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

MCDONALD'S AGER ROAD
Regular Meeting, PPS DSP-22001

T R A N S C R I P T
O F
P R O C E E D I N G S

COUNTY ADMINISTRATION BUILDING
Upper Marlboro, Maryland
November 21, 2024
VOLUME I of I

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BEFORE:

PETER A. SHAPIRO, Chairman

DOROTHY F. BAILEY, Vice-Chairman

A. SHAUNISE WASHINGTON, Commissioner

MANUEL GERALDO, Commissioner

WILLIAM M. DOERNER, Commissioner

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P R O C E E D I N G S

1
2 CHAIRMAN: We are now on to items 8 and 9 on our
3 agenda. These are companion cases, detailed site plan and
4 depart from design standards DSP-22001, McDonald's Ager Road
5 and DDS-23001, McDonald's Ager Road. These items are
6 continued from October 24, 2024.

7 Just a few things to note. Pardon me. I want to
8 go through -- this is a continuation from a previous
9 hearing. It was on a limited scope. There is some
10 procedural notes that I want to go through.

11 Frist, let me go through the order that we're
12 going to take this up. So we'll be essentially restarting
13 the hearing from where we left of last time, which is with
14 the applicant's rebuttal. So the first thing that we're
15 going to hear is the applicant rebuttal of opposition to
16 testimony at the prior hearing.

17 We'll then hear from staff. The applicant can
18 argue or provide testimony on matters that are addressed in
19 the staff report -- in the addendum to the staff report, and
20 then the opposition can provide testimony on matters that
21 are addressed in the addendum to the staff report.

22 Applicant will have chance for rebuttal, and then we'll make
23 some decisions at that point. There'll be an opportunity
24 for opposition to have summation and the applicant to have
25 the final word. There will be cross allowed as is our

1 practice.

2 I want to remind folks that we have a very limited
3 number of topics that were addressing here. So number one
4 was transportation, and this is not off-site transportation
5 per se. This is related to parking and loading and drive-
6 through circulation, any conflicts with loading. This can
7 include auto and bike and ped circulation, accessing the
8 site and on the site.

9 The other item is the accuracy of the NRI,
10 environmental issues, and the stormwater design. We're
11 reassessing whether departure from design standards is going
12 to address any of these trespassing issues. This is the
13 CPTED and public safety issues. And then finally, there was
14 some specifics around historic preservation. So those are
15 the topics that are before us.

16 I will do my best to keep us focused and on-task.
17 I will ask counsel to help me with that as well so we don't
18 wander too far afield.

19 And counsel or Ms. Conner, did I miss anything in
20 how I'm framing this?

21 MS. CONNER: No, I don't think so.

22 CHAIRMAN: Okay. Ms. Tallerico, Mr. Boado, we're
23 okay? Okay. Great.

24 All right. So again, we will start with this is
25 an evidentiary hearing, so I'll be swearing folks in. Some

1 folks are sworn in from before. Out of an abundance of
2 caution, because I'm not going to remember who was sworn in
3 or who wasn't, I'll just be swearing folks in again as we go
4 along. There's no danger in swearing folks in a second
5 time. And so again, we'll start with the applicant. And
6 this is rebuttal of opposition testimony from the prior
7 hearing.

8 Mr. Gibbs, any questions for you about our
9 process, and are you ready to go?

10 MR. GIBBS: Yes, Mr. Chairman. Edward Gibbs on
11 behalf of the applicant, McDonald's USA, LLC. And yes, I am
12 prepared to go.

13 I do have a point of order because I think you
14 articulated my understanding exactly. I have an opportunity
15 to present some rebuttal to the opposition case that was put
16 on and concluded on October 24th, and then we're going to
17 move into the addendum of the staff report; is that correct?

18 CHAIRMAN: That's correct. And then you'll have
19 an opportunity for rebuttal related to the addendum.

20 MR. GIBBS: Okay. And the 154 pages of documents
21 that were put in, I have an objection to something that's in
22 there. And is that going toward the hearing on the merits
23 from the 24th, or is that -- I didn't see anything in there
24 related to the addendum in the 154 pages.

25 But I do object to the Newsweek article, "Behind

1 the Arches" appearing on pages 29 through 93. It has
2 absolutely nothing to do with the elements for the approval
3 of a detailed site plan. I'm deprived of any opportunity to
4 cross-examine a newspaper article from 2019 -- or a Newsweek
5 article from 2019 that examines violence at many
6 restaurants, not just McDonald's. And I do not think it's
7 appropriate to be in this record.

8 CHAIRMAN: Counsel, any thoughts, responses to
9 that? Does it -- are we within our purview to strike that
10 from the record?

11 MS. TALLERICO: So Mr. Gibbs, you're referring
12 to -- I apologize. There's both a Newsweek article and a
13 NELP, National Employment Law Project. So the National
14 Employment Law Project is the one that starts on page 29.
15 I'm just clarifying before we --

16 MR. GIBBS: Both. Both. Both. They're both --

17 MS. TALLERICO: Both that and the Newsweek article
18 about --

19 MR. GIBBS: Yes.

20 MS. TALLERICO: -- violence at the drive-throughs?

21 MR. GIBBS: That's correct.

22 MS. TALLERICO: Yeah. There's multiple articles.
23 Another one from The Counter, fascinating --

24 MR. GIBBS: Exactly. It's all --

25 MS. TALLERICO: -- article for using 911.

1 MR. GIBBS: Yes. It was all put in by one of the
2 opponents, and again --

3 MS. TALLERICO: Right.

4 MR. GIBBS: -- it has nothing to do with the
5 elements of approval of a detailed site plan. It's
6 prejudicial and it really reflects more on customers at
7 establishments than it does on any of the operators of
8 various restaurants that are shown both in the texts and in
9 illustrations. It's not just McDonald's in the first place.
10 To me, it has no place in this record -- all of it, from
11 page 29 through 93.

12 MS. TALLERICO: 29 to 93. Got it. Okay. I would
13 say that the scope of this hearing was to -- the continued
14 hearing was to address transportation, the accuracy of the
15 NRI, stormwater management design, and reassessing the
16 trespassing issue, as well as the discussion of historic
17 preservation. And the materials submitted into the record
18 should go to those issues. Unless the opposition has any
19 claim that these materials about violence goes to any of
20 those issues, then I believe it would be proper to strike
21 them as irrelevant.

22 CHAIRMAN: Let me suggest --

23 UNIDENTIFIED FEMALE SPEAKER: Yes.

24 CHAIRMAN: -- commissioners, that we don't have
25 enough information yet to see if -- I'm thinking

1 specifically does this go to issues related to public safety
2 and trespassing? We'll hear from the applicant. If at that
3 point inappropriate, I'm happy for us to consider striking
4 that from the record. It's hard for me to consider doing
5 that until we hear why the applicant is bringing that to us.

6 But Mr. Gibbs, I hear your point loud and clear.

7 MR. GIBBS: Thank you very much. You referred to
8 the applicant bringing that. We're not bringing it. The
9 opposition --

10 CHAIRMAN: I'm sorry. I'm sorry.

11 MR. GIBBS: That's okay.

12 CHAIRMAN: The opposite, yeah.

13 MR. GIBBS: That's okay. And one further --

14 UNIDENTIFIED SPEAKER: That's the point.

15 CHAIRMAN: Watching it forward in my head, which
16 is flipped around.

17 MR. GIBBS: I understand. One further point of
18 order. There were three comments from planning board
19 members -- different planning board members relative to
20 removing trees, two of which occurred toward the end of the
21 hearing before the continuance on October 24th, which I feel
22 compelled to respond to because it deals with the departure
23 from design standards. And --

24 CHAIRMAN: I mean, this feel appropriate for -- if
25 you're providing rebuttal to opposition testimony, it feels

1 appropriate for you to -- you're basically providing
2 rebuttal to what occurred at the first part of the hearing.
3 That feels fair game to me if you want to bring that up.

4 MR. GIBBS: Really, I'm just responding. There
5 were -- because this is procedural. And it's not in the way
6 of evidence. It's procedural. There were questions about
7 the necessity for the departure from design standards for
8 the McDonald's application. And McDonald's is committed to
9 this site with or without the departure.

10 The original site plan that is in the record from
11 McDonald's showed no trees removed from the rear of the
12 shopping center with the exception of a few to accommodate
13 the drive-through lane being installed, but all woodland
14 conservation and buffer requirements were met with that site
15 plan. There has been testimony that there was substantial
16 community outreach, and the impetus for proposing to remove
17 the trees resulted from requests in that community outreach
18 due to safety concerns from people who live very close to
19 the center and are regular patrons at the center.

20 We took that up in order to address their
21 concerns. And we think that the staff report is correct in
22 supporting the departure. But I wanted to respond to the
23 planning board comments that whether the departure's
24 approved or not, that's up to the board. But we will go
25 forward regardless of whether the departure is granted or

1 not granted. McDonald's has its own security and can keep
2 its location secure. We were trying to help others.

3 I would only say this is not a social issue. One
4 of the commissioners mentioned that perhaps taking trees
5 down should not address a social issue. This is not a
6 social issue in our estimation. This is a protection of
7 private property rights as anything, I think, would feel if
8 they had trees in their backyard and people started
9 trespassing and stringing tarps up. And that was what we
10 were trying to address to protect the shopping center and to
11 protect the people who live in close proximity to the
12 shopping center and who come there every day.

13 But taking those trees down -- we will move
14 forward whether the trees come down or not. The departure
15 was what we were pursuing for the others and is not needed
16 by McDonald's per se.

17 CHAIRMAN: Understood.

18 MR. GIBBS: So thank you very much.

19 CHAIRMAN: All right. Thank you.

20 MR. WILPERS: Are we still in --

21 CHAIRMAN: Commissioners, I need a --

22 MR. WILPERS: Are we still in --

23 CHAIRMAN: I'm sorry.

24 MR. WILPERS: Are we still in --

25 CHAIRMAN: Mr. Wilpers?

1 MR. WILPERS: Are we still in points or order, or
2 is he already in his rebuttal?

3 CHAIRMAN: Mr. Wilpers, we'll get back with you in
4 a second.

5 Commissioners, I need to take a two-, three-minute
6 break, so it's 12:29 -- I apologize for this. Let's come
7 back at 12:35.

8 UNIDENTIFIED SPEAKER: Okay.

9 MR. GIBBS: Thank you.

10 (OFF THE RECORD)

11 (ON THE RECORD)

12 CHAIRMAN: Okay. Welcome back, everybody.

13 And Mr. Wilpers, I will get to you. Thank you for
14 that.

15 Procedurally, this is for my colleagues, as well
16 as I want to hear from the opposition and Mr. Gibbs. We
17 need to take a break at some point, and I'm trying to figure
18 out the best time to take our lunch break. I'm thinking
19 about 20 minutes, half hour tops.

20 But really, let me throw it out there.

21 Commissioners, what do you think? We could do it now. We
22 could wait a half hour. We could even wait an hour. I
23 imagine we're going to be going for a good hour or two. And
24 I want to make sure that we take this break at some point in
25 that process. I don't want to wait till the end of this.

1 Any thoughts, feelings around those recommendations?

2 Mr. Wilpers, you have your hand up. I know it's a
3 lunch answer, but I guess the question's --

4 MR. WILPERS: Well --

5 CHAIRMAN: -- how hungry are you?

6 Mr. Smith, how hungry are you?

7 Mr. Gibbs?

8 MR. SMITH: I'll suggest we finish that we
9 couldn't finish in October, that is get thought the
10 rebuttals.

11 But in the meantime, I think Mr. Gibbs is out of
12 order because he's supposed to be rebutting the testimony
13 from October. And now he's rebutting new documents that
14 were posted this week. I don't think that's part of the --
15 he has to wait on that in my opinion.

16 CHAIRMAN: All right. Thank you for that. So in
17 terms of the break, you're suggesting that we pick this up
18 after the -- I guess that would be after Mr. Gibbs goes,
19 then we'll take a break.

20 Others, Mr. Gibbs, does that work for you?

21 MR. GIBBS: Yes, Mr. Chairman, it certainly does.
22 And as a matter -- as a matter of fact, in terms of rebuttal
23 testimony, I have one witness, Mr. Michael Lenhart, and his
24 testimony should be rather brief.

25 CHAIRMAN: Okay. Commissioners, any thoughts,

1 feelings from your side about when we want to do this?

2 VICE CHAIRMAN: That's fine with me to close out
3 the prior hearing.

4 CHAIRMAN: Okay. Mr. Smith?

5 MR. SMITH: Point of order. I mean, the hearing
6 structure and process is inherently biased from the start
7 because it allows only the applicant to rebut, not the
8 opponents. So that's one point.

9 Now we've got a situation where Mr. Gibbs will be
10 allowed to rebut twice. He'll be able to put on an expert
11 witness during his first rebuttal. It's not clear whether
12 we're going to have an opportunity to cross that witness.
13 I'm just wondering how many bites of the apple more the
14 applicant's going to get than the opponents. This has been
15 a concern I've had for a while.

16 CHAIRMAN: Mr. Smith, did you heard what I said
17 when I went through the description?

18 MR. WILPERS: Yeah, that Mr. Gibbs will be allowed
19 to offer his rebuttal --

20 CHAIRMAN: Well, you only heard that part. You
21 didn't hear that you have the opportunity for rebuttal.

22 MR. WILPERS: I understand that to mean during the
23 new session where we're discussing the staff's latest memo,
24 the narrower scope of issues that you've presented for this
25 hearing.

1 CHAIRMAN: So staff will present --

2 MR. WILPERS: So it sounds like he gets rebuttal
3 for the first hearing. We don't get summation from the
4 first hearing. Then we go into basically a new hearing on
5 this narrower scope of issues where staff presents;
6 applicant presents; we present; applicant rebuts; then each
7 side gets summation. So you could see --

8 CHAIRMAN: Right.

9 MR. SMITH: -- that that the applicant's getting
10 two opportunities to rebut here. And it's not clear whether
11 we have an opportunity to cross him or his expert witness on
12 this first rebuttal. So I'm just looking for some clarity
13 here and just pointing out there's just this inherent bias
14 that's already baked into the normal rules, never mind this
15 approach. Thanks.

16 CHAIRMAN: Thank you.

17 MR. SMITH: Mr. Chairman --

18 CHAIRMAN: And do you have an opinion when we take
19 a lunch break, Mr. Smith?

20 MR. SMITH: One of our members is not here because
21 he has to lead a webinar as part of his work, Alexy Boada,
22 so I don't have a strong opinion as long as once we come
23 back., our full team is here. I think --

24 CHAIRMAN: Okay.

25 MR. SMITH: -- Alexy said he could be back by

1 around 1 or so.

2 CHAIRMAN: Okay. Thank you. Thank you for that.

3 All right. So let's hear from Mr. Gibbs, and then
4 we can make a decision at that point.

5 Mr. Gibbs, we're back to you. This is your
6 rebuttal to opposition testimony from the prior hearing.

7 MR. SMITH: Yes, thank you.

8 CHAIRMAN: And to Mr. Wilpers' point, I would
9 agree that your comment was more related to something that's
10 in the new testimony, but you did ask that question up
11 front, in fairness to you. But go ahead --

12 MR. GIBBS: Mr. Chairman, are you referring to the
13 objection I raised to the documents?

14 CHAIRMAN: Yes.

15 MR. GIBBS: Yeah. Yeah. I didn't know where to
16 raise it. That's why I asked --

17 CHAIRMAN: No. And --

18 MR. GIBBS: -- the question.

19 CHAIRMAN: -- that's why you asked, so that --

20 MR. GIBBS: Yeah.

21 CHAIRMAN: I hear you.

22 MR. GIBBS: Yeah. Okay. Yeah.

23 CHAIRMAN: All right. So go ahead. You're on
24 rebuttal from the prior hearing.

25 MR. GIBBS: Yes. Thank you very much, Mr.

1 Chairman. Again, one witness, Mr. Michael Lenhart. And I
2 would request that in anticipation of his testimony, Mr.
3 Flanagan, if he's with us, bring up the additional testimony
4 in the entry of September 24th, 2024. And in particular,
5 the email from Ms. Melissa Schweisguth. And I do apologize.
6 I know I didn't pronounce that correctly, but I did the best
7 I could.

8 MR. GIBBS: Yes, Mr. Lenhart, are you with us this
9 morning -- or this afternoon?

10 MR. LENHART: I am here.

11 MR. GIBBS: Okay. Do you --

12 CHAIRMAN: Mr. Lenhart, I'm going to swear you in
13 again. Do you solemnly swear that your testimony will be
14 the whole truth and nothing but the truth?

15 MR. LENHART: I do.

16 CHAIRMAN: Okay. Consider yourself under oath.

17 MR. GIBBS: Thank you very much. Mr. Lenhart, you
18 testified at the last hearing before the board on October
19 24th of 2024, did you not?

20 MR. LENHART: That's correct.

21 MR. GIBBS: And were you in attendance for the
22 entirety of that hearing?

23 MR. LENHART: I was.

24 MR. GIBBS: And did you hear all of the opposition
25 witness testimony during that hearing as well?

1 MR. LENHART: Yes, I did.

2 MR. GIBBS: And do you recall in particular the
3 testimony of Mr. Alexy Boado?

4 MR. LENHART: Yes.

5 MR. GIBBS: Do you recall that Mr. Boado testified
6 that he felt that pedestrian safety entering and exiting the
7 shopping center site would be prejudiced by virtue of the
8 construction and operation of the McDonald's restaurant?

9 MR. LENHART: Yes, I recall that.

10 MR. GIBBS: And in particular, do you recall his
11 testimony relative to this opinion that a motorist exiting
12 the McDonald's site at the driveway nearest the bus stop
13 would place pedestrians at the bus stop in jeopardy of their
14 personal safety because they couldn't be seen?

15 MR. LENHART: Yes, I recall that.

16 MR. GIBBS: Do you have any facts at your
17 disposal, which would include information in the record as
18 well as your personal observations visiting the site, as to
19 whether or not you have an opinion as to whether those
20 comments are actually accurate?

21 MR. LENHART: Yes. As you mentioned, I've been to
22 the site numerous times. And one of the photograph --
23 there's several photographs that were submitted on record by
24 Mrs. Schweisguth. And we could pull one of those up. I
25 think that would be helpful. It's not perfect, but it would

1 be useful in discussing the issue.

2 MR. GIBBS: Thank you.

3 And Mr. Flanagan, hopefully for your ease of
4 reference, that would be the 9/24 additional evidence from
5 that witness, and in particular, page 237. And her email,
6 with all of her photographs, was not 237 pages. There were
7 over 300 pages or 400 pages perhaps put in by the opposition
8 for that hearing, and her email starts around page 230, but
9 the particular photograph we're looking for is on page 237.

10 Yeah. Unfortunately, Mr. Flanagan, to get to that
11 photograph, all of the backup material, additional back, is
12 not listed on this agenda. If you were looking for an
13 agenda, you would have to go to the I think it's the October
14 17th agenda where the additional backup is listed as
15 10/2/24, 10/2/24, 9/24/24, and 10/16/24.

16 MR. FLANAGAN: Mr. Gibbs, you said 10/17?

17 MR. GIBBS: Yes, sir.

18 MR. FLANAGAN: All right. I'm looking for it
19 right now.

20 MS. GOMEZ-ROJAS: Kenny, it is in 10/24.

21 COMMISSIONER WASHINGTON: Go under the Prince
22 George's County tab. Yeah. under full Commission tab. Go
23 down to the next. Now go back to where you were. Yeah.
24 Scroll down and then expand Prince George's County Planning
25 Board. Yep. Right there.

