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Transcript of Hearing

Date: October 2, 2020

Case: Redly Investments

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3 (9 to 12)

<p style="text-align: right;">9</p> <p>1 pets, children, weather, cell phones can interrupt the 2 proceedings. So it's just important that we keep an 3 accurate record of the proceedings you today. 4 If you have any questions logging into Teams or any 5 technical issues that you are encountering during today's 6 hearing, please call our office at 240-777-6663, or go to 7 our website at 8 www.MontgomeryCountyMaryland.gov/OZAH/Virtual-Meeting.html. 9 This hearing is being recorded through this particular 10 platform on Microsoft Teams. We also have a court reporter 11 here, Ms. Marinda Evans. You can probably see her on your 12 screen. For the benefit of the recording and for the court 13 reporter, please speak clearly, be as succinct as possible. 14 We have a lot to get through here today. 15 Some ground rules regarding the Microsoft Teams 16 platform and the hearing today. As I mentioned, please 17 mute yourselves. Please try to avoid having any kind of 18 background noise. But again, in the Covid era, that can be 19 a little bit difficult. So we understand and we are 20 empathetic with folks that are working from home or working 21 in environments where you're going to have some noise. But 22 if you could be conscientious of the hearing and avoid 23 background noise, we would appreciate that very much. 24 We are going to try something today called the raise 25 your hand feature. On Microsoft Teams, there are two ways</p>	<p style="text-align: right;">11</p> <p>1 would like to keep things open. The -- but if you are 2 trying to get our attention and you can't find the raise 3 your hand feature, on a limited basis you can let us know 4 that there is an issue or that you have an objection. 5 Moving on from that, there is a chat feature on most 6 of these platforms, sort of like a text chat or an instant 7 message feature. We are not utilizing that. So please do 8 not use the chat function in Microsoft Teams. We will not 9 be using that as it muddles the record. 10 Since we're not going to be muting everyone, we would 11 appreciate it if you do not crosstalk. When a witness is 12 giving testimony or when someone is providing information, 13 please don't speak over them. Everyone here will be given 14 their opportunity to testify -- to give testimony or 15 otherwise speak. So right now we're going to ID the 16 parties. We will start with the Applicant. And counsel, 17 if the Applicant or council can identify themselves with 18 the record. 19 MR. KLINE: Good morning. For the record my name is 20 Jody Kline. I'm an attorney with the law firm of Miller, 21 Miller & Canby, with offices at 200 B Monroe Street in 22 Rockville. And we represent the petitioner in this case, 23 or the Applicant in this case, Redly Capital Investments. 24 HEARING EXAMINER BAUMGARTNER: Thank you, Mr. Kline. 25 Going down the list on my screen of folks who are present,</p>
<p style="text-align: right;">10</p> <p>1 to raise your virtual hand. If you have a question, if you 2 have an objection to testimony that is coming in, in the 3 middle of your screen, if you put your cursor, there will 4 be a toolbar that will pop up. Almost in the middle of 5 that toolbar, but off to the right, is a little hand. If 6 you click on that hand, that virtually raises your hand. 7 That lets the hearing examiners know that you have an 8 objection or a question. So there is not a great number of 9 people here today, but there is enough that we won't 10 necessarily be able to see all of you on the screen all the 11 time. So please utilize that, use your hand feature if you 12 have an objection or some question. 13 The other way to bring up the raise your hand feature, 14 is if you, on that same toolbar, if you put your cursor in 15 the middle bottom of your screen, on the far right next to 16 the red hang up phone call, will be what's supposed to be, 17 I'm assuming two little people. That allows you to see the 18 participants on the hearing today. If you click on that 19 icon, on the right side of your screen should be a list of 20 the folks who are logged in here today. If you find your 21 name, to the right of your name, you should see that same 22 little hand. So that's another way again to raise your 23 virtual hand. As I mentioned -- yeah, just like that. 24 As I mentioned, we do have the ability to mute 25 everyone. We would like to not utilize that feature. We</p>	<p style="text-align: right;">12</p> <p>1 we have a Mr. Basile Whitaker. Are you there, sir? 2 MR. WHITAKER: Yes sir, I am. 3 HEARING EXAMINER BAUMGARTNER: Great. And then after 4 that, we have a Carylton Ganong; is that correct? 5 And then following that individual, we have a Barbara 6 Cox. 7 MS. COX: Yes, I'm here. I'm a DPS inspector. Just 8 watching. Thank you. 9 HEARING EXAMINER BAUMGARTNER: Thank you, ma'am. We 10 have a Dr. Daryl Thorne. 11 DR. THORNE: I'm here. 12 HEARING EXAMINER BAUMGARTNER: We have Mr. Harold 13 Lowe. 14 MR. LOWE: I'm here. I'm the president of the 15 Bancroft Homeowners Association, as well as a resident in 16 that community. 17 HEARING EXAMINER BAUMGARTNER: Thank you, sir. We 18 have a Ms. Joy Turner. 19 MS. TURNER: I'm here. I'm a resident of Norwood 20 Road. 21 HEARING EXAMINER BAUMGARTNER: Ms. Evans is our court 22 reporter here today. Nana Johnson is our administrative 23 staff guru here at OZAH. The co-hearing examiner is Ms. 24 Lynn Robeson Hannan. 25 Next we have a Mr. Stephen Schertler. Are you there,</p>

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13	1 sir? 2 MR. SCHERTLER: Yes, I'm here. I'm a Norwood Road 3 resident. 4 HEARING EXAMINER BAUMGARTNER: Great. And we have 5 a -- someone listed as Shanrong as a guest. 6 MR. KLINE: That is the -- I'm sorry. This is Jody 7 Kline speaking. Ms. Li is a president -- Shanrong Li is 8 the president of Redly Capital Investments and is just 9 monitoring the hearing. Thank you. 10 HEARING EXAMINER BAUMGARTNER: Thank you, sir. Then 11 we have a -- it looks like a Soltesz representative, which 12 my recollection from the exhibit list are either civil 13 engineers or landscape engineers for the Applicant. Is 14 that correct? 15 MS. PRZYGOCKI: Yes, this is Jane Przygocki from 16 Soltesz and we have -- I have with me Daniel Clark, who is 17 a landscape architect, Timothy Hoffman, who is a civil 18 engineer, and I am a land use planner. 19 HEARING EXAMINER BAUMGARTNER: Thank you, very much. 20 And last but not least, we have a Teri Hogan. 21 MS. HOGAN: Hello. I'm a reporter for the Greater 22 Olney News. 23 HEARING EXAMINER BAUMGARTNER: Okay. Thank you for 24 joining us. All right. Moving on to our next order of 25 business. Just very briefly, the procedure in these types	15	1 And I do want to reiterate, on cross-examination, it's just 2 your time to ask questions. When you are under -- we are 3 going to be under oath. And when you're asking questions, 4 you are not under oath yet. So try to keep -- if you have 5 questions, try not to testify at that time. You will get a 6 chance to say what you wish to say. Thank you. 7 HEARING EXAMINER BAUMGARTNER: All right. Mr. Kline, 8 the floor is yours. You are welcome to give an opening 9 statement if you wish. 10 MR. KLINE: Thank you. And as Ms. Robeson Hannan 11 would -- is familiar, I don't usually do an opening 12 statement simply because I know you've read the record and 13 know all the background facts and I don't think it's 14 necessary to sort of forewarn you where we are going. But 15 I'm going to do something a little bit different this time 16 if I could, please. 17 Basically, I have written you a letter indicating that 18 we were interested in participating in a community meeting. 19 We conducted a community meeting this past Monday evening, 20 11 people participated, only one of which is participating 21 in today's hearing. But we have also accepted an 22 invitation from the Sandy Spring Civic Association to make 23 a presentation to them at their monthly meeting on October 24 the 12th. 25 Mindful of the traditions and heritage of the Quaker
14	1 of cases, the Applicant will go first. They will put on 2 their case in chief. They will present any witnesses or 3 arguments that they choose to do so. The folks have a 4 right to ask questions of those witnesses if there are 5 particular aspects of that testimony that you would like to 6 ask questions about. Please keep in mind that this is not 7 true opportunity to provide your own opinion. This is 8 merely the opportunity to ask questions of those witnesses. 9 After the Applicant concludes their case in chief, we 10 will open it up to any other folks who have logged on that 11 would like to provide their own testimony as to the 12 application. We will also give the Applicant the ability 13 to provide opening and closing statements if they wish to 14 do so. That simply is typically a summary of the proposal 15 here today. 16 And before we get started with the Applicant's case in 17 chief, are there any procedural or preliminary matters that 18 either the Applicant or the community would like to bring 19 to the hearing examiners attention before we get started 20 with the case in chief? 21 Hearing none, Ms. Hannan, was there anything that you 22 would like to add or clarify before we get started today? 23 HEARING EXAMINER ROBESON HANNAN: Just that if any of 24 the opposition wish to make an opening or closing statement 25 as individuals, they have the opportunity to do that too.	16	1 Community of Sandy Spring, which likes to see consensus 2 rather than division and disagreement, what I -- I want to 3 forewarn you that at the end of the hearing, I'm going to 4 ask that you leave the record open to a reasonable time 5 after the October 12th Sandy Spring Civic Association 6 meeting so that we can make a presentation that evening and 7 then have them go ahead, and any other people for that 8 matter, submit written comments to you, give me a brief 9 opportunity to respond to those, and then close the record 10 and proceed as you normally would at that time. 11 It's a bit of a delay in moving forward with the case, 12 but we think it's important that we get our message out to 13 as many people as possible and we think that's consistent 14 with the character of the neighborhood. So that's just -- 15 I'm letting you know that at the conclusion of the hearing, 16 I will ask that the record be left open to allow that 17 additional information to be submitted by both parties. 18 The other thing I was going to say was -- I was just 19 kind of wondering how I was going to go ahead and present 20 this and everything. Let me give it some thought for a 21 second. Well, let's just -- we will just go ahead and 22 start into it I think. What I didn't actually -- yes, 23 here's how I will approach it. I don't want to be so 24 presumptuous as to guess what the issues will be presented 25 by the opposition witnesses today. But I can tell you that

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17	<p>1 at Monday night's meeting, by far the predominant question</p> <p>2 that was asked was what happens if and when Friends School,</p> <p>3 who is the intended tenant of the residential facility ever</p> <p>4 leaves. What's going to happen at that point in time? And</p> <p>5 I tried to explain how the zoning ordinance and the system</p> <p>6 works, but I'm not so presumptuous to think that they</p> <p>7 necessarily weren't skeptical about what the Applicant's</p> <p>8 attorney was telling them.</p> <p>9 So I was wondering if I could enlist the assistance of</p> <p>10 the hearing examiners to go beyond your normal, here is</p> <p>11 what a conditional use application is, here's what we're</p> <p>12 going to be doing today, and carry it to the next step as</p> <p>13 to basically what happens when a conditional use</p> <p>14 circumstances change.</p> <p>15 And I think of great interest to the community is, if</p> <p>16 the Friends School terminated its relationship with Redly</p> <p>17 and there is a desire to continue operation as a</p> <p>18 residential care facility, what would be the process to</p> <p>19 allow that to happen. And as I say, I tried to explain it,</p> <p>20 but I suspect they would be skeptical and would like to</p> <p>21 hear it from the hearing examiner. So I wondered if you</p> <p>22 folks could alter your normal presentation, go into the</p> <p>23 later phases of how that handled, because I think it will</p> <p>24 eliminate a lot of questions you will get during the</p> <p>25 hearing.</p>	19	<p>1 have available to you.</p> <p>2 HEARING EXAMINER ROBESON HANNAN: Thank you.</p> <p>3 MR. KLINE: And that's an acceptable condition --</p> <p>4 that's an acceptable condition to the Applicant.</p> <p>5 HEARING EXAMINER ROBESON HANNAN: Bring it back over.</p> <p>6 Well, you are going to have to -- you would have to write</p> <p>7 the -- you can submit a condition and then as part of your</p> <p>8 conversation with the Sandy Spring Civic Association, we</p> <p>9 can wait until you have a conversation with them for you to</p> <p>10 submit your condition.</p> <p>11 MR. KLINE: Thank you.</p> <p>12 HEARING EXAMINER ROBESON HANNAN: Okay. Turning it</p> <p>13 back to Mr. Baumgardner. Thank you, Mr. Baumgardner.</p> <p>14 HEARING EXAMINER BAUMGARTNER: Thank you. Mr. Kline,</p> <p>15 we are ready to begin your case if you have witnesses that</p> <p>16 you would like to put forward.</p> <p>17 MR. KLINE: Thank you. Our first witness would be Ms.</p> <p>18 Jane Przygocki.</p> <p>19 HEARING EXAMINER BAUMGARTNER: Ms. --</p> <p>20 MR. KLINE: Ms. Przygocki, could you introduce</p> <p>21 yourself? And you're going to be sworn in.</p> <p>22 MS. PRZYGOCKI: My name is Jane Przygocki.</p> <p>23 HEARING EXAMINER ROBESON HANNAN: First you have to be</p> <p>24 sworn in.</p> <p>25 HEARING EXAMINER BAUMGARDNER: Ms. Przygocki, could</p>
18	<p>1 Thank you. That's the end of my opening statement.</p> <p>2 HEARING EXAMINER BAUMGARTNER: Thank you.</p> <p>3 HEARING EXAMINER ROBESON HANNAN: Mr. Kline?</p> <p>4 MR. KLINE: Yes, ma'am.</p> <p>5 HEARING EXAMINER ROBESON HANNAN: I'm looking for my</p> <p>6 hand. Oh, it is up. Okay. I have a question then. If</p> <p>7 you would agree to a condition saying that any -- if the</p> <p>8 partnership with the Friends School ends, you have to come</p> <p>9 back and modify the conditional use.</p> <p>10 MR. KLINE: The answer is, yes. I've discussed such a</p> <p>11 condition with Ms. Tesfaye before she went to the Planning</p> <p>12 Board. We didn't get down to the details of the language.</p> <p>13 I would probably like to refine it a little bit because I</p> <p>14 didn't go into all the details of a minor modification and</p> <p>15 a major modification. But if there were to be another user</p> <p>16 that could step in, another school for instance that could</p> <p>17 step in under exactly the same five conditions that Friends</p> <p>18 School is prepared to accept, then maybe that wouldn't have</p> <p>19 to come before you.</p> <p>20 But the likelihood that would ever occur is very</p> <p>21 little. So I would probably like to tinker with that</p> <p>22 language a little bit. But generally speaking, yes. Redly</p> <p>23 agrees that if and when there is a change in the tenant,</p> <p>24 the building, it should likely go through your office for</p> <p>25 an amendment under either one of the two techniques you</p>	20	<p>1 you please raise your right hand.</p> <p>2 Do you swear or affirm under the penalties of perjury</p> <p>3 that the testimony you're about to give is the truth, the</p> <p>4 whole truth, and nothing but the truth?</p> <p>5 MS. PRZYGOCKI: I do.</p> <p>6 HEARING EXAMINER BAUMGARTNER: Thank you. Please</p> <p>7 provide your name and your professional address.</p> <p>8 MS. PRZYGOCKI: My name --</p> <p>9 MR. KLINE: And I will add Ms. Przygocki, you better</p> <p>10 spell your name, because no matter how good the</p> <p>11 stenographer is, it probably is a challenge.</p> <p>12 MS. PRZYGOCKI: It is. The name is Jane Przygocki,</p> <p>13 and that spell; P-R-Z-Y-G-O-C-K-I. I work for Soltesz,</p> <p>14 we're a civil engineering and land planning firm. And the</p> <p>15 address is 2 Research Place, Suite 100, in Rockville,</p> <p>16 Maryland, 20850.</p> <p>17 HEARING EXAMINER BAUMGARTNER: Thank you.</p> <p>18 MR. KLINE: And Ms. Przygocki, what is your</p> <p>19 profession?</p> <p>20 MS. PRZYGOCKI: I am a land planner.</p> <p>21 MR. KLINE: And your resume is in the record as</p> <p>22 exhibit 68C; is that correct?</p> <p>23 MS. PRZYGOCKI: Yes, 68C, yes.</p> <p>24 MR. KLINE: I realize you've never qualified before</p> <p>25 Mr. Bumgardner before. But have you qualified before the</p>

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21	<p>1 offices of the Zoning and Administrative Hearings in the 2 past?</p> <p>3 MS. PRZYGOCKI: Yes, I have. I've been qualified as 4 an expert in land planning.</p> <p>5 MR. KLINE: How recent was your most recent 6 qualification?</p> <p>7 MS. PRZYGOCKI: I recently participated in a case for 8 Milestone Senior Germantown, which was just about a month 9 or two ago.</p> <p>10 MR. KLINE: And before Ms. Robeson Hannan?</p> <p>11 MS. PRZYGOCKI: Yes, it was before Ms. Robeson Hannan.</p> <p>12 MR. KLINE: All right. Mr. Bumgardner, Ms. 13 Przygocki's resume is in the file, in your file. She has 14 multiple times and recently qualified as an expert in land 15 planning. I would like to offer her as such, please.</p> <p>16 HEARING EXAMINER BAUMGARTNER: She is so designated as 17 an expert in land planning.</p> <p>18 MR. KLINE: Ms. Przygocki, so we call the subject 19 property, or the Applicant calls a separate property, 20 Norwood House. And the building, rather than some new 21 construction, exists on the property today; does it not?</p> <p>22 MS. PRZYGOCKI: Yes, the building that is proposed for 23 this special exception exists on the property today. There 24 are no changes proposed actually to that building.</p> <p>25 MR. KLINE: Ms. Przygocki, you are showing your age</p>	23	<p>1 site plan. However, because the master plan had 2 recommended and placed a special, rural -- the Sandy Spring 3 rural overlay zone on it, on that property, it was required 4 to go through site plan in order to -- any conditional uses 5 would achieve better control and scrutiny as to what was 6 put there in order to maintain the rural character of the 7 area.</p> <p>8 So they filed a site plan in 2007 and have been 9 operating under -- have been operating under that since 10 then. Unfortunately, that user went away. There was a 11 fire in the house and I believe it was perhaps vacant for a 12 while. And then our Applicant --</p> <p>13 MR. KLINE: Ms. Przygocki, can I slow you down for a 14 second? Can you go back, I think the hearing examiners 15 might like to have in their record basically the numbers 16 for the site plan. And I also wanted to ask you about 17 other developmental approvals associated with that such as 18 the preliminary plan. So could you elaborate on those two 19 please?</p> <p>20 MS. PRZYGOCKI: Sure. The site plan application was 21 number 822007 01304 for a group home of up to eight 22 residents. The site plan, like I said, was required 23 because it was in the Sandy Spring rural overlay zone. At 24 the same time, they did a preliminary plan application, 25 number 120070590, which dedicated 5,300 square foot of</p>
22	<p>1 when you use the term special exception. So we will be 2 dealing with conditional use today.</p> <p>3 MS. PRZYGOCKI: Excuse me, I'm sorry.</p> <p>4 MR. KLINE: Sure. But nonetheless, it's got an 5 interesting zoning history. So I'd like you to basically 6 walk the hearing examiners through that zoning history and 7 ultimately explain what flowed out of that that's 8 applicable in this case as well. So could you give us the 9 history of what was famously known as Aunt Hattie's House?</p> <p>10 MS. PRZYGOCKI: Yes. The property was actually 11 developed for a foster home for boys. And under the 12 auspices of Aunt Hattie, who was Dr. Hattie Washington. 13 They applied for what was back then known as a special 14 exception, now would be called a conditional use, 15 application number 2671. It was filed in March of 2006. 16 It was -- they were seeking to have 12 to 14 residents and 17 they were recommended for approval by the Planning Board; 18 however they withdrew the application and came back and 19 developed it for eight persons which is allowed by right 20 under the zoning ordinance.</p> <p>21 So it's a group home for eight persons. And it was 22 run as that group home for a while. They had the file a 23 site plan with Department of Planning commission because it 24 is under -- normally, a use by right, you do not need to 25 get a conditional use or a special exception or even file a</p>	24	<p>1 (inaudible) and both of those were approved in April of 2 2008.</p> <p>3 MR. KLINE: And the building itself was built sometime 4 in the timeframe of 2007 to 2008?</p> <p>5 MS. PRZYGOCKI: I believe so, yes.</p> <p>6 MR. KLINE: Okay. And it was built large enough to 7 accommodate -- I'm sorry. Was it built large enough to 8 accommodate more than eight residents, but that's all that 9 was allowed to be there under the group home by right?</p> <p>10 MS. PRZYGOCKI: Yes, it was built for larger because 11 they originally anticipated going in for a larger 12 population at the residence. However, they decided to just 13 start with eight and see if that could work out.</p> <p>14 MR. KLINE: So I think I -- I think I interrupted you 15 earlier when you indicated Dr. Washington operated Aunt 16 Hattie's house for some period of time, we're not sure how 17 long. And would you go ahead and continue your explanation 18 of history?</p> <p>19 MS. PRZYGOCKI: There was an application that was 20 approved in 2010, which was just an administrative 21 amendment. And that sought to replace one large shed with 22 two smaller sheds and make some small modifications to 23 extend some of the screening and remove a door and move a 24 light (inaudible).</p> <p>25 MR. KLINE: Ms. Przygocki, that's what? That's a site</p>

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25	1 plan amendment in 2010? 2 MS. PRZYGOCKI: Yes. 3 MR. KLINE: Okay. 4 MS. PRZYGOCKI: There was a minor modification in 5 2010. 6 MR. KLINE: Okay. So we know that Dr. Washington 7 operated at least through 2010 then? 8 MS. PRZYGOCKI: That's correct. 9 MR. KLINE: Okay. Going on -- go ahead. Continue on 10 your history. 11 MS. PRZYGOCKI: I'm not sure when Aunt Hattie's House 12 stopped operating. But there was a fire that the structure 13 suffered in February 2015. From reading the news reports 14 that it was the formerly the home for boys -- group home 15 for boys in the meantime so we have -- 16 COURT REPORTER: Excuse me. Can I interrupt? I'm the 17 court reporter. Ms. Przygocki, can you bring that polygon 18 mic -- your audio is breaking up. So if you could get 19 closer to your microphone -- 20 MS. PRZYGOCKI: I'm sorry. Let me -- is this any 21 better? 22 COURT REPORTER: Say that again? 23 MS. PRZYGOCKI: Is this any better? 24 COURT REPORTER: Yes, that's better. 25 MS. PRZYGOCKI: All right. I apologize.	27	1 MR. KLINE: Can you elaborate on those? In other 2 words, what are you telling us when you say that? 3 MS. PRZYGOCKI: Well, at the time of the original site 4 plan application, the site plan was the -- the use was 5 deemed as -- well, maybe that doesn't apply here. There 6 was a storm water management plan that was approved by DPS, 7 the Department of Permitting Services. That was approved 8 in 2008. There was a forest conservation plan that was 9 approved in 2007. That forest conservation plan and storm 10 water management plan are still considered viable for this 11 property because they address the conditions of a site plan 12 at that time. 13 There was also a fire department access plan that was 14 approved at that time when we had the authorization from 15 the fire marshal that that application and that approved 16 fire department access plan will hold for this application 17 because none of the conditions of the conditions of the 18 site -- primarily the ones that she's concerned with, which 19 are the FDC and the enunciator panel, as long as those do 20 not change, she is fine with all of the fire department 21 access plan being approved, continued its approval so that 22 a new plan did not need to be submitted. 23 In terms of compliance with the standards of the 24 master plan, that's a different issue. But in terms of 25 technical plans, those are the plans that are approved and
26	1 COURT REPORTER: It is probably just an Internet 2 connection, but if you could get closer to the mic, it 3 would help. 4 MS. PRZYGOCKI: Okay. The mic is attached to this 5 camera, right? 6 MALE SPEAKER: Yeah. 7 MS. PRZYGOCKI: All right. I'm about as close as I 8 can go and still have access to our materials here. I hope 9 that helps. Thank you. 10 HEARING EXAMINER ROBESON HANNAN: For the -- just a 11 second. For the record, the court reporter affirmatively 12 nodded that it helps. Go ahead Ms. Przygocki. 13 MR. KLINE: So Ms. Przygocki, you got us through, 14 there was a fire in February 2015. Subsequently, the 15 Applicant purchased the property and that occurred when? 16 MS. PRZYGOCKI: I believe it is in 2017 according to 17 tax records. 18 MR. KLINE: Thank you. And it's your understanding 19 that the building was then renovated to restore it to its 20 previous situation and address the fire damage? 21 MS. PRZYGOCKI: Yes. The building was renovated and 22 was renovated to be able to accommodate 16 residents. And 23 the approvals that were approved prior to that as a part of 24 the original application still hold for today's 25 application.	28	1 therefore exempt from having to submit new plans in that 2 regard. 3 MR. KLINE: Mr. Bumgardner, if I could intervene for a 4 second. I would like to have Ms. Przygocki put up on the 5 screen a -- what I will call the existing conditions plan, 6 which by my records is Exhibit 30C, and ask her to walk you 7 through that plan. And I guess I probably -- we probably 8 need your assistance to pull that up on the screen. 9 HEARING EXAMINER BAUMGARTNER: Yes, sir. Let's see if 10 we can do this. That was Exhibit 30C? 11 MR. KLINE: 30C, yes sir. 12 HEARING EXAMINER BAUMGARTNER: All right. I'm going 13 to try to share my screen. And just for the record, we 14 have all of the exhibits in front of us there on our 15 website. We also have them on hard copy on this Microsoft 16 Teams platform. It allows us to share those exhibits on 17 your screen with all folks present. So let me see if I can 18 share my screen here. So for 30C I have a landscape and 19 lighting plan. 20 MR. KLINE: My -- 21 HEARING EXAMINER ROBESON HANNAN: It looks -- 30E. 22 MS. PRZYGOCKI: Excuse me, it should be E as in 23 elephant. 24 MR. KLINE: Oh, I'm sorry. Yeah, I didn't have my 25 glasses on. It is 30E. I'm sorry.

