

BOROUGH OF MORRIS PLAINS  
PLANNING BOARD

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IN THE MATTER OF:	:	
	:	TRANSCRIPT
PB-1-24	:	OF
MCDONALD'S USA, LLC	:	PROCEEDINGS
415 & 435 SPEEDWELL AVENUE:	:	(VOLUME VI)
BLOCK: 23, LOTS: 4 and 5	:	
	:	

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TUESDAY, DECEMBER 16, 2024  
Community Center  
51 Jim Fear Drive  
Morris Plains, New Jersey  
Commencing at 7:04 p.m.

BOARD MEMBERS:

SUZANNE McCLUSKEY, Chairwoman  
RON KELLY, Vice Chairman  
JOHN BEZOLD, Board Member  
FRANK J. DRUETZLER, Board Member  
JASON C. KARR, Mayor  
CATHIE KELLY, Council Liaison  
MARIANNE STECKERT, Board Member  
MICHAEL GARAVAGLIA, Board Member  
H. STEVE AUGENBLICK, Board Member

WILLIAM RYDEN, P.E., Board Engineer  
ELIZABETH LEHENY, P.P., Board Planner  
HAROLD K. MALTZ, Borough Traffic Consultant  
(arrived when noted)  
KAREN COFFEY, Board Secretary  
PAUL SAMBROWSKI - Audio Technician

MICHELE QUICK, CCR, RMR, CRR  
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CHAIRWOMAN McCLUSKEY: Okay, so next, we have Application PB-124, McDonald's USA, LLC, and before we get started, Mr. Brewer is going to --

MR. BREWER: Address a few issues.

CHAIRWOMAN McCLUSKEY: Yes.

MR. BREWER: Paul, is the microphone on?

MR. SAMBROWSKI: Yes.

MR. BREWER: Okay, I'll try to speak into the microphone. If the Board would bear with me for a few moments, I want to address something that came up at the last meeting and that had come in the last few days just to address some issues that have been coming up. One, and this is probably something I can read from the applicant's attorney, Ms. Kumer brings it up, so I want to address it a little bit again just on the question of testimony and a video about Bayonne. So I went and looked -- I went through the transcript and saw how this issue came up. The issue came up, it was not presented by the applicant at all. What happened is, during cross-examination, the engineer was asked "Do you know of any other sites that are adjacent to a residential area?" and they said one of the sites was Bayonne, they happened to meet that. Nobody was

making a comparison or saying that's a good or a bad thing, that's simply how it came up. The applicant hadn't done it; it was simply on cross-examination, and as I've said before, other sites, what happens on other sites aren't relevant on this site, so as I said, I'm going to read something else from the attorney that brings this up so I did want to address that a little bit.

Number two is a question. There's been a question about whether or not an additional variance is required for parking in the front yard, and Mr. Steck went through the analysis, I went through it independently. I'll give you my opinion to start and I'll explain why I do not believe an additional variance is required for that but I'll review why.

The zoning portion of the ordinance that would be relevant is found at 13-5.7 D(1) and it states "No part of any off-street parking areas shall extend into any required front yard more than the front-yard setback requirement of the zone in which it is situated unless specifically permitted in the respective zone. So it obviously allows for an exception there and the question is "Is it specifically permitted in the respective zone?"



Another section of the ordinance, 13-4.14(c), has an attachment, which is Schedule A, and it is "Minimum distances in feet for location of parking and loading areas," and specifically, there's, by zone, B-1, B-2, B-3, all the specific zones, and gives distance from the street right-of-way and from property lines. So the exception of "unless specifically permitted in the respective zones" doesn't say where that permission would be. In another area of the municipal code, it most definitely does allow parking at a specific area -- distance from the street right-of-way, which would be a front yard, and property lines, which would be the front yard, so that's -- that's my review of the ordinance why an additional variance isn't required for the distance where the parking is from in the front yard setback. That's issue number two.

Issue number three. Questions have been brought up about performance standards, whether or not they should be proven before and established. There's a specific provision in your zoning ordinance that says -- it is, let's see if I could get the section. I want to get the right section so it's in the record. 13-5.2, 24, Performance Standards. "Prior to or as a condition of the

approval of any application," and then going forward, but the important part "as a condition of approval of any application, the applicant shall supply evidence satisfactory to the approving Board that the proposed use will conform fully with all the applicable performance standards stated herein," and typically the way this Board has done it is all performance standards, which in the section include air pollution, smoke, open burning, odors, wastes, noise, glare, vibration, fire and explosive hazards, are done as a condition of approval. That's the way this Board has typically done it. You can do it as you wish. But it's typically that you had a condition that -- as a condition of getting their C.O., that they have to demonstrate conformance with the performance standard. So you do require that, that's always a condition of something like this, but I just wanted to address that. So that issue has come up, that is typically how the Board has done it, that is your choice, but the ordinance specifically says you can do it before or after as a condition. That's the second -- that's the third issue.

Fourth issue. Several members of the public, the objectors, hired Heather Kumer. She was

unable to make it today. I spoke with her, she asked -- she said there's an issue and I understand it, there was an issue, she couldn't come today, there was a doubt whether or not she'd be able to make it Wednesday too, and we discussed the best way to deal with her absence and she was okay -- I'm going to convey my conversation with her. I believe her clients may be here and they can confirm that I'm accurately conveying, although they weren't on the call, that they do not have a traffic expert, that she was -- she's brought up an issue regarding a -- what she -- which I will read, that's my fourth point, about a potential conflict of one of the members and the way we will deal with this, I will read it into the record and I will provide a response and that Board member can -- can respond appropriately. And then at the time, if we get to that, tonight where the public is speaking, her -- all she needs is her closing statement will be read by her client, who she believed would be here and would read her closing statement. She was okay, she appreciated that accommodation, if the Board is okay. It's a situation where I would be reading her argument into the record on the conflict issue and her client would be reading her closing statement,

but she was happy with that accommodation because she was unable to make the meeting. That's the Board's decision.

Fifth issue. There's been an inquiry about a member or two from the public about children, with people under 18 testifying. I went through -- the Municipal Land Use Law doesn't address it. The Municipal Land Use Law says you're not bound by the Rules of Evidence but they're a pretty good guide. The New Jersey Rules of Evidence, at one point in the past, used to restrict witnesses from under a certain age, usually under 14, there was a presumption they couldn't testify. That's been removed but there has to be some level of understanding of -- there has to be relevant evidence, they have to understand the truth under oath, have to understand there's going to be a punishment if they don't tell the truth, but there also has to be relevance. So I don't know the age, I don't know if any children are here or if they're going to seek to testify. So in balancing this, you know, if somebody's 17-1/2 years old, there's a pretty good presumption, you know, they're just about an adult. If someone's 3-1/2, would they have testimony that's relevant for planning? Probably

not. There's no magical line, it's someplace in between there. I would recommend 12 years old is a -- is as good as anything, and there might not be one, but I did want to address this as a fairness issue, bearing in mind that if there's any children, just like everybody else in the public, they'd be under oath and there would be a few questions about that, but that issue may or may not come up, I just wanted to address it. Number five.

Number six. There are two members of the public who have -- who will request to give testimony as experts. If a person is -- number one, if they're -- if they have a professional degree that is accepted -- that's by the State of New Jersey and it's in good standing, on an issue that's before the Board, you pretty much have to accept them as an expert, and it might be the best expert and I didn't mean to be facetious, if they're an expert with a degree and a certification and it is in good standing, they're an expert. One is a traffic engineer, if they have a degree in good standing, pretty much, you'll accept them. Another one is environmental. You decide whether environmental is an issue. As I said, typically, the way the Board does performance standards is that

you make it a condition of approval. If you would like to hear from them, that person will come up, so that is to be determined. We'll do that in course, I just wanted to let you know one of the other issues that will be coming up.

Number 6. There's a large number of members of the public, you know, on time, as you did with cross-examination, the Board may wish to impose a reasonable time period on speaking, four, five, something like that, you may, ten minutes, you may not want to do any, but that, as I've read before in the Municipal Land Use Law, 40:55D-10(d) and (e) both provide -- (d) provides that "All testimony is subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses; (e) Technical Rules of Evidence shall not be applicable to the hearing but the agency may exclude the relevant and material unduly repetitious evidence."

If the Board wanted my evidence, wanted my opinion or advice, you might want to have some limitation and see how it goes as you're getting cross-examination. If all the issues come up and the issues are being defeated, you may not want to extend that. If everybody wants to testify,

finishes in two hours and there may be two or three more questions, you can revisit it, but you don't have to take my advice, that would be a legitimate way if the Board so chose.

I still have some more issues.

Actually, I think I have one more issue and that would be it for now. Ms. Kumer, the attorney for the objectors, e-mailed me today about her position that Ms. Kelly, Councilwoman Kelly, suffers from a conflict of interest and she should be recused. I will read Ms. Kumer's e-mail to me, which I agreed to do, and I'll provide my response and Ms. Kelly can take it under advisement. I have had an opportunity to speak with Ms. Kelly, but I will read both Ms. Kumer's statement and my advice to her. It's her decision on whether to recuse.

"Dear Board Counsel Brewer: As you are aware, I represent Morris Plains Citizens For Public Safety and Smart Development, LLC, who are objecting to the objectors to PB-124, McDonald's USA, LLC. This morning, I was sent a campaign video from Facebook posted by Councilwoman and Planning Board Cathie Kelly on September 21, 2024 that arises to a conflict of interest. In the attached video, Kelly states, quote, "I am Councilwoman Cathie Kelly.

Social media is a great means of communication in 2024. I want to take a moment to communicate certain facts regarding the pending McDonald's application. At the heart of the matter, I believe is the issue of a drive-thru. When ordinance 14-2023 was presented and discussed in the fall of 2023, a drive-thru in the B-2 zone was not an issue. Also, at that time, Friendly's was a single lot, as it was when it was open for business. The Acme property was standing vacant at one of the gateways to Morris Plains and in order to facilitate and attract a tenant for the property, I drive-thru in the B-2 zone was proposed. The primary focus was on Acme. I make this statement to clarify misinformation that is being published. No one wants to see the empty storefronts and lots in our Borough. Thank you," close quote.

And then Ms. Kumer then presents the argument, "Under N.J.S. 40:55D-23(b), applicable to Planning Boards, provides that, quote, "No member of the Board shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest," close quote.

The decision as to whether a particular interest is sufficient to disqualify is a factual



one and depends upon the circumstances of the particular case. Piscitelli vs. Garfield ZBA. Quote, "The question will always be whether the circumstances could reasonably be interpreted to show that conflicting interests had the likely capacity to attempt the official to depart from his sworn public duty," close quote. Piscitelli again.

Quoting Wyzykowski, spelled W-Y-Z-Y-K-O-W-S-K-I, vs. Rizas, quoting Panitallie, P-A-N space I-T-A-L-L-I-E. I'm spelling this for the benefit of our court reporter. I'm trying to read slowly. "The record must be sufficient to answer the question without," quote, "'ignoring the true circumstances faced by an office holder whose impartiality may reasonably come into question in the eyes of the public,'" close quote. Ms. Kumer goes on to state, "Here, the statement by Councilwoman Kelly on McDonald's application unquestionably displays her opinion of the case in front of the Board and that she is unable to be seen as impartial in the eyes of the public. Therefore, I kindly request that Councilwoman Kelly recuse herself from today's proceedings.

It should also be noted that," quote, "'where a Board member participates in a proceeding

from which he is later found to be disqualified, the proceeding is void in its entirety," close quote, "and references Piscitelli once again and several other cases. Quote, "The member should physically remove himself from the presence of the Board and either leave the room or take his place among the general public or in the place reserved for the general public," close quote.

Finally, Ms. Kumer says, "Attached are two screenshots of the post and a link to the video because the file was too large. Please confirm that Councilwoman Kelly will not be attending tonight's meeting and any voted-on decisions, specifically the entrance of the Bayonne video evidence be voided from the record. If you have any questions or issues, do not hesitate to contact me."

I spoke with Ms. Kumer, I also reviewed the law, I reviewed the video, which it was accurately quoted in what I read, that's the only thing that was stated: My review of that is that it is a statement of what's at issue, there is not a statement -- she doesn't have a personal interest, and I spoke to her about this, doesn't have a financial interest, it's whether the argument here is being made has she prejudged this case and I

don't see anything from stating the issue that the ordinance was brought up because the Acme and empty lots to be a reading or to be fairly interpreted that she had prejudged this case. I asked Ms. Kelly about it, my advice is that this statement does not arise, and I don't think it comes close to something that would disqualify her based upon prejudging the case. That would be my advice.

It's always up to individual members. Neither I nor the Board could force anybody, but I've given my advice to Ms. Kelly and I have not completed all the issues I wanted to discuss beforehand.

CHAIRWOMAN McCLUSKEY: Do you want to speak to the fact that people cannot send a letter in; however, Ms. Kumer has sent a letter in and how that works.

MR. BREWER: Yeah. Ms. Kumer, as we said, or as I said before, Mr. Vitolo when he speaks is not testimony, what he gives is not something that the Board considers as true or false, it's argument; that's what attorneys do, they present a case, they present it through witnesses. The same with Ms. Kumer, she 's not under oath, she's not presenting facts that the Board would consider. She

presents arguments and reasons for that she's asking the Board to decide one way or another, which is why we adjusted the typical procedure and she didn't have to appear, she asked that her arguments and her closing statement be read into the record. That's why it's different.

CHAIRWOMAN McCLUSKEY: Okay. So now we're going to address the --

MR. DRUETZLER: Talk into the mic, will you?

CHAIRWOMAN McCLUSKEY: Okay. Now we're going to address the people that are from the public but want to be --

MR. BREWER: And I think that there -- since there are two members that -- and I should first to the applicant, are you finished currently with presenting testimony?

MR. VITOLO: Yeah, we -- as we said previously, we are finished with our case in chief. I would ask that any member of the public who stands before the Board and wants to be recognized as an expert, that we would like the ability to both question the qualifications and then cross-examine the witness.

CHAIRWOMAN McCLUSKEY: Absolutely,

yeah.

MR. BREWER: Yup.

MR. VITOLO: Okay. That's it then.

MR. BREWER: So I would, if the Board wants to take my advice, I think there are two witnesses, one who has a traffic engineering background that is specifically raised by the applicant presented a witness that's a traffic engineer and I think that's an easier one, that person go first. The second one is environmental. The Board may consider and may decide they would like to hear from him. Both individuals, I've spoken with, indicated they would be 20 minutes or less. That would be my recommendation, that you go to experts, then Ms. Kumer's statement because if her attorney is here, that's typically how it's done, and then members of the public, so if the Board would like to proceed in that manner.

CHAIRWOMAN McCLUSKEY: Okay.

MR. VITOLO: And I would -- for my closing, I would like to reserve until after the public comments.

CHAIRWOMAN McCLUSKEY: Um-hum.

MR. VITOLO: Okay. Thank you.

CHAIRWOMAN McCLUSKEY: Okay, Mr.

Amoroso.

MR. BREWER: Would you please raise your right hand and get sworn. We'll do it one more time. State your name, spell your last. Work on the microphone first. Nice and high.

MR. AMOROSA: Joseph Amorosa,  
A-M-O-R-O-S-A.

J O S E P H A M O R O S A, 20 Dayton Road, Morris Plains, New Jersey 07950, is duly sworn/affirmed.

MR. BREWER: Please give the Board the benefit of your education, your experience and your qualifications.

MR. AMOROSA: I received a bachelor of engineering degree in civil engineering from Stevens Institute of Technology, I hold an active license as a Professional Engineer in New Jersey, license No. 5139500. I also hold an active certification as a Professional Traffic Operations Engineer, as issued by the Transportation Professional Certification Board, number 3800.

CHAIRWOMAN McCLUSKEY: Have you appeared before any other boards or councils?

MR. AMOROSA: I have not.

CHAIRWOMAN McCLUSKEY: Okay. Members of the Board --

MR. VITOLO: I would like to voir dire on his qualifications as well, okay?

CHAIRWOMAN McCLUSKEY: I'm sorry.

VOIR DIRE EXAMINATION BY MR. VITOLO:

Q. So Mr. Amorosa, who is your employer?

A. Stantec Consulting.

Q. Okay. And Stantec Consulting, they represent the DOT; is that correct?

A. Correct.

Q. And this project is located on a state road, correct?

A. Correct.

Q. Under DOT jurisdiction.

A. Correct.

Q. Okay, so I assume that you raised this issue with your current employer, correct?

A. Correct.

Q. And what did they say?

A. To go ahead.

Q. Okay. Do you have in writing anything from your client that they don't see a conflict of interest in you providing testimony in reference to the DOT in this application?

A. No, I do not.

Q. How long did you take to prepare this

case?

MR. BREWER: I'll hop in. I think right now, it's just qualifications, and while I don't want to tell the Board what to do --

MR. VITOLO: You're right, Mr. Brewer.

MR. BREWER: -- in the State of New Jersey, a person that has a license that is current is typically accepted as an expert.

CHAIRWOMAN McCLUSKEY: Do you have any more questions?

MR. VITOLO: No, I just had a question on when Mr. Amorosa decided that he was going to be an expert in this case.

MR. AMOROSA: A couple of months ago.

BY MR. VITOLO:

Q. Okay, and you disclosed that a few minutes before the meeting today.

A. This was the first chance for the public to provide expert testimony.

Q. No, that's not my question. You prepared for months to present this testimony, but I only found out about it a few minutes ago. Why?

A. I didn't -- I didn't know I had to ask your permission.

(Applause by members of the public)



MEMBER OF THE PUBLIC: You get away  
with a lot.

MR. VITOLO: You like to clap?

MR. BREWER: Okay.

MR. VITOLO: A lawyer clapping?

MR. BREWER: Stop.

MR. VITOLO: That's an admirable  
quality.

MR. BIANCHI: You keep pointing  
towards me so --

MR. BREWER: Please, just --

Q. Can you answer the question, Mr.  
Amorosa?

MR. BREWER: I think we've reached a  
level of qualifications; the Board can allow it to  
continue but I think this is --

MR. VITOLO: I'll hold it. Thank you.

CHAIRWOMAN McCLUSKEY: Okay. Any  
comments or questions from the Board, to accept him?

MAYOR KARR: Just with your  
engineering license, what's your area of expertise  
and what you do with the consulting firm?

MR. AMOROSA: My area of expertise is  
traffic and transportation engineering. My  
professional experience covers planning, design and

implementation of transportation infrastructure projects.

MAYOR KARR: And have you done work in Morris County?

MR. AMOROSA: Yes, 15 years ago.

MAYOR KARR: And where was that?

MR. AMOROSA: Madison.

MAYOR KARR: What kind of a project was it?

MR. AMOROSA: A collective assessment of redevelopment site plans and a corridor study for Route 124 through Madison and Chatham and Chatham Township and Morris Township to review the validity of the proposed improvements by developers and/or needed infrastructure improvements as identified previously by Morris County.

MAYOR KARR: And what are you currently working on, what's your project now?

MR. AMOROSA: A bridge replacement in Woodbridge Township, Middlesex County.

MAYOR KARR: Okay. Thank you.

CHAIRWOMAN McCLUSKEY: Any other comments from the Board?

(No response)

CHAIRWOMAN McCLUSKEY: So what is your

pleasure, do you want to hear from Mr. Amorosa? All  
in favor?

BOARD MEMBERS: Aye.

CHAIRWOMAN McCLUSKEY: Opposed?

(No response)

MR. BREWER: I believe you may  
proceed.

CHAIRWOMAN McCLUSKEY: Go ahead.

MR. AMOROSA: Can I plug in a laptop?

