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OFFICE OF THE ZONING HEARING EXAMINER
FOR PRINCE GEORGE'S COUNTY

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301 TOBACCO LLC : Case No. SE-4859
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A hearing in the above-entitled matter was held on
July 20, 2022, at the Prince George's County Office of
Zoning, County Administration Building, Room 2174, Upper
Marlboro, Maryland 20772 before:

Joyce B. Nichols
Hearing Examiner

A P P E A R A N C E S

On Behalf of the Applicant:

Nathaniel Forman, Esq.

On Behalf of People's Zoning:

Stan Brown

* * * * *

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MS. NICHOLS: We are now. Thank you so much.

MS. POTEAT: No problem.

MS. NICHOLS: All right. So good morning everybody, it is the 20th of July, it is approximately 9:30 in the morning. We are here on a Special Exception request, Special Exception 4859, the applicant is 301 Tobacco LLC, the property is located in Marlton Plaza, and the special exception is for a tobacco store. Mr. Forman, good morning.

MR. FORMAN: Good morning, Madam Examiner.

MS. NICHOLS: All right. This is your case. Please go ahead.

MR. FORMAN: Okay. Thank you very much. For the record, Nathaniel Foreman with the Offices of O'Malley, Miles, Nysten and Gilmore, located in Greenbelt. I'm here this morning on behalf of the applicant, 301 Tobacco LLC, case number SE-4859, which is seeking special exception approval for a retail tobacco shop in the Marlton Plaza Shopping Center with a specific address of 9540 Robert Crain Highway in Upper Marlboro, just to repeat what Madam Examiner has already said.

Before I do call my witnesses, I would like to provide a little bit of background on this case.

MS. NICHOLS: Fine, go ahead.

MR. FORMAN: Thank you. I represent the tenant in

1 this case, 301 Tobacco Shop LLC, which is comprised of only
2 two people, Mr. Sevan Patel, who is here today and his wife.
3 Hence, despite the applicant being an LLC it is going to
4 essentially be a mom and pop shop with ties to the area.
5 Mr. Patel, lives in the Brandywine area and he actually used
6 to work at Marlton Liquors, which is another store in
7 Marlton Plaza Shopping Center. During his time at Marlton
8 Liquors, many customers would come to the store looking for
9 tobacco products. Unfortunately for them, Marlton Liquors
10 did not sell tobacco products and Mr. Patel would inform his
11 customers that they would have to try Tobacco and Vape,
12 which is closer to the town of Upper Marlboro, up Crain
13 Highway, or they would need to drive to Waldorf in Charles
14 County. So after a while so many customers were asking Mr.
15 Patel about tobacco products that he realized that this
16 could be an opportunity for him and his wife to start their
17 own business. And even when Mr. Patel learned that that the
18 tobacco shop would require a special exception approval, he
19 continued anyway.

20 Mr. Patel began this process without legal
21 counsel, and to his credit he was able to successfully
22 prepare and submit the applicant documents perform the
23 required notification mailings, engage in community outreach
24 efforts that have resulted in a favorable recommendation
25 from the Park and Planning staff in their Technical Staff

1 Report.

2 Mr. Patel probably could have handled the entire
3 case himself, but when it came time to schedule the hearing
4 before the Zoning Hearing Examiner, he was informed that he
5 must have legal representation at this hearing, and that is
6 when and how and I and my firm got involved with this
7 matter. I bring this up because Mr. Patel's ability to
8 shepherd this case through the approval process is any
9 indication that this tobacco shop will surely be successful,
10 provided the special exception is approved.

11 With that background information, I would like to
12 call my first witness, Mr. Sevan Patel.

13 MS. NICHOLS: All right. Mr. Patel, I'm going --

14 MR. PATEL: Good morning.

15 MS. NICHOLS: Good morning. I'm going to have to
16 swear you in, so if you could raise your right hand, please?
17 Thank you. Do you solemnly swear or affirm under the
18 penalties of perjury to testify to the truth in the matter
19 now pending, the whole truth and nothing but the truth?

20 MR. PATEL: Yes, ma'am.

21 MS. NICHOLS: Thank you. Would you please state
22 your name and business address for the record?

23 MR. PATEL: My name is Sevan Patel, the business
24 address is 9540 Crain Highway, Upper Marlboro, Maryland
25 20772.

1 MS. NICHOLS: All right. Thank you very much.
2 Mr. Forman?

3 MR. FORMAN: Thank you. Mr. Patel, what is your
4 connection with 301 Tobacco LLC, the applicant in this case?

5 MR. PATEL: I am the managing member.

6 MR. FORMAN: All right. Is 301 Tobacco LLC
7 currently in good standing with the State of Maryland?

8 MR. PATEL: Yes, it is. A certificate of good
9 standing was issued by the State of Maryland, Department of
10 Assessment and Taxation.

11 MR. FORMAN: Okay. If this special exception were
12 approved, what type of business would 301 Tobacco LLC
13 operate?

14 MR. PATEL: Retail sale of tobacco products,
15 tobacco smoking accessories and related tobacco items.

16 MR. FORMAN: Can you please state the address at
17 which 301 Tobacco LLC will be located?

18 MR. PATEL: 9540 Crain Highway, Upper Marlboro,
19 Maryland 20772, it is approximately 1,750 square feet of,
20 well it was vacant square feet until we occupied it, and had
21 been vacant for several years previously.

22 MR. FORMAN: Okay. Thank you. If I could ask the
23 operator to bring up Exhibits 33A, B and C for a moment?
24 Okay. I believe that is 33A, correct, the top picture?

25 MS. POTEAT: (No audible response.)

1 MR. FORMAN: I assume that's correct?

2 MS. POTEAT: Yes, sorry about that. Yes, this is
3 33A, I can only do them one at a time.

4 MR. FORMAN: Okay. That's perfectly fine, thank
5 you.

6 MS. POTEAT: No problem.

7 MR. FORMAN: Mr. Patel, can you please tell us
8 looking at Exhibit 33A, B, and C, what we are looking at?

9 MR. PATEL: The top picture is a close up of the
10 retail unit and where we are proposing to have the tobacco
11 store. The one underneath it is the entire shopping plaza
12 of Marlton. And the third one is another angle of the
13 proposed premise.

14 MR. FORMAN: Okay. Thank you. And if we could go
15 back to 33B for a moment? Looking at this image of the
16 shopping center from U.S. 301, can you describe where the
17 tobacco shop will be located?

18 MR. PATEL: It will be the second from the right
19 on the upper level.

20 MR. FORMAN: Okay.

21 MR. PATEL: The far right is a bar.

22 MR. FORMAN: All right. Is there any way, I mean
23 if it would help Madam Examiner, if we could mark the
24 exhibit or should we just, I know that is reminiscent of
25 days of old, but.

1 MS. NICHOLS: They are in, A, B and C are in and
2 they are marked.

3 MR. FORMAN: Okay. Thank you.

4 MS. NICHOLS: With the group exhibits, right.

5 MR. FORMAN: Mr. Patel, is there any particular
6 reason you chose this location?

7 MR. PATEL: Well I am familiar with the area given
8 my previous work at Marlton. During that time I did hear
9 from community members and patrons who shopped at Marlton
10 Plaza that there, there is a desire for this type of
11 business locally. Many of them were asking if we did carry
12 certain tobacco products at Marlton, but we did not. So we
13 would recommend them to go to Tobacco and Vape which is
14 approximately 6 miles up Crain Highway or Waldorf. Many of
15 them were dissatisfied with those options as they did not
16 want to travel too far and we just thought it was best to
17 have a location locally and to allow the business to
18 maintain within the community in Prince George's County.

19 MR. FORMAN: Okay. Thank you. And when did you
20 last work for Marlton Liquors?

21 MR. PATEL: June of this year.

22 MR. FORMAN: Okay. So when you said that
23 customers would come and talk to you that has been very
24 recent, basically last month, correct?

25 MR. PATEL: Essentially. They, they were aware

1 there is a tobacco store in the process of coming to Marlton
2 Plaza, so the amount of inquiries did die down.

3 MR. FORMAN: Okay. So yes, you would not have
4 been asked about where they could buy tobacco products, they
5 were getting notice that it was on its way?

6 MR. PATEL: Yes.

7 MR. FORMAN: Okay. Great. Do you have any
8 experience working in the retail industry besides from must
9 at Marlton Liquors?

10 MR. PATEL: Yes, quite a bit. So my family has
11 owned and operated community stores and gas stations in
12 various states, such as Pennsylvania, Kentucky, now I have
13 moved to Maryland after getting married. I have roughly
14 over 10 years of experience in managing businesses for
15 family and this would be the first business that I own
16 personally with my wife.

17 MR. FORMAN: Great. And were tobacco products
18 sold for offsite consumption at any of your previous retail
19 stores that you had worked at?

20 MR. PATEL: Yes.

21 MR. FORMAN: All right. In your experience, did
22 you notice any correlation between instances of crime and
23 the sale of tobacco products?

24 MR. PATEL: No.

25 MR. BROWN: Okay. I'm going to have to object to

1 that, I mean he's not qualified to give any opinion of that
2 nature.

3 MR. FORMAN: Madam Examiner, I'm just asking him
4 in his personal experience, and you can use that testimony
5 for what it's worth.

6 MS. NICHOLS: I'm going to overrule and allow him,
7 it is personal opinion. Go ahead, sir, well you did answer
8 it.

9 MR. FORMAN: Yes. Sorry, could you just repeat
10 your answer, Mr. Patel, because I don't know if I heard
11 that.

12 MR. PATEL: No, I did not notice any correlation
13 between crime and a business that would sell tobacco
14 products, no.

15 MR. FORMAN: Thank you. As you are aware, tobacco
16 is a uniquely regulated product and provided the special
17 exception is approved, what measures will you implement to
18 ensure compliance with all federal, state and county laws
19 regarding the sale of tobacco?

20 MR. PATEL: Well, with my experience in retail and
21 selling tobacco products from previous business ventures
22 with family, to ensure the adherence of the 21 years of age
23 law, we're implementing multiple safeguards. One would be
24 designating all tobacco products that we would carry on
25 premise as age restricted within the POS. This would

1 essentially require employees to scan ID's to verify ID of
2 the purchaser whenever the system notices that a restricted
3 item is being up for sale.

4 The second would be we would integrate an age
5 verification software in conjunction with the previous
6 safeguard. This essentially will allow the employee to scan
7 or swipe and ID, this would aid in verifying the age of the
8 purchaser more easily.

9 Thirdly, we would be using technology like Black
10 Light to aid authenticating if an ID is real by revealing
11 security features that are already part of an ID when issued
12 by the government.

13 Third, or fourth, we would be displaying signage
14 provided by the State of Maryland that states someone must
15 be 21 years of age to purchase tobacco products, also we
16 would have signs from the State of Maryland stating that
17 it's illegal to buy tobacco products for minors.

18 And lastly, we would be inspected by the State of
19 Maryland to ensure that we are in compliance with all of
20 these regulatory needs and to ensure we're not selling to
21 underage.

22 MR. FORMAN: Thank you, Mr. Patel. And in your
23 answer you had mentioned that there would be I think age
24 restricted notification in the POS system. Could you just
25 explain kind of what that is?

1 MR. PATEL: So essentially when we have a POS
2 system, we need to enter in all the products that we carry.
3 So we can have a bottle of water, we would enter that into
4 the system so when we scan the barcode the system knows a
5 bottle of water, the price and transaction history. When we
6 enter in let's say, a cigar, we would need to scan the
7 barcode and the system we would enter in as age restricted
8 so whenever someone scans the product it would notify the
9 cashier, the sales rep, the employee, that this product must
10 be, the purchaser must verify, it must be verified that they
11 are 21 years of age or older through a government issued ID.

12 And then the second measure which once presented
13 with an ID they would scan or swipe the ID and the software
14 would aid in authenticating the age. So they would state
15 the purchaser is 25 years of age, or if the purchaser were
16 let's say 20 years and 364 days, it would red flag the
17 transaction stating they're not of age and it would
18 automatically remove the product from the bill of sale. So
19 we cannot proceed further with the transaction.

20 MR. FORMAN: Thank you very much for that
21 clarification and taking the numerous safeguards and age
22 verification measures that you will be implementing, my next
23 question is will these be incorporated into some form of
24 employee handbook that would be available for the employees
25 to ensure that they are following the rules that you will be

1 implementing?

2 MR. PATEL: Yes. So we will be having a training
3 book which all employees will be required to read and
4 memorize as well as comply with. Now this training book
5 will also list out step by step instructions on how to
6 handle transactions for age restricted items. Additionally
7 there will be an ID checking guide, which will be updated
8 yearly. Now this ID guide will be purchased on line from a
9 reputable retailer. Now this retailer also provides the
10 same guides to government agencies, such as law enforcements
11 and the FBI, so we are confident of the ability for this
12 retailer to provide us knowledgeable instruments.

