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Transcript of Administrative Hearing - Day 5

Date: March 10, 2020

Case: The Primrose School

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1 (1 to 4)

1	OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS	1	A P P E A R A N C E S
2	FOR MONTGOMERY COUNTY, MARYLAND	2	FOR MONTGOMERY COUNTY OFFICE OF ZONING AND ADMINISTRATIVE
3	-----x	3	HEARINGS:
4	THE PRIMROSE SCHOOL :	4	LYNN ROBESON HANNAN - HEARING EXAMINER
5	Applicant : Case No.: CU 18-08	5	
6	-----x	6	FOR THE APPLICANT:
7		7	JODY S. KLINE, ESQUIRE
8		8	Miller, Miller & Canby
9	HEARING	9	200-B Monroe Street
10	BEFORE HEARING EXAMINER LYNN A. ROBESON HANNAN	10	Rockville, MD 20850
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14		14	
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24	Pages: 1 - 218	24	
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2		4	
1	Administrative Hearing held at:	1	C O N T E N T S
2		2	PAGE
3	Montgomery County Office of Zoning and Administrative	3	Transcript of proceedings 6
4	Hearings:	4	Testimony of Ms. Newens 7
5	100 Maryland Avenue	5	Testimony of Mr. Mandava 12
6	County Office Building	6	Testimony of Mr. Lasko 104
7	Room 200	7	Testimony of Ms. Lasko-Crone 110
8	Rockville, MD	8	Testimony of Mr. Reese 114
9	(240) 777-6660	9	Testimony of Mr. Caponiti 148
10		10	Testimony of Mr. Prakhya 185
11		11	Testimony of Mr. Przywara 197
12		12	Testimony of Ms. Storbauk 208
13		13	Testimony of Ms. Shirven 206
14		14	
15	Pursuant to agreement before Lee Utterback, notary	15	
16	public, in and for the State of Maryland.	16	
17		17	
18		18	
19		19	
20		20	
21		21	
22		22	
23		23	
24		24	
25		25	

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

2 (5 to 8)

5				7			
EXHIBITS				MR. CHEN: I don't know them either, but I was just			
EXHIBITS INTRODUCED AT HEARING:				told that -- I understand one of the individuals			
NUMBER	DESCRIPTION	PAGE		would -- because of family obligations, young children,			
202	Impervious BRL Impact	134		would like to go as soon as possible.			
203	DOT Standard Detail for 60-foot residential street	136		HEARING OFFICER HANNAN: Okay. Well, let's take Mr. --			
204	Color printout of County Priority Funding Area	138		MR. KLINE: Mandava.			
205	Enlargement of priority funding area showing immediate vicinity of subject property	139		HEARING OFFICER HANNAN: I'm sorry.			
206	Photograph depicting traffic taken from westbound Needwood Road at approximate location of the church	150		MR. CHEN: The witness, Mandava. Mr. Mandava.			
207	SDAT Records for subject property	162		HEARING OFFICER HANNAN: Yes, I mean, I know that. Can			
				you step down for a moment --			
				MR. MANDAVA: Sure.			
				HEARING OFFICER HANNAN: -- so we can let --			
				MR. MANDAVA: Yeah.			
				HEARING OFFICER HANNAN: -- these other people testify?			
				Okay. May -- whoever wants to start, can you please			
				come forward? If you can sit there.			
				MS. NEWENS: Sure			
				HEARING OFFICER HANNAN: Okay.			
				MS. NEWENS: And do I need to get sworn in?			
				HEARING OFFICER HANNAN: I will --			
				MS. NEWENS: You will do that?			
				HEARING OFFICER HANNAN: Wait, have you been sworn in?			
				MS. NEWENS: I have not.			
				HEARING OFFICER HANNAN: Oh, okay. Yes, I'll do that.			
				MS. NEWENS: Okay.			
6				8			
PROCEEDINGS				HEARING OFFICER HANNAN: Go ahead and sit down.			
HEARING OFFICER HANNAN: Can the parties once again				MS. NEWENS: Okay.			
identify themselves for the record?				HEARING OFFICER HANNAN: Please raise your right hand.			
MR. KLINE: Good morning. For the record, my name is				Do you solemnly affirm under penalties of perjury that the			
Jody Kline. I'm an attorney with the law firm of Miller,				statements you're about to make are the truth, the whole			
Miller, and Canby with offices at 200-B Monroe Street in				truth, and nothing but the truth?			
Rockville, representing the Petitioner, Primrose School, a				MS. NEWENS: I do.			
franchising corporation.				HEARING OFFICER HANNAN: Okay. Please state your name			
HEARING OFFICER HANNAN: Thank you. Mr. Chen.				and address for the record.			
MR. CHEN: Good morning, Madam Examiner. My name is				MS. NEWENS: My name is Sarah Newens and my address is			
Bill Chen. I'm an attorney for Carol Kosary, Paul Posey,				7405 Needwood Road, Derwood, Maryland 20855.			
and Cece English with offices at 200-A Monroe Street.				HEARING OFFICER HANNAN: And can you spell your last			
HEARING OFFICER HANNAN: Okay. And this is the case of				name?			
CU 18-08 Primrose Corporation for a child daycare center at				MS. NEWENS: Sure. N-E-W-E-N-S.			
7430 Needwood Road. Is there -- I see one or two new faces				HEARING OFFICER HANNAN: And Sarah is S-A-R-A-H?			
in the audience. Is there anyone who hasn't testified that				MS. NEWENS: H.			
is not represented by either Mr. Chen or Mr. Kline? I see				HEARING OFFICER HANNAN: Okay. And what would you like			
one hand. I'm sorry? Two hands. Is that two hands? Okay.				to say?			
Three hands. Okay. Do you -- all right. I have -- and I				MS. NEWENS: So, I have a statement that I prepared			
have a woman -- oh, no. I know you.				last night.			
UNIDENTIFIED SPEAKER: Unfortunately.				HEARING OFFICER HANNAN: Okay.			
HEARING OFFICER HANNAN: Okay. Three hands. Do you				MS. NEWENS: I'm Sarah Newens, a homeowner less than			
want to take them now or do you know who they are?				500 feet from the subject property. Today, as a homeowner,			
MR. KLINE: I do not know who they are.				mother to three young children with another on the way, and			
HEARING OFFICER HANNAN: Okay.				an industrial engineer, I provide my testimony opposing the			

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

3 (9 to 12)

<p style="text-align: right;">9</p> <p>1 conditional use application of the Primrose School. While 2 the idea of quality daycare is appealing within Montgomery 3 County, I feel that this is not the appropriate location for 4 such a daycare or any future potential businesses that would 5 disrupt the flow and feel of the neighborhood. 6 My husband and I moved from Aspen Hill to Derwood 7 because we liked the peaceful nature afforded to us on 8 Needwood Road. We enjoy walking and biking with our young 9 children on the new path just completed and with two 10 preschool children at home, these walks happen not just on 11 weekends, but during the week or after school during 12 weekdays. We enjoy the easy commute to the Metro and 13 surrounding area. 14 We support small home daycares that stay within the 15 current zoning regulations of the region. These small 16 daycares do not put undue burden on the neighborhood as 17 minimal drop-offs and pickups occur during the day. We do 18 not support large-scale daycares or businesses for 19 conditional approval or rezoning in the future. Needwood 20 Road is primarily residential with one church and one 21 cultural center located near Redland Road. 22 The subject property and surrounding area cannot 23 support the flux of traffic to be expected from (1) staff 24 morning arrivals; (2) morning drop-off entering traffic; (3) 25 morning drop-off exiting traffic; (4) logistical support</p>	<p style="text-align: right;">11</p> <p>1 industrial engineering and when I was at Virginia Tech, I 2 had to do discreet simulation analysis to understand how 3 flow would impact and queuing theories to understand how we 4 would impact back-up or bottlenecks in areas. And while I 5 do human factors now, that was an education that I did have 6 to understand that. 7 MR. KLINE: Well, you come to us about -- 8 HEARING OFFICER HANNAN: I take that as a yes. 9 MR. KLINE: Well, you come to us better educated than 10 most people in your situation. And the reason I asked the 11 question was I thought maybe you would have taken a look at 12 the file to take a look at the traffic engineering report 13 because it would have information that based on what you 14 just said, you would be able to appreciate and I 15 would -- did you have a chance to look at the traffic 16 engineer's report? 17 MS. NEWENS: I have looked at several documents that 18 have come through and I can't recall -- I know -- I think 19 the testimony yesterday that -- what I saw was that you 20 could expect over 800 -- I don't know what you would call 21 them, but like -- 22 HEARING OFFICER HANNAN: 850 trips in and out -- 23 MS. NEWENS: Trips in and out on a daily basis. 24 MR. KLINE: Let me see, you were here yesterday? 25 MS. NEWENS: I was not here yesterday.</p>
<p style="text-align: right;">10</p> <p>1 traffic and deliveries; (5) evening pick-up entering 2 traffic; (6) evening pick-up exiting traffic; (7) staff 3 departures most of which will be concurrent with existing 4 commuter and school traffic which is already congested as I 5 see when I go outside to do bus drop-off for my daughter. 6 In addition to the traffic, it -- it is right for 7 daycare centers to have outdoor resource time for students. 8 It's vitally important for preschoolers, but you could 9 expect a steady stream of noise as children would cycle 10 through the playgrounds and while it's welcoming in doses, 11 being a mother of three children and soon a newborn, I 12 assure you that large doses can be rather disruptive. 13 So that concludes my testimony. I thank you for 14 considering my testimony today and the potential impacts on 15 me and my family should you approve the conditional use. 16 HEARING OFFICER HANNAN: Thank you. 17 Do you have any questions, Mr. Kline? 18 MR. KLINE: Just a couple quickly, yeah. 19 HEARING OFFICER HANNAN: Okay. 20 MR. KLINE: You indicated -- Ms. Newens, you indicated 21 you're an industrial engineer? 22 MS. NEWENS: I'm an industrial engineer. 23 MR. KLINE: So, I guess you're used to reading sort of 24 complicated involved documentation? 25 MS. NEWENS: Well, my education and training is</p>	<p style="text-align: right;">12</p> <p>1 MR. KLINE: So, you got that information from where? 2 MS. NEWENS: From Carol Kosary who was here. 3 MR. KLINE: So, you didn't hear Mr. -- you're not 4 familiar with what Mr. Cook wrote or what Mr. Cook said 5 yesterday? 6 MS. NEWENS: No. I -- I'm home with my children. 7 MR. KLINE: No further questions. 8 HEARING OFFICER HANNAN: Okay. Mr. Chen? 9 MR. CHEN: No questions. 10 HEARING OFFICER HANNAN: Thank you very much for 11 coming. 12 MS. NEWENS: Thank you. 13 HEARING OFFICER HANNAN: Okay. Is there anyone else 14 that wishes to testify? Now, I'm seeing no. Okay, 15 so -- and is there -- so I don't have anyone else right now 16 that wishes to testify that's not represented by either Mr. 17 Chen or Mr. Kline? Okay. Seeing none, we will continue 18 with Mr. Mandava. 19 MR. KLINE: Madam Examiner -- 20 HEARING OFFICER HANNAN: Please forgive me. I haven't 21 had time to go back. Your name was -- okay. 22 MR. MANDAVA: It's Mandava, like the -- the Hawaiian 23 name Mandavi. 24 HEARING OFFICER HANNAN: Well, that -- okay. 25 MR. CHEN: Madam Examiner?</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

4 (13 to 16)

<p>13</p> <p>1 HEARING OFFICER HANNAN: Yes.</p> <p>2 MR. CHEN: If I may just -- circling back for a second</p> <p>3 on preliminary matters. My clients are supposed to be some</p> <p>4 place tonight and they're -- if we're going beyond 5:00,</p> <p>5 thing are just --</p> <p>6 HEARING OFFICER HANNAN: Wait, I -- I'm having trouble</p> <p>7 hearing you.</p> <p>8 MR. CHEN: My clients have obligations tonight and that</p> <p>9 they're clear through 5:00 tonight.</p> <p>10 HEARING OFFICER HANNAN: Okay. We'll stop at 5:00.</p> <p>11 All right. Mr. Mandava, I believe you were on direct</p> <p>12 examination.</p> <p>13 Mr. Kline.</p> <p>14 MR. KLINE: Thank you.</p> <p>15 Ms. Newens' actual comments are probably a good</p> <p>16 foundation for me to ask you -- let's go back outside and</p> <p>17 talk about some of those things that concerned her, so if I</p> <p>18 could ask you some questions about that. Will there be any</p> <p>19 public address system that would be broadcast outside</p> <p>20 causing any noise?</p> <p>21 MR. MANDAVA: No.</p> <p>22 MR. KLINE: Okay. Are you familiar with what kind of</p> <p>23 equipment there would be and what it would cause generating</p> <p>24 noise?</p> <p>25 MR. MANDAVA: It -- the playground will have age-</p>	<p>15</p> <p>1 MR. KLINE: Okay. Thank you. You -- you</p> <p>2 talked -- discussed evening operations, are there any -- are</p> <p>3 there ever any weekend operations?</p> <p>4 MR. MANDAVA: Not to my knowledge.</p> <p>5 MR. KLINE: Okay. Ms. Rice, in one of her writings to</p> <p>6 the board, raised a good question --</p> <p>7 HEARING OFFICER HANNAN: Just for the record, I believe</p> <p>8 her name is now Ms. Ackad -- no.</p> <p>9 MS. RICE: My legal name is Robin Rice. My married</p> <p>10 name is Mrs. Ackad for the past 37 years, but my legal name</p> <p>11 is Robin Rice.</p> <p>12 HEARING OFFICER HANNAN: Okay. I just -- all right.</p> <p>13 MR. KLINE: Does this sound familiar possibly from your</p> <p>14 point of view to also --</p> <p>15 HEARING OFFICER HANNAN: Yeah. Yes.</p> <p>16 MR. KLINE: All right.</p> <p>17 HEARING OFFICER HANNAN: I know. I feel your pain.</p> <p>18 Okay. Go ahead.</p> <p>19 MR. KLINE: We have received lots of comments and one</p> <p>20 of them was very interesting. It was -- are you going to</p> <p>21 have fire drills, and if so, how do you handle the fire</p> <p>22 drills and what's going on because in those instances, I'm</p> <p>23 presuming everybody's got to be out of the building. So,</p> <p>24 give us a detailed -- do we have fire drills?</p> <p>25 MR. MANDAVA: Yes. A lot of this is governed by the</p>
<p>14</p> <p>1 appropriate play equipment and as Mr. Alt has testified, it</p> <p>2 is not an activity which makes an undue noise or anything</p> <p>3 like that which disturbs the noise level in the --</p> <p>4 MR. KLINE: Okay.</p> <p>5 MR. MANDAVA: -- community.</p> <p>6 MR. KLINE: Are there teachers or supervisors outside</p> <p>7 with the children when they are outside in their activities?</p> <p>8 MR. MANDAVA: Yes.</p> <p>9 MR. KLINE: And they're there for what purposes?</p> <p>10 MR. MANDAVA: They are supervising the children.</p> <p>11 MR. KLINE: Okay. For what, for safety, for noise</p> <p>12 generation; what's the purpose?</p> <p>13 MR. MANDAVA: For safety, noise generation, and making</p> <p>14 sure the kids are like playing nice and friendly and yeah.</p> <p>15 MR. KLINE: Okay. And behavior as well?</p> <p>16 MR. MANDAVA: Behavior as well.</p> <p>17 MR. KLINE: Okay. How is -- how are the grounds</p> <p>18 maintained after the kids are outside?</p> <p>19 MR. MANDAVA: There is a cleaning operation like in</p> <p>20 a -- that happens on a daily basis like the playgrounds are</p> <p>21 turf -- I think they're turf so they are less prone to any</p> <p>22 issues of the things like that is compared to grass, et</p> <p>23 cetera. And yes, the cleaning staff and even the teachers</p> <p>24 will make sure that they're always in safe and a clean</p> <p>25 conditions.</p>	<p>16</p> <p>1 Maryland licensing authority. They specify what fire drills</p> <p>2 and how often and, you know, all those things, so we will be</p> <p>3 following their regulation. And to my knowledge, there is</p> <p>4 going to be one fire drill every month and then like the</p> <p>5 kids will assemble in the playground in a designated safety</p> <p>6 area, as reviewed by the fire and safety authority, and</p> <p>7 yeah.</p> <p>8 MR. KLINE: Okay. Well, now, you say in a designated</p> <p>9 safety area, but we have fencing that sort of separates</p> <p>10 areas, so --</p> <p>11 MR. MANDAVA: Uh-huh.</p> <p>12 MR. KLINE: -- does each class go to its own "play</p> <p>13 area?"</p> <p>14 MR. MANDAVA: There's actually one designated area, and</p> <p>15 again, I had to defer this to a civil engineer or somebody</p> <p>16 to give you more details on that. From my understanding,</p> <p>17 there will be a designated safety areas where they will go</p> <p>18 to. There will be a Knox box (phonetic) which the key of</p> <p>19 which is with the fire department and they are the ones who</p> <p>20 come in and open that gate if required and things like that.</p> <p>21 And this plan, the local fire authority reviews this plan</p> <p>22 and checks everything.</p> <p>23 MR. KLINE: Okay. So, I guess that's really getting to</p> <p>24 the second question, we do and/or will have a fire</p> <p>25 evacuation plan for the instance you were just talking</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

5 (17 to 20)

<p>17</p> <p>1 about?</p> <p>2 MR. MANDAVA: That's correct, yeah.</p> <p>3 MR. KLINE: All right. And I don't think I asked you</p> <p>4 any questions about the garbage pick-up. First of all, the</p> <p>5 location of the trash dumpster is -- can you -- looking at</p> <p>6 Exhibit 148, can you just describe where it's located?</p> <p>7 MR. MANDAVA: It has been pointed out by Mr. Intriago</p> <p>8 the other day. It's in an -- southwest corner of the</p> <p>9 parking lot and if you want me to come over and show it to</p> <p>10 you?</p> <p>11 So, this is Exhibit 148 and if we look at the southwest</p> <p>12 corner of the parking lot, that's where the trash pick-</p> <p>13 up -- the trash dumpster is.</p> <p>14 MR. KLINE: And what is the frequency of that trash</p> <p>15 pick-up?</p> <p>16 MR. MANDAVA: Twice a week and once for recycling and</p> <p>17 we would be scheduling it in the middle of the day.</p> <p>18 MR. KLINE: That being what hours?</p> <p>19 MR. MANDAVA: That would be 10:00 to 3:00, 10:00 a.m.</p> <p>20 to 3:00 p.m.</p> <p>21 MR. KLINE: Okay. I think when we stopped yesterday we</p> <p>22 were getting to the point of I was asking you question about</p> <p>23 the allocation of parking and could review of the numbers we</p> <p>24 were talking -- we have how many parking spaces?</p> <p>25 MR. MANDAVA: Forty-four.</p>	<p>19</p> <p>1 time and leaves at the same time. It is a staggered drop-</p> <p>2 offs and pick-ups, and the typical time for the parent to</p> <p>3 drop and leave is eight to ten minutes, as I indicated as to</p> <p>4 today, and the peak hours of dropping off the kids are 7:00</p> <p>5 a.m. to 9:00 a.m. Having said that like, you know, off</p> <p>6 there's a lot of flex hours for the parents and like, you</p> <p>7 know, we see that people --</p> <p>8 HEARING OFFICER HANNAN: I'm -- I'm sorry, did you say</p> <p>9 7:00 a.m. to 9:00 a.m. --</p> <p>10 MR. MANDAVA: To 9:00 a.m. correct.</p> <p>11 HEARING OFFICER HANNAN: -- is the peak time?</p> <p>12 MR. MANDAVA: Peak -- peak time. Correct. Yeah.</p> <p>13 HEARING OFFICER HANNAN: Okay. Go ahead. I'm sorry.</p> <p>14 MR. MANDAVA: And yeah, having said that, there's other</p> <p>15 factors like, you know, these days parents also have -- lot</p> <p>16 of parents -- working parents have more flexibility with</p> <p>17 their work hours or work locations so they can come in a</p> <p>18 little later and things like that.</p> <p>19 Now, taking this 12 spaces and the turn around time of</p> <p>20 ten minutes per car, each parking spot can accommodate six</p> <p>21 cars per one hour: so that's ten minutes, ten minutes, six</p> <p>22 cars. So, a 12-parking spot capacity is equal to 72 cars</p> <p>23 per hour, can take in 72 cars coming in, dropping and</p> <p>24 leaving, and over a period of two hours, it's 144 cars.</p> <p>25 MR. KLINE: So, the dynamics of the turnover of the</p>
<p>18</p> <p>1 MR. KLINE: And how many of those will be dedicated for</p> <p>2 teachers and staff?</p> <p>3 MR. MANDAVA: Thirty-two.</p> <p>4 MR. KLINE: Okay. So that leaves how many -- at least</p> <p>5 how many spaces available for --</p> <p>6 MR. MANDAVA: Twelve spaces for the parents.</p> <p>7 MR. KLINE: And those'll be designated for parent pick-</p> <p>8 up and drop-off?</p> <p>9 MR. MANDAVA: That's correct.</p> <p>10 MR. KLINE: Yeah. And do you heard a number of people</p> <p>11 ask how can you have an enrollment of 195 and satisfy your</p> <p>12 pick-up and drop-offs with 12 parking spaces? So, you</p> <p>13 started, I think, yesterday on this. So, explain Primrose</p> <p>14 School's experience indicates that's more than an adequate</p> <p>15 number of spaces.</p> <p>16 MR. MANDAVA: Sure. Again, I want to reiterate</p> <p>17 Primrose runs more than 400 schools, so they have a lot of</p> <p>18 experience with this parking. And second thing is as an</p> <p>19 operator, it is in my best interest and Primrose's best</p> <p>20 interest to give the parents the best experience possible</p> <p>21 for -- in dropping off and picking up kids. So more than</p> <p>22 anybody, we are -- we will be the ones most interested in</p> <p>23 making sure it's a streamlined process.</p> <p>24 Now, a Primrose School is not like an elementary school</p> <p>25 or one of those schools where everybody comes in at the same</p>	<p>20</p> <p>1 cars used means there's normally a space available for</p> <p>2 somebody arriving?</p> <p>3 MR. MANDAVA: That's correct. Yes. It is a smooth</p> <p>4 flow. People will be coming, dropping, and leaving, and</p> <p>5 there's enough room for all parents to come and drop and</p> <p>6 leave.</p> <p>7 MR. KLINE: What can you as the operator do to try and</p> <p>8 ensure that the drop-off and pick-ups occur within those</p> <p>9 time frames you're talking about since that's critical to</p> <p>10 having the availability of spaces?</p> <p>11 MR. MANDAVA: Sure. We can certainly post signs there</p> <p>12 to discourage any loitering or anything like that to</p> <p>13 designate these are the parent drop-off/pick-up spots as</p> <p>14 well as the amount of time they can park their car in that</p> <p>15 spot.</p> <p>16 MR. KLINE: Has Primrose been able to tell you within</p> <p>17 their system what -- a percentage of what I'll call multiple</p> <p>18 child vehicles arrive? Do they have a sense --</p> <p>19 MR. MANDAVA: I do not -- I do not have the percentage</p> <p>20 as such, but it is -- one of the things with Primrose</p> <p>21 schools is once a child is enrolled at Primrose School,</p> <p>22 parents tend to enroll their siblings in the same school,</p> <p>23 what -- from a convenience perspective and because they like</p> <p>24 the school and factors like that and that happens with</p> <p>25 probably a lot of other childcare or daycare centers. So,</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

6 (21 to 24)

<p>21</p> <p>1 there is a -- their families are multiple kids and a lot of 2 the families do have multiple kids and they do bring their 3 kids at the same time in the same car. I do not have the 4 percentage, though, yeah. 5 MR. KLINE: Okay. 6 MR. MANDAVA: Primrose will have that information and 7 I'm sure they consider that information in calculating their 8 parking spot. 9 MR. KLINE: Well, the other side of the coin is if you 10 have two children does that extend the time it takes you to 11 drop off? What is the procedure if you have two children 12 instead of just one? 13 MR. MANDAVA: So that's where the 8 to 10 minutes comes 14 in. Normally, it's a standard -- the time -- average time 15 is eight minutes but if they have an extra child 16 you're -- most of the process is still the same, you're just 17 walking to an extra classroom, dropping the child, and 18 running back. 19 MR. KLINE: Okay. You've explained the organizational 20 structure that's set out and I think we got you through, 21 using my phrase from yesterday, when Primrose hands you the 22 key and says it's your building, what is your relationship 23 with Primrose after that point in time? How do you two 24 coordinate and in what way? 25 MR. MANDAVA: We rely a lot on Primrose's expertise to</p>	<p>23</p> <p>1 COURT REPORTER: Yeah. 2 HEARING OFFICER HANNAN: All right. Thank you. 3 COURT REPORTER: He was just a little soft on that. 4 HEARING OFFICER HANNAN: Yeah, thank you Court 5 Reporter. Go ahead. 6 MR. MANDAVA: Yes, that's what with food deliveries, 7 yeah. 8 MR. KLINE: In early questioning of Mr. Taylor at 9 least, the question was asked how does someone who has a 10 problem either by your school operations or the noise you're 11 generating, how -- who do they contact and how do they 12 contact the person? So, what are you going to do 13 to -- well, tell me what the outreach efforts will be? 14 MR. MANDAVA: Yep. They certainly can reach us at any 15 time. We are there in the school. There is a -- one of -- 16 HEARING OFFICER HANNAN: Who's a -- 17 MR. MANDAVA: It's either me or my wife or the 18 director, assistant director, staff is there in the school. 19 They can submit their complaint, or they can request a time 20 to talk to us about whatever things they want to talk to. 21 And there is also the State of Maryland regulating authority 22 of this one. You can also provide a complaint to that 23 authority and it'll take you through the process. 24 MR. KLINE: You indicated you're not necessarily going 25 to be on the site every day.</p>
<p>22</p> <p>1 handhold us and guide us through the process even after the 2 school is open. They provide us continuous training. There 3 is a regional consultant and a regional director and various 4 people at Primrose responsible for making sure we're 5 following the best practices, we're following the rules and 6 training guidelines and the staff quality and things like 7 that and the care and safety of the children, et cetera. 8 There's a lot of guidance provided by Primrose on an ongoing 9 basis even after the school is open and for whatever period 10 of time we are their franchisee. 11 MR. KLINE: Did I ask you yesterday about food 12 deliveries or let me rephrase it this way. 13 MR. MANDAVA: Yeah. 14 MR. KLINE: Is Mr. Alt's testimony consistent with your 15 understanding about food deliveries current -- 16 MR. MANDAVA: That's correct. These deliveries will be 17 typically twice a week. They'll be scheduled in the middle 18 of the day, again, 10:00 to 3:00 -- middle of the day's 19 10:00 to -- 10:00 a.m. to 3:00 p.m., that's when they will 20 come and deliver. 21 COURT REPORTER: Sorry, what was the last part? 22 MR. MANDAVA: 10:00 a.m. to 3:00 p.m. that's when they 23 will deliver the food. 24 COURT REPORTER: When they will -- 25 HEARING OFFICER HANNAN: Are you okay?</p>	<p>24</p> <p>1 MR. MANDAVA: Uh-huh. 2 MR. KLINE: Your wife will probably be on the site 3 every day? 4 MR. MANDAVA: That's correct. Yeah. And there's 5 always staff like a director, assistant director, as well 6 the staff as well. Even if one of us is not there at that 7 very minute, they can always talk to somebody and let them 8 know that they want to talk to us, and we'll reach out to 9 them. 10 MR. KLINE: Are you prepared to include in your 11 enrollment contract a provision, an admonition that there 12 can be no parking on Carnegie Avenue? 13 MR. MANDAVA: I can certainly consider that, yeah. 14 MR. KLINE: Consider it or do it? 15 MR. MANDAVA: Do it, yeah. 16 MR. KLINE: Thank you. You heard me mention this 17 before, but will the applicant accept a condition about the 18 treatment of the tree on the Kosary property that we have 19 now identified its location so that it's satisfactorily 20 protected in conjunction with Staff Park and Planning 21 Commission, the Kosarys, and yourselves? 22 MR. MANDAVA: Yes. 23 MR. KLINE: Okay. I guess my last question is sort of 24 two parts. What kind of an operator do you want to be, and 25 what kind of a neighbor do you want to be?</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

7 (25 to 28)

<p style="text-align: right;">25</p> <p>1 MR. MANDAVA: We are doing it with -- out of passion. 2 We want to do something meaningful. And we also glad we 3 found something like Prinrose, which is a -- I -- in my 4 opinion is way above the rest of any early education 5 childcare centers. We are very excited, and we want to be 6 part of the community. We want to do the right things for 7 the community, and we will be good neighbors and I think 8 once the school is open, 9 MR. KLINE: I have no further questions at this time of 10 Mr. Mandava. 11 HEARING OFFICER HANNAN: Thank you. Mr. Chen? 12 MR. CHEN: Excuse me. 13 Mr. Mandava, you stated you wanted to be operated as an 14 old-fashioned way; is that right? I think those were your 15 words, old fashioned? 16 MR. MANDAVA: Old-fashioned way. 17 MR. CHEN: Well, you used the words, am I mistaken? 18 MR. MANDAVA: I am not able to remember that specific 19 word. 20 MR. CHEN: Oh, okay. But as I understand, neither you 21 nor your wife have any experience at all with this type of 22 land use; is that correct, sir? 23 MR. MANDAVA: That's correct. And if I can add, that's 24 the reason why we have -- we go with somebody like Prinrose 25 who provides that expertise.</p>	<p style="text-align: right;">27</p> <p>1 MR. MANDAVA: It could be -- it's not a fixed period of 2 time. It is until the school matures. Could be six months, 3 a year, two years. 4 MR. CHEN: Is there a minimum? 5 MR. MANDAVA: Oh, I would say a minimum of six months. 6 MR. CHEN: And how many people will be there from 7 Prinrose during that time? 8 MR. MANDAVA: They will not be there on a daily basis. 9 What I'm talking about is support to us and it could be 10 virtual full support, et cetera. They will come on site as 11 required. That's not a fixed schedule of coming on site. 12 MR. CHEN: Okay. So, it would be virtual and as needed 13 during that transition time, that initial phase? 14 MR. MANDAVA: Right. 15 MR. CHEN: Thereafter, as I understand your testimony, 16 after that initial phase, there'd be a quarterly visit from 17 Prinrose; is that my -- my correct understanding? 18 MR. MANDAVA: That's correct, yeah. 19 MR. CHEN: And what does that entail, sir? 20 MR. MANDAVA: It will be a consultant from Prinrose 21 coming and talking to us, like checking on things and doing 22 their -- doing their process. 23 MR. CHEN: Is it -- are they there the entire day 24 during that quarterly visit? 25 MR. MANDAVA: I do not know.</p>
<p style="text-align: right;">26</p> <p>1 MR. CHEN: Yes. I've noticed you've been reading from 2 some papers. 3 MR. MANDAVA: Right. 4 MR. CHEN: Are those information that is supplied to 5 you about operations from Prinrose? 6 MR. MANDAVA: There are -- it's a mix of notes that I 7 have collected through my two-days of training I had at 8 Prinrose and some information I had from Prinrose and in my 9 visits to Prinrose Schools and it's a -- it's a combination 10 of various things. 11 MR. CHEN: Okay. And how often will Prinrose have 12 somebody on site? 13 MR. MANDAVA: They have at least a quarterly visit and 14 they -- but in the initial days of operating the school, 15 it's a lot more frequent and -- until like, you know, we 16 come to a stage where we are knowledgeable enough about 17 everything what is going on. We feel like, you know, we 18 have the expertise so they can hold us as -- I mean, there 19 isn't like a we only come out like, you know, these many 20 times or these periods. They are there to help us as needed 21 so anybody, anytime, like, you know, can be reached out and 22 if they need to come on the school and help us they can help 23 us. 24 MR. CHEN: That initial days you just referred to, how 25 long is that?</p>	<p style="text-align: right;">28</p> <p>1 MR. CHEN: And how many people are part of that meeting 2 or quarterly -- 3 MR. MANDAVA: I do not know for sure. I'm expecting it 4 to be one or two people. 5 MR. CHEN: Okay. And other than what you've just told 6 us about the initial phase and contact with Prinrose and the 7 quarterly meetings that -- is that literally every 8 quarterly -- that's an automatic? There's always a 9 quarterly meeting? 10 MR. MANDAVA: I do not know. 11 MR. CHEN: Okay. Other than that, will there be any 12 other contact with Prinrose other than what you've just 13 described? 14 MR. MANDAVA: There is a -- we are a franchisee. 15 They're franchisor so there is a constant stream of 16 communication within the parties. 17 MR. CHEN: What do you mean by that? 18 MR. MANDAVA: It's an e-mail communication or them 19 sending out information to us about various things related 20 to operations, school, et cetera. There will be conference 21 calls and things like that. 22 MR. CHEN: Okay, so some type of, I guess, electronic 23 communications. 24 MR. MANDAVA: Electronic, forward counseling, forward 25 communication, various parts of communication.</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

8 (29 to 32)

<p>29</p> <p>1 MR. CHEN: But apparently they are not involved in the</p> <p>2 day-to-day operations.</p> <p>3 MR. MANDAVA: They are overseeing the day-to-day</p> <p>4 operations.</p> <p>5 MR. CHEN: But they're not physically there. They're</p> <p>6 not there at 7:00 in the morning or anything like that.</p> <p>7 MR. MANDAVA: They will be initially training us in</p> <p>8 that --</p> <p>9 MR. CHEN: We will talk about that. We will talk about</p> <p>10 that.</p> <p>11 MR. MANDAVA: Yeah.</p> <p>12 MR. CHEN: I'm not -- we're beyond that, sir.</p> <p>13 MR. MANDAVA: No, no. I'm just trying to provide you a</p> <p>14 context. They --</p> <p>15 HEARING OFFICER HANNAN: Well, will they be there on</p> <p>16 the ground at the school?</p> <p>17 MR. MANDAVA: Initially, in the initial period, for the</p> <p>18 first week --</p> <p>19 HEARING OFFICER HANNAN: And then after that?</p> <p>20 MR. MANDAVA: -- first week or so and then right after</p> <p>21 that it will be on a more periodic basis or as-required</p> <p>22 basis.</p> <p>23 MR. CHEN: What do you mean by periodic?</p> <p>24 MR. MANDAVA: That's the quarterly we were talking</p> <p>25 about.</p>	<p>31</p> <p>1 MR. CHEN: You use the word "us". I take it you</p> <p>2 mean -- when you use the word "us" you mean you and your</p> <p>3 wife.</p> <p>4 MR. MANDAVA: That's right, the owner operators. Yes.</p> <p>5 MR. CHEN: By the way, your wife, I take it, is going</p> <p>6 to quit her job that she has in order to be here on a daily</p> <p>7 full-time basis.</p> <p>8 MR. MANDAVA: She will. Yes.</p> <p>9 MR. CHEN: And I believe you testified early on that</p> <p>10 you understood that this property permitted institutional</p> <p>11 use. Is that right, sir?</p> <p>12 MR. MANDAVA: That's correct. Yeah.</p> <p>13 MR. CHEN: And you understood that that included a</p> <p>14 daycare facility.</p> <p>15 MR. MANDAVA: That's correct.</p> <p>16 MR. CHEN: So, was it your understanding when you</p> <p>17 purchased this property that you would not require any</p> <p>18 conditional use or approval for a daycare center?</p> <p>19 MR. MANDAVA: No. I do understand that I need a</p> <p>20 conditional use approval.</p> <p>21 MR. CHEN: Okay. You knew that from day one.</p> <p>22 MR. MANDAVA: Correct.</p> <p>23 MR. CHEN: And you said that you also -- I take it this</p> <p>24 meant you and your wife looked into the demographics of the</p> <p>25 area?</p>
<p>30</p> <p>1 MR. CHEN: And as needed -- what does that mean.</p> <p>2 MR. MANDAVA: Yeah. If they -- if we request more</p> <p>3 support or, you know, they can come and help us.</p> <p>4 MR. CHEN: Okay. But after that initial period of</p> <p>5 time, they're not there on the ground.</p> <p>6 MR. MANDAVA: They're not there on the ground. Yes.</p> <p>7 MR. CHEN: And if someone wanted to contact Primrose, a</p> <p>8 parent. How would they go about doing that? How would they</p> <p>9 know who the contact was?</p> <p>10 MR. MANDAVA: So, when they enroll at the school, they</p> <p>11 will be providing them a lot of information. And there will</p> <p>12 be contact information with that. And they can also always</p> <p>13 go to their website and contact, or they can call Primrose</p> <p>14 and there's various methods they can contact Primrose.</p> <p>15 MR. CHEN: If there is an issue that arises, sir,</p> <p>16 involving possibly a concern about complying with a</p> <p>17 condition for the operations, how would someone contact a</p> <p>18 responsible party on behalf of the conditional use?</p> <p>19 MR. MANDAVA: So, they can contact us, the owner</p> <p>20 operators. We will -- our office will be at the school and</p> <p>21 if we are not there at that moment, as we discussed before,</p> <p>22 they can contact the staff. And they will pass the</p> <p>23 information to us and we will reach out to that individual</p> <p>24 or individuals. That is one way of doing it. And they can</p> <p>25 always send us an email.</p>	<p>32</p> <p>1 MR. MANDAVA: That's correct. Yeah.</p> <p>2 MR. CHEN: You don't live though in this area.</p> <p>3 MR. MANDAVA: That's correct.</p> <p>4 MR. CHEN: Have you ever lived in this area?</p> <p>5 MR. MANDAVA: No.</p> <p>6 MR. CHEN: And I understand you looked at demographics</p> <p>7 but how did you and your wife come to find this area rather</p> <p>8 than some other part of the county or another county?</p> <p>9 MR. MANDAVA: We had been referred to this by the</p> <p>10 friend who testified yesterday.</p> <p>11 MR. CHEN: Oh.</p> <p>12 MR. MANDAVA: Mr. Jakkampudi.</p> <p>13 MR. CHEN: How do you know Mr. Jakkampudi?</p> <p>14 MR. MANDAVA: He's a -- he's a friend of a friend. Let</p> <p>15 me put it that way. Yeah. That's how we know him.</p> <p>16 MR. CHEN: Okay. And he suggested this property to</p> <p>17 you?</p> <p>18 MR. MANDAVA: Correct.</p> <p>19 MR. CHEN: And how did that come about?</p> <p>20 MR. MANDAVA: I didn't understand. How does this --</p> <p>21 MR. CHEN: Were you at a cocktail party? Were you at a</p> <p>22 Redskin game? You know, how did it happen?</p> <p>23 HEARING OFFICER HANNAN: Nobody is at Redskins.</p> <p>24 MR. MANDAVA: None of those two. None of those two. I</p> <p>25 think he just mentioned to me that like, hey there's a</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

9 (33 to 36)

<p>33</p> <p>1 property up for sale in my neighborhood if you're 2 interested. Just like friend's conversation. 3 MR. CHEN: Do you remember when that occurred? 4 MR. MANDAVA: It was a long time back, 2014. 5 MR. CHEN: I take it, it was some type of social event? 6 MR. MANDAVA: I don't remember exactly when that 7 specific conversation took place. 8 MR. CHEN: Okay. And how long have you known Mr. 9 Jakkampudi? 10 MR. MANDAVA: About seven, eight years. 11 MR. CHEN: Have you had any other business-related 12 dealings with Mr. Jakkampudi? 13 MR. KLINE: Objection. I'm not sure I see the 14 relevance at all. 15 HEARING OFFICER HANNAN: Okay. Don't make it -- just 16 tell me where you're going with this. 17 MR. CHEN: Given the testimony of Mr. Jakkampudi 18 yesterday, I think I'm entitled to plumb the relationship 19 between him and the applicants in this case, fully plumb the 20 relationship, particularly the business relationship given 21 the fact that Mr. Jakkampudi is the resident agent of two 22 businesses. 23 HEARING OFFICER HANNAN: I'll give you a little bit of 24 leeway, but I don't want to go down this too far. 25 MR. CHEN: Understood. Please answer.</p>	<p>35</p> <p>1 is the timing of that. But after the conditional use 2 approval. To begin that, yeah. 3 MR. CHEN: Okay. And so, at that point in time will 4 Needwood Developers, LLC be the owner operator of the 5 school? 6 MR. MANDAVA: The owner -- the operator will be 7 Needwood Schools, LLC. The real estate for the entity will 8 be Needwood Developers, LLC. 9 MR. CHEN: Okay. And the tie-in with Primrose is as a 10 franchisee. Is that correct? 11 MR. MANDAVA: That's correct. 12 MR. CHEN: And who is going to be the franchisee? 13 MR. MANDAVA: Needwood Schools, LLC. 14 MR. CHEN: Madam Examiner, may I approach? 15 HEARING OFFICER HANNAN: Yes. 16 MR. CHEN: What's going on? 17 HEARING OFFICER HANNAN: Let him give one to me, give 18 one to him. 19 MR. CHEN: That's what I was doing. 20 HEARING OFFICER HANNAN: Okay, sorry. 21 MR. CHEN: Mr. Mandava, I've just shown you an Exhibit. 22 MR. MANDAVA: Yes. 23 MR. CHEN: 115-EE. Could you take a quick look at it? 24 It's -- 25 HEARING OFFICER HANNAN: What is this Exhibit?</p>
<p>34</p> <p>1 MR. MANDAVA: What's the question again? 2 MR. CHEN: How many other business relationships have 3 you had with Mr. Jakkampudi? 4 MR. MANDAVA: That's -- he's the resident agent for the 5 two LLCs I incorporated. 6 MR. CHEN: Yeah. And as I understand it, sir, he 7 apparently did sign the forms to be the resident agent for 8 both -- 9 MR. MANDAVA: Correct. 10 MR. CHEN: -- Needwood Schools, LLC and Needwood 11 Developers, LLC. Is that correct? 12 MR. MANDAVA: That's correct. Yes. 13 MR. CHEN: And am I correct in understanding that both 14 of these LLC businesses were created in order to develop the 15 subject property. Is that right? 16 MR. MANDAVA: That's correct. Yes. 17 MR. CHEN: And you and your wife at some point down the 18 road will convey the ownership of this property to Needwood 19 Schools, LLC. Is that right? 20 MR. MANDAVA: To Needwood Developers, LLC. Yeah. 21 MR. CHEN: Oh, to Needwood Developers, LLC. 22 MR. MANDAVA: Yes. 23 MR. CHEN: Okay. And when will that happen? 24 MR. MANDAVA: After the conditional use approval. I 25 have to talk to my tax accountant, et cetera, exactly what</p>	<p>36</p> <p>1 MR. CHEN: Exhibit 115-EE. 2 HEARING OFFICER HANNAN: Oh, document EE. I'm sorry. 3 MR. CHEN: And what I've done is I've stapled together 4 the Primrose Franchise Disclosure documents for 2017, '18, 5 and '19. Do you see them, sir? 6 MR. MANDAVA: Yeah. 7 MR. CHEN: And these disclosure documents for Primrose 8 indicate that the franchisee for the Derwood site is Durga 9 Kodali. You see that? 10 MR. MANDAVA: Yes. 11 MR. CHEN: Yesterday you testified that you were the 12 franchisee. 13 MR. MANDAVA: That's correct. 14 MR. CHEN: So, what's -- why does the Primrose 15 disclosure document say that Durga Kodali is the franchisee 16 and not you? 17 MR. MANDAVA: It's all three of us. I think on this 18 particular sheet you'll see only Durga Kodali but if you 19 look up in franchise records now it will be all three of us. 20 MR. CHEN: It would be -- 21 MR. MANDAVA: Which is me, my wife, and Durga Kodali. 22 MR. CHEN: And eventually, however, the three of you 23 will be replaced by Needwood Schools, LLC. Is that right? 24 MR. MANDAVA: That's correct. Yes. 25 MR. CHEN: And who are the owners of Needwood Schools,</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

10 (37 to 40)

<p>37</p> <p>1 LLC?</p> <p>2 MR. MANDAVA: That's the three parties I just</p> <p>3 mentioned: me, my wife, and Durga Kodali.</p> <p>4 MR. CHEN: Okay. And as I understand it from your</p> <p>5 testimony yesterday, you and your wife are about to be empty</p> <p>6 nesters or you're close to and you're looking for a new</p> <p>7 phase of, I guess, your lives to do something. Is that</p> <p>8 right?</p> <p>9 MR. MANDAVA: Yes.</p> <p>10 MR. CHEN: And have -- who will be the licensee with</p> <p>11 the State of Maryland?</p> <p>12 MR. MANDAVA: Needwood Schools, LLC.</p> <p>13 MR. CHEN: And when will you apply for that license?</p> <p>14 MR. MANDAVA: Once we get through the permitting</p> <p>15 process.</p> <p>16 MR. CHEN: What state does Mr. Kodali live in?</p> <p>17 MR. MANDAVA: Virginia.</p> <p>18 MR. CHEN: So, as I understand the organizational</p> <p>19 structure, to use Mr. Kline's description, the holder of the</p> <p>20 special exception will be Primrose. And Needwood Schools,</p> <p>21 LLC will then have a franchise agreement with Primrose to</p> <p>22 operate a Primrose school at this site. Is that correct,</p> <p>23 sir?</p> <p>24 MR. MANDAVA: That's right, yeah. So, it is a</p> <p>25 franchisee/franchisor agreement between Primrose, and it is</p>	<p>39</p> <p>1 MR. MANDAVA: Yes. But the land is covered by the LLC.</p> <p>2 MR. CHEN: I understand.</p> <p>3 MR. MANDAVA: Which is owned by us.</p> <p>4 MR. CHEN: Yes, I understand.</p> <p>5 MR. MANDAVA: So, without the land, Primrose probably</p> <p>6 cannot do anything without the exception, right?</p> <p>7 MR. CHEN: And by the same token the LLC, Needwood</p> <p>8 Properties, does not need Primrose to have the ownership of</p> <p>9 the land or even the operations on the land, whatever they</p> <p>10 may be. You've got to answer yes or no. I know you nodded,</p> <p>11 sir.</p> <p>12 MR. MANDAVA: I -- look, I don't --</p> <p>13 HEARING OFFICER HANNAN: Well if he doesn't know --</p> <p>14 MR. MANDAVA: Yes.</p> <p>15 HEARING OFFICER HANNAN: Answer if you know or don't</p> <p>16 know.</p> <p>17 MR. MANDAVA: Yeah. I mean, I don't want to -- I need</p> <p>18 to understand the question and the technicality of this for</p> <p>19 me to be able to answer. I do not know exactly what you</p> <p>20 trying to --</p> <p>21 MR. CHEN: What would happen if Primrose decided that</p> <p>22 it no longer wanted to hold the special exception?</p> <p>23 MR. MANDAVA: I do not know at this point.</p> <p>24 MR. CHEN: Okay. But certainly, the determination of</p> <p>25 the ongoing existence of the special exception authorization</p>
<p>38</p> <p>1 our intent to operate the Primrose School and Primrose has</p> <p>2 given us the franchise rights of this school.</p> <p>3 MR. CHEN: And if there came a time when the</p> <p>4 conditional use expired or ended, who would be the holder of</p> <p>5 the special exception.</p> <p>6 MR. KLINE: Objection, because I think it's a</p> <p>7 hypothetical that doesn't occur. You could be terminated</p> <p>8 but not expire.</p> <p>9 MR. CHEN: Well I didn't use --</p> <p>10 HEARING OFFICER HANNAN: Well it could expire if it's</p> <p>11 not implemented. But --</p> <p>12 MR. KLINE: Oh, sure.</p> <p>13 MR. CHEN: If for some reason, sir, it expires --</p> <p>14 HEARING OFFICER HANNAN: But can you -- yeah, go ahead.</p> <p>15 MR. CHEN: I was going to say, if the conditional use</p> <p>16 operations ended, expired, terminated, abandoned. Okay,</p> <p>17 conditional use. What would happen on the property?</p> <p>18 MR. MANDAVA: I'm not an expert in those matters so I</p> <p>19 cannot answer that question right now. I need to talk to</p> <p>20 somebody who knows these things.</p> <p>21 MR. CHEN: But -- okay but then, as I understand it,</p> <p>22 certainly the authority for determining the ongoing</p> <p>23 existence of the conditional use is Primrose because</p> <p>24 Primrose is the holder of the special exception. Is that</p> <p>25 correct?</p>	<p>40</p> <p>1 lies with Primrose because Primrose is the holder. Isn't</p> <p>2 that right?</p> <p>3 MR. MANDAVA: I have to check with an expert on those</p> <p>4 things.</p> <p>5 MR. CHEN: Okay. You don't know.</p> <p>6 MR. MANDAVA: That's right.</p> <p>7 MR. CHEN: Okay. What type of qualifications are</p> <p>8 required for the staff?</p> <p>9 MR. MANDAVA: It is, number one at a foundational level</p> <p>10 determined by the State of Maryland Licensing. And</p> <p>11 so -- and then on top of that we might have additional</p> <p>12 requirements. We might say like if the State of Maryland</p> <p>13 says six years of experience in childcare, we might go -- we</p> <p>14 might say we're looking for eight years. But at the</p> <p>15 foundation level, we're looking to meet the State of</p> <p>16 Maryland licensing requirements.</p> <p>17 MR. CHEN: Okay. So, the --</p> <p>18 MR. MANDAVA: The director has separate requirements to</p> <p>19 the teacher, and so on and so forth.</p> <p>20 MR. CHEN: So far as the teachers are concerned, so</p> <p>21 long as they're licensed by the State of Maryland that's</p> <p>22 acceptable?</p> <p>23 MR. MANDAVA: That's the minimum.</p> <p>24 MR. CHEN: Yes, but that's acceptable.</p> <p>25 MR. MANDAVA: That is a minimum. We might --</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

11 (41 to 44)

41	<p>1 HEARING OFFICER HANNAN: Is it acceptable to you or</p> <p>2 not?</p> <p>3 MR. MANDAVA: Yes. Acceptable. Yes.</p> <p>4 HEARING OFFICER HANNAN: Okay. Keep going.</p> <p>5 MR. CHEN: Now are there different qualifications</p> <p>6 needed for the administrators as opposed to the teachers?</p> <p>7 MR. MANDAVA: That's correct.</p> <p>8 MR. CHEN: Okay. That's a different set of</p> <p>9 requirements?</p> <p>10 MR. MANDAVA: That's correct.</p> <p>11 MR. CHEN: Are those two administrators also licensed</p> <p>12 by the State of Maryland?</p> <p>13 MR. MANDAVA: That's correct.</p> <p>14 MR. CHEN: Okay. It's just a different position. Is</p> <p>15 that correct?</p> <p>16 MR. MANDAVA: Correct.</p> <p>17 MR. CHEN: And I take it, as with the teachers, so long</p> <p>18 as the administrators hold a Maryland license, that's</p> <p>19 sufficient?</p> <p>20 MR. MANDAVA: That's sufficient from a regulatory</p> <p>21 perspective.</p> <p>22 MR. CHEN: What will be your wife's position within the</p> <p>23 building?</p> <p>24 MR. MANDAVA: She will be the owner operator overseeing</p> <p>25 things.</p>	43	<p>1 MR. CHEN: The infants are 12 weeks to 11 months,</p> <p>2 right?</p> <p>3 MR. MANDAVA: Yes.</p> <p>4 HEARING OFFICER HANNAN: What?</p> <p>5 MR. MANDAVA: 12 weeks to 11 months.</p> <p>6 HEARING OFFICER HANNAN: Okay.</p> <p>7 MR. CHEN: And how many will there be?</p> <p>8 MR. MANDAVA: How many sites?</p> <p>9 MR. CHEN: How many infants will there be, sir?</p> <p>10 MR. MANDAVA: Six.</p> <p>11 HEARING OFFICER HANNAN: Total?</p> <p>12 MR. MANDAVA: That's right, yeah.</p> <p>13 HEARING OFFICER HANNAN: Okay.</p> <p>14 MR. CHEN: And then the next age group, I don't know</p> <p>15 what their name is, but you then have 12 months --</p> <p>16 MR. MANDAVA: We call them --</p> <p>17 MR. CHEN: -- to 18 months, right?</p> <p>18 MR. MANDAVA: That's right. That's another six. So</p> <p>19 older infant to a young toddler.</p> <p>20 MR. CHEN: Okay. And how many of them?</p> <p>21 MR. MANDAVA: Six.</p> <p>22 MR. CHEN: Then you have 18 months to 23 months?</p> <p>23 MR. MANDAVA: That's right, yeah.</p> <p>24 MR. CHEN: And how many of those? Do you have a name</p> <p>25 for that group?</p>
42	<p>1 MR. CHEN: Will she have the authority to instruct and</p> <p>2 direct the administrators and the teachers?</p> <p>3 MR. MANDAVA: As an owner operator, she is responsible</p> <p>4 for the overall building of the staff and -- yes, and the</p> <p>5 operations, yes.</p> <p>6 MR. CHEN: So, she will have that authority?</p> <p>7 MR. MANDAVA: Uh-huh.</p> <p>8 MR. CHEN: Will she be licensed?</p> <p>9 MR. MANDAVA: She plans to license. She's already done</p> <p>10 a childcare course before in Virginia and she plans to do</p> <p>11 that in Maryland and that's starting to commence.</p> <p>12 MR. CHEN: Is there a nurse on site?</p> <p>13 MR. MANDAVA: There's no nurse on site.</p> <p>14 MR. CHEN: So how many infants do you have, sir?</p> <p>15 MR. MANDAVA: We'll have six, aged 12 weeks to 11</p> <p>16 months.</p> <p>17 MR. CHEN: Say it again. I apologize. I've got 12</p> <p>18 weeks to 11 months, yes.</p> <p>19 MR. MANDAVA: Six.</p> <p>20 HEARING OFFICER HANNAN: I'm sorry. Wait, I missed the</p> <p>21 question. Are you -- what was the question? Is it number</p> <p>22 of teachers or --</p> <p>23 MR. CHEN: No. No, it was how many infants they have.</p> <p>24 HEARING OFFICER HANNAN: Oh, okay. I knew I missed</p> <p>25 something. Okay.</p>	44	<p>1 MR. MANDAVA: Toddlers.</p> <p>2 MR. CHEN: Toddlers? Thank you. Okay. And we</p> <p>3 have --</p> <p>4 HEARING OFFICER HANNAN: 18 months to what age?</p> <p>5 MR. CHEN: 18 months to --</p> <p>6 MR. MANDAVA: To 23.</p> <p>7 MR. CHEN: -- 23 months. Sir, how many of those?</p> <p>8 MR. MANDAVA: Nine.</p> <p>9 MR. CHEN: And then I think you said it was early</p> <p>10 preschool?</p> <p>11 MR. MANDAVA: That's correct, yeah.</p> <p>12 MR. CHEN: And that is 24 months to 35 months?</p> <p>13 MR. MANDAVA: Correct, yeah.</p> <p>14 MR. CHEN: And then you have -- how many of them?</p> <p>15 MR. MANDAVA: 48.</p> <p>16 MR. CHEN: And then you have preschool, right?</p> <p>17 MR. MANDAVA: That's correct, yeah.</p> <p>18 MR. CHEN: And preschool are four and five year olds.</p> <p>19 Is that correct, sir?</p> <p>20 MR. MANDAVA: Three to four years.</p> <p>21 MR. CHEN: How many of preschool?</p> <p>22 MR. MANDAVA: That's 40.</p> <p>23 MR. CHEN: Then you have Explorers. Is that right,</p> <p>24 sir?</p> <p>25 MR. MANDAVA: Those are four to five-year olds.</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

12 (45 to 48)

45	<p>1 MR. CHEN: The Explorers?</p> <p>2 MR. MANDAVA: No, no, no. Explorers are school-age</p> <p>3 children.</p> <p>4 MR. CHEN: Okay. I apologize.</p> <p>5 MR. MANDAVA: Yeah.</p> <p>6 MR. CHEN: After --</p> <p>7 MR. MANDAVA: Three to four and you have four to five.</p> <p>8 MR. CHEN: Okay, and --</p> <p>9 MR. MANDAVA: That's 40.</p> <p>10 MR. CHEN: Four to five is -- and what do you call</p> <p>11 them?</p> <p>12 MR. MANDAVA: Pre-K.</p> <p>13 MR. CHEN: Pre-K. And then you have Explorers?</p> <p>14 MR. MANDAVA: 30, yeah.</p> <p>15 MR. CHEN: 30 Explorers.</p> <p>16 MR. MANDAVA: Yeah.</p> <p>17 MR. CHEN: And so --</p> <p>18 MR. MANDAVA: Just a correction.</p> <p>19 MR. CHEN: Yes, sir?</p> <p>20 MR. MANDAVA: The pre-school and the pre-K are 48 each.</p> <p>21 MR. CHEN: 48 each, okay.</p> <p>22 MR. MANDAVA: Okay.</p> <p>23 MR. CHEN: Okay. Now with Explorers, it's after five</p> <p>24 years. Is that right?</p> <p>25 MR. MANDAVA: Correct.</p>	47	<p>1 information that Primrose has supplied?</p> <p>2 MR. MANDAVA: So, it is determined by the state</p> <p>3 licensing as well, the number of staff to student ratio.</p> <p>4 MR. CHEN: Okay.</p> <p>5 MR. MANDAVA: And, of course, Primrose will guide us</p> <p>6 through the process as we continue.</p> <p>7 MR. CHEN: What happens if there's a medical emergency?</p> <p>8 MR. MANDAVA: Number one, all the teachers -- they need</p> <p>9 to have the basic, you call them, CPR, and some training as</p> <p>10 part of their license requirements. And then, of course,</p> <p>11 there's procedures to call emergency, when to call</p> <p>12 emergency, when not to call emergency. I don't have all the</p> <p>13 details. But there will be a training and a procedural</p> <p>14 process that we need to follow for those kinds of</p> <p>15 situations.</p> <p>16 MR. CHEN: Well I'm asking you today.</p> <p>17 MR. MANDAVA: Uh-huh.</p> <p>18 MR. CHEN: Because you're applying for this conditional</p> <p>19 use.</p> <p>20 MR. MANDAVA: Yes.</p> <p>21 MR. CHEN: Are you telling me you do not have any</p> <p>22 procedures delineated for a medical emergency?</p> <p>23 MR. MANDAVA: It's Primrose is going to provide us with</p> <p>24 all that information. They have more than 400 schools.</p> <p>25 There is a process for everything how to operate a school,</p>
46	<p>1 MR. CHEN: How old do they go?</p> <p>2 MR. MANDAVA: 12.</p> <p>3 MR. CHEN: Okay. Let me just run this so I have a</p> <p>4 total.</p> <p>5 MR. MANDAVA: Yeah.</p> <p>6 MR. CHEN: You have six infants, six older infants, --</p> <p>7 MR. MANDAVA: Uh-huh.</p> <p>8 MR. CHEN: Nine toddlers.</p> <p>9 MR. MANDAVA: Yes.</p> <p>10 MR. CHEN: 48 pre-school.</p> <p>11 MR. MANDAVA: Uh-huh.</p> <p>12 MR. CHEN: 48, pardon me, -- 48 early pre-school.</p> <p>13 MR. MANDAVA: Correct.</p> <p>14 MR. CHEN: Then 48 pre-school and then 48 pre-K, and</p> <p>15 then Explorers, 30.</p> <p>16 MR. MANDAVA: Correct.</p> <p>17 HEARING OFFICER HANNAN: Wait, how much was the early</p> <p>18 pre-school?</p> <p>19 MR. CHEN: 48.</p> <p>20 MR. MANDAVA: 48.</p> <p>21 HEARING OFFICER HANNAN: Then pre-school is 48 and then</p> <p>22 pre-K is 48?</p> <p>23 MR. MANDAVA: That's correct, yeah.</p> <p>24 MR. CHEN: Am I correct in assuming, sir, that</p> <p>25 these -- this breakdown as far as the types of children is</p>	48	<p>1 right to the minutest detail. So, they do provide that</p> <p>2 information. If I had been running the school for a year or</p> <p>3 so, I would certainly be able to give you all that</p> <p>4 information.</p> <p>5 MR. CHEN: So, the procedure for dealing with a medical</p> <p>6 emergency will be provided by some informational -- provided</p> <p>7 by information supplied by Primrose.</p> <p>8 MR. MANDAVA: Yes.</p> <p>9 MR. CHEN: And how long have you been working with</p> <p>10 Primrose?</p> <p>11 MR. MANDAVA: We started engaging with them since 2016.</p> <p>12 MR. CHEN: And as I understand, you even have attended</p> <p>13 some classes with them.</p> <p>14 MR. MANDAVA: I attended a two-day training, yes.</p> <p>15 MR. CHEN: And will the cook be on the site?</p> <p>16 MR. MANDAVA: That's correct, yes.</p> <p>17 MR. CHEN: The entire day?</p> <p>18 MR. MANDAVA: The cook's timings, I checked, and it's</p> <p>19 basically 9 a.m. to 3 p.m.</p> <p>20 MR. CHEN: And as I understand it --</p> <p>21 MR. MANDAVA: So yeah, these are typical timings. It's</p> <p>22 not like there could be extended to 3:30 or 4 in the evening</p> <p>23 if they need to based off whatever is needed, but 9:00 a.m.</p> <p>24 to 3:00 p.m.</p> <p>25 MR. CHEN: And I think your testimony was that there</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

13 (49 to 52)

<p>49</p> <p>1 would be a warming kitchen. 2 MR. MANDAVA: That's correct. 3 MR. CHEN: And how does a warming kitchen differ from a 4 regular kitchen? 5 MR. MANDAVA: You're not cooking any oils and there's 6 nothing toxic that's coming out of the kitchen. It's really 7 more of a either heating in a microwave or an oven. That is 8 what we mean by a warming kitchen. 9 MR. CHEN: So that's heating food that is coming to the 10 site on a daily basis. Is that right? 11 MR. MANDAVA: I think I said before, twice a week we'd 12 use it twice a week. 13 MR. CHEN: Oh, I'm sorry. So, the food deliveries are 14 when? 15 MR. MANDAVA: Twice a week. 16 MR. CHEN: When? Is it Monday, Friday, Tuesday, -- do 17 you know? 18 MR. MANDAVA: I don't know. 19 MR. CHEN: You don't know, I understand. 20 MR. MANDAVA: We don't know. That we'll work -- we'll 21 have to work with the food vendor and schedule that. 22 MR. CHEN: Okay. So, I take it there's an agreement 23 with a food vendor to supply the food twice a week. 24 MR. MANDAVA: That's correct. 25 MR. CHEN: Do you know who that food vendor is today?</p>	<p>51</p> <p>1 MR. CHEN: Has there been any definite agreements or 2 plans made for trash and recycle visits to the property? 3 MR. MANDAVA: Has there been any -- 4 MR. CHEN: Any definite plans or agreements made? 5 MR. MANDAVA: No definite plans or agreements were 6 made. No, sir. 7 MR. CHEN: Okay. So that when you say that there will 8 be two trash pickups during certain times and days during 9 the week and one recycle pickup at some time during the day 10 during the week, right now, you don't know what times or 11 days they're going to be; is that right? 12 MR. MANDAVA: That's correct. 13 MR. CHEN: But is it your understanding from Primrose 14 that it would be two trash pickups a week and one recycle 15 pickup a week? 16 MR. MANDAVA: That's the -- yes. 17 MR. CHEN: Okay. 18 MR. MANDAVA: That's the general now. 19 MR. CHEN: Okay. That's the general plan. 20 MR. MANDAVA: Yeah. 21 MR. CHEN: But beyond that, you don't have any 22 information? 23 MR. MANDAVA: Sure. We -- we worked it out in 24 the -- yeah. As we move forward, yeah. 25 MR. CHEN: I want to go to the preschool activities</p>
<p>50</p> <p>1 MR. MANDAVA: I do not know today. 2 MR. CHEN: So, I take it the expectation, or the plan 3 is that food will be delivered twice a week by a food 4 vendor. 5 MR. MANDAVA: That's correct. 6 MR. CHEN: And the food vendor -- who determines the 7 food to be delivered? 8 MR. MANDAVA: Who determines the food to be delivered? 9 Do you mean the type of food or -- 10 MR. CHEN: Yes, sir. Yes. 11 MR. MANDAVA: That's all controlled by Primrose. They 12 have specific vendors and like, you know, they have specific 13 food items, everything based on research that goes into 14 nutrition and things like that. 15 MR. CHEN: Will Primrose then choose the vendor? 16 MR. MANDAVA: They work with the franchisee in picking 17 a vendor, yes. It's a collaborative effort, yes. 18 MR. CHEN: Okay. And I believe your testimony earlier 19 this morning was on trash that there'll be two garbage 20 pickups a week and one recycle pickup during the week. 21 MR. MANDAVA: That's correct. 22 MR. CHEN: And I take it that no one has been selected 23 yet. I understand that. But is that also going to be a 24 decision that is made in conjunction with the Primrose folk? 25 MR. MANDAVA: Yes.</p>	<p>52</p> <p>1 that Mr. Kline took you through yesterday. 2 MR. MANDAVA: Okay. 3 MR. CHEN: And I had some notes on it, but honestly, 4 you were going so fast, I didn't get all my notes down. 5 School for the children begins at 6:30; is that right? 6 MR. MANDAVA: That's right, yeah. 7 MR. CHEN: Now, and that would be 6:30 for the infants 8 through the 12-year-olds? 9 MR. MANDAVA: Everybody, yes. 10 MR. CHEN: Yeah. Staff gets there at -- half hour 11 earlier, at 6:00? 12 MR. MANDAVA: Correct. 13 MR. CHEN: Okay. Now, as I understand it, however, 14 there are situations where children would be at the site, at 15 the facility, before 6:30 in the morning; is that correct? 16 MR. MANDAVA: No. 17 MR. CHEN: Okay. So never -- there's never -- 18 MR. MANDAVA: For the children, it opens at 6:30. 19 MR. CHEN: Okay. 20 MR. MANDAVA: So, there's no circumstance in which 21 there's any child on the site earlier than 6:30? 22 MR. MANDAVA: That's correct, yeah. 23 MR. CHEN: Okay. Now, if you could, explain to me the 24 activities of the bus -- 25 MR. MANDAVA: Uh-huh.</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