CHAIRWOMAN McCLUSKEY: Pardon me?

MR. BREWER: Plug in a laptop. He  
wants to --

CHAIRWOMAN McCLUSKEY: Oh, okay.

MR. BREWER: -- show the screen.

If there's going to be a document, do  
you have hard copies? Because the hard copy has to  
go to -- any document or anything you show has to be  
provided, a copy, to the Board to keep a record and  
the applicant's attorney.

MR. AMOROSA: Even if it's the same --  
if it is one of their exhibits?

MR. BREWER: No, if it's one of their  
exhibits and been identified as such, no, but when  
you put it up on the screen, please refer to it by  
exhibit number so the record's clear.

MR. AMOROSA: Mr. Vitolo, can you refresh my memory of what exhibit number this is?

MR. VITOLO: I couldn't understand what you said.

MR. AMOROSA: Can you refresh my memory of what exhibit number this is?

MR. VITOLO: This was -- appears to be, and I don't know where you got it, but it appears to be page C4 from our application. So -- we don't mark pages from our application typically; it's in the record and that's the sheet.

MS. COFFEY: Was it an exhibit?

MR. AMOROSA: I believe so.

MS. COFFEY: Okay.

MR. VITOLO: Well, is this the copy that we used, I mean, is this our copy? You're the one who's providing exhibits. You tell me what it is. What is it, where did you get it, et cetera? Because I don't know where he got it.

MR. AMOROSA: This is the applicant's site plan revision dated October 7, 2024.

MR. VITOLO: Okay. Then that's good enough. Go ahead.

MR. AMOROSA: Good evening, Mr. Vitolo, Ms. Chairwoman and the Board. I would like

to take this time to indicate aspects of the conditions proposed by the applicant that are unsafe, unacceptable or unrealistic or some combination of the three with negative impacts on public safety for the community and in regards to traffic operations and traffic safety.

As shown here, the applicant's site plan is dated October 7. I will point to various things as we go. But starting with my concerns about the proposed traffic operations, the presented analysis and the conclusion of "no significant degradation of the traffic operation conditions associated with the construction of the project."

The traffic study begins with a flawed data collection method with traffic volumes counted on only one weekday and one Saturday. No lead-up thought process is presented to indicate the validity of Wednesday, May 1 as a typical weekday and Saturday, May 4 as a typical Saturday in terms of traffic patterns. Similarly, the applicant's choice of the hours when traffic volume data was collected is not backed up by any information to verify that those particular periods of time align with the peaks of traffic volumes on Speedwell Avenue. Additionally, no Sunday traffic volumes

were collected so no traffic analysis for a Sunday is available to review.

In the same vein, in terms of a quality control verification, the traffic data was collected with no redundancy.

(Whereupon Mr. Maltz arrived at the meeting.)

MR. AMOROSA: No video is available of the same time frame to allow for any form of independent verification of the data presented by the applicant. There is no way for an independent expert to verify the numbers are legitimate and the Board must simply take their word for it.

Upon request by the Borough's professional, a gap analysis was conducted by the applicant to provide an additional metric for traffic operations due to the existing congested operations on Speedwell Avenue that are not typically captured by a traffic data collection effort. While this analysis provides a direct comparison of measured gaps to the calculated demand, it does not paint an accurate picture of the potential traffic conditions during the data collection time period or for the traffic demand used for a comparison. Overcapacity conditions along Speedwell Avenue would result in the

inaccurate timing of the gap between vehicles where queued traffic blocks the Dayton Road intersection and site driveway intersection. When a queue is present and traffic is fully stopped, did the data collection staff keep the clock running even if there is not enough space between vehicles to make a turn? The traffic report does not state one way or the other.

Additionally, the traffic report does not delve into the detail of how the gap analysis considered informal right-of-way procedures during congested traffic when one driver waves on a left-turning video. For the analysis, the applicant points to the NJDOT Roadway Design Manual for the accepted gap criteria, but no explanation is provided how these volumes would change during peak-period congestion and left-turning vehicles must maneuver through a two-stage decision.

Initially, the traffic report does not indicate how the analysis does or does not take credit for these hand-wave left turns, which presents a safety concern for bicyclists and pedestrians blocked in terms of visibility by the queued traffic.

As far as the analysis tool selected by

the applicant, level of service criteria as described by the FHWA's Highway Capacity Manual in traffic analysis software, as indicated in the report, the applicant directly states that the HCM criteria assumes the random arrival for all movements, which may not be the case if adjacent traffic signal is present that platoons vehicles.

For that analysis at an unsignalized intersection, it also states that the analysis calculations assume that the major street through movement is unimpeded.

The applicant's preparation of the traffic analysis only calculated the average vehicle delay without incorporating the reduction in capacity by platoon vehicles from upstream traffic signals or queued traffic from downstream traffic signals during the peak periods, both on the weekday or weekend.

As a benchmark, the unsignalized two-way stop-controlled intersection Highway Capacity Manual methodology cannot be applied since it explicitly states that the delayed calculation does not consider this intermittent congestion caused by platooned vehicle traffic. The separate gap analysis does not capture the site-specific reality



of what the actual vehicle-turning -- the vehicles turning from the intersection consider to be an acceptable gap. A different analysis tool needs to be implemented to correctly calibrate for local driving behavior variables and to incorporate the nature of the existing traffic stream, which this analysis tool could then output an average delay per vehicle for each movement to then compare to the HCM level-of-service tables.

A separate roadway segment level of service should also have been calculated to verify that the analysis of the unsignalized intersection is calculating realistic delay for the through movements on Speedwell Avenue.

Additionally, there are concerns with the traffic analysis as far as the calibration for peak-hour factor, truck percentage and approach grids. It appears that all of these factors are rounded in favor of calculating towards a more acceptable vehicle delay. This rounding does not allow for any variability or sensitivity to traffic patterns.

As far as realistic operations of the site parking lot, we have heard at length about the concerns for circulation and drive-thru queues'

potential impact. I'll keep my remarks brief. The acceptable drive-thru queue length is directly dependent on the drive-thru service rate, which is not self-enforcing by the site layout and is only dependent on the acceptable drive-thru operation. The acceptable parking-lot circulation is directly dependent on acceptable drive-thru operation and is not self-enforcing by the site layout.

While aspects of the ecosystem of the site are dependent upon driver compliance and driver awareness, the snowball effect of any drive-thru queue that builds starts to generate the concerning list of conflicts.

As calculated by the applicant, the 95th percentile queue during peak demand hours is only four vehicles. This would be split between the two lanes and includes the vehicle or vehicles at the ordering microphone to their credit, but this calculation is dependent only on the ordering service rate, it does not consider the downstream lag time at the payment or pickup windows. While they paint a very rosy picture for the peak time and off-peak drive-thru operations, any spill-back will be in direct conflict with the pedestrians, bicyclists and Speedwell Avenue traffic in both

directions. The southbound vehicle turning left into the site driveway will not have any forewarning of the potentially congested situation awaiting them, and there is minimal distance for multiple decisions by that driver.

A vehicle turning into the site driveway from Speedwell Avenue will be encountering multiple decisions between pedestrians on both sides of the parking lot, vehicle maneuvers, and the potential for a queue of the drive-thru, which then leads to the next decision, if they skip the drive-thru, where do they go, where do they park.

As far as traffic safety, there are several items I would also like to discuss. Some low-hanging fruit is that the applicant indicated that the traffic control devices, signs, stripes, paving markers, as indicated on the site plan, are compliant with FHWA's Manual on Uniform Traffic Control Devices. I respectfully disagree. Yellow striping is not used for parking stalls. The yellow drive-thru and directional arrow are not compliant. The lane-use arrows and "only" and "stop" at the Dayton Road driveway and the site driveway where vehicles need to stop before the sidewalk are not compliant in terms of size. While this all may feel

like a trivial concern, the newest revision of the MUTCD explicitly applies to drive aisles within those parking areas that are either publicly or privately owned, and the purpose of the Manual on Uniform Traffic Control Devices is to establish uniformity to the traffic control, which promotes safety and efficient operation.

Moving on to the truck maneuvers, that also was talked about at length. As far as the depiction of their vehicle swept path as provided by the applicant for critical maneuvers in and out, there is no consideration for driver blind spots caused by the vehicle A pillar, even for low-speed left-turn maneuvers. No additional analysis was provided to verify the safe movement for all left-turning vehicles, big, small, trucks, cars, what have you, in terms of potential conflicts with bicyclists and pedestrians.

The relocation of the crosswalk on Speedwell Avenue further to the north places pedestrians within a blind spot for vehicles turning left out of Dayton Road. From the centerline of Dayton Road to the edge of the proposed crosswalk is approximately 80 feet. Those drivers will -- while turning left will be initially making their decision

to turn without knowing if a pedestrian is 80 feet away to the left, and when they pass the apex of their turn movement, the crosswalk will then come into view. In the short time of approximately five seconds, that driver is being asked to turn left from a stop, double-check that they actually had a safe gap from both the left and the right, and then make sure that they don't hit the crossing pedestrian that is now located 40 feet closer to them than the existing condition. This 40 feet approximately two seconds of driver time for the existing condition is enough time for those maneuvering drivers to safely come to a stop for crossing pedestrians. This issue is only exacerbated if a pedestrian is attempting to cross from east to west. The crosswalk relocation was not designed with sound engineering judgment and creates a new conflict point decreasing safety for the crossing pedestrians and left-turning vehicles from Dayton Road. And a vehicle turning from the -- vehicles turning right from the site driveway, those drivers attempting to make a right out will be staring at northbound traffic to the left looking for acceptable gaps and looking for an oncoming bicyclist and looking for passengers coming from

points south and will not be aware of any pedestrian attempting to cross Speedwell Avenue immediately to the right. The rectangular rapid flashing beacon, while an impressive piece of cutting-edge technology, does not provide any safety benefit for these noted conflicts between pedestrians and vehicles.

Delivery trucks and refuse trucks turning in and out of the site were not analyzed for these eight-pillar blind spots. The safety impacts to bicyclists, pedestrians and other vehicle traffic is not considered for realistic turn movements. The applicant depicts truck maneuvers where the truck is perfectly aligned parallel to the centerline on Speedwell Avenue and will be able to definitely turn into the site driveway and out the Dayton Road driveway. No consideration was given to any further buffer space between the vehicle body, wheels and curbs.

The applicant has assured the Board that a delivery vehicle can turn safely from Dayton Road onto Speedwell Avenue without driving over the curb or drainage inlet but does not visually depict this maneuver on the plan. Additionally, the existing traffic operations along Speedwell Avenue

are not represented by the swept-path truck turning plans as presented by the applicant. During congested traffic conditions, minimal gap is potentially available for trucks to turn during weekday or weekend peak periods.

My last concern deals with the proposed sight triangles as measured by the applicant. The available clear viewing triangles were measured based upon the edge of the traveled way with no consideration for bicyclists on the roadway adjacent to the curb or pedestrians on the sidewalk. While the AASHTO Green Book does not explicitly call for a lengthier offset as measured from the major road, the proposed sight triangle only considers for vehicles to have to creep forward over the sidewalk at the site driveway and over the crosswalk at the Dayton Road intersection in order to search out their acceptable gaps.

Additional sight triangle noncompliant issue, their monument sign is located approximately 20 feet by 20 feet off the property lines while I believe the local code calls for a clear 25-by-25 triangle.

All these operational and safety concerns add up to a proposed condition that does

not provide for an acceptable traffic operations condition or traffic safety situation. No separate safety analysis was provided by the applicant to quantify the impacts of their proposed condition, good or bad, so our -- the qualitative issues that are presented in the traffic analysis and site plan in terms of either vehicle maneuvers or safe and efficient operations were not quantified in terms of either a crash rate or dollars and cents.

This site is located adjacent to and nearby several land uses, producing a wide variety of vulnerable road users, including senior citizens, children, parents with their children, anyone and everyone going to the train station only a quarter mile away, and there is no inclusion of needs or limitations of these folks in the proposed site conditions.

Thank you, Chairwoman and thank you, Board.

CHAIRWOMAN McCLUSKEY: Mr. Vitolo, did you want to ask --

MR. BREWER: Excuse --

CHAIRWOMAN McCLUSKEY: I'm sorry.

MR. BREWER: However you want to --

CHAIRWOMAN McCLUSKEY: Oh, I thought



Mr. Vitolo asked if he could --

MR. BREWER: He could lead off.

CHAIRWOMAN McCLUSKEY: -- lead, yes.

MR. VITOLO: Yes. I'm going to ask a couple questions and then I'm going to make an application to the Board.

CROSS-EXAMINATION BY MR. VITOLO:

Q. Mr. Amorosa, how many -- well, let's start back with what I asked before. You said that you had been preparing this for months, this analysis, correct?

A. Correct.

Q. And that you disclosed that you were going to be testifying as an expert today, correct?

A. Correct.

Q. How many traffic impact studies have you personally prepared?

A. 20.

Q. How many traffic impact studies have you personally prepared for a drive-thru restaurant?

A. Zero.

Q. How many traffic impact studies have you critiqued before a Planning Board relating to a drive-thru restaurant?

A. As an expert hired by the Planning

Board?

Q. No. In any way. Except for tonight,  
of course.

A. Critiqued for a municipal Council on  
--

Q. No.

A. -- behalf of a Planning Board?

Q. It's a much simpler question than  
you're making it out to be.

Have you ever critiqued a traffic  
impact study for a drive-thru restaurant?

A. I believe so, yes.

Q. Which one?

A. I do not recall.

Q. Do you know the difference between "I  
don't know" and "I don't recall"?

A. Yes.

Q. What is it?

MEMBER OF THE PUBLIC: Come on.

MEMBER OF THE PUBLIC: Come on.

(Public outburst)

A. "I don't know" is admitting a gap in  
knowledge and "I do not recall" is a statement that  
the information is somewhere in your brain but, at  
the time of the questioning, you are not able to

recall the specific knowledge.

Q. Okay, so you did -- you say that you did offer critique of a restaurant with a drive-thru, correct? You just can't remember the name.

A. Correct.

Q. Was there more than one or one?

A. I don't know.

Q. Mr. Amorosa, you are opposed to this project, correct?

A. My personal opinion should not be relevant to my professional expertise.

Q. In fact, sir, you have been to the microphone several times over numerous nights objecting to this application, correct?

A. I don't see why that's relevant to my professional expertise.

Q. Can you answer the question?

A. Can you repeat the question?

Q. In fact, you have been to the microphone several times over numerous nights objecting to this application, correct?

A. Yes, I love being here.

(Laughter by members of the public)

Q. Mr. Amorosa, do you live near the site?

A. Yes.

Q. In fact, you live at 20 Dayton Road, correct?

A. Yes.

Q. Okay, so you have a personal interest in the outcome of this matter, correct?

A. The whole Borough has a personal interest in this matter.

(Applause by members of the public)

Q. Mr. Amorosa, do you have a personal interest in the outcome of this matter?

A. I live within the 200-foot radius, yes.

MR. VITOLO: Okay, I'll make my application.

Board, this is not an expert witness. This gentleman has a personal interest in the outcome of this matter. He has an unwaivable conflict and he cannot serve as an expert witness. He's been at every meeting but he withheld disclosing his analysis intentionally to sandbag the applicant and delay these proceedings. If Mr. Amorosa was a real traffic engineer, as he says, who testifies at Planning Boards, he would know the rules of a Planning Board, that you cannot simply

waltz into a hearing and dump 25 minutes of unsupported testimony onto a Board. A real expert discloses his identity, he issues a report, allows the applicant and the Board time to review it. This is complete nonsense and the Board should strike and disregard Mr. Amorosa's testimony.

CHAIRWOMAN McCLUSKEY: Mr. Brewer, do you want to comment on that?

MR. BREWER: My comment would be that there was effective cross-examination and the Board will take into --

(Public outburst)

MEMBER OF THE PUBLIC: Can't hear you.

MEMBER OF THE PUBLIC: Can't hear you.

MR. BREWER: Please, please.

MEMBER OF THE PUBLIC: Can't hear you.

MR. BREWER: Sorry. My take -- oh, sorry. I thought you were disagreeing with me.

MEMBER OF THE PUBLIC: No.

MEMBER OF THE PUBLIC: No.

MR. BREWER: My take is that there was effective cross-examination that the Board can consider relative merit and the witness's motivation to testimony, that nothing needs to be stricken, the Board has heard, I think we should move on if the

Board has questions or the Board professionals.

That would be my recommendation.

CHAIRWOMAN McCLUSKEY: Any comments from our professionals? Mr. Maltz?

MR. MALTZ: Well, unfortunately, I got halfway through his testimony. One thing --

MR. AMOROSA: That's not my problem.

MR. BREWER: He's speaking. Please let him speak.

MR. MALTZ: One question I have is, any traffic report, a document being submitted in his behalf for the objectors that I can review?

MR. BREWER: No, nothing else has been submitted, just testimony tonight.

MR. MALTZ: Well, it's hard to address some of the issues he raised without having a hard copy, the same as I reviewed the applicant's traffic engineer's report in detail. As you know, I have a very extensive traffic review report with a follow-up dealing with traffic signs, striping, you know, flashing beacons. The gap study was done because of my request to reflect actual operating conditions on the street under this theoretical random arrivals on the roadway. Apparently, some of that was objected to by Mr. Amorosa, but there was

nothing put in writing for me to review.

So I stand by my previous reviews. I think that the applicant's traffic expert should respond, he's heard everything and he's here tonight.

One question I do have: You mentioned for a vehicle turning out of Dayton making a left turn and you questioned the location of the relocated crosswalk, you said that's about two seconds of time. Well, two seconds in time to go about 80 feet is the vehicle would be operating -- excuse me, you want to say something?

MR. AMOROSA: The relocated crosswalk is 40 feet.

MR. MALTZ: 40 feet. Okay. That would be -- so you're saying that's about two seconds of time. Does that reflect the vehicle starting from zero miles per hour and accelerating into the Speedwell Avenue?

MR. AMOROSA: As I calculated, yes, it does. It's at the end of the turning movement, so they've almost accelerated to approximately 20 miles an hour.

MR. MALTZ: That's a very slow speed. Considering that you do have a prominent crosswalk

as well as flashing beacons that are current state of the art for pedestrian crossings. I'm seeing more and more of these put up all over the state.

MR. AMOROSA: 20 miles an hour can be considered low speed for certain traffic analysis scenarios. For a vehicle hitting a pedestrian, 20 miles an hour is not low speed to their hips or knees.

MR. MALTZ: Well -- and you have no written report to submit?

MR. AMOROSA: I have my written notes.

MR. MALTZ: Well, that's all I can address at this time, Madam Chair.

MR. DRUETZLER: I have a question, I have a question for Mr. Maltz.

Mr. Amorosa said that all we had to do was to rely on the applicant's testimony. Have you reviewed their traffic plan?

MR. MALTZ: Yes, I have, it's in my report.

MR. DRUETZLER: Yes. What was your conclusion of it? Did you agree with it or disagree?

MR. MALTZ: I agreed with it, I had numerous comments in my first report, which they



responded to, and I noted my agreement or disagreement in my second report. Largely, they complied with the comments on signage and striping, pedestrian crossings, the beacons on the pedestrian crossing signs, advanced pedestrian crossing signs, and apparently, and I requested -- they met with the state and I inquired as to whether they brought these issues up with the state and they said they did and that the state was fairly acceptable to what was being proposed.

CHAIRWOMAN McCLUSKEY: Jason.

MAYOR KARR: Mr. Amorosa, I have a question for you. Just, I didn't hear it, maybe for Mr. Maltz as well, what is your -- what's your reference material that you used?

