

1 THE PRINCE GEORGE'S COUNTY PLANNING BOARD OF  
2 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
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5 DSP-22001 MCDONALD'S AGER ROAD  
6 Planning Board Meeting, Item 11  
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8 T R A N S C R I P T  
9 O F  
10 P R O C E E D I N G S  
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12 COUNTY ADMINISTRATION BUILDING  
13 Upper Marlboro, Maryland  
14 October 24, 2024  
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BEFORE:

PETER A. SHAPIRO, Chairman  
DOROTHY F. BAILEY, Madam Vice-Chair  
MANUEL GERALDO, Commissioner  
A SHAUNISE WASHINGTON, Commissioner  
WILLIAM M. DOERNER, Commissioner

OTHERS PRESENT:

DELISA COLEMAN, Senior Counsel  
SHERRI CONNOR, Development Review Division  
HYOJUNG GARLAND,  
EDWARD GIBBS, Attorney for Applicant

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P R O C E E D I N G S

CHAIRMAN: We'll now move to our regular agenda items. As noted, we're actually going to take up items 11 and 12 first on our agenda. Pardon me while I shuffle my paperwork.

MS. GARLAND: Okay I'm going to do a quick sound check.

CHAIRMAN: Yes. We can hear you fine.

MS. GARLAND: All right. So good morning, Chair.

CHAIRMAN: Hold on one second.

MS. GARLAND: Okay.

CHAIRMAN: Before we go into the hearing -- before we take up the -- I want to take up a preliminary matter first. Are you going to address the preliminary matter, or do you want me to take that up before you start? Because we're not going to -- we may not hear this case. There's a request for a continuance. So Ms. Garland, I assume you're going to be talking about the case, right?

MS. GARLAND: Correct.

CHAIRMAN: So hold off.

Commissioners, we have a preliminary matter. I don't have it in front of me. Let me turn -- Ms. Coleman, are you there?

MS. COLEMAN: Yes.

CHAIRMAN: Okay. We have heard from Greg Smith,

1 who's requesting a continuance for this item for a week.  
2 That is correct. Anything you want to note to us about  
3 that, I will turn to Mr. Smith and see if there's anything  
4 that he wants to add to the request, and then we'll allow  
5 Mr. Gibbs to certainly respond as well. But I'll start with  
6 you, Ms. Coleman. Anything you want to feed us on this?

7 MS. COLEMAN: Yes. My understanding is that Mr.  
8 Smith is requesting a continuance request because there was  
9 additional information submitted by the applicant after the  
10 posting of the staff report -- within the last week, I  
11 believe it was submitted, perhaps yesterday. Pursuant to  
12 the rules of -- the zoning ordinance, there is an  
13 entitlement for a one-week continuance if requested if new  
14 information is submitted by either the applicant or a public  
15 agency.

16 CHAIRMAN: Thank you. And I'll turn to you, Mr.  
17 Smith. I just want to see if there's anything that you want  
18 to add beyond what you included in your communication --  
19 your request for continuance -- or your standing on that  
20 request.

21 MR. SMITH: Well, I'll just point out that the  
22 request is for more than a one-week continuance, that the  
23 addition of new material by the applicant and by an agency  
24 is just one grounds for continuance, and that's a mandatory  
25 continuance if it's requested, and it's seven days.

1 However, there's a lot more substance to the letter,  
2 including evidence that Melissa Schweisguth presented to the  
3 Planning Board I think on the 15th or early on the 16th  
4 demonstrating that the applicant had failed to comply with  
5 clear requirements for the posting of public signs, and that  
6 the Planning Department had not required the applicant to  
7 comply. The signs aren't properly placed. They're not --  
8 they're single-sided. They haven't been maintained, so  
9 they're torn off the stakes and are flapping in the wind.  
10 I'm not sure, but I think they still include -- they might  
11 have the original hearing date. We know folks in the  
12 neighborhood, including the owner of the restaurant that's  
13 clearly on the site who said they didn't even know that  
14 the -- that that restaurant was threatened with being  
15 replaced by a McDonald's. That neighborhood has a very high  
16 percentage of non-English speaking residents, most of whom  
17 are Spanish speaking, as far as I know, and they're simply  
18 unaware. So for these reasons and the reasons we've stated  
19 in the past, the fact that most of the documents that the  
20 Planning Department has relied on in developing a TSR and  
21 its recommendations aren't posted online for the general  
22 public to see. We only get them through public records  
23 requests, and it's nice that we get them, but most of the  
24 public doesn't even know that they exist.

