

1 THE PRINCE GEORGE'S COUNTY PLANNING BOARD OF
2 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
3

4
5 MCDONALD'S AGER ROAD
6 DETAILED SITE PLAN, DSP-22001
7

8 T R A N S C R I P T
9 O F
10 P R O C E E D I N G S
11

12 COUNTY ADMINISTRATION BUILDING

13 Upper Marlboro, Maryland

14 October 24, 2024

15 VOLUME 1 of 1
16

17 BEFORE:

18 PETER A. SHAPIRO, Chairman

19 DOROTHY F. BAILEY, Madam Vice-Chair

20 A SHAUNISE WASINGTON, Commissioner

21 MANUEL GERALDO, Commissioner
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P R O C E E D I N G S

CHAIRMAN: Okay, folks, we are back from a brief break and we are about to take a bite into 11 and 12 in our agenda. These are Detailed Site Plan and Departure from Design Standards, DSP-22001, McDonalds Ager Road and DDS-23001 McDonalds Ager Road. These items were continued from our October 7, 2024 Planning Board meeting. They're companion items. We have Mr. Gibbs, who is representing the Applicant. We have Ms. Natalia Gomez-Rojas, who is going to be giving the Staff presentation on this. We have a number of folks who signed up to speak.

This is an evidentiary hearing. I want to go through some process things upfront. So, first of all, again, since this is an evidentiary hearing, I'm going to require all those who are intending to provide testimony to take an oath. I'm actually going to do that right here, right now upfront because it will help facilitate the communication process that we have. So, everybody who is intending to speak, please come online.

And I'll, as we go along, I'll just affirm that you've taken the oath when, when it comes to your time and you can just say, yes, you've taken it; or if not, I can swear you in at that time. So, if you all, if everybody could raise their right hands? Do you solemnly swear or affirm that your testimony will be the whole truth and

1 nothing but the truth?

2 (Parties sworn.)

3 CHAIRMAN: Okay. Consider yourselves under oath.
4 So, again, a reminder that evidentiary hearing, we're going
5 to allow for reasonable cross-examination. Cross-
6 examination is about questions. I'm going to be very, very
7 mindful that this doesn't turn into arguments or conclusions
8 or, you know, dare I say even badgering. It is simply to
9 cross. It is simply to get additional information from
10 questions, okay? It's not conclusory statements.

11 We have a number of people signed up to speak, so
12 I'm going to ask the opponents, I'm going to ask you how
13 you're organizing yourselves in a second to see if we can
14 help manage the process. Cross-examination can be of anyone
15 who signed up to speak, including attorneys, as long as
16 that's just for factual assertions that are being made.

17 And what I'm going to do to help facilitate this
18 process since it's going to be a lot of information is I'm
19 going to allow for cross-examination after each person
20 speaks. So, after the Staff speaks, cross-examination of
21 Staff will be allowed at that time. I'm going to be pretty
22 strict, though, that cross-examination is simply about
23 questions, specific questions that were provided in the
24 testimony before us. That's what cross is for.

25 So, in terms of the process, there's a number of

1 folks who signed up in opposition. I, I'm going to play
2 this a bit loose here, but if I can hear from you all to see
3 if, if you have organized yourself in some ways and if
4 there's a way to designate one or perhaps two people who can
5 handle cross-examination; and when we get to a summation
6 toward the end from the opposition who can handle summation
7 as well. So, please let me know. I see Mr. Smith's hand up
8 and I see Mr. Boado as well, but we'll start with you, Mr.
9 Smith.

10 MR. SMITH: Well, actually you can take this if
11 you want, or I can just explain the order that we came up
12 with. Yeah? Okay.

13 MR. SMITH: So, Mr. Chair, Planning Board members
14 we emailed to Staff yesterday our preferred order and that
15 is Alexi Boado, Lisa Entzminger --

16 CHAIRMAN: Hold on one sec.

17 MR. SMITH: -- Jeff Cronin.

18 CHAIRMAN: Hold on. Hold on. Lisa?

19 MR. SMITH: Melissa Schweisguth.

20 CHAIRMAN: Okay. Yeah?

21 MR. SMITH: Okay, Lisa Entzminger, Jeff Cronin,
22 Melissa Schweisguth --

23 CHAIRMAN: Okay.

24 MR. SMITH: -- yeah.

25 CHAIRMAN: Okay.

1 MR. SMITH: Melissa Schweisguth, Michael Wilpers.

2 CHAIRMAN: Hold on. Okay.

3 MR. SMITH: Marybeth Shea.

4 CHAIRMAN: Okay.

5 MR. SMITH: Gillian Brockell.

6 CHAIRMAN: Okay.

7 MR. SMITH: And Greg Smith.

8 CHAIRMAN: Okay.

9 MR. SMITH: In terms of cross, we appreciate some
10 flexibility because as with the previous hearing, some of us
11 know more about certain subjects than the other and, and the
12 question will arise more naturally in their topic areas. I
13 don't presume to know as much about historic preservation or
14 the history of local plantations as say Gillian or Marybeth,
15 and I haven't done the transportation analysis that Melissa
16 Schweisguth has done. So, to the extent you can be flexible
17 there, I think it would, it would benefit everybody.

18 CHAIRMAN: I will and the one thing I would ask is
19 I would prefer that we do not have multiple people who are
20 crossing the same individual, okay? It has to happen
21 because people are coming at it from two different angles
22 around cross-examination. I'll be flexible around it, but
23 that's what I'm trying to minimize.

24 MR. SMITH: Okay. Another point of order, we've
25 had this discussion before I think in evidentiary, the

1 purpose of an evidentiary hearing is to have a fair cross to
2 build a robust record that any party can rely on for your
3 decisions and for appeal. So, I hope you'll be flexible in
4 terms of time limits. We've put a lot of effort into
5 developing our written testimony and hearing testimony. We
6 try to be cognizant of time, but if you can be flexible,
7 that would be great. It's been a long time getting here.

8 And the last procedural point I want to raise here
9 is I learned only yesterday that folks who are sending
10 written comments to the Planning Board were not
11 automatically being registered as persons of record. I
12 understand you can read one section of the Zoning Ordinance
13 to say, well, unless they explicitly ask in writing to
14 become a person of record, they're not registered as such;
15 but I can also point to the charter where it says anybody
16 who comments and appears before the Board in person or in
17 writing is a, is a person of record. And nobody, I think,
18 generally would think that it, by sending in the written
19 comments, it will become a person of record.

20 So, I, I hope, I think this is in the public's
21 benefit and I don't see how anybody is harmed if the
22 Planning Board designated anybody who sent a written comment
23 and took the time to do that to, to register them as persons
24 of record for the case. Otherwise, you're disenfranchising
25 and then we got a line.

1 CHAIRMAN: I'll, let me, I don't want to take this
2 up in the context of this case. We'll take it under
3 advisement and ask legal to look into this as well, and they
4 can advise us, Commissioners, if that's all right with you.
5 That would be my recommendation. Any concerns?

6 (No affirmative response.)

7 CHAIRMAN: No? Okay. All right. So, but we hear
8 you, Mr. Smith, I appreciate that.

9 MR. SMITH: Thank you.

10 CHAIRMAN: All right. So, so, we'll, like we
11 typically do, we'll hear from Staff first; then we'll hear
12 from the Applicant. Again, if there's cross-examination of
13 Staff, go ahead and identify yourself. I just want to go
14 through our list of speakers just to make sure that there's
15 nobody that we have missed in addition to the list that you
16 just ran through.

17 Mr. Smith, I just want to see who else is here.
18 Carolyn Edwards I see, not on your list, but on my list.
19 Ms. Edwards, are you here?

20 (No affirmative response.)

21 CHAIRMAN: No? Jazmin Henriquez? Jazmin
22 Henriquez?

23 (No affirmative response.)

24 CHAIRMAN: No? Senator Augustine? Senator
25 Augustine, are you here?

1 (No affirmative response.)

2 CHAIRMAN: Okay. Give me one more sec. And Jeff
3 Cronin you did mention. Okay. Then I think we're covered.
4 Everybody on your list is on my list. So, we're good.
5 We're aligned.

6 Okay. So, we're going to start with the Staff
7 presentation, then we will hear from the Applicant. Then,
8 again, if there's cross-examination raise your hand and I'll
9 be mindful. I'll keep an eye on hands raised so I can give
10 you an opportunity to search.

11 We're not going to have cross-examination until
12 after the presentation. So, Staff goes and then there's
13 cross after that. It's not interrupting during. So, we'll
14 start with Staff and where am I on my list? Yeah, that's
15 it. So, Ms. Gomez-Rojas, we will turn to you for the Staff
16 presentation. Take it away.

17 MS. GOMEZ-ROJAS: Good morning, Mr. Chair. I'm
18 doing a quick soundcheck

19 CHAIRMAN: Yes, good morning. Thank you.

20 MS. GOMEZ-ROJAS: Okay. All right. So, good
21 morning, Mr. Chair and members of the Planning Board. For
22 the record, I'm Natalia Gomez with the Urban Design Section,
23 Items 11 and 12, DSP-22001, DDS-23001 and AC-23017, titled
24 McDonalds Ager Road, proposes the development of an eating
25 and drinking establishment with drive-through service in an

1 integrated shopping center.

2 This case is continued from September 26, October
3 3 and October 27, 2024. Additional materials were submitted
4 during the previous hearings and additional materials were
5 submitted as opponent exhibits before the Tuesday noon
6 deadline, but I want to clarify that nothing was submitted
7 from the Staff or the Applicant. This application has been
8 reviewed and evaluated in accordance with the prior zoning
9 ordinance. Next slide, please.

10 The property is located in Council District 2,
11 Planning Area 65. The next slide, please.

12 More specifically, this is a 4.16-acre site
13 outlined in red and it is located on the northeast quadrant
14 of the intersection of East-West Highway and Ager Road.
15 Next slide, please.

16 The current, the subject property is currently
17 zoned CGO. It has, the prior zoning was CSC. Next slide,
18 please.

19 As seen in this slide, this property is not
20 subject to an overlay zone. Next slide.

21 Here, this map shows that the subject site is
22 relatively flat and gradually elevates towards the eastern
23 border. Next slide, please.

24 The, here we can see the Master Plan right-of-way
25 in the vicinity of the site, MD-410, East-West Highway to

1 the west of the site is shown in red and it is noted as an
2 arterial road. Next slide, please.

3 This aerial view shows the subject property and is
4 in an integrated shopping center in a free-standing building
5 that will be replaced with the proposed eating and drinking
6 establishment. Next slide.

7 Here, the Detailed Site Plan has been rotated for
8 eligibility purpose in the north, is facing towards the
9 left. The plan shows the proposed building has an
10 additional improvement that includes surface parking and
11 delineation of the drive-through lanes. Next slide, please.

12 The Landscape Plan illustrates the proposed onsite
13 plantings associated with the proposed development. Next
14 slide, please.

15 As companion to DSP-22001, the Applicant filed a
16 request for alternative compliance, AC-23017, from Section
17 4.7 buffering incompatible uses of the landscape menu along
18 the easter property line adjacent to a historic site. The
19 Applicant proposes clearing the existing trees and is now
20 proposing landscaping replacement with the quantity required
21 by the Landscape Manual. AC-23017 was reviewed by the AC
22 Committee and the Applicant and the Planning Director who
23 recommended this approval since they determined that the
24 proposal was not equally effective and fulfilling the
25 intended purposes of Section 4.7 of the Landscape Manual.

1 According to Section 1.3(f) of the Landscape
2 Manual, where compliance with the Landscape Manual is not
3 possible, the Applicant may seek relief by applying for
4 departure from design standards in accordance with the
5 provisions of Section 27-239.01 of the Zoning Ordinance.
6 Accordingly, the Applicant is requesting a departure from
7 design standards from Section 4.7 of the Landscape Manual
8 where a buffer is required between the shopping center and
9 the adjacent property which is a historic site currently
10 improved with the seminary.

11 Due to a long-standing trespassing situation in
12 the property, the Applicant is proposing to clear the
13 existing trees along the eastern property line and replace
14 them with steep slopes covered with a mix of river rock and
15 red rock with scattered boulders, evergreen trees and
16 perennials arranged in a natural, realistic manner
17 throughout. Next slide, please.

18 This slide shows a section of the proposed
19 development in relation to the adjacent property to the
20 east. Next slide, please.

21 These images display the results of a 3-D analysis
22 conducted to assess the visibility of the proposed
23 development from the historic site following the removal of
24 the existing trees. The yellow dots on the top-left image
25 indicate the location, Green Hill, which is the seminary

1 from which the visibility was tested offering the
2 perspective of a 6-foot tall person is standing on the
3 ground. The image on the top-right demonstrates an example
4 of the view from Green Hill and illustrates that due to the
5 vegetation and grading difference, the view to the proposed
6 building is minor. Next slide, please.

7 This slide shows the current TCP that is TCP2-004-
8 2024 where the Applicant proposes to meet the Woodland
9 Conversation requirements via offsite woodland conservation
10 credits in an approved woodland conservation bank in order
11 to provide and organize landscape, schematic use in crime
12 prevention through environment design, technique on the site
13 to address ongoing trespass issues. Next slide, please.

14 This slide shows the approved Natural Resource
15 Inventory Plan, NRI-026-022 for the site. This plan details
16 the delineation of the existing tree canopy and forest on
17 the property. Next slide, please.

18 This slide shows an aerial image taken from PG
19 Atlas that shows the current conditions of the site. Next
20 slide, please.

21 This Circulation Plan shows a truck-turn plan in
22 all existing access points to the shopping center. The
23 Applicant is not proposing any new access points at the
24 time. Next slide.

25 The photometric plan here reflects adequate

1 lighting throughout the site with minimal spillover onto
2 adjacent neighboring properties. Next slide, please.

3 The elevation shown in this light are the proposed
4 free-standing building, rectangular in shape, that will
5 serve the McDonalds eating and drinking establishment. The
6 proposed building would be approximately 19-feet tall with a
7 single door on the west and south elevations. Next slide,
8 please.

9 I'm almost done. As a matter of housekeeping, the
10 Applicant provided an exhibit requesting the deletion of
11 Conditions 3(a) and 3(b) establishing agreement with the
12 Applicant's request based on the response received from the
13 State Highway Administration and which have been addressed
14 in Staff Exhibit 2.

15 The Staff would like to note that memorandums from
16 the, from the Department of Health, DPIE and the Historic
17 Preservation Commission are included to demonstrate
18 coordination with multiple agencies. The memos have no
19 objection to the subject application and listed a series of
20 recommendations properly transmitted to the Applicant. The
21 Staff is also aware of the concerns submitted to the record
22 by members of the public regarding traffic conditions in the
23 area, woodland conversation and tree canopy coverage,
24 stormwater, existing encampments and historical
25 considerations.

1 Please know that the, at the courtesy of
2 transportation facility, offsite traffic is not evaluated at
3 the time of Detailed Site Plan stage; however, there have
4 been meetings with the SHA regarding the side, the
5 consolidation of the two southern more two-way access points
6 into one commercial right-in, right-out access point per the
7 Maryland, Maryland State Highway Administration. The sign
8 is tendered, is recommended and the condition is included as
9 shown in the Staff Exhibit 2 in accordance with the
10 recommendation of the SHA. DPIE also presented no
11 objections to the subject application.

12 Staff from the Transportation Planning Section is
13 ready to answer any questions that the Planning Board
14 attendees might have related to the traffic and
15 transportation matters.

16 Regarding to the Woodland Conservation and Tree
17 Canopy Coverage, the Staff found that according to the NRI
18 and the site PC performed, performed on February 22, 2024,
19 understory trees and invasive species were observed. Staff
20 requested the Applicant provide an alternative landscaping
21 that facilitates natural surveillance sensitive to public
22 safety concerns and to promote the crime-free environment.
23 Staff from Environmental Planning Section is also here ready
24 to answer any questions related to the TCP and
25 (indiscernible).

1 Almost done. Staff communicated with the
2 Department of Social Services in about, about the existing
3 encampments and requested a site visit from the Department
4 of Social Services, Street Outreach Unit, to find an inter-
5 agency solution for the persistent trespassing situation on
6 the property.

7 Staff from the Department of Social Services
8 performed a site visit and recorded that, the records of
9 this visit is included in the back-up. This Staff informed
10 that the people who were in encampment at the time of the
11 visit respectfully declined the help that they tried to
12 offer.

13 From the Urban Design standpoint, the Applicant
14 applied the principles of crime prevention through
15 environmental design which recommends avoiding landscaping
16 and its craning elements that create, can create blind spots
17 or hiding places. Crime prevention through environmental
18 design also underscores the importance of landscape
19 maintenance. Keeping areas free of, free of litter can be a
20 signal that residents and property owners have a vested
21 interest in the area and will not tolerate illegal
22 activities.

23 Lastly, the Historic Preservation Staff presented
24 the subject application to the Historic Preservation
25 Commission on March 19, 2024. A memo from the Historic

1 Preservation Commission is included in the Staff Report as
2 well. I will defer to the Staff from Historic Preservation
3 Section to address the historical considerations listed in
4 the additional back-up for this application.

5 The Urban Design Section recommends the Planning
6 Board adopt the findings of the Technical Staff Report,
7 disapprove AC-23017 and approve DSP-22001, DDS-23001 and
8 TCP2-004-2024 with the conditions found in the Staff Report
9 and as revised by Staff Exhibit 2. This concludes the Staff
10 presentation. Thank you.

11 CHAIRMAN: Thank you very much, appreciate the,
12 really appreciate the thorough report. There's a lot of
13 information and I know there's going to be lots of questions
14 and some concerns from residents. I appreciate the
15 thoroughness of this, too.

16 So, Commissioners, any questions for Staff at this
17 point?

18 (No affirmative response.)

19 CHAIRMAN: All right. Is there anyone, I don't
20 see any hands raised on this, so, we'll turn to the
21 Applicant. Oh, wait, Mr. Smith, cross-examination? You're
22 on mute. Mr. Smith, you're on mute.

23 MR. SMITH: Thank you. Just a couple of
24 questions. Ms. Gomez-Rojas, you said that the, the
25 transportation impacts are not assessed at the DSP stage,

1 but if not at DSP stage, then when, when do we get to the
2 numerous -- congestion concerns that the public have raised
3 and documented in their written statements? These are
4 pretty serious concerns. When, when does the Planning Board
5 get to those and how do you then determine whether or not
6 the project conflicts or supports the purposes of the
7 zoning, when do we get to this?

8 MS. GOMEZ-ROJAS: So, normally traffic adequacy is
9 determined at the time of Preliminary Plan of Subdivision,
10 but I can defer your question to Ben Patrick, Staff from
11 Transportation Planning Section, who can probably give you a
12 better explanation of this. Ben?

13 MR. PATRICK: Good morning. This is Ben Patrick,
14 for the record.

15 CHAIRMAN: Mr. Patrick, you're very soft. We're
16 having trouble hearing you.

17 MR. PATRICK: Is this any better?

18 CHAIRMAN: Barely.

19 MR. PATRICK: I'm not sure of the issues. Give me
20 one second.

21 COMMISSIONER WASHINGTON: That was it.

22 CHAIRMAN: It got a little better.

23 MADAM VICE CHAIR: Yeah.

24 MR. PATRICK: Okay.

25 CHAIRMAN: There we go.

1 MR. PATRICK: Again, Ben Patrick. Thank you. For
2 the record, Ben Patrick, Transportation Planning Section.
3 That's correct, the transportation adequacy would be tested
4 at the time of the Preliminary Plan.

5 MR. SMITH: But no Preliminary Plan was required
6 here, so how does the, I don't understand --

7 MR. WARNER: Maybe I can, can I step in and just
8 help Ben answer.

9 MR. SMITH: -- what this project's impact may be.

10 CHAIRMAN: Sure, Mr. Warner.

11 MR. WARNER: Yeah, just to give a full answer to
12 Mr. Smith. So, right, for this application, no Preliminary
13 Plan of Subdivision was required, so there's no test for
14 transportation adequacy. However, this is a Site Plan
15 review and the site itself is being evaluated.

16 MR. SMITH: I'm sorry, your sound cut out on my
17 end.

18 MR. WARNER: Can you hear me?

19 CHAIRMAN: Yeah, go head, we can hear you now.

20 MR. WARNER: Okay.

21 MR. SMITH: I can now.

22 MR. WARNER: Right, so, so the offsite
23 transportation impacts are evaluated at Preliminary Plan of
24 Subdivision, this particular project did not require a
25 Preliminary Plan of Subdivision, so no certificate of

1 adequacy was required. However, you're reviewing a Site
2 Plan and that Site Plan has to be able to handle the traffic
3 that it will take in by whatever use is being proposed. So,
4 the impact on this site of, of traffic is a part of the
5 evaluation at this stage. So, how many cars are coming in,
6 how many are leaving the site and how the site handles that,
7 that is before the, the Planning Board at this stage.

8 CHAIRMAN: Right. All right. Other questions for
9 cross-examination? No argument, Mr. Smith --

10 MR. SMITH: Yeah, one more.

11 CHAIRMAN: -- respectfully, just cross. Mr.
12 Boado, I'm sorry, Mr. Smith, are you done?

13 MR. SMITH: I have one more question.

14 CHAIRMAN: Yes, sir?

15 MR. SMITH: I have one more question.

16 CHAIRMAN: Yes, sir?

17 MR. SMITH: Yeah, Ms. Gomez-Rojas, could you tell
18 us how many additional parking spaces are proposed and what
19 the change in the total impervious surface would be for the
20 site?

21 MS. GOMEZ-ROJAS: So, a total of 71 parking spaces
22 are proposed and can you repeat the second part of your
23 question, please?

24 MR. SMITH: Is that additional parking spaces?

25 MS. GOMEZ-ROJAS: It is a mixture between of

1 existing parking spaces and new, additional parking spaces.

2 MR. SMITH: And the second part was a comparison
3 of current area of impervious surface versus what would
4 result if this project goes forward?

5 MS. GOMEZ-ROJAS: I will have to look at the, at
6 my, at the Staff Report for that information.

7 MR. SMITH: Okay. All right. Thank you.

8 CHAIRMAN: Thank you. Mr. Boado?

9 MR. BOADO: Good morning, everyone. Thanks for
10 having us back again. A quick question for Ms. Gomez-Rojas.
11 How do you know that the McDonalds, with its open public
12 bathrooms and cheap dollar menu, won't attract more unhoused
13 people than the current situation?

14 CHAIRMAN: You know, let me, let me stop. That,
15 Mr. Boado, I hear you, but that's not what where her
16 testimony was and I feel like you want to save that for any
17 kind of a summation down the road. That does not feel
18 like --

19 MR. BOADO: Okay.

20 CHAIRMAN: -- cross-examination to me.

21 MR. BOADO: Okay, got it.

22 CHAIRMAN: Thank you, sir. Appreciate it. Any
23 other cross for Ms. Gomez-Rojas?

24 (No affirmative response.)

25 CHAIRMAN: All right. So, we'll turn to the

1 Applicant, Mr. Gibbs.

2 MS. SCHWEISGUTH: I, I'm sorry, I do have my hand
3 up. This is Melissa Schweisguth.

4 CHAIRMAN: Oh, I don't see you. I'm sorry, go
5 ahead.

6 MS. SCHWEISGUTH: I have my hand raised, but
7 I'm -- yeah, I did, so and I, I know you don't want us to
8 cross the same person, but I did have a follow-up question
9 for Transportation because they said that at the DSP stage
10 they do not consider the site's impact on traffic; yet, they
11 did have the Applicant submit a trip generation. So, I just
12 wanted to understand then now, why, what is the purpose of
13 the trip generation for the DSP? Why was that required?

14 CHAIRMAN: Okay.

15 MS. SCHWEISGUTH: Thank you.

16 CHAIRMAN: Mr., maybe Ms. Gomez-Rojas or Mr.
17 Patrick, or Mr. Warner. Ms. Gomez, Gomez-Rojas, I'll start
18 with you to see if you want to answer, unless you want to
19 turn to somebody else?

20 MS. GOMEZ-ROJAS: So, I can, I can, I can align
21 with what Mr. Warner says, that at, at the time of DSP, we
22 evaluate traffic impact; and part of what, of the, of what
23 we requested from the Applicant was to determine that the
24 estimated trips to the, to the establishment will not create
25 additional impact to the site. But Mr. Patrick or Mr.

1 Warner are more than welcome to continue or expand.

2 CHAIRMAN: Mr. Patrick, anything you want to add
3 to that?

4 MR. PATRICK: Nothing to add to that, no.

5 CHAIRMAN: Okay, thank you. Mr. Warner, do you
6 want to add --

7 MR. WARNER: That's exactly right. Yes, we asked
8 for, we asked for trip generation figures at Preliminary
9 Plan of Subdivision to determine how many trips the project
10 is going to demand; and then what are the impacts of those
11 trips on the public facilities surrounding the property.
12 But we also look to that information to determine at this
13 stage if the site is adequately designed to address the
14 number of cars coming and going; and it's obviously going to
15 be different for different types of uses and then that
16 affects how the site is designed, and that's what you're
17 looking at right now.

18 CHAIRMAN: Okay, thank you. Thank you all for
19 that. We have another hand raised on cross. Ms. Brockell,
20 Gillian Brockell, or Brockell.

21 MS. BROCKELL: Brockell. Thank you. I just had
22 one question, Ms. Gomez, and thank you so much for your work
23 on this. I just wanted to confirm that the Historic
24 Preservation officials, they only evaluated the, the impact
25 of the McDonalds on the historic site next to the, the

1 planned McDonalds and not whether or not the site itself
2 could be historic, is that correct?

3 MS. GOMEZ-ROJAS: That is correct because the only
4 historic property is the seminary that is adjacent.

5 MS. BROCKELL: Thank you.

6 CHAIRMAN: Thank you for that. Okay. We have
7 additional cross. Mr. Wilpers?

8 MR. WILPERS: Yes. One question, thank you, Ms.
9 Gomez-Rojas. You have a total number of trees that the
10 Applicant proposes to remove?

11 MS. GOMEZ-ROJAS: I believe that's indicated in
12 the TCP. I can ask, I can defer to Environmental Planning
13 who can give us a better answer.

14 CHAIRMAN: Thank you, Ms. Gomez-Rojas. Who do we
15 have from Environmental Planning on this one?

16 MR. MEOLI: Good morning, Chair Shapiro. This is
17 Christian Meoli with the Environmental Planning Section.
18 So, the, for Woodland Conservation purposes, we don't
19 account for individual trees, but the TCP2 worksheet shows a
20 total of accounting for 2.04 acres of clearing in total; but
21 we don't have a number for individual trees. It's only
22 what's designated as one -- yeah.

23 CHAIRMAN: All right. Thank you, Mr. Meoli. All
24 right, Ms. Brockell, all right. I see Mr. Wilpers. Is your
25 hand up again or is that from before?

1 MR. WILPERS: That's from before.

2 CHAIRMAN: All right. Mr. Smith, yours is from
3 before as well?

4 MR. SMITH: No, it's not. It's a follow-up on, on
5 Mr. Wilpers' question and Mr. Meoli's answer. Staff is
6 proposing off-site mitigation. As, as Staff identified
7 where that mitigation would take place, what kind of, social
8 or public health value would be provided through that
9 offsite mitigation and we're looking at habitat, we're
10 looking at shading, greenspace, stormwater management. Has
11 that been identified at this point so that the public can
12 take a look at it and comment on it or not?

13 CHAIRMAN: I'm going to, I'm going to, I want to
14 make sure that I'm -- is that what you all do at this point?

15 MR MEOLI: At this stage, the, then identifying
16 that they will be providing offsite credits, that's all that
17 we're reviewing at this stage. The actual purchase of
18 credits comes at the permit stage and there's a list of
19 priorities for them to purchase banks, you know, obviously,
20 the closer to the specific site. So, it goes through a
21 hierarchy of, you know, within the same watershed, within
22 the same, I don't have them off the top of my head, but
23 there's a hierarchy that they look at in order to keep the
24 benefits as close to the site as possible, but it's not part
25 of the specific review at this stage.

1 CHAIRMAN: Okay.

2 MR. MEOLI: Or it's not something that's reviewed,
3 yeah, by, by Staff at this point.

4 CHAIRMAN: Okay. All right. Thank you. Mr.
5 Smith, all right?

6 MR. SMITH: (No audible response.)

7 CHAIRMAN: Okay. No more cross. We're going to
8 turn to the Applicant now.

9 MR. GIBBS: Good afternoon, Mr. Chairman. May I
10 start?

11 CHAIRMAN: Yes, sir.

12 MR. GIBBS: Okay. Thank you very much. Good
13 afternoon, Mr. Chairman, members of the Planning Board,
14 Edward Gibbs, attorney with offices in Largo, and I'm
15 pleased to be here today representing McDonalds USA, LLC,
16 the Applicant for this Detailed Site Plan and Departure from
17 Design Standards.

18 McDonalds is proposed to be a lessee on a portion
19 of the Green Meadow Shopping Center which, of course, in its
20 entirety comprises 4.16 acres. The leasehold interest that
21 McDonalds would have would be only 1.16 acres of that entire
22 parcel.

23 The owner of the property is 6581 Ager Limited
24 Partnership. I do not represent that entity. I only
25 represent McDonalds corporation, but there will be a

1 representative on behalf of the owner speaking today.

2 Green Meadows Shopping Center, as the evidence of
3 record establishes and as testimony will further amplify, is
4 quite an old center being constructed in approximately 1949.
5 As the evidence of record establishes, there are three
6 buildings presently on site in the middle. There is a
7 larger inline commercial building with numerous individual
8 uses and then on either side, north and south of the inline
9 building, there are two much smaller buildings. The
10 McDonalds leasehold interest would be in the general area
11 where the existing building on the southside of the parcel
12 is located. And that is where McDonalds, if this
13 application is approved, would raise that building and
14 construct its eating and drinking establishment with drive-
15 through service; but, again, only as a leasehold interest
16 and not as a, as an ownership interest.

17 Staff indicated the property is currently zoned
18 CGO. It was previously zoned CFC. And is authorized under
19 Sections 27-1900 and 27-1704 of the new Zoning Ordinance,
20 the Applicant has at its discretion the right to use the
21 prior Zoning Ordinance and that is, in fact, what has
22 occurred here. So, this application is being reviewed under
23 the provisions of the prior Zoning Ordinance and the
24 standards related to the CSC Zone, not the CGO Zone.

25 I would agree with the Staff's articulation of

1 the, of the surrounding properties and what will be of
2 particular interest is, of course, the Pallottine Seminary
3 which is located to the east or southeast up a steep grade
4 as the line of sight exhibit showed and as one of our
5 witnesses will testify.

6 Let me say that I adopt the findings and
7 recommendations of the Staff Report as part of our
8 presentation in our case-in-chief for both the Detailed Site
9 Plan and the Departure from Design Standards. I am going to
10 call a series of six witnesses today, very uncharacteristic
11 for a case of this nature, but I am going to call that many
12 witnesses. They are going to give limited testimony which
13 is relevant to the criteria articulated in the Zoning
14 Ordinance and relating to the review and approval of a
15 Detailed Site Plan and a Departure from Design Standards.

16 There are, there's roughly a thousand pages of
17 opposition documents that have been filed in this case, most
18 of it repetitive and duplicative, including a canned
19 opposition letter signed by numerous people. So, what I'm
20 going to have to do is reserve the right because I don't
21 know where the Planning Board is going to go with allowing
22 testimony that is not relevant to the criteria for the
23 approval of a Detailed Site Plan. I will object to
24 testimony being provided that is extraneous to the criteria
25 for the approval of a Site Plan, but I will also reserve the

1 right to present rebuttal testimony if, in fact, that
2 information is allowed to move forward and I will have to
3 rebut it.

4 That's really about it. I want to say, before I
5 start calling my witnesses, this is a very straightforward
6 case and, quite frankly, on the merits, very simple. We're
7 happy to finally be here today and to present this case and
8 be able to get to the merits of what this is all about; but,
9 effectively, what the evidence will show and what the record
10 already shows is that there are two requests here. The
11 first is for the Detailed Site Plan and the criteria for the
12 review and approval of a Detailed Site Plan are clearly set
13 forth in Sections 27-281 through 285 of the prior ordinance;
14 and by reference, collateral reference, design criteria
15 contained in Section 27-274. That's it.

16 And what we'll find and, and I'll address this in
17 greater detail in summation, but what we will find is that
18 all of those provisions deal with design considerations of
19 the project, safe onsite circulation, safe pedestrian
20 circulation onsite. Everything is triggered onsite.

21 I do agree with the comments made by your counsel
22 earlier on that the driveways into the site are a relevant
23 area of inquiry and that is why we have a requested revision
24 to Condition No. 3 in the Staff Report; but that, that is
25 the area of inquiry. Thousand, a thousand pages dealing

1 with offsite traffic issues, traffic lights, pedestrian
2 crossings, U-turns, none of that is legally relevant to the
3 consideration of a Detailed Site Plan.

4 And then we have a, a Departure from Design
5 Standards. The evidence of record and the testimony will
6 establish why that departure was filed. We, I will say, and
7 the record discloses, we never proposed to file a request
8 for alternative compliance. We filed a Departure from
9 Design Standards and we were told by Staff we needed to file
10 a request for AC because that needed to be denied before we
11 could proceed to the departure. So, we went ahead and filed
12 the alternative compliance application knowing that it would
13 be denied because we needed to get to a departure.

14 The evidence will show that there is a continuing
15 years and years problem with trespassing encampments to the
16 rear of the shopping center. As you can see from the slide
17 that is in front of you right now, slide 1 of 20, the red
18 line depicts the property boundary for the Green Meadows
19 Shopping Center and you will see that there is an area
20 behind the buildings, and that is the area where the
21 trespasser encampment has occurred for years. Testimony
22 from representatives of the ownership and testimony from a
23 police officer with the Prince George's County Police
24 Department who works to provide security at this location on
25 his off-duty hours, not as a function of his official duties

1 as a, a Prince George's County Police officer, will
2 establish what these problems have been.

3 And so, what the evidence will show is that
4 McDonalds didn't come out here and say, oh my goodness, we
5 want to file a departure and take down all of these trees.
6 McDonalds filed the departure in order to address concerns
7 of the businesses in the Green Meadow Shopping Center and
8 the patrons to the shopping center because their safety is
9 threatened by acts of trespassers who encamp behind the
10 center. And we'll get to all that in the testimony of the
11 case, but that was the impetus for the departure. McDonalds
12 has no desire to take down trees that aren't necessary in a
13 normal case. This is an effort on their part to address a
14 larger concern for the, for the continued viability of a
15 long-standing shopping center and safety of patrons.

16 With that being said, I am prepared to call my
17 first witness who is Mr. Lucas Crocker. I'd like Mr.
18 Crocker to identify himself and confirm that he took the
19 oath.

20 MR. CROCKER: Yes. Hi, good morning, I'm Lucas
21 Crocker and I did take the oath.

22 MR. GIBBS: Mr. Crocker, could you explain your
23 employment situation and what your relationship is?

24 MR. SMITH: Mr. Shapiro, I have a question.

25 CHAIRMAN: Mr. Smith?

1 MR. SMITH: Yeah. Yes, I have a, I have a
2 question for, for Mr. Gibbs.

3 MR. GIBBS: I didn't testify, Mr. Chairman. I
4 said what the, I made an opening statement that referred to
5 evidence in the record and what the evidence will show. If,
6 if the evidence doesn't show that --

7 CHAIRMAN: Yeah, I know.

8 MR. GIBBS: -- I'll, I'll be happy to answer Mr.
9 Smith's question.

10 CHAIRMAN: And I'm going to hold off on any
11 questions for Mr. Gibbs. We'll run through the witnesses.
12 If you have questions for specific witnesses that feels
13 appropriate for cross, we can, if there are actual
14 assertions that you feel like Mr. Gibbs has made, we can get
15 to those, too, afterwards. Turn to Mr. Crocker.

