

ZONING MEMBERS PRESENT:

Linus Kafka, Zoning Examiner  
John Beall, Planning & Development Services  
Delma Sanchez, City Recording Clerk

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1           ZONING EXAMINER: All right. If, if people can take  
2 their seats and we'll get started. I'll give Rick a few seconds  
3 to get the machine going there. All right. Can everybody hear  
4 me okay? Yeah? Okay.

5           Good evening. My name's Linus Kafka. I'm the Zoning  
6 Examiner for the City of Tucson. I conduct rezoning hearings on  
7 behalf of the Mayor and Council. I make findings of fact which  
8 I put into a report along with my recommendation, which I then  
9 send along to Mayor and Council.

10           My report will be based on the evidence submitted to  
11 me as part of the rezoning application, as well as on testimony  
12 taken tonight, and any other hearing that we've had in the  
13 matter.

14           A tape recording is being made of tonight's testimony  
15 by the City Clerk's Office. A representative of the City  
16 Clerk's Office is sitting behind this wall making that recording  
17 and a transcript will be prepared like this one of the last

1 hearing we've had in this matter.

2 I'll prepare a preliminary report and a final report.  
3 After I close the hearing, I'll prepare the preliminary report  
4 within five working days. I'll prepare the final report two  
5 weeks after the close of the public hearing.

6 For those of you who wish to receive a copy of the  
7 preliminary report, and you're not already a principal listed on  
8 the case, I'll ask you to fill out one of the orange cards that  
9 are going to be placed on the podium in a moment. They're not  
10 speakers cards, they're just if you want a copy of the  
11 preliminary report.

12 The final report will be available from the Planning &  
13 Development Services Department. I'll send that report along to  
14 the Mayor and Council. They'll get copies of that as well, and  
15 they'll be available. The Mayor and Council may consider my  
16 recommendation along with other factors, and they make their  
17 decisions on those other factors as well as my recommendation.

18 At the start of the hearing, I'd like to have Mr. John  
19 Beall of the Planning & Development Service Department give a  
20 presentation on the case, or an update at least of the facts

1 since our last hearing.

2 After that, I'll have the Applicant come up to present  
3 new information about the case. And after the Applicant  
4 presents, I'd like to call other people up to comment on the  
5 case. Now a little bit of housekeeping on that matter.

6 When we continued the hearing at the last meeting in  
7 December, I continued it on the basis of several factors. There  
8 were some things that I wanted to have more information on, some  
9 things I wanted to read that I'd just gotten. There was some  
10 opportunity that I had put out there for the Applicant to make  
11 some changes. So those were the bases of the continuation at  
12 that time.

13 Many of you were here at that hearing. How many of  
14 you were here at the December 18th hearing? All right. And how  
15 many of you are here for the first time? Okay. So many of you  
16 who were at the prior hearing, you've spoken.

17 What I'd like to do tonight is concentrate on new  
18 information. So what I'll have is I'll have the Applicant come  
19 up, give me an update of where they are at, what new information  
20 they have to present.

1           And then what I'd like to do is have people who were  
2 here before comment on that, 'cause that's new information, and  
3 I want the, I want the opportunity for the new information to be  
4 heard first, 'cause that's what's helpful in me making my  
5 recommendation.

6           What I need to parse here is that this is a hearing  
7 rather than a meeting, and the hearing is to give not only an  
8 opportunity for people to present and talk, but it's an  
9 opportunity for me to get information in order for me to make my  
10 recommendation.

11           I've heard a lot of testimony, and those people who  
12 weren't here last time may repeat testimony that was heard, that  
13 I heard last time. So to most effectively allow for new  
14 testimony on the new facts, I'd like to hear that first. And  
15 then those people who wish to speak on the matter, you know,  
16 just give a general opinion, they, they can come up later. Is  
17 that, is that clear? Okay.

18           All right. Since I cannot have any communications  
19 with parties involved in this case, now is the time to speak.  
20 And if you wish to speak tonight, what I'll have you do is I'll

1 call people up that raise their hands. We do it somewhat  
2 informally, figure it out.

3 But when you do come up, I'll have you sign in on this  
4 sign-in sheet which Mr. Moyer is holding up. And when you sign  
5 in, that will allow us to keep your name tracked to the record  
6 so that when, when we do write the transcript, we'll know who's  
7 speaking at which times.

8 And if you do wish to speak, what I'd like to do now  
9 is have you stand up and I'll swear you in. So anybody who's  
10 thinking of speaking this evening, or thinks that they might  
11 speak this evening, please stand up and raise your right hand.  
12 Do you swear or affirm to tell the truth, the whole truth, and  
13 nothing but the truth?

14 (Affirmative.)

15 ZONING EXAMINER: All right. Thank you. All right.  
16 Mr. Moyer, put that up there. Now's the time called for the  
17 continuation in Case No. C9-14-10 McDonald's-22nd Street. Mr.  
18 Beall, if you can give me a little bit of background about what  
19 we've got since the last hearing.

20 MR. BEALL: Since the, since the last hearing, as of

1 to date, there have been a total of six approvals, 47 protests.  
2 The owner approvals are six, the owner protests are 46, the non-  
3 owner approvals are, actually there are none. And the non-owner  
4 protest is one.

5 Protests within 150 feet is five. Protests by -  
6 outside 150 feet is 41. And then protests by percentages, more  
7 than 20% protest requires a majority vote by Mayor and Council  
8 in any one of the four directions.

9 So the north there's a 35.7% protest, to the south  
10 there's a zero percent protest. To the east is 51.9%, and to  
11 the west is zero percent. And so that should be, as far as the  
12 update regarding the protests and approvals.

13 ZONING EXAMINER: All right. I also received an  
14 updated site plan from the Applicant with some changes which  
15 will be discussed this evening. I received copies of all the  
16 47, of the protests, the six approvals. Some of it's  
17 duplicated.

18 Think that was all the - there is an additional  
19 letter, I believe, from Julia Keene, with an attachment. But  
20 that came before the, the January 18th date. So I have, I have

1 that all in my file.

2 What I'd like to do now is call - Ms. Morales, are you  
3 gonna be giving the presentation this evening? Okay.

4 MS. MORALES: And I think Mr. Beall also issued some  
5 clarifications on the plan compliance.

6 ZONING EXAMINER: Oh, the, the memo?

7 MS. MORALES: Yeah.

8 ZONING EXAMINER: There's a - yes, I have that as  
9 well.

10 MS. MORALES: And I think Mr. Beall was gonna be do -  
11 were you gonna (inaudible) No? Okay. All right. So I just  
12 want to make sure on that.

13 Okay. Good evening. I'm Linda Morales with the  
14 Planning Center, 110 South Church here in Tucson. And I am  
15 representing the Applicant, McDonald's.

16 McDonald's representatives are here with me tonight,  
17 as well as our traffic engineer. So I know that there were some  
18 specific - that you wanted to review the traffic report. So we  
19 do have Marcos Esparza, who is the author of that report, here  
20 if you have any specific questions on that topic.

1 Just a quick rundown. I know we know where, where  
2 this is. We're at the northeast corner of 22nd and Alvernon.  
3 The majority of the site is already zoned the C-1. The subject  
4 of this request is the, the house that's a current rental  
5 property as well as the vacant O-3 zoning on the east side of  
6 the project site.

7 This is the portion of the revised plan which I'll go  
8 into a little more detail in just a minute, but we did - as, as  
9 you mentioned, we did submit to you a revised plan that shows  
10 some different circulation patterns and some other changes that  
11 I'll point out as we go through this.

12 One of the - there were basically what we distilled  
13 out of our meeting last time are three major topics. And let me  
14 know if I missed anything, but that's - those are the three  
15 biggies that we remembered from, from the hearing.

16 We're talking about that transition per the Alvernon-  
17 Broadway Area Plan, and how the P zone is the transition zone.  
18 It's considered that under the UDC. It's not considered a  
19 commercial use. It's considered an accessory use, and is really  
20 designed to be that transition.



1 We did do the, the, as I said, the physical redesign  
2 of the site which we'll go over. And we wanted to talk again  
3 about wall height as we go through this. Land uses within the  
4 parking zone was another thing that came up, another item of  
5 question.

6 And we've worked with Staff and we've done some  
7 additional research on our own on some of the parking, so we  
8 have some more information as we go through about - and, and the  
9 site has been redesigned to improve even on what our original  
10 design was with the limitations and the things that are  
11 appropriate within the P zone. And we've also done some other  
12 measures on the site plan again as I'm gonna go over in a  
13 minute.

14 And then the third thing was really what's gonna  
15 happen with the other McDonald's, the site that would be vacated  
16 to move it to this intersection. And, you know, why we, we are  
17 not looking, why the remodel or rebuilding was not gonna work.  
18 And, and we'll go over the potential for reuse and some  
19 limitations that my client is willing to offer on that.

20 So as far as the, the three topics, I'd like to start

1 with the parking zone, the P zone. Again it's considered  
2 accessory use to provide for parking as a transition to  
3 residential areas. And it serves the land use in other zones.  
4 So that is, is how it, it is working in this case, were  
5 accessory to the C-1 zone.

6           The definition of that is, is exactly what we're  
7 doing, to provide the off-street parking, obviously, whether for  
8 compensation free or, or accommodation of clients which is, this  
9 is what this is. It would be free parking as accommodation to  
10 clients or customers. And it's, you know, as accessory to  
11 residential or commercial uses.

12           And from our research and from our discussions with  
13 Staff, it's actually been, there's been some different  
14 interpretations over the years as to what uses are actually  
15 allowed in the P zone.

16           The definition that you see here is exactly what is in  
17 the UDC, and so we dug through some files and worked with Mr.  
18 Moyer on that and, and there, there have been conflicting  
19 reports or opinions over the years whether uses such as loading  
20 zones, uses such as dumpsters, can be in that parking zone.

1           And we have gone with the most strict definition in  
2 working through the site plan with Staff. No dumpsters in that,  
3 no loading zones in that, and I think that the redesign that  
4 we're looking at, even in a physical way has further limited any  
5 particular kinds of even crossing through of that P zone with  
6 commercial vehicles, other than the customer type of uses and  
7 employee vehicles.

8           So, so again, what we're proposing is only parking for  
9 normal customer vehicles and employees. We have the landscape  
10 buffers and the screening, and the, the PAL, the access lane,  
11 again, that's not available anymore with the redesign to  
12 commercial truck, like a larger delivery truck, or, or a garbage  
13 truck for that matter.

14           Just really briefly, and I don't want to belabor this  
15 too much, but, but in that research, we did look at some, some  
16 midtown parking zones just to kind of get a background on that.  
17 And one of the questions that I know that came up in that last  
18 hearing was whether indeed a, a loading zone could be accessed  
19 through a parking zone by a commercial truck.

20           And in almost every case that we found in, in these

1 areas where the P zone has, has served as a transitional zone to  
2 a neighborhood from a commercial use, that has been the case.

3 So in some places the loading zones are in, and in some places,  
4 the loading zones, or the dumpsters are in that P zone.

5 In most cases they're not, but, but certainly this is  
6 the, the Best Buy, Tres Amigos on Broadway over across from Park  
7 Mall. You can see their loading zones are back in here, and  
8 they do need to be accessed traversing the P zone.

9 This is the San Clemente Shopping Center at the  
10 northwest corner of Broadway and Alvernon. And again, you see,  
11 actually in that aerial has, has the truck in - they, they have  
12 somewhat a grandfathered use for their parking in R-1.

13 But they have an additional parking lot that they  
14 added later on after the fact that is the P. And indeed the  
15 trucks do come through that P zone. But, but again they have  
16 placed their dumpsters and loading outside the P zone in R-1 in  
17 this particular case.

18 This is the CODAC on, on First Avenue and this is a  
19 relatively new P zone where people are parking as that  
20 transition. You had to have to parking lot between the, the

1 facility and the neighborhood. And again, even in this one, the  
2 dumpster has fairly recently been allowed in there, so it does  
3 have the commercial traffic traversing through that.

4 And this is the Fry's over on, on - I'm sorry - on  
5 First Avenue just near Roger, First and Roger. And again, that  
6 has, for the neighborhood to the north has the P zone as a  
7 transitional use. And their loading zone is at the back of the  
8 store, and this is probably the closest actually to  
9 configuration that we're showing on our new site plan, in that  
10 the commercial traffic does have a way to stay onto the  
11 commercial portion of the site to access the loading. But, but  
12 again that's another example.

13 And the, and the Rincon Market is yet another one  
14 where it shows the parking as that transitional use between the  
15 commercial facility and, and the adjacent neighbors. And this  
16 one, again, the loading and dumpsters and everything have to go  
17 through that P zone to access those, those zones. So just this  
18 background.

19 As far as the Alvernon-Broadway Area Plan compliance,  
20 a lot of what we talked about was how that transition happens.

1 And as I said at the last, the last hearing, we're really seeing  
2 that P as that transition.

3 But we understand that there is neighborhood concern.  
4 We understand that we do interface with an existing neighborhood  
5 and we respect that fact, and, and that's - we, we, we've gone  
6 through that plan and looked at how we can continue to improve  
7 that transition between the site and the neighborhood and, and  
8 again, the, the plan - the plan actually talks about the  
9 interface between commercial traffic and - or, I'm sorry,  
10 between commercial uses and the neighborhood.

11 Again, the P zone is not a traditional commercial  
12 zone. It's, it's, it's, it's accessory to commercial zone, but  
13 it's not truly the commercial zone. So again, it's that  
14 transition that's very limited in the uses that are allowed.

15 However, if you just apply that commercial interface  
16 zone design standards that are, that are referenced in the area  
17 plan, we even meet all of those. So, yeah, those criteria. The  
18 primary access to a arterial street, we have that. We're using  
19 that.

20 Parking and maneuvering. We meet all those on site.

1 We don't have to spill out into the neighborhood. We don't have  
2 to use any local streets, or, or local, or adjacent properties  
3 to, to do that.

4 We have screening and buffering. I believe the new  
5 plan does a much better job even over the old plan which had  
6 increased buffering. So we've, we've pumped that up and, and  
7 increased that to a further buffer.

8 The design guidelines, the noise mitigation, again  
9 we've talked about, and we've issued the acoustic study for your  
10 review, as well as odor mitigation. We've gone over and above  
11 the standard restaurant, over and above what the existing  
12 McDonald's has down the street, indeed.

13 So we've agreed to additional measures with that, and  
14 those were written into the previous conditions. But - and  
15 then, and then four-sided architecture. Obviously, we do have  
16 that, so it's, it has the same level of quality of design on all  
17 four sides.

18 Additional design features that we've offered up as  
19 those, again, just to reiterate. We've agreed to this masonry  
20 wall at the north and the east boundaries where we interface

1 with the neighborhood. There was some question at that last  
2 hearing.

3 I heard conflicting testimony whether that eight feet  
4 was tall enough, too tall, whether they wanted, you know, what  
5 we wanted. So, I, I was hoping tonight we could talk about that  
6 in more detail and maybe work out a height.

7 We're willing to, to offer a higher, higher height or,  
8 you know, we need, we need that direction, 'cause I don't feel  
9 like we had clear direction last time, what, what the neighbors  
10 want.

11 We've, again, we've enhanced our landscape borders.  
12 We've - I'll show you all these on the site plan as we go  
13 through, so I'm not gonna belabor this. But all these  
14 additional things are changes that we've made to further enhance  
15 that area plan design standards.

16 One of the things that I, I sort of failed to point  
17 out at our last hearing that I wanted to really reemphasize is  
18 right now, the commercial zone is this site right here. This is  
19 actually what's there now, the, the dark, the dotted black line.  
20 That's the existing gas canopy, the C store that was there, the



1 - Shell station as well as the old carwash buildings.

2           So we wanted to just show how the proposed McDonald's  
3 fits into that, generally that same kind of building area of the  
4 site. So the existing Shell station gas canopy is only 73 feet  
5 from the existing house. So we had a 73-foot building setback.

6           With this, with this limited to the P zone, that does  
7 not have any structures and doesn't have any commercial uses in  
8 it, and from our nearest corner of the proposed McDonald's to  
9 the nearest corner of the now, what would be the nearest  
10 adjacent residence, that increases to 175 feet.

11           If you even look from the drive-through lanes, we're,  
12 we're well over that 73 feet. We're about probably 130 to 150  
13 feet to where the speakers are. So we've actually increased  
14 that setback from the nearest adjacent residential, if and when  
15 this rezoning would be approved with the parking zone. So it  
16 gives bigger buffer overall to, to the neighborhood.

17           This, again, is, is the original site plan that we  
18 showed last time. I know you've had plenty of time to, to  
19 review that so I don't want to go through too much of that, but  
20 let me just show the big one right now, 'cause it's easier to

1 see.

2 So the, the major thing that you see from the old plan  
3 to the new plan, one of the major things that we have redesigned  
4 is where these driveways are. On the old plan, we had had the  
5 two access points. We had one access point onto the rezoning  
6 site that came in and, and circulated traffic through as well as  
7 the, the access on, on the commercial portion of that.

8 And as it was pointed out in the last hearing, that  
9 did allow an opening there where trucks could come through and  
10 potentially use this driveway. Even if they were told not to,  
11 it's hard to prevent that. We all know that, and we agree.

12 So we've come back and changed that driveway  
13 configuration to limit it to one driveway, and kept that as much  
14 on the commercial site as we can. We do have a, a slight  
15 overlap right here into the P zone, but this allows the  
16 commercial traffic to come in and, and actually prevents them  
17 with the curbing and the, the parking islands, prevents a larger  
18 truck from even being able to make that turn.

19 That turning radius is not such that they even, if  
20 they wanted to. There would be really no reason for them to

1 need to go into the P zone any further than, than, you know,  
2 right here at the driveway, excuse me. So it's prohibited that  
3 turning just through design.

4 So, so trucks that would come in would now be able to  
5 circulate into the site, come straight in. As we talked about  
6 last time, the loading zones are all 100% onto the commercial  
7 site. The dumpsters are all internal 100% onto the commercial  
8 portion of the site. Where the trucks would sit while they're  
9 loading 100% onto the commercial site.

10 And again, all the cars as well as adequate stacking,  
11 plenty of stacking really for the drive-through design that we  
12 have today all fit within the C-1 zone. So that leaves the P  
13 zone as parking only. So, so you've got all the parking spaces  
14 along, along there that would be limited just, as I said before,  
15 to the employees as well as the customers of that.

16 One of the further measures that we believe would be a  
17 positive to the neighborhood would be to designate these parking  
18 spaces up in the northeast corner as employee only. And so that  
19 would, that would prevent a lot of the coming and going of  
20 traffic of people.

1           So someone would come in and work on their shift, and  
2 they would come in and park for a long period of time. So there  
3 wouldn't be as much as activity on that on a turnover type of a  
4 basis. And the other thing that also allows it to do is the  
5 store manager has a little more control over his employees.

6           If there is an issue with somebody making noise or  
7 playing their music loud, or whatever they're doing in that  
8 portion of the parking lot, then the neighborhood has the  
9 ability to call the store manager and they'd be able to really  
10 crack down on that. So it's an additional signage or striping  
11 that we can do on those spaces to, to limit that and to  
12 discourage.

13           It's, frankly, it's gonna be one of the least  
14 desirable places for customers to want to park anyway. So that  
15 helps reinforce that, that you're not gonna have people just  
16 parking there anyway as customers. The, the spaces that they're  
17 gonna want to use are generally gonna be ones closest to the  
18 door.

19           The other thing that we have added onto the site is  
20 that we've increased the landscape buffers on both, or on the

1 east side, increased it in width, and then we've also increased  
2 on both the north and the east side the number of trees.

3 Canopy trees are an excellent way to mitigate the look  
4 of the walls and also where to screen from a visual standpoint.  
5 I will be the first one to admit, not that I'm an acoustic  
6 specialist, but I've talked to many of them, that landscaping's  
7 not the best from a sound standpoint.

8 So we had our acoustic person look into that and  
9 asked, asked her the question, "Is there an acoustic difference  
10 between an eight-foot wall and, say, a ten-foot wall?" And the  
11 answer that we got back was, "It's, it's about two-decibel  
12 difference," which is barely discernible.

13 If you've got a really good ear, you might be able to  
14 tell the difference between, you know, a two-decibel difference.  
15 But it's very, very minimal as far as the actual difference in  
16 the wall height.

17 So at this point, that's why we're leaving the wall  
18 issue open. We're still, we're still saying that we are doing a  
19 minimum of an eight-foot wall. The additional landscaping helps  
20 from the visual screening of, of breaking up that expanse of a

1 wall.

2 We've also, as a reminder, the wall does, it does kind  
3 of notch in and out and undulate as you go along Camino De  
4 Palmas, so it gives some relief in that way. So it's not just  
5 one long expanse of a wall.

6 But having that additional vegetation, especially  
7 those canopy trees really helps break up that, and, and gives it  
8 more of a community neighborhood feel on that side where it  
9 doesn't feel like you're just staring at a big block wall all  
10 the time.

11 We do - we are still proposing to keep the wall on the  
12 east side along the property line. And that's really a safety  
13 issue. If you start putting the wall any further in, you create  
14 that alley effect. You create, no matter how much landscaping  
15 you put in there, it's still an invitation for somebody try to  
16 walk in between the two properties.

17 So we really feel like that putting the wall right on  
18 the property line is the best thing. But we've increased the  
19 landscape buffer on this by an additional five feet on here, and  
20 then we've also increased the number of trees. And, and if the

1 neighbors that live in this house directly east of us would like  
2 to sit down, we'd be willing to just work with them on the  
3 species of trees, the number of trees, the placement of trees,  
4 as long as it makes the - meets the code. Obviously, we're  
5 gonna exceed the code minimums. As long as it meets that, we're  
6 happy to be accommodating on that. We would love to have that  
7 conversation.

8           The other major difference you see on the landscape  
9 buffers is we were able to, with this redesign, we've, we've  
10 taken the parking down to the bare minimum that we need to meet  
11 standards. So we don't have any excess parking on the site  
12 anymore. I believe that's the way it was actually, last time we  
13 had the minimum.

14           But we were able to pull in - because we, we were  
15 redesigning this, we were able to pull this, this PAL, this  
16 access driveway in so that we could gain that five feet. But we  
17 also were able to notch out this corner.

18           And what we're proposing in this plan is to take the  
19 wall, and I know it's a little busy with all the landscaping  
20 there, so let me follow it, if I can do this with my shaky - I

1 think I had too much caffeine today.

