

# **Transcript of Hearing**

**Date:** August 11, 2022

Case: CU 22-08; Aidin Hassanloo Group Day Care

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S RS. LEWINTER: Started. Can exerybody hear me?  MS. LEWNITER: Started. Can exerybody hear me?  MS. LEWNITER: Started. Can exerybody hear me?  MS. LEWNITER: Chan, Can be any ou.  MS. LEWNITER: Chan, Can be any ou.  MR. AMINIZADE: Yes. I can hear you.  MR. Should have seen a notification on your sereen. Oday.  9 So this is a public hearing in the matter of OZAH case to I everybody to be on mute, please. Everybody please mute.  12 Thank you.  13 As I was saying, this is the application of 12 the Adin Hassandoo Group Dayeare to permit the 12 conditional use of a group dayear of nine to 12, 16 excuse me, nine to 12 - can everybody please be on mute? Mr. 18 Gal?  MR. GAL: Yes.  MS. LEWNITER: You're not on mute. Can you 1 please mute?  MR. GAL: Yes.  MS. LEWNITER: All right. I don't know that 24 you are, but at least it's quiet. I apologize. It's 25 just hard with so many people on If not everybody's—  MR. GAL: Pro on mute. I don't understand, but 2 how can I hear what's going on?  MS. LEWNITER: You're just going to be muted.  MR. GAL: Pro on mute. I don't understand, but 2 how can I hear what's going on?  MS. LEWNITER: Thank you. Chan, William and the proposition.  MS. LEWNITER: Thank you. My in the propositio		11, 2022	
2 MS. LEWINTER: Started. Can everybody hear me? 3 MS. ROSENFELD: Yes. I can this is Michelle 4 Rosenfeld. Okay. 5 MR. AMINIZADE: Yes. I can hear you. 6 MS. LEWINTER: Okay. Great. And I hope 7 everybody is aware that this is being recorded. You 8 should have seen a notification on your screen. Okay. 9 So this is a public hearing in the matter of OZAH case 10 CU-2208, the application of the Aidin - can I ask 11 cerybody to be on mute, Please. Everybody please mute. 12 Thank you. 13 As I was saying, this is the application of the Aidin - can I ask 14 the Aidin Hassamloo Group Daycare to permit the 15 conditional use of a group daycare of nine to 12, 16 excuse me, mite to 12 - can everybody please be on mute? Mr. 19 MR. GAL: Yes. 19 MR. GAL: Yes. 20 MS. LEWINTER: You're not on mute. Can you 21 please mute? 22 MR. GAL: Hold on. Okay. 23 MS. LEWINTER: You're not on mute. Can you 21 please mute? 24 you are, but at least it's quiet. I apologize. It's 25 just hard with so many people on. If not everybody's -  1 MR. GAL: The on mute. I don't understand, but 2 how can I hear what's going on? 3 MS. LEWINTER: You're piss going to be mute. 4 We can -you can hear us. There should be a little mic 5 on your screen. Thank you. Okay. Unfortunately, I'm not 6 the host of the meeting, so I don't have the ability to 7 mute everybody. 8 And I apologize, it's just the only way to conduct it with this many people on the on the call. 10 So let me start again. This is a public hearing in the 11 matter of O-Z-A-la. Case number CU-2208, the application of the recommendation of the recommendation of the publicant. 15 MS. LEWINTER: Thank you. Ms. Horseley? 16 MS. BEWINTER: Thank you. Ms. Horseley? 17 and al am in opposition. 18 MS. LEWINTER: Thank you. Ms. Horseley? 19 MS. LEWINTER: Thank you. Ms. Horseley? 20 MS. LEWINTER: Thank you. Ms. Horseley? 21 MS. LEWINTER: Thank you. Ms. Horseley? 22 MS. LEWINTER: Thank you. Ms. Horseley? 23 MS. LEWINTER: Thank you. Ms. Horseley? 24 MS. LEWINTER: Thank you. Ms. Horseley? 25 MS. LEWINTER: Thank yo	5 PROCEEDINGS	7	
3 MS. ROSENFELD: Yes, I can hear you. 4 Rosenfeld, Okay. 5 MR. AMINIZADE: Yes, I can hear you. 6 MS. LEWINTER: Okay, Great, And I hope coverybody is aware that this is being recorded. You 8 should have seen a notification on your screen, Okay. 9 So this is a public hearing in the matter of OZAH case to UC-2208, the application of the Aidin — can I task 11 everybody to be on mute, please. Everybody please mute. 12 Thank you. 13 As I was saying, this is the application of 14 the Aidin Hassanloo Group Daycare to permit the 15 conditional use of a group daycare of mine to 12, 16 excuse me, nine to 12 — can everybody please be on mute? Mr. 18 Gal? 14 MR. GAL: Yes. 15 MR. GAL: Yes. 16 MR. GAL: Hold on. Okay. 17 MR. GAL: Bull on. Okay. 18 MS. LEWINTER: All right. I don't know that 24 you are, but at least it's quiet. I apologize. It's 24 you are, but at least it's quiet. I apologize. It's 24 you are, but at least it's quiet. I apologize. It's 25 just hard with so many people on. If not everybody's — 6 the host of the meeting, so I don't have the ability to 7 mute everybody. 18 Galin — Aidin Hassanloo Group daycare to permit the 18 conditional use of a group daycare to permit the 19 conduct it with this many people on the — on the call. 19 bow can I hear what's going on? 19 MS. LEWINTER: Thank you. Ms. Horseley? 10 MS. LEWINTER: Thank you. Ms. Horseley? 11 MS. LEWINTER: Thank you. Ms. Horseley? 12 MS. LEWINTER: Thank you. Ms. LEWI			
4 Rosenfeld Okay.  5 MR. AMINIZADE: Yes. I can hear you.  6 MS. LEWINTER: Okay, Great. And I hope of everybody is aware that this is being recorded. You should have seen a notification on your screen. Okay.  9 So this is a public hearing in the matter of OZAH case to I coverybody to be on mute, please. Everybody please mute.  12 Thank you.  13 As I was saying, this is the application of 14 the Adini Hassanloo Group Daycare to permit the conditional use of a group daycare of nine to 12, 16 excuse me, nine to 12 – can everybody please be on 17 mute? Thank you. Can everybody please be on 17 mute? Thank you. Can everybody please be on 17 mute? Thank you. Can everybody please be on 18 MR. GAL: Hold on. Okay.  21 MS. LEWINTER: You're not on mute. Can you 21 please mute?  22 MR. GAL: Hold on. Okay.  23 MS. LEWINTER: You're please in the 24 you are, but at least it's quiet. I apologize. It's 25 just hard with so many people on. If not everybody's —  1 MS. LEWINTER: Thank you. Miguela something 22 with an M.  22 you are, but at least it's quiet. I apologize. It's 25 just hard with so many people on the on the call. 10 So let me start again. This is a public hearing in the muter of O-Z-A H case number of Ut-208, the application of the host of the meeting, so I don't have the ability to 7 mute everybody.  8 And I apologize, it's just the only way to 9 conduct it with this many people on the on the call. 10 So let me start again. This is a public hearing in the matter of O-Z-A H case number of O-department of the host of the meeting, so I don't have the ability to 7 mute everybody.  8 My mame is Andrea Le Winter, and I'm serving as the hearing examiner today. It is my role to listen, 17 take evidence and write a decision regarding the case. 18 I see we have the petitioner applicant present. Mr. 19 Ms. LEWINTER: Thank you. And I have a phone 18 number that ends in 79.  10 MS. LEWINTER: Thank you. And I have a phone 18 number that ends in 79.  11 MS. LEWINTER: Thank you. And I have a phone 18 number that ends in 79.  1			
5 MR. AMINIZADE: Yes, I can hear you. 6 MS. LEWINTER: Okay. Great. And I hope 7 everybody is aware that this is being recorded. You 8 should have seen a notification on your screen. Okay. 9 So this is a public hearing in the matter of OZAH case 10 CU-2208, the application of the Aidin — can I ask 11 everybody to be on mute, please. Everybody please mute. 12 Thank you. 13 As I was saying, this is the application of 14 the Aidin Hassanloo Group Daycare to permit the 15 conditional use of a group daycare of nine to 12, 16 excuse me, nine to 12 — can everybody please be on I mute? Mr. 18 Gal? 19 MR. GAL: Yes. 20 MS. LEWINTER: You're not on mute. Can you 21 please mute? 22 MR. GAL: Hold on. Okay. 23 MS. LEWINTER: All right. I don't know that 24 you are, but at least it's quiet. I apologize. It's 25 just hard with so many people on. If not everybodys — 26 MR. GAL: I'm on mute. I don't understand, but 2 how can I hear whart's going on? 3 MS. LEWINTER: You're just going to be muted. 4 We can — you can hear us. There should be a little mic 5 on your screen. Thank you. Okay. Unfortunately, I'm not 6 the host of the meeting, so I don't have the ability to 7 mutte everybody. 8 And I apologize, it's just the only way to 9 conduct it with this mamy people on the — on the call. 10 So let me start again. This is a public hearing in the 11 matter of Oz-A-H case number CU-220k, the application of the order is a public therm of the applicant of the host of the meeting, so I don't have the ability to 17 mute everybody. 18 MR. GAL: The on mute. I don't understand, but 29 conduct it with this mamy people on the — on the call. 19 So I the matter of Oz-A-H case number CU-220k, the application of the host of the meeting, so I don't have the ability to 18 MR. EWINTER: Chank, You. Supportion. 19 MS. LEWINTER: Chank you. Ms. Horseley? 20 MR. AMINIZADE: Yes. Just me. 21 MS. LEWINTER: Chank you. Ms. LEWINTER: Thank you. Now I also have— 22 MR. AGAL: The only way to 23 MR. LEWINTER: Chank you or is there more than one? 24 MR. KHEN: Yesh. I'm		· ·	
6 MS, LEWINTER: Okay, Great, And I hope 7 everybody is aware that this is being recorded. You 8 should have seen a notification on your screen, Okay. 9 So this is a public hearing in the matter of OZAH case 10 CU-2208, the application of the Aidin - can lask 11 everybody to be on mute, please. Everybody please mute. 12 Thank you. 13 As I was saying, this is the application of 12 the Aidin Hassanloo Group Daycare to permit the 15 conditional use of a group daycare of nine to 12, 16 excuse me, nine to 12 can everybody please be on 17 mute? Thank you. Can everybody please be on 17 mute? Thank you. Can everybody please be on 18 MS, LEWINTER: Thank, e- thank you. Okay. 14 the Aidin Hassanloo Group Daycare to permit the 18 Gal? 19 MR, GAL: Yes. 20 MS, LEWINTER: Van's present. I'm Maggie Bree 17 and I am in opposition of the applicant. 18 MS, LEWINTER: Thank you. Kenny Fried. 19 MR, GAL: Yes. 20 MR, GAL: Hold on, Okay. 21 MS, LEWINTER: Thank you. Kenny Fried. 19 MR, GAL: Hold on, Okay. 22 MR, GAL: Hold on, Okay. 23 MS, LEWINTER: All right, I don't know that 24 you are, but at least it's quict. I apologize. It's 25 just hard with so many people on. If not everybody's 25 more an ample of the meeting, so I don't understand, but 2 how can I hear what's going on? 3 MS, LEWINTER: Thank you. Ms, Horseley? 4 MR GAL: Thon on mute. I don't understand, but 2 how can I hear what's going on? 3 MS, LEWINTER: Thank you. Can you Ms, Horseley? 4 MR GAL: Thon on mute. I don't understand, but 2 how can I hear what's going on? 5 MS, LEWINTER: Thank you. Ms, Horseley? 5 MS, LEWINTER: Thank you. Ms, Horseley? 6 MR, SHINTER: Thank you. Ms, Horseley? 7 MR, EAL Ham actually I don't 24 actually have an opinion. I'm just joining. 8 MS, LEWINTER: Cokay. Mr, Keen? 9 MR, SHINTER: Thank you. Ms, Horseley? 9 MR, GAL: Hood on, Okay. Unfortunately, I'm not 19 MR, EAL WINTER: Thank you. Ms, Horseley? 9 MR, SHINTER: Thank you. Ms, Horseley? 9 MR, SHINTER: SHINTER: Okay. Int. Keen? 9 MR, SHINTER: Thank you. Ms, Horseley? 9 MR, SHINTER: Cokay. Mr	•		
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8 should have seen a notification on your screen, Okay, 9 So this is a public hearing in the matter of OZAH case 10 CU-2208, the application of the Aidin - can I ask 11 everybody to be on mute, please. Everybody please mute. 12 Thank you. 13 As I was saying, this is the application of 14 the Aidin Hassanloo Group Daycare to permit the 15 conditional use of a group daycare of nine to 12, 16 excuse me, nine to 12 can everybody please be on 17 mute? Thank you. Can everybody please be on 18 Gal? 19 MR. GAL: Yes. 19 MR. GAL: Yes. 20 MS. LEWINTER: You're not on mute. Can you 21 please mute? 22 MR. GAL: Hold on. Okay. 23 MS. LEWINTER: You're not on mute. Can you 24 please mute? 25 Just hard with so many people on. If not everybodys 26 low can I hear what's going on? 3 MS. LEWINTER: You're just going to be muted. 4 We can you can hear us. There should be a little mic 2 on your screen. Thank you. Okay. Unfortunately, I'm not 3 the host of the meeting, so I don't have the ability to 5 mute everybody. 8 And I apologize, it's just the only way to 9 conduct it with this many people on the on the call. 10 So Let me start again. This is a public hearing in the 11 matter of O-Z-A-H case number CU-2208, the application 12 of Aidin Aidin Hassanloo Group daycare to permit the 13 conditional use of a group day of mire to 12 children 14 under section 59.4.41 in the R60 cane. 15 MS. AUSUNITER: Thank you or is there more than one? 20 MR. AMINIZADE: Yes. Just me. 21 MS. LEWINTER: Cokay. Mr. Keep. 22 MR. AMINIZADE: Yes. Just me. 23 MR. CETRIC: Yes. I'm here and I'm in opposition. 24 catually have an opinion. I'm just joining. 25 mS. LEWINTER: Cokay. Mr. Keep. 26 MR. KEEN: Yeal. I'm here and I am in 27 opposition. 28 MR. S. LEWINTER: Cokay. Mr. Keep. 29 Conduct it with this many people on the on the call. 20 MR. KEEN: Yeal. I'm here and I am in 20 opposition. 21 mater of O-Z-A-H case number CU-2208, the application 22 of Mr. AMINIZADE: Yes. Just me. 23 MR. LEWINTER: Cokay. Mr. Keep. 24 MR. KHAN: Yeab. My name is Farouk	•	•	
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11 everybody to be on mute, please. Everybody please mute.   12 Thank you.   12 Thank you.   12 Thank you.   13 As I was saying, this is the application of   13 Ms. LEWINTER: Thank you. Okay.   14 the Aidin Hassanloo Group Daycare to permit the   15 conditional use of a group daycare of nine to 12,   16 excuse me, nine to 12 - can everybody please be on mute? Mr.   18 Ms. LEWINTER: Thank you. Can everybody please be on mute? Mr.   18 Ms. LEWINTER: Thank you. Kenny Fried.   19 Ms. GAL: Yes.   19 Ms. LEWINTER: You're not on mute. Can you   21 please mute?   22 Ms. GAL: Hold on. Okay.   23 Ms. LEWINTER: All right. I don't know that   24 you are, but at least it's quiet. I apologize. It's   23 Just hard with so many people on. If not everybody's -   6	1		
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DI ANICE DEDOC	19 Mehdi [ph], is that just you or is there more than one? 20 MR. AMINIZADE: Yes. Just me. 21 MS. LEWINTER: Okay. I also [inaudible] 22 Rosenfeld who I know is representing Ms. Murphy and 23 there are a number of other individuals. If I could 24 I'm going to just call out your name if I see you on my	18 number that ends in 79.  19 MS. ROLAND: Yes. This is Peru Roland and I'm 20 here in opposition.  21 MS. LEWINTER: Thank you. I think I've gotten 22 everybody. If I missed you, can you please unmute and 23 introduce yourself?  24 MR. KHAN: Yeah. My name is Farouk Khan. I	

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of which I would I think I opposed. Thanks.

2 MS. LEWINTER: All right. Thank you. Is there anyone else? Okay.

MS. MURPHY: Ms. Rosenfeld -- Ms. LeWinter,

I'm not sure if I need to identify myself, Celeste Murphy, since I'm with Michelle Rosenfeld.

MS. LEWINTER: I appreciate you doing that. 8 That's fine.

9 MS. MURPHY: Thank you.

10 MS. LEWINTER: Okay. I'm -- I'm going to

11 circle back to this. Obviously, everybody is -- who's

12 here is considered a party and is free to testify and

13 to cross examine witnesses. Excuse me. But I will ask

14 people to be mindful trying not to be repetitive since

15 there are so many people.

So if -- if you have heard your concerns 16

17 voiced I ask you to try and limit your testimony. You

18 can just say you're agreement with prior opposition, or

19 you don't need to. This is -- this is not a popularity 20 contest.

21 This is supposed to be decided on the -- on

22 the facts and the law. So, you know, simply having

23 cumulative testimony is -- is not going to change the

24 outcome. So I do ask people to be mindful of that as we

25 move forward.

6

1 with, again, an opportunity for cross examination.

Presentations by any other interested parties and cross

examination rebuttal by the applicant and -- and cross

examination, if that's appropriate and then closing

statements by each side, again, that's optional.

Approval of the petition is based on the 6

criteria set forth in the zoning ordinance, which is

included in the planning staff report, which is Exhibit

18. Please address all testimony to this criteria.

10 I do want to note that the affidavit of

11 posting is in the record and that is Exhibit 14. So

12 before we begin with actual case presentation, are

13 there any procedural matters that we should address at

14 the outset?

AUTOMATED: Hi there. Welcome to Microsoft. 15

MS. LEWINTER: Thank you, Ms. Rosenfeld. 16

17 MS. ROSENFELD: Yes. Thank you. There -- there

18 are several procedural things I'd like to raise first.

19 Just in terms of the order presentation I'd -- I'd like

20 to -- I'd like you to be aware of the fact that a

21 number of the witnesses here have been identified in

22 our pre-hearing statement as witnesses for Ms. Murphy,

23 and we have coordinated testimony so that it's not

24 duplicative and each one has a specific topic.

I -- I will identify them not necessarily in

10

Okay. As everybody is aware, these proceedings

are remote and we're using the Microsoft Teams

platform. So please, because of the construct of this

hearing being virtual, do not interrupt while someone

else is speaking unless you have an objection.

This is because it is very difficult for the court reporter to understand what people are saying

when there is crosstalk. Please use the raise hand

9 option whenever possible. You should see that at the

10 top of your screen.

As I stated at the beginning, this session is

12 being recorded. It is being recorded by both the court

13 reporter and by the Microsoft Team platform. The Team

14 recording is used only as a backup for the reporter.

15 But please be mindful that what you say will

16 be under oath and will be recorded. You may be asked

17 question -- questions about your testimony and the

18 proceedings will move in the following order.

We will see if there's any preliminary motions

20 or issues before we start, then each side may give an

21 opening statement if you desire. That's not required.

22 The applicant will then have the opportunity to present

23 their case in chief with the opportunity for cross

24 examination by opposition.

25 Then there will be opposition case in chief 1 the order that they'll be called. Mr. Benson, Mr. Gill,

Mr. Fried, Ms. Horseley, Agnes Pats and Mr. Khan. And

so the remaining witnesses who are here independently I

-- I -- I'd like to be able to present my witnesses as

a group just in terms of the way you organize the

witness testimony that morning.

And I don't know if it's possible, but for the

witnesses that are here independently, if it's possible

9 to testify [inaudible] so that they don't have to sit

10 here all day. That's --

MS. LEWINTER: I'm sorry, Ms. Rosenfeld, you

12 -- you're very faint. I don't know if other people are

13 having that issue, and you're dropping out a little

14 bit. I do notice that our individuals on the phone none

15 of them are muted. So if you're on the phone, if you

16 could mute yourself, I think that would help with 17 clarity.

MS. ROSENFELD: Okay. I just -- just wondering

19 if it's possible for the independent te -- witnesses to

20 testify earlier in the proceeding so they don't have to

21 sit here all day, but you know, I leave that to you. 22 I'm just -- I would have no objection to them

23 testifying out of order.

As -- as a procedural matter we did raise, in

25 our pre-hearing statement, objections to the deficiency

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1 of the application materials themselves, and I'm not

2 going to reiterate them here. They are already in

3 writing. But I am going to renew my objection to moving

4 forward without the applicant having provided a

pre-hearing submission.

And the 3.0 does say that the applicant must file a pre-hearing statement within 30 days of the

8 hearing date, and it needs to include a statement of 9 the grounds for approving the application, copies of

10 all reports, the name of all expert, the identity of

11 all other witnesses and an estimated time required for

12 presentation.

13 That pre-hearing submission was not provided

14 in the record and so we don't have the benefit in

15 particular of the statutory standards that the

16 applicant intends to prove. The -- the oppositions pre-

17 hearing submission, which requires a submission if the

18 opposition is represented by counsel, and it is. There

19 is not a parallel requirement for the applicant.

The applicant is required to submit a pre-

21 hearing submission, whether or not represented by

22 counsel. So I would like to renew our objection. I do

23 think that we are prejudiced in our inability to have

24 the specific parameters of the proof that the applicant

25 do present today. And I just wanted to note that for

14

was certainly appropriate, but -- but please don't be

say that he couldn't hear miss Rosenfeld very well, but

to the extent there shouldn't be -- that one instance

chatting to each other during the hearing if it can be 5 avoided.

It's very difficult for me to track the chat 6 and monitor the hearing. So it's probably not the best

way to -- to reach me. The kind of raise hand feature

is going to work a little bit better for that. Are

10 there any other preliminary matters beyond those noted

11 by Ms. Rosenfeld? Okay. I -- I did hear what you're

12 saying, Ms. Rosenfeld, about how to structure the

13 hearing.

14 I am going to let the applicant start. I -- I

15 am -- I am a bit concerned letting, because we have so

16 many individuals testify before your opposition case,

17 particularly as an attorney who's tried to kind of

18 synthesize some of this.

So my inclination is actually to let you go

20 first as I think it may avoid some duplication, but we

21 can readdress that after the applicant has concluded

22 his case. So I'm going to ask the applicant, if there's

23 no other preliminary matters, if you'd like to give any

24 kind of opening statement.

MR. AMINIZADE: Thank you so much for all of

the record as a preliminary matter.

MS. LEWINTER: I appreciate that Ms.

Rosenfeld. I did read that in your pre-hearing

4 statement. I did consult with Ms. Robson Hanon about

5 that. It was my understanding, from her, that because

6 the applicant is not represented by counsel that that's

not a requirement. I -- I understand your reading of

the rule.

2

So what -- what I am prepared to do, because I

10 think it -- it is a bit misleading the way it's

11 drafted, is that if at any point you -- you can

12 articulate a -- a specific way in which you're pres --

13 prejudiced, I would certainly be willing to keep the

14 record open if you need to bring an extra expert or --

15 or other information that you were not anticipating or

16 expecting that's beyond the scope of what's already

17 been presented in the -- in the information that the

18 applicant has submitted before the hearing.

MS. ROSENFELD: Thank you. And that -- that

20 would be the relief that I would ask for that we have

21 the opportunity to submit post hearing and as approved.

22 So thank you. I appreciate that.

MS. LEWINTER: You're welcome. I do want to

24 just caution people. I did see Mr. Con use the chat,

25 which I appreciate in this particular instance just to

you and yeah, I actually have prepared something.

Actually, there is an introduction about our project

and actually I have addressed some of the concerns that

actually raised by our neighbors.

5 I'm not sure if I need to explain all of them

actually now or no. Just I need to actually [inaudible]

to an introduction, short introduction, and then we'll

-- for the rest of my actually proposal, but anything

you think is more convenient --

10 MS. LEWINTER: Sir?

11 MR. AMINIZADE: -- we can do that. Yeah.

MS. LEWINTER: Okay. Yeah. So, I mean, I -- I

13 don't want to give you too much direction, but

14 typically the purpose of an opening statement is to

15 provide an overview, brief introduction overview as to

16 what you're going to be presenting in your case in

17 chief. It's not your actual testimony. So if you can

18 differentiate between what you're going to be 19 presenting as actual testimony and an overview

20 statement, that would be appreciative.

21 **OPENING STATEMENT** 

22 MR. AMINIZADE: Sure. Actually I -- first I

23 actually will explain our daycare, our job, and then

24 actually I explained the -- how actually is about the

25 -- our expansion and about actually what we are going

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1 to do with the -- this expansion. And then I will

2 actually address some of the consent that my -- their

3 neighbors actually raised during this -- the last

4 month.

5 MS. LEWINTER: Okay. Thank you. Ms. Rosenfeld, 6 did you want to give an opening statement?

MS. ROSENFELD: Just very brief. Thank you very much. I -- I'm not going to walk through our case

9 in full.

10 I -- I just note that from our perspective the

11 witnesses that we present will demonstrate that the

12 applicant has not established factual -- factual basis

13 to support the findings necessary to approve the

14 application, that as a result of non-inherent and

15 inherent character adverse effects, that there will be

16 adverse effects with respect to the use, peaceful

17 enjoyment, economic value of abutting properties and

18 confronting properties.

That there will be an adverse unique effect

20 for noise, and that there will be an adverse effect on

21 the, in particular safety of neighboring residents and

22 visitors in -- in the immediate and broader committee.

23 I, the -- and -- and we will go through those elements

24 as we present our case, but that's a summary of what we

25 expect to be able to.

1 actually thinking we are -- thinking about that and

2 that's the reason all of us are here. And actually, I

3 really appreciate all of you, either you support our

case or oppose that.

5 And re---regardless the result of this

6 meeting, I want to actually say to you that we will try

7 our best to actually don't disrupt the neighborhood and

8 don't actually do anything about -- that's actually

9 cause those kind of disruption.

10 And again, I -- and also, I want to thank to

11 all of our neighbors which actually didn't say any

12 complaint about our daycare during these three years

13 which we have operated this daycare. And since there

14 are some misunderstanding about us and about this

15 project, I want to explain more about them and about --

16 about ourselves and about this project.

17 We are a family with two kids and moved to

18 this house in September 2018, and we started this

19 daycare in March of the next year, which is 2019. And

20 we're not an LL- -- LLC who purchased this house in 2021

21 with the intention of actually running group daycare

22 here.

We've been living here since we had a small

24 kid or daughter, and actually my wife had a, actually,

25 experience in teaching. After that she actually thought

18 nfeld I'm

MS. LEWINTER: Thank you. Ms. Rosenfeld, I'm

2 still -- I can -- I can hear you, but it's very soft.

MS. ROSENFELD: Okay.MS. LEWINTER: That's better. Like maybe when

5 -- I don't -- I don't --

6 MS. ROSENFELD: Is it better when I speak up?

MS. LEWINTER: Yes. Definitely.

8 MS. ROSENFELD: Is that -- is that better?

9 Okay. All right. I -- I -- I will speak up then. Thank 10 you.

11 MS. LEWINTER: Okay. No problem. Is there

12 anybody else who would like to give an opening

13 statement or overview statement? And you can raise your

14 hand if that's the case. Just looking. Seeing none, I

15 will then defer to the applicant to put forward your 16 case, sir. Where did he go?

MR. AMINIZADE: Hey, can you hear me?

18 MS. LEWINTER: Yes.

19 DIRECT OF WITNESS MEHDI AMINIZADE

MR. AMINIZADE: Okay. First of all, I want to

21 thank all of you my dear neighbors, dear hearing

22 examiner, Mrs. LeWinter and other -- her coworkers. I'm

23 very glad actually to be here in this meeting which

24 shows all of us have something in common.

Our neighborhood safety, its character, it's

1 that it'll be a actually opportunity for her to

2 actually have our daughter in the house and start this

3 business.

4

So -- and right now our license actually is

5 for eight kids, including our four and half years old

daughter. We basically are allowed to have only seven

7 kids from community until actually next Fe -- next

8 February, which my daughter will turn to five, and

9 after that we'll be allowed to have one more kid in our 10 daycare.

And right now, actually we want to transfer

12 our small home daycare to actually the large home

13 daycare. And actually it's -- as you know the home

14 daycares are separated to small and large. And after

15 that actually the big centers are completely different

16 from the home-based daycare.

17 And actually, our next step is not seeking any

18 actually exception for 13 to 30 children daycare here.

19 Actually, our plan is only to increase capacity from

20 eight to 12 and our house actually doesn't meet the 21 child office requirement for having more than that.

22 Also, the fire department actually also requires a fire

23 sprinkler system, which our house doesn't have that.

So we don't want to actually increase this

25 daycare more than 12 kids, but actually, we are

19

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1 thinking at one day we open in -- out our house,

2 somewhere in the neighborhood we actually want to have

3 a center and actually this -- this step actually

4 increasing the -- from eight kids to 12 kids would be a

actually important step to do that.

And finally, we don't want to sell this house

to another business. We are raising our kids here. My

son used to attend at Bradley Hills Elementary School,

9 and now he's actually in -- he's attending in Pile

10 Middle School. Our daughter soon goes to the Bradley

11 Hills Elementary School, and both of our kids actually

12 have some roots here.

13 They have made some friends here and we don't

14 actually want to sell this house to -- and to the

15 business. We love this neighborhood and actually we

16 want to be here. Okay. Let's move on about our concerns

17 that actually raised from our dear neighbors during

18 this -- actually this one month.

I actually want to address four main concerns

20 about the community. The first concern was about house

21 values, another concern is about the character of the

22 neighborhood. The third one is actually noises and most

23 important, and last things it's the safety that's very

24 important for actually all of us.

About the value of houses that actually it's

MS. LEWINTER: Can you tell me which -- which 1

exhibit?

3 MR. AMINIZADE: Let me see the, just the

4 example one.

5 MS. LEWINTER: Well, Exhibit 1 is the

conditional use application, so.

7 MR. AMINIZADE: No. No. I know. Let me -- let

me go through there. Okay. Let me go. Okay. Exhibition

Number 50.

10 MS. LEWINTER: 50 or 15?

MR. AMINIZADE: 50.5-0. 11

12 MS. LEWINTER: Hold on.

13 MR. AMINIZADE: It -- it says house value

14 number one.

15 MS. LEWINTER: Okay. Hold on.

MR. AMINIZADE: I can share my screen if --16

17 MS. LEWINTER: No, no, it's fine. Can you see

18 it?

19 MR. AMINIZADE: Yes. Yeah. I can see it. Okay.

20 As I see here, this is -- this is a -- actually I have

21 another map, but I'm not -- I'm sure all of you are

22 aware of which house this is. This is actually the 5901

23 Madison Street. This house is actually in front of the

24 school, which is very close to the Bradley Hills

25 Elementary School and basketball court.

22

1 been one of the main concerns in our actual community

2 and neighbors. I actually, I'm not a very -- if there

3 is a valid actually research that shows correlation

4 between the home daycares of the prices.

I actually read one article, which published

6 by an appraiser in New Jersey four years ago, but

7 besides that I'm -- I didn't see actually any reliable

8 research that shows this correlation, especially, in 9 actually, our neighborhood. Which is actually, the --

10 the Bradley Elementary School is here and Suburban

11 Hospital is not very far from here. It's here.

And actually, I don't think actually so the --

13 when the Bradley Hills Elementary School and the

14 Bradley Park here and all of the -- the basketball

15 court and all of those facilities -- facilities around

16 the Bradley Elementary school actually are here adding

17 four more kids to a small daycare would actually have

18 that -- such actually big impact in the housing prices.

19 I want to share my screen and show you three examples 20 of the houses.

MS. LEWINTER: I -- I can share my screen. I'm

22 assuming this is one of the exhibits that you've

23 submitted.

24 MR. AMINIZADE: Yeah. Yeah. You can share that

25 exhibit.

1 And the -- actually the facility that the

Bradley Hills Elementary School Daycare used that, and

it's very close that. As you see here in 6/11, this

house listed for sale, and four days later, in 6/15,

actually, it's sold out and the price is almost 100,000

expensive that the actually seller asked. And the --

another example is the house value number two.

8 MS. LEWINTER: Okay.

MR. AMINIZADE: It is 51, right after that.

10 Yeah. That's this one. This house actually is -- it is

11 very close, even closer than, our actually house, to

12 Bradley Hill's Elementary to actually -- sorry, north

13 it is the middle school I think so. Let me -- let --

14 let me make sure. Yeah. North it is the middle school

15 and it's next to smart kids learning center, bilingual

16 learning center.

17 Actually, it is the -- the -- they are

18 completely besides each other and they actually attach

19 together, those two property. And as you see here, this

20 house -- and by the way that center, that daycare that

21 I just mentioned, the Smart Kids. It is closer than our

22 actually daycare to the middle school, north of the

23 middle school, and they actually have the 12 kids in

24 actually that daycare.

