

ZONING MEMBERS PRESENT:

Linus Kafka, Zoning Examiner
Glenn Moyer, Planning & Development Services
Delma Sanchez, City Recording Clerk

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1 ZONING EXAMINER: Next case. Case No. C9-14-10. I'd
2 like to acknowledge at this time that Council Member Kozachik is
3 in the audience, Ward 6, takes an interest in the land use cases
4 there in his ward. And I appreciate his presence, so just want
5 to acknowledge that. So, Mr. Moyer, Case No. C9-14-10.

6 MR. MOYER: This is a request by Kelly Lee of the
7 Planning Center on behalf of the property owners, Kettenbach,
8 LLC and Deed & Notes Traders, LLC, to rezone approximately 0.54
9 acres from R-1 and O-3 to P Zoning.

10 The zoning site is located at the northeast corner of
11 Alvernon Way and 22nd Street. The Preliminary Development Plan
12 proposes a parking lot to be built in conjunction with the
13 development of a fast food restaurant on an existing C-1 zoned
14 parcel immediately west of the rezoning site.

15 Land use policy direction for this area is provided by
16 the Alvernon-Broadway Area Plan and Plan Tucson. The rezoning
17 site is located within a mixed use corridor as identified on the

1 Future Growth Scenario Map of Plan Tucson. Mixed use corridors
2 provide higher intensity mix of jobs, services and housing along
3 major streets.

4 Within mixed use corridors, Plan Tucson calls for
5 urban design that is sensitive to the surrounding scale and
6 intensities of existing development. Plan Tucson supports
7 commercial uses located at the intersection of arterial streets
8 and redevelopment of commercial projects that stabilize and
9 enhance the transition edge when adjacent to existing
10 residential uses.

11 Commercial expansions or consolidations may be an
12 appropriate means to preserve the vitality of the street
13 frontage in the adjacent neighborhood. Urban heat island effect
14 should be mitigated by expanding and maintaining a healthy
15 drought-tolerant low water use urban forest.

16 New development should utilize solutions and
17 strategies included in the design guidelines manual to provide
18 and improve level of community design.

19 The purpose of the Alvernon-Broadway Area Plan is to
20 guide future development while protecting and enhancing existing

1 uses. Non-residential policy two limits new commercial uses and
2 redevelopment of existing uses to locations shown on the
3 conceptual land use map when all the following is met:

4 Primary access is provided from an arterial. All
5 parking and maneuvering can be met on-site. Screening and
6 buffering for adjacent residential uses can be provided on-site,
7 and new development complies with general design guidelines.

8 The general design guidelines of the Alvernon-Broadway
9 Area Plan are intended to help insure that new development or
10 redevelopment is designed in a manner that enhances the visual
11 appearance of the Alvernon-Broadway area. The P zone, the
12 parking zone, provides for off-street motor vehicle parking
13 within residential areas to serve land uses in another zone.

14 The P zone is not considered to be an extension of the
15 primary use. The P zone can serve as a buffer or transitional
16 between more intense and less intense uses such as commercial
17 and residential.

18 The Alvernon-Broadway Area Plan defines associated
19 parking and land use solely for the, solely for the purpose of
20 providing surface parking for an adjacent use. No buildings are

1 allowed.

2 Given that Plan Tucson identifies this area along 22nd
3 Street as a mixed use corridor and the Alvernon-Broadway Area
4 Plan identifies the existing primary parcel as commercial, the
5 parking zone can stabilize and enhance existing commercial while
6 serving as a buffer transition and is consistent with plan
7 direction.

8 The total area of the proposed development is 1.45
9 acres. The project is located at the intersection of two
10 arterial streets, Alvernon Way and 22nd Street. Access to the
11 site is from both Alvernon Way and 22nd Street. Camino De
12 Palmas is a local street to the north that abuts the site.
13 There will be no access to Camino De Palmas, no vehicle access.

14 The Pima Association of Government's Transportation
15 Planning Division estimates that the proposed development will
16 generate 685 vehicle trips per day.

17 The rezoning site will be developed in conjunction
18 with a drive-through restaurant use. The site layout shows that
19 no buildings, dumpsters, drive-throughs, or loading zones will
20 be located on the proposed P zone portion of the development

1 site.

2 Potential noise generating outdoor activities,
3 including menu boards, drive-through pickup windows, loading
4 zones and dumpsters will be located a minimum of 80 feet from
5 residentially developed or zoned properties.

6 An exhaust odor-reducing system will be installed in
7 addition to the conventional hood filters to reduce cooking
8 odors outside of the restaurant. To reduce visual and noise
9 impacts to the residential property to the north, an eight-foot
10 masonry screen wall will be provided along the north property
11 line.

12 A second eight-foot masonry screen will be provided along the
13 east property line, stepping down to five feet at 22nd Street.

14 A 16-foot landscape border is proposed along the north
15 border with a 16 -- with 16 feet of landscaping proposed north
16 of the eight-foot masonry wall and within the public right-of-
17 way along Camino De Palmas. This border should include canopy
18 trees and sahuaro cactus per the request of the neighborhood.