2 But as the wall comes in and out, it notches back down  
3 and kind of comes down in this way. So we've created about a  
4 20-by-20 landscape area at that northeast corner as an  
5 additional aesthetic place for, for the neighborhood to have as  
6 part of that transition into the neighborhood.

7 It also creates, as you're coming out of, of the  
8 house, it, it doesn't - that way, you're not looking at a  
9 continual straight wall all along your property line. It kind  
10 of opens that up and creates a nicer transition and a nicer view  
11 as you're looking out of the front of that house. So we were  
12 happy to be able to put that in there.

13 We've also been able to increase the landscaping  
14 buffer on the inside of that. And that'll be one of our water  
15 harvesting areas, too. So it'll be a nice place to have some  
16 pretty lush vegetation on both sides of the wall, so it  
17 continues to do that visual screening and aesthetic look.

18 But the other things that we'd like to throw out as a  
19 possibility tonight for that area, if it's something that's  
20 desirable to the neighborhood, is that area now is a big enough



1 area that we could put, say, a bench, a neighborhood kind of a  
2 resting area on that.

3 We could do some signage, and, and as we started  
4 talking about that, we thought it would be a nice touch to be  
5 able to do a Welcome to the San Gabriel Neighborhood. But then  
6 we started talking, and we thought, well, maybe the better place  
7 to do that would be actually at this northwest corner as you're  
8 coming in off of Alvernon to Camino De Palmas.

9 My client would be happy to provide that type of a  
10 signage to be a further indicator that, you know, if people do  
11 try to drive down that street, hey, you're entering a  
12 residential area. You're entering an established neighborhood.

13 So, so those are some of the things that we would like  
14 to throw out there and be happy to work with the neighbors on  
15 design of that, how that would look and to be able to do that  
16 just to create, again, another asset to the neighborhood, so -  
17 as well as that transition.

18 So, again, side-by-side, there's the plan. Just to go  
19 back through and reiterate - oh, it's kind of falling off the  
20 edge there a little bit. But just to go back through these, I

1 don't want to belabor again the, the things that we talked about  
2 last time.

3           So we already talked about the noise mitigation, the  
4 speaker technology and the noise study. We talked about the  
5 screening, and what you see in red are the things that we've  
6 added from the last hearing, just for ease of review.

7           Again, masonry wall to be determined. We'd like to  
8 talk about that tonight and get some direction. The landscape  
9 buffer's been increased to the 15 feet, and as I said, the  
10 additional landscape at the northeast corner.

11           The, the color purple down in here, the security  
12 again, still. This site will be 24-hour monitored. We'll have  
13 the video monitoring on the site. The trash pickups mandated  
14 through the conditions.

15           Landscape lighting. Absolutely we'll try to keep that  
16 so it's safe, but still meeting dark sky and meeting  
17 neighborhood kind of standards, so it doesn't create any light  
18 pollution. The odors, that came up in a lot of the new protests  
19 that I saw that came in.

20           Again, we are going over and above what's typically

1 done, what's done with a lot of the other restaurants in the  
2 area by putting these special eco-vents in, and the, the new  
3 methods of not storing the grease in the dumpsters, or in the  
4 grease traps will help with the smells tremendously.

5 As the daughter of a plumber, he used to have to pump  
6 those things. They stink. And I'm so thrilled that this  
7 wouldn't be in here because - and it will be recycled as well.

8 The purple that you see on, on the trash enclosures,  
9 are a couple of things that I failed to really point out last  
10 time. The trash enclosures will be fully gated, and those will  
11 be closed during all times except for when they're being  
12 accessed by either pickup or the employees going in to, to put  
13 garbage in there.

14 So that's an additional aesthetic, as well as security  
15 and, and (inaudible) had mentioned the possibility of animals  
16 getting in. Those are solid gates so it'll keep any creatures,  
17 as well as, you know, larger creatures or anything out of that,  
18 as well as screening it from view.

19 And 50 feet is typically the required in a rezoning  
20 for a setback from a dumpster. We're at about 135 feet from the

1 front of our dumpster to the property line, so we're far  
2 exceeding the minimums that are required. Again, the lighting  
3 all downward, try to keep it all on the site for safety, but not  
4 having the spillover.

5 Traffic. Again, eliminating those, those five access  
6 points that we used to have on the site. We had the three on  
7 Alvernon and the two onto 22nd. We've, we've eliminated those  
8 down to the, the single access point on both streets, so we're  
9 only having the two driveways now.

10 Eliminating that second 22nd Street driveway - let me  
11 go back real quick to the old driveway. This driveway was much  
12 closer to the intersection. And that was something that was  
13 brought up by at least one of the speakers that they were  
14 concerned because there's a right, you know, right turn movement  
15 coming off 22nd Street going north on Alvernon.

16 The concern was that these driveways would be  
17 interfering with that turn movement. And really, that's not an  
18 unusual thing and it's not an unsafe thing as far as traffic  
19 design goes. Those driveways do concur with the right turn  
20 lanes in, in many cases.

1           But I would concede that we have, we have absolutely  
2 made it better from being right at this point by the store, the  
3 driveway was about here. We've consolidated those two, moved it  
4 back further away from that, so you don't have the people  
5 slowing down as much to pull into that driveway as close to that  
6 intersection. So that, that has absolutely helped as far as any  
7 problems with conflicts with that.

8           Sorry, I'll get right back to my right slide. Again,  
9 eliminating that west- -- easternmost driveway has made it  
10 virtually impossible for larger trucks, and even the garbage  
11 trucks to be able to drive through that P zone. They have to  
12 drive in, straight into where they need to go and they'll drive  
13 straight back out.

14           Whether they come in off Alvernon or if they come in  
15 off of 22nd Street, they'll make that turn closest to this, to  
16 the building and furthest away from, or further away from the P  
17 zone and the neighborhood to the east.

18           And before I get too much further down the line, there  
19 are some additional conditions that we have that we would like  
20 to submit to you tonight that go along with some of these things

1 that I've talked about, and, and some additional information  
2 that we'd like to give.

3 The deliveries and, and loading, as well as the solid  
4 waste pickup, we are willing to limit those hours between 7:00  
5 A.M. and 7:00 P.M., so those would not happen late at night, or  
6 early, early morning. Again, I'll give you the copy of this so  
7 you don't - I have, I have multiple ones of these if you'd like.

8 ZONING EXAMINER: Do you have copies of the, the power  
9 point as well?

10 MS. MORALES: Yeah. Yeah. I - yeah. I might have  
11 marked on it a bit, but you can have it, or I can definitely  
12 deliver you tomorrow a nice clean version of this so you'll have  
13 it.

14 ZONING EXAMINER: Okay.

15 MS. MORALES: The second one that, that we would like  
16 to offer up as far as deliveries go is the food service delivery  
17 trucks, which are the larger trucks that would be going onto the  
18 site would not be allowed to idle during the unloading or  
19 loading of the goods. And, and this actually says within the P  
20 zone.

1           This, now that I read this again in front of you, I  
2 realize that should be on the whole site. We would not allow  
3 that idling at any time while they're doing that, so please make  
4 that correction. I just realized. I hate that.

5           On the, the delivery. This is actually kind of  
6 surprising to me. That food service delivery does not happen on  
7 a daily basis. The typical is about a four-day, four days in  
8 between, every four to five days there's a delivery. So it's,  
9 it's actually fairly, fairly infrequent that that happens.

10           So, but, but we're willing to do that and not  
11 something that the store, store manager, you know, as a rezoning  
12 condition obviously it'll be regulatory, but the store manager  
13 could easily make sure that the drivers don't allow that to be -  
14 the idling to happen.

15           The, the other condition I had mentioned before, the  
16 northernmost six spaces along the east property line will be  
17 striped for employees only. I also, at the last hearing when we  
18 were talking about the possibility of cut-through traffic, and  
19 traffic mitigation, we had - I had alluded to this, but we  
20 didn't actually have anything written up, that we would agree

1 to, to a future traffic study.

2 We could document the current traffic conditions now  
3 at the time of the rezoning or at the time of the development  
4 plan, and then come back within a specified period of time, and  
5 have our traffic engineer re-look at that. And if we see a  
6 substantial increase to the development, the developer is  
7 willing to work with the neighborhood to be able to work on  
8 traffic mitigation measures and fund those if that does become  
9 an issue.

10 So I actually borrowed -

11 ZONING EXAMINER: Did you say "and fund"?

12 MS. MORALES: And, and, and fund with, yeah, within -  
13 obviously, we can't do anything that's not within keeping with  
14 the traffic. We can't close off the street without a  
15 neighborhood plan. We can't add speed humps without  
16 neighborhood concurrence, some of those things. So, so that  
17 would, it would have to be a whole community collaborative  
18 effort to make some changes to that.

19 But I actually kind of stole this from a previous  
20 rezoning case that had happened over on Broadway. So that's



1 where this language has come from. And we'll be happy to, to  
2 work on that if we need to.

3 The last one I'm gonna save until I get to the rest of  
4 my presentation, so - and, 'cause it'll make a lot more sense  
5 when I get to that point. So, so the last point that we wanted  
6 to address that was brought up in the other hearing was, what  
7 would happen with the existing McDonald's at Randolph Way and  
8 22nd Street?

9 And I think I said this last time, but I wanted to  
10 really make sure that this is clear. This site is, is slated to  
11 be closed from a McDonald's standpoint. Regardless of whether  
12 this zoning happens or they find another site, they will be  
13 actively looking for another place to move McDonald's because of  
14 what I'm about to show you here.

15 They have taken, the com- -- company has taken a hard  
16 look at whether this store could be remodeled, whether it was  
17 able to be configured to work functionally, 'cause right now, it  
18 is simply not functioning for - adequately for them for several  
19 reasons. But when they looked at the possibility of rebuilding  
20 this, this is what they're facing.

1           22nd Street has a future right-of-way dedication that  
2 takes it to that red line. So that takes out that much. It  
3 basically takes out that entire row of parking as well as this  
4 access lane. If you add the ten-foot landscape border that's  
5 required on top of that, that takes you right to the edge of  
6 actually the wall of the building. That's the roof overhang  
7 that actually hangs out over that.

8           And with the building height of the 20 feet that we're  
9 proposing, it's one and a half times - well, actually this was a  
10 24-foot building setback from the future right-of-way, or from -  
11 sorry, I'm angling this. This is the future right-of-way or  
12 the, the street building setback. So that's where it brings you  
13 to, this blue line would be the nearest you could build to 22nd  
14 Street.

15           From the back of the property, you also have - and  
16 that's where you get the, the one and a half times the building  
17 height. The current play place and the building is about 24  
18 feet there, one and a half times. You're, you're at a 36-foot  
19 building setback, so that's how you get to - basically it looks  
20 sort of like, like a single-lane bowling alley by the time you

1 get done with the site with the current setbacks.

2           This has been there for a very, very long time. It's  
3 grandfathered in. It's, you know, it was allowed at the time.  
4 You can see there was no landscape border that was required.  
5 The parking goes right up to the back wall. That would no  
6 longer be allowed. So, so there's really no model of, of a  
7 McDonald's that would continue to fit into this area, nor is  
8 this adequate for the existing - the new drive-through  
9 configuration.

10           (Inaudible) greatly improved the speed at which you  
11 can get cars in and out, so you, you reduce the idling time and  
12 for customer service to get those through. And it just doesn't  
13 fit in here.

14           So that's what we're really up against, and remodeling  
15 within it, you know, it was built in '68, so that's how it's  
16 predating some of these current standards. It was seriously  
17 remodeled to the point of being almost rebuilt in 1988 where  
18 they did still have some of the, the new setbacks, but they  
19 weren't quite as stringent as they were, as they are today.

20           They've had lots of remodels, the most recent they've

1 added the play land. But it is still, it's, it's functionally  
2 obsolete from their standpoint. The exterior doesn't meet their  
3 standards.

4 The kitchen is not the size or the configuration that  
5 it needs to be. It would need to be completely redone on a  
6 larger footprint. And it doesn't allow the drive-through, and  
7 the parking is in this, you know, now it's already in this kind  
8 of long, skinny thing, so it doesn't have the customer parking  
9 where, where your customers like to be, close to the building.  
10 So - and again, because of this, it's just preventing the fact  
11 they would remodel, it could be remodeled.

12 McDonald's does not intend to tear this down. They  
13 would put this, as soon as this would be vacated, it would  
14 immediately go to the market and be for sale, and be actively  
15 marketed because they don't, any more than anybody else, wants  
16 to see this vacant. They don't want to have this sitting on  
17 their books. So it would absolutely be -

18 We have talked through this and listened to some of  
19 the, the testimony that we heard, and we came up with this list  
20 of items that we could put in deed restrictions and future sale

1 restrictions for future buyers to say that all these uses that  
2 we have heard, and that we have gone through the code and seen  
3 as undesirable types of uses could not be done on there.

4           Some of these uses I don't believe would be allowed in  
5 existing C-1 anyway. But, of course, somebody could probably  
6 come in and ask for the amendment and, you know, the zoning to  
7 go ahead and redo that. So we're willing to put all these in,  
8 whether or not you could actually do them under the existing  
9 zoning.

10           But, again, no off-premises liquor sales, so that  
11 takes care of the drive-through liquor concern. Adult book  
12 store is the, the - I won't read through all of them, but no  
13 head shops, and no shady massage establishments. You could  
14 still do a nice spa, but not that. And then the last one, and  
15 we would only -

16           MALE SPEAKER: (Inaudible)

17           MS. MORALES: What's that?

18           MALE SPEAKER: (Inaudible)

19           MS. MORALES: Yeah. Well, no. No. And let me  
20 explain that 'cause that's a little confusing. Typically, when

1 McDonald's does sell a site, they put restaurant restrictions on  
2 it because they don't want competition. But we would limit that  
3 to only restaurants that specialize in hamburgers. So that's  
4 the intent of that. It's not - we would still be able to allow  
5 a restaurant because that is the logical use for this site,  
6 another restaurant.

7 ZONING EXAMINER: So this is actually a broader deed  
8 restriction than is typical in a McDonald's resale.

9 MS. MORALES: Absolutely. Absolutely. There's  
10 usually not any of these. This is pretty unusual except for  
11 restaurant use. Typically -

12 ZONING EXAMINER: I just mean just speci- --  
13 specifically nine allows more than would be typically, number  
14 nine allows for.

15 MS. MORALES: Allows for restaurant uses, yes. Yes.  
16 Thank you for the clarification. Yes. Typically it would say -  
17 and, and in some places they would just limit fast food. But,  
18 but at this point, it would just be a hamburger limitation. So  
19 that's what that last one means, so if it's a little confusing.

20 But just to recap, and that is on the memo that I gave

1 you. The hamburger thing is, is not on here 'cause as you said,  
2 that would be a limitation for, for our client. It wasn't a  
3 concern of the neighbors, so I left it off of the suggested  
4 condition. Happy to add that on if you think it should be in  
5 there.

6 But just to recap, again, this is a site, it's a  
7 commercial site with the parking as an accessory use as that  
8 transition to the neighborhood located on two major arterials,  
9 22nd and Alvernon, one of the busiest intersections in the City  
10 of Tucson.

11 It has been, the parcel's been pretty compromised over  
12 the year with the widening of those intersections. It's got  
13 some major power lines going through there. There's, there's  
14 lots of setbacks that have happened and, and property takings  
15 that have happened along the way. And it's reduced the  
16 buildable area on the site.

17 Probably shoehorn something into that, but it's not  
18 gonna be a desirable use. It's not gonna be something that can  
19 have the additional landscape buffers and the additional  
20 restrictions that we're talking about today. And it's gonna

1 still have all those driveways that are there now because if  
2 it's just, you know, the way it is, we can, we can keep those  
3 driveways.

4 So, so this, this proposal is correcting some of those  
5 issues that are out there today as far as multiple driveway  
6 locations very close to that intersection, and, and it is  
7 already, the majority of the site is already zoned as  
8 commercial, like I said.

9 Again, we have worked very hard to redesign the site  
10 over and above what we showed you last time to increase those  
11 buffers, to increase and further restrict our land uses on both  
12 the P zone as well as the rest of the commercial zone to, to  
13 further transition and protect, transition the neighborhood and  
14 protect from some of those concerns that we heard, the, the  
15 odors, the noise, the visual, the lighting, the, the intrusion  
16 of a commercial use into the neighborhood.

17 We feel that those increased buffers and some of those  
18 other mitigation things that we have added on both the north and  
19 east boundary, are, are creating that natural transition that  
20 anybody, that anybody that using the site can see that, hey,



1 you're - when you're coming into that, you're, you're  
2 encroaching into a neighborhood, you're moving into a  
3 neighborhood away from that commercial corner.

4           Again, the extra parking spaces being limited, the  
5 conditions I've given you, the eliminating and changing the  
6 driveway configuration, adding that buffer, adding to the buffer  
7 and the landscaping quantities on the east side continue to  
8 support that transition to the neighbors.

9           Again, as Mr. Beall pointed out in his memo about the  
10 plan policy compliance, my, my clients did, originally, look at  
11 whether they could do this without the, the house. And I think  
12 you'd asked that question before.

13           They, they looked hard at it, and were unable to make  
14 the site flow and, and to work, to be able to circulate through  
15 it, and certainly would be unable to do anything but increase  
16 all these buffers and these setbacks from that existing  
17 residence that's there.

18           The, again, Plan Tucson identifies this area as a  
19 mixed use corridor. It supports that commercial use at the  
20 intersection. It supports redevelopment of commercial projects

1 that can improve the traffic flow, which we're doing by closing  
2 those driveways.

3 Pedestrian mobility and safety, we've got the bus stop  
4 there, that's another advantage to this site, that your right  
5 out of pedes- -- for, for both employees and customers, you're  
6 right there with the bus stop. So it's, it's an excellent site  
7 from that standpoint as well as, as the location around a lot of  
8 other businesses and commercial enterprises in the area.

9 And, and we're improving the streetscape's quality,  
10 especially in that neighborhood by increasing those landscape  
11 buffers, taking an existing plain masonry wall and adding  
12 landscaping, adding lighting, adding all those features that,  
13 that really improve that entry into the neighborhood.

14 And then it looks at that expansion, the commercial  
15 area with the logical boundaries, and that's where we, we  
16 believe that the parking zone creates that boundary. It is a  
17 very restrictive zone, in that we can't do anything in it  
18 besides the parking.

19 So that insures that without short of a rezoning and,  
20 and short of a plan amendment for another use besides the P zone

1 for another commercial use, it insures that that will always be  
2 just a parking use in that area.

3 And again, the Alvernon-Broadway Area Plan again  
4 supports, again, as the General Plan or the, sorry, Plan Tucson  
5 does, the redevelopment of existing uses on the major  
6 intersections. We're providing a larger overall setback to the  
7 neighborhood.

8 We're prohibiting all those uses within the parking,  
9 and limiting it just to the parking and landscape buffers, and  
10 we're enhancing the screening and the buffers and that  
11 transition to the neighborhood.

12 McDonald's has been in this community a long time.  
13 The owner of the store down the street is, is, you know, a  
14 member of the Conchola family. They have been very active in  
15 this community, and they will continue to give back to this  
16 community.

17 I, I found it interesting, or ironic in a way, at the  
18 last hearing that I heard so many of the people in the Julia  
19 Keene Neighborhood talking about how that McDonald's at 22nd and  
20 Randolph is, is an important part of their neighborhood. And,

1 and that they are a good neighbor, and they like having them  
2 there. And there's no reason to believe that this one won't be  
3 that same thing at this location on 22nd and Alvernon.

4           They will keep the site clean. The site is - I know  
5 we talked about it last time and I don't want to beat a dead  
6 horse, but there, there is illegal activity going on the site  
7 right now. It's not monitored, it's an eyesore. I drive by it  
8 several times a week. It's - this will clean it up. It will  
9 put eyes on it. It will create activity in the area to prevent  
10 some of those things from going on.

11           Our environmental people came out to look at it  
12 (inaudible) and opened up that, the carwash and found all kinds  
13 of hypodermic needles. There's people in there with illicit  
14 activity all the time. It is a bad situation now. And I just  
15 really wanted to emphasize that it is not in McDonald's best  
16 interest and it's not in anyone's radar to try to leave  
17 something like that a blight on the old site. It's important  
18 for that site to turn over and to get sold to a viable use with  
19 the restrictions that are there.

20           That viable use will protect the neighborhood from not

1 being a, you know, a nuisance to their neighborhood. But  
2 there's no reason to believe that the McDonald's Corporation or  
3 this owner would allow that same kind of blight in the Julia  
4 Keene Neighborhood and right across from Randolph Park.

5 A totally different property owner, solely different  
6 situation with the old Shell station. This is gonna clean that  
7 up, and we'll continue to reinvest in the neighborhood. I'm  
8 sincere about that. You know, this neighborhood signage, the  
9 things like that. People have asked for things and McDonald's  
10 has said, "Sure. We'll do it."

11 And so I, I can't think of a thing that we have said  
12 absolutely "no" to except for going away, you know, that's all  
13 I've heard. So people have asked, we've done it, and we've  
14 tried to address as many concerns as we have been able to do,  
15 and as we've heard. And with that, like I said, I've got my  
16 traffic guy here, be happy to, to answer any questions.

17 ZONING EXAMINER: Well, thank you for all the effort  
18 that went into the supplement.

19 MS. MORALES: Yeah. You're welcome.

20 ZONING EXAMINER: And, and the additional information.

1 It's appreciated. I see the effort in that. If we can go back  
2 to looking at the P zone as the transition, some of the first  
3 slides, I think. You might not even need these lights. Really  
4 -

5 MS. MORALES: The new site plan, is that what you're  
6 thinking?

7 ZONING EXAMINER: Not the site plan -

8 MS. MORALES: Or -

9 ZONING EXAMINER: - but -

10 MS. MORALES: All the way back? Oh, some of these  
11 examples?

12 ZONING EXAMINER: Yeah.

13 MS. MORALES: Okay.

14 ZONING EXAMINER: So, yeah, right there.

15 MS. MORALES: Oh, right here?

16 ZONING EXAMINER: Right here.

17 MS. MORALES: Yeah.

18 ZONING EXAMINER: Yeah. Just vaguely in reference to  
19 this. I mean, it's a transitional zone, but we do have to look  
20 at the context of the transition -

1 MS. MORALES: Right.

2 ZONING EXAMINER: - right? And the specific proposed  
3 use in the zone from which there's a transition being built.

4 MS. MORALES: I think I understand that.

5 ZONING EXAMINER: In other words, -

6 MS. MORALES: Right. From the commercial, the  
7 transition, yeah.

8 ZONING EXAMINER: (Inaudible) it doesn't exist in a  
9 vacuum.

10 MS. MORALES: Right. Right.

11 ZONING EXAMINER: It has characteristics that are  
12 reflective of the underlying zone for which the parking is  
13 serving. So - and, and for the use that's being proposed there.