14 (53 to 56)

53	<p>1 THE HEARING OFFICER: -- that'll occur on the site.</p> <p>2 MR. MANDAVA: Sure. So, the bus is basically for the</p> <p>3 after-school and before-school -- school kids. And I --</p> <p>4 MR. CHEN: Let me stop you right there.</p> <p>5 MR. MANDAVA: Yeah.</p> <p>6 MR. CHEN: You said the bus is for after-school and</p> <p>7 before-school kids?</p> <p>8 MR. MANDAVA: Yeah. Primarily. I do not know there's</p> <p>9 other users for the bus. I do not know, primarily. So</p> <p>10 yeah.</p> <p>11 MR. CHEN: Well, there will be other uses for it?</p> <p>12 MR. MANDAVA: I do not know.</p> <p>13 MR. CHEN: But you're saying you do not know what they</p> <p>14 are, but there would be?</p> <p>15 MR. MANDAVA: I do not know.</p> <p>16 THE HEARING OFFICER: He said they don't -- he doesn't</p> <p>17 know.</p> <p>18 MR. CHEN: Okay. Is this, again, something that is a</p> <p>19 part of what Primrose will be providing guidance on?</p> <p>20 MR. MANDAVA: Correct.</p> <p>21 MR. CHEN: Okay. Who will own the bus?</p> <p>22 MR. MANDAVA: The operator, which is Needwood Schools,</p> <p>23 LLC.</p> <p>24 MR. CHEN: Okay. And please, sir, tell me the use of</p> <p>25 the bus for what you call before school. What does that</p>	55	<p>1 MR. MANDAVA: They will get on the bus in the parking,</p> <p>2 in the school.</p> <p>3 MR. CHEN: Okay.</p> <p>4 MR. MANDAVA: Yeah.</p> <p>5 MR. CHEN: At what time?</p> <p>6 MR. MANDAVA: Probably around 8 -- I don't know the</p> <p>7 exact commute time. It will depend on the commute time --</p> <p>8 MR. CHEN: Okay.</p> <p>9 MR. MANDAVA: -- from the elementary school to</p> <p>10 the -- working backwards, like, whatever is that time.</p> <p>11 MR. CHEN: Okay. But what you're telling us is that</p> <p>12 the bus will take Explorers to local elementary schools?</p> <p>13 MR. MANDAVA: That's correct.</p> <p>14 MR. CHEN: Will the bus take all of the Explorers, or</p> <p>15 just the Explorers who are above a certain age?</p> <p>16 MR. MANDAVA: All -- all the -- all the Explorers who</p> <p>17 are in the -- enrolled in the elementary school.</p> <p>18 MR. CHEN: So, any child who is between 5 and 12 who is</p> <p>19 enrolled at a public school --</p> <p>20 MR. MANDAVA: That's right.</p> <p>21 MR. CHEN: -- will be picked up on site and taken to</p> <p>22 the elementary school?</p> <p>23 MR. MANDAVA: That's right. Unless their parents want</p> <p>24 to drop them</p> <p>25 MR. CHEN: Well, sir, what kind of daycare services do</p>
54	<p>1 mean?</p> <p>2 MR. MANDAVA: Before school. So, for the school-aged</p> <p>3 children who are part of the Explorer's program, so they</p> <p>4 will be dropped at the school.</p> <p>5 MR. CHEN: What school?</p> <p>6 MR. MANDAVA: The elementary -- local elementary</p> <p>7 school. Candlewood is our nearest elementary school. And</p> <p>8 the drop off time for the elementary school --</p> <p>9 MR. CHEN: Pardon me.</p> <p>10 MR. MANDAVA: Oh.</p> <p>11 MR. CHEN: Who drops them off at the elementary school?</p> <p>12 MR. MANDAVA: We, the Primrose School, the --</p> <p>13 MR. CHEN: Okay. So, the before-school use of the bus</p> <p>14 is that the bus will take Explorers to a local elementary</p> <p>15 school.</p> <p>16 MR. MANDAVA: That's correct.</p> <p>17 MR. CHEN: Okay. What time will the bus drop off those</p> <p>18 Explorers at the elementary school?</p> <p>19 MR. MANDAVA: 8:40 a.m.</p> <p>20 MR. CHEN: I guess --</p> <p>21 MR. MANDAVA: That's based on the school drop-off time.</p> <p>22 MR. CHEN: Yeah.</p> <p>23 MR. MANDAVA: Correct.</p> <p>24 MR. CHEN: When do the children, the Explorers, get on</p> <p>25 the bus, and where do they get on the bus?</p>	56	<p>1 those Explorers receive on site?</p> <p>2 MR. MANDAVA: When you say "what kind," I do not</p> <p>3 understand that.</p> <p>4 MR. CHEN: Well, this -- if at 8:40, the bus is taking</p> <p>5 those Explorers to an elementary school, I assume they're at</p> <p>6 the elementary school all day; is that right, sir?</p> <p>7 MR. MANDAVA: That's correct, yeah.</p> <p>8 MR. CHEN: So other than being, I presume, dropped</p> <p>9 off --</p> <p>10 MR. MANDAVA: Uh-huh.</p> <p>11 MR. CHEN: -- at the school at some hour after 6:30 but</p> <p>12 before 8:40, there -- they have no other connection with the</p> <p>13 school during the day; isn't that correct?</p> <p>14 MR. MANDAVA: Yeah. So, this is a situation where the</p> <p>15 parents have to go to work very early, so they need them to</p> <p>16 be in some sort of childcare or before-school care for the</p> <p>17 period of time between the school opening and them leaving</p> <p>18 for work.</p> <p>19 MR. CHEN: Yes. Between the time they drop off the</p> <p>20 explorer --</p> <p>21 MR. MANDAVA: Right.</p> <p>22 MR. CHEN: -- and the time the elementary school opens.</p> <p>23 MR. MANDAVA: That's correct, yeah.</p> <p>24 MR. CHEN: And they're --</p> <p>25 MR. MANDAVA: And --</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

15 (57 to 60)

<p>57</p> <p>1 MR. CHEN: -- dropped off at the school?</p> <p>2 MR. MANDAVA: Yep. It is possible that they may only</p> <p>3 enroll them in after-school care and not the before-school</p> <p>4 care.</p> <p>5 MR. CHEN: Say that again. I'm sorry, sir. I</p> <p>6 apologize.</p> <p>7 MR. MANDAVA: It is possible that they may not need the</p> <p>8 before-school care. They may need only the after-school</p> <p>9 care.</p> <p>10 MR. CHEN: I'll come to that.</p> <p>11 MR. MANDAVA: Yeah.</p> <p>12 MR. CHEN: For those that need the before-school care,</p> <p>13 that's -- let's say the parent drops them off at 6:30 --</p> <p>14 MR. MANDAVA: Uh-huh.</p> <p>15 MR. CHEN: -- and presumably, the bus leaves a little</p> <p>16 bit after 8:00, right?</p> <p>17 MR. MANDAVA: It depends on the time of the commute.</p> <p>18 MR. CHEN: Okay. Any time you want. But there's a</p> <p>19 period of time that those students are at the site, at the</p> <p>20 school, the Primrose School --</p> <p>21 MR. MANDAVA: Uh-huh.</p> <p>22 MR. CHEN: -- isn't that correct?</p> <p>23 MR. MANDAVA: Right.</p> <p>24 MR. CHEN: They're waiting to be taken to the</p> <p>25 elementary school?</p>	<p>59</p> <p>1 like -- the Explorers are, for the most part of the day, at</p> <p>2 school, at elementary school. So, they may not be using the</p> <p>3 playground at all, so in our calculation as today, the 62,</p> <p>4 we included 30 people from the Explorers that might not be</p> <p>5 actually on the playground at all. Yeah.</p> <p>6 MR. CHEN: What type of services would those Explorers</p> <p>7 be receiving at the Primrose School, the before and after</p> <p>8 school.</p> <p>9 MR. MANDAVA: Yeah. It's their -- somebody's caring</p> <p>10 for them during those hours when they arrived -- between the</p> <p>11 parents dropping them off at the school.</p> <p>12 MR. CHEN: And your --</p> <p>13 MR. MANDAVA: Their drop off.</p> <p>14 MR. CHEN: And as I understand, you are -- you</p> <p>15 said -- you used the word caring for them</p> <p>16 MR. MANDAVA: Yeah.</p> <p>17 MR. CHEN: You then said that they would be supervising</p> <p>18 that; am I correct, sir?</p> <p>19 MR. MANDAVA: Correct, yeah.</p> <p>20 MR. CHEN: Does that mean watching over them to make</p> <p>21 sure they're okay until the bus takes them to the elementary</p> <p>22 school?</p> <p>23 MR. MANDAVA: Those precise details, I do not know.</p> <p>24 MR. CHEN: Well, they're not going to be taking a</p> <p>25 class, are they?</p>
<p>58</p> <p>1 MR. MANDAVA: Uh-huh.</p> <p>2 MR. CHEN: You can't uh-huh. Is that yes, sir?</p> <p>3 MR. MANDAVA: Yes.</p> <p>4 MR. CHEN: Thank you. What are they doing during that</p> <p>5 time? And it sounds like it could be from an hour to an</p> <p>6 hour and a half, two hours.</p> <p>7 MR. MANDAVA: Yeah. We are providing care for those</p> <p>8 children. We --</p> <p>9 MR. CHEN: What does that mean, "care"?</p> <p>10 MR. MANDAVA: We have -- we have --</p> <p>11 MR. CHEN: What care are you providing?</p> <p>12 MR. CHEN: We have teachers, qualified teachers, who</p> <p>13 are supervising the children, and maybe have some -- them do</p> <p>14 some activities or something like that during that time.</p> <p>15 MR. CHEN: Are they going to be doing -- are you saying</p> <p>16 that the teachers of the Primrose School will be having</p> <p>17 classes for these before-school children.</p> <p>18 MR. MANDAVA: I do not know exactly about that.</p> <p>19 MR. CHEN: Okay.</p> <p>20 MR. MANDAVA: They are definitely not playing outside</p> <p>21 during that time.</p> <p>22 MR. CHEN: Okay.</p> <p>23 THE HEARING OFFICER: I thought they could after 8.</p> <p>24 MR. MANDAVA: After 8, we could, but it's so close to</p> <p>25 dropping them off at school. In fact, if I can add,</p>	<p>60</p> <p>1 MR. MANDAVA: I do not know.</p> <p>2 MR. CHEN: Okay. Where will they physical be on the</p> <p>3 site?</p> <p>4 MR. MANDAVA: There is a classroom for Explorers,</p> <p>5 specifically.</p> <p>6 MR. CHEN: So, they would stay in that --</p> <p>7 MR. MANDAVA: That's correct.</p> <p>8 MR. CHEN: -- that room -- that classroom, I'm sorry.</p> <p>9 MR. MANDAVA: That's -- that's correct. Yeah.</p> <p>10 MR. CHEN: -- until the bus would then take them to the</p> <p>11 elementary schools?</p> <p>12 MR. MANDAVA: Correct, yeah.</p> <p>13 MR. CHEN: And I take it that the bus would -- could</p> <p>14 take these Explorers to more than one elementary school; is</p> <p>15 that correct, sir?</p> <p>16 MR. MANDAVA: I do not know at this point.</p> <p>17 MR. CHEN: The 11 and 12-year-olds, do they go to an</p> <p>18 elementary school, sir?</p> <p>19 MR. MANDAVA: Depends on the county, I guess.</p> <p>20 MR. CHEN: Well, Montgomery County.</p> <p>21 MR. MANDAVA: Yeah.</p> <p>22 MR. CHEN: Do you know where -- what type of school 11</p> <p>23 and 12-year-olds go to?</p> <p>24 MR. MANDAVA: I'll have to check. I do not know.</p> <p>25 MR. CHEN: Well, assume, just for a moment, that 11 and</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

16 (61 to 64)

<p>61</p> <p>1 12-year-olds in Montgomery County do not go to an elementary 2 school; instead, they go to a middle school. Will the bus 3 take those children to a middle school? 4 MR. MANDAVA: We only do for elementary school. 5 MR. CHEN: What happens to the 11 and 12-year-olds? 6 MR. MANDAVA: We will not enroll the middle school. 7 It'll be kids who are elementary school kids. Like we 8 provide the after-school and before-school care. 9 MR. CHEN: Okay. So, I understand that your Explorers 10 will only be children through elementary school classes -- 11 MR. MANDAVA: That's -- 12 MR. CHEN: -- or grades? 13 MR. MANDAVA: That's correct, yeah. 14 MR. CHEN: Do you know the lowest grade level of an 15 elementary school in Montgomery County? 16 MR. MANDAVA: I assume it's kindergarten. I -- 17 kindergarten. 18 MR. CHEN: So, is it fair to state that -- how old are 19 those children? 20 MR. MANDAVA: Five. 21 MR. CHEN: So, your Explorers, you testified, are 22 5 -- start at 5, to 12? 23 MR. MANDAVA: Correct, yeah. 24 MR. CHEN: Are there any Explorers who will not be 25 going to an elementary school?</p>	<p>63</p> <p>1 MR. CHEN: Oh, I appreciate that. 2 MR. MANDAVA: Yeah. 3 MR. CHEN: But during the day, they're going to be at 4 the elementary school -- 5 MR. MANDAVA: Correct. 6 MR. CHEN: -- and not Primrose. 7 MR. MANDAVA: Correct. 8 MR. CHEN: So, my very simple question, sir, is -- 9 MR. MANDAVA: Yep. 10 MR. CHEN: -- if the Explorers are going to an 11 elementary school, what is -- what will be offered at that 12 age level, grade level, at the Primrose School? 13 MR. MANDAVA: Okay. I do not believe we offer 14 childcare through the full day for that age group. I think 15 the last group you have is the pre-K group, which is the 16 four- and five-year-olds. So -- and but beyond that, it 17 will be before- and after-school care. 18 MR. CHEN: So, the daycare services, the full daycare 19 services -- 20 MR. MANDAVA: Uh-huh. 21 MR. CHEN: -- that are provided at this Primrose School 22 will be for the infants through pre-K? 23 MR. MANDAVA: That's right. 24 MR. CHEN: And that would be from 12 weeks up to 5 25 years?</p>
<p>62</p> <p>1 MR. KLINE: Objection. He's asked that question; it 2 was answered. 3 MR. CHEN: No, it isn't. No, it isn't. 4 THE HEARING OFFICER:: He's already said he doesn't 5 know the age. I think you've brought that out. 6 MR. KLINE: Well, my objection was because he said we 7 will not have anybody be in the explorer groups that will be 8 attending middle school, so it will only be elementary 9 school students. 10 MR. CHEN: Well, yeah, I'm not going -- I'm not 11 repeating that question. My question is, the gentleman 12 is -- I'm trying to fathom what type of -- let me do it this 13 way. 14 Who will be on site, who are explorer ages, taking 15 classes? 16 MR. MANDAVA: 5 to 12 age group. 17 MR. CHEN: Well, if all of those children go to an 18 elementary school -- 19 MR. MANDAVA: Uh-huh. 20 MR. CHEN: -- what will be left for them to do at the 21 Primrose School? 22 MR. MANDAVA: There could be other activities or there 23 could be supplemental activities that they could be doing. 24 I mean, it's -- I don't think what they get taught at 25 elementary school is all and everything.</p>	<p>64</p> <p>1 MR. MANDAVA: Five years, yes. 2 MR. CHEN: After five years, the Explorers are not 3 getting classes at the Primrose School; rather, they're 4 enrolled in either the before-school program or the after- 5 school program, correct? 6 MR. MANDAVA: That's correct. 7 MR. CHEN: Now, tell us about the after-school program. 8 What does that consist of? 9 MR. KLINE: Objection. I realize that, and I'm trying 10 to understand why it's relevant to the conditional use as to 11 what they're doing from 6:30 until 8:00 in the morning. 12 THE HEARING OFFICER: I agree. The -- 13 MR. CHEN: I haven't asked about that, 6:30 to 8:30. 14 This is after school. 15 THE HEARING OFFICER: But why does it matter what their 16 curriculum is? 17 MR. CHEN: I didn't ask that. I asked what is the 18 after-school program offered at the Primrose School. That 19 is my pending question. 20 MR. KLINE: That's a curricula question now. 21 MR. CHEN: No, it isn't. It's what are the 22 services -- excuse me. This -- 23 THE HEARING OFFICER: I don't know -- okay. Let me do 24 it this way. I don't know where you're going with this. 25 MR. CHEN: Okay. Well, the gentleman has testified</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

17 (65 to 68)

<p>65</p> <p>1 that at the explorer level --</p> <p>2 THE HEARING OFFICER: Yes.</p> <p>3 MR. CHEN: -- there are two phases of it, or aspects.</p> <p>4 One is before school. Those are keywords: before school.</p> <p>5 THE HEARING OFFICER: I get that.</p> <p>6 MR. CHEN: And he's fully explained that. I've never</p> <p>7 asked him a question about after school.</p> <p>8 THE HEARING OFFICER: But what is the after -- what is</p> <p>9 the point -- how does that relate to this --</p> <p>10 MR. CHEN: There may not -- this applicant is before</p> <p>11 your office on an application for a daycare center. And</p> <p>12 what's really going on with Explorers is a bus depot.</p> <p>13 That's what's going on.</p> <p>14 They are not getting classes. They are being taken in</p> <p>15 the morning to another school, an elementary school, and</p> <p>16 then in the afternoon, I think what's happening is they get</p> <p>17 picked up at the elementary school and are brought back to</p> <p>18 the Primrose school. And I want to know what that entails.</p> <p>19 Because is it now a situation where after elementary</p> <p>20 school -- and it makes sense, I'm not quarreling -- that</p> <p>21 they're now waiting to be picked up by their parent. And</p> <p>22 that is fair. And I have not asked anything about after-</p> <p>23 school programming.</p> <p>24 THE HEARING OFFICER: Are you saying the after care, if</p> <p>25 they don't get programs, are just babysitting and don't</p>	<p>67</p> <p>1 MR. CHEN: -- and he's taken me through it. He's taken</p> <p>2 me -- he said they're under the guidance of the staff, they</p> <p>3 may be supervised, the care. And I get that. He didn't</p> <p>4 know what that meant; he just said that's what it is. That</p> <p>5 is the a.m. aspect of the --</p> <p>6 THE HEARING OFFICER: But he just said he doesn't know</p> <p>7 for the p.m.</p> <p>8 Do you know for the p.m.?</p> <p>9 MR. MANDAVA: I do not know, no.</p> <p>10 MR. CHEN: Well, can I get -- I want to know what</p> <p>11 happens with the bus. It's part of it.</p> <p>12 THE HEARING OFFICER: Well, that, you can ask.</p> <p>13 MR. CHEN: Okay. At that sir, I'm just trying to flesh</p> <p>14 out what's going on.</p> <p>15 THE HEARING OFFICER: Okay. I can see a link to the</p> <p>16 bus.</p> <p>17 MR. CHEN: That's where I'm going with this.</p> <p>18 THE HEARING OFFICER: Okay.</p> <p>19 MR. CHEN: So, let's go to the after school.</p> <p>20 MR. MANDAVA: Uh-huh.</p> <p>21 MR. CHEN: As I understand it, the bus picks up the</p> <p>22 Explorers that are in the elementary school; is that right,</p> <p>23 sir?</p> <p>24 MR. MANDAVA: That's correct.</p> <p>25 MR. CHEN: Yeah. During the period of time between the</p>
<p>66</p> <p>1 qualify as a child daycare center?</p> <p>2 MR. CHEN: Essentially, it's a -- yes. it's a bus</p> <p>3 depot. And I have not even gotten into this, and that's</p> <p>4 fair argument to make.</p> <p>5 THE HEARING OFFICER: I find that speculative.</p> <p>6 MR. CHEN: It's not speculative. The gentleman's</p> <p>7 already testified that on the before-school kids, they're</p> <p>8 not getting anything other than being dropped off.</p> <p>9 MR. KLINE: I think that's an over-characterization of</p> <p>10 what he said.</p> <p>11 THE HEARING OFFICER: Well, let's do it this way.</p> <p>12 To the extent you can answer, if you know, I don't want</p> <p>13 guesses --</p> <p>14 MR. MANDAVA: I do not know the exact nature of</p> <p>15 activities. And I -- let me clarify. I think I have</p> <p>16 been -- I told, there is things that will be going on, which</p> <p>17 I cannot give you the specifics, that doesn't mean that --</p> <p>18 THE HEARING OFFICER: What does that mean, things are</p> <p>19 going on, but you don't have the --</p> <p>20 MR. MANDAVA: The activity -- the activities that</p> <p>21 happen during the before-school and after-school care, I do</p> <p>22 not know the specific activities.</p> <p>23 MR. CHEN: I have asked what happens on site with the</p> <p>24 before-school children --</p> <p>25 THE HEARING OFFICER: Right, and he's --</p>	<p>68</p> <p>1 bus dropping them off and the bus picking them up, where is</p> <p>2 the bus?</p> <p>3 MR. MANDAVA: It is in the parking lot.</p> <p>4 MR. CHEN: Okay. So, at some point in the afternoon, I</p> <p>5 assume, it leaves to go to the elementary school where the</p> <p>6 Explorers who are in elementary school are going to school;</p> <p>7 is that right, sir?</p> <p>8 MR. MANDAVA: That's right, yeah.</p> <p>9 MR. CHEN: And do you know what time that is?</p> <p>10 MR. MANDAVA: I do not know.</p> <p>11 MR. CHEN: Okay. When the bus picks up those children,</p> <p>12 where does the bus take them?</p> <p>13 MR. MANDAVA: When the bus picks up the children --</p> <p>14 MR. CHEN: At the elementary school, where does the bus</p> <p>15 take them?</p> <p>16 MR. MANDAVA: Take them to Primrose School, yeah.</p> <p>17 MR. CHEN: Okay. When the bus brings those children</p> <p>18 back to Primrose School, what services are provided to those</p> <p>19 children by the Primrose School?</p> <p>20 MR. MANDAVA: I think I answered that. I do not know</p> <p>21 the specifics of activities that they will go through, yeah.</p> <p>22 MR. CHEN: Are there any classes, do you know?</p> <p>23 MR. MANDAVA: Potentially, yes.</p> <p>24 MR. CHEN: Potentially.</p> <p>25 MR. MANDAVA: I think it -- especially the after</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

18 (69 to 72)

<p style="text-align: right;">69</p> <p>1 school, I think there -- I do not know the specifics.</p> <p>2 MR. CHEN: Does Primrose have information about that</p> <p>3 type of activity?</p> <p>4 MR. MANDAVA: Yes.</p> <p>5 MR. CHEN: Your testimony, sir, was that there were</p> <p>6 48 -- excuse me -- 30 Explorers.</p> <p>7 MR. MANDAVA: Correct.</p> <p>8 MR. CHEN: How large is the bus?</p> <p>9 MR. MANDAVA: 15. The capacity of the bus is 15.</p> <p>10 MR. CHEN: So apparently, the bus cannot accommodate</p> <p>11 all 30 Explorers; is that right?</p> <p>12 MR. MANDAVA: Yes.</p> <p>13 MR. CHEN: Well, there's 30 Explorers, but the bus</p> <p>14 holds 15.</p> <p>15 MR. MANDAVA: Uh-huh.</p> <p>16 MR. CHEN: Is that correct, sir?</p> <p>17 MR. MANDAVA: Correct.</p> <p>18 MR. CHEN: So, will the bus have more than one trip</p> <p>19 with these Explorers?</p> <p>20 MR. MANDAVA: If there are more than 15 kids, yes.</p> <p>21 MR. CHEN: Okay. Both in the morning and the after</p> <p>22 school?</p> <p>23 MR. MANDAVA: Uh-huh.</p> <p>24 MR. CHEN: And I understand, we don't know right now,</p> <p>25 and we --</p>	<p style="text-align: right;">71</p> <p>1 MR. CHEN: Which parking spot does it get?</p> <p>2 MR. MANDAVA: This bus is a -- what they call a short-</p> <p>3 wheelbase bus. It fits into a regular car parking spot. It</p> <p>4 will use one of the 32 spots we are allocating for our staff</p> <p>5 and --</p> <p>6 MR. CHEN: Okay.</p> <p>7 MR. MANDAVA: -- administrators, yeah.</p> <p>8 MR. CHEN: Who will drive the bus?</p> <p>9 MR. MANDAVA: One of the teachers.</p> <p>10 MR. CHEN: So apparently, at least one of the teachers,</p> <p>11 in addition to having a Maryland license to be teacher --</p> <p>12 MR. MANDAVA: Uh-huh.</p> <p>13 MR. CHEN: -- also has to be qualified to drive a</p> <p>14 school bus?</p> <p>15 MR. MANDAVA: Yes. It's a -- it's not a commercial</p> <p>16 driver's license. This is a -- falls under the category of</p> <p>17 a regular license. They may have to go through a certain</p> <p>18 criteria for the state -- based on the state regulation.</p> <p>19 MR. CHEN: Okay. Just so I'm -- I'm just trying to get</p> <p>20 clarification.</p> <p>21 MR. MANDAVA: Yep.</p> <p>22 MR. CHEN: So, it's my understanding that among the</p> <p>23 staff, the teachers, there will have to be some individual,</p> <p>24 or more, that would be among their responsibilities of</p> <p>25 driving the school bus?</p>
<p style="text-align: right;">70</p> <p>1 MR. MANDAVA: Uh-huh.</p> <p>2 MR. CHEN: -- but since it's projected to be 30</p> <p>3 Explorers, the bus accommodates only 15, there might be days</p> <p>4 or occasions when there are more children that can fit on</p> <p>5 the bus and the bus would have to take more than one trip?</p> <p>6 MR. MANDAVA: Uh-huh.</p> <p>7 MR. CHEN: Is that right, sir?</p> <p>8 MR. MANDAVA: I would think so, yeah.</p> <p>9 MR. CHEN: Okay.</p> <p>10 THE HEARING OFFICER: And you don't know how many</p> <p>11 elementary schools you're going to --</p> <p>12 MR. MANDAVA: Not at this --</p> <p>13 THE HEARING OFFICER: -- drop off at?</p> <p>14 MR. MANDAVA: Not at this moment, ma'am. Yeah.</p> <p>15 MR. CHEN: I'm sorry, Madam Examiner. Did --</p> <p>16 THE HEARING OFFICER: I asked him -- he testified that</p> <p>17 he doesn't know how many elementary schools he has to drop</p> <p>18 off to yet.</p> <p>19 MR. CHEN: That would vary. It depends on actual</p> <p>20 enrollment, I assume; is that right, sir?</p> <p>21 MR. MANDAVA: Yes.</p> <p>22 MR. CHEN: Now, you said the bus parks on site --</p> <p>23 MR. MANDAVA: Uh-huh.</p> <p>24 MR. CHEN: -- is that correct?</p> <p>25 MR. MANDAVA: Correct, yeah.</p>	<p style="text-align: right;">72</p> <p>1 MR. MANDAVA: That's correct, yeah.</p> <p>2 MR. CHEN: What type of maintenance staff will you</p> <p>3 have?</p> <p>4 MR. MANDAVA: I do not know.</p> <p>5 MR. CHEN: How many?</p> <p>6 MR. MANDAVA: I do not believe it is a full-time</p> <p>7 maintenance staff. It's basically based on need. Somebody</p> <p>8 will come in and fix the things, so --</p> <p>9 MR. CHEN: So, is it your testimony that there will not</p> <p>10 be daily maintenance of the interior of the building?</p> <p>11 MR. MANDAVA: Oh, when you say maintenance, that's</p> <p>12 different to the cleaning and all that stuff, right?</p> <p>13 MR. CHEN: Oh, I apologize if I used the wrong term.</p> <p>14 Talking about cleaning crew.</p> <p>15 MR. MANDAVA: Yeah. For me, maintenance, I integrate</p> <p>16 it as repairs and things like that.</p> <p>17 MR. CHEN: Okay. I do not mean that. I mean cleaning.</p> <p>18 MR. MANDAVA: Yeah. Cleaning staff will be come in</p> <p>19 daily and --</p> <p>20 MR. CHEN: Say it again?</p> <p>21 MR. MANDAVA: They will come in daily and clean the</p> <p>22 school, yeah.</p> <p>23 MR. CHEN: How many?</p> <p>24 MR. MANDAVA: I do not know.</p> <p>25 MR. CHEN: Hours?</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

19 (73 to 76)

<p>73</p> <p>1 MR. MANDAVA: They come in after the school.</p> <p>2 MR. CHEN: And how late will they be there?</p> <p>3 MR. MANDAVA: I do not know.</p> <p>4 MR. CHEN: Do you have any staff for the maintenance of</p> <p>5 the landscaping on site?</p> <p>6 MR. MANDAVA: When you say on site, can you define</p> <p>7 that, please?</p> <p>8 MR. CHEN: I mean on the property, outside the interior</p> <p>9 of the building.</p> <p>10 MR. MANDAVA: For what period of time are you referring</p> <p>11 to? Because typically, landscape, they come do their job</p> <p>12 and go, so I do not understand the term "on-site".</p> <p>13 MR. CHEN: Well, you've hit on it. When do they come?</p> <p>14 How often do they come? What do they do?</p> <p>15 MR. KLINE: Objection. Could he be more specific about</p> <p>16 who that is you're talking about?</p> <p>17 MR. CHEN: The landscape maintenance.</p> <p>18 MR. KLINE: Landscape maintenance. Thank you.</p> <p>19 MR. CHEN: He understood what I was saying.</p> <p>20 MR. MANDAVA: We haven't talked to anybody with the</p> <p>21 exact schedule and times and et cetera.</p> <p>22 MR. CHEN: How about snow removal? What happens with</p> <p>23 snow removal?</p> <p>24 MR. MANDAVA: We will have a snow removal contractor</p> <p>25 who will come in and remove the snow as required.</p>	<p>75</p> <p>1 was 7:00 to 9:00 a.m.; is that right?</p> <p>2 MR. MANDAVA: Yes.</p> <p>3 MR. CHEN: What would be the peak period in the</p> <p>4 afternoon?</p> <p>5 MR. MANDAVA: 3:30 to 5:00.</p> <p>6 MR. CHEN: You don't have a separate room in the</p> <p>7 building for a child that may become ill; is that correct?</p> <p>8 MR. MANDAVA: I do not know.</p> <p>9 MR. CHEN: Okay. Is it possible, on the part timers,</p> <p>10 that they may be attending Primrose, whatever their age is,</p> <p>11 but rather than being there for a full five days, they may</p> <p>12 be just coming in on, you know, a couple days a week for the</p> <p>13 services at Primrose; is that right?</p> <p>14 MR. MANDAVA: Yes. Possibly. Yeah.</p> <p>15 MR. CHEN: Ma'am, indulge us. I'm going to have you</p> <p>16 indulge us, Madam Examiner. I think I'm trying to get to</p> <p>17 closure.</p> <p>18 THE HEARING OFFICER: That's good.</p> <p>19 MR. CHEN: What would be the activities of the Primrose</p> <p>20 School during the summer months?</p> <p>21 MR. MANDAVA: It'll be, again, some sort of academic</p> <p>22 curriculum that will be taken through -- that they will be</p> <p>23 taken through.</p> <p>24 MR. CHEN: What will be the program for the Explorers</p> <p>25 during the summer?</p>
<p>74</p> <p>1 MR. CHEN: Will there be any children who will be</p> <p>2 attending the Primrose School on a part-time basis?</p> <p>3 MR. MANDAVA: Yes.</p> <p>4 MR. CHEN: Who are they? What type of--</p> <p>5 MR. MANDAVA: It's very hard to guess who and how many,</p> <p>6 et cetera, at this point in time.</p> <p>7 MR. CHEN: Will those part-time students be included</p> <p>8 among the numbers that you've given us --</p> <p>9 MR. MANDAVA: That's correct, sir. The school cannot</p> <p>10 exceed that capacity, which is 165 daycare and 30 school-</p> <p>11 aged kids.</p> <p>12 THE HEARING OFFICER: 165?</p> <p>13 MR. MANDAVA: 195 minus 30. 165 is the full daycare,</p> <p>14 and 30 is the Explorers, ma'am.</p> <p>15 MR. CHEN: Yeah. Just so I'm clear on this. So, any</p> <p>16 part-time --</p> <p>17 MR. MANDAVA: Yes.</p> <p>18 MR. CHEN: -- child would be within those numbers?</p> <p>19 MR. MANDAVA: Correct. They are included in those</p> <p>20 numbers.</p> <p>21 MR. CHEN: Just so I'm clear on part time. I take it,</p> <p>22 part time means the child is not in a full program that is</p> <p>23 offered by Primrose; is that right, sir?</p> <p>24 MR. MANDAVA: They're coming for part of the day.</p> <p>25 MR. CHEN: You testified that the morning peak activity</p>	<p>76</p> <p>1 MR. MANDAVA: Yeah. It'll be some sort of academic</p> <p>2 curriculum or some activities like, you know,</p> <p>3 extracurricular activities that they might do in the school.</p> <p>4 I do not know the specifics, if you're looking for the</p> <p>5 specifics.</p> <p>6 MR. CHEN: On your parking calculations, sir, you do</p> <p>7 include parking for handicap?</p> <p>8 MR. MANDAVA: Correct. Two spaces.</p> <p>9 MR. CHEN: And where will they be?</p> <p>10 MR. MANDAVA: Closest to the door, I believe.</p> <p>11 MR. CHEN: Okay. Will they be parent-dedicated spaces,</p> <p>12 or staff-dedicated spaces?</p> <p>13 MR. MANDAVA: I do not know.</p> <p>14 MR. CHEN: Okay. And what is the program for exterior</p> <p>15 lighting?</p> <p>16 MR. MANDAVA: I think -- I'm not an expert in that</p> <p>17 area. You talked to Jim Alt the other day. I think he has</p> <p>18 given all the information out on lighting.</p> <p>19 MR. CHEN: So, you have no information to give us about</p> <p>20 when the lights will go on and off or anything like that?</p> <p>21 MR. MANDAVA: I have agreed to dim the lights based on</p> <p>22 a set program at, I believe, it is 9:00 p.m., that we are</p> <p>23 looking at right now. So, it's the same as what Mr. Alt has</p> <p>24 indicated to you.</p> <p>25 MR. CHEN: And you just used the word "dim."</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

20 (77 to 80)

<p style="text-align: right;">77</p> <p>1 MR. MANDAVA: Again, like, night. I have to go back 2 and refer to the exact specifications, whether it's dim or 3 it's completely turned off and all those things. Mr. Alt 4 was (inaudible) in giving you that information. 5 MR. CHEN: Well, I believe his testimony -- 6 MR. MANDAVA: Uh-huh. 7 MR. CHEN: -- was that the -- what I understood is the 8 holder would be amenable or agreeable to -- 9 MR. MANDAVA: Correct. 10 MR. CHEN: -- conditions dealing with lighting. 11 MR. MANDAVA: And I agree. 12 MR. CHEN: He did not give any specifics. He said that 13 there would be agreeable to providing for turning off 14 lights, things of that nature. Your testimony is, right 15 now -- I take it, you're adopting Mr. Alt's testimony? 16 MR. MANDAVA: I am agreeing to dim or switch off the 17 lights after a certain time in the evening or the night, 18 yes. 19 MR. CHEN: By the way, are there any -- if you know, 20 are there any private elementary schools in the Derwood 21 area? 22 MR. MANDAVA: I would think so, but I do not have that 23 information in front of me. 24 MR. CHEN: And am I correct that the bus would have on 25 its route, both in the morning and after, to whatever</p>	<p style="text-align: right;">79</p> <p>1 Primrose program or plan? 2 MR. MANDAVA: Yes. 3 MR. CHEN: And your testimony, sir, was that the -- in 4 conjunction with the a.m. peak, the calculation is that 5 there would be 70 cars per hour. 6 MR. MANDAVA: 72 -- 7 MR. CHEN: Do you recall that testimony, sir? 8 MR. MANDAVA: 72. No, I -- the testimony was that 12 9 parking spots and a 10-minute turnaround can accommodate up 10 to 72 cars. 11 MR. CHEN: 72. 12 MR. MANDAVA: Yes. 13 MR. CHEN: So, by my math, if it's 72 cars per hour, 14 during the two peak hours, that would be 144 cars, correct? 15 MR. KLINE: Objection. Are we talking about road peak 16 hour, or school operations peak hour? 17 THE HEARING OFFICER: Can you clarify which peak hour 18 you're talking about, Mr. Chen? 19 MR. CHEN: I thought we were talking about the a.m. was 20 the peak -- is that -- 21 THE HEARING OFFICER: Wait. The school peak activity 22 hour? 23 MR. CHEN: Yeah. 24 THE HEARING OFFICER: 7:00 to 9:00 a.m.? 25 MR. CHEN: Yes. Yeah.</p>
<p style="text-align: right;">78</p> <p>1 schools the Explorers would be attending, even though it may 2 not be jus Candlewood, it may be some other schools, that 3 the bus would take and pick up the children from those other 4 schools? 5 MR. MANDAVA: It's a choice we can make which 6 elementary schools we want to serve. So, based on the 7 enrollment and the capacity and various other factors, which 8 we have to consider, we may just go to one school or two 9 schools or -- 10 MR. CHEN: Okay. If the decision is made to go to just 11 one school, what happens to the Explorers who do not go to 12 that school? 13 MR. MANDAVA: We will not enroll them on the basis of 14 dropping them off at the that school or like picking them up 15 at school. 16 MR. CHEN: Okay. I think I'm done. I'm just going to 17 take a quick last look at my notes. 18 Are there going to be parent-teacher meetings? 19 MR. MANDAVA: Yes. 20 MR. CHEN: Do you know when they'll be? 21 MR. MANDAVA: No. 22 MR. CHEN: You just know that there will be meetings, 23 but you have no information about when they'll be, right? 24 MR. MANDAVA: That's correct. 25 MR. CHEN: Is that something that's covered by the</p>	<p style="text-align: right;">80</p> <p>1 THE HEARING OFFICER: That was all I needed 2 clarification for. 3 MR. CHEN: Yes. Yeah. 4 Mr. Kline, you got that? 5 MR. KLINE: Yeah. 6 MR. CHEN: Okay. Thank you. 7 So that during the peak hours in the a.m., it would be 8 144 cars? 9 MR. MANDAVA: The 12 parking spots can accommodate up 10 to 144 cars coming in -- yeah. 11 MR. CHEN: Yeah. That's how you -- you're calculation. 12 MR. MANDAVA: Correct. 13 MR. CHEN: Is that the same for the p.m., also? The 14 afternoon peak hours? 15 MR. MANDAVA: Right. 16 MR. CHEN: Because your a.m. numbers were an hour and a 17 half, and not a full two hours. You remember you were going 18 from 3:30 to 5:00. 19 MR. MANDAVA: Right. Yeah. 20 MR. CHEN: So -- 21 MR. MANDAVA: So -- yeah. So, if I can clarify. When 22 we say peak activity hours, that's when we expect the peak 23 activity, but it doesn't mean that -- especially in the 24 afternoon, it's more diffused, compared to the morning. 25 People come in like it's -- there is another hour and a half</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

21 (81 to 84)

<p>81</p> <p>1 after 5:00 a.m. until 6:30 p.m., so it's more diffused in 2 the afternoon compared to the morning. 3 MR. CHEN: Oh. 4 MR. MANDAVA: So, your peak of afternoon cannot be 5 compared apples to apples of peak in the morning. 6 MR. CHEN: Oh, okay. So, during the p.m. peak, that 7 hour and a half period, 3:30 to 5:00, what are the number of 8 cars? 9 MR. MANDAVA: That 12 spots can accommodate, will be 72 10 plus 36 that will be 108. 11 MR. CHEN: Okay. So, the number of cars is still the 12 same; it's 72 per hour? 13 MR. MANDAVA: That's correct. 14 MR. CHEN: It's just a shorter peak period -- 15 MR. MANDAVA: Right. 16 MR. CHEN: -- than in the morning. 17 MR. MANDAVA: Peak activity, yes. 18 MR. CHEN: Peak activities. 19 MR. MANDAVA: And it's not exactly the same peak 20 activity you're talking about in the morning. 21 MR. CHEN: I understand. 22 MR. MANDAVA: Yeah. 23 MR. CHEN: And rather than two hours, which is the 24 a.m., it's an hour and a half in the p.m.? 25 MR. MANDAVA: Uh-huh.</p>	<p>83</p> <p>1 THE HEARING OFFICER: No, wait. Are they included in 2 the -- 3 MR. MANDAVA: Yeah. 4 THE HEARING OFFICER: I assume -- well, answer his 5 question. 6 MR. MANDAVA: Sure. 7 THE HEARING OFFICER: Are they included in the 12 drop- 8 off spaces? 9 MR. MANDAVA: I do not believe so. I cannot give 10 you -- 11 THE HEARING OFFICER: So, you have 44 spaces? 12 MR. MANDAVA: Yeah. 13 THE HEARING OFFICER: Well, how can they not be? 14 Because you have 44 spaces, 12 drop-off spaces, and then 32 15 for staff. 16 MR. MANDAVA: Staff and admin, yeah. 17 THE HEARING OFFICER: So, don't you have to -- 18 MR. MANDAVA: Because the -- 19 THE HEARING OFFICER: Don't they have to be included? 20 MR. MANDAVA: Because our staff actually is 25 21 teachers, plus two administrators -- yeah. 22 THE HEARING OFFICER: Well, then why did you ask for 23 32? Because everybody's been evaluating this based on 32. 24 MR. MANDAVA: There's one cook, and there could be 25 people coming in as part of the operations, things like</p>
<p>82</p> <p>1 MR. CHEN: You may have answered this already. On the 2 two handicapped spaces required, where will they be? 3 MR. MANDAVA: I told you, it's closest to the door. 4 Yeah. 5 MR. CHEN: Okay. Do you know whether they're going to 6 be designated spots for staff or the parents? 7 MR. MANDAVA: I do not know. 8 MR. CHEN: Okay. But you do know there will be two 9 handicap -- 10 MR. MANDAVA: Correct, yes. 11 MR. CHEN: -- designated spots? 12 MR. MANDAVA: Yes. So, I think it's in the staff 13 report, as well. 14 MR. CHEN: The reason why I ask, and this may be my 15 confusion, sir -- 16 MR. MANDAVA: Yeah. 17 MR. CHEN: -- when you went through your math on the 72 18 spots, the use of the spots -- you remember your testimony 19 of that? 20 MR. MANDAVA: Yes. 21 MR. CHEN: You just gave it to me. 22 MR. MANDAVA: Yes. 23 MR. CHEN: Are the two handicap parking spaces included 24 in the 72, when you do your math? 25 MR. MANDAVA: They're included in the 32.</p>	<p>84</p> <p>1 that, so -- 2 THE HEARING OFFICER: Well, are they or are they not 3 included in the 32? 4 MR. MANDAVA: That, I do not know, ma'am, exactly. I 5 will check with my engineer. 6 THE HEARING OFFICER: Well, I've had -- I did have a 7 concern that has been -- I wanted to ask you about. Your 8 statement of justification -- I'm concerned about Ms. 9 Mitchell's property which is to the west -- 10 MR. MANDAVA: Uh-huh. 11 THE HEARING OFFICER: -- across Carnegie Avenue. And 12 your statement of justification's saying children playing 13 outside can be noisy, but the play lots proposed for this 14 facility will be located substantial distances from houses 15 to the east and north. Now, she's to the west. 16 MR. MANDAVA: Uh-huh. 17 THE HEARING OFFICER: It says the property's quite 18 generous in size, so the applicant has flexibility to 19 organize uses on site in a manner that minimizes impacts to 20 surrounding properties. So how are you going to -- have you 21 done any study of the noise that Ms. Mitchell will 22 experience? Just yes or no? Have you or -- don't 23 look -- oh. 24 MR. KLINE: I just want to point out that the statement 25 of justification was written before construction began.</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

22 (85 to 88)

<p style="text-align: right;">85</p> <p>1 That was a vacant lot when that was written.</p> <p>2 THE HEARING OFFICER: I figured that's what it was, but</p> <p>3 I'm just asking you, now that it's official --</p> <p>4 MR. KLINE: Right.</p> <p>5 THE HEARING OFFICER: -- and drawn on 148, have you</p> <p>6 done any studies? And what procedures do you do to minimize</p> <p>7 the noise?</p> <p>8 MR. MANDAVA: We haven't done any study, but I -- in</p> <p>9 speaking with Primrose and their experience with this kind</p> <p>10 of -- the play areas and things like that, what I believe</p> <p>11 the -- the number of kids playing outside at the playground</p> <p>12 at any point of time is not the 195 kids.</p> <p>13 THE HEARING OFFICER: No, I know it's not. It's --</p> <p>14 MR. MANDAVA: Yeah. So, it's a -- it's a small number</p> <p>15 of kids.</p> <p>16 THE HEARING OFFICER: I think it was -- well, I have my</p> <p>17 notes, but it still --</p> <p>18 MR. MANDAVA: It's around 40 kids, actually, to -- and</p> <p>19 that --</p> <p>20 THE HEARING OFFICER: 42? I thought it was --</p> <p>21 MR. MANDAVA: 42, yeah.</p> <p>22 THE HEARING OFFICER: I thought it was 68.</p> <p>23 MR. MANDAVA: 60 -- yeah, we said up to 68 in the</p> <p>24 application, but when we calculate -- there are four play</p> <p>25 areas. Only three of them can be outside at any point of</p>	<p style="text-align: right;">87</p> <p>1 Explorers if the Explorers are in school?</p> <p>2 MR. MANDAVA: Sure. My mistake. I apologize, ma'am.</p> <p>3 It'll be 20 plus 12 plus 9, maximum. That --</p> <p>4 THE HEARING OFFICER: You've got three classrooms of</p> <p>5 48; am I right?</p> <p>6 MR. MANDAVA: But those are not all in the same</p> <p>7 classroom. They are div --</p> <p>8 THE HEARING OFFICER: Right.</p> <p>9 MR. MANDAVA: -- divided into -- so we won't be taking</p> <p>10 all of those --</p> <p>11 THE HEARING OFFICER: Just a second. I can't hear.</p> <p>12 Please.</p> <p>13 MR. MANDAVA: We -- we do not take all the 48 at the</p> <p>14 same time. They're, again, divided into classrooms.</p> <p>15 THE HEARING OFFICER: So how many are going to be in</p> <p>16 the playground?</p> <p>17 MR. MANDAVA: 20 plus 12 plus 9 -- or 32 plus 9, 41.</p> <p>18 THE HEARING OFFICER: So, we're from 68 to 41 now?</p> <p>19 MR. MANDAVA: Or -- sorry. Just give me a second. Let</p> <p>20 me make sure we got that.</p> <p>21 It is 45.</p> <p>22 MR. CHEN: How'd you get to that number?</p> <p>23 MR. MANDAVA: So, there's 24 -- 24 is -- is -- three-</p> <p>24 to four-year-olds, the capacity is 24. Four to five is 24.</p> <p>25 Actually, I may have to -- just --</p>
<p style="text-align: right;">86</p> <p>1 time. And --</p> <p>2 THE HEARING OFFICER: And then we went through --</p> <p>3 MR. MANDAVA: Yeah. Yeah.</p> <p>4 THE HEARING OFFICER: -- it could be --</p> <p>5 MR. MANDAVA: That's including the Explorers --</p> <p>6 THE HEARING OFFICER: I'm trying to get ready for this</p> <p>7 case, and you're telling me, well, it's not really this and</p> <p>8 it's not really that. What is it? How many kids are going</p> <p>9 to be out there, maximum?</p> <p>10 MR. MANDAVA: Maximum, three play areas, ma'am.</p> <p>11 And --</p> <p>12 THE HEARING OFFICER: Well, what does that mean? How</p> <p>13 many kids?</p> <p>14 MR. MANDAVA: It will be three classrooms at a time.</p> <p>15 THE HEARING OFFICER: Yeah. But --</p> <p>16 MR. MANDAVA: That'll be -- oh, yeah. I'll give you</p> <p>17 the math. It is -- the infants and toddler --</p> <p>18 THE HEARING OFFICER: This has been pending a year, and</p> <p>19 I spend a lot of time trying to give you a fair hearing.</p> <p>20 MR. MANDAVA: So, it 62 is the maximum we calculated as</p> <p>21 to date, including the Explorers.</p> <p>22 THE HEARING OFFICER: Yeah.</p> <p>23 MR. MANDAVA: But the Explorers are at school during</p> <p>24 the day from -- at least from 9:00 a.m. to 3:30 p.m.</p> <p>25 THE HEARING OFFICER: Well, why are you counting the</p>	<p style="text-align: right;">88</p> <p>1 THE HEARING OFFICER: Okay. You know what? I'm going</p> <p>2 to recess. And we're going to recess for 10 minutes.</p> <p>3 MR. MANDAVA: Sure.</p> <p>4 THE HEARING OFFICER: And when I come back --</p> <p>5 MR. MANDAVA: You want the exact numbers.</p> <p>6 THE HEARING OFFICER: -- I would like a number --</p> <p>7 MR. MANDAVA: Yeah.</p> <p>8 THE HEARING OFFICER: -- and I would like to know where</p> <p>9 they're going to be on that playground.</p> <p>10 MR. MANDAVA: Sure.</p> <p>11 THE HEARING OFFICER: Thanks.</p> <p>12 (Off the record at 11:39:28 a.m.)</p> <p>13 THE HEARING OFFICER: Are we back on the record? We're</p> <p>14 back on the record.</p> <p>15 Mr. Mandava, can you tell me how many children will be</p> <p>16 at the playground at what -- or and where will they be and</p> <p>17 what times will they be there? I added a question that I</p> <p>18 didn't prepare you for.</p> <p>19 MR. MANDAVA: Sure, yeah.</p> <p>20 THE HEARING OFFICER: But please let me know.</p> <p>21 MR. MANDAVA: So, thank you, ma'am.</p> <p>22 THE HEARING OFFICER: And this is not going to change,</p> <p>23 correct?</p> <p>24 MR. MANDAVA: Correct.</p> <p>25 THE HEARING OFFICER: Your testimony? Now I'm not</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

23 (89 to 92)

<p>89</p> <p>1 going to hear a different number like we did on the fence?</p> <p>2 First, it was board-on-board, and now it's something else.</p> <p>3 So, this is it.</p> <p>4 MR. MANDAVA: Uh-huh.</p> <p>5 THE HEARING OFFICER: Okay. Go ahead.</p> <p>6 MR. MANDAVA: So, the number is 60. It's the</p> <p>7 max -- max is 60. 24 pre-K, 24 preschool, and 12 --</p> <p>8 THE HEARING OFFICER: Wait. Too fast for me.</p> <p>9 MR. MANDAVA: Oh, yeah.</p> <p>10 THE HEARING OFFICER: 24 what?</p> <p>11 MR. MANDAVA: Pre-K.</p> <p>12 THE HEARING OFFICER: Pre-K.</p> <p>13 MR. MANDAVA: 24 preschool. And 12 from early</p> <p>14 preschool. I'm looking at the maximum numbers, so that's</p> <p>15 the maximum.</p> <p>16 THE HEARING OFFICER: Right. And where are they going</p> <p>17 to be located?</p> <p>18 MR. MANDAVA: So, there are four play areas all around</p> <p>19 the school, towards the north and towards the west and the</p> <p>20 south.</p> <p>21 THE HEARING OFFICER: Yes, I know that.</p> <p>22 MR. MANDAVA: Yeah.</p> <p>23 THE HEARING OFFICER: Oh, anywhere in there.</p> <p>24 MR. MANDAVA: So there -- yeah, so there are four</p> <p>25 sections, so they will be -- an age group will be in one</p>	<p>91</p> <p>1 MR. MANDAVA: So, the left side of the -- if we --</p> <p>2 THE HEARING OFFICER: The west side.</p> <p>3 MR. MANDAVA: Yes. The west side is more of the</p> <p>4 younger kids, because we are starting -- when you enter the</p> <p>5 school from the southside entrance, like, you know, the</p> <p>6 closest on the left side is the infants and age progressing</p> <p>7 through the ages around the school.</p> <p>8 THE HEARING OFFICER: Okay. Let's see, I guess I would</p> <p>9 go to you and then to Mr. Chen and then back to you.</p> <p>10 So, Mr. Kline, I do know your name, do you have any</p> <p>11 questions based on my questions?</p> <p>12 MR. KLINE: You responded into the hearing examiner's</p> <p>13 question about Ms. Mitchell's concerns.</p> <p>14 MR. MANDAVA: Uh-huh.</p> <p>15 MR. KLINE: Have you spoken with Primrose about</p> <p>16 something with -- well, let me rephrase that. Primrose has</p> <p>17 a policy; they do not like to have solid fences; is that</p> <p>18 correct?</p> <p>19 MR. MANDAVA: That's correct. They do not like to --</p> <p>20 MR. KLINE: And why is that correct?</p> <p>21 MR. MANDAVA: That is for safety reasons. They</p> <p>22 do -- do -- one, is primarily the safety reason. They do</p> <p>23 want to see if somebody is holding around on the fence on</p> <p>24 the other side.</p> <p>25 THE HEARING OFFICER: I remember that testimony.</p>
<p>90</p> <p>1 section. They don't mix the age groups</p> <p>2 THE HEARING OFFICER: I got that.</p> <p>3 MR. MANDAVA: Yeah. Okay.</p> <p>4 THE HEARING OFFICER: I remember that. But you don't</p> <p>5 have specific things? Okay. And time periods?</p> <p>6 MR. MANDAVA: Time periods of play --</p> <p>7 THE HEARING OFFICER: I think we went over that. It</p> <p>8 was 35 to 40 minutes, stretched over what time?</p> <p>9 MR. MANDAVA: Yes. So, the play is -- some, typically,</p> <p>10 between 9:00 to 11:00 a.m. in the morning, and 1:00 to 3:00</p> <p>11 in the afternoon.</p> <p>12 THE HEARING OFFICER: Okay. Now, can you provide me</p> <p>13 with anything on the impact to Ms. Mitchell's house? If you</p> <p>14 can't, just say you can't.</p> <p>15 MR. MANDAVA: I can add a couple of points that there</p> <p>16 is the -- the playground facing Ms. Mitchell's house is</p> <p>17 towards their garage, and there is a road -- Carnegie Avenue</p> <p>18 in between -- I don't need to say that, that is enough</p> <p>19 distance between -- in my opinion, between her house, the</p> <p>20 garage, and the playground. And again, the playground is</p> <p>21 not like all the 60 kids are in the same area. They're</p> <p>22 spread out across -- around the four sections of the play</p> <p>23 area.</p> <p>24 THE HEARING OFFICER: Who goes to the playground that's</p> <p>25 closest to her house?</p>	<p>92</p> <p>1 MR. MANDAVA: That's why.</p> <p>2 MR. KLINE: Right. Has Primrose authorized you to make</p> <p>3 a proposal in response to the hearing examiner's concern</p> <p>4 about Ms. Mitchell's --</p> <p>5 MR. MANDAVA: Yes.</p> <p>6 MR. KLINE: -- view?</p> <p>7 MR. MANDAVA: Yes.</p> <p>8 MR. KLINE: Would you please explain?</p> <p>9 THE HEARING OFFICER: Well, it's not view. It's noise.</p> <p>10 MR. KLINE: Yeah, noise. Noise attenuation. Right.</p> <p>11 MR. MANDAVA: Yes. If need be, Primrose has authorized</p> <p>12 me to go for an opaque fence which can shield the noise even</p> <p>13 more.</p> <p>14 MR. KLINE: Okay. To avoid the comment that the</p> <p>15 hearing examiner made earlier, would it be the same type of</p> <p>16 fence that Mr. Alt showed would be installed on the east</p> <p>17 side of the property?</p> <p>18 MR. MANDAVA: It is, yes.</p> <p>19 MR. KLINE: That way, they would be complimentary and</p> <p>20 compatible?</p> <p>21 MR. MANDAVA: Yes.</p> <p>22 MR. CHEN: Object -- I mean. Okay.</p> <p>23 THE HEARING OFFICER: Let it go.</p> <p>24 MR. KLINE: Okay. Fine. Fine.</p> <p>25 THE HEARING OFFICER: I get it.</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

24 (93 to 96)

93	<p>1 MR. KLINE: Sorry. Yeah. Consistent.</p> <p>2 THE HEARING OFFICER: Consistent, okay.</p> <p>3 MR. KLINE: That would be the only question that I</p> <p>4 would have in response the dialogue you had with Mr.</p> <p>5 Mandava. Thank you.</p> <p>6 THE HEARING OFFICER: Mr. Chen, any questions based on</p> <p>7 my questions?</p> <p>8 MR. CHEN: Yes. Very shortly.</p> <p>9 THE HEARING OFFICER: Good.</p> <p>10 MR. CHEN: So, your testimony, sir, is that the use of</p> <p>11 the outdoor play area will be restricted to the 60 children</p> <p>12 that you've identified; meaning, 24 pre-K, 24 preschool, and</p> <p>13 12 early preschool, correct?</p> <p>14 MR. MANDAVA: At any one point of time.</p> <p>15 MR. CHEN: It'll be among those three categories?</p> <p>16 MR. MANDAVA: No. I'm -- I'm talking about the maximum</p> <p>17 number of kids that can be on the playground at --</p> <p>18 MR. CHEN: Well --</p> <p>19 MR. MANDAVA: -- at a point of time.</p> <p>20 MR. CHEN: The examiner questioned you and you said the</p> <p>21 maximum number would be 60 children at any point in time.</p> <p>22 MR. MANDAVA: Correct.</p> <p>23 MR. CHEN: And she asked you who they would be. And</p> <p>24 you gave testimony, correct me if I'm not mistaken, 24 pre-</p> <p>25 K, 24 preschool, and 12 early preschool, which comes to 60.</p>	95	<p>1 MR. MANDAVA: 11:00 to 1:00, yeah. Sorry.</p> <p>2 THE HEARING OFFICER: I have --</p> <p>3 MR. MANDAVA: So, I'm sorry. 9:00 to 11:00. 9:00 to</p> <p>4 11:00, and 1:00 to 3:00 in the afternoon.</p> <p>5 THE HEARING OFFICER: So somewhere --</p> <p>6 MR. MANDAVA: Yeah, during the time --</p> <p>7 MR. KLINE: It'd be a 30- to 40-minute time frame for</p> <p>8 that group, and then any other group would be smaller in</p> <p>9 size. And it would be a combination of three other classes,</p> <p>10 some are the same, some of the other groups. Six student</p> <p>11 groups.</p> <p>12 THE HEARING OFFICER: Okay. But it could be the same</p> <p>13 amount? Same as the maximum amount, right? Am I</p> <p>14 misunderstanding this?</p> <p>15 MR. KLINE: Well, you could have 24 and 24, but I'm not</p> <p>16 sure there's another --</p> <p>17 MR. MANDAVA: No. Because the 24 and 24 of the same</p> <p>18 age group will only take one class to the playground at a</p> <p>19 given point of time of the same age group, so that's why you</p> <p>20 will not have the 24 plus 24.</p> <p>21 MR. KLINE: And in your --</p> <p>22 THE HEARING OFFICER: Wait. Wait. I think --</p> <p>23 MR. KLINE: All right.</p> <p>24 THE HEARING OFFICER: I'm sorry. We're still on cross.</p> <p>25 MR. KLINE: Yeah. Okay.</p>
94	<p>1 MR. MANDAVA: So, I am giving you the math for the</p> <p>2 maximum number of kids that can be, because the size of the</p> <p>3 class of the infants and the toddlers, et cetera, and</p> <p>4 infants, is smaller than the 12. So, it is the maximum</p> <p>5 number of kids that can be on the playground, if it was not</p> <p>6 very clear.</p> <p>7 MR. CHEN: Yeah, I'm not clear. I mean --</p> <p>8 MR. KLINE: May I make a proffer?</p> <p>9 MR. CHEN: Sure.</p> <p>10 THE HEARING OFFICER: Why not.</p> <p>11 MR. CHEN: Yeah.</p> <p>12 MR. KLINE: Well, the question was what's the maximum</p> <p>13 impact, because there are certain groups of 48 students, and</p> <p>14 half of them would be outside, so that's 24, so the number</p> <p>15 he gave is the max. There are other groups that include the</p> <p>16 three in the other classes or the age groups that are not</p> <p>17 within the three he mentioned, and they are smaller numbers.</p> <p>18 So, there will be other two -- at least two other</p> <p>19 combinations of classes, but they'll be a smaller number.</p> <p>20 So, what he's giving --</p> <p>21 THE HEARING OFFICER: During what period of time will</p> <p>22 the maximum number be on the playground?</p> <p>23 MR. MANDAVA: The play -- playtime is, again, 11:00 to</p> <p>24 1:00 and 2:00 --</p> <p>25 THE HEARING OFFICER: 11:00 to 1:00?</p>	96	<p>1 THE HEARING OFFICER: I let you make the proffer.</p> <p>2 MR. KLINE: Okay.</p> <p>3 MR. CHEN: Well, sir, as I understand, then, your</p> <p>4 testimony in the hours of activity, there would be no</p> <p>5 Explorers in the outdoor play area?</p> <p>6 MR. MANDAVA: Yes, during the -- because they are at</p> <p>7 school, at least from --</p> <p>8 MR. CHEN: Yeah.</p> <p>9 MR. MANDAVA: Yeah.</p> <p>10 MR. CHEN: So, I'm just clear. So, the Explorers will</p> <p>11 not be utilizing the outdoor play area?</p> <p>12 MR. MANDAVA: Yes, that's my understanding. Yeah.</p> <p>13 MR. CHEN: Okay. Just some clarification on the</p> <p>14 proffer, as I understand. The total maximum number of</p> <p>15 children, regardless of their age, the total maximum will be</p> <p>16 60. Now, that may consist of different age groups, but</p> <p>17 nonetheless, the maximum number would be 60; correct, sir?</p> <p>18 MR. MANDAVA: On the playground.</p> <p>19 MR. CHEN: Yes.</p> <p>20 MR. MANDAVA: Yes.</p> <p>21 MR. CHEN: Outside. We're talking about --</p> <p>22 MR. MANDAVA: Outside. Yes.</p> <p>23 MR. CHEN: Yeah, okay. Now, the one example you gave</p> <p>24 us, I think, was 24 pre-K, 24 preschool, and 12 early</p> <p>25 preschool --</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

25 (97 to 100)