19 Two access drives will be constructed along 22nd
20 Street, one access drive constructed along Alvernon Way. All

1 driveways will be right in, right out only. The P zone can
2 serve as a transition and buffer between the commercial and
3 residential uses to the north and east. The proposed land use
4 is supported by and consistent with the direction provided by
5 Plan Tucson and the Alvernon-Broadway Area Plan, subject to
6 compliance with the attached Preliminary Conditions, approval of
7 the requested P zoning is appropriate.

8 And as of today, the Planning & Development Services
9 Department has received four written approvals and 26 written
10 protests. Two of the protests and one of the approvals came
11 after our calculations were completed, but they will not change
12 them in any substantial way.

13 The protests by area to the north, again, prior to the
14 receipt of the two protests tonight, was 34.2%. To the east is
15 51.9%, and to the south and west, the protest level is zero
16 percent.

17 The protest level is significant because if the
18 protest is greater than 20% in any one of the four compass
19 directions surrounding the site, a three-quarters majority vote
20 of Mayor and Council is required to adopt a rezoning ordinance.

1 ZONING EXAMINER: All right. Thank you, Mr. Moyer,
2 and I'm in receipt of the protests and you'll just supplement
3 the record with the next ones.

4 MR. MOYER: Yes. Mr. Kafka, you have the protests
5 that came a little bit earlier than the two protests, but we
6 will get you the copies of the protests back in regular business
7 hours.

8 ZONING EXAMINER: Thank you. All right. Who's giving
9 the presentation tonight? Ms. Morales?

10 MS. MORALES: Good evening. I'm Linda Morales with
11 the Planning Center, 110 South Church. I also wanted to add as
12 I'm signing in that there was another approval letter from, from
13 Forest Metz (ph.) who owns the office complex a couple blocks
14 north along Alvernon.

15 He sent that in on, on the 12th, and unfortunately
16 didn't send me a copy. So we're trying to locate that, but he
17 does own two parcels and is in support of our request as a
18 property owner in the area.

19 ZONING EXAMINER: What was the name again?

20 MS. MORALES: Forest Metz, and I'm totally sure that's

1 - his ownership is probably in an LLC. I can point out the
2 parcel. I think, I think the aerial will cover that.

3 ZONING EXAMINER: Well, if we don't have it, you can
4 supplement it.

5 MS. MORALES: I'll supplement it, and I'll follow up
6 on it because it should be, like I said, if he sent it on the
7 12th, I would have thought it would - I'll have to find out, but
8 maybe it got to the wrong location.

9 All right. Get situated here. So I wanted to start
10 off by saying that we are in agreement with all the conditions
11 as presented. You'll see that there are some very specific
12 conditions that were put in as a result of some of the
13 interaction with, with the public, and with the neighbors, and
14 I'll go through that in much more detail and point some of
15 those, in particular, out.

16 Again, this rezoning site is about a half an acre, but
17 it's part of an overall project that would encompass the entire
18 corner of 22nd Street and Alvernon. The - right now on the
19 corner is an abandoned Shell station, as I know that you've been
20 out to see, that has, has been abandoned for quite some time.

1 And this property has been on the market, as has the two parcels
2 that are the subject of the rezoning request tonight.

3 One is a residential home that is owned by Deed & Note
4 Traders, and has been a rental property for them. And the other
5 one is the vacant O-3 piece on the north.

6 Right now, just to point out while we've got this nice
7 aerial up that we have a couple - the gas station had quite a
8 lot more access points than what we're proposing into it.
9 There's a bus stop right in here, so there's access points on
10 either side of that, as well as driveways in there, and then
11 there were driveways, obviously, into the other two uses. So as
12 you'll see and as we go through the plan, we're gonna be taking
13 care and closing up some of those that are closer to that
14 intersection.

15 This is a really, obviously a very busy corner.
16 There's a lot of traffic going through on both Alvernon and
17 22nd. It's a very high visibility corner. We've got the City
18 Police Department to the, the west. There's just off the site
19 is a Walgreens and several commercial fast food properties as
20 well as a Quik Trip on further down and some office buildings,

1 commercial as well, on the other corner. So very busy, very
2 visible intersection which is what makes this a, a desired site
3 for this use.

4 A lot of the use that is, a lot of the users that come
5 to the site are passerbys, pass-by traffic. So it's important
6 to have that high visibility. This would be a relocation of the
7 McDonald's that is down the street that's closer to Reid Park in
8 the mid-block, or in the mid-arterial part of 22nd Street.

9 The owner of that store - the store that's there is
10 very, very old in terms of fast food oldness goes. And the
11 owner's looking to, to move into a new site. They've looked at
12 remodeling the existing site, and it, it - with the setbacks and
13 with the - what I'm gonna show you, which is the state of art
14 new plans for a McDonald's store doesn't work on that site
15 anymore. So they're pursuing this site and do intend to abandon
16 that site.

17 So, again, commercial zoning. There's already the C-1
18 zoning which is the zoning that we do need for the McDonald's on
19 the corner, which was the gas station. The subject of the
20 rezoning is just the area in red that is this single house in

1 the vacant 0-3 lot.