14 MS. MORALES: Uh-huh.

15 ZONING EXAMINER: So, you know, one of the things  
16 that, I think that is a concern is the transition - well, that's  
17 admittedly so a transition between commercial and residential,  
18 but that transition takes on a different characteristic if  
19 you're talking about an accountant's office that closes at 5:30  
20 versus a, -

1 MS. MORALES: Right. Right.

2 ZONING EXAMINER: - a McDonald's. So -

3 MS. MORALES: Agreed. Yes.

4 ZONING EXAMINER: So that's one thing, and maybe you  
5 can address that further if you want, or just leave that out  
6 there. But my, my understanding of this as a transitional zone  
7 is we, we also have to look at the use.

8 MS. MORALES: Right. Right. And I think that  
9 probably the most applicable one to that is, is - and it's  
10 actually a quite larger commercial use, but it's 24-hour type of  
11 use that you see with that Fry zone, and as I said, it's  
12 probably as far as the configuration goes, very similar to what  
13 we're talking about where, you know, it's a larger site. And,  
14 and as a result, the P is a bit larger.

15 I didn't actually scale all that off of what exactly  
16 the distance is but, but that is - the, the commercial traffic  
17 does come in along that P zone, but it provides that transition  
18 to the neighborhood for, I think that's what you're alluding to  
19 is that we do have more of a - it's not just the 8:00 to 5:00,  
20 that we have the 24-hour service use, but, but, but, yeah, it's,



1 it's very similar in this circumstance where you're gonna have  
2 that.

3 And the, the - some of the uses that come in there  
4 besides the noisier uses, I think, with the suggested zoning  
5 conditions have helped mitigate that and, and especially I know  
6 the delivery hours and having the larger vehicles are the  
7 noisier things that you tend to get in and out of there.

8 And, and, you know, if you have any of those backup  
9 beepers or anything like that, God forbid, limiting those hours  
10 to the daylight, and daytime hours is huge, I would, I would  
11 say, as a neighborhood, as, as looking at that.

12 ZONING EXAMINER: So once you've established the  
13 intensity, then I'll try to mitigate for that intensity  
14 differently than you might in another -

15 MS. MORALES: Right.

16 ZONING EXAMINER: - transition.

17 MS. MORALES: Right. And as far as I'm aware, this  
18 one doesn't have any additional restrictions on it. It just  
19 happened to be that P zone with those buffers. But, but I think  
20 we've gone over and above that with some of those restrictions

1 that we've talked about that are restricting both the commercial  
2 and the, the other uses.

3 But, but, yeah, as you see, I mean, these are not  
4 transitional uses to - they're to very similar established  
5 neighborhoods. The San Clemente Neighborhood is one of the  
6 oldest, most, you know, it's a historic neighborhood. So we've  
7 got P zone acting as that transition there.

8 This is, I can't remember the name of the  
9 neighborhood, but it's a beautiful neighborhood back by Sewell  
10 Elementary. And providing that transition to that neighborhood,  
11 and, and I know that that's happened kind of all along Broadway,  
12 that they've had that. But this happened to be mitigated  
13 through the P zone and other cases where it's been mitigated by  
14 closing off streets.

15 But, but that, I certainly, I mean there's still a  
16 very viable, very nice neighborhood on the other side of that P  
17 zone from those uses. Granted, not 24 hours, but there's  
18 (inaudible) uses. I mean Best Buy opens pretty early in the  
19 morning and closes at night.

20 And as far as I know, I did not look up all the

1 rezoning conditions, but I don't know of any other restrictions  
2 on hours and deliveries or anything like that. I believe  
3 they're open, I think I've been there as late as 9:00 or 10:00  
4 at night, so this, this use, I've already talked about this,  
5 this is more of an office use.

6 So, but the dumpsters again, you don't really have the  
7 opportunity, if City of Tucson's your, your garbage pickup, to  
8 control their hours of operation. So that could be happening  
9 anytime day or night.

10 We are, you know, sometimes with a private operator,  
11 you have a little more flexibility in that. But we, again,  
12 we've set back that 135 feet, so it's greater than the - the  
13 setback is now in the existing situation with the gas station,  
14 so -

15 Again, and Rincon Market is, is absolutely like, you  
16 know, right there in the middle of Sam Hughes, as far as that  
17 transition goes, and there's houses all, all around that it's  
18 transitioning to.

19 And again, nicely landscaped, and limited pretty much  
20 to the parking as we've done back in here, that it's just

1 automobile traffic, not trucks and, and major heavy deliveries,  
2 but the deliveries do still happen back in this area as well,  
3 and drive through it to get there.

4 ZONING EXAMINER: All right. So I, I reviewed the  
5 traffic report. My takeaway from the traffic report is that the  
6 traffic impact from the proposed use is only slightly, very  
7 slightly more intense than the traffic impact of the operating  
8 Shell station.

9 MS. MORALES: Correct.

10 ZONING EXAMINER: Not the existing abandoned -

11 MS. MORALES: Yeah.

12 ZONING EXAMINER: Yeah.

13 MS. MORALES: Existing is very low because -

14 ZONING EXAMINER: Existing is very low.

15 MS. MORALES: - it's vacant right now, but -

16 ZONING EXAMINER: But within a 20 or so vehicle trips.

17 MS. MORALES: It's a very, very negligible increase.

18 ZONING EXAMINER: There was a question, and perhaps  
19 the - do you have your sound engineer person here (inaudible)

20 MS. MORALES: We do not, so I'll have to (inaudible)

1 as well as I can.

2 ZONING EXAMINER: I know there was a question last  
3 time about the additive effect.

4 MS. MORALES: Uh-huh.

5 ZONING EXAMINER: (Inaudible) baseline background  
6 noise and then additional noise, and what that, what that  
7 actually, what the number of added noise is, whether it's an  
8 actually a numeric addition or whether it's -

9 MS. MORALES: Right. So you've got a background noise  
10 that exceeds that of what the speakers would be creating in, in  
11 this situation.

12 ZONING EXAMINER: Yeah. So I'm unclear as whether  
13 that - does that ambient noise drown out the - or is it actually  
14 -

15 MS. MORALES: It's, it's masking for (inaudible)

16 ZONING EXAMINER: - additive?

17 MS. MORALES: It probably overall increases  
18 marginally. And, again, I apologize because I'm not that  
19 expert. But that was my take-home from the acoustic study that,  
20 that it would be generally masked by the existing background

1 noise. And that is both day and night, that level is quite high  
2 because of the large traffic counts and large amount of day and  
3 night traffic on 22nd Street and Alvernon both.

4 ZONING EXAMINER: Okay. Thank you.

5 MS. MORALES: Thank you. Appreciate it.

6 ZONING EXAMINER: I, I forgot to acknowledge Council  
7 Member Kozachik's presence this evening. I always to make sure  
8 that if a Council Member shows up at one of my hearings that I  
9 acknowledge that. So apologize for not acknowledging it  
10 earlier.

11 What I'd like to do is - this is the time that I  
12 sometimes give a warning. If anybody's parked - in fact, let's  
13 take a ten-minute break, people can talk. But if anybody's  
14 parked in the Presidio Garage which is the one right under the,  
15 the park right out here, that closes at 8 o'clock.

16 And there is ample street parking if you need to move  
17 right out in front of City Hall right along Alameda there. So  
18 if you are parked there, you want to move if you want to stay.  
19 Let's take a ten-minute break, come back in ten minutes and  
20 resume.

1 UNIDENTIFIED SPEAKER: (Inaudible)

2 ZONING EXAMINER: Well, I, I also would like to take a  
3 break myself just - and then also if somebody - people might  
4 want to talk about what they've just heard as well, so -

5 (Inaudible speakers.)

6 ZONING EXAMINER: If you do have to leave and you want  
7 to leave letters, you can leave them with Mr. Moyer.

8 (A short break was taken.)

9 ZONING EXAMINER: - gathering back to our seats. If  
10 you're filling out some of the orange cards, just leave them up  
11 by the taller of the two microphones, and we'll collect them at  
12 the end. All right. So let's resume.

13 What I'd like to do once again is just - what would be  
14 helpful to me is to start with comments that focus on the  
15 information presented this evening. I don't want to stop people  
16 from saying anything that they want. But really, the purpose of  
17 the hearing is to allow me to write a report, and new  
18 information is what I'm looking for tonight, information based  
19 on what you've heard.

20 So with that in mind, I'd like to call people up who

1 would like to speak, you know, regardless of position on  
2 relevant points that were made this evening. I gather you'd  
3 like to speak first. I think you -

4 MS. PRIOR: Yes. Thank you.

5 ZONING EXAMINER: All right. If you could just remind  
6 me or your name again.

7 MS. PRIOR: My name is Catherine Prior, and I am a  
8 resident. My boyfriend and I actually own two homes in the San  
9 Gabriel Neighborhood. And please forgive my condition. I have  
10 rheumatoid arthritis and I had to take pain medication in order  
11 to be here this evening which makes me very tired. I think -

12 ZONING EXAMINER: Well, thank, thank you for making  
13 the effort coming out. I know this is important. Appreciate  
14 it.

15 MS. PRIOR: It is very, very important not only to me  
16 but to the Darkos who are mostly affected. They are my  
17 neighbors, and both Lou and Sue are battling their own  
18 disabilities. So there are a couple of points that I would like  
19 to make even before I start my issues with McDonald's.

20 My first suggestion is to the Zoning Examiner that you



1 might consider allowing the public when we come in, and we're  
2 here voluntarily, to speak first, because most of us, if we're  
3 lucky enough to have jobs, have already worked those jobs all  
4 day.

5           And then we come in after work to talk to you about  
6 the issues that concern us versus the people who are here on  
7 behalf of McDonald's. I want to point out the five or six  
8 people that are here on behalf of McDonald's. They're all being  
9 paid to be here, okay?

10           And when you look at the number of people on the other  
11 side, not a single one of us is receiving a dime to be here.  
12 We're here because we're very concerned about what McDonald's is  
13 doing to two or three different neighborhoods in the area.  
14 That's my first point. Just consideration.

15           ZONING EXAMINER: All right. Thank you. I would  
16 consider it.

17           MS. PRIOR: Let me just remind you that before my  
18 disability, I was both a social worker and a realtor. So as a  
19 social worker, I'm very experienced in advocating for the little  
20 guy. And as a realtor, I understand business, and especially

1 real estate business.

2           So first I want to talk about Arizona law, residential  
3 law. Under Arizona residential law, no tenant or homeowner is  
4 allowed to impede the enjoyment of another homeowner's use of  
5 their property. This is where noise ordinances come in, and  
6 light ordinances come in, and I imagine smell. And so we have a  
7 commercial business, a Goliath, if you will, versus David type  
8 of situation here.

9           McDonald's has more money than God. They have plenty  
10 of resources to relocate their business out of the Julia Keene  
11 Neighborhood if they so desire. Why they would want to leave  
12 the Julia Keene Neighborhood is beyond me.

13           The Julia Keene residents have been tremendous  
14 supporters of McDonald's. There are plenty of commercial  
15 properties available along that section of 22nd Street. She put  
16 up the, excuse me. Somebody, can you help me with the word for  
17 what's up on the, the site plan.

18           ZONING EXAMINER: The power point slides or the -

19           MS. PRIOR: Yes. She put up the old site plan, and  
20 said that they can't expand and they can't do this and they

1 can't do that. Yes, they can. They can put their employee  
2 parking across the street, you know, and have the employees  
3 cross the street rather than parking in the parking lot, which  
4 is what they're proposing to do next to the Darkos' house.

5 They, they just are not willing to stay in the  
6 location where they are needed. They want this corner because  
7 it serves their financial needs and their desires, not because  
8 it serves the neighborhoods in any way. And I understand that  
9 from a business perspective.

10 But I'm sorry. No business should be allowed to move  
11 into a residential neighborhood. Residential neighborhoods are  
12 there for us to enjoy our homes. My boyfriend and I and his  
13 family, we sit outside and look at the stars. That's the  
14 enjoyment of our property which we are right next door to the  
15 Darkos.

16 The same thing with the Darkos. We're gonna have  
17 McDonald's signs flashing 24/7, those lights. You don't think  
18 that's gonna impede our enjoyment of the stars? Even if they  
19 put employee parking in the proposed area, you don't think that  
20 employee parking is gonna be noisier and dirtier than the

1 residents that's there, that's occupied with tenants who do not  
2 want to move?

3           Secondly, she talked about the restrictions that they  
4 have put on the new owner of the old McDonald's. She failed to  
5 mention that they are requiring no drive-through. So, yeah,  
6 they're, they're now gonna open it up to a restaurant. They  
7 originally said no restaurant. But now they're gonna open it up  
8 to a new restaurant, but they aren't gonna be allowed to have a  
9 drive-through.

10           You're businessmen. You're gonna open a restaurant,  
11 do you want a drive-through? I would. So they're severely  
12 limiting the potential of the old site. That's how they're  
13 paying back the neighbors of Julia Keene.

14           The other thing that I can speak to again as a retired  
15 realtor with 20 years experience, the San Gabriel Neighborhood  
16 is going to lose property value with McDonald's, especially the  
17 three or four homes that are most adversely affected by  
18 McDonald's moving into that corner.

19           We aren't opposed to the Shell station being sold to a  
20 business. Shell was there, but Shell closed at, I think it was

1 10:00 or 11:00 P.M. So if another business comes along and  
2 wants to be in that site 'til 10:00 or 11:00 P.M., that does not  
3 adversely affect us being able to sleep at night.

4 Lastly, I would just like to say that I want to meet  
5 the McDonald's executive, or the hired guns of McDonald's who  
6 wants to purchase the Darkos home and move in next door to the  
7 McDonald's, the 24/7 McDonald's, with all of its traffic and its  
8 lights and the other pollution (inaudible)

9 ZONING EXAMINER: Ma'am, if you could direct it at me.

10 MS. PRIOR: Yeah. - that's gonna bring to this  
11 neighborhood. I'll guarantee you, nobody's gonna want to do it.  
12 I live next door to the Darkos, so I'm even less affected, but I  
13 can tell you, I, as a, again, a realtor, I wouldn't buy their  
14 home.

15 So I'm just asking you guys to consider. There are  
16 five acres. When she talks about the, the other properties in  
17 the neighborhood that are commercial properties, she failed to  
18 mentioned they are all on the south side of 22nd Street. She  
19 showed the slide from Best Buy and Tres Amigos, and I, unluckily  
20 for them, used to live in that neighborhood.

1           And I can tell you those businesses all close by 9:00  
2 P.M. So they, they are not a good example of what we are facing  
3 in San Gabriel. The same thing with Fry's. Fry's closes by  
4 11:00 P.M. So they are not a good example. Okay. That's all  
5 that I have to say. Thank you.

6           ZONING EXAMINER: Thank you. All right. Who would  
7 like to - would you like to speak next? Okay.

8           MS. VERANES: Good evening. My name is Margot Veranes  
9 Edgecombe, and I live in San Clemente. And I just handed in a  
10 speaker in opposition form on my behalf, and also on the behalf  
11 of my neighbors who live on my block.

12           Unfortunately, because we live in San Clemente, we  
13 weren't notified. So those are just the neighbors that I ran  
14 into today who wanted to express their opposition as well, and -

15           ZONING EXAMINER: Can - before you get going, can I  
16 just get the spelling of your last name?

17           MS. VERANES: Of course. My first name is Margot,  
18 M-A-R-G-O-T. Last name Veranes, V-E-R-A-N-E-S. And then  
19 Edgecombe, E-D-G-E-C-O-M-B-E.

20           ZONING EXAMINER: Thank you.

1 MS. VERANES: Thanks. And I just wanted to remind you  
2 and, and ask you to heed the number one goal in the Alvernon-  
3 Broadway Plan which is indeed to protect the integrity of the  
4 residential neighborhoods that already exist there. And my  
5 husband and I, like all of our neighbors, are just our  
6 properties in San Clemente, which runs into San Gabriel.

7 To me, they're one and the same neighborhood. We walk  
8 our dogs in each other's neighborhoods. We know each other.  
9 It's a continuous residential historic area. There's a home  
10 that was built in 1934 just two houses away from the property  
11 McDonald's is talking about tearing down.

12 When all of us decided to purchase these properties  
13 and to put our life savings and 30-years mortgage investments  
14 into this neighborhood, based on the understanding and the faith  
15 that our City government would protect the zoning that exists  
16 today.

17 And this home is zoned Residential One, and to think  
18 that parking as a transition applies when you're talking about  
19 tearing down existing residential, I'm sure that parking makes  
20 sense as a transition when you're talking about transition

1 between residential and commercial.

2 But to me, it seems illogical to say that we're gonna  
3 actually tear down existing residential to create a transition.  
4 If we're interested in creating a transition, then perhaps the  
5 main lot should be subdivided and perhaps the north part of that  
6 parcel could be redesignated as parking as a transition. But  
7 the existing residential parcel should stay as it is, out of  
8 respect for the plan that we've all agreed to.

9 The other point in the Alvernon-Broadway Plan that I'd  
10 just like to raise really quickly, and I mentioned the section  
11 number in my statement, but I'm afraid I don't remember it right  
12 now. But it refers to the fact that the intention is to have  
13 low density residential along Alvernon Way. And low density  
14 residential along Alvernon Way is a direct quote from that plan.

15 And so I'm a little confused that this is even being  
16 considered. So I would ask that you recommend "no" to the City  
17 Council, and that unfortunately it sounds like this just isn't a  
18 good fit for McDonald's needs and the neighborhood's needs, and  
19 perhaps it's time for them to move on and find another spot.

20 Thank you.



1 ZONING EXAMINER: Thank you.

2 MS. SUSAN DARKO: My name is Susan Darko, spelled S-U-  
3 S-A-N, D, as in David, A-R-K-O. I'll finish the address in just  
4 a minute. I would like to address some of the ideas that have  
5 been brought up tonight, and with, with that, I would like to,  
6 to add something that has not been talked about.

7 And because I'm not an environmentalist, maybe I'm not  
8 sure, but the property that we're talking - I'm sorry, that has  
9 been proposed to build a McDonald's has been a gas station for  
10 the 40 years, and plus that, that I have lived in my home.

11 That means there has been tanks of fuel under the  
12 ground. Who knows how long those tanks have been there? How  
13 well those tanks were designed. I can tell you when Texaco was  
14 there when we first moved in, and I might have brought up this  
15 idea before at the first meeting. We were calling an air  
16 quality control group probably once a week, talking about every  
17 time the tanks were filled, you could smell fuel all the way  
18 down our neighborhood.

19 I'm gonna say probably the ground underneath, when the  
20 tanks come up, and the ground around that are possibly

1 contaminated. I don't want to build - I wouldn't want to eat at  
2 a restaurant built over a gas station, or fuel stations, for the  
3 last 40-plus years.

4 That part concerns me a lot because there's a lot of  
5 people in our joint neighborhoods that do like to eat at fast  
6 food restaurants. I used to once. I don't anymore.

7 Another thing that I would like to bring up, too, and  
8 the whole reason that we're here is the idea of rezoning these  
9 two lots. And my biggest thing is there is a very nice young  
10 couple - yes, they're renting, but, yes, they're good neighbors.  
11 They have a small baby. You would be dislodging them and making  
12 them move on. They're happy where they're at.

13 You're tearing down a house that was built, I don't  
14 even remember, in the '50's maybe. It just seems un- -- I don't  
15 even know the right word to put in there, that somebody would  
16 build - would tear down a viable property in order to build a  
17 parking lot. (Inaudible)

18 ZONING EXAMINER: I, I appreciate that people have  
19 enthusiasm, but I do need to have everything on the record. And  
20 I do want people to refrain from saying things from the

1 audience. It's not only about the record, it's about I need to  
2 concentrate on what somebody's saying. And if people start  
3 talking from different directions, I can't - other issues of  
4 what about when it's not supportive? Then it gets ugly.

5 So before it goes too far, just let me just point out.  
6 Please refrain from saying anything from the audience. I can  
7 concentrate on what you're having to say.

8 MS. SUSAN DARKO: Thank you. So not only the young  
9 family there, but just the idea that, that we're taking down  
10 part of a neighborhood becomes intrusive. It's not the idea  
11 only that we don't want a McDonald's there, we don't want  
12 anything that runs 24/7. And Ms. Morales said the only thing  
13 that they - that the company, whether it's McDonald's or the  
14 planning group has said "no" to the residents, was that they  
15 would go away (sic). We were also told "no" along the idea that  
16 they would not, and I'm probably gonna screw this up, but the  
17 whole idea that they are 24/7, 364.

18 There was no compromise on that of the, of the  
19 McDonald's closing down at a decent hour like they do on the  
20 West 22nd Street address. So apparently there's more

1 compromises that were not talked about, too.

2 I'd kind of like to address the new plan with the  
3 original site plan also. I had brought up the idea, and I'll  
4 talk about the entrance/exit on Alvernon. That is still - looks  
5 like it's in the same area. If it's not - I'm sorry. If it's  
6 not, please correct me. But that is still in the staging area  
7 of the City bus line.

8 Yes, typically there is only one bus in there at a  
9 time. It can be two buses if they're running late. I was told  
10 that by Suntran. Doesn't happen probably very often. The other  
11 thing is, I talked to a bus driver. I went there and stood  
12 there for 20 minutes about 5 o'clock one evening, and I asked  
13 the bus driver, even though he was running late, I said, "I just  
14 have two questions."

15 I said, "When it was a Shell station, did you have  
16 anybody pull in front of you to get into the Shell station?"  
17 And he said, "No. This was not my route before. But I had it  
18 happen to me this morning. As I was pulling away, someone  
19 wanted to pull into this closed gas station to drop somebody off  
20 at the bus stop."