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29	<p>1 HEARING EXAMINER BAUMGARTNER: So you should be seeing</p> <p>2 on your screen what has been marked as 30E, which is an</p> <p>3 existing conditional use site plan for Norwood House.</p> <p>4 MR. KLINE: Ms. Przygocki, using Exhibit 30E, can you</p> <p>5 take us from Norwood Road -- can you take us from Norwood</p> <p>6 Road and walk us through the property so that everybody</p> <p>7 understands what's out there?</p> <p>8 MS. PRZYGOCKI: Yes. If you look at the upper right-</p> <p>9 hand corner of the property, is the entrance to the</p> <p>10 property just across from the word Norwood. So I don't</p> <p>11 think I can use the pointer here, but yes.</p> <p>12 MR. KLINE: Hey Jane, do me a favor. Start with the</p> <p>13 house in the front and then take us back to the building</p> <p>14 that's really -- so that everybody understands the house,</p> <p>15 the garage, and the proposed facility.</p> <p>16 MS. PRZYGOCKI: Right. So facing Norwood Road is the</p> <p>17 existing -- yes, that helps if you can zoom in on it.</p> <p>18 Facing Norwood Road is the existing house and existing</p> <p>19 garage. That house is a residence of one of the</p> <p>20 administrators. And the garage is attached. There is an</p> <p>21 apartment upstairs, which one of the supervisors also lives</p> <p>22 in, which will come up later. There are, in terms of --</p> <p>23 two adults who live on site in addition to those that are</p> <p>24 working within the group home itself.</p> <p>25 So the residence is then attached by breezeway to</p>	31	<p>1 HEARING EXAMINER ROBESON HANNAN: So you please use</p> <p>2 east, west, north. Thank you.</p> <p>3 MS. PRZYGOCKI: Yes. So just to the south of the</p> <p>4 residential care facility, as part of that building, is a</p> <p>5 screened in porch right in that location on the south side</p> <p>6 of it. And to the south of that is a lawn. To the west is</p> <p>7 an existing pool, two sheds to the west of that, and a</p> <p>8 sport court to the west of the pool and sheds. The rest of</p> <p>9 the property is in forest conservation behind that.</p> <p>10 And if you go to the East now, you will find a lawn</p> <p>11 that -- well, actually along the whole southern boundary,</p> <p>12 along the southern boundary next to the sport court, next</p> <p>13 to the pool, next to the house, is a six-foot tall wood</p> <p>14 privacy fence. And then -- and landscaping which is --</p> <p>15 consists of evergreen trees. And then there was also a</p> <p>16 six-foot wood fence that divides right about where the --</p> <p>17 if you go to the existing house on the map, that is on the</p> <p>18 adjacent property, there is a perpendicular fence to the</p> <p>19 existing house that divides the open space for the</p> <p>20 residential care facility from the small patio for the use</p> <p>21 of the administrator's house.</p> <p>22 So there is a fence that divides the rear yard of the</p> <p>23 resident care to a side yard for use by the</p> <p>24 administrator -- correct -- right in that location. There</p> <p>25 is also a six-foot wood fence that divides the two with the</p>
30	<p>1 what -- the house in the back, which is a different wing of</p> <p>2 the house, although these -- they are -- that is the,</p> <p>3 primarily that is where the group home or the residential</p> <p>4 care facility will be. And that's where the residents will</p> <p>5 live. Like I said, is attached by a breezeway. There are</p> <p>6 locked doors between the existing house and the residential</p> <p>7 care facility.</p> <p>8 However, the they have access to it and can be there</p> <p>9 to address any situations on the site. Just above that,</p> <p>10 there is a parking area for nine cars. As you go around</p> <p>11 the side of the building, there is -- the trash disposal is</p> <p>12 an enclosed place. It's behind a wood fence. And then in</p> <p>13 the rear, there is, attached to the existing residential</p> <p>14 care facility, that -- the back portion there is a screened</p> <p>15 in porch that overlooks the lawn. So just down a little</p> <p>16 bit to the right, over, that's the pool. That's the lawn.</p> <p>17 That's the pool. There is a pool there. If you go a</p> <p>18 little to the right, there is a lawn.</p> <p>19 HEARING EXAMINER ROBESON HANNAN: Excuse me, Ms. --</p> <p>20 MS. PRZYGOCKI: Yes.</p> <p>21 HEARING EXAMINER ROBESON HANNAN: Okay. Please don't</p> <p>22 use left or right because the record doesn't -- when this</p> <p>23 goes -- when the transcript comes, it doesn't know left or</p> <p>24 right.</p> <p>25 MS. PRZYGOCKI: Yeah.</p>	32	<p>1 gate.</p> <p>2 HEARING EXAMINER ROBESON HANNAN: Now, you can't --</p> <p>3 I'm sorry. What location? Describe the location, please.</p> <p>4 It doesn't know what location means. And I do see a hand</p> <p>5 raised.</p> <p>6 MR. LOWE: Yes. Yes, this is Harold Lowe. There</p> <p>7 is -- is the sports court lighted?</p> <p>8 MS. PRZYGOCKI: Yes, it is lighted.</p> <p>9 MR. LOWE: Thank you.</p> <p>10 MR. KLINE: Jane, have you completed your review of</p> <p>11 the features of the existing site?</p> <p>12 MS. PRZYGOCKI: Yes. The only thing that I have not</p> <p>13 addressed there is also a circular drive in the front of</p> <p>14 the existing red house, the administrator's house that also</p> <p>15 serves the site.</p> <p>16 MR. KLINE: All right. Would that be associated in</p> <p>17 any way with the functioning of the group residential</p> <p>18 facility or the residential care facility?</p> <p>19 MS. PRZYGOCKI: No, it is not.</p> <p>20 MR. KLINE: I think it would be valuable to the</p> <p>21 hearing examiners to be able to see what the building looks</p> <p>22 like. But to do that, I think I would have to ask you to</p> <p>23 pull up the staff report because the photographs are</p> <p>24 attached to staff report. If you had a chance to read --</p> <p>25 if the hearing examiners had a chance to review the staff</p>

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33	1 report, saw the pictures, I don't feel they need to know 2 anything more about the exterior of the building, I'll 3 avoid that. 4 Otherwise, I would ask for Exhibit 33A, which are 5 attachments to the staff reports, to be pulled up so Ms. 6 Przygocki can give you a quick briefing on what the 7 building looks like on its various sides. 8 HEARING EXAMINER BAUMGARTNER: Let me go ahead and 9 pull up the staff report. 10 HEARING EXAMINER ROBESON HANNAN: Now, Mr. Whitaker's 11 hand up. 12 MR. WHITAKER: Yes, I was hoping that the engineer 13 could possibly point out to the people viewing, the 14 property that's east or the adjacent property right next to 15 the Applicant's property. What's the actual distance? 16 HEARING EXAMINER ROBESON HANNAN: Well, I'm going to 17 ask you to do this. There is an order of proceeding and if 18 we start taking questions in between, we lose the order. 19 So if you could write down all these questions, when it's 20 your time to ask questions you can ask all these questions. 21 MR. WHITAKER: Duly noted. Thank you. 22 HEARING EXAMINER ROBESON HANNAN: Thank you. 23 HEARING EXAMINER BAUMGARTNER: So Mr. Kline, I've 24 brought up the staff report, wherever it went. 25 MS. PRZYGOCKI: I believe it's the attachment to staff	35	1 MS. PRZYGOCKI: So this is a view of the house and the 2 property from the street from basically -- from across the 3 street. The circular drive that's in the immediate 4 foreground, the residence for the administrator is in the 5 center of the picture. To the right is -- the brick 6 structure is the enclosed garage. And in the distance, 7 although it looks almost as though it's a part of the 8 administrator's house, in the back is the residence for the 9 residential care facility. 10 MR. KLINE: Thank you. Could we please scroll to the 11 next picture? 12 A little bit too far. I think there is an intervening 13 picture of the garage. 14 HEARING EXAMINER BAUMGARTNER: We have these -- 15 MR. KLINE: That's fine. That's fine, sir. 16 So what's that a view of Ms. Przygocki? 17 MS. PRZYGOCKI: This is a side view of the garage. 18 And above you can see the apartment for -- there is a small 19 apartment above the garage. 20 MR. KLINE: So this would be taken from somebody 21 standing on the north side of the property looking at 22 the -- I'm sorry -- yeah, north side of the property. And 23 that would be the north side of the house/garage? 24 MS. PRZYGOCKI: Yes. 25 MR. KLINE: Right.
34	1 report. 2 MR. KLINE: I'm sorry, I was on mute. It's attachment 3 33A. 4 HEARING EXAMINER BAUMGARTNER: Can we all see this 5 exhibit? 6 MR. KLINE: Yes. 7 MS. PRZYGOCKI: No. So it should be the supplemental 8 information. 9 HEARING EXAMINER BAUMGARTNER: Just one moment. My 10 computer is having some issues loading this exhibit. 11 MS. PRZYGOCKI: Okay. I think it's at the -- it'll 12 say B, attachment B when you get down to it. 13 HEARING EXAMINER BAUMGARTNER: Are these the photos 14 that you were referring to? 15 MS. PRZYGOCKI: Yes. I wonder if you could just 16 rotate the PDF? 17 HEARING EXAMINER BAUMGARTNER: Nope. Looks like we're 18 going to have to turn our heads. 19 MR. KLINE: Very good. So if you scroll up a little 20 bit and we'll go through it. So if you could -- the 21 photograph below that just went off the screen, Mr. 22 Bumgardner, if you could get that back centered on the 23 screen. Thank you. 24 Jane, could you please explain what that's a picture 25 of?	36	1 MS. PRZYGOCKI: This is taken from the driveway 2 leading in. 3 MR. KLINE: All right. If you could, Mr. Bumgardner, 4 I want to just, I guess skip through all this. But if we 5 can just get to the front and back images of the house that 6 are probably going to be fairly obvious when you get there. 7 Yeah, very good. 8 Ms. Przygocki, what is the image that's on the screen 9 now? 10 MS. PRZYGOCKI: This is the residence for the care 11 facility. Their parking is in front. There is the -- to 12 the left is the main door into the -- what is a living 13 area. There is a number of common areas in the house as 14 well as the bedrooms. There is a door to the right the 15 goes directly into the kitchen. In that space -- and they 16 are in between the two doors, there is a handicap ramp that 17 ramps up to make it into the front entrance. 18 MR. KLINE: Ms. Przygocki, this is the north facing 19 view of the existing structure, correct? 20 MS. PRZYGOCKI: Correct. 21 MR. KLINE: Great. Can we scroll again Mr. 22 Bumgardner? 23 HEARING EXAMINER BAUMGARTNER: Ms. Przygocki, the door 24 that I'm looking at on the left side of the image is for 25 the residential portion?

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37	<p>1 MS. PRZYGOCKI: Well, yes. They both lead into --</p> <p>2 it's all one big, connected house. That's the front door</p> <p>3 that leads into the living room. There is -- the other</p> <p>4 door is an accessory door into the kitchen. But they are</p> <p>5 connected by a hallway.</p> <p>6 HEARING EXAMINER BAUMGARTNER: Okay, thank you.</p> <p>7 MS. PRZYGOCKI: This is --</p> <p>8 MR. KLINE: Uh --</p> <p>9 MS. PRZYGOCKI: I'm sorry.</p> <p>10 MR. KLINE: Well, I think that's -- well, go ahead</p> <p>11 Jane. Go ahead.</p> <p>12 MS. PRZYGOCKI: This to the right is the residential</p> <p>13 care facility. In the background is the connecting</p> <p>14 breezeway between the house of the administrator, which is</p> <p>15 on the left. It's all one connected building essentially.</p> <p>16 MR. KLINE: And Mr. Bumgardner, if you can actually</p> <p>17 scroll the other direction now, because I think this is</p> <p>18 sort of -- very good. Well, one next photograph after</p> <p>19 that.</p> <p>20 MS. PRZYGOCKI: This is --</p> <p>21 MR. KLINE: Ms. Przygocki, what is this a picture of?</p> <p>22 MS. PRZYGOCKI: This is a picture of the sport court</p> <p>23 and the forest behind the sport court.</p> <p>24 MR. KLINE: And --</p> <p>25 MS. PRZYGOCKI: The sport court is surrounded by a</p>	39	<p>1 MR. KLINE: Mr. Bumgardner, if you could just scroll</p> <p>2 through and get us to the backside of the house, which will</p> <p>3 be pretty obvious because it's the screen -- just going the</p> <p>4 other direction, sir.</p> <p>5 HEARING EXAMINER BAUMGARTNER: So that's all for</p> <p>6 attachment B.</p> <p>7 MR. KLINE: Oh, okay.</p> <p>8 MS. PRZYGOCKI: No, there is --</p> <p>9 HEARING EXAMINER BAUMGARTNER: If I scroll this way --</p> <p>10 MS. PRZYGOCKI: Keep going.</p> <p>11 MS. PRZYGOCKI: All right. So here --</p> <p>12 MR. KLINE: There we go, sir. Thank you.</p> <p>13 Ms. Przygocki, what do we have here?</p> <p>14 MS. PRZYGOCKI: This is the rear of the house. At the</p> <p>15 bottom of the screen or the left side of the photographs is</p> <p>16 the screened in porch. And then there is an open area and</p> <p>17 the lawn, which the screened in porch looks out over.</p> <p>18 MR. KLINE: Thank you. For the hearing examiners, I</p> <p>19 would like to kind of deviate from the normal presentation.</p> <p>20 I wanted you to get familiar with what is there today, but</p> <p>21 since really the big issue here is how this is going to be</p> <p>22 operated, I wanted to reserve Ms. Przygocki to basically</p> <p>23 take you through all the technical issues and whatever</p> <p>24 changes are going to occur by using the site plan later on.</p> <p>25 So I wanted to introduce the user of the property to</p>
38	<p>1 chain-link fence, which is eight feet tall.</p> <p>2 HEARING EXAMINER BAUMGARTNER: And for the record,</p> <p>3 these exhibits are also labeled or captioned as to their</p> <p>4 identity and their location.</p> <p>5 HEARING EXAMINER ROBESON HANNAN: Ms. Przygocki,</p> <p>6 where --</p> <p>7 MS. PRZYGOCKI: Yes.</p> <p>8 HEARING EXAMINER ROBESON HANNAN: I think I heard</p> <p>9 someone say the courts are lit. Where are the lights? Are</p> <p>10 they shown in that picture?</p> <p>11 MS. PRZYGOCKI: There are -- I don't -- let's see.</p> <p>12 HEARING EXAMINER ROBESON HANNAN: If you don't know,</p> <p>13 I'll --</p> <p>14 MS. PRZYGOCKI: I can't see the lights in the picture.</p> <p>15 There are some at the corners of the sport court itself.</p> <p>16 HEARING EXAMINER ROBESON HANNAN: Okay.</p> <p>17 MS. PRZYGOCKI: And they are located on the landscape</p> <p>18 and lighting plan.</p> <p>19 HEARING EXAMINER ROBESON HANNAN: Then I will check</p> <p>20 that. Thank you.</p> <p>21 MR. KLINE: Ms. Robeson, this is Mr. Kline speaking.</p> <p>22 Our landscape architect is going to address the lighting</p> <p>23 plan and that will be made a part of our presentation, but</p> <p>24 it will be a little bit later.</p> <p>25 HEARING EXAMINER ROBESON HANNAN: All right.</p>	40	<p>1 explain to you how it will actually be used. But I realize</p> <p>2 that that is going to take a little while to accomplish</p> <p>3 that testimony. So I would be okay if you wanted to have</p> <p>4 anybody ask questions of Ms. Przygocki on her testimony to</p> <p>5 date so they didn't have to reserve that until a later</p> <p>6 point in time.</p> <p>7 HEARING EXAMINER BAUMGARTNER: That's fine, Mr. Kline.</p> <p>8 We will open it up for questions only to Ms. Przygocki</p> <p>9 about her testimony thus far. Please contain your</p> <p>10 questions or contain your comments to questions only and</p> <p>11 identify yourself for the record before you ask her a</p> <p>12 question.</p> <p>13 Is there anyone that would like to ask a question at</p> <p>14 this point in time?</p> <p>15 MR. SCHERTLER: Yeah, this is Steve Schertler. I had</p> <p>16 my hand raised. For Ms. Przygocki, you mentioned the storm</p> <p>17 water runoff plan. When was that actually done? That</p> <p>18 assessment?</p> <p>19 MS. PRZYGOCKI: That was done with the application for</p> <p>20 the original house was built and they had -- they had to do</p> <p>21 a site plan application. So that was in 2008.</p> <p>22 MR. SCHERTLER: Right. At that time, the property</p> <p>23 directly to the north was forested land. Now it's a large</p> <p>24 asphalt, paved parking lot.</p> <p>25 MR. KLINE: Objection.</p>

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41	<p>1 MR. SCHERTLER: I'm just stating the facts.</p> <p>2 HEARING EXAMINER ROBESON HANNAN: If somebody objects,</p> <p>3 you must stop speaking immediately. What's the basis of</p> <p>4 the objection Mr. Kline?</p> <p>5 MR. KLINE: Sorry. I'm not quickly enough to be able</p> <p>6 to get the hand up. But I guess what I understood was that</p> <p>7 was actually testimony. It didn't sound like it was</p> <p>8 heading in the direction of a question.</p> <p>9 HEARING EXAMINER ROBESON HANNAN: All right. Mr.</p> <p>10 Schertler, it is questions only. So do you -- you are not</p> <p>11 under oath right now. Do you have any -- can you avoid</p> <p>12 describing the property and ask -- just ask the question?</p> <p>13 MR. SCHERTLER: Okay, I will try. Would the change of</p> <p>14 condition of the immediately adjacent property warrant a</p> <p>15 new storm water management study?</p> <p>16 MS. PRZYGOCKI: I can answer that question. Our storm</p> <p>17 water management pertains to any water that would be run</p> <p>18 off generated by our site. So any of the pervious areas</p> <p>19 such as roots, pavement, et cetera. And our storm water</p> <p>20 management plan addresses those infiltrates and those --</p> <p>21 that water. If the applicant for a parking lot next door</p> <p>22 were to -- I'm sure he had to go through a site plan</p> <p>23 process himself as that it is required under the Sandy</p> <p>24 Spring overlay zone, he would have to address any water</p> <p>25 issues that are generated by the additional paving on that</p>	43	<p>1 possibly to the west as well. So in that response, can you</p> <p>2 just provide those distances, keeping in mind that we have</p> <p>3 all of these exhibits in front of us and the site plan</p> <p>4 would have those distances?</p> <p>5 MS. PRZYGOCKI: I'm sorry. Can you repeat the</p> <p>6 question? I don't know what you're specifically looking</p> <p>7 for.</p> <p>8 HEARING EXAMINER BAUMGARTNER: So I can summarize.</p> <p>9 MR. WHITAKER: Oh, I'm sorry.</p> <p>10 HEARING EXAMINER BAUMGARTNER: What are the distances</p> <p>11 between the sport court, the pool, and adjacent properties,</p> <p>12 and I suppose the existing residential portion of the main</p> <p>13 building? What are those distances in feet between those</p> <p>14 structures or those areas and the adjacent properties?</p> <p>15 MS. PRZYGOCKI: So the very -- at the very closest</p> <p>16 point to the property line, the existing house --</p> <p>17 HEARING EXAMINER ROBESON HANNAN: So what exhibit</p> <p>18 are -- Ms. Przygocki?</p> <p>19 MS. PRZYGOCKI: Yes.</p> <p>20 HEARING EXAMINER ROBESON HANNAN: What exhibit are you</p> <p>21 referring to?</p> <p>22 MS. PRZYGOCKI: Well, I'm looking actually at the</p> <p>23 landscape and lighting plan because unfortunately, I don't</p> <p>24 have the existing condition plan in front of me.</p> <p>25 HEARING EXAMINER ROBESON HANNAN: Okay.</p>
42	<p>1 site.</p> <p>2 Ours has been shown to take care of all of the water</p> <p>3 runoff in a way that will not -- will not affect negatively</p> <p>4 any other adjacent properties. It's all handled and</p> <p>5 treated drains from the site.</p> <p>6 HEARING EXAMINER BAUMGARTNER: Does that answer your</p> <p>7 question Mr. Schertler?</p> <p>8 MR. SCHERTLER: I understand what she is saying. I</p> <p>9 just -- yeah, that's fine.</p> <p>10 HEARING EXAMINER BAUMGARTNER: I understand.</p> <p>11 Mr. Whitaker, you had your hand raised. Did you have</p> <p>12 a question for this witness?</p> <p>13 MR. WHITAKER: Yes, my original question back when we</p> <p>14 were discussing, I believe, Exhibit 30E in which the</p> <p>15 engineer was pointing out the boundaries. And my question</p> <p>16 specifically was, can you provide us the distance from the</p> <p>17 adjacent property to the Applicant's property, and</p> <p>18 specifically the basketball court and the actual property</p> <p>19 distance line? Thank you.</p> <p>20 HEARING EXAMINER BAUMGARTNER: So when you asked that</p> <p>21 question, can you -- and perhaps in your response you can</p> <p>22 provide the hearing examiners which properties you are</p> <p>23 referring to. The sport court, the basketball court on the</p> <p>24 rear of the property from the exhibit, there are going to</p> <p>25 be properties to the south and the to the north and</p>	44	<p>1 MS. PRZYGOCKI: The distance is shown, and I believe</p> <p>2 it's also shown on the existing conditions plan if you</p> <p>3 wanted to call that up, is 17.3 feet.</p> <p>4 HEARING EXAMINER ROBESON HANNAN: Just one second.</p> <p>5 One second.</p> <p>6 Mr. Baumgardner, can you pull up the existing</p> <p>7 conditions plan?</p> <p>8 MR. KLINE: This is Jody Kline. And may I suggest you</p> <p>9 actually pull up 30B, which is the site plan, because I'm</p> <p>10 looking at it now and it's got actual dimensions on it and</p> <p>11 that's probably a little bit clearer than the landscaping</p> <p>12 plan might be.</p> <p>13 MS. PRZYGOCKI: Yes, I would recommend that, because</p> <p>14 in the landscape plan, they are there, but they are not as</p> <p>15 dark. So they are not as easy to see.</p> <p>16 HEARING EXAMINER BAUMGARTNER: So I'm showing Exhibit</p> <p>17 30B, zooming in so that folks can see, hopefully see</p> <p>18 dimensions that are listed.</p> <p>19 MS. PRZYGOCKI: Yeah, it would be 30E.</p> <p>20 HEARING EXAMINER ROBESON HANNAN: Well, wait, Mr.</p> <p>21 Kline just said 30B.</p> <p>22 MS. PRZYGOCKI: All right. We can use 30B.</p> <p>23 HEARING EXAMINER ROBESON HANNAN: Use something so we</p> <p>24 can move on.</p> <p>25 MS. PRZYGOCKI: All right. This is fine. If we -- so</p>

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12 (45 to 48)

<p>45</p> <p>1 if you want to --</p> <p>2 MR. WHITAKER: Can I object? Because the original,</p> <p>3 and I wrote this down specifically. The original exhibit,</p> <p>4 and that was one that I called in my question was 30E.</p> <p>5 HEARING EXAMINER ROBESON HANNAN: Who's speaking? Who</p> <p>6 is speaking? Mr. Whitaker?</p> <p>7 MR. WHITAKER: I'm sorry. Yes, I am. This is Mr.</p> <p>8 Whitaker.</p> <p>9 HEARING EXAMINER ROBESON HANNAN: Okay. Then we</p> <p>10 will -- let's put up 30E.</p> <p>11 MR. WHITAKER: That was the specific exhibit.</p> <p>12 MS. PRZYGOCKI: I believe you are on it. This is the</p> <p>13 existing conditions plan.</p> <p>14 HEARING EXAMINER BAUMGARTNER: So folks, so this is</p> <p>15 30E. This is the exhibit in the record.</p> <p>16 HEARING EXAMINER ROBESON HANNAN: Thank you.</p> <p>17 HEARING EXAMINER BAUMGARTNER: As far as I can tell,</p> <p>18 this has dimensions. We are going to go off this. So</p> <p>19 please describe the distances for adjacent properties from</p> <p>20 this exhibit, which is 30E.</p> <p>21 MS. PRZYGOCKI: All right. So if we go toward the --</p> <p>22 toward Norwood Road, which is toward the east, there is a</p> <p>23 distance from the property to the closest corner of the</p> <p>24 house to the adjacent property. That is where it says</p> <p>25 existing bamboo. There is bamboo all along that property</p>	<p>47</p> <p>1 HEARING EXAMINER BAUMGARTNER: Okay. Thank you.</p> <p>2 Were there any other questions for this witness?</p> <p>3 MALE VOICE: What is it? What are they talking about?</p> <p>4 MR. SCHERTLER: I have one quick one.</p> <p>5 HEARING EXAMINER BAUMGARTNER: And what is your name,</p> <p>6 sir?</p> <p>7 MR. SCHERTLER: Steve Schertler.</p> <p>8 HEARING EXAMINER BAUMGARTNER: Okay. What's your</p> <p>9 question?</p> <p>10 MR. SCHERTLER: When was the last time you went and</p> <p>11 walked through this property?</p> <p>12 MS. PRZYGOCKI: I have been there many times. The</p> <p>13 last time I went I think was earlier this spring. Let me</p> <p>14 think. I went -- actually, I went in the summer because I</p> <p>15 was checking the height of the light bulbs. So it was this</p> <p>16 summer.</p> <p>17 HEARING EXAMINER BAUMGARTNER: And any other</p> <p>18 questions?</p> <p>19 MS. PRZYGOCKI: And I can find the exact date if you</p> <p>20 need it. I have the exact date. If it's deemed</p> <p>21 relevant -- I don't see the relevance, but I can find it.</p> <p>22 MR. SCHERTLER: Well, I guess my follow-up would be</p> <p>23 you mentioned bamboo. There is no bamboo there.</p> <p>24 HEARING EXAMINER ROBESON HANNAN: Well, you can't --</p> <p>25 you can get the chance to say that later, but not now.</p>
<p>46</p> <p>1 line. And at the end right there is the distance which is</p> <p>2 17.3 feet, 17.3 from the property line to the house.</p> <p>3 That's at the very closest point.</p> <p>4 There is a distance to the pool that is located just</p> <p>5 south of the pool there, that distance is 13 feet. The</p> <p>6 distance to the shed is 13-1/2 feet, 13.6. And I don't</p> <p>7 have a label on the sport court, but it is roughly about</p> <p>8 the same. It's about 13 feet. If you look at the line,</p> <p>9 the dash line there.</p> <p>10 HEARING EXAMINER ROBESON HANNAN: And this is the</p> <p>11 southern property line, correct?</p> <p>12 MS. PRZYGOCKI: There is a minimum 13 foot side yard</p> <p>13 setback there, and so --</p> <p>14 HEARING EXAMINER ROBESON HANNAN: Well, can you just</p> <p>15 answer my question? You're referring to the southern</p> <p>16 property line, correct?</p> <p>17 MS. PRZYGOCKI: Yes.</p> <p>18 HEARING EXAMINER ROBESON HANNAN: All right, go ahead.</p> <p>19 MS. PRZYGOCKI: The dashed line that is parallel to</p> <p>20 the southern property line is the setback line and that is</p> <p>21 13 feet. So the sport court is just over 13 feet from the</p> <p>22 adjacent property.</p> <p>23 HEARING EXAMINER BAUMGARTNER: And does that answer</p> <p>24 your question, Mr. Whitaker?</p> <p>25 MR. WHITAKER: Yes sir, it does. Thank you.</p>	<p>48</p> <p>1 Okay? So your question was; when was the last time. She</p> <p>2 said summer. So when it's your turn -- these are</p> <p>3 particular rules that you guys are doing a great job</p> <p>4 following them and using the hand feature.</p> <p>5 But you can save that for your -- if you want to</p> <p>6 phrase it in the form of a question, you can do it that</p> <p>7 way. But we are not going to testify to existing</p> <p>8 conditions right now, thanks.</p> <p>9 And I want to say, you are very good at the hand</p> <p>10 feature.</p> <p>11 HEARING EXAMINER BAUMGARTNER: Are there any more</p> <p>12 questions for this witness? Okay.</p> <p>13 Mr. Kline.</p> <p>14 MR. KLINE: Thank you. We would like to reserve Ms.</p> <p>15 Przygocki to come back and walk through the zoning</p> <p>16 ordinance compliance issues. But could I call is our next</p> <p>17 witness Mr. Carylton Ganong.</p> <p>18 HEARING EXAMINER BAUMGARTNER: Mr. Ganong, are you</p> <p>19 there?</p> <p>20 MR. GANONG: Yes, I'm here.</p> <p>21 HEARING EXAMINER BAUMGARTNER: All right. Do you have</p> <p>22 a video function, sir?</p> <p>23 MR. GANONG: It's -- I do. For some reason I can't</p> <p>24 get the video to turn on at the moment. So I'm trying to</p> <p>25 figure out --</p>

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13 (49 to 52)

<p>49</p> <p>1 HEARING EXAMINER ROBESON HANNAN: While he figures 2 that out, Mr. Kline, do you have another witness? 3 MR. KLINE: Well, as I said, I kind of interrupted Ms. 4 Przygocki because I thought it was important for you to 5 understand operational issues before we got into the zoning 6 ordinance compliance. So it would -- I would rather take a 7 brief recess and see what we could do with Mr. Ganong 8 rather than -- because it would not be the flow of the 9 presentation I wanted to achieve. 10 HEARING EXAMINER BAUMGARTNER: So Mr. Ganong, are you 11 on a laptop? I think he is off. He might be logging back 12 in. So we will give him about two minutes. And then if we 13 need a brief two minute recess after that to figure out the 14 technical issue, we will do so, or else we will have to 15 move on. 16 And we have Mr. Ganong back. Let's see if -- that you 17 are, sir. We see you. Do you see us? 18 MR. GANONG: Yes. 19 HEARING EXAMINER BAUMGARTNER: Could you raise your 20 right hand, please? 21 And sir, do you swear or affirm the penalty of perjury 22 that the testimony about to you is the true, the whole 23 truth and nothing but the truth? 24 MR. GANONG: I do. 25 HEARING EXAMINER BAUMGARTNER: Please state your full</p>	<p>51</p> <p>1 School? 2 MR. GANONG: Yes. 3 MR. KLINE: Would you just briefly describe what I 4 would call the nature and character of the residents living 5 at the house who are also enrolled at the school? 6 MR. GANONG: Yes. So currently in the building, we 7 only have a few students there just due to the current 8 pandemic. However, I will describe a little bit more of 9 how we've used in the prior year. We have eight students 10 that live there. And we have -- one of our dorm 11 supervisors is -- stays overnight in the facility when the 12 students are there. Is that enough or are you looking more 13 about the overall operation? 14 MR. KLINE: I will give you a chance to describe that 15 kind of when we get to the -- walking through a day at the 16 facility. But the application is for a maximum of 16 17 residents. Do you anticipate that will always be at that 18 enrollment or that residency occupancy? 19 MR. GANONG: That I don't know, only because it 20 depends on the student population year-to-year. You know, 21 it's -- ideally we would probably have 14 students in there 22 and I could see it moving somewhere between 12 and 16, 23 depending on the student body that year. 24 MR. KLINE: And you said that you have been using it 25 for up to two year -- I'm sorry. I'm trying to remember</p>
<p>50</p> <p>1 name, spelling your last name, and your professional 2 address. 3 MR. GANONG: My name is Carylton Ganong. My first 4 name is spelled different. So I'm going to spell that too. 5 It's; C-A-R-Y-L-T-O-N. Last name, Ganong; G-A-N-O-N-G. 6 I'm the chief financial officer of Sandy Spring Friend 7 School at 16923 Norwood Road, Sandy Spring, Maryland. 8 HEARING EXAMINER BAUMGARTNER: Mr. Kline, your 9 witness. 10 MR. KLINE: Mr. Ganong, and you're testifying today as 11 a spokesman on behalf of Sandy Spring Friends School; is 12 that correct? 13 MR. GANONG: Yes, it is. 14 MR. KLINE: Would you please describe Friends School's 15 relationship or association, better description, with Redly 16 Capital and this pending conditional use application? 17 MR. GANONG: Yes. Redly Capital owns the facility and 18 we are the leasee. Sandy Spring Friend School is the 19 leasee. 20 MR. KLINE: So you are currently a tenant in the 21 building? 22 MR. GANONG: We are. We have been a tenant in the 23 building for little bit more than two years now. 24 MR. KLINE: And is it the intention for Norwood House 25 to be used as a residence for students enrolled at Friends</p>	<p>52</p> <p>1 how long. But as up to eight residents as a matter of 2 right. How long has that period been? 3 MR. GANONG: It's been two years now. This is the 4 third school year that we're using the facility. 5 MR. KLINE: All right. And you indicated because of 6 Covid-19, its usage has been somewhat limited. Or what's 7 the situation since March of this year? 8 MR. GANONG: Yes. So speaking more toward Sandy 9 Spring's principal operation, we shut our doors down in 10 March of this prior year and sent the students home. We 11 reopened this current fall, in September with limited 12 capacity for the students. So not all of our dorm students 13 have returned at this time. 14 MR. KLINE: Okay. Do you -- does the school have an 15 estimated time period when you believe Norwood House will 16 reach a higher occupancy than whatever it is today or in 17 the imminent future? 18 MR. GANONG: Our current plan is to open the school 19 back up in January. So currently we are in a mostly 20 virtual mode. We do have some students on campus and some 21 boarding students, but most of the learning is online. 22 MR. KLINE: All right. Could you just walk us through 23 a typical day? You know, alarm clocks go off in the 24 morning and what time they go to bed at night so we have an 25 understanding of what the level of activity, the comings,</p>

