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

NATIONAL CAPITAL BUSINESS PARK  
SITE DEVELOPMENT PLAN, SDP-1603-02

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

COUNTY ADMINISTRATION BUILDING

Upper Marlboro, Maryland

June 30, 2022

VOLUME 1 of 1

BEFORE:

PETER A. SHAPIRO, Chair

DOROTHY F. BAILEY, Vice-Chair

MANUEL R. GERALDO, Commissioner

WILLIAM M. DOERNER, Commissioner (Absent)

A. SHUANISE WASHINGTON, Commissioner (Absent)

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OTHERS PRESENT:

Henry Zhang, Staff Reviewer

Dan Lynch, Attorney, McNamee Hosea

WILL CAPERS, Transportation Planning

JIM YANG, Transportation Planning

SUSAN NICKLE, Environmental Planning

ROBERT ANTONETTI, Attorney for Applicant

MIKE LENHART, Lenhart Traffic Consulting, Inc.

CODY GARRISON, Ambrose Property Group

DANIEL TAMANKO, Ambrose Property Group

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MR. CHAIR: Mr. Gengle (phonetic sp.), are you, are you speaking to us or -- Mr. Gengle, we can't hear you. No, I think he's moved on from us onto something else.

MADAM VICE CHAIR: I don't think he's speaking to us.

MR. CHAIR: Yeah. So, let's go on to Item 7. Commissioners, do you need a quick break?

MADAM VICE CHAIR: No, not at this time, I don't.

MR. CHAIR: Okay.

COMMISSIONER GERALDO: No, good.

MR. CHAIR: Okay. Commission Item 7, Specific Design Plan, SDP-1603-02, National Capital Business Park. The attorney for the Applicant is Dan Lynch. Staff Reviewer, Staff presentation will be Mr. Zhang. We have some opponents for this as well who will be speaking, and I will turn it over to Mr. Zhang for the Staff presentation.

MR. ZHANG: Good morning, Mr. Chairman and members of the Planning Board. For the record, this is Henry Zhang with the Urban Design Section. I can set in front of you, is a Specific Design Plan, basically a revision to previously approved SDP for a 3.4 million square feet of warehouse distribution facility with associated parking and truck, trailer and loading areas in the Collington Center.

For Section 27-1703(d) of the Zoning Ordinance,

1 this case is reviewed under the prior Zoning Ordinance.  
2 There is a companion case here as Item 8 is the draft  
3 resolution in this case.

4 We received a total of 13 exhibits, of which two  
5 are exhibits from the Applicant; and then 11 exhibits from  
6 the citizen opposition party. Next slide, please.

7 This site is in Planning Area 74(a), Council  
8 District 4. Next slide, please.

9 Specifically, you see here outlined in red, this  
10 site is in the middle of a larger property which was in  
11 front Planning Board several times in the past year or so.  
12 This side, the largest side, is located on the north side of  
13 Leland Road, approximately 3,178 feet west of this  
14 intersection with U.S. 301. On the right-hand side of this  
15 exhibit, those buildings basically are in the Collington  
16 Center. This is at the very end of the Collington Center.  
17 Next slide, please.

18 This is site is in (indiscernible) LCD. It's the  
19 Legacy Comprehensive Design Zone. Next slide, please.

20 Yes, next slide, please. This is the prior zone,  
21 Zoning Map. Basically, it's in one of the nine prior  
22 Comprehensive Design Zones. This is the RS. It's the  
23 Residential Suburban Density Zone. Next slide, please.

24 Actually, the next two slides, please, those are  
25 the exhibits shows there's no overlay zone of this property.

1 Yes, next slide, please.

2 This is the aerial map, shows the side basically  
3 is vacant and wooded. On the right-hand side, those are the  
4 buildings in existing Collington Center. Next slide,  
5 please.

6 This Site Map shows there are a lot of regulated  
7 environment features on this side; but, however, this SDP  
8 is, we're seeing the previously approved limit of  
9 disturbance under SDP-1603-01, which is an infrastructure, a  
10 Specific Design Plan for the entire National Capital  
11 Business Park. Next slide, please.

12 The subject properties outlined in blue here on  
13 Leland Road is a major collective roadway. Next slide,  
14 please.

15 This is the overall (indiscernible) for, for the  
16 National Capital Business Park, different color representing  
17 future faces; but the, the green here which include three  
18 parcels is basically those parcels under the subject SDP.  
19 Next slide, please.

20 This is the Specific Design Plan. This site has a  
21 very long approval history which dated back to the 1990s.  
22 The Planning Board, or recently, as I mentioned previously,  
23 approved two Comprehensive Design Plans, and then two  
24 Preliminary Plan of Subdivision for the development up to  
25 5.5 million square feet of the employment and the

1 institutional uses which generally are permitted in the EIA  
2 which also is one of the old Comprehensive Design Zone  
3 without any residential component. This Specific Design  
4 Plan is the first full-scale SDP within this larger  
5 development. The access to this site will be through  
6 Queen's Court, excuse me, which is the extension of Prince  
7 George's Boulevard further east from the Collington Center.

8           You see here, the site will be accessed through  
9 three driveways, you know, from Queen's Court, and then  
10 there's one big building footprint, you know, and the  
11 footprint of approximately 6497 square feet. It's one big  
12 building in the middle of the side. Surrounded on the  
13 fourth side, basically to the, to the southern portion,  
14 that's a big parking lot, approximately 1,700ish parking  
15 spaces; and that on the, on the northern and the northeast  
16 side, basically, are those major truck trailers and loading  
17 spaces. Next slide, please.

18           There are multiple directional signage located  
19 throughout this side and also some building, mounted signage  
20 also proposed; but this is the one monumental sign which  
21 will be located at one of the main entrance to the side.  
22 This is the detail of that monumental sign. Next slide,  
23 please.

24           Actually, the next four slides, basically, will be  
25 showing the prospective of proposed building. Once again,

1 it's one large building and then we have also, provide a lot  
2 of information on page 7 of the Staff Report; basically,  
3 tell what kind of a green building techniques will be used.  
4 So, the next four slides, basically, slides 14 to 17, will  
5 be the perspective of the building. Basically, this  
6 building is finished with five types of metal panels and  
7 also in combination with five types of concrete panel; and  
8 they did the, can you please just like go to next slide and  
9 keep going? And these design are very balanced composition;  
10 the elevation are proportionally and visually divided into  
11 small portion modules to minimize the horizontal expanses to  
12 the extent practical through those tower elements you see  
13 here, and also projections, and also the color patterns.  
14 Next slide, please.

15           Staff is very happy with the building proposed for  
16 this site and this SDP conforms to previously-approved basic  
17 plans, Comprehensive Design Plans, and the Preliminary Plan  
18 of Subdivision. This SDP also has been reviewed for  
19 conformance with landscape manual, tree canopy coverage  
20 ordinance, woodland, white light habitat conservation  
21 ordinance. The required finding for the Planning Board to  
22 approve the SDP as stated in Section 27528 has been fully  
23 satisfied. The Staff Report on page 10 to 12 basically  
24 provide a detailed discussion. When I noticed that in the  
25 opposition, they stated the requirement for the 528 has not

1 been satisfied; but I, I, I don't believe they have any  
2 reason to say that. So, on page 10 to 12, there is a  
3 discussion of how each criteria has been satisfied. No  
4 Agency opposed to the approval of this SDP; however, citizen  
5 opposition has been received during the review process.

6           The Applicant proposed four revisions to the four  
7 sub-condition of Condition No. 1. I think Staff worked with  
8 the Applicant very hard and then we agree with all the  
9 proposed revision; but Condition 1(p) will be, instead of a  
10 complete deletion, new language will be introduced.

11           In conclusion, the Urban Design Section recommends  
12 that the Planning Board approve this SDP-1603-02, including  
13 Type 2 Tree Conservation Plan, TCP2-026-2021-02, for  
14 National Business Park with street conditions as stated on  
15 page 25 to 28 of the Staff Report. This concludes the Staff  
16 presentation. Thank you.

17           MR. CHAIR: Thank you, Mr. Zhang. Commissioners,  
18 questions for Staff?

19           MADAM VICE CHAIR: Just one quick question  
20 regarding the conditions.

21           MR. CHAIR: Yes.

22           MADAM VICE CHAIR: Did I understand, Mr. Zhang,  
23 that all conditions staying, except there is a new condition  
24 for Condition P?

25           MR. ZHANG: Yes, ma'am. Instead of a complete



1 deletion of the, you know, Condition 1P, some brief new  
2 language will be introduced.

3 MR. CHAIR: When?

4 MADAM VICE CHAIR: And then --

5 MR. ZHANG: The Applicant, the Applicant will be  
6 talking about that condition.

7 MADAM VICE CHAIR: Okay. Thank you.

8 MR. ZHANG: Thank you.

9 MR. CHAIR: Thank you. Mr., Commissioner Geraldo?

10 COMMISSIONER GERALDO: Yeah, just following up on  
11 that. So, Mr. Zhang, have you and the Applicant agreed to  
12 the new language that's going to be read to replace 1P?

