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# Transcript of Hearing

**Date:** February 11, 2022

**Case:** Guidepost A, LLC c/o Higher Ground Education

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Transcript of Hearing  
Conducted on February 11, 2022

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1	OFFICE OF ZONING AND ADMINISTRATIVE HEARING FOR MONTGOMERY COUNTY, MARYLAND -----x In Re: : OZAH Case - Major Modification : Case No. To A Previously Approved Special : S2345 Exception : -----x  HEARING Before Derek Baumgardner - Hearing Examiner Conducted Virtually Friday, February 11, 2022 9:30 a.m. EST  Job No.: 432657 Pages: 1 - 108 Recorded By: Leah Shenfeld	3	A P P E A R A N C E S  ON BEHALF OF THE PETITIONER - GUIDEPOST A. LLC:  STACY P. SILBER, ESQUIRE ELIZABETH C. ROGERS, ESQUIRE LERCH, EARLY & BREWER, CHTD. 7600 Wisconsin Avenue Suite 700 Bethesda, Maryland 20814 301.986.1300 (Present via videoconference)  ALSO PRESENT: Sara Behanna Guy Barnett - Witness Kevin Foster - Witness Anne M. (Nancy) Randall - Witness Matthew Knopf Sajid Ajmeri
2	Hearing, held virtually.          Pursuant to Notice, before Leah Shenfeld, Court Reporter, in and for the State of Texas	4	C O N T E N T S  ARGUMENT PAGE By Ms. Silber 12 By Mr. Baumgardner 27  EXAMINATION OF GUY BARNETT PAGE By Ms. Silber 16  EXAMINATION OF KEVIN FOSTER PAGE By Ms. Silber 29 By Mr. Baumgardner 78  EXAMINATION OF ANNE M. RANDALL PAGE By Ms. Rogers 81 By Mr. Baumgardner 98  DECISION PAGE By the Hearing Examiner 104

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3 (9 to 12)

<p>9</p> <p>1 asking some questions to some of our witnesses. 2 My professional address is 7600 Wisconsin Avenue, 3 Suite 700, Bethesda, Maryland 20814. My e-mail 4 address is s as in Sam-p as in Paul, silber, 5 S-I-L-B as in boy-E-R @lerchearly, 6 L-E-R-C-H-E-A-R-L-Y.com. And we have three 7 witnesses that we will be calling today. 8 We have Guy Barnett, who is with Higher 9 Ground. Kevin Foster, who is a landscape 10 architect and certified land planner with 11 Gutschick, Little &amp; Weber, and then Nancy Randall 12 with Wells &amp; Associates. And then, there are 13 several others who were on this Teams call with us 14 who are with Higher Ground who I'm looking at. 15 And then, like, one of my colleagues, Marrison 16 Rose, who's been working on this case, is also on 17 this call. And then I believe that there's a 18 representative here from the French International 19 School as well. 20 MR. BAUMGARDNER: Thank you, Ms. Silber, 21 and welcome, Ms. Rogers. Is there any other 22 attorney who's going to be representing community 23 folks or anyone else today who's currently on the 24 line? Seeing none, is there anyone who has logged 25 in, who wishes to testify who is not represented</p>	<p>11</p> <p>1 MS. SILBER: Thank you. Just one we 2 have. We do want to submit it to the record the 3 affidavit of posting, which I believe would be 4 Exhibit 25, and I can share my screen and show it 5 to you. And I know we had spoken with Sara ahead 6 of time, and we'll plan send to her the additional 7 exhibits that we discuss today. 8 (Exhibit 25 was marked.) 9 MR. BAUMGARDNER: That would be great. 10 Let me just check and see. 11 MS. SILBER: You don't have that yet. 12 Would you like me to pull that up to show it to 13 you? 14 MR. BAUMGARDNER: I take you at your 15 word. At the close of the case, we're going to 16 hold the record open for at least ten days for the 17 transcript anyway. So if you could just forward 18 that to our office within that ten-day time 19 period, that would be fine. 20 MS. SILBER: Great. Great. 21 MR. BAUMGARDNER: As we're going to go 22 through, for the benefit of the court reporter, 23 we're going to identify people by names. If your 24 name is -- we'll just have -- we'll have everyone 25 spell her last name, I find that easier. And</p>
<p>10</p> <p>1 by counsel today? Either raise your physical 2 hand, your virtual hand, or somehow indicate to me 3 that there's another individual that might be here 4 to testify who is not represented by counsel or is 5 not in support with the applicant. Seeing none. 6 Moving along. Our proceedings will generally go: 7 The applicant will have the opportunity to go 8 first. They may give an opening statement if they 9 wish to do so. 10 They will then call their witnesses, ask 11 them whatever questions that they wish to ask. I 12 may ask some questions depending upon their 13 testimony. When they are done their 14 case-in-chief, we will turn it over to any 15 community folks that want to testify either in 16 support or in opposition to the appeal. I don't 17 believe we have any logged in at this point, but 18 we will open it up for community testimony. At 19 the close of community testimony, we will turn it 20 back over to the applicant to provide a closing 21 statement if they wish to do so. And then we will 22 close down the case for today. 23 Any preliminary issues that we need to 24 go through, Ms. Silber or Ms. Rogers, before we 25 get started with the applicant's case-in-chief?</p>	<p>12</p> <p>1 we'll give a professional address and a 2 professional e-mail address as well. That's for 3 the benefit of the court reporter and for myself. 4 If you see my head down, I'm taking notes. I'm 5 old school that way. If you see my head to your 6 right, my left, I have to screens going. So 7 again, I'm not ignoring folks, I'm trying to work 8 off two screens. With that, let me turn it over 9 to counsel for the applicant to give an opening 10 statement, if you'd like. And we'll begin the 11 applicant's case-in-chief. 12 MS. SILBER: Perfect. And I, similarly, 13 have a second screen, So if you see my head turn, 14 that's what I'm doing as well. Again, Stacy 15 Silber with the law firm of Lerch, Early &amp; Brewer, 16 and we're pleased to be here today. As I 17 mentioned, our firm represents the Petitioner in 18 this case, Guidepost A. LLC, which is an affiliate 19 -- affiliate of Guidepost Montessori and Higher 20 Ground Education. Again, with me here today are 21 Guy Barnett, who we'll be calling as a witness, 22 Matt Knopf office out here from Higher Ground. 23 Kevin Foster with GLW, and Nancy Randall with 24 Wells &amp; Associates. 25 As the Hearing Examiner is aware from</p>

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<p>13</p> <p>1 our application materials, the Petitioner is here 2 today in connection with their request to modify 3 the existing special exception for a private 4 educational institution located at 7108 Bradley 5 Boulevard. The property has been used as an 6 institutional use for over 60 years. First as a 7 fire station, then church and Montessori school, 8 and currently by the French International School. 9 The Petitioner is seeking to continue to 10 operate the PEI on the property, extend the hours 11 of operation, change the age range of the children 12 attending school, decrease overall enrollment, and 13 allow for very minor site modifications, including 14 those required for ADA access or routine 15 maintenance to support the Montessori program. In 16 it's January 14th, 2022 report, park and planning 17 staff recommended to the board that it approve the 18 subject special exception modification with 19 conditions because they found that the special 20 exception met all applicable requirements of the 21 county zoning ordinance and conforms to the master 22 plan. 23 On January 27th, 2022, the planning 24 board held public hearing and voted unanimously to 25 recommend approval of the special exception</p>	<p>15</p> <p>1 exception complies with the required general and 2 specific findings of Section 59 C1.32 of the prior 3 zoning ordinance. We're going to share a PDF 4 today that basically duplicate some of the 5 exhibits that are on the record just for ease and 6 flow of reference. We have several images in 7 there that are new images, and we'll obviously 8 point those out to the Hearing Examiner and see 9 whether you're comfortable having them entered 10 into the record. And with that, unless the 11 Hearing Examiner has any specific questions, I 12 will call our first witness. 13 MR. BAUMGARDNER: You may proceed. 14 MS. SILBER: Okay. I first would like 15 to call Guy Barnett. 16 MR. BARNETT: Hi. 17 MS. SILBER: Hi, Mr. Barnett, Can you 18 please state your full name, primary occupation, 19 and full business address, including your e-mail, 20 and spell your name if you would, please. 21 MR. BARNETT: Sure. So my name is Guy 22 Barnett. So that's spelled G-U-Y B-A-R-N-E-T-T. 23 And I'm the vice president and chief development 24 officer of Higher Ground Education. Our address 25 is 10 Orchard, Suite 200, Lake Forest, California,</p>
<p>14</p> <p>1 modification. The Petitioner concurs with 2 planning staff and planning board's findings that 3 the proposed special exception complies with the 4 recommendations of the zoning ordinance and the 5 master plan. And the Petitioner also agrees and 6 accepts all conditions recommended by staff and 7 the board. Community outreach is very important 8 to this Petitioner as they plan to operate within 9 the community for quite some time. As such, the 10 Petitioner voluntarily held two meetings with the 11 community to discuss the proposed modifications. 12 Through our witnesses today, we will 13 demonstrate that the special exception satisfies 14 the standards of R-200 zone under the zoning 15 ordinance in effect on October 29th, 2014, under 16 which the application is grandfathered. That the 17 special exception modification satisfies the 18 special exception standards set forth in Section 19 59 G2.19 of the prior zoning ordinance for PEIs. 20 That the available public facilities and services 21 will continue to be adequate to serve the project. 22 That the special exception modification 23 substantially conforms with the recommendations of 24 the master plan. 25 That the approval of the special</p>	<p>16</p> <p>1 92630. And my e-mail address is 2 gbarnett@tohigherground.com. 3 MR. BAUMGARDNER: Mr. Barnett, can you 4 please raise your right hand? 5 Whereupon, 6 GUY BARNETT, 7 being first duly sworn or affirmed to testify to 8 the truth, the whole truth, and nothing but the 9 truth, was examined and testified as follows: 10 MR. BAUMGARDNER: Thank you very much. 11 Ms. Silber, the witnesses yours. 12 EXAMINATION BY COUNSEL FOR THE PETITIONER 13 BY MS. SILBER: 14 Q Thank you. Mr. Barnett, can you 15 describe how long you've worked with Higher Ground 16 and what your responsibilities are there? 17 A Sure. So I've -- I've worked for Higher 18 Ground since it's founding in 2016, and my role, 19 as I said before, is I'm the vice president and 20 chief development officer of Higher Ground. So I 21 have, you know, I'm one of the leaders, executives 22 of the company and focused quite a bit on our 23 growth and expansion. 24 Q Can you describe Higher Ground's 25 association with the Petitioner?</p>

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<p>17</p> <p>1 A Yeah. So it's a -- Guidepost Montessori 2 is a -- is an affiliate of Higher Ground. And 3 Higher Ground Education may have several 4 affiliates, you know, that we use to advance our 5 mission, to support Montessori, the Montessori 6 movement generally, and, you know, our -- our 7 growth and our company. And yeah, guidepost 8 Montessori is one of our subsidiaries -- one of 9 our affiliates.</p> <p>10 Q And the special exception modification 11 also seeks to transfer the special exception 12 holder from the French International School to 13 Guidepost A, LLC. Can you please confirm that 14 Guidepost A, LLC will be the operator of the 15 proposed Guidepost Montessori school?</p> <p>16 A That's correct, yes.</p> <p>17 Q Great. And the land will be owned by 18 another entity; correct?</p> <p>19 A Yes. That's Bethesda Education, LLC. 20 And yeah, that will be the company that will own 21 the real estate.</p> <p>22 Q Guidepost will -- Guidepost will be the 23 operator; correct?</p> <p>24 A Yes. We're -- we're the operator, and 25 then that's the company that will own the real</p>	<p>19</p> <p>1 -- you know, we could spend a long time talking 2 about Montessori, but I'll just try to be very 3 brief, you know. Montessori is focused on 4 empowering children, you know, to gain the 5 knowledge they need to, you know, foster their 6 independence. The Montessori environment -- the 7 classroom environments are, you know, set up in a 8 very specialized, careful way to make sure that 9 all the materials are accessible, that they're set 10 up in an orderly way, and that they're enticing to 11 the students, you know.</p> <p>12 We have Montessori classrooms that -- 13 you know, from as young as infants and all the way 14 up through elementary and -- and beyond, also 15 middle school, high school even. But, you know, 16 at this location we're focused on, you know, 17 infants and preschool children and -- and 18 elementary.</p> <p>19 Q Are you familiar with the special 20 exception modification details that is the subject 21 of today's hearing?</p> <p>22 A Yes.</p> <p>23 Q Can you describe how you go about 24 choosing a site and why you believe this site is 25 appropriate and well suited for Guidepost</p>
<p>18</p> <p>1 estate, yes.</p> <p>2 Q And can you provide some background on 3 Guidepost Montessori?</p> <p>4 A Yeah. So Guidepost Montessori was 5 founded by myself and -- and a -- a small group of 6 -- of people that -- that I've been working with 7 for a long time. Very passionate, you know, 8 focused on providing high-quality Montessori 9 education. Many of our -- our leaders, including 10 our CEO, is -- you know, are Montessori-trained, 11 come from working at schools, you know, in various 12 capacities as teachers, administrator, so very 13 passionate about education in Montessori.</p> <p>14 We have over 90 locations right now. 15 And the majority of those are in the United 16 States, but we also have some international 17 schools as well. And, you know, in particular, 18 you know, we are focused on Maryland and Virginia, 19 you know. We have four locations currently in -- 20 in Maryland and we have 11 in Virginia. And we'd 21 like to -- we'd like to continue growing in -- in 22 this area.</p> <p>23 Q Can you provide some background 24 regarding the Montessori curriculum encroached?</p> <p>25 A Sure. Yeah. So -- yeah. Montessori is</p>	<p>20</p> <p>1 Montessori?</p> <p>2 A Yeah. So we -- you know, we start off 3 usually by -- by visiting the location, you know. 4 I first visited this location about three years 5 ago when we were trying to decide if we wanted to 6 move forward. And it's -- you know, it was just, 7 obviously, a beautiful location, you know. We're 8 very excited about it. It was, you know, already 9 an existing school, which is really -- really 10 nice. And, you know, I -- I think that just the 11 fact that it was already an existing school means 12 -- you know, from my perspective, meant that, hey, 13 this is not -- not going to require as much in the 14 way of -- of construction or other work. So that 15 -- that was -- that was something that was 16 anything about it as well, you know.</p> <p>17 We did our kind of typical market 18 analysis and, you know, we can see that there's 19 demand in the area for -- for the type of school 20 that we would be offering. And, yeah, just the -- 21 just the fact that the site has been used as -- as 22 a school, even in the past as a Montessori school 23 before the French International School was there, 24 was -- made it very interesting for us. And just 25 that, you know, we would be able to adapt the</p>