1 I drove a school bus for 30 years. I can tell you,  
2 they don't stop on a dime. When they decide to move, they start  
3 moving. You have a lot of young people that come in the morning  
4 to catch the bus to go to school. You have a lot of older  
5 people in the afternoon that go there to get on and off. It's,  
6 it's just plain scary to me, that someone is going to get hurt.  
7 Cars coming in and out of there as - yes, the gas station was  
8 used, but not like a McDonald's, not like a fast food  
9 restaurant, not 24/7.

10 The 22nd Street entrance/exit, at least in the  
11 original plan, I could almost foresee people being able to come  
12 out the east exit, and possibly get all the way over into the  
13 turn lanes, which would be crossing basically four lanes of  
14 traffic to get in if they needed to go southbound on 22nd  
15 Street. By the new design, and trust me, I can drive quick if I  
16 need to, I couldn't get over there if I needed to.

17 All of this leads to someone coming back out onto 22nd  
18 Street or back onto Alvernon. Where would you go? I would make  
19 that first right, the first next right, and the first next  
20 right, and I'm back onto 22nd Street, and I'd go any way I want

1 to. I'm not gonna try and cross two lanes of traffic, get into  
2 the lefthand lane in front of the police station, and try and  
3 make a U-turn.

4 So where did I just send a bunch of traffic from that  
5 corner? Right down my street, right in front of my house. Not  
6 only that, you're sending them down to the next block, which is  
7 Longfellow. Right on the corner of Longfellow and 22nd Street  
8 is a daycare. They watch those children quite well, and they  
9 are part of our neighborhood and have been for a long time. And  
10 the residential house right in front just to the north of that  
11 daycare is the owner of that daycare. His daughter runs that  
12 daycare.

13 There's traffic going in and out of there mostly in  
14 the morning, mostly in the afternoon about the same time that I  
15 would imagine people are getting breakfast at McDonald's, and  
16 dinner at McDonald's. So let's talk about a traffic jam.

17 I'd also, also like to talk about a couple more  
18 things. One of the things is we keep talking about noise. And  
19 what I hear from behind me is the idea of, well, we have these  
20 new speakers that are designed not to create as much noise.

1 That's not the noise we're talking about.

2 We're talking about cars coming in, cars idling with  
3 exhaust. We are talking about big trucks coming in, and let's  
4 hope they turn off their vehicles. Maybe they will, maybe they  
5 won't. As I believe Ms. Morales or someone mentioned, you have  
6 no control over the people that bring produce. They're not the  
7 McDonald's company. You don't have control over the trash  
8 people. They're not McDonald's employees.

9 Also when talking about noise, we're talking about the  
10 people that are going to be parking along that east wall. And  
11 you can build as many trees, and I'd love to have the trees and  
12 the plants. I love that kind of stuff. Please come and bring  
13 those. Plant them around my house. I'll pay McDonald's to do  
14 that.

15 They're not going to buffer the noise at midnight for  
16 somebody's that gonna drive through the drive-through with two  
17 or three cars possibly, get their food and go over and park  
18 along that east wall. Now I happen to live, as you can see in  
19 the design, I live in the little house in my own back yard.  
20 That's a guest house we built for my mother-in-law, and my

1 husband and I now reside in it because it is wheelchair  
2 accessible.

3 We get noise from 22nd Street. I understand the  
4 noises she's talking about. But I think the noise quality that  
5 we need to talk about is how many people are parked in that  
6 parking lot all the time, day and night, not just the speaker  
7 that's saying, "May I help you?" That's all I have written  
8 down, so I guess I'm done.

9 ZONING EXAMINER: If there's anything that you want to  
10 say that's not written down, you can have that.

11 MS. SUSAN DARKO: It's not in my head at this point in  
12 time. I would like you to consider not building - I would love  
13 to see the gas station gone. Yes, there's cars in and out of  
14 there all the time. I'm sure that there are things that are  
15 done over there that we don't even know about.

16 But my biggest pull, my family's biggest pull is not  
17 to have a 24/7, anything there, not, not, not to take down the  
18 house next to us. That just seems criminal.

19 And also - I do have another thing I guess I want to  
20 say. When this all started, we found out that the house



1 actually that's directly across behind the, the - there's a  
2 office building on the corner of Camino De Palmas and Alvernon,  
3 a two-story building.

4 The little house that's right to the east of that, the  
5 people that own the house still own the house, but there's been  
6 no one living there. The next house does have very -

7 ZONING EXAMINER: Is that the one - there's one with a  
8 boarded window.

9 MS. SUSAN DARKO: No, sir.

10 ZONING EXAMINER: That's not -

11 MS. SUSAN DARKO: That's what I'm saying. There are  
12 two houses on our main street right now that are actually empty.  
13 The one directly across the street is the one you're talking  
14 about that has a boarded window. I haven't seen anybody, and we  
15 have talked to several people, you know, will come down the  
16 street and look, and they'll say, "What's going on with it?"  
17 And it's like, "We don't know, but we need you to know the  
18 possibility of this house being torn down and a McDonald's," and  
19 they'd go on their way.

20 This is not going to help us turn over our street, and

1 we'd like to have that done. And we'd like to have the other  
2 cleaned up. At the very first meeting, I will tell you, I  
3 invited McDonald's corporate office to be my guest, be our  
4 neighbor. Work here 9:00 to 5:00. Work here 6:00 to 4:00.  
5 Don't bring in your 24/7 and your food. I am done now.

6 ZONING EXAMINER: Let me ask you a question about  
7 that.

8 MS. SUSAN DARKO: Yes.

9 ZONING EXAMINER: I mean there's a lot of other  
10 factors on the table, but to what extent would, would your  
11 position be affected if they said, "Well, we won't run it 24/7."

12 MS. SUSAN DARKO: Just that. My position stays the  
13 same. I do not want that house to come down. I do not want  
14 them to be on the other side of my wall.

15 ZONING EXAMINER: All right. Thank you.

16 MS. SUSAN DARKO: Thank you.

17 MR. MAYER: Good evening, Mr. Zoning Examiner. My  
18 name is Mark Mayer. I'm Co-Chair of the Julia Keene  
19 Neighborhood Association, and I'm not a retained speaker.

20 It seems like there ought to be a little truth in the

1 advertising here. I think I would reiterate the point of the  
2 first speaker. When something's advertised for a public hearing  
3 at 6:30, but the public doesn't get to speak 'til 8 o'clock,  
4 there's something really wrong in this picture. And I don't  
5 think it would be hard for you to believe from many comments  
6 right now the credibility of the City in this whole affair is  
7 not real high. A housekeeping measure that one of the -

8 ZONING EXAMINER: Well, let me, let me ask that. I  
9 mean how would you otherwise organize it? I, I get the proposal  
10 of having people speak in advance, people, the neighborhood  
11 coming out and speaking first. In this situation, there's new  
12 information proposed from the Applicant which I would like to  
13 invite people to respond to. So how, how would you propose  
14 that?

15 MR. MAYER: Well, I think the first thing you'd do is  
16 inform the audience of the order. And we, we see Ms. Morales is  
17 very capable of taking up an awful lot of time at this mike.  
18 And that if - those that have schedules that don't permit them  
19 to stay for a certain length of time, that they be given the  
20 opportunity to speak so they may leave.

1 We've had a number of people that have not been able  
2 to stay because of - to, to provide their comments if they so  
3 chose to do so. So that certainly would be the obvious thing is  
4 offering the opportunity for public testimony for those that  
5 don't have three hours to spend here.

6 ZONING EXAMINER: Okay. Thank you. I mean, I, I, I  
7 appreciate the input.

8 MR. MAYER: Okay. Just a housekeeping matter that one  
9 of the people that had to leave who is a many-decade employee of  
10 Fry's Food Stores. I believe it was indicated by the  
11 Applicant's representative that Fry's was 24/7. They are not.  
12 I think that would have been in reference to the Fry's location  
13 on First Avenue that was exhibited, they are closed from  
14 midnight to 6:00 A.M.

15 Well, first of all, I'd like to go back to the  
16 planning on this. I know you want to hear things that are new,  
17 but we keep hearing a lot of the same things over and over  
18 again. So we should have equal time with a lot of the things  
19 that are, you know, the old wine in new bottles.

20 ZONING EXAMINER: I agree. I don't want to prevent

1 anybody from speaking on any issue. I'm just trying to  
2 emphasize. And that was out of a concern for time, that is, if  
3 people wanted to reiterate something that they'd already said, I  
4 would like to give the opportunity to say new things first, and  
5 so it was consideration.

6 MR. MAYER: And my notes here address a number of  
7 things that are relevant (inaudible)

8 ZONING EXAMINER: And they bleed, they bleed across  
9 lines where -

10 MR. MAYER: And that will be definitely -

11 ZONING EXAMINER: I understand.

12 MR. MAYER: - happening. I think just basically to  
13 step back. This is the wrong project in the wrong place. A  
14 project of this intensity just simply does not fit in with the  
15 character of the north side of 22nd Street, as has been talked  
16 about in the prior hearing.

17 You have office zoning. You have the park on the  
18 other side of the street, and you have relatively low intensity  
19 land uses on Alvernon pretty much the full run from 22nd up to  
20 Broadway. And that's just a general statement.

1 But this rezoning does not comply with the Alvernon-  
2 Broadway Area Plan. And I don't care how many times someone  
3 tries to repackage a whole lot of planning phraseology, it's  
4 very simple that the plan, the conceptual land use map for the  
5 plan designates the existing single-family residence to be  
6 single-family residential. It's that simple.

7 And the plan further has a land use designation called  
8 Parking Buffer, and it's used in the plan. It covers the whole  
9 plan, and it wasn't used in this case. So the drafters of the  
10 plan knew how to designate on the plan that the R-1 property  
11 could be a parking buffer which would support a rezoning, to a  
12 large extent, and the drafters of the plan chose not to do that.

13 And I think that's a matter of, of legal construction  
14 that I'm sure, Mr. Kafka, you're familiar with in many  
15 situations. And if the drafters knew how to do something and  
16 they chose not to do so, that was conscious.

17 In the previous hearing, and in, in our letter, we've  
18 talked about three examples where plan amendments were required,  
19 including one that's going to Mayor and Council next Tuesday  
20 where the - a plan amendment was necessary for an existing R-1

1 zoning for what was ultimately proposed to be a P zone. And  
2 one's in the Julia Keene Neighborhood, by the way.

3 And the one that's probably most relevant here is the  
4 credit unions to the north, again which was discussed before.  
5 But it bears discussing again because we hear all these  
6 reformulations trying to basically say that there is compliance  
7 with the Alvernon-Broadway Area Plan.

8 And I, I wanted to add a few things in response. Ms.  
9 Morales is always referring to this memo. I found a few sheets  
10 in the file. Most of the folks here this evening aren't aware  
11 of how you go down and dig through the bowels of the City and  
12 get the case file that has a lot of material that's not posted  
13 on the web.

14 Well, I haven't seen any memo with any date on it or  
15 any signature or any name, but there is a few pieces of paper in  
16 there, and it does bring up the fact about the credit union,  
17 whoever the drafter of that may be.

18 And the plan amendment was required, okay? But that  
19 doesn't, I mean, where's the plan amendment here? And a plan,  
20 requiring a plan amendment sets forward a whole different

1 dynamic, including an automatic public hearing before Mayor and  
2 Council. And the burden is a lot more on the Applicant to say  
3 why the planning should be changed as opposed to if the plan  
4 actually does support the rezoning, then, then there's a  
5 different bird.

6 And so it isn't just a matter of, of procedure.  
7 There's, there's substantive differences between why a plan  
8 amendment's required compared to just a rezoning. And the one  
9 thing that was mentioned in the plan of sub-area two. I'm not  
10 sure how that supports the Applicant and Staff's arguments on  
11 this. But I thought I, I ought to address it since that was  
12 raised in this unsigned, undated piece of paper.

13 Yes, there is a sub-area two in the Alvernon-Broadway  
14 Area Plan that includes the site of the credit unions. But  
15 there were three policies. There are three policies in the plan  
16 before that plan amendment and subsequent rezoning. Two of them  
17 aren't relevant at all. And the third one basically supported a  
18 residentially scaled office along Alvernon.

19 Now when that went forward and the, the plan amendment  
20 was moderately contentious. It wasn't just something that blew



1 on through, and - but it ultimately did get approved. The  
2 important point I want to make here is the depth off of Alvernon  
3 that the additional parking for the credit unions went is the  
4 same depth that exists with this - the Shell station property,  
5 okay?

6 And, and if it would be helpful, Mr. Zoning Examiner,  
7 I can, you know, maybe go to the map. But in other words, the  
8 distance off the, the, say, the center line of Alvernon to the  
9 easternmost boundary line for the credit union is the same as  
10 the existing Shell property.

11 If that plan amendment and subsequent rezoning had  
12 gone into the neighborhood to occupy a full half of a City  
13 block, I, I can almost assure you it would have, it would have  
14 failed for the same kind of reasons you're hearing from so many  
15 different neighbors tonight.

16 Also the General Plan keeps getting cited, but the,  
17 the opportunity map, and the associated policy with that, of  
18 course, it doesn't cover Alvernon, 'cause that, that doesn't  
19 work on the Alvernon frontage. But on the 22nd Street frontage,  
20 it supports commercial expansion. But that's when logical

1 boundaries exist. And it cites like drainage ways or streets.

2 So in the letter that you already have received, but I  
3 want to cite this on the public record again, the homes, the row  
4 of homes next to this property, there's no logical boundary. So  
5 that policy does not support what is being proposed here.

6 Also the issue about the, the use of the property.  
7 This is getting into something that's somewhat new. The Revised  
8 Site Plan, or Preliminary Development Plan, I suspect it was  
9 changed because of traffic management and having the angle  
10 second to ingress/egress point not meet traffic standards, and  
11 it looks like it was angled to work its way around a utility  
12 pole or something. I'm not certain on that, but that was not  
13 good practice to have that angled ingress/egress for egress that  
14 would have to turn at a greater than a 90-degree angle.

15 But the more important point is that if you look at  
16 the Revised Development Plan, there's a sea of asphalt on the R-  
17 1 property, and that hasn't changed. The delivery trucks, the  
18 big tractor trailers and the refuse hauling trucks, they would  
19 have used that second ingress/egress anyway.

20 But depending on whether you're coming in front-end or

1 back - coming, you know, back-loading in, you have to maneuver  
2 in that whole sea of asphalt. So you would think they, they  
3 have testified that the plan now is down to the bare minimum of  
4 parking space, you'd think they'd probably want a few more.

5 Well, they can't 'cause that area has to stay open for  
6 the maneuvering of those trucks. And I would suspect to a  
7 certain extent the vehicles that use the drive-through need  
8 somewhat of a turning radius there. Kind of hard to do a  
9 righthand turn off of the C-1 property.

10 I also want to talk a little bit about the vacant  
11 buildings. Just again we see, you know, documents submitted  
12 that take away from some of the impacts. The last hearing cited  
13 the building at 22nd and Kolb. Well, you've received material  
14 from the Applicant that kind of puts a different spin on it, but  
15 the long and the short of it is you have a building there that  
16 was vacant a full year and a half in an area that the real  
17 estate, the non-residential real estate market is definitely  
18 healthier than it is in our neighborhood.

19 And it took a year and a half, and the subsequent  
20 occupant seems to be some kind of contractor that's put up

1 fences and, and so forth. Now the Applicant points out that's a  
2 C-2 zone, so they can do that, of course. But it's not a very  
3 appealing result, particularly when you have a massive ghost  
4 sign that McDonald's didn't take down before they sold the  
5 property, and should be subject to an enforcement action as we  
6 speak.

7           Going over to our property again, they say, "Well,  
8 I'll put it immediately on the market," but what does that mean?  
9 I mean, we've got a string of unoccupied buildings. Matter of  
10 fact, the building behind my house is, is about 90% vacant right  
11 now, which is immediately adjacent to the McDonald's site.

12           We've got the old service station on the corner. You  
13 go down to the Randolph Plaza where the Fry's market is.  
14 There's a number of spaces in there that haven't been rented in  
15 a long time. We're living in a very soft real estate, a non-  
16 residential real estate market in, in the area running up and  
17 down 22nd Street where I think it gets worse the further west  
18 you go.

19           And so the likelihood that that stays vacant for a  
20 considerable amount of time, and no matter what level of

1 diligence McDonald's uses, it's gonna be breached. There've  
2 been very good owners at the corner service station, but I mean  
3 that's been a graffiti magnet for, you know, a long time now,  
4 and I suppose the same needles are screwing around there, would  
5 be behind my house, that are at the same place that they're  
6 talking about now.

7 One other note. I don't see the Applicant putting a  
8 very good face on it when the property owner doesn't upkeep that  
9 property. It just seems like - the, the Shell station property,  
10 I mean. There are overgrown weeds. There's a motor vehicle for  
11 sale there, and this business about just discovering the, you  
12 know, that people may have inhabited the, the carwash there, it,  
13 it's almost - it's made to look bad, so whatever they're  
14 proposing looks good in comparison.

15 And I think even some of the comments of one of the  
16 minuscule number of approvals they got talked about that. And,  
17 well, if the property - this has been going on, this case, now  
18 for over six months. So why hasn't that property been cleaned  
19 up as a matter of good faith?

20 I also wanted to address comments in response to where

1 were you headed the last meeting about you would be inclined to  
2 only consider the, the potential blight of the McDonald's in the  
3 Julia Keene Neighborhood in response to an argument that it  
4 would be cleaning up blight down at the, the proposed site.

5           And my, my review of the Land Use Code doesn't see  
6 anything that restricts your, your ability to take broader  
7 community impacts into concern. I mean it's, you know,  
8 unquestionable McDonald's has admitted that if this goes  
9 through, this plan amendment and rezoning, that they will close  
10 the existing McDonald's. So that's, that's, you know,  
11 undisputed.

12           ZONING EXAMINER: I'm always open to broadening the  
13 scope of my authority, so -

14           MR. MAYER: Yeah. Well, you (inaudible)

15           ZONING EXAMINER: I'm not sure it's right, but I'm  
16 always open to suggestions.

17           MR. MAYER: Well, I, I'm asking you to try and look  
18 more broadly. I'll, I'll give one example is the big box issue  
19 that, the big box ordinance in the late '90's. A lot of  
20 considerations that drove that were, were broader community

1 implications rather than just specific site driven  
2 considerations.

3           Nextly (sic), I think you alluded to addressing the  
4 traffic report, or statement at the last meeting, and that was  
5 done. You've received some preliminary comments, and there are  
6 just, I think, many problems with this statement. It's apparent  
7 to me after a rather contentious discussion with the supposed  
8 City review in transportation today that there, there isn't any  
9 serious scrutiny of these statements given that come in under an  
10 engineer's stamp.

11           But I'm just gonna reiterate a few of the comments in  
12 the supplemental letter and, and we've also - Julia Keene's  
13 consulted with a, a professional engineer who is - had a  
14 lifetime career in a major transportation agency, and, and the  
15 first three comments are just my own observations without having  
16 particular expertise in this area.

17           The first thing is the - and you alluded to it earlier  
18 about the, the increase in trips is, is basically reference to  
19 the Shell station. Well, what kind of methodology is that?  
20 Shell station's been closed for a number of years. There is

1 virtually no likelihood that it or some similar use will reopen.  
2 Why did it close like so many of these smaller scale service  
3 stations is that these - I'll just refer to them as mega-  
4 stations that Circle K and QuikTrip have put in.

5           There's a direct correlation between those  
6 developments being completed and opening and some of these  
7 smaller stations closing. As a matter of fact, that's exactly  
8 what happened in our greater neighborhood area at 29th and  
9 Craycroft where the QuikTrip opened and the QuikMart across the  
10 street closed (inaudible)

11           ZONING EXAMINER: And didn't a QuikTrip open south of  
12 22nd on Alvernon?

13           MR. MAYER: That's correct. And you also -

14           ZONING EXAMINER: But long after the Shell had closed,  
15 I think. The Shell had already been closed when that opened.  
16 No? Okay.

17           MR. MAYER: And also you had Circle K come in at Swan  
18 that picks up a lot of the traffic going westbound on 22nd.  
19 Also the report uses some standard figures for configurations  
20 for uses, for fast food restaurants with drive-throughs. I mean



1 McDonald's is at one end of the spectrum. This particularly  
2 siting it at a location at a location at two arterials. And so  
3 there aren't sub-classes within that.

4 On the other hand, the Shell station that it's  
5 compared to with the convenience store and a carwash, well,  
6 that's a minuscule one-bay carwash. And I wouldn't even  
7 dignify, you know, that small little area within the Shell  
8 station as calling that a convenience store. So that's another  
9 issue.

10 But again, it shouldn't be compared to the Shell to  
11 begin with, 'cause that's dead and gone. I mean if you can  
12 compare it to viable, feasible uses under the existing zoning,  
13 then some modeling in that regard should have been done. Some  
14 of the issues that have been brought to my -

15 ZONING EXAMINER: How do you make the determination  
16 about what's the, what's a viable use under the existing zone  
17 if -

18 MR. MAYER: Well, -

19 ZONING EXAMINER: - if one of its uses is already  
20 gone?

1 MR. MAYER: Yeah. I mean you have it vacant, so that  
2 produces - that generates zero trips. And if you had like a  
3 standard, you know, local retail C-1 type retail or office or  
4 something of that nature, what would be the trip generation  
5 then? And obviously different types of development, it wouldn't  
6 exactly be the same. But I'm sure that the range would be much  
7 different than what has, what has been posed for a service  
8 station, convenience store, carwash. The next issue is that on  
9 page seven of the report -

10 ZONING EXAMINER: Let me go back to that. I mean I  
11 think it's an interesting point, but if there were a McDonald's  
12 built on that, on the C-1 site, just on the C-1 portion of that  
13 site, a model of the McDonald's that would fit on that site,  
14 that's a viable use on that site and would, I would assume, have  
15 a similar traffic generation. And it would be completely  
16 permittable (sic) and allowed.

17 MR. MAYER: Well, obviously, they've told you that  
18 they would -

19 ZONING EXAMINER: Oh, I understand that.

20 MR. MAYER: - do it with the additional land.

1 ZONING EXAMINER: See, the alternate universe,  
2 McDonald's (inaudible)

3 MR. MAYER: But let's just say as a model, I mean, it  
4 would be less square footage, less intensity, it was a  
5 McDonald's or some other fast food. I mean there's probably  
6 some model that would reasonably fit on that, and you could  
7 include that in your spectrum. But obviously would be less  
8 square footage, less intensity, and it wouldn't have the same  
9 trip generation as, as the more full-blown larger square  
10 footage, dual drive-throughs, etc.