<p style="text-align: right;">97</p> <p>1 MR. MANDAVA: Correct.</p> <p>2 MR. CHEN: -- that gets you 60?</p> <p>3 MR. MANDAVA: Yeah.</p> <p>4 MR. CHEN: But you could have different mixes that</p> <p>5 could utilize the play area at the same time, but the</p> <p>6 maximum number of children, regardless of the category</p> <p>7 they're in, would be 60?</p> <p>8 MR. MANDAVA: Correct.</p> <p>9 MR. CHEN: Okay. Okay.</p> <p>10 THE HEARING OFFICER: Can we move on?</p> <p>11 MR. CHEN: Yes. Yes.</p> <p>12 HEARING OFFICER HANNAN: Mr. Kline, do you have any</p> <p>13 redirect based on this?</p> <p>14 MR. KLINE: No. No, I appreciate the clarification.</p> <p>15 HEARING OFFICER HANNAN: Okay. All right. So, with</p> <p>16 that, I think you were done your cross. Do you have any</p> <p>17 other redirect?</p> <p>18 MR. CHEN: I'm done with my cross.</p> <p>19 MR. KLINE: Mr. Mandava, you were talking about your</p> <p>20 coordination with Primrose after you commenced operation.</p> <p>21 But didn't I read in some of the literature that there are</p> <p>22 daily reports from operating Primrose school to the</p> <p>23 headquarters?</p> <p>24 MR. MANDAVA: All right, yes.</p> <p>25 MR. KLINE: And what does that information contain?</p>	<p style="text-align: right;">99</p> <p>1 today, Primrose is sending out some circular to all of its</p> <p>2 schools about Coronavirus or something?</p> <p>3 MR. MANDAVA: Absolutely. We are sending out that</p> <p>4 information, yes.</p> <p>5 MR. KLINE: So, they -- you already benefit from a</p> <p>6 system-wide educational information beyond what would be an</p> <p>7 individual --</p> <p>8 MR. MANDAVA: Correct.</p> <p>9 MR. KLINE: All right, thank you. There were a number</p> <p>10 of questions about various services that you'll be -- trash</p> <p>11 pickup, recycling pickup, maintenance, lawn maintenance.</p> <p>12 Those are all contracts to be entered into at some time in</p> <p>13 the future?</p> <p>14 MR. MANDAVA: That's correct, yeah.</p> <p>15 MR. KLINE: Are you prepared to accept conditions</p> <p>16 relating to the -- when you're going to do certain things.</p> <p>17 For instance, you've committed to the trash pickup not being</p> <p>18 a certain set of hours. Can you do the same thing with lawn</p> <p>19 maintenance, so they don't start at 7:00 in the morning?</p> <p>20 MR. MANDAVA: Yes.</p> <p>21 MR. CHEN: Just for the record, I object to any</p> <p>22 questioning about conditions that's to be accepted. This is</p> <p>23 an adjudicatory hearing and issues come up. And I</p> <p>24 understand the examiner has authority to condition</p> <p>25 decisions. I get that and I understand that. But the habit</p>
<p style="text-align: right;">98</p> <p>1 MR. MANDAVA: Various things relating to the operations</p> <p>2 where how many kids have come, what time, and that we have</p> <p>3 (inaudible) all the activities for the norm and things like</p> <p>4 that.</p> <p>5 I do not know the specific -- detailed specifics of the</p> <p>6 report, but in my training, I understand that likely I will</p> <p>7 be sending out a report every day.</p> <p>8 MR. KLINE: Maybe not a necessary question, but have</p> <p>9 you, yourself, familiarized yourself with the licensing</p> <p>10 requirements and the procedures for obtaining a license</p> <p>11 that's needed to operate this facility?</p> <p>12 MR. MANDAVA: I did read through the regulations. I</p> <p>13 cannot remember everything, but I did.</p> <p>14 MR. KLINE: Well, I'm not asking you what they are,</p> <p>15 but --</p> <p>16 MR. MANDAVA: Yeah.</p> <p>17 MR. KLINE: -- have you had any conversations with the</p> <p>18 State in terms of getting started on the process?</p> <p>19 MR. MANDAVA: No. Not yet.</p> <p>20 MR. KLINE: The question was asked -- never mind.</p> <p>21 Would you expect Primrose to be providing training, not</p> <p>22 only what I'll call childhood educational information, but</p> <p>23 on medical situations; how to handle certain --</p> <p>24 MR. MANDAVA: Yes. Yes.</p> <p>25 MR. KLINE: I mean, for instance, could we assume that</p>	<p style="text-align: right;">100</p> <p>1 seems to have developed that an applicant will come before</p> <p>2 this office and as to issues that are raised, and objection</p> <p>3 to it, the simplistic answer is, well I'll agree to this.</p> <p>4 It changes the hours of operation and it may change the</p> <p>5 populous, but if it works for you, works for me. And I</p> <p>6 think that's an improper use of the process.</p> <p>7 Because an application is filed -- this is an excellent</p> <p>8 example. It's been pending for going on two years. We've</p> <p>9 had at least three iterations of plans. We've had an</p> <p>10 inadequate statement of operations, and we get a witness on</p> <p>11 it and, you know, I can do that, or I can -- and they're</p> <p>12 experts. Yes, we can do that. We can turn up the lights.</p> <p>13 File an application, that's the application that you go to</p> <p>14 hearing on.</p> <p>15 The end of the process that the hearing examiner has</p> <p>16 opinions that develop through the testimony as to</p> <p>17 conditions, that's within the ordinance language. But to</p> <p>18 sit up there, I can do this, or I can do that, I think it's</p> <p>19 unfair to opposition. So that's where I am on this.</p> <p>20 HEARING OFFICER HANNAN: Go ahead.</p> <p>21 MR. KLINE: If this sounds a little dated, but this is</p> <p>22 an argument you've heard before in previous hearings</p> <p>23 between --</p> <p>24 HEARING OFFICER HANNAN: Yes.</p> <p>25 MR. KLINE: -- Mr. Chen and myself. And I think that</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

26 (101 to 104)

<p>101</p> <p>1 the zoning process is more fluid than he thinks. He thinks 2 from the day you walk in here, that's what you've got and 3 you either get it or you don't get it. I'm almost trained 4 to anticipate because you and your (inaudible) -- I know 5 that at least your colleague has asked other of my clients, 6 well would you consider blank. And I guess I'm trying to 7 anticipate that to what happen. 8 HEARING OFFICER HANNAN: Well, the Brandywine case says 9 it can be amended. 10 MR. CHEN: Right. 11 HEARING OFFICER HANNAN: And the conditions are in 12 essence, a form of what the conditional use process is for 13 and the ability to impose conditions has been -- 14 MR. CHEN: Upheld. 15 HEARING OFFICER HANNAN: -- upheld. So, the short 16 answer is I'm going to let him question the witness about 17 what conditions he'll accept. 18 Go ahead, Mr. Kline. I can't remember -- I didn't hear 19 it, I don't know if he answered. Did he answer? 20 MR. KLINE: I guess he -- 21 HEARING OFFICER HANNAN: What was your question on the 22 condition? Oh, as to service. 23 MR. KLINE: Yes. There will be contracts that will be 24 entered into for a number of services; is that correct? 25 MR. MANDAVA: Yes.</p>	<p>103</p> <p>1 handicap, they can use that handicap space. 2 MR. KLINE: I have no further questions of Mr. Mandava. 3 HEARING OFFICER HANNAN: All right. Mr. Mandava, you 4 may be excused. Thank you. 5 MR. MANDAVA: Thank you. 6 HEARING OFFICER HANNAN: Okay. How many more witnesses 7 do you have, Mr. Kline? 8 MR. KLINE: I am pleased to tell you, that concludes 9 our case-in-chief. 10 HEARING OFFICER HANNAN: Okay. Great. I thought I saw 11 some familiar experts back there, so I wasn't entirely sure 12 whether you were finished. 13 MR. KLINE: It's been so scintillating; they just want 14 to keep coming back. 15 HEARING OFFICER HANNAN: I see you. 16 MR. KLINE: I will say, I know that there are two 17 persons who have indicated to my client that they would like 18 to speak. I don't believe they're here, but we told them to 19 come late Friday afternoon. 20 HEARING OFFICER HANNAN: Okay. Is there anyone in the 21 gallery now that would like to testify that hasn't already 22 testified in this case? 23 Okay. Seeing none, we will try to fit them in later. 24 We will go to lunch until 1:30. And when we get back, we 25 will begin the opposition's case. All right. Thank you.</p>
<p>102</p> <p>1 MR. KLINE: And would the applicant endeavor to have 2 those contracts -- so the work would be done at times that 3 would be least bothersome to surrounding properties? 4 MR. MANDAVA: Yes. It is in our interest as well to 5 make sure that we come in at a time, which is less 6 disruptive to everybody. 7 HEARING OFFICER HANNAN: Less disruptive and what? 8 MR. MANDAVA: To everybody. 9 MR. KLINE: Maybe the question I should have asked at 10 the beginning, but when you pointed out that the 30 11 Explorers arrive at 6:30 but are gone somewhere between 8 12 and 8:40 and we don't know yet, depending on where the 13 schools are. So how do we ever get to a maximum of 195 14 students on the campus? 15 MR. MANDAVA: We do not. For the most part of the 16 year, except in summer we could have a full day program for 17 the Explorers. 18 MR. KLINE: Right. Yeah. I understand. Did you 19 finally determine the parking count as to how the handicap 20 spaces would be handled? 21 MR. MANDAVA: Yes. The two handicap spaces are both 22 for parents and staff, but they're counted as part of the 23 32, which is the count, again it's the staff and 24 administrators. So, the 12 parking spots are still 25 available for the parents. But if there is a parent with a</p>	<p>104</p> <p>1 MR. KLINE: Thank you. Sure. 2 (Off the record at 12:14:55 p.m.) 3 HEARING OFFICER HANNAN: Okay. Let's just wait one 4 minute. We still have some people coming. Thank you. 5 We're back on the record as he stated. And I believe it's 6 Mr. Chen's first witness. 7 MR. KLINE: If I might, please. 8 HEARING OFFICER HANNAN: Did I make a mistake? 9 MR. KLINE: No, no. You're exactly where you left us 10 before lunch. I admitted to you previously I knew there 11 were two people who wanted to show up and testify. 12 HEARING OFFICER HANNAN: Okay. 13 MR. KLINE: And they have arrived, and I thought maybe 14 it would be better just to disclose -- I'm sorry. 15 HEARING OFFICER HANNAN: While we're at a break? 16 MR. KLINE: And just start with them and (inaudible). 17 Just do that now and Mr. Chen, I think, and I talked about 18 it. 19 HEARING OFFICER HANNAN: Okay. If one of them would 20 come forward, please. Would you please sit at the end of 21 this table? 22 MR. LASKO: Sure. 23 HEARING OFFICER HANNAN: Please raise your right hand. 24 Do you solemnly affirm under penalty of perjury that the 25 statements you're about to make are the truth, the whole</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

27 (105 to 108)

<p>105</p> <p>1 truth, and nothing but the truth?</p> <p>2 MR. LASKO: Yes.</p> <p>3 HEARING OFFICER HANNAN: Okay. Are you going to</p> <p>4 question them?</p> <p>5 MR. KLINE: I'll just --</p> <p>6 HEARING OFFICER HANNAN: Okay.</p> <p>7 MR. KLINE: Yeah, I'll just ask. Sir, would you please</p> <p>8 state and spell your name and give us your home address?</p> <p>9 MR. LASKO: Sure. My name is Michael Paul Lasko,</p> <p>10 L-A-S-K-O. I currently live at 5010 Baltic Avenue,</p> <p>11 Rockville, Maryland.</p> <p>12 MR. KLINE: And do you have some familiarity with the</p> <p>13 property that's the subject of Case CU 18-08?</p> <p>14 MR. LASKO: If that's 7430 Needwood Road, I've lived</p> <p>15 there most of my life.</p> <p>16 MR. KLINE: Okay. Would you just go ahead and tell us</p> <p>17 about your knowledge of the property?</p> <p>18 MR. LASKO: Okay. I just wrote some basic information</p> <p>19 down that I thought might be helpful. And I had heard from</p> <p>20 the current property owner and he asked me if there was</p> <p>21 anything that I'd like to say. And I wrote him back and</p> <p>22 this is what I would like to say.</p> <p>23 I said, I'm glad to see that an appropriate use for</p> <p>24 7430 Needwood Road has been developed. My mother and father</p> <p>25 purchased the property in about 1949 when I was three years</p>	<p>107</p> <p>1 When my parents passed away, my sister and I</p> <p>2 researched, and we thought would be the highest and best use</p> <p>3 of the property. From our parents' past experiences, it was</p> <p>4 obvious that single-family homes were not an option. We</p> <p>5 looked into what could be done to have the zoning changed to</p> <p>6 develop the property with townhouses. This would make the</p> <p>7 cost of developing Carnegie Avenue acceptable.</p> <p>8 We were advised by the county officials that although</p> <p>9 not impossible, the cost of all the plans, appeals,</p> <p>10 (inaudible) and time would be daunting and no guarantee the</p> <p>11 approval would be granted. My sister and I decided to</p> <p>12 market the property based on the principle of anticipation.</p> <p>13 That is what the property could be brought to its highest</p> <p>14 and best use with possible zoning change.</p> <p>15 We had a purchase pursuant to the zoning approval from</p> <p>16 a landscaping company. When the potential purchasers</p> <p>17 applied for the zoning and filed preliminary plans, the</p> <p>18 opposition mounted by the adjoining neighbors was massive</p> <p>19 with property owners up to two miles away objecting to the</p> <p>20 plan.</p> <p>21 The potential purchasers offered to amend their</p> <p>22 proposal to address the concerns raised by those who opposed</p> <p>23 the plan, but it was obvious that public opinion had been</p> <p>24 adversely affected by the adjoining neighbor's campaign and</p> <p>25 the potential purchasers decided it would not fit their</p>
<p>106</p> <p>1 old.</p> <p>2 At that time, the entire subdivision of Needwood</p> <p>3 Heights was two acre zoned. All the properties surrounding</p> <p>4 Needwood Heights were large, family-owned dairy farms. As</p> <p>5 time moved on, farms became residential developments. The</p> <p>6 first developments were zoned from one acre to a half acre,</p> <p>7 which made it necessary to develop public water and sewer to</p> <p>8 accommodate these zones.</p> <p>9 Needwood Heights was divided into two differently zoned</p> <p>10 areas, one acre and half acre. 7430 Needwood Road is</p> <p>11 located in the one-acre zoning area. Some of the existing</p> <p>12 homes remained on private well and septic.</p> <p>13 My mother and father had planned to subdivide 7430</p> <p>14 Needwood Road into three lots -- three, one-acre lots. They</p> <p>15 would retain one lot with their residence and then give my</p> <p>16 sister and I each a lot. Times have changed and my father</p> <p>17 found subdividing three lots, if approved, would require the</p> <p>18 development of Carnegie Avenue. This, for him, was cost</p> <p>19 prohibitive and he abandoned the plan.</p> <p>20 Years later, when my sister married, he tried once</p> <p>21 again to subdivide the property into two lots. The existing</p> <p>22 house on that one lot, and a proposed new lot for my sister</p> <p>23 and her husband. Once again, the county required that</p> <p>24 Carnegie Avenue be developed. Once again, the cost did not</p> <p>25 make economic sense.</p>	<p>108</p> <p>1 timeline and they withdrew from the contract.</p> <p>2 I've written this dialogue to express the obvious.</p> <p>3 Time changes all things. I do feel that Needwood Heights</p> <p>4 would be a better place if it still existed like it did back</p> <p>5 in the 1950s, surrounded by fields and farms instead of</p> <p>6 subdivisions. The reality is that change is inevitable and</p> <p>7 the best we can do to make sure that the best use for the</p> <p>8 majority trumps personal preference. Please put 7430</p> <p>9 Needwood Road to its highest and best use.</p> <p>10 This is my statement. I can say a lot more. As I</p> <p>11 said, I have a lifetime invested in that property. But</p> <p>12 really, I have no dog in this fight because I don't own it</p> <p>13 anymore. But I would like to see something there,</p> <p>14 eventually something is going to be there because it's too</p> <p>15 nice a property to be left vacant. So, whatever happens, I</p> <p>16 think it should be to the advantage of the county and the</p> <p>17 community. And I thank you.</p> <p>18 HEARING OFFICER HANNAN: Thank you. Do you have any</p> <p>19 questions?</p> <p>20 MR. KLINE: Just a quick one.</p> <p>21 After the attempts to build the property out as single-</p> <p>22 family detached, did you go through any marketing efforts to</p> <p>23 sell the property to a potential buyer, other than</p> <p>24 (inaudible)?</p> <p>25 MR. LASKO: You know, I'm going to let my sister, who</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

28 (109 to 112)

<p>109</p> <p>1 will speak after me, address that because she was the 2 executor and she has the information and I don't want to 3 misspeak. 4 MR. KLINE: Very good. Thank you. 5 No further questions. 6 HEARING OFFICER HANNAN: Mr. Chen? 7 MR. CHEN: Sir, how did you determine highest and best 8 use? 9 MR. LASKO: I didn't. Oh, you mean my sister and I? 10 MR. CHEN: Yeah. 11 MR. LASKO: We spoke with a realtor and we decided that 12 since obviously it would never be developed as residential, 13 that we would have to find an alternate use for the property 14 where it would, you know, maximize the worth of the 15 property. So, what we decided was we would look for people 16 who would be willing or interested in trying to develop the 17 property, other than as residential. 18 MR. CHEN: And -- 19 MR. LASKO: My sister, at one time, did contact a 20 developer and a builder. And he was quite interested in the 21 property until he checked into the situation with the open 22 road Carnegie Avenue. 23 Just to say a quick thing about Carnegie. Carnegie 24 existed for years and its an open road in that it doesn't 25 have the proper dimensions for it to be developed into a</p>	<p>111</p> <p>1 under penalties of perjury that the statement you're about 2 to make is the truth, the whole truth, and nothing but the 3 truth? 4 MS. LASKO-CRONE: I do. 5 HEARING OFFICER HANNAN: Okay. State your name and 6 address for the record. 7 MS. LASKO-CRONE: Deborah Lasko-Crone. My address 8 is -- 9 HEARING OFFICER HANNAN: Can you spell Crone, please? 10 MS. LASKO-CRONE: C-R-O-N, as in Nancy, E. My address 11 is 44059 Rising Sun Terrace, Ashburn, Virginia. 12 HEARING OFFICER HANNAN: Okay. 13 MS. LASKO-CRONE: And I would like to give a little 14 history. I know my brother has given you some, but I'm 15 going to give you a little more on the property. 16 HEARING OFFICER HANNAN: Okay. 17 MS. LASKO-CRONE: First, I'd like to start with 18 Carnegie Avenue, and I believe it was 1983, '84, in that 19 time frame with South Riding Ridge was being built on the 20 Carnegie property. We grew up with Carnegie Institute 21 behind us. There was a tracking satellite. It was a big, 22 open field. Carnegie was the lane for them to access the 23 property. 24 When the subdivision was to go in, as my brother said, 25 my father offered to give them land to make that connection</p>
<p>110</p> <p>1 currently standard road for Montgomery County. For it to be 2 developed, it would have to be developed on both sides of 3 the road, not only the 7430 side, with the neighbors on the 4 opposite side, which would probably be an impossibility. 5 If you didn't do it that way, it wouldn't connect with 6 where the pipe stem is coming out of the subdivision that is 7 adjoining. When that subdivision was originally made, my 8 dad opposed them putting that in without them developing the 9 road. And he even offered to trade them land, same amount 10 of land, from their acquisition to give them enough so that 11 they could build a road. And that was brought up at a 12 hearing -- zoning hearing, I believe, at that time. 13 MR. CHEN: When was that? 14 MR. LASKO: I have -- my sister has that information. 15 MR. CHEN: Okay. 16 MR. LASKO: You'll have to excuse me. I've had cancer 17 and I've lost some of my memory and sometimes I have trouble 18 finding the words. 19 MR. CHEN: I have no further questions. 20 HEARING OFFICER HANNAN: Okay. Anything else? 21 Well, thank you for coming. 22 MR. LASKO: Thank you. 23 HEARING OFFICER HANNAN: And the next person? Yes. 24 Come on up. 25 Please raise your right hand. Do you solemnly affirm</p>	<p>112</p> <p>1 to the new subdivision. He felt that he had worked for the 2 county, he had worked for the planning board. He had 3 testified for the planning board that it was necessary for 4 school buses, for fire trucks, ambulances, et cetera. 5 He was told -- and as my brother stated, he didn't want 6 money for the property. He just wanted to maintain three 7 acres so my brother and I could build a house there. At 8 that hearing, he was told that the county didn't need his, 9 quote, unquote, damned road. And left it on the books that 10 whoever developed either on our side of Carnegie Avenue or 11 the other side, would have to develop the road. 12 The problem is, is looking at the map, if you take a 13 close look at it, it's offset, so the road can never connect 14 without the people on opposite of 7430 Needwood Road giving 15 up a right-of-way. So that would mean the Tapscotts and 16 whoever had bought the lot in front, they would have to give 17 up so much to make the two roads meet. 18 My husband and I, in 1986, tried to build a house 19 there. We were told exactly the same thing that I'm telling 20 you today. That we would have to develop the road to county 21 standards to build one house. So, we rented the property 22 out, after my father died, for about 11 or 12 years. 23 Once our renter left, I had kids, my brother had kids, 24 we didn't feel like maintaining it anymore. We put it on 25 the market. Our realtor beat the bushes, trying to figure</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

29 (113 to 116)

<p>113</p> <p>1 out what to do with the property and came up with the idea 2 that this would be the type of property that would be good 3 for a church, a nursing home, a nursery school, and he set 4 about finding that. 5 He found a landscape contractor who actually wasn't 6 going to run a business out of it, was more of a storage lot 7 and it was opposed. 8 In 1999, I was approached by a builder to buy it. He 9 offered me a million dollars for it. But once he researched 10 Carnegie Avenue and discovered that Carnegie Avenue could 11 not be developed without major, major petitions and just a 12 lot of paperwork, he walked away. 13 So, when we sold the house to the current owner, it was 14 not marketed as anything, but 7430 Needwood Road. There was 15 no promise of what would come out of it. We knew, I'm sure 16 that they knew that you can't put houses on it. The only 17 way you could put a house on there is to come in from a pipe 18 stem off of Needwood Road. That would be -- but it's three 19 acres. 20 The other problem you have, is once you do the right- 21 of-way, because we owned the middle of Needwood Road that 22 was never taken by the county. Once we gave up that 23 easement and the easement for Carnegie Avenue, we were now 24 down below three acres and you couldn't get three building 25 lots out of it.</p>	<p>115</p> <p>1 name, your business and business address? 2 MR. REESE: My name is Russell E. Reese, R-E-E-S-E. 3 I'm with Maddox Engineers and Surveyors. We're at 3204 4 Tower Oaks Boulevard in Rockville. 5 MR. CHEN: What is your occupation, sir? 6 MR. REESE: I'm a professional land surveyor. 7 MR. CHEN: And you are with Maddox Engineers and 8 Surveyors; is that correct? 9 MR. REESE: That's correct. 10 MR. CHEN: How long has that been? 11 MR. REESE: About 34 years. 12 MR. CHEN: And you've testified before various 13 governmental agencies and state and county agencies? 14 MR. REESE: I have. 15 MR. CHEN: And you've been recognized as an expert? 16 MR. REESE: Yes. 17 MR. CHEN: In what area? 18 MR. REESE: In the area of land surveying and property 19 development, land development. 20 MR. CHEN: Mr. Kline, do you want to cross-examine? 21 MR. KLINE: I have no objections to his admissions as 22 submitted. 23 HEARING OFFICER HANNAN: Land surveyor and property 24 development? 25 MR. REESE: Land development.</p>
<p>114</p> <p>1 So, the long and short of it is, probably the only 2 thing you can do with that property, is either knock down 3 the existing house and put up one house or develop it for 4 some other type of use. And unfortunately, it is the county 5 that left it this way when they made the stipulation for 6 Carnegie Avenue. 7 HEARING OFFICER HANNAN: Okay. Thank you. 8 Any questions, Mr. Kline? 9 MR. KLINE: I couldn't have said any better. No 10 questions. 11 HEARING OFFICER HANNAN: Mr. Chen? 12 MR. CHEN: No. 13 HEARING OFFICER HANNAN: Okay. You may be excused. 14 MS. LASKO-CRONE: Thank you. 15 HEARING OFFICER HANNAN: Thank you for coming. 16 Okay. Now are we on -- is there one more person? 17 Okay. Mr. Chen? 18 MR. CHEN: Yes. Mr. Reese, please. 19 HEARING OFFICER HANNAN: Please raise your right hand. 20 Do you solemnly affirm under penalties of perjury that 21 the statements you're about to make are the truth, the whole 22 truth, and nothing but the truth? 23 MR. REESE: I do. 24 HEARING OFFICER HANNAN: Okay. Go ahead, Mr. Chen. 25 MR. CHEN: Mr. Reese, would you please give your full</p>	<p>116</p> <p>1 HEARING OFFICER HANNAN: Land surveyor and land 2 development. 3 MR. CHEN: What does land development involve, just 4 briefly? 5 MR. REESE: Well, subdivisions going through 6 preliminary plan, site plan processes, I run that department 7 at our company. 8 MR. CHEN: So, you've represented before the Maryland 9 National Capital Park and Planning Commission, different 10 property owners in those types of proceedings? 11 MR. REESE: Yes. 12 MR. CHEN: Subdivisions and site plans? 13 MR. REESE: Yes. 14 MR. CHEN: You developed and work with the staff at 15 that agency for those types of land use approvals? 16 MR. REESE: Yes, sir. 17 HEARING OFFICER HANNAN: Okay. So, lands -- I'll 18 qualify him as an expert in land surveying -- as an expert 19 land surveyor and in land development. 20 MR. CHEN: Thank you very much. 21 Madam Examiner, I -- in your absence, I did not want to 22 peruse the exhibits on your table, but I think you've got a 23 couple there that I would like to use if I may. 24 HEARING OFFICER HANNAN: You're welcome to them. 25 Actually, this is not an exhibit. This is the budget.</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

30 (117 to 120)

<p>117</p> <p>1 MR. CHEN: May I?</p> <p>2 HEARING OFFICER HANNAN: Yeah, sure. These are all in</p> <p>3 the record. They just haven't been physically added to the</p> <p>4 record yet. What are you looking for?</p> <p>5 MR. CHEN: Well, there was two. There was the -- this</p> <p>6 one has -- there was the site distance evaluations.</p> <p>7 HEARING OFFICER HANNAN: Your site distance</p> <p>8 evaluations?</p> <p>9 MR. CHEN: Yes. It looks like this.</p> <p>10 HEARING OFFICER HANNAN: They're in your -- oh, the</p> <p>11 freestanding ones? The ones that you -- this is your</p> <p>12 supplemental prehearing statement.</p> <p>13 MR. CHEN: They were included, yes. They would be</p> <p>14 Exhibit 176-II. I thought I used them during the</p> <p>15 examination.</p> <p>16 HEARING OFFICER HANNAN: You did, but I took the copies</p> <p>17 because they were copies, and put them somewhere else. I</p> <p>18 didn't know you were going to use them again.</p> <p>19 MR. CHEN: Well, let's do this. I assume you still</p> <p>20 have --</p> <p>21 HEARING OFFICER HANNAN: Because I have this.</p> <p>22 MR. CHEN: Okay. Let me -- if I may, let me hand you</p> <p>23 one for you --</p> <p>24 HEARING OFFICER HANNAN: Okay.</p> <p>25 MR. CHEN: -- so you have a full proof file. And Mr.</p>	<p>119</p> <p>1 MR. CHEN: Looking at the document, on the first page</p> <p>2 it shows street, driveway number one. Do you see that, sir?</p> <p>3 MR. REESE: Yes.</p> <p>4 MR. CHEN: And in parenthesis, it states, Lot 8, 136.6</p> <p>5 feet west. Do you see that?</p> <p>6 MR. REESE: Yes. Yeah.</p> <p>7 MR. CHEN: Which location is that again? By the way,</p> <p>8 is Lot 8 the subject property?</p> <p>9 MR. REESE: It is.</p> <p>10 MR. CHEN: Okay. Go ahead.</p> <p>11 MR. REESE: Yeah. So that study point is the position</p> <p>12 farthest west that we could find an adequate site distance.</p> <p>13 MR. CHEN: Fine. Staying on that page --</p> <p>14 MR. REESE: Yeah.</p> <p>15 MR. CHEN: -- go to street driveway number two. Do you</p> <p>16 see that?</p> <p>17 MR. REESE: Yes.</p> <p>18 MR. CHEN: And that says, Lot 8 existing.</p> <p>19 MR. REESE: Correct.</p> <p>20 MR. CHEN: Okay. Where I that location?</p> <p>21 MR. REESE: That is about 78 feet further east of the</p> <p>22 first position we talked about and it's in the center of the</p> <p>23 existing driveway apron that goes to the existing house.</p> <p>24 MR. CHEN: Okay. So that one, it says existing. It's</p> <p>25 talking about the existing driveway onto Needwood for</p>
<p>118</p> <p>1 Kline.</p> <p>2 MR. KLINE: Thank you.</p> <p>3 MR. CHEN: That's your exhibits.</p> <p>4 MR. KLINE: Thank you.</p> <p>5 MR. CHEN: Okay. Mr. Reese, I've just handed you</p> <p>6 Exhibit 176-II. Can you please explain to the hearing</p> <p>7 examiner what is this exhibit?</p> <p>8 MR. REESE: This is a standard, Montgomery County site</p> <p>9 distance evaluation form.</p> <p>10 MR. CHEN: By the way, as part of your professional</p> <p>11 responsibilities and duties, you prepared this type of a</p> <p>12 document; is that right, sir?</p> <p>13 MR. REESE: Oh, yes. Yeah.</p> <p>14 MR. CHEN: Okay. Go ahead.</p> <p>15 MR. REESE: Yeah. So, this form is just to examine</p> <p>16 proposed entrances to public roadways and make sure that</p> <p>17 adequate site distance exists. In this particular one, we</p> <p>18 were asked to do two determinations. One from the proposed</p> <p>19 driveway location for the applicant's plan, one at the</p> <p>20 existing driveway location for the house on the subject</p> <p>21 property, the existing driveway. And then one as far to the</p> <p>22 west as we could get an adequate site distance.</p> <p>23 MR. CHEN: Okay. And let me just hold there for a</p> <p>24 minute.</p> <p>25 MR. REESE: Sure.</p>	<p>120</p> <p>1 the --</p> <p>2 MR. REESE: Yes, sir.</p> <p>3 MR. CHEN: -- existing detached house.</p> <p>4 MR. REESE: That's correct.</p> <p>5 MR. CHEN: Okay. Go to page 2, please.</p> <p>6 MR. REESE: Yeah.</p> <p>7 MR. CHEN: And you'll see street, driveway number</p> <p>8 three, lot A proposed?</p> <p>9 MR. REESE: Yes.</p> <p>10 MR. CHEN: Do you see that? What is that, sir?</p> <p>11 MR. REESE: That is the proposed driveway location per</p> <p>12 the applicant's site plan.</p> <p>13 MR. CHEN: Okay.</p> <p>14 MR. REESE: Or conditional use plan.</p> <p>15 MR. CHEN: When were these prepared?</p> <p>16 MR. REESE: This was in January of this year.</p> <p>17 HEARING OFFICER HANNAN: What is number two again,</p> <p>18 please?</p> <p>19 MR. REESE: It's the existing driveway apron for the</p> <p>20 house that's --</p> <p>21 HEARING OFFICER HANNAN: For the house?</p> <p>22 MR. REESE: Yeah.</p> <p>23 HEARING OFFICER HANNAN: Okay. Thank you. Sorry.</p> <p>24 MR. CHEN: Okay. And these surveys were prepared or</p> <p>25 undertaken in January of this year?</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

31 (121 to 124)

<p>121</p> <p>1 MR. REESE: That's correct, yes.</p> <p>2 MR. CHEN: By the way, you've been on this property.</p> <p>3 Isn't that correct, sir?</p> <p>4 MR. REESE: Yeah, about six times, I believe.</p> <p>5 MR. CHEN: Six times.</p> <p>6 MR. REESE: Yeah, I believe.</p> <p>7 MR. CHEN: And you oversaw or participate in the</p> <p>8 surveys that resulted in Exhibit 176-II?</p> <p>9 MR. REESE: Yes. I was out in the street holding the</p> <p>10 targets.</p> <p>11 MR. CHEN: Okay. Would you please explain what these</p> <p>12 two pages and the results of the survey have or result in?</p> <p>13 Oh, by the way, what is this last page?</p> <p>14 MR. REESE: Oh, that was just a -- it was just a</p> <p>15 graphic example to help illustrate where the actual test</p> <p>16 locations were. And in the highlighted dimension on here of</p> <p>17 136.6 indicates where that western-most acceptable site</p> <p>18 distance point was.</p> <p>19 MR. CHEN: Okay. They correlate to the three different</p> <p>20 positions?</p> <p>21 MR. REESE: That's correct, yes. It's just a graphic</p> <p>22 representation.</p> <p>23 MR. CHEN: Okay. And there's a next to the last page</p> <p>24 that says site distance evaluation attached, and what is</p> <p>25 that sheet for?</p>	<p>123</p> <p>1 distance improved?</p> <p>2 MR. REESE: Yes.</p> <p>3 MR. CHEN: You're coming down the crest?</p> <p>4 MR. REESE: That's correct.</p> <p>5 MR. CHEN: And when you said estimate on that last one,</p> <p>6 that was estimated -- your estimate of where the applicant's</p> <p>7 access point was --</p> <p>8 MR. REESE: Proposed to be.</p> <p>9 MR. CHEN: -- proposed to be? Yes.</p> <p>10 MR. REESE: Correct.</p> <p>11 MR. CHEN: I mean, you used survey instruments and</p> <p>12 everything else to make these measurements?</p> <p>13 MR. REESE: Yeah. Yeah, but, you know, we're -- we</p> <p>14 didn't prepare the proposed drawing so --</p> <p>15 MR. CHEN: Right.</p> <p>16 MR. REESE: -- so to a certain extent, you know, we</p> <p>17 have to scale it and --</p> <p>18 MR. CHEN: Right.</p> <p>19 MR. REESE: So, we do the best we can to get close.</p> <p>20 MR. CHEN: Okay. Close to where the applicant was</p> <p>21 proposing to have access?</p> <p>22 MR. REESE: That's correct.</p> <p>23 MR. CHEN: And how much of frontage of lot, excuse me.</p> <p>24 How long or how long is the frontage of Lot 8 on Needwood?</p> <p>25 MR. REESE: It's about 208 feet, I believe.</p>
<p>122</p> <p>1 MR. REESE: This is a standard front of the form. It</p> <p>2 just illustrates the methodology that the county wants you</p> <p>3 to use, depending on the type of street and intersection.</p> <p>4 MR. CHEN: Okay. As I said, could you please explain</p> <p>5 to the examiner the results of the surveys that you</p> <p>6 undertook?</p> <p>7 MR. REESE: Sure. Well, just to go in order, the</p> <p>8 driveway, or street or driveway number one position, which</p> <p>9 is the western most that we found, we had to move several</p> <p>10 times until we found a point at a proposed center line of</p> <p>11 driveway that was exactly 250 feet for an acceptable site</p> <p>12 distance, which is the site distance based on the posted</p> <p>13 speed.</p> <p>14 And then we just observed to the other direction, left</p> <p>15 towards Redland Road, how far we could see. And then as you</p> <p>16 move to the east on the property, and we go to position</p> <p>17 number two, we're getting farther up that crest that other</p> <p>18 people have testified about, the vertical crest along this</p> <p>19 road frontage. And you can see the site distance improves</p> <p>20 dramatically as you move in that direction.</p> <p>21 And then finally, in the number three position, we</p> <p>22 estimated the proposed driveway based on the conditional use</p> <p>23 plan, and then did a study right there. All these site</p> <p>24 distances were within the adequate range.</p> <p>25 MR. CHEN: Okay. So, as you moved eastward, the site</p>	<p>124</p> <p>1 MR. CHEN: Okay. And how much of that space has</p> <p>2 adequate site distance --</p> <p>3 MR. REESE: That would be --</p> <p>4 MR. CHEN: -- or access onto it?</p> <p>5 MR. REESE: That would be the 136.6 feet.</p> <p>6 MR. CHEN: Okay.</p> <p>7 MR. REESE: From the east limit westward.</p> <p>8 MR. CHEN: Okay.</p> <p>9 HEARING OFFICER HANNAN: What was the total frontage?</p> <p>10 I'm sorry?</p> <p>11 MR. REESE: It was an approximate number. I believe</p> <p>12 it's around 208 feet and that's based on a pre-dedication,</p> <p>13 before any right-of-way dedications in addition to what's</p> <p>14 already been done.</p> <p>15 MR. CHEN: So, of the frontage of Lot 8 onto Needwood,</p> <p>16 how much of that length of frontage has adequate site</p> <p>17 distance for access?</p> <p>18 MR. REESE: That's the 136.6 feet.</p> <p>19 MR. CHEN: Okay. So, 136.6 out of 208 --</p> <p>20 MR. REESE: Correct.</p> <p>21 MR. CHEN: -- is available?</p> <p>22 MR. REESE: Yes.</p> <p>23 MR. CHEN: By the way, you've heard a lot of testimony</p> <p>24 offered in this proceeding. You've attended several</p> <p>25 hearings.</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

32 (125 to 128)

<p>125</p> <p>1 MR. REESE: Yes, sir.</p> <p>2 MR. CHEN: Is the intersection of Carnegie with</p> <p>3 Needwood a street intersection?</p> <p>4 MR. REESE: Well, it is on paper. And there is a</p> <p>5 physical apron type connection. It's not currently used as</p> <p>6 a street or maintained by the county.</p> <p>7 MR. CHEN: Okay. Let me -- Mr. Reese, I'm putting up</p> <p>8 on the easel -- this is part of Exhibit 176 -- I'm sorry,</p> <p>9 176-HH. What is this exhibit?</p> <p>10 MR. REESE: This is a comparison between the existing</p> <p>11 and proposed conditions comparing the impervious area.</p> <p>12 MR. CHEN: This is a type of calculation that you're</p> <p>13 used to undertaking in your professional services --</p> <p>14 MR. REESE: Yes, sir.</p> <p>15 MR. CHEN: That you provide? Okay. Can you please</p> <p>16 then explain to the hearing examiner, what is being depicted</p> <p>17 on this exhibit?</p> <p>18 MR. REESE: Sure. Could I approach?</p> <p>19 MR. CHEN: Yes.</p> <p>20 HEARING OFFICER HANNAN: Yes.</p> <p>21 MR. REESE: Okay. So, on this side of the exhibit --</p> <p>22 HEARING OFFICER HANNAN: Which is the -- can you use</p> <p>23 directions just so we know what side?</p> <p>24 MR. REESE: Sure. On the left-hand side of the</p> <p>25 sheet --</p>	<p>127</p> <p>1 impervious.</p> <p>2 On the right side of the sheet, with north bringing it</p> <p>3 up, shows the proposed condition, which obviously the change</p> <p>4 here is the conditional use plan. And for the subject</p> <p>5 property, we've determined that impervious cover to be 47.8</p> <p>6 percent. And I mean, that's the only significant change</p> <p>7 between the left side of the sheet and the right, talking</p> <p>8 about the subject property.</p> <p>9 MR. CHEN: If I may halt you just for a quick second.</p> <p>10 MR. REESE: Yeah.</p> <p>11 MR. CHEN: You were present when Mr. Intriago looked at</p> <p>12 this exhibit and testified?</p> <p>13 MR. REESE: Uh-huh. Yeah.</p> <p>14 MR. CHEN: And he mentioned the sidewalk shown along</p> <p>15 Carnegie --</p> <p>16 MR. REESE: Yes.</p> <p>17 MR. CHEN: -- was not included in their calc.</p> <p>18 MR. REESE: That's correct. And I'm not sure which</p> <p>19 calculation Mr. Intriago was referring to, but the</p> <p>20 side -- there's a point here --</p> <p>21 MR. CHEN: Yes.</p> <p>22 MR. REESE: -- the sidewalk is proposed on the</p> <p>23 conditional use plan would be within the dedication area.</p> <p>24 Okay so it wouldn't be within the subject property.</p> <p>25 However, what I was asked to do back in I think, November,</p>
<p>126</p> <p>1 HEARING OFFICER HANNAN: Or the -- the record doesn't</p> <p>2 know which way the sheet is pointing. So, if you -- oh, I</p> <p>3 see. You have it divided -- okay.</p> <p>4 MR. REESE: Yeah. There's two different areas.</p> <p>5 HEARING OFFICER HANNAN: I'm sorry. The side marked</p> <p>6 existing conditions.</p> <p>7 MR. REESE: Very good. The side marked --</p> <p>8 HEARING OFFICER HANNAN: Do you have a north arrow?</p> <p>9 MR. REESE: North is over here.</p> <p>10 HEARING OFFICER HANNAN: North arrow is facing up is</p> <p>11 the left side?</p> <p>12 MR. REESE: That's correct.</p> <p>13 HEARING OFFICER HANNAN: Okay.</p> <p>14 MR. REESE: Okay. So, on this side of the exhibit is</p> <p>15 merely the existing conditions. This is all based on the</p> <p>16 county GIS data. So that's county GIS property and</p> <p>17 photographic imagery.</p> <p>18 And all we've done is determine what the existing</p> <p>19 impervious discernible by Google or type level of detail</p> <p>20 exists currently. We've outlined it, shaded it just so we</p> <p>21 can see it a little bit better and then calculated it</p> <p>22 compared to the actual property area to come up with</p> <p>23 percentage of impervious. And these percentages on the</p> <p>24 existing side indicate on the subject property that the</p> <p>25 current existing condition there at about 4.6 percent</p>	<p>128</p> <p>1 October, when I did this, was to compare this impervious</p> <p>2 area to Montgomery County Park and Planning Staff Report.</p> <p>3 MR. CHEN: Okay.</p> <p>4 MR. REESE: And the staff report actually shows this as</p> <p>5 part of the impervious, as if they used it in their</p> <p>6 calculation so we included it. And we used the total</p> <p>7 property area. So, before any additional dedications as</p> <p>8 proposed by the condition of use.</p> <p>9 So, if we take the sidewalk out of the equation and</p> <p>10 I -- this is just rough, back of the envelope kind of</p> <p>11 calculation, but if you take that five-foot dedication</p> <p>12 that's proposed, this percentage would actually go up to</p> <p>13 about 49.</p> <p>14 HEARING OFFICER HANNAN: What percentage? I didn't see</p> <p>15 which one you pointed at.</p> <p>16 MR. REESE: The 47.8.</p> <p>17 HEARING OFFICER HANNAN: Okay.</p> <p>18 MR. REESE: In the proposed condition.</p> <p>19 MR. CHEN: Just so we're all clear on that. You're</p> <p>20 saying, as I understand it, if you back out the dedication</p> <p>21 area --</p> <p>22 MR. REESE: Yeah.</p> <p>23 MR. CHEN: -- within which the sidewalk is to be</p> <p>24 constructed --</p> <p>25 MR. REESE: Yes.</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

33 (129 to 132)

<p>129</p> <p>1 MR. CHEN: -- and that was the distinction Mr. Intriago 2 pointed out yesterday. 3 MR. REESE: Yes. 4 MR. CHEN: That leaves you on the resulting subject 5 property, a percentage that's higher, actually? 6 MR. REESE: Yeah. 7 MR. CHEN: Is that -- 8 MR. REESE: It's a little bit higher. 9 MR. CHEN: Okay. Go ahead. 10 MR. REESE: So, it's a bit of awash, but it does move 11 it up a little bit. And then, we also, you know, if you 12 base that dedication on the DOT comments from the DRC 13 Committee meeting and actually do a ten foot dedication, 14 you're closer to 50 percent on impervious, of course without 15 including the sidewalk. 16 But this general exhibit presentation was really geared 17 for comparison with the staff report. And I believe it's 18 figure 6 in the staff report where they refer to this 19 impervious cover as 36 to 38 percent. And -- 20 MR. CHEN: Substantially lower than what you've got? 21 MR. REESE: Yes. And I believe I know why. 22 MR. CHEN: Okay. Go ahead. 23 MR. REESE: Although, I don't know how they came up 24 with their number, but just looking at their graphic. They 25 do not include the areas of playground as impervious area.</p>	<p>131</p> <p>1 a second. 2 MR. REESE: Of course. 3 MR. CHEN: You're saying page 8, you're referring to? 4 MR. REESE: Of the staff report, yes. 5 MR. CHEN: Okay. Madam Examiner, I know you've 6 got -- it's there for the record but let me hand you page 8. 7 At least you don't have to go digging for it, you can 8 follow. 9 HEARING OFFICER HANNAN: Okay. 10 MR. REESE: And you can see on figure 6, that that 11 sidewalk is shaded and exists on there. But the playground 12 area, which comes almost to that sidewalk on our exhibit is 13 not included. 14 MR. CHEN: Okay. So, in the text they say it should, 15 but when you look at the graphic, it's not. Is that in this 16 statement? 17 MR. REESE: Well, I don't know if they mentioned the 18 playground area in their text. 19 MR. CHEN: Okay. 20 MR. REESE: I'm not sure about that. The place I've 21 seen it mentioned was in some DPS comments. 22 MR. CHEN: Okay. Fine. 23 MR. REESE: Oh, and one other thing, Mr. Chen, the 24 other numbers that I have included. 25 MR. CHEN: Yes.</p>
<p>130</p> <p>1 MR. CHEN: Okay. 2 MR. REESE: Which I think was determined throughout the 3 review process by DPS to be -- needing to be considered as 4 impervious, yes. 5 MR. CHEN: You're saying notwithstanding the 6 information from the staff that that area should be included 7 in the calculation for impervious area. It's based upon 8 your review of the staff information that they're providing 9 and their illustration that somehow that area was however 10 not included in the calculation that they made for the 11 impervious area on the site? 12 MR. REESE: Yes. And if you refer to the staff report 13 and I don't know if that's already been put in evidence. 14 MR. CHEN: Their report is in evidence. 15 MR. REESE: So, the staff report of Exhibit 6. 16 MR. CHEN: What page is that on? 17 MR. REESE: I'll tell you in one -- it's on page number 18 8. And it's a much smaller scale picture so it's a little 19 bit harder to pick out, but the shape of the impervious 20 area, you can see, is substantially different than what's 21 shown on the current exhibit we're looking at. And it's 22 because it does not include those playground areas. So, I'm 23 assuming, based on that information, that that's the reason 24 our numbers differ. 25 MR. CHEN: Here you go. Let me hold you there just for</p>	<p>132</p> <p>1 MR. REESE: I -- 2 MR. CHEN: Let me take you to that. 3 MR. REESE: Okay. 4 MR. CHEN: Surrounding the subject property you've got 5 to the east, or the right, as you look at it, you see 6 the -- my client's property; is that correct? 7 MR. REESE: Yes. 8 MR. CHEN: And across the street, my other client, Ms. 9 English's property is across the street? 10 MR. REESE: That's correct, yeah. 11 MR. CHEN: I noticed -- 12 HEARING OFFICER HANNAN: We're still referring now to 13 176-HH? 14 MR. CHEN: Yes. Thank you. 15 HEARING OFFICER HANNAN: Or 198, larger version of 176- 16 HH. 17 MR. CHEN: Okay. Thank you. On the properties that 18 are surrounding the subject property, there are numbers with 19 percentage signs next to the numbers. Do you see them? 20 MR. REESE: Yeah. 21 MR. CHEN: And you put them there? 22 MR. REESE: Yes. 23 MR. CHEN: What do they proprot to show? 24 MR. REESE: Well, those are the pervious percent -- or 25 impervious percentages for the adjacent properties to the</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

34 (133 to 136)

<p>133</p> <p>1 subject property and also one on the other side of the 2 Kosary property. 3 MR. CHEN: Okay. So just by way of example, if I point 4 to the property that says 7500 -- 5 MR. REESE: Yes. 6 MR. CHEN: -- it say PT-7 -- with frontage on Needwood 7 and also Carnegie on the side. That property has been 8 referenced several times in these proceedings, 7500. 9 MR. REESE: Yes, sir. 10 MR. CHEN: Needwood. And what is the percentage of 11 coverage on that lot? 12 MR. REESE: That's 9.2 percent. 13 MR. CHEN: Okay. So, by way of example, all of those 14 adjacent, nearby lots, that percentage number is your 15 calculation of the impermeable space on each of those lots? 16 MR. REESE: That's correct. 17 MR. CHEN: Yeah, and that too was done to draw a 18 comparison to the Montgomery County Staff Report or 19 Department of Planning Staff Report. 20 The staff report defines the neighborhood of this 21 project in very broad terms. It's a huge neighborhood. And 22 I believe -- and this is just my theory that they used an 23 average -- standard average impervious percentage to 24 describe -- 25 MR. REESE: To come up with the number.</p>	<p>135</p> <p>1 THE CLERK: 202. 2 HEARING OFFICER HANNAN: Does Mr. Kline have one of 3 these? 4 MR. KLINE: Yes. 5 HEARING OFFICER HANNAN: Do you have any objection? 6 MR. KLINE: I don't know what it is yet. 7 MR. CHEN: Mr. Reese, turn your attention now to 8 Exhibit 202, which is up on the easel. What is this 9 document? 10 MR. REESE: This was a scan of the CUP-4 of the 11 conditional use plan set that we were asked to take a look 12 at and apply a ten-foot dedication that would correlate with 13 the DOT comments that were in the Development and Review 14 Committee meeting notes or meeting comments where they had 15 asked for a ten-foot dedication. 16 MR. CHEN: So, what are you doing with this exhibit or 17 trying to depict? 18 MR. REESE: Well, and again, north is oriented up on 19 this page. This shows the subject property, like as I said, 20 it's a scan of the CUP-4 sheet. All we've done was offset 21 the existing dedication the appropriate distance for a ten- 22 foot dedication and then we applied a 50-foot building 23 restriction line where -- obviously, it's five feet further 24 than was shown on the conditional use plan. 25 MR. CHEN: Okay.</p>
<p>134</p> <p>1 MR. CHEN: -- the existing condition. 2 MR. REESE: So, we thought it would be helpful to show 3 in the immediate vicinity of this project, what the averages 4 are. So, you know, in the staff report, which again is 5 still on page 8, it says subject property is located within 6 the neighborhood in the RE-1 Zone with a 23 percent typical 7 impervious level. And then the property confronts -- across 8 Needwood Road, a neighborhood within the R-200 Zone 9 will -- 26 percent. So, 23 and 26. 10 And we were kind of hard pressed to find anything close 11 to those percentages in the immediate neighborhood, okay. 12 It may be true across the entire as they defined it, but you 13 know, the -- even the properties to the south -- and this 14 doesn't matter if you're left to right, it's all existing 15 conditions. We do have one that's approaching 23 percent, 16 but besides that, they're all under 20 percent. And across 17 on Cece's side of the street or the North side of Needwood. 18 MR. CHEN: Ms. English's side of the street? 19 MR. REESE: Yes. Thank you. You know, there's an 8.4 20 percent, a 12.4, and a 22.8. So, the averages in the 21 immediate vicinity were quite a bit different than if you 22 were to just take it from the staff report. And we also 23 show the church property, which of course has a much higher 24 percentage. It's up over 50 percent. 25 MR. CHEN: What's your next number, Madam Examiner?</p>	<p>136</p> <p>1 MR. REESE: And then we've highlighted a few areas 2 where it's intercepting a chunk of the building here on the 3 west side of the property and on the westside of the parking 4 bays, the 13 parking bays there. 5 MR. CHEN: It looks like there's some micro 6 infiltration facilities (inaudible) also? 7 MR. REESE: Yeah, it goes through there. 8 MR. CHEN: And also, the trash collection area? 9 MR. REESE: Yes. 10 MR. CHEN: So, as I understand it, what you're 11 depicting on this exhibit is the setback if the dedication 12 for Carnegie were held at ten feet; is that right? 13 MR. REESE: Yes, sir. We prepared this back in 14 November, and I think at the time, in the record, all we 15 were seeing was the DOT comment saying ten-foot dedication, 16 so we were just applying that to this plan. 17 MR. CHEN: Okay. And next Exhibit 203. 18 HEARING OFFICER HANNAN: What do you call this, the 19 impervious area, BLR? 20 MR. KLINE: Not impervious, no. 21 MR. CHEN: Well, yeah -- 22 HEARING OFFICER HANNAN: Is there an objection -- just 23 a second. Is there an objection? 24 MR. KLINE: To 202? 25 MR. CHEN: Yeah.</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

35 (137 to 140)

137	<p>1 MR. KLINE: No, ma'am.</p> <p>2 HEARING OFFICER HANNAN: Impervious?</p> <p>3 MR. REESE: Area BRL impact, building restriction line</p> <p>4 impact.</p> <p>5 HEARING OFFICER HANNAN: Yeah. Okay. So now we're at</p> <p>6 203. Can you give me a description for this?</p> <p>7 MR. CHEN: One second.</p> <p>8 HEARING OFFICER HANNAN: Okay.</p> <p>9 MR. CHEN: Okay. Mr. Reese, I'm showing you Exhibit</p> <p>10 203.</p> <p>11 MR. REESE: Yes, sir.</p> <p>12 MR. CHEN: Can you tell the examiner what is this</p> <p>13 document?</p> <p>14 MR. REESE: This is a DOT standard for a secondary</p> <p>15 residential street with a 60-foot wide right-of-way.</p> <p>16 MR. CHEN: This is straight out of county records, sir?</p> <p>17 MR. REESE: That's correct.</p> <p>18 MR. CHEN: It's a standard detail. And what is the</p> <p>19 purpose of this exhibit relative to Exhibit 202?</p> <p>20 MR. REESE: Well, it's basically the roadway</p> <p>21 improvements that we would have depicted within Carnegie</p> <p>22 right-of-way, if it were dedicated to a 60-foot wide width.</p> <p>23 MR. CHEN: And that correlates to the DOT DRC comments?</p> <p>24 MR. REESE: Yes, that's correct. They've asked that</p> <p>25 Carnegie be built. I think it was their comment number 7.</p>	139	<p>1 the different colors in the county?</p> <p>2 MR. REESE: Yeah. There's a reddish shading that</p> <p>3 indicates areas of priority funding and they kind of</p> <p>4 surround this project area, but they do not include it.</p> <p>5 It's a very small scale though.</p> <p>6 MR. CHEN: Okay.</p> <p>7 HEARING OFFICER HANNAN: Okay. I'm going to mark that</p> <p>8 204 color --</p> <p>9 MR. KLINE: So, it would be -- before we do that, can I</p> <p>10 just -- I hope it's not a premature objection, but I would</p> <p>11 not expect the land surveyor to be talking about priority</p> <p>12 funding or (inaudible)?</p> <p>13 MR. CHEN: You were anticipating wrong.</p> <p>14 MR. KLINE: Then apparently I'm premature in my</p> <p>15 objection. May I reserve my objection until I find out what</p> <p>16 the hell is going on?</p> <p>17 HEARING OFFICER HANNAN: Yes.</p> <p>18 MR. CHEN: Okay. I know you also -- well --</p> <p>19 HEARING OFFICER HANNAN: Wait. Let me mark it and</p> <p>20 describe it and then we can let everything go. Okay. So,</p> <p>21 Exhibit 204 is color printout of Montgomery County Priority</p> <p>22 Funding area.</p> <p>23 MR. CHEN: Sir, how did you get this document?</p> <p>24 MR. REESE: I got it from the Montgomery</p> <p>25 County -- Maryland National Capital Park and Planning</p>
138	<p>1 We recommend the applicant to construct Carnegie Avenue and</p> <p>2 connect to the existing Carnegie. So, Exhibit 203 is the</p> <p>3 applicable standard for what is recommended in the DOT</p> <p>4 notes.</p> <p>5 HEARING OFFICER HANNAN: Are we doing more? Do you</p> <p>6 want to mark them all now or --</p> <p>7 MR. CHEN: I think I've got two more just very short, I</p> <p>8 think.</p> <p>9 HEARING OFFICER HANNAN: Okay. I just -- Mr. Kline, do</p> <p>10 you have an objection to this?</p> <p>11 MR. KLINE: 202, I did not. 203, were we just talking</p> <p>12 about? Is that what we're talking about?</p> <p>13 HEARING OFFICER HANNAN: Yeah.</p> <p>14 MR. KLINE: Yeah, no I have no objection.</p> <p>15 HEARING OFFICER HANNAN: Okay. I'm going to mark 203</p> <p>16 DOT Standard Detail for 60-foot residential street.</p> <p>17 MR. KLINE: Secondary residential street.</p> <p>18 HEARING OFFICER HANNAN: Okay. All right.</p> <p>19 MR. CHEN: I don't know if I gave you this earlier.</p> <p>20 Mr. Reese, I'm showing you Exhibit 204.</p> <p>21 MR. REESE: Yes, sir.</p> <p>22 MR. CHEN: Can you identify this exhibit?</p> <p>23 MR. REESE: Yes. This is a color printout of the</p> <p>24 county wide priority funding area.</p> <p>25 MR. CHEN: And which part can you interpret the colors,</p>	140	<p>1 website.</p> <p>2 MR. CHEN: Okay. So, this is just a document that's</p> <p>3 been reproduced off of the official records of the website</p> <p>4 of Maryland National Capital Park and Planning Commission?</p> <p>5 MR. REESE: Yes, sir.</p> <p>6 MR. CHEN: That's all on that. I'm showing you a</p> <p>7 document that's marked 205. Can you identify that?</p> <p>8 MR. REESE: Yeah. So, this is a blow up of the</p> <p>9 priority funding area in the more immediate vicinity of the</p> <p>10 project. And this was obtained from the Maryland Department</p> <p>11 of Planning, the statewide Department of Planning.</p> <p>12 MR. CHEN: From their site?</p> <p>13 MR. REESE: From their website, yes.</p> <p>14 MR. KLINE: I'll --</p> <p>15 HEARING OFFICER HANNAN: So, I'm going to call</p> <p>16 this -- oh, go ahead.</p> <p>17 MR. KLINE: No, I'll try my objection now again. If he</p> <p>18 is merely delivering stuff off the internet, I guess I can't</p> <p>19 object to it. But it's not something of subject matter that</p> <p>20 I would expect to hear from this witness.</p> <p>21 MR. CHEN: All he's giving is what he printed off the</p> <p>22 website.</p> <p>23 MR. KLINE: Why wouldn't this stuff come from Mr.</p> <p>24 Davis, your land use planner? Because priority funding is</p> <p>25 clearly a land use planning issue.</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

36 (141 to 144)

<p>141</p> <p>1 MR. CHEN: He didn't print it. That's the only 2 difference. 3 MR. KLINE: How about if I stipulate -- we understand 4 that it comes from the county's records. I just -- 5 MR. CHEN: Yeah, that's all it is. I just want to make 6 sure -- 7 HEARING OFFICER HANNAN: This one is from the State, 8 right? 9 MR. KLINE: Correct. 10 MR. CHEN: Right. 11 HEARING OFFICER HANNAN: I'm going to call it -- 12 MR. KLINE: If he's not going to testify to any of the 13 importance of it, then yes I agree. Okay. 14 MR. CHEN: No, he's not going to cover it or anything 15 like that. Yeah. 16 HEARING OFFICER HANNAN: Okay. I'm going to call it 17 enlargement, instead of blowup, of priority funding area 18 showing immediate vicinity of subject property. 19 MR. CHEN: I'm done. I have no further questions. 20 HEARING OFFICER HANNAN: Okay. 21 MR. KLINE: May I have back page 8 of the staff report? 22 HEARING OFFICER HANNAN: If I haven't destroyed it yet. 23 If it doesn't self-destruct. Here you go. 24 MR. CHEN: Mr. Kline, would you need this page 8 for 25 your examination, do you think?</p>	<p>143</p> <p>1 MR. KLINE: What -- 2 HEARING OFFICER HANNAN: Not now. What I'd like to 3 do -- if I may -- is get through Mr. Chen today. 4 MS. RICE: Absolutely. 5 HEARING OFFICER HANNAN: And then are you opposing this 6 or are you supporting this or are you neither? 7 MS. RICE: There's ample reasons -- I just wanted to 8 give you a heads up that I'd like to speak again. 9 HEARING OFFICER HANNAN: Okay. 10 MS. RICE: I don't want to interrupt this part. 11 HEARING OFFICER HANNAN: Mr. Kline, do you have an 12 objection if Ms. Rice testifies again? 13 MR. KLINE: Yes. I mean, I would have a general 14 objection to anybody testifying twice. I guess in this 15 context, we've been going a lot longer than I thought. Ms. 16 Rice would have the opportunity to hear all the testimony 17 before and then testify at the end, as we normally would in 18 the case. So, she didn't have to come back up a second 19 time. I don't have a problem, because apparently we're not 20 going to finish today. The record will be left open. And 21 she can continue to do as she's going because we're all 22 reading what she said in the end, so it's not like we won't 23 hear her. But I just as soon not carry it over any further 24 nor support the principle of having somebody get to testify 25 at the beginning of the case and at the end of the case as</p>
<p>142</p> <p>1 MR. KLINE: I don't think so. Let me just see it real 2 quick and -- 3 MR. CHEN: It's a copy of page 8. 4 MR. KLINE: No. Can I have one second, please? 5 HEARING OFFICER HANNAN: Yes. 6 Ms. Rice-Ackad? 7 MS. RICE: I am going to request to do individual 8 testimony at some point. 9 HEARING OFFICER HANNAN: Okay. You've already given 10 testimony and you've written in with your points. 11 MS. RICE: Correct, but I don't think you can have a 12 fair hearing if an interested party does not have the 13 opportunity to give information after the plan of operation 14 has been presented. And my testimony at the beginning of 15 the hearing was in reference to a completely different 16 everchanging plan of operation. I think it would be helpful 17 if I give you some information verbally so you can ask me 18 some questions. And other information via email if you keep 19 the record open. But I think some of the information that I 20 have to offer you, is -- 21 HEARING OFFICER HANNAN: Would be helpful? 22 MS. RICE: -- going to be pretty valuable and you would 23 want to ask me questions. 24 HEARING OFFICER HANNAN: Okay. Mr. Kline, do you have 25 an objection?</p>	<p>144</p> <p>1 well. 2 Mr. Chen? 3 MR. CHEN: I've never -- to be totally candid, I've 4 never seen that happen, but -- 5 HEARING OFFICER HANNAN: Well, what I'm going to do is 6 at the very least, I'll accept detailed written comments. 7 I'm going to -- what my main concern is to get through Mr. 8 Chen's case at this point. So, I'd like to defer whether 9 you can testify again until we get to the point where we're 10 closing in on Mr. Chen's case. 11 MS. RICE: I'd like to suggest that you also consider 12 limiting me to the plan of operations and my expertise or my 13 experience in being a childcare provider for 30 years. 14 Specifically, about MSDE regulations and information that is 15 inaccurate in the record. 16 HEARING OFFICER HANNAN: Well, you can write that in. 17 MS. RICE: You won't be able to ask me questions if -- 18 HEARING OFFICER HANNAN: Well -- 19 MS. RICE: I think it would be very beneficial if you 20 allowed me to -- and limited me to -- 21 HEARING OFFICER HANNAN: Well, let's -- 22 MS. RICE: -- plan of operation. 23 HEARING OFFICER HANNAN: Okay. Let's deal with that. 24 First, I'm going to see if we can't get as far as possible 25 into Mr. Chen's case.</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

37 (145 to 148)