2 These are just some - oh, where'd the picture go?
3 Sorry. These are some pictures of the site. We kind have been
4 out there at different times of the day and night to see the
5 activity and what's going on in the area, as well as at night
6 because that's something that we've had a lot of interaction and
7 talked about with, with the neighborhood. So we visited in the
8 evening as well as during the day. You can see it's, it's
9 pretty blighted right now. It's been boarded up for some time,
10 and just the empty - or the existing pumps are there.

11 Part of the sale of this property is contention upon
12 the owner cleaning up all the tanks and doing all that
13 remediation that needs to be done. But there's no, no concerns
14 that that wouldn't be just a standard cleanup of the site.

15 This is looking from - across 22nd to the north. And
16 here you can see the existing Shell st- -- or the old abandoned
17 Shell station, as well as this is approximately the area of the
18 rezoning site.

19 And this is looking at looking east from across twen-
20 -- or Alvernon Way, so you can kind of see that view of it from

1 that, so obviously the rezoning site's right back behind those
2 existing buildings.

3 This is the back of the lot right now. It really is
4 needing some, some remodeling renovation cleanup. It's been -
5 the back part of that site has just kind of been collecting
6 garbage for some time. There's been ongoing problems with
7 graffiti.

8 We have, again, in all our visits to that site, and I
9 happen to drive by there a lot on the way to pick my daughter at
10 school, so, so I'm in that area a lot. And there are lots of
11 times people loitering on the site. It, it's really, right now,
12 not a desirable thing to have on a major arterial or adjacent to
13 a neighborhood. So we hope to be able to improve on that
14 situation.

15 This is the site plan in its entirety, just to kind of
16 show you how the rezoning site sits in relation to the proposed
17 restaurant. Again, as I had pointed out, there's - we've
18 reduced the number of access points. We have the one access
19 point on Alvernon, and the one existing driveway on 22nd where
20 there were two before. There was an existing other driveway

1 into the gas station there. Got rid of that.

2 The bus stop is right in here, so there is a nice
3 transit connection to the site. And then the rezoning site has
4 its existing driveway there, so a total three. No access to
5 Camino De Palmas, and no access further to the east. There will
6 be a wall, continuous wall along the, the north and the east
7 boundaries of the site.

8 The, the rezoning site is solely parking, and, and
9 again, that is in keeping with the P zone parking, and the
10 driveway coming through the site, but nothing else. And, and
11 that was very important as we worked with Staff on the site
12 plan.

13 You can see that all of the, the building itself, the
14 restaurant use and all of the drive-through as well as
15 additional stacking can be accommodated on the commercial site.
16 So none of that is overlapping into what is the rezoning site.

17 And one of the things that I also wanted to point
18 that'll be more obvious in a bit as I talk about some of the
19 concerns that we've heard from the neighborhood is the - there's
20 a desire to keep all the traffic going out to 22nd Street.

1 So I wanted to point that out while I have this up
2 here, that the drive-through, there's a, a curb, basically, and
3 a landscape area in between - that directs all traffic through
4 the drive-through and back out and points it out to 22nd Street
5 rather than encouraging - you'd have to come back and do a U-
6 turn or come all - actually all the way around the site if
7 you're following the way of the traffic to get back out to
8 Alvernon. So we'll go over that in a bit more detail when I
9 talk more about the traffic, but I wanted to again point that
10 out.

11 So, again, the rezoning site. We do have the parking.
12 We have landscaping around it. I'll talk in a bit more about
13 the walls, and that is essentially it for the uses on that site.
14 Again, they, they - Mr. Moyer went over the area plan
15 recommendations and, and how that this plan conforms with it
16 because the P zone is a very restrictive zone, and because it is
17 a down zoning technically from the existing O-3 and R-1 uses.
18 So that is how we've proceeded on that.

19 This, let me show you real quick what this is
20 representing. This, this is - what you're gonna see is a cross

1 section that basically comes from the house to the north across
2 through the sidewalk - through the street, the sidewalk and into
3 the site. So you can kind of see that relationship in this.

4 And this has actually been updated within just the
5 last couple of days as we've been going through. We've actually
6 put in a development plan package with Development Services and
7 gone through that.

8 So we have the existing, the existing residence here.
9 We have the 60-foot right-of-way of Camino De Palmas, and then
10 the sidewalk, there'd be improvements to that as well as
11 landscaping between the sidewalk and the wall.

12 And this is something that we actually met on-site
13 with the neighbors and worked out, and one of the things that we
14 agreed on was to increase from the typical six-foot wall that's
15 required, increased that to an eight-foot wall.

16 What, what's change is we had a six-foot landscape
17 area long the street side which is a nice area to, to be able to
18 put in the plantings. The tree, trees and mostly shrubs and
19 different desert landscaping. We did talk in some detail about
20 that with the neighbors, that they didn't want to see anything

1 that's terribly pokey or cactusy (sic) kind of things for
2 pedestrians as they're coming along.

3 So we agreed to work with them on the, on the types of
4 vegetation that goes in there. And there's also a couple of
5 sahuaros on the site, on the existing rezoning site. And we
6 agreed to keep those as well. Those will be able to be
7 accommodated in that landscape area.

8 But what has changed is, is there's a requirement to
9 go ahead and jog that wall so it actually, the jog, the jog
10 would be between six and eight feet, so depending on where it is
11 there. We don't have the final plans, but this could go six to
12 eight feet back and kind of meander along that way.