<p>21</p> <p>1 existing building, you know, with just some more 2 minor changes to meet our needs was very -- very 3 exciting. 4 Q And has Guide -- the Guidepost team met 5 with the community to discuss the special 6 exception modification? 7 A Yes. We've had two voluntary meetings 8 with the community to discuss the application. 9 And, you know, community engagement is always 10 important to us because, you know, in any 11 location, including this one, you know, we're -- 12 we're planning to be there for a long time and be 13 part of the community. So, obviously, it's just 14 very important. 15 Q Yeah. So I'm just going to ask you a 16 series of questions regarding the proposed 17 operation of the facility. 18 A Okay. 19 Q Does Guidepost operate year-round? 20 A Yes. It does. We operate year-round 21 with the same model. Yep. 22 Q And what are the ages and overall number 23 of students that will be served by the Montessori 24 school? 25 A So we would be operating with children</p>	<p>23</p> <p>1 staggered. So we have, you know, students that 2 are half-day dismissal, so they -- they -- they 3 would -- they could be picked up at 12:00 p.m. 4 And then there's, you know, as I said, sort of a 5 staggered pick-up that goes until about 6:00 p.m. 6 Q How was pick-up and drop-off handled on 7 the site? 8 A So, you know, all -- all the parents, 9 generally, what -- what they do is they will park 10 their car in -- when they -- when they drop off 11 and -- and they would walk their kids into the 12 school. And then we have a sign-in device that 13 they would, you know, kind of sign in their 14 children to the -- and -- and also, obviously, 15 check-in with the person at the front desk there. 16 And then it's the same when they -- when they pick 17 up. So when the parents pick up, they park their 18 car, they go into the school, they use the device 19 to -- to sign out, and they -- and then they bring 20 their children out to their car and drive home. 21 Yeah. I was just also just going to 22 mention that, you know, generally, you know, I -- 23 you know, I would say, kind of conservatively, 24 that process can, you know, take ten to 15 25 minutes. But I think, actually, in most cases,</p>
<p>22</p> <p>1 as young as six weeks, up to children as old as 13 2 years old. And we would have a maximum enrollment 3 of 180 students. 4 Q What are the hours of operation? 5 A Our operating hours are 7:00 a.m. to 6 7:00 p.m., and that includes time at the end of 7 the day for staff to kind of clean up and organize 8 themselves before they leave for the end of the 9 day. 10 Q And are there different operating hours 11 during the summer months? 12 A No. We're -- we're -- as I said before, 13 we're a 12-month program. So we operate all -- 14 all year. It's -- it's the same during the 15 summer. 16 Q Can you describe the anticipated arrival 17 and departure of children? 18 A Yeah. We have -- we have spread out 19 kind of pick-up and drop-off times. That's very 20 deliberate on our part. We do that at all of our 21 locations. So, you know, we -- we would 22 anticipate that, you know, arrivals will be 23 staggered, you know, between, you know, 24 approximately 7:30 a.m. and 10:00 a.m. And our 25 departures, you know, our pick-ups are also</p>	<p>24</p> <p>1 it's -- it's probably a lot less than that. What 2 I've seen is generally parents are, you know, in 3 -- in a rush in -- in the morning to get to work, 4 and then at the end of the day to -- you know, to 5 go home, and so on so, you know. It -- it 6 generally would take less than that, but that -- 7 you know, just conservatively, let's say ten to 15 8 minutes. 9 Q And will -- will there be -- will there 10 be any after-hours activities or programs? 11 A Yes. So we do occasionally have evening 12 activities, parent meetings, teacher and 13 professional development, just various community 14 activities. But it's -- it's, I would say, an 15 occasional thing. 16 Q And how many employees will be employed 17 at the school? 18 A So we're -- we're -- once -- once our 19 school enrollment grows and we get to full 20 capacity, which will take some time, but once we 21 get there, we would -- we would have 25 teachers 22 and staff that would be on-site at any given time. 23 Q And based on the anticipated operations, 24 do you believe that there'll be sufficient parking 25 provided on-site to accommodate the operations at</p>

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<p>25</p> <p>1 the school?</p> <p>2 <b>A Yes. The -- there's very generous</b></p> <p>3 <b>parking. There's 78 parking spaces. And just</b></p> <p>4 <b>given our experience at other locations, we -- you</b></p> <p>5 <b>know, I -- I believe that that would be more than</b></p> <p>6 <b>adequate. We have -- you know, it's worth</b></p> <p>7 <b>mentioning, you know, that, with those students</b></p> <p>8 <b>that we have, many of them will also be, you know,</b></p> <p>9 <b>siblings.</b></p> <p>10 <b>So we'll have multiple children in the</b></p> <p>11 <b>same family, which, obviously, just helps with,</b></p> <p>12 <b>you know, how many -- how many cars are picking up</b></p> <p>13 <b>and dropping off. And as I said before, you know,</b></p> <p>14 <b>pick-up and drop-off times in our program are</b></p> <p>15 <b>staggered. We do not charge extra tuition or</b></p> <p>16 <b>charge extra fees for before aftercare, which is</b></p> <p>17 <b>what really, I -- I would say, allows for that.</b></p> <p>18 <b>So parents can drop off earlier or later, can pick</b></p> <p>19 <b>up earlier or later without -- without having to</b></p> <p>20 <b>pay any additional fees.</b></p> <p>21 <b>Q And when you say earlier or later, you</b></p> <p>22 <b>-- you're meaning within that 7:00 to 7:00 time</b></p> <p>23 <b>frame; correct?</b></p> <p>24 <b>A Yes. Yes. Yeah. Yeah. It's just</b></p> <p>25 <b>that, like, you know, at -- at some schools, you</b></p>	<p>27</p> <p>1 EXAMINATION BY THE HEARING EXAMINER</p> <p>2 BY MR. BAUMGARDNER:</p> <p>3 Q Just a couple of quick follow-up</p> <p>4 questions, Mr. Barnett. First of all, does your</p> <p>5 company -- are all of the schools owned by or --</p> <p>6 owned by your company? Are they all Montessori</p> <p>7 education-based?</p> <p>8 <b>A Yes.</b></p> <p>9 Q And you had mentioned that an LLC owns</p> <p>10 the land -- owns the real estate, and then</p> <p>11 Guidepost would be the operator; correct?</p> <p>12 <b>A That's correct.</b></p> <p>13 Q I'm assuming that Guidepost would be the</p> <p>14 -- the lessee on that land?</p> <p>15 <b>A That's correct. We generally have --</b></p> <p>16 <b>with all of our locations, we have long-term</b></p> <p>17 <b>leases.</b></p> <p>18 Q Okay. And what is the year number lease</p> <p>19 -- what is the length of that lease for this</p> <p>20 particular property?</p> <p>21 <b>A So it's -- it's 20 years, and -- and</b></p> <p>22 <b>then we generally do have options to renew that go</b></p> <p>23 <b>beyond that. Like, once we go to a location, we</b></p> <p>24 <b>want to be there permanently, you know, long-term.</b></p> <p>25 MR. BAUMGARDNER: Those were all the</p>
<p>26</p> <p>1 know, you have to drop off at a very specific --</p> <p>2 within a very specific time window of, let's say,</p> <p>3 you know, between 8:15 and 8:30 a.m., and then --</p> <p>4 so then you end up with, like, a rush of parents</p> <p>5 at a very -- in a very small window of time. But</p> <p>6 in our schools, we would provide that flexibility</p> <p>7 between 7:00 a.m. and 7:00 p.m. So there would be</p> <p>8 -- you won't have that sort of rush.</p> <p>9 Q Thank you. And in terms of use of the</p> <p>10 playground, do you stagger the number of children</p> <p>11 that play outdoors at any one time?</p> <p>12 <b>A Yeah. We do. And that's also required</b></p> <p>13 <b>by state licensing. So, you know, we would not</b></p> <p>14 <b>have all the children out at any -- we would not</b></p> <p>15 <b>be able to, even if we wanted to, have all the</b></p> <p>16 <b>children out at -- at -- at any given time, you</b></p> <p>17 <b>know. So we -- there -- there would be staggering</b></p> <p>18 <b>of the students. And we are, you know,</b></p> <p>19 <b>comfortable with the timing board's</b></p> <p>20 <b>recommendation, condition of approval. Condition</b></p> <p>21 <b>number for use of the outdoor playground and</b></p> <p>22 <b>recreational facilities will be staggered during</b></p> <p>23 <b>the condition hours of operation.</b></p> <p>24 MS. SILBER: Okay. Thank you, Mr.</p> <p>25 Barnett. I've no further questions at this time.</p>	<p>28</p> <p>1 questions I have. Ms. Silber or Ms. Rogers, any</p> <p>2 questions based upon mine?</p> <p>3 MS. SILBER: No. Not at this time.</p> <p>4 Thank you.</p> <p>5 MR. BAUMGARDNER: Okay. Thank you very</p> <p>6 much for your testimony, sir.</p> <p>7 MR. BARNETT: Thank you.</p> <p>8 MR. BAUMGARDNER: Ms. Silber, your next</p> <p>9 witness, please?</p> <p>10 MS. SILBER: My next witness is Kevin</p> <p>11 Foster. Mr. Baumgardner, Mr. Foster has qualified</p> <p>12 as a witness. I do have some questions to voir</p> <p>13 dire Mr. Foster. His resume is in the record as</p> <p>14 Exhibit 22. Would you like me to go through his</p> <p>15 voir dire, or start it at least?</p> <p>16 (Exhibit 22 was marked.)</p> <p>17 MR. BAUMGARDNER: Just very briefly.</p> <p>18 Sure. I don't believe -- I'm trying to recall. I</p> <p>19 recognize his name. I just don't remember whether</p> <p>20 it's from a transcript that I read or if he</p> <p>21 appeared before me for a prior case. But if you</p> <p>22 just want to do a very brief voir dire and then</p> <p>23 we'll move forward with that.</p> <p>24 MS. SILBER: Mr. Foster, will you please</p> <p>25 state your full name, address, e-mail address, and</p>



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8 (29 to 32)

<p>29</p> <p>1 if you could just give a spelling.</p> <p>2 MR. FOSTER: Certainly. My full name is</p> <p>3 Kevin Foster, spelled K-E-V-I-N, F-O-S-T-E-R. I'm</p> <p>4 -- my professional address is 3909 National Drive,</p> <p>5 Suite 250, Burtonsville, Maryland 20833. My</p> <p>6 e-mail address is kfoster,</p> <p>7 K-F-O-S-T-E-R@glwpa.com.</p> <p>8 MR. BAUMGARDNER: And, Mr. Foster, can</p> <p>9 you please raise your right hand.</p> <p>10 Whereupon,</p> <p>11 KEVIN FOSTER,</p> <p>12 being first duly sworn or affirmed to testify to</p> <p>13 the truth, the whole truth, and nothing but the</p> <p>14 truth, was examined and testified as follows:</p> <p>15 MR. BAUMGARDNER: Thank you. Ms.</p> <p>16 Silber.</p> <p>17 EXAMINATION BY COUNSEL FOR THE PETITIONER</p> <p>18 BY MS. SILBER:</p> <p>19 Q Mr. Foster, can you please describe your</p> <p>20 primary occupation?</p> <p>21 <b>A I'm a principal with Gutschick, Little &amp;</b></p> <p>22 <b>Weber. I'm director of planning and landscape</b></p> <p>23 <b>architecture with the firm.</b></p> <p>24 Q And how long have you been employed as a</p> <p>25 landscape architect and land planner?</p>	<p>31</p> <p>1 <b>planning.</b></p> <p>2 MS. SILBER: Okay. I'd like to move</p> <p>3 that Mr. Foster be admitted as an expert in</p> <p>4 landscape architecture and land planning. And</p> <p>5 again, Mr. Foster's resume has been submitted as</p> <p>6 part of the record as Exhibit 10.</p> <p>7 (Exhibit 10 was marked.)</p> <p>8 MR. BAUMGARDNER: Are there any</p> <p>9 objections to admitting Mr. Foster as an expert in</p> <p>10 landscape architecture and/or -- was that</p> <p>11 planning?</p> <p>12 MR. FOSTER: Yes.</p> <p>13 MR. BAUMGARDNER: Hearing and seeing</p> <p>14 none, Mr. Foster is admitted as an expert witness</p> <p>15 in landscape architecture and planning for the</p> <p>16 purposes of this hearing.</p> <p>17 MS. SILBER: Mr. Baumgardner, we're</p> <p>18 going to begin to go through Mr. Foster's</p> <p>19 testimony. As you are aware, petitioner submitted</p> <p>20 a comprehensive land use report. The updated</p> <p>21 version is Exhibit 15O. And we'll expect to have</p> <p>22 Mr. Foster review many of these points, and if --</p> <p>23 if accepted, we'll begin to go through all the</p> <p>24 Q&amp;A. It may be repetitive, and you can feel free</p> <p>25 to jump in if we get too -- too far into the weeds</p>
<p>30</p> <p>1 <b>A I've been with Gutschick, Little &amp; Weber</b></p> <p>2 <b>for 27 years now.</b></p> <p>3 Q And can you describe your professional</p> <p>4 and educational background and any professional</p> <p>5 designations or accreditations you have received?</p> <p>6 <b>A Sure. I'm a registered landscape</b></p> <p>7 <b>architect in the state of Maryland. I'm also a</b></p> <p>8 <b>certified land planner. My -- I have an</b></p> <p>9 <b>undergraduate degree from Delaware Valley</b></p> <p>10 <b>University and a master's degree in landscape</b></p> <p>11 <b>architecture from the University of Virginia.</b></p> <p>12 Q And what are your primary</p> <p>13 responsibilities at Gutschick, Little &amp; Weber?</p> <p>14 <b>A I oversee all the planning and landscape</b></p> <p>15 <b>architecture that's involved with the firm,</b></p> <p>16 <b>whether that's design, testimony, working with</b></p> <p>17 <b>clients, overseeing all the design work before it</b></p> <p>18 <b>becomes engineered.</b></p> <p>19 Q And have you ever testified as an expert</p> <p>20 before the Montgomery County Office of Zoning and</p> <p>21 Administrative Hearings? If so, in what capacity</p> <p>22 have you qualified to testify?</p> <p>23 <b>A Yes. I've testified on multiple cases</b></p> <p>24 <b>before the hearing examiner and I've been accepted</b></p> <p>25 <b>as an expert witness in landscape architecture and</b></p>	<p>32</p> <p>1 and you want to rely upon what's in the record.</p> <p>2 But we'll -- we'll kind of continue down and you</p> <p>3 can let us know how -- how we're doing.</p> <p>4 MR. BAUMGARDNER: Not a problem at all.</p> <p>5 BY MS. SILBER:</p> <p>6 Q Okay. Mr. Foster, are you familiar with</p> <p>7 the special exception modification which is before</p> <p>8 the hearing examiner today under S3345-B?</p> <p>9 <b>A Yes. I'm familiar with it. It -- it's</b></p> <p>10 <b>for the proposed reuse of an existing private</b></p> <p>11 <b>educational institutional use with a decrease in</b></p> <p>12 <b>enrollment capacity -- capacity and a expanded</b></p> <p>13 <b>hours of operations to support a proposed</b></p> <p>14 <b>Montessori school program.</b></p> <p>15 Q And can you describe your</p> <p>16 responsibilities with regard to the special</p> <p>17 exception modification?</p> <p>18 <b>A Sure. Gutschick, Little &amp; Weber's and</b></p> <p>19 <b>my -- my responsibility were for analysis of the</b></p> <p>20 <b>existing site conditions and the character of the</b></p> <p>21 <b>surrounding neighborhood and to ensure that the</b></p> <p>22 <b>proposed modifications -- modifications of use</b></p> <p>23 <b>would continue to be compatible with the</b></p> <p>24 <b>surrounding neighborhood. We've reviewed the 1990</b></p> <p>25 <b>proved and adopted Bethesda-Chevy Chase Master</b></p>