<p>145</p> <p>1 MS. RICE: Right now, it's just a heads up.</p> <p>2 HEARING OFFICER HANNAN: I understand.</p> <p>3 Okay. Mr. Chen keep going.</p> <p>4 MR. CHEN: I've concluded with Mr. Reese.</p> <p>5 HEARING OFFICER HANNAN: Okay. Now, I'm -- did you get</p> <p>6 cross-examination?</p> <p>7 MR. KLINE: Not yet.</p> <p>8 HEARING OFFICER HANNAN: Okay. Go ahead, then.</p> <p>9 MR. KLINE: All right. Mr. Reese, there's been a</p> <p>10 number of times you've talked about the DOT</p> <p>11 recommendations --</p> <p>12 MR. REESE: Yes, sir.</p> <p>13 MR. KLINE: -- for right-of-way? And you referenced,</p> <p>14 in all cases, I believe, are to the concept plan review by</p> <p>15 the development review committee?</p> <p>16 MR. REESE: Yes. That's the only comments from DOT</p> <p>17 that I've been made aware.</p> <p>18 MR. KLINE: In those DOT comments, recommendation</p> <p>19 number six says we recommend a ten-foot dedication along the</p> <p>20 site frontage and then number seven says, we recommend the</p> <p>21 applicant construct Carnegie Avenue and connect to the</p> <p>22 existing Carnegie Avenue. There is no reference in there to</p> <p>23 an ultimate right-of-way to be achieved. So, you came up</p> <p>24 with 60-feet. Where did you come up with that?</p> <p>25 MR. REESE: Well, because 10 feet on both sides would</p>	<p>147</p> <p>1 MR. REESE: They've been showing five feet, yes.</p> <p>2 MR. KLINE: Thank you. No further questions.</p> <p>3 HEARING OFFICER HANNAN: Any redirect?</p> <p>4 MR. CHEN: What is the authority of the staff and the</p> <p>5 board recommendation as far as deeds and dedication?</p> <p>6 MR. REESE: Well, my understanding of that -- and that</p> <p>7 may be a better question for Mr. Davis. My understanding of</p> <p>8 that is that in the subdivision process is where they have</p> <p>9 the most leeway as far as what they recommend for right-of-</p> <p>10 way reduction or doing things beyond a full dedication.</p> <p>11 I've always -- in my experience, it's almost always the</p> <p>12 DOT requirement that --</p> <p>13 MR. KLINE: Through a subdivision --</p> <p>14 MR. REESE: Through a subdivision record plat.</p> <p>15 MR. KLINE: Okay. And subdivision is not being</p> <p>16 recommended in this case; is that right?</p> <p>17 MR. REESE: That's my understanding.</p> <p>18 MR. KLINE: And with regard to the properties on the</p> <p>19 westside of Carnegie, Tapscott property and the Mitchell</p> <p>20 property since they're not being built, they're not going to</p> <p>21 be subject to a dedication requirement; is that correct?</p> <p>22 MR. REESE: That's correct.</p> <p>23 MR. KLINE: And what will be the alternative for the</p> <p>24 county to get those property -- those areas, that ten-foot</p> <p>25 area?</p>
<p>146</p> <p>1 create a 60-foot wide right-of-way.</p> <p>2 MR. KLINE: Oh, you're assuming if you get ten from</p> <p>3 one, that they'll get ten feet from the other?</p> <p>4 MR. REESE: Well, in the ultimate condition, yes.</p> <p>5 MR. KLINE: You were here when Ms. Mitchell talked</p> <p>6 about her brand-new house. How are we going to get ten feet</p> <p>7 from Ms. Mitchell on her westside of the road?</p> <p>8 MR. REESE: Yeah, I don't know.</p> <p>9 MR. KLINE: And the lot -- the property to the south of</p> <p>10 that is platted also, so that would not be subject to</p> <p>11 dedication requirements either, correct?</p> <p>12 MR. REESE: That's my understanding, yes.</p> <p>13 MR. KLINE: All right. Amended -- well, I'm sorry,</p> <p>14 condition number 12 recommended by the planning board says</p> <p>15 that the applicant will provide right-of-way dedications</p> <p>16 from Needwood Road and Carnegie Avenue as shown on the</p> <p>17 condition of use plan to be accomplished by deeds of</p> <p>18 dedication, prior to the issuance of the building permit.</p> <p>19 The condition of use plan has been presented to the hearing</p> <p>20 examiner. It's consistent with what the planning board</p> <p>21 reviewed and approved; is it not?</p> <p>22 MR. REESE: Yes. Regarding the dedication amounts,</p> <p>23 absolutely.</p> <p>24 MR. KLINE: Right. And that's how much dedication on</p> <p>25 Carnegie Avenue frontage?</p>	<p>148</p> <p>1 MR. REESE: They could purchase them.</p> <p>2 MR. KLINE: Yeah. I have no further questions.</p> <p>3 MR. CHEN: Just a quick, I want to go back to -- but</p> <p>4 you, you know, since lot 8 is already platted, preliminary</p> <p>5 platted subdivision dedication would not be a process we</p> <p>6 would need -- normally need to go through?</p> <p>7 MR. KLINE: This is recross, but that's okay.</p> <p>8 HEARING OFFICER HANNAN: Yeah, I know. I didn't -- I</p> <p>9 don't want to open it up to recross.</p> <p>10 MR. CHEN: If I went too far, that's fine.</p> <p>11 HEARING OFFICER HANNAN: Okay. So, let's cut it off</p> <p>12 there. You may be excused.</p> <p>13 MR. REESE: Thank you.</p> <p>14 MR. CHEN: Hold on a minute. I guess I was about to</p> <p>15 call my next witness, but I've also just been told that</p> <p>16 there's somebody in the audience who would like to testify.</p> <p>17 I'll defer to whatever you want to do.</p> <p>18 HEARING OFFICER HANNAN: Okay. Let's -- who wants</p> <p>19 to -- who wishes to testify? Is there -- okay, please come</p> <p>20 forward. Do you have an objection, Mr. Kline?</p> <p>21 MR. KLINE: No, ma'am.</p> <p>22 HEARING OFFICER HANNAN: Have a seat there, please.</p> <p>23 When you get seated, please raise your right hand. Do you</p> <p>24 solemnly affirm under penalties of perjury, the statements</p> <p>25 you are about to make are the truth, the whole truth, and</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

38 (149 to 152)

<p>149</p> <p>1 nothing but the truth?</p> <p>2 MR. CAPONITI: Yes.</p> <p>3 HEARING OFFICER HANNAN: Okay. Please state your name</p> <p>4 and address for the record.</p> <p>5 MR. CAPONITI: My name is Anthony Caponiti. I am at</p> <p>6 16136 Deer Lake Road in Derwood, Maryland in the South</p> <p>7 Riding neighborhood.</p> <p>8 HEARING OFFICER HANNAN: Can you spell your last name?</p> <p>9 MR. CAPONITI: Sure. It's four simple words -- cap,</p> <p>10 on, it, I.</p> <p>11 HEARING OFFICER HANNAN: Cap, on, it, I. Okay. And</p> <p>12 that's 16136 Deer Wood Road?</p> <p>13 MR. CAPONITI: Deer lake.</p> <p>14 HEARING OFFICER HANNAN: Deer Lake Road. Okay. And is</p> <p>15 that Derwood?</p> <p>16 MR. CAPONITI: That is Derwood.</p> <p>17 HEARING OFFICER HANNAN: Okay. Go ahead.</p> <p>18 MR. CAPONITI: I want to address the safety issue first</p> <p>19 because I think that's probably the point of most primary</p> <p>20 important aspect of the proposed issue.</p> <p>21 This proposed site is very close to a major</p> <p>22 intersection and would most likely cause delays to commuters</p> <p>23 in the Needwood area. In the most recent picture, one of</p> <p>24 our neighbors during the morning commute, at already 8:30 in</p> <p>25 the morning, you can already see that the traffic is backed</p>	<p>151</p> <p>1 MR. CAPONITI: The house in front of Mr. Kosary's</p> <p>2 property.</p> <p>3 HEARING OFFICER HANNAN: Okay. Can you take a look at</p> <p>4 that 148 there? And our records -- this goes up on appeal</p> <p>5 on a written record and they don't know where right and left</p> <p>6 is.</p> <p>7 MR. CAPONITI: I understand.</p> <p>8 HEARING OFFICER HANNAN: So, can you show me, does the</p> <p>9 driveway appear on that drawing?</p> <p>10 MR. CAPONITI: It does, indeed. So, the car is here.</p> <p>11 HEARING OFFICER HANNAN: For here, it's on Needwood.</p> <p>12 MR. CAPONITI: It's on Needwood Road --</p> <p>13 HEARING OFFICER HANNAN: Westbound. West --</p> <p>14 MR. CAPONITI: I believe that is westbound, right.</p> <p>15 HEARING OFFICER HANNAN: Yes.</p> <p>16 MR. CAPONITI: And so, you can already --</p> <p>17 HEARING OFFICER HANNAN: At the far --</p> <p>18 MR. CAPONITI: Pretty much at the far --</p> <p>19 HEARING OFFICER HANNAN: -- east --</p> <p>20 MR. CAPONITI: -- part of the -- in the far right --</p> <p>21 HEARING OFFICER HANNAN: Far eastern --</p> <p>22 MR. CAPONITI: -- of the picture.</p> <p>23 HEARING OFFICER HANNAN: Yeah, far right of the</p> <p>24 picture. Okay. Go ahead.</p> <p>25 MR. CAPONITI: Yeah. So, this picture was taken at</p>
<p>150</p> <p>1 up --</p> <p>2 HEARING OFFICER HANNAN: Okay. Just one second. Did</p> <p>3 you take this picture?</p> <p>4 MR. CAPONITI: No. One of our neighbors took that</p> <p>5 picture and I made a copy of it.</p> <p>6 HEARING OFFICER HANNAN: Okay. Do you want to look at</p> <p>7 this?</p> <p>8 MR. KLINE: Could you just orient us, sir?</p> <p>9 MR. CAPONITI: Yes, sir. So --</p> <p>10 COURT REPORTER: Excuse me. Why don't we start with a</p> <p>11 number on it first if the gentleman is going to describe it.</p> <p>12 HEARING OFFICER HANNAN: 206. What is this -- well,</p> <p>13 why don't you orient us? Where is the picture taken from</p> <p>14 and where is it looking to?</p> <p>15 MR. CAPONITI: Okay. So, this is on Needwood Road.</p> <p>16 The traveler in the picture is heading towards Redland Road</p> <p>17 in the picture.</p> <p>18 HEARING OFFICER HANNAN: Okay.</p> <p>19 MR. CAPONITI: Directly to your left is the driveway to</p> <p>20 the Presbyterian Church. You can see up on the horizon, the</p> <p>21 house that is directly past the proposed site. And you can</p> <p>22 see a car that's attempting to make a left-hand turn, which</p> <p>23 is the residence right to the right of the proposed site.</p> <p>24 HEARING OFFICER HANNAN: Mr. Kosary's property? Or do</p> <p>25 you know?</p>	<p>152</p> <p>1 approximately 8:30 in the morning. As you can see, traffic</p> <p>2 is already backing up beyond the drive here.</p> <p>3 HEARING OFFICER HANNAN: Backing up beyond which drive?</p> <p>4 MR. CAPONITI: Well, ahead of the drive of the proposed</p> <p>5 daycare center.</p> <p>6 HEARING OFFICER HANNAN: So, it's stacking</p> <p>7 up -- westbound traffic is stacking up east of the driveway</p> <p>8 for this proposed center?</p> <p>9 MR. CAPONITI: Correct.</p> <p>10 HEARING OFFICER HANNAN: Okay. Now, do you have any</p> <p>11 objections?</p> <p>12 MR. CHEN: I don't.</p> <p>13 MR. KLINE: I don't have an objection to the admission.</p> <p>14 I think I have some questions about the exhibit.</p> <p>15 HEARING OFFICER HANNAN: That's fine. You can finish,</p> <p>16 but I'm going to call it photo westbound -- photo depicting</p> <p>17 traffic westbound on Needwood at -- before Church. No,</p> <p>18 photo depicting --</p> <p>19 MR. CAPONITI: Approximately right where the church</p> <p>20 drive is.</p> <p>21 HEARING OFFICER HANNAN: Okay. Photo depicting traffic</p> <p>22 taken from westbound Needwood at approximate location of the</p> <p>23 church. Okay.</p> <p>24 Okay. So that was long but continue your testimony.</p> <p>25 MR. CAPONITI: Yes, ma'am.</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

39 (153 to 156)

<p>153</p> <p>1 So, this was part of the --</p> <p>2 HEARING OFFICER HANNAN: Do you need this back?</p> <p>3 MR. CAPONITI: You can keep it if you'd like. I can</p> <p>4 always make another copy.</p> <p>5 HEARING OFFICER HANNAN: Okay.</p> <p>6 MR. CAPONITI: In the proposed site, which was -- I</p> <p>7 don't have the page number. Oh, page 2, of the proposed</p> <p>8 site, there is --</p> <p>9 HEARING OFFICER HANNAN: What document? I'm sorry,</p> <p>10 what document?</p> <p>11 MR. CAPONITI: This was the document that was presented</p> <p>12 to Department of Planning by the applicant.</p> <p>13 HEARING OFFICER HANNAN: Oh, okay. It looks like the</p> <p>14 staff report. Do you know what it is?</p> <p>15 MR. KLINE: It's either an excerpt out of our traffic</p> <p>16 study or it is a page from our staff report.</p> <p>17 HEARING OFFICER HANNAN: Just hold up one second so we</p> <p>18 can identify it.</p> <p>19 MR. CAPONITI: It says 2 of 3, but I'm not sure if</p> <p>20 that's from my printer or -- yes, sir. Right there.</p> <p>21 MR. KLINE: If you'll just tell her what pages it is.</p> <p>22 MR. CAPONITI: Well, actually, but your table number is</p> <p>23 different than mine. So, this is table 2 where mine shows</p> <p>24 table 1. So, this might be an alternate document.</p> <p>25 MR. KLINE: I think it is probably likely that this is</p>	<p>155</p> <p>1 That's why I'm going desperately looking for -- which tab is</p> <p>2 that? Here it is. Does it say table 2?</p> <p>3 MR. CAPONITI: So, mine says table 1, however the --</p> <p>4 HEARING OFFICER HANNAN: Wait. I can go over.</p> <p>5 MR. CAPONITI: But that's a different table. So, your</p> <p>6 table 2 matches my table 1.</p> <p>7 HEARING OFFICER HANNAN: Ah. Well, it is in the staff</p> <p>8 report, but you're right, it's probably from the traffic</p> <p>9 study. Okay.</p> <p>10 MR. CAPONITI: So, ma'am, what it's showing on your</p> <p>11 paper as table 2 and mine on table 1 is only a snapshot --</p> <p>12 HEARING OFFICER HANNAN: You know what, I'm</p> <p>13 just -- okay go ahead.</p> <p>14 MR. CAPONITI: It's only a snapshot of one hour, which</p> <p>15 they assume is peak.</p> <p>16 HEARING OFFICER HANNAN: Yes.</p> <p>17 MR. CAPONITI: I don't think that shows the entire</p> <p>18 picture of the traffic that will come in and out of this</p> <p>19 proposed site. And also, I think this takes the best-case</p> <p>20 scenario in mind. I think in fairness, we should look at</p> <p>21 what would possibly be the worst-case scenario where you</p> <p>22 have 30 employees. You have delivery trucks, most likely</p> <p>23 going to be large, and let's say that every single-family is</p> <p>24 a single child family. And let's say they're at full</p> <p>25 capacity. So, you're talking 195 families possibly visiting</p>
<p>154</p> <p>1 an excerpt from the traffic study submitted and that was, in</p> <p>2 turn, excerpted and placed in it. It's virtually identical,</p> <p>3 except with different labeling. They look to be the same</p> <p>4 information.</p> <p>5 HEARING OFFICER HANNAN: Okay.</p> <p>6 MR. CHEN: The information itself does look the same.</p> <p>7 MR. KLINE: Maybe I can leave this document here</p> <p>8 because it's the staff report's own record and this --</p> <p>9 HEARING OFFICER HANNAN: Is that 63, the staff report,</p> <p>10 that's -- the revised staff report?</p> <p>11 MR. KLINE: That would be the later study, yes, ma'am.</p> <p>12 HEARING OFFICER HANNAN: And I'm sorry, what page?</p> <p>13 MR. KLINE: In the staff report, it's pages 10 and 11.</p> <p>14 HEARING OFFICER HANNAN: But what page in the traffic</p> <p>15 study?</p> <p>16 MR. KLINE: I'd have to go check on that, ma'am.</p> <p>17 HEARING OFFICER HANNAN: Okay. All right. That was</p> <p>18 even longer. Okay. Go ahead.</p> <p>19 MR. CAPONITI: Ma'am, I've got three pages written, so</p> <p>20 I plan on speaking for quite a while.</p> <p>21 HEARING OFFICER HANNAN: Let me just get -- that's</p> <p>22 fine. I just --</p> <p>23 MR. KLINE: Do you want me to get my traffic study?</p> <p>24 HEARING OFFICER HANNAN: Well, I have the revised -- I</p> <p>25 just want to be able to follow where you're referring to.</p>	<p>156</p> <p>1 this place in a single day.</p> <p>2 So, they show in and outs in here, during the peak</p> <p>3 hour. And they assume that the traffic will flow fairly</p> <p>4 easy within that one hour. But over the period of an entire</p> <p>5 day, both at morning rush hour and evening rush hour, and</p> <p>6 assuming worst-case scenario, I calculate that you would</p> <p>7 have 140 plus cars passing over the brand new sidewalk that</p> <p>8 was put in for safety reasons, on Needwood Road, to get in</p> <p>9 and out of this site.</p> <p>10 Our community is a very active community. A lot of</p> <p>11 people walk. A lot of people bike. A lot of people walk</p> <p>12 their dogs or stroll their kids. That's 840 chances for</p> <p>13 someone to get struck by a vehicle either leaving or exiting</p> <p>14 this proposed daycare center.</p> <p>15 On top of that, if you take in that they plan on</p> <p>16 running this all year round, in the wintertime, in the</p> <p>17 evening during rush-hour, that is a very dark part of our</p> <p>18 street. I can tell you my daughter walks home from Subway</p> <p>19 during that period of time and she would potentially be at</p> <p>20 risk of being struck on her way.</p> <p>21 The other thing that this traffic study does not really</p> <p>22 take into -- does not really address is the travel of the</p> <p>23 proposed -- well, the possible travel of those that would be</p> <p>24 using the site. Most people, in my opinion, would be coming</p> <p>25 from Needwood Road, east from Muncaster, heading west toward</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

40 (157 to 160)

<p>157</p> <p>1 Redland Road. And therefore --</p> <p>2 HEARING OFFICER HANNAN: Is that in the morning</p> <p>3 or -- is that in the morning or is it just all times?</p> <p>4 MR. CAPONITI: It would be in the morning. This would</p> <p>5 be the morning traffic. And so that would require a left-</p> <p>6 hand turn into the proposed daycare site. Most people</p> <p>7 leaving the daycare site would most likely be heading</p> <p>8 towards the metro or towards 355 from Redland. That would</p> <p>9 require another left-hand turn out of the site. That will</p> <p>10 create a bottleneck of cars coming in and cars coming out.</p> <p>11 Therefore, any other cars traveling down Needwood Road</p> <p>12 to go to work, to go to school, to go shopping, or whatever,</p> <p>13 would most likely get stuck behind this traffic and it would</p> <p>14 cause most people to have to go through multiple cycles to</p> <p>15 get out of our neighborhood. Over time, what that would</p> <p>16 probably do is that would make people take -- what is to</p> <p>17 Candlewood and Mill Creek neighborhood.</p> <p>18 HEARING OFFICER HANNAN: And what creek?</p> <p>19 MR. CAPONITI: Mill Creek.</p> <p>20 HEARING OFFICER HANNAN: Mill Creek?</p> <p>21 MR. CAPONITI: Yeah. So that would be the neighborhood</p> <p>22 that is basically occupies everything --</p> <p>23 HEARING OFFICER HANNAN: If you want to go -- if you</p> <p>24 want to flip that page up, the color page.</p> <p>25 MR. CAPONITI: This?</p>	<p>159</p> <p>1 HEARING OFFICER HANNAN: Okay. Where did they let out</p> <p>2 on Redland?</p> <p>3 MR. CAPONITI: So Grand Vista --</p> <p>4 HEARING OFFICER HANNAN: I think Candlewood is -- see</p> <p>5 that --</p> <p>6 MR. CAPONITI: Grand Vista lets out right here on</p> <p>7 Needwood on Redland Road.</p> <p>8 HEARING OFFICER HANNAN: And then they turn left on</p> <p>9 Redland.</p> <p>10 MR. CAPONITI: And then Panorama is right there and</p> <p>11 then they would have to turn left onto Redland Road.</p> <p>12 HEARING OFFICER HANNAN: Okay.</p> <p>13 MR. CAPONITI: But once people start to take shortcuts</p> <p>14 to avoid the light, and the multiple cycling, that will then</p> <p>15 endanger most of the elementary school kids on their way to</p> <p>16 school. Kids aren't bussed in those neighborhoods, they</p> <p>17 walk. And there are streets they have to cross.</p> <p>18 Also, with the proposed site, assuming worst-case</p> <p>19 scenario -- I've had my kids in daycare. They don't just</p> <p>20 pull up and mysteriously wind up in the daycare. You have</p> <p>21 to park your car. You have to walk them in. You have to</p> <p>22 check them in. You have to go back to your car, and then</p> <p>23 get out.</p> <p>24 That takes time of -- that probably take about five to</p> <p>25 ten minutes depending on whether you need to speak with the</p>
<p>158</p> <p>1 HEARING OFFICER HANNAN: No, the other one.</p> <p>2 MR. CAPONITI: This one?</p> <p>3 HEARING OFFICER HANNAN: That one. Flip it over.</p> <p>4 Okay.</p> <p>5 MR. CAPONITI: So, you have Needwood here. Most</p> <p>6 traffic in the morning --</p> <p>7 MR. CHEN: Excuse me, sir, what exhibit are you on that</p> <p>8 you're pointing --</p> <p>9 HEARING OFFICER HANNAN: It's 149.</p> <p>10 MR. CAPONITI: Yes. So, in the morning, most people</p> <p>11 who travel on Needwood are going east for Muncaster, which</p> <p>12 is, I think, off of this page, heading towards Redland Road.</p> <p>13 Assuming worst case scenario and you had the bottleneck</p> <p>14 right here at this proposed daycare site, most people will</p> <p>15 naturally look for a shorter route on their travels. That</p> <p>16 would require them to cut through, what is currently</p> <p>17 Candlewood, Mill Creek neighborhoods. Kids to go school in</p> <p>18 that neighborhood and --</p> <p>19 HEARING OFFICER HANNAN: Now, is that where -- I'm</p> <p>20 sorry, is that where Grand Vista is?</p> <p>21 MR. CAPONITI: Yes, ma'am.</p> <p>22 HEARING OFFICER HANNAN: Okay.</p> <p>23 MR. CAPONITI: It's also -- I don't think it's labeled</p> <p>24 here, but there is another street that's called panorama and</p> <p>25 both of those let out on Redland Road.</p>	<p>160</p> <p>1 daycare operator or not. So, I think that you'll find that</p> <p>2 the proposed parking lot and drive will not accommodate the</p> <p>3 number of traffic that could possibly go into this daycare.</p> <p>4 HEARING OFFICER HANNAN: Okay.</p> <p>5 MR. CAPONITI: Ma'am, another thing I want to bring up</p> <p>6 is I'm really perplexed as to why Parking, Planning, and the</p> <p>7 Zoning Board would even entertain this issue in the first</p> <p>8 place. Within the -- when the current applicant purchased</p> <p>9 this property, and this is pulled from SDAT. It clearly</p> <p>10 states that this is a -- the use is residential. There is</p> <p>11 no confusion there.</p> <p>12 We are a low-density residential area, and we're</p> <p>13 talking about a high-density commercial venture. But it is</p> <p>14 clear that the applicant, when he purchased this property,</p> <p>15 never intended to use it for its intended purposes. It was</p> <p>16 never occupied. We've never had anyone renting that home</p> <p>17 since it was purchased. And this is at least the second</p> <p>18 venture, that's commercial, that I know of that he's</p> <p>19 proposed for this site.</p> <p>20 There's no reason to put this commercial site here. We</p> <p>21 have two large scale daycare centers already. My kids went</p> <p>22 to one of them, and that's KinderCare over at the Giant.</p> <p>23 There's also KidStop at the Metro Center. On top of that,</p> <p>24 we have at least 23 family-owned daycare centers in Derwood</p> <p>25 area. On top of that, there is not a lack of commercial</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

41 (161 to 164)

<p>161</p> <p>1 property in this area. We have dual use property at Kings 2 Farm. You also have dual use property at West Lake. Crabbs 3 Branch is both residential and commercial. Shady Grove is 4 primarily commercial, west of 355. 355 is commercial. On 5 top of that, at Muncaster and Redland, you have commercial 6 property at that intersection. There is plenty of 7 commercial places where he could place this daycare. 8 This is an assumption on my part. I can't state this 9 is a fact, but I think the person was looking to avoid 10 having to pay for a commercial mortgage, which is more 11 expensive than a residential mortgage. Even though, this 12 did state that it was never intended for principle 13 residence, renter mortgage is still cheaper than a 14 commercial mortgage. 15 HEARING OFFICER HANNAN: What are you showing me? 16 MR. CAPONITI: This is off of the SDAT. 17 HEARING OFFICER HANNAN: Okay. 18 MR. CAPONITI: And that shows the most current person 19 who owns that property. 20 HEARING OFFICER HANNAN: Yes. Do we have -- I think 21 this is in the record or -- 22 MR. KLINE: I don't believe that we would have 23 submitted it. 24 HEARING OFFICER HANNAN: Do you have any objection, 25 just so the record knows to what he's referring?</p>	<p>163</p> <p>1 MR. KLINE: I've been working with Mr. Chen too long. 2 So, I like to make sure everything -- this is a copy of the 3 staff report? 4 HEARING OFFICER HANNAN: You know what, I think we had 5 this discrepancy in page numbers -- 6 MR. KLINE: And this aligns page 11. 7 HEARING OFFICER HANNAN: That's right. 8 MR. KLINE: So, we do have -- 9 HEARING OFFICER HANNAN: Yours is -- 10 MR. CAPONITI: Ma'am, I did pull this from the county 11 site. 12 HEARING OFFICER HANNAN: What -- 13 MR. CAPONITI: (Inaudible) printed off and -- 14 HEARING OFFICER HANNAN: This? 15 MR. CAPONITI: This here, came from the Montgomery 16 County site. 17 HEARING OFFICER HANNAN: Okay. 18 MR. KLINE: And this line is page 11. 19 HEARING EXAMINER HANNAN: That's right. 20 MR. KLINE: So, we do have -- 21 HEARING EXAMINER HANNAN: Yours -- 22 MR. CAPONITI: Ma'am, I did pull this from the county 23 site. 24 HEARING EXAMINER HANNAN: What? This? 25 MR. CAPONITI: Anything that I printed off and</p>
<p>162</p> <p>1 MR. CHEN: No objection. 2 MR. KLINE: No objection. 3 HEARING OFFICER HANNAN: So, I'll put it in as 2-0 -- 4 COURT REPORTER: 7. 5 HEARING OFFICER HANNAN: --7. 6 MR. CHEN: Are you going to mark the page out of the 7 staff or traffic report? 8 HEARING OFFICER HANNAN: It's his -- his chart, table 1 9 is table 2 on page 12 of the staff report. 10 MR. CHEN: Okay. And what is in table -- table 2? 11 HEARING OFFICER HANNAN: Table 2, site vehicle trip 12 generation. 13 MR. CHEN: On page 12 of the staff report. 14 MR. KLINE: Right. 15 MR. CHEN: Thank you. 16 HEARING OFFICER HANNAN: Now, I'm marking as 207, SDAT 17 records for the subject property. S-D-A-T records for 18 subject property. 19 Now, you're going to have to leave this with me. I'll 20 give it back to you -- 21 MR. CAPONITI: Ma'am, I can always print another one. 22 HEARING OFFICER HANNAN: Okay. 23 MR. CAPONITI: That's public. That's from a public 24 site. 25 HEARING OFFICER HANNAN: Okay.</p>	<p>164</p> <p>1 displayed so far. This here came from the Montgomery County 2 site. 3 HEARING EXAMINER HANNAN: Okay. 4 MR. KLINE: We would suggest referencing table 2, 5 vehicle trip generation. 6 HEARING EXAMINER HANNAN: Vehicle trip generation. 7 MR. KLINE: Whatever page it is. 8 HEARING EXAMINER HANNAN: Okay. I think I printed off 9 the -- they sent us the Word version. 10 MR. KLINE: Oh, yes. Okay. Thank you. 11 HEARING EXAMINER HANNAN: All right. So, we got 12 off -- I didn't -- continue with what you want to say. 13 MR. CAPONITI: So, what I'm saying is there is no 14 urgency to replace residential piece of property and 15 commercialize it. We have plenty of commercial property 16 available within a one to two mile radius of this proposed 17 site. And again, this is at least the second commercial 18 venture that the applicant has proposed for the site. If 19 this one gets turned down I'm wondering how many other 20 commercial ventures we will have to endure and protest 21 again. 22 On top of that, I was under the understanding that 23 Parks and Planning Commission and the Zoning Board is here 24 for the interest of Montgomery County residents. This is a 25 person who is out of state, has never occupied this</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

42 (165 to 168)

<p>165</p> <p>1 property, has never used it for its intended purpose. And</p> <p>2 it's unfair for us to constantly have to battle this battle.</p> <p>3 HEARING EXAMINER HANNAN: Okay.</p> <p>4 MR. CAPONITI: And because of this fight it has kind of</p> <p>5 given the residents of our neighborhood a distrust of this</p> <p>6 whole process. We're afraid that if this applicant gets</p> <p>7 approved that it's going to -- there's going to be</p> <p>8 continuing exceptions made. It is human nature for people</p> <p>9 to do what is ever easy and quicker for them to do. If the</p> <p>10 parking lot proves not adequate to handle the traffic for</p> <p>11 the parents possibly using the site, it is only human nature</p> <p>12 that they will then try to use Carnegie Avenue to park,</p> <p>13 pickup their kids, and then you have two different outlets</p> <p>14 where people are going to try to exit and enter into the</p> <p>15 possible site.</p> <p>16 Once that happens I can see where the applicant will</p> <p>17 say let's punch through Carnegie into the South Riding</p> <p>18 neighborhood at Ottenbrook Terrace. South Riding</p> <p>19 neighborhood is a neighborhood full of active residents. If</p> <p>20 you go down our street at any given time of day and even in</p> <p>21 the evening you will find the residents walking those</p> <p>22 streets, walking their dogs, riding bikes with their kids,</p> <p>23 strolling their youngsters. We do not have sidewalks in our</p> <p>24 neighborhood. You open up Ottenbrook Terrace for this</p> <p>25 venture --</p>	<p>167</p> <p>1 HEARING EXAMINER HANNAN: Okay. So, it's what Carnegie</p> <p>2 ultimately intersects with --</p> <p>3 MR. CAPONITI: Yes.</p> <p>4 HEARING EXAMINER HANNAN: -- south of this property.</p> <p>5 MR. CAPONITI: Assuming the barrier fence was not in</p> <p>6 the way --</p> <p>7 HEARING EXAMINER HANNAN: Yeah.</p> <p>8 MR. CAPONITI: -- and they actually allowed for traffic</p> <p>9 to go through.</p> <p>10 HEARING EXAMINER HANNAN: Yeah. Okay.</p> <p>11 MR. CAPONITI: Absolutely.</p> <p>12 HEARING EXAMINER HANNAN: All right.</p> <p>13 MR. CAPONITI: I won't assume the worst case scenario</p> <p>14 here because, again, people will take the easiest way out,</p> <p>15 but if we open up Carnegie there is a good chance that you</p> <p>16 could have up to 450 traffic cars going through our</p> <p>17 neighborhood right now which has no sidewalks, is used by a</p> <p>18 lot of people who --</p> <p>19 HEARING EXAMINER HANNAN: Your neighborhood is South</p> <p>20 Riding?</p> <p>21 MR. CAPONITI: South Riding.</p> <p>22 HEARING EXAMINER HANNAN: Okay.</p> <p>23 MR. CAPONITI: Yes. And that in itself poses another</p> <p>24 safety hazard. Needwood was never, ever intended to be</p> <p>25 commercial. And again, there is not a lack of commercial</p>
<p>166</p> <p>1 HEARING EXAMINER HANNAN: Open up what?</p> <p>2 MR. CAPONITI: Ottenbrook Terrace, which --</p> <p>3 HEARING EXAMINER HANNAN: Is that the cul-de-sac?</p> <p>4 Where is that?</p> <p>5 MR. CAPONITI: So here is the proposed property. This</p> <p>6 is Carnegie on the north side of that red line.</p> <p>7 HEARING EXAMINER HANNAN: Well, it's actually on the</p> <p>8 west side, but that's okay.</p> <p>9 MR. CAPONITI: Yes, the west side was --</p> <p>10 HEARING EXAMINER HANNAN: It's confusing. This map is</p> <p>11 the wrong way.</p> <p>12 MR. CAPONITI: Yes, ma'am.</p> <p>13 HEARING EXAMINER HANNAN: Yeah.</p> <p>14 MR. CAPONITI: This is Ottenbrook Terrace back here.</p> <p>15 This is the continuation of Carnegie right here.</p> <p>16 HEARING EXAMINER HANNAN: And it intersects with what?</p> <p>17 MR. CAPONITI: So, Carnegie right now -- this part of</p> <p>18 Carnegie is unapproved.</p> <p>19 HEARING EXAMINER HANNAN: Right. We've had a lot of</p> <p>20 testimony on Carnegie, but I'm trying to figure out where</p> <p>21 you're referring to.</p> <p>22 MR. CAPONITI: So, I'm referring to Ottenbrook Terrace,</p> <p>23 which is back here, this road back here.</p> <p>24 HEARING EXAMINER HANNAN: So, it's what, Carnegie --</p> <p>25 MR. CAPONITI: So, it's behind the proposed site.</p>	<p>168</p> <p>1 property close by that could accommodate what the applicant</p> <p>2 wants to do. I think it's time for the applicant to cease</p> <p>3 and desist all commercial endeavors with this property.</p> <p>4 HEARING EXAMINER HANNAN: Okay.</p> <p>5 MR. CAPONITI: If you don't mind, I'd like to go</p> <p>6 through my notes just one more time.</p> <p>7 HEARING EXAMINER HANNAN: That's fine.</p> <p>8 MR. CAPONITI: I wound up speaking --</p> <p>9 HEARING EXAMINER HANNAN: That's fine.</p> <p>10 MR. CAPONITI: -- instead of actually reading from my</p> <p>11 notes.</p> <p>12 HEARING EXAMINER HANNAN: That's fine.</p> <p>13 MR. CAPONITI: There was one other argument I had and</p> <p>14 that had to do with the petition that the applicant</p> <p>15 submitted. He only mentioned six different people that he</p> <p>16 either spoke to or attempted to speak to. Considering that</p> <p>17 his proposed venture does back up to Ottenbrook, he should</p> <p>18 have also -- he should have also spoken to people who live</p> <p>19 in South Riding and he also should have spoken to people</p> <p>20 that live in Candlewood and Mill Creek because this venture</p> <p>21 could affect both neighborhoods.</p> <p>22 HEARING EXAMINER HANNAN: Okay.</p> <p>23 MR. CAPONITI: I was never, ever approached about this.</p> <p>24 I was never, ever called about this. None of my neighbors</p> <p>25 that I've spoken to have ever been approached about this.</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

43 (169 to 172)

<p>169</p> <p>1 The applicant says this is something that the neighborhood 2 wants, that this is something that the neighborhood needs. 3 I think even though you did receive letters, at least 100, 4 and even though they were pretty much the same letter -- 5 HEARING EXAMINER HANNAN: Yeah. 6 MR. CAPONITI: -- written over and over again, I think 7 that expresses to you that this neighborhood does not want 8 this project. Now, I know that the letter was copied. I, 9 myself, had copied that letter. It wasn't a matter of not 10 being able to voice my own opinions. Most of us have the 11 same opinion about this venture. As you see, I did take the 12 time to eventually write this up and come here and express 13 my concerns. However, I'm a working person. I'm a busy 14 person. And most of everyone in the neighborhood 15 experiences the same thing I do. Otherwise, I think you 16 would have 4- or 500 people here. I had to write this up 17 over three different sittings in order to express my own 18 opinions on this matter. And I also spoke to many neighbors 19 to consolidate our feelings -- 20 HEARING EXAMINER HANNAN: Okay. 21 MR. CAPONITI: -- about our concerns with this 22 particular endeavor. But as I said, the petition that was 23 submitted, I do have some concerns about that petition. And 24 let me find it here. 25 HEARING EXAMINER HANNAN: Take your time.</p>	<p>171</p> <p>1 Now the owner directly to the right who just -- 2 HEARING EXAMINER HANNAN: Okay. When you say right -- 3 MR. CAPONITI: I'm sorry. 4 HEARING EXAMINER HANNAN: -- is it to the east or the 5 west? 6 MR. CAPONITI: So, when I say right -- 7 HEARING EXAMINER HANNAN: Go back to 148. Flip the top 8 page back. Not that many, just the top sheet. 9 MR. CAPONITI: Just the single one? 10 HEARING EXAMINER HANNAN: Yes. Flip that one back. 11 And I'm just asking you this because if this goes up on 12 appeal it's in the transcript. 13 MR. CAPONITI: So, the person that he said he spoke to 14 here does not show up on the SDAT file as the owner. 15 HEARING EXAMINER HANNAN: And by here you're referring 16 to a house? 17 MR. CAPONITI: This is the -- this is the house on 18 Carnegie Avenue. 19 HEARING EXAMINER HANNAN: On the west side of Carnegie 20 -- 21 MR. CAPONITI: Yes. 22 HEARING EXAMINER HANNAN: -- shown on Exhibit 148. 23 MR. CAPONITI: Yes. 24 HEARING EXAMINER HANNAN: Okay. 25 MR. CAPONITI: The person that he has in the petition</p>
<p>170</p> <p>1 MR. CAPONITI: So, he never did get an answer from 2 either owner. I understand that Kosary chose not to speak 3 to him and I understand why, because she was being 4 represented here in petition. So, it made no sense for her 5 to speak openly with the applicant. But the other person 6 who we are talking about having ten feet of their own 7 property taken away in order to accommodate this venture has 8 never been spoken to either. 9 HEARING EXAMINER HANNAN: Who would that be? 10 MR. CAPONITI: The people directly to the left of the 11 property. 12 HEARING EXAMINER HANNAN: Ms. Tapscott or Ms. Tapscott- 13 Smith and Ms. Mitchell? 14 MR. CAPONITI: No, those -- they are to the right of 15 the property. There is a small home that's in front of the 16 Kosary home. And I'm sorry, I didn't print out everybody 17 that lives in the area -- 18 HEARING EXAMINER HANNAN: Okay. 19 MR. CAPONITI: -- with that information. But they 20 aren't -- they were never spoken to in this petition. The 21 person at the end of Carnegie Avenue that he had spoken to, 22 the name of the person in that petition does not show up as 23 the owner in the SDAT database as the owner of that 24 property. So, I don't know who he spoke to, but it does not 25 represent the owner of that property.</p>	<p>172</p> <p>1 does not show up as the owner on the SDAT file of that 2 house. So, I don't know who he spoke to. 3 HEARING EXAMINER HANNAN: Okay. 4 MR. CAPONITI: But it's not the owner. 5 HEARING EXAMINER HANNAN: Okay. 6 MR. CAPONITI: Obviously the person here who just had 7 that brand new house built he says was in favor of this. I 8 know that that person is here and protesting this 9 application as well. He did speak of one person -- 10 HEARING EXAMINER HANNAN: Wait. Who said they were -- 11 MR. CAPONITI: So, from 7500 Needwood Road, the brand 12 new house that is -- 13 HEARING EXAMINER HANNAN: She was here testifying 14 against it. 15 MR. CAPONITI: Right. But in his petition he says that 16 -- 17 HEARING EXAMINER HANNAN: Oh, in his petition. I see. 18 MR. CAPONITI: Yes. So right now, almost every single 19 person that he said was for this, wants this, and needs 20 this, is against this. Now he does say that the one 21 resident across the street at 7425 was in interest of this 22 property and that that person was also a real estate agent 23 and understood the value of putting commercial property in. 24 I find that very difficult to believe being that the owner 25 of that property -- his property hit the high market point</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

44 (173 to 176)

<p>173</p> <p>1 in 2008 and has not recovered since then.</p> <p>2 Putting this commercial endeavor in right across the</p> <p>3 street from his property is only going to reduce his</p> <p>4 property value. So, I question almost every single person</p> <p>5 that he's got in his petition on there.</p> <p>6 Also, he says that this is going to be a family run</p> <p>7 operation with him and his wife, but in the petition he says</p> <p>8 he is a real estate agent. So, I don't see this applicant</p> <p>9 being the day-to-day manager of this property. I think it's</p> <p>10 purely an investment for him.</p> <p>11 HEARING EXAMINER HANNAN: Where did you get the</p> <p>12 petition you've been looking at?</p> <p>13 MR. CAPONITI: That was in the Montgomery County</p> <p>14 website for this proposal. I did not print it out. Perhaps</p> <p>15 I should have. On top of that, if this person is going to</p> <p>16 be running this operation day-to-day, they're coming</p> <p>17 from -- I think it's --</p> <p>18 HEARING EXAMINER HANNAN: Now did you say the -- were</p> <p>19 you saying the person at 7425 right across the street --</p> <p>20 MR. CAPONITI: Supposedly expressed interest in this</p> <p>21 property, and in his petition he says that this person too</p> <p>22 is a real estate agent, just like himself.</p> <p>23 HEARING EXAMINER HANNAN: Okay.</p> <p>24 MR. CAPONITI: I find that hard to believe again being</p> <p>25 that this property has lost value since the high point in</p>	<p>175</p> <p>1 hours of the day that they're gone. I find it highly</p> <p>2 incredulous that they actually plan on being the operators</p> <p>3 of this daycare center.</p> <p>4 And again, he said he was a real estate agent. So, is</p> <p>5 this some investment property or does he truly plan on</p> <p>6 operating this? But once again, there's no reason for the</p> <p>7 Park and Planning Committee nor the Zone Board to even</p> <p>8 consider this application considering the abundance of</p> <p>9 commercial property where he could do this venture. And</p> <p>10 ma'am, I think that's about all I have to say.</p> <p>11 HEARING EXAMINER HANNAN: Okay. Thank you. Just a</p> <p>12 second. They get to ask you questions.</p> <p>13 Do you have any questions, Mr. Kline?</p> <p>14 MR. KLINE: Sir, were you here this morning to hear any</p> <p>15 of the testimony from any of the witnesses?</p> <p>16 MR. CAPONITI: Sir, I work, and in fact the reason I'm</p> <p>17 late here is because twice my office needed something from</p> <p>18 me and so I was delayed getting here. And as I mentioned</p> <p>19 earlier, I would have been here every single day, but we all</p> <p>20 have lives and it's very difficult to attend these kind of</p> <p>21 meetings.</p> <p>22 MR. KLINE: I'll take that as a no.</p> <p>23 MR. CAPONITI: Yes, sir.</p> <p>24 MR. KLINE: You mentioned this is the second venture by</p> <p>25 the owner of the property.</p>
<p>174</p> <p>1 2008 and has not recovered, and if this commercial endeavor</p> <p>2 is put in it is only naturally going to lower the property</p> <p>3 around this new daycare. So being that there's really only</p> <p>4 one positive petition out of the six, I don't -- I even</p> <p>5 question that one positive petition.</p> <p>6 HEARING EXAMINER HANNAN: You mean only one positive</p> <p>7 person.</p> <p>8 MR. CAPONITI: Response.</p> <p>9 HEARING EXAMINER HANNAN: Yeah.</p> <p>10 MR. CAPONITI: Now he claims that he had four but,</p> <p>11 again, looking at the SDAT files and everything else I</p> <p>12 question whether those were truly the owners that he spoke</p> <p>13 to.</p> <p>14 HEARING EXAMINER HANNAN: Anything else? Take your</p> <p>15 time.</p> <p>16 MR. CAPONITI: There is one more thing, ma'am, yes.</p> <p>17 So, the applicant -- and this kind of -- he kind of counters</p> <p>18 himself with the one comment he made about the one real</p> <p>19 estate agent when he, himself, is a real estate agent. Both</p> <p>20 him and his wife claim that they plan on being the operators</p> <p>21 of this daycare center. They are from Herndon, Virginia and</p> <p>22 when I looked at how long it would take for them to go to</p> <p>23 and from Herndon, Virginia to this daycare center on a daily</p> <p>24 basis, it would take two hours. If they are running a</p> <p>25 daycare center that has an operation of 12 hours, that's 14</p>	<p>176</p> <p>1 MR. CAPONITI: Yes.</p> <p>2 MR. KLINE: Do you happen to know what the first</p> <p>3 venture was?</p> <p>4 MR. CAPONITI: Yes, the first venture was a -- was a</p> <p>5 landscaping company and, again, they were saying that this</p> <p>6 would not intrude too often, that the trucks would only come</p> <p>7 in -- the employees would come in in the morning and --</p> <p>8 MR. KLINE: I think you answered my question.</p> <p>9 MR. CAPONITI: Okay.</p> <p>10 MR. KLINE: Could I borrow the photograph from the car,</p> <p>11 inside the car?</p> <p>12 HEARING EXAMINER HANNAN: That is Exhibit 206.</p> <p>13 MR. KLINE: Can you -- well, I was going to ask you can</p> <p>14 you tell me the time the picture was taken but I guess it</p> <p>15 shows up on the photograph. So what time was the picture</p> <p>16 taken?</p> <p>17 MR. CAPONITI: It was taken at 8:34 in the morning.</p> <p>18 MR. KLINE: Okay. And who was it taken by?</p> <p>19 MR. CAPONITI: It was taken by one of our neighbors.</p> <p>20 MR. KLINE: Who would that be?</p> <p>21 MR. CAPONITI: Sir, I'll be honest with you. I'm bad</p> <p>22 with names and I should have written it down. But we have a</p> <p>23 group that's basically petitioned us on Derwood neighborhood</p> <p>24 website, and he posted this when we were talking about</p> <p>25 coming here for the hearing and expressing our concerns.</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

45 (177 to 180)

<p>177</p> <p>1 MR. KLINE: Okay. You used the phrase "traffic backing 2 up".</p> <p>3 MR. CAPONITI: Yes.</p> <p>4 MR. KLINE: So, is it your contention that there was a 5 queue of cars ahead of the car in front?</p> <p>6 MR. CAPONITI: Yes, sir. You can see that the car 7 directly in front of it has its brake lights on.</p> <p>8 MR. KLINE: Okay. But there's no other vehicles beyond 9 that that are shown, correct?</p> <p>10 MR. CAPONITI: No, you cannot see another vehicle ahead 11 of that.</p> <p>12 MR. KLINE: So, you're not aware of the fact that when 13 that picture was taken there in fact was a queue in front of 14 that car?</p> <p>15 MR. CAPONITI: I am going by the word of the person who 16 took that picture.</p> <p>17 HEARING EXAMINER HANNAN: Anything else?</p> <p>18 MR. KLINE: No, ma'am.</p> <p>19 HEARING EXAMINER HANNAN: Mr. Chen?</p> <p>20 MR. CHEN: You mentioned that the property across the 21 street had supported the application I believe.</p> <p>22 MR. CAPONITI: Yes, according to the information that I 23 got from the Montgomery County website, that person resides 24 at 7425 Needwood Road. And that property would be -- I 25 believe it's this one right here.</p>	<p>179</p> <p>1 testimony by Mr. Jakkampudi, that individual, in support of 2 the application, and during the course of his testimony it 3 was disclosed that he is the resident agent.</p> <p>4 MR. KLINE: Objection.</p> <p>5 HEARING EXAMINER HANNAN: Okay. Is there a question?</p> <p>6 MR. CHEN: Yeah, I'm going to it. Yes. Yes, ma'am.</p> <p>7 HEARING EXAMINER HANNAN: Okay.</p> <p>8 MR. CHEN: That he was the resident agent for two LLCs.</p> <p>9 MR. KLINE: Objection. I stipulate that Mr. Jakkampudi 10 lives at 7425 and apparently is on that list.</p> <p>11 HEARING EXAMINER HANNAN: And is a resident agent of 12 both Needwood -- the operator and the owner of this 13 property.</p> <p>14 MR. KLINE: So stipulated.</p> <p>15 HEARING EXAMINER HANNAN: Okay.</p> <p>16 MR. CHEN: Were you aware of that relationship, sir?</p> <p>17 MR. CAPONITI: No, sir, I was not.</p> <p>18 MR. CHEN: Oh, okay. The operator is a gentleman with 19 his wife named Mandavi.</p> <p>20 HEARING EXAMINER HANNAN: Mandava.</p> <p>21 MR. CHEN: Mandava. I apologize.</p> <p>22 HEARING EXAMINER HANNAN: Correct me if I'm wrong. Is 23 it Mandava? Go ahead.</p> <p>24 MR. CHEN: You have testified that he is representing 25 himself to be a real estate agent?</p>
<p>178</p> <p>1 MR. CHEN: What was the address?</p> <p>2 HEARING EXAMINER HANNAN: Now when you say --</p> <p>3 MR. CAPONITI: 7425.</p> <p>4 HEARING EXAMINER HANNAN: Now when you say right here, 5 you're looking at a -- you're pointing to a --</p> <p>6 MR. CAPONITI: I'm looking at the edge of a 7 home -- actually, it's this one here. I'm looking at the 8 edge of a home that's just barely off the picture, at the 9 top of the picture in the middle.</p> <p>10 HEARING EXAMINER HANNAN: Right above the label 11 Needwood -- right above the label Needwood Road.</p> <p>12 MR. CAPONITI: Yes. Yes, ma'am.</p> <p>13 HEARING EXAMINER HANNAN: Okay.</p> <p>14 MR. CHEN: When you checked the tax records, did you 15 get a name?</p> <p>16 MR. CAPONITI: So that was the only person I did --</p> <p>17 Sir, I'm sorry. I do know you're recording.</p> <p>18 That was the only person whose name did reconcile with 19 this petition.</p> <p>20 MR. CHEN: Okay.</p> <p>21 MR. CAPONITI: None of the other ones reconciled.</p> <p>22 MR. CHEN: According to that address it's a gentleman 23 named Mr. Jakkampudi and he is a resident agent.</p> <p>24 MR. KLINE: Is this a question?</p> <p>25 MR. CHEN: Well, yeah, I wanted to ask -- there's been</p>	<p>180</p> <p>1 MR. CAPONITI: Yes, that's in the Montgomery County 2 records for this proposal.</p> <p>3 MR. CHEN: For this particular application he is listed 4 as --</p> <p>5 MR. CAPONITI: Yes, it is. That was part of his 6 petition and that's what he said when he spoke to the person 7 at 7425. He said as a fellow real estate agent that he 8 understands what I'm trying to accomplish.</p> <p>9 HEARING EXAMINER HANNAN: You can have time to switch 10 glasses, Mr. Chen.</p> <p>11 MR. CHEN: Thank you. Thank you very much.</p> <p>12 HEARING EXAMINER HANNAN: I know how it is.</p> <p>13 MR. CHEN: Thank you.</p> <p>14 Yes, I've just been handed something that does have 15 that information. I don't know where that is in the 16 application. Can you --</p> <p>17 MR. CAPONITI: I can print it out when I get home and 18 give it to you guys. But this came from the county website 19 for this application.</p> <p>20 MR. CHEN: Okay. Go to the staff report, really quick.</p> <p>21 HEARING EXAMINER HANNAN: Of course, if there's a 22 question.</p> <p>23 MR. CHEN: Yes. I'm just trying to nail down where 24 this information is coming from, Madam Examiner. For the 25 record, I am showing the gentleman a page out of the staff</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

46 (181 to 184)

<p>181</p> <p>1 report, which is Exhibit 106, I believe, and it's Attachment 2 C, I believe. 3 HEARING EXAMINER HANNAN: Okay. 4 MR. CHEN: Sir, let me show you a page. I'm just 5 trying to nail down where you got this information. That's 6 all I'm trying to do. I'm showing you -- the pages are not 7 numbered, but -- 8 MR. CAPONITI: Jakkampudi is a realtor himself. To me 9 that implied that he as well is a realtor. Now perhaps I 10 misinterpreted that, but that's how I interpreted the 11 statement. 12 HEARING EXAMINER HANNAN: Where are you? 13 MR. CAPONITI: So -- 14 HEARING EXAMINER HANNAN: I have attachment C. 15 MR. CAPONITI: So, ma'am, this was on the county 16 website and this is what I was referring to earlier today. 17 MR. CHEN: It looks to be about five or six pages in. 18 HEARING EXAMINER HANNAN: Well, you know, I think the 19 best thing to do is probably on the -- what? 20 MR. CHEN: I'm listening. 21 HEARING EXAMINER HANNAN: It's probably on the DAIC. 22 Are you saying it's in attachment C? 23 MR. CAPONITI: Yes. 24 HEARING EXAMINER HANNAN: Okay. 25 MR. CAPONITI: It's about -- I estimate five or six</p>	<p>183</p> <p>1 HEARING EXAMINER HANNAN: The applicant. 2 MR. CAPONITI: If I were to purchase one of his 3 neighbor's homes and propose this site I'm sure he would be 4 well against this. Neighbors do not do this to one another. 5 And again, I don't even consider him a neighbor considering 6 that he has never occupied nor used this property in the 7 manner of which it was supposed to be used. 8 HEARING EXAMINER HANNAN: All right. Any questions 9 based on what he just said? 10 MR. KLINE: Thank you. No. 11 MR. CHEN: No. 12 HEARING EXAMINER HANNAN: Okay. You may be excused. 13 Thank you for coming in. 14 MR. CHEN: Madam Examiner. 15 HEARING EXAMINER HANNAN: Yes. 16 MR. CHEN: I have just been told that there is another 17 individual who would like to speak who I understand, I 18 haven't been told, took the photograph of that -- 19 HEARING EXAMINER HANNAN: Okay. Mr. -- can you come 20 back for a moment? No. I -- you don't need to. I'm sorry. 21 That was my bad. Okay. I have the photograph it just 22 occurred to me. So, you can -- you can still be excused. 23 MR. CAPONITI: Well, actually, ma'am, since you 24 summoned me up here can I say one more thing? 25 HEARING EXAMINER HANNAN: Okay. Real quick because --</p>
<p>182</p> <p>1 pages into -- 2 HEARING EXAMINER HANNAN: I got it. Door-to-door 3 campaign summary. Okay. 4 MR. CHEN: I just want to be clear, that is where you 5 got information that led you to refer to the applicant as a 6 realtor? 7 MR. CAPONITI: Yes. 8 MR. CHEN: Okay. Correctly or incorrectly interpreted, 9 that's where you got your information? 10 MR. CAPONITI: Yes. I will admit I could have 11 incorrectly interpreted that. 12 MR. CHEN: Okay. That's fine. 13 I have no further questions. 14 HEARING EXAMINER HANNAN: Okay. He's not your witness 15 so we'll finish with that. All right. 16 MR. CAPONITI: Ma'am, I did say I was done. However, 17 if you would bear with me just one moment. This is not what 18 neighbors do to one another. If I were to purchase one of 19 his neighboring homes and -- 20 HEARING EXAMINER HANNAN: Whose neighboring home? Mr. 21 Jakka -- 22 MR. CAPONITI: The applicant's -- yes. 23 HEARING EXAMINER HANNAN: The applicant or Mr. 24 Jakkampudi? 25 MR. CAPONITI: The applicant.</p>	<p>184</p> <p>1 MR. CAPONITI: My uncle was a broker and real estate 2 agent. He developed both single-family, multiple family, 3 and commercial enterprises, and never did he once try to 4 build something that was outside the zone. 5 HEARING EXAMINER HANNAN: Okay. Okay. Do you have any 6 questions on that? I'll take it for the weight it -- 7 MR. KLINE: I have no questions. Thank you. 8 MR. CHEN: No questions. 9 HEARING EXAMINER HANNAN: Okay. That -- now you're 10 really excused. 11 MR. CAPONITI: I'm really done. 12 HEARING EXAMINER HANNAN: Okay. 13 MR. CAPONITI: Thank you for bearing with me, ma'am. 14 HEARING EXAMINER HANNAN: All right. 15 MR. CAPONITI: I appreciate that. 16 HEARING EXAMINER HANNAN: Okay. Who is the person that 17 wants to testify on this photo? Please come forward. 18 Mr. Chen, how many witnesses do you have? 19 MR. CHEN: I have no idea. 20 HEARING EXAMINER HANNAN: No. You must have some. 21 MR. CHEN: I have none. 22 HEARING EXAMINER HANNAN: What is your prehearing 23 statement, sir? 24 MR. CHEN: Oh, on my witnesses? 25 HEARING EXAMINER HANNAN: Yeah.</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

47 (185 to 188)

<p>185</p> <p>1 MR. CHEN: Yes, I have --</p> <p>2 HEARING EXAMINER HANNAN: Have a seat, sir.</p> <p>3 MR. CHEN: I have four witnesses that two will take a</p> <p>4 long, long time. I know it.</p> <p>5 HEARING EXAMINER HANNAN: Okay. Do we have any other</p> <p>6 citizens here that want to testify? Okay. So, I see one</p> <p>7 more hand. You can do these two people, so they don't have</p> <p>8 to come back, and then we'll work from there, unless you</p> <p>9 have an objection.</p> <p>10 MR. KLINE: No, ma'am.</p> <p>11 HEARING EXAMINER HANNAN: Okay. All right. Please</p> <p>12 raise your right hand. Do you solemnly affirm under</p> <p>13 penalties of perjury that the statements you're about to</p> <p>14 make are the truth, the whole truth, and nothing but the</p> <p>15 truth?</p> <p>16 MR. PRAKHYE: I do.</p> <p>17 HEARING EXAMINER HANNAN: Please state and spell your</p> <p>18 name for the record please.</p> <p>19 MR. PRAKHYE: Michael Prakhye, M-I-C-H-A-E-L, P --</p> <p>20 COURT REPORTER: I'm sorry.</p> <p>21 MR. CHEN: Slow.</p> <p>22 COURT REPORTER: Yeah.</p> <p>23 MR. PRAKHYE: M-I-C-H-A-E-L, last name Prakhye,</p> <p>24 P-R-A-K-H-Y-E.</p> <p>25 MR. KLINE: Y what?</p>	<p>187</p> <p>1 kids and, you know, the streets have been filled with kids</p> <p>2 running around, especially the cul-de-sac where we live.</p> <p>3 And when we looked -- when all of my neighbors looked for</p> <p>4 daycare we really had no problem finding them considering</p> <p>5 that we have a 200-person daycare by the Giant. There's one</p> <p>6 in King Farm across the street. And there's plenty of other</p> <p>7 choices.</p> <p>8 What really concerned me at first with this particular</p> <p>9 commercial daycare, one the word commercial. I mean it</p> <p>10 includes 200 kids and that's really concerning. This is not</p> <p>11 just an in-home daycare where you get ten kids and in and</p> <p>12 out. 200 kids is a lot specifically for the area where we</p> <p>13 are, a one lane road back and forth.</p> <p>14 I took some pictures over a few days as I'm leaving my</p> <p>15 house and coming back. Mostly leaving in the morning is</p> <p>16 where the problem is. I am turning left from the new</p> <p>17 estates toward -- on Needwood Road toward Redland and</p> <p>18 that -- and I can provide those pictures.</p> <p>19 HEARING EXAMINER HANNAN: Okay. So, what's the access</p> <p>20 road? What's the road you're turning left onto Needwood</p> <p>21 from?</p> <p>22 MR. PRAKHYE: From South Riding.</p> <p>23 HEARING EXAMINER HANNAN: From South Riding?</p> <p>24 MR. PRAKHYE: Or a/k/a Needwood Estates turning left on</p> <p>25 Needwood. So, I am going toward Redland Road, the</p>
<p>186</p> <p>1 MR. PRAKHYE: Y-E.</p> <p>2 HEARING EXAMINER HANNAN: And your address?</p> <p>3 MR. PRAKHYE: 7400 Ottenbrook Terrace, Derwood,</p> <p>4 Maryland.</p> <p>5 HEARING EXAMINER HANNAN: Is that Autumn Brook?</p> <p>6 MR. PRAKHYE: O-T-T-E-N-B --</p> <p>7 HEARING EXAMINER HANNAN: Oh, Ottenbrook.</p> <p>8 MR. PRAKHYE: Yes. Sorry. One word.</p> <p>9 HEARING EXAMINER HANNAN: See, we don't trust our own</p> <p>10 hearing, so we have it all transcribed.</p> <p>11 MR. PRAKHYE: You've had a long couple days.</p> <p>12 HEARING EXAMINER HANNAN: And is that Derwood?</p> <p>13 MR. PRAKHYE: Yes, ma'am.</p> <p>14 HEARING EXAMINER HANNAN: Okay. And I'll hand</p> <p>15 this -- I'm handing the witness -- first of all, what would</p> <p>16 you like to say, and if you need Exhibit 206, I'm handing it</p> <p>17 to you, but don't walk away with it. Okay. What would you</p> <p>18 like to say, sir?</p> <p>19 MR. PRAKHYE: Okay. I'm not the real estate agent. I</p> <p>20 just live in the neighborhood where we purchased the house</p> <p>21 five years ago and we've lived there ever since. We</p> <p>22 purchased the house because of the neighborhood and because</p> <p>23 of the density and because of where it is in proximity to</p> <p>24 the Metro and how convenient it is to get in and out.</p> <p>25 Currently, we have neighbors who are moving in with</p>	<p>188</p> <p>1 intersection of Needwood and Redland. That's where</p> <p>2 the -- it's a one lane road which splits at the very end</p> <p>3 into two so people can stuff themselves in before the light.</p> <p>4 And I can -- I took some --</p> <p>5 HEARING EXAMINER HANNAN: What road are you describing</p> <p>6 there, South Riding or Needwood?</p> <p>7 MR. PRAKHYE: South Riding is the neighborhood that I'm</p> <p>8 turning left from. I'm turning right onto Needwood Road and</p> <p>9 then the light --</p> <p>10 HEARING EXAMINER HANNAN: You're turning right onto</p> <p>11 Needwood?</p> <p>12 MR. PRAKHYE: Left.</p> <p>13 HEARING EXAMINER HANNAN: Left.</p> <p>14 MR. PRAKHYE: I'm turning left on Needwood going toward</p> <p>15 the light on Redland.</p> <p>16 HEARING EXAMINER HANNAN: Okay.</p> <p>17 MR. PRAKHYE: So, I have taken pictures and a count of</p> <p>18 the traffic that it is that I have to wait for, and this</p> <p>19 is -- I took a couple days, February 11th, 8:39. This is</p> <p>20 where it stops. This is my turn.</p> <p>21 HEARING EXAMINER HANNAN: Okay. Okay. Hold on. For</p> <p>22 the record, he's pointing to photos on his cell phone. If</p> <p>23 you want to describe those you would need to submit them</p> <p>24 into the record. So, can you first describe conditions that</p> <p>25 you have observed using your photos?</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

48 (189 to 192)

<p>189</p> <p>1 MR. PRAKHYE: Sure. The conditions that I observed as</p> <p>2 I turned left from South Riding, I do have to wait most of</p> <p>3 the time to turn left and I see more and more that cars are</p> <p>4 stopping before the hill goes up. That is before that</p> <p>5 property on the left. The cars are standing in the way.</p> <p>6 HEARING EXAMINER HANNAN: Okay. Is that the rise in</p> <p>7 the road --</p> <p>8 MR. PRAKHYE: Yes.</p> <p>9 HEARING EXAMINER HANNAN: -- that's right in front of</p> <p>10 this property?</p> <p>11 MR. PRAKHYE: Correct. That's where I see the cars</p> <p>12 already standing when I'm turning left.</p> <p>13 HEARING EXAMINER HANNAN: Okay.</p> <p>14 MR. PRAKHYE: That means they're already packed both</p> <p>15 two lanes in front of the light.</p> <p>16 HEARING EXAMINER HANNAN: How frequently do you see</p> <p>17 this?</p> <p>18 MR. PRAKHYE: I see this almost every day and if it</p> <p>19 rains it's really difficult to turn. This is me</p> <p>20 looking -- I look to the right before I turn, and this is</p> <p>21 where people are cutting from other neighborhoods to get</p> <p>22 into this road and I have to get in between -- the buses</p> <p>23 have to really -- the buses travel across this road and</p> <p>24 require people to stop. And I did this on several days in a</p> <p>25 row, made sure this is -- the picture I'm referring to is on</p>	<p>191</p> <p>1 the day the record is going to be open I think that's a good</p> <p>2 way of handling it.</p> <p>3 HEARING EXAMINER HANNAN: Okay. So, when you submit</p> <p>4 them what I want you to do is mark what direction you're</p> <p>5 heading, where you are as close as possible, and what the</p> <p>6 traffic shows.</p> <p>7 MR. PRAKHYE: Okay.</p> <p>8 HEARING EXAMINER HANNAN: I mean what the picture is</p> <p>9 supposed to show. Okay. So -- okay. So, your -- so what</p> <p>10 you've said is that traffic backs up east of the crest in</p> <p>11 the road when you're going west toward Redland Road. If</p> <p>12 you're on -- what you're saying is if you're on westbound</p> <p>13 Needwood heading toward Redland Road, traffic -- you have</p> <p>14 observed traffic east of the crest in the road?</p> <p>15 MR. PRAKHYE: It's east of the crest in the road and</p> <p>16 directly in front of that new building that they're planning</p> <p>17 on building. So, there will be no way for anyone to turn</p> <p>18 left toward Redland Road if there were 200 cars plus coming</p> <p>19 through. What I'm trying to get to, and even if we don't</p> <p>20 look at the pictures, there's enough traffic on the one lane</p> <p>21 road that people are standing in the morning, and if anybody</p> <p>22 turns into this new facility and tries to make a left turn</p> <p>23 again there will be accidents because, well, for one,</p> <p>24 there's no way to turn a left. People are just standing</p> <p>25 still because of the light, and there are a lot of people</p>
<p>190</p> <p>1 February 25th at 8:36. Its bumper-to-bumper.</p> <p>2 HEARING EXAMINER HANNAN: And this is -- going</p> <p>3 westbound this is before you get to -- going westbound</p> <p>4 toward --</p> <p>5 MR. PRAKHYE: Redland.</p> <p>6 HEARING EXAMINER HANNAN: Thank you. This is before</p> <p>7 the crest in the road?</p> <p>8 MR. PRAKHYE: It depends on the traffic and how many</p> <p>9 people travel that day. This particular picture is standing</p> <p>10 before the crest in the road.</p> <p>11 HEARING EXAMINER HANNAN: Yes, I see that.</p> <p>12 MR. PRAKHYE: Once I get to the crest in the road I am</p> <p>13 standing there waiting for the next light, making sure I</p> <p>14 take a picture in the front and in my rearview mirror where</p> <p>15 people are standing behind me all the way down to the crest</p> <p>16 of the road.</p> <p>17 HEARING EXAMINER HANNAN: All the way down to the</p> <p>18 bottom of the crest you mean?</p> <p>19 MR. PRAKHYE: Yes, where I first turned initially.</p> <p>20 HEARING EXAMINER HANNAN: Well, if we're -- all right.</p> <p>21 If we're going to refer to these you have to -- I mean you</p> <p>22 can email --</p> <p>23 MR. PRAKHYE: I can provide paper photocopies.</p> <p>24 HEARING EXAMINER HANNAN: Do you have any objections?</p> <p>25 MR. KLINE: No. Since we're not going to -- today is</p>	<p>192</p> <p>1 behind me too. And it's not only the neighbors that are</p> <p>2 going which is --</p> <p>3 HEARING EXAMINER HANNAN: There are a lot of people</p> <p>4 behind you to the east toward the church?</p> <p>5 MR. PRAKHYE: There are a lot of people behind me as</p> <p>6 I'm standing toward Redland. There are people that are</p> <p>7 cutting through Needwood Road coming from (inaudible) and</p> <p>8 other areas as there are a lot of neighborhoods back there</p> <p>9 and it's only a one lane road and it's only 30 miles an hour</p> <p>10 with bumps. So, people are slowly making their way, cutting</p> <p>11 through the neighborhoods.</p> <p>12 If you add another 200, and it will be 200 plus because</p> <p>13 there are 200 kids, 200 plus cars a day, they will not come</p> <p>14 from this area. They will come from other areas because</p> <p>15 this school will either good them a good price or whatever</p> <p>16 it is and they'll come from other areas and flood our area</p> <p>17 with their cars, whether they will drive through to drop</p> <p>18 their kids off, park in our South Riding entrance because</p> <p>19 it's, you know, maybe 300 feet walking distance, because</p> <p>20 I've seen people do that in the church on Sundays. Sundays,</p> <p>21 you know, not too bad.</p> <p>22 They come not the Sunday Service, they have no parking,</p> <p>23 overflowing into South Riding and they park parallel -- they</p> <p>24 turn right and park parallel and then walk. So that</p> <p>25 happens. They will -- you know they'll run across the</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

