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# Transcript of Hearing

**Date:** December 10, 2024

**Case:** S.W.Bloyd Properties, LLC (CU 24-19)

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

Transcript of Hearing  
Conducted on December 10, 2024

<p style="text-align: center;">1</p> <p>1 OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS</p> <p>2 MONTGOMERY COUNTY, MARYLAND</p> <p>3 -----x</p> <p>4 APPLICATION OF S.W. BLOYD : 5 PROPERTIES, LLC TO PERMIT THE : Case No. 6 CONDITIONAL USE OF A : OZAH No. CU 24-19 7 RESIDENTIAL CARE FACILITY : 8 FOR NINE TO 16 PEOPLE AT 5501 : 9 SOUTHWICK STREET, BETHESDA, : 10 MARYLAND, 20817, IN THE : 11 R-60 ZONE :</p> <p>12 -----x</p> <p>13</p> <p>14</p> <p>15 PUBLIC HEARING</p> <p>16 BEFORE THE ANDREA LEWINTER, HEARING EXAMINER</p> <p>17 Rockville, Maryland</p> <p>18 Tuesday, December 10, 2024</p> <p>19 9:30 a.m.</p> <p>20</p> <p>21</p> <p>22</p> <p>23 Job No.: 562226</p> <p>24 Pages: 1 - 86</p> <p>25 Recorded By: Matthew Weedon</p>	<p style="text-align: center;">3</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>1</p> <p>2</p> <p>3 ON BEHALF OF THE APPLICANT:</p> <p>4 JODY S. KLINE, ESQUIRE</p> <p>5 MILLER, MILLER &amp; CANBY</p> <p>6 200-B Monroe Street</p> <p>7 Rockville, Maryland 20850</p> <p>8 301.762.5212</p> <p>9</p> <p>10 ALSO PRESENT:</p> <p>11 STEVEN W. BLOYD - Applicant/Witness,</p> <p>12 S.W. Bloyd Properties, LLC</p> <p>13 MEG DESCHRIVER - Witness/Operations Director,</p> <p>14 Cedar Creek Memory Care Homes</p> <p>15 ANDREW M. BRADSHAW, P.E. - Witness/Project</p> <p>16 Manager, Johnson Bernat Associates, Inc.</p> <p>17 PAMELA O. NKWANTABISAH - Land Use Planner,</p> <p>18 Miller, Miller &amp; Canby</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: center;">2</p> <p>1 Hearing, held at the location of:</p> <p>2</p> <p>3</p> <p>4 MONTGOMERY COUNTY OFFICE OF ZONING AND</p> <p>5 ADMINISTRATIVE HEARINGS (1100167)</p> <p>6 100 Maryland Avenue</p> <p>7 County Office Building, Room 200</p> <p>8 Rockville, Maryland 20850</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13 Pursuant to agreement, before Matthew Weedon,</p> <p>14 Court Reporter.</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: center;">4</p> <p style="text-align: center;">C O N T E N T S</p> <p>1</p> <p>2 EXAMINATION OF MEG DESCHRIVER PAGE</p> <p>3 By Mr. Kline 13</p> <p>4</p> <p>5 EXAMINATION OF ANDREW M. BRADSHAW PAGE</p> <p>6 By Mr. Kline 45</p> <p>7</p> <p>8 EXAMINATION OF STEVEN W. BLOYD PAGE</p> <p>9 By Mr. Kline 72</p> <p>10</p> <p>11 ARGUMENT PAGE</p> <p>12 By Mr. Kline 76</p> <p>13</p> <p>14 E X H I B I T S</p> <p>15 (Retained by the Court)</p> <p>16 HEARING EXHIBIT PAGE</p> <p>17 Exhibit 10 11.15.24 Pre-Hearing Statement 46</p> <p>18 Exhibit 15 Staff Report Completed 11.19.24 50</p> <p>19 Exhibit 19A 12.06.24 Updated Plans Submitted 47</p> <p>20 by Jody S. Kline, Esquire -</p> <p>21 Existing Conditions Plan</p> <p>22 Exhibit 19B 12.06.24 Updated Plans Submitted 56</p> <p>23 by Jody S. Kline, Esquire -</p> <p>24 Google Street View 1</p> <p>25</p>

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1	C O N T E N T S (CONT'D)	5	1	MR. KLINE: I have two witnesses to --	7
2	E X H I B I T S		2	to testify. To my left here is Meg DeSchraver,	
3	(Retained by the Court)		3	who's basically the -- the -- the manager and in	
4	HEARING EXHIBIT	PAGE	4	charge of all the operational side of things --	
5	Exhibit 19D 12.06.24 Updated Plans Submitted	54	5	THE HEARING EXAMINER: Okay.	
6	by Jody S. Kline, Esquire -		6	MR. KLINE: -- and Mr. Andy Bradshaw,	
7	Google Street View 3		7	who will qualify as an expert in civil engineering.	
8	Exhibit 19E 12.06.24 Updated Plans Submitted	61	8	I had not expected Mr. Bloyd would be able to be	
9	by Jody S. Kline, Esquire -		9	here today. I thought he was going to be out of	
10	Landscape Lighting Plan		10	town, but in fact, he managed to fit it into his	
11	Exhibit 19F 12.06.24 Updated Plans Submitted	59	11	calendar. So Mr. Steven Bloyd is with us, but --	
12	by Jody S. Kline, Esquire -		12	Ms. DeSchraver is already set up to do all the	
13	Signage Plan		13	testimony, but Mr. Bloyd will be available should	
14	Exhibit 20 12.10.24 Affidavit of Posting	10	14	you have any questions of him in particular or to	
15			15	supplement something he -- that comes up.	
16			16	THE HEARING EXAMINER: Great. Thank you.	
17			17	MR. KLINE: And I'm going to guess it's	
18			18	going to take an hour and a half to two hours,	
19			19	probably.	
20			20	THE HEARING EXAMINER: Wonderful. Thank	
21			21	you for that information. So it's my understanding	
22			22	online -- well, we have somebody from our office,	
23			23	so I'm not going to count that. And then, we have	
24			24	Pamela Nkwantabisah.	
25			25	MR. KLINE: Close.	
1	P R O C E E D I N G S	6	1	THE HEARING EXAMINER: Close? I -- I am	8
2	(Whereupon, the court reporter was duly		2	sorry to have butchered your name, ma'am. It's my	
3	sworn.)		3	understanding you're with Mr. Kline's office, and	
4	THE HEARING EXAMINER: This hearing is		4	you're really just observing; is that accurate?	
5	being recorded and is transcribed, just for		5	MS. NKWANTABISAH: Yes, so I'm here to	
6	everybody's information. This is a public hearing		6	simply observe and learn from the best.	
7	in the matter of OZAH, Case Number CU 24-19, the		7	THE HEARING EXAMINER: Okay, great. So	
8	application of S.W. Bloyd, LLC to permit the		8	we'll just expect your camera and you -- you to be	
9	conditional use of a residential care facility for		9	muted, camera off, muted. And so, it doesn't look	
10	nine to 16 people at 5501 Southwick Street,		10	like we have anybody else with us virtually. Given	
11	Bethesda, Maryland, 20817, in the R-60 zone. My		11	that, just as a matter of course, the affidavit of	
12	name is Andrea LeWinter, and I'm serving as the		12	posting, do you have that available?	
13	Hearing Examiner today. It is my role to listen,		13	MR. KLINE: Yes, ma'am. I -- I -- I	
14	take evidence, and write a decision regarding this		14	actually -- I'm the one who posted the sign.	
15	case. I'm going to ask you to just introduce		15	THE HEARING EXAMINER: Oh.	
16	everyone who's in here with you, Mr. Kline, and		16	MR. KLINE: Ms. DeSchraver has actually	
17	then we'll go on to the people online.		17	confirmed that the sign is remaining in place, or	
18	MR. KLINE: Fine. Good morning. For		18	the signs are remaining in place.	
19	the record, my name is Jody Kline. I'm the		19	THE HEARING EXAMINER: Wonderful. Okay.	
20	attorney with Miller, Miller & Canby, our office		20	So for the record, this is the affidavit of	
21	here in Rockville, across the street, actually,		21	posting. It's dated today, December 10th, and	
22	200-B Monroe Street, and I represent the Petitioner		22	we'll enter this into the record as Exhibit 20. So	
23	-- or I guess we call it Applicant now -- in the		23	we'll have that -- we'll have that (indiscernible).	
24	new ordinance, Mr. Bloyd. S.W. Bloyd.		24	Thank you.	
25	THE HEARING EXAMINER: Okay.		25	For the record, I -- I appreciate we	

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<p>9</p> <p>1 don't have anybody here in opposition, but just 2 so that this is clear, I'm going to provide some 3 information about how these proceedings will 4 progress. These proceedings are informal with 5 certain formalities. Please do not interrupt while 6 someone else is speaking, unless you have an 7 objection. This is because the court reporter has 8 difficulty understanding what people are saying 9 when there is crosstalk. This is particularly 10 important in this hybrid format where some people 11 will be physically present and potentially someone 12 could join us online. They have until the close of 13 -- of your case to join us. 14 As I stated before, the session is 15 being transcribed and recorded. The recording is 16 used only as a backup for this stenographer. I 17 also take notes. That's really just for my own 18 edification. It just helps me when I get the 19 transcript to kind of know where things will be. 20 What you say will be under oath and reported. I 21 will swear the witnesses in when it is your turn to 22 testify. And if anybody does come in opposition, 23 you may be asked questions about your testimony. 24 The proceedings will move in the 25 following order. I will address any preliminary</p>	<p>11</p> <p>1 need to educate you in the facts at all. I 2 probably would've said this is probably one of the 3 easiest conditional uses special exceptions I've 4 ever brought to the Hearing Examiner, and then I 5 got your memo saying, Mr. Kline, we still need some 6 additional information, so I realized I didn't have 7 it as perfect as I thought I had. 8 So -- so there'll be some work for us and 9 it's -- but -- but the -- the beauty of this is the 10 -- the use has been there for a long period of time 11 under Suburban Hospital's scope as not part of 12 their own special exception, but just operated by 13 them, and took over by Mr. Bloyd. So it's a long- 14 standing use in the neighborhood, and our -- as you 15 know, our request is merely to have two more 16 residents, which is not substantial, given the 17 size. So it is -- it is, fortunately, not a 18 challenging case, but we'll go through all the 19 steps for your -- so you have a complete record. 20 THE HEARING EXAMINER: And it does -- I 21 -- I can understand why you made that statement. 22 And again, I just want to make it a very clean 23 record so that there is no issue -- 24 MR. KLINE: Got it. 25 THE HEARING EXAMINER: -- going forward.</p>
<p>10</p> <p>1 motions or issues first, then we'll move to an 2 opening statement, if Mr. Kline chooses to give 3 one; the Applicant's case-in-chief with, again, 4 opportunity for cross-examination, if anybody 5 appears in opposition; if there is opposition, the 6 opposition's case-in-chief; presentation by any 7 other interested parties that may appear; rebuttal, 8 if there is a need for one, and then closing 9 statements, again, optional. 10 Approval of the application is based on 11 the criteria set forth in the zoning ordinance, 12 which is included in the Plaintiff staff report, 13 and we request that you address all testimony to 14 these criteria. 15 Are there any preliminary issues or 16 motions, Mr. Kline? 17 (Exhibit 20 was admitted.) 18 MR. KLINE: No, ma'am. 19 THE HEARING EXAMINER: Okay. All right. 20 Mr. Kline, given that, would you like to give an 21 opening statement? 22 MR. KLINE: Well, I know that the 23 Hearing Examiner reviews the record very closely. 24 In fact, the -- your earlier correspondence tells 25 me how close you've reviewed it, so I don't think I</p>	<p>12</p> <p>1 MR. KLINE: Absolutely. Right. 2 THE HEARING EXAMINER: All right. So if 3 you'd like to call your first witness? 4 MR. KLINE: Sure. Yeah. Well, 5 normally, I -- I like -- I usually like to have the 6 Hearing Examiner understanding the lay of the land 7 and start with all the physical stuff. But in this 8 case, since all the more challenging questions go 9 with the civil engineer, I'm going to start off 10 with Ms. DeSchraver and just kind of familiarize 11 you with the facility itself. 12 THE HEARING EXAMINER: However you want. 13 I'm on your case. 14 MR. KLINE: So, Ms. DeSchraver, would 15 you please state and spell your name? 16 MS. DESCHRIEVER: Meg, M-E-G, DeSchraver, 17 D-E capital S-C-H-R-I-V-E-R. 18 MR. KLINE: And your business address is 19 what? 20 MS. DESCHRIEVER: Oh, for Cedar Creek. 21 Okay. 43 Randolph Road, Number 112, Silver Spring 22 -- is it -- is that the one you want or do you want 23 the actual location of -- 24 MR. KLINE: If you could, just continue 25 the way you have it.</p>

