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

DSP-20002 GIAC SON BUDDHIST TEMPLE
Planning Board Meeting, Item 8

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
September 7, 2023
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BEFORE:

PETER A. SHAPIRO, Chairman
WILLIAM M. DOERNER, Commissioner
A. SHUANISE WASHINGTON, Commissioner

OTHERS PRESENT:

ANDREW SHELLY, Staff
TRACI SCUDDER, Attorney/Representative
DELISA COLEMAN, Senior Counsel
JEREMY HURLBUTT, Staff

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P R O C E E D I N G S

1
2 CHAIRMAN: Good morning, everybody. It is 11:11,
3 and we are back from a brief break. We're going to take up
4 item 8 on our agenda. Item 8 is a Detailed Site Plan DSP-
5 20002, GIAC SON Buddhist Temple. This was continued from
6 the Planning Board meeting of July 27th, 2023. We will have
7 Mr. Shelly, who will give the staff presentation.

8 This was a limited scope hearing, so there's a
9 continue -- for the continuation. So we'll get some detail
10 around exactly what that limited scope is about. I'll be
11 fairly strict with folks to keep us focused on what the
12 limited scope hearing is speaking to for this. So we'll
13 hear from Mr. Shelly, and then we'll hear from Ms. Scudder.
14 And then we have a bunch of folks who've signed up to speak
15 as well.

16 This is an evidentiary hearing, so I'm going to be
17 requiring those intending to provide testimony to take an
18 oath.

19 So at this time, if you can come on screen, that
20 will be helpful. If you can't, that's okay. And I will
21 just ask you whether you've been sworn in or not. But if
22 you can -- if you're planning on testifying, if you can come
23 on screen right now, folks in support, folks in that
24 position, for me to swear you in.

25 So let's take a second and give folks a second to

1 come online. Again, you don't have to come online, but it
2 just makes it a lot easier for me to see that you have taken
3 the oath. Do we have other folks? And I'll verify as we go
4 along --

5 MS. SCUDDER: Yes, I believe there's one other
6 person from the temple.

7 Is Trina from the temple here? Can you come on as
8 well?

9 CHAIRMAN: Thank you, Ms. Scudder.

10 Hey, Ms. Scudder, if she is going to be speaking,
11 we can swear her in at the time that she comes on, so this
12 is not the only opportunity.

13 MS. SCUDDER: Okay.

14 CHAIRMAN: Okay. So for those who are here, do
15 you solemnly -- please raise your right hand. Do you
16 solemnly swear or affirm that the -- your testimony will be
17 the whole truth and nothing but the truth?

18 UNIDENTIFIED SPEAKER: Yes, I do.

19 UNIDENTIFIED SPEAKER: I do.

20 CHAIRMAN: Okay. Great. Thank you, all.

21 Consider yourself sworn in again. Again, as folks come up
22 to speak, I'll verify that you've been sworn in. If you
23 haven't, we'll swear you in at that time. Thank you all
24 very much.

25 And so now we will turn to Mr. Shelly, who will

1 give a staff presentation. I will also enlist the
2 assistance of our senior counsel, Delisa Coleman to help
3 support me and staff to make sure that we are staying true
4 to the content and context of this hearing.

5 So Ms. Coleman, as always -- not that you need me
6 to authorize you -- but as always, feel authorized to step
7 in at any time.

8 And Mr. Shelly, take it away. The floor is yours.

9 MR. SHELLY: Hey, good morning, Mr. Chair. Are
10 you able to hear me okay?

11 CHAIRMAN: Yes, sir.

12 MR. SHELLY: All right. Great. And I hope you --
13 I hope everyone had a wonderful break as well.

14 For the record, my name is Andrew Shelly with the
15 Urban Design Section. The item before you is item number 8,
16 Detailed Site Plan DSP-20002 for GIAC SON Buddhist Temple,
17 which seeks to develop a 4,625 square foot place of worship
18 and maintain an existing single-family detached dwelling as
19 a parsonage.

20 On June 22nd, 2023, the Prince George's County
21 Planning Board held a public hearing for Detailed Site Plan
22 DSP-20002 for GIAC SON Buddhist Temple. The Planning Board
23 voted to continue the public hearing until July 27th, 2023,
24 for the limited purpose of obtaining more information about
25 a proposed metal carport shown on the applicant's limited

1 site plan.

2 During the Planning Board public hearing on July
3 27th, the applicant provided testimony stating that the
4 metal carport was no longer being pursued. The applicant
5 then requested and the planning board voted to continue the
6 public hearing until September 7th, 2023, for the limited
7 purpose of obtaining additional information regarding the
8 Buddha statue, site landscaping, and site fencing.

9 Prior to today's public hearing, the staff
10 received numerous exhibits from the applicant. These
11 exhibits include a letter to the Chairman discussing the
12 importance of the Buddha statue to the Buddhist faith,
13 proposed illustrative renderings of the subject property, a
14 letter from the applicant's attorney to staff concerning
15 condition 1-X in the staff report, which states the Buddha
16 statue must conform with the accessory building height
17 standards of the rural residential or (R-R) zone of the
18 prior zoning ordinance, a proposed revised condition 1-X
19 from the applicant, and case law examples that are discussed
20 in the letter from the applicant's attorney to staff.

21 Staff disagreed with the applicant's proposed
22 revision to condition 1-X. Staff finds that the subject
23 properties location in (R-R) zone necessitates a regulation
24 of the height of the Buddha statue to 15 feet.

25 An analysis of the applicable regulations can be

1 found on pages 5 through 7 of the technical staff report.
2 The staff report notes that the Buddha statue is considered
3 an accessory structure, which is permitted by the prior
4 zoning ordinance in the (R-R) zone. However, there are no
5 guidelines in the prior zoning ordinance governing the
6 height of accessory structures.

7 Staff presumed that the Prince George's County
8 District Counsel did not intend for the height of accessory
9 structures to be unlimited. Staff then determined that the
10 most appropriate maximum height for an accessory structure
11 is equal to the maximum prohibited height of an accessory
12 building, which in the (R-R) zone is 15 feet.

13 This determination maintains the scale and
14 character of the one-family detached residential dwelling
15 units that create the neighborhood surrounding the subject
16 property. Permitting a statue height -- excuse me --
17 greater than 15 feet would not be comparable -- would not be
18 compatible with the surrounding neighborhood, nor be
19 consistent with the prior zoning ordinance.

20 The applicant provided landscaping and fencing
21 that was identical to the original submission. Staff found
22 that the landscaping and fencing were both sufficient, but
23 added a new condition: Condition 1-W(5) that requires the
24 applicant to update the landscape plan and associated
25 planning schedules to substitute two provided ornamental

1 trees screening the property to the north for the Buddha
2 statue with two evergreen trees.

3 Staff also examined the illustrative renderings
4 provided, which are shown on pages 11 through 14 of the
5 additional backup published September 6th, 2023, and found
6 that they include additional structures that are not part of
7 this detailed site plan approval. These additional
8 structures will require a separate approval process and are
9 not being considered with this application.

10 A survey of 9807 Snowdon Road, known as Lot 1, was
11 submitted as an opposition exhibit to staff. It is shown on
12 page 137 of the additional backup published on September
13 6th, 2023. This survey is signed and sealed by qualified
14 professional and shows an approximate two-foot discrepancy
15 on two boundary lines from the survey submitted by the
16 applicant's qualified professional. Staff found that the
17 discrepancy does not cause any structure to be in violation
18 of setback requirements associated with the prior zone
19 ordinance.

20 Additionally, staff would note that all
21 improvements made on property need not owned by the
22 applicant or shown to be removed with this application.

23 Lastly, as a manner of housekeeping, staff note
24 that condition 1-X should be revised on the record as
25 follows: And I quote, "Revise the Buddha statue height to

1 not exceed the requirements associated with Section 27-
2 442(I) of the prior Prince George's County Zoning Ordinance
3 for properties in the rural residential or (R-R) zone.

4 This would include staff presentation. Thank you.

5 CHAIRMAN: Thank you, Mr. Shelly.

6 Commissioners, any questions for staff before we
7 hear from the applicant?

8 COMMISSIONER DOERNER: Yeah, I've just a question
9 on -- if I may, on the temple -- what is it called -- we're
10 determining it as an accessory structure in terms of the
11 statue that's being built, and I just want to know a little
12 bit more -- I think you've outlined it in the staff
13 report -- in terms of how the zoning code defines accessory
14 structure and why you think that, even though it's somewhat
15 vague, that the statue would fall under that particular
16 definition.

17 Are there instances of other statues -- because
18 this is kind of different, right? This is a -- it's not a
19 structure that's being used, that's being lived in, being
20 stored in or anything like that. It is maybe a structure.
21 But I'm wondering how we fit statues into that definition.
22 If there's other statues that fitted into that definition
23 throughout the County and other maybe, like, zones.

24 And then whether or not -- like, if we're thinking
25 about, like, a cell phone tower or something else that might

1 be in, like, a rural area, do we use the same kind of
2 classification for that?

3 Because I'm wondering on this, like, does it
4 actually fit under the success structure definition, or are
5 we just trying to look for something that seems reasonable
6 and put it in there? Because my fear is that it's not
7 actually consistent in other places. And I'm thinking, our
8 peace cross, which is a monument to the soldiers who gave an
9 ultimate sacrifice, would I consider that to be an accessory
10 structure? I don't know.

11 And I'm looking for a little bit more guidance on
12 that, whether it's from Mr. Shelly, and from a technical
13 perspective and what else we have around the County to point
14 to. And then maybe from Ms. Coleman, from a legal
15 perspective, why we would think that this would be
16 potentially an accessory structure. And then would we --
17 would we classify our own peace cross and say that that is
18 also an accessory structure on that parcel of land as well?

19 CHAIRMAN: All right. We can hear from staff, and
20 perhaps Ms. Coleman can weigh in too.

21 MR. SHELLY: Thank you, Commissioner Doerner.

22 So, the staff report provides more of a discussion
23 on a definition of monument, which is also what we're
24 looking at when we say structure. And in the staff report,
25 looking at monuments, those tended to be things that are

1 attached to buildings. And since this structure and statue
2 is not being directly attached to a building, we didn't feel
3 it fit under that.

4 And I would also note for the peace cross that was
5 brought up, that is on county-owned land, so that doesn't
6 necessarily require conformance to the zoning ordinance
7 based on the property owner.

8 CHAIRMAN: There's not much more --

9 MS. COLEMAN: Commissioner Doerner, I'll jump in
10 here as well. So if you look to the zoning ordinance -- the
11 prior zoning ordinance, structure has its definition, which
12 is anything that's built or constructed. So a structure
13 could be a statue, or a structure could be an arbor, or a
14 structure could be a building. In this instance, it happens
15 to be the proposed statue. And accessory, of course, is
16 something that is subservient to the primary structure or
17 building in this case, with the temple being the primary
18 building.

19 In talking about the peace cross, one, Mr. Shelly
20 is right that it is on commissioner property. We deem it a
21 structure. We deem it a monument. But also when we talk
22 about that case, which also is something that Ms. Scudder
23 attached and mentioned, that case was not a zoning case.
24 That case was an establishment clause case, which dealt with
25 the appropriateness of a religious emblem on government-

1 owned property and maintained with government-owned
2 products -- of money and funds. So there's not a direct
3 correlation between the peace cross that is there and the
4 proposed Buddha statute here.

5 COMMISSIONER DOERNER: Yeah, so I'm not worried
6 about the constitutionality kind of issues that came up with
7 the peace cross and whether or not there's a violation of
8 First Amendment rights or anything like that in this
9 particular case.

10 What I'm interested in is more just the -- if we
11 were looking at that peace cross and looking at the height
12 of it, ignoring the nonconforming news or any other things
13 that would allow it to be grandfathered in, would we allow
14 it to be that same height as well?

15 Because what I'm not understanding is, if we have
16 this statue that is essentially inside -- interior to the
17 primary structure and not visible from the outside, would we
18 think that it's appropriate then to allow it to be higher
19 than that 15 feet? And if not, like what is the sort of
20 damage that's being made by having it more than 15 feet? If
21 you look at the primary structure is higher than 15 feet and
22 you can't still see it, what damage is it (audio
23 interference).

24 And that's where I'm kind of wondering, why are we
25 reapplying potentially that height limit to something that

1 we can't even see and that we wouldn't maybe even know is in
2 there from the outside? And particularly, because I think
3 it is a religious symbol, that it carries some additional
4 kind of nuances within there, in terms of, like, how we
5 would potentially classify it that are different from a
6 structure that we would typically kind of fit into the land
7 use law.

8 CHAIRMAN: Let's hear from Ms. Coleman again,
9 certainly. But I want to see if, Mr. Hurlbutt, you want to
10 jump in as well.

11 COMMISSIONER DOERNER: And let me also ask one
12 other question, too, just real quick before we jump into to
13 others. Would we view this as differently if it was inside
14 of a building? So let's assume that that that we have a
15 temple or church, whatever it might be, and we have a
16 structure inside of there that's a cross or an altar or a
17 statue, and it's higher than 15 feet, so it's 20 feet, but
18 it's enclosed entirely in the building, would we not allow
19 that then, at this point, because that seems to be kind of
20 the interpretation that might come out of this case. And
21 I'm just interested in how we stand where we think from a
22 staff level on this and also legal level.

23 COMMISSIONER WASHINGTON: And if it's inside the
24 building, it wouldn't be an accessory, in my mind at least.

25 CHAIRMAN: All right. But let's hear from -- I'm

1 with you, Commissioner Washington, but let's hear from
2 staff.

3 Mr. Hurlbutt, do you have anything you want to
4 chime in on, or we turn back to Mr. Shelly and Ms. Coleman?

5 MR. HURLBUTT: Yeah, I just have a few things to
6 add. I think these are good questions. I think --

7 CHAIRMAN: You're a bit soft with your volume, Mr.
8 Robuck.

9 MR. HURLBUTT: Okay. Can you hear me now?

10 CHAIRMAN: Yeah. Much better.

11 MR. HURLBUTT: So I think the important thing to
12 answer some of these thoughtful questions is that when we
13 look at our zoning ordinance, there are specific exemptions
14 for certain things that were mentioned, like radio towers
15 and other things. As Mr. Shelly pointed out, there is a
16 nexus between monuments that are a part and integrated to
17 the building.

18 And as the board has already stated, there's a
19 difference. So if this statue was integrated into the
20 primary building, it would fall under those standards for
21 the primary building or the principal building, but it's
22 accessory. So in those cases, we look at it in terms of
23 what is most closely aligned with that. And in this case,
24 it's accessory buildings.

25 Other examples of this may be a playground for

1 private school or a daycare or something like that. We
2 would apply similar standards to, even though it may not be
3 inhabitable or necessarily in that category. So that gives
4 you some context. If there's anything else I can answer,
5 I'd be happy to do that.

6 COMMISSIONER DOERNER: Yeah, I think it's helped
7 us, so let me ask kind of a different probing question. Are
8 there examples in this particular zone where we would have a
9 rural residential area where we may have a primary
10 structure, that's the principal place where somebody lives,
11 but maybe a barn or something else that's taller, or maybe a
12 windmill that's taller than that 15 feet, that's an
13 accessory kind of structure by certain definitions like
14 that?