16 MR. GIBBS: Mr. Crocker, would you, you state your
17 employment affiliation and what your relationship to the
18 Green Meadows Shopping Center is?

19 MR. CROCKER: Sure. So, I work at Willco. Willco
20 is the property management company of the Green Meadows
21 Shopping Center.

22 MR. GIBBS: And, and by Willco, do you mean Willco
23 Construction Company?

24 MR. CROCKER: Yes, that's correct.

25 MR. GIBBS: Okay. And how long have Willco been

1 the property manager for the Green Meadows Shopping Center?

2 MR. CROCKER: I believe since 2009.

3 MR. GIBBS: And do you have information which you
4 believe is relevant to the applications which are before the
5 Planning Board today?

6 MR. CROCKER: I do.

7 MR. GIBBS: Could you please explain that?

8 MR. CROCKER: Sure. So, you know, I'm a,
9 obviously aware of the property operations. There's a
10 partially-wooded area in the rear portion of the property
11 that's a location of encampment. This location is where
12 people are gathering and really trespassing on the shopping
13 center grounds.

14 They use this encampment area to pitch tents.
15 They're really creating shelter by hanging carts between
16 trees with ropes to sleep overnight in most cases. These
17 individuals are lighting fires to cook and for warmth.
18 They're cutting down trees on the property to use as
19 firewood or to use as barriers to hide the encampment from
20 main roads which our property management team has been
21 taking pictures of; and, by the way, I have no knowledge
22 whatsoever of trees being taken down at the direction of the
23 shopping center's ownership or Willco.

24 These individuals are staying for hours at a time,
25 like I said, frequently overnight. They're really there

1 until the off-duty officers are onsite to physically clear-
2 out the encampment. Even then this is a game of cat and
3 mouse because as soon as the officers leave the shopping
4 center, these individuals immediately return and resume all
5 activities.

6 We've seen reports of illicit activities such as
7 people break-ins. There's been assaults. There was a
8 recent homicide, panhandling, a general harassment of
9 patrons visiting the shopping center, employees of
10 businesses at the shopping center. It's gotten to the point
11 where the owners of these businesses in the shopping center
12 are calling the police to intervene because of the actions
13 of these individuals. And they really need the police there
14 to address what's going on to protect their business, their
15 patrons and their employees.

16 This issue has greatly proliferated since the
17 start of COVID and we see this McDonalds development
18 proposal as a holistic way to address this encampment and
19 trespassing issue. Said a little bit differently, if the
20 McDonalds development proposal here falls through for any
21 reason, we really have no other means to continue to solve
22 this issue.

23 The property and ownership are maxed out from a
24 financial perspective. There's been well over a million
25 dollars spent to clear the encampments with these off-duty

1 officers. There's a regular full trash removal service to
2 clear large debris left by these individuals. These are
3 things like couches and mattresses. We've installed
4 security cameras, installed extra lighting. These are
5 continually broken by people throwing rocks at them, for
6 instance. We've completely renovated the façade a number of
7 years ago to improve curb appeal. And really everything
8 we've done is to try to deter these individuals from
9 congregating on the shopping center grounds.

10 The most effective by far has been hiring the off-
11 duty officers who are there for seven days a week, but
12 they're only there for several hours at a time because of
13 the expense. And really having McDonalds at the shopping
14 center is an opportunity to eradicate this encampment and
15 trespassing issue because McDonalds will provide extra
16 security and lighting. They will ideally be removing the
17 area where these individuals are congregating by creating
18 the real estate and the parking; and, obviously, that will
19 reduce the area these individuals can easily set up camp;
20 and whatever area is left over will be made uncomfortable
21 through landscaping so people can't, you know, stay
22 overnight or congregate in general.

23 MR. GIBBS: Mr., Mr. Crocker, how long again has
24 Willco been the property manager at the center?

25 MR. CROCKER: Since 2009.

1 MR. GIBBS: And how long has the trespassing
2 encampment been present?

3 MR. CROCKER: I would say probably since, you
4 know, I would say probably like 2012 to 2015 area. It's
5 gotten significantly worse since the onset of COVID and it's
6 continuing to exacerbate.

7 MR. GIBBS: Have you, through internal
8 bookkeeping, come to any conclusion as to how much ownership
9 has expended in hiring both security protection and third-
10 party contractors to periodically come in and remove the
11 encampments?

12 MR. CROCKER: We, we do. We have those accounting
13 records. I just highlighted we spent well over a million
14 dollars over the years to address this issue and hire things
15 like the off-duty officers, for instance, and any other
16 service that is, is self, you know, clean-up or solve the
17 problem.

18 MR. GIBBS: You referenced a bulk trash removal.
19 Is that a process where you would bring in a, a company to
20 clear out the encampment and all the debris that comes with
21 it?

22 MR. CROCKER: That's correct, yeah. It's
23 typically a dump truck with a large trailer and it gets
24 completely filled-up and hauled away offsite and disposed
25 of.

1 MR. GIBBS: And do you typically need security
2 protection when you go back there to accomplish that?

3 MR. CROCKER: Yeah, that is mandatory and is, is
4 definitely needed, yeah.

5 MR. GIBBS: And, and typically, if you know, when,
6 when the trash company with the police protection or
7 security protection clears out the encampment, how quickly
8 are they back?

9 MR. CROCKER: As soon as possible. You know,
10 we've actually had our property management teams witness
11 these individuals load things into pick-up trucks and haul
12 them offsite and then immediately return and just place them
13 back in, in this area.

14 MR. GIBBS: Do you have an opinion as to whether
15 this trespassing issue has had an impact on the success and
16 viability of the shopping center and the safety of patrons
17 and works?

18 MR. CROCKER: I do and believe it has.

19 MR. GIBBS: Okay. Nothing further from Mr., oh,
20 Mr. Crocker, I do have something else. So, you're, you're
21 aware that the McDonalds restaurant would go in the location
22 where the southernmost building is located onsite today?

23 MR. CROCKER: Yes, I'm aware.

24 MR. GIBBS: Are you aware that a letter was
25 submitted into the record, I guess before noon on Tuesday,

1 authored by State Delegate Deni Taveres and dated October
2 16, 2024?

3 MR. CROCKER: Yes, I'm aware of the letter.

4 MR. GIBBS: Did you read it?

5 MR. CROCKER: I have, yeah.

6 MR. GIBBS: And specifically directing your
7 attention to the last large full paragraph on page 2 in the
8 last sentence of that, of that paragraph, and I will read it
9 to you and quote, "As recently as October 8, the owner of
10 the La Donita, the family-owned restaurant currently onsite,
11 reported that they were unaware that her restaurant was at
12 risk of being replaced by a McDonalds. Did you read that?

13 MR. CROCKER: I did.

14 MR. GIBBS: Is La Donita a restaurant that
15 presently occupies the southernmost building?

16 MR. CROCKER: Yes, they are.

17 MR. GIBBS: Do you have any knowledge as to
18 whether or not that is a correct statement?

19 MR. CROCKER: I do and, yes, it's a correct
20 statement. They occupy the building.

21 MR. GIBBS: And what about the knowledge of the
22 operator of that restaurant as to the McDonalds proposal?

23 MR. CROCKER: As you mean that she was unaware
24 that McDonalds was coming?

25 MR. GIBBS: That's correct. That is correct. And

1 this would be, yes, based upon your knowledge as the
2 property management company.

3 MR. CROCKER: Yeah. So, I guess to answer that
4 question, the genesis of La Donita at the shopping center
5 dates back to, I think, September, November timeframe of
6 2020. There's a former restaurant in that same building. I
7 think it was called Jerk Hill. We had learned that Jerk
8 Hill had not been paying their rent for a number of years
9 and we began to investigate. We learned that La Donita was
10 an illegal subtenant in that building. Shortly thereafter,
11 the owner of Jerk Hill had passed away, the lease was
12 terminated. La Donita expressed an interest to stay.
13 Obviously, this is around the same time the McDonalds
14 development proposal came to light. I believe in November
15 of 2020, we signed a 12-month lease agreement with La Donita
16 and told her we cannot commit to more term because McDonalds
17 is coming and we'll allow you to stay temporarily. You
18 know, that lease expired in October of 2021 and it's been a
19 month-to-month tenancy at a below-market rent and it remains
20 the same today.

21 MR. GIBBS: Thank you very much. Nothing further
22 of Mr. Crocker.

23 CHAIRMAN: Mr. Gibbs, I have questions for Mr.
24 Crocker. My colleagues may as well. Briefly, I'm curious
25 around the, the, with the homeless encampment, what kind of

1 interaction you've had with the police department and with
2 the Department of Social Services, if any, or has this been
3 strictly the properly owner and its agents?

4 MR. CROCKER: Sure. So, our, the Department of
5 Social Services has been onsite. I think Officer Flax can
6 address that question as well. He directly engaged with
7 them. They offered services as an outreach to these
8 individuals and they actually denied it, from my
9 understanding. And like what was the first portion of your
10 question, sorry?

11 CHAIRMAN: Police department.

12 MR. CROCKER: Yeah, the police department is there
13 every day for several hours. They engage with the
14 individuals to clear-out the encampments. They help deter
15 people who are maybe, tell them to get out of the property
16 and, you know, they'll, they'll guide them off premises onto
17 the sidewalk, for instance; but they're very effective at
18 their job. They're very well-known. They're very visible
19 and so, yeah, hopefully that answers your question.

20 CHAIRMAN: Thank you. Thank you for that.
21 Commissioners, any other questions at this point for this
22 witness?

23 (No affirmative response.)

24 CHAIRMAN: No questions. Cross-examination for
25 Mr. Crocker? I'm not sure the order matters, but I have Mr.

1 Wilpers who showed up first on my list.

2 MR. WILPERS: Thank you. For Mr. Crocker, a
3 question about the, you mentioned that the homeless cut down
4 trees to use as firewood. How many trees have been lost to
5 this operation? I've been on the site and didn't really
6 notice stumps, but how many trees have been cut down by the
7 campers?

8 MR. CROCKER: Honestly, I'm not sure of a number
9 to pin to that but, you know, it's --

10 CHAIRMAN: Mr., Mr. Crocker, and this is for all
11 witnesses. If you don't know the answer and you say, I
12 don't know, then you don't know. I mean that's, that's
13 okay, too.

14 MR. CROCKER: I don't know.

15 MR. WILPERS: Okay. Follow-up on that. How many
16 trees were cut down by the owner of the property in a
17 previous, unauthorized clearing of the woodland toward the
18 west side which is sparsely vegetated?

19 CHAIRMAN: Mr. Wilpers, I understand you're trying
20 to make a point. That's not cross-examination. I, I,
21 you'll have the opportunity to make a point if you do around
22 tree loss there, but I don't see how that's a question for
23 Mr. Crocker.

24 MR. WILPERS: All right. I just want to cast some
25 doubt on the, the story he's telling. Number two, how many

1 people on average, homeless on average on a typical night
2 camp in that woodland?

3 MR. CROCKER: Again, I'm not sure about a certain
4 number. I think Officer Flax could point to that question
5 better. I've seen probably 10 to 20 generally speaking.

6 MR. WILPERS: On average you would say on an
7 average night, 10 to 20?

8 MR. CROCKER: Sure.

9 MR. WILPERS: Okay. I've been there a few times
10 and I've only seen two or three, but that's, that's my
11 observation. How many people, you mentioned the loitering
12 problem around the shopping mall in general. I've noticed
13 many, many more people loitering who don't spend the night
14 there. How many people on average are loitering on the
15 curb, at the entrances of the stores and the parking lot
16 back behind by the dumpsters? On average, how many
17 loiterers do you have?

18 MR. CROCKER: Again, I don't know a specific
19 number. I would, I would estimate 10 to 20, a crowd.

20 MR. WILPERS: Uh-huh. Okay. And what would
21 prevent these campers from simply trespassing the pretty
22 dilapidated chain-link fence in the back from just camping
23 on the Green Hill property if this development goes through?

24 MR. CROCKER: I think --

25 CHAIRMAN: Mr., respectfully, Mr. Wilpers, I don't

1 know why that's a question. I understand you're making a
2 point. I don't see that as cross-examination for Mr.
3 Crocker.

4 MR. WILPERS: Okay.

5 CHAIRMAN: Thank you.

6 MR. WILPERS: Thank you.

7 MR. GIBBS: And, Mr. Chair, maybe I just interrupt
8 here and just remind that cross-examination is only to the
9 testimony that the person gives, it's not to other ideas
10 that the person asking the questions might want to ask
11 about. It's only to the testimony the individual gave.

12 CHAIRMAN: Thank you.

13 MR. WILPERS: I did think they, they were relevant
14 to the risk to public safety that the witness has been
15 hammering away at and, therefore, I thought they were
16 relevant to, to examine further. Thank you.

17 CHAIRMAN: I understand. Thank you. If there's
18 no other questions, Mr. Wilpers, we'll turn to Mr. Boado for
19 cross.

20 MR. BOADO: Okay. Hello. This is Alexi again.
21 So, I have a question for the witness that just spoke. If
22 this issue has been going on since 2012, why are you only
23 now asking to cut down these trees?

24 MR. CROCKER: So, I think the, the development
25 proposal with McDonalds came to light and we saw it as an

1 opportunity to eradicate this issue. You know, we've, we've
2 done everything to try to address it in our power. This was
3 a new opportunity that allowed us to further take action on
4 it.

5 MR. BOADO: Okay. I have a follow-up question to
6 that. How do you know that removing trees is going to stop
7 loitering? We have the exact same situation at Aldi and
8 there's not a, not a tree taller than five feet anywhere in
9 that parking lot.

10 MR. CROCKER: I, I don't know that it will stop
11 the loitering.

12 CHAIRMAN: All right. Anything else, Mr. Boado?

13 MR. BOADO: No, sir.

14 CHAIRMAN: Thank you, sir. Mr. Smith, cross-
15 examination.

16 MR. SMITH: Yes, thanks very much. Mr. Crocker, I
17 think you pretty much asserted towards the beginning of your
18 testimony that it was, you were out of options, either the
19 McDonalds goes through or nothing. You're just out of
20 options now. What, what efforts has your, has Willco made
21 to attract other tenants that would not, would not be a
22 high-volume drive-through with those impacts and would not
23 require clear-cutting the remaining woodland on the, on the
24 site? I'm assuming --

25 CHAIRMAN: Mr. Smith, Mr. Smith, respectfully,

1 you're, you're making an argument. That is not what Mr.
2 Crocker --

3 MR. SMITH: Well, I'm asking, I'm asking, I'm
4 asking a question. His assertion was this is the
5 solution --

6 CHAIRMAN: No, he --

7 MR. SMITH: -- to this loitering problem and --

8 CHAIRMAN: -- made it, you disagree --

9 MR. SMITH: -- therefore, and --

10 CHAIRMAN: -- Mr. Smith --

11 MR. SMITH: -- and we don't have --

12 CHAIRMAN: -- stop.

13 MR. SMITH: -- any other options.

14 CHAIRMAN: Mr. Smith, you disagree with him. Hear
15 you loud and clear. Thank you, but that's not cross-
16 examination for Mr. Crocker, though your disagreement is
17 clear on that. Now if you have a question for him based on
18 his testimony, please --

19 MR. SMITH: I did, I did, Mr. Chairman. He made
20 an assertion that was basically McDonalds or bust, they're
21 out of options. And my question was, what other options did
22 they explore? Do they really see no other options to this
23 particular proposal --

24 MR. GIBBS: I, I object.

25 MR. SMITH: -- with these impacts --

1 MR. GIBBS: I object. It's beyond the scope of
2 what the direct testimony was and the comment from the
3 witness was that they saw the, he saw the McDonalds as the
4 opportunity to eradicate the trespassing situation. It had
5 nothing to do with other uses.

6 CHAIRMAN: I, I agree. Mr. Smith, do you have
7 other questions in cross?

8 MR. SMITH: We're good. Thanks.

9 CHAIRMAN: All right. Thank you, sir.

10 MR. BOADO: I have, I have, I have a couple of
11 redirect questions as a result of what was asked.

12 CHAIRMAN: Please.

13 MR. BOADO: Mr., Mr. Croker, relative to questions
14 about how do you know that taking the trees down will help,
15 what role do the trees play today not just in providing
16 camouflage, but in providing opportunities to erect
17 shelters?

18 MR. CROCKER: Sure, so, you know, like I
19 highlighted, they're slinging tarps with ropes between the
20 trees to use as that shelter.

21 MR. BOADO: Okay. So, so, is it correct then to
22 say that there are tarps that, and tarps that are strong and
23 not just tents?

24 MR. CROCKER: Yes.

25 MR. BOADO: Okay. Thank you. No further

1 questions.

2 CHAIRMAN: Thank you. All right. You have other
3 witnesses, I believe, Mr. Gibbs -- oh, wait, there's another
4 hand up. Hold on. Ms. Schweisguth.

5 MS. SCHWEISGUTH: Thank you. Yeah, I just had a
6 quick question again. Michael, Mr. Wilpers was asking about
7 the fence, but I just wanted to clarify, has the property
8 owner, Mr. Crocker, have you, have you tried putting up a
9 fence around the forested area to keep, to prevent the
10 encampments as a way of, you know, have you tried that
11 option already?

12 MR. CROCKER: Yes, we actually were directed to
13 take down a fence that was there because it was thought to
14 be in violation of some P.G. County, I guess, ordinance.

15 CHAIRMAN: All right.

16 MS. SCHWEISGUTH: All right. But, but you, you
17 didn't, you didn't feel that that fence -- yes, there is an
18 ordinance, you have to get a, you have to get approval for,
19 for a fence that's more than, you know, four or six-feet
20 high. It's possible to get fence approval, you know,
21 property owners, we deal with it. It's kind of a headache.
22 I understand. But did you feel that that fence was helping
23 the encampment problem and is it something that you would
24 have wanted to keep and possibly figure out the, the permit
25 situation for that?

1 MR. CROCKER: Sure. If it was in an effort to
2 help deter these individuals from coming onsite, I think it
3 would be for the best.

4 CHAIRMAN: All right. Mr. Smith, you have your
5 hand up again.

6 MR. SMITH: Yeah. I'll try to keep it on-point.
7 I took from your testimony that you think McDonalds is the
8 client that has the resources to do things like provide
9 security and lighting, so that implies they're going to have
10 enough revenue from this outlet to be able to do those
11 things, right? Have they, have they penciled out for you
12 what kind of through-put they need on a daily or annual
13 basis to succeed at this site?

14 MR. GIBBS: Objection.

15 MR. SMITH: How many dollars? How many --

16 MR. GIBBS: Objection.

17 CHAIRMAN: Mr. Smith --

18 MR. GIBBS: (Indiscernible.)

19 CHAIRMAN: Mr. Smith, it's so beyond what he's,
20 what he's asking. I understand you're trying to get at
21 traffic issues. That's not what he's testifying about at
22 all, please. We have, that's actually it for cross on this.
23 Anyone else? You, you are on redirect, Mr. Gibbs, anything
24 else?

25 MR. GIBBS: No, I'm ready to, I'm ready to move on

1 to my next witness and that is Officer Brandon Flax.

2 CHAIRMAN: Okay.

3 MR. GIBBS: I hope, I hope he's --

4 CHAIRMAN: You're been sworn-in, Mr. Flax.

5 MR. GIBBS: -- here. Officer Flax, are you, are
6 you, I did receive a text a while back from Officer Flax
7 saying that he was called into the courtroom because he had
8 been waiting. Officer Flax, are you still with us or --

9 (No affirmative response.)

10 MR. GIBBS: I'm going to have to go out of order.
11 I'm going to assume from the text that Officer Flax is still
12 providing testimony in a trial, but he did, did indicate
13 that he would be back.

14 CHAIRMAN: Okay. Understood. So, keep going.

15 MR. GIBBS: Okay. Yes, my next witness is going
16 to be Mr. Steven Marcus.

17 CHAIRMAN: Mr. Marcus, you've been sworn-in.
18 You're under oath, correct?

19 MR. MARCUS: I have, yes.

20 CHAIRMAN: Okay. Thank you, sir, if you can
21 identify yourself for the record and, Mr. Gibbs, you can
22 manage the process with him, of course.

23 MR. GIBBS: Yes. Thank you very much, Mr.
24 Chairman. Good afternoon, Mr. Marcus. Could you please
25 identify your employment for the Planning Board?

1 MR. MARCUS: First of all, Mr. Chair and members
2 of the Board, my name is Steven Marcus. I am with Global
3 Government Industry Partners. I am in here on behalf of my
4 client, McDonalds.

5 MR. GIBBS: And you indicate that your client was
6 McDonalds, or is McDonalds, and when did that employment
7 start and for what purpose? But, actually, before that,
8 what, what is the business of your company?

9 CHAIRMAN: I'm going to, I'm going to, Mr. Gibbs,
10 I need to interrupt and I apologize. This is for, I got
11 distracted for a second and so, Mr. Marcus, I missed the
12 first 30 seconds of what you said. So, I apologize. And if
13 you, I was multi-tasking. I feel bad. If you could re-
14 introduce yourself just so I, I hear it; and then, Mr.
15 Gibbs, keep going.

16 MR. MARCUS: Sure, sure, no problem. Steven
17 Marcus. I am with Global Government and Industry Partners.
18 And to Mr. Gibbs' question, we are a Government Affairs
19 company located in the District of Columbia.

20 MR. GIBBS: And you indicated that your client was
21 McDonalds Corporation. Did there come a time when McDonalds
22 retained you and your, your company to provide assistance
23 relative to its proposal to locate in the Green Meadows
24 Shopping Center?

25 MR. MARCUS: Yes, we were engaged by McDonalds in

1 July of 2023 to lead the community engagement efforts
2 surrounding this project.

3 MR. GIBBS: And so when you say lead community
4 engagement efforts, just provide a little, a little bit more
5 as to what the involves.

6 MR. MARCUS: Sure. So, we work closely with local
7 and state elected officials, community leaders, neighborhood
8 associations to engage residents and stakeholders. Our
9 outreach involves hosting both virtual and in-person
10 meetings. Those covered five different communities at the
11 suggestion of the --

12 MR. GIBBS: Well, let me, let me, not to interrupt
13 you, but you were explaining what your business includes.
14 Is that what you were retained to do for this particular
15 site?

16 MR. MARCUS: It is. We were retained to
17 specifically lead community engagement efforts and that is
18 based off of, again, engagement with the local community
19 leaders, the elected officials, neighborhood associations
20 associated with, directly associated with this development.

21 MR. GIBBS: And please explain what that involved
22 in this instance.

23 MR. MARCUS: Sure, of course. It involved
24 outreach by hosting both virtual and, again, in-person
25 meetings. And if you would like, I can, you know can tell

1 you on, on where exactly that took place.

2 MR. GIBBS: Yes, please.

3 MR. MARCUS: sure. So, we covered, at the
4 suggestion of, of the elected officials that we spoke with,
5 we covered five different communities specifically,
6 Lewisdale, Green Meadows, Carrole Highlands, Chillum right
7 in Precinct 8.

8 MR. GIBBS: And what did those outreach efforts
9 involve?

10 MR. MARCUS: Sure. Again, they involved hosting
11 virtual meetings. They involved in-person meetings as
12 necessary. At times, with different folks, it involved
13 actually going to the site, taking a look at, at the site
14 and general management of, of feedback from community
15 members, elected officials, and others involved in, in, in
16 the project.

17 MR. GIBBS: Okay. And you, you had meetings that
18 involved all of those organizations in this case?

19 MR. MARCUS: We did. We, we had individual
20 meetings with each community mentioned, with the leadership,
21 as well as with the communities as a whole; and then we also
22 had large meetings involving all of the, the five
23 communities that we mentioned in, in one large community,
24 community meeting as well.

25 MR. GIBBS: And what were the results of, of your

1 outreach efforts? First of all, did that involve explaining
2 the McDonalds proposal to locate in the Green Meadows
3 Shopping Center?

4 MR. MARCUS: It did. Well, it, it involved, in
5 partnership with members of the McDonalds team actually
6 going over the Site Plan and actually talking about the
7 development as you've seen; but, yes, it involved
8 coordination with the McDonalds team to discuss the whole
9 development.

10 MR. GIBBS: And let me ask you another question.
11 As a result of, of those meetings, was the issue of the
12 trespassing encampment raised as a concern?

13 MR. MARCUS: It was. It was specifically raised,
14 particularly around the existing shopping center property
15 specifically. It was, it was absolutely an issue that we
16 documented and communicated back to McDonalds.

17 MR. GIBBS: Okay. And I'm assuming there were
18 other larger issues raised as well for your consideration,
19 is that correct?

20 MR. MARCUS: That is correct.

21 MR. GIBBS: Okay. And if you could just briefly
22 summarize those because they're typical?

23 MR. MARCUS: Sure. We received feedback related
24 to traffic safety and crime, mostly those were the three
25 larger, some concerns that were raised on both sides, both

1 from those that expressed support and those that were
2 opposed to, to the project.

3 MR. GIBBS: And did you, as a result of those
4 meetings, did you do any mailers or fliers to encourage
5 responses?

6 MR. MARCUS: Yeah, we did. We, we sent out
7 fliers. We also posted fliers around in different locations
8 around the community. We, we, again, mailed flowers,
9 fliers, I'm sorry, and emails, obviously, and collected
10 information. I had a dedicated email address for any
11 questions or concerns that were, that were raised as well.

12 MR. GIBBS: You're aware that there were
13 approximately 10 letters of support entered into the record
14 by the applicant. Were those, are you, are, first, are you
15 aware of those and were they letters that you received as a
16 result of your community outreach?

17 MR. MARCUS: I am aware. I can attest to, I
18 believe it was 10 or so letters of support that were either
19 directly received through our inbox or that went directly
20 to, to people associated with this project.

21 MR. GIBBS: And did you receive any correspondence
22 expressing opposition?

23 MR. MARCUS: I did not receive any letters of
24 opposition directed towards this project.

25 MR. GIBBS: No further questions.

1 CHAIRMAN: Commissioners, questions for Mr.
2 Marcus?

3 (No affirmative response.)

4 CHAIRMAN: No questions. Hold on one sec. All
5 right. We do have some cross. Mr. Smith.

6 MR. SMITH: Thank you. Mr. Marcus, are materials
7 that you presented to these community groups and are the
8 fliers that you mailed out, are they in the record for us to
9 see?

10 MR. MARCUS: I would have to defer to the
11 McDonalds team representation on what was submitted to the
12 record.

13 MR. SMITH: Okay. I don't know isn't a good
14 answer, too. Are the attendance lists from these any of
15 these meetings, are they available on the record?

16 MR. MARCUS: Again, I would have to defer to the
17 McDonalds team, representation, for what has been submitted
18 to the record. That was outside of the work that our --

19 MR. SMITH: Right. So, you said you, you're aware
20 of, I guess, 10 letters of support received from the
21 community sent to you, sent to your company, I guess?

22 MR. MARCUS: There were some that were sent
23 directly to me, correct. There were also some that were,
24 that were received by others.

25 MR. SMITH: Which others?

1 MR. MARCUS: I said by others. I, I'm, it, it,
2 it's a very, various other folks that received letters. I
3 believe some went to the councilmembers; I think some went
4 to McDonalds directly. They didn't all directly come to me.

5 MR. SMITH: Okay. Are you aware of the fact that
6 there are dozens of letters submitted to the record from
7 individual residents, but also from Carole Highlands,
8 Friends of Sligo Creek?

9 CHAIRMAN: Mr. Smith, Mr. Smith, that's not what
10 he's testifying to. You can make that point elsewhere, Mr.
11 Smith.

12 MR. SMITH: I, Mr. Shapiro --

13 CHAIRMAN: This is cross-examination.

14 MR. SMITH: -- Mr. Shapiro, you allowed Mr. Gibbs
15 to put, put, put the --

16 CHAIRMAN: You are not the Applicant, Mr. Smith.
17 He is directly this witness. You are on cross-examination.

18 MR. SMITH: Right and he, and he testified --

19 CHAIRMAN: (Indiscernible.)

20 MR. SMITH: -- you have letters of support. I'm
21 asking if he's aware of the letters of opposition, including
22 from one of the civic associations with which he said he
23 engaged, Carole Highlands --

24 CHAIRMAN: We are --

25 MR. SMITH: -- specifically --

1 CHAIRMAN: -- we are aware of that. We have those
2 in the record. Why does Mr. Marcus need to tell you what we
3 already know?

4 MR. SMITH: All right. I asked, I asked and not
5 answered. Thank you. Mr., and so, and so, Mr. Marcus, this
6 is directly on point, Mr. Shapiro, Mr. Marcus testified on
7 direct that one of the major issues that was raised by the,
8 by folks in the community were, were traffic, impacts on --

9 MR. GIBBS: Objection. Objection. The witness
10 did not classify it as a major issues. He said there were a
11 number of issues that were discussed.

12 MR. SMITH: There was one, three issues he said
13 were raised.

14 MR. GIBBS: He did not classify it as a major
15 issue. He said it was a theme.

16 CHAIRMAN: Mr. Smith, go ahead.

17 MR. SMITH: Yeah, sorry, thank you. So, it was
18 raised, maybe it was a minor issue, maybe it was as major
19 issue. How did McDonalds respond to those concerns raised
20 by residents regarding traffic safety and congestion at this
21 area? How did you, how did you or your client respond?
22 What actions --

23 MR. GIBBS: Again --

24 MR. MARCUS: Our responsibility in engagement was
25 to collect information whether opposed or, or in support of

1 and communicate that over to the client, and that's what we
2 did.

3 CHAIRMAN: So, it sounds like, Mr. Marcus, the
4 answer on that one would be you don't know.

5 MR. MARCUS: I, I, I don't know how they
6 responded, correct.

7 CHAIRMAN: All right. Thank you.

8 MR. SMITH: Thank you. That's it. Thank you.

9 CHAIRMAN: Thank you, Mr. Smith. Mr. Boado?

10 MR. BOADO: Hello, Mr. Marcus. During any of your
11 community webinars that you, that you folks put on on behalf
12 of McDonalds Corporation, did any of the folks attending
13 speak out against this proposed development?

14 MR. MARCUS: Yes, there were folks that were, that
15 were opposed to the development, correct.

16 MR. BOADO: Okay. Thank you so much.

17 CHAIRMAN: Thank you, Mr. Boado. No further cross
18 on this. No questions from Commissioners. I'll turn back
19 to you, Mr. Gibbs. Do you have additional witnesses?

20 MR. GIBBS: Yes, I do. Mr., first of all, is
21 Officer Flax back with us yet?

22 (No affirmative response.)

23 MR. GIBBS: Okay. I'll continue to move on. I
24 would like to have testimony presented at this time from Mr.
25 Brian Redder of McDonalds Corporation.

1 CHAIRMAN: Mr. Redder, you were sworn-in?

2 MR. REDDER: Yes, sir.

3 CHAIRMAN: All right. Thank you, sir. Mr. Gibbs,
4 you can manage the process as with the other witnesses?

5 MR. GIBBS: Yeah, thank you very much. Mr.
6 Redder, could you please explain to us your employment?

7 MR. REDDER: Yes, first, good afternoon, Mr. Chair
8 and members of the Board. My name is Brian Redder for
9 McDonalds USA, LLC, as the construction manager responsible
10 for new construction in the Bethesda Field Office.

11 MR. GIBBS: And have you been involved in the
12 proposed location of a McDonalds in the Green Meadows
13 Shopping Center?

14 MR. REDDER: Yes, I transitioned to the McDonalds
15 Bethesda Field Office Team in November of '21 and joined
16 the, this Hyattsville site project team working through
17 entitlements in 2022.

18 MR. GIBBS: Thank you. And so, you are directly
19 responsible for the entitlements which are before the
20 Planning Board today, namely, the departure, the Detailed
21 Site Plan application and the Departure from Design
22 Standards, is that correct?

23 MR. REDDER: Yes, that is correct.

24 MR. GIBBS: Now could you, you were here for the
25 testimony of Mr. Marcus directly preceding your testimony,

1 is that correct?

2 MR. REDDER: Yes, that is correct.

3 MR. GIBBS: And you are aware that he was, in
4 fact, engaged by McDonalds Corporation to conduct community
5 outreach?

6 MR. REDDER: Yes, that is correct.

7 MR. GIBBS: Now Mr. Marcus testified that his
8 employ by McDonalds in that effort commenced in July of
9 2023. Is that when the McDonalds community outreach efforts
10 began?

11 MR. REDDER: No, I think McDonalds has been
12 working with the Green Meadows Shopping Center ownership
13 since 2020, as Mr. Crocker alluded to, and I believe the
14 engagements with the community began somewhere in 2021, '22.

15 MR. GIBBS: Okay. Thank you very much. And if
16 you could please explain to the Planning Board exactly what
17 your thought process was when you became aware of the
18 difficulty with the trespassers who were camping behind the
19 center and how you came to the conclusion to request that
20 the trees be taken down?

21 MR. REDDER: Sure. So, as I noted, we've been
22 working with the shopping center ownership to try and, and
23 develop a plan or strategy to, to help revitalize this site
24 through redevelopment. During this lengthy process, our
25 team is, you know, we strive to be inclusive of our

1 community partners in the lawful pursuit to obtain this DSP
2 approval. So, back in 2022, March of 2022, I believe, and
3 that's before I joined the team, there were some community
4 engagement efforts that included onsite meetings, some
5 virtual meetings and we engaged Steven Marcus and his team
6 in July of '23 and those engagement efforts went through
7 likely November of '23. We contacted the appropriate
8 County, local and state officials who recommended us to
9 engage the communities, as Mr. Marcus noted, Lewisdale,
10 Green Meadows, Carole Highlands, Chillum Ray and Chillum 8th
11 District, or precinct. Two GIPs led those efforts. I was
12 involved in some of those virtual meetings. They were
13 townhall-style meetings. We provided a presentation. We
14 had a question and answer prior for any questions that were
15 asked that we did not have answers to. We went back, talked
16 to our internal team and, and other consultants and
17 determined that based on the feedback analysis from those
18 meetings, trespassers at the center, patron safety, security
19 personnel presence, and the pedestrian access to the site,
20 and the existing congestion on Ager Road and 410, that the
21 best method for us would be to, to address all of those
22 items on our Detailed Site Plan, would be to try and, and
23 eliminate some of the tree coverage at the back of the site.

24 MR. GIBBS: Now was it McDonalds' desire just to
25 take down trees, to take down trees, or was that an effort

1 to, to bring about a situation where the trespassing
2 encampment would no longer occur?

3 MR. REDDER: Our original, I guess, concept plan
4 for the site only had a minor removal of trees. That wasn't
5 our intent. I think we had originally included a pretty
6 significant retaining wall at the backside of that shopping
7 center; but then there was concern voiced by stakeholders
8 that that retaining wall could potentially enhance the
9 coverage of those, those trespasser encampments at the back
10 of the shopping center.