13 MR. FORMAN: Since just for clarification, it
14 sounds like that you have an extensive knowledge of the
15 safety measures, but it's going to be required of all your
16 employees to make sure that they are also aware of these
17 same measures.

18 MR. PATEL: Absolutely.

19 MR. FORMAN: Okay. Great, thank you. Kind of
20 going back to your history of retail sales and implementing
21 the sort of restrictions, throughout your years of
22 experience selling tobacco products, were you or was anyone
23 under your supervision held liable or found guilty for
24 selling restricted tobacco products to minors?

25 MR. PATEL: No. So when I was the general manager

1 of several stores in the state of Kentucky, the state would
2 conduct undercover operations, essentially it would send in
3 underage people to the businesses and attempt to purchase
4 tobacco products. We would not be aware of these operations
5 essentially until after the fact. The majority of them we
6 would be notified afterwards in a form of a letter that
7 would be mailed and very few would the officer come into
8 premise and notify us stating that we conducted an underage
9 operation and then they would give us the results and the
10 results would be that we did not sell any products to
11 underage people, therefore we passed. And in my mind, we
12 did pass but essentially we were just upholding the law and
13 our duty --

14 MS. POTEAT: Excuse me.

15 MR. PATEL: -- to not sell.

16 MS. POTEAT: We are not live streaming at the
17 moment and we're going to have to go back.

18 MS. NICHOLS: All right. Let's put a pin in it
19 for a moment and Ms. Poteat let me know when the technical
20 difficulties are fixed.

21 MR. FORMAN: Does that mean we need to start from
22 the beginning or just recently we lost it?

23 MS. NICHOLS: I'm not sure, we'll find out.

24 MR. FORMAN: Understood.

25 AUTOMATED RECORDING: This conference is no longer

1 being recorded.

2 MS. NICHOLS: I think the issue, Mr. Forman, was
3 we were being recorded we just weren't live streaming it.
4 So we have the record to this moment.

5 MR. FORMAN: Okay. It would seem then at least we
6 could continue from where we were because there is the
7 record --

8 MS. NICHOLS: Correct.

9 MR. FORMAN: -- okay, thank you. Thank you for
10 that.

11 MS. NICHOLS: Correct. Yes.

12 MS. THOMAS: Well I have one quick question. This
13 is Adrienne Thomas, I'm a resident. If we have a question
14 in regards to what Mr. Patel is stating for the record, do
15 we make note of that and then when it's my time to testify I
16 comment on or how, how can I handle this? Because he made
17 the statement that --

18 MS. NICHOLS: Okay. Don't, yes, okay, that's
19 fine. Okay. So the way this goes is Mr. Patel will
20 testify, Mr. Brown as People's Zoning Council he gets to ask
21 questions of Mr. Patel, then I will ask each one of the
22 citizens who are present here today of which you are
23 present, whether you have any questions of Mr. Patel and
24 that is your opportunity to ask questions of the witness,
25 not to testify.

1 MS. THOMAS: Great.

2 MS. NICHOLS: Once the applicant has put on all of
3 his witnesses then I will go to each one of the citizens who
4 are here who wish to testify and you will give your
5 testimony.

6 MS. THOMAS: Great. Thank you so much for the
7 clarification.

8 MS. NICHOLS: Certainly. Absolutely. And of
9 course, Mr. Forman can ask questions of anybody who
10 testifies, as can Mr. Brown, obviously.

11 MS. POTEAT: Okay. Ms. Nichols, we are now ready
12 to go and you can continue from where you were.

13 MS. NICHOLS: Wonderful, thank you so much for
14 your help. All right. Will you reinitiate the recording?

15 AUTOMATED RECORDING: This conference will now be
16 recorded.

17 MS. NICHOLS: Thank you. Sorry for the
18 interruption, Mr. Forman, can you pick up where you left
19 off?

20 MR. FORMAN: Yes, thank you, Madam Examiner, and I
21 understand even after two and a half years, there's still
22 technical issues and I'm just surprised I didn't cause it.
23 So Mr. Patel, sorry for having to re-ask you this question,
24 but I think just given what had happened, could you please
25 answer again that throughout your years of experience

1 selling tobacco products were you or was anyone under your
2 supervision held liable or guilty for selling restricted
3 products, well tobacco products to minors?

4 MR. PATEL: No, sir. And as I stated before
5 during my time as a general manager of several stores in
6 Kentucky, the state would conduct operations by sending an
7 under, an underage people to solicit tobacco products,
8 essentially try to purchase tobacco products from us and we
9 would follow our procedures of ID'ing them if they provided
10 ID we would check and if they're underage we would deny the
11 sale. If they did not have ID we would deny the sale. And
12 then we would be informed via letter in the mail sometime
13 after, the majority of the time that was the case, or in a
14 very few instances the officer would come in and notify us
15 of what just happened, essentially.

16 MR. FORMAN: Okay. Thank you. And you at no
17 point anyone was found to be selling tobacco products to a
18 minor, and you wouldn't even know it happened until you got
19 that letter in the mail, is that correct?

20 MR. PATEL: Essentially, yes. So they would send
21 a letter stating this date at this time a person with this
22 description entered your premise to elicit tobacco product
23 and they were denied or they would state that if they were
24 not denied the penalty. But we never were in a situation
25 such as that.

1 MR. FORMAN: All right. Thank you. And was there
2 any particular reason that the state of Kentucky engaged in
3 these kind of random undercover sting operations?

4 MR. PATEL: It's to essentially make sure that all
5 retailers, tobacco retailers were in compliance with the age
6 of 18 and over at that time. Once the law did change to 21
7 years of age, they did increase the amount of operations to
8 make sure that we are in compliance with the new age
9 restriction.

10 MR. FORMAN: And from your experience and from
11 what you can recollect, did the increase in the age limit
12 for the sale of tobacco products have any impact on your
13 businesses?

14 MR. PATEL: It did. We saw a decrease when we did
15 our quarterly reports, we saw a decrease in tobacco sales.
16 We knew that this was going to be happening, we, we were
17 okay with it, we did not, you know, want to break any laws
18 just to gain a profit. We were completely satisfied with
19 the progress we were making and we were more than happy to
20 reject sales. For an instance, I remember we had this one
21 customer, he was I believe 20 or 19 at the time, he was a
22 regular customer every day and the day the law passed, or we
23 were enforced to have 21 years of age, the next day when he
24 came in for his regular products, I requested ID. Ever
25 since then I did not see him at that location.

1 MR. FORMAN: Okay. Thank you. Kind of turning
2 now kind of to the case at hand again. Provided the special
3 exception is approved, what are your anticipated hours of
4 operation?

5 MR. PATEL: Within the permitted, permitted
6 ordinance of the zoning, or 10:00 a.m. to 10:00 p.m., seven
7 days a week. This is subject to lesser or being closed
8 during holiday times.

9 MR. FORMAN: Okay. Thank you. And if this
10 special exception were approved and you were allowed to
11 operate, how many employees would 301 Tobacco LLC have?

12 MR. PATEL: At first it would be my wife and I, so
13 essentially two. We are going to be planning on expanding
14 our staff to have two or more additional employees, once
15 stable operations are commenced. The employees will
16 essentially will be filling our need of, our estimated need
17 of 80 to 100 hours a week. Now this would be from full-
18 time, part-time or a combination of these employees.

19 MR. FORMAN: Okay. Understood. And how many
20 employees would be at the site at any given time?

21 MR. PATEL: Ideally two at any given time. So
22 essentially we want to be able to provide attention to all
23 the patrons that come within the premise to conduct their
24 business. We don't want them to feel rushed and we want to
25 be able to provide them great service. That's essentially

1 the goal, great service for local residents and all patrons
2 actually.

3 MR. FORMAN: Okay. Great. And provided the
4 special exception is approved, would you be hiring residents
5 from the local community?

6 MR. PATEL: Yes, that is the goal, we want to hire
7 local as this would provide a friendly face behind the
8 counter and create a more welcoming and inclusive
9 environment for all who frequent our business.

10 MR. FORMAN: Okay. Thank you. And once again if
11 the special exception were approved, and you were permitted
12 to operate, would you specialize in the sale of any tobacco
13 products in particular, or will you be selling a variety of
14 tobacco products?

15 MR. PATEL: Our primary focus would be premium
16 cigars.

17 MR. FORMAN: Okay. And for the layman like
18 myself, what is a premium cigar?

19 MR. PATEL: So essentially a, a regular cigar is
20 essentially a regular cigar is just tobacco rolled in a
21 leaf. There are similarities between a regular and premium
22 cigars, both use tobacco that is harvested, cured and
23 fermented the same way. Whereas an ordinary cigar is, or
24 made by machines in factories with chemical additives to
25 change, enhance, lessen flavor, color, taste, et cetera,

1 premium cigars are made entirely by hand. Now there is no
2 additive, this does increase the cost of the cigar itself,
3 but the retail, the companies such as Rocky Patel, Drew
4 Estates, they do realize the cost of these products. So to
5 offset these costs, they do offer both deals which we will
6 be engaging in. Essentially we would buy large inventory of
7 these cigars to be able to get a discount and this discount
8 would be passed on to our customers. And we do have the
9 capacity to store the cigars in the controlled environment
10 that they require.

11 MR. FORMAN: Okay. Thank you very much. And do
12 you know if there is a market for the premium cigars in this
13 area?

14 MR. PATEL: Yes, we do believe there is a market
15 through our outreach, research, interactions with the
16 community members.

17 MR. FORMAN: Okay. And in addition to the premium
18 cigars, will you be selling any other tobacco products?

19 MR. PATEL: Roughly 90 percent of our inventory
20 will be premium cigars, a very small number of the remaining
21 inventory would, of our tobacco products would be
22 cigarettes, chewing tobacco, pipe tobacco, non-premium
23 cigars and things of that nature.

24 MR. FORMAN: Okay. Thank you. If the presenter
25 could be please bring up Exhibit 13? While that exhibit is

1 coming up, Mr. Patel, it is labeled as the interior layout.
2 Would it be possible to zoom that exhibit just a little bit?
3 Okay. I think that might work. Using this exhibit, Mr.
4 Patel, could you please kind of walk Madam Examiner kind of
5 through how the space is going to operate?

6 MR. PATEL: So essentially, well after re-
7 measuring our humidors and essentially once we put them to
8 scale the cigar humidor in this diagram is not quite
9 accurate. It would be much larger. The humidors that we do
10 have in the retail location are roughly 6 feet tall by about
11 27 feet in length, 27, 30 feet in length. So that would
12 account for about half of the wall space in front of the
13 retail counter. And we do have a regular retail display for
14 humidification systems and such. The corner on the bottom
15 left where it reads, says retail display would be primarily
16 for our incense and incense like product. Retail counter
17 would be for our cigar accessories, humidor, humidor cases
18 and such.

19 MR. FORMAN: Okay. Thank you. Will you be
20 selling any alcoholic beverages for onsite or offsite
21 consumption?

22 MR. PATEL: No, sir.

23 MR. FORMAN: Can customers smoke or otherwise
24 enjoy these tobacco products on site?

25 MR. PATEL: Absolutely not. This is a strictly

1 off premise consumption only type business, where customers
2 would come in purchase the products for off consumption,
3 offsite consumption and will be a strict no smoking policy
4 inside and in front of the premise.

5 MR. FORMAN: Okay. Great. As shown on Exhibit
6 13, there are areas labeled you have for snacks and drinks.
7 What kinds of snacks and drinks will you be selling?

8 MR. PATEL: Essentially sodas, energy drinks, gum,
9 mints, things of that type of nature.

10 MR. FORMAN: Okay. Just once, and no alcoholic
11 beverages, just to be perfectly clear?

12 MR. PATEL: Absolutely no alcohol.

13 MR. FORMAN: Okay. Thank you. You began this
14 process and made it all the way through the Planning Board
15 with recommendation of approval by staff, and it was only at
16 this special exception hearing that you were told you needed
17 legal representation. Ordinarily, at least in my experience
18 this is when the attorney would get involve and learn that
19 the applicant needs or learns about the necessity of
20 community outreach. So I just wanted to ask you, did you
21 engage in any community outreach before you hired me and my
22 firm?

23 MR. PATEL: Yes, I did. I sent out letters to
24 adjoining businesses and associations. From those letters
25 we were contacted by Mr. Dennison, he introduced himself as

1 the V.P. Vice President of the Marlton Homeowner's
2 Association. He presented questions on behalf of the
3 Marlton Homeowner's Association and I provide him answers.
4 I also conducted an outreach program, or talked with
5 community members at the Marlton Plaza, during that time I
6 was able to collect roughly 100 if not more signatures in
7 support in a span, a span of a few hours over several days.

8 MR. BROWN: Madam Examiner, I object and move to
9 strike the last statement concerning letters of support,
10 also in the binder affidavit of this application there are
11 three or four affidavits with a list of persons who
12 allegedly are in support, that of course is a plebiscite
13 that is not permitted (indiscernible) and also I would move
14 to strike any affidavit that lists persons in support of
15 this application.