15 MR. HURLBUTT: So in certain zones, not in this
16 zone, but in our more agricultural zones, there are
17 exemptions for barns to be larger than principal structures
18 and windmills and silos and those type -- and those are
19 specifically called out in the ordinance. But they're zone-
20 specific.

21 COMMISSIONER DOERNER: Okay. And in this
22 particular zone, do we have anything that would reference
23 something that would be closer to this particular example
24 beyond just the accessory structure? Or how are those other
25 instances called out? Are they specifically used as like

1 barn and windmill?

2 MR. HURLBUTT: Yeah, I think the code says barn,
3 windmill, silos are permitted in the AG and AR zones to
4 exceed the height. They're exempt from the height limit.

5 COMMISSIONER DOERNER: Okay. And then in the
6 zoning code, when we've got religious uses, how do we
7 differentiate that? Because to some extent, religious uses
8 are sort of -- not exempt, but they do kind of run
9 differently than the standard kind of residential usage in
10 each zone, and they have particular -- maybe exception is
11 not the right word -- but a little bit more leeway in terms
12 of what they do. Is there any room for that in this
13 residential rural kind of zone, or are we strictly supposed
14 to apply everything that would be residential to a religious
15 use case as well?

16 MR. HURLBUTT: I think that might be a better
17 question for our legal staff to weigh in on.

18 MS. COLEMAN: I think what you're looking in --
19 and a term that is better is chomping at the bit for it --
20 but you're looking towards some of the elements of RLUIPA
21 argument. And the problem is right now, that's not really
22 what the planning board is looking to do here. What the
23 planning board is looking to do is simply apply a standard
24 that is compatible with the zoning ordinance as it is
25 presented. And if there is an issue with the law itself,

1 that's more of a District Counsel issue. But what we're
2 doing here is looking at the ordinance as it is written and
3 applying the standards to the particular project that is
4 being proposed.

5 COMMISSIONER DOERNER: And I'm not trying to make
6 Ms. Scudder's case for appellate court or anything to this
7 extent per se. But what I'm looking for is trying to make
8 sure that we're consistent in an application in this
9 particular zone for accessory structures, that we don't have
10 other accessory structures that are above the 15-foot limit,
11 even if they're more broadly defined. But then also that,
12 besides within the zone, when we look at religious use
13 cases, that we're applying the same kinds of determinations
14 for religious uses across other zones.

15 So if it's the case that if there was a church or
16 a temple or mosque or any kind of religious use in other
17 zones that would have a structure kind of like this, I'd be
18 interested in knowing, like, how did we determine the height
19 on those? Does it always apply that we take the religious
20 use case and we look within the zone that it's in and we do
21 it that way, versus are there other aspects of the code
22 where religious institutions are treated potentially
23 differently depending on whether they have statues or
24 monuments or anything else on their land?

25 And that's what I'm looking for is more just that

1 we are consistent in all of our applications of this, and we
2 don't have sort of exceptions that we're going to worry
3 about later on that are going to get called out.

4 MS. COLEMAN: Well --

5 CHAIRMAN: And so let me sort of join in with
6 Commissioner Doerner on one thing, which is my
7 understanding, if I'm understanding staff's approach to
8 this, is this is not around the content, right? So you're
9 not evaluating this as a religious use. You're evaluating
10 this as an accessory use and determining the height of it.
11 That's my understanding. Is that correct? So there's
12 nothing --

13 MR. HURLBUTT: Yes.

14 CHAIRMAN: -- in the in the Code that says if it
15 is a religious use, it can be this height or not this
16 height.

17 MR. HURLBUTT: Yes, that is correct. There are
18 exemptions for architectural features that may often be
19 connected with religious uses like steeples and cupolas, but
20 the zoning ordinance does not speak to religious use in
21 terms of building height.

22 CHAIRMAN: Okay. Good. That's helpful for me to
23 hear.

24 Okay. Commissioner Doerner, any other questions
25 for staff?

1 COMMISSIONER DOERNER: No, I think that's it. I
2 wanted to push them to hear more these details so it's
3 orally expressed because there's a good amount of detail in
4 the staff report, but there's very kind of nuanced things
5 about this that I wanted to hear that I didn't see exactly
6 in there. So I appreciate the kind of back and forth as I'm
7 sort of crying and thinking through this on my own side.

8 CHAIRMAN: I appreciate the probing, and it's good
9 to flesh out the record, so thank you for that.

10 So no other questions for staff. We will turn to
11 the applicant.

12 Ms. Scudder, if you can introduce yourself, and
13 the floor is yours.

14 MS. SCUDDER: Thank you, Chairman Shapiro. Good
15 morning to you and members of the Planning Board. For the
16 record, Traci Scudder with Scudder Legal, offices in Lanham,
17 Maryland and at the National Harbor.

18 This morning, I once again have the pleasure of
19 representing the GIAC SON Buddhist Temple, the applicant in
20 DSP-20002, which, as Mr. Shelly just described, is a
21 proposal for a place of worship and to maintain a single-
22 family detached dwelling as a parsonage.

23 I am joined again today by representatives from
24 the temple and their consultants who are present to assist
25 with any technical questions. So we have members from the

1 Temple's Board of Trustees with us today, Master Vy Do, Vice
2 President Dawn Nguyen, and members of the design team.

3 I'd like to first off thank staff, Mr. Shelly, for
4 his time and attention in this case and everyone else who
5 has been involved in this case. I know there's been a lot
6 of information to come in over the last several weeks that
7 you all had to really go through, and so I appreciate all
8 your time and attention.

9 The applicant has had an opportunity to review the
10 latest version of the technical staff report. The testimony
11 that we will give today will be limited to the three issues
12 that the Planning Board decided on at the last hearing on
13 July 27th. And those issues are the landscaping, screening
14 and fencing, and the proposed Buddha statue.

15 Thank you for your comments, Commissioner Doerner.
16 I think my presentation will address some of your concerns.

17 But before I begin, I'd just like to mention that
18 there's one other person from the applicant side that would
19 like to speak after me, so I'm going to turn my presentation
20 over to that speaker before I conclude.

21 But just as an update for this board, the
22 applicant did host two neighborhood meetings recently on
23 July 20th and August 17th, and a number of neighbors did
24 attend in person and virtually. I know some of them are
25 here today. And at the meetings we did discuss the

1 landscaping, fencing, screening, and the height of the
2 proposed Buddha monument, and a host of other issues. I
3 won't be redundant on the facts because Mr. Shelly has
4 already covered the landscaping and the fencing and
5 screening in his presentation just now.

6 The applicant concurs with the new condition 1W5
7 to replace two of the ornamental trees with two evergreen
8 trees along the northeast property line. The evergreen
9 trees that will be planted along with several tall shade
10 trees that are expected to grow upward of 40 feet in height,
11 will provide effective buffering to screen the Buddha statue
12 from the neighboring property at the proposed new height of
13 28 feet. The applicant is also in agreement with the new
14 condition Y to provide a copy of the stormwater management
15 plan.

16 The applicant generally disagrees with the new
17 analysis and conclusions contained in the revised technical
18 staff report regarding the proposed height of the Buddha
19 statue.

20 After the meeting with the community, and in the
21 spirit of cooperativeness, the temple decided to make a
22 proffer with regard to the height of the monument. The
23 temple is now proposing to reduce the total height of the
24 Buddha statue by three and a half feet, which is a very
25 significant and impactful change, as it will ensure that the

1 height of the statue will fall below the height of the
2 buildings that will surround it, and it will be nestled in
3 its location toward the rear of the property in a courtyard
4 setting, which is a traditional feature of Buddhist temples.

5 The courtyard kneeled before the Buddha monument
6 is where members of the temple worship, pray, and meditate.
7 I don't think many people were previously aware of the
8 proposed location of the statue. When I got involved in
9 this case, at the end, as you know, I looked closely at
10 where and how the statue would be situated on the property.
11 And in doing this research, I also then realized that the
12 temple had some great color elevations of the statue that
13 had never been submitted into the record. Those elevations
14 are now in the record, and you can see how the statue will
15 look from the various angles.

16 And I think there's just one image where you can
17 see at the proposed height of 31.5 feet, it looks almost
18 even with the shortest building. So I believe reducing the
19 height of the statue by three and a half feet will hide it,
20 but behind that building, and you will not be able to see it
21 unless you're looking straight on from 197.

22 And just going back to the landscaping. The
23 applicant is also proposing a six-foot-tall privacy fence
24 that will be installed along that same rear northeast
25 property line, and that's in the applicant's landscape plan.

1 And so we believe the fence and the combination of the
2 evergreen trees and the tall shade trees will serve as a
3 very effective screen for the statue.

4 There's a new condition, X, in the revised staff
5 report that limits the height of the Buddha monument to 15
6 feet. But again, the applicant is asking this board to
7 approve the statue at 28 feet, which is a new proffer the
8 applicant is making as a result of the community meetings.
9 The statue at its lower height of 28 feet has a lot of
10 meaning. I mean, there's a lot of meaning in that Number
11 28, which Master Vy Do, abbot of GIAC SON Buddhist Temple,
12 or his representative, Tinh, from the Buddhist temple will
13 speak about shortly. And his letter is in the record, and
14 he explains why the height of the Buddha statue is important
15 to the religious practice of Buddhism and how the temple
16 arrived at the 28 feet.

17 In the revised staff report as it pertains to the
18 Buddha statue, there seems to be an attempt to relabel the
19 statue to something that has a height cap. It's a monument,
20 and staff agrees that it's a monument. The zoning ordinance
21 says that monuments are exempt from height requirements in
22 every zone. It wasn't until the staff report was revised
23 recently that the monument was considered to be an accessory
24 structure.

25 But an accessory structure doesn't have a height

1 limit in the (R-R) zone, and we're following the prior
2 zoning ordinance in this case. Fundamentally, the monument
3 doesn't even fit the definition of an accessory structure,
4 which is defined in the zoning ordinance as "anything
5 constructed or built that it's subordinate to, customarily
6 incidental to, and ordinarily found in the principal use".
7 The proposed Buddha statue has been fabricated from stone,
8 and it will be set upon the property, not constructed or
9 built.

10 Since the accessory structures do not have a
11 height limit in the (R-R) zone, the analysis then deemed the
12 statue to be an accessory building, which does have a height
13 limit of 15 feet in the (R-R) zone.

14 However, Section 2710801 addresses interpretations
15 and rules of construction. And the problem here is that the
16 zoning ordinance instructs us to construe words and phrases
17 according to the common and generally recognized usage of
18 the language.

19 So again, the revised staff report acknowledges
20 that the Buddhist statue is a monument, and therefore,
21 Section 27117 applies. 27117 exempts monuments from the
22 height requirements in every zone. This regulation can be
23 found in the zoning ordinance under Division 4, and that
24 division is entitled regulations applicable in all zones.

25 Division 4 has several subheadings, one being

1 Subdivision 2, which specifically addresses height. And the
2 only provision under subdivision 2 is Section 27117, which
3 states that the following structures are excluded from
4 height control: Belfries, chimneys, cupolas, domes,
5 flagpoles, flues, monuments, radio towers, television
6 antennas, spires, bulkheads, elevators, or similar
7 structures.

8 It is unnecessary to try to identify a use that is
9 most similar to a monument, because the term monument
10 already exists in the zoning ordinance. The staff report
11 states that there was a presumption made about heights of
12 monuments, and that presumption is that the district council
13 must have intended to limit the height of religious
14 monuments.

15 Well, I don't think we can go off a presumption.
16 The applicant's position is that the conclusion reached is
17 erroneous and subjects the monument to a height cap that is
18 intended for accessory buildings, not a monument. So this
19 amounts to an error in the application of the law because
20 the zoning ordinance provides a definition of a building,
21 which is a structure having a roof and used for shelter,
22 support, or the enclosure of animals, persons, or property.
23 The Buddha statue has none of these features. We do not
24 believe this section only includes things that are normally
25 on roof structures, as the staff report alludes.

1 Flagpoles, monuments, radio towers, and elevators,
2 those things are not always found on roof structures. In
3 fact, when you see flagpoles at police stations or fire
4 stations, they are ground poles. So we believe that these
5 things should be defined according to the common and
6 generally recognized usage of the language and the
7 appropriate meaning in the laws as required by Section
8 10801.

9 And as we've pointed out, if staff's
10 interpretation of Section 27117 is correct, the proposed
11 Buddha statue could simply be placed on top of the temple's
12 roof and avoid the height exemption just because it's
13 sitting on the roof. But this would result in the Buddha
14 statue reading a height that would exceed 60 feet. This
15 conclusion seems illogical in light of staff's position that
16 the height of the Buddha monument should not exceed 15 feet
17 tall.

18 So for all these reasons, the applicant has
19 submitted a new condition X for the board's consideration.
20 The applicant is requesting that condition X be deleted in
21 its entirety. Alternatively, the applicant has proposed
22 revised language for condition X, which simply requires the
23 applicant to revise all elevations and plans to reflect the
24 new 28 feet.

25 Finally, and I believe most importantly, are the

1 First Amendment protections that are afforded to the
2 churches and places of worship under federal law, the
3 Religious Land Use and Institutionalized Persons Act,
4 RLUIPA, among other things, protects religious institutions
5 from unduly burdensome or discriminatory land use
6 regulations.

7 In the year 2000, Congress passed RLUIPA after
8 hearing testimony that land use and zoning regulations were
9 often burdening the ability to religious congregations to
10 exercise their faiths in violation of the Constitution.

11 There have been several recent court decisions
12 that have specifically addressed denials or restrictions
13 that this very county has previously placed on places of
14 worship. These are, again, very recent decisions of
15 Maryland courts.

16 For example, the Redeemed Christian Church of God
17 or Victory Temple v. Prince George's County, and Reaching
18 Hearts International, which is a decision where Judge Titus
19 gave an opinion. These are two cases that have applied
20 RLUIPA in zoning cases involving places of worship in Prince
21 George's County.

22 As indicated above, RLUIPA prohibits governments
23 from imposing or implementing land-use regulations in a
24 manner that imposes a substantial burden on religious
25 exercise. We believe there's a possible RLUIPA violation in

1 this case if the height cap is allowed to stand.

2 The courts have been instructive on what triggers
3 this federal statute. In the Victory Temple case, the Court
4 asked two questions to determine if RLUIPA was being
5 triggered. One, whether the County made, "individualized
6 assessments of the proposed uses for the property involved,"
7 in applying the restriction. And two, whether said
8 restriction constitutes a land use regulation.

9 The Court went on to explain that a governmental
10 entity makes an individualized assessment, thus triggering
11 RLUIPA when it may take into account the particular details
12 of an applicant's proposed use of land when deciding to
13 permit or deny that use. Further, that in order for the
14 restriction to constitute a land use regulation, it must be
15 a quote zoning law and/or the application of such a law that
16 limits or restricts a claimant's use or development of land.
17 End quote.

18 Now, many on this board are well aware that I'm
19 not a First Amendment lawyer, but I have done my homework,
20 and it seems very likely that a reviewing court would find a
21 RLUIPA violation in this case, therefore, a triggering event
22 which is manifested in condition X. And that's why we're
23 asking that that condition be deleted from the staff report
24 or revised in a manner that the applicant has suggested,
25 which is to remove the height restriction.

1 With all that, I would like to thank you all for
2 your time, and I would now like to turn my presentation over
3 to Tinh Nguyen, who will speak on behalf of Master Vy Do.
4 Thank you.

