms. Lori a car is not supposed</p> <p>8 to park in front of my property. I don't know if that is</p> <p>9 accurate.</p> <p>10 HEARING EXAMINER GROSSMAN: You're saying that there</p> <p>11 is a parking restriction on the road, or is she saying --</p> <p>12 MS. TERESITA HERNANDEZ: There's no restriction right</p> <p>13 now but they said there's a restriction in front of my</p> <p>14 property. I am not sure if that is accurate.</p> <p>15 HEARING EXAMINER GROSSMAN: Okay. All right. But if I</p> <p>16 understand your earlier testimony, you don't need to have</p> <p>17 cars parked in front in order to run your facility?</p> <p>18 MS. TERESITA HERNANDEZ: Yes, yes.</p> <p>19 HEARING EXAMINER GROSSMAN: Is that correct?</p> <p>20 MS. TERESITA HERNANDEZ: Yes. But that's what she said</p> <p>21 that they can park after the big poles over here.</p> <p>22 HEARING EXAMINER GROSSMAN: Okay.</p> <p>23 MS. TERESITA HERNANDEZ: After that they can park.</p> <p>24 HEARING EXAMINER GROSSMAN: Okay. So behind that --</p> <p>25 MS. TERESITA HERNANDEZ: Behind that pole.</p>
34	<p>1 HEARING EXAMINER GROSSMAN: -- telephone pole.</p> <p>2 MS. TERESITA HERNANDEZ: According to her.</p> <p>3 HEARING EXAMINER GROSSMAN: Okay. All right. And so I</p> <p>4 see it's right at the intersection of Randolph -- the sign</p> <p>5 says the intersection of Randolph and Terrapin.</p> <p>6 MS. TERESITA HERNANDEZ: And Terrapin, correct.</p> <p>7 HEARING EXAMINER GROSSMAN: Okay. All right. The next</p> <p>8 one we'll call number 4. And what is that depicting?</p> <p>9 MS. TERESITA HERNANDEZ: The play area.</p> <p>10 HEARING EXAMINER GROSSMAN: And is this also --</p> <p>11 MS. TERESITA HERNANDEZ: It's covered with fences</p> <p>12 around.</p> <p>13 HEARING EXAMINER GROSSMAN: Is this also facing</p> <p>14 Randolph?</p> <p>15 MS. TERESITA HERNANDEZ: Correct, yes.</p> <p>16 HEARING EXAMINER GROSSMAN: And this accurately</p> <p>17 depicts the play area as it exists today?</p> <p>18 MS. TERESITA HERNANDEZ: Yes.</p> <p>19 HEARING EXAMINER GROSSMAN: Okay. All right. The next</p> <p>20 page we'll call 5, photo 5. And what is that depicting?</p> <p>21 MS. TERESITA HERNANDEZ: A play area.</p> <p>22 HEARING EXAMINER GROSSMAN: All right.</p> <p>23 MS. TERESITA HERNANDEZ: It's just like a blow-up</p> <p>24 picture.</p> <p>25 HEARING EXAMINER GROSSMAN: It's the same play area,</p>
35	<p>1 it's just a little bit of an enlargement?</p> <p>2 MS. TERESITA HERNANDEZ: Yes, the same area.</p> <p>3 HEARING EXAMINER GROSSMAN: Okay.</p> <p>4 MS. TERESITA HERNANDEZ: Yes. I just want to show that</p> <p>5 even 8 or 15 kids can play. That's why I took a picture of</p> <p>6 that.</p> <p>7 HEARING EXAMINER GROSSMAN: Okay. And then number 6,</p> <p>8 what is that depicting?</p> <p>9 MS. TERESITA HERNANDEZ: The driveway.</p> <p>10 HEARING EXAMINER GROSSMAN: Okay.</p> <p>11 MS. TERESITA HERNANDEZ: That fits eight cars inside,</p> <p>12 but really, we don't have eight cars. But it fits eight</p> <p>13 cars.</p> <p>14 HEARING EXAMINER GROSSMAN: Okay. And that accurately</p> <p>15 depicts the situation today?</p> <p>16 MS. TERESITA HERNANDEZ: Yes, yes.</p> <p>17 HEARING EXAMINER GROSSMAN: And the last photograph</p> <p>18 from the Staff Report, number 7. And what am I seeing there?</p> <p>19 MS. TERESITA HERNANDEZ: This is Terrapin. It's</p> <p>20 (inaudible) my property so that they can see that the</p> <p>21 property is located in between -- I mean in the corner of</p> <p>22 Randolph and Terrapin.</p> <p>23 HEARING EXAMINER GROSSMAN: Okay.</p> <p>24 MS. TERESITA HERNANDEZ: I just to show it like that.</p> <p>25 HEARING EXAMINER GROSSMAN: Okay. So from the corner</p>