16 MS. NICHOLS: All right. Yes, you can't have any
17 testimony with regards to the number of persons who are in
18 favor or against a particular application, and Mr. Forman if
19 any of these exhibits contain a reference to persons in
20 support or number of persons in support, would you please
21 resupply me with a redacted version of those documents?

22 MR. FORMAN: Yes, of course, Madam Examiner.

23 MS. NICHOLS: Thank you.

24 MR. FORMAN: Okay.

25 MS. THOMAS: I have a question, Ms. Nichols. With

1 the redacted information, will they contain addresses of the
2 people who are in favor?

3 MS. NICHOLS: I'm sorry, Ms. Thomas, I can't
4 answer your questions right now. When you get to your turn
5 I can answer questions, but right now it's Mr. Patel's turn.
6 Thank you.

7 MS. THOMAS: Okay.

8 MR. FORMAN: Okay. Thank you, Madam Examiner.
9 And so Mr. Patel, did you contact any local elected
10 officials' offices?

11 MR. PATEL: I did, but I did not hear back.

12 MR. FORMAN: And who did you contact?

13 MR. PATEL: I believe one of them was Mr. Harrison
14 and I'm not entirely sure of the other one, I can pull up my
15 records.

16 MR. FORMAN: That's fine. When you say Mr.
17 Harrison, you mean Councilmember Sydney Harrison for
18 District 9, correct?

19 MR. PATEL: Yes. Yes, I just --

20 MR. FORMAN: Okay.

21 MR. PATEL: -- informed him of the application and
22 essentially what has been provided in this testimony.

23 MR. FORMAN: Okay. Thank you. And have you
24 engaged in any community outreach since I was hired or you
25 hired O'Malley, Miles, Nysten and Gilmore?

1 MR. PATEL: Yes. So the residents I contacted,
2 the Zoning Hearing Office, we reached out to them regarding
3 their concerns and started a line of communication. We
4 heard back from a couple of these residents.

5 MR. FORMAN: Okay. And the residents that you
6 tried to, were you able to actually speak to any residents
7 that contacted the ZHE's office?

8 MR. PATEL: Yes. So mister, I was able to speak
9 with mister, one second I have his name right here, Mr.
10 Wilson, who was a board member of the Brandywine Homeowner's
11 Association and Ms. Frazer.

12 MR. FORMAN: Okay. Thank you. And without
13 actually going into the specifics of what you may have
14 discussed with these residents, can you kind of describe in
15 general what their concerns were?

16 MR. PATEL: Essentially the concern was the sales
17 of tobacco products to underage adolescents and the youth in
18 the community. And as I stated before in my testimony, we
19 have multiple safeguards in place to ensure that this does
20 not happen.

21 MR. FORMAN: Okay. And did you try to contact any
22 other residents that had reached out to the Zoning Hearing
23 Examiner's office?

24 MR. PATEL: Yes, I also tried to contact Ms. Reed-
25 Curling and Ms. Winter-Ragland.

1 MR. FORMAN: Okay. Have you incurred any expenses
2 renovating or improving the property either before or after
3 discovering that a tobacco shop would require a special
4 exception?

5 MR. PATEL: We did incur expenses. We incurred
6 roughly \$35,000 to \$40,000 in expenses. This was prior to
7 our, us knowing of the special exceptions hearing, a
8 requirement.

9 MR. BROWN: I don't mean to be overly technical,
10 but I have to object to any testimony concerning the
11 expenses incurred by the applicant to apply for a special
12 exception. This is not an application for a permit issued
13 in error, his or her expenses are not really relevant to the
14 requirements for approval of a special exception.

15 MS. NICHOLS: I'm going to let the answer stand.
16 However, I do understand your point, Mr. Brown, and I will
17 determine the relevancy during the decision process.

18 MR. FORMAN: Thank you, Madam Examiner. So Mr.
19 Patel, I'm sorry, could you repeat your answer?

20 MR. PATEL: So before we learned of the special
21 exception requirement for the business, we did incur
22 expenses of roughly \$35,000 to \$40,000 in relationship to
23 the business. Essentially renovating inventory, not
24 inventory, equipment and such, labor costs in association
25 with this business.

1 MR. FORMAN: Okay. And finally, you and your wife
2 are personally financing this business venture, correct?

3 MR. PATEL: That is correct.

4 MR. FORMAN: Okay. Thank you. Those are all the
5 questions I have this morning for Mr. Patel. Thank you very
6 much for your testimony this morning.

7 MR. PATEL: Thank you.

8 MS. NICHOLS: All right. Thank you. Mr. Brown,
9 any questions?

10 MR. BROWN: Yes, a few. Mr. Patel, so you started
11 to renovate the space before you received approval for the
12 special exception?

13 MR. PATEL: Well, renovations as in we, there is
14 no construction or additions, demolitions for the space.
15 When we did occupy the space there was debris from the
16 previous tenant that had been left there for several years.
17 We removed, we fixed the floors and then we purchased
18 humidors and equipment and such for the space.

19 MR. BROWN: And so you purchased humidors before
20 you even had the special exception approved, is that
21 correct?

22 MR. PATEL: We did not know of the special
23 exception requirement as our lease stated we are under a
24 timeline essentially, so time was of the essence, so we
25 needed to move in conjunction with the use and occupancy

1 process and that's when we learned all the special exception
2 hearing, or requirement.

3 MR. BROWN: When did you sign a lease for this
4 space?

5 MR. PATEL: October of 2021.

6 MR. BROWN: Of 2021. Now you testified earlier
7 that you were going to sell tobacco products, primarily
8 cigars, is that correct?

9 MR. PATEL: Premium cigars, yes, sir.

10 MR. BROWN: Now under the Zoning Ordinance the
11 definition for tobacco shops, and forgive me if I'm reading
12 the tobacco shop that's defined in the new ordinance but I
13 assume it's the same as the old ordinance, it indicates that
14 you may sell any device that can be used to deliver nicotine
15 or other substances to the person inhaling the device. Do
16 you plan to sell vaping type products at your store?

17 MR. PATEL: If we have been requested by a few
18 customers to carry low to no nicotine vape liquid, but that
19 is just the recommendations of the customers, not customers,
20 people who we have interacted with. So that's not a major
21 part of our business.

22 MR. BROWN: But you do plan to sell vaping type
23 products, is that correct?

24 MR. PATEL: If it comes down to it, we are willing
25 not to have vaping products for the special exception to be

1 approved, sir.

2 MR. FORMAN: If I could clarify for a moment and
3 just proffer, I think what Mr. Patel is trying to say is
4 that if it's up to the judgment of the Zoning Hearing
5 Examiner that no vaping products be permitted for sale, he's
6 willing to go with that. However, I think he would request
7 that they do be made available for sale, but we understand
8 that there is opposition to that.

9 MR. BROWN: Well, Mr. Forman, we're going to let
10 the witness testify as opposed to the attorney and so again
11 Mr. Patel at the current time you do not plan to sell any
12 vaping products, is that correct?

13 MR. PATEL: That is correct. We were planning on
14 having vaping products previously, a very fine amount, but
15 due to the oppositions and the concern of the community
16 members that is no longer the case.

17 MR. BROWN: Have the community members who have
18 expressed opposition to this application requested that you
19 execute some type of an agreement with them not to sell
20 vaping products?

21 MR. PATEL: I have not been provided any
22 agreement, I'm not sure of what you are referring to, sir.

23 MR. BROWN: Well I'm not saying there is an
24 agreement, I'm asking have those persons in opposition that
25 you have communicated with requested that you execute any

1 type of document in writing to prohibit you voluntarily from
2 selling vaping products?

3 MR. PATEL: No, sir, I have not been given such
4 document or that has not come up in any of the discussions.

5 MR. BROWN: All right. So you indicated you were
6 going to sell primarily cigars and did you say it as what 90
7 percent of your product would be cigars?

8 MR. PATEL: Of tobacco inventory, yes, sir,
9 roughly 90 percent.

10 MR. BROWN: All right. Do you plan to sell
11 cigarettes?

12 MR. PATEL: A very small amount, yes, sir.

13 MR. BROWN: All right. You also testified earlier
14 there is another liquor store in the shopping center in
15 which you previously worked for. What was the name of that
16 liquor store?

17 MR. PATEL: Marlton Liquors.

18 MR. BROWN: Did Marlton Liquors sell cigarettes
19 during the time that you were there?

20 MR. PATEL: Yes, sir.

21 MR. BROWN: Did they sell cigars during the time
22 that you were employed there?

23 MR. PATEL: A very fine amount, it was a
24 countertop humidor.

25 MR. BROWN: When you say a very fine amount, or

1 did you say a very small amount?

2 MR. PATEL: It's a small amount.

3 MR. BROWN: A small amount.

4 MR. PATEL: It was like a, a countertop humidior.

5 MR. BROWN: All right. You testified earlier that
6 you worked in Kentucky in some type of retail store that
7 sold tobacco products. The stores that you worked in in
8 Kentucky were they consistent to what Prince George's County
9 defines as a tobacco shop?

10 MR. PATEL: Well the retail locations I worked at
11 was a gas station, where --

12 MR. BROWN: Not a tobacco shop, correct?

13 MR. PATEL: Not a strict tobacco shop, no sir.

14 MR. BROWN: And you never worked in a tobacco shop
15 as defined by Prince George's County's Ordinance have you?

16 MR. PATEL: No, sir.

17 MR. BROWN: And in the stores you were employed in
18 in Kentucky, were you the owner of those businesses or were
19 you an employee?

20 MR. PATEL: Employee.

21 MR. BROWN: And at Marlton Liquors you were an
22 employee, correct?

23 MR. PATEL: Correct.

24 MR. BROWN: What are the names of the other retail
25 stores at Marlton Shopping Center? And if you don't know

1 them all at this particular moment, Mr. Forman, I request
2 that you submit into the record a list of the names of every
3 retail store at Marlton Shopping Center. Mr. Patel, do you
4 know the names of those offhand?

5 MR. PATEL: So there is a pad site, a McDonald's
6 pad site, so it's standalone. And then there is a Food
7 Lion, Shark, Chicken and Fish, Marlton Liquor, Subway, a
8 Fooley's Chinese Restaurant (phonetic sp.), Marlton Dry
9 Cleaners, a Walgreen's, a beauty supply shop. There used to
10 be a smoothie establishment, a nutritional smoothie
11 establishment that no longer exists or is no longer there.
12 Then there would be the proposed retail location of, that we
13 are requesting. Then there is a bar, Red Zone, no longer
14 there. There is a Domino's, I believe there's also a, a vet
15 and a barber shop.

16 MR. BROWN: All right. And you testified that you
17 don't plan to sell any food and beverage at the store,
18 correct?

19 MR. PATEL: I stated chips, small snack and drinks
20 such as soda, energy drinks, gum, mints.

21 MR. BROWN: Yes. And looking at the diagram that
22 you put on the screen earlier of the floor plan, you
23 indicated that the humidor is not to scale. The humidor
24 that you described is 27 feet long by what was it, 27 by
25 what?

1 MR. PATEL: It's about 6 feet tall and about 27,
2 in connection like there are multiple humidors all connected
3 would be a length of about 27 feet.

4 MR. BROWN: All right. So primarily a customer
5 would come into the store all of the cigars would be in the
6 humidor, a customer would order a particular cigar and then
7 the employee would go to the humidor, take it out and give
8 it to the customer, is that correct?

9 MR. PATEL: The customer may have access, the
10 humidors are locked. So we would vary the situation, so if
11 they are a regular customer that we know are, is of age, 21
12 or above, we had verified their ID they can browse the
13 cigars, yeah. But ordinarily they are locked.

14 MR. BROWN: All right. Have you sought a license
15 to sell marijuana in the State of Maryland?

16 MR. PATEL: No. No, sir.

17 MR. BROWN: Do you plan to --

18 MR. FORMAN: Objection, Madam Examiner, I'm not
19 sure what the relevance of that would be to this special
20 exception.

21 MS. NICHOLS: Yes --

22 MR. BROWN: The relevance, Madam Examiner, a list
23 of products that he plans to sell at this particular store.

24 MS. NICHOLS: All right. I'm going to sustain the
25 objection, he indicated, he answered you already, he said no

1 and he answered you already as to what he was selling in the
2 store.

3 MR. FORMAN: Thank you.

4 MR. BROWN: All right. No other questions, thank
5 you.

6 MS. NICHOLS: All right. Thank you. All right.
7 So I'm going to go along the line of the way the people show
8 up on my screen and I'm going to give you an opportunity to
9 ask Mr. Patel questions. It is not an opportunity for you
10 to testify at this time, so you need to phrase everything in
11 terms of questions. So Ms. Thomas is the first one I have
12 on my screen, so Ms. Thomas, if you turn on your mic you can
13 use this opportunity to Mr. Patel questions about the
14 application.