13 MR. ZHANG: Yeah, yes, sir. I think --

14 COMMISSIONER GERALDO: Okay.

15 MR. ZHANG: -- Mr. Lynch will be here to talk  
16 about the new language.

17 COMMISSIONER GERALDO: And you know what it says?

18 MR. ZHANG: Yes.

19 COMMISSIONER GERALDO: Okay.

20 MR. ZHANG: We agreed upon it. Thank you, sir.

21 COMMISSIONER GERALDO: Okay. No further  
22 questions.

23 MR. CHAIR: Thank you for the clarification.

24 MADAM VICE CHAIR: Thank you, Mr. Geraldo.

25 MR. CHAIR: Any other questions for Staff? If

1 not, I would turn it over to the Applicant, Mr. Lynch. Take  
2 it away.

3 MR. LYNCH: Good morning, Mr. Chair, members of  
4 the Board. For the record, Dan Lynch with the law firm of  
5 McNamee Hosea here on behalf of the Applicant, AMS-2022-BTS,  
6 Upper Marlboro, Maryland, LLC.

7 With me here today is representatives of the  
8 Applicant, Applicants, Mr. Cody Garrison and Dan Tamanko.  
9 We also have with us here today, Mike Lenhart, who is the  
10 traffic engineer on the project. They will not be  
11 presenting today, but they're here to answer any questions  
12 this Board may have.

13 Also joining us online is the master developer's  
14 attorney, Rob Antonetti. He's also here representing  
15 developer's interests, but also here to answer any questions  
16 you may have resulting from this presentation.

17 Before I begin, I'd like to just thank Mr. Zhang.  
18 You've worked very hard on brining this application to the  
19 Board; and up until yesterday, we're working very hard on  
20 presenting to the Board with conditions that both the  
21 Development for Use Staff, as well as the Applicant agreed  
22 to.

23 I'd also like to thank Mr. Hunt. As usual, Mr.  
24 Hunt worked very closely with us in keeping this application  
25 on track and on time.

1           And then, finally, I can't help but thank Mr.  
2 Antonetti, I mean him and his team have done a lot of work  
3 that preceded this including, but not limited to, the Basic  
4 Plan Amendment, the Comprehensive Design Plan Amendment and  
5 the Preliminary Plan, as well as the Specific Design Plan  
6 for Infrastructure. They've worked very hard and as a  
7 result of this hard work, we're able to present with you the  
8 Application which is before you today.

9           As Mr. Zhang indicated, we are here today on the  
10 first SDP in this development on the designs to proposing a  
11 building and that building is 3,428,985 square feet in size.  
12 It's five stories. It's a 5-story distribution facility  
13 that is going to be located within the National Capital  
14 Business Park. This facility will occupy approximately  
15 90.11 acres of the 422 acres that makes up National Capital  
16 Business Park.

17           Now as you know, and as Mr. Zhang indicated during  
18 his presentation, the National Capital Business Park is  
19 located just west of the Collington Business Center, and is  
20 also located along Leland Road. I will emphasize, as I'm  
21 sure this will come up during the opposition's testimony,  
22 that we are not proposing any access from National Capital  
23 Business Park to Leland Road. All access will be through  
24 Queen Anne's Court, which comes through Collington Center.

25           Again, this is a very large building. It's

1 3,428,985 square feet in size and it's 93 feet tall. A lot  
2 of thought, number one, was put into the architecture of  
3 which Mr. Zhang took you through. We proposed a mix of  
4 building materials and mixed colors, and also proposed many  
5 veering architectural features to create some type of visual  
6 interest, and also to break-up the overall bulk of that  
7 building. I think if you look at that architecture, I think  
8 we have reached our goal of breaking up that bulk so that  
9 you're not merely looking at just one straight metal  
10 building side; you're looking at a building where the  
11 Applicant has put a lot of thought into the architecture and  
12 how it's going to present two folks coming to this site.

13           The other trick or key to this entire development  
14 was making sure that because we're presenting the building  
15 that is 93 feet tall, that it does not visually impact the  
16 surrounding properties. That being said, both my client, as  
17 well as the master developer, found a site within National  
18 Capital Business Park where we could utilize both distance  
19 and the proposed woodland conversation areas to help screen  
20 this building from the adjoining properties; and, again, I  
21 believe we've accomplished that. This, this site is located  
22 very north of the development envelope for National Capital  
23 Business Park. And if I could ask Seth bring up Applicant's  
24 exhibit, which is set line exhibit?

25           MR. CHAIR: Do you know what page it is? Give us

1 a moment here, Mr. Lynch. We're trying to find it in this  
2 app.

3 MR. LYNCH: Okay.

4 MR. CHAIR: Is it one of these that you're looking  
5 for?

6 MR. LYNCH: Page 3 in the back-up. Is this page  
7 3? Page 4, go to page 4, I'm sorry. Are those Applicant  
8 conditions? There you go. If you look at the first page of  
9 our exhibits, you'll see the building in white. Again, you  
10 can tell that based upon, it's located to the very north of  
11 the development envelope and you can see in this exhibit  
12 there is in green, which is the existing trees, those are  
13 areas of woodland conservation. So, we, we located this  
14 building in an area of the sites that was furthest away from  
15 Leland Road, and it's kind of surrounded by woodland  
16 conservation areas. If you go to the next page of that  
17 exhibit?

18 Now this view on the second page of the exhibit is  
19 a camera view taken from Leland Road. At this area of  
20 Leland Road, most of the trees that you're, all the trees  
21 that you're looking at are going to be preserved and they'll  
22 actually be much denser than it actually appears on this  
23 exhibit; but you can tell that you can see, if anything,  
24 that just the very, very top of this building. Go to, if  
25 you could scroll up a little bit on that? Yeah. Thank you.

1 And one of the reasons being is that this building is going  
2 to be located 3,426 feet from Leland Road. You know, that's  
3 two-thirds of a mile. So, you know, even in, from the  
4 winter when the trees and leaves are off the trees, you  
5 know, just given the distance from Leland Road, this  
6 building will be very, barely visible. So, I think we, you  
7 know, the key of trying to make sure that this building  
8 doesn't impact from a visual standpoint the surrounding  
9 properties, it's very important; and I think that my clients  
10 and master developer were successful in finding a location  
11 on this site where we could accomplish that, to accomplish  
12 that through both distance and to utilize the existing  
13 woodland conservation area.

14           So, again, even though this building is 93 feet in  
15 height, we believe that there will be little, if any, visual  
16 impact on the surrounding properties. And what's not noted  
17 in this exhibit is that you're only looking at this from  
18 Leland Road. What's important is to also note that this  
19 building relocated 2,000, excuse me, over 2,400 feet from  
20 the closest homes to the west, and over 5,000 feet from the  
21 proposed homes that will be built in the Carrington  
22 Subdivision which is located to the north. So, again, we're  
23 proposing a very large building, but I, you know, I think  
24 it's very, my client has done a very, very good job of  
25 locating this building on the site where it will not have a

1 visual impact to surrounding properties.

2 Now as Mr. Zhang indicated during his  
3 presentation, we're here on a Specific Design Plan; and for  
4 this Board to approve this Specific Design Plan, it must  
5 make the findings set forth in Section 27528 of the Zoning  
6 Ordinance. And we believe that this Specific Design Plan  
7 does comply with those requirements.

8 The first thing we would like to state is that  
9 because, is that this Specific Design Plan does conform,  
10 it's indicated by Mr. Zhang, to CDP-0505-1, which was  
11 approved by the Planning Board on April 29, 2021; as well as  
12 the amendment to that CDP, CDP-0505-02, which was approved  
13 by the Planning Board on May 5th of this year. In addition,  
14 this CDP complies with Sections 4.2, 4.3 and 4.9 of the  
15 Landscape Manual. And I'd also ask this Board to take note  
16 of Specific Design Plan SDP-1603-01, which was the, excuse  
17 me, the Specific Design Plan for infrastructure that was  
18 approved this year, and that Specific Design Plan notes that  
19 the entire site will comply with 4.6 and 4.6 of the  
20 Landscape Manual. And I, I think that's important because  
21 when this, when the CDP was presented to the Board this  
22 year, you heard testimony from a Ms. Ruth Grover talking  
23 about the impact of the overall site on Leland Road and how  
24 she found that the site didn't comply with the Landscape  
25 Manual requirements; but, again, I think you just narrowly

1 need to refer to that SDP for infrastructure and the table  
2 which specifically states that we complied with 4.6 and 4.7;  
3 and also note that based upon the exhibit I presented to you  
4 today, that not only would we be complying with 4.6, but  
5 we'll be exceeding in many areas for 4.6 requirements. So,  
6 we're preserving the views from that scenic historic road  
7 and that is Leland Road.

8           Now the next points that we believe that this site  
9 will be served by (indiscernible) facilities within a  
10 reasonable time. This Board made a determination on June 2,  
11 2022, in its review and approval of Preliminary Plan 4-21056  
12 that there would be facilities available to this site within  
13 a reasonable period of time.