MR. AMOROSA: The Highway Capacity Manual as published by the Federal Highway Administration describes the calculation method and comparison criteria for unsignalized two-way stop-controlled traffic operations analysis. It's the industry standard for uninterrupted flow on your major street.

The FHWA also publishes the Manual on Uniform Traffic Control Devices, as I said, signs, stripes, uniform standard.

I referred to the AASHTO Green Book, that's the American Association of State Highway Transportation Officials, policy on geometric design for roadways, establishes geometric design standards for roadways, including sight triangle criteria for a stop-controlled intersection.

MAYOR KARR: Are there different volumes or manuals of these books that you use?

MR. AMOROSA: Yes, I referred to the most recent edition for each, as did the applicant.

MAYOR KARR: And what is that?

MR. AMOROSA: The most recent MUTCD was published last December, 2023, but became New Jersey law in early 2024. The most recent version of the AASHTO Green Book was published in 2018, as far as I remember off the top of my head. Highway Capacity Manual, I believe it's the sixth edition, it was a couple years old, maybe 2019, it was published.

MAYOR KARR: Mr. Maltz, are you familiar with these manuals that he's describing?

MR. MALTZ: Yes, I have all of them. I have all of them. In fact, I used to teach highway engineering, a course, at the New Jersey DOT on behalf of the New Jersey Institute of Technology,

for whom I served as an adjunct on the faculty.

MAYOR KARR: And did you use the same manuals in your --

MR. MALTZ: I referenced --

MAYOR KARR: -- analysis?

MR. MALTZ: I referenced the same documents, the gap study, I clarified with Mr. Peregoy as to what I wanted, which comes right out of the Highway Capacity Manual. It was done, from what I understand, according to proper procedure, but we're talking about the same documents.

MAYOR KARR: What's the discrepancy here?

MR. MALTZ: Well, I didn't hear all of the testimony so I don't know what came in the first half hour. What was it, I'm sorry? It was about five minutes before I got here? I don't know all the specifics of -- I haven't had a chance to review what he's referring to in the various documents. I've heard him talk about the gap analysis. If he has a question as to specifically how they perform the gap analysis, I spoke to Mr. Peregoy about it, but Mr. Peregoy may want to get up and respond to Mr. Amorosa's comments and exactly where they started and stopped calling the gaps, because

apparently, there's some question, is there any backup from Dayton on Speedwell which would break up the measured gap? My understanding is, if any car or pedestrian breaks up the measured gap, that's when you stop measuring the gap. So I don't understand the relevance of what Mr. Amorosa's saying. I think it should be addressed, really, by Mr. Peregoy as to exactly what procedures they used out there to do the measurements.

CHAIRWOMAN McCLUSKEY: Mr. Vitolo, do you want to bring Mr. Peregoy to ask any questions or not?

MEMBER OF THE PUBLIC: Can't hear you.

CHAIRWOMAN McCLUSKEY: Mr. Vitolo, do you want to ask Mr. Peregoy if he would like to question the witness?

MR. VITOLO: I don't think so. I mean, I think I'll take a couple-minute break and talk amongst my team about it, but no judge in the state is going to allow this guy to be qualified as an expert who lives on the same street, so I'm almost tempted not to but I need -- give me two minutes with my team, if I could, so we could discuss it, I'd appreciate it.

CHAIRWOMAN McCLUSKEY: Okay. We'll

take two minutes.

MR. VITOLO: Thank you.

MR. BREWER: Okay, members of the public, we're going to start in two minutes so don't go too far.

CHAIRWOMAN McCLUSKEY: Yeah.

(Recess taken)

CHAIRWOMAN McCLUSKEY: Mr. Vitolo?

MR. VITOLO: Yeah. So we are going to rely on the hours and hours of testimony from Mr. Peregoy and the back-and-forth between Mr. Peregoy and Mr. Maltz, the hours of questions from the public and Board questions, and so no, we're not going to call Mr. Peregoy back at this time.

CHAIRWOMAN McCLUSKEY: Okay. Thank you.

MR. VITOLO: Thank you.

CHAIRWOMAN McCLUSKEY: I think that it's probably up to the Board, but I think that we will all agree that we will not ask him, you know, not -- what do I want to say? His testimony; we'll leave his testimony and we'll let each member of the Board decide whether or not they should consider it as part of the -- as part of the record, based on what he had to say and based on what Mr. Vitolo had

to say and Mr. Maltz. So it's up to each member of the Board whether or not we want to consider what Mr. Amorosa had to say. Okay? So now we'll move on.

MAYOR KARR: I have one more question, Sue.

CHAIRWOMAN McCLUSKEY: Pardon me?

MAYOR KARR: I have one more question.

CHAIRWOMAN McCLUSKEY: Yeah, sure.

MAYOR KARR: You brought up about the striping or the arrows color and I thought -- did you guys say that they'd be outlined in black also or added so that you could see the lines? I thought that was brought up in testimony that they'd be able to paint -- well, maybe not. Do you think we could outline the arrows?

MR. VITOLO: We're happy to do that. Yes.

MAYOR KARR: Okay. So the arrows -- whatever markings are on the pavement on the concrete, they will be outlined in a --

MR. VITOLO: Sure. Yes.

MAYOR KARR: Thank you.

CHAIRWOMAN McCLUSKEY: Okay. Next witness, Mr. Battagliese.

MR. BATTAGLIESE: Thank you.

MR. BEZOLD: When are we going to vote on this?

CHAIRWOMAN McCLUSKEY: It's up to you whether or not you're going to decide to consider this.

MR. BEZOLD: Just in my own head?

CHAIRWOMAN McCLUSKEY: In your own head, yup.

MR. BEZOLD: I would just like to say one thing, if I can.

CHAIRWOMAN McCLUSKEY: Absolutely.

MR. BEZOLD: Mr. Amorosa, where did you go?

MR. AMOROSA: Right here.

MR. BEZOLD: I just want to thank you for your testimony because --

(Applause by members of the public)

MR. BEZOLD: -- whether it's utilized by any of the Board members, it was very helpful to me. Thank you.

MR. AMOROSA: You're welcome.

(Applause by members of the public)

CHAIRWOMAN McCLUSKEY: Go ahead.

MR. BREWER: Let me...

CHAIRWOMAN McCLUSKEY: Yup.

MR. BREWER: Let me swear him in and then ask what are we testifying to and the Board can then decide.

Would you please raise your right hand, state your name and spell your last.

MR. BATTAGLIESE: Tom Battagliese,  
B-A-T-T-A-G-L-I-E-S-E.

T O M B A T T A G L I E S E, 2 Cutler Road, Morris Plains, New Jersey 07950, is duly sworn/affirmed.

MR. BREWER: Would you please give the Board a summary of your qualifications, education and knowledge on the issue on which you are seeking to testify?

MR. BATTAGLIESE: Sure.

Thank you and good evening, Board. My name is Tom Battagliese, as I said. I'm a resident of Morris Plains but also have deep expertise in environmental chemistry, environmental impact assessment and environmental health and safety management. I'm going to provide testimony on the basis of my expertise, which is as follows.

With education, I have a bachelor's in environmental chemistry from Rutgers University, an MBA from Widener University with associated work in



the field of environmental management, and a master's in energy and environmental policy with a concentration in sustainable development from the University of Delaware. I have more than 25 years working experience within industry across multiple sectors, organization and through entire value chains, including the agri food value chain to retail and the consumer, acting both in internal management roles as well as for a few years as an external consultant.

The focus of my presentation tonight will be the key environmental performance areas of noise, odors and air pollution. I have worked on various industry new site development projects and environmental health and safety management programs and compliance programs that span the breadth of these topics in multiple states in the U.S., including New Jersey, as well as with international activities.

Finally, I want to remind the Board that I was previously sworn in by the Morris Plains Planning Board and accepted for environmental health and safety testimony related to the Mon (phonetic) development project on June 26, 2018.

CHAIRWOMAN McCLUSKEY: Mr. -- well,

Mr. Vitolo, do you have any questions?

VOIR DIRE EXAMINATION BY MR. VITOLO:

Q. Mr. Battagliese, is it?

A. Battagliese.

Q. Battagliese. Where do you live?

A. In Morris Plains, as I said.

Q. What street?

A. Cutler Road, C-U-T-L-E-R.

Q. How far from the site is that?

A. I guess about, I don't know, three  
quarters of a mile to a mile.

Q. Okay. And as with Mr. Amorosa, you  
have testified previously, correct, in this case?

A. I have asked questions to your  
testimony and your experts' testimony.

Q. All right, and you're opposed to this  
application, correct?

A. I am opposed to this application, yes.

Q. And you have a personal interest in it  
because you are a resident in close proximity to  
this site, correct?

A. That is correct, but I see it no  
different than you and your experts' interests from  
you representing McDonald's.

Q. That's not what I asked you. I said do

you have a personal interest in the case?

A. And I responded "as do you."

MR. VITOLO: It would be nice if he answered the question. I mean, is it a yes or a no?

A. I said "Yes" --

Q. Okay. Thank you.

A. -- "as do you."

Q. You think I live next to the site?

A. I think you have an interest in this application --

(Public outburst)

Q. I don't have a personal interest in this case.

A. Okay.

Q. I don't live near the site.

A. Very well.

MR. BREWER: I think we can stop commenting on questions.

MR. VITOLO: I would make the same -- and sir -- let me go to his qualifications.

Q. How many times have you testified as an expert?

A. Just the once that I mentioned in front of this Board in 2018.

Q. Okay, so you've never been qualified as

an expert before any other Board in the State of New Jersey, correct?

A. Not in terms of a Planning Board, but I've been qualified as an expert across different industry groups, different industry associations, both domestically and internationally.

Q. How about before a Zoning Board, have you ever been qualified before a Zoning Board to provide expert testimony related to environmental issues?

A. As I said, only before this Planning Board here in 2018.

Q. Okay. In that case, you were retained by one of the parties or did you just testify as a resident?

A. No, I didn't. The same as I'm doing tonight, giving testimony as an interested resident.

Q. Okay, and how many reports related to environmental conditions on site plans have you prepared?

A. I've been involved with many dozens of site plans across the U.S. and internationally over my career.

Q. How many reports have you prepared relating to environmental conditions on a site plan

in New Jersey?

A. Reports in New Jersey. I would say two to three.

Q. In your whole career?

A. Yes.

Q. How many years have you been working in this field?

A. More than 25.

Q. Okay. So it would be fair to say you are not a practicing expert witness, correct?

A. No, that's not correct.

Q. Okay. Well, it would be fair to say that you're not a practicing expert witness before planning and Zoning Boards in New Jersey, correct?

A. I don't know what the definition is, but I gave you my background and my professional experience, I feel I have justified my qualifications quite well over my career and in front of this Board in 2018.

Q. What's the scope of your testimony?

A. The scope is on the issue of noise, odors and air pollution, as related to the performance standards. You've already acknowledged or at least Mr. Brewer has acknowledged the situation with performance standards and I intend to

give additional background that I feel is warranted for the Board to understand to be able to properly review the application in terms of the approval vote.

Q. And when did you submit your report?

A. I'm about to give my report tonight.

Q. Okay. And when did you submit your written report?

A. My written report is my testimony that I will give tonight.

Q. Okay, so you never submitted a written report, correct?

A. That's correct.

Q. Okay.

MR. VITOLLO: As with -- as with the other witness, this witness has a personal interest in the outcome of this matter, he is a neighbor, he lives in Morris Plains. I mean, just at the break, I looked up the case law, you cannot have people with personal interest in matters serving as expert witnesses. That is -- that is testimony, expert testimony, one on one. So we object to this witness testifying as an expert. He's certainly free to make comments on the application during the public comment session, he can talk and talk all he wants,

but he certainly is not qualified to give testimony tonight, he has an unwaivable conflict of interest, and that's my submission, Madam Chairwoman.

MR. BATTAGLIESE: I would assume that the Board --

MR. BREWER: Please, no.

MR. BATTAGLIESE: All right.

MR. BREWER: No back-and-forth.

AUDIO TECHNICIAN: Tom, could you speak into the mic closer to me?

CHAIRWOMAN McCLUSKEY: Mr. Ryden, do you have any comments on his expertise?

MR. RYDEN: I don't have enough information to make a judgment on that.

CHAIRWOMAN McCLUSKEY: Any Board members have any comments on...

MAYOR KARR: I mean, I don't know how technical he's going to get but we have nothing to look at either but, I don't know.

MR. BATTAGLIESE: I do have slides that, like was already stated, should take me about 20 minutes to go through and I prepared it in a manner that should be understandable to non-experts as well.

CHAIRWOMAN McCLUSKEY: So you're going

to have exhibits?

MR. BATTAGLIESE: It's a PowerPoint presentation; I have a copy that I can also submit as an exhibit.

CHAIRWOMAN McCLUSKEY: How does the Board feel?

MAYOR KARR: I'd like to hear Mr. Brewer's advice to the Board.

MR. BREWER: Probably three -- two comments. One, there's probably enough in his education and experience that if the Board believed that noise or pollution are an issue in its determination, you could, if you chose, listen to him as an expert. I think this goes back to one of the issues that was brought up before so you have to decide. Typically the way the Board has dealt with performance standards is it's taken one of the choices in your ordinance, which says "prior to or as a condition of the approval of any application." So you can either hear testimony about the performance standards or you can do, as you have normally done, that in the -- if you so chose to vote, that a condition of approval would be that the applicant must meet all of the performance standards set forth in the ordinance on, as I said, air



pollution, smoke, odors, waste, noise, vibration, temperature, fire, those things. That's what the Board's done, so, effectively, if the Board is going to have that be confirmed as a condition of approval, it's not really an issue and I'm not sure of the relevance. If the Board chooses to hear it, because it could hear testimony before it, you could choose to. It's in your discretion. The way the Board has typically handled these cases, it's not really an issue in this case, but that's up to the Board to decide. I hate to -- I hate -- I usually have stronger opinions; this one is really a toss-up to you whether or not you want to take it as relevant.

MR. BATTAGLIESE: Can I give a comment to your comment there?

MR. BREWER: No, this is my advice to the Board. We're not give-and-take at this point, this is for the Board to...

CHAIRWOMAN McCLUSKEY: Any comments from the Board?

MR. BEZOLD: I would love to hear his testimony.

(Applause by members of the public)

MS. STECKERT: I have a question,

Andy. What's the difference between -- I understand the difference, but expert testimony versus he -- him just giving opinion as part of public comment? Do you have an opinion about that part of it?

MR. BREWER: Functionally, the testimony that has been given by the witnesses is supposed to be evidence of facts, knowledge in their own -- that can be -- and a fact is something that is a positive or a negative, it could be true or false. An expert is allowed to give an opinion based upon their knowledge and expertise if the Board thinks that their knowledge and expertise would be useful on a fact that has to be determined. If you want to determine -- so in a case, if there was an issue on whether the amount of smoke would be correctly filtered out, you could listen to testimony of someone that knows the density of the carbon fires that go into a scrubber or something along those lines and an opinion on whether or not that would be sufficient. That -- so that person can give an opinion about it. I don't think that will be enough in the future, though. People -- the normal witnesses can say "I live X, I see cars a lot, I have traveled on a," you know, driven in a place where there are 9-by-18 lots, so they can say

something in their experience that is a yes or no. An opinion is something that is not really provable, it is a prediction on what a future condition would be. And the Board could decide either way because, as I've said, performance standard is what they're talking about, noise, pollution, those things. They are all regulated other places and the ordinance specifically gives you a choice. Prior to or as a condition of approval, you can require satisfaction of it.

So, as I said, that's how the Board has done it typically, they have required that the applicant for any of the industries in which there are performance standards to satisfy the testing officials, whoever does the noise testing, the other things, for that to be established, as you often do, but it can be done either way, as I said, prior to or as a condition of the approval, you can go either way. Up until now --

MR. DRUETZLER: I say, personally, the performance standards will cover it, but I'd like to hear what you have to say.

CHAIRWOMAN McCLUSKEY: Mayor? Mr. Kelly? Mrs. Kelly?

MS. KELLY: I would like to hear it.

CHAIRWOMAN McCLUSKEY: Marianne?

MS. STECKERT: Sure.

CHAIRWOMAN McCLUSKEY: John, yes.

Right?

MR. BEZOLD: (Mr. Bezold nods.)

MR. GARAVAGLIA: Yes.

CHAIRWOMAN McCLUSKEY: Okay. Let's  
go.

MR. KELLY: Can I speak?

CHAIRWOMAN McCLUSKEY: Absolutely.

MR. KELLY: I think it's quite evident  
that the residents still don't feel that our experts  
or the Board have addressed their issues. There's a  
uniqueness about this application nobody seems to  
want to acknowledge. Yes, it's a restaurant, yes,  
it's a drive-thru and we've permitted those things,  
but it's always in the details that matter. It's a  
restaurant that nobody is used to. They can't give  
us an exact example that would comply with our town  
--

CHAIRWOMAN McCLUSKEY: Okay.

MR. KELLY: -- it's a drive-thru. 60  
or 70 percent of it is going to be a drive-thru.  
There's a traffic situation that hasn't really been  
answered or addressed --

CHAIRWOMAN McCLUSKEY: Okay.

MR. KELLY: -- the proximity to the school, the safety and the mechanics of what's going to happen if kids choose to use this as a hangout or go to use the facility, is the traffic condition going to be advantageous for safety? I get it.

CHAIRWOMAN McCLUSKEY: Well, Mr. Battagliese is going to be speaking -- Mr. Battagliese is going to be speaking on environmental issues.

MR. BREWER: Let's proceed if that's the way you want to go.

MR. BATTAGLIESE: I'm just going to plug in the laptop real quick.

MR. VITOLO: And for the record --

MR. BREWER: One second. If there is an exhibit, there has to be one that is hard copy marked for the Board and the applicant should have one too, so if all you have is a -- one hard copy, the applicant's attorney should have that during this presentation so he can address it the best that he can.

MR. VITOLO: I just have to make the record. We object to this presentation that was never disclosed prior to this meeting and we have no

clue what he's going to put up on the screen.  
That's why we do have disclosure, so that the Board and the opposing attorney knows what the heck is getting disclosed. And further -- and just one last thing for the record. Mr. Battagliese was here, I think every single meeting, he's been here throughout the whole process, and like Mr. Amorosa, he waited till today to disclose that he's giving testimony and never showed anyone what he's putting up on the screen.

MR. BATTAGLIESE: So I would refer --  
I think that it's in the record --

MR. BREWER: I think we're moving  
along.

MR. BATTAGLIESE: Okay.

MR. BREWER: You're in. You're in.

MR. BATTAGLIESE: So I have one copy.  
Should I provide it to Mr. Vitolo?

MR. BREWER: Yes, please provide it.  
Put your name -- your name and "dash 1".

MS. COFFEY: It will be Exhibit O-6.

CHAIRWOMAN McCLUSKEY: And the date.

MR. BREWER: O-6 and his name and the  
date. Mr. Vitolo will have a copy of that while  
this is going forward. And then that will be

returned to Karen at the end just so you'll have a hard copy.

MS. COFFEY: Okay.

MR. BATTAGLIESE: Okay, so thanks for the opportunity to present some additional insights that I think are pertinent to the Board to understand in order to make a proper vote whether you're approving or not approving this application.

So I just want to start out with a very brief recap of the environmental timeline of how this application came together, so on the left-hand side of the screen, you see the basic -- yeah, this is showing the checklist that was submitted back in June by the applicant and on the right-hand side is just a snip of -- to point your attention to No. 58, which is the Environmental Impact Statement that I have highlighted there, letter C, 58C, and you see that a waiver was requested with the reason of a previously developed site.