15 MS. THOMAS: Thank you. My name is Adrienne
16 Thomas, I am an immediate neighborhood to the strip mall,
17 Marlton Shopping Center, where Mr. Patel is looking to have
18 a special exception. And one question I have for Mr. Patel,
19 you mentioned when you was working at Marlton Liquor Store
20 that customers, local residents, would come in and make a
21 request for tobacco products. We you serving the customers
22 that came in and made this request? If so, how many
23 customers or how did you verify that they were local
24 residents of our neighborhood?

25 MR. PATEL: Thank you for your question, Ms.

1 Thomas. It would be a combination of when, well I would
2 like to ask, when you state am I serving them, was I
3 handling their transaction that they came in to conduct at
4 Marlton Liquors, is that what you mean by serving them?

5 MS. THOMAS: No, you mentioned that people with no
6 reference stating that many customers that came into the
7 liquor store requested tobacco products and this is what
8 lead you to have the idea --

9 MR. PATEL: I understand.

10 MS. THOMAS: -- of having a store that sold
11 tobacco products and that's why we're here today at the
12 hearing for a special exception. So my question is how did
13 you, did you survey the people coming in that made this
14 request of you? And if so, how can you sit here on record
15 and testify that they are local residents? How did you
16 conduct this information that you're placing on record?

17 MR. PATEL: Thank you for the question again.
18 This was an informal survey essentially. We would, the
19 customers that came in we were familiar with many of them,
20 we would have conversations about day to day lives, sports,
21 news, et cetera. And they would also mention that they had
22 to travel to, again, Tobacco and Vape which is about six
23 miles away or to Waldorf area. They also showed their
24 disdain, many of these customers we were able to verify that
25 they were local residents when we would check their ID,

1 essentially we saw the address it would say Fairhaven Avenue
2 or Upper Marlboro, et cetera, some lived in the Cheltenham
3 neighborhood. And so, we found through many customers, I
4 don't have an exact number, I'm not able to provide you an
5 exact number, but this was through my time at Marlton that
6 many people did request certain products. So again I --

7 MS. THOMAS: Okay.

8 MR. PATEL: -- do not have a formal poll or
9 numbers.

10 MS. THOMAS: Okay. Do you have a length of time,
11 is there a duration like from December to June, which was
12 the last time that you were employed there? How do you get
13 this information that you're attesting to? Because I know
14 I'm a resident of this neighborhood, I frequent that
15 shopping center and so if I would have saw a sign or
16 something where you're getting this information I would have
17 definitely been in and contested. So I just would like to
18 know how did you make this survey that you are attesting to?
19 What are the age groups of the individuals? How can you
20 confirm? You know is there a number per day, how many
21 people came in and made this request of you?

22 MR. PATEL: As I stated before, ma'am, this was
23 essentially an informal poll, survey, we would, we were
24 just, we were informed through daily conversations with our
25 customers who purchased alcoholic beverages and we were

1 required to ID them so we did verify their age, that they
2 were 21 years of age or older, or if they clearly showed
3 they were over 21 years of age, so if someone was 45 we
4 would, you know, not to check their ID if they're 45, 55
5 years of age. And, and then they would request, they would
6 strike up a conversation and that's how we came up with the
7 business plan or the idea of a tobacco shop and the
8 location, we do, it was, we needed something local as we are
9 local residents of Prince George's County. The vacant unit
10 at Marlton Plaza has been vacant for, to my knowledge,
11 several years. This would also allow the landlord to lease
12 out a vacant unit and we would be allowed to stay within a
13 familiar territory.

14 MS. THOMAS: Right. I just want to correct you on
15 something that location. Are you talking about was this
16 location previously occupied by the smoothie store?

17 MR. PATEL: No, ma'am. The smoothie store is the
18 one to the left, so from the exhibit that Mr. Forman showed,
19 I believe Exhibit 33A.

20 MS. THOMAS: I think it was Exhibit B, yeah.

21 MR. PATEL: One of the exhibits that Mr. Forman
22 had up, our location that we're proposing is the one that's
23 indented further in, so it's the second to the right. The
24 smoothie, the previous owner of that smoothie is the third
25 from the right.

1 MS. THOMAS: Okay.

2 MR. PATEL: So no, we are not occupying that unit
3 or that was previously occupied by the smoothie location.
4 This has been vacant.

5 MS. THOMAS: Okay.

6 MR. PATEL: I believe the previous tenant was a
7 video store, I believe, that has been vacant for several
8 years.

9 MS. THOMAS: Okay. Okay.

10 MR. PATEL: And we are, we are familiar with the
11 owner or partner of the smoothie store, so we are aware of
12 them.

13 MS. THOMAS: Okay. Now you mentioned also in your
14 testimony that you were assuring that you would hire local
15 employment.

16 MR. PATEL: Yes, ma'am.

17 MS. THOMAS: How can you guarantee that? You're
18 not a Section 3 or anything, so I'm trying to figure out how
19 can you guarantee that you're making, you're going to do
20 hiring that are local to the area?

21 MR. PATEL: The preference is local, we are going
22 to be posting once the special exception is approved and we
23 are able to hire employees. Our preference would be to
24 local community members. We will have notices on the door
25 stating we are hiring, we will have online application, and

1 we will be processing them in accordance. So ideally we
2 would like to have residents local to the Marlton Shopping
3 Plaza, so Cheltenham, Upper Marlboro area.

4 MS. THOMAS: Okay. My next question, with this
5 special exception, I know right now you were stating that
6 because people were against vaping and other, those type of
7 tobacco products that you're not going to sell it. However,
8 does the special exception leave you open to selling those
9 type of products and other products like marijuana to your
10 store?

11 MR. FORMAN: Objection, Your Honor.

12 MS. NICHOLS: I'm going to sustain that.

13 MS. THOMAS: Is there objection?

14 MS. NICHOLS: I'm going to sustain that objection.
15 The law speaks for itself and we have a definition of a
16 tobacco store, and at the moment Mr. Patel, if this were
17 approved, could do anything in accordance with that law. He
18 has already stated to you that he's not going to sell
19 marijuana, not to you, during this hearing he's not going to
20 sell marijuana and he understands your concerns with regards
21 to vaping supplies.

22 MS. THOMAS: Okay. But then does it leave it open
23 for something to change in the future?

24 MS. NICHOLS: You mean with regards to marijuana?

25 MS. THOMAS: To sell that type of products.

1 MS. NICHOLS: If the special exception --

2 MR. PATEL: (Indiscernible) sorry.

3 MS. NICHOLS: If the special exception is granted,
4 he would be allowed to sell anything within the terms of the
5 approved special exception.

6 MS. THOMAS: Okay.

7 MR. FORMAN: And that would prohibit medical
8 marijuana or cannabis because that is placed under its own
9 different special exception procedure or requirement.
10 That's completely separate.

11 MS. THOMAS: Okay. So the special exception would
12 have to read, just, just making sure I understand --

13 MR. FORMAN: Of course.

14 MS. THOMAS: -- the special exception would have
15 to read exactly what Mr. Patel, if granted, would be selling
16 in his store. So it would have to read premium cigars only
17 or premium cigars and non-premium cigars only, it would have
18 to list exactly what would be carried in the store and that
19 any changes to that he would have to go before the Council
20 again and make that request?

21 MR. FORMAN: If I could answer, if that's okay,
22 Madam Examiner? I believe the way it would operate is it
23 would be more about, so as Mr. Brown read the definition of
24 a tobacco shop, it could be everything that is within the
25 parameters of a tobacco shop but there could be conditions

1 of approval that could explicitly restrict or leave out
2 certain products. And I think as Mr. Patel has stated today
3 and he would be willing to agree, if there was a condition
4 of the approval that said tobacco shop permitted however,
5 there shall, you know, no selling of electronic cigarettes
6 or vaping devices are permitted. I think that maybe remedy
7 your concerns there.

8 MR. BROWN: Let me just clarify if I could, Ms.
9 Nichols.

10 MS. NICHOLS: Yes.

11 MR. BROWN: Could I clarify? Because Ms. Thomas,
12 I'm going to read the definition of a tobacco shop so you
13 understand --

14 MS. THOMAS: Thank you.

15 MR. BROWN: -- if it were approved what would be
16 allowed. Tobacco shop, electronic cigarette shop or retail
17 tobacco business is a retail store where the primary use is
18 the retail sale of tobacco products, tobacco smoking
19 accessories, any device that can be used to deliver nicotine
20 or other substances to the person inhaling from the device,
21 or any cartridge, component or accessory of the device and
22 which may include onsite consumption in accordance with
23 Section 19-131 of the County Code and the incidental sale of
24 food or beverage provided the gross floor area of the food
25 or beverage area is not 49 percent of the gross floor area.

1 MR. FORMAN: Mr. Brown, that is the wrong
2 definition, I do apologize, because there is retail tobacco
3 shop which is what you just read and then there's also
4 tobacco shop which has a different definition.

5 MR. BROWN: All right. That's why I said earlier
6 I didn't have the retail tobacco shop definition which is
7 slightly, it varies. But my point to Ms. Thomas is the
8 following. Mr. Forman said that if there were a condition
9 placed on this application to restrict vaping he would
10 abide --

11 MS. NICHOLS: Mr. Brown, can I just ask you to
12 pause for just one second.

13 MR. BROWN: Sure.

14 MS. NICHOLS: Mr. Forman, could you please read
15 the correct definition of the tobacco shop that this special
16 exception is applying for?

17 MR. FORMAN: Yes. If you would, your indulgence
18 for one moment as I bring it up. And I know because I had
19 that same, yesterday I had the same, you know, heart attack
20 when I saw the definition that Mr. Brown was reading --

21 MR. BROWN: I thought --

22 MR. FORMAN: -- we talked about.

23 MR. BROWN: It uses the two in two different
24 sections.

25 MS. NICHOLS: Right. So Mr. Brown as you know

1 we're working with parallel ordinances these days --

2 MR. BROWN: Right.

3 MS. NICHOLS: -- and so this is being applied
4 under the Zoning Ordinance, the previous Zoning Ordinance
5 because of the timing of the application.

6 MR. FORMAN: Yes, so my apologies. Okay. So
7 under the prior Zoning Ordinance 107.01(a)236.2 tobacco
8 shop. A retail store where the primary use is the retail
9 sale of for offsite consumption tobacco products, tobacco
10 smoking accessories and related tobacco items. And for some
11 reason that's a different definition than retail tobacco
12 shop which we are not requesting approval of.

13 MR. BROWN: That's correct. And so my point is
14 the following, just so that we are all clear, Ms. Nichols,
15 to Ms. Thomas. Ms. Thomas, it's my understanding that the
16 Examiner cannot limit the definition that was just read. So
17 in other words, if the definition allows vaping and this is
18 approved for a retail tobacco shop then vaping would be
19 allowed and we could not preclude Mr. Patel from selling
20 vaping products if it were approved for that. So that does
21 not mean that you, the community and Mr. Patel could not
22 come into some side agreement but the county would not be
23 allowed to preclude vaping if this were approved and vaping
24 is allowed under the definition. Okay?

25 MS. THOMAS: Wonderful. Thank you so much for

1 that clarification. Great --

2 MS. NICHOLS: Well I need to clarify that slightly --

3 MS. THOMAS: Okay.

4 MS. NICHOLS: -- and in the event that Mr. Patel
5 offers that he would not include certain things, I can make
6 that a condition. But from the definition that Mr. Forman
7 just read us it is all tobacco related supplies, so that
8 wouldn't cover vaping. Is that correct, Mr. Forman, under
9 this special exception being applied for there is not an
10 opportunity to sell vaping or electric cigarettes.

11 MR. FORMAN: That is my understanding, Madam
12 Examiner, well actually, but I think there is some gray area
13 and some ambiguity, so I do think that it may be best for
14 this case in general if Mr. Patel was willing to state on
15 the record that he would not sell vaping products, and we
16 could include that as part of this approval.

17 MS. NICHOLS: All right. Mr. Patel, would you be
18 willing to offer that?

19 MR. PATEL: Yes, ma'am. We will not be carrying
20 vaping products in our premise.

21 MS. NICHOLS: Okay. Thank you.

22 MR. FORMAN: Thank you.

23 MS. NICHOLS: And Ms. Thomas, do you have any
24 other questions of Mr. Patel?

25 MS. THOMAS: Let me look over my notes real quick,

1 Ms. Nichols, just to make sure. Oh, I think Mr. Forman
2 stated per your request that he was going to do a submission
3 of redacted names of supporters. So my concern or my
4 question is that will that listing of supporters include
5 addresses to ensure that they are representative of this
6 immediate community?

7 MS. NICHOLS: Well the documents themselves are in
8 the record already and he will go in and redact any
9 reference to persons or number of persons in support of this
10 application. So whatever reference there is to that person
11 in the documents already submitted will be redacted, so if
12 it's a name it will be redacted, if it's an address it will
13 be redacted. If it's a name, yes.