5 CHAIRMAN: Ms. Scudder and fellow Commissioners, I
6 need to beg your indulgence, and I need another five-minute
7 break. I apologize. So if you can hold off for a bit. And
8 it's 11:50. We'll start up again at 11:55 with the person
9 that you've designated. Okay. So we'll be back at 11:55,
10 folks.

11 MS. SCUDDER: Okay.

12 (OFF THE RECORD)

13 (ON THE RECORD)

14 CHAIRMAN: All right. Folks, we are back from a
15 quick break. I appreciate your indulgence, everyone.

16 Ms. Scudder, I think we were with you, and you
17 were going to introduce a member of your team. Not team,
18 you were going to introduce one of the applicants.

19 MS. SCUDDER: Yes.

20 Ms. Tinh Nguyen, are you present --

21 MS. NGUYEN: I am.

22 MS. SCUDDER: -- and on camera?

23 MS. NGUYEN: I'm not on camera, but --

24 MS. SCUDDER: Do you have your camera on?

25 MS. NGUYEN: -- can you hear me? Do you --

1 MS. SCUDDER: Yes.

2 MS. NGUYEN: -- do I need to be on camera? Okay.
3 I'll turn on my camera.

4 CHAIRMAN: You don't need to, Ms. Nguyen, but --

5 MS. NGUYEN: Okay. I appreciate that.

6 CHAIRMAN: -- it makes it easier for us.

7 MS. NGUYEN: Okay. I'll turn it on.

8 CHAIRMAN: Ms. Nguyen, before you speak, were you
9 sworn in?

10 MS. NGUYEN: I was this morning, Commissioner.

11 CHAIRMAN: Okay. Thank you.

12 MS. NGUYEN: Before I started I --

13 CHAIRMAN: All right.

14 MS. NGUYEN: Am I okay?

15 CHAIRMAN: You're okay. We can hear you. Please
16 introduce yourself for the record, and the floor is yours.

17 MS. NGUYEN: Okay.

18 For the record, my name is Tinh Nguyen. I'm here
19 to represent GIAC SON's Temple congregation. Before I
20 start, could I please acknowledge and thank you,
21 Commissioner Doerner, for raising all the questions that
22 we've had for staff also. And as our lawyer has stated,
23 we've done all the research and found all the answers that
24 staff couldn't provide for us, so I'd like to thank
25 Commissioner Doerner for raising all the questions that

1 we've also had.

2 So if I can begin. Good morning, Mr.
3 Commissioner, board members, and staff. My name is Tinh
4 Nguyen here to represent GIAC SON Temple Congregation. I've
5 had the opportunity to attend the previous two hearings on
6 this case, but haven't had the opportunity to speak. So
7 thank you for the privilege to be the voice of GIAC SON's
8 congregation this morning. Please allow me to give you some
9 insight to why the height of the temple is very important to
10 Buddhist traditions. I hope you and your board will take
11 into consideration the significance of this tradition when
12 making your decision in regarding our case.

13 In Buddhist culture, the statue of Bodhisattva
14 Avalokiteshvara, also known as Quan Am, is a sacred symbol
15 of great compassion, the miraculous manifestation of wisdom,
16 and the one who listens to the painful cry of all beings in
17 this turbulent world. Quan Am carefully observes the
18 suffering of senate beings with eyes of compassion, freeing
19 them from sorrow and pain. Her manifestation in this world
20 reminds us of a kind mother who gives her loving heart to
21 the world.

22 Quan Am Garden is a place for Buddhists to
23 practice a life of meditation, the teaching of compassion,
24 generate peaceful energy, and pray for a peaceful world.
25 The statue is where the Buddhist members practice according

1 to the vows of happiness and end life suffering and a place
2 for people to reduce stress from their daily lives.

3 Quan Am is also known as the goddess of compassion
4 in Buddhist culture. She has 1,000 eyes and 1,000 ears to
5 observe and listen to the pain and suffering of the world.
6 She is the savior of many Vietnamese refugees who were lost
7 at sea trying to seek freedom in the United States of
8 America.

9 In Buddhist tradition, all statues are depicted on
10 the lotus flower. The lotus is a symbol of purity rising
11 above the mud. It is also the expression of enlightenment
12 in this life full of suffering. Below the lotus flower is
13 the Vajra building, a symbol of spiritual strength of the
14 deities that protects the image of Quan Am.

15 The statue of Quan Am, with the height of 28 feet
16 represents the 28 deities that protect her. In the spirit
17 of Buddhism, there is a very famous sutra called the Lotus
18 Sutra, which consists of the 28 chapters. Each chapter
19 speaks of the practice of the Buddha's son. That's why the
20 28 feet was chosen to express the spirit of cultivation.

21 In America, the freedom of religion is very
22 respected and observed according to the Constitution of the
23 United States. We ask for your consideration and support
24 that our wishes can be fulfilled and our freedom of religion
25 can be freely practiced.

1 Thank you for your time this morning. That's the
2 conclusion of my speech.

3 CHAIRMAN: Thank you, Ms. Nguyen. I appreciate
4 you very much.

5 Ms. Scudder?

6 MS. SCUDDER: Chairman Shapiro, that completes our
7 presentation, with the exception of the proposed condition
8 X, which I don't know if you want to take that up now or
9 later. But other than condition X, we have finished our
10 presentation.

11 CHAIRMAN: Okay. Thank you. No, we have a number
12 of folks who are going to be speaking, so we'll continue
13 with the public hearing.

14 Before we go to the public, I just want to touch
15 on a few things that you've talked about, and also to get
16 ahead of some of the conversations that we're likely to have
17 based on the written testimony. One is -- and this is
18 related to the RLUIPA reference that you made. And I
19 appreciate you bringing that in, and certainly the
20 impassioned testimony by Ms. Nguyen. I hear loud and clear
21 the significance of this.

22 I want to be clear, though, about what our role is
23 as the Planning Board. Our role is to interpret and apply
24 the zoning ordinance. We do not make the laws. So RLUIPA
25 does not apply to us. If a party believes that the planning

1 board interpreted the zoning ordinance incorrectly, then you
2 can appeal it. But I just want to be crystal clear that
3 that applies to the District Counsel and not us.

4 Now, that's not -- but I want to be clear. That's
5 not saying that we're not considering the merits of what
6 you're talking about and how this structure is interpreted
7 and what the definition of the structure is. So do not
8 mistake what I'm saying for a sort of shutting ourselves off
9 from the argument that you're making. The RLUIPA reference
10 is the piece that I'm responding to specifically. So that's
11 one thing that I just want to get out there ahead of it as
12 we hear from folks in the public.

13 MS. SCUDDER: May I respond to that?

14 CHAIRMAN: Sure.

15 MS. SCUDDER: Yes, because -- thank you, Chairman
16 Shapiro. I just wanted to point out, though, that the case
17 that I just spoke from, Victory Temple, it actually speaks
18 on that very issue that you just mentioned. It says that
19 the court says that the starting point for any issue of
20 statutory interpretation is the language of the statute
21 itself. If, however, the statute is subject to conflicting
22 interpretations, we should adopt the one that effectuates
23 rather than frustrates the major purpose of the legislative
24 draftsmen. RLUIPA itself provides the applicable rule of
25 construction, requiring that its provisions be construed in

1 favor of a broad protection of religious exercise to the
2 maximum extent permitted by its terms and the Constitution.

3 CHAIRMAN: So I'm not disagreeing with you. Okay.
4 I am saying that RLUIPA says no government shall impose a
5 law. We do not make laws. We interpret what the District
6 Counsel legislates. That's all I'm saying.

7 So again, separate from whether or not -- which
8 direction we go on this -- and all sorts of passionate
9 arguments we're going to hear. I'm just saying the
10 RLUIPA -- this specific RLUIPA reference is an issue for the
11 District Counsel, not the Planning Board, because that's
12 what -- the law states clearly that no government shall
13 impose a law.

14 So now we may disagree around that, but that's --
15 I just -- maybe that's more from my colleagues. I just want
16 to be clear where that's where I'm coming from on this
17 specific issue related to RLUIPA.

18 So the other thing is we're going to hear from a
19 lot of folks about some other enforcement issues. And I'm
20 very, very supportive of folks coming in and making sure
21 they get their voice heard. But I want to be clear as we
22 hear these enforcement issues, that to make it clear about
23 where our jurisdiction is. So we're going to hear -- I
24 imagine we're going to hear from a number of folks about
25 some property -- speaks about the construction of the tree

1 removal on neighbor's properties.

2 This is a land dispute. It's not under our
3 jurisdiction. I'm not taking away from the significance of
4 the issue. I'm not. I'm sure it's a very significant issue
5 about what trees were removed and construction encroachment
6 of land, all those things.

7 So Ms. Scudder, under rebuttal, you may want to
8 come back to this as well after you hear from folks from the
9 community about any steps you're taking to remedy the
10 situation. I believe you've already alluded to it a bit,
11 but we'll hear more from you, I'm sure.

12 But I want to be clear: I'm perfectly happy to
13 have folks speak to these issues because this is a public
14 forum, and I'm not going to restrict what you say in the
15 minutes that you have. But for our purposes, these issues
16 are land disputes between property owners. They're not
17 under our jurisdiction.

18 The other issue is, I understand there's an issue
19 around some conflicting land surveys as well. This is a
20 legal matter between two parties. It also is not an issue
21 before us as the Planning Board. Again, I'm not restricting
22 you from talking about it. I'm just saying, practically
23 speaking, that's not an issue that is going to -- that we
24 take up one way or the other that we're going to be --
25 that's under our jurisdiction, effectively.

1 So that's it. And again, I'm not saying this to
2 preempt anything that any folks in the public want to say,
3 because make sure you get your voice heard. I just want to
4 be clear about what the issues are before us. This is also
5 a limited scope public hearing. It's been carried over a
6 few times. And the issues that we're going to be taking up
7 is related to the statue height, related to the landscaping,
8 related to screening and fencing. That's what we're focused
9 on for this limited scope public hearing.

10 So again, with that, I'm going to turn to folks
11 from the public. Bear with me, because we have a number of
12 folks who signed up to speak. I'm going to run through the
13 list real quick, just see who's here. So if I call your
14 name, just let me know if you're here and you're planning on
15 speaking.

16 We have Catherine Williams.

17 MS. WILLIAMS: I'm here.

18 CHAIRMAN: Excellent. Teresa Washington.

19 MS. WASHINGTON: I'm here.

20 CHAIRMAN: Thank you, Ms. Washington.

21 Leah Johnson or Lee Johnson?

22 MS. JOHNSON: Leah. And I'm here, sir.

23 CHAIRMAN: Thank you, Ms. Johnson.

24 We have a James -- is it [Hitaffer]? I can't
25 remember how to pronounce it last time.

1 MR. JAMES HITAFFER: Hitaffer. Yes, I'm here,
2 sir. Yes.

3 CHAIRMAN: Oh, I got it before you got it for me.
4 Mr. Hitaffer, James Hitaffer is here.

5 Tim Carter is here? Mr. Carter? Okay. We do not
6 have Mr. Carter.

7 MR. CARTER: Yeah, I'm here. I'm here.

8 CHAIRMAN: Oh, Mr. Carter. Thank you.

9 Paula Price is here?

10 MS. PRICE: Yes, sir. I am here.

11 CHAIRMAN: Thank you, Ms. Price.

12 Gabrielle Masten. I think I saw you before. I
13 know you're here.

14 MS. MASTEN: Yes, I'm here. Thank you.

15 CHAIRMAN: Thank you.

16 Michael [Griesman] or [Griezmann]. Sir, are you
17 here?

18 MR. GREISMAN: [Greisman]. [Greisman], sir.

19 CHAIRMAN: Okay. Thank you, Mr. Greisman.

20 Then we have Taylor Hitaffer as well.

21 James, is Taylor here?

22 MS. HITAFFER: Taylor. Taylor -- yeah, she's on.

23 CHAIRMAN: Taylor Hitaffer. Thank you.

24 I also have a Jeffrey Hitaffer.

25 MR. JEFFREY HITAFFER: I'm here.

1 CHAIRMAN: Thank you.

2 Clyde Williams? Mr. Williams?

3 UNIDENTIFIED SPEAKER: I'm here.

4 CHAIRMAN: Okay. That's Clyde Williams? I just
5 want to make sure we have Clyde Williams here. We'll come
6 back to it.

7 Gary Lane. No Gary Lane. Okay.

8 And Salvatore Lemole? No.

9 And I have somebody else from the GIAC SON
10 Buddhist Temple -- well, that's it. Okay.

11 Did I miss anybody who is planning to speak who
12 has signed up in advance? Anybody who I did not mention who
13 was expecting to speak.

14 UNIDENTIFIED SPEAKER: No.

15 CHAIRMAN: Did I hear somebody? Or Ms. Scudder,
16 was that you?

17 Okay. All right. All right. How about that? I
18 think I got everybody.

19 So we have - let's see. We got one, two, three,
20 four, five, six, seven, eight, nine - I think we have nine
21 folks signed up to speak. For what it's worth, the
22 applicant took about - okay. So I'm going to - well, what
23 it means is that if we give folks who are opposed three
24 minutes each, which is our practice, then effectively you're
25 going to have about the same amount of time collectively as

1 the applicant, so I think that'll be fair.

2 So I'm going to ask each of you to speak for up to
3 three minutes. You don't have to take all that time, but
4 you have up to three minutes. We'll set a clock just to
5 guide us. I'll go through the list in the order that I've
6 specified.

7 Remember, this is a limited scope hearing on these
8 three issues: the landscaping, the screening and fencing,
9 the statue height. That's what we as the as the board are
10 going to be focusing on. That's not going to restrict you.
11 I am not restricting you from speaking on other issues. But
12 if there are other issues beyond those, they're not what
13 we're going to be taking into consideration.

14 But this is a public forum and you need to make
15 your voice heard on any issue that's relevant for you. You
16 make your voice heard. I respect that 100 percent. Okay.

17 So with that, I'll go through the list. And as I
18 introduce yourself, make sure that you were sworn in. Just
19 start off by saying, yes, I was sworn in. Or if not, I'll
20 swear you in. And if you can introduce yourself and give us
21 your address for the record.

22 And I'll start with Ms. Catherine Williams. And
23 I'd prefer it if you came online so we could see you when we
24 speak, but you're not required to by any stretch. Okay.

25 Ms. Williams, we'll start with you.

1 MS. WILLIAMS: Catherine Williams. I was sworn in
2 this morning.

3 CHAIRMAN: Thank you, Ms. Williams.

4 MS. WILLIAMS: I just have a quick question. I'm
5 trying to read the new paperwork that came out for this
6 hearing. And all -- up until now, we've been referring to
7 the Buddha statue and trying to get it deemed a monument,
8 not a statue. And now it appears that this Quan Am, goddess
9 of compassion, is the actual statue that's coming and going
10 to be put in the yard. So does that mean that the 15-foot
11 Buddha that's currently in my neighbor's backyard right now,
12 does that mean that's going to be also in the yard as well
13 as this new 28-foot Quan Am statue?

14 CHAIRMAN: Ms. Williams, I'm going to refer
15 that -- I imagine the applicant on rebuttal or members of
16 her team will be able to answer that question. So noted,
17 and I'm sure Ms. Scudder has noted that, and I imagine we'll
18 provide an answer for you. Do you have more from your
19 testimony as well, or are we leaving it at that?