36	<p>1 of Randolph and Terrapin?</p> <p>2 MS. TERESITA HERNANDEZ: Yes. That the parents</p> <p>3 wouldn't know -- need to park at the Randolph. They need to</p> <p>4 go to the Terrapin parking driveway.</p> <p>5 HEARING EXAMINER GROSSMAN: Okay. All right. Then</p> <p>6 Attachment 3. Those are the times for morning --</p> <p>7 MS. TERESITA HERNANDEZ: Drop off.</p> <p>8 HEARING EXAMINER GROSSMAN: -- it says current times</p> <p>9 for morning drop off and staff arrival.</p> <p>10 MS. TERESITA HERNANDEZ: Yes.</p> <p>11 HEARING EXAMINER GROSSMAN: And that fairly states</p> <p>12 that. And I take it on the next page of that is the evening</p> <p>13 pickup period for --</p> <p>14 MS. TERESITA HERNANDEZ: Correct.</p> <p>15 HEARING EXAMINER GROSSMAN: Okay. And that fairly</p> <p>16 states it?</p> <p>17 MS. TERESITA HERNANDEZ: Yes.</p> <p>18 HEARING EXAMINER GROSSMAN: Okay. And then they have</p> <p>19 attached your goals and guiding principles as Attachment 4.</p> <p>20 MS. TERESITA HERNANDEZ: Correct.</p> <p>21 HEARING EXAMINER GROSSMAN: And then you've attached</p> <p>22 some unsigned letters from --</p> <p>23 MS. TERESITA HERNANDEZ: The parents.</p> <p>24 HEARING EXAMINER GROSSMAN: -- parents, Amanda Lorch</p> <p>25 (phonetic) and Terry Dorsey (phonetic).</p>

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37	1 MS. TERESITA HERNANDEZ: Yes. 2 HEARING EXAMINER GROSSMAN: These are attached as 3 Exhibit 5. 4 MS. TERESITA HERNANDEZ: And Ann Holey (phonetic). 5 HEARING EXAMINER GROSSMAN: Okay. And Ann Holey. Three 6 of them. Hers is actually signed. 7 MS. TERESITA HERNANDEZ: Yes. 8 HEARING EXAMINER GROSSMAN: We generally don't accept 9 unsigned submissions, by the way, here. But in any event, I 10 think that describes it. Let's turn to the PowerPoint 11 presentation and make sure we have those photographs 12 properly done. And I see on page 1 they essentially have a 13 copy of one you've already identified. The same thing with 14 page 2, and page 3, and you've already identified the site 15 plan on page 4. And then on page 5 they appear to show the 16 same photographs you've already identified except I'm not 17 sure that photo 2 was identified. Is that also your play 18 area with the fence? It seems like a different angle. 19 MS. TERESITA HERNANDEZ: I'm not sure. 20 HEARING EXAMINER GROSSMAN: It could just show -- 21 MS. TERESITA HERNANDEZ: I'm not sure if I do have the 22 PowerPoint. 23 HEARING EXAMINER GROSSMAN: Oh, okay. 24 MS. TERESITA HERNANDEZ: I have all of this. 25 HEARING EXAMINER GROSSMAN: All right.	39	1 next to it. 2 MS. TERESITA HERNANDEZ: Yeah. 3 HEARING EXAMINER GROSSMAN: And is that an accurate 4 representation of your driveway area, retaining wall and the 5 home next door? 6 MS. TERESITA HERNANDEZ: Yes. 7 HEARING EXAMINER GROSSMAN: Did you take that photo 8 also? 9 MS. TERESITA HERNANDEZ: Yes. 10 HEARING EXAMINER GROSSMAN: Okay. 11 MS. TERESITA HERNANDEZ: I did all the photos. 12 HEARING EXAMINER GROSSMAN: All the photos, okay. And 13 then Photo 7 on the next page of the PowerPoint presentation 14 I think is one that you've already identified as your 15 driveway and Photo 8 is also one that -- well, that also is 16 a little bit broader view than the one's in the staff 17 report, Photo 8. Once again, and it labels privacy fence and 18 retaining wall with labels. Is that an accurate photograph 19 of that area? 20 MS. TERESITA HERNANDEZ: Correct, yes. 21 HEARING EXAMINER GROSSMAN: Okay. All right. And I 22 take it that Ms. Shirley of the Technical Staff added those 23 labels afterwards. Is that correct? 24 MS. TERESITA HERNANDEZ: Correct. 25 HEARING EXAMINER GROSSMAN: Okay. All right. Some of