1 MR. GIBBS: And if you -- there. And if you --
2 no, I don't see it there. I have the --

3 MR. FLANAGAN: Hold on.

4 MR. GIBBS: -- agenda in my hand, right now, the
5 hard copy.

6 MR. FLANAGAN: It says 10 something, but I see 10
7 is (indiscernible).

8 MS. GOMEZ-ROJAS: It's 10/24, Kenny.

9 MR. FLANAGAN: 10/24?

10 MS. GOMEZ-ROJAS: Yes.

11 MR. FLANAGAN: All right.

12 MS. GOMEZ-ROJAS: You just click it.

13 MR. FLANAGAN: Let me go back.

14 MS. GOMEZ-ROJAS: Still on microphone.

15 MR. FLANAGAN: So it's 10/24. There it is. I
16 just can't -- I'm having a problem expanding it so I could
17 get -- the actual link. It's right here. I just can't
18 expand it.

19 CHAIRMAN: Get your cursor to the right, a --

20 MR. FLANAGAN: There it is.

21 CHAIRMAN: -- little bit.

22 MR. FLANAGAN: Right there. Right there. There
23 you go. Right there.

24 CHAIRMAN: Yeah. There you go.

25 MR. FLANAGAN: 24, yes. All right. And we're

1 looking for -- here we go. 10 --

2 MR. GIBBS: 9/24 is right at the top --

3 MR. FLANAGAN: Oh, 9/24.

4 MR. GIBBS: -- there. There we go.

5 MR. FLANAGAN: Got you.

6 MR. GIBBS: You can use that one, I guess. Page
7 237.

8 MR. FLANAGAN: And it's loading now. Give it a
9 second. And 224.

10 MR. GIBBS: Mr. Flanagan, that would be page 237.
11 That's it.

12 Now, Mr. Lenhart --

13 Thank you very much, Mr. Flanagan.

14 Mr. Lenhart, while this photograph is not
15 necessarily optimal, can you explain to the board first of
16 all, is the Green Meadow Shopping Center the building on the
17 right-hand side of that photograph with various cars parked
18 in the parking lot?

19 MR. LENHART: That's correct. The first two
20 driveways that you see in this image are the two driveways
21 that are side by side right in front of the proposed
22 McDonald's location. These are the two driveways that are
23 going to be reconstructed into a standard SHA
24 right-in/right-out as requested by state highway. If you
25 can see, way of in the distance there are persons standing

1 in the sidewalk.

2 Are you able to zoom in on that image a little
3 bit? A little more. Little more. And then move over
4 there.

5 MR. GIBBS: Slide the picture.

6 MR. LENHART: And move it down.

7 MR. GIBBS: There.

8 MR. LENHART: Maybe one more time. See what that
9 does. One more.

10 MR. FLANAGAN: That's as far as we can zoom.

11 MR. GIBBS: Okay. That's fine.

12 MR. LENHART: That's fine. You'll see where that
13 person's standing. That person is standing at the bus stop.
14 The driveway where the cursor is located, right there -- no,
15 come down to the driveway in front of that person -- is the
16 driveway that Mr. Boado was referencing. And that's
17 immediately on the other side of the utility pole that's
18 shown.

19 The parking lot is slightly elevated, maybe two
20 feet give or take. You can see there's a white pickup in
21 the parking lot that's parked, and then a small sedan right
22 in front of them. On our side of that sedan is where the
23 driveway comes out of the parking lot down to the curb.

24 You can easily see here that if a car is exiting
25 that driveway, the driver's eye is going to be at a place

1 where they can easily see that person at the bus stop.
2 There's no obstructions, no blockages, no grade
3 obstructions. And it's quite easy to see that person there.
4 That bus stop is about 35 feet away from the driveway. I
5 would say -- and the stop, there's a concrete pad to the
6 right of the sidewalk where that person is standing with a
7 little bench in it. That bus stop provides a safe and
8 well-seen location for cars entering and exiting the center.

9 MR. GIBBS: And Mr. Lenhart, does your statement
10 here also conform to your personal observations when you
11 were physically on the site?

12 MR. LENHART: Yes, it does.

13 MR. GIBBS: Okay. Do you also recall the
14 testimony of Melissa Schweisguth --

15 MR. LENHART: Yes.

16 MR. GIBBS: -- on October 24th? And you -- are
17 you familiar with the fact that she had submitted, and this
18 is one of them that you're looking at right now -- written
19 comments, which included a number of photographs as a
20 supplement to her testimony?

21 MR. LENHART: Yes.

22 MR. GIBBS: And the written documents purported to
23 indicate there were numerous accidents on East-West Highway
24 in front of the Green Meadow Shopping Center; did they not?

25 MR. LENHART: They did, yes.

1 MR. GIBBS: And did you do any further analysis of
2 the claim relative to accidents in front of the shopping
3 center from reviewing actual state highway administration
4 records?

5 MR. LENHART: We did.

6 MR. GIBBS: Were you able to determine the actual
7 number of vehicular accidents which occurred in front of the
8 Green Meadow Shopping Center during the time period she had
9 specified?

10 MR. LENHART: Yes, we did.

11 MR. GIBBS: And could you please -- could you
12 please tell -- because there were all kinds of bubbles and
13 circles there. Could you please --

14 MR. LEINHART: Yes, there were.

15 MR. GIBBS: -- tell the board?

16 MR. LENHART: Yes, I'd be happy to. So that data
17 was obtained from the Maryland State Police as an automated
18 crash reporting system. And so the police will fill out a
19 police report, and it gets entered into this reporting
20 system and it shows up in the format that was submitted on
21 the record by Ms. Schweisguth. You can drill down into that
22 data on the Maryland State Police, and you can get more
23 detailed information.

24 First, I would say that there were quite a few
25 exhibits showing a map with dots all over the place. And I

1 think it was referenced that within half a mile of the site,
2 they had over 300 crashes over a three-year period.

3 As it relates to this detailed site plan, none of
4 those are -- or very few of those are really pertinent to
5 this detailed site plan. DSP findings -- we look at the
6 driveway to the site to make sure that the driveway's safe,
7 and we look at on-site circulation to make sure that is
8 safe. Off-site crash data is really not applicable to a
9 detailed site plan.

10 Out that six-year data, we looked at the site
11 access points. There were two crashes within the immediate
12 vicinity of the right-in/right-out access points to this
13 McDonald's -- proposed McDonald's. There were one rear-end
14 crash and one sideswipe crash.

15 They did not appear to have any relation
16 whatsoever to the driveways. They appeared to be related to
17 the -- it's quite often throughout urban areas where you
18 have traffic signals that you have accidents and crashes
19 that are caused by those signals. Usually, rear-end
20 accidents are quite often the most relevant, and so I would
21 suspect that the rear-end accident that caused in the
22 vicinity of the driveway really had to do with the signal.

23 You can see cars here in this image. The signal's
24 green up at Riggs Road, and so these vehicles are moving.
25 They're clearing out when it turns red. Sometimes people

1 are not paying attention, or you may have an accordion
2 effect, and sometimes that results in rear-end collisions.
3 But it has nothing to do with the site driveway.

4 We also looked at some of those dots appeared
5 within the shopping center itself.

6 MR. GIBBS: And for reference --

7 Not to interrupt you, Mr. Lenhart.

8 But for reference, Mr. Chairman, these documents
9 that's he's referring to appear on page 232 and page 229
10 through 231 of the testimony document that was submitted by
11 the witness, and in particular, a pedestrian exhibit appears
12 on page 232. Just for your reference.

13 But go ahead, Mr. Lenhart.

14 MR. LENHART: Thank you. The three-year crash
15 data that was referenced had an average of two crashes per
16 year that were coded as occurring within the parking lot of
17 the shopping center. One of those, over the three-year
18 period, was coded as a pedestrian crash. The others were
19 coded as single-vehicle crashes either running into a parked
20 vehicles or a parked object. And really, those would be the
21 only relevant or pertinent crashes. The remainder of them
22 shown outside of this site or away from the site are really
23 not relevant.

24 MR. GIBBS: Thank you. Now, are you also aware of
25 the testimony from Ms. Schweisguth relative to -- even

1 though it is not relevant to the criteria for a detailed
2 site plan, she was allowed to present testimony relative to
3 traffic on East-West Highway. Do you recall that?

4 MR. LENHART: Yes.

5 MR. GIBBS: And she supported that with
6 photographs in her written documents that she submitted. Do
7 you recall that?

8 MR. LENHART: Yes.

9 MR. GIBBS: And the picture that you're looking at
10 is from page 237. Was that, in fact, one of the photographs
11 that she flagged showing backups?

12 MR. LENHART: That was one of them, yes.

13 MR. GIBBS: And I wanted to ask you -- in
14 preparing your analyses for this case, did you have occasion
15 to gather video evidence depicting the light at the
16 intersection which is in front of us in this photograph with
17 East-West Highway?

18 MR. LENHART: We did. We collected video data for
19 the purpose of traffic counts along this section of roadway.
20 So we have it along the frontage, here at these driveway
21 entrances. We have it at the adjacence of the intersections
22 as well.

23 MR. GIBBS: Okay. And what was your experience
24 from reviewing your videotape, as well as your onsite
25 observations, when you were on the property relative to

1 traffic backing up and if it stays backed up?

2 MR. LENHART: Sure. This a congested area. When
3 those traffic signals turn red, traffic does back up from
4 Riggs Road. It backs up -- not all the time, but in heavy
5 times of travel, it does back up across the length of the
6 site. But when the signal turns green, as you see here in
7 this image that the signal up at Riggs Road is green, this
8 is an image that captures what happens once the signal turns
9 green. The traffic starts to move, and it is in the process
10 of clearing out. So the queue is moving and clearing out
11 from the front of the site. In this image, there are --

12 MR. GIBBS: And --

13 MR. LENHART: -- other images --

14 MR. GIBBS: Yeah. And I'd like to ask Mr.
15 Flanagan if he could bring up page 234? Just three pages
16 before that one. Yeah. There we go.

17 Now, let me ask you another question before you
18 get there. Do you recall that when Ms. Schweisguth gave her
19 testimony on October 24th, I asked her if all of the
20 photographs in her document were taken on the same date?

21 MR. LENHART: Yes.

22 MR. GIBBS: And do you recall what her response
23 was?

24 MR. LENHART: Yes, she said that they were.

25 MR. GIBBS: And did she also say they were taken

1 at the same time?

2 MR. LENHART: Yes.

3 MR. GIBBS: Now, this is a photograph then taken
4 on the same day, by her own statement, as the photographs
5 she showed were traffic backed up. In your opinion, what
6 type of traffic condition does this depict directly in front
7 of the site where the McDonald's would go?

8 MR. LENHART: Right. This is a condition where
9 the signal on East-West Highway at Riggs Road has turned
10 green. The queue has flushed out, and now there is no queue
11 in front of -- no queued vehicles in the roadway, which
12 would allow people to exit the driveway.

13 MR. GIBBS: Thank you very much.

14 Mr. Flanagan, could you then proceed to page 235,
15 the very next page?

16 Is this, too, another photograph that shows Green
17 Meadow Shopping center in the background?

18 MR. LENHART: Yes.

19 MR. GIBBS: And what does the roadway look alike
20 at that point in time, which is the same time and same day
21 as our other photographs?

22 MR. LENHART: Sure. Obviously, the queue has
23 cleared. There are a few vehicles here. It's hard to tell
24 what's going on to the right and left, but it appears that
25 the queue is pretty well cleared out, and someone would be

1 able to have enough of a gap to turn out of the site.

2 MR. GIBBS: And Mr. Flanagan, could you go to the
3 next page, 236?

4 And that photograph shows a car in the median
5 break proceeding in the opposite direction away from Riggs
6 Road; is that correct?

7 MR. LENHART: Correct.

8 MR. GIBBS: And the main travel lane that you see
9 to the right of that car is the travel lane of East-West
10 Highway directly in front of the Green Meadow Shopping
11 Center; is that correct?

12 MR. LENHART: Correct.

13 MR. GIBBS: And what is the condition of the
14 roadway in terms of traffic backups back there, which,
15 again, is the same time frame as the other pictures that she
16 took?

17 MR. LENHART: Right. There are vehicles on the
18 roadway, but the queue is -- the queue from Riggs Road is
19 not existent in this.

20 MR. GIBBS: Okay. Thank you very -- thank you
21 very much --

22 MR. LENHART: Yeah. And I'd --

23 MR. GIBBS: -- Mr. Lenhart.

24 MR. LENHART: -- just like to add in my own
25 experience visiting the site and our videos, yes, there are

1 queues that do occur. They clear out, and after waiting for
2 an appropriate gap, people are able to exit the driveway.

3 MR. GIBBS: Thank you.

4 No further questions of Mr. Lenhart, Mr. Chairman,
5 and we have no further rebuttal testimony.

6 CHAIRMAN: Thank you, Mr. Gibbs. Thank you, Mr.
7 Lenhart.

8 Commissioners, any questions you have before we
9 move on? I just want to see if anything that you have heard
10 you want to ask questions about at this point? Nothing.

11 The only one I have, Mr. Lenhart, if -- this
12 picture right here, you see a car that's going to be taking
13 a left across East-West Highway. That car is heading west
14 towards Riggs Road.

15 MR. LENHART: Yes. That's at 19th Avenue, yes.

16 CHAIRMAN: Right. So right to the left of that is
17 where folks turn left into the shopping center coming east
18 on East-West Highway.

19 MR. LENHART: Yes.

20 CHAIRMAN: Do you have any data around that and
21 the impact of that and how what you all are designing would
22 access that entry point into the shopping center turning
23 left into the shopping center going east on East-West
24 Highway?

25 MR. LENHART: Bear with me one moment.

1 CHAIRMAN: And maybe the question also is when you
2 factor access to this site, are you factoring in access for
3 what it means to turn left into the shopping center?

4 MR. LENHART: We did look at that, yes. That was
5 part of our traffic counts that we did. I'm just -- bear
6 with me. I'm just looking to see where my materials is so I
7 can make sure I answer that accurately. We did not submit
8 it as part of the record, but it was part of our initial
9 evaluation of the overall site. We did do traffic counts
10 there, but an analysis of that was not part of the record.
11 Yeah.

12 CHAIRMAN: Okay. All right. Thank you.

13 MR. LENHART: Certainly.

14 CHAIRMAN: Other questions for Mr. Gibbs, Mr.
15 Lenhart?

16 MR. LENHART: No, sir.

17 CHAIRMAN: I want to add -- Ms. Tallerico I just
18 want to make sure I'm following my process. Is now the item
19 if Mr. Smith or Mr. Wilpers' or others has any cross, can
20 they cross Mr. Lenhart now?

21 MS. TALLERICO: That would be appropriate at this
22 time, yes.

23 CHAIRMAN: Okay. All right. Mr. Smith or others,
24 do you have any questions for Mr. Lenhart based on what you
25 have heard from him?

1 MR. SMITH: Yes.

2 CHAIRMAN: Okay. All right. Thank you. So now
3 let's go to the staff --

4 MR. SMITH: Wait, wait, wait. I'm sorry, Mr.
5 Chair. I did have my hand up.

6 CHAIRMAN: You had your hand up?

7 MR. SMITH: But I was muted.

8 CHAIRMAN: Okay. Go ahead.

9 MR. SMITH: Yeah. And I have to admit I was
10 distracted by work during part of this testimony. So if
11 these questions on cross are not on point for what Mr.
12 Lenhart just covered, please just let me know, but I have a
13 number of questions. These pertain mainly to the trip
14 generation analysis and how that plays into related impacts.
15 So with that, I'll go ahead -- if that's permissible, I'll
16 go ahead and ask some of these questions if I may.

17 CHAIRMAN: Yeah. But keep it -- I mean, this is
18 cross for what you heard from Mr. Lenhart.

19 MR. GIBBS: Yes. This --

20 MR. SMITH: I just acknowledged --

21 MR. GIBBS: -- Mr. Chairman --

22 MR. SMITH: -- I was somewhat distracted.

23 MR. GIBBS: I'm going to object to any
24 questions --

25 MR. BOADO: I have a part for my hand.

1 MR. GIBBS: -- that go beyond the scope of exactly
2 what Mr. Lenhart testified to.

3 CHAIRMAN: Yeah. And I agree. And we all have
4 other day jobs too, Mr. Smith, so I'm sympathetic to that,
5 but the bottom line is this is cross. And you'll have
6 plenty of opportunity to make points as we go along, but
7 let's give it a shot and see how it goes.

8 MR. SMITH: These are primarily to the trip
9 generation rates, and the resulting impacts on traffic, and
10 congestion. Probably because -- sorry. Mr. Lenhart was
11 offering photos and testimony, saying things are fine here.
12 Once the light turns green, the traffic queue flushes out.

13 Then I want to get at that may have -- if that's
14 happening now, it may not happen in the future, given what
15 this project may bring to that intersection. And also given
16 the fact that there are other projects locally that are in
17 the pipeline. So I'll get to the questions, and you can
18 offer guidance on whether or not they're appropriate if
19 that's all right.

20 CHAIRMAN: Go ahead and ask. Yeah.

21 MR. SMITH: Okay. So I'll just run down through
22 it. Thank you very much.

23 Does whatever traffic impact analysis was done
24 here including statements about the levels of congestions,
25 does it account for traffic along the roads that'll be

1 generated by approved projects around -- in the development
2 pipeline?

3 MR. GIBBS: Again, objection.

4 CHAIRMAN: Okay. Mr. Gibbs, help me to
5 understand. Objection on what grounds? It feels pertinent
6 to me if Mr. Lenhart can answer it or not.

7 MR. GIBBS: Because first of all, right, we
8 offered this rebuttal with the premise that the witness was
9 allowed to provide this testimony notwithstanding the fact
10 that it was not relevant to the criterion for a detailed
11 site plan approval set forth in Section 27-285, or 27-274.
12 The opposition was given great free reign to basically put
13 anything they wanted into the record. This was not
14 relevant, but because of the prejudicial effect, we rebutted
15 it.

16 Now Mr. Smith is trying to ask questions as if my
17 client was required to do a subdivision analysis and didn't
18 take into account approved, but unbuilt developments that
19 should be accounted as background. That's not relevant to
20 this.

21 MR. SMITH: Well --

22 CHAIRMAN: Yeah. That's --

23 MR. SMITH: If I may respond to that, that's Mr.
24 Gibbs' assertion that DSP may not -- a planning board may
25 not off-site, even adjacent, impacts on DSP review, or that

1 the offsite -- the local context can't be considered.
2 That's an assertion I have never heard in a DSP proceeding
3 before, and it's an absurd assertion --

4 MR. GIBBS: It's the law.

5 MR. SMITH: -- especially so when the Zoning
6 Ordinance requires the health impact assessment and
7 distribute -- an assessment of the distribution of impacts
8 within the community. That says right there very clearly
9 that says the planning board's supposed to look at impacts
10 on the surrounding community, which includes impacts on the
11 local roads and pedestrians and bicyclists.

12 It's just an -- I just have to object. His
13 assertion comes up over and over and over again, and he's
14 just trying to keep the boxes narrow and shallow as
15 possible, and it's inappropriate.

16 CHAIRMAN: Yeah. All right. Thank you. I hear
17 you, Mr. Smith. I agree with Mr. Gibbs. We are keeping
18 this as narrowly focused as possible and these are our rules
19 and regs that we work within. So Mr. Smith, if you can
20 focus on things other than the volume of traffic, which is
21 not only pertinent when it relates to the on-site design or
22 access to the site for the DSP.

23 MR. SMITH: Well, I mean, I'll look at my
24 remaining questions. I just object to that. There's
25 nothing in the regs. There's nothing in the rules. There's

1 nothing in the Zoning Ordinance that prohibits the planning
2 board from looking at a project's impact on the community.
3 That's a ridiculous standard. But --

4 CHAIRMAN: Okay. Other questions --

5 MR. SMITH: Well, I'll --

6 CHAIRMAN: -- on your cross?

7 MR. SMITH: Well, they all have to do with trip
8 generation rates --

9 CHAIRMAN: Okay. All right.

10 MR. SMITH: -- only because we just had Mr.
11 Lenhart testify at length about how the traffic -- the
12 traffic conditions there are just fine, and this project
13 won't make them --

14 CHAIRMAN: Mr. Smith --

15 MR. SMITH: -- any worse.

16 CHAIRMAN: Mr. Smith --

17 MR. SMITH: Okay.

18 CHAIRMAN: You're testifying. Please. All right.
19 I'll leave --

20 MR. SMITH: No, I'm making the case for being able
21 to ask questions that are relevant to some of Mr. Lenhart's
22 assertions and testimony.