20 MS. WILLIAMS: That's about it. Thank you.

21 CHAIRMAN: Okay. Thank you, Ms. Williams. I
22 appreciate that.

23 And I see Ms. Scudder came online. I see her
24 nodding your head. You're nodding your head, Ms. Scudder?

25 Yeah. So she or some member of the team will get

1 back to answer with that, I'm sure.

2 Next on our list is Teresa Washington. Ms.
3 Washington?

4 MS. WASHINGTON: Yes. I have not been sworn in.

5 CHAIRMAN: Okay. So let me swear you in real
6 quick. Hold on. I get my paperwork so I can say it
7 correctly.

8 Ms. Washington, do you solemnly swear or affirm
9 that your testimony will be the whole truth and nothing but
10 the truth?

11 MS. WASHINGTON: I do.

12 CHAIRMAN: Thank you. Consider yourself sworn in.
13 Introduce yourself formally for the record. And you have up
14 to three minutes to speak. And take it away.

15 MS. WASHINGTON: Okay. My name is Teresa
16 Washington. I am right next door to the Buddha. The
17 Buddha, as we talk right now, is sitting in my backyard --
18 actually in my backyard. I just want to ask the Board;
19 would you want a Buddha sitting in your backyard? That's
20 what's sitting in my backyard right now. When I go out my
21 door, it's sitting in my yard.

22 The next thing I want to let you know is, is that
23 when the Buddhist temple came into their -- their staff came
24 into our community, they lied to us. They told us that they
25 were family. Since then, they have progressively been doing

1 things slowly but surely up until the point where they got
2 to a temple right now. Everything has been a lie with them.
3 Everything that they have told us and the neighbors -- all
4 of us, why we are so concerned and everybody stepping in,
5 it's because we see them taking over our neighbor -- trying
6 to take over our neighborhood. They don't care about us as
7 neighbors.

8 Now, they're trying to put another something 28
9 feet. This is -- this is a neighborhood. We didn't have --
10 I mean, now, they're trying to turn this into the temple,
11 the whole neighborhood. When you -- if they take it -- put
12 the extend and put this huge temple and all this Buddha --
13 oh, you would think that this is a Buddhist street or it's
14 not a neighborhood anymore.

15 The next thing I want to tell you is, is that, one
16 thing that they did, when we were trying to come talk to
17 them, one of the neighbors came up to the Buddha Temple to
18 talk, and one of the monks came out with a pick and was
19 going to hit him with the pick right there. So they're
20 talking about friendly and they are nice people. No, I'm
21 sorry. They were going to hit this man, and he's a police
22 officer. They were going to hit him or stab him with the
23 pick.

24 So I'm saying that I opposed to it. I oppose
25 because there is going to be traffic problems. It's going

1 to be noise problems like it has been all the time. Nothing
2 has changed. Nothing has changed since these people -- all
3 they do is lie to the community. They lie to you all. And
4 they're not going to stop until they get what they want.

5 This is not a place where they can just put all
6 this temple and all this stuff. This should be somewhere
7 else. This should be somewhere else. Not where the temple
8 is right now. Not in our neighborhood.

9 CHAIRMAN: Thank you, Ms. Washington. I
10 appreciate that.

11 Next, we have Leah Johnson.

12 MS. JOHNSON: Good afternoon. Thank you all for
13 having us here to speak in reference to the temple.

14 CHAIRMAN: Ms. Johnson, were you sworn in at the
15 beginning?

16 MS. JOHNSON: Oh, yes, sir. I was sworn in at the
17 beginning.

18 CHAIRMAN: Okay. Thank you, ma'am.

19 MS. JOHNSON: You're welcome, Mr. Shapiro.

20 Okay. I would like to speak because I am opposed
21 also to the Temple. One, I am opposed to the Temple because
22 when they initially purchased the property, they purchased
23 it as a homeowner and that they were -- and they assessed
24 using first time homeowners abilities to purchase this
25 property. So Ms. Dawn -- the vice president, she purchased

1 this home as a first time homeowners buyer. And that's
2 unfair because she already came in unlawfully knowing that
3 she was going to turn this property into a church.

4 Now, all of a sudden --

5 MS. COLEMAN: Mr. Chair, I just wanted to kind of
6 stepped in and just let you know that this is kind of going
7 beyond what it was -- this limited scope of this hearing.

8 CHAIRMAN: I appreciate it, Ms. Coleman. I'm
9 giving -- I'm thankful you stepped in. I'm giving folks who
10 are individual speakers that they get to speak about
11 whatever they want to speak to. The issue is going to be
12 whether we take the testimony into account related to the
13 limited scope hearing. If it's not relevant to the limited
14 scope, it's not something that we're going to consider. But
15 I feel like the residents, if they -- if that's what they
16 want to speak about, that's what they want to speak about.

17 MS. JOHNSON: Okay. I'm sorry, but I think I also
18 lost some time on the clock. So if they could reset my
19 clock a little bit with so many people --

20 CHAIRMAN: We will, Ms. Johnson. We'll give you
21 that time.

22 MS. JOHNSON: Thank you so much, sir. I
23 appreciate that.

24 So anyway, well, let me address this Buddha, then,
25 because as of right now, this Buddha has been sitting on our

1 property for a long period of time. Now, I see that we're
2 trying to use the words monuments and -- monument and statue
3 interchangeably, but those are not words that you can use
4 interchangeably. So they're trying to fit a square peg into
5 a round circle. This is a neighborhood. This is a
6 community. We are a community of family who we all been
7 here for years -- ten years plus -- decades. And now all of
8 a sudden, someone who came into our community wants to turn
9 it into a religious business opportunity. And this is not a
10 business community. This is an RR, a residential
11 neighborhood. And I can't see how the community -- or how
12 the Planning Board can allow somebody to continuously try to
13 circumvent the rules and the laws of Maryland, which we
14 hold -- we have to hold -- be held accountable for. We have
15 to be held accountable for, and the DPIE and people don't
16 have no problems with coming out and chasing us down if we
17 break any laws. We pay taxes for all of our properties.

18 Once they put something that is not a residential
19 something there and put a business that operates almost
20 24/7. They are constantly outside. They are constantly in
21 the yard. This is not something that is an indoor facility.
22 So they are impeding on our residential property on a
23 regular basis. And we have to establish that this is a
24 residential neighborhood.

25 On top of that, when I get my 30 feet back in the

1 back of the yard, that means they won't have enough room to
2 do parking -- the parking lot that they want. Remember, you
3 did agree that they need to have at least 45 parking spots?
4 Well, they're going to lose that because I need my land back
5 that they demolished that they took land from the front --
6 from the front, the side, and the back of my home.

7 The things that they are being allowed to do is
8 not fair to the community. And then when Ms. Scudder tries
9 to bring in the heartstrings and talk about RLUIPA, I think
10 that's very unfair because she is a lawyer. We're not
11 lawyers. She's a lawyer. She knows that you shouldn't be
12 addressing that right now. If she's going to hold us
13 accountable to being connected to what the rules and laws
14 are in in this form, she should be held accountable too.

15 And when we start talking about people who should
16 be -- who need reparations and things like that, you know, I
17 think it's very unfair for them to try to say that they're
18 not getting an opportunity to worship. They are. They just
19 need to do it in an area that is fitting for a church, for a
20 temple, for the size of the temple that they want to build,
21 for the structures that they want to have on their property.
22 They can find a piece of property -- there's a property
23 right across the street where it can fit the temple --

24 CHAIRMAN: Okay. Let me ask you to wind up, okay,
25 Ms. Johnson?

1 MS. JOHNSON: Oh, yes, sir.

2 We want them to find a property that will fit the
3 structure that they would like to have. We do not want them
4 to not have their temple. We just want them to put it in
5 the place where it's befitting and is not impeding on
6 everybody's personal property. Right now they are impeding
7 on everyone's personal property.

8 Thank you, sir.

9 CHAIRMAN: Thank you, Ms. Johnson. Thank you very
10 much.

11 Next, we have Mr. James Hitaffer. Mr. Hitaffer,
12 are you sworn in?

13 MR. JAMES HITAFFER: Yes, I am sworn in.

14 Hello, Chairman and Board. Thank you. Sorry, I'm
15 fighting an illness, so I'm going to be a little short of
16 breath here at times, but --

17 CHAIRMAN: That's all right. Take care of
18 yourself.

19 MR. JAMES HITAFFER: Thank you. I appreciate it.

20 I will try to -- what I was going to discuss was
21 the actual -- I know we're trying to stick to the points
22 here and the landscaping and the fencing issues. Obviously,
23 those will border the property, and I understand that.

24 I live at 9815 Snowden Road. My property
25 connects -- or is directly connected to -- or adjacent to

1 the temple property on the north -- on the northeast side, I
2 believe.

3 So recent surveys identified issues with these
4 boundaries that they've established on their own by building
5 fences and cutting down the trees and lands -- and forging
6 the land already. And they've done this without getting an
7 accurate survey done.

8 So my concern is that, moving forward, they're
9 going to start building fences and continuing with these --
10 building out -- I mean, on planting of trees and all those
11 things on the improper surveyed lines.

12 So I guess I don't know how this site plan has
13 gotten this far, considering the survey that it's based upon
14 is greatly inaccurate. And those are my largest concerns,
15 is moving forward, what else are we going to run into that
16 was not done properly from the beginning that is going to
17 have an effect on the rest of the neighbors in this
18 community, or at least the ones specifically adjoined to the
19 GIAC SON property as well?

20 And that's pretty much all I have to say.
21 Actually, I do want to touch on something Teresa said, and
22 that is just it feels like we're putting a lot of effort
23 into fighting against something that -- or trying to fit
24 something that in an area where it shouldn't be. We're
25 trying to bend rules and laws and rename statues to

1 monuments and talking about putting a statue on the roof and
2 these things -- and how to make it fit.

3 Well, I believe -- I mean, it just seems crazy
4 that we're trying to do this and that there should be -- I
5 mean, the reason we have zoning ordinances is there should
6 be a zoning ordinance where they should be able to plug and
7 play. They should take their plan and it should fit into
8 exactly the zoning ordinance it is meant to fit into.

9 Here, I just feel like they're trying to bend and
10 create and manipulate a system that was put in place to
11 protect the neighbors and the community just to fit this
12 temple in here, and it just does not seem right.

13 And I appreciate your guys' time and ears and
14 listening to me. Thank you.

15 CHAIRMAN: Thank you, Mr. Hitaffer. We appreciate
16 it.

17 Mr. Tim Carter?

18 MR. CARTER: Yep. I'm here and I have been sworn
19 in, and I live five houses down from the temple at 9915
20 Snowden. So I prepared three slides, and -- how do I have
21 them brought up? The first one would be the boundary, which
22 is --

23 CHAIRMAN: Freddy, can you help us with this?

24 Give us one sec.

25 MR. CARTER: Yep.

1 CHAIRMAN: It's going to take us a second, Mr.
2 Carter.

3 MR. SHELLY: Mr. Carter, this is Andrew Shelly
4 with staff. When you say the boundary, are you referring to
5 the Lot 1 survey?

6 MR. CARTER: Well, I sent three slides and one is
7 called Boundary, one is called Boundary Markup, one is
8 called Boundary Markup 2.

9 MR. SHELLY: Okay. Thank you.

10 CHAIRMAN: Mr. Carter, is that folks in the
11 background behind you, or does somebody else have their mic
12 on?

13 MR. CARTER: It's someone else with their mic on.

14 COMMISSIONER WASHINGTON: Mr. Shelly, I think the
15 files he's referencing were actually a part of the prior
16 hearing, if that helps you locate it at all.

17 MR. CARTER: No, I just -- I sent it in on
18 Tuesday.

19 MR. SHELLY: No, they're also in the -- this is --
20 for the record, Mr. Shelly -- they are in the additional
21 backup for 9/6. They should be the last three pages of the
22 presentation.

23 CHAIRMAN: It's just going to take us second, but
24 we'll figure.

25 MR. SHELLY: Sorry. Yes. 163, please. I believe

1 that is the slides he's referring to.

2 UNIDENTIFIED SPEAKER: Okay. That looks like --

3 CHAIRMAN: Mr. Carter, I think we have your three
4 slides. Does this look like one of them?

5 MR. CARTER: That looks like the first one, yes.
6 So this --

7 CHAIRMAN: All right. So we're going to start
8 your clock now.

9 MR. CARTER: Okay. Thank you.

10 CHAIRMAN: You have up to three minutes, and
11 you've been sworn in, and take it away.

12 MR. CARTER: So, I am also a licensed contractor
13 in Maryland. As we all know, the property lines of boundary
14 are very important. One, it has to do with where the fence
15 is going to be located, because fences are located typically
16 on boundary lines. The second item is going to be -- or the
17 second statement has to do with -- boundaries also have to
18 do with where the buildings are located.

19 So this is -- that's actually the second one, but
20 that's fine. The blue line is actually -- there's a slide
21 seven from what the temple engineer had presented on the
22 very first meeting in his PowerPoint. The blue line shows
23 where he placed the property lines. I have actually
24 examined both the surveys from the neighbor's house and the
25 temple. They are within 18 inches of each other. They do

1 show the common ground -- the common lines, which is the
2 back line and that long sideline, as being very, very, very
3 close -- within 18 inches.

4 The next slide, please. So this slide shows the
5 long straight -- the long red line is actually where the
6 temple has established a property line. That's
7 approximately a 30-foot difference between where the surveys
8 show and the -- they've established it with cut logs. So
9 there's no denying where that line is. The red rectangle is
10 actually where the placement of their existing Buddha is.
11 The Buddha is literally in the neighbor's backyard.

12 The next slide, please. That red line down the
13 side is showing where they've established their side
14 property line. The front area is where they've been mowing
15 the grass, even though they've been told that this is not
16 their property. That's an approximate 25-foot difference
17 there.

18 So just showing you this because, you know, they
19 are saying that they're going to take care of this, but
20 they're saying that there's a two-foot discrepancy. There's
21 as much as a 30-foot discrepancy.

22 And more to show you what the neighborhood has
23 been dealing with. This has been pointed out to them for --
24 now that the survey was done, the neighbor did their survey
25 almost two months ago, and they were shown then where the

1 property lines were, and they have chosen to ignore it. So
2 hopefully, they're actually going to do something about this
3 now. So, thank you.

4 CHAIRMAN: Thank you, Mr. Carter. Appreciate your
5 testimony.

6 Next, we have Paula Price.

7 MS. PRICE: Good afternoon, my name --

8 CHAIRMAN: Good morning, Ms. Price.

9 MS. PRICE: Thank you. My name is Paula Price. I
10 have been sworn in. I'm the president of the South Laurel
11 Civic Association. I live about six houses down from the
12 temple at 10001 Snowden Road.

13 There are several points I'd like to raise,
14 however, I only have a few minutes to go on. But I'd like
15 to first say that we concur with staff's decision regarding
16 the 15-foot statue. It is still a violation of the
17 statutes, and we also implore the committee to not consider
18 condition 1-X for additional consideration. We ask that you
19 please vote in favor of the correct statute and establish
20 that this is a rural residential community.

21 And I also want to thank Mr. Doerner for raising
22 several issues about the statue, because those are exactly
23 the things that we've been asking about.

