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Transcript of Hearing

Date: May 12, 2023

Case: Diener School (CU 23-06)

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Transcript of Hearing
Conducted on May 12, 2023

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<p style="text-align: right;">1</p> <p>1 OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS</p> <p>2 MONTGOMERY COUNTY, MARYLAND</p> <p>3 -----x</p> <p>4 RE: :</p> <p>5 THE DIENER SCHOOL, : Case No. CU 23-06</p> <p>6 Applicant. :</p> <p>7 -----x</p> <p>8</p> <p>9</p> <p>10</p> <p>11 HEARING</p> <p>12 Conducted Virtually</p> <p>13 Friday, May 12, 2023</p> <p>14 9:28 a.m. EST</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 Job No.: 481575</p> <p>24 Pages: 1 - 193</p> <p>25 Transcribed by: Jerome E. Harris</p>	<p style="text-align: right;">3</p> <p>1 A P P E A R A N C E S</p> <p>2 ON BEHALF OF THE APPLICANT:</p> <p>3 FRANÇOISE M. CARRIER, ESQUIRE</p> <p>4 BREGMAN, BERBERT, SCHWARTZ & GILDAY, LLC</p> <p>5 7315 Wisconsin Avenue</p> <p>6 Suite 800 West</p> <p>7 Bethesda, Maryland 20814</p> <p>8 (301) 656-2707</p> <p>9</p> <p>10</p> <p>11 ALSO PRESENT:</p> <p>12 Kathy Chumas, Katie Wagner, Allen Myers,</p> <p>13 Katherine Coleman, Christopher Padilla, Jillian</p> <p>14 Copeland, Beth Freedman, Eric Weinberg, Josh Andrews,</p> <p>15 Patrick La Vay, David Astrove, Jason Zell, Laurie</p> <p>16 Aaronson, Morgan Abramson, Scott Kaufmann, Siena Fouse,</p> <p>17 S. Rutherford</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>																																																
<p style="text-align: right;">2</p> <p>1 Hearing, before HEARING EXAMINER LYNN ROBESON</p> <p>2 HANNAN, conducted virtually.</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9 Pursuant to agreement, before Merinda Evans,</p> <p>10 AAERT, Notary Public in and for the State of North</p> <p>11 Carolina.</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">4</p> <p>1 C O N T E N T S</p> <table><tr><td>2 STATEMENTS</td><td>PAGE</td></tr><tr><td>3 BY: ALLEN MYERS</td><td>18</td></tr><tr><td>4 BY: JILLIAN COPELAND</td><td>29</td></tr><tr><td>5 BY: ERIC WEINBERG</td><td>33</td></tr><tr><td>6 BY: CHRISTOPHER PADILLA</td><td>120</td></tr><tr><td>7 BY: KATHERINE COLEMAN</td><td>125</td></tr><tr><td>8</td><td></td></tr><tr><td>9 OPENING STATEMENT</td><td></td></tr><tr><td>10 BY: MS. CARRIER</td><td>38</td></tr><tr><td>11</td><td></td></tr><tr><td>12 Examination of KATHY CHUMAS</td><td></td></tr><tr><td>13 By Ms. Carrier</td><td>40</td></tr><tr><td>14</td><td></td></tr><tr><td>15 Examination of PATRICK LA VAY</td><td></td></tr><tr><td>16 By Ms. Carrier</td><td>52, 132</td></tr><tr><td>17</td><td></td></tr><tr><td>18 Examination of KATHERINE WAGNER</td><td></td></tr><tr><td>19 By Ms. Carrier</td><td>61</td></tr><tr><td>20</td><td></td></tr><tr><td>21 Examination of JOSH ANDREWS</td><td></td></tr><tr><td>22 By Ms. Carrier</td><td>154</td></tr><tr><td>23</td><td></td></tr><tr><td>24 CLOSING ARGUMENT</td><td></td></tr><tr><td>25 By Ms. Carrier</td><td>185</td></tr></table>	2 STATEMENTS	PAGE	3 BY: ALLEN MYERS	18	4 BY: JILLIAN COPELAND	29	5 BY: ERIC WEINBERG	33	6 BY: CHRISTOPHER PADILLA	120	7 BY: KATHERINE COLEMAN	125	8		9 OPENING STATEMENT		10 BY: MS. CARRIER	38	11		12 Examination of KATHY CHUMAS		13 By Ms. Carrier	40	14		15 Examination of PATRICK LA VAY		16 By Ms. Carrier	52, 132	17		18 Examination of KATHERINE WAGNER		19 By Ms. Carrier	61	20		21 Examination of JOSH ANDREWS		22 By Ms. Carrier	154	23		24 CLOSING ARGUMENT		25 By Ms. Carrier	185
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5				7			
1	EXHIBITS	ID	EV	1	immediately, and then, I will take it from there.		
2	Exhibit 39 Aerial Map	53	53	2	There is a chat function on Teams that we do		
3	Exhibit 40 Special exceptions	56	56	3	not use. I cannot monitor what's going on in the chat,		
4	Exhibit 41 Site aerial photo	57	57	4	and I cannot have ex parte communication. So please do		
5	Exhibit 42 Revised TMP	65	65	5	not use the chat.		
6	Exhibit 43 Phase 1 site layout	158	158	6	Okay. With that, I will ask the parties to		
7	Exhibit 44 Phase 1 rendering	163	163	7	identify themselves for the record.		
8	Exhibit 45 Phase 2 site layout	166	166	8	MS. CARRIER: Good morning. I'm Françoise		
9	Exhibit 46 Phase 2 rendering	169	169	9	Carrier, with the law firm of Bregman, Berbert, Schwartz		
10	Exhibit 47 Gym rendering	173	173	10	& Gilday, and I am representing the Applicant, The		
11				11	Diener School.		
12				12	We have with us Kathy Chumas, who is the head		
13				13	of school, who's got her camera on.		
14				14	We also have our board president, Beth		
15				15	Freedman.		
16				16	And we have a couple of parents who would like		
17				17	speak to give you a little bit about their experience		
18				18	with the school.		
19				19	And our expert witnesses, we have Patrick La		
20				20	Vay as our engineer and land development expert; we have		
21				21	our architect, Josh Andrews; and our traffic engineer,		
22				22	Katie Wagner.		
23				23	We also have a number of other people on who		
24				24	are, you know, may be needed for questions if something		
25				25	else comes up, but that's our main cast of characters.		
6				8			
1	PROCEEDINGS			1	And we are delighted to be here today.		
2	HEARING EXAMINER HANNAN: I am calling the case			2	HEARING EXAMINER HANNAN: Well, good. Is there		
3	of CU 23-06, the application of The Diener School			3	anyone -- is there anyone. I see Mr. Myers here. Is		
4	requesting a conditional use for property located at			4	there anyone that is not going to be called by the		
5	9312 Old Georgetown Road, Bethesda, Maryland, to operate			5	Applicant as a witness that would like to testify today?		
6	a private educational institution under Section 59-3.4.5			6	MR. MYERS: I guess I fall into that category.		
7	of the Montgomery County Zoning Ordinance.			7	HEARING EXAMINER HANNAN: I thought you might.		
8	Before we begin, I just wanted to say a few			8	This is like gold home (inaudible) --		
9	things about remote hearings. First, you'll see us			9	MR. MYERS: Yes, I know. Different school		
10	recording, you'll see a thing saying we're recording at			10	different day, different time.		
11	the top. This recording, we always record -- we always			11	HEARING EXAMINER HANNAN: Yes. Yes, you must		
12	get verbatim transcripts of our hearings. But we do			12	have a very attractive neighborhood.		
13	record on Microsoft Teams simply as the backup for the			13	So anyone else that wants to testify but won't		
14	court reporter. So this -- this recording, the			14	be called by Ms. Carrier?		
15	Microsoft Teams recording isn't the official transcript,			15	Okay. Seeing none, does -- have you submitted		
16	but we do it just as a backup so that's why we're			16	the affidavit of Ms. Posting, Ms. Carrier?		
17	recording it today.			17	MS. CARRIER: Yes, we submitted that two days		
18	Another thing that we ask that you not, because			18	ago by email.		
19	this is a remote hearing, things get garbled, can get			19	HEARING EXAMINER HANNAN: Okay. So just a		
20	garbled if people are talking at once. So we ask where			20	word -- well, I don't know if I need to do that because		
21	possible at the top of your screen is the Raise Your			21	Mr. Myers has part -- has participated, but didn't hear		
22	Hand button. We ask where possible to use the Raise			22	him speak before, but just if anyone else comes on that		
23	Your Hand button unless you have an objection, and then,			23	wants to testify, I will say that our hearings are		
24	you have to go in. But once you object, all you have to			24	informal but have certain formalities. What you say		
25	say is object, and everyone should stop talking			25	will be under oath and subject to cross-examination.		

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3 (9 to 12)

<p style="text-align: right;">9</p> <p>1 You -- the order of proceeding is the Applicant will go 2 first, followed by anyone that is not in the Applicant's 3 team or is doesn't support the application. And then, 4 there's rebuttal by the Applicant, and closing 5 statements. 6 Approval is -- the criteria for approval is set 7 out in the Zoning Ordinance and it's listed in the Staff 8 Report. So please address all testimony to that. 9 I have two questions. Ms. Carrier, would you 10 like the individuals to go first and so they are free 11 from the hearing, or it's just a suggestion, it's up to 12 you. 13 MS. CARRIER: Yes. I was planning to ask. We 14 have a total of four parents, but two of them are not 15 actually available until later, and I've asked them to 16 join the meeting at noon figuring we could find a spot 17 for them between witnesses between noon and 1:00. But 18 we do have two parents here this morning who would like 19 to speak; Jillian Copeland and Eric Weinberg. So I 20 would like to take them as our first witnesses. 21 But I do have a couple of other preliminary 22 matters. 23 HEARING EXAMINER HANNAN: Yes, I did too, but 24 the SHA response, is that -- 25 MS. CARRIER: Well, that's -- that's the big</p>	<p style="text-align: right;">11</p> <p>1 Unfortunately, there are, I guess, some people 2 at SHA who still want to focus on the side street issues 3 and how long it takes to get out of the side streets 4 onto Old Georgetown Road. So we developed a list of 5 possible mitigation measures which we sent to the State 6 Highway Administration, and they have not responded. 7 We are -- we also have been working really 8 closely with Allen Myers, and I have to thank him for 9 really bringing a willing and open mind to this 10 situation. And I'll let him speak for himself, but we 11 really appreciate the way he has participated in this 12 with us. 13 So we shared with Mr. Myers the memo that we 14 sent to the State Highway Administration with this list 15 of possible things that could be done. And he was very 16 clear that he does not think his community would 17 appreciate one of the suggestions we made, which was 18 U-turn restrictions during the rush hour at Spruce and 19 Alta Vista. 20 HEARING EXAMINER HANNAN: Case of -- 21 MS. CARRIER: So -- 22 HEARING EXAMINER HANNAN: -- the French School, 23 Mr. Myers. 24 MS. CARRIER: Yes, I believe that he and Ms. 25 Wagner are both experiencing a lot of things reminiscent</p>
<p style="text-align: right;">10</p> <p>1 one. We have -- we and Planning Staff and even DOT 2 Staff, have tried very hard to get the State Highway 3 Administration to engage on this. They have -- we have 4 received and responded to comments from three of the 5 four reviewers at SHA, but there is a fourth reviewer 6 who has not produced final comments. And we did get an 7 idea from Planning Staff of what those comments would 8 be. Because Planning Staff was able to meet with the 9 SHA and got some understanding of their concerns. And 10 we were asked to provide a menu of possible ways to 11 mitigate. One of those concerns which has to do with 12 delays on two of the side streets, Spruce Street and 13 Alta Vista Road. 14 The traffic scope was set up to do what Katie 15 describes as a corridor analysis, which is not pressing 16 on the side streets so much as, you know, this is a big 17 corridor where the County has -- 18 HEARING EXAMINER HANNAN: The flow of -- yes. 19 MS. CARRIER: Exactly. And you know, the State 20 Highway Administration as recently as I'm sure you know, 21 made the decision to put in a bike lane, bike lanes, on 22 Old Georgetown Road in this segment, and take away a 23 lane of traffic. So that was a policy decision to 24 accept a certain level of congestion in order to improve 25 safety for pedestrians and bicyclists.</p>	<p style="text-align: right;">12</p> <p>1 -- 2 HEARING EXAMINER HANNAN: Déjà vu. 3 MS. CARRIER: Yeah. So we then we wrote 4 another memo to the State Highway just this week after 5 failing to be able to get a meeting with them. And in 6 it, we said, you know, there are several reasons why 7 we've decided that the School no longer supports the 8 idea of a U-turn restrictions. So we are hopeful that 9 the State Highway Administration will not force us to 10 put those U-turn restrictions in place. 11 We would like to propose that that be resolved 12 at preliminary plan, because this does have to go back 13 to the Planning Board, which will take a very close look 14 at all of the -- all of the issues related to traffic, 15 especially because that's the big focus of a preliminary 16 plan proceeding. So we are - we are hoping to be able 17 to get State Highway to respond before the Planning 18 Board hearing. 19 But timing is pretty crucial for the School. 20 The School would like to be able to move into their new 21 location for the 2024-'25 school year. That means 22 having the -- having the site available, you know, 23 midsummer so that they can start moving in. And the 24 only way that can happen is if we get all of the 25 approvals, all of the development approvals by the</p>

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4 (13 to 16)

<p>13</p> <p>1 middle of this summer. Meaning, we have to be able to 2 get the preliminary plan approval as well as the 3 conditional use approval by the end of July. 4 So this is why we are hoping that you will find 5 it appropriate not to leave the record open in this 6 waiting for the SHA final comments, but to consider the 7 case and hopefully approve the conditional use with the 8 condition that we have to get SHA approval for the 9 Transportation Impact Statement before the preliminary 10 plan is approved. 11 And then, I don't expect -- 12 HEARING EXAMINER HANNAN: I thought the delay -- 13 you're a delay standard in the policy area, right? 14 MS. CARRIER: I'm going to ask -- 15 HEARING EXAMINER HANNAN: The policy area, 16 you're -- doesn't -- wouldn't the -- your policy area 17 criteria is based on 80 seconds of delay, correct? 18 MS. WAGNER: That is correct. This is Katie 19 Wagner, for the record. 20 HEARING EXAMINER HANNAN: Okay. Oh, yeah. I 21 guess I'm just asking Françoise, doesn't that take into 22 account the all four approaches -- 23 MS. CARRIER: Yes. 24 HEARING EXAMINER HANNAN: -- of the side 25 streets?</p>	<p>15</p> <p>1 responses from SHA that you've had so far in the record? 2 MS. CARRIER: Yes, I believe so, because the -- 3 what they would have -- well, I guess I think we have 4 addressed them maybe a little bit in the TMP, the 5 Transportation -- 6 HEARING EXAMINER HANNAN: Well -- 7 MS. CARRIER: -- Management Plan -- 8 HEARING EXAMINER HANNAN: -- yeah, I believe -- 9 MS. CARRIER: -- but I saw -- I saw -- 10 HEARING EXAMINER HANNAN: -- I believe -- 11 MS. CARRIER: -- I saw Ms. Wagner shake her 12 head, so maybe not. 13 HEARING EXAMINER HANNAN: I would appreciate 14 just the documentation, any documentation you have -- 15 MS. CARRIER: Right. 16 HEARING EXAMINER HANNAN: -- from the comments 17 you have from SHA, and then, also an any documentation. 18 It doesn't explicitly show up in the Staff Report that 19 -- that -- well, obviously, the Planning Department 20 recommended approval, but if you have specifics, because 21 I'm trying to figure out what the issue -- what I'd like 22 to hear is what the issues are, and -- and I'll have to 23 wait for Ms. Wagner under oath. But just keep in mind 24 that I can't be too -- I understand your predicament, 25 and I do -- you know, this is what I think numerous</p>
<p>14</p> <p>1 MS. CARRIER: Yes, it does. And you know, 2 Planning Staff are very comfortable with supporting the 3 project with the transportation information we have 4 submitted. The County DOT, also is very comfortable 5 that we have satisfied all the standards. Both of those 6 agencies are focused on the -- on the corridor use, the 7 corridor analysis, and feel that we -- there are -- 8 there is no need for any kind of mitigation for roadway 9 issues from this Applicant. So -- 10 HEARING EXAMINER HANNAN: I guess my question 11 is, as I'm sure you know, we can't leave -- we can't 12 delegate site improvements. There's two things going 13 on. One is, you know a finding of fact, whether it's 14 the intersection will operate within the footers LATR 15 has met and whether things can operate safely. That's a 16 factual finding. 17 The second thing is, though, that we can't 18 delegate site improvements to the future. That's the 19 Constellation Potomac case. 20 So just put that in the back. I'm not asking 21 for response now. And I think it may be helpful to go 22 through Ms. Wagner's testimony -- 23 MS. CARRIER: True. 24 HEARING EXAMINER HANNAN: -- to see exactly 25 what. And do you have the -- anything about the</p>	<p>16</p> <p>1 committees are trying to address. But -- 2 MS. CARRIER: Yeah. 3 HEARING EXAMINER HANNAN: -- I have to be 4 comfortable that I'm not. So just think about I can't 5 leave improvements. Now, there's all -- also the 6 possibility if there are additional improvements that 7 you go through a minor amendment. But I just -- just 8 think about that because that's -- 9 MS. CARRIER: Sure. 10 HEARING EXAMINER HANNAN: -- my -- my struggle. 11 So -- okay. 12 MS. CARRIER: So -- 13 HEARING EXAMINER HANNAN: With that -- oh, go 14 ahead, I'm sorry. 15 MS. CARRIER: I did want to give a just very 16 brief response if that's okay. That we don't expect 17 anything that comes from SHA to relate to site 18 improvements. The only -- the only concerns they have 19 raised have to do with impact on those side streets, and 20 there's nothing that -- that doesn't affect the -- the 21 site improvements. It's really just -- it's really just 22 a concern about conditions that exist today with or 23 without this school. 24 You know, on a busy road, a major highway like 25 Old Georgetown Road, it can be hard to get from side</p>

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5 (17 to 20)

<p>17</p> <p>1 streets out onto the main road, and that's -- that's a 2 fact of urban life. So I don't think that's going to be 3 an issue. 4 I did want to say that Allen Myers mentioned to 5 me yesterday he was hoping that we could talk about this 6 issue this morning, and he would -- he would -- I won't 7 - I don't want to speak for him, but I think he might 8 prefer if we're not going to be discussing this, the SHA 9 issues today, he might have other things he'd like to do 10 today rather than remain for the rest of the hearing. 11 So if you feel -- 12 HEARING EXAMINER HANNAN: Okay. So -- 13 MS. CARRIER: -- comfortable bringing him on and 14 letting him speak for a minute -- 15 HEARING EXAMINER HANNAN: Well, I'm always 16 comfortable letting Mr. Myers on. 17 MR. MYERS: I appreciate that. That's nice to 18 hear. 19 HEARING EXAMINER HANNAN: Okay. And then, we'll 20 go to the parents. 21 MS. CARRIER: Yes. 22 HEARING EXAMINER HANNAN: Mr. Myers, please 23 raise your right hand. 24 Is -- I can't -- I can't see if it's -- okay. 25 There you go.</p>	<p>19</p> <p>1 It's just not going to be understood. 2 We have a meeting on March 17th, next 3 Wednesday. My thought was the School has indicated 4 their willingness to come to the meeting. I've already 5 outlined the proposals that were made by the School in 6 our newsletters so the residents will know about this. 7 And for us to take some formal motions and discussion to 8 decide what we want to do, and then, and send a letter 9 to you regarding what the civic association feels. 10 The U-turns, I expect considerable opposition 11 because it does two things. It either forces traffic 12 into the neighborhood, cut through the neighborhood, or 13 worse, the people will turn into the neighborhood on 14 like Alta Vista and Spruce Street, first block, turn 15 around in the -- in the street, in the middle of the 16 street or people's driveway to exit to go north and by 17 turning right. 18 I do not know the position of the residents on 19 the left turn, the left turn restrictions. I suspect 20 there will be opposition, but I've had residents on Alta 21 Vista Road, who have told me that they find that when 22 this -- when cars try to turn left out on Alta Vista 23 Road to go south on Old Georgetown Road, especially in 24 the morning, it causes a backup and they can't get out 25 of their driveways on that first block.</p>
<p>18</p> <p>1 Whereupon, 2 ALLEN MYERS, 3 being first duly sworn or affirmed to testify to the 4 truth, the whole truth, and nothing but the truth, was 5 examined and testified as follows: 6 HEARING EXAMINER HANNAN: Okay. Please state 7 your name, street address, and now we're asking for 8 email address, even though I'm sure I have it, for the 9 record so that we can get our notices out even faster. 10 MR. MYERS: My name is Allen Myers, residing at 11 9319 Fresno Road in Bethesda, Maryland. The email 12 address. If you misspell the last name, you're -- you 13 won't get to me. It's almyers -- A-L-M-Y-E-R-S 14 @starpower.net. 15 Basically I'm not speaking in any opposition, 16 so that's why I'm here basically as president of the 17 associate -- Maple Wood Citizens Association. But to 18 point out that we met with the School and its 19 representatives on March 15th as an association. At 20 that time, the issues which you're going to hear about 21 SHA and MCDOT, have not -- excuse me, let me get this 22 off -- have not -- were not apparent to us. In fact, I 23 didn't know anything about it until May 1st. And trying 24 to explain this situation to on top nearly a thousand 25 homes in an email is not something I would like to do.</p>	<p>20</p> <p>1 Spruce Street Road -- 2 HEARING EXAMINER HANNAN: Wait. You're -- I'm 3 taking notes -- 4 MR. MYERS: Okay. 5 HEARING EXAMINER HANNAN: -- so I'm just -- 6 Which was the one that you just mentioned? 7 Which streets? 8 MR. MYERS: Alta Vista Road and Spruce Street 9 Road are the two streets that we're talking about. 10 HEARING EXAMINER HANNAN: And tell me what the 11 issue -- what they see the issue of again. 12 MR. MYERS: They would -- the cars would either, 13 if they can't make a U-turn, would either cut through 14 the -- turn left and cut through the neighborhood. 15 There's no -- there's no discussion, and hopefully -- 16 don't know how this would play out. There's no 17 discussion presently of eliminating the left turns. So 18 you would just come in, turn left, come into the 19 neighborhood, either cut through it or get to the first 20 block, make a U-turn in the street, and then Alta Vista 21 Road, and then come, and then turn right. And that 22 would cause some consternation. As you recall from The 23 French School issue, this was a concern already. I 24 don't know --</p>

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6 (21 to 24)

<p>21</p> <p>1 HEARING EXAMINER HANNAN: Right. 2 MR. MYERS: -- cars were doing that, and steps 3 were taken to prevent that. 4 The other issue is with respect to U-turns. 5 There's another little street that's not in the -- we 6 haven't talked about so far. 7 HEARING EXAMINER HANNAN: When you say U-turns, 8 do you mean U-turns in the neighborhood or U-turns on 9 Old Georgetown Road? 10 MR. MYERS: On old Georgetown Road. 11 HEARING EXAMINER HANNAN: On what? 12 MR. MYERS: On Old -- 13 HEARING EXAMINER HANNAN: Old Georgetown Road. 14 MR. MYERS: Yeah. There's that -- those U-turns 15 for one of our streets, Charles Street, which is not -- 16 is not a discussion. And Katie Wagner maybe will show 17 you on the map where it is, but it's a dead end street 18 off of Old Georgetown. The only entrance to it is from 19 northbound Old Georgetown Road. It's cul-de-sac. It 20 has no connection to any other street in the 21 neighborhood. So therefore, anybody coming south who 22 lives on that -- on that street and going southbound on 23 Old Georgetown Road has to make a U-turn to get into 24 their neighborhood, or drive miles out of their way to 25 get home. So that would be -- I'm sure there would be</p>	<p>23</p> <p>1 is -- from it is generated from that street. There's no 2 connection to -- while it connects, there is no reason 3 for anybody else to go through there. I was told at one 4 time they had a restriction of no left turn there. It 5 is not there now. I do not know why the way -- why 6 wherefores. I probably will get some answers at our 7 meeting on the 17th because I suspect somebody will know 8 the answer to it. I thought it was there a connection 9 was a special exception for the YMCA. As I said, I 10 drove by there, Katie Wagner drove by there; it's not 11 there. So those residents may make more -- may be more 12 concerned about not being able to turn left out of that 13 street since they now currently can do so. 14 Also, if you put a no left turn restriction on 15 Alta Vista Road, it may draw traffic over to 16 Spruce Street, because you come up Locust Avenue, you 17 turn left to go on Alta Vista to reach Old Georgetown 18 Road. But if you turn right on Alta Vista Road, you can 19 come to Spruce Street, and then, cut through Spruce 20 Street. So it actually probably would have to be on 21 both streets. But I need to discuss with -- this with 22 the neighborhood. 23 The other thing is an overall concern is you 24 mentioned The French School. In that TMP, steps were 25 taken to protect the neighborhood from cut through</p>
<p>22</p> <p>1 considerable opposition to the U-turns prohibition on 2 Old Georgetown Road. 3 HEARING EXAMINER HANNAN: So you want the U-turn 4 zone? 5 MR. MYERS: I want the U-turns to remain, yes. 6 I -- nobody in the neighborhood has ever raised an issue 7 with respect to U-turns on Old Georgetown Road. What 8 they have expressed to me, and on one street, and that 9 was Alta Vista Road, where there was a concern about 10 traffic coming going left, making a left turn on Alta 11 Vista Road to go southbound on Old Georgetown Road, 12 causing delays on that road, people backed up there. 13 Alta Vista Road is known as an aggregator road. It 14 collects traffic from elsewhere in the neighborhood. 15 HEARING EXAMINER HANNAN: Right. 16 MR. MYERS: And so they all end up coming there 17 and they want to get out. Well, some of them -- 18 majority of them are probably going right. But those 19 wanting to go left, one car sitting there waiting to get 20 out and make a left turn causes a backup, and the 21 residents on that block find that they can't get back 22 out of their driveways because the street is carved with 23 cars, so they might support. 24 Spruce Street Road is a different situation. 25 It is not an aggregator. It basically any traffic on it</p>	<p>24</p> <p>1 traffic and not impact the neighborhood. In this case 2 here, we're doing so just the opposite. I understand 3 the rationale behind it, and that is the cars and the 4 bike and the bike lanes, which are very unpopular with 5 people who in the neighborhood who drive, very popular 6 with people who ride bikes in the neighborhood. So it's 7 -- it's interesting. That's a discussion we're going to 8 have with the State Highway Administration, Mark Carman, 9 in September. 10 But you know, it's sort of adding fuel to the 11 fire for drivers who object to them saying we're doing 12 -- we're putting in left turn restrictions because of 13 the bike lanes. And -- and the -- and delays that they 14 are causing. It's not going to be pleasant. 15 I am pleased that the School is going to come 16 to the meeting on the 17th and we will see what happens. 17 If you're agreeable to my sending you a letter after the 18 -- after the meeting letting you know what the results 19 are, I would -- I would appreciate it. 20 HEARING EXAMINER HANNAN: I would be very 21 agreeable to that. Do you have a problem with that, Ms. 22 Carrier. 23 MS. CARRIER: No. Not at all. We -- you know, 24 we -- as I said, we talked with Mr. Myers yesterday, and 25 we are happy to go to this meeting on Wednesday to try</p>

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7 (25 to 28)

<p>25</p> <p>1 and respond to -- to people's concerns, help them 2 understand sort of where we are. 3 I -- I would like to clarify just in case 4 there's any confusion that the School is not requesting 5 the U-turn restrictions. And you know, truthfully -- 6 HEARING EXAMINER HANNAN: Is that a request from 7 SHA? How did they come up? 8 MS. CARRIER: They came up because we were 9 really trying to respond quickly to SHA with some 10 concrete things that they could consider to -- to make 11 them be willing to -- 12 HEARING EXAMINER HANNAN: Oh, I see. 13 MS. CARRIER: -- to come up with their final 14 comments and give us, say yes, we approve this if you do 15 the following things. So we gave them a list of 16 choices. We very much -- 17 HEARING EXAMINER HANNAN: I got you. 18 MS. CARRIER: -- wished that we had consulted 19 with Mr. Myers before we gave them that list. If we 20 had, we would not have had put the U-turn restrictions 21 on it. 22 HEARING EXAMINER HANNAN: Okay. 23 MS. CARRIER: The left turn restriction -- 24 HEARING EXAMINER HANNAN: You're saying -- 25 you're saying the School is not advocating for it -- not</p>	<p>27</p> <p>1 feasible. Just give us some ideas. So we did. And we 2 don't consider the U-turn restrictions feasible. 3 As for the left turn restrictions, there's a 4 very small number of left turns during the rush -- the 5 peak hours. It's -- it's under five at schools -- 6 HEARING EXAMINER HANNAN: Okay. Well let -- I 7 don't want to get into -- 8 MS. CARRIER: Okay. 9 HEARING EXAMINER HANNAN: We really need to have 10 a witness under oath. Are you sure you don't want to 11 stay around Mr. -- Mr. Myers. 12 MR. MYERS: I can stay around. I was going to 13 deliver newsletters for the association but I'll stay 14 around. 15 HEARING EXAMINER HANNAN: I think I'd like to 16 take the individuals. I believe there is two of them 17 right now. 18 MS. CARRIER: Yes. 19 HEARING EXAMINER HANNAN: And then, Ms. Carrier, 20 should we go right to Ms. Wagner? I don't know. What's 21 your -- 22 MS. CARRIER: Well, you know, I guess I -- I 23 feel like the discussion of traffic will have a better 24 context if you can hear a little more about the project. 25 I guess we could take Ms. Wagner. I would really love</p>
<p>26</p> <p>1 with -- 2 MS. CARRIER: Correct. 3 HEARING EXAMINER HANNAN: -- this an option, 4 that you thought that you could do but that you are not 5 advocating towards it. 6 MS. CARRIER: Correct. Correct. 7 MR. MYERS: Yeah. Complicating our situation is 8 the lack of response from either SHA or MCDOT. And I 9 mean, they are -- they could come up with something 10 entirely different. And we don't know what -- what they 11 are going to -- what they are going to want from the 12 neighborhood. 13 MS. CARRIER: What I have been -- what I have 14 been told informally from people who have spoken with -- 15 from various Staff members who have spoken with folks at 16 SHA is mostly they just wanted to make sure that they 17 had a record that we had done an analysis of the impacts 18 on the side streets. And that we had not solely looked 19 at the Old Georgetown Road corridor. So Ms. Wagner's 20 team did a thorough analysis, with additional steps 21 beyond what we originally were asked to do, and then, we 22 came up with a couple of ideas. You know, the way the 23 -- the way that those requests were transmitted to us 24 from the Planning Staff is they said, Give us whatever 25 ideas you can come up with even if they are not</p>	<p>28</p> <p>1 for you to hear from the head of School before we go to 2 traffic so you at least know a little bit more about 3 this -- this rather unique little school. 4 HEARING EXAMINER HANNAN: Okay. All right. 5 Mr. Myers, I don't want to impose but -- 6 MR. MYERS: That's fine. I had planned -- I had 7 planned -- 8 HEARING EXAMINER HANNAN: -- I'm afraid to let 9 you go. 10 MR. MYERS: I had planned to stay for the whole 11 day anyway, but I -- when we talked yesterday evening, 12 we thought we could just deal with this, if we could 13 deal with this first, and I could go on, but I am yours 14 for the whole day if need be. 15 HEARING EXAMINER HANNAN: Well, I appreciate 16 your volunteer time. 17 Okay. With that, Ms. Carrier, let's go to your 18 next witness. 19 MS. CARRIER: Okay. So we're -- the first 20 person to -- we'd like to have speak today is Jillian 21 Copeland. 22 HEARING EXAMINER HANNAN: Okay, Ms. Copeland. 23 MS. COPELAND: Hi. Good morning. 24 HEARING EXAMINER HANNAN: I'm sorry, one second. 25 I just have to put -- okay. Please raise your right</p>