49 (193 to 196)

<p style="text-align: right;">193</p> <p>1 street and it's just accidents waiting to happen in my 2 opinion. 3 I'm no traffic adjuster or an engineer. I think that's 4 the next person who is going to talk. But me, I'm 5 just -- I'm just a neighbor who is really trying to preserve 6 the zoning and the way that when we purchased the house. 7 HEARING EXAMINER HANNAN: How frequently have you 8 observed traffic backing up as you've described? 9 MR. PRAKHYE: I mean I drive to work every morning and 10 every morning, unless it's a federal holiday or some kind of 11 holiday or no school then it's just like the way it is here. 12 There's always cars. I have to wait to turn. The bus 13 travels right across. From South Riding it drives right 14 straight across on Needwood Road right across and it waits 15 all the time, so cars let it through. So, they let it 16 through which is fine, but there are kids waiting always on 17 the corner and, you know, it's just -- it's not made for 18 such significant traffic. And if it was ten kids I may 19 understand it, but 200 kids is literally too much for where 20 we are. 21 And I'm just -- and in addition to traffic, you know, there 22 are trees, there's grass and they're trying to mow all that, 23 you know, pave it all over and I like trees because, you 24 know, we live where we live and everyone has half to a full 25 acre. You know, we've got nice air. We have deer. You</p>	<p style="text-align: right;">195</p> <p>1 didn't want to -- I posted the exact same picture. It's 2 just I see the dash is not mine. 3 HEARING EXAMINER HANNAN: Okay. 4 MR. PRAKHYE: But I will post what is mine. I just 5 wanted to make sure that that is clear. But when I took the 6 pictures I made sure that I could see the front and the 7 rearview mirror of the cars behind me. 8 MR. KLINE: We understand your pictures. 9 MR. PRAKHYE: Yes, sir. 10 MR. KLINE: Thank you. 11 MR. PRAKHYE: Thank you. 12 MR. KLINE: No questions. 13 HEARING EXAMINER HANNAN: Okay. 14 MR. CHEN: Madam Examiner, I was informed that this 15 gentleman had taken the photograph that Mr. Caponiti had 16 provided. 17 HEARING EXAMINER HANNAN: That's okay. We'll take his 18 pictures too. 19 All right. Thank you. 20 MR. PRAKHYE: Thank you. 21 HEARING EXAMINER HANNAN: And in a minute -- let me 22 just find out, is there one more person who wishes 23 to -- just a second. One more person that wishes to 24 testify. Okay. 25 Mr. Chen --</p>
<p style="text-align: right;">194</p> <p>1 know, and they're going to put that thing right there with 2 all the cars going through. The bikers are going to -- you 3 know, somebody is going to get hit. That's a given because 4 they're going to ride all the way. They built this path to 5 go all the way to the park. And those are just my concerns 6 really. 7 HEARING EXAMINER HANNAN: Okay. Anything else? 8 MR. PRAKHYE: Outside of that, I think that's it. 9 That's all from me. And I will provide the pictures. 10 HEARING EXAMINER HANNAN: Okay. When you 11 provide -- well, I'll distribute them. I'll get you a card 12 that you can provide them to. 13 So, do you have any questions, Mr. Kline? 14 MR. KLINE: Actually, the one that I thought brought 15 you up there. I'm gathering that in the picture that has 16 been marked exhibit so and so, there is a queue of cars 17 ahead of the one that's in the back even though you can't 18 see that queue of cars? 19 MR. PRAKHYE: I want to -- wait, they showed the 20 picture? 21 MR. KLINE: Yeah. Yeah. 22 MR. PRAKHYE: I wanted to make clear that this 23 particular picture is not mine. 24 MR. KLINE: Oh. 25 MR. PRAKHYE: I thought it was. I will post mine. I</p>	<p style="text-align: right;">196</p> <p>1 MR. CHEN: Yes. 2 HEARING EXAMINER HANNAN: -- do you -- it's your case. 3 Do you have an objection if he comes and testifies? 4 MR. CHEN: Who? 5 HEARING EXAMINER HANNAN: This gentleman behind you. 6 MR. CHEN: No. No. 7 HEARING EXAMINER HANNAN: Okay. Why don't you change 8 seats, and I'm going to take a minute break and get you one 9 of my cards and you can send me the picture and I'll 10 distribute it -- pictures and I'll distribute them to the 11 parties. 12 MR. CHEN: Is that acceptable to Mr. Kline? 13 HEARING EXAMINER HANNAN: Well, actually, I guess 14 that's an ex parte communication. So, let me -- I can have 15 him send the pictures to Sarah Behanna (phonetic). 16 MR. CHEN: I have no problems where he sends them. 17 MR. KLINE: Yeah, don't worry about it. 18 HEARING EXAMINER HANNAN: Okay. 19 MR. KLINE: Mr. Chen and I are going to be down here 20 for hours reading the file anyway. 21 HEARING EXAMINER HANNAN: Okay. Let me -- let me see 22 if Sarah is here and he can send her the pictures. 23 We're going off the record for five minutes. 24 (Off the record at 3:35:07 p.m.) 25 HEARING EXAMINER HANNAN: Mr. Court Reporter, are we on</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

50 (197 to 200)

<p>197</p> <p>1 the record?</p> <p>2 COURT REPORTER: We are back on.</p> <p>3 HEARING EXAMINER HANNAN: Okay. I was addressing two</p> <p>4 experts in the gallery. I think the one was an expert. So,</p> <p>5 we have one more -- we have another person who wishes to</p> <p>6 testify this afternoon.</p> <p>7 Do you want to come forward please? Please raise your</p> <p>8 right hand. Do you solemnly affirm under penalties of</p> <p>9 perjury that the statements you're about to make are the</p> <p>10 truth, the whole truth, and nothing but the truth?</p> <p>11 MR. PRZYWARA: I do.</p> <p>12 HEARING EXAMINER HANNAN: Okay. Please state your name</p> <p>13 and address for the record.</p> <p>14 MR. PRZYWARA: My name is John Przywara.</p> <p>15 HEARING EXAMINER HANNAN: Okay. Spell that.</p> <p>16 MR. PRZYWARA: Last name PRZY --</p> <p>17 MR. KLINE: E-R.</p> <p>18 MR. PRZYWARA: P as in Peter, R-Z-Y-W-A-R-A. I live at</p> <p>19 7200 Needwood Road. It's Derwood, Maryland 20855.</p> <p>20 HEARING EXAMINER HANNAN: Okay. And what would you</p> <p>21 like to say?</p> <p>22 MR. PRZYWARA: I just want to state that, you know, as</p> <p>23 being somebody who is a little bit down the street and my</p> <p>24 wife and I have to go by this location every single day, we</p> <p>25 are opposed to the new development going in -- or proposed</p>	<p>199</p> <p>1 to Redland Road is that we're only crossing like a</p> <p>2 neighborhood street with limited amounts of traffic going</p> <p>3 by. The concern is at rush hour that there would be lots of</p> <p>4 traffic turning into this facility and it's another hazard</p> <p>5 for bikers and pedestrians on this road.</p> <p>6 And then finally I'd also like to say I'm a</p> <p>7 professional structural engineer. I'm licensed in the state</p> <p>8 of Maryland. And I work with commercial developers on a</p> <p>9 regular basis and provide structural engineering services.</p> <p>10 I'm familiar with construction sites and what is entailed to</p> <p>11 build a commercial facility such as this and the concern is</p> <p>12 that it is very noisy, it is disruptive. There's going to</p> <p>13 be deliveries on flat bed trucks and excavators and concrete</p> <p>14 trucks all coming into our neighborhood and disrupting the</p> <p>15 neighborhood and that's -- you know, with all that these are</p> <p>16 the reasons why I'm against this facility in addition to I</p> <p>17 believe all the traffic that's mentioned previously.</p> <p>18 There's already a decent amount of traffic on Needwood</p> <p>19 Road. It's the only road out of our neighborhood. Those of</p> <p>20 us who commute to work, I have to drive by Needwood Road by</p> <p>21 this facility to Redland every day. It's 50/50 whether or</p> <p>22 not I can make the left turn at that light and in the one</p> <p>23 cycle.</p> <p>24 HEARING EXAMINER HANNAN: Wait. Left turn at Redland?</p> <p>25 MR. PRZYWARA: At Redland. And I'm concerned with</p>
<p>198</p> <p>1 to go into place. We are first time homebuyers. We have</p> <p>2 lived at our address for less than a year. I am 31. My</p> <p>3 wife is 29. We do not currently have kids but that's</p> <p>4 something that's possibly on the horizon. I feel like this</p> <p>5 daycare is probably targeted toward somebody like ourselves.</p> <p>6 My wife is a working professional and so am I.</p> <p>7 However, I am definitely against this daycare going</p> <p>8 into place. It seems to be a commercial enterprise not</p> <p>9 intended to have any sort of community feel to it and one of</p> <p>10 the reasons why we chose to move where we did and despite</p> <p>11 being on Needwood Road which is a decently main road, is</p> <p>12 that it still felt like a neighborhood. Everything in it</p> <p>13 felt residential. Everything was zoned residentially. And</p> <p>14 we like the neighborhood feel to it.</p> <p>15 We were actually ecstatic when they decided to widen</p> <p>16 sidewalk and turn it into a biking/hiking trail that's made</p> <p>17 it easy to connect to the Metro and provide a safe</p> <p>18 walking/biking path. We have -- I mean of several concerns</p> <p>19 that I have with the development, first of all is that the</p> <p>20 proposed development and the plans that it current states is</p> <p>21 going to infringe upon that walking/biking path to the</p> <p>22 Metro.</p> <p>23 There are dozens of people in the neighborhood that</p> <p>24 take this path daily, my wife included, and she rides her</p> <p>25 bike by this location and the good thing about until we get</p>	<p>200</p> <p>1 however many number of cars it is coming into the</p> <p>2 neighborhood that traffic will only be worse.</p> <p>3 HEARING EXAMINER HANNAN: Okay. Anything else?</p> <p>4 MR. PRZYWARA: No, that's all I have.</p> <p>5 HEARING EXAMINER HANNAN: Okay. Thank you.</p> <p>6 Mr. Kline, do you have any questions?</p> <p>7 MR. KLINE: No questions.</p> <p>8 MR. CHEN: No questions.</p> <p>9 HEARING EXAMINER HANNAN: Mr. Chen?</p> <p>10 Thank you. You may be excused.</p> <p>11 Did you have a -- no.</p> <p>12 All right, Mr. Chen.</p> <p>13 MR. KLINE: May I interrupt Mr. Chen for a second?</p> <p>14 HEARING EXAMINER HANNAN: Sure.</p> <p>15 MR. KLINE: Maybe I'm -- I'm probably the oldest person</p> <p>16 in the room so --</p> <p>17 MR. CHEN: No, no, no.</p> <p>18 HEARING EXAMINER HANNAN: Well, you're definitely</p> <p>19 older -- you're all older than me.</p> <p>20 MR. CHEN: Yes.</p> <p>21 MR. KLINE: I propose that -- before I go on, I have to</p> <p>22 say when I got to the office after the hearing yesterday my</p> <p>23 wife had left a message saying that the governor of Maryland</p> <p>24 has said if I was over 60 that Bill Chen and I should not be</p> <p>25 in this room this morning.</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

51 (201 to 204)

<p>201</p> <p>1 HEARING EXAMINER HANNAN: I was thinking about that</p> <p>2 too. I mean I was thinking about you guys, not me.</p> <p>3 MR. CHEN: I understand.</p> <p>4 MR. KLINE: Well, what I was leading up to is I'm worn</p> <p>5 out and clearly we're not going to finish today. I thought</p> <p>6 we -- given we need to find a new date, that's not going to</p> <p>7 be something we're going to do real quickly and I</p> <p>8 thought -- I was going to ask if maybe we could wrap it now</p> <p>9 and spend the next 15, 20 minutes trying to figure out when</p> <p>10 we can get back together again.</p> <p>11 HEARING EXAMINER HANNAN: I don't have a problem with</p> <p>12 that. If you can just hang on two minutes or one minute, I</p> <p>13 just need to get my phone.</p> <p>14 MR. KLINE: Sure.</p> <p>15 HEARING EXAMINER HANNAN: So, let me go get that.</p> <p>16 (Off the record at 3:47:59.)</p> <p>17 HEARING EXAMINER HANNAN: I was unable to print out</p> <p>18 April so hopefully we can do this in March. I don't know</p> <p>19 what's wrong with April.</p> <p>20 MR. KLINE: That's all right. Clearly you want to get</p> <p>21 the transcript so --</p> <p>22 HEARING EXAMINER HANNAN: The transcripts will</p> <p>23 be -- what I've done is order them semi-expedited.</p> <p>24 Are we -- we're back on the record?</p> <p>25 COURT REPORTER: We are, yes.</p>	<p>203</p> <p>1 MR. CHEN: Yeah, I think that would work for me. I</p> <p>2 don't -- yeah.</p> <p>3 MR. KLINE: And that would be okay. I do have a</p> <p>4 commitment at 5:00 on the 2nd so we would just wrap up a</p> <p>5 little earlier that day, but the rest of the -- from what I</p> <p>6 can tell that time and all day Friday are available.</p> <p>7 HEARING EXAMINER HANNAN: So -- go ahead.</p> <p>8 MR. CHEN: The 2nd and the 3rd work for me as well.</p> <p>9 And I'm even thinking if at all possible if you're open on</p> <p>10 the 6th just as a backup.</p> <p>11 MR. KLINE: Ooh.</p> <p>12 MR. CHEN: Well, I --</p> <p>13 MR. KLINE: No, that's good. That's a good plan.</p> <p>14 HEARING EXAMINER HANNAN: Yes, I could do that.</p> <p>15 MR. CHEN: Why don't -- I mean --</p> <p>16 HEARING EXAMINER HANNAN: I think we should schedule</p> <p>17 another day, an extra day.</p> <p>18 MR. CHEN: Yeah.</p> <p>19 HEARING EXAMINER HANNAN: April 2, 3, and 6.</p> <p>20 MR. CHEN: Yes. Strongly agree.</p> <p>21 MR. KLINE: Do you think all your experts are okay?</p> <p>22 MR. CHEN: Excuse me?</p> <p>23 MR. KLINE: Do you think all your experts are okay for</p> <p>24 those days?</p> <p>25 MR. CHEN: Yeah.</p>
<p>202</p> <p>1 HEARING EXAMINER HANNAN: Semi-expedited which is five</p> <p>2 business days which is seven days. Because I find that two</p> <p>3 days are, no offense, but they tend to have mistakes that</p> <p>4 can be confusing. So, they're five days.</p> <p>5 MR. CHEN: I'm very bad in March, the rest of March.</p> <p>6 I've got a two-day trial scheduled for April 20 and 21.</p> <p>7 HEARING EXAMINER HANNAN: Wait. You have a two-day</p> <p>8 trial scheduled when?</p> <p>9 MR. CHEN: April 20 -- I'm bad the rest of this month,</p> <p>10 March, with stuff already on my calendar.</p> <p>11 HEARING EXAMINER HANNAN: Well, I was hoping to get</p> <p>12 in -- I have --</p> <p>13 MR. CHEN: And how many days may also be relevant to</p> <p>14 it.</p> <p>15 HEARING EXAMINER HANNAN: Well, how many witnesses do</p> <p>16 you have?</p> <p>17 MR. CHEN: I've got four, and two I anticipate will be</p> <p>18 exceedingly long.</p> <p>19 HEARING EXAMINER HANNAN: So, are you saying we can't</p> <p>20 do it -- you can't do anything until April 20, 21?</p> <p>21 MR. CHEN: Well, no, actually I'm looking at -- I could</p> <p>22 probably -- just don't take me close to April 20 because I'm</p> <p>23 going to be going crazy getting ready for that trial. So,</p> <p>24 the first part of April I'm sure I can get in.</p> <p>25 HEARING EXAMINER HANNAN: April 2, 3?</p>	<p>204</p> <p>1 HEARING EXAMINER HANNAN: Do you need time to speak</p> <p>2 with yours because you don't have them in here.</p> <p>3 MR. KLINE: Well, not much. Yeah, I'd like until noon</p> <p>4 tomorrow, say, to be able to check with everybody.</p> <p>5 MR. CHEN: I can --</p> <p>6 MR. KLINE: And I'm not -- you know, mine is a rebuttal</p> <p>7 thing so I don't think I need everybody, if anybody, but</p> <p>8 clearly from what I've heard there's some -- I think we need</p> <p>9 to do some things and I'm trying to think of ways that I can</p> <p>10 expediate, but by noon tomorrow I should be able to commit</p> <p>11 to those days.</p> <p>12 MR. CHEN: I don't know Mr. Burg's situation, but I</p> <p>13 would hope not to have to call him back.</p> <p>14 HEARING EXAMINER HANNAN: Whose situation?</p> <p>15 MR. CHEN: Mr. Burg.</p> <p>16 HEARING EXAMINER HANNAN: Oh, Mr. Burg.</p> <p>17 MR. CHEN: And the only other thing that is open on my</p> <p>18 thing is -- I apologize -- that's open with me as an issue</p> <p>19 is the survey. We have not gotten the survey.</p> <p>20 HEARING EXAMINER HANNAN: Oh, the Alta survey.</p> <p>21 MR. CHEN: And I was going to use the survey with Mr.</p> <p>22 Reese and --</p> <p>23 MR. KLINE: Do you remember I reported yesterday it was</p> <p>24 going to be in my office this morning.</p> <p>25 MR. CHEN: It wasn't.</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

52 (205 to 208)

<p>205</p> <p>1 MR. KLINE: So, when I came in the office this morning</p> <p>2 I did not see it and of course I left before others got</p> <p>3 there. So, if it arrived it may be on someone else's desk.</p> <p>4 I should be able to hand deliver it to you on Wednesday and</p> <p>5 your office on Wednesday as well.</p> <p>6 HEARING EXAMINER HANNAN: Okay.</p> <p>7 MR. CHEN: And the caveat was I wanted Mr. Reese to be</p> <p>8 able to see it since he's a surveyor.</p> <p>9 MR. KLINE: I had two copies made for you. I'll be</p> <p>10 glad to take one over to Maddox.</p> <p>11 MR. CHEN: Okay.</p> <p>12 HEARING EXAMINER HANNAN: So, you think you can get it</p> <p>13 by this Wednesday, March 11th?</p> <p>14 MR. KLINE: Yes, ma'am.</p> <p>15 HEARING EXAMINER HANNAN: Okay.</p> <p>16 MR. KLINE: I know of no reason why it's not already</p> <p>17 done. I just couldn't find it in the office this morning.</p> <p>18 HEARING EXAMINER HANNAN: Okay. All right. Anything</p> <p>19 else?</p> <p>20 MR. CHEN: No. We'll know definitely tomorrow, Mr.</p> <p>21 Kline, that --</p> <p>22 MR. KLINE: I should be able to get an answer by noon</p> <p>23 tomorrow. Everybody left here with, you know, interest of</p> <p>24 what was going to happen today so I'm sure they'll be</p> <p>25 attentive to any emails I send them tomorrow.</p>	<p>207</p> <p>1 hand. Do you solemnly affirm under penalties of perjury</p> <p>2 that the statements you're about to make are the truth, the</p> <p>3 whole truth, and nothing but the truth.</p> <p>4 MS. STORBRAUCK: I do.</p> <p>5 HEARING EXAMINER HANNAN: Please state your name and</p> <p>6 address for the record.</p> <p>7 MS. STORBRAUCK: My name is Lauren Storbrauck and I</p> <p>8 live at 7200 Needwood Road.</p> <p>9 HEARING EXAMINER HANNAN: Can you spell your last name?</p> <p>10 MS. STORBRAUCK: S-T-O-R-B-R-A-U-C-K.</p> <p>11 MR. CHEN: Which street was that, ma'am?</p> <p>12 MS. STORBRAUCK: Needwood Road.</p> <p>13 HEARING EXAMINER HANNAN: I missed the address too. I</p> <p>14 don't want to wait for the transcript, so I was going to ask</p> <p>15 you to give it to me again.</p> <p>16 MS. STORBRAUCK: It's 7200.</p> <p>17 HEARING EXAMINER HANNAN: Okay. All right. Go ahead.</p> <p>18 MS. STORBRAUCK: Well, I just wanted to say that I</p> <p>19 object to the daycare going in for a whole host of issues.</p> <p>20 I mean I disagree with the gentleman who spoke yesterday</p> <p>21 regarding traffic. There is quite a lot of traffic on that</p> <p>22 road. I have the misfortune of trying to back my car out</p> <p>23 onto an already busy street every day.</p> <p>24 I also disagree on the basis of the demographics of the</p> <p>25 area. Me and my husband are one of the few young couples</p>
<p>206</p> <p>1 HEARING EXAMINER HANNAN: Now is there anything that</p> <p>2 I -- I'm seeing a discussion behind Mr. Chen. Is there any</p> <p>3 issue there with -- yes?</p> <p>4 MR. PRZYWARA: She wants to know if she can testify?</p> <p>5 MS. SHIRVEN: Me, as well.</p> <p>6 HEARING EXAMINER HANNAN: Today? You, as well?</p> <p>7 MS. SHIRVEN: Yes.</p> <p>8 HEARING EXAMINER HANNAN: Do you have an objection, Mr.</p> <p>9 Kline?</p> <p>10 MR. KLINE: I'm sorry. What's the question?</p> <p>11 HEARING EXAMINER HANNAN: We have two people that came</p> <p>12 in that wish to testify.</p> <p>13 MR. KLINE: Of course. Yeah.</p> <p>14 MR. CHEN: We've got time.</p> <p>15 HEARING EXAMINER HANNAN: Okay. We'll go for it.</p> <p>16 Although I know the Kosarys, your clients have to -- one of</p> <p>17 your clients have to leave at 5:00.</p> <p>18 MR. CHEN: Yeah, but it's not yet 4:00. So --</p> <p>19 HEARING EXAMINER HANNAN: Okay. Come forward.</p> <p>20 MS. SHIRVEN: May I just --</p> <p>21 HEARING EXAMINER HANNAN: Not yet.</p> <p>22 MS. SHIRVEN: Okay.</p> <p>23 HEARING EXAMINER HANNAN: Yeah, you'll be next.</p> <p>24 MS. SHIRVEN: Okay.</p> <p>25 HEARING EXAMINER HANNAN: Yes. Please raise your right</p>	<p>208</p> <p>1 that live there and in searching for insurance information,</p> <p>2 if you look at the postal service's demographic breakdown,</p> <p>3 the large number of -- the average resident age was over 45.</p> <p>4 The average child was 18. There are just -- we don't have a</p> <p>5 school bus stop in the neighborhood. We don't have a lot of</p> <p>6 children. I've had no trick-or-treaters.</p> <p>7 Also, I object to the size. 200 children is a lot.</p> <p>8 You know, I would never -- my husband and I would never put</p> <p>9 a child into such a large daycare. I don't think it's very</p> <p>10 responsible. He mentioned no cleaning staff in a time of</p> <p>11 coronavirus and just anti-vaxxers. I would never send a</p> <p>12 child to a daycare of 200 children. I just don't think</p> <p>13 that's responsible. There is lots of other options nearby</p> <p>14 that are much smaller and have availability.</p> <p>15 HEARING EXAMINER HANNAN: Okay. Anything else?</p> <p>16 MS. STORBRAUCK: No, I think that's about it.</p> <p>17 HEARING EXAMINER HANNAN: Okay. Thank you. Just a</p> <p>18 sec.</p> <p>19 MR. KLINE: No, I have no questions other than</p> <p>20 (inaudible) is just a very pretty name. I'm surprised you</p> <p>21 didn't adopt it.</p> <p>22 MS. STORBRAUCK: My name is Lauren Storbrauck.</p> <p>23 MR. KLINE: I understand.</p> <p>24 HEARING EXAMINER HANNAN: Okay. Wait. Wait.</p> <p>25 Mr. Chen, did you have any questions?</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

53 (209 to 212)

<p>209</p> <p>1 MR. CHEN: No questions. Thank you.</p> <p>2 HEARING EXAMINER HANNAN: No. Okay.</p> <p>3 Thank you.</p> <p>4 HEARING EXAMINER HANNAN: Now she's got it going</p> <p>5 because she's got the Purell on her purse. That's what I</p> <p>6 need to do. I've been dealing with this hearing and</p> <p>7 coronavirus.</p> <p>8 Okay. There was another lady back there?</p> <p>9 MS. SHIRVEN: Yes.</p> <p>10 HEARING EXAMINER HANNAN: Can you come forward please?</p> <p>11 Okay. Please raise your right hand. Do you solemnly affirm</p> <p>12 under penalties of perjury that the statements you're about</p> <p>13 to make are the truth, the whole truth, and nothing but the</p> <p>14 truth?</p> <p>15 MS. SHIRVEN: I do.</p> <p>16 HEARING EXAMINER HANNAN: Please state your name and</p> <p>17 address for the record please.</p> <p>18 MS. SHIRVEN: My name is Mary Ann Shirven,</p> <p>19 S-H-I-R-V-E-N.</p> <p>20 MR. CHEN: S-H-A-R-V-I-N?</p> <p>21 MS. SHIRVEN: No. S-H-I-R-V-E-N.</p> <p>22 MR. CHEN: Thank you.</p> <p>23 HEARING EXAMINER HANNAN: And is Mary Anne M-A-R-Y</p> <p>24 A-N-N-E?</p> <p>25 MS. SHIRVEN: No E and two words.</p>	<p>211</p> <p>1 seemed like no one was looking out for the residents of</p> <p>2 Needwood Road and then this came along. This is a</p> <p>3 residential area and just because it's on a busier street</p> <p>4 doesn't mean that families live there and need to get in and</p> <p>5 out of their homes. I looked at quite a few of the other</p> <p>6 sites and I did not find one that was in a residential area</p> <p>7 and someone the other day said Gambrell was near houses. I</p> <p>8 took a pretty good look at the map and it's not near houses.</p> <p>9 It's across the street from a commercial area. There's a</p> <p>10 couple large lots, but it's not in a residential area where</p> <p>11 --</p> <p>12 HEARING EXAMINER HANNAN: Are you looking at other</p> <p>13 Prinrose Daycares?</p> <p>14 MS. SHIRVEN: Yes.</p> <p>15 HEARING EXAMINER HANNAN: Okay.</p> <p>16 MS. SHIRVEN: This is another Prinrose site and I</p> <p>17 looked up this one specifically because it's in Maryland and</p> <p>18 because yesterday someone said that it was in a residential</p> <p>19 area. It's not in a residential area anything close to what</p> <p>20 Needwood is. I drive on that road frequently because I work</p> <p>21 off of Muncaster Mill Road.</p> <p>22 MR. CHEN: That road?</p> <p>23 MS. SHIRVEN: Being Needwood Road. I live on the other</p> <p>24 side of Redland. I've lived here since 1998. I've seen the</p> <p>25 increase in traffic.</p>
<p>210</p> <p>1 HEARING EXAMINER HANNAN: Just -- okay. Two words.</p> <p>2 Perfect. And your address?</p> <p>3 MS. SHIRVEN: I live at 2 Bethayres Court,</p> <p>4 B as in boy, E-T-H-A-Y-R-E-S, Court in Derwood, 20855.</p> <p>5 HEARING EXAMINER HANNAN: Thank you. What would you</p> <p>6 like to say?</p> <p>7 MS. SHIRVEN: Okay. So, I hate public speaking. I'm</p> <p>8 going to be quick. I have followed this for a while through</p> <p>9 the point where the TCC battle came up and that also making</p> <p>10 an over 10,000 square foot community center in this</p> <p>11 neighborhood was not correct.</p> <p>12 HEARING EXAMINER HANNAN: Can you --</p> <p>13 MS. SHIRVEN: Yes?</p> <p>14 HEARING EXAMINER HANNAN: I'm not familiar with the TCC</p> <p>15 battle. Is that an application?</p> <p>16 MS. SHIRVEN: So, I'm not sure of exactly what it was</p> <p>17 but it's a single-family home at present and someone wanted</p> <p>18 to come in and make a very large community center.</p> <p>19 HEARING EXAMINER HANNAN: Is that the Taiwanese</p> <p>20 Cultural Center?</p> <p>21 MS. SHIRVEN: Yes.</p> <p>22 HEARING EXAMINER HANNAN: Okay.</p> <p>23 MS. SHIRVEN: That's what TCC is.</p> <p>24 HEARING EXAMINER HANNAN: Okay.</p> <p>25 MS. SHIRVEN: So, I got involved with this and it</p>	<p>212</p> <p>1 HEARING EXAMINER HANNAN: Okay. I'm stopping you</p> <p>2 because take a breath.</p> <p>3 MS. SHIRVEN: I'm anxious.</p> <p>4 HEARING EXAMINER HANNAN: You're doing great. I just</p> <p>5 have some technicalities I have to work on of this is all</p> <p>6 transcribed and they have to know where you're talking</p> <p>7 about. So, when you say the other side of Redland Road,</p> <p>8 does that mean -- what does that mean? Is it north or south</p> <p>9 of Needwood?</p> <p>10 MS. SHIRVEN: At the intersection where this -- the</p> <p>11 road that the daycare center is on, Needwood facing Redland,</p> <p>12 I live on the other side of Redland Road down a little bit.</p> <p>13 So, my commute takes me --</p> <p>14 HEARING EXAMINER HANNAN: Okay. So, if you're at</p> <p>15 Needwood and Redland, would you turn right or would you</p> <p>16 turn --</p> <p>17 MS. SHIRVEN: I would turn right on Redland.</p> <p>18 HEARING EXAMINER HANNAN: If you're going eastbound</p> <p>19 toward Redland, would you turn right, or would you turn</p> <p>20 left?</p> <p>21 MS. SHIRVEN: I would turn right.</p> <p>22 HEARING EXAMINER HANNAN: You would turn right. So</p> <p>23 then north.</p> <p>24 MS. SHIRVEN: And then take a left. So --</p> <p>25 HEARING EXAMINER HANNAN: And then take a left. Okay.</p>



Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

54 (213 to 216)

<p>213</p> <p>1 MS. SHIRVEN: So, I've lived in this community for a 2 long time and I've been active and, like I said, I've seen 3 the increase in traffic. I have a fairly new driver, so 4 I've had the -- you know, I'm always paying attention to 5 accidents. I also volunteer with an emergency services 6 group. 7 It's already common in that area to have fire trucks 8 and ambulances have to come on the wrong side of the road to 9 get to anything in that area. I just don't see how 200 10 people's worth of cars and 30 some staff and the changeover 11 halfway through the day since these people are not going to 12 be workign 12-hour shifts, if there's 44 spaces, I believe 13 two are accessible parking spaces. So, you want general 14 public spaces, so that's 42. And if 30 are occupied by 15 staff, to 32 by staff, what happens when the staff changes 16 over, when everybody is coming in for the second half of the 17 day? The parking lot is almost already full. 18 And then I had a child that I dropped off at daycare 19 for many years. It never took me ten minutes. My son has 20 special needs. There were always conversations to have. I 21 had to provide a lot of support. I was in and out of the 22 school many times during the day. So, this is not a drop 23 the kids off, you know, merrily go to the Metro, and then 24 come back at the end of the day. The parking lot where my 25 son's daycare was in Rockville was (inaudible) and they had</p>	<p>215</p> <p>1 HEARING EXAMINER HANNAN: Okay. Questions, Mr. Kline? 2 Thank you for your testimony. 3 MR. KLINE: No, thank you. 4 HEARING EXAMINER HANNAN: Mr. Chen? Thank you. 5 MS. SHIRVEN: Thank you. 6 HEARING EXAMINER HANNAN: Is there anyone else in the 7 audience while we have some time? Okay. Seeing none, let's 8 continue. So right now, we have dates to be confirmed by 9 Mr. Kline of April 2, 3, and 6, correct? I think -- okay. 10 I'm just calculating Easter too. Okay. So, with that, are 11 we firm on the 2nd because I have to continue the hearing -- 12 MR. CHEN: Announce it. 13 HEARING EXAMINER HANNAN: I have to announce it. So 14 are we -- 15 MR. KLINE: That's within his -- it's probably mostly 16 his presentation and his witnesses. 17 HEARING EXAMINER HANNAN: Okay. 18 MR. CHEN: Yes. 19 HEARING EXAMINER HANNAN: Okay. So, with that, I'm 20 going to continue this hearing to April 2nd at 9:30 a.m. 21 And thank you all. 22 MR. CHEN: Thank you. 23 HEARING EXAMINER HANNAN: Okay. 24 COURT REPORTER: And did you want this transcript? 25 HEARING EXAMINER HANNAN: The five day.</p>
<p>214</p> <p>1 to have staff out there monitoring the traffic. So, I think 2 that that's an issue. 3 MR. CHEN: How large was that? 4 MS. SHIRVEN: That daycare had a twos, threes, fours, 5 and fives room of probably 20 kids. So, it was probably 80 6 kids. And it had a parking lot that was bigger than the one 7 that Primrose is going to look at. It just seems to me that 8 it is not going to be an easy thing if you're coming from 9 anywhere over in the Olney area to head on Redland, take a 10 left on Needwood, take a right in there, drop your kid off, 11 come back out, take a left on Needwood through the traffic, 12 the morning traffic, and then you're going to take a left at 13 the light onto Redland. It's not an easy drop off. 14 I know I looked at one daycare center for my son and it 15 turns out that there were 39 traffic lights between my house 16 and the daycare center, and it was only 12 miles away. So 17 obviously I picked a different daycare center. 18 I am an engineer by training and one of the things that 19 we look at is no matter how good your plan is what is the 20 long-term effect of it. Once this is approved and it's 21 built then there's trouble. There's no fixing it. There's 22 no way to correct it. Nobody is going to make Needwood 23 Road, you know, a 27-lane highway. So, I just think it 24 sounds like a decent daycare. This is an absolutely 25 improper location for it in my opinion.</p>	<p>216</p> <p>1 COURT REPORTER: Five day. Thank you. 2 (Off the record at 4:08:01 p.m.) 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

55 (217 to 220)

<p>217</p> <p>1 CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC</p> <p>2 I, LEE UTTERBACK, the officer before whom the foregoing</p> <p>3 deposition was taken, do hereby certify that said</p> <p>4 proceedings were electronically recorded by me; and that I</p> <p>5 am neither counsel for, related to, nor employed by any of</p> <p>6 the parties to this case and have no interest, financial or</p> <p>7 otherwise, in its outcome.</p> <p>8 IN WITNESS WHEREOF, I have hereunto set my hand and</p> <p>9 affixed my notarial seal this 17th day of March, 2020.</p> <p>10 </p> <p>11 _____</p> <p>12 Lee Utterback, Notary Public</p> <p>13 for the State of Maryland</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	
<p>218</p> <p>1 CERTIFICATE OF TRANSCRIBER</p> <p>2 I, DEBRA MCCOSTLIN, do hereby certify that the</p> <p>3 foregoing transcript is a true and correct record of the</p> <p>4 recorded proceedings; that said proceedings were transcribed</p> <p>5 to the best of my ability from the audio recording and</p> <p>6 su</p> <p>7 pporting information; and that I am neither counsel for,</p> <p>8 related to, nor employed by any of the parties to this case</p> <p>9 and have no interest, financial or otherwise, in its</p> <p>10 outcome.</p> <p>11</p> <p>12 </p> <p>13</p> <p>14 DEBRA MCCOSTLIN</p> <p>15 MARCH 16, 2020</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>	

A			
a-n-n-e	accommodate	76:3, 81:18,	adequate
209:24	19:20, 69:10,	98:3	18:14, 118:17,
abandoned	79:9, 80:9,	activity	118:22, 119:12,
38:16, 106:19	81:9, 106:8,	14:2, 66:20,	122:24, 124:2,
ability	160:2, 168:1,	69:3, 74:25,	124:16, 165:10
101:13, 218:5	170:7	79:21, 80:22,	adjacent
able	accommodates	80:23, 81:17,	132:25, 133:14
11:14, 20:16,	70:3	81:20, 96:4	adjoining
25:18, 39:19,	accomplish	actual	107:18, 107:24,
48:3, 144:17,	180:8	70:19, 121:15,	110:7
154:25, 169:10,	accomplished	126:22	adjudicatory
204:4, 204:10,	146:17	actually	99:23
205:4, 205:8,	according	13:15, 16:14,	adjuster
205:22	177:22, 178:22	59:5, 83:20,	193:3
above	accountant	85:18, 87:25,	admin
25:4, 55:15,	34:25	113:5, 116:25,	83:16
178:10, 178:11	achieved	128:4, 128:12,	administrative
absence	145:23	129:5, 129:13,	1:1, 2:1, 2:3,
116:21	ackad	153:22, 166:7,	3:2
absolutely	15:8, 15:10	167:8, 168:10,	administrators
99:3, 143:4,	acquisition	175:2, 178:7,	41:6, 41:11,
146:23, 167:11,	110:10	183:23, 194:14,	41:18, 42:2,
214:24	acre	196:13, 198:15,	71:7, 83:21,
abundance	106:3, 106:6,	202:21	102:24
175:8	106:10, 193:25	add	admission
academic	acres	25:23, 58:25,	152:13
75:21, 76:1	112:7, 113:19,	90:15, 192:12	admissions
accept	113:24	added	115:21
24:17, 99:15,	across	88:17, 117:3	admit
101:17, 144:6	84:11, 90:22,	addition	182:10
acceptable	132:8, 132:9,	10:6, 71:11,	admitted
40:22, 40:24,	134:7, 134:12,	124:13, 193:21,	104:10
41:1, 41:3,	134:16, 172:21,	199:16	admonition
107:7, 121:17,	173:2, 173:19,	additional	24:11
122:11, 196:12	177:20, 187:6,	40:11, 128:7	adopt
accepted	189:23, 192:25,	address	208:21
99:22	193:13, 193:14,	8:9, 8:10,	adopting
access	211:9	13:19, 105:8,	77:15
111:22, 123:7,	active	107:22, 109:1,	advantage
123:21, 124:4,	156:10, 165:19,	111:6, 111:7,	108:16
124:17, 187:19	213:2	111:10, 115:1,	adversely
accessible	activities	149:4, 149:18,	107:24
213:13	14:7, 51:25,	156:22, 178:1,	advised
accidents	52:24, 58:14,	178:22, 186:2,	107:8
191:23, 193:1,	62:22, 62:23,	197:13, 198:2,	affect
213:5	66:15, 66:20,	207:6, 207:13,	168:21
	66:22, 68:21,	209:17, 210:2	affected
	75:19, 76:2,	addressing	107:24
		197:3	

<p>affirm 8:4, 104:24, 110:25, 114:20, 148:24, 185:12, 197:8, 207:1, 209:11 affixed 217:9 afforded 9:7 afraid 165:6 after 9:11, 14:18, 21:23, 22:1, 22:9, 27:16, 29:19, 29:20, 30:4, 34:24, 35:1, 45:6, 45:23, 56:11, 57:16, 58:23, 58:24, 59:7, 64:2, 64:4, 64:14, 65:7, 65:8, 65:19, 65:22, 65:24, 67:19, 68:25, 69:21, 73:1, 77:17, 77:25, 81:1, 97:20, 108:21, 109:1, 112:22, 142:13, 200:22 after-school 53:3, 53:6, 57:3, 57:8, 61:8, 63:17, 64:7, 64:18, 66:21 afternoon 65:16, 68:4, 75:4, 80:14, 80:24, 81:2, 81:4, 90:11, 95:4, 103:19, 197:6 again 6:2, 16:15,</p>	<p>18:16, 22:18, 34:1, 42:17, 53:18, 57:5, 72:20, 75:21, 77:1, 87:14, 90:20, 94:23, 102:23, 106:21, 106:23, 106:24, 117:18, 119:7, 120:17, 134:4, 135:18, 140:17, 143:8, 143:12, 144:9, 164:17, 164:21, 167:14, 167:25, 169:6, 173:24, 174:11, 175:4, 175:6, 176:5, 183:5, 191:23, 201:10, 207:15 against 172:14, 172:20, 183:4, 198:7, 199:16 age 13:25, 43:14, 44:4, 55:15, 62:5, 62:16, 63:12, 63:14, 75:10, 89:25, 90:1, 91:6, 94:16, 95:18, 95:19, 96:15, 96:16, 208:3 aged 42:15, 74:11 agencies 115:13 agency 116:15 agent 33:21, 34:4, 34:7, 172:22, 173:8, 173:22, 174:19, 175:4, 178:23, 179:3, 179:8, 179:11, 179:25, 180:7,</p>	<p>184:2, 186:19 ages 62:14, 91:7 ago 186:21 agree 64:12, 77:11, 100:3, 141:13, 203:20 agreeable 77:8, 77:13 agreed 76:21 agreeing 77:16 agreement 2:15, 37:21, 37:25, 49:22 agreements 51:1, 51:4, 51:5 ah 155:7 ahead 8:1, 15:18, 19:13, 23:5, 38:14, 89:5, 100:20, 101:18, 105:16, 114:24, 118:14, 119:10, 129:9, 129:22, 140:16, 145:8, 149:17, 151:24, 152:4, 154:18, 155:13, 177:5, 177:10, 179:23, 194:17, 203:7, 207:17 air 193:25 aligns 163:6 allocating 71:4 allocation 17:23 allowed 144:20, 167:8</p>	<p>almost 101:3, 131:12, 147:11, 172:18, 173:4, 189:18, 213:17 along 122:18, 127:14, 145:19, 211:2 already 10:4, 42:9, 62:4, 66:7, 82:1, 99:5, 103:21, 124:14, 130:13, 142:9, 148:4, 149:24, 149:25, 151:16, 152:2, 160:21, 189:12, 189:14, 199:18, 202:10, 205:16, 207:23, 213:7, 213:17 also 15:14, 19:15, 23:21, 23:22, 25:2, 30:12, 31:23, 41:11, 50:23, 71:13, 80:13, 129:11, 133:1, 133:7, 134:22, 136:6, 136:8, 139:18, 144:11, 146:10, 148:15, 155:19, 158:23, 159:18, 160:23, 161:2, 168:18, 168:19, 169:18, 172:22, 173:6, 199:6, 202:13, 207:24, 208:7, 210:9, 213:5 alt 14:1, 76:17, 76:23, 77:3, 92:16 alt's 22:14, 77:15 alta 204:20</p>
--	--	--	---

<p>alternate 109:13, 153:24 alternative 147:23 although 107:8, 129:23, 206:16 always 14:24, 24:5, 24:7, 28:8, 30:12, 30:25, 147:11, 153:4, 162:21, 193:12, 193:16, 213:4, 213:20 ambulances 112:4, 213:8 amenable 77:8 amend 107:21 amended 101:9, 146:13 among 71:22, 71:24, 74:8, 93:15 amount 20:14, 95:13, 110:9, 199:18 amounts 146:22, 199:2 ample 143:7 analysis 11:2 ann 209:18 anne 209:23 announce 215:12, 215:13 another 8:24, 32:8, 43:18, 65:15, 80:25, 95:16, 153:4, 157:9, 158:24, 160:5, 162:21, 167:23,</p>	<p>177:10, 182:18, 183:4, 183:16, 192:12, 197:5, 199:4, 203:17, 209:8, 211:16 answer 33:25, 38:19, 39:10, 39:15, 39:19, 66:12, 83:4, 100:3, 101:16, 101:19, 170:1, 205:22 answered 62:2, 68:20, 82:1, 101:19, 176:8 anthony 149:5 anti-vaxxers 208:11 anticipate 101:4, 101:7, 202:17 anticipating 139:13 anticipation 107:12 anxious 212:3 any 9:4, 10:17, 13:18, 13:20, 14:21, 15:2, 15:3, 17:4, 20:12, 23:14, 25:4, 25:21, 28:11, 31:17, 33:11, 47:21, 49:5, 51:1, 51:3, 51:4, 51:21, 52:21, 55:18, 57:18, 61:24, 68:22, 73:4, 74:1, 74:15, 77:12, 77:19, 77:20, 84:21, 85:6, 85:8, 85:12,</p>	<p>85:25, 91:10, 93:6, 93:14, 93:21, 95:8, 97:12, 97:16, 98:17, 99:21, 108:18, 108:22, 114:8, 114:9, 124:13, 128:7, 135:5, 141:12, 143:23, 147:3, 152:10, 157:11, 161:24, 165:20, 175:13, 175:14, 175:15, 183:8, 184:5, 185:5, 190:24, 194:13, 198:9, 200:6, 205:25, 206:2, 208:25, 217:5, 218:8 anybody 18:22, 26:21, 62:7, 73:20, 143:14, 191:21, 204:7 anymore 108:13, 112:24 anyone 6:16, 12:13, 12:15, 103:20, 160:16, 191:17, 215:6 anything 14:2, 20:12, 29:6, 39:6, 65:22, 66:8, 76:20, 90:13, 105:21, 110:20, 113:14, 134:10, 141:14, 163:25, 174:14, 177:17, 194:7, 200:3, 202:20, 205:18, 206:1, 208:15, 211:19, 213:9 anytime 26:21 anyway 196:20</p>	<p>anywhere 89:23, 214:9 apologize 42:17, 45:4, 57:6, 72:13, 87:2, 179:21, 204:18 apparently 29:1, 34:7, 69:10, 71:10, 139:14, 143:19, 179:10 appeal 151:4, 171:12 appealing 9:2 appeals 107:9 appear 151:9 apples 81:5 applicable 138:3 applicant 1:5, 3:6, 24:17, 65:10, 84:18, 100:1, 102:1, 123:20, 138:1, 145:21, 146:15, 153:12, 160:8, 160:14, 164:18, 165:6, 165:16, 168:1, 168:2, 168:14, 169:1, 170:5, 173:8, 174:17, 182:5, 182:23, 182:25, 183:1 applicant's 118:19, 120:12, 123:6, 182:22 applicants 33:19 application 9:1, 65:11, 85:24, 100:7, 100:13, 172:9,</p>
---	--	---	---

<p>175:8, 177:21, 179:2, 180:3, 180:16, 180:19, 210:15 applied 107:17, 135:22 apply 37:13, 135:12 applying 47:18, 136:16 appreciate 11:14, 63:1, 97:14, 184:15 approach 35:14, 125:18 approached 113:8, 168:23, 168:25 approaching 134:15 appropriate 9:3, 14:1, 105:23, 135:21 approval 9:19, 31:18, 31:20, 34:24, 35:2, 107:11, 107:15 approvals 116:15 approve 10:15 approved 106:17, 146:21, 165:7, 214:20 approximate 5:14, 124:11, 152:22 approximately 152:1, 152:19 april 201:18, 201:19, 202:6, 202:9, 202:20, 202:22, 202:24, 202:25, 203:19, 215:9, 215:20 apron 119:23, 120:19,</p>	<p>125:5 area 5:8, 5:9, 9:13, 9:22, 16:6, 16:9, 16:13, 16:14, 31:25, 32:2, 32:4, 32:7, 76:17, 77:21, 90:21, 90:23, 93:11, 96:5, 96:11, 97:5, 106:11, 115:17, 115:18, 125:11, 126:22, 127:23, 128:2, 128:7, 128:21, 129:25, 130:6, 130:7, 130:9, 130:11, 130:20, 131:12, 131:18, 136:8, 136:19, 137:3, 138:24, 139:4, 139:22, 140:9, 141:17, 147:25, 149:23, 160:12, 160:25, 161:1, 170:17, 187:12, 192:14, 192:16, 207:25, 211:3, 211:6, 211:9, 211:10, 211:19, 213:7, 213:9, 214:9 areas 11:4, 16:10, 16:17, 85:10, 85:25, 86:10, 89:18, 106:10, 126:4, 129:25, 130:22, 136:1, 139:3, 147:24, 192:8, 192:14, 192:16 aren't 159:16, 170:20 argument 66:4, 100:22, 168:13</p>	<p>arises 30:15 around 19:19, 55:6, 85:18, 89:18, 90:22, 91:7, 91:23, 124:12, 174:3, 187:2 arrivals 9:24 arrive 20:18, 102:11 arrived 59:10, 104:13, 205:3 arriving 20:2 arrow 126:8, 126:10 as-required 29:21 ashburn 111:11 ask 13:16, 13:18, 18:11, 22:11, 64:17, 67:12, 82:14, 83:22, 84:7, 105:7, 142:17, 142:23, 144:17, 175:12, 176:13, 178:25, 201:8, 207:14 asked 11:10, 17:3, 23:9, 62:1, 64:13, 64:17, 65:7, 65:22, 66:23, 70:16, 93:23, 98:20, 101:5, 102:9, 105:20, 118:18, 127:25, 135:11, 135:15, 137:24 asking 17:22, 47:16, 85:3, 98:14, 171:11</p>	<p>aspect 67:5, 149:20 aspects 65:3 aspen 9:6 assemble 16:5 assistant 23:18, 24:5 assume 56:5, 60:25, 61:16, 68:5, 70:20, 83:4, 98:25, 117:19, 155:15, 156:3, 167:13 assuming 46:24, 130:23, 146:2, 156:6, 158:13, 159:18, 167:5 assumption 161:8 assure 10:12 attached 121:24 attachment 181:1, 181:14, 181:22 attempted 168:16 attempting 150:22 attempts 108:21 attend 175:20 attended 48:12, 48:14, 124:24 attending 62:8, 74:2, 75:10, 78:1 attention 135:7, 213:4 attentive 205:25</p>
---	--	--	---

attenuation 92:10 attorney 6:5, 6:11 audience 6:16, 148:16, 215:7 audio 218:5 authority 16:1, 16:6, 16:21, 23:21, 23:23, 38:22, 42:1, 42:6, 99:24, 147:4 authorization 39:25 authorized 92:2, 92:11 automatic 28:8 autumn 186:5 availability 20:10, 208:14 available 18:5, 20:1, 102:25, 124:21, 164:16, 203:6 avenue 2:5, 24:12, 84:11, 90:17, 105:10, 106:18, 106:24, 107:7, 109:22, 111:18, 112:10, 113:10, 113:23, 114:6, 138:1, 145:21, 145:22, 146:16, 146:25, 165:12, 170:21, 171:18 average 21:14, 133:23, 208:3, 208:4 averages 134:3, 134:20 avoid 92:14, 159:14,	161:9 aware 145:17, 177:12, 179:16 awash 129:10 away 107:1, 107:19, 113:12, 170:7, 186:17, 214:16 <hr/> <p style="text-align: center;">B</p> <hr/> b 3:9, 6:6 babysitting 65:25 back 12:21, 13:2, 13:16, 21:18, 33:4, 65:17, 68:18, 77:1, 88:4, 88:13, 88:14, 91:9, 103:11, 103:14, 103:24, 104:5, 105:21, 108:4, 127:25, 128:10, 128:20, 136:13, 141:21, 143:18, 148:3, 153:2, 159:22, 162:20, 166:14, 166:23, 168:17, 171:7, 171:8, 171:10, 183:20, 185:8, 187:13, 187:15, 192:8, 194:17, 197:2, 201:10, 201:24, 204:13, 207:22, 209:8, 213:24, 214:11 back-up 11:4 backed 149:25 backing 152:2, 152:3, 177:1, 193:8	backs 191:10 backup 203:10 backwards 55:10 bad 176:21, 183:21, 192:21, 202:5, 202:9 baltic 105:10 barely 178:8 barrier 167:5 base 129:12 based 11:13, 48:23, 50:13, 54:21, 71:18, 72:7, 76:21, 78:6, 83:23, 91:11, 93:6, 97:13, 107:12, 122:12, 122:22, 124:12, 126:15, 130:7, 130:23, 183:9 basic 47:9, 105:18 basically 48:19, 53:2, 72:7, 137:20, 157:22, 176:23 basis 11:23, 14:20, 22:9, 27:8, 29:21, 29:22, 31:7, 49:10, 74:2, 78:13, 174:24, 199:9, 207:24 battle 165:2, 210:9, 210:15 bays 136:4	bear 182:17 bearing 184:13 beat 112:25 became 106:5 because 7:3, 9:7, 11:13, 15:22, 20:23, 38:6, 38:23, 40:1, 47:18, 62:6, 65:19, 73:11, 80:16, 83:14, 83:18, 83:20, 83:23, 91:4, 94:2, 94:13, 95:17, 96:6, 100:7, 101:4, 108:12, 108:14, 109:1, 113:21, 117:17, 117:21, 130:22, 140:24, 143:19, 143:21, 145:25, 149:19, 154:8, 165:4, 167:14, 168:20, 170:3, 171:11, 175:17, 183:25, 186:22, 186:23, 191:23, 191:25, 192:12, 192:14, 192:18, 192:19, 193:23, 194:3, 202:2, 202:22, 204:2, 209:5, 211:3, 211:17, 211:18, 211:20, 212:2, 215:11 become 75:7 bed 199:13 been 7:22, 17:7, 20:16, 26:1,
---	---	---	--

<p>32:9, 48:2, 48:9, 50:22, 51:1, 51:3, 66:16, 83:23, 84:7, 86:18, 100:8, 101:13, 103:13, 105:24, 107:23, 115:10, 115:15, 117:3, 121:2, 124:14, 130:13, 133:7, 140:3, 142:14, 143:15, 145:9, 145:17, 146:19, 147:1, 148:15, 163:1, 168:25, 170:8, 173:12, 175:19, 178:25, 180:14, 183:16, 183:18, 187:1, 194:16, 209:6, 213:2</p> <p>before 1:10, 2:15, 24:17, 30:21, 42:10, 49:11, 52:15, 53:25, 54:2, 56:12, 59:7, 63:17, 65:4, 65:10, 84:25, 100:1, 100:22, 104:10, 115:12, 116:8, 124:13, 128:7, 139:9, 143:17, 152:17, 188:3, 189:4, 189:20, 190:3, 190:6, 190:10, 200:21, 205:2, 217:2</p> <p>before-school 53:3, 53:7, 54:13, 56:16, 57:3, 57:8, 57:12, 58:17, 61:8, 64:4, 66:7, 66:21, 66:24</p>	<p>began 84:25</p> <p>begin 35:2, 103:25</p> <p>beginning 102:10, 142:14, 143:25</p> <p>begins 52:5</p> <p>behalf 30:18</p> <p>behanna 196:15</p> <p>behavior 14:15, 14:16</p> <p>behind 111:21, 157:13, 166:25, 190:15, 192:1, 192:4, 192:5, 195:7, 196:5, 206:2</p> <p>being 10:11, 17:18, 56:8, 65:14, 66:8, 75:11, 99:17, 111:19, 125:16, 144:13, 147:15, 147:20, 156:20, 169:10, 170:3, 172:24, 173:9, 173:24, 174:3, 174:20, 175:2, 197:23, 198:11, 211:23</p> <p>believe 13:11, 15:7, 31:9, 50:18, 63:13, 72:6, 76:10, 76:22, 77:5, 83:9, 85:10, 103:18, 104:5, 110:12, 111:18, 121:4, 121:6, 123:25, 124:11, 129:17, 129:21, 133:22, 145:14, 151:14, 161:22, 172:24,</p>	<p>173:24, 177:21, 177:25, 181:1, 181:2, 199:17, 213:12</p> <p>below 113:24</p> <p>beneficial 144:19</p> <p>benefit 99:5</p> <p>besides 134:16</p> <p>best 18:19, 18:20, 22:5, 107:2, 107:14, 108:7, 108:9, 109:7, 123:19, 181:19, 218:5</p> <p>best-case 155:19</p> <p>bethayres 210:3</p> <p>better 11:9, 104:14, 108:4, 114:9, 126:21, 147:7</p> <p>between 33:19, 37:25, 55:18, 56:17, 56:19, 59:10, 67:25, 90:10, 90:18, 90:19, 100:23, 102:11, 125:10, 127:7, 189:22, 214:15</p> <p>beyond 13:4, 29:12, 51:21, 63:16, 99:6, 147:10, 152:2, 152:3, 177:8</p> <p>big 111:21</p> <p>bigger 214:6</p> <p>bike 156:11, 198:25</p>	<p>bikers 194:2, 199:5</p> <p>bikes 165:22</p> <p>biking 9:8, 198:16, 198:18, 198:21</p> <p>bill 6:11, 200:24</p> <p>bit 33:23, 57:16, 126:21, 129:8, 129:10, 129:11, 130:19, 134:21, 197:23, 212:12</p> <p>blank 101:6</p> <p>blow 140:8</p> <p>blowup 141:17</p> <p>blr 136:19</p> <p>board 15:6, 112:2, 112:3, 146:14, 146:20, 147:5, 160:7, 164:23, 175:7</p> <p>board-on-board 89:2</p> <p>books 112:9</p> <p>borrow 176:10</p> <p>both 34:8, 34:13, 69:21, 77:25, 102:21, 110:2, 145:25, 156:5, 158:25, 161:3, 168:21, 174:19, 179:12, 184:2, 189:14</p> <p>bothersome 102:3</p> <p>bottleneck 157:10, 158:13</p>
---	--	---	---

bottlenecks 11:4 bottom 190:18 bought 112:16 boulevard 115:4 box 16:18 boy 210:4 brake 177:7 branch 161:3 brand 156:7, 172:7, 172:11 brand-new 146:6 brandywine 101:8 break 104:15, 196:8 breakdown 46:25, 208:2 breath 212:2 briefly 116:4 bring 21:2, 160:5 bringing 127:2 brings 68:17 brl 5:4, 137:3 broad 133:21 broadcast 13:19 broker 184:1 brook 186:5 brother 111:14, 111:24,	112:5, 112:7, 112:23 brought 62:5, 65:17, 107:13, 110:11, 194:14 budget 116:25 build 108:21, 110:11, 112:7, 112:18, 112:21, 184:4, 199:11 builder 109:20, 113:8 building 2:6, 15:23, 21:22, 41:23, 42:4, 72:10, 73:9, 75:7, 113:24, 135:22, 136:2, 137:3, 146:18, 191:16, 191:17 built 111:19, 137:25, 147:20, 172:7, 194:4, 214:21 bumper-to-bumper 190:1 bumps 192:10 burden 9:16 burg 204:15, 204:16 burg's 204:12 bus 10:5, 52:24, 53:2, 53:6, 53:9, 53:21, 53:25, 54:13, 54:14, 54:17, 54:25, 55:1, 55:12, 55:14, 56:4, 57:15, 59:21, 60:10,	60:13, 61:2, 65:12, 66:2, 67:11, 67:16, 67:21, 68:1, 68:2, 68:11, 68:12, 68:13, 68:14, 68:17, 69:8, 69:9, 69:10, 69:13, 69:18, 70:3, 70:5, 70:22, 71:2, 71:3, 71:8, 71:14, 71:25, 77:24, 78:3, 193:12, 208:5 buses 112:4, 189:22, 189:23 bushes 112:25 busier 211:3 business 33:20, 34:2, 113:6, 115:1, 202:2 business-related 33:11 businesses 9:4, 9:18, 33:22, 34:14 bussed 159:16 busy 169:13, 207:23 buy 113:8 buyer 108:23 <hr/> C <hr/> c-r-o-n 111:10 calc 127:17 calculate 85:24, 156:6	calculated 86:20, 126:21 calculating 21:7, 215:10 calculation 59:3, 79:4, 80:11, 125:12, 127:19, 128:6, 128:11, 130:7, 130:10, 133:15 calculations 76:6 calendar 202:10 call 11:20, 20:17, 30:13, 43:16, 45:10, 47:9, 47:11, 47:12, 53:25, 71:2, 98:22, 136:18, 140:15, 141:11, 141:16, 148:15, 152:16, 204:13 called 158:24, 168:24 calls 28:21 came 38:3, 113:1, 129:23, 145:23, 163:15, 164:1, 180:18, 205:1, 206:11, 210:9, 211:2 campaign 107:24, 182:3 campus 102:14 can't 11:18, 58:2, 87:11, 90:14, 101:18, 113:16, 140:18, 144:24, 161:8, 194:17, 202:19, 202:20 canby 3:8, 6:6
--	--	---	--

<p>cancer 110:16 candid 144:3 candlewood 54:7, 78:2, 157:17, 158:17, 159:4, 168:20 cannot 9:22, 38:19, 39:6, 66:17, 69:10, 74:9, 81:4, 83:9, 98:13, 177:10 cap 149:9, 149:11 capacity 19:22, 69:9, 74:10, 78:7, 87:24, 155:25 capital 116:9, 139:25, 140:4 car 19:20, 20:14, 21:3, 71:3, 150:22, 151:10, 159:21, 159:22, 176:10, 176:11, 177:5, 177:6, 177:14, 207:22 card 194:11 cards 196:9 care 22:7, 56:16, 57:3, 57:4, 57:8, 57:9, 57:12, 58:7, 58:9, 58:11, 61:8, 63:17, 65:24, 66:21, 67:3 caring 59:9, 59:15 carnegie 24:12, 84:11,</p>	<p>90:17, 106:18, 106:24, 107:7, 109:22, 109:23, 111:18, 111:20, 111:22, 112:10, 113:10, 113:23, 114:6, 125:2, 127:15, 133:7, 136:12, 137:21, 137:25, 138:1, 138:2, 145:21, 145:22, 146:16, 146:25, 147:19, 165:12, 165:17, 166:6, 166:15, 166:17, 166:18, 166:20, 166:24, 167:1, 167:15, 170:21, 171:18, 171:19 carol 3:15, 6:11, 12:2 carry 143:23 cars 19:21, 19:22, 19:23, 19:24, 20:1, 79:5, 79:10, 79:13, 79:14, 80:8, 80:10, 81:8, 81:11, 156:7, 157:10, 157:11, 167:16, 177:5, 189:3, 189:5, 189:11, 191:18, 192:13, 192:17, 193:12, 193:15, 194:2, 194:16, 194:18, 195:7, 200:1, 213:10 case 1:5, 6:13, 33:19, 86:7, 101:8, 103:22, 103:25, 105:13, 143:18, 143:25,</p>	<p>144:8, 144:10, 144:25, 147:16, 158:13, 167:13, 196:2, 217:6, 218:8 case-in-chief 103:9 cases 145:14 categories 93:15 category 71:16, 97:6 cause 13:23, 149:22, 157:14 causing 13:20 caveat 205:7 cease 168:2 cece 6:12 cece's 134:17 cecilia 3:15 cell 188:22 center 6:14, 9:21, 31:18, 65:11, 66:1, 119:22, 122:10, 152:5, 152:8, 156:14, 160:23, 174:21, 174:23, 174:25, 175:3, 210:10, 210:18, 210:20, 212:11, 214:14, 214:16, 214:17 centers 10:7, 20:25, 25:5, 160:21, 160:24 certain 51:8, 55:15,</p>	<p>71:17, 77:17, 94:13, 98:23, 99:16, 99:18, 123:16 certainly 20:11, 23:14, 24:13, 38:22, 39:24, 48:3 certificate 217:1, 218:1 certify 217:3, 218:2 cetera 14:23, 22:7, 27:10, 28:20, 34:25, 73:21, 74:6, 94:3, 112:4 chance 11:15, 167:15 chances 156:12 change 88:22, 100:4, 107:14, 108:6, 127:3, 127:6, 196:7 changed 106:16, 107:5 changeover 213:10 changes 100:4, 108:3, 213:15 chart 162:8 cheaper 161:13 check 40:3, 60:24, 84:5, 154:16, 159:22, 204:4 checked 48:18, 109:21, 178:14 checking 27:21 checks 16:22</p>
---	---	--	--