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<p>53</p> <p>1 and goings at this facility relative to the school?</p> <p>2 MR. GANONG: Sure. Last year when we were using it,</p> <p>3 we were using it for our five day students. So the</p> <p>4 students would arrive, some but not all, Sunday night.</p> <p>5 Some wouldn't come back in until Monday night after the end</p> <p>6 of school. But in the typical day, everybody is waking up</p> <p>7 in the morning and there is a shuttle from the facility</p> <p>8 over to our campus. Our campus is just down the road on</p> <p>9 Norwood Road. So all the students leave during the day.</p> <p>10 The facility is empty because all of our daily</p> <p>11 programs are on campus. So breakfast for them is on</p> <p>12 campus. All of their class is on campus, lunch. At the</p> <p>13 end of a regular school day, there is a shuttle back for</p> <p>14 students who would like to go back and aren't necessarily</p> <p>15 participating in sports. But then there is a shuttle back</p> <p>16 prior to dinner. So at 5:30 a shuttle then comes back to</p> <p>17 campus bringing any students that are at the facility for</p> <p>18 evening meals and evening study times.</p> <p>19 And then they return to the facility at about 7:30</p> <p>20 p.m. 7:30 to 9:30 is their additional study time or</p> <p>21 relaxation.</p> <p>22 MR. KLINE: Okay. So two questions of -- I was going</p> <p>23 to say clarification, but probably more of elaboration.</p> <p>24 That initial departure in the morning is at what time?</p> <p>25 MR. GANONG: Approximately 7:30.</p>	<p>55</p> <p>1 the house out in front. Can you give us a little bit more</p> <p>2 detail about who that person is and the administrative</p> <p>3 structure at the school?</p> <p>4 MR. GANONG: Sure. So the front home, we currently</p> <p>5 have our middle school head of school, living there with</p> <p>6 his family. And then in the one-bedroom apartment that's</p> <p>7 above the garage is a dorm supervisor. They are not</p> <p>8 necessarily the ones that are assigned to be taken care of</p> <p>9 the students all the time because we do have other dorm</p> <p>10 staff that would be coming and going in the facility</p> <p>11 itself.</p> <p>12 MR. KLINE: I guess I should have asked this question</p> <p>13 earlier, but will students have their own personal</p> <p>14 vehicles?</p> <p>15 MR. GANONG: No.</p> <p>16 MR. KLINE: Fine. The staff report has a condition of</p> <p>17 a maximum of 16 residents and four employees on site at any</p> <p>18 one time. For what purposes -- well, let me rephrase. How</p> <p>19 many employees would be in the house, and for what purposes</p> <p>20 would they be there?</p> <p>21 MR. GANONG: You know, we do provide housekeeping</p> <p>22 services so there could be --</p> <p>23 HEARING EXAMINER ROBESON HANNAN: Mr. Kline, I'm sorry</p> <p>24 to interrupt. With the school -- or would the Applicant</p> <p>25 agree to a condition that residents -- no residents have</p>
<p>54</p> <p>1 MR. KLINE: All right. And --</p> <p>2 MR. GANONG: I mean -- it doesn't -- oh, the only</p> <p>3 clarification I would give there; it gives all students.</p> <p>4 We have because we have -- because we have a 60 bed dorm on</p> <p>5 our campus, we have a health center and even during regular</p> <p>6 times we have a quarantine facility. So if a student was</p> <p>7 sick, they actually wouldn't stay at that facility. During</p> <p>8 the day they would come on campus because we have nurses on</p> <p>9 campus.</p> <p>10 MR. KLINE: Thank you. And you used the term shuttle.</p> <p>11 I think we probably need an explanation of what is the kind</p> <p>12 of vehicle that is used to transport the students back and</p> <p>13 forth from campus to the house.</p> <p>14 MR. GANONG: Twelve passenger vans.</p> <p>15 MR. KLINE: So they are 16 seat passenger vans?</p> <p>16 MR. GANONG: No, they are -- it's 12 passenger vans.</p> <p>17 Or they are 14. But we have two vans. Currently the</p> <p>18 family that lives in the front house will drive a van. But</p> <p>19 there is also a dorm supervisor that would be staying there</p> <p>20 overnight that would operate a second vans should we need</p> <p>21 it.</p> <p>22 MR. KLINE: I see. Thank you. With regard to</p> <p>23 staffing, the staff report goes into some detail about the</p> <p>24 personnel that is there. I would like you to just kind of</p> <p>25 elaborate on that. You just mentioned the person living in</p>	<p>56</p> <p>1 cars at the facility?</p> <p>2 MR. KLINE: I don't know why we wouldn't. I would</p> <p>3 have to consult the client about that, but I'm not so sure</p> <p>4 that's not a school anyway.</p> <p>5 HEARING EXAMINER ROBESON HANNAN: I'm just asking the</p> <p>6 question.</p> <p>7 MR. KLINE: Yeah, I think that's a reasonable request</p> <p>8 and we can get you an answer on that. But I think that's</p> <p>9 doable.</p> <p>10 Mr. Ganong, let me just ask you, do you have a rule</p> <p>11 that students at Friends School do not have personal</p> <p>12 vehicles?</p> <p>13 MR. GANONG: Dorm students do not have vehicles on</p> <p>14 campus.</p> <p>15 MR. KLINE: So we probably can do that, Ms. Robeson.</p> <p>16 HEARING EXAMINER ROBESON HANNAN: Well, I'm just</p> <p>17 raising that possible restriction.</p> <p>18 MR. KLINE: I see.</p> <p>19 HEARING EXAMINER ROBESON HANNAN: And both sides can</p> <p>20 weigh in on that.</p> <p>21 MR. KLINE: I understand. So going back to the</p> <p>22 question I asked Mr. Ganong about you indicated that there</p> <p>23 could be as many as four employees there, and can you just</p> <p>24 explain who they are and what they're doing? And whether</p> <p>25 you think there will be four at any given time.</p>

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15 (57 to 60)

<p>57</p> <p>1 MR. GANONG: So, you know, the other employees that 2 would be on campus -- you know, we have quite a large 3 campus already and we have 140 acres. We have well over 4 200,000 square feet of building space on campus so we have 5 a large maintenance department. So we also help maintain 6 the property so there could be two maintenance facility 7 employee over there working on the house. 8 Generally all of that would be happening during the 9 day when the students aren't there. When students are 10 there, you know, generally it's going to be at least one 11 supervisor with them. Judging on the number of students 12 there it might be two. And there is always the opportunity 13 that we would bring over, maybe, a learning specialist or a 14 tutor. 15 MR. KLINE: You heard the question Monday evening -- I 16 got 16 teenagers living together and you've only got one 17 person in there? How does that work? 18 MR. GANONG: So the -- you know, we already operate a 19 60 bed dorm so we know how to manage the students. I'm not 20 know -- well, I don't know that it would always just the 21 one student -- I'm sorry, one employee for 16 students. 22 You know, getting much beyond 12 we might have 2. But we 23 always have the two employees at that live in the adjacent 24 buildings too. So it's not like and if there is only one 25 supervisor in the building with, say 12 students, there's</p>	<p>59</p> <p>1 MR. KLINE: Sure. Well, apropos of that, or a follow- 2 up to that is what regular deliveries are you aware of that 3 occur, except for something spontaneous, maybe a student 4 would have generated? 5 MR. GANONG: So outside of, well you're talking about 6 maybe a pizza delivery or something like that. All 7 deliveries have to happen on our campus itself. So any 8 package deliveries for students, even if they're expecting 9 mail, to our campus at 16923 Norwood Road. As well as -- 10 you know, if say filters for the HVAC system are going to 11 be delivered. They wouldn't be delivered to the property 12 that we're talking about in the Application. They would be 13 delivered to the school. 14 MR. KLINE: Okay. Do you know what dates or times 15 there's garbage and trash pickup? 16 MR. GANONG: I do not know off the top of my head. We 17 do pay for garbage pickup, but I do not know what days of 18 the week that is. I believe there's two days. It's one or 19 two days a week is garbage pickups. 20 MR. KLINE: Mr. Ganong, you had a chance to read 21 technical staff report's recommendation and the Planning 22 Recommendations to the hearing examiners? 23 MR. GANONG: I did. 24 MR. KLINE: Okay. And there are five conditions 25 listed in there. Is the school comfortable, and will</p>
<p>58</p> <p>1 still another dorm supervisor that lives in the adjacent 2 building, plus the middle school head of school that lives 3 in the adjacent building. 4 MR. KLINE: The bottom line is if there's any students 5 sleeping in the building there is a supervisor sleeping in 6 the building; is that correct? 7 MR. GANONG: That is correct. 8 MR. KLINE: Thank you. You alluded to the meal 9 treatment, but explain how meals are provided to the 10 students because we have a kitchen in this house how is it 11 used and -- but walk me through the meal treatment. 12 MR. GANONG: So all student meals are on campus the 13 kitchen is the use to prepare food for the students. 14 Outside of having available snack, all meals are on campus. 15 MR. KLINE: Fine. So apropos of that -- 16 MR. GANONG: I will actually jump in and say -- 17 there's one thing. That's not to say that there wouldn't 18 necessarily be some special evening event where maybe 19 there's a barbecue are some type of special meal that might 20 be produced there once in a while. But it's certainly not 21 going to be the norm 22 MR. KLINE: But there are the delivery boxes lying 23 around the kitchen, aren't there? 24 MR. GANONG: Yes, food could be delivered to the 25 facility.</p>	<p>60</p> <p>1 accept all the conditions recommended by staff and the 2 Planning Board? 3 MR. GANONG: Yes, we would. 4 MR. KLINE: You've heard a couple of additional 5 conditions kind of floating here today. Did you have any 6 observations about either one of those? 7 MR. GANONG: No. I don't recall having objection to 8 them. 9 MR. KLINE: Okay. Fine. During our video conference 10 with some of the neighbors on Monday evening, there was a 11 dialogue about how to try and improve the communication 12 between the neighborhood and the school, and Redly. Would 13 you please provide the hearing examiners reference about 14 how to have more outreach efforts as it relates to Norwood 15 House? 16 MR. GANONG: Sure. Ideally I would see the way to 17 improve community relations with designate somebody at our 18 school, be it myself or another had administrator to have 19 our information available to the communities so they can 20 contact us if they have any issues. 21 MR. KLINE: So in your testimony, you've indicated 22 that boarding students has been a part of the culture at 23 Friends School years. So in that context, with that 24 background, in your opinion as the administrator of a 25 private school with a boarding component, do you believe</p>

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16 (61 to 64)

<p>61</p> <p>1 that the proposed use of Norwood House can be conducted and 2 will not cause any disruption of the neighborhood like 3 traffic, noise, odors, dust, illumination, or lack of 4 parking? 5 MR. GANONG: Yes, I believe that Sandy Springs Friends 6 School would be able to be a good neighbor. We have been 7 part of the community since 1959 I think is when we 8 originally were launched by Esther Scott giving the land to 9 the school. And we've been operating since 1961 and our 10 goal in all of this is to remain a good community member. 11 So if somebody in the community would come forward to me 12 and say, you know, this is happening in this is happening, 13 we would want to try and address it. 14 MR. KLINE: To the best of your knowledge, has the 15 operation of the facility with eight people as a matter of 16 right, and that brought to the school's attention any 17 objections or concerns by the neighborhood of its 18 operation? 19 MR. GANONG: I have not received any information of 20 such, and I've asked our administrative council the same 21 question, and no information was returned to me about any 22 complaints that have ever been received. 23 MR. KLINE: So sort of reiterate, on the earlier 24 question, based on your experience on the main campus and 25 your previous experience with this facility, do you believe</p>	<p>63</p> <p>1 So the question, you said you already had -- been 2 under lease for two years. What is the term of the current 3 lease? When does the current lease expire? 4 MR. GANONG: Our lease has -- 5 MR. KLINE: Can I raise an objection, please? Or ask 6 the relevance of that question? 7 HEARING EXAMINER BAUMGARDNER: Yes. 8 MR. LOWE: I mean my relevance for asking it is if 9 we're going to get this conditional approval now, when will 10 this come up again? How long is Sandy Spring Friends 11 School going to continue with this relationship to use this 12 facility under the current lease? 13 MR. KLINE: I withdraw my objection. It's a valid 14 question. 15 MR. GANONG: So we only have one year left in current 16 lease. However, we see this as a long-term facility for 17 the school. As the chief financial officer couple types of 18 budget models that I worked with, but the one is a 10-year 19 budget model, and this facility is in that budget model. 20 MR. LOWE: Okay. Thank you. 21 HEARING EXAMINER BAUMGARDNER: Did you have any other 22 questions, Mr. Lowe? 23 MR. LOWE: No, that was fine. Thank you. 24 HEARING EXAMINER BAUMGARDNER: All right. Our next 25 hand is Mr. Whitaker.</p>
<p>62</p> <p>1 that increasing the enrollment from 8 to 16 -- up to 16 2 would have an adverse effect on surrounding area? 3 MR. GANONG: I do not believe it would have an adverse 4 effect on the surrounding area. 5 MR. KLINE: Well, I have no further questions of Mr. 6 Ganong and he's available for cross-examination. 7 HEARING EXAMINER BAUMGARDNER: Opening it to folks 8 from the community, or anyone else who has been -- are 9 there any questions for Mr. Ganong about the testimony he 10 just provided? 11 So going in order of the and I see up on my screen, 12 will start with Mr. Lowe. Are you there Mr. Lowe? 13 MR. LOWE: I am, thank you. 14 HEARING EXAMINER BAUMGARDNER: Is your screen 15 available? Oh, there you are, sir. 16 MR. LOWE: I'm there. Okay. 17 HEARING EXAMINER BAUMGARDNER: Can you raise your 18 right hand, please? Actually, I'm sorry, you're not 19 testifying, you're asking questions. 20 MR. LOWE: I thought there was a difference. 21 HEARING EXAMINER BAUMGARDNER: No, you're right. 22 You're correct. I'm jumping ahead of myself. What is your 23 name, sir? 24 MR. LOWE: Harold Lowe, L-O-W-E. And I'm the 25 president of the Bancroft Homeowners Association.</p>	<p>64</p> <p>1 MR. WHITAKER: Yes. Mr. Ganong, I think you stated 2 that there are no deliveries currently at the property -- 3 the Applicant's property now? Are you sure that FedEx, and 4 UPS, and other types of deliveries aren't being generated 5 at that property? Are you stating that any time a student 6 orders something online that all of those particular 7 packages are being delivered to your school campus and then 8 transitioned over to the student? 9 MR. GANONG: As to the packages, yes. I cannot speak 10 to the -- what happens with packages for the family that 11 live -- the family that lives in the front residence, or to 12 the dorm supervisor. We do not require that their packages 13 or mail to be delivered to campus. The students' mail and 14 the student packages we do require to be delivered to our 15 campus. 16 HEARING EXAMINER BAUMGARDNER: Moving on. 17 HEARING EXAMINER ROBESON HANNAN: The -- well, I've 18 got a question about that. Does that include pizza 19 deliveries? 20 MR. GANONG: It wouldn't. So if the dorm supervisor 21 on duty orders pizza for the students the food deliveries 22 would be delivered to the facility. 23 HEARING EXAMINER ROBESON HANNAN: But can the students 24 individually order pizza? 25 MR. GANONG: They're not supposed to without the dorm</p>

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17 (65 to 68)

<p>65</p> <p>1 supervisor's knowledge. That -- and I can't answer to 2 whether they would or not because of course they can. And 3 then, you know, they would just get in trouble for doing 4 so. 5 HEARING EXAMINER ROBESON HANNAN: All right. Thank 6 you. 7 HEARING EXAMINER BAUMGARDNER: And it looks like our 8 next hand is Mr. Eric Bailey. 9 MR. BAILEY: Yes, I live in one of the properties 10 directly adjacent to this property. Mr. Ganong, you 11 testified that number of residents I believe your counsel 12 asked -- could it go beyond 16. And you essentially said 13 it could. 14 HEARING EXAMINER BAUMGARDNER: So Mr. Bailey, and I 15 will certainly let Mr. Ganong answer this question, but the 16 testimony that I recall was that -- and this use is for a 17 maximum of 16 residents, and that there might have on-site 18 up to 4 individuals. 19 Is that correct, Mr. Ganong? 20 MR. BAILEY: Maybe I misheard because his answer 21 actually said it could. He wasn't sure. 22 HEARING EXAMINER BAUMGARDNER: All right. 23 MR. BAILEY: It's not unequivocally say that there was 24 just seen. In addition, he mentioned that there were dorm 25 supervisors, plus the family that lives in the front of the</p>	<p>67</p> <p>1 there staying overnight. And that there could be other 2 employee that are there during the day. There would not be 3 20 people living that facility. 4 HEARING EXAMINER BAUMGARDNER: Okay. Mr. Bailey, does 5 that answer your question? 6 MR. BAILEY: Yes it does. I do have a second 7 question. 8 HEARING EXAMINER BAUMGARDNER: Sure. 9 MR. BAILEY: Mr. Ganong, you also testified that right 10 now you have -- well, you estimated about a year left on 11 your current lease? Am I right about that? 12 MR. GANONG: Yes, the -- it's not that the year left. 13 The lease goes through -- I can't remember off the top of 14 my head, I believe August of 2021. 15 MR. BAILEY: But you also mentioned that 10-year 16 forecast as the CFO, you anticipate continuing this 17 project? 18 MR. GANONG: Correct. 19 MR. BAILEY: Would you be willing to go on record to 20 say that you guys would be willing, as a part of the 21 conditions, to sign a 10 or 15-year lease, which would 22 limit who the new tenant would be in the property? 23 MR. GANONG: I cannot speak to what the owner will 24 offer us for a lease. I think that's obviously beyond 25 anything that I would be able to do here. I can only offer</p>
<p>66</p> <p>1 house, and maybe some occasional maintenance or support 2 people. So by my count, we're already up to well over 20 3 people who could it be on that property at any one time; am 4 I correct? 5 MR. GANONG: I'm happy to clarify my testimony on this 6 one. So there are three different units that we're talking 7 about here. There is a front house that a family is in. 8 MR. BAILEY: And how many residents are there in that 9 family? 10 HEARING EXAMINER BAUMGARDNER: So folks, we're not 11 going to crosstalk so Mr. Ganong, if you can finish your 12 response to Mr. Bailey's question about the number of 13 residents in the residential portion, or the housing 14 portion, and then the number of proposed students in the 15 space at that we're talking about, and then the total 16 number of staff that may be on the site at any given time. 17 MR. GANONG: Yes. So the -- in the residence we would 18 never have more than 16 students and there. And that's 19 what the whole conditional use piece is talking about, is 20 the number of students that can be there. We would never 21 go beyond the 16. I never said that we go beyond 16. I 22 said more than likely we would be in the 12 to 14 range. I 23 could see us going up to 16 students there. There would be 24 the employees that can also be there. Generally, there is 25 going to be at least one dorm supervisor it's going to be</p>	<p>68</p> <p>1 up what the school's intentions are at that point. 2 MR. BAILEY: If he did offer, would you sign a 10-year 3 lease? 4 MR. GANONG: Yes. The school would sign a 10-year 5 lease. 6 MR. BAILEY: No further questions. 7 HEARING EXAMINER BAUMGARDNER: All right. And last, 8 but not least, had a Dr. Daryl Thorne with a question. Dr. 9 Thorne, are you there? 10 DR. THORNE: I'm here and you can see my face. So I'm 11 trying to keep it as a question that makes sense. So based 12 on the students, Mr. Ganong, that you mentioned, and that 13 have described in some of the paperwork, the level of 14 supervision and the number of adults who would be there, 15 specifically overnight, is there a possibility that number 16 can increase based upon the description of the students as 17 their coming from a therapeutic setting into Sandy Springs 18 Friends School? 19 And when I get to the testimony part, I'll share all 20 of my criteria, but based on what you shared, what is the 21 schools thought process about that in relationship to this 22 of being a quote/unquote residential care facility with the 23 students identified to be there? As they, in this 24 document, are not necessarily the historic type of students 25 that you guys work with.</p>

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18 (69 to 72)

<p>69</p> <p>1 MR. GANONG: So the staffing that we will have there 2 will be based off of the student populations that are 3 there. We do have several different type of counselors 4 that work there, and learning specialists and whatnot. 5 However, for the dorm staff that need to be there while the 6 students are there, we will have the appropriate level of 7 staffing or that. You know, if it does have to be two, or 8 three students -- excuse me. Sorry. Two or three dorm 9 employees that are in the facility we would have that. 10 Again, well within the parameters of what the conditional 11 use allows. 12 DR. THORNE: Could I have a follow up with that? Does 13 that also imply within the -- for the needs of the actual 14 students, not that means of the condition -- of the 15 facility, but the students? 16 MR. GANONG: Thank you for that. Yes. So as I spoke 17 before to this group, you know, the interests of Sandy 18 Springs Friends School is around the students and to get 19 the best outcome are going to do what we deem best for the 20 students, so if -- I spoke to the conditional use only 21 because that's the piece that we are talking with right 22 here. 23 DR. THORNE: Yeah, and we're -- yes. But there's 24 more -- I'll wait for the testimony but thank you. Thank 25 you.</p>	<p>71</p> <p>1 students have been diagnosed with a behavioral and social, 2 and emotional disorder as described in your Application? 3 Is that a current mission, or role of the school? 4 MR. GANONG: Yes. So we do have students fall into 5 this. And when they are beyond what our current facility 6 can manage, we work with other schools in the region for 7 them to in there for a period of time until they could come 8 back to our school. 9 MR. WHITAKER: Are you currently boarding students 10 that fit that profile? 11 MR. GANONG: So the reason I hesitate to answer that 12 is we only have about 11 students on campus right now 13 because of the current pandemic. 14 MR. WHITAKER: So you're saying prior to the pandemic 15 or not boarding students that fit this profile? 16 MR. GANONG: I never said that. 17 HEARING EXAMINER ROBESON HANNAN: I think his question 18 was have you boarded students of that fit the profile of 19 the students you want to put in this facility. Has Sandy 20 Spring done that? 21 MR. GANONG: I responded -- I'm sorry. I thought I 22 was clear and responded yes to that. 23 HEARING EXAMINER BAUMGARDNER: All right. Seeing no 24 other hands raised, or questions, we will turn it back to 25 you Mr. Kline, for any redirect or further matters.</p>
<p>70</p> <p>1 HEARING EXAMINER BAUMGARDNER: And so Mr. Ganong, just 2 very quickly, as Sandy Springs Friends School, you're 3 required under state county law to operate fully licensed 4 for any operation that you will be conducting, correct? 5 MR. GANONG: Correct. There's a couple of different 6 state regulations that we already operate under that we 7 already are -- I can't think right term. Inspected for. 8 HEARING EXAMINER BAUMGARDNER: Sure. So the grant, or 9 the denial of the conditional use would not be relevant to 10 the ongoing licensing have to comply with anyways? 11 MR. GANONG: Correct. 12 HEARING EXAMINER BAUMGARDNER: I just wanted to 13 clarify that for folks who are on the line that the land 14 use piece of this is separate from any state or county 15 licensing through the State Department of Education or the 16 health department. 17 And so going through other questions and you're your 18 question is asked, if you can put your virtual hand down, 19 that just lets me know that you have finished your 20 testimony -- or your question. 21 Were there any other questions of this witness? 22 MR. WHITAKER: Yes, I have one. Mr. Whitaker here. 23 HEARING EXAMINER BAUMGARDNER: Yes, sir. 24 MR. WHITAKER: I have one last -- and for the witness. 25 Does Sandy Springs School, are you all currently boarding</p>	<p>72</p> <p>1 MR. KLINE: No redirect. Thank you. 2 HEARING EXAMINER BAUMGARDNER: All right. Thank you 3 Mr. Ganong. 4 Your next witness, Mr. Kline? 5 MR. KLINE: I go back to Ms. Pryzgoski. I just 6 thought maybe I'd ask -- we've been asked this for a while. 7 Do we need to take a break for any reason, or just continue 8 on? 9 HEARING EXAMINER BAUMGARDNER: Looking at the rest of 10 our day, I was going to suggest we do a lunch break at 11 12:30. How many more witnesses do you have after your next 12 witness, Mr. Kline? 13 MR. KLINE: There are -- I guess I would say 2-1/2. 14 Ms. Pryzgoski, Mr. Hoffman the civil engineer, and Mr. Park 15 the landscape architect. Those in -- in the last two 16 fairly quick. Ms. Pryzgoski probably have some duration to 17 her testimony. 18 HEARING EXAMINER BAUMGARDNER: Okay. I'll tell you 19 what. Let's take a five-minute break and it's a -- by my 20 clock it's 11:12, so let's and do an eight minute break 21 let's reconvene at 11:20 a.m. and we will continue with the 22 direct exam of Ms. Pryzgoski. 23 MR. KLINE: Thank you. 24 HEARING EXAMINER BAUMGARDNER: Okay, we will recess 25 for 8 minutes until 11:20 a.m.</p>

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19 (73 to 76)

73	1 (Recess) 2 HEARING EXAMINER BAUMGARDNER: All right, folks. We 3 are going to reconvene this case. Let's see if we we're 4 all back. We have Ms. Evans, our court reporter. 5 All right everyone, we are back on the record. The 6 reporting has been restarted. This is the Montgomery 7 County Office of Zoning and Administrative Appeals. We are 8 hearing -- this is a public hearing and we are hearing a 9 conditional use case, OZAH case number CU 20-06. We left 10 off with the direct testimony of the Applicant land 11 planner, Ms. Pryzgoski. 12 Let me make sure we have everyone else back on. It 13 looks like everyone is here. 14 Mr. Kline, I'll turn it back to your witness. 15 MR. KLINE: Thank you. Ms. Pryzgoski, please be 16 reminded that you have been sworn. 17 I asked you to kind of walk through what are the 18 existing conditions. Are there any physical changes that 19 will occur on the property as a result of the 20 implementation of the proposed conditional use? 21 MS. PRYZGOSKI: Yes, there will be very few changes 22 that -- the Applicant will be providing additional 23 landscaping there will be no changes to the existing 24 structures. No changes to the parking lot. The only 25 additional will be the addition of additional screening	75	1 the floor is yours. 2 MR. KLINE: Ms. Pryzgoski, I understood you to say 3 that one of the few changes are the installation of a bike 4 rack. Can you show where that's to be located and give us 5 the details on that? 6 MS. PRYZGOSKI: You know what, I'm sorry. This 7 exhibit does not show the bike rack because it was not 8 originally proposed because were less than 20 residents -- 9 oh, there is. Okay. When we amended the application we 10 added a bike rack at the recommendation of the planning 11 staff. Okay. I guess it just took a while to load. 12 HEARING EXAMINER BAUMGARDNER: Yes. 13 MS. PRYZGOSKI: This is the correct plan. Okay. So 14 if you go to the side of the proposed residence -- 15 HEARING EXAMINER BAUMGARDNER: So just -- the north 16 side, the south side, the east side, or west side? 17 MS. PRYZGOSKI: I apologize. That would be the west 18 side. You can see just north of the pool -- north of the 19 pool, right there. That is the location of the new bike 20 rack. 21 HEARING EXAMINER BAUMGARDNER: For the record, I am 22 dragging my cursor over the mark that's noted bike rack at 23 the location explained by the witness. 24 MS. PRYZGOSKI: So it is adjacent to the sidewalk that 25 goes around the west side of the house and so it is out of
74	1 landscaping. And there will be a bike rack added. 2 MR. KLINE: Could -- Mr. Baumgardner, could you bring 3 up Exhibit 30B which is the most current version of site 4 plan so I could have Harry show you where that to be 5 located? 6 HEARING EXAMINER BAUMGARDNER: I can, just to clarify, 7 this is 30B -- 8 MR. KLINE: 30B. 9 HEARING EXAMINER BAUMGARDNER: -- not 30E? 10 MR. KLINE: Well, 30E is the existing conditions, I 11 believe it is. So I'm 12 MS. PRYZGOSKI: 30B would probably the best 13 appropriate. The landscape and lighting plan. 14 MR. KLINE: Okay. Well, that's 30 Charlie. 15 HEARING EXAMINER BAUMGARDNER: So I'm pulling up 16 Exhibit 30C -- 17 MS. PRYZGOSKI: Correct. 18 HEARING EXAMINER BAUMGARDNER: -- titled landscape and 19 lighting plan. 20 MS. PRYZGOSKI: Right. 21 HEARING EXAMINER BAUMGARDNER: And can you all see 22 this exhibit? 23 MS. PRYZGOSKI: Yes. 24 MR. KLINE: Yes, sir. 25 HEARING EXAMINER BAUMGARDNER: All right. Mr. Kline,	76	1 sight from the road and basically out of sight from most 2 adjacent properties. 3 MR. KLINE: So Ms. Pryzgoski, give us the details of 4 that. How big a fixture is that? 5 MS. PRYZGOSKI: So it is a 90 inch rack that can hold 6 4 to 6 bikes. If you load them only on one side it can 7 hold four. If you load them from both sides it can hold 8 six. Or you can also -- generally, if it's in front loaded 9 and put one on either end, so that makes it holds six. 10 MR. KLINE: And to make the record -- 11 MS. PRYZGOSKI: There may be a picture of that on the 12 upper right corner of the drawing. Just to give you an 13 idea, that's in plan view and you can see it's a tilted 14 rack so it is the one -- the rack that is -- has a square 15 box around it, 90 inch, and it parks four bikes. I think 16 the staff, in their staff report, called it as having four 17 because there's four clear corrals from the front. But you 18 can also park one on each side. And the staff recommends 19 that this type of bike rack because it is stationary and 20 you can attach the bike at two point so that you don't have 21 bikes flopping around that might be attached only at one 22 point 23 MR. KLINE: And if I could ask you to confirm what I 24 think I heard you say. The bike rack was provided not as 25 an ordinance requirement or school's requirement, or