24 There's other things that I wanted to mention, but
25 I really just want to touch on something that I realized in

1 the record just the other day when I was reviewing the
2 background material is that, you know, the statue has
3 already been ordered and is on his way from China and has
4 been paid for already. This is part and parcel of exactly
5 how they've been operating all this time, where they -- you
6 know, where it's better to ask for forgiveness than ask for
7 permission. So they have not been granted permission for
8 the statue. We don't object to any religious activity
9 whatsoever. It's just the violations that continue to
10 occur.

11 Additionally -- let's see -- I lost my train of
12 thought because, you know, I just have to say that there are
13 so many different people in this community who feel very
14 strongly about this. I mean, you know, the community has
15 been, you know, dealing with so many different issues. I
16 know that we're only limited to speak on three, which is the
17 proposed statue, landscaping and fencing. But as Tim just
18 showed you, I mean, the two -- the land issue and these
19 three issues, they -- it's a perfect nexus of both things.

20 I mean, we see right in front of us that the
21 statue is outside of the boundary lines. It is in Leah's
22 property. So even though that this may be seen as a land
23 dispute, it's actually a zoning dispute also, because all of
24 the information that they've submitted so far is incorrect.

25 I mean, I would even ask the board to really think

1 to say, you know, would you appreciate somebody going
2 against a ruling that you haven't even made yet and then ask
3 for permission for later?

4 You know, the 15-foot statue is already there in
5 their -- in Leah's backyard. They've already ordered a
6 statue without even getting approval from the Board, and
7 it's still up for debate. So it just goes to show exactly
8 how they've been operating for many, many years.

9 And we just ask that you please strongly consider
10 to not consider the statue and really consider the land
11 dispute and guide us on how we can correct this, because
12 it's not that we don't, you know, respect their right to
13 religion. They've been practicing their religion there for
14 many, many years already. We dispute all of the statutes
15 that they've been violating. And we just ask that they be
16 good neighbors, that they correct the trees that they've cut
17 down, you know, and remediate a lot of matters that have
18 been occurring with all of my neighbors.

19 So, I think that is my time. And thank you for
20 your time today.

21 CHAIRMAN: Thank you, Ms. Price. Much
22 appreciated.

23 Next, we have Gabrielle Masten.

24 MS. MASTEN: Yes sir, Chairman. Thank you. Thank
25 you, ladies and gentlemen of the Board.

1 So I --

2 CHAIRMAN: Ms. Masten, were sworn in?

3 MS. MASTEN: Yes, I was.

4 CHAIRMAN: Okay. Thank you. Take it away. The
5 floor is yours.

6 MS. MASTEN: Okay. Thank you so much.

7 So our community's trust in this planning process
8 definitely hinges upon the foundational tenet of our
9 democracy. We have a right to due process, which is
10 enshrined in our Constitution.

11 At our last hearing, the applicant's legal
12 representation was heard, but our voices, which reflect
13 legitimate community concerns, were silenced. Today, we're
14 appealing for an equitable and comprehensive hearing.

15 So, I speak to you not just as a resident, but I'm
16 also a representative of our South Laurel Civic Association.
17 We, alongside our (indiscernible), are stewards of our
18 environment, which includes the Patuxent Research Refuge,
19 and it's now under threat from an imposing and grandiose
20 development.

21 The development stands in stark contrast to our
22 very residential home character in our overwhelmingly rural
23 neighborhood. Moreover, we carry a profound responsibility
24 to protect our environment, especially with the migratory
25 birds in our neighborhood. They are profoundly affected by

1 habitat disturbance, light and noise pollution. And it's
2 deeply troubling that that's not taken into consideration.

3 Our lands have also been in families for
4 generations. We've felt the brunt of these unauthorized
5 actions, especially the previously unpermitted landscaping
6 of old growth trees. And it's upset our ecological balance,
7 damaged our homes, and led to a mosquito surge, which is a
8 daily challenge for our residents. The new trees that are
9 proposed will not reach maturity for several years, as far
10 as my research has shown.

11 Additionally, the proposed stormwater management
12 plan with the potential standing water, also heightens my
13 health concerns. I firmly advocate for the 40-foot setback
14 from our property and those along Laurel-Bowie and Snowden
15 roads to mitigate further risks and request a stormwater
16 management design that does not rely on additional standing
17 water.

18 Our commitment to religious freedom is unwavering.
19 This community respect should be mutual. We do not feel
20 peace or stress relief from their actions or their
21 practices. For individuals like myself who suffer from PTSD
22 and anxiety, and my son who experiences seizures, the
23 increased noise, disturbances, and stressors have a tangible
24 severe health -- and severe health repercussions.

25 The surge in nuisances, the littering, the parking

1 and traffic violations blocking our emergency vehicle
2 ingress, trespassing by their parishioners is palpable, and
3 a larger development will intensify these challenges.

4 During a meeting with the lawyer representing the
5 temple, we were told we should leave our homes and head to
6 the beach to find solace. This casual suggestion overlooks
7 the medical and emotional realities that many of us grapple
8 with daily.

9 Equally concerning is the possibility of
10 construction on land that may not wholly belong to the
11 applicant, coupled with what appears to be an oversight on
12 the staff's due diligence process.

13 On site submitted by the applicant, as Tim showed,
14 it clearly shows boundary issues. They also had a permit to
15 build the addition that was not followed and is several
16 hundred square feet larger than the Board approved. These
17 are not trivial matters. They underscore the importance of
18 thoroughness, of integrity, of the review process.

19 Additionally, we're concerned about our property
20 values, the essence of our homes and our community's
21 residential character -- I'm winding down -- I'm closing --
22 and it plays a pivotal role in our property valuation. Our
23 degradation from this development, the nuisances we've
24 experienced, jeopardizes our community's fabric and our
25 property values.

1 We acknowledge religious protections for religious
2 institutions, differentiating between substantial religious
3 burdens, and community well-being is paramount. The
4 proposal is (indiscernible), meaning it threatens our
5 community's core identity as a residential neighborhood.

6 So in conclusion, our stance is not against the
7 religious expression, but for the harmonious coexistence of
8 all community members. We're advocating for mutual respect
9 and least harm. We beseech the Board to balance religious
10 freedoms with our rights, environmental obligations, and
11 property values. Your judicious consideration will resonate
12 with the democratic principles that define our great nation.

13 And thank you so much for your time and your
14 commitment to justice.

15 CHAIRMAN: Thank you, Ms. Masten. We appreciate
16 your testimony.

17 Michael Greisman?

18 MR. GREISMAN: All right. [Greisman], Just for
19 the record.

20 I'd like to --

21 CHAIRMAN: I'm sorry, Greisman, I got it wrong.

22 MR. GREISMAN: Thanks.

23 I'd like to thank the Board for your consistency
24 in striving for consistency on all building and religious
25 matters. It's very important to us.

1 CHAIRMAN: Mr. Greisman, before you go, you were
2 sworn in, correct?

3 MR. GREISMAN: Oh, yes. Thank you. I was sworn
4 in.

5 CHAIRMAN: Okay, continue Mr. Greis--

6 MR. GREISMAN: And I live in Montpelier Woods on
7 Madrona Woods. So not a neighbor, but still well within the
8 hearing zone, able to be shaken by -- inside my house, by
9 the music festivals at the current congregation.

10 The monument implies visitors beyond the temple's
11 current purpose -- or beyond the temple purpose -- beyond a
12 religious purpose. And I like to envision this as any
13 religion. If this were a church or -- Christian or Greek
14 church, the monument expands its purpose. It implies
15 visitors beyond the usual purpose. And that implies a need
16 for parking that hasn't been added. We are already
17 concerned about the likelihood of parking on the -- on
18 Snowden Road, and that is a choke point.

19 I know the Board has considered for other
20 issues -- other requests, whether or not enough parking has
21 been provided and whether or not there's enough throughput
22 on the road. We already have a chokepoint there at the
23 intersection of Snowden and 197. Any parking there
24 interrupts that. We already have a problem with that. The
25 temple is going to add to it and the addition of a monument

1 implies additional visits to that. That's a problem. More
2 parking needs to be added in order for that to be altered.

3 The height change. While I understand the 28 foot
4 is important, I also understand it's important because the
5 statue has already been purchased. But regardless, the
6 height makes visibility likely. And while Ms. Scudder
7 said -- stated that the temple will -- building will be
8 hiding the statue from all but 197, according to the
9 diagrams, it looks like the statue is going to be between
10 the current house and the temple, and so visible from the
11 next house down Snowden Road, as well as from 197. Either
12 way -- so discussions about how it's visible, I found, have
13 been misleading.

14 Either way, this changes the character of the
15 neighborhood. When entering the neighborhood, visitors will
16 see this temple, which is great. See the statue, which is
17 fine. But seeing a huge statue really changes the character
18 of the neighborhood. And while a church within the
19 neighborhood is great -- and we already have some. A church
20 within the neighborhood that makes such a bold statement
21 that is so out of character with the surrounding structures,
22 including the temples, I think that is something that needs
23 to be considered very seriously by the Board. It does have
24 a negative effect on the neighborhood and makes an
25 overwhelming and sensational impression.

1 Thank you for all that. I think those are my main
2 points. I'm very concerned about the tree growth, however.
3 Two to three feet is the fastest I've found, and I don't
4 expect these trees to reach height by nine years. Thank
5 you.

6 CHAIRMAN: Thank you. I appreciate that, Mr.
7 Greisman.

8 Next, we have Taylor Hitaffer. And you were sworn
9 in as well, correct? Did Taylor drop off?

10 MS. TAYLOR HITAFFER: Good afternoon. Yes, I am.
11 Thank you. That is I.

12 CHAIRMAN: That's you. And you were sworn in, Ms.
13 Hitaffer, right?

14 MS. TAYLOR HITAFFER: Yes, sir, I was.

15 CHAIRMAN: Okay. All right. Take it away. The
16 floor is yours.

17 MS. TAYLOR HITAFFER: Hello, everyone. Thank you
18 for having us again. I would like to use my time to state
19 that in light of the recent land survey paid for by Ms.
20 Washington and her family, which clearly shows that the GIAC
21 SON Buddhist Temple is infringing on their neighbors'
22 property. The applicant must reduce and repair the damaged
23 property that they do not have legal access to build on.

24 Furthermore, I believe that any county permission
25 for the temple to continue in the overbuilding of their

1 property should be immediately ceased.

2 The community has witnessed several incidents in
3 which the applicant has ignored and disregarded zoning,
4 health and safety regulations that have negatively impacted
5 our family and neighbors' quality of life, which we went
6 into detail today in the last meetings. The trespassing,
7 the dangerous sound levels, the environmental mutilation,
8 the unsanctioned kitchen preparing and serving food without
9 supervision of the health department, and so on.

10 There has been a long-standing practice of
11 disregarding social and legal boundaries by the applicant
12 and their congregation, and the applicant needs to bear the
13 burden of proof that shows that they can run their
14 establishment without doing any further harm to the people
15 who live here and their surrounding properties. Only after
16 these reparations are made do we hope to regain peace and
17 solace in our community. Thank you.

18 CHAIRMAN: Thank you. Appreciate that. Thanks,
19 Ms. Hitaffer.

20 And we have Jeffrey Hitaffer. Mr. Hitaffer --
21 Jeffrey Hitaffer, are you there? Taylor and James, do you
22 know if Jeffrey is on here?

23 UNIDENTIFIED SPEAKER: I don't know. I can't
24 confirm.

25 CHAIRMAN: We'll come back. We'll come back if

1 and when he pops up.

2 Clyde Williams? Do we have Clyde Williams?

3 I think that is all on my list. We'll take a
4 second to see if Mr. Jeffrey Hitaffer comes back. No
5 pressure there. We'll give ourselves a second.

6 Is there anyone else who I missed who has signed
7 up to speak in support or opposition that I missed - neglect
8 or missed -- if they've signed up already? Anybody I missed
9 who signed up already?

10 Okay. Let's give Jeffrey Hitaffer a minute or two
11 to see if he will pop back in. He was on the list. We'll
12 let the other Hitaffers see if they can track him down.

13 In terms of our process, what we're going to do is
14 turn to the applicant, again, they're represented by Ms.
15 Scudder.

16 MR. JEFFREY HITAFFER: Can you hear me?

17 CHAIRMAN: Yes. Jeffrey Hitaffer, is that you?

18 MR. JEFFREY HITAFFER: You can? Sorry, sir, I had
19 to -- it was on dial in, so I dialed in, and then once I
20 dialed in, it wouldn't let me come back to the unmute
21 screen. So I apologize.

22 CHAIRMAN: I was trying --

23 MR. JEFFREY HITAFFER: I was trying to talk to the
24 air for a while.

25 CHAIRMAN: That's all right.

1 MR. JEFFREY HITAFFER: Thank you, sir. I've
2 already been sworn in.

3 CHAIRMAN: All right. Take it away, Mr. Hitaffer.

4 MR. JEFFREY HITAFFER: Thank you. My name is
5 Jeffrey Hitaffer. I'm from 9813 Snowden Road. I'm a
6 disabled retired police officer, 12 years of service as a
7 sergeant in Baltimore. And I went to the Town of La Plata.

8 I kind of look at this in a legal matter. We've
9 been focusing on trying to get the temple to follow our
10 rules here in the United States, in Maryland and PG county.
11 I have constantly told them everything that they've needed
12 to know about, hey, you need to apply for a permit for that.
13 You can't just cut down half acre trees. I've told them,
14 you know, every time they're building something outside or
15 having one of their shows that involve the bands and the
16 loud music, that they are over the limit. And instead of
17 turning it down, they'll just turn it up.

18 So they have a total -- they decide to ignore the
19 law. And the State of Maryland defines a gang as a group of
20 individuals, juvenile or adult, who associate a continuous
21 basis from allegiance for common purposes and are involved
22 in a delinquent or criminal activity. That's what we have
23 had nothing but. It was like a gang moved in to us next
24 door.

25 They've built a six to eight -- they have built a

1 fence six to eight foot onto my property, ignoring property
2 lines. They said they had a surveyor come in and apparently
3 a surveyor had no idea what he's doing because there's a
4 fence six to eight foot on my property.

5 They have a 30 foot -- I mean, a 15-foot statue of
6 Buddha, which could be -- isn't that their monument? So how
7 many monuments does a church need. I believe that they
8 already have their monument. If they want to have a second
9 monument, that needs to be additional laws written to allow
10 this. You know, it's not -- they -- she -- Ms. Scudder
11 loves to keep using the law on her side, but this is a gang
12 of people who didn't use the law at all in the beginning.
13 And I just implore you to look at that when you're just --
14 you're making this decision and see -- maybe we need to have
15 a lot more discussion on this before it happens. I would
16 like to see them get legal first in every way before they're
17 allowed to do anything further. We shouldn't give them the
18 right to build anything yet until they are legal. Thank
19 you, sir.

20 CHAIRMAN: Thank you, Mr. Hitaffer. I appreciate
21 your comments.

22 Is there anyone else who signed up to speak that I
23 have missed through our process? Seeing none, I'm going to
24 turn back to -- the public hearing portion of this is
25 closed. I'm going to turn back to the applicant for a

1 rebuttal and then any close. And then after that, we will
2 open it up for the commissioners for deliberation and any
3 action that we may deem appropriate at this time.