And what I want to point out is that there seems to have been a misunderstanding within the Planning Board, actually, in terms of what an Environmental Impact Statement is, and I put the definition here because you can see that the town engineer actually pointed out in his report in June,

or his letter, and I took a snip there, that's at the top there in regards to No. 58, it says "Waiver requested and not recommended. Data regarding underground storage tanks and Phase 1 assessment should be provided." So number 15 actually refers to an Environmental Impact Statement and what the applicant provided was a Phase 1 environmental site assessment, ESA, not EIS. During the August 19 Planning Board meeting, there was testimony from the engineer, very brief testimony, that there were really no concerns because it was an existing site, there were no concerns related to the environment, and you can see the definition's there, the Environmental Impact Statement is focused on the proposed development while the ESA or the Phase 1 report is focused on existing environmental conditions of the site, two completely different things. And so I just point that out as a gap that, technically, the waiver was granted for the Environmental Impact Statement, that item No. 58 by the Board, when they voted to approve completeness, but there was not appropriate details that were actually provided to the Board from the applicant nor reviewed by the -- the Planning Board engineer on item No. 58.



At the same time, it also appears to have been a variance that was possibly required and this is the issue that I'm going to focus on for the rest of the testimony. It was already indicated that the applicant, as Mr. Brewer rightly pointed out, has the right to prove performance standards prior to the application being approved or as a condition of approval and you can see that the town engineer basically called that out, it says "Variances Required But Not Requested," back in June, and it says that "Certain performance standards be satisfied relative to noise and odor." I'm also going to focus on air pollution as part of that same zoning ordinance or land use ordinance.

There was no date provided and variance possibly required, and you can see that that was reiterated in the town engineer's August 2 and September 5 letters as follow-up, as well as from the town planner's letter with the application review that the applicant must demonstrate compliance.

Additionally, there was a resident that actually asked a question in the August 19 meeting as to whether it's appropriate to have an environmental impact waiver because they had

concerns around the air pollution associated with the drive-thru being sited very close to the residents, and the response was that this issue would be addressed during the forthcoming testimony.

So this is -- there's, you know, more elements to this performance standard ordinance here, but I highlight in yellow basically the key aspects as we just discussed, "Prior to or as a condition of the approval of any application, the applicant shall comply evidence satisfactory to the approving Board and this may include required tests from government agencies or recognized testing laboratories."

So the three aspects, there are additional aspects here, as I believe it was Mr. Brewer was just reading relating to waste and water and other issues, but I don't feel that those are pertinent to this application, so the three that do appear to be pertinent are noise, odors and air pollution. The applicant themselves already pointed out the New Jersey Administrative Code requirements that show it over a 24-hour day. You have two separate standards there, 7 -- between 7 a.m. and 10 p.m., so essentially the daytime and earlier evening hours, you have a 65 decibel threshold for any

noise, and the overnight hours is 10 p.m. to 7 a.m., it's a lower threshold set at 50 decibels.

On odors, the standard is that "there shall be no emission of odorous matter in such quantities as to be readily detectable without instruments, at the property line from which they are emitted."

And on air pollution, you can see the language there, there's two elements to it, one is the Borough element, it says "No substance shall be emitted into the atmosphere in quantities which are injurious to human, plant or animal life or property or which interfere unreasonably with the comfortable enjoyment of life and property anywhere in the Borough," and then it also refers to the New Jersey Administrative Code and then defaults to whichever is more stringent, and I would say that the broad nature of the Borough ordinance that I put there in italics in blue, which say "interfere unreasonably with the uncomfortable enjoyment of life and property anywhere in the Borough" is more stringent than New Jersey Administrative Code, which gets into specific values of pollution and so forth. So keep that in mind with the fact that there are residents immediately next to this planned operation.

So I just want to look very briefly at each of these three elements and first on noise. The applicant's civil engineer provided noise testimony but did not appear to be a noise expert, at least that was not stated in the introduction, and he gave testimony that they would have less than 20 decibels at the property line in terms of noise level when questioned about the drive-thru speaker system and I'm pretty confident to guess that mostly everybody in this room has no idea what 20 decibels mean so I tried to put that in human terms. You can find different -- similar charts like this, but I defaulted to the occupational safety health administration that regulates safety and health for, you know, from a federal perspective for the United States and across the states and you see the scale here of zero to 140 of different types of noise that you could then, you know, put in human terms, like I said, 20 decibels is amazingly a silent study room. So no testimony was provided on the truck noise levels and there was no noise report, no official noise report with numbers or data that was submitted to prove that the performance standards could be met, and without a proper noise expert report, it seems highly questionable, if not impossible, that

the proposed drive-thru restaurant will achieve 20 decibels, let alone less than 20 decibels, as was testified when you consider speaker noise, truck traffic and HVAC systems.

Moving on to odors, the same testimony on September 16 from the applicant's engineer gave testimony to kind of a state-of-the-art, as it was phrased, two-phase scrubber system that will remove 90 percent of the grease aerosols, but once again, there was no data submitted to support the odor performance standards, such as field olfactometry from similar operations to show the types of odors that might be detectable at the property line.

Most importantly, 90 percent sounds impressive, but the big question I have is: 90 percent of what? There was no numbers submitted in terms of what the concentrations of aerosols from the cooking that would be emitted and, therefore, what the 10 percent remaining concentrations are, because that could, in fact, present a harmful situation to the surrounding community in terms of health and environment.

Other possible odors from delivery and grease truck -- grease removal truck, the vacuum truck that they would most likely use to suck out

the grease from the grease trap, as well as the drive-thru emissions were not discussed at all. So, again, odors, light, noise, lacking in terms of evidence.

Moving on to air pollution, once again, no evidence provided in terms of the performance standards. This is a -- I would say an emerging topic and it's important for the Board to consider the type of research here that is being published in the past few years that is showing the issues around the drive-thru and this is why some cities are now banning drive-thrus altogether in terms of allowing them within, you know, a city, larger cities, let alone small boroughs like Morris Plains, and I put here two studies, one is from the U.K., one is from the U.S. The top one from the U.K. looked at ten different restaurant drive-thrus from McDonald's to Burger King and KFC, understanding that these are, you know, may or may not be the equivalent operations, which I'm sure I'll get a question on based on what happened with the Bayonne situation there, but it is common practice in environmental -- the environmental area to look at similar operations, let's say, and in this case, it wasn't just a rounding error that we were talking about but

the U.K. air pollution standards were violated in many of these situations by multiple times when they looked at the -- kind of the very local air pollution associated with the drive-thru traffic.

The second study is from the U.S. very recently following the COVID-19 drive-thrus that were set up for the COVID-19 testing that we were all familiar with and, essentially, they discovered that when they assessed the pollution in the immediate surrounding area, they found hyper local hotspots of pollution caused by the exhaust of the idling traffic in that drive-thru. It was especially prevalent, and this was also my concern with the drive-thru here considering how close it is with the immediate residents, that in the summertime, you basically get what are known as atmospheric conversions. Simplistically, it's when the air is kept lower, so that's when you have, you know, issues that we all see with summer smog from vehicle exhaust and other pollution and so this was, you know, an extra note that during the summer heat atmosphere conversions, the pollution was at a much higher rate as well in the already hotspots that they had identified.

It's an uncontested fact that vehicle

exhaust pollution in general presents environmental and health risks. You could, you know, look at journals and come up with hundreds and thousands of different articles that have been peer reviewed that go in this direction. The main pollution that comes off of vehicle exhaust, including light-duty vehicles, are volatile organic compounds, finite particulate matter, nitrogen oxides and carbon monoxide emissions and you see the health and environmental risks that are associated with such pollution on the health side, cardiovascular and respiratory diseases, cancers and increased mortality rates associated with such diseases, and environmental risks being smog, summer smog, basically, acid rain, and damage to surrounding ecosystems.

When we consider the drive-thru situation that we're talking about here, the idling and start-and-stop traffic patterns that are associated with a drive-thru will result in higher emissions. That's also a well-proven fact. And a focus study also showed that greater drive-thru lanes, you know, maybe not surprisingly, results in greater emissions, so here we're talking about a multi-lane drive-thru, two lanes, basically. The



more lanes you have, the more cars that can be squeezed through and idling simultaneously and that results in greater emissions.

And when I asked the questions around the -- whether there were concerns around air pollution to the expert from the McDonald's side, the answer that I got was that it was a, quote unquote, "at most," temporary problem, and electric vehicles will solve that, but New Jersey only has about 2 percent of EV market share and I can tell you that it's not growing as fast as expected, so this will be years before that problem is completely gone.

So because the performance standards, so far, we haven't been able to have evidence that proved that conformance will be possible with these performance standards of noise, odor and air pollution, this brings into concern the following aspects of the Master Plan and essentially going back to the 1975 and then the 2000 Master Plan straight through the reexamination in 2018, you have goal number 8, which is focused on providing protection of the environment for all reasonable measures for minimizing the impact of pollution and I would suggest that the Board consider that because

a pretty simple measure here for minimizing this type of pollution is not to have a drive-thru and ask people to park their car, turn off their car and get out and go in and pick up their food.

And then Community Vision Statement is also a concern without conformance with the standards because of a focus on a healthy and sustainable Morris Plains.

And finally, the drive-thru proposed also directs the Morris Plains Community Energy Plan that was endorsed by the Morris Plains Council earlier this year. This was developed with a New Jersey Board of Public Utilities grant. The CEP has goals to reduce energy consumption, both from stationary or building and mobile sources or vehicles and the associated greenhouse gases. The analysis in the CEP showed that more than 50 percent of Morris Plains greenhouse gases come from vehicle exhaust, and I just did a quick calculation there to show that the proposed drive-thru, based on the number of cars with a 70 percent drive-thru rate, 800 transactions coming in per day, will see more than 140,000 pounds of carbon dioxide addition to Morris Plains' carbon footprint, which is counterintuitive, of course, to the goals of the

Community Energy Plan.

So to summarize the conclusions from all of this, basically, the unusual drive-thru -- I'll just read them. The unusual drive-thru scenario that is proposed with a high number of cars and large stacking capacity right next to residences and across the street from the school raises legitimate concerns that the Board must clearly assess.

The applicant did not provide sufficient evidence that the proposed operation would uphold the Morris Plains Land Development performance standards. And I would add since this was already addressed, that they do have the right to approve, you know, you guys have a right to approve this as a condition, that just because it's approved, that could open up a can of worms because if you go back to noise, this was already testified by the planner. If noise standards are exceeded, then you're talking about putting up some kind of noise wall, you know, right in between the residents next door, which I think would obviously be a problem, and then I will tell you that the issues of noise -- sorry, of odors and air pollution, particularly when it's related to mobile sources

like this and even cooking, can be kind of on-and-off type situations and hard to enforce because of that.

So the proposed drive-thru presents concerns of noise, odors and pollution that have not been addressed to demonstrate that they don't negatively impact Morris Plains, particularly the environmental quality and health of the surrounding neighbors on Dayton Road and other immediate residential streets and present legitimate concerns for the goals of the Morris Plains Master Plan.

Non-compliance with the performance standards requires a variance, which then requires the applicant to meet the negative criteria and prove that they are not substantially impairing the Master Plan and zoning ordinance and not substantially harming the public good.

That's my testimony and I'm sure there will be some questions and so forth.

(Applause by members of the public)

CHAIRWOMAN McCLUSKEY: Mr. Vitolo?

EXAMINATION BY MR. VITOLO:

Q. What's your name again?

A. Tom. Battagliese.

MR. VITOLO: Battagliese.

Q. Mr. Battagliese, how many drive-thrus did you personally study in preparing your report?

A. Intentionally, I did not personally study any, for the reason that was discussed last week that other drive-thrus are not admissible with what was raised. I did actually talk to New Jersey DEP and was intending to take some air emissions with monitors that you loaned out and I was planning to do that from the Bayonne site that you guys referenced, but after that testimony last week, I saw that it didn't make any sense at all, so I default to these research studies, as I think the burden of proof is on you guys to prove that this is in conformance.

Q. How many drive-thru restaurants in Morris County have you ever studied?

A. I don't study drive-thrus and I'm not studying drive-thrus for the reason I just gave.

Q. How many drive-thrus in Morris County have you ever studied?

A. Zero.

Q. Thank you. Did you agree with the testimony of Mr. Steck and in particular, his testimony about the Bayonne McDonald's?

A. Can you remind me what point you're

referencing?

Q. If you don't remember, then it's not relevant.

Did you agree generally with Mr. Steck's testimony?

A. I am not an expert on many of the aspects that he testified to. They didn't have to do, for the most part, with environmental concerns that I testified to tonight.

Q. Okay. Did you agree with anything that Mr. Steck testified about?

A. I thought that he had some good points; again, I'm not the expert, but it seemed to make sense.

Q. Did you know that Mr. Steck was the planner who wrote the plan allowing that Bayonne McDonald's to be built?

A. I don't think that's relevant to my testimony.

Q. I'm asking you if you knew that.

A. I did not.

Q. Okay. Would it have changed your opinion of Mr. Steck?

A. It would not have.

Q. Okay. Sir, you must have testified in

opposition to the Chick-fil-A on Route 10.

A. I did not.

Q. Because you don't live down the street from it, right?

A. Because the Chick-fil-A is on a highway without immediate residents and a public school across the street.

Q. Okay, so the pollution's okay there but just not here.

A. Pollution does, as you get further from the source, does become less -- you know, more and more dispersed, so that's correct, and there's already pollution associated with the highway there. Again, it is not next to residents or public schools.

Q. There's a lot of cars that queue for that Chick-fil-A, isn't there?

A. That's what I hear.

Q. Yeah. Many, many, many more than will queue here, sir, so --

(Public outburst)

Q. But you didn't --

A. That's a completely different location, sir.

Q. But you didn't object to that

application, correct?

A. It's in a completely different situation and I would suggest that this McDonald's would be perfect where the Weichert is, uh, is going to be knocked down, up on Route 10.

(Applause by members of the public)

Q. I assume that you've already submitted all of your backup that supports your conclusions from the presentation, correct?

A. I have footnotes for any sources, any data that was cited and I'm happy to -- if the Board needs printouts of any studies that I referenced, I can -- I have them on my computer and will happily provide a printout.

Q. Okay, I'll ask you again. I assume you have already submitted all of your backup, correct?

A. My -- I explained to you my testimony is there that I just handed you a copy.

Q. Okay. It's -- you know, I'm asking you questions and that's a yes or no. Did you submit the material or not?

A. The material is in front of you, sir.

Q. The backup, did you submit the backup?

A. What backup are you looking for?

Q. Okay, then that answers the question.



Did you rely on --

A. I have citations of any data that is in that packet there.

Q. Okay, but the physical backup, the reports, all of that information that you purportedly reviewed to come to your conclusions, did you submit that material to the Board? It's an easy question.

A. There is no other material that I submitted to the Board.

Q. All right, so you have no other backup, it's just this.

A. I'm not sure what backup you're looking for.

Q. You're not listening. Is this the only --

(Public outburst)

Q. Is this the only --

A. That is the only document that I have at this moment but there are citations there if you need hard copies and don't have access to the internet, I'd be happy to print them for you.

Q. Okay. I'll ask one --

(Applause by members of the public)

Q. -- one last time. Is this the only

document --

A. That is the only document, sir.

Q. Thank you.

MR. VITOLO: I would like to ask my civil engineer, I'd like to confer, as I did before, for a couple minutes with him, as to whether he has additional questions. Again, this is the first time we're seeing this.

CHAIRWOMAN McCLUSKEY: So it's ten minutes to 9. We've been here almost two hours. Why don't we take a 15-minute break.

MR. VITOLO: It's a good time.

CHAIRWOMAN McCLUSKEY: Okay.

MR. BREWER: 9:05?

CHAIRWOMAN McCLUSKEY: 9:05.

MR. VITOLO: Great. Thank you so much, you're welcome.

(Recess taken)

CHAIRWOMAN McCLUSKEY: Are we back on the record?

COURT REPORTER: Yup.

CHAIRWOMAN McCLUSKEY: Okay.

MR. VITOLO: We only -- we have three more questions for this witness.

CHAIRWOMAN McCLUSKEY: Um-hum.

Q. Sir, do you understand the concept of a permitted use?

A. Yes.

Q. Okay. And what do you understand that to be?

A. That it is -- if it's in the zoning ordinance, it is a permitted use; however, until it's proven, you know, as I showed at the end of my testimony, against, that the -- you're requesting variances, so yes, it's a permitted use. The variances need to show that the positive criteria outweigh the negative criteria and don't go against the zoning ordinance or the Master Plan.

Q. Okay. Is a drive-thru restaurant permitted on this property?

A. It is.

Q. Okay. Did you -- you didn't do any independent modeling of the equipment that McDonald's is proposing for this site, correct?

A. Honestly, I don't know the specifications. The only thing you testified to was that it was a two-phase scrubbing system that would move 90 percent. I don't know who manufactured it or, you know, any of those details, but like I said, the thing that matters is the concentrations that

are being emitted, not the system, per se.

Q. Okay, I'll ask that again.

A. Okay.

Q. You did no independent modeling of the equipment that McDonald's is proposing, correct?

A. What do you mean by "modeling"?

Q. You didn't independently analyze, test or look at the equipment that McDonald's is proposing, correct?

A. No. I'm not sure how that would be possible if it's not constructed yet.

Q. So the answer's no.

A. That's correct.

Q. Okay. And you conducted no site-specific analysis regarding noise or odor, correct?

A. I believe that's where the testimony was going last week with Bayonne. It was stated that that was not admissible, so since this site is not constructed, no, it's impossible to do any testing.

Q. So I'll ask it again.

A. No, I did not do any testing of the site.

Q. Regarding noise and odor.

A. Correct.

Q. Okay. And sir, you have no qualifications as a planner, correct?

A. That's correct.

MR. VITOLO: All right, that's all we have for him. Thank you.

CHAIRWOMAN McCLUSKEY: Thank you. Any questions of our professionals? Yeah.

MR. RYDEN: Yes, Madam Chair. Is this mic turned up?

AUDIO TECHNICIAN: Yes.

MR. RYDEN: I have no questions for Mr. Battagliese, but I have some comments on what he had to discuss with the Board.

CHAIRWOMAN McCLUSKEY: Okay.

MR. RYDEN: The first goes back to the completeness review and the matter of the EIS waiver. Just reminding -- I want to remind everyone that the waiver is for administrative completeness with the -- always with the stipulation that it's not dispositive of all the issues that go with it. Those items can be raised in testimony as the matter proceeds, as the hearings proceed, and I believe that that was the case here. The applicant's civil engineer went through all those issues and provided testimony about the various performance

specifications. Standards, rather, for the -- to comply with the ordinance.

The other thing is I indicated in my report at that time that there may be a variance required relative to performance standards. I said it may be because there might have been a case where the applicant said "We are going to do something in excess of the standard," then it wouldn't be a variance. That's not the case here, so there are no variances required for any of the performance standards.

What it really comes down to is what this Board has done in past practice with performance standards --

MR. BATTAGLIESE: Am I allowed to respond to any of these as he --

MR. BREWER: Yeah, one person at a time, please let him speak.

MR. BATTAGLIESE: Okay.

CHAIRWOMAN McCLUSKEY: Go ahead.

MR. RYDEN: With regard to performance standards, it's always been this Board's practice to make it a condition of approval and that it would be demonstrated by tests and enforcement. That's how compliance is achieved here with these standards, is

by enforcement of tests, and so I'm recommending here that we follow that same practice that's been in place for as long as I can remember.