13

1 MS. DESCHRIVER: Yeah. Okay. Silver  
2 Spring, Maryland, 20904. That's the business  
3 address.  
4 THE HEARING EXAMINER: Fine.  
5 Whereupon,  
6 MEG DESCHRIVER,  
7 being first duly sworn or affirmed to testify to  
8 the truth, the whole truth, and nothing but the  
9 truth, was examined and testified as follows:  
10 EXAMINATION BY COUNSEL FOR THE APPLICANT  
11 BY MR. KLINE:  
12 Q So let's -- so the Hearing Examiner  
13 understands the -- the -- the -- the hierarchy of  
14 the operations and everything, so our Applicant is  
15 the S.W. Bloyd Properties.  
16 **A Right.**  
17 Q You mentioned Cedar Creek. You're  
18 actually employed by Cedar Creek; am I correct on  
19 that?  
20 **A So the official name is Potomac Manor,**  
21 **LLC, but Cedar Creek has been around almost 30**  
22 **years now, and Mr. Bloyd purchased it. So we kept**  
23 **Cedar Creek because that's the brand name that has**  
24 **-- everyone knows in the industry and has a very**  
25 **good reputation. So we call it -- like, when I'm**

14

1 **out marketing, it's Cedar Creek, and Auxiliary**  
2 **House is one of our five homes of Cedar Creek.**  
3 Q And your job title with Cedar Creek is  
4 what?  
5 **A Director of operations.**  
6 Q And that means what?  
7 **A So I oversee the marketing, the**  
8 **admissions. I work with all of the family members.**  
9 **I oversee maintenance, housekeeping, laundry, so**  
10 **the operational part. We also do have a clinical**  
11 **director.**  
12 Q How many facilities does Cedar  
13 Creek/Bloyd Properties own and operate?  
14 **A Five, all in Montgomery County.**  
15 Q And how many residents are there in  
16 those facilities?  
17 **A Four of the homes have eight beds and**  
18 **one home out in Rockville has 14 beds. So it's**  
19 **four eight-bed homes and one 14, for a total of 46.**  
20 Q Okay. And just give us a little bit of  
21 background of your history in terms of care of the  
22 older and -- elderly -- elderly and -- and disabled.  
23 **A You mean me personally?**  
24 Q Your -- your -- specifically.  
25 **A Oh, I've been doing this for a long**

15

1 **time. Actually, in assisted living, prior to Cedar**  
2 **Creek, I spent 17 years with Victory Housing**  
3 **running a traditional assisted living, not memory**  
4 **care. And then, like so many people, after COVID,**  
5 **I needed a change, so I started with Cedar Creek**  
6 **about three and a half years ago. And Cedar Creek**  
7 **specializes in dementia care for people with mild**  
8 **all the way through end-of-life dementia. And all**  
9 **five of our homes are specializing in dementia and**  
10 **are secure, locked environments.**  
11 Q You mentioned Victory Housing. Maybe  
12 we'll -- just to help the Hearing Examiner  
13 understand who they are and what they are.  
14 **A It's another non-profit. It's a**  
15 **non-profit organization that provides housing for**  
16 **the elderly, independent, and assisted living.**  
17 Q And do you recall off the top of your  
18 head how many facilities do they have in Montgomery  
19 -- Montgomery County?  
20 **A The assisted living, they have six.**  
21 **They have a lot of independent. I'm not sure how**  
22 **many.**  
23 Q Okay, fine. Thank you.  
24 **A They've been building them as well.**  
25 Q Right. So Auxiliary House, can you give

16

1 us a little bit of the history? I -- I kind of  
2 alluded to it having come up sort of in hospital,  
3 but can you elaborate on that, just so the Hearing  
4 Examiner kind of understands how long it's been  
5 there, what it's been doing, and how long you folks  
6 have controlled it now?  
7 **A Okay. So what I've been told is that --**  
8 **that Auxiliary House was built by Suburban**  
9 **Hospital. And I never knew it, but Suburban owns a**  
10 **lot of the property along that street, not -- not**  
11 **just did own an Auxiliary House. And they had**  
12 **owned and -- and -- but didn't -- I think they**  
13 **managed it for a little bit and realized they**  
14 **didn't want to manage just one assisted living, so**  
15 **Cedar Creek took it over. I don't -- I mean, it's**  
16 **been 20 -- 20 plus years, and Cedar Creek had other**  
17 **owners. So then, when Mr. Bloyd bought this -- the**  
18 **Cedar Creek -- I think it's been seven, eight years**  
19 **now -- Auxiliary House was part of the portfolio.**  
20 **And at that point, it was still owned by Suburban,**  
21 **but being almost managed by Cedar Creek. And then,**  
22 **I think it's been almost two years, two years now,**  
23 **that Mr. Bloyd, I think, really wanted to make sure**  
24 **that we could keep Auxiliary House -- which meets a**  
25 **need -- could keep Auxiliary House in our portfolio.**

17  
1 And there had been some looking that  
2 Suburban might want to turn it into doctor's  
3 housing or something, so Mr. Bloyd made the  
4 decision to -- to -- I guess, Suburban either put  
5 it up and he bought it or made the decision to make  
6 an offer to purchase Auxiliary House. So now,  
7 Auxiliary House is one of our homes for our  
8 portfolio, and it's under our control. And  
9 Auxiliary House is our one home that we really do  
10 try to keep it for higher-functioning dementia  
11 residents, meaning that the staff, they don't need  
12 as much staffing, they can have a conversation  
13 participate in activities. So that meets a need  
14 because a lot of the assisted living people,  
15 higher-functioning and lower-functioning, are mixed  
16 together, and then families walk in and go, oh,  
17 that's not my loved one. So we do work to keep  
18 Auxiliary House a higher-functioning dementia home,  
19 and it does meet a need for the -- it has its own  
20 little niche for that.  
21 Q And Ms. DeSchraver, you did give me kind  
22 of an education in terms of what I call the  
23 sequence of care that you provide. When they reach  
24 a point where they really maybe are beyond what  
25 you'd like to have the level of care at Auxiliary

18  
1 House, what do you do with them then?  
2 A So we have four other homes that -- we  
3 work with the families. We -- we don't surprise  
4 the families. It's a -- it's a team effort. When  
5 they start needing more care and more help, then  
6 the closest home would be Hillwood, which is right  
7 on Bradley. It's only about 10 minutes away, and  
8 that's a home that we can need -- if someone needs  
9 total care with transferring or total care with  
10 toileting, we can transfer them. But let's just  
11 say the family lives out in Rockville. We have two  
12 homes in Rockville, so we work with the family on  
13 what is the best -- if they need -- if they need to  
14 move, what is the best location for them.  
15 Q Great. Thank you. So let's go -- maybe  
16 just have a -- a sort of a description of the --  
17 the -- the age, the typical age, and the character  
18 and the condition of your residents, so that the  
19 Hearing Examiner appreciates what's the level of  
20 attention they need.  
21 A So the residents at Auxiliary House,  
22 some of them come often. What brings them to  
23 Auxiliary House is the person can no longer safely  
24 take their medications at home. Sometimes people  
25 have been found wandering out of their house and

19  
1 can't find their way back, and that is a huge red  
2 flag for families. Sometimes people will be  
3 cooking and leave their stove on, and that's, of  
4 course, another big red flag for families. So  
5 those are reasons when people will look at  
6 Auxiliary House, mostly because the person can no  
7 longer safely stay at home. And it used to be,  
8 pre-COVID, that a lot of times people would try to  
9 get the 24-hour care and keep people at home as  
10 long as they can. People still try to do that.  
11 But, now, with post-COVID, private duty at home  
12 cost upwards of 22 to 25,000 a month, and that's  
13 become cost-prohibitive to do for an extended  
14 length of time.  
15 Q And -- okay. Well, I'll -- I'll leave  
16 it at that. Do any of your residents today have  
17 cars?  
18 A No.  
19 Q Have any residents ever had cars living  
20 at -- while you've been involved in Auxiliary House?  
21 A Not since I've been involved, no. No.  
22 I mean, quite frankly, if someone were still able  
23 to safely drive, they probably would not need  
24 Auxiliary House. They wouldn't -- you know, I  
25 would help that family find another more

20  
1 appropriate assisted living, and then tell them to  
2 come back to us once the dementia progressed.  
3 Q Yeah. And now, another question that  
4 relates to an issue we'll get to a little bit more  
5 later. And do any of your residents or any of your  
6 employees bicycle to work? Has there ever been an  
7 expression of interest in having a bicycle rack on  
8 the property?  
9 A No. No. I wish they could bicycle, but  
10 no.  
11 THE HEARING EXAMINER: I -- sorry. And  
12 you were asking about the employees, though, not  
13 the residents?  
14 MR. KLINE: Well, I asked for -- I did  
15 say residents or employees.  
16 A Oh, employees. Yeah. No, we do not.  
17 We do not have any employees that bicycle to work.  
18 Q Right.  
19 A And I don't think we -- I've been there  
20 three and a half years. I've never had an employee  
21 bicycle to work.  
22 Q Can you give us an overview of this --  
23 of the umbrella of services that you do provide to  
24 the residents?  
25 A We provide help with, if they need it,

21

1 bathing, dressing, three meals a day. We  
2 administer their medications. Of course, 24-hour  
3 awake staff, supervision 24-hour awake staff. We  
4 also do all of their housekeeping. We provide  
5 activities, and then just socialization as well, so  
6 with the activities, and then the staff to -- to  
7 interact with. But as I mentioned, all of-- you  
8 can't leave. Like, I can't leave the building.  
9 You couldn't leave the building if I don't give you  
10 the code, so they are all secure buildings  
11 Q Today, Auxiliary House houses how many  
12 residents?  
13 A Eight. Eight residents.  
14 Q Okay. And you'd like to increase the  
15 population to 10?  
16 A 10.  
17 Q Okay. How are you going to fit them in  
18 the building? Where -- how -- how does that --  
19 how's that going to work?  
20 A Well, we have a living area, then we  
21 have a activity area and a dining -- our -- our  
22 dining room, so we do have space for two more two  
23 more residents. And there is a need. Auxiliary  
24 House stays full. And, typically, when I do have a  
25 room become available, it's less than a month or so