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20 (77 to 80)

<p>77</p> <p>1 request, but rather staff at Park and Planning because they 2 thought that was a good feature to have? 3 MS. PRYZGOSKI: That's correct. 4 MR. KLINE: Okay. What I'd like to do is take you 5 away from the detail of the site now, and kind of set this 6 into an area of context. Would you like to work off of the 7 zoning vicinity map, or the aerial photograph, Exhibit 11 8 to talk about the surrounding neighborhood? 9 MS. PRYZGOSKI: I think the Exhibit 21 would be the 10 best, which is the existing zoning map. 11 MR. KLINE: That's to be certified zoning vicinity 12 map? 13 MS. PRYZGOSKI: Right. 14 MR. KLINE: Okay. Mr. Baumgardner could we pull that 15 up please? 16 HEARING EXAMINER BAUMGARDNER: Yes. Loading as we 17 speak. So I have on the screen right now Exhibit 21, 18 certified zoning map 19 MS. PRYZGOSKI: If you could zoom in on it a bit so 20 see the property? The property located where the red -- 21 yes, that's very good right there. 22 The property is located where the red dot is on the 23 plan. 24 HEARING EXAMINER BAUMGARDNER: So I'm seeing a red dot 25 in the center of the plan. Okay. Continue.</p>	<p>79</p> <p>1 lower residential surrounding that as you get farther out 2 centric circles. 3 To the northeast is the village center itself, of 4 Sandy Spring, and that is where it's a little more dense 5 and that there are commercial properties associated with 6 that. 7 MR. KLINE: What's the institutional use of northwest 8 of the property, on the north side of 108? 9 MS. PRYZGOSKI: That is the public school. 10 MR. KLINE: Thank you. I was going to move you onto 11 another exhibit, but do you have anything else you wanted 12 to say about this exhibit? 13 MS. PRYZGOSKI: No. 14 MR. KLINE: Okay. Figure 2 on page 5 of the staff 15 report defines an area for neighborhood surrounding the 16 subject property. Which for purposes of some of the folks 17 on here it's just a legal term to help facilitate the 18 analysis of things. Your -- when you did your definition 19 of a neighborhood you came up with a 1,000 foot radius from 20 the subject property. The staff report recommends a 1,500 21 linear foot radius. Do you object to the staff's 22 neighborhood boundaries? 23 MS. PRYZGOSKI: No I don't. I think it -- I think 24 while our 1,000 foot radius really delineated more of the 25 properties that would be directly affected, what the</p>
<p>78</p> <p>1 MS. PRYZGOSKI: So all of the properties in yellow 2 there are -- I mean, there is a -- if the property is zoned 3 R200 the checkerboard pattern that is applied over the top 4 of that refers to the Sandy Spring Rural Village overlay 5 zone, which was placed to encourage maintaining the rural 6 character of the area and enhancing the village center as 7 well, keeping it in terms of character, a rural village. 8 MR. KLINE: Could -- Mr. Baumgardner, could we step 9 back one step, I guess I would say in terms of detail of 10 this exhibit? 11 I'm told that the professional term is zooming out. 12 HEARING EXAMINER BAUMGARDNER: Is that sufficient, or 13 would you like one more click of the zoom? 14 MR. KLINE: I'd say one more would be a good idea. 15 Thank you. 16 Ms. Pryzgoski, just tell us what is shown on exhibit 17 in terms of the features and surrounding area that's 18 visible on this exhibit. 19 MS. PRYZGOSKI: This exhibit is primarily to show the 20 zoning of the properties. However, it gives you a sense of 21 the character, also of the density of the buildings 22 surrounding it so you can see that surrounding our property 23 it is residential, rural residential. That would be on 24 both sides of the street adjacent to our property they are 25 zoned as R200, which is a medium density residential. And</p>	<p>80</p> <p>1 staff's 1,500 foot radius did it is expanded it to include 2 the intersection of Route 108 and Brook Road actually. So 3 it encompassed more of the village center than we did. We 4 don't have any objection to that. 5 MR. KLINE: And what is your definition of the 6 character of the neighborhood that we are now accepting, 7 identified by staff? 8 MS. PRYZGOSKI: As it is a rural village type 9 neighborhood with rural character of the homes. There's a 10 village center and the character of the homes is generally 11 (indiscernible) and the surrounding area would be even more 12 rural. So as it gets closer to the center of the homes are 13 a little bit more closely together. But the architecture 14 of the proposed building, as well as the architecture of 15 the surrounding buildings fits with the rural character of 16 the neighborhood as described by the staff in the staff 17 report. 18 MR. KLINE: Thank you. I was going to -- I'm sorry, 19 did you have something else you wanted to add? 20 MS. PRYZGOSKI: No. 21 MR. KLINE: Okay. So I would like to ask you some 22 questions about the Master Plan. What is the applicable 23 Master Plan covering the subject property? 24 MS. PRYZGOSKI: So the Master Plan recommends that -- 25 at the time that the Master Plan was done that it be placed</p>

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21 (81 to 84)

81	<p>1 in the -- that it's in --</p> <p>2 HEARING EXAMINER ROBESON HANNAN: Ms. Pryzgoski, can</p> <p>3 you first identify the Master Plan, please? What Master</p> <p>4 Plan?</p> <p>5 MS. PRYZGOSKI: Oh, I'm sorry. It is the Sandy Spring</p> <p>6 Ashton Master Plan.</p> <p>7 HEARING EXAMINER ROBESON HANNAN: Could you repeat</p> <p>8 that?</p> <p>9 MS. PRYZGOSKI: Sandy Spring Ashton Master plan, which</p> <p>10 was approved in 1988. I'm sorry, 1998.</p> <p>11 HEARING EXAMINER ROBESON HANNAN: Thank you.</p> <p>12 MR. KLINE: Okay. I -- thank you. I think I kind of</p> <p>13 interrupted you as well. And so you were saying, what does</p> <p>14 the -- what text is there in the Master Plan as it relates</p> <p>15 to this property, or this immediate area?</p> <p>16 MS. PRYZGOSKI: It -- and the -- it places it in the</p> <p>17 village center planning area. It has no specific</p> <p>18 recommendations for this particular property other than</p> <p>19 that it be placed in the rural -- the Sandy Spring Rural</p> <p>20 overlay zone. They encourage flexibility in maintaining</p> <p>21 the rural character of the surrounding --</p> <p>22 MR. KLINE: And the analysis of whether the existing</p> <p>23 structure does comply with that requirement would have been</p> <p>24 addressed then -- and that decision made as part of the</p> <p>25 site plan review in 2007?</p>
82	<p>1 MS. PRYZGOSKI: Yes. The character of the house and</p> <p>2 the improvements on the property were approved in 2008 with</p> <p>3 a site plan, and preliminary plan and were deemed, at that</p> <p>4 time, to be in conformance with the -- there's the --</p> <p>5 MR. KLINE: Do you --</p> <p>6 MS. PRYZGOSKI: -- to be in conformance with the</p> <p>7 recommendations of the -- both the Sandy Spring Master plan</p> <p>8 and the rural village overlay zone.</p> <p>9 MR. KLINE: Do you concur in the comment on page 10 of</p> <p>10 the technical staff report reading, "The established rural</p> <p>11 village character remains unaltered and even enhanced by</p> <p>12 added plantings."?</p> <p>13 MS. PRYZGOSKI: Yes, I would agree with that.</p> <p>14 MR. KLINE: Okay. Then let me take you to some of the</p> <p>15 more mundane issues related to the proposal. I'll just</p> <p>16 call them transportation issues, let's start with the</p> <p>17 parking on the site. How did you calculate the number of</p> <p>18 required parking spaces for this use?</p> <p>19 MS. PRYZGOSKI: The parking for this use is specified</p> <p>20 by the zoning ordinance for .25 parking spaces per</p> <p>21 residents. So at 16 residents that generates four parking</p> <p>22 spaces. And then it also asks for a half of a space for</p> <p>23 each employee on the site at a given time. So we can use</p> <p>24 the four employees at a time, so that gives us another two</p> <p>25 spaces. So the requirement for the property is a minimum</p>
83	<p>1 of six spaces.</p> <p>2 In addition, the residence that that the administrator</p> <p>3 lives in in the front would require two spaces for that</p> <p>4 residence, and that is taken care of -- and that would</p> <p>5 generate two spaces, and we are providing a three car</p> <p>6 garage in addition for that space.</p> <p>7 COURT REPORTER: I'm sorry. I missed that last</p> <p>8 statement. You're providing --</p> <p>9 HEARING EXAMINER ROBESON HANNAN: Ms. Pryzgoski --</p> <p>10 excuse me. Can you move forward again because you're</p> <p>11 breaking up. I can't hear you either.</p> <p>12 MS. PRYZGOSKI: I'm sorry.</p> <p>13 COURT REPORTER: Can I make a suggestion that you use</p> <p>14 a phone and call in?</p> <p>15 HEARING EXAMINER ROBESON HANNAN: Well, we need her</p> <p>16 video.</p> <p>17 COURT REPORTER: I know, but we can still have a video</p> <p>18 but her audio would be coming from her phone.</p> <p>19 HEARING EXAMINER ROBESON HANNAN: Well, I would prefer</p> <p>20 that she stay on the call, on the camera, if she can move</p> <p>21 up so you can hear her.</p> <p>22 COURT REPORTER: Okay. I agree.</p> <p>23 HEARING EXAMINER ROBESON HANNAN: Thank you.</p> <p>24 MS. PRYZGOSKI: And the residence for the</p> <p>25 administrator's home would also require two spaces, and we</p>
84	<p>1 have provided two spaces for them, and there is a three car</p> <p>2 garage as you saw in the photographs. And then there are</p> <p>3 actually additional spaces. We are planning a parking --</p> <p>4 and there is a parking lot of nine spaces, which includes</p> <p>5 one van accessible space.</p> <p>6 HEARING EXAMINER ROBESON HANNAN: Okay. I'm going to</p> <p>7 jump in one more time. Mr. Kline --</p> <p>8 MR. KLINE: Yes, ma'am.</p> <p>9 HEARING EXAMINER ROBESON HANNAN: When you shuffle</p> <p>10 those papers it makes background noise. So if you have a</p> <p>11 quieter way to shuffle the papers that would be good.</p> <p>12 Thank you.</p> <p>13 MR. KLINE: The only reason you heard that was because</p> <p>14 Ms. Cross had left the room she always puts me on mute when</p> <p>15 I'm not paying attention. I apologize.</p> <p>16 HEARING EXAMINER ROBESON HANNAN: Okay. Thank you.</p> <p>17 Okay. I think we're ready for the next question, Mr.</p> <p>18 Kline.</p> <p>19 MR. KLINE: Okay. So normally I'd be asking you</p> <p>20 questions about bicycle parking, but I think we've covered</p> <p>21 that pretty well already. Could you report to the hearing</p> <p>22 examiners how the Application addresses the adequacy of</p> <p>23 public facilities for traffic and transportation issues?</p> <p>24 How did the -- how was that address in the Application?</p> <p>25 MS. PRYZGOSKI: The -- a traffic study was not</p>

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22 (85 to 88)

<p style="text-align: right;">85</p> <p>1 required and staff concurred that a traffic statement which 2 was submitted with the Application -- concurred that given 3 the fact that the students and that are living in the 4 residence will not have cars, and that the only traffic 5 that is generated would be from the house, as well as any 6 particular professionals and supervisors coming onto the 7 site that the traffic was de minimus and would not generate 8 an impact on the neighborhood any more than any other use 9 of similar nature in this area. 10 MR. KLINE: Therefore, the record reflects that 11 adequacy of public traffic facilities have been addressed, 12 adequately addressed? 13 MS. PRYZGOSKI: Yes. 14 MR. KLINE: There was a question I should have asked 15 you previously when we were talking about the parking; and 16 that is is the parking facility located in such a manner as 17 to maintain a residential character of the -- for the 18 property which is a requirement in the zoning ordinance? 19 MS. PRYZGOSKI: Yes, it is. You really don't see the 20 parking facility from the road so much as it's kind of 21 tucked behind the existing residence. You do see the 22 driveway from the road, and there is a very little impact 23 to the visual character of the front of the house. I think 24 it still maintains a very residential appearance from the 25 street.</p>	<p style="text-align: right;">87</p> <p>1 roughly 24 feet which would be two times a side yard 2 setback. In addition, we provided screening along all the 3 parking lot to screen from adjacent properties. It is 4 screened from the properties to the south by the building 5 and to the north by a series of landscaping for the code 6 for perimeter landscaping. And Daniel Park will go 7 specifically into that regulation as well. 8 HEARING EXAMINER ROBESON HANNAN: Well, I'm confused. 9 What did you say about flexibility? I don't understand. 10 About -- something about six inches and flexibility. 11 MS. PRYZGOSKI: The parking facility is currently -- 12 it exists. It is, by regulation, meant to be 24 feet from 13 the property line because it is double the side yard 14 setback of a building. And it is roughly 24 feet, it's 15 give or take some inches. When we measured it, it was 16 23.3. So that's about eight or nine inches off of what the 17 requirement would be. That is not for the parking spaces, 18 it's just for the drive aisle. The parking spaces 19 themselves are an additional 18 feet away. So they are 20 well beyond what the -- 21 HEARING EXAMINER ROBESON HANNAN: Well, my question 22 is, under the zoning ordinance there is a waiver provision 23 if you don't totally meet the standards. 24 MS. PRYZGOSKI: Right. 25 HEARING EXAMINER ROBESON HANNAN: Did you -- you need</p>
<p style="text-align: right;">86</p> <p>1 MR. KLINE: And as the parking lot itself comply with 2 the design standards of section 59-6.2.5 of the zoning 3 ordinance dealing with where it can be located and how it's 4 organized? 5 MS. PRYZGOSKI: The parking is located -- yes it does. 6 The parking is required as part of the conditional use 7 regulations and that it be two times the setback of a side 8 yard setback. The parking is -- the parking drive aisle is 9 actually -- the side yard setback is 12 feet; the parking 10 drive aisle is actually 23.3 feet from the property line. 11 And we would request flexibility as the Sandy Spring 12 overlay zone recommends that -- for that .7 feet as this 13 was a previously constructed parking lot and it would cause 14 much more destruction to try to move it over six inches, 15 eight inches. 16 MR. KLINE: Ms. Pryzgoski, I probably should've asked 17 the question earlier, are perhaps a little more precisely. 18 It's one of those unique conditions of the conditional use 19 dealing with parking facilities in residential zones. So 20 section 59-6.2.5 K requires greater setbacks for a parking 21 facility in a residential zone for a conditional use. And 22 would you repeat your testimony about how that was 23 satisfied? 24 MS. PRYZGOSKI: A side yard setback for a building in 25 the zone is 12 feet. And the parking facility setback is</p>	<p style="text-align: right;">88</p> <p>1 to address whether you meet the requirements. 2 MS. PRYZGOSKI: I that was addressed in the statement 3 of justification that we would be requesting a waiver of 4 that eight inches, 5 HEARING EXAMINER ROBESON HANNAN: Yeah. Okay. As a 6 long as it's addressed. I think that a basic requirement 7 is that the parking remain safe, efficient, and adequate. 8 MS. PRYZGOSKI: Yes. And -- 9 HEARING EXAMINER ROBESON HANNAN: Is it safe, 10 efficient, and adequate? 11 MS. PRYZGOSKI: Yes. It's a very safe and sufficient 12 and adequate. And the staff has agreed and in the eyes of 13 the staff that this means of the conditions of the special 14 exception and of the parking requirements for five to nine 15 spaces. And the Planning Board also approved it and 16 feeling that it met those conditions. 17 HEARING EXAMINER ROBESON HANNAN: Because you're 18 saying that it would be -- did I hear you say it would be 19 far more disruptive to take -- to take -- or take the six 20 inches away? Is that your argument? 21 MS. PRYZGOSKI: Well, that's in my opinion. You would 22 have to -- in order to do that you would have to move the 23 parking over six inches, would mean moving the sidewalk 24 over six inches, which would be quite disruptive to the 25 site.</p>

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23 (89 to 92)

<p style="text-align: right;">89</p> <p>1 HEARING EXAMINER ROBESON HANNAN: Okay. That was my 2 question. 3 MS. PRYZGOSKI: The intention of the Applicant was to 4 use the site as it is to keep it in the condition and as 5 previously approved, that no changes would be made to the 6 building or to the site in order to maintain its 7 compatibility with the neighborhood and that -- and this 8 substantially meets that requirement. But we have clearly 9 delineated on the plan, and spoken with staff, regarding 10 that it's 23.3 feet, and they felt that that was 11 sufficient. And again, it's only -- it's really only to 12 the parking aisle. The drive aisle. The parking itself is 13 another 18 feet away. So it really -- the parking facility 14 itself is really an additional 18 feet away. So again, 15 roughly 40 feet away. So the parking is 40 feet away from 16 the property line. 17 HEARING EXAMINER ROBESON HANNAN: Okay. 18 MS. PRYZGOSKI: And we -- well -- Daniel Park can go 19 into the specifics of the screening, but we have provided 20 ample screening and that has been reviewed by staff as 21 well, and he will go into the particulars of that. 22 HEARING EXAMINER ROBESON HANNAN: Okay. 23 MR. KLINE: Ms. Pryzgoski, can I draw your attention 24 to addressing the standards in section 59-3.3.2 E, which 25 are the general standards for the granting of a conditional</p>	<p style="text-align: right;">91</p> <p>1 residents younger than two months old; is it your 2 understanding that that provision will be complied with by 3 the Applicant? 4 MS. PRYZGOSKI: Yes. There will be no one less than 5 two months old. 6 MR. KLINE: Okay. Section -- 7 MS. PRYZGOSKI: Also, your last question as well, the 8 supervisors will be on a rotating basis. No one will 9 live -- the supervisors that live -- that sleep in the 10 facility are not residents -- residing in the facility, but 11 they are there on shifts. So there is no more -- other 12 than students they -- that's not their residence. 13 MR. KLINE: Regarding the requirements set forth in 14 Section 59-3.3.2.E.2.b.ii, is there ample outdoor play 15 spaces appropriately equipped for the residents proposed? 16 MS. PRYZGOSKI: Yes. My opinion is that there's ample 17 play space. There is a sports court with a basketball 18 hoop. There is a pool, there is a outdoor lawn that is of 19 ample space for outdoor recreation. 20 MR. KLINE: Mr. Schlerter submitted into the record 21 late yesterday, an aerial photo -- a photograph, rather, of 22 the pool on the property. And I wouldn't disagree with him 23 that it looked a bit unkempt. Is that pool, in your 24 opinion, able to be fixed up and used in the future? 25 MS. PRYZGOSKI: I believe so. The pool is -- what</p>
<p style="text-align: right;">90</p> <p>1 use application? 2 A, is that the use will meet all federal, state, and 3 county certificate licensure and regulatory requirements, 4 and is it your expectation that those will all be achieved 5 in order to implement this proposal? 6 MS. PRYZGOSKI: Yes. 7 MR. KLINE: Subsection B -- excuse me while I put my 8 glasses on so I will be able to read this a little bit 9 better. 10 Subsection B says, "Resident staff are allowed to live 11 on the site." You've heard other testimony on this 12 subject, and how would that be addressed by say Mr. 13 Ganong's explanation of how the supervisors are residing on 14 the site? 15 MS. PRYZGOSKI: There is a senior administrator who 16 resides on the site as Mr. Ganong has talked about in the 17 front residence. There will also be, they are not 18 necessarily responsible for the day to day operations, 19 however, they are there in terms of -- and there is another 20 resident supervisor above the garage. However, in terms of 21 in the residential care facility, there will always be at 22 least one monitoring the students, living within the 23 residence at all times. And so I think that addresses that 24 requirement. 25 MR. KLINE: Section E 1 C reads that there will be no</p>	<p style="text-align: right;">92</p> <p>1 showed in the picture was the pool was covered. It has a 2 pool cover on it, and it has been covered because it's not 3 currently being used. The pool is -- can be fixed up and 4 opened up in the summertime. Most people that have pools 5 in their backyard usually do cover them for the winter, or 6 when they're not being used. 7 And certainly, even the water that has collected on 8 top of the cover can be swept off. I don't see that as a 9 problem. 10 MR. KLINE: Continuing on the questions, or the 11 standards in 3.3.2.E.2.b.ii, and now I'm down to small b, 12 are the high density coverage and parking standards of the 13 proposed use compatible with the surrounding neighborhood? 14 MS. PRYZGOSKI: Yes. The height limitation in this 15 zone is 35 feet. And this -- is actually 32 feet. 16 COURT REPORTER: Excuse me, Mr. Kline, your papers. 17 MR. KLINE: Oops, sorry. 18 MS. PRYZGOSKI: Anyway, the -- so -- I'm sorry. I was 19 saying, the height is definitely compatible with the rest 20 of the neighborhood. It's a lesson than the maximum height 21 of the neighborhood. It's similar to other houses in the 22 neighborhood. The lot size is several times over what the 23 lot size for -- the minimum lot size is for this particular 24 zone. The minimum lot size is 20,000 square feet, and we 25 have about three times that, about 60,000 square feet so I</p>

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24 (93 to 96)

<p style="text-align: right;">93</p> <p>1 think it's of ample size and character for the buildings 2 that are placed on the site. 3 MR. KLINE: Could I draw your attention now, please, 4 to those provisions of chapter 59-7.3.1 dealing with the 5 findings necessary for the granting of the -- and on a, 6 1(a), it satisfies any applicable previous approvals to the 7 site. And you have a kind of enumerated the depth of the 8 previous review of the site, does this Application comply 9 with all previous approvals granted that remain in effect 10 for this use? 11 MS. PRYZGOSKI: Yes. All of the improvements that 12 were previously obtained for the site, none of the 13 conditions of the site have been modified in such a way as 14 to invalidate those approvals. The only changes, as 15 mentioned previously, are additional landscaping and 16 screening, which I think will enhance the property, and 17 enhance the compatibility with the adjacent residences, and 18 a bike rack for the use of the residents of the facility, 19 as recommended by the Planning staff. 20 HEARING OFFICE BAUMGARDNER: Mr. Kline, I think you're 21 on mute. 22 MR. KLINE: Sorry about this. I've got to get the 23 sequence right. Sorry. 24 Ms. Pryzgoski, continuing on in section 7.3.1, 25 subsection C says, does the proposal substantially conform</p>	<p style="text-align: right;">95</p> <p>1 the neighborhood. 2 MR. KLINE: Subsection E asks if the proposed 3 conditional use in conjunction with any other, say special 4 exception or conditional uses within the zoning 5 neighborhood would cumulatively have an effect on the 6 character of the neighborhood, and what's your opinion on 7 that? 8 MS. PRYZGOSKI: I don't think it will have a 9 cumulative effect. This has been operating for a number of 10 years as the type of facility that it is. There are only a 11 few special exceptions within the neighborhood as defined 12 by the staff, which is a larger neighborhood. There is an 13 adjacent special exception, a veterinary clinic, that is to 14 the northwest of the property and as far as the staff could 15 determine there, there was no information regarding the 16 status of the other special options, of which there are 17 only two or three, and they were achieved many years ago. 18 There was some question as to whether they were even 19 active. But no new special -- excuse me, conditional uses. 20 I would not think that this would change the character, or 21 encourage more conditional uses to appear. 22 MR. KLINE: Subsection F asks if it is served by 23 adequate public facilities. And you addressed the 24 transportation issue by talking about the Applicant's 25 traffic statement. Public schools, obviously, are not a</p>
<p style="text-align: right;">94</p> <p>1 to the Master Plan, and do you confirm that your earlier 2 testimony about the Master Plan satisfies that requirement? 3 MS. PRYZGOSKI: Yes. I -- the -- this application, I 4 would say, conforms to the Master Plan goals of keeping a 5 residential and rural character. It uses, by virtue of 6 being in the overlay zone it uses the site plan to provide 7 added review. And this particular site has met the review 8 requirements of the conditional use through the site plan, 9 and was approved previously by both the Planning Board and 10 Planning staff. And we are not altering the conditions of 11 that. It is -- it conforms to the residential rural 12 village character in design, and architecture and detail. 13 And it conforms to the recommendations of the Master Plan 14 and the Sandy Spring overlay. 15 MR. KLINE: I think that your immediately past 16 testimony sort of addressed what I'm going to ask you next. 17 In subsection D says, is the use -- well I'll phrase it 18 this way. Do the use and design result in a harmonious 19 character with the surrounding neighborhood? 20 MS. PRYZGOSKI: Yes. It is my opinion it does. It 21 retains a residential appearance from the street. I 22 believe that the character of the buildings is very similar 23 to the character of the village character that the Master 24 Plan intends to preserve. I've seen the photographs of the 25 architecture and I think it will be very compatible with</p>	<p style="text-align: right;">96</p> <p>1 relevant issue in this case. How about those kind of 2 emergency facilities we need of fire police? What can you 3 tell us about the availability of those services? 4 MS. PRYZGOSKI: There is a fire and police station in 5 less than half a mile of the site. So those are uniquely 6 available at a short distance. 7 MR. KLINE: Well then, Ms. Przygocki, let me kind of 8 wrap it up with this. In your opinion, as a professional 9 land planner, does the proposed use meet the general and 10 the specific requirements for the conditional use requested 11 by this Applicant? 12 MS. PRYZGOSKI: If I could -- I need to correct my 13 statement. The fire is .4 miles -- the fire station is .4 14 miles away. The police station is 5.4 miles away in all, 15 which is -- and that's -- there's a police station 5.4 16 miles south of the property and then there's a police 17 station four miles away in common. So to corrected the 18 record just that the police is not within .4. 19 COURT REPORTER: Could you repeat -- I'm sorry, could 20 you repeat that last statement I didn't catch all of it. 21 MS. PRYZGOSKI: I mistakenly said that both police and 22 the fire were within one half a mile of the site. But I 23 would like to correct it, being more accurate in saying the 24 fire department is within .4 miles of the site, but the 25 police is approximately 5.4 miles away. There are two</p>

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25 (97 to 100)