13 We do, in addition to the part of the landscaping on
14 the Camino De Palmas site, we have a ten-foot landscape buffer
15 within the site as well. So it gives a lot of room for some
16 canopy trees as well as some vegetation on both sides of the
17 wall. And then obviously, this would be the, the parking lot on
18 the rezoning site.

19 One of the other things - well, I'll get into that in
20 a minute. Let me show you the elevations of the site. This is

1 the current, the more modern version of the McDonald's, the, the
2 elevations of that that you can see from the sides. It's got
3 the more sleek, modern look. If you've seen the one that's been
4 recently remodeled and opened on Speedway, that kind of gives
5 you an idea of how it looks in real life.

6 There's been a real effort to upgrade the dining area.
7 The play place has been nicely integrated from, at least in my
8 opinion, from what it used to be where it used to be kind of
9 this big thing sticking out at the end. It's nicely integrated
10 in architecturally into the site. This shows the elevation and,
11 in particular, this is that west elevation that shows you how
12 you get through the drive-through.

13 So again, all of this for context, all of this is off
14 the rezoning site, but because the whole site plan works
15 together, we wanted to go ahead and show you that.

16 We have met quite a lot with the neighborhood group,
17 and this is the summary that shows you all those different
18 meetings. Our very first meeting was held back last June and
19 that was the normal neighborhood meeting that was noticed per
20 the City regulations. And after that meeting, we had some

1 followup phone calls and, and conversations with some of the
2 individual neighbors that are most directly affected.

3 And we decided that the best way would be to - we had
4 an individual meeting with a neighbor that, that wanted to meet.
5 And actually Kelly Lee had met with this person at her office
6 and chatted about some of her specific concerns which resulted
7 in some of these agreements.

8 And then we also had a group meeting on-site with the
9 neighbors and met out in the driveway of one of the homes to the
10 north, and talked about the things like I was saying before with
11 the landscaping and the walls and wall heights and agreed on the
12 eight feet for the wall height. And talked about some of the
13 concerns that again I'm gonna go through. But security is
14 always one of them.

15 One of the things that, that resulted from one of
16 these meetings, and I'm not sure which one at this point
17 anymore, but was, there was a desire because there has been so
18 much loitering and, and frankly, drug deals, things like that,
19 undesirable activity currently in the area, there - that we
20 agreed to go ahead and put in some landscape lighting in this,

1 in this area, the buffer, with the, with the landscaping.

2 So just to illuminate that a little bit more,
3 something not too bright, not too crazy, but, but something
4 because the lighting on the site will be directed all onto the
5 site so it doesn't spill over. We felt it was important to not
6 have any dark areas, to be able to put some landscape lighting
7 on the street side of the wall.

8 ZONING EXAMINER: On the street side?

9 MS. MORALES: Yes.

10 ZONING EXAMINER: Okay.

11 MS. MORALES: Yes. So that would all - I knew that
12 was what you were about to ask, 'cause I wasn't very clear.

13 So back to this. We did have that on-site meeting at
14 the end of June, and then we, we came back and worked on a lot
15 of things internally with the, the development team. So we
16 followed up later on in the fall and, and had another meeting,
17 another official notice meeting with the whole group, as well as
18 anybody else that had signed into that meeting before that
19 wasn't necessarily on that list.

20 And we, we met again at the, at the clubhouse over at

1 Randolph and talked about it. We heard a lot of the same
2 concerns. We, we had an opportunity at that meeting to present
3 a lot of those mitigation things that I've been alluding to.

4 And then after that, we followed up with yet another
5 meeting at Council Member Kozachik's office to specifically talk
6 about the traffic concerns. And again, I'll get into that a
7 little bit more about what the results of that meeting was. And
8 then there was one particular neighbor adjacent to us that
9 wasn't able to make that, so we met individually with her.

10 So that's the summary of those. Now let me kind of go
11 over some of the things that I - that we heard at that meeting
12 and that, and that I see reflected in the protests that were
13 issued. Noise is -

14 ZONING EXAMINER: Can you try to point out for me as
15 you go through this, which ones are after the last - I only have
16 notes up to the September 26th neighborhood meeting.

17 MS. MORALES: Okay. Okay.

18 ZONING EXAMINER: So if there are things in here that,
19 that come in at the November meeting and the subsequent meeting

20 -

1 MS. MORALES: Sure.

2 ZONING EXAMINER: - can you point those out?

3 MS. MORALES: That's actually pretty easy because that
4 meeting was focused on traffic.

5 ZONING EXAMINER: Okay.

6 MS. MORALES: So when I get to that, I will talk
7 specifically about that, and I can tell you more. But, but the
8 notes that you have up to that were the general meeting, and
9 then this was just a follow on to specifically look at the
10 traffic.

11 So, so noise is, is a concern that we have heard from
12 the neighbors. Again, I think I misspoke before. I said six-
13 foot wall, but the five-foot wall is what is actually required
14 by code between the commercial use and the neighborhood. We
15 have, again, agreed to that eight-foot wall to increase the, the
16 size, or height of that to again provide another noise buffer.