14           With specific regard to the transportation  
15 facilities, this Board placed a condition of approval on  
16 that Preliminary Plan and that condition of approval placed  
17 a 5.5 million square foot, square foot trip cap on this  
18 development. We are proposing, again, 3.5 million square  
19 feet, which falls well within that transportation condition.

20           The SDP also conforms the Site Development Concept  
21 Plan, but I should note that we also have filed with DPIE an  
22 amendment to that plan; and the purpose of that amendment is  
23 to substitute the use of an underground retention facility  
24 for a storm management pond; and as a result of that, we  
25 will be creating some additional PMA impacts, but I'll



1 address those further as, in my later comments.

2           This at the bottom also conforms to a Type 2 Tree  
3 Conservation Plan; and then, finally, okay, we are  
4 preserving the regulated minor features on this site to the  
5 fullest extent possible. As you heard on prior testimony,  
6 we are not proposing any additional impacts, although I will  
7 correct that statement slightly. We are, because we are  
8 proposing to increase the square footage on this site by  
9 going vertical as opposed to horizontal, we're able to kind  
10 of maintain the proposed limits of disturbance of the  
11 overall development, okay; but because we are proposing to  
12 add a stormwater management pond as opposed to using an  
13 underground detention facility, we will be creating some  
14 additional impacts; and as a result of that, we filed a  
15 request with Staff and if I can just explain what's going on  
16 as part of the grading permit, the master developer is  
17 proposing to install a sediment control pond that would be  
18 located kind of to the northwest of the building. When our  
19 engineers took a look at that, they determined that they  
20 were able to convert that sediment control pond to a  
21 stormwater management pond; but in order to convert it, they  
22 would have to add an out claw; and it's the addition of that  
23 out claw that will cause additional impacts to the PMA. But  
24 because those impacts are a result of infrastructure in the  
25 stormwater management facility, the Staff feels that those

1 impacts are acceptable.

2           Now there's one other impact that is before you  
3 today. It is not an impact that was proposed within the  
4 boundaries of this SDP, but it is shown on the Type 2 Tree  
5 Conservation Plan; and it is an impact being proposed by the  
6 master developer. That impact is the PSM is a result of the  
7 construction at Queen Anne Court within PMA. Again, that's  
8 not within the boundaries of this SDP; but because it is  
9 shown on the Type 2 Tree Conservation Plan, and because this  
10 case is going to a public hearing, all the parties agreed  
11 that this SDP would be the most appropriate vehicle to put  
12 this impact in front of the Board and at a public hearing  
13 for your consideration. Again, Staff is supporting that  
14 additional impact.

15           And with that, Mr. Chairman, I believe that this  
16 application meets the requirements of Section 27528 of the  
17 Zoning Ordinance and we request this Board's support and  
18 approval subject to the conditions and the reasons I present  
19 to you now. And (indiscernible 0:29:02.2) that I presented,  
20 ask for modifications and at least two of the conditions,  
21 and then the additional one more condition. At a  
22 consultation with Staff yesterday, we've agreed to a  
23 modification, excuse me one second, to Condition P. And the  
24 modified language for Condition P will read as follows:  
25 Provide lightweight guide signs (D11-1/bike route, D1-1, D1-

1 2, and D1-3 destination plates, and R4-11, bicycles may use  
2 full lane) in association with bicycle lanes on this site.  
3 This was a language that was proffered by both Mr. Capers  
4 and Mr. Zhang. We agree with the bias language to P and  
5 with that, I think we are in complete concurrence with  
6 Staff's recommendation as revised, as revised and with this  
7 condition.

8           And, again, with that, that is Applicant's  
9 presentation. I had, you know, am more than willing to  
10 answer any questions the Board has and, again, have with me  
11 other representatives of the Applicant who are also happy to  
12 answer any questions this Board has. And, again, we'll also  
13 be here to address any questions you have after you hear  
14 testimony from the opposition. Thank you.

15           MR. CHAIR: Thank you, Mr. Lynch. Commissioners,  
16 questions for Mr. Lynch?

17           MADAM VICE CHAIR: I'd like to go back to the  
18 slide where we saw the trees, I think, on Leland. I don't  
19 know if that was one, if we could go back there? I'm trying  
20 to get a sense of this location. Okay. That's Leland, a  
21 view from Leland Road?

22           MR. LYNCH: That's correct. Uh-huh.

23           MADAM VICE CHAIR: Well, where, where, is there a  
24 view from 301?

25           MR. LYNCH: No, we don't have a view from 301

1 because this will not be visible from 301. We're quite a  
2 distance. You had between us and 301, the Collington  
3 Corporate Center. So --

4 MADAM VICE CHAIR: Okay.

5 MR. LYNCH: -- in our estimation, this won't be  
6 visible off 301.

7 MADAM VICE CHAIR: That was what I was looking  
8 for, to see if it would be. Okay. Thank you for, for that.

9 MR. LYNCH: And one additional clarification, Mrs.  
10 Bailey, we also, you may remember that we, before you came  
11 and, excuse me, an SDP for the Target's conversion of the  
12 former Safeway site, that's also barely, you know, a million  
13 square foot building on that site. That will also create  
14 the distance and also, you know, you can't even see that  
15 building from 301. So, if you can't see that building from  
16 301, you will not be able to see this building on 301.

17 MADAM VICE CHAIR: Okay. I just, I wanted to  
18 check that. Thank you.

19 MR. LYNCH: Sure.

20 MR. CHAIR: Thank you, Vice Chair. Mr. Geraldo,  
21 any questions?

22 COMMISSIONER GERALDO: Yeah, I have two. With  
23 regards to looking at the, the slide that's being shown  
24 right now, is that the existing tree coverage, or is that  
25 projected?

1 MR. LYNCH: That's the existing.

2 COMMISSIONER GERALDO: Okay.

3 MR. LYNCH: If you, if you look at the first page

4 --

5 COMMISSIONER GERALDO: Uh-huh.

6 MR. LYNCH: -- of this exhibit, you'll see where  
7 that, where this is taken from. This is taken from an area  
8 of Leland Road where they're proposing tree conservation,  
9 woodland conservation. So, you know, there will be some  
10 work done on Leland Road as part of the underlying National  
11 Capital Business Park, you know, the --

12 COMMISSIONER GERALDO: Uh-huh.

13 MR. LYNCH: -- improvements to Leland Road; but,  
14 again, you'll see that there's a significant mound of trees  
15 that will remain between our building and Leland Road. And  
16 you'll also note that from that perspective, you also will  
17 pick-up, you know, if there, if at such time that there's a  
18 building placed on that, that is between us and Leland Road,  
19 that building will also be, you know, kind of exterior view  
20 of this building; but, again --

21 COMMISSIONER GERALDO: Okay.

22 MR. LYNCH: -- even that building, I think for the  
23 most part, unless they're proposing, you know, it's a  
24 building of significant height, will be significantly  
25 screened from Leland Road.

1           COMMISSIONER GERALDO: And it does, it does seem  
2 to be screened pretty well. Have you guys given any  
3 consideration to putting a green roof on that given the  
4 expanse?

5           MR. LYNCH: We have submitted to Staff green  
6 building techniques which will be used in the construction  
7 of this building. Unfortunately, it does not include a  
8 green roof.

9           COMMISSIONER GERALDO: Okay. Thank you.

10          MR. CHAIR: Thank you. I have one question, Mr.  
11 Lynch. When you were talking about, I think you were  
12 discussing how this is in conformance with the approved Type  
13 2 Tree Conservation Plan and you were describing something  
14 about how you felt like this was the -- I'm kind of half-  
15 catching it, that there was an issue that you were bringing  
16 up that you felt like, and Staff agreed, that this was the  
17 appropriate time and place to bring it up, even though  
18 normally it's not something that would be addressed about  
19 this Specific Design Plan stage. Can you go over that again  
20 and help me understand that? Do you remember what I'm  
21 talking about?

22          MR. LYNCH: Yeah. So, there are two, there are  
23 two additional PMA impacts which are before you today.  
24 There's a PMA impact that's a direct result of the  
25 stormwater management facility that we're installing; and,

1 again, that's in lieu of an underground retention facility;  
2 and, and, and, again, doing surface stormwater is, DPIE  
3 plans, that is preferrable; but from their standpoint, from  
4 Staff's standpoint, that's preferrable means of controlling  
5 stormwater. But in addition to that, Queen Anne Court,  
6 which is, will be serving this development, as well as the  
7 other buildings that we located to the south of this, there  
8 will be some additional PMA impact as a result of the  
9 insultation of Queen Anne Court at that location, okay?  
10 And, again, because the impacts are associated with  
11 infrastructure, Staff felt that those impacts are  
12 appropriate.