14 MS. THOMAS: Okay.

15 MS. NICHOLS: Yes.

16 MS. THOMAS: Okay.

17 MR. FORMAN: And for clarification, Ms. Thomas,
18 it's my understanding then it'll be like that exhibit or
19 that list is not even, was ever existed or is a part of this
20 record because we're going to be redacting it or removing
21 any reference to someone's name or address.

22 MS. THOMAS: Right. So I guess then I see an
23 issue with that, because you could state someone that was
24 just passing through, because the location of the shopping
25 center is on 301, you have people traveling from Virginia,

1 Philly, whatever and someone could come through and make
2 that request and if you're including those names as
3 supporters --

4 MS. NICHOLS: No, ma'am.

5 MS. THOMAS: -- then I have an issue with that.

6 MS. NICHOLS: No, ma'am. There will be no names.

7 All names will be removed.

8 MS. THOMAS: Okay. So it's just, it's just data,
9 it would just be numbers of supporters?

10 MS. NICHOLS: No, not that either. Not numbers,
11 no reference --

12 MS. THOMAS: Okay.

13 MS. NICHOLS: -- to supporters in any fashion.

14 MS. THOMAS: Great.

15 MS. NICHOLS: And it's, yes, okay, it's documents
16 that are already in the record, it's not something new
17 that's going to be presented, it's just going to have the
18 same document with big black bold mark outs across it.

19 MS. THOMAS: Okay.

20 MS. NICHOLS: So there will be no record of
21 persons, names, addresses, anything like that.

22 MS. THOMAS: Okay, great.

23 MS. NICHOLS: Okay. Do you have any further
24 questions of Mr. Patel?

25 MS. THOMAS: I think that concludes my questions

1 at this time, thank you, Ms. Nichols.

2 MS. NICHOLS: All right. Thank you, ma'am. I'm
3 going to move to Ms. Alexis Reed-Curling. If you have any
4 questions you want to ask of Mr. Patel this would be the
5 moment and I would need you to turn on your video.

6 MS. REED-CURLING: (No audible response.)

7 MS. NICHOLS: She may no longer be with us. Let
8 me move to someone who is designated himself Gregory
9 Maryland. If Mr. Gregory Maryland wishes to ask any
10 questions of Mr. Patel, please turn on your video and please
11 give me your correct name and address.

12 MS. FRASER: Hello I am Stacy Fraser. I'm not
13 Gregory. He's actually my son and I don't know how that
14 happened with the GoTo, my apologies.

15 MS. NICHOLS: What's your name, ma'am?

16 MS. FRASER: It's actually Stacy W. Fraser, S-T-A-
17 C-Y, middle initial W --

18 MS. NICHOLS: Okay.

19 MS. FRASER: -- last name Fraser, F-R-A-S-E-R.

20 MS. NICHOLS: Okay. Fine. Okay. What questions,
21 thank you, ma'am, what questions do you have of Mr. Patel?

22 MS. FRASER: No questions at this time, Ms. Thomas
23 actually covered my questions. Thank you.

24 MS. NICHOLS: Okay. Thank you very much. All
25 right. That is all of the persons we have up here. Do you

1 have any redirect of Mr. Patel, Mr. Forman?

2 MR. FORMAN: Yes, I do, Ms. Nichols, and I'll try
3 to be brief. Mr. Patel, one of the questions that Mr. Brown
4 had asked you was regarding the nature of the, well I guess
5 the products, the tobacco products that were being sold by
6 Marlton Liquors. And I think he does ask kind of a valid
7 question, if Marlton Liquors was selling cigarettes and
8 other tobacco products, why do you feel this business would
9 be successful if it was kind of just competing with Marlton
10 Liquors?

11 MR. PATEL: Because Marlton Liquors is selling
12 like maybe 10 different cigarettes and maybe at most 20
13 sticks of cigars, whereas we would carry roughly 25 to 3,000
14 sticks of cigars.

15 MR. FORMAN: And why do you --

16 MR. PATEL: (Indiscernible) I'm sorry?

17 MR. FORMAN: Sorry, no please go ahead.

18 MR. PATEL: Oh no, no. So that would just provide
19 variety and better pricing all around.

20 MR. FORMAN: Okay. And just as a follow up you
21 had testified earlier that, you know, your general
22 impression from your interactions with customers at Marlton
23 Liquors is they would ask for maybe a certain product and
24 you would tell them they would need to go to Tobacco and
25 Vape or Waldorf for that product is that correct?

1 MR. PATEL: Yes, sir.

2 MR. FORMAN: And so you would be trying to provide
3 that type of product that is not available at Marlton
4 Liquors?

5 MR. PATEL: Yes, sir.

6 MR. FORMAN: Okay. Thank you. So more like a
7 specialty shop as opposed to kind of a general?

8 MR. PATEL: Yes, sir.

9 MR. FORMAN: All right. Okay. Thank you.

10 MR. PATEL: And as I stated the majority of them,
11 we would recommend Tobacco and Vape, but the majority of
12 them had a disdain to travel to Tobacco and Vape and were
13 saying that they would rather go to Waldorf for their, to
14 conduct their business.

15 MR. FORMAN: Okay. Thank you. And just one more
16 question. Regarding the businesses that you were general
17 manager for in Kentucky that sold tobacco products, you
18 stated you were not the owner. Who was the owner of those
19 products?

20 MR. PATEL: The properties I'm not sure of, they
21 were leased. The businesses were leased from property
22 owners. The property owners would be my uncle and then
23 another one would be my cousin. So family.

24 MR. FORMAN: So your family were the operators of
25 those businesses that you were an employee of?

1 MR. PATEL: Owners and they would, I was the
2 manager.

3 MR. FORMAN: Okay.

4 MR. PATEL: So I would see their day to day
5 operations.

6 MR. FORMAN: Okay. So you were entrusted to
7 oversee the operations while they were the owners of the
8 product, right?

9 MR. PATEL: Of the store, yes, sir.

10 MR. FORMAN: Store, yes, I'm sorry not the
11 product, the store. Okay. That's all the questions I have
12 for Mr. Patel. Thank you, Madam Examiner.

13 MS. NICHOLS: Thank you. Mr. Brown, do you have
14 any follow up on the redirect?

15 MR. BROWN: No, thank you.

16 MS. NICHOLS: All right. Thank you, Mr. Brown.
17 Thank you, Mr. Patel. Mr. Forman, I'm guessing your next
18 witness is Mr. Ferguson?

19 MR. FORMAN: That is correct, Madam Examiner.

20 MS. NICHOLS: And there he is.

21 MR. FORMAN: Is it okay if we move to have him
22 qualified as a land planning expert, is that an okay
23 proffer?

24 MS. NICHOLS: Yes, I'm going to go ahead and take
25 care of that for you. All right. First of all I'm going to

1 swear Mr. Ferguson in, thank you very much. Do you solemnly
2 swear or affirm in the matter now pending to tell the whole
3 truth, the whole truth and nothing but the truth?

4 MR. FERGUSON: Yes, I do.

5 MS. NICHOLS: Thank you. Please state your name
6 and business address for the record.

7 MR. FERGUSON: My name is Mark Ferguson, my
8 business address is 5407 Water Street, Suite 206, back in
9 Historic Downtown Upper Marlboro, Maryland.

10 MS. NICHOLS: Well welcome back and as Mr. Forman
11 indicated, you have been previously qualified as an expert
12 in the field of land planning and you will continue in that
13 qualification today. Thank you.

14 MR. FERGUSON: Thank you, Madam Examiner.

15 MR. FORMAN: And thank you again. Good morning,
16 Mr. Ferguson.

17 MR. FERGUSON: Good morning, Mr. Forman.

18 MR. FORMAN: Have you reviewed the exhibits in
19 this case, including the Park and Planning's Technical Staff
20 Report and their PowerPoint presentation?

21 MR. FERGUSON: I have.

22 MR. FORMAN: Did you prepare a land planning
23 analysis in connection with this case?

24 MR. FERGUSON: I did.

25 MR. FORMAN: And is the testimony you provide

1 today reflected in the land planning analysis that is
2 included in the record?

3 MR. FERGUSON: Yes, it is and the only thing I
4 would ask not having the case file open is what is my
5 exhibit number?

6 MS. NICHOLS: 25.

7 MR. FERGUSON: 25, thank you. 25 for my land
8 planning analysis.

9 MS. NICHOLS: Analysis, right. Your CV is 26, but
10 I've already accepted that.

11 MR. FERGUSON: Okay. Thank you. So yes, that
12 Exhibit 25 does contain my testimony today.

13 MR. FORMAN: Okay and thank you. So I think it
14 would be helpful for everyone involved if we just kind of go
15 through some of the important parts of your land planning
16 analysis this morning.

17 MR. FERGUSON: Okay.

18 MR. FORMAN: All right. For purposes of this
19 special exception, can you please describe the neighborhood
20 of the subject property?

21 MR. FERGUSON: I will. The staff actually did not
22 define a neighborhood. My neighborhood definition is
23 essentially roughly contiguous with what we would call
24 Marlton West. So Marlton, the planned development extends
25 really, will ultimately extend if built out all the way to

1 Crim Road but at the present the Pepco right-of-way and the
2 railroad tracks have been a barrier to the eastward, for the
3 development. So we'll call roughly the extent of Marlton,
4 Marlton is a bit of an octopus it has tentacles that
5 surround the areas that were not originally a part of that
6 plan. So on the north I go up to Charles Branch, which is
7 roughly the northern extent of Marlton and on the south down
8 to Dually Station Road, on the west 301, on the east the
9 Pepco right-of-way which is roughly the limit of current
10 Marlton development.

11 MR. FORMAN: Okay. Thank you. And have you
12 personally visited the subject property and surrounding
13 area?

14 MR. FERGUSON: Yes, I have.

15 MR. FORMAN: Have you reviewed the 2013 Approved
16 Subregion 6 Master Plan and Sectional Map Amendment --

17 MR. FERGUSON: Yes, I have.

18 MR. FORMAN: -- as well as the, well, I'm sorry.

19 MR. FERGUSON: Yes.

20 MR. FORMAN: Yes, you have? Okay. Have you
21 reviewed the Marlton RPC Plan with regard to the subject
22 property?

23 MR. FERGUSON: I have.

24 MR. FORMAN: Is there any discussion with regard
25 to the subject property in either the Master Plan or the

1 Marlton RPC?

2 MR. FERGUSON: The Master Plan recognizes the
3 existence of the Marlton Plaza Shopping Center, it does
4 describe it as being one of the centers in Subregion 6 that
5 are at strategic locations which is to say this is one of
6 the main at the intersection of 301 and one of the main
7 thoroughfares serving Marlton, which is a large population.
8 But it doesn't really make any specific recommendations for
9 its redevelopment. The Marlton Plaza Shopping Center has
10 been largely you know developed since the 70's and
11 McDonald's was added subsequently, I think a church,
12 freestanding church building was added subsequently, and I
13 think the Shell station was added subsequently. Originally
14 in the Marlton Plan the Lodge at Marlton, the elderly
15 housing was a part of the original C-1 component of the
16 Marlton Plan.

17 This shopping center was to be one of three
18 planned retail areas. This is the only one that's developed
19 to date. One of the others was to be on Crew Road that was
20 recently replanned roughly at the, well recently in terms of
21 Marlton's existence, it's probably most of 20 years ago by
22 now.

23 And then the core retail area what was originally
24 to be the largest retail center has not developed, it's
25 original planned extent has been reduced somewhat and that's

1 where the L-A-C is now at the center of the sort of dense
2 core of Marlton which is where Heather Moore Boulevard ends
3 now.

4 So the plan simply recognized this as one the
5 three retail areas, the detailed development plan provided
6 for a buffer surrounding the center, which has in fact been
7 put in place, other than that, no specifics about types or
8 limitations of land use.

9 MR. FORMAN: Okay. Thank you. Are you familiar
10 with the specific requirements for a tobacco shop as set
11 forth in Section 27-415.01 of the Zoning Ordinance?

12 MR. FERGUSON: I am.

13 MR. FORMAN: And I would just like to ask you a
14 few questions about the specific criteria mentioned in 27-
15 4105.01 of the Zoning Ordinance, and whether in your expert
16 opinion this application complies or conforms with those
17 criteria?

18 MR. FERGUSON: (No audible response.)

19 MR. FORMAN: Is the subject property within
20 residential, oh sorry, a recreational or entertainment
21 establishment of a commercial nature with a video lottery
22 facility in accordance with 27-548.0104 of the Zoning
23 Ordinance?

24 MR. FERGUSON: It is not. My understanding is
25 that is intended to mean, I'm sorry, I'm having a moment,

1 Port America, you'll forgive my age. You know the current
2 name is just not coming to my head, but you know --

3 MR. FORMAN: National Harbor, sir.

4 MR. FERGUSON: That's the one.

5 MR. FORMAN: National Harbor.

6 MR. FERGUSON: That's the one, you know, one of
7 our eight regional centers, yes. Feel free to make fun of
8 the witness, Mr. Brown, and Madam Examiner.