<p>33</p> <p>1 Plan, the Montgomery County Zoning Ordinance 2 requirements, both general and specific purposes 3 and development standards for the R-200 zone. 4 We evaluated the project's conformance 5 with the master plan and compliance with the 6 zoning ordinance. We assisted in laying out the 7 very minor site modifications that are proposed 8 today and made sure they complied with all code 9 requirements. We prepared all of the special 10 exception plans, landscape plans, and exhibits. 11 Q And did GLW prepare a written report 12 that was part of the application submission? 13 A Yes. It was the land use report. I 14 think it's Exhibit 19O. 15 (Exhibit 19O was marked.) 16 Q Yes. 17 A Do I have any of this correct? Yes. 18 Q Yeah. 19 A Okay. 20 Q And before we get into the specifics of 21 the property and the proposed modification, can 22 you confirm the zoning ordinance the application 23 is being reviewed under? 24 A Yes. This application has been 25 submitted and will be reviewed under the zoning</p>	<p>35</p> <p>1 the site, I would first like to refer to Exhibit 2 10. And that is an aerial view of the general 3 surrounding area of the subject property, which is 4 outlined in red, in the center of this exhibit. 5 And what is the yellow is what was determined to 6 be the surrounding area or the surrounding 7 neighborhood. 8 And because approximately from, you 9 know, Redwood Avenue over to Burdette, and pretty 10 much encompasses all the properties that are 11 either directly adjacent to the proposed site, or 12 closely adjacent to it, including some properties 13 that are on Arrowood, to the rear of the subject 14 property. I would -- so this -- the next group of 15 slides are some new images. It's a group of 16 pictures of the site. And I would like to enter 17 these in the record, if that is okay with you, Mr. 18 Hearing Examiner. It will be -- 19 Q Exhibit 26. 20 A Yes, okay. Exhibit 26. 21 MR. BAUMGARDNER: Sure. Let me just 22 look here for a second. We'll mark as Exhibit 26. 23 Pending the submission of the exhibit after the 24 hearing. You may continue. 25 (Exhibit 26 was marked.)</p>
<p>34</p> <p>1 ordinance that was in effect October 29th, 2014. 2 Currently, most people refer to it as the old 3 zoning code. And in this -- for this case, 4 section 7.7.1B3 of the new code actually allows an 5 applicant with a previously approved special 6 exception developed under the standards and 7 procedures of the old code to amend that case, as 8 long as it does not increase improved density or 9 building height, pertains the approved setbacks 10 from the property in a residential detach zone, 11 and satisfies the setbacks required by the zone on 12 the date the amendment when the permit was 13 submitted. 14 Q And have you made a personal inspection 15 of the subject property, and are you familiar with 16 the surrounding area of the property? 17 A Yes. I visited the site on multiple 18 occasions and I'm very familiar with the 19 surrounding neighborhood. 20 Q And can you describe the location in 21 general? I know you have now some slides you 22 wanted to share, and if it's okay, if Mr. Foster 23 would share his screen? 24 MR. BAUMGARDNER: That's fine. 25 A Okay. So the -- to orient everyone with</p>	<p>36</p> <p>1 A Okay. The first photo of this exhibit 2 is a oblique of the subject property, taken mostly 3 from the East. But it clearly gives you a good 4 idea of the scale and nature of the subject 5 property and and its relative scale to the 6 surrounding houses, one and two-story houses along 7 Bradley Boulevard. And it also shows part of the 8 neighborhood along Arrowood was actually houses 9 tend to be a little bit larger than what's on -- 10 on Bradley Boulevard, but you can see the 11 neighborhood is fairly mature with quite a few 12 large trees and this specific site is fully 13 fenced, from the playground and the front all the 14 way around to the opposite front corner with a 15 six-foot screen fence. 16 And I've got a few photographs that show 17 the surrounding area along Bradley Boulevard to 18 give you an idea of the character. This is a 19 photograph generally looking west on Bradley 20 Boulevard. You can see the mature trees and 21 houses are setback bur for Bradley Boulevard, they 22 are mostly one and two-story, with some larger 23 lots sprinkled around in there. And this is 24 looking at the subject property. Looking East, 25 you can see the one story building, which is the</p>

<p>37</p> <p>1 Montessori School and playground behind the fence, 2 and then the adjacent neighbor, who's property is 3 basically fully screened in on Bradley. Now this 4 is a view looking directly from Bradley Boulevard. 5 And again, you can see the single story 6 nature of the structure with all of the parking in 7 the rear. So there's no parking visible at any 8 time from the surrounding area. To look into the 9 site a little bit, so to give you a sense of the 10 nature of what's actually onsite, there's the 11 driveway that comes into the site that has at 12 gate. And the, as I mentioned before, there's a 13 landscape fence -- screened fence all around the 14 property and landscaping that was installed quite 15 a few years ago, so much -- much of it is very 16 much sure. This is on the western property line. 17 And if you back up, you can see there's 18 actually houses back adjacent houses, but it's 19 very well screened and buffered from the 20 surrounding area. And you could mature trees, 21 this is standing on the opposite side of the 22 parking lot, looking -- looking west. And you can 23 see the canopy for walking into the school and 24 center courtyard on the right-hand side. As we 25 pan back to the rear of the property, again, very</p>	<p>39</p> <p>1 playground equipment. The property itself 2 comprises approximately 2.4 acres and incorporates 3 what was known as lot 3 in the Kiefer Track, 4 Bradley Hills subdivision. And -- and one thing I 5 did want to bring up about this, there was 6 approximately 5,500 square feet of an area that 7 was, I think, mistakenly left out of the previous 8 description of what all of -- was included in the 9 previous special exception. 10 Because if you go back and look at the 11 -- the plans and the surveys, there's actually 12 about a ten-foot strip of land along the western 13 property line that's not actually in lot 3. And 14 after a lot of analysis and research, the 15 surveyors found that this was a piece that was 16 inadvertently, basically leftover, when 17 subdivision was laid out on the ground. It wasn't 18 really a gap, it was just an extra piece of land 19 that was incorporated as part of parcel lot 3. 20 And it was always -- this is an exhibit that I 21 think is already in the record which is approved 22 -- the approved special exception from back in 23 2000. 24 MS. SILBER: Mr. Foster, I'm just going 25 to interrupt for one second. I was just wondering</p>
<p>38</p> <p>1 mature trees around the perimeter. You can see 2 some of the larger houses, along Arrowood. But 3 again, they're still buffered with a screen fence. 4 There's the trash enclosure to the rear, which is 5 also enclosed as required by code. That's a 6 close-up. 7 So you can see little more detail of 8 screening buffering and the distance from the 9 parking and the edge property. There is a service 10 shed for landscape maintenance equipment on the 11 property. And this is the adjacent neighbor, just 12 to the east. For this, you can see the screen 13 fence and the landscaping as well. And this is 14 just a view of the center courtyard, which were 15 planning to put a fence and a gate. It's a little 16 small recreation area in there, you can see that. 17 There's a very mature landscape. And then this is 18 the playground that's on the corner of the 19 property, the corner up by Bradley Boulevard. 20 It's fully fenced and screened with a mulch 21 surface and there's multiple equipment. 22 And part of this proposal is to replace 23 some of this equipment, as it -- as it has some 24 age on it. And Guidepost would really like to 25 upgrade this to what they consider their standard</p>	<p>40</p> <p>1 what the hearings are. 2 MR. FOSTER: Sure. 3 MS. SILBER: I'm having an issue with my 4 computer saying that the battery is low but I'm 5 plugged in. So if I, for some reason go dark, I'm 6 going to come right back, but we're trying to 7 figure out what's going on. 8 MR. BAUMGARDNER: Understood. Thank 9 you. 10 MR. FOSTER: So this is the -- an 11 excerpt of the Approved Special Exception, which I 12 think it's probably already in the record. 13 BY MS. SILBER: 14 Q Kevin, this exhibit is part of the 15 special exception that's part of the Hearing 16 Examiner's overall record. 17 A Okay. 18 Q In the record of -- 19 A All right. 20 Q -- this case so if the Hearing Examiner 21 desires we put it in here and could include new 22 exhibit if you would like. 23 MR. BAUMGARDNER: So this is part of the 24 previous special exception whenever it was 25 approved.</p>

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11 (41 to 44)

<p>41</p> <p>1 MR. FOSTER: Yes.</p> <p>2 MR. BAUMGARDNER: This was included as</p> <p>3 an exhibit under that prior approval; is that what</p> <p>4 I'm hearing correctly?</p> <p>5 MR. FOSTER: Yes.</p> <p>6 MS. SILBER: Correct.</p> <p>7 MR. BAUMGARDNER: Okay. We'll include</p> <p>8 it just for purpose of clarity. It'll be marked</p> <p>9 as Exhibit 27, pending submission after the</p> <p>10 Hearing. And Mr. Foster, just so I'm hearing you</p> <p>11 correctly, this is the northern boundary to the</p> <p>12 property that has that ten-foot span or the</p> <p>13 western property?</p> <p>14 (Exhibit 27 was marked.)</p> <p>15 MR. FOSTER: Well, Bradley -- Bradley</p> <p>16 Boulevard, let's just back up here just a second.</p> <p>17 So Bradley kind of goes east-west. So that</p> <p>18 property line would -- would really be the western</p> <p>19 property line that I'm talking about.</p> <p>20 MR. BAUMGARDNER: Okay.</p> <p>21 MR. FOSTER: Okay. And I was referring</p> <p>22 to the first slide of Exhibit 26. Excuse me,</p> <p>23 reproduction Exhibit 10. So if we go back to what</p> <p>24 we're introducing into the record which will be</p> <p>25 Exhibit 27. Which is a reproduction of a plan</p>	<p>43</p> <p>1 consolidated strip of land, along with all of lot</p> <p>2 3. And we see that was recorded in land records</p> <p>3 back on January 14th, 2022. And this is the</p> <p>4 entire deed.</p> <p>5 MR. BAUMGARDNER: Got it. Thank you.</p> <p>6 MR. FOSTER: Okay. And subsequent to</p> <p>7 that deed being submitted and recorded in land</p> <p>8 records, we've also processed with Maryland</p> <p>9 National Planning Commission and</p> <p>10 Department of Permitting Services, a plan of</p> <p>11 correction to correct the area of lot 3. Now by</p> <p>12 practice, Montgomery County doesn't typically</p> <p>13 reuse lot numbers, so it is now being referred to</p> <p>14 as lot 38. That's the next available lot number</p> <p>15 within this block. But you can see there's a line</p> <p>16 right across the edge of the western edge of the</p> <p>17 property line, which is the piece -- the strip of</p> <p>18 land that was originally left out. So that --</p> <p>19 let's see, that plot has been signed by the</p> <p>20 director of DPS, it was approved by the planning</p> <p>21 board on February 3rd, and is currently being</p> <p>22 setup for recordation in land records.</p> <p>23 MS. SILBER: Mr. Baumgardner, if you'd</p> <p>24 like to introduce the record plot, I guess would</p> <p>25 be Exhibit 29.</p>
<p>42</p> <p>1 from the previous special exception. And I've</p> <p>2 highlighted the line that was on that plan that</p> <p>3 showed the limits of special exceptions. And you</p> <p>4 can see it went all the way outside the existing</p> <p>5 driveway, right along the line that's labeled as</p> <p>6 existing screen fence. So the intent was to</p> <p>7 always include all of what, at that time they</p> <p>8 thought was lot 3. I mean if you looked at</p> <p>9 bearings and distances on this plan, they're</p> <p>10 actually off of the original record plan. So</p> <p>11 clearly it wasn't surveyed at that time.</p> <p>12 They were just using existing plot</p> <p>13 information. But come to find out later after the</p> <p>14 property was surveyed, and we verified that, that</p> <p>15 there's an extra ten-foot strip along there. And</p> <p>16 we have worked with county planning staff to</p> <p>17 consolidate that. To correct that error in the --</p> <p>18 what should be lot 3. And there was a</p> <p>19 Confirmatory Deed that was -- and Corrective Deed</p> <p>20 that was recorded in the land records. And we</p> <p>21 would also like to put that in -- that put into</p> <p>22 the record, I guess that would be Exhibit 28.</p> <p>23 MR. BAUMGARDNER: 28.</p> <p>24 (Exhibit 28 was marked.)</p> <p>25 MR. FOSTER: And that is a deed of the</p>	<p>44</p> <p>1 MR. BAUMGARDNER: That's correct.</p> <p>2 Marked for identification purposes pending</p> <p>3 submittal after the hearing.</p> <p>4 (Exhibit 29 was marked.)</p> <p>5 MS. SILBER: And Mr. Baumgardner just</p> <p>6 and a procedural matter, I was going to remind us</p> <p>7 both at the end of the hearing that we keep the</p> <p>8 record open to accept the actual plot that is</p> <p>9 recorded in the land records. So you have that as</p> <p>10 part of the record.</p> <p>11 MR. BAUMGARDNER: So noted.</p> <p>12 BY MS. SILBER:</p> <p>13 Q And Mr. Foster --</p> <p>14 A Yes.</p> <p>15 Q -- in terms of this the plot that shows</p> <p>16 the corrected area, is this area that we're seeing</p> <p>17 on this plot what was included as part of the</p> <p>18 prior Special Exception approved in 2000, is it</p> <p>19 the same area?</p> <p>20 A Yes, it is. And I think I pointed that</p> <p>21 out with the -- with the exhibit, it shows the</p> <p>22 previous special exception and what their intent</p> <p>23 was with the approval of that Special Exception,</p> <p>24 that it did include that strip of land that we're</p> <p>25 now combining into one parcel.</p>