13 MR. CHAIR: Appropriate for us to hear it at this  
14 Specific Design Plan stage rather than at a later stage?

15 MR. LYNCH: Well, they want it because of the,  
16 they want those impacts heard by this Board as part of this  
17 Specific Design Plan as opposed to it's a later stage. So,  
18 again, we, we, since we had the Specific Design Plan coming  
19 before a public hearing, we, you know, we, we agree with the  
20 Staff that this be an appropriate vehicle that impacts in  
21 front of this Board for determination, as part of this  
22 determination on the underlying SDP for this building.

23 MR. CHAIR: Yeah, I, I appreciate that; and maybe  
24 this is a question for Staff or Mr. Warner, because I, I  
25 mean we are, we are sticklers for making sure that what is

1 before us and, well, even when we heard from the opponents,  
2 I'll be reiterating that, that, that we're focusing on what  
3 is before us and we're not addressing other issues that are  
4 considered at later stages. So, I'm a little bit confused  
5 as to why we're bringing something up that normally might  
6 not be taken up at this stage if I'm understanding this  
7 correctly. So, maybe Mr. Warner or Mr. Hunt, you have a, a,  
8 if I can sort of take it out of order, that you have a  
9 response to that, or a thought about that, or am I making  
10 too much of this issue?

11 MR. WARNER: David Warner, principal counsel. The  
12 first thing I would suggest is that we allow Tom Burke, he's  
13 on, to give Staff's, the Staff view on, on why addressing  
14 this in the TCP-2 was appropriate at this time. If he's  
15 available, I'd defer to him first.

16 MR. CHAIR: Thank you. Thanks for that, Mr., Mr.  
17 Warner.

18 MR. BURKE: Yes, I'm here.

19 MR. CHAIR: Okay. Mr. Burke --

20 MR. BURKE: I'm here. I apologize. Good morning  
21 still, I guess, Mr. Chair and members of the Planning Board.  
22 For the record, this is Tom Burke with the Supervisor of the  
23 Environmental Planning Section. So, Staff evaluated the, we  
24 were evaluating all of the impacts of the site. And  
25 although this SDP is for a specific portion of the site, the



1 TCP-2 does cover the entire property and we felt that as a,  
2 as a fair representation of the entire property and the  
3 development moving forward, that this, this piece should be  
4 included, this, this impact, excuse me, should be included  
5 as, as part of this SDP.

6 MR. CHAIR: Okay. Okay. That's, that makes  
7 sense. That is clear, thank you.

8 MR. WARNER: I would just say that I agree with  
9 that interpretation from a legal perspective as well.  
10 You've got an impact there on the, on the eastern side of  
11 the property that is really going to address different  
12 projects, that roadway on the east end. So, bringing it up  
13 as part of this project is appropriate.

14 MR. CHAIR: Thank you. Thanks to both of you.  
15 Mr. Lynch, you, we're still on your dime here. Anything  
16 else on that you want to add?

17 MR. LYNCH: No, I, I agree. I mean, again, as  
18 part of this, you can approve the Type 2 Tree Conservation  
19 Plan and that is an impact shown on that plan. So, it is  
20 appropriate.

21 MR. CHAIR: Okay. Thank you. All right. Any  
22 other questions for the Applicant? If not, I will turn to  
23 other speakers. And we have two folks listed as opponents.  
24 We have Ms. Grover and we have Ms. Votaw. Ms. Votaw, I see  
25 you on the line. I don't see Ms. Grover. Will she be, do

1 you know if she'll be speaking as well?

2 MS. VOTAW: Yes, she will. This is Alex Votaw on  
3 behalf of citizen opponents, or protestants. She, I  
4 believe, is on the line. She, her just, her camera is not  
5 visible.

6 MR. CHAIR: Understood. I want to manage --

7 MS. VOTAW: But she will be going after I go.

8 MR. CHAIR: Thank you very much. I want to -- oh,  
9 there we go.

10 MS. VOTAW: Yeah, there she is.

11 MR. CHAIR: Ms. Grover, good to see you. I want  
12 to manage the time on this. How much time do you feel you  
13 need to make your presentation?

14 MS. VOTAW: Actually, Chairman, this is a  
15 complicated issue and we would request 45 minutes. I think  
16 that's roughly how long Staff and Applicant took. I feel  
17 like that's pretty even. And we're representing  
18 approximately eight different individuals who are not going  
19 to be speaking, so we can streamline it. So, that's what we  
20 are requesting, 45 minutes.

21 MR. CHAIR: Let me, I'll give you, it is a  
22 complicated case. Let me give you some latitude on that.  
23 Let's, if, if the combination of the two of you can keep it  
24 to a half hour, and the most important thing is to keep it  
25 to what is before us. There are all sorts of issues, even

1 looking in your written testimony, that are not relevant to  
2 what's before us. Obviously, use, for instance, is a, is a,  
3 is, is, you know, it's a, it's a factor when it comes to a  
4 Specific Design Plan, but that's not one of the issues  
5 that's before us for the Specific Design Plans. So, as much  
6 as you can, focus on the issues that are before us with the  
7 Specific Design Plan; and let me give you a combination of a  
8 half hour for the two of you.

9 MS. VOTAW: I understand what you're saying,  
10 Chairman, and I, you know, I represent my clients and I have  
11 to, or zealously advocate for them; so, I will present  
12 reasons why I believe all of these issues are relevant; but  
13 I will take your desires in mind and make sure to focus my  
14 efforts on the things that you believe are the most  
15 relevant. So, if that's okay, I'll get started, if that's  
16 all right with you?

17 MR. CHAIR: Yeah, and, and, Kenneth, if you can  
18 set a clock for us; and we'll give you a half hour for the  
19 two of you. Thank you very much. Take it away.

20 MS. VOTAW: Thank you, Mr. Chairman. Again, my  
21 name is Alex Votaw and I'm representing citizens who are  
22 opposed to SDP-1603-02, and I'll read those citizens' names  
23 and their addresses into the record. I also wanted to just  
24 say that Ms. Grover, our expert in land planning, will be  
25 going after me.

1           So, for our clients we have Ray and Kathy  
2 Crawford. If you need me to spell any of these names,  
3 please let me know. They also are all persons of record  
4 already, so --

5           MR. CHAIR: Well, well, we've written versions of  
6 all this, so, yeah, I, I would focus on what --

7           MS. VOTAW: Okay. Great. No.

8           MR. CHAIR: -- what you need us to hear.

9           MS. VOTAW: Okay. So, you don't need -- I'm just  
10 going to read the names in just for the record to be clear.  
11 So, it's Ray and Kathy Crawford. They live at 1340 Crain  
12 Highway, Upper Marlboro, Maryland 20774. They're located on  
13 the east side of 301 at the end of Queen's Court. We have  
14 Arlancia (phonetic sp.) and Antoine Williams, who live at  
15 1905 Lake Forest Drive in Upper Marlboro, Maryland 20774,  
16 that is the southside of Leland Road in close proximity to  
17 the site. We have John Hommick (phonetic sp.) who owns a  
18 commercial development within the Collington Center at 16000  
19 Trade Zone Avenue, Upper Marlboro, Maryland 20774. We're  
20 also representing the Patuxent Riverkeeper, who is  
21 represented by Fred Tutman. They're located at 17412  
22 Nottingham Road, Upper Marlboro, Maryland 20772, and their  
23 interest in the Collington Branch which is a tributary to  
24 the Patuxent River. We represent Dan Smith, 6019 Inwood  
25 Street, Cheverly, Maryland 20785, who is interested in the

1 tree issue. Bernice Miller-Travis, that's hyphenated, she  
2 lives at 104 Jewitt Place, Bowie, Maryland. Her property is  
3 to the north of the subject property and just off of Central  
4 Avenue on the west side of the railroad tracks. We have  
5 Charles Reilly, 16770 Claggett Landing Road, Upper Marlboro,  
6 Maryland 20774, and he resides on the east side of 301, just  
7 north of the Crawfords, who I mentioned before. Then,  
8 finally, we have the UFCW Local 400, who is based in Largo.

9 I am assuming that the Board had already reviewed  
10 our summary of our arguments.

11 MR. CHAIR: Uh-huh.

12 MS. VOTAW: So, I will skip past that summary  
13 since it's already in the record.

14 MR. CHAIR: Thank you.

15 MS. VOTAW: And I'll just get straight into the  
16 meat of our arguments. So, this application is based on  
17 CB22-2020, which is an illegal special law. I know the  
18 Chairman has said that he doesn't believe this is  
19 necessarily a relevant consideration for this Board, but we  
20 would argue that under the case law of Maryland Reclamation  
21 Associates for Hartford County, 468 Md. 339 (2020), citizen  
22 protestants are obligated to raise this issue at this  
23 hearing; and it is relevant or the Board's consideration  
24 because of validity of this application is based on the  
25 validity of the underlying law and, therefore, we would

1 argue, and we assert, that this Board has both the authority  
2 and the obligation to deny this application based on the  
3 fact that the underlying law is a special law. And if you  
4 want me to go into more detail about that case, or this  
5 argument, I'm happy to do so at the end and happy to answer  
6 any questions regarding that. So, on that basis alone, this  
7 Board should deny this application.