23 CHAIRMAN: Mr. Boado, do you have questions?

24 MR. BOADO: Yes, I have two questions with respect
25 to Mr. Lenhart's testimony specifically.

1 I believe, Mr. Lenhart, you used the term "clear
2 out" or "flush out"; is that correct?

3 MR. LENHART: I believe that's how I described it,
4 yes.

5 MR. BOADO: Okay. So you're saying that this
6 eventually flushes out?

7 MR. LENHART: When the signal on East-West at Riggs
8 Road turns red, a queue develops that extends back along the
9 frontage of the property and sometime beyond to the next
10 signal down at Ager Road, which you can see on the right
11 hand side of this image on the page before us.

12 MR. BOADO: Okay. Is that not true -- is that not
13 true of all roads?

14 MR. LENHART: Yeah.

15 MR. BOADO: I mean, do they not all eventually
16 flush out?

17 MR. LENHART: Yes.

18 MR. BOADO: Thank you. Okay. All right. My
19 second question is what time do you think these pictures
20 were taken that we submitted?

21 MR. LENHART: I didn't take them. Mrs.
22 Schweisguth took them, and --

23 CHAIRMAN: I'm not sure why that's relevant, Mr.
24 Boado.

25 MR. BOADO: Because he's saying that the traffic

1 was light. He's either implying that the traffic was light
2 when the pictures were taken, and you can see school busses
3 in the picture. So it's obviously not rush hour. So I'm
4 trying to -- I'm trying to -- I'm trying to correlate the
5 light traffic with the time of day.

6 CHAIRMAN: He didn't take the pictures, though.

7 MR. BOADO: Right, but you can see school busses,
8 which means it's not rush hour.

9 MR. SMITH: But he used in his evidence.

10 MR. BOADO: Yeah.

11 CHAIRMAN: I'm sorry. You all sued them as
12 evidence. He's responding to it.

13 MR. BOADO: Exactly. We're not implying here that
14 this was rush hour. This is the middle of the day, or it
15 could be --

16 MR. GIBBS: Mr. Chairman, the record stands on its
17 own. School busses take students to gamers after school. I
18 mean --

19 VICE CHAIRMAN: All of it.

20 MR. GIBBS: -- we didn't present this information.
21 We're using the very photographs that the opposition
22 presented to say that traffic was abominable.

23 CHAIRMAN: All right. I'm going to stop this.
24 We're not -- this is -- I drive by this every time. It's a
25 miserable intersection, okay?

1 MR. SMITH: Exactly.

2 CHAIRMAN: Traffic is not what's before us. Like
3 it or not, traffic is not what's before us. So are there
4 any other questions on rebuttal?

5 Yes, Ms. Entzminger? Entzminger. I'm sorry.

6 MS. ENTZMINGER: No problem. Mr. Lenhart, you've
7 mentioned that you did study the left end shown in the photo
8 that's on the screen. But you didn't include it in the
9 traffic study. Why did you not include that information
10 that you found in the study?

11 MR. LENHART: We looked at the driveway
12 specifically that was being requested to be revised by State
13 Highway Administration. It was the driveway that exists
14 right in front of the site, which we had addressed all
15 traffic out of that driveway. And there's no requirement
16 traffic study. That traffic study was submitted for
17 informational purposes because of all of the questions that
18 have come up about traffic, but it is not requirement for a
19 detailed site plan.

20 And I would point out that that has been reviewed
21 by Park and Planning staff. They have issued another memo
22 dated November 1st that's in the -- or the November 7th,
23 back material, I believe it was. November 7th. Yes. In
24 which they've reviewed our information again and noted that
25 they agree with what we did and that we took a conservative

1 analysis even though it wasn't required for this detailed
2 site plan.

3 MS. ENTZMINGER: I apologize. I'm not sure my
4 question was answered. So you did the study, but you failed
5 to include it in the information that's publicly available
6 to us. Why did you fail to include it?

7 MR. LENHART: I didn't fail to include. We had
8 generated all the trips in and out of the driveway that's
9 right in front of the McDonald's, which was the driveway of
10 interest from State Highway. That's the one they'd wanted
11 revised. And there was no requirement to even do that.

12 CHAIRMAN: Okay. Ms. Entzminger you're --

13 MS. ENTZMINGER: Okay. I don't think -- I don't
14 think the question was answered, but that's fine. I'll move
15 on. Thank you.

16 CHAIRMAN: Respectfully, Ms. Entzminger, the
17 question was answered. They didn't have to do it, and they
18 chose not to do it.

19 MS. ENTZMINGER: Okay.

20 CHAIRMAN: Other questions on cross? I see some
21 hands raised. Oh, no. Those are all old hands. All right.

22 Mr. Smith, do you have an additional cross?

23 MR. SMITH: Yeah. It seems to me Mr. Lenhart just
24 opened the box on trip generations. He said we did the trip
25 generation, and I'd like to ask him a few questions about

1 the methodology for the trip generation. This gets a the
2 reliability and accuracy of the trip generation analysis.

3 MR. GIBBS: Objection.

4 CHAIRMAN: The trip generation --

5 MR. SMITH: Well --

6 CHAIRMAN: -- is not what's before us, Mr. Smith.

7 It's just not.

8 MR. SMITH: He just testified on it. Thank you.

9 CHAIRMAN: All right. Any other questions on
10 cross? If not, Mr. Gibbs, anything else you have --

11 MR. GIBBS: No, sir.

12 CHAIRMAN: -- at this point? I'm with --

13 MR. GIBBS: No, sir. That's it.

14 CHAIRMAN: We're going to take a break now. It's
15 1:17. Let's go until a quarter of 2. That's a half hour
16 break, a little less than a half hour break. So we'll start
17 up again at quarter of two. Am I timing that right? Yes?
18 1:15?

19 MR. BOADO: Yes.

20 CHAIRMAN: 1:45. That's it. So we'll start up at
21 1:45. We'll start up with the staff presentation, and we'll
22 get into all the new materials on this limited scope. We'll
23 see you all 1:45.

24 MR. GIBBS: Thank you.

25 (OFF THE RECORD)

1 (ON THE RECORD)

2 CHAIRMAN: We are all back. Staff, we're good.
3 We're recording.

4 MR. FLANAGAN: Yes, sir. We are recording.

5 CHAIRMAN: Thank you, sir. I see a full slate of
6 commissioners. I see the applicant. I see some of the
7 opposition. I see Ms. Gomez-Rojas, Ms. Tallerico, Ms.
8 Conner. Okay. All right.

9 So we are still on DSP-22001 and the companion
10 case DDS-23001. We have heard the applicant rebuttal of
11 opposition testimony from prior hearing. We'll now hear
12 staff presentation. And we'll proceed from there.

13 So Ms. Gomez-Rojas? You're on mute. Or you're
14 not on mute, but we can't hear you. Nope. Still no audio.
15 Take your time, but we can't hear you. Not yet, nothing.
16 Nope, still can't hear you. Dare I say? Change your
17 microphone setting. I see Ryan in the background. That's a
18 good sign.

19 (Pause.)

20 MS. GOMEZ-ROJAS: Hello? Can you hear me?

21 CHAIRMAN: Yes, we can hear you now. Perfect.

22 MS. GOMEZ-ROJAS: Okay. Okay. It works. Yeah.

23 CHAIRMAN: Now we can't see you. Oh, there we go.

24 Nope.

25 MS. GOMEZ-ROJAS: No, I'm -- okay.

1 CHAIRMAN: We can't -- perfect.

2 MS. GOMEZ-ROJAS: Thank you, Ryan. Yeah.

3 CHAIRMAN: Okay. All right.

4 MS. GOMEZ-ROJAS: That's fine. Thank you

5 CHAIRMAN: We're in business. We are back from
6 break. We're starting off with our staff report.

7 Natalia Gomez-Rojas, the floor is yours.

8 MS. GOMEZ-ROJAS: Yes. I don't need a sound check
9 anymore, so good afternoon, Mr. Chair. This is Natalia
10 Gomez presenting items 8 and 9, DSP-22001, DDS-23001,
11 AC-23017, titled McDonald's Ager Road, which proposes a
12 development of an eating and drinking establishment with a
13 drive-through service in an integrated shopping center.

14 This case is continued from October 24, 2024, for
15 the limited scope analysis in five specific areas, which are
16 further outlined in an addendum to the technical staff
17 report provided by staff and published two weeks prior to
18 this planning board hearing. The addendum includes the
19 following results and of the limited scope analysis.

20 Next slide, please.

21 The Transportation Planning Section provided
22 further analysis of the testimony related to the trip
23 generation, parking, loading, and circulation in the site.
24 The staff determined that the proposed eating and drinking
25 establishment is part of an integrated shopping center, the

1 Green Meadow Shopping Center, which contains more than three
2 retail stores and will remain under single ownership.

3 Staff analyzed the trips associated with the
4 expansion of the shopping center, consistent with the
5 recommendation for trip generation in the transportation
6 review guidelines using shopping center trip rates and
7 determined that the expansion of the existing shopping
8 center will have a de minimis impact on traffic volumes on
9 MD 410.

10 Although transportation adequacy is not a
11 requirement for a DSP application, the applicant also
12 provided additional analysis for the drive-through
13 restaurant using trip generation rates as a stand-alone use.
14 No inadequacy was found using this method of analysis.

15 Transportation staff further found the proposed
16 plan is acceptable and presented a series of recommendations
17 to minimize potential conflict with traffic signal and
18 circulation patterns, vehicular and pedestrian access.

19 Drive-through circulation and loading. As shown
20 in this slide the mentioned recommendations include reducing
21 the proposed number of parking spaces to the minimum
22 required, a one-way vehicular traffic pattern in the parking
23 area including a right-out only from the drive-through --
24 this one-way pattern is shown here in green arrows --
25 providing a separate pedestrian connection near the southern

1 most driveway at a location near the existing crosswalk,
2 crossing MD 410 and at the east of the existing building.
3 These pedestrian connections are shown in the slide in blue
4 dotted lines.

5 Additional recommendations include signage, light
6 directional arrows, light lane markings, do not enter signs
7 and stop signs, stripping, and traffic calming measures to
8 this discourage higher speeds.

9 Staff also agreed with the SHA recommendation to
10 modify the two driveways located near the proposed building,
11 which will operate as a right-in/right-out along MD 410.
12 These modifications are shown in this slide, too, in the
13 bottom, in the purple triangles.

14 Regarding the proposed loading area, staff agreed
15 with the applicant on the condition offered to limit the
16 loading area and deliveries from 11 p.m. to 7 a.m.
17 Additional stripping for the loading area in this area in
18 this location is recommended.

19 Staff from the Transportation Planning Section is
20 also ready here to answer any questions related to the
21 analysis related to traffic and transportation.

22 Next slide, please.

23 This slide shows the approved natural resource
24 inventory plan, NRI-026-022 for the site. This plan details
25 the delineation of existing tree canopy and forest on the

1 property. In regards of the testimony presented during the
2 hearing on October 24, environmental staff noted that an NRI
3 does not identify every species of trees. Instead, it
4 utilizes a sampling method to characterize the overall
5 forest. It stands in according with the State's (sic) of
6 Maryland's Forest Conservation Act.

7 Typically, individual tress shown on NRIs are to
8 document the specimen historic or champion trees in
9 accordance with the 2010 Prince George County Woodland
10 Conservation Ordinance. However, no individual trees are
11 depicted on the NRI meeting these classifications.

12 In addition, environmentalist staff indicated that
13 the tree line insulators on the property and shown in this
14 slide represents the general area where trees are located.
15 This tree line includes about a 1.05-acre forest stand,
16 which qualifies as woodland, and a portion that does not
17 currently meet the requirements to be classified as
18 woodland. This last portion of nonwoodland area makes up
19 approximately 40 percent of the existing tree line and
20 consists of scattered tress with the maintain understory.
21 It weas determined that no revision to the NRI is required.
22 The staff from Environmental Planning Section is also here
23 and ready to answer any questions.

24 Next slide, please.

25 This slide shows the stormwater management plan

1 approved by DPIE, who presented no objection to the subject
2 application and requested to the applicant that prior to the
3 grading permit issuance, an erosion and sediment control
4 plan shall be prepared and presented.

5 In addition, the staff had further communications
6 with DPIE to determine the adequacy of the approved historic
7 water management consent plan, who determined that in order
8 to obtain an arrival, the applicant is required to comply
9 with the Prince George County Stormwater Design Manual for
10 both water quality and water quantity rate control.

11 DPIE utilizes as a guideline, the Techno-gram 007
12 from 2016, which states that for the 24-hour, 100-year
13 storm, the rainfall is 8.5 inches. Accordingly, DPIE
14 determined that 8.44 inches is close enough for the
15 presented concept stormwater management report. Finally,
16 stormwater management approval will be required to DPIE
17 prior to permitting.

18 Next slide, please.

19 This slide shows the proposed departure from
20 design standards from Section 4.7 of the landscape manual,
21 where a buffer is required between the shopping center in
22 the adjacent property, which is designated as a historic
23 site.

24 This departure was discussed during the hearing of
25 October 24 and afterwards, staff concluded that

1 additionally, now -- sorry. Staff conducted additional
2 analysis to determine whether the proposed departure from
3 design standards will address the existing trespassing
4 issue.

5 Accordingly, staff confirmed that the departure
6 meet the requirements outline in Section 27-239.01(b) (7) (A)
7 and also aligns with the principles of crime prevention
8 through environmental designs, CPTED, incorporated in the
9 landscape manual, which include natural surveillance,
10 natural access control, territorial reinforcement,
11 maintenance, and management.

12 In addition, staff concluded that clearing the
13 trees and vegetation along the eastern border of the
14 property and providing a rigid landscape would help to
15 prevent the longstanding issue of illegal encampments in
16 private property. Nevertheless, this action alone may not
17 completely resolve the shopping center's trespassing problem
18 as additional long-term measures are necessary to address
19 the underlying social issues.

20 However, should the board require the applicant to
21 retain the existing trees in complying with Section 4.7 of
22 the landscape manual, staff recommended the applicant trim
23 any low-hanging branches to a minimum eight feet clearance,
24 depending on the health and the species of the tree to
25 withstand trimming, in order to maintain staff

1 recommendations and include a retaining wall to limit the
2 disturbed area of the site for development purposes.

3 As noted in the addendum, these preservation
4 efforts should be paired with additional management,
5 maintenance actions, and a strategic increase in security,
6 lighting, and steep slopes.

7 Next slide, please. Almost done.

8 Lastly, and related to historic preservation
9 issues mentioned during the last hearing of the subject
10 application, historic preservation staff reviewed the
11 potential impact on the adjacent Green Hill historic site
12 and determined that no archeological investigation is
13 required. However, a recommendation has been made to
14 request the applicant to retain a consultant archeologist to
15 monitor any ground-disturbing activities on the site for
16 impact to archeological resources. Staff from Historic
17 Preservation is also present in case the board has
18 additional questions.

19 All the findings presented here and additional
20 recommended conditions are listed in the addendum to the
21 staff report. The urban design section recommends the
22 planning board adopt the findings of the technical staff
23 report in the addendum to the technical staff report. This
24 approved AC-23017, and approve the DSP-22001, DDS-23001, and
25 TCP2-004-2024, with the conditions found in the staff report

1 in the addendum.

2 This concludes the staff presentation. Thank you.

3 CHAIRMAN: Thank you, Ms. Gomez.

4 Commissioners, start with you. Questions for
5 staff? None?

6 I have one question. This is related to access,
7 again. Your analysis of the access to this McDonald's is
8 through the right-in/right-out, correct?

9 MS. GOMEZ-ROJAS: The right-in and right-out is a
10 recommendation after an analysis that follow with the SHA,
11 yes.

12 CHAIRMAN: So do you factor in or how do you
13 factor in access to the site from heading east on East-West
14 Highway taking a left into the shopping center? And also,
15 what kind of analysis is there for accessing the McDonald's
16 from within the shopping center? In other words, all this
17 analysis assumes that the only way that folks are going to
18 be coming in is coming west on East-West Highway and taking
19 a right in, but there's actually at least three other
20 points, three other ways into the shopping center.

21 MS. GOMEZ-ROJAS: I will defer your question to
22 Transportation Planning staff.

23 CHAIRMAN: All right. Mr. Patrick?

24 MR. PATRICK: Hello. Good afternoon. For the
25 record, Ben Patrick, the Transportation Planning section.

1 To your question, Chairman, the analysis that was
2 provided was provided at the access closest to the proposed
3 building. By doing just that access point, the assumption
4 is that this would carry the most -- would carry all of the
5 traffic that came from this particular building. It would
6 somewhat show the worst-case scenario of the impacts on the
7 access point that's directly in front of it.

8 There's some assumption that you'd have traffic
9 coming from within there, which is largely how we also
10 assessed our analysis based on the entire shopping center,
11 so we were looking at it as this is the modification if --
12 I'm not saying it is, but if all trips and vehicles use this
13 point, that would be sort of the worst-case scenario as far
14 as looking at impacts.

15 Within the shopping center, there would be some of
16 that, but I felt the analysis was looked at as a worst-case
17 scenario for one access point, and then that would show that
18 it could operate adequately at that point.

19 CHAIRMAN: Thank you, Mr. Patrick. Let me dig a
20 bit deeper on this. And I appreciate your response on that.
21 This is a unique shopping center in that again, there are
22 multiple access points. And I just don't think there's much
23 experience at least from my eyes that folks are going to
24 think that the only way in is through that one
25 right-in/right-out.

1 And to your point, that may be where most of the
2 automobile traffic will go, but I'm more concerned around
3 the mix of pedestrian, bicycle, traffic within the shopping
4 center for folks who are coming in and taking a left into
5 the shopping center through the other entrance on East-West,
6 and coming in off of -- I can't remember the name of the
7 street where Newbury Square Apartments is -- the back side
8 over there. There's two entrances over there.

9 So help educate me a bit. If you looked at
10 this -- if you looked at this development and those are all
11 the access points to this potential establishment, how might
12 you approach that? And what other factors might you
13 consider? Because you're bringing more traffic into a place
14 where there's lots of people walking around.

15 MR. PATRICK: So for the access, this is sort of
16 Van Buren that would be to the west of the site.

17 CHAIRMAN: Van Buren. Thank you for that. Yes,
18 sir. Thank you.

19 MR. PATRICK: So yeah, there are two access points
20 along there. There -- the closer you are towards that MD
21 410 would be sort of your main access point to come into the
22 parking lot area on the front of the building. The
23 secondary access would be toward the rear of the building
24 where additionally we would expect that this would be where
25 some of the loading operations would occur. To cross over

1 Van Buren --

2 COMMISSIONER WASHINGTON: Prince Bartlett. Mr.
3 Patrick, can we pull up the exhibits so we can follow along
4 for those who are not intimately --

5 MR. PATRICK: This may be the best example because
6 the exhibit is --

7 CHAIRMAN: I don't think so. I have one -- I have
8 a rendering from last -- I mean, there are better renderings
9 that show all the things. I just have one in my hand. But
10 I think that was from a few weeks ago.

11 COMMISSIONER WASHINGTON: Okay.

12 MR. PATRICK: Yeah. I'm not sure if there's a
13 slide that we have in front of us that has sort of the area
14 we're talking about, which includes the existing buildings
15 to the north of proposed building.

16 CHAIRMAN: Even that one does -- oh, no, it
17 doesn't because that cuts off the shopping center.

18 COMMISSIONER WASHINGTON: Okay.

19 MR. PATRICK: Yeah. It's not the full --

20 COMMISSIONER WASHINGTON: I'm sorry to interrupt.
21 Go ahead. Go ahead, Mr. Patrick.

22 CHAIRMAN: I mean, again, though, I don't know if
23 it's even appropriate to do it, but slide 11 of 20 on the
24 previous presentation shows it quite nicely.

