

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

3
4
5 AMAZON.COM SERVICES
6 Specific Design Plan, SDP-0007-03

7
8 T R A N S C R I P T
9 O F
10 P R O C E E D I N G S

11
12 COUNTY ADMINISTRATION BUILDING

13 Upper Marlboro, Maryland

14
15 July 23, 2020

16 VOLUME 1 of 1
17

18
19 BEFORE:

20 ELIZABETH M. HEWLETT, Chair

21 DOROTHY F. BAILEY, Vice-Chair

22 A. SHUANISE WASHINGTON, Commissioner

23 MANUEL R. GERALDO, Commissioner

24 WILLIAM M. DOERNER, Commissioner (Absent)

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OTHERS PRESENT:

THOMAS BURKE, Staff, Urban Design Section
JILL KOSACK, Staff, Urban Design Section
KIM FINCH, Staff, Environmental Planning Section
GLENN BURTON, Staff, Transportation Section
BEN RYAN, Staff, Transportation Section
HELEN ASAN, Staff, Parks and Recreation Department
IVY THOMPSON, Staff, Zoning Section
DAVID WARNER, Principal Counsel
ANDREE GREEN CHECKLEY - Planning Director
HEATHER DLHOPOLSKY, Attorney for Applicant
G. MACY NELSON, Attorney for Opponents

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P R O C E E D I N G S

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MADAM CHAIR: Let's see. Now we may or may not get through Item 5 because we may end up having to break for lunch, but we'll give it our best. Item 5 is the Specific Design Plan-0007-03 for Amazon.com Services. I'm going to do a check to ensure that we have all the requisite parties. Thomas Burke?

8

MR. BURKE: Present, Madam Chair.

9

MADAM CHAIR: Jill Kosack?

10

MS. KOSACK: Present, Madam Chair.

11

MADAM CHAIR: Heather Dlhopsky?

12

MS. DLHOPOLSKY: Yes, present, Madam Chair.

13

MADAM CHAIR: Thank you. Kim Finch?

14

UNIDENTIFIED PERSON: There are some, yes, I called because the kids are --

15

16

MADAM CHAIR: Okay. Somebody is having a conversation again. Kim Finch?

17

18

MS. FINCH: Present.

19

MADAM CHAIR: Thank you. Glen Burton?

20

MR. BURTON: I'm present.

21

MADAM CHAIR: Thank you. Ben Ryan?

22

MR. RYAN: Present.

23

MADAM CHAIR: Helen Asan?

24

MS. ASAN: Present.

25

MADAM CHAIR: Ivy Thompson?

1 MS. THOMPSON: (No audible response.)

2 MADAM CHAIR: Ivy Thompson?

3 MS. ASAN: Madam Chair, Helen Asan is present.

4 MADAM CHAIR: Okay. Thank you. Thank you, Ms.

5 Asan. Ivy Thompson? We see --

6 MS. THOMPSON: Present.

7 MADAM CHAIR: Okay. Thank you. Joshua Bryant?

8 MR. BRYANT: (No audible response.)

9 MADAM CHAIR: Joshua Bryant?

10 MR. BRYANT: (No audible response.)

11 MADAM CHAIR: Okay. So is everyone unmuted?

12 Joshua Bryant?

13 UNIDENTIFIED PERSON: (Indiscernible).

14 MADAM CHAIR: I see you. Okay. We'll come back

15 to Joshua Bryant. Broderick Green?

16 MR. B. GREEN: Present, Madam Chair.

17 MADAM CHAIR: Christopher Kabatt?

18 MR. KABATT: (Indiscernible) (sound).

19 MADAM CHAIR: Present. Okay. Samantha Mazo?

20 MS. MAZO: I'm present, thank you.

21 MADAM CHAIR: Charles Reilly?

22 MR. REILLY: I'm present.

23 MADAM CHAIR: Macy Nelson?

24 MR. NELSON: Present.

25 MADAM CHAIR: Ruth Grover?

1 MR. NELSON: She's present, but she's muted.

2 MS. GROVER: I am present.

3 MADAM CHAIR: Okay. Lawrence Green?

4 MR. L. GREEN: (No audible response.)

5 MADAM CHAIR: Lawrence Green?

6 MR. NELSON: Madam Chair, this is Macy Nelson, he
7 was on the line, he's our witness, he got disconnected and
8 he's trying to get back on but he's --

9 MADAM CHAIR: Okay.

10 MR. NELSON: -- he was here and he's trying to get
11 on.

12 MADAM CHAIR: If he needs any assistance, we can
13 help.

14 MR. NELSON: Thank you.

15 MADAM CHAIR: Okay. So we'll, they heard me,
16 they're working on that now for him. Okay. And Ray
17 Crawford? Did I say Ray Crawford? No, that's who's trying
18 to get back on. Okay.

19 UNIDENTIFIED PERSON: (Sound.)

20 MADAM CHAIR: Okay. And Charles Harding?

21 MR. HARDING: (No audible response.)

22 MADAM CHAIR: Charles Harding?

23 (Discussion off the record.)

24 MADAM CHAIR: But he could be one of those
25 callers. So right now we're trying to help Lawrence Green

1 and Charles Harding. Okay. Well, while we're working on
2 that, let me say this. We have two exhibits from the
3 applicant, Applicant's Exhibits 1 and 2, both pertaining to
4 signage. We have an exhibit by an opponent, Mr. Chipman,
5 it's an e-mail in opposition. We have 19 exhibits from Macy
6 Nelson, as legal counsel. I will tell you of the 19
7 exhibits, we can take administrative notice of at least
8 three of them, one is the Section 27-538, the page 5 from
9 the Technical Staff Report and then of course the Washington
10 Gateway Staff Report and also the Clagett Landing
11 Resolution, that's four at least.

12 We also have Exhibits 5, 12, 13, and 19 were
13 already included in the Staff Report, but resubmitted by Mr.
14 Nelson. So that's fine, Mr. Nelson, but I'm just letting
15 everyone else know that we have those. So Exhibit 5 which
16 is an excerpt from this current Staff Report, Exhibit 12 the
17 Resolution 4-88074 from Collington Center, 13 the Resolution
18 from Specific Design Plan 007, and then Exhibit Number 19
19 which is the Resolution for Clagett Landing. So we have
20 those in the record and the others are set forth and I guess
21 Mr. Nelson, you will deal with them as appropriate.

22 I also need to address that we also have a letter
23 which is a request to continue this matter from Mr. Nelson
24 as well. I do need for us to go, maybe you can address Mr.
25 Burke as we go forward, as you present and address the

1 request for a continuance and then we'll see where that
2 goes. And Ms. Dlhopsky, you can address that as well and
3 we will as well. So, Mr. Burke?

4 MR. BURKE: (No audible response.)

5 MADAM CHAIR: Well let me just say this. And also
6 we do have our principal counsel on the phone, David Warner.
7 The request for a postponement was dated June 29, 2020, and
8 it's Exhibit Number 4. And basically Mr. Nelson has asked
9 for a continuance regarding storm water management issues
10 that he has been unable to get. I don't know if you've
11 gotten them by now, but you've been unable to get
12 information you said that you needed from the County's
13 Department of Permits, Inspection and Enforcement. Mr.
14 Nelson, is that correct?

15 MR. NELSON: That is correct. We've been trying
16 for some time to obtain copies of the storm water
17 calculations which are the, constitute the background
18 information on which the Site Plan is based. DPIE has been
19 unable to produce those to us despite numerous requests.
20 It's been a longstanding problem at DPIE and of course
21 drainage is a central issue in an SDP case and we have no
22 ability to critique the Storm Water Plan because of DPIE's
23 inability to respond to our proper request for the
24 documents.

25 MADAM CHAIR: Okay. So Ms. Dlhopsky, do you

1 care to respond?

2 MS. DLHOPOLSKY: Yes, thank you, Madam Chair. You
3 know, I'm not really sure, the first that we heard of this
4 extension request was yesterday when the materials were
5 submitted by Mr. Nelson. We do have an approved Storm Water
6 Management Concept Plan. This application would not have
7 been permitted to go to hearing without an approved Storm
8 Water Management Concept Plan. We have our civil engineer
9 on the line and he can certainly speak in more detail to the
10 approved plan, if needed. But I would suggest that we would
11 not be at a hearing without that approved Storm Water
12 Management Concept Plan and that DPIE certainly did what
13 they needed to do in evaluating the calculations and
14 computations prior to approving that plan. So I don't
15 believe that there is any justification for postponement of
16 the hearing in this case.

17 MADAM CHAIR: Let me say this and I know we have
18 our counsel on the phone, I will just say this. The
19 Planning Department and our technical staff will send out,
20 when we get an application we have to send out these, send
21 the application and have it reviewed by countless agencies.
22 We have divisions within the Planning Department, we have
23 things like the State Highway Administration, we have the
24 Army Corps of Engineers, we have the Department of Natural
25 Resources and things of that nature. We have a Fire

1 Department, a Police Department, things of that nature. We
2 will not have the expertise in every conceivable area. So
3 when we send out these referrals for feedback, we have to
4 get comments.

5 So we would not make a decision about adequate
6 police without input from the police and that would be their
7 decision. We would not make a decision with regard to the
8 soils without some sort of soil analysis from someone else.
9 We would not make a decision regarding the signal, traffic
10 warrant signals without input from either the Department of
11 Public Works and Transportation or the State Highway
12 Administration depending on where the signal is needed, or
13 allegedly needed.

14 So we have to rely on information that is
15 submitted to us and the authority and expertise of the
16 agency that submits it to us. In this particular case, we
17 have, there is an approved Storm Water Concept Plan that we
18 will not challenge the agency, where we won't challenge the
19 expertise of the agency. So, I don't know that that's a
20 grounds for us to postpone this and I think we definitely
21 needed to hear from the applicant on that, as well.

22 What we perhaps can do, Mr. Nelson, is you know
23 reach out to the agency as well. And we saw your letter and
24 we looked as well and tried to urge that they respond to
25 you. But I think we have their approved storm water

1 management concept, we note their approval and so we have to
2 defer to their judgment on this. Mr. Warner, do you have
3 anything to add to that? Or disagree.

4 MR. WARNER: Yes, and only two things just to
5 clarify that Mr. Nelson's inability to get records is due to
6 another agency, not ours. And two, nothing in his letter
7 suggests that there is anything wrong with the storm water
8 either. He just hasn't had a chance to examine the county's
9 work.

10 MADAM CHAIR: So what --

11 MR. NELSON: Madam Chair, may I --

12 MADAM CHAIR: Okay. Mr. Nelson?

13 MR. NELSON: I'm sorry, I didn't mean to speak
14 over the Chair, I'll be very brief. I understood legally
15 exactly what you said. I understand that the Planning Board
16 relies on what DPIE says to the Planning Board. But I
17 believe in this system my clients have the right to vet what
18 DPIE did and the long and the short of it is DPIE due to
19 some bureaucratic dysfunction has been unable to produce
20 these documents to us. So we've been unable to vet it,
21 we've been unable to present evidence on one of the key
22 criteria for a SDP which is the drainage issue.

23 We have an expert witness report, Exhibit 6, which
24 says that we cannot critique the plan absent this
25 information. So for all those reasons, those are the

1 reasons I sought the postponement, but I understand your
2 ruling and we're prepared to proceed and we'll preserve that
3 point for another day.

4 MADAM CHAIR: Let's do that, let's preserve that,
5 thank you. It is duly noted on the record, Mr. Nelson and
6 we hope that you get the requested information from DPIE.
7 Okay.

8 With that, I'm going to turn to Mr. Burke to
9 proceed.

10 MR. BURKE: Thank you, Madam Chair, members of the
11 Planning Board, good morning. Actually good afternoon, I'm
12 sorry. My name is Thomas Burke and I'm with the Urban
13 Design Section. The proposal before you is Specific Design
14 Plan Amendment SDP-0007-03 for Amazon.com Services which
15 includes a Type 2 Tree Conservation Plan, TCP2-067-96-07.

16 The applicant is seeking approval of an amendment
17 to the Specific Design Plan to increase the land area
18 covered by pavement for parking, living and circulation for
19 a warehouse distribution facility, the use for which was
20 previously approved by the SDP and permitted on the site.

21 This application also includes minor alterations
22 to the existing building. Slide 2, please.

23 The site is located in the eastern part of Prince
24 George's County in Planning Area 74A and Council District
25 04. Slide 3, please.

1 More specifically, the site is located in the
2 northeast quadrant of Queens Court and Prince George's
3 Boulevard in Upper Marlboro. Slide 4, please.

4 This property is in the E-I-A Zone within the
5 Collington Center Planned Business Community and surrounded
6 on all sides, the other commercial, industrial warehouse
7 distribution uses in the E-I-A Zone. Slide 5, please.

8 This aerial photo illustrates the current
9 conditions of the property with the existing warehouse and
10 distribution facility as well as the parking/loading site
11 circulation. Slide 6, please.

12 The site is relatively flat and does not contain
13 regulated environmental features. The site was previously
14 determined to contain 100 year floodplain for which an
15 easement was placed in the southeast section of the
16 property. However, DER, now DPIE, made a determination and
17 provided a letter dated July 11, 2000, which is included in
18 the backup, that there was no floodplain on the property.

19 The applicant is currently going through the
20 process of recording a partial release of that floodplain
21 easement and the condition that this be recorded prior to
22 certification has been incorporated into the recommendations
23 of the Staff Report. Slide 7, please.

24 The site had frontage on Queens Court, Prince
25 George's Boulevard and Branch Court to the north. Access to

1 Collington Center is derived from Crain Highway, shown there
2 in orange to the east, which is a Master Plan Freeway.
3 Slide 8, please.

4 This view further illustrates the current
5 conditions of the existing warehouse and distribution
6 facility relative the surrounding uses. Slide 9, please.

7 The Site Plan shows the ultimate built out
8 condition of the site, with the existing roughly square
9 shape built warehouse and distribution building on the
10 center of the property, the existing parking shown as un-
11 shaded and the proposed parking lighting and circulation
12 shown in the dark shading.

13 The subject of this application is an amendment to
14 the previously approved SDP and involves an expansion of the
15 parking, loading and circulation on the site for a total of
16 882 parking spaces and nine loading spaces. As well as
17 minor changes to the existing warehouse building including
18 incorporating 152 of those parking spaces inside the
19 building, as shown on this plan.

20 It should be noted that with this application
21 there will be no increase in the gross floor area of the
22 existing 290,225 square foot building, approved at the
23 original SDP. However, based on the anticipated use of the
24 site, Transportation Planning Section applied a 0.4 FAR or
25 floor area ratio, which is typical to the E-I-A Zone and

1 based on the generation rates from the ITE Trip's Manual,
2 Trip Generation Manual, excuse me, found that the implied
3 trip cap would not be exceeded. Details of this finding can
4 be found on page 12 of the Staff Report. Slide 10, please.

5 This application is subject to the requirements of
6 the Landscape Manual. A Landscape and Lighting Plan was
7 provided with the application and contained deficiencies and
8 errors with conditions included in the Staff Report.
9 However, overall the plan was found to be acceptable. Slide
10 11, please.

11 As I stated, minor modifications are proposed to
12 the existing warehouse. The east elevation shown, excuse
13 me, the east elevation shows the addition of loading and
14 access doors and a canopy. Slide 12, please.

15 The north and west elevations shows a new store
16 front fenestration and vehicular access into the building
17 for the 152 indoor parking spaces. The warehouse will also
18 be painted with two shades of gray and feature horizontal
19 blue striping to match a pattern already established on the
20 southern façade. Slide 13, please.

21 As part of this proposal the applicant
22 demonstrated through this truck turning exhibit that large
23 tractor trailers will be able to safely navigate onto and
24 through the site via access from Queens Court. Slide 14,
25 please.

1 A Type 2 Tree Conservation Plan was provided with
2 this application. Please note that although the subject
3 site is included on the overall plan, another lot has been
4 delineated here. A condition to correct this is provided in
5 the Staff Report. Otherwise, the TCP2 was found to be in
6 general conformance with the approved CDP TCP1 and
7 subsequent revisions.

8 The Urban Design staff recommends that the
9 Planning Board adopt the findings of this report and approve
10 Specific Design Plan Amendment SDP-0007-03 and Type 2 Tree
11 Conservation Plan TCP2-067-96-07 for Amazon.com Services
12 subject to the conditions contained in the Staff Report
13 dated July 9, 2020.