11 MR. GIBBS: Okay. And so, how did you arrive at
12 the solution to propose taking down the trees?

13 MR. REDDER: So, that was ultimately through our,
14 our community engagement efforts, the several virtual
15 meetings and onsite meetings that we had with, earlier this
16 year with Officer Flax and the Park and Planning Staff, and
17 the property ownership, we all observed trespassers in the
18 site. We observed some of the tents and tarps that were,
19 that were being utilized in that treelined area. So, you
20 know, based on all of the, the data that we collected from
21 our community engagement meetings, we determined that the
22 best way to address those concerns and continue to be our
23 community, you know, partner would be to remove some of
24 that, place it with appropriate landscaping, low-growth
25 plantings, things of that nature, add some LED lighting to

1 the building, proposed building and site and, and those
2 would be the, the best options for us to, you know, help to
3 alleviate that trespasser problem.

4 MR. GIBBS: Now, thank you. In addition to that
5 undertaking, you were here, I assume, for the testimony of
6 Mr. Crocker preceding you?

7 MR. REDDER: Yes, sir.

8 MR. GIBBS: And you heard his testimony relative
9 to security measures which ownership has undertaken, did you
10 not?

11 MR. REDDER: Yes, sir, I did.

12 MR. GIBBS: Has McDonalds made any commitment to
13 assist in increasing the level of security?

14 MR. REDDER: Yes. McDonalds is, you know, while,
15 while we will be looking to franchise this particular
16 location, McDonalds will remain involved to ensure that that
17 franchisee meets all of the requirements operationally of
18 this development; and, and we have committed to contributing
19 to the existing private security presence that the shopping
20 center ownership has already engaged.

21 MR. GIBBS: Thank you. And do, do you have any
22 plans relative to how the new McDonalds would be staffed
23 from an employment standpoint?

24 MR. REDDER: Yeah, typically, McDonalds is, is
25 truly committed to DEI and community partnership. So, there

1 will be absolutely be a job fair to fill the approximately,
2 you know, 40 to 50 new jobs that this restaurant will
3 create; and, of course, there will be other local
4 construction jobs that will be generated as well.

5 MR. GIBBS: Thank you very much. No further
6 questions of Mr. Redder.

7 CHAIRMAN: Thank you, Mr. Gibbs. Thank you, Mr.
8 Redder. Commissioners first, any questions for Mr. Redder?

9 (No affirmative response.)

10 CHAIRMAN: No questions? We'll go to cross-
11 examination.

12 COMMISSIONER GERALDO: I have one question.

13 CHAIRMAN: Dare I say I want to --

14 COMMISSIONER GERALDO: Mr. Chair, I have, so I
15 have one question.

16 CHAIRMAN: Oh, I'm sorry, Commissioner Geraldo,
17 yes?

18 COMMISSIONER GERALDO: Oh, that's okay. I had, I
19 was on, on mute. The question I have, who were the
20 stakeholders who, who opposed the wall, the retaining wall
21 that you proposed initially?

22 MR. REDDER: The stakeholders who opposed the, no,
23 it wasn't necessarily an opposition to a wall, it was a
24 concern that the wall would create additional coverage for
25 the already existing trespasser encampment.

1 COMMISSIONER GERALDO: But initially, if I'm
2 correct, initially you, it was your view, or your opinion as
3 the builder or the contractor, that the retaining wall would
4 solve the problem?

5 MR. REDDER: No, the retaining wall was necessary
6 for some of the grading issues that we had at the site. We
7 were trying to limit our amount of disturbance using the
8 retaining wall.

9 COMMISSIONER GERALDO: So, the restaurant could
10 have been built just with the retaining wall and retaining
11 the trees?

12 MR. REDDER: No, I think there was still, there
13 was always going to be some level of tree removal with this
14 development.

15 COMMISSIONER GERALDO: Okay. Nothing further.

16 CHAIRMAN: Thank you, Commissioner. So, we're on
17 cross-examination. Again, I'm going to be repetitive, but
18 this is cross-examination, not conclusory, not
19 argumentative, just if you have, if you, there's some
20 information that you need on cross, now is the time. We'll
21 go in the order I have. Mr. Smith, start with you. I have
22 Mr. Smith, I has Ms. Entzminger and then Mr. Boado. Mr.
23 Smith, are you there? We'll come back if --

24 MR. SMITH: No, I am here. Yeah, I was, I was
25 trying to, I'm sorry, I was on mute. I was trying to say

1 that if we, I've crossed already, if Lisa would like to
2 cross, and then, oh, actually, I'm happy to go after them.
3 They may ask questions I already, I have in mind.

4 CHAIRMAN: Thank you, sir. Ms. Entzminger?

5 MS. ENTZMINGER: Mr. Redder, you testified that
6 you engaged the Carole Highlands Neighborhood Association or
7 the Carole Highlands neighborhood, and I'm just wondering if
8 you could clarify who and how did you engage with that
9 specific community?

10 CHAIRMAN: Can I just say without being flip,
11 that's cross-examination. Thank you, Ms. Entzminger.

12 MR. REDDER: Yes, we did, the Carole Highlands
13 community was included on one of our several virtual
14 meetings and I do have a name and email address for the
15 community leader, I believe his name was Jason Clayton. We
16 had questions from him that we provided responses to at
17 follow-up meetings.

18 MS. ENTZMINGER: However, when you initially
19 engaged, did you reach out to Jason and ask for a meeting
20 with the community?

21 MR. REDDER: Honestly, I don't know exactly who
22 the initial contact person was for that engagement. I know
23 we reached out to several, as Mr. Marcus testified, we had
24 several mailings and poster campaigns to try and engage the
25 community in the different neighborhoods. So, I don't know

1 the exact contact.

2 MS. ENTZMINGER: Okay. And then one, one more
3 question. Regarding the mailings, how did, who, well, I
4 guess, were the mailings, was it a physical mailing where
5 you actually mailed a letter out to, to community members
6 and who did you send those to and how did you determine who
7 would receive them?

8 MR. REDDER: I will attempt to answer this
9 question. Once again, Mr. Marcus and his team were, were
10 charged with leading that effort; but, essentially, we would
11 look at the, I would assume, the zip codes, come up with
12 mailing lists and it was a flier to indicate the different
13 dates and times for the virtual meetings and the process
14 for, you know, this DSP approval.

15 MS. ENTZMINGER: Okay. Thank you.

16 CHAIRMAN: Thank you, Ms. Entzminger. Mr. Boado.

17 MR. BOADO: Hello, Mr. Redder, a quick question
18 for you. If this McDonalds were to be built as you, as you
19 intend, and I wanted to stop there and use the bathroom
20 without buying anything, would you stop me from doing so?

21 MR. REDDER: I probably wouldn't be there
22 personally, but I, I don't know that it is any of our owner-
23 operator franchisee's policy to stop someone who needs to
24 use the restroom if that's truly what they're going to do.

25 MR. BOADO: Great. Thank you so much.

1 CHAIRMAN: Thank you, Mr. Boado. Ms. Schweisguth
2 and then Mr. Wilpers.

3 MS. SCHWEISGUTH: Thank you. I just wanted to
4 understand how, how McDonalds is applying its sustainability
5 orientation of, particularly with considering the trees. I
6 understand that McDonalds has zero deforestation goal for
7 its supply chain. I'm just wondering how you, how you apply
8 those same considerations to your development. Thank you.

9 MR. GIBBS: Objection. Beyond the scope.

10 CHAIRMAN: Yeah, I'm, I'm sorry, Ms. Schweisguth,
11 that wasn't part of what Mr. Redder had testified about.

12 MS. SCHWEISGUTH: Thank you.

13 CHAIRMAN: Thank you. Mr. Wilpers.

14 MR. WILPERS: My question might be disqualified
15 also, but I was going to ask if Mr. Redder has, in your
16 capacity of designing and carrying out construction of
17 McDonalds, are you guided by McDonalds overall, are there
18 overall McDonalds policies that stress prioritizing taking
19 the climate and biodiversity crisis into account using green
20 infrastructure, avoiding the heat islands? Are the
21 construction guidelines that you operate under, do they
22 stress those factors?

23 MR. GIBBS: Objection. Same basis.

24 CHAIRMAN: Yeah, I would say, Mr. Wilpers, first
25 of all, I'd say that's a great question, it's just not

1 relevant for cross. That's not what Mr. Redder was
2 testifying about, but I do appreciate it. Are there any
3 questions on cross? Mr. Smith?

4 MR. SMITH: Yeah, thank you. Mr. Redder, thanks
5 for appearing today. You mentioned that these, all this
6 outreach, and so did Mr. Marcus. How much of this outreach
7 was, was done in Spanish?

8 MR. REDDER: To my knowledge, we did not have a, a
9 Spanish-speaking engagement reading.

10 MR. SMITH: Okay. Well, you, you, you testified
11 the McDonalds is committed to DEI and this community dials-
12 up very high as people of color and --

13 MR. GIBBS: Objection. Objection. That's
14 testimony.

15 CHAIRMAN: Yeah, Mr. Smith --

16 MR. SMITH: Of course --

17 CHAIRMAN: -- your question --

18 MR. SMITH: Okay.

19 CHAIRMAN: The question asked and answered.

20 MR. SMITH: Okay. Thank, thank you very much.

21 This community is one of the, residential community is
22 apartments, rental apartments. What efforts did McDonalds
23 make to reach, reach into those communities directly? How
24 did you reach the residents that surround this site?

25 MR. REDDER: I, I'm, I'm, if you could clarify

1 that question, Mr. Smith? I do, we did the mailers. We did
2 the --

3 MR. SMITH: All right.

4 MR. REDDER: -- postings in the neighborhood
5 surrounding the site.

6 MR. SMITH: Uh-huh.

7 MR. REDDER: So, I don't know what, what other
8 efforts --

9 MR. SMITH: Well, at, at the risk of testifying,
10 often, often the outreach for projects is done to the owners
11 of or the property managers of apartment buildings or
12 condos, not necessarily to the residents. So, what we've
13 seen is there's no guarantee the renters receive any notice
14 of a project that may be built in their community. It's
15 just an experience we've had. So, I was wondering what
16 efforts you made to ensure that the folks who live in that
17 community who may have raised some, some of these
18 concerns --

19 CHAIRMAN: Mr. Smith --

20 MR. SMITH: -- or may have concerns if they had
21 known?

22 CHAIRMAN: I believe he's answered the question.
23 You may not find it satisfactory, but I believe his answer
24 to the question, they did mailings, fliers.

25 MR. SMITH: Okay. You read my mind, not

1 satisfactory. So, going back to his testimony, Mr. Redder,
2 you testified that among the, the concerns that were raised
3 by residents and, Mr. Gibbs, you, you can feel free to
4 object just to whether it's major or minor, but among the
5 concerns, and you raised just a few concerns, were
6 congestion and pedestrian safety.

7 MR. GIBBS: Mr. Chairman, I don't believe Mr.
8 Redder testified to that. I believe Mr. Marcus --

9 MR. SMITH: He absolutely did. I wrote it down as
10 he did, Mr. Gibbs.

11 MR. GIBBS: No, he, he -- Mr. Chairman, I'm not
12 going to engage in an argument with Mr. Smith, but Mr.
13 Redder referenced East-West Highway, but he didn't reference
14 persons as raising that issue in my recollection. Mr., Mr.
15 Marcus -

16 MR. SMITH: My, my -- Mr. Gibbs, your --

17 CHAIRMAN: Mr. Smith --

18 MR. SMITH: -- objection.

19 CHAIRMAN: -- Mr. Smith, I need you to -- Mr.
20 Smith, I need you to direct questions through me and not
21 directly engage Mr. Gibbs in that way, okay? I would
22 appreciate that.

23 MR. SMITH: So, so, I'd like to get to my
24 question. Mr. Redder did specifically say that among the
25 concerns raised during community engagement and at these

1 meetings were congestion and pedestrian safety; and I said
2 that, that McDonalds somehow concluded that removing the
3 trees would address concerns raised by the community.
4 That's what he said. I don't have a report.

5 CHAIRMAN: Okay.

6 MR. SMITH: Again, I have my notes.

7 CHAIRMAN: Do you have a question for him?

8 MR. SMITH: Yeah. So, my, yeah, my question is
9 twofold. What actions has McDonalds taken or proposed in
10 its planning to address those, those concerns, congestion
11 and pedestrian safety; and also, how do you conclude that
12 clearing the remaining forest on the site is what helps to
13 address those issues?

14 MR. REDDER: And I'll say, respectfully, Mr.
15 Smith, East-West Highway and Ager Road are state-owned
16 roadways, I believe, and that's under the jurisdiction of
17 MDOT SHA. So, McDonalds has no authority to do any change
18 to the roadway lights, you know, all of the pedestrian
19 safety action plan that SHA has out. McDonalds is in full
20 support and we are looking to align this Detailed Site Plan
21 with whatever those, you know, improvements and safety
22 measures may be. We reached out to MDOT SHA. They provided
23 some feedback as to what we would need to do for our
24 Detailed Site Plan ingress and egress, and we by all means
25 intend to follow the requirements of MDOT SHA.

1 Your second point, I believe it was about removing
2 the trees, the removing of the trees is the safety measures
3 that community members in opposition and in favor all
4 indicated during our meetings, meetings at which I did
5 attend and help facilitate. So, we've heard the community.
6 We were told to reach out to the community. We brought back
7 the community concerns which led to us saying we can try and
8 expand our development scope to address those concerns with
9 the trespassers and the tree line. Anything outside of our
10 site plan we don't have control of, but we're always willing
11 to, and always will, adhere to any technical requirements
12 that are, that are necessary.

13 MR. SMITH: So, a quick follow-up question to what
14 Mr. Redder just said. Sir, during any of these meetings,
15 did, did folks in the community raise concerns about the
16 volume of traffic that this project, the impacts that volume
17 of traffic might have on local congestion and safety?

18 MR. REDDER: Obviously --

19 MR. SMITH: And if so, how did you, and if so, how
20 did you address it? We understand that these are state-
21 owned roads.

22 CHAIRMAN: Mr. Smith, I, I'm, I'm going to
23 interrupt. Mr. Smith, I am, I, this is, this is no longer
24 cross. I mean so let's, let's move on. He didn't bring
25 this up. I understand the point you're trying to make.

1 This is not what Mr. Redder was testifying to and he's
2 always answered your question related to his approach to the
3 State Highway. So, are there other cross-examination
4 questions? Mr. Smith, if nothing from you, Mr. Wilpers, you
5 have your hand up?

6 MR. WARNER: Chair Shapiro, David Warner. Can I
7 just interrupt real quickly?

8 CHAIRMAN: Please.

9 MR. WARNER: Not to break the flow, but I just
10 want to remind everybody that you ask one question at a
11 time. You can't ask compound questions with, you know,
12 three different questions. So, must make it one question at
13 a time and as many questions as you want, but one at a time,
14 just let them answer, and then proceed.

15 CHAIRMAN: Thank you, Mr. Warner. That's helpful.
16 I appreciate that. Mr. Wilpers.

17 MR. WILPERS: I, I just wanted to rephrase my
18 earlier question to hopefully, to make it acceptable. Mr.
19 Redder, when you were evaluating the competing interest in
20 the retaining wall and keeping the woodland versus cutting
21 down the woodland, how did you balance or take into account
22 McDonalds' commitment, of course, to public safety and maybe
23 addressing socioeconomic problems like homelessness on the
24 one hand; and the corporation's, you know, commitment to
25 sustainability on the other hand? How, how, how did you and

1 your team evaluate those two considerations in making your
2 decision to abandon the retaining wall idea and to cut down
3 the forest which, of course, obviously, is the decision you
4 made?

5 MR. GIBBS: Objection. The, the witness made
6 clear that the wall had nothing to do with taking the trees
7 down. The wall was going to be installed per the witness in
8 order to avoid unnecessary grading of the steep slope from
9 behind this site up to the Green Hill Seminary. Therefore,
10 that is what that purpose -- it had nothing to do with
11 evaluation of trees. What he testified to is that he was
12 told that the wall would provide --

13 MR. WARNER: Mr. Gibbs, I had to, I don't want to
14 interrupt you here.

15 MR. GIBBS: Well, but I, but I mean --

16 MR. WARNER: You're trying to restate what, what
17 he said. He can answer that question.

18 MR. GIBBS: He, and he, he did testify to that,
19 Mr. Warner. He said it had nothing to do with taking the
20 trees down. He --

21 MR. WARNER: Well, he can, he can answer that.

22 MR. GIBBS: That's fine. That's fine. That's
23 fine.

24 MR. WARNER: I mean --

25 CHAIRMAN: Mr. Redder --

1 MR. WARNER: -- you know --

2 MR. REDDER: To answer the question, the retaining
3 wall was for grading purposes, not directly by, to tree
4 removal.

5 CHAIRMAN: Thank you. All right, Mr. Wilpers. Do
6 we have any other on cross? I have folks out there. I
7 don't see them anymore. So, Mr. Boado, yes?

8 MR. BOADO: Yes, very quick. Mr. Redder, you
9 testified that McDonalds Corporation is committed to DEI and
10 that you've been doing outreach for about three years now,
11 is that correct?

12 MR. REDDER: That is probably starting in March of
13 2022, so a little, a little over two years.

14 MR. BOADO: Okay. Has anyone bothered to walk
15 over to Ms. Dora Perez, owner of La Donita, and tell her
16 that her store is going to be demolished to make room for
17 your McDonalds?

18 MR. GIBBS: Objection. That's been answered by
19 another witness.

20 CHAIRMAN: Agreed. We, we heard that Mr. Boado.
21 It was responded to by --

22 MR. BOADO: No, no, no, no, no, no.

23 CHAIRMAN: -- representative of the Applicant.

24 MR. BOADO: I'm asking, I'm asking Mr. Redder if
25 anyone from his office went to talk to her.

1 CHAIRMAN: Mr. Redder, did anyone from your office
2 talk to her?

3 MR. REDDER: No.

4 CHAIRMAN: Okay. Thank you. Other raised hands?
5 That's it? All right. Mr. Gibbs.

6 MR. GIBBS: Yes.

7 CHAIRMAN: You know, I, folks, process point, too.
8 We've been going on for a good chunk of time. It's 1:15.
9 I'm going to want to take a break in here. I want to find
10 the right time to take a break. I'm inclined to take the
11 break after, Mr. Gibbs, after you've gone through your
12 witnesses and we've finished any cross with that and before
13 we get to testimony from opposition. Will that work for
14 you? And folks in opposition, it's going to work for you as
15 well? I think that's going to, probably the best time for a
16 half-hour break?

17 (No affirmative response.)

18 CHAIRMAN: No opposition, no cross of me. Mr.
19 Gibbs, keep going.

20 MR. GIBBS: Thanks. I'm asking, once again, if
21 Officer Flax has gotten back from court?

22 (No affirmative response.)

23 MR. GIBBS: Okay. Nicholas Speech.

24 CHAIRMAN: Mr. Speech, you've been sworn-in,
25 correct?

1 MR. SPEECH: I have been.

2 CHAIRMAN: Okay. All right. Mr. Gibbs, turn to
3 you.

4 MR. GIBBS: Thank you. Mr. Speech, please state
5 your name and your business address.

6 MR. SPEECH: Nicholas Speech. I'm a licensed
7 civil engineer with Bohler Engineering. The business
8 address is 16701 Melford Boulevard, Suite 430, in Bowie,
9 Maryland 20715.

10 MR. GIBBS: Thank you.

11 CHAIRMAN: Mr. Speech, you're a little soft for
12 me. If it's possible to get closer to the mike or speak up
13 a bit?

14 MR. SPEECH: Sure think.

15 CHAIRMAN: That's perfect. That's very helpful.

16 MR. SPEECH: No problem.

17 MR. GIBBS: Mr., Mr. Chairman, I can go through
18 the qualifying questions to, for Mr. Speech, but he's been
19 accepted as an expert in the field of civil engineering on
20 numerous occasions before this Board and before the Zoning
21 Hearing Examiner of the County Council. I'd offer his
22 qualifications.

23 CHAIRMAN: That's acceptable to me, unless there's
24 any objection from any of my colleagues?

25 (No affirmative response.)

1 CHAIRMAN: Okay.

2 MR. GIBBS: Thank you very much. Yes, Mr. Speech,
3 have you and your firm been retained as the civil
4 engineering firm on behalf of McDonalds in pursuing these
5 applications?

6 MR. SPEECH: We have.

7 MR. GIBBS: And were you both from a supervisory
8 standpoint and directly involved in preparation and review
9 of plans before they were submittal and revisions of those
10 plans after submittal?

11 MR. SPEECH: Yes, including Detailed Site Plan and
12 the Landscape Plan portion of that, natural resources
13 inventory and the TCP2.

14 MR. GIBBS: And if you could for the Planning
15 Board and all of those assembled, explain the plans that you
16 compiled and filed in this application?

17 MR. SPEECH: Sure. As I mentioned, we were
18 involved in the Detailed Site Plan, the landscape portion of
19 that, the NRI and the TCP2 showing the McDonalds portion of
20 the demolition of the existing southern end of the site; and
21 then the subsequent renderings and other exhibits that were
22 submitted for, for practical purposes.

23 MR. GIBBS: Okay. And, therefore, you were
24 involved in determining and working with McDonalds to locate
25 the building onsite and other associated elements of the

1 plan, including parking compound, drive-through lanes,
2 circulation onsite, et cetera?

3 MR. SPEECH: That is correct.

4 MR. GIBBS: And did you also, through your firm,
5 prepare a turning exhibit for onsite circulation?

6 MR. SPEECH: We did for both loading vehicles that
7 will deliver goods to the site, as well as trash vehicles,
8 making sure that everything can circulate the site safely,
9 enter, exit and access the various (indiscernible), the
10 needed daily action.

11 MR. GIBBS: And, again, recognizing that by virtue
12 of having a departure from design standards, you were not
13 proposing to install a 4.7 buffer per the Landscape Manual
14 at the rear of the center? Beyond that, do you have an
15 opinion as to whether the balance of the site has been
16 designed and presented in conformance with all applicable
17 ordinance and regulatory requirements?

18 MR. SPEECH: Yeah, I, I do believe in my opinion
19 that the site was put together outside of the 4.7 landscape
20 buffer, as you mentioned, to confirm with all the applicable
21 codes and requirements.

22 MR. GIBBS: And do you have an opinion as to
23 whether the layout presents a situation which is safe and
24 efficient for motorists and for pedestrians?

25 MR. SPEECH: I certainly do.

1 MR. GIBBS: Now you have been here for all the
2 testimony before yours, is that correct?

3 MR. SPEECH: That is correct.

4 MR. GIBBS: And you are also familiar with the
5 issue associated with the trespassers and the encampment
6 behind the shopping center?

7 MR. SPEECH: Very much so.

8 MR. GIBBS: Now as a result, as a result of that,
9 and as a result of the departure to take down the trees,
10 were you involved in preparing another planting plan if the
11 trees are allowed to be taken down?

12 MR. SPEECH: Yes.

13 MR. GIBBS: And could you explain what that is?

14 MR. SPEECH: Sure. So, the intent was to, to
15 create a steeper slope meeting still code requirements, no
16 steeper than three to one grade; and in that sloped area to
17 put in a mixture of, we'll call it thorny plants, that's not
18 a technical term, but a mix of variegated Adam's Needles,
19 American Holly and then sort of another mix between ground
20 covering of either river rock, rip rap, or boulders to, to
21 create a non-inviting and low-covering area that will not
22 screen pedestrians.

23 MR. GIBBS: And did, did you, in fact, work with
24 and, and speak with Staff at the Park and Planning
25 Commission as you were preparing that, that planting plan?

1 MR. SPEECH: Multiple times and it was actually
2 very productive. The Staff was great through that.
3 Together we came up with this plan to, to use this non-
4 inviting material; but also make it quite attractive.

5 MR. GIBBS: And of the trees that are being taken
6 down, are any of those trees specimen trees or champion
7 trees?

8 MR. SPEECH: Basically approved NRI, they are not.

9 MR. GIBBS: Did you also, at the request of Staff,
10 become involved in preparation of a line of sight study in
11 terms of what could be seen by the Green Hill Seminary, or
12 vice versa, with the visibility of the Seminary was in the
13 after-development proposal by McDonalds; and if so, did you
14 explain what you did and what the result was?

15 MR. SPEECH: Sure. And I think Staff did a great
16 job going kind of, their rendering of what that looks like
17 post-construction, or what, what it would look like, rather.
18 What we put together separately, which was entered into the
19 record, is a, a 3-D cross-section, if you will, showing how
20 the site, our site and the McDonalds building sits; and as
21 it relates to the, the Green Hill property, basically, as,
22 as Staff mentioned, there is about at least a 10-foot
23 difference between where the building is situated for the
24 McDonalds and the drive-through and the property line itself
25 behind it; and then further beyond that, as you can see on

1 the screen here, the Green Hill property continues to rise.
2 So, that 10-foot difference becomes even larger as it gets
3 closer inland.

4 MR. GIBBS: And so, did, do you have an opinion as
5 to the impact of taking the trees down and the construction
6 of the McDonalds restaurant, what that would have, whether
7 there would be, in your opinion, and adverse visibility
8 impact to the historic property?

9 MR. SPEECH: No, I agree with what Staff had
10 stated earlier, that there's very little impact. There
11 still is a, a large, treed area on the Green Hill site; and
12 with the elevation differences, I do not believe that it
13 makes an adverse sight line.

14 MR. GIBBS: Thank you. Now I want to ask you a
15 question. The existing shopping center and, in particular,
16 the area where the proposed McDonalds would be located,
17 given the age of the center, do you, do you know whether or
18 not there is any stormwater management that has occurred for
19 that shopping center?

20 MR. SPEECH: To my knowledge from the records
21 we've pulled, there is not; but this development that we are
22 putting in does provide stormwater management for all new
23 impervious area and, and everything within the, the limits
24 of disturbance of this site. I believe it was asked earlier
25 what that impervious area increase was. So, I'll go ahead

1 and answer that. It's, it's .69 acres of impervious; but as
2 I mentioned, we're providing microbe bioretention areas to
3 treat quality; and we're also providing underground storage
4 to treat quantity for flow pre to post-development. So, in
5 my opinion, we are, we are bettering what's existing out
6 there today.

7 MR. GIBBS: So, so, then it's fair to say that
8 where no stormwater management has occurred, this project
9 would provide stormwater management which would be a
10 ameliorative in nature?

11 MR. SPEECH: That's correct.

12 MR. GIBBS: And what about, what about landscaping
13 on the site today and, in particular, focusing-in on where
14 the McDonalds restaurant would be located. You know, is
15 there internal green that has been planted that complies
16 with the ordinance requirements and tree canopy coverage, et
17 cetera?

18 MR. SPEECH: No, the existing parking lot today
19 does not have adequate parking lot landscaping to meet any
20 code requirements. This development does provide it. As
21 seen on the screen here, there's multiple trees that are
22 being added to meet all of the interior requirements as
23 discussed. The tree canopy coverage requirements for the
24 site is also met with the trees that are being planted. So,
25 this, this, in turn, creates a much greener landscape than

1 what the parking lot that was there before did.

2 MR. GIBBS: Thank you very much. No further
3 questions.

4 CHAIRMAN: Thank you, Mr. Gibbs. Thank you, Mr.
5 Speech. Commissioners, questions for Mr. Speech?

6 COMMISSIONER GERALDO: I have a question.

7 CHAIRMAN: Commissioner.

8 COMMISSIONER GERALDO: Yes. Did you read the
9 recommendation of the Historical Preservation Commission
10 that voted 6-0 against the removal of the trees?

11 MR. SPEECH: I did.

12 COMMISSIONER GERALDO: Okay. And do you disagree
13 with them?

14 MR. SPEECH: I do. You know, as, as Mr. Gibbs
15 mentioned, part of my job is the safety and welfare of the
16 community, you know, as a civil engineer; and here in the --

17 COMMISSIONER GERALDO: What's part of your job?
18 Say that again?

19 MR. SPEECH: The safety and welfare of the public;
20 and so for me when I, when I hear about the trespassing and
21 hear about different solutions, in my mind removing those
22 trees is creating a safer condition.

23 COMMISSIONER GERALDO: Well, apart from that,
24 would you agree that with regards to the removal of the tree
25 to addressing a trespassing issue is not one of the things

1 that the Planning Board considers?

2 MR. SPEECH: I believe --

3 COMMISSIONER GERALDO: That's a yes or no?

4 MR. SPEECH: Yes.

5 COMMISSIONER GERALDO: All right. Nothing
6 further.

7 CHAIRMAN: Thank you, Commissioner. Other
8 questions for Mr. Speech? If not, we'll go to cross-
9 examination. I've got Mr. Boado, Mr. Smith and Mr. Wilpers.
10 Mr. Boado. You're on mute, sir.

11 MR. BOADO: Thank you, Mr. Speech. I have three
12 quick questions for you. If the plan were, if the site were
13 to be developed in, in the form that you prefer, is there
14 anything stopping from these same people from setting up to
15 the southeast and walking to the McDonalds?

16 MR. GIBBS: It, it, I would object. There's, this
17 has not been qualified as to where to the southeast that
18 would occur, whose property that would be on.

19 MR. BOADO: The woods, the woods on the other side
20 of the property line.

21 CHAIRMAN: I think I'm, I'm inclined to agree with
22 Mr. Gibbs. It's, it would, you're asking him to speculate
23 about something that he doesn't have knowledge about. I
24 hear the point you're making, but it doesn't feel like it's
25 cross for Mr. Speech, Mr. Boado.

1 MR. BOADO: Okay. That's fine. Are, Mr. Speech,
2 are you an expert in the impacts of landscaping on homeless
3 and security?

4 MR. SPEECH: I am not.

5 MR. BOADO: Okay. Thank you. Now you said that
6 you would be doing new stormwater management on this site
7 for the first time since it was constructed, but the
8 stormwater management that you would be doing would be only
9 for the new development, correct?

10 MR. SPEECH: That is correct.

11 MR. BOADO: And the new development would be in
12 place of an existing forest, correct?

13 MR. SPEECH: Not all of it.

14 MR. BOADO: Some of it would be?

15 MR. SPEECH: Some of it would be.

16 MR. BOADO: Okay. Thank you so much.

17 CHAIRMAN: Thank you, Mr. Boado. Next we have
18 under cross Mr. Smith and Mr. Wilpers. Mr. Smith.

19 (No affirmative response.)

20 CHAIRMAN: Mr. Wilpers, we'll go to you, then
21 we'll come back to Mr. Smith. Mr. Wilpers.

22 MR. WILPERS: Sure, thank you. Mr. Speech, from
23 your knowledge of stormwater management, would it generally
24 be said that a forest or woodland, as such as we have on the
25 site here, is, that stormwater management would be improved

1 by the removal of the woodland and replaced with artificial,
2 man-made stormwater management facilities? Would, would,
3 would the, would, would stormwater management professionals,
4 in general, say you've got a woodland. You, you would,
5 stormwater management would be improved by replacing the
6 woodland with artificial stormwater management?

7 MR. SPEECH: I would say that the way that the
8 code is written, it is to provide stormwater management with
9 treatment to bring the condition of improvements to what a
10 wooded or a meadow condition would be. So, in terms, I
11 don't know. I would say that the impervious area that's
12 already there that we are replacing, we are veteran and we
13 are keeping the new impervious to be equal to what the non-
14 impervious area that's being removed would be.

15 CHAIRMAN: Okay. Thank you, Mr. Wilpers. Unless
16 you have another one, we'll go to Mr. Smith if you're there
17 for cross.

18 MR. SMITH: I'm here. Let me get back on camera.
19 Thank you. Thanks, Mr. Speech, for your testimony. You
20 testified that the impervious surface would be .69 acres.
21 Is that an increase of .69 acres of impervious surface?

22 MR. SPEECH: Yes, that is the increase to the
23 impervious and within the limits of disturbance.

24 MR. SMITH: Okay. And then I, I think you said,
25 or it's been said, that, that we, we would lose about an

1 acre or more of forest, or tree canopy called forest?

2 MR. SPEECH: I don't believe I did say, but we --

3 MR. SMITH: You were involved with the landscape
4 plan, was, is that not correct, that --

5 MR. SPEECH: You are correct, about an acre.

6 MR. SMITH: Okay. Is that canopy and forest, is
7 that contiguous within the forest on the neighboring
8 property, or Green Hill property?

9 MR. SPEECH: There are pieces of it that are.

10 MR. SMITH: Okay. Thanks. Were you involved at
11 all in the development of the Conceptual Stormwater
12 Management Plan or the Site Development Plan, or could you
13 speak to, or you talked about stormwater management?

14 MR. SPEECH: I'm sorry, I couldn't, I couldn't
15 hear you. You broke up a little.

16 MR. SMITH: Yeah, I'm sorry. The dog is very
17 upset about this project, as you can tell. He's upset about
18 a lot of things right now, global warming, things like that.
19 You testified to stormwater issues. You testified there's
20 no stormwater management onsite currently. You testified
21 that you're, you'll be treating quality and quantity. So,
22 do you know what size hundred-year storm event, stormwater
23 management plan is based upon?

24 MR. SPEECH: It's based on the hundred-year storm
25 event.

1 MR. SMITH: Which is?

2 MR. SPEECH: The hundred, are you asking for the
3 rainfall within a hundred-year storm?

4 MR. SMITH: I am.

5 MR. SPEECH: It is about --

6 CHAIRMAN: I'm sorry, Mr. Smith, this is not
7 cross-examination. I understand you want that information
8 in the record, but you can, you can present that if you want
9 to; but I don't think we need Mr. Speech doing that for you.
10 So, there's --

11 MR. SMITH: (Indiscernible) it says here improve.
12 I, what I'm trying to get is he says it's going to, it's
13 going to manage the stormwater onsite and the question is,
14 and that depends on what, what size even they are designing
15 for.

16 CHAIRMAN: It's designed for the hundred-year
17 floodplain.

18 MR. SMITH: Which is? Okay.

19 CHAIRMAN: That's --

20 MR. SMITH: I don't know is, is an answer you can
21 give, Mr. Speech, if you don't know how many inches that it
22 was designed for. That's fine.

23 MR. SPEECH: It's designed for slightly over seven
24 inches, which is the hundred-year storm event for Prince
25 George's County.

1 MR. SMITH: Okay. It's not, but I'll testify to
2 that later.

3 CHAIRMAN: Mr. Smith --

4 MR. GIBBS: Objection.

5 CHAIRMAN: Mr. Smith, don't do that again.

6 MR. SMITH: All right. Moving on, moving on. I'm
7 sorry.

8 CHAIRMAN: If you, Mr. Smith, if you do that
9 again, I'm going to stop you from cross-examining.

10 MR. SMITH: Oy vey. Okay. Thank you.

11 MR. GIBBS: Objection to that comment as well.

12 MR. SMITH: All right. So, do you, just so I
13 understand, the stormwater management system it's going to
14 have below-ground retention, right?

15 MR. SPEECH: (Indiscernible).

16 MR. SMITH: Where will it, where will this drain
17 to? Does it drain, will it drain to Sligo Creek or how,
18 what, what's downstream of this onsite system?

19 MR. SPEECH: This follows natural drainage
20 patterns and ultimately this site drains to an existing
21 closed system within Ager Road.

22 MR. SMITH: Okay. Does it flow to Sligo Creek
23 once it goes there or no?

24 MR. SPEECH: This Site Development Plan will flow
25 to the existing system within Ager Road.

1 MR. SMITH: Oh.

2 CHAIRMAN: It sounds like you don't know where it
3 goes after that, which is fine, if you don't, you don't.

4 MR. SMITH: That's fine.

5 MR. SPEECH: We have not done a full downstream
6 analysis because it's not required past one structure beyond
7 the site.