25 MS. GOMEZ-ROJAS: Kenny, could we pull that

1 presentation from the prior -- from October 24? From
2 October 24, just like we did with -- yeah.

3 CHAIRMAN: And thank you, Commissioner. I think
4 it was worth us sort of all sort of looking at the same
5 thing.

6 COMMISSIONER WASHINGTON: Right.

7 CHAIRMAN: So thank you for that.

8 COMMISSIONER WASHINGTON: Um-hum. Yeah, the
9 PowerPoint, Kenny. Not the backup. I think that's what is
10 being referenced.

11 CHAIRMAN: It's the PowerPoint.

12 COMMISSIONER WASHINGTON: Yeah.

13 MS. GOMEZ-ROJAS: Okay.

14 CHAIRMAN: And I have slide 11 of 20. Yeah.
15 That's it. So you see there's one, two, three, four, five,
16 six access points to the shopping center.

17 MR. PATRICK: So --

18 CHAIRMAN: Six automobile access points to the
19 shopping center.

20 MR. PATRICK: So to speak to the pedestrian aspect
21 of that first, for Van Buren, this sort of free right turn
22 that we see this or kind of -- I don't know what color car
23 that is using that area there that will end up taking you
24 east to Ager road. At that section, there is a crosswalk
25 off of here that comes down. There's been some sidewalk

1 improvements, including ADA ramps, in that area, as well,
2 that come down there. The assumption would be that as
3 pedestrians would come on the frontage, they would use the
4 crossing up there to the existing sidewalks. And then --

5 COMMISSIONER WASHINGTON: Mr. Patrick, could you
6 please help him guide with the pointer?

7 MR. PATRICK: Sure. To the left the screen, if we
8 could go to Van Buren? And towards the frontage of the
9 site, kind of on the bottom of the picture. Correct.

10 So for pedestrians traveling from the left of the
11 picture to the right, this would be coming in from this --

12 Yes. I'm sorry. Can you take your cursor back to
13 Van Buren and travel down on the picture?

14 VICE CHAIRMAN: Down below.

15 MR. PATRICK: There we go. So this would be the
16 existing frontage for the sidewalks.

17 VICE CHAIRMAN: Um-hum.

18 MR. PATRICK: Off the screen, there's additional
19 crossing. This is a lane where this car is going to be
20 travelling towards Riggs Road, and Van Buren has access off
21 of that turn. There is a crosswalk that we can't see
22 pictured crossing that travel lane to there, and then
23 pedestrians would cross from the existing sidewalks along
24 the entire frontage as one pedestrian route. And assuming
25 that is the direction that one would take all the way down,

1 we've looked for connections to this site here.

2 Now, further, if you take your cursor left and
3 travel to the access on the driveway right there.

4 For pedestrians entering the site here, depending
5 on which direction they travel, we have the existing
6 sidewalk to come here, and then if they were to travel north
7 towards the face of the buildings, this ties into an
8 existing sidewalk that's along the frontage of this. So
9 primarily, we have a pedestrian path on the side of the
10 road, we have a pedestrian sidewalk along the frontage of
11 the buildings that's separated by the parking lot to the
12 existing shopping center that's there.

13 So when looking at this, we were looking to tie
14 into what was existing on these areas that were -- part of
15 the facilities that were there. So some of the crosswalks
16 that we have, straightening, provided to was divided to so
17 that pedestrians could go back into the parking lot. You
18 have an opportunity for that as well.

19 It is two-way travel on that whole sections of the
20 parking lot area, so there is no direct pedestrian path
21 between the parking located nearest the East-West Highway
22 and the parking that's provided a the front of the building.

23 So I did not envision pedestrian traffic on the
24 secondary access along Van Buren that's where the tractor
25 trailers are parked on there. That's primarily a loading

1 area or I see as a loading area for the areas back there to
2 access the rear of the building. The storefronts are on the
3 other side. So I did not look at pedestrian travel in that
4 area for that. So --

5 CHAIRMAN: And Mr. Patrick, if I can? There is a
6 vacant space between the buildings there, right?

7 MR. PATRICK: Correct.

8 CHAIRMAN: And so practically speaking, it's one
9 of the main pedestrian cut-throughs for the whole
10 neighborhood up from Van Buren goes right through there. I
11 think it's -- what I'm mindful of is that I don't want us to
12 make -- you all have a lot to do. But I don't want us to
13 make the assumption that this operates as a sort of typical
14 shopping center when it comes to pedestrian access because
15 of where it's located. It's right in the heart of a very,
16 very dense --

17 COMMISSIONER WASHINGTON: Right.

18 MR. PATRICK: -- area full of apartment buildings,
19 and people are walking all over the place there.

20 COMMISSIONER WASHINGTON: Um-hum.

21 CHAIRMAN: And so how or what we're prosing, how's
22 that going to facilitate safe passage for pedestrians?

23 MR. PATRICK: So if --

24 CHAIRMAN: And again, not to overplay it but a lot
25 of young families, a lot of strollers, et cetera, et cetera.

1 And can I just say -- and I'm mindful that this is
2 all site design, so it fits in with the DSP. But I guess
3 there's this question of do we have the latitude to say
4 what's before us when it comes to site design is not just
5 the piece of this that's the McDonald's, but is the shopping
6 center? And maybe counsel or others, folks can weigh in on
7 that. But I guess that's what we're getting at here, and is
8 it appropriate? I'm not talking about off site, right?
9 Because this is the Green Meadow Shopping Center.

10 MR. PATRICK: Correct. I don't have the answer to
11 that. Just one point of clarification. And I think if the
12 area you're talking about looks like open space between the
13 attached building and the sort of main shopping area, I
14 believe that area's fenced off, so I don't think there's any
15 pedestrian traffic through that area. I'm not 100 percent
16 sure on that, but --

17 CHAIRMAN: It's not a very good fence.

18 (Laughter.)

19 MR. PATRICK: But as far as the bounds of it, I'm
20 not sure how to answer that.

21 CHAIRMAN: Okay. Thank you. And I really
22 appreciate it. I appreciate your answers on that. So let
23 me go back to you, Ms. Gomez because that's the only
24 question that I had.

25 Commissioners, any other questions for staff at

1 this point based upon the addendum to the technical staff
2 report?

3 COMMISSIONER DOERNER: Yeah. I'm a little bit
4 interested in knowing -- I don't know the full extent of the
5 SHA plans for how they're going to redevelop this site, but
6 I know that it is in the works for down the road.

7 So I'm just kind of curious to know, beyond, like,
8 the right-in/right-out as being something that they're going
9 to do, what else are they going to do in this area? Are
10 there things that, like, this development is already doing
11 that's consistent with that or -- it would be unfortunate if
12 this development comes in, they do some things, and then SHA
13 then does, like, a totally different revamping of, like, the
14 site because then that completely gets rid of everything
15 we're going to be basing our decision on for this particular
16 case.

17 However, if it's, hey, we can do some things on
18 this site that would be in furtherance of that and then
19 they're just going to enhance it, then that would be a
20 different kind of outcome, so looking for a little bit of
21 insights in staff has that. I don't know how -- to what
22 extent you've interacted with SHA and talked to them, but
23 this is a high priority for them, so I'm hoping that we have
24 had those discussions and know kind of some of those
25 answers.

1 MR. PATRICK: Sure. Yes. So in this area, as
2 part of the State's Pedestrian Safety Action Plan, they have
3 recommendations that would impact primarily the intersection
4 of Riggs and East-West Highway largely focused around
5 pedestrian improvements, eliminating a lot of these free
6 right lanes that are issues.

7 Along with that, there are plans to include an
8 additional left-turn lane traveling westbound to Riggs Road.
9 what would affect the frontage of this site -- again, from
10 this picture, starting where Van Buren would travel past the
11 vehicle in the roadway, along East-West Highway, in this
12 area here, what's going to affect by their plan would be the
13 entire frontage, starting from the intersection of Van Buren
14 at East-West traveling towards this first driveway that we
15 see to the right of the car -- that car there. So in order
16 to make the geometric improvements in that intersection,
17 there'll be an additional widening of that area.

18 As part of that, those sidewalks would have to be
19 reconstructed, as well as that entrance from the State's
20 plans. We don't have official drawings for these. These
21 are sort of what we've understood as what it's going to be.
22 They were maintaining all of the access points as part of
23 that plan, but it also includes improved lighting along that
24 area, which would affect positions of this site -- or the
25 frontage of this building to go down there. but the extent

1 of their plans would travel somewhat -- plan right -- or
2 photo right of the first driveway here, and then it would
3 stop often that, so it's widening and a rebuild of the
4 existing sidewalks, and then a reconstruction of the
5 existing access points.

6 COMMISSIONER DOERNER: Okay. And do you know if
7 they're going to be doing anything -- I mean, it's where --
8 so you can't really see it, where, like to the right of this
9 graph or to the east of it where it comes off of 410, where
10 it's like the principal part? Yeah.

11 MR. PATRICK: Yes. So --

12 COMMISSIONER DOERNER: Where that kind of white
13 car is?

14 MR. PATRICK: Um-hum. So there's --

15 COMMISSIONER DOERNER: There's no real, like --
16 it's just a shoulder there right now, but people walk there
17 all the time to go grab the bus and stuff. So do you have
18 any --

19 CHAIRMAN: Commissioner, I actually feel -- I feel
20 your pain around that I have the same thing, but that's not
21 part of the DSP.

22 COMMISSIONER DOERNER: Yeah, but it is. I know
23 that's not part of, like, the application itself, but I'm
24 wondering if they're going to make that safer, that's going
25 to impact potentially the driveways right after that.

1 Because it absolutely has an impact on the view and stuff
2 because if you're coming quickly around that curve, and
3 there's not any kind of like protections for pedestrians in
4 there, then there's an extreme risk if they're crossing over
5 the in and outs, the right-in/right-out sections are there.

6 MR. PATRICK: Like, I can answer that. There is
7 a -- there's a bus stop kind of further to this direction.
8 And I think as part of that plan, they are intending on
9 extending at least the sidewalk all the way to the location
10 of the bust stop. I don't know what else is happening
11 there.

12 And in doing that, I don't believe there's any
13 modifications to the crosswalk that are there, but I'm not
14 entirely sure what that'll be doing, but I'm fairly certain
15 they're going to extending the sidewalk at minimum to the
16 existing bus stop that's there. That's all that I know
17 about that area.

18 MR. PATRICK: Okay. And is there -- I mean, kind
19 of -- that's really what I was saying in terms of, like -- I
20 know we have painted crosswalks over the right-in/right-outs
21 that are being proposed, but what else is happening for,
22 like, visibility in that area? Because when I've driven,
23 the white car is, and I've come around this site before, I'm
24 not necessarily, like, paying attention to the right-hand
25 side to that parcel. And I'm wondering how we can increase

1 the visibility just to ensure pedestrian safety there.

2 MR. PATRICK: Again, the full time, I'm not sure.
3 Right. I do know there is increased lighting, so that hour
4 will be taken care of. One of the recommendations we had
5 included with this revision was that looking at the
6 pedestrian routes coming in from, like, in the picture at
7 the right, traveling into this first driveway was a
8 connection that would bring pedestrians further into the
9 parking lot, so the crossing of that area would be further
10 up here.

11 And that doesn't address what you're looking for
12 in that area. We still don't have the -- the exhibit that I
13 showed was kind of a typical right-in/right-out, so I don't
14 have all the final drawings. That has to be worked out with
15 the State Highway permitting process to see that, which
16 we'll review once they've determines what that is.

17 But aside from crosswalks in that area and the
18 median to cross over there, I don't have any other -- I
19 hadn't made any other recommendations for pedestrian
20 visibility at that point.

21 COMMISSIONER DOERNER: Okay. All right. Thank
22 you.

23 CHAIRMAN: Thank you. Other questions for staff?
24 Cross of staff? I see some hands up.

25 MS. TALLERICO: Mr. Shapiro, I just want to go

1 back to one of your questions I don't believe we've properly
2 answered on the record.

3 CHAIRMAN: Okay.

4 MS. TALLERICO: Your question about consideration
5 of the entirety of the shopping center in terms of site
6 design and pedestrians. The applicant owns the entirety of
7 the site and has proposed changes to a portion of it.
8 Therefore it is acceptable for the board to look at the
9 remainder of the site to the extent that these changes are
10 impacting that area as well.

11 CHAIRMAN: Okay.

12 MS. TALLERICO: Does that clarify properly?

13 CHAIRMAN: Yeah, that's very helpful. Thank you
14 for that. All right.

15 Under cross, we'll start with Greg Smith. Then I
16 have Michael Wilpers, and then Alex Boado.

17 CHAIRMAN: Mr. Smith, are you going to --

18 MR. SMITH: I'm sorry. Yeah. I'm sorry. If you
19 could let Mr. Wilpers and Mr. Boado go first, I'd appreciate
20 it.

21 CHAIRMAN: Yeah. No problem at all.

22 MR. SMITH: Thanks.

23 CHAIRMAN: Mr. Wilpers?

24 MR. WILPERS: Thank you. I have just a
25 clarification question for Ms. Gomez.

1 In the addendum, do I have this correct that it's
2 stated, "EPS staff supports retention of existing individual
3 trees and vegetation"? Does that mean all trees and
4 vegetation, or when they say individual trees, it's a little
5 bit vague. So can you clarify that statement, "EPS staff
6 supports the retention of existing individual trees and
7 vegetation"?

8 MS. GOMEZ-ROJAS: That is the information I
9 received from the memorandum, but I can defer to them for
10 them to clarify their intention with that statement.

11 CHAIRMAN: Do we have environmental staff on the
12 line?

13 MR. MEOLI: Yes, Chair Shapiro. This is Christian
14 Meoli with the Environmental Planning section.

15 CHAIRMAN: Hey, Mr. Meoli. Take it away.

16 MR. MEOLI: Good afternoon. Thank you. Thank
17 you, and hello to all the planning board.

18 The full statement from the addendum is that those
19 with the proposal accounts for clearing all woodlands on
20 site as required by the Woodland Conservation Ordinance a
21 well as to the tree conservation plan. EPS is supportive of
22 the retention of existing individual trees and vegetation to
23 fulfill other requirements such as tree canopy coverage.

24 So that statement is just saying in terms of EPS
25 and the tree conservation plan, that is one section in which

1 we were --that we review, but we were just noting, however,
2 just in general, if additional vegetation is retained for
3 landscape purposes such as tree canopy coverage to SEPTAD
4 principles, that we would obviously be supportive of
5 retaining that vegetation even if that vegetation does not
6 count towards their woodland conservation requirements as
7 part of their tree conservation plan.

8 MR. WILPERS: Thank you.

9 MR. MEOLI: Um-hum.

10 CHAIRMAN: Thank you, Mr. Wilpers.

11 Mr. Boado?

12 MR. BOADO: No, I have no questions. I apologize.

13 CHAIRMAN: That's fine. Thank you.

14 Mr. Smith, we're back to you. Any cross? For

15 Ms. Ross --

16 MR. SMITH: Yeah.

17 CHAIRMAN: I mean Ms. Gomez.

18 MR. SMITH: Yeah.. Yeah. I have questions

19 regarding I think two or three issue areas that she
20 addressed.

21 CHAIRMAN: please.

22 MR. SMITH: I'll try to keep them concise. My
23 first question is the staff is recommending a condition that
24 the applicant limit loading and unloading to the hours 11
25 p.m. and 7 a.m.; is that correct?

1 MS. GOMEZ-ROJAS: That is a condition proffered by
2 the applicant, and the staff agrees with that condition.

3 MR. SMITH: Well, if they violate that -- well,
4 who would enforce that condition and under what authority?

5 CHAIRMAN: Mr. Smith, I mean, it may be helpful to
6 answer it, but it's certainly not relevant to the DSP.

7 MR. SMITH: It's a condition for approval of the
8 DSP. That's the --

9 CHAIRMAN: No, the condition of approval is the
10 limitation. Qwe don't do enforcement.

11 MR. SMITH: No. I'm getting at how meaningful is
12 this condition.

13 CHAIRMAN: Yeah. But you may not thing it's
14 meaningful, but that's --

15 MR. SMITH: But you've raised this issue --

16 CHAIRMAN: That's not cross-examination.

17 MR. SMITH: -- of conflict --

18 CHAIRMAN: That's you testifying that you don't
19 think it's meaningful.

20 MR. SMITH: You've raised the issue of conflict
21 between loading and unloading and other traffic on the site,
22 and they've proffered this condition to deal with that. And
23 so I was just trying to figure out how does this work? Or
24 what if they decide not to comply with the condition that
25 they've proffered? But I've asked it and answered.

1 So then I have questions regarding the stormwater
2 management. The staff report -- it says that they consulted
3 with DPIE, and DPIE has confirmed, contrary to what the
4 consultant said, that the applicant's stormwater management
5 plans rely on the updated 100-year storm even of 8.5 inches
6 versus 7.4. And this gets us into to some of the issues
7 I've raised in the past. I'd like to ask some questions
8 about it. We'll see where it goes.

9 So has the agency -- has MNCPV (sic) looked at the
10 question of whether or not that figure relies on historic --
11 well, projections of the likely intensity of storms as
12 climate change increases the intensity? Has that been part
13 of MNCPV's (sic) consideration here? I'm familiar with the
14 Techno-gram you cited, 007-2016 revised.

15 CHAIRMAN: Mr. Smith, I want to just be clear. It
16 sounds like you're disagreeing with staff, but that's not a
17 clarification question, so -- or cross-examination. I mean,
18 what's your question for staff?

19 MR. SMITH: My question is what -- the issue I've
20 raised in the past is whether or not the stormwater
21 management plans are adequate.

22 CHAIRMAN: Yeah. But you're testifying, and
23 that's not -- this is cross-examination. So do you have a
24 question related to their testimony?

25 MR. SMITH: Okay. Then my question is whether or

1 not staff has determined whether or not that 8.5 inches is
2 sufficient to protect the community and the environment?

3 CHAIRMAN: Okay. Thanks. Maybe environmental
4 staff can respond to that, Ms. Gomez?

5 MR. SMITH: If I may, and if so, based on what?
6 Or is that a compound question?

7 CHAIRMAN: I think we allow compound questions.

8 MR. SMITH: (Indiscernible).

9 CHAIRMAN: What was that? Who do we have that's
10 speaking right now?

11 MR. SMITH: So okay. So the question then is --

12 CHAIRMAN: Yeah. Yeah. Ms. Shoulars, do you want
13 to jump in? Or you're on mute. Katina, we can see you --

14 MS. CONNER: I think she's probably going to --
15 yeah. So this is Sherri Conner for the record, acting chief
16 development review. While Ms. Shoulars is prepping her
17 microphone, I could just speak to that a little bit.

18 So one, the storm water management concept plan is
19 not under the review and approval authority of the planning
20 department. It is under the review and planning authority
21 of DPIE, who ensures conformance with county requirements.
22 So I think that answers your first question of whether we
23 find it adequate. That is not under our review.

24 MR. SMITH: Okay.

25 MS. CONNER: It's also a concept plan, and there

1 is final stormwater approval that will be required prior to
2 permitting.

3 CHAIRMAN: So I want to make sure I understand.
4 So essentially, the box needs to be ticked, which is you
5 need to make sure that is in, but you're actually not really
6 evaluating it for sufficiency?

7 MS. CONNER: Correct. We require and have
8 verified with the county that the plan -- the concept, as
9 approved, is sufficient.