14 This concludes staff's presentation. Thank you.

15 MADAM CHAIR: Okay. Let's see if there are any
16 questions of you, Mr. Burke. Madam Vice Chair?

17 MADAM VICE CHAIR: No questions, thank you.

18 MADAM CHAIR: Okay. Commissioner Washington?

19 COMMISSIONER WASHINGTON: No questions, thank you.

20 MADAM CHAIR: Commissioner Geraldo?

21 COMMISSIONER GERALDO: (No audible response.)

22 MADAM CHAIR: Okay. No questions. Okay. So with
23 that, I'm going to turn to Ms. Dlhopsky.

24 MS. DLHOPOLSKY: Good afternoon, Madam Chair and
25 members of the Planning Board, my name is Heather

1 Dlhopsky, I'm a land use and zoning attorney with the law
2 firm of Wire, Gill LLP, here representing Amazon today.

3 I know we did a roll call of folks at the start of
4 the hearing, but I'll just briefly --

5 MADAM CHAIR: Yes.

6 MS. DLHOPOLSKY: -- remind you who from our team
7 is here. Samantha Mazo and Broderick Green on behalf of
8 Amazon. We have Josh Bryant, our civil engineer who's with
9 CPH and we have Chris Kabatt, our traffic consultant who is
10 with Wells and Associates.

11 Mr. Burke's presentation was very thorough, we're
12 in full agreement with his presentation and so I don't think
13 that there's any need for us to reiterate everything that he
14 very well covered previously. We are in full agreement with
15 the Staff Report and with the conditions of approval as
16 proposed, so we will abide by those conditions and we are
17 comfortable with those.

18 I will mention, Madam Chair, you mentioned the two
19 exhibits that we had submitted yesterday for inclusion,
20 which are pictures of the existing monument sign. We don't
21 plan to affirmatively refer to them, unless there happens to
22 be any questions because there was a condition of approval
23 with regard to the sign, but there's no need to turn to
24 those unless there's a question.

25 I will turn to Amazon in a moment to give a brief

1 overview of what this facility is and how it operates. I am
2 aware that we have some opposition here, so we will be very
3 brief in our opening remarks and reserve the majority of our
4 time for rebuttal as may be needed.

5 And I did just want to make one comment on some of
6 the things I expect you might here from some other folks in
7 the presentations later throughout this hearing. You may
8 hear some comparisons between this application and an
9 application that the Planning Board heard last week for
10 Washington Gateway. I will note that while the end user of
11 both of the sites is Amazon, I would just suggest that there
12 are significant differences between those two cases and each
13 case needs to stand alone. In this case we have different
14 sites, we have different zoning and we have different
15 processes. This is a Specific Design Plan Amendment, that
16 was a Preliminarily Plan and there are inherent different
17 findings that need to be made for each one.

18 So to just briefly set the state as you've heard,
19 this is an amendment to an existing Specific Design Plan and
20 an existing warehouse. This warehouse was in operation up
21 until last summer by the previous user, with its inherent
22 operations, circulation and vehicle trips that it was
23 creating. At the time of approval of the original Specific
24 Design Plan which was about 20 years ago now at this point,
25 and the amendment subsequent to that, the findings that are

1 required to be made for an approval of a Specific Design
2 Plan which are the same findings that are required to be
3 made for an amendment were all found to be satisfied several
4 times previously. And that included finding that there was
5 room within the trip cap for this building among other
6 findings.

7 Similarly here, this amendment does not propose to
8 change the building in terms of square footage from the
9 290,225 square feet that was original approved, constructed
10 approximately 20 years ago and exists on the site today as
11 it's generally been in operation that entire time.

12 In this case, we are merely proposing to add
13 paving for parking and circulation. And notably, I would
14 suggest that we can talk more to this that the increase in
15 parking does not really bear a direct relation to any
16 changes in traffic. I'm sure folks are generally familiar
17 with Amazon, you see the little sprinter vans running around
18 your neighborhoods. So the drivers come onto the site, they
19 park their car in a vehicle parking space. They go to the
20 van storage space and pick up the van and head out. So I
21 just wanted to put that out there, we can certainly get into
22 it in more detail but to note that increases in paving for
23 parking do not necessarily have a direct relationship on
24 trips.

25 So I'll just briefly summarize and fully detailed

1 in the applicant's submittals as well as in the Staff Report
2 and as you heard in Mr. Burke's presentation, the five
3 findings that are required to be made for approval of this
4 application are fully satisfied. The project conforms to
5 the Comprehensive Design Plan and Landscape Manual. It will
6 be adequately served with public facilities. It adequately
7 drains surface water. It's in conformance with the prior
8 TCP2 and regulated environmental features will be preserved
9 to the maximum extent possible.

10 So I will stop speaking for now. Amazon, Samantha
11 or Broderick are going to just briefly give an overview for
12 your use on the operations. Chris Kabatt will just very
13 briefly touch on the trip cap and Josh Bryant will very
14 briefly touch on storm water just because those seem to be
15 some of the questions here and at any time we are all here
16 and happy to answer any questions that you may have.

17 MADAM CHAIR: Thank you.

18 MS. MAZO: Thank you, Heather. Again, my name is
19 Samantha Mazo for the record and I am an Entitlements
20 Manager at Amazon. We are incredibly pleased to be here
21 today to help join our consultants and experts to be able to
22 provide a summary of what this last mile station that we are
23 proposing here. We are really looking forward to continuing
24 our work in Prince George's County.

25 You know, at the outset I do want to put on the

1 record that this delivery station is very different and
2 indeed much smaller than the Amazon Fulfillment Centers that
3 you may have seen on the news. The closest fulfillment
4 center to this site is indeed in Baltimore. What we're
5 proposing here is a much smaller, it's a last mile delivery
6 station which is smaller in nature and is the last stop
7 between purchasing a product on Amazon and having it
8 delivered to your home.

9 This facility is the result of an outstanding
10 workforce, strong local support and incredible customers.
11 Our associates and customers in the region are also your
12 residents and we want to ensure that we are being good
13 neighbors.

14 Delivery stations do create many full-time and
15 part-time jobs and we are pleased to provide more
16 information on that. But in particular, I want to talk a
17 little bit about the operations of this particular station.
18 So while our experts can provide you with an explanation of
19 the details, I wanted to give you a quick summary as well.

20 When you hit buy on Amazon.com generally the
21 products will go to a larger fulfillment center and then the
22 products will then be put on a truck and then brought to
23 this delivery station. Generally those trucks arrive
24 overnight and are received by our associates who work at the
25 station, who also arrive overnight. Generally, in this case

1 we're anticipating that the associates would arrive at
2 around 1:30 or 2:00 in the morning.

3 Once the trucks arrive and the associates arrive,
4 the packages are offloaded and the customer packages are
5 sorted, picked to different routes and placed on movable
6 baker's racks and staged for dispatch. Generally around 9
7 o'clock a.m. in order and which is timed very clearly in
8 order to avoid the peak hour, is when most of our delivery
9 drivers would approach the site. They would approach the
10 site as Heather identified in their own personal cars and
11 then pick up the vans that are also sitting on the site.
12 They would then drive over to the delivery station where the
13 vans would be loaded in stages, and this is an important
14 idea to understand, which is from a traffic perspective,
15 Amazon's production and Amazon's logistics on these delivery
16 stations has really evolved over time and has been curated.
17 Our intent and our effort is to take the trips off the peak
18 hour time period, to make sure that both the trips for the
19 delivery station associates, who are coming in to pick up
20 the vans but most importantly for the vans when they are
21 coming out are not going to be impacting the peak hours of
22 the surrounding roads. And that is borne out in Mr.
23 Kabatt's traffic report and the trip count.

24 To that end, the station is designed for the vans
25 to be loaded in a staged manner so that vans are loaded at

1 approximately 40 vans at a time. They are then sent off
2 onto the street in again a staged manner based on the
3 operational nature of this particular site. And so through
4 the operations of this particular building, there will not
5 be a situation where hundreds of vans are thrown onto the
6 streets during on particular time, rather this is a very,
7 almost puzzle piece like logistics in order to both load the
8 vans in a very quick manner and then to have them on the
9 streets for such a time period that they are not impacting
10 the peak hours.

11 The vans would then leave in these waves, the
12 waves leave approximately around 20, approximately 20
13 minutes after each one and then they would return about
14 eight hours later, again outside the peak hour, empty, where
15 at that point again we're outside the peak hour, the drivers
16 would drop off the vans, pick up their own vehicles and then
17 drive home.

18 You know, again, this is an incredibly well
19 thought out process that is being pursued elsewhere around
20 the country. It is a manner in which Amazon really believes
21 it can be a win/win for everybody to the extent that our
22 customers are satisfied with receiving their packages
23 outside of the early morning or you know they're happy to
24 receive packages during the day. And then more importantly,
25 we're happy to keep our trips off the roads during the peak

1 hour time periods. And so with that, I hope that gives you
2 an overview of how this station would work in terms of an
3 operational standpoint and I'd be happy to answer any
4 questions.

5 MADAM CHAIR: I have a quick question. One is,
6 you know I reviewed the memo, the March 26, 2020 memo that's
7 in the record and I also wanted to, and going through
8 everything beforehand, I noticed that you have a well-oiled
9 system for not impacting traffic during peak hour times. So
10 that part in and of itself is good, particularly the vans
11 that depart maybe around 9:30 in the morning because it's
12 after the morning rush hour, so I don't have a problem with
13 that. My question pertains to these trucks at 1:30 in the
14 morning, because those are the bigger trucks --

15 UNIDENTIFIED PERSON: Uh-huh.

16 MADAM CHAIR: -- not the vans. And I want to make
17 sure, I wanted to ask you about the noise and any impact to
18 the surrounding community.

19 MS. MAZO: Yes, no, and I appreciate that. You
20 know, again, the truck trips are calibrated and are designed
21 to arrive overnight. This particular community is indeed,
22 the surrounding properties are industrial in nature. The
23 site has been used industrially for a very long time. The
24 most recent user was the DPI Seafood Distribution Center
25 where there were also trucks that were arriving, I mean I

1 don't know what time they were arriving, but really again
2 the truck trips here and you know we're not talking about a
3 tremendous number. I know Mr. Kabatt can provide the exact
4 number, but they are coming in really in ones and twos.
5 There's not a situation that where there are going to be
6 five or six trucks that are lining up and beeping and backup
7 beepers and all of those things. They're really designed
8 again to accommodate and be as contextual and harmonious
9 with the surrounding neighborhood as is commensurate with an
10 industrially zoned property, and a property that has been
11 used as a warehouse.

12 So I don't know if that answers your question.

13 MADAM CHAIR: Yes, it does. Thank you for
14 explaining that a little more. Let's see if the Board has
15 other questions for you. Madam Vice Chair?

16 MADAM VICE CHAIR: No questions at this time.

17 MADAM CHAIR: Thank you. Commissioner Washington?

18 COMMISSIONER WASHINGTON: No questions, thank you.

19 MADAM CHAIR: Commissioner Geraldo?

20 COMMISSIONER GERALDO: One question or actually a
21 couple, depending. How many employees do you anticipate
22 working at this facility?

23 MS. MAZO: Yes, so we're looking at approximately
24 190 Amazon employees and then there will be approximately, a
25 little bit more than 200 employees who are working as the

1 delivery drivers.

2 COMMISSIONER GERALDO: Okay. MY follow up
3 question is there any provision there for bicycle racks in
4 the event any of the employees come in by bicycle?

5 MS. MAZO: That's a good question. I think Mr.
6 Bryant will address that, I actually don't know the answer.

7 COMMISSIONER GERALDO: Okay. Thank you.

8 MS. MAZO: Yes, no problem.

9 MADAM CHAIR: Thank you. Okay. So I think that
10 concludes the questions for you at this point, Ms. Mazo.
11 Mr. Nelson --

12 MS. MAZO: No problem, I'm here.

13 MADAM CHAIR: Okay. Mr. Nelson --

14 MS. MAZO: Mr. Green is also here so we're happy
15 to talk about the site.

16 MADAM CHAIR: Okay. So let me turn back to Ms.
17 Dlhopsky, I'm sorry, you know, I keep messing that up.
18 I'm so sorry.

19 MS. DLHOPOLSKY: No, I answer to many versions of
20 my last name.

21 MADAM CHAIR: Okay. Thank you. So who did you
22 want to put on next or do you want to put people only if
23 there are questions?

24 MS. DLHOPOLSKY: Yes, well, maybe it makes sense
25 just since there was a question about bicycles and Josh

1 Bryant, we did have sort of lined up to speak.

2 MADAM CHAIR: Okay.

3 MS. DLHOPOLSKY: So Josh if you just want to talk
4 briefly and answer Mr. Geraldo's bicycle question. And
5 maybe Josh if you would just very, very succinctly just
6 mentioned the approved Storm Water Management Concept Plan
7 as well in your remarks and I think we can keep it short.

8 MADAM CHAIR: Thank you.

9 MR. BRYANT: Sure. Sure. Everyone hear me?

10 MADAM CHAIR: Yes.

11 COMMISSIONER GERALDO: Yes.

12 MR. BRYANT: Okay. All right. Thank you. Yes,
13 we are proposing two bicycle racks at the northwest corner
14 of the building. So those will be new and those will be
15 provided for anyone that needs to use them.

16 MADAM CHAIR: Okay. Get ready, Mr. Bryant, get
17 ready, Mr. Bryant.

18 MR. BRYANT: Okay. Thank you.

19 MADAM CHAIR: Commissioner Geraldo, is that it?

20 COMMISSIONER GERALDO: When you say two bike
21 racks, accommodating how many bikes?

22 MR. BRYANT: They would accommodate four bicycles
23 total, two on each side.

24 MADAM CHAIR: Okay.

25 COMMISSIONER GERALDO: Okay. What's your

1 experience in terms of with the employees biking to work?
2 The only reason I ask is because the facility before it
3 doesn't seem like much.

4 MR. BRYANT: I would say it depends each area is
5 different depending on where the actual facility is located.
6 We can, I mean we can definitely look into, you know,
7 increasing the number of bicycle racks.

8 COMMISSIONER GERALDO: Okay. Is that a proffer
9 that you would make?

10 MS. DLHOPOLSKY: Yes, I think we're comfortable
11 with that, looking at Samantha and I think I saw a nod
12 there. It's a large site, you know, we did add the number
13 of racks. This was a comment I believe that we received at
14 SDRC a few weeks ago and so we did add the number of racks
15 that we were asked to. But again, it is a large site. I
16 think that we can certainly accommodate an increase, yes.

17 COMMISSIONER GERALDO: Okay. Thank you.

18 MADAM CHAIR: So what increase? What increase?
19 Well, why don't you think about that while we go forward,
20 what increase are you talking about?

21 MS. DLHOPOLSKY: (Sound.)

22 MADAM CHAIR: Okay?

23 MS. DLHOPOLSKY: Yes.

24 MADAM VICE CHAIR: Madam Chair? Ms. Hewlett --

25 MADAM CHAIR: Yes?

1 MADAM VICE CHAIR: -- I do have a question.

2 MADAM CHAIR: I'm sorry, Madam Vice Chair?

3 MADAM VICE CHAIR: Yes, I did not hear anyone talk
4 about the possibility of, I think it's flex employees where
5 you allow individuals to use their own cars to deliver
6 packages. And if that is the case, if you're looking at
7 that for this site, approximately how many employees would
8 you say would be using their own vehicles, would you
9 predict?

10 MS. MAZO: Sorry, yes, and I do apologize. Yes,
11 on the flex, so flex is generally a process where
12 individuals who have additional time can go and pick up
13 packages from the site and then deliver them. That is part
14 of the general Amazon delivery station services. We are
15 anticipating approximately, excuse me, 60 flex employees and
16 flex drivers here at this particular site.

17 MADAM CHAIR: Thank you for that. It's set forth,
18 I didn't see the number necessarily but it is set forth in
19 the March 26, 2020 memo. Because I too had to learn the
20 difference between Amazon logistics and Amazon flex, so.

21 MS. MAZO: Yes, no, and I apologize for that
22 oversight, it was simply I was trying to provide the overall
23 and people are usually much more focused on the vans, so I'm
24 glad to have an opportunity to talk about the flex
25 opportunity.

1 MADAM VICE CHAIR: And their timeframe is the same
2 for the most part in terms of picking up items and
3 delivering them?

4 MS. MAZO: So generally the flex cars would come
5 in the afternoons and so that is probably where you would
6 see the most peak hour trip is in the afternoons as in the
7 p.m. peak hour associated with the flex trips. But you
8 know, Mr. Kabatt can address that, but even with those flex
9 trips my understanding is is that the p.m. peak hour cap is
10 still under what had been previously approved.

11 MADAM VICE CHAIR: Okay. Thank you.

12 MADAM CHAIR: Does that conclude the questions
13 from Ms. Mazo at this time? Okay. And okay, so Mr. Kabatt,
14 he might be able to address that question when we get to
15 him, but I think we were going to reserve him for questions,
16 Ms. Dlhopsky?

17 MS. DLHOPOLSKY: Yes, I think maybe we can just go
18 to Chris, and Chris if you want to touch on the questions
19 that were just asked and I suppose if anybody else has any
20 other questions for Chris at this time and to the extent it
21 makes any sense, he can give sort of just a quick overview
22 of their trip cap analysis, if that's helpful or if anybody
23 has any questions on that.

24 MADAM CHAIR: That's fine.

25 MS. DLHOPOLSKY: But why don't we go to Chris and

1 if you could start with answering, responding to the
2 questions on the flex.