Regarding the, you know, regarding noise and odor issues, it's all speculative at this point. Now, we can hear testimony from experts about what there may be, you can have ten experts and you can get ten -- ten different opinions, you don't know what kind of truck it's going to be, what kind of motor it has, where the exhaust is located, the refrigeration units, all those things, which is why we do the post-development tests for those things and before the issuance of a C.O., so that's where I think we should go again and those are my comments regarding the performance standards.

CHAIRWOMAN McCLUSKEY: Thank you. Do any of the Board members have any questions of this witness?

MR. BEZOLD: I --

MR. BATTAGLIESE: Can I respond to his comments --

CHAIRWOMAN McCLUSKEY: Nope --

MR. BATTAGLIESE: -- somehow?

CHAIRWOMAN McCLUSKEY: No.

MR. BREWER: No, it's not a give-and-

take. It's not -- you gave testimony --

MR. BATTAGLIESE: Okay.

MR. BREWER: -- experts don't get to

--

MR. BATTAGLIESE: So he gets to get the last word in.

MR. BREWER: That's how it is, one person talks, then the next.

CHAIRWOMAN McCLUSKEY: Mr. Bezold?

MR. BEZOLD: My question really is clarification because I know nothing about decibels. So you said that their engineer had testified that McDonald's is only going to have 20 decibels of noise?

MR. BATTAGLIESE: He testified, and you can go back to the transcript to see the exact -- in fact, I have it here if you want me to read it, but he testified that there would be less than 20 decibels, not 20 but less than 20, at the property line. The property line, as he stated, was 50 feet in one direction and a hundred feet in the other, so 50 feet, yes, as silent as a -- or better than as silent as a quiet study room, is what he testified to. He only testified on the speaker system as well, that was all he commented about, and



there was no report. I mean, I'm getting questions here about whether I have done testing on their equipment, but they submitted no report, and a certified noise report is the normal approach here by a certified noise expert and he's not a noise expert, he's a civil engineer, with all due respect, and he only gave verbal testimony without any backup data.

MR. BEZOLD: So is your chart that you posted on the screen accurate as far as how decibels go, I mean --

MR. BATTAGLIESE: Yeah, I mean, that came from OSHA so that's the federal, you know, agency that governs safety and health in this country.

MR. BEZOLD: So is there any way we can get clarification from McDonald's about the decibel level that may be coming out of here?

MR. VITOLLO: There was extensive testimony on the decibel levels and nothing this witness said, frankly, calls that into question. You may not believe it, but that's what our expert testified to. So it's up to the Board to judge the credibility of the witnesses and to make a judgment as to who they believe and who they're going to go

with as far as these standards, so we're comfortable with the record that's been created already.

CHAIRWOMAN McCLUSKEY: Any other members of the Board have any questions?

(No response)

CHAIRWOMAN McCLUSKEY: Okay. That's the conclusion of the application --

MR. BATTAGLIESE: Thank you.

MR. BREWER: -- of this witness.

CHAIRWOMAN McCLUSKEY: Of this witness.

MR. BREWER: Then I will read Ms. Kumer's statement --

CHAIRWOMAN McCLUSKEY: Right.

MR. BREWER: -- then members of the public.

CHAIRWOMAN McCLUSKEY: Right. So that's where we are.

MR. BATTAGLIESE: There was a question from the room as to whether the community gets to cross-examine as we did with their witnesses.

CHAIRWOMAN McCLUSKEY: No.

(Public outburst)

CHAIRWOMAN McCLUSKEY: So here's the way it's going to go. We're going to have -- I

guess it's one of the --

MEMBER OF THE PUBLIC: Can you explain why?

MR. BREWER: Ms. Kumer, the attorney for the group who appeared, who was not able to be here, she -- and I don't know the name she stated to me that she gave her statement to one of her clients who she represents who would be reading it, and I agreed that's fine if she wanted that so she wouldn't have to come in. Is that person here? Ma'am, it's not your time but you get to -- yeah, it's your time to come up if you'd like. This is Ms. Kumer, you'll be reading her statement, and she sent me an e-mail to make sure that you didn't write it and I never thought you would have -- she's going to speak, you're done for now. I'm sure you're going to come back.

MEMBER OF THE PUBLIC: Can we ask a question about why we can't cross-examine?

MEMBER OF THE PUBLIC: Yeah, why didn't we cross-examine?

MR. BATTAGLIESE: Yeah, there seems to be a difference --

MR. BREWER: Please, we're done. The Board has decided it doesn't need cross-examination

from objectors. That's the whole point.

MR. BIANCHI: Well, not everybody here is an objector.

MR. BREWER: Okay. Thank you.

Ms. Kumer, you -- Ms. Kumer's client, you get to speak now, you get to read her statement.

MS. SCHROEDER: First I would like -- is this okay?

MEMBER OF THE PUBLIC: No.

MS. SCHROEDER: Can you hear me okay? Like this? Yes?

MEMBER OF THE PUBLIC: Yes.

MS. SCHROEDER: Okay.

COURT REPORTER: State your name, please.

MS. SCHROEDER: My name is Lisa Schroeder, 97 Maple Avenue, but I'm reading the statement of Heather Kumer, who represents the LLC.

"First I would like to thank Planning Board attorney Andrew Brewer for allowing my closing statement to be read into the record. Recently, I have been diagnosed with multiple sclerosis and painful relapses have disabled me to join you tonight in person. This closing statement being read into the record does not negate the reader to

voice their own opinion during public comments.

Second, the objections being stated have nothing to do with the dislike of McDonald's as a company or not wanting Big Macs in Morris Plains. The objection of application is based upon public health and general welfare. The applicant previously stated that this is a permitted use, the Board can't deny this application. This is not only not the case but that logic and opinion sets a dangerous precedent for Morris Plains. Just because a use is permitted, that does not mean it gets a free pass on all requirements by the Municipal Land Use Law, Morris Plains zoning code and Master Plan. This application has not yet been approved by the Department of Transportation.

According to the Municipal Land Use Law, for a C variance, the applicant's burden to prove that the benefits of granting these variances outweigh any substantial detriment to the public good, the variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance and that the purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance requirement.

The applicant's planner testified that

the applicant -- that the application meets A and G of the purposes of the Municipal Land Use Law. A is to encourage municipal action to guide the appropriate use or development of all lands in the state in a manner which will promote the public health, safety, morals and general welfare.

Paragraph G reads "to provide a sufficient space and appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens.

Do you think a two-lane drive-thru fast-food restaurant on an undersized corner lot across the street from a middle school and surrounded by residential homes is an appropriate location? As stated by our planning expert, Peter Steck, yes, drive-thru restaurants are permitted in the B-2 zone, but this restaurant is too big for the property or, alternatively, the property is too small for the proposed restaurant. The tightness of the site forced the applicant into proposing zoning and design deficiencies that are not justified. The testimony you heard from our witness even showed

that an essential variance under general requirements for nonresidential off-street parking was not even considered.

Section 13:5.7 reads, "No part of any on-street parking areas shall extend into any required front yard more than the front yard setback requirement of the zone in which it is situated unless specifically permitted in the respective zone." Additionally, the applicant's planner did not review the applicable Master Plan document, only the 2018 Master Plan reexamination. The lack of information provided by the applicant and their inability to meet their burden is warranted for a denial.

During your expert testimony and our presentation, instead of providing legal arguments and planning arguments that support an approval on their plan, the applicant's attorney focused on limiting the ability of the public to ask questions and trying to discredit our planning expert. Why did they rely upon these tactics? Because they do not have enough of a case to prove their burden to grant this approval with the variances.

The applicant's planner relied on utilizing the Chase Bank's drive-thru that is down

the street to show that it justifies having a two-lane drive-thru even though the Chase Bank is only open until 5:00 and McDonald's will stay open until 11. They also have repeatedly said that the application in front of you meets the burden merely because it is part of the Chase Bank even though it is a much larger lot, a less-intense use and hours of operation.

Some of the biggest concerns are regarding traffic, loading spaces, parking and meeting performance standards. You may think, well, if they do not keep their promise to meet these conditions when the Zoning Officer can issue a violation; however, in this case, what good is a zoning violation if a child from the middle school gets hit by a car while trying to get a Happy Meal? What good is a promise that an 18-wheeler delivery truck will have no problem utilizing the parking without a loading space and will not cause any disturbance only to find that it has caused significant harm and there is no way to remedy after the effect? Unfortunately, in this instance, the repercussions of an approval of this application would result in an immediate harm before a zoning violation can even be issued.



Instead of hearing the concerns of residents and neighbors and children that this is not a suitable area for a two-lane drive-thru fast-food restaurant and finding a different location in Morris Plains, McDonald's has decided to ignore the people of Morris Plains and move forward with the application. I urge the Planning Board members to hear your neighbors and their concerns. I urge McDonald's to reconsider their proposal and work with the residents to find a more suitable location that is safer and less intrusive than the current site. The current plan tries to put a square peg in a round hole.

Thank you for your time and I appreciate your consideration."

(Applause by members of the public)

MR. BREWER: Now it's time for the members of the public. I think, previously, the Board, because of the large number of people that want to speak -- if it turns out only six or seven want to speak, they'll probably be recycled another time, but I think initially when people come, there's going to be four minutes, you'll be sworn in, give your testimony, your statement, something, you know, you want to say, and it's going to be like

cross-examining. Again, if we -- like I said, if there's six, seven, seventeen and then we have plenty of time, they're going to continue on, everyone will get a chance and hopefully all the issues will be good, relevant, not repetitive, and we -- and the Board appreciates everyone coming out, so as people come up, I'll swear them in, and four minutes to go.

CHAIRWOMAN McCLUSKEY: Karen, will you start the timer?

MS. COFFEY: Yes, there's the timer, right there. Okay? I'm going to have it set on four, okay?

MS. FALCO: Okay.

MR. BREWER: Just so you can all understand the math like me, four minutes a person, a minute to get them up and down and sworn in, we got five minutes per person. If 25 people speak, you're pushing two and a half hours just at 25, I assume more than that, so it's an attempt to hear everybody. So anyway, that being said, please raise your right hand, state your name, spell your last.

MS. FALCO: Ellie Falco, F-A-L-C-O, 20 Jaqui Avenue.

E L L I E F A L C O, 20 Jaqui Avenue, Morris

Plains, New Jersey, is duly sworn/affirmed.

MS. FALCO: I didn't know about the expert testimony that was given --

(Background noise)

MR. BREWER: One sec, one sec.

(Noise stops)

MR. BREWER: Could you repeat your name, please? Could you have her repeat her name, please?

MS. FALCO: I didn't know about the expert testimony that was going to be given so I just kind of rewrote because I have the same information and I do have some of the documents with me that I can give to the secretary.

I'm certainly not an expert in environmental field, but some of the aspects of this application felt obvious to me. The McDonald's expert stated that they haven't done any air pollution studies on any of their sites and I did look on Google Earth and none of the sites were similar to ours. One was close but not the same. They did give expert testimony on what they felt the amount of traffic would be going through and that amount of traffic, along with the heavy traffic along Speedwell, right in that area, which is

actually treated as a four-lane road, not a two-lane, I have great concerns about the amount of pollution, air pollution. It's very dangerous, and as was stated earlier, with air -- temperature inversions and stagnant air, it's really dangerous. It's not only dangerous for the residents in the area, it's dangerous for the staff at McDonald's, you know, even with a drive-thru window.

I'd like to mention, then, the county did a study at Hanover Avenue with recommendations for easing some of the traffic and those recommendations were not taken into consideration or were turned down by the Board and I would ask that the Board revisit that and just see if there's something that might be applicable to help for the traffic in that area, but getting back to McDonald's, I found the detailed study. I did not find the McDonald's study when I did my research, but I did find the other one that was published in the Journal For Environmental Science on pollution hotspots with drive-thrus for COVID-19 testing, which is a similar situation to the McDonald's drive-thru, so I do have that study and it's very thorough, and I also have a paper from sustainable development code that talks about the same issue and

also pedestrian safety problems, and it's very thoroughly cited. So I'd like to -- the Board to consider this.

(Ms. Falco hands document to Board secretary.)

MS. COFFEY: Thank you.

MS. FALCO: Also, as was stated earlier, many cities and towns are banning fast-food restaurants, any new building, for these reasons, pollution, noise, safety, and I think that's an important area and I hope that the Board will take that into account in their deliberations. Thank you.

(Applause by members of the public)

MR. BREWER: Please raise your right hand, state your name, spell your last name.

MS. ORR: Hi. I'm Jessica Orr, O-R-R, I live at 15 Hillview Avenue.

J E S S I C A O R R, 15 Hillview Avenue, Morris Plains, New Jersey 07950, is duly sworn/affirmed.

MS. COFFEY: Just wait one second.

MS. ORR: All right, you can set the timer.

MR. BREWER: Okay.

MS. COFFEY: Go.

MS. ORR: Do any of you know or have had a loved one hit by a car? Because I have. My mom was hit by a car while walking in a crosswalk on a walk sign. The car was coming from Hanover Avenue turning onto Stiles Avenue. In that one minute, my family's life was changed in an epic way. My mom had to have multiple surgeries, a skin graft, reconstructive surgery on her foot. She spent weeks in the hospital throughout years, weeks not whole years but you get it, weeks over the two years. She missed many events, including a vacation she's been saving for years to go on. My mother almost died from infections more than once and I spent my evenings at her side praying for her. My mother, who owns a bridal shop for 30 years in Morristown with my aunt, was forced to sell the store two years after the accident because my mom was still unable to fully work while going to physical therapy.

I know that accidents can happen anywhere, but I wanted to share my mom's story because I believe that adding a McDonald's with a two-lane drive-thru across from a school and a preschool is just asking for trouble.

As of Monday, December 9, 209 pedestrians have been killed in New Jersey,

according to the New Jersey State Police, 209 pedestrians. McDonald's is proposing a restaurant that has a drive-thru lane around the whole building. There's no safe place for customers who park to walk without having to cross in front of the cars. McDonald's is proposing to make a larger crosswalk and flashing signs on Speedwell to help make it easier for people to cross the street, but McDonald's is not going to care when someone gets hit by a car. They won't be here. That will be on all of us.

You all are members of this town, you all should have a vested interest in this decision. You have done great work over the years. Is approving McDonald's to operate here what you want your legacy to be? I am not an engineer and I don't play one on TV, but I've reviewed our town's Master Plan and kept seeing some of the same phrases, to keep with the small town charm," "maintaining the Borough's system of streets and roads," "to continue to provide for the safe and efficient movement of traffic and to discourage routes which adversely impact existing and future residential neighborhoods." As someone who lives on Hillview Avenue, directly across from the McDonald's

location, I feel like this addition is not keeping with that small-time charm -- small-town charm, or maintaining the Borough's system of streets and roads. I also believe that this addition to town is adversely impacting residential neighborhoods.

During Mr. Vitolo's opening statement, he said that upon seeing the crowd, he requested his office and the biggest person they have. He then told us that this is not McDonald's' first rodeo. Throughout his and his experts' many presentations and ramblings, they mentioned many McDonald's across New Jersey that are similar to this location. You, the Planning Board, live in Morris Plains, you know how special this town and our school are, you know how busy Speedwell Avenue is. McDonald's' two-lane drive-thru does not make sense.

Mr. Vitolo also insinuated that those objecting against McDonald's are the same people toting around 5,000-calorie Starbucks drinks. I personally have no issue with McDonald's. They have the best Diet Coke and fries, hands down. McDonald's' two-lane drive-thru with backup on Speedwell Avenue, a DoorDash driver attempting to beat the clock, a parent who spent hours at their kid's sporting event rushing to get them home, a



landscaping crew with their truck and equipment trying to get something to eat, child attempting to walk home and hundreds of cars visiting McDonald's daily is what I have an issue with. I hope that you, the Planning Board, my neighbors, see how unreasonable this addition would be to our town. Even though the location is a permitted use, it is not what is best for the town, our families, or for our children.

MEMBER OF THE PUBLIC: Bravo.

(Applause by members of the public)

MR. BREWER: Please raise your right hand. State your name, spell your last.

MS. BERGERON: Hello, I am Izzy Bergeron, B-E-R-G-E-R-O-N, I live at 4 Drexler Drive.

(Court reporter asks for spelling of first name.)

MS. BERGERON: Izzy, I-Z-Z-Y.

COURT REPORTER: Thank you.

I Z Z Y B E R G E R O N, 4 Drexler Drive, Morris Plains, New Jersey 07950, is duly sworn/affirmed.

MS. BERGERON: When you drive around Morris Plains, you see signs outside of people's houses protesting this restaurant. You see hundreds

of people gathered here because they don't want this. You, as the Board, are supposed to represent these people, these people who have voted for you, and the people are saying "No."

(Applause by members of the public)

MR. BREWER: Please raise your right hand. State your name, spell your last.

MS. CONNOR: Hi. Leigh Connor,  
C-O-N-N-O-R, at 2 Tower Hill Road in Morris Plains.

MR. BREWER: Please raise your right hand.

L E I G H C O N N O R, 2 Tower Hill Road, Morris  
Plains, New Jersey 07950, is duly sworn/affirmed.

MS. CONNOR: May I speak?

MS. COFFEY: Can you just -- I don't  
know how to stop it, I apologize.

MR. BREWER: You know what, I can keep  
the four minutes. I'll kind of give you a 30-second  
notice.

MS. CONNOR: Thank you.

MR. BREWER: You got it; you can  
start.

MS. CONNOR: I want to refer to  
specific testimony that we have, Mr. Craig Peregoy  
of Dynamic Traffic on November 12 when asked for

comparable locations to -- of the McDonald's to the proposed one in Morris Plains, he named six. The first one was 537 Broadway in Bayonne, making him the second McDonald's expert to cite Bayonne as a comparable, 568 Myrtle Avenue in Boonton, Hackensack, Malaga, West Long Branch, West Milford, so I looked them up. I wanted to see how were they like us, what could we learn from them? Well, I found significant differences.

One, Hackensack has a four-lane road, three are in shopping centers, two are in heavily urbanized commercial areas. No two locations are alike, but these are not like our small town embedded in a residential neighborhood and across from a school, but the most striking thing was that every single one of them has some limitation on traffic. You're either right-turn-only, left-exit-only, there's a traffic light. They all had some kind of turning lane, something that would tame the traffic, which is not present in this application, and I therefore think that they are not credible as comparables to this proposed site.

And although this may be a small thing in the rings of testimony, I think it's emblematic of a larger point. These are experts that have

worked for McDonald's for years, they'll continue to work for McDonald's, they're doing their job. Mr. Brewer, before, you said, in reference to Heather Kumer's statement, she's not giving all the facts, she's presenting arguments and reasons to vote one way or another, and I think that's what you get when you have applicant experts testifying, everybody knows that, nothing wrong with that, but it's our obligation to give equal weight to opposing viewpoints that are backed by fact, and we heard a lot of them now, there are a lot of outstanding questions, odor, noise, environmental impact, what the heck is the deal with the trucks on Dayton? I don't know. Noise, too-small parking spaces, so many loose ends, so I just ask you to weigh pros and cons very, very carefully and let's not simply approve a McDonald's because there are some deep pockets and some very "expert" experts representing them. Thank you. I'd like to...

(Applause by members of the public)

MS. CONNOR: I'd like to put my study into evidence (handing to secretary).

MR. BREWER: Please state your name and spell your last.

MS. DUGAN: Yes, Joanne Dugan,

D-U-G-A-N, 31 Canfield Place.

J O A N N E D U G A N, 31 Canfield Place, Morris  
Plains, New Jersey 07950, is duly sworn/affirmed.