17 And, and we also agreed, you know, in relation to that
18 wall, because an eight-foot wall is rather imposing-looking, we,
19 we agreed to a lighter earth-tone color and having some of that
20 vegetation in front of it, obviously graffiti resistant. And we

1 do actually have a rezoning condition that we have agreed to
2 that requires the McDonald's employees to patrol rather
3 vigilantly for graffiti as well, and to make sure that that's
4 cleaned up within a minimum - or maximum of five days. So all
5 those things are, are working toward that, that wall.

6 But we've also - this - the speaker technology has
7 come a long way. If you've been through a more modern drive-
8 through lately, it's not the squawking thing that you used to
9 hear that you have to yell at people to get your order through.
10 The technology is, is much better.

11 And one of the really great things about the
12 technology is that it can be - the volume reduces, based on the
13 ambient noise. So if it's a quieter day or quieter time of the
14 day, then the noise, or the speaker volume can be reduced so
15 that there's not that full on, old kind of style of the speaker
16 that, that we all have seen in the past.

17 We also, and this is something that's new that I'd
18 like to submit to you tonight, again, in regard to the, the
19 concerns about the noise. We had a acoustic specialist noise
20 expert, LLC, do a noise study of that to, to analyze both the

1 ambient noise that's happening now in the area, as well as the
2 projected noise that would come from the use.

3 And, and the project noise is, is generally the noise
4 from the, the drive-through window speaker and the idling of
5 cars in the parking lot. So those were the things they
6 analyzed. What you'll see is that there's a lot of ambient
7 noise now, and that's as a result of the high level of traffic
8 that's going on 22nd and Alvernon right now. So we're in the
9 upper 50's to lower 60's decibel range both day and night.

10 Again, all that's in the report, so I don't want to go
11 over it in too much detail. But, but the result of their tests
12 - and they also took into account the walls, the mitigation,
13 everything that we're doing when they, they projected what the
14 noise that would result from that was, and that noise is in the
15 upper 30's to 40 decibels.

16 So it's well under the actual ambient noise that's
17 already there, and would be masked by every other noi- - all the
18 other noises. And that's actually the case levels day and
19 night. So, so I just wanted to submit that for the record and
20 point that out for -

1 ZONING EXAMINER: I'm gonna admit it into the record,
2 but I haven't had time to review it, and I don't -

3 MS. MORALES: Right.

4 ZONING EXAMINER: This is the first time it's actually
5 been presented to anybody? I mean -

6 MS. MORALES: Right.

7 ZONING EXAMINER: Okay.

8 MS. MORALES: Right. Yeah.

9 ZONING EXAMINER: All right. Thank you.

10 MS. MORALES: So back to that. So, so that's how
11 we've addressed the, the concern about the noise. Again, the
12 parking lot that we are - the parking area that we're proposing
13 for the rezoning doesn't have the speaker on it. It doesn't
14 have any of the store use on it.

15 The dumpsters, everything else is off site from the
16 rezoning site, but we've agreed to go ahead and do these
17 additional things, this speaker technology, all the other things
18 to mitigate that use even though it's off site of the rezoning.

19 So the other thing I kind of covered in a lot of
20 detail already, but the landscaping, the setbacks. Again, the

1 ten-foot landscape buffer's what's required. We're going over
2 and above that. We're trying to put the vegetation in. We're
3 preserving those sahuaros in place, and working with the
4 neighbors to try to do things that are what they would like to
5 see in their neighborhood.

6 I did see a comment in one of the, the comment letters
7 that one of the parties did not want to see an eight-foot wall,
8 and that, that is the first I had heard of that. I - we had all
9 agreed on that, I thought at that time. So, so that, I -
10 obviously, eight feet is what we said we'd do. If there's
11 something lower than that that someone would like, there's no
12 resistance on this end. We're happy to agree with that.

13 Security, again, is something that is a concern
14 overall in the neighborhood. And, and certainly a concern for
15 us as the - or, and the future owners of this restaurant. And,
16 again, typically on a McDonald's, they do video monitoring of
17 the store.

18 So the doors, the building, right around - or the area
19 right around the building. They don't typically monitor the
20 entire site. But that's something that we heard from the

1 neighborhood that they wanted to see. They wanted to make sure
2 that there weren't people loitering or doing inappropriate
3 things in the parking lot.

4 So the operator has agreed to go ahead and install
5 security cameras to cover the entire parking lot, the entire
6 site. So those will be sighted so that they cover that and that
7 the store manager can see that at all times what's going on
8 throughout the entire property.

9 And, again, I alluded to this before, but the
10 employees are actually mandated in, in the zoning conditions and
11 the operator has agreed to go ahead and send the employees out
12 throughout the site at least five times a day and to pick up
13 garbage and make sure that the site is neat and clean, that it's
14 weed-free and that, and that there's no graffiti on the site.

15 So that is something that McDonald's prides itself in
16 keeping a neat site. If you'll - I know you've seen them all
17 around town, I, I can't think of one that, that is not clean and
18 neat at all times on the outside. So that's something they take
19 a lot of pride in, and that was an easy thing to agree to that
20 we're happy to provide. Again, landscape lighting is another

1 thing on De Palmas. I talked about that before.