3 MR. KABATT: Sure. Hi, Chris Kabatt here with
4 Wells and Associates. And the explanations given here by
5 Samantha and Heather are spot on, they did a great job. But
6 the flex drivers are generally in the afternoon session of
7 the deliveries and they would, they come on demand, so only
8 when from my understanding, only when Amazon has a demand
9 and those packages don't get put into the sprinter vans,
10 that the flex drivers are called upon and they do generally
11 access this site, you know, from the 3:00, 3:30 to 5 o'clock
12 hour and then you know leave obviously once they pick up the
13 package and then move on. So that is part of the percentage
14 of trips that are using this site during the p.m. peak hour
15 of the adjacent street.

16 So and then on to the trip cap, just as Samantha
17 had mentioned, Amazon's operation is specific for this
18 delivery station and it is an off peak operation. And our
19 comparison is for the trip cap is for the comparison of peak
20 hour, commuter peak hour a.m. and p.m. trip generation and
21 that's what's we compared to the warehouse. So while there
22 are trips coming on and off the site, the majority of them
23 have been at traditionally non-peak hours, midday and then
24 into the late evening. And then as you see in the record
25 and now our trip cap memorandum, with that operation, we are

1 below the number of trips the peak hour trips that would be
2 generated by the warehouse that is permitted.

3 MADAM CHAIR: So I would invite everyone to also
4 look at, there is in our back up the May 21, 2020 trip cap
5 comparison submitted by Mr. Kabatt of Wells and Associates
6 and on page 3 they do talk about the flex drivers as well.
7 That is what I flagged also, just to ensure about the noise
8 in that backup stuff, so anyway it is in our backup, May 21,
9 2020.

10 So and let's see if there any other questions.
11 Was there anything else you cared to say, Mr. Kabatt?

12 MR. KABATT: I'll respond to questions. I think
13 again Samantha had done a great job with explaining the
14 operation and you know the reason why you know that this is
15 an off peak operation and that we are within the trip cap.

16 MADAM CHAIR: So I think this is, there's going to
17 be, I can see we have our own transportation expert on the
18 line. Mr. Macy Nelson has his own transportation person on
19 the line and then of course we have you, Mr. Kabatt too, the
20 applicant's transportation expert. So we'll be getting
21 ready. Okay. So was that it for you for the applicant's
22 case in chief?

23 MS. DLHOPOLSKY: Yes, Madam Chair. We're just
24 happy to answer any questions that anybody may have going
25 forward.

1 MADAM CHAIR: Okay. So with that, and I think our
2 Board asked all the questions that they wanted to ask at
3 this juncture, so I'm going to now turn to Mr. Macy Nelson.

4 MR. NELSON: Thank you, Madam Chair. Can you hear
5 me satisfactorily?

6 MADAM CHAIR: Yes, indeed. We're good. Thank
7 you.

8 MR. NELSON: Thank you. Macy Nelson, I'm
9 representing in this case Ray and Cathy Crawford, who reside
10 at 1340 Crain Highway, I represent Charles Reilly, 16770
11 Clagett Landing Road and I'm also representing UFCW Local
12 400 which is the union based here in Landover and has many
13 members throughout the county. If I could ask staff to
14 bring up our Exhibit Number 1, please --

15 MADAM CHAIR: The neighborhood.

16 MR. NELSON: -- I want to identify.

17 MADAM CHAIR: It's the neighborhood.

18 MR. NELSON: Yes, that's right, it's the
19 neighborhood, Exhibit 1. No, I'm sorry from our exhibits.

20 MADAM CHAIR: No, the opposition exhibits.

21 (Discussion off the record.)

22 MR. NELSON: I'm terribly sorry, we're trying to
23 get to the protestant's exhibits, there are 19.

24 MADAM CHAIR: We're working on it. These --

25 MR. NELSON: I beg your pardon. I beg your

1 pardon.

2 MADAM CHAIR: -- we're trying to locate it here.
3 I have my hard copy right in front of me and presumably the
4 Board members do too, so I'm looking at it.

5 (Discussion off the record.)

6 MADAM CHAIR: Okay. Mr. Nelson, I'm going to let
7 our --

8 MR. NELSON: Yes?

9 MADAM CHAIR: -- I don't speak tech, so I'm going
10 to let our tech folks because all of these are on the
11 website and although thankfully I have the, they're on the
12 website for this case with the Staff Report. And I, you
13 know, have a hard copy, I can see it but if someone can pull
14 it up on the website we can share your screen so we can all
15 see it if that helps. And Mr. Nelson, I don't know that
16 you're capable of --

17 MR. NELSON: I thought I --

18 MADAM CHAIR: -- do you know how to do --

19 MR. NELSON: -- submitted that in accordance with
20 the instructions. I spoke with staff yesterday to confirm
21 receipt of them.

22 MADAM CHAIR: Okay.

23 (Discussion off the record.)

24 MADAM CHAIR: I'm going to let the tech people
25 talk to you because I don't speak that language. Okay.

1 It's coming it looks like.

2 MR. NELSON: Thank you.

3 (Discussion off the record.)

4 MADAM CHAIR: So momentarily, okay so it's coming.
5 That's the neighborhood right there, that's Exhibit 1.

6 MR. NELSON: Yes.

7 MADAM CHAIR: Okay.

8 MR. NELSON: Thank you for doing that.

9 MADAM CHAIR: No worries.

10 MR. NELSON: The purpose of this image of course
11 is just try to orient the Planning Board to the
12 neighborhood. We have the new Amazon Warehouse on the west
13 side of 301, you see the pin for 1340 Crain Highway, that's
14 the residence of the Crawford's and Mr. Reilly's on Clagett
15 Landing Road, a little bit to the northeast. But if we can
16 go to the next image, it's a blowup of the Crawford
17 residence. Our Exhibit 2.

18 MADAM CHAIR: Okay. So that should be the very
19 next one. This is what it looks like, I have mine.

20 MR. NELSON: So --

21 MADAM CHAIR: I have mine here.

22 (Discussion off the record.)

23 MR. NELSON: Madam Chair, I don't wish to belabor
24 the point but I submitted these exhibits in accordance with
25 the instructions and each one is labeled.

1 MADAM CHAIR: They are.

2 MR. NELSON: Exhibit 1 with a description.

3 MADAM CHAIR: They are labeled, because I have
4 mine so I know they're labeled.

5 COMMISSIONER GERALDO: I have mine as well, Madam
6 Chair.

7 MADAM CHAIR: So we have our copies.

8 MR. NELSON: All right.

9 MADAM CHAIR: Okay. So hold on.

10 MR. NELSON: Well then, I --

11 MADAM CHAIR: They're not, whoever uploaded
12 they're not in the same sequence.

13 MS. CHECKLEY: Mr. Nelson, this is Andree
14 Checkley. Are you able to share your screen?

15 MADAM CHAIR: That's the first one. That's the
16 first one, not the second one. That's not the one he's
17 talking about.

18 MR. NELSON: Madam Chair?

19 MADAM CHAIR: Yes?

20 MR. NELSON: The --

21 MADAM CHAIR: This is the second one.

22 MR. NELSON: -- I understand that the Planning
23 Board has the hard copies in front --

24 MADAM CHAIR: We do.

25 MR. NELSON: -- each member of the Planning Board.

1 MADAM CHAIR: We do.

2 MADAM VICE CHAIR: Yes.

3 MR. NELSON: Okay. So, all right.

4 MADAM CHAIR: Thanks goodness. Okay.

5 MR. NELSON: Let me just describe Exhibit 2.

6 MADAM CHAIR: Okay.

7 MR. NELSON: Exhibit 2 is really just a blowup to

8 show the proximity of the Crawford residence with the

9 proposed Amazon facility. I think each member of the --

10 MADAM CHAIR: Yes, it's the one with the yellow.

11 MR. NELSON: -- Board can see that. That was --

12 MADAM CHAIR: The yellow pushpin across Crain

13 Highway.

14 MR. NELSON: Yes, I don't wish to spend more time

15 on --

16 MADAM CHAIR: Okay.

17 MR. NELSON: -- trying to find --

18 MADAM CHAIR: Got it.

19 MR. NELSON: -- the exhibit.

20 MADAM CHAIR: Got it. We have the yellow pushpin,

21 okay, depicting --

22 MR. NELSON: Thank you.

23 MADAM CHAIR: -- it's from two different angles,

24 so Exhibit 1 and Exhibit 2 --

25 MR. NELSON: Yes.

1 MADAM CHAIR: -- show the yellow pushpin where the
2 Crawford's live from two separate angles. Okay. We're
3 good.

4 MR. NELSON: Thank you very much. All right. My
5 clients oppose SDP-0007-03 which would permit the Amazon
6 Last Mile facility and I'm going to give an overview of the
7 case. Also with me, we have Ruth Grover who is a land
8 planning consultant, Larry Green who is a traffic expert,
9 Ray Crawford, Charles Reilly and some other citizens. And
10 my goal is really to try to orient the Board to the themes
11 of our case and then these other witnesses will follow up on
12 some of those themes.

13 But our first step in this, our analysis of this
14 case was to understand the lineage of approvals. We know
15 that this case arises out of CDP from 1978 and we undertook
16 to try to recreate the lineage that takes us from the
17 present all the way back to 1978 and so I want to just go
18 through that lineage. We have SDP-0007 from 2000, that's
19 Exhibit 13 in my submission, Exhibit 13. And this document
20 states the development of this site must be in accordance
21 with CDP-9006 and A6965 as amended.

22 All right. So the CDP from 2000 directs us back
23 to the 1978 CDP. Then we know in 1992 moving back in time,
24 that the Planning Board clarified the list of permitted uses
25 for the Collington Center City and then created a mechanism

1 to add a new use to that list and that's in Exhibit 10 of
2 our exhibits. This is an important exhibit and I would like
3 for staff to bring it up. It's the exhibit I identified as
4 Exhibit 10 in my submission two days ago.

5 MADAM CHAIR: It's the exhibit from John Rhodes to
6 the Planning Board?

7 MR. NELSON: Yes.

8 MADAM CHAIR: Okay. Got it.

9 MR. BURKE: Madam Chair, this is Tom Burke. I am
10 able to share the screen --

11 MADAM CHAIR: Okay. Thank you.

12 MR. BURKE: -- if that makes things easier.

13 MADAM CHAIR: Okay. Thank you. That helps.

14 MR. BURKE: I would just need permission to do so
15 from the organizer.

16 MADAM CHAIR: Okay. So are you the organizer?

17 MS. CHECKLEY: Yes. Yes. Click yes, Kenny.

18 MADAM CHAIR: Yes.

19 MS. CHECKLEY: Click yes.

20 MADAM CHAIR: Okay. But some of us have it, so
21 this is the memo dated April 27, 1992 from John Rhodes to
22 the Planning Board.

23 MR. NELSON: Right. Is staff able to bring that
24 up?

25 MADAM CHAIR: They're doing it now.

1 MR. NELSON: Thank you.

2 (Discussion off the record.)

3 MR. NELSON: Thank you. I appreciate staff doing
4 that. But the point of Exhibit 10 is to present the
5 document that describes the uses that are permitted in the
6 Collington Center and it also describes a mechanism to add a
7 use to the list. And if we go to the second page here, the
8 second paragraph on page 1 --

9 MADAM CHAIR: Yes.

10 MR. NELSON: -- applicant's use is not included
11 and Ruth Grover will describe this in greater detail, but
12 this is the mechanism that the Planning Board created to add
13 a use to the list of permitted uses in the Collington
14 Center. Our position is going to be, will be, is that the
15 applicant's proposed Last Mile Distribution Center is not on
16 the list of permitted uses. And if we go to Exhibit 11,
17 please, if staff would do that, Exhibit 9 rather, I'm sorry.

18 MADAM CHAIR: The use category list from the CDP
19 text.

20 MR. NELSON: That's it, this is perfect. Right.
21 Thank you. All right. So this is a document prepared by
22 staff which puts in one place all the permitted uses in the
23 Collington Center as of 1992. And the relevant use here is
24 warehouses and wholesale and establishments. The proposed
25 use is not a wholesale and establishments, the proposed use

1 is not a warehouse. It's a parcel hub, it's a last mile
2 distribution center. So we say it's not on that list. So
3 that's in 1992 and we'll come back to that. So let's move
4 back in time because we have a Preliminary Plan from 1988.
5 This is Exhibit 12.

6 I'm just trying to lace lineage --

7 MADAM CHAIR: Yes.

8 MR. NELSON: -- back to the beginning.

9 MADAM CHAIR: Okay. So and --

10 MR. NELSON: So this is the Resolution, the
11 Preliminary Plan 88-20287 from 1988 and as we all know
12 Preliminary Plans traditionally have the traffic analysis in
13 it, this one does not. But Condition 1 is relevant here.
14 It says, Condition 1 says there must be conformance with the
15 conditions of the approved CDP 8712. These documents tell
16 us that the analysis, the transportation analysis that
17 governs the traffic analysis in this case appears in this
18 CDP. So we spoke to staff about that and staff said that
19 Section 7 of the CDP, this is our Exhibit 8, if you could
20 bring that up please. Section 7 the transportation analysis
21 of the CDP governs the trip cap and our legal argument,
22 Madam Chair and members of the Board, is that staff was
23 required to analyze the traffic that has been already
24 allocated to the Collington Center. And that process would
25 have required them to review all of the approval resolutions

1 for development of Collington Center.

2 So we asked staff for that and we did a Public
3 Information Act request for all those documents. Staff
4 produced those to use, those documents were incomplete. We
5 reviewed every one of those plans, in fact we paid a fee of
6 \$550 to get the copies. We reviewed every plan and those
7 documents are incomplete. There's no way any reasonable
8 person can look at those documents and understand what's
9 been built out at the Collington Center. So for all those
10 reasons, we assert that staff has not justified the traffic
11 from this proposed use.

12 Now, let me go back to the issue of whether the
13 Amazon Last Mile Facility is a permitted use. We assert
14 it's not. We know that the CDP at page I-3 has a very
15 general list of permitted uses. We know that in 1992 the
16 Planning Board provided a more detail list which included
17 warehouses and wholesale and establishments. As I said
18 earlier, an Amazon Last Mile Facility is a partial hub not a
19 traditional warehouse.

20 I cited to Exhibit 9 which is the formal list of
21 the permitted uses. The CDP, correction, Exhibit 10 the
22 1992 Rhodes memorandum describes the mechanism to add a use
23 to the list and we say that the applicant had a legal
24 obligation to seek approval to add this proposed
25 distribution center to the list of approved uses. It did

1 not and because it did not it failed to exhaust its
2 administrative right to do so and for that reason the
3 Planning Board should disapprove this SDP.

4 And then there is a more narrow problem and that
5 has to do with the traffic generation. We all know from
6 these cases that staff goes to the ITE Manual to get a trip
7 generation rate and we know that the ITE Manual has
8 different uses or different trip generation rates for
9 different uses and so step one of the inquiry is what trip
10 generation use code should we use for the proposed
11 development. Now there are five or six of these last mile
12 facilities coming into Prince George's County. The Planning
13 Board heard the Washington Gateway case last week. It also
14 is a last mile center. The description of the use was
15 identical to the description today provided by Ms. Mazo.
16 Big trucks come in during the night, they unload the
17 products, they pass them off to the smaller Amazon trucks
18 who leave the site in off peak hours and when there's a
19 shortfall, they have flex drivers.

20 In the Washington Gateway case, the applicant
21 submitted a traffic report and used ITE Code 155 and staff
22 endorsed that use of that code ITE 155. And if you go to
23 the ITE Manual this is the description of ITE Code 155.
24 Storage and direct distribution of e-commerce product to end
25 users. Let me repeat, storage and direct distribution of e-

1 commerce product to end users. Staff required that and if
2 you go to the Staff Report in the Washington Gateway case,
3 which is --

4 MADAM CHAIR: 18. Exhibit 18.

5 MR. NELSON: -- Exhibit 18, thank you.

6 MADAM CHAIR: You're welcome.

7 MR. NELSON: You will see that staff in its Staff
8 Report relied on the high trip generation rate generated by
9 Code 155. The Planning Board approved this plan last week,
10 we haven't seen the resolution, but my understanding from
11 the vote at the end of the case was that the Planning Board
12 was going to adopt the resolution which included these
13 transportation findings.

14 The key here is that staff in the Washington
15 Gateway case for an Amazon Last Mile Facility just seven
16 days ago said you should use ITE 155. We agree with that.
17 We didn't challenge that last week. We believe ITE 155 is
18 the proper Land Use Code to use.

19 Now let's look at what the applicant did in this
20 case. If we could go, bring up the Wells report from May
21 21st, this is the backup at page 56 and Madam Chair you
22 cited this earlier when you talked about the flex drivers.
23 This is the backup file page 56, Wells and Associates' memo
24 from Chris Kabatt, P.E., dated May 21, 2020.

25 MADAM CHAIR: Okay. Let me just pull it up. Now

1 hold on a second. Yes, okay, I got it.