25 And it is very completely similar the

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situation we -- we want to be in the future. So this with you that this is simply your opinion, your house, as you see here, in September 2 they listed for testimony. 3 the sale and the day after, one day after actually it 3 It -- it -- it cannot have the weight of an sold out again about 100,000 actually more than the expert. You have not put forward any credentials that seller actually asked. The third one is -- is very would signal that you have any expertise in this area. close to us actually. The Exhibition Number 3. So I can -- you know, I -- I've listened to what you Yeah. This house actually, it's 8715 Garfield said but I can only give it the weight that this is Street, which is very close to our house. As we see your personal opinion, so you can understand. here, this house actually again, listed in September 17 MR. AMINIZADE: Sure. I don't -- I don't say 10 and sold out in September 23. Again, about price, I 10 anything about my personal actually opinion, but -- and 11 think, yeah, its 200,000 about price seller asked. And 11 I didn't actually -- I just showed you three cases. You 12 at that time actually, we had this daycare here. 12 can actually -- I -- I just actually want to brought 13 So those three example, I think, shows and I 13 your attention to those three houses that they have 14 -- I actually don't want to show more example, but I'm 14 sold here. I didn't actually appraise them. I didn't 15 pretty sure it is not actually the -- this adding four 15 put any value of them. I only actually told you these 16 kids won't actually have effect in the housing prices. 16 houses were sold in [inaudible]. And about, actually, the character of the 17 MS. LEWINTER: And I -- I appreciate that. I 18 neighborhood that it is the -- another concern that 18 guess what I -- what I'm speaking to is your -- your 19 ways during this one month we don't -- we haven't -- we 19 conclusion that -- that -- that having a home near a 20 don't have miss -- I think Ms. Rosen have something to 20 daycare doesn't impact property value. That is only 21 say, but I'm not sure if she wants to say now or later. 21 your opinion as a lay person. Does that make sense? MS. LEWINTER: So hold on one second. Sorry. 2.2. MR. AMINIZADE: Yes. I -- I agree with that. 23 Yeah. 23 Trying to get [inaudible]. There we go. My apologies. 24 Hold on. Sorry everybody. Okay. 24 MS. LEWINTER: Okay. If we can continue. MS. ROSENFELD: Ms. LeWinter, you don't -- you 25 MR. AMINIZADE: Yeah. Yes. We -- and about the 26 don't need to pull the exhibit down, if you can hear houses, the character of the neighborhood, we don't -actually we haven't had any sign in front of our 2 me. 3 MS. LEWINTER: Yeah. daycare. It is -- it is a house, a single-family house, 4 MS. ROSENFELD: I -- I -- I would -- I simply and we are working here as well, and we don't want to would like to note an objection for the record. put -- put any sign again here. And we mostly get our 6 MS. LEWINTER: Sure. If you can just, again, parents from the social media and we don't actually speak up a little bit. want to sign here or make any changes in our houses and

MS. ROSENFELD: Certainly. And please remind me anytime you can't hear me.

10 MS. LEWINTER: Okay.

MS. ROSENFELD: I -- I would like to note an 11

12 objection for the record. To the extent the applicant I

13 purports to testify about property values or

14 appraisals, he is not an expert. Those -- that kind of

15 testimony falls squarely within expert testimony and

16 Maryland Law is clear that a lay person is not

17 qualified to opine on property values or raised values.

18 And so I -- I -- I object to the testimony being

19 presented by the applicant on this topic.

20 MS. LEWINTER: Hold on. Mr. Mehdi, do we need

21 -- can I stop the screen share?

22 MR. AMINIZADE: Yes. You can.

23 MS. LEWINTER: Okay. What I'm going to do,

24 with respect to Ms. Rosenfeld's application is, or

25 application, objection, excuse me, is just to be clear

from the -- the -- actually the -- our houses.

And we don't want to actually make anything 10 that change the character of the neighborhood. And the

11 third, actually concerns that I heard from my dear

12 neighbors is about the noises.

13 I admit actually having a daycare will when

14 the -- the kids actually are playing outside they will

15 make some noises but about the noises we -- I want to

16 actually you to notice we are living very close to the

17 Bradley Hills Elementary School and Bradley Hills Park,

18 which has more than 600 kids.

And the -- there are always some ceremony, or

20 something like that in the -- the park, and a lot of

21 people actually are attending at those meetings and on

22 those actually ceremonies. And also, we are very close

23 to Suburban Hospital, which daily actually we can hear

24 the ambulances going and all of those noises.

25 And, yeah, and -- but -- and on top of that,

32

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1 we actually when -- if we actually we expand this

2 daycare to 12 kids, they -- we will actually divide

3 them to two group. They cannot actually be in one

4 group, and we actually don't bring all of them to the

backyard at the same time.

So we we -- we won't have any time more than 7 eight kids in the backyard, even though we might have 8 12 kids in this daycare, but since they are, they will 9 actually separate to two different groups. And in our 10 actually schedule we will make sure that never out all 11 of those kids in the backyard together.

And the -- the last thing that is actually the 13 -- about the safety is very important. I -- in actually 14 our statement we actually told about the -- the time --15 timing of the daycare. And first of all the main 16 actually things that the -- I heard from the neighbors 17 is because of this -- the Bradley Hills Elementary 18 School is here.

So a lot of people are coming here, a lot of 20 cars are coming here and they adding four more cars 21 actually will cause more traffic and it will actually 22 cause safety problems. First of all, I want to say 23 about that, the Bradley Hills Elementary School opens 24 doors at 8:45, I think so, and they -- the kids 25 actually will come after 8:45 to 9:00, I think so.

MR. AMINIZADE: Yeah. Yeah. That is fine.

Yeah. That's good. As you see, Bradley Hills Elementary

School, you can see the Bradley Hills elementary school

here, and we actually are, sorry about that, we are in

the border of the -- the actually Bradley Hills

Elementary boundaries.

So most of the -- most of the kids are coming to the Bradley Hills Elementary School have another and better ways to come to the Bradley Hills School. All of

10 those actually are coming from the -- the north.

They -- they don't need to use actually our 11

12 daycare, which our actually street, which I -- it is

13 here with the -- the register as we see here. The

14 register here. A lot of them actually are using other

15 ways to come here.

And if you see my -- the -- the blue actually 16 17 circle, if you see the blue circle, those families

18 might actually use the Greentree and Hempstead Avenue

19 in front of our house and go to the Bradley Hills

20 Elementary School because the -- the all parents don't

21 need to use actually -- they don't need to make their

22 way very longer and come -- actually, and come to our

23 house and then go to the Bradley Hills Elementary 24 School.

25 And if you see, if you can please the -- the

30

And at that time, most of, actually our kids 2 are in the daycare. As you know, the -- the -- actually

the reason the people actually send kids to the daycare

4 is they actually want to go to their offices. And -- by

-- by that time most our parents actually, our parents

6 and our kids actually are in the daycare and the -- the

kids are here.

At that time, that the all traffics are coming 9 and going, we don't have too much cars over there in

10 our actually proposal. We have one -- we actually

11 predict, one kid coming here about 8:30 to 8:45,

12 another maybe come from 8:45 to 9:00.

So by that time a lot of actually kids are

14 here and we -- and on top of that agreed with the --

15 your coworkers then they told us we shouldn't actually

16 have the parents or some here in the daycare during the

17 busy time.

18 And we actually, as you see in the -- the --

19 the, actually, the report we don't want to have anybody

20 at that time. And another thing is actually is -- can

21 you please -- the exhibition number, let me see here,

22 the number 48, BHES boundaries. Can you please bring

23 that? Yeah. Just --

MS. LEWINTER: Can you tell me which part of 24

25 the --

1 next Exhibition Number 49, the HES cars entrance. No,

no, no, not -- yeah. Here is it -- here actually the

Bradley Hills Elementary School has three different

actually three different entries. This one is, which is

actually in Rock Stone is for the kids who actually are

coming with the car mostly.

As we see here, this one way narrow, they come

from the other side of the walk stone and make a line

over there and to -- to the -- the direction of the

10 Brad Moore and stay here until eight, about 8:45 at --

11 at that time the door will open, and they drop off

12 their kids and come down the actually Rock Stone road.

13 And most of them, since they live on the other

14 side of the Bradley Hills [inaudible], probably tend to

15 ride and they don't need to come to the left in front

16 of our house. But most of them maybe actually the --

17 the less number of them maybe come to this in front of 18 our house.

But that time is after 8:45 and most of the

20 keys are in the daycare. And if you -- you show please

21 in Exhibition Number 54 BHS access way. Okay. As we see

22 here, as I mentioned, it -- it doesn't make sense if

23 someone wants to go to -- to actually come if the car

24 and drop off the kids to here, the actually, red arrow,

25 which is -- shows the Bradley entrance.

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4

1 Come here and pass in front of our house and 2 go all the way here and the -- find the last car in the 3 row in the, actually the -- the -- the people who are 4 waiting to doors open and go to the school and turn 5 over there and actually go to the line.

5 over there and actually go to the line.
6 They -- they probably will prefer to go from
7 the Greentree to Brad Moore and then come to actually
8 the full stone. They don't need to cross in front of
9 our house. And for other people also if they want to
10 actually come to another, actually alternative way, if

11 they want to come to Hempstead and go and use Medicine 12 -- Medicine Street, it doesn't make sense as well

13 because as you know here a lot of -- okay.

MS. LEWINTER: Is that better? Do we know?

MR. AMINIZADE: Now. Yes. Now is better.

16 MS. LEWINTER: Okay.

22 for the bosses.

MR. AMINIZADE: So I was saying that, but can 18 please show the exhibition again? Okay. And the people 19 I -- I -- they don't actually need to, because they -- 20 there are two other interns. One is actually, is for 21 the bosses and it is, let me see which street is that

Bosses use the hard slate avenue in trends and 24 they -- actually the -- the work here is mostly used

25 the entrance they -- they will go to the -- near the

basketball court and go to the school from there.

2 So since the -- the buses actually use the 3 other way, they -- I don't think so the people want to 4 go from the other way. So what I'm trying to say is I,

hopefully I can express myself, actually good.

6 I -- but I'm trying to say it's we are living
7 next to the Bradley Hills Elementary school, but we are
8 at the end -- the end of the zone and it's not as very

9 crowded you think in front of our house because the -- 10 a lot of people have other alternative better ways to

11 come here. And that's actually was my point about the 12 safety as well.

So thank you so much for actually -- for your 14 patience and listen to me. I'm still actually working

15 on my English and I, hopefully I -- I could actually

16 express myself properly, but if you have any question

17 or you -- I couldn't actually express myself good,

18 please let me know and I will try to explain more.

19 Thank you so much.

MS. LEWINTER: Was there anything else you

21 wanted to add or your -- that's the end of your 22 presentation?

22 presentation:

MR. AMINIZADE: No. I -- I'm done actually with my presentation. If you have question, I can

25 actually answer that.

MS. LEWINTER: Well, I'm going to give Ms.

2 Rosenfeld the opportunity to ask cross examination

questions if she'd like, and then other participants.

CROSS EXAMINATION

5 MS. ROSENFELD: Thank you. I -- I do have some

questions. If we could first bring up Exhibit 9, the

existing conditions plan, please.

8 MS. LEWINTER: Sure. Just give me one second.

9 Can you see everything that you need to see?

10 MS. ROSENFELD: Yes. Thank you. I can. My

11 question is whether or not -- my understanding is that

12 this was part of the original application. Is that

13 true? My -- and my question is for the applicant.

14 MR. AMINIZADE: Yes. It is.

MS. ROSENFELD: And this is an existing

16 conditions plan. Does it accurately show all of the

17 structures that are on your property at this time?

MR. AMINIZADE: Actually, this present -- this

19 actually exhibition is for maybe few months ago when we

20 actually applied for that. After that we actually only

21 built a greenhouse inside our house, which is the -- it

22 is a wooden structure in backyard.

23 It is for plants, some tomatoes and vegetable,

24 something like that, which is actually not -- is not a

25 successful project because the schools are digging down

1 that and we might don't need that anymore. So, you

2 know, that, we added actually that after that and

3 besides that everything is here.

MS. ROSENFELD: Would -- would we be able to

5 take -- would we be able to take a look at Exhibit

6 Number 39, please? Does this reflect the structure that

7 you were just describing?

8 MR. AMINIZADE: Yes. This is.

9 MS. ROSENFELD: And could you give us a sense

10 of what the dimensions are for that greenhouse?

11 MR. AMINIZADE: Greenhouse? This maybe I think

12 maybe eight, nine feet, something like that?

MS. ROSENFELD: Eight or nine feet long.

14 MR. AMINIZADE: Long. Yeah. I think so.

15 MS. ROSENFELD: Okay. And how wide is it?

16 MR. AMINIZADE: It is maybe six feet.

MS. ROSENFELD: Okay. And height? Can you tell

18 me approximately how tall it is?

MR. AMINIZADE: Maybe -- I think it would be

20 maybe seven -- seven feet tall. I'm not sure about the

21 measurement, but it is roughly actually. And I say it

22 is for the planting some vegetable as well there.

23 MS. ROSENFELD: Okay. Thank you. I -- I'm

24 trying to get a sense of the size of the structure.

25 Thank you. I also would like to ask you Ms. LeWinter to

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August 11, 2022 39 pull up hearing Exhibit Number 5, which is the MR. AMINIZADE: No. We don't. 2 statement of justification. MS. ROSENFELD: Do you know what a peak hour -And I -- I have some questions that I'll ask - an a.m. peak hour means under the Montgomery County about the first page and then I will have some specific traffic guidelines? MR. AMINIZADE: I think it's after 8:30 until follow up questions farther down in that exhibit. This 5 statement of justification is dated December 7th, 2021. I think -- I think it's after 8:30 until about 4:30 or Can you tell me who prepared this document? 5:00 in the afternoon. 8 MR. AMINIZADE: Yeah. Actually, I prepared 8 MS. ROSENFELD: And do you know under the 9 that document with my wife, both of us. guidelines what the evening peak hour times are? 10 MS. ROSENFELD: Okay. And if we scroll down MR. AMINIZADE: About the -- I don't know 11 it's unsigned, and that's why I was asking, if we 11 about the community, but about the Bradley Elementary 12 scroll down there are two -- let's see. Another couple 12 School, I know the actually the pick-up time is around 13 of pages please. See if I can tell you which page. 13 3:00 p.m. If -- if we could go to the page that has the MS. ROSENFELD: Have you ever reviewed the 15 heading arrival departure pat---patterns, there's not 15 Montgomery County traffic guidelines that apply to how 16 a -- they're not page numbers, but I'm looking for the 16 you evaluate a.m. and p.m. peak hour combinations? 17 heading arrival/departure patterns. 17 MR. AMINIZADE: No. 18 MS. LEWINTER: Do you see that? 18 MS. ROSENFELD: Have you ever reviewed the 19 MS. ROSENFELD: Yes. Thank you. So the --19 Montgomery County adequate public facilities ordinance 20 there are -- there is analysis here, the drop off time 20 as it relates to traffic capacity? 21 who -- who observed those drop off times? 21 MR. AMINIZADE: Actually I -- I actually, I MR. AMINIZADE: That observed by ourselves. 22 22 said something about that and since I'm not expert I 23 don't actually I -- I cannot say I actually completely 23 MS. ROSENFELD: Okay. And the pickup times, 24 who -- who observed those? 24 aware of all of those rules. MR. AMINIZADE: Again, we actually we observed 25 MS. ROSENFELD: Okay. Ms. Hearing Examiner, 38 40 could we go to the next page please and down further. that. Me and my wife. MS. ROSENFELD: Okay. You and your wife. The -Okay. And -- and onto the next with res -- if -- if we 2 - the date of these observations says October 30th, could stop there it. Where the paragraph that reads the 2021, which is a Saturday. Are you open on Saturdays? proposed expansion of the site to 12 students is 5 MR. AMINIZADE: No. We're not. expected to generate a total of 12 trips during the 6 MS. ROSENFELD: Do you happen to remember what a.m. and p.m. periods, did you have a traffic engineer 7 day? do this analysis or is -- is all of this yours? 8 MR. AMINIZADE: It was --8 MR. AMINIZADE: No. It's all of this -- this MS. ROSENFELD: I'm -- I'm confused. Could you 9 mine. 10 explain? 10 MS. ROSENFELD: Okay. And if we could go to MR. AMINIZADE: Yeah. It was maybe it's -- we 11 the conclusion paragraph, please? The conclusion says 12 actually it's mistyping over there. It was -- I think 12 the proposed expansion of the site to 12 students is 13 it was the day before that, which is Friday. 13 expected to generate less than 50 total weekday peak 14 MS. ROSENFELD: Friday, October 29th? 14 hour person trips, parens, vehicular transit bicycle 15 MR. AMINIZADE: I think so. Yeah.

MS. ROSENFELD: Okay. When I go down to the 17 next section, which is trip generation, you have the 18 trip generation rate estimated during the a.m. and p.m. 19 peak periods. Can you tell me what the am and peak 20 periods are?

MR. AMINIZADE: A.m. periods are from 7:00 to

22 9:00. And the afternoon it's from 16, mostly to 5:30.

23 Sometimes maybe they'll come after 5:30 as well.

MS. ROSENFELD: Do you have any training as a 25 traffic engineer or traffic expert?

15 and or pedestrian close parens. Did you -- did you do
16 this analysis under the Montgomery County
17 transportation guidelines?
18 MR. AMINIZADE: I had tried to do that, as I
19 know, but as -- as you know, I told you that this is
20 not -- I'm not an expert that, but I -- we actually
21 sent all of those to the -- the -- the zoning office
22 and they reviewed that. And actually, I relied today
23 actually conclusion in this case.
24 MS. ROSENFELD: And the next sentence says the
25 project is exempt from LATR traffic study requirements.

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1 Do you know what LATR stands for?

MR. AMINIZADE: I -- I -- I cannot

3 remember right now, but I searched about that at that

4 time. It is before, very long time ago.

5 MS. ROSENFELD: Do you have any factual basis

6 right now to explain why the project is exempt from

7 LATR traffic study?

8 MR. AMINIZADE: No. No. I don't. I actually I

e sent everything to the zoning, and I rely to their

10 actually the analysis.

11 MS. ROSENFELD: Ms. Hearing Examiner, I -- I

12 object to this traffic analysis. It is another example

13 of information that needs to be presented by an expert.

14 There is no traffic engineer to -- to substantiate

15 these.

These are very technical, formulaic analysis

17 that occurs under both the Montgomery County

18 transportation guidelines. It goes directly to the

19 heart of adequate public facilities. And again, I -- I

20 submit that a layperson is not in a position to -- to

21 testify as to this. And so I -- I note my objection to

22 -- to this line of testimony. I have no further

23 questions for the witness. Thank you.

MS. LEWINTER: Can you hang on one second, Ms.

25 Rosenfeld?

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MS. ROSENFELD: Sure.

MS. LEWINTER: Mr. Mehdi, you -- if I

3 understood you correctly you said you -- you performed

4 all of this analysis and then you sent it to the zoning

office and you relied on their analysis. Is that an

6 accurate reflection of what you responded to Ms.

7 Rosenfeld?

8 MR. AMINIZADE: Yes, sir.

9 MS. LEWINTER: What in your understanding was

10 that analysis that the zoning office provided to you?

MR. AMINIZADE: No. They didn't provide to me,

12 but they accept that we have another meeting and -- and

13 they -- you can read -- read that in exhibition number,

14 let me find that, and I know you -- let me find. I'm

15 trying to find that, sorry.

MS. LEWINTER: It's okay. Take your time.

17 MR. AMINIZADE: It is Exhibition Number 18, 18 staff reports.

19 MS. LEWINTER: Okay. In the staff report, can 20 you --

21 MR. AMINIZADE: Did you ask me a question?

22 Sorry.

MS. LEWINTER: I'm just trying to look quickly

24 through the staff report because I don't -- I don't

25 remember them citing your -- is there -- because I -- I

1 recall in the staff report, and I'm looking through it

2 again that I -- there's significant discussion about

3 your request for parking waiver and parking. Okay.

4 Wait.

5 MR. AMINIZADE: You can see the conclusion.

6 Maybe it's where it is.

7 MS. LEWINTER: No. I -- I'm finding it on page

8 12. Yes, page 12 and 13. The staff seem to have relied

9 on it. All right. Well I do I -- I appreciate Ms.

10 Rosenfeld's objection. And it does raise concerns that

11 this is -- this study was not -- was -- was performed

12 simply by you and your wife. So Ms. Rosenfeld, yes.

MS. ROSENFELD: Thank you. And if I could just

14 elaborate a tiny bit on -- on my objection now that the

15 staff report has been mentioned, to the extent that the

16 staff report relies on the data that was provided by

17 the applicant, they -- they accepted that at face 18 value.

And again, I have concerns that the underlying

20 data even in support of the staff's conclusions was not

21 prepared by the requisite expert. So object to the

22 extent that there might be reliance on the staff

23 conclusions that it's not based on credible factual

24 grounds. Thank you.

MS. LEWINTER: Okay. I just want Mr. Mehdi to

1 understand that this certainly impacts the -- this --

2 the strength to which that data can be relied upon in

3 making findings to support your application. Ms.

Rosenfeld, did you have any other questions?

MS. ROSENFELD: No. Thank you.

6 MS. LEWINTER: Okay. I'm going to ask -- oh, I

7 see a number of people. Well, Mr. Spiegel, would you

8 like to ask first? You need to unmute, sir.

9 MR. SPIEGEL: Can you hear me? Can you hear 10 me?

11 MR. AMINIZADE: Yes. I can.

12 MS. LEWINTER: Yes.

13 MR. SPIEGEL: Okay. Could I request that

14 Exhibit 5 be put back on the screen again?

MS. LEWINTER: Yes. But Mr. Spiegel, are you -

16 - are you -- because I have you on my screen twice and

17 there's quite an echo. Have you logged in twice onto --

MR. SPIEGEL: Yeah. I put it -- it's white on

19 the screen. I am getting an echo. You're absolutely

20 correct. I can defer to somebody else and try to come

21 back in and see if I get a better connection, but I

22 seem to be getting an echo.

MS. LEWINTER: Yeah. I'm just curious as to

24 why you're on my screen twice, but it's very strange.

MR. KHAN: If I may, I think it that's because

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someone is sharing their -- the screen. So if the --

- whoever is sharing their screen can stop sharing then
- that would probably eliminate the echo and if -- if
- everyone can mute. Sorry to interject.
- MS. LEWINTER: No. Thank you.
- MR. SPIEGEL: Thank you. Ooh. Oh boy. 6
- MS. LEWINTER: Yeah. So Mr. Spiegel, if -- if
- there's somebody else who -- you wanted Exhibit 5, do
- you -- is there someone who can speak for you or do you 10 want to log off and --
- MR. SPIEGEL: No. Why don't I log off and I'll 11
- 12 come back. I'll come back in again. I'm going to log 13 off.
- 14 MS. LEWINTER: Okay. Thank you.
- 15 MR. SPIEGEL: Thank you. Thank you very much.
- MS. LEWINTER: All right. Mr. Khan, did you 16
- 17 have question or were you just commenting on the echo?
- 18 MR. KHAN: Yeah. I was, sorry. Let me lower my
- 19 hand. I was just commenting on the echo. Sorry.
- 20 MS. LEWINTER: Okay. Thank you. Is there
- 21 anybody else who wanted --
- MS. GREENBERG: Ms. Winter can -- Ms. Winter.
- 23 my name is CarolAnn. I -- I can't tell if I'm muted or
- 24 not. Can you hear me?
- 25 MS. LEWINTER: I can hear you fine.
  - MS. GREENBERG: Yeah. Okay. I am a neighbor on
- 2 Greentree Road, which is about a block and a half from
- the childcare facility. I did -- I'm an expert in
- childcare. I am retired now, but I heard about this.
- 5 Yes --
- 6 MS. LEWINTER: Ms. Greenberg, I -- I promise
- 7 that everybody's going to get the opportunity to
- testify. Right now it's the -- the issue is, do you
- 9 have any questions for Mr. Mehdi in follow up to his 10 testimony?
- MS. GREENBERG: Well, I -- I have a question
- 12 of, what presently is your -- is the -- are the -- is
- 13 the pattern of the traffic? When we spoke you took --
- 14 you said one parent actually walks to pick up their
- 15 child. Another one, there's two children in the -- in
- 16 the home, so that's only one trip. And then you've got 17 two more.
- Basically, out of six children there are only
- 19 three parents, you know, that are really in -- in
- 20 traveling. I think this is you -- this whole hearing
- 21 discussing traffic in the way of such a large program,
- 22 it makes it look like it's an operation of 50 kids.
- 23 This is -- it's a little --
- MS. LEWINTER: Ms. Greenberg. Ms. Greenberg, I
- 25 -- I -- I understand that you have a lot of concerns

- and I promise you're going to have the chance to voice
- them, but I really need you to ask Mr. Mehdi questions.
- Okay? So if you have specific questions for him, this
- is cross examination.
- 5 MS. GREENBERG: How many trips actually do parents make a day?
- MR. AMINIZADE: Actually, during these three
- years we average -- we -- we actually got average 30
- percent of our students that they are coming from the
- 10 neighborhood they -- they actually are walking to our
- 11 facility, and they have siblings. And right now, we
- 12 have two parents who works here and they -- they don't
- 13 use their car actually to come here.
- Right now, we only have six kids, not eight
- 15 kids, and we have two set of siblings. They are
- 16 registered for the future, and they will actually
- 17 replace to our -- some of our naturally parents right 18 now.
- 19 And yeah, this -- this actually, statements
- 20 when -- when we actually were preparing that, we wanted
- 21 actually to show the worst case scenario, which is
- 22 actually 12 kids coming from out of the -- the -- this
- 23 neighborhood and use the car all of them. None of them
- 24 work here, and actually they don't have any sibling.
- 25 Every kid, actually every parent and kid come with one
- actually car. 1

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- But the reality is we always have 30 percent
- about of workers or siblings in our daycare. We have --
- we had actually some parents from Hempstead Avenue,
- which they were here and some of them are in this
- meeting and they actually -- they know what I'm talking
- about, and some of them are from the other street. So
- that's the worst case scenario which we have actually
- 9 12 kids coming with separate cars. Thank you so much
- 10 for your question.
- 11 MS. GREENBERG: You're welcome.
- MS. LEWINTER: Ms. Greenberg, did you have any 12 13 questions?
- 14 MS. GREENBERG: Thank you.
- 15 MS. LEWINTER: Do you have any other
- 16 questions?
- MS. GREENBERG: Well, with regard to the noise
- 18 that was addressed in [inaudible] presentation, how
- 19 many of the children now are under two years of age?
- 20 MR. AMINIZADE: We have, right now, three kids
- 21 under the age of two, and two of them actually will go
- 22 about the north. Actually, I can explain that more. We
- 23 have -- we bring kids two times a day to the backyard.
- 24 One -- one hour about in the -- about one hour in the
- 25 morning and one hour in around 11, 10 after 11, and one

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in the afternoon after 3:30, something like that.

2 And if the weather allows, actually, we bring

3 kids to the backyard for couple hours during the day,

4 and at that time the three kids are under two years

old, they don't stay for one hour outside. They will

6 get fresh air and come inside and sometimes they

7 actually the sit on high chairs to get actually fresh

8 air and vitamin D. And don't actually -- they don't

9 make noises.

Three or four kids actually are right now

11 playing over there. And in the future when we actually

12 increase capacity to 12 kids, it might actually --

13 always we might have some kids under the age of two and

14 they won't go too much outside. And we are going to

15 actually, as I mentioned, we're going to separate,

16 separate them to two groups and we will make sure that

17 actually a few kids will go outside and make noises.

18 MS. GREENBERG: Thank you.

19 MS. LEWINTER: Mr -- okay. Sorry. Ms.

20 Greenberg, was that it for your questions?

21 MS. GREENBERG: Yes. Thank you.

MS. LEWINTER: You're welcome. Mr. Spiegel,

23 are you back on? [Inaudible]. Was there anyone else who

24 wanted to ask questions of Mr. Mehdi? Oh, Ms. Rosenfeld

25 I see your hand.

50

MS. ROSENFELD: Thank you. I just wanted to ask a couple of follow up questions in response to the

3 last questions.

4 MS. LEWINTER: Sure.

5 MS. ROSENFELD: Do you have any limits on the

ages of the children that you would accept? Could all

of them be over the age of two?

8 MR. AMINIZADE: No. Actually, we have four

9 kids. We are allowed to have four kids under two years

10 old and four kids actually after, like, older than two

11 years old. When our daughter was less than two years,

12 we were allowed to have only three kids under the age

13 of two, and now she turns two.

When she turns to two, we actually or allowed

15 to have four kids actually -- actually acc- -- accepting

16 four kids from the community under the age of two and

17 four and three kids actually, and four kids, including

18 our daughter from the age of two to five years old. And

19 then she will actually turn to five in February, we

20 will allow to have four kids under two years old and

21 four kids older than two years old.

MS. ROSENFELD: If you were to expand to 12,

23 would you be allowed to have 12 children over the age

24 of two?

MR. AMINIZADE: Yes. We are.

1 MS. ROSENFELD: Thank you. I -- I have no

2 further questions.

3 MS. LEWINTER: Thank you. Was there anyone

4 else who had questions for Mr. Mehdi? I'm not seeing

5 Mr. Spiegel. If there's no further questions, I am

6 going to just leave it open in case Mr. Spiegel does

7 jump back on. Mr. Mehdi, I just want to put you on

8 notice of that. I don't, you know, given the format of

9 being virtual I don't want to deprive him of that

10 opportunity if he had a specific question.

11 MS. GREENBERG: Ms. Winter?

MS. LEWINTER: Yeah. It's [inaudible].

MS. GREENBERG: Just one more. May I ask one

14 more question?

15 MS. LEWINTER: Yes.

MS. GREENBERG: Yeah. I'd like to just ask I'd

17 just like to ask, maybe, have you ever had any

18 complaints about noise in the three years that you've

19 been doing this?

MR. AMINIZADE: No. Actually I have mentioned

21 those -- during those three years we didn't have any

22 complaint from our, you know, neighbors about the

23 noises. And after actually we brought up this

24 application until now the -- actually our two close

25 neighbors, which is the houses, it is 8719 and 8719

1 Hometardom which is vary close to us and the

Hamsterdam, which is very close to us, and the house 5704 in Greentree, which is very close to us, they

3 actually didn't have any opposition -- opposition to

4 our project.

5 And another, our neighbor 5700 in Greentree

Avenue, they didn't actually send any letter or any

7 oppositio- -- opposition note. Also 5800 on Greentree

8 and we -- but we received some complaint for -- from

9 the -- our neighbor Ms. Murphy, 8806, and I think her

10 neighbor 8804. Yeah.

11 Those -- we received those complaint after we

12 actually brought up this application. But before that

13 we haven't heard any complaint from our dear neighbors,

14 and I'm really appreciate them and I'm really thankful

15 to them.

MS. LEWINTER: Mr. Spiegel, thank you for

17 rejoining us. Let's give this another shot.

18 MR. SPIEGEL: Thank you. I appreciate it. Can

19 everybody hear me?

20 MS. LEWINTER: Yes.

21 MR. SPIEGEL: Okay. Very good. Maybe I could

22 just cut through the Q&A format of cross-examination

23 and just ask a two-part question to Aid -- is that okay

24 to call you Aiden? That's your first name, correct?

25 Aiden?

52

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1 MR. AMINIZADE: That -- Aiden is my wife. My 2 name is Mehdi.

name is Mehdi.

MR. SPIEGEL: Okay. Mehdi, I have a question
about Exhibit 5, and if somebody's already asked it, I
apologize. I will throw away the question. On, I think
the first or second --

MS. LEWINTER: Mr. Spiegel, do -- do you want me to put it up on screen again?

9 MR. SPIEGEL: It isn't really necessary 10 because I it's -- it deals with -- there was a

11 reference in Exhibit 5, which I'm sure you're familiar

12 with where you talk about the number of employees that

13 are currently employed and the number you project as

14 being employed. Could you just state for the record who

15 these employees are at present?

MR. AMINIZADE: The employees is myself, my -17 and my wife. Both of us actually are working from home,
18 and we have another, actually, employee who's coming to
19 our house. And I actually -- it's a good question for
20 me to explain that. We don't need to actually -- right
21 now we don't need to actually --

MR. SPIEGEL: Well, I only asked you if you --

23 the names of the employees. That's okay. You've 24 answered my question.

MR. AMINIZADE: The name -- the name was just

1 actually I do some research for them.

2 It is consultant type of job, and I mostly do

3 that job during the weekend and actually in the morning

4 from 6:00 to 7:00 sometimes, and before the kids come.

5 And sometimes if I need to I will do that job during

6 the nighttime after actually the kids go. But during

7 the time we are working here, I don't have any other

8 job.

9 MR. SPIEGEL: How about your wife? Does she 10 have any other jobs during the time? Please listen to 11 my question. Does your wife have any other jobs during

12 the time that the daycare center is operating, well,

13 that you plan to operate in the future?

MR. AMINIZADE: No. She doesn't have any other 15 job and she won't have any other job.

MR. SPIEGEL: And is my understanding correct 17 that you have a junior high school age child as well as 18 a child under five years of old -- five years old. Is 19 that correct?

20 MR. AMINIZADE: Yes. My son actually is almost

21 13 years old. He's attending the Pine Elementary

22 School, and my daughter is four and half. She's going 23 to be five years old by February, and we have those two

24 kids.