9 MS. NICHOLS: We all recognize Port America so we
10 know what you're talking about.

11 MR. FERGUSON: There we go.

12 MR. BROWN: Mr. Ferguson, I can't remember the
13 name of the southern half of all Prince George's County, so
14 I don't blame you.

15 MR. FERGUSON: Oh goodness. Aging isn't pretty,
16 Mr. Brown, is it?

17 MR. FORMAN: Mr. Ferguson, given that the subject
18 property is not part of Port America, can you please tell me
19 if, I mean so it is subject to the distance requirements of
20 27-415.01, can you please tell me if the subject property is
21 located at least 300 feet from any school, library, park,
22 recreational facility and historic resource or district
23 identified on any applicable historic site and district
24 plan?

25 MR. FERGUSON: No, it --

1 MR. FORMAN: (Indiscernible).

2 MR. FERGUSON: -- does exceed all of those
3 separation requirements. Mr. Patel did a pretty good
4 inventory in his statement of justification. I have
5 substituted a couple of dimensional differences, he may have
6 measured to a building where I may have measured to the
7 limit for instance of the environmental setting of the Holy
8 Rosary Church down at Rosaryville Road (phonetic sp.). But
9 no, it amply exceeds all of the separation requirements
10 quite amply.

11 MR. FORMAN: Okay. Thank you. And Madam
12 Examiner, this information is contained in the report but
13 would you like Mr. Ferguson to go through the distance for
14 each of those uses or would you just like to rely on the
15 report?

16 MS. NICHOLS: No, I can read the report. I have
17 read the report, thank you.

18 MR. FORMAN: Okay. Thank you. So Mr. Ferguson,
19 in your expert opinion, do you believe any additional
20 requirements would be deemed necessary to safeguard the
21 health, safety, morals and general welfare of the community,
22 taking into account the character of the surrounding
23 properties and the general neighborhood and any of the uses
24 on the subject property if this special exception were
25 approved?

1 MR. FERGUSON: Yeah, in my opinion, no, in
2 particularly given the type of operation that Mr. Patel
3 proposes, limiting it to tobacco shop and not a retail
4 tobacco business. The basic difference of which is one can
5 have onsite consumption and the other doesn't propose it.
6 Truthfully, that wasn't clear to me from his statement of
7 justification because he did use both terms. But it's clear
8 from his testimony that he really meant the retail, he
9 really meant the tobacco shop as he was more explicit about
10 in this statement of justification.

11 MR. FORMAN: Thank you. And so is the subject
12 property within 2,000 feet of another tobacco shop,
13 electronic cigarette shop or retail tobacco business?

14 MR. FERGUSON: It is not. It is absolutely not.

15 MR. FORMAN: And based on the testimony of Mr.
16 Patel this morning, will the subject property be operating
17 within the prescribed hours of 10:00 a.m. to 10:00 p.m.?

18 MR. FERGUSON: I have to rely on Mr. Patel's
19 testimony but that is what he said.

20 MR. FORMAN: Okay. Thank you. And so having
21 discussed the specific requirements for a tobacco shop prior
22 to special exception I'd like to kind of turn to the general
23 required findings for a special exception approval under 27-
24 317 of the County Zoning Ordinance. In your opinion is the
25 proposed use and Site Plan in harmony with the purposes of

1 the Prince George's County Zoning Ordinance, the purposes of
2 the C-S-C Zone and the Marlton RPC Zone?

3 MR. FERGUSON: It is and I think the relevant
4 point for me is the legislative purpose of I believe it was
5 CB-92 of 2015, where the Council at that time was concerned
6 about the then ongoing proliferation particularly, I think
7 of vape shops but of other tobacco businesses and that was
8 certainly discussed at length in the legislative report that
9 accompanied that bill. And that's really where the
10 dimensional standards come from. So here we're in a rural
11 area and it's more than five miles to the next nearest
12 retail concentration, whether that be up in at Marlboro
13 Crossing at 301 and Route 4, where the nearest vape shop
14 referred to in Mr. Patel's statement of justification is
15 located, or down at Brandywine Crossing. They're roughly
16 equally distant. So certainly the approval of this would
17 not contribute to a proliferation of that, I think is really
18 the implementation of the purposes. These provisions of the
19 ordinance implement the purposes towards that end that I
20 just described.

21 MR. FORMAN: Thank you.

22 MS. NICHOLS: All right and you've listed or you
23 have answered all the individual purposes in your report and
24 you're adopting your land planning analysis, Exhibit 25, as
25 part of your testimony here today?

1 MR. FERGUSON: Yes, I am, Madam Examiner.

2 MS. NICHOLS: Thank you.

3 MR. FORMAN: So I guess I will just have two more
4 questions given that we're not going to go through the
5 specifics of 27-317. Mr. Ferguson, in your opinion, are
6 there any facts or circumstances that show that the
7 particular use proposed on the subject property to this
8 application at this particular location would have any
9 adverse effects above and beyond those inherently associated
10 with a tobacco shop, irrespective of its location within the
11 C-S-C/Marlton RPC Zone?

12 MR. FERGUSON: And I would say there are not
13 reasons where there would be a higher impact or a higher
14 number of adverse effects here. As I stated before
15 principally you know this is an area where there is quite a
16 great deal of separation between this and other tobacco
17 related businesses whether they're tobacco shops, retail
18 tobacco shops, or vape shops, the electronic facilities. So
19 no, I think that this would actually be a lower impact
20 location rather than a higher.

21 MR. FORMAN: All right. Thank you. Just one more
22 question. Do you agree with all of the conditions that were
23 set forth in the Planning Board resolution?

24 MR. FERGUSON: I am going to look at them one more
25 time before I say yes, I don't recall any concern at all.

1 MS. NICHOLS: And I was going to ask you, Mr.
2 Forman --

3 MR. FERGUSON: There was a note asking for more
4 distances on the Site Plan.

5 MS. NICHOLS: And I was going to ask you if you
6 provided a revised Site Plan, Mr. Forman, or whether that
7 condition would still be needed if approved?

8 MR. FORMAN: It is my understanding and I would
9 ask Mr. Patel to verify that, I think he had actually
10 provided that updated Site Plan.

11 MR. PATEL: Madam Examiner, Mr. Forman, I did
12 provide a memo and an updated Site Plan to the Planning
13 Board, but they stated that that would have to be adopted at
14 a later hearing.

15 MS. NICHOLS: All right. So Mr. Forman, if you
16 wish to put that revised Site Plan in the record at this
17 time, that might be a good idea. I'm going to mark it as
18 Exhibit 34, and you're going to provide it to this office.

19 MR. FORMAN: Understand, Madam Examiner, thank
20 you. And I can submit that with the redacted list of the
21 community --

22 MS. NICHOLS: Yes.

23 MR. FORMAN: All right. And thank you for your
24 testimony this morning, Mr. Ferguson, that is all the
25 questions I have, Madam Examiner.

1 MS. NICHOLS: All right. Thank you very much.

2 Mr. Brown, do you have questions of Mr. Ferguson?

3 MR. BROWN: Just one or two very, very quick
4 questions because I'm confused (indiscernible) Mr. Ferguson,
5 excuse me, I'm looking at the definition in the old
6 ordinance for a tobacco shop, retail tobacco business and
7 electronic cigarette shop.

8 MR. FERGUSON: Yes, sir.

9 MR. BROWN: This is an application for a tobacco
10 shop, correct?

11 MR. FERGUSON: That is correct.

12 MR. BROWN: And the old ordinance definition for a
13 tobacco shop is a retail store where the primary use is the
14 retail sale of for offsite consumption tobacco products,
15 tobacco smoking accessories and related tobacco items,
16 correct?

17 MR. FERGUSON: That's correct.

18 MR. BROWN: And 27-415 subsection 3 provides
19 special exception shall be permitted for a tobacco shop,
20 electronic cigarette shop or tobacco business located within
21 2,000 feet of another tobacco shop, electronic cigarette
22 shop or retail tobacco business. So my question is the
23 Marlton Liquor Store, I'm going to assume primarily sells
24 liquor. So is it your opinion that the Marlton Liquor Store
25 although it sells tobacco products is not an electronic

1 cigarette shop and is not a retail tobacco business and is
2 not a tobacco shop?

3 MR. FERGUSON: Yes, Mr. Brown, that is my opinion.
4 As you are quite aware there are any number of businesses
5 that sell particularly cigarettes, less so cigars, but
6 certainly every convenience store, every gas station, and
7 every supermarket will sell an array of cigarettes
8 principally if not some other cigars. But not as a
9 principal use really as an accessory, so that is the
10 difference here. Mr. Patel's operation this will be the
11 principal use, mostly cigars, the occasional bag of chips or
12 mints or energy drink.

13 MR. BROWN: Thank you. No other questions.

14 MS. NICHOLS: All right. Thank you. Ms. Thomas,
15 do you have any questions of Mr. Ferguson?

16 MS. THOMAS: I do. Good morning, Mr. Ferguson.

17 MR. FERGUSON: Good morning, nice to see you.

18 MS. THOMAS: Wonderful seeing you. You mentioned
19 environmental studies and you mentioned the Catholic Church,
20 I believe --

21 MR. FERGUSON: Yes.

22 MS. THOMAS: -- and you can correct me if I'm
23 wrong that's located on 301 --

24 MR. FERGUSON: (Indiscernible).

25 MS. THOMAS: -- and Rosaryville Road.

1 MR. FERGUSON: Yes, ma'am.

2 MS. THOMAS: But you didn't mention the church at
3 the Marlton Shopping Center.

4 MR. FERGUSON: Yes, ma'am.

5 MS. THOMAS: Alpha and Omega Church. Is this --

6 MR. FERGUSON: Correct.

7 MS. THOMAS: Okay.

8 MR. FERGUSON: Yeah, the difference, if you, thank
9 you, I'm sorry, I didn't mean to cut you off. Why don't you
10 finish your question, but I think I know --

11 MS. THOMAS: I would like to know does the same
12 requirements or did the environmental studies meet the, I
13 guess, the distance in regards to the proposed location in
14 Alpha and Omega Church?

15 MR. FERGUSON: That's a very good question. So
16 the separational requirements do not speak to churches.
17 There is no restriction on a tobacco shop being located
18 right next to a church. What makes the Holy Rosary Church
19 in particular special is it is a designated county historic
20 site and so there is a separational requirement from
21 historic sites. Historic sites are typically the building,
22 not always, typically the building and then the county also
23 places a restriction on a larger area around the building so
24 that you don't have incompatible development right chock up
25 against the historic building and that larger area is called

1 the environmental setting. And so that was what I made sure
2 that we were meeting the separation distance from.

3 MS. THOMAS: Okay. And so therefore also you
4 mentioned a study, does it qualify because of course this
5 shopping center is immediately surrounded to the rear and to
6 the right, where I reside, of residential, well established
7 residential --

8 MR. FERGUSON: Correct.

9 MS. THOMAS: -- neighborhoods.

10 MR. FERGUSON: Yes, ma'am.

11 MS. THOMAS: Does it meet that, is there any type
12 of stipulations in regards to this type of retail and
13 residential neighborhoods?

14 MR. FERGUSON: Yes, there is not for retail
15 tobacco businesses. There is for cannabis dispensaries.

16 MS. THOMAS: Uh-huh.

17 MR. FERGUSON: But there is not for tobacco shops
18 retail tobacco businesses. There is in the Marlton Plan a
19 buffer from all of the uses in the Marlton Plaza Shopping
20 Center to the single family dwellings behind it. So for
21 instance the houses on the Assisi Street and Assyria Street
22 are separated by a planted buffer that's not required by the
23 Zoning Ordinance, but was a requirement of the Marlton Plan
24 and that would be, that is there and would be required to be
25 maintained, regardless of whether this was a tobacco shop or

1 you know a gift store.

2 MS. THOMAS: Okay. And my last question, actually
3 second to the last, you mentioned adverse impacts. Was
4 traffic studied?

5 MR. FERGUSON: No, it is traffic is not a specific
6 requirement of the special exception process as opposed to
7 the subdivision process.

8 MS. THOMAS: Okay.

9 MR. FERGUSON: So when if this were going through
10 subdivision, there would need to be a traffic study done.
11 But what I can tell you, not being a transportation
12 engineer, is that there are a certain number of trips that
13 are associated with the space. So even though it's vacant
14 now it has been occupied in the past and so you know that
15 occupancy is built into the traffic calculations that would
16 be done if it were to be tested for adequacy of public
17 facilities.