2 MR. NELSON: Okay. And --

3 MADAM CHAIR: Is this May 21st? Or is this a
4 different one?

5 MR. NELSON: May 21st. Yes.

6 MADAM CHAIR: Okay. May 21st. Got it.

7 MR. NELSON: Okay. I believe this is the trip cap
8 verification submitted by Wells and Associates to staff May
9 21, 2020. Let's flip ahead to the fourth page of this
10 report, please, Table 2.

11 MADAM CHAIR: Got it.

12 MR. NELSON: Scroll down, please. A little lower.
13 There you go. Land use, and look at Table 2 it's got the
14 red header where it says land use, does the Board see that
15 on their screen or on their paper?

16 MADAM CHAIR: Yes.

17 MADAM VICE CHAIR: Yes. Yes, we have it.

18 MR. NELSON: Okay. Trip cap, warehousing, one,
19 trip generation based on ITE Trip Generation Manual. Land
20 Use Code 150, 150. Now we know from the ITE Manual, let me
21 describe the standard warehouse for 150. I'm reading right
22 from the manual, products stored on site typically for more
23 than one month. Let me repeat, products stored on site
24 typically for more than one month.

25 Now Larry Green will give you the nuts and bolts

1 of this, but if you look at the trip generation rate for
2 Land Use Code 150 that Wells is advocating there, it's much
3 lower than the trip generation rate per 1,000 square feet of
4 Land Use Code 155 that staff required and you adopted last
5 week in the Washington Gateway project. Now Mr. Green has
6 crunched the numbers, the differences are material and our,
7 let me be precise. The applicant fundamentally erred in
8 relying on Land Use Code 150 because that code is for a
9 standard warehouse where products are stored on site
10 typically for more than one month. And in contrast, as Ms.
11 Mazo described in her opening remarks, we have 18 wheelers
12 coming down from Baltimore at 1:30 in the morning. They
13 unload and then they get all the new product onto the Amazon
14 Prime trucks that morning and those trucks go out allegedly
15 after peak hours. That's a fundamental error and for that
16 reason, we assert that this Board should disapprove the
17 application.

18 So on the traffic piece, let me just add this
19 footnote. The Clagett Landing Resolution, our Exhibit 19,
20 this is this body's decision from 2004 which disapproved a
21 residential development on Clagett Landing on the other side
22 of Route 3, no, it approved the development on the condition
23 that Route 301 be improved, and that hasn't been done. We
24 assert that if the Clagett Landing project can't proceed,
25 this project should not also be allowed to proceed.

1 So for all those reasons, we're going to ask the
2 Board to disapprove the application and our next witness is
3 Ruth Grover.

4 MADAM CHAIR: Okay. Can I see if the Board has
5 any questions of you at this time, Mr. Nelson?

6 MR. NELSON: Yes, that would be fine.

7 MADAM CHAIR: Yes. So, Madam Vice Chair?

8 MADAM VICE CHAIR: No questions, thank you.

9 MADAM CHAIR: Okay. Commissioner Washington?

10 COMMISSIONER WASHINGTON: No questions.

11 MADAM CHAIR: Commissioner Geraldo?

12 COMMISSIONER GERALDO: (No audible response.)

13 COMMISSIONER WASHINGTON: You're muted.

14 MADAM CHAIR: Yes.

15 COMMISSIONER GERALDO: Just to be clear, so the
16 position that the opponents are taking, Mr. Macy, is that
17 it's not a permitted use?

18 MADAM CHAIR: It's two things.

19 MR. NELSON: We're taking several positions --

20 MADAM CHAIR: Yes. Yes.

21 MR. NELSON: -- sir, on --

22 MADAM CHAIR: That's just one.

23 MR. NELSON: -- the first is it's not a permitted
24 us --

25 COMMISSIONER GERALDO: Yes.

1 MR. NELSON: -- because it's not on the list of
2 the permitted uses and there's a mechanism in the Planning
3 Board document that allows the applicant to apply to add a
4 use to the list. Spelled out. That's our first position.

5 The second position is that in order to
6 fundamentally understand the traffic, one needs to go back
7 to the traffic Section 7 of the CDP and analyze whether this
8 project conforms with that. Staff was unable to do that.
9 We did a PIA request for the documents. I paid \$550 for the
10 documents. We spent days reviewing every word on those
11 documents and I will say those documents were incomplete and
12 no one can draw any conclusion from them. In fact, staff
13 tell us informally that the documents had been lost, many of
14 them. So you can't do that process but the law requires it.
15 So that's a separate reason it should be disapproved.

16 The third is that the applicant's traffic
17 generation traffic report is fundamentally flawed. It
18 relies on a Land Use Code 150 which is in stark contrast
19 with what this Board did last week where it required Land
20 Use Code 155 and it would be arbitrary and capricious to
21 allow this project to proceed when just last week, seven
22 days ago, the Planning Board required an analysis under Use
23 Code 155. So those are the core points, sir.

24 COMMISSIONER GERALDO: Thank you.

25 MR. NELSON: Okay. Okay. Okay. So no one, that

1 was it. Okay. Thank you. So Ms. Grover, good morning.

2 MS. GROVER: Hi.

3 MADAM CHAIR: Good afternoon.

4 MS. GROVER: I think I need you to share the
5 screen. Can you hear me?

6 MADAM CHAIR: We can.

7 UNIDENTIFIED PERSON: Yes.

8 MS. GROVER: Oh good. Good. Hello, my name is
9 Ruth Grover, I've worked as a land planner for many years in
10 a variety of private and public positions, including
11 currently working as a consultant for Macy Nelson, which
12 brings me to this hearing. I've been asked to testify as to
13 my knowledge of process and substance as it relates to the
14 subject application, Specific Design Plan, SDP-0007-03.

15 The first issue in the project is the nature of
16 the use and whether the project is a permitted use in
17 Collington Center.

18 The second issue relates to the lineage of
19 approvals for the project and whether those approvals bear
20 out that this use fits within the allowances of the previous
21 traffic analysis that have been performed for this site in
22 prior approvals, namely the CDP-9006 and Preliminary Plan of
23 Subdivision 4-88074.

24 With respect to the land use, a Comprehensive
25 Design Plan for the project was approved back in 1978 with a

1 general list of permitted uses, page I-3 and a general
2 table, page 3-25 of square footage, gross leasable area by
3 stage and use, which was interpreted to include warehousing
4 and distribution on a detailed list approved by the District
5 Council.

6 In April of 1992, then Chairman John Rhodes wrote
7 a memorandum which laid out an administrative process for
8 getting additional uses added to the permitted use list for
9 Collington Center. In that memorandum, he said that for
10 uses not listed the applicant would have to apply in writing
11 providing any information necessary for the Planning
12 Director to determine that the new use would not be a net
13 generator of trips in the a.m. or p.m. peak hours, that it
14 was not primarily retail in character and that it would be
15 compatible with the uses already listed.

16 Then it specified that the written application
17 would be considered by the Transportation Planning Section
18 and the Development Review Division and the project manager
19 with the ultimate decision to add the use or not then made
20 by the Planning Director with that decision appealable to
21 the Planning Board.

22 Our assertion is that the use proposed in this
23 application is not the standard warehousing and distribution
24 contemplated for Collington Center where products are
25 normally stored on the site in excess of a month, per the

1 ITE analysis for use 150. But is a parcel hub utilized by
2 companies such as Amazon to get their products the last mile
3 to the retail purchaser, the end line user, which they aim
4 to do often in 24 hours. As such, the application should
5 have followed the procedure outlined above to get the parcel
6 hub added as a permitted use. Further, this new proposed
7 use is a higher trip traffic generator than the standard
8 warehouse and thus should have triggered the need for a new
9 traffic analysis. We have our transportation engineer,
10 Larry Green, with us today to testify separately on that
11 issue. Now in fact, the applicant's own transportation
12 memorandum cites the land use 150, the standard warehouse.

13 Early in our interest in this case we talked to
14 staff regarding transportation related evaluation of the
15 project. We asked how traffic analysis was done for the
16 park, we were told that the original traffic study for the
17 project was contained in Section 7 of the original
18 Comprehensive Design Plan document and that when a new plan
19 came along that needed transportation analysis they compared
20 it to the parameters contained in that section of the CDP
21 and made an evaluation as to whether there was sufficient
22 capacity or adequacy to absorb the additional traffic. We
23 were told that a new traffic study wouldn't be required for
24 the project because it was being considered the same use
25 because they did not believe it would generate additional

1 trips.

2 We then asked if they had a running tally of the
3 development in Collington Center and were told that the
4 history of Collington with the multiple revisions to the
5 various plans and their boundaries were not clear in the
6 consolidated records of the Comprehensive Design Zone. In
7 fact, they stated that they were working on organizing their
8 records, which once were well organized, but that those
9 records were mostly paper files and that they had been moved
10 around and some tossed over the years.

11 At that point we undertook our own research,
12 requesting the county to provide copies of all the approved
13 Detailed and Specific Design Plans in the area called
14 Collington Center by the Transportation Planning Section.
15 We were planning to tabulate the square footage ourselves
16 and compare it to the allowances in Section 7 of the
17 Comprehensive Design Plan. We attempted this task, but the
18 information provided was incomplete which led us to wonder
19 how the Transportation Planning Section could rely on this
20 methodology to decide if additional development should be
21 allowed.

22 During this time we took a closer look at the
23 Preliminary Plan of Subdivision for the project and
24 confirmed that it was silent on the issue of trip cap, while
25 requiring strict conformance to the requirements of the

1 Comprehensive Design Plan for the project.

2 So in conclusion, the use is not warehouse and
3 distribution, it is a parcel hub and the applicant should
4 have gone through the outlined administrative process to
5 have the use added as permitted use to the list of permitted
6 uses in Collington Center. And the use is a much larger
7 trip generator than standard warehousing and distribution
8 and therefore is not included in the list of approvals for
9 this site, which included the Comprehensive Design Plan and
10 Preliminary Plan of Subdivision and Specific Design Plans
11 and should have required a separate traffic analysis.

12 That's about all I have, if you have any questions
13 regarding my testimony I would be happy to try to answer
14 them for you at this time.

15 MADAM CHAIR: Okay. Thank you, Ms. Grover. Let's
16 see if there are any questions. Madam Vice Chair?

17 MADAM VICE CHAIR: No questions, thank you.

18 MADAM CHAIR: Commissioner Washington?

19 COMMISSIONER WASHINGTON: No questions, thank you.

20 MADAM CHAIR: Commissioner Geraldo?

21 COMMISSIONER GERALDO: (No audible response.)

22 COMMISSIONER WASHINGTON: You're muted.

23 MADAM CHAIR: Okay.

24 COMMISSIONER GERALDO: None at this time.

25 MADAM CHAIR: Okay. Thank you. So I'm going to

1 go back to Mr. Nelson, I'm going to have our counsel respond
2 to some of these things, but I'm going to let you go forward
3 with your case and your witness list, Mr. Nelson. But I'm
4 going to tell you --

5 MR. NELSON: (Sound.)

6 MADAM CHAIR: -- at about, in 25 minutes, at a
7 quarter to 2:00 we're breaking for lunch. Okay.

8 MR. NELSON: All right. Our next witness is Larry
9 Green.

10 MADAM CHAIR: Okay.

11 MR. NELSON: Mr. Green, are you on here?

12 MR. L. GREEN: (No audible response.)

13 MADAM CHAIR: And Mr. Green is going to discuss
14 traffic, he has a traffic --

15 MR. NELSON: Yes.

16 MADAM CHAIR: -- analysis, so we'll then be
17 turning to Mr. Burton and perhaps Mr. Kabatt. Okay. Mr.
18 Green?

19 MR. NELSON: He's been on and I've been texting
20 him because he's been getting kicked off and --

21 MADAM CHAIR: But you know, but he can also,
22 there's a way, if we can get, he can also phone in too if
23 that helps him.

24 MR. NELSON: May I just have permission to call
25 him right now?

1 MADAM CHAIR: Sure. Or we can do it, yes, sure,
2 you can. Do you want to take a few minutes?

3 MR. NELSON: Oh you can call him. What's --

4 MADAM CHAIR: I think we can. Can we get Ryan? I
5 think we can reach out to Mr. Green, so if you hold on a
6 second, Mr. Nelson.

7 MR. NELSON: Thank you.

8 MADAM CHAIR: And what you might want to do while
9 we're doing that is mute yourself and then phone him anyway.
10 Oh there he's being contacted now through the, okay, thank
11 you.

12 (Discussion off the record.)

13 MADAM CHAIR: So let me say this. Mr. Nelson --

14 MR. NELSON: Yes?

15 MADAM CHAIR: -- this is opportunity knocking. So
16 now in three minutes it'll be 20 minutes before we take our
17 lunch break. If it helps you at all, we can wait for those,
18 we can still go forward with those 20 minutes and you can
19 reverse the order if you'd like. Or, we can recess now and
20 have our lunch and then have your team ready to come back.

21 MR. NELSON: We'll proceed, if you want a citizen
22 now, we can call a citizen. If you want to take a lunch
23 break, that's fine. Why not take a lunch break?

24 MADAM CHAIR: Okay. So let's do that. We're
25 going to take a lunch break and that means we'll be back by

1 10 after 2:00. Okay.

2 MADAM VICE CHAIR: Okay. Thank you.

3 MADAM CHAIR: Okay. So the Planning Board is
4 going to recess until 10 after 2:00.

5 MADAM VICE CHAIR: All right. Thank you, Madam
6 Chair.

7 MADAM CHAIR: Make it 2:15, an even 2:15. Okay.
8 Thank you.

9 MADAM VICE CHAIR: Okay.

10 MADAM CHAIR: Thank you. The Planning Board is in
11 recess.

12 COMMISSIONER WASHINGTON: Thank you.

13 (Whereupon, a luncheon recess was taken.)

14 MADAM CHAIR: If everyone's feeling just a tad
15 better and you can hear me, right?

16 (No audible response.)

17 MADAM CHAIR: You can hear me? Okay. Thank you.

18 UNIDENTIFIED PERSON: Thank you.

19 COMMISSIONER WASHINGTON: Yes, Madam Chair.

20 MADAM CHAIR: Wonderful, thank you. Got to double
21 check these days. Okay. So I'm just going to wait and make
22 sure that we have all of our board members and all of the
23 requisite parties back. I do not see everyone yet, so I'm
24 missing a couple Planning Board members. And okay, so we
25 have Macy Nelson. Okay. So we're good. And we have Ms.

1 Dlhopolsky. Okay. I'm getting there. We have Ms. Ruth
2 Grover. I see we have our Principal Counsel. Okay. So we
3 just need our Vice Chair and Mr. Burke. Mr. Burke, are you
4 on?

5 MR. BURKE: (No audible response.)

6 MADAM CHAIR: Unmute everybody. Mr. Burke, you're
7 on?

8 MR. BURKE: Madam Chair, I'm here.

9 MADAM CHAIR: Okay. Wonderful.

10 MR. BURKE: (Indiscernible).

11 MADAM CHAIR: Okay. Okay. So then, Mr. Burton,
12 are you on?

13 MR. BURTON: Yes, ma'am, I'm here.

14 MADAM CHAIR: Wonderful. Okay. Helen Asan, are
15 you back?

16 MS. ASAN: (No audible response.)

17 MADAM CHAIR: Okay. We'll come back to Helen
18 Asan. So Joshua Bryant, are you on?

19 MR. BRYANT: Yes, I'm on.

20 MADAM CHAIR: Okay. Wonderful.

21 MR. BRYANT: Sorry.

22 MADAM CHAIR: Broderick Green? Okay. So you seem
23 to be muted Broderick Green. Okay.

24 MR. B. GREEN: I'm here.

25 MADAM CHAIR: Okay. Wonderful. Mr. Kabatt, Mr.

1 Kabatt?

2 MR. KABATT: I'm here.

3 MADAM CHAIR: It's Kabatt, right? You pronounce
4 it Kabatt, right?

5 MR. KABATT: I'm here.

6 MADAM CHAIR: Okay. Thank you.

7 MR. KABATT: Kabatt, yes.

8 MADAM CHAIR: Yes, thank you. Ms. Mazo?

9 MS. MAZO: I'm here, thank you.

10 MADAM CHAIR: Okay. Charles Reilly?

11 MR. REILLY: (No audible response.)

12 MADAM CHAIR: Charles Reilly?

13 MR. REILLY: (No audible response.)

14 MADAM CHAIR: Right there. Okay. He's still
15 muted, we need to get him to unmute somehow. Okay. Charles
16 Reilly, I see that you're on, hopefully you can hear me.
17 We're sending you an unmute request, we have unmuted you
18 from our side, but you need to unmute from your side. We'll
19 come back to Charles Reilly. Ray --

20 MR. REILLY: Charles Reilly present.

21 MADAM CHAIR: Wonderful. Thank you.

22 MADAM CHAIR: Ray Crawford?

23 MR. CRAWFORD: I'm here.

24 MADAM CHAIR: Charles Harding?

25 MR. HARDING: (No audible response.)

1 (Discussion off the record.)