22

1 that I have a deposit for -- for that room. And  
2 right now, I do have a wait-list at Auxiliary.  
3 Q Okay. So you do have spaces that will  
4 either be adapted into bedrooms or, in fact, I  
5 guess, in one case --  
6 A Oh, well, we -- during COVID, Mr. Bloyd  
7 built a model room because people didn't want to  
8 come into the house. So we have a first-floor  
9 model room and an office that is already in our  
10 building that's set up and ready to be used as --  
11 as a -- as a bedroom, and there's a bathroom.  
12 Q So there's a limited amount of interior  
13 renovation necessary to adapt those to be available  
14 for residences?  
15 A One room is ready to -- I could rent it  
16 tomorrow if-- if we were approved, and then the  
17 other room would need minimal -- minimal. I-- we  
18 wouldn't have to move any walls or anything; more  
19 decoration, take out the office furniture and put  
20 in a bed and a dresser and a nightstand.  
21 Q Right. And you -- you mentioned that --  
22 what I guess I call the amenity areas. Maybe you  
23 could run through that again and elaborate on that?  
24 A So we have a living room that can sit up  
25 to eight, 10 people, and everybody isn't there at

23

1 the same time. Then we have a activity area. We  
2 have a piano there and we have another table.  
3 Sometimes if people don't want to sit at the main  
4 dining table, they -- they need a quieter space,  
5 they sit at the little side table. And then, we  
6 have a large -- a nice large dining area that can  
7 sit eight to 10 people.  
8 Q And do -- does everyone dine at the same  
9 time, or do you have -- do you sequence it in some  
10 way?  
11 A You know what? Especially breakfast,  
12 that's flexible. We only have eight residents. So  
13 you know, some people are down at breakfast at  
14 8:30, quarter to nine, and then others come down at  
15 maybe 9:30 or so. So because we are small, we can,  
16 you know, adapt to the residents' preferences. And  
17 then -- and -- and things change, but right now, we  
18 do have a resident who chooses to eat most of her  
19 meals in her -- in her apartment, in her room.  
20 Q I should have probably asked you this  
21 question earlier. Do you anticipate any difficulty  
22 in leasing the two units, if approved by the  
23 Hearing Examiner?  
24 A I do -- I -- I think they will lease  
25 very quickly.

24

1 Q You've mentioned to me, you do have a  
2 waiting list of people who would like to --  
3 A I -- I do have a waiting list. And  
4 then, in fact, I have a tour scheduled. Especially  
5 with dementia, though, sometimes people can't wait.  
6 You know, if their loved one has wandered out of  
7 the house and they're walking up the street, you  
8 can't wait until we have a room at Auxiliary House.  
9 So sometimes we do lose potential residents because  
10 we don't have a -- an immediate opening, so I -- I  
11 think I'll be able to lease them --  
12 Q Okay. All right.  
13 A -- fairly quickly, even during December,  
14 the holidays.  
15 Q So let me turn to the employees. What  
16 -- what's the total workforce assigned to this  
17 facility?  
18 A So do you mean our total or how many we  
19 have on each shift?  
20 Q Yeah, the whole -- the whole number of  
21 employees coming and going through the building.  
22 A Okay. Total staffing is approximately  
23 eight to 10 staff members. That's direct  
24 caregivers. And during the day, we have two  
25 employees; during the afternoon, we have two

25

1 employees on; and overnight, we have one employee  
2 that's direct caregiving staff; then, periodically,  
3 we'll have -- we have, in addition, an  
4 administrator staff, a coordinator. The  
5 coordinator isn't there every single day because  
6 she oversees two homes. And then, we have -- then  
7 we have, you know, our activity person, but they  
8 are not there all -- all day every day.  
9 Q So let's start at midnight or wherever  
10 you want to start. Yeah. Let's just go through  
11 the number of people during the various shifts and  
12 when those shift times change.  
13 A Overnight, we have one awake employee,  
14 and probably five to six nights out of seven, we  
15 will have an employee who may stay there because  
16 she doesn't -- in the -- in the separate -- because  
17 she doesn't want to go home, but one awake. During  
18 the morning, we have two employees who work there.  
19 And then, I would say any -- daytime, of course, is  
20 the busiest time, because that's when, you know,  
21 other people come in, but very rarely would we have  
22 more than three to four employees during the day.  
23 Q Right. So you've asked for up to five,  
24 so you -- you're comfortable that you'll always  
25 have an adequate number of staff to take care 10 --

26

1 up to 10 residents?  
2 A Yes. Yes. Oh, no. Our staffing -- I  
3 mean, our staffing ratio in Auxiliary is one to  
4 four, and industry-wide, that's very good. The  
5 larger facility staffing ratio is one to 10, so --  
6 but we -- we never -- I won't say never. 98  
7 percent of the time, there's never five people  
8 there, unless we're having a meeting or something,  
9 you know, but in general.  
10 Q Okay. And -- and maybe you can give me  
11 the shift change times again. You were saying  
12 morning to --  
13 A Day shift is 7:00 to 3:00, evening shift  
14 is 3:00 to 11:00, and overnight shift is 11:00 to  
15 7:00.  
16 Q Okay. Thank you. Do any employees  
17 drive to work?  
18 A Not many. And that's one benefit of  
19 Auxiliary House is that it is on the bus route  
20 because of Suburban Hospital. Maybe one.  
21 Q Maybe one?  
22 A Maybe one or two. I -- frankly, I wish  
23 more drove, but they don't.  
24 Q But you do have public transportation  
25 readily available to serve the building, and

27

1 explain how that works.  
2 A Yes. There's a bus stop, so Auxiliary  
3 is on the corner, and when you -- our parking lot,  
4 you cut through the bushes and there's a bus stop  
5 right -- right there.  
6 Q Fronting on Old Georgetown Road?  
7 A On Old Georgetown.  
8 Q But I guess it'd be the northern corner  
9 of your property, something like that?  
10 A I guess.  
11 Q Okay.  
12 A I guess. Not sure of my, you know --  
13 but yes, it's -- so that is desirable because it is  
14 on a bus route, for hiring employees.  
15 Q And I gather from your comment, it's  
16 heavily patronized by Suburban Hospital as well,  
17 that you may --  
18 A Yes. Yes. We're right next door to  
19 Suburban, so people use public transportation for  
20 Suburban and -- yes.  
21 Q Okay. I -- I -- I'd like the Hearing  
22 Examiner to just kind of have a feel for what a day  
23 at Auxiliary House is like, and maybe you could  
24 take us from a starting point and just walk us  
25 through the day about what happens --

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1 A Okay.  
2 Q What do they do, what attention is given  
3 to them, and what are the quiet hours, what are the  
4 busy hours.  
5 A So there's eight residents. The staff  
6 come in and they start to prepare breakfast, and  
7 then one staff member helps those who need -- might  
8 need help with dressing or fastening a bra or  
9 something, so helps get everyone up in the morning.  
10 If they need help -- any help with changing Depends  
11 or anything, we help with that. And then, after --  
12 breakfast usually lasts from quarter to 9:00, 9:00  
13 to 10:00, 10:15, and then, after breakfast, there's  
14 an activity. There's also if anybody needs help  
15 with using the restroom, the staff -- the staff  
16 help with that. There is a shower schedule, so  
17 everybody doesn't get a shower on the same day, but  
18 two to three people might be given a shower in the  
19 morning or afternoon, depending on the schedule.  
20 And then, the -- some residents, they do  
21 have the residents' rights. So we have some  
22 residents that never spend time in their room  
23 and they're down in the living room, watching TV,  
24 playing games, visiting. And then, right now,  
25 currently, we have two residents that do prefer



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1 they eat meals with us, but then prefer to go back  
2 to the room and watch TV. Or we have one woman who  
3 can use an iPad and things like that, so she --  
4 she's able to structure her own leisure time. So  
5 it's activities or getting personal care.  
6 And then, lunch is usually 12:30 to  
7 1:30, quarter to two. And then, after lunch, it's,  
8 once again, helping with toiling. And we do have a  
9 half bath on the first floor. So for those  
10 residents whose room is on the second floor and  
11 they don't want to go back upstairs, there is a  
12 half bath they can use on the first floor, so it  
13 just depends what their wishes are.  
14 And then -- and then we do, once again,  
15 have activities. This group can do activity --  
16 they can play bingo, do crossword puzzles, watch  
17 movies together, because it is a higher-functioning  
18 -- higher-functioning home. And then, we have  
19 supper, and then bedtime is anywhere from -- from  
20 8:00 to 10:00. And then, one -- and then we, at  
21 times do have people who get up and, just because  
22 they're confused a little, maybe walk around at  
23 night, but we have a staff -- a staff member there.  
24 So we have 24-hour awake staff.  
25 Q Okay. You mentioned the -- the three

30

1 different meals. So are we -- is food brought in  
2 or are you cooking meals there?  
3 A No, it's cooked. It's cooked there.  
4 There's the kitchen. We have a nice -- very nice  
5 kitchen, right off of the -- off of the dining  
6 room, so the food is home-cooked there. We do  
7 follow a four-week menu cycle. So we -- we have a  
8 four-week menu cycle that the staff follow, that's  
9 been approved by a registered dietician.  
10 Q I -- I heard you mention -- I -- I  
11 gather the building is locked so that a resident  
12 can't get outside without being accompanied by  
13 somebody?  
14 A Yes.  
15 Q But do -- do -- do they ever go -- do --  
16 are there any yard activities? Do people go  
17 outside, see and smell the flowers or anything?  
18 A Oh, we have a beautiful porch. We have  
19 a whole wraparound porch, the whole front of the  
20 building. So when the weather's nice, we do go  
21 out, sit on the porch, have our -- we do do an  
22 afternoon snack between 3:30 and 4:00. So if it's  
23 nice weather, we'll go out and sit on the porch,  
24 have a snack outside. And then, if someone wants  
25 to go for a walk, a staff member or a family

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1 member, we do take people for walks, especially  
2 those who have always walked. But there's always a  
3 staff member or a family member with them.  
4 Q Okay. All right. Are there any  
5 organized trips or tours to leave the campus --  
6 A You know what? We -- we do not do that.  
7 We have the families do that, mostly because our  
8 residents are wander risks, so that could be a  
9 liability --  
10 Q Understandable.  
11 A -- and if we lose one in the mall or  
12 something --  
13 Q All right.  
14 A So yeah.  
15 Q And then, so the converse, do you ever  
16 have people who come to make presentations, book  
17 reports or travel tours, or anything that would be  
18 educational for the residents?  
19 A We -- we do partner with Arts for the  
20 Aging, and they come maybe once or twice a month to  
21 do a educational or music program. We also do have  
22 music programs on the weekend when our activity  
23 professional isn't there, so we have a guitar  
24 player, piano player, who come in and provide music  
25 for our residents. It's usually music because,

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1 even with dementia, that's something that the  
2 residents typically remember. They might not --  
3 might not know their name, but they can sing You  
4 Are My Sunshine. So you know, we try to supplement  
5 with -- with paid music performers, and that's  
6 typically on the weekend.  
7 Q Okay. If any resident has to leave the  
8 facility to go to a doctor's appointment, do you  
9 help them make that arrangement? Do -- do you  
10 actually transport them or how does that work?  
11 A You know what? It depends on each  
12 resident's situation. Most of our residents have a  
13 family member or a care manager who does help with  
14 transportation to appointments or something. But  
15 if we do have a resident who doesn't have anyone,  
16 then our clinical director will coordinate, and  
17 either she or one of our staff members will go with  
18 the resident, kind of on a case by case basis. For  
19 example, if we do have to send someone to the ER,  
20 which is right across the street, and there's no  
21 one to go with them, we do try to have a staff  
22 member with them because it's so disorienting to go  
23 to the ER as a dementia person.  
24 Q I understand. Do you ever have doctors  
25 come to see a client or a patient at the facility?