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8 (29 to 32)

<p>29</p> <p>1 hand.</p> <p>2 Whereupon,</p> <p>3 JILLIAN COPELAND,</p> <p>4 being first duly sworn or affirmed to testify to the</p> <p>5 truth, the whole truth, and nothing but the truth, was</p> <p>6 examined and testified as follows:</p> <p>7 HEARING EXAMINER HANNAN: Okay. Go ahead, Ms.</p> <p>8 Carrier.</p> <p>9 MS. CARRIER: I'm not going to ask questions of</p> <p>10 Ms. Copeland. I'm just going to let her make a</p> <p>11 statement.</p> <p>12 HEARING EXAMINER HANNAN: Okay. Well before she</p> <p>13 begins, please state your name, email address, and</p> <p>14 street address, business address for the record.</p> <p>15 MS. COPELAND: Sure, Jillian Copeland. My email</p> <p>16 address is jillian@main, M-A-I-N, streetconnect.org.</p> <p>17 And my home address, which is also my business address,</p> <p>18 is 6200 Poindexter Lane, Rockville, Maryland 20852.</p> <p>19 HEARING EXAMINER HANNAN: Okay. Thank you.</p> <p>20 Go ahead.</p> <p>21 MS. COPELAND: Thank you.</p> <p>22 I am Jillian Copeland, I'm the founder of the</p> <p>23 The Diener School, which was founded out of necessity</p> <p>24 just 16 years ago. We opened our doors with five</p> <p>25 students. We have now grown to 75 students for the</p>	<p>31</p> <p>1 My husband is on the line too by way. He also</p> <p>2 helps build this school.</p> <p>3 We are here today because we need to grow.</p> <p>4 Diener has been limited in its ability to grow and meet</p> <p>5 the needs of our community because of limits on the</p> <p>6 number of students able to matriculate as a result of</p> <p>7 restrictions in our current lease. We simply don't have</p> <p>8 the space or the ability to increase our student body</p> <p>9 and our current landlord does not desire to modify the</p> <p>10 existing lease to allow us to have more students. This</p> <p>11 leaves many desperate students and families in the lurch</p> <p>12 with very few options. It is quite heartbreaking.</p> <p>13 It is not unusual for a parent to literally</p> <p>14 say, Diener -- and I'm in quotes here, Diener saved me</p> <p>15 and my child. I actually feel the very same way. And</p> <p>16 while the road ahead for these families will still be</p> <p>17 complicated and difficult, even with a Diener</p> <p>18 foundation, I'm still navigating that road even today.</p> <p>19 And while things are great, it's still difficult.</p> <p>20 Diener provides and sets these students up for</p> <p>21 success wherever they go next; private or public. And</p> <p>22 that is a gift that really cannot be measured. It's --</p> <p>23 it's really, you know, what we all want for our</p> <p>24 children, an opportunity to thrive.</p> <p>25 So thank you for your time and energy today. I</p>
<p>30</p> <p>1 upcoming school year with a wait list.</p> <p>2 The mission has been to service students like</p> <p>3 my son, Nichol, and hundreds of others who are unable to</p> <p>4 have their needs met through the County or other private</p> <p>5 schools. Believe it or not, when I started Diener,</p> <p>6 there wasn't a school out there in my opinion that</p> <p>7 provided the optimal educational setting which allowed</p> <p>8 -- which would allow my child to thrive. And thrive he</p> <p>9 did. He and so many others since our inception, 58</p> <p>10 students and families or off, and still today there is</p> <p>11 -- there is really nothing out there that nurtures and</p> <p>12 challenges in my opinion quite like Diener.</p> <p>13 I see graduates of Diener every day in my -- I</p> <p>14 work with adults with disabilities, including my own</p> <p>15 son. And they are living quality lives due to this</p> <p>16 wholistic education, this care that they receive in a</p> <p>17 strong foundation from this little gem of a school.</p> <p>18 We did, and continue, especially after the</p> <p>19 pandemic to meet a critical need in our county, but we</p> <p>20 need space to serve more students and families.</p> <p>21 We're -- I'm sorry if you hear my dog in the</p> <p>22 background. He's crying. I think he wants to go</p> <p>23 outside, so my apologies.</p> <p>24 Honey, if you're still there, can you come walk</p> <p>25 the dog out.</p>	<p>32</p> <p>1 really appreciate you all listening.</p> <p>2 MS. CARRIER: Thank you, Ms. Copeland.</p> <p>3 HEARING EXAMINER HANNAN: Thank you.</p> <p>4 MS. CARRIER: The -- our next -- our next</p> <p>5 witness is --</p> <p>6 HEARING EXAMINER HANNAN: Wait. Wait. Does</p> <p>7 anyone have any questions for Ms. Copeland?</p> <p>8 Okay. Hearing none, you may be excused. Thank</p> <p>9 you.</p> <p>10 MS. COPELAND: Thank you very much.</p> <p>11 MS. CARRIER: Our next witness is Eric Weinberg.</p> <p>12 Mr. Weinberg, would you please state your name</p> <p>13 and your --</p> <p>14 HEARING EXAMINER HANNAN: Wait, wait, let me</p> <p>15 swear him in.</p> <p>16 MS. CARRIER: Oh. Okay.</p> <p>17 MR. WEINBERG: Sure. Can everyone hear me?</p> <p>18 HEARING EXAMINER HANNAN: Yes.</p> <p>19 MS. CARRIER: Yes.</p> <p>20 HEARING EXAMINER HANNAN: Please raise your</p> <p>21 right hand.</p> <p>22 Whereupon,</p> <p>23 ERIC WEINBERG,</p> <p>24 being first duly sworn or affirmed to testify to the</p> <p>25 truth, the whole truth, and nothing but the truth, was</p>

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9 (33 to 36)

<p>33</p> <p>1 examined and testified as follows:</p> <p>2 HEARING EXAMINER HANNAN: Okay. Go ahead, Ms.</p> <p>3 Carrier.</p> <p>4 MS. CARRIER: Mr. Weinberg, would you please</p> <p>5 state your name, your email address, and your address</p> <p>6 for the record. And since you're speaking as an</p> <p>7 individual, you may provide your home address, or your</p> <p>8 business whatever you prefer.</p> <p>9 MR. WEINBERG: Sure. Eric Weinberg. My email</p> <p>10 is E-S-W-B-E-R-G@gmail.com. My home address is 5402</p> <p>11 Wehawken Road in Bethesda, Maryland 20816.</p> <p>12 MS. CARRIER: And please tell us -- you're -- go</p> <p>13 ahead and tell us your --</p> <p>14 MR. WEINBERG: Yes, sure.</p> <p>15 MS. CARRIER: -- your thoughts about Diener and</p> <p>16 their proposed move.</p> <p>17 MR. WEINBERG: Yes. Thank you. Good morning.</p> <p>18 So as you just heard, I'm a resident of</p> <p>19 Bethesda. Our eight-year-old son, Dean, is a second</p> <p>20 grader at Diener. Dean is a nerd vert child who's</p> <p>21 proven or requires specialized learning environment.</p> <p>22 And our educational journey with Dean started with</p> <p>23 several pre-K ad programs around Bethesda. And in the</p> <p>24 fall of 2020, we started him at a local public school.</p> <p>25 But we quickly learned -- learned after a couple months</p>	<p>35</p> <p>1 opportunity, we will find success if he graduates in a</p> <p>2 year or two or three years to get him there. And we</p> <p>3 think it's very important to essentially free up that</p> <p>4 seat for another child in the area that needs it.</p> <p>5 And from that perspective, we -- we can't --</p> <p>6 you know, we think that as a community, what Diener</p> <p>7 provides is -- is invaluable. Essentially to augment</p> <p>8 and facilitate a child's, you know, developmental skills</p> <p>9 so that they can be successful later in life.</p> <p>10 So that's -- that's our story thus far with our</p> <p>11 son, Dean, and it's been just an amazing place to be</p> <p>12 fortunate to be a part of, and we want to see more kids</p> <p>13 able to -- to experience that.</p> <p>14 HEARING EXAMINER HANNAN: Thank you.</p> <p>15 Anyone have any questions of Mr. Weinberg?</p> <p>16 Hearing none, you may be excused, but thank</p> <p>17 you, sir, and thank you for participating.</p> <p>18 MR. WEINBERG: Great. Thank you. Have a</p> <p>19 wonderful day.</p> <p>20 MS. CARRIER: Thank you, Mr. Weinberg.</p> <p>21 MR. WEINBERG: Thank you.</p> <p>22 MS. CARRIER: Before I call my next witness, I</p> <p>23 just wanted to ask a couple of procedural questions.</p> <p>24 May our witnesses share their screens when they</p> <p>25 have an exhibit that they'd like to refer to?</p>
<p>34</p> <p>1 in that, you know, the 504 and IEP that we developed</p> <p>2 simply mutually with the School realized that it was not</p> <p>3 going to be sufficient to handle some of the challenges</p> <p>4 that Dean was facing.</p> <p>5 So we scrambled as any parent would do. We</p> <p>6 looked up and down the County for any educational</p> <p>7 solutions that would work. And we were very fortunate</p> <p>8 to get him into Diener on an unexpected first grade</p> <p>9 opening. So he is now finishing up the second -- second</p> <p>10 year. It's been very transitional, transformational</p> <p>11 year for him, and we're seeing -- we've had great joy in</p> <p>12 seeing how Diener works with -- with our son and other</p> <p>13 special needs and atypical learners to provide them with</p> <p>14 the tools to be successful.</p> <p>15 I'd say that our goal, which is shared with</p> <p>16 Diener, is really to have the School be a stepping stone</p> <p>17 in Dean's educational path here. And we are focused on</p> <p>18 just getting him the skills that he needs so that he can</p> <p>19 transition either back or on to more traditional</p> <p>20 development education.</p> <p>21 And Jillian used the words, graduates. I think</p> <p>22 we will find success and expect success in this program.</p> <p>23 May not be there for five to ten years, we'd be</p> <p>24 delighted if he was, but I think given the various needs</p> <p>25 in the community for other children to have this</p>	<p>36</p> <p>1 HEARING EXAMINER HANNAN: Yes. Yes.</p> <p>2 MS. CARRIER: Great. We are going to be</p> <p>3 introducing seven demonstrative exhibits today.</p> <p>4 HEARING EXAMINER HANNAN: Okay. Wait. Was</p> <p>5 there another individual that wanted to testify? We</p> <p>6 have Ms. --</p> <p>7 MS. CARRIER: There are two more, but they would</p> <p>8 like to speak -- they're not available until 11:30.</p> <p>9 HEARING EXAMINER HANNAN: Oh. Oh, I thought</p> <p>10 there were two in the morning. Okay. I'm sorry.</p> <p>11 MS. CARRIER: We did get two. We did get Ms.</p> <p>12 Copeland and Mr. Weinberg, and then, we'll have --</p> <p>13 HEARING EXAMINER HANNAN: Oh. Oh. I'm sorry.</p> <p>14 MS. CARRIER: We'll have --</p> <p>15 HEARING EXAMINER HANNAN: Okay. Go ahead.</p> <p>16 MS. CARRIER: We'll have two who will testify</p> <p>17 between none and 1:00.</p> <p>18 So we have seven demonstrative exhibits, and we</p> <p>19 also are going to introduce a very a minor revision of</p> <p>20 the Transportation Management Plan, just to reflect</p> <p>21 changes in participant numbers for certain activities</p> <p>22 that were already -- already put into the record in our</p> <p>23 Motion to Amend that accompanied our pre-hearing</p> <p>24 submission. So it's just to make the TMP consistent</p> <p>25 with that other information that was already submitted.</p>

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<p>37</p> <p>1 As we submit them, I -- I thought it might be 2 helpful to have my legal assistant mark them with the 3 exhibit number that you give them. So then, we'll have 4 a complete set that we can send you by email after the 5 hearing. Does that sound -- 6 HEARING EXAMINER HANNAN: Well, they should 7 already be marked. 8 MS. CARRIER: Well, these are exhibits that we 9 haven't yet submitted. 10 HEARING EXAMINER HANNAN: Oh. Okay. Well, 11 we're going to have to -- we usually request that all 12 exhibits be in two days in advance of the public hearing 13 so that we don't -- so but what I -- we'll go through 14 it, and just we'll go ahead, but I do have to ask for 15 objections and that type of thing. 16 MS. CARRIER: I'm sorry, I him sorry, I had -- I 17 didn't submit them at the -- you know, in the recent 18 days because I thought then you would be required to 19 send out a notice of a motion to -- I have to make a 20 motion to amend, and send out another -- you have to 21 send out another notice, and I -- that just seemed so 22 cumbersome, so -- 23 HEARING EXAMINER HANNAN: Yeah, I -- I 24 understand. Go ahead. 25 MS. CARRIER: Okay. So shall I have my</p>	<p>39</p> <p>1 describing its plan to convert an existing office 2 building for school use, and upgrade the site, 3 landscaping, the storm water management, and frontage 4 improvements, with a gymnasium addition at the rear of 5 the site in a second phase. 6 The witnesses you will hear from today will 7 demonstrate that The Diener School's application 8 conforms to all of the requirements for conditional use, 9 will be compatible with the surrounding neighborhood, 10 and should be approved. 11 Planning Department Staff prepared a revised 12 Staff Report on May 4th recommending approval of the 13 conditional use with a series of recommended conditions. 14 The Planning Board held a hearing on the application and 15 voted 4 to 0 to recommend approval of the conditional 16 use with the conditions recommended by the Planning 17 Staff, and the Applicant accepts all of the recommended 18 conditions. 19 Our first witness today will be the head of 20 school at Diener, Kathy Chumas. She will be -- and 21 then, I guess depending on the order, we'll also have 22 our civil engineer and land development expert, Patrick 23 La Vay, our architect, Josh Andrews, and our 24 transportation engineer, Katherine Wagner. 25 Our pre-hearing submission listed an additional</p>
<p>38</p> <p>1 assistant mark as we go? Does that sound helpful, or do 2 you prefer to -- 3 HEARING EXAMINER HANNAN: We'll mark -- we'll 4 mark them as well. But what we'll do is if you could 5 submit them after the hearing by email and hard copy, 6 and list -- I'll give a name to each exhibit. What 7 exhibit are we on here? We're on 38 I have as the last 8 exhibit. Let me just double check that because 9 sometimes we don't put all of them up. 10 Okay. Yes, 38 is the last exhibit. So we will 11 -- I will label them and admit them, and then -- and 12 then, you just send the hard copies, and then, we'll 13 mark them. 14 MS. CARRIER: Okay. 15 HEARING EXAMINER HANNAN: Okay? 16 MS. CARRIER: Okay. So I'm -- I was going to 17 give a brief opening statement if you -- if that is -- 18 if you're agreeable with that Ms. Hannan. 19 HEARING EXAMINER HANNAN: Sure. 20 MS. CARRIER: The Diener School is a small 21 independent school for children from K through 8th grade 22 with special needs. It has 72 students this year and a 23 maximum of 120 projected. Which makes it a very good 24 size for the proposed site on Old Georgetown Road. 25 The School will offer testimony today</p>	<p>40</p> <p>1 expert witness, a landscape architect, Jordan Sebastian. 2 Mr. Sebastian is unable to testify today, so his topics 3 will be in addressed in part by Mr. La Vay and in part 4 by Mr. Andrews. 5 With that, I'd like to call Kathy Chumas as my 6 first witness. 7 HEARING EXAMINER HANNAN: Ms. Chumas, please 8 raise your right hand. 9 Whereupon, 10 KATHY CHUMAS, 11 being first duly sworn or affirmed to testify to the 12 truth, the whole truth, and nothing but the truth, was 13 examined and testified as follows: 14 EXAMINATION BY COUNSEL FOR THE APPLICANT: 15 BY MS. CARRIER: 16 Q Ms. Chumas, please state your name and business 17 address for the record. 18 A Kathy Chumas. Business address is The Diener 19 School, at 11701 Danville Drive, North Bethesda, 20 Maryland 20852. 21 Q What is your position at The Diener School and 22 please describe your responsibilities? 23 HEARING EXAMINER HANNAN: And her email address. 24 MS. CARRIER: Oh, right. 25 Q Ms. Chumas, your email address.</p>

<p style="text-align: right;">41</p> <p>1 A All right. No problem. My email is KathyC -- 2 and that's K-A-T-H-Y C @thedienerschool.org. 3 HEARING EXAMINER HANNAN: Thank you. 4 Q Okay. So please state your position and tell 5 us what your responsibilities are. 6 A I'm currently the head of school at The Diener 7 School. I am responsible for overseeing the day-to-day 8 operations at the School. Also responsible for all 9 students' and staffs' well-being. And given my clinical 10 background as a pediatric occupational therapist, I also 11 oversee our therapeutic Staff members and program. 12 Q How long have you been with Diener and what 13 roles have you filled? 14 A I had actually been with Diener since 15 inception. August of 2007. I began my journey at 16 Diener as their pediatric occupational therapist. Six 17 years into Diener, I was then promoted to director of 18 admissions and therapeutic services. And then, in 2019, 19 I became the head of school. So 16 years at Diener. 20 Q Please tell us a little bit about the grades 21 that Diener serves and your student population? 22 A Sure. So as -- as Françoise has stated 23 earlier, that we are a school that serves students 24 kindergarten through eighth grade. We serve a 25 population of students with learning differences. We</p>	<p style="text-align: right;">43</p> <p>1 and learning, as there are many research studies now 2 done that movement for children really stimulates their 3 learning capabilities and also assist with their level 4 of attention throughout the day. 5 The third one would be individualized 6 instruction. We look at each child individually. We 7 acknowledge their strengths and their areas of focus. 8 And we also, when giving instruction, really pay 9 attention to their learning style. 10 And then, the last one, which was very 11 important in the early years when Jillian was developing 12 Diener, and that's the collaboration amongst 13 professionals. We have a large Staff of 39 very 14 dedicated educators and therapeutic Staff. And 15 collaboration amongst that Staff is key to a child's 16 progress. 17 Q What motivated Diener to find a new location 18 for the School? 19 A Our growing enrollments, as was stated earlier 20 as well. Back in 2019, we had a student enrollment of 21 51 students. Currently, it is at 72, and for next year, 22 it is completely full at full capacity with 75. We 23 also, in addition, have a wait list. 24 So given that, we knew we needed to find more 25 space. Our current landlord does not -- we're not able</p>
<p style="text-align: right;">42</p> <p>1 may have students with a formal learning disability in 2 reading, writing, or math, children with language 3 delays, sensory processing concerns, executive 4 functioning at challenges. And from a diagnostic 5 standpoint, I would say many of our students fall under 6 with a diagno -- diagnosis of ADHD, high-functioning 7 autism, or generalized anxiety. 8 Q Thank you. Please give us some background on 9 Diener's admission and its approach to education. 10 A Sure. When Jillian developed our school back 11 if 2007, it was her mission to develop a program that 12 really valued the whole child. And today, we are very 13 true to that mission 16 years later. Diener is a warm 14 and nurturing environment, yet challenging. We value 15 both the academic part of our curriculum as equal 16 importance to the social emotional. 17 When Jillian developed Diener, she developed 18 also a pyramid of learning, and four cornerstones of 19 Diener's curriculum. Those four cornerstones are 20 multisensory instruction. Our students need to learn by 21 hands-on learning materials. We do not have the 22 children at Diener that can sit, you know, for hours 23 behind a desk with paper and pencil. This is a very 24 kinesthetic style of teaching. 25 We also value the connection between movement</p>	<p style="text-align: right;">44</p> <p>1 to have more than 75 students in our current location. 2 We do not want to continue to turn away families. There 3 is such a need in the community. And that is what has 4 driven us to find a new home. 5 Q Have you been directly involved in discussions 6 about the site design and improvements of the proposed 7 new location? 8 A Yes, I have. We have had frequent meetings, 9 and I have been very engaged with the Planning Staff. 10 Q Tell me about some of the priorities that 11 Diener and its team have focused on during the site 12 planning process in terms of meeting students' academic 13 and social needs? 14 A Space, really the overall space is incredibly 15 important to us. Our current location, this building is 16 13,000 square feet, and we like to stay we're kind of 17 busting out of the seams here. So first and foremost 18 was the size of the space. 19 In addition, making sure that we were going to 20 have ample outdoor space for our students that both 21 cater to elementary school students and middle school 22 students. 23 We wanted the capabilities to have more 24 classroom space. We currently have nine classrooms. 25 And would like ideally at least 12; 10 to 12.</p>

<p style="text-align: right;">45</p> <p>1 Specialty rooms. In our current location, one</p> <p>2 room acts as a classroom, a science room, an art room,</p> <p>3 and a field lab. At the new location, the future plans</p> <p>4 include a separate science room, a separate art room. A</p> <p>5 gym. Something we also don't have right now.</p> <p>6 And of course, looking for a new home, the</p> <p>7 location of that new home was very important. We serve</p> <p>8 families in Virginia, D.C. and Maryland. This location</p> <p>9 on Old Georgetown Road we feel will be ideal for our</p> <p>10 community.</p> <p>11 And of course, we also wanted to make sure we</p> <p>12 would have a seamless approach to carpool, both in the</p> <p>13 morning and in the afternoon.</p> <p>14 Q And so what are the priorities with regard to</p> <p>15 students getting to and from the site?</p> <p>16 A Having a seamless car pool system is our</p> <p>17 priority. We have a lot of practice with that</p> <p>18 currently. We're often praised by our families by our</p> <p>19 carpool system. So we wanted a location where we could</p> <p>20 closely mimic what we currently do. Because what we're</p> <p>21 doing now really works.</p> <p>22 Q And do you -- I guess tell us how your pick-up</p> <p>23 and drop-off works currently.</p> <p>24 A All right. So at our current location, we</p> <p>25 reside on the Green Acres School campus in the Luxmanor</p>	<p style="text-align: right;">47</p> <p>1 uses her walkie-talkie and mon -- calls out the name to</p> <p>2 the Staff. So that when the cars come around the</p> <p>3 circle, the other children are waiting. They're right</p> <p>4 there when the car comes around.</p> <p>5 And that all of those things that I just stated</p> <p>6 really makes for a very seamless carpool process.</p> <p>7 Q Do you plan to continue the same process with</p> <p>8 the new location?</p> <p>9 A Yes. Absolutely.</p> <p>10 Q Are you familiar with the proposed site plan</p> <p>11 and will it work with your process?</p> <p>12 A Yes, very familiar with it. Also been involved</p> <p>13 in all of those meetings. And yes, we do believe that</p> <p>14 this is going to work for our school and excited about</p> <p>15 it.</p> <p>16 Q Ms. Chumas, are you familiar with the</p> <p>17 Transportation Management Plan that we are submitting</p> <p>18 today in a revised, slightly revised form?</p> <p>19 A Yes. I am familiar with it and worked with the</p> <p>20 Transportation Planning Committee as well.</p> <p>21 Q Is The Diener School prepared to make a</p> <p>22 commitment to abide by all of the provisions of the TMP?</p> <p>23 A Yes, we are, and we do understand the</p> <p>24 importance of the TMP.</p> <p>25 Q When does Diener hope to move into its new</p>
<p style="text-align: right;">46</p> <p>1 neighborhood. Our morning carpool begins at 7:50. It</p> <p>2 runs from 7:50 to about 8:20. During carpool, it is an</p> <p>3 all hands-on deck at Diener. We have Staff members</p> <p>4 located on the street, Staff members located all along</p> <p>5 the carpool circle that are stationed at the individual</p> <p>6 loading area. We number them at the different poles.</p> <p>7 And we also have a Staff member that is located on the</p> <p>8 driveway.</p> <p>9 So when carpool begins, there are Staff members</p> <p>10 directing traffic, and there is a Staff member right at</p> <p>11 each car to help the children unload and exit the car to</p> <p>12 the building.</p> <p>13 Sometimes that the carpool, as I said, starts</p> <p>14 at 7:50, ends at 8:20, often, we can be finished before</p> <p>15 8:20 and earlier.</p> <p>16 At dismissal, we start at 3 o'clock is when we</p> <p>17 dismiss. Dismissal is typically 3 o'clock to about 3:20</p> <p>18 to 3:30. And it's a very similar system as done in the</p> <p>19 morning. There is Staff members also on the street,</p> <p>20 along the carpool circle at every pole for the students</p> <p>21 to enter the car as quickly as possible.</p> <p>22 And one -- one different feature in the</p> <p>23 afternoon is a Staff member uses a walkie-talkie, walks</p> <p>24 down the carpool driveway, and makes a list of all the</p> <p>25 students in order of the cars. So that -- and she then</p>	<p style="text-align: right;">48</p> <p>1 building?</p> <p>2 A July or August, early August at the latest, of</p> <p>3 summer of 2024. So we are ready to go for the school</p> <p>4 year of 2024-2025.</p> <p>5 Q What will the ramifications be if Diener can't</p> <p>6 transition from the current site to the new one for the</p> <p>7 September 2024 school year?</p> <p>8 A Unfortunately, it means we will be turning away</p> <p>9 more families that truly need a school like Diener.</p> <p>10 That is not something we want to do. It is very hard to</p> <p>11 turn away a family that is in desperate need of a</p> <p>12 program that similar to Diener that can address a</p> <p>13 child's needs in both academics, social, and emotional</p> <p>14 development. If we're not able to move to the site, we</p> <p>15 will have to continue residing at Green Acres. Our rent</p> <p>16 is very expensive. It is over \$500,000 a year, which is</p> <p>17 a lot of money for a small organization like Diener.</p> <p>18 Q Is there anything else you'd like the Hearing</p> <p>19 Examiner to know as she considers this application?</p> <p>20 A I would say that yes, we have been renters for</p> <p>21 the last 16 years. It's always been our hope and dream</p> <p>22 to own our own building. And today's presentation which</p> <p>23 you're going to see today, it's exactly that. It is our</p> <p>24 hopes and dreams. And we look forward to the</p> <p>25 possibility of being part of the community and giving</p>