8 MR. SMITH: All right. All right. That's
9 educational for me. Thanks. I guess my last question is,
10 will the onsite mitigation, the stormwater mitigation, will
11 it be affected, it could be undermined by litter flowing
12 into the system; and, if so, how, is there, is there
13 typically a plan for controlling that to prevent that?

14 MR. SPEECH: There is an inspection and
15 maintenance agreement that is entered into with, before the
16 permits are issued in which the Applicant is required to
17 maintain the system. If it is not maintained by the
18 Applicant, the County has the right to come and maintain it.
19 So, yes, there is requirements based on the code of how
20 things should be maintained.

21 MR. SMITH: How, okay, how does that work if, if
22 McDonalds franchises this outlet, how is that enforced if
23 the Applicant is subject to the agreement?

24 MR. GIBBS: Objection.

25 MR. SMITH: Just, I'm just following up on --

1 CHAIRMAN: Mr. Gibbs, just tell me on what
2 grounds. I just want to make sure --

3 MR. GIBBS: Well, it's just beyond this person,
4 this witness' knowledge.

5 CHAIRMAN: Okay. Well, he, he can just say, I
6 don't know.

7 MR. SPEECH: Yeah, I don't know how McDonalds is
8 planning to maintain it. I just know how it needs to be
9 maintained.

10 MR. SMITH: Okay. All right. Thanks very much.
11 I appreciate it.

12 CHAIRMAN: Okay. Thank you, Mr. Smith. Mr.
13 Gibbs, you have one more, I'm sorry, is there any other
14 questions for Mr. Speech from us, Commissioners?

15 MS. GOMEZ-ROJAS: Mr. Chair, may I interrupt for a
16 second? I would like to have some, to correct something in
17 the record. There was a question during cross-examination
18 about the letter from the Historic Preservation Commission.
19 I would like to have Tom Gross from the Historic
20 Preservation to correct what was stated during this for the
21 record.

22 CHAIRMAN: Okay. That's helpful, Ms. Gomez-Rojas,
23 and Mr. Gross, go ahead.

24 MR. GROSS: Thank you. For the record, Tom Gross,
25 Supervisor of the Historic Preservation Section. The

1 Historic Preservation Commission did review this Detailed
2 Site Plan application at its March 19, 2024, meeting. What
3 was submitted from the HPC to the Planning Board were
4 essentially a series of comments, a recommendation either in
5 support or opposition to the application was not explicitly
6 forwarded.

7 The comments state that the HPC encourages the
8 Applicant to consider retaining some number of existing
9 trees within the landscape buffer. So, that was not offered
10 as a recommended condition of approval, but was rather part
11 of the comments that the HPC forwarded to the Planning
12 Board.

13 CHAIRMAN: Thank you, Mr. Gross and Ms. Gomez-
14 Rojas. I, you are eligible for cross if there's any cross
15 of that comment. I think it's fairly straightforward,
16 folks, but if anyone wants to cross Mr. Gross, I'm fine.

17 (No affirmative response.)

18 CHAIRMAN: Not? All right. Mr. Gross, thank you.
19 Back to you, Mr. Gibbs. You have one more witness, Mr.
20 Gibbs?

21 MR. GIBBS: No, Mr. Chairman, I have Officer Flax,
22 who has a statement that is already in the record. I am
23 just assuming he, he was present this morning when the
24 Planning Board commenced and at about 11 o'clock he sent me
25 a text saying, or asking when we would be called because he

1 had to go into court. I'm hopeful that he will get back,
2 although I'm happy that we do have his statement in the
3 record; but I also have some brief testimony from Mr.
4 Lenhart and then concluding, concluding testimony by my
5 expert land planner, Mr. Mark Ferguson.

6 CHAIRMAN: I would not think about concluding
7 testimony for this piece. Okay, there we go. Go ahead.
8 You can continue.

9 MR. GIBBS: I just did have one final question for
10 Mr. Speech based upon the cross-examination and, and that
11 is, Mr. Speech, is the, are the existing trees onsite in
12 good condition based upon the NRI?

13 MR. SPEECH: Based on the NRI, they are not.

14 MR. GIBBS: Thank you. My next witness will be
15 Mr. Michael Lenhart.

16 CHAIRMAN: Thank you, Mr. Gibbs. Mr. Lenhart, you
17 were sworn-in, correct?

18 MR. LENHART: That's correct.

19 CHAIRMAN: All right. Take it away, Mr. Gibbs.

20 MR. GIBBS: Thank you. Mr. Lenhart, you are,
21 please, please identify your employment situation relative
22 to the company that you own and operate.

23 MR. LENHART: Yes. Again, my name is Michael
24 Lenhart. I am a registered professional engineer,
25 professional traffic operations engineer, with Lenhart

1 Traffic Consulting. I am the president of Lenhart Traffic
2 which was established in 2005.

3 MR. GIBBS: Mr., Mr. Lenhart, and Mr. Chairman, I
4 would note Mr. Lenhart has been accepted as an expert in the
5 field of transportation engineering on dozens of occasions
6 before this Board, the Zoning Hearing Examiner and the
7 County Council for Prince George's County. I'd be happy to
8 go through the questions with him, but I would offer his
9 qualifications.

10 CHAIRMAN: Without objection, Commissioners,
11 that's fine.

12 MR. GIBBS: Thank you. Mr. Lenhart and, again, I
13 want you to focus your questions on the site itself. Are
14 you familiar then with the, with the Green Meadows Shopping
15 Center?

16 MR. LENHART: Yes, I am familiar with the Proposed
17 Development Plan, the Detailed Site Plan and the Green
18 Meadows Shopping Center and surrounding area.

19 MR. GIBBS: And have you been retained by the
20 Applicant as the transportation engineer to provide advice
21 and review of plans in this case on their behalf?

22 MR. LENHART: Yes, I have.

23 MR. GIBBS: And you are, then you indicated
24 familiar with the Site Plan as well, is that correct?

25 MR. LENHART: That's correct.

1 MR. GIBBS: And did you have an opportunity to
2 review the Site Plan from a transportation standpoint
3 relative to conformance with the approval standards for
4 Detailed Site Plans as articulated in the Zoning Ordinance?

5 MR. LENHART: Yes.

6 MR. GIBBS: And please explain what you looked at
7 and what your conclusion is.

8 MR. LENHART: Certainly. The criteria includes
9 approval standards in 27-270, 274 and 27-285. In general,
10 the criteria are focused on things from a transportation
11 standpoint focused on providing safe onsite circulation,
12 including things such as truck turning movements, parking,
13 drive aisles and queueing, drive-through queueing, as well
14 as location number and design of the driveway entrances.

15 MR. GIBBS: And do you have an opinion as to
16 whether or not the layout of this site will allow for safe
17 and efficient circulation for both vehicles and pedestrians?

18 MR. LENHART: Yes, I do. It's, my opinion, all
19 the design criteria are met. Onsite circulation is
20 adequate. The drive-through provides for more than enough
21 queueing to handle proposed queues. The, the old zoning,
22 the old, yes, the old zoning ordinance, 27-274(c)(6) does
23 not have specific requirements for drive-through queueing,
24 but it does state that, quote, "Drive-through establishments
25 should be designed with adequate space where queueing lanes

1 do not conflict with the circulation traffic patterns or
2 pedestrian access," end quote. So, it doesn't really call
3 for a specific amount of queueing, it just says that it
4 should be adequate.

5 We have also, for reference, we've looked at the
6 new zoning ordinance, and while this application is not
7 being submitted under the new zoning ordinance, the new
8 ordinance does have a table, 27-6206(m)(1), which does
9 provide specifics for a restaurant with a drive-through.
10 And that requires six stacking spaces from the order box and
11 there are, there are two stacking lanes for the drive-
12 through with two order boxes. There are, there's sufficient
13 room in there to stack about four to five vehicles per lane,
14 so, roughly 10 vehicles or so can be stacked before the
15 drive-through queue would extend back into the site drive
16 aisles and, therefore, would more than exceed the, the new
17 zoning ordinance suggestion.

18 The, the, the site access did meet the State
19 Highway, this was testified earlier and presented by Staff,
20 as to State Highway's position. We met with State Highway
21 to discuss the access. There are, the two entrances are
22 currently about 40-feet wide each. They're only separated
23 by a rather narrow aisle and about 20-feet wide. And if you
24 observe, you can see vehicles actually entering and exiting
25 both of the driveways. It's, they're very wide; they're

1 wider than the current State Highway requirements, wider
2 than their guidelines. State Highway has asked us to revise
3 those to, so, rather than two uncontrolled two-way
4 entrances, they would like the first entrance to be right-in
5 only and the second entrance to be a right-out only.

6 We, we discussed a detail with them. We agree
7 with their recommendation and we agree to work with the
8 State through the access permit process to make those
9 revisions so that the entrances are more closely related to
10 right-in, right-out.

11 MR. GIBBS: Thank you, thank you very much, Mr.
12 Lenhart.

13 Mr. Chairman, in that regard, I would respectfully
14 direct your attention and the Board's attention to letters
15 which I filed into the record on September 20th and then on
16 October 15th. On September 20th, I filed a letter
17 requesting that condition three be deleted. Condition three
18 had two subparts, A and B. A was a bike lane and B was
19 obtaining written concurrence from the operating agency
20 relative to the driveways that would be used. And Staff
21 indicated their support for those deletions.

22 As a result of Mr. Lenhart's conversations with
23 the State Highway Administration, we submitted a letter
24 dated October 15, 2024, which proposed a new condition three
25 which would require the revision to those two driveways, as

1 Mr. Lenhart has testified, to reduce their width and combine
2 them effectively so that there's the southernmost driveway
3 is right-in and the northernmost driveway is right-out in
4 that area. And so, we have made that proposal as a
5 requested revision to the condition in order to, in order to
6 address the State Highway request which is confirmed in an
7 email which is attached as Exhibit A to that letter between
8 Mr. Lenhart and Mr. Woodroffe of the State Highway
9 Administration. No further questions of Mr. Lenhart.

10 CHAIRMAN: Thank you, Mr. Gibbs. I have a few
11 questions, and colleagues, you may have questions as well.
12 I don't know, colleagues, if you want to go first with any
13 questions you might have of Mr. Lenhart, I have a few.
14 Anything?

15 (No affirmative response.)

16 CHAIRMAN: All right. I'll go. Mr. Lenhart, I
17 just, I want to understand the, you know, you're evaluating
18 the Detailed Site Plan. This is not a Certificate of
19 Adequacy but, you know, Section 27-274, you know, issues
20 related to the surface parking lot design, the location and
21 the number and design of driveways, the -- I'm just looking
22 through my notes, parking, loading, circulation. There are
23 all sorts of things that, I mean you are, you are an expert
24 and you have come before us many times and, clearly, you
25 have a good head for this. Some of these things don't seem

1 logical to me at all. So, I'm curious about your response
2 on this.

3 For instance, where the loading dock is, how is
4 that loading dock not in conflict with where the queueing
5 is?

6 MR. LENHART: Well, loading, and perhaps I would
7 look to McDonalds representatives to support this; but,
8 typically, loading doesn't occur during the peak periods.
9 Peak periods for these types of uses, you know, you have
10 your morning peak hour when people want to get a coffee and
11 breakfast sandwich. You have lunchtime and then you have
12 dinnertime. Those are typically peaks. Outside of those
13 peaks, your queueing is not going to be as substantial.

14 And we have, I have also other studies that have
15 been done by the Institute for Transportation Engineers, one
16 in particular, queueing for drive-through facilities where
17 they looked at 41 drive-through restaurants, fast-food
18 drive-through restaurants. Twenty-seven of those were
19 hamburger-type restaurants like McDonalds and it, the
20 findings of that was that the maximum queue that was
21 observed of those 27, if you look at the 27, they ranged
22 from four vehicles as a maximum in the queue to 13 vehicles
23 as the maximum in the queue. That, so if you took, and they
24 only have one of the 27 was 12 vehicles; one of the 27 was
25 13. Most of them were 10 or less as the maximum. And those

1 are measured not from the order board, but from the pick-up
2 board, the service window where you pick up. That's how IDE
3 evaluated their observations.

4 And so, you've got enough for four or five
5 vehicles from the pick-up window before you get to the order
6 boards; and then from the order boards, you've got another
7 four or five per lane that you could do. So, there, you've
8 got 14 to 15. That, before you get back to the loading
9 dock, that, there's more capacity in this drive-through lane
10 than the maximum observed queue out of 27 hamburger
11 restaurants, fast-food, drive-through restaurants. And so,
12 the queue would not, not conflict with that loading area;
13 and more than likely the loading would be outside of peak
14 hours anyway. But, but even if it did for some reason occur
15 during peak, it would not block their ability to get in, in
16 there. Again, I, I would maybe look to McDonalds to, to
17 confirm if they have specifics on if they do a specific time
18 of day, loading and unloading.

19 CHAIRMAN: We, we may get back to that, but I
20 appreciate your response on that one. Did you look at the,
21 another question for you, Mr. Lenhart, did you look at the,
22 the proposed pedestrian flow on this site as well?

23 MR. LENHART: Yes, we, you know, there's obviously
24 there's sidewalks along the frontage of East-West Highway.
25 There are sidewalk connections tying into the rest of the

1 shopping center, cross access for pedestrians through that
2 area. We believe that, you know, it does have one crossing
3 of the drive-through, the exit from the drive-through, but
4 people coming out of the drive-through, they're going less
5 than, you know, a couple miles an hour as they come out of
6 the drive-through. You've got sight distance. You can see
7 people coming up there. It's, it's not uncommon to have
8 that type of crossing across a drive-through; and I believe
9 it's safe and efficient. It doesn't really put pedestrians
10 anywhere back through the main parking area or in conflict
11 with the main drive-through.

12 CHAIRMAN: I mean a couple additional questions on
13 that because I'm just trying to get my head around that.
14 One is, and, and, and, again, I, I want to be sensitive to
15 what was, what is within the context of what's before us.
16 So, I'm focused on what's the site design, not the traffic
17 and parking, or traffic and pedestrian issues that are
18 outside the boundaries of this; but would you, were you
19 looking at the sideway that's outside this property line,
20 directly outside that cuts across it; or is that, I don't
21 mean to be flip about it, right, because if it's outside
22 your purview, it's outside your purview. But were you
23 looking at the sidewalk that's directly outside that, that
24 borders this property?

25 MR. LENHART: I, I would say, no, in response to

1 that question. Really, you know, a Detailed Site Plan looks
2 at onsite circulation and pedestrian vehicular circulation,
3 the, and not necessarily the sidewalk on the frontage. I
4 will say that --

5 CHAIRMAN: Okay.

6 MR. LENHART: -- the improvement that we're
7 making, or will be making to the two driveways will improve
8 pedestrian access across those driveways. Right now you
9 have 40-foot opening for each driveway which is, you know,
10 rather long pedestrian crossing for a driveway. Those are
11 going to be improved and cleaned-up a little bit. They'll
12 be, rather than two vehicles, or two-way traffic at both, it
13 will have one in at the southern, one out at the northern,
14 that's going to help to minimize and improve pedestrian
15 conflicts as well.

16 CHAIRMAN: And do you take it they're going to
17 have public transportation access to the site or what fronts
18 the site, is that something that's within your, your study,
19 your scope as well on this?

20 MR. LENHART: No, not really. I don't believe
21 that is specified in the code either.

22 CHAIRMAN: Okay. How about access to the, you, if
23 I'm looking at this correctly, I mean there's two issues
24 here that confuse me. One is the compact parking spaces, I
25 think, are the ones that are right along the, the drive

1 aisle there; and the only way the drive aisle works is
2 because they're compact parking spaces, right?

3 MR. LENHART: I would --

4 CHAIRMAN: As soon as you enter, you enter and
5 take, take a right into this and then you take a right into
6 the drive aisle. I believe those are compact spaces right
7 there where somebody is pointing their arrow.

8 MR. LENHART: Yes, I believe you are correct and
9 there's a mixture, I believe, of some compact, some full.

10 CHAIRMAN: Is that the case? Is there somebody
11 who can verify that because I thought they were all compact
12 there?

13 MR. LENHART: I, I would defer to Mr. Speech on
14 that, but I, I believe there might be a mixture if you look,
15 if you're able to zoom-in, you can see the first three
16 spaces are a little shorter than the next four.

17 CHAIRMAN: I got you, okay.

18 MR. LENHART: And so, and the, and the code does
19 allow for, you know, compact spaces, a mixture of compact
20 spaces.

21 CHAIRMAN: But I mean, again, in your expert
22 opinion, my concern is compact spaces that are right on the
23 drive aisle, and this drive aisle, would it even work if
24 they weren't compact spaces based upon the property line, I
25 don't think they would.

1 MR. LENHART: If they were not compact?

2 CHAIRMAN: Right, they have to be compact spaces
3 there for it to work.

4 MR. LENHART: I, I, I would defer to Mr. Speech on
5 that. I haven't specifically looked at whether they would
6 have to be or not.

7 CHAIRMAN: Okay. And then one more on the other
8 ones, the same circulation plan here, the, there's some
9 additional parking spots that you have that are sort of off
10 the site behind the rest of the development. It's right
11 below the, where the compass, where the arrow is in the
12 upper-left. Do you see that? Those are additional parking
13 spaces, is that right? Am I reading this correctly?

14 MR. LENHART: Yeah, I see, I see them back there.
15 I don't know where the hatched ones are, where the, the
16 little cursor is.

17 CHAIRMAN: Right next to that, I believe those are
18 the additional parking spaces for the site. Maybe Mr. Gibbs
19 or somebody else could help me with this. I just have some
20 specific questions about that. I'm trying to understand if
21 I'm reading this correctly, those are, not there, keep going
22 to the left. There, keep going. There. Aren't those
23 additional parking spaces that are part of this plan?

24 MR. LENHART: I would, I don't want to misspeak on
25 that. I would let Mr. --

1 CHAIRMAN: Yeah. Because if they are, I'm
2 wondering how people get from those to the McDonalds? So,
3 anyhow, more questions. The other big question I have
4 related to this, and it's a big question, is you weren't
5 designing this with the assumption that everybody is going
6 to, and maybe that's all you need to do by code, but even
7 with our team, but assuming that everybody comes in and out
8 of this McDonalds through the right-in, right-out that you
9 have designed, that is the assumption you're making, right?

10 MR. LENHART: That's the assumption that we would
11 be making. Yeah, I mean it's, but it's possible that you're
12 coming through the other way as well.

13 CHAIRMAN: Right, and, and I think, Mr. Lenhart,
14 that's it, again, you know, this is your expert opinion on
15 this; but how could that not be a total fantasy? And this
16 is where I actually know this area quite well and the
17 fluidity of ins and outs on this strip center are prolific,
18 prolific onto Van Buren. There are, what, four entrances
19 into this shopping center, four or five, six? I'm not sure
20 which map we're looking at.

21 MR. LENHART: (Indiscernible).

22 CHAIRMAN: Yeah, but then there's, there's one or
23 two off Van Buren --

24 MR. LENHART: Right.

25 CHAIRMAN: -- as well, and I don't, you know, I'm

1 mindful, Mr. Gibbs, Mr. Lenhart, I'm mindful of what is
2 pertinent to this specific property; but I'm also looking at
3 the reality of a shopping center, a strip, where there,
4 where there won't be much distinction between once the
5 McDonalds and once the rest of it, and how people come in
6 and out; and the, the, the pedestrian and even bike flow
7 there, and the bus stop that's there and, you know, all
8 these ways in which people come in and out. So, it feels a
9 little bit inadequate to be looking simply at the McDonalds
10 site without the impact on what's next door; and so, but I'm
11 also mindful that the rules, the rules; and if all you have
12 to be, if all you're required to address is simply the
13 parameters of that McDonalds, is that, is that all you
14 looked at, Mr. Lenhart?

15 MR. LENHART: We looked at the parameters of
16 what's inside the Detailed Site Plan. And, and I would
17 offer that regarding trips in and out of McDonalds, studies
18 indicate that McDonalds, these fast-food restaurants,
19 generate half to a little over a half of the traffic that
20 they generate is from traffic that's already on the road
21 network, so, people coming down East-West Highway or down
22 Ager Road, and they, they're already in the car, they're
23 already driving by the site and they pull into the site.
24 They get whatever the meal is and then they leave. And the
25 most likely --

1 CHAIRMAN: That makes sense. That seems logical.

2 MR. LENHART: The mostly likely place for that to
3 happen are the two driveways directly in front of the
4 McDonalds. And even if they, if they miss that driveway or
5 for whatever reason they came in through Van Buren, which is
6 possible, but if they do, it would be a much, much smaller
7 percentage of the overall McDonalds traffic. Those
8 driveways, the other two driveways on Route 410 are, are,
9 operate like normal two-way driveways. You don't have
10 confusion in the difficulty that occurs at the two driveways
11 right in front of the McDonalds; and I mean I agree with
12 you, I, I don't live in the area, but I've been out here
13 numerous times. We've observed it and you'll get people
14 coming in and out of either one of those entrances. And
15 they come out and, and access Route 410 and, you know, I
16 think --

17 CHAIRMAN: Let me interrupt. Let me interrupt you
18 because, again, this is just working with my own experience
19 from this which is that if you have visited this site not
20 even in peak hours, that at, you know, most times during the
21 day, and even well into the early evening, then you will
22 know that the traffic actually backs up beyond those
23 driveways most of the time.

24 Now the complicated part for me and, Mr. Gibbs,
25 before you object to me because I'm with you, what's

1 happening on the road is outside the scope of it. My
2 concern is how because of how backed up things are there
3 almost all the time, I'm trying to get a handle on how this
4 should affect the Detailed Site Plan, you know, what we,
5 what, what we should be considering given this location.

6 And the other thing I'd say, Mr. Lenhart, and I'm,
7 again, I just don't know if you took this into account, if
8 it's appropriate or not; but, you know, this is in one of
9 the epicenters of one of the most transit-dependent, non-
10 car-dependent populations in the state of Maryland, right?
11 So, absolutely guaranteed that you are going to have I don't
12 know how many hundreds of people who walk to this McDonalds
13 all the time. And, again, I'm not McDonalds, but I'd be
14 curious at some point, maybe we can bring him back, Mr.
15 Gibbs, to hear from Mr. Redder around that, about any
16 assumptions that they have or don't have and how they design
17 related to that because it would be just a fantasy to say
18 that people are only going to drive to this given the
19 community that's there.

20 So, maybe that's more of a statement than a
21 question, Mr. Lenhart and Mr. Gibbs, and I apologize a bit;
22 but, but I, what I'm getting at, Mr. Lenhart, is, you know,
23 how you are taking into account in the circulation plan the
24 pedestrian piece of the circulation plan.

25 MR. LENHART: Well, let me address, respond to one

1 of your comments about traffic backing up on East-West
2 Highway. I --

3 CHAIRMAN: Yeah, I appreciate that.

4 MR. LENHART: I don't --

5 CHAIRMAN: Yeah, I keep, keep the questions, you
6 know, so I'm not loading too much up on you. I apologize if
7 I am.

8 MR. LENHART: Sure. We, I mean absolutely my, my
9 observations out there, we, we saw the same thing,
10 experienced the same thing. The traffic, particularly at
11 Riggs Road and East-West Highway, when the signal turns red,
12 traffic will back-up on East-West Highway and oftentimes, if
13 not most times, backs up beyond that signal, beyond the
14 driveway and makes it difficult to get in and out.

15 What we observed, though, was when that signal
16 turns green, the queue clears out and it does open up gaps.
17 We, you, you can't turn necessarily in and out of the
18 driveway immediately, you may have to wait a little bit, but
19 it does create gaps. We did observe that. We, and I would
20 make note that the Applicant has put many photographs on
21 record. Some of those photographs do show traffic backing
22 up beyond those driveways, but I think if you look at them
23 all, most of them show gaps where there's the ability to
24 make turns in and out of that driveway because there are
25 gaps in those photographs.

1 Now I don't know what times those were taken and I
2 would, you know, and again, I fully acknowledge, yes, there
3 are queues that occur here; but the observations are people
4 are able to get in and out of those driveways through gaps
5 do come available; and, you know, this is, it's an urban
6 area. Many, maybe many other urban areas inside the Beltway
7 with signals like this have the same issue, same, same
8 problem and you wait for the gap and then you take your turn
9 to come in and around.

10 CHAIRMAN: Understood. I appreciate that. And,
11 and, you know, the pedestrian safety piece, and you may, you
12 know, if you, if you didn't get engaged, you didn't, and I
13 understand that; but the State Highway Administration is
14 involved in a, recognizing that this is one of the areas in
15 the County with the highest traffic fatalities and
16 accidents, pedestrian accidents. And I, you know, again,
17 this, the context matters, so I'm trying to figure out if at
18 all this was factored into your analysis.

19 And, and, Mr. Gibbs, respectfully, I get it, that
20 some of this has to do more with the roadway than this
21 actual site; and so, I'm trying to find that balance because
22 the reality of it is, you know, this were, we're having this
23 discussion, the context of a really, really complicated
24 intersection, but you don't need a Certificate of Adequacy,
25 so I'm trying to sort of find that, that place in between

1 here.

2 MR. GIBBS: Well, I would just say, Mr. Chairman,
3 that the, you know, the, the issue, and this is, you know,
4 we're, we're dealing with what we have and that is the, the
5 statute and what it requires for a Detailed Site Plan. And
6 it is whether pedestrians and motorists can safely circulate
7 onsite and, you know, I don't, look, with the utmost of
8 respect, there's been a lot of statements here that weren't
9 questions; and I don't want to get into that myself,
10 although I have countervailing considerations I'd like to
11 offer-up, but I'm not at liberty to do that.

12 Every site that's in an urban area is going to
13 have high traffic volumes and, you know, the State Highway
14 Administration has an obligation, and the County has an
15 obligation to deal with offsite issues that are not the
16 responsibility of, of an individual applicant or property
17 owner who is doing something as permitted as a matter of
18 right, you know, and pedestrians themselves have an
19 obligation to exercise some care with where they're walking.
20 So, I, the, I think the evidence shows that the site has
21 been designed in accordance with all the ordinance
22 requirements.

23 I can bring Mr. Redder back after the lunch break
24 and have him testify about when they get deliveries, how
25 frequently it is. You know, there have been numerous other

1 applications where, you know, a condition is added as to
2 when deliveries can occur to the site if you're concerned
3 about the location of the loading space.

4 Yeah, I mean every commercial site has driveway
5 aisles and, ultimately, if there's a restaurant with a
6 drive-through lane, people have to navigate through those
7 drive-through, drive aisles to get to the drive-through
8 aisle. The drive-through aisle at this site does not start
9 until you're at the eastern side of the Detailed Site Plan.
10 You know, so, so, what's being referred to as part of the
11 drive aisle is really just a drive aisle onsite, it's not
12 the drive-through lane, and, and that's just a typical
13 condition that you find in every shopping center.

14 CHAIRMAN: Okay. Thank you. Are we, Mr. Warner,
15 are you still there?

16 (No affirmative response.)

17 CHAIRMAN: No? I'm, I'm trying to wonder if we
18 still have, if we still have cross here or not.

19 MR. WARNER: I am here. I got call.

20 CHAIRMAN: No, that's all right. Are we still,
21 because I see a few folks who I imagine are looking to
22 cross.

23 MR. WARNER: Uh-huh.

24 CHAIRMAN: Yes, actually, we did because I just
25 had questions for Mr. Lenhart. Commissioners, any other,

1 Commissioners, any, do you have any questions for Mr.
2 Lenhart? If not, I'll turn to Mr. --

3 COMMISSIONER GERALDO: Mr. --

4 CHAIRMAN: Mr. Geraldo? Yeah.

5 COMMISSIONER GERALDO: Yeah, I don't have any
6 questions for Mr. Lenhart, but I share some of the concerns
7 that you raised.

8 CHAIRMAN: All right. I appreciate that. So,
9 let's go to cross of Mr. Lenhart and after this we will wrap
10 up and take a break. We'll, we have Mr. Smith and Ms.
11 Entzminger, and then Ms. Schweisguth. Mr. Smith.

12 MR. SMITH: Again, I'm happy to have Melissa
13 Schweisguth and Lisa Entzminger go before me. Melissa did
14 more of our traffic and safety analysis than anybody else,
15 so I'm happy to go last in that case.

16 CHAIRMAN: All right. Ms., Ms. Schweisguth, do
17 you want to go first?

18 MS. SCHWEISGUTH: Yeah, sorry, I was looking for
19 the correct button. So, thank you for your testimony, Mr.
20 Lenhart. Can you please explain why your analysis modeled
21 the trip generation using a strip retail rather than the
22 actual development change, which is switching a small
23 restaurant to a fast-food establishment with a drive-
24 through?

25 MR. LENHART: Well, I didn't, I didn't testify --

1 MR. GIBBS: Objection. Objection. There was no
2 testimony about that.

3 MR. WARNER: That's in his written testimony.
4 That's, that's what he provided, his ITA, his ITE counts.
5 They're right in his testimony, his written testimony.

6 MS. SCHWEISGUTH: So, we're not permitted to ask
7 about any of the material that was submitted in the record
8 from the same person?

9 MR. WARNER: Sure you are.

10 MS. SCHWEISGUTH: Then I'm, well, I'm asking about
11 the trip generation which is in the record. It was
12 submitted in on the 26th.

13 CHAIRMAN: All right. Mr. Lenhart?

14 MR. LENHART: Okay, certainly. There have been
15 numerous claims that we used the wrong trip generation
16 rates. First of all, I would note that there is no
17 requirement on, for this Detailed Site Plan to provide a
18 Traffic Impact Study or a trip generation analysis. The
19 memo that we prepared and it's in the back-up dated March 8,
20 2024, does, however, provide for informational purposes
21 discussion of the trip generation at the site and that
22 analysis was conducted as required by the Transportation
23 Review Guidelines.

24 The one, one or more of the opposition members, I
25 think it was Ms. Schweisguth, on page 43 of 471 of the

1 additional back-up, Part A, explained that our analysis was
2 done incorrectly and quoted from the Transportation Review
3 Guidelines. And her quote was that freestanding commercial
4 and retail buildings not within, not within an integrated
5 shopping center should consider using specific rates, and
6 that was the end of her quote.

7 And then, you know, she said we should have used
8 McDonalds rates rather than retail, general retail rates.
9 However, her written testimony and quote omitted a point of
10 consideration in that same section of the Transportation
11 Review Guideline. She omitted the portion of that section
12 that states, and I quote, "The shopping center rate covers
13 commercial uses, including related pad sites within a given
14 site having the designation of integrated shopping center."
15 This property is an integrated shopping center. This
16 proposed McDonalds is part of an integrated shopping center,
17 therefore, according to the Transportation Review
18 Guidelines, the traffic and the trip generation should be
19 evaluated using the McDonalds as part of the overall square
20 footage of the integrated shopping center. That is how we
21 did the analysis. That is how the guidelines require the
22 analysis to be done. Transportation Staff use and concur
23 with those analyses.

24 CHAIRMAN: Okay. We're still on cross. Thank you
25 for that. Do you have additional cross, Ms. Schweisguth?

1 MS. SCHWEISGUTH: Yes, I do. Yeah, I got cross-
2 examined myself, so that was, that was kind of fun, thank
3 you. So, I just wanted to clarify, was the trip generation
4 that you did, was that assuming a right-in and a right-out
5 on the site, and that cars would not be driving to that site
6 from, you know, to the McDonalds from other entryways into
7 the shopping center that Mr. Shapiro was mentioning, as he
8 said there are four others. Are you assuming that, that in
9 this trip generation, cars were entering that site only in
10 that right-in, right-out driveway on the far southeast?

11 MR. LENHART: That memorandum included no
12 assumption or no assertion on where the vehicles would be
13 entering to or from, it was just a trip generation analysis
14 of the shopping center, the integrated shopping center as it
15 exists today as compared to how it will exist.

16 MS. SCHWEISGUTH: Okay.

17 CHAIRMAN: Okay.

18 MS. SCHWEISGUTH: Okay. And, and your belief
19 again is that, so is your evidence is, is that adding a
20 fast-food is not, is not going to make, is not going to have
21 a substantial increase over a strip, or over a low-volume
22 strip retail?

23 MR. LENHART: As I stated, the, it was conducted
24 in accordance with the Transportation Review Guidelines
25 which states that shopping center rate covers commercial

1 uses, including related pad sites within a given site having
2 been designated, a designation of an integrated shopping
3 center.

4 MS. SCHWEISGUTH: And can you please define pad
5 site?

6 MR. LENHART: Well, typically, a pad site would be
7 a separate, typically it's --

8 CHAIRMAN: Free-standing.

9 MR. LENHART: -- a free-standing use within a
10 shopping center; and ITE and the Institute for
11 Transportation Engineers defines it the same. It's, it may
12 have lease lines, it may have, may be a separate lot
13 altogether, but it's typically a free-standing use within a
14 shopping center, a bank, a drive-through restaurant, that,
15 that sort of thing.

16 MS. SCHWEISGUTH: And you consider that this site
17 is considered -- can you clarify why is the site considered
18 a free-standing shopping center? Is it simply because it's
19 one property owner because they happen to put --

20 CHAIRMAN: No, no, that -- Ms. Schweisguth, that
21 was my, I inserted that word just because the, this one use
22 is free-standing. That's what I meant when I said free-
23 standing.

24 MR. LENHART: Right.

25 MS. SCHWEISGUTH: Okay. Thank you.

1 CHAIRMAN: No, thank you. And I just want to say
2 that, you know, it's commonly, because there's no
3 Certificate of Adequacy. This is not a Preliminary Plan of
4 Subdivision. Maybe, Mr. Gibbs, I'm directing this more to
5 you, but I mean I think the, the way that, that, you know,
6 the number of cars that are coming and going are relevant is
7 how do we even begin to evaluate, to evaluate the site
8 circulation unless we have a sense of the volume of traffic?
9 And that's why I feel like it's perfectly appropriate to
10 have a sense of what additional traffic this use could bring
11 to help us evaluate the, what the circulation needs are.
12 So, I hope that's helpful, but that's why it feels at least
13 appropriate to me that these issues, you know, a hint of
14 gray area, but these issues feel relevant to a Detailed Site
15 Plan.

16 Other questions for Mr. -- oh, we have additional
17 cross. We have Ms. Entzminger and then Mr. Smith.

18 MS. ENTZMINGER: Thank you. Mr. Lenhart, you
19 testified that 10 vehicles stacked before entering the drive
20 aisles would be adequate. Can you tell me on average how
21 many vehicles enter and exit a McDonalds drive aisle at
22 peak, at peak times?

23 MR. LENHART: Well, is that really a cross
24 question? I mean I don't --

25 CHAIRMAN: I think you, you referenced it, Mr.

1 Lenhart --

2 MR. LENHART: Yeah.

3 CHAIRMAN: -- so, you referenced it a bit, but
4 it's the ITE Study and maybe that's, because that's where my
5 head was.

6 MR. LENHART: No, the ITE Study was based on
7 queuing of vehicles, not how many, not the volume of
8 vehicles that went through the drive-through. It was based
9 on the observations during peak periods of how far the queue
10 would stack better from --

11 CHAIRMAN: Okay.

12 MS. ENTZMINGER: Okay. So, because it was based
13 on queuing, then my question is not relevant, is that right?
14 Or I'm dealing with a traumatic brain injury, so my, I'm
15 just --

16 CHAIRMAN: No, no, you, you're okay, but I think
17 the, the short answer, he doesn't know because the
18 information, if I can speak for you, Mr. Lenhart, your
19 information was around the queueing, was around the, yeah,
20 the queueing capacity?