8           The second issue is that this Board, based on the  
9 recommendations and conditions by the Staff, to approve this  
10 application, the Board would be approving it based on  
11 contingencies so the Applicant would meet these criteria at  
12 a later date. I can go through examples of those  
13 contingencies; where the conditions, we believe, are  
14 contingencies if you'd like; but to keep it simple, although  
15 that might be appropriate in other situations, in this  
16 specific one, Section 27-528(a) states that prior to  
17 approval, the Planning Board shall find that the Applicant's  
18 status defies the criteria. This means that the application  
19 hasn't satisfied the criteria right now based on what it is  
20 providing to the Board at this moment; and citizen  
21 protestants are, assert that it does not; that there are  
22 several conditions which state that the Applicant will meet  
23 these criteria at a later date. And we, we assert that  
24 that's not appropriate and not within the Board's authority  
25 to do so.

1           This is further supported by Section 27528(e),  
2 which gives the Planning Board authority to approve the  
3 application, approve it with modifications, or just approve  
4 it; and there's a process by which the Board can put off  
5 approval for a later date so that the Applicant can address  
6 any deficiencies in the application. For up to 70 days, an  
7 Applicant can request an additional 45 days.

8           So, we're arguing that it's not, we assert that  
9 it's not appropriate for the Planning Board to approve this  
10 application based on an assumption that the required  
11 criteria will be met at a later date; and, instead, it would  
12 be more appropriate, and the only thing within the Board's  
13 authority to require the Applicant to adjust their  
14 application so that it actually meets the criteria at this  
15 moment before it's approved.

16           Third, we do not believe the Applicant has  
17 demonstrated that it satisfies the required criteria. For  
18 Sections 27528(a)(1) through (4), the Staff is requiring  
19 conditions which we would argue are contingencies. Those  
20 conditions that would mean the Applicant meets these  
21 criteria at a later date, not right now. So, the Applicant  
22 has not demonstrated that it meets conditions 27528(a)(1)  
23 through (4) at this moment; and, again, if the Board would  
24 like verification on that, I'm happy to give it to you; but  
25 I want to keep it moving, get all my arguments in so that we

1 save you all some time and you can ask the questions you  
2 find important at the end.

3           Further, Section 27528(a)(1) says that Applicant  
4 has to meet Section 4.6(c) of the Landscape Manual. I know  
5 the Applicant's representative mentioned that before. We  
6 assert that this application does not satisfy those  
7 criteria. If you would pull up the Applicant's exhibit that  
8 he spoke about earlier with the view of the property? Thank  
9 you so much.

10           So, you can see where it says view number one on  
11 the left side of this screen. I would be curious what it  
12 looks like if you move that view to the right, or to the  
13 east of the property, where you're viewing directly through  
14 the site up the entire area that's been removed from all of  
15 the trees. The Applicant asserts that the tree buffering  
16 will prevent any view of the site from Leland Road, but has  
17 not presented any evidence that the people living in the  
18 houses directly across from the property, which you can see  
19 to the right of the little A on the screen, that they would  
20 not be able to directly view this property through the  
21 trees, particularly during the winter because many of these  
22 trees have been removed already and the buffer at this  
23 moment, as far as we understand, is only a handful of trees  
24 deep, maybe two or three; and you can see directly through  
25 the entire site to the back of it. So, we argue that they



1 have not satisfied 4.6(c), which requires the property to  
2 buffer view sheds from a special road like Leland Road.

3           We also argue that under Section 27528(a)(5), the  
4 Applicant has failed to demonstrate that the PMA impacts  
5 that they were just discussing a few minutes ago are  
6 necessary. We argue they are not and this is based on the  
7 Environmental Technical Manual. The technical manual  
8 provides a 3-step process for this Board to determine  
9 whether impacts are necessary or not necessary.

10           So, the first consideration you have to evaluate  
11 is whether the impacts can be avoided and whether the  
12 impacts -- I apologize -- whether the impacts can be avoided  
13 and whether they're necessary. The second is whether they  
14 have minimized any impact; and then the third consideration  
15 is whether if they're necessary, they can't be avoided, and  
16 they have been minimized, whether they have taken the  
17 adequate mitigation methods to address the fact that they're  
18 permanently impacting wetlands.

19           We, the Environmental Technical Manual  
20 specifically lists things that are considered necessary  
21 under the technical manual and would allow PMA impacts and  
22 stormwater outfalls like the one proposed here that would  
23 permanently impact wetlands are only necessary when they're,  
24 when they're placed at a point of least impact and not  
25 necessary when they could be placed in another location

1 based on a different design.

2 Further, road crossings are not considered  
3 necessary when there's reasonable alternatives. Here, we  
4 assert that this proposed project, the sides of it could be  
5 reduced. It's location within the property could be changed  
6 and, therefore, you would not need the proposed stormwater  
7 outfall impact. Further, the Applicant has not explained  
8 why it can't use Pope's Creek Drive as the entrance to this  
9 property, which would avoid impacts to the wetlands  
10 completely. If they used that road instead of Queen's  
11 Court, you would not need any impacts to the PMA for  
12 wetland, for road crossing. So, based on these reasons, the  
13 citizens assert that the Applicant has not demonstrated it  
14 satisfies the required criteria at this moment.

15 Fourth, the Applicant has not demonstrated that it  
16 complies with several applicable conditions. Again, I won't  
17 go into the details of every single one, but I'll just list  
18 them for the record. We don't believe that this application  
19 applies with Basic Plan Consideration 8; CDP Consideration  
20 1; CDP Consideration 2; CDP 050502 Condition 3; Preliminary  
21 Plan of Subdivision 4-21056, Condition 2; CDP-0505-02,  
22 Condition 4; CDP-0505-02, Condition 6; Preliminary Plan of  
23 Subdivision 4-21056, Condition 4; as well as Preliminary  
24 Plan of Subdivision 4-21056, Condition 7. Again, that is a  
25 lot of numbers. I'm sure it wasn't very clear. If the

1 Planning Board has any questions specifically about those  
2 conditions I just mentioned, I'm happy to give more details  
3 at the end.

4 MR. CHAIR: Why don't you -- let me, let me jump  
5 in on that real quick. Why don't, when you, when we get to  
6 the end, why don't you think of the one, or two, or three  
7 that you feel are the most egregious so that we can digest  
8 that and, perhaps, hear from the Applicant around that as  
9 well?

10 MS. VOTAW: Absolutely. Absolutely, Chairman. I  
11 also wanted to address the point that neither the CDP or the  
12 Preliminary Plan have been certified. In fact, the District  
13 Council is reviewing the CDP-0505-02 in September; and,  
14 therefore, the conditions applicable might change. So,  
15 there's no way for this Board to determine whether this  
16 application will comply with that CDP because it has not  
17 been certified yet, which is another reason why we feel this  
18 application is a little too early, and it would be better  
19 for the Court to wait for these issues to be resolved before  
20 making any final determination on this application.

21 Fifth, this application is being reviewed under  
22 the prior zoning ordinance. Again, I know the Chairman  
23 mentioned the use issue. We would just argue that the  
24 proposed use, a (indiscernible) fulfillment center  
25 warehouse, is not permitted under the prior zoning

1 ordinance; and, therefore, this application should not be  
2 approved. We have submitted into the record a case that the  
3 Maryland Court of Appeals is considering in September about  
4 this specific issue, whether or not the prior zoning  
5 ordinance permitted this type of use at all on any property;  
6 and so, all the information is in the, in the record for  
7 this Board to take into consideration as well. And based on  
8 that, we argue the Planning Board should disapprove of this  
9 application.

10           As I explained before in a different context, we  
11 believe that PMA impacts are not necessary; and that's why  
12 the Applicant doesn't meet some of the review criteria and  
13 also why the Board should not approve of those impacts at  
14 this moment.

15           Seventh, we believe the TCP-2 is deficient. The  
16 woodland conservation ordinance requires the Applicant to  
17 exhaust onsite preservation methods before it's approved for  
18 offsite preservation methods. And we argue that the  
19 Applicant has not demonstrated that it cannot meet its  
20 requirements onsite, or that it has not demonstrated that it  
21 can meet more of its requirements onsite before being  
22 approved for almost 25 acres of offsite preservation. In  
23 fact, on Staff, on the Staff Report, page 19, the Staff  
24 specifically identifies that the Applicant could continue to  
25 look for opportunities to provide for additional areas of

1 reforestation on this site. We believe that's just another  
2 example of the fact that it has not been thoroughly  
3 exhausted, the methods for preserving onsite woodland  
4 preservation; and, therefore, the TCP-2 is insufficient at  
5 this time.

6           And then, finally, we believe that SDP-1603-02  
7 conflicts with the general plan, as well as the 2006 Area  
8 Master Plan. I know that the Staff believes that the 2022  
9 Master Plan is more appropriate, but we argue because this  
10 is based on the previous zoning that it would be more  
11 appropriate to use the previous Master Plan which tries to  
12 effectuate that zoning ordinance; and I wanted to address  
13 the fact that although compliance with this may not be a  
14 requirement in the criteria, it's always a consideration for  
15 this Board to take into.