4 Ms. Scudder, you are on rebuttal and then close.

5 MS. SCUDDER: Thank you, Chairman Shapiro.

6 First, I would just like to thank all of the
7 neighbors who took time out of their schedules today to come
8 to this hearing and provide their comments. I mean, the
9 temple does appreciate your participation in this process.
10 And as I've said on prior occasions, the temple is committed
11 to continuing to have meetings with you all and trying to
12 work through the issues that are still outstanding.

13 There's only one issue that I would like to
14 address at this time that was brought up, just keeping it
15 within the scope of this hearing, and that is with regard to
16 the boundary dispute issue. And I would just say that the
17 temple will be -- I think what we see in that image that was
18 shown earlier in that area that appears to be outside of the
19 blue line is a statue, and it's in a gravel area. The
20 temple is going to be removing that statue, and we will
21 reach out to the neighboring property owner to mitigate any
22 issues that have taken place with the property as far as the
23 gravel and the statue being there, if we need to plant grass
24 seed or whatever in that area, but we will reach out to the
25 neighbor and coordinate all that with that property owner in

1 the very near future.

2 And with that, Chairman Shapiro, you know, I
3 didn't really prepare a closing argument. I would just say
4 that --

5 UNIDENTIFIED SPEAKER: You didn't answer Ms.
6 Williams' question.

7 MS. SCUDDER: Regarding -- oh, regarding -- can
8 you --

9 UNIDENTIFIED SPEAKER: Ms. Williams' questions
10 wasn't answered.

11 MS. SCUDDER: -- can Ms. Williams repeat her
12 question? I thought it was in regard to the statue.

13 CHAIRMAN: I just want to maintain order here.
14 But there was a question from one of the first speakers,
15 Catherine Williams.

16 Ms. Williams, are you still on the line?
17 Catherine Williams?

18 MS. WILLIAMS: Oh, I'm sorry. I was -- yes, I was
19 just asking about the -- the original paperwork kept
20 referring to the Buddha statue and -

21 CHAIRMAN: Right, right, right.

22 MS. WILLIAMS: Trying to be --

23 CHAIRMAN: We're with you, Ms. Williams.

24 MS. WILLIAMS: to a monument --

25 CHAIRMAN: I'm going to stop you there. Let me

1 stop you there. But you reminded me because I want to keep
2 our process back. But Ms. Williams, thank you very much.

3 So Ms. Scudder, the issue is: are we talking about
4 one statue or two? And that may be a question for you, it
5 actually may be a question for staff as well, because
6 there's the Buddha statue that seems to be not even on their
7 property. And then there's the new statue that's being
8 proposed. That's two separate statues?

9 MS. SCUDDER: Yes, sir. And I thought that's what
10 she -- I thought -- I thought she was referring to the one
11 that is on the property now. And that is in an area where
12 it is proposed for removal. That statue will be relocated
13 off that neighboring property. And again, we will mitigate
14 the gravel that has formed over the years in that location.
15 So we will do that immediately.

16 COMMISSIONER WASHINGTON: But to clarify --

17 CHAIRMAN: Hold your thought, Ms. Scudder.

18 Mr. Shelly, I want to get back to you under
19 discussion about whether -- what you're recommending for
20 approval actually has these two statues now. But hold that
21 thought because this is still Ms. Scudder for rebuttal.

22 And Commissioner Washington, you had a question?

23 COMMISSIONER WASHINGTON: And my question was
24 exactly your question, Mr. Chairman. Meaning are we are we
25 in fact, talking about two statues on the property, existing

1 plus the one coming? So thank you. We were thinking along
2 the same lines.

3 CHAIRMAN: Okay. So we'll get under deliberation,
4 we'll get some of these questions answered, unless, Ms.
5 Scudder, you have an answer to it now. But the floor is
6 still yours under rebuttal.

7 MS. SCUDDER: Okay. Well, there is one statue
8 proposed, the main statue for the new temple which is the
9 28-foot statue that the temple is now proposing. That is
10 the one that the applicant is requesting approval for under
11 the pending detailed site plan application.

12 With regard to the statue that the neighbors have
13 been referring to that are on the neighboring -- that's
14 on -- that's sitting on the neighboring property, that will
15 be removed.

16 CHAIRMAN: Removed, not relocated, unless there is
17 some kind of process that you both reach.

18 MS. SCUDDER: I think -- from visiting the
19 property in person, there are a number of smaller statues on
20 the property, and I think that's also just a part of, you
21 know, Buddhist, their religion and having these statues, you
22 know, like situated like in their courtyard. So yes, there
23 are other statues on the property. They're not, you know,
24 as large as the one proposed. And I think the one that's
25 over there on that gravel that's going to be either removed

1 or relocated, it's going to be definitely relocated off the
2 neighbor's property, because that is the issue that the
3 neighbors have been complaining about, is that that statue
4 is sitting on the neighbor's property. So to the extent
5 that the, you know, that that is happening, that will be
6 resolved, and we will reach out to the neighbor, and we will
7 coordinate the removal of that statue off the neighbor's
8 property. Whether it will remain somewhere else on the
9 property, I don't know, but I don't think it would be
10 prohibited. Again, it's a smaller statue, and then there's
11 other even smaller ones out there. And I think those will
12 remain in some capacity.

13 MS. WILLIAMS: This is -- and I want you to
14 understand, those of you that can -- the fifteen --

15 CHAIRMAN: Hold on. Ms. Williams? Ms. Williams,
16 we've closed the public hearing, so I -- you've had your
17 question, but I need to maintain the order of this right
18 now. Where we have is we have the applicant who's under
19 rebuttal. So if you could hold off, and I want to continue
20 with Ms. Scudder.

21 And we're certainly -- I mean, I have questions
22 about this, and some of this is with staff about what's
23 within the purview of the detailed site plan and what we're
24 approving here. I want to get some clarity around this.

25 But Ms. Scudder, we're still with you in a

1 rebuttal.

2 MS. SCUDDER: Thank you.

3 So I think I have addressed the statue that
4 they're -- again, that the main statue proposed under this
5 detailed site plan application, which does not currently
6 exist on the property, is the 28-foot Buddha statue that
7 will be nestled within the courtyard.

8 Now, there is an existing statue out there that
9 apparently is on the neighbor's property by a couple of
10 feet. That's going to be relocated. It's not as --
11 obviously, it's not as large as the one that's proposed, but
12 it is a statue that they currently use for now. So again,
13 for now, until their new Buddha statue is in place, they do
14 want to have that smaller one on the property somewhere.
15 They're not sure yet where they're going to relocate it to.
16 But it will be moved off the neighbor's property.

17 And so with that on the Buddha statue, I'll just
18 move to my conclusion, which is that the applicant is
19 respectfully requesting approval of the detailed site plan
20 application with the proposed 28-foot statue. This statue
21 is very much a part of the proposed temple's religious
22 practice and their religious beliefs.

23 I think that RLUIPA is very clear that a
24 regulation that restricts something that is so intricately a
25 part of their worship and their prayer should not be messed

1 with. And so I think we have to be very, very careful here
2 and respectful of their religion. This statue is not going
3 to be seen from almost every angle except for looking at it
4 straight on because of the new privacy fence that's going to
5 be installed. There's already an existing tree line that
6 has begun to form. There's a numerous trees out there along
7 that northeastern property line that have already been
8 planted and that are on their way into adult growth. But
9 there will be more trees planted. Like I said earlier,
10 there will be a couple of more evergreen trees, very tall
11 shade trees. And once those trees are fully grown, and in
12 addition to the privacy fence, again, I think that statue
13 will be well screened from not only the neighbors that live
14 along Snowden because the actual temple itself is what they
15 will see when they look out their windows is they will see
16 the building which will hide the statue behind it. The
17 properties that are sort of on the northeastern, the rear
18 side of the temple, those properties will also be protected
19 from view of the statue once the fence is installed and the
20 trees are fully grown.

21 And then again, I don't want to be repetitive, but
22 it just seems to me from looking at all the elevations, that
23 there's only one elevation where you will be able to
24 actually see the Buddha statue, and that's if you're driving
25 down 197 and you look to your right and it's going to be all

1 the way on the back end of the property. So I don't think
2 it's going to be, you know, as sensational as has been
3 described. I don't think it will be as visible as, you
4 know, has been alluded to.

5 But with all of that said, I again, we ask for the
6 Planning Board's approval. And with regard to condition X,
7 you know, we would be -- you know, the applicant would be
8 happy with either condition that has been proposed, which is
9 either to delete condition X entirely or add some language
10 that says that the plans and elevations would just simply
11 need to be updated to reflect the new 28-foot proposed
12 height.

13 So with that, I will close out my presentation and
14 thank you all very much for your time this afternoon.

15 CHAIRMAN: Thank you, Ms. Scudder.

16 So we've heard from the applicant. I will close
17 the public hearing portion of this, and commissioners, us
18 for deliberation. We may have questions too.

19 If I can start, I actually have a question for
20 staff related to what piece of this statue monument --
21 whatever we're calling them -- approvals are pertinent to
22 the detailed site plan.

23 Another question I'm going to have in addition to
24 that, and this may be for you, Ms. Coleman, if you could
25 talk a little bit about this definition issue related to

1 monument, statue, help clarify a bit this for us, because I
2 think you'll help us make sense of how staff came to their
3 decision as well.

4 But let me start with you, Mr. Shelly, related to
5 what we're looking at with the detailed site plan, this
6 other Buddha statue, does it get to go anywhere, or is that
7 something subject to our approval and detailed site plan?

8 MR. SHELLY: Good afternoon, Mr. Chair. Again,
9 this is Andrew Shelly with the Urban Design Section.

10 The detailed site plan only indicates that one
11 statue is shown on the property -- on the subject property
12 that would be part of this detailed site plan and part of
13 this approval. There are other statues and figures. If
14 you'd like, I can direct staff to the specific rendering
15 that was submitted by the applicant that shows these
16 additional figures. There's also some additional columns
17 that were shown in this rendering. Those are not on the
18 detailed site plan and thus cannot be approved today by the
19 Board. That would be subject for a different approval. The
20 only statue shown on the detailed site plan that has a site
21 detail is the previously 31-and-a-half-foot, now 28-foot-
22 tall Buddha statue.

23 So that 15-foot statue, that is not on the
24 applicant's property. If the applicants wish to relocate it
25 to their property, that would require -- that would likely

1 require an additional approval and additional -- an
2 amendment to the plan if approved.

3 CHAIRMAN: Is that based on a specific height
4 limit, like if it were a two-foot statue, it wouldn't matter
5 if it were a eleven-foot statue, then it matters. I mean,
6 is this gray area, or what are the rules and regs are on
7 this?

8 MR. SHELLY: I would defer further to Mr. Hurlbutt
9 about the rules and regs of specific statue sizes.
10 Typically, we ask for details, though, for any free standing
11 objects that would be shown on a property.

12 CHAIRMAN: Thank you for that, Mr. Shelly.

13 Mr. Hurlbutt, you have something to add on that?

14 MR. HURLBUTT: I think it would depend on the
15 case, but we can go back and look at that specifically in
16 this instance. But for a religious property or any property
17 that's coming before us for a site plan, we ask that all
18 improvements be shown on the plan. And in this case in
19 particular, those statues should be shown. And we're noting
20 that because -- what we've seen in the illustrative drawing.

21 You know, otherwise, the requirement for a site
22 plan or approval of a statue in a residential zone sometimes
23 can come to us through DPIE as an enforcement issue, and
24 they look to the code to make those determinations.

25 CHAIRMAN: Thank you. That helps answer that

1 question for me.

2 COMMISSIONER WASHINGTON: Mr. -- may I ask a
3 follow on to that?

4 CHAIRMAN: Please.

5 COMMISSIONER WASHINGTON: Especially Mr. Hurlbutt,
6 because the applicant has indicated that they plan to
7 relocate a statue that is not currently as part of this DSP,
8 and that we would likely have to review and consider that,
9 does that mean we approve this DS -- are we in a position to
10 even approve this DSP because it's not been relocated or not
11 being considered at this point? I think that was clear.

12 MR. HURLBUTT: You can take a couple of different
13 paths. You can condition that the statue be shown to be in
14 conformance with the Code on a revised site plan. Or you
15 can ask that an amendment be filed to show all the statues
16 on the site plan, or you can simply nearly define your
17 approval to do the one statue.

18 COMMISSIONER WASHINGTON: Thank you very much.
19 That was very helpful.

20 CHAIRMAN: And then I had the other question.
21 More of a request of Ms. Coleman just to sort of clarify how
22 we're making -- because there were some questions about
23 definitions that came up, and I think it'd be helpful for
24 counsel to weigh in on that.

25 So Ms. Coleman, if I could turn it to you.

1 MS. COLEMAN: Thank you, Chair.

2 Lisa Coleman, Senior Counsel, for the record. So
3 in providing the definition for monument, Ms. Scudder is
4 using the Merriam-Webster dictionary definition. But the
5 problem with that is, when you're looking at the zoning
6 ordinance, you only go to the common definition when it
7 isn't defined. And where we differ is that we believe that
8 there is a definition for a monument. While it's not in the
9 contained -- in the definition section of the zoning
10 ordinance, when you go to Section 27119, monument is
11 referred to as a rooftop structure, which is how staff got
12 to the definition that 27117 applied to monuments that would
13 be traditionally on a roof.

14 CHAIRMAN: So where does that leave us in terms of
15 staff's interpretation?

16 MS. COLEMAN: So staff's interpretation would be
17 that a ground-mounted statue would not be considered a
18 monument in relation to the definition of how monument is to
19 be treated within the zoning ordinance.

20 CHAIRMAN: And hence the decision to recommend to
21 interpret this as an accessory structure?

22 MS. COLEMAN: That is correct.

23 CHAIRMAN: Okay. Okay. All right. That's
24 helpful. And again, just to be clear there, their
25 interpretation of this as accessory structures because

1 monument is defined elsewhere -- or not defined, referred to
2 elsewhere, let's say. And the definition that is inferred.

3 MS. COLEMAN: That's correct.

4 CHAIRMAN: Okay. Okay. All right. That's
5 helpful. Thank you.

6 That's all the questions that I had.

7 Commissioners, other questions you all have --
8 thoughts, reactions?

9 COMMISSIONER WASHINGTON: I do. And I can't
10 reconcile the resolve in my mind this other 15-foot statue.

11 And Ms. Scudder, you -- please, if I misunderstood
12 what you said, but in your discussion around that statue
13 being relocated to someplace else on the property, you
14 indicated that it is the statue that is currently being used
15 for religious purposes by the temple, yet your argument with
16 regards to the larger statue -- or it's a statue or
17 accessory dwelling or whatever we're going to call it -- is
18 that they needed it for religious worship purposes.

19 So my point is, how do we get to 28-feet as a need
20 when what we currently have is 15-feet and that's being
21 utilized, if it's truly religious?

22 MS. SCUDDER: Well, I guess what I would say to
23 that is that, you know, this property right now is developed
24 with a single-family home that Master Vy Do resides in. It
25 is not officially a temple yet. I mean, that is what is

1 before this body is to approve the property for use as a
2 temple. And so you know, right now there's only a single-
3 family dwelling on the property, and that is the use that is
4 allowed there at this time.

5 COMMISSIONER WASHINGTON: That helps
6 (indiscernible) --

7 MS. SCUDDER: I don't know if that -- that may not
8 have answered your question. I guess I would just say that,
9 you know, they do have a Buddha statue that, you know, they
10 use for worshiping purposes now, but it is temporary. It is
11 not, you know, the statue that they want -- that they will
12 be using once the temple is constructed. It works for now,
13 but it -- once the new temple is built, you know, it will be
14 too small.