18 MS. THOMAS: Okay. But now we're looking at
19 another type of business that draws frequent and a lot of,
20 the possibility of a lot of traffic in that area. And I'm
21 not certain I know your business is in historic Upper
22 Marlboro but as I say I am an immediate resident of this area
23 that we're discussing and the traffic sometimes getting in
24 and out of our strip mall is a problem. And now we're adding
25 a business that can have a lot of people, location, coming

1 and they seeing that they sell tobacco products and the type
2 of products that we're talking about selling there could be
3 now an ongoing traffic issue. So I would like to --

4 MS. NICHOLS: Okay. I need a question.

5 MS. THOMAS: Well my question is is there any way
6 that we can look into this issue?

7 MR. FERGUSON: Well I am not a --

8 MS. THOMAS: (Indiscernible).

9 MR. FERGUSON: -- yeah, I am not a transportation
10 planner. The Park and Planning Commission staff does have a
11 transportation planner and in the Staff Report they did not
12 believe that there was any concern with the amount of
13 traffic that this particular type of use would generate,
14 compared to other typical retail uses. So as I say you
15 would need somebody like Mr. Guckert or Mr. Lenhart to
16 testify more specifically than that, but I can point you to
17 the Staff Report where the Park and Planning staff at least
18 has looked at that very question that you're concerned about
19 and they did not believe that it was of concern based on
20 their experience.

21 MS. THOMAS: Okay. Thank you. That's all of my
22 questions.

23 MR. FERGUSON: Thank you, Ms. Thomas.

24 MS. NICHOLS: All right. Thank you. Thank you,
25 Ms. Thomason, Thomas, I'm sorry. Thank you, Ms. Thomas.

1 Okay. We'll go back to Alexis Reed-Curling, are you with
2 us, do you have any questions of Mr. Ferguson?

3 MS. REED-CURLING: (No audible response.)

4 MS. NICHOLS: All right. Let's go to Ms. Fraser,
5 and if you have any questions of Mr. Ferguson please let me
6 know and please turn on your video.

7 MS. FRASER: Good morning, no questions at this
8 time.

9 MS. NICHOLS: Thank you so much, ma'am.

10 MS. FRASER: Thank you.

11 MS. NICHOLS: All right. Any redirect, Mr.
12 Forman?

13 MR. FORMAN: No, Your Honor, Madam Examiner.

14 MS. NICHOLS: All right. Thank you. All right,
15 Mr. Forman, your next witness?

16 MR. FORMAN: That concludes our case, Madam
17 Examiner. We just had Mr. Patel and Mr. Ferguson this
18 morning.

19 MS. NICHOLS: All right.

20 MR. FORMAN: I would request that you leave the
21 record open for me to submit the requested exhibits.

22 MS. NICHOLS: Okay. All right. Let's see, so we
23 move on and Ms. Thomas, if you will turn your video back on
24 I'm going to swear you in and allow you to testify.

25 MS. THOMAS: Thank you.

1 MS. NICHOLS: Could you raise your right hand,
2 please? Do you solemnly swear or affirm in the matter now
3 pending to tell the truth, the whole truth and nothing but
4 the truth?

5 MS. THOMAS: I do.

6 MS. NICHOLS: Thank you. Please state your name
7 and address for the record.

8 MS. THOMAS: Of course, my name is Adrienne, A-D-
9 R-I-E-N-N-E, Thomas, T-H-O-M-A-S. I reside at 11500 Tyre,
10 T-Y-R-E, Street, Upper Marlboro, Maryland 20772.

11 MS. NICHOLS: All right. Thank you very much.
12 What would you like to say today?

13 MS. THOMAS: What I would like to state is I'm not
14 in favor of this type of business entering my immediate
15 neighborhood. Earlier Mr. Forman showed Exhibit B which
16 gave a landscape of the shopping center and I just want to
17 state that in regards to that you have the shopping center
18 and then you have the lodge, Marlton Lodge. I reside behind
19 Marlton Lodge, and so I have issues about this store with
20 the type of traffic, the type of customers or clientele that
21 would visit and purchase products from this store. Marlton
22 Shopping Center, we are facing a lot of crime that's been
23 going on in our shopping center and we have as residents of
24 this community, actually I reside technically in Rosary
25 Village Estates, that's what I am referred to as. Having

1 working closely with the officers, our local police, to
2 ensure that we have more patrolling going on, and while I
3 am, I can provide you with this information it's because I'm
4 one of the many people who are impacted by the activity in
5 the shopping center.

6 Mr. Patel mentioned he working at the liquor
7 store. I, people purchase products, walk around past the
8 Marlton Lodge and there's a grassy area immediately in front
9 of my house, where people attempt to set up to drink and
10 smoke. I continually call the police and this is why we
11 have more scheduled sweeps of this area. We have
12 carjacking's and we are not trying to be hindered or harmed
13 further by this type of business entering our community, our
14 neighborhood.

15 I've been a resident at 11500 for 20 years. I
16 refuse to be harmed by the type of business that will have
17 people come in that can go a few doors down buy alcohol,
18 we're dealing with that too, and then will come possibly
19 like they do now, and try to perch their selves immediately
20 across the street from my house.

21 We cannot tolerate this, Madam Hearing Examiner,
22 and there is many businesses that can come and occupy that
23 space at Marlton Shopping Center, and we do ask that we
24 reconsider this application, actually deny it and give
25 another type of business the opportunity to properly serve

1 our community.

2 Mr. Patel mentioned how he directs people to
3 another type of tobacco store, that's six miles away.
4 Freestanding tobacco shop in a commercial area without, does
5 not have any residential housing immediately surrounding it.
6 We have liquor stores now, there's three in a two mile
7 radius. I'm asking our Council, I'm asking you Madam
8 Hearing Officer, to please listen to us. I am harmed by
9 this type of business, I am harmed by the decisions that the
10 owner of this strip mall makes in regards to the type of
11 businesses that he will allow in my community. I cannot
12 tolerate this and this is why I took the time today to come
13 on record and let you know I am immediately harmed by these
14 type of decisions.

15 Also I thank Mr. Patel for having certain
16 restrictions and technology to scan those who visit his
17 store, but honestly the people that hang out across the
18 street from my store are over the age of 21. The people
19 that attempt to hang out in front of the shopping center
20 coming in and out of the, the, the liquor store and then now
21 possibly your store, people now are trying their best not to
22 go to the Food Lion because of this type of activity. We
23 cannot have this activity in our homes. I believe in
24 businesses but I believe in businesses should be established
25 in appropriate areas, not in the immediate vicinity of

1 established neighborhoods. Especially neighborhoods who are
2 attempting to fight crime that these type of businesses
3 draw.

4 Also I do ask, I understand we can make conditions
5 and exceptions and everything to this exception, but having
6 something open like this that will allow Mr. Patel if this
7 exception is granted, to change the type of products that he
8 will sell, that will immediately and directly impact our
9 community and it will bring our shopping center down. We're
10 not trying to have that here in Rosaryville Estates in
11 Marlton, we are not. We cannot tolerate it.

12 As I stated I am immediately impacted by any
13 decision that's made and I cannot be harmed any further.
14 You have people who are afraid to go to the shopping center,
15 that's why it's increased police surveillance. We cannot
16 have any more negativity to our area. We will not tolerate
17 it.

18 That's all I have to say at this moment. Thank
19 you for allowing me to participate in this hearing today.

20 MS. NICHOLS: Thank you very much.

21 MS. THOMAS: Oh.

22 MS. NICHOLS: Yes, go ahead.

23 MS. THOMAS: I had one more thing. Mr. Patel
24 mentioned a Mr. Wilson from a Brandywine Homeowner's
25 Association even though it was sounding like maybe he had a

1 concern about the sale of items to community youth. But Mr.
2 Wilson does not immediately live in the area which this
3 business is trying to, to, to reside in. He lives at least
4 six miles down the road. I live immediately in this
5 community and I do ask that you hear me, Ms. Nichols. Thank
6 you.

7 MS. NICHOLS: All right. Thank you, Ms. Thomas.
8 Thank you for your participation. Mr. Forman, do you have
9 any cross-examination of Ms. Thomas?

10 MR. FORMAN: Not necessarily, Ms. Thomas, I
11 understand and we understand your concerns with this issue.
12 Mr. Patel has mentioned, well actually no, I have no
13 questions, so thank you Madam Examiner.

14 MS. NICHOLS: Thank you --

15 MR. FORMAN: I want to thank Ms. Thomas for
16 testifying this morning, or providing her statement.

17 MS. NICHOLS: Thank you. Mr. Brown, do you have
18 any cross-examination of Ms. Thomas?

19 MR. BROWN: Yes. Ms. Thomas, you have not read
20 the Technical Staff Report application or report, have you?

21 MS. THOMAS: No, sir, I have not.

22 MR. BROWN: Yes, I mean that was clear from your
23 questions. Mr. Forman, if you could please after this
24 hearing e-mail to Ms. Thomas a copy of the Technical Staff
25 Report so she's fully aware of all of the parameters of this

1 application?

2 MR. FORMAN: I can certainly do that, Mr. Brown.
3 Madam Examiner, would your office be able to provide me with
4 an e-mail address for Ms. Thomas?

5 MS. NICHOLS: Sure, I'll tell you what --

6 MR. FORMAN: That just helps --

7 MS. NICHOLS: -- I'll tell you what, Mr. Brown, my
8 office will go ahead and e-mail Ms. Thomas a copy of the
9 Technical Staff Report.

10 MR. BROWN: That will be great. And then the
11 other question I had for Ms. Thomas and if you don't know
12 the answer, Ms. Thomas, Mr. Forman and Mr. Patel may, and
13 that is I was unclear in looking at the application, many of
14 the maps outline the entire shopping center in red and this
15 special exception is only for the 1,750 square foot space
16 within the shopping center. And on the application on
17 Technical Staff Report the address is listed as 9540 Crain
18 Highway, there's no suite number. So my question to you,
19 Ms. Thomas, and if you don't know, Mr. Forman and Mr. Patel
20 can answer it, is there a specific suite number for the
21 space where this tobacco shop will be located? You don't
22 know that do you, Ms. Thomas?

23 MS. THOMAS: No, I do not. Just looking at the
24 exhibit that was shown earlier today, he referenced a
25 location that's closer to the end of the shopping center, to

1 the right where the bar is. And that's closer to my home.

2 MR. BROWN: Mr. Patel tell us whether there is a
3 specific suite number with a different address from what's
4 on the Technical Staff Report?

5 MR. FERGUSON: There is a specific address
6 associated with the space, which is the address associated
7 with the application.

8 MR. BROWN: I see, so that's not the address for
9 the entire shopping center?

10 MR. FERGUSON: No, it's not, it's just for that
11 space.

12 MR. BROWN: All right. Thank you. No other
13 questions.

14 MS. NICHOLS: All right. Thank you very much, Ms.
15 Thomason, Ms. Thomas, I'm so sorry about that. Thank you.

16 MS. THOMAS: No problem.

17 MS. NICHOLS: Thank you for your participation.
18 Let's see, all right, Ms. Reed-Curling, would you like to
19 testify today?

20 MS. REED-CURLING: Yes, ma'am.

21 MS. NICHOLS: All right. I need you to raise your
22 right hand and I need you to solemnly swear or affirm in the
23 matter now pending you will tell the truth, the whole truth
24 and nothing but the truth.

25 MS. REED-CURLING: I do.

1 MS. NICHOLS: Thank you. Please state your name
2 and business, excuse me, home address for the record.

3 MS. REED-CURLING: My name is Alexis Reed-Curling,
4 I live at 9708 Sol Corsel (phonetic sp.), Upper Marlboro,
5 Maryland 20772.

6 MS. NICHOLS: All right. Thank you. What would
7 you like to testify to today?

8 MS. REED-CURLING: Well, I would like to say thank
9 you, thank you for having this but I would like to say that
10 I have lived in Marlton for 23 years. My children have
11 attended the, the schools in the neighborhood one being at
12 Mattaponi, the other one being at Marlton and also I have a
13 graduate from Doug. I also have an organization that's
14 called Marlton Neighborhood Alliance, and it's been in
15 existence for two years now. I have a website, Marlton.org,
16 I'm a 501(c). I also have a newsletter for Marlton, Marlton
17 Advocate used to be the old one, the new one now is just
18 Marlton Quarterly. So I have not heard from Patel. He had,
19 I don't know where he could have done any type of asking
20 neighbors questions because I know that the senior citizens
21 that live in the community right down the, steps away from
22 where this place will go are adamant about them not having
23 this in their neighborhood.

24 MS. NICHOLS: No, you can't testify on anybody's
25 behalf.

1 MR. FORMAN: Objection.

2 MS. NICHOLS: You can only speak --

3 MS. REED-CURLING: I'm sorry.

4 MS. NICHOLS: -- on your behalf.

5 MS. REED-CURLING: I'm sorry. Okay. So with me,
6 therefore, this is the feedback that I get because they,
7 they contact me so I have that in writing.

8 MS. NICHOLS: No, you can't tell me anything about
9 what anybody talked to you about, you can only give me your
10 opinions.