16           So, with that, I'm going to hand it over to Ruth,  
17 if that's okay, our expert, Mr. Grover; and I will come up  
18 with some of those examples that you asked about before.

19           MR. CHAIR: Ms. Grover. You're on mute, Ms.  
20 Grover.

21           MS. GROVER: Thank you. Good morning, Chair, and  
22 members of the Board. My name is Ruth Grover and I prepared  
23 this testimony as to the land planning issues and SDP-1603-  
24 02 for National Capital Business Park.

25           With respect to comprehensive planning, I'd say

1 that the subject project isn't in conformance with the basic  
2 tenet of comprehensive planning, which include the  
3 comprehensive plans express the goals and objectives for an  
4 area; and ordinances such as zoning and subdivision  
5 implement them by setting requirements which development  
6 should conform to. Here, the Applicant has opted to have  
7 the project reviewed under the provisions of the old zoning  
8 ordinance; however, it was also reviewed after, under a new  
9 Master Plan approved in 2022.

10           If a plan is to be implemented by the zoning  
11 ordinance, would it have not been more appropriate to  
12 utilize the old Master Plan? The older plan called for  
13 residential use on the property; whereas, the newer plan  
14 calls for industrial use on the subject property, which is  
15 what the Applicant desires to build.

16           The Comprehensive Planning Division has stated  
17 that Master Plan conformance is not necessary for SDPs. Why  
18 did they say this? Because Master Plan conformance is not a  
19 required finding for SDPs in Section 27528 of the Zoning  
20 Ordinance. I would ask why these plans are written if  
21 they're not to provide guidance for development in various  
22 areas of the County. Does this mean also that we shouldn't  
23 look to guide, for guidance to the Plan Prince George's  
24 2035, the overall planning document in the County? Of  
25 course, we should.

1           Additionally, we feel that conformance to the  
2 comprehensive planning documents in the earlier A-, 4- and  
3 CDP were not sufficiently found where required. That is  
4 part of why we are seeking District Council judicial review  
5 of those approvals.

6           Further, comprehensive planning should be just  
7 that, overall, in approach, and even-handedly implemented,  
8 considering the County as a whole and multiplicity of  
9 projects, and types of land use that are envisioned for all  
10 areas of the County. It's my opinion that in this case, the  
11 comprehensive planning process has been subverted to enable  
12 a certain use and a certain location where it's not  
13 supported by the comprehensive planning documents in place,  
14 nor the ordinances meant to implement them.

15           Planning should come first and then the effort to  
16 implement those plans, not the other way around. The  
17 development review process should be consistently, consider  
18 the comprehensive planning goals and objectives, and not  
19 bend or modify requirements to serve individual interests,  
20 or on a case-by-case basis.

21           The subject project is not in conformance with  
22 Plan Prince George's 2035. Plan Prince George's 2035  
23 indicates that this project is located in the established  
24 communities which are existing residential and commercial  
25 areas served by public water and sewer outside the regional

1 transit districts and local centers which are most  
2 appropriate for context-sensitive infill and low to medium  
3 density development where existing public services and  
4 infrastructure should be enhanced to ensure that the needs  
5 of existing residents are met.

6           In the subject case, the Applicant is proposing  
7 approximately a 3.5 million square foot, high queue and  
8 fulfilment center warehouse which is high-intensity land use  
9 and doesn't fit with this vision. Additionally, this new  
10 land use is undefined in the old zoning ordinance under  
11 which the Applicant has chosen to proceed. As obvious in  
12 the PowerPoint offered by the Staff for the project, there  
13 are many established communities in the vicinity of the  
14 subject site.

15           The nature of the use is in question. Looking at  
16 the dams database that Park and Planning maintains for  
17 development review applications, the A-9968-03 applied for  
18 warehousing distribution, light industrial and  
19 manufacturing. CDP-0505-02 was solely for an increase in  
20 square footage with the resolution referring to employment  
21 and institutional land uses. 4-21056 was approved for  
22 industrial uses, but Condition 1(b) required a note be  
23 required on the plans that refers to the project as High Q  
24 fulfilment center warehouse.

25           What is responsible for these divergent



1 descriptions of the same use? It's a desire to meet all the  
2 requirements for this project regardless if it fits a square  
3 peg in a round hole. The notion that the subject project is  
4 warehousing and distribution, as described in the old zoning  
5 ordinance, is patently untrue. This issue should be  
6 resolved before the SDP is approved.

7           The subject project doesn't conform to the 2006  
8 approved Master Plan and Sectional Map Amendment for Bowie  
9 and Vicinity. It was incorrect the 2022 approved Bowie,  
10 Mitchellville and Vicinity Master Plan was incorrectly  
11 applied. Though the Applicant preferred to proceed under  
12 the new 2022 approve Bowie, Mitchellville Master Plan, which  
13 shows the site as industrial, I believe the 2006 Plan should  
14 have been applied as it's more appropriate for use in tandem  
15 with the old zoning ordinance.

16           As Alex mentioned, we find a problem with the  
17 extensive conditioning of the approvals, and especially  
18 where they impact the required findings. All the required  
19 findings should be met at the time that the project is  
20 approved.

21           We are also concerned that the Applicant didn't  
22 demonstrate that there were adequate public facilities,  
23 especially fire and transportation at the time of  
24 Preliminary Plan of Subdivision. We're also concerned that  
25 inadequate attention was paid to master and general plan

1 conformance at the time of Preliminary Plan and CDP  
2 approval. Lastly, we are concerned that since this approval  
3 has been appealed to the court, and is not in final form,  
4 it's impossible to evaluate the subject application's  
5 conformance with the Preliminary Plan of Subdivision and  
6 other prior approvals.

7           For all the forgoing reasons, the subject's  
8 Specific Design Plan should be disapproved. It runs counter  
9 to the basic tenets of comprehensive planning; it's enabled  
10 by a special, illegal special law; it is not in conformance  
11 with the comprehensive planning documents; and doesn't  
12 demonstrate conformance with the relevant provisions of the  
13 zoning and subdivision ordinances. Thank you for your time.

14           MR. CHAIR: Thank you, Ms. Grover. Oh, hold on.  
15 I was muted. I apologize. Thank you, Ms. Grover. Let me  
16 turn it back to you, Ms. Votaw. You had some additional  
17 pieces, and then we'll turn to Commissioners to see if  
18 there's questions for the opponents.

19           MS. VOTAW: Yeah, absolutely. So, before I start,  
20 I wanted to just nail down the difference, in my mind,  
21 between a contingency and a condition. So, a condition  
22 would be you meet the criteria, but maybe we need to add a  
23 little extra to make sure it makes sense in this location;  
24 or, for example, I can't think of anything off the top of my  
25 head, but a contingency, in my mind, would be you don't meet

1 the criteria right now, but we will approve it based on the  
2 condition, or contingency, that you meet it at a later date.  
3 And so, an example of that is the requirement 27528(a)(2),  
4 which states that the development, well, you have to find at  
5 this moment the development will be adequately served within  
6 a reasonable period of time with existing or program public  
7 facilities. This is also a condition on the CDP, I believe.  
8 Let me find it. Yes, so, CDP-0505-02, Condition 4. Based  
9 on that, states that the road improvements will be phased at  
10 the time of future specific design plan applications.

11 As far as I know, based on condition of approval  
12 1(m), 1(n) and 1(o), the Board would be approving this  
13 application based on the contingency that those two required  
14 findings would be met at a later date. That's Condition  
15 1(m), Condition 1(n) and Condition 1(o) of approval state.  
16 Is that the phasing plans, the fee schedule and the truck  
17 training plan will all be determined later after approval.  
18 So, we would argue that's an example of a contingency that's  
19 not permitted under the applicable criteria.

20 Another example of that, just to be brief, is that  
21 the Board is required to find that the plan as presented  
22 would be adequate to, for the drainage of surface water so,  
23 essentially the stormwater management. There is similarly a  
24 requirement under, let me find it, I apologize, Preliminary  
25 Plan of Subdivision 4-21056, Condition 4. It states that

1 this development will be in conformance with the approved  
2 Stormwater Management Plan and any subsequent revisions. As  
3 Applicant demonstrated already, there's a revision before  
4 DPIE right now. So, how can the Planning Board approve this  
5 at this moment without that being approved by DIE first?  
6 So, it's just another example of why this is too early to  
7 consider this application and the Board should either push  
8 off a decision later until those inconsistencies and  
9 outstanding issues are determined; or deny the application,  
10 allow the Applicant to reapply once those issues have been  
11 determined.

12 I have a few other examples, but for now I'll just  
13 leave it at that and if there's any questions, I'm happy to  
14 answer them and appreciate the time that you let us present  
15 and being here. So, thank you so much.