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12 (45 to 48)

<p>45</p> <p>1 Q Thank you. And in terms of the -- the 2 improvements that are on the property, can you 3 please describe what's currently on the property? 4 A Certainly. I'm now referring to a 5 reproduction of Exhibit 19C, which is the special 6 exception site plan and -- let me blow this up 7 just a bit so we can see it better. Bradley 8 Boulevard is running on the right-hand side of the 9 exhibit and there's a driveway that comes in 10 roughly in the center of the site, makes a hard 11 right then a hard left, follows behind the 12 existing school building which is in the center of 13 the property to a parking lot. In the rear of the 14 property, it contains 78 spaces. 15 (Exhibit 19C was marked.) 16 There are some green areas around the 17 property that include some storm water management, 18 some landscape buffer areas. There's a fence, a 19 six-foot screen fence around the entire area. And 20 to the -- on the eastern property line, there is a 21 playground, part of which is on-site and part of 22 which was included in an easement on an adjacent 23 property. I know that seems a little odd, but 24 originally both the lot 3 and lot 15 were under 25 ownership by a church. And then when it was</p>	<p>47</p> <p>1 -- for the French International School, which was 2 case S2345 for up to 200 students and 20 staff. 3 Back then, the operating hours were 8:00 a.m. to 4 5:00 p.m. And because of that, the French 5 International School was required to contribute 6 funds to -- to improvements at intersections on 7 Seven Locks Road and Bradley Boulevard, just 8 traffic signal and restraint turn lanes. 9 Subsequent to that, in 2000, Board of 10 Appeals approved a modification to that special 11 exception to change the hours of operation to 9:00 12 a.m. to 3:20 p.m. and partial bus service for 36 13 students. That change of hours of operation and 14 bus service eliminated the potential impacts to 15 the transportation network in the evening pick 16 hour, therefore it has eliminated the requirement 17 to fund those intersection improvements. This 18 modification also included certain physical 19 modifications to the property, such as a 20 deceleration lane, which is currently been built, 21 and widening of the entrance, expansion of the 22 play area, and some canopies for entrances to the 23 building. 24 Q And can you please describe the 25 requested modifications proposed in connection</p>
<p>46</p> <p>1 originally sold off, this lot 15 was sold to an 2 individual owner, but the playground was left, and 3 there's a existing recorded easement that allows 4 that playground to be there, and that was included 5 in the previous special exception. 6 Q And Mr. Foster, you -- you had mentioned 7 about the -- the previous uses. Can you just 8 describe what other users has habit on this 9 property prior to the French International School? 10 A Yeah. The French International School, 11 I think started back in there -- back there in, 12 like, 1998. Before that -- let's see -- it was a 13 -- a church property that also ran a Montessori 14 School there. And before that, I think it was 15 actually owned by the fire department. 16 Q And Mr. Foster, are there any streams, 17 wetlands, or other environmental features on the 18 property? 19 A No. There are no environmental features 20 on this property. 21 Q And can you describe -- briefly describe 22 and provide an overview of the prior existing 23 special exception approvals for the property? 24 A Yes. Back in 1998, the property was 25 approved for a private educational institution for</p>	<p>48</p> <p>1 with this application? 2 A Certainly. For this proposed 3 application, petitioner is seeking to continue the 4 longstanding private educational institutional use 5 of the property. The proposed PIE will include 6 daycare and nursery instruction that serve -- 7 serve students six weeks to 13 years old. The 8 petitioner also proposes to decrease the maximum 9 number of students on the site, the current cap, 10 from 200 to 180 students. And they proposed to 11 modify the hours of operation for this Montessori 12 school for -- from 7:00 a.m. to 7:00 p.m. And 13 that's 12 months out of the year. And that's 14 opposed to the 9:00 a.m. to 3:20 p.m. for the 15 current French International School. 16 With -- with regard to the exterior 17 modifications, there will be no changes to the 18 building square footage or footprint or building 19 height. There were a few modifications limited -- 20 limited to some ADA access modifications at some 21 of the sidewalks, in the entrances, adding some 22 ramps to bring it up to ADA -- excuse me -- code. 23 And there's some minor modifications to the site 24 for routine maintenance, you know, painting of the 25 building, replacing the play structures, repairing</p>

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13 (49 to 52)

<p>49</p> <p>1 some building, and adding new signings. We'll 2 also be adding a fence at the -- fence and a gate 3 at the courtyard since this is a play space that's 4 -- and that's required for licensing requirements. 5 There's another change to the site. And 6 let's see here. Okay. This -- this is a 7 reproduction of Exhibit 13, which is a rendering 8 of the property, it's -- which shows the existing 9 school and the landscaping around it and 10 playground. As part of the -- part of this 11 application, we were also required to -- because 12 of the change of hours of operation, we were 13 required to do a -- a transportation study, an 14 LATR study. And, you know, that was triggered by 15 new requirements -- new LATR requirements, not 16 specifically something that happened on the site, 17 but that requirement did require us to make some 18 pedestrian improvements to Bradley Boulevard. And 19 this is reproduction of Exhibit 19F. It's in the 20 record. 21 (Exhibits 13 and 19F were marked.) 22 And this shows Bradley Boulevard running 23 across -- across the screen and the subject 24 property on the left-hand side. And as part of 25 this pedestrian improvement, we've been required</p>	<p>51</p> <p>1 MR. BAUMGARDNER: Let me just see where 2 we are. We are at -- yeah -- Exhibit 30. 3 (Exhibit 30 was marked.) 4 MR. FOSTER: Yes, sir. 5 MR. BAUMGARDNER: You may continue. 6 MS. SILBER: Thank you. 7 BY MS. SILBER: 8 Q Mr. Foster, you mentioned that the 9 Montessori school would serve students between six 10 weeks and 13 years of age. Does these years fall 11 within the PEI classification? 12 A Yes. It does. Educational institution 13 private as it's found on the quote, unquote, old 14 code. Now, that was section 59A 2.1. And taking 15 sections out of that, every private school which 16 offers program of preparatory, high school, junior 17 high school, elementary, kindergarten or nursery 18 school instruction or a combination of. So it -- 19 it was included in the previous or the old code. 20 I mean, it's also -- really falls under what's in 21 definition of a new code which actually tend to be 22 a little bit broader. 23 That's Section 3.4.5, that a private 24 school or education or training academy providing 25 instructional programs of learning. That's really</p>
<p>50</p> <p>1 to build a five-foot sidewalk along Bradley 2 Boulevard within the existing public right of way 3 from our entrance up to an existing bus stop that 4 exists at the corner of Oak Forest Lane and 5 Bradley Boulevard. And at that location, we will 6 also be building a bus shelter, putting -- 7 installing a bus shelter. This also includes new 8 curb and gutter and a landscape panel along 9 Bradley Boulevard to ensure safe passage for the 10 pedestrians. 11 And if I go back to reproduction Exhibit 12 13, the lighting on the site we were -- we were 13 proposing not to change any of the existing 14 lighting on the site except for some small up 15 lights that will be added to the entrance sign -- 16 new entrance sign along Bradley Boulevard. 17 Q And Mr. Foster, I believe that you have 18 a subsequent slide that just shows the 19 improvements on the frontage; correct? 20 A Yes. This is a -- an updated special 21 exception site plan that shows the sidewalk 22 frontage and the bus stop installation. And we'd 23 -- we'd like to introduce this into the record. I 24 guess this will be Exhibit 30. 25 Q Correct.</p>	<p>52</p> <p>1 the -- the new definition of educational 2 institution. So it's very broad. This -- this 3 use was also confirmed by the Department of 4 Permitting Services in a letter that was dated 5 November 22nd, 2021. And I think that was 6 included as an exhibit in the land use report 7 which was submitted on the record as Exhibit 19O. 8 Q Thank you, Mr. Foster. Can you please 9 describe how you define the surrounding 10 neighborhood in your land use report? 11 A Sure. Now, I'm -- I'm referring now, 12 again, to a reproduction of Exhibit 10, which is 13 -- excuse me -- the surrounding area. And the 14 surrounding area is largely established with the 15 neighborhood that's along Bradley Boulevard. And 16 it runs roughly between Redwood Avenue and -- 17 Redwood Avenue to the west and Burdette Road on 18 the -- on the east. And the depth of the 19 surrounding area really was intended to include 20 the immediately abutting or confronting lots that 21 are directly affected by this parcel and that 22 also, as I mentioned previously, included a few 23 lots on Arrowood Drive. 24 Q And are you familiar with the 25 surrounding area boundaries identified by staff in</p>

<p>53</p> <p>1 their staff report and do you agree with staff's 2 delineation? 3 <b>A Yes. Staff -- this is the exact same 4 delineation that staff used and I do agree with 5 it.</b> 6 Q And can you please describe the 7 character of the surrounding neighborhood? 8 <b>A The -- the character is really 9 single-family detached residential use by and 10 large on small to mid-size lots. Though there are 11 several other neighborhood -- other neighborhood 12 serving commercial or institutional uses in the 13 immediate vicinity. One of those is the Bradley 14 Hills Animal Hospital just to the west of the 15 subject property and Lady of Bethesda Retreat 16 Center, which is on the opposite side of Bradley 17 Boulevard just to the east. There are no other 18 schools, daycare centers, or other special 19 exception uses on the record within the 20 neighborhood boundary.</b> 21 Q In your professional opinion, will the 22 proposed modification impact the character of the 23 surrounding neighborhood? 24 <b>A No. I don't. As previously mentioned, 25 the property has been longstanding in the -- in</b></p>	<p>55</p> <p>1 <b>155, the master plan recognizes the growth of 2 population and influx of young families with 3 children into the planning area and relatedly the 4 increased demand and need for additional child 5 daycare facilities in the planning area to support 6 existing and future residents.</b> 7 <b>The master plan specifically encourages 8 additional child daycare services in both the 9 neighborhood and employment settings, but does 10 recognize the challenges associated with creating 11 new freestanding centers given that prohibitive 12 costs, scarcity of vacant sites, and the 13 significant capital and operating cost. This 14 project clearly supports these objectives and 15 continues the early childhood education services 16 on the property. You know, in fact, the proposed 17 modifications, including extended hours of 18 operations, will support this even further with 19 the availability of these services to a -- a 20 broader range of the community.</b> 21 Q The master plan contains a specific 22 special exception policy. Can you please describe 23 how that project complies with that policy? 24 <b>A Yes. The -- the master plan does 25 provide guidelines for locating special exceptions</b></p>
<p>54</p> <p>1 <b>the community as in institutional use. We're only 2 proposing very minor extra modifications, mostly 3 for ADA access and recreational amenities. There 4 will be no changes to the footprint or size. And 5 the existing access point and driveways will also 6 remain the same. I think we're -- we're going to 7 have a positive effect by adding a sidewalk along 8 Bradley Boulevard, actually increasing public 9 safety and providing more pedestrian access.</b> 10 Q Mr. Foster, what's the relevant master 11 plan for this property? 12 <b>A This property is included in the 1990 13 Approved and Adopted Bethesda-Chevy Chase Master 14 Plan.</b> 15 Q And have you reviewed the master plan? 16 <b>A Yes. I have.</b> 17 Q Based on your review of the master plan, 18 in your professional opinion, is the proposed 19 development in substantial conformance with the 20 master plan and its overall goals in record? 21 <b>A Yes -- yes. It is. And the master plan 22 confirms the property's R200 zoning, but there are 23 no site-specific requirements for this site in the 24 master plan. There are several overall goals and 25 objectives that relate to the property. On page</b></p>	<p>56</p> <p>1 <b>within the Bethesda-Chevy Chase Master Plan. And 2 these guidelines were intended to discourage 3 office-related special exceptions but support 4 related -- support those related to child, elder, 5 and health services, and other community servicing 6 needs. And that was on page 6 of the master plan. 7 Specifically, the master plan also lists five 8 guidelines to be used when reviewing the special 9 exception on page 51. And these guidelines are 10 not particularly relevant to this application, 11 given that this -- this special exception already 12 exists and no changes to the use are proposed. 13 But I can quickly go over those.</b> 14 <b>First, the first guideline is to avoid 15 excessive concentration of special exceptions or 16 other non-residential land uses along major 17 highways. This proposed modification will not 18 increase the number of existing special 19 exceptions, rather, this modification will 20 continue an existing private educational 21 institution on the property, specifically, with 22 the type of special exception that the master plan 23 seeks to encourage. No change will -- no changes 24 will be made to the access point on Bradley 25 Boulevard. The second guide -- guideline relates</b></p>