38	1 MS. TERESITA HERNANDEZ: And the original application 2 form. 3 HEARING EXAMINER GROSSMAN: All right. So let me -- 4 because I think I have an extra copy of that. 5 MS. TERESITA HERNANDEZ: Okay. 6 HEARING EXAMINER GROSSMAN: Let me share that with 7 you. Make sure that you have that. Yes. There you go. 8 MS. SAMANTHA HERNANDEZ: Thank you. 9 HEARING EXAMINER GROSSMAN: Sure. The PowerPoint's 10 Exhibit 29 in the record. 11 MS. TERESITA HERNANDEZ: Thank you. 12 HEARING EXAMINER GROSSMAN: And it appears to me that 13 the photos you've identified, photo 2 there on that page 14 wasn't previously -- it's different angles. And that 15 wasn't -- but I take it that's also just another view of 16 your play area. Is that correct? 17 MS. TERESITA HERNANDEZ: Correct. 18 HEARING EXAMINER GROSSMAN: Okay. All right. And let's 19 see. I think that photo 6 shows a little bit more of the 20 driveway retaining wall than your other photos. Let me make 21 sure that I'm correctly remembering that. Yeah. It's a 22 little bit broader view than the photograph on page -- the 23 attachment that we called photo 6 in the Staff Report. The 24 Photo 6 in the -- on page 5 of the PowerPoint seems to be a 25 little bit broader view of the driveway area and the home	40	1 the commentary from -- on page 6 is a results of -- I had 2 asked -- I had emailed Ms. Shirley a question about making 3 sure that you were in compliance with some technical 4 provisions of the code in terms of setbacks for parking 5 facilities and this was her response to that. 6 MS. TERESITA HERNANDEZ: Uh-huh. 7 HEARING EXAMINER GROSSMAN: So she said she would 8 address it before the Planning Board and send me a copy, so 9 that's what this is. 10 MS. TERESITA HERNANDEZ: Okay. 11 HEARING EXAMINER GROSSMAN: Okay. All right. All 12 right. I think that identifies that sufficiently. Is there 13 anything else that you wish to say? 14 MS. TERESITA HERNANDEZ: Nothing else, thank you. It's 15 (inaudible) in the pictures. 16 HEARING EXAMINER GROSSMAN: All right. Now, okay. Now, 17 Ms. Rivera, you have a right to cross-examine before you 18 testify. You have a right to ask Ms. Hernandez questions if 19 you wish. Do you have any questions you wish to ask of her? 20 We call that cross-examination; based on her testimony. 21 MS. RIVERA: Just one question actually. 22 HEARING EXAMINER GROSSMAN: All right. 23 MS. RIVERA: When the cars are leaving the driveway -- 24 HEARING EXAMINER GROSSMAN: Yes. 25 MS. RIVERA: -- the parents. My concern is that there

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41	1 are some cars parked on the street, not on Randolph but 2 Terrapin? 3 HEARING EXAMINER GROSSMAN: Terrapin. 4 MS. TERESITA HERNANDEZ: Terrapin. 5 MS. RIVERA: Terrapin. And sometimes they are too 6 close to the cars because sometimes they back up, and you 7 know we women, sometimes cannot do that. I know I can't. 8 HEARING EXAMINER GROSSMAN: Men have the same problem, 9 I just want to say. 10 MS. RIVERA: So my car was scratched the other day and 11 I didn't know, you know -- 12 HEARING EXAMINER GROSSMAN: Well, this is not an 13 opportunity for you -- 14 MS. RIVERA: When do they happen -- 15 HEARING EXAMINER GROSSMAN: -- to testify. I'm going 16 to give you an opportunity to testify. But do you have any 17 questions of Ms. Hernandez? 18 MS. RIVERA: Well, my question was is there any way 19 when they leave can you just, you know, send someone to 20 check that they are, you know -- 21 MS. TERESITA HERNANDEZ: Yeah. Just like what I told 22 you, according to Ms. Lori about the meeting when we went 23 there. 