MR. BREWER: Thank you.

MS. DUGAN: Okay, first of all, I'd  
like to say this is my worst nightmare, to be up in  
front of all of you speaking, so I'll try to keep it  
short.

In three days, I will be 64 years old.  
I have lived every one of those years on either  
Dayton Road or Canfield Place. I grew up in small-  
town America. We rode our bikes all over Morris  
Plains, we walked up town to hang out at Botwins.  
Some of you older people might remember the candy  
store and toy store. We played at the cornfield now  
known as Simons Park. We all headed home only when  
the 5:00 whistle blew. It was an idyllic way to  
grow up.

Unfortunately, the children growing up  
in Morris Plains today no longer have the same safe  
town to roam around and play in. The traffic on  
Speedwell Avenue and surrounding streets has  
increased tremendously over the years. Cars cutting  
through our neighborhoods have made it exponentially  
more dangerous for everyone, and I would never let

my daughter cross Speedwell as I did in my childhood.

Trying to cross Speedwell Avenue now is like taking your life in your hands. Most cars do not yield to pedestrians, even when waving our flags. This is borne out by a recent operation conducted by the Morris Plains Police Department, which I believe was stated in a different meeting. Driving in this town is no better. Trying to make a left turn out of Dayton Road during morning rush and any time between 2:30 and 7 p.m. is a near impossibility. If you need to turn left out of Dayton, you have to go around the block to Canfield, to Academy to use a traffic light, which is the longest light known to man, but I digress.

I'm certain that patrons exiting the proposed drive-thru restaurant will circumvent the angled driveway proposed at the Dayton Road exit and proceed right and turn through the neighborhood to get to the light. If, by some chance, this exit is removed, they will turn right onto Speedwell and then right onto Dayton.

Canfield Place has no sidewalks and we have already had many close calls with children playing and pedestrians walking. One is here.

Adding a minimum of 700 to 800 cars entering and exiting the double-lane drive-thru is a tragedy waiting to happen.

The granting of the many variances required by the drive-thru restaurant will only exacerbate an already dangerous situation. Traffic safety, noise, no loading zone, 18-wheelers exiting in a residential zone, parking issues, buffer zone, and not to mention the environmental issues of 700 to 800 cars idling within feet of residences. In my opinion, up until tonight, this is a very critical item that has never been adequately addressed by the applicant or the Board.

Trying to shoehorn a business into a location to which it is not equipped to accommodate will create a substantial detriment to the surrounding residential properties and the town at large. This establishment will not comply with the town's Master Plan. Just because a drive-thru of some kind is a permitted use does not mean that this type of high-volume establishment should be approved considering the number of variances required and the overall detriment to the community of caring, not to mention the effects to the other small eateries in town.

I feel that there are just too many negatives to this application and granting the many variances will do absolutely nothing to enhance our community. I hope the Board would give this application the scrutiny it deserves and will vote to preserve the small-town feeling in Morris Plains and not turn this into a drive-thru town. Thank you very much.

(Applause by members of the public)

MR. BREWER: Please state your name, spell your last.

MR. MIRABELLE: Nancy Mirabelle, M-I-R-A-B-E-L-L-E, 3 Cornine Lane.

MR. BREWER: Please raise your right hand.

N A N C Y M I R A B E L L E, 3 Cornine Lane, Morris Plains, New Jersey 07950, is duly sworn/affirmed

MR. MIRABELLE: I would like to commend the residents who gave their time to attend these meetings, do research, ask questions, some of which, frankly, should have been asked by members of the Planning Board, and who obviously care about our community. The important question here is how would granting the requested variances benefit the



community. The community as a whole is faced with traffic, public safety and trash issues. The neighborhood nearby, also part of our community, faces noise, air pollution and loss of property value. It makes sense that the estimated 700 cars per day slowing down to turn into the restaurant will impede the traffic moving smoothly on Speedwell Avenue. The angle of turning into the site with a tractor-trailer delivery truck will also disrupt the flow of traffic. If cars do turn onto Dayton Road to eventually get to the light on Academy Road in order to make a left-hand turn onto Speedwell, then the residents of those streets face an increase in traffic. Traffic compromised.

If patrons congregate in the parking lot, especially late in the evening and perhaps after the establishment has closed, who is responsible for moving them along, and after how long of a time? If it is the job of the police, does this mean they are not patrolling somewhere else in town? The people in the neighborhood could also be at risk with groups of strangers nearby. Public safety compromised.

The placement of a crosswalk with blinking lights indicating pedestrians wanting to

cross Speedwell Avenue is no guarantee of pedestrian safety. A fast-food restaurant would likely be a draw for school-aged children who might not be very careful about how they cross such a busy street. Those consequences are awful to think about. Pedestrian safety is compromised.

Where are the results of your quality studies? 700 cars per day idling in a drive-thru and a large tractor-trailer delivery truck idling for approximately 45 minutes twice a week cannot be good for the air quality in the proximity to the location. Air quality compromised.

There will be disruption to the peace of the neighborhood with the noise of idling cars, idling delivery trucks, garbage pickup and grease trap cleaning. The peace of the neighborhood is compromised.

The area surrounding the restaurant will be a waste ground for food wrappers, used cups, et cetera. If people walk to the restaurant, take out their food and drinks, eating as they walk away, the easiest way to dispose of the garbage is to throw it on the ground. No matter how much we would like to think differently, there will be food wrappers along the way from the restaurant.

Cleanliness and attractiveness of the town  
compromised.

For the people living in the  
neighborhood, will the close proximity to a fast-  
food drive-thru actually be a selling feature to  
attract new homeowners? Someone might be tempted to  
buy if the price were right, meaning lower than what  
comparable neighborhoods without a fast-food drive-  
thru might bring. Property values compromised.

A drive-thru restaurant does not bring  
more business to other establishments in town.  
People pick up their meals and will not take time to  
make other stops on the way home. If anything, the  
town should be looking for something to enhance the  
businesses already here. Established businesses  
compromised.

Yes, an empty space in town will be  
occupied, but at what cost to the people living in  
the neighborhood nearby and the town in general.  
Again, an important question is: How will granting  
the requested variances benefit the community?  
Thank you.

(Applause by members of the public)

MR. BREWER: Please state your name  
and spell your last.

MS. DISE-MORAN: Pam Dise-Moran,  
D-I-S-E hyphen M-O-R-A-N.  
P A M D I S E - M O R A N, 7 Hillview Avenue,  
Morris Plains, New Jersey 07950, is duly sworn/  
affirmed.

MS. COFFEY: Your address?

MS. DISE-MORAN: 7 Hillview Avenue.

My family and I live at 7 Hillview  
Avenue, which is just a little over 200 feet from  
the property. We have lived in our home for 17  
years. I am the English-as-a-second-language  
teacher at Borough School. I have been a teacher in  
Morris Plains for nine years. Hillview is a great  
location; we can walk anywhere in town, we are a  
block from Simons Park and right next to the school,  
literally on the other side of the fence. We have  
always felt sheltered and cozy at home close to most  
places we want to go but still private in our yard  
and house. My daughter would play in our backyard  
but she could also walk to the playground or down  
the block to her friend's house. We always felt  
comfortable that she was safe. I walked to school  
no matter the weather because it would take 10 to 15  
minutes, a drive from our property abutting the  
school. At that time of day and most times of the

day, but specifically as school is getting ready to start, 7:45 a.m., there is a lot of traffic on Speedwell. Any time I am leaving the house to go anywhere down Speedwell toward the train station, I loop all around town. It adds at least 5 to 10 minutes to any trip to attempt to turn left onto Speedwell out of Rosedale. Even though it is supposed to be one lane in either direction at that point of the road, due to the level of traffic, drivers start forcing Speedwell into a four-lane road right where Hillview intersects with Speedwell Avenue. It is dangerous and frustrating.

In the morning, I see all the kids running up to Borough School along Speedwell from my upstairs window. Very few students take the bus, only those who live miles away or in a dangerous Avenue. Crossing Speedwell Avenue is terrifying. Cars often don't stop to yield, and when a car does stop, another car may drive around it. I hold my breath and pray every time I cross in the crosswalk. A drive-thru McDonald's will make crossing Speedwell Avenue even more dangerous than it already is by adding thousands of cars or hundreds of cars a day to an already over-busy road. This will be especially dangerous for all our kids crossing

Speedwell before and after school just a block from that property.

We are a walking town. That has been a big part of the Master Plan, to grow and support our many local businesses while preserving our small-town feel. A drive-thru McDonald's will hurt the businesses that are here, especially the restaurants. Dunkin' Donuts who has been a big community supporter for years will likely be affected the most.

My husband and I have been to every meeting about this proposal. I have finished about two blankets as well as a scarf while I've been here. This has been emotional for us, we are invested. This is our home, these are our kids. I feel disheartened to see how McDonald's' attorney has disparaged the residents and treated everyone rudely and with disdain.

(Applause by members of the public)

MS. DISE-MORAN: I feel betrayed to see some members of the Planning Board be rude to residents and conciliatory with McDonald's. Isn't the Planning Board representing Morris Plains and its residents? Why are they taking McDonald's at their word instead of doing their own studies and

accepting experts that were hired to use their data to show in favor of McDonald's? This whole thing has not seemed aboveboard. Why did the realtor advertise on their site about a drive-thru a year ahead of the change in zoning? Why are our First Amendment rights of speech being limited and timed? Why are there only a few members of this Board actually standing up for the citizens of Morris Plains? I am proud to be part of this caring town full of residents that will stand together across party lines to protect our children and to emphasize the town rules that those in power don't.

(Applause by members of the public)

MR. BREWER: Please state your name, spell your last.

MS. LEWIS: Angela Lewis, L-E-W-I-S, 126 Glenbrook Road.

MR. BREWER: Raise your right hand, please.

A N G E L A L E W I S, 126 Glenbrook Road, Morris Plains, New Jersey 07950, is duly sworn/affirmed.

MS. LEWIS: I wanted to piggyback on something that Pam just brought up about our First Amendment rights regarding last week when many of us in the audience were limited from making a public

comment with an arbitrary statement that because some people may have contributed to a crowdfunding, that we were then, in turn, represented by the attorney that the LLC hired. We cannot find any evidence of that and, frankly, we're not sure why we were basically told that we couldn't make those comments. We were not able to question the applicant's planner, we were not able to question the planner that was hired by the LLC, we missed the opportunity to get answers to many questions, and it just does not seem fair. So with that, we are aware that we can file a complaint with the county prosecutor or the Attorney General, which we are looking into doing because we feel that we -- harm was caused by not being able to answer some of the questions that we had specifically last week.

In addition to that, we have, I don't know, I'm going to ask the question, are we allowed to reference the petition that we created? We have 1,230 signatures on a petition that does not want to have this McDonald's drive-thru on Speedwell Avenue. I have a small sampling of comments that were made from residents. I would like to submit it if allowed. You could read them. I'd be happy to read some of them now.



MR. BREWER: Ma'am, typically -- I'll pause your time. Typically, you can't bring somebody else's testimony in, but anything you want to say on your thoughts...

MS. LEWIS: Okay. Yeah, so my thoughts echo most of what's on here. We just do not understand what a drive-thru fast-food restaurant brings to Morris Plains. We don't understand what the benefit of it is. Everything about it seems more negative than positive and everything that we've heard over these last few weeks has actually been worse than what we originally thought, as far as the plans, as far as the traffic it'll bring, as far as the engineering aspect of it, as far as the pollution, which I learned so much more tonight. Thank you, Tom. Frankly, we're -- I'm just upset that most of the Planning Board hasn't been asking the questions that we would have wanted them to ask. Some of you have and thank you very much for that. But the bottom line is, what is the benefit of this McDonald's drive-thru in the middle of an already crowded Speedwell Avenue with two schools within a few hundred yards away? We just don't understand and we don't see what the point is, so...

That's it.

(Applause by members of the public)

MR. BREWER: Please state your name, spell your last.

MS. CAMA: Laurie Cama, C-A-M-A, 12 Lindabury Lane, Morris Plains.

L A U R I E C A M A, 12 Lindabury Lane, Morris Plains, New Jersey 07950, is duly sworn/affirmed.

MS. CAMA: I just want to make a statement that if the applicant actually fit into the existing zoning criteria, it would not need the variances that have been requested. In previous testimony, you heard the Planning Board has no obligation to approve the requested variances since they only serve the needs of the owner and McDonald's. The variances do not result in any benefit for Morris Plains, they only attempt to force fit the applicant's oversized business model into a space too small to accommodate it. As heard from the Morris Plains planner, each application is considered independently so it is irrelevant and insufficient for the current applicant to compare its requested variances against any other existing Morris Plains businesses. The application will not benefit the town's Master Plan goals nor support the

police department's goal to reduce traffic accidents in town. They know we have a problem already. There are too many traffic accidents in our town. I think this year, it was over 300 and we want to get it down under 200. Pedestrian safety should not be an after-thought. If approved, our taxes will inevitably be paying for additional police support to ensure pedestrian safety. We know it at our July 4 fireworks or the family day fireworks, we need police out there directing traffic. We are going to have an issue on high-traffic days requiring our budget to go toward hiring additional support.

In terms of environmental and noise standards, Mr. Ryden stated that enforcement and tests would be conducted only post development. I have concerns about the degree of leverage that the town of Morris Plains would actually have to enforce any violations. So I realize we, according to the approach the Board needs to take a leap of faith [sic], but again, I'm not sure we have any leverage, so now is the time to act by denying these variances, which is within your ability to do. Regardless of any countywide or neighborhood towns, you know, and longstanding camaraderie between the Planning Board members and the owner, the applicant

or counsel, we expect the Morris Plains Planning Board and its attorney to serve the interests and needs of the citizens and constituents of Morris Plains and to decline the requested variances.

Thank you.

(Applause by members of the public)

MR. BREWER: Please state your name and spell your last.

MS. THANOS: Hi. Meredith Thanos,  
T-H-A-N-O-S.

MR. BREWER: Please raise your right hand.

M E R E D I T H T H A N O S, 46 Parker Drive,  
Morris Plains, New Jersey 07950, is duly sworn/  
affirmed.

MS. COFFEY: Excuse me, your address?

MS. THANOS: 46 Parker Drive.

My name is Meredith Thanos, I am a full-time working mother and I have a four-year-old son, Angeli, who will be attending Borough School once he reaches third grade. I'm not only concerned about the impact a drive-thru McDonald's will have on him and his classmates but also on Morris Plains as a whole. Studies have shown that the exposure to poor food quality environments has important effects

on adolescent eating patterns and weight.

According to the research team from University of Columbia, Berkeley, and the London School of Economics, having a fast-food outlet within .1 to .2 miles of a school produces over a 5 percent increase in obese students when compared to schools with fast-food restaurants further away.

Consequential health impacts associated with obesity include Type II diabetes, cardiovascular disease and depression. Depression is an increasingly concerning epidemic among children, especially children of borough school age.

Fast-food restaurants, especially chains, often target children to increase sales and brand loyalty. Today's parents are stretched thinner than ever to work and care for our families and, honestly, it feels exploitive to dangle Chicken Nuggets and Happy Meal toys in front of their children on the way home from school who are just beginning to learn healthy eating and don't fully understand that we can't have McDonald's for dinner all the time.

Cities and towns viewed as progressive and desirable places to live are trying to be more walkable, accessible, and are trying to make school

zones cleaner and healthier, so why is Morris Plains trying to move backward instead of forward? Less home buyers are going to want to move to a town with a drive-thru McDonald's across the street from the elementary and middle school because that sends a clear message that our communities, especially the children's health and safety, is not the priority.

While we understand that the two lots that the McDonald's have had been re-zoned for a drive-thru last year, a drive-thru business is clearly detrimental to the health of our community and children -- and that should be the exception to the rule and it should not be permitted. Doing so would be the epitome of public health and safety failure that we would not be able to recover from once the damage is done. Please keep the public health of students a top priority on what goes across the street from our schools. Thank you.

(Applause by members of the public)

MR. BREWER: Please state your name and spell your last.

MS. HARRISON: Summer Harrison, that's H-A-R-R-I-S O N.  
S U M M E R H A R R I S O N, 2 Maple Avenue,  
Morris Plains, New Jersey 07950, is duly sworn/

affirmed.

MS. COFFEY: Address, please?

MS. HARRISON: 2 Maple Ave.

MS. COFFEY: Thank you.

MS. HARRISON: I'm going to try to cut down what I was going to say so it's less redundant with what people have said so far.

So I keep changing my focus here, but I'm a parent of two children, one of whom goes to Joyful Noise, the preschool directly across the street from the proposed McDonald's, and one who will be, in another year and a half, going to the Borough School. And so I am very concerned about the safety, both, you know, the health and the physical safety of our children crossing the street here, walking around in this area.

So the applicant's planner cited in the last meeting that there is no standalone McDonald's in Morris County that has a dedicated loading zone, and this was evidence as to why the variance should be granted. But it is also true that there is no standalone McDonald's in Morris County that abuts a residential zone nor are any adjacent to a school or preschool as the proposed plan is, and I checked all of them.

So while all drive-thrus are an approved use for this zone, as we all know, the particular conditions of this application and the high-volume style of drive-thru the applicant proposes necessitate, I would think, an especially high bar for safety when considering granting the C2 variances.

The applicant's lawyer has -- and experts repeatedly say how the Board decided that this was an approved use so it shouldn't be up for debate. While we all know that that is true, it is also true that the Borough made our ordinances the way they are for a reason, including our loading zone, sign, parking and other requirements. They've already decided that these are the requirements that make sense for our town and thus, all variances must be found, in each individual case, to benefit the community, rather than being assumed to be minor or pro forma because other businesses nearby or in other zones have been granted them.

Furthermore, the applicant's planner stated that the MLUL Purpose A, to guide the appropriate use or development of all lands, was met because the Friendly's building is currently unused. This omits the fact that the application will not



result in a net gain in developed buildings to the Borough as the building next door is being knocked down and will, in fact, remove a potentially developable site from our downtown corridor for the foreseeable future. Reducing the number of properties on Speedwell appears to be in opposition to the 2018 Master Plan's goal of encouraging an appropriate mix of land uses.

The applicant testified to the benefit of providing fewer and smaller parking places and no-loading zone as advantageous because it reduces impervious coverage. However, this ignores the existing land and trees that will be paved over and all of the environmental impacts met tonight -- mentioned tonight.

I did not hear any testimony as to what the benefit -- what benefit to the Borough there is for an increased number of freestanding signs and I can't imagine that this is an oversight of the McDonald's team. The only possible benefit they have is that they allow the owner to make more money.

(Timer sounds.)

MS. HARRISON: Okay. Is that the end?

MR. BREWER: Yeah.

MS. HARRISON: All right. So I'll close to say that while this is a permitted use, all drive-thrus are not the same and this particular kind of double drive-thru at a high intensity does not belong in this place.

(Applause by members of the public)

MR. BREWER: Please state your name and spell your last.

MS. DOLAN: Joy Dolan, D-O-L-A-N.

MS. COFFEY: Address, please.

MS. DOLAN: 11 Lindstrom Road.

J O Y D O L A N, 10 Lindstrom Road, Morris Plains, New Jersey 07950, is duly sworn/affirmed.

MS. DOLAN: My four-year-old son, Jason, attends Joyful Noise Preschool, which is directly across the street from the proposed McDonald's, along with a hundred children. I'm here today to remind the Council that the safety of our children is paramount. If a drive-thru McDonald's is built across the street from Joyful Noise, it will inevitably create safety hazards for our children at drop-off and pickup.