<p>57</p> <p>1 to avoiding over concentration of commercial 2 services or office special exception uses in the 3 -- in residential communities. 4 As I mentioned, this is a longstanding 5 private educational institution and the property 6 -- and -- to remain in the Montessori school will 7 seek to continue to provide the needed early child 8 -- childhood education services to the community. 9 The third guideline relates to protecting major 10 highway corridors and residential communities from 11 incompatible designs of special exceptions. And 12 as I previous -- previously testified, the very 13 minor modifications being proposed for ADA access 14 and routine maintenance, these modifications will 15 not modify the character of the site. And parking 16 will continue to be located in the rear of the 17 site, out of view of -- of the community. 18 The fourth objective seeks to support 19 special exception uses that contribute to housing 20 objectives in the master plan. So the Montessori 21 school will -- will provide services to homes in 22 the area as it continues the institutional -- the 23 specific institutional use. Finally, the fifth 24 guideline seeks to support special exception uses 25 that continue to serve the health objectives in</p>	<p>59</p> <p>1 to the R-200 zone? 2 A Yes. I am. 3 Q And does the PEI use comply with the 4 lot, density, and placement requirements of the 5 R-200 zone? 6 A Yes. It does. The existing buildings 7 and site improvements, which is a -- had existed 8 on the property for the past 60 years will remain 9 largely unchanged. Their -- their changes are 10 proposed to the building foot -- footprint or 11 gross floor area, such as the proposed special 12 exception modifications meet the development 13 standards of the R-200 zone as previously approved 14 by the Board of Appeals case 3-2345. The data 15 table on the cover sheet, which is Exhibit 19A, 16 summarizes the property's compliance with the 17 relevant development standards. 18 Q Mr. Foster, I'm sorry to interrupt. 19 Would you like to -- 20 A Sure. 21 Q -- show that exhibit? 22 A Sure. Let's see, do we have the cover 23 sheet? Here we go. This is a reproduction of 24 Exhibit 19A. And -- and these are the development 25 standards for the property, and these are the</p>
<p>58</p> <p>1 the master plan, including the needs related to 2 childcare. This project will continue to provide 3 the needed early childhood education services as 4 -- as I've discussed and the expanded curriculum 5 hours will provide additional support to meet the 6 needs of the surrounding community. 7 Q Mr. Foster, did Park and Planning staff 8 and the board agree with your conclusion that the 9 proposed modification is in substantial 10 conformance with the master plan? 11 A Yes. They did. Specifically, on page 12 12 of the staff report, they make -- make this -- 13 that finding. There's also master plan 14 conformance findings on page 13, 14, and 30. The 15 Planning board transmitted a letter to the hearing 16 examiner with all the staff findings and 17 recommendations and specifically states that the 18 proposed use is consistent with the 1990 19 Bethesda-Chevy Chase Master Plan. 20 Q Mr. Foster, I'm now going to ask you a 21 series of questions based on your knowledge of the 22 zoning ordinance and your knowledge of the project 23 and your professional experience. Are you 24 familiar with the prior zoning ordinance for 25 Montgomery County including its provisions related</p>	<p>60</p> <p>1 R-200 standards and any specific standards related 2 to educational institutions. And the site meets 3 all of those except for -- there is one -- not a 4 building setback, but there were setbacks related 5 to parking and loading facilities for special 6 exceptions. And that is Section 59E2.83, specific 7 parking and loading facilities for special 8 exception uses in a residential zone. And the 9 site meets all of the front and rear parking 10 setbacks, except that the side yard setbacks for 11 parking is -- is required to be twice the building 12 side yard. 13 (Exhibit 19A was marked.) 14 So the side yard in the R-200 zone is 12 15 feet. So for this property, a side yard would be 16 24 feet. But the property with the driveway and 17 the parking has an area that's reduced down to 4.8 18 feet and 15 feet. But also, as part of this 19 section, there is a -- an allowance for older 20 special exceptions and -- in the asterisks at the 21 bottom that I'm highlighting. Existing parking -- 22 surface parking facilities included as part of the 23 special exception granted before May 6th, 2002, 24 are considered of conforming use. So with -- with 25 this special exception being -- being approved</p>



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<p>61</p> <p>1 prior to that date, the -- the existing parking, 2 including the -- the -- the side setbacks, will be 3 considered conforming use. 4 Q And, Mr. Foster, did staff and the 5 Planning board agree with -- with this? 6 A Yes. They did. 7 Q Mr. Foster, will -- will there be 8 adequate parking provided on-site to accommodate 9 the Montessori school? 10 A Yes. There are currently 78 parking 11 spaces in the existing parking lot. And the 12 school's proposing 25 employees. That allows 53 13 spaces available at any time for parents to use 14 for pick-up and drop-off of -- of the students. 15 Q Mr. Foster, does the parking lot design 16 satisfy the requirements contained in 59E2.83? 17 A Yes. It does. And I think I just went 18 over a large portion of that with my previous -- 19 previous testimony. 20 Q And, Mr. Foster, did staff agree with 21 you that there was adequate parking that met the 22 requirements of the Montgomery County zoning 23 ordinance? 24 A Yes. They did. 25 Q Are you proposing any changes to the</p>	<p>63</p> <p>1 ordinance? 2 A Yes. The existing on-site lighting 3 remain unchanged. We are -- we prepared a 4 existing conditions photometric plan, and the 5 lighting levels that we determined on-site will be 6 below the required 1.1 foot candles at any of the 7 property boundaries. 8 Q Section 59G2.19 of the older code 9 provides for specific standards for private 10 educational institutions when that use is 11 permitted by special exception. Are you familiar 12 with the specific zoning ordinance standards for 13 PEIs and have you had an opportunity to review in 14 connection with the proposed use? 15 A Yes. 16 Q And with regards to -- look, we're going 17 to run through each provision in turn. In terms 18 of Section 59G2.19A, it requires that the county 19 find that the PEI will not constitute a nuisance 20 because of traffic, number of students, noise, 21 type of physical activity, or any other element 22 which is incompatible with the environment and 23 character of the surrounding neighborhood. Does 24 the proposed special exception modification meet 25 this standard?</p>
<p>62</p> <p>1 existing landscaping on-site? 2 A No. We -- we are -- we're proposing to 3 keep all of the existing landscaping and screening 4 fences around the perimeter of the property and 5 all the existing landscaping around the existing 6 building. 7 Q And did Park and Planning staff and the 8 board agree with your evaluation that the proposal 9 meets the development standards of the R-200 zone? 10 A Yes. They did. I think that's on pages 11 21 and 24 of the staff report, and I think that's 12 in the record as Exhibit 24I. 13 (Exhibit 24I was marked.) 14 Q Is there adequate fire access to the 15 site? 16 A Yes. There is adequate fire access to 17 the site. And as part of this special exception 18 case, we prepared a fire access plan that was 19 approved by the Department of Permitting Services 20 as part of this. And I think that is -- and 21 there's a confirmation letter of that approval 22 that's in the record as Exhibit 24G. 23 (Exhibit 24G was marked.) 24 Q Does the proposed site lighting comply 25 with the lighting requirements of the zoning</p>	<p>64</p> <p>1 A Yes. It does. The -- the special 2 exception modification will not propose any major 3 changes to the existing structure or operations of 4 existing use. As I've mentioned previously, while 5 the petition is proposing to expand the ages of 6 the children it serves to six weeks to 13 years of 7 age, the maximum student enrollment is being 8 decreased from 200 to 180. Importantly, many of 9 the positive site attributes previously discussed, 10 like the substantial physical -- physical and 11 landscape buffers will remain unchanged. There 12 are several playground facilities on-site. 13 They're located to the front east of the building 14 and the courtyard, and they'll continue to be used 15 as recreational purposes. 16 They are also substantially screened. 17 The existing playground equipment will be replaced 18 just as part of the routine maintenance. The 19 petitioner has -- has also closely coordinated the 20 number of children in classrooms outside at any 21 given point to keep from having any conflicts or 22 nuisance with the surrounding community. And they 23 -- they have agreed to stagger the hours of the 24 playground operations. And I think that was in 25 the staff report as well, which was Exhibit 21I.</p>

<p>65</p> <p>1 As such, the proposed modifications will not 2 constitute a nuisance -- excuse me, a nuisance 3 that is incompatible with the surrounding 4 neighborhood.</p> <p>5 Q Mr. Foster, Section 59G2.19A2 requires 6 that the board find that the -- that except for 7 buildings and additions completed or for which a 8 building permit has been obtained before April 2 9 of 2002, the private educational institution must 10 be in the building architecturally compatible with 11 other buildings in the surrounding neighborhood. 12 Does the proposed special exception modification 13 meet this standard?</p> <p>14 A Yes. It does. Now, the existing 15 structure on the property has served the students 16 for many years and demonstrated its compatibility 17 with the surrounding neighborhood. And I -- I 18 think we've reviewed that when looking at many of 19 the previous slides of the views along Bradley 20 Boulevard. The special exception modification 21 will not modify the exterior facades of the 22 structure in the existing building, except for 23 those minor ADA improvements that are being 24 proposed.</p> <p>25 Q Section 59G2.19A3 requires that the</p>	<p>67</p> <p>1 appropriate number of students to occupy the site. 2 As previously mentioned, the petitioner is 3 proposing to decrease the overall maximum 4 enrollment to 180 students. While the student 5 ranges has been changed to include students from 6 six weeks to 13 years old, as I've testified, this 7 will not have a negative impact on the noise, 8 character, or density of this special exception. 9 As such, given that the proposed modification is 10 less dense as compared to the prior approval, this 11 standard continues to be met.</p> <p>12 Q Section 59G2.19A4B discusses appropriate 13 -- having appropriate buffering. In your 14 professional opinion, are the recreational 15 facilities appropriately -- appropriately buffered 16 to meet this standard?</p> <p>17 A Yes. The -- the outdoor recreational 18 amenities will main -- remain largely unchanged by 19 this modification, and the petitioner is only 20 proposing to replace the equipment in the same 21 general location as required by -- required from 22 routine maintenance. The outdoor play area -- 23 playground areas located in the northeast portion 24 of the property were significantly buffered with 25 an existing six-foot fence and landscaping, and</p>
<p>66</p> <p>1 board find that the PEI will not, in and of itself 2 or in combination with other existing uses, affect 3 adversely or change the present character or 4 future development of the surrounding residential 5 community. Does the proposed special exception 6 modification meet this standard?</p> <p>7 A Yes. It does. The proposed exception 8 -- special exception modifications, as requested, 9 will similar -- excuse me, similarly carry on the 10 existing private educational use and will remain 11 -- and it will remain limited in its use a 12 Montessori School and daycare. The proposed 13 special exception modifications will not change 14 the nature or character of the property or the 15 surrounding neighborhood.</p> <p>16 Q Section 59G2.19A4 sets forth additional 17 development standards in addition to the general 18 standards of the R-200 zone. I'm going to briefly 19 go through them. In terms of 2.19A4, related to 20 density, in your professional opinion, is the 21 proposed enrollment cap of 180 students 22 appropriate for this site?</p> <p>23 A Yes. It is. The board, in approving 24 the prior special exception, had determined that 25 200 students previously approved was an</p>	<p>68</p> <p>1 the interior courtyard, which is buffered by the 2 existing building, will also continue to be used. 3 In this case, we are also adding a fence to meet 4 license requirements.</p> <p>5 Q And in terms of Section 59G2.19B, it 6 also requires the board to make a finding that the 7 PEI operates or allows its facilities by lease or 8 other arrangements to be used for other purposes. 9 Does the proposed modification include any of 10 these other uses?</p> <p>11 A No. It does not. And as the petitioner 12 previously testified, Guidepost Montessori 13 operates 12 months out of the year and is subject 14 to the same operational requirements that we 15 previously discussed, 180 students, 7:00 to 9:00 16 -- 9:00 -- 7:00 a.m. to 9:00 p.m., weekdays. And 17 --</p> <p>18 Q And --</p> <p>19 A -- the petitioner does not propose any 20 additional activities on the property.</p> <p>21 Q And, Mr. Foster, turning now to inherent 22 versus non-inherent factors, particularly the 23 1.21, what are the inherent effects that staff 24 identified as being associated with the proposed 25 PEI?</p>