2 Odors and, and the related concerns about the
3 dumpsters were something that we heard in the meetings and
4 something that I saw in the protest letters. And, so that's
5 something we have been able to address in that we don't - we
6 would not be storing grease in, in the dumpsters like some of
7 the older fast food restaurants do or, you know, any restaurant
8 actually.

9 The, the grease would actually be stored inside and be
10 able to be pumped out and, and a lot of that is that you can
11 recycle some of that now, and, and use it for alternative fuels
12 and things like that. So there's not gonna be the stinky,
13 greasy grease traps or things sitting outside anymore. That
14 would all be enclosed.

15 And then the food cooking is something we also heard
16 from the very first meeting, and there's this technology called
17 eco-vents that basically scrubs the air as it comes out. So you
18 don't smell that constant smell of cooking that comes out of
19 that. So McDonald's has agreed to go ahead and install these
20 extra odor-control vents, vents that are over and above what's

1 already required by code.

2 ZONING EXAMINER: I know that at the - one of the
3 meetings, people asked for locations in Tucson that had those
4 eco-vents so that they could see what they smelled like. Were
5 you able to provide those?

6 MS. MORALES: We don't have any of those currently at
7 any, any of the McDonald's restaurants. So we didn't have that.
8 What I had been told at - after one of the neighborhood meetings
9 is that that's what they had done over at El Con Mall, I believe
10 with what used to be Crispy Creme and is now Chick-Fil-A. So
11 we, we didn't actually have exact locations of that, but that's
12 what I understood from speaking with some other people.

13 And then, and then the dumpsters, they will be fully
14 enclosed. There were some concern that animals would be perhaps
15 attracted to the garbage and attracted to the food smells. With
16 the, with the eco-vents and the fully-enclosed dumpsters and the
17 monitoring to pick up trash and everything, we believe that that
18 was - that should not be a concern, that they won't have any
19 opportunity to get in and try to eat any of the garbage or, or
20 be attracted to it in the first place. Again, they'll be

1 designed to look attractive and look complimentary to the rest
2 of the site.

3 Lighting is, is obviously a concern to, to people that
4 live in the area, and we fully agreed to do downward-directed
5 lighting, the cutoff fixtures so that there isn't the spillover
6 of light. There's actually quite a lot of ambient light already
7 on that intersection because of the lighting along the street
8 and, and the other businesses in the area. But what we're
9 proposing will not contribute any additional spillover light
10 onto De Palmas or onto the adjacent residential property to the
11 east.

12 Again, obviously, we need to meet the dark sky
13 requirements. We're kind of going over and above that with the
14 cutoff fixture. And then this leads us to why we had that last
15 neighborhood meeting over at Council Member Kozachik's office.

16 One of the things that after all was said and done and
17 we'd agreed to all these conditions and done all these different
18 things that - we had done our traffic report. The traffic
19 report basically shows that there's a very negligible increase
20 of traffic, like 21 trips and 14 trips in the peak hours over

1 and above what was already there with the gas station use. So
2 it's, it's a very small difference, and very small amount of
3 traffic in relation to the already existing traffic on the busy
4 arterials of 22nd and Alvernon.

5 But one of the things, and as I pointed out before,
6 there was concern that people would be going out onto Alvernon
7 and taking a right turn on Alvernon. They'd have to take a
8 right turn 'cause it's right in and right out. But then turning
9 onto Palmas coming back east to make their way back, back to
10 22nd Street rather than going to Alvernon, making a U-turn to
11 get back to 22nd Street to either go southbound or westbound, or
12 eastbound - westbound on 22nd, to get back to 22nd Street.
13 There was a concern about that.

14 So what we had talked about at some of the previous
15 meetings were that, you know, we explained to them the
16 neighborhood mitigation program that there was an opportunity to
17 provide speed humps, things like that could be, could be traffic
18 calming.

19 We heard from the neighborhood that that was not a
20 desirable solution to deal with any potential cut-through

1 traffic. One, because of the way - and let me turn back real
2 quick to the site plan.

3 Because of the way that we've directed that, this is
4 not going to be the highest traffic driveway. The, the idea is
5 really when people come through, they come through the driveway,
6 they come down, they come out and they go back out to 22nd
7 Street, and we'll have to do the right out.

8 Now if someone really wants to go northbound on
9 Alvernon Way, they, they do have the opportunity to come out, go
10 back around and come back out onto Alvernon to go right. If
11 they do choose to do the right out to Alvernon, come into De
12 Palmas back down to one of the other side streets to get back to
13 22nd Street, that's about four-tenths of a mile around there to
14 get back. So it's quite a, a large distance.

15 From what we've heard from in particular the, the
16 neighbors that live, the neighbor that lives in this area, the
17 real concern that they had was that that would happen not so
18 much during the day, but, but at night. And the reality is that
19 when the nighttime hours, the later hours, that's actually one
20 of the lower volumes of not only the traffic within the

1 restaurant, but it's also the lower volumes on Alvernon and
2 22nd.

3 So we feel that those areas would not necessarily -
4 that time of the day would not necessarily force someone into a
5 situation where they have to go almost a half a mile out of the
6 way to get back to 22nd Street.