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1 A We do. We have our clinical director,  
2 our doctor, Dr. Gupta, who's been with the company  
3 since it opened, and he will see -- residents have  
4 a choice. So we provide doctor in-house if they  
5 choose to go with our doctor, but the residents can  
6 also keep their own primary physician if they  
7 choose to. And sometimes what people will do is  
8 they will keep their primary physician until it  
9 becomes too difficult to leave the facility. And  
10 then, they'll -- they'll switch over to our -- to  
11 our provider.

12 Q You've mentioned how the family kind of  
13 helps out in taking care of some of the needs of  
14 your residents. Do -- what -- what's the general  
15 frequency of family visits? Do you -- is it  
16 weekend-oriented, I guess?

17 A You know what? That -- on -- we have  
18 some spouses that'll visit, maybe three to four  
19 times a week, and then we have other family members  
20 that just visit once a week on the weekend. Then  
21 if someone's care is being managed by a care  
22 manager, they might visit once a week during the  
23 week. So it's kind of spread. It's kind of spread  
24 out, you know, and that does -- of course changes  
25 as your residents that live in your house change.

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1 But right now, we don't have -- at Auxiliary House,  
2 we don't have a family member that visits every day.

3 Q Thank you. Let's talk about sort of  
4 volume of traffic at the facility. The deliveries  
5 are probably the more -- the -- the ones you can  
6 predict better. Tell -- tell me about the  
7 deliveries, the frequency, the type, when they  
8 occur.

9 A Well, we do have a Giant Food delivery  
10 once a week, and when they -- when they deliver,  
11 they usually come -- we -- we have requested not to  
12 come, you know, at 8:00 or 9:00 because we're  
13 serving breakfast, so they usually deliver around  
14 10 o'clock or so, after -- after breakfast.

15 THE HEARING EXAMINER: Can I just  
16 interject? When you say Giant, do you mean Giant  
17 supermarket or giant, large?

18 MS. DESCHRIVER: No, the Giant Peapod.

19 THE HEARING EXAMINER: Peapod, the  
20 supermarket chain?

21 MS. DESCHRIVER: The --

22 THE HEARING EXAMINER: I didn't know if  
23 you meant, like, a Giant supermarket.

24 MS. DESCHRIVER: Oh. Oh, pea -- Giant --

25 MR. KLINE: I was wondering too.

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1 MS. DESCHRIVER: Peapod by Giant.

2 THE HEARING EXAMINER: Got you.

3 MS. DESCHRIVER: Yes.

4 THE HEARING EXAMINER: Thank you.

5 MS. DESCHRIVER: Yes. Yeah, they do our  
6 food because we are -- each home is so small that  
7 they do our -- do our food delivery. And then --

8 BY MR. KLINE:

9 Q How about trash pick-up?

10 A They come pack up -- they come pick up  
11 the trash, I think it's Fridays. They do recycling  
12 and -- and that happens after breakfast as well.  
13 But that's only once a week.

14 Q Okay.

15 A And then, as far as supplies --

16 Q What other -- other supplies? Yeah.

17 A -- supplies go, we -- we have an office  
18 over in Silver Spring. And if it's batteries or  
19 medical supplies, we keep it there and divvy it up.  
20 And then, like, when I'm going to Auxiliary to do a  
21 tour, I'll deliver. So it's like, we don't get a  
22 lot of deliveries.

23 Q Okay.

24 A The only other delivery would be family  
25 members can choose to have their personal supplies,

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1 like the Depends or the Ensure. They can choose to  
2 order it on Amazon and have it delivered, but they  
3 just drop it off at the front, ring the bell, and  
4 leave. You know, they don't -- they don't stay  
5 long.

6 Q If I asked you how many parking spaces  
7 you have on the site, would you recall?

8 A There's -- there's one handicapped at  
9 the end. Oh, there's six to eight. There's plenty  
10 of parking.

11 Q Well, the -- my -- the question I really  
12 wanted to ask is when we -- we took all the  
13 pictures of the facility. I never see any cars  
14 parked on the property. What's going on? Why is  
15 that? Is there that few people that get there by  
16 car?

17 A We -- most of our staff members do not  
18 drive, so most of our staff members don't drive.  
19 We don't have any residents that drive. And the  
20 people who usually park are -- our coordinator  
21 drives. I drive, but I'm not there every day, so  
22 it just depends when you -- when you come. It's --  
23 unless we're doing a staff training where  
24 everybody's required to come, there's always a  
25 parking space. In fact, if -- if someone is going

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1 to visit a loved one over at Suburban or something,  
2 I'll just tell them to park in our parking and spot  
3 for -- you know, if a family member has someone in  
4 the hospital, I'll say, oh, park in our parking lot  
5 for free. So parking is not -- we have plenty of  
6 parking at -- at Auxiliary House.  
7 Q Okay. Thank you. Okay. What I'd like  
8 to do now is maybe sort of take you to the zoning  
9 ordinance standards that the Hearing Examiner  
10 referred to. We have to basically demonstrate in  
11 order to be able to have the requested conditional  
12 use granted. So if any of these seem a little bit  
13 more global and you need clarification, feel free  
14 to jump in.  
15 A Okay.  
16 Q So here's how the zoning ordinance  
17 reads. Is Auxiliary House both physically and  
18 operationally harmonious with and will its  
19 operation alter the character of the surrounding  
20 neighborhood, based on your experiences with this  
21 type of facility and your familiarity with this  
22 site in particular?  
23 A Okay. So I mean --  
24 Q Yeah. Is it going to bother the people  
25 around it?

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1 A No. I mean, I think they -- they -- the  
2 neighbors who find us often tell me they wish they  
3 had known we were there. Some of them don't know  
4 where -- some don't know we're there, because we  
5 don't have a big sign out front or anything that  
6 says assisted living. So it looks like it's part  
7 of the neighborhood. And quite frankly, there's  
8 nothing being done to the outside of the building  
9 that's going to change, so I don't think anyone  
10 will even know that we've added two residents.  
11 It's just it -- it -- if anything, it's going to be  
12 a benefit because we can serve more people that  
13 need dementia care than we can right now.  
14 Q Okay.  
15 A But I don't think -- like, the neighbors  
16 won't know. And I think several of the houses next  
17 to us are owned by Suburban as well.  
18 Q So would you -- how -- how would you  
19 describe the appearance of the structure itself?  
20 Is it -- do you feel it's got a residential look to  
21 it? Appearance?  
22 A Yes. It fits in with the -- it fits in  
23 with the neighborhood, yes. In fact, so many  
24 people when they do find us say, oh, I've gone by  
25 this all the time, and I didn't know it was a

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1 assisted living dementia care. So I think it -- it  
2 blends in, as all of Steven's homes do, I think  
3 blends in very nicely with the neighborhood.  
4 Q In your opinion, would the addition --  
5 two additional residents in any way change the  
6 impact or that character of the facility?  
7 A No. No.  
8 Q This is the one you'll really like. Is  
9 there anything about the use that would affect the  
10 peaceful enjoyment, value, or redevelopment  
11 potential of surrounding properties?  
12 A No, because, like I said, there's  
13 already -- already one room that's in the building,  
14 all furnished and everything. It's just sitting  
15 empty. And so, honestly, I don't think anyone from  
16 the outside would even know that we've added two  
17 residents to -- to our home.  
18 Q The -- the zoning ordinance lists  
19 certain conditions that we -- could be  
20 objectionable, and I'm going to ask you if you  
21 think any of these conditions would occur as a  
22 result of the operation with 10 residents.  
23 A Okay.  
24 Q Traffic, noise, odors, illumination, or  
25 lack of parking. Would any of those, could they

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1 occur, that would have an adverse effect on the  
2 surrounding neighborhood?  
3 A No. No, because it's all staying the  
4 same, pretty much.  
5 Q Okay. And the big one in zoning  
6 ordinance that you may -- you may wonder how you  
7 can address something so global, but is there  
8 anything about the proposed use that would have an  
9 adverse effect on the health, safety, and welfare  
10 of the residents, of the employees, of the  
11 visitors, or of anybody in the surrounding  
12 neighborhood?  
13 A No. Like I -- I -- like I said, I think  
14 that to add two more beds, and our rates are  
15 affordable, that we're providing a service to the  
16 community. We're -- we're providing two more  
17 dementia beds that are -- that are needed in the  
18 area. So -- and because it's all already built  
19 inside, it doesn't change any of the exteriors.  
20 You know, when we're not adding on an addition or  
21 anything. So I -- I -- I -- I don't think -- I  
22 don't think -- that's why I don't think we got any  
23 response from the neighbors, because I don't think  
24 -- it's not going to impact them.  
25 Q Yeah, I'll -- I'll ask you to elaborate

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1 at first. You're referring to the attempts that we  
2 made to make contact with the surrounding  
3 neighborhood to see if they want to talk about  
4 anything, and the result was -- if you can  
5 elaborate on that?

6 **A I-- I don't think they --**  
7 **Q There was no result.**  
8 **A There was no -- no response. I don't**  
9 **think anybody -- anybody responds -- responded. I**  
10 **think we have a good relationship. People will**  
11 **walk their dog by, and if we're sitting on the**  
12 **porch, come over and say, hi. So I think it's a --**  
13 **I-- I think we have a good relationship with the**  
14 **neighborhood in Suburban.**  
15 **Q I'm going to ask you to tell an**  
16 **anecdote, but it goes to a condition that Mr.**  
17 **Bradshaw's going to talk about, and that is the**  
18 **yard lights and everything. Would -- would you**  
19 **describe your experience with the yard lights and**  
20 **the neighbors' reactions to the yard lights?**  
21 **A Well, we have -- those are the four**  
22 **posts?**  
23 **Q Yes, ma'am.**  
24 **A So we have four posts that are at the**  
25 **back. They're more towards the -- the sidewalk and**

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1 **the Old Georgetown Road. So -- and people from**  
2 **Suburban -- which is fine; we don't mind -- they**  
3 **come and they kind of cut through our parking lot**  
4 **and go. They're either going to the bus stop**  
5 **sometimes or going to get the deli, the -- the Call**  
6 **Your Mother Deli. And so, I think the lighting, if**  
7 **we don't have the lighting, people will tell us**  
8 **that -- both our staff and visitors, like, oh, your**  
9 **light's out.**  
10 **I think the lighting is beneficial,**  
11 **because it makes people feel safe as they cut**  
12 **through the parking lot and go to -- go to the bus**  
13 **stop or to -- or to their, you know, wherever**  
14 **they're walking to. So I-- and then there's --**  
15 **there's no -- behind us is the Call Your Mother and**  
16 **-- Call Your Mother Jewish Deli and parking, and**  
17 **then there's the street. So there's no -- where**  
18 **those lights are, there's no residential, so the**  
19 **lighting doesn't really impact the neighborhood.**  
20 **Q Thank you.**  
21 **A But it's positive. It's positive for**  
22 **the staff that walk from Suburban to go to the bus**  
23 **stop. The -- the more lighting you can have, the**  
24 **better, for safety purposes.**  
25 **MR. KLINE: I have no further questions**

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1 of Ms. DeSchrive, and she's available to answer  
2 any questions you might have, Ms. LeWinter.  
3 **THE HEARING EXAMINER: One second. I**  
4 **don't think I have -- sorry. I don't -- I don't**  
5 **think I have any questions for you, Ms. DeSchrive.**  
6 **Or is it -- sorry -- DeSchrive?**  
7 **MS. DESCHRIVER: DeSchrive, yes.**  
8 **THE HEARING EXAMINER: Which I should**  
9 **appreciate as LeWinter, so -- and that's my last**  
10 **name.**  
11 **MS. DESCHRIVER: Oh.**  
12 **THE HEARING EXAMINER: I just meant we**  
13 **both have --**  
14 **MS. DESCHRIVER: Right. Right.**  
15 **THE HEARING EXAMINER: We both have that**  
16 **little thing. One second. I guess my one question**  
17 **was in terms of parking, I mean, is there ever a**  
18 **situation where there's multiple visitors coming to**  
19 **see people, like, on a weekend, and there's, you**  
20 **know, the couple of staff members that have -- I**  
21 **mean, if you have three or four residents that have**  
22 **a visitor and then you have somebody providing**  
23 **musical entertainment, I mean, have you ever seen**  
24 **the parking lot --**  
25 **MS. DESCHRIVER: I've never -- never --**