10 MR. SMITH: And I guess --

11 CHAIRMAN: Okay. Thank you.

12 Mr. Smith --

13 MR. SMITH: I guess -- yeah. I do have a
14 follow-up question on that, if you're going to rely on that
15 plan and on DPIE's deamination, how then can you make an
16 informed -- and not ask whether or not those figures are
17 reliable, how can you make an informed determination whether
18 or not this plan and this detailed site plan's project --

19 CHAIRMAN: Mr. Smith --

20 MR. SMITH: -- meets the purposes -- meets the
21 purposes of the Zoning Ordinance?

22 CHAIRMAN: Mr. Smith, I'm going to cut you off. I
23 mean, it's clear as day what she said and we've confirmed is
24 they don't evaluate the plans for sufficiency. They rely on
25 DPIE to say there is a plan, and it is sufficient. That's

1 all they do. You may not like that, but that's all they do.
2 So it's really a DPIE issue, not a development review issue.

3 MR. SMITH: But you're charged with making
4 determination on the impacts of the project, and that's what
5 I'm getting at. How do you do that unless you assess
6 whether or not the documents you're relying are actually
7 reliable.

8 But all right. So asked and answered. It's clear
9 that we're not going to be allowed to get into this issue
10 here. I'll save --

11 CHAIRMAN: (Indiscernible).

12 MR. SMITH: -- it for testimony again.

13 CHAIRMAN: Okay. Thank you. Anything else on
14 cross, sir?

15 MR. SMITH: Yeah. Ms. Gomez-Rojas testified that
16 staff had determined the project would have a minimal impact
17 on traffic volumes, and I'd like to ask questions that get
18 into how they made that determination. Did you rely on the
19 applicant's trip generation analysis based on ITE trip
20 generation factors?

21 MS. GOMEZ-ROJAS: I will defer to Ben Patrick for
22 that.

23 MR. PATRICK: Ben Patrick.

24 CHAIRMAN: Mr. Patrick?

25 MR. PATRICK: Ben Patrick, Transportation and

1 Planning section. Yes, we use ITE trip generation rates.

2 MR. SMITH: Okay. So what --

3 CHAIRMAN: And I'm going to --

4 MR. SMITH: Do you know whether there's trip
5 generation rates --

6 CHAIRMAN: I'm going to cut you off in advance
7 from one thing. I know you disagree with that. You've made
8 that clear, and I'm sure you'll make it clear again, but
9 please, this is cross, so asked and answered. And do you
10 have another question for Mr. Patrick?

11 MR. SMITH: Well, he responded they relied on the
12 ITE rate, and so I --

13 CHAIRMAN: That was your question --

14 MR. SMITH: -- wanted to ask if --

15 CHAIRMAN: -- and he answered.

16 MR. SMITH: -- they looked into all those rates.
17 And I have a follow-up question based on his response.

18 CHAIRMAN: Okay.

19 MR. SMITH: And that was does staff know whether
20 there's trip generation rates are representative of
21 McDonald's rates regionally or nationally?

22 MR. PATRICK: So the rates that we use from ITE
23 are of the shopping center. And these rates are observed
24 from other study sites, and they do not identify
25 specifically at McDonald's within those study sites.

1 MR. SMITH: Okay. So in their generation -- in
2 their calculation, it's assumed that 50 percent of the trips
3 would be pass-by trips. What happens to the overall number
4 of peak trips into and out of the site if the number of
5 trips for pass, the percentage is higher or lower? What
6 kind of impact would that have on trips in and out during
7 peak hour?

8 MR. PATRICK: I guess I'm not sure how to answer
9 that, but in general, pass by --

10 MR. SMITH: I'm not sure how either.

11 MR. PATRICK: -- there is the assumption that --
12 I'm sorry?

13 CHAIRMAN: Mr. Patrick, if you don't know, you
14 don't know.

15 MR. PATRICK: I'm not sure how to answer that.

16 CHAIRMAN: All right. Do you have other
17 questions?

18 MR. PATRICK: I do. I mean, I was puzzled by the
19 fact that this site would have 75 parking spaces --

20 CHAIRMAN: Mr. Smith --

21 MR. SMITH: Or I guess this shopping center --

22 CHAIRMAN: Mr. Smioth, please. You are
23 cross-examination. You are constantly prefacing and
24 testifying while you're doing cross. This is just
25 cross-examination. If you have a question for staff,

1 please, you have all the space in the world to ask staff
2 questions.

3 MR. SMITH: I'm asking the question. How, with a
4 site that will have 125 parking spaces and two drive-through
5 lanes, can the applicant justify such low peak hour trip
6 generation rates? It just --

7 CHAIRMAN: Okay. We're going to move on.

8 MR. SMITH: -- doesn't seem to --

9 CHAIRMAN: We're going to move on. We're going to
10 move on. So do you have any other cross for staff? If not,
11 I'll turn to the other folks who may have cross?

12 MR. PATRICK: That's it. Thanks very much.

13 CHAIRMAN: Thank you. Mr. Boado?

14 MR. BOADO: Yeah. Quick question. I'm not sure
15 if this is the correct question for Mr. Patrick or not, but
16 has there been any consideration to the U-turn that people
17 will attempt to make to get from the eastbound into the
18 westbound lanes to then get into the McDonald's? So --

19 MR. GIBBS: Objection, Mr. Chairman. All these
20 questions are beyond the scope of the direct examination of
21 the witness.

22 CHAIRMAN: I concur.

23 Mr. Boado, all due respect --

24 MR. BOADO: No worries.

25 CHAIRMAN: See if you have cross-examination based

1 on what the staff provided.

2 MR. PATRICK: Got it. Thank you.

3 MR. GIBBS: And I would also note that Mr. Boado
4 already said he had no cross.

5 MR. BOADO: Thank you, Mr. Gibbs --

6 CHAIRMAN: Had no what?

7 MR. BOADO: Thank you Mr. Gibbs for thinking for
8 me. I appreciate it very much.

9 CHAIRMAN: Yeah. I concur in that, Mr. Gibbs.

10 Mr. Boado, anything else?

11 MR. BOADO: No, sir. Thank you.

12 CHAIRMAN: All right. I have Melissa Schweisguth
13 and then Marybeth Shea.

14 Ms. Schweisguth, are you there?

15 Ms. Seha, are you there?

16 MS. SHEA: Yes. My question is related to
17 process. One of the last slides that the staff included in
18 their presentation was a reference to historic preservation,
19 and those of you who looked in the packet would see that
20 there was a retained report that I believe the applicant
21 paid for, so retained and paid for, by an archeologist,
22 which was rich and important. Is this the time to talk
23 about this? Because I have questions.

24 CHAIRMAN: That's a good point. I mean, it wasn't
25 spoken to by staff, but it's included in the addendum. So

1 is that fair game? Ms. Tallerico, is that fair game for
2 cross?

3 MS. TALLERICO: So for cross, I believe it should
4 be limited to what Ms. Gomez-Rojas stated in her testimony.

5 CHAIRMAN: So then we can have that when
6 opposition testimony -- Ms. Shea, when there's opposition
7 testimony, that's when you can bring up what you saw in that
8 report because then you're responding directly to what's
9 within the limited scope and what was brought into the
10 record on this new round. So you'll have the opportunity
11 for that, just not right now.

12 COMMISSIONER WASHINGTON: Thank you. Mr.
13 Chairman, Ms. Gomez actually did speak to the HPC and the --
14 because it's actually a condition of approval for the
15 applicant to hire a -- so she did speak to it in her staff
16 commentary -- her staff overview.

17 CHAIRMAN: Okay.

18 COMMISSIONER WASHINGTON: Yeah.

19 CHAIRMAN: Ms. Tallerico, does that affect your
20 thinking on this at all?

21 MS. TALLERICO: Yeah. That's what I was getting
22 at. I apologize if I was a little obtuse there. To the
23 extent that Ms. Gomez-Rojas talked about historic
24 preservation -- so she did make a few remarks regarding the
25 additional findings of Historic Preservation staff. So to

1 the extent that those they'd want to cross-examine about
2 that, that is acceptable, yes.

3 CHAIRMAN: Okay. All right. So Ms. Shea, yes. I
4 guess the short answer's yes. You'll have more opportunity
5 later on, but if you have specific questions under cross,
6 feel free.

7 MS. SHEA: Yes, I do at this point, and maybe
8 later, and you can stop me as long as I can speak later.

9 CHAIRMAN: Yes, ma'am.

10 MS. SHEA: So this area regarding the subtlety of
11 slave burials or subtle activity upon the land is really
12 new, and I would like to see some assurances that the
13 archeologists who would be retained would be a specialist in
14 this area about soil core samplings. There are a number of
15 things you can do without pulling in ground-penetrating
16 radar. But it is a new area, and it is highly specialized,
17 and I hope there would be provision for someone versed in
18 those deeply sensitive and new tools.

19 CHAIRMAN: I hear you. That's a bit more
20 testimony than cross, for what it's worth, but your point is
21 made, and you can certainly bring that up again alter on,.

22 MS. SHEA: So do you want me to ask it like this:
23 what provisions are made for the latest and deeply specific
24 expertise for these sensitive and new kinds of archeological
25 discovery? Is --

1 CHAIRMAN: That --

2 MS. SHEA: -- that helpful?

3 CHAIRMAN: That is a question, yes. That does
4 help.

5 MS. SHEA: Thank you. So is someone able to
6 answer that for me, or is it something that could be written
7 into the guidelines about the retention agreement?

8 CHAIRMAN: Well, let's see what staff has to say
9 in terms of how they do qualify, if at all. If they don't
10 then they don't. And then you can make that point later on,
11 too.

12 MS. SHEA: Okay.

13 CHAIRMAN: Ms. Gomez?

14 MS. GOMEZ-ROJAS: I can defer to Historic
15 Preservation staff who did the evaluation for this case.

16 MR. GROSS: Good afternoon, Mr. Chairman, members
17 of the board. For the record, I'm Tom Gross, Historic
18 Preservation section.

19 So Historic Preservation staff did review the
20 report that was prepared by the archeologist that was
21 retained by the applicant. I am not going to speak for the
22 applicant in terms of who they might retain to perform the
23 monitoring that was recommending as a condition of approval
24 by staff.

25 However, I will say that the archeologist that

1 conducted this study is certainly well-known to staff, and
2 we would seek to be in communication with that retained
3 archeologist in terms of how they intended to do that
4 monitoring.

5 Staff is not recommending any additional
6 investigation before work begins. Staff is recommending
7 that an archeologist to monitor ground-disturbing activities
8 while they are occurring.

9 CHAIRMAN: Thank you, Mr. Burke (sic).

10 Ms. Shea, back to you.

11 MS. SHEA: I think I'm able to comment later on.

12 And I appreciate courteous guidance to all of us who are not
13 trained as lawyers or in this planning process that we can't
14 always tell the difference between an appropriate cross line
15 and a testifying line, so I appreciate the gentle
16 admonitions about how to do that.

17 CHAIRMAN: Absolutely. I appreciate your
18 responding on that. The short answer is cross is about
19 asking questions. I mean, that's really what it comes down
20 to. But you're doing fine.

21 So next we have Ms. Schweisguth, are you in the
22 line?

23 MS. SCHWEISGUTH: Yes, I am. Thank you.

24 CHAIRMAN: Okay. Did I pronounce your last name
25 correctly?

1 MS. SCHWEISGUTH: Yes, [Shwise'-goothe]. That's
2 close enough. Yeah.

3 CHAIRMAN: Okay. All right. Take it away.

4 MS. SCHWEISGUTH: Mr. Gibbs got it on the third
5 try, so I mean, I appreciate that. I appreciate not being
6 called Ms. Melissa, like, when I'm at the dentist. I feel
7 like when that happens --

8 CHAIRMAN: We'll try not --

9 MS. SCHWEISGUTH: It's (indiscernible).

10 CHAIRMAN: -- to emulate the dentist experience
11 for you. That's fair.

12 MS. SCHWEISGUTH: No, it won't be that painful.
13 And I won't either.

14 I wanted to clarify just how many entrances and
15 exits can drivers use that they will be able to directly
16 access the drive-through?

17 CHAIRMAN: Mr. Patrick?

18 MS. SCHWEISGUTH: I'm still a little confused on
19 that.

20 CHAIRMAN: Mr. Patrick?

21 MR. PATRICK: Yes, I'm here.

22 CHAIRMAN: Is --

23 MR. PATRICK: Sorry.

24 CHAIRMAN: You spoke to how you evaluated
25 entrances and entrances. That feels like close enough to

1 you answering that.

2 If I may, Ms. Gomez?

3 MR. PATRICK: Sure. So the number at access
4 points -- again, looking at this as a shopping center that's
5 in there, the connectivity between the shopping center would
6 be that any access point could be used to get to the
7 McDonald's. I wouldn't assume that 100 percent of all
8 traffic would go to any one of the access points, but the
9 way it's designed anyone would have the ability to choose
10 any access point to access the McDonald's.

11 CHAIRMAN: So that would be four in-and-outs and
12 then one in and one out in addition to that.

13 All right. Ms. Schweisguth, any other questions
14 on cross?

15 MS. SCHWEISGUTH: So then, I mean, I understand
16 that planning previously asked the SHA look at the entrance
17 exit that the driveway that's closest to the intersection of
18 Ager and East-West Highway. Are they being asked to look at
19 the other entrances and exits if again, they also apply to
20 this development use?

21 CHAIRMAN: Mr. Patrick?

22 MR. PATRICK: So as part of the application that
23 went in there with that -- like, so this is where staff made
24 aware of their larger plan of the area, the pedestrian
25 safety action plan, and they do look at all those in that

1 plan. They also retain all of the existing access point.
2 So the modifications are going to be consistent with what
3 they've been evaluating as part of that plan and part of
4 this proposal.

5 CHAIRMAN: Okay. Thank you.

6 Ms. Schweisguth?

7 MS. SCHWEISGUTH: So yeah. So well, the
8 pedestrian safety action plan, my understanding is that that
9 does not consider the impact of a -- to get the impact of a
10 development, and when the SHA looks at these access -- I
11 mean, that the pedestrian safety action plan is not
12 endorsing a change in access or a change in use, correct?

13 MR. PATRICK: Correct.

14 MS. SCHWEISGUTH: So then I'm wondering why SHA
15 does not have to look at the rest of the entrances and exits
16 along East-West Highway.

17 MR. PATRICK: I wasn't saying that they were not
18 looking at them. I was saying that they actually did take
19 them into consideration as part of --

20 MS. SCHWEISGUTH: They were --

21 CHAIRMAN: You broke up, Mr. Patrick. We lost
22 you.

23 MR. PATRICK: (Indiscernible).

24 CHAIRMAN: We can't hear you, Mr. Patrick. Nope.

25 MR. PATRICK: Hello?

1 CHAIRMAN: Nope. A little tiny bit, but it's very
2 jumbled.

3 And Ms. Schweisguth, what I'm hearing, if I can
4 turn your into (sic) a question, it's that you're asking Mr.
5 Patrick whether he asked -- whether we asked SHA to evaluate
6 all the other intersections and whether they did or did not.
7 Is that what I'm hearing you ask?

8 MS. SCHWEISGUTH: Well, I would say all the other
9 entrances and exits --

10 CHAIRMAN: Right.

11 MS. SCHWEISGUTH: -- that are in the State Road.
12 I would not be asking about Van Buren. But yes, the --

13 CHAIRMAN: Yeah.

14 MS. SCHWEISGUTH: -- entrance and exits that are
15 on East-West Highway.

16 CHAIRMAN: Okay. All right. So that's the
17 question. And when we get to Mr. Patrick, he can say
18 whether or not they did ask SHA to evaluate those other
19 entrances and exits that are along East-West Highway.

20 MR. PATRICK: Just testing my mic again. Can
21 everyone hear?

22 CHAIRMAN: Yeah. Now, we can hear you fine.

23 MS. SCHWEISGUTH: Okay. Great. Yes, SHA did look
24 at the additional access points along the frontage --

25 CHAIRMAN: Okay. Thank you.

1 MR. PATRICK: -- of the entire shopping center.

2 MS. SCHWEISGUTH: Okay. And where is the -- can
3 you tell me where we can find SHA's response on that? The
4 only response I have seen from SHA regards the one that's,
5 again, closest to the McDonald's that they asked be narrowed
6 into one clear in and out. I have not seen any
7 communications from SHA or about SHA commenting on those
8 other entrances. I'm just wondering if I missed something.

9 MR. PATRICK: No, they didn't specifically speak
10 to the alterations to any other existing access points. So
11 what we incorporated into our findings and recommendations
12 were based on what was proposed for modification from SHA as
13 a part of that. But we did evaluate this with them and they
14 are aware of the shopping center, the use, the access
15 points, all that remained, all that will exist, although
16 they did not specifically speak to access point 1, access
17 point 2, access point 3. So we incorporate comments based
18 on modifications as they requested.

19 MS. SCHWEISGUTH: All right. Thanks for the
20 clarification. And one final question, again, just so I
21 understand. Did the transportation review look at
22 pedestrian and bicycle circulation and safety around the
23 whole shopping center or only the part with the proposed
24 McDonald's where we see changes?

25 MR. PATRICK: So part of the plan was, as I was

1 trying to articulate earlier, was that we were attempting to
2 tie into existing pedestrian manies that are on there. Some
3 of these frontages improvements would be outside of the
4 detailed site plan, but additionally, we've requested that a
5 circulation plan be provided for pedestrian routes
6 throughout as we're looking for areas across all drive
7 aisles to go through parking areas. So we evaluated tying
8 into existing, and that is the recommendations for
9 crosswalks and stripings and the identified pedestrian
10 routes that we know of.

11 MS. SCHWEISGUTH: So you're saying -- sorry, it's
12 a follow-up question. I know I said I only have one more.
13 So then at a later point, are you saying you would be
14 looking at a more detailed plan for possible additional
15 crosswalks and things within the site, again to address the
16 extra cars that would be coming into the site and driving
17 across to the McDonald's? Or will the rest of the site be
18 left as is?

19 MR. PATRICK: At this point, I don't have any
20 additional recommendation. The (indiscernible).

21 MS. SCHWEISGUTH: All right. Thank you so much.
22 I appreciate all your information and the work you've done.

23 CHAIRMAN: Thank you, Ms. Schweisguth.

24 Mr. Wilpers? Have you, Mr. Wilpers, any questions
25 on cross?

1 MR. WILPERS: I had my question answered already.
2 Thank you.

3 CHAIRMAN: Okay. Thank you, sir. All right. So
4 we're going to move along. Actually, Mr. Gibbs, do you want
5 to cross staff?

6 MR. GIBBS: I do not.

7 CHAIRMAN: Okay. Thank you. So we'll move to --
8 Commissioners, there's no other questions for
9 staff at this point. We will move to the applicant's
10 argument and testimony on matters that were addressed in the
11 addendum to the technical staff report.

12 So Mr. Gibbs, we're back to you.

13 Following --

14 MR. GIBBS: Thank you very much.

15 CHAIRMAN: Following that, by the way, we'll hear
16 the opposition testimony.

17 MR. GIBBS: Thank you very much. Mr. Chairman, we
18 appreciate the addendum to the staff report, which we not
19 just support ourselves, but would incorporate as well as
20 with the original staff report as part of our application.
21 We endorse and support that.

22 With regard to the conditions recommended for
23 approval, we have no objection to any of the conditions. We
24 would say, though, with regard to condition 1-E, these are
25 conditions that have to be implemented at that time of

1 certification, and on 1-E, we would simply ask for
2 clarification that staff agrees. Obviously, changing the
3 two driveways to a single right-in/right-out would be of
4 course occurring through the approval of State Highway
5 Administration.

6 And then condition 1(j), which relates to provide
7 "high visible traffic calming elements" near the driveway,
8 we support that concept. We would note that on the staff
9 revision to the plan, they're actually showing painted
10 speedbumps. But using the wording of the condition,
11 obviously, we would think that's one option, but other
12 options could be presented prior to certification as long as
13 they are recognized traffic-calming devices.

14 And that's all I would have except for having Mr.
15 Lenhart testify briefly with regard to the transportation
16 referral.

17 CHAIRMAN: Mr. Lenhart?

18 MR. LENHART: Yes, I am here.

19 MR. GIBBS: Mr. Lenhart, I would ask you if you
20 had an opportunity to review the addendum to the staff
21 report, as well as the referrals including the
22 Transportation Planning division referral?