97	<p>1 police stations nearby one is 5.4 miles to the south the</p> <p>2 other is four point miles to -- 4.0 miles to the west of</p> <p>3 the property in all.</p> <p>4 MR. KLINE: Thank you for that clarification, or</p> <p>5 correction. So let me take you again to what everybody</p> <p>6 wants to hear the land planner say. Does this application</p> <p>7 meet the requirements of the zoning ordinance for the</p> <p>8 specific use and for the general criteria for the granting</p> <p>9 of a conditional use?</p> <p>10 MS. PRYZGOSKI: Yes, it does.</p> <p>11 MR. KLINE: Probably too simple an answer for that big</p> <p>12 a question so could you please amplify on that?</p> <p>13 MS. PRYZGOSKI: The current application is consistent</p> <p>14 with the requirements of the zone. It is consistent with</p> <p>15 the requirements and recommendations of the Master Plan.</p> <p>16 It is consistent with all of the applicable adequate public</p> <p>17 facilities requirements, and is in character with</p> <p>18 neighborhood, and the zoning overlays the standard premium</p> <p>19 overlays as well as the Sandy Spring Ashton Master Plan.</p> <p>20 It meets all of the conditions for a -- the general</p> <p>21 conditions the granting of a conditional use, as well as</p> <p>22 the specific use requirements for a residential care</p> <p>23 facility for up to 16 persons, that is 9 to 16 persons,</p> <p>24 which is characterized in the zoning ordinance under, I</p> <p>25 think that's Section --</p>	99	<p>1 I have no further questions of Ms. Przygocki.</p> <p>2 HEARING EXAMINER ROBESON HANNAN: Okay. Thank you.</p> <p>3 HEARING EXAMINER BAUMGARDNER: Thank you, ma'am. Are</p> <p>4 there any questions from other participants in today's</p> <p>5 hearing focused on Ms. Przygocki's testimony over the last</p> <p>6 40 minutes or so?</p> <p>7 Looking for hands raised or other indications that</p> <p>8 individuals from the community, or otherwise, would like to</p> <p>9 ask any questions of this witness. I do not see any hands</p> <p>10 raised.</p> <p>11 All right. We'll turn it back over to you, Mr. Kline.</p> <p>12 MR. KLINE: I'd like to call our next witness then,</p> <p>13 Mr. Tim Hoffman.</p> <p>14 MR. HOFFMAN: Present. This is Timothy Hoffman.</p> <p>15 HEARING EXAMINER BAUMGARDNER: All right, Mr. Hoffman,</p> <p>16 can you please raise your right hand? Your right hand.</p> <p>17 Sir, do you swear or affirm under the penalties of</p> <p>18 perjury that the testimony you're about to give us the</p> <p>19 truth, the whole truth, and nothing but the truth?</p> <p>20 MR. HOFFMAN: I do so swear.</p> <p>21 HEARING EXAMINER BAUMGARDNER: For a second time, can</p> <p>22 you provide your full name and your professional address</p> <p>23 for the record?</p> <p>24 MR. HOFFMAN: Timothy Hoffman, working at 2 Research</p> <p>25 Place, Rockville, Maryland 20850. And that is for Soltesz.</p>
98	<p>1 HEARING EXAMINER ROBESON HANNAN: Well, I don't mean</p> <p>2 to interrupt, but I think we've been through all of this,</p> <p>3 and she's -- at this point is that she kind of repeating</p> <p>4 what she's already testified to, Mr. Kline?</p> <p>5 MR. KLINE: When she completes whatever she was just</p> <p>6 saying, that was my last question --</p> <p>7 HEARING EXAMINER ROBESON HANNAN: Well, all right.</p> <p>8 MR. KLINE: -- and I was going to conclude my</p> <p>9 presentation.</p> <p>10 HEARING EXAMINER ROBESON HANNAN: All right.</p> <p>11 MS. PRYZGOSKI: So under Section 59.3.3.2.e as defined</p> <p>12 under number 1, the residential care facility meets the</p> <p>13 requirements of a residential care facility for -- and</p> <p>14 under Section 2 for the use standards under b, a</p> <p>15 residential care facility for 9 to 16 persons, it is</p> <p>16 allowed as a conditional use and may be granted by the</p> <p>17 hearing examiner with the following standards being, ample</p> <p>18 play area, and meeting the height density and the coverage,</p> <p>19 and parking standards, with compatibility with the</p> <p>20 neighborhood and the building character of the surrounding</p> <p>21 neighborhood. And I believe, in my opinion, that this</p> <p>22 application meets all of those requirements, as well as was</p> <p>23 starting to say earlier, the requirements of the zoning</p> <p>24 itself, the R200 zone.</p> <p>25 MR. KLINE: Thank you Ms. Przygocki.</p>	100	<p>1 HEARING EXAMINER BAUMGARDNER: Mr. Kline, the floor is</p> <p>2 yours.</p> <p>3 MR. KLINE: All right. I just wanted to check an</p> <p>4 exhibit reference.</p> <p>5 Mr. Hoffman, I guess you told us who work for, but is</p> <p>6 your profession itself? What do you label yourself as?</p> <p>7 MR. HOFFMAN: I'm a professional civil engineer.</p> <p>8 MR. KLINE: And to ask a question that Ms. Robeson</p> <p>9 Hannan would ask, what's your registration number? This is</p> <p>10 always a memory test.</p> <p>11 MR. HOFFMAN: Yeah. My registration number 49428.</p> <p>12 MR. KLINE: And that's issued by the State of</p> <p>13 Maryland?</p> <p>14 MR. HOFFMAN: It is.</p> <p>15 MR. KLINE: Yes. Thank you. Have you ever qualified</p> <p>16 before a hearing of this type, or maybe a court of law as</p> <p>17 an expert in the field of civil engineering?</p> <p>18 MR. HOFFMAN: I have for this hearing examiner.</p> <p>19 MR. KLINE: Okay. Maybe you could refer to that case</p> <p>20 and Ms. Robeson will probably recall it.</p> <p>21 HEARING EXAMINER ROBESON HANNAN: Yes, I have seen Mr.</p> <p>22 Hoffman. I've qualified him as an expert many times</p> <p>23 MR. KLINE: Fine. So Mr. Baumgardner, based on Mr. --</p> <p>24 HEARING EXAMINER ROBESON HANNAN: -- in civil</p> <p>25 engineering.</p>

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26 (101 to 104)

101	<p>1 MR. KLINE: Yeah. His resume is in the record. I</p> <p>2 think it's 68-B. He's got 20 years of experience; he has</p> <p>3 qualified before. I would like to offer him as an expert</p> <p>4 in the field of civil engineering, please.</p> <p>5 HEARING EXAMINER BAUMGARDNER: He is so accepted.</p> <p>6 MR. KLINE: Thank you very much.</p> <p>7 Mr. Hoffman, would you please describe the subdivision</p> <p>8 status of the subject property because often we're dealing</p> <p>9 with a piece of property that doesn't have a subdivision</p> <p>10 status, so could use tell us how it's treated today in the</p> <p>11 land records of Montgomery County?</p> <p>12 MR. HOFFMAN: This property, the subdivision is</p> <p>13 complete; it was platted in 2009 as part of the preliminary</p> <p>14 plan process.</p> <p>15 MR. KLINE: Could you please describe how public</p> <p>16 facilities, particularly sewer and water, will be provided</p> <p>17 to the proposed use?</p> <p>18 MR. HOFFMAN: Yeah. There is existing water and sewer</p> <p>19 service to this property, and they will continue without</p> <p>20 change.</p> <p>21 MR. KLINE: Are you aware of any issues of</p> <p>22 transmission capacity or treatment, or in the location of</p> <p>23 water lines, water pressure deficiencies?</p> <p>24 MR. HOFFMAN: No, I am not aware of any such issues</p> <p>25 with water or sewer.</p>	103	<p>1 MR. HOFFMAN: Yes, I do.</p> <p>2 MR. KLINE: Is there any civil engineering issue, or</p> <p>3 result that occurred -- an impact and that could occur from</p> <p>4 proposed use that would cause it any undue harm to the</p> <p>5 surrounding neighborhood?</p> <p>6 MR. HOFFMAN: No, I'm not aware of any.</p> <p>7 MR. KLINE: And again, in the context of civil</p> <p>8 engineering framework, is there anything about the proposed</p> <p>9 use that would adversely affect the health, safety, or</p> <p>10 welfare of either the residents, visitors, or the employees</p> <p>11 on the property?</p> <p>12 MR. HOFFMAN: No. Again, not aware of any.</p> <p>13 MR. KLINE: I have no further questions of Mr.</p> <p>14 Hoffman.</p> <p>15 HEARING EXAMINER BAUMGARDNER: Are there any questions</p> <p>16 from participants of today's hearing for Mr. Hoffman? If</p> <p>17 so, please raise your virtual hand or make yourself known.</p> <p>18 I am not seeing any virtual hands.</p> <p>19 All right, back to Mr. Kline.</p> <p>20 MR. KLINE: Then I'd call our next, and final witness,</p> <p>21 Mr. Daniel Park.</p> <p>22 MALE SPEAKER: Just one moment, he stepped out, he'll</p> <p>23 be right back.</p> <p>24 HEARING EXAMINER BAUMGARDNER: Not a problem, take</p> <p>25 your time.</p>
102	<p>1 MR. KLINE: So the existing infrastructure should be</p> <p>2 adequate to service the proposed use?</p> <p>3 MR. HOFFMAN: Yes. The existing infrastructure should</p> <p>4 be adequate.</p> <p>5 MR. KLINE: Okay. Are there any storm water</p> <p>6 management issues associated with this application, and I</p> <p>7 believe you heard Mr. Schertler's inquiry about adjacent</p> <p>8 property. Could you basically explain how storm water --</p> <p>9 well, the conformity of the proposed use with storm water</p> <p>10 management requirements?</p> <p>11 MR. HOFFMAN: To answer the first part, no, there are</p> <p>12 not any storm water issues associated with this property.</p> <p>13 This property had a storm water concept number 222152 which</p> <p>14 was approved in 2008, followed by the AZBIL which was</p> <p>15 number 234434 which was for the constructed storm water</p> <p>16 facilities on the property and that was approved in 2011;</p> <p>17 that was approved by the Montgomery County Department of</p> <p>18 Permitting Services which is to say that the storm water</p> <p>19 facilities were built in conformance with the site plans.</p> <p>20 So the existing storm water on the site, which is --</p> <p>21 meets all the regulations as of 2008, which is the current</p> <p>22 regulations.</p> <p>23 MR. KLINE: Mr. Hoffman, in your professional opinion,</p> <p>24 do you believe the use will be served by adequate public</p> <p>25 utility services?</p>	104	<p>1 MALE SPEAKER: Thank you very much, appreciate it.</p> <p>2 And he has stepped back into the room, thank you.</p> <p>3 HEARING EXAMINER BAUMGARDNER: Mr. Park, can you</p> <p>4 please raise your right hand?</p> <p>5 And sir, do you swear or affirm under penalties of</p> <p>6 perjury that the testimony you are about to give shall be</p> <p>7 the truth, the whole truth, and nothing but the truth?</p> <p>8 MR. PARK: I do.</p> <p>9 HEARING EXAMINER BAUMGARDNER: Please give us see your</p> <p>10 full name and your professional address.</p> <p>11 MR. PARKS: Yes. My name is Daniel Park, P-A-R-K. My</p> <p>12 business address is 2 Research Place in Rockville, Maryland</p> <p>13 20850.</p> <p>14 HEARING EXAMINER BAUMGARDNER: Mr. Kline, the floor is</p> <p>15 yours.</p> <p>16 MR. KLINE: Thank you.</p> <p>17 Mr. Park, maybe this is an unnecessary question, you</p> <p>18 gave me your city and you're sitting in the Soltesz</p> <p>19 conference room, but what firm are you associated with?</p> <p>20 MR. PARKS: Soltesz.</p> <p>21 MR. KLINE: Thank you. And what is your profession?</p> <p>22 MR. PARKS: My profession is by training and practice</p> <p>23 I'm a landscape architect. I'm also the director of</p> <p>24 planning for Soltesz.</p> <p>25 MR. KLINE: Thank you. Have you ever -- well, your</p>

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27 (105 to 108)

105	<p>1 resume is in the record as 68A. have you ever qualified as</p> <p>2 an expert in the field of landscape architecture before the</p> <p>3 Montgomery County Office of Zoning and Administrative</p> <p>4 Appeals -- Administrative Hearings?</p> <p>5 MR. PARKS: Yes, have. Most recently for Milestone</p> <p>6 before Ms. Robeson.</p> <p>7 MR. KLINE: Within the past few months, correct?</p> <p>8 MR. PARKS: That's correct.</p> <p>9 MR. KLINE: Fine. And then let me just jump right</p> <p>10 into the questions for you. Would you please explain how</p> <p>11 this proposal complies with the full --</p> <p>12 HEARING EXAMINER ROBESON HANNAN: But wait a minute.</p> <p>13 Mr. Kline, nobody's qualified him yet.</p> <p>14 MR. KLINE: I'm sorry. I would like to offer --</p> <p>15 HEARING EXAMINER ROBESON HANNAN: If no one</p> <p>16 objects --</p> <p>17 MR. KLINE: I got a little ahead of myself there.</p> <p>18 HEARING EXAMINER ROBESON HANNAN: I know.</p> <p>19 MR. KLINE: Mr. Baumgardner, I'd like to offer Mr.</p> <p>20 Park as an expert in the field of landscape architecture,</p> <p>21 please.</p> <p>22 HEARING EXAMINER BAUMGARDNER: Are there any</p> <p>23 objections to qualifying gentlemen as an expert in</p> <p>24 landscape architecture?</p> <p>25 Seeing none, he is so designated.</p>	107	<p>1 continue.</p> <p>2 MR. KLINE: Mr. Park, using this plan, would you</p> <p>3 please describe what -- well, let me ask first of all, did</p> <p>4 you find it necessary to replace any existing landscaping</p> <p>5 that may have aged or even died out on the subject</p> <p>6 property?</p> <p>7 MR. PARKS: Yes. We found that there were arborvitae</p> <p>8 existing along the southern property line that were in poor</p> <p>9 condition, or missing.</p> <p>10 MR. KLINE: So having said that one why don't you take</p> <p>11 Exhibit 30C and just kind of walk us through the</p> <p>12 landscaping that you propose, it's location, type, and what</p> <p>13 benefit it was supposed to provide.</p> <p>14 MR. PARKS: Sure. We can start generally.</p> <p>15 Essentially this plan, or landscape plan is a reinforcement</p> <p>16 of the existing landscape buffers along the north and south</p> <p>17 property lines.</p> <p>18 You know, we are looking at this plan from the</p> <p>19 perspective of everything. Really, it coverage as far as</p> <p>20 the plant material and the quality. The parking lot</p> <p>21 perimeter landscaping and screening and I can give you the</p> <p>22 detail of how that all is met, but that was the intent</p> <p>23 of -- for the planting.</p> <p>24 MR. KLINE: Did you want to specify kind of what those</p> <p>25 plantings are, size, shape?</p>
106	<p>1 MR. KLINE: Mr. Park, could you please explain how the</p> <p>2 proposal before the hearing examiners today satisfies the</p> <p>3 requirements of Chapter 22-A of the county code for forest</p> <p>4 conservation?</p> <p>5 MR. PARKS: Yes, I can. This proposal -- I'm sorry.</p> <p>6 This proposal complies with the forest conservation law</p> <p>7 under the approved final forest conservation plan number</p> <p>8 820070130 as there is no change to that approved plan.</p> <p>9 There is no land disturbance. Furthermore, there is no</p> <p>10 impact to forests, specimen, or significant trees.</p> <p>11 MR. KLINE: Thank you. Mr. Park, I'd like to ask you</p> <p>12 some questions about the supplemental landscape plantings I</p> <p>13 heard Ms. Przygocki mention. Which exhibit would you like</p> <p>14 to have available for display that would help you make your</p> <p>15 presentation? I've written down 30C, which is the most</p> <p>16 recent copy of the landscape and lighting plan. But do you</p> <p>17 have another one you'd rather use?</p> <p>18 MR. PARKS: No, that plan would suffice.</p> <p>19 MR. KLINE: Mr. Baumgardner, could you please call</p> <p>20 that plan out for us, 30C, as in Charlie?</p> <p>21 HEARING EXAMINER BAUMGARDNER: All right. Do you all</p> <p>22 see a landscape plan in front of you?</p> <p>23 MR. KLINE: Yes.</p> <p>24 MR. PARKS: Yes.</p> <p>25 HEARING EXAMINER BAUMGARDNER: All right. You may</p>	108	<p>1 MR. PARKS: Well yes. So along the north there is a</p> <p>2 ribbon of ornamentals -- ornamental trees, and evergreen</p> <p>3 trees on the 30 foot spacing. As you can see, but larger</p> <p>4 circular shapes there indicate those.</p> <p>5 Behind those are a hedgerow of China Girl Hollies,</p> <p>6 which is an upright, round evergreen shrub. And so, you</p> <p>7 know, we're looking at, from a zoning perspective and it</p> <p>8 applies, and I can get into specifics but the intent there</p> <p>9 is screening and coverage within the perimeter there of the</p> <p>10 parking lot. And secondly, within the side yard for</p> <p>11 setback.</p> <p>12 HEARING EXAMINER BAUMGARDNER: Just a brief question.</p> <p>13 What is located on the north -- what is the property to the</p> <p>14 north of the subject property? What is that currently</p> <p>15 being used for?</p> <p>16 MR. PARKS: I believe that is currently under</p> <p>17 construction or a parking lot to serve the veterinary</p> <p>18 hospital to the west of that lot.</p> <p>19 HEARING EXAMINER BAUMGARDNER: Okay. Thank you.</p> <p>20 HEARING EXAMINER ROBESON HANNAN: Is that that going</p> <p>21 to be a conditional use? You don't know?</p> <p>22 MR. PARKS: I would defer to Jody on this question.</p> <p>23 HEARING EXAMINER ROBESON HANNAN: Well, he can't</p> <p>24 testify. If you don't know just say you don't know.</p> <p>25 MR. PARKS: I do not know.</p>

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28 (109 to 112)

109	<p>1 MR. KLINE: So Mr. Park, I was going to ask you for</p> <p>2 conformance of your landscaping plan with the multiple</p> <p>3 provisions in the zoning ordinance, the landscaping is</p> <p>4 supposed to accomplish, did you want to say anything else</p> <p>5 know about you're planning and your -- sort of your goal?</p> <p>6 MR. PARKS: Yes. It's really to provide the</p> <p>7 screening, between the parking spaces there on the north</p> <p>8 side, you know, on the adjacent site to the proposed</p> <p>9 parking lot would be a similar condition. So we really</p> <p>10 did -- we enforced it more than as minimally required. And</p> <p>11 also to provide an attractive backdrop to both properties.</p> <p>12 But the intent really is to provide an attractive</p> <p>13 landscape that would exhibit, you know, fall color, winter</p> <p>14 color as far as the foliage on the evergreens will provide</p> <p>15 a nice deep green color, the winter berries will be robust</p> <p>16 red berries for those hollies. The Eastern Redbuds will</p> <p>17 bloom in the spring with the dark purple color. And the</p> <p>18 junipers, the moon glow junipers in that location, will</p> <p>19 have a silver-ish green foliage, and we think that that</p> <p>20 texture and the color would be a very warm and fighting</p> <p>21 palate, really for both properties.</p> <p>22 MR. KLINE: Putting it in the context of the zoning</p> <p>23 ordinance requirements, with the landscape and planting you</p> <p>24 just describe satisfy the requirements of Section 6.2.9</p> <p>25 landscaping associated with parking, like coverage and</p>	111	<p>1 wanted to say about it?</p> <p>2 MR. PARKS: Well --</p> <p>3 HEARING EXAMINER ROBESON HANNAN: I -- well, I'm sorry.</p> <p>4 Do you want to finish, Mr. Park, and then I'll ask my</p> <p>5 question.</p> <p>6 MR. PARKS: Yes, ma'am. We looked at the north</p> <p>7 property line, perhaps we can look at the south property</p> <p>8 line.</p> <p>9 HEARING EXAMINER ROBESON HANNAN: That's where my</p> <p>10 question is.</p> <p>11 MR. PARKS: So currently approved forest conservation</p> <p>12 plan there is a forest conservation easement to the western</p> <p>13 portion of the pike, the far west portion. And there is</p> <p>14 ample screening because of that forest easement. In</p> <p>15 addition, there are mature trees behind where the pool is,</p> <p>16 extending to where the arborvitae that need to be replaced.</p> <p>17 Now, we carefully rendered the (indiscernible) size and</p> <p>18 there are significant trees there at the length of the</p> <p>19 conditional use. So you have to remember the conditional</p> <p>20 use is the addition -- or pardon me. The existing addition</p> <p>21 to the main house. So that is where conditional use</p> <p>22 applies. So if you extend a line perpendicular from the</p> <p>23 edge of those buildings to the property line and then go up</p> <p>24 50 feet on either direction that's where the compliance</p> <p>25 needs to be met. We go above and beyond that or the entire</p>
110	<p>1 screening -- well, coverage, let's just leave it at that.</p> <p>2 All the issues related to the parking standards?</p> <p>3 MR. PARKS: That's correct. Under section 6.2.9.b,</p> <p>4 the minimum parking setback would be -- we have nearly 24</p> <p>5 feet so we are significantly compliant with that</p> <p>6 requirement. The other requirement is to have a hedge</p> <p>7 fence or wall of a minimum five foot height. We have a</p> <p>8 five foot hedge, and a five foot fence.</p> <p>9 The third requirement is to have one winter story</p> <p>10 tree, and one -- or one evergreen tree every 30 feet on</p> <p>11 center, which the plan provides.</p> <p>12 MR. KLINE: Do those plantings address of the</p> <p>13 requirements of section 6.5.2 -- well all the 6.5 sections</p> <p>14 of dealing with screening issues? Or are they separate?</p> <p>15 MR. PARKS: I thought -- I see them as a separate</p> <p>16 issue because it actually is. It is a separate section.</p> <p>17 So under 6.5.3 C-7 there is a requirement for 1 canopy</p> <p>18 tree, 1 ornamental tree, or evergreen tree, 100 foot on</p> <p>19 center, 8 large shrubs and 12 medium shrubs under that</p> <p>20 section of the Code. And we have -- in fact along the 246</p> <p>21 foot length of that property line there we provide 9</p> <p>22 existing canopy tree, 11 understory and evergreen trees, 14</p> <p>23 large shrubs, 21 medium shrubs and a 5 foot high fence.</p> <p>24 MR. KLINE: Thank you. I have no further questions on</p> <p>25 the landscaping issues. Did you have anything else you</p>	112	<p>1 length of the property.</p> <p>2 HEARING EXAMINER ROBESON HANNAN: I wondered if you</p> <p>3 could address -- if I'm reading this plan right, I seem to</p> <p>4 hold lights on the southern side of the sport court; am I</p> <p>5 correct?</p> <p>6 MR. KLINE: Ms. Robeson, I actually had gotten to the</p> <p>7 lighting yet I was going to have him basically go to that</p> <p>8 plan and address the entire lighting.</p> <p>9 HEARING EXAMINER ROBESON HANNAN: Oh, I'm sorry.</p> <p>10 MR. KLINE: Is that okay?</p> <p>11 HEARING EXAMINER ROBESON HANNAN: Yes.</p> <p>12 MR. KLINE: Yeah, no, I knew you would ask the</p> <p>13 question and I was going to start by -- but first of all,</p> <p>14 Daniel, could you please basically pull up -- or how do you</p> <p>15 identify the location of lighting fixtures on the plan</p> <p>16 you're looking at?</p> <p>17 MR. PARKS: Jody, I would say -- Mr. Kline, I'm sorry.</p> <p>18 I would say we should go to the photometric exhibit for a</p> <p>19 more clear picture.</p> <p>20 MR. KLINE: One moment, please. That would be Exhibit</p> <p>21 30D, as in Delta. Existing photometric plan and details.</p> <p>22 HEARING EXAMINER BAUMGARDNER: So I'm sorry that was</p> <p>23 30 -- I'm sorry, 40D?</p> <p>24 HEARING EXAMINER ROBESON HANNAN: 30D</p> <p>25 MR. KLINE: Three zero delta, D.</p>

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29 (113 to 116)

<p style="text-align: right;">113</p> <p>1 HEARING EXAMINER BAUMGARDNER: All right. That plan 2 should be materializing on your screen as we speak. 3 MR. KLINE: Mr. Park, first of all, I'd like you to 4 explain for the general audience what a photometric plan is 5 so people understand what this is showing. 6 MR. PARKS: Absolutely, Mr. Kline. So a photometric 7 plan shows the light -- or the illumination level as 8 exhibited on surface from light that is committed from a 9 fixture. So the foot candle lines are shown decreasing as 10 they go outward, radiating out from the light source. 11 And so the purpose of this drawing is to show what the 12 light illumination level is the pavement surface, or on the 13 lawn surface whichever it is. 14 MR. KLINE: With that background, what you please 15 identify location of fixtures that exist, or are to be 16 installed, and particularly the ones addressed by Ms. 17 Robeson Hannan? 18 MR. PARKS: Yes, Mr. Kline, I can. It would be more 19 oval-shaped pole lights. The oval-shaped polygons on the 20 plan are the location of the lantern style lights that 21 exist on the site today. In fact, all the lights that 22 exist today. And the more circular light is a done shaped 23 fixture and that's at the play court to the west of the 24 house -- conditional use addition, existing addition. 25 HEARING EXAMINER BAUMGARDNER: So Mr. Park if I'm</p>	<p style="text-align: right;">115</p> <p>1 propose any sign designating the use itself and -- well, 2 and does it have any lighting associated with it? 3 MR. PARKS: No. There are no existing or 4 proposed signs to indicate the facility anywhere on site or 5 along the frontage. 6 MR. KLINE: Thank you. To reiterate, I guess the 7 question I asked you before, the proposed landscaping plans 8 satisfies the requirements of the forest conservation law; 9 is that correct? 10 MR. PARKS: Yes, it does. 11 MR. KLINE: Okay. I mentioned in some earlier 12 testimony, I think it was Ms. Przygocki, that on page 10 of 13 the staff report it says that the established rural village 14 character of the proposed use remains unaltered by this 15 proposal and is even enhanced by adding plantings. Do you 16 concur in that conclusion by staff? And explain why you 17 feel that way. 18 MR. PARKS: Yes, I agree with that. That is my 19 professional opinion. The type of plant materials used are 20 harmonious with the neighborhood; in fact, they're very 21 similar to what you can see up and down Norwood. You know, 22 with the use of forsythia and the Redbuds, natives -- for 23 this reason, I believe, yes, that that is true. 24 MR. KLINE: That concludes my presentation of Mr. 25 Park, and he's available for cross-examination.</p>
<p style="text-align: right;">114</p> <p>1 understanding your testimony, looking at this exhibit there 2 are four large pole lights on what I'll call the main 3 portion of this property, and then there are the four dome 4 lights that theoretically are illuminating the basketball 5 court? 6 MR. PARKS: That's correct. 7 HEARING EXAMINER BAUMGARDNER: Thank you. 8 MR. KLINE: And does that answer Ms. Robeson 9 Hannan's question? 10 HEARING EXAMINER ROBESON HANNAN: It does. That 11 is my question. My question was the illumination at the 12 property line. 13 MR. KLINE: Right. So Mr. Park, explaining what 14 I'm going to ask you, does the foot candle on the 15 photometric plan satisfy the zoning ordinance requirements 16 and explain how? 17 MR. PARKS: Yes. Yes, it does, absolutely. 18 Pursuant to Section 6.44 E, all the light fixtures are 19 shielded or screened to ensure illumination of .1 foot 20 candle or less at the lot line. And as you can see from 21 that photometric it's well below that at the property line. 22 If you zoom in you'll be able to see that no data point 23 exhibits a foot candle of more than .1 at the property 24 line. 25 MR. KLINE: Thank you. Does the Applicant</p>	<p style="text-align: right;">116</p> <p>1 HEARING EXAMINER BAUMGARDNER: Are there any questions 2 for Mr. Park? I see one hand raised by Mr. Schertler. You 3 are welcome to ask your question, sir. 4 MR. SCHERTLER: Yeah. Thank you. 5 Mr. Park, you mentioned the arborvitae on the south 6 side of the property. Based on your expertise, those that 7 were missing or damaged, how long have they been missing or 8 damaged? 9 MR. PARKS: Based on my site visit, November of last 10 year, I can only speak to then, they were missing at that 11 time. 12 HEARING EXAMINER BAUMGARDNER: Does that answer your 13 question, Mr. Schertler? 14 MR. SCHERTLER: Yes, thank you, it does. 15 HEARING EXAMINER BAUMGARDNER: Okay. The next hand 16 raised I see is Mr. Whitaker. You're welcome to ask your 17 question, sir. 18 MR. WHITAKER: Thank you. A couple of questions. As 19 it relates to the lighting, those pole writings that you 20 described, are they covered? Are the lights covered? 21 MR. PARKS: Yes. On the specifications which the 22 existing fixtures comply with, there is shielding within 23 the optic, and then the dome shape of the field fixtures -- 24 I mean play area fixtures prohibit light from going upward 25 and push it downward. On the lantern style fixture, you</p>