7 The turning movement that would be most direct on a
8 lower traffic time, absolutely would be to come up Alvernon, do
9 a U-turn and, and back down to get southbound on Alvernon or to
10 go back to 22nd Street, if they chose that route.

11 ZONING EXAMINER: Isn't there also a U-turn
12 opportunity on the other side of 22nd - on the west side of 22nd
13 west of Alvernon? Just -

14 MS. MORALES: Yes.

15 ZONING EXAMINER: Just over there.

16 MS. MORALES: It's - yeah. It's, it's - this, this is
17 the median break up in this area -

18 ZONING EXAMINER: Yeah.

19 MS. MORALES: - right here.

20 ZONING EXAMINER: And then there's another median

1 break -

2 MS. MORALES: And there's -

3 ZONING EXAMINER: - just to the west of this
4 photograph.

5 MS. MORALES: Yes. Over here.

6 ZONING EXAMINER: Yeah.

7 MS. MORALES: Yeah.

8 ZONING EXAMINER: Okay.

9 MS. MORALES: Yeah. Sorry. My photo doesn't go quite
10 far enough. So, so those were the concerns. And, and honestly,
11 after we had, we finished that meeting in September, we felt
12 like we had mitigated every concern we'd heard except for this
13 one.

14 So we, we got together with Council Member Kozachik,
15 and he suggested that we go ahead and have that meeting at his
16 office and we were grateful for that opportunity to do that.
17 And we invited Mr. Jesse Soto from Transportation Department,
18 particularly to talk about in more detail about different
19 mitigation techniques that would be available to prevent this if
20 this were to become a problem in the future.

1 And one of the suggestions that we'd heard at several
2 of our different meetings was potentially closing off Camino De
3 Palmas at Alvernon Way and just making that dead-end at that
4 location. And let me turn real quick to show you what Mr. Soto
5 had brought to that neighborhood meeting was, was what that
6 would actually look like, and this is his graphic that he's let
7 us use.

8 But if, if that was a solution to close off Camino De
9 Palmas, it would actually have to turn into a cul-de-sac to have
10 adequate turning radiuses and turnarounds, especially for not
11 only cars, but the garbage and everything else that would have
12 to come through there.

13 This is what that minimum bulb (sic) would look like
14 to be able to do that, so there's not really room there with the
15 existing office building to the north, and it was just - it's a
16 very difficult thing to do.

17 What he had suggested in that meeting was there's some
18 alternatives other than, you know, he brought up the speed humps
19 and again, I think we heard at that meeting that that was not a
20 - something that the majority of the people would like to see on

1 that.

2 And then talked about the idea of the (inaudible),
3 the, you know, shortening, closing up and, and having those
4 little bump-outs along the street to calm the traffic and narrow
5 that cross section 'cause it is a 60-foot right-of- way right
6 now.

7 And then his other suggestion of something that could
8 possibly, you know, mitigate this concern that, that is out
9 there with the neighborhood that there would be that right turn
10 into the neighborhood from Alvernon would be to do the
11 (inaudible) or the bump-out. Sorry, I'm probably not using the
12 right terminology and he's here to bail me out if you have
13 technical questions about that. But, but, yeah, to do a bump-
14 out so it prevents that right turn into there.

15 So we're willing to work with them at that meeting.
16 It was actually a pretty low turnout. As I said, one of the
17 women that wanted to be there, one of our neighbors directly to
18 the north was not able to be there, so they followed up with an
19 individual meeting.

20 But, but from what I heard at that meeting, none of

1 these were really solutions that they wanted to see. So we
2 didn't take it a lot further than that, but we did have that
3 meeting particularly to discuss that.

4 So, just - I know I've talked a lot. So just to wrap
5 up real quick, it's, you know, this is - the commercial use is
6 there now. The commercial zoning is there now, so the
7 McDonald's store is already an allowed use. All we're asking
8 for is the additional area for the parking.

9 The site is actually big enough for a typical
10 restaurant, the fast food restaurant that doesn't have a lot of
11 indoor seating space, doesn't have the play place, doesn't have
12 a lot of the amenities that a, that a modern McDonald's would
13 have, like, say, more like a Taco Bell or something like that
14 could fit a drive-through on there without the extra parking.

15 But, but this, this store, this proposal is, is for a
16 nicer restaurant that can be a community gathering place that,
17 as you - you probably know if you've ever been in the one down
18 on, further down on 22nd Street, they attract a lot of people
19 from the park. There's a lot of families that go, go the zoo,
20 go to Reid Park and then end up back at the restaurant.

1 So, so those indoor seating areas and those play
2 places are very important to, to the user and very important to
3 this. And that's the reason why that we need the additional
4 size of the store which results in additional parking.

5 Again, Plan Tucson, as Mr. Moyer pointed out, talks
6 particularly about neighborhood (inaudible) at major
7 intersections. And, you know, areas that are gonna stabilize
8 that transition and that edge.

9 The down zoning to a parking zone allows the, the down
10 zoning and the restriction of uses as you get closer to the
11 neighbors, provides a transition, and converts what's now a
12 vacant dirt lot and a house that's been a rental property for a
13 while, into a clean, neat, low impact use on that edge.