<p>69</p> <p>1 A Staff -- staff identified, previously, 2 five inherent physical and operational 3 characteristics associated with a private 4 educational institution: vehicular trips to and 5 from the site, queuing on the -- on the adjacent 6 roadways, screening of visitor apparent parking, 7 outdoor play areas, and lighting. 8 Q Do you agree with these and, in -- and, 9 in your opinion, are there any others? 10 A Yes. I agree with these. And in my 11 professional opinion, there are no other inherent 12 effects associated with the PIE -- PEI, excuse me. 13 Q And have you evaluated whether they're 14 any non-inherent effects associated with the 15 proposed PEI use? 16 A Yes. I have. And in my professional 17 opinion, there are no non-inherent adverse 18 attributes or characteristics of this property. 19 As such, I do not believe that this use would have 20 any adverse effects on the surrounding area. And 21 staff did not identify any non-inherent adverse 22 effects either. 23 Q Mr. Foster, I just want to go back one 24 moment. I believe, when you were speaking 25 previously, you said that the hours of operation</p>	<p>71</p> <p>1 found in approving the existing special exception. 2 Q 59G1.21A3 requires a finding that the 3 proposed use will be consistent with the general 4 plan and master plan. In your professional 5 opinion, does it comply and is it consistent with 6 the master plan? 7 A Yes. It does. And again, if you refer 8 to the previous testimony, I think this special 9 exception reiterates the focus on the need for 10 child daycare services in the master plan. And 11 this modification will further that goal by 12 providing additional early childhood education to 13 support the existing and future residents within 14 the planning area. 15 MS. SILBER: And I will continue on -- 16 there's four more intersections, Mr. Baumgardner, 17 so I will -- I will try to go quickly through 18 them. 19 Q Section A4 requires a finding that the 20 proposal use will be in harmony with the general 21 character of the neighborhood. In your 22 professional opinion, is the proposed special 23 exception in harmony with the general character of 24 the neighborhood? 25 A Yes. As we previously discussed, the</p>
<p>70</p> <p>1 was 7:00 to 9:00 p.m. Am I correct that it's 7:00 2 a.m. to 7:00 p.m.? 3 A Yes. I apologize for that. It's 7:00 4 a.m. to 7:00 p.m. 5 Q Thank you. So now turning to the 6 general conditions of a special exception under 7 G2.19 of the prior zoning ordinance. G1.21A1 8 requires a finding that the proposed use is a 9 permissible exception in the zone. Is the PEI 10 permitted as a special exception in the R-200 11 zone? 12 A Yes. Per Section 59C1.31 of the prior 13 zoning ordinance, private educational institution 14 is permitted as a special exception within 200 -- 15 within the R-200 zone. 16 Q And pursuant to 1.21A2, that requires a 17 finding that the proposed use complies with the 18 standards and requirements for the use in Division 19 59G-2, does a special exception comply with these 20 standards, specific for a PEI? 21 A Yes. It does. If you refer to the 22 previous testimony, the special exception will 23 continue to comply with the requirements set forth 24 in section G2.19 and the development standards of 25 the R-200 zone, as the board of appeals previously</p>	<p>72</p> <p>1 existing building and site improvements, which 2 have existed on the site for six years, will 3 remain largely unchanged. Importantly, the site 4 will continue to provide more than adequate 5 parking on-site. This combined with the long 6 access drive will ensure there's no impact to 7 surrounding roadway network in terms of queuing or 8 stacking. The playground and parking continue to 9 be screened from the adjacent neighbors, and the 10 special exception will continue to be in harmony 11 with the character of the surrounding 12 neighborhood. 13 Q Mr. Foster, can you just show -- I don't 14 think we've done this yet. Can you show on the 15 rendered landscape plan just the area, yeah, that 16 you were talking -- referring to in terms of the 17 driveway coming into the site and -- 18 A Yes. 19 Q -- cars would enter? 20 A Okay. So I am now referring to a 21 reproduction of Exhibit 13, which is a color 22 rendering of the subject property in Bradley 23 Boulevard, running up and down on the right side. 24 There's a entry drive which comes in the middle of 25 the property, makes a hard right, and then a left</p>

<p>73</p> <p>1 to run down the property line between the building 2 and the neighbors to the parking lot, which 3 contains 78 parking spaces, to the rear of the 4 subject property, and is surrounded by screening, 5 landscape, and mature trees.</p> <p>6 MR. BAUMGARDNER: We may have lost Ms. 7 Silber for a second. We'll see if --</p> <p>8 MR. FOSTER: Okay.</p> <p>9 MR. BAUMGARDNER: We'll just take a -- 10 hold on for a couple of quick seconds and see if 11 we can get her back.</p> <p>12 MS. SILBER: Thank you. We're not sure 13 what happened on our end, but we're back.</p> <p>14 MR. BAUMGARDNER: That's all right. Mr. 15 Foster just finished testifying or stating 16 regarding the drive isle coming off of Bradley 17 Boulevard, winding around the -- well, I guess 18 that's the northwest corner of the property, back 19 to the parking lot in the rear, with the perimeter 20 of the property both screened by a fence and with 21 mature landscaping.</p> <p>22 MS. SILBER: Thank you.</p> <p>23 BY MS. SILBER:</p> <p>24 Q Mr. Foster, 59G-1.2185 requires a 25 finding that the proposed use will not be</p>	<p>75</p> <p>1 currently, the -- previously, the -- the lighting 2 remains meeting the standards of one-foot candle 3 along the side and rear property lines. The 4 playground and recreational facilities will remain 5 largely unchanged and will continue to be buffered 6 by the surrounding neighborhood. And per staff's 7 conditions, the proposed operation and playtimes 8 will be staggered.</p> <p>9 Q Section 1.21A7 requires a finding that 10 the proposed use will not, when evaluated in 11 conjunction with existing and approved special 12 exceptions in any neighboring one-family 13 residential area, increase the number, intensity, 14 or scope of special exception uses sufficiently to 15 affect the area adversely or alter the 16 predominantly residential nature. Will the 17 special exception increase the number, intent, or 18 scope of special exception uses in the area?</p> <p>19 A No. It will not. The petitioner seeks 20 to modify an existing special exception. As such, 21 this modification will not result in the increase 22 in the number of special exceptions in the 23 surrounding neighborhood.</p> <p>24 Q Section 1.21A8 requires a finding that 25 the proposed use will not adversely affect the</p>
<p>74</p> <p>1 detrimental to the use, peaceful enjoyment, 2 economic value, or development of surrounding 3 properties, either to the neighborhood, or 4 irrespective of any adverse effects of the use 5 that might be established elsewhere in the zone. 6 In your professional opinion, does the proposed 7 special exception comply with this standard?</p> <p>8 A Yes. It does. The existing private 9 educational use has occupied the property for many 10 years, and the use and improvements will remained 11 largely unchanged. In fact, the special exception 12 modification is seeking to decrease the maximum 13 enrollment cap from 200 to 180. And the extended 14 hours of operation will further the goals of -- 15 and objectives of the master plan and serve the 16 surrounding community.</p> <p>17 Q Section 1.21A6 requires a finding that 18 the proposed use will cause no objectionable noise, 19 vibrations, fumes, odors, dust, elimination, 20 glare, or physical activity on the site. We 21 discussed this previously, but in your 22 professional opinion, does the proposed special 23 exception comply with this standard?</p> <p>24 A The existing site improvements and uses 25 will remain largely unchanged. As I've testified,</p>	<p>76</p> <p>1 health, safety, security, morals, or general 2 welfare of residents, visitors, or workers in the 3 area at the subject site irrespective of any 4 adverse effects the use might have if established 5 throughout the zone. In your professional 6 opinion, does the proposed special exception 7 comply with this standard?</p> <p>8 A Yes. It does. Specifically, the 9 special exception modification will continue to 10 provide early childhood education to the 11 community, which the master plan particularly 12 emphasizes.</p> <p>13 Q A9 requires a finding that the proposed 14 use will be served by adequate public services and 15 facilities including schools, police and fire 16 protection, water, sanitary, sewer, public roads, 17 storm drainage, and other facilities. Does this 18 proposed modification comply with these standards?</p> <p>19 A Yes. It does. And I think Nancy 20 Randall will speak to the transportation 21 facilities later on. Now, the property will be 22 served by an existing water and sewer. Electric, 23 gas, telecommunications services will also 24 continue to be available. And other public -- 25 public facilities such as police stations, fire</p>

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20 (77 to 80)

<p>77</p> <p>1 houses, healthcare facilities will continue to be 2 more than adequate to support the services of the 3 existing private educational institution. 4 Q And will the proposed modifications 5 comply with fire -- the fire -- I'm sorry, the 6 Forest Conservation ordinance? 7 A Yes. Yes. They will. In conjunction 8 with this specific application, a Forest 9 Conservation exemption was approved by 10 Maryland-National Park and Planning Commission on 11 June 14th. I think that is Exhibit 24C in the 12 record. 13 (Exhibit 24C was marked.) 14 Q And is a storm water management plan 15 required for the proposed modifications on-site? 16 A No. It is not. The modifications 17 proposed will disturb less than 5,000 square feet 18 of land area. So the project is -- is exempt from 19 forest -- excuse me, from sediment, erosion 20 control, and storm water management requirements. 21 Q In your professional opinion, does the 22 proposed special exception modification satisfy 23 all applicable code requirements? 24 A Yes. It does. 25 Q Do you agree with the findings made by</p>	<p>79</p> <p>1 Q Understood. You had also mentioned that 2 the prior approval from 1998, I believe, there 3 were traffic mitigation measures that were, I'm 4 assuming, conditioned upon the approval of the 5 special exception -- 6 A Yes. 7 Q -- signals -- signalization, turn lanes. 8 Were all of those completed prior to the 2000 9 modification? 10 A No. I did -- no. They were not. The 11 2000 modification, because they changed the hours 12 of operations, basically eliminated those 13 requirements. All though, there were some 14 site-specific requirements of a diesel lane and 15 widening of the driveway if it were done. None of 16 the other traffic improvements were undertaken. 17 MR. BAUMGARDNER: Understood. Thank 18 you. Ms. Silber, any questions based upon mine? 19 MS. SILBER: I do not. 20 MR. BAUMGARDNER: All right. Thank you 21 very much for your testimony, Mr. Foster. 22 MR. FOSTER: Thank you. 23 MR. BAUMGARDNER: Ms. Silber, your next 24 witness, please. 25 MS. SILBER: Yep. I'm going to turn it</p>
<p>78</p> <p>1 Park and Planning staff in the staff report, in 2 the planning board, and its proposed conditions of 3 approval? 4 A Yes. I do. 5 Q Is there anything else that you'd like 6 to add? 7 A Not at this time. 8 MS. SILBER: I have no further questions 9 for Mr. Foster at this time. 10 MR. BAUMGARDNER: Thank you, Counsel. 11 Thanks -- thank you, Mr. Foster. 12 EXAMINATION BY THE HEARING EXAMINER 13 BY MR. BAUMGARDNER: 14 Q Just two quick follow-up questions. You 15 had mentioned there was a public improvement along 16 Bradley Boulevard directly north of the property 17 that was a sidewalk that was being added; is that 18 correct? 19 A That is correct. 20 Q Now, was that requirement triggered 21 under LATR simply because of the filing of the -- 22 of the modification? 23 A Yes. It's a new -- new requirement in 24 the LATR standards. It's not tied to any specific 25 activity on this site.</p>	<p>80</p> <p>1 over to my colleague, Liz Rogers, who's going to 2 be calling Ms. Nancy Randall. 3 MS. ROGERS: Great. Thank you. Give me 4 one second to make sure my volume is up. 5 MR. BAUMGARDNER: No problem. 6 MS. ROGERS: Perfect. Mr. Baumgardner, 7 we are prepared to, similar to Mr. Foster, begin a 8 series of questions intended to qualify Ms. 9 Randall as an expert in transportation planning. 10 She's been previously qualified as an expert, I 11 believe, in cases before you as well. Would you 12 like for us to requalify her or to begin to walk 13 through some of those voir dire questions? 14 MR. BAUMGARDNER: Let's just requalify 15 very -- with a couple of basics, including any 16 kind of licensure information. 17 MS. ROGERS: Great. Ms. Randall, can 18 you please state your full name, occupation, 19 professional business address, and e-mail address 20 for the record? 21 MR. FOSTER: Yes. My legal full name is 22 Anne M. Randall. That's spelled R-A-N-D-A-L-L. 23 My nickname is Nancy, and that's what I go by. My 24 business address is 1110 Bonifant Street, Suite 25 210, Silver Spring, Maryland and I'm employed by</p>

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21 (81 to 84)

<p>81</p> <p>1 Wells + Associates. 2 MR. BAUMGARDNER: And, Ms. Randall, can 3 you please raise your right hand. 4 Whereupon, 5 ANNE RANDALL, 6 being first duly sworn or affirmed to testify to 7 the truth, the whole truth, and nothing but the 8 truth, was examined and testified as follows: 9 MR. BAUMGARDNER: Thank you very much. 10 Mr. Rogers, you may continue. 11 MS. ROGERS: Thank you. 12 EXAMINATION BY COUNSEL FOR THE PETITIONER 13 BY MS. ROGERS: 14 Q Ms. Randall, can you please state how 15 long you've been employed as a transportation 16 planner? 17 A Yes. With Wells + Associates it's been 18 over 26 years, but as a transportation planner, 19 it's been since 1976. 20 Q Thank you. And can you please describe 21 your professional and educational background and 22 any designations or accreditations you've 23 received? 24 A Yes. I have an undergraduate degree 25 from the University of Maryland, BA. I did some</p>	<p>83</p> <p>1 connection with other special exceptions for 2 private education institutions? 3 A Yes, I have. And in fact, I did the 4 French International School Special Exception 5 traffic impact study. 6 Q And are you familiar with the 7 requirements of the zoning ordinance in effect on 8 October 29th, 2014, that the petitioner must 9 satisfy? 10 A I am. 11 Q And are you familiar with a special 12 exception modification which is before the hearing 13 examiner today as case as 2345B? 14 A Yes, I am. 15 Q Have you made a personal inspection of 16 the site and are you familiar with the area 17 surrounding the property? 18 A Yes, I have on numerous occasions, both 19 for this case and the previous cases. 20 Q Thank you. And are you familiar with 21 Montgomery County's local area transportation 22 review guidelines? 23 A I am. 24 Q Did your firm -- did you and your firm 25 prepare a written report analyzing your findings</p>
<p>82</p> <p>1 masters degree coursework in urban and regional 2 planning also at the University of Maryland. I am 3 AICP accredited. I did have PTP, but since I have 4 technically retired, I did not continue that 5 registration this past year. 6 Q Thank you. And have you testified 7 before as an expert before the Montgomery County 8 Office of Zoning Administrative Hearings? 9 A I have. I've also been qualified in 10 Maryland Circuit Court as well as federal courts, 11 and been before the majority of boards and 12 commissions throughout the state of Maryland. 13 MS. ROGERS: Thank you. We would move 14 that Ms. Randall be admitted as an expert in 15 transportation planning and her resume has been 16 submitted in the record as Exhibit 22. 17 MR. BAUMGARDNER: Having reviewed the 18 resume and considered voir dire here this morning, 19 Ms. Randall was admitted as an expert in 20 Transportation Planning for the purposes of this 21 here. 22 MS. ROGERS: Thank you. 23 BY MS. ROGERS: 24 Q Ms. Randall, have you prepared traffic 25 reports and provided expert testimony in</p>	<p>84</p> <p>1 for the proposed Montessori School in connection 2 with the special exception modification? 3 A Yes, we did. That's Exhibit 19H. 4 (Exhibit 19H was marked.) 5 Q Thank you. Can you please walk us 6 through the steps that you took and the 7 responsibilities regarding the special exception 8 modification as it relates to transportation 9 issues? 10 A Yes, of course. The first step is to 11 determine whether or not this property would be 12 required to provide traffic impact study. So the 13 first thing that we do is to look at the 14 anticipated trip generation for the proposed 180 15 student private educational institution. So the 16 LATR standard for doing or being required to do 17 with traffic impact study is 50 net new peak hour 18 person trips for both the a.m. and/or p.m. peak 19 hours. So based on our trip generation analysis, 20 because of the change in the hours of operation, 21 this site was going to generate the additional 50 22 peak hour new person trips in the PMP Gala. 23 In the prior analysis, the study of the 24 prior school, the French school was going to close 25 at about 3:30, so it was not generating traffic</p>