MR. SPIEGEL: And during the time, that you

. . . 1

1 Mehdi. My name is Mehdi and my last name is Aminizade.

2 My wife's name is Aiden and her last name is Hasandu,

and the employee we have right now's name is

4 [inaudible] and her last name is Ishvak [ph].

5 MR. SPIEGEL: So Mehdi, I do have a follow-up 6 question then. Are you and your wife going to be the

employees when -- if this license request -- if the

8 request for a group daycare carries through you can

9 continue to be employees?

10 MR. AMINIZADE: Yes. Yeah.

MR. SPIEGEL: Do you have any other jobs?

12 MR. AMINIZADE: Me?

13 MR. SPIEGEL: Yeah.

MR. AMINIZADE: I have another actually 15 part-time job.

MR. SPIEGEL: And that's during the week?

17 MR. AMINIZADE: What's that? Sorry.

MR. SPIEGEL: Is that during the week?

19 MR. AMINIZADE: During the week? No. It's not 20 --

MR. SPIEGEL: During the time that the daycare 22 center is open.

MR. AMINIZADE: No, it's not. No, it's not.

24 Actually, I do -- I work as a researcher in the -- in a

25 non-profit organization name's [inaudible], and

1 contemplate your center operating in the morning, have

2 your children already left for school?

3 MR. AMINIZADE: Can you explain again?

4 MR. SPIEGEL: My question is you have two

5 school-aged children, correct?

6 MR. AMINIZADE: Yes.

MR. SPIEGEL: Is that correct? Okay. My

8 understanding is correct. Okay. Now, as I understand,

9 the operating hours of your center in the morning, is

10 my understanding correct is that your children would

11 still be in the house when your daycare center begins

12 to receive people, is that correct?

13 MR. AMINIZADE: Yes. That's correct.

MR. SPIEGEL: And in the afternoon when your

15 children would come home, particularly your junior high

16 school aged child, your daycare center would still have

17 children in it is that correct?

17 children in it, is that correct?

MR. AMINIZADE: Yes. He's not high school, but

19 he's in middle school, but yes.

MR. SPIEGEL: Okay. Thank you. Thank you very

21 much. That's all.

MR. AMINIZADE: You are welcome.

23 MR. SPIEGEL: Okay. Thank you.

MS. LEWINTER: Any other questions, Mr.

25 Spiegel?

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MR. SPIEGEL: No. No. I'll -- no. I'll -- I

would like to testify later, but no questions. No

further questions.

MS. LEWINTER: Okay. Ms. Horseley, I see your

5 hand is up.

MS. HORSELEY: Yes. I do have a question for 6

Mehdi. The outside employee that comes to your home,

does this person work the full hours that the daycare

is running?

10 MR. AMINIZADE: Can you say again?

MS. HORSELEY: Does the -- the outside 11

12 employee that comes to your home, does this individual

13 work the full hours that your daycare is open?

MR. AMINIZADE: No. She, actually right now

15 she's not working full day. She works half day right 16 now.

17 MS. HORSELEY: That's my only question

18 MS. LEWINTER: Do you -- okay. Ms. Rosenfeld,

19 I see your hands up. Before you speak, Mr. Spiegel if

20 you're done and Ms. Horseley, if -- Horseley, if you're

21 done, if you could put your hands down so I don't think

22 you have a second. Ms. -- oh, thank you. Great. Okay.

23 Ms. Rosenfeld?

MS. ROSENFELD: Yes. Thank you. Just one

25 question. If you expand to 12 children, will your

1 that at no time, during the time your daycare operation

is operational, that you have outside employment? Is

that your testimony today under oath? I just want to

make sure I understand.

5 MR. AMINIZADE: Sorry. Can you --

MR. SPIEGEL: Is it your testimony today that 6

at the time, or at the times that you contemplate, or

you are operating your daycare center, that you have no

outside employment? Is that your testimony today?

10 MR. AMINIZADE: No. We will have outside

11 employment. Right now, we're not -- we don't have to,

12 but we have one employee and in the future, we will

13 have to have an employee from --

MS. LEWINTER: Mr -- Mr. Mehdi, I don't -- I'm

15 going to just interrupt just to speed things along. I

16 think Mr. Spiegel's question is for you specifically,

17 when -- are you stating that you do not have outside

18 employment during the time that you are working at the

19 daycare?

20 MR. AMINIZADE: No. We don't have outside job

21 during that. And I -- I -- right now, I -- as I

22 mentioned --

23 MS. LEWINTER: You are not -- you are not

24 working a second job while you're also working at the

25 daycare.

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part-time employees work full-time?

MR. AMINIZADE: Yes. Correct.

2 MS. ROSENFELD: Thank you.

MR. AMINIZADE: But -- and if she actually --

we are going to have one full-time employee, then we

want to actually expand our decade, but I'm not sure if

she wants to continue her job, or if she wants to quit.

8 We're going to have another employee but the employee

9 have to be full-time when we actually wants to expand 10 this actually daycare.

Right now, we -- we are not required to have

12 more than two, actually two workers. Me and my wife are

13 actually enough the -- according to the law, but when

14 we -- but we, actually, we have another employee for

15 doing -- for doing some certain job that she's -- she

16 can do for us. But then it -- well then, it's actually,

17 turns to 12 kids here we have to have three full-time,

18 actually, employee according to the, actually the child

19 office regulation.

20 MS. LEWINTER: Thank you. Mr. Spiegel, did you

21 have one more question? I -- you're -- you're muted,

22 sir.

23 MR. SPIEGEL: I apologize. One more question.

24 I just want to make sure I understand your testimony

25 today, Ma- -- Mehdi. Is -- is it your testimony today

1 MR. AMINIZADE: Yes. That's correct.

MS. LEWINTER: Is that correct, Mr. Spiegel? 2

That was your question.

4 MR. SPIEGEL: Yeah. It's my question. Thank

you. Thank you very much.

6 MS. LEWINTER: I don't see any other hands up.

So given that, and it's 11 o'clock I'm just going to

give everybody a five-minute comfort break. We'll come

back at 11:05 and at that point we can move forward

10 with the case. Is that okay? All right.

11 MS. ROSENFELD: Thank you.

12 MS. LEWINTER: You're welcome.

13 [Recess Taken]

14 MS. LEWINTER: Ms. Rosenfeld, are you back

15 with us?

16 MS. ROSENFELD: Yes. Thank you. I am.

17 MS. LEWINTER: Okay. Ms. Rosenfeld, would you

18 like to proceed with your case in chief?

MS. ROSENFELD: Yes. I would. Thank you. And

20 my first witness is Celeste Murphy. That's what I was

21 afraid of. We're in the same room. Yes. Actually, if

22 you -- we were afraid of that. If you would give us a

23 moment, she'll move into a different room and that way

24 we won't get that feedback. We're too close to each

25 other

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1 MS. LEWINTER: Do you have a way to angle your

2 camera where you could be on the same tile?

3 MS. ROSENFELD: I just think it would be

4 easier if we were not.

MS. LEWINTER: Okay. Whatever -- whatever.

6 MS. ROSENFELD: It would be a little too

7 crowded. I'm sorry, we should have tested this. We --

8 we'll be ready in one second.

9 MS. LEWINTER: No. It's fine. Okay. Take your 10 time.

11 MR. SPIEGEL: Hearing examiner, [inaudible]

12 for the hearing examiner.

13 MS. LEWINTER: Yes.

MR. SPIEGEL: Can you give us some sense of

15 your time constraints or your scheduling in this? We'll

16 go past lunch hour? Do you think it'll go past lunch

17 hour?

18 MS. LEWINTER: I -- I -- so I --

19 MR. SPIEGEL: [Inaudible] just the time and --

20 MS. LEWINTER: Yeah. No, no. I -- I

21 appreciate, and that's such a common question.

22 Everybody wants to know what exactly is going to happen

23 and I do not have a crystal ball. So I can't tell you

24 how long people are going to testify or how many

25 questions they have.

1 nothing but the truth?

MR. AMINIZADE: Yes. Thank you.

3 SWEARING IN OF WITNESS CELESTE MURPHY

4 MS. LEWINTER: All right. Ms. Murphy, if you

5 could similarly raise your right hand. Do you solemnly

6 swear under penalties of perjury that the statement you

7 are about to make are the truth, the whole truth and

3 nothing but the truth?

9 MS. MURPHY: I do.

10 MS. LEWINTER: Thank you. Okay. Ms. Rosenfeld,

11 your witness.

12 DIRECT EXAMINATION

MS. ROSENFELD: Yes. Thank you. Ms. Murphy,

14 would you state your name and home address for the

15 record please?

MS. MURPHY: Yes. My name is Celeste Murphy

17 and I've lived for 21 years at 8806 Garfield Street,

18 Bethesda, Maryland.

MS. ROSENFELD: And where is your home in

20 relation to the proposed daycare?

21 MS. MURPHY: My backyard abuts the daycare's

22 backyard.

MS. ROSENFELD: Ms. LeWinter, would you please

24 bring up hearing Exhibit Number 33?

25 MS. LEWINTER: All right. And Miss -- Ms.

Considering that it's 11 o'clock I cannot

imagine that this is going to finish before noon. So it

3 -- I -- there's just -- it'd be short, so we are going

4 to go -- we will take a break for lunch and -- and

5 that's just the way it goes. I'm sorry, sir.

6 MR. SPIEGEL: I appreciate the realistic

answer. Thank you.

8 MS. ROSENFELD: And is -- Ms. Murphy is in a

9 different room. I -- I didn't -- I'm sorry, I didn't

10 mean to interrupt you.

MS. LEWINTER: No. You're fine. So why don't

12 we proceed? You know what, I just, I -- I apologize.

13 This is my -- my fault.

But as I am realizing with your witness, Mr.

15 -- I never swore in Mr. Mehdi, and I should have done

16 that, I think because he was appearing pro se it just

17 skipped my mind, so I sincerely apologize. Mr. Mehdi,

18 would you mind retroactively swearing that your

19 testimony was the truth? Can you raise your right hand, 20 please?

21 MR. AMINIZADE: Yes.

22 SWEARING IN OF WITNESS MEHDI AMINIZADE

23 MS. LEWINTER: Okay. Do you solemnly swear

24 under penalties of perjury that the statements that you

25 previously made were the truth, the whole truth and

1 Rosenfeld, if you could, again, kind of --

2 MS. ROSENFELD: Okay.

3 MS. LEWINTER: Sorry.

4 MS. ROSENFELD: That's all right. That's all

5 right. Is that better?

6 MS. LEWINTER: Yes. Okay. I'm sorry, you said

7 33.

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8 MS. ROSENFELD: 33, please. Ms. Murphy, do you

9 --

10 MS. MURPHY: Sorry.

MS. ROSENFELD: That's okay. Didn't mean.

12 Again, I apologize. I'm just jumping in here. Ms.

13 Murphy, do you recognize what's been brought up on the

14 screen as Exhibit Number 33?

15 MS. MURPHY: Yes. I do.

MS. ROSENFELD: And what do you recognize that

17 exhibit to be?

MS. MURPHY: This is our neighborhood.

MS. ROSENFELD: And do you recognize the

20 location of the red dot?

MS. MURPHY: Yes. That would be the daycare.

MS. ROSENFELD: And in relation to the

23 daycare, can you show us or identify where your house

24 is located?

MS. MURPHY: Yes. I'm right behind the red dot

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toward that red line, between the red line and the blue

2

3 MS. ROSENFELD: And do you recognize the blue boundaries? Do you know where those blue boundaries came from?

MS. MURPHY: I don't -- I don't recognize how that might have been marked. It -- it might be just the Brad Moore subdivision, but I'm not entirely sure.

MS. ROSENFELD: Okay. And do you recognize the 10 red boundary that is shown on this map?

MS. MURPHY: Yes. The red boundary includes 12 the immediate prox- -- our homes and the immediate

13 proximity to the daycare and really the center of our

14 neighborhood, which is Bradley Hills Elementary School.

MS. ROSENFELD: Okay. And in the blue, with

16 the delineation of the neighborhood in the blue

17 boundary, is your -- is your home included in that 18 delineation?

19 MS. MURPHY: No. Not within the blue boundary.

20 MS. ROSENFELD: Okay. And in your opinion, is

21 the red boundary a more appropriate delineation of the

22 boundaries of the immediate surrounding neighborhood in

23 relation to this application?

MS. MURPHY: It is, yes. Because we are

25 impacted by the presence of the daycare and expansion.

park that you can see our kitty corner to -- to the

daycare, I believe it's about -- that corner boundary

would be about 150 feet. I think the daycare might be

150 feet also from the, very busy, double yellow lined

Greentree Road.

MS. ROSENFELD: Okay. So Greentree Road is --6 is toward the upper portion of this exhibit?

8 MS. MURPHY: Greentree Road runs half through

the ha -- yes, the upper portion, but all the way

10 across the picture and is about, I believe 150 feet

11 from the -- the home of the daycare.

12 MS. ROSENFELD: And I see a tennis court.

13 MS. MURPHY: Oh yeah.

14 MS. ROSENFELD: Is that -- is that in the park

15 that you described?

MS. MURPHY: Yes. The park has a lot of 16

17 attributes, a lot of features actually, which draws a

18 significant number of people from outside the

19 neighborhood, including the neighborhoods across

20 Greentree Road. And they very much walk because there's

21 a crosswalk across Greentree connecting those

22 neighborhoods at Hempstead Avenue that you can't see

23 from this aerial picture, but it is the significant

24 crosswalk, I think, within several blocks.

I don't think there's another crosswalk

MS. ROSENFELD: And not just you, but the

neighbors on either side of you at a minimum. 2 3 MS. MURPHY: Yes. Yes, that is correct.

MS. ROSENFELD: Okay. I also next would like

to draw your attention to Exhibit 18, which is the

planning staff report, and I'd like you to take a look

at page three with figure one.

8 MS. MURPHY: Okay.

MS. ROSENFELD: Do you recognize this as an 10 aerial photograph of your neighborhood?

11 MS. MURPHY: I do.

12 MS. ROSENFELD: And do you recognize the

13 property that's outlined in red?

MS. MURPHY: Yes. That looks to be the

15 daycare.

MS. ROSENFELD: Okay. And again, your property

17 is the one immediately behind that on Garfield Street, 18 is that correct?

MS. MURPHY: Yes. Correct.

20 MS. ROSENFELD: Would you please identify for

21 the hearing examiner, the other major features of this

22 neighborhood? And I'm not talking about the residential

23 homes, but the other features that are important.

MS. MURPHY: Oh, yes. Definitely the Bradley

25 Hills Elementary School and the Bradley Hills regional

crossing Greentree Road with the yellow pedestrian

triangles alerting Greentree Road traffic that there's

a pedestrian crossing. So people cross from the wind

gate and Sonoma neighborhoods across Greentree Road to

access the many features of the park at Hempstead

Avenue.

25

66

Some of the features of the park include --

include the tennis courts, which are now pickle ball

courts as well. So two sets of pickleball players play

10 which -- which doubles the traffic coming to the tennis

11 slash pickleball courts. There is a so -- a soccer

12 field with -- with many leagues and successive practice

13 times for the kids playing on the soccer fields.

There's also a -- there are two basketball

15 courts in Bradley Hills Regional Park. There are three

16 playground sets that was recently redone in the past

17 few years with -- with beautiful new playground

18 equipment.

19 So they are a major area attraction,

20 especially for children, the young children across

21 Greentree Road and those neighborhoods coming over.

22 There's also a large community garden at the park where

23 several people have plots and drive over, even people

24 within the neighborhood.

25 I actually had a community garden plot myself

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1 for several years, and because of the equipment one

- 2 needs for the gardening and -- and lugging mulch and
- 3 whatever else you might need, usually people are
- 4 driving there. I drove down my road, Garfield down
- 5 Greentree over Hempstead to access the community
- garden, for example.
- MS. ROSENFELD: Okay. And the tennis court
- that's in -- in shown in this exhibit, is -- does that
- abut the school? Is that the school immediately next to 10 it?
- MS. MURPHY: It is. Yes. 11
- 12 MS. ROSENFELD: Okay. And earlier -- did you
- 13 hear the applicant's testimony earlier?
- 14 MS. MURPHY: I did.
- MS. ROSENFELD: And he showed several exhibits 15
- 16 of different drop off and pick up areas for the school.
- 17 Is -- is there's -- there's sort of a semicircular what
- 18 looks like concrete area right under the label
- 19 Folkstone road. Do -- can you explain to the hearing
- 20 examiner what that is?
- 21 MS. MURPHY: Yes. The Folkstone Road, I would
- 22 say half circle drop, is one of the two official
- 23 Bradley Hills Elementary School parent or caregiver car
- 24 drops. There's another bus lane in -- in the front of
- 25 the Bradley Hills school, which you can't see on this

- 1 map. I know there -- that it is identified in other
- 2 maps.
- But the half circle is one of the two, parent
- 4 drop off locations for parents to drop their children
- off or their -- the caregivers of the children to drop
- the kids at Bradley Hills Elementary School. And it is
- -- it's very -- the half circle is very busily, very
- heavily used in the morning.
- The half circle also has a traffic sign that
- 10 there is no left turn permitted. Once the parents bring
- 11 the kids and drop the kids off at Bradley Hills
- 12 Elementary School. They may not make a left turn onto
- 13 Folkstone. They are forced by traffic signal to make a
- 14 right hand turn onto Folkstone, back up and exiting the
- 15 neighborhood over Hempstead Avenue.
- MS. ROSENFELD: Okay. Thank you. I -- now that
- 17 you've given sort of a overview of the -- some of the
- 18 other features of the neighborhood, I'd like to go back
- 19 for a minute to your -- your home, your property. Would
- 20 you explain to the hearing examiner how you use your
- 21 house, who lives there and the impact of the daycare on
- 22 your current use of your home?
- MS. MURPHY: Yes. Gladly. So as I said, I've
- 24 lived in my home for 21 years where I've had -- had my
- 25 three children. I raised my children there. I live

- 1 there with my family, where we work, live and study. I
- work at home full time. I work long hours in my home
- office, which is largely glass enclosed so I can view
- my beautiful backyard.
- I'm an avid vegetable garden and flower
- garden. I do a lot of time in my backyard gardening and
- -- and I enjoy it for relaxation and meditation and
- just generally. So I -- I really -- we have a lot of
- glass windows where we overlook our garden. Our whole
- 10 back of our house is largely glass with -- with large
- 11 just windows.
- 12 Our home, our bedroom windows are on the back
- 13 of the house. My home office is on the back of the
- 14 house. Our large screen porch where we enjoy three
- 15 quarters of the year relaxing in our yard faces the
- 16 back my kitchen table window, etc. I'm a lawyer as
- 17 well, so I actually spend really long hours in
- 18 contemplative study of very thick documents trying to
- 19 -- to find the proverbial needle in a haystack.
- And in public service, I work in public
- 21 service for the government. And the noise from the
- 22 playground really does, the 'playground' of the
- 23 applicant that -- and his backyard is my backyard, and
- 24 it really does disrupt every activity of our home since
- 25 its operation, and more so in the past -- the time
- period where they've had more children.
- My understanding is when they -- they first opened they might have had one chi -- one additional
- child. The -- the additional children very much impact
- the quality of our life. I would say that in fact it's
- -- it's inescapable. In addition to me and my work, I have three teenagers and we're all studying there.
- The study areas are in the back so we're
- 9 hearing noise even through closed windows. I -- I, in
- 10 fact, do like to work during the warmer months on my
- 11 screen porch with my computer during which I can hear
- 12 the children. Most disruptive, with respect to the
- 13 noises, is really there -- there is a lot of crying and
- 14 sometimes I -- I'm -- I'm -- I'm very distracted by it
- 15 because I'm wondering what is going on. Are the 16 children okay?
- The crying is -- is extremely disruptive. But
- 18 generally, they are also just regular children noises,
- 19 you know, that we're all familiar with like the -- the
- 20 running and the screaming and the shouting and -- and
- 21 then crying.
- 22 MS. ROSENFELD: The applicant mentioned at one
- 23 point during his testimony that nobody in the
- 24 neighborhood had complained about noise, and can you
- 25 speak to that?

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MS. MURPHY: Yes. Gladly. You know, I'm -- I'm 2 extremely neighbor oriented. I know my neighbors, I'm 3 friends with my neighbors, all kinds of things happen 4 when we're living so tightly packed in this close 5 downtown Bethesda neighborhood where we have basically 6 postage stamp lots.

And I try to be extremely cognizant of the 8 fact that, you know, we're -- we're all trying to 9 navigate this together. No one's trying to -- to 10 inflame anyone. No one's trying to bother anyone. So 11 I've really been extremely permissive with respect to 12 the noise.

13 I have not complained because I understand 14 that this property is permitted to have what they have 15 going on currently.

And I don't -- I -- I'm -- I've been trying 16 17 since -- since they've been there to -- to make it 18 work, to be the good neighbor, to not complain, which I

19 haven't. 20 But when I was alerted to this expansion, I

21 really -- I feel like I have no choice but -- but to 22 object this kind of expansion, this -- this 50 percent

23 increase in the number of children, and in fact all

24 children could be over two years old, who are, you

25 know, very loud when they're playing, is unreasonable.

It's -- it's too onerous to bear.

2 MS. ROSENFELD: I -- just a brief sort of interruption in -- in topic here. You mentioned about the fact that you -- when you were first alerted about this application, can you explain to the hearing examiner when you were first alerted?

MS. MURPHY: Yes. I came home from a vacation 8 early July, and I received my mail on July 5th. In that 9 mail I received my first notice from the county for the 10 July 11th hearing that was scheduled.

MS. ROSENFELD: Did you ever receive notice of 12 the planning board hearing that had been scheduled a 13 month or two prior to this -- to the -- to the first 14 hearing examiner date?

15 MS. MURPHY: No. Neither I nor any of the 16 other abutting properties nor the confronting property 17 across the street received planning board meeting 18 notice.

MS. ROSENFELD: So without notice you were not 20 in a position to participate in those proceedings, were 21 you?

22 MS. MURPHY: No. I was not.

23 MS. ROSENFELD: Back -- back to the noise

24 issue. Did you hear the applicant testify about the 25 fact that there is noise already from the elementary school and from the park?

MS. MURPHY: I did. Yes. 3 MS. ROSENFELD: And in your view, is there a difference in sort of the quality or characteristics of

the noise from the daycare compared with those other existing noises?

MS. MURPHY: There is a very big difference.

The noi -- any noise I hear from Bradley Hills

Elementary School playground during their recess hours,

10 I would characterize as very light ambient noise, very

11 -- in a distance. As -- as you can note from the map,

12 the applicant's house is on Hempstead at the park at 13 the school.

My house is not. My house is on Garfield

15 Street, and it's a very big difference in terms of the

16 location or the center point of the noise and how it --

17 it spreads out when it's out there at Bradley Hills

18 Elementary School and their big field. It's not

19 directly coming at my house.

The house noise at the daycare is particularly 21 problematic, because there's one part, and I think you

22 can see it on the map, there's a house next to the

23 playground or not the playground, the daycare house.

24 It's the house on Greentree Road and it's a solid brick

25 house from like, you know, 1950. It is -- the back of

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that house is the entire side yard of the applicant's

backyard/playground.

So in effect, it's shooting and this acoustic arrow, all the noise of the -- of the applicant's

playground directly to my home. In addition, the home

of the applicant has -- has a -- a little addition on

the back. It has a deck on the back. It has now a wood 8 structure.

So the applicant's yard/playground is -- is

10 constantly shrinking and it's compressing the children

11 and the noise into a tighter ball of noise and pushing

12 -- pushing that noise and those children farther back

13 closer to my property line and having even -- even a

14 more onerous, louder effect on my property.

15 MS. ROSENFELD: Okay. Thank you. If we could

16 have a look at Exhibit 45, please. Do you recognize 17 this first image on the first page of Exhibit 45?

MS. MURPHY: Yes. I do. I took this photo. 18

19 MS. ROSENFELD: And could you give us an

20 approximation of the date or ti -- and time that you 21 took this?

22 MS. MURPHY: Yes. I believe I took it this

23 week on -- on Tuesday.

MS. ROSENFELD: And could you describe for the

25 hearing examiner what this image shows from your

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perspective? 2 MS. MURPHY: Yes. I'm standing when I too 3 this picture across Greentree Road. You'll see the MS. MURPHY: Yes. I'm standing when I took double yellow line. Greentree Road is a very busy road, very fast, very congested. It's the speed cars travel at regularly exceeds the 30 mile per hour speed limit. And this picture shows where the SUV is parked. So this is Greentree and the road you're looking at in the distance is Hempstead Avenue. The 10 applicant's home is in front of where that SUV on 11 Hempstead Avenue is parked. The red car in the driveway 12 in the background is the home next to the applicants, 13 further down Hempstead, further away from Greentree. So here I'm showing that how close the 15 applicant's home is to this very busy road of Greentree 16 and the fast traffic that -- that flies off of

17 Greentree onto Hempstead when making the turn there.

18 MS. ROSENFELD: Okay. Thank you. And I would
19 also ask that we take a look -- excuse me. Excuse me.
20 One mo---moment, please while I identify the correct
21 exhibit. If we could also take a look please at Exhibit
22 Number 44. Ms. Murphy, do you recognize Exhibit 44?
23 MS. MURPHY: Yes. This is a collision map I

24 request- --requested from Montgomery County police

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1 MS. ROSENFELD: Okay. And can you explain what
2 this data represents and where you got it?
3 MS. MURPHY: Yes. This data represents

collisions along Greentree Road and their

intersections, including Hempstead Avenue, which is the

address of the applicant. And the applicant is actually

on that corner of -- of the collision site as demonstrated from the prior photo.

25 department, and they provided me with.

9 This map and the collision data only goes back 10 to 2019 and includes the year and a half period where

11 Bradley Hill's Elementary School was closed physically

12 because of COVID, their -- their physical facilities.

13 So these crash statistics don't even include a year and

14 a half of normal activity of Bradley Hills Elementary

15 School traffic.

16 As I had stated before I received this -- this 17 crash map was put together by the Montgomery County 18 police department. They provided it with -- to me. We

19 -- we did add this July 16th, 2022 collision because

20 the Montgomery County police department alerted me to

21 the fact that that most recent collision was not

22 included yet in their database, and that I would have

23 to add that myself if I wanted to include that in the

24 data and the map.

25 MS. ROSENFELD: And -- and in your opinion,

1 does this reflect -- do you have an opinion as to

2 safety concerns with respect to the proximity of the

3 daycare to the intersection of Greentree and Hempstead

4 Avenue?

5 MS. MURPHY: I ha -- not only do I have safety 6 concerns with respect to the green tree, the proximity

7 to Greentree, but the fact of the heavy traffic on

8 Hempstead to access the park and the school. The

9 traffic off of Greentree is -- is taking the turn at

10 excessive speed. I know this from my experience on

11 Hempstead. My three children went to Bradley Hills

12 Elementary School.

That's the route to school for them. I know
this also because I'm similarly situated on Garfield
Street and always concerned about the traffic coming at
excessive speeds off of Greentree Road. Also, you can
notice that the Hempstead Avenue is actually -- it's
not a -- this map isn't great. It doesn't show -- it's
not exactly at a perfect perpendicular but rather an
angle.

So when the cars come off Greentree, they're
22 -- they're somewhat I would say disoriented or when
23 they're flying so fast, they tend to not stick within
24 their immediate turn lane, but cross over to go to the

25 other lane across the street and to -- and to oncoming

traffic because really, they're supposed to be going

2 the speed limit of Hempstead, which I think might be

3 20, 25 miles an hour as opposed to Greentree Road

4 traffic.

5 So it's -- it's really the proximity to

Greentree, the high speed of Greentree, and combined

7 with the fact people don't slow down to go onto

8 Hempstead. And the heavy traffic on Hempstead to access

9 the features of the neighborhood, the -- the school on 10 the park.

11 MS. ROSENFELD: Okay. In your opinion, will

12 the proposed daycare expansion have an adverse effect

13 on your use and peaceful enjoyment of your property?

MS. MURPHY: Absolutely. I -- I'm -- I'm

15 afraid to imagine what 12 children in their playground,

16 in my backyard will do to -- to the quality of our

17 lives that has already been compromised by the

18 existence of the playground so close to my home.

MS. ROSENFELD: And in your opinion, will the 20 proposed daycare expansion have an adverse effect on

21 the noise levels within your property and within your 22 home?

MS. MURPHY: Absolutely. The noise as it is, 24 is inescapable. My family and I enjoy fully the -- the

25 property. We are, you know, we are a full family living

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1 in our home. We enjoy our backyard, my vegetable 2 garden, my -- my general gardening that I like to do, 3 my home office where I work full time, our screen porch where we relax together as a family, our kitchen table, our bedrooms. It impacts everything. MS. ROSENFELD: And in your opinion as a lay

person, will the proposed daycare expansion have an adverse effect on the economic value of your property?

MS. MURPHY: Yes. As a lay person, it would. I 10 think that it eliminates a serious section of 11 prospective buyers who like me would not like to have a 12 home with a large group daycare in the backyard.

13 MS. ROSENFELD: In your opinion, will the 14 proposed daycare expansion have an adverse effect on 15 the safety of residents in the immediate neighborhood?

MS. MURPHY: In my layperson opinion, with 17 three children who went to Bradley Hills elementary 18 school very recently, absolutely. The safety is of the 19 residents of the neighborhood and the people, the 20 children, and the parents using the daycare is 21 imperiled.

2.2. MS. ROSENFELD: And finally in your opinion, 23 will the proposed daycare expansion have an adverse 24 effect on the safety of visitors, for example, people 25 going to the park or the daycare?

children aren't going to bother anybody. And -- and I

just -- I absolutely disagree with this

characterization of our neighborhood.

I don't hear constant noise. He had mentioned ambulances. I rarely hear an ambulance. My house is quiet and peaceful and it -- and it was even more quiet and peaceful before this -- this daycare playground opened in my backyard.

And -- and -- and I have a, you know, I bought 10 this house 21 years ago in reliance on rule of law 11 which includes zoning code and -- and understood what I

12 was buying into this neighborhood all zoned with single

13 family homes. And -- and it's what -- what my neighbors

14 and I expect and deserve as people of this

15 neighborhood.

MS. ROSENFELD: Okay. Ms. LeWinter, I have no 16 17 additional questions of this witness.

18 MS. LEWINTER: Okay. One second. Mr. Mehdi, 19 would you like to ask any questions of Ms. Murphy?

20 MR. AMINIZADE: No. I don't.

21 MS. LEWINTER: Okay. Is there anybody present

22 who would like to ask any cross-examination questions

23 of Ms. Murphy? I don't see anything. So given that, Ms.

24 Rosenfeld, would you like to call your next witness?

25 Ms. Rosenfeld, you're muted.

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MS. MURPHY: Absolutely. And I would expand 2 your definition of visitors to also include the high

numbers of bike commuters that come through Hempstead

4 Avenue cross over Greentree at Hempstead, from the

neighbors -- from the neighborhoods up old Georgetown

Road to be visitors of -- of our neighborhood. That section of Hempstead Avenue, that block

8 of 8801 Hempstead is marked by bikewashington.org and

9 other major bike organizations as the connector from

10 the north Bethesda trail that connects Rockville bike 11 commute, down to Bethesda to the capital Crescent

12 trail, to those bike commuters who come down to DC.

Those bike commuters are constantly coming 14 through there. They're constantly already in danger of

15 the high traffic speeds and the congested traffic along

16 that route, including that intersection in that block. 17 Adding more traffic, more cars further -- further

18 compromises their safety as well.

MS. ROSENFELD: Okay. And was there any final 20 point or points that you wanted to make to the hearing

21 examiner that I have not asked you about yet? 22 MS. MURPHY: I would. You know, I -- I

23 appreciate Mr. Aminizade's testimony and in part that

24 some of it is, you know, we live in a -- in a busy

25 raucous neighborhood already, you know, for more

MS. ROSENFELD: I apologize. Yes. I would like 1

to call Laura Horseley, please.

SWEARING IN OF WITNESS LAURA HORSELEY

MS. LEWINTER: Hey, Ms. Horseley. There you are. Ms. Horseley, if you could raise your right hand,

please. Do you promise or, sorry, do you solemnly swear

under penalties of perjury that the statements you're

about to make are the truth, the whole truth and

9 nothing but the truth?

10 MS. HORSELEY: I do.

11 DIRECT EXAMINATION

MS. LEWINTER: Thank you. Ms. Rosenfeld, your 12

13 witness?

14 MS. ROSENFELD: Yes. Thank you. Would you 15 please state your name and home address for the record?

MS. HORSELEY: Yes. My name is Laura Horseley,

17 and I live at 8800 Hempstead Avenue, Bethesda,

18 Maryland.

19 MS. ROSENFELD: I apologize. Ms. Murphy just 20 joined me, but we have the computers back under

21 control. Where is your home in relation to the proposed

22 daycare?

23 MS. HORSELEY: We are directly across for

24 them.

MS. ROSENFELD: And if we could take a -- a 25

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look again at hearing Exhibit Number 33. In relation, do you recognize the location of the proposed daycare?