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<p style="text-align: right;">49</p> <p>1 back to the community as well.</p> <p>2 Q Thank you very much, Ms. Chumas. That</p> <p>3 completes my questions.</p> <p>4 A Thank you.</p> <p>5 HEARING EXAMINER HANNAN: Any questions of Ms.</p> <p>6 Chumas?</p> <p>7 Okay. Hearing none, thank you. You can be</p> <p>8 excused.</p> <p>9 Your next witness, Ms. Carrier.</p> <p>10 MS. CARRIER: My next witness normally would be</p> <p>11 Pat La Vay to describe the project in more detail and go</p> <p>12 through some of the findings that are required for a</p> <p>13 conditional use.</p> <p>14 HEARING EXAMINER HANNAN: Right.</p> <p>15 MS. CARRIER: You know, I don't know if it's</p> <p>16 still your preference to go right to traffic. We can do</p> <p>17 that. I'll leave that up to you.</p> <p>18 HEARING EXAMINER HANNAN: Thank you. I would</p> <p>19 like to go with traffic, and I'm just thinking through</p> <p>20 the logistics of this, but let's get to traffic.</p> <p>21 And do you have anything in your exhibits that</p> <p>22 has a map that shows the map of the neighborhood so I</p> <p>23 can understand --</p> <p>24 MS. CARRIER: We have -- in the prefiled</p> <p>25 exhibits --</p>	<p style="text-align: right;">51</p> <p>1 HEARING EXAMINER HANNAN: Yes.</p> <p>2 MS. CARRIER: Okay. That's fine. That's --</p> <p>3 that's what's important.</p> <p>4 Whereupon,</p> <p>5 PATRICK LA VAY,</p> <p>6 being first duly sworn or affirmed to testify to the</p> <p>7 truth, the whole truth, and nothing but the truth, was</p> <p>8 examined and testified as follows:</p> <p>9 MS. CARRIER: Mr. La Vay -- oh.</p> <p>10 HEARING EXAMINER HANNAN: Please state your name</p> <p>11 and address for the record.</p> <p>12 MR. LA VAY: My name is Patrick La Vay. My</p> <p>13 business address is 920 -- 9220 Wightman Road, Suite</p> <p>14 120, Montgomery, Maryland 20886.</p> <p>15 HEARING EXAMINER HANNAN: Now, Ms. Carrier, we</p> <p>16 just qualified him as an expert in civil engineering and</p> <p>17 land planning in a case I just had. Is that what you're</p> <p>18 planning to do here?</p> <p>19 MS. CARRIER: That is my -- the request I plan</p> <p>20 to make, yes.</p> <p>21 HEARING EXAMINER HANNAN: Okay. Does anyone</p> <p>22 have an objection -- his résumé is in the record. Does</p> <p>23 anyone have an objection to qualifying Mr. La Vay as an</p> <p>24 expert in land planning and civil engineering?</p> <p>25 Okay. Hearing none, I'll so qualify him</p>
<p style="text-align: right;">50</p> <p>1 HEARING EXAMINER HANNAN: Yeah.</p> <p>2 MS. CARRIER: -- you would have to go to --</p> <p>3 well, there is an existing conditions plan that shows</p> <p>4 some of the surroundings. The Staff --</p> <p>5 HEARING EXAMINER HANNAN: How about the new</p> <p>6 exhibits?</p> <p>7 MS. CARRIER: Well, we have Mr. La Vay was going</p> <p>8 to show an aerial map both sort of one that shows the</p> <p>9 whole neighborhood, and then, one closer up. And</p> <p>10 there's also a map of the surrounding -- the aerial, the</p> <p>11 big aerial also shows the surrounding neighborhood as</p> <p>12 was designed by Staff. I'm sure that he wouldn't mind</p> <p>13 just doing the first part of his testimony to show you</p> <p>14 that.</p> <p>15 HEARING EXAMINER HANNAN: Thank you.</p> <p>16 MS. CARRIER: And then, we can go to Ms.</p> <p>17 Wagner.</p> <p>18 HEARING EXAMINER HANNAN: Yes, that's fine.</p> <p>19 MS. CARRIER: Okay.</p> <p>20 HEARING EXAMINER HANNAN: Thank you.</p> <p>21 MS. CARRIER: Sure.</p> <p>22 HEARING EXAMINER HANNAN: Mr. La Vay?</p> <p>23 Okay. He's got his hand up, he's ready. Do</p> <p>24 you --</p> <p>25 MS. CARRIER: I don't see him. Do you see him?</p>	<p style="text-align: right;">52</p> <p>1 Okay. Go ahead. Ms. Carrier.</p> <p>2 MS. CARRIER: Great. Thank you very much.</p> <p>3 HEARING EXAMINER HANNAN: I'm jumping the gun on</p> <p>4 you. I'm sorry.</p> <p>5 MS. CARRIER: No, it's always fine. I love</p> <p>6 efficiency. And I know you do too.</p> <p>7 EXAMINATION BY COUNSEL FOR THE APPLICANT:</p> <p>8 BY MS. CARRIER:</p> <p>9 Q Mr. La Vay, would you please -- did you prepare</p> <p>10 an aerial photo showing the location of the property</p> <p>11 that you could put up on your screen?</p> <p>12 A I did.</p> <p>13 HEARING EXAMINER HANNAN: Okay. So this will be</p> <p>14 Exhibit 39. Aerial -- and what -- how would you</p> <p>15 describe -- does it show the surrounding --</p> <p>16 THE WITNESS: Yeah, I'll give you the name of</p> <p>17 it. It would be considered -- let me just open it a</p> <p>18 little better.</p> <p>19 I apologize for the delay here.</p> <p>20 Okay. There's a prior one, that's why I want</p> <p>21 to make sure I give you the right name.</p> <p>22 We have this titled as Site Location and</p> <p>23 Surrounding Neighborhood Map.</p> <p>24 HEARING EXAMINER HANNAN: Okay. Does anyone</p> <p>25 have a -- well, first, let's see it.</p>

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<p>53</p> <p>1 THE WITNESS: Yeah, let me just make it as big 2 as I can on my screen here. 3 Okay. Can you see that? 4 HEARING EXAMINER HANNAN: I can. Thank you. 5 THE WITNESS: Do you see the full yellow 6 border? 7 HEARING EXAMINER HANNAN: Yes. 8 THE WITNESS: Okay. I just wanted to make sure 9 it's visible in the entirety. 10 Q Mr. La Vay, would you please go through this 11 aerial and orient us -- 12 HEARING EXAMINER HANNAN: Well, wait. 13 MS. CARRIER: Okay. 14 HEARING EXAMINER HANNAN: Does anyone have an 15 objection to admitting this exhibit as Exhibit 39? 16 Okay. Hearing none, go ahead, Mr. La Vay. 17 (Exhibit 39, Aerial map, was marked for 18 identification.) 19 (Exhibit 39, Aerial map, was admitted into 20 evidence.) 21 A Françoise, can you finish your question. 22 Q Yes, yes, please just identify the location of 23 the subject property, and also, I think it would be 24 helpful to describe the surrounding neighborhood. But 25 let's -- so please go ahead with that.</p>	<p>55</p> <p>1 going to ask you if this -- this -- I'm sorry, I have to 2 get this. Here we go. I'm going to ask you if this 3 comports with your findings. 4 THE WITNESS: Sure. 5 HEARING EXAMINER HANNAN: You should be seeing 6 it. 7 THE WITNESS: Yes. I see it now. 8 HEARING EXAMINER HANNAN: And this -- and this 9 is the list for I don't -- at least one of the Staff 10 Report, and typically they are. 11 Does this comport with your assessment of the 12 special exceptions in the area? 13 THE WITNESS: Yes, that's very, very familiar, 14 if not the same as what's available on the Montgomery 15 Country Atlas. It can show the special exceptions. And 16 I can see a number of them. I didn't -- I don't think I 17 looked at every -- some of the accessory apartments, but 18 certainly like the YMCA facility that's listed as number 19 1, and then, again, those uses along Old Georgetown 20 Road, they are mostly miscellaneous office and medical 21 office uses. 22 HEARING EXAMINER HANNAN: Okay. Thank you. 23 Now, I'm going to get out of -- I'm going to 24 admit this as Exhibit 39, and it will be identification 25 of special exceptions in surrounding area.</p>
<p>54</p> <p>1 A Sure. The property is marked as Site, and 2 there's a arrow there pointing to a yellow polygon. It 3 is located approximately half a mile south of the 4 Capital Beltway and approximately a mile-and-a-half 5 north of downtown Bethesda. It's located on the west -- 6 west side of Old Georgetown Road, and it has address of 7 9312 Old Georgetown Road, Bethesda, Maryland. The site 8 bound -- excuse me, the neighborhood boundary is shown 9 here in a dash yellow border. Within that boundary, the 10 land is entirely zoned R60 and is mostly single family 11 residential uses. 12 However, there are a number of special 13 exception uses within the neighborhood. Most of them 14 are along Old Georgetown Road. They include some 15 smaller general offices, medical offices, veterinary 16 practices and a few institutional and recreational uses. 17 The building sizes vary in both their character and 18 size. Some are larger, some are smaller, more 19 residential style structures, but together, they 20 establish an existing nonresidential character on this 21 section of Old Georgetown Road. 22 HEARING EXAMINER HANNAN: Okay. Let me just -- 23 I'm going to share my screen for a minute because I 24 asked Staff about this to provide information about the 25 special exception in the area, and they did do so. I'm</p>	<p>56</p> <p>1 I mean, this will be Exhibit 40. Special 2 Exceptions and Conditional Uses in Surrounding Area. 3 (Exhibit 40, Special Exceptions, was marked for 4 identification.) 5 (Exhibit 40, Special Exceptions, was admitted 6 into evidence.) 7 HEARING EXAMINER HANNAN: All right. So I'm 8 going to stop sharing my screen and turn it back over to 9 you, Mr. La Vay. 10 MS. CARRIER: I think it might be helpful to 11 just let Mr. La Vay continue a little bit further into 12 his testimony to describe the site. And then, we can 13 turn it over to Ms. Wagner. 14 HEARING EXAMINER HANNAN: Okay. 15 Q But before I do that, Mr. La Vay, I just want 16 to ask you on the record, do you agree with the staff's 17 -- the surrounding neighborhood as defined by the Staff, 18 and is that what you showed on your aerial? 19 A I do, and that is what I showed on my aerial. 20 Q Great. 21 HEARING EXAMINER HANNAN: Let me -- Mr. Myers' 22 hand is up. Mr. Myers. 23 MR. MYERS: Yes. Just one thing. I don't think 24 that exhibit showed The French International School 25 because it doesn't face out to the Old Georgetown Road,</p>

<p>57</p> <p>1 but it is right off of Old Georgetown Road at the -- on 2 the -- on Beech Avenue. Actually -- 3 HEARING EXAMINER HANNAN: Yeah, I think they cut 4 off the surrounding area at the first -- the first 5 property's face -- just the property actually facing Old 6 Georgetown Road. 7 MR. MYERS: Yeah. Okay. I just wanted to 8 clarify that. 9 HEARING EXAMINER HANNAN: Okay. Thank you. 10 Okay. Go ahead, Mr. La Vay. 11 Q Would you please put up the -- the other aerial 12 that you prepared with a more close-up view of the 13 property. 14 A Sure. And this is going to be a new exhibit as 15 well, and we can title it Site Aerial Photo. You should 16 see that on your screens now. Excuse me. 17 HEARING EXAMINER HANNAN: Okay. 18 MS. CARRIER: And will that be Exhibit 41? 19 HEARING EXAMINER HANNAN: Yes. And how do you 20 describe this? Site aerial photo? 21 THE WITNESS: Yep. 22 (Exhibit 41, Site aerial photo, was marked for 23 identification.) 24 (Exhibit 41, Site aerial photo, was admitted 25 into evidence.)</p>	<p>59</p> <p>1 than Old Georgetown Road. So there a lot -- a lot of 2 gradient as you go up across this site. 3 And then, on that western boundary, you can see 4 there's a number of trees there. That's that was 5 designated by the Natural Resource Inventory as a small 6 area of existing forest. It's less than a quarter acre. 7 But it is heavily covered in bamboo. 8 Just a quick glimpse of the surrounding, 9 immediate surrounding properties. We can start at the 10 north corner, there's a what you can it's labeled here 11 on the exhibit as Potomac Construction Services. That's 12 an existing office building. 13 And then, as you move from that structure 14 counterclockwise around the property, with the exception 15 of Singleton Drive which dead ends into the property, 16 this are single family residential properties all the 17 way around. Although I will note on the southern side 18 of the property, there is an existing single family 19 residence, but it's vacant and it's under corporate 20 ownership. 21 And then, across Old Georgetown Road, you can 22 see here there's a few -- an animal hospital, a 23 veterinary use, there's a medical office, and then, 24 there's a pediatric care center. So some of those 25 nonresidential uses I described earlier.</p>
<p>58</p> <p>1 Q Mr. La Vay, would you please use this image to 2 orient us to the site and its main physical features? 3 A Sure. The site is shown bounded by the yellow 4 dash line here, which is the approximate boundary. As 5 you can see within that, there's an existing T-shaped 6 building that's a two-story structure approximately 7 25,783 square feet. The building is surrounded on all 8 sides by surface parking and drive aisles. And then, 9 beyond that perimeter landscaping create an exact -- an 10 existing screen around the property. There are two 11 driveway access points on Old Georgetown Road in the 12 northeast and -- northeast and southeast corners of the 13 site. 14 Beginning at Old Georgetown Road, the gradient 15 is quite significant. From Old Georgetown Road to the 16 existing building alone, there's 16 feet of rise, and I 17 think there are few photos of that in the Staff Report. 18 I think it's figures 3 and 4. But there's quite a bit 19 of grade there between the building and the street. And 20 we'll get to that a little bit later with some of the 21 improvements. 22 But then, continuing to the back of the site, 23 to the rear of the parking, so going from right to left 24 on that page, that westernmost area parking is sort of a 25 pinnacle of the site. That's actually 36 feet higher</p>	<p>60</p> <p>1 Q Okay. Thank you very much, Mr. La Vay. 2 MS. CARRIER: Ms. Hannan, I think this is 3 probably a good place to stop Mr. La Vay's testimony and 4 move to the traffic testimony. 5 But Mr. La Vay, would you please leave up the 6 Exhibit -- I -- Exhibit 39 because I don't think that I 7 -- don't think Ms. Wagner has that to put up on the 8 screen. And I -- and I -- it might help for that 9 discussion. 10 THE WITNESS: Is it visible now? 11 MS. CARRIER: Yep. 12 THE WITNESS: Okay. 13 HEARING EXAMINER HANNAN: Thank you. 14 Ms. Wagner -- oh. Is Ms. Wagner your next 15 witness? 16 MS. CARRIER: Yes, Ms. Wagner will be our next 17 witness. 18 HEARING EXAMINER HANNAN: Ms. Wagner, please 19 raise your right hand. 20 Whereupon, 21 KATHERINE WAGNER, 22 being first duly sworn or affirmed to testify to the 23 truth, the whole truth, and nothing but the truth, was 24 examined and testified as follows: 25 HEARING EXAMINER HANNAN: Go ahead, Ms. Carrier.</p>

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16 (61 to 64)

<p>61</p> <p>1 MS. CARRIER: Okay.</p> <p>2 EXAMINATION BY COUNSEL FOR THE APPLICANT:</p> <p>3 BY MS. CARRIER:</p> <p>4 Q Ms. Wagner, please state your name and business</p> <p>5 -- and email address and business address for the</p> <p>6 record.</p> <p>7 A Hi, yes. Katherine Wagner, my business address</p> <p>8 is 1140 Connecticut Avenue, Suite 1010, Washington, D.C.</p> <p>9 20036. And my email address is klw@goroveslade.com.</p> <p>10 HEARING EXAMINER HANNAN: Okay.</p> <p>11 Q How long have you been -- what is your</p> <p>12 profession and what professional certifications do you</p> <p>13 have?</p> <p>14 A I have been -- I'm --</p> <p>15 HEARING EXAMINER HANNAN: Well --</p> <p>16 A -- a transportation engineer.</p> <p>17 HEARING EXAMINER HANNAN: -- before we go</p> <p>18 through this, I don't mean to -- to, but she has</p> <p>19 qualified as a -- are you a traffic engineer or</p> <p>20 transportation planner?</p> <p>21 THE WITNESS: Typically, transportation engineer</p> <p>22 is what we go by.</p> <p>23 HEARING EXAMINER HANNAN: Okay. Ms. Wagner has</p> <p>24 qualified as an expert in transportation engineering</p> <p>25 before OZAH before.</p>	<p>63</p> <p>1 Q Were there any attachments to the</p> <p>2 transportation report?</p> <p>3 A Yes. There were attachments -- attachments in</p> <p>4 the form of Synchro/Sim Traffic models, which we</p> <p>5 submitted to the local agencies for review. And then,</p> <p>6 we also in part of appendices included exhibits and</p> <p>7 calculations.</p> <p>8 Q Did your office also prepare a Transportation</p> <p>9 Management Plan or TMP for this project?</p> <p>10 A Yes, we did.</p> <p>11 Q And did you prepare an update to the TMP to be</p> <p>12 submitted today?</p> <p>13 A Yes, we did.</p> <p>14 MS. CARRIER: We -- The Diener School would like</p> <p>15 to place in the record a revised Transportation</p> <p>16 Management Plan, which is dated May 10, I believe.</p> <p>17 A 11, I think.</p> <p>18 MS. CARRIER: May 11th of 2023. Gorove Slade's</p> <p>19 transportation report for this matter has previously</p> <p>20 been marked as Exhibit 32. And the technical</p> <p>21 attachments to the LATR are Exhibit 32B. We propose to</p> <p>22 rely on the written transportation report and appendix</p> <p>23 with regard to methodology, and focus Ms. Wagner's</p> <p>24 testimony on summarizing the key findings of the LATR</p> <p>25 and going into more detail regarding the Transportation</p>
<p>62</p> <p>1 Does anyone have an objection to so qualifying</p> <p>2 her here?</p> <p>3 Hearing none, I'm going to qualify Ms. Wagner</p> <p>4 as an expert in transportation engineering.</p> <p>5 MS. CARRIER: Thank you very much.</p> <p>6 HEARING EXAMINER HANNAN: Go ahead, Ms. Carrier.</p> <p>7 Q Ms. Wagner, I plan to ask you first about the</p> <p>8 project's anticipated impact on the local transportation</p> <p>9 network, and then we'll turn to site design issues.</p> <p>10 Did you and your team at Gorove Slade prepare a</p> <p>11 local area transportation report and a transportation</p> <p>12 impact study in connection with the proposed project?</p> <p>13 A Yes. We prepared a LATR, a Local Area</p> <p>14 Transportation Review, and then, a Traffic Impact</p> <p>15 Statement, which is part of that LATR, and the -- the</p> <p>16 Traffic Impact Statement, TIS, is specifically focused</p> <p>17 on vehicular operations on the local roadway network.</p> <p>18 Q Was that transportation report, the LATR,</p> <p>19 submitted as part of both the school's conditional use</p> <p>20 application and its pending preliminary plan</p> <p>21 application?</p> <p>22 A Yes.</p> <p>23 Q And were those two applications filed at the</p> <p>24 same time?</p> <p>25 A Yes, they were.</p>	<p>64</p> <p>1 Management Plan.</p> <p>2 Is that acceptable to you, Ms. Hannan?</p> <p>3 HEARING EXAMINER HANNAN: If -- although can you</p> <p>4 email -- has Mr. Myers seen the amended Transportation</p> <p>5 Management Plan?</p> <p>6 MS. CARRIER: I am not sure he has. But he has</p> <p>7 seen the -- the only changes that were made to it --</p> <p>8 Q Ms. -- Ms. Wagner, would you please describe</p> <p>9 the changes that were made to the TMP --</p> <p>10 HEARING EXAMINER HANNAN: Okay.</p> <p>11 Q -- and today's version?</p> <p>12 HEARING EXAMINER HANNAN: Yes.</p> <p>13 A Yes. The changes for the TMP are very, very</p> <p>14 minor. And it reflects changes that were made in the</p> <p>15 Staff Report. So it's really just summarizing the</p> <p>16 number of students and staff part of the before and</p> <p>17 after school program, and the summer school operations.</p> <p>18 And both are less than the school day operations, and it</p> <p>19 was really just what was already reviewed by the</p> <p>20 Planning Board last week as part of in the Staff Report.</p> <p>21 MS. CARRIER: And in addition to being in the</p> <p>22 Staff Report, those changes were outlined in the Motion</p> <p>23 to Amend that the Applicant submitted with its</p> <p>24 pre-hearing submission about a month ago. And Mr. Myers</p> <p>25 would have been on the mailing list for that.</p>

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17 (65 to 68)

<p>65</p> <p>1 HEARING EXAMINER HANNAN: Okay. Mr. Myers, or 2 anyone else, do you have an objection to admitting this 3 revised TMP dated May 11th, 2023? 4 MR. MYERS: I do not. 5 HEARING EXAMINER HANNAN: Okay. So I'll accept 6 it as Exhibit 42. And then, you can continue. 7 (Exhibit 42, Revised TMP, was marked for 8 identification.) 9 (Exhibit 42, Revised TMP, was admitted into 10 evidence.) 11 MS. CARRIER: Thank you very much. 12 Q Ms. Wagner, please summarize the results of the 13 transportation tests that your team carried out? 14 A So we did different review – transportation 15 reviews as part of this LATR. We have to look at the 16 Multimodal improvement – the Multimodal Local Network 17 as part of this – as part of this study, and so we have 18 to look at pedestrian level of comfort, we have to look 19 at the bike level of traffic stress, the transportation 20 network, and then, we also had to perform a Vision Zero 21 Safety Evaluation, and then, finally, as I described 22 previously, we had to do a motor vehicle adequacy test 23 to look for the need for any transportation improvements 24 on the local roadway network. 25 Q And what were the results?</p>	<p>67</p> <p>1 And then, our vision zero evaluation found that 2 there were occurrences of speeding and crashes within 3 the study area. And that this followed the 4 implementation of different safety projects by MDOT -- 5 by SHA. 6 Q It sounds like fair number of deficiencies. Is 7 that common in the County? 8 A Yes. It is -- these deficiencies that we found 9 are very common within our studies in the County, and 10 part of the reason why our studies have -- have turned 11 to focus on not just looking at vehicular impacts but 12 also at the multimodal facilities within the area. 13 Q And these, we're talking about all deficiencies 14 that are offsite, correct? 15 A Yes. Yes. Our review really focuses on the 16 offsite facilities. 17 Q How does the Applicant propose to contribute 18 towards the mitigation of these deficiencies? 19 A So first, we do look at what we need to do 20 along our site frontage, so we are proposing a 11 foot 21 wide site path, side path as well as an eight foot wide 22 landscape buffer, with a two foot wide maintenance 23 strip. So really focusing on our responsibilities to 24 contributing to that transportation network and 25 improving our site frontage.</p>
<p>66</p> <p>1 A So we scoped our traffic study with the local 2 agencies, so Park and Planning, MCDOT, and SHA. We 3 performed a corridor analysis along Old Georgetown Road, 4 where we were looking really at the corridor as a whole 5 as opposed to each individual intersection as previously 6 discussed where we understand that there is a new bike 7 lane facility put on Old Georgetown Road right along the 8 site frontage. And so all agencies agreed to look at a 9 corridor study. We originally scoped that study. That 10 has to meet the 80 second delay's threshold, and we met 11 that 80 second delay threshold with using the corridor 12 analysis. 13 We found that there were deficiencies in the 14 pedestrian network. This include a lack of ped -- 15 sorry, striking at crosswalks; that there were 16 deficiencies in the ADA curb ramps that were in the 17 area, and then, there were streetlights facing 18 deficiencies. 19 We also identified some deficiencies in the 20 bicycle network where there are facilities documented in 21 the bike Master Plan and are not yet implemented, or 22 that they have a higher bike level of traffic stress 23 than what the County would like to see. 24 We noticed that there were two deficient bus 25 stops within the transit network in our study area.</p>	<p>68</p> <p>1 We also will be contributing \$19,000 -- \$19,713 2 to MCDOT for improvements to nearby curb ramps. And 3 this was based on coordination with MCDOT and Park and 4 Planning, after determining that were -- there were no 5 existing deficiency projects that would fit within the 6 project's proportionality guide of \$22,622. 7 Q Would the hearing -- well, so and that number 8 relates only to offsite improvements, right; not the 9 sidewalk the School is building on its frontage? 10 A Correct, yes. 11 Q And that number, was that number based on the 12 calculations under the County's guidelines for offsite 13 improvement contributions? 14 A Yes. Yes, when counsel added the obligation to 15 mitigate offsite multimodal deficiency, the MMCPPC and 16 MCDOT developed what is called the proportionality 17 guide. This establishes a proportionate -- a 18 proportionate dollar amount for the project's impact 19 that -- that the Applicant must contribute towards the 20 multimodal deficiencies. So this is based off of the 21 project size, where its location is. That that is how 22 we came up with that very specific \$22,622, and that it 23 is it based on the LATR guidelines where it establishes 24 a total cost for the project's offsite improvements. 25 Q Thank you. Please describe the main elements</p>

<p>69</p> <p>1 of the TMP.</p> <p>2 A So the TMP has three different categories. The</p> <p>3 first one is minimizing vehicular traffic. This</p> <p>4 includes encouraging students and staff to carpool. The</p> <p>5 School will be providing two buses for students, so a</p> <p>6 significant number of the students will be arriving by</p> <p>7 bus.</p> <p>8 And then, it also provides multimodal</p> <p>9 transportation options for staff encouraging them to</p> <p>10 think about other ways of getting to the School besides</p> <p>11 in a single occupancy vehicle.</p> <p>12 The TMP next section details out the operations</p> <p>13 on site, so including the pick-up and drop-off plan, and</p> <p>14 the established circulation pattern for vehicles and the</p> <p>15 buses.</p> <p>16 And then, we also described the special events</p> <p>17 operations, and so this includes how parking is managed</p> <p>18 for larger events, and the options for that. It also</p> <p>19 establishes that there will be a transportation</p> <p>20 coordinator as -- as part of the staff at The Diener</p> <p>21 School, and so they will help implement the TMP.</p> <p>22 It also includes notes about how the TMP will</p> <p>23 be communicated with parents.</p> <p>24 Q What -- I'm sorry, a little bit of a -- of a</p> <p>25 distraction.</p>	<p>71</p> <p>1 to and from the School.</p> <p>2 And then. Another option that the School is</p> <p>3 exploring is renting parking spaces from nearby</p> <p>4 facilities.</p> <p>5 Q Thank you, Ms. Wagner.</p> <p>6 MS. CARRIER: I'd like to say just for the</p> <p>7 record that the Statement of Justification describes</p> <p>8 event parking, but it's not as detailed as the</p> <p>9 information that's in the TMP. So the TMP should be</p> <p>10 relied on on that point.</p> <p>11 Q Ms. Wagner --</p> <p>12 HEARING EXAMINER HANNAN: Okay.</p> <p>13 Q -- what input did you receive in developing the</p> <p>14 TMP?</p> <p>15 A Yes. So first, we started by really</p> <p>16 understanding how the School operates. As Kathy Chumas</p> <p>17 described earlier, that getting -- getting children in</p> <p>18 and out of the cars, getting that carpool line through</p> <p>19 as efficiently and as quickly as possible is really one</p> <p>20 of the first -- is one of the high priorities for the</p> <p>21 School. So we detailed out how the School plans to</p> <p>22 replicate those some more operations at the new school.</p> <p>23 We consulted with MMCPPC, MCDOT, and SHA staff</p> <p>24 where we submitted a TMP, got their comments, and have</p> <p>25 included revisions in the TMP that addressed their</p>
<p>70</p> <p>1 How does the TMP address event parking?</p> <p>2 Because the School will have a certain number of special</p> <p>3 events that will have more attendees than on a typical</p> <p>4 day.</p> <p>5 A Yes. So I'm gonna first tell how many parking</p> <p>6 spaces there are normally because we kind of skipped</p> <p>7 over that part. So the site will be developed in two</p> <p>8 phases. In Phase 1, there will -- there will be 65</p> <p>9 parking spaces. And then, in Phase 2, there will be 42</p> <p>10 parking spaces. The TMP addresses event parking by</p> <p>11 providing different options for different sizes of</p> <p>12 events. The first option that the School has is that</p> <p>13 they would utilize valet parking. So that allows</p> <p>14 parking to be in a little bit more of a Tetris fashion</p> <p>15 on site where there's somebody that's managing the</p> <p>16 vehicles, and we can fit more vehicles on site. So with</p> <p>17 the valet option, there'll be -- there'll be the</p> <p>18 availability of 114 parking spaces in Phase 1. And</p> <p>19 then, in Phase 2, there will be 87 parking spaces.</p> <p>20 The next option that the School has for larger</p> <p>21 events where they know they'll have more parking than</p> <p>22 the valet option would provide -- would be to provide</p> <p>23 shuttles to the nearby Metro stations where that way</p> <p>24 parents and staff can take the Metro, they can park at</p> <p>25 Metro, and then, there would be shuttle service provided</p>	<p>72</p> <p>1 comments.</p> <p>2 We also requested feedback from the community.</p> <p>3 Specifically the Maple Wood Citizens - Citizens</p> <p>4 Association regarding the School's operations and the</p> <p>5 impacts to the local community, and included all of</p> <p>6 their comments in the TMP.</p> <p>7 Q In your professional opinion, will the TMP be</p> <p>8 effective in ensuring that the proposed school will have</p> <p>9 no unacceptable adverse effects on the local</p> <p>10 transportation system?</p> <p>11 A Yes. The TMP documents how transportation</p> <p>12 should operate on site to reduce the possibility of any</p> <p>13 adverse effects on the local transportation --</p> <p>14 transportation system to an acceptable level.</p> <p>15 Q So you already heard the early discussion about</p> <p>16 the status of review by the State Highway</p> <p>17 Administration. Would you please give us your</p> <p>18 understanding of the status of that review?</p> <p>19 A Yes. We first submitted our LATR to SHA,</p> <p>20 MCDOT, and Park and Planning in October of 2022. We</p> <p>21 have been working very hard to resolve all comments</p> <p>22 since then. We have received positive -- a letter of</p> <p>23 approval from MCDOT. We have received a positive Staff</p> <p>24 Report from Park and Planning. We are still as you've</p> <p>25 heard waiting for that final approval letter from SHA</p>

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19 (73 to 76)