21 MR. LENHART: It was around the queueing and I
22 don't believe ITE, certainly not in the trip generation
23 manual, doesn't say how many vehicles go through the drive-
24 through. It does, if you, if you look at ITE for a fast-
25 food restaurant, it does have trip generation rates and

1 doesn't say how many of those trips will go through the
2 drive-through. And so, that's done through --

3 MS. ENTZMINGER: Oh, that's right.

4 MR. LENHART: -- queueing observations and other
5 things.

6 MS. ENTZMINGER: And I have two quick questions,
7 if that's okay?

8 CHAIRMAN: Yeah.

9 MS. ENTZMINGER: In your testimony, you mentioned
10 that you looked at 27 hamburger restaurants. Why did you
11 review hamburger restaurants and not simply McDonalds as
12 McDonalds has such a wide number of stores, I'm sure they
13 have that data specific to their franchise?

14 MR. LENHART: So, the ITE typically does not focus
15 on particular users like a McDonalds or a Chick fil A or
16 those types of things. It, it will have, it will put data,
17 or it will put restaurants into buckets and it will say
18 hamburger buckets. So, chicken restaurants as a bucket and
19 those types of things. And so, of the 27 hamburger
20 restaurants that were studied, it doesn't say what types
21 were included. I suspect it was a range of, you know,
22 Wendys and McDonalds, and Burger King and, you know, the,
23 they typical most popular types of restaurants. And if you
24 look at the results that they have, it would kind of pan out
25 as expected. This bell curve of those, of those --

1 CHAIRMAN: Let me, Mr. Lenhart, let me, let me
2 interrupt just to manage our process, too. I think you've,
3 your question is asked and answered, Ms. Entzminger. Unless
4 you have any more thoughts on that, I think he's, he's given
5 you what you asked for.

6 MS. ENTZMINGER: Correct. I have one final
7 question that came about as to his response to something you
8 asked. Is that relevant for cross?

9 CHAIRMAN: Yeah, yeah, those are his words, so
10 that's relevant.

11 MS. ENTZMINGER: Okay. Okay. So, Mr. Shapiro
12 asked you some questions and in one of the questions he
13 asked, you mentioned that half of the traffic generated is,
14 would be by cars that are already driving by. What's the
15 volume of cars that go by on a daily basis, do you know, for
16 that area?

17 MR. LENHART: Not off the top of my --

18 MR. GIBBS: Objection.

19 CHAIRMAN: Yeah.

20 MS. ENTZMINGER: Okay. Thank you. That was my
21 last question.

22 CHAIRMAN: All right. Thank you, Ms. Entzminger.
23 Mr. Smith, any final cross?

24 MR. SMITH: Sure. So, Mr. Lenhart, I think you
25 mentioned that the ITE gives higher trip generation rates

1 for drive-through, fast-food restaurants. So, given that,
2 and understanding that you asserted that your trip
3 generation analysis meets the amendment standards set forth
4 and so you're free then to use a relatively low-volume
5 shopping center, but if you really wanted to understand the
6 trip generation rates from this establishment and its
7 potential impacts on the community, and on circulation on
8 the site, and you know that the ITE gives higher trip
9 generation rates to drive-through fast-food restaurants than
10 it does for small strip shopping centers, why would you
11 choose to use the lower trip generation rate; and did you,
12 and, okay, I can't do compound questions. So, let me just,
13 let me leave it there. Why would you knowing that this kind
14 of facility generates more trips per hour, use a different
15 and misleadingly low trip-generation rate?

16 MR. GIBBS: Objection.

17 CHAIRMAN: Mr., Mr. Smith --

18 MR. SMITH: It's, it's a fair question. How did
19 he come to that --

20 CHAIRMAN: If you're suggesting it's misleading,
21 then it's not a fair question.

22 MR. SMITH: Well, I can drop the word misleading
23 there. Likely to underestimate, does that work?

24 MR. LENHART: I did not, the trips were not
25 underestimated in the memo that we submitted dated March of

1 2024. That trip generation analysis was conducted in
2 accordance with Park and Planning's Transportation Review
3 Guidelines. And that, that is what specifically, out of the
4 guidelines, that is how these applications are to be
5 measured and tested. That is why we submitted that in using
6 those numbers.

7 MR. SMITH: Okay. Well, as a transportation
8 professional, and you want to understand the impacts of, of
9 this, this facility and you know it's a, it's a high-volume
10 drive-through, fast-food restaurant, why would you not go
11 ahead and use that trip generation standard, that factor,
12 rather than --

13 CHAIRMAN: Mr. Smith, respectfully, it's asked and
14 answered. He just told you why. He was following the
15 guidelines.

16 MR. SMITH: Okay. So, so, that you testified that
17 some study shows that perhaps 50 percent of all trips at a
18 McDonalds are from existing traffic, already going by? So,
19 that, those are 50 percent of the, the trips of the
20 McDonalds are impulse buys? They saw a McDonalds and they
21 decided to stop, they weren't going to, otherwise, they
22 weren't going to stop there?

23 MR. LENHART: Not necessarily impulse buys. A lot
24 of people that drive by, I mean 410 is a major commuter
25 route. Many people that drive by, they drive in every day,

1 they know where restaurants are. They make a plan to stop
2 and get a cup of coffee or a sandwich on their way to work,
3 on their way home, on their way to someplace else. So, it's
4 not necessarily an impulse buy, not that that couldn't
5 happen. Somebody that's not familiar might drive by and see
6 it and go, okay, I'm going to stop and get something; but
7 most would be normal commuter people that are familiar with
8 the route.

9 MR. SMITH: Okay. How would the higher trip
10 generation rates affect the queuing on the site and
11 circulation on the site?

12 MR. LENHART: It would not affect the queuing at
13 all. The queuing observations that I gave were based on
14 fast-food restaurants, hamburger-type restaurants, would not
15 affect that at all.

16 MR. SMITH: All right. Thank you.

17 CHAIRMAN: All right. Thank you. All right. If
18 there's no further questions --

19 MR. GIBBS: I have questions, I have questions,
20 Mr. Chair.

21 CHAIRMAN: Yes, sir, Mr. Gibbs?

22 MR. GIBBS: On redirect. Mr. Lenhart, the
23 information that you provided was based upon the applicable
24 and prescribed standards for trip generation, is that
25 correct?

1 MR. LENHART: That's correct.

2 MR. GIBBS: Notwithstanding that, did you conduct
3 yet another observation and test relative to how the
4 driveway would function if you tested trip generation based
5 upon a fast-food restaurant with a drive-through and not
6 based upon an integrated shopping center?

7 MR. LENHART: We did.

8 MR. GIBBS: Could you please give the results of
9 that since Mr. Smith would like to hear it?

10 MR. LENHART: Certainly. The, let me get my
11 exhibit here. So, if it were a completely standalone use
12 and that were not part of an integrated shopping center and,
13 and you would use the ITE trip generation manual for Land
14 Use Code 210 for a fast-food with a drive-through, it would
15 generate in the morning peak hour 93 trips inbound, 89 trips
16 outbound. In the evening peak hour, it would be 70 trips
17 inbound, 65 trips outbound. Of all of those trips I just
18 quoted, about half of those, or slightly more, are pass-by
19 trips that are already on the road network. They're, again,
20 as I said, commuters driving by or people driving by, they
21 stop in to get something on their way to wherever they were
22 destined.

23 We did look at the driveway trips. We looked at
24 the existing trips in and out of that drive, the two
25 driveways there as if they were combined into one. We added

1 in the McDonalds trips that I just quoted. We identified
2 what the total trips in and out of the driveway would be and
3 we evaluated those total trips in and out of the driveway
4 using Park and Planning's 3-step method for unsignalized
5 intersections.

6 Now that doesn't necessarily apply here. It
7 doesn't apply here because that is a test that's used in the
8 adequacy of transportation at the time of Preliminary Plan,
9 but we wanted to, we, we assume these questions would come
10 up, so we wanted to have some idea of what the answers would
11 be so we could address them at the appropriate time. The,
12 the exiting, the 3-step test, first, you look at the delay
13 per vehicle exiting the site, then you look at the number of
14 vehicles exiting the site, then you look at the critical
15 lane volume of the driveway. If it passes any one of those
16 three steps, it's deemed adequate and no further analysis is
17 needed. If it fails all three, then typically you look at
18 other solutions like a, whether a signal would be needed.
19 Now a signal, obviously, is not going to be something you
20 look at here; but this pass, passes the unsignalized step
21 one which requires or establishes a threshold of 50 seconds
22 of delay per vehicle on average of delay exiting the
23 driveway. Now that's average.

24 What we found in the morning peak hour, the
25 average delay exiting was 45 seconds in the evening. The

1 average delay was projected to be 25 seconds. That passes
2 the test and would be deemed adequate.

3 Now that, that doesn't mean that every vehicle
4 coming out of there is going to have a 45-second delay. As
5 we discussed earlier, traffic does back up on Route 410 and,
6 and in many cases it will block those driveways; but when
7 it's, when a green signal occurs, traffic clears out and
8 people are able to come in and out accordingly. And so,
9 some people may have to wait longer, some might less, but it
10 does pass that first step.

11 The second, and if you, you know, if you had
12 doubts about that, even if we look at the second step and
13 the third step, the second step says if it's greater than a
14 100 vehicles per hour exiting the driveway, then you go to
15 the third step. And in this case we have 119 out in the
16 morning, 97 out in the evening. But when we go and we look
17 at the third step, the third step, you do a critical lane
18 analysis and if the critical lane is 1150 or better, then
19 it's deemed adequate. And in this case the critical lane is
20 not something that can be argued with if the critical lane
21 is less than 1150 based on the volumes; and so, the driveway
22 would be deemed adequate.

23 MR. GIBBS: Thank you.

24 CHAIRMAN: Thank you, Mr. Gibbs. We have
25 additions questions on cross. Mr. Gibbs, is there more that

1 you want to continue with Mr. Lenhart before we have some
2 brief cross?

3 MR. GIBBS: No, I really don't.

4 CHAIRMAN: All right. Thank you, sir. So, Ms.
5 Schweisguth and then Mr. Boado.

6 MS. SCHWEISGUTH: Thank you. So, Mr. Lenhart,
7 since you did mention an estimated impact of trip generation
8 for the fast-food, can you please explain what your
9 assumptions were, what was the base case that you used as
10 the existing conditions, what rate did you use for land use
11 type for the existing condition for the PM, for the trip,
12 for the, for the peak hourly trips?

13 MR. LENHART: I'm not sure what you mean, what
14 trip rate did we use to --

15 MS. SCHWEISGUTH: So, I just need --

16 MR. LENHART: -- on March, maybe this is what
17 you're asking. Our March 2024 trip generation analysis that
18 is included in the back-up used integrated shopping center
19 for the existing conditions and for the future conditions.
20 Again, this is how the code requires us to look at it.

21 MS. SCHWEISGUTH: Correct, but in what you just
22 cited in your spoken testimony, you said you did considering
23 fast foods, did you still use strip retail as the existing
24 condition?

25 MR. LENHART: In that assessment, we just looked

1 at the, the McDonalds. We just looked at how much traffic
2 the McDonalds would generate on top of what's out there
3 already, and we did not subtract out any trips that may be
4 coming to and from the existing restaurant.

5 CHAIRMAN: Okay. You had an additional question,
6 you said? If you're talking, you're on mute. We'll go to
7 Mr. Boado and we'll come back if we need to. Mr. Boado.

8 MR. BOADO: Okay. So, this driveway analysis is
9 the analysis of cars coming in and out of the location into
10 a generic, onto a generic road?

11 MR. LENHART: No, it's the, it's the driveway onto
12 East-West Highway with the volumes on East-West Highway and
13 the volumes that currently exist for the, the, the two
14 driveways as combined into one, plus the McDonalds traffic.

15 MR. BOADO: Okay. So, it considers East-West
16 Highway in terms of how many trips or how many cars pass
17 through at a particular time, but it doesn't consider --

18 MR. LENHART: Correct.

19 MR. BOADO: -- the specific situation around that
20 little spot of East-West Highway?

21 MR. LENHART: Well, it looks at the driveway with
22 the traffic volumes on East-West Highway and the projected
23 traffic volumes from that reconstructed driveway, assuming
24 McDonalds has ITE land use.

25 MR. BOADO: Okay. Thank you.

1 MR. LENHART: Yeah.

2 CHAIRMAN: Thank you. Thank you. Ms.
3 Schweisguth, back to you.

4 MS. SCHWEISGUTH: Sorry, my Internet, well, yeah,
5 I did, I just, again, wanted to clarify the trip generation
6 rates that you used to estimate when you, what you cited in
7 your oral testimony, what are the trip generation rates that
8 you used for the existing case and fast-food with the drive-
9 through?

10 MR. GIBBS: I believe this question has been asked
11 already, Mr. Chairman.

12 MR. LENHART: But not answering.

13 CHAIRMAN: I don't know, did you, did we answer,
14 Mr. Gibbs?

15 MR. GIBBS: I thought that he did. He did answer
16 it.

17 CHAIRMAN: Okay.

18 MS. SCHWEISGUTH: Well, he provided a number. He
19 provided, he said, he said, you know, 40 or something in the
20 morning, 27 at night, but that's not the rate. That's the
21 number of trips. I'm just wanting to understand the land
22 use categories that were used because --

23 MR. LENHART: Land Use Code 210 and the ITE Trip
24 Generation Manual, which is a fast-food restaurant with a
25 drive-through.

1 MS. SCHWEISGUTH: Which is for, for peak p.m. that
2 is 33.09?

3 MR. LENHART: It's 33, I believe it's 33.03, but
4 whether it's that or 09, it's essentially the same per a
5 thousand square feet.

6 MS. SCHWEISGUTH: And you used for the biggest
7 case, did you use De Brico (phonetic sp.), which is about 6
8 1/2 or did you use one of the restaurants which is slightly
9 higher?

10 MR. LENHART: We took the proposed McDonalds
11 traffic and we added that on top of the traffic that's
12 generated by the existing shopping center, including the
13 existing restaurant that underlies where the McDonalds is
14 proposed. We did not credit any trips out that may be
15 generated by that restaurant because it appears to be a
16 fairly low trip generator, so --

17 CHAIRMAN: Got you.

18 MS. SCHWEISGUTH: Okay. So, I'm just, yeah, I,
19 then I'm, I'm just still a little confused as to how you got
20 such a low number when you're looking at strip retail is
21 six, about 6.49 trips peak, it's a peak p.m. trips; and
22 fast-food is 33 point, you know, 03, 09 peak p.m. trips; and
23 you're looking at, you know, approximately doubling the
24 facility size. I don't understand how you're getting only
25 27 trips in the evening, particularly, and more trips in the

1 evening because those rates are usually higher. So, I
2 would, I would appreciate being able to see an actual
3 written version of, of what you said in your testimony when
4 related to actually estimating the, the actual trip
5 generation from if you modeled as fast-food because what I'm
6 hearing and what I have seen in the trip generation rates,
7 I'm having trouble reconciling those.

8 CHAIRMAN: So, I appreciate that. What's in the
9 record is in the record. If you have a specific question
10 for him on cross or anything more on that, then I don't, I
11 mean you, the question is asked and answered. It sounds
12 like you're not happy with the answer, but I, you know, if
13 there's more information that's in the record, you can
14 certainly look at that.

15 MS. SCHWEISGUTH: Yes, thank you.

16 CHAIRMAN: Thank you. And, Mr. Smith?

17 MR. SMITH: Sure. So, following up on Melissa's
18 questions, so just so I understand, if you use the trip
19 generation rate of about 6 vehicles per hour during the p.m.
20 peak and a fast-food restaurant output is on the order of 33
21 vehicles, that's the factor of close to six in the
22 differential, is that about right? Thirty-three is almost
23 six times higher than six, right? Right? Like I guess that
24 was easy enough. So, so, Mr. Shapiro, you got into some of
25 the issues around the context of how, how this community

1 interacts with this site and I have a question along the
2 same lines. I don't drive that much, but when I drive
3 through that intersection, I --

4 CHAIRMAN: Mr. Smith, we're on cross-examination.
5 If you have a question --

6 MR. SMITH: I, yes, this is --

7 CHAIRMAN: -- for Mr. Lenhart?

8 MR. SMITH: -- this is, this is the --

9 CHAIRMAN: But ask the question.

10 MR. SMITH: This is the context.

11 CHAIRMAN: I, don't give a context, ask a question
12 of Mr. Lenhart. This is cross-examination. This is not
13 your testimony.

14 MR. SMITH: Okay. Let me, I'll just, I'll just
15 phrase it in the reverse then rather than give any context
16 first. Given, given the number of trips that come out of
17 this site, coming out of the site, and they'll be entering
18 onto a roadway where the traffic often backs up out of the
19 left-turn lane onto Riggs, the southbound left-turn lane on
20 Riggs backs up so far that it actually backs-up into the
21 center lane right in front of this site, in front of this
22 entrance and exit. The other thing that often occurs here
23 is --

24 MR. GIBBS: Objection.

25 MR. SMITH: -- people coming out of the shopping

1 center often try --

2 CHAIRMAN: Mr. Smith.

3 MR. GIBBS: Objection. This is testimony.

4 MR. SMITH: I'm asking, I'm asking how --

5 MR. GIBBS: This is testimony.

6 MR. SMITH: -- (indiscernible)

7 CHAIRMAN: Mr. Smith.

8 MR. SMITH: -- from this site.

9 CHAIRMAN: Mr. Smith, you either ask a question or
10 we move on.

11 MR. SMITH: All right. I am trying to ask the
12 question. You have these trip generation rates, this many
13 vehicles per peak hour coming out of this site onto a road
14 where these conditions exist where people coming out of the
15 shopping center cut across lanes of traffic and take a left
16 onto Riggs.

17 CHAIRMAN: Mr. Smith, I'm sorry, we're going to
18 stop.

19 MR. SMITH: How does this interact? That's my
20 question, just as your question was, how does this interact
21 with pedestrian traffic and safety.

22 CHAIRMAN: Right, but I don't, I can ask different
23 questions than you can in my role. You're on cross-
24 examination. You're making an argument. If you have cross,
25 ask cross --

1 MR. SMITH: I thought I was asking a relevant
2 question. I'll, I will withdraw.

3 CHAIRMAN: I don't even know what the question is.

4 MR. SMITH: How does the traffic that will be
5 generated by this facility, how does it interact with the
6 existing conditions and how, how, what's the --

7 CHAIRMAN: The problem is --

8 MR. SMITH: -- the conditions (indiscernible).

9 CHAIRMAN: -- that that's not relevant to the
10 Detailed Site Plan. It's not relevant, like it or not, it's
11 not relevant to the Detailed Site Plan because there's no
12 Certificate of Adequacy, so --

13 MR. SMITH: All right. Then I'll --

14 CHAIRMAN: -- if you have --

15 MR. SMITH: -- I will explain, then I will explain
16 in my testimony how it is relevant because there is a
17 required health-impact assessment.

18 CHAIRMAN: So, that, that's --

19 MR. GIBBS: Objection.

20 CHAIRMAN: -- testimony.

21 MR. SMITH: Right.

22 CHAIRMAN: That's testimony and you can get to
23 that when you have an opportunity.

24 MR. SMITH: I will hold it for my testimony, thank
25 you.

1 CHAIRMAN: Thank you.

2 MR. SMITH: I thought it was a relevant question.
3 Apparently not. Thanks.

4 CHAIRMAN: All right. Any other questions? If
5 not, we're going to take a break. Mr. Gibbs, is that all
6 right, or do you have something you want to question Mr.
7 Lenhart about before we wrap up right here?

8 MR. GIBBS: No, I have no further questions of Mr.
9 Lenhart right now, other, other than for him to verify that
10 his first analysis was what was, let me just do this. The
11 initial analysis that you conducted, Mr. Lenhart, was that
12 what was the trip generation required by code?

13 MR. LENHART: Yes.

14 MR. GIBBS: And did you do this second subdivision
15 analysis to provide an extra level of analysis of certainty?

16 MR. LENHART: Yes.

17 MR. GIBBS: Thank you. Nothing further.

18 CHAIRMAN: Thank you. This is for my colleagues.
19 I want to take a break and I need your honest opinion about
20 this. How much of a break do you need? I know it's been a
21 long day. It's 2:42. Do you want to go to 3:15? Do you
22 want to go to 3:30? What works for you all?

23 COMMISSIONER WASHINGTON: I'll defer.

24 COMMISSIONER GERALDO: 3:30 for me.

25 CHAIRMAN: All right. Ms. Bailey?

1 MADAM VICE CHAIR: I was going to say 3:15, but
2 whatever.

3 CHAIRMAN: Let's do, let's do 3:20, how about
4 that?

5 CHAIRMAN: So, so, we're on recess until 3:20.
6 When we come back, we'll start with, with the public input,
7 which is, at this point, I think it's mostly parties in
8 opposition; and we'll work through how we manage the time
9 when we get back. See you all at 3:20.

10 MR. GIBBS: Well, Mr. Chairman, I --

11 CHAIRMAN: Yes?

12 MR. GIBBS: -- I would simply note that Mr.
13 Ferguson has not yet testified and I also don't know if
14 Officer Flax is out of court yet.

15 CHAIRMAN: Okay. For sure, Mr. Gibbs, when we
16 come back, we'll turn it back to you then before we get to
17 parties in opposition.

18 MR. GIBBS: Great. Thank you very much.

19 CHAIRMAN: Thank you, sir.

20 (Pause.)

21 (Discussion off the record.)

22 CHAIRMAN: All right. We are gathering back.
23 Let's give folks a minute to get back with us. There's Mr.
24 Boado, good. Did you get to eat, sir?

25 MR. BOADO: (No audible response.)

1 CHAIRMAN: Excellent, there we go. Ms.
2 Entzminger, Mr. Cronin, we got. We have Ms. Schweisguth and
3 we have Mr. Smith. Well, we actually, yeah, let's give
4 folks a second because I know, Mr. Gibbs, we're going to go
5 back to you; and you said you want Mr. Ferguson speaking,
6 you had some additional comments as well before we turn to
7 the opposition.

8 MR. GIBBS: Yes, that's correct, Mr. Chairman. I,
9 I believe that Officer Flax is still in court and I'm going
10 to have to go on to Mr. Ferguson without Officer Flax.

11 CHAIRMAN: Okay. I understand. I just want to
12 make sure that we are not jumping ahead before everybody can
13 get tuned in. Actually, I do see Mr. Smith on our list here
14 and I do see Ms. Schweisguth as well, so we're good. Okay.
15 All right. I think we're good to go.

16 Welcome back from our break. Mr. Gibbs, I'm going
17 to turn it back to you to manage the process with your
18 witnesses.

19 MR. GIBBS: Thank you.

20 CHAIRMAN: Take it away.

21 MR. GIBBS: Yeah, thank you, Mr. Chairman. I'd
22 like to call Mr. Mark Ferguson, please, and have him
23 identify himself.

24 MR. FERGUSON: Good afternoon, Mr. Chairman,
25 members of the Board. Mark Ferguson, 5407 Water Street,

1 Suite 206 in historic downtown Upper Marlboro; and, and I am
2 under oath.

3 CHAIRMAN: Thank you.

4 MR. GIBBS: Thank you. Once again, Mr. Chairman,
5 Mr. Ferguson has been qualified as an expert in the field of
6 land planning before this Board before the Hearing Examiner
7 and before the County Council and District Council on
8 numerous occasions I'd like to offer as qualifications.

9 CHAIRMAN: Without objection, Commissioners, yes?

10 (No affirmative response.)

11 CHAIRMAN: We're good to go.

12 MR. GIBBS: Thank you very much. Mr. Ferguson,
13 have you been online and been able to listen to all the
14 testimony which has preceded your being called as a witness
15 today?

16 MR. FERGUSON: Yes, I have.

17 MR. GIBBS: And are you familiar with the site,
18 the Green Meadows Shopping Center?

19 MR. FERGUSON: Yeah, very, very much so for more
20 than four years.

21 MR. GIBBS: Okay. And are you also familiar with
22 the Site Plan which has, and, and the other planning
23 documents, the Landscape Plan, so forth, that have been
24 filed by the Applicant in support of this case?

25 MR. FERGUSON: Yes, I am.

1 MR. GIBBS: And if you could please, based upon
2 your knowledge of the plans that have been submitted, the
3 Green Meadows Shopping Center, and the testimony that's been
4 provided thus far, if you are aware of the requirements in
5 the ordinance for the approval of a Detailed Site Plan?

6 MR. FERGUSON: I am. So, the, the requirements
7 that charged the Planning Board for making findings, two of
8 which are not applicable in this case. So, the, the,
9 inapplicable findings are conformant to a Conceptual Site
10 Plan and there is none here; and that you can approve a
11 Detailed Site Plan for infrastructure which is also not the
12 case here. Those are requirements two and three.

13 The fourth is that you must make a finding that
14 the regulated environmental features have been preserved or
15 restored to the fullest extent possible and the natural
16 resources inventory shows that there are in the Staff Report
17 brings out there are no regulated natural features on the
18 subject property. So, really, the only criterion that you
19 have to judge the property on is that does this plan
20 represent a reasonable alternative for satisfying the Site
21 Design Guidelines without requiring unreasonable clause and
22 without detracting substantially from the utility of the
23 proposed development for its intended use.

24 MR. GIBBS: And you're, you're referring to the
25 required findings for a Detailed Site Plan approval set

1 forth in Section 27-285(b)?

2 MR. FERGUSON: That is correct.

3 MR. GIBBS: Okay. Fine. You can continue,
4 please.

5 MR. FERGUSON: So, those, those, those Site Design
6 Guidelines for Detailed Site Plans are the same as those for
7 Conceptual Site Plans which are in Section 27-274. And
8 there are, there's one sort of general section and there's
9 10 others, one of which is applicable solely to townhouses
10 and three-family dwellings. You heard Mr. Lenhart testify
11 at some length about his opinion as to the conformance of
12 the Site Plan to the guidelines for parking, loading and
13 circulation, which are the first of the specific guidelines.
14 I, I share his, I share his opinion.

15 The, the other guidelines are for lighting, that
16 it be adequate; that if there are scenic views to be
17 preserved, that they be, be emphasized, if possible. That
18 green area be designed to complement other site activity
19 areas and are appropriate in shape, location and design. In
20 this case we have appropriate landscape buffering both
21 internal to the parking lot and in the perimeter of the site
22 where none now exists. That there were street and sight
23 scape amenities which are, with sight and streetscape,
24 excuse me, amenities, which are detailed on the Detailed
25 Site Plan.

1 That the grading be minimal and that is, in fact,
2 the case here. Service areas are to be unobtrusive and that
3 is the case. And to the extent that, that it's appropriate
4 there should be a public space system and that the
5 architecture shall be keeping in, in keeping with character
6 and purpose of the proposed site development.

7 So, what, what you have is a Site Plan that in the
8 opinion of your Staff, and one that I share, conforms to the
9 Zoning Ordinance, conforms to the Landscape Manual with the
10 approval of the departure from design standards, that
11 confirms to the tree canopy coverage standards; and that
12 conforms to the design guidelines that are provided for in
13 the ordinance.

14 MR. GIBBS: And given, given your testimony, do
15 you then find that all of the required findings are met and
16 satisfied in this instance?

17 MR. FERGUSON: The, the findings for, for Detailed
18 Site Plan, yes, I do.

19 MR. GIBBS: Okay.

20 MR. FERGUSON: There are, there are required
21 findings as well for approval of the departure from design
22 standards.

23 MR. GIBBS: Uh-huh.

24 MR. FERGUSON: And I'd like to just actually take
25 a moment to give particular praise to Ms. Gomez-Rojas who

1 did a very particular and thorough analysis of the departure
2 and I thought that was actually the best and most thorough
3 analysis of a departure that I've ever read from Commission
4 Staff. So, particularly well done, I agree wholeheartedly
5 with, with her analysis. One of the findings is that the
6 purposes of the Zoning Ordinance be equally well or better
7 served by the Applicant's proposal.

8 Ms. Rojas talked specifically about public health
9 safety and welfare and how that would be better served by
10 the departure than by the preservation of the existing
11 woodlands and I agree. There are 14 other purposes of the
12 general ordinance. Most of them are not applicable. You
13 know, we, we don't need to provide sound, sanitary housing
14 here, for instance, or prevent the over-crowding of land.

15 The other criteria of, of the purposes, or the
16 other purposes that are applicable would be to encourage the
17 preservation of Stream Valley steep slopes, lands of natural
18 beauty, dense forests, scenic vistas and other similar
19 features. Now the Natural Resources Inventory indicates
20 that much of the area that is in that buffer is not forest.
21 Some is. It's not dense and it's not in particularly good
22 condition and, further, that to provide open space to
23 protect the scenic beauty and natural features of the County
24 and, clearly, in this case the open spaces there to solve a
25 problem that there's been much, much testimony of.

1 Members of the Board, you have the task where you
2 have a lot to balance on this case because, certainly, there
3 were, there were competing interests that are before you.
4 The folks in, in Lewisdale and Green Meadows, and Carole
5 Highlands have an absolute interest in having a safe place
6 to conduct their business. Folks like me that live, you
7 know, a couple of miles away, you know, maybe the traffic
8 there affects us; and maybe we might appreciate more, more
9 tree cover generally; but I think, you know, locally, you
10 have a case where this is, this is a tough place to, to do
11 business and patronize a business; and so that's, that's
12 really the balance that you have before you is judging, you
13 know, one of the many things that you're charged of looking
14 at, you know, is going to, is going to be the ones that,
15 that you pay attention to. So, you know, is it is it plants
16 or is it people, right? And that's, that's the case that's
17 before you.

18 MR. GIBBS: And so, relative to the required
19 findings for the grant of a departure contained in 27-
20 23901(b)(7), do you, do you have an opinion as to whether or
21 not those required findings are met and satisfied in this
22 instance when you weigh those interests relative to why, in
23 fact, the departure is being requested in this case?

24 MR. FERGUSON: I, I do. And as I, as I say, I'll
25 give again some more, more praise to Ms. Gomez-Rojas. I

1 think her, her analysis is particularly eloquent and I, I, I
2 agree with it wholeheartedly.

3 MR. GIBBS: And do you find that to be consistent
4 not just with the record, but with the testimony that's been
5 given thus far today?

6 MR. FERGUSON: I do.

7 MR. GIBBS: Okay. Anything further you feel you
8 need to add?

9 MR. FERGUSON: No, sir, that's, that's it.

10 MR. GIBBS: Okay. Nothing further from Mr.
11 Ferguson.

12 CHAIRMAN: Thank you, Mr. Ferguson.
13 Commissioners, I'll start with you all. I have some
14 questions for Mr. Ferguson, but I'm curious if you do as
15 well. Commissioner Geraldo?

16 COMMISSIONER GERALDO: I, I have a question. So,
17 Mr. Ferguson, thank you for testifying. So, I agree with
18 you, Ms. Gomez-Rojas did a wonderful job in evaluating this
19 project; and in evaluating the project, she disapproved of
20 the alternative compliance. So, I would guess you agree
21 with her on that?

22 MR. FERGUSON: I, I, I do. I mean I think this is
23 a technical issue. The, the idea is if you're going to
24 provide a buffer that doesn't have screening, right, is it
25 a, is it a buffer in the context of what the landscape

1 manual ordinarily asks you to do? So, the standard for
2 alternative compliance is, can you provide something that
3 provides a buffer that's as good as what the manual requires
4 you to do? And what we're saying is we don't really want
5 the buffer here. We want to remove the buffer because it's
6 that buffer that, that harbors the, the activity of the
7 unhoused folks.

8 COMMISSIONER GERALDO: But you have to have, you
9 have to have historic property?

10 MR. FERGUSON: You do and, so --

11 COMMISSIONER GERALDO: I mean, excuse me, I mean
12 it's quite, it's quite historic.

13 MR. FERGUSON: Very much so, very much so. So,
14 (indiscernible) is very --

15 COMMISSIONER GERALDO: It's historic property, you
16 would historic property and the McDonalds across from it.

17 MR. FERGUSON: You, you do; and so, what, what I
18 think, you know, you, you have to do is look and see what
19 the, what did the Historic District Commission say and what
20 did the, what did the results of the, the site line analysis
21 that Mr. Speech prepared reveal about the impacts; and then,
22 certainly, the, the, the protection of the historic resource
23 and, and the judgement of, of whether that is sufficient is,
24 is up to the HPC, and they gave a recommendation for how,
25 how they believe that should affect this case and that's,

1 that's in the record. But it, but --

2 COMMISSIONER GERALDO: You --

3 MR. FERGUSON: Yes, Mr., Mr. Geraldo, it is tough.
4 There are a lot of competing, you know, things about this
5 property.

6 COMMISSIONER GERALDO: So, what did --

7 MR. FERGUSON: And I'm sorry.

8 COMMISSIONER GERALDO: -- so, do you agree with
9 the HPC?

10 MR. FERGUSON: I do. I mean in the end I think
11 they said if you can save some more trees, can you; but in
12 the end, it's up to, I think, you know, they, they said it's
13 up to you guys, have you saved enough trees? And maybe, you
14 know, maybe the answer is put a line of conifers right up
15 against the fence, you know, so that, dense enough that you
16 can't live in it and something that provides more of a
17 visual buffer; but, you know, you, it's, it's not an easy
18 answer.

19 COMMISSIONER GERALDO: Okay. Thank you.

20 MR. FERGUSON: Yes, sir.

21 CHAIRMAN: Other questions, Commissioners? I have
22 a couple. Mr. Ferguson, so, you know, the chief area of
23 concern that I keep coming back to is related to the Site
24 Design Guidelines for parking, loading and circulation that
25 are part of the DSP; and I, I may have missed it, but I

1 didn't hear you weigh-in on that when you talked about some
2 of the other areas and maybe it's just not as much of what
3 you focused on, and that's okay; but do you have thoughts,
4 reactions in your expert opinion about this as well? Do you
5 have thoughts and reactions around that, you know, the --

6 MR. FERGUSON: Thank you.

7 CHAIRMAN: -- the ITE rights and the, you know, et
8 cetera, et cetera?

9 MR. FERGUSON: No, I, I think my, my testimony was
10 pretty much to echo what Mr. Lenhart had testified because
11 he did go through that in, in a fair amount of detail and
12 notwithstanding how I do go on, I was trying to be
13 respectful of the Court's time. I can, I can say that this
14 is, this is typical of a, a fast-food restaurant with a
15 drive-through. I would say that in my experience there's
16 actually more queuing provided here than there are in, in
17 many other facilities. So, there's less interference here
18 of queued vehicles with general vehicular circulation.

19 I think that, I do remember you had expressed some
20 concerns about the new spaces that are behind the existing
21 inline building. My expectation is that those would get
22 occupied by employees, or at least if I were the manager, I
23 would insist that. So, I think, you know, you'll get most
24 of the, most of the folks parking in the triangular area to
25 the southeast of the building where there is sort of ready,

1 ready and safe pedestrian routes from those spaces to the
2 building. And as I say, I think this is got a really, a
3 really generous amount of space for, for drive-through
4 patrons.

5 CHAIRMAN: Okay. All right. Thank you.

6 MR. FERGUSON: Thank you, sir.

7 CHAIRMAN: Any other questions by Commissioners?
8 If not, let's go for cross. Start with Mr. Boado, then Mr.
9 Wilpers.

10 MR. BOADO: Hello, Mr. Ferguson.

11 MR. FERGUSON: Good afternoon.

12 MR. BOADO: Good afternoon. So, you're claiming
13 that the reduction in tree buffer would reduce homelessness
14 and loitering?