Many Joyful Noise families walk their children to school. The spot for the crosswalk leading to the proposed McDonald's entrance is

dangerous because it's not a standard corner-to-corner crosswalk and is less noticeable to drivers. For this reason, the 700-plus cars leaving the McDonald's daily from the driveway or Dayton and then turning onto Speedwell are not going to be expecting children and parents walking their kids to Joyful Noise in the crosswalk. The crosswalk is only 30 to 40 feet into their turns and they may not have time to stop. Walkers will also have a harder time anticipating and reacting to drivers making sudden turns onto Speedwell because they will have to focus on a lot of cars coming out of McDonald's in addition to traffic from Speedwell, Dayton and Rosedale.

Students cross the Hillview crosswalk to get to the school and will also have more drive-thru traffic making sudden sharp turns there as well. Drive-thru customers unfamiliar with our town will not be anticipating children since the preschool is located in the back of the church.

Another major safety concern of Joyful Noise is that the drivers coming out of McDonald's will try to circle back towards Morristown by cutting through the side streets and they will be tempted to cut through the Joyful Noise parking lot.

This poses a major hazard for students, teachers and parents at drop-off, especially since cut-through drivers may go at speeds inappropriate for a school area. Remember, these are children between the ages of two and five. They are impulsive. They don't know how to look both ways or watch behind them while they're waiting for their other sibling to get loaded into the stroller in a school parking lot.

Also, consider the tractor-trailers and trucks that will need to turn around. Those are much more dangerous to a school parking lot due to their size and increased blind spots.

Drive-thru traffic should not be in front of a school. While you can't deny an application based on increased congestion or traffic, it can be denied because it is a detriment to our children's safety walking to and from school. A larger crosswalk and a walk sign are not going to stop cars from making sharp turns onto Speedwell or from looking for shortcuts. Our children's and family's safety and the school's accessibility must be the top priority. Thank you.

(Applause by members of the public)

MR. BREWER: Please state your name, spell your last.

MS. MARTIN: Martin, Lauren Martin,  
M-A-R-T-I-N.

MS. COFFEY: Address.

MR. BREWER: Address.

MS. MARTIN: Oh, 2 Beech Drive.

L A U R E N M A R T I N, 2 Beech Drive, Morris  
Plains, New Jersey 07950, is duly sworn/affirmed.

MS. MARTIN: So I'm speaking today as  
a pediatrician and as a parent of children who cross  
Speedwell to get to and from school.

My number one concern, as was expressed  
by the other residents, with this McDonald's  
application is the safety of our children. They do  
not have a voice or a vote and I would like to speak  
on their behalf tonight. I do not feel that their  
safety was considered when this area across from the  
school was rezoned as a drive-thru --

(Court reporter instruction)

MS. MARTIN: I do not feel that their  
safety was considered when this area across from the  
school was re-zoned as a drive-thru in the fall of  
2023, but I do hope that it will be considered now.  
At the time that it was re-zoned, it was a single  
lot, which perhaps would allow a smaller volume  
drive-thru; however, combining the lots and allowing

the variance changes to build a drive-thru of this magnitude will undoubtedly present safety issues for our children. With 700 or more transactions a day, every car pulling in and out of this lot poses a threat to our children. While I understand McDonald's' claims that most of these cars will be passerbys [sic], the act of pulling in and out poses a risk independent of whether these cars would have been coming through anyway. Add to this DoorDash, Uber Eats, et cetera, where the drivers get paid more for how quickly they can deliver and we have a certain risk of having a pedestrian struck.

I'd like the Board to consider that the crosswalk will be updated through a grant, so this update to the crosswalk should not be considered as a result of a benefit to the McDonald's application.

Morris Plains children disproportionately walk to school due to the lack of buses. This is unique to our town. I have been supportive of this as walking to school is excellent for our kids' health. My daughter gets exercise and socialization during this time. However, our children have the right to do this safely.

I encourage the Board to take a look at the AEP policy statement titled "Child Pedestrian

Safety" from July of 2023. This article notes that child pedestrian mortality rates have been increased by over 10 percent over the past 10 years and that 62 percent of fatalities occur mid block.

This article presents extensive data that planning a built environment has the greatest impact on child pedestrian safety. The article emphasizes strategies such as Complete Streets where policies promote the development of roadways with all people in mind, including pedestrians, and Vision Zero, which focuses on the fact that human error is unavoidable and solutions are created to promote a safe environment for pedestrians.

This McDonald's application is not in line with any of these policies outlined in the article from the AEP, which supports my position that our children will be less safe. The likelihood that a child will be hit by a vehicle pulling in and out of this McDonald's will increase with each vehicle and each day, week or year that this high-volume drive-thru is in place.

I appeal to the Board to think about our children when they consider allowing the additional variances that are needed to allow this high-volume drive-thru to be built immediately

across from two schools. Thank you.

(Applause by members of the public)

MR. BREWER: Please state your name, spell your last, and give Karen your address.

MR. CONWAY: Daniel Conway, 3 Greenwood Road. Conway's spelled C-O-N-W-A-Y.

MR. BREWER: And your address?

MR. CONWAY: 3 Greenwood Road.

MR. BREWER: Please raise your right hand.

D A N I E L C O N W A Y, 3 Greenwood Road, Morris Plains, New Jersey 07950, is duly sworn/affirmed.

MR. CONWAY: I don't have prepared statements, I would just simply ask you to consider the following: What haven't they told us? They did not come in here with an environmental analysis. They did not come in here and say "We have 13,000 McDonald's in the United States. We have all the data you can ask for. We are the experts in fast food." They reluctantly gave us one answer from their McDonald's Corporation. After three meetings, they said "We expect roughly 800 transactions a day." Guys, this location will absolutely destroy it, and I appreciate and respect the fact that they want to be here, because it will destroy it. There



will be well in excess of 800 transactions a day. There is no McDonald's from here to Morristown to Madison to Chatham, all towns similar to ours. There are none. You have Florham Park and you have Dover. Two-lane roads off of Route 10. There is not a McDonald's on the main street in any of those towns, along the same train line that we aspire to be.

The property values in those towns continue to grow because it's Main Street, New Jersey, Main Street USA. That's what we want. That's where we're going. Property values in Morris Plains have skyrocketed because people want to be here, not because there's going to be a McDonald's.

Let me just point out the Community Vision Statement from 2018. "Morris Plains is a safe, healthy environment small town." I'm not going to repeat the whole thing, but in this land use recommendations, when you approved a drive-thru, it was a single lot, but you also said you are going to implement stricter performance standards that would apply to all nonresidential zones. It didn't say you were going to go easier, it didn't say you were going to grant variances for smaller parking spaces, for drive-thrus for two lots. It didn't say

any of that. That's not what you -- what you approved in your zoning plan.

You encourage a mixed land use of which will complement each other and meet retail and service needs of the Borough, promoting a desirable visual environment. Also, you wanted to create a more walkable downtown. Does walking to McDonald's, is that the plan? Now take that thousand transactions a day and cars turning in and out. A thousand transactions a day, whether you turn in or out, is 2,000 turns. 2,000 turns, more than you have today. 2,000 more. You have the right and the ability to decline this application because it just doesn't fit, literally and figuratively. The property doesn't fit and it doesn't fit what we need in a small town.

(Applause by members of the public)

MR. CONWAY: And I don't envy your choice -- excuse me. I don't envy where you sit. This is very hard for all of you, I'm sure. And I respect and appreciate both the applicant's experts, their attorney and the applicant. This is a great town, I'd want to be here too. But it doesn't fit what we want and need for this town. Thank you very much.

(Applause by members of the public)

MR. BREWER: Please state your name,  
spell your last and give your address.

MR. GUIDA: David Guida, 15 Headley  
Avenue. I'm over three miles away.

D A V I D G U I D A, 15 Headley Avenue, Morris  
Plains, New Jersey 07950, is duly sworn/affirmed.

MR. GUIDA: I just want to remind the  
Planning Board that the testimony from the traffic  
expert representing McDonald's took four hours of  
data to perform his report. McDonald's is open 119  
hours a week. He took four hours to create the  
data. I don't think the data's accurate. Thank  
you.

(Applause by members of the public)

MR. BREWER: Please state your name,  
spell your last and give your address.

MS. BENNETT: Carolyn Bennett, B-E  
double N-E double T, and I live at 19 Dayton Road.

MR. BREWER: Please raise your right  
hand.

C A R O L Y N B E N N E T T, 19 Dayton Road,  
Morris Plains, New Jersey 07950, is duly sworn/  
affirmed.

MS. BENNETT: All right, I'm going to

jump right in because I plan for five minutes.

The applicant is putting a lot of emphasis on the crosswalk enhancements that are going to be a huge benefit to the town and the people who live here. This feels more like a Hail Mary approach to try to put a tangible benefit to the application. I can't say it loud enough, Chief Koroski has already shared updates that there is progress with the DOT to enhance the existing crosswalk on Speedwell despite the efforts by the applicant. Need I remind us all, there is also no guarantee that the applicant will be able to execute said crosswalk enhancements as the DOT has final say. Unless there is some behind-the-closed-door arrangement here with the DOT, which seems like it would be an issue, I don't know how we can put any weight into this benefit.

There has been a talk about post COVID need for drive-thru restaurants; however, this is a stretch from the true and accurate. If there was a behavioral study performed today, it would show that Gen Z favors delivery over drive-thrus. Wouldn't you guys want to make investments in opportunities for the future of the town? If this is the consumer trend we are seeing, wouldn't it be more beneficial

to the public to approve an application that aligns with these needs? We don't need or want a drive-thru here, let alone a McDonald's. Regardless of what this lot was re-zoned for, there are also a long list of much better options that would serve a bigger benefit to the town, the residents next to the lot, the students across the street and, well, to put it bluntly, your legacies. But to bring it back to the facts, Uber Eats, DoorDash, Seamless, this is the future of fast food and an overcrowded, small parking lot cannot safely accommodate these idling drivers. The parking lot variance is a huge part of this application and you all have the power to stand firm on that important factor.

This proposal is not safe and is a hazard to everyone on Dayton. I don't care about the proposed forced left because drivers will do whatever they want to avoid the bottleneck traffic on Speedwell. Look up my police report cited in the September meeting. There was not a sign but a curved median that a truck sped over to avoid the intersection. My son still looks for the truck that wanted to run us over when we're out and about around town.

A little sign and a curbed egress will

not guarantee my kids' safety or the many other kids on Dayton from all of the speeding, rushed drivers flying out of that lot or the semi truck that could run him and his bike over when he's in the blind spot. This type of proposal does not need an exit onto Dayton, point blank.

If this application is approved, who genuinely is benefitting from it? Is it the unidentified franchise owner? Is it anyone related to the landowner? Is it anyone with shared interest that may be sitting in this room? Is it realtors with inside scoops? Since this proposal is supposed to benefit the public, I just want to make sure that there is a clear interpretation on that word. If there are no detriments, why is the applicant's counsel trying to make compromises with the residents on Dayton? On record last meeting, he said he's been trying to do that with Jill, he approached me about what they can do for myself as a resident, and I just don't see how, if there's no detriments, why those conversations need to be initiated. I think the answer's staring us all in the face.

When I moved into the town, I was told we are the community of caring. Recently,

unfortunately, I am hearing it's the community of corruption. Please prove these rumors wrong. You guys need to do your job to keep us, the public, our children, your neighbors safe. This application does not benefit us, the town, our children, your neighbors. So please prove us wrong -- please prove those rumors wrong, keep us safe, vote accordingly. Thank you.

(Applause by members of the public)

MR. BREWER: Please state your name, spell your last and provide your address.

MR. RING: Sure. Carl Ring, last name, R-I-N-G, 22 Dayton Road.

MR. BREWER: Please raise your right hand.

C A R L R I N G, 22 Dayton Road, Morris Plains, New Jersey 07950, is duly sworn/affirmed.

MR. RING: Good evening, members of the Planning Board. I'm here today along with my many other concerned residents to ask you to deny this application. This project raises serious public safety concerns, as you've heard from numerous folks who've already stood up in front of you. Speedwell Avenue is already congested, you guys all know this, you live here as well. It's

dangerous, and adding a high-traffic drive-thru would only make it worse. Pedestrians, cyclists and drivers will all be at greater risk, and the applicant's disregard for these concerns is unacceptable. As multiple residents stated on the record at times, this disregard has presented itself as both disrespect and dismissal of our valid concerns with either procedural citations such as things like "traffic volumes cannot be a reason for denial" or forcing procedural adjustments by the Board to limit our ability to voice our concerns because they don't agree or like them or are frustrated with the process of us voicing our valid concerns is taking too long. Heck, the client's attorney started the public by stating all the different types of businesses that are allowed in this zone, specifically citing different types of businesses as if it was a veiled threat of "If you don't let McDonald's come in here, all the boogeymen are waiting to move in."

Lastly, we are all being asked to trust the things like truck idling, lighting and trash will be cared for by a store manager or a mysterious operator yet to be determined, neither of which we have any transparency into at this point and the



latter of which is even more frustrating, and while I'm sure the client's attorney would say this is standard McDonald's operating procedure, to get approvals before they choose their operator, it still means we are potentially approving the operation of a business in our town without any way to vet the person or entities who will, for all intents and purposes, be required to uphold all the polite promises the client's attorney and witnesses have been quick to commit to because, sure, they themselves don't have to deliver. And in fact, at one point, one witness made a comment along the lines of "Well, then your police will deal with it," clearly indicating that their attitude is, once this proposal is approved and the site is built, the burden will be yet again be on the citizenry to hold the business accountable to their empty promises during this hearing.

I urge you to listen to the voices of the residents. Prioritize the safety and well-being of our community and deny this application and protect Morris Plains from the negative impacts from this ill-conceived project.

I believe there are better locations for this type of business in Morris Plains as one of

the other residents stated earlier, it's not that we hate McDonald's, we just don't think it makes sense here, at this specific location.

In the last meeting, there was a healthy discussion about the definition of the word "reasonable." Well, I will close by saying I've looked up the definition of "reasonable" in the dictionary and I can safely say there was not a picture of a McDonald's on Speedwell Avenue. Thank you, all. Have a good night.

(Applause by members of the public)

MR. BREWER: Please state your name, spell your last and provide your address.

MR. J.D. BELLOMO: Joseph David Bellomo, 121 Mountain Way, Morris Plains.

(Court reporter asks member of the public to restate his last name.)

MR. DAVID BELLOMO: Bellomo, B, as in boy, E-L-L-O-M-O.

COURT REPORTER: Thank you.

MR. BREWER: Please raise your right hand.

J O S E P H   D A V I D   B E L L O M O, 121 Mountain Way, Morris Plains, New Jersey 07950, is duly sworn/affirmed.

MR. J.D. BELLOMO: Unfortunately, the last time I was up here, I was accused of spreading a conspiracy theory. I simply asked at that time how the ordinance had come about. Look --

MR. BREWER: If you could speak a little closer to the mic, it might help.

MR. J.D. BELLOMO: Sure. Better? It's a tough thing being short, you know?

All right. I have lived in this town for 48 years. I know many of you on the Board and I've worked with some of you. Okay? I know that you are public servants that care about this town and work hard at that. So conspiracy theory's out the door, which brings me to the application.

As I have come to understand, the Board is charged with applying the intent of an ordinance to the application. It's a charge. The Board should look to the ordinance to decide if the application complies with a permitted use. So, what was the Council's intent? As I read the ordinance, the intent is clear, the Council wanted to make a downtown more appealing to customers so they could visit. In addition, the town had two vacant parcels and the Council had been hearing from the residents and something had to be done, so the two parcels

that were vacant were appropriate for some, but not all, of the permitted uses. There were 28.

Possibly, there was only one lot feasible for a drive-thru and that was the Acme lot. It was big enough. All right? The vacant Friendly's lot standing alone as it was when the ordinance was passed, was too small to accommodate the drive-thru restaurant. The applicant decided to ask for a variance combining the two nonconforming lots. Your planner indicated that a variance could be issued if it was, as the McDonald's planner said, a permitted use. What the McDonald's planner did not say was it is a permitted use as long as the applicant can prove its benefit is not to exceed -- be exceeded by its detriment to the public good. In this, the applicant bears the burden of proof. I submit to you that the applicant has not met its burden. The traffic impact study that was presented by McDonald's, although the process was deemed to be within certain acceptable processes by the Board's expert, was not in both information and analysis. As I'm sure you remember, the traffic expert only gave up the average visits of seven- to eight-hundred cars a day after intense and unrelenting questioning by the public and the Board. Nowhere

does the traffic report indicate the effect this new traffic generated by 78 cars entering and exiting the site will have on the adjacent streets in the town nor does the applicant speak to the intent of the ordinance, which is to, quote, "provide retail and commercial uses, specifically uses that emphasize on-site experience." By definition, the application is actually counterintuitive to the Council's intent. Customers will be driving through the town, not stopping for an on-site experience.

Seven- to eight-hundred cars entering and exiting the site is going to overwhelm an already overburdened Speedwell Avenue. You have heard from residents about their very valid concerns for the safety of their children who attend Joyful Noise and Borough School. They have good reason for the concern. The applicant offers blinking pedestrian signals, a block-the-box area and moving crosswalks to mitigate safety issues. These precautions that the applicant has offered --

(Timer sounds.)

MR. BREWER: That's the -- it's time to wrap it up.

MR. J.D. BELLOMO: I'm almost done. These precautions that the applicant is offering are

not only inadequate but will compound the bottleneck at this site.

You have listened to many comments on this application. No easy task. Our Board attorney has bent over backwards to provide the applicant with a fair hearing. Unfortunately, you have a major corporation breathing down your neck with deep pockets. As a resident of a small town --

MR. BREWER: Mr. --

MR. J.D. BELLOMO: I'm not --

MR. BREWER: We can't do this for everybody; everybody's going to want to do it.

MR. DAVID BELLOMO: Okay. As a resident of a small town, I ask you to consider the facts and the Council's intent. Deny the application on the Council's intent. Deny the applicant on safety issues. Deny the application that it is a detriment to the public good.

MR. BREWER: Okay.

MR. J.D. BELLOMO: Thank you.

(Applause by members of the public)

MR. BREWER: Please state your name and spell your last and give your address.

MS. HAHN: Cecilia Hahn, H-A-H-N, 82 Maple Ave.

MR. BREWER: Please raise your right hand.

C E C I L I A H A H N, 82 Maple Avenue, Morris Plains, New Jersey 07950, is duly sworn/affirmed.

MS. HAHN: I have lived in Morris Plains since 2012. I have a Borough student, a Mountain Way student and two dogs. I walk around town regularly, including on Speedwell. The standard and examples provided by McDonald's in your application reflect McDonald's corporate priorities, not the unique character or needs of our community. Most of their supporting materials and testimony rely on comparisons to locations vastly different from this site, which is directly across from the middle school, a preschool and nestled in the heart of a residential neighborhood. If this application were evaluated under Morris Plains standards, the decision would be clear: The requested variances are inconsistent with our community's values and plan requirements. For example, the proposal seeks to reduce both the number and size of parking spaces, which is not aligned with town regulations and practical needs. In addition, the plan omits a dedicated loading space despite the town's clear requirement for one. McDonald's proposes instead to

allow 18-wheel trucks to park haphazardly on site for 45-minute deliveries, creating significant safety and logical concerns. These are just two of the many reasons -- many issues with this application, each providing substantial grounds for its rejection.