<p>73</p> <p>1 which we had hoped to receive before the Planning Board 2 hearing last week, as well as this hearing today. 3 And so we are, as was detailed previously, we 4 heard from Park and Planning and MCDOT that they had had 5 a meeting with SHA, and sent us some general comments, 6 concerns that SHA had. And so what we tried to do is 7 submit a mitigation menu for SHA to consider to address 8 the side street delay concerns on Old Georgetown Road 9 caused by the road diet and the bike lanes. 10 We received this email from Park and Planning 11 Staff. We submitted analysis and a memo within a week 12 of receiving these comments. SHA was to respond in 13 within a week. Unfortunately, we have not heard back 14 from SHA regarding our -- the mitigation menu that we 15 had proposed, our analysis that we had done to address 16 their concerns. 17 HEARING EXAMINER HANNAN: May I jump in for a 18 moment? 19 What were specifically the SHA concerns that 20 you're aware of? 21 THE WITNESS: The -- the email was very general 22 that we had -- we received from Park and Planning. What 23 we heard was side street delays were a concern at Old 24 Georgetown Road and Spruce Street. And so -- 25 HEARING EXAMINER HANNAN: Okay. Hold up, hold</p>	<p>75</p> <p>1 HEARING EXAMINER HANNAN: Oh, I see. 2 THE WITNESS: -- the site -- the site frontage 3 here. 4 HEARING EXAMINER HANNAN: I see it -- okay. 5 THE WITNESS: And then, Alta Vista Road is to 6 the south of our site. 7 HEARING EXAMINER HANNAN: Right. 8 THE WITNESS: The Alta Vista to the east 9 connects through to the Maple Wood neighborhood. 10 HEARING EXAMINER HANNAN: Right. 11 THE WITNESS: Then, Alta Vista to the west, 12 there is a -- it is a dead end cul-de-sac, so there are 13 not very many vehicles that will be coming from Alta 14 Vista from the west. North of our site is 15 Spruce Street. As you can see here, the YMCA is just 16 north of Spruce Street. 17 HEARING EXAMINER HANNAN: Right. 18 THE WITNESS: And then, on the west side of Old 19 Georgetown Road, Spruce Street is a private driveway. 20 So there are very few vehicles that will be coming to 21 and from Spruce Street to on the west. 22 HEARING EXAMINER HANNAN: So which side street 23 are -- and Beech -- okay. Which side street -- did SHA 24 name a side street or did they just say -- 25 HEARING EXAMINER HANNAN: Those are the two --</p>
<p>74</p> <p>1 up. Because it's what I'm trying to do is get a sense 2 of the issues in this case that are -- and I don't know, 3 I see a little cul -- I see two cul-de-sacs on each side 4 of Old Georgetown Road. Which is Spruce Street? 5 MS. CARRIER: You know, I would like to just 6 ask Mr. La Vay to maybe zero in for us in this -- in 7 this map. 8 THE WITNESS: Can I actually -- can I actually 9 -- 10 MS. CARRIER: You have a map? 11 THE WITNESS: Yes, I do. And Exhibit 32 is 12 LATR. And we have -- it's just zoomed in ever so 13 slightly. And hopefully this -- 14 MS. CARRIER: Ah. Okay. 15 THE WITNESS: -- is a little bit easier to 16 understand. 17 So what I'm showing is this is our site here, 18 this is Old Georgetown Road, the neighborhood -- 19 HEARING EXAMINER HANNAN: When you say this, 20 they're labeled -- 21 THE WITNESS: Oh, sorry -- 22 HEARING EXAMINER HANNAN: -- on this exhibit. 23 THE WITNESS: -- thank you. Yes, thank you for 24 the reminder. 25 So Old Georgetown Road runs along --</p>	<p>76</p> <p>1 those are the two side streets that they are 2 considering. Where they are considering. 3 HEARING EXAMINER HANNAN: And that's Rose Street 4 and Alta Vista? 5 THE WITNESS: Yes, yeah. And -- 6 HEARING EXAMINER HANNAN: I can't remember -- 7 THE WITNESS: Oh, I want to explain the site 8 operations just a little bit because I think that would 9 also help -- help you understand -- 10 HEARING EXAMINER HANNAN: Okay. Is Alta Vista, 11 is that signalized or not? I can't remember. 12 THE WITNESS: So neither Alta Vista or 13 Spruce Street are signalized. These are unsignalized 14 driveways -- 15 HEARING EXAMINER HANNAN: Right. 16 THE WITNESS: -- unsignalized intersections. 17 HEARING EXAMINER HANNAN: Right. 18 THE WITNESS: There is a median that runs down 19 Old Georgetown Road. And so when vehicles are entering 20 our site, this is where I would like to pull up -- 21 HEARING EXAMINER HANNAN: That's fine. Thank 22 you. 23 THE WITNESS: Exhibit 35B. So what vehicles are 24 going to do to enter our site -- I'm jumping ahead, 25 Françoise, to answer some questions.</p>

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20 (77 to 80)

<p>77</p> <p>1 MS. CARRIER: Go right ahead.</p> <p>2 THE WITNESS: So vehicles will enter into our</p> <p>3 site. There is the northern site driveway. This is an</p> <p>4 entrance inbound access only that is wide enough to</p> <p>5 accommodate both buses and vehicles. So vehicles will</p> <p>6 turn into our site. They will continue through a gate</p> <p>7 which will be open during the pick-up and drop-off time</p> <p>8 periods.</p> <p>9 There is a concern about students eloping, and</p> <p>10 so it is really important for the campus to be secure</p> <p>11 during the non-pick-up and drop-off time periods.</p> <p>12 Then, vehicles to maximize queueing within the</p> <p>13 site, these purple lines shown on this exhibit show</p> <p>14 where vehicles are able to double stack. So we're</p> <p>15 really able to get as many cars on camp -- as many cars</p> <p>16 on campus as we can to prevent any potential queue back</p> <p>17 -- queuing onto Old Georgetown Road.</p> <p>18 So vehicles will double stack along this</p> <p>19 northern frontage of the site along the southern or</p> <p>20 along the western boundary of the property. And then,</p> <p>21 turning down onto the southern side of the site, they</p> <p>22 will continue to double stack.</p> <p>23 Once we get to the green area along the</p> <p>24 southern part of the site, that is where we will have</p> <p>25 150 feet, so room for about six vehicles to have parents</p>	<p>79</p> <p>1 turning to enter in our site in the after -- enter into</p> <p>2 our site coming from the south, they must drive north on</p> <p>3 Old Georgetown Road, make a U-turn at Spruce Street, and</p> <p>4 then, make a right turn into the site.</p> <p>5 Similarly, if they are exiting, and if vehicles</p> <p>6 are traveling south, they can just turn right and travel</p> <p>7 south out of the site.</p> <p>8 If they need to travel north, they need to turn</p> <p>9 right out of the site, and make a U-turn at Alta Vista,</p> <p>10 and turn north.</p> <p>11 We do not -- in our analysis did not show that</p> <p>12 the U-turns were an issue. SHA does not have concerns</p> <p>13 about vehicles weaving. That we have -- we're spaced</p> <p>14 far enough away from these U-turn maneuvers that U-turns</p> <p>15 are not the issue. But we did respond to their comments</p> <p>16 where we provided all of the mitigation measures that</p> <p>17 could potentially be looked at.</p> <p>18 HEARING EXAMINER HANNAN: And what were the</p> <p>19 mitigation measures that you proposed besides from the</p> <p>20 U-turns?</p> <p>21 THE WITNESS: Yes. So we proposed a -- first,</p> <p>22 we looked at Beech Avenue, and there is a lot of</p> <p>23 approved development on the roadway network, and signal</p> <p>24 timings could be optimized for this intersection to</p> <p>25 perform better, and so that was one of the mitigation</p>
<p>78</p> <p>1 picking up and dropping off students. There will be --</p> <p>2 as you heard earlier, there will be a lots of staff out</p> <p>3 there to be able to help students in and out of the</p> <p>4 cars, making sure that in the morning they're getting</p> <p>5 out of cars quickly. And afternoon, it's making sure</p> <p>6 that there are the students at the cars when it needs to</p> <p>7 be, and that they're lined up with their parents at the</p> <p>8 appropriate time period.</p> <p>9 Once -- once parents have either dropped off or</p> <p>10 picked up their children, they will exit out. There's</p> <p>11 another gate here again that will be open during pick-up</p> <p>12 and drop-off time periods. The right -- the gate is</p> <p>13 shown in red. Parents will then exit out a right out</p> <p>14 only curb cut onto Old Georgetown Road.</p> <p>15 It is important to note that Old Georgetown</p> <p>16 Road has a median along it, so access is limited to</p> <p>17 right in the northern driveway, and right out in the</p> <p>18 southern driveway.</p> <p>19 So that is the site circulation plan. And I'm</p> <p>20 going to go back to the Exhibit 32 of the LA -- where we</p> <p>21 show the aerial of the LATR. And so part of the SHA</p> <p>22 concerns is looking at how these side streets operate.</p> <p>23 As for vehicles that are traveling from the north, they</p> <p>24 can just simply turn into the site. They can turn right</p> <p>25 in, they don't have to worry. If we have vehicles</p>	<p>80</p> <p>1 measures that we proposed.</p> <p>2 The next mitigation measure that we proposed</p> <p>3 was restricting left turns off of Spruce Street and Alta</p> <p>4 Vista. So it is very difficult --</p> <p>5 MS. CARRIER: Ms. Wagner, those --</p> <p>6 THE WITNESS: Yes.</p> <p>7 MS. CARRIER: -- restrictions would be only</p> <p>8 during the peak hours, right?</p> <p>9 THE WITNESS: Yes. Yes. Thank you for that</p> <p>10 clarification.</p> <p>11 So we would restrict left turns from the east</p> <p>12 and westbound movements at Spruce Street and Alta Vista.</p> <p>13 There are very few vehicles making these turning</p> <p>14 movements. In each of the peak hours we analyzed,</p> <p>15 there's less than ten vehicles making these maneuvers.</p> <p>16 I personally have been out there, and I tried to make</p> <p>17 that left turn movement at about 7 p.m. a couple weeks</p> <p>18 ago, and I had to give up. It is just very difficult to</p> <p>19 find gaps in traffic to make that left turn.</p> <p>20 You heard from Allen Myers earlier where he has</p> <p>21 residents that have com -- that are also complaining</p> <p>22 about left turns often blocking, so we thought that this</p> <p>23 would be an appropriate mitigation measure that also is</p> <p>24 seen to reduce delays because you're not having the left</p> <p>25 turn vehicles waiting to find gaps blocking other cars.</p>

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21 (81 to 84)

<p>81</p> <p>1 So we restricted, we recommended --</p> <p>2 HEARING EXAMINER HANNAN: Are these problems</p> <p>3 exacerbated by your signs?</p> <p>4 THE WITNESS: Ever so slightly --</p> <p>5 HEARING EXAMINER HANNAN: If you have no -- if</p> <p>6 you have no queuing on Old Georgetown Road?</p> <p>7 THE WITNESS: So yes, or -- we do make it ever</p> <p>8 so slightly worse, but this is an existing problem.</p> <p>9 These side street delays are -- are shown in existing</p> <p>10 conditions as an issue because of the heavy volume of</p> <p>11 traffic on Old Georgetown Road. And we are not adding</p> <p>12 vehicles. The School does not anticipate vehicles</p> <p>13 coming from these movements. So that's where we don't</p> <p>14 add to these side street delays. We only just add</p> <p>15 vehicles to Old Georgetown Road. So this is an existing</p> <p>16 problem SHA is wanting us to figure out for them.</p> <p>17 So those were -- so we recommended --</p> <p>18 HEARING EXAMINER HANNAN: How many vehicles --</p> <p>19 how many vehicles do you add to the exiting problem, to</p> <p>20 the existing -- to the existing volume is what I meant</p> <p>21 to say?</p> <p>22 THE WITNESS: So would you like to specifically</p> <p>23 know at the intersections or just as a whole?</p> <p>24 HEARING EXAMINER HANNAN: At the intersection.</p> <p>25 THE WITNESS: I don't have that off the top of</p>	<p>83</p> <p>1 Q -- peak hour, and 15 is the School peak hour?</p> <p>2 A Yes. The School peak hour.</p> <p>3 Q And then, one would be the afternoon street</p> <p>4 peak hour.</p> <p>5 A Yes.</p> <p>6 THE WITNESS: And then, I'm going to go down to</p> <p>7 intersection 7, which is Alta Vista, which we have a</p> <p>8 similar pattern of we have -- don't add any vehicles to</p> <p>9 the north -- to the east or westbound. We add</p> <p>10 northbound traffic in the a.m., school p.m., and p.m.</p> <p>11 peak hour. We add southbound traffic in the a.m., p.m.</p> <p>12 and school time peak. And then, we have southbound --</p> <p>13 this is showing the southbound U-turns.</p> <p>14 HEARING EXAMINER HANNAN: How much above</p> <p>15 existing volumes is what you're adding?</p> <p>16 THE WITNESS: Trying to see. I don't -- so</p> <p>17 those -- so that these are what we're adding.</p> <p>18 HEARING EXAMINER HANNAN: Yes. But what is that</p> <p>19 is a percentage of existing volume?</p> <p>20 THE WITNESS: So you can see the highest part --</p> <p>21 -- I'm just going to use an estimating. The highest</p> <p>22 member we have is 79 -- 79 vehicles.</p> <p>23 HEARING EXAMINER HANNAN: Okay. The private</p> <p>24 driveway.</p> <p>25 THE WITNESS: Or -- yes. Well, this is</p>
<p>82</p> <p>1 my head, so I'm going to pull up a graphic here. So</p> <p>2 this is page 45 of Exhibit 32, which is the Local Area</p> <p>3 Transportation Review.</p> <p>4 So at Spruce Street, this is intersection 4,</p> <p>5 I'm going to zoom in for you to see. We add no volumes</p> <p>6 to the side street movements. And we add volumes to the</p> <p>7 northbound and southbound. We're showing a.m., p.m. or</p> <p>8 school p.m., so that's the 3 to 4 time -- 3 to 4 p.m.</p> <p>9 time period, and then, the commuter p.m. peak hour. And</p> <p>10 then, we do add northbound U-turns. So that's the</p> <p>11 vehicles traveling from the --</p> <p>12 HEARING EXAMINER HANNAN: I got you.</p> <p>13 THE WITNESS: -- south that want to make -- that</p> <p>14 need to get into --</p> <p>15 HEARING EXAMINER HANNAN: Right.</p> <p>16 THE WITNESS: -- the site. So that is at Spruce</p> <p>17 Street --</p> <p>18 HEARING EXAMINER HANNAN: Now, what's the 30</p> <p>19 foot -- what's 34, 15, 1? Is that the number of U-turns</p> <p>20 you have?</p> <p>21 THE WITNESS: Yes. Yep.</p> <p>22 HEARING EXAMINER HANNAN: Okay. Got you. I</p> <p>23 understand.</p> <p>24 Q Is 34 in the morning --</p> <p>25 A Yes.</p>	<p>84</p> <p>1 Spruce Street.</p> <p>2 But then, we come down here to this to page 50,</p> <p>3 where we show what are the total traffic on Old</p> <p>4 Georgetown Road.</p> <p>5 HEARING EXAMINER HANNAN: Um-hum.</p> <p>6 THE WITNESS: You can see here that we have over</p> <p>7 2,000 vehicles in that movement. So we're adding a very</p> <p>8 small percentage of vehicles on to Old Georgetown Road.</p> <p>9 At what's out there.</p> <p>10 HEARING EXAMINER HANNAN: Do you mind going</p> <p>11 through again what the mitigation you've proposed was.</p> <p>12 THE WITNESS: Yes. I am going to go back to --</p> <p>13 to that aerial for you so we can all just have a</p> <p>14 reference.</p> <p>15 HEARING EXAMINER HANNAN: Because it sounds from</p> <p>16 Mr. Myers like it's pretty bad, and you said you</p> <p>17 couldn't get out.</p> <p>18 THE WITNESS: So I'm going to start from the top</p> <p>19 and going through the mitigation measures that we</p> <p>20 included in our --</p> <p>21 HEARING EXAMINER HANNAN: Thank you.</p> <p>22 THE WITNESS: -- memo to SHA.</p> <p>23 So first one was signal timing optimization at</p> <p>24 Beech. This is a common recommendation. Just want to</p> <p>25 make sure intersections are constantly updated given new</p>

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22 (85 to 88)

<p style="text-align: right;">85</p> <p>1 development in the area.</p> <p>2 HEARING EXAMINER HANNAN: And Beech is where The</p> <p>3 French School, The French School middle school goes in,</p> <p>4 right?</p> <p>5 THE WITNESS: Yes, as well as the YMCA, and</p> <p>6 then, there are two other -- two other schools right</p> <p>7 next to The French School.</p> <p>8 So that's that intersection. The next place</p> <p>9 that we had two mitigation issue measures was Alta Vista</p> <p>10 and Spruce Street. And we add mitigation measures at</p> <p>11 both of these intersections that are the exact same. So</p> <p>12 we are restrict -- we recommended --</p> <p>13 HEARING EXAMINER HANNAN: What were the -- oh,</p> <p>14 go ahead, sorry.</p> <p>15 THE WITNESS: The mitigation measures that we</p> <p>16 looked at there was restricting U-turns. We have said</p> <p>17 -- restricting U-turns at those intersections because</p> <p>18 they are unsignalized intersections.</p> <p>19 The other the mitigation measure that we looked</p> <p>20 at was restricting left turns during the peak hours at</p> <p>21 Spruce Street and Alta Vista for the eastbound and</p> <p>22 westbound movements.</p> <p>23 The next mitigation measure that we looked at</p> <p>24 was Staff was concerned about the delay at our site</p> <p>25 driveway, and that there are queue s on Old Georgetown</p>	<p style="text-align: right;">87</p> <p>1 that in front of Alta Vista and Spruce?</p> <p>2 THE WITNESS: It would be in front of our site</p> <p>3 at the -- at the exit; that there would be striping</p> <p>4 shown probably about 50 feet north of our site driveway,</p> <p>5 and then 50, feet south of our site driveway where it's</p> <p>6 white paint striping in X's discouraging vehicles from</p> <p>7 blocking the site driveway at --</p> <p>8 HEARING EXAMINER HANNAN: Now, how does --</p> <p>9 THE WITNESS: -- signage.</p> <p>10 HEARING EXAMINER HANNAN: -- that help Spruce</p> <p>11 and Alta Vista if you have a double --</p> <p>12 THE WITNESS: It doesn't, and I guess I should</p> <p>13 -- I should expand. SHA also indicated that they were</p> <p>14 concerned about -- about our site driveway, and that</p> <p>15 vehicles would be -- not be able to get out of our site.</p> <p>16 And so --</p> <p>17 HEARING EXAMINER HANNAN: Oh.</p> <p>18 THE WITNESS: -- they wanted us to look at a</p> <p>19 mitigation measures for that, and we haven't really dove</p> <p>20 into that discussing that because it didn't affect the</p> <p>21 neighbors and Allen Myers' community. That this is</p> <p>22 something that everybody was -- was fine with. That it</p> <p>23 really wouldn't have much impact on operations as it</p> <p>24 would only be really needed during the a.m. and p.m.</p> <p>25 dismissal and arrival time for the School.</p>
<p style="text-align: right;">86</p> <p>1 Road, and vehicles would not be able to exit out of our</p> <p>2 site. So what we have recommended is a don't block the</p> <p>3 box signage and striping. And so what that does is it</p> <p>4 can be seen at North Chelsea and 355 where they you</p> <p>5 provide like X striping in the middle of the roads and</p> <p>6 you say don't block intersection, and so that vehicles</p> <p>7 --</p> <p>8 HEARING EXAMINER HANNAN: I see.</p> <p>9 THE WITNESS: -- would be able to exit out of</p> <p>10 our site.</p> <p>11 Since we wrote this letter, and submitted it to</p> <p>12 Staff-- submitted it to SHA, we worked with Allen Myers</p> <p>13 to take -- we -- to understand the community's concerns</p> <p>14 about the U-turn mitigation measure, and we have -- we</p> <p>15 submitted a letter to SHA on May 10th where we said we</p> <p>16 do not want SHA to consider the U-turn restriction; that</p> <p>17 it provided very little improvement in delay operations.</p> <p>18 That we wanted to provide the whole host of mitigations</p> <p>19 for SHA to consider per their direction, but this is not</p> <p>20 one that we want them to consider.</p> <p>21 HEARING EXAMINER HANNAN: Okay. Can you -- I'm</p> <p>22 sorry to be slow. I want to make sure I understand.</p> <p>23 THE WITNESS: Of course.</p> <p>24 HEARING EXAMINER HANNAN: The don't block the</p> <p>25 box striping, would that be in front of your site or is</p>	<p style="text-align: right;">88</p> <p>1 HEARING EXAMINER HANNAN: So the -- the options</p> <p>2 that might -- might be acceptable to the community, but</p> <p>3 we're waiting for, is a signal timing adjustment at</p> <p>4 Beech?</p> <p>5 THE WITNESS: Yes.</p> <p>6 HEARING EXAMINER HANNAN: And then, restricting</p> <p>7 left turns from Spruce and Alta Vista?</p> <p>8 THE WITNESS: Yes. And then, the don't block</p> <p>9 the box.</p> <p>10 HEARING EXAMINER HANNAN: The don't block the</p> <p>11 box. Okay. Okay. That really helps me.</p> <p>12 THE WITNESS: And we, in our coordination with</p> <p>13 -- with Allen Myers, we -- we believe that we're all on</p> <p>14 the same page, and that the one question that we want to</p> <p>15 make sure that we all have an understanding from the</p> <p>16 community is the left turn restriction. That we</p> <p>17 understand they don't want the U-turns. Signal timing</p> <p>18 optimization is something that benefits everyone. Don't</p> <p>19 block the box doesn't seem to be a concern for anyone,</p> <p>20 but it's really the -- we have taken back the U-turn</p> <p>21 restriction, but it's then understanding everybody's</p> <p>22 position about the left turn restriction during the peak</p> <p>23 hours.</p> <p>24 HEARING EXAMINER HANNAN: Who -- who has</p> <p>25 jurisdiction -- Alta Vista and Spruce are County roads,</p>

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23 (89 to 92)

<p>89</p> <p>1 right?</p> <p>2 THE WITNESS: Yes. Yep.</p> <p>3 HEARING EXAMINER HANNAN: So it would be up to</p> <p>4 MCDOT --</p> <p>5 THE WITNESS: Yes.</p> <p>6 HEARING EXAMINER HANNAN: -- to --</p> <p>7 THE WITNESS: And we had submitted -- we</p> <p>8 submitted the letter to all agencies; to Park and</p> <p>9 Planning, to MCDOT, and to SHA. We were -- we have been</p> <p>10 working very closely with Park and Planning and MCDOT.</p> <p>11 Both were present at the preliminary -- at our Planning</p> <p>12 Board hearing on May 4th. And Park and Planning offered</p> <p>13 to set up a meeting with all agencies as well as us and</p> <p>14 Allen Myers. We were trying to get that meeting</p> <p>15 scheduled before this meeting, but we did not hear back</p> <p>16 from SHA to discuss all of these mitigation measures.</p> <p>17 HEARING EXAMINER HANNAN: What is SHA -- okay.</p> <p>18 So who gives final say over whether left turns can be</p> <p>19 restricted?</p> <p>20 MS. CARRIER: If I -- if I just interject there,</p> <p>21 the Staff Report says that all the agencies have to</p> <p>22 concur --</p> <p>23 HEARING EXAMINER HANNAN: Oh</p> <p>24 MS. CARRIER: -- at preliminary plan. And I had</p> <p>25 an informal conversation with a senior member of the</p>	<p>91</p> <p>1 from--</p> <p>2 HEARING EXAMINER HANNAN: Oh. So you did study</p> <p>3 Alta Vista?</p> <p>4 THE WITNESS: Yes. So we did study the -- the</p> <p>5 on and off ramps from the Beltway, we studied Beech, we</p> <p>6 studied Spruce Street, 5 -- intersection 5 and 6</p> <p>7 represent our site driveways, intersection Alt -- 7 is</p> <p>8 Alta Vista, intersection 8 is Cedar Lane. So when we do</p> <p>9 our analysis, what we do is, as I've mentioned</p> <p>10 previously, we look at the whole corridor, we run a</p> <p>11 micro simulation tool called Sim Traffic where literally</p> <p>12 there are vehicles moving on my screen and I can see how</p> <p>13 it takes into consideration intersections upstream and</p> <p>14 downstream, how we may have a large number of cars</p> <p>15 coming to and from the site right at that peak, right at</p> <p>16 that 15-minute time period before the bell rings.</p> <p>17 So that is what my micro simulation Sim Traffic</p> <p>18 tool can look at. And so that's where we look at the</p> <p>19 operations of the corridor as a whole, and where we met</p> <p>20 the APF findings corridor analysis of 80 seconds.</p> <p>21 The n, as when we print out our calculations</p> <p>22 from that -- from that software, it gives us how each</p> <p>23 intersection, how each approach is operating.</p> <p>24 HEARING EXAMINER HANNAN: Right. That's what I</p> <p>25 thought.</p>
<p>90</p> <p>1 Staff at MCDOT, who, you know, they have not given</p> <p>2 written response. I assume that they're waiting to see</p> <p>3 what SHA is going to say first. That I don't really</p> <p>4 know. But her response when I asked her what she</p> <p>5 thought DOT was going to say about these left turns was</p> <p>6 the County has congestion standards for urban areas, and</p> <p>7 we should stick with them.</p> <p>8 HEARING EXAMINER HANNAN: So -- so what you're</p> <p>9 saying is although your LATR didn't address the side</p> <p>10 street issue, your LAT -- I'm -- I'm not telling you;</p> <p>11 I'm thinking this through. LATR, did it deal only with</p> <p>12 -- it only deals with the signalized intersections,</p> <p>13 correct?</p> <p>14 THE WITNESS: No. So let me go to a different</p> <p>15 page on here to show you which intersections we studied.</p> <p>16 MS. CARRIER: And Ms. Hannan, I appreciate all</p> <p>17 the care you're taking to understand this.</p> <p>18 HEARING EXAMINER HANNAN: No, I feel slow but --</p> <p>19 THE WITNESS: No, it is probably that stuff --</p> <p>20 MS. CARRIER: Yeah, we've had months to try --</p> <p>21 THE WITNESS: Right.</p> <p>22 MS. CARRIER: -- to figure this out.</p> <p>23 THE WITNESS: So the intersection that we</p> <p>24 studied are detailed on page 36 of the Exhibit 32 of the</p> <p>25 LATR. So we looked at the off -- the on and off ramps</p>	<p>92</p> <p>1 THE WITNESS: And so then --</p> <p>2 HEARING EXAMINER HANNAN: It's a weighted</p> <p>3 average of each approach, isn't it?</p> <p>4 THE WITNESS: Yes. And so that's where --</p> <p>5 that's where SHA can go in and nitpick all of the little</p> <p>6 details, but the APF finding is based off of the</p> <p>7 corridor as a whole. And so that's where SHA has a</p> <p>8 separate level of review that they do where they try to</p> <p>9 go and look at each individual intersection movement,</p> <p>10 and things like that. And that's where we're in those</p> <p>11 trying to resolve these -- these separate issues with</p> <p>12 SHA.</p> <p>13 HEARING EXAMINER HANNAN: Well, did you -- when</p> <p>14 you say corridor as a whole, do each of those</p> <p>15 intersections have to be 80 seconds or less or --</p> <p>16 THE WITNESS: No, they do not.</p> <p>17 HEARING EXAMINER HANNAN: -- is it a average of</p> <p>18 --</p> <p>19 THE WITNESS: It's how -- it's how long it takes</p> <p>20 a vehicle to travel through that corridor and looking at</p> <p>21 it whether there's 80 seconds or not of delay.</p> <p>22 HEARING EXAMINER HANNAN: Okay. So where does</p> <p>23 the -- I thought that the 80 seconds takes into account,</p> <p>24 for instance, the Alta Vista approach in addition to the</p> <p>25 Old Georgetown approach. Is that not the case?</p>

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24 (93 to 96)

<p>93</p> <p>1 THE WITNESS: It is the case. And part of 2 reason why I'm going to -- I'm going to zoom into inter 3 -- part of the reason why we're getting into some more 4 complicated parts of understanding the delay and how-- 5 how everything operates, and why we get the results that 6 we do. So as we talked about previously, there are a 7 large number of vehicles traveling north and southbound 8 on Old Georgetown Road. And as you pointed out, we're 9 looking at the average of a vehicle at an intersection. 10 You can see that at Spruce Street, we have 11 three vehicles trying to make that left turn movement. 12 We have in the a.m. peak hour, we have one in the 3 to 4 13 time period. 14 HEARING EXAMINER HANNAN: Is that Spruce Street 15 or Old Georgetown Road? 16 THE WITNESS: So Old Georgetown Road is running 17 north and south. Spruce Street -- 18 HEARING EXAMINER HANNAN: Oh, I get. I see what 19 -- how this is -- sorry. 20 MS. CARRIER: It's pretty -- it's confusing. 21 And so there's so many cars on Old Georgetown Road that 22 are able to just go through that intersection. They 23 don't have to get stopped, they don't have a stop sign, 24 so that is why the delay at this intersection operates 25 well within the standard because there's only a few</p>	<p>95</p> <p>1 the lines and numbers -- 2 HEARING EXAMINER HANNAN: Wait -- 3 MS. CARRIER: -- has the hour. 4 HEARING EXAMINER HANNAN: -- I can't have you -- 5 MS. CARRIER: Oh, sorry. 6 Q Ms. Wagner, could you please walk through each 7 of -- everything that's represented -- 8 HEARING EXAMINER HANNAN: I am sorry -- 9 Q -- in one of those -- 10 HEARING EXAMINER HANNAN: -- to everybody here, 11 I apologize. I just want to make sure I really 12 understand this. And it seems to me that this is the 13 most problematic. I haven't heard from anyone else, but 14 probably the most problematic issue in the case. 15 THE WITNESS: It is, yes. 16 So I have Exhibit 32 up and page 39, and this 17 is showing the existing traffic volumes that we 18 collected in 2022. So we have each blue circle has 19 number which represents a different intersection. So 20 that is this intersections that we were required to 21 study that we agreed with SHA, we agreed with Park and 22 Planning, we have agreed with MCDOT. 23 The next thing that we identify is turning 24 movement, so that's what specific movement is shown in 25 these little black arrows. So this is -- let's go to --</p>
<p>94</p> <p>1 vehicles that are getting stopped that have that long 2 delay. It's only three vehicles out of 3,000 other 3 vehicles at this intersection. And so that's why it's 4 operating in a very high -- it's operating very well at 5 this intersection, but then by SHA diving into how these 6 13 vehicles are operating is a very minor issue compared 7 to looking at the entire corridor. And that's why we 8 chose to look at that corridor analysis, is because 9 prior to rising 14 vehicles over pedestrian bike safety, 10 and the 3,000 other vehicles at this intersection, isn't 11 where we need to be spending our time; that we need to 12 be focusing on this corridor as a whole. 13 HEARING EXAMINER HANNAN: Can I ask you -- I'm 14 sorry, I feel like I'm -- can I ask -- you see this 15 block that's 4. Can you tell me exactly how this is 16 working, this -- this is one intersection -- okay. This 17 is the intersection of Spruce Street. I get it. So 18 this is -- now, why is this labeled -- oh, I see. I get 19 it. It's because Old Georgetown runs north south, so 20 it's showing you -- 21 MS. CARRIER: It's showing -- it's a little 22 picture -- it's a little picture of the intersection. 23 HEARING EXAMINER HANNAN: I know. 24 MS. CARRIER: The gray lines are the two roads. 25 And then, each one of those lines has first the morning,</p>	<p>96</p> <p>1 let's stay with intersection 4. We have this is the 2 Spruce Street Avenue which is on the east approach. 3 Then, we have the private driveway which is the west 4 approach. And this gray line is indicating that this is 5 the -- the gray lines indicate the intersection and the 6 north -- the north, south, east west approaches. These 7 little arrows are the specific turning movements. And 8 then, the numbers represent the number of cars doing 9 each of those movements at the -- at the specific 10 intersection. 11 And so we do this for each of the different 12 intersections. So we have Alta Vista is the east, west 13 gray line, and Old Georgetown Road is the north, south 14 gray line. 15 HEARING EXAMINER HANNAN: Now what are the 16 delays? Can you tell me the delays on the 17 Spruce Street Avenue approach to Old Georgetown Road. 18 Do you have that information? 19 THE WITNESS: Yes, I do have that information. 20 They are very large. And that is where why we used 21 their minutes long in delay. That is why we look at -- 22 we have two tools that we look at. We use Synchro, 23 which is a analysis software that we use. That software 24 does not take into consideration the signals that may be 25 north and south of an intersection. So specifically, at</p>