3 MS. HORSELEY: Yes. I do. I see it's a red 4 dot.

5 MS. ROSENFELD: Okay. And in relation to the proposed daycare lot, where is your property?

MS. HORSELEY: Directly across. Right across 8 Hempstead.

MS. ROSENFELD: Okay. So you're at the corner 10 of Folkstone and Hempstead?

MS. HORSELEY: We are. If you turn, we're just

12 -- again, we're about 150 feet from -- from Greentree.

13 We're at -- and -- but we're all -- we're also very

14 close to Folkstone. Yes. We're sort of right in between

15 Folkstone and -- and Greentree on Hempstead.

MS. ROSENFELD: And which -- which street does 17 your driveway access?

18 MS. HORSELEY: Hempstead.

19 MS. ROSENFELD: And where is your driveway in 20 relation to the applicant's driveway?

21 MS. HORSELEY: It's just -- they're back to

22 back. We're right across from their driveway.

MS. ROSENFELD: Can you tell me if parking

24 patterns on Hempstead Road changed after the applicant

25 opened the existing daycare several years ago?

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MS. HORSELEY: Yes. It has. Especially 2 recently as more children have been coming into the

daycare during those peak hours, which are -- you know,

4 I think it's like 7:30 to 8:30 in the morning and then

5 4:30 to 5:30 or something like that in the evening.

6 It's very congested and busy there. And it does seem

7 like there's a -- multiple cars pick up around the same 8 time.

We've experienced, you know, pickups on their 10 side of the road, pickups in front of our house on our

11 side of the road. There was a couple, I think -- a

12 couple of cars that parked on -- on -- on Hempstead

13 there. And it's just really difficult to maneuver.

And then you have just the traffic, as Celeste

15 mentioned. The traffic coming off Greentree, they take

16 that turn, they're coming fast, and they take that turn

17 on to Hempstead, they typically take it very fast. So

18 it's already a little bit treacherous.

But then you add all this extra traffic during

20 peak time, when there's already a lot of traffic on the

21 road. And, you know, we've gotten to the point where we

22 -- we take our -- we used to park our car in front of

23 the street when -- when we could, but we just always

24 park in the garage in the driveway.

And we always -- if we can, if it's off-peak 25

hours, we back into the driveway to make sure when we

leave, we can go out, you know, forward so it's -- it's

safer, because it can get really congested there during

peak hours.

5 MS. ROSENFELD: So is -- is it fair to say

that there's more people parking on the street now than

there were before the daycare opened?

8 MS. HORSLEY: Oh, yes. Many, many, many more

people, especially during those peak hours.

MS. ROSENFELD: And how do you -- how do you

11 notice? How much time do you have to actually observe

12 what's going on on the street?

13 MS. HORSLEY: Well, I know this because I work

14 -- I have a hybrid work schedule. I work a couple days

15 here, then a few days downtown in d- -- downtown DC

16 where I work. And I usually leave around 7:30, and I

17 usually get home around 5:00-ish.

18 And it's very common for me to have to

19 maneuver around these cars, and just be a little extra

20 cautious because you just can't see very well. And if

21 you're -- my -- my line of vision is -- is blocked

22 looking towards Greentree because of the cars there.

23 And it's just -- so I see that a lot going -- going to

24 and coming from work.

The days that I work from home, I -- in the 25

mornings and the afternoons, we take a lot of walks. I

like to jog, we do a lot of yard work, so we just see

it in general. And then, like, Agnes [ph], who co-owns

the house with me and is a resident there, her office,

upstairs office, the window looks directly out there.

And she has to, you know -- her -- her job is

very closely looking at the computer, and she has to

take a lot of breaks, and -- and look out the window to

give her eyes a rest. And she sees this a lot. And then

10 when the car door is, you know, closed, slammed, she'll

11 -- she'll see it too. And she's observed this as well,

12 that congestion during peak times.

13 MS. ROSENFELD: And when you said that the

14 cars parked block the view to or from Greentree, and I

15 don't remember which it was, if you could clarify. Are

16 you talking specifically about cars parked while

17 they're dropping off or picking up children?

MS. HORSLEY: Yes. Often, it's the cars that 18

19 are parked when -- when -- when they're

20 dropping off and picking up the children. Because

21 they'll -- they'll park in front of their house, but

22 then sometimes they'll park in front of our house as

23 well. And it just, you know-- the line of vision

24 becomes really difficult.

25 MS. ROSENFELD: Ms. Hearing Examiner, I would

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1 ask if you could pull up Exhibit 37, please, Site 2 Specific Circulation Conflicts. Ms. Horseley, are you

familiar with this exhibit?

MS. HORSLEY: Yes.

5 MS. ROSENFELD: And do you know who prepared it? 6

MS. HORSLEY: Agnes prepared that.

8 MS. ROSENFELD: Okay. And would you please

explain to the hearing examiner what it represents? And

10 I -- I think for clarity in the record, it would be

11 helpful if you could describe the vehicles that are

12 shown on that exhibit by color, and just walk us

13 through that way.

MS. HORSLEY: Yes. So this is a diagram of

15 a -- what can be a typical peak time during -- in front

16 of our house. So the black cars are cars that are

17 parked, a couple of them toward the left. Oh the --

18 those are cars that are -- are just parked. And -- but

19 the ones where you see the -- with the -- the images of

20 the -- the parents and the children, those are the --

21 the drop-offs happening.

The green vehicles are the ones that are

23 passing through. You can see a lot of cars, and there

24 is an occasional bus that goes through -- through

25 there. The red cars, those are our cars as we're

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maneuvering in and out of the driveway or the garage.

And, you know, it's -- for us, it's -- we used 2

to park, and I mentioned, on the street some, but we

4 stopped doing that because we want to give space for

5 this. And it's just a constant maneuvering in and out,

6 and only one of our cars fits in the garage. So -- and

7 -- and we always, you know, like I said when -- I -- I

8 try to back in whenever I can so that I can drive out

9 forward. So it's -- there are times during peak hours

10 it can get really hairy like this.

MS. ROSENFELD: Okay. And do you have a chance

12 to observe parents when they're dropping off and

13 picking up their children?

MS. HORSLEY: Yeah. I mean, you know, we're

15 out there quite a bit, whether we're taking walks,

16 doing yardwork during those times. And it's not unusual

17 for them to, for instance, to take their children out

18 of the car street side versus curbside. And that's a

19 little scary.

20 And because the parking situation is -- is

21 just not set up for this, it's already -- it's already

22 tight. I just -- it's not set up for this kind of drop-

23 off, pickup. I just can't imagine taking this to 12

24 kids to group daycare situation. It's just an accident

25 waiting to happen is -- is my -- from a safety

perspective.

MS. ROSENFELD: Are there parking limitations

on Hempstead Avenue?

MS. HORSLEY: There are. Yeah. You're --

there's two-hour parking Monday to Friday -- Monday

through Friday. So you're not really supposed to park

there for more than an hour or two, Monday to Friday.

8 MS. ROSENFELD: Did you have a chance to read

the applicant's statement of justification, explaining

10 how much time it takes to drop off and pick up

11 children?

12 MS. HORSLEY: Yes.

13 MS. ROSENFELD: And do you agree with the

14 assessment of the times that are given in that

15 statement?

MS. HORSLEY: No. Often we'll see parents who 16

17 will stick around for a while. Sometimes they'll have

18 done a drop-off and -- and they'll be in their car

19 looking at their phone for a while.

Sometimes when they pick the children up from

21 -- pick their children up in the afternoon, they might

22 take them to the park or stay a little longer, I don't

23 know if they're having a conversation. But there are

24 times when they could stay, you know, 15, 20, 30

25 minutes. It's not -- not unusual.

MS. ROSENFELD: Okay. Would you say that 1

happens on a fairly regular basis?

3 MS. HORSLEY: Yeah. I'd say so.

4 MS. ROSENFELD: Okay. If we could take a look

at Exhibit Number 41, please. Do you recognize this as

the subject property?

7 MS. HORSLEY: Yes.

MS. ROSENFELD: Okay. And Ms. LeWinter, I -- I

proffer that we will authenticate this photograph

10 later, with -- through another witness. But for -- for

11 the meantime, I would like to have this witness speak

12 to it. Ms. Horseley, have you ever seen parents pull

13 into the driveway in this manner while they're dropping

14 off or picking up children?

15 MS. HORSLEY: Yes.

16 MS. ROSENFELD: And --

17 MS. HORSLEY: This is not uncommon.

MS. ROSENFELD: That answered my next

19 question. Does it raise safety concerns for you?

20 MS. HORSLEY: It does. Because it blocks the

21 sidewalk, and this is a really busy, busy neighborhood.

22 It's -- it's lively, right? There is a lot of people

23 jogging, walking, lots of people walking their dog,

24 you've got cyclists, you've got kids on bicycles, but

25 then you've also got those commuter cyclists. And, you

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1	know, then you got to	you're walking,	or riding your
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- 2 bike, or whatever down the sidewalk, and then okay,
- there's a car right there. So it is a safety concern.

MS. ROSENFELD: Okay. And do -- is this a rare 5 occurrence? Can you give a sort of frequency estimate

as to how often this may happen?

MS. HORSLEY: It's not a rare occurrence. I

think if the space is available, and -- and they're

inclined to do it, they'll do it. I'd say it's probably

10 -- it's hard for me to get -- put a number on it, but

11 it -- it's certainly not a rare occurrence.

MS. ROSENFELD: Okay. If we could go back to

13 Exhibit 18. And I'm looking again -- I'd like to see,

14 again, page 3 with that figure one. Do you recognize

15 this as an aerial photograph of your neighborhood?

MS. HORSLEY: Yes. 16

17 MS. ROSENFELD: And do you see the concrete

18 driveway, the semicircular half loop under the

19 Folkstone Road that Ms. Murphy testified about earlier?

20 The drop-off, pickup area in front of the --

21 MS. HORSLEY: Yes.

2.2. MS. ROSENFELD: -- elementary school?

23 MS. HORSLEY: I do.

24 MS. ROSENFELD: Is -- is that a turn

25 restricted exit when parents leave the school?

got in the house. And then we heard this huge boom,

bang. And so we went out there and walked down there.

Luckily, nobody was hurt. But it was a -- it was, you

know, one of these situations where I think a car was

going too fast. And -- and -- and it hit the other one.

And it's just -- it's -- it's just a -- such a high

traffic area.

8 MS. ROSENFELD: I -- I --

MS. HORSLEY: So it's -- it's just, you know,

10 this happens occasionally. I'm sorry?

MS. ROSENFELD: And -- and is it your -- do 11

12 you have any opinion as to whether or not increased

13 parking on Hempstead might have an effect on -- with

14 visibility, with any concerns about future collisions?

15 As a ---

MS. HORSLEY: Yeah. 16

17 MS. ROSENFELD: -- layperson.

18 MS. HORSLEY: Right. As a layperson, you know,

19 that's why we're so careful in the way we park our

20 cars, and come out, and -- and when we -- when we --

21 when we -- even when I maneuver my car into the

22 driveway, because I know those cars are coming fast on

23 Hempstead, I know that my vision is -- is blocked.

So I can give one example. Not too long ago,

25 maybe a few weeks ago, I was driving home from work.

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MS. HORSLEY: Yes. I believe that is.

MS. ROSENFELD: Okay. And so they make a right

hand si- -- right hand turn on Folkstone, and come out

to Hempstead?

2

5 MS. HORSLEY: Yes.

6 MS. ROSENFELD: In -- do you observe higher

volumes of traffic on Hempstead Avenue in the morning

and afternoon when school drop -- the elementary school

drop-off and pickup is active?

10 MS. HORSLEY: Yes. We definitely deser- -- I

11 mean, we observe higher traffic at tho- -- those times.

MS. ROSENFELD: And is -- is that about the

13 same time that the daycare drop-off and pickup occurs?

MS. HORSLEY: Yeah. You know, the -- it gets

15 busy on that road, especially during morning rush, and

16 afternoon, and early evening rush. So yeah. It's --

17 that's -- that's a busy time. That's a really busy time

18 on that road.

MS. ROSENFELD: Okay. And if we could also

20 take one more look at Exhibit 44, the crash map. There

21 was mention during Ms. Murphy's testimony about the

22 July 16th, 2022 collision. Are you familiar with that

23 col- -- collision?

24 MS. HORSLEY: Yes. We had just come back from

25 the Costco, and were unloading our groceries, and just

And it was coming in at that peak time, and it ju---

it was especially busy. There was, you know, several

cars doing the dro- -- the pickups. And I just -- I

held back because -- and I said, I'm just going to wait

until this clears out. And there were cars, again,

coming from Greentree.

And I'm glad I did, because there was one

parent who was coming -- coming down -- coming out

after the pickup. She had -- you know, I guess she had

10 other kids that she brought with her, one child in her

11 arm, and one child on her hand, and another child

12 walking by herself, who sort of ran toward the road,

13 and the -- the parent had to -- to yell at her to stop.

You know, and it just made this already tight,

15 congested, kind of scary situation even scarier. And I

16 just -- I remember thinking, oh, my gosh, I'm so glad I 17 didn't try to -- to maneuver my car into my driveway

18 then.

19 MS. ROSENFELD: Okay. In -- in your opinion,

20 would the proposed daycare expansion have an adverse

21 effect on your useful -- your use and peaceful

22 enjoyment of your property?

23 MS. HORSLEY: Yes. It absolutely would.

24 MS. ROSENFELD: And can you explain, just

25 briefly, specifically, why you reach that conclusion?

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MS. HORSLEY: Yeah. Because it's already -you know, we're already experiencing a lot of
hecticness trying to get in and out, and concern, and
worry during these times of tight congestion. And it's

5 going to be -- it's going to add that much more stress,6 and worry, and frustration if it goes to 12.

And it's just, you know, you see other
daycares, and -- and -- and they're set up better for

9 drop-off and pickups, where this is just not set up for

10 it. You've got a single driveway, you've got a tight,

11 busy road, right next to a really busy road. So it just 12 -- it's a lot. It's very concerning for this to expand

13 a group daycare.

MS. ROSENFELD: And in your opinion, will the 15 proposed daycare expansion have an adverse effect on 16 the traffic volumes in the immediate vicinity of your 17 home?

MS. HORSLEY: Yeah. I mean, it could. It's

19 certainly going to make the -- that road more

20 congested. And that more -- that many more people will

21 be there. And it's just going to slow -- slow things

22 down. So, you know, yeah. Potentially.

23 MS. ROSENFELD: And in your opinion, will the

24 proposed daycare expansion have an adverse effect on

25 the amount of available parking in the immediate

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vicinity of your home?

2 MS. HORSLEY: Yeah. For sure, certainly.

3 People are already -- you know, the available parking

4 on Folkstone is already getting tighter and tighter.

5 And, you know, there's a few people that are parking

6 illegally on -- on -- on Hempstead already. And so it's

-- it's already a concern, and that's just going to get

a whole lot worse.

9 MS. ROSENFELD: And in your opinion, will the 10 proposed daycare expansion have an adverse effect on

11 the safety of residents in the immediate neighborhood?

MS. HORSLEY: Yeah. It will -- it will ha- --

13 we're concerned about the safety of residents. But the

14 number one concern really is the safety of the families

15 taking their children to and from the daycare. Because

16 they're the ones who are getting out of the car,

17 sometimes, you know, street side and dealing with this 18 busy street.

MS. ROSENFELD: Do you have any final points that you would like to make for the hearing examiner about this application?

MS. HORSLEY: I don't think so. Just to say

23 that it's -- we -- we -- we think they're very nice

24 family, and -- and we -- we like them a lot. But I just

25 feel like this is -- this is a bad idea. And the safety

1 concerns are such that it's just not set up for group

2 daycare from a parking, and congestion, and safety

standpoint.

MS. ROSENFELD: Okay. Thank you very much. I

5 have no further questions of this witness at this time.

Thank you.

7 MS. LEWINTER: Mr. Mehdi, do you have any

8 cross-examination questions for Ms. Horseley?

CROSS EXAMINATION

10 MR. AMINIZADE: Yes. I do. Okay. Please show

11 up the exhibition number -- number 44. I want to ask

12 this date, July 16th, do you remember which day was

13 that? Which day of the week?

MS. HORSLEY: Well, I was at the Costco, so

15 I'm going to guess it was on the weekend. I can -- I

 $16\,$  can tell you which day of the week that was. That was a

17 Saturday.

MR. AMINIZADE: On Saturday. And do we

19 actually work at Saturdays?

20 MS. HORSLEY: You don- -- I don't -- no. Your

21 daycare is Monday to Friday.

MR. AMINIZADE: Yeah. And do you remember any

23 other crashes happening at that point before, actually

24 that, and especially after 2019, which we started this

25 daycare?

1 MS. HORSLEY: Ms. Murphy had brought up a

2 crash diagram early. And right -- that we're looking at

3 now. I mean, there's some listed there. So, you know,

4 we've -- we've heard of them and -- and -- and

5 occasionally traffic will be diverted when there's a

6 crash. So it's -- you know, it's a busy road. But

7 that's the one -- that's the one that we were in person

3 to hear and experience.

9 MR. AMINIZADE: Thank you. And I have another

10 question for you. The picture you showed, and the

11 parent actually was in the driveway parked behind my

12 car, do you remember, actually, which time of -- of day

13 was that? This was in morning or evening?

MS. HORSLEY: That photo was an example photo.

15 I -- it wasn't a photo that I took, but I just verified

16 that that's something that we see. That's -- that's

17 pretty common for parents to -- to park there and block

18 the sidewalk. So I can't comment on that exact photo.

MR. AMINIZADE: Okay. And, you -- because if

20 you -- you think, if actually they -- a car wouldn't

21 park there, it would help the -- the parents to

22 actually have a better -- have a better -- have -- have

23 a smooth dropping off and picking up?

MS. HORSLEY: I don- -- I -- I think whether

25 they're parking on the street or blocking the sidewalk,

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101	103		
1 it's neither options are very good.	1 MS. HORSLEY: Yeah yeah.		
2 MR. AMINIZADE: No. I mean, if we right	2 MS. LEWINTER: Ms. Rosenfeld?		
3 now, like, at that day that day actually I have my	3 REDIRECT EXAMINATION		
4 car parked in the actually driveway. But if we move	4 MS. ROSENFELD: Yes. With respect to moving		
5 our car from there, and if the parent can come in front	5 the applicant's car and parking it on the street, would		
6 of our house, and drop off their kids over there, would	6 that really just replace a parent parking on the		
7 do you think it would help with the safety concern?	7 street? It it doesn't really remove a car from the		
8 MS. HORSLEY: I don't know if it will help	8 street, it might make drop-off safer for that		
9 with the safety concern or or not. If you've got a	9 individual parent. In in your opinion, does it		
10 couple parents on the street, and you've got one in the	10 actually does does it reduce the concerns about		
11 parking in your driveway, I mean, it might ease it a	11 the number of cars parking on the street and blocking		
12 little bit. But I can't really say.	12 views?		
MR. AMINIZADE: Thank you so much. And for the	MS. LEWINTER: Ms. Rosenfeld, can I just ask		
14 yeah. I don't have any other question for you.	14 you to restate the question? I got a little lost.		
15 MS. HORSLEY: Thank you	MS. ROSENFELD: Sure, sure. The the		
MS. LEWINTER: Does anybody else have any	16 applicant had asked you about moving the applicant's		
17 cross-examinations questions for Ms. Horseley? Mr.	17 car and parking it on the street. Correct?		
18 Spiegel, you're you're muted, sir.	18 MS. HORSLEY: Yes.		
MR. SPIEGEL: Ms. Horseley, this is not a	MS. ROSENFELD: And that would allow a parent		
20 cross-examination question, it's just a clarification.	20 to use the driveway on the subject property to drop off		
21 You've had I think you testified that you have an	21 children. Correct?		
22 unimpeded view of the driveway of the house opposite	22 MS. HORSLEY: Right, right.		
23 you in which the applicant lives. It is my	MS. ROSENFELD: Does that actually reduce the		
24 understanding correct today that you're testifying that	24 number of cars that are parked on the street during		
25 you see in that driveway that it's occupied most of the	25 drop-off and pickup if you swap those two activities?		
102	104		
1 time by a car?	1 MS. HORSLEY: Well, he he they're going		
2 MS. HORSLEY: Yeah. Most of the time it is	2 to have to park their car somewhere. And Folkstone is		
3 occupied by a car.	3 usually quite busy at that time. So they're probably		
4 MR. SPIEGEL: As it was it your inference	4 going to just park it I mean, I would think the		
5 in your testimony that that car was the applicant's	5 they would park it on on Hempstead.		
6 car?	6 So it's just it's like I said, it's		
7 MS. HORSLEY: Yes.	7 it's it's a it's a tight, congested area, and the		
8 MR. SPIEGEL: Okay. So that picture that you	8 parking is is is limited anyway. Because you're		
showed with a car pulling up in back, that was a result  9 not really supposed to park on Hempstead for more the			
10 of an ordinary problem that you currently see from day	10 a couple hours Monday to Friday, 9:00 to 5:00.		
11 to day, the only way you can get into the driveway is	11 MS. ROSENFELD: Thank you.		
12 by pulling in back of that car. Is that correct?	MR. AMINIZADE: Can I ask another question?		
MS. HORSLEY: Sorry. Might just want a	13 MS. LEWINTER: Yes. Go		
14 clarification. Only way that I can get into my	MR. AMINIZADE: Can I ask another question?		
15 driveway?	15 Would you I actually, I I want to clarify that. I		
16 MR. SPIEGEL: No, no. If somebody wanted to	16 didn't ask you I didn't mention that I would park my		
17 somebody who's dropping off a	17 car in the Hempstead or anywhere else. I I just		
18 MS. HORSLEY: Mm-hmm.	18 mentioned that we want to move remove that car. Do		
19 MR. SPIEGEL: a you know, if it was	19 you know how many cars do we have, Ms.?		
20 somebody for the daycare center, the only way they	20 MS. HORSLEY: I don't I know you have that		
21 could do a drop-off in that driveway area would be to	21 one car. I I you might have two cars, I'm not		
22 do what that car did in the photo, to pull in back of	22 sure.		
23 the car that was in the driveway. Is that correct?	23 MR. AMINIZADE: We do we only have one car,		
24 MS. HORSLEY: That's right. That's correct.	24 and we have a garage. And we can actually park our car		
25 MR. SPIEGEL: Oh, thank you.	25 in the garage for the future. And we actually it		
	i i i i i i i i i i i i i i i i i i i		

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107 1 could help for the dropping off. And I want to actually and, Mr. Gill, I apologize. Had I known, I would have 2 clarify, it's not the -- actually have one parent who called you earlier. I did not. you took the picture --3 MR. GILL: It's all good. I was -- I was MS. HORSLEY: I didn't take the picture. hoping maybe it would go a little more quickly. But I MS. LEWINTER: Yeah. If this is going to be know how these things go. I was not smart enough. But more testimony, if you have a question for Ms. anyway --Horseley. MS. ROSENFELD: That's okay. And your -- and MR. AMINIZADE: Yes. I just want to -- no. I your testimony will be shorter than Mr. Fried. So, Mr. -- I just want to ask the question about -- to Gill, would you please state your name and address for 10 actually -- since I -- since she implies that we want 10 the record? 11 to remove car from the parking, and go to the SWEARING IN OF WITNESS JOHN GILL 11 12 Hempstead, I want to make sure to actually explain we 12 MS. LEWINTER: Let me just back up and have 13 don't want -- I didn't mean that. I won't actually move 13 him -- no. You're -- no. You -- my -- my fault. Mr. 14 the car to the [inaudible] street. My wife actually 14 Gill, if you could raise your right hand. Do you 15 doesn't drive, and we have only one car. 15 solemnly swear under penalties of perjury that the MS. LEWINTER: Okay. But you need to 16 statements you're about to make are the truth, the 16 17 understand, sir, that if you're going to ask her a 17 whole truth, and nothing but the truth? 18 question, it needs to have an -- if you're going to 18 MR. GILL: I do. 19 testify further, you'll have a chance for rebuttal 19 MS. LEWINTER: All right. Thank you. 20 testimony if you want to clarify that. That's -- that's 20 DIRECT EXAMINATION 21 different. Sorry. Is there -- did you have any other 21 MS. ROSENFELD: Mr. Gill, would you please 22 questions, Mr. Mehdi? 22 state your name and business address for the record? 23 MR. AMINIZADE: No. I don't. MR. GILL: John Gill, my company is H. A. Gill 24 MS. LEWINTER: Okay. Was there anybody else 24 & Son Realtors. My address is 1722 Wisconsin Avenue NW, 25 who had questions for Ms. Horseley? Mr. Mehdi, if you 25 Washington, D.C. 106 108 1 could lower your hand. Thank you. All right, seeing MS. ROSENFELD: And, Mr. Gill, would you 1 2 none, Ms. Rosenfeld, should -- do you think we could do please give a brief summary of your educational and one more witness potentially without taking a -- before professional background? taking, like, a lunch break? MR. GILL: I went to Landon School in MS. ROSENFELD: I actually think my next Bethesda, Maryland for 10 years, Bucknell University. witness is going to take a little bit more time. So --Some business school but went into real estate soon MS. LEWINTER: Okay. after I graduated from college. And I now have 40 years MS. ROSENFELD: -- this might be an opportune in the business. 9 time for lunch. 9 MS. ROSENFELD: And what real estate related 10 MS. LEWINTER: Okay. 10 licenses do you have? 11 MR. GILL: May -- may I interject, please? MR. GILL: So I'm the principal broker of my MS. LEWINTER: Yes, Mr. Gill? 12 company in Washington, D.C. in the state of Maryland 12 13 MR. GILL: So I am stay -- I am on vacation in 13 and the state of Virginia. 14 Michigan. Great -- great way to spend my vacation. And 14 MS. ROSENFELD: And are you familiar with the 15 I am now an hour and six minutes past my checkout time 15 subject property where this daycare is proposed? 16 at my hotel. We got an extended stay, but if I'm going MR. GILL: I am. Well, I'm not familiar with 17 to testify, I got to do it now. 17 that property, but I'm very familiar with Celeste MS. LEWINTER: All right, Mr. Gill. Mr. Mehdi, 18 Murphy's property right behind it, because I sold it to 19 do you have any objection to taking Mr. Gill out of 19 her 21 years ago. 20 order? 20 MS. ROSENFELD: And are you generally familiar 21 MR. AMINIZADE: Not at all. 21 with real estate sales in this general neighborhood? 22 And in the --22 MS. LEWINTER: Okav. 23 23 MR. GILL: Thank you. MR. GILL: Yes. I am. 24 MS. LEWINTER: Mr. Gill, go ahead. 24 MS. ROSENFELD: -- larger neighborhood? 25 MS. ROSENFELD: And -- okay. Thank you. And --

25

MR. GILL: Yes. I am.

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MS. ROSENFELD: And I -- I'm not asking you the last 40 years in this area? about appraised values. Let me ask you, are you a MR. GILL: That is correct. licensed appraiser? 3 MS. ROSENFELD: Ms. LeWinter, could I have just one moment, please? Ms. LeWinter, I have no MR. GILL: I am not. 5 MS. ROSENFELD: Okay. And I'm going to be very further questions for this witness. And thank you, Mr. clear that I am not asking you about appraisal Gill. 6 7 valuations. What I am asking you though is how you MR. GILL: Thank you. would price a home next to a daycare when contrasted 8 MS. LEWINTER: Mr. Mehdi, do you have any pricing a home that's not located next to a daycare, questions for Mr. Gill? 10 for purposes of putting it on the market? Could you --10 CROSS EXAMINATION 11 if there is a difference, could you explain what that MR. AMINIZADE: Yes. I do. Thank you so much 11 12 might be and why you would price it that way? 12 for your testimony. I have a question, if you sell any 13 MR. GILL: Yeah. So there is a difference. 13 -- or how many difference between actually in the --14 There is no question that a sizable percentage of the 14 when you want to -- actually in order to pricing 15 buying public would never live next to a daycare 15 between the daycare with 8 kids and a daycare with 12 16 facility, and simply because of the noise, the yelling, 16 kids. Most of them are home daycare and not centers. 17 and laughing, and screaming. 17 And it is a -- one of them, it's a small daycare with 8 18 And I love children, I -- I have three 18 kids, and another is a large home daycare with 12 kids. 19 children, I have two grandchildren. But the fact of the MR. GILL: So eight children are enough 20 matter is children make a lot of noise. And the buying 20 children, in my opinion, to create enough of an issue 21 public in general is very sensitive to that. 21 for neighbors to be a problem. Maybe -- maybe some And so a significant percentage, quantifying 22 people can put up with it, but most people could not. 23 it exactly is difficult, but I put it on the order of So if you add four more, you're adding 50 24 about half the market would say that they would not 24 percent more, and so you're making the problem 50 25 live next to a property that had a daycare center and a 25 percent worse. So yes. I do think there's a -- there 110 playground with a backyard. 2 The other half of the market might, in fact, 2 four more children. be willing to live next to such a facility. However, MR. AMINIZADE: And one more question. You

the Washington, D.C. area is about a savvy real estate market, in terms of how educated about real estate buyers are, as there is in the country.

And so if somebody is willing to live next to a daycare center, they know that half the market or so 9 would not be, and therefore they would demand a 10 discount. And only if they didn't know that the 11 property was a daycare center would they be willing to 12 pay the same amount of money for a very similar 13 property a block away where there is no daycare center 14 nearby.

15 So if I were dealing with a client as a 16 listing agent in terms of pricing a property, I would 17 explain that situation to them. Most likely the client 18 would fully understand it and would understand that I 19 would come in less in terms of my valuation of the 20 property at a potential asking price than I would if 21 the property were not located so closely to the center. 22 How much less, somewhere on the order of about 10 23 percent.

24 MS. ROSENFELD: And that's based on your 25 professional experience as a realtor and a broker in would be a substantive difference in -- in -- in having

mentioned 50 percent of the -- roughly the buyers won't

live next to that. That they don't buy, actually the -don't facility, but maybe 50.

But if someone actually willing to buy the facility, which is -- buy -- buy the house next to a

facilities, small daycare with eight kids, is -- or if

10 -- if some -- if you -- they don't want to buy that,

11 does it matter, for example, small or large daycare,

12 for someone, they don't want to buy that because of

13 having four more kids?

MR. GILL: I -- you know, I don't know whether 15 that situation would come up in a potential buyer's

16 mind. It would -- it would be a negative with eight.

17 But if there were 12 and the potential purchaser had

18 all of the information, and -- that there were in fact

19 12 versus 8, then I think it would make it even less

20 likely that they would want to buy next -- you know, so

21 closely to -- to that type of facility. Yeah. I think

22 it would definitely make a difference.

23 MR. AMINIZADE: Thank you, sir. The last 24 question, I -- I have showed three specific, actually

25 facility, I know I'm not a expert in this area. But all

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115 1 of those three sold out in less than one week maybe, cross-examination questions for Mr. Gill? Ms. 2 and which are higher prices that the buy- -- the Rosenfeld, did you have redirect? 3 actually sellers ask. Do you have any explanation for 3 MS. ROSENFELD: No. Thank you. 4 that or no? MS. LEWINTER: All right. Seeing nothing else, Mr. Gill, you may be excused. We appreciate your MR. GILL: Sure. Well, I mean, I don't know 6 specifically those properties. But I'm not saying that indulgence. 7 Mrs. Murphy's property would not be saleable. I'm 7 MR. GILL: Thank you. 8 simply saying that it would sell for less than it would 8 MS. LEWINTER: I know you're on vacation, I 9 have had it been located a block or two away, not next hope you enjoy it. 10 door to a facility like the one that you have. 10 MR. GILL: Thank you very much. So every property in a desirable area such as MS. LEWINTER: You're welcome. 11 11 12 Bethesda is going to sell. But ones that are located in 12 MR. GILL: Okay. 13 inferior locations, meaning on a busy street or next to 13 MR. AMINIZADE: Thank you so much. 14 a daycare facility, they're not going to sell for as 14 MR. GILL: Thank you -- thank you. 15 much. That's -- you know, that's an axiom in our 15 MS. LEWINTER: So Ms. Rosenfeld, then you said 16 business. Everybody knows that. And so what was your 16 the next witness that you would prefer to call will 17 question again? 17 take quite a while, so we should take a lunch break 18 MR. AMINIZADE: I asked, actually, I showed up 18 now. Is that your recommendation? 19 three different --MS. ROSENFELD: Hang on one minute, please. I MR. GILL: Oh, so they all sold -- okay. So 20 -- I actually do have one more witness I can call that 21 they all sold. I can't tell you whether they would have 21 will not take particularly long. I leave it up to you. 22 sold for 10 percent more or not. But my guess is, if 22 You know, I can call him now or -- the -- the shorter 23 they were -- if they were in -- in locations like that, 23 witness, but I -- I leave it up to your discretion and 24 and -- and very close or abutting to -- to daycare 24 whether or not you're ready for a break. 25 centers, that they would have sold for more. MS. LEWINTER: No. I'm fine. Why don't we do 114 116 I will also say, that having been in the the next witness just to try and keep things moving? 1 2 business for 40 years, I've seen great markets, and MS. ROSENFELD: Okay. 2 3 I've seen terrible markets. And the li- -- since the 3 MS. LEWINTER: And excuse as many people as we 4 pandemic or a few months after the pandemic got into 4 can. 5 gear, and up until a couple of months ago, our market 5 MS. ROSENFELD: Right. Okay. The next witness 6 was nothing less than a great market. I would like to call is Mr. Faruk Khan, please. Meaning there was very little inventory, and MS. LEWINTER: Okay. Mr. Khan, are you still -8 people were willing to purchase properties that maybe - you know, sometimes people kind of --9 didn't check all their boxes, but they were very, very 9 MR. KHAN: Yes. I'm here. Hi, how are you? 10 eager to get a property. So they settled for something 10 MS. LEWINTER: Hi, Mr. Khan. Thank you for 11 less than what they wanted. 11 being patient. Could you raise your right hand, please? 12 But I will tell you in a market that is not so 12 MR. KHAN: Yes. 13 good, and where the inventory is three times or five 13 SWEARING IN OF WITNESS FARUK KHAN 14 times what it is right now, if a buyer is faced, or --MS. LEWINTER: Do you solemnly swear under 15 or has options of a property that is in a quiet 15 penalties of perjury that the statements you are about 16 neighborhood not -- not next to a daycare center, and -16 to make are the truth, the whole truth, and nothing but 17 - and then a property that's next to a daycare center, 17 the truth? 18 all -- all other things being approximately equal, they 18 MR. KHAN: Yes. I do. 19 are going to choose the property that is not next to 19 MS. LEWINTER: Thank you, Ms. Rosenfeld, your

24 name and home address for the record?