23 MR. LENHART: Yes, I did.

24 MR. GIBBS: And is the information, in your
25 opinion, contained in the Transportation Planning division's

1 referral memorandum consistent with the information you have
2 provided to staff for inclusion in the report?

3 MR. LENHART: Yes, it's consistent with what we
4 did.

5 MR. GIBBS: And do you, in fact, agree with the
6 conclusions of the Transportation Planning division as well
7 as the staff from a transportation and circulation
8 standpoint?

9 MR. LENHART: Yes, I agree with their findings.
10 It matches our analysis, and it's consistent with the
11 requirements of the transportation review guidelines.

12 MR. GIBBS: Okay. Now, I wanted to ask you a
13 question relative to the provisions of Section 27-274 that
14 are relevant from a transportation standpoint regarding
15 parking, loading, and circulation. You testified relative
16 to your opinion as to those criteria being satisfied and met
17 with the original site plan. Have you had an opportunity to
18 review the staff's proposed revision to the site plan?

19 MR. LENHART: Yes, I have.

20 MR. GIBBS: And do you have an opinion as to
21 whether or not those changes are better than what the site
22 plan proposed originally and whether those changes establish
23 conformance with the parking, loading, and circulation
24 criteria in Section 27-274?

25 MR. LENHART: Yes. So in our analysis of the

1 original site plan and the application as it was originally
2 laid out, we reviewed 27-274, (2), (A), (B), and (C), which
3 relate to parking, loading, and circulation. And it was my
4 opinion that the original site plan satisfies all of the
5 requirements of the loading and circulation requirements in
6 the ordinance.

7 I have looked at the new proposed layout that is a
8 subject to the conditions on backup, page 10 of 79 of the
9 new back up materials and the revised site plan as shown on
10 page 11 of 79. And those changes, I believe, are good
11 suggestions. I believe that they will even serve to improve
12 access, circulation, and parking. Again, we believed it met
13 initially, but I believe that this would be even an
14 improvement, and we have discussed these, and we are in
15 agreement with applying these.

16 MR. GIBBS: Do you have an opinion to whether
17 pedestrian circulation on site is in fact safe and
18 reasonable?

19 MR. LENHART: Yes, I do, and I believe it is.
20 First of all, there is the -- Mr. Patrick testified about
21 the sidewalks along East-West Highway, and so those
22 sidewalks do exist. There is a parallel sidewalk and
23 pedestrian path that runs through the center along the front
24 of the buildings that connects from Van Buren Street along
25 the entire front of the existing shopping center.

1 And you can see in this image that there is a
2 pedestrian crosswalk that's been extended from the proposed
3 McDonald's across the drive aisle so that there would be a
4 full pedestrian path, not only along East-West Highway, but
5 within the center along the front of the buildings to get to
6 and from the McDonald's from Van Buren Street.

7 And then as well with the pedestrian tie-ins that
8 are not really shown well on this exhibit, but they are
9 shown on page 11 of 79, the additional backup with sidewalks
10 and crosswalks connecting from East-West Highway into the
11 site and up to the McDonald's, across the drive aisles.

12 MR. GIBBS: Now, in your opinion, Mr. Lenhart,
13 would you want to encourage pedestrian traffic through the
14 loading zone at the rear of the shopping center?

15 VICE CHAIRMAN: No.

16 MR. LENHART: No. I don't think that would be an
17 appropriate place to bring people in. There's the crosswalk
18 across Ager Road on this exhibit, where the traffic signal
19 at East-West and Ager Road is. And that comes across Ager
20 Road into a sidewalk tie-in that then leads along the
21 frontage of the site, which gives direct access to the
22 McDonald's through the sidewalk and pedestrian crosswalks
23 that will be implemented with this project.

24 MR. GIBBS: Could signage be places at the
25 entrance to the loading zone from Van Buren Street

1 indicating no pedestrian access?

2 MR. LENHART: It could, yes.

3 MR. GIBBS: Are you familiar with the fence that
4 exists between the long, inline retail building and the
5 proposed location of the McDonald's?

6 MR. LENHART: Yes.

7 MR. GIBBS: What is your opinion of the condition
8 of the fence, and does it prevent pedestrian or vehicular
9 connection from the loading space over to the McDonald's
10 site?

11 MR. LENHART: As I recall, that's approximately a
12 six-foot chain-link fence with wire on the top of it that
13 would prevent anyone from climbing that. So yes, that would
14 prevent pedestrian access through there.

15 MR. GIBBS: And did you actually meet with
16 representatives of the State Highway Administration with
17 regard to the driveway access?

18 MR. LENHART: I did, yes.

19 MR. GIBBS: Was State Highway Administration aware
20 of and looked at the entirety of the access structure for
21 the shopping center?

22 MR. LENHART: Yes, they were. They saw the entire
23 site plan. And in fact, initially, before the DSP was ever
24 submitted, as it was being prepared, the engineered approach
25 the State Highway about the potential for an additional

1 access point to the center back where the loading -- where
2 the drive-through comes in at the eastern most point of the
3 site off of Ager Road.

4 And State Highway said that they were not in favor
5 of that. They raised the issue of the two driveways that
6 are directly in front of the proposed McDonald's. That was,
7 again, the subject of our conversation when we met with them
8 recently. And they had no concerns about the other two
9 access points on East-West Highway.

10 Their concern were the two that are shown in front
11 of the McDonald's right where it says, East-West Highway.
12 Those driveways are too close together to be two full
13 movement driveways, and that's how they are currently
14 utilized. They are about 40 feet wide each, and if you
15 observe, people will go in and out both of those driveways.
16 And it creates some conflicts and confusion, and that's what
17 State Highway wanted to be corrected through channelization
18 that converts those into one right in and one right out.

19 MR. GIBBS: Thank you. Now, there was a question
20 or a comment made by one of the planning commissioners
21 relative to visibility as you're coming from, say, the
22 intersection Ager Road and East-West Highway proceeding west
23 around the curve there. Are you familiar with the weed, or
24 what the visibility is relative to the area within the State
25 Highway Administration right-of-way as you approach the

1 shopping center?

2 MR. LENHART: Yes. That area -- there is
3 right-of-way at -- it's probably 30 feet or so of
4 right-of-way, public right-of-way in the state before the
5 site property begins, and State Highway does maintain that.
6 You can look back in historical images and you can see that
7 there a retimes that they have maintained it and cut the
8 shrubs down, and site distance improves in those instances.
9 And there are times in history where it appears they have
10 not maintained that very well, and the shrubs have grown up
11 to be six or eight feet, maybe higher, which could cause
12 some sigh distance obstructions.

13 However, if you're in that crosswalk, there's no
14 sight-distance obstructions from the crosswalk. And that
15 area can be well-maintained as long as it's -- or sight
16 distance can be well-maintained as long as that brush is
17 controlled.

18 MR. GIBBS: Thank you very much. No further
19 questions.

20 CHAIRMAN: Mr. Gibbs, you were on any argument,
21 testimony, matters related to the addendum. So you are done
22 with that?

23 MR. GIBBS: Mr. Chairman, no. We absolutely agree
24 with the addendum report. We agree with all the conditions
25 except as to the two which we sought a little bit of

1 clarification on. And we have nothing further to add. We
2 actually embrace and incorporate the staff report and the
3 addendum as part of our case.

4 CHAIRMAN: Okay. Thank you.

5 MR. GIBBS: Um-hum.

6 CHAIRMAN: So commissioners, any questions for the
7 applicant?

8 VICE CHAIRMAN: No.

9 CHAIRMAN: No? Okay.

10 Ms. Tallerico, help me. Is this the time for
11 cross for the applicant from the opposition?

12 MS. TALLERICO: It would be, yes.

13 CHAIRMAN: Okay. Then we will turn to the
14 opposition to see if you have cross. Any questions for the
15 applicant's team related to what they testified on? I still
16 Mr. Wilpers' and Ms. Schweisguth's hands up. I don't know
17 if those are legacy hands or those are new hands.

18 MR. WILPERS: Mine's a legacy.

19 CHAIRMAN: All right. Fair enough. If you could
20 lower your hand, save me some brain power. Thank you. All
21 right. So we have no -- thank you, folks.

22 No questions at this point, so we'll turn to the
23 opposition for any testimony and matters addressed in the
24 addendum to the technical staff report.

25 I'm sorry. Ms. Shea, you did have cross?

1 MS. SHEA: No, I have a procedural question. It
2 is late in the day. May we reorder some of our opposition
3 members, please, to respect their non-compensated time here?

4 CHAIRMAN: Yes, absolutely. Whatever order you
5 want to go in is fine. I'll leave it to you all to decide
6 that. I see a -- I think there's four, five of you, and
7 whatever you decide, Ms. Shea.

8 MS. SHEA: I will let my colleagues speak for
9 themselves.

10 CHAIRMAN: I don't mind -- for what it's worth,
11 the hour is late. I don't mind if you want to just talk
12 amongst yourselves with us listening and decide who wants to
13 go rather than put you in some virtual room somewhere. So
14 feel free to negotiate on camera for a second.

15 MR. WILPERS: I just have to leave by about 4:15.
16 That's my constraint, and I have oral testimony.

17 MR. BOADO: I'm able to go first unless someone
18 else is in a rush.

19 CHAIRMAN: Ms. Shea, Ms. Schweisguth, Mr. Smith?

20 MS. SHEA: Could we revisit this as we get close
21 to Michael's edge, please?

22 CHAIRMAN: All right. Fine by me.

23 MS. SHEA: Thank you.

24 CHAIRMAN: I'm flexible.

25 MR. BOADO: Lisa, did you want to go first, since

1 you are dealing with the concussion?

2 MS. ENTZMINGER: No, I can go second.

3 MR. BOADO: Okay. So I guess I'll go first so
4 they could pull up my slides. If --

5 CHAIRMAN: All right. Give us a second to get to
6 the right --

7 MR. BOADO: There we go.

8 CHAIRMAN: Oh, perfect.

9 MR. BOADO: Excellent. So the applicant has, from
10 the very beginning, stated that there is a problem with
11 public safety in the parking lots and surrounding area and
12 that McDonald's will be the cure to those issues by bringing
13 new development and cutting down the woods, and therefore
14 the homeless population will evacuate the area. And so my
15 question to you is will a McDonald's really make the current
16 conditions and the current location safer?

17 Next slide.

18 The National Employment Law Project, in 2019, did
19 a report that shows all the ways that McDonald's fails to
20 protect workers from workplace violence.

21 MR. GIBBS: Mr. Chairman, I would renew my
22 objection from before.

23 CHAIRMAN: Yeah. Mr. Boado, just let's take a
24 moment here. I just want to be clear. So what's before us
25 in this limited scope is transportation, the NRI, the

1 stormwater management, historic preservation. There is an
2 issue which the departure from design standards -- will it
3 address the trespassing issue. Now, that is a public safety
4 issue, but --

5 MR. BOADO: Exactly.

6 CHAIRMAN: -- that's a very limited view of the
7 public safety issue. What you're describing here is not
8 within the boundaries of this limited scope public hearing.

9 MR. BOADO: Okay. So the fact that -- the fact
10 that McDonald's are in -- that McDonald's generally are
11 magnets for crime are not --

12 MR. GIBBS: Objection. Testimony.

13 MR. BOADO: Is this not testimony? Is this not
14 closing arguments?

15 CHAIRMAN: Mr. Gibbs, he's allowed, right? He's
16 allowed to testify here. It's just that what you're
17 testifying on is not related to the limited-scope public
18 hearing. It's just not relevant to us.

19 MR. BOADO: Okay.

20 MS. TALLERICO: Chair Shapiro, I believe --

21 CHAIRMAN: Yes?

22 MS. TALLERICO: -- what is before you right now is
23 Mr. Gibbs has raised an objection to certain materials that
24 Mr. Boado introduced into the record that are the
25 underpinnings of this current presentation. So when Mr.

1 Gibbs objected, saying that Mr. Boado was testifying, I
2 believe -- not put words in Mr. Gibbs' mouth, but I believe
3 he was saying that Mr. Boado currently would be having an
4 argument on why those materials are relevant is sort of
5 where --

6 CHAIRMAN: I don't --

7 MS. TALLERICO: Yeah. Exactly.

8 CHAIRMAN: -- believe commissioners -- unless --

9 MS. TALLERICO: Okay.

10 CHAIRMAN: -- without objection, commissioners, I
11 don't believe this is relevant, and I do not think this
12 should be part of the record.

13 COMMISSIONER WASHINGTON: I hear that saying --

14 COMMISSIONER DOERNER: Yeah, I would agree with
15 that. I mean, I think we have to be careful when we're
16 doing land use regulation in terms of focusing on one
17 particular entity. I think focus on the use, not the
18 company. Like, I -- if this was Burger King or some other
19 use -- or some other owner, I think that would be -- I would
20 have the same objection regardless of who it is. We just
21 need to look at --

22 MR. BOADO: What about if --

23 COMMISSIONER DOERNER: -- if it's --

24 MR. BOADO: What about if it's fast food
25 generally?

1 CHAIRMAN: But it's --

2 VICE CHAIRMAN: (Indiscernible) this hearing.

3 CHAIRMAN: Yeah. It's an approved use. So
4 there's not an issue before us about whether or not fast
5 food is allowed on this site.

6 VICE CHAIRMAN: Exactly.

7 CHAIRMAN: We're looking at a detailed site plan,
8 so your arguing that this is the wrong use. That's --

9 MR. BOADO: Well --

10 CHAIRMAN: You can talk to the county council, the
11 district council, but that's not what's before us.

12 MR. BOADO: Okay.

13 CHAIRMAN: With all due respect, so let me --

14 MR. BOADO: No, that's fine. But we're definitely
15 going to do that. Thank you so much.

16 CHAIRMAN: All right. Thank you. I appreciate
17 it.

18 MR. BOADO: Sure.

19 CHAIRMAN: So I do want to strike this from the
20 record. And Mr. Boado, by all means, if you have other
21 things to talk about as well, I'll turn back over to you.

22 MR. BOADO: No. That's what I was going to talk
23 about -- about the crime issue.

24 CHAIRMAN: Okay. Thank you, sir.

25 MR. BOADO: Okay. Sure.

1 CHAIRMAN: All right. Who wants to go next?

2 MR. BOADO: I think Lisa, you're up.

3 MS. ENTZMINGER: I'll go next. All right. Good
4 afternoon. My name is Lisa Entzminger. I live at 7213 16th
5 Avenue in unincorporated part of Takoma Park in Prince
6 George's County. I am the treasurer of Carol Highlands
7 Neighborhood Association, a resident nearly of ten years,
8 and a mother. I'll keep my comments today brief.

9 I'm speaking today in opposition of the proposed
10 McDonald's drive-through restaurant at 6565 Ager Road at the
11 corner of East-West Highway and Riggs Road. The proposed
12 development does not serve the needs of the community. It
13 seeks to destroy an established forest band as well as
14 increase traffic and air pollution on a road that is already
15 dangerous for pedestrians, cyclists, and driver.

16 My experience from driving and walking this
17 stretch of road is that it's dangerous to both pedestrians
18 and drivers alike. (Indiscernible) decisions to enter and
19 exit the plaza and frequently block one or multiple lanes to
20 enter and exit the driveway. This site is less than one
21 mile from the Riggs Road and University Boulevard Purple
22 Line Station that is said to start serving riders in 2027.
23 It seems very short-sighted to approve yet another fast-food
24 drive though in an area where high quality, walkable,
25 transit-oriented development should be a priority.

1 The community wants spaces that our families can
2 use for gathering, recreation, and play. We do not want yet
3 another fast-food take-out establishment that would worsen
4 the dangerous conditions of this stretch of road, increase
5 air pollution, destroy a local restaurant, and destroy a
6 small forest.

7 For the reasons stated above, I urge the planning
8 board to disapprove DSP-222 -- or I'm sorry. 22001 and the
9 departure from design standards requested by McDonald's.
10 Allowing this development to move forward would harm the
11 local community. Thank you.

12 CHAIRMAN: Thank you, Ms. Entzminger.

13 Next? Mr. Wilpers? Mr. Smith?

14 MR. WILPERS: Okay.

15 CHAIRMAN: Ms. Shea?

16 MR. WILPERS: I'm ready to go.

17 CHAIRMAN: Okay.

18 MR. WILPERS: Chair Shapiro and board members, I'm
19 testifying again on behalf of the Friends of Sligo Creek.
20 Reminder, we're a nonprofit community organization whose
21 mission is to help residents protect, improve, and enjoy the
22 ecological health of Sligo Creek and its surrounding
23 watershed.

24 Our testimony augments that we provided September
25 24th. As before, we argue that the woodland is a valuable

1 green asset for controlling stormwater, creating wildlife
2 habitat, and providing natural beauty, reducing the heat
3 island effect, and absorbing greenhouse gasses.

4 We're encouraged that the applicant earlier today
5 committed to abandoning their proposal to remove the
6 woodland. They should consequently now withdraw their
7 proposed departure from design standards.

8 In the meantime, I would like, on behalf of
9 Friends of Sligo Creek, to address the addendum to the staff
10 technical report as it applies to the NRI. We do
11 acknowledge that the minimum requirements of state law do
12 not demand that the NRI document every tree in the woodland.
13 As you heard in our NRI contractor relied, as allowed, on a
14 sampling method that assesses the woodland by measuring only
15 those trees in three small quadrants and then extrapolating
16 from there for the entire woodland.

17 Just two points to make on this. Sampling methods
18 of this type are typically applied to very large tracts,
19 could be many square miles, for example, where it's
20 impractical to count, identify, and move every tree. With
21 his woodland being so small, it could have easily been
22 assessed more accurately without neglecting the very large
23 willow oaks, the black gums and the persimmon, rather than
24 applying statistical formulas to extrapolate from these
25 samples.

1 Second, sampling is most accurate when a forest
2 stand is fairly uniform, that is, when the same mix of trees
3 is distributed evenly across an area. This woodland is not
4 of that sort. As a result, the sampling method overlooks
5 some very important trees. The NRI itself states, "Field
6 conditions can change with variations in climate conditions
7 and time of year. Therefore our conclusions may vary
8 significantly from future observations by others." And I
9 would include myself among those who made future
10 observations.

11 We are overall pleased that the original NRI found
12 that A, the woodland does "qualify as forest under the state
13 Forest Conversation Act", B, is dominated by nine native
14 tree species, plus the three that the survey missed and that
15 these trees "did not exhibit any evidence of disease or
16 insect infestation". And lastly, that it meets the
17 requirements of a woodland of "medium priority for
18 preservation and restoration".

19 As you heard earlier in the cross, "EPS staff
20 supports the retention of existing individual trees and
21 vegetation."

22 I did have a section on public safety. I'd note
23 it's -- as previously phrased, was considered out of bounds.
24 However, I have to point out that it's still par to the
25 applicant's argument. The applicant has yet to withdraw the

1 departure from design standards, which includes lots of
2 commentary about public safety and criminal activity.

3 The earlier hearing, the applicant had a police
4 officer from the Prince George's County Police Department to
5 testify about public safety there. And to me, it seems
6 fully fair that the record also include what we've been
7 trying to argue, which is that the woodland -- losing the
8 woodland replacing it with a McDonald's should allow for
9 introduction of evidence of studies showing increased level
10 of crime at fast food restaurants, in particular -- I hate
11 to say it, but the studies show it -- in particular,
12 McDonald's. It's part of our written testimony, so it's in
13 the record. But we'll let that go.

14 And finally, our mission is the ecological health
15 of the watershed, so our primary argument remains that the
16 woodland is a valuable green asset for all the purposes I
17 mentioned earlier. And we urge the board to prevent the
18 applicant from removing the woodland. Thanks very much.

19 CHAIRMAN: Thank you, Mr. Wilpers.

20 Anyone else? We have Mr. Smith, and I can't
21 remember. I'm sorry. I don't have my list in front of me.
22 Did I miss anyone else besides Mr. Smith?