2 MADAM CHAIR: Charles Harding?

3 MR. HARDING: (No audible response.)

4 MADAM CHAIR: Did I see his name? He's the one
5 who, can you mute me for a second? He's the one who signed
6 up for the wrong case before, 4D. Okay. So we can't,
7 Charles Harding? Okay. Now you can. I called him earlier
8 too. Okay. We'll come back to Charles Harding. Okay. And
9 Lawrence Green, are you on?

10 UNIDENTIFIED PERSON: Thank you (indiscernible).

11 MADAM CHAIR: Is that you, is that Lawrence Green?

12 (No audible response.)

13 MADAM CHAIR: Lawrence Green, you're unmuted from
14 our side.

15 MR. NELSON: Madam Chair, Macy Nelson speaking.
16 We spoke during the lunch break, he spoke with staff,
17 technical staff, not technical, IT Staff and I understood
18 they'd sorted out all, whatever the issues were. I'll text
19 him.

20 MADAM CHAIR: Right. We see him on, we're looking
21 at, so let's figure out, we'll see what we can do about him
22 right now. Okay. And then I do not see Charles Harding
23 signed up at all. I don't see his name on there. Okay.
24 Meanwhile, well Ben Ryan, we have you right?

25 MR. RYAN: Good afternoon, I'm present.

1 MADAM CHAIR: Okay. Wonderful. Somehow I have
2 Ivy Thompson, Ivy, are you on? I see you. She's up, go up.
3 I saw her name. Ivy Thompson?

4 UNIDENTIFIED MALE PERSON: She's muted, she's
5 shaking her head.

6 MADAM CHAIR: I see she's muted, we have her
7 unmuted here, but okay. Oh there she is. I see her, I see
8 her. Okay. Well, okay. There she is, there she is, we saw
9 her. Ms. Thompson? Oh she's unmuted but she's --

10 UNIDENTIFIED PERSON: (Indiscernible).

11 MADAM CHAIR: Yes. Okay. Well as long, you can
12 hear us, okay. Okay.

13 MR. L. GREEN: This is Lawrence Green, do you hear
14 me?

15 MADAM CHAIR: Yes. Okay.

16 MR. L. GREEN: All right.

17 MADAM CHAIR: You're back. Lawrence Green.

18 UNIDENTIFIED PERSON: (Indiscernible).

19 MADAM CHAIR: We don't have Harding at all. Okay.
20 Okay. So we got everybody that we needed, right? Was that
21 everybody? Okay. So Mr. Nelson was still putting on his
22 opposition case. We had finished with Ruth Grover. I think
23 we were getting ready to go to Lawrence Green, is that not
24 correct, Mr. Nelson?

25 MR. NELSON: That is correct, Madam Chair. So

1 that is our next witness, thank you.

2 MADAM CHAIR: Okay. And before you do that, I
3 should have said after all this, the Planning Board is back
4 in session, we are resuming with Item 5, which is Specific
5 Design Plan 0007-03 for Amazon.com Services. Okay. So all
6 right, Mr. Nelson, do you want to just put him on?

7 MR. NELSON: Yes, please.

8 UNIDENTIFIED PERSON: Yes.

9 MR. NELSON: Mr. Green, this is your opportunity
10 to address the Planning Board.

11 MR. L. GREEN: Okay. Hello. Thank you, Madam
12 Chair, for allowing me to speak. Again my name is Lawrence
13 Green and I'm a registered professional engineer in the
14 State of Maryland and a nationally recognized professional
15 traffic operations engineer.

16 As you know the site is currently occupied by a
17 290,000 square foot warehouse facility and has approximately
18 367 parking spaces. Based upon a description in the
19 Institute of Transportation Engineers' Trip Generation
20 Manual, warehouse (indiscernible) are primarily devoted to
21 the storage of materials up to one month on site. The site
22 is proposed to be redeveloped to an Amazon Last Mile
23 Warehouse and Distribution Facility that will require
24 provisions for increased in and out traffic activity and
25 parking demand. Although the square footage of the proposed

1 building will not change, the site will require
2 significantly more parking with just under 900 parking
3 spaces which is 145 percent increase in parking.

4 Based upon an inspection of the ITE Trip
5 Generation Manual, the tenth edition, the proposed Amazon
6 Last Mile Warehouse and Distribution Facility is most
7 closely matching the description from ITE Land Use Code 155
8 which is a high-cube fulfillment center warehouse. Again,
9 according to ITE a high-cube fulfillment center warehouse
10 provides a significant (indiscernible) function in the
11 direct distribution of e-commerce product end users.
12 Therefore, this does appear to be the most, or the best trip
13 generation data available from a national source. Now, the
14 applicant has made an argument that although the site was
15 constructed with 290,000 square feet of warehouse
16 development, the site could have been built with as much as
17 488,000 square feet under the existing zoning. The
18 applicant prepared an analysis that determined if this
19 larger building was constructed, that the site would have
20 generated 84 a.m. and 86 p.m. peak hour trips and again that
21 was using the ITE Land Use Code 150 for warehouse
22 developments so I'm sure the applicant discussed with Amazon
23 about their anticipated operations. The applicant's traffic
24 consultant estimated that the site would generate only two
25 a.m. and 85 p.m. peak hour trips, which was below the level

1 of traffic that could have been generated by the site if a
2 larger 488,000 square foot warehouse was built.

3 Now this finding was made even though the site
4 would increase parking from 367 spaces to nearly 900 parking
5 spaces. And the Park and Planning staff agreed with the
6 applicant's finding in their June 19, 2020 memorandum. Now,
7 as I indicated earlier I believe the ITE Trip Generation
8 Manual trip rate for a high-cube performance center
9 warehouse is the most appropriate trip generation rate to
10 use.

11 Well, just five days prior on June 14, 2020, the
12 Park and Planning staff agreed with me and recommended that
13 the ITE Land Use Code 155, the high-cube performance center
14 trip generation rates be used in the Preliminary Plan of
15 Subdivision case 4-19048 for Washington Gateway Amazon
16 development specifically the Park and Planning staff
17 recommended that the p.m. peak hour trip generation rates
18 for Land Use 155 be utilized and they also recommended that
19 Park and Planning heavy industrial trip rates be used during
20 the a.m. peak hour since these trip rates were slightly
21 higher than the ITE high-cube performance center warehouse
22 rates during the a.m. peak hour.

23 So if we use the same conclusion that the Park and
24 Planning staff reached for the Washington Gateway site, and
25 they used those in the Collington Amazon case, the

1 Collington Amazon will generate 209 a.m. peak hour trips
2 which is a 245 percent increase over the matter
3 (indiscernible) trips for a 488,000 square foot warehouse
4 and it would generate 298 p.m. peak hour trips which is a
5 363 percent increase over the matter of (indiscernible)
6 trips.

7 Therefore, I have concluded that the proposed
8 Amazon site will not only exceed the current 290,000
9 warehouse trip generation but also far exceed the 488,000
10 square foot warehouse that could have been built. So thus,
11 in summary, the applicant's trip cap estimate of 84 a.m. and
12 86 p.m. which totals 170 peak hour trips will be exceeded by
13 the estimated 290 a.m. and 398 p.m. or 688 total trips using
14 the recommended Park and Planning trip generation rates in
15 the Washington Gateway application.

16 Finally, while I understand that the applicant's
17 goal is to reduce traffic activity during the a.m. and p.m.
18 peak periods, there is no mechanism in preventing a
19 significant percentage of merely the 2,400 trips that would
20 be generated by Amazon from the current a.m. and p.m. peak
21 periods. Therefore, in concurrence with the Park and
22 Planning recommendation in the Washington Gateway
23 application, I agree that a more conservative view of a
24 traffic impacts from an Amazon facility should be taken.
25 Thank you.

1 MADAM CHAIR: Thank you so much, Mr. Green, we
2 appreciate it. Let's see if the Board has any questions.
3 Probably not, we're probably going to wait until all the
4 transportation people kick in, but okay, Madam Vice Chair,
5 any questions?

6 MADAM VICE CHAIR: No questions at this time,
7 thank you.

8 MADAM CHAIR: Commissioner Washington, any
9 questions?

10 COMMISSIONER WASHINGTON: Not at this time, Madam
11 Chair. I'd rather hear from all the transportation team.

12 MADAM CHAIR: Thank you. Commissioner Geraldo?

13 COMMISSIONER GERALDO: I have no questions at this
14 time, Madam Chair, thank you.

15 MADAM CHAIR: Okay. Thank you. Okay. Mr.
16 Nelson, do --

17 MR. NELSON: Yes?

18 MADAM CHAIR: -- you want Mr. Crawford next?

19 MR. NELSON: Madam Chair, I just wanted to confirm
20 that his report and CV are in the record. They're Exhibits
21 16 and 17, I just want to make sure --

22 MADAM CHAIR: Yeah, we have them.

23 MR. NELSON: -- that they're in the administrative
24 record.

25 MADAM CHAIR: We do have them. Absolutely, I can

1 actually show you but we have them. They come right after
2 16A --

3 MR. NELSON: Okay. That's acceptable.

4 MADAM CHAIR: -- this is the resume, this is the
5 report. Thank you.

6 COMMISSIONER GERALDO: Madam Chair, I think the
7 Board received them all yesterday.

8 MADAM CHAIR: Yes. Okay. Thank you.

9 MR. NELSON: All right. That concludes Mr.
10 Green's comments. Our next citizen witness is Ray Crawford.

11 MADAM CHAIR: Okay. Thank you. Let me make sure
12 we get to them and then everybody else please mute. Okay. I
13 think it's Ray Crawford. Okay. Ray Crawford, you are
14 unmuted from our end. Okay.

15 MR. CRAWFORD: Okay. Good afternoon.

16 MADAM CHAIR: Good afternoon.

17 MR. CRAWFORD: I'm Ray Crawford, I'm here with my
18 wife Kathy Crawford and we reside at 1340 Crain Highway,
19 directly across the street from this proposed site.

20 MADAM CHAIR: Okay.

21 MR. CRAWFORD: Well, we've been here for
22 approximately 25 years. The family, that parcel of land
23 belonged to my family back and they purchased it back in the
24 1600's, excuse me, back in the 1900's or I should say the
25 early 1900's. And it was actually condemned by the county

1 to make the, to make an airport at that particular time and
2 now we're dealing with all of these warehouses.

3 Well, since then we've been here like I said for
4 about 25 years. This particular site, this particular site
5 has, has our concern because of all of the traffic and the
6 noise, the air pollution, the noise pollution that will come
7 across to be over there at that site. Even when we had
8 that, the other site we would always hear those trucks with
9 the backing up and all hours of the night. And our concern
10 is we will still all of those trucks coming at any and all
11 hours of the night.

12 Okay. The facility, say the facility is not going
13 to run between certain hours. But sometimes coming through
14 the traffic just trying to get in and out of our driveway,
15 like I said which is directly across the street, to get out
16 of our driveway sometimes takes us about 10 minutes to get
17 out. The 301 traffic, they've made no provisions for
18 anything that was actually over there on that Collington
19 side since we've been here.

20 Even coming out of there, when you say you're
21 coming out of Queen's, Queen's Court, FedEx they just drive
22 straight across the median strip to go to the north. So if
23 they having more, you're going to have more accidents that
24 happen up there just coming out of, coming out of that
25 roadway and like I said, again that is right in front of my

1 house. Let me get my, let me get where I am.

2 MADAM CHAIR: We saw the house it was depicted in
3 Opponent's Exhibits 1 and 2. So it was --

4 MR. CRAWFORD: Correct.

5 MADAM CHAIR: -- 1340 Crain Highway, correct?

6 MR. CRAWFORD: That's correct.

7 MADAM CHAIR: Okay.

8 MR. CRAWFORD: You know at one point they had the
9 roadway that it was actually, we could, you know, come
10 across 301 and actually drive to our house and they closed
11 that up. So it's made it, we now have to drive a quarter of
12 a mile up the road to come back down, you know, so all of
13 this, you still have more pollution, plus having to drive
14 when anyone who comes to see us they drive as much as 301
15 the congestion that's on that with this project, and we just
16 believe that there's going to be more, more traffic, more
17 pollution, yeah, the trash and the services that we actually
18 get already and we have to go out there and clean up trash
19 off of 301 on a regular basis, because the county's not
20 doing it. So they ain't even cutting the grass out there,
21 we have, we have to do all of these things to keep this
22 thing so it was like someone said earlier with that, with
23 the, with the project that they're doing down off of seven,
24 301 and 724, the Peerless Project I think that one's called.

25 So you have to, we look at all of that and stop to

1 say what the property value is going to be when you, when
2 you're talking about having all of these, this commercial
3 warehouses, how, how we, you, when you actually spoke about,
4 Madam Chair, when you actually spoke about the beginning was
5 talking about Mr. Lewis and the, and the struggles in which
6 he fought for to, to actually acquire what he fought for the
7 equality and the land use and all of that stuff. When you
8 said that, that touched my heart because that's what my
9 forefathers did when they purchased all of this land. So
10 when it was condemned by the county and then they put these
11 warehouses over there, what a slap in the face for my uncles
12 and my dad and all of them, they're now deceased and they
13 just have the grandkids and, and some of the kids that's
14 still alive. But what a slap in the face that now we have
15 million dollar warehouses across the street, you know, and
16 what, I don't know, you know, I was kind of young so I don't
17 know the monies that they got for the property, but it just
18 doesn't seem fair that that we're now going to let a multi-
19 billion dollar company come in and just do whatever they
20 want to do for the sake of the county actually making money.

21 And you know, the, let me get to my last, my last
22 point, the, the parking you know as I said earlier, we're
23 still going to deal with so many different cars that's going
24 to come back and forth over here. I haven't had any theft
25 problems that's down in here, but you know what's going

1 happen when you have people who are actually coming when you
2 talking about what 200 to 300 people that's actually going
3 to come and I think most of the people that's down in this
4 area, you know, they, they spend the money, they spend the
5 money, they pay the taxes to live away from the city, you
6 know, far enough away from the city to live in this rural
7 type of community and then we're going to clutter this
8 community with all of these commercial properties. And I
9 think that's just something that you know we are so, so
10 opposed to have and I thank you for your time.

11 MADAM CHAIR: So Mr. Crawford, first of all, thank
12 you for your testimony today. We all appreciate it as we
13 appreciate hearing from every citizen. I'm sure we may have
14 some, a couple of questions, but some of what you said I
15 wanted to address, one of which is you mentioned that you
16 have to pick up the trash and even cut the grass and that
17 should not be. So there's a way to address that with the
18 county departments and we can call and we can facilitate, we
19 can try to reach out on your behalf as well, because that
20 shouldn't be. You shouldn't have to cut county grass,
21 number one, and we can see what we can do about the trash
22 and whatnot there on site as well.

23 Number two, I wanted to ask you, had you had the
24 opportunity to, things are a little bit different in this
25 COVID environment so I don't know to the extent and I know

1 you're represented by counsel, so I don't if Amazon, if
2 you've had some sort of virtual meeting with Amazon so that
3 you can get some information.

4 MR. CRAWFORD: Not at all.

5 MADAM CHAIR: Okay. So I would tell you that
6 that's very important and I hope Ms. Dlhopsky that you're
7 listening to that, because that should happen that they
8 should be able to answer, you know, to hear a presentation.
9 Now you know there signs posted, I'm sure there are other,
10 there was other notice, but you should have some opportunity
11 for a meaningful exchange that was outside of this hearing
12 so that you could get some questions answered, and so that
13 they could hear your concerns as well, and I am hoping that
14 they have heard your concerns no matter what happens here
15 today, win, lose or draw.

16 So I just want to make sure that, Ms. Mazo, I hope
17 you're hearing and Ms. Dlhopsky, I hope you're listening
18 too. Because you have a family here who does live in very
19 close proximity. It is an E-I-A Zone and so some of the
20 uses there are going to be warehouse type uses. And then
21 the other question but we do want to be compatible at least
22 with the people who live there, who were preexisting and the
23 other thing is when you said your family owned this land,
24 how much land, they owned land that was condemned and then
25 the house where you live now as well, but only a portion of

1 it was condemned, is that what you're saying?

2 MR. CRAWFORD: (No audible response.)

3 MADAM CHAIR: Okay.

4 MR. CRAWFORD: That's correct.

5 MADAM CHAIR: Okay.

6 MR. CRAWFORD: That's correct.

7 MADAM CHAIR: Okay. So I just wanted to make sure
8 that there's some opportunities for conversations because
9 that, your family history is rich in the sense that you know
10 not everybody actually has their family history and not
11 everyone in the African American community (A) had land like
12 that and (B) had the opportunity to even learn their family
13 history and there it is, yours is a physical history. So
14 I'm hoping that Amazon is listening to you and reaches out
15 to do what they can, depending on what happens here with
16 this case, if it doesn't get approved that's one thing. If
17 it does get approved then there's some, hopefully there's
18 something they can do to protect you from the noise and what
19 have you, there's something that they can do.