20 the daycare center. And it's going to make it a lot

MR. AMINIZADE: Thank you so much. I don't

MS. LEWINTER: Is there anybody else with

21 tougher for those properties that are next to

22 facilities like that to sell.

24 have any further question.

25

25 MR. KHAN: Yes. My name is Faruk Khan. I live

23 being here this morning. Would you please state your

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MS. ROSENFELD: Yes. Mr. Khan, thank you for

20 witness.

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in 5803 Folkstone Road, which is one house over from

2 the corner lot of Folkstone and Hempstead.

3 MS. ROSENFELD: Okay. And --

MR. KHAN: And -- and if I -- if I may just

say, you know, I -- I have not met the applicant, but,

6 you know, he is my nei- -- they're my neighbors, and I

7 consider all neighbors my friends.

8 So I hope that any testimony and concerns I

share here will be taken in that spirit of sharing

10 concerns among -- among friendly neighbors. I don't

11 want to antagonize anybody. But yeah. So I just wanted

12 to say that. Thank you.

MS. ROSENFELD: And -- and thank you. We

14 appreciate the spirit in which you're giving your

15 testimony this morning. If you could take a look at

16 hearing Exhibit Number 33 one more time. And Mr. Khan,

17 do you recognize the property with the red dot on it as

18 the location of the subject property?

19 MR. KHAN: Yes.

MS. ROSENFELD: And could you identify on this

21 exhibit where your house is located, maybe just

22 counting in the number of lots on Folkstone Road?

23 MR. KHAN: Yes. So it is -- if you look at the

24 house on the corner of Folkstone and Hempstead, so my

25 house is the one that is next to that.

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1 MS. ROSENFELD: Okay. And the one that's on

2 the corner of Folkstone and Hempstead, is that Ms.

3 Horseley's house?

4 MR. KHAN: That is correct.

5 MS. ROSENFELD: Okay. And her driveway

6 accesses Hempstead Avenue. Correct?

MR. KHAN: That's correct.

8 MS. ROSENFELD: And yours accesses Folkstone

9 Road?

10 MR. KHAN: That's correct.

11 MS. ROSENFELD: Have you reviewed the

12 application materials that were filed in connection

13 with this case?

MR. KHAN: Yes. I -- I -- I have reviewed most

15 of -- a lot of the material. I'm not sure I have

16 reviewed all of the exhibits, but I did review a lot of

17 them sometime in -- in July. Yes.

MS. ROSENFELD: And are you familiar with the

19 fact that the applicant has requested a waiver of

20 parking on his property?

MR. KHAN: Yes. In fact, I did also review the

22 Exhibit 8 on -- on parking as well. Yeah. I -- so I am

23 aware. Yes.

MS. ROSENFELD: And what is your understanding

25 as to where the offsite parking would be located?

1 MR. KHAN: Yeah. So what I understand from the

2 application, it -- it would have to be located on

Folkstone Road.

4 MS. ROSENFELD: And do you have any indication

that it would be in front of or near your home?

6 MR. KHAN: Yeah. Because this is the nearest

7 from the corner of Hempstead. So it would be there to

8 the le--- or, you know, the most natural place to park

9 would be to the left or to the right of my driveway.

10 And -- yeah.

11 MS. ROSENFELD: And -- and -- and in your

12 opinion, would that have an adverse effect on your use

13 of your property?

14 MR. KHAN: Yes. So -- so if I can just give

15 some context. So I -- I've owned this house since the

16 fall of 2019. And I moved in here myself since last

17 year. And I have been working virtually, from home,

18 through most of the time that I have lived here.

19 And I work from my living room, which has --

20 you know, these are split level homes with the large

21 windows in front, so I get a bird's eye view of all of

22 the traffic and the parking that happens throughout the

23 day on Folkstone.

And what I can say, is that parking in

25 Folkstone is really constrained. Particularly, you

1 know, for two reasons that are unique to this

2 neighborhood. And those two reasons are that this

3 neighborhood has a school right in the middle. And the

4 second is that this neighborhood has a public use park

5 right in the middle.

6 And for those two reasons, parking on

7 Folkstone Road is -- is -- is really constrained,

8 particularly during the weekdays, during the school

9 year. And -- and, you know, in that context -- so, you

10 know, if -- if I have visitors and, you know, they're

11 looking for a place to park, sometimes they will circle 12 around.

13 And -- because parents are parking to drop off

14 their kids and pick up their kids at Bradley Hills

15 Elementary, a lot of people that come for games in the

16 park, they will park their cars here and go to the

17 games. So yeah. Parking's already very constrained. So

18 to have another --

19 And then, you know, in -- in recent -- in the

20 last couple of months, my neighbors have also noticed

21 that another car has -- that is not associated with our

22 neighbors has become a permanent fixture on that, you

23 know, spot in either the left or the right of my

24 driveway.

25 And initially, okay, you know, it was there

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1 for almost six days, and we were wondering why it was

2 there not moving. And we were, you know, about to sort

- 3 of report it to the county, but then we found out that
- 4 one of the houses on Hempstead has a boarder who's
- working at NIH, who has a car.
- 6 And that boarder, because they don't have a
- 7 sticker to park on Hempstead, you know, flows over into
- 8 Folkstone. So that car has become a permanent fixture.
- 9 So to have another car become a permanent fixture here
- 10 during working hours, wha- -- in addition to all of the
- 11 parking demands associated with -- with the school
- 12 would really result in -- in even a more constrained
- 13 parking environment. So yeah. So that's what I can say
- 14 to that.

2

- MS. ROSENFELD: And can you explain to the
- 16 hearing examiner the -- the traffic patterns associated
- 17 with parent drop-off and pickup at the elementary
- 18 school as it affects Folkstone?
- MR. KHAN: Yeah. So you know, usually parents
- 20 are supposed to line up starting in Hartsdale and
- 21 coming around to the pickup loop on Folkstone. But then
- 22 some parents, when they come to drop off or pick up
- 23 their kids, maybe they need to go into the school for a
- 24 few minutes, talk to a teacher, or maybe they want to
- 25 take their kid in wi- -- with them. So they will park
- 122
- on Folkstone.

So or -- or, you know, maybe they'll park on

- Folkstone and wait for their kid to come out to the
- 4 car. So there's a lot of parking that takes place on
- Folkstone associated with -- with the school.
- 6 And sometimes I guess teachers will park that
- 7 don't find parking space in the parking lots for
- 8 Bradley Hills will park on Folkstone. And that results
- 9 in additional demand. And, you know, for a school the
- 10 size of Bradley Hills, and I compare Bradley Hills to
- 11 Bethesda Elementary, the parking lots are not very
- 12 large. And one of the two parking lots in Bradley Hills
- 13 is -- is not available, because the buses use it during
- 14 the pickup and drop-off time.
- So -- so that -- you know, even though both of
- 16 those parking lots are small, one of those is not
- 17 accessible dur- -- or is restricted during certain
- 18 hours. That results in an even more constrained parking
- 19 environment. So sorry. Yeah. That -- that I think is --
- 20 is -- is resulting in a lot of pressure.
- 21 MS. ROSENFELD: And did you hear testimony
- 22 earlier today about the fact that parents who are
- 23 leaving that drop-off loop on -- on Folkstone can only
- 24 make a right-hand turn?
- MR. KHAN: Yes. Indeed. So the flow is very

- 1 much -- and it's a heavy flow. And because I -- I -- as
- 2 I mentioned, I work from here and I -- you know, I --
- and I'm looking out the window right now, of course
- 4 it's the summer so there is -- you don't observe any of
- that flow during the summer.
- 6 But during the school year, during those
- 7 hours, there's sort of a constant flow, because they
- 8 need to go around Hartsdale and, you know, exit the
- 9 loop down this road. And then they have to empty out to 10 the two sides of Hempstead.
- MS. ROSENFELD: So is it -- is it true -- is
- 12 it fair to say that everybody who drops off or picks up
- 13 students at the loop then makes a right and drives by
- 14 your house to get to Hempstead?
- MR. KHAN: Indeed, yes.
- MS. ROSENFELD: And can you describe sort of
- 17 how wide the -- the street is there, if there is
- 18 additional parking? Does it -- does it --
- 19 MR. KHAN: Oh --
- 20 MS. ROSENFELD: How does that -- how does that
- 21 affect the track?
- MR. KHAN: Yeah. So Folkstone is -- is -- is a
- 23 narrower street. So it's -- it's a street with the
- 24 elementary school and a street with the park. But it's
- 25 a narrower street to the extent that it wouldn't be
- 122
  - 1 able to accommodate parking on both sides. So Folkstone
    - 2 only allows parking on -- on one side of the street,
    - 3 which is our side. So that results in an even more
      - 4 constrained parking environment.
    - 5 And, you know, sometimes you fee- -- you see
    - 6 people who are unable to park, and, you know, because
    - 7 parents think, oh, I'm just going into the school for
    - 8 five minutes, they'll sort of abut a little bit into my
    - 9 -- my driveway. Because they think it's just for a few
    - 10 minutes. Yeah.
    - 11 MS. ROSENFELD: Okay. Mr. Khan, in your
    - 12 opinion, will the proposed daycare expansion have an
    - 13 adverse effect on your use and peaceful enjoyment of
    - 14 your property?
    - MR. KHAN: Well, yeah. In -- in -- in the
    - 16 context of, if, you know, it being associated with a
    - 17 parking waiver request for an additional parking on
    - 18 Folkstone, I think that would -- that would -- yeah.
    - 19 Result in an even more constrained parking environment.
    - MS. ROSENFELD: This may sound redundant, but
    - 21 it -- it's really not. Will the propo- -- in your
    - 22 opinion, will the proposed daycare expansion have an
    - 23 adverse effect on the amount of available parking in
    - 24 the immediate vicinity of your home?
    - 25 MR. KHAN: Indeed, yes.

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MS. ROSENFELD: Do you have an opinion as to 2 whether the proposed daycare expansion would have an 3 adverse effect on the safety of residents on your street with the addition of that parking, offsite parking?

MR. KHAN: Yeah. Well, you know, as others

have mentioned, this is -- there's already quite a bit of traffic in this neighborhood because of the school, because of the park. These are two unique factors

6

10 associated with this neighborhood.

11 You know, and I bought this house, there's 12 been discussion of this -- this house. I bought this 13 house in -- in 2019. And, I mean, of course, everyone -14 - I -- I was not aware of the daycare. And -- and a --

15 but, you know, overall, anything that increases traffic 16 to some extent would result in additional traffic in 17 the area.

18 I mean, just to give you an example, I -- you 19 know, my mom lives with me for part of the years. She's 20 elderly, so when she -- she has to go for walks, I go 21 with her. And, you know, we're extra careful watching 22 crossings compared to, you know, if she were at my

23 sister's home where there's much less traffic, and we

24 don't really have to watch out crossing the street so 25 much.

MS. ROSENFELD: Okay. Was there any final -any final thoughts or facts that you wanted to share with the hearing examiner in connection with this application?

5 MR. KHAN: I -- I think those -- you know, my 6 main concern is -- is about -- is about the parking. And, you know, just the general point, I don't know how 8 relevant that is, but a -- I think everyone in the 9 neighborhood doesn't want to interfere with anyone 10 else's use of their property.

So everyone respects the fact that the

12 applicant is using their home for a daycare of up to 13 eight kids. And -- and, you know, it is their right to 14 do so under the R60 zoning rules, even though, you 15 know, as some have said, not everyone may want to buy a

16 property or live adjacent to a daycare. But -- but yeah. If -- if -- if this -- if

18 this is -- since this is an application for a zoning

19 exception, that would mean that there is a property in

20 the neighborhood that has been approved for an

21 exception into perpetuity, then -- then that, I think,

22 is something that, you know, myself and probably other

23 residents would prefer not to move forward.

But again, I think -- I know other residents 25 who, you know, they don't want to come across as -- as 1 -- as oppo- -- interfering with anyone else's right to

use their property, so they don't, you know, want to

really voice too much opposition to that.

So again, as I mentioned, I hope that the applicant, who I, you know, consider my neighbor and my

friend, will take these concerns in the spirit of

sharing concerns in a friendly manner across neighbors.

8 Thank you.

MS. ROSENFELD: Thank you. Ms. LeWinter, I 10 have no further questions for this witness at this 11 time.

12 MS. LEWINTER: Mr. Mehdi, do you have any 13 questions, cross-examination questions?

MR. AMINIZADE: No. I just want to thank you,

15 Mr. Faruk Khan. And yeah. As I don't want to make him

16 an order, actually present -- show that we will be

17 friend, and it is actually -- thank to him to rise his

18 actually concerns. And no. That's the only things I 19 want to mention.

20 MS. LEWINTER: Is there anybody else who has 21 any cross-examination questions for Mr. Khan? Excuse

22 me. Okay. Seeing and hearing none, Mr. Khan, thank you

23 for testifying. Ms. Rosenfeld, you were correct, that

24 was pretty short. So it's 12:36, if we could reconvene

25 at one oh -- well, I'll say 1:10, unless anybody has

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any specific concern or objection to that. Okay. All

right. I'll --2

3 MR. SPIEGEL: Ms. Rosenfeld, how many more

4 witnesses are you calling? David Spiegel. 5 MS. ROSENFELD: I -- I have two more

7 MR. SPIEGEL: Okay. And then after that, if --

the witnesses to the general public witnesses will

9 testify?

10

11 MR. SPIEGEL: Okay. Thank you.

MS. LEWINTER: Thank you. All right. So I will

13 see everybody at 1:10. Next witness, is that correct?

14 [Lunch break taken]

15 MS. ROSENFELD: Mr. Fried is my next witness.

16 SWEARING IN OF WITNESS KENNY FRIED

17 MS. LEWINTER: Okay. Mr. Fried, if you could

18 raise your right hand. Do you solemnly swear under

20 to make are the truth, the whole truth, and nothing but

22 MR. FRIED: I do.

23 MS. LEWINTER: Thank you. Ms. Rosenfeld, your

24 witness.

25

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19 penalties of perjury that the statements you're about

21 the truth?

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MS. ROSENFELD: Thank you. Mr. Fried, would 2 you please state your name and your home address for

the record?

MR. FRIED: Sure. Kenny Fried, 8711 Hempstead Avenue, Bethesda, Maryland 20817.

MS. ROSENFELD: And where is your home in relation to the subject property?

8 MR. FRIED: My home is -- there's five houses away from the subject property, four houses between us.

10 MS. ROSENFELD: Okay. And if we could actually

11 bring up Exhibit Number 33. Perhaps you could just

12 count the -- the number of lots and show us exactly

13 which is your location.

MR. FRIED: So can't really see it that much,

15 but I am -- if you go below the red dot, I am five

16 houses below the red dot, on the right hand side of the

17 dot. So I am not on the -- I'm not on the school side,

18 but I am on the side that's across the street from the 19 park.

20 MS. ROSENFELD: And you are within the

21 boundaries of that red delineation, you're within the

22 neighborhood?

23 MR. FRIED: Oh, yeah.

24 MS. ROSENFELD: We --

25 MR. FRIED: Yes. I am. Yep.

130

MS. LEWINTER: I'm sor- -- I'm sorry to interrupt. But if you can see my cursor, is that about right? For --

MR. FRIED: Yeah -- yeah. That -- that probably is it. Yes -- yes. I'm one, two, three, --

yes. Five houses away.

MS. ROSENFELD: Mr. Fried, are you generally -

- are you familiar with the general parking and

9 circulation patterns within the neighborhood, the red 10 delineated neighborhood?

MR. FRIED: Yeah. I am. I've been living here

12 for about 32 years. So I spend a lot of my time in my

13 front yard, and going to the park across the street, as

14 well as going to the school, the elementary schools.

15 Because I have had older boys who are now through

16 college, and I've got a younger one who's now 8 who's

17 going to Bradley Hills. So I spend a lot of my life in

18 this area.

MS. ROSENFELD: Okay. If we could bring up

20 exhibit number -- I believe it's 29, let me just double

21 check. Exhibit Number 29, the neighborhood vehicle 22 document. Mr. Fried, are you familiar with Exhibit

23 Number 29?

24 MR. FRIED: Yes. Because I made it.

25 MS. ROSENFELD: Okay.

MR. FRIED: I -- I apol- -- I apologize for 1

the non-beauty of it.

3 MS. ROSENFELD: Well, I -- I think it will serve -- serve for our purposes today. Could you, first

of all, just describe generally what you -- you were

hoping to depict on this exhibit?

MR. FRIED: I was just trying to show that

there's a lot of stuff going on with cars, and

bicycles, and motorized scooters, and motorized

10 bicycles, and people, and pedestrians, and all the

11 different kind of elements that go on in the -- the

12 school day at Bradley Hills amongst -- during the drop-

13 off -- drop-off time.

Which can be including the daycare, because

15 the -- the daycare has I think about 75 people who go

16 to the daycare onsite that starts at, like, 7:00

17 o'clock a.m. So starting at 7:00 o'clock, you have a 18 lot of stuff going on.

And I was just trying to show there's a lot of

20 traffic. Plus -- and it's not on here, but you -- you

21 have people who play tennis early in the morning

22 sometimes, depending on if it's nice outside. You have

23 people who are doing exercises in the park, yoga, I've

24 seen yoga people recently.

25 And then you've got just regular people who

are walking around the school perimeter. My daughter

who is going to be going into third grade will start an

organization -- starting an organization called Girls

on the Run. And in Girls on the Run, they, twice a week

for a whole bunch of months in the spring and in the

fall, are going to be walking the perimeter of the

school. And there's about 35 kids plus about five, or

six, or seven coaches.

9 So this is just trying to show all the action

10 that's going on in this really close area that I've

11 been living -- watching out from my front window.

MS. ROSENFELD: And if I could back you up 13 just for a minute. You talked about 75 children in --

14 in a daycare. Can you be specific about what daycare

15 you're talking about?

MR. FRIED: Yeah. It -- so they -- there's a

17 daycare that is contracted by Bradley Hills Elementary

18 School, they leased them space at the school, and it's

19 called Rockville Daycare. Because the company who owns

20 it is called Bradley something, something. I'm not

21 exactly sure of it. But my daughter goes to that

22 daycare, so I'm familiar with it.

MS. ROSENFELD: Okay. And then looking a 23

24 little bit more closely at Exhibit Number 29, I -- I

25 see that there are some -- some of these boxes talk

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133 134 xxm11r

about an unofficial student drop-off. Can you just walk
us through those and explain what they -- what that
means to you?

MR. FRIED: Okay. So what happens is the school designates two drop-off spots, one that you enter on Madison that is on the bottom left hand corner that says, dro--- student drop-off point. And then there's the other one that we've already talked about a bunch with that -- with a sign that -- that -- that's

10 right off of Folkstone, that tells people that they 11 have to make a right-hand turn if they drop people off.

12 So those are the two official drop-off points.

But what people do, because it gets crazy on 14 these things, and they don't want to wait on long 15 lines, or they're impatient, or they're late or

16 whatever, they drop people off at different places.17 One of the people they -- one of the places

18 they drop off is right across from me to the left, 19 where there's an opening in the fence. There's a fence

20 there, and there's an opening, and that's the first one

21 that's on Hempstead that says unofficial student drop-

22 off. And then people -- so park there, and drop the

23 kids off there, and pick up there also.

And then the other unofficial drop spot is on

25 Madison where people who are supposed to be going and

And so I'm very per- -- I'm very perceptive of little kids who do this all the time. And I'm also very

B perceptive of the parents who are not as careful as I

4 am, not paying attention to them, and sort of just

5 letting it happen. So I'm just really nervous about all 6 that stuff.

MS. ROSENFELD: And I see on this Exhibit 29 that you have a number of school buses that are reflected on this. Is there a lot of school bus traffic 10 in your neighborhood?

MR. FRIED: Yeah. I mean, there's a lot of -12 not only are the school buses that will go down, and
13 they'll come off of Greentree, that'll go down
14 Hempstead, and then they'll make a right on Madison.
15 And then they'll go right on -- on -- on Hartsdale to

16 go to the official bus stop drop-off spot in the front

16 go to the official bus stop drop-off spot in the front 17 of the school.

But there are other buses that come through 19 the neighborhood. There are buses that are going that 20 are taking kids to Pyle and to Whitman. And then 21 there's also the French school bus, the French school,

22 which has a bus, that sometimes will double park in

23 front of my house or a little bit to the left of my 24 house sort of as a hangout spot when it's waiting to

25 start its route.

1 making a right hand turn to drop their kids off in the

2 -- like, sort of that parking lot there that's an

3 official one, they just don't pull up all the way and

4 they drop their kids off on both sides of the street

5 there. And so there's a lot of craziness going on back 6 and forth.

So when I take my daughter, who's in the third grade, when I take her there in the morning, we sometimes -- sometimes it depends. I'll -- if it's 10 raining, I will drive and I will add to the amount of

11 cars that are there because I don't want her to get all 12 wet.

But other times I'll walk her. And sometimes Iwalk her down Folkstone, and sometimes I walk her down

15 Madison. And I'm -- I'm going to have Madison and -- 16 well, actually, both of them. I do see the amount of

17 parents that are dropping their kids off, and they're

18 just darting out of cars. And they are not looking half 19 the time.

20 And why did -- why -- you know, why am I so

21 passionate about this? Because I am so scared about 22 kids, because I have one. My daughter who is 8 years

23 old has ADHD, and she is one of these people that darts

24 out of a car, or darts out of our house and does not 25 look both ways.

134 So I have the French school bus, now that's

2 inconsistent. Sometimes it hap- -- some years, it

3 happens, some years it's ha- -- doesn't. But we never

4 know when that's happening. So there are a lot of buses

5 that do go through the neighborhood. And there's also a 6 lot of buses in the summer.

Even, you know, the da- -- the school isn't running during the summer. But Holton-Arms has a bus that drives through that's picking up kids in the

 $10\,$  neighborhood. And then there's other buses that are

11 going through also.

My older kids, when they used to go to camp,

13 their -- their bus stop was at Bradley Hills Elementary 14 School in the -- the main parking lot. So that was

15 their drop-off point. I don't know if that -- that camp

16 that they go to still has that. But I know that that's

17 where I used to have to walk them to for the bus that's 18 going on.

And these buses also do not go to the speed 20 limit. I have had to literally wa- -- I do this for

21 cars all the time, because I -- it just drives me crazy

22 that people are speeding. But buses go faster than they

23 should, and that's really dangerous.

And in fact, another point is that Hempstead 25 used to be so bad when they're used -- used to not be a

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1 stop sign on Madison, my wife along with some other

2 people in the community went throughout and got

3 signatures, and they were able to get a stop sign on

4 Madison. Because people used to go -- and I've timed

5 it. They used to go more than 45 miles an hour on our

6 street before we had that stop sign, because it would

just encourage people to speed.

8 And so there's a lot of stuff that goes on.

9 And one of the things that I constantly do also is I do

10 run out in the street and tell cars to slow down, and

11 then I watch them as they don't. If they're making a

12 right on Madison, especially in the morning when the

13 parents are late with their kids, I tell them to slow

14 down, and then I turn around, and I watch them as they

15 go past me to see if they're going to even stop at the

16 stop sign. And these parents don't.

I watch their cars as they make a right hand

18 turn without stopping at the stop sign, they just drive

19 right through it like there's no stop sign there, or

20 they roll through it, or they slow down, but they don't

21 come to a complete stop. And then I watch them go and

22 then pull up into the parking -- in the queue to go

23 into the parking lot to pull up there because they're

24 late.

25 So all this stuff is happening early in the 1 the last three or four years or so that people just

have a total disregard, and they don't stop at stop

signs. And it drives me crazy.

4 MS. ROSENFELD: Could we take a look at

5 Exhibit 34, please?

MR. FRIED: Sure. 6

MS. ROSENFELD: And this is a three-page

exhibit. Mr. Fried, do you recognize Exhibit 34?

MR. FRIED: Yeah. I actually took video of the

10 -- this comes from a -- this comes from a screenshot, a

11 snapshot taken from a video that I took on July 27th at

12 approximately 8:20 in the morning.

MS. ROSENFELD: And we'll look at that video

14 in a moment. But while we have these screenshots, could

15 you just talk briefly about what you -- what -- what

16 this shows, in your opinion?

17 MR. FRIED: This shows that this is not during

18 the school year, and there aren't cars parked right now

19 on this street, on the right-hand side in front of the

20 gentleman who spoke before. These buses come zooming

21 through, and they take sharp turns because they have

22 to. Because of the -- especially if there's cars that

23 are parked on either side of the road, this is how --

24 this what they're forced to do.

25 So there's a walkway that goes across just one

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1 morning. And then you throw in the mix of bicycles that

2 are coming from the other side of Greentree that are

3 coming on the path that was spoken about earlier. And

4 those bike guys don't stop at stop signs, they just

5 roll through. And when they get speed, they don't slow

down. And then you have that and then -- I'm sorry.

MS. ROSENFELD: Mr. Fried, can I -- can I

interrupt you for just a minute? I'd like --

MR. FRIED: Yeah.

10 MS. ROSENFELD: I'd like to back up just --

11 just a second. When -- when you talk about the vehicles

12 that just sort of roll through at Madison and

13 Hartsdale, is that driving behavior unique to that

14 intersection?

15 MR. FRIED: Well, I mean, it's the -- the

16 people nowadays, they don't -- I -- I witness when I

17 get mine from the after daycare at the school when I'm

18 coming home, and people have come out of dropping off,

19 picking up kids at Folkstone and stuff like that. I

20 totally witness cars that make the right without coming

21 to a complete stop at the stop sign there wha- -- they

22 just roll through.

So it's -- it's behavior that I see all the

24 time now. And it's rea- -- it's worse than it used to

25 be. People used to stop at stop signs, but I'd say in

1 way where the stop sign is, but not across Hempstead.

But you'll see that the bus takes up the entire road

when it does this. And this is how all the buses do

this because this is just the angle that they have, and

they are in a rush to get where they have to be.

MS. ROSENFELD: And could we see the next page

as well? Which essentially shows the same --

8 MR. FRIED: It's a different -- it's a

different -- the different bus, like -- this is, like,

10 a different bus that was admitted earlier and just

11 doing same thing. Same cutting, you know, covering up

12 the whole -- you know, the whole walkway there on that

13 crosswalk.

14 MS. ROSENFELD: And number three?

15 MR. FRIED: This just shows you when a car is

16 coming across there and there aren't cars parked there,

17 which there sometimes are, this is, you know, the --

18 the speed that they're going. They don't slow it down

19 and stay on their side, in their lane, which they can

20 do. Then, you know, they're -- they got to get to where 21 they got to go.

And they -- they are -- they're not prudent

23 and they're not -- they're not taking their time. Some

24 of them do, but from what I witness during the school

25 year, especially in the beginning when everybody's

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late, this is where they are and they're -- they're

2 cutting across both lanes.

MS. ROSENFELD: And if we could just take a look at Exhibit 42, that is the -- the video that you mentioned a moment ago, so that we could see these

buses as they move.

MS. LEWINTER: I'm sorry. Ms. Rosenfeld, could you repeat that for wha- -- what did you --?

MS. ROSENFELD: Sure. Exhibit 42, please.

MS. LEWINTER: 42, sorry. I missed the number. 10

MS. ROSENFELD: Quite all right. 11

MS. LEWINTER: Here, let me -- let me -- let

13 me back it up and start again. Wait -- wait, did I mess 14 that up somehow?

15 MR. FRIED: Yeah. You might have to -- you 16 might have to exit out and start all over. Who knows? 17 this might be ads or something like that because it's 18 coming from YouTube. So --

19 MS. LEWINTER: All right.

20 MR. FRIED: You might just -- X out the whole

21 thing, just X out the top right-hand corner, start

22 completely from the beginning again.

23 MS. LEWINTER: Well, I think this was -- I

24 just had thought I'd missed the beginning.

MR. FRIED: Okay.

the speed of this one, and the -- the difference of this one. And this is what we see sometimes.

3 And I get so scared that these buses coming like this, with cars on both sides of the street, or

even one side of the street being dropped off at the

daycare, parents don't think about these things. And

cars, buses, they -- they can -- they can be dangerous.

8 MS. ROSENFELD: And Mr. -- Mr. Fried, can you identify where the -- the intersection or the location 10 where these are turning?

MR. FRIED: So they come off of Greentree Road

12 and then turn on to Hempstead. In this case, they were

13 coming from, I guess it would be the south going

14 towards Old Georgetown Road. They make right on

15 Hempstead, and then they make their first right on

16 Folkstone.

17 MS. ROSENFELD: And then I know the video is 18 not showing right now. But at the very end there was a

19 black -- it looked like an SUV parked on the right-hand

20 side of Hempstead. Do you know where that is located in

21 relation to Mr. Khan's home?

MR. FRIED: Yeah. I think that that's -- you

23 know, there's -- there's a sign there that says no

24 parking from here to corner, I think. And then that's,

25 like, the first spot that you can park, that would

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MS. LEWINTER: But --

MR. FRIED: Okay.

3 MS. LEWINTER: -- I think that's --

MR. FRIED: So there's cars going, and this --

I actually took this video because I was just trying to

show how cars roll around the stop sign like that one

7 in -- and sure enough, like, two minutes later, here

8 comes the bus. And I'm like, oh, wow, look, here we

9 have a bus, let's see how he does on this turn here.

10 So that one, I'm sorry, that went straight

11 through. That was a Holton-Arms bus that was going for

12 camp. And then I went back and then right after this

13 one, that's where I took that snapshot from, you see

14 this guy's going normal speed, but you still -- he sees

15 -- he still has to come across, and almost hit the

16 other side of the street in order to do this properly.

And he's then going to make the turn, which

18 you'll see. And he's going at a decent speed, he's not

19 doing anything that, you know, scares me, except the

20 fact that he's got to then make that right, and then

21 take the whole street there.

22 But then you'll see this next bus. And this is

23 just, you know -- I'm just, you know, -- was ready to

24 go home, and just go on my own thing there, and I'm

25 just going back. And here comes another one. Look at

probably be right in front of his place.

MS. ROSENFELD: And would that be your

understanding as to where the location of the --

general location of the proposed offsite parking spot?

5 MR. FRIED: Yeah. As far as I know, that would

be the first spot that's legal on the right-hand side.

7

8 MS. LEWINTER: Is this the right spot? This is

9 what you're talking about?

MR. FRIED: Yep -- yep. That car on the right, 10

11 that SUV right there. Yep. And I want to say again that

12 I just went out here not to do anything on the buses,

13 but to sort of -- I was just getting so crazy about how

14 cars are not stopping at the stop signs, rolling

15 through. And that's why I went and shot the video.

MS. ROSENFELD: And then you had also

17 mentioned the -- there -- there are bikers. Are -- are

18 you familiar with bike use on -- on Hempstead Avenue?

MR. FRIED: Yeah. I -- I ride a bike, you

20 know, I -- I have fun on a bike. And yeah. So there's

21 this trail that was -- that was mentioned earlier that

22 the Washington Bike Association puts out for people who 23 are commuting from North Bethesda, they're going to the

24 Capital Crescent Trail.

25 So their suggested route is to go through --

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across -- across Greentree from us and come down

2 through a cut -- cut off point that's from another

neighborhood that's up by the Ayrlawn YMCA.