Beyond these technical points, a McDonald's in the heart of Morris Plains would fundamentally alter the town's character. Morris Plains is a community of caring, defined by its small-town charm and activities that bring residents together, including our Farmers Market, pumpkin illumination, Memorial Day parade and the daily sight of residents walking and running along Speedwell Avenue. A McDonald's here is simply out of place. Approving this application would mark a turning point in Morris Plains' history, one that undermines the values and environment that attract families like mine to live here. Speedwell Avenue would no longer be a vibrant community hub but a thoroughfare to be avoided except by those who have no choice.

I urge the Planning Board to envision a different future for this site, one that aligns with our town's identity and prioritizes pedestrian



safety and community benefit. McDonald's is not that future. Thank you.

(Applause by members of the public)

MR. BREWER: Please state your name, spell your last and provide your address.

MS. GOULD: Julie Gould, G-O-U-L-D, 35 Grove Avenue.

MR. BREWER: Raise your right hand.  
J U L I E G O U L D, 35 Grove Avenue, Morris Plains, New Jersey 07950, is duly sworn/affirmed.

MS. GOULD: Before I make my statement, I just want to address any Board members who have -- who are currently or have been nodding off or have been noticed sleeping during previous meetings. I want you all to know that what we have to say matters, so I really hope you're listening and honoring your responsibilities of representing our Borough and your constituents.

When my husband and I were deciding where to move seven years ago, we prioritized moving to a town that put family and children first, with a first-rate education system, a walkable downtown and Master Plan standards that would maintain that small-town feel, no matter how it grew over the years. You see, the Morris Plains I know cares

about their community. It cares that their children grow up well nourished with a beautiful Farmers Market that grows every year, it cares that their pedestrians can feel safe, and yes, even if that means flags that the McDonald's representatives have mocked. It does its best to do that.

Morris Plains is even encouraging more bike and motorized scooter traffic with the impending bike racks. All of this maintain the spirit and safety of Morris Plains, the community of caring. The Master Plan has been updated thoughtfully over the years with these standards in mind. McDonald's does not have our Borough or townspeople's best interest in mind. Besides their food contributing to the obesity epidemic, their drive-thrus polluting environments, their plans disregard the standards we have set for our town, and by allowing them and their variances, you show others that the well-thought-out vision for Morris Plains is just lip service. With hundreds more vehicles buzzing in and out of a double drive-thru, it's only a matter of time that tragedy will strike this town. I mean, come on, it's literally across the street from Borough School.

This all comes down to the fact that

McDonald's is trying to force fit their business model into a too small of a space to do it safely and in line with our town's standards. They have not done their legal responsibility to prove a single benefit to the town by allowing their variances nor a commitment to the health of our residents. I have lost track how many dinners and bed times I have missed at this point showing up here to make sure my feelings and those shared by hundreds, those who can be here and are not, are represented. I raise my children that no matter how big of a bully they are dealing with, calling them names, mocking them, that what's important is their integrity and to do the right thing, even if upholding their standards makes them uncomfortable. You have a responsibility to represent us as your townspeople. We all have to live with the consequences of your choice. Please, do the right thing and uphold the Master Plan standards and safety of this town and deny the McDonald's application. Thank you.

(Applause by members of the public)

MR. BREWER: Please state your name, spell your last and provide your address.

MRS. BELLOMO: Mary Lou Bellomo,

B-E-L-L-O-M-O, 121 Mountain Way.

MR. BREWER: Please raise your right hand.

M A R Y L O U B E L L O M O, 121 Mountain Way, Morris Plains, New Jersey 07950, is duly sworn/affirmed.

MRS. BELLOMO: My statement is very brief, I really don't need the clock. First, I would like to thank the Planning Board members for their time and service to our town. I don't think any of us could have ever predicted that a change in a variance would bring us to this point. My concern with the McDonald's application is one of safety for our children, especially residents' children.

The year we moved to Morris Plains, a child was struck by a car crossing Speedwell Avenue to get to Dunkin' Donuts. He was seriously injured and never fully recovered. Perhaps some of you remember Raymond.

In 2018, a child was struck by a car on Speedwell Avenue crossing over to Franklin Place while using the crosswalk. In 2022, a teenager was hit by a car crossing Speedwell Avenue by the Chase Bank drive-thru. My own daughter, when she was a student at Borough School, was struck by a car

crossing Speedwell Avenue using the traffic light at the post office. The car was traveling at approximately ten miles per hour. She ended up with a concussion.

What McDonald's is proposing will bring 700 to 800 cars a day to Speedwell Avenue. How does this application enhance the safety of Morris Plains? With two schools directly across the street from this proposed site, how can this be safe and better for our town? We are a small town fighting a big corporation, but even small towns like ours have town councils and Planning Boards that can use their votes to protect the safety of its residents. I ask the members of the Planning Board to do just that. Thank you.

(Applause by members of the public)

MR. BREWER: Please state your name, spell your last, provide your address.

MRS. DEVINE: Gail Devine,  
D-E-V-I-N-E, 91 Sun Valley Way.

MR. BREWER: Please raise your right hand.

G A I L D E V I N E, 91 Sun Valley Way, Morris Plains, New Jersey 07950, is duly sworn/affirmed.

MRS. DEVINE: As a 51-year resident of

Morris Plains -- that's how old I am -- who was born here and is raising my children here, I need to start by saying I'm in recovery from recent major surgery but I'm still here tonight, way past my bedtime. That's relevant because it shows how important this is to me and to the many who can't be here to -- or who couldn't stay this late, to plead to the Planning Board that you vote to decline this project. I've never been more proud of the people in this town, and I'm not a cryer, how they come together, especially during a heated election year, spending countless hours at long meetings here and behind the scenes to prove to this Board how bad this project is for our town. The Board has substantial legal reasons to decline, noting the multiple variances required that have implicit and substantial contributions to the detriment of the public good, let alone lacking any benefit, other than money for a few. And yes, I'm quoting Morris Plains documents to show how this project goes directly against policies that are here to help protect the town, its roadways, infrastructure, and most importantly, its citizens. A fast-food joint being present in this small town main street across from two schools would cause multiple safety issues,

as many have presented better than me, as well as air, noise and light pollution, especially to the homes that are in close proximity to this property, closer than any other McDonald's is in the state to residential homes. It's obvious to most in this room, to all those who have been able to stay awake during all these meetings at least, and the dozens watching online each night, that merely the purposes of the owner will be advanced with this project. The grant of approval of variances required to move forward must actually, quote, "benefit the community," which it so obviously doesn't.

A mission statement from the town Borough seeks innovative and substantial solutions to mitigate -- definition, "to make less severe, serious or painful" -- to mitigate the impact of future development on its roadways and infrastructure, and most importantly, repeat, quote, "most importantly" -- that's a quote -- "maintain the small-town character of Morris Plains." Nothing about McDonald's is small-town character nor does it encourage anyone to dine, shop or play here. They will drive in and out.

I do appreciate the Board and all of the work you guys do for our town, I appreciate also

that when the zoning was changed to allow the drive-thru, you were living through COVID with all of us in a year where businesses closed daily and people loved drive-thrus to avoid being near people, which isn't really what we want in our town now. I appreciate that and I believe the Board was short-sighted and never expected something so big like the mega-corporation that McDonald's is to come to our small town. They didn't expect it because it's not something that is on small-town main streets. But it's trying to push its way in now and you have the legal power to say "No." Thank you.

(Applause by members of the public)

MR. BREWER: Please state your name, spell your last and provide your address.

MR. CARR: Robert Carr, C-A-R-R, no relation. It's a C. 33 Maple Avenue.

MR. BREWER: Please raise your right hand.

R O B E R T C A R R, 33 Maple Avenue, Morris Plains, New Jersey 07950, is duly sworn/affirmed.

MR. CARR: A society grows great when old folks plant trees whose shade they know they will never sit in. It's a great proverb attributed to the stoics. The stoics believe that people



should serve the common good in a way that would benefit future generations. What is going on here benefits no one. Smart, thoughtful consideration of how to use this space is the kind of forward thinking that the proverb speaks to, not the rush to meet the needs of an anxious developer.

As a lot of people may or may not realize is that beautiful quaint mural in the back denotes, that Morris Plains turns 100 years old in a little over a year. Is this the way we want to usher in the next hundred years of this town, by selling out our downtown to a soulless corporation which brings nothing but traffic? Why have a Master Plan if you're not going to use it? Why have ordinances if they are so easily thrown away? The lack of imagination is what got us into this problem. The Council did not imagine this when they deliberated for this change. You say your hands are tied. The only thing tying your hands is your own lack of imagination.

I implore this body and this Council to promote other locations for this plan. I bet if you consider the large, open, languishing lot on 53, this town would throw you a parade.

(Applause by members of the public)

MR. CARR: After all, as Ms. Orr mentioned before, is this what you want your legacy to be? This decision will be yours forever. When people asked who did this, we will speak your names. "This was the work of the 2024 Morris Plains Planning Board," we'll say. The accidents, disruptions, loss of property values and, God forbid, loss of life will be the legacy of your decision. Plant better trees.

(Applause by members of the public)

MR. BREWER: Please state your name, spell your last and provide your address.

MS. POTKALESKY: Jamie Potkalesky, 31 Grove Avenue.

MR. BREWER: I'm sorry, what was the last name?

MS. POTKALESKY: Sorry.  
P-O-T-K-A-L-E-S-K-Y.

MR. BREWER: Please raise your right hand.

J A M I E P O T K A L E S K Y, 31 Grove Avenue is  
duly sworn/affirmed.

MS. POTKALESKY: Don't do this. There is no question that allowing a drive-thru restaurant in the heart of Morris Plains is a substantial

detriment to the public good. Allowing these variances only supports the business, they do not benefit our community. The applicant did not meet the burden of proof.

You have heard countless questions and pleas from the community who are desperate for you to do the right thing. The applicant is betting that you won't catch them in a lie, they're betting that you won't have the courage to demand better for our community, they are betting that you won't turn a blind eye while they run over this community. Don't do this to our community.

Allowing these variances is ensuring the downfall of our community. This kind of business does not belong here, plain and simple. If the business truly embodied the ideals of the Master Plan, they would not be asking you to change so many rules. A drive-thru restaurant with a focus on serving as many people as it can, over seven- or eight-hundred cars, as fast as humanly possible, makes Morris Plains nothing more than a drive-thru town. This business plan does not offer any experience to the customer. It literally encourages them to come and go as fast as possible, leaving nothing but exhaust, fumes, trash and noise in their

wake.

The applicant's planner referenced more favorable ordinances in other zones within Morris Plains several times during his testimony. It does not belong here. Allow this drive-thru somewhere else in town that will cause less problems. Why downtown when it's impossible to drive through Speedwell half the time already? Why across the street from our schools? The applicant is preying on this community and on the health and safety of our children. You have the ability to protect this community. Don't do this when we don't have all the information.

Promises to comply in this room mean nothing when we have not once heard from the person who is actually going to be running this establishment. Don't let the smoke and mirrors fool you. Just last week, we heard that certain signage lighting was a safety concern and therefore not negotiable. Minutes later, it was reversed. Someone is lying. Allowing this to happen is wrong and irresponsible. Be better than those that have allowed us in this position in the first place. Be better than who the applicants think you are. Just don't do this.

(Applause by members of the public)

MR. BREWER: We're going to stop at 11  
so I think there's going to be two more witnesses  
tonight.

Please state your name, spell your  
last.

MS. KATZ: Kate Katz, K-A-T-Z.

MR. BREWER: And your address, please.

MS. KATZ: 17 Idlewild Drive.

MR. BREWER: Please raise your right  
hand.

K A T E K A T Z, 17 Idlewild Drive, Morris Plains,  
New Jersey 07950, is duly sworn/affirmed.

MS. KATZ: My husband and I arrived in  
Morris Plains in 2013 and quickly started dreaming  
of raising a family here. We are both runners and  
appreciated the jogability of the Speedwell area as  
well as the charming downtown.

(Court reporter instruction)

MS. KATZ: We are both runners and  
appreciate the jogability of the Speedwell area as  
well as the charming downtown. We spent many years  
driving from Foxwood Condos to park in town so that  
we could run in a safer area and then along Route  
53. We remained ever hopeful that one day, we'd be

able to land a proper home in the heart of the borough we'd grown to love.

Eventually we found our home. What the house lacked in size and updates, it more than made up for in character and its location, location, location. We were finally able to walk everywhere that was of importance to our young family, to both schools, the train station, the library, Scoop Station, Tony's, the Farmers Market, all the playgrounds, et cetera.

On days we regret not expanding our home search to somewhere we'd have gotten more house for the money, we remember the joy it brings us to have safe walking access to everything and how, when our two young children are old enough to navigate independently will have all of our wonderful town at their fingertips. To this point, that has been a comfort to us and I hope it stays that way.

Consider the towns in our area that are sought after for their walkable downtowns: Denville, Boonton, Madison and Chester, for example. All of these do have drive-thru fast food, but they are on the outskirts of where pedestrian traffic takes place, with good reason. I imagine residents of Chester would hear nothing of a drive-thru next

to Dainty Dandelion Gift Shop or Taylor's Ice Cream Parlor. Correct, Mr. Vitolo?

Not only would it be hazardous to pedestrians along the already high-trafficked main street, I find it hard to believe that a drive-thru fast-food joint fits into Chester's Master Plan to preserve historical significance. Detraction from the town on several accounts, not an enhancement to it.

Mr. Steck presented you with points of concern that could be the basis of denying this application. Mr. Vitolo attempted to discredit these points based on Mr. Steck's unfamiliarity with prior testimony, but remember that testimony is talk and talk is cheap. Unless the applicant's plans reflect what was verbally addressed, the testimony is irrelevant to Mr. Steck's presentation and to Mr. Vitolo's attempt to discredit the witness.

I urge you to take Mr. Steck's presentation to heart. Though he is a paid participant, he walks away with no potential for further revenue, unlike the applicant. Please consider this when determining which party puts our best interest before their own.

Also please consider the clientele

coming in and out of a typical fast-food drive-thru. Fast-food -- food delivery drivers are incentivized to arrive quickly and are attentive to the GPS navigations, young inexperienced drivers with teenage friends and plenty of distractions in the car. Parents like me with hungry, cranky kids in the back seat, turning around to provide fries on demand, of which I am guilty. These are just a few examples of the types of distracted drivers associated with drive-thru restaurants and we are just a "yes" vote from you away from ushering in an influx of this into our town.

Morris Plains is at a crossroads tonight. Should you approve this application, you'll open the floodgates. We simply do not have the capacity to become a downtown of drive-thrus and fast-food joints without sacrificing safety and the inherent draw to this place.

I need not belabor the well-established point to any impact to safety, especially in the immediate vicinity of schools and neighborhoods, is a detraction and not an enhancement. Please fulfill your duty to the people of Morris Plains by denying this application. Understand that the people before you who speak passionately contribute to crowd-



funding -- did here -- and organized their neighborhoods to show up are eager to reflect the outcome of this decision in the voting booth for the foreseeable future. Please represent us faithfully and do not approve this application. Thank you.

(Applause by members of the public)

MR. JOSEPH BELLOMO: Should I wait for him to come back?

MR. BREWER: Yeah.

MR. JOSEPH BELLOMO: Want to swear me in?

MR. BREWER: We just gotta wait.

MR. JOSEPH BELLOMO: Okay.

(Pause)

MR. BREWER: Okay, please state your name, spell your last and provide your address.

MR. J.B. BELLOMO: Joseph Brian Bellomo, 34 Canfield Place.

MR. BREWER: Spell your last.

MR. J.B. BELLOMO: B-E-L-L-O-M-O.

MR. BREWER: Please raise your right hand.

J O S E P H   B R I A N   B E L L O M O,   34  
Canfield Place, Morris Plains 07950, is duly sworn/  
affirmed.

MR. J.B. BELLOMO: I've lived in my present house at 34 Canfield Place for 21 years and grew up in Morris Plains, attended Mountain Way and Borough schools. Just to explain where my house is, the west side of my property borders Dunkin' Donuts' back parking lot and the north end of my property shares a border with every house on the south side of Dayton. I can see in plain sight the yellow building from my bedroom and patio. If this goes through, I would be looking down on a two-lane drive-thru from my bedroom at a constant flow of cars and I'll hear the constant idling of cars from my patio. One of the experts said the level of noise coming from McDonald's would essentially be, I thought he said quieter than a library, maybe it was a study hall. Yeah, the building may be quieter, but what he didn't tell you was the decibel level of the 700 cars. Constant car noise, idling in our backyard.

I'm afraid the car lights going into the drive-thru will be constant. When they pull into the drive-thru, the lights will go up as they hit the ramp and directly into my house. The two large trees, Uncle Frank, you wanted to keep, they're sparse at best. If you ask us, we don't

want them. They're dirty. They don't do the job.

They provide minimal barrier to the car lengths going into the drive-thru. I currently look directly at the building through those trees and the new landscaping that is being put in will provide no barrier for at least five to ten years until they are grown.

I'm a direct neighbor of six houses on Dayton, most of those homes are young families. There are six little kids that live on just my side of Dayton, at least 14 kids in total live on Dayton. Two I know are just learning how to ride a bike and three are still being pushed in strollers.

Dayton is a street that's had basketball hoops in the street, kids would play wiffleball in their front yards and use the street as the outfield. We have minimal traffic because in the '80s when I believe you, former Mayor Druetzler, were in office, along with former Councilman Leo Buckley, worked to make Canfield a dead-end street. The reason behind this decision was to keep the homes and families on Academy, Canfield and Dayton family friendly and safe. What happened? Why are we now being ignored?

Traffic will come down Dayton as a

result of this. Cars exiting onto Dayton from the drive-thru will make a right. I appreciate the engineers trying to prevent it, but it is still possible. I'm also concerned that cars exiting onto Speedwell, that will wait forever to make a left because of traffic, will give up and use Dayton, Canfield and Academy as a way to get to the light at Academy to make a left.

I make a left-hand turn from Dayton onto Speedwell every day. It's not easy and many times, I have to gun it when I get the chance to turn, which brings me to another point about moving the crosswalk. If you're moving the crosswalk closer to Dayton, I'm making that left and accelerating. Moving the crosswalk may be good for the drive-thru, but it's more dangerous for us and pedestrians.

Last. Parking will be an issue, especially with landscaping trucks and buses that want to go in the restaurant. We were told by the traffic engineer, I believe, that the buses can park on Speedwell or, better yet, at the school. They can't and they won't. They will park in our neighborhood. This proposal is a nightmare scenario for us. Why are we being ignored? Thank you.

(Applause by members of the public)

MR. BREWER: That's it, so there's no more witnesses.

CHAIRWOMAN McCLUSKEY: That's it, there's no more witnesses?

(Public outburst)

CHAIRWOMAN McCLUSKEY: Okay. I'm sorry, nobody got up. It's 11:00, we're going to -- you can sit down, Mr. Amorosa. We are going to start again on Wednesday evening at 7:00 and we'll hear you then. Do we have a motion to adjourn?

MR. KELLY: So moved.

CHAIRWOMAN McCLUSKEY: Second?

MS. STECKERT: Second.

CHAIRWOMAN McCLUSKEY: Anybody second it?

MS. STECKERT: Second.

CHAIRWOMAN McCLUSKEY: All in favor?

BOARD MEMBERS: Aye.

CHAIRWOMAN McCLUSKEY: Thank you.  
Good evening.

(Hearing adjourned at 10:59 p.m.)

C E R T I F I C A T E

I, MICHELE QUICK, a Certified Court  
Reporter, Registered Merit Reporter, Certified  
Realtime Reporter of the State of New Jersey,  
authorized to administer oaths pursuant to R.S.  
41:2-1, do hereby state that the foregoing is a true  
and accurate verbatim transcript of my stenographic  
notes of the within proceedings, to the best of my  
ability.

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