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25 (97 to 100)

<p>97</p> <p>1 Spruce Street. It is specifically looking at just the 2 volumes at that intersection. It doesn't consider that 3 there is an intersection to the -- fairly close to the 4 north where it's going to be providing gaps in traffic 5 for cars to make a right turn out. 6 And so that's where I mentioned previously we 7 also have a tool that we use called Sim Traffic where 8 that takes into consideration how the inter -- how the 9 full corridor operates as a whole. So understanding 10 that the results at Spruce Street take into 11 consideration that Beech is closed and it may be easier 12 for vehicles to make that right turn movement because it 13 is providing gaps in traffic because the north and 14 southbound traffic has stopped, so vehicles are able to 15 make a right turn movement out. 16 HEARING EXAMINER HANNAN: Wouldn't that be 17 reflected in the -- in the delay on Spruce Street? 18 THE WITNESS: So yes, you are correct, you are 19 asking good questions. 20 So what we are required to submit are results 21 to in our LATRs. We have to use Synchro delay, and so 22 Synchro again is the traf -- is the software tool that 23 doesn't consider the up and down stream intersections. 24 And then, we use another -- the other tool, Sim Traffic, 25 to report queuing, which is how long vehicles are</p>	<p>99</p> <p>1 THE WITNESS: You're welcome. 2 HEARING EXAMINER HANNAN: -- all my -- 3 THE WITNESS: You're on mute? 4 HEARING EXAMINER HANNAN: I am? 5 THE WITNESS: No, Françoise is on mute. 6 MS. CARRIER: Thank you for telling me. 7 I'd like to take just a moment to run through 8 my list of questions and see if everything was 9 covered -- 10 HEARING EXAMINER HANNAN: Sure. 11 MS. CARRIER: -- if that's okay. 12 HEARING EXAMINER HANNAN: Sure. 13 MS. CARRIER: One note I'd like to add for the 14 Hearing Examiner's benefit is if you're interested in 15 hearing Planning Staff discuss their efforts to obtain 16 final comments from SHA, we would refer you to 17 statements by Catherine Makarini (phonetic) during the 18 Planning Board hearing on this application on May 3rd. 19 And I -- I meant -- I had hoped to get you a 20 specific number of the -- at the time in that meeting to 21 listen to her, and I couldn't quite get through to find 22 it. But we are going to need to ask you to hold the 23 record open just a bit so I will -- 24 HEARING EXAMINER HANNAN: Well, I -- I -- 25 MS. CARRIER: -- we can submit that number.</p>
<p>98</p> <p>1 stopped, and that does take into consideration the other 2 vehicles. And so that's where it's difficult -- that's 3 where, and that's why we use the two different tools 4 because Synchro doesn't take into consider -- that into 5 consideration, and so we need to look at the other -- 6 the other simulation tool and understand how the 7 corridor is actually operating. 8 And so we look at our queuing results, and the 9 queuing results that Sim Traffic has given us indicate 10 that Spruce Street and Alta Vista operate very similarly 11 in existing conditions as they do with -- and with the 12 School. So the queuing results using Sim Traffic are 13 very similar in existing with the School, and that's 14 where SHA is wanting us to mitigate an existing 15 condition. 16 HEARING EXAMINER HANNAN: So you're saying that 17 the problem already exists? 18 THE WITNESS: Yes. Yes. As you heard from 19 Allen Myers where he said his community is they can't 20 get out of their driveways sometimes because there's 21 people trying to make left turns and it's blocking 22 driveways. 23 HEARING EXAMINER HANNAN: Okay. Did you have 24 anything else? 25 Thank you for taking the time to answer --</p>	<p>100</p> <p>1 HEARING EXAMINER HANNAN: I have to get that as 2 a transcript. I can't accept the wording. I have to 3 get that as a transcript. 4 MS. CARRIER: You can listen to or watch the 5 video? 6 HEARING EXAMINER HANNAN: I guess I could try 7 and download. I have to download -- we are required to 8 keep a paper copy -- 9 MS. CARRIER: Oh. 10 HEARING EXAMINER HANNAN: -- of our requirements 11 haven't caught up with the new text, so -- 12 MS. CARRIER: Yeah. 13 HEARING EXAMINER HANNAN: You know, we need a 14 transcript at least of those pages. And we don't get 15 that from the Planning Board, so -- 16 MS. CARRIER: They don't -- they don't prepare 17 one unless there's litigation. 18 HEARING EXAMINER HANNAN: Right. Now, if -- if 19 you know, I can ask Catherine. What did -- what did you 20 want from her? 21 MS. CARRIER: I just thought it might be 22 instructive for you to hear, not just from us, that 23 people have been trying really hard to -- to work with 24 SHA, give them whatever information they needed, answer 25 their questions, so that they would provide an approval</p>

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26 (101 to 104)

<p>101</p> <p>1 letter. In time for the first Planning Board meeting, 2 and then, we tried to get it in time for this hearing, 3 and now, we have a third chance of getting it in time 4 for the preliminary plan hearing. And it was just to 5 hear Ms. Makarini who, you know, she mentions that we've 6 working on this since October. That was when the 7 traffic statement was first submitted. But it's not an 8 essential point. It was just to give you a -- a little 9 flavor. So I can see that that's -- that's complicated 10 for your record. So it was not perhaps my best 11 suggestion of the day. 12 HEARING EXAMINER HANNAN: You just heard me ask 13 the gazillion question. 14 Let's -- let's finish, and then, I would like 15 to have Mr. Myers -- 16 MS. CARRIER: Sure. 17 HEARING EXAMINER HANNAN: -- give me any 18 comments he has, and then, maybe we can excuse him. 19 MS. CARRIER: Sure. 20 HEARING EXAMINER HANNAN: But you finish 21 everything -- 22 MS. CARRIER: Okay. 23 HEARING EXAMINER HANNAN: -- that you wanted Ms. 24 Wagner to testify to. 25 MS. CARRIER: Okay.</p>	<p>103</p> <p>1 And so it's not just a single drive aisle. It's two 2 cars stacked so that it really maximizes the number of 3 vehicles that can be on site, and don't have to their -- 4 eliminates the opportunity for cars to queue on Old 5 Georgetown Road. 6 The entire site would be used for queuing, so 7 it's for all the cars waiting to either pick up or drop 8 off students, and as well as then additional the lines 9 shown in blue on this exhibit for cars waiting to get 10 out of the site. There is also plenty of space for them 11 to -- to be there. And then, that there are, as we 12 heard Kathy Chumas described, it's an all hands on deck 13 situation when it comes to pick up and drop off 14 operations to get kids in and out of cars as efficiently 15 and as effectively as possible. 16 Q And are there provisions in the TMP that 17 specifically describes steps that the School will take 18 during drop-off and pick-up to prevent cars from 19 stacking on Old Georgetown Road? 20 A Yes. The TMP details out how it reviews, goes 21 through all the specific details of the -- the pick-up 22 and drop-off operations that I just went through. It 23 will encourage parents to stay in their cars. It has 24 details on how the teachers are actively involved. And 25 that it will run smoothly and efficiently.</p>
<p>102</p> <p>1 HEARING EXAMINER HANNAN: And then, Mr. Myers, 2 you know, maybe we can free you on this beautiful day 3 MS. CARRIER: All right. Thank you. 4 Q Ms. Wagner, I'd like to ask you a little bit 5 bout the circulation and drop-off, pick-up plan. I'm 6 not going to ask you to repeat what you've already said, 7 but there were a couple of things I'd like to ask you. 8 As Diener's approached site design and 9 transportation aspects of this application, was there an 10 overriding top priority remaining -- 11 A Yes. 12 Q -- to Old Georgetown Road? 13 A Yes. So the top priority is really reducing 14 the impact of the School on adjacent street network. 15 That was one of the first design elements that we all 16 considered, is how to maximize the amount of queuing 17 space onto the site, and then, providing the safe and 18 efficient pick-up, drop-off plan for the School. 19 Q What steps have the School taken to prevent 20 parties from queuing on Old Georgetown Road to access 21 the site? 22 A As I described earlier, I have Exhibit 35B up 23 that shows the site circulation, and the purple lines on 24 this graphic indicate where double stacking can occur. 25 And that's where two cars can stack at the same time.</p>	<p>104</p> <p>1 Q And is there anything in the TMP about how 2 staff will handle the situation if there is -- if the 3 site is full and a parent drives up wanting to come in? 4 A Yes. There will be a staff member positioned 5 at the entrance of the School that will when vehicles 6 do, if they to ever queue up, to the site access, that 7 they will currently vehicle encourage vehicles to use 8 the orange dotted line area which is where the buses 9 will be picking up and dropping off students. But that 10 also can be used for to accommodate more vehicles on 11 site, and should that fill up as well, they will not 12 allow cars to queue on Old Georgetown Road, but they 13 will turn them away and have them circulate and come 14 back to the School. 15 Q In your professional opinion, will the stacking 16 area and the drop-off, pick-up process be enough to 17 allow 120 students to be dropped off or picked up within 18 a 30-minute period? 19 A Yes, especially considering that there would be 20 two buses for a significant number of students to also 21 then arrive by -- by bus and not by private vehicle. 22 Q And in your professional opinion, will the 23 onsite guy queuing space and the drop-off, pick-up zone 24 procedures, together with the measures in the TMP, be 25 enough to prevent site traffic from queuing on Old</p>

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27 (105 to 108)

<p>105</p> <p>1 Georgetown Road?</p> <p>2 A Yes.</p> <p>3 Q And in the event of an emergency, how will</p> <p>4 emergency vehicles circulate?</p> <p>5 A So the driveways are designed, both the north</p> <p>6 and south driveway are designed to accommodate emergency</p> <p>7 vehicles. The curb cuts are wide enough. Vehicles,</p> <p>8 emergency vehicles, are able to circulate around the</p> <p>9 site, that the site is designed in a way to accommodate</p> <p>10 emergency vehicles. Following the purple lines shown on</p> <p>11 the screen on Exhibit 35B, they also are able to</p> <p>12 circulate through the bus area shown in with the orange</p> <p>13 lines. Yes.</p> <p>14 Q Thank you. In your professional opinion, will</p> <p>15 onsite circulation be safe, adequate and efficient?</p> <p>16 A Yes, the site will be safe, adequate, and</p> <p>17 efficient.</p> <p>18 Q In your view, will the site access points be</p> <p>19 adequate and efficient for the use and as safe as</p> <p>20 possible for driveways connecting directly to a major</p> <p>21 highway?</p> <p>22 A Yes, the site driveways have been -- have been</p> <p>23 designed to accommodate all vehicles coming into the</p> <p>24 site, both buses and passenger vehicles. Inbound and</p> <p>25 outbound vehicles, as we described earlier, will have</p>	<p>107</p> <p>1 understood their visitor needs, and so these spaces</p> <p>2 would be able to accommodate all expected visitors.</p> <p>3 Q Thank you. And I just have a few more</p> <p>4 questions relating to the findings required for all</p> <p>5 conditional uses under Section 59.7.3.1.</p> <p>6 Ms. Wagner, are you familiar with the details</p> <p>7 of the parking proposed for you -- for this project, and</p> <p>8 in your view, does the number of spaces comply with the</p> <p>9 requirements of the Zoning Code?</p> <p>10 A Yes. The 65 spaces provided in Phase 1 and 42</p> <p>11 phases -- 42 spaces provided in Phase 2 are adequate to</p> <p>12 prevent parents from parking on neighborhood streets.</p> <p>13 And then, it should also be noted that it is a</p> <p>14 significant walk to park on a neighborhood street, that</p> <p>15 there are not -- there are not neighborhood streets that</p> <p>16 are within a close walking distance that would provide</p> <p>17 opportunities for parents to park in the neighborhood.</p> <p>18 Q Ms. Wagner, you mentioned parents, but who is</p> <p>19 the parking intended for on this site?</p> <p>20 A The parking is intended for staff.</p> <p>21 Q So if parents need to come to the site, where</p> <p>22 would they park?</p> <p>23 A They would park in the visitor spaces.</p> <p>24 Q Thank you. Based on your knowledge of the</p> <p>25 School's operations, do you expect the proposed parking</p>
<p>106</p> <p>1 two separate driveways to eliminate the com -- the</p> <p>2 possibility of conflicts, and then, we will also be</p> <p>3 providing the improved pedestrian facility along the</p> <p>4 same frontage.</p> <p>5 Q Thank you. I have a couple of questions</p> <p>6 regarding compliance with the requirements for the</p> <p>7 requested conditional use in the County Zoning Code.</p> <p>8 First, some findings under 59.3.4.5. In your</p> <p>9 professional opinion, will the proposed school be a</p> <p>10 nuisance at the subject site due to traffic?</p> <p>11 A No. For all the reasons previously discussed.</p> <p>12 Q In your professional opinion, will the number</p> <p>13 of students proposed be appropriate for this site from a</p> <p>14 transportation standpoint considering the local</p> <p>15 transportation network, the site design, and the</p> <p>16 measures in the TMP?</p> <p>17 A Yes, this is a very small number of students</p> <p>18 and can easily be accommodated on the site.</p> <p>19 Q Is there a need for student parking at this</p> <p>20 site?</p> <p>21 A No, the oldest students would be in eighth</p> <p>22 grade and won't be able drive.</p> <p>23 Q Do you consider the three visitor spaces</p> <p>24 provided to be adequate for the use?</p> <p>25 A Yes. We had conversations with the School and</p>	<p>108</p> <p>1 to be safe, adequate, and efficient for future use in</p> <p>2 both phases?</p> <p>3 A Yes.</p> <p>4 Q The Planning Board will make a finding on the</p> <p>5 adequacy of public roads to service project at the</p> <p>6 preliminary plan stage. For purposes of this record, is</p> <p>7 it your opinion based on your studies of the Local</p> <p>8 Transportation Network and the anticipated impact of The</p> <p>9 Diener School, that the proposed school will be serviced</p> <p>10 adequately by public roads?</p> <p>11 A Yes, for all the reasons discussed previously.</p> <p>12 Q And finally, would you consider the level of</p> <p>13 traffic the School is expected to generate to be typical</p> <p>14 of private educational institutions generally and</p> <p>15 therefore, an inherent characteristic of the use?</p> <p>16 A Yes.</p> <p>17 Q Thank you very much, Ms. Wagner. I have no</p> <p>18 further questions.</p> <p>19 HEARING EXAMINER HANNAN: Thank you.</p> <p>20 Ms. Wagner, have you done an analysis of how</p> <p>21 much -- do you have an analysis of how much the</p> <p>22 additional traffic from The Diener School increases the</p> <p>23 delay?</p> <p>24 THE WITNESS: Yes, that's what the purpose of</p> <p>25 our traffic study is.</p>

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28 (109 to 112)

<p>109</p> <p>1 HEARING EXAMINER HANNAN: Yeah. And how much</p> <p>2 did it increase the delay?</p> <p>3 MS. CARRIER: Do you mean the delay at the two</p> <p>4 side streets or delay on Old Georgetown Road?</p> <p>5 HEARING EXAMINER HANNAN: Two side streets.</p> <p>6 THE WITNESS: I do have that information. The</p> <p>7 difficult thing -- the difficult -- I can't give you a</p> <p>8 specific number, and part of the reason is because our</p> <p>9 models don't calculate it after a certain amount. And</p> <p>10 so it says error, and so that's where I can't give you</p> <p>11 --</p> <p>12 MS. CARRIER: Is that because it's such a small</p> <p>13 number or such a big number?</p> <p>14 THE WITNESS: It's such a big number. And so</p> <p>15 that's why I can't give you those specific numbers, but</p> <p>16 it is an error in existing conditions for some of the</p> <p>17 side street movements too.</p> <p>18 HEARING EXAMINER HANNAN: Okay. That's --</p> <p>19 that's helpful. Okay. What I'd like to do, if it's</p> <p>20 okay, Mr. Myers, are you still with us? I know --</p> <p>21 MR. MYERS: I'm still with you. I haven't</p> <p>22 faded.</p> <p>23 HEARING EXAMINER HANNAN: Thank you so much.</p> <p>24 I'm -- do you have -- I'm going to ask you for any</p> <p>25 comment -- well, first of all, does anyone else have</p>	<p>111</p> <p>1 MR. MYERS: Oh, let me -- I'm going to reiterate</p> <p>2 a couple things, but let me mention one thing in terms</p> <p>3 of the discussion that was made on resignalization of</p> <p>4 the light on Beech Avenue. It may have come up during</p> <p>5 The French School hearing or it has come up separately,</p> <p>6 but The French School was concerning about getting its</p> <p>7 buses out of the middle school and high school on Beech</p> <p>8 and turning left onto Old Georgetown Road. I know they</p> <p>9 had concerns of wanting that signal extended, because</p> <p>10 it's a very short turn bay there. One or two buses will</p> <p>11 tie up that turn bay completely and clog up the road.</p> <p>12 So they -- they -- there's a -- there's a conflicting</p> <p>13 interest of having The French School being able to get</p> <p>14 their vehicles out and anything that this school would</p> <p>15 propose. So I don't know how that's going to play out.</p> <p>16 I think MCDOT will have to work on that, but there are</p> <p>17 conflicting interests.</p> <p>18 What we -- what I said earlier, we did meet</p> <p>19 with the School in March of 20 -- of this month, March</p> <p>20 15th this year, and there was no concern with the</p> <p>21 basically because the traffic was seen as little impact</p> <p>22 on the neighborhood. We didn't expect a lot of</p> <p>23 cut-through traffic. The School being located in the</p> <p>24 Wingate -- the Wingate neighborhood, we didn't feel it</p> <p>25 appropriate for us to say yeah or nay because it's their</p>
<p>110</p> <p>1 questions of Ms. Wagner?</p> <p>2 MR. MYERS: I have one.</p> <p>3 HEARING EXAMINER HANNAN: Okay. Go ahead.</p> <p>4 MR. MYERS: And that is what month were the</p> <p>5 traffic studies conducted in 2022?</p> <p>6 THE WITNESS: Let me pull that up very quickly.</p> <p>7 I'll check in the LATR here.</p> <p>8 I'm going to share my screen. This is Exhibit</p> <p>9 32. This is our Local Area Transportation Review. I am</p> <p>10 on page 28. And we detail when our traffic volumes were</p> <p>11 collected. So we collected traffic volumes in June as</p> <p>12 well as September of 2022.</p> <p>13 MR. MYERS: Okay. As long as because traffic</p> <p>14 between June and September are often considerably</p> <p>15 different.</p> <p>16 THE WITNESS: Those are when -- we collected</p> <p>17 traffic counts when schools were in -- when school was</p> <p>18 in session.</p> <p>19 MR. MYERS: Okay. I don't have any other</p> <p>20 question.</p> <p>21 HEARING EXAMINER HANNAN: For the -- for the</p> <p>22 record, it's page 24, not page 28.</p> <p>23 Mr. Myers, I'm -- are you -- do you have any</p> <p>24 comments at this point or do you want to meet with your</p> <p>25 association?</p>	<p>112</p> <p>1 -- as you know, at the The French School, we have --</p> <p>2 there's a lot of other issues that involve in siding</p> <p>3 with the school or residential neighborhood.</p> <p>4 The issue I have is with this latest rub in the</p> <p>5 changes that SHA and MSDO -- SHA, really, wanted in</p> <p>6 terms of delays. And I don't know how the neighbor is</p> <p>7 gonna react. I do have a -- I will bring to the -- to a</p> <p>8 vote the issue of the no U-turns even though the School</p> <p>9 is withdrawing that because sometimes things take on a</p> <p>10 life of their own. Once it's out there, it just keeps</p> <p>11 on going. And so I think that needs to be on the record</p> <p>12 from the association.</p> <p>13 One final question. I didn't invite the</p> <p>14 members of the association to the -- and the individual</p> <p>15 residents to participate today because I didn't know</p> <p>16 what -- what the situation would be, and then, and</p> <p>17 having a bunch of people come testifying on things that</p> <p>18 may not be relevant or are not yet in evidence, or it</p> <p>19 may be in evidence later on, I didn't want to invite</p> <p>20 them. How -- how can anything be handled with residents</p> <p>21 who want to provide letters? Can they do so?</p> <p>22 HEARING EXAMINER HANNAN: We can keep the record</p> <p>23 open for a certain period of time.</p> <p>24 MR. MYERS: But then that's --</p> <p>25 HEARING EXAMINER HANNAN: Now, the other option</p>

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29 (113 to 116)

<p>113</p> <p>1 is to have a brief follow-up hearing solely limited to 2 -- it sounds to me like the issue was traffic. 3 MR. MYERS: Yes. 4 HEARING EXAMINER HANNAN: And you know, it's -- 5 if there's a possibility of having a very brief 6 follow-up hearing just for traffic, we can do that, but 7 we would have to set the date today or wait 30 days. 8 And -- and I'm not sure just because of the notice. I 9 can set the date or wait 15 days, but I can set the date 10 at the end of this hearing for a follow-up hearing, and 11 then, we don't -- we aren't required to mail new notice 12 out. 13 And I know that the -- that the School has 14 legitimate reasons to want to get this done. I don't 15 think it would delay my decision because I can work on 16 the decision, all the other aspects of the decision 17 until, you know, and then, just fill in what happens at 18 the other hearing. But that's a possibility. 19 You can submit letters, but they aren't sworn, 20 and we don't give them quite as much weight because they 21 aren't subject to cross-examination. So I throw that 22 out there. 23 MR. MYERS: I love the idea of the second 24 hearing if it doesn't delay things simply because I 25 didn't have -- we'll have the vote. Maybe we will have</p>	<p>115</p> <p>1 limited purpose just of hearing from Mr. Myers' 2 neighborhoods and members of his association. 3 HEARING EXAMINER HANNAN: And Mr. Myers, if you 4 could make the scope of the hearing, I don't want to get 5 the -- the time to deal with other issues would be this 6 hearing. So all I want to deal with is -- and the 7 reason I'm giving this opportunity is because everybody 8 kept waiting for the SHA to weigh in. I don't have much 9 hope that they're going to weigh in in two week if it's 10 been this long. 11 MR. MYERS: Well, I think our residents could 12 speak on basically what on these two issues, which is 13 the U-turns and -- and the no left turns. And that's, I 14 think, what we need to clarify and understand. 15 I -- there -- since the School is coming to our 16 meeting on the 7 -- on the 17th, and Katie, if you can 17 bring the diagram, and I will get the screen up for you 18 so they can see the traffic movements that we're talking 19 about from that exhibit, that would really help our 20 residents. 21 I do not know how they're going to react. I 22 know there would be, as I said, greater pushback on the 23 -- on the U-turns. I don't know how they feel about the 24 left turns. And -- and I -- I don't want to put words 25 in their mouths at this -- and this time. And I think</p>
<p>114</p> <p>1 heard from SHA by that time, and -- 2 HEARING EXAMINER HANNAN: I'm not holding my 3 breath. I'm a little -- I feel -- I'm a little shocked 4 that this has not been finally resolved by the time of 5 the conditional use, but -- 6 MR. MYERS: Yeah. 7 MS. CARRIER: We are shocked by that. 8 HEARING EXAMINER HANNAN: And the lack of -- the 9 lack of response to as to why it's taking so long. But 10 I -- I could do that. We could set a hearing for a week 11 after February 17. Again -- 12 MS. CARRIER: You mean May 17th. 13 HEARING EXAMINER HANNAN: I'm sorry, yes. But 14 solely, solely, to -- to deal with the traffic and the 15 neighborhood concerns. 16 MR. MYERS: I think that would make everybody 17 happy in the neighborhood. I don't know how the School 18 feel about it. 19 MS. CARRIER: You know, the School is very, very 20 concerned about timing, as we've discussed. If it's 21 only a week after May 17th, and you know, Ms. Hannan 22 having graciously said she will start working on the 23 report without waiting for that hearing, I would have to 24 consult with my client, but my expectation is that they 25 would not object to an additional hearing for that very</p>	<p>116</p> <p>1 they probably would like the opportunity to express 2 themselves. I think it would be a coordinated effort as 3 we did with The French School where we know who the 4 participants would be in advance and I can work with 5 them to make sure that we don't unduly lengthen the 6 hearing and have extraneous material brought into the 7 hearing. 8 MS. CARRIER: I would like to state on the 9 record that there was an opportunity for residents of 10 Maple Wood to attend this hearing. There would be no 11 new -- it is unlikely to be new information available 12 that was not already available. I understand that it 13 would have been difficult for Mr. Myers to communicate 14 with his community members before they have their 15 scheduled meeting on May 17th, but I just wanted to be 16 on the record that the Applicant is -- you know, the 17 Applicant has prepared for this hearing today. 18 MR. MYERS: Yeah. 19 MS. CARRIER: And -- and we just hope that the 20 -- if this additional date takes place, that it really 21 is limited just to talking about the issues related to 22 the State Highway Administration's comments on traffic. 23 HEARING EXAMINER HANNAN: Well, it would be 24 because as I said, I -- I don't -- the day to have done 25 any other issues was today. And I think part of Mr.</p>

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30 (117 to 120)

<p>117</p> <p>1 Myers' confusion is that we were all hoping to see the 2 SHA, and it's not here. So I am willing to schedule it. 3 It will be brief. 4 And Mr. Myers, if you can work with -- work 5 with your community so we don't have repetitive 6 testimony. I think that would be very helpful. 7 MR. MYERS: I think I can get people, like one 8 person on Alta Vista, one person on Spruce Street as we 9 have with The French School to represent the concerns of 10 each street. 11 HEARING EXAMINER HANNAN: Okay. So we can set 12 something up for the 19th at 9:30. 13 MR. MYERS: 9 -- 14 HEARING EXAMINER HANNAN: But I'll do that at 15 the end of the hearing. 16 MS. CARRIER: We don't mean -- I don't think you 17 mean -- the 19th is -- is a week from today. 18 HEARING EXAMINER HANNAN: Oh, I messed up. I 19 messed up. 20 MR. MYERS: 26th. 21 HEARING EXAMINER HANNAN: I'm sorry, I was going 22 -- the 26th, yes. 23 MR. MYERS: Yeah. 24 MS. CARRIER: Well, the 24th is one week after. 25 Do you not do hearings on Wednesdays?</p>	<p>119</p> <p>1 of this hearing, again. And if you want to contact Mr. 2 Myers or and Ms. Wagner, that's fine too. 3 I see -- do you have any of your parents or any 4 of your individual yet, and we can take them -- 5 MS. CARRIER: Yes. 6 HEARING EXAMINER HANNAN: -- and then, we are 7 going to take a lunch break. 8 MS. CARRIER: Yes, I see Mr. Padilla is here. I 9 don't know if Catherine Coleman is on the call. I had 10 asked her to join the call at noon, so she may just not 11 be quite signed up yet. 12 HEARING EXAMINER HANNAN: Okay. Well, we can 13 take Mr. Padilla. 14 MS. CARRIER: Yes. 15 HEARING EXAMINER HANNAN: Mr. Padilla, please 16 raise your right hand. 17 Whereupon, 18 CHRISTOPHER PADILLA, 19 being first duly sworn or affirmed to testify to the 20 truth, the whole truth, and nothing but the truth, was 21 examined and testified as follows: 22 HEARING EXAMINER HANNAN: Please state your 23 name, address, street address and email address for the 24 record. 25 MR. PADILLA: My name is Christopher Padilla.</p>
<p>118</p> <p>1 HEARING EXAMINER HANNAN: No, I'm -- you got to 2 excuse me. The 24th when it should be. 3 MR. MYERS: Okay. 4 MS. CARRIER: May I -- I -- I need to make sure 5 that Ms. Wagner is available then and my client -- 6 HEARING EXAMINER HANNAN: Absolutely. We don't 7 have to do anything. We don't have to set the specific 8 date until the end of this hearing. 9 MS. CARRIER: Okay. All right. Then, we will 10 speak at a break to make sure that the date works. And 11 also that my -- that my client is okay with what I just 12 said about agreeing to the second hearing. 13 HEARING EXAMINER HANNAN: I totally understand, 14 and I understand your position, and I actually, as I 15 said, I'm shocked that you're in this position. And so 16 but I think it will be helpful to get it all out, and 17 then, I think it will be better -- well, for a lot of 18 reasons, I -- I was actually thinking at the beginning 19 of the hearing maybe we should have another hearing. So 20 just for this one, and it will not delay the decision 21 even if I have to do whatever it takes to do it. So -- 22 MS. CARRIER: We appreciate that. 23 HEARING EXAMINER HANNAN: So I am going to do 24 that because I do understand the constraints. So you -- 25 we'll go through with -- we'll address this at the end</p>	<p>120</p> <p>1 My street address is 5 Sprinklewood Court in Potomac, 2 Maryland 20854. And my email address is 3 cpadilla11@yahoo.com. 4 HEARING EXAMINER HANNAN: Okay. Is he your 5 witness, or Mr. Padilla, do you just want to make a 6 statement? 7 MS. CARRIER: Yeah, I'm not planning to ask Mr. 8 Padilla questions. I just introduced him -- 9 HEARING EXAMINER HANNAN: Okay. 10 MS. CARRIER: -- So he can make a statement. 11 HEARING EXAMINER HANNAN: Okay. 12 MR. PADILLA: Well, thank you very much for the 13 opportunity to speak today. Let me introduce myself. 14 My wife, Christine, and I, who are residents in 15 Potomac, have a son, Matthew, who is a student at The 16 Diener School. Matthew is currently the president of 17 the Student Government Association at Diener, and I 18 believe he may have written you a letter. 19 HEARING EXAMINER HANNAN: He did. 20 MR. PADILLA: We were -- maybe -- maybe that's 21 where I can start. 22 When Matthew began at The Diener School in 23 second grade seven years ago, I never would have 24 imagined that he could have written a letter like that. 25 And I can't tell you how proud we were of him for being</p>