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<p>117</p> <p>1 have a light source that points up and then is reflected 2 down so that it has a shielding on the inside as well which 3 would prohibit excessive illumination. 4 MR. WHITAKER: Okay. So is it your expert opinion 5 that if I'm a property owner living either adjacent or 6 behind the property, as the lights are currently 7 constructed and installed, they have no impact on my -- it 8 is not going to affect me living near or being disturbed by 9 any of the lighting the way they are currently installed 10 around the sports court and other perimeter of the 11 facility? 12 MR. PARKS: Sure, Mr. Whitaker. It's my opinion 13 that -- no, it's not my opinion. The -- 14 MR. WHITAKER: Well, you're the expert, are you not? 15 As you -- 16 HEARING EXAMINER ROBESON HANNAN: Mr. Whitaker, let 17 him finish his statement. 18 MR. PARKS: Yeah, sorry. Just to correct myself, it 19 is my -- it is a fact that the plan complies with the 20 zoning ordinance as far as illumination. It is my 21 professional opinion that based on the height of the 22 fixtures, the shielding, the cowl, and the existing mature 23 vegetation, trees, of course conservation easement on the 24 site, that the impact to neighboring, adjacent properties 25 will be very minimal.</p>	<p>119</p> <p>1 required to put any additional screening there? I only ask 2 that from the position of if we're increasing the number of 3 residents there, my assumptions are there are going to be 4 more people out there participating in these types of 5 events, therefore, the sound in all the things that will go 6 along with that why is that not addressed? 7 MR. PARKS: So there is an existing forest 8 conservation easement which is recorded along that 9 perimeter there. In fact, it takes up a good portion of 10 the west side, and that satisfies the requirements, I 11 believe. 12 HEARING EXAMINER BAUMGARDNER: Okay. Next up we have 13 Mr. Bailey, Eric Bailey. You're welcome to ask you your 14 question. 15 MR. BAILEY: Yes, two things. One is on the -- 16 HEARING EXAMINER BAUMGARDNER: Mr. Bailey, I'm sorry 17 your video is not coming through. 18 There you are, sir, thank you. 19 MR. BAILEY: ALL right. On the lighting, what, in 20 your professional opinion, what's the projection radius, 21 even with the lamps on it? Because again, I'm in an 22 adjacent property whether it's a basketball, or pool 23 activities, or any evening activities that require those 24 lights to be on, I know you said you have per Mr. 25 Baumgardner's question, you have a shade on there, but you</p>
<p>118</p> <p>1 HEARING EXAMINER BAUMGARDNER: And Mr. Park, in your 2 experience is there existing hardware that could increase 3 that covering, or increase that shielding that could be 4 potentially added to those of light fixtures? 5 MR. PARKS: Yes, Mr. Baumgardner, there -- I believe 6 there are, and they have already been installed as part of 7 the original specifications. 8 HEARING EXAMINER BAUMGARDNER: Okay. Thank you. 9 Mr. Whitaker, any further questions along the same 10 ones? 11 MR. WHITAKER: Yes sir, one last question as it 12 relates to the actual screening. On -- I believe it's the 13 west side of the property between the sports court and it 14 looks like additional -- the vegetation there was no 15 requirement to place any additional screening in those 16 particular areas? 17 MR. PARKS: I'm sorry could you repeat where that 18 location is again? 19 MR. WHITAKER: I believe, and it's not in front of me, 20 but directly behind your sports court -- 21 MR. PARKS: Yes. 22 MR. WHITAKER: -- which is, I believe, the west side 23 of the property, if I recall there was no -- I didn't see 24 any requirements for any additional screening along the 25 perimeter of the property; is that correct? You're not</p>	<p>120</p> <p>1 didn't -- I didn't think you answered his question was, are 2 there any other devices that can be put that would further 3 dim that light? 4 MR. PARKS: Based on the manufacturer's specification, 5 I'm not aware of additional hardware that could be placed 6 on those fixtures. 7 MR. BAILEY: Okay. Well, the first question was 8 what's the radius projection of the light coming from the 9 poles? I mean how many feet does that light go out away 10 from the pole? 11 MR. PARKS: It goes out until the illumination on the 12 surface of the ground reaches 0.000 foot candles, as shown 13 on the photometric plan. 14 MR. BAILEY: Oh, sorry. I missed that. But if you 15 could give me just in your opinion, if I am 100 feet away 16 from the lamp, am I going to see the light? 17 MR. PARKS: It is my professional opinion that you 18 will not see -- the ground will not be illuminated at 100 19 feet. You know, depending on the angle and the grade what 20 you stand, you might still see the light source, that's 21 correct. 22 MR. BAILEY: Okay. And you think we the as many 23 lights as you have for the purpose that's there? 24 MR. PARKS: Yes sir, it's my professional opinion that 25 the illumination provided for safety and the proposed use,</p>

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121	<p>1 at the appropriate time of day would require those lights</p> <p>2 at those levels.</p> <p>3 MR. BAILEY: Okay. And the vegetation, just to follow</p> <p>4 up on Mr. Littlepool's (sic) question, on the west end of</p> <p>5 the property there is, to your point, a conservation</p> <p>6 easement, but I think you will also agree all of that</p> <p>7 vegetation in the fall in the winter goes away, so there is</p> <p>8 no shield in the winter and early spring. Would you agree?</p> <p>9 MR. PARKS: Yes I would agree. If there are</p> <p>10 evergreens present those would --</p> <p>11 MR. BAILEY: There are none. There are none.</p> <p>12 HEARING EXAMINER BAUMGARDNER: So we're going to limit</p> <p>13 our questions to questions. So Mr. Park was asked a</p> <p>14 question, and he can respond.</p> <p>15 MR. PARKS: Yes. If there are evergreens, it would</p> <p>16 provide some screening. You know, there would be the</p> <p>17 trunks of the trees, but beyond that there would not be</p> <p>18 foliage that would provide screening in the winter. And</p> <p>19 again, it would be a seasonal thing. And as you know, in</p> <p>20 this area, have pretty good all-around rounded four seasons</p> <p>21 so we don't think that will be -- it's my professional</p> <p>22 opinion that that condition will be limited to a couple of</p> <p>23 months.</p> <p>24 HEARING EXAMINER BAUMGARDNER: So Mr. Park, that</p> <p>25 forested area, if you know, are they mostly deciduous</p>	123	<p>1 Mr. Park? All right. Back to you, Mr. Kline.</p> <p>2 HEARING EXAMINER ROBESON HANNAN: I think Mr. Whitaker</p> <p>3 still has his hand up.</p> <p>4 MR. WHITAKER: I'm sorry, no, I'm done. My apologies.</p> <p>5 HEARING EXAMINER ROBESON HANNAN: Okay.</p> <p>6 MR. WHITAKER: Thank you.</p> <p>7 HEARING EXAMINER ROBESON HANNAN: You guys are -- this</p> <p>8 is great.</p> <p>9 MR. KLINE: Well Mr. Baumgardner, concluding Mr.</p> <p>10 Parks' testimony actually concludes our case in chief. So</p> <p>11 we're prepared to go whatever direction you want to go. I</p> <p>12 think we're a little late for the lunch break you</p> <p>13 predicted.</p> <p>14 HEARING EXAMINER BAUMGARDNER: A little bit yeah, but</p> <p>15 we're not too far off. As far as my understanding, folks</p> <p>16 from the community, I think, I have four or five, I want to</p> <p>17 say witnesses that would like to testify. So my suggestion</p> <p>18 is that we break for lunch now. Do you folks want 30</p> <p>19 minutes, or would people prefer 45, one hour? With</p> <p>20 everyone being remote it's hard to gauge where people are</p> <p>21 in terms of if you have access to your own refrigerator or</p> <p>22 if you're going to be going out for something. So do we</p> <p>23 want 30 minutes, 45 minutes, 60 minutes? Where are we?</p> <p>24 FEMALE SPEAKER: Forty-five.</p> <p>25 HEARING EXAMINER BAUMGARDNER: I hear one vote for 45.</p>
122	<p>1 trees, or are they mostly evergreens and/or conifers?</p> <p>2 MR. PARKS: There's definitely -- and the majority of</p> <p>3 them are deciduous and understory trees. I did not -- I</p> <p>4 was not aware that there were no evergreen trees, but I did</p> <p>5 not see that during my site visit so I wouldn't know. But</p> <p>6 it's a mix of trees. A mix of canopy and understory trees,</p> <p>7 for sure.</p> <p>8 HEARING EXAMINER BAUMGARDNER: Okay. Thank you. Mr.</p> <p>9 Bailey, any other questions?</p> <p>10 MR. BAILEY: And when was your site visit?</p> <p>11 MR. PARKS: My site visit was in November of last</p> <p>12 year, and I also went this spring as well, and summer.</p> <p>13 MR. BAILEY: And you're saying for the record, that</p> <p>14 you saw evergreens in that area?</p> <p>15 MR. PARKS: No, I am not saying that.</p> <p>16 MR. BAILEY: Oh, okay. I thought you answer to his</p> <p>17 question was there's various types of trees including</p> <p>18 evergreens.</p> <p>19 MR. PARKS: Let me clarify, sir. So typically in a</p> <p>20 forest conservation easement there would be a variety of</p> <p>21 trees including evergreens if it's specified the forest</p> <p>22 conservation plan. Again, I did not go on that easement to</p> <p>23 see the mix of trees. So I just wanted to clarify that.</p> <p>24 MR. BAILEY: Thank you.</p> <p>25 HEARING EXAMINER BAUMGARDNER: Any other questions for</p>	124	<p>1 MR. WHITAKER: Mr. Chair, I do -- we have a number of</p> <p>2 people from the community to, quite frankly didn't</p> <p>3 reckon -- realize this thing drags on this long, and some</p> <p>4 are going to have to jump off the call so they are not</p> <p>5 going to be able to speak. I know I sent in sort of a</p> <p>6 batting lineup, speaker lineup, yesterday. I may want to</p> <p>7 reshuffle the deck to get -- if those folks are available,</p> <p>8 put them at the front of the line relative to what we had</p> <p>9 originally thought we were going to have.</p> <p>10 HEARING EXAMINER BAUMGARDNER: We can certainly do</p> <p>11 that. Is there any objection to breaking and recessing now</p> <p>12 until 1:30, 1:45, and then you are welcome to call any</p> <p>13 witnesses that you are going to call. In the community</p> <p>14 members who would like to testify first because they have</p> <p>15 other plans for the afternoon can certainly do so.</p> <p>16 MR. WHITAKER: I was asking, is it possible that they</p> <p>17 start their testimony now? Maybe one or two, and then we</p> <p>18 break so that they could be heard? I'm sure it should be</p> <p>19 no more than 10 minutes cumulatively.</p> <p>20 HEARING EXAMINER ROBESON HANNAN: Mr. Kline, do you</p> <p>21 have any objection to that?</p> <p>22 MR. KLINE: The Hearing Examiner knows that generally</p> <p>23 I don't have any problem, and since we have -- I would have</p> <p>24 objected had it occurred during our presentation, but since</p> <p>25 were completed, I have no objection other than hunger.</p>

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125	1 HEARING EXAMINER BAUMGARDNER: All right. Well then, 2 I think we can take one or two witnesses from the community 3 to provide your testimony. I will let you know that these 4 are most effective when there is not repetitive testimony. 5 So if you have one member of the community that testifies 6 about a particular issue, we hear it. We don't need to 7 hear it multiple times, and that is included in the record. 8 Do we have any individuals who want to be heard right now 9 before we break for lunch? 10 MR. BAILEY: Yes, I would be. 11 HEARING EXAMINER BAUMGARDNER: Okay. And so we have 12 one in Mr. Bailey. 13 MR. WHITAKER: And Mr. Lowe, those would be the two. 14 HEARING EXAMINER BAUMGARDNER: Okay. Well then, we'll 15 go with Mr. Bailey first since your highest on my list 16 here. Can you please raise your right hand, sir? 17 Mr. Bailey, do you swear or affirm under the penalties 18 of perjury that the testimony you're about to give is the 19 truth, the whole truth, and nothing but the truth? 20 MR. BAILEY: Yes. 21 HEARING EXAMINER BAUMGARDNER: All right. Please give 22 us your full name and your address for the record. 23 MR. BAILEY: Full name is Eric, that's E-R-I-C, 24 Bailey, B-A-I-L-E-Y. My address is 17528 Ashton Forest 25 Terrace, at Sandy Spring 20860.	127	1 We know who the neighbor's going to be. It minimizes a lot 2 of the concern. 3 Now, certainly, I think these are reasonable requests 4 given the fact that that the community, the Planning Board, 5 and everyone at the outset when the building was 6 constructed agreed vehemently that this place would be 7 limited to 8 residents, not 16, not 14, not 20. And 8 certainly, not revamping the entire structure. 9 Our concern is what happens to the property when, and 10 if, the Applicant's terminate Sandy Spring Friend's School 11 lease? Do we now have unfettered usage of the property 12 within, obviously the R200, but nonetheless, I'm against 13 it. I would hope that the committee would see the 14 community's rationale. This is not vengeful. This is not, 15 not in our backyard, this is what we agreed to at the 16 beginning. And if we're going to spend time, and I spent a 17 lot of time with the Master Plan, with the overlay. I was 18 head of the Sandy Spring redevelopment committee. If we're 19 going to spend the time as a community doing these things 20 for you guys to come back and say, ah, you know, appreciate 21 it but sorry. Then, why do we do it? 22 So my testimony concludes with I'd like for this 23 facility to stay at eight residents, no more, no less. It 24 works for Sandy Spring now. It obviously works for the 25 Applicant now. It works for the community. That's all
126	1 HEARING EXAMINER BAUMGARDNER: All right, sir, you are 2 welcome to provide your testimony here today. 3 MR. BAILEY: My testimony is pretty short. I would 4 say though, that I have been engaged with this property 5 since it's preconstruction days. I fought long and hard, 6 spent a lot of money to limit the use of this property to 7 eight residents. At that time the Planning Board, the 8 community, and all interested parties agreed when the 9 property was constructed that the occupancy would it be 10 limited to eight. I find it, really sort of reverse of 11 that instead of the Applicant asking the community can go 12 to 16, it's a basically putting us on the defense as to why 13 it shouldn't go to 16. 14 Now, our issue is not with Sandy Spring, the school 15 being a good neighbor, et cetera, it's really on this 16 conditional use because the conditional use transfers to 17 the Applicant Sandy Spring has said that they are willing 18 to enter into a long-term lease, which they do not have, 19 that lease expires on 21 October, and once, if you convey 20 this conditional use to the Applicant who's to say Sandy 21 Spring is no longer the tenant after August of next year? 22 The -- Sandy Spring doesn't have an option on the lease so 23 they don't get to determine whether the lease continues. 24 If the Applicant is willing to give Sandy Spring a lease 25 for 10 or 15 years, we know what the usage is going to be.	128	1 I've got to say. 2 HEARING EXAMINER BAUMGARDNER: Mr. Kline, any 3 questions for Mr. Bailey? 4 MR. KLINE: Mr. Baumgardner, could you pull up Exhibit 5 21, which is zoning vicinity map, that we had used earlier? 6 Because although it wasn't in the current testimony, there 7 were a couple of comments that were made earlier, both in 8 the introduction and in cross examination that I'd like to 9 go back and check on. 10 HEARING EXAMINER BAUMGARDNER: So that should be on 11 your screen right now. 12 MR. KLINE: That's perfect. 13 Mr. Bailey, can you help Mr. Baumgardner to locate 14 your residence on that picture? 15 MR. BAILEY: Not really. 16 MR. KLINE: Well, you can see where the subject 17 property is where the red dot is, right? 18 MR. BAILEY: Yeah. 19 MR. KLINE: And you said your property abuts the 20 subject property, so tell me where your lot line abuts the 21 subject property. 22 MR. BAILEY: Right here. 23 HEARING EXAMINER BAUMGARDNER: So I can't see what 24 you're showing. Is your property to the north, south, 25 east, or west?

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129	<p>1 MR. BAILEY: It is to the southwest.</p> <p>2 MR. KLINE: Presumably, it's one of the three houses</p> <p>3 at the northern end of the Bancroft Street --</p> <p>4 MR. BAILEY: If you can continue -- if you can</p> <p>5 continue your -- there. Right there.</p> <p>6 MR. KLINE: Thank you. Great. Would you agree with</p> <p>7 me that that property does not abut subject property?</p> <p>8 MR. BAILEY: Well, my property line abuts conservation</p> <p>9 easement, which does abut the property.</p> <p>10 MR. KLINE: When you say conservation agreement, do</p> <p>11 you mean the open space that's part of the Bancroft</p> <p>12 subdivision, which is immediately north of your property?</p> <p>13 MR. BAILEY: There you go. Yes, correct. Okay.</p> <p>14 Well, where the cursor is right now, I think is merely the</p> <p>15 backyard of Mr. Schertler's property.</p> <p>16 MR. BAILEY: Okay.</p> <p>17 MR. KLINE: But immediately to the left of that, and</p> <p>18 my incorrect that -- thank you. That area is an open space</p> <p>19 dedicated as part of the development proposal for Bancroft,</p> <p>20 and probably is owned by your homeowners association?</p> <p>21 MR. BAILEY: You are probably correct. So I will</p> <p>22 withdraw my abutment so we can parse --</p> <p>23 MR. KLINE: You didn't have to do that; it was just a</p> <p>24 clarification. I just want to make sure I got that right.</p> <p>25 MR. BAILEY: Well, I mean --</p>	131	<p>1 the western end of the subject property apparently doesn't</p> <p>2 lose a lot of its vegetation off-season, but that area is</p> <p>3 adjacent to what uses? So I'm going to ask you, if I could</p> <p>4 have the cursor put on the forest conservation area on the</p> <p>5 subject property?</p> <p>6 Probably a little bit is probably -- yeah, I guess</p> <p>7 that's right. So what's the building immediately north of</p> <p>8 the conservation area?</p> <p>9 MR. BAILEY: You're asking me?</p> <p>10 MR. KLINE: Yes, sir.</p> <p>11 MR. BAILEY: That is the veterinarian.</p> <p>12 MR. KLINE: Fine. The building that's -- you can</p> <p>13 (inaudible) -- slightly southwest of that at the end of the</p> <p>14 western end, do you know what that is?</p> <p>15 MR. BAILEY: That's a historic, old church that used</p> <p>16 to be the previous site, I believe, of slave quarters or</p> <p>17 something like that.</p> <p>18 MR. KLINE: So, I don't want to play around too much</p> <p>19 here. So I guess my question is, you're concerned about</p> <p>20 the forest conservation area on the subject property losing</p> <p>21 a lot of its vegetation in the winters. What would that --</p> <p>22 MR. BAILEY: No, my concern is the lighting.</p> <p>23 MR. KLINE: Okay. So your point was you thought the</p> <p>24 forest conservation area would screen the lighting from</p> <p>25 properties to the north, and west, and southwest?</p>
130	<p>1 MR. KLINE: But one thing you could correct for me is,</p> <p>2 I indicated intimate knowledge of Aunt Hattie's House. And</p> <p>3 was the chronological order that the technical staff of</p> <p>4 Park and Planning Commission recommended a denial and it</p> <p>5 was the Planning Board that recommended approval, yet you</p> <p>6 said the Planning Board recommended denial; and that's not</p> <p>7 correct, is it?</p> <p>8 MR. BAILEY: I didn't say they recommended denial. I</p> <p>9 said we agreed to eight residents.</p> <p>10 MR. KLINE: What did the Planning Board agree to?</p> <p>11 MR. BAILEY: Eight residents.</p> <p>12 MR. KLINE: On Aunt Hattie's House?</p> <p>13 MR. BAILEY: Yeah.</p> <p>14 MR. KLINE: Okay.</p> <p>15 MR. BAILEY: Is that not correct?</p> <p>16 MR. KLINE: Mr. Baumgardner, I would ask the Hearing</p> <p>17 Examiner's office to take administrative notice of the Aunt</p> <p>18 Hattie's special exception case and the history before it</p> <p>19 was withdrawn, and the record will reflect that that the</p> <p>20 technical staff recommended denial, the Planning Board</p> <p>21 recommended approval for up to 16 residents -- I'm sorry,</p> <p>22 12 to 14 residents.</p> <p>23 HEARING EXAMINER BAUMGARDNER: So noted.</p> <p>24 MR. KLINE: Thank you.</p> <p>25 Last question, Mr. Bailey, forest conservation area at</p>	132	<p>1 MR. BAILEY: Is that a question?</p> <p>2 MR. KLINE: Yes, sir.</p> <p>3 MR. BAILEY: No. My concern is when that area loses</p> <p>4 its vegetation the lighting from the pool area and the</p> <p>5 basketball courts is not as screened as you may believe.</p> <p>6 MR. KLINE: Okay. But what would the forest</p> <p>7 conservation area screen? What properties are impacted by</p> <p>8 that lack of vegetation?</p> <p>9 MR. BAILEY: I would say mine is, certainly the</p> <p>10 veterinarian, and the neighboring properties.</p> <p>11 MR. KLINE: Okay. Thank you Mr. Bailey. That's all</p> <p>12 the questions I have.</p> <p>13 HEARING EXAMINER BAUMGARDNER: All right. And Mr.</p> <p>14 Lowe, I think, was the next up before we break for lunch.</p> <p>15 HEARING EXAMINER ROBESON HANNAN: May I just ask a few</p> <p>16 questions of Mr. Bailey?</p> <p>17 Mr. Bailey?</p> <p>18 MR. BAILEY: Yeah, I think I'm still here.</p> <p>19 HEARING EXAMINER ROBESON HANNAN: I just wasn't sure,</p> <p>20 with this platform sometimes people mistakenly mute, and I</p> <p>21 wasn't sure you were muted. I guess my question is, you</p> <p>22 said you fought it with eight people.</p> <p>23 MR. BAILEY: No that's not what --</p> <p>24 HEARING EXAMINER ROBESON HANNAN: Why were your --</p> <p>25 MR. BAILEY: Go ahead. I'm sorry.</p>

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133	<p>1 HEARING EXAMINER ROBESON HANNAN: Or you agreed to</p> <p>2 eight people. What are your particular concerns with the</p> <p>3 16? Just -- I mean specifically why do you think that the</p> <p>4 16 is too much?</p> <p>5 MR. BAILEY: Well, I believe that the 16 would</p> <p>6 generate more ways, more usage of the outdoor areas. We</p> <p>7 would find ourselves with the lighting on more frequently.</p> <p>8 And again, in this instance these are kids, I guess</p> <p>9 you could call, and the reality is -- my understanding is</p> <p>10 that most of them will be either preteens or teens which,</p> <p>11 for those of us that have children, we know that comes with</p> <p>12 some baggage, for lack of a better term. And that's</p> <p>13 uncontrollable and we certainly don't want to handcuff the</p> <p>14 kids, so to speak. I think by limiting the number of</p> <p>15 people who are in the facility we minimize it without</p> <p>16 impacting what Sandy Springs Friends is trying to deliver</p> <p>17 for these kids.</p> <p>18 HEARING EXAMINER ROBESON HANNAN: So you're saying</p> <p>19 you're worried about crime, or shenanigans because they're</p> <p>20 teenagers; is that what you're saying?</p> <p>21 MR. BAILEY: Oh no. No.</p> <p>22 HEARING EXAMINER ROBESON HANNAN: I'm trying to phrase</p> <p>23 it --</p> <p>24 MR. BAILEY: Noise. Noise.</p> <p>25 HEARING EXAMINER ROBESON HANNAN: -- so we can get to</p>
134	<p>1 the evidence.</p> <p>2 MR. BAILEY: Noise. I don't think it's crime. I mean</p> <p>3 kids just like to have fun.</p> <p>4 HEARING EXAMINER ROBESON HANNAN: I see. So it's</p> <p>5 noise, and it's lighting?</p> <p>6 MR. BAILEY: Lighting.</p> <p>7 HEARING EXAMINER ROBESON HANNAN: Extended lighting.</p> <p>8 MR. BAILEY: Extended lighting.</p> <p>9 HEARING EXAMINER ROBESON HANNAN: Okay.</p> <p>10 MR. BAILEY: And also, like I said, my biggest concern</p> <p>11 is this is not about Sandy Spring Friends School. This is</p> <p>12 about Redly Corporation. They are not the neighbor we know</p> <p>13 Sandy Spring is. We don't know what they're going to do</p> <p>14 with this property after August 21st of next year.</p> <p>15 Mr. -- the CFO has already said he'd like to have it,</p> <p>16 but he hasn't been offered a lease for --</p> <p>17 HEARING EXAMINER ROBESON HANNAN: So you're saying you</p> <p>18 trust Sandy Spring to manage it well. You don't trust,</p> <p>19 necessarily, somebody else to manage it well; is that what</p> <p>20 you're saying?</p> <p>21 MR. BAILEY: What I'm saying is my understanding is</p> <p>22 this conditional use transfers with the property. It does</p> <p>23 not transfer with tenant.</p> <p>24 HEARING EXAMINER ROBESON HANNAN: You're correct.</p> <p>25 MR. BAILEY: Right.</p>
135	<p>1 HEARING EXAMINER ROBESON HANNAN: But why -- what I'm</p> <p>2 trying to get to is why does the tenant matter to you?</p> <p>3 MR. BAILEY: The tenant doesn't matter to me. I don't</p> <p>4 want, regardless of who the tenant is, I really prefer to</p> <p>5 stay at eight. Because if Sandy Spring Friends is not the</p> <p>6 tenant then essentially, anyone within the R200 usage can</p> <p>7 be there, and now we're at 16, and who's to say we don't</p> <p>8 come back for a continuance for more?</p> <p>9 HEARING EXAMINER ROBESON HANNAN: Well, they would</p> <p>10 have to get a whole another approval for that.</p> <p>11 MR. BAILEY: Yeah, well.</p> <p>12 HEARING EXAMINER ROBESON HANNAN: But I know that --</p> <p>13 MR. BAILEY: Precedents would have been set.</p> <p>14 HEARING EXAMINER ROBESON HANNAN: But I know that</p> <p>15 you --</p> <p>16 Yes. Yes. I knew you were going to say that. But I</p> <p>17 guess I'm just saying, okay, say somebody else came in</p> <p>18 tomorrow, okay.</p> <p>19 MR. BAILEY: As long as the tenant --</p> <p>20 HEARING EXAMINER ROBESON HANNAN: Well, if the tenant</p> <p>21 came in they would have to -- if they didn't (audio</p> <p>22 interference) -- all right. If these kids didn't go to</p> <p>23 Sandy Springs -- that's an interesting question. Because</p> <p>24 if the kids are in and go to Sandy Spring then they would</p> <p>25 have to get an amendment to this thing because all the</p>
136	<p>1 operations that we've been describing are depending on</p> <p>2 being in partnership with Sandy Spring. So I'm just</p> <p>3 thinking this through, trying to get at the crux of your</p> <p>4 issues, and I apologize if I'm slower than I should be.</p> <p>5 MR. BAILEY: Well, I just said. You just said it.</p> <p>6 That --</p> <p>7 HEARING EXAMINER ROBESON HANNAN: You're afraid the</p> <p>8 operations would change, would morph into something else?</p> <p>9 MR. BAILEY: Could possibly, probably. And as you</p> <p>10 said, the usage transfers with the property.</p> <p>11 HEARING EXAMINER ROBESON HANNAN: Right.</p> <p>12 MR. BAILEY: It is not with the tenant.</p> <p>13 HEARING EXAMINER ROBESON HANNAN: Well, the</p> <p>14 conditional -- all the restrictions of the conditional use,</p> <p>15 unless and they abandoned the conditional use or modified</p> <p>16 it, all the restrictions of the conditional use would pass.</p> <p>17 So they would be bound by all the operations that we're</p> <p>18 hearing today. Whoever re-leased this would be bound by</p> <p>19 all the conditions of approval in the operations that have</p> <p>20 been just described, like the number -- the timing of the</p> <p>21 vans. So that would be binding if they're made specific</p> <p>22 conditions.</p> <p>23 I don't know if I'm making any sense here.</p> <p>24 MR. BAILEY: Well --</p> <p>25 HEARING EXAMINER ROBESON HANNAN: I'm just trying to</p>