<p>85</p> <p>1 during the PMP Gala. And that was the reason for 2 triggering the need for an LATR study. Then in 3 association with the growth infrastructure policy 4 that LATR guidelines were recently changed that 5 occurred in 2021 in July and they're now requiring 6 different accuracy test, vehicle, bicycle, 7 pedestrian, transit, and what we call visions 8 zero, which is a safety review. So we worked with 9 parking planning, MCDOT, and the State Highway 10 Administration to develop a scope of work in 11 accordance with the guidelines. And that is 12 again, Exhibit 19H.</p> <p>13 It should be noted that when we started 14 on this project, the guidelines for the LATR had 15 not been formalized. So it was an iterative 16 process with staff with the final passage of the 17 LATR in 20 -- July 2021. And this report is in 18 compliance with those final regulations.</p> <p>19 The scope establishes the study 20 intersections, the directional distribution of 21 traffic, the number of approved background 22 developments that have yet to be built, that 23 needed to be included in our analysis, the trip 24 generation assumptions that we need to make both 25 for the background developments as well as this</p>	<p>87</p> <p>1 site off of Burdette and Fernwood or I should say 2 that that property has access to those two 3 roadways. And then Randy analysis with the new 4 standards that the LATR guidelines have in place 5 now. In the French International School, when the 6 analysis was done back then, the county was using 7 -- our parking planning was using what we call the 8 CLV methodology for all intersections throughout 9 the county. They've changed that and they are now 10 using what's called the highway capacity manual 11 method. And they're looking at the capacity of 12 the intersection with a great deal more detail and 13 sophistication.</p> <p>14 There are areas of the county where the 15 COB methodology is still assumed. So the one 16 study intersection where that's required, the COB 17 methodology is the intersection of Seven Locks and 18 Bradley Boulevard. The rest were used this new 19 congestion standard for using COB and they have to 20 meet an 82nd of delay for the intersections that 21 are in the Bethesda, Chevy Chase, which the site 22 is, as well as Burdette and Fernwood. The State 23 Highway Administration, MCDOT, and of course park 24 and planning, all reviewed the traffic impact 25 study. As for a couple of minor changes, we made</p>
<p>86</p> <p>1 proposed site, and then the extent or the limits 2 of study that would be required for the 3 pedestrian, the bike, the transit and the vision 4 area -- vision zero areas. And in addition to 5 that one minor change because of the years of 6 COVID, there's also an adjustment that staff asked 7 just to make -- to adjust for the COVID impacts on 8 regional and local traffic.</p> <p>9 Q Thank you. And can you please describe 10 the findings of your analysis as it related 11 specifically to the motor vehicle adequacy?</p> <p>12 A Yes. So we did counts in May 20 -- May 13 6, 2021. Again, we did that adjustment as I had 14 indicated. Our studying intersections were the 15 same as in the previous French International 16 School, total of four studying intersections. One 17 to the northwest, which would be Seven Locks and 18 Bradley Boulevard, the site access and then the 19 intersection of Burdette on Bradley Boulevard, and 20 then Fernwood on Bradley Boulevard. We applied 21 the COVID adjustment to those counts. We added in 22 the two projects -- the two developments that 23 staff identified.</p> <p>24 One is the WMAL property, which is a 25 large development located to the north of this</p>	<p>88</p> <p>1 those changes and they have reviewed and approved 2 the LATR's study.</p> <p>3 But most specifically here because we're 4 talking about the vehicular and they have approved 5 that as well. The conclusions were that no 6 mitigation was required for this application to 7 pass that motor vehicle adequacy test.</p> <p>8 Q Thank you. And can you please next 9 describe your analysis that relates in the 10 findings for the pedestrian, bicycle, and transit 11 system in Vision Zero tests?</p> <p>12 A Yes. And I apologize because there's 13 some numbers in here. So I'm going to be looking 14 at my screen and not facing you. So my apologies 15 for that. But the pedestrian system adequacy test 16 and the bicycle system adequacy test, bus transit 17 system adequacy test, and Vision Zero all have 18 very specific requirements about how far you need 19 to look up and down the road system. So for the 20 pedestrian assessment, we look at the pedestrian 21 level of comfort, street lighting, both of which 22 within a 750 foot walk shed from the site 23 boundaries. So it's not from the center of the 24 site, but 750 feet in -- in all directions from 25 the property.</p>

<p>89</p> <p>1 In addition, in the bicycle -- sorry, in 2 the pedestrian adequacy tests, we also look at ADA 3 compliance. You know, are there ramps? Are they 4 compliant? Are there sidewalks? So that is the 5 distance in which we're looking at. And the 6 compliance distance for ADA is 375 feet for that 7 option. For bicycle adequacy, we're looking for a 8 low level of stress for bicyclist along all 9 transportation rights away again, from 750 feet 10 from the boundary of the property. The bus 11 transit adequacy test is are there bus shelters 12 within 1,000 feet for the bus stops that are 13 located within 1,000 feet of the site? And then 14 the last is Vision Zero. It should be noted that 15 the Vision Zero test has not been finalized.</p> <p>16 It's still in the works with the 17 planning staff and modification to the LATR. But 18 at this time and based on the July of 2020 LATR, 19 they asked to provide an assessment of accidents 20 along the road and determine whether or not it 21 falls under a category called high injury network 22 and also to review existing traffic -- traffic 23 speeds along that roadway. So we would run speed 24 tests along the road. The results of our analysis 25 for these for test did indicate that there was</p>	<p>91</p> <p>1 staff review your LATR report and agree with your 2 conclusions?</p> <p>3 A They did.</p> <p>4 Q Thank you. As you've testified to your 5 traffic study demonstrates how the surrounding 6 roadway network can accommodate the proposed 7 Montessori School, which proposes up to 180 8 students as a private education institution, can 9 the onsite conditions also support the proposed 10 Montessori School?</p> <p>11 A They can. We looked at both the 12 stacking or queuing out on Bradley Boulevard 13 itself that's contained within the LATR study. 14 And we also looked at the queuing and/or parking 15 utilization within this site. So there is no more 16 than one car queuing to turn into the property, 17 both during the morning and the evening peak 18 hours, and then within the property, as noted 19 before, they're 78 parking spaces. So I'm going 20 to go through some very kind of quick math on 21 this. We've got 78 parking spaces. There will be 22 no more than 25 staff on the site at any given 23 time. And we're assuming that all 25 would -- of 24 the employees would be driving individually, that 25 they would not be ride sharing in any form.</p>
<p>90</p> <p>1 deficiencies for pedestrian bike transit within 2 the vicinity of the site, but not for the Vision 3 Zero, it did not fall under the high injury 4 network.</p> <p>5 There are speeds that are greater than 6 the posted speed limit on the road, but there is 7 no mitigation that a individual property owner can 8 do. It is really a matter of telling the county 9 that they've got an issue with speeding and then 10 they take note of it and make corrected changes to 11 that. So for meeting the deficiencies, working 12 with planning staff, park and planning, MCDOT, and 13 SHA, we came up with the mitigation that was 14 described earlier by Kevin Foster and that is to 15 construct that five-foot sidewalk with a six-foot 16 buffer on the south-side of Bradley Boulevard from 17 the property to the RideOnBus stop at Oak Forest 18 Lane and that's about a 180 feet.</p> <p>19 And also to install an ADA accessible 20 five by foot bus shelter. And in that bus shelter 21 it will also have real time display so that 22 somebody who's waiting for the bus will understand 23 when the next bus is going to be arriving and what 24 the different schedules are.</p> <p>25 Q Thank you. And did park and planning</p>	<p>92</p> <p>1 So we've got 25 of those parking spaces 2 taken up, which leaves us 53 spaces available for 3 parents during drop-off or pickup. And each 4 pick-up and drop-off, as previously mentioned, 5 will run between ten or 15 minutes as a 6 worst-case. We've assumed 15 minutes as a 7 conservative approach. If we assume, which we 8 already know won't happen because the hours are 9 going to be staggered the way a Montessori school 10 operates, but if we assume that all 180 students 11 were dropped off or picked up within one hour and 12 each child was driven individually, no siblings, 13 no carpooling, there would still be a surplus of 14 eight spaces at any given time.</p> <p>15 And the way I've run that math, I've got 16 180 students, we divide, I've got four 15 minute 17 periods within that hour, so I've got 45 vehicles 18 in a 15 minute period, plus the 25 staff. I've 19 got 70 spaces used in this extreme condition at 20 any given time. And that still leaves us with 21 those eight spaces that would be leftover. So the 22 school has more than sufficient parking for 23 meeting the code and the need of a Montessori 24 school.</p> <p>25 Q Thank you. And in your professional</p>



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24 (93 to 96)

<p>93</p> <p>1 opinion, will vehicular access to the site be 2 safe, adequate, and efficient? 3 <b>A It will be.</b> 4 <b>Q</b> And did park and planning, 5 transportation staff, and the Planning Board agree 6 with your conclusions that there'll be safe and 7 efficient vehicular access? 8 <b>A Yes, they did. And it's noted, I</b> 9 <b>believe in the staff report on page 27.</b> 10 <b>Q</b> Thank you. Next, I'm going to review 11 some specific questions related to traffic 12 conditions to the necessary findings contained in 13 the prior zoning ordinance. Specifically, when 14 considering appropriate density, the board must 15 consider several factors related to 16 transportation. These are set forth in Section 17 59, G2.19A4A. Are you familiar with the factors 18 set forth in that section of zoning ordinance? 19 <b>A I am.</b> 20 <b>Q</b> And in your -- in your professional 21 opinion, can you please explain how those factors 22 support the proposed density of 180 students? 23 <b>A Yes, in the prior approval special</b> 24 <b>exception, it was determined that 200 students was</b> 25 <b>an appropriate number to occupy that premise or</b></p>	<p>95</p> <p>1 <b>driveway that no vehicle will queue and block</b> 2 <b>access to other properties along Bradley</b> 3 <b>Boulevard. It's no different than anyone's</b> 4 <b>property as you're turning left to drive -- if</b> 5 <b>you're driving west on Bradley Boulevard anyone</b> 6 <b>who turn left into a neighborhood street, you can</b> 7 <b>do that. So you have limited queue that would</b> 8 <b>ever occur on Bradley Boulevard as a result of</b> 9 <b>this school. And at no time will there be any</b> 10 <b>queue from the project itself backing up onto</b> 11 <b>Bradley Boulevard, again because of that long</b> 12 <b>driveway and all the parking being in the rear and</b> 13 <b>having sufficient parking on the site.</b> 14 <b>Q</b> Thank you. Next section 59G1.21 15 requires an evaluation of both inherent and non 16 inherent adverse impacts. Can you please describe 17 what the inherent traffic-related characteristics 18 are associated with a private education 19 institution as identified in the Staff Report? 20 <b>A Yes. They were identified to -- the</b> 21 <b>vehicular trips to and from the property, as well</b> 22 <b>as the queuing within the facility and/or on</b> 23 <b>adjacent roadways. Those are the inherent</b> 24 <b>physical and operational characteristics</b> 25 <b>associated with this private educational</b></p>
<p>94</p> <p>1 <b>that premises, I should say, in the French</b> 2 <b>Montessori School. And this applicant is</b> 3 <b>decreasing the number of students to 180. In</b> 4 <b>addition, as described, the Montessori School,</b> 5 <b>unlike the French International School, which had</b> 6 <b>a specific start time and a specific end time for</b> 7 <b>the school day, Montessori has just by its nature</b> 8 <b>a staggered pick-up and drop-off. So you won't</b> 9 <b>have the concentration that I described with the</b> 10 <b>parking calculation that I did. It will be much</b> 11 <b>more staggered throughout the day.</b> 12 <b>And then the last is, because of the new</b> 13 <b>calculations that we're doing now, which are much</b> 14 <b>more refined, rather than CoV we can look at the</b> 15 <b>actual queue that will occur based on the volume</b> 16 <b>that's on Bradley Boulevard. With the 1.07</b> 17 <b>increase for COVID, along with the background</b> 18 <b>developments that we needed to look at and on</b> 19 <b>site, we can determine the actual queue and we</b> 20 <b>will not have 95 percent of the time anymore than</b> 21 <b>one vehicle queuing. That is called the 95th</b> 22 <b>percentile. So five percent of the time you might</b> 23 <b>have two vehicles queue to drive -- to come in.</b> 24 <b>But there is more than sufficient</b> 25 <b>distance between this driveway and any other</b></p>	<p>96</p> <p>1 <b>institution. I --</b> 2 <b>Q</b> And do you agree with -- 3 <b>A I'm sorry. I was just going to mention</b> 4 <b>to the Hearing Examiner, I believe that's on Staff</b> 5 <b>Report Exhibit 24I.</b> 6 <b>Q</b> Thank you. And do you agree with those 7 inherent characteristics that were identified by 8 staff and in your professional opinion, are there 9 any others? 10 <b>A Yes, I do agree. They were the same as</b> 11 <b>previously identified in the prior case as well.</b> 12 <b>And no, I have not identified any others.</b> 13 <b>Q</b> Thank you. And have you evaluated 14 whether there are any non inherent adverse effects 15 associated with the proposed private education 16 institution? 17 <b>A I -- in my professional opinion, there</b> 18 <b>are no non inherent attributes or characteristics</b> 19 <b>related to traffic, access, parking, or</b> 20 <b>circulation that would have any adverse effects on</b> 21 <b>the surrounding road system.</b> 22 <b>Q</b> Thank you. In Section 59G1.2189 23 requires a finding that the proposed use will be 24 served by adequate public facilities. In your 25 professional opinion, are there adequate public</p>