20 Okay. So we'll get back to that and so let me see
21 if other people have questions of you at this time.

22 MR. CRAWFORD: Sure.

23 MADAM CHAIR: Madam Vice Chair?

24 MADAM VICE CHAIR: No questions, thank you.

25 MADAM CHAIR: Commissioner Washington?

1 COMMISSIONER WASHINGTON: No questions, thank you.

2 MADAM CHAIR: Commissioner Geraldo?

3 COMMISSIONER GERALDO: I have no questions, Madam
4 Chair.

5 MADAM CHAIR: Okay. So we will hear back from the
6 applicant on this. Okay. All right. Mr. Nelson?

7 MR. NELSON: Yes, so our next witness is Charles
8 Reilly.

9 MADAM CHAIR: Okay.

10 MR. REILLY: Good afternoon members of the
11 Planning Board, can you hear me?

12 MADAM CHAIR: We can. Thank you.

13 MR. REILLY: Yes, thank you very much.

14 MADAM CHAIR: Good afternoon.

15 MR. REILLY: I, I reside at 16770 Clagett Landing
16 right around the corner from Ray and Kathy Crawford.

17 MADAM CHAIR: Okay.

18 MR. REILLY: I'm on eight acres, household of five
19 and been here 22 years, 30 years in gorgeous Prince George's
20 County, and I'm located just north of the proposed
21 development on the east side of 301, as are the Crawford's.

22 And I wanted to just say that I support the points
23 of the opposition noted by Mr. Macy's team and by the
24 Crawford's, inappropriate definitions as a traditional
25 warehouse and Land Use Codes, missing storm water data, lack

1 of a transportation study. So I'm not going to repeat those
2 points, I just hope to be a value added in your
3 deliberations, specifically on transportation. I have been
4 deeply involved with local development proposals for, for
5 decades and so I'd like to give you a little, a local
6 perspective, if I may.

7 So my concern here centers today on
8 transportation. I wanted to bring to your attention Exhibit
9 19 --

10 MADAM CHAIR: Got it.

11 MR. REILLY: -- which is a resolution by the
12 Planning Board --

13 MADAM CHAIR: Yes.

14 MR. REILLY: -- in 2004.

15 MADAM CHAIR: Yes.

16 MR. REILLY: Now I will just make a couple of
17 points from that resolution because there's a lot of, a lot
18 of old paper there, but this case had an adjoining property
19 that happened at the same time and started in 2003 and
20 actually didn't finish until 2015. And I think it's
21 relevant to your deliberations. You know over two decades
22 we've seen the steady increasing of traffic along 301 at
23 Trade Zone and the Planning Board recognized this fact and
24 imposed conditions on two small housing developments, quote,
25 improve U.S. 301 prior to construction, unquote, and on the

1 resolution in your hands, Exhibit 19, you will see on page
2 13 that a sentence that says staff's analysis as identified
3 that two additional northbound and southbound through lanes
4 along U.S. 301 would serve to provide LOSC.

5 MADAM CHAIR: Okay.

6 MR. REILLY: And the Planning Board, you're, you
7 and your, you and your former colleagues ruled on My 6,
8 2004, as noted there approved the Preliminary Plans for
9 Kaday Amir (phonetic sp.) and Marshall's Landing quote
10 subject to the additional 13.7 million dollars of highway
11 improvements prior to the issuance of building permits. It
12 was appealed, it was reconsidered, but you, the Planning
13 Board, upheld your original decision. This, these two
14 properties are located directly opposite the Amazon proposal
15 site and, and, and was upheld as recently as 2015 after a
16 rejected reconsideration request by the property owners.

17 I'll close by saying that I would like you to be
18 aware of the context of why we feel there needs to be
19 consideration of the context here in the area related to
20 traffic, a proper study. The Liberty Sports Complex, which
21 I believe you have all or partly approved, will bring
22 344,000 visitors per annum to this area, one-eighth of a
23 mile north of the Trade Zone light. This is, this is a, a
24 school buses dorm in the school days and tournaments for the
25 Mid-Atlantic Region, and lacrosse and field hockey and so on

1 during the weekends, it's county property located just north
2 of Trade Zone. Carrington Southlake is a 300-acre
3 commercial residential development with three hotels located
4 just north of the single traffic light for Trade Zone.

5 And I'll close by saying that we have a, a, an
6 indication of what we will face in the future if, if Amazon
7 is allowed to come in without ameliorations or commendations
8 related to transportation and that is the FedEx facility is
9 now in Trade Zone, they're struggling to use the one traffic
10 light onto 301 for the 900 acre property that is Trade Zone
11 and they are using the median strips day and night for U-
12 turns because they, they are trying to avoid that light.
13 Residents on the east side are facing long delays getting
14 into, into their driveways like the Crawford's said or into
15 roads like Clagett, Swanson, Queen Anne.

16 So, I would just simply ask why shouldn't the
17 Planning Board require a full study of transportation. You
18 know, why rely on Amazon's trip generation numbers? And why
19 shouldn't Amazon contribute similarly to other developments
20 that, that, requested to be built along U.S. 301?

21 Thank you for your consideration of this local
22 insight and I hope for your wisdom in this regard.

23 MADAM CHAIR: Thank you, Mr. Reilly. Let's see if
24 the Board has any questions of you. Madam Vice Chair?

25 MADAM VICE CHAIR: No questions. Thank you.

1 MADAM CHAIR: Okay. Commissioner Washington?

2 COMMISSIONER WASHINGTON: No questions, thank you,
3 Madam Chair.

4 MADAM CHAIR: Commissioner Geraldo?

5 COMMISSIONER GERALDO: I have no questions, Madam
6 Chair.

7 MADAM CHAIR: Okay. Okay. So, Mr. Nelson, that
8 was it for your list?

9 MR. NELSON: Yes, that completes my list. There
10 may be some other citizens that weren't on my list that
11 might be on the line, I don't know, I can't tell from this
12 screen.

13 MADAM CHAIR: Well, that was all that signed up.
14 So other than Mr. Harding and I keep calling --

15 MR. NELSON: And we --

16 MADAM CHAIR: -- keep calling his name. Okay.

17 MR. NELSON: All right. Then I think that
18 completes it.

19 MADAM CHAIR: Okay. Charles Harding?

20 MR. HARDING: (No audible response.)

21 MADAM CHAIR: Okay. So all rights, so let me
22 first turn to Ms. Dlhopsky to probably bring her
23 transportation person back on, Mr. Kabatt. And then I would
24 like Mr. Burton to address and then I'm going to turn to Mr.
25 Warner as well, our legal counsel.

1 MS. DLHOPOLSKY: Madam Chair, would you like me to
2 just introduce Mr. Kabatt to speak to transportation or did
3 you want me to briefly address some of the other points that
4 were made, for example, by Mr. Crawford --

5 MADAM CHAIR: Well that's fine. I mean you're
6 next up, so that's fine.

7 MS. DLHOPOLSKY: Okay. Yes, I did --

8 MADAM CHAIR: But I do want and when you finish --

9 MS. DLHOPOLSKY: -- just want to thank Mr.
10 Crawford and his wife for their comments and it's definitely
11 a long history out there and so we certainly understand what
12 you expressed when you spoke a little while ago.

13 You know, I would not obviously we did follow all
14 of the noticing requirements with regard to sending
15 informational mailings. The acceptance notice, both of
16 those go to the mailing list as provided by MNCPPC. I don't
17 know --

18 MADAM CHAIR: Can you tell me whether their names
19 are --

20 MS. DLHOPOLSKY: -- if you are --

21 MADAM CHAIR: -- can you tell me whether their
22 names were on the mailing list?

23 MS. DLHOPOLSKY: So there, I checked, their
24 individuals names are not because they are not technically
25 like adjoining or confronting to our property boundaries.

1 MADAM CHAIR: Okay.

2 MS. DLHOPOLSKY: But I did confirm, I'm assuming
3 that perhaps both of the speakers were members, are located
4 within the Clagett Landing Association.

5 MADAM CHAIR: Right.

6 MS. DLHOPOLSKY: I'm not sure if that's correct,
7 but the Clagett Landing Association was on our mailing list.

8 MADAM CHAIR: So when a notice goes out to an
9 association like that, first of all we always ask that
10 associations keep their list updated with us, because
11 sometimes as the officers rotate and the outgoing person who
12 received notice typically it's either the corresponding
13 secretary or the president or somebody, sometimes when
14 they're no longer in that position the information doesn't
15 get passed onto the next person, sometimes, so we always
16 want to make sure that the information is updated. And then
17 once those notices go out plus the property is posted,
18 everyone has the opportunity to reach out and ask questions.
19 You always have the opportunity to reach out and talk with
20 our staff, just as Mr. Nelson did. And you also have the,
21 this is just for anything in all future matters that may
22 arise. You always have the opportunity to call anyone on
23 our staff, because that's important, that's your right and
24 you also have the opportunity to reach out to the applicant
25 for a briefing as well, the homeowner's association,

1 apparently they did not.

2 But I still, notwithstanding that, you now have
3 some citizens who are very concerned and win, lose or draw
4 here, you need to engage them.

5 MS. DLHOPOLSKY: Understood.

6 MADAM CHAIR: And I'm particularly concerned
7 because the Crawford's property is across, you know, across
8 301 and both properties are, Mr. Reilly's property is too as
9 he indicated, but it's further north. And I would expect
10 that if this passes, I would expect Amazon to be a very good
11 neighbor. They've already talked about the trash and
12 whatnot that's going on around there. We would not want the
13 trash, we would not want the noise, we would not want all
14 that backup beep, beep, beeping and given their proximity, I
15 think Amazon ought to consider how they're going to be good
16 neighbors with these residents there.

17 MS. DLHOPOLSKY: Absolutely, Madam Chair and what
18 we will do as you indicated, win, lose or draw today, I know
19 that all these folks did have to register on line with e-
20 mail addresses to speak. So we will reach out to Thomas
21 Burke to get the contact information for our speakers and I
22 assure you we will definitely coordinate going forward to
23 reach out to them and hear their concerns.

24 MADAM CHAIR: And obviously they're represented by
25 Mr. Nelson, so he would be a part of that as well. Okay.

1 Okay.

2 MS. DLHOPOLSKY: Of course, right.

3 MADAM CHAIR: Thank you. Okay.

4 MS. DLHOPOLSKY: Yes, of course.

5 MADAM CHAIR: So you can go ahead in the order in
6 which you'd like to proceed.

7 MS. DLHOPOLSKY: Yes, so that was I just wanted to
8 touch on that very briefly and I think it makes sense to
9 turn Chris Kabatt to address some of the transportation
10 points that were made. You know, overall I think there's a
11 bit of a fundamental flaw in Mr. Nelson, his team's analysis
12 of the Wells' memorandum. They are stating that we used the
13 Land Use Code 150 to determine our site's trip generation,
14 but that is not accurate. The Land Use Code 150 was used to
15 determine the implied trip cap.

16 So to the extent that the argument is that those
17 numbers generate numbers that are too low, we were actually
18 being very conservative there. To determine our actual
19 trips that memorandum used our actual operations and so that
20 is why it very specifically delineates the number of trucks
21 in certain hours, the number of trucks out in certain hours,
22 the number of employees in, the number of employees out.
23 All of the phasing. So there's kind of a fundamental in how
24 they're interpreting our memo and I think Chris Kabatt can
25 much better elaborate on that. But I just wanted to tee

1 that up for him and I will turn to Chris now.

2 MADAM CHAIR: Thank you. Mr. Kabatt?

3 MR. KABATT: Hi, good afternoon. As Heather was
4 saying, Ms. Dlhopolsky was saying there that the Land Use
5 Code 150 for warehouse that was used of the allowed use up
6 to approximately 480,000 square feet of warehouse. That was
7 used to calculate the trip cap number for that size
8 warehouse. We compared that to the number of trips that
9 would actually be generated by the Amazon delivery station.

10 I do want to point out that Land Use Code 155 that
11 they keep referring to and was used, you know, in their
12 study and other studies, that is a land use in ITE but right
13 there in the ITE Manual it says to use caution and that is
14 because that trip rate was only based on two studies, two
15 data points. And both of those data points, both of those
16 buildings were very large compared to our use. One was
17 approximately 800,000 square feet and the other one was
18 approximately 1.5 million square feet and that just a flag
19 for the traffic engineer as the Institute says, to use
20 caution and to use more other available data and that's what
21 we did.

22 We used specific data for this Specific Design
23 Plan Amendment. We have a specific use here and we
24 essentially know what the driveway counts are going to be
25 because of their operation. And again, as I stated earlier

1 during the a.m. and p.m. peak hours we stay within that trip
2 cap based on those conservative estimates for the warehouse
3 use for the 480,000 square feet.

4 The other point, the comparison between the
5 Washington Gateway site, obviously I am not, I can't speak
6 to you know the determination as to why those trips rates
7 were used for that site. I just wanted to point out that
8 again that Washington Gateway site, that is a Preliminary
9 Plan application and you know perhaps they need some
10 flexibility with who the user might be or what the type of
11 operation might be for a Preliminary Plan determination, an
12 adequacy determination. And just pointing out again that
13 here we have a specific use for this Specific Design Plan
14 Amendment and we went through with both DPIE and with your
15 Planning Department staff on the appropriate trip rates to
16 use for this determination, and that's the result of our
17 study and we remain under the trip cap.

18 MADAM CHAIR: Is that it?

19 MR. KABATT: Heather, if there was anything else
20 you wanted me to point to or you think that captures the
21 comments?

22 MS. DLHOPOLSKY: I think that captures it. We can
23 answer questions you may have.

24 MADAM CHAIR: Okay. Okay. Thank you. Okay. Can
25 you go ahead and address? Okay. Now can I just say

1 something? I need for folks to not make substantive
2 comments in the chat. That is like letting us know if
3 you're having any technical difficulties. So that's okay,
4 now we know. So we'll come back to the notice thing in a
5 second. All right. Ms. Dlhopsky?

6 MS. DLHOPOLSKY: Yes, Madam Chair. Like I said I
7 think we are done sort of responding to the comments from
8 Mr. Nelson at this point as well as speakers. Perhaps it
9 may make sense to turn to Mr. Burton and your staff with
10 regard to their views on the trips.

11 MADAM CHAIR: And then Mr. Burton if you could
12 tell us, I'd like to know where the notice was sent, what
13 civic associations and which ones are registered with us.
14 Okay. Okay. Mr. Burton? --

15 MS. DLHOPOLSKY: (Sound.)

16 MADAM CHAIR: Yes?

17 MS. DLHOPOLSKY: I'm sorry, I have the list in
18 front of me.

19 MADAM CHAIR: Okay.

20 MS. DLHOPOLSKY: I could just, would you like me
21 to read through it or --

22 MADAM CHAIR: That's fine. Do you have it on a
23 screen that can be shared or no?

24 MS. DLHOPOLSKY: No, I have it on my other
25 computer as you probably know, Linowes and Blocher closed.

1 MADAM CHAIR: Yes, I do know, I was going to --

2 MS. DLHOPOLSKY: So it's on --

3 MADAM CHAIR: -- congratulate you on your
4 continued success.

5 COMMISSIONER GERALDO: Land use --

6 MS. DLHOPOLSKY: Oh thank you.

7 MADAM CHAIR: Okay.

8 MS. DLHOPOLSKY: It's been an adventurous few
9 months, I assure you.

10 MADAM CHAIR: I'm sure.

11 MS. DLHOPOLSKY: I speak fast, if you'd like I can
12 just read it, it's not that long and will just read the
13 associations. It's Greenbrier Condominium, Gabriel's Run
14 Homeowner's Association, Village at Clagett Condominium,
15 Glen Arden Civic Association, Lake Arbor Civic Association,
16 Greenbelt Advocates for it got cut off, Hills over Mulligan
17 Station HOA, Glens Ford Condo, Silver Brook HOA, Ridgeview
18 Estates Homeowners, Bowie Forest Homeowner's Association,
19 Seniors R Us Community Association of South, I think that's
20 probably Bowie, West Chester Park 2 Condos, Glendale
21 Citizen's Association, West Lake at Lake Arbor Homeowners,
22 Clagett Landing Association, North Ridge Recreation
23 Association, LLG Recreation Association, Windsor Green
24 Homeowners, Woodmore Estates HOA, York Berry Homeowners,
25 Carson Dale Civic Association, Villages at Wellington,

1 Columbia Park and Princess Gardens/Hickory Hill. And again,
2 I would just note that the lists are as provided to us by
3 Park and Planning. So we don't --

4 MADAM CHAIR: Yes, so Park and Planning --

5 MS. DLHOPOLSKY: -- produce those --

6 MADAM CHAIR: -- we just put it up, thank you.

7 Thank you. There we go.

8 MS. DLHOPOLSKY: (Sound.)

9 MADAM CHAIR: And that is the list because these
10 are the homeowner's associations that are registered with
11 us. Not everyone is registered with us, so want to make
12 sure that in the future everybody's registered. Okay.
13 Okay. Thank you. Okay. So I'm going to turn to Mr. Burton
14 to address the transportation because there's been about the
15 150 versus the 155 and some of the issues that have been
16 raised by the citizens and the issues regarding Route 301
17 and the Amazon nonpeak hour traffic and if everyone else can
18 mute their phones. Mr. Burton?