11 MS. REED-CURLING: Okay. All right. So my
12 opinion is that we, everything that Ms. Thomas said we don't
13 need, we don't need any more negativity in our neighborhood
14 at all. We got enough chicken places, enough liquor stores
15 and enough things that, that, that don't benefit us at all
16 in our neighborhood. We just don't need a smoke shop, or a,
17 I'm sorry, a tobacco store in our neighborhood where
18 there's, where you can buy cigarettes at every place, you
19 can buy elements of any part of tobacco everywhere, it's
20 unnecessary.

21 And just to say that, just the look of how it
22 looks the neighborhood doesn't need to be on a downward
23 spiral, we need to be up. And again like Ms. Thomas said,
24 we have the, the crime and we have the people who like to
25 stand outside and do nothing and we just don't need extra

1 things like that in our neighborhood and nothing else other
2 than to add, other than to say yeah, it's just not, it's
3 just not a good look. That's all I had to say.

4 MS. NICHOLS: All right. Thank you, Ms. Reed-
5 Curling. Mr. Forman, do you have any questions of Ms. Reed-
6 Curling?

7 MR. FORMAN: No questions, Your Honor. I just
8 want to thank Ms. Reed-Curling for her testimony today,
9 thank you.

10 MS. NICHOLS: All right. Thank you. Mr. Brown,
11 any questions of Ms. Reed-Curling?

12 MR. BROWN: Ms. Curling, have you read the
13 Technical Staff Report?

14 MS. REED-CURLING: No, I have not.

15 MR. BROWN: So if Ms. Bah, who just sent a copy to
16 Ms. Thomas could also send a copy to Ms. Curling, that would
17 be great.

18 MS. REED-CURLING: Thank you.

19 MS. NICHOLS: Yes, thank you, Ms. Bah. Thank you
20 for already sending Ms. Thomas' Technical Staff Report.

21 MS. BAH: No problem.

22 MS. NICHOLS: All right. Thank you. All right.
23 So all right, thank you, Ms. Reed-Curling for participating
24 in the process. Ms. Fraser, would you like to testify?

25 MR. FORMAN: If I can just, I'm piggybacking on

1 the sending of the Staff Report. Could your office also
2 send Ms. Reed-Curling and Ms. Thomas my e-mail address so in
3 case they have any follow up questions or any other concerns
4 they know how to contact me directly?

5 MS. NICHOLS: All right. Ms. Bah, could you also
6 send Mr. Forman's information to Ms. Thomas and Ms. Reed-
7 Curling?

8 MR. FORMAN: And anybody else who may be would
9 like a copy of the Staff Report.

10 MS. NICHOLS: Okay. Right.

11 MS. BAH: Not a problem.

12 MS. NICHOLS: Thank you. We may be inching into
13 that with Ms. Fraser. Ms. Fraser, would you like to testify
14 here today?

15 MS. FRASER: Good morning, yes, I would. Thank
16 you so much.

17 MS. NICHOLS: Good morning. Thank you, I need to
18 swear you in.

19 MS. FRASER: My name is --

20 MS. NICHOLS: I need to swear you in.

21 MS. FRASER: Okay.

22 MS. NICHOLS: Thank you so much. Do you solemnly
23 swear or affirm in the matter now pending to tell the truth,
24 the whole truth and nothing but the truth?

25 MS. FRASER: I do.

1 MS. NICHOLS: Thank you. Please state your name
2 and address for the record.

3 MS. FRASER: Stacy W. Fraser, S-T-A-C-Y, W middle
4 initial, F as in Frank, R-A-S as in Sam, E-R, address 15510
5 Humberside Way, H-U-M-B-E-R-S-I-D-E, Way, Upper Marlboro,
6 Maryland 20774.

7 MS. NICHOLS: Thank you. Okay. Would you also
8 like to receive Mr. Forman's information and a copy of the
9 Technical Staff Report?

10 MS. FRASER: Yes, please.

11 MS. NICHOLS: All right. So Ms. Bah, if you would
12 take care of that and add Ms. Fraser to your list, thank
13 you. All right. Ms. Fraser, what would you like to testify
14 today?

15 MS. FRASER: Thank you so much for having this
16 hearing, I do appreciate it, so that the citizens could have
17 a voice in the matter. I have a 14-year-old that will be
18 attending Frederick Douglas High School which is in
19 proximity to the new proposed location for the, for the
20 tobacco store. And just from my standpoint I just feel that
21 it would be a negative addition to our community, since we
22 already have the liquor store at the Marlton Shopping Center
23 and all of the additional negative influences that have been
24 shared by Ms. Thomason and Ms. Curling.

25 I just wanted to agree with them that this would

1 just not be a positive influence on our community. Thank
2 you so much.

3 MS. NICHOLS: Thank you so much. All right. Mr.
4 Forman, do you have any questions of Ms. Fraser?

5 MR. FORMAN: Yes, Madam Examiner, just one real
6 quick. Good morning, Ms. Fraser, thank you for --

7 MS. FRASER: Good morning.

8 MR. FORMAN: Good morning. You just mentioned
9 that Frederick Douglas High School is in close proximity to
10 the subject property, is that correct?

11 MS. FRASER: Yes, well not next door to it, but I
12 think it's about one, less than two miles away.

13 MR. FORMAN: Okay. Because when I looked at the,
14 would it surprise you that I think it's more maybe like
15 three miles away from the property when you go door to door?

16 MS. FRASER: That could be.

17 MR. FORMAN: Okay. So thank you, no further
18 questions, Madam Examiner.

19 MS. NICHOLS: All right. Thank you very much.
20 Mr. Brown, do you have any questions of Ms. Fraser?

21 MR. BROWN: No questions, thank you.

22 MS. NICHOLS: All right. Ms. Fraser, thank you
23 very much for participating in this process.

24 MS. FRASER: Thank you so much.

25 MS. NICHOLS: Have a good day. All right. Mr.

1 Forman, do you wish to have closing argument?

2 MR. FORMAN: Yes, I do, Madam Examiner. I want
3 to, you know, start by thanking everyone this morning for
4 their time and attending this hearing. You know you heard
5 from Mr. Patel about how this tobacco shop is going to be
6 operated and we believe it will be in a very lawful, law
7 abiding manner, given the numerous protocols that will be
8 implemented. It will be operated in accordance with the
9 federal, state and county laws, provided a special exception
10 is permitted.

11 You heard from Mr. Ferguson who went through the
12 specific locational requirements for a tobacco shop as well
13 as the additional specific findings for a tobacco shop. He
14 also went through the general required findings for special
15 exception and there has been no testimony to or any sort of
16 evidence that would rebut the finding in favor of this
17 tobacco shop here.

18 While we do understand the concerns that were
19 raised this morning by Ms. Thomas, Ms. Fraser and Ms. Reed-
20 Curling, I don't think there is any sort of causation
21 requirements that will be further negatively impacted to the
22 area by this retail tobacco shop, sorry, tobacco shop not
23 retail tobacco shop, just tobacco shop.

24 You know there is no, it seems that there is an
25 issue with the operation of the property as a whole and

1 there is no real basis of justification to find that this,
2 you know, shop which will be mostly primary selling premium
3 cigars and will be most likely at a higher cost point than
4 some of the other retail establishments in the area, would
5 increase or have any negative impact on some of the serious
6 problems that are already in existence in the area.

7 It does seem like that Mr. Patel has actually had
8 some conversations with the representatives of the landlord
9 regarding some of the issues of crime, because let's be
10 perfectly honest, he worked in this area he lives in close
11 proximity and he kind of understands some of the issues that
12 were here. And it would be in his best interest given his
13 previous employment to understand the safety issues and the
14 willingness to open a business here means that he
15 understands that there is you know, a good neighborhood to
16 open this business in, and that there are safety and
17 security measures that could help ensure the overall health
18 and welfare of this property in the future and going
19 forward.

20 I think that is all I have to say. I would
21 request that you know Madam Examiner keep the record open so
22 we can submit the additional exhibits and that ultimately
23 that this special exception be approved. Thank you very
24 much for your time this morning.

25 MS. NICHOLS: Thank you. And your client would

1 agree to abide by a condition of no vaping products or
2 electronic cigarettes?

3 MR. FORMAN: Yes, and if you'd like Mr. Patel to
4 also ascent, we can ask him to join --

5 MS. NICHOLS: No, he did. I just want to verify
6 it.

7 MR. FORMAN: Yes, thank you.

8 MS. NICHOLS: All right. Okay. Thank you. We
9 have one little glitch and that is we don't have an e-mail
10 for Ms. Reed-Curling, so I'm asking Ms. Thomas or Ms. Fraser
11 if either one of you have an e-mail of Ms. Curling, could
12 you provide it at this time? I don't know if you all are
13 still with us.

14 MS. THOMAS: Yes, I'm still with you, this is Ms.
15 Thomas.

16 MS. NICHOLS: Thank you. Do you happen to have an
17 e-mail for Ms. Reed-Curling?

18 MS. THOMAS: I do not.

19 MS. NICHOLS: Okay. Thank you.

20 MS. THOMAS: But I do know what her organization
21 and the, the newsletter that she referenced, so I will try
22 my best to get the information too.

23 MS. NICHOLS: Okay. That would be awesome, thank
24 you. All right. That being said, the hearing in this
25 matter will deem to have been completed. The record will be

1 kept open for two additional items, one is the redacted
2 versions of the documents in the record that reference
3 either names or numbers of citizens in favor of the instant
4 application. And the second one, which will be marked as
5 Exhibit 34 is a Revised Special Exception Site Plan, it will
6 be revised in accordance with the one condition of the
7 Technical Staff Report.

8 (Hearing Exhibit No. 34 was
9 marked for identification.)

10 MS. NICHOLS: Okay, Mr. Brown?

11 MR. BROWN: Madam Examiner, instead of redacting
12 the five pages that are identified as affidavit of support
13 signatures, it'd probably be best just to strike the
14 documents and give them back to the applicant and not have
15 them submitting anything else, because it's just a list of
16 signatures of persons in support that shouldn't be in the
17 record at all.

18 MS. NICHOLS: Do you know what the exhibit number
19 is?

20 MR. BROWN: Yes, I'm looking at it right here,
21 it's on pages 182 counting backwards, I'm like Mr. Ferguson
22 I can't count backwards and chew at the same time, but it's
23 pages 176 through 182 of the binder.

24 MR. FORMAN: With regard to Mr. Brown's
25 suggestion, I would agree that we could strike the last five

1 pages, which are the Exhibit A affidavit of support
2 signatures, but I would request that the first two pages of
3 the community outreach affidavit be kept in the record.
4 Because that kind of details --

5 MR. BROWN: I don't have any problem with the
6 first two pages, just those five pages that I just
7 identified.

8 MR. FORMAN: Yes, okay, thank you Mr. Brown. We
9 have no objection to that.

10 MS. NICHOLS: Okay. So we're in agreement that we
11 will remove from the record pages 176 to 182 of the binder?

12 MR. BROWN: Correct.

13 MS. NICHOLS: Is that correct? So that's four,
14 that's six pages.

15 MR. FORMAN: I apologize, I have those page
16 numbers so I'm kind of going by the exhibit and then how
17 many pages are in the exhibit.

18 MS. NICHOLS: Sure, what's the exhibit number, Mr.
19 Forman?

20 MR. FORMAN: I believe 19.

21 MR. BROWN: I believe it would be --

22 MS. NICHOLS: Okay. Okay. Okay. All right.
23 We'll remove the last five pages. Okay. Of Exhibit 19.

24 MS. FRASER: Yes, so that --

25 MS. NICHOLS: Of Exhibit 19, just the last five

1 pages. Okay. Okay. Okay. All right. I can do that. All
2 right. Anything else, Mr. Brown?

3 MR. BROWN: That's all, thank you very much.

4 MS. NICHOLS: All right. Okay. Okay. All right.
5 That being said, we will take care of the redacted, we'll
6 take care of the removal of those five pages, so all you owe
7 me Mr. Forman is the what will be named as Exhibit 34, the
8 Revised Site Plan in accordance with the one condition of
9 the Technical Staff Report. All right. Then I thank
10 everybody for participating here today and I would ask that
11 everybody have a good day. A decision will be forthcoming.

12 MR. FORMAN: Thank you very much.

13 MS. THOMAS: Thank you.

14 UNIDENTIFIED PERSON: Thank you. Have a good day
15 everyone.

16 MS. NICHOLS: Good to see you all. Thank you.

17 (Whereupon, the hearing was concluded.)

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C E R T I F I C A T E

DEPOSITION SERVICES, INC., hereby certifies that the attached pages represent an accurate transcript of the electronic sound recording of the proceedings before the Prince George's County Office of the Zoning Hearing Examiner in the matter of:

301 TOBACCO LLC
Case No. SE-4859

By:

Diane Wilson

Diane Wilson, Transcriber