25 CHAIRMAN: Mr. Smith, I'm going to stop you for a

1 second.

2 MR. SMITH: So -- so let me just finish. Our  
3 request is actually for a continuance of more than seven  
4 days for the reasons that we stated in the record. We stand  
5 on that.

6 CHAIRMAN: Was there a specific request?

7 MR. SMITH: Well, we said at least 30 days after  
8 they -- if they have proper signage is posted.

9 (Simultaneous conversation)

10 CHAIRMAN: 30 days, because you believe the  
11 signage was not posted properly?

12 MR. SMITH: Excuse me?

13 CHAIRMAN: You want 30 days because you believe  
14 the signage wasn't posted properly?

15 MR. SMITH: We know that it wasn't posted  
16 properly. There's photographic evidence submitted by Ms.  
17 Schweisguth and then resubmitted by us, and it's not just  
18 me -- it's not just I asking for this continuance. I  
19 think -- I think eight of us signed that letter. We've  
20 raised these issues with -- the issues about the lack of  
21 availability of numerous applicant documents, submissions  
22 and agency comments in the past, so we're just re-raising  
23 those issues. So we think 30 days after proper sign postage  
24 and after these documents are posted to the web for public  
25 review is appropriate. We leave that to you.

1           CHAIRMAN: Thank you, Mr. Smith.

2           MR. SMITH: Depends on what kind of process you  
3 want -- you want to conduct and whether you want it to be  
4 open and inviting to the public, especially the most  
5 effective public, the folks who live in that neighborhood,  
6 work in that neighborhood, shop in that neighborhood, and  
7 own businesses in that neighborhood.

8           CHAIRMAN: Thank you, Mr. Smith. So we have a  
9 request for the continuance. I -- before we go any further,  
10 and we do want to hear from Mr. Gibbs as well -- I do want  
11 staff to respond to one specific thing, because there is --  
12 there's been some back and forth about whether the postings  
13 were adequate and done -- done according to our rules and  
14 regs. Ms. Connor, can you weigh in on that or perhaps Ms.  
15 Coleman or others in terms of the signage specifically, and  
16 I'm not talking about other reasons for the new information  
17 coming into the record but the signage one, specifically.

18           MS. CONNOR: Sure. This is Sherri Connor, for the  
19 record, with the Development Review Division. Regarding the  
20 signposting, staff do make a determination of signposting  
21 based on the code, which indicates that signs should be  
22 double-sided on two-way streets where they would be visible.  
23 We did receive the -- the additional materials submitted and  
24 photographs regarding the signs along the frontage of the  
25 property. The frontage does contain three travel lanes

1 separated by a median before you get to the southbound  
2 lanes, and because we don't believe that it would be visible  
3 to those southbound motorists, the signs were not required  
4 to be double-sided.

5 CHAIRMAN: Okay. Thank you. So -- so your  
6 estimation -- and Ms. Coleman, please weigh in if you choose  
7 to -- is that we actually have met all the requirements of  
8 the signage. Ms. Connor, I was confirming with you.

9 MS. CONNOR: Oh, yes. That's correct. Sorry.  
10 Okay.

11 CHAIRMAN: Thank you.

12 And Ms. Coleman, you don't have to weigh in. I'm  
13 just wondering if you have anything else to add.

14 MS. COLEMAN: I don't, but I did want to simply  
15 clarify Mr. Smith's request, since I have it before me. And  
16 on October 17th, 2024, Mr. Smith indicated that he and  
17 several other persons of record who signed the letter were  
18 requesting of a rescheduling of the hearing for at least  
19 seven days and preferably longer.