11 Another issue, it's just simply not addressed in the  
12 traffic report at all, and you don't need to, you know, have  
13 expertise in traffic engineering. But you've got Alvernon going  
14 north. It's two lanes, it's not three lanes. And that isn't  
15 addressed at all. And basically the problems that exist are  
16 doing the U-turns and how that contributes to traffic  
17 congestion.

18 I just had a very rude experience, 'cause I've done  
19 that maneuver. I have a Oldsmobile 98, tends to be one of the  
20 longer cars, but certainly there are cars longer than that, and

1 if you have a three-quarter ton pickup or, you know, anything  
2 getting into that class, it is very, very difficult to do a U-  
3 turn into two lanes, and even if you have the bike lane.

4           And my personal experience at Mission and Ajo, I tried  
5 to maneuver something exactly like that two days ago, and the  
6 traffic window was short and, and I couldn't make it, and I had  
7 to ram my car up over the curb and down again. And I'm just  
8 not, still not sure whether my steering is right now.

9           And the same thing leaving the Fry's market. I do it  
10 all the time doing one of those U-turns. And I always go into  
11 the third lane on 22nd. This is actually a short distance from  
12 the site we're talking about.

13           And if the traffic is in a certain pattern, I know I  
14 can get in before a car in that third lane, but I can come back  
15 into the second lane. But over on 22nd, you don't have that  
16 opportunity. You only have two lanes. And the point of all of  
17 this, if you have relatively minimal traffic making that U-turn,  
18 well, it's less of a problem.

19           But when you have an intensive fast food restaurant  
20 with dual drive-through lanes and people egressing there to

1 either go south on Alvernon or to go east on 22nd, that's a  
2 problem. And these configuration issues are simply not  
3 addressed in the traffic statement.

4 Also if you leave on the south, the - it's not a great  
5 distance from the Alvernon through lane to the egress point onto  
6 22nd. And you have to traverse fully four lanes to get across  
7 over to 22nd to do the U-turn to go westbound. So either going  
8 southbound on, that would be either to go westbound or  
9 southbound coming out of the 22nd Street egress.

10 So I'm not gonna say that I have great expertise in  
11 this, but I think just from practical experience, that's not an  
12 easy thing to do during rush hour anytime there's traffic even  
13 at the lefthand turn lanes. If it's backed up any significant  
14 distance, you, you can't get in over there. So none of these  
15 configuration issues were addressed in the traffic statement,  
16 particularly being only two lanes on Alvernon and doing that U-  
17 turn.

18 Another issue is the modeling for the level of  
19 service. And I think your instinct would be receptive at this  
20 point. If you go page seven of the traffic statement, and you

1 look at the modeling, there's a little footnote, the little  
2 number one footnote, and it takes its reference as the Florida  
3 Department of Transportation is using its baseline for a D level  
4 of service out of there.

5 Well, why is that used? Because Florida has the most  
6 permissive in the country. And, and I think before we get into  
7 who may or may not know about traffic engineering, one would  
8 have to question, why are you not using Arizona or some national  
9 standard, something like that. Why are we plucking this  
10 standard all the way from Florida? And that was brought to my  
11 attention by a P.E. who is a lifelong transportation official.

12 And also, the beginning of the traffic statement says  
13 it's using 2012 data with a 2% increase to account for 2014.  
14 And that's on page two, PAG traffic counts. But then you go to  
15 page seven, and it's using 2010 PAG traffic counts, assuming  
16 that it hasn't changed in those four years.

17 So, and these are just the kind of things - whether,  
18 whether it makes a difference or not. But there hasn't been  
19 scrutiny given to this document and, and certainly there are  
20 configuration issues. And you've heard from a number of the

1 neighbors.

2           There's the bus stop issue. And I would consider that  
3 significant. I mean you've got a (inaudible) pulling out of the  
4 bus stop right where the ingress to McDonald's would be. And  
5 McDonald's isn't gonna have the same traffic as a vacant Shell  
6 because someone wants to pull in and drop people off.

7           So I think again this goes to the credibility of the  
8 City of Tucson, that just 'cause someone comes in with a report  
9 with an engineer's stamp on it doesn't mean it shouldn't be  
10 given like a full, you know, professional review. And I don't -  
11 it's clear to me that hasn't happened here at all.

12           Last thing I want to touch on is what I see in terms  
13 of the application. A lot of tone deafness. There's just been  
14 all this cherry picking about neighborhood concerns from the  
15 beginning. But this hasn't changed.

16           I do see there are some sort of Minutes in file that I  
17 didn't see there in past trips about the original neighborhood  
18 meeting for this, where there was a fairly substantial turnout.  
19 And virtually all of the residents there are neighborhoods and  
20 residential neighbors express their opposition to the project.

1 This just does not work.

2           Yet we've gone through just all these different  
3 iterations of, well, the neighbors can pick the petunias versus  
4 the daffodils in the landscape area, ad infinitum. Now Ms.  
5 Morales earlier said they, they look at trying to do this  
6 leaving the single-family residence in place. So I'm glad to  
7 hear that they at least gave that serious consideration, but if  
8 they've come to the conclusion that, that what they want to do  
9 there can't work with maintaining the integrity of the  
10 neighborhood, the residential neighborhood, then I think it's  
11 time to be looking for something else.

12           A last thing, getting back to stuff that's new. There  
13 were a number of slides put up there regarding the P zone. And  
14 I'm looking at most of those and saying, why, why are they even  
15 up there? And many of them, all the truck maneuvering and  
16 trucking, you know, are going on in the commercial zone, or at  
17 worst, are just incidental to the parking zone.

18           I, I see a number of these P zones. I'm assuming the,  
19 the sort of purpled-in area is the P zone based on the what one  
20 would presume, looking at that. But some of those were very



1 large, and the residences that were on the other side were, were  
2 great distances, much larger than what we're talking about here.

3 The Sam Hughes example of Rincon Market, I was  
4 intimately involved in that whole process, and I think it should  
5 have come out in a different way. But the relevant P zone is  
6 used really for overflow parking, maybe employee parking and  
7 doesn't have trucks maneuvering around in there trying to load  
8 and, and so forth.

9 And so I think a number of those examples are just not  
10 even applicable to the situation. The Fry's, I - there's a very  
11 large P zone, but it looks like the ingress and egress for  
12 loading still take place along the north side of the building on  
13 the, on the C-1 zoning there. So there's just a lot that's been  
14 put into this mix that seems to say that the more planning  
15 phrases, or we'll dig up policies from wherever, string them  
16 together, you know, on and on and on, get 14 different, you  
17 know, maps. Change them around like a Rubic's cube.

18 But it just gets back to the, the planning policies.  
19 The basic policies do not support this in the Alvernon-Broadway  
20 Area Plan. A plan amendment if, if there was a desire to

1 proceed, it should have gone through that process. And even if  
2 it had, I don't think the result would be much different, but I  
3 think the City's credibility in the eyes of the community would  
4 be greater.

5 And I would just reiterate what Margot Veranes had  
6 said earlier. I mean people need to rely on this planning. It  
7 doesn't mean nothing changes. But when people buy their homes,  
8 and they say, "Well, we plan to -," and in this planning, I  
9 didn't reiterate again from the last time, if there was one  
10 central theme from that whole exercise that developed the  
11 Alvernon-Broadway Area Plan, it was the maintaining of the  
12 single-family residences in that area. And, and I provided the  
13 Planning Department report to the then called Citizen Advisory  
14 Planning Committee in that regard.

15 And references to parking is allowed, you know, in all  
16 zones. Well, duh. I mean, you know, I, I don't leave my car,  
17 you know, locked up in the parking garage here 'cause I can't  
18 park it at home when we leave the meeting.

19 But, no, I mean you can refer to it as a transition  
20 and it's reasonable to say that parking is an accessory use to a

1 commercial use, but the Unified Development Code itself  
2 considers parking to be a commercial use in this context. It's  
3 listed there. And it has been.

4           And is it less intensive than maybe the building  
5 footprint or, you know, the central activity? Well, yes, it's  
6 less intensive, and it can serve as a transition. But then the  
7 question becomes, "Where is it appropriate to do that," as I  
8 think you've heard from so many here. This is just not - this,  
9 this changes the whole character of the area.

10           And if it had been sought, it should have been done as  
11 a plan amendment first where we could address those issues of  
12 planning more squarely. And in any event, the end game is that  
13 this would change the character of the, of the area dramatically  
14 and have a very dramatic effect on the adjacent neighbors, and  
15 then you have the corellary effect of we're stuck with a vacant  
16 building that is gonna be hard to market. That concludes my  
17 presentation, Mr. Zoning Examiner.

18           ZONING EXAMINER: Thank you, Mr. Mayer. Make a lot of  
19 comments about the planning considerations and think about  
20 those. As to the process comments, and how the order of this

1 hearing reflects on the credibility of Tucson, that should  
2 really be directed at me. It reflects on me, not Staff, not Ms.  
3 Morales, the Applicants, not anybody else.

4 I control the order of the hearing, and if I've  
5 inconvenienced anybody through the way I've ordered the hearing,  
6 that's on me. And if there's an inequity because of that, I, I  
7 apologize. I try to run the hearings with the balance of trying  
8 to elicit the information I need, but also giving people an  
9 opportunity to opine on all sorts of other issues.

10 So that's - I appreciate when you bring those up to me  
11 to - I can always tweak hearings and how I run the order, but  
12 should not reflect on the credibility of the City. Should -

13 MR. MAYER: (Inaudible)

14 ZONING EXAMINER: - reflect only on me. I take, I  
15 take full responsibility.

16 MR. MAYER: I mean I think it's our hope that you are  
17 truly an independent Zoning Examiner and the comments were  
18 addressed more to the issues of, of the, the planning. Well, of  
19 course, it (inaudible)

20 ZONING EXAMINER: Right. I understand there's

1 frustrations all over. But as to the ones that I can control  
2 right here, I'll take responsibility, and if I need to  
3 apologize, I may need to, I will and -

4 MR. MAYER: In terms of the process, -

5 ZONING EXAMINER: - try to fix things.

6 MR. MAYER: - yes, I hope you will correct that for  
7 future reference. Thank you.

8 ZONING EXAMINER: All right. Thank you very much, and  
9 I mean what I said. And, and I know it is difficult, but it is  
10 one thing that I wish to do is to hear from everybody as fully  
11 as they wish to speak. And that sometimes does inconvenience  
12 people. But anybody else who wishes to speak, I'd like to take  
13 that now.

14 MR. BASYE: Yes. My name is Richard Basye. I'm a  
15 resident of Broadmoor Neighborhood and active in that  
16 neighborhood association. Also president of a taxpayer  
17 organization in the City of Tucson.

18 I have concerns - I think that you should leave the  
19 neighborhood plan as it is, not demolish any homes for this  
20 business request. Who would want to have a business parking lot

1 next to their home property line, what with the noise, the  
2 litter and the reduced property values? I don't know of too  
3 many people that would, really.

4 I would also comment about the fact that you said  
5 there was no complaints about this from the west side of that  
6 facility. Well, the west side is a City facility, and a golf  
7 course, and there were no complaints to the south. Well, that's  
8 a Walgreens, empty desert, and other businesses to the south.  
9 So there wouldn't be any complaints in those areas.

10 Now there's about four reasons I would give that are  
11 different from what you've heard so far about why I think we  
12 should approve this. First of all, McDonald's is the only fast  
13 food resident (sic) almost within a mile of two public  
14 facilities that are very important to this community. Reid Park  
15 and Reid Park Zoo.

16 In fact, the City even went so far as to blow about  
17 \$175,000 hawk light right there to get across the street over to  
18 that McDonald's which would be basically lost if they move. But  
19 part of the reason was a kid ran across the street to get there  
20 and was killed. But that, that aspect of having the fast food

1 facility immediately adjacent to our amenities I think is  
2 something to be considered.

3           Secondly, besides that, by moving down the street on  
4 22nd Street, they don't increase 22nd Street participation, to  
5 my knowledge. And they would lose Randolph Park and golf course  
6 and those people's participation. They might gain a little bit  
7 off of Alvernon, but there's another McDonald's north there a  
8 ways, that they may be just a little business from anyway.

9           And the final comment I have is, it was mentioned that  
10 there's a future plan to widen 22nd Street to eight lanes, is  
11 it, that would go right up to the building? I personally have  
12 been involved in many building and road projects, and I've never  
13 heard of that at all.

14           They are going to tear down the overpass at the  
15 railroad yard and move, and widen it to six lanes from four and,  
16 and widen, I believe, 22nd Street further on west. But nothing  
17 to the east to my knowledge.

18           I wish you would check into that, and get a time  
19 specific and the funding to do that widening that was mentioned  
20 in the presentation, 'cause I haven't found it anywhere. I even

1 just asked Steve Kozachik about it. He's unaware of it one way  
2 or the other.

3 So for those reasons, I think we should reconsider  
4 this request and say it's far better for the citizens of Tucson  
5 to have a good fast food restaurant next to our public  
6 facilities, and see what we can do to keep them where they are.  
7 Thanks.

8 ZONING EXAMINER: Thank you, sir. And, Mr. Basye,  
9 whenever something like an issue like that comes up that we, I  
10 think we can clarify at the table, I'll try to do that. And  
11 that's about the, the width of 22nd Street. I don't, I'm not  
12 familiar with any plans to widen it, but every street is, as I  
13 understand it, in the city has a future right-of-way of possible  
14 expansion.

15 Maybe Staff can actually expand on it just  
16 theoretically. That's, that's exactly how - okay, yeah. So  
17 every street has this theoretical future right-of-way potential.

18 MALE SPEAKER: (Inaudible)

19 ZONING EXAMINER: But it -

20 MALE SPEAKER: You could not fund it. I don't think



1 that's -

2 ZONING EXAMINER: Yeah.

3 MALE SPEAKER: (Inaudible)

4 ZONING EXAMINER: It, it's, it factors into the  
5 business owner's decision about how they develop their property.  
6 I, I don't necessarily find it something that I factor into -  
7 unless it's part of a planning consideration. So, I, I don't, I  
8 don't think the Applicant was suggesting that the - there is a  
9 plan to widen 22nd Street at that position. Only that future  
10 development at that site could be impacted by the regulations  
11 that require certain setbacks from a future right-of-way.

12 MS. MORALES: And if we would go in with a future  
13 development plan, we would have to reflect that.

14 ZONING EXAMINER: You'd have to abide by that future  
15 (inaudible)

16 MS. MORALES: That, that was my point, not that there  
17 is an imminent widening.

18 ZONING EXAMINER: Yeah. It, it affects the way a site  
19 plan is developed, not to suggest that there's actually a  
20 widening that's gonna happen. All right. But that's, that's

1 sort of a tangent. Ma'am.

2 MS. SANDOVAL: Good evening. I'm Jennifer Sandoval,  
3 and unfortunately, my home is pictured on the site plan. One of  
4 my great concerns, seeing the new site plan tonight is I notice  
5 on the west side of the drive-through, there seems to be a  
6 median, or division missing.

7 It used to come all the way out to the end where you  
8 see the cars waiting, and now there's something missing, which  
9 makes me feel that chances are that's for access in and out of  
10 Alvernon Way. And of course, any traffic on Alvernon Way is  
11 going to tend towards Camino De Palmas, which is of course going  
12 to tend to bring more traffic and garbage to our street.

13 So now I picture people coming through the drive-  
14 through, coming out Alvernon Way, unwrapping their burgers,  
15 throwing the garbage out the window because they don't want it  
16 in their car. And that's my new yard.

17 ZONING EXAMINER: So - and you're, you're referring to  
18 it as it comes down the curb.

19 MS. SANDOVAL: This is -

20 MS. MORALES: That's - I just wanted to point out,

1 it's hard to see on this graphic.

2 MS. SANDOVAL: There's a curb.

3 MS. MORALES: I don't know why it's colored  
4 differently, but that curb does exist.

5 MS. SANDOVAL: Is that a -

6 MS. MORALES: Yes. (Inaudible)

7 MS. SANDOVAL: - median, or is it a -

8 MS. MORALES: It's a curb.

9 MS. SANDOVAL: - curb that they drive over? Like, is  
10 it -

11 MS. MORALES: It's the same as it was. It's just -

12 MS. SANDOVAL: Really?

13 MS. MORALES: - the architect depicted it differently.

14 And I didn't, I didn't even (inaudible)

15 MS. SANDOVAL: Very differently.

16 MS. MORALES: - there's no intention -

17 ZONING EXAMINER: Can you, can you just - Ms. Morales,

18 Ms. Morales, if you have the, the clicker. Yeah, the - there is

19 a official term for that. The, the laser pointer, and just

20 point out the, the area that has been -

1 MS. MORALES: This is the area concerned. And, and I,  
2 (inaudible)

3 ZONING EXAMINER: Ms. Sandoval, with your indulgence,  
4 can you just assist? Step up and clear up that issue. Yeah.  
5 Okay. All right. Thank you.

6 MALE SPEAKER: It's actually real quick. There is -  
7 oops. No, not real quick (inaudible) The difference between  
8 the new site plan and the original site plan, the original site  
9 plan, you see a landscape median there that stands out on the  
10 west edge of the drive-through.

11 On the new plan, we've skinned that up to just a  
12 curb. And the reason we did that is to create that additional  
13 space to enhance the buffer on the east property line. Am I  
14 making sense?

15 ZONING EXAMINER: Yes. I think Ms. Sandoval's  
16 question is, diminishing that buffer may now allow people to  
17 just drive, exit towards Alvernon right out of there.

18 MALE SPEAKER: There'll still be a six-inch curb there  
19 that'll be a vehicle barrier, so the vehicles will still have to  
20 come to the end of the drive-through before they can -

1 ZONING EXAMINER: Okay. Six-inch high?

2 MALE SPEAKER: Yeah.

3 ZONING EXAMINER: Okay. Thank you.

4 MS. SANDOVAL: Thank you for that clarification.

5 ZONING EXAMINER: Thank you for that.

6 MS. SANDOVAL: I was sweating. All right. Needless  
7 to say, we don't want Alvernon more popular 'cause that'll make  
8 Camino De Palmas busier. And if we somehow manage to make it so  
9 they couldn't drive through Camino De Palmas, it'll just make  
10 the next street busier.

11 A single inlet on 22nd, I'm no truck driver, but I  
12 would say they would have to come in on Alvernon to successfully  
13 complete that. Otherwise, they're doing a 90-degree turn into  
14 the loading dock. So once again, Alvernon becomes more popular  
15 in this little block if the truck driver doesn't make it.

16 So needless to say, as you can tell, traffic on Camino  
17 De Palmas is a great concern of mine for my pets, my children.  
18 I have both, and many of us do. Then, of course, we do have the  
19 daycare, which would be part of this small portion of the block,  
20 and more people driving by a place that cares for two, three,

1 four, five and six-year-olds is a concern. So please take that  
2 into consideration.

3 Secondly, the examples that did come up showing  
4 parking spots such as Tres Amigos and Best Buy. Fabulous.  
5 Except for I didn't see anything, of course, the people have  
6 brought up nothing that was open 24 hours. But I also didn't  
7 see anything that has drive-throughs, that has idling vehicles  
8 which is a huge concern.

9 And I, of course, happen to be the - I'm gonna check  
10 out McDonald's 'cause there's one across the street from me that  
11 does have the double drive-through, which I did yesterday. And  
12 in ordering my \$2.14 oatmeal, I pulled into the drive-through, I  
13 chose my lane and chose more wisely than I did the last time.

14 And by the time I went through, there were 15 cars  
15 within my vision in the drive-through, idling, making their  
16 order, making their way, trying to find it. There were three at  
17 the end, two in front of the building, one in the little area  
18 that they're supposed to be in, that they pull into.

19 And there was actually a fourth one at the third  
20 window, all waiting for their orders. So evidently, orders were

1 not being processed quickly. However, my oatmeal was ready. I  
2 grabbed it, and I could not get between the two vehicles that  
3 were waiting for their orders. And I went, "Huh!"

4 Now I admit I've tried this other times and been  
5 successful, so I'm sure there's times that this works, but the  
6 times that it doesn't, 15 idling cars is a lot. And of course,  
7 I can't see what's behind them because I've already come around  
8 the building. But I could count 15.

9 I think that belongs in a residential area. It  
10 certainly doesn't belong anywhere I breathe. And you did ask  
11 about a wall, so I'm going to address you, of course, not, not  
12 people behind me. I'll behave. But I do not know -

13 ZONING EXAMINER: Thank you.

14 MS. SANDOVAL: - how tall the wall would have to be.  
15 And yet, I do not want to just look at a wall. So when you ask  
16 me, do I want an eight-foot wall? Do I want a ten-foot wall?  
17 I don't want either. I want the house across the street from  
18 me. It's a beautiful view. A wall is not what I want in front  
19 of my home.

20 Would I purchase my home if McDonald's were already on

1 the corner? No. Would I purchase the Darkos' home if  
2 McDonald's were next door? No. Which shows me, my property  
3 value's going down.

4 McDonald's very kindly had a whole line on there  
5 talking about reinvesting in the neighborhood. I'm not sure how  
6 they're reinvesting other than, of course, putting multi-million  
7 dollars into their property on this corner should they somehow  
8 get there.

9 But if they would like to reinvest in our neighborhood  
10 and buy our homes and put their workers, or their executives -  
11 my home is quite nice. It could have an executive. And if they  
12 want to pay me for the loss of my dreams. If they want to pay  
13 me for uprooting me as well as the value of my home, I'm all for  
14 it. But I do not want to live across the street from a  
15 McDonald's. Thank you.

16 ZONING EXAMINER: Thank you.

17 MR. ORTIZ: Good evening. My name is Ivo Ortiz. I  
18 live in the neighborhood west of the current McDonald's site.  
19 McDonald's keeps saying that they want to be good citizens, good  
20 neighbors. Well, you want to be a good citizen? You want to be



1 a good neighbor? Don't build where the neighbors don't want  
2 you. Plain and simple. Thank you.

3 ZONING EXAMINER: Oh, please don't forget to, to sign  
4 in there. And, Mr. Ortiz, did you get to sign in? Mr. Ortiz,  
5 you signed in? Okay.