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31 (121 to 124)

<p>121</p> <p>1 able to express his point of view, I think very clearly, 2 in a well-written letter. But more important than just 3 a form, the sentiments that he expressed about his 4 self-confidence, and how he has gone from an environment 5 where he felt bullied and out of place -- 6 HEARING EXAMINER HANNAN: Um. 7 MR. PADILLA: To being a self-confident young 8 man ready to go to high school, and hoping to go to 9 college beyond that. We were so proud of him. I sent 10 that letter to his grandfather to many other people 11 because it's an -- it's an example of what this school 12 does for young people. And it's a -- it's a school that 13 fills I think a unique niche in Montgomery County, and 14 in fact, in the broader metropolitan area. 15 Students who learn differently are intelligent, 16 as Matthew is, but they have challenges that the public 17 school system or other private schools are just not 18 equipped to handle. And that leads to kids who feel a 19 lack of confidence, or who may not achieve up to their 20 abilities. 21 Matthew has been at Diener for seven years. 22 When we started there, they had a few classrooms at the 23 Har Shalom Temple on Falls Road. Then, we were thrilled 24 when they opened a middle school which was happened 25 right as Matthew was getting ready go to middle school.</p>	<p>123</p> <p>1 to live in the neighborhood where Diener I hope will 2 move to. We -- we used to live on Malvern Drive, very, 3 very close to the location on Old Georgetown Road. We 4 drove on Old Georgetown every day. I still commute most 5 days on Old Georgetown Road. 6 I can understand what Mr. Myers and others were 7 saying in their concerns about traffic. I can tell you, 8 though, having been a parent at the School for seven 9 years, Diener knows how to run a carpool, very 10 efficiently. And everywhere they've done it, whether on 11 Falls Road or in the neighborhood at Green Acres, 12 they've -- they've worked with community to make sure 13 that you didn't have cars sitting on the main road; that 14 -- that parents knew how to get their kids dropped off 15 and picked up in a way that was efficient. And I know 16 that that obviously will be a concern on a main road 17 like Old Georgetown, but I want to assure residents of 18 our former neighborhood that this is a school that will 19 work with you. 20 So I would just conclude by saying this is a 21 school that fills a unique need in this area. We feel 22 so privileged to live in an area where there's an option 23 like this for our son, and -- and it's helped him grow 24 and transform in ways that as you can see from his own 25 letter, he's aware of the transformative effect it has</p>
<p>122</p> <p>1 My wife and I were concerned, we didn't know 2 where he was going to go school next, we were looking 3 around, and -- and Kathy Chumas told us they were 4 opening a middle school, and we were thrilled, glad to 5 be among the first parents and students in the middle 6 school. 7 And Matthew has thrived. He's looking forward 8 to graduating in a few week. He's going to go to 9 Commonwealth Academy in Alexandria next year, and he's 10 ready. And he's ready because of the great team at 11 Diener. 12 But Diener has outgrown the facility where 13 they're are located. They're leasing space at the Green 14 Acres School. Which has been great, that was a great 15 move from Har Shalom, but they're -- they're tenants, 16 and they're not -- they don't have their own home, they 17 don't have control over the facility, and they need 18 their own home. And I think they're ready for one. 19 We and many other families have already 20 committed significant financial commitments to help 21 Diener make this move. We are proud to do so. I'm busy 22 recruiting family members to try to see if I can get 23 them to contribute as well, because Diener has been 24 transformative. 25 I -- I want to mention that my wife and I used</p>	<p>124</p> <p>1 had. And we're just so excited that the School has the 2 opportunity to have its own building, its own 3 facilities, to be able to serve more families in the 4 community. 5 So I hope that that's helpful to you. I'd be 6 happy to answer any questions, but thank you very much 7 for the opportunity to speak today. 8 HEARING EXAMINER HANNAN: Thank you. 9 Just for record, does anyone have any questions 10 for Mr. Pad -- Padilla?. 11 THE WITNESS: Yes. 12 HEARING EXAMINER HANNAN: -- Mr. Padilla. 13 Okay. Hearing none, you may be excused. Thank 14 you for coming. 15 THE WITNESS: Thank you very much. 16 HEARING EXAMINER HANNAN: Okay. Ms. Carrier, is 17 your second individual here yet? 18 You're -- you're on mute. 19 MS. CARRIER: I am speaking to myself again. 20 Yes, our next speaker is Katherine Coleman. 21 HEARING EXAMINER HANNAN: Okay. Ms. Coleman, 22 can you -- there we go. Can you raise your right hand, 23 please. 24 Whereupon, 25 KATHERINE COLEMAN,</p>

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32 (125 to 128)

<p>125</p> <p>1 being first duly sworn or affirmed to testify to the 2 truth, the whole truth, and nothing but the truth, was 3 examined and testified as follows: 4 HEARING EXAMINER HANNAN: Go ahead. 5 MS. COLEMAN: Thank you. 6 My name is Katherine Coleman, and my wonderful 7 son, Johnny, attends Diener. He started last year. 8 Johnny is hilarious and smart and engaging, and wasn't 9 able to thrive in our local elementary school. His 10 sister sailed through, but for Johnny, it just became a 11 place of anxiety, and I really thought, and he thought 12 he certainly couldn't learn math. 13 Johnny also uses a manual wheelchair. He has 14 spina bifida. He is on the spectrum, but doesn't need a 15 whole lot of support. He had ADHD. He loves musical 16 theatre and history. 17 So it became clear, particularly during the 18 pandemic when I had a front row seat to how he was not 19 being served by our local school, that he needed to find 20 somewhere else. I visited schools where they were not 21 wheelchair accessible. There are several -- it's not 22 uncommon, believe it or not, among independent schools. 23 There are other schools that really, it was just too 24 much support; he didn't need that level of support. 25 Places where they're not interested in a child who may</p>	<p>127</p> <p>1 have believed you. 2 They just know how to teach him. And when we 3 go to parent-teacher conferences there are eight people 4 sitting around the table who all care about him, and 5 know him, and care about his academic development, his 6 social and emotional development. It is truly a 7 one-of-a-kind place. And this opportunity for it to be 8 able to serve children in a permanent home and a home 9 that will be even more wheelchair accessible than the 10 current situation, would be just thrilling for us. 11 And you know, I -- I do -- I would echo that 12 they are very serious about not putting any burden on 13 the neighbors or on traffic, and they really do know how 14 to run a carpool line. 15 So I welcome any questions. 16 HEARING EXAMINER HANNAN: Anyone have any 17 questions for Ms. Coleman? 18 Okay. Hearing none, thank you for coming, and 19 you may be excused. But thank you for coming. 20 THE WITNESS: Thank you. 21 MS. CARRIER: Thank you very much. 22 THE WITNESS: Thank you. 23 HEARING EXAMINER HANNAN: All right. With that, 24 we are going to take a break for lunch. 25 Mr. Myers, I can excuse you as long as you're</p>
<p>126</p> <p>1 have a diagnosis of autism. 2 So we finally we were -- we hired an 3 educational consultant because we just didn't know what 4 to do. And thinking she would have a lot of options for 5 us, she gave us one option; that was Diener. He 6 visited, and it was so positive, and everyone there was 7 so positive. And I remember in the interview when they 8 said, So what other schools are you looking at? I said, 9 Ah, none. So no pressure. 10 But as Matthew said, just said, for us it has 11 been transformative. He -- I mean, one thing before 12 school started, Kathy called me, and she said, you know, 13 we have this van we use for field trips, and it's not 14 wheelchair accessible. And I thought I know where this 15 is going. This has been my life, you know. I -- I'll 16 come on a field trip, I'll drive Johnny. That's what 17 happens. She said, No, we are -- we're just going to 18 sell the van, and we will charter a wheelchair 19 accessible bus when we need to. And I mean, I just I 20 started to cry. It was just to have someone on our side 21 like that was so meaningful. 22 And he has thrived there, and the tutor who 23 worked with Johnny while he was in our local school and 24 still works with him said, If you had told me that 25 Johnny would be doing this level of math, I would not</p>	<p>128</p> <p>1 available just so we can set a date before the end of 2 the hearing, if you want to contact Ms. Carrier 3 individually, it's up to you. 4 MR. MYERS: I -- I think I can contact her 5 individually. I would have meetings, numerous meetings, 6 individually, because this has gone on. And my is 7 fairly flexible. If I have to change something, I will, 8 because I think this is more important than anything 9 else I might be doing. 10 HEARING EXAMINER HANNAN: Okay. So I will wait 11 to hear back from Ms. Carrier, and if you could let her 12 -- Ms. Carrier, if you can't do the date we discussed, 13 you'll contact Mr. Myers -- 14 MS. CARRIER: Yes. 15 HEARING EXAMINER HANNAN: -- and coordinate a 16 date before the end of-- 17 MS. CARRIER: Yes. 18 HEARING EXAMINER HANNAN: -- today. 19 MS. CARRIER: May I just ask one question? Do 20 you think that I need to have any of my experts 21 available other than Ms. Wagner? 22 HEARING EXAMINER HANNAN: No. 23 MS. CARRIER: Okay. 24 HEARING EXAMINER HANNAN: Because I'm really not 25 -- this hearing is not to redo --</p>

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<p>129</p> <p>1 MS. CARRIER: Right.</p> <p>2 HEARING EXAMINER HANNAN: -- today. All of</p> <p>3 today. It's just to address the mitigate -- it's really</p> <p>4 to address the mitigation measures that have been</p> <p>5 submitted and get feedback on that.</p> <p>6 Is that your understanding, Mr. Myers?</p> <p>7 MR. MYERS: Yes, it is.</p> <p>8 HEARING EXAMINER HANNAN: And feedback, so --</p> <p>9 and feedback on the traffic. So I would like to limit</p> <p>10 it to the mitigation measures. And you won't need</p> <p>11 anybody but I don't want to put the expense on The</p> <p>12 Diener School to have all their experts back in the</p> <p>13 hearing again. So --</p> <p>14 MS. CARRIER: I appreciate that.</p> <p>15 HEARING EXAMINER HANNAN: -- it would be a very</p> <p>16 limited hearing.</p> <p>17 All right. Mr. Myers, with that, you may be</p> <p>18 excused.</p> <p>19 MR. MYERS: Thank you very much.</p> <p>20 HEARING EXAMINER HANNAN: Thank you. And then,</p> <p>21 we are going to take a -- how many -- so we have get</p> <p>22 back to Mr. La Vay.</p> <p>23 MS. CARRIER: Yes.</p> <p>24 HEARING EXAMINER HANNAN: And you have an</p> <p>25 architect.</p>	<p>131</p> <p>1 been covered by your -- either your testimony or your</p> <p>2 experts -- experts, particularly the carpooling</p> <p>3 operations were very helpful. So I think we're okay.</p> <p>4 You could be excused.</p> <p>5 MS. CARRIER: Thank you. If we do have any</p> <p>6 other questions, we have two other Diener</p> <p>7 representatives in the meeting. One is Beth Freedman,</p> <p>8 who is the president of the board, and the other is</p> <p>9 Laurie Aaronson, who is the director of operations.</p> <p>10 HEARING EXAMINER HANNAN: Okay. That is great.</p> <p>11 MS. CARRIER: They will both stay for the</p> <p>12 duration.</p> <p>13 HEARING EXAMINER HANNAN: Thank you.</p> <p>14 I think -- okay. I think that we are on</p> <p>15 whoever your next witness is, Ms. Carrier.</p> <p>16 MS. CARRIER: Yeah.</p> <p>17 HEARING EXAMINER HANNAN: Is it Mr. La Vay?</p> <p>18 MS. CARRIER: That would be Mr. La Vay.</p> <p>19 HEARING EXAMINER HANNAN: Okay. Mr. La Vay, I</p> <p>20 think you've already been sworn in. You're still under</p> <p>21 oath.</p> <p>22 MR. LA VAY: Great.</p> <p>23 Whereupon,</p> <p>24 PATRICK LA VAY,</p> <p>25 being first duly sworn or affirmed to testify to the</p>
<p>130</p> <p>1 MS. CARRIER: Yep. And that's it.</p> <p>2 HEARING EXAMINER HANNAN: And that's it. Okay.</p> <p>3 Would you like to take like an hour for lunch, and then,</p> <p>4 we'll come back at 1:15 and hopefully finish up?</p> <p>5 MS. CARRIER: Yes, that sounds fine.</p> <p>6 HEARING EXAMINER HANNAN: And I do appreciate</p> <p>7 you adjusting like this. And I'm still not going to say</p> <p>8 what I -- I am shocked ed that you are in this position.</p> <p>9 So anyway, don't -- for those of you who</p> <p>10 stayed, don't leave the meeting, but mute your camera or</p> <p>11 mute your mic and -- because we can hear what you say to</p> <p>12 other people, so -- when you don't leave the meeting.</p> <p>13 So turn off your camera and mute your mic, and we'll be</p> <p>14 back on the record at 1:15.</p> <p>15 Thank you.</p> <p>16 MS. CARRIER: Thank you.</p> <p>17 (Lunch was taken.)</p> <p>18 HEARING EXAMINER HANNAN: Okay. Go ahead, Ms.</p> <p>19 Carrier.</p> <p>20 MS. CARRIER: I just wanted to mention that</p> <p>21 Kathy Chumas is going to have to leave early today. She</p> <p>22 has to leave at 2 o'clock. So if we have -- if you have</p> <p>23 any questions for her at this point, we'd be happy to</p> <p>24 entertain them.</p> <p>25 HEARING EXAMINER HANNAN: I think they have all</p>	<p>132</p> <p>1 truth, the whole truth, and nothing but the truth, was</p> <p>2 examined and testified as follows:</p> <p>3 EXAMINATION BY COUNSEL FOR THE APPLICANT:</p> <p>4 BY MS. CARRIER:</p> <p>5 Q Mr. La Vay, use -- let's -- let's pull up the</p> <p>6 Conditional Use cover sheet, which is Exhibit 21A.</p> <p>7 A Okay.</p> <p>8 Q And would you please describe in a little more</p> <p>9 detail than you did earlier what the Applicant proposes</p> <p>10 for the subject property?</p> <p>11 I think we're going need to zoom that up, zoom</p> <p>12 that --</p> <p>13 A Yeah.</p> <p>14 Q -- so we can get the picture bigger. Is that</p> <p>15 possible?</p> <p>16 A Yeah, I was going to say if it's okay, I think</p> <p>17 I might use 21B, and then, 21C so we can talk about the</p> <p>18 phasing if that's okay?</p> <p>19 Q You're welcome to use whatever you like.</p> <p>20 A So you know, generally, as you've already</p> <p>21 heard, the main crux of the project is a conversion of</p> <p>22 existing to office to a private educational institution</p> <p>23 for up to 120 students and 57 staff members. But that</p> <p>24 -- that the development of the site will occur in two</p> <p>25 phases. Although the useful change, phase 1, obviously.</p>

<p style="text-align: right;">133</p> <p>1 So what I –</p> <p>2 HEARING EXAMINER HANNAN: Mr. La Vay, real</p> <p>3 quick, just for the record, which exhibit are we looking</p> <p>4 at right now?</p> <p>5 THE WITNESS: So I have just pulled up Exhibit</p> <p>6 21B.</p> <p>7 HEARING EXAMINER HANNAN: Okay. Great.</p> <p>8 THE WITNESS: I just scrolled down because they</p> <p>9 are -- 21A, B and C are in one file.</p> <p>10 HEARING EXAMINER HANNAN: Okay. Great.</p> <p>11 A So this is – this is 21B, which is the –</p> <p>12 HEARING EXAMINER HANNAN: Okay.</p> <p>13 A – is a site plan for what we're calling Phase</p> <p>14 1. And Phase 1 includes interior renovations of the</p> <p>15 building, and then, construction of essential elements</p> <p>16 for this building and a the site to function as a</p> <p>17 school. Which include, as you've heard a little bit</p> <p>18 earlier, frontage improvements along Old Georgetown</p> <p>19 Road.</p> <p>20 The area between Old Georgetown Road and the</p> <p>21 building is where the majority of the work will happen</p> <p>22 in Phase 1, and a lot of that is a little bit of a</p> <p>23 ripple effect from the frontage improvements. But that</p> <p>24 area between the building and Old Georgetown Road will</p> <p>25 be regraded, heavily landscaped, and include two new</p>	<p style="text-align: right;">135</p> <p>1 minore restriping of parking to provide fire compliant</p> <p>2 access aisle widths. Under current conditions, there is</p> <p>3 some angle parking, and the drive aisles are narrower</p> <p>4 than 20 feet.</p> <p>5 And at the rear of the existing, which is on</p> <p>6 the west side of the existing building, there will be</p> <p>7 approximately I believe it's 24 spaces, that will be</p> <p>8 removed to install an exterior play space.</p> <p>9 Q And that would be 24 parking spaces?</p> <p>10 A Correct. And then, on – and so I'm going to</p> <p>11 move now to Exhibit 21C, if that's okay. Let's scroll</p> <p>12 down here. And this depicts the full blowout of the</p> <p>13 site. The main component of Phase 2 is an approximately</p> <p>14 11,000 square foot gymnasium additional. And then,</p> <p>15 around that, there will be some play places and exterior</p> <p>16 flex places that can be used for classroom activity,</p> <p>17 outside or other determined opportunities. And then,</p> <p>18 because of that addition, that addition will be placed</p> <p>19 over top existing parking that will remain in Phase 1.</p> <p>20 And so the lots of that parking needs to be made up, so</p> <p>21 there will be some additional regrading on the west side</p> <p>22 of the property and reconfiguring of parking in</p> <p>23 the drive aisle –</p> <p>24 Q Is that regrading in Phase 2?</p> <p>25 A Exactly, yeah.</p>
<p style="text-align: right;">134</p> <p>1 storm water management bioretention facilities.</p> <p>2 Within that same zone, I'd say just north of</p> <p>3 the southern curb cut driveway to Old Georgetown Road,</p> <p>4 there will be an exterior elevator structure, a</p> <p>5 stairway.</p> <p>6 HEARING EXAMINER HANNAN: Would you, please --</p> <p>7 would -- would you please point that out with your</p> <p>8 cursor, Mr. La Vay --</p> <p>9 THE WITNESS: Sure. Yes.</p> <p>10 A So again, for the reporter that orienting –</p> <p>11 HEARING EXAMINER HANNAN: Oh, great.</p> <p>12 A – you just north of the southern curb cut,</p> <p>13 southern driveway, about – it's about 50 feet north of</p> <p>14 there, and again, that will be an exterior elevator</p> <p>15 structure, and then, a stairway adjacent to it. And</p> <p>16 that is intended to provide both general and accessible</p> <p>17 access from the public right of way to the school.</p> <p>18 Again, pointing back to that 16 feet of grade change I</p> <p>19 mentioned earlier between street and the first floor of</p> <p>20 this building, there's quite a bit.</p> <p>21 So that will help, you know, with – with</p> <p>22 general access. Again, that's what the goal is about,</p> <p>23 not other means of travel that will help facilitate</p> <p>24 that.</p> <p>25 Around the rest of the building, there are some</p>	<p style="text-align: right;">136</p> <p>1 MALE SPEAKER: I thought we were just gonna --</p> <p>2 HEARING EXAMINER HANNAN: Okay. Can you mute</p> <p>3 whoever is --</p> <p>4 MS. CARRIER: Yeah, he just did.</p> <p>5 HEARING EXAMINER HANNAN: Okay.</p> <p>6 MS. CARRIER: Sorry about that.</p> <p>7 HEARING EXAMINER HANNAN: Go ahead. Go ahead.</p> <p>8 A I think that's about it. There's – there's,</p> <p>9 like I said, there is additional grading, parking</p> <p>10 adjustments, drive aisle reconfiguration on the west</p> <p>11 side of the property in Phase 2 as well, as well as</p> <p>12 additional storm water management to accommodate the new</p> <p>13 impervious surfaces.</p> <p>14 Q Okay. Mr. La Vay, would you please describe</p> <p>15 how the parking will change both between now and Phase 1</p> <p>16 and between Phase 1 and Phase 2?</p> <p>17 A Sure. If you don't mind, I'm gonna go – I'm</p> <p>18 going to use our newly introduced site aerial photo. I</p> <p>19 don't remember which exhibit number that was, but I have</p> <p>20 that up on the screen now.</p> <p>21 Q That's 41.</p> <p>22 A 41. So referring to –</p> <p>23 HEARING EXAMINER HANNAN: You're right.</p> <p>24 A Referring –</p> <p>25 HEARING EXAMINER HANNAN: Go ahead.</p>

<p style="text-align: right;">137</p> <p>1 A -- to Exhibit 41 on the screen, in Phase 1, 2 there will be three areas of parking either removed or 3 adjusted. The first is the parking that's closest to 4 Old Georgetown Road. I believe there are seven spaces 5 that re closest to Old Georgetown Road. Those will be 6 all be removed. 7 You can then see on this image there's angled 8 parking spaces on the north side of the building. Those 9 will all be converted to parallel spaces to allow for 10 the, like I said earlier, a fire access compliant 24 11 foot drive aisle. 12 And then, in immediately behind the existing 13 building to the west, that's where the spaces I 14 mentioned earlier as well, and that will be removed for 15 -- that double loaded corridor will be removed for a 16 play space. 17 I -- I was incorrect earlier. The total net 18 reduction of Phase 1 is 24 spaces. It's not 24 spaces 19 just in the rear of the building. 20 Q And what about when we go to Phase 2. 21 A In Phase 2, there are an additional 19 spaces 22 removed, and the majority of those are because of the -- 23 as I mentioned here, I'll use this image, the second 24 going west from the rear of the building, the second 25 parking bay, double loaded parking bay, will also be</p>	<p style="text-align: right;">139</p> <p>1 down from a horizontal. 2 Q What would the illumination levels be along the 3 property lines? 4 A Based on the photometric study, they will 5 actually be zero foot candles, and that is consistent 6 with the Zoning Code requirement for 0.1 foot candles at 7 the property line for special exception uses in a 8 residential zone. 9 HEARING EXAMINER HANNAN: I thought I read 10 somewhere that they were 0.2 but it was along Old 11 Georgetown Road? 12 THE WITNESS: Yeah, that's -- that's the right, 13 so the right of way is exempt from that provision. It's 14 just the wrong residential property -- adjoining side 15 rear, a lot of lights. 16 HEARING EXAMINER HANNAN: Got you. Okay. 17 Q Mr. La Vay, would you please outline the 18 frontage improvements that are proposed for this project 19 as well as the storm water management plan? 20 A Sure. I'll go back to Exhibit -- we'll just 21 use Exhibit -- what is it. It was Exhibit 21B. 22 Q That was 23 -- 23 A 21B will be the Phase 1 site plan. 24 The frontage improvements, and I believe Ms. 25 Wagner may have mentioned this earlier, consists of an</p>
<p style="text-align: right;">138</p> <p>1 removed for this gymnasium addition, and that coupled 2 with some reconfiguring will result in a loss of 3 additional 19 spaces. 4 So I think I believe Ms. -- Ms. Wagner 5 mentioned earlier the net parking in -- in Phase 1 will 6 be 65 spaces, and then, 46 space phases at the end of 7 phrase 2. 8 Q Thank you. Please also describe for us the 9 outdoor lighting plan for the site just in general 10 terms. 11 A Sure. Essentially, there will be new pole 12 mounted LED fixtures. They are 15 feet in height, which 13 is consistent with the zoning code. And those are 14 really just for general parking lot safety and 15 illumination. 16 Q Will all the outdoor lighting have full or 17 partial cutoff fixtures or the modern equivalent? 18 A Yes. The fixtures that are shown on the 19 photometric plan, which I have a note that's 8F is the 20 exhibit, have a BUG rating. BUG stands for back light, 21 up light glare, with a rating that's equivalent to what 22 we used to call full cutoff. The most important of that 23 is the up light value, which is zero, and full cutoff 24 means that no light is shed above a 90 degree plane. 25 And that up light value of zero means all light directed</p>	<p style="text-align: right;">140</p> <p>1 11 foot wide side path that will replace -- there is an 2 existing five foot wide concrete sidewalk that's 3 directly behind the curb. There will be an eleven foot 4 wide what we call side path which is an asphalt path 5 that acts as a hiker biker shared use facility for both 6 bicyclists and just walkers or runners. And that would 7 be separated from the curb by an eight foot landscape 8 buffer. And that that geometry in that cross-section is 9 derived from the 2021 Montgomery County Complete Street 10 Standards. 11 In regards to storm water management, like many 12 projects these days, it is utilizing micro bioretention 13 to the maximum extent practical. So in Phase 1, as I 14 mentioned earlier, there are two micro bioretentions 15 facilities which are landscaped rain gardens. You hear 16 that term sometimes. Those will be in the front of the 17 site in the sloped area between the building and the Old 18 Georgetown Road, and they'll capture the impervious area 19 that runs toward Old Georgetown. 20 Due to space constraints, there is -- there is 21 an additional leftover volume that will be managed in 22 underground. It's what's called a storm filter device. 23 And that can be -- that can be seen on exhibit -- 24 exhibit on the screen. In the south, south of the 25 center of the building, there's sort of a U-shaped</p>

<p>141</p> <p>1 underground facility there that's corrugated metal 2 system. Basically it's a – it's an underground storage 3 array, and then there is a cartridge filter system. 4 And then, in Phase 2, there will be additional 5 bioretention added to manage the replaced impervious 6 areas, the gymnasium and so forth created. 7 Q Thank you very much. 8 Turning to timing, we heard from Kathy Chumas 9 that Diener hopes to move into its new location in the 10 middle of the summer 2024. Based on your experience 11 with development approvals, building permits, and 12 construction timing, when would Diener need to have 13 approval of the preliminary plan for this project to be 14 able to achieve that summary of 2024 goal? 15 A Based on the schedule that our office 16 established and our experience with the regulatory 17 matters ahead, I believe that need to occur before their 18 summer recess, so they would need to have – the project 19 would need to have planning – preliminary plan approval 20 by the Planning Board in July of this year. 21 Q Thank you, Mr. La Vay. 22 With that background established, I'd like to 23 ask you a series of questions regarding compliance with 24 the requirements for the requested conditional use in 25 the Zoning Code.</p>	<p>143</p> <p>1 time ago when the office building here was constructed. 2 I believe it was the 1960s. And as I mentioned earlier 3 in my testimony, there are several nonexistent -- excuse 4 me, existing nonresidential uses along Old Georgetown 5 Road that have created an established character of Old 6 Georgetown Road. 7 Although these uses contains slightly larger 8 buildings and different features, parking lots, perhaps 9 you can have it with more heavily landscaped ed than 10 residential properties, that does create a buffer that 11 helps protect the adjoining neighborhood from what's 12 become quite a busy road of Old Georgetown Road. 13 Q In your opinion, will the number of students be 14 appropriate for the site particularly considering noise 15 and types of physical activity? 16 A Yes. The property is two-and-a-half acres, and 17 the enrollment is 120 students. Therefore, the 18 population is well below the threshold. Of 87 people 19 per acre, the established use standards for proper 20 educational institution where additional findings and 21 justification required. Again, as I mentioned earlier, 22 The Diener School has a much smaller enrollment than 23 many private educational facilities, and the lack of 24 athletic program means there would be very little 25 exterior noise and physical activity especially after</p>
<p>142</p> <p>1 First, I'll address some of the findings 2 required for a private educational institution under 3 section 59.3.4.5. In your professional opinion, will 4 the proposed school constitute a nuisance for any 5 reason? 6 A No, The Diener School will not constitute a 7 nuisance. Schools themselves are a common part of 8 residential communities, and this particular school, as 9 you heard, has a very low enrollment, and would 10 therefore would create very little exterior noise, light 11 in traffic. 12 The School also doesn't have organized official 13 sports teams where you may see additional acts, such as 14 like noise and traffic especially after hours. 15 And as you heard from Ms. Wagner earlier, the 16 School – and Ms. Chumas, the School has a very detailed 17 plan in place to manage arrivals and departure without 18 adverse impacts. 19 Q In your opinion, will the proposed school, 20 either by itself or in combination with other nearby 21 land uses, affect adversely or change the character or 22 future development of nearby -- the nearby residential 23 community? 24 A No, most the impacts of a nonresidential – 25 nonresidential development were established a very long</p>	<p>144</p> <p>1 hours. 2 Q In your opinion, will the School's after 3 recreation facilities be adequately screened from 4 abutting residential properties? 5 A Yes. The recreational facilities both in Phase 6 1 and Phase 2 are located to the rear of the existing 7 building. And there is under both existing and proposed 8 conditions significant th vegetation to the northwest 9 and south side that will screen these facilities. 10 Q Now, I'd like to turn to the findings required 11 for all conditional uses, and section 59.7.3.1. Based 12 on your extensive experience applying Montgomery County 13 development standards to individual projects, will this 14 project meet all the requirements the R60 zone as well 15 as applicable general requirements under Article 59.6 of 16 the Zoning Code? 17 A Yes. The development will meet all of the 18 standards of the R60 zone, such as coverage, setbacks 19 and heights as well as most of the requirements, the 20 general requirements in 59.5 which include things like 21 parking, landscaping, lighting and screening. There is 22 what the exception of we are seeking three waivers from 23 standards for parking lot design and screen. 24 Q Would you please outline for us what those 25 waivers are for?</p>