20 CHAIRMAN: Okay. Thank you.

21 So Commissioners, unless there's any questions,  
22 I'm going to turn to Mr. Gibbs and give him a chance to  
23 weigh in as well. I am inclined to grant the request for  
24 the continuance. I want to hear what Mr. Gibbs has to say  
25 as well, and then we can make a decision. This is all



1 preliminary matter, so the case is actually -- we have not  
2 opened this public hearing. This is still a preliminary  
3 matter.

4 Mr. Gibbs, do you want to weigh in?

5 S2: Mr. Chairman, before you go to Mr. -- just a  
6 question. Does the sign -- does -- does the sign -- is the  
7 sign multilingual in terms of its posting?

8 CHAIRMAN: It's not. We're not required to do  
9 that, though we've had many, many discussions very recently  
10 around this -- related to this specific issue. And so, you  
11 know, perhaps we can have staff address that. I don't want  
12 to get that too caught up in this request for continuance,  
13 because it's not a -- it is not a requirement, though we're  
14 very mindful that it will be useful.

15 S2: Yeah. Okay. Thank you.

16 COMMISSIONER DOERNER: I'll also just -- I'll add  
17 I drove by the site last week and then last night, and when  
18 I was driving from the south side on Ager crossing over, I  
19 saw the signs. It was blatantly obvious that the signs are  
20 there. I don't know, though, if you're coming on East-West  
21 Highway, I don't remember when I was coming that way, how  
22 visible the sign was because that would have been towards  
23 the back end of it, but I was definitely able to see it when  
24 I was coming on Ager and going north.

25 CHAIRMAN: Okay. Thank you, Commissioner.

1 Appreciate that.

2 Mr. Gibbs, what would you like to -- I certainly  
3 want to give you the opportunity to weigh in on this.

4 MR. GIBBS: Sure. Thank you very much. Mr.  
5 Chairman, members of the Board, Edward Gibbs, an attorney  
6 with offices in Largo. I represent the applicant,  
7 McDonald's USA, LLC, in this case. First, let me say this.  
8 This is the third date that this case has been set. The  
9 first time it was set, the applicant put about 20 pages of  
10 information into the record on the Tuesday before noon of  
11 the hearing week. The opposition put approximately 295  
12 pages in. Aat the second date, I think the applicant maybe  
13 put in nothing or possibly two or three pages. The  
14 opposition put in 471 pages. Before this hearing, the  
15 applicant put in, I believe, around five pages to clarify an  
16 issue with regard to one of the conditions relating to the  
17 driveway, and lo and behold, we have 130-some pages put in  
18 by the opposition. I will say this. I agree that Section  
19 27-105.05 of the prior zoning ordinance does state that if  
20 the applicant or the operating agency puts new material in  
21 after the staff report has been published, then a party of  
22 record is entitled to a one-week continuance. This is the  
23 second time that Mr. Smith has asked for that one-week  
24 continuance. I think at this point, it goes beyond the  
25 spirit of what that ordinance message was, especially given

1 the minimal pages and the minimal substance of what the  
2 applicant filed, just a clarification. However, I don't  
3 want to create an issue, and therefore, I don't object to a  
4 one-week continuance. I as strongly as possible object to a  
5 30-day continuance. There is nothing in this record that  
6 the opposition doesn't have at this point, other than the  
7 information that we put in before noon on Tuesday of this  
8 week. To say they need more time now to look at that  
9 information, to me, is -- let's just say is not accurate. I  
10 don't want this case to be delayed indefinitely. Again, it  
11 was supposed to be heard on September 26th, and a 30-day  
12 continuance is, quite frankly, abusive in my opinion, and is  
13 not going to serve any legitimate purpose. I would also  
14 note that the rule is that you post the property, and if a  
15 continuance occurs at a hearing date and a date certain is  
16 set at that hearing for the next hearing, there is no  
17 requirement to repost the property, and that is what has  
18 happened in each instance in this case. So for all those  
19 reasons, I do not oppose a one-week continuance, but I am --  
20 I am vehemently opposed to a 30-day continuance. Thank you.