6 MR. TIM DARKO: Hello. My name is Timothy Darko, and  
7 I currently reside to (sic) 3942 Camino De Palmas. And  
8 essentially, just like everyone else. No one wants this  
9 McDonald's built in our neighborhood.

10 I've lived there currently for 40 years and watched  
11 both of my parents, watched my father teach school, and watched  
12 my mother drive a school bus, both for Tucson Unified School  
13 District, working all hours of the day, Monday through Friday  
14 and then some sometimes to pay for the largest investment of  
15 their lives, and pay for a place where they feel safe, and where  
16 they feel comfortable, where they can have family.

17 And right now, unfortunately, this corporation is  
18 impeding on what they have been building all of their lives.  
19 Their last, you know, what they've built for, for 67 years, and  
20 that they've been living in this house for 40, what we've been

1 building together for 40 years, could possibly be jeopardized  
2 because of greed.

3 And it's because they're not happy with making enough  
4 money where they're already at. And I just want to ask you guys  
5 a simple question. How many (inaudible)

6 ZONING EXAMINER: No, wait. No. Sir, sir -

7 MR. TIM DARKO: I can't ask them if - she actually -

8 ZONING EXAMINER: No, no.

9 MR. TIM DARKO: - asked if anyone wanted -

10 ZONING EXAMINER: No.

11 MR. TIM DARKO: - to ask her a question when she was  
12 done speaking.

13 ZONING EXAMINER: Yeah, but -

14 MR. TIM DARKO: And I put my hand up -

15 ZONING EXAMINER: - she, she's not in control of that.  
16 I'm in -

17 MR. TIM DARKO: Excuse me?

18 ZONING EXAMINER: I'm in control of what - how people  
19 speak in this room.

20 MR. TIM DARKO: So I cannot ask her a question even if

1 she said -

2 ZONING EXAMINER: You -

3 MR. TIM DARKO: - I could ask.

4 ZONING EXAMINER: You can ask a question to me. I'll  
5 let her stand up and then address me into the microphone. I, I  
6 - that's one thing -

7 MR. TIM DARKO: Why - well, if the owner cares about  
8 our community, why is he not present?

9 ZONING EXAMINER: And that's, that's, that's a  
10 question she will respond to, and I will ask that.

11 MR. TIM DARKO: Excuse me?

12 ZONING EXAMINER: I'll ask that of her when, when she  
13 comes back.

14 MR. TIM DARKO: You'll ask that of her?

15 ZONING EXAMINER: Yes.

16 MR. TIM DARKO: Well, I would like to know the answer  
17 now. He hasn't shown -

18 ZONING EXAMINER: Sir, -

19 MR. TIM DARKO: He hasn't taken the time -

20 ZONING EXAMINER: - this is my - sir, this is my

1 hearing.

2 MR. TIM DARKO: Okay. (Inaudible)]

3 ZONING EXAMINER: As, as was - as, as was pointed out,  
4 I should be more attentive to the order. And I am attentive to  
5 the order in my way. And the order is, I tell people to come up  
6 and speak to me.

7 MR. TIM DARKO: Okay.

8 ZONING EXAMINER: Okay. So she, she will come up and  
9 speak to me. I'll ask her that question.

10 MR. TIM DARKO: Okay.

11 ZONING EXAMINER: Okay.

12 MR. TIM DARKO: Is that something that you're curious  
13 about as well?

14 ZONING EXAMINER: I am.

15 MR. TIM DARKO: Okay. Also, he hasn't taken the time  
16 to, if he does care about our neighborhood, I'm curious to know  
17 what he plans on doing for us. We haven't been offered  
18 anything. We haven't been offered any compensation, knowing  
19 good and well that we're gonna lose property value. Every one  
20 of those homes on that block is going to lose property value.

1 As your job as an assessor, do you assess property values around  
2 Tucson?

3 ZONING EXAMINER: Well, I don't assess any properties.

4 MR. TIM DARKO: Okay. I, I (inaudible) exactly what  
5 your job is. So, so you have no idea of what certain properties  
6 are worth, or what they're valued at, or what certain -

7 ZONING EXAMINER: Only what the educated -

8 MR. TIM DARKO: Do you have an idea of what that  
9 current Shell property is valued at? What it's, what it's worth  
10 approximately?

11 ZONING EXAMINER: I, I would do what anybody else  
12 does, and check the Assessor's records, and -

13 MR. TIM DARKO: Do you personally know?

14 ZONING EXAMINER: - see what it's assessed at. I do  
15 not personally know.

16 MR. TIM DARKO: Do you know what it's being sold for?

17 ZONING EXAMINER: I do not know.

18 MR. TIM DARKO: Or what the offer is?

19 ZONING EXAMINER: I - to -

20 MR. TIM DARKO: I've talked -

1 ZONING EXAMINER: For, for my purposes, as a planning  
2 consideration, the value of the property could be important.  
3 But it is not the first thing that comes to mind in terms of  
4 good planning.

5 MR. TIM DARKO: I think that it has something to do  
6 (inaudible)

7 ZONING EXAMINER: It does come into -

8 MR. TIM DARKO: - current owner has, I think,  
9 intentionally left it in shambles.

10 ZONING EXAMINER: It becomes important to me to look  
11 at how people are affected by property values.

12 MR. TIM DARKO: Okay.

13 ZONING EXAMINER: And to that extent -

14 MR. TIM DARKO: Like our home?

15 ZONING EXAMINER: Yeah, like you homeowners.

16 MR. TIM DARKO: (Inaudible)

17 ZONING EXAMINER: Exactly.

18 MR. TIM DARKO: (Inaudible) home will be, and -

19 ZONING EXAMINER: Absolutely.

20 MR. TIM DARKO: (Inaudible) and that woman's home will

1 be. So, essentially - I sort of lost my train of thought.  
2 Basically, I've talked to three - I have, I have a few friends  
3 that are in the real estate game, commercial. Mostly private.  
4 They feel that property's worth maybe a million point three,  
5 maybe one five. McDonald's is offering them close to \$2  
6 million, or being sold for \$2 million.

7 I'd be also interested to know what they're buying the  
8 house next door for (sic) us, because I would think as being,  
9 working for a bank, if you could get tenants in your, in a home  
10 to rent from you for 30 years, you're gonna make a lot more  
11 money than you would selling that house outright, one shot, and  
12 then have it scraped down from the earth, which is just baffling  
13 to me when there's people that are homeless out there, and  
14 people that don't have homes to live in, that a corporation that  
15 cares about a community would buy a home in an existing  
16 neighborhood that's been there for 60 years -

17 ZONING EXAMINER: Once, once again, Mr. Darko, talk to  
18 me.

19 MR. TIM DARKO: I am.

20 ZONING EXAMINER: Okay.

1 MR. TIM DARKO: I, I feel like -

2 ZONING EXAMINER: I like to be looked at when

3 (inaudible)

4 MR. TIM DARKO: Well, I - you weren't even looking at  
5 me, so -

6 ZONING EXAMINER: I, I look down to write notes -

7 MR. TIM DARKO: Understood.

8 ZONING EXAMINER: - to take down what you're saying -

9 MR. TIM DARKO: Understood.

10 ZONING EXAMINER: - so I can refer back to it later.

11 MR. TIM DARKO: I appreciate all that. Thank you.

12 ZONING EXAMINER: Okay.

13 MR. TIM DARKO: So I think it's not only interesting  
14 that the owner hasn't shown face. He hasn't come - if they  
15 really do care about the community as they perpetrate, why  
16 haven't they come and asked us how we feel, or what they can do?

17 And being that they are moving to that corner to make  
18 more money, because apparently they aren't making enough money  
19 where they're already existing, if they're gonna make more  
20 money, shouldn't they compensate us for the amount of money that



1 we're going to lose by their being there? Does that make sense  
2 to you at all?

3 ZONING EXAMINER: Yeah. That makes sense.

4 MR. TIM DARKO: Okay.

5 ZONING EXAMINER: I mean it's - the question makes  
6 sense.

7 MR. TIM DARKO: Well, thank you. I started with  
8 (inaudible)

9 ZONING EXAMINER: I mean I, I - whether I take it into  
10 consideration in my evaluations is another issue. But the  
11 question, I mean it's a sensible question.

12 MR. TIM DARKO: So I mean what I guess I would say is,  
13 if - wouldn't you say that a corporation that, that puts itself  
14 out there as caring about the community, wouldn't you think that  
15 they would come to the community, as the owner is supposedly  
16 putting out a face, and then coming and trying to talk  
17 (inaudible)

18 ZONING EXAMINER: Let me help you a little bit. Let  
19 me help you.

20 MR. TIM DARKO: Sure.

1 ZONING EXAMINER: It's more important for me to hear  
2 from you what your concerns are than for me to share with you  
3 what my responses to -

4 MR. TIM DARKO: Agreed.

5 ZONING EXAMINER: - your questions would be.

6 MR. TIM DARKO: But I'm also curious to know your  
7 standpoint, too, because we're trying to basically not only  
8 convey how we feel, but apparently trying to convince you to be  
9 on our side, as are they.

10 ZONING EXAMINER: That's a fair question.

11 MR. TIM DARKO: So I, you know, it's, it's curious to  
12 me how you're getting paid, who's paying you. What experience  
13 you have. But those are all things that I'm sure you probably  
14 don't want to go into detail. Might not even be any of my  
15 business, I don't know.

16 ZONING EXAMINER: Well, it's a matter of public  
17 record. I, I'm a land use attorney, or was one. Now I'm an  
18 independent Hearing Officer.

19 MR. TIM DARKO: And so knowing a lot of the things  
20 that you know, I'm sure you have a pretty good idea of how

1 things work, especially in Tucson, and what properties are  
2 valued at. And they want that corner because they're the  
3 largest corporate real estate holders in the world, and they  
4 want that real estate. And it's worth more with that house next  
5 to us scraped than it is as a home to them.

6 ZONING EXAMINER: So -

7 MR. TIM DARKO: They don't care about the people that  
8 live in it, or the people that live next to it. They want the  
9 money that that space can provide them.

10 ZONING EXAMINER: I'm, I'm gonna - I'm gonna answer  
11 your question. I'm gonna help you. I respect that people come  
12 up and they have these concerns. It's not always a transparent  
13 process. What do I do?

14 MR. TIM DARKO: (Inaudible)

15 ZONING EXAMINER: What I do is I hold -

16 MR. TIM DARKO: (Inaudible)

17 ZONING EXAMINER: No, no, no, no. No, I'm not asking  
18 - I'm telling you what I do.

19 MR. TIM DARKO: (Inaudible)

20 ZONING EXAMINER: What I do is I hold hearings, public

1 hearings on behalf of Mayor and Council.

2 MR. TIM DARKO: I see.

3 ZONING EXAMINER: And I take information that City  
4 staff, who are part of the administrative application process  
5 for rezoning put together. I take the application that the  
6 Applicants put together. I look at those from an independent  
7 perspective.

8 The administration of this process is designed to be  
9 as open as possible, but there should be an opportunity for  
10 public input whenever a land use change, a classification change  
11 is being proposed.

12 MR. TIM DARKO: Uh-huh.

13 ZONING EXAMINER: That is exactly what happens here.

14 MR. TIM DARKO: Uh-huh.

15 ZONING EXAMINER: So you coming up before me,  
16 everybody coming up before me, including the Applicant -

17 MR. TIM DARKO: Uh-huh.

18 ZONING EXAMINER: - gets to make their presentation of  
19 why this should or shouldn't go forward. And what the good  
20 things are about it, what the bad things about it. The things

1 that I consider are first and foremost, does it comport with the  
2 plans and policies that are in front of us that the Mayor and  
3 Council have adopted. Why or why not?

4 Does it make good planning sense? Does it not? How  
5 does it impact the neighborhood? How does it impact - what  
6 traffic considerations are there? What other - somebody brought  
7 up the phrase "quiet enjoyment of property". What other quiet  
8 enjoyment of property issues are there? What benefits are there  
9 to the community, what detriments are there to the community?

10 And that's all looked at in this, in this form. So  
11 that's - I mean it's a fair question. Sometimes people in part  
12 of a process don't - it can be esoteric, -

13 MR. TIM DARKO: Uh-huh.

14 ZONING EXAMINER: - or (inaudible) I, I -

15 MR. TIM DARKO: I'm just curious to know, like if you  
16 want to ask (inaudible) I would be curious which one of them  
17 (inaudible)

18 ZONING EXAMINER: Well, the bottom line is whether it  
19 helps me. Whether it helps me make my determinations, whether  
20 it helps me to make my recommendations. I don't like going,

1 going down paths of asking questions that, that don't help me  
2 make my recommendation.

3 And it may not be helpful to me to, to dwell much on  
4 why they want to pay more for the property than you think it  
5 might be worth. That, that might not really weigh in on policy,  
6 it's a planning issue.

7 MR. TIM DARKO: What it has to do (inaudible) my, my  
8 standpoint is where do you stand? Are you, are you here to help  
9 the people, or are you here to help a corporation make more  
10 money? That's (inaudible)

11 ZONING EXAMINER: I'm here, I'm here - there's, there  
12 is no answering that question. I'm here to give -

13 MR. TIM DARKO: There is.

14 ZONING EXAMINER: - the most fair and impartial  
15 hearing of all sides, and to give an independent eye in the  
16 process.

17 MR. TIM DARKO: (Inaudible) there's a whole entire  
18 neighborhood (inaudible)

19 ZONING EXAMINER: Well, I - no, no, no. Sir, sir, I  
20 don't, I don't count, because one person - this could be 40

1 people as a corporation, and one person. And if that one person  
2 says something that is right from a policy perspective,  
3 according to our plans, and the, and the Mayor and Council  
4 policies, that one person will have more impact to me -

5 MR. TIM DARKO: Understood.

6 ZONING EXAMINER: - than a whole army.

7 MR. TIM DARKO: Understood.

8 ZONING EXAMINER: And just because, you know, the  
9 numbers game works positive, negative, it's irrelevant to me.  
10 People like to say we've got 40 people, or whatever. But it  
11 doesn't matter. I like when people come out, they're  
12 participating in this process saying how they, how this is  
13 important to them. It shows me that it's important, but that's  
14 political, and I'm not political.

15 MR. TIM DARKO: I see.

16 ZONING EXAMINER: I'm independent. And, and all you  
17 have to do is say one right thing. One right thing is more  
18 powerful than -

19 MR. TIM DARKO: Understood.

20 ZONING EXAMINER: - a lot of wrong. So I don't know

1 if that clarifies for you my position in this. I hope it does.

2 MR. TIM DARKO: I think so.

3 ZONING EXAMINER: Okay. Do you want to say anything  
4 else?

5 MR. TIM DARKO: No.

6 ZONING EXAMINER: All right.

7 MR. TIM DARKO: Thank you very much for your time.

8 ZONING EXAMINER: Thank you.

9 MS. OLSON-WOODS: I am Cynthia Olson-Woods. I reside  
10 at 3955 East Camino De Palmas. My house is just barely off that  
11 picture. I'm on the north side, and would be the house that you  
12 can't see.

13 In all fairness, McDonald's has attempted to be  
14 sensitive to the concerns of the neighborhood within the  
15 confines of their (inaudible) But I think the real issue here  
16 is this is where we live. They can satisfy the P zones and  
17 whatever else they want, but we live there, and they are  
18 encroaching. This is a large footprint of a building that is  
19 encroaching into a residential neighborhood.

20 And it's a neighborhood where the Drakos (sic) have



1 been there for over 40 years. I've lived in my house for over  
2 25 years. Jennifer has been in her house for 17 years. The  
3 people on the next corner on the south side, Manny's been there  
4 for as long as you have.

5 The people on the corner next to me, the grandmother  
6 built that house in the '30's. And it is now, you know, and it  
7 has been passed down. The son lived in it, the granddaughter  
8 lived in it, and now it's like the granddaughter's nephew is  
9 living in it.

10 People have lived in this neighborhood for a long  
11 time. It's not one that has turned over. The only reason that  
12 that house turned over that they want to have rezoned is because  
13 Tommy and Betty, who lived there, he died and she was elderly.  
14 She, she stayed there as long as she could, and ultimately, she  
15 couldn't maintain the house.

16 So this neighborhood does not turn over. Yes, we do  
17 have - I have a foreclosed building next to me, but I bought a  
18 foreclosure home over 25 years ago. And I feel that I helped  
19 stabilize that neighborhood, as have all of my neighbors. I  
20 don't believe the McDonald's will help to stabilize that

1 neighborhood. I guess that's my biggest issue. Thank you.

2 ZONING EXAMINER: All right. Thank you. Anybody  
3 else? Ma'am.

4 MS. ORNELAS: Hello, excuse me. Sorry if my voice is  
5 hoarse. I've had a cold. There's been a lot said tonight. My  
6 name is Rita Ornelas from the Julia Keene neighborhood. Last  
7 time I spoke about we don't want our McDonald's closed.

8 I guess maybe we can't make that decision because it  
9 belongs to McDonald's. I would like for somebody who's hearing  
10 me to tell McDonald's this McDonald's is very important to our  
11 neighborhood on 22nd Street across from the park.

12 People come from the back side of the neighborhood to  
13 get to it. They don't have to get onto 22nd or Alvernon or  
14 Country Club. They go through the back streets to get to it.  
15 And people go and they meet -

16 ZONING EXAMINER: I apologize for interrupting. I  
17 actually stabbed myself in the eye (inaudible)

18 MS. ORNELAS: Oh, sorry.

19 ZONING EXAMINER: Okay. It's the danger of moving  
20 your glasses around.

1 MS. ORNELAS: Yeah.

2 ZONING EXAMINER: Thank you, Mr. Moyer. Keep talking.

3 (Inaudible)

4 MS. ORNELAS: Okay. I know I'm one person, but I've  
5 talked to many people in our neighborhood, and they're all like,  
6 "Oh, no, they're gonna get rid of our McDonald's?" I mean  
7 they're like, you know, goodness, you know, and they don't want  
8 to go to Alvernon and 22nd to go to McDonald's.

9 There's already a Taco Bell, a Jack-In-The-Box, a  
10 Church's fried chicken, Fry's, pizza places, you know, Burger  
11 King up the street, Carl's Jr. across from where they want to  
12 build the McDonald's.

13 And I'm like they want to close our McDonald's because  
14 they're not making enough money, but they're not considering  
15 people really love this McDonald's. It's a very - it's, it's  
16 where people come and they, they socialize and they buy stuff  
17 there.

18 And I know this is, it's a very emotional thing for us  
19 to not have this McDonald's closed. It's a very emotional thing  
20 for the people in that other neighborhood to have the McDonald's

1 built there on that corner across from Walgreens.

2           The traffic situation, I don't care what kind of  
3 reports you come up with, it is going to be a very dangerous  
4 situation there, not to mention all the inconvenience to all the  
5 neighbors behind there.

6           I wish McDonald's would talk to us as our neighborhood  
7 association about our McDonald's, and they want to put a  
8 stipulation that whoever buys that place can't sell hamburgers  
9 because they don't want the competition? Well, they're gonna  
10 get competition from across the street from Jack-In-The-Box. Do  
11 they want Jack-In-The-Box to close so they don't have  
12 competition?

13           There's a lot of land up where Jack-In-The-Box is,  
14 right next to Church's fried chicken. There's used to be a fish  
15 place there. There's a lot of land. They could build over  
16 there. There's all those fast food places. They're gonna make  
17 money there.

18           People make their choices where they want to go.  
19 People like McDonald's, but not on that corner. It's a  
20 dangerous corner, it's not friendly for the neighborhood back

1 there. It's hard on, on elderly people. Elderly people from my  
2 neighborhood, I see them in couples, old couples, hand-in-hand,  
3 drive in there from the back streets. And they walk in and they  
4 enjoy their coffee and their breakfast, their lunch, or  
5 whatever.

6 They talk to each other, it's a happy time. They're  
7 retired, they're old. And they want to sit there and eat and  
8 enjoy their meal. Do you think these same old people want to  
9 get in their car and drive to a more dangerous place over on  
10 22nd and Alvernon? I don't think so.

11 I don't think you get a lot of people coming from our  
12 neighborhood over to that McDonald's. We'd rather go to Jack-  
13 In-The-Box, if you want to put it that way. And I have, I have  
14 so many notes here from the beginning when Ms. Morales was  
15 speaking about somebody said, I don't know if it was you or her,  
16 that you need a 20%, plus 20% protest is needed. Is needed for  
17 what?

18 ZONING EXAMINER: For a super majority vote of Mayor  
19 and Council.

20 MS. ORNELAS: Okay.

1 ZONING EXAMINER: And that was Mr. Beall talking about  
2 process that if there are more than 20% of the people in any  
3 sector surrounding the application, protests then, more than a  
4 simple majority of the Mayor and Council's needed to pass.

5 MS. ORNELAS: Okay. So then, then somebody noted that  
6 to the north it was 35.37%, the south zero percent, to the east  
7 51.9%, and to the west zero percent.

8 ZONING EXAMINER: Yeah, it - well, only one sector  
9 triggers it, so it's triggered.

10 MS. ORNELAS: So it's (inaudible)

11 ZONING EXAMINER: A super majority vote is now  
12 required.

13 MS. ORNELAS: Oh, okay. And, and so I'm just gonna go  
14 through, I just made a lot of little notes. A lot of them have  
15 already been, been addressed. The traffic situation, the  
16 people's inconvenience of how they've been there for so long,  
17 their property values are gonna go down. I know this is all  
18 repetition.

19 But I think McDonald's is, is, is a great corporation  
20 who's done a lot of good for a lot of organizations and, and

1 places around the world and charities and everything they do.  
2 And they're trying to change their menu to be more healthy, and  
3 that's fine. I happen to just like their breakfast, that's all.  
4 But anyway, as unhealthy as it may be, I like their breakfast.

5 But I'm just going through my notes here to see what  
6 else I can bring up that's, you know, that's different. I do  
7 hope that McDonald's would try to reach out to our neighborhood  
8 as to why they can't leave that McDonald's there. Even if they  
9 think they're losing money, it's something that helps our  
10 neighborhood. It helps the people in our neighborhood.

11 The McDonald's that they plan to, to build over there  
12 is going to be very difficult for our neighborhood to get in and  
13 out of. And I really would like the McDonald's people to try to  
14 contact us as to, is there something else that they can do? I  
15 don't understand why they have to remodel. They've already  
16 remodeled it. What kind of more remodeling do they need?