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137	<p>1 get -- I understand better what you're saying. I have two</p> <p>2 more questions. Can you see the lights from the sport</p> <p>3 court?</p> <p>4 MR. BAILEY: I can.</p> <p>5 HEARING EXAMINER ROBESON HANNAN: You can see the</p> <p>6 lights?</p> <p>7 MR. BAILEY: I can see the lights.</p> <p>8 HEARING EXAMINER ROBESON HANNAN: Okay. And can you</p> <p>9 hear noise?</p> <p>10 MR. BAILEY: I can.</p> <p>11 HEARING EXAMINER ROBESON HANNAN: Okay. Those were my</p> <p>12 questions.</p> <p>13 Now, I have to give Mr. Kline a chance to ask</p> <p>14 questions based on my questions.</p> <p>15 FEMALE SPEAKER: Hey, a number --</p> <p>16 MR. BAILEY: You guys -- you guys, this is -- this is</p> <p>17 just a -- what do you -- I guess you guys figure we'll just</p> <p>18 quit, huh?</p> <p>19 HEARING EXAMINER ROBESON HANNAN: No. No --</p> <p>20 MR. BAILEY: Geeze, Louise.</p> <p>21 HEARING EXAMINER ROBESON HANNAN: This trying to be --</p> <p>22 this is a procedure that tries to be fair to everybody.</p> <p>23 Okay. Go ahead.</p> <p>24 MR. KLINE: Mr. Bailey, just simple. So has the</p> <p>25 noise, or the lights ever been objectionable enough to you</p>	139	<p>1 HEARING EXAMINER ROBESON HANNAN: I think he's with</p> <p>2 Mr. Whitaker.</p> <p>3 HEARING EXAMINER BAUMGARDNER: Well, Mr. Whitaker had</p> <p>4 said that Mr. Lowe wanted to testify earlier. I don't see</p> <p>5 him logged on anymore.</p> <p>6 MR. WHITAKER: That is correct. He had to really jump</p> <p>7 off so between some of the comments Mr. Bailey stated, and</p> <p>8 Mr. Lowe has for the record, submitted for Bancroft</p> <p>9 Homeowners Associations, his objection and opposition to</p> <p>10 that, then the record can stand to show that's what he</p> <p>11 has -- those were his statements.</p> <p>12 HEARING EXAMINER BAUMGARDNER: Fair enough. Then we</p> <p>13 will recess until 2:00 p.m. and we will commence with</p> <p>14 community testimony with regards to this conditional use.</p> <p>15 I thank you all for your patience, and we'll see you back</p> <p>16 here at 2:00 p.m.</p> <p>17 MR. WHITAKER: And you may be home by 5:00.</p> <p>18 HEARING EXAMINER ROBESON HANNAN: We're already home.</p> <p>19 MR. KLINE: Thank you.</p> <p>20 HEARING EXAMINER ROBESON HANNAN: Thank you.</p> <p>21 HEARING EXAMINER BAUMGARDNER: Thank you all very</p> <p>22 much. And I'll see you soon.</p> <p>23 MR. WHITAKER: Thank you.</p> <p>24 (Off the record at 1:13 p.m.)</p> <p>25 (On the record at 2:03 p.m.)</p>
138	<p>1 felt you needed to call somebody and say hey, do something</p> <p>2 about it?</p> <p>3 MR. BAILEY: Yeah. When Hattie was there, I mean I</p> <p>4 knew Hattie. So she was not a stranger, we went to the</p> <p>5 same church. We were involved in a lot of civic</p> <p>6 activities. She knew it wasn't personal, it was business.</p> <p>7 So when it did, I called her. You know, sometimes she was</p> <p>8 there, sometimes she wasn't, but we worked things out.</p> <p>9 MR. KLINE: Have there been objectionable. So those</p> <p>10 two activities over the last two or three years while the</p> <p>11 Friends School has been in that -- in the facility? You</p> <p>12 felt -- you wished you had somebody you could talk to?</p> <p>13 MR. BAILEY: Well, no.</p> <p>14 MR. KLINE: Okay. Thank you. No further questions.</p> <p>15 HEARING EXAMINER ROBESON HANNAN: All right. I have</p> <p>16 none. I'll let Mr. Bailey go.</p> <p>17 MR. BAILEY: Yeah, please.</p> <p>18 HEARING EXAMINER ROBESON HANNAN: I'll release him.</p> <p>19 Okay. Thank you, sir.</p> <p>20 MR. BAILEY: Thank you, I appreciate it.</p> <p>21 Mr. Baumgardner, you're on mute.</p> <p>22 HEARING EXAMINER BAUMGARDNER: You see, I'm not</p> <p>23 following with my own rules. I do not see Mr. Lowe as</p> <p>24 logged on anywhere so I'm going to suggest that we break</p> <p>25 until 2:00 p.m.</p>	140	<p>1 HEARING EXAMINER BAUMGARDNER: -- down our list of</p> <p>2 folks to make sure everyone that was with us before has</p> <p>3 returned. And it looks like everyone has.</p> <p>4 We are going to go back on the record. It is October</p> <p>5 2nd, 2020 at 2:04 p.m. we're going back on the record in</p> <p>6 the OZAH Conditional Use case 20, matter 6, for a</p> <p>7 conditional use for a residential care facility for up to</p> <p>8 16 persons. We're going to pick up -- pick up where we</p> <p>9 left off earlier this afternoon. There were members from</p> <p>10 the community and any other individuals who would like to</p> <p>11 testify regarding this particular case.</p> <p>12 We had a list of folks, we don't have to follow this</p> <p>13 item by item, but was there anyone who wanted to testify</p> <p>14 first about this use?</p> <p>15 MR. WHITAKER: Yes, thank you. The three remaining</p> <p>16 people from the community are Dr. Daryl Thorne, followed by</p> <p>17 myself, and then lastly Steve Schertler.</p> <p>18 HEARING EXAMINER BAUMGARDNER: Okay. And who would</p> <p>19 like to go first?</p> <p>20 MR. WHITAKER: Dr. Thorne.</p> <p>21 HEARING EXAMINER BAUMGARDNER: All right. Dr. Thorne,</p> <p>22 we see -- there you are. Good afternoon, can you raise</p> <p>23 your right hand, please?</p> <p>24 Dr. Thorne, do you swear or affirm under the penalties</p> <p>25 of perjury that the testimony you're about to give is the</p>

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<p>141</p> <p>1 truth, the whole truth, and nothing but the truth?</p> <p>2 DR. THORNE: I do.</p> <p>3 HEARING EXAMINER BAUMGARDNER: All right. Please give</p> <p>4 us your name and your address.</p> <p>5 DR. THORNE: It's Daryl Thorne, 18434 Road, Sandy</p> <p>6 Spring, Maryland 20860.</p> <p>7 HEARING EXAMINER BAUMGARDNER: All right. And what</p> <p>8 would you like to tell us?</p> <p>9 DR. THORNE: So one, I of course, am testifying on my</p> <p>10 own behalf, but I do want to let you know, I am a member of</p> <p>11 the Sandy Springs Civic Association. But again, for the</p> <p>12 record, I am not testifying on behalf of the Civic</p> <p>13 Association. But I wanted to put a context to my testimony</p> <p>14 and what I will tell you and be very transparent that the</p> <p>15 direction of my testimony is specifically to the owner, the</p> <p>16 Applicant. I'm not going to fall prey, or victim, to</p> <p>17 shifting to any lessee, so I want to make that clear. And</p> <p>18 I'm also going to try to stay within your parameters of not</p> <p>19 repeating (audio interference) as Mr. Bailey kind of opened</p> <p>20 up the contextual concerns so there will be some overlap</p> <p>21 with the rest of the testimony.</p> <p>22 So extend some of that concern in terms of the</p> <p>23 conditional use following the Applicant, and being clear</p> <p>24 that it is the owner, and understanding that Shanrong Li</p> <p>25 (phonetic) is the owner, there is very little footprint</p>	<p>143</p> <p>1 The other concerns that I have are relative to the</p> <p>2 Applicant, Shanrong Li's experience running any type of</p> <p>3 facility of this nature. What is the history, because I</p> <p>4 couldn't find anything. Because at the end of the day, the</p> <p>5 owner, the Applicant, is responsible for that property, for</p> <p>6 what happens because that is a business.</p> <p>7 Now, I get the whole tenets responsibility and role,</p> <p>8 but in terms of the property, and the use, and the ultimate</p> <p>9 responsibility, it is that of the owner. And again, you</p> <p>10 know, if we as a community have concerns about whatever's</p> <p>11 happening while the tenants are in use, we have immediate</p> <p>12 access to the tenants. We had zero access to the actual</p> <p>13 owner or Applicant. I, honestly, am not comfortable going</p> <p>14 through attorneys. I will say this straight out, I don't</p> <p>15 trust any attorney unless they're working for me, and even</p> <p>16 then, I don't trust them.</p> <p>17 So how are we going to be assured that there is going</p> <p>18 to be the relationship that the area that we live in, you</p> <p>19 know, prides itself on? So no smoke and mirrors, cutting</p> <p>20 to the chase, I don't necessarily believe that the owner</p> <p>21 has any interest in maintaining relationships with the</p> <p>22 community. It is completely business and I get it, but</p> <p>23 also part of good business is establishing relationships,</p> <p>24 especially if you plan to be here long term.</p> <p>25 So those are the main points of that I wanted to bring</p>
<p>142</p> <p>1 from this person, or the Redly Holdings, so that leads to</p> <p>2 my concern about the level of the transparency because</p> <p>3 there really hasn't been any.</p> <p>4 Most of us, and I speak typically for myself, we were</p> <p>5 not made aware of this process so there were things that</p> <p>6 were in play on behalf of the Applicant that we had no idea</p> <p>7 about. And as you heard from the previous folks who live</p> <p>8 right there, they didn't know either. So there are a lot</p> <p>9 of things that were underhanded with this. So I raised</p> <p>10 that because I think it is important in terms of community</p> <p>11 relationships.</p> <p>12 Right now, as Mr. Bailey also spoke, there is no</p> <p>13 relationship with the owner, or the Applicant. So he had a</p> <p>14 relationship, the rest of the community had a relationship</p> <p>15 with Aunt Hattie, whatever that looked like, there was a</p> <p>16 relationship there. There is no relationship, so I'm going</p> <p>17 to say that I don't trust Shanrong Li, or Redly Corporation</p> <p>18 for anybody else who spoke on the behalf of them because I</p> <p>19 think that this is very manipulative.</p> <p>20 Now, I don't have much of a dog in the fight regarding</p> <p>21 8 to 16. I will support my community members and say I</p> <p>22 think eight is fair. But again, my concerns, and my</p> <p>23 testimony are in what are the long-term implications and</p> <p>24 what's the transparency in terms of what Shanrong Li wants</p> <p>25 to do with this property.</p>	<p>144</p> <p>1 up. So I don't know if anybody can answer the question</p> <p>2 about the owner's experience with other properties --</p> <p>3 residential care properties and what, honestly, has been</p> <p>4 the outcome. Without legalese, and without wordsmithing.</p> <p>5 The truth.</p> <p>6 HEARING EXAMINER BAUMGARDNER: So unfortunately, this</p> <p>7 is a quasi-public hearing you'd okay, you can think of it</p> <p>8 as something like a judicial hearing except we are not</p> <p>9 judges appointed by the governor and we don't hear criminal</p> <p>10 and civil matters. And in any of those contacts we can't</p> <p>11 provide information other than what's in the public record.</p> <p>12 We simply hear a case and then we decide that case and</p> <p>13 based upon the particular codes that that are in front of</p> <p>14 us.</p> <p>15 I don't know whether Mr. Kline can give any more</p> <p>16 information with regards to your questions, and I'll also</p> <p>17 throw this to Ms. Hannan as well, but the purpose of this</p> <p>18 hearing today is to establish whether or not the particular</p> <p>19 use proposed, as a residential care facility for up to 16</p> <p>20 individuals meets the County code requirements. So I</p> <p>21 understand the concerns that you've raised, but we are a</p> <p>22 body of limited jurisdiction. That means that we can only</p> <p>23 hear what we're legally able to hear, and that's the</p> <p>24 underlying land use issues. I don't know whether Ms.</p> <p>25 Hannan would like to add anything to that?</p>

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145	<p>1 HEARING EXAMINER ROBESON HANNAN: Well, to the</p> <p>2 extent -- I mean, I guess -- well, let's hear from -- I</p> <p>3 guess my first question would be to Mr. Kline; is there</p> <p>4 going to be somebody from the owner to speak or not?</p> <p>5 MR. KLINE: No. Simply because everything -- the</p> <p>6 impacts flow from the use of the current tenant, and that's</p> <p>7 the evidence we presented.</p> <p>8 DR. THORNE: May I say something?</p> <p>9 HEARING EXAMINER ROBESON HANNAN: Well, let me just</p> <p>10 finish. Let me throw out this. The question, I think what</p> <p>11 I hear is this -- two questions really. Is this use going</p> <p>12 to morph into something else unrelated to the Sandy Spring</p> <p>13 Friends School. That's one question, and two, is this</p> <p>14 property owner going to have somebody that the community</p> <p>15 can -- say there is an issue, is this property owner going</p> <p>16 to have somebody that the community can contact, other than</p> <p>17 the tenant? That's kind of what I see -- I think it's</p> <p>18 operational concerns. You could put it under operational</p> <p>19 concerns.</p> <p>20 MR. KLINE: Ms. Robeson, in reverse order of your</p> <p>21 comments, we have no problem with establishing a contacted</p> <p>22 between Redly and the community in the same way that</p> <p>23 Friends School is prepared to do so. Yes, that's not a</p> <p>24 problem to be able to transmit information from the owner,</p> <p>25 the landlord, back and forth between the Association. Glad</p>	147	<p>1 and plug it into this site without your (audio</p> <p>2 interference) that. That was what I tried to communicate</p> <p>3 in our community meeting the other night, that we cannot do</p> <p>4 anything different than what is being proposed to be done</p> <p>5 without your office having a say in it. And I have no</p> <p>6 problem with putting that in as a condition.</p> <p>7 And if I could just add a comment to that, I</p> <p>8 understand Mr. Bailey's comment, but I don't think the</p> <p>9 parties will agree to legally commit themselves to a lease</p> <p>10 arrangement, but they will both agree to have a provision</p> <p>11 that nothing will change without your offices' review and</p> <p>12 approval.</p> <p>13 So I hope that makes Dr. Thorne feel a little more</p> <p>14 comfortable. But --</p> <p>15 HEARING EXAMINER ROBESON HANNAN: Are you saying they</p> <p>16 won't agree to a 10-year lease? Is that what you're</p> <p>17 saying?</p> <p>18 MR. KLINE: No. No. I would -- as a matter of a fact</p> <p>19 heard Mr. Ganong say he would like to get a 10-year lease.</p> <p>20 I'm just saying those parties don't want to have, as a</p> <p>21 condition of a conditional use how long they have to</p> <p>22 maintain the relationship.</p> <p>23 HEARING EXAMINER ROBESON HANNAN: I think.</p> <p>24 MR. KLINE: They will agree that if it ever changes</p> <p>25 that you have a hand in what it changes too.</p>
146	<p>1 to do that.</p> <p>2 The morphing, at the beginning of the presentation I</p> <p>3 told you to anticipate this was going to be a question.</p> <p>4 And I'm prepared -- let me rephrase that. The Applicant is</p> <p>5 prepared to accept a condition that will not allow a change</p> <p>6 in the use of the property without review by the Office of</p> <p>7 Zoning and Administrative Hearings. I'm getting a little</p> <p>8 ahead of myself --</p> <p>9 HEARING EXAMINER ROBESON HANNAN: To change the use,</p> <p>10 what if it just (audio interference) --</p> <p>11 MR. KLINE: Well, when I say change it the use, I</p> <p>12 don't mean to go from 9 to 16 to over 16.</p> <p>13 HEARING EXAMINER ROBESON HANNAN: I understand.</p> <p>14 MR. KLINE: I'm just saying anything that would</p> <p>15 require a change -- let me start over and say it this way.</p> <p>16 Anything that would not be consistent with the conditions</p> <p>17 imposed, or the essence of the application itself, I would</p> <p>18 be glad to construct the condition that would require the</p> <p>19 property owner to return to the hearing examiners for</p> <p>20 review.</p> <p>21 You know, it's an exaggerated example, but not more</p> <p>22 than two or three months ago we had a hearing before you</p> <p>23 where we had a residential care facility in Germantown that</p> <p>24 had 16 residents, but it was a totally different nature,</p> <p>25 absolutely. And there's no way we could take Way Station</p>	148	<p>1 HEARING EXAMINER ROBESON HANNAN: Yes.</p> <p>2 HEARING EXAMINER BAUMGARDNER: Mr. Kline, do you have</p> <p>3 any questions for Dr. Thorne?</p> <p>4 MR. KLINE: No, thank you.</p> <p>5 HEARING EXAMINER BAUMGARDNER: All right. And just to</p> <p>6 let folks know, it's a very common scenario that property</p> <p>7 is owned or held by an entity, whether it's a corporation,</p> <p>8 or an LLC, or a partnership, and then the property is used</p> <p>9 and maintained by a tenant. So, you know, I don't know how</p> <p>10 familiar everyone is with that scenario, but that is the</p> <p>11 most common way that properties are typically organized, or</p> <p>12 structured.</p> <p>13 So there is nothing out of the ordinary about an LLC</p> <p>14 or a corporation holding title to a property and then some</p> <p>15 other tenant using it, as long as the tenant is using it</p> <p>16 under County code. So there's nothing kind of off about</p> <p>17 that scenario. That's kind of an aside. But hopefully,</p> <p>18 that might address some of the concerns about the entity</p> <p>19 that might hold title to the property. But regardless,</p> <p>20 county code regulates the use of that property. And that</p> <p>21 is what follows the land, that is what we're here today</p> <p>22 talking about.</p> <p>23 Do you have any other testimony, Dr. Thorne?</p> <p>24 DR. THORNE: Yeah. Well, it's a question. Is this</p> <p>25 the appropriate time to also ask, or suggest conditions, or</p>

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<p>149</p> <p>1 is that another process?</p> <p>2 HEARING EXAMINER BAUMGARDNER: You can absolutely</p> <p>3 suggest conditions right now. Yes.</p> <p>4 DR. THORNE: Okay. So my suggestion, in alignment</p> <p>5 with what you just said, is a condition that moving forward</p> <p>6 that (audio interference) puts in place restricting any</p> <p>7 drug treatment facility, any severe psychiatric, whether</p> <p>8 it's for youth or adults in that capacity. Those are, I</p> <p>9 think, primarily the restrictions -- oh, and any group DOJ</p> <p>10 related, Department of Justice corrections whether it's for</p> <p>11 youth or adults. That those are the --</p> <p>12 HEARING EXAMINER ROBESON HANNAN: Could you -- do you</p> <p>13 mind going -- listing those again? I couldn't keep up with</p> <p>14 you.</p> <p>15 DR. THORNE: Sure. Any --</p> <p>16 HEARING EXAMINER ROBESON HANNAN: Drug treatment</p> <p>17 DR. THORNE: Drug treatment, whether for youth or</p> <p>18 adults, any severe psychiatric, or behavioral treatment,</p> <p>19 whether for youth or adults.</p> <p>20 HEARING EXAMINER ROBESON HANNAN: Well, I know what</p> <p>21 you're -- well, we'll -- you can fine-tune it. I don't</p> <p>22 know what severe is. So I'm just saying when you -- we're</p> <p>23 not going to decide the condition today, but that's</p> <p>24 something that you need to -- severe mental health, and</p> <p>25 what was the third one?</p>	<p>151</p> <p>1 language of residential care facility, that's fairly open.</p> <p>2 And that, to me, is part of the Applicant's ability to kind</p> <p>3 of manage that. And I get the tenant, I get their part of</p> <p>4 it but I think that there needs to be some clear language</p> <p>5 and structure that the Applicant understands, the owner</p> <p>6 understands. And as they are vetting whoever, will come in</p> <p>7 behind Sandy Springs Friends, but if they do, that there is</p> <p>8 standing, and there's also not this wordsmith manipulation</p> <p>9 which is what, in the last week or two that I've privy of</p> <p>10 this, has happened so I'm just concerned about I wanted to</p> <p>11 share it on have of the community.</p> <p>12 HEARING EXAMINER BAUMGARDNER: Okay. Thank you for</p> <p>13 your testimony was there anything else that you would like</p> <p>14 to add?</p> <p>15 HEARING EXAMINER ROBESON HANNAN: Weight does Mr.</p> <p>16 Kline have any questions based on my questions?</p> <p>17 MR. KLINE: Thank you, no questions.</p> <p>18 DR. THORNE: Thank you.</p> <p>19 HEARING EXAMINER BAUMGARDNER: Thank you.</p> <p>20 Who would like to speak next?</p> <p>21 MR. WHITAKER: I'm going to speak next. My name is</p> <p>22 Basile Whitaker followed by Steve Schertler.</p> <p>23 HEARING EXAMINER BAUMGARDNER: All right. Mr.</p> <p>24 Whitaker, can you raise your right hand, please?</p> <p>25 And Mr. Whitaker, do you swear or affirm under</p>
<p>150</p> <p>1 DR. THORNE: Department of Justice, either for adults</p> <p>2 or juveniles. And you can add to the record that also a</p> <p>3 licensed clinical professional counselor, and I'm an</p> <p>4 assistant professor, and I've been a school counselor</p> <p>5 previously for over a decade. So this is partially my</p> <p>6 area.</p> <p>7 HEARING EXAMINER ROBESON HANNAN: Oh, I see. Well how</p> <p>8 would you define severe mental illness then?</p> <p>9 DR. THORNE: So when you're talking about in the</p> <p>10 school system, they don't have the Level IV care anymore</p> <p>11 where you're taking kids out for this. And that was also</p> <p>12 part of what I was wondering when the Sandy Springs</p> <p>13 representative talked about the kind of outplacement but if</p> <p>14 you're talking about students with -- for youth with</p> <p>15 conduct disorders which then in adults it really is</p> <p>16 sociopathy, or psychopathic behavior. Schizoaffective, or</p> <p>17 schizophrenia, or bipolar that, you know, people are not</p> <p>18 actually under treatment or care. Anything that involves</p> <p>19 severe psychiatric, I am under medication, I have visions</p> <p>20 of that nature, have to have specialized people, nurses on</p> <p>21 staff, or a medical professional or if there is a substance</p> <p>22 treatment facility where they are say providing methadone</p> <p>23 treatment, those are the things that I will absolutely</p> <p>24 oppose.</p> <p>25 And I suggest it be a condition because of the</p>	<p>152</p> <p>1 penalties of perjury that the testimony you're about to</p> <p>2 give is the truth, the whole truth, and nothing but the</p> <p>3 truth?</p> <p>4 MR. WHITAKER: I do.</p> <p>5 HEARING EXAMINER BAUMGARDNER: All right. Please give</p> <p>6 us your full name and your address?</p> <p>7 MR. WHITAKER: Okay. Name is Basile Whitaker. I</p> <p>8 reside at 17413 Ashton Green Drive, Sandy Spring, Maryland</p> <p>9 20860.</p> <p>10 HEARING EXAMINER BAUMGARDNER: Thank you, sir. And</p> <p>11 what would you like to tell us?</p> <p>12 MR. WHITAKER: Okay. For the record, again, my name</p> <p>13 is Basile Whitaker. I'm a resident of Sandy Spring I live</p> <p>14 less than a five minute walk from the property in question,</p> <p>15 and I'm speaking today specifically to ask OZAH not to</p> <p>16 grant and bring the conditional use application of Redly</p> <p>17 Capital Investments.</p> <p>18 As a member of the community I certainly accept the</p> <p>19 permissible use of boarding the eight residents versus the</p> <p>20 16 which the Applicant is seeking. As a 20 year resident</p> <p>21 of Sandy Spring, I am intimately aware of this project. In</p> <p>22 2006 I was one of the homeowners who work with the</p> <p>23 community to ensure that the proposed facility, formerly</p> <p>24 known as Aunt Hattie's place adhered to some of the</p> <p>25 community standards with respect to architecture in a semi-</p>

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<p>153</p> <p>1 rural, rural community.</p> <p>2 At the time, I opposed Aunt Hattie's Place request for</p> <p>3 14 residents as many of the did as well. Personally, I had</p> <p>4 no issue with the eight residents and Aunt Hattie complied</p> <p>5 member of the community's request and decided to only board</p> <p>6 eight residents of because of the communities strong push</p> <p>7 back. I have not changed my position and today I still</p> <p>8 feel just as strong as I did back in 2006 and '07, only</p> <p>9 eight residents.</p> <p>10 While I believe the tenant, Sandy Spring Friends</p> <p>11 School is a good neighbor my fundamental concern is what</p> <p>12 happens when the Applicant and the tenant's relationship is</p> <p>13 terminated? What's the next use for the property since</p> <p>14 it's approved for 16 residents? Will the Applicant pursue</p> <p>15 a group home with a possible partnership with the</p> <p>16 Department of Corrections, or possibly some other entity,</p> <p>17 not entirely suitable for a residential community?</p> <p>18 We actively engaged, and in some instances we</p> <p>19 demanded, that Aunt Hattie, or Hattie Washington, not only</p> <p>20 listen to the community, but compromise some of the</p> <p>21 occupancy requirements. I approach this from the position</p> <p>22 that a dorm, or group home such as this, as proposed for 16</p> <p>23 teens diagnosed with social, emotional, and behavioral</p> <p>24 issues will require much level higher monitoring and</p> <p>25 supervision. We saw this with Aunt Hattie's Place, and</p>	<p>155</p> <p>1 right of property owners, but the community should also</p> <p>2 have a right, and input, and be part of the conversation</p> <p>3 when there are opposing views regarding the use of a</p> <p>4 property in the community in this case, the Applicant must</p> <p>5 know many of us in this community do not want a dorm in our</p> <p>6 community with 16 occupants you will, and do accept the</p> <p>7 permitted use of eight residents.</p> <p>8 In closing, should you rule against us, I would ask</p> <p>9 that OZAH, as an extension of our local government, work</p> <p>10 with the community to place additional conditions on the</p> <p>11 Applicant. You are the experts. And I would expect you to</p> <p>12 apply a bit of common sense and ask what would you want in</p> <p>13 your community. Would you want to live next to a dorm in</p> <p>14 your residential community? Would you want, in three</p> <p>15 years, to have the same Applicant is a with the Department</p> <p>16 of Corrections? And if you're honest, I submit many of you</p> <p>17 would say no just as today I say no granting this Applicant</p> <p>18 a conditional use of 16 residents. Thank you.</p> <p>19 HEARING EXAMINER BAUMGARDNER: Thank you, sir.</p> <p>20 Mr. Kline, any questions of this witness?</p> <p>21 MR. KLINE: No, thank you.</p> <p>22 HEARING EXAMINER BAUMGARDNER: Mr. Whitaker, any final</p> <p>23 testimony?</p> <p>24 MR. WHITAKER: No.</p> <p>25 HEARING EXAMINER BAUMGARDNER: Okay. Moving on, I</p>
<p>154</p> <p>1 there were issues on the property eight residents.</p> <p>2 In this COVID era I would think that this would be of</p> <p>3 concern until we see an improved outcome with respect to</p> <p>4 the COVID crisis we're in. You are doubling the size of</p> <p>5 the occupants without increasing the size of the facility.</p> <p>6 With 100 percent increase in the occupancy it's not</p> <p>7 unreasonable to potentially have similar issues.</p> <p>8 Additionally, we know very little about this</p> <p>9 Applicant. Does this Applicant lease similar properties in</p> <p>10 other jurisdictions outside of Montgomery County, in the</p> <p>11 area? What's the Applicants performance history in those</p> <p>12 jurisdictions, both locally and outside the area?</p> <p>13 Will we allow a bit more transparency since this is a</p> <p>14 commercial entity at the community to be accepting of a</p> <p>15 conditional use application? Yes, I'm frustrated. I'm</p> <p>16 concerned that as a community we are not being heard. I</p> <p>17 can try and sell my home, move, pray that I'm not</p> <p>18 negatively impacted relative to the market because of what</p> <p>19 potential buyers may not wish to purchase next to a group</p> <p>20 home or dorm in proximity. I'm not a land-use attorney,</p> <p>21 and quite frankly, I should not have to hire one to</p> <p>22 represent my interest. But it appears that this may be my</p> <p>23 only recourse in order to have the level of representation</p> <p>24 required in dealing with such complicated matters</p> <p>25 I'm not anti-development. I certainly support the</p>	<p>156</p> <p>1 believe you had said that Mr. Schertler was going to be</p> <p>2 next?</p> <p>3 MR. WHITAKER: Yes.</p> <p>4 HEARING EXAMINER BAUMGARDNER: Mr. Schertler, if you</p> <p>5 are there? There you are. I'm going to wait for your</p> <p>6 video feed to upload. And it is uploaded. All right sir,</p> <p>7 can you raise your right hand for me?</p> <p>8 And Mr. Schertler, do you swear or affirm under the</p> <p>9 penalties of perjury that the testimony you're about to</p> <p>10 give is the truth, the whole truth, and nothing but the</p> <p>11 truth?</p> <p>12 MR. SCHERTLER: It is, or will be.</p> <p>13 HEARING EXAMINER BAUMGARDNER: Okay. Thank you, sir.</p> <p>14 Can you provide us your full name and your address, please?</p> <p>15 MR. SCHERTLER: Yeah, it's Stephen Schertler,</p> <p>16 S-C-H-E-R-T-L-E-R. I reside at 17730 Norwood Road in Sandy</p> <p>17 Spring Maryland.</p> <p>18 HEARING EXAMINER BAUMGARDNER: Thank you, sir. And</p> <p>19 what would you like to tell us today?</p> <p>20 MR. SCHERTLER: I think the email I sent is Exhibit 65</p> <p>21 Charlie, or somewhere like that. If we need to pull that</p> <p>22 up, it has some photographs that I took.</p> <p>23 HEARING EXAMINER BAUMGARDNER: Sure.</p> <p>24 MR. SCHERTLER: It also has kind of some of my</p> <p>25 testimony. I'm not a professional at this is to please</p>