And so that cut through that goes from Ayrlawn

YMCA on Hempstead, and then goes down this bike path,

- 6 it's a walking path and a bike path, those people come
- 7 down a hill, and then they go one block to Greentree,
- 8 and then they cross over, and they continue in front of
- 9 my house.
- 10 So I see bikers all the time. And they're
- 11 going at a nice speed, they've got helmets on and stuff
- 12 like that. But I watch as they don't stop at the stop
- 13 sign of Greentree either. But, you know, there's --
- 14 there's sort of controversy on whether or not bikers
- 15 have to do that anymore. So -- but there is traffic
- 16 from bikers also. That's in the morning. In -- in the
- 17 afternoon, we also have bikers too. We've got a lot of 18 kids.
- MS. ROSENFELD: And could we take a look at
- 20 Exhibit Number 31, please. Mr. Fried, do you recognize
- 21 Exhibit 31?
- MR. FRIED: Yeah. This is a -- the -- I -- a
- 23 suggested bike trail from North Bethesda to the Capital
- 24 Crescent Trail that you go on to -- if you just go on
- 25 to Google, and you Google bike trail on Hempstead

- 1 this -- all this traffic is that there's also a walk- -
- 2 there's also a cut way walkway on Madison. I'll go to
- 3 that sec- -- on Madison that people cut through to go
- 4 if your -- your kids are going to Pyle, or you're going
- 5 to Walt Whitman High School, the middle school and high
- 6 school.
- 7 The kids also from our neighborhood have to
- 8 walk down Hempstead and then do this cut through which
- 9 is on Madison making a left-hand side going towards the
- 10 street behind my house. And so there are kids that are
- 11 also in this whole mix, that these older kids that are
- 12 walking from all different things while this is all
- 13 happening. So I'm sorry. So maybe we can go in here 14 next.
- MS. ROSENFELD: Oh, no. That -- that's quite
- 16 all right. If -- if we could pull up Exhibit Number 41.
- 17 MR. FRIED: Got it right here.
- 18 MS. ROSENFELD: Are you familiar with that 19 exhibit?
- 20 MR. FRIED: Yeah. I took that picture.
- 21 MS. ROSENFELD: Okay. And co- -- do you
- 22 remember what day, or approximately what day or time?
- MR. FRIED: Yeah. I took that on July 27th.
- 24 Also at about, like, my -- my da- -- I just looked at
- 25 my date stamp on my phone, and that was at 8:20 a.m. on

- Avenue, this pops up. And this tell you a route to go,
- 2 which takes you right in front of our houses.
- 3 MS. ROSENFELD: And there's a legend at the
- 4 bottom of the map, and it's got a blue legend mark that
- 5 says, on street route, and a red that says bike path.
- 6 Can you describe whether or not on -- on Hempstead it's
- 7 an on-street route or a bike path route?
- 8 MR. FRIED: Oh, it's an on-street route. They
- 9 don't go on the side -- they don't go on the sidewalks;
- 10 they go on the street. Yes. It's on street route. And
- 11 yes. They -- that -- they go right by me.
- MS. ROSENFELD: So if I go back to your
- 13 Exhibit 29, that -- that would reflect the bikers that
- 14 you're showing on the --
- 15 MR. FRIED: Yeah -- yes.
- MS. ROSENFELD: -- on Hempstead?
- 17 MR. FRIED: Yep. Those are my little cute bike 18 guys, or bike girls.
- MS. ROSENFELD: And as well, I'd like to pull 20 up Exhibit 41, please.
- 21 MR. FRIED: Before we do that, if you could 22 just hold for --
- 23 MS. ROSENFELD: Sure.
- MR. FRIED: -- one second. Going back to that
- 25 thing, one thing I didn't mention also that adds to

- 1 July --
  - 2 MS. ROSENFELD: Thank you.
  - 3 MR. FRIED: -- 27th.
  - 4 MS. ROSENFELD: And in -- can you describe
  - what -- what that picture reflects, in your opinion?
  - 6 MR. FRIED: I was just -- you know, there was,
  - 7 like -- there was, like, one of the -- there was a kid
  - 8 getting out of the -- the car to go to the daycare.
  - MS. ROSENFELD: And do you have any concerns
  - 10 about the location of that car?
  - 11 MR. FRIED: Well, I don't love it when people
  - 12 park on a sidewalk. And if I ever do it in front of my
  - 13 house, I am so nervous that I'm blocking somebody that
  - 14 I try to minimize that. And we have -- my family has
  - 15 three cars, and I don't want to park in front of my
  - 16 other neighbor. And we have a lot of cars parked on our 17 street.
  - And sometimes I don't even get to park in
  - 19 front of my house, because people will park there who
  - 20 are dropping their kids off who are going to Bradley
  - 21 Hills. So when that happens, I -- it's -- it's not --
  - 22 it's -- it's not a safe thing to do, because people
  - 23 then have to detour doing that.
  - And we have people, we have older people that
  - 25 are walking on the sidewalk, and we've got little kids,

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and we've got bicycle kids who are riding. And then

2 they sort of cut across the grass, and sometimes

3 they'll just zoom out onto the street. So it can lead

4 to -- it can lead to extra danger that if you didn't do

that, you wouldn't have to worry about.

MS. ROSENFELD: Okay. Thank you. I also would like to just briefly have you identify exhibit number -- one second. Number 43, entitled MCPS before and after

9 daycare. You had -- you had mentioned or -- or

10 testified earlier that you were familiar with the

11 before and after school daycare. Does this just confirm

12 that there -- there is daycare at that Bradley Hills

13 Elementary School?

MR. FRIED: Yes. I -- I -- yes. I am -- I

15 want to say that yes. We use it. And also, I want to

16 bring up something else which I didn't get a chance to

17 in the very beginning. That my daughter, who is now in

18 eighth grade, has actually used this daycare that we're

19 talking about when she was in kindergarten. She has

20 ADHD, and so she was not welcome at that -- at the

21 daycare in the school at that time.

And so we used the daycare, and I just want to

23 say that it was a pleasant experience, and the people

24 are very nice there. And they're so nice that when we -

25 - that my wife just reminded me that we donated to them

1 a piece of play equipment that we had when we didn't need it anymore.

So I just want to say, there's no animosity

4 towards these people, because they're very nice. And they're -- and so we like them. But I want to throw

6 that in there.

2

Because I should say that my daughter has been 8 at the daycare and has a good experience there. But

9 going back to this, she now goes to this daycare at the

10 school. And as I mentioned before, it has, like, 75

11 people in it. And she's -- goes there and has a good

12 experience there too.

MS. ROSENFELD: And what is the drop-off, 14 pickup route for -- for students who go here? Is it the

15 same as just all the students at the elementary school?

MR. FRIED: It all depends. It all depends

17 when they're getting there. So sometimes people will --

18 they will go -- they'll get -- they're going there

19 early. And when they go in there early, they'll go in

20 that sort of official -- the official side parking lot

21 that people can go into. And then they'll have to make

22 a right-hand turn and come back towards us by the sign.

Sometimes they will just drop off on -- on

24 Folkstone because it's easier than having to go wait on

25 these lines. And when it's raining, there's more people

doing it by car too, like, people who -- me who might walk would do a car kind of thing.

3 MS. ROSENFELD: And would the general -- can you tell me what time the before and after school

operates? Does it -- does it overlap at all with the

proposed daycare hours of operation?

MR. FRIED: Well, the daycare operates, I

think it starts at like 7:00 o'clock in the morning and

it goes until 6:00 o'clock at night. And I go -- I pick

10 up mine at 5:30 because she's there, it's such a long

11 time. And I don't -- I feel bad, even though she really

12 likes it so much that she'd rather stay. But I want to

13 spend time with her too.

But I go to pick her up at 5:30. And I'm one

15 of these people that I should walk there every time.

16 But if I'm in my car, and I'm going from someplace to

17 there, I will drive there. Yes. Out of laziness, which

18 is probably not right. But I drive there, and I pick

19 her up, and I add to the congestion even though I could

20 walk there.

21 And that brings me back to -- I don't know if

22 I'll get a chance to say this. But when I would take my

23 daughter to the daycare down the street that we're

24 talking about here, when I would be going to work in

25 the morning, I would actually drive her there

150

sometimes. 1

> Because I would just -- even though I was only 2

five houses away, and it's crazy that I did that, but I

did it. And sometimes I would not be able to park right

in front because there are other people dropping off at

the same time as I was adding to that.

But going back to the daycare there, that when

I pick her up at 5:30, there's other cars that are

waiting, I sometimes have three or four cars that are

10 picking up at 5:30. And then if I do it right at 6:00

11 o'clock, right before 6:00, there's a lot more. But I'd

12 say there's more around the -- the 5:15 to, like, 5:40-

13 ish kind of thing. People like me who are getting their

14 kid because they've been there long enough.

15 But I will -- and I -- if it's raining, or if

16 I'm coming from somewhere else, or I need to take her

17 somewhere, I drive and I do that whole driving thing,

18 I'm adding to, you know, traffic congestion.

MS. ROSENFELD: So you're familiar with the

20 right hand turn only from the loop at the elementary

21 school. Is that correct?

22 MR. FRIED: Yep.

23 MS. ROSENFELD: Do you -- do you have a sense

24 for during drop-off in the mornings, once parents make

25 that right onto Folkstone, what the split would be

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between drivers going left toward Greentree and drivers going right off of Folkstone?

MR. FRIED: You know, it's so random. Because 4 I do take perception of this, because I'm -- you know,

I'm outside and stuff like that, or I'm driving. I get

6 so angry that they don't stop at that stop sign. So if

I'm outside and I'm just walking with mine, I, like,

look at that stop sign a lot, because I'm look -- I

want to count in my head how many people aren't --10 aren't following the law.

So I would say sometimes -- sometimes it's, 11

12 like, 70 percent going to the left to Greentree because

13 people are going to work, and 30 percent going past my

14 house. And other times it could be the other way

15 around. It could be 70 percent making the right-hand

16 turn, and 30 percent going to Greentree. I'd say it's -

17 - it's pretty split.

18 MS. ROSENFELD: Okay.

19 MR. FRIED: But it's definitely not all of

20 them making a right go in front of my house. There's

21 definitely ones going to Greentree too. Because then I

22 watch them to see if they're making the right, if

23 they're stopping at the stop sign on Greentree too.

24 Which they don't, unless there's traffic coming.

MS. ROSENFELD: Okay. I -- Ms. LeWinter, do 25

once I counted, like, 14 people with dogs. And my

daughter also likes dogs so I would take her there in

the morning and the afternoon.

4 So you'd have people who, besides walking and coming from the Greentree side, or even some people

would drive there because it was a real social thing.

That's sort of what my daughter liked, hanging out with

all these different people. So there's a lot of action

9 there.

10 After school starting at 3:30, that field is

11 filled up with people that are playing soccer. And not

12 just on one soccer field, but playing two or three

13 different groups, sometimes more, that are using the

14 soccer field. That soccer field is used from -- during

15 the seasons is used from right when school ends all the

16 way until it gets dark. Even if it rains and they're

17 not supposed to be there, they're on there.

18 And they -- they are older kids, younger kids,

19 it's a variety of everything. Plus, you throw in people

20 who are bringing their dogs and trying to fit that in.

21 Plus, you've got people like me who are taking mine to

22 the playgrounds, three different ones. Plus, you've got

23 the tennis courts now that are filled up, sometimes

24 with lessons there.

25 Plus, you've got two different blacktop areas

1 you mind giving me just a moment? I -- I want to see if

there's other questions I want to ask before my closing

questions. Could I have just a couple of seconds to go

over my notes?

5 MS. LEWINTER: Of course.

MS. ROSENFELD: Thank you. All right. Thank

you. Mr. Fried, I do have a couple of more questions

before my -- my final set. On -- we've -- we've seen

9 exhibits and heard testimony earlier today about the

10 park that is located between Bethesda El- -- Bradley 11 Hills Elementary School and -- and Hempstead. Can you -

12 - do you have any knowledge about the uses there, and

13 do the users affect the circulation and parking on

14 Hempstead?

15 MR. FRIED: So as I mentioned in the very

16 beginning, on my -- my -- we -- we don't have -- we

17 only use -- our backyard isn't our backyard, we use our

18 -- our play area is the park. So growing up with my

19 kids from my older ones that are past college with my

20 younger one, we live in that park all the time. I play

21 tennis in that park, I take my little one to all three

22 of the different playgrounds, and she has soccer

23 practice along with everybody else.

And during the pandemic, a dog park started

25 there, an unofficial dog park with up to, like, some --

there that are filled up with kids riding bikes on the

blacktops and playing on different black tops. Plus,

you've got the basketball court. And on the basketball

court, there's also an organization, a company that

runs basketball training that I've looked into for my

daughter.

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7 Plus, you have basketball training that goes

inside the gym, inside the school that goes on after

school. So you have all of this potpourri of stuff

10 that's going on with car people going, in going out.

11 And that is five days a week until, you know, we get

12 winter and the snow or whatever.

13 MS. ROSENFELD: And -- and the people who are

14 going, for example, to the soccer practices after

15 school, do -- do most of them walk, are there people

16 who drive there and park? What impact does it have on

17 the parking situation on Hempstead?

MR. FRIED: There's a huge variety that park

19 and stay in their cars, that are -- you know, even with

20 the cars running if it's cold outside, or air

21 conditioning on in the summer. So there are people

22 parked on both sides of Hempstead in front of my house

23 a lot.

24 Then when I come home and want to park in --25 right in front, I have to park in a -- front of -- in

front of a parking -- in front of a fire hydrant that I don't really love to do, because we have one of those

in front of our house.

So there is a huge amount of cars that -during this kind of time that are parked on both sides, the thing -- of the street. Plus, thrown in with people who are staying through the daycare, and things like that, and other activities there.

Plus, you to- -- throw in the -- the Girls on 10 the Run that happens on Mon- -- Mon- -- Wednesdays and 11 Fridays, from 7:45 -- 7:30 to 8:45 in the morning for 12 the Girls on the Run that my daughter will be doing. 13 Plus, let's see what else. Yeah. There's --14 there's just -- there's a lot of -- lot of stuff that's

15 going in and out. More so in the afternoon than the 16 morning. But in the morning, you've got the -- the dog

17 park stuff starts at, like, no- -- 7:00 o'clock and

18 goes sometimes until 9:00 o'clock. The qua- -- the fa-

19 -- the quasi-dog park. So you've got --

20 MS. ROSENFELD: And --

21 MR. FRIED: -- that going on too.

MS. ROSENFELD: And my next question really

23 goes primarily to the morning school drop-off. About

24 what times our parents are arriving to drop off

25 students, and what time are buses arriving to drop off

But these people sometimes don't look because people

inherently cannot be -- are not careful sometimes.

3 And although we want to do everything we can by putting up signs that say, you know, be careful,

because there's kids playing and stuff like that, it

doesn't matter to some people. And even though they're

carrying their kids to daycare, because they want them

to be taken care of where they get a good day care,

they could be killed on the way to daycare. And that's

10 why -- that's my biggest thing about this. I -- I care 11 about that.

12 MS. ROSENFELD: Okay. And I -- Mr. Fried, I

13 have a few final questions. In your opinion, will the

14 proposed daycare expansion have an adverse effect on

15 your use and peaceful enjoyment of your property?

MR. FRIED: Well, I have a feeling, selfishly,

17 that there'll be cars forced to park in front of my

18 house sometimes, because there's more cars that are

19 there, and the other people are parking on the street.

20 We have -- we -- we don't have a dra- -- a garage, we

21 filled it and made it into a room.

So we sort of -- we have enough room for two

23 cars, but it's really for one. But we do two sometimes.

24 But I think that there'll be more people parked in

25 front of my house. So yeah. I think that that'll

students, particularly in the morning hours?

MR. FRIED: In the morning hours, I mean,

2 there's parents that are going to the daycare at the

school starting at 7:00 o'clock. So there's cars that

5 are going there, not in a big way. But I would say

6 right around, you know, with the buses coming at about

8:35-ish or so to, like, 8:50. Like, sort of the sweet

spot there.

Then that -- also you got to throw in the

10 parents that are late, that are you know, sort of

11 wanting to get their kids, or they got to get to work.

12 And they're zooming by the street too, and not looking

13 for anybody.

And then -- and -- and I -- I haven't pointed

15 this out too, that I want to say that people are --

16 people can be stupid. And I have watched people going

17 in and out this daycare when I was taking mine there or

18 even now, and they're taking a kid in a ca- -- in a

19 baby carrier, and they've got another kid in their arm,

20 and they are on -- they're parked across the street.

21 And they're not looking when they cross the

22 street, they don't know how fast these cars are coming

23 off of Greentree. And I, like, almost want to yell out

24 sometimes. Like, stupid, look, you've got -- you've got

25 a kid here that can be killed by a bus or a car, look.

1 happen.

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MS. ROSENFELD: Okay. In your opinion, will 2

the proposed daycare expansion have an adverse effect

on the traffic volumes in the immediate vicinity of

your home?

MR. FRIED: Yeah. There's going to be more. I mean, there's -- there's -- we're at the limit that's

there right now. We're at crazy times when it's

dangerous already. So if you take something that is

10 dangerous all the time, and I -- I don't mean to say

11 all the time. Dangerous during peak times, not all the

12 time, dangerous during peak times when bad things can 13 happen, and then you add more on top of that, yes. I'm

14 scared of what can happen.

15 MS. ROSENFELD: Okay. In your opinion, will

16 the proposed daycare expansion have an adverse effect

17 on the amount of available parking in the immediate

18 vicinity of your home?

MR. FRIED: Yeah. I think there'll be less

20 spots. I mean, there's going to be the -- the -- the

21 spot that's going to be taken by the worker, and

22 there's going to be people that are going to be forced

23 to -- to sort of park by us.

I -- I will say right now that the house to my

25 right of me right now has, like, two cars parked in

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1 front, plus a car in the driveway. And then they have a 2 -- there's another car that they might be parking in

3 front of that house, because they'd have some extra

4 cars and stuff like that. So there's a lot of cars that5 are parked on the street right now.

So that -- you know, unfortunately, I'm the next bump that's there. And people would rather park on the sidewalk with little kids just like I would do. If

9 I could park closer across the street and park there,

10 where I could park on -- where I had to get off my -11 tell my kid to get out of the car, and you're getting

12 right out onto a sidewalk, I'm going to do that.

And so there's going to be more people parking 14 on my side of the street than there on the other side 15 of the street for safety reasons, for common sense, if 16 people have common sense.

MS. ROSENFELD: In your opinion, will the 18 proposed daycare expansion have an adverse effect on

19 the safety of residents in the immediate neighborhood?

MR. FRIED: Well, it's just adding extra

21 people. Like I've said, it's already -- it's already at

22 its limits now. And so, you know, people might say, oh,

23 it's only adding one, or two, or three, or four, or

24 whatever. But it should be less -- it should be less to

25 be safe.

Mehdi, do you have questions for Mr. Fried? CROSS EXAMINATION

MR. AMINIZADE: Yes. I do. First of all,actually, I want to thank him, to mention he's present

5 actually. Experience with us, and we have the same

6 experience with Marnie [ph]. I would actually bring her

7 to the school in the morning. And I -- actually for a

8 while, I was picking her up, and it was very pleasant

actually, experience.

And my question is, you mentioned that, but I 11 couldn't understand well. What time you told actually

12 the bus come to the school -- the busses come to the

13 school? And that they would ---- and this they bring

14 kids, which entrance normally?

MR. FRIED: So the buses go to two different 16 pla- -- the buses just go to one place. The buses go to

17 the main entrance in front of the school. That main

18 entrance, it has crossing guards from the school who

19 put up cones there to stop anybody else from going in

20 there, because that's one of the other parking spots

21 and someone talked about earlier.

22 So those buses that come in off of Greentree,

23 and then also off of Brad- -- Bradmoor, they come to 24 get the kids there. The school sort of -- the doors

25 open at 8:50, and so those buses are sort of starting

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And so we're at this limit already. And so one or two, you're at the number where the -- one or two,

3 it's not, like, oh, they're 600 kids at school, what's

4 one or two going to do? There should be, like, 500 kids

in the school. It's already over packed already.

And they've already built new parking lots that already filled, and teachers have to park on

8 Folkstone already and then walk. And there's parents

9 that are dropping off, because they don't want to have

10 to wait in line, because they're not following the

11 rules. So yeah. It's going to.

MS. ROSENFELD: And I -- I would have the same

13 -- same question with respect to visitors, you know,

14 people going to the daycare or the park. I think you've

15 already answered that if you want to elaborate a little

16 bit. But would -- would it be the same response for

17 those cla- -- categories of people?

MR. FRIED: Yeah. I mean, we're -- we're -- at

19 peak times, there's a lot of people there. And not

20 during off peak times, not during lunch and stuff like

21 that. But during peak times is when it can get crazy.

22 And so yes. More is going to be more dangerous.

MS. ROSENFELD: Okay. Thank you very much, Mr.

24 Fried. I have no further questions for this witness.

MS. LEWINTER: Thank you, Ms. Rosenfeld. Mr.

1 to come in. And we never did bussing, so I can't say 2 that.

3 But so -- that I -- just from what I noticed

4 from walking back and forth, I see the buses coming

anywhere from probably, like, 8:35 or 8:40 to, like,

6 8:50, 8:55, something like that.

MR. AMINIZADE: Thank you so much. And one more question. You mentioned about the parking they --

9 have you ever seen, for example, they par- -- any of

10 our parents, which are actually, I think, maybe 100 to

11 150 feet away from your house, park in front of your

12 house?

13 MR. FRIED: No. I don't -- I -- right now, I

14 don't see that. I think that they're all, you know,

15 parking, probably three -- two or three houses down

16 from me, or more, on both sides of the street. But no.

17 I don't see that now. But I think that if there's more

18 coming, and they want to be safe, and they want to drop

19 their kids off on the sidewalk, and there's no more

20 spots left over, you know that my house would be there.

MR. AMINIZADE: Thank you so much. And one

22 more thing you mentioned about the kid's activity,

23 running in -- for the school. Where -- where they

24 usually runs? Where -- where are they -- they?

MR. FRIED: Oh, the kids on the -- the run --

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the kids on the run. So that's an organization that --

2 women on the -- Girls on the Run, I'm sorry. And so

- 3 that starts in September, it starts right when school
- goes, and it goes to, I think, about a 10-week period.
- And then that picks up again in the spring.
- And that's on -- for Wednesdays and Fridays
- from 7:30 to 8:45. And they continue to do laps around
- Hempstead, to Madison, to Hartsdale, to Folkstone, and
- then they continue to go around, and around, and
- 10 around. Some kids run, some kids walk.
- 11 Another thing I should say is what they --
- 12 when they're doing this, because I watch them do it, it
- 13 forces the people who are just walking for fun in our
- 14 neighborhood, or little kids who are riding bikes, it
- 15 forces them to go onto Hempstead because there's so 16 many kids at one time.
- So throughout this mix with all these bus goes
- 18 -- going by, you have people who would have take the
- 19 sidewalk, who then go in the middle of the -- go into
- 20 the street because there's so many kids that are going 21 by.
- 2.2. MR. AMINIZADE: Are they running from -- in
- 23 front of our house as well? Or no?

people to walk off the sidewalk.

15

- 24 MR. FRIED: No, no, no. They -- the -- they
- 25 don't go in front of your house. This is just the --

2 intersection right past your house all the way to

1 the rectangular perimeter that goes from -- from the

6 your house there. But it just adds to the amount of --

you know, amount of stuff that's going on, forcing

10 -- they -- you mentioned unofficial students coming and

12 house. Do you have an estimate what time you mentioned

MR. FRIED: That's usually probably anywhere

11 park somewhere in the Folkstone, or in front of your

13 they are in a hurry, and they actually park anywhere

14 they can, what time they actually use those parking?

17 afternoon -- but in the afternoon, they're there from

18 there -- they're there even picking up kids. They're

16 between 8:30 and, like, 8:50 in the morning. But in the

19 sometimes there, they're picking up kids, and they tell

Madison, and then down to Hartsdale, and then making a 4 right back on Folkstone, and then back onto Hempstead.

So it does not -- that does not go in front of

MR. AMINIZADE: And one question, do you know

- MR. FRIED: There's -- I think the -- the
  - limit is 75, and so I think that they're close to that.
  - I mean, ours is going there now. So I think they have
  - 75 kids, and they all -- they, you know, sort of
  - congregate or -- and go in an entrance from Folkstone.
  - MR. AMINIZADE: [inaudible] and how many
  - people are attending in the -- in Bradley Hills
  - Elementary School?
  - MR. FRIED: How many of those kids are going
  - 10 to -- how many at Bradley Hills?
  - MR. AMINIZADE: Yeah. 11
  - 12 MR. FRIED: I think there's -- I think that
  - 13 there's, like, 600 students. I'm not sure, but I think
  - 14 there's, like, you know, between 550 and 600. Every --
  - 15 you know, the school doesn't give you an estimate,
  - 16 because they don't -- they don't know until the first
  - 17 day of school, as they tell us during the pre-stuff,
  - 18 you know, how many -- how many grades, how many
  - 19 classrooms they need. But they -- I think it's between,
  - 20 like, 550 and 600, something like that.
  - 21 MR. AMINIZADE: Okay. Thank you -- thank you
  - 22 so much.
  - 23 MR. FRIED: Sure.
  - 24 MR. AMINIZADE: I don't have any other
  - 25 questions.

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MR. FRIED: And I just want to say again that, 1

- you know, we had a great experience there. So this is
- nothing personal. This is more on my thing with safety.
  - MR. AMINIZADE: Thank you so much. I
- appreciate that.
- 6 MS. LEWINTER: Was there anybody else with
- cross-examination questions for Mr. Fried? Okay. Ms.
- Rosenfeld, did you have any redirect?
- 9 MS. ROSENFELD: No. Thank you. Okay. Thank
- 10 you, Mr. Fried. You can be --
- 11 MR. FRIED: Thank you. Appreciate it, thank
- 12 you.
- 13 MS. LEWINTER: Ms. Rosenfeld, I think you have
- 14 one more witness. Is that correct?
- 15 MS. ROSENFELD: That's correct. I have one
- 16 last witness.
- 17 MS. LEWINTER: Okay. And Mr. Bentson?
- MS. ROSENFELD: Yes. Mr. Bentson. 18
- 19 MR. BENTSON: Yes. Indeed. I'm here.
- 20 SWEARING IN WITNESS JAMES BENTSON
- MS. LEWINTER: Great. Thank you, Mr. Bentson. 21
- 22 Can you raise your right hand, please? Do you solemnly
- 23 swear under penalties of perjury that the statements
- 24 you are about to make are the truth, the whole truth,
- 25 and nothing but the truth?

4

MR. AMINIZADE: Thank you. And you mentioned

20 them just to come across the field. So in the

21 afternoon, it can be any time from 3:30 to dusk.

171 offer Mr. Bentson as an expert real estate appraiser in MR. BENTSON: I do. 2 MS. LEWINTER: Thank you. Ms. Rosen--this case, please. **DIRECT EXAMINATION** 3 MS. LEWINTER: Is there any objection? Okay. I MS. ROSENFELD: Yes. Mr. Benson, thank you for 4 will give him that designation. being here today. 5 MS. ROSENFELD: Okay. Mr. Bentson, are you familiar with the application for the 12-student 6 MR. BENTSON: Sure. MS. ROSENFELD: Would you please state your daycare conditional use at 8801 Hempstead? name and your business address for the record? 8 MR. BENTSON: Yes. MR. BENTSON: James E. Bentson. 2138 Lake MS. ROSENFELD: And have you looked generally 10 Drive, Pasadena, Maryland. 10 at the surrounding neighborhood? Are -- are you MS. ROSENFELD: And could you please give us 11 familiar with the characteristics of the neighborhood? 12 your professional background and training? MR. BENTSON: Yes. I've -- I've performed many MR. BENTSON: I attended American University 13 appraisals in and around that neighborhood in 14 and got a degree in real estate and urban development. 14 particular. 15 And for the past -- actually, for 38 plus years now, 15 MS. ROSENFELD: Okay. And are you familiar 16 have -- I went right into doing residential real estate 16 with Ms. Murphy's house and where it's located in 17 appraisals, and have performed probably closer to 17 connection with the subject property? 18 18 15,000 appraisals over the years. It's -- it's been a MR. BENTSON: Yes. I've been to the property, 19 great career. 19 and I've been to -- well, I've been past the -- the But I have also been state -- Maryland state 20 property in question as well. 21 certified as an -- a real estate appraiser. And I've 21 MS. ROSENFELD: Okay. And when you say you've 22 been to the property, you mean you've been -- been to 22 got a CREA designation from the National Association of 23 Real Estate Appraisers. And I'm also a realtor, a 23 Ms. Murphy's property? 24 practicing realtor. So I've got -- I'm a member of the MR. BENTSON: Yes. To -- just to see the 25 National Association of Realtors, Maryland Association, 25 proximity, get familiarized with just the logistics of, 170 172 Greater Capital Area Association of Realtors. you know, the children in the backyard, that kind of --2 MS. ROSENFELD: And, Ms. LeWinter, I that kind of walkthrough, basically. apologize. I -- Mr. Bentson's CV is at Exhibit 28. Just MS. ROSENFELD: Okay. And do you have a so you -- you have that available, and if you could professional opinion as to whether or not expansion of show that to the applicant as well. Mr. Bentson, what this daycare would have an impact on the value of Ms. 6 is CREA stand for please? Murphy's --? MR. BENTSON: Certified Real Estate Appraiser. 7 MR. BENTSON: I do. And it -- it most MS. ROSENFELD: Okay. And you -- you're -definitely would. One thing that hadn't been mentioned 9 you're certified in Maryland, and you're also a member that I was curious that no one had mentioned it, Ms. 10 nationally. Is that what I heard you say? 10 Murphy's property is elevated above, let's see, Mehd--11 MR. BENTSON: Yes. 11 - Mehdi's property. So it's kind of overlooking. And it MS. ROSENFELD: Okay. Ms. LeWinter, I would 12 -- it -- it kind of -- it -- it makes it even more of a 12 13 like to -- oh -- oh, one more question. Mr. Bentson, 13 -- of an adverse site influence when you're overlooking 14 have you ever been qualified as an expert before the 14 that. It's not like it's a level where you can block it 15 office of zoning and administrative hearings here in 15 off with a privacy fence type situation. 16 Montgomery County? MS. ROSENFELD: Okay. Do you --16 17 MR. BENTSON: Yes. There was a case, and I 17 MR. BENTSON: And --MS. ROSENFELD: Oh, I didn't mean to cut you 18 believe it was 2017. 18 19 off. MS. ROSENFELD: Okay. And you were accepted --20 MR. BENTSON: Case -- the case number was, 20 MR. BENTSON: No. There -- there's just a 21 let's see, CU 17-14 on the matter of Robin Rice. 21 couple of things. I -- in general, a couple of other MS. ROSENFELD: Thank you. And was that a 22 witnesses, the -- the lady across the street, I 23 conditional use or a special exception case? 23 apologize, I don't remember her name. But she mentioned 24 MR. BENTSON: Yes. Regarding a daycare center. 24 it -- that it's just tight. And it is, it's tight. When 25 MS. ROSENFELD: Ms. LeWinter, I would like to 25 I was driving the neighborhood, t's very tight with --

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with cars parking on -- on either side. Getting around there, it's already tight.

And then your last -- Kenny Fried was talking about -- he just was saying how there's a lot going on. And there -- certainly when I was there was -- there was a lot going on. So I can't imagine more going on that wouldn't have an impact on -- on someone thinking whether or not they're going to buy a home in that immediate neighborhood.

MS. ROSENFELD: And I'm going to ask you first 11 specifically about Ms. Murphy's property. Do you have 12 an opinion as to what impact adding four children to 13 this daycare would have on the value of her property?

MR. BENTSON: As far as -- it can only -- it 15 can only be looked at as a negative. And from a -- like

16 your realtor testified, you lower your pool. If you 17 have a pool of 10 buyers, you -- you cut them in half 18 immediately, because the first five don't want to live 19 near a daycare center.

And then the other five may, but they're going 21 to want to be purchasing that home at a -- at a 22 significantly less price. And in that neighborhood, 23 that can be significant in itself, because you're 24 talking about properties that are over a million 25 dollars to begin with, because of the location.

1 opinion for the properties that are nearby or across

2 the street within the immediate vicinity? Do you have

an opinion as to whether or not expanding this daycare would have an impact on the value of those properties?

5 MR. BENTSON: I would think in -- in a

6 different way. Yes. With the parking and the additional

7 traffic involved. Yeah. I mean, that -- it -- it's

8 almost -- it's like a busy street, or it's like a

9 railroad behind your house. It's -- it's what we call

10 an adverse site influence, and we deal with it when

11 we're looking at comparables. We're looking at

12 comparables that have a similar adverse site influence,

13 you know, com- -- trying to compare apples to apples to

14 see if there's a correlation.

15 And, like, if I was going to do an appraisal 16 on Ms. Murphy's house, I would look for something that 17 had something negatively affecting it, whether it was a

18 busy street. A busy street is easy to find, because

19 there's plenty of homes that have sold on busy streets.

20 But they've sold at a discount.

MS. ROSENFELD: Do you have a -- have -- have 22 you -- do you have a professional opinion as to some 23 sort of range of impact financially that this use might 24 have?

MR. BENTSON: We try to extract from the

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And of course, everyone's heard in real estate, location, location, location. But if you're

3 located backing to a -- a daycare center, that's not

the greatest location anymore. So the price would certainly go down.

MS. ROSENFELD: It -- did you hear Mr. Gill's testimony earlier?

8 MR. BENTSON: Yes.

9 MS. ROSENFELD: And I believe he said that 10 there would be an impact from an eight-child daycare 11 center, and he thought it would be a greater impact if

12 it were 12. Do you -- do you agree with that?