17 They say it's too expensive to remodel the old one.  
18 What do they intend to remodel? I don't understand. Is it just  
19 the new menu? Is it just a new sign? I, I don't know what,  
20 what else they want to do. There's nothing wrong with the

1 building. There's nothing wrong with the parking. There's  
2 nothing wrong with the drive-through. There's nothing wrong  
3 with getting in and out of there.

4 And I, I just - I don't get it. I don't understand  
5 why they would want to get rid of that one, build another one  
6 where people don't want it, where we do want the one that's  
7 there right now. And I'm a little shaky right now. Been here a  
8 long time. I'm diabetic, so I probably should get going pretty  
9 soon 'cause my legs are starting to wobble.

10 ZONING EXAMINER: Well, I appreciate -

11 MS. ORNELAS: Okay.

12 ZONING EXAMINER: - the effort of -

13 MS. ORNELAS: Okay. Thank you.

14 ZONING EXAMINER: - coming up and speaking. Thank  
15 you. Anyone else? Sir. We have a, a traveling microphone that  
16 we can bring over.

17 MR. LOUIS DARKO: (Inaudible)

18 ZONING EXAMINER: We have a traveling microphone that  
19 we can bring. Yeah. I think, I think it's plugged in.

20 MR. LOUIS DARKO: My name, my name is Louis Darko, and



1 I was fortunate enough to speak last time. What I've done this  
2 time is I've prepared a letter that I, that I've given a copy up  
3 there so that you can follow along, and with your permission,  
4 I'd like to read it.

5 There are some new points in it that was not shared,  
6 and have not been shared this evening. Some of them have been  
7 kind of shared, but not, not as exact. So may I, may I share  
8 the letter?

9 ZONING EXAMINER: Yes.

10 MR. LOUIS DARKO: Okay. It's written to you as the  
11 Zoning Examiner. I think your name is Mr. Kafka?

12 ZONING EXAMINER: That's, that's -

13 MR. LOUIS DARKO: Okay.

14 ZONING EXAMINER: - correct.

15 MR. LOUIS DARKO: Anyway -

16 ZONING EXAMINER: And sometimes unfortunate.

17 MR. LOUIS DARKO: Pardon me?

18 ZONING EXAMINER: And sometimes unfortunate.

19 MR. LOUIS DARKO: Oh, okay. Well, anyway. I've  
20 written: "Dear Sir: We, the entire Darko family, remain

1 steadfast in our position of strongly opposing the rezoning of  
2 3926 East Camino De Palmas from R-1 to P. We are not willing to  
3 negotiate with McDonald's or their representatives, for that  
4 would mean concession."

5 "They could offer us a million dollars," let me read  
6 that again. Yeah, "They could offer us a million dollars and we  
7 would say, 'No, thank you.' Principals to us are far more  
8 important than greed, and there's a law of ethics that states,"  
9 and I've, I've referenced the book and the author, that says,  
10 and I quote, "That which is not selfish, which is good for the  
11 whole, which will not harm one and will do justice for all  
12 concerned, actions for the benefit of all." And that quote came  
13 from *A Cosmic Sea of Words* written by a man named Harold Klimp  
14 (ph.).

15 The next paragraph, it says, "Although a sound/noise  
16 study has been done in our area, it does not and cannot reflect  
17 noise as a result of loud patron music, horns honking, yelling,  
18 loud motorcycles, etc. which will inevitably occur."

19 "A scenario that will inevitably occur is the  
20 following: After the inside of McDonald's is closed for the

1 night, people will go through the drive-through, buy their food  
2 and then park in the lot next to our property. They will talk,  
3 perhaps loudly, play music, perhaps loudly, and perhaps drink  
4 alcoholic beverages, etc. This is not an experience that we  
5 want to endure. Our immediate neighbors feel the same way."

6 "If the information read at the meeting that we had  
7 last time on Thursday, December the 18th, is accurate,  
8 McDonald's spokesperson said that they estimate serving 685  
9 people daily at this new location. And many of those patrons  
10 will leave McDonald's northbound on Alvernon, and go right down  
11 our street, Camino De Palmas. Then turn right onto Longfellow,  
12 and then right onto 22nd Street to go west on 22nd Street, or  
13 south onto Alvernon."

14 "Some will choose to go further east down our street  
15 before going to 22nd Street to go east. This could easily be 50  
16 to 100 vehicles," and I kind of did a conservative estimate on  
17 that. "Cars, trucks, motorcycles, perhaps more than 50 to 100.  
18 Anyway each and every day, day and night, 24/7. This is a huge  
19 increase of traffic on our comparatively quiet neighborhood  
20 street."

1 "This number of vehicles also causes a significant  
2 increase in noise and exhaust pollution 24/7, not safe or  
3 healthy for us or our neighbors. Please remember that we do not  
4 wish to have any traffic mitigation, even if paid for out of  
5 McDonald's pocket because that would reduce neighborhood driving  
6 freedom. And we should not be penalized in any way. Also, any  
7 traffic mitigation employed on our street may cause many drivers  
8 to use east-west streets north of Camino De Palmas. This is not  
9 fair to those neighbors."

10 "Encroachment and intrusion are two more issues to  
11 seriously consider. To have a, quote, 'parking lot' so very,  
12 very close to our residence is not in our best interest. We  
13 bought our home many years ago - when we bought our home many  
14 years ago, we did not buy a home where a business like  
15 McDonald's or any other fast food business could build adjacent  
16 to us. This was our choice."

17 "The property on 22nd Street, which is now on the  
18 market, is not zoned for any food business. That's the property  
19 that's directly south of the rezoning proposal for the R-1. We  
20 have already bought (sic) and, and - fought that battle and won.

1 So the two properties that are behind our house, and our  
2 neighbor to the east, they tried to get it rezoned for foods and  
3 it was all protested and, and fortunately at that point in time,  
4 we prevailed."

5 "Anyway, I want to share an experience that I recently  
6 had. I was out in front of our home, and a lady was looking at  
7 the home directly north of ours which has been vacant for years.  
8 She said that she and her husband were looking to buy a home. I  
9 mentioned to her that McDonald's wanted to purchase the home to  
10 the west of ours to construct a parking lot for their business."

11 "Without hesitation, she said she would not buy a home  
12 close to a fast food business. I wonder how many other people  
13 feel the same way? There's an example," excuse me, "There is  
14 another empty home at 3907 East Camino De Palmas. That would be  
15 directly across the street from the McDonald's. It'd be behind  
16 to the east of the current building that's on the northwest  
17 corner of Camino De Palmas and, and -,"

18 ZONING EXAMINER: Both the empty houses are on the  
19 north side of the street?

20 MR. LOUIS DARKO: Yes, sir.

1 ZONING EXAMINER: Okay.

2 MR. LOUIS DARKO: Yes. Anyway, let's see, where was I  
3 now? Okay.

4 ZONING EXAMINER: I'm sorry to interrupt.

5 MR. LOUIS DARKO: No, that's all right. I appreciate  
6 it. Clarification's always good, and I do have a suggestion,  
7 too, when you were asking Mr. Mayer about maybe an alternate  
8 idea, but I'll share that in a minute if I may.

9 Anyway, "I wonder how many other people feel the same  
10 way? There is another empty home at 3907 East Camino De Palmas.  
11 We think that having any fast food business in our immediate  
12 area will certainly reduce the number of potential buyers for  
13 homes in our immediate area."

14 "Personally, I honestly believe that rezoning the  
15 property adjacent to ours will diminish the value of our homes,  
16 especially ours which would be adjacent to, and contiguous with  
17 the McDonald property."

18 "Please do not recommend to our Mayor and Council the  
19 rezoning of 3926 Camino De Palmas and the adjacent lot  
20 immediately south on 22nd Street to parking. Don't let big, big

1 business power their way into our neighborhood. It is not a  
2 win-win situation. Sincerely, Susan and Louis Darko." And I  
3 thank you for listening to all that.

4           Anyway, when we, when, when Mr. Mayer was talking  
5 about a suggestion, if maybe it would be a better way to allow,  
6 in this case, the McDonald's people to present one or two ideas,  
7 and then put it over to the other side, so it can be kind of a  
8 seesaw type of thing where the people who have questions or  
9 concerns about that particular issue can address them right then  
10 and there, because they covered a lot, over an hour's worth of  
11 material. That's a lot of material to - unless you're good at  
12 taking notes, or have a very wonderful memory, to remember all  
13 the things that you might want to address.

14           ZONING EXAMINER: That is a lot of information, and I  
15 appreciate your comment and -

16           MR. LOUIS DARKO: And I'm finished unless you have  
17 questions for me.

18           ZONING EXAMINER: No. Thanks.

19           MR. LOUIS DARKO: Thank you very much.

20           ZONING EXAMINER: Thank you. Anyone else? Okay.

1 MR. BASYE: (Inaudible)

2 ZONING EXAMINER: It's Mr. Basye?

3 MR. BASYE: Yes. If they're saying that they are  
4 looking ahead to land being taken on the south side where the  
5 existing McDonald's is, and it was impacted adversely, why  
6 aren't they showing it to the north side where their proposed  
7 building is, if it's equal distance? I know of no plan,  
8 planning committee, that's come up with where it's supposed to  
9 be aligned. But I do know the new, new overpass at the railroad  
10 yard on 22nd Street is going all to the north side.

11 If that's the case, then - and it continues east, then  
12 it will go right up to the front door of this new McDonald's.  
13 And they should be taking care of that and advising you of that  
14 fact, too.

15 ZONING EXAMINER: Thank you. I was expecting - ma'am,  
16 did you want to speak or you want to - Mr. Mayer. Okay.

17 MR. MAYER: I, I just had a brief followup in the same  
18 vein of what Mr. Basye was talking about in terms of the  
19 existing McDonald's. A plan was shown in terms of restrictions  
20 on the property, but I think it's important to add to the record



1 that 22nd Street in the eastbound lane is fully built out with  
2 fully three through twelve-foot lanes and a, I'm not sure of the  
3 width, but a full bus lane and a 20-foot median.

4 I suspect what Ms. Morales was showing you was based  
5 on a 75-foot half right-of-way from a center line. I believe  
6 the existing roadway, the center line is built north of the  
7 section line, and there's no way that there's ever gonna be a  
8 future transportation project that has a take to the south side  
9 of 22nd Street along there.

10 And it's just never gonna happen, and if McDonald's  
11 and the Planning Center have the juice to have the gentleman,  
12 neither or both of the gentlemen spend all that time helping  
13 them prepare the case with all these examples of B zones, I  
14 suspect they have the clout to not be held to the (inaudible)  
15 applied MS&R from a section line when clearly the center line of  
16 the roadway is to the north. And there's no way that that  
17 roadway's gonna be expanded any further to the south.

18 ZONING EXAMINER: All right. Thank you. Ma'am.

19 MS. STACEY DARKO: My name is Stacey Darko. I live at  
20 3942 Camino De Palmas. And I have a few questions. I would

1 like to know if the Mayor and Council get to read all of the  
2 protests, approvals and hear the testimonies of everybody who  
3 voices them?

4 ZONING EXAMINER: Whether they read it all, I can't  
5 say.

6 MS. STACEY DARKO: Oh.

7 ZONING EXAMINER: But they have a full transcript that  
8 gets sent to them of all the hearings. They get a copy of each  
9 of the protests, everything that I see is made part of my  
10 record. And my entire record gets submitted to Mayor and  
11 Council.

12 I try to the best of my ability to summarize in groups  
13 the comments that people make in my report. But they do have  
14 access to all of that, and depending on the process that is  
15 before them because, and Mr. Mayer pointed this out, there's not  
16 an automatic hearing.

17 Public hearing in front of Mayor and Council has to be  
18 requested, but I assume that somebody will request it in this  
19 case. So you will have a public hearing, and you'll be able to  
20 come and speak to them. They may impose time limits but I

1 don't.

2 MS. STACEY DARKO: Right.

3 ZONING EXAMINER: So -

4 MS. STACEY DARKO: Okay. 'Cause that was gonna be  
5 another question. So if we want to come and speak in front of  
6 them, then we need to request that?

7 ZONING EXAMINER: You - what you do is at the  
8 scheduled time for the hearing in front of Mayor and Council,  
9 you'd, you'd come to this very room, and because there'd be a  
10 public hearing set for this particular item, you would request  
11 to speak during that item. There's also a Call to the Audience,  
12 but you wouldn't be speaking during the Call to the Audience.  
13 You'd be speaking during the time allotted for the hearing on  
14 this issue.

15 MS. STACEY: Oh.

16 ZONING EXAMINER: They have, they'll call names and  
17 they can put a limit on it.

18 MS. STACEY DARKO: Okay.

19 ZONING EXAMINER: I can put a limit on this hearing as  
20 well. I choose not to, but -

1 MS. STACEY DARKO: Okay. Also, too, I mean I just  
2 want to say, I guess one of the benefits, if you can call it a  
3 benefit, of this whole situation is that I've gotten to get out  
4 and meet a lot of people in the neighborhood that, you know,  
5 several streets up that I've never even met before. And for  
6 hours, my mom and I -

7 MS. SUSAN DARKO: My name is Susan Darko. And I'm the  
8 mother that she's talking about. And what she's telling you is  
9 that for hours, for weeks now we have gone almost door to door.  
10 And I'm very proud of her because she has gone on her own when I  
11 haven't been able to because I'm really not allowed, or supposed  
12 to go out into sunlight without using sun screen and umbrellas  
13 just because of a condition that I do have.

14 And she's talked to people and explained things to the  
15 best of her ability of what it is that wants to be done to our  
16 adjoining neighborhoods, San Clemente, San Gabriel, Palomar, and  
17 she's gotten people to understand and to comment.

18 And she's worked really hard at this, and I'm very  
19 proud of her. She's very proud of herself, and we certainly  
20 would like to know that it wasn't done in vain. That it does

1 make, make a dent in someone's decision that they have - that  
2 they are listening to what we want, what the people want of a  
3 neighborhood.

4 MS. STACEY DARKO: And because they are a part of our  
5 neighborhood from 22nd Street all the way up to Broadway, and  
6 they need to know what's going on within the neighborhood, no  
7 matter if it's on our street or six streets up, or even the very  
8 first street south of Broadway.

9 And they don't know because they're not notified  
10 because the, the limitation, I guess, is 300 feet from the site.  
11 And I feel like that they should know because they are a part of  
12 our community, and we have even a lot more people out there that  
13 couldn't come tonight because they work, they have children.

14 We have protests pending and that's another question  
15 that I have is before the Mayor and the Council decide on this  
16 matter, is it possible that we can still continue to submit  
17 protests?

18 ZONING EXAMINER: I prefer that the protests in this  
19 case be submitted up to the point where I have to issue my  
20 reports, that I can consider them. They might bring up

1 information that is really useful to me. Officially - Mr.  
2 Moyer.

3 MR. MOYER: Officially, the protests are recalculated  
4 prior to the Planning & Development Services Department  
5 preparing the draft manager's report. And then if any further  
6 protests come in, or approvals after that date, they're  
7 recalculated on the day of the Mayor and Council meeting, or  
8 hearing, if it's a, a hearing is requested.

9 And the new numbers, if they've changed, are reported  
10 to Mayor and Council at that time. And if there's a three-  
11 quarters majority vote in any of the four compass directions  
12 around the site at that time, it still requires the three-  
13 quarters, the super majority vote from Mayor and Council.

14 ZONING EXAMINER: You mean the 20, the 20 -

15 MR. MOYER: Yeah. I think - yeah.

16 ZONING EXAMINER: Yeah. So these - the protests and  
17 approvals get incorporated into the record up to the, up to the  
18 Mayor and Council hearing. They won't necessarily get  
19 incorporated into my recommendation. But this - the record, the  
20 record can be supplemented.

1 MS. STACEY DARKO: So for example, if I got more by  
2 tomorrow, I can still submit them?

3 ZONING EXAMINER: Yes.

4 MS. STACEY DARKO: Okay. Do they have to be -

5 ZONING EXAMINER: But, you know, anybody. Applicant  
6 could submit more letters.

7 MS. STACEY DARKO: Right. I understand.

8 ZONING EXAMINER: Oppo- -- opponents can submit more  
9 letters.

10 MS. STACEY DARKO: Do, do the protests need to be from  
11 homeowners? Because we have people in the neighborhood that  
12 have been - like, for example, -

13 ZONING EXAMINER: No. The, the -

14 MS. STACEY DARKO: - someone mentioned (inaudible)

15 ZONING EXAMINER: You mean can they be tenants of a  
16 property?

17 MS. STACEY DARKO: Right.

18 ZONING EXAMINER: Yeah. Yeah. A tenant of a property  
19 can submit a protest.

20 MS. STACEY DARKO: Oh.

1 ZONING EXAMINER: Yeah, yeah. That's - we, we count  
2 ownership for purposes of the calculation. But protests can  
3 come from tenants.

4 MR. MOYER: Yeah. The state law is protest by owners  
5 of property within 150 feet of the rezoning site. But we  
6 provide Mayor and Council with the numbers, and the actual  
7 protest themselves of all protests received, as well as  
8 approvals.

9 MS. STACEY DARKO: Okay.

10 ZONING EXAMINER: This, this sometimes distill down to  
11 a fine legal point, but is it - that the ownership counts  
12 towards the percentage for the, the vote. But we've already,  
13 it's already a super majority vote anyway, so -

14 MR. MOYER: Correct.

15 ZONING EXAMINER: So, yeah, tenants, tenants can  
16 submit letters as well.

17 MS. STACEY DARKO: Another curious question. Can you  
18 tell me percentage-wise, maybe, how much do you take into  
19 account the actual protest, because even though there haven't  
20 been - since there's still more protests out there, we have



1 approximately 60, I would say, including the ones that we handed  
2 in tonight. What percentage do you, or does the Mayor and  
3 Council take those into consideration when making your decision?

4 ZONING EXAMINER: So, I think this is similar to - I  
5 don't know. Is Timothy your brother or -

6 MS. STACEY DARKO: He's my brother.

7 ZONING EXAMINER: To Timothy's comment about numbers.  
8 There's the weight of evidence by numbers, and there's the  
9 weight of evidence by how compelling it is as an argument.

10 MS. STACEY DARKO: Okay.

11 ZONING EXAMINER: And to me, I'm always compelled by  
12 argument, the substantive argument. You know, I don't count  
13 votes. But the fact that a - that shouldn't be something that  
14 stops anybody from saying, hey, if it's 50 people, it's 50  
15 people.

16 MS. STACEY DARKO: Okay.

17 ZONING EXAMINER: You, you, you do what you need to do  
18 to, to satisfy your needs. Numerically speaking, the more  
19 protests and the more and different information there is in each  
20 protest, the more I have to consider.

1 MS. STACEY DARKO: Right.

2 ZONING EXAMINER: But, you know, if it's the same  
3 issue, to me, it's the issue.

4 MS. STACEY DARKO: Right.

5 ZONING EXAMINER: I don't - not to put too fine a  
6 point on it, I think, I leave it up to the politicians to count  
7 the votes, and I leave it up to me to look at the argument.

8 MS. STACEY DARKO: Okay.

9 ZONING EXAMINER: Okay. So -

10 MS. STACEY DARKO: The only problem - not, not that I  
11 have a problem with that. My concern, I guess, about that is  
12 some, like I said, you know, a few minutes ago, some people  
13 can't come, you know. They have families, they have evening  
14 jobs. They take care of people, you know, whatever their  
15 reasons may be.

16 That's why I was wondering how much consideration,  
17 because they took the time to fill it out with their concerns.  
18 Just because they can't be here to voice them like we can  
19 doesn't mean they're -

20 ZONING EXAMINER: And I read, I read each and every

1 one of them just as, as a person might say very much the same  
2 thing as another person. Everybody wants to, you know, there's  
3 an old saying that everything's been said, but not everybody's  
4 said it. And sometimes that's a good thing.

5 People need to have that experience of, of having  
6 either written or, or comment and spoken. Writing the letter, I  
7 will read it. I may find something in it that's different that  
8 they might not realize. You're asking me to sort of tell you  
9 that I give, you know, weight to, to volume.

10 MS. STACEY DARKO: Right.

11 ZONING EXAMINER: But I can't, I can't answer that  
12 question. I, I, I take everything on the basis as it comes to  
13 me.

14 MS. STACEY DARKO: Okay.

15 ZONING EXAMINER: And, and I'd rather hear that if  
16 people want to write a letter, they're gonna write a letter, not  
17 how, how effective will it be if I get 100 people to, to agree  
18 with me. That's, that's - I mean that's for you to, to worry  
19 about. I, I'm, I'm listening if it's one person or a hundred.

20 MS. STACEY DARKO: Yeah. Okay. Just so I restate it

1 again. I'm totally against this.

2 ZONING EXAMINER: All right.

3 MS. STACEY DARKO: That's it.

4 ZONING EXAMINER: Thank you. All right. Anybody

5 else?

6 MS. MORALES: Okay. I have some notes and go through  
7 these quickly, given the late hour. The topic of the comments  
8 that were made by the renter came up, and I am curious if you  
9 received a letter today from the property owner that owns the  
10 house in question. There should have been -

11 ZONING EXAMINER: Did I, did I receive a -

12 MS. MORALES: Or did - no. Okay. I have an e-mail  
13 from him. He is sending it in. He was leaving on vacation  
14 today, so he wasn't able to come tonight, but he sent this to us  
15 via e-mail about his renter, because it was, it was stated a few  
16 times that this is unethical of the property owner to sell this  
17 home, and I feel compelled to share his side of the story.

18 "On the -," this is what he wrote. "On the 28th day  
19 of January, 2015, approximately 2:03 P.M. I spoke with the  
20 tenant occupying our residential property at 26 - or 3926 East

1 Camino De Palmas by the name of Cynthia Laniken (ph.) regarding  
2 the proposed McDonald's."

3 "Cynthia told me that a neighbor just east of her came  
4 over asking her to sign a form that stated, 'I prefer not to  
5 relocate as a result of the pending City hearings for approval  
6 of a McDonald's.' As the owner of this property, I believe this  
7 to be a way for the neighbor to add negative support to the  
8 proposed development plan."

9 "The adjacent neighbor also stated, 'Most people in  
10 the neighborhood are in favor of the McDonald's, but hardly  
11 anyone else was opposed to the plan, and that the neighbor had  
12 lived there for years and just did not want a busy business  
13 right next to them just to the west.'" Again, his words, not  
14 mine, relaying his conversation with his tenant.