21 CHAIRMAN: Thank you, Mr. Gibbs.

22 Ms. Coleman, I just want to see if you want to  
23 weigh in on any of the information that you've heard, give  
24 us some legal advice on this in terms of what options we  
25 have for a continuance. And again, not -- this is just if

1 you have -- if you have any sort of corrections, additions,  
2 or omissions that you want to make for -- from what you've  
3 heard from the applicant and the -- and the requester.

4 MS. COLEMAN: Yes. Delisa Coleman, Senior Counsel  
5 for the record. Mr. Gibbs is correct in that there is no  
6 additional requirement to post -- repost for the date  
7 certain that was provided in the hearing, so -- and also,  
8 the Planning Board is not required to provide any additional  
9 notice when a date certain is provided for the new date  
10 after a continuance.

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

12 Mr. Smith, you have your hand up. I'll certainly  
13 want to honor that. I would ask you to please, please stick  
14 to this request for a continuance on the grounds for it, but  
15 go ahead.

16 MR. SMITH: Well, thank you, Mr. Chair. First of  
17 all, they did not comply with the requirements to maintain  
18 the signs properly. That's clearly laid out in the  
19 ordinance. I think there can be some -- some discussion as  
20 to whether or not the signs as they were posted were -- were  
21 visible and legible by -- by folks driving by or certainly  
22 walking by. Probably the folks driving by, not. So there's  
23 that -- there is that issue. I know that Mr. Gibbs is  
24 feeling aggrieved here because we've asked for continuances.  
25 I'll point out that this project was placed on indefinite

1 hold, and he had months to go back and forth with planning  
2 staff and did so and was filing materials even not too long  
3 before the first hearing date, and we operate entirely as  
4 volunteers. The new material may have been submitted before  
5 noon on Tuesday, but it wasn't shared with the public until  
6 yesterday afternoon, so that's another dynamic here.  
7 There's no perfect process here, but we're looking for a  
8 fair process that allows more members of the community,  
9 including the non-English speaking members of the community  
10 who live in that -- who live in that community and work in  
11 that community to be heard. So that is the basis of the  
12 longer request. That and I think -- we think, you know, the  
13 desirability of having a lot of these documents that staff  
14 relied on posted online for public review and download, so.  
15 Otherwise, time can be burned while we wait for a Public  
16 Information Act request no matter how hard staff works to --  
17 to -- to turn around the response to the request. I saw  
18 Melissa Schweisguth has her hands up -- hand up.

19 CHAIRMAN: Thank you, Mr. Smith.

20 We -- the -- the -- and Ms. Coleman, correct me if  
21 I'm wrong. Mr. Smith made the request for the continuance,  
22 so that's what's before us is hearing from Mr. Smith and Mr.  
23 Gibbs, correct?

24 MS. COLEMAN: The request was signed by Greg  
25 Smith, Joann Wasiak (phonetic), Marybeth Shea, Melissa

1 Schweisguth.

2 CHAIRMAN: Okay.

3 MS. COLEMAN: Forgive me if I'm butchering these  
4 names.

5 CHAIRMAN: No. That's okay. But let me pause you  
6 there. If she signed on to the letter, then I want to give  
7 her a chance to -- if she has a specific comment or question  
8 on this as well, that works for me.

9 Ms. Schweisguth? I can't see you, though. I -- I  
10 saw your hand raised, but I don't see or hear you. Oh,  
11 there we go. Okay. Yes.

12 MS. SCHWEISGUTH: Hi. So I just want to clarify  
13 on the signage, again, that the signage -- I believe it was  
14 Mr. Doran (sic) that talked about the sign that is -- that  
15 you can see from Ager. That's actually the only sign that  
16 is -- so there are two issues here. There's -- maybe you  
17 don't need double-sided signage, but the -- the code does  
18 say signage should be oriented to maximize visibility to  
19 motorists. The sign in front of the site is parallel to  
20 East-West Highway. What driver is going to make a ninety  
21 degree turn to read a sign that -- it's to the right of the  
22 entrance, so they're going to be looking -- if they're  
23 turning into the entrance -- they're going to be looking at  
24 the entrance at that driveway. They're not looking to the  
25 right just before it, because thank God there's not a bike