<p>145</p> <p>1 A The first is for reduced side parking setbacks. 2 The requirement is 16 feet which is derived from the 3 special exception standards for parking in residential 4 zones require that parking be set back twice the 5 applicable side yard, and the applicable side yard in 6 R60 zone is 8 feet, and therefore the requirement is 16. 7 The request for 8 feet on the south side and 12 feet on 8 the north side. 9 Q And why is a waiver needed for this side 10 parking lot setbacks? 11 A Well, in the case of Phase 1, the parking is an 12 existing condition, and because of the available space 13 between the building and that parking, and again, the 14 need to provide a fire department compliant access drive 15 aisle, there is no room to shift the parking. 16 On the north side of the site, the 12 foot 17 setback requirement is actually only in Phase 2. And 18 that is when there's additional parking space is 19 displaced in the rear of the property due to the 20 gymnasium addition. What will be parallel parking in 21 Phase 2 would be converted back to head-in parking, and 22 that will have a 12 foot setback from the northern 23 property line, which is more or less within a foot I 24 think of the existing parking that's there today. 25 Q And then, the other two waivers?</p>	<p>147</p> <p>1 that have the accessibility symbol on them, where my 2 cursor is. Those existing spaces will remain, and they 3 are eight feet from the property line under existing 4 conditions. And so the eight feet that -- or the space 5 that's left that are there between all of the parking 6 and the property line which is the southern dark dash 7 line is eight feet. 8 On the north side of the site, and we're 9 looking at the Phase 1 plan, so this is where we have 10 now taken what are currently head-in parking spaces and 11 converted them to parallel spaces, but the existing 12 head-in spaces are approximately 12 feet from the 13 northern property line. 14 So if I flip to the Phase 2 site plan, which is 15 Exhibit 21C, again, because the space is in the rear of 16 the property, west side will be displaced. We will 17 convert those spaces back to head-in on north of the 18 building, and that's where we will reestablish that 19 roughly 12 foot setback from the property line. 20 Q And it's not whole length of the northern 21 property line, right? 22 A No, it's -- 23 Q Am I correct that the parking meets the setback 24 standard for part of the northern property line? 25 A Yeah, well, the parking, only the -- only the</p>
<p>146</p> <p>1 A Sorry, we got off track. 2 HEARING EXAMINER HANNAN: Before you leave -- 3 before you leave that the waiver on the south side -- 4 okay. The amount of waiver and the setback, they're 5 both eight feet, correct? 6 THE WITNESS: Yes. On the south side. 7 HEARING EXAMINER HANNAN: Okay. And on the 8 north side, the setback -- the setback you propose is 12 9 feet, so the requested waiver is four feet. 10 THE WITNESS: That's correct. 11 HEARING EXAMINER HANNAN: And what is -- 12 somebody mentioned the property below you. That is a -- 13 is south of you. That's a house, but it's abandoned and 14 in corporate ownership, is that what you said? 15 THE WITNESS: That's correct. 16 HEARING EXAMINER HANNAN: Okay. Go ahead. 17 Q Okay. I wonder if it's -- if it's possible for 18 you to show on the -- on the exhibit how much of the -- 19 of the north and south property lines are covered by 20 these waivers? 21 A Sure. So on the north side -- well, I tell you 22 what, let's start with the south, because the south is 23 triggered in Phase 1. The Phase 1 site plan. 24 So south, sort of south central of the site, 25 you can see that there's some accessible parking spaces</p>	<p>148</p> <p>1 dozen or so spaces that are running adjacent to that 2 property line. The rest of the parking that's sort of in 3 Phase 2 is in the middle of the site and meet the 4 setback requirement. 5 Q Okay. And then, let's move on to the other two 6 waivers that Diener is requesting. 7 A Sure. The second is for preliminary -- 8 perimeter planting widths, excuse me. The Zoning Code 9 has a requirement for 59 sticks for a perimeter -- 10 perimeter planting width of 10 feet where you -- a 11 parking lot adjoins residential property. Again, 12 because of the eight foot existing condition on the 13 south side, we're requesting a waiver of two feet from 14 that requirement. 15 Q And that's only on the south side? 16 A Correct. 17 Q And then, the last waiver that's -- that we're 18 asking for? 19 A The last waiver is a -- sort of -- is a less a 20 geometric item and more a detailed landscaping 21 requirement. There's a requirement for a minimum of two 22 understory trees planted for every canopy tree where you 23 have screening established, and we're asking for a 24 waiver from that provision and only a select area. 25 Q Why don't you show us what that area is.</p>

<p>149</p> <p>1 A Sure. It would be along the southern property 2 boundary between the parking lot and the property to the 3 south. 4 Q Between the parking lot, is this the Phase 1 5 where there's a parking lot at the rear? 6 A It's -- it's in both, so that this is 7 applicable in both phases. Well, yes, this is 8 applicable in both phases because even though we won't 9 have head-in spaces adjacent to the property in the 10 south, I believe the drive out would still would be 11 considered part of the parking facility. 12 Q And why is it that we're asking for that 13 waiver? 14 A Well, typically, so there's a couple things. 15 It mostly do with space constraints, so we're going to 16 have light posts in there which those always drive where 17 the trees can be placed and other shrubbery, but mostly 18 when you have to implement a screening of a ten foot 19 wide screening or even 12 foot wide screening area, or 20 eight feet, you would stagger the landscape material a 21 little bit to be able to fit everything in. And when 22 you get down to eight feet, it's just very difficult to 23 fit all of that without crowding out trees or trees 24 being -- trees and scrubs competing. So on that 25 southern area, we're reducing it down to I believe it's</p>	<p>151</p> <p>1 recommendations of the Bethesda Chevy Chase Master Plan? 2 A Yes. And I would agree with Staff's findings 3 in the report as well. 4 Q Would you also agree with the discussion of the 5 Master Plan in the Statement of Justification? 6 A Yes, I would. 7 MS. CARRIER: For the record, the Staff Report 8 discusses the Master Plan on pages 24 through 26. And 9 the Statement of Justification discusses the Master Plan 10 on pages 27 through 31, and the Statement of 11 Justification is Exhibit 25 in the record. 12 And Ms. Hannan, I would propose to have Mr. La 13 Vay rely on his adoption of the discussion in the Staff 14 Report and SOJ regarding the Master Plan's goals and 15 objectives unless you prefer to hear of a more fulsome 16 testimony on that. 17 HEARING EXAMINER HANNAN: No, that's fine. 18 Thank you. 19 Q Okay. Mr. La Vay, in your professional 20 opinion, is the proposed conditional use harmonious with 21 the surrounding neighborhood? 22 A Yes, I do think the proposed con -- yeah, I 23 think there's some uses that's harmonious with the 24 surrounding neighborhood. 25 Q Will it alter -- would the proposed use alter</p>
<p>150</p> <p>1 just one shrub between each tree or one understory tree, 2 I should say, between each tree rather than two 3 Q And is that also affected by the retaining wall 4 on that side? 5 A In Phase 2 will be. That retaining wall won't 6 come into play in Phase 1, but in Phase 2, that will 7 also be a space constraint. 8 Q Mr. La Vay, have you read the discussion in the 9 Staff Report about the requested waivers? 10 A I have. 11 Q And does the Staff support the waivers? 12 A Yes, they did. 13 Q And do you agree with Staff's analysis? 14 A I do. Yes, I do. 15 Q Thank you. In your professional opinion, would 16 the parking lot design and plantings as proposed satisfy 17 the intent of the Zoning code to ensure that parking 18 areas are effectively screened from the view from the 19 neighboring properties? 20 A Yes. Although we are asking for some slight 21 waivers, there will still be significant vegetation 22 involving existing and proposed to adequately screen 23 from adjacent properties. 24 Q Turning to the Master Plan. In your opinion, 25 does the proposed project substantially conform to the</p>	<p>152</p> <p>1 the character of the neighborhood in a manner 2 inconsistent with the Master Plan? 3 A No, the proposed use will not alter the 4 character in there. That's inconsistent with the plan. 5 In fact, the change from office to a community serving 6 school will even be more consistent with the character 7 of the surrounding residential neighborhood. 8 Q Would you like the adopt the conclusions in the 9 Staff regard regarding the adequacy of public 10 facilities? 11 A Yes. And I can confirm that water and sewer 12 services were deemed available and adequate to serve the 13 proposed use, as well as fire and rescue services. And 14 you heard testimony earl -- testimony earlier from Ms. 15 Wagner regarding traffic capacity. 16 MS. CARRIER: For the record, the revised Staff 17 Report discussed the adequacy of public facilities on 18 page 27. 19 Q Mr. La Vay, my final topic for you is inherent 20 and non inherent adverse affects. 21 In your professional opinion, will the proposed 22 conditional use cause undue harm to the surrounding 23 neighborhood as a result of a noninherent adverse effect 24 either alone or in combination with inherent adverse 25 effects?</p>

<p>153</p> <p>1 A No, the adverse impacts of the nonresidential 2 use, things like paid parking lots, larger buildings, 3 site lining, there are mostly in existence today, and 4 they had been for a very long time. 5 The transition from what's there today to a 6 community serving school would be more compatible with 7 the surrounding residential neighborhood. 8 There are some newly introduced adverse 9 effects, such as noise from children, traffic 10 generation, but those are very minor given the low 11 involvement and lack of outdoor, after school formal 12 activities. 13 Q And are they typical for a private educational 14 institution? 15 A They are. They are typical, but they are 16 relatively minor compared to many other private 17 educational institutions. 18 Q Thank you very much. 19 MS. CARRIER: That completes my questions for 20 Mr. La Vay. 21 HEARING EXAMINER HANNAN: Are there any other 22 questions from anyone else? 23 Okay. Hearing none, Mr. La Vay, thank you. 24 You may be excused. 25 MS. CARRIER: Thank you very much.</p>	<p>155</p> <p>1 A Yeah, I am a registered architect and I have 2 certifications from the American Institute of 3 Architects, and from a -- a LEED certification in green 4 building. They are sustainability certifications. 5 Q What is your position at Lord Aeck Sargent and 6 what are your responsibilities? 7 A I'm a principal and a shareholder in the firm. 8 And I am a design architect, so I lead a lot of design 9 projects related to that, and have various overarching 10 leadership roles within the firm. 11 Q How long have you been a practicing architect? 12 A 24 years. 13 Q And what type of projects do you typically work 14 on? 15 A I tend to work on project like this, like K12 16 projects as well as a lot of higher end projects as 17 well. 18 Q Can you estimate roughly the number of projects 19 you've worked on during your career as an architect? 20 A I -- sure. I would say over 60 conservatively. 21 Q Are you licensed in the State of Maryland, Mr. 22 Andrews? 23 A I am not licensed in Maryland. 24 Q You have worked on this application with an 25 architect from your firm who is licensed in Maryland?</p>
<p>154</p> <p>1 Okay. So our next and final witness is Josh 2 Andrews. Just having a little technical problem here 3 getting the questions up on my screen. There we go. 4 And Mr. Andrews is ready to be sworn in. 5 HEARING EXAMINER HANNAN: Okay. Just one 6 second. 7 Mr. Andrews, please raise your right hand. 8 Whereupon, 9 JOSH ANDREWS, 10 being first duly sworn or affirmed to testify to the 11 truth, the whole truth, and nothing but the truth, was 12 examined and testified as follows: 13 HEARING EXAMINER HANNAN: Please state your 14 name, business address, and email for the record, 15 please. 16 THE WITNESS: My name is Josh Andrews. I'm with 17 Lord Aeck Sargent Planning and Design. My email is 18 josh.andrews@lordaecksargent.com. And address is 1730 19 Pennsylvania Avenue, NW, Suite 450, Washington, D.C. 20 20006. 21 HEARING EXAMINER HANNAN: Okay. Thank you. 22 EXAMINATION BY COUNSEL FOR THE APPLICANT: 23 BY MS. CARRIER: 24 Q Mr. Andrews, what is your profession and what 25 professional certifications do you have?</p>	<p>156</p> <p>1 A Absolutely, yes. 2 Q And his name would be? 3 A Warren Williams. 4 Q Will Mr. Williams be responsible for signing 5 and sealing the architectural drawings? 6 A Yes, he will be. 7 Q Thank you. Have you ever qualified as an 8 expert witness in architecture before a judicial or 9 administrative body? 10 A Yes. Once before, not in this similar 11 capacity, more working with a contractor who was having 12 some issues with the subcontractor. 13 MS. CARRIER: Ms. Hannan, Mr. Andrews' résumé 14 was submitted as an attachment to the Applicant's 15 Prehearing submission marked Exhibit 22. And I would 16 request that he be qualified as an expert in 17 architecture. 18 HEARING EXAMINER HANNAN: Does anyone have an 19 objection to qualifying Mr. Andrews as an expert in 20 architecture? 21 Okay. Hearing none, I will qualify him as an 22 expert 23 MS. CARRIER: Thank you very much. 24 Q Mr. Andrews, would you please put up on your 25 screen the Phase 1 site layout exhibit that you have</p>

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40 (157 to 160)

<p>157</p> <p>1 ready to submit.</p> <p>2 A Yes.</p> <p>3 MS. CARRIER: The Applicant would like to have</p> <p>4 this drawing marked as an exhibit.</p> <p>5 A Yeah.</p> <p>6 MS. CARRIER: And I'd like to note for the</p> <p>7 record that this exhibit also appears on page 12 of the</p> <p>8 Statement of Justification.</p> <p>9 HEARING EXAMINER HANNAN: I thought I had seen</p> <p>10 this before.</p> <p>11 MS. CARRIER: Yes, yes. Most of these -- most</p> <p>12 of these --</p> <p>13 HEARING EXAMINER HANNAN: I have --</p> <p>14 MS. CARRIER: Most of these you have already</p> <p>15 seen.</p> <p>16 HEARING EXAMINER HANNAN: Can I -- can you put</p> <p>17 -- I can't see it.</p> <p>18 THE WITNESS: No, I'm sorry. Give me one --</p> <p>19 MS. CARRIER: He's still working on it.</p> <p>20 THE WITNESS: Give me one second.</p> <p>21 MS. CARRIER: If you have trouble finding it, I</p> <p>22 can always pull it up.</p> <p>23 THE WITNESS: I have it here.</p> <p>24 MS. CARRIER: There we go.</p> <p>25 HEARING EXAMINER HANNAN: Okay. Before you go</p>	<p>159</p> <p>1 so we'll see probably a little bit later some of the</p> <p>2 existing conditions. You've seen some of that already.</p> <p>3 But some of the main things is really removing a</p> <p>4 significant amount of asphalt and parking those right up</p> <p>5 upfront. And so this is really an intentional around</p> <p>6 creating a much nicer frontage to -- to from a -- from a</p> <p>7 County perspective. It's really setting this up well</p> <p>8 for that. As -- as Mr. La Vay had mentioned, from the</p> <p>9 storm water scenario, this is the storm water zone right</p> <p>10 here, and there's a little bit over here. Those are --</p> <p>11 those would be planted. This was --</p> <p>12 Q Mr. Andrews, I'm just going to interrupt you --</p> <p>13 A Yes.</p> <p>14 Q -- because the transcript, it can be a little</p> <p>15 confusing when there are a lot over heres, so if you</p> <p>16 would -- if you would please try to use -- like be more</p> <p>17 descriptive like talk about --</p> <p>18 A Excuse me.</p> <p>19 Q -- north of this, west of that, that would be</p> <p>20 helpful.</p> <p>21 A Okay. Yes. All right. Yeah, I was using my</p> <p>22 arrow to point to where those --</p> <p>23 Q Yeah, I know.</p> <p>24 A Right.</p> <p>25 HEARING EXAMINER HANNAN: You can't -- the</p>
<p>158</p> <p>1 ahead, I'm going mark it as Exhibit -- I think we're on</p> <p>2 42.</p> <p>3 MS. CARRIER: I think it -- I think it might be</p> <p>4 43. I think the TMP was 42.</p> <p>5 HEARING EXAMINER HANNAN: Oh, you're right.</p> <p>6 Exhibit 43. And what did you call this?</p> <p>7 MS. CARRIER: The Phase 1 site layout exhibit.</p> <p>8 HEARING EXAMINER HANNAN: Okay. Go ahead.</p> <p>9 (Exhibit 43, Phase 1 site layout, was marked</p> <p>10 for identification.)</p> <p>11 (Exhibit 43, Phase 1 site layout, was admitted</p> <p>12 into evidence.)</p> <p>13 Q Did you or your office prepare this exhibit?</p> <p>14 A Yes.</p> <p>15 Q Would you please walk us through the Phase 1</p> <p>16 site design, including the proposed changes to the site</p> <p>17 and the building exterior using this exhibit.</p> <p>18 A Absolutely. And you've already heard some of</p> <p>19 this already from -- from some of the other witnesses,</p> <p>20 but let me walk you through a few of the things.</p> <p>21 I'll sort of start over here working our way</p> <p>22 from the -- from Old Georgetown Road in. A majority of</p> <p>23 the site moves for Phase 1 really occurs from -- from a</p> <p>24 public standpoint from the face of the existing building</p> <p>25 here, working our way back towards Old Georgetown. And</p>	<p>160</p> <p>1 transcript can't see the arrow.</p> <p>2 THE WITNESS: I understand.</p> <p>3 HEARING EXAMINER HANNAN: Thank you, Ms. -- I</p> <p>4 was just about to say that. Thank you, Ms. Carrier.</p> <p>5 A Forgive my novel -- novice ability on this.</p> <p>6 So to the west of Old Georgetown Road, the</p> <p>7 storm water zone is located between that and the face of</p> <p>8 the existing building. And as mentioned previously,</p> <p>9 there's also in that similar zone the exterior elevator.</p> <p>10 And that's being placed in -- in this portion of the</p> <p>11 site because there's a flat portion running from the</p> <p>12 west of what would be the new sidewalk that will allow</p> <p>13 ADA accessibility to take that elevator up and be able</p> <p>14 to come across to the west towards the front of the</p> <p>15 school.</p> <p>16 As mentioned previously by other of other</p> <p>17 witnesses, there is significant grade change running</p> <p>18 from the sidewalk to the west of the side all the way</p> <p>19 towards the rear portion of the side. And so</p> <p>20 specifically between the face of the building and the</p> <p>21 sidewalk, there is a significant amount of grade change</p> <p>22 that needs to be made up to make this side accessible</p> <p>23 for anyone arriving from the sidewalk in the public way.</p> <p>24 Directly south of that exterior elevator is an</p> <p>25 exterior stair, and that's if you didn't need to take</p>

<p>161</p> <p>1 the elevator, you could take those stairs up, but both 2 the elevator and the stairs arrive at a similar point to 3 the -- to the west of that exterior elevator. And then, 4 you'd be able to walk towards the west, and then, take a 5 new ramp that will be installed as a part of the 6 exterior design to allow again from an accessible ADA 7 accessible route to be able to come in through the front 8 door of the school. That all takes care of people 9 coming from the public way along Old Georgetown. 10 As a part of the redesign is removing a lot of 11 asphalt from the face of the building running east 12 towards Old Georgetown. We have three visitor parking 13 spaces that have been turned parallel, and so it's a 14 significant improvement of a lot of the head-in parking 15 that had been highly visible previously from Old 16 Georgetown. Now it's pretty much hidden by all of the 17 new landscaping and hardscape moves that have happened 18 here. 19 As I -- as we look just north and south of the 20 existing building, there is this red, the red dash line 21 indicates an ornamental security gate system. And 22 that's set up that these would be opened during pick-up 23 and drop-off time only, and the rest of the time, those 24 would be secured and closed off. 25 And that really demarcates the major extent of</p>	<p>163</p> <p>1 accessible parking, and so for any staff or parents 2 during pick-up and drop-off, they need to use that, 3 they'd be able to park in those spaces and be able to 4 come directly into the side without needing to use the 5 front -- front ADA access to the building. The front is 6 really set up for times outside of the pick-up and 7 drop-off times for an ADA accessible route to get into 8 the building. 9 Q Thank you very much, Mr. Andrews. 10 Would you please pull up the Phase 1 rendering. 11 MS. CARRIER: And this is also a few exhibit. 12 And we'd ask that this one be marked as an exhibit. 13 This one is also already in the record. It was included 14 in the Staff Report. 15 HEARING EXAMINER HANNAN: Right. Okay this will 16 be 44, Phase 1 render. 17 MS. CARRIER: Yep, that's what we called it. 18 (Exhibit 44, Phase 1 rendering, was marked for 19 identification.) 20 (Exhibit 44, Phase 1 rendering, was admitted 21 into evidence.) 22 Q So Mr. Andrews, did you or your office create 23 this rendering? 24 A We did. 25 Q And please describe what it depicts.</p>
<p>162</p> <p>1 site elements in Phase 1 occurring from that face of the 2 east side of the existing building, and from those gates 3 back towards Old Georgetown Road. 4 Beyond that, when we start to come inside the 5 perimeter of the secure line of the side that would be 6 from red dash line gate, gated zone shown to the west, 7 there's minimal changes to the overall site design in 8 Phase 1. Some of the major things to occur, though, is 9 replacing existing parking lot directly to the west of 10 the existing building towards the rear of the site. 11 This would be set up to create a new playground area, 12 and so removing the asphalt that's there to create a 13 playground area there, as well as a new playground area 14 just to the south of the existing building to create 15 another playground here in there. These two different 16 playground areas are set up to allow for some separation 17 between different age group of the students who would be 18 attending here. 19 And one other thing to note, you'll see the 20 purple lines are where the traffic flow would occur for 21 drop-off and pick-up. Here the purple line, it's on the 22 south side of the existing building, there is an 23 existing entry, that's where students would come into 24 the building and be dropped off at that location. 25 Directly south of that purple arrow is the ADA</p>	<p>164</p> <p>1 A So this is really looking at from the Phase 1 2 site plan that we just looked at, just from an 3 orientation standpoint, on the far right is the sidewalk 4 along Old Georgetown Road. On the back left of this 5 image is the existing building. And then, the space in 6 between really starts to speak to this new frontage area 7 that we were just looking at. So this, the space in 8 between, that's the vertical element that shows brick 9 and had The Diener School logo on it. That is the 10 exterior elevator located here. And directly south of 11 that on the image shows the exterior stair that allows, 12 you know, students and staff and visitors to be able to 13 use that to walk up to the existing building. And just 14 beyond, you can get a sense of the ramp just beyond that 15 was along the existing face of the existing building 16 going towards the front door. 17 This is a depiction starts to really give a 18 sense of the new landscaping that would start to occur. 19 There are trees that are directly to the -- to the west 20 of the existing sidewalk to start to get better 21 understanding of the large canopy trees that would be 22 installed along Old George -- Georgetown Road. 23 And then, there are brick side walls that start 24 to have an ability to have some minimal signage for the 25 school the denote from the School analysis in taking</p>

<p>165</p> <p>1 over this -- this exact building.</p> <p>2 A few things to also note is that strategically</p> <p>3 this is trying to strike a nice balance between having a</p> <p>4 new element on the side to really approve its overall</p> <p>5 accessibility and way to move up to the front door by --</p> <p>6 by having a balance of having some new elements that</p> <p>7 really speak to the school, having the school's logo,</p> <p>8 the school colors, things that really start to</p> <p>9 appropriate it more for -- for speaking to the school</p> <p>10 itself. But also using elements to start to really tie</p> <p>11 it back and blend in with existing context.</p> <p>12 So the use of brick that matches the existing</p> <p>13 brick of the existing building, the use of precast that</p> <p>14 sort of matches the same color as being used on the</p> <p>15 existing building. The way that the side walls</p> <p>16 themselves try to blend into the existing grade that's</p> <p>17 there. The way also that the stairs themselves sort of</p> <p>18 embed themselves into the grade that's there as well.</p> <p>19 So it's trying to strike a strong balance between both</p> <p>20 the two elements fitting into the overall context, and</p> <p>21 giving some identity for the School itself.</p> <p>22 It also occurs directly behind, you know, a</p> <p>23 series of trees and within landscaping, so we feel that</p> <p>24 it has a nice meshing between those two different</p> <p>25 version scenarios within the overall site.</p>	<p>167</p> <p>1 moving towards the east towards Old Georgetown; that</p> <p>2 that was all installed within the thought of we really</p> <p>3 have finished that portion of the frontage improvement.</p> <p>4 The major changes really happened beyond those</p> <p>5 red dash lines that indicated the ornamental security</p> <p>6 gates zone. So beyond that, and as is testified by</p> <p>7 other witnesses, there are some slight changes relative</p> <p>8 to the drive aisle that works around the overall side to</p> <p>9 help some improvements from that standpoint.</p> <p>10 From an architectural standpoint, the addition</p> <p>11 of the gym, there would be on the rear of the site to</p> <p>12 the west of the existing building, and a -- and a bridge</p> <p>13 connector, corridor connector, that connects those from</p> <p>14 the gym running east to the -- into the existing</p> <p>15 building.</p> <p>16 That's what's depicted in this image.</p> <p>17 There are then some new exterior spaces that</p> <p>18 become created by that. Again, because the grade</p> <p>19 changes across the length of the side to the -- to the</p> <p>20 west of the -- to the west and the north of the gym,</p> <p>21 there is a higher elevation outdoor space that can be</p> <p>22 accessed from the upper level of the gym to be able to</p> <p>23 have greater access for outdoor play areas and flexible</p> <p>24 space. And then, to the east between the gym and the</p> <p>25 existing building, there are two other outdoor classroom</p>
<p>166</p> <p>1 Q Thank you, Mr. Andrews.</p> <p>2 I'd like to go through the same thing now for</p> <p>3 the Phase 2 site layout. If you would please pull up</p> <p>4 the Phase 2 site layout drawing. This is also in the</p> <p>5 record. It appears on page 14 of the Statement of</p> <p>6 Justification.</p> <p>7 HEARING EXAMINER HANNAN: Is this a new exhibit</p> <p>8 though or --</p> <p>9 MS. CARRIER: This is a new exhibit.</p> <p>10 HEARING EXAMINER HANNAN: This will be the Phase</p> <p>11 2 site layout, Exhibit 45.</p> <p>12 MS. CARRIER: Thank you.</p> <p>13 (Exhibit 45, Phase 2 site layout, was marked</p> <p>14 for identification.)</p> <p>15 (Exhibit 45, Phase 2 site layout, was admitted</p> <p>16 into evidence.)</p> <p>17 Q Mr. Andrews, did you or your office prepare</p> <p>18 this drawing?</p> <p>19 A Yes, we did.</p> <p>20 Q Please go through the Phase 2 site design just</p> <p>21 as you did the Phase 1 design, and be sure to point out</p> <p>22 changes from Phase 1.</p> <p>23 A All right. For the most part, the Phase 1</p> <p>24 remains pretty much unchanged. That was very</p> <p>25 intentional, but from the face of the existing building</p>	<p>168</p> <p>1 spaces, flex spaces, that will be added to the overall</p> <p>2 design of the project.</p> <p>3 There, as -- as noted previously, there are</p> <p>4 some changes to how the overall parking starts to work</p> <p>5 within the -- within the secure line of the overall</p> <p>6 facility to improve overall circulation of flow.</p> <p>7 With the addition of the gym, that gives the</p> <p>8 School one other student drop-off location that's</p> <p>9 indicated by the purple arrows to the south of the</p> <p>10 building. So that allows for even greater ability to</p> <p>11 unload students and do that more quickly, because you</p> <p>12 could really take students, older students in one area,</p> <p>13 maybe to the gym, and some of the younger students</p> <p>14 closer to the existing building.</p> <p>15 Q Thank you very much.</p> <p>16 Next, please put up on your screen the Phase 2</p> <p>17 rendering.</p> <p>18 MS. CARRIER: This is also a new exhibit, but it</p> <p>19 appears both in the Statement of Justification on 14,</p> <p>20 page 14, and also in the Staff Report.</p> <p>21 HEARING EXAMINER HANNAN: Any objection to any</p> <p>22 of these exhibits?</p> <p>23 Okay. Hearing none, I will admit it as Exhibit</p> <p>24 46.</p> <p>25 MS. CARRIER: Thank you.</p>