16 MR. CHAIR: Thanks to both of you. So, I'll turn  
17 to Commissioners for questions for the opponents. After  
18 this, what we'll do is go back to the Applicant for rebuttal  
19 and closing. But questions for the opponents from Vice  
20 Chair Bailey, Mr. Geraldo? You're on mute, Commissioner.

21 COMMISSIONER GERALDO: I have no questions.

22 MR. CHAIR: Okay.

23 COMMISSIONER GERALDO: I've read, I've read all  
24 the arguments and all of the exhibits which were, which were  
25 comprehensive. I would like to hear Mr. Warner at some

1 point, though.

2 MR. CHAIR: Okay. Will do.

3 MADAM VICE CHAIR: No questions.

4 MR. CHAIR: Okay. I don't have any questions as  
5 well. I would like to hear from Mr. Warner as well, if you  
6 have any thoughts or reactions to this; but let, before we  
7 do that, let me turn to Mr. Lynch, and I give you an  
8 opportunity for rebuttal; and then I'm going to hold off on  
9 your closing. I'm going to ask to hear from Mr. Warner  
10 before your closing; but if you have any rebuttal from what  
11 you heard from the opponents?

12 MR. LYNCH: Yes. Thank you, Mr. Chairman. Just  
13 briefly. During the testimony of Ms. Grover, you heard that  
14 we should be looking at other master plans that they find  
15 appropriate; but the bottom line is that we're looking at,  
16 or basing these determinations on the master plan that  
17 controls in this situation, that's the most recently  
18 approved Master Plan for Bowie.

19 You know, you just can't go willy nilly picking  
20 which master plan you want, you want to use to support your  
21 case. You have to look at that which is the most recently  
22 approved.

23 As to the PMA impacts, first is with regard to the  
24 out claw associated with the storm management pond. That  
25 out claw is located in an area which would cause the least

1 amount of disturbance. Again, we're utilizing the storm  
2 management pond as opposed to an underground retention  
3 facility because it is the preferred method of controlling  
4 stormwater. So, we're trying to, trying to design the site,  
5 you know, with an eye on what are the preferred methods for  
6 controlling stormwater in Prince George's County; and,  
7 therefore, we are utilizing what obviously would be an area  
8 that was going to be cleared for a sediment control pond,  
9 converting that to a storm management pond, and then  
10 constructing an out claw down to the stream which is where  
11 DPIE prefers stormwater management water, excuse me,  
12 stormwater to end up. So, again, we did this with an eye on  
13 complying with DPIE's desired manner for controlling  
14 stormwater; and then designed that out claw in a manner  
15 where it would have the least amount of impacts. The Staff  
16 recognized this. The Staff, therefore, recommended this  
17 Board approve those impacts.

18           As to the impacts associated with the road, you  
19 know, I have to note, and this Board knows this, this is not  
20 the first approval. You've had a Comprehensive Design Plan  
21 approved; you had a Preliminary Plan approved. This Board  
22 approved some of the impacts associated with Queen Anne  
23 Court when it reviewed the Comprehensive Design Plan and  
24 when it reviewed the said Design Plan. These, you know,  
25 the, the, the initial impacts were already approved. These

1 are impacts, additional impacts that are engineered,  
2 discovered, and when it was further engineering that road.  
3 And it was, and that, and those plans were being reviewed by  
4 DPIE to determine there would be some additional impacts  
5 associated with the construction of that road.

6           So, again, you know, a lot of stuff that's before  
7 this Board, this is not the first time you've seen it; these  
8 are not the original impacts, you know, with regard to the  
9 road. This is just an expanded impact that's associated  
10 with an impact previously approved by this Board.

11           As to the opposition's contention of the views  
12 from Leland Road, again, the view that we provided to you  
13 was from a portion of Leland Road. There is an area located  
14 further to the west where there will be a stormwater  
15 management pond installed. There was also an area further  
16 to the west where the master developer had to clear some of  
17 the trees for a temporary construction entrance. As  
18 indicated during my testimony, we'll be compliant with 4.6.  
19 4.6 does not require that you cannot see the building; 4.6  
20 requires that we install a 20-foot landscape buffer. But,  
21 again, as demonstrated in my exhibit, for maturity of the  
22 National Capital frontage on Leland Road, there will be a  
23 significant woodland conservation area maintained. There  
24 are exceptions to that and where we do create some  
25 disturbance. They're proposing 4.6 compliance.

1           As to the opposition's contention that you should  
2 be reviewing these when you have, reviewing this  
3 application, excuse me, when you have a CDP that has not  
4 been certified, or you have a basic plan that's still under  
5 review, the bottom line and, again, this is not the first  
6 time you've heard this argument, the bottom line is that  
7 Section 27532 of the Zoning Ordinance allows for the  
8 combined review of the Basic Plan, CDP, Preliminary Plan and  
9 Specific Design Plan. That being said, there's always going  
10 to be issues that are kind of up in the air; and, hopefully,  
11 all those issues are addressed by the time we get the  
12 certification, which is what we're attempting to do here.

13           So, again, since you have the ability to review  
14 these contemporaneously, that means that there's going to be  
15 issues that are still outstanding and you clearly have the  
16 authority under 27532 to review this SDP for, for instance,  
17 the CDP is certified.

18           And then, finally, with regard to public  
19 facilities, you know, again, arguments were made during the  
20 Preliminary Plan review for National Capital with regard to  
21 public facilities; but this Board made a determination that  
22 there would be adequate facilities in place to serve this  
23 development. I believe the opposition during that case also  
24 raised the issue with regard to us not being within the  
25 accepted travel time for EMS; but, again, there's mitigation



1 factors, or implemented those mitigation factors and,  
2 therefore, this Board, at the time of the Preliminary Plan,  
3 was able to make the finding with regard to public  
4 facilities and, therefore, it made the same finding on this  
5 case.

6           So, again, we believe that this application meets  
7 the requirements for the approval of a Specific Design Plan;  
8 and, again, we respectfully request this Board's support and  
9 approval of this Specific Design Plan. Thank you.

10           MR. CHAIR: Thank you, Mr. Lynch. Before I give  
11 you your final word, I want to, there's a request for, to  
12 hear from our counsel as well, Mr. Warner. And as you're  
13 addressing this, one of, what Mr. Lynch talked about was one  
14 of the pieces that I wanted to hear from you. He may have  
15 addressed it, but you may have more to say, too, which is  
16 this whole issue of what shall be met and what, what will be  
17 met in advance of approval. He, he already spoke to it, but  
18 I'd like to hear your thoughts on that as well. And,  
19 Commissioner Geraldo, do you have any other things  
20 specifically that you want to hear from Mr. Warner?

21           COMMISSIONER GERALDO: I just, I just wanted to  
22 hear from Mr. Warner with respect to the legal issues and  
23 the fact that it's before the, that the Maryland Court of  
24 Appeals granted cert.

25           MR. CHAIR: Mr. Warner, you, you're prepared to

1 respond --

2 MR. WARNER: Sure.

3 MR. CHAIR: -- or do you need a few minutes?

4 MR. WARNER: No, that's fine. I just want to make  
5 sure I've got down all the questions. Right. Obviously,  
6 there's a lot in the testimony from all sides on the  
7 question of findings; and I leave that to the, the Staff and  
8 to the testimony to discuss whether the findings were met;  
9 and so, I'll talk about the legal issues.

10 The first issue that Ms. Votaw brought up was this  
11 case of Maryland Reclamation Associates v. Hartford County,  
12 and she said that it stood for the proposition that citizens  
13 are permitted to raise an issue at an administrative hearing  
14 about the validity of a law. Well, that case, actually it  
15 dealt with a different issue. What it said is that if you  
16 own land and you're before an administrative body, you need  
17 to bring up the issue about a law being invalid at that time  
18 if you want to address it on appeal.

19 But that being said, nothing in these Planning  
20 Board procedures ever prevent a citizen from testifying that  
21 a law is invalid. It happens all the time. So, there's no  
22 problem with Ms. Votaw addressing that issue; and this Board  
23 has authority to determine whether a law that in their  
24 opinion is valid or not, or constitutional or not. I mean  
25 that is within our authority as a Planning Board, which is

1 fine.

2           The, the, Ms. Votaw, they provided some cases in  
3 the back-up, but, but none of those show that the particular  
4 law that she's claiming is illegal is illegal. It actually,  
5 that, that law contains several provisions that I would, I  
6 would say could potentially constitute its validity if it  
7 ever was challenged; but it hasn't been challenged and we  
8 have no basis, in my opinion, to declare it invalid.

9           That all being said, the issue in that particular  
10 law was the decision on the District Council's part to  
11 establish several permitted uses for this particular  
12 district that this project is being developed in. When we  
13 are reviewing a Specific Design Plan, we're not making a  
14 decision about whether a use is legal or not. A developer  
15 will say this is what we're going to use the property for  
16 and then we evaluate the design of that plan to make sure  
17 that it can handle the use that they proposed to conduct on  
18 the property. When they go in and get their permits for use  
19 and occupancy of the property, that's the point where  
20 they'll have to show that their use is permitted. That's  
21 just not an issue for us at this point. So, I think that  
22 the issue she's bringing up are, are not really relevant to  
23 our decision on this SDP. So, that was one of the legal  
24 issues I saw.