24 HEARING EXAMINER GROSSMAN: Yes. 25 MS. TERESITA HERNANDEZ: Because they saw the picture	43	1 making sure that her car won't get scratched again -- 2 MS. TERESITA HERNANDEZ: Okay. 3 HEARING EXAMINER GROSSMAN: -- or that kind of thing. 4 Is there -- do you have an answer to that? 5 MS. TERESITA HERNANDEZ: Yes. 6 HEARING EXAMINER GROSSMAN: Can -- 7 MS. TERESITA HERNANDEZ: I'm going to talk to the 8 parents -- 9 HEARING EXAMINER GROSSMAN: Okay. 10 MS. TERESITA HERNANDEZ: -- to just be careful when 11 they're backing out. 12 MS. RIVERA: Thank you so much. 13 MS. TERESITA HERNANDEZ: Yes. 14 HEARING EXAMINER GROSSMAN: Okay. All right. Any other 15 questions of Ms. Hernandez? 16 MS. RIVERA: No, not really. I am -- no. 17 HEARING EXAMINER GROSSMAN: All right. Now you also 18 have the opportunity, you've been sworn in. You also have 19 the opportunity to testify. Do you have a statement that you 20 wish to make for the record? 21 MS. RIVERA: In terms of parking on the street, I 22 haven't seen any sign in there. And according to what I have 23 read before, you can park on the street in front of anybody 24 else, so I haven't seen any sign that says do not park here. 25 So that's why we park there.
42	1 of the car, I think that is their car, I'm not sure, but 2 they said they're not supposed, especially now that I'm 3 going to be a daycare center, they're not supposed to park 4 in front of my property on the side of the property. 5 HEARING EXAMINER GROSSMAN: I see. 6 MS. TERESITA HERNANDEZ: They said it needs to be 7 after the poles, or else they're going to be ticketed they 8 said to me. 9 HEARING EXAMINER GROSSMAN: Okay. Besides -- 10 MS. TERESITA HERNANDEZ: Either I talk to them or I 11 let the police stop it to give them a ticket. But I don't 12 like to hurt their feelings, it's my friend. 13 MS. RIVERA: Thank you. 14 MS. TERESITA HERNANDEZ: So I don't want to say it. 15 HEARING EXAMINER GROSSMAN: Okay. 16 MS. TERESITA HERNANDEZ: I said let the parking people 17 come and talk to them, not to me. 18 HEARING EXAMINER GROSSMAN: Okay. 19 MS. TERESITA HERNANDEZ: Because I don't like to hurt 20 feelings of my neighbors. 21 HEARING EXAMINER GROSSMAN: Sure. I understand. I'm 22 not commenting on any of that. 23 MS. TERESITA HERNANDEZ: Yes. 24 HEARING EXAMINER GROSSMAN: I just want to -- she 25 asked you this question as to how you're going to supervise	44	1 HEARING EXAMINER GROSSMAN: Right. I don't know the 2 answer to whether or not that is restricted. All we have now 3 is what's called hearsay. That is somebody told Ms. 4 Hernandez something and she's reporting that, and it's being 5 offered to prove the truth of that thing. We don't know if 6 the person was accurate, you know, what they said. So 7 generally that type of evidence called hearsay can -- may 8 not be admitted under certain circumstances. Hearsay is 9 allowed to be admitted to some extent if it's reliable and 10 probative. I don't really know in this case, I mean in this 11 kind of case it is. I don't know in this case whether it's 12 accurate that what she was told, so I don't want to admit 13 that as something as a fact in here. 14 MS. RIVERA: Okay. 15 HEARING EXAMINER GROSSMAN: So I just don't know. I 16 think you -- if you have a concern about it you ought to 17 check with the authorities from the Department of 18 Transportation to make sure that you're legally parked. Or 19 if you want to take your chances, that's up to you. I just 20 don't know whether that's restricted, if there's no sign 21 there. Okay. 22 MS. RIVERA: Okay. Thank you. No, I mean if it's 23 restricted, you know, I really don't want to get any 24 tickets. 25 HEARING EXAMINER GROSSMAN: No.