15 MR. FERGUSON: I don't believe I said that.

16 MR. BOADO: Okay. I'm asking you.

17 MR. FERGUSON: What are you asking me, sir?

18 MR. BOADO: If your plan to reduce the buffer for
19 the sake of safety is going to reduce homelessness and
20 loitering?

21 MR. FERGUSON: It will have no impact on homeless
22 rates. I'm fairly confident about that. I, I do think it
23 has the potential to reduce long-term loitering. There has
24 been testimony, perhaps on cross-examination questions, to
25 this point that talks about loitering from folks that are

1 not necessarily residents, if you will, trespassing
2 residents of the, of the rear of the property. I have no
3 doubt that that's, that that's the case, and I don't think
4 that a, you know, a design in the rear will have a
5 meaningful effect on that. I do think it is likely to have
6 a meaningful effect on residency, if you will.

7 MR. BOADO: Is there anything to stop those same
8 people from moving 200-feet to the, to the east once you,
9 once you cut those trees down?

10 MR. FERGUSON: Hopefully, the Park and Planning
11 Police.

12 MR. BOADO: Okay. Thank you.

13 CHAIRMAN: All right. Who else do we have? We
14 have Mr. Wilpers and then Mr. Smith.

15 MR. WILPERS: Hi. Thank you, Mr. Ferguson, I
16 really appreciate your stating so clearly about the
17 difficult balances that have to be achieved. Am I right
18 that you characterized the woodland as sparse and not really
19 a forest?

20 MR. FERGUSON: I, I said much of it is not. The,
21 the natural resources inventory shows that the southeastern
22 tip is considered woodland. My characterization of its
23 sparseness is based on just my familiarity with the site, my
24 site visits and looking at it. It's not a, it's not a
25 large, mature forest. It's scrubby.

1 MR. WILPERS: With that in mind, doesn't that
2 imply that the issue of sight lines, that is, trees blocking
3 the view and allowing people to conduct illegal activities
4 such as loitering, doesn't that sort of contradict the claim
5 that the trees are blocking the view and that, therefore,
6 cutting the trees is necessary?

7 MR. FERGUSON: No, I mean I think much of what
8 blocks the view is understored; and, and sort of lower,
9 young stuff that, that, that I see in the southeast corner.
10 As to the, the trees further to the west where they're
11 larger and, and more sparse, my, my understanding is that it
12 concerns people, use them as, as tent poles and supports for
13 the, supports for their, their makeshift tarp structures.

14 MR. WILPERS: Uh-huh. Okay. Well, I've visited
15 the site, too, and I, I don't think there's any under
16 story --

17 MR. GIBBS: Objection.

18 CHAIRMAN: Mr. Wilpers --

19 MR. GIBBS: Objection.

20 MR. WILPERS: Sorry.

21 CHAIRMAN: Focus. No, that's all right, just
22 focus on cross, please, sir.

23 MR. WILPERS: Sure. I appreciate that. In the
24 ordinance you cited, Section 27-2309, Item 4 says that the,
25 the departure from design standards shouldn't impair the

1 visual functional or environmental integrity of the site.
2 Wouldn't cutting down every last tree, in fact, completely
3 destroy the environmental integrity of the site?

4 MR. FERGUSON: But that's not the whole, that's
5 not the whole part of that, of that requirement, right? So,
6 in this case, what we're, what we're looking to do is sort
7 of to replace a woodlands screening function with a security
8 function; and, clearly, different people here may disagree
9 about whether, again, is it the plants or is it the people?
10 You know, this is, this is what, what the, the Board has
11 before them.

12 MR. WILPERS: If I could ask one last question on
13 that topic? You said plants versus people. Of course, a
14 lot of wildlife use trees, so it's not just plants; but,
15 more importantly, these trees, some of which are quite
16 large, do alleviate the heat island effect and, and, and,
17 and sequester CO2 and control stormwater. Don't those
18 benefit people?

19 MR. FERGUSON: In a more generalized and diffuse
20 way, sure, they do; and so, you know, here is, it's sort of
21 a, you know, is this a global problem or a local problem?
22 And so, the best --

23 CHAIRMAN: Let me, let me stop this because, Mr.
24 Wilpers, I hear you loud and clear; but, but it's not
25 appropriate for you and Mr. Ferguson to be arguing this

1 point back and forth. If you have a, if you have specific
2 questions on cross, please continue.

3 MR. WILPERS: Well, I just wanted to clarify what
4 he meant by plants versus people and I think I understand
5 now. Thank you.

6 CHAIRMAN: Okay. Thank you, sir. Next, we have
7 Mr. Smith.

8 MR. SMITH: Thank you. Just, just one question.
9 Hi, Mark, good to see you again. I'm getting back to the
10 plants versus people, your attempt to distill it down to
11 that, or reduce it to that.

12 CHAIRMAN: Mr. Smith --

13 MR. SMITH: Yeah, I just, here comes my question.
14 You ready?

15 MR. FERGUSON: My breath is bated.

16 CHAIRMAN: Yes.

17 MR. SMITH: Given the range of issues that have
18 been raised by Planning Board members and also by folks who
19 live in the community and know the site pretty intimately,
20 the range of issues about traffic safety, heat island
21 effect, public health impacts, the potential for gravesites
22 of enslaved people on this property and the neighboring, or
23 adjacent property, do you think it's fair to try to reduce
24 this discussion down to plants versus people?

25 CHAIRMAN: I'm sorry, Mr. Smith, don't even

1 bother, Mr. Ferguson. Mr. Smith, that's, that's not a
2 question on cross and you're basically asking him if he were
3 a Planning Board member what would he do. And so, let's,
4 let's go on. If you have a question on cross-examination
5 for Mr. Ferguson, I'm happy to entertain it.

6 MR. SMITH: That was it, did he think his
7 characterization was fair given all the issues raised.
8 Thanks.

9 CHAIRMAN: You don't think it's fair. I, I
10 imagine he said it because he thinks it's fair. It's pretty
11 much stating the obvious. He said it. Any other questions
12 on cross?

13 (No affirmative response.)

14 CHAIRMAN: All right. Mr. Gibbs, back to you,
15 anything else?

16 MR. GIBBS: That's it. Officer Flax is still in
17 court and, unfortunately, he's not going to be available to
18 testify. Thank goodness he has a statement that's in the
19 record that --

20 CHAIRMAN: Yes.

21 MR. GIBBS: -- clearly summarizes what his
22 testimony would have been. We, we would, in fact, ask the
23 Board to consider the proposed revision to condition three
24 that we put into the record on October 15th. I would note
25 that Staff in its memorandum that was added to the record

1 prior to the last scheduled hearing date for this case had a
2 similar condition worded slightly different. We, I actually
3 think ours is a little bit clearer, but, but the objective
4 is obtained with both; and, and I would, I also want to
5 offer a final additional condition which would be, which
6 would be condition number four, to address an issue raised
7 by the Chair during questioning of Mr. Lenhart. And that
8 would be a condition that would limit deliveries to the site
9 using the loading space to the hours of 11:00 p.m. and 7:00
10 a.m.

11 CHAIRMAN: I'm sure Staff is noting that and we'll
12 take that under advisement as we continue through this
13 hearing, but I appreciate you noting it, Mr. Gibbs.

14 MR. GIBBS: Yes, sir. That's, that concludes,
15 that concludes our presentation.

16 CHAIRMAN: All right. Thank you. So, we'll now
17 turn to the parties in opposition. I want to make sure that
18 I'm capturing everybody again; and, Mr. Smith, thank you for
19 helping us organize this with a list. I have Mr. Boado, Ms.
20 Entzminger, Mr. Cronin, Ms. Schweisguth, Mr. Wilpers, Ms.
21 Shea, Ms. Brockell and Mr. Smith. Is there anybody I am
22 missing?

23 (No affirmative response.)

24 CHAIRMAN: Okay. So, we will go in that order.
25 In terms of management of time, and I'm respectful of what

1 you said, Mr. Smith, I want to give you all a bit more time,
2 that the, the, you know, we've been going for a good chunk
3 of time here. What I'd like to do is give you as the
4 Applicants, as the opposition a total of one hour, to manage
5 the time as you see fit, okay? There are one, two, three,
6 four, five, six, seven, eight of you. You can take more or
7 less as individuals. We'll clock it overall and, you know,
8 if you want to take a minute to gather and figure out how
9 you want to manage that, it's fine; or if you want to do
10 that as we go through the process, that's fine as well. Mr.
11 Smith.

12 MR. SMITH: Just as a point of order, did anyone
13 on Staff clock how much time the Applicant took separate
14 from, from cross?

15 CHAIRMAN: Separate from cross? It was not more
16 than an hour. I'm actually being generous to you all
17 because I know there's going to be a lot of questions. The
18 cross took up, you know, by my clock, cross took up about 40
19 percent of the time that we've had, and we had the lunch
20 break and we started at 12:04. So, yeah, so an hour is, is,
21 you know, equity and then some.

22 So, do you need a few minutes, folks to gather and
23 figure out how you want to do this; or do you want me to
24 just run through the order that you have listed? Ms.
25 Brockell, you have a question related to this process?

1 MS. BROCKELL: No, sir, I was just agreeing with
2 you that an hour seemed about equity.

3 CHAIRMAN: Oh, I saw, it was, oh, I thought it was
4 a hand up. It's a thumbs up. Okay. Sorry about that.

5 MS. BROCKELL: It's a thumbs up. It's a thumbs
6 up.

7 CHAIRMAN: It was a reaction, not a question.
8 Thank you for that. I appreciate that. Okay. So, I'll go
9 through the list in the order that we have here. We'll
10 start with Mr. Boado. We're going to put an hour up on the
11 clock and you all just sort of be mindful of that as you go
12 along, okay?

13 MR. SMITH: I'm sorry, real quick request. I made
14 it by email as well. Before you start the clock for each
15 speaker, if we could make sure that their slides are up and
16 being shared before --

17 CHAIRMAN: Sure, that's fine.

18 MR. SMITH: -- we start the clock?

19 CHAIRMAN: So, Staff, if you can note that, if you
20 can stop and start the clock so it's time to, when people
21 are starting to speak, that seems fair. So, we're going to
22 start with Mr. Boado. Do you have slides that you want to
23 put up for us, sir?

24 MR. BOADO: Yes, I, I sure do. I submitted those
25 on Monday. Do you want me to share my screen or do you

1 show --

2 CHAIRMAN: No, let, let our Staff do it, but do we
3 have, do you have the slides? I forgot who we have
4 supporting us on this.

5 MR. CRAUN: It's, it's Ryan. Just give me one
6 moment, please. This is Boado?

7 MR. BOADO: Yeah, Boado, B-O-A-D-O, yes, Alexi.
8 It's maybe 12 slides, 13 slides or so. There we go. So,
9 when I want you to go to the next slide, I just ask, I
10 suppose?

11 MR. CRAUN: Correct.

12 MR. BOADO: All right. So, I can go ahead and get
13 started now, if that's okay?

14 MR. CRAUN: Yes.

15 MR. BOADO: All right, excellent. So, I think you
16 understand I want you to disapprove of this. My name is
17 Alexi Boado. I live in Hyattsville. I've been here since
18 here 2003 and I've been crossing through that intersection
19 on bicycle and by car for 20-plus years. Next slide,
20 please.

21 I want to draw your attention to Zoning Ordinance
22 purpose, the purpose of this zoning ordinance is to promote
23 the health, safety and welfare of our County residents.
24 Next slide, please.

25 As relates to traffic and road safety, purpose 11

1 of the Zoning Ordinance is that you must lessen the danger
2 and congestion of traffic.

3 MR. GIBBS: Mr. Chairman, Mr. Chairman and, Mr.
4 Boado, I apologize for interrupting you, and please stop the
5 clock for him. I don't mean to take any of your time. I
6 just, I have to register an objection to this line of
7 testimony simply because it is not addressing the criteria
8 for the review and approval of a Detailed Site Plan. It's
9 the, the purposes of the Zoning Ordinance are not part of
10 the criteria to judge the approval of a Detailed Site Plan.
11 They are appropriate to judge the approval of a departure.
12 The only purposes that are valid for purpose of the Detailed
13 Site Plan are the purposes of this zone in which the
14 property is situated which is to encourage commercial use.

15 This, this whole line of Mr. Boado's testimony is
16 going to go into traffic safety, or lack thereof, in his
17 view on the public roads outside of the shopping center; and
18 that is beyond what the scope of the approval criteria are
19 for a Detailed Site Plan. So, I just had to register that
20 objection. And, Mr. Boado, I apologize for interrupting
21 you.

22 MR. BOADO: Thank you.

23 CHAIRMAN: So, I, no, I appreciate that, Mr.
24 Gibbs, and I, you know, the way I look at this is I, I agree
25 with you, this is not pertinent; but we tend to give a fair,

1 this is, this is where we're not quite as strict as a court
2 of law and we tend to give folks a fair degree of latitude
3 about what they testify to us about; and then it's up to us
4 as Commissioners to be clear that there's some things that
5 just are not relevant.

6 Now I would say that in fairness to the Applicant,
7 you know, yes, I would encourage all of you who are
8 testifying to stick to what is before us. And, Mr. Boado,
9 Mr. Gibbs is correct about the, the dangers of the
10 intersection are not what's before us because there's no
11 traffic adequacy here and we're focused on what's on the
12 site for Detailed Site Plans. So, I don't disagree with you
13 around the content, Mr. Gibbs; but we're, we're a bit more
14 flexible around that and, and I, let me ask Mr. Warner to
15 weigh-in on that as well. If you have anything to add and,
16 Mr. Gibbs, I'll turn back to you, too.

17 MR. WARNER: Yeah, no, you're exactly right. In
18 fact, we're significantly more relaxed than a court of law.
19 The Planning Board's own procedures say that we don't follow
20 formal rules of evidence. We accept hearsay. You can, any
21 objection to testify, we only sustain that, the rules say
22 for the most compelling reasons because we want witnesses to
23 be able to freely speak to the extent that they can. And
24 then it's the Planning Board's job to shift, sift between
25 what's relevant and what's not. So, yeah, that's exactly

1 right, Chair.

2 CHAIRMAN: Yeah, and I would, I would say, again,
3 with all due respect to Mr. Boado, it's, a lot of this stuff
4 I feel, I feel this, too, and I see it, too; and it's not
5 relevant to our determination and that doesn't always make
6 me feel so comfortable, but that's the reality of it. You
7 know, that's the role that we have and this is what's before
8 us. So, you do what you got to do, but know that we're
9 focused on the Detailed Site Plan and what's on the site.

10 MR. BOADO: Okay. Thank you so much for
11 clarifying that. That kind of demonstration of a little bit
12 of naivete with the process that you get when you have 25
13 random people getting together to, to fight this kind of
14 thing without a whole lot of experience.

15 CHAIRMAN: No, I, all, all respect; and I, you
16 know, this, I support, I support all the opportunities for
17 advocacy and I just want to be clear with you about what we
18 do or don't intend to.

19 MR. BOADO: Sure. That's good to know, but how, I
20 do think, though, and please correct me again if I'm wrong,
21 that this could become a political decision beyond if, if
22 the County Council takes this up, at which point this type
23 of broader testimony might have some relevance, is that
24 true?

25 CHAIRMAN: I mean it could be. There's a, there's

1 a question about what actually is -- now, whatever, it's a
2 political world, you know? If you want to make sure that
3 the Council hears this through our record, then, you know,
4 that's going to happen because it's here; but then you're
5 getting into all sorts of issues around if it comes to that
6 point, is somebody going to challenge it because it's not
7 pertinent to what's before us. So, you know, I'm not going
8 to weigh-in on that. I'm not going to get involved in that.
9 I'm just telling you what's before us.

10 MR. BOADO: Okay.

11 CHAIRMAN: And let me, let me give Mr. Gibbs a
12 final word on this if you have it, so I want to be
13 respectful of you as well.

14 MR. GIBBS: No, I appreciate that, Mr. Chairman.
15 Mr. Boado, I apologize that I had to interrupt you. It's,
16 it's just an objection that I had put on the record and I
17 understand all the comments that have been made both by you,
18 Mr. Chairman, and by your counsel. That's all I have to
19 say.

20 CHAIRMAN: All right. Thank you. Mr. Boado, back
21 to you and we're, the clock is ticking. Take it away.

22 MR. BOADO: Okay. Next slide. Skip, I'll skip
23 over traffic. I'll skip over the, perhaps, the
24 consideration for the high, the (indiscernible) pedestrian
25 safety issue. I guess there is a pedestrian safety issue,

1 even, even as you cross the site. Okay. I'm just, the
2 pedestrian issue for the entire area may not be in play
3 here, but the safety, as people are entering and leaving the
4 site could, is certainly still in play and I think that's
5 part of this DSP, am I, am I correct in that respect?

6 CHAIRMAN: Yes, sir.

7 MR. BOADO: And so, you do have two bus stations,
8 two, have, two, you do have two bus stations, I lost my
9 slide there. You do have two bus stations in walking
10 distance of each other that cross directly in front of a
11 sidewalk which is significantly lower than the car. So,
12 when the cars are coming over and approaching the street,
13 they will not see the pedestrian until one the cars is
14 already coming down. That would be an easy, easy place for
15 someone to come forward and suddenly find a pedestrian right
16 there in front of them.

17 CHAIRMAN: And, Mr. Boado, you're talking about as
18 you enter the site, correct?

19 MR. BOADO: As you come out of the, as you come
20 out of the McDonalds after you've gotten your food and
21 you're coming down onto the street, you're going to come
22 down two feet. You might not see that pedestrian over your
23 hood until you come down and the front of your car is angled
24 down.

25 CHAIRMAN: I, I see. I just wanted to make sure I

1 understood your point and that's very, that's, that's clear,
2 thank you. Give us a second. There's clearly a technology
3 I Staff is working on. I want to make sure we have the
4 slides up. So, just take a pause for a second while we do
5 this.

6 MR. BOADO: Sure.

7 MR. WILPERS: Can I ask a quick clarification,
8 Chair?

9 CHAIRMAN: Who is speaking?

10 MR. WILPERS: Wilpers, sorry.

11 CHAIRMAN: Oh, Mr. Wilpers, yes, I'm sorry.

12 MR. WILPERS: Is Mr. Gibbs correct in that the
13 departure from design standards is not one of the questions
14 the Board is evaluating right now?

15 MR. GIBBS: No, I, Mr. Wilpers, I didn't say that.

16 CHAIRMAN: Yeah, I didn't hear that.

17 MR. WILPERS: Oh, okay, I thought you said we were
18 restricted to the Detailed Site Plan, but a lot of the
19 issues have to do with the Departure from Design Standards.
20 Is that wrapped into the Detailed Site Plan?

21 CHAIRMAN: No, I think that's a fair distinction.
22 I think, Mr. Gibbs, you would agree that we're, these are
23 companion cases and we're taking up both.

24 MR. GIBBS: No, indeed, indeed, no, I was just
25 talking about the tests were, the tests are not the same for

1 the two. That's, but they're both part of the same
2 application. I mean it's, it's, the departure is part of
3 the development proposal for the site.

4 MR. BOADO: Thank you.

5 MR. GIBBS: Uh-huh.

6 MR. BOADO: Okay. So, next slide, please. Let's
7 see if this one hits the mark or not. All right. The NRI,
8 that's definitely in play here. So, the NRI is missing
9 critical trees. So, I don't think that we can, whoever did
10 this NRI, they didn't do a very good job because they're
11 missing a bunch of large and very important trees, prominent
12 trees. And so, I think the NRI needs to be redone.

13 And we won't talk about the wildlife ordinance,
14 well, I don't, is that still in play, this habitat
15 conservation ordinance? I do believe Mr. Ferguson mentioned
16 it.

17 CHAIRMAN: I mean your, your, this is your
18 testimony, so feel free --

19 MR. BOADO: It, it, it is, it is part of the
20 Zoning Ordinance that is one of your charges to conserve and
21 protect trees, and woodlands and wildlife habitat. And we
22 do have a significant woodland here that's even wider than
23 the Sligo Creek order next to it; and for some organisms
24 like, like birds, for example, is proximate, very proximate.

25 So, I think dismissing the, dismissing the

1 importance of this forest is misguided and I say that as
2 someone with a master's in environmental and forest biology.
3 Next slide, please.

4 McDonalds' density and food equity. We have 14
5 McDonalds within 10-mile radius and there's seven additional
6 McDonalds planned. I don't think we need more McDonalds.
7 Next slide.

8 The County Council, through this resolution,
9 created the Prince George's County Food Security Task Force
10 and its goal is to ensure that every Prince Georgian has
11 access to nutritious, affordable, sustainably-grown, safe
12 and culturally appropriate food. As recently as 2019, they
13 created these healthy food priority areas, HFPAs, and this
14 was done by seven agencies, the County Council and the
15 County Executive's Office. Next slide.

16 What you're proposing to do, McDonalds
17 Corporation, is to put a McDonalds smack in the middle of an
18 HFFPA. That is a food swamp, an area of the County that
19 lacks access to healthy foods. It's also an equity emphasis
20 area which means that there's an above-average concentration
21 of low-income Hispanic, African-American and Asians. So,
22 what we're asking you to do is not undermine the work of the
23 County Task Force. Next slide, please.

24 We know, for example, one of hundreds of studies
25 that you can read such as Van Duren, et al., 2015, that

1 higher fast-food consumption increases the risk of
2 developmental diabetes, metabolic syndrome and
3 cardiovascular disease. Next slide.

4 So, for that reason, obviously, the HFPA, we're
5 more, McDonalds does not qualify as anything but a food, a
6 food swamp. Can you go, go back up one slide, please?
7 Okay. So, McDonalds, during its presentation to us by Mr.
8 Redder, claimed, and he did so today again, that they would
9 be creating 50 jobs in our community. And it is Planning
10 Board's, one of your charges to create desirable employment
11 in a broad protected tax base; and, yet, the General
12 Accounting Office in 2020 found that aside from Walmart, no
13 company has more employees enrolled in Supplemental
14 Nutrition Assistance, SNAP, and Medicaid than McDonalds;
15 but, basically, we would be subsidizing poisonous food in a
16 low-income neighborhood that's in a high priority food area.
17 Next slide.

18 McDonalds claims to be DEI friendly, yet they had
19 multiple public meetings, none of them in Spanish, and they
20 didn't have the decency to go and speak to the owner of the
21 restaurant and tell them that they would be taking her
22 livelihood from her. Next, next slide.

23 A drive-through is not a destination and the
24 McDonalds rep, Mr. (indiscernible) August 2023 webinar; and
25 so, here we are putting together all these Sector Plans such

1 as the one in Queens Chapel where we talk endlessly about
2 walkable cities with walkable destinations; and yet here we
3 are sticking a drive-through in what is an otherwise
4 walkable area.

5 Next slide and I think it should be the last one.
6 So, yeah, so I'm just asking you to please think carefully
7 and approve a DSP. Next.

8 CHAIRMAN: Thank you, Mr. Boado, I appreciate it.
9 Next we have Ms. Lisa Entzminger.

10 MS. ENTZMINGER: Thank you. Thank you. I'd like
11 to say a quick thing just to, I guess, like a head's up to
12 everybody. I am suffering from the after effects of a
13 concussion I sustained about five weeks ago; and, so, I may
14 stumble over some words or may have some struggles
15 communicating and I just want to apologize for that. I'll
16 do my best.

17 CHAIRMAN: We wish you heal well.

18 MS. ENTZMINGER: Thank you. All right. Hello.
19 My name is Lisa Entzminger. I live at 7213 16th Avenue in
20 Takoma Park, Maryland, in the unincorporated portion of
21 Takoma Park within Prince George's County. I'm a resident
22 of the Carole Highlands neighborhood and I currently serve
23 as the treasurer of the Carole Highlands Neighborhood
24 Association. I live near the proposed site and I regularly
25 travel through the area.

1 I'm testifying today in opposition to the proposed
2 development of a McDonalds fast-food establishment at 6565
3 Ager Road. The County Zoning Ordinances state Section 27-
4 102, which we have reviewed for purpose of zoning ordinances
5 are to protect and promote the health, safety, morals,
6 comfort, convenience and welfare of the present and future
7 inhabitants of the County; and to, and the General Plan,
8 Area Master Plans and function of Master Plans.

9 The proposed development does not serve any need
10 in the community. It seeks to destroy established trees, as
11 well as increased traffic and pollution on a road that's
12 already dangerous for pedestrians, cyclists and drivers.

13 It hinders the Council's, I'm sorry, the County's
14 ability to meets its goals for reducing obesity
15 (indiscernible). Prince George's County has the highest
16 obesity rate in the state of Maryland with 71 percent of
17 adults classified as overweight or obese, and 48 percent of
18 children considered at-risk for obesity, compared to just 29
19 percent of Marylanders overall being considered obese.

20 The Prince George's County Health Department's own
21 tracking system for obesity and obesity-related illnesses
22 shows that the County is failing to meet its own targets for
23 reducing obesity. At the same time, fast-foot restaurant
24 density has been increasing at alarming rates since 2007,
25 while grocery store density has declined. There are .85

1 fast-food establishments per 1,000 people, yet only .18
2 grocery stores per 1,000 people in Prince George's County.
3 With that in mind, it is extremely short-sighted to court
4 the development of a business that discourages exercise and
5 promotes unhealthy eating. McDonalds is a fast-food
6 operation seeking to expand in the area that already has a
7 glut of such establishments. There are four McDonalds
8 within two miles of the proposed site. We don't need
9 another one. We need better choices in this part of the
10 County.

11 The site chosen for this fast-food operation falls
12 within an area that the County has identified as a healthy
13 food priority area. According to the County, a healthy food
14 priority area in Prince George's County is an area where the
15 ratio of healthy to unhealthy food retailers is low. The
16 median household income is below \$67,553. The Maryland
17 self-sufficiency standard for a family of four and over 5.2
18 percent of households have no vehicles available.

19 The construction and operation of yet another
20 McDonalds is not necessary to the public in the surrounding
21 area. There are many similar establishments already
22 operating in the immediate vicinity. The community wants
23 high-quality, sustainable good choices that meet the needs
24 of a variety of constituents consisting of establishments
25 that prioritize lean proteins, fresh vegetables, nutrient-

1 dense greens prepared and served by workers trained about
2 how to safely navigate food allergies, intolerances and
3 celiac disease.

4 Nearby localities, such as Riverdale and College
5 Park, have attracted similar establishments, already with
6 the addition of Gangster Vegan Organics, Bartons and Soul
7 Spice, and we want more of this kind of development. We
8 want beautiful community spaces that our families can use
9 for gathering, recreation and play. We do not want yet
10 another fast-food, take-out establishment that further
11 entrenches in the food swamp.

12 The development also goes against the 1989 Langley
13 Park, College Park, Greenbelt approved Master Plan document
14 that I spent Christmas Eve 2015 reading while considering
15 whether or not to put an offer on my house and contemplate
16 moving to a new state. I was sold on the vision put forth
17 by the Planning Board, a vision that's been reiterated with
18 a new Master Plan which spoke of transit-oriented
19 development, walkable communities in conjunction with Purple
20 Line; however, since moving here, I have seen the approval
21 of developments that conflict with the County's own vision
22 and that seem to prioritize driving a car rather than multi,
23 excuse me, multi-modal transit. Why are we spending tax
24 dollars to create these plans if we don't implement them?
25 Therefore, for the reasons stated above, I urge the

1 Committee to deny the departure from design standards
2 requested by McDonalds. Allowing this development to move
3 forward would cause harm to the community and would send a
4 very bad message about the importance of defeating the
5 obesity, excuse me, epidemic in this County. Thank you.

6 CHAIRMAN: Thank you, Ms. Entzminger, I appreciate
7 it. And sorry for the little glitch. We didn't have your
8 statement up the whole time you were talking, but it's up
9 now and we'll, Staff, I think is aware that we want to keep
10 this, keep this up and going. We also want to see the
11 clock, but sometimes those two things conflict which is why
12 that happened. But very much appreciate your testimony.

13 So, next we have Mr. Jeff Cronin. I didn't ask,
14 but I'm assuming every one of you has been sworn-in. I
15 think I remember it and we've heard from a number of you;
16 but just affirm that as we go along. So, Ms. Entzminger, I
17 know you were. Mr. Cronin, you've been sworn-in, too,
18 correct.

19 MR. CRONIN: Correct.

20 CHAIRMAN: Okay. Go ahead. The floor is yours.

21 MR. CRONIN: Well, good afternoon, Mr. Chairman,
22 members of the Board. My name is Jeff Cronin. I live at
23 7217 15th Avenue in Takoma Park. As Lisa said, that's
24 located in the unincorporated community of Carole Highlands.

25 CHAIRMAN: Mr. Cronin, give us one second. I want

1 to get the, your, your pieced up before we --

2 MR. CRONIN: Forgive me, I have no slides to
3 offer, Mr. Chairman, so there's no materials for me.

4 CHAIRMAN: Okay. Thank you. I also, I, I know
5 we're not supposed to be communicating through the chat, but
6 these occasional chats that are coming through are, are a
7 bit instructive at this point. So, Mr. Schweisguth, you
8 said you were not sworn-in?

9 MS. SCHWEISGUTH: Yes, that's correct, I'm not
10 sure when that would have occurred.

11 CHAIRMAN: All right. So, I need a little advice
12 from counsel on this because Ms. Schweisguth has spoken a
13 lot and she's not sworn-in. Is it appropriate to do it at
14 this point and have that be retroactive to everything she
15 said up to this point?

16 MR. WARNER: Yeah, the, the, the swearing-in is
17 for her testimony, so not for her cross-examination. So,
18 she's fine.

19 CHAIRMAN: Oh, right, thank you. I'm sorry.
20 Thank you. Good point. Thank you. Though I did swear
21 everyone at the beginning, but I guess that's not relevant
22 because everyone else is sworn-in. Okay. I'm sorry. Keep
23 going. I apologize, Mr. Cronin.

24 MR. CRONIN: Not at all. I've lived in Carole
25 Highlands since 2002 so, among other things, that makes me a

1 former constituent of yours, Mr. Chairman, and I appreciate
2 your, your personal familiarity with this intersection.

3 I'm not speaking today in a professional capacity
4 or as an expert witness, or representative of a group; but
5 as a resident, I'm primarily concerned with the safety of
6 pedestrians, cyclists and transit users in the neighborhood.
7 At different times I am each of those things at this
8 intersection since I, I live less than a mile away.

9 I'm testifying in opposition to the McDonalds.
10 The existing, the existing pedestrian and biking conditions
11 at this specific location are appalling as the publicly
12 available crash data entered into the record demonstrate.
13 The number of injuries and fatalities on East-West Highway
14 has made this stretch of road one of the most dangerous in
15 Maryland. Adding a drive-through will only make these
16 existing conditions worse, increasing the likelihood of more
17 collisions, injuries and deaths.

18 The State Highway Administration has declared
19 East-West Highway between Riggs Road and Queens Chapel Road
20 to be a priority corridor for pedestrian improvements. I
21 hope those improvements come. We need them. But whatever
22 improvements State Highway eventually makes here, I fear
23 that they would be undermined by a brand-new high throughput
24 drive-through engineered to dramatically increase traffic in
25 and out of that Green Meadows Shopping Center.

1 Like many of my neighbors, I note the absence of a
2 formal traffic study in connection with this application.
3 The trip generation data submitted by the Applicant seems
4 fanciful to me based as, as they are on current strip mall
5 uses, functions and not dramatic change in usage a drive-
6 through is designed to bring. A traffic study seems
7 essential before the application is approved.

8 I'd like to say I, I strongly incorporate the, the
9 comments filed in this case by Friends of Sligo Creek.
10 These trees just aren't a resource for birds and wildlife,
11 though they're absolutely that; but they're here for the
12 people. Urban forestry helps cool communities in a time of
13 warming climate.

14 To reduce the tree canopy here in the watershed to
15 make room for car-centric asphalt seems to me to be an
16 environment injustice that does not square with the, the
17 County's ambitious Climate Action Plan.

18 Lastly, I'd like to make reference to the comments
19 filed by Gillian Brockell and others regarding the historic
20 Green Hill site in Lewisdale. I'm not a historian or an
21 archaeologist, and I agree with Ms. Brockell that it is more
22 likely there is not a burial ground of enslaved people amid
23 the trees, the, and intends to cut down; but I'm no longer
24 convinced that Pierre L'Enfant was the only burial at
25 (indiscernible); and we now know that the original

1 plantation's deed included the right-of-way for what is now
2 East, East-West Highway.

3 I think it's reasonable to exercise maximum care
4 and caution about what might be lost to history if this
5 wooded area adjacent to Green Hill is, is raked over. It
6 must be carefully inventoried by trained archeologists and
7 preserved, if that were found to be appropriate.

8 Thank you for considering my views. I urge the
9 Board not to approve the application.

10 CHAIRMAN: Thank you, Mr. Cronin. I appreciate
11 it. Next we have Melissa Schweisguth, and I do want to
12 swear you in before you start. Let me see you come online.
13 There you are. Okay. Please raise your right hand.

14 And do you solemnly swear that the testimony
15 you're about to provide will be the truth and nothing but
16 the truth?

17 MS. SCHWEISGUTH: Yes.

18 CHAIRMAN: Okay. Consider yourself under oath and
19 the floors is yours. Do you have a presentation? I think
20 the Staff has it up right now. So, go ahead.

21 MS. SCHWEISGUTH: Yes.

22 CHAIRMAN: Take it away.

23 MS. SCHWEISGUTH: I do have slides and what I'm
24 seeing is text right now.

25 CHAIRMAN: Okay. So, let's take a second and get

1 to your slides. Is this it?

2 MS. SCHWEISGUTH: No, it's, it's a PDF and the
3 first, it's a PDF, which I sent actually for the 26th, I
4 believe; and it's DSP-22001, trip generation crash data,
5 traffic photos and video, Melissa Schweisguth's oral
6 testimony.

7 CHAIRMAN: All right. Give, give, give the team a
8 second to figure it out and they may have questions for me
9 or you to make sure that we can find it.

10 MS. GOMEZ-ROJAS: Ryan, I can help you to locate
11 it. It is in, if you go to the agenda.

12 MR. CRAUN: Yes, it's, it's on page, it starts on
13 page 237 of the additional back-up from September 24th.

14 MS. SCHWEISGUTH: And while we're waiting to get
15 this up, I do want to clarify, so we have three, three
16 community members give a, you know, an overview of the,
17 overview of their thoughts; and, and I do want to clarify
18 that the rest of us will not be simply repeating the same,
19 you know, blunt list of points; but now we will be launching
20 into a bit more specifics. So, I certainly align myself
21 with the comments that will be made after me; but I am not,
22 I am today, I'm just focusing on, on the traffic and the
23 trip generation. This is an old, this is not the correct
24 document. It just say DSP-22001, trip generation, cross-
25 data traffic for those. It may actually be from October 3rd

1 then.

2 MS. GOMEZ-ROJAS: It is in, in additional back-up
3 Part A on page 42 to 56.

4 MS. SCHWEISGUTH: Sorry, I didn't think I had the
5 time to locate it in a large file, I mean I just had my
6 single PDF, so --

7 CHAIRMAN: We're fine.

8 MR. CRAUN: What page again?

9 MS. SCHWEISGUTH: Forty-two.

10 MR. CRAUN: Forty-two?

11 MS. GOMEZ-ROJAS: It's this one?

12 MS. SCHWEISGUTH: Thank you. Yes.

13 CHAIRMAN: Is that it?

14 MS. SCHWEISGUTH: Yes. Well, go to the next
15 slide. And I did appreciate Mr. Lenhart has, has already,
16 has already given us a preview of the second but, again, we
17 have talked before. The purpose of this, that we're here
18 to, that we're considering the site according to the Zoning
19 Ordinance. We have heard other community members talk about
20 the, the goal and the purpose to protect the safety and
21 morals; but there's a, to lessen the danger and congestion
22 of traffic on the streets and to ensure the continued
23 usefulness of all elements of the transportation system for
24 their plan function.