1 lane there. If you are driving from East-West Highway, you  
2 know, to the east, there's no sign. You are looking at the  
3 back of the sign, because that sign between Ager and East-  
4 West that Mr. Doran's (sic) referring to -- sorry, I'm  
5 saying your name wrong. Not in retaliation for my name  
6 being butchered. It happens all the time and I'm not  
7 bothered by it, but that sign is also only single-sided. So  
8 if that is supposed to be one of the two legal signs, again,  
9 it is visible to two-way traffic. It's not, you know,  
10 again, it's just -- there was not a real effort made to  
11 ensure that these signs are oriented for visibility, and  
12 that's -- that's disappointing. And it's disappointing that  
13 that staff accepted -- as I understand, you do require  
14 photos. You do require the applicant to send photos 15 days  
15 beforehand. But, you know, I'm surprised that these signs  
16 were accepted because they are not oriented to maximize  
17 visibility to drivers, even the drivers that are driving  
18 right along the site. That's -- that have been turned 90  
19 degrees. Actually, flipping in the wind, it's a little more  
20 visible right now. Thank you.

21 CHAIRMAN: Thank you. All right.

22 So Commissioners, we've heard from the -- the  
23 folks who made the request. We've heard from Mr. Gibbs.  
24 I -- again, I'm inclined to grant a continuance on this  
25 item. Based on what I'm hearing, I'm comfortable with the

1 seven-day continuance. I'm curious to see where you all  
2 are. So for Commissioners, let's open this up for  
3 discussion on this preliminary matter.

4 COMMISSIONER WASHINGTON: Yeah, well, Mr.  
5 Chairman, I'm fine with the one-week continuance.

6 MADAM VICE CHAIR: Same here. I'm also fine with  
7 the one-week continuance.

8 COMMISSIONER DOERNER: I'm fine with the one-week.

9 COMMISSIONER GERALDO: I just have a question.  
10 Why do we need -- why do -- why do -- why is more than a  
11 week needed?

12 CHAIRMAN: I think what we've heard is that  
13 there's a --

14 COMMISSIONER GERALDO: I'm not asking you. I'm  
15 asking the --

16 CHAIRMAN: Yeah, but I don't want to -- I don't  
17 want to open it back up, Commissioner.

18 COMMISSIONER GERALDO: Okay. Okay.

19 CHAIRMAN: Right. So I mean, I don't want to -- I  
20 respect your authority on this, and if you want that  
21 additional information, I think we can get it, so if you  
22 want to hear from the requesters about why they want more  
23 than one week, you know, it's fine if that's what -- if  
24 that's what we need.

25 COMMISSIONER GERALDO: I'd like to hear. At least



1 give them an opportunity.

2 CHAIRMAN: Yes. That's fine.

3 Mr. Smith, Ms. Schweisguth?

4 MR. SMITH: Melissa, do you want to speak to this  
5 first, do you want me to speak to it?

6 MS. SCHWEISGUTH: So I believe that the 30 days is  
7 specific to the 30 -- it can having proper signage posted  
8 for 30 days, so if the Commission agrees that the signage  
9 was not posted according to code, then it would follow that  
10 you would require the applicant to post proper signage for  
11 30 days before a hearing, which would reset that 30-day  
12 timeline. That is the -- that is the reason for the 30  
13 days.

14 CHAIRMAN: Thank you for that. It's clear and  
15 direct. I appreciate that.

16 Anything you want to add, Mr. Smith?

17 MR. SMITH: No, she -- she distilled it quite  
18 well. Weren't properly posted, we've got evidence in the  
19 record they weren't properly posted, and so they should be  
20 reposted 30 days prior to a hearing.

21 CHAIRMAN: Thank you.

22 And Commissioners, what I'm hearing from staff is  
23 that the signs were properly posted.

24 COMMISSIONER WASHINGTON: Correct. I think that's  
25 what I was just going to comment on from staff as well as

1 legal counsel, so.

2 CHAIRMAN: Right. Okay. All right. So what's  
3 before us again is a request for the continuance. You know,  
4 I'm comfortable with the seven days. If there's a strong  
5 push for longer, I'll certainly entertain that. But I think  
6 that I'm comfortable with the seven-day continuance.