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1 unless we have, which we have -- we honestly  
2 haven't had since I've been there, because I came  
3 post-COVID. But, like, we used to have, you know,  
4 a family party once a year or something. That --  
5 it -- it -- it just -- they -- they -- they just  
6 don't -- we have enough parking. We have enough  
7 parking that people don't --  
8 **THE HEARING EXAMINER: So even if you**  
9 **had a family party or a Mother's Day thing or**  
10 **something where you would expect a very large crowd**  
11 **--**  
12 **MS. DESCHRIVER: And even that, the**  
13 **parking lot is so big that there's your -- say this**  
14 **is the parking lot. There's your spaces, but**  
15 **there's room that you can also park parallel near**  
16 **the house and you can still get out. I mean, I've**  
17 **had a moving truck in there and people could still**  
18 **get in and out of the parking lot. So there's**  
19 **enough to use your spaces and then you could park**  
20 **one, two, three. So I mean, really, I -- I've --**  
21 **I've never been there when the whole parking lot**  
22 **was full. That's one of the benefits we have at**  
23 **that house, because when people do want to come,**  
24 **they used to ask, do you have enough parking?**  
25 **Because when families want to visit, they want to**

Transcript of Hearing  
Conducted on December 10, 2024

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1 have enough. Yeah. They don't have to fight for  
2 parking.  
3 THE HEARING EXAMINER: Sure. I think  
4 that was my only question.  
5 MR. KLINE: All right. Thank you, Ms.  
6 DeSchraver. You can just sit right here -- okay --  
7 and we'll go to our next witness.  
8 THE HEARING EXAMINER: Okay.  
9 MR. KLINE: Mr. Bradshaw, could you  
10 please state and spell your name and give us your  
11 business address?  
12 MR. BRADSHAW: Sure. So my name is Andy  
13 Bradshaw, A-N-D-Y B-R-A-D-S-H-A-W. Our business is  
14 address is at 205 North Frederick Avenue, Suite  
15 100, in Gaithersburg, Maryland, 20877.  
16 THE HEARING EXAMINER: Thank you, sir.  
17 MR. KLINE: Thank you.  
18 THE HEARING EXAMINER: Your witness.  
19 Whereupon,  
20 ANDREW M. BRADSHAW,  
21 being first duly sworn or affirmed to testify to  
22 the truth, the whole truth, and nothing but the  
23 truth, was examined and testified as follows:  
24 EXAMINATION BY COUNSEL FOR THE APPLICANT  
25 BY MR. KLINE:

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1 Q What firm are you associated with, Mr.  
2 Bradshaw?  
3 A **Johnson Bernat Associates.**  
4 Q And your profession is what?  
5 A **Civil engineer.**  
6 Q Okay. Just give us a quick -- your  
7 resume is in the file.  
8 MR. KLINE: It was attached to the  
9 prehearing statement, so it's Exhibit 10, but I'll  
10 be glad to have him give you a little background,  
11 if you'd like.  
12 (Exhibit 10 was marked.)  
13 THE HEARING EXAMINER: Sure. Did you  
14 want him qualified as an expert?  
15 MR. KLINE: Perhaps I'm going to qualify  
16 him as -- in civil engineering.  
17 THE HEARING EXAMINER: I mean, I have  
18 reviewed your resume, so I -- and have you  
19 testified before?  
20 MR. BRADSHAW: I have.  
21 THE HEARING EXAMINER: Before the  
22 Montgomery County --  
23 MR. BRADSHAW: Yes.  
24 MR. KLINE: In -- in this room.  
25 MR. BRADSHAW: In this room.

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1 MR. KLINE: In a contested case.  
2 MR. BRADSHAW: I believe I was  
3 cross-examined by --  
4 THE HEARING EXAMINER: By Mr. Kline?  
5 MR. BRADSHAW: -- by Counsel. Yes.  
6 THE HEARING EXAMINER: Got you. And  
7 were you qualified as an expert at that point?  
8 MR. BRADSHAW: Yes, I was.  
9 THE HEARING EXAMINER: So I -- I'm happy  
10 to accept him as an expert.  
11 MR. KLINE: Fine. Thank you very much.  
12 BY MR. KLINE:  
13 Q Well, let's let -- let's go ahead and  
14 start using some of the -- the -- your exhibits you  
15 brought with you today. So could you help us, sir,  
16 put your exhibit up on the screen? I think --  
17 A **Yes. 19A is the existing conditions --**  
18 **(Exhibit 19A was marked.)**  
19 Q Yeah.  
20 A **-- full cheat sheet.**  
21 Q Okay. 19A. So Mr. Bradshaw, what I --  
22 what I said. I -- I'd like you to just kind of  
23 give the Hearing Examiner the lay of the land so  
24 she has a sense of how it all lays out and what's  
25 going on around us.

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1 A **Sure. So the lot -- the subject lot is**  
2 **a rectangular lot. It's located in the northwest**  
3 **corner of Southwick Street and Old Georgetown Road.**  
4 **It's the -- the legal description is lot 8, block 2**  
5 **of Huntington Terrace Amendment. The lot size is**  
6 **21,586 square feet or 0.50 acres. The terrain is**  
7 **reasonably flat and there's no environmental**  
8 **features on site, including streams, buffers, flood**  
9 **plains, or steep slopes.**  
10 **So the building is set in the**  
11 **northwest corner of the site with parking to the**  
12 **east in between the building and Old Georgetown**  
13 **Road. It consists of two curb cuts, two one-way**  
14 **curb cuts, 13 foot wide each, for a counter**  
15 **clockwise motion of entering the site, dropping**  
16 **off, and exiting the site. It's two-way width to**  
17 **get to the parking lot, which we've talked about.**  
18 **There is nine total spaces, including one ADA space**  
19 **on site. SDAT has confirmed that the structure was**  
20 **constructed in 1992. It's an 8,100-square-foot,**  
21 **two-story building.**  
22 **Let's see what else. And as Ms.**  
23 **DeSchraver said, the -- the residence is definitely**  
24 **-- in appearance, it looks like a single-family**  
25 **residential house. As also Ms. DeSchraver stated,**

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1 there's no site improvements associated with this.  
2 No disturbance. No exterior improvements at all.  
3 There doesn't appear to be any storm water  
4 management issues on site or forest conservation  
5 requirements on site. That's confirmed by Park and  
6 Planning. With the no disturbance, there's no  
7 additional requirements for stormwater management  
8 and/or forest conservation on the site.  
9 The property's zoned R-60 as well as all  
10 the neighboring properties to the west and to the  
11 -- on the south side of Southwick Street and to the  
12 east of Old Georgetown Road. The residential care  
13 facility for nine to 16 residents is a conditional  
14 use in the R-60 zone. So to the west of us is  
15 single-family home. They're -- like I said,  
16 they're all -- everything is R-60. Those are more  
17 traditional R-60 homes. As Ms. DeSchrive stated,  
18 some of those homes may be --  
19 Q Go ahead. Yeah. Let me ask before you  
20 pull it up, could you pull something else? The  
21 staff report's got a really good map in it.  
22 A Yeah.  
23 Q That probably -- so if we could have  
24 Exhibit 15, the staff report, and within that, Page  
25 6? Yeah. Yeah. Page 6 should be a colored area

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1 map. Okay. Maybe I'm -- maybe I've got --  
2 THE HEARING EXAMINER: 6 or Page 4?  
3 MR. BRADSHAW: Oh. That one right there.  
4 (Exhibit 15 was marked.)  
5 Q There we go. That's what we wanted.  
6 Yeah, great. So yeah. So Mr. Bradshaw, yeah, go  
7 ahead and give -- use some the colors that are  
8 shown on that exhibit. So --  
9 A Sure.  
10 Q -- just elaborate on what's -- what you  
11 see there.  
12 A So the red pink is the subject property,  
13 like we had said, located at the northwest corner  
14 of Southwick Street and Old Georgetown Road.  
15 Everything to the west is all more traditional  
16 single-family homes, as Ms. DeSchrive stated. The  
17 -- some of those homes are actually owned by the  
18 hospital. The hospital, Suburban Hospital, is  
19 located to the south, as you see, the large yellow  
20 block area there. To the east across Old  
21 Georgetown Road is NIH, also located in the R-60  
22 zone, and to the north is the Bethesda community  
23 store known as Call Your Mother Deli there. So  
24 with the -- as you see, there's a lot of  
25 institutional uses around here, especially

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1 specifically to the south and to the east that  
2 really dominate this area. So having the subject  
3 property, you know, performing this function of the  
4 -- of the neighborhood is -- is well within  
5 conformance of the adjoined properties.  
6 Q In your research. Mr. Bradshaw, did you  
7 have a chance to look at the master plan and see  
8 what it recommended for this property or this area?  
9 A Yes, I did. And there were no  
10 recommendations for this property.  
11 Q Okay. Okay. Let me walk through some  
12 of the -- well, yeah. Yeah. You did -- you did  
13 alter the -- the site plan to include all the  
14 development standards on it, so maybe you can just  
15 kind of run through those quickly for us --  
16 A Sure.  
17 Q -- to make sure that they comply with  
18 all the applicable requirements in the zoning order.  
19 A Sure. So the existing site appears to  
20 meet all of the required zoning, including lot  
21 size, with coverage density setbacks and height.  
22 We modified the site plan to show that there is two  
23 one-way driveways into the site. They were 13 foot  
24 in width each. And like we said, the -- the  
25 parking on site consists of nine parking spaces.

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1 Based on our calculation, the site is required to  
2 have six parking spaces, and that calculation is  
3 based on the zoning ordinances, 0.25 spaces per  
4 bed. So at 10 beds, that equals 2.5 spaces, we can  
5 round up to three, and 0.5 spaces per employee. As  
6 Ms. DeSchrive stated, there's no more -- we are  
7 going in with the application of up to five  
8 employees, so that equates to additional 2.5  
9 spaces. Round up to three, so a total required  
10 parking of six spaces, and we're providing nine on  
11 site.  
12 Q While you're talking about parking, can  
13 you please elaborate on the -- the bicycle  
14 requirement waiver that we submitted per staff's  
15 recommendation after our corrections suggested by  
16 the Hearing Examiner?  
17 A Did you want to talk about the parking  
18 -- the bicycle waiver?  
19 MR. KLINE: Since I -- since I wrote the  
20 letter, could I gratuitously --  
21 THE HEARING EXAMINER: Yes.  
22 MR. KLINE: Yeah. Well, we -- we  
23 basically corrected it so that we had five  
24 employees and we pointed out that we -- we would've  
25 required to have -- I guess it was two spaces for

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1 the --

2 MR. BRADSHAW: One long-term and one

3 short-term space would be required per the zoning

4 ordinance.

5 MR. KLINE: One and one. And staff's

6 recommendation was, and the testimony from Ms.

7 DeSchraver was, why I asked, do we have anybody who

8 wants to ride a bike that lives there? Do we have

9 any employee who ever rides a bike that lives

10 there? They've just never had a history of doing

11 that, and it's -- and it -- so it's a requirement

12 that's sort of nonsensical in this situation, not

13 the least of which there is a huge bike rack beside

14 the bus station, so that there is available to

15 somebody in the public a bike rack out there that's

16 for public use.