23 And Mr. Smith, are you going to go?

24 MR. WILPERS: (Indiscernible).

25 MR. SMITH: Has Melissa Schweisguth gone? Has

1 Marybeth Shea gone?

2 VICE CHAIRMAN: No.

3 MS. SCHWEISGUTH: I think we're both here.

4 MR. WILPERS: What's that?

5 MS. SCHWEISGUTH: I think Marybeth and I are both
6 here.

7 CHAIRMAN: Okay. All right.

8 MR. SMITH: Have you already spoken?

9 CHAIRMAN: Ms. Schweisguth, do you want to go?

10 MR. SMITH: I'm happy to go last.

11 MS. SCHWEISGUTH: Yeah. I mean, I can go now. I
12 don't want to hold this up any further. So Melissa
13 Schweisguth. I actually need to be sworn in. And was
14 everyone else sworn in?

15 CHAIRMAN: I mean, I -- my mistake for not being
16 consistent with it, but you all were sworn in at the last
17 hearing, and this is a continuation of the hearing.

18 So Ms. Tallerico, we're probably okay, but I can
19 swear people in just to be safe, right?

20 MS. TALLERICO: You could swear folks in just to
21 be safe, but yeah, it is a continued hearing, and they're
22 under oath from the prior hearing. If you wanted to remind
23 them of that as well, that would be appropriate --

24 CHAIRMAN: Right. So I'm not going to bother --

25 MS. TALLERICO: -- instead of swearing them in.

1 CHAIRMAN: -- swearing you in again.

2 MS. SCHWEISGUTH: Okay.

3 CHAIRMAN: But you're all still under oath as you
4 were from the first hearing.

5 Thank you, Ms. Tallerico. I appreciate it.

6 MS. SCHWEISGUTH: All right. So Melissa
7 Schweisguth, 5020 38th Avenue, Hyattsville, ZIP code 20782.
8 I'm going to be very brief.

9 I just want to remind the planning board --
10 planning commission that Section 27-102 of the Zoning
11 Ordinance states clearly that "The purposes of the ordinance
12 include to protect and promote health, safety, morals,
13 comfort, convenience, and welfare of the present and future
14 inhabitants of the county and to lessen the danger and
15 congestion of traffic on the streets and ensure the
16 continued usefulness of all elements of the transportation
17 system for their planned functions."

18 I understand that this is in the DSP phase, and
19 we're not looking at externalities. Yet, we have an
20 unfortunate situation whether it was not a preliminary plan
21 of subdivision where we would be looking at these
22 externalities.

23 So I believe that the planning board going against
24 the ordinance by refuses to consider or by refusing to
25 consider the impacts on traffic safety in particular on

1 vulnerable pedestrians. We have children walking to school
2 with their parents at the morning rush, which is
3 surprisingly the peak for fast food. It's not the evening
4 rush, people getting their dinner. But we see that the trip
5 generation rates are much higher in the morning for fast
6 food in the morning peak.

7 And that's very concerning because that's the time
8 when children are -- they're going to Cesar Chavez. They're
9 going to Rosa Parks. And parents are driving. They're
10 walking. And not considering that, to me, is failing to
11 uphold the Zoning Ordinance.

12 I also did want to clarify the vehicle, the crash
13 data I provided -- I'm not going to ask for those to be put
14 again, but the crash data I provided were from a .15 mile
15 radius, not a half-mile radius. I believe if I showed the
16 half-mile radius, it would be just to show that this area is
17 a hot spot. But that .51 (sic) mile radius just looks at
18 the two intersections, which again, are relevant to traffic
19 coming and going from this site and looking 176 crashes in
20 the past three years just within a .15 mile radius. Not
21 fishing here. I'm not casting a wide net. I know that
22 several of you have commented that you've gone thought this
23 intersection. You understand how it is.

24 So I just ask that you please ensure you are
25 upholding the spirit of the Zoning Ordinance, and outside

1 this case, figure out how planning is supposed to uphold the
2 ordinance -- when certain review periods review steps,
3 phases, such as the PPS, are waived for certain land uses,
4 and we're seeing that in an increasing basis.

5 It's very unfortunate that the public feels like
6 we don't have standing. We don't have the ability to
7 comment, to change or improve, or in some cases, push for
8 disapproval is there is a real violation of the purposes of
9 the planning ordinance -- the Zoning Ordinance.

10 So those are my comments today. I appreciate
11 everyone's time, and the work put into this on all sides,
12 and I do please ask you to consider the purposes of planning
13 ordinance in making your decision. Thank you.

14 CHAIRMAN: Thank you. Thank you very much.

15 Ms. Shea, do you want to go?

16 MS. SHEA: Yes. I think I'm the last person, and
17 I'm going to apologize --

18 CHAIRMAN: I think we have Mr. Smith after you,
19 Ms. Shea.

20 MS. SHEA: Right. He's our summation, but I think
21 I'm the last chunk of stuff.

22 CHAIRMAN: Okay. All right.

23 MS. SHEA: And so --

24 MR. SMITH: That's incorrect.

25 MS. SHEA: Pardon?

1 MR. SMITH: No, I'm also providing my own
2 testimony, Marybeth.

3 MS. SHEA: Thank you, Greg.

4 MR. SMITH: Um-hum.

5 MS. SHEA: All right. So it's late in the day,
6 and I have a barking dog. It's Zoom. I got a barking dog.
7 But I'm trying to speak a little bit on the fly, and I want
8 to appreciate some items.

9 Is my testimony in front of you? I can't tell. I
10 think it is.

11 CHAIRMAN: Is this Ms. Shea's testimony? Yes.

12 MS. SHEA: Yeah. It is. But I'm going to be
13 looking off to the side and not looking at your eyes to eyes
14 because I need to be able to read. And I'm also trying
15 to --

16 CHAIRMAN: You're actually just talking to your
17 dog. We know it. But whatever you want to say is fine.

18 MS. SHEA: Okay. But I'm also trying to speak
19 without getting interrupted by apparently not speaking
20 appropriately. And I'm also at the end, and some new
21 information has come in.

22 So my first thing is to say I so appreciate that
23 the planning people interacted with the applicant and said,
24 we need to do due diligence on archeology. I'm sorry that
25 that report was not put up. It was amazing and wonderful.

1 And some of my testimony relies upon it. So let me go and
2 turn my eyes to what I need to speak about.

3 So I think I am still saying that it looks like
4 McDonald's is going to be approved by the planning board for
5 all kinds of reasons regarding scope and what is written in
6 the regulatory framework, which I support. I'm a person who
7 believes in the rule of regulatory law.

8 But I do want to say there's no reason McDonald's
9 cannot keep the buffer that simultaneously provides some
10 environmental remediation and also historic remediation.
11 And I want to say that it should not rely simply upon Green
12 Hill or the McDonald's complex ownership here to act for the
13 historic buffer. I'm a citizen. The history belongs to me
14 and our entire community. And you all are partial stewards
15 of this. This historical (indiscernible) remain.

16 I also want to caution us about what looks to be
17 the soft deployment of hostile architecture upon human
18 beings in here, so please be very careful about that.

19 Now, I'm shifting to something that is a little
20 more positive, and the applicant put this in place.
21 Whenever you propose a deviation or a variance, it means
22 that people like me get to propose a deviation or a
23 variance.

24 Why don't you join us in curating some this
25 historic significance? Why don't you build this, and why

1 don't you include hard signage or digital web curation with
2 things like GIS maps about what we know and are going to
3 know in the future about the presence of history, of our
4 country upon this land, including that of 33 named enslaved
5 people in the Diggs family lawsuit that I spoke about last
6 time. Why not go bold, and why not curate this for all of
7 us?

8 And I invite the historic preservation people to
9 come in here and over the future, find ways to move beyond
10 deciding that a property is historic, and then putting it in
11 the inventory for Park and Planning. Why can't we do more?

12 And then the last thing I want to leave with
13 McDonald's opened early on in this process that this was
14 going to be a destination. Placemaking, okay. Then why
15 don't you turn this into a place with more
16 pedestrian-friendly invite?

17 The McDonald's at East-West and Route 1 is in the
18 center of a lot of traffic. It's a little different from
19 what we're talking about here, but it's huge. Seniors show
20 up to that McDonald's all during the week, and they sit and
21 they, like, keep nursing a cup of coffee. Why can't you
22 make sure that you are inviting members of our community to
23 actually use your place?

24 Secondarily, can you show us that you would plan
25 to partner with local schools and do fundraisers? Could you

1 do reading for coupons?

2 And at the same time, we're asking you, I
3 appreciate that the planning board starting poking at the
4 different ways human beings walk into places. It's called
5 billy-goat trail or desire paths. You cannot control human
6 beings and how they access and use space from where they
7 live. It sounds like we could begin to be aware of this and
8 make sure that there is some pedestrian and cycling and
9 public transport aspect.

10 So if you're going to do this, and it looks like
11 you probably can, why can't you design, build to support the
12 community regarding historic preservation and inviting
13 people to come in outside of cars in the morning to get a
14 coffee before they head to the District?

15 All right. I've got my written comments here, and
16 I'm very much assuming that Mr. Gibbs is not going to object
17 to my written comments in the record. If he is, then give
18 me more time to come in here and talk about them. Okay.
19 I'm done.

20 CHAIRMAN: Thank you, Ms. Shea.

21 Mr. Smith?

22 MR. SMITH: All righty. Can you hear me?

23 CHAIRMAN: Yes, sir.

24 MR. SMITH: Do you want to hear me? I just want
25 to check first.

1 CHAIRMAN: Yes, sir.

2 MR. SMITH: All right. All righty. This has been
3 a long process all in all, and it's been a long day, and I
4 appreciate you staying with it, both planning board and
5 staff. It's been a -- these are a lot of difficult
6 questions to work with.

7 For the record, I'm Greg Smith. I live at 4204
8 Farragut Street in Hyattsville, and I am not being paid to
9 appear today.

10 I respectfully request that you disapprove
11 DSP-22001, and DDS-23001. While I appreciate that the
12 planning board continued this case in October to allow
13 additional exploration or certain issues raised by the
14 community in previous comments, I believe that the planning
15 board is erred in refusing to consider off-site impacts and
16 refusing to consider city and lane aspects of the site's
17 context.

18 I don't know of anything in the ordinance that
19 limits you to looking at on-site impacts, and in fact,
20 you're charged with determining whether or not the project
21 of the DSP meets the purposes of the ordinance, as Ms.
22 Schweisguth has pointed out. You're also charged with
23 making determination on impacts on certain resources, and
24 you can't do that with a non-holistic assessment, one so
25 tightly scoped.

1 I also believe the planning board erred when it
2 decided not to consider the potential public health impacts
3 of this project, especially when Section 27-284 of the
4 Zoning Ordinance requires that DSP be referred to the health
5 department and charged the department with assessing a
6 distribution of those impacts in the community.

7 That inherently states you should be -- means that
8 you should be looking off at the off-site impacts and
9 especially when those impacts fall on a community that is
10 already subject to multiple social, environmental, and
11 economic stressors, so many that it appears to be an
12 environmental justice community based on screening tools
13 offered by the U.S. EPA, MDE, and the University of Maryland
14 School of Public Health.

15 I testified on some of those stressors in my
16 earlier -- in my testimony at the earlier hearing, and I
17 provided even slides taken from EPA's environmental justice
18 screening tool.

19 Those stressors include very high percentages of
20 residents being persons of color, high heat -- this is an
21 intense urban heat island -- high traffic volumes, and a
22 commensurably high concentrations of toxic and carcinogenic
23 traffic-related air pollution. That's a subject that's
24 near -- I wouldn't say it's dear to me, but It's one that
25 I'm pretty familiar with. High asthma rates, lack of health

1 insurance, high percentages of people not speaking English,
2 and high percentages of children under five years old. It's
3 a cumulative impact that these existing stressors, and the
4 added impact from the project that should be examined.

5 The public health and climate impacts of idling
6 motor vehicles at fast-food drive-throughs are so
7 significant that jurisdictions are banning drive-throughs.
8 The city of -- new drive-throughs. The City of Minneapolis
9 is one of the latest to ban them. And cities and towns in
10 California, Missouri, and New Jersey --

11 CHAIRMAN: Mr. Smith, let me --

12 MR. SMITH: (Indiscernible).

13 CHAIRMAN: Let me jump in for a second.

14 MR. SMITH: Yeah.

15 CHAIRMAN: This is a limited scope hearing. There
16 are five issues. Absolutely, you're --

17 MR. SMITH: Right. I'll just --

18 CHAIRMAN: -- passionate about this.

19 MR. SMITH: Right. Okay.

20 CHAIRMAN: But this is not related to any of the
21 five issues on this limited scope.

22 MR. SMITH: Okay. Mr. Shapiro, I just made those
23 statements to explain why I think the scope of this hearing
24 is deficient, and I think I have the right to put that on
25 the record at least. And I'm done with that topic for now.

1 So 27-104 of the ordinance states that the
2 requirements that are laid out in the ordinance are the
3 minimum requirements. There's nothing that stops a planning
4 board to go in -- or to some to degree granted for more and
5 better from the applicants and should do in this case.

6 So I'll switch to a couple of other topics that
7 are -- so looking at the traffic analysis, there's no
8 evidence in the record that whatever traffic impact analysis
9 was done here accounts for approved projects in the
10 development pipeline. There's no evidence that the ITE trip
11 generation rates relied on here are representative of
12 McDonald's or fast-food drive-through rates in Prince
13 George's County or regionally or nationally.

14 COVID drove a shift from in-house ordering and
15 eating at drive-through. There's no evidence in the record
16 to indicate whether the trip generation rates used here were
17 based on data gathered before COVID or during peak COVID or
18 after peak COVID.

19 The applicant's trip generation calculation
20 assumes that 50 percent of the trips would be pass-by trips.
21 There's no clear basis in the record for that assumption and
22 no analysis of what happens to the overall number of peak
23 trips into and out of the site if the number of trips --
24 bypass percentages is higher or lower.

25 The shopping center will have 75 parking spaces,

1 and the McDonald's will have another 54 for a total of --
2 well, I'm sorry. The total's 125. McDonald's will have two
3 drive-through ordering lanes. So how does the applicant
4 justify such low peak hour trip generation rates, especially
5 when the majority of the revenues for these outlets is
6 documented to come from drive-through customers? How many
7 trips will be generated if the drive-through is busy and the
8 parking lot is full or nearly full? How would that affect
9 on-site circulation and safety? How would it affect
10 congestion and safety on local roads? None of these
11 questions are answered.

12 The applicant's trip generation calculation
13 focusses on morning and evening so-called peak hours,
14 presumably on weekdays. But what about other weekend days?
15 We know traffic through here is 24/7. Mr. Shapiro, you've
16 said and you've stated it. This intersection is miserable.
17 Folks who have testified here who live in the community have
18 lived experience that they can attest to as how awful this
19 intersection is.

20 So but what about the -- we know the traffic here
21 is practically 24/7/365 these days. People drive a lot, and
22 they do a lot of it outside of peak hours. So what about
23 those other -- what about weekend days when youth sporting
24 events or faith services tend to generate a lot of traffic,
25 and may generate a lot of trips to this McDonald's and to

1 this shopping center?

2 None of this is considered in any of the analyses
3 that are before you, and you're charged with making some
4 sort of determination as to whether or not this project is
5 appropriate, whether it supports with and complies with the
6 purpose of the ordinance, et cetera, et cetera. And the
7 information is simply not there to make an informed
8 determination.

9 So I'll switch gears here to stormwater
10 management. That was one of the issues that was listed for
11 this hearing. I'll cover it as best I can. I'm the one who
12 raised this issue, and I raised it partly within a context
13 of climate change. And the staff's response goes partway,
14 but only partway in that the staff reached out to DPIE, and
15 DPIE responded that, in fact, the applicant had complied
16 with Techno-Gram 007-2016, revised, which raised the figure
17 for the intensity of a 24-hour storm to be used in
18 stormwater management from I believe 7.4 inches to 8.5.

19 That was a step in the right direction by the
20 county, and it's a long overdue step. The problem with that
21 step, and I raised this issue in my testimony before, my
22 question was does it account for climate change and
23 projections of increased -- the documented increases in
24 intensity and the projected increases in intensity because
25 this is planning. You're the planning board. And you have

1 to look at what is known to be coming down the pipeline for
2 us. And none of that's being done in these analyses.

3 So that 8.5 inches -- it matches what NOAA has
4 published, and it ignores -- all it should be historic.
5 NOAA and you can find it in an updated version of what's
6 called NOAA's atlas 14. That's the bible for precipitation
7 when it comes to stormwater management floodplain. But NOAA
8 is developing Atlas 15, and that's to be published in 20 --
9 there's a pilot out now (indiscernible).

10 CHAIRMAN: Mr. Smith, I've got to ask you to move
11 on from this because --

12 MR. SMITH: I will.

13 CHAIRMAN: -- it's not pertinent to what's --

14 MR. SMITH: I will.

15 CHAIRMAN: -- before us.

16 MR. SMITH: Well, I think it is because you wanted
17 to get into --

18 CHAIRMAN: I know, but it's not. It's not.

19 MR. SMITH: Well, then let me on the record.

20 CHAIRMAN: I know you are passionate about it, but
21 it's not pertinent --

22 MR. SMITH: Right.

23 CHAIRMAN: -- to what's before us.

24 MR. SMITH: Well, let me put on the record, Mr.
25 Shapiro, and then you -- you're not even letting me present

1 the points before deciding it's irrelevant. And I think
2 that that's improper.

3 So staff has recommended permeable pavement for the
4 site. That's a step in the right direction. Will that
5 permeable pavement's performance decline over time? Will it
6 require maintenance to maintain the performance? If so,
7 which agency ensures the maintenance is performed and
8 affected?

9 One of the issues I raised in my testimony in
10 October was whether or not staff or the applicant knew
11 whether the stormwater system that would receive discharges
12 on the site has a capacity to handle those flows. It's
13 pretty fundamental. If you've got a three-inch pipe that's
14 draining into a two-inch pipe, you might run into problems,
15 and there's no answer on the record for that.

16 With respect to the stormwater figures, what I'm
17 trying to get to here is there is readily available public
18 information sources out there from NOAA and from NOAA's
19 mid-Atlantic research center. It provides projections for
20 storm events based on climate scenarios. And their finding
21 is --

22 CHAIRMAN: Mr. Smith, please move on.

23 MR. SMITH: I am working to do it. Please stop
24 interrupting.

25 CHAIRMAN: But this -- no, no, no. Stop it. This

1 is not pertinent to what before. You cannot just talk
2 because you want to talk. This is not --

3 MR. SMITH: I'm not testifying because --

4 CHAIRMAN: -- part of the limited --

5 MR. SMITH: -- I want to talk. I am not --

6 CHAIRMAN: This is not -- Mr. Smith, this is not
7 part of the limited scope hearing. Please move on.

8 MR. SMITH: All right. Getting to the adequacy of
9 the stormwater management design, if it does not include
10 projections for -- these are near-term projections for
11 increases in 100-year storms and more frequent storms. If
12 it does not include those, then this system is likely to
13 fail, and you cannot make -- and if you do not consider
14 those factors, you cannot make an informed determination
15 that this problem --

16 CHAIRMAN: It's not before --

17 MR. SMITH: -- (indiscernible).

18 CHAIRMAN: -- the staff. It is not before us.
19 This is DPIE. So please move on.

20 MR. SMITH: Staff relied on -- okay. I've just
21 said it. The projections are 11 percent higher over the
22 next several decades and 20 percent higher if their farther
23 out than that. If you design based on the figures that
24 they're relying on, then --

25 CHAIRMAN: I'm running out of patience.

1 MR. SMITH: All right. And I'm done with
2 testimony.

3 CHAIRMAN: Thank you. Do you have any other
4 topics, or that was the last one?

5 MR. SMITH: Nope. I think I've covered them --

6 CHAIRMAN: All right. Thank you.

7 MR. SMITH: -- as well as I'm allowed to.

8 CHAIRMAN: We are on applicant rebuttal.

9 MR. GIBBS: Ready to make closing comments.

10 CHAIRMAN: Before you do that, if you don't have
11 any rebuttal, then I want to talk with my colleagues a bit
12 about how we want to proceed, okay?