15 COMMISSIONER WASHINGTON: I'll noodle that for a
16 moment. Thank you for your response. I'll see if my
17 colleague has any comments. I may have some more.

18 Thank you, Mr. Chairman.

19 CHAIRMAN: Mr. Doerner?

20 COMMISSIONER DOERNER: Yeah.

21 CHAIRMAN: Anything from your side?

22 COMMISSIONER DOERNER: I'll chime in. This is
23 partially just like my -- maybe my discussion comments, but
24 it'll be helpful for the aim of this motion-maker to know
25 kind of where I stand on this particular issue. So let me

1 start out by saying -- and I'm going to warn you, I'm going
2 to be probably pretty verbose because I've been noodling
3 this for a while.

4 I'm less focused on the violations that residents
5 have raised in the case. I thank you all for coming out and
6 for being super involved in the multiple times we've
7 postponed this case. And I'm very receptive and interested
8 in those issues. I think we have limited ability to resolve
9 them because of DPIE violations and other stuff.

10 And Ms. Scudder, it doesn't reflect very well on
11 your applicant. They're not being a good neighbor. Like,
12 terribly reflects on them. Especially since they're a
13 religious institution, like, just personally, I would think
14 that a religious institution or group would be a little bit
15 more welcoming, neighborly, like, whatever you want to say.
16 And this is just not a really good reflection of your
17 applicant.

18 So I hope you can resolve those issues going
19 forward if you do get approval for this in whatever state it
20 is, because that's -- to me, that's just kind of bothersome.
21 I don't like seeing --

22 MS. SCUDDER: Commissioner Doerner, can I respond
23 to what you're saying right now, please?

24 COMMISSIONER DOERNER: Let me (Indiscernible) --

25 CHAIRMAN: Mr. Doerner has the floor, Ms. Scudder.

1 COMMISSIONER DOERNER: I'm not necessarily looking
2 for an action right yet. I'm just sort of like suggesting
3 that you should do a better job with the neighbors, because
4 that bothers me. Any case that comes before us, when we see
5 neighbors not playing well together, it's just -- I don't
6 like to see that.

7 And then particularly when we have, like, if it's
8 government or religious or whatever, that has just kind of a
9 higher cause. It's just kind of concerning to see that not
10 working out well.

11 And I recognize it's not always going to work out
12 well. There's going to be some people that don't want
13 certain uses in the neighborhood, and that's just going to
14 be what it is. That's not affecting my decision today.

15 In terms of what I think we should potentially do
16 going forward for the motion maker, I think on the option on
17 the statues, my personal preference would be that we have an
18 amendment be filed to show all the statues. I'm not
19 interested in dealing with this conformance issues and
20 putting more in that way. I would just like to see them all
21 there on the map, assuming they're already in conformance
22 with whatever is supposed to happen. I don't think we
23 should only push this forward with just one statue kind of
24 in there.

25 And then the other sort of thing that we should do

1 is, in my opinion, is I think we should strike X -- that the
2 finding X or whatever is in the staff report that the
3 finding the recommendation X on limiting it to 15 feet.

4 I feel strongly in different ways. So I support
5 some of the things that staff are saying, but I also support
6 some of the things that the applicant's attorney has raised
7 today.

8 On the other hand, I don't agree with both sides
9 in some of their interpretations of things. So let me just
10 kind of give a little bit of light on that. I think Ms.
11 Scudder, in this case in particular, it's different than the
12 Victory Temple case. You had an applicant there who was
13 denied the ability to move forward because they couldn't
14 upgrade from a certain water and sewer Category 5 before,
15 and that was necessary for the development to happen, and to
16 successfully complete their project, to bring it to
17 fruition, to have the church there in that land. In this
18 case, we don't have that. If the statue is not even
19 approved, you can still make your temple. So this is a
20 little bit different in terms of where we're going to be
21 looking for the particular questions that are relevant that
22 would potentially limit religious usage on this property
23 because it's not being limited in entirety.

24 If we had said that the statue wasn't even
25 allowed, you could still operate, you could still open the

1 temple and you could go forward if we were to approve
2 everything else.

3 The total exclusion might be a violation of RLUIPA
4 if we were to say it, though, and I'm not entirely clear if
5 it is, because I think it's a little bit open for
6 interpretation in terms of whether or not accessory usage
7 being declined would entirely violate RLUIPA.

8 The restriction on the statues heights could even
9 be -- even if we didn't totally say you can't have any
10 statue -- if we restrict some of the heights, that also
11 might be a violation of sort of unreasonably limiting the
12 religious assembly practice, congregation, structure, kind
13 of things that are outlined in DOJ materials and other
14 places online and in other cases as well.

15 And that's really what concerns me because that
16 falls within our county's jurisdiction. And I think on that
17 aspect, I differ from Chair Shapiro in some way, because I
18 know he had made some earlier statements about the County
19 Council and their role, but I think we have to be careful to
20 not point the finger at the County Council and say they're
21 the ones that are creating the potential RLUIPA violation
22 because they act legislatively. They haven't clearly
23 defined this. There's an existing law which our staff is
24 referencing for a potential height limit.

25 In this case, we are interpreting that law and --

1 or that Code, and we're taking some discretionary authority
2 into that. And that's exactly what's going to be challenged
3 in this case if it goes forward, because we are going
4 through, and we are making individualized assessments of the
5 proposed use of the property, and it is potentially a land
6 use regulation. Those are the initial two questions that
7 the Fourth District considered when it was trying to
8 evaluate the RLUIPA applicability of this. And it says it's
9 the burden of the governmental entity to establish certain
10 things and decide whether or not there's a substantial
11 burden that's being applied.

12 So what I want to do is -- I think we need to be
13 careful in defining what we think is applicable in the
14 RLUIPA consideration. We're not limiting content, so we're
15 not limiting the religious practice, necessarily. We're
16 trying to focus this case on use and making sure it's
17 applicable throughout the County and sort of the same way --
18 in all ways. And we're not judging this application in any
19 way differently because it's a religious institution in
20 terms of making a stronger determination or saying that we
21 don't want to have it here because it's a religious use.

22 But there are questions that you might kind of
23 think about in terms of what's the correct classification of
24 a statue. We've been going back and forth on that. Is the
25 statue an accessory structure or is it a monument? What's

1 the applicable height limit and are we creating a height
2 limit that's more restrictive or most restrictive? Or are
3 we following some sort of least restrictive consideration?

4 On those aspects, I think that we have some
5 conflicting kind of testimony going different ways. And
6 it's sort of a delicate case because of the religious aspect
7 of it.

8 I think that the County Code 27117, speaks
9 specifically to this statute, and we should not be citing
10 27119. I think that's just a complete muddling of the
11 County Code, if you read it very plainly. And anyone who's
12 looking at this on the outside is going to probably opine
13 that way as well. 27117 says structures excluded from
14 height control. We've already established that we think
15 this is an accessory structure. Our own staff report says
16 that we think that this could be potentially a monument,
17 maybe common Merriam dictionary, whatever we want to cite,
18 but that's perfectly fine. If we've already agreed that
19 it's a monument in the staff report, we're in violation of
20 27117.

21 It doesn't allow us then to go to 27119 and say,
22 oh, there's some reference to roof structure because the
23 monument is not defined. That's just an example of what can
24 be on a roof. It doesn't say a monument has to be on a
25 roof. 27117 is very specific in going through and listing

1 out that height limits set forth in the subtitle should not
2 apply, and it goes through a number of cases -- or a number
3 of uses -- or accessory structures that can be belfries,
4 chimneys, copulas, domes, flagpoles, flues, monuments, radio
5 towers, television antennas, fires, bulkheads, elevators, or
6 similar structures. Monument is in there. All 27119
7 touches on is the percentage of a roof area in terms of what
8 it can cover and what it can't cover. It doesn't talk about
9 height. So I think when we start to talk about height and
10 we're trying to apply that to monument and say a monument is
11 only supposed to be on the roof, we're totally missing the
12 point of 27117 because it's clearly spelled out there that
13 we cannot put a height control on the monument as one of the
14 potential uses within there -- or the accessory structures.

15 That to me is very troubling that we're trying to
16 put this 15-foot limit on there, because I have not heard
17 today that there's any other sort of least restrictive
18 considerations that we've been taking about whether or not
19 we should have it be 16 or 20 or whatever it was at. And
20 that's what I was trying to find out earlier when I was
21 asking some questions.

22 I think we have a compelling government interest
23 to have a height limit for a variety of reasons to protect
24 public interest, health, safety and welfare, depending on
25 how tall structures are. There's all sorts of things we can

1 argue in terms of whether or not we should be doing this.
2 But whether or not we're taking the least restrictive means,
3 I think the answer is no right now. And that to me is
4 troubling because that is a RLUIPA violation in my mind, and
5 it is our obligation to avoid that.

6 Regardless if we're writing the laws, if we are
7 applying them and interpreting them, we fall within that
8 authority of having to be careful as a government entity.

9 So my suggestion is that we strike X, and we go
10 with the 28-foot proffered height that the applicant has
11 offered to go with. In that case, we're not restricting
12 this, and we're not going to put ourselves in any hot water
13 about whether or not we want to interpret monument
14 differently than Merriam or some other source.

15 And I think we should steer clear -- because Ms.
16 Scudder has a clear cut case for a RLUIPA violation, in my
17 mind, if we keep X in there, and I'm going to vote against
18 any motion for that because I think it is a violation, and I
19 would not support that going forward.

20 But if we remove X and we put in the other
21 condition about having an amendment be filed to show all the
22 statues, I think then we're careful. We're giving due
23 consideration. We're exercising our authority
24 appropriately. And it would be great if the County Council
25 could actually define monument in the Code and help out a

1 little bit more. But in the meantime, while we're trying to
2 do our jobs, I think we're staying within our own
3 appropriate bounds. So let me stop there.

4 COMMISSIONER WASHINGTON: Oh, no, don't stop now,
5 Mr. Doerner.

6 COMMISSIONER DOERNER: There's my monologue for
7 today.

8 COMMISSIONER WASHINGTON: I had to say something.
9 You know I would. It's like it didn't even take all that
10 for you today. We're very much aligned. And I would like
11 to say that, especially as it relates to your initial
12 comments about being neighborly, that gave me a whole lot of
13 heartburn as well for very much the same reasons as my
14 colleague stipulated.

15 And I believe it was Ms. Price, if I'm not
16 mistaken, the president of the South Laurel Homeowner's
17 Association, who asked -- and if it was not her, I'm sorry
18 for incorrect attribution -- but I would encourage you all
19 to be in touch with our staff because a number of the things
20 that were shared -- and we're not here to pass judgment.
21 They're not within our purview or scope of what we can do
22 about them, but we can certainly point you to the right
23 sister agencies so that some of these things can be
24 addressed, because some of what I heard and what was
25 described are clear infractions, if in fact that's what

1 happened.

2 So I would just encourage you, Mr. Shelly or Mr.
3 Belhadj (phonetic sp.), who's on -- just reach out to Mr.
4 Shelly and he can put you in touch with the right person
5 because there are agencies within the County who can help
6 you all along with that. But it was quite unfortunate.

7 And I also have to say --

8 MS. PRICE: Thank you, Ms. Price.

9 COMMISSIONER WASHINGTON: -- I'm sorry?

10 MS. PRICE: I was thanking you for that. I
11 appreciate that.

12 COMMISSIONER WASHINGTON: You are so welcome.

13 And I guess for me, kind of a double-down on the
14 on the not being good neighbors. More than a couple of
15 people said that the statue had already been ordered and was
16 already in routes. That is pretty presumptuous. And it
17 just -- you know, it flies in the face of exactly what we're
18 talking about. I mean, it's clear that the neighbors don't
19 feel good about the relationship -- and relationship being a
20 strong word.

21 But Ms. Scudder, you and your client should really
22 be thinking about that because my comment to Ms. Price was
23 essentially, we're going to help them find the appropriate
24 enforcement agencies to make sure that these issues are
25 addressed. So they can either do it the good neighborly way

1 or have to deal with the consequences of not doing anything.

2 And I'm right there with you, Mr. Doerner, in
3 terms of the amendment. I had already made a note of that,
4 which is the direction I'd like to go. And I think because
5 the 28-foot is a proffer, we are well within our rights to
6 do that as well.

7 Okay. Mr. Chairman, you're probably sick of
8 hearing from both of us by now, right?

9 CHAIRMAN: To the contrary, I think this was a
10 super helpful for me. Well-articulated. I don't disagree
11 with anything that I've heard. I mean, maybe the only thing
12 is, and it's for another form, is the whole RLUIPA
13 interpretation.

14 But we may have a friendly disagreement about
15 that, Commissioner Doerner, but I think we're ending up --
16 regardless of that, we're ending up in the same place on
17 this case. And I do agree that, out of abundance of
18 caution -- this is probably the cleanest way to do this --
19 is to accept the 28-foot proffer, because that's a proffer.

20 This issue around the other statue and where it's
21 going to go. I mean, some of these are just -- so much of
22 this is just going to be out of our purview. So much of
23 this is going to be enforcement issues.

24 And if I were living next to it, and I had these
25 kind of frustrations, you know, I'd be annoyed. I'd be

1 pissed. And unfortunately, we work with what we work with
2 in our role, and we cannot coerce folks to be good
3 neighbors. And again, it's not for me to judge because I
4 don't have the whole story. I'm hearing the interpretation
5 through this -- through the dialog of the public hearing,
6 which is not a perfect dialog by any stretch.

7 But the short of it is, in terms of deliberation,
8 I'm happy to wrap up this deliberation, and I would
9 encourage us to take action on this and to approve staff
10 recommendation with one change, as you've both described,
11 which is to remove that -- I forget the one that we're
12 talking about -- but shortly, to remove that condition and
13 have it be simply a proffer for a 28-foot statue. And that
14 would be my suggestion, and I think it's aligned with where
15 both of you are.

16 COMMISSIONER DOERNER: 1X.

17 CHAIRMAN: So -- yes?

18 COMMISSIONER DOERNER: Yeah. Yeah.

19 (Indiscernible) --

20 CHAIRMAN: All right. So with that, we wrap up
21 the deliberation, and I would look for a motion.

22 COMMISSIONER DOERNER: Let me just ask one --

23 COMMISSIONER WASHINGTON: Mr. Chairman, I move
24 that we -- I'm sorry?

25 COMMISSIONER DOERNER: -- I was just going to ask

1 Chair Shapiro, are you fine with the amendment to be filed
2 to show all the statues as well, or were you sitting on the
3 other statues?

4 CHAIRMAN: I mean, the way I would look at it is,
5 if we vote on this, if we take action, we're taking action
6 on what's before us. If there are other statues -- if they
7 want to relocate that statue -- if they do something that's
8 in violation of the DSP, then they're in violation and it's
9 an enforcement issue, or we're saying -- it's our
10 expectation for that statue, that we expect that you need to
11 come back with some kind of amendment to the DSP for that
12 for that statue.

13 UNIDENTIFIED SPEAKER: Right.

14 CHAIRMAN: If you choose not to, then that's
15 between you and DPIE. That would be my interpretation,
16 Commissioner Doerner, if that's all right with you, because
17 I can't make them do it either way. I'm just -- she's heard
18 loud and clear what we think is the right interpretation.