17 MR. BRADSHAW: It's actually a -- a

18 Capital Bikeshare station directly to the east of

19 the property along Old Georgetown Road.

20 THE HEARING EXAMINER: Maybe you can

21 kind of show me where it is.

22 MR. KLINE: Sure.

23 BY MR. KLINE:

24 Q Well, let me let me ask this, sir.

25 Could you pull up Exhibit 19D?

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1 (Exhibit 19D was marked.)

2 A **So there's three -- well, we can just**

3 **talk through all three of them.**

4 Q Yeah.

5 A **Because this one's not going to really**

6 **show the bikes there, but this is to the western**

7 **edge of the property on Southwick Street facing to**

8 **the north. This is the one egress drive aisle, 13**

9 **foot in width. There's one of the -- one of the**

10 **four on onsite parking lot lights. They all no**

11 **more than 12 foot in height. This is the one**

12 **that's furthest to the west, so you can see it just**

13 **to the east of the existing drive aisle.**

14 Q Okay. Can you go to the next --

15 A **Go to the next one? Or the one previous?**

16 **If this was three, it may have just been kind of**

17 **put in a different order there. Go to two, please.**

18 **So this is just looking more on the eastern side of**

19 **the property over here, which is the ingress 13-**

20 **foot-wide Drive house. As you can see the**

21 **circulation as it approaches the house, you can go**

22 **to the right where the parking is -- is -- exists,**

23 **or you can go to the left and drop off in front of**

24 **the unit and then exit out that previous location**

25 **where the driveway was. And as you can see, that**

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1 **we've touched on a couple of times today, the house**

2 **does really give the appearance of a single family**

3 **home and not some sort of an institutional**

4 **appearance as it does to the south and to the east.**

5 **If we go to Google Maps Street View one as well?**

6 Q Well, yeah. Before you do that, let's

7 go to -- I want to go to 1 D because I want to get

8 -- take care of that. 19D.

9 THE HEARING EXAMINER: That's D.

10 MR. KLINE: Now, you're the -- that's --

11 yeah, right.

12 MR. BRADSHAW: Yeah, this is D.

13 THE HEARING EXAMINER: This is D. Did

14 you want --

15 MR. BRADSHAW: What are you looking for?

16 MR. KLINE: 19D as in dog.

17 THE HEARING EXAMINER: Yeah. That's

18 what this is.

19 MR. BRADSHAW: Yeah, that's on the

20 screen. Yes, it's --

21 MR. KLINE: All right. Well, I -- so

22 you want to -- I want the one --

23 MR. BRADSHAW: Yeah, yeah. Go to the

24 next one. Go -- go to one. Go to 19B, please.

25 THE HEARING EXAMINER: B.

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1 MR. BRADSHAW: I was getting there. B.

2 B, as in boy. Thank you.

3 (Exhibit 19B was marked.)

4 BY MR. KLINE:

5 Q There we go. There we go. That's what

6 I wanted to get. Thanks.

7 A **This is the view from Old Georgetown**

8 **Road looking to the west, so the eastern side of**

9 **the -- of the -- of the building -- of the existing**

10 **building. And there's the Capital Bikeshare**

11 **station that we had. So the Capital Bikeshare**

12 **station will help support the -- the waiver**

13 **modification, where if there ever was a -- a -- an**

14 **employee that chose to ride their bike there,**

15 **obviously.**

16 Q Yeah, there is.

17 THE HEARING EXAMINER: Can you -- can

18 you -- I'm -- I'm sorry -- sorry to interject. Can

19 you park a non-Capital share bike there?

20 MR. BRADSHAW: No, I do not believe so.

21 MR. KLINE: Yeah. Probably --

22 MR. BRADSHAW: Probably not.

23 MR. KLINE: -- probably not preferred.

24 THE HEARING EXAMINER: Okay.

25 Q And that's -- that's the bus kiosk Emilio

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1 just on the right-hand side of the photograph. Is  
2 that what that is? I realize we're not going to be  
3 able to go -- where that orange panel is on the  
4 ground.  
5 **A Yeah, it's just to the right over there.**  
6 **That's where that bus stop is.**  
7 Q Yeah. That -- that's -- that's where  
8 the bus stop's located. But I -- I just want to  
9 stress as a -- in support for asking for requests  
10 to not have to provide bike racks that we have  
11 nobody who's ever lived there who rides a bike, and  
12 no employees have ever expressed an interest in  
13 riding a bike.  
14 THE HEARING EXAMINER: Can I just ask --  
15 sorry, Mr. Kline, with respect to the waiver, and  
16 -- and maybe you want to ask this of one of your  
17 witnesses, if an employee is hired tomorrow and  
18 they really want to bike and they want to bring  
19 their own bike, like, how difficult would that be  
20 to accommodate?  
21 MR. KLINE: I would imagine that Mr.  
22 Bloyd and Ms. DeSchraver would -- would be glad to  
23 accommodate a -- the need for a bike rack if that  
24 came up, and you can buy them as small one, two,  
25 and four and things like that.

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1 THE HEARING EXAMINER: Okay.  
2 MR. KLINE: So I'm sure that we could  
3 find a place and we could install that if that was  
4 an employment requirement.  
5 MS. DESCHRIVER: I would be thrilled.  
6 If one of our employees would ride a bike to work,  
7 but I -- I don't -- I don't see it happening --  
8 MR. KLINE: No.  
9 MS. DESCHRIVER: -- with the -- with the  
10 staff members that we employ.  
11 MR. KLINE: Yeah. We -- we weren't  
12 asking to preclude them. We just didn't want to  
13 have to do it voluntarily and have it just sit  
14 there.  
15 THE HEARING EXAMINER: And just sit  
16 there. No, I understand.  
17 MR. KLINE: But if there was an interest,  
18 for sure we would install that, and I would think  
19 that's not -- that's a minor enough modification  
20 that we wouldn't necessarily have to come back to  
21 you to get approval to do that. Unless -- unless  
22 somebody said, let's put in a four or six-bike  
23 rack, that might be a little bit different.  
24 THE HEARING EXAMINER: Yeah.  
25 MS. DESCHRIVER: And if anyone ever did

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1 request a -- a staff member or a family did request  
2 a bike rack, I would be more than happy to  
3 accommodate that.  
4 THE HEARING EXAMINER: Okay. Thank you.  
5 BY MR. KLINE:  
6 Q So Andy, let's take -- let's take the  
7 two issues that -- that we have challenges on. You  
8 -- you talked about basically some circulating  
9 guidance. What could you -- what did -- should you  
10 do? And my quick idea was, let's just throw some  
11 paint on them, put arrows on the ground, but Mr.  
12 Bradshaw, who knows how these work better than I  
13 do, had a couple of ideas. Why don't you share  
14 them with the Hearing Examiner and we can figure  
15 out what's the best solution?  
16 **A Sure. If you could pull up 19F, please.**  
17 (Exhibit 19F was marked.)  
18 **A So currently there's only on site,**  
19 **there's an existing signage, which just says**  
20 **private parking on site is the only existing onsite**  
21 **signage, and -- and/or -- and/or marking. So our**  
22 **suggestion was where it only did -- does get a**  
23 **little bit confusing is we wouldn't want somebody**  
24 **to come in and park and when they leave to exit out**  
25 **that first egress lane. So we suggested putting a**

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1 **do not enter sign. If you could scroll down just a**  
2 **little bit, please? Right there. Basically, right**  
3 **at that front, right there. It'd be -- I think**  
4 **it's going to be very clear that nobody would be**  
5 **coming out that in lane.**  
6 **And then, I thought it would be**  
7 **worthwhile also on the egress lane. It would be**  
8 **for anybody coming to the west -- from the west,**  
9 **which I don't think many people would be coming**  
10 **from the west to enter the site. Most people would**  
11 **be coming from Old Georgetown Road, but to have a**  
12 **do not enter sign facing Southwick Street at that**  
13 **portion, just to restrict to make sure that those**  
14 **are one-way streets. And -- well, it was a**  
15 **suggestion that I came up with.**  
16 MR. KLINE: All right. So we have two  
17 options on the table. One, the more classic  
18 solution is arrows painted under the pavement to  
19 direct people, or two, we could post two signs that  
20 would basically give -- give guidance to people as  
21 to where to enter and exit the site of the  
22 property, and we would take the Hearing Examiner's  
23 recommendation on which you think would be the most  
24 effective.  
25 THE HEARING EXAMINER: That's a lot of



<p>61</p> <p>1 pressure. I -- I -- I would actually ask for Ms. 2 DeSchrivers opinion in terms of your population. 3 MR. KLINE: Right. Right. 4 THE HEARING EXAMINER: Or Mr. Boyd. 5 Mr. Boyd, you haven't been sworn in as a witness, 6 but maybe we could kind of circle back to that at 7 the end after Mr. Bradford's testimony is done, if 8 you had an opinion. We just want to be -- 9 MR. KLINE: Okay. That's fine. 10 THE HEARING EXAMINER: -- whatever's 11 most effective. 12 MR. KLINE: That's fine. 13 BY MR. KLINE: 14 Q And then, the other one, though, for 15 which -- on which there's an issue is the light 16 standards. So can you -- 17 A <b>19E, please.</b> 18 (Exhibit 19E was marked.) 19 A <b>So based on what we're seeing, the --</b> 20 <b>and -- and via the -- the three Google Street</b> 21 <b>images, we do feel that the parking lot is</b> 22 <b>adequately screened. In my opinion, that the</b> 23 <b>parking lot is adequately screened from Old</b> 24 <b>Georgetown Road and Southwick Street. The -- the</b> 25 <b>property to the north. The -- there's the deli,</b></p>	<p>63</p> <p>1 lights you've got there. So if you felt that you 2 need to have a hard number, we'd have to, while the 3 record is open, while you're getting a transcript, 4 we'll find an engineer who will go out with a 5 handheld meter that will actually read -- read the 6 -- the lights at night to see what the foot candles 7 are to confirm that they're less than 0.5. We 8 think that's the case. The fixtures that were 9 there would seem to, with the way they're set up, 10 would seem to have a fairly low light on the 11 ground. But I just don't have the -- the -- 12 THE HEARING EXAMINER: Yeah, No, I -- 13 MR. KLINE: The evidence of that, Your 14 Honor. 15 THE HEARING EXAMINER: I appreciate that 16 Planning didn't -- didn't give you a heads-up on 17 that. I'm more than happy to keep the record open 18 for somebody to do that, and you could submit that. 19 And then, once it's consistent. 20 MR. KLINE: Sure. Okay. 21 MR. BRADSHAW: And specifically, that 22 would be half-foot cable or less at the property 23 lines. And that would be to the west property line 24 and to the east of Old Georgetown. I just want to 25 make sure covering everything with the expert, or</p>
<p>62</p> <p>1 <b>the Call Your Mother deli, sorry. To the north,</b> 2 <b>there's a six-foot-high privacy fence along that</b> 3 <b>northern side, since it's a different use that</b> 4 <b>exists today.</b> 5 <b>And then, there's the four existing</b> 6 <b>streetlights that appear. There's three along the</b> 7 <b>back edge of the parking. You see them at the</b> 8 <b>northernmost at the center, and at the bottom.</b> 9 <b>That's where the three existing light posts are.</b> 10 <b>And then, the fourth one that we talked about for</b> 11 <b>that Exhibit 19D is just to the east of the egress</b> 12 <b>lane leaving the site, which is in the southwest</b> 13 <b>corner. So they appear -- the lights appear to</b> 14 <b>light the existing parking and/or the access aisle</b> 15 <b>leaving the site. We were not able to conduct, or</b> 16 <b>I typically do, a photometric study for it, and so</b> 17 <b>we just wanted to put that record that we haven't</b> 18 <b>done it.</b> 19 MR. KLINE: So we're at a point where we 20 cannot confirm that the foot candles are 0.5, half 21 the property line. When Park and Planning looked 22 at it, they -- there -- this has been a condition 23 that's been there for several of those and it's not 24 been bothersome. And in fact, I hear Ms. 25 DeSchrivers story saying, hey, we -- we like the</p>	<p>64</p> <p>1 sorry, with -- with the lighting person. 2 THE HEARING EXAMINER: Yeah. I -- I 3 don't have the design standards at -- at my 4 fingertips, but you know, there they should be 5 readily available. I would think the person 6 conducting the photometric study would know those. 7 I mean, what I'm taking from today is that it's 8 your testimony that you believe that the current 9 lighting is fully in compliance, and this would 10 just be a confirmation study. 11 MR. BRADSHAW: Correct. 12 THE HEARING EXAMINER: Obviously, if it 13 wasn't, we'd have an issue, but I'm going to 14 proceed on the presumption that that can easily be 15 established with -- with the study. But from my 16 recollection of similar cases, I think it's -- it's 17 0.5 within a certain -- 18 MR. BRADSHAW: At -- at all the property 19 lines. 20 THE HEARING EXAMINER: Yeah. At the 21 property line. 22 MR. BRADSHAW: Okay. 23 THE HEARING EXAMINER: But there -- 24 there might be a slight -- I mean, you might have 25 more leeway to the deli --</p>