13 And this is because I'm thinking before we get to
14 summation and applicant summation, commissioners, are there
15 more things that we need or want? First of all, I'm a
16 little bit mindful of if we are looking for more
17 information, are we up against any statutory deadlines if
18 we, dare I say it, ask for another continuance because we
19 want some additional information.

20 Ms. Tallerico, are we able to do that?

21 MS. TALLERICO: Ms. Gomez-Rojas might have that
22 information more readily than me as to what --

23 CHAIRMAN: Okay.

24 MS. TALLERICO: -- waivers the applicant has
25 provided from the statutory deadlines at this phase.

1 CHAIRMAN: Okay.

2 MS. GOMEZ-ROJAS: Yes, the applicant provided a
3 waiver, but I would like to check with Mrs. Conner if this
4 will cover. And I know that --

5 CHAIRMAN: Okay. And while you're doing that --

6 Commissioners, there are a number of issues that
7 came out that I do feel like I'm curious about, wanting more
8 information about. I can mention some of the ones I have.
9 I can turn to you all if there's things that you want if you
10 all want to start unless it's helpful for you to hear my
11 frame for this.

12 COMMISSIONER WASHINGTON: The only thing I would
13 offer at this point -- and I guess the time piece would be
14 relative. I just appreciated Mrs. Shea's comments with
15 regard -- and granted, it's out of scope, but I want to
16 thank staff for covering this as part of their second
17 review. But the whole notion -- I even jotted it down.
18 It's, like, design and building the facility to support the
19 community.

20 CHAIRMAN: Yeah.

21 COMMISSIONER WASHINGTON: Like, the historic
22 markers.

23 VICE CHAIRMAN: Right.

24 COMMISSIONER WASHINGTON: Clearly, that would be
25 something I think the applicant would have to proffer or

1 look at. But looking at the restaurant as kind of a
2 destination facility -- I really, really appreciated her
3 saying that. And as she was providing that testimony,
4 envisioned exactly where I go, for example, to a spot for
5 coffee or to meet up or so I would just ask that be
6 considered. The applicant to --

7 CHAIRMAN: I'm with you. Yeah. I'm with you.
8 That caught my attention. That definitely was on my list.

9 COMMISSIONER WASHINGTON: Oh, okay.

10 CHAIRMAN: Yeah.

11 COMMISSIONER WASHINGTON: That's it for me.

12 CHAIRMAN: Others that you all have that we -- if
13 we were to seek out more information, if you want to, are
14 there other things that you would be looking at?

15 COMMISSIONER DOERNER: I mean, depending on the
16 timing, like, I'd be interested to know a little bit more
17 about the SHA plans. Like, I know that we heard a little
18 bit about that. But to me, that's pretty important to know,
19 like, where things are potentially going to make sure that
20 we're not putting something in place that's just going to get
21 torn down or reconfigured because if they're going to be
22 changing the bushes and the other things around there, that
23 it's going to improve site line or make it worse, and we're
24 putting in something that's going to be -- have high traffic
25 in and out, that changes what we might otherwise approved or

1 not approved.

2 CHAIRMAN: Yeah.

3 COMMISSIONER DOERNER: And then I try to -- as
4 much as I don't want to open up a can of worms and stuff, I
5 do think that the entire site is an interesting thing to
6 explore because people are going to be coming in here, and
7 if they can't get in that first drive-in/drive-out, they're
8 just going to queue up on the next one and go on the pother
9 site. So like, they own the whole site, and people are
10 going to be onto that.

11 I don't know why we wouldn't consider the whole
12 site in its entirety and how people would actually navigate
13 within there and whether or not there's too many driveways
14 and how to kind of like prioritize people walking around
15 that area. So I think that part of the testimony today
16 really kind of caught my attention. And I'd like to see --

17 CHAIRMAN: Yeah. COMMISSIONER DOERNER: -- more on
18 that because when I was just reading the addendum, I was
19 interested in, like, kind of the queueing and how that was
20 going to happen because it just said, oh, we're just going
21 to wait for some drawings and see what we would do with it.
22 And then now that we're thinking about the whole site, I
23 think we can look a bit more holistically about that. And
24 see whether or not we'd be comfortable with how that would
25 work.

1 And then on the trees, I mean, I'll just tell you
2 where I'm at right now. I don't think we should be cutting
3 them down. And I know that the community had wanted to get
4 rid of some of that just for --

5 VICE CHAIRMAN: That's right.

6 COMMISSIONER DOERNER: -- more security, but I
7 would actually lean in the favor of keeping them as much as
8 we can and trimming them up to, like, a certain height, like
9 the eight-foot, I think, height that they had said in the
10 staff report to at least retain the trees and just make it a
11 little bit harder for people to potentially hide behind them
12 or hang stuff on it and things like that.

13 I don't know if that would create problems because
14 that's far outside of my expertise or anything, but just
15 knowing about environmental changes and climate stuff, like,
16 cutting down trees that are already there and doing a good
17 job, I'm just really hesitant about doing that.

18 CHAIRMAN: Yeah.

19 COMMISSIONER DOERNER: I think clearly to, like --
20 in an area that already has social justice problems and
21 stuff like, we're just introducing more justice kind of
22 problems within there. So that's my initial thoughts on
23 this.

24 CHAIRMAN: Yeah. I'm with you on all those. Vice
25 Chair Bailey, Commissioner Geraldo, anything you -- if we go

1 this route, anything else that you'd want to hear?

2 COMMISSIONER GERALDO: I'd just accept the
3 comments of Commissioner Washington, and Commissioner
4 Doerner, and yours. I'm not in favor of any of the trees
5 being cut down. Certainly, the lower branches can be
6 trimmed. And I'm concerned about the circulation within and
7 all the access points within that whole shopping center and
8 whether or not -- the idea earlier of seniors going there
9 would be fine. But I just don't know the way that is with
10 everybody coming in and out at different points how safe
11 that would be. So I think that issue needs to be looked at.

12 CHAIRMAN: Thank you.

13 VICE CHAIRMAN: Yeah. Well, as a destination
14 point, I think that's very interesting. In my neighborhood,
15 there is a McDonald's. If you go in there in the mornings
16 before 10 o'clock, you will see a bunch of men sitting
17 around talking to each other. Another McDonald's not far
18 from where I live also -- so you go in there on Sundays,
19 there are a bunch of women in there talking. I don't know
20 why they're separated. They should come together. But at
21 any rate, these places are sometimes used as meeting places
22 within the community.

23 CHAIRMAN: Yeah.

24 VICE CHAIRMAN: So there's an opportunity to see
25 that this could happen in this community as well.

1 As far as the trees are concerned, that's kind of
2 a double-edge situation because trees can be used as hiding
3 places for folks sometimes, so we have to be very careful
4 about that. And I think we need to look at that carefully
5 and see what we'd like to see happen there. Is there some
6 point where they can be partially cut down, but not all the
7 way down? But you don't want a bunch of trees around your
8 McDonald's because we don't want to use that as a hiding
9 place for folk who are there for other reasons other than
10 McDonald's. So that's my take on that.

11 CHAIRMAN: Well said. Yeah. I'm supportive of
12 all the things that I'm hearing, and I think what I'm going
13 to suggest is that we turn this back to staff and work with
14 the applicant, see if there is movement that we can make on
15 this.

16 And again, what I'm hearing is we want you to look
17 at the site as the shopping center as one site and designed
18 as one site and to think about ingress, and egress, and
19 pedestrian safety, and even the look and feel of it, to
20 think about that more holistically because it really did
21 feel -- from moment one, it felt like there's the McDonald's
22 design, and then there's a shopping center that not much is
23 happening to, and that's not the reality of the situation.
24 So that's point 1 is sort of the whole project look for
25 this.

1 And to Commissioner Doerner's point, to get even
2 more information about what SHA's plans are. Maybe it's
3 integrated enough but maybe not. And so if that additional
4 layer of conversation can be happening so that we're being
5 very mindful of how pedestrian and potentially bike-dense
6 this area is. It truly is. That one.

7 The second thing is this issue around the
8 departure from design standards the tree -- the public
9 safety piece. Even amongst us, there's a tension around
10 that. I err on the side of wanting to preserve the trees.
11 I'm very mindful of the public safety concerns though. And
12 so another look at that and then filtering that with what
13 Ms. Shea said specifically, which is preserving that buffer
14 for both environmental reasons and historic preservation
15 reasons. Maybe that tips the point a little bit toward the
16 preservation, maybe. But I would ask staff to revisit that.

17 And then I really, really appreciate the idea of
18 Mr. Gibbs, if you and your applicant can look at what you
19 might proffer from what you have heard from us in terms of
20 first of all, being an amenity for the community related to
21 the historic site that right next to it, and how you could
22 connect and build off of that.

23 And then the second one is what can you do to make
24 this more of a destination a pedestrian a gather place, have
25 it be that kind of McDonald's because I agree. There are

1 these McDonald's that that's what they do in communities.
2 And if we were to approve this one, I would want this to be
3 it.

4 VICE CHAIRMAN: Yeah.

5 CHAIRMAN: So --

6 VICE CHAIRMAN: And this is --

7 CHAIRMAN: So that's sort of where I come from for
8 the list. Some of those are proffers. And essentially, Ms.
9 Shea also mentioned other community benefits that are --
10 maybe they're sort of lower-hanging fruit, but it would go
11 a long way towards showing sort of goodwill toward the
12 community, Mr. Gibbs. And so you might want to think about
13 what other community benefits you might proffer, not a full
14 community benefits agreement. But are there other specific
15 things given the location?

16 COMMISSIONER WASHINGTON: And Mr. Chairman --

17 CHAIRMAN: So commissioners, am I missing anything
18 here?

19 COMMISSIONER WASHINGTON: Yeah. I just wanted to
20 offer as part of the -- because you're right. It is a 50/50
21 balance in terms of trees up, trees down. But if you're
22 going to take a look at kind of creating a destination site
23 or space, and granted, there's an undesirable situation
24 currently, but can part of that even be utilized to create
25 more of a desirable destination?

1 CHAIRMAN: Interesting. Yeah. Right.

2 COMMISSIONER WASHINGTON: So since McDonald's was
3 willing to invest in clearing it out for the community, I
4 mean, that actually may have some benefit. You create a
5 space where a community can take advantage of it, I don't
6 know. I'm not a social justice science -- I can't solve the
7 problem. I'm just thinking about how --

8 VICE CHAIRMAN: But you're on the right track.

9 COMMISSIONER WASHINGTON: How there may be some
10 balance there or look at it. I mean, it could be surrounded
11 by markers, et cetera. So I just wanted --

12 CHAIRMAN: That --

13 COMMISSIONER WASHINGTON: -- to present --

14 CHAIRMAN: Yeah. I'm with you on that.

15 So I think what is important here is that staff is
16 clear, and Mr. Gibbs, that you are clear with the directions
17 that we are encouraging you to go because at the end of the
18 day, this is a conversation that you are all going to have
19 to have with each other.

20 So Ms. Gomez, questions for us and for the --

21 MS. GOMEZ-ROJAS: No.

22 CHAIRMAN: -- attention and the direction for the
23 board?

24 Ms. Conner?

25 MS. CONNER: Mr. Chair, this is Sherri Conner

1 again. Just wanted to confirm that we did previously
2 receive an indefinite waiver from the applicant on this and
3 clear on the comments and direction -- you would like us to
4 connect with the applicant.

5 CHAIRMAN: Okay. Thank you.

6 And Mr. Gibbs?

7 MR. GIBBS: I took faithful notes, Mr. Chairman.
8 And we will certainly confer with staff and try to
9 consolidate our understanding of the issues that were
10 raised. I'm not sure that I fully understand, quite
11 frankly, every comment that was made simply because some
12 were a little hazy in my respectful opinion. But I will
13 confer with staff and see if we can consolidate a list and
14 move forward.

15 CHAIRMAN: Okay. Okay. So I am -- I want to make
16 sure that I followed our piece here. So this -- if we
17 continue this hearing, what's left would be -- well, I have
18 what's left here, and this may be wrong. What I have left
19 here would be the opposition's summation and then the
20 applicant's summation?

21 VICE CHAIRMAN: Can they do that?

22 MS. TALLERICO: Seems correct to me.

23 CHAIRMAN: Okay.

24 MS. TALLERICO: I'm pulling up your rules of
25 procedure just to make sure I'm not having a late-in-the-day

1 brain lapse here on the order.

2 CHAIRMAN: And the summation can be not just
3 related to the addendum, but the summation is truly a
4 summation. But I think it'll be hard to have that summation
5 without having staff come back or the applicant come back
6 with where we have ended up after the conversation.

7 COMMISSIONER GERALDO: I agree with you, Mr.
8 Chair.

9 CHAIRMAN: So it sounds like if we continue the
10 hearing, then we're going to continue this, and we'll come
11 back with a staff presentation or --

12 COMMISSIONER GERALDO: I think that --

13 CHAIRMAN: Yeah. Staff presentation. And then
14 we'll have the opposition's summation and the applicant's
15 summation.

16 Ms. Tallerico, will that work?

17 MS. TALLERICO: Sounds correct to me. Well, I
18 suppose the applicant and opposition could respond to the
19 staff presentations --

20 CHAIRMAN: So they'll have the opportunity to
21 cross --

22 MS. TALLERICO: -- to their discretion. Yeah.

23 CHAIRMAN: -- the staff presentation. Okay.

24 Okay. So then in terms of timing, I assume this
25 is going to take a little bit more time than a week or two.

1 And we're entering the holidays.

2 And Mr. Gibbs, I understand that you've been
3 working this for a long time, but I imagine that we're
4 looking at moving this into early to mid-January.

5 So staff, is there a recommendation for what might
6 work for a date for what's going to work for our calendar?

7 MS. CONNER: We do have a full agenda on January
8 9th, so I'd recommend at least the 16th as the earliest.

9 CHAIRMAN: Okay. So let's do January 16th. And I
10 want to see if there are questions from the applicant and
11 the opposition as well.

12 Mr. Gibbs, questions for you?

13 MR. GIBBS: Mr. Chairman, it's --

14 CHAIRMAN: Yes, sir?

15 MR. GIBBS: -- 4 o'clock. My concern is coming
16 back and going through another six-hour hearing because it
17 has a way of getting like that with unlimited
18 cross-examination. As I understand what's being asked of
19 us, there are a few very concise issues that you want
20 information on, and staff is going to end up making a
21 presentation. I would just like some understanding that
22 we're not going to be in an open-ended process again when we
23 come back here on January 16th that's going to lead to five
24 or six hours. I --

25 CHAIRMAN: It is certainly -- I hear you loud and

1 clear. It is certainly not my desire to have that happen.
2 I will do my best and work with our team to make sure that
3 we are very focused on the limited scope nature of this.
4 Very respectful of what you're saying, and I will certainly
5 do my best to make sure that does not happen.

6 MR. GIBBS: Thank you very much.

7 CHAIRMAN: Thank you.

8 Mr. Smith, I saw you had your hand raised, too.

9 MR. SMITH: Yes, thank you. So just procedurally,
10 it sounds like staff is going to come back with another
11 memo, correct?

12 VICE CHAIRMAN: With the what?

13 CHAIRMAN: Staff's coming back with another
14 addendum essentially on the issues we've been talking about.

15 MR. SMITH: Right. So just as with this hearing,
16 it seemed appropriate that the staff -- the planning board
17 published that memo at least two weeks prior to the hearing
18 just as we did here. That was a staff recommendation for
19 this hearing, and it would be appropriate for the continued
20 hearing, I think.

21 CHAIRMAN: I think that does feel appropriate.
22 Ms. Gomez, Ms. Conner, Ms. Tallerico, do you have any
23 concerns around that?

24 MS. CONNER: No, no concerns. That's what we will
25 endeavor to do.

1 MR. BOADO: Will anything be published in Spanish
2 so that the community that's most affected will actually
3 have a chance to understand what's going on here --

4 CHAIRMAN: Let's, very simply --

5 MR. BOADO: -- for the first time?

6 CHAIRMAN: -- and it's not a heavy lift. Let's
7 commit to translating the addendum in Spanish. And we'll
8 figure it out so it's a not a huge burden on you, Ms.
9 Conner, and your team. But let's make sure that that
10 addendum is in Spanish as well.

11 MR. BOADO: Thank you.

12 MR. SMITH: And so all persons of record will
13 receive notice of the continuation, right?

14 CHAIRMAN: As is our practice.

15 MR. BOADO: Okay. Thank you.

16 MR. SMITH: All righty.

17 CHAIRMAN: Commissioners, Ms. Staff and Ms.
18 Tallerico, anything else for the good of the order before we
19 continue this to January 16th --

20 MS. GOMEZ-ROJAS: I just have a quick question --

21 CHAIRMAN: -- on the limited scope Mr. Lenhart?
22 Yes.

23 COMMISSIONER WASHINGTON: Yes, we do.

24 MS. GOMEZ-ROJAS: -- on the addendum. Do you want
25 the addendum to be in Spanish, not the entire staff report,

1 just to confirm and leave it in the record?

2 MR. BOADO: Just the addendum, yes.

3 CHAIRMAN: Okay.

4 COMMISSIONER WASHINGTON: And I just thought I saw
5 hands up. I don't know if they're legacy hands or not, Mr.
6 Chairman.

7 CHAIRMAN: Mr. Boado looks legacy. Mr. Smith
8 looks legacy. Mr. Wilpers is no longer on, right? So I
9 think we're all good.

10 Okay. Folks, unless there's anything --

11 Oh, Mr. Wilpers, you are there. Any other --
12 you're okay. Good. Thank you.

13 MR. WILPERS: Yeah.

14 CHAIRMAN: So we're going to continue this to
15 January 16th. Do we need a motion to continue this to
16 January 16th? I assume we do?

17 COMMISSIONER WASHINGTON: Mr. Chairman, I move
18 that we continue DSP-22001 to planning board hearing date of
19 January 16, 2025.

20 VICE CHAIRMAN: Second.

21 CHAIRMAN: And I'm assuming that includes both the
22 companion case as well?

23 COMMISSIONER WASHINGTON: Yes.

24 CHAIRMAN: Okay.

25 COMMISSIONER WASHINGTON: And I should also note

1 it is limited scope.

2 CHAIRMAN: Yes.

3 COMMISSIONER WASHINGTON: Limited scope.

4 CHAIRMAN: Thank you. So we've got a motion by
5 Commissioner Washington and a second by vice Chair Bailey.
6 IF there's no discussion of the motion, I will call the
7 roll.

8 Commissioner Washington?

9 COMMISSIONER WASHINGTON: I vote aye.

10 CHAIRMAN: Vice Chair Bailey?

11 VICE CHAIRMAN: I vote aye.

12 CHAIRMAN: Commissioner Doerner?

13 COMMISSIONER DOERNER: I vote aye.

14 CHAIRMAN: Commissioner Geraldo?

15 COMMISSIONER GERALDO: I vote Aye.

16 CHAIRMAN: Commissioner Smith -- oh, I'm sorry. I
17 vote aye as well. The ayes have it 5-0. I believe,
18 commissioners, we have no further business before.

19 Ms. Conner, is that correct?

20 MS. CONNER: That's correct.

21 CHAIRMAN: All right. Then without objection,
22 folks, it was a long day. I want to thank everybody for
23 your participation on all sides and your patience and
24 working through all the technology issues as well. And we
25 are adjourned. Thank you.

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(Whereupon, the proceedings were concluded.)

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MCDONALD'S AGER ROAD

Hearing, PPS DSP-22001

By:



Date: March 3, 2025

Kyle Blaus-Plissner, Transcriber