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<p>157</p> <p>1 grant me some amateur performance.</p> <p>2 HEARING EXAMINER BAUMGARDNER: No, that's fine, sir.</p> <p>3 Let me pull this up real quick.</p> <p>4 MR. SCHERTLER: I think while you're pulling it up, I</p> <p>5 think you touched on something about private entities or</p> <p>6 corporations owning property, which of course they do all</p> <p>7 over the place. But one of the most important differences</p> <p>8 between a corporate owner and a private citizen is</p> <p>9 motivation. Right. If you're an investment group your</p> <p>10 entire purpose is to monetize and increase the return on</p> <p>11 your investment. Even at the expense of anybody else's</p> <p>12 investment. It's what you do.</p> <p>13 If you -- and so it becomes a very important when you</p> <p>14 talk about the owners to behavior for the past several</p> <p>15 years with the facility.</p> <p>16 I think it's 65.</p> <p>17 HEARING EXAMINER BAUMGARDNER: 65.</p> <p>18 MR. SCHERTLER: Charlie, C.</p> <p>19 HEARING EXAMINER BAUMGARDNER: There we go.</p> <p>20 MR. SCHERTLER: Okay. Thank you.</p> <p>21 HEARING EXAMINER BAUMGARDNER: And is this it this</p> <p>22 one, sir? I just want to make sure this is the correct</p> <p>23 one.</p> <p>24 MR. SCHERTLER: Yeah, that's my letter.</p> <p>25 HEARING EXAMINER BAUMGARDNER: Okay.</p>	<p>159</p> <p>1 been a strange road for me. I bought this house when Aunt</p> <p>2 Hattie had the approval for the original eight kids, and</p> <p>3 these were kids at risk, right. They were from downtown</p> <p>4 Baltimore; they were tough kids. I was concerned about</p> <p>5 buying the house right next to that. I went over and</p> <p>6 introduced myself and talk to them.</p> <p>7 And I met a super nice guy, who said Steve, now here's</p> <p>8 the kids. There's only going to be eight of them here.</p> <p>9 Here's how we treat them. We need to take them out of the</p> <p>10 city because you can't treat a kid and then have them walk</p> <p>11 home down the same troubled streets that gave them all the</p> <p>12 problems. And I really liked his candor, his appreciation.</p> <p>13 He said I understand your concerns; but I bought the house.</p> <p>14 I made a very -- I made my largest personal investment</p> <p>15 in my home based on their would be eight residents next</p> <p>16 door. Obviously, I don't care who they were because they</p> <p>17 could have been at risk kids. Sandy Spring, great. You</p> <p>18 know, you can't say anything bad about Sandy Spring. My</p> <p>19 concern is the number and the additional things that that</p> <p>20 occur. For example, this summer, basketball practice took</p> <p>21 up and I had my windows open and there's a whistle going on</p> <p>22 outside. That's okay, but you know, really is beginning to</p> <p>23 create additional problems.</p> <p>24 The other part about the relationship, which is a</p> <p>25 little uncomfortable, is that this house burned. It had a</p>
<p>158</p> <p>1 MR. SCHERTLER: So I just to start out, I think -- to</p> <p>2 be honest, I think Whit, summarized a lot of the concerns</p> <p>3 very succinctly and I appreciate him giving that testimony.</p> <p>4 But I'm the resident that is closest to the facility.</p> <p>5 If I open this window right here I can stick my hand out</p> <p>6 and touch their fence. That's how close I am to the house.</p> <p>7 My first concern is for the health of my wife and myself.</p> <p>8 This spring, while I was doing some work on the roof of my</p> <p>9 house I fell off, I didn't need to do it, but I did. Went</p> <p>10 to the hospital and was diagnosed with two fractured ribs.</p> <p>11 One of the things that the doctor pointed out to me</p> <p>12 specifically, besides, what are you doing on the roof, is</p> <p>13 that I am highly susceptible to Covid. What I do every two</p> <p>14 hours is put this mask on and do deep breathing exercises</p> <p>15 so that I can help maintain my lung capacity because</p> <p>16 pneumonia is one of the side impacts of broken ribs.</p> <p>17 That's a view down the property line, and it's not</p> <p>18 measured in feet. It's measured in inches. That's 18</p> <p>19 inches down at the end of that. That is the bed -- corner</p> <p>20 of the house where my bedroom resides so my concern is the</p> <p>21 same as Whit's, you're doubling the number of people and a</p> <p>22 congested facility -- I even get into the medical side of</p> <p>23 it, but we know this is failing miserably across this</p> <p>24 country, by adding bodies into these kinds of things.</p> <p>25 In addition, I'll touch on that motivation. This has</p>	<p>160</p> <p>1 flood; it was left unkempt for about five years and that</p> <p>2 included me having to go over there and pull a raccoon out</p> <p>3 of the pool that was floating in there dead.</p> <p>4 It is -- and the reason it's important is because when</p> <p>5 the owner didn't have tenants, they didn't do anything.</p> <p>6 They didn't cut the lawn; they didn't treat the pool. I</p> <p>7 took pictures of the pool, if you can scroll down to that.</p> <p>8 That wasn't taken a year ago, that was taken yesterday, or</p> <p>9 day before yesterday. That's not sweeping off the water on</p> <p>10 the pool cover, that's a bio zone. I mean that has been</p> <p>11 that way, and you can very -- there's plants growing in it.</p> <p>12 You can see -- the odor, the mosquitoes. I didn't</p> <p>13 know, we had mosquitos so bad this year. My neighbor hired</p> <p>14 a mosquito exterminator, John Trang, who lives one house</p> <p>15 south of me hired a mosquito -- because where are all these</p> <p>16 mosquitoes coming from? I didn't know. I go, I thought</p> <p>17 they cleaned the pool, so it's probably not from there</p> <p>18 until I got up on my roof again to take these pictures, and</p> <p>19 I go well, there's kids living there. You know, this is</p> <p>20 the owner's responsibility.</p> <p>21 There's another shot of a light pole that's been down</p> <p>22 for about nine months. The kids step over that to get to</p> <p>23 school. There's a light socket and a wire going right into</p> <p>24 that. I hope it's been turned off; I don't know. But</p> <p>25 again, it's -- this, you know, it's part of this view that</p>

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<p>161</p> <p>1 this owner is a, you know, their motivation is profit. I 2 get it. I totally get it. My motivation is to make my 3 house is nice as it is so that my neighbors' house value 4 goes up and everybody else's value goes up. All of these 5 residents have 500 times more invested in their homes than 6 this particular resident. 7 And that's -- I think that's the core of it. You've 8 heard that they don't trust the partnership because you're 9 very loosely using the term partnership. I asked the 10 lawyers; do you have a partnership with Sandy Spring? 11 Well, no we don't. So don't use the word. You don't -- if 12 Sandy Spring decided Covid's gotten too bad, we're not 13 going to get any more students, they'll break the lease. I 14 mean who wouldn't. That's being financially responsible. 15 So then, you don't know what's going to happen with the 16 property. 17 The property right now is good. Everybody can walk 18 away from this hearing and go to sleep and go, well, it's 19 approved for eight. They're using it for eight, they 20 already have a lease for eight -- so what they want is to 21 be treated more equitably than us. And I think that's the 22 concern. 23 We accommodated the original request to have eight in 24 there. The community was concerned, the community pushed 25 back, but that is where we are, right? And I think to</p>	<p>163</p> <p>1 conditions specific to your property, since you're the 2 directly abutting property that would mitigate any of the 3 potential harms that you talk about? 4 MR. SCHERTLER: So that's an interesting question, 5 right. Because a conditional approval is just that, if the 6 condition, right. You can -- if you put screening up and 7 you have arborvitae between the houses will grant you your 8 eight. That was the original condition. Well, the 9 arborvitae blew down two years ago, as Mr. Park said, it's 10 been down a long time. The light comes right through that 11 gap, and they never replaced it. So how can you 12 conditionally approved it if they don't do what they're 13 supposed to be doing? That light pole is basic 14 maintenance. You know, that's the -- those are the kind of 15 frustrating things, you give them a conditional approval 16 but they don't agree to the conditions. 17 And I don't want to police my neighbors. I -- that's 18 the last thing I want to be. I went over the guys moved in 19 the kids from Sandy Spring. The first thing I did, went 20 over and introduced myself and said, you know, if you ever 21 need anything, you know, just -- I'm here. This is my 22 name, my wife, and we -- that was the first thing we did 23 because it's the right thing to do. 24 And I am a little dismayed. And I think Mr. Kline may 25 ask me if I have ever gone over and complained, I did</p>
<p>162</p> <p>1 What's point, we somehow feel -- I've been on this call all 2 day, and believe me, it's a beautiful day outside, I'd 3 rather be outside. But we feel like we're kind of 4 defending ourselves every couple of years. 5 And this is the -- this meets current zoning. They 6 can have eight people in it. I hope they'll clean their 7 pool, but we're already there. There's no need to go 8 beyond. And certainly, on the Covid thing I think the 9 doubling of concentration of young kids, of adults, we now 10 heard there's going to be up to 20 people living next door 11 if you take the people that are in the residence, over the 12 garage. I didn't even know people were living there. And 13 then the dormitory facility. 14 It's a big number, it's doubling, 100 percent -- 15 I think 1,000 percent technically, if you're a CPA. 16 HEARING EXAMINER BAUMGARDNER: And Mr. Schertler, was 17 there anything else that you wanted to add to your 18 testimony here today? 19 MR. SCHERTLER: Only that I hope the board will step 20 back and be pragmatic and go, you know, maybe this is not 21 the right time to be ruling on this. And at the minimum, 22 and I appreciate the suggestions that they will accommodate 23 additional conditions. But you know, right now I would say 24 eight is enough. And it has to be in for a long time. 25 HEARING EXAMINER BAUMGARDNER: Are there any</p>	<p>164</p> <p>1 twice. Once was for the light and I asked them that they 2 turn that light off as it doesn't have a shield, contrary 3 to Mr. Park's testimony. It's not shielded. And their 4 response was we don't know how to do it. That's the 5 landlord. So. 6 HEARING EXAMINER BAUMGARDNER: All right. Thank you. 7 Mr. Kline, did you have questions for Mr. Schertler? 8 MR. KLINE: I think not, thank you. 9 HEARING EXAMINER BAUMGARDNER: All right. Mr. 10 Schertler, thank you for your testimony. 11 Ms. Hannan, did you have any questions? 12 HEARING EXAMINER ROBESON HANNAN: Well, I -- my 13 questions are for Mr. Kline, and he's not a witness here. 14 I am a little concerned about the maintenance issues. 15 Now, if this is a special conditional use, there will 16 be a direct enforcement message through the Department of 17 Permitting Services. But I'm surprised that those 18 conditions are there while they have children on the 19 property. That's a mosquito harborage. 20 Anyway -- 21 MR. KLINE: No, I'd be glad to have Mr. Gangon get 22 back on and explain what they expect would the maintenance 23 of the property prospectively. 24 HEARING EXAMINER ROBESON HANNAN: Well he's only -- I 25 guess what I'd like to do is hear from the owner as to what</p>

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<p>165</p> <p>1 their maintenance proposal would be.</p> <p>2 MR. KLINE: I can speak to the owner to the extent</p> <p>3 that anything that Mr. Schertler has pointed out as a</p> <p>4 deficiency will be corrected, and I would expect that the</p> <p>5 school would want that to be done as well. So if there is</p> <p>6 anything that is either unsafe, or not properly operating</p> <p>7 or inconsistent with the plans submitted they would be</p> <p>8 corrected.</p> <p>9 HEARING EXAMINER ROBESON HANNAN: Well, let me ask you</p> <p>10 something. Does the owner have an -- anybody in --</p> <p>11 MR. KLINE: We've lost you, ma'am. Ms. Robeson, we</p> <p>12 lost you.</p> <p>13 HEARING EXAMINER BAUMGARDNER: The video kind of cut</p> <p>14 out for a second. If you can repeat the question?</p> <p>15 HEARING EXAMINER ROBESON HANNAN: My video did?</p> <p>16 HEARING EXAMINER BAUMGARDNER: Yes.</p> <p>17 HEARING EXAMINER ROBESON HANNAN: I see me.</p> <p>18 HEARING EXAMINER BAUMGARDNER: It's back now.</p> <p>19 HEARING EXAMINER ROBESON HANNAN: Okay. I guess my</p> <p>20 question is, does the owner have -- forget Sandy Spring for</p> <p>21 a minute, does the owner have anyone in this area that is</p> <p>22 monitoring this property?</p> <p>23 MR. KLINE: I do not have the answer to that question.</p> <p>24 HEARING EXAMINER BAUMGARDNER: Mr. Kline, you would</p> <p>25 not object if any condition that might be added to this</p>	<p>167</p> <p>1 over the last eight years in different jurisdictions,</p> <p>2 that's absolutely true. That there is -- at least in most</p> <p>3 jurisdictions, there's a much quicker turnaround for</p> <p>4 conditional use if there are conditions placed that there</p> <p>5 is an alleged violation versus the use that's permitted by</p> <p>6 right that would come with fewer strings attached.</p> <p>7 HEARING EXAMINER ROBESON HANNAN: I guess my concern</p> <p>8 is, you know, it shouldn't be -- it is. There is a strong</p> <p>9 enforcement method for conditional uses. I guess my</p> <p>10 concern is, is there anybody going to be on site</p> <p>11 proactively monitoring the maintenance?</p> <p>12 MR. KLINE: Ms. Robeson --</p> <p>13 HEARING EXAMINER ROBESON HANNAN: Because it doesn't</p> <p>14 look like there is now.</p> <p>15 MR. KLINE: I am not familiar with the terms of the</p> <p>16 lease arrangement between Redly and the school. I guess</p> <p>17 what we're going to need to do after this dialogue is make</p> <p>18 sure that the maintenance responsibilities are well</p> <p>19 allocated and if they are left to Redly will have to ensure</p> <p>20 that they comply with those maintenance responsibilities.</p> <p>21 So Mr. Baumgardner's condition is acceptable to the</p> <p>22 applicant because nobody wants the place to look unkempt</p> <p>23 and dangerous.</p> <p>24 HEARING EXAMINER BAUMGARDNER: Are there any other</p> <p>25 folks said that are attending as participants that would</p>
<p>166</p> <p>1 Application, if it were approved, to deal with things like</p> <p>2 maintenance. You had already offered up a contact, or</p> <p>3 communication with the potential tenant, or actually the</p> <p>4 current tenant, and then the corporate entity that owns the</p> <p>5 property. I imagine that you would not object to</p> <p>6 conditions regarding consistent maintenance, regular</p> <p>7 maintenance, updates, and things of that nature?</p> <p>8 MR. KLINE: Absolutely.</p> <p>9 HEARING EXAMINER BAUMGARDNER: Okay.</p> <p>10 MR. KLINE: And kind of a play-off of Ms. Hannan's</p> <p>11 comment, I offered a contact point at, first of all,</p> <p>12 Friends School then at Redly. But then something I should</p> <p>13 have thought of earlier, and I mentioned this in Monday</p> <p>14 night's conference call that there's more community</p> <p>15 enforcement ability by virtue of it being subject to a</p> <p>16 conditional use than it is as a permitted use today.</p> <p>17 And the proof of that is Barbara Cox who I guess, is</p> <p>18 actually still listening to all of this. So I'm going to</p> <p>19 give them Barbara Cox's name and telephone number so that</p> <p>20 if they feel there is a violation of the special exception</p> <p>21 or something inconsistent with the essence of the</p> <p>22 application they can call directly to a county enforcement</p> <p>23 officer as well.</p> <p>24 Sorry Ms. Cox.</p> <p>25 HEARING EXAMINER BAUMGARDNER: And from my experience</p>	<p>168</p> <p>1 like to provide testimony today?</p> <p>2 You can either raise your hand or make yourself known.</p> <p>3 I'm going down the list and I don't see anyone that has not</p> <p>4 already testified, or is it associated with a county</p> <p>5 agency, or the media.</p> <p>6 All right. Mr. Kline, I'll turn it back over you to</p> <p>7 conclude with any final remarks.</p> <p>8 MR. KLINE: Thank you. Well, I was going to start off</p> <p>9 by saying rare that I have an opportunity to come before</p> <p>10 you with something that is what I will call as well baked</p> <p>11 as this Application. I was in the luxurious position of</p> <p>12 being able to say all of the compatibility issues as it</p> <p>13 relates to the physical features of the property have all</p> <p>14 been reviewed and adjudicated as part of the site plan and</p> <p>15 preliminary plan opinion 10 years, or 13 years ago. And</p> <p>16 exactly the same building that was approved at that point</p> <p>17 in time to be in compliance with all the site plan</p> <p>18 standards for compatibility and harmonious notice, Master</p> <p>19 Plan compliance, urban overlay zone -- I'm sorry, overlay</p> <p>20 zone compliant, those were all addressed at that time, and</p> <p>21 none of that is changing at all.</p> <p>22 So the only incremental difference are those eight</p> <p>23 students. And does that activity level, basically, is that</p> <p>24 a dangerous enough possibility to make it an incompatible</p> <p>25 use of the property. And that's why we've been trying to</p>

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<p>169</p> <p>1 stress that the student should not behave any differently 2 than they have in the past, which I think has been fairly 3 benign. And in light of this, I'm sure both the property 4 owner and the school will be monitoring it very closely to 5 make sure, one, there will be no problems, and make sure 6 that they have a way of finding out if there will be any 7 problems by virtue of conditions that -- 8 I'll try and write something up and submit to you but 9 as Mr. Schertler said, ultimately you folks will make a 10 decision. But we have no problems with having contact 11 point for any points of friction that are bothersome to the 12 neighborhood to have them address it. 13 You remember at the beginning I was saying help me 14 explain the transfer process for a conditional use because 15 I realize that most people think there's a risk to them. 16 And so I want to say, Redly's proposal is not a Trojan 17 Horse for a future residential care facility of a different 18 kind of character. They're basically just trying to 19 expand, but retain what said there today. 20 And the problem I have with all of the -- like Dr. 21 Thorne's comments about here's all the things you can't do, 22 I think the simpler way of doing it is saying you can't 23 change it without coming back to you for review and 24 approval. That way, we don't have to exclude all these 25 things that admittedly could be a problem.</p>	<p>171</p> <p>1 be anything different without a modification of those 2 conditions, or modifications of the essence of the 3 application. So you have the ultimate control. 4 I can tell you unequivocally, although I can't say I 5 really had a discussion with -- for the long term, but I 6 can tell you unequivocally Mrs. Li's goal is to be -- have 7 a long-term relationship with Friends School, and as long 8 as Friends School wants to be there, she wants them to be 9 there, and she wants it to be the kind of facility that 10 they're comfortable being in. So there is no game plan to 11 try and get in the door with 16, boosted up a little bit, 12 and then come back with a Way Station or some other type of 13 entity that was a totally different operation. 14 So in that regard, I don't think there's any risk to 15 the neighborhood. 16 HEARING EXAMINER ROBESON HANNAN: For the audience, 17 Way Station was a recent residential care facility for a 18 different group, target group, not students. So -- 19 I do see one hand up. 20 HEARING EXAMINER BAUMGARDNER: I do. I see Dr. 21 Thorne's hand is raised. I will say that we have concluded 22 the testimony portion of this hearing. Is there a 23 particular matter that you wanted to address? 24 DR. THORNE: Oh yeah, no. Just yeah yes, thank you. 25 Since we're on the record a point of clarification. I</p>
<p>170</p> <p>1 The hearing examiner, Ms. Robeson, I'm sorry, I have 2 regularly heard her say to audiences anybody can ask for 3 whatever they want to do, just whether or not we're going 4 to approve it or not. And so I'm trying to explain to the 5 neighborhood that we cannot change what we are proposing to 6 do without your office reviewing it and saying it's okay. 7 And so that's why I'm saying there is no risk of being any 8 change in the character of the operation beyond what we 9 tried to describe today without your office having a hand 10 in that. 11 And I'll -- 12 HEARING EXAMINER ROBESON HANNAN: Mr. Kline, and the 13 only reason I'm raising is is that we're going to have 14 future discussions, but you know, at some -- I could see 15 for instance, from the community's perspective they don't 16 want to have to keep coming back in front of us. I'm just 17 saying, and I'm not making a decision one way or the other. 18 I'm just saying I can see the community's point of not 19 wanting to have to come back here, you know, every 5, 7, 10 20 years and have a different thing. 21 MR. KLINE: Sure. Two answers to that. One, Dr. 22 Thorne said that this had been approved for 16 kids and -- 23 or 16 residents, and my comment is it has been approved for 24 16 residents but only under all the conditions that are 25 part of that conditional use. And therefore, there cannot</p>	<p>172</p> <p>1 don't believe I'm the one that said it was automatically 2 approved for 16. So I just wanted to -- I don't know what 3 it's approved for. 4 But also to the point of Mr. Kline, again, as a 5 community member and not part of a business entity that has 6 pockets of money, I hear everything from your perspective, 7 but I'm also hearing it from the perspective of you're a 8 lawyer. You're working with big corporations and 9 companies. We know nothing about Ms. Li. And so you have 10 access to all of these professionals. You spent, like 11 three hours, three hours of time the rest of us can never 12 get back with your case, and it was very legalese. I 13 wanted to object some things, not my place. 14 And so that's part of the point. You all have the 15 wherewithal to create all of this policy, roadblocks, so on 16 and so forth that the rest of us don't have. 17 And I do thank you, Ms. Robeson, because at least for 18 me personally I'm feeling that this particular part of the 19 process has been a little more equitable. I've not felt 20 that way prior to you actually stepping in and trying to 21 bring some equity. So I appreciate that, and I thank you 22 for that. And I just want to make sure that -- because I 23 am the type of person you -- don't misrepresent me or 24 anything that I say. I am accountable for the things that 25 I say, and I also here, again, when it's worth something.</p>


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44 (173 to 176)

<p style="text-align: right;">173</p> <p>1 So I just wanted to make sure for the record, which is 2 also why I made my testimony. I realized that it was kind 3 of, not fully in alignment with what this is about, but yet 4 it is. Because Mr. Kline also spoke to the behaviors, and 5 the potential of the behaviors of youth. That was my 6 objection. You can't speak to that because you don't know. 7 That's a future guess. 8 So that's all, I just wanted to make sure for the 9 record that those comments were on record. So thank you. 10 HEARING EXAMINER BAUMGARDNER: All right. And again, 11 we have concluded the testimony portion of the hearing, but 12 I see that Mr. Schertler's hand is raised. Was there 13 another matter that you wanted to bring up, sir? 14 MR. SCHERTLER: Yeah, sorry. Just kind of a quick 15 question about next steps and helping us understand the 16 process. I'm certainly a neophyte here, but kind of 17 understanding when we have to get evidence in and when we 18 would have to get any additional information provided. 19 HEARING EXAMINER BAUMGARDNER: Sure. So I was going 20 to conclude the hearing at this time, unless the Applicant 21 had any other information to provide. 22 But Mr. Kline had mentioned at the beginning of 23 today's hearing, so we typically keep the record open for 24 10 days after today's hearing. So the record will be kept 25 open for 10 days. If there are conditions that folks would</p>	<p style="text-align: right;">175</p> <p>1 for October 12th? 2 MR. KLINE: That's a virtual meeting. We're invited 3 to attend at 6:30 that evening. I presume Dr. Thorne can 4 help me with this since she's a member of the board. I 5 would like to think they would have a discussion after, and 6 then formulate their position and submit it to you by 7 Friday. 8 HEARING EXAMINER BAUMGARDNER: Okay. So that's in the 9 16th. Is there any objection to holding the record open 10 until Friday, October 16th? 11 MR. WHITAKER: I was going to object. I too am a 12 member of the board and I would ask you know, the 16th, 13 since this is a virtual meeting, I think that's a bit too 14 soon. I would ask until the following week, the 23rd, if 15 that would be acceptable. 16 HEARING EXAMINER BAUMGARDNER: Mr. Kline? 17 MR. KLINE: I would like to be able to say something 18 to Mr. Whitaker. Yeah, let's work that way. Sure, I 19 mean -- 20 MR. WHITAKER: Thank you. 21 MR. KLINE: I understand how the tradition of 22 consensus in Sandy Spring is a valuable thing to do so we 23 will pick -- make the 23rd the end day for my submission 24 rather than -- I don't even know what day of the week that 25 is but --</p>
<p style="text-align: right;">174</p> <p>1 like to suggest now is the time -- or during the hearing -- 2 HEARING EXAMINER ROBESON HANNAN: I'm sorry to -- I 3 keep interrupting today. I thought I heard a meeting with 4 the civic association. When was that? 5 HEARING EXAMINER BAUMGARDNER: Correct. So we were 6 going to extend that time to another reasonable amount of 7 time. We can do 10 days after that typical 10 days, or we 8 can give you 20 days. We're under a time crunch after a 9 hearing to get out a decision, but we're certainly happy to 10 provide a reasonable time period after today's hearing to 11 keep that record open. 12 MR. KLINE: This is Mr. Kline. If I can recommend a 13 schedule, yes, I would like to leave the record open to 14 allow us to make a presentation to the civic -- Sandy 15 Spring Civic Association and to allow them to have enough 16 time to formulate a written response. So I was going to 17 say -- ask for them to submit something by whatever Friday 18 of that week is, 12, 13, 14, 15, 16, a comment from Sandy 19 Spring Civic Association and any other party in the matter 20 by Friday at the close of business, Friday the 16th, and I 21 have until close of business Monday, the 19th -- is that 22 it -- to submit any response. And then close the record 23 and do your jobs. 24 HEARING EXAMINER BAUMGARDNER: And then that community 25 association hearing is -- or meeting is currently scheduled</p>	<p style="text-align: right;">176</p> <p>1 HEARING EXAMINER ROBESON HANNAN: Wait, wait. Your 2 submission -- I thought he -- I thought Mr. Whitaker was -- 3 MR. WHITAKER: No, my submission, meaning from Sandy 4 Spring Civic Association October -- Friday, October the 5 23rd. That was my recommendation. 6 MR. KLINE: Then I would ask anything from SSCA or any 7 other party other than the Applicant in by the close of 8 business the 23rd. I have until the close of business on 9 Monday the 26th to respond. And then close the record, 10 fair enough? 11 HEARING EXAMINER BAUMGARDNER: That's fine with me. 12 HEARING EXAMINER ROBESON HANNAN: So Friday the 23rd 13 is Sandy Spring and anybody else, and then -- but we're -- 14 what are we talking about as far as everybody else? 15 Well -- and then the 26th -- Monday the 26th, Mr. Kline 16 will respond? 17 HEARING EXAMINER BAUMGARDNER: Correct. That's my 18 understanding. 19 HEARING EXAMINER ROBESON HANNAN: Because what I 20 don't -- what wouldn't be fair is have new testimony coming 21 in. You know, if people want to work out conditions, or 22 proposed conditions that's one thing. But the new 23 testimony would it be subject to cross-examination, et 24 cetera, et cetera, so I just want to point that out. 25 MR. KLINE: Valid point.</p>

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177	1 Mr. Whitaker, would you be okay with that, if we just 2 let the Sandy Spring Civic Association correspondence by 3 that date? 4 MR. WHITAKER: Yes. For clarity, it is our intent 5 that on October the 12th to have Mr. Kline present for his 6 applicant the proposal. And then we, in turn, will offer 7 any additional conditions in writing to the hearing 8 examiner, and to Mr. Kline, I'm understanding, no later 9 than October the 23rd. 10 HEARING EXAMINER ROBESON HANNAN: That's -- 11 HEARING EXAMINER BAUMGARDNER: That's correct. 12 MR. KLINE: Thank you. And Mr. Whitaker, if I can ask 13 for a favor, if you somehow can transmit those to me by 14 email so that I can get them on the 23rd because if they 15 don't arrive in the mail on Monday I just don't have enough 16 time. So I appreciate the continued sharing of information 17 like you've done in the past. 18 MR. WHITAKER: Yes. We can certainly do that. 19 MR. KLINE: Thank you. 20 HEARING EXAMINER BAUMGARDNER: All right. 21 HEARING EXAMINER ROBESON HANNAN: Thanks everyone. 22 Thanks for using your hands, raising your hand. 23 Derek, do you have final words? 24 HEARING EXAMINER BAUMGARDNER: No, I just want to 25 thank everyone for your participation here today. We will	179	1 CERTIFICATE OF TRANSCRIBER 2 I, Molly Bugher, do hereby certify that the 3 foregoing transcript is a true and correct record of the 4 recorded proceedings; that said proceedings were 5 transcribed to the best of my ability from the audio 6 recording as provided; and that I am neither counsel for, 7 related to, nor employed by and of the parties to this case 8 and have no interest, financial or otherwise, in its 9 outcome. 10 11 12  13 _____ 14 MOLLY BUGHER, CDLT-161 15 16 17 18 19 20 21 22 23 24 25
178	1 leave the record open for the discussion we just had, and I 2 hope folks have a good rest of your afternoon. 3 And this ends the OZAH hearing for Conditional Use 4 20-06 for a conditional use for a residential care facility 5 for up to 16 persons. 6 Thank you all very much. 7 MR. KLINE: And that the Applicant would like to 8 complement Mr. Baumgardner for his facility with be able to 9 pull up plans that much easier than I ever would have been 10 able to do. 11 HEARING EXAMINER ROBESON HANNAN: He does better than 12 I do. 13 HEARING EXAMINER BAUMGARDNER: Well, I had to get 14 better. 15 MR. KLINE: I didn't say that. 16 HEARING EXAMINER BAUMGARDNER: Thank you all very 17 much. Have a great day. 18 (The recording was concluded.) 19 20 21 22 23 24 25		

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