25 Now it's important that in this case we have only

1 a DSP. We did not have a Conceptual Site Plan that we could
2 have delved more into these traffic issues; but I do ask
3 that, again, it, it, it is the purpose. So, thinking about
4 at least the traffic coming into the site, how it acts on
5 the site, including the sidewalk that is the entryway.

6 In addition, the transportation review guidance
7 indicates that for retail and institutional free-standing
8 commercial and retail buildings not within an integrated
9 shopping center to consider using specific trip rates for
10 trip generation, particularly when those uses are more trip-
11 intensive in general retail. And we have seen that general
12 retail is about one-fifth of the fast-food.

13 Now, again, if this site, in my view, if this site
14 is proposing a right-in and a right-out, and really
15 isolating this McDonalds from the rest of the center, can we
16 really consider that to be within the shopping center; and,
17 therefore, that disclaimer applies and allows the Applicant
18 to use the right to a trip generation. And, yes, my concern
19 is safety; it is, is more cars on the road; it is congestion
20 on the road; but when we're looking at this DSP, it also
21 relates very much to circulation within this site. Can cars
22 get in the site and out of the site in a timely way or will
23 we have back-ups within the site that are going to be
24 exacerbated by those back-ups in the road. Next slide.

25 So, I'm going to show you some numbers here. Next

1 slide, please.

2 Now, so, I am not a, I am not a transportation
3 engineer, I am not a transportation professional. What I am
4 is I, I am an economist. We work a lot with numbers and I'm
5 also a trained scientist concerning the scientific method.
6 And in the scientific method, when you want to look at
7 causality, you look at the factor that changes. And so,
8 what really struck me by the trips, Applicant's trip
9 generation is that it is looking at this whole center, as,
10 as a retail plaza. Again, it could be allowed because
11 they're by the guidelines and because they are, they have
12 the whole site in this PSP, even though what you're really
13 just changing is that restaurant on the southeast. That is
14 a freestanding restaurant.

15 So, the Applicant's trip generation, again, using
16 strip retail plaza and assuming just an increase in the
17 square footage, estimates peak p.m. trips would increase by
18 five. They're using a peak p.m. trip rate of 6.59, which
19 corresponds to trip retail plaza. You know, again, back to
20 my economist brain, my science brain, I wanted to look at
21 what would it look like if we actually treated the site just
22 as a restaurant or we separated out that restaurant. So,
23 the restaurants both do have higher, the higher-base case.
24 We consider it find dining or a slow, small restaurant. It
25 might have about 7.8 peak p.m. trips and that would, or if

1 it's a, if it's a higher turnover, it might have nine peak
2 p.m. trips. We get to fast-food, that's 33.03, as Mr.
3 Lenhart did already confirm.

4 So, when we look at this, if we actually look at
5 the difference between the restaurant, we could be looking
6 at 50 more trips, peak p.m. trips per hour. Now, again,
7 that is the, that's the threshold that requires a traffic
8 impact study only, and only for the Conceptual Site Plan
9 which we do not have. So, sorry, I'm not on the slide yet.
10 I'm still talking through the numbers, but it's showing the
11 next slide. I just wanted to make sure the Planning Board
12 can see what I'm, sorry, that they can actually see what I'm
13 talking about.

14 Yeah, so, you're, yeah, so the slide. So, again,
15 thinking about the circulation of the site, can it handle,
16 could it actually handle, you know, 60, 50 to 53 extra cars
17 an hour? Is that circulation going to work on the site?
18 It's, it's a pretty critical question, even if you're not
19 concerned about the safety impacts, which I have heard folks
20 mention.

21 And the rest of my slides are, are on safety. If
22 we could scroll through those? So, again, we know this is a
23 crash hotspot. That has already come up. So, you can just
24 scroll through that slide pretty quickly. We don't, I don't
25 think we need to stop, but it's a crash hotspot and that is

1 why the state, state of Maryland, SHA has chosen it for its
2 Pedestrian Safety Action Plan. You know, if you zoom out to
3 the site, you can see that there is a hotspot of, of crashes
4 because of those two very high use intersections; and
5 particularly for pedestrians and cyclists, you know, we, we
6 have seen three deaths in the past three years and the three
7 years before that. It's a repeating occurrence and, again,
8 folks will be walking to this site from the many
9 neighborhoods. That is the convenience of McDonalds, of,
10 hey, I, I can walk, and will we have those same conditions?
11 Pedestrians crossing mid-block, again, they, they want to
12 get to that mall. You can keep going. I don't, I'm not
13 going to go through all these slides in detail because I do
14 want to stick maybe with the site conditions. So, you can
15 keep scrolling down.

16 Some of these slides, again, they, they do show
17 you the back-up; but, again, there's, keep going, mid-block
18 turn lanes that cause back-ups and all of that, again, that
19 site circulation, we have more people coming in and out of
20 the site that's going to exacerbate the back-ups or the
21 back-ups will, will prevent folks from getting out of the
22 site. Again, is there enough space in that site for those
23 50 extra cars to circulate when they may not be able to get
24 on the road in a timely manner?

25 So, that is, that is the extent of my testimony

1 and I do appreciate your time. Thank you very much.

2 CHAIRMAN: Thank you, Ms. Schweisguth.

3 MR. GIBBS: Mr. Chairman, Mr. Chairman, could I
4 just ask Ms. Schweisguth a question, please?

5 CHAIRMAN: Sure.

6 MR. GIBBS: Thank you very much. Yes, could you,
7 the photographs that you have just gone through, were they
8 all taken on the same day?

9 MS. SCHWEISGUTH: They were, they were taken on
10 September, around September 23rd, around 1:30 p.m., and that
11 is not --

12 MR. GIBBS: Okay.

13 MS. SCHWEISGUTH: -- it was just a, yes, it was --

14 MR. GIBBS: Okay. That's fine.

15 MS. SCHWEISGUTH: -- it was --

16 MR. GIBBS: That's fine. Okay. Thank you so
17 much.

18 CHAIRMAN: Thank you. All right. Thank you, Ms.
19 Schweisguth, again. And we are on to Mr. Wilpers.

20 MR. WILPERS: Thank you. I have three slides. I
21 sent them in as a PowerPoint, I think, for the last two
22 weeks from today.

23 CHAIRMAN: Let's let Staff, give them a sec so we
24 can get to them. And, Ms. Gomez-Rojas, you seem to have a
25 handle on this, too, so any tips you want to give the team,

1 feel free.

2 COMMISSIONER GERALDO: Mr. Chair, while they're,
3 while they're looking, I would really like to see if one of
4 the slides that deal with the, the forest and its proximity
5 to historical site.

6 CHAIRMAN: Okay. Mr. Wilpers, that's been the
7 angle he's been taking. So, we may actually have that slide
8 right here, right now.

9 COMMISSIONER GERALDO: Okay. Thank you.

10 CHAIRMAN: That's my guess, Mr. Wilpers, if I
11 could steal your thunder.

12 MR. WILPERS: I'm not addressing the historic site
13 issues, but the slide does, the first slide will very
14 clearly show that. Is this accurate here?

15 CHAIRMAN: Is this what you want us to, is this
16 the first one from you, Mr. Wilpers?

17 MR. WILPERS: Let me see, what's the second one?

18 MS. GOMEZ-ROJAS: Mr. Wilpers, it's the, the, the,
19 just of pictures as the slide --

20 MR. WILPERS: These are not, no, no. The first
21 slide is an aerial view and it's got an arrow pointing to
22 Sligo Creek. It's got a line around it.

23 MS. GOMEZ-ROJAS: I got it. Ryan, it's in the
24 very first exhibit, 924-2024, page 213, the very first, yes.
25 Page 213.

1 MR. WILPERS: There we go. That's it. And could
2 I just see the second one to make sure where I've got the
3 right ones? Whoops. Whoa, okay, rotate those for me. And
4 there's one more. And can you rotate that one? There we
5 go. All right. Let's go back to slide one and I'll start.

6 Can you rotate that? Whoops. Can you rotate that
7 one again? All right. You can start the clock. Whoops.
8 Geez. Okay.

9 Chair Shapiro, Board members, my name is Michael
10 Wilpers. I'm testifying on behalf of the Friends of Sligo
11 Creek. We're a community based on profit with more than
12 2,000 members. This mission to protect, improve and
13 appreciate the ecological health of Sligo Creek and its
14 surrounding watershed. The creek, on its journey from
15 Wheaton to South Hyattsville, runs just 600 feet from the
16 woodland that the Applicant proposes to clear cut as you can
17 see on the slide. The double-sided arrows points to Sligo
18 Creek, Sligo Creek and Sligo park.

19 The clear cut will remove dozens of trees that
20 provide habitat, reduce the heat effect, absorb carbon
21 dioxide and manage stormwater. We urge the Board to prevent
22 the removal of this woodland by disapproving the Applicant's
23 proposal.

24 As the County Code explicitly states, quote, "It
25 is the policy of Prince George's County government to

1 conserve and protect trees, woodlands and wildlife habitat,"
2 closed quote. As you probably know, the climate, the
3 County's Climate Action Plan stresses, quote, "Leaders at
4 every level of government must integrate climate
5 considerations into all aspects of local decision-making.
6 For the County to achieve Plan 2035's goal of tree canopy
7 coverage, the practice of granting waivers, special
8 exceptions and grandfathering development approvals must
9 end.

10 If the Board approves the Applicant's departure
11 from design standards, they would allow just this kind of
12 workaround to circumvent the County's climate and tree cover
13 goals and what we would consider a wrong-headed approach to
14 addressing the social problems of unemployment and
15 homelessness.

16 We see five specific problems in the Applicant's
17 proposal and the Staff Report. First, natural resources --
18 somebody's mike is on -- the natural resources inventory
19 contains significant errors. A, it neglects to mention
20 several very large willow oaks which at about 28 inches
21 diameter are especially valuable to birds and other
22 wildlife; B, it misidentifies the elm trees on the site as
23 slippery elms when they are, in fact, American elms, a
24 distinction that should be easy to make; C, it omits a
25 healthy persimmon tree and a grove of native black gum

1 trees. The black gum tree, by the way, has been nominated
2 by the County Executive as the official tree of Montgomery
3 County because of its disease resistance, beautiful fall
4 foliage and value to wildlife.

5 Second, the Applicant proposes to replace the
6 trees with bioretention installations to control stormwater
7 without noting that the existing trees already provide
8 highly effective stormwater management as the U.S. EPA
9 spells out in its stormwater trees technical memorandum.

10 Third, regarding the homeless encampments, the
11 Staff Report inappropriately cites the County Landscape
12 Manual in endorsing the total tree removal as it recommends,
13 quote, "Avoiding blind spots or hiding areas that can be
14 used for illegal activity," closed quote. However, these
15 two photos demonstrate the woodland already provides ample
16 sight lines because, as mentioned earlier today, the sparse
17 nature of the woodland. Can I see slides two and then
18 three? And if you could rotate that and hold it for just a
19 second, that's the woodland looking west, the subject of a
20 previous, unauthorized clearing by the owner of the
21 property. You can see very little room for doing anything
22 there, not even playing hide and seek.

23 Now let's look at the second slide, the third
24 slide, rather. If you could rotate that one? One, a couple
25 more times. Yeah, there we go. That's looking north and

1 east. This has been cited, very sparse. Most of the limbs
2 are at least 20, 30-feet high, almost no understory,
3 contrary to what's been previously noted.

4 Fourth, the Staff Report is misleading when it
5 states, quote, "Onsite woodland conversation is not optimal
6 due to limited woodland connections and lack of suitable
7 native stock," closed quote. In fact, almost all the trees
8 in the woodlands are native species and far from being
9 isolated, as you saw in the first slide, the Woodland Board
10 is directly on the Green Hill historic site and it's
11 numerous trees over 10 acres. The woodland is also
12 sufficiently close to several forests in the Northwest
13 Branch Park and that birds can easily fly to and from to
14 forage for food.

15 Fifth, and perhaps most importantly, we disagree
16 with the Staff Report that the Applicant has met the
17 Standard for Departures as outlined in the County Zoning
18 Ordinance Section 27-23901. It seems that the Planning
19 Board cannot establish three of the required findings to
20 grant the departure.

21 First, Item II, the proposal vastly exceeds the
22 minimum departure necessary to ensure safety by, quote,
23 "Removing the trees and vegetations at the rear of the
24 building since the trees do not currently block sight lines
25 to the woodland, as we've shown." Item III, or three, the

1 departure is, in fact, not necessary in order to alleviate
2 circumstances which are unique to the site, i.e., the safety
3 concerns, for the same reasons. Improvements to the sight
4 lines could actually be achieved by trimming a few of the
5 low-hanging branches on those trees that immediately border
6 this northeast corner of the parking lot.

7 And Item 4, the departure most definitely will,
8 quote, "Impair the visual, functional and environment
9 integrity of the site. It's environment integrity, in fact,
10 will be completely destroyed with the loss of this many
11 trees. As noted already, removing them allowed noting to,
12 quote, "Facilitate the surveillance of the property."

13 With all these factors in mind, we urge the
14 Planning Board to reject the Applicant's request to clear
15 cut this woodland. And this concludes the oral testimony
16 from the Friends of Sligo Creek. Thank you.

17 CHAIRMAN: Thank you, Mr. Wilpers, much appreciate
18 it.

19 Next, we have Marybeth Shea.

20 MS. SHEA: Hello. Looking to see my slides pop
21 up. It's a PDF of seven slides.

22 MR. CRAUN: Yeah, I might need some help on this,
23 too, Ms. Gomez.

24 MS. SHEA: Yeah, both those, those don't look
25 familiar to me. They are black text on a white background,

1 but they have kind of a slide format and it's a PDF-type
2 file sent on Tuesday.

3 CHAIRMAN: Ms. Gomez-Rojas, are you still with us?

4 MS. GOMEZ-ROJAS: Yes, sir.

5 CHAIRMAN: I think Ryan needs some help
6 identifying these slides.

7 MS. GOMEZ-ROJAS: For Mrs. Shea?

8 CHAIRMAN: Yes.

9 MS. GOMEZ-ROJAS: It's in the last exhibit, page
10 56.

11 MS. SHEA: Yes, that's, that's my slide.

12 CHAIRMAN: Okay, great. And a reminder to
13 everybody who is not talking to mute yourselves. And, Ms.
14 Shea, please continue.

15 MS. SHEA: All right. So, I might look at little
16 odd because that's too small for me to read and I've got to
17 go to my own computer. So, the last two slides, my slide
18 set and Gillian's testimony are hard testimony because it's
19 about the history of enslaved people on, on Green Hill and
20 in the, in the County, and in the nation.

21 So, and I've learned a little bit from watching
22 today, which means my slide anchors about law and timing
23 don't quite fit. It looks as if this parcel of property for
24 McDonalds' development used to be part of the Green Hill
25 site now that is zoned by the Pallottine Fathers and that

1 transfer looks like it might have taken place in 1959, long
2 before historic preservation regulations, a kind of
3 administrative law, existed; but that doesn't mean that our
4 history concerns are not paramount here. We may very well
5 have on this slim slice the possibility of unmarked graves
6 of enslaved people at Green Hill; and I would very much
7 request the marvelous and deep bench of historical
8 preservation professionals who are in Prince George's County
9 and in the Planning Commission to research this site.

10 We are shifting our focus from Green Hill because
11 a subdivision or a division has already taken place, but the
12 slice of land that the Green Hill, former Green Hill parcel
13 proposed for McDonalds development is part of the Green Hill
14 plantation, which used to run from north of Montgomery
15 County through all of our neighborhoods down, down to, you
16 know, south of the Anacostia flowing into the Potomac. And
17 the two families associated with the Green Hill plantation
18 are the Digges family and the Riggs family, and they have a
19 long, well-documented history of using enslaved people.
20 This proposed site where the development may take place is
21 part of the Green Hill plantation. Please go to the second
22 slide that says, last chance.

23 If we pave over this slice, this thin, little
24 slice of Green Hill, we lose our last chance in a public
25 setting to look at the role of Green Hill in Prince George's

1 County African-American history. We can use -- could
2 somebody please turn off their microphone? We can use the
3 modern techniques of archaeology, including soil analysis
4 and ground-penetrating radar to look at not only the
5 possibility of graves, but housing, mittens, garbage pits,
6 evidence of craft workers like blacksmith shops and also
7 agriculture and livestock rearing. There is likely a spring
8 house in the hill between the preserved Green Hill house and
9 this proposed place. We need to do that research. Please
10 go to the third slide that reads, "We request historic due
11 diligence."

12 Even if the regulations do not quite apply because
13 this transfer took place too soon, we simply must look at
14 this plot. The claims of it being too small or surrounded
15 by post-World War development are not enough. There are
16 regulations that can be harnessed to look at this, including
17 the 2010 County Plan on Historic Sites. Historic
18 preservation practices and technology are relatively new,
19 but that doesn't change the basic fact that we need to look
20 at this land carefully. The Digges and the Riggs families
21 became extremely wealthy upon the labor of others. We have
22 a duty of care to those who labored. We should not lose
23 this chance. Please go to slide four which says,
24 "Enslavement snapshot."

25 The Digges family, specifically William Dudley

1 Digges and his wife Nora Digges, ended up on this plot in
2 about 1792. Other holdings by the Digges family --

3 CHAIRMAN: Ms. Shea, I need to interrupt a second.
4 We're, we're not on the slide you requested. So, give us a
5 second because I know you wanted to see that slide.

6 COMMISSIONER WASHINGTON: Thank you, Mr. Chairman.
7 That was my comment.

8 MS. SHEA: Thank you. It says enslavement
9 snapshot.

10 CHAIRMAN: There it is. No, we're on it. Keep
11 going, Ms. Shea.

12 MS. SHEA: Oh, thank you. All right. So, the
13 Digges family are a huge part of the Prince George's County
14 history, including the history of our nation. Green Hill
15 was formally called Chillum Castle Manor and that
16 landholding dates from about 1640. The enslavement upon
17 Chillum Hill, Chillum Castle Manor starts in about, in a big
18 way in about 1680; but Green Hill became a site for our
19 County, this particular location, in 1792 because Charles
20 died and his wife Mary came to this place. The family was
21 failing for a number of reasons. But there were 105 slaves
22 in the Digges family at 1792 and some of them went to Green
23 Hill with William Dudley and his mother. Please go to the
24 next slide which says, "Enslavement snapshot, William Digges,
25 Green Hill versus relatives." Are we there?

1 CHAIRMAN: We are. We're on it.

2 MS. SHEA: Thank you. In 1825, William Digges
3 inherited by a court case 39 persons, by the way, 33 of them
4 are named. He was fighting his relatives over a legacy from
5 Ann Digges Darnall and he won, which means that these 39
6 people ended up at Green Hill. By the way, Ann Darnall, his
7 aunt, rented three of these slaves, Dick, Jack and Tom, to
8 help build the White House.

9 I want to call attention to slides four, five and
10 six because I have used legal documents to demonstrate that
11 we know something about the number and in some cases the
12 names of people who are linked to the land at Green Hill.
13 Please go to slide six, which is my last enslavement
14 snapshot. This takes us to 1831. Are we there?

15 MR. CRAUN: Yes, we're there.

16 MS. CONNOR: Yes, we're there.

17 MS. SHEA: Thank you so much. In 1831, William
18 was dead. Nora, his widow, was involved in a court case.
19 Mr. Gant, a free man of color in Washington, D.C., which at
20 that point was still Prince George's County, said she has
21 falsely accused me of trying to help her girl Eliza get
22 free. He won his case against Nora Digges. She was talking
23 about an enslaved woman named Eliza who left her employ.
24 The odd little item over here is a reproduction of the news
25 clip.

1 By 1850, in the slave schedule, which is part of
2 the Federal Census, Nora Digges held 15 slaves attached to
3 Green Hill. Please go to my last slide.

4 This is not true for many people because mostly
5 slave records did not include names, but 33 names of the 39
6 enslaved persons that William Digges inherited from his aunt
7 and earlier that I mentioned in 1825, 33 of them are named,
8 and the names are here.

9 I'm coming back to just look at you to say whether
10 or not the guidelines of 2010 apply, we have a duty of care
11 to this little slice which is one of the few pieces of land
12 that we can still look at with due diligence to see if we
13 can see residues here. And I would encourage Historic
14 Preservation to help us with this.

15 I was involved with the University of Maryland
16 self-injury for years about trying to look at slave labor
17 residues rising up the whole entire physical plant and land
18 at the University of Maryland and so much development had
19 taken place that we knew we could not see the evidence.
20 This is a tiny slice, it's not inconsequential and my
21 friend, neighbor and colleague Gillian is going to take this
22 historical piece up very beautifully in her presentation
23 which is about to begin. Thank you for listening to me.

24 CHAIRMAN: Thank you, Ms. Shea. You were sworn-
25 in, correct?

1 MS. SHEA: Yes, I was.

2 CHAIRMAN: Okay.

3 MS. SHEA: Yes, I was.

4 CHAIRMAN: Thank you. Ms. Brockell, and you were
5 sworn-in as well, right?

6 MS. BROCKELL: Yes.

7 CHAIRMAN: Okay. All right. Take it away.

8 MS. BROCKELL: Hi. My name is Gillian Brockell.
9 I'm a resident of Carole Highlands in Prince George's County
10 and I'm just going to speak extemporaneously from my letter
11 today asking you not to approve this plan until further
12 research on this site can be conducted.

13 I apologize for coming so late into this
14 conversation. I simply was not aware of the existence of
15 this property until recently. So, if there was a more
16 appropriate time for me to submit all of this, I apologize
17 for not doing that.

18 CHAIRMAN: You're doing fine and keep going.

19 MS. BROCKELL: Thanks. I'm not a trained
20 historian, but until January I was the staff writer at the
21 Washington Post covering history. I wrote the Retropolis
22 column. I'm writing a book about slavery and public memory
23 and I do hold a bachelor's in African history, for what it's
24 worth.

25 In, in the, my work at the Washington Post and

1 research for my book, I am constantly looking at plantation
2 records, how plantations are being used today and I'm
3 looking a lot at these historic summary sheets of just
4 different plantation properties in Virginia, Maryland and in
5 the National Register of Historic Places. So, I have a lot
6 of familiarity with these records.

7 And so I've looked at the, the Maryland Historic
8 Summary Sheet for Green Hill, which appears to have been
9 conducted in about 1990. And, you know, these, the, the
10 quality of these summaries very wildly in their information
11 about enslaved people and it's basically whether, you know,
12 the person then found it interesting or not. And I have to
13 say that this one is, you know, heavy on the architectural
14 details of the property and rather poorly done on the, the
15 outer properties, the outbuildings, where they were, what
16 they were used for.

17 So, this summary sheet says that there were two
18 known burials. Those were in a different area of the
19 property. Again, he was only inventorying the, the parcel
20 of land that is currently being used by the seminary, not
21 the area outside of it. That area was already separated
22 before he did this inventory. He also said that there are
23 two servant outbuildings. He doesn't say if they were used
24 for paid labor as post-emancipation or for enslaved
25 laborers, and he doesn't say where those outbuildings are.

1 That's important because a lot of burial grounds for
2 enslaved people would be located just behind the, the
3 quarters for the enslaved people.

4 So, I haven't been able to find any details about
5 where an enslaved burial ground might be, if there is one;
6 but I did contact Dr. Laura Masur at Catholic University of
7 America. She is an expert on enslaved burial grounds in the
8 Mid-Atlantic. She's involved in the location and the
9 restoration of the enslaved burial ground near Sacred Church
10 in Bowie and she said my concern with the site's proximity
11 to a plantation mansion, given where, where, where we know
12 enslaved burial grounds often are located in relation to the
13 mansion. She said it's absolutely important that this area
14 be checked and that my concern about it was valid.

15 She said that this community should be better safe
16 than sorry, that's a direct quote, in ensuring that this is
17 not a hallowed ground. She also said that she checked
18 County archeological records and she confirmed that this
19 site has not been previously surveyed by archeologists and
20 it also hasn't been developed which would, you know, as
21 Marybeth Shea said, would render the issue moot because the
22 site had already been, been, you know, turned over.

23 But we do, right, so, like I said, the Maryland
24 Historic Trust doesn't say anything about enslaved people on
25 this property in this 1990 survey, but we do know there were

1 enslaved people there. We know that William Dudley Digges
2 inherited 33 people in 1822, took them to Green Hill. We
3 know that the Maryland State Archives shows that Digges and
4 his wife Nora posted five runaway ads for enslaved people
5 who escaped Green Hill between 1819 and 1839. Nora Digges
6 also sold three people, age 30, seven and four years old,
7 away from Green Hill in 1844; and the 1850 census lists 15
8 enslaved people there. Four of these people were over the
9 age of 50 and two were over the age of 70.

10 I also located this 1877 illustration that was in
11 my email, if someone could bring it up, of the mansion at
12 the Museum of the American Revolution, which shows a group
13 of fieldstones in a flat plot at the bottom of the hill from
14 the mansion. Enslaved burial grounds were often located
15 this approximate distance from plantation mansions, often in
16 wooded areas with fieldstones or wooden stakes as the only
17 markers. We do not know if this part of the illustration is
18 accurate, if these fieldstones are meant to denote graves or
19 if the stones correspond to the site in question. It could
20 also be underneath the Pizza Bolis right now, I readily
21 admit that, but we will never know for sure if we don't
22 check.

23 Let's be clear, it's likelier than not that this
24 is not an enslaved burial ground, but it is possible. Until
25 recent decades, history professionals, land developers and

1 people in this country in general ignored these type of,
2 types of science; but we should not and we should not
3 compound, you know, the wrongs that they did in not thinking
4 that this stuff was important by not checking.

5 I understand that life is for the living and that,
6 that we should prioritize decisions about living people.
7 They are not more important than, or living people are more
8 important than historic sites. I'm not amebous and I'm not
9 an antiquarian. I don't think that every historic site
10 should be preserved. However, I think that historic sites
11 that include burial grounds are, yeah, like I said, you
12 know, you look at the catacombs in Paris and, you know,
13 there was a removal of a black cemetery in Northeast
14 Washington to build the Rhode Island Avenue Metro station.
15 I understand that these things happen; however, I feel
16 strongly that enslaved burial grounds should be honored for
17 as long as the plantation mansion built with their forced
18 labor is still standing and Green Hill is still standing.

19 So far the County has only evaluated whether the
20 McDonalds could interfere with the historic site next to it,
21 the plantation mansion, not whether the site itself could be
22 historic. I think that we owe it to the enslaved people who
23 built this County to find out and I urge the Board to
24 suspend any plans for development of this site until it can
25 be evaluated by the experts who can actually make a

1 determination. Thank you.

2 CHAIRMAN: Thank you. Thank you both for that.

3 And I'm curious, how much of this research was sort of
4 independent research that you and Ms. Shea did? I'm trying
5 to get a handle on that.

6 MS. BROCKELL: All of it.

7 CHAIRMAN: Okay. Well --

8 MS. BROCKELL: So, I mean, I mean, Peter, I am not
9 this kind of expert, but I do have a Ph.D. and I know how to
10 evaluate evidence and information. And there is so much
11 information that I looked at which is from the, it's called
12 the Maryland State Chancery, because we didn't have the
13 District of Columbia at that time. Legal records have a
14 power of evidence that folktales and family tales maybe
15 don't. I was actually stunned at how much is available to
16 us on a relatively recent timeline. Some of you may
17 understand that Georgetown in the last about nine years has
18 devoted a huge amount of resources to, and it's mostly
19 Prince George's County. Men and women, and children were
20 sold to support Georgetown and Georgetown Visitation.
21 That's why that, those institutions are there and they are
22 opening up their archives at about, you know, 15 different
23 levels, including legal levels to show us what has happened.

24 CHAIRMAN: Got you.

25 MS. BROCKELL: Thank you.

1 MS. SHEA: And I'd just like to say that this,
2 this, we don't have to go straight to ground penetrating
3 radar. You know, one of the, the, you know, things that
4 I've bumped up with in, in my research that I think that
5 the, the experts who work for this County could actually do
6 a much better job at than I could is figuring out when this
7 parcel was separated from Green Hill. All I can, all I'm
8 able to tell is that it was sometime between 1863 and 1930.
9 And then, you know, go back from there and get, you know,
10 there are detailed descriptions of properties when they are
11 conveyed. So, you know, if there's a detailed description
12 in 1863 of where the servants quarters are, that would give
13 us a better idea of where a possible enslaved burial ground
14 might be or it might not --

15 CHAIRMAN: Okay.

16 MS. SHEA: -- be. But that's something that the
17 County needs, could, could do much better than I can; and
18 you don't necessarily need to get ground-penetrating radar
19 out there first. Thank you.

20 CHAIRMAN: Okay. Thank you. That you both very
21 much. Last, we have Mr. Smith. And let's just check the
22 clock real quick to make sure we're all aligned.

23 MS. GOMEZ-ROJAS: Ryan, Mr. Smith's exhibits are
24 in the last exhibit on page 100.

25 MR. SMITH: Thank you, Ms. Rojas.

1 CHAIRMAN: All right, Mr. Smith, that's you. Take
2 it away.

3 MR. SMITH: Thank you very much, Planning Board
4 members, Planning Staff. This has been a long day for
5 everybody. I'll try to make it succinct.

6 I'll go back to, on a particular point that I made
7 during cross where I asked what 100-year storm event the
8 Applicant used to design the stormwater management
9 facilities and their expert testified he thought around 7
10 1/2 inches. That is actually not the standard in Prince
11 George's County. DPIE issued a techno gram requiring 100-
12 year floodplain delineations in stormwater management
13 facilities to be based on a 100-year storm of 8.5 inches,
14 not 7.4, 15 percent higher. To the extent that they, they
15 have not used that more recent standard, you cannot make a
16 finding that their stormwater management designs are, are
17 adequate; that this flood won't, this site won't be
18 affected, or neighboring sites won't be affected. And,
19 frankly, that standard of 8.5 inches does not reflect the
20 latest precipitation science. So, we're designing for the
21 past and not the future that is already here and is coming.
22 So, that's just one point I want to make.

23 Now with respect to this, this question of whether
24 or not we only have to look at what happens on this site and
25 only look at certain required findings under citing, it's

1 27-285, that's not true. Section 27-284 explicitly asks the
2 Planning Department and Planning Board to look beyond the
3 site because it requires the, the Detailed Site Plan to be
4 referred to the Health Department and for the Health
5 Department to conduct a health impact assessment that looks
6 at the potential impacts on the, on the community and how
7 those impacts were distributed; and that, and that
8 particular requirement is also cited amply in the report
9 that the County's own Environmental Justice Commission
10 released that requires you to look out, off the site at some
11 of the impacts that we have been working to highlight in our
12 comment, our written comments in our comments today. So,
13 that's why we, we, we have to insist that we look at things
14 like the fact that, we look at the, the existing context,
15 the fact that this a very, narrow, dangerous intersection
16 and dangerous roads.

17 The fact that this site is in the middle of an
18 intense urban heat island with a lack of greenspace, the
19 fact that this community dials up using the U.S. EPA's
20 environmental justice green tool and the University of
21 Maryland School of Public Health's environmental screening
22 tool which rely on largely the same data sets; as an
23 environment justice community, very high percentage of
24 people of color, very high percentage of people with less
25 than a high school education, very high, or high percentage

1 of kids under five who are, who are highly susceptible to
2 things like traffic-related air pollution or heat.

3 I could, I, I, I provided a number of slides, but
4 I just want to put that out there. You are, you're, you're
5 not only are not constrained to looking at that one
6 particular finding that Mr. Ferguson tried to focus you on,
7 you're actually required to look beyond that by, by this, by
8 27-284. And more, so, I'll start, I'll go through my slides
9 starting now.

10 First of all, and these are basics, the
11 requirements set forth, including the requirements at 27-285
12 are the minimum requirements. They're not the maximum and
13 nothing, nothing that I know of, and maybe prevents the
14 Board from requiring more and better of the Applicant. I
15 would submit that this Applicant hasn't even met the minimum
16 requirements and I'll go through a couple of instances in a
17 minute.

18 The burden of proof is on the Applicant. It's not
19 on the, it's not on concerned citizens in a community,
20 residents in a community. It's not on the Planning Staff.
21 It's on the Applicant entirely to show that, to show that
22 this project supports the achievement of the purposes of the
23 Zoning Ordinance and the other relevant laws and the General
24 Plan, and the Local Master Plan. I would submit that the
25 Applicant has failed to meet that burden. Next slide,

1 please.

2 So, this is Section 27-102. I highlighted it for
3 a reason. These are the purpose of the ordinance. And, and
4 I submit that the Planning Board should be looking at this
5 plan to determine whether or not it supports the achievement
6 of these purposes. If you can't find that it does, then you
7 should not, you should not approve the project; and that
8 includes a number of the, the purposes that Mr. Boado and
9 Ms. Schweisguth, and maybe others, have cited in their
10 testimony. I won't go through them in detail now, but this
11 is the higher law. If we're going to ignore the higher law
12 that says what this Zoning Ordinance is about, and other
13 ordinances as well, then why have the purpose and goals?
14 Next slide, please. I think two more slides. Let's go to
15 the next slide.

16 So, you've heard a lot about justice. You've
17 heard it from Ms. Brockell, you've heard if from Ms. Shea
18 and from other folks and it's critical here. Part of my
19 work history has been doing things like critiquing health
20 risk assessments, critiquing environmental impact statements
21 and I've, including for, on, on things like highways. I'm
22 very familiar with the public health impacts of highway-
23 related air pollution. And at this particular intersection,
24 you have this nexus where you have high heat, high air
25 pollution rates, susceptible populations and in one of my

1 slides I show that this, this area also dials up as a
2 community where very few people have health insurance. It,
3 it, I hate to, I hate the overuse of the term perfect storm,
4 but that's kind of what you have here and it's a context
5 that I believe you should not ignore. It's very important.
6 Context matters when you are making assessments and when you
7 are planning. Next slide, please.

8 So, again, this is in the middle of an intense
9 urban heat island. The owner of this property, according to
10 Mr. Wilpers' testimony, is already cleared forest without,
11 apparently without a permit; and the proposal is to clear
12 the remaining forest and replace it with an increase in
13 impervious surface. These are just background points from
14 readily available public documents, Hyattsville study loss
15 of tree canopy, the Chesapeake Bay Program on the loss of
16 forest and covering tree canopy county-by-county and at a
17 level within the Chesapeake Watershed in Maryland, Prince
18 George's County dials up as having lost more acres of forest
19 and tree canopy than any other county in the state and the
20 U.S. Forest scientists, they also said if you really look at
21 it, you've probably lost more forest and tree canopy than
22 any county in the entire Chesapeake Bay Watershed, 260
23 (indiscernible). Next slide, please.