MR. BENTSON: Yeah. It would have to. Because

14 I mean, I -- I saw -- I -- I was at the site, I saw the

15 size of the backyard. And then I saw in one of the

16 exhibits, I believe it was Exhibit 29, the play area

17 that I guess that's been diminished in half by having a

18 greenhouse now there. Whether or not that's going to

19 stay or not, I wasn't sure.

But it seems like a really limited space and a 21 limited area already. And to add additional small space

22 for their outdoor activities, I mean, kids do have to

23 run, and play, and do what they do. And the noise

24 associated with that will -- will affect the value.

25 MS. ROSENFELD: Okay. And do you have an

1 market when we're looking at recent sales, we try to

2 match, again, apples to apples. So we find one house

3 that is on a quiet street, and then one house that has

4 very similar characteristics, say another split level

5 home matched up with a split level home that's on a

6 busy street. And how much less has the one sell -- sold

7 for, given that all other factors are pretty

8 equivalent.

9 And it's a -- from my -- from my experience, a 10 5 to 10 percent loss in value. A 10 percent adjustment

11 is very, very reasonable, if not more. I mean, I -- I

12 can show examples of a home that's on a busy street

13 selling, and then another home that's off a busy street

14 in that -- in that general area of Bethesda, and it

15 might be a \$300,000 difference on a \$1.5 million, \$1.6

16 million home. So in those cases, it's more than 10

17 percent.

MS. ROSENFELD: Okay. And you, I -- I believe,

19 were here as well for the applicant's testimony when he

20 was talking about three other home sales in the

21 neighborhood. Are you familiar with those exhibits?

2 MR. BENTSON: Yeah -- yeah. I pulled those up

23 just -- you know, I was curious just to see. I mean, it

24 has been a seller's market. The -- the fact that the

25 pandemic was -- the -- the real estate market did not

179 stop during the pandemic. It changed everybody's sellers took a hit. perspective on where they can live. MS. ROSENFELD: Okay. Ms. LeWinter, I don't They're buying homes that they don't need to have any further questions for this witness. go to the office anymore. So they're buying homes at 4 MS. LEWINTER: Mr. Mehdi, do you have questions? top prices with limited, very limited inventory. And 5 the three that he cited, I -- I did pull those up. And CROSS EXAMINATION 6 I was just curious. Okay? MR. AMINIZADE: Yes. I do. Thank you so much, Like, one sale was at 9105 Ewing Drive, that Mr. Bentson. 9 was his sale number two. It's basically a 3,600 square MR. BENTSON: Sure. 10 foot colonial on a busy street, 9105 Ewing Drive, sold 10 MR. AMINIZADE: And actually, you mentioned 10 11 for \$1.6 million. And I just pulled up a couple of 11 to 15 percent difference between the houses are in a 12 homes, these are all homes -- this home in particular 12 quiet zone and other quiet street, and other street. 13 is in Alta Vista Terrace, which is pretty close by. 13 MR. BENTSON: Yeah. I mean, the -- I mean, the And I pulled up three other homes, basically 14 5 to 10. 15 similar in size, and they're all on quiet streets, and 15 MR. AMINIZADE: Yes. It's 5 to 10. Okay. 16 they all sold for quite a bit higher. One sold for \$1 MR. BENTSON: 10 -- 10 is very reasonable. 16 17 million -- \$1.9 million, another one \$1.7 million, and 17 MR. AMINIZADE: I have 15 -- I have 15, but 5 18 another \$1,689,000. So that's \$89,000 higher than --18 to 10. Okay. And -- and you actually mentioned a 19 than the one he --19 specific \$300,000, something like that, price of these 20 And that is just in general, well, why did 20 houses. Do you have any idea about how it would affect 21 they sell for higher? And you can say, well, they're 21 if adding four more kids to a daycare, it is existence 22 not on busy streets. So it's the kind of thing that we 22 over there? 23 do if we make a correlation. Okay? These homes sold, 23 MR. BENTSON: It -- I -- I mean, honestly, I'm 24 but why did they sell for more? Well, they're not --24 surprised that it's allowed now. You're up to eight --25 they don't have that adverse site influence. That's the 25 eight children now, but I know that it is. To add 178 180 1 kind of thing we -additional would -- could only add additional traffic And I did the same thing for the other two. I on the one side. You know, safety hazard concerns that 2 3 mean, it's very similar. You can -- you can look at the have been brought up, but also noise from Ms. Murphy's 4 one that he has cited. And yes. It sold, and it may be side of the daycare center. across the street from an elementary school, or on a 5 So between those two, they would add -- it 6 busy street corner or something, but it's sold for would adversely affect value. Now how much value it --7 less. it's -- it would -- it would certainly be more. And I Like, the one on Madison Street sold for

9 basically a million -- million dollars, \$1.7 million. 10 And there's others very similar in Bradmoor that have 11 sold for \$1,350,000; \$1,255,00; \$1,250,000. These are 12 homes on quiet streets.

So did they -- you know, did the -- did the 14 one on Madison take a \$250,000 hit because it was up 15 against an adverse side influence? It -- the

16 correlation is there. And that's kind of the way we 17 look at it, and the way we -- we make comparisons, and 18 make adjustments. It's not -- there's no science. I mean, real 20 estate, I mean, you can say, yeah, it sold for \$100,000 21 more than it listed for. Well, that's just a -- a 22 supply and demand factor. It's not -- it's not a fact 23 that people weren't aware that it was located on a busy 24 street, or adjacent to a playground, or an elementary 25 school, or a daycare center. They -- they -- the

-- I would think if the gentleman that was the 9 realtor, if he was to list the house, I would think he 10 would have to disclose that this is backing up to a 11 commercial operation. And it -- that in itself would 12 turn people away. 13 I mean, you -- you upload disclosures when 14 you're listing a home. If you put that in the

16 I mean, it is Bethesda. It's not -- and Bethesda is --17 is a special area. And it's be--- you know, it's 18 because of the location that people buy in there, and 19 the prices have gone up. 20 I mean, you've probably -- your own home has 21 probably significantly gone up since you've purchased 22 it. But you've kind of thrown a little monkey wrench in 23 opening the business, and then all of a sudden, your 24 neighbor's homes aren't worth as much as they could be. 25 And I'm not sure you're even aware of that,

15 disclosures, you're going to turn a lot of people off.

1 from the fact that you cited some of these comparables,

2 but you didn't look at other comparables that sold for

3 much higher. So I mean, I understand it sounds like

4 it's -- it's been a great business. Even Mr. Fried said

he -- he took his own child there.

But it definitely has an adverse impact on

adjacent properties behind you, next to you, on either

side, and down the street just because of the traffic.

So that's just my professional opinion, and I've done

10 this for a long time. I would -- if we were -- if

11 someone was taking out a mortgage on this house, I

12 would have to address this whole issue.

13 MR. AMINIZADE: Yeah. Thank you so much. And

14 one more question. Mr. Fried mentioned about all

15 activities are happening in the Bradley Hills Park, and

16 Bradley Hill Elementary School. If 600, something like

17 that, kids and about the -- all people from the

18 neighborhood who are enjoying from the park, and from

19 the playground in the park.

And for the -- another, actually, daycare

21 right now with 70 kids in the school, it's -- are

22 actually in Bradley Hills and in the school. Also we

23 have the Suburban Hospital very near to our houses. And

24 also, we have the NIH, which is actually, again, right

25 here. And all of those, actually, things make our

And the -- the real estate market's been amazing. But I've been through a few cycles too. And

there are times when, if interest rates go a little

higher, economy changes a little bit, you have for sale

signs all throughout your neighborhood. And if you have

an adverse site influence, your home is going to be one

of the last to sell, just -- or the lowest to sell.

8 It's just -- but it's not really a percentage

type thing that I can -- I can tell you how much four

10 more kids are going to add. It just -- that's not even

11 doable. It's just, is it a negative? Yes. How much is

12 it a negative? It's -- it's hard -- you know, it's hard

13 to quantify.

But it's something that I would -- certainly

15 like I said, I would have to address if -- if someone

16 adjacent to you was getting a mortgage, getting a loan.

17 I do appraisals for banks and mortgage companies all

18 the time, that's what I do predominantly. And it's --

19 it's hard.

20 Because of the increased, you think you're

21 living in a -- or moving to a residential neighborhood,

22 then all of a sudden, these people don't live here.

23 They're just coming and going. So --

24 MR. AMINIZADE: And thank you so much, I don't

25 have any further questions.

1 neighborhoods very crowded, as all of the witness

mentioned, about the -- all activities are happening

here.

How, actually, do you -- how much do you think adding four kids to 700 kids over there, and a lot of

6 people attending NIH, and many people attending in the

park, actually, how -- percentage is that actually

affect the neighborhood, is four more kids?

MR. BENTSON: Well, I think you're -- you're

10 stating the obvious. There is a lot going on in the

11 neighborhood with so much activity already, and you

12 want to double your capacity. So it -- you can't break

13 out a percentage and say, four more kids is going to

14 take off 2 percent of her value regarding Ms. Murphy or

15 your other neighbors. It -- it's not that easy.

But to just say that, hey, we're going to

17 continue to grow this business that should or should

18 not be there already. And it's -- honestly, it's not

19 necessarily, I don't think, value-wise fair to your

20 neighbors. It's -- it's just affecting them.

And there's been testimony, I've seen or heard

22 that. But I don't need to see and hear all that. I knew

23 all this before because I do these kind of cases all

24 the time. And -- and sometimes it's difficult when you

25 have an adverse site influence.

MR. BENTSON: Sure. 1

> MS. LEWINTERS: Mr. Kahn, do you have a 2

question?

4

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MR. KAHN: Yes. Thank you, Jim, for your

question -- for your testimony. You know, given this --

MR. BENTSON: Sure.

MR. KAHN: -- focus on how much incremental

affect, uh, four kids would -- would have, I want to

ask you, you know, two questions.

10 The first, if my understanding is correct,

11 what you have said, is the existence of an eight-kid

12 daycare, which is allowed under R60 zoning standards,

13 is already having an impact on the property values of

14 adjacent homes; is that correct?

15 MR. BENTSON: Sure. Yes, it is.

MR. KAHN: Okay. My next question is, you

17 know, given the question about incremental affect from

18 four more kids. If I were a potential buyer and I were

19 to come to you and say, okay, I understand the adjacent

20 daycare which is allowed under R60 would have --

21 already has an impact on the values.

If I were to ask you, but now I understand

23 that the property in -- also has a zoning exception

24 approved -- the adjacent property also has a zoning

25 exception approved, would that -- you know, what would

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187 1 be the increment effect of that? So, just the fact that MS. ROSENFELD: I don't see him. 2 the adjacent property has an approved zoning exception MS. LEWINTERS: Uh-oh. Okay. Ms. Rosenfeld do 3 would that have an effect on the values of adjacent you have his cell phone, maybe you could call him -properties? 4 MS. ROSENFELD: Yes. MR. BENTSON: It -- it -- honestly, it -- it 5 MS. LEWINTERS: -- I'm assuming he's trying to 6 starts to get, okay, how far along are they in the get back in but just to -process. Did they get approved? We would not get in MS. ROSENFELD: [inaudible] back. Let me see 8 that -- that in depth with finding out other than just 8 what I can do. 9 the fact that this is an increase daycare facility that 9 MS. LEWINTERS: Okay. 10 has an adverse impact. It -- it's kind of for me, it's 10 Mr. Kahn, if your -- if your question is done, 11 -- it's cut and dry. 11 if you could just take down your hand, I'd appreciate Difficult sometimes to pull -- pull that value 12 it. Oh, thank you. 13 out of the market but I -- you know, I -- it didn't 13 MR. KAHN: Okay. That's done. Yeah. 14 take me long to do that with the three sales that he --14 MS. ROSENFELD: Ms. LeWinters, we're -- we're 15 that -- that he cited, especially the one -- glaring 15 having a hard time reaching him by phone at the moment. 16 one was in Alta Vista Terrace on Ewing that really 16 He might be trying to get back on. 17 jumped out at me because those are all apples to apples 17 MS. LEWINTERS: Yeah. 18 comparables that really took the -- the one that he 18 MS. ROSENFELD: I -- I would not object if you 19 cited looks like it really took a hit because of its 19 wanted to move forward with other witnesses and then we 20 adverse site influence. 20 can bring him back for any final questions. I do have 21 But to your question, it -- it -- that starts 21 some very limited re-direct but I -- I don't see any 22 to get down into a little bit deeper into the weeds 22 reason to hold the hearing up while he --23 than -- than we get. We -- we don't really -- you can't 23 MS. LEWINTERS: Okay. 24 pull that kind of number out. And if it's been approved 24 MS. ROSENFELD: -- tries to reach us. 25 or if it's not been approved. 25 MS. LEWINTERS: That sounds fine. Mr. Spiegel, 186 188 MR. KAHN: Okay. That's it, no further 1 I see your hand is up. questions. MR. SPIEGEL: Yeah, I just -- it's just a MR. BENTSON: Sure. timing question. Again, I've been on this hearing for MS. LEWINTERS: Are there any other crossmost of the hearing and I'm wondering if we're up to examination questions? the part now with witnesses who are not affiliated, if Ms. Rosenfeld, can I ask him one clarifying I could have my five minutes or 10 minutes and if question if you -- before you have any redirect? that's possible. 8 MS. ROSENFELD: Yes. And -- and I realize that probably Mr. Mehdi MS. LEWINTERS: Mr. Bentson, I thought I heard 9 may have some witnesses too, but if it's possible, I'd 10 like to talk and get on with the rest of my day. 10 you say that once it -- if the conditional use is 11 approved, the disclosure would have to be different MS. LEWINTERS: Yes. No, you're -- you're 12 because it's a different level of operation. Did I 12 correct, sir, that if Ms. Rosenfeld has concluded her 13 understand that correctly? 13 case, which is my understanding. You know, assuming, we 14 get Mr. Bentson back on to finish up. But the next part MR. BENTSON: I -- I only surmised that a 15 realtor listing the home would have to disclose the 15 would be to have any other person in opposition present 16 fact that it's adjacent to a -- a daycare center. I 16 their case. Mr. Mehdi will have a chance at the end for 17 don't know --17 rebuttal if he wants but that comes after. So --18 MS. LEWINTERS: Okay. 18 MR. SPIEGEL: Yeah, yeah. MR. BENTSON: -- if John would be -- if he 19 MS. LEWINTERS: -- since you've been so 19 20 assertive, sir, and I mean that in no -- no judgement, 20 would have to disclose also that it's going to become a 21 larger daycare center if -- if Ms. Murphy was to put 21 if you'd like to proceed with your testimony, we can do 22 that and if you can raise your right hand. 22 her home on the market. But --SWEARING IN OF WITNESS MR. SPIEGEL MS. LEWINTERS: Wouldn't -- I guess would that 23

24

MR. SPIEGEL: Yes.

MS. LEWINTERS: Do you solemnly swear under

24 disclosure be different whether it was 8 or 12? Uh-oh.

25 Is he still here?

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penalties of perjury that the statements you are about

- 2 to make are the truth, the whole truth, and nothing but
- 3 the truth?
- 4 MR. SPIEGEL: Yes, they are. They are.
- 5 MS. LEWINTERS: Okay.
- 6 MR. SPIEGEL: Thank you very much.
- 7 MS. LEWINTERS: You may go ahead.
- 8 MR. SPIEGEL: I appreciate your indulgence. I
- 9 appreciate your indulgence Ms. Rosenthal -- Ms.
- 10 Rosenfeld. If your witness comes back on and you want
- 11 to interrupt, I guess, you know, raise your hand. Okay?
- 12 MS. ROSENFELD: I -- I -- I have no objection
- 13 to you finishing your testimony --
- 14 MR. SPIEGEL: Okay.
- 15 MS. ROSENFELD: -- [inaudible].
- MR. SPIEGEL: I -- I'll make the lawyer's
- 17 statement; I'll try to be brief and you'll probably all
- 18 hate me after business is over but I'll start. I'm --
- 19 I'm going to give a bit of a historic perspective.
- I am a -- an -- an attorney. I'm a retired
- 21 attorney. I work with the New York State Attorney
- 22 General's office and with a variety of federal agencies
- 23 and most of my career was spent in trial litigation in
- 24 state and federal courts, mostly in federal courts.
- We, my wife and I, have lived in this
- 190
- 1 neighborhood for about, you know, this is a big gulp,
- 2 for about 46 years. We've raised three children in this
- 3 neighborhood, and we now have a number of grandchildren
- 4 who come to visit us.
- 5 The attraction of this neighborhood, and
- 6 really what kept us here through our kids' entire
- 7 growing up process and they're all now accomplished
- 8 professionals, is the fact that it has a neighborhood
- 9 character.
- 10 It's got the small size of the houses is
- 11 actually a nice plus. It -- and it's not -- it's not a
- 12 neighborhood of mixed uses, it's a neighborhood of --
- 13 really of just very nice peaceful neighbors that aren't
- 14 running home businesses. And I'm -- I'm kind of
- 15 hesitating to call a home -- you know, a home care set
- 16 up a home business but in terms of its impact here, I
- 17 think that's exactly what it is.
- 18 At -- during the course of these 46 years, I
- 19 have never -- me and -- my wife nor I have ever
- 20 witnessed anybody open a -- a daycare center. And this
- 21 particular operation that Mr. Mehdi is -- and his wife
- 22 are operating really fall below the radar screen. He
- 23 moved in, as I understand his testimony, in 2018. He
- 24 started it in early 2019.
- The first time it really hit my radar screen,

- 1 and I -- I should say, by the way, where -- where I
- 2 live, I'm only -- I'm on two houses away and actually
- 3 maybe to position my testimony, Ms. Rosenfeld if you
- 4 are still there, I appreciate it if you could pull up
- 5 Exhibit 18, Figure 1 so I can show where my house is
- 6 and that might help -- be a little bit helpful. 18, I
- 7 think that's the one I want. 18 and then there's a
- 8 figure in there that has the -- yeah, the -- the
- aerial.
- 10 So right near that red square, that big red
- 11 square where the -- the group daycare center is going,
- 12 we are two houses over right at the -- right next to
- 13 Fiasa [ph] Fortuna's house. She's the next-door
- 14 neighbor and then we're the next house over. So, we
- 15 have a view of Folkstone and a view obviously of
- 16 Hempstead Avenue.
- 17 And --
- 18 MS. LEWINTERS: Mr. Spiegel, if I can
- 19 interrupt you. If you can see my cursor, is that your
- 20 house?
- 21 MR. SPIEGEL: That is exactly right. That's
- 22 correct. Thank you. Thank you. I appreciate that.
- 23 Please feel free to interrupt.
- So obviously, you know, we do feel an economic
- 25 impact from this. But I don't want to really start

there. I'd like to start with neighborhood character,

- with safety and, you know, then maybe back into value.
- The first inkling that we had of this and
- 4 obviously -- and -- and first of all as a retired
- 5 attorney, I -- I'm not -- I'm -- I'm adverse to things
- 6 like golf. I still have a professional [inaudible] I do
- 7 and including an independent professional writing
- 8 career. I've published a number of articles and, you
- 9 know, and I'm also learning languages, so I'm around
- 10 the house. The bottom line is I'm around the house
- 11 enough that I can see the impact.
- 2 There is an obvious impact in the morning.
- 13 Parking is more crowded and that's a very busy time in
- 14 the -- in -- on the street. What happens is because, as
- 15 Mr. Fried testified, they can pushed forward from the
- 16 houses in back of us, they're further away. As I push
- 17 forward, obviously it has an impact on the houses that
- 18 are closer to the drop-off point. So there's that.
- And there's also the safety issue. There's no
- 20 getting away from the fact this is a neighborhood, it's
- 21 gotten busier and busier and busier all the 46 years 22 we've been here. It has not changed its character. The
- 23 houses are very, very similar but the schools got more
- 24 busy and something like this adds to the issues.
- 25 It immediately adds to it from my perspective,

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1 and it adds to it in a real way because the turnoff
2 that all the cars have to make is right past this house
3 to go into the -- to the elementary school. So there's
4 no ducking that.

Now, I guess one other thing before I -- I get to again my immediate concerns, I was a little bit appalled by the notice process that occurred here. It seemed to me that the applicants either because they're not attorneys or because maybe they wanted to fall below the radar screen, really kept the notice of this type round mid-July

12 around mid-July.
13 And that's unfortunate. It's unfortunate
14 because this is a hearing right now that is
15 circumscribed by certain substantive rules about what
16 it can consider. And there are real issues. If I
17 compare the applicant's house with our house, and I
18 think it's a pretty near carbon copy, I have to say, I
19 am shocked that they're even at 8 right now.
20 But they go to 12, my gosh, I mean, I know the
21 area where our kids play downstairs. I know when we had

22 birthday parties in our house, and we certainly had 23 enough of those with three children growing up, when

24 you have 12 kids in the house, this size that's

25 insanity. You're going to have a -- a huge amount of

1 1980s and 1990s, it's a small neighborhood with small

2 houses. I had no reasonable expectation of that.

And I -- I was kind of shocked to learn that up to eight kid- -- eight children are in the house now and to go to 12, I don't know what -- what Mr. Mehdi and his wife are thinking.

So that's really, I guess a historic
perspective of this. And I guess one other thing that
really stuck out to me when I -- when I asked them, Mr.
Mehdi, on cross, who are the employees and where his
children are now, he volunteered that he and his wife
are really the key employees.

Right now, he has a part-time employee as I understand during his testimony and he'll have to go

15 out looking for a new employee if that one quits.So it's himself and his wife who, allegedly,

17 are without -- you know, they don't have any other 18 employ- -- he has part-time employment, nothing on the 19 weekday so basically he's saying I work only on the

20 weekend. This is essentially my main business.

And he is now saying that he and his wife, who 22 have a teenage son who's at Pyle Elementary [sic]

23 School and a young girl who is about to go to Bradley

24 Hills Elementary School, he said in spite of all that,

25 in spite of the fact this is going to be during the

noise.

Now, unfortunately, that kind of -- and there's a very tiny bathroom off of that area and the backyards are very small. This is -- this -- this to me, even eight, I was kind of shocked to hear it was eight but let me back up again to -- to the period after I learned about this. This was during the time of COVID.

9 My first reaction was, well, look, it's COVID, 10 parents need daycare. So maybe there's three or four 11 kids there.

But then, you know, began to perceive as more 13 and more commotion, activity and now I understand 14 really that the applicant was expanding to up to eight, 15 which is really taking it up to a ver- -- a pretty, 16 pretty high level in terms of cars, dropping off, 17 parking spaces.

18 Yes, it has an impact. It has impact on 19 traffic on the street because when people drop off and 20 people come and go, that has an obvious impact.

And beyond that, it has an impact on me and on 22 my wife and I think all of my neighbors. I didn't move 23 into this neighborhood with any expectation that

24 somebody was going to open a daycare center. And that's 25 not something that just goes back to the 1970s and

1 hours that my center's operating, my kids are going to2 be going off to school.

Obviously, his wife is going to have to drop
his daughter -- he's going to have to drop his daughter
off at Bradley Hills and have to pick them up, bring
them back, so they're going to be occupying -- they're
going to be occupied with their children. What are they
thinking?

What -- unfortunately, I understand that for 10 the hearing examiner this is not within your purview 11 but again, I guess, you know, I'm thinking it through 12 the eyes of my children who now have childcare issues 13 and should only raise these kind of things. My -- my, 14 it's really just something.

But again, on the safety and the neighborhood

But again, on the safety and the neighborhood 16 character issue and on the value issue. Again, we moved 17 into this neighborhood with expectations, and they were 18 basically met for 43, 44 years. And now all of a 19 sudden, we have a neighbor who's saying, hey, I got an 20 idea, let's take my childcare, which is already 21 bursting at the seams, and let's take up another 50 22 percent to 12.

23 So, I guess in listening to the real estate 24 analysis, I don't think it's incremental. I think it's 25 the whole over long notice that this can operate in

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1 some way without changing and affecting value of 2 houses, neighborhood -- neighborhood character and 3 safety.

That's it. That's my 20 cents. Anybody -- I -- I guess this is your job to ask if anybody wants to cross-examine me. So, I'm sorry.

MS. LEWINTERS: You're -- you're fine, sir. I just -- sorry, I was slow getting off of mute button.

Does anybody have any -- well, let me ask you 10 first, Mr. Mehdi, if you had any cross-examination for 11 Mr. Spiegel.

#### 12 CROSS EXAMINATION

13 MR. AMINIZADE: I -- sure. I want to actually 14 thank you to raise concern and actually I want to -- I 15 have one question. And this is actually the -- do you 16 know the -- the kids, the people when -- who go to the 17 work and they need actually to put their kids to a 18 daycare

18 daycare.
19 Do you think in our neighborhood you shouldn't
20 have the daycare while actually, the -- as you know,
21 the Montgomery County has -- doesn't have enough space
22 for daycare. Do you think this neighborhood, or this

23 street, actually should -- no one would actually take

24 care of the kids? Or did I understand you correctly?

MR. SPIEGEL: Well, let me rephrase your

1 conditional use and it's not about passing any

2 judgement on whether daycare is good or bad. So, you

3 know, I -- I appreciate that Mr. Spiegel spoke to that

4 a bit, and I appreciate that you want to clarify some

5 things, Mr. Mehdi, but I just want people to be

6 cognizant about it as we proceed.

7 MR. SPIEGEL: Well, ma'am, can I just -- just 8 really -- and I -- I -- I realize when I said that that

9 I was going a bit afield and the only reason that I

10 brought it up was because of the notice issue in this

11 matter. I think that people who could have addressed

12 this issue, like me, lost their opportunity and now

13 they're being forced into a box which can -- you know,

14 which is you- -- your authority in this matter. So

15 that's -- that's why I brought it up. That's the only 16 reason I brought it up.

MS. LEWINTERS: No, no, I appreciate that and 18 I -- I don't want to spend too much time going off on 19 that tangent. But it is my understanding that, and from

20 a process perspective, that the conditional use comes

21 before the permitting.

22 So, I -- I don't know that you've lost that 23 opportunity, but I don't want to go too far afield. And 24 I -- I appreciate there were some notice issues with

25 this particular case.

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1 question. If you don't agree with it, please stop me. I

2 think you're asking me what my opinion is about daycare

3 in this neighborhood and I'll be happy to answer that.

4 If you're asking me something else, please tell me. But

5 is -- is that the question you're asking me?

Anyway, the answer to that question is, that I think daycare is important, it's necessary, and I think

8 it has to be consistent with the character of the

9 neighborhood that it's in. And the capacity of the

10 houses that it's offered at. And that's just -- it's

11 just a health and safety issue.

Does that answer your question or is there

13 something else you had in mind? And by the way, I don't

14 think we've met but that's -- obviously, I don't think

15 we've met yet.

25

MS. LEWINTERS: Well, I just want to -- I

17 don't want to get to far afield. I mean I do want to be

18 liberal in terms of letting people ask questions, but

19 to the extent that we can stick to the char---

20 character for the conditional use. This is not a

21 permitting application. There's a whole separate

22 process by which, you know, a different agency all

23 together determines if the house and site is

24 appropriate for a daycare.

This is really about the zoning and the

Anyway, all of that said, Mr. Mehdi, do you

2 have more questions for Mr. Spiegel?

3 MR. AMINIZADE: No, I don't. But thank you.

4 MS. LEWINTERS: Does anybody else have any

5 cross-examination questions for Mr. Spiegel? Okay.

6 Given all of that, Mr. Spiegel, thank you very much and

7 I appreciate your patience. Yes?

8 MR. SPIEGEL: I'm excused.

9 MS. LEWINTERS: If you want to be excused. If

10 you want to hang around, you are certainly welcome,

11 however you want to handle that.

12 MR. SPIEGEL: Thank you, thank you.

MS. LEWINTERS: So I -- you know, honestly,

14 there's a lot of people and so if you could -- Mr.

15 Spiegel, if you could take your hand down, I would

16 appreciate that. Thank you.

17 And then if people want to put their hand up

18 if they'd like to testify in opposition and I'll try

19 and go in order on my screen.

20 MS. RELLAN: May I ask a quick question? I --

21 I don't have -- I'm not logged in by a team, so I can't

22 put my hand up.

23 MS. LEWINTERS: Oh.

MS. RELLAN: And sorry, I -- I apologize for

25 the interruption.

# Transcript of Hearing August 11, 2022

MS. LEWINTERS: That's fine. 1 two kids there. They just -- my daughter just finished 2 5th grade there and, you know, I won't reiterate what MS. RELLAN: And I know that it's probably 3 under a time crunch too. I do need to pick my kids up everyone has said. from camp within 30, 40 minutes, so I don't want to 4 What I will add is, as of -- as a daycare take anyone else's time, but my hand is technically up owner in Virginia, I can tell you that children outside in the playground adds a lot of noise. And we've been if you can oblige. MS. LEWINTERS: Okay. And -- and who is this, in a commercial space. And speaking from a homeowner, I I'm sorry, number 79 is all I can see. find this quite alarming because if this was in my MS. RELLAN: Yeah. My name is Parue Rellan and backyard or my front yard or in the neighborhood, I 10 I'm in --10 would be very upset with the County. MS. LEWINTERS: Great. When you purchase a house it's with certain 11 11 12 MS. RELLAN: -- opposition. Yes. 12 expectation of a residential environment, unless there 13 MS. LEWINTERS: Okay. So, I see Parue and I 13 are disclosures otherwise. And I -- I think it's unfair 14 see Maggie Bree. Those are the two that I see. So, Ms. 14 from an urban planning perspective to allow this 15 Bree, if you're okay I'll let Parue go first, if that's 15 because every neighbor, not just Ms. Murphy, have the 16 -- the right to their quiet time and peace throughout 16 okay. 17 MS. BREE: Absolutely. 17 the day. 18 MS. LEWINTERS: Okay. 18 I'm not saying that children have a decibel 19 MS. BREE: Thank you so much. 19 above 50 or 65 or whatever the [inaudible] ordinance, 20 MS. LEWINTERS: Parue, can you spell your last 20 you know, is -- loud ordinance is about, but it does 21 name for me? 21 change the dynamics of a residential area. MS. RELLAN: Rellan, that's R-e-l-l-a-n, n 2.2. And I don't think that is quantifiable in the 23 like Nancy. 23 way that a traffic study would be or in the way that 24 MS. LEWINTERS: Thank you. Can you put your 24 others have shown. It's undoubted that there's many, 25 hand up? I know we can't --25 many kids in that area with the school and traffic is a 202 204 MS. RELLAN: Yeah. problem, but from a qualitative perspective, it -- it MS. LEWINTERS: -- see you, but I'm going to changes the quality of your life. And your home is where you should feel most trust that you're doing that. MS. RELLAN: Right. 4 comfortable. And I think it of- -- offers a lot of 5 SWEARING OF WITNESS PARUE RELLAN anxiety and [inaudible] as a -- as a Montgomery County MS. LEWINTERS: Do you solemnly swear under resident. penalties of perjury that the statements you are about 7 So I'm not just speaking as someone in the to make are the truth, the whole truth, and nothing but industry who's there -- for 20 years has been the truth? intimately in the daycare business. And I'm saying that 10 10 with that regard. And so I hope that that has some MS. RELLAN: Yes. MS. LEWINTERS: And, Ms. Rellan, you haven't 11 weight to it. But also, as a -- as a resident of a 12 said anything, so this is not any kind of judgement, 12 community that I would like to believe the County is 13 but as we proceed through the rest of the opposition 13 going to uphold my rights as well. 14 testimony, I just ask people to be mindful. You know, 14 And really, that's all that I wanted to say. 15 we've heard a lot about certain things. We don't need 15 And I -- I hope it does not fall upon deaf ears. 16 to be cumulative. MS. LEWINTERS: Thank you. Mr. Mehdi, do you 17 If you could focus on new things that you have 17 have any cross-examination? 18 to say, that would be great, or if you just want to say MR. AMINIZADE: No, I don't. 18 19 I agree with these other concerns, we don't have to --MS. LEWINTERS: Okay. Thank you. Does anybody 20 you don't have to reiterate everything. 20 else have any cross-examination for Ms. Rellan? Thank 21 MS. RELLAN: Understood. 21 you, Ms. Rellan. 22 22 MS. LEWINTERS: Thank you. Ms. Bree, I see your hand up next. MS. RELLAN: I agree with all of the other 23 MS. BREE: Hi everyone, good afternoon. My 24 concerns. The only thing that I will add to this is 24 name is Maggie Bree. I am the co-president of the 25 that I think that -- and I'm a Bradley Hills parent, 25 Huntington Terrace Citizen's Association. However, I'm

205	207
1 actually here today to speak to all of you as a mother	1 8801 Hempstead.
2 of a preschool age child and a resident of Bradley	The property's backyard actually connects to
3 Hills community for over 33	3 one of our geographic boundaries, which is Garfield
4 MS. LEWINTERS: Okay. And Ms. Bree Ms. Bree	4 Street, which is where Ms. Murphy's house is located.
5	5 But, of course, we're also connected to the property
6 MS. BREE: What?	6 because of its proximity to Bradley Hills.
7 MS. LEWINTERS: if I could stop you for a	7 I live on the corner of Grant Street and
8 second	8 Greentree. My house is actually parallel to 8801
9 MS. BREE: Well, I'll continue	9 Hempstead Avenue and Ms. Murphy's house. I'm just two
10 MS. LEWINTERS: one, you're	10 blocks away and I'm similarly situated off of Greentree
11 MS. BREE: Okay. My	11 Road.
12 MS. LEWINTERS: sorry.	Monthly on my street I witness accidents. I've
13 MS. BREE: I live on a corner	13 actually witnessed in the past three years a number of
14 MS. LEWINTERS: Wait	14 bicyclists and pedestrians hit by cars on my corner.
	15 And I want it to be noted that my carner [sic] my
	16 corner sees far less traffic than the block of
17 Sorry. I need to swear you in. 18 MS. BREE: Oh, sorry.	17 Hempstead Avenue that this childcare center is 18 currently on.
· · · · · ·	•
MS. LEWINTERS: [inaudible]	My son and I actually attend a play group at
MS. BREE: We're all tired at this point.	20 Bradley Hills Elementary School every morning. It's an
21 SWEARING IN OF WITNESS MAGGIE BREE	21 informal play group on one of the community
MS. LEWINTERS: No, you're fine. You're fine.	22 playgrounds. We either walk or drive down Greentree
23 If you could raise your right hand. Do you solemnly	23 Road and we take a left on Hempstead to get to Bradley
24 swear under penalties of perjury that the statements	24 Hills passing 8801 Hempstead every day.
25 you're about to make are the truth, the whole truth and	25 There is no sidewalk on the Bradley Hills side
206	208 1 of Greentree Road. So foot traffic on Greentree Road
1 nothing but the truth?	
2 MS. BREE: I do.	2 must use the pedestrian crosswalk to get to Hempstead
MS. LEWINTERS: And do you swear that about	3 Avenue. This pedestrian crosswalk actually directs the
4 the statements that you made before we started so you	4 traffic across the street right in front of the 8801
5 don't have to repeat them?	5 Hempstead property.
6 MS. BREE: Yes, absolutely, for the sake of	6 For months last winter, I was forced to move
7 our time, yes.	7 into the street with my son as I passed the unkept
8 MS. LEWINTERS: And Ms. Bree, I just want to	8 shrubbery on the side of the property. It blocked my
9 - is Maggie a nickname or is that your full name?	9 safe patch passage at least two or three times a
10 MS. BREE: It's my middle name. My first is	10 week. I'm also fearful of taking my son's stroller on
11 Moira. M-o-i-r-a. 12 MS. LEWINTERS: Uh-huh. And then last name?	11 Hempstead Avenue. Often the driveway at 8801 Hempstead
	12 is blocked by parked cars and I'm forced to move into
MS. BREE: And my middle name is Maggie Mae,	13 the street to go to the park with my son.
14 but so I go by Maggie. Sorry.	14 It is absolutely terrifying as a mother to
15 MS. LEWINTERS: Okay, thank you. So Ms. Bree,	15 weave in and out of parked cars on Em Hempstead
16 if you want to continue with your presentation, I'm	16 Avenue with a young child in a stroller and whatever
17 sorry.	17 else we're carrying for the day and to simultaneously
MS. BREE: Thank you. I apologize.	18 be aware of the traffic moving in both directions.
19 MS. LEWINTERS: Well, actually if you could	I want everybody to understand that I feel
20 repeat the name of the association that you are with as	20 that this zoning exception is not highlighting the
21 well.	21 traffic commuter the traffic and commuter safety
MS. BREE: Yes. I'm co-president of the	22 issues that already exist on the corner. And now we're
23 Huntington Terrace Citizen's Association. So my	23 talking about opening it up to more traffic, an
24 neighborhood, Huntington Terrace, is physically	24 immediate increase in noise, congestion and commuter
25 connected to the in-home daycare at 8008 excuse me,	25 safety concerns.