<p>chen's 104:6, 144:8, 144:10, 144:25</p> <p>child 6:14, 20:18, 20:21, 21:15, 21:17, 52:21, 55:18, 66:1, 74:18, 74:22, 75:7, 155:24, 208:4, 208:9, 208:12, 213:18</p> <p>childcare 20:25, 25:5, 40:13, 42:10, 56:16, 63:14, 144:13</p> <p>childhood 98:22</p> <p>children 7:3, 8:24, 9:9, 9:10, 10:9, 10:11, 12:6, 14:7, 14:10, 21:10, 21:11, 22:7, 45:3, 46:25, 52:5, 52:14, 52:18, 54:3, 54:24, 58:8, 58:13, 58:17, 61:3, 61:10, 61:19, 62:17, 66:24, 68:11, 68:13, 68:17, 68:19, 70:4, 74:1, 78:3, 84:12, 88:15, 93:11, 93:21, 96:15, 97:6, 208:6, 208:7, 208:12</p> <p>choice 78:5</p> <p>choices 187:7</p> <p>choose 50:15</p> <p>chose 170:2, 198:10</p>	<p>chunk 136:2</p> <p>church 5:14, 9:20, 113:3, 134:23, 150:20, 152:17, 152:19, 152:23, 192:4, 192:20</p> <p>circling 13:2</p> <p>circular 99:1</p> <p>circumstance 52:20</p> <p>citizens 185:6</p> <p>civil 16:15</p> <p>claim 174:20</p> <p>claims 174:10</p> <p>clarification 71:20, 80:2, 96:13, 97:14</p> <p>clarify 66:15, 79:17, 80:21</p> <p>class 16:12, 59:25, 94:3, 95:18</p> <p>classes 48:13, 58:17, 61:10, 62:15, 64:3, 65:14, 68:22, 94:16, 94:19, 95:9</p> <p>classroom 21:17, 60:4, 60:8, 87:7</p> <p>classrooms 86:14, 87:4, 87:14</p> <p>clean 14:24, 72:21</p> <p>cleaning 14:19, 14:23, 72:12, 72:14,</p>	<p>72:17, 72:18, 208:10</p> <p>clear 13:9, 74:15, 74:21, 94:6, 94:7, 96:10, 128:19, 160:14, 182:4, 194:22, 195:5</p> <p>clearly 140:25, 160:9, 201:5, 201:20, 204:8</p> <p>clerk 135:1</p> <p>client 103:17, 132:8</p> <p>client's 132:6</p> <p>clients 13:3, 13:8, 101:5, 206:16, 206:17</p> <p>close 37:6, 58:24, 112:13, 123:19, 123:20, 134:10, 149:21, 168:1, 191:5, 202:22, 211:19</p> <p>closer 129:14</p> <p>closest 76:10, 82:3, 90:25, 91:6</p> <p>closing 144:10</p> <p>closure 75:17</p> <p>cocktail 32:21</p> <p>coin 21:9</p> <p>collaborative 50:17</p> <p>colleague 101:5</p> <p>collected 26:7</p>	<p>collection 136:8</p> <p>color 5:7, 138:23, 139:8, 139:21, 157:24</p> <p>colors 138:25, 139:1</p> <p>com 3:13</p> <p>combination 26:9, 95:9</p> <p>combinations 94:19</p> <p>come 7:16, 11:7, 11:9, 11:18, 16:20, 17:9, 19:17, 20:5, 22:20, 26:16, 26:19, 26:22, 27:10, 30:3, 32:7, 32:19, 57:10, 72:8, 72:18, 72:21, 73:1, 73:11, 73:13, 73:14, 73:25, 80:25, 88:4, 98:2, 99:23, 100:1, 102:5, 103:19, 104:20, 110:24, 113:15, 113:17, 126:22, 133:25, 140:23, 143:18, 145:24, 148:19, 155:18, 169:12, 176:6, 176:7, 183:19, 184:17, 185:8, 192:13, 192:14, 192:16, 192:22, 197:7, 206:19, 209:10, 210:18, 213:8, 213:24, 214:11</p> <p>comes 18:25, 21:13, 93:25, 131:12,</p>
--	---	---	---

<p>141:4, 196:3 coming 12:11, 19:23, 20:4, 27:11, 27:21, 49:6, 49:9, 74:24, 75:12, 80:10, 83:25, 103:14, 104:4, 110:6, 110:21, 114:15, 123:3, 156:24, 157:10, 173:16, 176:25, 180:24, 183:13, 187:15, 191:18, 192:7, 199:14, 200:1, 213:16, 214:8 commence 42:11 commenced 97:20 comment 92:14, 136:15, 137:25, 174:18 comments 13:15, 15:19, 129:12, 131:21, 135:13, 135:14, 137:23, 144:6, 145:16, 145:18 commercial 71:15, 160:13, 160:18, 160:20, 160:25, 161:3, 161:4, 161:5, 161:7, 161:10, 161:14, 164:15, 164:17, 164:20, 167:25, 168:3, 172:23, 173:2, 174:1, 175:9, 184:3, 187:9, 198:8, 199:8, 199:11, 211:9 commercialize 164:15 commission 24:21, 116:9,</p>	<p>140:4, 164:23 commit 204:10 commitment 203:4 committed 99:17 committee 129:13, 135:14, 145:15, 175:7 common 213:7 communication 28:16, 28:18, 28:25, 196:14 communications 28:23 community 14:5, 25:6, 25:7, 108:17, 156:10, 198:9, 210:10, 210:18, 213:1 commute 9:12, 55:7, 57:17, 149:24, 199:20, 212:13 commuter 10:4 commuters 149:22 company 107:16, 116:7, 176:5 compare 128:1 compared 14:22, 80:24, 81:2, 81:5, 126:22 comparing 125:11 comparison 125:10, 129:17, 133:18 compatible 92:20 complaint 23:19, 23:22</p>	<p>completed 9:9 completely 77:3, 142:15 complicated 10:24 complimentary 92:19 complying 30:16 concept 145:14 concern 30:16, 84:7, 92:3, 144:7, 199:3, 199:11 concerned 13:17, 40:20, 84:8, 187:8, 199:25 concerning 187:10 concerns 91:13, 107:22, 169:13, 169:21, 169:23, 176:25, 194:5, 198:18 concluded 145:4 concludes 10:13, 103:8 concrete 199:13 concurrent 10:3 condition 24:17, 30:17, 99:24, 101:22, 126:25, 127:3, 128:8, 128:18, 134:1, 146:4, 146:14, 146:17, 146:19 conditional 9:1, 9:19, 10:15, 30:18, 31:18, 31:20, 34:24, 35:1,</p>	<p>38:4, 38:15, 38:17, 38:23, 47:18, 64:10, 101:12, 120:14, 122:22, 127:4, 127:23, 135:11, 135:24 conditions 14:25, 77:10, 99:15, 99:22, 100:17, 101:11, 101:13, 101:17, 125:11, 126:6, 126:15, 134:15, 188:24, 189:1 conference 28:20 confirmed 215:8 confronts 134:7 confusing 166:10, 202:4 confusion 82:15, 160:11 congested 10:4 conjunction 24:20, 50:24, 79:4 connect 110:5, 112:13, 138:2, 145:21, 198:17 connection 56:12, 111:25, 125:5 consider 21:7, 24:13, 24:14, 78:8, 101:6, 144:11, 175:8, 183:5 considered 130:3 considering 10:14, 168:16, 175:8, 183:5, 187:4</p>
--	---	---	--

<p>consist 64:8, 96:16 consistent 22:14, 93:1, 93:2, 146:20 consolidate 169:19 constant 28:15 constantly 165:2 construct 138:1, 145:21 constructed 128:24 construction 84:25, 199:10 consultant 22:3, 27:20 contact 23:11, 23:12, 28:6, 28:12, 30:7, 30:9, 30:12, 30:13, 30:14, 30:17, 30:19, 30:22, 109:19 contain 97:25 contention 177:4 context 29:14, 143:15 continuation 166:15 continue 12:17, 47:6, 143:21, 152:24, 164:12, 215:8, 215:11, 215:20 continuing 165:8 continuous 22:2 contract 24:11, 108:1 contractor 73:24, 113:5</p>	<p>contracts 99:12, 101:23, 102:2 controlled 50:11 convenience 20:23 convenient 186:24 conversation 33:2, 33:7 conversations 98:17, 213:20 convey 34:18 cook 12:4, 48:15, 83:24 cook's 48:18 cooking 49:5 coordinate 21:24 coordination 97:20 copied 169:8, 169:9 copies 117:16, 117:17, 205:9 copy 142:3, 150:5, 153:4, 163:2 corelate 135:12 corner 17:8, 17:12, 193:17 coronavirus 99:2, 208:11, 209:7 corporation 6:8, 6:14 correction 45:18 correctly 182:8</p>	<p>correlate 121:19 correlates 137:23 cost 106:18, 106:24, 107:7, 107:9 could 10:8, 11:20, 13:18, 17:23, 27:1, 27:2, 27:9, 35:23, 38:7, 38:10, 48:22, 52:23, 58:5, 58:23, 58:24, 60:13, 62:22, 62:23, 73:15, 83:24, 86:4, 95:12, 95:15, 97:4, 97:5, 98:25, 102:16, 107:5, 107:13, 110:11, 112:7, 113:10, 113:17, 118:22, 119:12, 122:4, 122:15, 125:18, 148:1, 150:8, 160:3, 161:7, 167:16, 168:1, 168:21, 175:9, 176:10, 182:10, 195:6, 201:8, 202:21, 203:14 couldn't 113:24, 114:9, 205:17 counsel 217:5, 218:7 counseling 28:24 count 102:19, 102:23, 188:17 counted 102:22 counters 174:17</p>	<p>counting 86:25 county 1:2, 2:3, 2:6, 3:2, 5:8, 9:3, 32:8, 60:19, 60:20, 61:1, 61:15, 106:23, 107:8, 108:16, 110:1, 112:2, 112:8, 112:20, 113:22, 114:4, 115:13, 118:8, 122:2, 125:6, 126:16, 128:2, 133:18, 137:16, 138:24, 139:1, 139:21, 139:25, 147:24, 163:10, 163:16, 163:22, 164:1, 164:24, 173:13, 177:23, 180:1, 180:18, 181:15 county's 141:4 couple 10:18, 75:12, 90:15, 116:23, 186:11, 188:19, 211:10 couples 207:25 course 42:10, 47:5, 47:10, 129:14, 131:2, 134:23, 179:2, 180:21, 205:2, 206:13 court 22:21, 22:24, 23:1, 23:3, 23:4, 150:10, 162:4, 185:20, 185:22, 196:25, 197:2, 201:25, 210:3, 210:4, 215:24, 216:1,</p>
---	--	--	---

<p>217:1 cover 127:5, 129:19, 141:14 coverage 133:11 covered 39:1, 78:25 cpr 47:9 crabbs 161:2 crazy 202:23 create 146:1, 157:10 created 34:14 creek 157:17, 157:18, 157:19, 157:20, 158:17, 168:20 crest 122:17, 122:18, 123:3, 190:7, 190:10, 190:12, 190:15, 190:18, 191:10, 191:14, 191:15 crew 72:14 criteria 71:18 critical 20:9 crone 111:9 cross 95:24, 97:16, 97:18, 159:17 cross-examination 145:6 cross-examine 115:20 crossing 199:1 cu 1:5, 6:14,</p>	<p>105:13 cul-de-sac 166:3, 187:2 cultural 9:21, 210:20 cup-4 135:10, 135:20 current 9:15, 22:15, 105:20, 113:13, 126:25, 130:21, 160:8, 161:18, 198:20 currently 105:10, 110:1, 125:5, 126:20, 158:16, 186:25, 198:3 curricula 64:20 curriculum 64:16, 75:22, 76:2 cut 148:11, 158:16 cutting 189:21, 192:7, 192:10 cycle 10:9, 199:23 cycles 157:14 cycling 159:14</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>dad 110:8 daic 181:21 daily 11:23, 14:20, 27:8, 31:6, 49:10, 72:10, 72:19, 72:21, 97:22, 174:23, 198:24 dairy 106:4</p>	<p>damned 112:9 dark 156:17 dash 195:2 data 126:16 database 170:23 date 86:21, 201:6 dated 100:21 dates 215:8 daughter 10:5, 156:18 daunting 107:10 davis 140:24, 147:7 day 9:17, 17:8, 17:17, 22:18, 23:25, 24:3, 27:23, 31:21, 48:17, 51:9, 56:6, 56:13, 59:1, 63:3, 63:14, 74:24, 76:17, 86:24, 98:7, 101:2, 102:16, 156:1, 156:5, 165:20, 175:1, 175:19, 189:18, 190:9, 191:1, 192:13, 197:24, 199:21, 203:5, 203:6, 203:17, 207:23, 211:7, 213:11, 213:17, 213:22, 213:24, 215:25, 216:1, 217:9 day's 22:18 day-to-day 29:2, 29:3,</p>	<p>173:9, 173:16 daycare 6:14, 9:2, 9:4, 10:7, 20:25, 31:14, 31:18, 55:25, 63:18, 65:11, 66:1, 74:10, 74:13, 152:5, 156:14, 157:6, 157:7, 158:14, 159:19, 159:20, 160:1, 160:3, 160:21, 160:24, 161:7, 174:3, 174:21, 174:23, 174:25, 175:3, 187:4, 187:5, 187:9, 187:11, 198:5, 198:7, 207:19, 208:9, 208:12, 212:11, 213:18, 213:25, 214:4, 214:14, 214:16, 214:17, 214:24 daycares 9:14, 9:16, 9:18, 211:13 days 19:15, 26:14, 26:24, 51:8, 51:11, 70:3, 75:11, 75:12, 186:11, 187:14, 188:19, 189:24, 202:2, 202:3, 202:4, 202:13, 203:24, 204:11 deal 144:23 dealing 48:5, 77:10, 209:6 dealings 33:12 deborah 111:7 debra 1:25, 218:2,</p>
--	--	---	--

<p>218:14 decent 199:18, 214:24 decently 198:11 decided 39:21, 107:11, 107:25, 109:11, 109:15, 198:15 decision 50:24, 78:10 decisions 99:25 dedicated 18:1, 137:22 dedication 127:23, 128:11, 128:20, 129:12, 129:13, 135:12, 135:15, 135:21, 135:22, 136:11, 136:15, 145:19, 146:11, 146:18, 146:22, 146:24, 147:5, 147:10, 147:21, 148:5 dedications 124:13, 128:7, 146:15 deeds 146:17, 147:5 deer 149:6, 149:12, 149:13, 149:14, 193:25 defer 16:15, 144:8, 148:17 define 73:6 defined 134:12 defines 133:20 definite 51:1, 51:4, 51:5 definitely 58:20, 198:7,</p>	<p>200:18, 205:20 delayed 175:18 delays 149:22 delineated 47:22 deliver 22:20, 22:23, 205:4 delivered 50:3, 50:7, 50:8 deliveries 10:1, 22:12, 22:15, 22:16, 23:6, 49:13, 199:13 delivering 140:18 delivery 155:22 demographic 208:2 demographics 31:24, 32:6, 207:24 density 186:23 department 16:19, 116:6, 133:19, 140:10, 140:11, 153:12 departures 10:3 depend 55:7 depending 102:12, 122:3, 159:25 depends 57:17, 60:19, 70:19, 190:8 depict 135:17 depicted 125:16, 137:21 depicting 5:12, 136:11,</p>	<p>152:16, 152:18, 152:21 deposition 217:3 depot 65:12, 66:3 derwood 8:11, 9:6, 36:8, 77:20, 149:6, 149:15, 149:16, 160:24, 176:23, 186:3, 186:12, 197:19, 210:4 describe 17:6, 133:24, 139:20, 150:11, 188:23, 188:24 described 28:13, 193:8 describing 188:5 description 5:3, 37:19, 137:6 designate 20:13 designated 16:5, 16:8, 16:14, 16:17, 18:7, 82:6, 82:11 desist 168:3 desk 205:3 desperately 155:1 despite 198:10 destroyed 141:22 detached 108:22, 120:3 detail 5:5, 48:1, 126:19, 137:18, 138:16</p>	<p>detailed 15:24, 98:5, 144:6 details 16:16, 47:13, 59:23 determination 39:24 determinations 118:18 determine 102:19, 109:7, 126:18 determined 40:10, 47:2, 127:5, 130:2 determines 50:6, 50:8 determining 38:22 develop 34:14, 100:16, 106:7, 107:6, 109:16, 112:11, 112:20, 114:3 developed 100:1, 105:24, 106:24, 109:12, 109:25, 110:2, 112:10, 113:11, 116:14, 184:2 developer 109:20 developers 34:11, 34:20, 34:21, 35:4, 35:8, 199:8 developing 107:7, 110:8 development 106:18, 115:19, 115:24, 115:25, 116:2, 116:3, 116:19, 135:13, 145:15, 197:25, 198:19, 198:20 developments 106:5, 106:6</p>
---	--	--	--

<p>dialogue 93:4, 108:2</p> <p>did 11:5, 11:15, 19:8, 22:11, 32:7, 32:19, 32:22, 34:7, 70:15, 77:12, 83:22, 84:6, 89:1, 98:12, 98:13, 101:19, 102:18, 104:8, 106:24, 108:4, 108:22, 109:7, 109:19, 116:21, 117:16, 122:23, 128:1, 138:11, 139:23, 145:5, 145:24, 150:2, 159:1, 161:12, 163:10, 163:22, 169:3, 169:11, 170:1, 172:9, 173:11, 173:14, 173:18, 178:14, 178:16, 178:18, 182:16, 184:3, 189:24, 198:10, 200:11, 205:2, 208:25, 211:6, 215:24</p> <p>didn't 12:3, 32:20, 38:9, 52:4, 64:17, 67:3, 88:18, 97:21, 101:18, 109:9, 110:5, 112:5, 112:8, 112:24, 117:18, 123:14, 128:14, 141:1, 143:18, 148:8, 164:12, 170:16, 195:1, 208:21</p> <p>died 112:22</p> <p>differ 49:3, 130:24</p>	<p>difference 141:2</p> <p>different 41:5, 41:8, 41:14, 72:12, 89:1, 96:16, 97:4, 116:9, 121:19, 126:4, 130:20, 134:21, 139:1, 142:15, 153:23, 154:3, 155:5, 165:13, 168:15, 169:17, 214:17</p> <p>differently 106:9</p> <p>difficult 172:24, 175:20, 189:19</p> <p>diffused 80:24, 81:1</p> <p>digging 131:7</p> <p>dim 76:21, 76:25, 77:2, 77:16</p> <p>dimension 121:16</p> <p>dimensions 109:25</p> <p>direct 13:11, 42:2</p> <p>direction 122:14, 122:20, 191:4</p> <p>directions 125:23</p> <p>directly 150:19, 150:21, 170:10, 171:1, 177:7, 191:16</p> <p>director 22:3, 23:18, 24:5, 40:18</p> <p>disagree 207:20, 207:24</p> <p>discernible 126:19</p>	<p>disclose 104:14</p> <p>disclosed 179:3</p> <p>disclosure 36:4, 36:7, 36:15</p> <p>discourage 20:12</p> <p>discovered 113:10</p> <p>discreet 11:2</p> <p>discrepancy 163:5</p> <p>discussed 15:2, 30:21</p> <p>discussion 206:2</p> <p>displayed 164:1</p> <p>disrupt 9:5</p> <p>disrupting 199:14</p> <p>disruptive 10:12, 102:6, 102:7, 199:12</p> <p>distance 90:19, 117:6, 117:7, 118:9, 118:17, 118:22, 119:12, 121:18, 121:24, 122:12, 122:19, 123:1, 124:2, 124:17, 135:21, 192:19</p> <p>distances 84:14, 122:24</p> <p>distinction 129:1</p> <p>distribute 194:11, 196:10</p> <p>distrust 165:5</p> <p>disturbs 14:3</p> <p>div 87:7</p>	<p>divided 87:9, 87:14, 106:9, 126:3</p> <p>document 36:2, 36:15, 118:12, 119:1, 135:9, 137:13, 139:23, 140:2, 140:7, 153:9, 153:10, 153:11, 153:24, 154:7</p> <p>documentation 10:24</p> <p>documents 11:17, 36:4, 36:7</p> <p>does 15:13, 16:12, 21:10, 23:9, 27:19, 30:1, 32:20, 36:14, 37:16, 39:8, 49:3, 53:25, 58:9, 59:20, 64:8, 64:15, 65:9, 66:18, 68:12, 68:14, 69:2, 71:1, 86:12, 97:25, 116:3, 129:10, 130:22, 135:2, 142:12, 151:8, 151:10, 154:6, 155:2, 156:21, 156:22, 168:17, 169:7, 170:22, 170:24, 171:14, 172:1, 172:20, 175:5, 180:14, 212:8</p> <p>doesn't 38:7, 39:13, 53:16, 62:4, 66:17, 67:6, 70:17, 80:23, 109:24, 126:1, 141:23</p> <p>doesn't 134:14, 211:4</p>
---	--	--	---

<p>dog 108:12 dogs 156:12, 165:22 doing 25:1, 27:21, 27:22, 30:8, 30:24, 35:19, 58:4, 58:15, 62:23, 64:11, 135:16, 138:5, 147:10, 212:4 dollars 113:9 don't 7:1, 11:20, 12:15, 17:3, 32:2, 33:6, 33:15, 33:24, 39:12, 39:15, 39:17, 40:5, 43:14, 47:12, 49:18, 49:19, 49:20, 51:10, 51:21, 53:16, 55:6, 62:24, 64:23, 64:24, 65:25, 66:12, 66:19, 69:24, 70:10, 75:6, 83:17, 83:19, 84:22, 90:1, 90:4, 90:18, 99:19, 101:3, 101:19, 102:12, 103:18, 108:12, 109:2, 129:23, 130:13, 131:7, 131:17, 135:6, 138:19, 142:1, 142:11, 143:10, 143:19, 146:8, 148:9, 150:10, 150:13, 151:5, 152:12, 152:13, 153:7, 155:17, 158:23, 159:19, 161:22, 168:5,</p>	<p>170:24, 172:2, 173:8, 174:4, 180:15, 183:5, 183:20, 185:7, 186:9, 186:17, 191:19, 196:7, 196:17, 201:11, 201:18, 202:22, 203:2, 203:15, 204:2, 204:7, 204:12, 207:14, 208:4, 208:5, 208:9, 208:12, 213:9 done 36:3, 42:9, 78:16, 84:21, 85:6, 85:8, 97:16, 97:18, 102:2, 107:5, 124:14, 126:18, 133:17, 135:20, 141:19, 182:16, 184:11, 201:23, 205:17 door 76:10, 82:3 door-to-door 182:2 doses 10:10, 10:12 dot 5:5, 129:12, 135:13, 136:15, 137:14, 137:23, 138:3, 138:16, 145:10, 145:16, 145:18, 147:12 down 7:10, 8:1, 33:24, 34:17, 52:4, 105:19, 113:24, 114:2, 123:3, 157:11, 164:19, 165:20, 176:22, 180:23, 181:5, 190:15, 190:17, 196:19,</p>	<p>197:23, 212:12 dozens 198:23 dps 130:3, 131:21 dramatically 122:20 draw 133:17 drawing 123:14, 151:9 drawn 85:5 drc 129:12, 137:23 drill 16:4 drills 15:21, 15:22, 15:24, 16:1 drive 71:8, 71:13, 152:2, 152:3, 152:4, 152:20, 160:2, 192:17, 193:9, 199:20, 211:20 driver 213:3 driver's 71:16 drives 193:13 driveway 118:19, 118:20, 118:21, 119:2, 119:15, 119:23, 119:25, 120:7, 120:11, 120:19, 122:8, 122:11, 122:22, 150:19, 151:9, 152:7 driving 71:25 drop 19:1, 19:3, 20:5, 21:11, 54:8, 54:17,</p>	<p>55:24, 56:19, 59:13, 70:13, 70:17, 83:7, 192:17, 213:22, 214:10, 214:13 drop-off 9:24, 9:25, 10:5, 18:8, 20:8, 20:13, 54:21, 83:14 drop-offs 9:17, 18:12 dropped 54:4, 56:8, 57:1, 66:8, 213:18 dropping 18:21, 19:4, 19:23, 20:4, 21:17, 58:25, 59:11, 68:1, 78:14 drops 54:11, 57:13 dual 161:1, 161:2 dumpster 17:5, 17:13 durga 36:8, 36:15, 36:18, 36:21, 37:3 during 9:11, 9:17, 27:7, 27:13, 27:24, 50:20, 51:8, 51:9, 51:10, 56:13, 58:4, 58:14, 58:21, 59:10, 63:3, 66:21, 67:25, 75:20, 75:25, 79:14, 80:7, 81:6, 86:23, 94:21, 95:6, 96:6, 117:14, 149:24, 156:2, 156:17,</p>
--	---	---	---

156:19, 179:2, 213:22 duties 118:11 dynamics 19:25	eastern 151:21 eastward 122:25 easy 9:12, 156:4, 165:9, 198:17, 214:8, 214:13 economic 106:25 ecstatic 198:15 edge 178:6, 178:8 educated 11:9 education 10:25, 11:5, 25:4 educational 98:22, 99:6 ee 35:23, 36:1, 36:2 effect 214:20 effort 50:17 efforts 23:13, 108:22 eight 19:3, 21:15, 33:10, 40:14 either 6:17, 7:1, 12:16, 23:10, 23:17, 49:7, 64:4, 101:3, 112:10, 114:2, 146:11, 153:15, 156:13, 168:16, 170:2, 170:8, 192:15 electronic 28:22, 28:24 electronically 217:4 elementary 18:24, 54:6,	54:7, 54:8, 54:11, 54:14, 54:18, 55:9, 55:12, 55:17, 55:22, 56:5, 56:6, 56:22, 57:25, 59:2, 59:21, 60:11, 60:14, 60:18, 61:1, 61:4, 61:7, 61:10, 61:15, 61:25, 62:8, 62:18, 62:25, 63:4, 63:11, 65:15, 65:17, 65:19, 67:22, 68:5, 68:6, 68:14, 70:11, 70:17, 77:20, 78:6, 159:15 else 12:13, 12:15, 89:2, 110:20, 117:17, 123:12, 174:11, 174:14, 177:17, 194:7, 200:3, 205:19, 208:15, 215:6 else's 205:3 email 30:25, 142:18, 190:22 emails 205:25 emergency 47:7, 47:11, 47:12, 47:22, 48:6, 213:5 employed 217:5, 218:8 employees 155:22, 176:7 empty 37:5 end 100:15, 104:20,	143:17, 143:22, 143:25, 170:21, 188:2, 213:24 endanger 159:15 endeavor 102:1, 169:22, 173:2, 174:1 endeavors 168:3 ended 38:4, 38:16 endure 164:20 engaging 48:11 engineer 8:25, 10:21, 10:22, 16:15, 84:5, 193:3, 199:7, 214:18 engineer's 11:16 engineering 11:1, 11:12, 199:9 engineers 115:3, 115:7 english 3:15, 6:12 english's 132:9, 134:18 enjoy 9:8, 9:12 enlargement 5:9, 141:17 enough 20:5, 26:16, 90:18, 110:10, 191:20 enroll 20:22, 30:10, 57:3, 61:6, 78:13 enrolled 20:21, 55:17, 55:19, 64:4 enrollment 18:11, 24:11,
---	--	--	---

70:20, 78:7 ensure 20:8 entail 27:19 entailed 199:10 entails 65:18 enter 91:4, 165:14 entered 99:12, 101:24 entering 9:24, 10:1 enterprise 198:8 enterprises 184:3 entertain 160:7 entire 27:23, 48:17, 106:2, 134:12, 155:17, 156:4 entirely 103:11 entitled 33:18 entity 35:7 entrance 91:5, 192:18 entrances 118:16 envelope 128:10 equal 19:22 equation 128:9 equipment 13:23, 14:1 especially 68:25, 80:23, 187:2 esquire 3:7, 3:16	essence 101:12 essentially 66:2 estate 35:7, 172:22, 173:8, 173:22, 174:19, 175:4, 179:25, 180:7, 184:1, 186:19 estates 187:17, 187:24 estimate 123:5, 123:6, 181:25 estimated 122:22, 123:6 et 14:22, 22:7, 27:10, 28:20, 34:25, 73:21, 74:6, 94:3, 112:4 evacuation 16:25 evaluating 83:23 evaluation 118:9, 121:24 evaluations 117:6, 117:8 even 14:23, 22:1, 22:9, 24:6, 39:9, 48:12, 66:3, 78:1, 92:12, 110:9, 134:13, 154:18, 160:7, 161:11, 165:20, 169:3, 169:4, 174:4, 175:7, 183:5, 191:19, 194:17, 203:9 evening 10:1, 10:2, 15:2, 48:22, 77:17, 156:5,	156:17, 165:21 event 33:5 eventually 36:22, 108:14, 169:12 ever 15:3, 32:4, 102:13, 165:9, 167:24, 168:23, 168:24, 168:25, 186:21 everchanging 142:16 every 16:4, 23:25, 24:3, 28:7, 98:7, 155:23, 172:18, 173:4, 175:19, 189:18, 193:9, 193:10, 197:24, 199:21, 207:23 everybody 18:25, 52:9, 102:6, 102:8, 170:16, 204:4, 204:7, 205:23, 213:16 everybody's 15:23, 83:23 everyone 169:14, 193:24 everything 16:22, 26:17, 47:25, 50:13, 62:25, 98:13, 123:12, 139:20, 157:22, 163:2, 174:11, 198:12, 198:13 evidence 130:13, 130:14 ex 196:14 exact 55:7, 66:14, 73:21, 77:2,	88:5, 195:1 exactly 33:6, 34:25, 39:19, 58:18, 81:19, 84:4, 104:9, 112:19, 122:11, 210:16 examination 13:12, 117:15, 141:25 examine 118:15 examiner's 91:12, 92:3 example 96:23, 100:8, 121:15, 133:3, 133:13 excavators 199:13 exceed 74:10 exceedingly 202:18 excellent 100:7 except 102:16, 154:3 excepted 154:2 exception 37:20, 38:5, 38:24, 39:6, 39:22, 39:25 exceptions 165:8 excerpt 153:15, 154:1 excited 25:5 excuse 25:12, 64:22, 69:6, 110:16, 123:23, 150:10, 158:7, 203:22 excused 103:4, 114:13, 148:12, 183:12,
---	--	--	--

183:22, 184:10, 200:10 executor 109:2 exhibit 17:6, 17:11, 35:21, 35:25, 36:1, 116:25, 117:14, 118:6, 118:7, 121:8, 125:8, 125:9, 125:17, 125:21, 126:14, 127:12, 129:16, 130:15, 130:21, 131:12, 135:8, 135:16, 136:11, 136:17, 137:9, 137:19, 138:2, 138:20, 138:22, 139:21, 152:14, 158:7, 171:22, 176:12, 181:1, 186:16, 194:16 exhibits 5:1, 5:2, 116:22, 118:3 existed 108:4, 109:24 existence 38:23, 39:25 existing 10:3, 106:11, 106:21, 114:3, 118:20, 118:21, 119:18, 119:23, 119:24, 119:25, 120:3, 120:19, 125:10, 126:6, 126:15, 126:18, 126:24, 126:25, 134:1, 134:14, 135:21, 138:2, 145:22 exists 118:17, 126:20, 131:11 exit 165:14	exiting 9:25, 10:2, 156:13 expect 10:9, 11:20, 80:22, 98:21, 139:11, 140:20 expectation 50:2 expected 9:23 expecting 28:3 expediate 204:10 expensive 161:11 experience 18:14, 18:18, 18:20, 25:21, 40:13, 84:22, 85:9, 144:13, 147:11 experiences 107:3, 169:15 expert 38:18, 40:3, 76:16, 115:15, 116:18, 197:4 expertise 21:25, 25:25, 26:18, 144:12 experts 100:12, 103:11, 197:4, 203:21, 203:23 expire 38:8, 38:10 expired 38:4, 38:16 expires 38:13 explain 18:13, 52:23, 92:8, 118:6, 121:11, 122:4, 125:16 explained 21:19, 65:6	explorer 56:20, 62:7, 62:14, 65:1 explorer's 54:3 explorers 44:23, 45:1, 45:2, 45:13, 45:15, 45:23, 46:15, 54:14, 54:18, 54:24, 55:12, 55:14, 55:15, 55:16, 56:1, 56:5, 59:1, 59:4, 59:6, 60:4, 60:14, 61:9, 61:21, 61:24, 63:10, 64:2, 65:12, 67:22, 68:6, 69:6, 69:11, 69:13, 69:19, 70:3, 74:14, 75:24, 78:1, 78:11, 86:5, 86:21, 86:23, 87:1, 96:5, 96:10, 102:11, 102:17 express 108:2, 169:12, 169:17 expressed 173:20 expresses 169:7 expressing 176:25 extend 21:10 extended 48:22 extent 66:12, 123:16 exterior 76:14 extra 21:15, 21:17,	203:17 extracurricular 76:3 <hr/> F <hr/> faces 6:15 facilities 136:6 facility 31:14, 52:15, 84:14, 98:11, 191:22, 199:4, 199:11, 199:16, 199:21 facing 90:16, 126:10, 212:11 fact 33:21, 58:25, 161:9, 175:16, 177:12, 177:13 factors 11:5, 19:15, 20:24, 78:7 fair 61:18, 65:22, 66:4, 86:19, 142:12 fairly 156:3, 213:3 fairness 155:20 falls 71:16 familiar 12:4, 13:22, 15:13, 103:11, 199:10, 210:14 familiarity 105:12 familiarized 98:9 families 21:1, 21:2, 155:25, 211:4 family 7:3, 10:15,
--	---	---	---

108:22, 155:24, 173:6, 184:2 family-owned 106:4, 160:24 far 33:24, 40:20, 46:25, 118:21, 122:15, 144:24, 147:5, 147:9, 148:10, 151:17, 151:18, 151:20, 151:21, 151:23, 164:1 farm 161:2, 187:6 farms 106:4, 106:5, 108:5 farther 122:17 farthest 119:12 fashioned 25:15 fast 52:4, 89:8 father 105:24, 106:13, 106:16, 111:25, 112:22 fathom 62:12 favor 172:7 fax 3:12, 3:21 february 188:19, 190:1 federal 193:10 feel 9:3, 9:5, 15:17, 26:17, 108:3, 112:24, 198:4, 198:9, 198:14 feelings 169:19	feet 8:23, 119:5, 119:21, 122:11, 123:25, 124:5, 124:12, 124:18, 135:23, 136:12, 145:24, 145:25, 146:3, 146:6, 147:1, 170:6, 192:19 fellow 180:7 felt 112:1, 198:12, 198:13 fence 89:1, 91:23, 92:12, 92:16, 167:5 fences 91:17 fencing 16:9 few 136:1, 187:14, 207:25, 211:5 field 111:22 fields 108:5 fight 108:12, 165:4 figure 112:25, 129:18, 131:10, 166:20, 201:9 figured 85:2 file 11:12, 100:13, 117:25, 171:14, 172:1, 196:20 filed 100:7, 107:17 files 174:11 filled 187:1	finally 102:19, 122:21, 199:6 financial 217:6, 218:9 find 32:7, 66:5, 109:13, 119:12, 134:10, 139:15, 160:1, 165:21, 169:24, 172:24, 173:24, 175:1, 195:22, 201:6, 202:2, 205:17, 211:6 finding 110:18, 113:4, 187:4 fine 92:24, 119:13, 131:22, 148:10, 152:15, 154:22, 168:7, 168:9, 168:12, 182:12, 193:16 finish 143:20, 152:15, 182:15, 201:5 finished 103:12 fire 15:21, 15:24, 16:1, 16:4, 16:6, 16:19, 16:21, 16:24, 112:4, 213:7 firm 6:5, 215:11 first 17:4, 29:18, 29:20, 89:2, 104:6, 106:6, 111:17, 119:1, 119:22, 144:24, 149:18, 150:11, 160:7, 176:2, 176:4, 186:15, 187:8, 188:24,	190:19, 198:1, 198:19, 202:24 fit 70:4, 103:23, 107:25 fits 71:3 five 44:18, 45:7, 45:10, 45:23, 61:20, 64:1, 64:2, 75:11, 87:24, 135:23, 147:1, 159:24, 181:17, 181:25, 186:21, 196:23, 202:1, 202:4, 215:25, 216:1 five-foot 128:11 five-year 44:25 five-year-olds 63:16 fives 214:5 fix 72:8 fixed 27:1, 27:11 fixing 214:21 flat 199:13 flesh 67:13 flex 19:6 flexibility 19:16, 84:18 flip 157:24, 158:3, 171:7, 171:10 flood 192:16 flow 9:5, 11:3, 20:4, 156:3
---	--	--	---

fluid 101:1	113:5, 122:9, 122:10	friend 32:10, 32:14	99:13
flux 9:23	foundation 13:16, 40:15	friend's 33:2	<hr/> G <hr/>
folk 50:24	foundational 40:9	friendly 14:14	gallery 103:21, 197:4
follow 47:14, 131:8, 154:25	four 44:18, 44:20, 44:25, 45:7, 45:10, 63:16, 85:24, 87:24, 89:18, 89:24, 90:22, 149:9, 174:10, 185:3, 202:17	front 77:23, 112:16, 122:1, 151:1, 170:15, 177:5, 177:7, 177:13, 189:9, 189:15, 190:14, 191:16, 195:6	gambrell 211:7
followed 210:8	four-year-olds 87:24	frontage 122:19, 123:23, 123:24, 124:9, 124:15, 124:16, 133:6, 145:20, 146:25	game 32:22
following 16:3, 22:5	fours 214:4	full 27:10, 63:14, 63:18, 74:13, 74:22, 75:11, 80:17, 102:16, 114:25, 117:25, 147:10, 155:24, 165:19, 193:24, 213:17	garage 90:17, 90:20
food 22:11, 22:15, 22:23, 23:6, 49:9, 49:13, 49:21, 49:23, 49:25, 50:3, 50:6, 50:7, 50:8, 50:9, 50:13	frame 95:7, 111:19	full-time 31:7, 72:6	garbage 17:4, 50:19
foot 5:5, 129:13, 135:22, 137:15, 137:22, 138:16, 146:1, 210:10	frames 20:9	fully 33:19, 65:6	gate 16:20
foregoing 217:2, 218:3	franchise 36:4, 36:19, 37:21, 38:2	funding 5:8, 5:9, 138:24, 139:3, 139:12, 139:22, 140:9, 140:24, 141:17	gathering 194:15
forgive 12:20	franchisee 22:10, 28:14, 35:10, 35:12, 36:8, 36:12, 36:15, 37:25, 50:16	future 9:4, 9:19,	gave 82:21, 93:24, 94:15, 96:23, 113:22, 138:19
form 101:12, 118:9, 118:15, 122:1	franchising 6:8		geared 129:16
forms 34:7	franchisor 28:15, 37:25		general 51:18, 51:19, 129:16, 143:13, 213:13
forth 40:19, 187:13	freestanding 117:11		generating 13:23, 23:11
forty-four 17:25	frequency 17:14		generation 14:12, 14:13, 162:12, 164:5, 164:6
forward 7:16, 28:24, 51:24, 104:20, 148:20, 184:17, 197:7, 206:19, 209:10	frequent 26:15		generous 84:18
found 25:3, 106:17,	frequently 189:16, 193:7, 211:20		gentleman 62:11, 64:25, 150:11, 178:22, 179:18, 180:25, 195:15, 196:5, 207:20
	friday 49:16, 103:19, 203:6		gentleman's 66:6
			get 7:19, 37:14, 52:4, 54:24, 54:25, 55:1, 62:24, 65:5,

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

76

<p>65:16, 65:25, 67:3, 67:10, 71:1, 71:19, 75:16, 86:6, 87:22, 92:25, 99:25, 100:10, 101:3, 102:13, 103:24, 113:24, 118:22, 123:19, 139:23, 143:3, 143:24, 144:7, 144:9, 144:24, 145:5, 146:2, 146:3, 146:6, 147:24, 148:23, 154:21, 154:23, 156:8, 156:13, 157:13, 157:15, 159:23, 170:1, 173:11, 175:12, 178:15, 180:17, 186:24, 187:11, 189:21, 189:22, 190:3, 190:12, 191:19, 194:3, 194:11, 196:8, 198:25, 201:10, 201:13, 201:15, 201:20, 202:11, 202:24, 205:12, 205:22, 211:4, 213:9 gets 52:10, 97:2, 164:19, 165:6 getting 16:23, 17:22, 64:3, 65:14, 66:8, 98:18, 122:17, 175:18, 202:23 giant 160:22, 187:5 gis 126:16 give 15:24, 16:16, 18:20, 33:23,</p>	<p>35:17, 48:3, 66:17, 76:19, 77:12, 83:9, 86:16, 86:19, 87:19, 105:8, 106:15, 110:10, 111:13, 111:15, 111:25, 112:16, 114:25, 137:6, 142:13, 142:17, 143:8, 162:20, 180:18, 207:15 given 33:17, 33:20, 38:2, 74:8, 76:18, 95:19, 111:14, 142:9, 165:5, 165:20, 194:3, 201:6 giving 77:4, 94:1, 94:20, 112:14, 140:21 glad 25:2, 105:23, 205:10 glasses 180:10 go 7:4, 8:1, 10:5, 12:21, 13:16, 15:18, 16:12, 16:17, 19:13, 23:5, 25:24, 30:8, 30:13, 33:24, 38:14, 40:13, 46:1, 51:25, 56:15, 60:17, 60:23, 61:1, 61:2, 62:17, 67:19, 68:5, 68:21, 71:17, 73:12, 76:20, 77:1, 78:8, 78:10, 78:11, 89:5, 91:9, 92:12, 92:23, 100:13,</p>	<p>100:20, 101:18, 103:24, 105:16, 108:22, 111:24, 114:24, 118:14, 119:10, 119:15, 120:5, 122:7, 122:16, 128:12, 129:9, 129:22, 130:25, 131:7, 139:20, 140:16, 141:23, 145:8, 148:3, 148:6, 149:17, 151:24, 154:16, 154:18, 155:4, 155:13, 157:12, 157:14, 157:23, 158:17, 159:22, 160:3, 165:20, 167:9, 168:5, 171:7, 174:22, 179:23, 180:20, 194:5, 197:24, 198:1, 200:21, 201:15, 203:7, 206:15, 207:17, 213:23 goes 50:13, 90:24, 119:23, 136:7, 151:4, 171:11, 189:4 gone 102:11, 175:1 good 6:4, 6:10, 13:15, 15:6, 25:7, 75:18, 93:9, 109:4, 113:2, 126:7, 167:15, 191:1, 192:15, 198:25, 203:13, 211:8, 214:19 google 126:19 got 12:1, 15:23, 21:20, 39:10,</p>	<p>42:17, 80:4, 87:4, 87:20, 90:2, 101:2, 116:22, 129:20, 131:6, 132:4, 138:7, 139:24, 154:19, 164:11, 173:5, 177:23, 181:5, 182:2, 182:5, 182:9, 193:25, 200:22, 202:6, 202:17, 205:2, 206:14, 209:4, 209:5, 210:25 gotten 66:3, 204:19 governed 15:25 governor 200:23 govnermetnal 115:13 grade 61:14, 63:12 grades 61:12 grand 158:20, 159:3, 159:6 granted 107:11 graphic 121:15, 121:21, 129:24, 131:15 grass 14:22, 193:22 great 103:10, 212:4 grew 111:20 ground 29:16, 30:5, 30:6 grounds 14:17 group 43:14, 43:25,</p>
--	---	--	--

<p>62:16, 63:14, 63:15, 89:25, 95:8, 95:18, 95:19, 176:23, 213:6 groups 62:7, 90:1, 94:13, 94:15, 94:16, 95:10, 95:11, 96:16 grove 161:3 guarantee 107:10 guess 10:23, 16:23, 24:23, 28:22, 37:7, 54:20, 60:19, 74:5, 91:8, 101:6, 101:20, 140:18, 143:14, 148:14, 176:14, 196:13 guesses 66:13 guidance 22:8, 53:19, 67:2 guide 22:1, 47:5 guidelines 22:6 guys 180:18, 201:2</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>habit 99:25 had 11:2, 12:21, 16:15, 26:7, 26:8, 32:9, 33:11, 34:3, 48:2, 52:3, 84:6, 93:4, 98:17, 100:9, 105:19, 106:13, 107:15, 107:23,</p>	<p>110:16, 112:1, 112:2, 112:16, 112:23, 122:9, 135:14, 158:13, 159:19, 160:16, 163:4, 166:19, 168:13, 168:14, 169:9, 169:16, 170:21, 172:6, 174:10, 177:21, 186:11, 187:4, 195:15, 200:23, 205:9, 208:6, 213:4, 213:18, 213:21, 213:25, 214:4, 214:6 half 52:10, 58:6, 80:17, 80:25, 81:7, 81:24, 94:14, 106:6, 106:10, 193:24, 213:16 halfway 213:11 halt 127:9 hand 6:18, 8:3, 104:23, 110:25, 114:19, 117:22, 131:6, 148:23, 157:6, 185:7, 185:12, 186:14, 197:8, 205:4, 207:1, 209:11, 217:8 handed 118:5, 180:14 handhold 22:1 handicap 76:7, 82:9, 82:23, 102:19, 102:21, 103:1 handicapped 82:2 handing 186:15, 186:16</p>	<p>handle 15:21, 98:23, 165:10 handled 102:20 handling 191:2 hands 6:18, 6:19, 6:22, 21:21 hang 201:12 happen 9:10, 32:22, 34:23, 38:17, 39:21, 66:21, 101:7, 144:4, 176:2, 193:1, 205:24 happening 65:16 happens 14:20, 20:24, 47:7, 61:5, 66:23, 67:11, 73:22, 78:11, 108:15, 165:16, 192:25, 213:15 hard 74:5, 134:10, 173:24 harder 130:19 has 14:1, 17:7, 20:16, 23:9, 31:6, 38:1, 40:18, 47:1, 50:22, 51:1, 51:3, 64:25, 70:17, 71:13, 76:17, 76:23, 84:7, 84:18, 86:18, 91:16, 92:2, 92:11, 99:24, 100:15, 101:5, 101:13, 105:24, 109:2,</p>	<p>110:14, 111:14, 115:10, 117:6, 124:1, 124:16, 133:7, 134:23, 142:14, 146:19, 164:18, 164:25, 165:1, 165:4, 167:17, 170:7, 171:25, 173:1, 173:25, 174:1, 174:25, 177:7, 183:6, 193:24, 194:15, 200:24, 213:19 hasn't 6:16, 103:21 hate 210:7 haven't 12:20, 64:13, 73:20, 85:8, 117:3, 141:22, 183:18 having 13:6, 19:5, 19:14, 20:10, 58:16, 71:11, 143:24, 161:10, 170:6 hawaiian 12:22 hazard 167:24, 199:4 he'll 101:17 he's 32:14, 34:4, 62:1, 62:4, 65:6, 66:25, 67:1, 94:20, 140:21, 141:12, 141:14, 160:18, 161:25, 173:5, 182:14, 188:22, 205:8 head 214:9 heading 150:16, 156:25,</p>
---	---	---	---

<p>157:7, 158:12, 191:5, 191:13 headquarters 97:23 heads 143:8, 145:1 hear 12:3, 87:11, 89:1, 101:18, 140:20, 143:16, 143:23, 175:14 heard 18:10, 24:16, 100:22, 105:19, 124:23, 204:8 hearings 1:1, 2:4, 3:3, 100:22, 124:25 heating 49:7, 49:9 heights 106:3, 106:4, 106:9, 108:3 held 2:1, 136:12 hell 139:16 help 26:20, 26:22, 30:3, 121:15 helpful 105:19, 134:2, 142:16, 142:21 her 13:17, 15:5, 15:8, 31:6, 90:19, 90:25, 106:23, 143:23, 146:6, 146:7, 153:21, 156:20, 170:4, 196:22, 198:24, 209:5 here 11:24, 11:25, 12:2, 31:6, 101:2, 103:18, 121:16, 126:9, 127:4, 127:20,</p>	<p>130:25, 136:2, 141:23, 146:5, 151:10, 151:11, 152:2, 154:7, 155:2, 156:2, 158:5, 158:14, 158:24, 159:6, 160:20, 163:15, 164:1, 164:23, 166:5, 166:14, 166:15, 166:23, 167:14, 169:12, 169:16, 169:24, 170:4, 171:14, 171:15, 172:6, 172:8, 172:13, 175:14, 175:17, 175:18, 175:19, 176:25, 177:25, 178:4, 178:7, 183:24, 185:6, 193:11, 196:19, 196:22, 204:2, 205:23, 211:24 hereby 217:3, 218:2 hereunto 217:8 herndon 174:21, 174:23 hey 32:25 hh 125:9, 132:13, 132:16 high 172:25, 173:25 high-density 160:13 higher 129:5, 129:8, 134:23 highest 107:2, 107:13, 108:9, 109:7 highlighted 121:16, 136:1 highly 175:1</p>	<p>highway 214:23 hiking 198:16 hill 9:6, 189:4 him 32:15, 33:19, 35:17, 35:18, 65:7, 70:16, 101:16, 105:21, 106:18, 116:18, 170:3, 173:7, 173:10, 174:20, 183:5, 196:15, 204:13 himself 173:22, 174:18, 174:19, 179:25, 181:8 his 77:5, 83:4, 112:8, 115:21, 162:8, 168:17, 172:15, 172:17, 172:25, 173:3, 173:5, 173:7, 173:21, 174:20, 179:2, 179:19, 180:5, 182:19, 183:2, 188:22, 195:17, 215:15, 215:16 history 111:14 hit 73:13, 172:25, 194:3 hold 26:18, 39:22, 41:18, 118:23, 130:25, 148:14, 153:17, 188:21 holder 37:19, 38:4, 38:24, 40:1, 77:8 holding 91:23, 121:9</p>	<p>holds 69:14 holiday 193:10, 193:11 home 9:10, 9:14, 12:6, 105:8, 113:3, 156:18, 160:16, 170:15, 170:16, 178:7, 178:8, 180:17, 182:20, 210:17 homebuyers 198:1 homeowner 8:22, 8:23 homes 106:12, 107:4, 182:19, 183:3, 211:5 honest 176:21 honestly 52:3 hope 139:10, 204:13 hopefully 201:18 hoping 202:11 horizon 150:20, 198:4 host 207:19 hour 19:21, 19:23, 52:10, 56:11, 58:5, 58:6, 79:5, 79:13, 79:16, 79:17, 79:22, 80:16, 80:25, 81:7, 81:12, 81:24, 155:14, 156:3, 156:4, 156:5, 192:9, 199:3, 213:12 hours 17:18, 19:4,</p>
--	---	--	---

<p>19:6, 19:17, 19:24, 58:6, 59:10, 72:25, 79:14, 80:7, 80:14, 80:17, 80:22, 81:23, 96:4, 99:18, 100:4, 174:24, 174:25, 175:1, 196:20 house 90:13, 90:16, 90:19, 90:25, 106:22, 112:7, 112:18, 112:21, 113:13, 113:17, 114:3, 118:20, 119:23, 120:3, 120:20, 120:21, 146:6, 150:21, 151:1, 171:16, 171:17, 172:2, 172:7, 172:12, 186:20, 186:22, 187:15, 193:6, 214:15 houses 84:14, 113:16, 211:7, 211:8 how 11:2, 11:3, 14:17, 15:21, 16:2, 17:24, 18:1, 18:4, 18:5, 18:11, 21:23, 23:9, 23:11, 26:11, 26:24, 27:6, 28:1, 30:8, 30:17, 32:7, 32:13, 32:15, 32:19, 32:20, 32:22, 33:8, 34:2, 42:14, 42:23, 43:7, 43:8, 43:9, 43:20, 43:24, 44:7, 44:14,</p>	<p>44:21, 46:1, 46:17, 47:25, 48:9, 49:3, 61:18, 65:9, 69:8, 70:10, 70:17, 72:5, 72:23, 73:2, 73:14, 73:22, 74:5, 80:11, 83:13, 84:20, 86:8, 86:12, 87:15, 88:15, 98:2, 98:23, 102:13, 102:19, 103:6, 109:7, 115:10, 122:15, 123:23, 123:24, 124:1, 124:16, 129:23, 139:23, 141:3, 146:6, 146:24, 164:19, 174:22, 180:12, 181:10, 184:18, 186:24, 189:16, 190:8, 193:7, 202:13, 202:15, 213:9, 214:3, 214:19 how'd 87:22 however 36:22, 52:13, 127:25, 130:9, 155:3, 169:13, 182:16, 198:7, 200:1 huge 133:21 human 11:5, 165:8, 165:11 husband 9:6, 106:23, 112:18, 207:25, 208:8 hypothetical 38:7 <hr/> I <hr/> i'll 7:24, 20:17,</p>	<p>33:23, 57:10, 60:24, 86:16, 98:22, 100:3, 105:5, 105:7, 116:17, 130:17, 140:14, 140:17, 144:6, 148:17, 162:3, 162:19, 175:22, 176:21, 184:6, 186:14, 194:11, 196:9, 196:10, 205:9 i've 26:1, 35:21, 36:3, 42:17, 65:6, 84:6, 105:14, 108:2, 110:16, 110:17, 118:5, 131:20, 138:7, 144:3, 145:4, 145:17, 147:11, 148:15, 154:19, 159:19, 163:1, 168:25, 180:14, 192:20, 201:23, 202:6, 202:17, 204:8, 208:6, 209:6, 211:24, 213:1, 213:2, 213:4 idea 9:2, 113:1, 184:19 identical 154:2 identified 24:19, 93:12 identify 6:3, 138:22, 140:7, 153:18 ii 117:14, 118:6, 121:8 ill 75:7 illustrate 121:15 illustrates 122:2</p>	<p>illustration 130:9 imagery 126:17 immediate 5:10, 134:3, 134:11, 134:21, 140:9, 141:18 impact 5:4, 11:3, 11:4, 90:13, 94:13, 137:3, 137:4 impacts 10:14, 84:19 impermeable 133:15 impervious 5:4, 125:11, 126:19, 126:23, 127:1, 127:5, 128:1, 128:5, 129:14, 129:19, 129:25, 130:4, 130:7, 130:11, 130:19, 132:25, 133:23, 134:7, 136:19, 136:20, 137:2 implemented 38:11 implied 181:9 importance 141:13 important 10:8, 149:20 impose 101:13 impossibility 110:4 impossible 107:9 improper 100:6, 214:25 improved 123:1 improvements 137:21</p>
--	---	---	--

<p>improves 122:19 in-home 187:11 inaccurate 144:15 inadequate 100:10 include 24:10, 76:7, 94:15, 129:25, 130:22, 139:4 included 31:13, 59:4, 74:7, 74:19, 82:23, 82:25, 83:1, 83:7, 83:19, 84:3, 117:13, 127:17, 128:6, 130:6, 130:10, 131:13, 131:24, 198:24 includes 187:10 including 86:5, 86:21, 129:15 incorporated 34:5 incorrectly 182:8, 182:11 increase 211:25, 213:3 incredulous 175:2 indeed 151:10 indicate 36:8, 126:24 indicated 10:20, 19:3, 23:24, 76:24, 103:17 indicates 18:14, 121:17, 139:3 individual 30:23, 71:23,</p>	<p>99:7, 142:7, 179:1, 183:17 individuals 7:2, 30:24 indulge 75:15, 75:16 industrial 8:25, 10:21, 10:22, 11:1 inevitable 108:6 infant 43:19 infants 42:14, 42:23, 43:1, 43:9, 46:6, 52:7, 63:22, 86:17, 91:6, 94:3, 94:4 infiltration 136:6 information 11:13, 12:1, 21:6, 21:7, 26:4, 26:8, 28:19, 30:11, 30:12, 30:23, 47:1, 47:24, 48:2, 48:4, 48:7, 51:22, 69:2, 76:18, 76:19, 77:4, 77:23, 78:23, 97:25, 98:22, 99:4, 99:6, 105:18, 109:2, 110:14, 130:6, 130:8, 130:23, 142:13, 142:17, 142:18, 142:19, 144:14, 154:4, 154:6, 170:19, 177:22, 180:15, 180:24, 181:5, 182:5, 182:9, 208:1, 218:7 informational 48:6</p>	<p>informed 195:14 infringe 198:21 initial 26:14, 26:24, 27:13, 27:16, 28:6, 29:17, 30:4 initially 29:7, 29:17, 190:19 inside 176:11 installed 92:16 instance 16:25, 98:25, 99:17 instances 15:22 instead 21:12, 61:2, 108:5, 141:17, 168:10 institute 111:20 institutional 31:10 instruct 42:1 instruments 123:11 insurance 208:1 integrate 72:15 intended 160:15, 161:12, 165:1, 167:24, 198:9 intent 38:1 intercepting 136:2 interest 18:19, 18:20, 102:4, 164:24,</p>	<p>172:21, 173:20, 205:23, 217:6, 218:9 interested 18:22, 33:2, 109:16, 109:20, 142:12 interesting 15:20 interior 72:10, 73:8 internet 140:18 interpret 138:25 interpreted 181:10, 182:8, 182:11 interrupt 143:10, 200:13 intersection 122:3, 125:2, 125:3, 149:22, 161:6, 188:1, 212:10 intersects 166:16, 167:2 into 31:24, 50:13, 66:3, 71:3, 87:9, 87:14, 91:12, 99:12, 101:24, 106:9, 106:14, 106:21, 107:5, 109:21, 109:25, 144:25, 156:22, 157:6, 160:3, 165:14, 165:17, 182:1, 188:3, 188:24, 189:22, 191:22, 192:23, 198:1, 198:8, 198:16, 199:4, 199:14, 200:1, 208:9 intriago 17:7, 127:11, 127:19, 129:1</p>
---	--	---	--

introduced 5:2	itself 154:6, 167:23	16:5, 18:21, 19:4, 21:1, 21:2, 21:3, 53:3, 53:7, 61:7, 66:7, 69:20, 74:11, 85:11, 85:12, 85:15, 85:18, 86:8, 86:13, 90:21, 91:4, 93:17, 94:2, 94:5, 98:2, 112:23, 156:12, 158:17, 159:15, 159:16, 159:19, 160:21, 165:13, 165:22, 187:1, 187:10, 187:11, 187:12, 192:13, 192:18, 193:16, 193:18, 193:19, 198:3, 213:23, 214:5, 214:6	knew 31:21, 42:24, 104:10, 113:15, 113:16
intrude 176:6	J		knock 114:2
invested 108:11	jakka 182:21		knowledge 15:4, 16:3, 105:17
investment 173:10, 175:5	jakkampudi 32:12, 32:13, 33:9, 33:12, 33:17, 33:21, 34:3, 178:23, 179:1, 179:9, 181:8, 182:24		knowledgeable 26:16
involve 116:3	january 120:16, 120:25		known 33:8
involved 10:24, 29:1, 210:25	jim 76:17		knows 38:20, 161:25
involving 30:16	job 1:23, 31:6, 73:11		knox 16:18
isn't 26:19, 40:1, 56:13, 57:22, 62:3, 64:21, 121:3	jody 3:7, 6:5		kodali 36:9, 36:15, 36:18, 36:21, 37:3, 37:16
issuance 146:18	john 197:14		kosary 3:15, 6:11, 12:2, 24:18, 133:2, 170:2, 170:16
issue 30:15, 140:25, 149:18, 149:20, 160:7, 204:18, 206:3, 214:2	jr 3:16, 3:17		kosary's 150:24, 151:1
issues 14:22, 99:23, 100:2, 207:19	jskline@millerca- nby 3:13		kosarys 24:21, 206:16
it'd 95:7	jus 78:2		L
it'll 23:23, 61:7, 75:21, 76:1, 87:3, 93:15	justification 84:8, 84:25		l-a-s-k-o 105:10
items 50:13	justification's 84:12		label 178:10, 178:11
iterations 100:9	K		labeled 158:23
its 16:12, 24:19, 77:25, 99:1, 107:13, 108:9, 109:24, 160:15, 165:1, 177:7, 190:1, 217:7, 218:9	keep 41:4, 103:14, 142:18, 145:3, 153:3		labeling 154:3
	key 16:18, 21:22		lack 160:25, 167:25
	keywords 65:4		lady 209:8
	kid 214:10		lake 149:6, 149:13, 149:14, 161:2
	kids 14:14, 14:18,		land 25:22, 39:1,
		kindercare 160:22	
		kindergarten 61:16, 61:17	
		kinds 47:14	
		king 187:6	
		kings 161:1	
		kitchen 49:1, 49:3, 49:4, 49:6, 49:8	
		kline's 37:19	

<p>39:5, 39:9, 110:9, 110:10, 111:25, 115:6, 115:18, 115:19, 115:23, 115:25, 116:1, 116:3, 116:15, 116:18, 116:19, 139:11, 140:24, 140:25 lands 116:17 landscape 73:11, 73:17, 73:18, 113:5 landscaping 73:5, 107:16, 176:5 lane 111:22, 187:13, 188:2, 191:20, 192:9, 214:23 lanes 189:15 language 100:17 large 10:12, 69:8, 106:4, 155:23, 160:21, 208:3, 208:9, 210:18, 211:10, 214:3 large-scale 9:18 larger 132:15 lasko 4:6, 104:22, 105:2, 105:9, 105:14, 105:18, 108:25, 109:9, 109:11, 109:19, 110:14, 110:16, 110:22 lasko-crone 4:7, 111:4, 111:7, 111:10, 111:13, 111:17, 114:14</p>	<p>last 8:12, 8:20, 22:21, 24:23, 63:15, 78:17, 121:13, 121:23, 123:5, 149:8, 185:23, 197:16, 207:9 late 73:2, 103:19, 175:17 later 19:18, 103:23, 106:20, 154:11 lauren 207:7, 208:22 law 3:17, 6:5 lawn 99:11, 99:18 leading 201:4 least 18:4, 23:9, 26:13, 71:10, 86:24, 94:18, 96:7, 100:9, 101:5, 102:3, 131:7, 144:6, 160:17, 160:24, 164:17, 169:3 leave 19:3, 20:6, 154:7, 162:19, 206:17 leaves 18:4, 19:1, 57:15, 68:5, 129:4 leaving 19:24, 20:4, 56:17, 156:13, 157:7, 187:14, 187:15 led 182:5 lee 2:15, 217:2,</p>	<p>217:12 leeway 33:24, 147:9 left 62:20, 91:1, 91:6, 104:9, 108:15, 112:9, 112:23, 114:5, 122:14, 126:11, 127:7, 134:14, 143:20, 150:19, 151:5, 157:5, 159:8, 159:11, 170:10, 187:16, 187:20, 187:24, 188:8, 188:12, 188:13, 188:14, 189:2, 189:3, 189:5, 189:12, 191:18, 191:22, 191:24, 199:22, 199:24, 200:23, 205:2, 205:23, 212:20, 212:24, 212:25, 214:10, 214:11, 214:12 left-hand 125:24, 150:22, 157:9 legal 15:9, 15:10 length 124:16 less 8:22, 14:21, 102:5, 102:7, 198:2 let 7:12, 11:24, 22:12, 24:7, 32:14, 35:17, 46:3, 53:4, 62:12, 64:23, 66:15, 87:19, 88:20, 91:16, 92:23, 96:1, 101:16, 108:25, 117:22, 118:23,</p>	<p>125:7, 130:25, 131:6, 132:2, 139:19, 139:20, 142:1, 154:21, 158:25, 159:1, 169:24, 181:4, 193:15, 195:21, 196:14, 196:21, 201:15 let's 7:5, 13:16, 57:13, 66:11, 67:19, 91:8, 104:3, 117:19, 144:21, 144:23, 148:11, 148:18, 155:23, 155:24, 165:17, 215:7 lets 159:6 letter 169:4, 169:8, 169:9 letters 169:3 level 14:3, 40:9, 40:15, 61:14, 63:12, 65:1, 126:19, 134:7 license 37:13, 41:18, 42:9, 47:10, 71:11, 71:16, 71:17, 98:10 licensed 40:21, 41:11, 42:8, 199:7 licensee 37:10 licensing 16:1, 40:10, 40:16, 47:3, 98:9 lies 40:1 life 105:15</p>
--	--	---	---