24 Okay. We've already, we've already talked a lot
25 about this five-point intersection. I put this slide in

1 here partly to show that, but also to show that contrary to,
2 to the, to the Applicant's efforts to denigrate the forest
3 or devalue the forest, Commissioner Geraldo has been right
4 in asking, asking about the, I think, the, the robust
5 forest. If you look at satellite photos, they're easily
6 available, even if you, if you look at ground-level photos
7 that were provided by Ms. Schweisguth where you're looking
8 from, from East-West into the site, and if you look at these
9 sort of things, you can see it's, it's, it's an intact
10 canopy and it's contiguous with another forest. We don't
11 have a lot of that left. We should preserve what we have
12 and, frankly, efforts should be made on this site to enhance
13 the tree canopy, not reduce it. Why is that important?
14 Climate change, urban heat island. Next slide, please.

15 I, I, I got this map. I just searched. I did
16 something crazy. I seared for urban heat island Prince
17 George's County. I found this really great online tool
18 offered by the Trust for Republic Lands and hosted by ESRI,
19 Environment Services Research Institute, I think, is what
20 ESRI stands for. It's readily available. The County is
21 also doing its own urban heat island mapping, yeah, County,
22 very important.

23 What you can see is this site is in the middle of
24 an intense urban heat island and where you don't see heat
25 island is where you see forest, right? When we talk about

1 heat island, what does that mean in practical terms? It
2 means the temperature on the site can be 10 to 20 degrees
3 higher than, than on sites that are not paved over and not
4 built on. So, we have higher pollution, susceptible
5 populations, folks without health insurance and we're
6 proposing to expand the urban heat island and add traffic to
7 this site that's already over-burdened. Next slide.

8 Okay. This next series of slides, I'll go through
9 them very quickly. I got these from the U.S. EPA's
10 environmental justice screening tool. You can search for an
11 address very easily. Red, in this case, red is, this shows
12 that this community is shaded dark red, right to the 95th
13 percentile of communities in terms of percentage of the
14 folks who are people of color. Why does this matter? Well,
15 as it's been, I think, testified earlier, people of color
16 often have higher rates of obesity, diabetes and other,
17 other diseases that are contributed to by poor diet, lack of
18 exercise, lack of access to green space and in this
19 community a lack of access to health insurance. So, this
20 is, this is a classic environmental justice community in a
21 number of ways. Next slide, please.

22 Ninety-fifth percentile in terms of people with
23 less than a high school education. Next slide, please.

24 Lack of health insurance, I don't need to explain
25 that. Next slide.

1 Children under five. Children are highly
2 susceptible to traffic-related air pollution and heat, and
3 other stressors. My point here is this community already
4 suffers from an overburden of serious environmental social,
5 economic and public health stressors. This proposal adds to
6 those stressors. Due, you know, the first rule of medicine,
7 do no harm. Next slide, please.

8 Part of this community dials up higher than
9 average in terms of low-income. Next slide. And that's,
10 EPA allows you in some cases to compare to the State versus
11 comparing to the national norms. The slides shows that a
12 very high percentage of the community has limited English
13 and yet we have testimony from the Applicant saying that it
14 appeared, even though they're committed to DEI, it appears
15 that perhaps none of their outreach was done in Spanish.
16 Next slide, please.

17 Higher than usual, higher than average asthma
18 rates, traffic-related air pollutants are directly related
19 to asthma. Thank you. Next slide, please.

20 Higher than average traffic proximity. No
21 kidding. Next slide, please.

22 Ozone pollution directly related to traffic-
23 related air pollution, nitrogen oxides and organic, volatile
24 organic compounds coming out of tailpipes, diesel
25 particulates. They're not only toxic, they're carcinogenic.

1 Next slide, please.

2 Nitrogen dioxide related to respiratory disease
3 and other ailments. This is simply a slide I took from a,
4 from a journal article, contributors of urban heat islands,
5 I don't need to explain. When you cut down trees, you pave
6 over land, you get -- I inflated my testimony and a number
7 of experts to the County's Climate Action Plan. That team
8 did excellent work in highlighting the, the impacts of
9 climate change already here, that are coming, highlighting
10 the need to expand; and our tree canopy and forest cover
11 highlighting urban heat islands, if you, if you go to that
12 document and you search for urban heat islands, I'm not,
13 can't quite remember, it might have come up at least 30
14 times. It's a really big deal and yet we're not, we're not
15 dealing with it when we look at projects like this. We
16 should and we'd like to be able to count on you to take
17 these serious impacts into account. Next slide.

18 The impacts are disparate. People of color and
19 low-income folks typically suffer more from things like
20 urban heat islands and other, other stressors caused by
21 climate change; and folks who are wealthy are white. It's
22 this picture across the board. And it's not only do they
23 suffer in terms of their health, they often can't afford,
24 they might not have air-conditioning to make it through.
25 They don't have access to green space to find respite from

1 the heat island. All of these are serious stressors and
2 we're looking not only environmental justice, social and
3 economic justice as well. Next slide, please.

4 CHAIRMAN: Mr. Smith, I know you're, you're
5 getting toward the end, but I would remind you to, you have
6 two minutes left.

7 MR. SMITH: Okay. This, this is all, this is all
8 in, in the record. We are already experiencing significant
9 increases in our average temperatures. They're projected to
10 get significantly worse and potentially very quickly. We
11 can't continue doing things like building drive-throughs in
12 the middle of urban heat islands and cutting down trees to
13 accommodate the drive-throughs. It makes no sense at all.
14 Next.

15 I'll just, I'll just get through it. I'll leave
16 it to you to consider these things. I, I, I made all of
17 these points. I could go on and on about urban heat island
18 issues, but this is a very important point. Again,
19 environmental justice, as Mr. Wilpers pointed out, this site
20 is not very far from Sligo Creek which flows very soon
21 downstream into Northwest Branch. The entire lower
22 Northwest Branch and the Anacostia are listed by the
23 Maryland Department of Environment as impaired waters under,
24 under the Clean Water Act, Section 303(d) for things like
25 trash, vehicle coliform and other pollutants and that's one

1 reason I ask, well, what's your trash prevention and their
2 maintenance plan?

3 I made a number of, like I don't think this
4 project should happen, but I made a number of
5 recommendations. If you're thinking about letting the
6 project happen, here are the additions I hope you will
7 impose. Next.

8 This is something I really want to highlight here.
9 These changes are already happening and are happening very
10 rapidly. Even that County technogram does not keep up with
11 what has already happened in terms of changes in our
12 precipitation regimes and the occurrence of severe storms,
13 and the severity of those storms. I recommend to you the
14 First Tree Foundation's work. They're looking very closely,
15 they're looking at national data sets on climate change
16 driven impacts, including precipitation, flooding,
17 wildfires, air pollution; and they found, looking at the
18 available data sets, that 100-year storms are already
19 happening every 14, so-called 100-year storms --

20 CHAIRMAN: I need you to wrap up, okay?

21 MR. SMITH: -- already are happening every 14
22 years in Baltimore and about every 20 years in Washington,
23 D.C., and they're projected to get worse more frequent,
24 quickly. There's no evidence in this record that the
25 Stormwater Management Plans or the, the idea of cutting down

1 an acre of forest, or adding a pervious surface to this site
2 takes into account this or even DPIE's techno gram of, I
3 think, 2022 requiring developers to use more intense 100-
4 year storms in designing their facilities and delineating --

5 CHAIRMAN: Okay.

6 MR. SMITH: -- the floodplains. Thank you very
7 much.

8 CHAIRMAN: Thank you, sir. Appreciate it.
9 Commissioners, before we turn --

10 MR. SMITH: Oh, by the way, I oppose the project
11 and I ask you to disapprove it.

12 CHAIRMAN: Thank you. There's a surprise on that.
13 Thank you. We, before we go back to the Applicant for
14 rebuttal and close, I want to see if there's any questions
15 for any of the folks who presented in opposition.

16 COMMISSIONER WASHINGTON: Well, I may --

17 CHAIRMAN: There's a lot of information.

18 COMMISSIONER WASHINGTON: Yeah, a lot of
19 information. I did have a couple of points before you turn
20 to the Applicant as well as Staff. I made some notes that I
21 hope that the Applicant and/or Staff would just kind of
22 address in their summing, summation. One, I think Mr.
23 Wilpers commented on multiple times with regards to the
24 incorrectness of the Staff's Report, I think specifically in
25 relation to the DDS. Ms. Shea and Ms. Brockell, thank you

1 both for, well, thank everyone for, for your testimony; and
2 it's quite apparent everyone put a lot of work into it and
3 I, I, for one, certainly appreciate it; but I'd like to hear
4 from Mr. Gross or somebody in HPC with regards to what our
5 position is with regards to further exploration of the site;
6 and, Mr. Smith, in your comments, your presentation. And I,
7 too, I feel a certain kind of way about there not being
8 outreach in Spanish given, you know, the, the predominant
9 population in this community. You know, I could understand
10 a small mom and pop just may not get it, but the multi-
11 million dollar corporation, global corporation, and I think
12 that was just a tremendous, tremendous oversight. So, I'll
13 just leave that there.

14 And then, Mr. Smith, you mentioned some conditions
15 to consider, but I didn't see anything in your presentation
16 that suggested conditions. So, that, those were just my
17 major notes. And I also want to thank, this goes back to
18 the Applicants, Mr. Crocker, because there has been some
19 media attention surrounding this case with regards to our
20 current tendency and I, I, I for one appreciate Mr. Crocker
21 addressing that head-on with respect to, and I don't recall
22 her name, but the current owner not being made aware; but it
23 was important for me to understand kind of the circumstances
24 surrounding that. And I know that there were comments about
25 McDonalds should have been the one to inform her. I

1 actually disagree because McDonalds is, they're leasing the
2 land. They don't own it. So, the property management took
3 whatever steps they deem necessary and appropriate and I
4 appreciate that clarification. So, those are, those are all
5 I have right now, Mr. Chairman.

6 CHAIRMAN: That's very helpful. I appreciate
7 that. Ms. Bailey, Mr. Geraldo, anything from you?

8 COMMISSIONER GERALDO: Thank, I share in a lot of
9 Commissioner Washington's comments. I was particularly, I
10 would like the HPC to, to check into with regards to whether
11 or not there's any former slaves buried in and around that
12 property. I know that there's ways that they can do that
13 without disturbing everything.

14 I'm also very concerned about the, the Departure
15 from Design -- I just don't think, I'm just, they're cutting
16 away too many trees and I'm familiar with the area, and it
17 is a, is, it is a hotbed. So, I'm concerned with that and I
18 would hope that there could be a redesign so you don't have
19 to do those trees. I don't think we have a role to, because
20 people, we know what the situation is with unhoused people.
21 We know that. I don't think that's our responsibility to
22 cut down trees so maybe, so maybe the people won't live
23 there anymore or camp out there. I just don't think it's
24 our responsibility. It's the responsibility of the landlord
25 and it's the responsibility maybe of McDonalds if it ever

1 gets built; but I don't think it's my responsibility as a
2 Commissioner to see that we should clear out a land to
3 prevent people -- what are they going to do? They're going
4 to go to another area. So, those are my points.

5 CHAIRMAN: Thank you. Thank you for that.
6 Appreciate it.

7 MADAM VICE CHAIR: I just want to, to thank
8 everyone who came down to, to speak today. I recently
9 visited our Marietta House and a lot of the information that
10 was shared came out of our, our house here in the County;
11 and it was just very interesting to hear some of the
12 information that was shared about, about the slave ownership
13 and all of the slaves that helped build that house and how
14 close it was to Washington, well, it was a part of
15 Washington, D.C., at that time; but very interesting
16 conversation. We have a lot, a number of things to consider
17 as we move forward on this case. So, thank you very much.

18 CHAIRMAN: Thank you. Now let me say, we're going
19 to turn to Mr. Gibbs for rebuttal and then have the
20 opportunity for a summation from the opposition, a summation
21 from the Applicant, who will get the final word. So,
22 there's more for us to hear today.

23 I, I can tell you where I'm at. Even right now
24 I'm not prejudging what I'm going to hear over the next half
25 hour or so, but I am, there is so much information here. I

1 have so many questions based upon what I've heard that I
2 imagine, and, and, colleagues, I can only imagine based on
3 what I've heard from you that you're in the same place, that
4 this is, that we need to continue this; and we need, and,
5 and as we hear from Mr. Gibbs and even in his rebuttal, and
6 then when we hear from the respective summations, I want us
7 to think about if that is the direction that we go, let us
8 think about specifically, you know, in a limited scope way.
9 What are the issues that we want to address; what do we want
10 to go back to Staff to and have them take on? So, that's
11 where I'm at right now. Again, we still have Mr. Gibbs'
12 rebuttal and that's going to help, that very well may shape
13 my thinking on this as it might with you as well. And we'll
14 hear from Mr. Smith and then Mr. Gibbs again; and, and then
15 we'll have an opportunity to make a decision about how we
16 want to proceed, okay?

17 So, again, I don't want to prejudge it, but I just
18 want to sort of say and, in part, I'm doing that for you,
19 Mr. Gibbs so you're clear that it's not just my colleagues
20 who have lots and lots of questions about this, and I'm
21 filled with them as well. So, again, Mr. Gibbs, on
22 rebuttal. Then we'll turn to the parties in opposition for
23 a summation and I please will ask you all to designate
24 somebody to do that.

25 I'm going to ask you for, for both of you not to

1 be repetitive. We've heard lots and lots of information.
2 To be blunt, we don't need to hear it all again. We're
3 smart folks and we've taken it in. And then Mr. Gibbs,
4 we'll end with you for a, for a close; and then we'll make a
5 decision as a, as a Board. So, Mr. Gibbs, I turn to you.

6 MR. GIBBS: Yes. Mr. Chairman, I hate to ask
7 this, but could I possibly have two or three minutes to
8 speak with my client --

9 CHAIRMAN: Yes, sir.

10 MR. GIBBS: -- before we commence rebuttal?

11 CHAIRMAN: Yes, sir. I don't have a problem with
12 that at all. Let's take, it's 5:21. The hour is late.
13 We've been going a long time. Let's take a little bit of a
14 longer, not too long a break, but let's go until 5:30, a 9-
15 minute break, so we can --

16 MR. GIBBS: That's --

17 CHAIRMAN: -- a little bio break --

18 MR. GIBBS: -- that would be fine.

19 CHAIRMAN: -- and get something to drink or
20 something like that.

21 MR. GIBBS: That would be fine. Thank you. All
22 right.

23 CHAIRMAN: See you all at 5:30.

24 MR. GIBBS: Thank you.

25 (Pause.)

1 CHAIRMAN: Let's start back out. Let's gather
2 everybody. I want to talk about the final process here once
3 everybody gathers. Let's give Ms. Bailey one second.

4 All right. We are all present and accounted for.
5 So, let me go over again what I'm going to suggest that we
6 do and I'm open to hearing from you, Mr. Gibbs, and the
7 folks and the parties about your position as well on this.
8 Again, I, there's, this is a whole lot of information, and
9 so I can just about guarantee that we are going to be
10 continuing this in some measure of limited scope; and I want
11 to talk with you, colleagues, about what that would be. I
12 have some thoughts and suggestions around it.

13 But I also, you know, while it's fresh, and this
14 is especially, because the Applicant, Mr. Gibbs, you know,
15 you, your Applicant has rights here, too; but I want to make
16 sure you get a full-throated rebuttal for everything that
17 we've heard as well. What I'm suggesting, though, is give
18 you the opportunity for rebuttal and then ask you and ask
19 the parties in opposition to keep the summation very, very
20 brief because it's actually not a full-on summation because,
21 again, if I'm reading the tea leaves here with my
22 colleagues, we're continuing this hearing. And so, when we
23 continue the hearing with what the scope there is, assuming
24 we do, if we do that, assuming we do, then there will be,
25 we'll have a hearing again. We will be hearing from the

1 same, essentially the same process that we went through
2 today and that's when I summation is going to be truly a
3 summation for everything that we've heard, including what we
4 hear in the limited scope, okay? So, that's what I am
5 suggesting in terms of a process. And I want to hear, let
6 me, first of all, colleagues, let me start with you all.
7 And, again, you know, this is more of a straw poll than a
8 vote because we have not made any decisions; but where are
9 you with what I'm suggesting?

10 COMMISSIONER WASHINGTON: It works for me, Mr.
11 Chairman.

12 CHAIRMAN: All right. Commissioner Geraldo,
13 you're okay with that, too?

14 COMMISSIONER GERALDO: Yes. Yes.

15 CHAIRMAN: And we'll make a decision, it will be a
16 more formal process; but let me turn to you, Mr. Gibbs.
17 You've heard what I've said. Thoughts, reactions to that?

18 MR. GIBBS: Yes, Mr. Chairman, thank you. Let me
19 say this. I, I don't object to the continuance. I do think
20 that any rebuttal is contingent upon what the continuance is
21 for as well; and so, I, and, and it's 5:34 in the afternoon.
22 How much longer do we want to go today? I don't think, I
23 don't think any closing statement should be made today,
24 short or long.

25 CHAIRMAN: I mean let me interrupt you one second,

1 Mr. Gibbs, because I'm, I, I'm thinking the rebuttal is very
2 necessary today, in part, for, because for you it's fresh
3 and it's here and it kind of closes off everything we've
4 done. But if you have a different view on that, we can
5 continue this hearing and pick-up at another day for the
6 rebuttal and then we can make the decision around what, if
7 any, limited scope herein we're going to do. I'm okay with
8 that, too.

9 MR. GIBBS: I, quite frankly, would think you
10 could do both because then the rebuttal could cover anything
11 that you, that comes up as a result of -- I have no idea
12 what the thought of the Board is on what additional
13 information you're, you're looking for.

14 CHAIRMAN: Correct.

15 MR. GIBBS: And so, my thought would be that any
16 rebuttal would just occur at one time.

17 CHAIRMAN: Okay.

18 MR. GIBBS: And, and I don't object to the
19 continuance at all; and, and, once again, I have on close a
20 lot of things to say. And, and so to say today, basically
21 say little to nothing, I think we're, my position is we're
22 better, I would prefer making a close at the close.

23 CHAIRMAN: Okay. That's, I think that's perfectly
24 appropriate. Commissioners, colleagues, I'm, I'm fine with
25 Mr. Gibbs' suggesting if there's no objection from you all.

1 COMMISSIONER WASHINGTON: No.

2 CHAIRMAN: Mr. Smith or others, I just want to
3 give you a chance to weigh-in, too, just if you have any
4 thoughts or reactions about this?

5 MR. SMITH: I feel like I should just object to
6 keep form, but you, if, if the other members of the Board --

7 MR. GIBBS: (Indiscernible), Mr. Smith.

8 MR. SMITH: Excuse me? I got you, Mr. Gibbs.
9 Because then we all, can all laugh at 5:30. Well, if, thank
10 you, Commissioners and Staff for hanging in all day. It's,
11 it's been a long day. I mean it has been a long day.

12 CHAIRMAN: I appreciate it.

13 MR. SMITH: Yeah.

14 CHAIRMAN: So, let me --

15 MR. SMITH: If the other members of our team don't
16 object, I, I don't object. I --

17 CHAIRMAN: All right. So, then, so then what I
18 want to do is we are going to -- so, then we don't even need
19 to right here, right now, we don't even need to focus on
20 what the limited scope is. Essentially, what we're going to
21 do is continue this hearing. We will pick this back up at a
22 date certain. At that date certain, we will essentially
23 continue where we are right now. And what we're going to
24 continue with, and to Mr. Gibbs' point, I think Mr. Gibbs
25 wants to hear how we might want to imagine limiting the

1 scope of a continued hearing; and then he can rebut that at
2 the time. I guess, Mr. Warner, I'm trying to think right
3 now if we have this limited scope conversation now or we
4 wait until when we reconvene?

5 MR. WARNER: Well, I think it's appropriate now to
6 give the reasons why we're continuing the hearing.

7 CHAIRMAN: Okay.

8 MR. WARNER: And if I'm understanding correctly,
9 you want to continue the hearing because there are some
10 issues that perhaps you still want Staff to look at,
11 perhaps, you know, bring back later on?

12 CHAIRMAN: Very much so. The problem is, though,
13 that our reaction to it might change based upon what we hear
14 from rebuttal and summations, right? That's what I'm a
15 little bit mindful of, you know, for the integrity of the
16 process.

17 MR. WARNER: That's fine, that's fine. I mean the
18 rebuttal and the summations at the end of the hearing is
19 perfectly fine whenever you have that, and then --

20 CHAIRMAN: Okay. So, then if we can, if we,
21 Commissioners, if we can talk about what I have heard from
22 you all and what I've picked up on from me, and then I have
23 some questions for Staff. The hour is late. I assume the
24 appropriate Staff is still here. But the, you, know, the
25 obvious one, I think, is related to the issues for, related

1 to parking, loading and circulation, and that's for both
2 auto and bike pad as well; but looking on through the DSP
3 lens, looking at issues related to parking, loading and
4 circulation, auto, bike pad, you know, we would ask, I, I
5 would imagine we would want Staff to, to dive in and do
6 further analysis on all these issues.

7 You know, and I think this issue around the cars
8 coming in and out of the site, you know, and the, whatever
9 the correct ITE rate and all that, I think that's really
10 relevant. I think, I don't know how we determine what the
11 impact is on the site unless we know what's coming in and
12 out of the site. So, that feels like more than fair game.

13 And then the, the, you know, on the pedestrian
14 circulation piece, I mean I'm really stuck on this one, but
15 this, you know, I, I want to make sure that we're clear and
16 Staff is clear around issues related to the, again, the bike
17 pad -- when I look at this thing, I see crosswalk
18 deficiencies. I don't know. I don't feel like I have
19 enough information around that.

20 And then the last two big ones that I have on the
21 list is I do want to hear something around, you know, the
22 conflict with the loading dock and, and Mr. Gibbs has
23 already suggested a potential proffer on that. So, that,
24 you know, I want Staff to analyze that as well; and also for
25 Staff to look at this issue of what SHA is or isn't saying

1 to us. I don't have nearly enough information on that. I,
2 I want to make sure they're looking at this in the, in the
3 most complete context and to addressing, you know, how we
4 look at this DSP through their lens as well and what they,
5 you know, the unique context of this intersection.

6 In addition to that, I heard from my colleagues, I
7 heard from you there's questions about whether the NRI was
8 done appropriately. You know, is there some inadequacy
9 there? And I think Commissioner Washington, you spoke to
10 that specifically and I agree with that. And I think it's
11 tied into, Commissioner Geraldo, your issue with the, with
12 the tree cutting and that general issue. I think we want
13 staff to revisit that if we get to that, when we get to that
14 in the limited scope.

15 And then I do, if Mr. Gross is on the line, this
16 is a very specific issue, but this issue around the burial
17 ground, NHPC, and what can or can't be before us, and how
18 much flexibility we have. I think that caught all of our
19 attention very much so and, and, you know, I was struck by
20 not wanting to miss an opportunity to do some research that
21 we might not be able to do, depending on what direction this
22 goes.

23 I, you know, I'm going to imagine, Mr. Gibbs, that
24 your client, I'm going to imagine that your client wouldn't
25 be opposed to some kind of investigation study, research,

1 something related to this, but I can't speak for you or your
2 client.

3 But, Mr. Gross, first start off with what is
4 within our purview here, what isn't and, you know, what kind
5 of latitude do we have?

6 MR. GROSS: Sure. Again, for the record, Tom
7 Gross for the Historic Preservation Section Staff. So, to
8 start by say, you know, Historic Preservation Staff and the
9 Commission certainly, you know, are sensitive to the
10 concerns that have been raised today about the potential for
11 burials on, on property. It's not specific to this site.
12 Given the history of land ownership in the County, it's a
13 pretty wide-ranging issue.

14 This was reviewed by the HPC through the lens of
15 impacts to the designated historic site, which is Green
16 Hill; and so, that's, that's what we looked at and that's
17 what the HPC commented on to the Planning Board. So, the
18 comments were with respect to the visible impact of the
19 development.

20 In terms of archaeological investigations, the
21 Subdivision Ordinance allows for us to require Phase 1
22 archeology at the time of Preliminary Plan. There is not
23 that statutory basis for requiring archaeology at the time
24 of Detailed Site Plan. That is not to say that it, that it
25 cannot be done or proffered, but we are limited in our

1 ability to require that at this stage of development.

2 CHAIRMAN: Okay. All right. All right. So, we,
3 we have, we have on our own have limited latitude around
4 that? Okay. Understood.

5 MR. GROSS: Right.

6 CHAIRMAN: I --

7 COMMISSIONER WASHINGTON: But the Applicant can
8 proffer to do that, I believe I heard you say, correct?

9 CHAIRMAN: Yes. Yes.

10 COMMISSIONER WASHINGTON: Right. Okay.

11 CHAIRMAN: Hint, hint, yes. We, we heard it. And
12 there was one other one and Mr. Smith brought this up, and I
13 think it's also worth investigating, this question about the
14 stormwater management, does, whether it's designed
15 adequately. And it may or may not be based upon standards
16 that are in place. I, you know, Staff is quite diligent
17 around this; and so, I'd be curious to have Staff look into
18 this issue as well to understand how their determination was
19 made and whether they were looking at it through the right
20 lens and all those things. So, so, Commissioners, I would
21 want to put that on, on a, on a list as well for, you know,
22 one last look at.

23 All right. Did I miss, Commissioners, this is
24 just for Commissioners, I imagine there's a bunch of folks
25 here who have lots of feelings about this, if the ones that

1 you are focused on was in the list, is not on the list, but
2 this is for us as Commissioners to make sense of this; and
3 is there any others that, that you feel like you would want,
4 Mr. Gibbs, the parties in opposition to hear as they sort of
5 consider how we're going to rebut and sum-up when we go to
6 the next step? And, again, what we'll do, I'm sorry. Let
7 me just say one thing. What we're going to do is we'll
8 direct staff to do all this for us so that when we come
9 back, we'll have these materials and Staff and Applicants
10 will have ample opportunity to review those materials that
11 come back to us.

12 MADAM VICE CHAIR: No, well, it makes sense to me;
13 and, and everything you mentioned was covered by the list
14 that I had. And I guess I'll just state this just for, for,
15 to be thought-provoking as part of the next step phase, but
16 with regards to the trees, you know, for me it sounded like
17 the trees were being cut to help solve a community issue
18 problem, but not because McDonalds necessarily needed it.
19 So, perhaps, that question can be thought through as part of
20 this process as well because it didn't seem to me that there
21 was any necessity to deal with the, the forestation issue
22 other than trying to deal with the homeless or the
23 encampment. I don't want to be apolitical in terms of my
24 characterization, but the issues surrounding the homeless
25 population there. So --

1 CHAIRMAN: Right. I agree. I'm, I'm with you.
2 Thank you for noting that and I know that's where
3 Commissioner Geraldo is, too. So, I, you know, I, I would
4 want to, you know, I would, I would encourage Staff to think
5 about, to revisit that specifically because it's not, you
6 know, I don't think it's going to solve the problem. And
7 so, you know, there are other ways to solve that problem.
8 That's my sense of it, too.

9 COMMISSIONER GERALDO: That's my sense.

10 CHAIRMAN: Yeah. Okay. So, so, Commissioners,
11 we're okay, this covers all the things that we've wanted to,
12 we'll take-up in a limited scope public hearing? Yes?

13 COMMISSIONER WASHINGTON: I think so.

14 MADAM VICE CHAIR: Yes.

15 CHAIRMAN: Okay. So, then, Mr. Gibbs, based upon
16 that, is there sort of, you, you do have an opportunity here
17 for rebuttal, a bit of rebuttal, or more if you choose or
18 summation; or we just sort of take this, what we said, we'll
19 direct Staff to do this research; we'll come back at a date
20 certain and we'll pick this up again where we are now.

21 MR. GIBBS: That, that is the better course of
22 action, the latter, in my opinion.

23 CHAIRMAN: Okay. Thank you. Mr. Smith? You're
24 on mute, sir.

25 MR. SMITH: And I'm sure you would prefer it that

1 way, but here I am again. Just, no more, it wasn't that
2 funny, or maybe it was. So, just so we understand the
3 process, you're going to refer this limited scope of issues
4 to Staff; they're going to do some homework. I assume we're
5 going to have an opportunity to submit written comments and
6 testimony at hearing on these and then you'll go to rebuttal
7 and summation?

8 CHAIRMAN: Yes.

9 MR. SMITH: Okay. Just so I understand that. I
10 would also ask that you look at this, of the, the, the
11 question of whether or not the health impact assessment
12 that's required, that 27-285 was adequate. It's a, is it
13 going to be an issue? There's plenty of evidence on the
14 record. It's a serious issue and it's a mandate. It's not
15 a, it's not a suggestion.

16 CHAIRMAN: I appreciate that. I mean I, I, I
17 don't know where you are, colleagues. I, that, for me,
18 that's not, it's an issue I have a lot of passion about. I
19 really care about it, as I know we all do, and it does not
20 feel relevant to this DSP. So, I mean I'm speaking to my
21 colleagues, Mr. Smith; but I, you know, unless I hear
22 otherwise, I would not have that be part of the limited
23 scope of a hearing, despite my passion about it.

24 MR. WARNER: And just to interrupt, the, the
25 referral was made to the Health Department and the letter is

1 in the back-up from the Health Department.

2 COMMISSIONER WASHINGTON: Right.

3 CHAIRMAN: Okay. All right.

4 COMMISSIONER WASHINGTON: I agree, Mr. Chairman.

5 COMMISSIONER GERALDO: That's it, yeah.

6 CHAIRMAN: All right. So, so, that's, that's
7 that. When I, I do, all due respect, Mr. Wilpers, if you're
8 going to make another suggestion for another one --

9 MR. WILPERS: Oh, no, I --

10 CHAIRMAN: Okay.

11 MR. WILPERS: -- all I wanted to do is, well, how
12 much time will we have from the time the Staff answers all
13 your questions, you know, with something written, then we
14 can look at it, how much time between those things being
15 posted and the, the next hearing?

16 CHAIRMAN: I mean I guarantee you it will be at
17 least 30 minutes. Is that all right? Will that do?

18 MR. WILPERS: (No audible response.)

19 CHAIRMAN: Well, what is our, what is our, what
20 is, what, is there a statutory requirement for this, Mr.
21 Warner, or is it just around what's going to be an
22 appropriate level of time?

23 MR. WARNER: No, the Staff Report needs to be
24 published two weeks before the start of the hearing. So,
25 you're continuing a hearing, so it's not a requirement at

1 this point.

2 COMMISSIONER WASHINGTON: Not in --

3 MR. WARNER: There will be ample time given to
4 everybody to evaluate Staff's review, but it's not
5 necessarily two weeks.

6 CHAIRMAN: We can treat that, we, assuming,
7 because there's going to be a lot of information here, I
8 would say, you know, there's a reason why that rule has been
9 set; and even if we're not bound by it, I would say we
10 should sort of, let's honor that because it's a reasonable
11 amount of time and it's, it's, it's defensible, too.

12 MR. WARNER: Sure.

13 CHAIRMAN: So, question for Staff and maybe for
14 Ms. Jones, if you're on the line, our Planning Board
15 Administrator, I'm thinking about what could work with this
16 timing because we need to do it here and now.

17 MS. JONES: I think, Chair, I'm thinking November,
18 the second week of November.

19 MR. WARNER: I think if you do that, though,
20 you're only giving Staff less than a week to do the work if
21 you want to get that published two weeks ahead of time. So,
22 you might need to give Staff a little bit more time.

23 CHAIRMAN: Well, should we go to November 21st?

24 MR. WARNER: I think that's better for Staff,
25 yeah.

1 MS. JONES: That could work, yes.

2 CHAIRMAN: Okay. All right. So, without
3 objection, Commissioners and Mr. Gibbs, will November 21st
4 work for you?

5 COMMISSIONER WASHINGTON: He's on mute.

6 MR. GIBBS: Yes, Mr. Chairman, it will.

7 CHAIRMAN: Thank you, sir. Okay. So, we're going
8 to go with November 21st and, again, it will be limited
9 scope based on what we said. I'm going to, Staff, I'm going
10 to ask you to make sure you sort of encapsulate what we've
11 described as the limited scope and make sure you communicate
12 that to Mr. Gibbs and to the other parties of record just to
13 make sure that we're all aligned around this. I'm going to
14 ask one other thing which is, Staff, if you could work with
15 Mr. Warner to make sure that it's reflected what, what you
16 have heard, too, and what you feel is appropriate for,
17 through the legal lens as well, okay?

18 I don't think you need to vet it back through us
19 as Commissioners. We'll leave it to you to do that and then
20 make sure it gets communicated to the parties as well. And
21 we'll pick this up again on November 21st.

22 Any concerns, problems? No? So, if --

23 MR. SMITH: I have a quick question.

24 CHAIRMAN: Yeah?

25 MR. SMITH: I, I, I asked that a public notice be

1 issued to all persons of record.

2 CHAIRMAN: That, that's fine. That's fine. I
3 mean I, if it's a, if it's EMO getting out to folks, I, I'm,
4 let me not speak for Staff, but I assume getting out the,
5 Ms. Connor is, am I, am I missing this? Is that a big deal
6 or a little deal if we get the public notice about this for
7 November 21st?

8 MS. CONNOR: Yes, any time a case is continued
9 longer than one week, we'll send a, an emailed notice of the
10 new hearing date.

11 CHAIRMAN: Okay. Thank you.

12 MS. CONNOR: Uh-huh.

13 CHAIRMAN: All right. Okay. Good. So, unless
14 there's any objections to this, Commissioners, then we, do I
15 need a vote on this or without objection we can continue to
16 November 21st?

17 MR. WARNER: We should have a motion.

18 CHAIRMAN: Okay. So, the, I'll look for a motion,
19 Commissioners.

20 COMMISSIONER WASHINGTON: Mr. Chairman, I move
21 that we continue DDS-23001 and DSP-22001 to Planning Board
22 hearing date of November 21, 2024.

23 MADAM VICE CHAIR: Second.

24 CHAIRMAN: I got a motion by Commissioner
25 Washington and a second by Vice Chair Bailey, and under

1 discussion the only thing I would say is to note that it's a
2 limited scope hearing based upon the information that has
3 been communicated in the conversation over the past five or
4 10 minutes, and Staff will craft that appropriately. Any
5 further discussion on the motion?

6 (No affirmative response.)

7 CHAIRMAN: I will call the roll. Commissioner
8 Washington.

9 COMMISSIONER WASHINGTON: I vote aye.

10 CHAIRMAN: Vice Chair Bailey?

11 MADAM VICE CHAIR: I vote aye.

12 CHAIRMAN: Commissioner Geraldo?

13 COMMISSIONER GERALDO: I vote aye.

14 CHAIRMAN: I vote aye as well. The ayes have it
15 4-0. I want to thank everybody for all of your work and
16 participation today and professionalism, and diligence, and
17 creativity, and the education and all the above. So, it
18 felt quite productive and we will see you all in some
19 context on November 21st.

20 MR. GIBBS: Thank you.

21 COMMISSIONER WASHINGTON: Have a good evening.

22 CHAIRMAN: And before, Commissioners, before we
23 cut-off, we have no further items, but I want to confirm
24 that with Ms. Connor. Any further business before use?

25 MS. CONNOR: No further items. Have a good

1 evening.

2 CHAIRMAN: Okay, then. Thank you. Without
3 objection, we are adjourned. Thanks, everybody.

4 COMMISSIONER GERALDO: Thank you.

5 COMMISSIONER WASHINGTON: Bye now.

6 MR. SMITH: Bye.

7 **(Whereupon, the proceedings were concluded.)**

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MCDONALD'S AGER ROAD

Detailed Site Plan, PPS DSP-22001

By: Tracy Hahn Date: March 5, 2025
Tracy Hahn, Transcriber