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The Bradley Hills community is mourning the 1 late. Could we fit him in?	211
	-4.41
2 death of a student was who was struck by a school 2 MS. LEWINTERS: So, he's no	ot there right now
3 bus in 2019. We are not immune to these kind of 4 traced ice. And it should not take more traced ice to	alle thanda as I
4 tragedies. And it should not take more tragedies to 4 MS. BREE: He went out to we	ark the dogs, i
5 highlight such a critical hazard. 5 apologize.	. т т . 1.1
6 I share my neighbor, Mr. Spiegel's sentiment 6 MS. LEWINTERS: Well, let's	
7 about this neighborhood. I have not been here as long 7 hope so. But let's just if he come	s back in the next
8 as him but I've got a good 38 years here. What makes 8 few minutes, we can [inaudible]	
9 this neighborhood a home for me is the strong and 9 MS. BREE: Okay. I will I'll	raise my hand
10 unique community passion that all of my neighbors have 10 when he comes back	1
11 to preserve the quality of our lives here.  11 MS. LEWINTERS: Okay. Tha	-
Montgomery County also clearly states in their  MS. BREE: to let you know	v. I don't want to
13 licensing for in-home daycares how important it is for 13 put things on hold.	
14 in-home daycare programs to have a safe place to drop  14 MS. LEWINTERS: Okay.	•
15 off and pick up children. Hempstead Avenue is not that  15 MS. ROSENFELD: And an	
16 place. We have heard that numerous times today.  16 MS. LEWINTERS: If there's a second sec	
17 Bradley Hills' car riders dropping off kids at 17 MS. ROSENFELD: Ms. Le	Winters.
18 school must be dropped off on the loop at Folkstone  18 MS. LEWINTERS: Yes.	<b></b>
19 Road, essentially guiding traffic right in front of 19 MS. ROSENFELD: Mr Mr	r. Bentson is back. We
20 this property. Bradley Hills' neighbors and parents 20 can complete his	
21 have expressed concerns about student safety crossing 21 MS. LEWINTERS: Oh. Thank	you. I had already
22 Hempstead. 22 forgotten.	
23 And this is a direct quote from a newsletter 23 MS. ROSENFELD: [inaudible	-
24 sent out to Bradley Hills Elementary School students. 24 MS. LEWINTERS: My apolo	_
25 "Near misses of hitting students who run out in the 25 MS. ROSENFELD: And I will	l be brief. There's
210	212
1 middle of the street to meet parked vehicles, have been 1 just	
2 witnessed numerous times because of people parked on 2 MS. LEWINTERS: Yeah	
3 Hempstead Avenue." 3 MR. BENTSON: I'm back.	
4 If approved, this zoning exception will set a 4 MS. LEWINTERS: I I had	
5 dangerous precedence in our community. I believe it 5 MR. BENTSON: Sorry about that	
6 downplays the seriousness that existing traffic safety 6 CROSS EXAMINATION CONTIN	
7 concerns. It will discount and eliminate the many 7 MS. LEWINTERS: actually. No	
8 efforts of my neighbors, my community partners and 8 When you dropped off I had been in a mi	
9 County officials to keep our neighborhood safe and to 9 question and I don't know if you answere	
10 keep our children out of harm's way. 10 didn't hear the answer. I I just wanted	a
Thank you so much everyone. 11 clarification question.	
MS. LEWINTERS: Okay. Mr. Mehdi, do you have 12 My wait, you were saying that a	
13 any cross-examination for Ms. Bree?	
MR. AMINIZADE: No, I don't. I just want to	
15 apologize for her and her kids about actually that 15 question was, would that disclosure be in	any way
Take 12 11 1 151 191 5 17 11 01 01 1:- 1:- 1:- 1:00 101 1	
16 sometimes blocked [inaudible] and I regardless of the 16 substantively different if the daycare was	
17 result of this this actually hearing, we will make 17 children versus a daycare for nine to 12 of	children?
17 result of this this actually hearing, we will make 18 sure to actually this kind of things won't happen in 17 children versus a daycare for nine to 12 of this sure to actually this kind of things won't happen in 18 MR. BENTSON: I'm not clear on	children? that, but I
17 result of this this actually hearing, we will make 18 sure to actually this kind of things won't happen in 19 the future.  17 children versus a daycare for nine to 12 of the future in the futu	children? that, but I closed from the
17 result of this this actually hearing, we will make 18 sure to actually this kind of things won't happen in 17 children versus a daycare for nine to 12 of this sure to actually this kind of things won't happen in 18 MR. BENTSON: I'm not clear on	children? that, but I closed from the
17 result of this this actually hearing, we will make 18 sure to actually this kind of things won't happen in 19 the future. 18 MR. BENTSON: I'm not clear on 19 know in my mind it would have to be disc 20 MS. LEWINTERS: Are there any other cross- 21 examination questions for Ms. Bree? Is there anybody  17 children versus a daycare for nine to 12 or 18 MR. BENTSON: I'm not clear on 29 get-go as far as backing to the daycare or 20 get-go as far as backing to the daycare or 21 Whether or not a I'm not sure what the	children? that, but I closed from the tenter itself. ey call I
17 result of this this actually hearing, we will make 18 sure to actually this kind of things won't happen in 19 the future. 20 MS. LEWINTERS: Are there any other cross- 21 examination questions for Ms. Bree? Is there anybody 22 else who would like to testify in opposition? Anybody?  17 children versus a daycare for nine to 12 of the like in the lik	children? that, but I closed from the tenter itself. ey call I daycare
17 result of this this actually hearing, we will make 18 sure to actually this kind of things won't happen in 19 the future. 20 MS. LEWINTERS: Are there any other cross- 21 examination questions for Ms. Bree? Is there anybody 22 else who would like to testify in opposition? Anybody? 23 Okay. Is there anybody who would like to  17 children versus a daycare for nine to 12 of the daycare of the last of the daycare of think there is a a different name for a contract of the last of the las	children? that, but I closed from the tenter itself. ey call I daycare
17 result of this this actually hearing, we will make 18 sure to actually this kind of things won't happen in 19 the future. 20 MS. LEWINTERS: Are there any other cross- 21 examination questions for Ms. Bree? Is there anybody 22 else who would like to testify in opposition? Anybody?  17 children versus a daycare for nine to 12 of the like in the lik	children? that, but I closed from the center itself. ey call I daycare n instead of

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213	215
1 MR. BENTSON: Either	1 MR. BENTSON: Yes.
MS. LEWINTERS: I don't want to	2 MR. AMINIZADE: No, actually, he several times
3 MR. BENTSON: either either one is a	3 mentioned the about how daycare about the daycare
4 negative.	4 center. I wanted actually to make sure there is a
5 MS. LEWINTERS: Ms. Rosenfeld, if you wanted	5 difference, it's been daycare center and home daycare.
6 to ask him your redirect.	6 The the [inaudible] daycare center and the home
7 REDIRECT EXAMINATION	7 daycare center it is difference between home daycare
8 MS. ROSENFELD: Yes. Mr. Bentson, my question	8 and daycare centers.
9 right now is specifically directed to Ms. Bree's	9 There's there is home small home daycare
10 property. In your opinion, would the effect of 12	10 and large home daycare. The right now we're small
11 children as opposed to eight, given her noise concerns,	11 home daycare and we will be large home daycare if
12 in have an adverse impact because of the increase in	12 actually this [inaudible] actually approved.
13 size with respect to value?	MR. BENTSON: Okay. I I apologize. I wasn't
MR. BENTSON: I would think so mainly the	14 familiar with the the language. I knew I knew
15 topography, she is really overlooking that daycare	15 there was differences so it would be a large daycare
16 center, not through any fault, it's just the way the	16 center that would have to be disclosed.
17 house sits up on the hill overlooking it. It's not like	MS. LEWINTERS: Anything else?
18 you can put a privacy fence up to buffer it.	18 MR. AMINIZADE: No. Thank you.
19 It's not, you know, possible and the the	MS. LEWINTERS: Ms. Rosenfeld does that
20 way they have added on, there's an addition on the back	20 conclude your case then with respect to
21 of the daycare center now and now they have added the	21 MS. ROSENFELD: Yes
22 greenhouse, it kind of follows all of that noise	MS. LEWINTERS: Mr. Bentson?
23 directly right at Ms. Murphy's house. So adding more	23 MS. ROSENFELD: thank you.
24 noise would adversely affect the home even more.	MS. LEWINTERS: All right. Ms. Bree, is your
25 MS. ROSENFELD: Okay. Thank you. And I have	25 husband now back? Ms. Bree? Ms. Bree?
214	216
1 one other I one other question. If this	1 All right. Well, while we're waiting for Ms.
a anditional use is approved it can be	- D 1 d 1 d 11111
2 conditional use is approved, it can be conveyed to	2 Bree, is there anyone who also would like to present
2 conditional use is approved, it can be conveyed to 3 future buyers just through administerial	Bree, is there anyone who also would like to present sestimony? Presumably this would be either somebody who
	· · · · · · · · · · · · · · · · · · ·
3 future buyers just through administerial	3 testimony? Presumably this would be either somebody who
<ul> <li>3 future buyers just through administerial</li> <li>4 administrative transfer. Given the fact this could be</li> </ul>	<ul><li>testimony? Presumably this would be either somebody who</li><li>would like to support the applicant or simply just</li></ul>
<ul> <li>future buyers just through administerial</li> <li>administrative transfer. Given the fact this could be</li> <li>conveyed in perpetuity to future buyers, does that</li> </ul>	<ul> <li>testimony? Presumably this would be either somebody who</li> <li>would like to support the applicant or simply just</li> <li>wants to make a statement as an interested party?</li> </ul>
future buyers just through administerial  administrative transfer. Given the fact this could be  conveyed in perpetuity to future buyers, does that  change your opinion or or can you can you explain	<ul> <li>testimony? Presumably this would be either somebody who</li> <li>would like to support the applicant or simply just</li> <li>wants to make a statement as an interested party?</li> <li>MS. BREE: Hi. Actually, my husband, John</li> </ul>
future buyers just through administerial  administrative transfer. Given the fact this could be  conveyed in perpetuity to future buyers, does that  change your opinion or or can you can you explain  if that that characteristic affects value from your	<ul> <li>testimony? Presumably this would be either somebody who</li> <li>would like to support the applicant or simply just</li> <li>wants to make a statement as an interested party?</li> <li>MS. BREE: Hi. Actually, my husband, John</li> <li>Bree, is here if it's okay</li> </ul>
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usual route, which is to take a left on Greentree from

- 2 Grant Street, go down Greentree Road and make a left on
- 3 to Hempstead Ave.
- On this day, a car in front of me on Greentree
- Road, as I made my left, also made a turn on left --
- 6 made a left turn on Hempstead Road -- on Avenue. And as
- 7 I turned the corner on Hempstead, around 12:30 p.m.
- 8 approximately, I had to immediately stop because there
- 9 was a bottleneck in front 8801 --
- 10 MALE: [inaudible] --
- 11 MR. BREE: -- Hempstead.
- MALE: -- sorry about that, a little snafu but
- 13 I guess it all turned out okay. There is hope.
- MR. BREE: Is there someone else talking?
- MS. LEWINTERS: Somebody needs to turn off
- 16 their -- to -- to mute themselves because we can hear
- 17 another -- all right. Hopefully that's gone away.
- 18 MR. BREE: Okay. So --
- 19 MS. LEWINTERS: Go ahead.
- MR. BREE: -- as I was saying, there was a
- 21 bottleneck in front of 8801 Hempstead. The car that was
- 22 in front of me that had made the left turn before I
- 23 did, had stopped right in front across the street from
- 24 8801 Hempstead to talk to someone who had come out of
- 25 the house and approached the car.
- 218
- There was already an SUV parked on the left-
- 2 hand side in front of the property. And so now, there
- 3 was traffic on both sides, both going towards Greentree
- 4 on Hempstead and coming from Greentree down Hempstead. 4
- 5 So this basically rendered the street
- 6 impassible. Cars were blocked from moving, as I said,
- 7 north and south on Hempstead in the middle of the day
- 8 in the doldrums of summer while Bradley Hills is not
- 9 even in session. This kind of scenario will only be
- 10 exaggerated by an increase in daycare drop offs and
- 11 pick-ups and when normal elementary school traffic
- 11 prok upo una vinen nermar erementar y seneer trairi
- 12 resumes.
- MS. LEWINTERS: Is there anything else, Mr.
- 14 Bree?
- MR. BREE: That is all. That's all --
- MS. LEWINTERS: Thank you.
- 17 MR. BREE: -- I have for today.
- 18 MS. LEWINTERS: Thank you. Mr. Mehdi, do you
- 19 have any cross-examination for Mr. Bree?
- MR. AMINIZADE: No. Thank you so much.
- 21 MS. LEWINTERS: Okay. Does anybody else have
- 22 any questions for Mr. Bree? Okay, thank you so much, 23 Mr. Bree.
- MR. BREE: All right. Thank you for your time.
- 25 MS. LEWINTERS: Thank you. So again, I'll open

- 1 it up if anybody had the desire to testify who's not in
- 2 opposition, this would be your opportunity to do so
- 3 now. So if you wanted to do that if you could raise
- 4 your hand. Okay. I am not seeing any hands. Oh, Dan
- 5 Keen. Mr. Keen?
- 6 MR. KEEN: Yes, ma'am.
- 7 MS. LEWINTERS: Did you want to say something?
- 8 MR. KEEN: I do. I just need a couple of
- 9 seconds, please.
- MS. LEWINTERS: Sure, just tell me when you're
- 11 ready.
- MR. KEEN: Whenever you're ready.
- 13 MS. LEWINTERS: Okay. If -- Mr. Keen do you
- 14 have video or no?
- 15 MR. KEEN: No.
- MS. LEWINTERS: Okay. If you could raise your
- 17 right hand.
- 18 MR. KEEN: Yep.
- 19 SWEARING IN OF WITNESS DAN KEEN
- MS. LEWINTERS: Do you solemnly swear under
- 21 penalties of perjury that the statements you are about
- 22 to make are the truth, the whole truth and nothing but
- 23 the truth?
- 24 MR. KEEN: I do.
- MS. LEWINTERS: Okay. You may proceed with
- 1 your statement, sir.
  - MR. KEEN: Thank you very much. I live down
  - 3 the street -- I live in Hempstead Avenue about six --
  - 4 six or seven houses from the house in que--- questions
  - 5 here, two houses down from Mr. Fried, a few houses down
  - 6 from Mr. Spiegel. I've lived here for 24 years. I have
  - 7 been out of that block, I don't know how many thousands
  - 8 of time.
  - 9 So, my point being, I'm very familiar with the
  - 10 street, with this neighborhood. I submitted a written
  - 11 statement that I stand by and I'm not going to repeat
  - 12 everything there. You can look forward it yourself if
  - 13 you haven't already.
  - Let me just say that many of the witnesses who
  - 15 have spoken today seem to think, or imply at least,
  - 16 that those of us who live in this neighborhood are
  - 17 taking into our hands when we walk out the door. I do
  - 18 not, with all due respect, I cannot recognize the
  - 19 neighborhood they are describing, it's not the
  - 20 neighborhood we live in.
  - In my view, much of what I heard today in
  - 22 terms of safety and traffic, again, I say this with all
  - 23 due -- with all respect, due respect, it can only be
  - 24 described has gross hyperbole. I don't believe it. I've
  - 25 lived here for 24 years, it's not the neighborhood that

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13

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I recognize, and I hope you treat it as such. Thank

2

3 MS. LEWINTERS: Thank you, Mr. Keen. Ms.

- Rosenfeld did you have any cross-examination for Mr.
- Keen?
- MS. ROSENFELD: No. Thank you. 6
- MS. LEWINTERS: Anybody else have any
- questions for Mr. Keen? Is there anybody else you'd
- like to make any kind of statement? Okay. Being none,
- 10 Mr. Mehdi, did you want to put in any kind of rebuttal 11 case?
- MR. AMINIZADE: Yes, actually. Just want to
- 13 thank you for your patience all my from --
- 14 MS. LEWINTERS: Okay --
- 15 MR. AMINIZADE: -- and [inaudible] --
- MS. LEWINTERS: -- if you want, that is fine. 16
- 17 I am going to ask everybody's indulgence. I personally,
- 18 need just a couple minute comfort break, so if we can
- 19 resume at 3:10, I would greatly appreciate it and then
- 20 we will resume with you Mr. Mehdi. Is that okay?
- 21 MR. AMINIZADE: Sure.
- 22 MS. LEWINTERS: Thank you very much.
- 23 [Recess taken.]

5

the site.

- 24 REBUTTAL BY MR. AMINIZADE
- 25 MR. AMINIZADE: More thing to add to this

222 actually, I want to thank to all the people who

22 actually support the opposition.

- 1 meeting. First of all, actually, I -- as I said I 2 apologize from those neighbors who actually, the -supported our -- of course all -- all the other people
  - actually, you know, who were opposite -- opposition
- 6 Actually, we had two parents and we realize

4 one of our parents in front of our house and blocked

7 these things. One of them is not here and another one

they actually had discomfort from parking some -- from

- is leaving in two weeks. The parent actually you saw in
- 9 her face, they were actually picture.
- 10 Further that, actually, as I said I will make
- 11 sure actually to not park my car over there. Now we're
- 12 actually on vacation but after that regardless of this
- 13 meeting, it is [inaudible] I will make sure actually to
- 14 have enough parking space for the parent comes to
- 15 naturally drop off or pick up their kids and to -- it
- 16 won't happen that [inaudible] again.
- 17 And actually, for the -- the our employee
- 18 parking, we actually to the board, to the Planning
- 19 Department, if I -- actually are saying the right name
- 20 of them for the Planning -- for the -- before -- for
- 21 the first actually assembly before that I [inaudible]
- 22 two potential actually parking [inaudible].
- One is actually, you see here in Folkstone
- 24 Road but there is another one actually [inaudible]
- 25 because the [inaudible] between Greentree and Sonoma

25 notice to all of those letter, the support. And

24 other people's, actually, point of view as well and

Road. That part of the Hempstead Avenue is not

[inaudible] and it's actually the -- he -- the -- the

parents and kids are coming to the Bradley Hills

Elementary School don't use that -- that actually

actually sit -- or actually, maybe, a parking at the --

supported us and they couldn't -- actually, I didn't

And finally, actually, some of our neighbor

10 have enough time to come here today and I didn't honest

11 ask them to come here but they sent -- I saw this, when

14 even closer than actually Mrs. -- Mrs. Murphy, she has

15 sent you a letter. Another neighbor, 5800 Greentree,

16 they actually have sent you a letter and two other -- I

17 talked to another actually, neighbor, 5704 Greentree,

19 have any opposition towards us. They are very close to

20 our house as well and it's between our house and the

21 Greentree. And also, the neighbor, 5700, they didn't

So I want to make sure you know about the

18 they didn't have any problem for -- to -- they didn't

Our neighbor 8719, which is very close to us,

street because it is out of the zone. So we can

that part of the Hempstead Avenue.

12 they sent letter to you.

- this -- to this, actually proposal.
- 5 I will have to say that because [inaudible]
- something about the safety that they mention even
- though I and my wife actually talked to parents
- previously about blocking the sideway [sic] we actually
- be more careful about that and that's the result of
- 10 those oppositions actually received in this meeting.
- And thank you so much. By the end of the
- 12 meeting I -- since Mr. [inaudible] mentioned and other 13 -- when Mr. Bree as well, I want to say regardless to
- 14 this meeting and I completely respect all of you point
- 15 of view and those meetings shows our responsibility to
- 16 our community and won't have any, actually impact to
- 17 relation between us and my dear neighbors.
- You know, Mr. -- all of the parents actually
- 19 and other neighbors we have a good relationship with
- 20 them, and I want to thank -- I want actually to thank
- 21 to all of them. Thank you so much.
- MS. LEWINTERS: Is there any cross-examination
- 23 of Mr. Mehdi's statement.
- 24 MS. ROSENFELD: No. Thank you.
- 25 MS. LEWINTERS: Okay. Then we can proceed to

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1 closing. Before we do that, I just want to look at the

2 exhibits. There are many exhibits. We have gone through

3 some of them. We haven't gone through all of them. Are

there any objections to admission of any of the

exhibits that have been put forward?

MS. ROSENFELD: Not from me.

MS. LEWINTERS: Mr. Mehdi, do you have any

objection to any of the exhibits?

MR. AMINIZADE: No.

10 MS. LEWINTERS: Okay.

MR. AMINIZADE: Just actually the support 11

12 letters -- just support letters that, you know,

13 supporting us and they didn't come to this meeting to

14 express their actually supporting idea.

MS. LEWINTERS: So anybody who submitted a

16 letter of opposition or support that was signed, it is

17 being added to the record. We did get a -- a -- a large

18 volume and so Ms. Johnson was a bit overwhelmed, so she

19 did need to set a deadline in terms of actually putting

20 them online, uploading them to be online. But she has

21 been collecting them all and they will all be available

22 to me.

2

23 I do probably think I have a direct copy of

24 most of them anyway, but she has been collecting them

25 and I will review any that are received within the

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deadline as long as they are signed. Okay? So the exhibits will be deemed admitted. And

Ms. -- let's see -- sorry. I just lost my place for a

second. Mr. Mehdi would you like a closing statement?

5 MR. AMINIZADE: No.

6 MS. LEWINTERS: Okay. Ms. Rosenfeld did you

want to make any kind of closing statement?

8 MS. ROSENFELD: Yes, I would. Thank you.

9 MS. LEWINTERS: Can I just ask you again to --

10 MS. RELLAN: Certainly, certainly.

11 MS. LEWINTERS: Okay.

12 **CLOSING STATEMENT** 

13 MS. ROSENFELD: I'll -- I'll sit forward. I'm

14 sorry. I -- you're not the first one.

I -- I'd like to start by -- by reminding --

16 reminding you of something that you -- you already know

17 but that the burden of proof and the burden of

18 persuasion is on the applicant in this case. From the

19 outset, he failed to prove his case, notably on two key 20 points.

First of all, with respect to traffic, that

22 there needs to be a finding of adequate public

23 facilities and that includes a tra- -- a traffic

24 analysis. And that information must be prepared by a

25 traffic engineer. The applicant didn't know what the

1 LATR is, doesn't know how to properly identify the peak

hour. I'm -- I'm not going to berate the point, but the

fact is that key evidence is not in the record.

And regardless of the analysis provided by

Park and Planning staff in their report, they didn't

have credible data to rely on. They didn't realize it

at the time, I believe, but there's no evidence to

support a finding of adequate public facilities when it

comes to transportation. And that applies to -- not

10 just to vehicles but to the pedestrians and the bikes

11 and full array of -- of transportation impacts that

12 need to be evaluated.

13 The second is, one of the findings that you

14 need to make is that the application will not cause an

15 adverse impact with respect to economic value. And the

16 applicant did testify on that as a layperson, but we

17 have provided both a realtor who is not an appraiser

18 but did provide professional testimony with respect to

19 the impact that this would have on a listing price and

20 we did provide an expert appraiser who testified that

21 there would be a -- an adverse impact on value. So, all

22 right. From -- the applicant from a baseline

23 perspective did not prove his case.

I also would like to talk a moment about the

25 delineation of the neighborhood. The delineation that

was provided was only provided by Park and Planning

staff and remarkably, and inexplicably it did not

include the abutting properties to the rear of -- of

the subject property.

5 It didn't include Ms. Murphy's property or the

other two abutting properties on either side, although

it did extend far -- far beyond. We would submit that

the red boundary delineation that we -- we provided is

the appropriate neighborhood and ask that you adopt

10 that as -- as part of your findings.

11 The findings that you need to make turn on

12 both inherent and non-inherent impacts of -- of this

13 application. The staff in the Planning Department staff

14 report identified inherent characteristics as vehicular

15 trips, outdoor play areas, noise and lighting. We don't

16 take issue with those as inherent characteristics of

17 the site.

There are a number of material non-inherent 18

19 characteristics that simply were not identified, let

20 alone addressed by -- by Planning staff. The first is

21 that there needs to be a waiver of on-site parking in

22 order to approve this application. There is a zoning

23 requirement for on-site parking for employees. This has

24 to be waived because of the lack of space on the

25 property. That -- that is a unique non-inherent

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characteristic.

There is zero on-site parking for parent
parking. The only parking that we saw available was if
-- currently, if parents pull up behind the applicant's
car, which necessarily means that it extends beyond the
sidewalk. And, again, to have no on-site parking for a
daycare of any kind of conditional use, in my
experience, is exceedingly unusual and I -- I -- I
would submit in my -- in my experience, unheard of.

10 The other non-inherent characteristics, of
11 course, go to the one-way exit from the parent drop-off
12 pick-up loop at the Bradley Hills Elementary School,
13 which diverts all exiting traffic from that drop-off
14 location to -- to Hempstead down Folkstone into

14 location to -- to Hempstead down Folkstone into 15 Hempstead.

And so, whether they go left or right, once they reach Hempstead, if -- if all of the traffic goes that way and we did have testimony that it -- it varies but I pretty -- you know, kind of a 50/50 split, which directs that volume of traffic necessarily in front of the daycare center.

Another non-inherent impact is the commuter bike trail. The on-street commuter bike trail that 24 bikers use to get to the capital crescent trail. And 25 the other non-inherent characteristic is the heavy

use of the abutting properties.

In particular, the confronting properties in particular and more generally the -- the properties that are more distant, including Mr. Kahn's property in that the offsite parking that's proposed is directly in front of his house which the waiver of on-site parking

would -- would nec- -- necessitate that those inherent
 and non-inherent adverse effects have an adverse effect

on the peaceful enjoyment of these properties, in

10 particular, the ones that are closest.

11 You heard from -- again, I'm -- I'm not -- I'm 12 not going to go through each of the -- each of the

13 witnesses. We do have expert testimony that combine

14 these impacts have adverse effect on economic value, in 15 particular with respect to Ms. Murphy's property and

16 the other immediately abutting properties as well. And

17 extends perhaps even to the more general neighborhood.

18 And the -- the adverse impact on traffic and 19 lack of parking and safety all again are -- result from 20 a combination of the adverse inherent and non-inherent

21 effects of this application.

I will also mention that, while it's not

23 unusual to have one or two non-inherent

24 characteristics; there are many non-inherent

25 characteristics, both with respect to how this property

230

1 street traffic and the heavy parking load which is

necessitated by the property's proximity to both the

3 elementary school and -- and -- and the park.

The other non-inherent characteristic that I would point out is specific to Ms. Murphy's property.

6 And you heard testimony that her property is uphill

7 from the subject property, and you also heard testimony

8 that one side of her property abuts the -- a large

9 solid brick wall from -- from the next door neighbor.

10 And the -- the effect of both of those physical

11 characteristics result in amplified sound that uniquely

12 impacts her property.

13 And I -- I -- I will mention that the Planning 14 Department didn't, in their report, recognize these 15 non-inherent impacts, let alone address them in

16 reaching their recommendation of approval.

17 So you've heard extensive testimony, and I'm 18 not going to walk you through it because you've sat

19 here all day and you'll have the benefit of a

20 transcript, but I will submit to you that the -- the

21 combined testimony of the witnesses today unequiv- --

22 unequivocally, and in many cases without even any

23 opposing evidence or testimony, show that the

24 combination of these inherent and non-inherent adverse

25 effects do have an adverse effect with respect to the

relates to Ms. Murphy's property to -- to the rear, Ms.

2 Horseley's property to the front, Mr. Kahn's property

3 with respect to the on-site waiver.

But, as well, the unique location of this
property when in -- in conjunction with the -- the park
and the school itself. They're narrow streets,
considerable amount of traffic: Bus traffic, vehicular

8 traffic, bike traffic, pedestrian traffic.
9 And all combined, we think just it's -- it's
10 an overwhelming amount of evidence that would call for

11 a -- a denial of this application and we would ask that 12 you find -- find that way in this case.

13 That concludes my closing. Thank you.

4 MS. LEWINTERS: Thank you, Ms. Rosenfeld. So

15 that will conclude our hearing. The record will remain

16 open for 10 days, that's for the transcript to be

17 compiled. Otherwise, it -- it will be closed to other

18 submissions. After the record is closed, after the

19 transcript is received, the decision should be issued

20 within 30 days after that date.

And unless there's anything else, then we will

22 conclude the hearing. Hearing none, I appreciate

23 everybody's patience and time today. Thank you.

24 MS. ROSENFELD: Thank you.

25 [End of proceedings, 3:29 P.M.]

			, ·
		233	
1	CERTIFICATE OF COURT REPORTER		
2	I, Joe Lorete, 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	interest, intaletal of otherwise, in its outcome.		
10			
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	Joe Lorete, Court Reporter		
15			
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22 23 24			
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_		234	
1	CERTIFICATE OF TRANSCRIBER	234	
2	I, Chris Naaden, a transcriber, hereby declare		
3	under penalty of perjury that to the best of my ability		
	from the audio recordings and supporting information		
4		,	
5	and that I am neither counsel for, related to, nor		
6	employed by any of the parties to this case and have no	0	
7			
1	interest, financial or otherwise, in its outcome, the		
8	above 232 pages contain a full, true and correct		
9	above 232 pages contain a full, true and correct transcription of the tape-recording that I received		
9 10	above 232 pages contain a full, true and correct transcription of the tape-recording that I received regarding the event listed on the caption on page 1.		
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9 10 11 12	above 232 pages contain a full, true and correct transcription of the tape-recording that I received regarding the event listed on the caption on page 1.  I further declare that I have no interest in		
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