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1 MR. KLINE: On the -- on the east.  
2 THE HEARING EXAMINER: Yeah.  
3 MR. KLINE: Yeah. No, I -- I -- I  
4 wondered if it was worth making the argument that,  
5 since that's a standard that applies in a situation  
6 where you put a parking lot for a conditional use  
7 in a residential neighborhood, so it doesn't bother  
8 the surrounding residences, that on the east side  
9 where we've got Old Georgetown Road and NIH across  
10 the street, maybe that 0.5 shouldn't really even  
11 apply there. But it does -- would apply to the one  
12 on the west side.  
13 MR. BRADSHAW: Right.  
14 THE HEARING EXAMINER: Yeah.  
15 MR. KLINE: Because that's --  
16 THE HEARING EXAMINER: I mean, I don't  
17 -- I mean, it's also by zone two -- I mean, it's  
18 all R-60, even though there's these -- in --  
19 MR. KLINE: Yeah.  
20 THE HEARING EXAMINER: -- more  
21 commercial uses or whatever you want to call them,  
22 kind of embedded in it. So I would defer to your  
23 lighting expert.  
24 MR. KLINE: All right. Well, we -- we  
25 will get you an answer.

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1 THE HEARING EXAMINER: Okay.  
2 BY MR. KLINE:  
3 Q So Mr. Bradshaw, did you want to talk  
4 about -- before we get to the compliance with the  
5 general standards, do -- do you want to address  
6 anything else about any other site issues?  
7 THE HEARING EXAMINER: If you -- if you  
8 could also address landscaping, that would be good.  
9 MR. KLINE: Yeah, sure.  
10 THE HEARING EXAMINER: You did say it  
11 was adequate, but just some a little more detail.  
12 MR. BRADSHAW: Correct. So via this --  
13 this exhibit that we have on the screen right now,  
14 it's adequately landscaped. To the east, it  
15 consists of full-size trees, undergrown shrubbery,  
16 which really screen it from Old Georgetown Road.  
17 For that previous image that we looked at, it was  
18 kind of hard to see the -- the structure in the  
19 back, so I feel that it's adequately screened from  
20 the east. As you move out to the south, it's also  
21 consists of more trees and shrubbery along there,  
22 which screened that parking lot from -- from  
23 Southwick Street.  
24 And we said, we have an ingress lane of  
25 13 foot wide, and then there's additional

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1 landscaping and I think one tree in that main spot  
2 in front of the -- the building, which I think it  
3 does enough for screening of that drive. But if it  
4 doesn't block the appearance so that the residents  
5 can, you know, view everything. They're not, you  
6 know, blocked in when they're -- when they're on  
7 the front porch. So I -- I do -- and it's also  
8 screened to the west with some landscaping on the  
9 west from the adjacent residential property to the  
10 -- to the west.  
11 THE HEARING EXAMINER: Do you know the  
12 -- the heights of the trees?  
13 MR. BRADSHAW: I do not know the heights  
14 of the trees. They all -- they all do appear to be  
15 mature. Been there probably -- Ms. DeSchraver may  
16 be able to or Mr. Bloyd may be able to opine on  
17 their age, but they're not new.  
18 THE HEARING EXAMINER: They're older  
19 trees?  
20 MR. BRADSHAW: Correct. They're  
21 definitely mature.  
22 THE HEARING EXAMINER: Okay.  
23 BY MR. KLINE:  
24 Q So was there anything else you wanted to  
25 address? Well, then let me -- you go ahead.

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1 **A No, I think I -- I think I'm okay.**  
2 Q Okay, fine. That's fine. Well, then --  
3 then let me kind of do -- we'll do the wrap up  
4 then. So in your professional opinion as an expert  
5 civil engineer, from an engineering perspective  
6 where you -- where your -- your expertise is, is  
7 the design operation of the proposed use harmonious  
8 with its surroundings?  
9 **A Yes, I believe it is.**  
10 Q And those surroundings being, you know,  
11 I think you point out that it -- there it -- it is  
12 hard to characterize this as a predominantly  
13 residential neighborhood given the dominance of the  
14 surrounding institutional uses.  
15 **A True.**  
16 Q Is that your point?  
17 **A Yes, exactly.**  
18 Q Will the use be served by adequate  
19 public facilities, for instance -- and walk us  
20 through, I mean, are we going to have any sewer  
21 water problems?  
22 **A No, there should be no issues with the**  
23 **-- with the additional two beds. It's served**  
24 **existing water and sewer --**  
25 Q Okay.

<p>69</p> <p>1 A -- to the best of my knowledge is 2 adequately served today. 3 Q Stormwater management? 4 A Same thing. No improvements. There 5 should be no additional stormwater management 6 triggers for this, so I feel that should be 7 sufficient. 8 Q Response time for public facilities such 9 as police and fire; any issues as with those? 10 A Once again, with no additional exterior 11 improvements associated with this, I would think 12 that this approval would have no impact on the 13 current status. 14 Q Would the Montgomery County Fire and 15 Rescue Services Division have any concerns about 16 traffic circulation or emergency vehicle access to 17 the subject property? 18 A I wouldn't think so, as fire access 19 would be served from Old Georgetown Road to 20 Southwick Street. It appears to all be well within 21 fire access code to be allowed. 22 Q Right. Traffic. You're familiar with 23 the traffic statement submitted talking about the 24 -- the capacitor -- I'm sorry, the -- the volume of 25 traffic to the site?</p>	<p>71</p> <p>1 THE HEARING EXAMINER: Thank you. 2 (Off the record.) 3 THE HEARING EXAMINER: So I just did 4 want to reiterate, so with respect to both the 5 lighting and the landscaping, I just think it's 6 really important that we -- that I be able to 7 establish that, you know, the plan does meet code, 8 so I'm more than happy to keep the record open for 9 those two things. I do appreciate that Planning 10 wasn't particularly precise with you in terms of 11 what would be required, considering the simplicity 12 of the application. 13 MR. KLINE: It -- it is a -- it is a -- 14 it's in the zoning or it's a number. I understand 15 why we have to meet it. Right. 16 THE HEARING EXAMINER: Right. So -- so 17 those two things, and I, again, didn't have any 18 additional questions for Mr. Bradford (sic). I 19 didn't know if you wanted to call Mr. Bloyd for 20 that one question or if there was anything else. 21 MR. KLINE: We would like to. Mr. Bloyd 22 does have an articulate request. Mr. Bloyd, come 23 on up. We're going to get you sworn in. 24 THE HEARING EXAMINER: Okay. 25 MR. KLINE: Could you give -- Mr. Bloyd,</p>
<p>70</p> <p>1 A As Ms. DeSchrive stated, we -- we don't 2 -- she doesn't see any issues with traffic and I 3 don't see any either. There's less than 50 net new 4 peak trips, so no studies required either. 5 Q Okay. You heard my list of 6 objectionable conditions that sometimes occur from 7 non-residential uses. From an engineering point of 8 view, do you see any potential of any of those 9 arising that would have an adverse effect on the 10 surrounding -- 11 A I would not think so. 12 Q And would be -- the granting of this 13 special exception cause any adverse effect on the 14 health, safety, or welfare of the residents, 15 visitors, employees -- 16 A I would not think so. 17 Q -- surrounding neighborhood? 18 MR. KLINE: I don't have any other 19 questions for Mr. Bradshaw. 20 THE HEARING EXAMINER: Okay. Okay. I 21 don't have any questions either. Thank you. 22 THE WITNESS: Thank you. 23 THE HEARING EXAMINER: Do you mind if we 24 take a five-minute recess? 25 MR. KLINE: Of course.</p>	<p>72</p> <p>1 could you give us your name and the business 2 address? 3 MR. BLOYD: Steven Bloyd, 555 Concord 4 Street, Unit A, Havre de Grace, 21078. 5 THE HEARING EXAMINER: And is that 6 Steven with a P-H or Steven with a V? 7 MR. BLOYD: V. With a V. 8 THE HEARING EXAMINER: Got you. 9 Whereupon, 10 STEVEN W. BLOYD, 11 being first duly sworn or affirmed to testify to 12 the truth, the whole truth, and nothing but the 13 truth, was examined and testified as follows: 14 EXAMINATION BY COUNSEL FOR THE APPLICANT 15 BY MR. KLINE: 16 Q Mr. Bloyd, you heard the dialogue about 17 how we should try and organize this circulation on 18 site, and Mr. Bradshaw had come up with a couple 19 ideas. You had told us during the break that you 20 had an opinion on those ideas. Would you please 21 express to the Hearing Examiner what your 22 preference would be and why? 23 A Sure. Sure. It -- it -- we put a lot 24 of effort forth to make sure it doesn't appear that 25 it's a commercial setting. We want it to look like</p>

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1 a residential setting, much like the homes that the  
2 -- the folks are coming from. It would be my  
3 preference. We'll do whichever you prefer, but it  
4 would be my preference that we put a -- an -- an  
5 arrow --  
6 Q You're going to have to speak up a  
7 little bit, since you're away from the microphone.  
8 A To put an arrow in the beginning here  
9 and maybe one on this side. My preference would be  
10 to put the arrow on the -- on the driveway rather  
11 than the sign. I -- I'd prefer not to have the do  
12 not enter as you come in. I don't want that to be  
13 the first impression that folks see as they pull  
14 up. And so, if we could just put the arrow in and  
15 the arrow coming out, that would be -- that would  
16 be my preference.  
17 Q And would you elaborate? Because you  
18 were telling me that the people who are coming to  
19 the site are familiar with the circulation pattern.  
20 A That's right.  
21 Q So explain why you think arrows are  
22 adequate to give them guidance about how to move.  
23 A So far, it's not ever been an issue.  
24 And as -- as soon as folks move in, they realize  
25 the flow of traffic, parking over here on this

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1 side, coming out on the other side, this is  
2 actually too close to Old Georgetown for folks to  
3 pull out and turn left. So it's -- it's a natural  
4 flow to go to the right.  
5 Q So you feel the arrows painted on the --  
6 will be adequate guidance for people visiting the  
7 property?  
8 A I really don't think it's necessary, but  
9 we're happy to do it.  
10 Q Okay.  
11 A Yeah.  
12 THE HEARING EXAMINER: Mr. Bloyd, like,  
13 in terms of your kind of -- we don't have a traffic  
14 person here, I guess, to -- to state which one  
15 might be, you know, from a traffic expert  
16 perspective, more impactful. I -- I don't know  
17 what the right terminology would be. But you're  
18 stating in your experience, and I heard Ms.  
19 DeSchraver's testimony, that because this is such a  
20 small scale operation, this is really kind of a --  
21 a friendly reminder or just a -- a notice for --  
22 for brand new people. I -- I just didn't know if  
23 anybody had anything else, just from their kind of  
24 personal experience with the -- with the population  
25 being serviced. You know, if there's any issue