<p>169</p> <p>1 Q Mr. Andrews --</p> <p>2 HEARING EXAMINER HANNAN: Phase 2 rendering.</p> <p>3 Sorry.</p> <p>4 MS. CARRIER: Yes.</p> <p>5 HEARING EXAMINER HANNAN: Sorry, Phase 2</p> <p>6 rendering.</p> <p>7 MS. CARRIER: Thank you.</p> <p>8 (Exhibit 46, Phase 2 rendering, was marked for</p> <p>9 identification.)</p> <p>10 (Exhibit 46, Phase 2 rendering, was admitted</p> <p>11 into evidence.)</p> <p>12 Q Mr. Andrews, did you or your office prepare</p> <p>13 this exhibit?</p> <p>14 A Yes, we did.</p> <p>15 Q Please tell us what it depicts and what you</p> <p>16 find most significant about it.</p> <p>17 A Okay. So this is really taking that Phase 2</p> <p>18 side background we saw, and we really start to see it</p> <p>19 three-dimensionally. So here is the existing building.</p> <p>20 That would be what's the building that's shown in the</p> <p>21 right-hand corner of this image. To the upper left-hand</p> <p>22 corner is the new addition of the gym, and the</p> <p>23 connecting corridor element between the two. And then,</p> <p>24 you have a sense of the overall site design itself.</p> <p>25 A few things to note, this starts to give you a</p>	<p>171</p> <p>1 integrate this into the overall context of both the</p> <p>2 neighborhood and this existing building.</p> <p>3 So you'll sort of note that the roof shapes are</p> <p>4 very similar, the roof design is very similar, and the</p> <p>5 materials, the color that you use are very similar.</p> <p>6 Similar to our previous conversation about the</p> <p>7 elevator design is that the brick of the gym will match</p> <p>8 the brick of the existing building as a way to start</p> <p>9 creating a stronger connection between the two. But</p> <p>10 also, the existing building has some limited</p> <p>11 opportunities to bring in more natural light. And so</p> <p>12 the new additions provide more windows, more glazing to</p> <p>13 allow greater natural light into those -- those existing</p> <p>14 -- those new spaces and provides for greater connection</p> <p>15 to the outside. So the new -- the new building, you'll</p> <p>16 sort of know there are new, new glass part of the gym on</p> <p>17 the lower level, you'd be able to exist from the gym to</p> <p>18 the east to the outdoor flex space. Similar spaces</p> <p>19 exist on the north and the west sides of the gym on the</p> <p>20 upper level to be able to go out onto those flex outdoor</p> <p>21 spaces there as well.</p> <p>22 Q Is there any element of this rendering that is</p> <p>23 outdated?</p> <p>24 A There is one little piece that is different.</p> <p>25 As we sort of walk through the site design, I'll just</p>
<p>170</p> <p>1 good sense of the landscaping around the overall site</p> <p>2 itself that's really highlighting rather dense trees all</p> <p>3 the way around the north, the west, and the south sides</p> <p>4 of the site itself. There is some existing trees that</p> <p>5 are there.</p> <p>6 This also starts to highlight some of exterior</p> <p>7 spaces that were noted. As you can see, the -- the</p> <p>8 playground space that's fenced in to the south of the</p> <p>9 existing building, some of the open flex spaces that are</p> <p>10 between the new gym and the existing building. And</p> <p>11 then, some of the upper flex spaces that are located to</p> <p>12 the north and west of the existing gym facility.</p> <p>13 A few architectural things that we think are</p> <p>14 really important here. There is -- there is a great</p> <p>15 amount of strategy that went into really trying to</p> <p>16 integrate this building into the overall side. And</p> <p>17 similar to our conversation about the elevator on the</p> <p>18 front of the building, this is trying to strike a nice</p> <p>19 balance between relating to the existing building, and</p> <p>20 providing a way to really express some -- some interest</p> <p>21 of the School and what the School is all about. So the</p> <p>22 School colors are used in the -- in the gym itself</p> <p>23 trying to use some of the colors which you will see in</p> <p>24 their logo as a way to express more about what the</p> <p>25 School is. But then, some very strategic moves to</p>	<p>172</p> <p>1 note that there a set of steps that's shown adjacent to</p> <p>2 the existing -- existing entry, which is in the bottom</p> <p>3 right-hand corner of the -- of the drawing. That those</p> <p>4 no longer exist in the final design. The ramp that is</p> <p>5 shown does exist, just not those exact steps.</p> <p>6 Q Thank you. The last demonstrative exhibit I'd</p> <p>7 like to ask you to pull up is the rendering of the</p> <p>8 proposed gym.</p> <p>9 A So as I pull that up, this view will be taken</p> <p>10 from somewhere standing over in the area between both</p> <p>11 the gym and the new and existing building. So that</p> <p>12 would probably be on the south -- southeast corner of</p> <p>13 the next to one of the parking spaces. So somewhere</p> <p>14 located --</p> <p>15 Q Mr. -- Mr. Andrews, I need the time while</p> <p>16 you're pulling it up to talk about the exhibit -- being</p> <p>17 a new exhibit.</p> <p>18 MS. CARRIER: So the Applicant would like to</p> <p>19 mark this rendering as an exhibit as well, and I will</p> <p>20 note for the record, this appears on page 15 of the</p> <p>21 Statement of Justification, and I believe it is also in</p> <p>22 the Staff Report.</p> <p>23 HEARING EXAMINER HANNAN: Okay. Anyone have any</p> <p>24 objection to admitting this as an exhibit.</p> <p>25 Okay. Hearing now, I'll mark this 47 gym</p>

<p>173</p> <p>1 rendering.</p> <p>2 MS. CARRIER: Thank you very much.</p> <p>3 (Exhibit 47, Gym rendering, was marked for</p> <p>4 identification.)</p> <p>5 (Exhibit 47, Gym rendering, was admitted into</p> <p>6 evidence.)</p> <p>7 Q Okay. Mr. Andrews, did you or your office</p> <p>8 prepare this rendering?</p> <p>9 A We did.</p> <p>10 Q Please tell us what we're seeing and what you</p> <p>11 find significant in it?</p> <p>12 A So this is a view taken from the south side of</p> <p>13 existing building looking back towards the east side and</p> <p>14 east end south side of the gym addition. A few things</p> <p>15 that are really important here just for orientation</p> <p>16 standpoint, on the right-hand side of the image is a</p> <p>17 piece of the existing building, starts to understand how</p> <p>18 that the new addition relates to the existing space.</p> <p>19 A few things to note is that the, as mentioned</p> <p>20 previously, the shape of roof of the new gym really ties</p> <p>21 in nicely to what the existing building is doing. A</p> <p>22 strategic move that was going to occur here was really</p> <p>23 embedding this gym into the hill of the site, rather</p> <p>24 than trying to have it elevated up so it's sort of</p> <p>25 extended up for greater view for the surrounding --</p>	<p>175</p> <p>1 overall scale fits in with the surrounding neighborhood</p> <p>2 itself. But also settings for a lot of really good</p> <p>3 improvements that are happening here. When you look at</p> <p>4 -- if you're, you know, on Old Georgetown, and you're</p> <p>5 looking back towards the site, there's a significant</p> <p>6 amount of asphalt and parking that's there. And all the</p> <p>7 changes that we're talking about really helps improve</p> <p>8 the overall visibility from, you know, this look and</p> <p>9 feel and what it's like from being in the public way</p> <p>10 looking back towards the site itself.</p> <p>11 And then, and thinking about from a Phase 2</p> <p>12 perspective, these adjustments are to the rear of the</p> <p>13 site, and as -- as different strategies we've discussed</p> <p>14 are really embedded into the site itself. So most of</p> <p>15 this won't even be visible from the -- from the front of</p> <p>16 the site itself along with the landscaping that goes</p> <p>17 around the perimeter creating some of the visual</p> <p>18 barriers. I feel very confident saying this fits in</p> <p>19 nicely to the existing neighborhood.</p> <p>20 Q Thank you.</p> <p>21 Mr. Andrews, I'd like to ask you a few</p> <p>22 questions about landscaping.</p> <p>23 A Yes.</p> <p>24 Q Has your career as an architect included site</p> <p>25 design work?</p>
<p>174</p> <p>1 surrounding buildings and views. This was embedded into</p> <p>2 the side. So as you'll sort of note on the far</p> <p>3 left-hand side how the slope of the grade occurs down to</p> <p>4 where is the entry floor to the gym, it embeds itself</p> <p>5 into the grade itself. So reducing the overall height</p> <p>6 of the building proper. And that allows for a portion</p> <p>7 of the building to be essentially under grade on the --</p> <p>8 on the west side of the gym.</p> <p>9 So reducing that overall height is an important</p> <p>10 move. Using the same brick of the exist -- of the</p> <p>11 existing building as a part of the gym is an important</p> <p>12 move to make those connections between the two. And</p> <p>13 then, the differences become as mentioned previously a</p> <p>14 greater transparency of some school colors start to find</p> <p>15 their way into it.</p> <p>16 I'll also note this creates a really nice and</p> <p>17 safe way to unload students into this kind of outdoor</p> <p>18 plaza area before they go into the school proper.</p> <p>19 Q Thank you for all of that.</p> <p>20 In your professional opinion, is the existing</p> <p>21 building with the proposed changes compatible with the</p> <p>22 residential character of the surrounding neighborhood?</p> <p>23 A I really think it is. I mean, the existing</p> <p>24 building has been there for a long time from 1666. Its</p> <p>25 materials, its architecture shape of the roofing, of the</p>	<p>176</p> <p>1 A Yes.</p> <p>2 Q And what's your role in that?</p> <p>3 You know --</p> <p>4 A Well --</p> <p>5 Q -- when you're talking about site design.</p> <p>6 A Sure. I'll say, for an example, with this</p> <p>7 project, placing -- placing the auditorium, think -- I</p> <p>8 mean, the gym, the connecting corridor between the two,</p> <p>9 how the circulation works, thinking about how parking</p> <p>10 happens, different elevations of playground spaces,</p> <p>11 working directly with landscape architects on the look</p> <p>12 and feel of the way that the project worked, those are</p> <p>13 all things that would be under my purview.</p> <p>14 Q Have you had occasion to become familiar with</p> <p>15 landscape plans generally during the course of your</p> <p>16 career?</p> <p>17 A Yes.</p> <p>18 Q And are you familiar with the landscape plans</p> <p>19 for the Diener site?</p> <p>20 A Yes.</p> <p>21 Q Could you please pull up on your screen the</p> <p>22 approved natural resources -- natural resources</p> <p>23 inventory or NRI. This is Exhibit 9.</p> <p>24 Please identify in a general way the existing</p> <p>25 landscaping and plantings on the subject site.</p>

<p>177</p> <p>1 A All right.</p> <p>2 Q Particularly what's, you know, along the</p> <p>3 perimeters.</p> <p>4 A Yes. Yes. So there is a handful of zones</p> <p>5 around the existing site that are worth noting. So if</p> <p>6 we start with working our way off of Old Georgetown</p> <p>7 Road, that is where significant amount of landscaping</p> <p>8 material is not really landscaping material. It's</p> <p>9 mostly asphalt between the -- between the drive aisles</p> <p>10 and parking that is along that edge.</p> <p>11 There is a small lawn area that's just to the</p> <p>12 south of some of the existing parking that's in that</p> <p>13 area, and a few shrubs and trees that are along that</p> <p>14 edge.</p> <p>15 Along the north edge of the site is a series of</p> <p>16 evergreen trees, as well as some smaller kind of scrub</p> <p>17 material that provides a pretty strong visual barrier</p> <p>18 currently.</p> <p>19 On the southwest portion of the site is, as</p> <p>20 mentioned previously, a significant stand of bamboo</p> <p>21 that's along there that creates a really strong barrier.</p> <p>22 And then, on the rear portion of the site, and that</p> <p>23 would be the west and on the south side of the site is a</p> <p>24 mixture of deciduous trees along those edges that also</p> <p>25 have some scrub material along that. And so those --</p>	<p>179</p> <p>1 was for the overall site plan, the majority of</p> <p>2 landscaping moves really occurs from the face of the</p> <p>3 existing building towards the east going towards Old</p> <p>4 Georgetown.</p> <p>5 So this, so I would put this into a couple of</p> <p>6 categories. When we think about landscaping along --</p> <p>7 along this portion of the project one falls into the</p> <p>8 category of screening. So to both to the north and the</p> <p>9 south edges of the site, what's being inputted there is</p> <p>10 similar to what -- what Mr. La Vay had mentioned</p> <p>11 previously, is the idea of screening trees that would</p> <p>12 have some taller canopy trees, some understory trees,</p> <p>13 and some scrub material. And that's what you start to</p> <p>14 see indicated along those edges to help provide greater</p> <p>15 screening to the properties north and south. Those are</p> <p>16 very similar between both the north and south scenarios.</p> <p>17 So sort of in the screening scenario.</p> <p>18 Then, I would say we have plantings that are</p> <p>19 more related to Old Georgetown Road itself that are</p> <p>20 about those types of improvements. We saw some of that</p> <p>21 in the rendering on the -- on the of front of the</p> <p>22 school.</p> <p>23 And so those are trees that are set up to be</p> <p>24 larger canopy trees all the way along this edge, along</p> <p>25 the edge of the sidewalk proper that is just to the left</p>
<p>178</p> <p>1 those also provide pretty strong visual barriers that</p> <p>2 are already in place currently, very mature trees on not</p> <p>3 all side of the -- of the -- of the sides of the -- of</p> <p>4 the project from north, west and south.</p> <p>5 HEARING EXAMINER HANNAN: Are you going to</p> <p>6 retain those bamboos?</p> <p>7 THE WITNESS: I -- that is currently the -- that</p> <p>8 notion that those would -- that would remain currently.</p> <p>9 HEARING EXAMINER HANNAN: Okay.</p> <p>10 MS. CARRIER: It was something that some of the</p> <p>11 neighbors requested.</p> <p>12 HEARING EXAMINER HANNAN: Okay.</p> <p>13 MS. CARRIER: As part of the existing screening.</p> <p>14 Q Next, I'd ask -- like you to put up on the</p> <p>15 screen the Phase 1 landscape plan, which is Exhibit 23A.</p> <p>16 Would you please identify generally -- nope.</p> <p>17 Did your firm prepare this exhibit?</p> <p>18 A Yes.</p> <p>19 Q Can you walk us through this and tell us</p> <p>20 generally what's going to be planted in the front</p> <p>21 portion. This is the Phase 1, right?</p> <p>22 A Yes. And let me zoom into this just a little</p> <p>23 bit more.</p> <p>24 Q Oh, great.</p> <p>25 A For the Phase 1, similar to what our discussion</p>	<p>180</p> <p>1 of the sidewalk along Old Georgetown Road to the -- to</p> <p>2 the west.</p> <p>3 Then, we have plantings that are about this</p> <p>4 central zone that I would say would be between the</p> <p>5 sidewalk and the -- and the face of the existing</p> <p>6 building. That would be zones for the storm water</p> <p>7 management that would happen. There's going to be</p> <p>8 plantings directly within that storm water zone to help</p> <p>9 deal with filtration. And then, some ornamental trees,</p> <p>10 shade trees that are planted. It's just an overall kind</p> <p>11 of beautification of the front of the building.</p> <p>12 And then, finally, we have some interior</p> <p>13 plantings that are plantings along the face of the</p> <p>14 existing building and some other ornamental trees, just</p> <p>15 some overall kind of landscape design element.</p> <p>16 For the most part, all of that landscaping</p> <p>17 occurs from the face of the existing building towards</p> <p>18 the east. There's a few -- a few plantings along the</p> <p>19 perimeter of the -- of the building that go inside that</p> <p>20 secure lawn that we looked at previously, but the</p> <p>21 majority is all sorts from the existing face of the</p> <p>22 building to Old Georgetown.</p> <p>23 Q Will there -- will any of the existing</p> <p>24 perimeter landscaping in the rear part of the site be</p> <p>25 removed during Phase 1?</p>

<p>181</p> <p>1 A No, we really don't have much intention of 2 removing much of any of the existing landscaping along 3 the -- the existing portion of the site back there since 4 we have -- we have good coverage and visual barriers 5 along those edges.</p> <p>6 Q In your opinion, will the combination of 7 existing and proposed landscaping during Phase 1 provide 8 an attractive and adequate buffer between the School 9 property and neighboring residences?</p> <p>10 A I do. I mean, I feel like there's a really 11 good barrier that's already there, and all the things 12 we're doing are only improving, and I think 13 significantly improving the look of the overall 14 facilities, especially from the public way.</p> <p>15 Q Would you please put up on your screen the 16 Phase 2 landscape plan, which is Exhibit 23B.</p> <p>17 Did your firm prepare this exhibit as well?</p> <p>18 A Yes, we did.</p> <p>19 Q Can you walk us through this one and show 20 what's being done in -- what's being proposed in Phase 21 2.</p> <p>22 A Yes. So for this one, I'd probably say there's 23 two things to consider. One is still the similar kind 24 of screening element, and the second being more internal 25 plantings that are -- that are in the scope of sort of</p>	<p>183</p> <p>1 add to the existing context, and already has really 2 strong visual barriers, and I think this will only add 3 to this overall scenario.</p> <p>4 MS. CARRIER: And that completes my questions 5 for Mr. Andrews</p> <p>6 HEARING EXAMINER HANNAN: Okay. Thank you, Mr. 7 Andrews.</p> <p>8 Any questions of Mr. Andrews?</p> <p>9 Okay. Hearing none, you may be excused. Thank 10 you.</p> <p>11 THE WITNESS: Thank you.</p> <p>12 HEARING EXAMINER HANNAN: Ms. Carrier?</p> <p>13 MS. CARRIER: Yep, I have a couple of things I 14 wanted to put on the record and a very short closing 15 statement.</p> <p>16 HEARING EXAMINER HANNAN: Okay.</p> <p>17 MS. CARRIER: I wanted to mention that we will 18 be submitting signed and sealed copies of all of the 19 plans in this period --</p> <p>20 HEARING EXAMINER HANNAN: Great.</p> <p>21 MS. CARRIER: -- when the record is open.</p> <p>22 And do I need to move admission of all the 23 exhibits into the record or have you been --</p> <p>24 HEARING EXAMINER HANNAN: I --</p> <p>25 MS. CARRIER: -- moving them as we went along?</p>
<p>182</p> <p>1 beautification of the site.</p> <p>2 So for the existing, what would be existing for 3 Phase 1 with the screening elements that we spoke -- 4 just spoke about from the north and south edges of the 5 site, those in this drawing are slightly lighter shade 6 that are grayed out on the north and south. That 7 similar arrangement is being radiated a around the 8 south, the west, and the north sides of the site. So 9 really just extending the landscaping that's been 10 established in Phase 1 from a screening standpoint.</p> <p>11 Internally to the site, once you have the new 12 -- the new gym, and the new connecting element between 13 the two, there are ornamental planting and shade 14 plantings around the outdoor flex space and playground 15 areas. Those areas are noted around parking spaces on 16 the west side, and specifically on the north and south 17 sides of the new connector between the gym and the 18 existing building.</p> <p>19 Q And I have one remaining question for you, Mr. 20 Andrews. In your opinion, will the combination of 21 existing and proposed landscaping during Phase 2, 22 provide an attractive and adequate buffer between the 23 School property and neighboring residences?</p> <p>24 A I absolutely think so. Again, I feel like 25 everything that would happen in Phase 2 is only going to</p>	<p>184</p> <p>1 HEARING EXAMINER HANNAN: I -- well, I can do it 2 now. All the exhibits, you mean, not just the ones we 3 just did. Okay.</p> <p>4 MS. CARRIER: Yes.</p> <p>5 HEARING EXAMINER HANNAN: You can. And --</p> <p>6 MS. CARRIER: I would so move.</p> <p>7 HEARING EXAMINER HANNAN: And any objections?</p> <p>8 Hearing none, I'll accept them.</p> <p>9 MS. CARRIER: Thank you.</p> <p>10 I'd like to reiterate a request that we put in 11 the Statement of Justification to revoke the special 12 exception that is currently on the site for the existing 13 owner, which is the American Podiatric Medical 14 Association. That's Case Number BA 22-02.</p> <p>15 There's also another special exception in the 16 Board of Appeals records, BA 15-43. It's not an 17 operation on the site, but if it's still in effect, 18 Diener would like to request revocation of that special 19 exception as well.</p> <p>20 HEARING EXAMINER HANNAN: Okay. Those only the 21 Board of Appeals can do.</p> <p>22 MS. CARRIER: Oh --</p> <p>23 HEARING EXAMINER HANNAN: So what I would --</p> <p>24 MS. CARRIER: -- of course.</p> <p>25 HEARING EXAMINER HANNAN: Yes. You -- you</p>

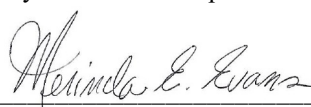
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<p>185</p> <p>1 remember many things from your former position. 2 MS. CARRIER: Not enough -- 3 HEARING EXAMINER HANNAN: That it is confusing 4 now. 5 MS. CARRIER: Yeah. 6 HEARING EXAMINER HANNAN: But what I was going 7 to do is just say you have to put a condition on my 8 approval, our approval saying you have to abandon the 9 special exceptions prior to issuance of the building 10 permit. That would give you time to get through Court 11 of Appeal. 12 MS. CARRIER: Okay. That's great. 13 HEARING EXAMINER HANNAN: Is that okay with you? 14 MS. CARRIER: That's plenty of time. Thank you 15 very much. 16 It's also a recommended as a condition by the 17 Staff, and I'm sure it will be a condition on the 18 preliminary plan as well. So that that's simple. 19 That's we can -- we can approach the Board of Appeals on 20 that. I really can't believe I didn't think of that. 21 I wanted to thank the OZAH Staff for preparing 22 this hearing, and it's been -- they've been very a 23 pleasure to work with. And thank the Hearing Examiner 24 for all your time and consideration to carry on all that 25 traffic stuff this morning.</p>	<p>187</p> <p>1 consideration are offsite -- 2 HEARING EXAMINER HANNAN: Right. 3 MS. CARRIER: -- but should there be any changes 4 to the TMP, the Applicant will commit to submitting 5 those to the Hearing Examiner with a request to reopen 6 the record to admit that final TMP so that your record 7 is complete. 8 And with that, we thank you very much. 9 HEARING EXAMINER HANNAN: Okay. 10 MS. CARRIER: Oh, and we are available on May 11 24th, and the School has -- does -- is willing to 12 consent to having that additional hearing date as you 13 discussed earlier. 14 HEARING EXAMINER HANNAN: Thank you. Did you -- 15 MS. CARRIER: Did I say September? 16 HEARING EXAMINER HANNAN: -- confirm -- 17 MS. CARRIER: I meant May. 18 HEARING EXAMINER HANNAN: No, you said -- you're 19 right. You're in the thousands here. You're right. 20 Did you get a chance to confirm with Mr. Myers? 21 MS. CARRIER: I didn't because we didn't change 22 the date. And I had understood that he -- 23 HEARING EXAMINER HANNAN: Said that date was 24 acceptable. 25 MS. CARRIER: -- he was comfortable with May</p>
<p>186</p> <p>1 The Applicant's witnesses have demonstrated 2 compliance with the applicable Zoning Code requirements 3 including consistency with the Master Plan and 4 compatibility with the surrounding neighborhood. 5 Diener School requests approval of the 6 requested conditional use to operate within the 7 parameters specified in the Applicant's pre-hearing 8 submission, Exhibit 22, including the changes in their 9 Motion to Amend. And consistent with the conditions of 10 approval recommended by the Planning Staff and the 11 Planning Board. 12 The Planning Staff and Planning Board have 13 recommended several conditions of approval related to 14 transportation issues. As I stated early on, that the 15 School requests that the Hearing Examiner adopt those 16 recommended conditions of approval and grant the 17 requested conditional use conditioned on getting 18 approved from the State Highway Administration of the 19 transportation study. 20 And if there are any -- if there are any 21 changes to the TMP, we don't expect any changes to the 22 Transportation Management Plan because that the TMP only 23 covers actions by the School and -- 24 HEARING EXAMINER HANNAN: Right. 25 MS. CARRIER: -- the elements that are under</p>	<p>188</p> <p>1 24th. 2 MS. CARRIER: Okay. Then, what I will do is 3 postpone -- not adjourn, I will postpone this hearing to 4 May -- this went out my head. Sorry -- May 24th at 5 9:30. Correct? 6 MS. CARRIER: Yes, that's right. Wednesday. 7 HEARING EXAMINER HANNAN: Solely to hear 8 testimony on the proposed mitigation and traffic 9 concerns regarding the mitigation. So I expect you only 10 to bring Ms. Wagner. 11 I have a question but maybe I should wait for 12 it. 13 Has SHA ever not approved a traffic study? 14 MS. CARRIER: I don't -- 15 HEARING EXAMINER HANNAN: You don't know? 16 MS. CARRIER: I don't believe so. I mean, not 17 I've ever heard, you know. I've been in this field a 18 long time in this county -- 19 HEARING EXAMINER HANNAN: Well done. 20 MS. CARRIER: -- and there have always been -- 21 SHA has always been the most challenging agency to get 22 approvals from in a timely manner. It is, you know, for 23 years, it has been not uncommon that, you know, the 24 Planning Board date is approaching, everybody else 25 signed off, the Staff Report has been completed, and</p>

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<p>189</p> <p>1 there is, you know, days before going to Planning Board, 2 the Staff finally gets something from the State of 3 Highway Administration. But I've not -- I do know that 4 recently, there have been case where they had to 5 postpone the Planning Board hearing because they didn't 6 have something from State Highway. 7 Ms. Wagner, have you experienced that in recent 8 months? 9 HEARING EXAMINER HANNAN: Well, my question is 10 what -- I guess I'm trying to think through. What 11 happens if they don't approve the traffic study?. 12 MS WAGNER: And I -- I don't think we are in the 13 state of not -- them not approving the traffic study. I 14 think that it's they just want additional mitigation 15 measures. And so I think that we're not in the state -- 16 I don't think that they are -- 17 HEARING EXAMINER HANNAN: But those mitigation 18 -- 19 MS WAGNER: -- considering not approving. 20 HEARING EXAMINER HANNAN: -- those mitigation 21 measures are not under your control. I mean, you can't 22 left -- restricted left turn signs, right. 23 MS WAGNER: No. 24 HEARING EXAMINER HANNAN: No. 25 MS WAGNER: And these mitigation measures are</p>	<p>191</p> <p>1 we're just waiting for one camera. But right now, it'll 2 be on Teams. And so it'll be May 24th at 9:30 via 3 Teams, and we'll have -- you may want to get -- I will 4 ask Mr. Myers to any exhibits, say we don't need all the 5 exhibits that were up today, so if you want to get what 6 you want Hanna, Johnson Navarro (phonetic) office, and 7 I'll ask Mr. Myers to get any he wants so we don't have 8 to repost exhibit. 9 MS. CARRIER: Um. Okay. We'll let her -- we'll 10 let her know. 11 HEARING EXAMINER HANNAN: Okay. So with that, I 12 am continuing this case to May 24th at 9:30 a.m. via 13 Microsoft Teams. And the link will be on OZAH's website 14 at least two days before the hearing. All right. 15 MS. CARRIER: Okay. 16 HEARING EXAMINER HANNAN: Thank you very much. 17 MS. CARRIER: Thank you very much. 18 HEARING EXAMINER HANNAN: Okay. Bye. 19 MS. CARRIER: Bye-bye. 20 (Off the record at 2:24 p.m. EST) 21 22 23 24 25</p>
<p>190</p> <p>1 very minor, they're common, they're seen throughout the 2 area where there's turn restrictions, and no U-turns, 3 and don't block the box. So these are all pretty minor 4 mitigation measures. It's just a matter of -- we 5 believe it's just a matter of them responding, them 6 coordinating internally and telling us which ones they 7 want. 8 They -- the emails and correspondence that we 9 have gotten from Park and Planning and from SAJ have 10 been in a cooperative nature. It's not been a we're not 11 going to approve this study type of nature. 12 HEARING EXAMINER HANNAN: Okay. All right. I'm 13 just thinking ahead. So we can talk. Who knows. Maybe 14 you'll get an answer by the 24th. 15 MS. CARRIER: I hope. 16 HEARING EXAMINER HANNAN: But with that, it 17 keeps our contractor ten days to get the transcript to 18 us. So I would probably be leaving the record open to 19 get the transcript for the second hearing for ten days 20 from the 24th. And again, that doesn't mean I won't be 21 working on the decision, but I'm just alerting you we'll 22 wait and see how the other hearing goes. 23 But so right now, we will be scheduling another 24 hearing at 9:30 via Teams. We're almost -- we finally 25 got the late little part we needed to go hybrid. Now</p>	<p>192</p> <p>1 CERTIFICATE OF COURT REPORTER 2 I, Merinda Evans, AAERT, the officer 3 before whom the foregoing proceedings was taken, 4 do hereby certify that said proceedings were 5 electronically recorded by me; and that I am 6 neither counsel for, related to, nor employed by 7 any of the parties to this case and have no 8 interest, financial or otherwise, in its outcome. 9 10 11 12 Notary Registration No.: 13 My Commission Expires: 14 15  16 17 Merinda Evans, AAERT, Court Reporter 18 5/12/2023 19 20 21 22 23 24 25</p>

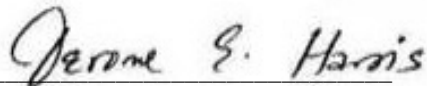
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CERTIFICATE OF TRANSCRIBER

I, Jerome E. Harris, do hereby certify that
the foregoing transcript is a true and correct record
of the recorded proceedings; that said proceedings were
transcribed to the best of my ability from the audio
recording and supporting information; and that I am
neither counsel for, related to, nor employed by any
of the parties to this case and have no interest,
financial or otherwise, in its outcome.



Jerome E. Harris

May 23, 2023

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