19 MR. BURKE: For the record, Glen Burton with the
20 Transportation Section. There are three separate trip
21 generation rates that are essential to this debate. I
22 honestly don't know how the 160 IT rate entered the
23 conversation. I can speak to the 155 rate because that was
24 used in the Gateway case last week and I was very involved
25 in the use of that trip generation rate in that traffic

1 study.

2 So there's a 150 rate, there's a 155 rate from ITE
3 and then there's a rate that was customized, if you will,
4 for the Amazon operation. I can't speak to their operation,
5 this is what they submit based on their business practice.
6 So I cannot speak to the veracity of their trip generation
7 rate.

8 During the break I thought maybe the way we could
9 resolve this issue once and for all is to do a side by side
10 by side comparison between the case last week and the case
11 before us today. There are two perspective on the issue of
12 trip generation. One has to do with the 290,000 square feet
13 which is the size of the development that's before us and
14 then there's another number which represent 488,000 square
15 feet. That number was derived by applying an FAR, floor
16 area ratio, to the property in question based on its 28-acre
17 acreage. And that's how that 488,000 square foot was
18 derived.

19 When I apply the ITE 155 Code, when I apply that
20 trip generation rate to both square footage, the 290 which
21 is the subject of the case before us, and the 488 which is
22 implied from previous analysis in years back, the site
23 before us using the 155 rate would generate 398 trips in the
24 evening peak hour which coincided with Mr. Green's analysis,
25 the previous speaker. However, when we apply that same rate

1 to the 488 option which is the implied trip cap, that number
2 jumps up to 669 trips. So again if you compare apples with
3 apples, the 290 square foot option versus the 488 square
4 foot option, using the same ITE 155 rate --

5 MADAM CHAIR: And when you say ITE, I just want to
6 make sure, you're talking about the Institute of
7 Transportation Engineers?

8 MR. BURKE: Absolutely.

9 MADAM CHAIR: Okay.

10 MR. BURKE: That is correct. I apologize for --

11 MADAM CHAIR: That's okay.

12 MR. BURKE: -- assuming (indiscernible), yes that
13 is what I'm saying.

14 MADAM CHAIR: I just want to make sure everyone
15 knows. Okay.

16 MR. BURKE: And so it just seems like because of
17 this back and forth between what was used last week versus
18 what's used this week, I thought it made sense to apply last
19 week's case with this week's case and so if we ignore
20 Amazon's unique operational analysis and simply compare 290
21 square foot --

22 MADAM CHAIR: Square 90.

23 MR. BURKE: -- of warehousing --

24 MADAM CHAIR: Versus 488?

25 MR. BURKE: -- versus 488,000 square feet of

1 warehousing, using the same trip generation rate, obviously
2 the bigger GFA, gross floor area would generate a higher
3 number. So say if you look at from that perspective, the
4 implied development cap, if you want to use that term, would
5 yield a higher trip generation simply because there's more
6 area than the 290 square foot which is what's before us
7 today.

8 And so my conclusion therefore is that while I may
9 have reached that conclusion using a different path, but I
10 feel comfortable that based on this analysis the 488,000
11 square foot implied development cap would still generate a
12 higher number than the 290 square foot which is before you
13 today. So that's my take on the comparisons between 150
14 versus 155.

15 As far as the other issues regarding traffic, and
16 I think someone eluded to this earlier, this is not a
17 Preliminary Plan of Subdivision.

18 MADAM CHAIR: Right.

19 MR. BURKE: There is no test for adequacy and so
20 from my perspective this is really a comparison between what
21 is versus what could have been. What could have been was
22 that someone would come in and develop this property with
23 488,000 square feet of warehouse. They could have, but they
24 didn't. They used a smaller density. So this is really
25 from a transportation standpoint nothing more than an

1 exercise comparing one GFA versus another. And that's why I
2 didn't think it was appropriate for us to reinvent the
3 wheel, if you will, by reexamining the entire Collington
4 area to see whether we're still under the original cap that
5 was envisioned 30 years ago when the CDP was done.

6 My own experience tells me that if you looked, and
7 while this was not documented in my referral, I think it's
8 safe to say that if you looked totally at what's been built
9 in the larger Collington area to date versus what could have
10 been built 30 years ago when the CDP was envisioned, I am
11 fairly confident that what's on the ground now is far less
12 dense than what could have been or what was envisioned when
13 the CDP was done 28, 30 years ago. So from whatever
14 perspective one chooses to look, I am satisfied that the
15 trip cap implied would not be exceeded with the application
16 that's before you today.

17 MADAM CHAIR: Okay. So let me make sure --

18 MR. BURKE: And --

19 MADAM CHAIR: Mr. Burton, let me make sure I'm
20 with you for a second. So basically there are a number of
21 ways you could do an analysis and anyway, from your
22 professional perspective, anyway you look at it, this
23 particular application will generate less trips, less peak
24 hour trips than what could have been under the previous CDP
25 approval. It's a matter of 290 square feet of warehousing

1 versus 488 square feet of warehousing. In addition to that,
2 what I'm hearing from the applicant also, if you put that
3 together with what the apartment's saying, even though this
4 will generate fewer trips based on their operation, which
5 typically involves nonpeak hour traffic. The two things
6 coupled together means that this is likely generate far less
7 peak hour traffic. Is that what you're saying?

8 MR. BURKE: Yes. Yes, Madam Chair, that's --

9 MADAM CHAIR: Okay.

10 MR. BURKE: -- that about sums it up.

11 MADAM CHAIR: Okay. I just wanted to make sure
12 I'm following you. Okay. Okay. Excuse me?

13 UNIDENTIFIED PERSON: (Indiscernible).

14 MADAM CHAIR: Right. Okay. Okay. Because we
15 have these transportation experts, I am not one of them.
16 Okay. Okay. Now I'd like to turn to Mr. Warner because Mr.
17 Warner a number of issues have been raised, one of which was
18 the use that this, allegedly this is not a warehouse use and
19 you know Mr. Nelson raised a number of issues and some of
20 this was came up last week. So, there was the issue of the
21 traffic analysis and conformance with the CDP and that the
22 use was not permitted, things of that nature. If you can
23 respond to the issues that Mr. Nelson raised, the Board
24 would like to hear your legal opinion.

25 MR. WARNER: Thank you, Madam Chair, David Warner,

1 Principal Counsel. I'll address the use question first. So
2 right, Mr. Nelson, his argument that it's not a warehouse
3 instead I think he referred to it as a parcel hub or
4 fulfillment center, I think he used those terms.

5 As Debra explained last week and this is --

6 MADAM CHAIR: Debra?

7 MR. WARNER: -- probably good to talk about, with
8 this --

9 MADAM CHAIR: You mean Ms. Borden? Okay.

10 MR. WARNER: Debra Borden, our --

11 MADAM CHAIR: Okay.

12 MR. WARNER: -- Deputy General Counsel, explained
13 last week with a zoning code staff is always required to
14 look at a static list of table of uses and determine if it's
15 reasonable to conclude specific, a proposed use within the
16 definition of a use that's listed on the table. And
17 obviously that's never an exact science in a world where
18 people do a wide range of activities on their property. But
19 as Debra said it was certainly, in our opinion and the
20 Board's opinion last week, that this same type of facility
21 was reasonably categorized as a warehouse use in that
22 particular zone. And that same use is permitted in this
23 zone as well.

24 And in order to make that determination, the Board
25 just needs to have a reasonable basis for making that

1 determination and you would look to your staff's
2 recommendation. You would look at anything else in the
3 record which interestingly enough includes materials
4 submitted by Mr. Nelson that in fact provides that this is a
5 warehouse use. The Land Use Code or the Land Use 155
6 section that he's recommending staff use to calculate trip
7 generation is in fact a warehouse use. It's a high-cube
8 warehouse, that's how it's defined, and in fact I looked up
9 the ITE definitions for those high-cubes and they include
10 within that definition, parcel hubs and fulfillment centers
11 as warehouses. So you have evidence in the record from Mr.
12 Nelson as well as from your staff that this is a warehouse
13 use.

14 And I thought that it would be kind of important
15 just to also explain that in situations where you have to
16 make a decision about whether something is a permitted use
17 or not, you're an administrative agency that's given wide
18 deference as to making that decision. The courts will tell
19 you that they rely on an agency's expertise, not theirs to
20 make determinations specifically about permitted uses. So
21 that's what you have to consider on the use question as to
22 whether this is a warehouse or not.

23 As far as the process for approving an SDP, I just
24 want to quickly frame how that process works. Property is
25 when it's placed into one of these CDZ zones is zoned and at

1 the same time it's zoned, a Basic Plan is adopted. A Basic
2 Plan is kind of like a pre-CDP and following that a CDP is
3 brought forward and approved and then following that a SDP
4 is brought forward and is approved if it conforms to the
5 CDP, and the CDP conforms to the Basic Plan, follows that
6 process.

7 So I lay that out because the protestant's point
8 to the 1978 CDP and they are looking at language in that CDP
9 and trying to apply that CDP. Now first of all, that CDP
10 allowed warehouse uses so I don't know that it would be
11 relevant even it was still applicable. But what happened
12 subsequent to that 1978 CDP is that in the late 80's several
13 different amendments were adopted by the County Council or
14 the District Council to adopt new Basic Plans to approve on
15 your behalf new CDP's and at the same time the Preliminary
16 Plan that he referred to in 1989 was adopted. So in other
17 words, the original 1978 CDP has been replaced by subsequent
18 CDP's.

19 So if you'll look at your Staff Report when either
20 Mr. Burton refers to what was evaluated in the CDP 25 or 30
21 years ago, what staff used to make their determination as to
22 whether this CDP conforms, or this SDP application conforms
23 to a CDP. That all goes back to the late 80's, those are
24 the applicable documents.

25 So I just wanted to kind of walk through that

1 steps and explain why even if the 1978 CDP was relevant to
2 this issue, which it isn't because it allows warehouses, if
3 you make a finding that warehouse uses are appropriate that
4 we are looking at CDP's from the 1980's that are applicable
5 to this property.

6 MADAM CHAIR: I need to stop you and ask a
7 question for a second, Mr. Warner, because you mentioned the
8 CDZ and for those there are a number of people listening,
9 the CDZ is a three step, it's a Comprehensive Design Zone
10 which is different from the traditional Euclidian Zones. So
11 those three steps that you mentioned were specific to the
12 Comprehensive Design Zone, a CDZ.

13 MR. WARNER: Exactly.

14 MADAM CHAIR: Okay. I just want to make sure
15 that's clear for the record. And also thank you, so go
16 ahead. I just wanted to make sure that was clear.

17 MR. WARNER: Yes.

18 MADAM CHAIR: Okay.

19 MR. WARNER: Exactly. So that's kind of how the
20 zoning process works and the staff has relied on all of the
21 appropriate CDP's, appropriate Basic Plans from the late
22 1980's to evaluate this project.

23 The issue on the transportation impacts, I would
24 only add one thing with regard to that. There is usually
25 always some form of disagreement in all sorts of development

1 applications as to what is the proper rate to use for a
2 particular project. And that's often a debate between the
3 applicant and our staff, in this case it's also a debate
4 between those that are contesting whether it was done
5 appropriately on Mr. Nelson's behalf, or Mr. Nelson on
6 behalf of them. And the only thing I would mention with
7 regard to that is at the end of the day whatever rate you
8 choose it's still complies with the applicable standard, in
9 this case what was evaluated in the CDP that's appropriate
10 for this project, then you're fine.

11 So I would say that the Board needs to just
12 determine if the traffic analysis that was done complies
13 with the CDP as Mr. Burton has found that it does and our
14 transportation staff has found that it does.

15 The last issue I just want to address real quickly
16 because Mr. Nelson brought it up at the beginning of his
17 presentation. I think it's important to note he mentioned
18 the PIA request that he filed and how it was incomplete,
19 didn't allow him to do the kind of analysis he wanted to do
20 and since I administered that PIA process with him, I wanted
21 to make sure for the record that (1) we complied completely
22 with the PIA request over and above even what we're required
23 to do under the statute. Their original request on June
24 24th was to provide, asked us to provide all the information
25 that we had regarding any development review application

1 since Collington Center was created in 1978. So he asked
2 for 40 years of all information and he put in Exhibit 14 my
3 response which is the response that an agency provides when
4 you get a request like that. You would ask for
5 clarification because obviously that could be 100,000
6 documents since 1978.

7 And so you'll see in our back and forth that I
8 asked him okay what exactly are you asking for when you ask
9 for information and then he did what everybody that's
10 properly proceeds with a PIA process does, he clarified I
11 just want the resolutions that approved (indiscernible)
12 applications. Okay. Yet again, these 40 years of
13 resolutions. Our staff --

14 MADAM CHAIR: 42.

15 MR. WARNER: Yes, exactly.

16 MADAM CHAIR: Okay.

17 MR. WARNER: Our staff which ended up using about
18 eight different staff people's time was able to generate
19 more than 60 resolutions for him and provide him those
20 resolutions. I never received a message from him even
21 though I said please let me know if there's anything in this
22 response that you have a problem with, he never let me know
23 that anything was incomplete and I just think that staff's
24 efforts on his behalf to set aside their work because he
25 said it was timely and he needed it immediately and that we

1 provided it within eight business days is remarkable. And
2 while a lot of agencies in Maryland are using COVID as an
3 excuse not to comply with PIA and I'm not saying that DPIE
4 is doing that or anybody in particular, but you read about
5 it, our agency and I know this because I handle them, has
6 been unbelievably responsive to every PIA request we get.
7 So when it's implied that we were incomplete or didn't
8 provide everything, I just find that we really need to make
9 a point on the record that that is not the case.

10 MADAM CHAIR: Thank you, and so that would explain
11 then as Mr. Nelson indicated, the \$500-some odd dollars of
12 for the staff work of eight people to get this information
13 together in a timely fashion. Because its' public dollars,
14 so we understand that. I thank you for sharing that
15 information, it's not determinative for this case but it's
16 illustrative to know what our staff, I won't say hoops but
17 the extent to which they really tried, they made a yeoman's
18 effort to comply with that request. So I thank you for
19 sharing that because may be not everyone knew that. Okay.

20 So now we have Planning Board Rules of Procedure,
21 so I want to, let me see if our Board has any questions of
22 you, Mr. Warner, and then I'm going to go back to Mr. Macy
23 Nelson gets the opportunity to speak and then Ms. Dlhopsky
24 can close us out. Okay. Madam Vice Chair, do you have any
25 questions of Mr. Warner?

1 MADAM VICE CHAIR: Well, no questions but I'm
2 assuming from the comments that PIA is Public Information?

3 MADAM CHAIR: Yes.

4 MADAM VICE CHAIR: Okay. Thank you.

5 UNIDENTIFIED PERSON: Right.

6 MADAM CHAIR: Thank you.

7 MADAM VICE CHAIR: Questions.

8 MADAM CHAIR: Okay. So, Commissioner Washington?

9 COMMISSIONER WASHINGTON: No questions, but I
10 would like to thank Counsel Warner for including on the
11 record you know our staff going above and beyond in being
12 responsive to that request. So thank you for that.

13 MADAM CHAIR: Thank you. Commissioner Geraldo?

14 COMMISSIONER GERALDO: (No audible response.)

15 MADAM CHAIR: Okay. Is he muted?

16 COMMISSIONER WASHINGTON: You're muted. Yes.
17 You're muted Commissioner Geraldo.

18 MADAM CHAIR: He's talking away. Commissioner
19 Geraldo?

20 COMMISSIONER GERALDO: Yes.

21 COMMISSIONER WASHINGTON: Unmute yourself.

22 COMMISSIONER GERALDO: (Sound.)

23 MADAM CHAIR: Okay. There we go.

24 COMMISSIONER GERALDO: I just want to thank
25 everybody thus far for their presentation and for the

1 professionalism and especially for the residents who came
2 up. But I have no question at this time.

3 MADAM CHAIR: Thank you. I'm going to turn to Mr.
4 Nelson.

5 MR. NELSON: Thank --

6 MADAM CHAIR: Hold on a second, let me make sure
7 we have you. Okay. There you are.

8 MR. NELSON: Thank you for giving me the
9 opportunity to speak. Regarding the PIA issue, I think
10 Principal Counsel misunderstood my argument. Never for a
11 second did I say staff didn't react to the request, they
12 did. My point was that the county does not possess in their
13 files the documents that we need to study to analyze the
14 question of traffic. That's a different proposition from
15 saying that staff did or did not produce documents. The
16 staff produced the documents that exist. Our point is that
17 the relevant documents that we need some of them were lost.

18 MADAM CHAIR: So when, let me ask you this --

19 MR. NELSON: So it's --

20 MADAM CHAIR: -- question. So when Mr. Warner
21 then reached out to you and said let me know if you need
22 anything else, did you respond?

23 MR. NELSON: We got the documents in a matter of
24 days, the answer is no because we can look at the timeline
25 and figure out the date that we got the documents is a

1 (indiscernible) there was a question as to whether they had
2 to have the check in their hand before they released it. So
3 no, but this all happened in the last several days.