15 He also has informed me that the tenant signed a  
16 short-term lease last April. It was a three-month lease, and  
17 has continued to go on month-to-month since the transaction  
18 which is, which is all pending.

19 It's all contingent upon getting the rezoning, as, as  
20 most cases are, and as is the transaction of the Shell station.

1 It was explained to her at a point in the month-to-month  
2 leasing, or month-to-month rental that this was happening and  
3 that she would have to vacate, and he's working very closely  
4 with her to find an acceptable alternative in, in his home  
5 (inaudible) or in his portfolio of homes because that is his  
6 business to rent homes.

7           So I want to put that on the record. There has never  
8 been any intent to deceive that tenant and she has known all  
9 along that it's short-term rental. The issue of the leaking -  
10 or potentially leaking tanks came up. That is all controlled by  
11 ADQ, it needs to be cleaned up, and it is the responsibility of  
12 it, and it will be done. Certainly ADQ is not gonna clear a  
13 site, or not going to let a site get out without making sure  
14 that it's cleaned up and safe for that use.

15           The 24 hours has come up in several speakers. I do  
16 need to point out that the existing McDonald's at 22nd and  
17 Randolph Way is open 24 hours on Fridays and Saturday nights, so  
18 this would not be - the owner would want to maintain the 24  
19 hours because he does have the 24 hours in his option -  
20 exercising that option on Fridays and Saturdays.

1 I think I'm getting a little hungry, too. My blood  
2 sugar is real low. Didn't have enough dinner. A couple other  
3 things -

4 ZONING EXAMINER: I know where there's a McDonald's.

5 MS. MORALES: I know. I know. I need some  
6 (inaudible) or something. A couple of other things came up, and  
7 I would like to give you the option if you would like to hear  
8 from our traffic engineer to respond to some of the traffic  
9 things, he is here and prepared to do that.

10 Mr. Mayer has brought the - a couple of things in  
11 that, that one, the allegation that we changed the driveway  
12 configuration because we somehow were told that it couldn't work  
13 or that it wasn't acceptable. That is patently untrue. We  
14 changed the driveway in response to what we heard at that last  
15 hearing of the concern of the cut-through.

16 There was, there was an approval of the traffic  
17 configuration working with City staff before with the two  
18 driveways, and it's, it's configured now because - not because  
19 they told us, or because there was some logistical way.

20 Mr. Esparza is here to - can talk about that, and a

1 lot of other details. But, but to allege that we did that,  
2 we're trying to sell that as we're - as a selling point just  
3 'cause we technically couldn't do it, I, I find offensive.

4 The, the area plan question about the sub-areas, I  
5 know Mr. Beall explained that in great detail in the supposed  
6 not memo memo, the communication that was, that is in the file  
7 that I - and I do have a copy of, there are sub-areas that  
8 control that. Those sub-areas do not exist where we are. The  
9 other, the other statement that -

10 ZONING EXAMINER: Did, did you say the sub-areas don't  
11 exist where the -

12 MS. MORALES: Right. We don't have the same sub-area  
13 policies that were what dictated that necessity for a plan  
14 amendment at that time. There, there was a statement that the  
15 parking that was approved through those plan amendment and zon-  
16 -- subsequent zoning processes of Alvernon don't go deeper into  
17 the neighborhood than what we're doing.

18 They're also not on the corner of Alvernon and 22nd  
19 Street, and that's where we're different. Those are mid-block,  
20 they're mid- -- they're along local streets on the north and



1 south, and it's just - it's a completely different scenario  
2 where we have commercial, or arterial frontage along the front  
3 there.

4 Like I said with that, I know it's getting late. I  
5 would like to invite Mr. Esparza up if, if that would be  
6 acceptable to you to talk a little bit about some of the traffic  
7 things.

8 ZONING EXAMINER: Yes. Sure.

9 MS. MORALES: Thank you.

10 MS. PRIOR: Do I need to sign in again?

11 ZONING EXAMINER: No. Is it -

12 MS. PRIOR: Catherine.

13 ZONING EXAMINER: Catherine Prior?

14 MS. PRIOR: Right.

15 ZONING EXAMINER: Okay.

16 MS. PRIOR: Okay. I was just thinking about what Tim  
17 Darko said about the fact that it's his understanding that  
18 McDonald's has paid up to \$2 million to purchase this property  
19 from the owner of the Shell station. And that, in his  
20 estimation, is about seven or eight hundred thousand over the

1 current market value of the property.

2 And so I would like McDonald's to consider that for  
3 that same \$2 million, they can go back and pay only the current  
4 market value to the Shell station, and they can compensate with  
5 that seven or eight hundred thousand dollars that they could be  
6 overspending to purchase this property. They could compensate  
7 the four or five neighbors that are gonna be most severely and  
8 adversely affected by this purchase.

9 McDonald's has very, very deep pockets. Much more  
10 money and many more resources and many more choices than all of  
11 the neighbors in the San Gabriel, San Clemente, Broadmoor and  
12 Julia Keene Neighborhoods. So they have the ability, and the  
13 wherewithal to treat all of us fairly. And I think that if they  
14 truly want to be good citizens and good neighbors, that they  
15 would consider that.

16 The homeowner that is located at 3526, of course he's  
17 in favor of McDonald's. He's being paid, you know, to sell his  
18 house. And I suspect he's probably being paid more than the  
19 actual market value of his property. So who wouldn't be in  
20 favor of that, the same as the Shell station. So they could,

1 you know, they could reach into their pockets and make all of  
2 our concerns go away.

3 I still believe, though, very strongly that no  
4 commercially zoned property belongs in a residentially zoned  
5 area. That's the reason that we have zoning. We don't need,  
6 and I'm a U of A alum, very proud of my Wildcats, but we don't  
7 need wildcat zoning, okay?

8 ZONING EXAMINER: All right.

9 MS. PRIOR: Thank you. I'm heading home and going to  
10 bed.

11 ZONING EXAMINER: Thank you. Thank you for coming  
12 out.

13 MS. PRIOR: Everybody -

14 ZONING EXAMINER: I do want to just say -

15 MS. PRIOR: - have a very good night.

16 ZONING EXAMINER: I, I, I appreciate your comments  
17 about, you know, maybe there should be compensation, why not  
18 compensate me? But the difficulty is I just heard from Mr.  
19 Darko, said not for a million dollars. So the, the way - I  
20 appreciate that you say it. It's difficult for me to actually

1 address it, 'cause you would be compensated, but somebody else  
2 might not be. So, it, it -

3 MS. PRIOR: Well, again, money solves a lot of  
4 problems. And the haves, like I said, the haves, the Goliaths  
5 in this situation should be looking out for the interests of  
6 David, which is the neighborhoods. And I just want to remind  
7 McDonald's that in that famous Biblical story, it was David who  
8 won. Thank you.

9 ZONING EXAMINER: Thank you.

10 MS. MORALES: While Ms. Prior is here, may I put it on  
11 the record that I'm not sure where Mr. Darko got his numbers.  
12 But I have the real estate broker here for McDonald's and those  
13 numbers are way off base. They're confidential between the  
14 property seller and buyer and -

15 ZONING EXAMINER: I don't need them.

16 MS. MORALES: I didn't even bring it up in my rebuttal  
17 because I don't believe it's relevant to the property. But, but  
18 I also have to say because my ethics have been challenged at  
19 least two or three times in this hearing tonight, that I, if I  
20 had gone to them and said, "We will pay you to not protest,"

1 they would be standing here saying I was offering them a bribe.  
2 Just had to put that out there.

3 ZONING EXAMINER: Well, okay. Let - hold on. Ma'am.  
4 What I want to do is, is pause for one second. The one thing I  
5 don't like - well, there's many things I don't like. But one  
6 thing I really don't like is when things do turn personal, and  
7 you know, I, I, I tend to give leeway, and maybe this is a cause  
8 of complaint for Applicants, I give a lot of leeway to neighbors  
9 who aren't used to coming forward and testifying.

10 Applicants are often held by a professional standard.  
11 They're being paid to be here, and they, they may not have as  
12 much vested in, in - emotionally in it, but they certainly have  
13 a professional vestment in it.

14 And they get into the business for the same reasons  
15 that people get activated to go around the community and talk to  
16 their neighbors. It's the same, comes from the same place. But  
17 when it takes a turn for the personal, it doesn't, it doesn't  
18 help anybody. And I, I do feel, you know, there, there have  
19 been some slights I haven't commented on. I've accepted it as  
20 to me, and I feel I addressed it.

1 I'll take responsibility for what people testified to,  
2 how they testify. I don't want people having cross talk and  
3 saying things against each other and, and having this be a  
4 debate between people on, on things that are personal issues.

5 I, as a matter of course, as a matter of policy, and  
6 as a matter of good faith trust that everybody who steps up to  
7 that microphone has good intentions and doesn't want to cause  
8 conflict. And I don't think that's anybody intent.

9 I don't think Ms. Morales is intending to cause  
10 conflict when she tries to defend when she feels being impugned.  
11 I don't think neighbors want to cause conflict when they defend  
12 themselves against what they see as an incursion on, on either  
13 their rights or their, or their ethics.

14 So I don't want to go down that path. I don't want to  
15 have a response from you that you might be offended by what Ms.  
16 Morales said. She might be offended by something you said. We,  
17 we don't have to open that up. Let's, let's redirect the energy  
18 to the issues rather than the personalities or, or, or non-  
19 substantive things.

20 MS. SUSAN DARKO: (Inaudible)

1 ZONING EXAMINER: Okay. But let me ask that it be,  
2 the focus on the, the issues at hand. The planning issues and,  
3 and not things that may have been said by people outside of this  
4 room.

5 MS. SUSAN DARKO: (Inaudible)

6 ZONING EXAMINER: Okay. Let - and, and none of that -  
7 actually we've lost the record, and I apologize for not keeping  
8 track of you not being in front of the microphone. So let's say  
9 that again in front of the microphone.

10 MS. SUSAN DARKO: Okay. I just wanted to comment, but  
11 if it's, if it's something that someone's gonna take personally,  
12 I won't.

13 ZONING EXAMINER: I appreciate that.

14 MS. SUSAN DARKO: If we're going to clear, clear a  
15 record, I can, I can tell you that the information about the  
16 price for the Shell station probably came off of line. By  
17 looking it up, there was a, there was a real estate person, I  
18 don't even know their name that said that the Shell station and  
19 property was one point nine nine five, that's where my son got  
20 that, that price from.

1           The other thing about the, our next door neighbor, my  
2 daughter and I did go next door, like we've gone to every  
3 neighbor talking to them about making sure that they did know  
4 what was going to happen and come down. They're a young couple.

5           We did not ask them to, like everyone else we spoke  
6 to, fill it out. I'll take it in, whether it's an approval or a  
7 protest letter, I don't care. I want you to be aware of the  
8 neighborhood stuff.

9           This is what we told Cynthia next door as well. I  
10 will tell you, and I will quote this. Cynthia, who is the  
11 tenant next door at 3926 East Camino De Palmas said, "The  
12 landlord, when I took the rent check, said, it's 80% sure we'll  
13 be moving."

14           And I will apologize to Ms. Morales if she felt in any  
15 way that I attacked her personally. I don't feel that I did,  
16 but if you make a comment and say something, and it's wrong,  
17 it's wrong.

18           ZONING EXAMINER: And, and that -

19           MS. SUSAN DARKO: And I did feel like I was attacked  
20 just a moment ago, and I'm done.



1 ZONING EXAMINER: Okay. That's, that's very useful,  
2 and I, and I thank you. And I want people to be able to say  
3 things like that. And also to, to be able to give information,  
4 even if the information is, is - they may not even be accurate,  
5 but to give that information and then, you have to understand  
6 that people have conflicting information, and I'm not addressing  
7 you directly.

8 MS. SUSAN DARKO: I understand.

9 ZONING EXAMINER: That people have conflicting  
10 information. I have to receive all the information, and sort it  
11 out. But I don't want people to be offended if, if the  
12 information conflicts. This is, this is what happens  
13 (inaudible) in the search for -

14 MS. SUSAN DARKO: Right.

15 ZONING EXAMINER: I was about to say the truth, but  
16 you know, in, in the search, -

17 MS. SUSAN DARKO: Until a -

18 ZONING EXAMINER: - you get conflicting information.  
19 And, and we just -

20 MS. SUSAN DARKO: Until a moment ago, I didn't feel

1 that any of this was, was personal. But a moment ago, I felt  
2 like it was directed toward my family, and myself.

3 ZONING EXAMINER: Well, I don't - I, I, I -

4 MS. SUSAN DARKO: (Inaudible)

5 ZONING EXAMINER: - I'm gonna take it on good faith  
6 that, that Ms. Morales was not intending to offend anybody.

7 MS. SUSAN DARKO: I didn't even bring up her name.

8 ZONING EXAMINER: - and defending - I, I am. I am.

9 MS. MORALES: And, Ms. Darko, it was not directed to  
10 you, and it was - and I apologize. I, I got - I told you my  
11 blood sugar was low. I got a little testy, and I apologize. It  
12 was not meant to be - the ethics thing was not brought up by  
13 you, but I felt like I was challenged. And I, I do apologize,  
14 that was unprofessional.

15 ZONING EXAMINER: All right. Thank you.

16 MR. ESPARZA: And now for something a little less  
17 controversial. Traffic. My name is Marcos Esparza. I'm a  
18 registered professional engineer in Arizona. My speciality is  
19 transportation engineering. Is there any other information that  
20 you -

1 ZONING EXAMINER: Uh -

2 MR. ESPARZA: About me.

3 ZONING EXAMINER: No. You know, go right ahead.

4 MR. ESPARZA: Okay.

5 ZONING EXAMINER: I, I'm - this is - I'm not  
6 qualifying an expert witness. I take it on the stamp that you  
7 have. And, -

8 MR. ESPARZA: Okay.

9 ZONING EXAMINER: - and I, I understand Mr. - and it's  
10 well taken. Mr. Mayer's point is that, you know, that, that we  
11 receive a traffic engineering report, and we rely on your  
12 professionalism to have an accurate report. And another  
13 professional may very well disagree, just as we've gone through  
14 -

15 MR. ESPARZA: That's the way it goes sometimes.

16 ZONING EXAMINER: That's the way it works.

17 MR. ESPARZA: Yeah. I reviewed the comments from the  
18 representative from the Julia Keene Neighborhood Association on  
19 the traffic report I prepared as an associate with Curtis, Lewik  
20 (ph.), and Associates. The traffic study was prepared

1 consistent with professional practice and standards of our  
2 profession, and furthermore the study was approved by the  
3 reviewing agency.

4           Regarding the comment that a higher rate should have  
5 been used based on the location of the project and the type of  
6 project, I used the trip generation rates from the latest  
7 edition, the 9th Edition of the *Institute of Transportation*  
8 *Engineers Trip Generation Manual*.

9           This is the standard document that provides trip  
10 generation rates for different land use types. I applied the  
11 average rates for the land use, fast food restaurant with drive-  
12 through window for the McDonald's restaurant.

13           For the previous use, I used the average rates for the  
14 land use, gasoline/service station with convenience market and  
15 carwash. There was no expectation that the location of this  
16 McDonald's restaurant would have a lower or higher trip rate  
17 than the average rate in the trip generation manual, or the  
18 other previous land use.

19           Unless there's a compelling argument that the trip  
20 generation would be higher or lower, engineers will typically

1 apply an average rate. Fast food restaurants, by the way, are  
2 usually located in attractive locations typically along  
3 arterials or collectors.

4           Regarding the reduction in rates associated with the  
5 previous use, it is standard practice to compare the traffic  
6 impact of a new project on a site with the impact of the  
7 previous business, or other land use at that same site. In some  
8 cases, a new project will actually generate fewer trips than the  
9 previous use.

10           In the case of the McDonald's restaurant, the offset  
11 in trips represented at a slight increase in trips generated by  
12 the - from, over and above the previous use. The increase in  
13 trips was not considered to be significant.

14           Regarding egress from the driveways and crossing lanes  
15 of traffic, this condition is experienced at similar locations  
16 at the intersections of major streets. The locations of the  
17 driveways will meet City corner clearance and driveway spacing  
18 standards. Regarding U-turns, we agree that a U-turn from Mr.  
19 Mayer's letter requires caution and steering control.

20           However, the U-turn condition does currently exist and

1 was in place when the Shell station was, was there. Regarding  
2 the position of the bus stop and the driveway to the north, we  
3 worked with City staff and applied the City of Tucson bus stop  
4 location and spacing criteria in locating the driveway north of  
5 the bus stop.

6 Oh, Mr. Mayer made reference to why we used a level of  
7 service standard applied by the Florida Department of  
8 Transportation in the footnote. That is a reference to level of  
9 service applied to daily service volumes. There really is no  
10 industry, national industry standard.

11 Many jurisdictions around the country apply the F-DOT  
12 standards when they're considering daily, daily service volumes.  
13 And it's mainly used as a planning level analysis of traffic,  
14 what jurisdictions typically require peak hour analyses rather  
15 than volumes associated with daily traffic.

16 Regarding the 2012 data, and the growth, the 2% growth  
17 that we applied, you know, we looked at some of the historical  
18 data along Alvernon and 22nd Street. In some cases the volumes  
19 have actually remained about the same. A while back, they  
20 actually were higher on 22nd, but we went a little more

1 conservative and applied a 2% per year growth rate.

2           And the 2010 PAG traffic counts that were referenced  
3 in the report were the most recent counts at the time the report  
4 was written that were available to, to put in there. And,  
5 again, those are mainly for planning level, planning level  
6 analysis or information.

7           ZONING EXAMINER: Okay.

8           MR. ESPARZA: Thanks.

9           ZONING EXAMINER: Thank you.

10           MS. OLSON-WOODS: Cynthia Olson-Woods, 3955 East  
11 Camino De Palmas. I don't care about the traffic. I'm sorry.  
12 This is where we live. I know that the property values are  
13 depressed there. I know that I can't really even sell my house,  
14 but that's okay because I like where I live. I like my  
15 neighbors. I like it. I've been there over 25 years.

16           And so the - it's okay. I like it. (Inaudible) if  
17 McDonald's moves in there, I won't like it as well. I will not  
18 be as okay with it. I will not be as happy living there as I am  
19 currently. Thank you.

20           ZONING EXAMINER: Thank you.

1 MR. MAYER: Mr. Zoning Examiner, Mark Mayer again. I  
2 have a further rebuttal. This has to do with the sub-area two  
3 in the Alvernon-Broadway Area Plan. The implication that Ms.  
4 Morales put forward is that, that somehow sub-area two is some  
5 distinct area from the rest of the plan.

6 Well, the sub-area two in the original plan only had  
7 three policies specific to that sub-area. There are dozens of  
8 policies in the overall plan. It's governed by the plan. It  
9 only has those cumulative and supplemental policies. One of  
10 them has to do with the, the relationship with the Doubletree  
11 Inn that was specific to the area.

12 Another thing - item was similarly specific to that  
13 area, and the idea that the subject location isn't governed by  
14 sub-area two is irrelevant. Both sub-area two and the subject  
15 applied for location are, are both equally governed by the  
16 policies of the Alvernon-Broadway Area Plan.

17 There just aren't the supplemental policies that were  
18 not related to the plan amendment and rezoning that occurred on  
19 the credit union site. So I think that's, that's a real curve  
20 being thrown, and the same logic applies, or same policy



1 analysis at both locations.

2 ZONING EXAMINER: Thank you.

3 MS. SANDOVAL: Once again, Jennifer Sandoval, 3911  
4 East Camino De Palmas. And regarding the traffic report, and  
5 perhaps I'm not understanding it as well as I should, but if I  
6 heard correctly, there was not an increase in number of visits  
7 to this corner from the Shell station, which in my layman's  
8 mind, I eat three times a day when I have time.

9 I fuel my vehicle once a week. The Shell station did  
10 not serve hot food. No one was stopping for nachos and hotdogs.  
11 So I would assume that the increase in visits would be nominal  
12 when it comes to eating versus fueling my vehicle. I think the  
13 traffic would be much heavier. But that's, of course, my  
14 opinion, and thank you for listening to it.

15 ZONING EXAMINER: Thank you.

16 MR. ESPARZA: There was a slight increase in traffic  
17 from the trip rates that we applied based on the independent  
18 variables for both the fast food restaurant and the gas station.  
19 However, that number was very nominal.

20 ZONING EXAMINER: Twenty-one for morning, and fourteen

1 for evening. Anything else? Thank you for your time. Thank  
2 everybody for their time. I think I said it before, I'll say it  
3 again. These aren't easy. Public participation and public  
4 process aren't always easy.

5 Sometimes I think my job is the only easy one in the  
6 room. I get to listen. But I do appreciate everybody coming  
7 out. I know that tempers - we're dealing with very sensitive  
8 issues, and I think everybody understands that.

9 People are, I think, the - Stacey Darko, I think is  
10 her name. She went out and, yeah, went out and met lots of her  
11 neighbors as part of this, which is a good side result. But if  
12 you go all over the country, you'll find that people become  
13 activated in their community by proposals for land use changes.

14 It's a story that we hear in every community. And  
15 land use changes and proposals are an important part of our  
16 political considerations, part of our democratic consideration,  
17 small D. And everybody involved, everybody involved in those, I  
18 believe, has some benefit to the community as part of their  
19 intent. And I guess that's really enough said.

20 I don't want to make this even later than it is

1 already. So thank, thank everyone for your participation and  
2 your, and your hard work, all of you and, and the effort  
3 tonight, and prior hearing. Appreciate it.

4 With that, please drive safely home. I don't know if  
5 it's raining out yet, but -

6 FEMALE SPEAKER: (Inaudible)

7 ZONING EXAMINER: Oh, good. Well, please be safe.  
8 Yeah, if I could get a co- -- that would be helpful if I could  
9 get a copy of that. Excuse me? Oh, I've been reminded, the -  
10 Case No. C9-14-10 is hereby closed. Thank you.

11 (Case No. C9-14-10 was Closed.)  
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I hereby certify that, to the best of my ability, the foregoing is a true and accurate transcription of the original tape recorded conversation in the case referenced on page 1 above.

Transcription Completed: 02/04/15

KATHLEEN R. KRASSOW - Owner  
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