<p>lifetime 108:11 light 159:14, 188:3, 188:9, 188:15, 189:15, 190:13, 191:25, 199:22, 214:13 lighting 76:15, 76:18, 77:10 lights 76:20, 76:21, 77:14, 77:17, 100:12, 177:7, 214:15 like 7:4, 8:17, 11:21, 12:22, 14:3, 14:14, 14:19, 14:20, 14:22, 16:4, 16:20, 18:24, 19:5, 19:6, 19:15, 19:18, 20:12, 20:23, 20:24, 22:6, 24:5, 25:3, 25:24, 26:15, 26:17, 26:19, 26:21, 27:21, 28:21, 29:6, 32:25, 33:2, 40:12, 48:22, 50:12, 50:14, 55:10, 58:5, 58:14, 59:1, 61:7, 72:16, 76:2, 76:20, 77:1, 78:14, 80:25, 83:25, 85:10, 88:6, 88:8, 89:1, 90:21, 91:5, 91:17, 91:19, 98:3, 103:17, 103:21, 105:21, 105:22, 108:4,</p>	<p>108:13, 111:13, 111:17, 112:24, 116:23, 117:9, 135:19, 136:5, 141:15, 143:2, 143:8, 143:22, 144:8, 144:11, 148:16, 153:3, 153:13, 163:2, 168:5, 173:22, 183:17, 186:16, 186:18, 193:11, 193:23, 197:21, 198:4, 198:5, 198:12, 198:14, 199:1, 199:6, 204:3, 210:6, 211:1, 213:2, 214:24 liked 9:7 likely 98:6, 149:22, 153:25, 155:22, 157:7, 157:13 limit 124:7 limited 144:20, 199:2 limiting 144:12 line 122:10, 135:23, 137:3, 163:18, 166:6 link 67:15 list 179:10 listed 180:3 listening 181:20 literally 28:7, 193:19 literature 97:21 little 19:18, 23:3,</p>	<p>33:23, 57:15, 100:21, 111:13, 111:15, 126:21, 129:8, 129:11, 130:18, 197:23, 203:5, 212:12 live 32:2, 37:16, 105:10, 168:18, 168:20, 186:20, 187:2, 193:24, 197:18, 207:8, 208:1, 210:3, 211:4, 211:23, 212:12 lived 32:4, 105:14, 186:21, 198:2, 211:24, 213:1 lives 37:7, 170:17, 175:20, 179:10 llc 3:17, 34:10, 34:11, 34:14, 34:19, 34:20, 34:21, 35:4, 35:7, 35:8, 35:13, 36:23, 37:1, 37:12, 37:21, 39:1, 39:7, 53:23 llcs 34:5, 179:8 local 16:21, 54:6, 54:14, 55:12 located 9:21, 17:6, 84:14, 89:17, 106:11, 134:5 location 5:14, 9:3, 17:5, 24:19, 118:19, 118:20, 119:7, 119:20, 120:11, 152:22, 197:24, 198:25,</p>	<p>214:25 locations 19:17, 121:16 logistical 9:25 loitering 20:12 long 26:25, 33:4, 33:8, 40:21, 41:17, 48:9, 114:1, 115:10, 123:24, 152:24, 163:1, 174:22, 185:4, 186:11, 202:18, 213:2 long-term 214:20 longer 39:22, 143:15, 154:18 look 11:11, 11:12, 11:15, 17:11, 35:23, 36:19, 39:12, 78:17, 84:23, 109:15, 112:13, 131:15, 132:5, 135:11, 150:6, 151:3, 154:3, 154:6, 155:20, 158:15, 189:20, 191:20, 208:2, 211:8, 214:7, 214:19 looked 11:17, 31:24, 32:6, 107:5, 127:11, 174:22, 187:3, 211:5, 211:17, 214:14 looking 17:5, 37:6, 40:14, 40:15, 76:4, 76:23, 89:14, 112:12, 117:4, 119:1, 129:24, 130:21,</p>
---	--	--	---

<p>150:14, 155:1, 161:9, 173:12, 174:11, 178:5, 178:6, 178:7, 189:20, 202:21, 211:1, 211:12 looks 117:9, 136:5, 153:13, 181:17 lost 110:17, 173:25 lot 15:25, 17:9, 17:12, 18:17, 19:6, 19:15, 20:25, 21:1, 21:25, 22:8, 26:15, 30:11, 68:3, 85:1, 86:19, 106:15, 106:16, 106:22, 108:10, 112:16, 113:6, 113:12, 119:4, 119:8, 119:18, 120:8, 123:23, 123:24, 124:15, 124:23, 133:11, 143:15, 146:9, 148:4, 156:10, 156:11, 160:2, 165:10, 166:19, 167:18, 187:12, 191:25, 192:3, 192:5, 192:8, 207:21, 208:5, 208:7, 213:17, 213:21, 213:24, 214:6 lots 15:19, 84:13, 106:14, 106:17, 106:21, 113:25, 133:14, 133:15, 199:3, 208:13, 211:10 low-density 160:12 lower 129:20, 174:2</p>	<p>lowest 61:14 lunch 103:24, 104:10 lynn 1:10, 3:4</p> <hr/> <p>M</p> <hr/> <p>m-a-r-y 209:23 m-i-c-h-a-e-l 185:19, 185:23 ma'am 70:14, 74:14, 75:15, 84:4, 86:10, 87:2, 88:21, 137:1, 148:21, 152:25, 154:11, 154:16, 154:19, 155:10, 158:21, 160:5, 162:21, 163:10, 163:22, 166:12, 174:16, 175:10, 177:18, 178:12, 179:6, 181:15, 182:16, 183:23, 184:13, 185:10, 186:13, 205:14, 207:11 madam 6:10, 12:19, 12:25, 35:14, 70:15, 75:16, 116:21, 131:5, 134:25, 180:24, 183:14, 195:14 maddox 115:3, 115:7, 205:10 made 50:24, 51:2, 51:4, 51:6, 78:10, 92:15, 106:7, 110:7, 114:5, 130:10, 145:17, 150:5, 165:8, 170:4,</p>	<p>174:18, 189:25, 193:17, 195:6, 198:16, 205:9 main 144:7, 198:11 maintain 112:6 maintained 14:18, 125:6 maintaining 112:24 maintenance 72:2, 72:7, 72:10, 72:11, 72:15, 73:4, 73:17, 73:18, 99:11, 99:19 major 113:11, 149:21 majority 108:8 make 8:5, 14:24, 33:15, 59:20, 66:4, 78:5, 87:20, 92:2, 94:8, 96:1, 102:5, 104:8, 104:25, 106:25, 107:6, 108:7, 111:2, 111:25, 112:17, 114:21, 118:16, 123:12, 141:5, 148:25, 150:22, 153:4, 157:16, 163:2, 185:14, 191:22, 194:22, 195:5, 197:9, 199:22, 207:2, 209:13, 210:18, 214:22 makes 14:2, 65:20 making 14:13, 18:23, 22:4, 190:13, 192:10, 210:9 manager 173:9</p>	<p>mandavi 12:23, 179:19 manner 84:19, 183:7 many 17:24, 18:1, 18:4, 18:5, 26:19, 27:6, 28:1, 34:2, 42:14, 42:23, 43:7, 43:8, 43:9, 43:20, 43:24, 44:7, 44:14, 44:21, 70:10, 70:17, 72:5, 72:23, 74:5, 86:8, 86:13, 87:15, 88:15, 98:2, 103:6, 164:19, 169:18, 171:8, 184:18, 190:8, 200:1, 202:13, 202:15, 213:19, 213:22 map 112:12, 166:10, 211:8 march 1:12, 201:18, 202:5, 202:10, 205:13, 217:9, 218:15 mark 138:6, 138:15, 139:7, 139:19, 162:6, 191:4 marked 126:5, 126:7, 140:7, 194:16 market 107:12, 112:25, 172:25 marketed 113:14 marketing 108:22 marking 162:16</p>
---	---	--	---

<p>married 15:9, 106:20 mary 209:18, 209:23 maryland 1:2, 1:11, 2:5, 2:16, 8:11, 16:1, 23:21, 37:11, 40:10, 40:12, 40:16, 40:21, 41:12, 41:18, 42:11, 71:11, 105:11, 116:8, 139:25, 140:4, 140:10, 149:6, 186:4, 197:19, 199:8, 200:23, 211:17, 217:13 massive 107:18 matches 155:6 math 79:13, 82:17, 82:24, 86:17, 94:1 matter 64:15, 134:14, 140:19, 169:9, 169:18, 214:19 matters 13:3, 38:18 matures 27:2 max 89:7, 94:15 maximize 109:14 maximum 86:9, 86:10, 86:20, 87:3, 89:14, 89:15, 93:16, 93:21, 94:2, 94:4, 94:12, 94:22, 95:13, 96:14, 96:15, 96:17,</p>	<p>97:6, 102:13 may 7:15, 13:2, 35:14, 39:10, 57:2, 57:7, 57:8, 59:2, 65:10, 67:3, 71:17, 75:7, 75:10, 75:11, 78:1, 78:2, 78:8, 82:1, 82:14, 87:25, 94:8, 96:16, 100:4, 103:4, 114:13, 116:23, 117:1, 117:22, 127:9, 134:12, 139:15, 141:21, 143:3, 147:7, 148:12, 183:12, 193:18, 200:10, 200:13, 202:13, 205:3, 206:20 maybe 11:11, 58:13, 98:8, 102:9, 104:13, 154:7, 192:19, 200:15, 201:8 mccostlin 1:25, 218:2, 218:14 md 2:8, 3:10, 3:19 mean 7:9, 26:18, 28:17, 29:23, 30:1, 31:2, 39:17, 49:8, 50:9, 54:1, 58:9, 59:20, 62:24, 66:17, 66:18, 72:17, 73:8, 80:23, 86:12, 92:22, 94:7, 98:25, 109:9, 112:15, 123:11, 127:6,</p>	<p>143:13, 174:6, 187:9, 190:18, 190:21, 191:8, 193:9, 198:18, 201:2, 203:15, 207:20, 211:4, 212:8 meaning 93:12 meaningful 25:2 means 20:1, 74:22, 189:14 meant 31:24, 67:4 measurements 123:12 medical 47:7, 47:22, 48:5, 98:23 meet 40:15, 112:17 meeting 28:1, 28:9, 129:13, 135:14 meetings 28:7, 78:18, 78:22, 175:21 memory 110:17 mention 24:16 mentioned 32:25, 37:3, 94:17, 127:14, 131:17, 131:21, 168:15, 175:18, 175:24, 177:20, 199:17, 208:10 merely 126:15, 140:18 merrily 213:23 message 200:23 methodology 122:2</p>	<p>methods 30:14 metro 9:12, 157:8, 160:23, 186:24, 198:17, 198:22, 213:23 michael 105:9, 185:19 micro 136:5 microwave 49:7 middle 17:17, 22:17, 22:18, 61:2, 61:3, 61:6, 62:8, 113:21, 178:9 might 40:11, 40:12, 40:13, 40:14, 40:25, 59:4, 70:3, 76:3, 104:7, 105:19, 153:24 mile 164:16 miles 107:19, 192:9, 214:16 mill 157:17, 157:19, 157:20, 158:17, 168:20, 211:21 miller 3:8, 6:5, 6:6 million 113:9 mind 98:20, 155:20, 168:5 mine 153:23, 155:3, 155:11, 194:23, 194:25, 195:2, 195:4, 204:6 minimal 9:17</p>
---	--	---	---

minimize 85:6 minimizes 84:19 minimum 27:4, 27:5, 40:23, 40:25 minus 74:13 minute 24:7, 79:9, 95:7, 104:4, 118:24, 148:14, 195:21, 196:8, 201:12 minutes 19:3, 19:20, 19:21, 21:13, 21:15, 88:2, 90:8, 159:25, 196:23, 201:9, 201:12, 213:19 minutest 48:1 mirror 190:14, 195:7 misfortune 207:22 misinterpreted 181:10 missed 42:20, 42:24, 207:13 misspeak 109:3 mistake 87:2, 104:8 mistaken 25:17, 93:24 mistakes 202:3 misunderstanding 95:14 mittchell 84:21, 146:5, 146:7, 147:19, 170:13 mittchell's 84:9, 90:13,	90:16, 91:13, 92:4 mix 26:6, 90:1 mixes 97:4 moment 7:10, 30:21, 60:25, 70:14, 182:17, 183:20 monday 49:16 money 112:6 monitoring 214:1 monroe 3:9, 3:18, 6:6, 6:12 montgomery 1:2, 2:3, 3:2, 9:2, 60:20, 61:1, 61:15, 110:1, 118:8, 128:2, 133:18, 139:21, 139:24, 163:15, 164:1, 164:24, 173:13, 177:23, 180:1 month 16:4, 202:9 months 27:2, 27:5, 42:16, 42:18, 43:1, 43:5, 43:15, 43:17, 43:22, 44:4, 44:5, 44:7, 44:12, 75:20 more 16:16, 18:14, 18:17, 18:21, 19:16, 26:15, 29:21, 30:2, 47:24, 49:7, 60:14, 69:18, 69:20, 70:4, 70:5, 71:24,	73:15, 80:24, 81:1, 91:3, 92:13, 101:1, 103:6, 108:10, 111:15, 113:6, 114:16, 138:5, 138:7, 140:9, 161:10, 168:6, 174:16, 183:24, 185:7, 189:3, 195:22, 195:23, 197:5 morning 6:4, 6:10, 9:24, 9:25, 29:6, 50:19, 52:15, 64:11, 65:15, 69:21, 74:25, 77:25, 80:24, 81:2, 81:5, 81:16, 81:20, 90:10, 99:19, 149:24, 149:25, 152:1, 156:5, 157:2, 157:3, 157:4, 157:5, 158:6, 158:10, 175:14, 176:7, 176:17, 187:15, 191:21, 193:9, 193:10, 200:25, 204:24, 205:1, 205:17, 214:12 mortgage 161:10, 161:11, 161:13, 161:14 most 10:3, 11:10, 18:22, 21:16, 59:1, 102:15, 105:15, 122:9, 147:9, 149:19, 149:22, 149:23, 155:22, 156:24, 157:6, 157:7, 157:13, 157:14, 158:5, 158:10,	158:14, 159:15, 161:18, 169:10, 169:14, 189:2 mostly 187:15, 215:15 mother 8:24, 10:11, 105:24, 106:13 mounted 107:18 move 51:24, 97:10, 122:9, 122:16, 122:20, 129:10, 198:10 moved 9:6, 106:5, 122:25 moving 186:25 mow 193:22 mrs 15:10 msde 144:14 much 12:10, 46:17, 112:17, 116:20, 123:23, 124:1, 124:16, 130:18, 134:23, 146:24, 151:18, 169:4, 180:11, 193:19, 204:3, 208:14 multiple 20:17, 21:1, 21:2, 157:14, 159:14, 184:2 muncaster 156:25, 158:11, 161:5, 211:21 must 184:20 myself 100:25, 169:9 mysteriously 159:20
---	--	--	--

Transcript of Administrative Hearing - Day 5
 Conducted on March 10, 2020

87

N			
n-e-w-e-n-s	necessary	125:3, 133:6,	200:2, 208:5,
8:14	98:8, 106:7,	133:10, 134:8,	210:11
nail	112:3	134:17, 146:16,	neighborhoods
180:23, 181:5	need	149:23, 150:15,	158:17, 159:16,
name	7:19, 26:22,	151:11, 151:12,	168:21, 189:21,
6:4, 6:10, 8:8,	31:19, 38:19,	152:17, 152:22,	192:8, 192:11
8:10, 8:13,	39:8, 39:17,	156:8, 156:25,	neighboring
12:21, 12:23,	47:8, 47:14,	157:11, 158:5,	182:19, 182:20
15:8, 15:9,	48:23, 56:15,	158:11, 159:7,	neighbors
15:10, 43:15,	57:7, 57:8,	167:24, 172:11,	25:7, 107:18,
43:24, 91:10,	57:12, 72:7,	177:24, 178:11,	110:3, 149:24,
105:8, 105:9,	90:18, 92:11,	179:12, 187:17,	150:4, 168:24,
111:5, 115:1,	112:8, 141:24,	187:20, 187:24,	169:18, 176:19,
115:2, 149:3,	148:6, 153:2,	187:25, 188:1,	182:18, 183:4,
149:5, 149:8,	159:25, 183:20,	188:6, 188:8,	186:25, 187:3,
170:22, 178:15,	186:16, 188:23,	188:11, 188:14,	192:1
178:18, 185:18,	201:6, 201:13,	191:13, 192:7,	neither
185:23, 197:12,	204:1, 204:7,	193:14, 197:19,	25:20, 143:6,
197:14, 197:16,	204:8, 209:6,	198:11, 199:18,	217:5, 218:7
207:5, 207:7,	211:4	199:20, 207:8,	nesters
207:9, 208:20,	needed	207:12, 211:2,	37:6
208:22, 209:16,	26:20, 27:12,	211:20, 211:23,	net
209:18	30:1, 41:6,	212:9, 212:11,	3:22
named	48:23, 80:1,	212:15, 214:10,	never
178:23, 179:19	98:11, 175:17	214:11, 214:22	52:17, 65:6,
names	needing	neighbor	98:20, 109:12,
176:22	130:3	24:25, 183:5,	112:13, 113:22,
nancy	needs	193:5	144:3, 144:4,
111:10	169:2, 172:19,	neighbor's	160:15, 160:16,
national	213:20	107:24, 183:3	161:12, 164:25,
116:9, 139:25,	needwood	neighborhood	165:1, 167:24,
140:4	5:13, 6:15,	9:5, 9:16,	168:23, 168:24,
naturally	8:11, 9:8, 9:19,	33:1, 133:20,	170:1, 170:8,
158:15, 174:2	34:10, 34:18,	133:21, 134:6,	170:20, 183:6,
nature	34:20, 34:21,	134:8, 134:11,	184:3, 208:8,
9:7, 66:14,	35:4, 35:7,	149:7, 157:15,	208:11, 213:19
77:14, 165:8,	35:8, 35:13,	157:17, 157:21,	new
165:11	36:23, 36:25,	158:18, 165:5,	6:15, 9:9,
near	37:12, 37:20,	165:18, 165:19,	37:6, 106:22,
9:21, 211:7,	39:7, 53:22,	165:24, 167:17,	112:1, 156:7,
211:8	105:14, 105:24,	167:19, 169:1,	172:7, 172:12,
nearby	106:2, 106:4,	169:2, 169:7,	174:3, 187:16,
133:14, 208:13	106:9, 106:10,	169:14, 176:23,	191:16, 191:22,
nearest	106:14, 108:3,	186:20, 186:22,	197:25, 201:6,
54:7	108:9, 112:14,	188:7, 198:12,	213:3
necessarily	113:14, 113:18,	198:14, 198:23,	newborn
23:24	113:21, 119:25,	199:2, 199:14,	10:11
	123:24, 124:15,	199:15, 199:19,	newens
			4:4, 7:17,

<p>7:19, 7:21, 7:23, 7:25, 8:2, 8:7, 8:10, 8:14, 8:16, 8:19, 8:22, 10:20, 10:22, 10:25, 11:17, 11:23, 11:25, 12:2, 12:6, 12:12, 13:15 next 43:14, 110:23, 121:23, 132:19, 134:25, 136:17, 148:15, 190:13, 193:4, 201:9, 206:23 nice 14:14, 108:15, 193:25 night 8:20, 77:1, 77:17 nine 44:8, 46:8 nobody 32:23, 214:22 nodded 39:10 noise 10:9, 13:20, 13:24, 14:2, 14:3, 14:11, 14:13, 23:10, 84:21, 85:7, 92:9, 92:10, 92:12 noisy 84:13, 199:12 none 12:17, 32:24, 103:23, 168:24, 178:21, 184:21, 215:7 nonetheless 96:17 noon 204:3, 204:10,</p>	<p>205:22 nor 25:21, 143:24, 175:7, 183:6, 217:5, 218:8 norm 98:3 normally 20:1, 21:14, 143:17, 148:6 north 84:15, 89:19, 126:8, 126:9, 126:10, 127:2, 134:17, 135:18, 166:6, 212:8, 212:23 notarial 217:9 notary 2:15, 217:1, 217:12 notes 26:6, 52:3, 52:4, 78:17, 85:17, 135:14, 138:4, 168:6, 168:11 nothing 8:6, 49:6, 105:1, 111:2, 114:22, 149:1, 185:14, 197:10, 207:3, 209:13 noticed 26:1, 132:11 notwithstanding 130:5 november 127:25, 136:14 now 6:23, 11:5, 12:14, 12:15, 15:8, 16:8, 18:24, 19:19, 24:19, 36:19, 38:19, 41:5, 45:23, 51:10,</p>	<p>51:18, 52:7, 52:13, 52:23, 64:7, 64:20, 65:19, 65:21, 69:24, 70:22, 76:23, 77:15, 84:15, 85:3, 87:18, 88:25, 89:2, 90:12, 96:16, 96:23, 103:21, 104:17, 113:23, 114:16, 132:12, 135:7, 137:5, 138:6, 140:17, 143:2, 145:1, 145:5, 152:10, 158:19, 162:16, 162:19, 166:17, 167:17, 169:8, 171:1, 172:18, 172:20, 173:18, 174:10, 178:2, 178:4, 181:9, 184:9, 201:8, 206:1, 209:4, 215:8 number 5:3, 18:10, 18:15, 40:9, 42:21, 47:3, 47:8, 81:7, 81:11, 85:11, 85:14, 87:22, 88:6, 89:1, 89:6, 93:17, 93:21, 94:2, 94:5, 94:14, 94:19, 94:22, 96:14, 96:17, 97:6, 99:9, 101:24, 119:2, 119:15, 120:7, 120:17, 122:8, 122:17, 122:21, 124:11, 129:24, 130:17, 133:14, 133:25, 134:25, 137:25, 145:10,</p>	<p>145:19, 145:20, 146:14, 150:11, 153:7, 153:22, 160:3, 200:1, 208:3 numbered 181:7 numbers 17:23, 74:8, 74:18, 74:20, 80:16, 88:5, 89:14, 94:17, 130:24, 131:24, 132:18, 132:19, 163:5 nurse 42:12, 42:13 nursery 113:3 nursing 113:3 nutrition 50:14 <hr/>O<hr/>o-t-t-e-n-b 186:6 oaks 115:4 object 92:22, 99:21, 140:19, 207:19, 208:7 objecting 107:19 objection 33:13, 38:6, 62:1, 62:6, 64:9, 73:15, 79:15, 100:2, 135:5, 136:22, 136:23, 138:10, 138:14, 139:10, 139:15, 140:17, 142:25, 143:12, 143:14, 148:20, 152:13, 161:24, 162:1, 162:2,</p>
--	--	---	--

<p>179:4, 179:9, 185:9, 196:3, 206:8 objections 115:21, 152:11, 190:24 obligations 7:3, 13:8 observed 122:14, 188:25, 189:1, 191:14, 193:8 obtained 140:10 obtaining 98:10 obvious 107:4, 107:23, 108:2 obviously 109:12, 127:3, 135:23, 172:6, 214:17 occasions 70:4 occupation 115:5 occupied 160:16, 164:25, 183:6, 213:14 occupies 157:22 occur 9:17, 20:8, 38:7, 53:1 occurred 33:3, 183:22 october 128:1 of-way 113:21 off 18:21, 19:4, 19:5, 21:11, 48:23, 54:8, 54:11, 54:17, 56:9, 56:19, 57:1, 57:13,</p>	<p>58:25, 59:11, 59:13, 66:8, 68:1, 70:13, 70:18, 76:20, 77:3, 77:13, 77:16, 78:14, 83:8, 88:12, 104:2, 113:18, 140:3, 140:18, 140:21, 148:11, 158:12, 161:16, 163:13, 163:25, 164:8, 164:12, 178:8, 192:18, 196:23, 196:24, 201:16, 211:21, 213:18, 213:23, 214:10, 214:13, 216:2 offense 202:3 offer 63:13, 142:20 offered 63:11, 64:18, 74:23, 107:21, 110:9, 111:25, 113:9, 124:24 office 1:1, 2:3, 2:6, 3:2, 30:20, 65:11, 100:2, 175:17, 200:22, 204:24, 205:1, 205:5, 205:17 officer: 62:4 offices 3:17, 6:6, 6:12 official 85:3, 140:3 officials 107:8 offs 19:2 offset 112:13, 135:20 often 16:2, 26:11,</p>	<p>73:14, 176:6 oh 6:20, 7:24, 25:20, 27:5, 32:11, 34:21, 36:2, 38:12, 42:24, 49:13, 54:10, 63:1, 72:11, 72:13, 81:3, 81:6, 84:23, 86:16, 89:9, 89:23, 101:22, 109:9, 117:10, 118:13, 121:13, 121:14, 126:2, 131:23, 140:16, 146:2, 153:7, 153:13, 164:10, 172:17, 179:18, 184:24, 186:7, 194:24, 204:16, 204:20 oils 49:5 old 25:15, 46:1, 61:18, 106:1 old-fashioned 25:14, 25:16 older 43:19, 46:6, 200:19 oldest 200:15 olds 44:18, 44:25 olney 214:9 on-site 73:12 once 6:2, 17:16, 20:21, 25:8, 37:14, 106:20, 106:23, 106:24, 112:23, 113:9, 113:20, 113:22, 159:13, 165:16,</p>	<p>175:6, 184:3, 190:12, 214:20 one-acre 106:11, 106:14 ones 16:19, 18:22, 117:11, 178:21 ongoing 22:8, 38:22, 39:25 only 26:19, 36:18, 57:2, 57:8, 61:4, 61:10, 62:8, 70:3, 85:25, 93:3, 95:18, 98:22, 110:3, 113:16, 114:1, 127:6, 141:1, 145:16, 155:11, 155:14, 165:11, 168:15, 173:3, 174:2, 174:3, 174:6, 176:6, 178:16, 178:18, 192:1, 192:9, 199:1, 199:19, 200:2, 204:17, 214:16 onto 119:25, 124:4, 124:15, 159:11, 187:20, 188:8, 188:10, 207:23, 214:13 ooh 203:11 opaque 92:12 open 16:20, 22:2, 22:9, 25:8, 109:21, 109:24, 111:22, 142:19, 143:20, 148:9, 165:24, 166:1, 167:15, 191:1, 203:9, 204:17,</p>
--	--	--	--

<p>204:18 opening 56:17 openly 170:5 opens 52:18, 56:22 operate 37:22, 38:1, 47:25, 98:11 operated 25:13 operating 26:14, 97:22, 175:6 operation 14:19, 97:20, 100:4, 142:13, 142:16, 144:22, 173:7, 173:16, 174:25 operations 15:2, 15:3, 23:10, 26:5, 28:20, 29:2, 29:4, 30:17, 38:16, 39:9, 42:5, 79:16, 83:25, 98:1, 100:10, 144:12 operator 18:19, 20:7, 24:24, 35:4, 35:6, 41:24, 42:3, 53:22, 160:1, 179:12, 179:18 operators 30:20, 31:4, 174:20, 175:2 opinion 25:4, 90:19, 107:23, 156:24, 169:11, 193:2, 214:25 opinions 100:16, 169:10, 169:18</p>	<p>opportunity 142:13, 143:16 opposed 41:6, 107:22, 110:8, 113:7, 197:25 opposing 8:25, 143:5 opposite 110:4, 112:14 opposition 100:19, 107:18 opposition's 103:25 option 107:4 options 208:13 order 31:6, 34:14, 122:7, 169:17, 170:7, 201:23 ordinance 100:17 organizational 21:19, 37:18 organize 84:19 orient 150:8, 150:13 oriented 135:18 originally 110:7 other 7:14, 17:8, 19:14, 20:25, 21:9, 28:5, 28:11, 28:12, 32:8, 33:11, 34:2, 53:9, 53:11, 56:8, 56:12, 62:22, 66:8, 76:17, 78:2, 78:3, 78:7, 91:24, 94:15, 94:16, 94:18, 95:8,</p>	<p>95:9, 95:10, 97:17, 101:5, 108:23, 109:17, 112:11, 113:20, 114:4, 122:14, 122:17, 131:23, 131:24, 132:8, 133:1, 142:18, 146:3, 156:21, 157:11, 158:1, 164:19, 168:13, 170:5, 177:8, 178:21, 185:5, 187:6, 189:21, 192:8, 192:14, 192:16, 204:17, 208:13, 208:19, 211:5, 211:7, 211:12, 211:23, 212:7, 212:12 others 205:2 otherwise 169:15, 217:7, 218:9 ottenbrook 165:18, 165:24, 166:2, 166:14, 166:22, 168:17, 186:3, 186:7 our 9:8, 30:20, 38:1, 54:7, 59:3, 71:4, 83:20, 102:4, 103:9, 107:3, 112:10, 112:23, 112:25, 116:7, 130:24, 131:12, 149:24, 150:4, 151:4, 153:15, 153:16, 156:10, 156:17, 157:15, 165:5, 165:20, 165:23, 167:16, 169:19, 169:21, 176:19, 176:25, 186:9, 192:16,</p>	<p>192:18, 198:2, 199:14, 199:19 ourselves 198:5 out 11:22, 11:23, 15:23, 17:7, 21:20, 24:8, 25:1, 26:19, 26:21, 28:19, 30:23, 49:6, 51:23, 62:5, 67:14, 76:18, 84:24, 86:9, 90:22, 98:7, 99:1, 99:3, 102:10, 108:21, 110:6, 112:22, 113:1, 113:6, 113:15, 113:25, 121:9, 124:19, 128:9, 128:20, 129:2, 130:19, 137:16, 139:15, 153:15, 155:18, 156:9, 157:9, 157:10, 157:15, 158:25, 159:1, 159:6, 159:23, 162:6, 164:25, 166:20, 167:14, 170:16, 173:14, 174:4, 180:17, 180:25, 186:24, 187:12, 195:22, 199:19, 201:5, 201:9, 201:17, 207:22, 211:1, 211:5, 213:21, 214:1, 214:11, 214:15 outcome 217:7, 218:10 outdoor 10:7, 93:11, 96:5, 96:11 outlets 165:13</p>
---	--	--	---

<p>outlined 126:20 outreach 23:13 outs 156:2 outside 10:5, 13:16, 13:19, 14:6, 14:7, 14:18, 58:20, 73:8, 84:13, 85:11, 85:25, 94:14, 96:21, 96:22, 184:4, 194:8 oven 49:7 over 11:20, 17:9, 19:24, 59:20, 90:7, 90:8, 126:9, 134:24, 143:23, 155:4, 156:4, 156:7, 157:15, 158:3, 160:22, 169:6, 169:17, 187:14, 193:23, 200:24, 205:10, 208:3, 210:10, 213:16, 214:9 over-characteriz- ation 66:9 overall 42:4 overflowing 192:23 oversaw 121:7 overseeing 29:3, 41:24 own 16:12, 53:21, 108:12, 154:8, 169:10, 169:17, 170:6, 186:9 owned 39:3, 113:21</p>	<p>owner 30:19, 31:4, 35:4, 35:6, 41:24, 42:3, 105:20, 113:13, 170:2, 170:23, 170:25, 171:1, 171:14, 172:1, 172:4, 172:24, 175:25, 179:12 owners 36:25, 107:19, 116:10, 174:12 ownership 34:18, 39:8 owns 161:19</p> <hr/> <p>P</p> <hr/> <p>p-r-a-k-h-y-e 185:24 packed 189:14 page 4:2, 5:3, 119:1, 119:13, 120:5, 121:13, 121:23, 130:16, 130:17, 131:3, 131:6, 134:5, 135:19, 141:21, 141:24, 142:3, 153:7, 153:16, 154:12, 154:14, 157:24, 158:12, 162:6, 162:9, 162:13, 163:5, 163:6, 163:18, 164:7, 171:8, 180:25, 181:4 pages 1:24, 121:12, 153:21, 154:13, 154:19, 181:6, 181:17, 182:1 pain 15:17 panorama 158:24, 159:10</p>	<p>paper 125:4, 155:11, 190:23 papers 26:2 paperwork 113:12 parallel 192:23, 192:24 pardon 46:12, 54:9 parent 18:7, 19:2, 20:13, 30:8, 57:13, 65:21, 102:25 parent-dedicated 76:11 parent-teacher 78:18 parenthesis 119:4 parents 18:6, 18:20, 19:6, 19:15, 19:16, 20:5, 20:22, 55:23, 56:15, 59:11, 82:6, 102:22, 102:25, 107:1, 107:3, 165:11 park 20:14, 24:20, 116:9, 128:2, 139:25, 140:4, 159:21, 165:12, 175:7, 192:18, 192:23, 192:24, 194:5 parking 17:9, 17:12, 17:23, 17:24, 18:12, 18:18, 19:20, 19:22, 21:8, 24:12, 55:1, 68:3, 71:1, 71:3, 76:6, 76:7,</p>	<p>79:9, 80:9, 82:23, 102:19, 102:24, 136:3, 136:4, 160:2, 160:6, 165:10, 192:22, 213:13, 213:17, 213:24, 214:6 parks 70:22, 164:23 part 22:21, 25:6, 28:1, 32:8, 47:10, 53:19, 54:3, 59:1, 67:11, 74:21, 74:22, 74:24, 75:9, 83:25, 102:15, 102:22, 118:10, 125:8, 128:5, 138:25, 143:10, 151:20, 153:1, 156:17, 161:8, 166:17, 180:5, 202:24 part-time 74:2, 74:7, 74:16 parte 196:14 participate 121:7 particular 36:18, 118:17, 169:22, 180:3, 187:8, 190:9, 194:23 particularly 33:20 parties 6:2, 28:16, 37:2, 196:11, 217:6, 218:8 parts 24:24, 28:25 party 30:18, 32:21, 142:12</p>
---	--	--	---

<p>pass 30:22 passed 107:1 passing 156:7 passion 25:1 past 15:10, 107:3, 150:21 path 9:9, 194:4, 198:18, 198:21, 198:24 paul 3:15, 6:11, 105:9 pave 193:23 pay 161:10 paying 213:4 peaceful 9:7 peak 19:4, 19:11, 19:12, 74:25, 75:3, 79:4, 79:14, 79:15, 79:16, 79:17, 79:20, 79:21, 80:7, 80:14, 80:22, 81:4, 81:5, 81:6, 81:14, 81:17, 81:18, 81:19, 155:15, 156:2 pedestrians 199:5 penalties 8:4, 111:1, 114:20, 148:24, 185:13, 197:8, 207:1, 209:12 penalty 104:24</p>	<p>pending 64:19, 86:18, 100:8 people 7:14, 11:10, 18:10, 19:7, 20:4, 22:4, 27:6, 28:1, 28:4, 59:4, 80:25, 83:25, 104:4, 104:11, 109:15, 112:14, 122:18, 156:11, 156:24, 157:6, 157:14, 157:16, 158:10, 158:14, 159:13, 165:8, 165:14, 167:14, 167:18, 168:15, 168:18, 168:19, 169:16, 170:10, 185:7, 188:3, 189:21, 189:24, 190:9, 190:15, 191:21, 191:24, 191:25, 192:3, 192:5, 192:6, 192:10, 192:20, 198:23, 206:11, 213:11 people's 213:10 per 19:20, 19:21, 19:23, 79:5, 79:13, 81:12, 120:11 percent 126:25, 127:6, 129:14, 129:19, 132:24, 133:12, 134:6, 134:9, 134:15, 134:16, 134:20, 134:24 percentage 20:17, 20:19, 21:4, 126:23, 128:12, 128:14,</p>	<p>129:5, 132:19, 133:10, 133:14, 133:23, 134:24 percentages 126:23, 132:25, 134:11 perfect 210:2 perhaps 173:14, 181:9 period 19:24, 22:9, 27:1, 29:17, 30:4, 56:17, 57:19, 67:25, 73:10, 75:3, 81:7, 81:14, 94:21, 156:4, 156:19 periodic 29:21, 29:23 periods 26:20, 90:5, 90:6 perjury 8:4, 104:24, 111:1, 114:20, 148:24, 185:13, 197:9, 207:1, 209:12 permit 146:18 permitted 31:10 permitting 37:14 perplexed 160:6 person 23:12, 110:23, 114:16, 161:9, 161:18, 164:25, 169:13, 169:14, 170:5, 170:21, 170:22, 171:13, 171:25, 172:6, 172:8, 172:9, 172:19, 172:22,</p>	<p>173:4, 173:15, 173:19, 173:21, 174:7, 177:15, 177:23, 178:16, 178:18, 180:6, 184:16, 187:5, 193:4, 195:22, 195:23, 197:5, 200:15 personal 108:8 persons 103:17 perspective 20:23, 41:21 peruse 116:22 pervious 132:24 peter 197:18 petition 168:14, 169:22, 169:23, 170:4, 170:20, 170:22, 171:25, 172:15, 172:17, 173:5, 173:7, 173:12, 173:21, 174:4, 174:5, 178:19, 180:6 petitioned 176:23 petitioner 6:7 petitions 113:11 phase 27:13, 27:16, 28:6, 37:7 phases 65:3 phone 3:11, 3:20, 188:22, 201:13 phonetic 16:18, 196:15 photo 152:16, 152:18,</p>
---	---	--	---

<p>152:21, 184:17 photocopies 190:23 photograph 5:12, 176:10, 176:15, 183:18, 183:21, 195:15 photographic 126:17 photos 188:22, 188:25 phrase 21:21, 177:1 physical 60:2, 125:5 physically 29:5, 117:3 pick 17:12, 18:7, 78:3, 130:19 pick-up 10:1, 10:2, 17:4, 17:15, 18:12, 20:13 pick-ups 19:2, 20:8 picked 55:21, 65:17, 65:21, 214:17 picking 18:21, 50:16, 68:1, 78:14 picks 67:21, 68:11, 68:13 pickup 50:20, 51:9, 51:15, 99:11, 99:17, 165:13 pickups 9:17, 50:20, 51:8, 51:14 picture 130:18, 149:23, 150:3, 150:5, 150:13, 150:16, 150:17, 151:22, 151:24, 151:25,</p>	<p>155:18, 176:14, 176:15, 177:13, 177:16, 178:8, 178:9, 189:25, 190:9, 190:14, 191:8, 194:15, 194:20, 194:23, 195:1, 196:9 pictures 187:14, 187:18, 188:17, 191:20, 194:9, 195:6, 195:8, 195:18, 196:10, 196:15, 196:22 piece 164:14 pipe 110:6, 113:17 place 13:4, 33:7, 108:4, 131:20, 156:1, 160:8, 161:7, 198:1, 198:8 placed 154:2 places 161:7 plan 16:21, 16:25, 50:2, 51:19, 79:1, 106:19, 107:20, 107:23, 116:6, 118:19, 120:12, 120:14, 122:23, 127:4, 127:23, 135:11, 135:24, 136:16, 142:13, 142:16, 144:12, 144:22, 145:14, 146:17, 146:19, 154:20, 156:15, 174:20, 175:2, 175:5, 203:13, 214:19 planned 106:13</p>	<p>planner 140:24 planning 24:20, 112:2, 112:3, 116:9, 128:2, 133:19, 139:25, 140:4, 140:11, 140:25, 146:14, 146:20, 153:12, 160:6, 164:23, 175:7, 191:16 plans 42:9, 42:10, 51:2, 51:4, 51:5, 100:9, 107:9, 107:17, 116:12, 198:20 plat 147:14 platted 146:10, 148:4, 148:5 play 14:1, 16:12, 84:13, 85:10, 85:24, 86:10, 89:18, 90:6, 90:9, 90:22, 93:11, 94:23, 96:5, 96:11, 97:5 playground 13:25, 16:5, 59:3, 59:5, 85:11, 87:16, 88:9, 88:16, 90:16, 90:20, 90:24, 93:17, 94:5, 94:22, 95:18, 96:18, 129:25, 130:22, 131:11, 131:18 playgrounds 10:10, 14:20 playing 14:14, 58:20, 84:12, 85:11</p>	<p>playtime 94:23 please 7:15, 8:3, 8:8, 12:20, 33:25, 53:24, 73:7, 87:12, 88:20, 92:8, 104:7, 104:20, 104:23, 105:7, 108:8, 110:25, 111:9, 114:18, 114:19, 114:25, 118:6, 120:5, 120:18, 121:11, 122:4, 125:15, 142:4, 148:19, 148:22, 148:23, 149:3, 184:17, 185:11, 185:17, 185:18, 197:7, 197:12, 206:25, 207:5, 209:10, 209:11, 209:16, 209:17 pleased 103:8 plenty 161:6, 164:15, 187:6 plumb 33:18, 33:19 plus 81:10, 83:21, 87:3, 87:17, 95:20, 156:7, 191:18, 192:12, 192:13 point 15:14, 17:22, 21:23, 34:17, 35:3, 39:23, 60:16, 65:9, 68:4, 74:6, 84:24, 85:12, 85:25, 93:14, 93:19, 93:21, 95:19, 119:11, 121:18, 122:10,</p>
--	--	---	--

<p>123:7, 127:20, 133:3, 142:8, 144:8, 144:9, 149:19, 172:25, 173:25, 210:9 pointed 17:7, 102:10, 128:15, 129:2 pointing 126:2, 158:8, 178:5, 188:22 points 90:15, 142:10 policy 91:17 populous 100:5 poses 167:23 posey 3:15, 6:11 position 41:14, 41:22, 119:11, 119:22, 122:8, 122:16, 122:21 positions 121:20 positive 174:4, 174:5, 174:6 possible 7:4, 18:20, 57:2, 57:7, 75:9, 107:14, 144:24, 156:23, 165:15, 191:5, 203:9 possibly 15:13, 30:16, 75:14, 155:21, 155:25, 160:3, 165:11, 198:4 post 20:11, 194:25, 195:4 postal 208:2</p>	<p>posted 122:12, 176:24, 195:1 potential 9:4, 10:14, 107:16, 107:21, 107:25, 108:23 potentially 68:23, 68:24, 156:19 pporting 218:7 practices 22:5 prakhye 4:10, 185:16, 185:19, 185:23, 186:1, 186:3, 186:6, 186:8, 186:11, 186:13, 186:19, 187:22, 187:24, 188:7, 188:12, 188:14, 188:17, 189:1, 189:8, 189:11, 189:14, 189:18, 190:5, 190:8, 190:12, 190:19, 190:23, 191:7, 191:15, 192:5, 193:9, 194:8, 194:19, 194:22, 194:25, 195:4, 195:9, 195:11, 195:20 pre 93:24 pre-dedication 124:12 pre-k 45:12, 45:13, 45:20, 46:14, 46:22, 63:15, 63:22, 89:7, 89:11, 89:12, 93:12, 96:24 pre-school 45:20, 46:10,</p>	<p>46:12, 46:14, 46:18, 46:21 precise 59:23 preference 108:8 prehearing 117:12, 184:22 preliminary 13:3, 107:17, 116:6, 148:4 premature 139:10, 139:14 prepare 88:18, 123:14 prepared 8:19, 24:10, 99:15, 118:11, 120:15, 120:24, 136:13 presbyterian 150:20 preschool 9:10, 44:10, 44:16, 44:18, 44:21, 51:25, 89:7, 89:13, 89:14, 93:12, 93:13, 93:25, 96:24, 96:25 preschoolers 10:8 present 127:11, 210:17 presentation 129:16, 215:16 presented 142:14, 146:19, 153:11 preserve 193:5 pressed 134:10 presumably 57:15 presume 56:8 presuming 15:23</p>	<p>pretty 142:22, 151:18, 169:4, 208:20, 211:8 previous 100:22 previously 104:10, 199:17 price 192:15 primarily 9:20, 53:8, 53:9, 91:22, 161:4 primary 149:19 primrose 1:4, 6:7, 6:14, 9:1, 18:13, 18:17, 18:24, 20:16, 20:20, 20:21, 21:6, 21:21, 21:23, 22:4, 22:8, 25:3, 25:24, 26:5, 26:8, 26:9, 26:11, 27:7, 27:17, 27:20, 28:6, 28:12, 30:7, 30:13, 30:14, 35:9, 36:4, 36:7, 36:14, 37:20, 37:21, 37:22, 37:25, 38:1, 38:23, 38:24, 39:5, 39:8, 39:21, 40:1, 47:1, 47:5, 47:23, 48:7, 48:10, 50:11, 50:15, 50:24, 51:13, 53:19, 54:12, 57:20, 58:16, 59:7, 62:21, 63:6, 63:12, 63:21, 64:3,</p>
--	--	---	--

<p>64:18, 65:18, 68:16, 68:18, 68:19, 69:2, 74:2, 74:23, 75:10, 75:13, 75:19, 79:1, 85:9, 91:15, 91:16, 92:2, 92:11, 97:20, 97:22, 98:21, 99:1, 211:13, 211:16, 214:7 primrose's 18:19, 21:25 principle 107:12, 143:24, 161:12 print 141:1, 162:21, 170:16, 173:14, 180:17, 201:17 printed 140:21, 163:13, 163:25, 164:8 printer 153:20 printout 5:7, 138:23, 139:21 prior 146:18 priority 5:8, 5:9, 138:24, 139:3, 139:11, 139:21, 140:9, 140:24, 141:17 private 77:20, 106:12 probably 13:15, 20:25, 24:2, 39:5, 55:6, 110:4, 114:1, 149:19, 153:25, 155:8, 157:16, 159:24, 181:19, 181:21, 198:5, 200:15,</p>	<p>202:22, 214:5, 215:15 problem 23:10, 112:12, 113:20, 143:19, 187:4, 187:16, 201:11 problems 196:16 procedural 47:13 procedure 21:11, 48:5 procedures 47:11, 47:22, 85:6, 98:10 proceeding 124:24 proceedings 4:3, 116:10, 133:8, 217:4, 218:4 process 18:23, 21:16, 22:1, 23:23, 27:22, 37:15, 47:6, 47:14, 47:25, 98:18, 100:6, 100:15, 101:1, 101:12, 130:3, 147:8, 148:5, 165:6 processes 116:6 professional 115:6, 118:10, 125:13, 198:6, 199:7 proffer 94:8, 96:1, 96:14 program 54:3, 64:4, 64:5, 64:7, 64:18, 74:22, 75:24, 76:14, 76:22, 79:1, 102:16</p>	<p>programming 65:23 programs 65:25 progressing 91:6 prohibitive 106:19 project 133:21, 134:3, 139:4, 140:10, 169:8 projected 70:2 promise 113:15 prone 14:21 proof 117:25 proper 109:25 properties 39:8, 84:20, 102:3, 106:3, 132:17, 132:25, 134:13, 147:18 property's 84:17 proport 132:23 proposal 92:3, 107:22, 173:14, 180:2 propose 183:3, 200:21 proposed 84:13, 106:22, 118:16, 118:18, 120:8, 120:11, 122:10, 122:22, 123:8, 123:9, 123:14, 125:11, 127:3, 127:22, 128:8, 128:12, 128:18, 149:20, 149:21, 150:21, 150:23, 152:4,</p>	<p>152:8, 153:6, 153:7, 155:19, 156:14, 156:23, 157:6, 158:14, 159:18, 160:2, 160:19, 164:16, 164:18, 166:5, 166:25, 168:17, 197:25, 198:20 proposing 123:21 protected 24:20 protest 164:20 protesting 172:8 proves 165:10 provide 8:25, 22:2, 23:22, 29:13, 47:23, 48:1, 61:8, 90:12, 125:15, 146:15, 187:18, 190:23, 194:9, 194:11, 194:12, 198:17, 199:9, 213:21 provided 22:8, 48:6, 63:21, 68:18, 195:16 provider 144:13 provides 25:25 providing 30:11, 53:19, 58:7, 58:11, 77:13, 98:21, 130:8 provision 24:11 proximity 186:23 przy 197:16</p>
---	---	---	--

<p>przywara 4:11, 197:11, 197:14, 197:16, 197:18, 197:22, 199:25, 200:4, 206:4</p> <p>pt-7 133:6</p> <p>public 2:16, 13:19, 55:19, 106:7, 107:23, 118:16, 162:23, 210:7, 213:14, 217:1, 217:12</p> <p>pull 159:20, 163:10, 163:22</p> <p>pulled 160:9</p> <p>punch 165:17</p> <p>purchase 107:15, 148:1, 182:18, 183:2</p> <p>purchased 31:17, 105:25, 160:8, 160:14, 160:17, 186:20, 186:22, 193:6</p> <p>purchasers 107:16, 107:21, 107:25</p> <p>purell 209:5</p> <p>purely 173:10</p> <p>purpose 14:12, 137:19, 165:1</p> <p>purposes 14:9, 160:15</p> <p>purse 209:5</p> <p>pursuant 2:15, 107:15</p> <p>put 9:16, 32:15,</p>	<p>108:8, 112:24, 113:16, 113:17, 114:3, 117:17, 130:13, 132:21, 156:8, 160:20, 162:3, 174:2, 194:1, 208:8</p> <p>putting 110:8, 125:7, 172:23, 173:2</p> <hr/> <p>Q</p> <p>qualifications 40:7, 41:5</p> <p>qualified 58:12, 71:13</p> <p>qualify 66:1, 116:18</p> <p>quality 9:2, 22:6</p> <p>quarreling 65:20</p> <p>quarterly 26:13, 27:16, 27:24, 28:2, 28:7, 28:8, 28:9, 29:24</p> <p>question 11:11, 15:6, 16:24, 17:22, 23:9, 24:23, 34:1, 38:19, 39:18, 42:21, 62:1, 62:11, 63:8, 64:19, 64:20, 65:7, 83:5, 88:17, 91:13, 93:3, 94:12, 98:8, 98:20, 101:16, 101:21, 102:9, 105:4, 147:7, 173:4, 174:5, 174:12, 176:8, 178:24, 179:5, 180:22, 206:10</p> <p>questioned 93:20</p>	<p>questioning 23:8, 99:22</p> <p>questions 10:17, 12:7, 12:9, 13:18, 17:4, 25:9, 91:11, 93:6, 93:7, 99:10, 103:2, 108:19, 109:5, 110:19, 114:8, 114:10, 141:19, 142:18, 142:23, 144:17, 147:2, 148:2, 152:14, 175:12, 175:13, 182:13, 183:8, 184:6, 184:7, 184:8, 194:13, 195:12, 200:6, 200:7, 200:8, 208:19, 208:25, 209:1, 215:1</p> <p>queue 177:5, 177:13, 194:16, 194:18</p> <p>queuing 11:3</p> <p>quick 35:23, 78:17, 108:20, 109:23, 127:9, 142:2, 148:3, 180:20, 183:25, 210:8</p> <p>quicker 165:9</p> <p>quickly 10:18, 201:7</p> <p>quit 31:6</p> <p>quite 84:17, 109:20, 134:21, 154:20, 207:21, 211:5</p> <p>quote 112:9</p> <hr/> <p>R</p> <hr/> <p>r 134:8</p>	<p>r-e-e-s-e 115:2</p> <p>r-z-y-w-a-r-a 197:18</p> <p>radius 164:16</p> <p>rains 189:19</p> <p>raise 8:3, 104:23, 110:25, 114:19, 148:23, 185:12, 197:7, 206:25, 209:11</p> <p>raised 15:6, 100:2, 107:22</p> <p>range 122:24</p> <p>rather 10:12, 32:7, 64:3, 75:11, 81:23</p> <p>ratio 47:3</p> <p>re-1 134:6</p> <p>reach 23:14, 24:8, 30:23</p> <p>reached 26:21</p> <p>read 97:21, 98:12</p> <p>reading 10:23, 26:1, 143:22, 168:10, 196:20</p> <p>ready 86:6, 202:23</p> <p>real 35:7, 142:1, 172:22, 173:8, 173:22, 174:18, 174:19, 175:4, 179:25, 180:7, 183:25, 184:1, 186:19, 201:7</p>
--	--	--	---

reality 108:6 realize 64:9 really 16:23, 49:6, 65:12, 86:7, 86:8, 108:12, 129:16, 156:21, 156:22, 160:6, 174:3, 180:20, 184:10, 184:11, 187:4, 187:8, 187:10, 189:19, 189:23, 193:5, 194:6 realtor 109:11, 112:25, 181:8, 181:9, 182:6 rearview 190:14, 195:7 reason 11:10, 25:24, 38:13, 82:14, 91:22, 130:23, 160:20, 175:6, 175:16, 205:16 reasons 91:21, 143:7, 156:8, 198:10, 199:16 rebuttal 204:6 recall 11:18, 79:7 receive 56:1, 169:3 received 15:19 receiving 59:7 recent 149:23 recess 88:2 recognized 115:15	recommend 138:1, 145:19, 145:20, 147:9 recommendation 145:18, 147:5 recommendations 145:11 recommended 138:3, 146:14, 147:16 reconcile 178:18 reconciled 178:21 record 6:3, 6:4, 8:9, 15:7, 88:12, 88:13, 88:14, 99:21, 104:2, 104:5, 111:6, 117:3, 117:4, 126:1, 131:6, 136:14, 142:19, 143:20, 144:15, 147:14, 149:4, 151:5, 154:8, 161:21, 161:25, 180:25, 185:18, 188:22, 188:24, 191:1, 196:23, 196:24, 197:1, 197:13, 201:16, 201:24, 207:6, 209:17, 216:2, 218:3 recorded 217:4, 218:4 recording 178:17, 218:5 records 5:15, 36:19, 137:16, 140:3, 141:4, 151:4, 162:17, 178:14, 180:2 recovered 173:1, 174:1 recross 148:7, 148:9	recycle 50:20, 51:2, 51:9, 51:14 recycling 17:16, 99:11 red 166:6 reddish 139:2 redirect 97:13, 97:17, 147:3 redland 9:21, 122:15, 150:16, 157:1, 157:8, 158:12, 158:25, 159:2, 159:7, 159:9, 159:11, 161:5, 187:17, 187:25, 188:1, 188:15, 190:5, 191:11, 191:13, 191:18, 192:6, 199:1, 199:21, 199:24, 199:25, 211:24, 212:7, 212:11, 212:12, 212:15, 212:17, 212:19, 214:9, 214:13 redskin 32:22 redskins 32:23 reduce 173:3 reduction 147:10 refer 77:2, 129:18, 130:12, 182:5, 190:21 reference 142:15, 145:22 referenced 133:8, 145:13 referencing 164:4	referred 26:24, 32:9 referring 73:10, 127:19, 131:3, 132:12, 154:25, 161:25, 166:21, 166:22, 171:15, 181:16, 189:25 regard 147:18 regarding 146:22, 207:21 regardless 96:15, 97:6 region 9:15 regional 22:3 regular 49:4, 71:3, 71:17, 199:9 regulating 23:21 regulation 16:3, 71:18 regulations 9:15, 98:12, 144:14 regulatory 41:20 reiterate 18:16 relate 65:9 related 28:19, 217:5, 218:8 relating 98:1, 99:16 relationship 21:22, 33:18, 33:20, 179:16 relationships 34:2 relative 137:19 relevance 33:14
---	---	---	--

<p>relevant 64:10, 202:13 rely 21:25 remained 106:12 remember 25:18, 33:3, 33:6, 80:17, 82:18, 90:4, 91:25, 98:13, 101:18, 204:23 removal 73:22, 73:23, 73:24 remove 73:25 rented 112:21 renter 112:23, 161:13 renting 160:16 repairs 72:16 repeating 62:11 rephrase 22:12, 91:16 replace 164:14 replaced 36:23 report 11:12, 11:16, 82:13, 98:6, 98:7, 128:2, 128:4, 129:17, 129:18, 130:12, 130:14, 130:15, 131:4, 133:18, 133:19, 133:20, 134:4, 134:22, 141:21, 153:14, 153:16, 154:9, 154:10, 154:13, 155:8, 162:7, 162:9, 162:13,</p>	<p>163:3, 180:20, 181:1 report's 154:8 reported 204:23 reporter 22:21, 22:24, 23:1, 23:3, 23:5, 150:10, 162:4, 185:20, 185:22, 196:25, 197:2, 201:25, 215:24, 216:1, 217:1 reports 97:22 represent 170:25 representation 121:22 represented 6:17, 12:16, 116:8, 170:4 representing 6:7, 179:24 reproduced 140:3 request 23:19, 30:2, 142:7 require 31:17, 106:17, 157:5, 157:9, 158:16, 189:24 required 16:20, 27:11, 40:8, 73:25, 82:2, 106:23 requirement 147:12, 147:21 requirements 40:12, 40:16, 40:18, 41:9, 47:10, 98:10, 146:11 research 50:13</p>	<p>researched 107:2, 113:9 reserve 139:15 residence 106:15, 150:23, 161:13 resident 33:21, 34:4, 34:7, 172:21, 178:23, 179:3, 179:8, 179:11, 208:3 residential 5:6, 9:20, 106:5, 109:12, 109:17, 137:15, 138:16, 138:17, 160:10, 160:12, 161:3, 161:11, 164:14, 198:13, 211:3, 211:6, 211:10, 211:18, 211:19 residentially 198:13 residents 164:24, 165:5, 165:19, 165:21, 211:1 resides 177:23 resource 10:7 responded 91:12 response 92:3, 93:4, 174:8 responsibilities 71:24, 118:11 responsible 22:4, 30:18, 42:3, 208:10, 208:13 rest 25:4, 202:5, 202:9, 203:5</p>	<p>restricted 93:11 restriction 135:23, 137:3 result 121:12 resulted 121:8 resulting 129:4 results 121:12, 122:5 retain 106:15 review 17:23, 130:3, 130:8, 135:13, 145:14, 145:15 reviewed 16:6, 146:21 reviews 16:21 revised 154:10, 154:24 rezoning 9:19 rice 15:5, 15:9, 15:11, 142:7, 142:11, 142:22, 143:4, 143:7, 143:10, 143:12, 143:16, 144:11, 144:17, 144:19, 144:22, 145:1 rice-ackad 142:6 ride 194:4 rides 198:24 ridge 111:19 riding 111:19, 149:7, 165:17, 165:18, 165:22, 167:20, 167:21, 168:19,</p>
---	--	---	--

187:22, 187:23, 188:6, 188:7, 189:2, 192:18, 192:23, 193:13 right-of 147:9 right-of-way 112:15, 124:13, 137:15, 137:22, 145:13, 145:23, 146:1, 146:15 rights 38:2 rise 189:6 rising 111:11 risk 156:20 road 5:13, 6:15, 8:11, 9:8, 9:20, 9:21, 34:18, 79:15, 90:17, 105:14, 105:24, 106:10, 106:14, 108:9, 109:22, 109:24, 110:1, 110:3, 110:9, 110:11, 112:9, 112:11, 112:13, 112:14, 112:20, 113:14, 113:18, 113:21, 122:15, 122:19, 134:8, 146:7, 146:16, 149:6, 149:12, 149:14, 150:15, 150:16, 151:12, 156:8, 156:25, 157:1, 157:11, 158:12, 158:25, 159:7, 159:11, 166:23, 172:11, 177:24, 178:11, 187:13, 187:17, 187:20, 187:25, 188:2, 188:5,	188:8, 189:7, 189:22, 189:23, 190:7, 190:10, 190:12, 190:16, 191:11, 191:13, 191:14, 191:15, 191:18, 191:21, 192:7, 192:9, 193:14, 197:19, 198:11, 199:1, 199:5, 199:19, 199:20, 207:8, 207:12, 207:22, 211:2, 211:20, 211:21, 211:22, 211:23, 212:7, 212:11, 212:12, 213:8, 214:23 roads 112:17 roadway 137:20 roadways 118:16 robeson 1:10, 3:4 robin 15:9, 15:11 rockville 1:11, 2:8, 3:10, 3:19, 6:7, 105:11, 115:4, 213:25 room 2:7, 20:5, 60:8, 75:6, 200:16, 200:25, 214:5 rough 128:10 round 156:16 route 77:25, 158:15 row 189:25 rules 22:5	run 46:3, 113:6, 116:6, 173:6, 192:25 running 21:18, 48:2, 156:16, 173:16, 174:24, 187:2 runs 18:17 rush 156:5, 199:3 rush-hour 156:17 russell 115:2 <hr/> S <hr/> s-a-r-a-h 8:15 s-d-a-t 162:17 s-h-a-r-v-i-n 209:20 s-h-i-r-v-e-n 209:19, 209:21 s-t-o-r-b-r-a-u-- c-k 207:10 safe 14:24, 198:17 safety 14:11, 14:13, 16:5, 16:6, 16:9, 16:17, 22:7, 91:21, 91:22, 149:18, 156:8, 167:24 said 11:14, 12:4, 19:5, 19:14, 31:23, 44:9, 49:11, 53:6, 53:16, 59:15, 59:17, 62:4, 62:6, 66:10, 67:2, 67:4, 67:6, 70:22,	77:12, 85:23, 93:20, 105:23, 108:11, 111:24, 114:9, 122:4, 123:5, 135:19, 143:22, 169:22, 171:13, 172:10, 172:19, 175:4, 180:6, 180:7, 183:9, 191:10, 200:24, 211:7, 211:18, 213:2, 217:3, 218:4 sale 33:1 same 18:25, 19:1, 20:22, 21:3, 21:16, 39:7, 76:23, 80:13, 81:12, 81:19, 87:6, 87:14, 90:21, 92:15, 95:10, 95:12, 95:13, 95:17, 95:19, 97:5, 99:18, 110:9, 112:19, 154:3, 154:6, 169:4, 169:11, 169:15, 195:1 sarah 8:10, 8:15, 8:22, 196:15, 196:22 satellite 111:21 satisfactorily 24:19 satisfy 18:11 saw 11:19, 103:10 say 8:18, 16:8, 19:8, 27:5, 36:15, 38:15, 40:12, 40:14,
--	--	---	---

<p>42:17, 51:7, 56:2, 57:5, 57:13, 72:11, 72:20, 73:6, 80:22, 90:14, 90:18, 103:16, 105:21, 105:22, 108:10, 109:23, 131:14, 133:6, 155:2, 155:23, 155:24, 164:12, 165:17, 171:2, 171:6, 172:20, 173:18, 175:10, 178:2, 178:4, 182:16, 183:24, 186:16, 186:18, 197:21, 199:6, 200:22, 204:4, 207:18, 210:6, 212:7 saying 53:13, 58:15, 65:24, 73:19, 84:12, 128:20, 130:5, 131:3, 136:15, 164:13, 173:19, 176:5, 181:22, 191:12, 200:23, 202:19 says 21:22, 40:13, 84:17, 101:8, 119:18, 119:24, 121:24, 133:4, 134:5, 145:19, 145:20, 146:14, 153:19, 155:3, 169:1, 172:7, 172:15, 173:6, 173:7, 173:21 scale 123:17, 130:18, 139:5, 160:21 scan 135:10, 135:20 scenario 155:20, 155:21,</p>	<p>156:6, 158:13, 159:19, 167:13 schedule 27:11, 49:21, 73:21, 203:16 scheduled 22:17, 202:6, 202:8 scheduling 17:17 school's 18:14 school-age 45:2 school-aged 54:2 schools 18:17, 18:25, 20:21, 26:9, 34:10, 34:19, 35:7, 35:13, 36:23, 36:25, 37:12, 37:20, 47:24, 53:22, 55:12, 60:11, 70:11, 70:17, 77:20, 78:1, 78:2, 78:4, 78:6, 78:9, 99:2, 102:13 scintillating 103:13 sdat 5:15, 160:9, 161:16, 162:16, 170:23, 171:14, 172:1, 174:11 seal 217:9 searching 208:1 seat 148:22, 185:2 seated 148:23 seats 196:8 sec 208:18</p>	<p>second 13:2, 16:24, 18:18, 87:11, 87:19, 127:9, 131:1, 136:23, 137:7, 142:4, 143:18, 150:2, 153:17, 160:17, 164:17, 175:12, 175:24, 195:23, 200:13, 213:16 secondary 137:14, 138:17 section 90:1 sections 89:25, 90:22 see 6:15, 6:17, 10:5, 11:24, 19:7, 33:13, 36:5, 36:9, 36:18, 67:15, 91:8, 91:23, 103:15, 105:23, 108:13, 119:2, 119:5, 119:16, 120:7, 120:10, 122:15, 122:19, 126:3, 126:21, 128:14, 130:20, 131:10, 132:5, 132:19, 142:1, 144:24, 149:25, 150:20, 150:22, 152:1, 159:4, 165:16, 169:11, 172:17, 173:8, 177:6, 177:10, 185:6, 186:9, 189:3, 189:11, 189:16, 189:18, 190:11, 194:18, 195:2, 195:6, 196:21, 205:2, 205:8, 213:9 seeing 12:14, 12:17,</p>	<p>103:23, 136:15, 206:2, 215:7 seemed 211:1 seems 100:1, 198:8, 214:7 seen 131:21, 144:4, 192:20, 211:24, 213:2 selected 50:22 self-destruct 141:23 sell 108:23 semi-expedited 201:23, 202:1 send 30:25, 196:9, 196:15, 196:22, 205:25, 208:11 sending 28:19, 98:7, 99:1, 99:3 sends 196:16 sense 20:18, 65:20, 106:25, 170:4 sent 164:9 separate 40:18, 75:6 separates 16:9 septic 106:12 serve 78:6 service 101:22, 192:22 service's 208:2 services 55:25, 59:6, 63:18, 63:19,</p>
--	---	---	---