7 COMMISSIONER DOERNER: I'll just -- let me just  
8 jump in just real quick. I'll say that I'm fine with the  
9 seven days continuance on this. I think the sign is just  
10 fine. It was perfectly clear to me yesterday when I was  
11 driving from the south side. I don't know how clear it is  
12 driving from East-West Highway because I wasn't paying  
13 attention. I was looking at traffic and making sure I  
14 wasn't going to get in an accident.

15 CHAIRMAN: Thank you.

16 COMMISSIONER DOERNER: But I was driving from  
17 East-West Highway and going on to Ager the week before. So  
18 I can't attest to whether or not that was clear. But  
19 certainly from driving from the south going north, it was  
20 fine. I don't think our procedures are specific in some  
21 ways about saying like what angles they have to be at, but  
22 yeah, I agree with the opposition that it would be nice if  
23 you had it visible. The challenges though, this is not --  
24 it doesn't say specific angles in the guidance, and our  
25 staff are saying that -- that it was posted. So I would

1 side with staff on -- on that issue. I'm -- I'm fine with  
2 the week continuance, but I'm not going to be here next  
3 week, so since it's been delayed so many times that I kind  
4 of want to see what everybody was going to say, but I may  
5 end up missing out on it. And I don't -- I agree with Mr.  
6 Gibbs, that I think it's getting, for lack of better words,  
7 a little bit ridiculous in some of the extensions on this,  
8 the letter of the law say that you can request a week  
9 continuance, but it's not hard to read two pages or four  
10 pages. We have to go through hundreds of pages that the  
11 opposition put into the -- the document, and by all means, I  
12 will, because that's part of what we do, but there comes a  
13 point where we just need to hear the case, and -- and I'm  
14 certainly partial to language challenges and stuff like  
15 that. I come from a bilingual household and we speak -- we  
16 speak and use up to four languages in our house. But at  
17 some point you got to come to the table and stop delaying  
18 stuff, so I would rather that this go forward and have a  
19 hearing and not keep delaying it if we can.

20 CHAIRMAN: Thank you, Commissioner.

21 Other comments, thoughts, Commissioners? One  
22 week, two weeks?

23 MADAM VICE CHAIR: I suppose.

24 COMMISSIONER DOERNER: One week.

25 MADAM VICE CHAIR: The one-week extension.

1 COMMISSIONER WASHINGTON: Agreed.

2 CHAIRMAN: Okay. All right. So then it seems  
3 like with a straw poll, we have consensus. Is there a  
4 motion?

5 COMMISSIONER WASHINGTON: Mr. Chairman, I move  
6 that we approve the continuance -- request to continue DSP-  
7 22001, DDS-23001, and AC-23017 to Planning Board Hearing  
8 date of October 24th, 2024.

9 MADAM VICE CHAIR: Second.

10 CHAIRMAN: We've got a motion by Commissioner  
11 Washington. A second by Vice Chair Bailey. Is there any  
12 discussion on this motion? Seeing none. I'll call the  
13 roll. Commissioner Washington?

14 COMMISSIONER WASHINGTON: I vote aye.

15 CHAIRMAN: Vice Chair Bailey?

16 MADAM VICE CHAIR: Vote aye.

17 CHAIRMAN: Commissioner Doerner?

18 COMMISSIONER DOERNER: Vote aye.

19 CHAIRMAN: Commissioner Geraldo?

20 COMMISSIONER GERALDO: I vote aye.

21 CHAIRMAN: I vote aye as well. The ayes have it  
22 five-zero. Thank you, everybody. All interested parties,  
23 applicants, parties in opposition, we'll see you in a week  
24 on this one. Thanks, everybody.

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

DIGITALLY SIGNED CERTIFICATE

ESCRIBERS, LLC, hereby certified that the attached pages represent an accurate transcript of the electronic sound recording of the proceedings before the Prince George's County Planning Board in the matter of:

11. DSP-22001 MCDONALD'S AGER ROAD

Planning Board Meeting, PPS

By:  Date: March 3, 2025

Carrie Johnson, Transcriber