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1 with that, that --  
2 MR. BLOYD: It's never been an issue  
3 that we're -- that since we've been there, it -- it  
4 -- it -- it's not that we're aware of. We're happy  
5 to do whatever you recommend.  
6 THE HEARING EXAMINER: Right.  
7 MR. BLOYD: But that -- just a general  
8 reminder is what we feel like would be more than  
9 adequate.  
10 THE HEARING EXAMINER: So it's really  
11 kind of balancing the -- the notification versus  
12 wanting to maintain the appearance of a residential.  
13 MR. BLOYD: That's our preference, yes.  
14 THE HEARING EXAMINER: All right. And  
15 Mr. Bradshaw, this is kind of outside of your  
16 expertise; is that accurate? Or --  
17 MR. BRADSHAW: Yes. I mean, general  
18 site circulation is -- is -- is in my expertise per  
19 se.  
20 THE HEARING EXAMINER: Okay.  
21 MR. BRADSHAW: And so, you know,  
22 something along these lines, I suggested we wanted  
23 to give the -- the Hearing Examiner plenty of  
24 options of what we could do. But I -- I do feel  
25 that a one -- an arrow at the at either entrance is

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1 -- should be sufficient just as a reminder to the  
2 people accessing that site. I think that should be  
3 more than sufficient, but it is pretty obvious what  
4 that circulation would be because it's set on a  
5 small scale. So I would agree with Mr. Bloyd that  
6 that should be sufficient, if that's what's needed.  
7 THE HEARING EXAMINER: All right. I'll  
8 certainly take that under consideration. Thank you.  
9 MR. KLINE: I want to throw a wrench  
10 into things, unfortunately.  
11 THE HEARING EXAMINER: Okay.  
12 MR. KLINE: Well, let -- let me -- let  
13 me do this. We completed our presentation, so  
14 we'll take whatever guidance you got. Here's what  
15 I was looking for. Trying to find basically --  
16 give me a second while I get my parking waiver  
17 file. I want to find the section of the zoning  
18 ordinances that relates to it. There we go. Okay.  
19 So staff suggested that we are directed that we  
20 should file a bicycle waiver request, which we did.  
21 When I had a chance to prepare for the hearing and  
22 everything, I noticed that Section 6.2.10, parking  
23 waiver, in the zoning ordinance, says, Any request  
24 for a waiver of the vehicle parking space  
25 requirements under this section requires

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<p>77</p> <p>1 application notice under Section 7.5.2.d or hearing 2 notice under 7.4.2.e. 3 So I think with -- normally, the parking 4 waiver would've come in as part of the conditional 5 use application and you would've probably added 6 something to your notice that went out to everybody 7 -- 8 THE COURT: I see. 9 MR. KLINE: -- probably saying there is 10 a parking waiver request. If you have any 11 objections, please comply. Because we did it after 12 that, unfortunately, I'm trying to think. Do you 13 feel we need to leave the record open so we can 14 send a notice out and forewarn people about it? Or 15 would there be a way we could construct your 16 decision that said they -- anybody who gets your 17 decision will have an opportunity to appeal it to 18 the board of appeals but use it at that part? So 19 I'm -- I -- I -- I think I know what -- what 20 probably we technically should do, but -- 21 THE HEARING EXAMINER: Yeah, I -- 22 MR. KLINE: -- I'm throwing it out that 23 some -- some notice apparently needs to be done, so 24 -- 25 THE HEARING EXAMINER: I appreciate that</p>	<p>79</p> <p>1 requirement for the -- 2 THE HEARING EXAMINER: And bicycle 3 waiver is under parking waiver in this context, 4 correct? 5 MR. KLINE: Yeah, it comes in -- well, 6 that's a good -- good point on that. Yeah. No, 7 that's a good point. 8 THE HEARING EXAMINER: Because this is a 9 little bit -- I mean, bicycle waiver is slightly 10 different. 11 MR. KLINE: -- waive any requirement. 12 Yeah. This deals with any waiver requirement 13 within Section 6.2, which is parking of all types. 14 Well, the -- the -- the section that it refers to 15 records application notice under 7.5.2.d, and 16 that's a notice mailed by your office advising and 17 budding confronting property owners, et cetera, of 18 what's going on. 19 THE HEARING EXAMINER: Let me -- so I 20 mean, we were going to keep the record open for you 21 to submit -- 22 MR. KLINE: Anyway -- 23 THE HEARING EXAMINER: (Indiscernible) 24 landscape. I don't -- I -- I mean, you have every 25 business interest to try and get that completed as</p>
<p>78</p> <p>1 heads-up because I didn't -- didn't realize that. 2 MR. KLINE: Oh, I -- I learned it after 3 the fact also. 4 THE HEARING EXAMINER: And you said that 5 the -- the sign is still up. The signage is still 6 up right now? 7 MR. KLINE: Yeah. The sign is 8 definitely still up and will remain up until 30 9 days after -- actually, it will remain up until 10 after you make your decision. 11 THE HEARING EXAMINER: Right. I -- I 12 don't think I can structure my decision to kind of 13 somehow -- 14 MR. KLINE: Okay. 15 THE HEARING EXAMINER: -- grandfather it 16 in or something like that. I'm just trying to 17 think if there's a way to -- 18 MR. KLINE: Hold on. 19 THE HEARING EXAMINER: -- kind of -- 20 MR. KLINE: Well, maybe -- maybe you 21 just make good -- maybe what I could do is go out 22 and add to the sign that's out there something that 23 basically says -- and a parking waiver, and you 24 have X days to respond to that. I just want to -- 25 I'm just going to check and see what is the</p>	<p>80</p> <p>1 quickly as possible, but -- so I -- I -- you know, 2 I'll take your advice as to what would be a 3 reasonable time to keep the record open -- 4 MR. KLINE: Yeah. 5 THE HEARING EXAMINER: -- to allow you 6 to do that. 7 MR. KLINE: My -- my -- my guess is -- 8 is that the 10 days you would normally need to get 9 the transcript, we'll probably need a little bit 10 more time than that. 11 THE HEARING EXAMINER: I would think so. 12 MR. KLINE: Because it will take some 13 time to find somebody to go do the reading -- 14 THE HEARING EXAMINER: Right. 15 MR. KLINE: -- give us a letter so we 16 can submit it to you. 17 THE HEARING EXAMINER: And I appreciate 18 it -- 19 MR. KLINE: So I'd say two weeks at 20 least. 21 THE HEARING EXAMINER: Okay. Well, 22 because I also appreciate it's December 10th, and 23 so sometimes things are a little tricky that last 24 little bit of December, so -- 25 MR. KLINE: I -- I'm only laughing</p>

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<p style="text-align: right;">81</p> <p>1 because I was in this room probably 25 years ago 2 asking for -- that some opposition testimony had to 3 be submitted by December 24th. And a lady, who was 4 a former planning board member, was in opposition 5 to my application, and said, apparently Mr. Kline 6 will not be cooking for Christmas and doesn't know 7 what the rest of us will have to be doing, so we 8 don't agree with Mr. Kline's suggestion. 9 THE HEARING EXAMINER: Well, I just want 10 to be reasonable with everybody. And, you know, I 11 -- I clearly don't -- I -- it sounds like you have 12 a waiting list. There's no reason that you would 13 intentionally delay this. There's no incentive to 14 do that. So I just want to be respectful and 15 reasonable so we don't kind of create more work 16 down the line. But that would also give me some 17 time to talk to our office about the best way to 18 accommodate this oversight, because I do feel like 19 if Planning had given you appropriate direction, 20 you wouldn't be in this situation. 21 MR. KLINE: Okay. Sure. 22 THE HEARING EXAMINER: And it's really 23 hard to imagine that anybody's going to object to 24 the waiver, so -- and I don't want to, you know, 25 restrict anybody's due process, right? Because I</p>	<p style="text-align: right;">83</p> <p>1 THE HEARING EXAMINER: January 3rd. So 2 if I give you till January 3rd to get in 3 everything, then it would be 30 days from there. I 4 think we can resolve all these issues -- 5 MR. KLINE: Yeah. I -- I -- I agree 6 with you completely. 7 THE HEARING EXAMINER: -- by then. 8 MR. KLINE: Yeah. 9 THE HEARING EXAMINER: Okay. 10 MR. KLINE: That's fine. 11 THE HEARING EXAMINER: All right. So 12 given all of that, I'm assuming there's no -- you 13 said your case is closed. Were you intending to 14 give any closing statement or anything? 15 MR. KLINE: No. 16 THE HEARING EXAMINER: No, I didn't 17 think so. 18 MR. KLINE: No. I -- I -- my closing 19 statement would've been this is fortunately as 20 benign as it gets usually. And hopefully, except 21 for these couple of little things we've got to 22 clean up, it's -- Ms. DeSchriver keeps kind of 23 elbowing me. This is so -- it's a great idea. We 24 need more of this in the county, and that we can do 25 this with no impact at all (indiscernible), so</p>
<p style="text-align: right;">82</p> <p>1 want to be realistic. 2 MR. KLINE: Why -- why don't I do this? 3 I'll -- I'll -- I'll study these sections and see 4 if I can come up with some ideas, share them with 5 you. You can talk to your colleagues about it. 6 THE HEARING EXAMINER: Yeah. 7 MR. KLINE: We'll come up with something 8 that will be deemed via an acceptable notice and 9 then -- and given I probably have to leave the 10 record open long enough to allow that to occur. 11 THE HEARING EXAMINER: Right. So I 12 mean, typically, if we didn't have think about 13 standing, we'd have 10 days to get the transcript 14 and then 30 days from there, so it'd be 40 days to 15 write the decision, which -- you know, so -- so 16 there is a -- a -- a built-in cushion -- 17 MR. KLINE: Sure. 18 THE HEARING EXAMINER: -- if we needed 19 30 days' notice already. But if we were going to 20 give you -- sorry. Let me just look at -- yes. 21 Two weeks would put us on December 24th. And since 22 you are cooking Christmas dinner apparently this 23 year -- no, I'm just teasing. I mean, would 24 January 3rd? January 10th? 25 MR. KLINE: 3rd. Yeah.</p>	<p style="text-align: right;">84</p> <p>1 that's our gist of our case. 2 THE HEARING EXAMINER: I -- I understand 3 that, and I understand that you want to get this 4 moving as quickly as possible, so we'll do our best 5 to facilitate that. And I -- you know, I think 6 once everything is in, I don't anticipate any 7 issues. So we'll keep the record open until 8 January 3rd for submission of the transcript and 9 landscaping and lighting plans, and to resolve this 10 issue of notification of the bicycle waiver. And 11 then, once the record is closed, we'll have 30 days 12 to get you a decision. All right. If there's 13 nothing else, I appreciate everybody being here 14 today. Thank you. 15 MR. KLINE: Thank you very much. 16 THE HEARING EXAMINER: Thank you. 17 (Off the record at 11:00 a.m.) 18 19 20 21 22 23 24 25</p>

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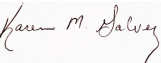
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18 FOR THE STATE OF MARYLAND  
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10 any of the parties to the case and have no  
11 interest, financial or otherwise, in its outcome.

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15 KAREN M. GALVEZ  
16 PLANET DEPOS, LLC  
17 December 19, 2024

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