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25 (97 to 100)

<p>97</p> <p>1 facilities to support this project?</p> <p>2 <b>A Yes, there are. As I previously</b></p> <p>3 <b>indicated, the study intersections from the</b></p> <p>4 <b>vehicular point of view, all of the study are --</b></p> <p>5 <b>intersections are operating well within the Park</b></p> <p>6 <b>and Planning county standards and the State</b></p> <p>7 <b>Highway Administration standards. And with</b></p> <p>8 <b>regards to the operations itself, we've got the</b></p> <p>9 <b>staggered arrival and departure times for the</b></p> <p>10 <b>site.</b></p> <p>11 Q Thank you. And did Park and Planning</p> <p>12 staff agree with your analysis that there was</p> <p>13 adequate public facilities to support the project?</p> <p>14 <b>A They did.</b></p> <p>15 Q And did Park and Planning staff identify</p> <p>16 any other transportation improvements that would</p> <p>17 be required to support the proposed use?</p> <p>18 <b>A The only improvements, as already</b></p> <p>19 <b>described, were the -- for bicycle/ped transit,</b></p> <p>20 <b>the sidewalk and the bus shelter to meet those</b></p> <p>21 <b>requirements.</b></p> <p>22 Q So specifically those transportation</p> <p>23 improvements that were identified with the</p> <p>24 original approval back in 1998, have been</p> <p>25 determined not to be required based on the</p>	<p>99</p> <p>1 any trip credits that would be applied to the</p> <p>2 proposed use that would stem from that prior</p> <p>3 approval for the school for purposes of, say, of</p> <p>4 trip generation calculations?</p> <p>5 <b>A Yes. There were from the prior</b></p> <p>6 <b>application and this is in order to determine</b></p> <p>7 <b>whether or not a project has to do an LATR study.</b></p> <p>8 <b>We certainly look at that prior application. And</b></p> <p>9 <b>so while the prior school with 200 students, we</b></p> <p>10 <b>were probably in -- in a position to not have to</b></p> <p>11 <b>do a traffic impact study for the am peak hour.</b></p> <p>12 <b>The pm peak hour was never considered in the prior</b></p> <p>13 <b>application, so we absolutely considered, you</b></p> <p>14 <b>know, what was on the site before, but because of</b></p> <p>15 <b>the change and hours of operation an LATR study</b></p> <p>16 <b>was going to be required.</b></p> <p>17 Q And if you know, when did the prior</p> <p>18 school close down?</p> <p>19 <b>A I don't know the exact date because</b></p> <p>20 <b>COVID interrupted everything for all schools, you</b></p> <p>21 <b>know, the beginning of 2020. And so I believe</b></p> <p>22 <b>that they were in operation up to that point, but</b></p> <p>23 <b>then COVID affected everything.</b></p> <p>24 Q Okay. I was just curious. Thank you</p> <p>25 very much.</p>
<p>98</p> <p>1 transportation network and capacity today;</p> <p>2 correct?</p> <p>3 <b>A That's correct. That is correct.</b></p> <p>4 Q Thank you. And is this property served</p> <p>5 by public transportation? And if so, what</p> <p>6 services?</p> <p>7 <b>A Yes. As previously noted in the --</b></p> <p>8 <b>describing the road improvements, it's served by</b></p> <p>9 <b>the Ride On bus service.</b></p> <p>10 Q Thank you. And do you believe from a</p> <p>11 transportation and traffic standpoint that the</p> <p>12 proposed use is compatible with the surrounding</p> <p>13 neighborhood?</p> <p>14 <b>A I do.</b></p> <p>15 MS. ROGERS: Thank you. That is the</p> <p>16 last of my questions for Ms. Randall.</p> <p>17 MR. BAUMGARDNER: Thank you, Ms. Rogers.</p> <p>18 EXAMINATION BY THE HEARING EXAMINER</p> <p>19 BY MR. BAUMGARDNER:</p> <p>20 Q And, Ms. Randall, you asked and answered</p> <p>21 my one follow-up question regarding the traffic</p> <p>22 mitigation measures that were commissioned in</p> <p>23 1998. So that was helpful. In a somewhat</p> <p>24 unrelated question, the property's prior use as a</p> <p>25 school. Ms. Randall, are there any -- are there</p>	<p>100</p> <p>1 <b>A You're welcome.</b></p> <p>2 MR. BAUMGARDNER: That's the only</p> <p>3 follow-up questions I have for Ms. Randall. Ms.</p> <p>4 Rogers, any questions based on mine?</p> <p>5 MS. ROGERS: No, I don't have any.</p> <p>6 MR. BAUMGARDNER: Okay. Thank you very</p> <p>7 much for your testimony, Ms. Randall.</p> <p>8 MS. RANDALL: You're welcome.</p> <p>9 MR. BAUMGARDNER: Ms. Rogers, any other</p> <p>10 witnesses?</p> <p>11 MS. ROGERS: No. That concludes our</p> <p>12 witnesses. I did want -- I don't think I formally</p> <p>13 stated my name and address for the record when I</p> <p>14 began my questioning. So just for the purposes of</p> <p>15 the transcript, my name is Elizabeth Rogers with</p> <p>16 the law firm of Lerch, Early &amp; Brewer. Our</p> <p>17 business address is 7600 Wisconsin Avenue, Suite</p> <p>18 700, and that's in Bethesda, Maryland. And my</p> <p>19 e-mail address is <a href="mailto:ecrogers@lerchearly.com">ecrogers@lerchearly.com</a>.</p> <p>20 MR. BAUMGARDNER: Thank you. Ms.</p> <p>21 Silber, turning back over to you for any further</p> <p>22 witnesses.</p> <p>23 MS. SILBER: Thank you. We have no</p> <p>24 further witnesses. And if -- Mr. Baumgardner, if</p> <p>25 you would like an answer to your question with</p>

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<p>101</p> <p>1 regards to the operation of the school, I can 2 provide that or I can ask another representative 3 from Higher Ground to answer that question. 4 MR. BAUMGARDNER: That's all right. I 5 was just curious about the length of time between 6 the prior -- the prior use and the current one for 7 purposes of understanding any kind of chip -- trip 8 generation credits that might be applied for the 9 old use versus the new use. But Ms. Randall had 10 -- had answered that question for me based upon -- 11 under this application the difference from the 12 prior use in terms of the, I'm going to garble my 13 words, the afternoon peak hour issues are very 14 different from the prior school to the -- to the 15 proposed use. So that was sufficient to answer my 16 questions, so thank you very much. 17 MS. SILBER: The -- this school is still 18 continuing to operate. And if you need someone 19 else to say that, we can get someone else to say 20 that too. 21 MR. BAUMGARDNER: That's okay. Any 22 closing remarks? 23 MS. SILBER: Yes. Thank you. Just one 24 admin point. In terms of exhibits that I have 25 that we discussed today, I have Exhibit 25 as the</p>	<p>103</p> <p>1 Through the testimony of the witnesses 2 plus the information in the record including the 3 land use report, traffic study, the staff report, 4 and the Board's recommendation of approval, the 5 petitioner has demonstrated the proposed special 6 exception modification satisfies all applicable 7 zoning ordinance requirements. The requested 8 modification will allow the Petitioner to continue 9 the longstanding PEI on the property is modified 10 to support Guidepost Montessori's programatic and 11 operational needs. This will provide for expanded 12 early childhood education services, which as the 13 Hearing Examiner has heard through the testimony 14 today, conform to the Master Plan goals and 15 supports the surrounding community. 16 We do note, and this is provided within 17 footnote 1 of our land use report and is discarded 18 by -- discussed by Mr. Guy Barnett, that the 19 special exception be transferred to the operator 20 Guidepost A LLC upon the deed transfer of the 21 property from the French International School to 22 the new owner, Bethesda Education LLC. And we 23 respectfully request that the Hearing Examiner 24 recommend approval of the special exception 25 modification to the Board of Appeals, and adopt</p>
<p>102</p> <p>1 affidavit of posting; I have Exhibit 26 as 2 pictures that Mr. Foster had shared; I have 27 as 3 the prior Special Exception Plan; I have 28 as the 4 corrective deed; 29 as the record plate that was 5 recently approved by the Planning Board, the 6 corrective record plate; and then I have 30 as the 7 updated Special Exception Plan that reflected on 8 some changes. And then we discussed just keeping 9 the record open to accept the plate once it is 10 recorded within the land records. 11 MR. BAUMGARDNER: Correct. That is what 12 I have in my notes as well. 13 MS. SILBER: In terms of -- I guess, in 14 terms of some closing remarks, for Staff and the 15 Board's recommendation we ask that the Hearing 16 Examiner accept the Board's recommendations and 17 conditions found on page 3 of the Staff Report. 18 And in fact what the Staff indicated and I quote, 19 it says, The following conditions of approval will 20 replace and supersede all previous conditions of 21 approval. They list seven conditions of which the 22 Petitioner accepts all seven, and we ask that the 23 Hearing Examiner, if you're so inclined, to also 24 adopt those seven and supersede all previous 25 conditions of approval as well.</p>	<p>104</p> <p>1 their recommended findings and conditions of Staff 2 and the Planning Board. Thank you. 3 MR. BAUMGARDNER: Thank you very much. 4 Any thoughts on why this was determined to be a 5 major modification instead of a minor 6 modification? 7 MS. SILBER: Because of the change in 8 the hours of operation which impacted the 9 afternoon. 10 MR. BAUMGARDNER: That's what I 11 presumed. I just wasn't sure if there were any 12 other items that were discussed that might've 13 tilted the -- tilted the scale towards the major 14 versus the minor. All right. Any other final 15 issues before we break today? 16 MS. SILBER: Not that I have. Thank 17 you. 18 MR. BAUMGARDNER: We are going to admit 19 all of the exhibits which are currently listed on 20 OZAH's website, which are -- let me just get the 21 numbers up so that's clear. One through 24, 22 including all sub exhibits. In addition, we're 23 going to be including the exhibits that were 24 admitted today on the record at 25 through 30, 25 including the affidavit of posting and the deed as</p>

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27 (105 to 108)

<p>105</p> <p>1 well. Those are admitted into the record. We are 2 going to hold the record open for ten additional 3 days for some of those exhibits and as well as the 4 transcript from today's hearing. That puts us at 5 February 21st that the record will close. 6 As I mentioned at the beginning of the 7 hearing, our office -- I will prepare a written 8 recommendation which would be transmitted to the 9 Board of Appeals. Anyone who is not satisfied 10 with that recommendation can request an appeal or 11 argument before the Board within ten days from the 12 issuance of that written recommendation. Other 13 than that, we thank everyone for your testimony 14 today. We thank our court reporter, Leah Shenfeld 15 as well. If you have any questions, please reach 16 out to our staff and with that, we will close the 17 public hearings. 18 MS. SILBER: Mr. Baumgardner? 19 MR. BAUMGARDNER: Yes. Sure. 20 MS. SILBER: Before we close -- 21 MR. BAUMGARDNER: You bet. 22 MS. SILBER: -- I'm hopeful that we're 23 going to have that plate recorded within that 24 ten-day period. If we -- we're finding that we're 25 not -- we're getting close and we're not, I will</p>	<p>107</p> <p>1 CERTIFICATE OF COURT REPORTER 2 I, Leah Shenfeld, the officer 3 before whom the foregoing proceedings were taken, 4 do hereby certify that said proceedings were 5 electronically recorded by me; and that I am 6 neither counsel for, related to, nor employed by 7 any of the parties to this case and have no 8 interest, financial or otherwise, in its outcome. 9 10 11 12 <i>Leah Shenfeld</i> 13 _____ 14 Leah Shenfeld, Court Reporter, in and for the 15 State of Texas 16 17 18 19 20 21 22 23 24 25</p>
<p>106</p> <p>1 contact your office and let you know. But our 2 hope is -- is that we will have the -- at least 3 the recordation [sic] information within that 4 ten-day period. 5 MR. BAUMGARDNER: Is land records in the 6 court house backed up? 7 MS. SILBER: They are. 8 MR. BAUMGARDNER: Understood. Not a 9 problem at all. If -- if that issue comes up, 10 just let our office know. 11 MS. SILBER: Thank you. 12 MR. BAUMGARDNER: Thank you all very 13 much. We are closing this hearing in -- was the 14 case S2345B, major modification for a previously 15 approved special exception for a property located 16 at 7108 Bradley Boulevard. It is February 11, 17 2022. The time is 11:40 a.m. We are off the 18 record. 19 (Off the record at 11:40 a.m.) 20 21 22 23 24 25</p>	<p>108</p> <p>1 CERTIFICATION OF TRANSCRIPT 2 I, Krystin Spolar, do hereby certify that 3 the foregoing transcript, to the best of my ability, 4 knowledge, and belief, is a true and correct 5 record of the proceedings; that said proceedings 6 were reduced to typewriting under my supervision; 7 and that I am neither counsel for, related to, nor 8 employed by any of the parties to this case and 9 have no interest, financial or otherwise, in its 10 outcome. 11 12 <i>Krystin Spolar</i> 13 _____ 14 Krystin Spolar 15 Planet Depos, LLC 16 February 23, 2022 17 18 19 20 21 22 23 24 25</p>

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