25           MS. VOTAW: Mr. Chairman, may I be heard on this

1 issue briefly?

2 MR. CHAIR: We're actually, we're past that point.  
3 Thank you, Ms. Votaw.

4 MR. WARNER: And then I don't, I have never heard  
5 of a, someone distinguishing between contingencies and  
6 conditions in the way that Ms. Votaw is creating a duality  
7 there of some kind. All of our approvals involve conditions  
8 and there are certain issues that we just do not have the  
9 expertise to decide for ourselves. And the one that she  
10 brings up in particular, stormwater, is something that is  
11 approved by those with the expertise in it at the County.  
12 And so, that's why our own law itself requires us to rely on  
13 the County's determination as to whether stormwater impacts  
14 are acceptable; and as the County has time to make that  
15 decision, they make it.

16 Now, unfortunately, the law already imposes on us  
17 very strict time limits for our decision-making as a  
18 Planning Board; and so, there are times where we are not  
19 able to make a decision at the time where we're reviewing a  
20 Specific Design Plan because of these time limits, so what  
21 do we do? We do not allow the project to move forward  
22 without those approvals. We condition, or make contingent,  
23 our approval on that, in this case, for instance, the Master  
24 Plan be approved. So, it's just the --

25 MR. CHAIR: Hold on one second.

1 MR. WARNER: -- it's in the course of business --

2 MR. CHAIR: David, Mr. Warner, hold on one second.  
3 There's just, there's somebody who is speaking into the  
4 mike. I'm not sure it's anyone whose camera is visible, but  
5 we're starting to hear some background noise. Give us one  
6 sec.

7 MR. WARNER: Yeah.

8 MR. CHAIR: I think, I think we're okay. Keep  
9 going.

10 MR. WARNER: Right. So, so, I don't think there's  
11 any more to be said about contingent versus contingency. We  
12 are, we are under the requirements that the County, and in  
13 certain cases state law, have, have imposed upon us in terms  
14 of time limits. So, we have to make some decisions and rely  
15 on those experts that can make the final decision to make  
16 that decision and then all our final approval will be  
17 contingent on that. It's absolutely appropriate.

18 I think I would just make a quick comment on the  
19 law of general plans and master plans that Ms. Grover spoke  
20 about. I don't think it should be implied. If so, it was  
21 implied or actually said by Ms. Grover, that the master plan  
22 has no relevance for this application. It's quite the  
23 opposite. When this, when the basic plan that authorizes  
24 the rest of these development approvals to proceed was  
25 approved, it was only approved because it conforms to the

1 applicable master plan. When this Preliminary Plan for this  
2 project was approved, it was only approved because it  
3 conformed the applicable master plan.

4           So, the master plan isn't out of this process  
5 entirely and being ignored by us. Actually, it gets  
6 reviewed at more than one time in the development process.  
7 So, it just so happens now we're at the final design phase  
8 of this project. We've made the determination that the  
9 master plan is met through the previous approvals. Now  
10 we're trying to figure out what is the specific design going  
11 to be for this property; can it handle the use that they've  
12 proposed; are the buildings going where they're supposed be  
13 doing; are the roadways appropriate, all of the design  
14 elements that are impacted in the Specific Design Plan are  
15 what's before you today. So, it's not correct to say that  
16 the Master Plan has just been completely avoided by us.

17           And then with, with regard to jurisdiction, the  
18 suggestion was made because some of the earlier approvals  
19 have been appealed that for some reason, we can't hear this  
20 case. That, that is not, that is not -- appeals do not  
21 impact the Planning Board's jurisdiction. We made our  
22 approval on the Conceptual Design Plan. We made our  
23 approval on the Preliminary Plan of Subdivision. Those  
24 approvals are valid and binding, and then we use them to  
25 make our determination in the next step of the development

1 process. Whether they get appealed or where they are in  
2 some appeal process doesn't affect our jurisdiction unless  
3 eventually, we're to get to a court of law and the court  
4 would direct us not to take any further action; but that's  
5 not the case with any of the approvals in this particular  
6 case.

7           And then the last issue that Mr. Geraldo referred  
8 to was an issue that Ms. Votaw's firm has on cert to the  
9 Court of Appeals regarding a use on a different project; and  
10 I guess her argument is because the Court of Appeals wants  
11 to look at the issue of use in that project, and that use is  
12 similar to this use, then we can't move forward with  
13 approval of this Specific Design Plan.

14           Well, first, as I said earlier, we're not  
15 approving the use at this stage of the project. So, that  
16 wouldn't be relevant, if it was at all. Secondly, the only  
17 evidence we have regarding that particular use in the other  
18 project is that the circuit court found it appropriate. So,  
19 the best evidence we have is that that use actually is  
20 legal. So, even if it were to apply, the best evidence we  
21 have is that, are binding earlier on that use and the  
22 different project was legal. So, none of that, I think,  
23 would lead the Planning Board to have any grounds to reject  
24 the SDP on that basis.

25           I think those are the legal issues that I heard

1 from Ms. Votaw and Ms. Grover.

2 MR. CHAIR: Thank you. So, there's a request from  
3 Commissioner to hear from counsel. We have heard from  
4 counsel. I appreciate that. Any other questions for  
5 counsel? I'll turn back to Mr. Lynch for your closing, if  
6 you have one.

7 MR. LYNCH: Yeah. Yes, thank you, Chairman. Yes,  
8 just briefly. Again, I think Mr. Warner can touch upon  
9 this, this is the final step in the approval process for  
10 this particular portion for the National Capital Business  
11 Park and that's, that, you know, you know, doesn't move  
12 forward without the prior steps, obviously. We've had, you  
13 know, a Preliminary Plan approved; we had a CDP approved; we  
14 had an SDP for infrastructure; and determinations made in  
15 each and every one of those cases impacts the determination  
16 made here today.

17 So, again, you know, with specific regard to, you  
18 know, the transportation facilities, you made that  
19 determination just a few weeks ago on the Preliminary Plan.  
20 And, again, overall, the determination made with regard to  
21 the impact on the regulating environmental features, you've  
22 made in part those determinations. What we requested here  
23 was just an expanded impact. And, again, nothing about we  
24 really control, but it's a result of the permitting process.  
25 DPIE will determine their review that we require through,



1 create additional impacts.

2           So, again, overall, we believe that this has met  
3 the criteria for approval. We believe that this probably  
4 the most appropriate place for this particular building. We  
5 believe that, you know, the, the Applicant, as well as the  
6 master developer, spend a lot of time finding a site within  
7 this development for this building that has the least amount  
8 of impact on this, a lot of uses; and we believe that we've  
9 accomplished that. So, with that, we believe that we've  
10 complied with the requirements set forth in the Zoning  
11 Ordinance and we look forward to this Board's  
12 recommendation. Thank you.

13           MR. CHAIR: Thank you, Mr. Lynch. So, we'll give  
14 the Applicant the final word. So, we have, we are closing  
15 this hearing unless there's any other questions from my  
16 fellow Commissioners for Mr. Lynch or others.

17           (No affirmative response.)

18           MR. CHAIR: Not? Okay. Thank you. Thank you all  
19 very much for this. And, Commissioners, what's your  
20 pleasure?

21           COMMISSIONER GERALDO: Mr. Chair, based upon  
22 Staff's evaluation and analysis, my Staff, testimony of  
23 witnesses and the exhibits, I move that the Board adopt the  
24 findings of the Technical Staff Report and approve SDP-1603-  
25 02, and Type 2 Tree Conservation Plan, TCP2-026-2021-02 for

1 National Capital Park, Business Park, subject to the Staff's  
2 conditions as modified by Applicant's Exhibit No. 1, with  
3 the exception of 1(p), which shall be in the resolution as  
4 read into the record by Mr. Lynch and approved by Mr. Zhang.

5 MADAM VICE CHAIR: Second.

6 MR. CHAIR: Thank you. There's a motion and a  
7 second. Any discussion on the motion?

8 (No affirmative response.)

9 MR. CHAIR: I'll call the roll. Commissioner  
10 Geraldo.

11 COMMISSIONER GERALDO: Vote aye.

12 MR. CHAIR: Vice Chair Bailey?

13 MADAM VICE CHAIR: Vote aye.


14 MR. CHAIR: I vote aye as well. The ayes have it  
15 3-0. Thank you all very much. We have a --

16 (Whereupon, the proceedings were concluded.)  
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25

DIGITALLY SIGNED CERTIFICATE

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 Planning Board in the matter of:

NATIONAL CAPITAL BUSINESS PARK  
Specific Design Plan, SDP-1603-02

A handwritten signature in cursive script that reads "Tracy Hahn".

By: \_\_\_\_\_

Date: August 16, 2022

Tracy Hahn, Transcriber