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45	1 MS. RIVERA: Like she said, getting in to any, you 2 know -- 3 MS. TERESITA HERNANDEZ: Yeah. 4 MS. RIVERA: -- quarrel with her because they are 5 great people. So I mean I'm pleased that they bought that 6 property really. 7 HEARING EXAMINER GROSSMAN: Okay. Good. Good. All 8 right. Is there anything else you wish to state? 9 MS. RIVERA: At this time, no sir. 10 HEARING EXAMINER GROSSMAN: Okay. Do you wish to 11 cross-examine Ms. Rivera? 12 MS. TERESITA HERNANDEZ: No. 13 HEARING EXAMINER GROSSMAN: No. Okay. All right then. 14 If there's no additional evidence I presume you wish to have 15 the exhibits admitted into evidence, and that is if I can 16 find what I just put down which is the exhibit list. Here it 17 is of course. Exhibits 1 through 33 and their subparts, you 18 wish admitted into evidence? 19 MS. TERESITA HERNANDEZ: Yes. Where I am now? 20 HEARING EXAMINER GROSSMAN: From -- 21 MS. TERESITA HERNANDEZ: I'm lost. Okay. 22 HEARING EXAMINER GROSSMAN: Yes, I just -- there are 23 33 exhibits some of which have subparts, all this. 24 MS. TERESITA HERNANDEZ: Yes, all of this is in the -- 25 HEARING EXAMINER GROSSMAN: And you want it all	47	1 MR. HERNANDEZ: The 31st. 2 HEARING EXAMINER GROSSMAN: The 31st, okay. That's 3 correct. So is that agreeable with you that I close the 4 record on the 31st? You don't have anything else you need to 5 submit? Other than the contracts? 6 MS. TERESITA HERNANDEZ: No, you can close it. 7 HEARING EXAMINER GROSSMAN: Okay. All right. Okay. 8 Then the record will close on October 31st at the close of 9 business. And my report and decision will be due 30 days 10 after that. I usually don't take the full 30 days to do my 11 reports, but in any event that's what I have. I can extend 12 that time if need be, but I rarely do that. And then there 13 are 10 days thereafter that any party of record, the other 14 party -- people who testify. Everybody who testified here is 15 a party of record automatically under our rules. Any party 16 of record has a right to appeal to the Board of Appeals 17 within 10 days after that. 18 MS. TERESITA HERNANDEZ: Okay. 19 HEARING EXAMINER GROSSMAN: And that's the process. 20 And you will receive a notice. All of you will receive a 21 copy of the notice when I issue my report and decision. The 22 notice is usually two pages. The report and decision is a 23 lot longer and that report and decision will be on our 24 website. 25 MS. TERESITA HERNANDEZ: Okay.
46	1 admitted into evidence? 2 MS. TERESITA HERNANDEZ: Yes. 3 HEARING EXAMINER GROSSMAN: Okay. They are admitted 4 into evidence. 5 (Whereupon Exhibits 1 through 33 were admitted into 6 evidence.) 7 HEARING EXAMINER GROSSMAN: The only thing left is 8 to -- you said you were going to submit a copy of a sample 9 contract with the parent. 10 MS. TERESITA HERNANDEZ: Yeah, I will. 11 HEARING EXAMINER GROSSMAN: As far as staggering 12 arrival and leaving. How long do you want to do to submit 13 that? How much time do you want to submit that to us? 14 MS. TERESITA HERNANDEZ: Monday? 15 HEARING EXAMINER GROSSMAN: That's fine. 16 MS. TERESITA HERNANDEZ: Okay. 17 HEARING EXAMINER GROSSMAN: Sure. And Monday would be 18 the 29th, I guess. Right? So -- and the transcript -- I've 19 ordered a faster transcript this time. It's a relatively 20 short transcript and that should arrive on Tuesday. Unless 21 you have some reason not to I would close the record on 22 Wednesday. 23 MS. TERESITA HERNANDEZ: Okay. 24 HEARING EXAMINER GROSSMAN: Which I guess would be 25 November 1st.	48	1 HEARING EXAMINER GROSSMAN: Okay? And you'll have a 2 link to that in the notice. All right. Any other questions 3 by anybody? 4 MS. TERESITA HERNANDEZ: Anybody have a question here? 5 HEARING EXAMINER GROSSMAN: All right. Okay. All right 6 then. I thank you all very much and we are adjourned. Have a 7 good weekend. 8 MS. TERESITA HERNANDEZ: You too. You do the same. 9 MS. RIVERA: You too. Don't work too hard. 10 (Off the record at 10:37 a.m.) 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25


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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: October 28, 2018