4 MADAM CHAIR: Okay.

5 MR. NELSON: If you want me to go to the calendar
6 and look at that --

7 MADAM CHAIR: Okay.

8 MR. NELSON: -- but that was my main point, it's
9 not they didn't produce it, but the documents don't exist.

10 MADAM CHAIR: A particular document. Okay. Okay.

11 MR. NELSON: Right, yes.

12 MADAM CHAIR: We are making legal arguments in
13 this case. We are making the argument that in this case
14 technical staff has made several fundamental decisions that
15 are contrary to what has been the practice in the county and
16 because they're different they're arbitrary and capricious.
17 And let me just review those.

18 If we go to the Staff Report at page 12, where
19 they talk about the transportation planning, they use, what
20 they have to do is they've been able to make sense of the 40
21 years of development history so they're trying to reverse
22 engineer a trip cap. And so they use, they applied
23 retroactively a floor area ratio of 0.4 to generate an
24 implied maximum warehouse building of 488,000 square feet.
25 That decision is an arbitrary and capricious decision that's

1 contrary to every sound land use practice in Prince George's
2 County and hasn't been done in other cases. So that
3 decision is flawed. As a consequence of that flawed
4 decision, the applicant is now allowed to increase the
5 footprint of its proposed warehouse from 290 to 488,000
6 square feet. So that's one example of an arbitrary and
7 capricious decision.

8 COMMISSIONER GERALDO: Madam Chair? I have a
9 question. Mr. Nelson, I'm going to interrupt you because
10 what I would like to do if there's questions after each
11 point that you make so that I'm clear. What I want to know
12 is how is that flawed? What I understood our staff to say
13 is that the transportation plan is based on 200 --

14 MADAM CHAIR: 90.

15 COMMISSIONER GERALDO: 290 square feet. Okay.
16 And now what they said is if we went up to 488 that the
17 transportation or the trip caps would be entirely higher,
18 but I'm not sure I understand because they didn't use the
19 488. So the fact that simply said well if it was 488 would
20 be this, so I'm trying to figure out where the flaw is.

21 MR. NELSON: The flaw I'm describing here is to
22 after the fact reverse engineer a project to expand the
23 footprint by use a floor area ratio. That is not the
24 practice from our consultants in this county, that there are
25 other constraints that limit the ability to, just because

1 you have the square footage of land doesn't mean you can
2 build to the maximum capacity. There are development
3 constraints that would limit the footprint. My point is the
4 decision to use a FAR of 0.4 to expand the footprint is a
5 flawed premise that's not standard practice and I would ask
6 staff to give us another example in the last 10 years where
7 they've done it. I don't think they have.

8 COMMISSIONER GERALDO: They're not expanding the
9 floor --

10 MADAM CHAIR: Okay.

11 COMMISSIONER GERALDO: -- they're keeping it the
12 same size.

13 MADAM CHAIR: Okay. So let me, Commissioner
14 Geraldo, if you don't mind, can we, I know now you have some
15 questions --

16 COMMISSIONER GERALDO: Not at all.

17 MADAM CHAIR: -- as we go, and we're all trying to
18 keep tabs on the point so we can follow as well. But if we
19 can extend Mr. Nelson the courtesy of going through his list
20 of why he deems us arbitrary and capricious and then we can
21 respond.

22 COMMISSIONER GERALDO: Very well. Thank you,
23 Madam Chair.

24 MR. NELSON: I wasn't saying that you were
25 arbitrary and capricious, I said that staff --

1 MADAM CHAIR: Staff. Okay.

2 MR. NELSON: -- was being arbitrary and
3 capricious.

4 MADAM CHAIR: Okay. Thank you for that
5 correction. Okay. Okay.

6 MR. NELSON: Right. So the second and on that
7 point, Madam Chair, you opened your remarks by saying
8 citizens can call staff. We called Mr. Burton three times,
9 he never returned our call. Then Mr. Warner told us that we
10 would not be permitted to speak with him directly, we had to
11 funnel questions through Mr. Warner. I believe that was not
12 in accordance with county law and it certainly violated your
13 mandate on the record earlier that citizens and their
14 representatives have every opportunity to communicate with
15 staff. So Mr. Burton refused our efforts to speak with him
16 on that issue. I'll just make that point.

17 MADAM CHAIR: Well typically when --

18 MR. NELSON: The second --

19 MADAM CHAIR: Well hold on, I got to respond to
20 that. Typically when people are represented by counsel it's
21 very often, very often counsel to counsel. So our counsel
22 couldn't have called your clients without you either. That
23 works both ways. But any John Q citizen can feel free to
24 call our staff, and I do mean that with all candor and all
25 honesty and people do all the time. But I don't know

1 whether that was the citizens or whether that was you, Mr.
2 Nelson. Okay.

3 MR. NELSON: It was Ruth Grover.

4 MADAM CHAIR: Okay. Okay. Thank you.

5 MR. NELSON: Yes. All right. The second instance
6 in which staff was arbitrary and capricious was the way they
7 treated the Washington Gateway case as compared to this
8 case. Both are an Amazon Last Mile Facility. I would urge
9 you to go back to the hearing last week and think about how
10 the process was described. It was described in the same way
11 except that they had a satellite parking lot. The buildings
12 were roughly the same size, everything was the same, trucks
13 come in, they unload the product, they scurry around and get
14 them into the Amazon Prime vans and off they go outside of
15 peak hours.

16 These are both Amazon Last Mile Facilities. In
17 the Washington Gateway case staff found that the appropriate
18 land use trip generation rate was 155. Here they have
19 rejected that and have accepted Amazon's numbers which are
20 not in the ITE Manual and Mr. Burton said very clearly at
21 his opening remarks that he couldn't verify them. You'll
22 recall that. He said I can't say that, I'm looking at my
23 notes, he said something to the effect of and you can check
24 your own notes, they submitted the numbers, I cannot speak
25 to the veracity of the numbers. I cannot speak to the

1 veracity of the trip generation numbers presented by the
2 applicant. That's what Mr. Burton said and yet seven days
3 ago he used one trip generation rate and now even though he
4 doesn't accept, cannot attest to the veracity of Amazon's
5 numbers, he's embarking on a course of action which is
6 fundamentally different from what the Transportation Section
7 did last week. That, I respectfully suggest is arbitrary
8 and capricious.

9 The third point I wanted to make was you know
10 counsel for the applicant thought I didn't understand their
11 traffic report. I heard her comments and I'm thinking she
12 didn't understand my remarks, so maybe we're talking in
13 cross purposes a little bit. Let me try to put my finger on
14 it.

15 We know in the ITE Manual that there are various
16 use codes. There's 150 for a traditional warehouse.
17 There's 155 for these Amazon type distribution facilities.
18 They have fundamentally different trip generation rates.
19 It's our legal position that in the Collington Center a
20 warehouse is a permitted use. I believe that everyone
21 thought that the warehouse that's there now is analogous
22 through a warehouse described in ITE Manual Use Code 150.

23 Our legal position, I disagree with Principal
24 Counsel, that this parcel hub does to meet the definition of
25 a warehouse which is a permitted use in the Collington

1 Center. That I urge you to go back and think about what
2 you, the Board knows about previous warehouses it's approved
3 and think about what Samantha Mazo how she described this
4 use. And I ask you to ask the fundamental question was Ms.
5 Mazo describing a fundamental warehouse for storage? Or was
6 she describing a unique new use for where you bring the
7 product in overnight, you have a lot of people in the
8 warehouse putting it in the vans, and out it goes the next
9 morning or next afternoon.

10 And then I say to myself there's a mechanism that
11 the applicant can employ to answer the question, are they a
12 permitted use. The Chairman of the Planning Board, Mr.
13 Rhodes in 1992 in his memorandum, Exhibit 10, lays it out.
14 Now usually the argument I encounter in my cases is Nelson
15 didn't exhaust his administrative remedies. Well this is a
16 remedy that Amazon had available to it, it should have
17 applied for clarification as to whether this is a permitted
18 use in the Collington Center.

19 In conclusion, we reject Amazon's self-serving
20 trip generation numbers. We note that Mr. Burton couldn't
21 verify the accuracy of those numbers. We urge the Planning
22 Board to critique the traffic at this site in the way it did
23 last week with Land Use Code 155 and if you do all that, we
24 respectfully suggest that the Planning Board should
25 disapprove the application, and those are my concluded

1 remarks. Thank you.

2 MADAM CHAIR: Thank you very much, Mr. Nelson. I
3 am now going to turn to Ms. Dlhopsky.

4 MS. DLHOPOLSKY: Thank you, Madam Chair. I'll be
5 brief in just summarizing, I think we probably could go tit
6 for tat the rest of the afternoon if we wanted to with Mr.
7 Nelson, but I don't think that that really serves anyone at
8 this point.

9 Just a few minor points. Staff apparently was
10 very responsive to Mr. Nelson's request because some of his
11 exhibits that he submitted yesterday included his
12 correspondence with among others, Mr. Burke.

13 With regard to the Washington Gateway project last
14 week, as mentioned at the outset, there are two different
15 applications, two different types of applications between
16 last week's and this week's Preliminary Plan of Subdivision
17 versus an amendment to a Specific Design Plan, they're very
18 different with different requirements, different findings.
19 And in that case, while Amazon was the end user, yes, the
20 applicant was not for Amazon it was a Preliminary Plan of
21 Subdivision for a property. Here, we have actual
22 operational details of the site and that is why the trip cap
23 analysis was done the way that it was and based on the
24 actual numbers coming and out at the actual times.

25 With regard to the use issue that's been discussed

1 significantly over a number of hearings including today's, I
2 think it is quite clear that the Amazon facility is a
3 warehouse. That has been very clearly established by Park
4 and Planning staff and you know the world evolves and Amazon
5 is the warehouse of today.

6 And just two final closing points, not necessarily
7 in rebuttal, we absolutely are committed to being a good
8 neighbor. I've already started a draft e-mail to Thomas
9 Burke, which I will send as soon as this hearing concludes
10 notwithstanding the results asking for the e-mail addresses
11 of Mr. Reilly and the Crawford's so that Amazon can reach
12 out to them and start just having a dialogue because that is
13 very important. So I'll send that e-mail to Thomas Burke
14 very shortly.

15 And then just to circle back on it seems like a
16 lifetime ago, but Commissioner Geraldo had asked about bike
17 racks and we are able to, we can put 10 racks on the site
18 total, that would accommodate 20 bikes and we are happy to
19 do that and we can certainly take that as a condition of
20 approval, if you'd like us to I guess phrase it that, you
21 know, 10 bike racks must be shown on the plans prior to
22 certification. Again, if you (indiscernible) and we would
23 be happy to take that as a condition of approval.

24 MADAM CHAIR: So let me make sure I understand
25 that part. So since you went back and talked with your

1 client on that, then I'm taking that as your proffer which
2 we will put in the resolution, if this goes forward, that
3 you have agreed to apply 10 bike racks and that will be
4 prior to certification that they will be shown.

5 MS. DLHOPOLSKY: Yes, that's correct.

6 MADAM CHAIR: Okay. Okay. Were you done?

7 MS. DLHOPOLSKY: Yes, that is all I have to say,
8 yes. Thank you.

9 MADAM CHAIR: Okay. I want to make one correction
10 or enhancement to something that you said. You mentioned
11 that about the Amazon this last mile being a warehouse and
12 that has already been determined by planning staff. But it
13 was not just determined by planning staff, it was determined
14 by this Planning Board, the decision makers. The planning
15 staff did recommend it to us, it was also explained to us by
16 legal. I know that Mr. Nelson does not agree with that
17 interpretation, we discussed this at length last week during
18 the Washington Gateway hearing, we discussed it again this
19 week and what some may call arbitrary and capricious I will
20 call fairly debatable. Our decision is that this is a
21 warehouse. There's no precise definition for every
22 conceivable use that can come up in this antiquated
23 ordinance. And so you look at something that's very, very
24 closely related, it was stated very clearly today by Counsel
25 Warner and it was stated very clearly last week by Deputy

1 General Counsel Debra Borden and the Planning Board agreed
2 with that. So I just want to make sure that that's on the
3 record as well. Okay.

4 Okay. So that was it for you. Let me see if the
5 Board has anything else to add or Mr. Warner, if you have
6 anything else to add? Mr. Warner, do you have anything else
7 to add?

8 MR. WARNER: No, I do not other than in addition
9 to our response on the PIA request, I do have e-mails from
10 12 different staff members that communicated with Mr. Green,
11 Mr. Nelson and Ms. Grover on this application.

12 MADAM CHAIR: Okay. Thank you very much for that.
13 Okay. So let me see if the Board has any questions. Madam
14 Vice Chair?

15 MADAM VICE CHAIR: No, Madam Chair.

16 MADAM CHAIR: Commissioner Washington?

17 COMMISSIONER WASHINGTON: I don't, my only
18 question and Ms. Dlhopsky just answered it was with
19 regards to the bicycle racks, so thank you.

20 MADAM CHAIR: Okay. Thank you. Commissioner
21 Geraldo?

22 COMMISSIONER GERALDO: I have no questions, Madam
23 Chair, thank you.

24 MADAM CHAIR: Okay. Is there a motion?

25 COMMISSIONER WASHINGTON: Madam Chair, I move that

1 we adopt the findings of staff and approve SDP-0007-03 and
2 TCP2-067-96-07 along with the associated conditions as
3 outlined in staff's report and it should also include the
4 applicant proffered conditions with regards to placement of
5 10 bicycle racks and must be shown on the plans prior to
6 certification.

7 COMMISSIONER GERALDO: Second.

8 MADAM CHAIR: We have a motion and a second. Was
9 that you, Commissioner Geraldo as the seconder? Okay.

10 COMMISSIONER GERALDO: It was.

11 MADAM CHAIR: Is there a discussion?

12 COMMISSIONER GERALDO: I just want to thank
13 everybody again, Madam Chair.

14 MADAM CHAIR: Thank you. Under discussion I too
15 want to say two things with regard to our findings too.
16 Because Mr. Nelson has indicated that the staff's actions
17 were arbitrary and capricious. I would just say labeling
18 them as arbitrary and capricious does not make it so. That
19 is his professional legal opinion to which he is entitled
20 to, he has been practicing many, many years. Several of us
21 on this end are attorneys as well, I would say definitively
22 that they are not arbitrary and capricious and that they are
23 well thought out and they're not all legal interpretations.
24 Some of these are findings of fact and Mr. Warner mentioned
25 this earlier that typically courts will provide deference to

1 the decisions of the entity, the agency with the expertise
2 on these categories including use categories.

3 I'd also like to thank everyone for coming out.
4 What I would like for Amazon to really, really listen to and
5 I heard you, Ms. Dlhopsky, but this is an E-I-A Zone.

6 COMMISSIONER GERALDO: Yes.

7 MADAM CHAIR: But nonetheless there are still
8 houses in proximity and I'm telling you, we need to know
9 you've committed on the record to talk with these citizens
10 who live there. But we were all very moved by their
11 remarks, all very moved about the difference that this may
12 make into their lifestyle and their homes and their
13 property. People who have lived there for many, many years,
14 many decades and in one case, you know, well over a century.
15 So this is very, very important. So reaching out to them
16 and making sure that they have involvement, that they are
17 heard. You may not be able to do everything, you know, but
18 they are heard sincerely in earnest is very, very important
19 to us. So I just wanted to make sure that that's really,
20 really clear.

21 We thank you for making that offer to reach out to
22 them and starting your e-mail already. And we thank you for
23 the proffer of the bike racks as well.

24 To the citizens, we really thank you for your
25 interest here and for your participation and for your

1 earnest comments and hanging with us all day. So we
2 appreciate that.

3 I'm going to call for the vote. Madam Vice Chair?

4 MADAM VICE CHAIR: Vote aye.

5 MADAM CHAIR: Commissioner Washington?

6 COMMISSIONER WASHINGTON: Aye.

7 MADAM CHAIR: Commissioner Geraldo?

8 COMMISSIONER GERALDO: I vote aye, Madam Chair.

9 MADAM CHAIR: Okay. The ayes have it 4-0. Thank
10 you very much everyone. Please stay safe.

11 I usually make this announcement at the very end,
12 but we do say that we thank everyone for their flexibility
13 and cooperation and support as we continue to keep our
14 planning functions moving. Today has been slightly
15 challenging because of, I think it's because of the weather,
16 because we had traffic lights and whatnot out here yesterday
17 and it's hot as heck up in here. But we've proceeded and
18 everyone's done extraordinary well and we're thankful for
19 that.

20 We ask that you make every effort to stay safe, to
21 look out for another, to stay strong, to stay resilient, to
22 stay woke and remain ever hopeful as we strive to get
23 through these challenging times together. Thank you very
24 much. And we will now turn to Item 3A.

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

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:

AMAZON.COM SERVICES

Specific Design Plan, SDP-0007-03



By: _____

Date: September 22, 2020

Diane Wilson, Transcriber