<p>64:22, 68:18, 75:13, 99:10, 101:24, 125:13, 199:9, 213:5 set 21:20, 41:8, 76:22, 99:18, 113:3, 135:11, 217:8 setback 136:11 seven 33:10, 145:20, 202:2 several 11:17, 122:9, 124:24, 133:8, 189:24, 198:18 sewer 106:7 shaded 126:20, 131:11 shading 139:2 shady 161:3 shape 130:19 she 31:6, 31:8, 41:24, 42:1, 42:3, 42:6, 42:8, 42:9, 42:10, 93:23, 109:1, 109:2, 143:18, 143:21, 143:22, 156:19, 170:3, 172:13, 198:24, 206:4 she's 42:9, 84:15, 143:21, 209:4, 209:5 sheet 36:18, 121:25, 125:25, 126:2, 127:2, 127:7, 135:20, 171:8</p>	<p>shield 92:12 shifts 213:12 shirven 4:13, 206:5, 206:7, 206:20, 206:22, 206:24, 209:9, 209:15, 209:18, 209:21, 209:25, 210:3, 210:7, 210:13, 210:16, 210:21, 210:23, 210:25, 211:14, 211:16, 211:23, 212:3, 212:10, 212:17, 212:21, 212:24, 213:1, 214:4, 215:5 shopping 157:12 short 71:2, 101:15, 114:1, 138:7 shortcuts 159:13 shorter 81:14, 158:15 shortly 93:8 should 10:15, 102:9, 108:16, 130:6, 131:14, 155:20, 168:17, 168:18, 168:19, 173:15, 176:22, 200:24, 203:16, 204:10, 205:4, 205:22 show 17:9, 104:11, 132:23, 134:2, 134:23, 151:8, 156:2, 170:22, 171:14, 172:1, 181:4, 191:9 showed 92:16, 194:19</p>	<p>showing 5:10, 137:9, 138:20, 140:6, 141:18, 147:1, 155:10, 161:15, 180:25, 181:6 shown 35:21, 127:14, 130:21, 135:24, 146:16, 171:22, 177:9 shows 119:2, 127:3, 128:4, 135:19, 153:23, 155:17, 161:18, 176:15, 191:6 siblings 20:22 side 21:9, 91:1, 91:2, 91:3, 91:6, 91:24, 92:17, 110:3, 110:4, 112:10, 112:11, 125:21, 125:23, 125:24, 126:5, 126:7, 126:11, 126:14, 126:24, 127:2, 127:7, 127:20, 133:1, 133:7, 134:17, 134:18, 136:3, 166:6, 166:8, 166:9, 171:19, 211:24, 212:7, 212:12, 213:8 sides 110:2, 145:25 sidewalk 127:14, 127:22, 128:9, 128:23, 129:15, 131:11, 131:12, 156:7, 198:16 sidewalks 165:23, 167:17</p>	<p>sign 34:7 signature-1z0s6 217:10 signature-kzjrk 218:12 significant 127:6, 193:18 signs 20:11, 132:19 simple 63:8, 149:9 simplistic 100:3 simulation 11:2 since 20:9, 48:11, 70:2, 109:12, 147:20, 148:4, 160:17, 173:1, 173:25, 183:23, 186:21, 190:25, 205:8, 211:24, 213:11 single 108:21, 155:24, 156:1, 171:9, 172:18, 173:4, 175:19, 197:24 single-family 107:4, 155:23, 184:2, 210:17 sir 25:22, 27:19, 29:12, 30:15, 31:11, 34:6, 36:5, 37:23, 38:13, 39:11, 42:14, 43:9, 44:7, 44:19, 44:24, 45:19, 46:24, 50:10, 51:6, 53:24, 55:25, 56:6, 57:5, 58:2, 59:18, 60:15, 60:18, 63:8,</p>
---	--	--	---

67:13, 67:23, 68:7, 69:5, 69:16, 70:7, 70:20, 74:9, 74:23, 76:6, 79:3, 79:7, 82:15, 93:10, 96:3, 96:17, 105:7, 109:7, 115:5, 116:16, 118:12, 119:2, 120:2, 120:10, 121:3, 125:1, 125:14, 133:9, 136:13, 137:11, 137:16, 138:21, 139:23, 140:5, 145:12, 150:8, 150:9, 153:20, 158:7, 175:14, 175:16, 175:23, 176:21, 177:6, 178:17, 179:16, 179:17, 181:4, 184:23, 185:2, 186:18, 195:9 sister 106:16, 106:20, 106:22, 107:1, 107:11, 108:25, 109:9, 109:19, 110:14 sit 7:16, 8:1, 100:18, 104:20 site 23:25, 24:2, 26:12, 27:10, 27:11, 36:8, 37:22, 42:12, 42:13, 48:15, 49:10, 52:14, 52:21, 53:1, 55:21, 56:1, 57:19, 60:3, 62:14, 66:23, 70:22, 73:5, 73:6, 84:19,	116:6, 116:12, 117:6, 117:7, 118:8, 118:17, 118:22, 119:12, 120:12, 121:17, 121:24, 122:11, 122:12, 122:19, 122:23, 122:25, 124:2, 124:16, 130:11, 140:12, 145:20, 149:21, 150:21, 150:23, 153:6, 153:8, 155:19, 156:9, 156:24, 157:6, 157:7, 157:9, 158:14, 159:18, 160:19, 160:20, 162:11, 162:24, 163:11, 163:16, 163:23, 164:2, 164:17, 164:18, 165:11, 165:15, 166:25, 183:3, 211:16 sites 43:8, 199:10, 211:6 sittings 169:17 situation 11:10, 56:14, 65:19, 109:21, 204:12, 204:14 situations 47:15, 52:14, 98:23 six 19:20, 19:21, 27:2, 27:5, 40:13, 42:15, 42:19, 43:10, 43:18, 43:21, 46:6, 95:10, 121:4, 121:5, 145:19, 168:15, 174:4, 181:17, 181:25	size 84:18, 94:2, 95:9, 208:7 slow 185:21 slowly 192:10 small 9:14, 9:15, 85:14, 139:5, 170:15 smaller 94:4, 94:17, 94:19, 95:8, 130:18, 208:14 smith 170:13 smooth 20:3 snapshot 155:11, 155:14 snow 73:22, 73:23, 73:24, 73:25 social 33:5 soft 23:3 sold 113:13 solemnly 8:4, 104:24, 110:25, 114:20, 148:24, 185:12, 197:8, 207:1, 209:11 solid 91:17 some 13:3, 13:17, 13:18, 26:2, 26:8, 28:22, 32:8, 33:5, 34:17, 38:13, 47:9, 48:6, 48:13, 51:9, 52:3, 56:11, 56:16, 58:13,	58:14, 68:4, 71:23, 75:21, 76:1, 76:2, 78:2, 90:9, 95:10, 96:13, 97:21, 99:1, 99:12, 103:11, 104:4, 105:12, 105:18, 106:11, 110:17, 111:14, 114:4, 131:21, 136:5, 142:8, 142:17, 142:18, 142:19, 152:14, 169:23, 175:5, 184:20, 187:14, 188:4, 193:10, 204:8, 204:9, 212:5, 213:10, 215:7 somebody 16:15, 20:2, 24:7, 25:24, 26:12, 38:20, 72:7, 91:23, 143:24, 148:16, 194:3, 197:23, 198:5 somebody's 59:9 somehow 130:9 someone 23:9, 30:7, 30:17, 156:13, 205:3, 210:17, 211:7, 211:18 something 25:2, 25:3, 37:7, 42:25, 53:18, 58:14, 78:25, 89:2, 91:16, 99:2, 108:13, 108:14, 140:19, 169:1, 169:2, 175:17, 180:14, 184:4, 198:4, 201:7
--	---	---	---

<p>sometimes 110:17 somewhere 95:5, 102:11, 117:17 son 213:19, 214:14 son's 213:25 soon 7:4, 10:11, 143:23 sorry 6:18, 7:7, 19:8, 19:13, 22:21, 35:20, 36:2, 42:20, 49:13, 57:5, 60:8, 70:15, 87:19, 93:1, 95:1, 95:3, 95:24, 104:14, 120:23, 124:10, 125:8, 126:5, 146:13, 153:9, 154:12, 158:20, 170:16, 171:3, 178:17, 183:20, 185:20, 186:8, 206:10 sort 10:23, 16:9, 24:23, 56:16, 75:21, 76:1, 198:9 sound 15:13 sounds 58:5, 100:21, 214:24 south 89:20, 111:19, 134:13, 146:9, 149:6, 165:17, 165:18, 167:4, 167:19, 167:21, 168:19, 187:22, 187:23, 188:6,</p>	<p>188:7, 189:2, 192:18, 192:23, 193:13, 212:8 southside 91:5 southwest 17:8, 17:11 space 20:1, 103:1, 124:1, 133:15 spaces 17:24, 18:5, 18:6, 18:12, 18:15, 19:19, 20:10, 76:8, 76:11, 76:12, 82:2, 82:23, 83:8, 83:11, 83:14, 102:20, 102:21, 213:12, 213:13, 213:14 speak 103:18, 109:1, 143:8, 159:25, 168:16, 170:2, 170:5, 172:9, 183:17, 204:1 speaker 6:21 speaking 85:9, 154:20, 168:8, 210:7 special 37:20, 38:5, 38:24, 39:22, 39:25, 213:20 specific 25:18, 33:7, 50:12, 66:22, 73:15, 90:5, 98:5 specifically 60:5, 144:14, 187:12, 211:17 specifications 77:2 specifics 66:17, 68:21,</p>	<p>69:1, 76:4, 76:5, 77:12, 98:5 specify 16:1 speculative 66:5, 66:6 speed 122:13 spell 8:12, 105:8, 111:9, 149:8, 185:17, 197:15, 207:9 spend 86:19, 201:9 splits 188:2 spoke 109:11, 168:16, 169:18, 170:24, 171:13, 172:2, 174:12, 180:6, 207:20 spoken 91:15, 168:18, 168:19, 168:25, 170:8, 170:20, 170:21 spot 19:20, 19:22, 20:15, 21:8, 71:1, 71:3 spots 20:13, 71:4, 79:9, 80:9, 81:9, 82:6, 82:11, 82:18, 102:24 spread 90:22 square 210:10 stacking 152:6, 152:7 staff 9:23, 10:2, 14:23, 18:2,</p>	<p>22:6, 23:18, 24:5, 24:6, 24:20, 30:22, 40:8, 42:4, 47:3, 52:10, 67:2, 71:4, 71:23, 72:2, 72:7, 72:18, 73:4, 82:6, 82:12, 83:15, 83:16, 83:20, 102:22, 102:23, 116:14, 128:2, 128:4, 129:17, 129:18, 130:6, 130:8, 130:12, 130:15, 131:4, 133:18, 133:19, 133:20, 134:4, 134:22, 141:21, 147:4, 153:14, 153:16, 154:8, 154:9, 154:10, 154:13, 155:7, 162:7, 162:9, 162:13, 163:3, 180:20, 180:25, 208:10, 213:10, 213:15, 214:1 staff-dedicated 76:12 stage 26:16 staggered 19:1 standard 5:5, 21:14, 110:1, 118:8, 122:1, 133:23, 137:14, 137:18, 138:3, 138:16 standards 112:21 standing 189:5, 189:12, 190:9, 190:13, 190:15, 191:21, 191:24, 192:6</p>
---	---	--	--

<p>stapled 36:3 start 7:15, 61:22, 99:19, 104:16, 111:17, 150:10, 159:13 started 18:13, 48:11, 98:18 starting 42:11, 91:4 state 2:16, 8:8, 23:21, 37:11, 37:16, 40:10, 40:12, 40:15, 40:21, 41:12, 47:2, 61:18, 71:18, 98:18, 105:8, 111:5, 115:13, 141:7, 149:3, 161:8, 161:12, 164:25, 185:17, 197:12, 197:22, 199:7, 207:5, 209:16, 217:13 stated 25:13, 104:5, 112:5 statement 8:19, 84:8, 84:12, 84:24, 100:10, 108:10, 111:1, 117:12, 131:16, 181:11, 184:23 statements 8:5, 104:25, 114:21, 148:24, 185:13, 197:9, 207:2, 209:12 states 119:4, 160:10, 198:20 statewide 140:11</p>	<p>stay 9:14, 60:6 staying 119:13 steady 10:9 stem 110:6, 113:18 step 7:10 still 21:16, 81:11, 85:17, 95:24, 102:24, 104:4, 108:4, 117:19, 132:12, 134:5, 161:13, 183:22, 191:25, 198:12 stipulate 141:3, 179:9 stipulated 179:14 stipulation 114:5 stop 13:10, 53:4, 189:24, 208:5 stopped 17:21 stopping 189:4, 212:1 stops 188:20 storage 113:6 storbrauck 4:12, 207:4, 207:7, 207:10, 207:12, 207:16, 207:18, 208:16, 208:22 straight 137:16, 193:14 stream 10:9, 28:15 streamlined 18:23 street 3:9, 3:18, 5:6,</p>	<p>6:6, 6:12, 119:2, 119:15, 120:7, 121:9, 122:3, 122:8, 125:3, 125:6, 132:8, 132:9, 134:17, 134:18, 137:15, 138:16, 138:17, 156:18, 158:24, 165:20, 172:21, 173:3, 173:19, 177:21, 187:6, 193:1, 197:23, 199:2, 207:11, 207:23, 211:3, 211:9 streets 159:17, 165:22, 187:1 stretched 90:8 stroll 156:12 strolling 165:23 strongly 203:20 struck 156:13, 156:20 structural 199:7, 199:9 structure 21:20, 37:19 stuck 157:13 student 47:3, 95:10 students 10:7, 57:19, 62:9, 74:7, 94:13, 102:14 studies 85:6 study 84:21, 85:8, 119:11, 122:23, 153:16, 154:1, 154:11, 154:15,</p>	<p>154:23, 155:9, 156:21 stuff 72:12, 140:18, 140:23, 188:3, 202:10 su 218:6 subdivide 106:13, 106:21 subdividing 106:17 subdivision 106:2, 110:6, 110:7, 111:24, 112:1, 147:8, 147:13, 147:14, 147:15, 148:5 subdivisions 108:6, 116:5, 116:12 subject 5:10, 5:15, 8:23, 9:22, 34:15, 105:13, 118:20, 119:8, 126:24, 127:4, 127:8, 127:24, 129:4, 132:4, 132:18, 133:1, 134:5, 135:19, 140:19, 141:18, 146:10, 147:21, 162:17, 162:18 submit 23:19, 188:23, 191:3 submitted 115:22, 154:1, 161:23, 168:15, 169:23 substantial 84:14 substantially 129:20, 130:20 subway 156:18 such 9:4, 20:20,</p>
---	---	---	---

Transcript of Administrative Hearing - Day 5
 Conducted on March 10, 2020

105

<p>193:18, 199:11, 208:9 sufficient 41:19, 41:20 suggest 144:11, 164:4 suggested 32:16 suite 3:18 summary 182:3 summer 75:20, 75:25, 102:16 summoned 183:24 sun 111:11 sunday 192:22 sundays 192:20 supervised 67:3 supervising 14:10, 58:13, 59:17 supervisors 14:6 supplemental 62:23, 117:12 supplied 26:4, 47:1, 48:7 supply 49:23 support 9:14, 9:18, 9:23, 9:25, 27:9, 27:10, 30:3, 143:24, 179:1, 213:21 supported 177:21 supporting 143:6 supposed 13:3, 183:7,</p>	<p>191:9 supposedly 173:20 sure 7:11, 7:17, 8:14, 14:14, 14:24, 18:16, 18:23, 20:11, 21:7, 22:4, 28:3, 33:13, 38:12, 51:23, 53:2, 59:21, 83:6, 87:2, 87:20, 88:3, 88:10, 88:19, 94:9, 95:16, 102:5, 103:11, 104:1, 104:22, 105:9, 108:7, 113:15, 117:2, 118:16, 118:25, 122:7, 125:18, 125:24, 127:18, 131:20, 141:6, 149:9, 153:19, 163:2, 183:3, 189:1, 189:25, 190:13, 195:5, 195:6, 200:14, 201:14, 202:24, 205:24, 210:16 surprised 208:20 surround 139:4 surrounded 108:5 surrounding 9:13, 9:22, 84:20, 102:3, 106:3, 132:4, 132:18 survey 121:12, 123:11, 204:19, 204:20, 204:21 surveying 115:18, 116:18</p>	<p>surveyor 115:6, 115:23, 116:1, 116:19, 139:11, 205:8 surveyors 115:3, 115:8 surveys 120:24, 121:8, 122:5 switch 77:16, 180:9 sworn 7:19, 7:22 system 13:19, 20:17 system-wide 99:6</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>tab 155:1 table 104:21, 116:22, 153:22, 153:23, 153:24, 155:2, 155:3, 155:5, 155:6, 155:11, 162:8, 162:9, 162:10, 162:11, 164:4 taiwanese 210:19 take 6:23, 7:5, 11:8, 11:12, 19:23, 23:23, 31:1, 31:5, 31:23, 33:5, 35:23, 41:17, 49:22, 50:2, 50:22, 54:14, 55:12, 55:14, 60:10, 60:13, 60:14, 61:3, 68:12, 68:15, 68:16, 70:5, 74:21, 77:15, 78:3, 78:17,</p>	<p>87:13, 95:18, 112:12, 128:9, 128:11, 132:2, 134:22, 135:11, 150:3, 151:3, 156:15, 156:22, 157:16, 159:13, 159:24, 167:14, 169:11, 169:25, 174:14, 174:22, 174:24, 175:22, 184:6, 185:3, 190:14, 195:17, 196:8, 198:24, 202:22, 205:10, 212:2, 212:24, 212:25, 214:9, 214:10, 214:11, 214:12 taken 5:12, 11:11, 55:21, 57:24, 65:14, 67:1, 75:22, 75:23, 113:22, 150:13, 151:25, 152:22, 170:7, 176:14, 176:16, 176:17, 176:18, 176:19, 177:13, 188:17, 195:15, 217:3 takes 21:10, 59:21, 155:19, 159:24, 212:13 taking 19:19, 56:4, 59:24, 62:14, 87:9 talk 13:17, 23:20, 24:7, 24:8, 29:9, 34:25, 38:19, 193:4 talked 15:2, 73:20, 76:17, 104:17, 119:22, 145:10,</p>
---	--	--	---

<p>146:5 talking 16:25, 17:24, 20:9, 27:9, 27:21, 29:24, 72:14, 73:16, 79:15, 79:18, 79:19, 81:20, 93:16, 96:21, 97:19, 119:25, 127:7, 138:11, 138:12, 139:11, 155:25, 160:13, 170:6, 176:24, 212:6 tapscott 147:19, 170:12 tapscotts 112:15 targeted 198:5 targets 121:10 taught 62:24 tax 34:25, 178:14 taylor 23:8 tcc 210:9, 210:14, 210:23 teacher 40:19, 71:11 teachers 14:6, 14:23, 18:2, 40:20, 41:6, 41:17, 42:2, 42:22, 47:8, 58:12, 58:16, 71:9, 71:10, 71:23, 83:21 tech 11:1 technicalities 212:5 technicality 39:18</p>	<p>tell 20:16, 23:13, 33:16, 53:24, 64:7, 88:15, 103:8, 105:16, 130:17, 137:12, 153:21, 156:18, 176:14, 203:6 telling 47:21, 55:11, 86:7, 112:19 ten 19:3, 19:20, 19:21, 129:13, 135:21, 136:12, 146:2, 146:3, 146:6, 159:25, 170:6, 187:11, 193:18, 213:19 ten-foot 135:12, 135:15, 136:15, 145:19, 147:24 tend 20:22, 202:3 term 72:13, 73:12 terminated 38:7, 38:16 terms 98:18, 133:21 terrace 111:11, 165:18, 165:24, 166:2, 166:14, 166:22, 186:3 test 121:15 testified 6:16, 14:1, 31:9, 32:10, 36:11, 61:21, 64:25, 66:7, 70:16, 74:25, 103:22, 112:3, 115:12, 122:18, 127:12, 179:24 testifies 143:12, 196:3</p>	<p>testify 7:14, 12:14, 12:16, 103:21, 104:11, 141:12, 143:17, 143:24, 144:9, 148:16, 148:19, 184:17, 185:6, 195:24, 197:6, 206:4, 206:12 testifying 143:14, 172:13 testimony 4:4, 4:5, 4:6, 4:7, 4:8, 4:9, 4:10, 4:11, 4:12, 4:13, 8:25, 10:13, 10:14, 11:19, 22:14, 27:15, 33:17, 37:5, 48:25, 50:18, 69:5, 72:9, 77:5, 77:14, 77:15, 79:3, 79:7, 79:8, 82:18, 88:25, 91:25, 93:10, 93:24, 96:4, 100:16, 124:23, 142:8, 142:10, 142:14, 143:16, 152:24, 166:20, 175:15, 179:1, 179:2, 215:2 text 131:14, 131:18 th 106:21, 188:19, 190:1, 205:13, 217:9 than 8:22, 11:9, 18:14, 18:17, 18:21, 28:5, 28:11, 28:12, 32:8, 47:24, 52:21, 56:8,</p>	<p>60:14, 66:8, 69:18, 69:20, 70:5, 75:11, 81:16, 81:23, 94:4, 101:1, 108:23, 109:17, 129:20, 130:20, 134:21, 135:24, 143:15, 153:23, 161:11, 161:13, 198:2, 200:19, 208:19, 214:6 thank 6:9, 10:13, 10:16, 12:10, 12:12, 13:14, 15:1, 23:2, 23:4, 24:16, 25:11, 44:2, 58:4, 73:18, 80:6, 88:21, 93:5, 99:9, 103:4, 103:5, 103:25, 104:1, 104:4, 108:17, 108:18, 109:4, 110:21, 110:22, 114:7, 114:14, 114:15, 116:20, 118:2, 118:4, 120:23, 132:14, 132:17, 134:19, 147:2, 148:13, 162:15, 164:10, 175:11, 180:11, 180:13, 183:10, 183:13, 184:7, 184:13, 190:6, 195:10, 195:11, 195:19, 195:20, 200:5, 200:10, 208:17, 209:1, 209:3, 209:22, 210:5, 215:2, 215:3, 215:4, 215:5, 215:21, 215:22, 216:1 thanks 88:11</p>
---	---	--	--

<p>that'll 53:1, 86:16 that's 34:4, 44:17, 99:22 their 14:7, 16:3, 19:17, 20:14, 20:17, 20:22, 21:1, 21:2, 21:7, 22:10, 23:19, 27:22, 30:13, 43:15, 47:10, 55:23, 59:9, 59:13, 64:15, 65:21, 71:24, 73:11, 75:10, 85:9, 90:17, 96:15, 106:15, 107:21, 107:25, 110:10, 127:17, 128:5, 129:24, 130:9, 130:14, 131:18, 137:25, 140:12, 140:13, 156:12, 158:15, 159:15, 165:13, 165:22, 165:23, 170:6, 192:10, 192:17, 192:18, 211:5 them 6:23, 7:1, 11:21, 15:20, 24:7, 24:9, 28:18, 30:11, 36:5, 43:16, 43:20, 44:14, 45:11, 47:9, 48:11, 48:13, 54:11, 55:24, 56:15, 56:17, 57:3, 57:13, 58:13, 58:25, 59:10, 59:11, 59:15, 59:20, 59:21, 60:10, 62:20, 68:1,</p>	<p>68:12, 68:15, 68:16, 78:13, 78:14, 85:25, 94:14, 103:18, 103:23, 104:16, 104:19, 105:4, 110:8, 110:9, 110:10, 111:22, 111:25, 116:24, 117:14, 117:17, 117:18, 132:19, 132:21, 138:6, 148:1, 158:16, 159:21, 159:22, 160:22, 165:9, 174:22, 187:4, 188:23, 191:4, 192:15, 194:11, 194:12, 196:10, 196:16, 201:23, 204:2, 205:25 themselves 6:3, 188:3 then 16:4, 29:19, 29:20, 37:21, 38:21, 40:11, 43:14, 43:15, 43:22, 44:9, 44:14, 44:16, 44:23, 45:13, 46:14, 46:15, 46:21, 47:10, 50:15, 59:17, 60:10, 65:16, 83:14, 83:22, 86:2, 91:9, 95:8, 96:3, 106:15, 118:21, 122:14, 122:15, 122:21, 122:23, 125:16, 126:21, 129:11, 134:7, 135:22, 136:1, 139:14, 139:20, 141:13, 143:5, 143:17, 145:8, 145:20, 159:8,</p>	<p>159:10, 159:11, 159:14, 159:22, 165:12, 165:13, 173:1, 185:8, 188:9, 192:24, 193:11, 199:6, 211:2, 212:23, 212:24, 212:25, 213:18, 213:23, 214:12, 214:21 theories 11:3 theory 133:22 there'd 27:16 there'll 50:19 there's 16:14, 19:6, 19:14, 20:1, 20:5, 22:8, 24:4, 28:8, 30:14, 32:25, 42:13, 47:7, 47:11, 49:5, 49:22, 52:17, 52:20, 52:21, 53:8, 57:18, 69:13, 83:24, 87:23, 95:16, 121:23, 126:4, 127:20, 134:19, 136:5, 139:2, 143:7, 145:9, 148:16, 160:20, 160:23, 165:7, 174:3, 175:6, 177:8, 178:25, 180:21, 187:5, 187:6, 191:20, 191:24, 193:12, 193:22, 199:12, 199:18, 204:8, 211:9, 213:12, 214:21 thereafter 27:15</p>	<p>therefore 157:1, 157:11 these 7:14, 9:10, 9:15, 19:15, 20:13, 22:16, 26:19, 26:20, 34:14, 36:7, 38:20, 46:25, 48:21, 58:17, 60:14, 69:19, 106:8, 117:2, 120:15, 120:24, 121:11, 122:23, 123:12, 126:23, 133:8, 135:3, 175:20, 185:7, 190:21, 199:15, 213:11 they'll 22:17, 78:20, 78:23, 94:19, 146:3, 192:16, 192:25, 205:24 they're 13:4, 13:9, 14:9, 14:21, 14:24, 28:15, 29:5, 30:5, 30:6, 40:21, 51:11, 56:5, 56:24, 57:24, 59:21, 59:24, 63:3, 64:3, 64:11, 65:21, 66:7, 67:2, 74:24, 82:5, 82:25, 87:14, 88:9, 90:21, 97:7, 100:11, 102:22, 103:18, 117:10, 130:8, 134:16, 147:20, 155:24, 173:16, 175:1, 189:14, 191:16, 193:22, 194:1, 194:4, 202:4</p>
---	--	--	--

Transcript of Administrative Hearing - Day 5
 Conducted on March 10, 2020

108

<p>they've 137:24, 147:1 thing 13:5, 18:18, 99:18, 109:23, 112:19, 114:2, 131:23, 156:21, 160:5, 169:15, 174:16, 181:19, 183:24, 194:1, 198:25, 204:7, 204:17, 204:18, 214:8 things 13:17, 14:22, 16:2, 16:20, 19:18, 20:20, 22:6, 23:20, 25:6, 26:10, 27:21, 28:19, 28:21, 38:20, 40:4, 41:25, 50:14, 66:16, 66:18, 72:8, 72:16, 77:3, 77:14, 83:25, 85:10, 90:5, 98:1, 98:3, 99:16, 108:3, 147:10, 204:9, 214:18 think 11:18, 14:21, 17:3, 17:21, 18:13, 21:20, 25:7, 25:14, 32:25, 33:18, 36:17, 38:6, 44:9, 48:25, 49:11, 62:5, 62:24, 63:14, 65:16, 66:9, 66:15, 68:20, 68:25, 69:1, 70:8, 75:16, 76:16, 76:17, 77:22, 78:16, 82:12, 85:16,</p>	<p>90:7, 95:22, 96:24, 97:16, 100:6, 100:18, 100:25, 104:17, 108:16, 116:22, 127:25, 130:2, 136:14, 137:25, 138:7, 138:8, 141:25, 142:1, 142:11, 142:16, 142:19, 144:19, 149:19, 152:14, 153:25, 155:17, 155:19, 155:20, 158:12, 158:23, 159:4, 160:1, 161:9, 161:20, 163:4, 164:8, 168:2, 169:3, 169:6, 169:15, 173:9, 173:17, 175:10, 176:8, 181:18, 191:1, 193:3, 194:8, 197:4, 203:1, 203:16, 203:21, 203:23, 204:7, 204:8, 204:9, 205:12, 208:9, 208:12, 208:16, 214:1, 214:23, 215:9 thinking 201:1, 201:2, 203:9 thinks 101:1 thirty-two 18:3 those 13:17, 15:22, 16:2, 18:1, 18:25, 20:8, 25:14, 26:4, 32:24, 38:18, 40:3, 41:11, 43:24, 44:7, 44:25, 47:14,</p>	<p>54:17, 56:1, 56:5, 57:12, 57:19, 58:7, 59:6, 59:10, 59:23, 61:3, 61:19, 62:17, 65:4, 68:11, 68:17, 68:18, 74:7, 74:18, 74:19, 77:3, 78:3, 87:6, 87:10, 93:15, 99:12, 102:2, 107:22, 116:10, 116:15, 130:22, 132:24, 133:13, 133:15, 134:11, 145:18, 147:24, 156:23, 158:25, 159:16, 165:21, 170:14, 174:12, 187:18, 188:23, 194:5, 199:19, 203:24, 204:11 those'll 18:7 though 21:4, 32:2, 78:1, 139:5, 161:11, 169:3, 169:4, 194:17 thought 11:11, 58:23, 79:19, 85:20, 85:22, 103:10, 104:13, 105:19, 107:2, 117:14, 134:2, 143:15, 194:14, 194:25, 201:5, 201:8 three 6:19, 6:22, 8:24, 10:11, 36:17, 36:19, 36:22, 37:2, 44:20, 45:7, 85:25, 86:10, 86:14, 87:4,</p>	<p>87:23, 93:15, 94:16, 94:17, 95:9, 100:9, 105:25, 106:14, 106:17, 112:6, 113:18, 113:24, 120:8, 121:19, 122:21, 154:19, 169:17 threes 214:4 through 10:10, 11:18, 13:9, 21:20, 22:1, 23:23, 26:7, 37:14, 47:6, 52:1, 52:8, 61:10, 63:14, 63:22, 67:1, 68:21, 71:17, 75:22, 75:23, 82:17, 86:2, 91:7, 98:12, 100:16, 108:22, 116:5, 136:7, 143:3, 144:7, 147:13, 147:14, 148:6, 157:14, 158:16, 165:17, 167:9, 167:16, 168:6, 191:19, 192:7, 192:11, 192:17, 193:15, 193:16, 194:2, 210:8, 213:11, 214:11 throughout 130:2 tie-in 35:9 time 10:7, 12:21, 19:1, 19:2, 19:11, 19:12, 19:19, 20:9, 20:14, 21:3, 21:10, 21:14, 21:23, 22:10,</p>
---	---	--	---

Transcript of Administrative Hearing - Day 5
 Conducted on March 10, 2020

109

<p>23:15, 23:19, 25:9, 27:2, 27:7, 27:13, 30:5, 33:4, 35:3, 38:3, 51:9, 54:8, 54:17, 54:21, 55:5, 55:7, 55:10, 56:17, 56:19, 56:22, 57:17, 57:18, 57:19, 58:5, 58:14, 58:21, 67:25, 68:9, 73:10, 74:6, 74:21, 74:22, 77:17, 85:12, 86:1, 86:14, 86:19, 87:14, 90:5, 90:6, 90:8, 93:14, 93:19, 93:21, 94:21, 95:6, 95:7, 95:19, 97:5, 98:2, 99:12, 102:5, 106:2, 106:5, 107:10, 108:3, 109:19, 110:12, 111:19, 136:14, 143:19, 156:19, 157:15, 159:24, 165:20, 168:2, 168:6, 169:12, 169:25, 174:15, 176:14, 176:15, 180:9, 185:4, 189:3, 193:15, 198:1, 203:6, 204:1, 206:14, 208:10, 213:2, 215:7 timeline 108:1 timers 75:9 times 26:20, 51:8,</p>	<p>51:10, 73:21, 88:17, 102:2, 106:16, 121:4, 121:5, 122:10, 133:8, 145:10, 157:3, 213:22 timing 35:1 timings 48:18, 48:21 today 8:23, 10:14, 19:4, 47:16, 49:25, 50:1, 59:3, 99:1, 112:20, 143:3, 143:20, 181:16, 190:25, 201:5, 205:24, 206:6 toddler 43:19, 86:17 toddlers 44:1, 44:2, 46:8, 94:3 together 36:3, 201:10 token 39:7 told 7:2, 28:5, 66:16, 82:3, 103:18, 112:5, 112:8, 112:19, 148:15, 183:16, 183:18 tomorrow 204:4, 204:10, 205:20, 205:23, 205:25 tonight 13:4, 13:8, 13:9 too 33:24, 89:8, 108:14, 133:17, 148:10, 163:1, 173:21, 176:6, 192:1, 192:21,</p>	<p>193:19, 195:18, 201:2, 207:13, 215:10 took 33:7, 52:1, 117:16, 150:4, 177:16, 183:18, 187:14, 188:4, 188:19, 195:5, 211:8, 213:19 top 40:11, 156:15, 160:23, 160:25, 161:5, 164:22, 171:7, 171:8, 173:15, 178:9 total 43:11, 46:4, 96:14, 96:15, 124:9, 128:6 totally 144:3 toward 156:25, 187:17, 187:25, 188:14, 190:4, 191:11, 191:13, 191:18, 192:4, 192:6, 198:5, 212:19 towards 89:19, 90:17, 122:15, 150:16, 157:8, 158:12 tower 115:4 townhouses 107:6 toxic 49:6 tracking 111:21 trade 110:9 traffic 5:12, 9:23, 9:24, 9:25, 10:1, 10:2, 10:4, 10:6,</p>	<p>11:12, 11:15, 149:25, 152:1, 152:7, 152:17, 152:21, 153:15, 154:1, 154:14, 154:23, 155:8, 155:18, 156:3, 156:21, 157:5, 157:13, 158:6, 160:3, 162:7, 165:10, 167:8, 167:16, 177:1, 188:18, 190:8, 191:6, 191:10, 191:13, 191:14, 191:20, 193:3, 193:8, 193:18, 193:21, 199:2, 199:4, 199:17, 199:18, 200:2, 207:21, 211:25, 213:3, 214:1, 214:11, 214:12, 214:15 trail 198:16 trained 101:3 training 10:25, 22:2, 22:6, 26:7, 29:7, 47:9, 47:13, 48:14, 98:6, 98:21, 214:18 transcribed 1:25, 186:10, 212:6, 218:4 transcriber 218:1 transcript 4:3, 171:12, 201:21, 207:14, 215:24, 218:3 transcripts 201:22 transition 27:13</p>
--	---	---	--

<p>trash 17:5, 17:12, 17:13, 17:14, 50:19, 51:2, 51:8, 51:14, 99:10, 99:17, 136:8 travel 156:22, 156:23, 158:11, 189:23, 190:9 traveler 150:16 traveling 157:11 travels 158:15, 193:13 treatment 24:18 tree 24:18 trees 193:22, 193:23 trial 202:6, 202:8, 202:23 trick-or-treaters 208:6 tried 106:20, 112:18 tries 191:22 trip 69:18, 70:5, 162:11, 164:5, 164:6 trips 11:22, 11:23 trouble 13:6, 110:17, 214:21 trucks 112:4, 155:22, 176:6, 199:13, 199:14, 213:7 true 134:12, 218:3 truly 174:12, 175:5</p>	<p>trumps 108:8 trust 186:9 truth 8:5, 8:6, 104:25, 105:1, 111:2, 111:3, 114:21, 114:22, 148:25, 149:1, 185:14, 185:15, 197:10, 207:2, 207:3, 209:13, 209:14 try 20:7, 103:23, 140:17, 165:12, 165:14, 184:3 trying 29:13, 39:20, 62:12, 64:9, 67:13, 71:19, 75:16, 86:6, 86:19, 101:6, 109:16, 112:25, 135:17, 166:20, 180:8, 180:23, 181:5, 181:6, 191:19, 193:5, 193:22, 201:9, 204:9, 207:22 tuesday 1:12, 49:16 turf 14:21 turn 19:19, 100:12, 135:7, 150:22, 154:2, 157:6, 157:9, 159:8, 159:11, 188:20, 189:3, 189:19, 189:20, 191:17, 191:22, 191:24, 192:24, 193:12, 198:16, 199:22, 199:24, 212:15, 212:16, 212:17,</p>	<p>212:19, 212:21, 212:22 turnaround 79:9 turned 77:3, 164:19, 189:2, 190:19 turning 77:13, 187:16, 187:20, 187:24, 188:8, 188:10, 188:14, 189:12, 199:4 turnover 19:25 turns 191:22, 214:15 twelve 18:6 twice 17:16, 22:17, 49:11, 49:12, 49:15, 49:23, 50:3, 143:14, 175:17 two 6:15, 6:18, 9:9, 19:24, 21:10, 21:11, 21:23, 24:24, 27:3, 28:4, 32:24, 33:21, 34:5, 41:11, 50:19, 51:8, 51:14, 58:6, 65:3, 76:8, 78:8, 79:14, 80:17, 81:23, 82:2, 82:8, 82:23, 83:21, 94:18, 100:8, 102:21, 103:16, 104:11, 106:3, 106:9, 106:21, 107:19, 112:17, 117:5, 118:18, 119:15, 120:17, 121:12, 122:17,</p>	<p>126:4, 138:7, 160:21, 164:16, 165:13, 174:24, 179:8, 185:3, 185:7, 188:3, 189:15, 197:3, 201:12, 202:2, 202:17, 205:9, 206:11, 209:25, 210:1, 213:13 two-day 48:14, 202:6, 202:7 two-days 26:7 twos 214:4 type 25:21, 28:22, 33:5, 40:7, 50:9, 59:6, 60:22, 62:12, 69:3, 72:2, 74:4, 92:15, 113:2, 114:4, 118:11, 122:3, 125:5, 125:12, 126:19 types 46:25, 116:10, 116:15 typical 19:2, 48:21, 134:6 typically 22:17, 73:11, 90:9</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>uh-huh 16:11, 24:1, 42:7, 46:7, 46:11, 47:17, 52:25, 56:10, 57:14, 57:21, 58:1, 58:2, 62:19, 63:20, 67:20, 69:15,</p>
--	--	---	--

<p>69:23, 70:1, 70:6, 70:23, 71:12, 77:6, 81:25, 84:10, 84:16, 89:4, 91:14, 127:13 ultimate 145:23, 146:4 ultimately 167:2 unable 201:17 unapproved 166:18 uncle 184:1 under 8:4, 67:2, 71:16, 104:24, 111:1, 114:20, 134:16, 148:24, 164:22, 185:12, 197:8, 207:1, 209:12 understand 7:2, 11:2, 11:3, 11:6, 25:20, 27:15, 31:19, 32:6, 32:20, 34:6, 37:4, 37:18, 38:21, 39:2, 39:4, 39:18, 48:12, 48:20, 49:19, 50:23, 52:13, 56:3, 59:14, 61:9, 64:10, 67:21, 69:24, 73:12, 81:21, 96:3, 96:14, 98:6, 99:24, 99:25, 102:18, 128:20, 136:10, 141:3, 145:2, 151:7, 170:2, 170:3, 183:17, 193:19, 195:8, 201:3,</p>	<p>208:23 understanding 16:16, 22:15, 27:17, 31:16, 34:13, 51:13, 71:22, 96:12, 146:12, 147:6, 147:7, 147:17, 164:22 understands 180:8 understood 31:10, 31:13, 33:25, 73:19, 77:7, 172:23 undertaken 120:25 undertaking 125:13 undertook 122:6 undue 9:16, 14:2 unfair 100:19, 165:2 unfortunately 6:21, 114:4 unidentified 6:21 unless 55:23, 185:8, 193:10 unquote 112:9 until 26:15, 27:2, 59:21, 60:10, 64:11, 81:1, 103:24, 109:21, 122:10, 139:15, 144:9, 198:25, 202:20, 204:3 upheld 101:14, 101:15 upon 130:7, 198:21 urgency 164:14</p>	<p>use 9:1, 10:15, 25:22, 30:18, 31:1, 31:2, 31:11, 31:18, 31:20, 34:24, 35:1, 37:19, 38:4, 38:9, 38:15, 38:17, 38:23, 47:19, 49:12, 53:24, 54:13, 64:10, 71:4, 82:18, 93:10, 100:6, 101:12, 103:1, 105:23, 107:2, 107:14, 108:7, 108:9, 109:8, 109:13, 114:4, 116:15, 116:23, 117:18, 120:14, 122:3, 122:22, 125:22, 127:4, 127:23, 128:8, 135:11, 135:24, 140:24, 140:25, 146:17, 146:19, 160:10, 160:15, 161:1, 161:2, 165:12, 204:21 used 10:23, 20:1, 25:17, 59:15, 72:13, 76:25, 117:14, 123:11, 125:5, 125:13, 128:5, 128:6, 133:22, 165:1, 167:17, 177:1, 183:6, 183:7 users 53:9 uses 53:11, 84:19 using 21:21, 59:2, 156:24, 165:11, 188:25</p>	<p>utilize 97:5 utilizing 96:11 utterback 2:15, 217:2, 217:12</p> <hr/> <p>v</p> <hr/> <p>vacant 85:1, 108:15 valuable 142:22 value 172:23, 173:4, 173:25 various 22:3, 26:10, 28:19, 28:25, 30:14, 78:7, 98:1, 99:10, 115:12 vary 70:19 vehicle 156:13, 162:11, 164:5, 164:6, 177:10 vehicles 20:18, 177:8 vendor 49:21, 49:23, 49:25, 50:4, 50:6, 50:15, 50:17 vendors 50:12 venture 160:13, 160:18, 164:18, 165:25, 168:17, 168:20, 169:11, 170:7, 175:9, 175:24, 176:3, 176:4 ventures 164:20 verbally 142:17</p>
---	--	--	---

Transcript of Administrative Hearing - Day 5
 Conducted on March 10, 2020

112

version 132:15, 164:9 vertical 122:18 very 12:10, 15:20, 24:7, 25:5, 56:15, 63:8, 74:5, 93:8, 94:6, 109:4, 116:20, 126:7, 133:21, 138:7, 139:5, 144:6, 144:19, 149:21, 156:10, 156:17, 172:24, 175:20, 180:11, 188:2, 199:12, 202:5, 208:9, 208:20, 210:18 via 142:18 vicinity 5:10, 134:3, 134:21, 140:9, 141:18 view 15:14, 92:6, 92:9 virginia 11:1, 37:17, 42:10, 111:11, 174:21, 174:23 virtual 27:10, 27:12 virtually 154:2 visit 26:13, 27:16, 27:24 visiting 155:25 visits 26:9, 51:2 vista 158:20, 159:3, 159:6 vitally 10:8	voice 169:10 volunteer 213:5 <hr/> W <hr/> wait 7:22, 13:6, 42:20, 46:17, 79:21, 83:1, 89:8, 95:22, 104:3, 139:19, 155:4, 172:10, 188:18, 189:2, 193:12, 194:19, 199:24, 202:7, 207:14, 208:24 waiting 57:24, 65:21, 190:13, 193:1, 193:16 waits 193:14 walk 101:2, 156:11, 159:17, 159:21, 186:17, 192:24 walked 113:12 walking 9:8, 21:17, 165:21, 165:22, 192:19, 198:18, 198:21 walks 9:10, 156:18 want 6:23, 17:9, 18:16, 23:20, 24:8, 24:24, 24:25, 25:2, 25:5, 25:6, 33:24, 39:17, 51:25, 55:23, 57:18, 65:18, 66:12, 67:10, 78:6, 84:24, 88:5, 91:23,	103:13, 109:2, 112:5, 115:20, 116:21, 138:6, 141:5, 142:23, 143:10, 148:3, 148:9, 148:17, 149:18, 150:6, 154:23, 154:25, 157:23, 157:24, 160:5, 164:12, 169:7, 182:4, 185:6, 188:23, 191:4, 194:19, 195:1, 197:7, 197:22, 201:20, 207:14, 213:13, 215:24 wanted 25:13, 30:7, 39:22, 84:7, 104:11, 112:6, 143:7, 178:25, 194:22, 195:5, 205:7, 207:18, 210:17 wants 7:15, 122:2, 148:18, 168:2, 169:2, 172:19, 184:17, 206:4 warming 49:1, 49:3, 49:8 wasn't 103:11, 113:5, 169:9, 204:25 watching 59:20 water 106:7 way 8:24, 21:24, 22:12, 25:4, 25:14, 25:16, 30:24, 31:5, 32:15, 62:13, 64:24, 66:11, 77:19, 92:19,	110:5, 113:17, 114:5, 118:10, 119:7, 121:2, 121:13, 124:23, 126:2, 133:3, 133:13, 147:10, 156:20, 159:15, 166:11, 167:6, 167:14, 189:5, 190:15, 190:17, 191:2, 191:17, 191:24, 192:10, 193:6, 193:11, 194:4, 194:5, 214:22 ways 204:9 we'd 49:11 we'll 13:10, 24:8, 42:15, 49:20, 182:15, 185:8, 195:17, 205:20, 206:15 we're 13:4, 22:4, 22:5, 29:12, 40:14, 40:15, 87:18, 88:2, 88:13, 95:24, 96:21, 104:5, 104:15, 115:3, 122:17, 123:13, 128:19, 130:21, 132:12, 137:5, 138:12, 143:19, 143:21, 144:9, 160:12, 165:6, 190:20, 190:21, 190:25, 196:23, 199:1, 201:5, 201:7, 201:24 we've 100:8, 100:9, 126:18, 126:20, 127:5, 135:20, 136:1, 143:15,
---	--	--	---

Transcript of Administrative Hearing - Day 5
 Conducted on March 10, 2020

113

<p>160:16, 166:19, 186:21, 193:25, 206:14 website 30:13, 140:1, 140:3, 140:13, 140:22, 173:14, 176:24, 177:23, 180:18, 181:16 wednesday 205:4, 205:5, 205:13 week 9:11, 17:16, 22:17, 29:18, 29:20, 49:11, 49:12, 49:15, 49:23, 50:3, 50:20, 51:9, 51:10, 51:14, 51:15, 75:12 weekdays 9:12 weekend 15:3 weekends 9:11 weeks 42:15, 42:18, 43:1, 43:5, 63:24 weight 184:6 welcome 116:24 welcoming 10:10 went 82:17, 86:2, 90:7, 148:10, 160:21 were 11:24, 13:11, 16:25, 17:22, 17:24, 25:14, 29:24, 32:21, 34:14, 36:11, 51:5, 52:4,</p>	<p>69:5, 79:19, 80:16, 80:17, 97:16, 97:19, 99:9, 103:12, 104:11, 106:4, 106:6, 107:4, 107:8, 112:19, 113:23, 117:13, 117:17, 117:18, 118:18, 120:15, 120:24, 121:16, 122:24, 127:11, 134:10, 134:21, 134:22, 135:11, 135:13, 136:12, 136:15, 136:16, 137:22, 138:11, 139:13, 146:5, 169:4, 170:20, 172:10, 173:18, 174:12, 175:14, 176:5, 176:24, 179:16, 182:18, 183:2, 191:18, 198:15, 213:20, 214:15, 217:4, 218:4 west 84:9, 84:15, 89:19, 91:2, 91:3, 118:22, 119:5, 119:12, 136:3, 151:13, 156:25, 161:2, 161:4, 166:8, 166:9, 171:5, 171:19, 191:11 westbound 5:13, 151:13, 151:14, 152:7, 152:16, 152:17, 152:22, 190:3, 191:12 western 122:9 western-most 121:17 westside 136:3, 146:7,</p>	<p>147:19 westward 124:7 what's 14:12, 15:22, 34:1, 35:16, 36:14, 65:12, 65:13, 65:16, 67:14, 94:12, 124:13, 130:20, 134:25, 187:19, 187:20, 201:19, 206:10 whatever 22:9, 23:20, 39:9, 48:23, 55:10, 75:10, 77:25, 108:15, 148:17, 157:12, 164:7, 192:15 wheelbase 71:3 when 10:5, 11:1, 14:7, 17:21, 21:21, 22:19, 22:22, 22:24, 30:10, 31:2, 31:16, 33:3, 33:6, 34:23, 37:13, 38:3, 47:11, 47:12, 49:14, 49:16, 51:7, 54:24, 56:2, 59:10, 68:11, 68:13, 68:17, 70:4, 72:11, 73:6, 73:13, 76:20, 78:20, 78:23, 80:21, 80:22, 82:17, 82:24, 85:1, 85:24, 88:4, 91:4, 99:16, 102:10, 103:24, 105:25, 106:20, 107:1, 107:16, 110:7,</p>	<p>110:13, 111:24, 113:13, 114:5, 120:15, 123:5, 127:11, 128:1, 131:15, 146:5, 148:23, 160:8, 160:14, 171:2, 171:6, 174:19, 174:22, 176:24, 177:12, 178:2, 178:4, 178:14, 180:6, 180:17, 187:3, 189:12, 191:3, 191:11, 193:6, 194:10, 195:5, 198:15, 200:22, 201:9, 202:8, 205:1, 212:7, 213:15, 213:16 where 12:1, 16:17, 17:6, 17:12, 18:25, 21:13, 26:16, 33:16, 52:14, 54:25, 56:14, 60:2, 60:22, 64:24, 65:19, 67:17, 68:1, 68:5, 68:12, 68:14, 76:9, 82:2, 88:8, 88:16, 89:16, 98:2, 100:19, 102:12, 104:9, 109:14, 110:6, 119:20, 121:15, 121:17, 123:6, 123:20, 129:18, 135:14, 135:23, 136:2, 144:9, 145:24, 147:8, 150:13, 150:14, 151:5, 152:19, 153:23, 154:25, 155:21, 158:19, 158:20, 159:1, 161:7,</p>
---	--	--	---

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

114

<p>165:14, 165:16, 166:4, 166:20, 173:11, 175:9, 180:15, 180:23, 181:5, 181:12, 182:4, 182:9, 186:20, 186:23, 187:2, 187:11, 187:12, 187:16, 188:1, 188:20, 189:11, 189:21, 190:14, 190:19, 191:5, 193:19, 193:24, 196:16, 198:10, 210:9, 211:10, 212:6, 212:10, 213:24 whereof 217:8 whether 77:2, 82:5, 103:12, 144:8, 159:25, 174:12, 192:17, 199:21 which 10:3, 10:4, 14:2, 14:3, 16:18, 16:19, 25:3, 36:21, 39:3, 52:20, 53:22, 63:15, 66:16, 71:1, 74:10, 78:5, 78:7, 79:17, 81:23, 84:9, 92:12, 93:25, 102:5, 102:23, 106:7, 110:4, 119:7, 122:8, 122:12, 125:22, 126:2, 127:3, 127:18, 128:15, 128:23, 130:2, 131:12, 134:4, 134:23, 135:8, 138:25, 150:22, 152:3, 153:6, 155:1, 155:14,</p>	<p>158:11, 161:10, 166:2, 166:23, 167:17, 181:1, 183:7, 188:2, 192:2, 193:16, 198:11, 202:1, 202:2, 207:11 while 9:1, 10:10, 11:4, 104:15, 154:20, 210:8, 215:7 who 6:16, 6:23, 6:24, 12:2, 16:19, 23:9, 23:11, 25:25, 30:9, 32:10, 35:12, 36:25, 37:10, 38:4, 38:20, 49:25, 50:6, 50:8, 53:21, 54:3, 54:11, 55:15, 55:16, 55:18, 58:12, 61:7, 61:24, 62:14, 68:6, 71:8, 73:16, 73:25, 74:1, 74:4, 74:5, 78:11, 90:24, 93:23, 103:17, 104:11, 107:22, 108:25, 109:16, 113:5, 148:16, 148:18, 148:19, 158:11, 161:19, 164:25, 167:18, 168:18, 170:6, 170:9, 170:24, 171:1, 172:2, 172:6, 172:10, 176:18, 176:20, 177:15, 183:17, 184:16, 186:25, 193:4, 193:5, 195:22, 196:4, 197:5,</p>	<p>197:23, 199:20, 207:20 who's 23:16 whoever 7:15, 112:10, 112:16 whole 8:5, 104:25, 111:2, 114:21, 148:25, 165:6, 185:14, 197:10, 207:3, 207:19, 209:13 whom 217:2 whose 178:18, 182:20, 204:14 why 25:24, 36:14, 64:10, 64:15, 82:14, 83:22, 86:25, 91:20, 92:1, 94:10, 95:19, 129:21, 140:23, 150:10, 150:13, 155:1, 160:6, 170:3, 196:7, 198:10, 199:16, 203:15, 205:16 wide 137:15, 137:22, 138:24, 146:1 widen 198:15 width 137:22 wife 23:17, 24:2, 25:21, 31:3, 31:5, 31:24, 32:7, 34:17, 36:21, 37:3, 37:5, 173:7, 174:20, 179:19, 197:24, 198:3,</p>	<p>198:6, 198:24, 200:23 wife's 41:22 william 3:16, 3:17 willing 109:16 wind 159:20 wintertime 156:16 wish 206:12 wishes 12:14, 12:16, 148:19, 195:22, 195:23, 197:5 withdrew 108:1 within 9:2, 9:14, 20:8, 20:16, 28:16, 41:22, 74:18, 94:17, 100:17, 122:24, 127:23, 127:24, 128:23, 134:5, 134:8, 137:21, 156:4, 160:8, 164:16, 215:15 without 39:5, 39:6, 110:8, 112:14, 113:11, 129:14 witness 7:8, 100:10, 101:16, 104:6, 140:20, 148:15, 182:14, 186:15, 217:8 witnesses 103:6, 175:15, 184:18, 184:24, 185:3, 202:15, 215:16 wjc@cwtm 3:22</p>
---	---	---	---

Transcript of Administrative Hearing - Day 5
 Conducted on March 10, 2020

115

<p>woman 6:20 won't 87:9, 143:22, 144:17, 167:13 wondering 164:19 wood 149:12 word 25:19, 31:1, 31:2, 59:15, 76:25, 164:9, 177:15, 186:8, 187:9 words 25:15, 25:17, 110:18, 149:9, 209:25, 210:1 work 19:17, 49:20, 49:21, 50:16, 56:15, 56:18, 102:2, 116:14, 157:12, 175:16, 185:8, 193:9, 199:8, 199:20, 203:1, 203:8, 211:20, 212:5 worked 51:23, 112:1, 112:2 workign 213:12 working 19:16, 48:9, 55:10, 163:1, 169:13, 198:6 works 100:5 worn 201:4 worry 196:17 worse 200:2 worst 158:13, 167:13</p>	<p>worst-case 155:21, 156:6, 159:18 worth 109:14, 213:10 wouldn't 110:5, 127:24, 140:23 wound 168:8 wrap 201:8, 203:4 write 144:16, 169:12, 169:16 writings 15:5 written 84:25, 85:1, 108:2, 142:10, 144:6, 151:5, 154:19, 169:6, 176:22 wrong 72:13, 139:13, 166:11, 179:22, 201:19, 213:8 wrote 12:4, 105:18, 105:21</p> <hr/> <p>Y</p> <hr/> <p>y-e 186:1 year 27:3, 44:18, 48:2, 86:18, 102:16, 120:16, 120:25, 156:16, 198:2 year-olds 52:8, 60:17, 60:23, 61:1, 61:5 years 15:10, 27:3, 33:10, 40:13, 40:14, 44:20,</p>	<p>45:24, 63:25, 64:1, 64:2, 100:8, 105:25, 106:20, 109:24, 112:22, 115:11, 144:13, 186:21, 213:19 yep 23:14, 57:2, 63:9, 71:21 yesterday 11:19, 11:24, 11:25, 12:5, 17:21, 18:13, 21:21, 22:11, 32:10, 33:18, 36:11, 37:5, 52:1, 129:2, 200:22, 204:23, 207:20, 211:18 yet 50:23, 70:18, 98:19, 102:12, 117:4, 135:6, 141:22, 145:7, 206:18, 206:21 you'd 153:3 you'll 36:18, 99:10, 110:16, 120:7, 153:21, 160:1, 206:23 you're 8:5, 10:21, 10:23, 12:3, 20:9, 21:16, 23:10, 23:24, 33:1, 33:16, 37:6, 47:18, 49:5, 53:13, 55:11, 64:24, 70:11, 73:16, 76:4, 77:15, 79:18, 80:11, 81:20, 86:7, 99:16, 104:9, 104:25, 111:1,</p>	<p>114:21, 116:24, 123:3, 125:12, 128:19, 129:14, 130:5, 131:3, 134:14, 136:10, 146:2, 154:25, 155:8, 155:25, 158:8, 162:19, 166:21, 171:15, 177:12, 178:5, 178:17, 184:9, 185:13, 187:20, 188:10, 191:4, 191:11, 191:12, 197:9, 200:18, 200:19, 203:9, 207:2, 209:12, 212:4, 212:6, 212:14, 212:18, 214:8, 214:12 you've 26:1, 28:12, 39:10, 62:5, 73:13, 74:8, 87:4, 93:12, 99:17, 100:22, 101:2, 115:12, 115:15, 116:8, 116:22, 121:2, 124:23, 124:24, 129:20, 131:5, 132:4, 142:9, 142:10, 145:10, 173:12, 186:11, 191:10, 193:8 young 7:3, 8:24, 9:8, 43:19, 207:25 younger 91:4 youngsters 165:23 yours 163:9, 163:21, 204:2 yourself 98:9 yourselves 24:21</p>
---	--	--	--

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

116

you' ve 21:19, 28:5	95:1, 95:3, 95:4, 99:19, 203:4, 206:17, 206:18	114 4:8	80:8, 80:10
z		115 35:23, 36:1	148 4:9, 17:6, 17:11, 85:5, 151:4, 171:7, 171:22
zone 134:6, 134:8, 175:7, 184:4	01 216:2	12 4:5, 18:12, 19:19, 19:22, 42:15, 42:17, 43:1, 43:5, 43:15, 46:2, 52:8, 55:18, 60:17, 60:23, 61:1, 61:5, 61:22, 62:16, 63:24, 79:8, 80:9, 81:9, 83:7, 83:14, 87:3, 87:17, 89:7, 89:13, 93:13, 93:25, 94:4, 96:24, 102:24, 104:2, 112:22, 146:14, 162:9, 162:13, 174:25, 213:12, 214:16	149 158:9
zoned 106:3, 106:6, 106:9, 198:13	07 196:24		15 69:9, 69:14, 69:20, 70:3, 201:9
zones 106:8	08 1:5, 6:14, 105:13, 216:2		150 5:14
zoning 1:1, 2:3, 3:2, 9:15, 101:1, 106:11, 107:5, 107:14, 107:15, 107:17, 110:12, 160:7, 164:23, 193:6	1 9:23, 90:10, 94:24, 94:25, 95:1, 95:4, 103:24		16 218:15
.	10 1:12, 17:19, 21:13, 22:18, 22:19, 22:22, 79:9, 88:2, 145:25, 154:13		16136 149:6, 149:12
.5195 3:21	10,000 210:10		162 5:15
.5212 3:11	100 2:5, 169:3		165 74:10, 74:12, 74:13
.6044 3:12	104 4:6		17 217:9
.9500 3:20	106 181:1		176 117:14, 118:6, 121:8, 125:8, 125:9, 132:13, 132:15
0	108 81:10		18 1:5, 6:14, 36:4, 43:17, 43:22, 44:4, 44:5, 105:13, 208:4
00 13:4, 13:9, 13:10, 17:19, 17:20, 19:4, 19:5, 19:9, 19:10, 22:18, 22:19, 22:22, 29:6, 48:23, 48:24, 52:11, 57:16, 64:11, 75:1, 75:5, 76:22, 79:24, 80:18, 81:1, 81:7, 86:24, 90:10, 94:23, 94:24, 94:25,	11 42:15, 42:18, 43:1, 43:5, 60:17, 60:22, 60:25, 61:5, 88:12, 90:10, 94:23, 94:25, 95:1, 95:3, 95:4, 112:22, 154:13, 163:6, 163:18, 188:19, 205:13		185 4:10
	110 4:7		19 36:5
			1949 105:25
			195 18:11, 74:13, 85:12, 102:13, 155:25
			1950 108:5
		144 19:24, 79:14,	

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

117

<p>197 4:11 198 132:15 1983 111:18 1986 112:18 1998 211:24 1999 113:8</p> <hr/> <p>2</p> <hr/> <p>2 9:24, 94:24 2-0 162:3 20 87:3, 87:17, 134:16, 201:9, 202:6, 202:9, 202:20, 202:22, 214:5 200 2:7, 3:9, 3:18, 6:6, 6:12, 134:8, 187:5, 187:10, 187:12, 191:18, 192:12, 192:13, 193:19, 208:7, 208:12, 213:9 2008 173:1, 174:1 2014 33:4 2016 48:11 2017 36:4 202 5:4, 135:1, 135:8, 136:24, 137:19, 138:11 2020 1:12, 217:9, 218:15</p>	<p>203 5:5, 136:17, 137:6, 137:10, 138:2, 138:11, 138:15 204 5:7, 138:20, 139:8, 139:21 205 5:9, 140:7 206 4:13, 5:12, 150:12, 176:12, 186:16 207 5:15, 162:16 208 4:12, 123:25, 124:12, 124:19 20850 3:10, 3:19 20855 8:11, 197:19, 210:4 21 202:6, 202:20 218 1:24 22.8 134:20 23 43:22, 44:6, 44:7, 134:6, 134:9, 134:15, 160:24 24 44:12, 87:23, 87:24, 89:7, 89:10, 89:13, 93:12, 93:24, 93:25, 94:14, 95:15, 95:17, 95:20, 96:24 240 2:9 25 83:20, 190:1 250 122:11</p>	<p>26 134:9 27 214:23 28 88:12 29 198:3 292572 1:23 2nd 203:4, 203:8, 215:11, 215:20</p> <hr/> <p>3</p> <hr/> <p>3 9:24, 17:19, 17:20, 22:18, 22:19, 22:22, 48:22, 48:24, 75:5, 80:18, 81:7, 86:24, 90:10, 95:4 30 45:14, 45:15, 46:15, 48:22, 52:5, 52:7, 52:15, 52:18, 52:21, 56:11, 57:13, 59:4, 64:11, 64:13, 69:6, 69:11, 69:13, 70:2, 74:10, 74:13, 74:14, 75:5, 80:18, 81:1, 81:7, 86:24, 95:7, 102:10, 102:11, 103:24, 144:13, 149:24, 152:1, 155:22, 192:9, 213:10, 213:14, 215:20 300 3:18, 192:19 301.279 3:20 301.294 3:21</p>	<p>301.762 3:11, 3:12 31 198:2 32 71:4, 82:25, 83:14, 83:23, 84:3, 87:17, 102:23, 213:15 3204 115:3 34 115:11, 176:17 35 44:12, 90:8, 196:24 355 157:8, 161:4 36 81:10, 129:19, 190:1 37 15:10 38 129:19 39 88:12, 188:19, 214:15 3: 196:24, 201:16 3rd 203:8</p> <hr/> <p>4</p> <hr/> <p>4 9:25, 169:16, 206:18 4.6 126:25 40 44:22, 45:9, 54:19, 56:4, 56:12, 85:18, 90:8, 95:7, 102:12 400 18:17, 47:24 41 87:17, 87:18</p>
---	---	--	---

Transcript of Administrative Hearing - Day 5
Conducted on March 10, 2020

118

<p>42 85:20, 85:21, 213:14 44 83:11, 83:14, 213:12 44059 111:11 45 87:21, 208:3 450 167:16 47 201:16 47.8 127:5, 128:16 48 1:13, 44:15, 45:20, 45:21, 46:10, 46:12, 46:14, 46:19, 46:20, 46:21, 46:22, 69:6, 87:5, 87:13, 94:13 49 128:13 4: 216:2</p> <hr/> <p>5</p> <hr/> <p>5 10:1, 13:4, 13:9, 13:10, 75:5, 80:18, 81:1, 81:7, 203:4, 206:17 50 129:14, 134:24, 135:22, 199:21 500 8:23, 169:16 5010 105:10 55 104:2 59 201:16</p>	<p>6</p> <hr/> <p>6 10:2, 52:7, 52:11, 52:15, 52:18, 52:21, 56:11, 57:13, 64:11, 64:13, 81:1, 102:11 60 5:5, 85:23, 89:6, 89:7, 90:21, 93:11, 93:21, 93:25, 96:16, 96:17, 97:2, 97:7, 137:15, 137:22, 138:16, 145:24, 146:1, 200:24 62 59:3, 86:20 63 154:9 6660 2:9 68 85:22, 85:23, 87:18 6: 52:5 6th 203:10</p> <hr/> <p>7</p> <hr/> <p>7 10:2, 19:4, 19:9, 29:6, 75:1, 79:24, 99:19 70 79:5 72 19:22, 19:23, 79:6, 79:8, 79:10, 79:11, 79:13, 81:9, 81:12, 82:17, 82:24</p>	<p>7200 197:19, 207:8, 207:16 7400 186:3 7405 8:11 7425 172:21, 173:19, 177:24, 178:3, 179:10, 180:7 7430 6:15, 105:14, 105:24, 106:10, 106:13, 108:8, 110:3, 112:14, 113:14 7500 133:4, 133:8, 172:11 777 2:9 78 119:21</p> <hr/> <p>8</p> <hr/> <p>8 54:19, 56:4, 56:12, 57:16, 64:11, 64:13, 102:12, 149:24, 152:1, 176:17, 188:19, 190:1 8.4 134:19 80 214:5 800 11:20 84 111:18 840 156:12 850 11:22</p> <hr/> <p>9</p> <hr/> <p>9 1:13, 19:5,</p>	<p>19:9, 19:10, 48:23, 75:1, 76:22, 79:24, 86:24, 90:10, 95:3, 215:20 9.2 133:12</p>
---	--	---	---