19 COMMISSIONER WASHINGTON: Well, we can require
20 them to file an amendment to come back and show where all
21 the statues are, and I would be supportive of that because
22 there's not much we can do, quite frankly, based on all that
23 we've heard. But I certainly think that the community would
24 feel better if they know that we are still asking for them
25 to be compliant.

1 CHAIRMAN: But I think I think the difficulty is
2 that is that there's this issue around interpretation. And
3 this may sound flip, right --

4 COMMISSIONER WASHINGTON: Oh, I see.

5 CHAIRMAN: -- but this goes back to something that
6 Ms. Scudder said -- which, Ms. Scudder, pardon me for saying
7 it this way -- it annoyed me, and I heard you, which is --
8 if this is a house right now, it's held to different
9 standards. And what that thought of for me is, okay, I've
10 got statues in my backyard right now of my house.

11 UNIDENTIFIED SPEAKER: Right.

12 CHAIRMAN: Okay. So are those okay? Is my lawn
13 statuary okay or is it not, right? At what height does it
14 become not okay. There feels to me like all sorts of gray
15 area around this, which is problematic.

16 I mean, I think with the existing statue, it
17 feels -- I don't know, maybe it's clean enough. Maybe I'm
18 just having a fantasy that I can make a distinction between
19 that one statue and the other ones because there's this gray
20 area here.

21 COMMISSIONER DOERNER: You know, what's going to
22 happen is if we require this amendment, then the second we
23 get off the phone, somebody is calling DPIE now and sending
24 them to your house.

25 CHAIRMAN: Just don't touch my birdhouses. That's

1 all I ask. Right. But I think this is the problem with if
2 we go too far down this road.

3 And maybe Ms. Coleman, just thoughts -- or Mr.
4 Shelly, anything that you want to -- or Mr. Hurlbutt,
5 anything you want to weigh in around this to help us
6 formulate how to proceed with this? Because I think you
7 hear the direction -- I'm not disinclined to go down that
8 direction if we can do it in a clean way.

9 COMMISSIONER WASHINGTON: Yeah.

10 CHAIRMAN: Any thoughts, Mr. Hurlbutt?

11 Ms. Coleman?

12 Mr. Shelly? Or use as muddled around this as we
13 are?

14 MR. SHELLY: No, I would agree. There is a number
15 of factors that can play into the determination of when a
16 structure needs to be shown on a site plan, and at what
17 degree, especially if we're talking about a couple of feet
18 of statue.

19 Obviously, I think the 15-foot statue is a little
20 bit different. But you know, I agree, we can choose to have
21 enforcement take it on, or I think being proactive puts the
22 applicant a little bit at a disadvantage. If they weren't
23 going to retain any of those statues, then I guess they
24 don't have to provide the site plan, which would also be an
25 option.

1 UNIDENTIFIED SPEAKER: And that was also my
2 question. I was a little unclear. Once the 15-foot statue
3 is removed from the neighbor's property and placed on there,
4 is that are just going to be something that's temporary
5 while you wait for the larger statue?

6 COMMISSIONER WASHINGTON: Well, that's what is
7 unclear. I know I was trying to get at that. I think the
8 Mr. Chairman was trying to get at that as well. I'm not
9 clear that it will be temporary, meaning it's just going to
10 be relocated onto their property. I mean, that was my
11 understanding. That was my takeaway from the response I
12 got.

13 CHAIRMAN: And I want to ground this in what is in
14 your purview, right?

15 COMMISSIONER WASHINGTON: Right.

16 CHAIRMAN: This is the issue. In in a typical
17 situation, if something that -- I don't know how tall that
18 Buddha statue is, but am I correct that Buddha statue is
19 about 15 feet, or do we not know this gutter?

20 Ms. Scudder, do you know?

21 MS. SCUDDER: Approximately, Yes. Approximately
22 15 feet.

23 CHAIRMAN: Okay.

24 So then the question is, in a similar situation,
25 Mr. Hurlbutt, Mr. Shelly, are we paying any attention to a

1 15-foot statue in a typical -- in this zone, in this
2 situation?

3 MR. HURLBUTT: Maybe you can clarify the question
4 for us. What do you mean by paying attention in terms of a
5 site plan?

6 CHAIRMAN: Like would it show up on the site plan?

7 MR. HURLBUTT: It should.

8 CHAIRMAN: Okay.

9 MR. HURLBUTT: Something of that size should
10 because it's as big as an accessory building or structure,
11 and we would be looking for conformance with the setback as
12 well as the height for any structure of that size.

13 CHAIRMAN: Okay.

14 So Mr. Scudder, let me make a suggestion. And
15 maybe this would be you helping us out a bit. Can you
16 proffer that that 15-foot relocated statue will be done
17 through a revised site plan process so that there's some
18 boundaries around where it's going to go?

19 MS. SCUDDER: I would, I guess, respond with a
20 question back to you. And that is, could that be done
21 through a condition that requires the applicant to show it
22 on their plan if they're going to keep it for certification
23 so that we don't have to come back and file a separate
24 application to revise this site plan and go through another
25 review process? If they decide they want to keep that 15-

1 foot statue on the property somewhere, then when we go
2 through certification, we have to show it where it's going
3 to be located at the time of certification. So I --

4 CHAIRMAN: That feels like a reasonable
5 compromise -- that feels like a reasonable compromise to me.
6 There's some guardrails around that. Mr. Doerner or Ms.
7 Washington, does that feel okay to you all?

8 COMMISSIONER WASHINGTON: Yeah, I'm fine with
9 that.

10 COMMISSIONER DOERNER: That seems like the least
11 restrictive means to me, so looking good.

12 CHAIRMAN: Okay. Okay. So let's include that as
13 a condition that's proffered by the applicant. Is the
14 language around that clear, Ms. Shelly, Mr. Hurlbert.

15 MS. WASHINGTON: Were you talking about Ms. -- oh,
16 you were talking about the other Ms. Washingtons, because
17 these Ms. Washingtons, we don't agree with that. Okay.

18 CHAIRMAN: I know, but this Ms. Washington -- I'm
19 sorry to say, we're under deliberation, so no problem
20 weighing in, but this is for our Ms. Washington.

21 Ms. Coleman, do you have any concerns about that
22 condition being proffered by the applicant?

23 MS. COLEMAN: Not a concern on the condition in
24 general, just making sure that it's worded so that it shows
25 that not only is it placed on the property prior to

1 certification and shown, but that it is shown in a manner
2 that is consistent with any applicable zoning regulations
3 such as setbacks.

4 UNIDENTIFIED SPEAKER: Okay. (Indiscernible) --

5 CHAIRMAN: Right. And I think I hear you loud and
6 clear. Right. That's what it will need to say to pass
7 muster with our team and ultimately with enforcement. So
8 I'm with you.

9 Mr. Hurlbutt, Mr. Shelly, good enough?

10 MR. HURLBUTT: Yes, I believe so. So we're going
11 to ask that it be shown on the certified plans, and we'll
12 determine compliance at that time.

13 CHAIRMAN: Right. That is shown in the certified
14 plans, and to Ms. Coleman says that it meets all the
15 requirements that you would expect something of that size to
16 meet in terms of setbacks, et cetera, et cetera.

17 MR. HURLBUTT: Agree.

18 MS. COLEMAN: And just for clarity and a record,
19 that would be condition 1-Z, like zebra.

20 CHAIRMAN: Okay. So just --

21 COMMISSIONER WASHINGTON: Well, I was going to
22 add -- I'm just going to stipulate in the motion that staff
23 would work with counsel on ensuring the appropriate language
24 as well as placement. So that way you don't have to lock
25 yourself in right now. But I think the spirit of the

1 discussion is I hope that it's clear.

2 CHAIRMAN: Yeah. No, that's helpful. So that --
3 adding that to the motion is fine.

4 I've got one other issue, actually, now that we're
5 thinking about it. A number of folks who testify testified
6 about the trees that were being suggested, the screening
7 trees. And you know, this is an issue for all of us, right?
8 This is not news. But if screening trees are brought in
9 that essentially aren't going to be screening for another
10 nine years, you know, that's an annoyance.

11 COMMISSIONER WASHINGTON: Oh, yeah.

12 CHAIRMAN: And so I don't know -- Ms. Scudder, I
13 don't think you have your landscape architect on the line
14 with us. I assume you don't. But is there any kind of
15 proffer that can be made around the size of the trees that
16 are installed, even though I know that there's additional
17 expense associated with that. But I also know from lots of
18 experience that for a little bit more money, you can buy
19 larger trees on the site.

20 MS. SCUDDER: Understood. Yes. Okay. You know,
21 I don't want to speak for the temple, but they are all here
22 right now. And I personally don't have a problem with that
23 condition. But is anyone from the temple -- no. Does
24 anyone object to what Chairman Shapiro just requested, which
25 is that --

1 CHAIRMAN: Know that it will cost you more money,
2 but I think it's the right thing to do for the neighborhood.

3 MS. SCUDDER: If there are no object --

4 COMMISSIONER WASHINGTON: And I guess when it
5 comes to staff -- it's condition 1W5, so staff --

6 CHAIRMAN: The screening?

7 COMMISSIONER WASHINGTON: I'm sorry?

8 UNIDENTIFIED SPEAKER: Yes.

9 CHAIRMAN: Related to the screening is one 1W5?

10 COMMISSIONER WASHINGTON: Yes, yes. 1W5. And I
11 don't know -- the staff put in a height -- or somehow we can
12 say or codify what you're saying, Mr. Chairman. I mean, it
13 could be a slight revision to that condition. That's what
14 I'm saying.

15 CHAIRMAN: No, thank you. Mr. Hurlbutt or Mr.
16 Shelly, is there some history behind this that you can help
17 us with? Is there a language that can be put in around tree
18 height for the initial installation of trees related to
19 screening? Any advice you could give us around that?

20 MR. HURLBUTT: I believe usually tree size is
21 determined by caliper, by our landscape manual. So if the
22 Board wants to specify a specific height that may be
23 something different, but that you could do that within
24 condition W5 if you're requesting that a minimum of a 15-
25 foot tree be provided or ten-foot tree.

1 CHAIRMAN: Yeah, I think that would be
2 appropriate. I don't know enough around what the viewshed
3 is to know what height would be appropriate, but -- yeah,
4 I'm not sure. Right.

5 MR. HURLBUTT: Or you can have it up to the
6 determination of urban design, and we can work with the
7 applicant to find what would be most appropriate.

8 CHAIRMAN: Yeah. And what if the goal is that the
9 initial -- the trees themselves are of the appropriate
10 height to provide screening on day one.

11 UNIDENTIFIED SPEAKER: Yeah.

12 MR. HURLBUTT: Understood.

13 CHAIRMAN: Okay.

14 Ms. Scudder, yeah? Okay?

15 MS. SCUDDER: Yes, we're okay with that. Thank
16 you, Chairman.

17 CHAIRMAN: And the only issue I have related to
18 fencing-related screening is, dare I say that the fence will
19 be actually on the applicant's property, yes?

20 MS. SCUDDER: Absolutely.

21 CHAIRMAN: Thank you. With nothing on the other
22 side of the fence that doesn't belong to the other people.
23 Okay. We're fine.

24 MS. SCUDDER: We will make sure.

25 CHAIRMAN: Okay. Okay. Thank you. So if there's

1 no further deliberation.

2 Commissioner Doerner, Commissioner Washington, if
3 you're okay, then I would look for a motion from our motion
4 maker.

5 COMMISSIONER WASHINGTON: Okay. Mr. Chairman, I
6 move that we adopt the findings of staff and approved DSP-
7 20002 TCP 2-018-2023, and AC-22009, along with the
8 conditions as outlined in staff's report with the following
9 modifications.

10 We shall delete condition 1X, and there will be
11 two proffered conditions proffered by the applicant. The
12 first proffer relates to a proffer of a 28-foot statue, and
13 then the second proffer relates to the condition discussed
14 about -- what was it -- going through certification? What
15 was that, Mr. Chairman, that was -- what was -- I made a
16 note here?

17 MS. SCUDDER: That was 1W5 or --

18 COMMISSIONER WASHINGTON: Oh, yes, 1W -- yeah.
19 Right.

20 MS. COLEMAN: (Indiscernible) the 15-foot statue
21 needs to be shown.

22 COMMISSIONER WASHINGTON: That's right. Thank you
23 so much, Madam counsel.

24 And then condition 1W5 shall be modified to
25 include language that it would be approved by the Urban

1 Design Section. And I would ask staff and counsel to work
2 together and ensure that the language with regards to 1W5,
3 as well as the two proffered conditions, is consistent with
4 the discussion this afternoon. I think I got it all.

5 CHAIRMAN: I think so. Let's check with Mr.
6 Hurlbutt, Ms. Coleman, Mr. Shelly.

7 Does the motion feel -- kind of captured
8 everything we talk about?

9 MR. HURLBUTT: I believe that's complete.

10 CHAIRMAN: Okay. So second --

11 COMMISSIONER WASHINGTON: I have to be careful
12 about 30-day holiday breaks, right?

13 MR. HURLBUTT: Yeah. Just to clarify, I think the
14 motion-maker said that there would be three added
15 conditions -- or three modifications, and I think at the end
16 of the day, there were four, the deletion of 1X, the
17 proffered conditions --

18 COMMISSIONER WASHINGTON: Oh, yes --

19 MR. HURLBUTT: And then the three proffered
20 conditions, so

21 COMMISSIONER WASHINGTON: That is correct, Mr.
22 Hurlbutt. Thank you.

23 CHAIRMAN: Okay. Is there a second?

24 COMMISSIONER DOERNER: I'll second.

25 CHAIRMAN: All right. We've got a motion by

1 Commissioner Washington, the second by Commissioner Doerner.

2 Any discussion on the motion? No discussion. I
3 will call the role.

4 Commissioner Washington?

5 COMMISSIONER WASHINGTON: Vote aye.

6 CHAIRMAN: Commissioner Doerner?

7 COMMISSIONER DOERNER: Vote aye.

8 CHAIRMAN: I vote aye as well. The ayes have it,
9 three, zero.

10 I want to thank everybody from the public. We
11 hear your concerns loud and clear. Hopefully, through --
12 with what we have the authority around, hopefully, we
13 addressed some of them. I imagine this isn't completely
14 going away.

15 Ms. Scudder, I think you've heard where we are
16 coming from, and anything that in your role you can do to
17 continue to encourage the applicant, your client to be good
18 neighbors with all these issues.

19 Staff I appreciate all -- Ms. Coleman and planning
20 staff, I appreciate all the work that you've done on this
21 complex issue.

22 So thanks to everybody. And I believe that
23 concludes all the items for today's agenda.

24 Mr. Hurlbutt, any further business to come before
25 the planning for today?

1 MR. HURLBUTT: There's no additional business.

2 CHAIRMAN: Okay. With that, folks, without
3 objection, we are adjourned. Everybody, have a good day.

4 COMMISSIONER WASHINGTON: Thank you. Have a great
5 day.

6 **(Whereupon, the proceedings were concluded.)**

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DSP-20002 GIAC SON BUDDHIST TEMPLE

Planning Board Meeting, PPS 8

By:  Date: October 30, 2023

Christian C. Amis, Transcriber