14 Again, cleaning up a blighted property, I've talked to
15 several property owners in the area. The gentleman that owns
16 the parcels, the vacant parcels that are for sale just to the
17 east would really like to see that 'cause it's really, he feels
18 it's inhibiting his ability to sell his parcels.

19 The office - turn back to my aerial. I can use this
20 one. This office building is actually, just went back to the

1 bank, unfortunately. And the, the gentleman that owned it last
2 summer that we talked to was very supportive because he felt
3 that that was not a desirable thing for his tenants in that
4 building.

5 The gentleman that I talked about that sent in the,
6 the other protest has the next office building just up, and the
7 same thing. He does not like to drive by and see that blighted
8 area on the, on the corner, and he would love to see something
9 neat, and modern redeveloped on that site.

10 Again, we've heard a lot from the neighbors and you
11 saw a lot in the, in the letters about concerns about existing
12 problems with security. And a lot of that, I believe, comes
13 from that fact that that's vacant now. This adding those eyes
14 on the site, adding people there, and adding the lighting and
15 the security will help that and, and, you know, there's a
16 concern that that would push that further into the neighborhood.
17 So that's why we've done some of those things like the security
18 lighting on the back of, of De Palmas also.

19 Again, the noise levels, I'll let you peruse that
20 noise study. But the bottom line is that the noise that's being

1 created here will be masked by any of the already high, fairly
2 high levels of ambient noise that are in the area because of all
3 the traffic and the amount of cars that are coming by on both of
4 those arterial streets.

5 Again, transition between the commercial that's
6 already allowed and existing residential, and if you're familiar
7 at all with how McDonald's is in the, in the community, they are
8 a neighborhood partner, they do want to be a good neighbor.

9 We've tried to address, you know, every concern that
10 we've heard, and it's unfortunate that we're still here with
11 some protests. But we do feel like we've gone a long way to
12 addressing those concerns. And as usual, I've talked a lot, so
13 I'll stop and let you ask some questions.

14 ZONING EXAMINER: Can you go back to the slide, the
15 aerial that shows the -

16 MS. MORALES: You want (inaudible)

17 ZONING EXAMINER: - the actual - the site plan aerial.

18 MS. MORALES: Okay.

19 ZONING EXAMINER: Yeah. So currently the C-1 parcel
20 which is the, the north-south -

1 MS. MORALES: Uh-huh.

2 ZONING EXAMINER: - parcel, that could sustain a fast
3 food restaurant such as the type that's across the street, the
4 fried chicken, the Jack In The Box.

5 MS. MORALES: Right. If you look at the footprints of
6 those, they fit in here, and that could be done and no
7 mitigation at all would be needed without the rezoning. It
8 would - it's allowed on the site.

9 ZONING EXAMINER: Yeah. And how, but that, that would
10 not be the kind of, the model of fast food restaurant that
11 you're seeking to (inaudible)

12 MS. MORALES: Correct. Correct. It would not - it
13 would have to be a much smaller store. What - oh, and one of
14 the things I didn't point out as I was talking. This is a brand
15 new type of drive-through system. It's designed for, for speed,
16 frankly. It's designed to move cars quickly through that area.
17 It's actually a dual turning lane. It's brand new.

18 The, as I mentioned about the speaker system before,
19 but the idea is to not have cars idling here any longer than
20 they have to. So it's a very quick service, very quick

1 turnaround to get cars through here to get their orders, get
2 them down in here.

3 There's also different waiting, so if you have a
4 special order that's taking longer, or a particularly large
5 order, there's mitigation for that so that it doesn't back up
6 the whole thing, and back cars back further.

7 So I'm looking for my notes as to how fast, what's the
8 average service that you're looking at? Ninety seconds. Thank
9 you. I thought that was right. And that 90 seconds from start
10 to finish when you enter that, to getting out of that. So I'm
11 glad you brought that site plan back up 'cause I forgot to
12 mention that.

13 ZONING EXAMINER: And, and while we have it up, you're
14 providing 57 spaces. What's the requirement?

15 MS. MORALES: We're required to have - we have three
16 additional. I'm sorry. We have three additional spaces over
17 and above what we would need.

18 ZONING EXAMINER: All right.

19 MALE SPEAKER: (Inaudible)

20 MS. MORALES: Oh. Oh, yes. Thank you, Scott. Scott

1 (Inaudible) from McDonald's has pointed out that because of the
2 condition that requires no additional parking that I believe
3 conservation sustainability had put in, we are taking those
4 additional ones out. So with the latest iteration of the
5 development plan, that was a very recent thing that we've done
6 was take those out.

7 ZONING EXAMINER: Do you have, do you have an idea of
8 which spaces you're contemplating on this site plan?

9 MS. MORALES: The ones up in here, right?

10 MALE SPEAKER: (Inaudible)

11 MS. MORALES: We're not sure at this point, but we are
12 flexible. So if you have any, any suggestions on that, I think
13 that, that the idea is we could take some of them out along this
14 area.

15 ZONING EXAMINER: Okay. And, just indulge me this
16 question. The vacant property to the east that's for sale.

17 MS. MORALES: This one?

18 ZONING EXAMINER: Yeah. That's also residentially
19 zoned property, I believe.

20 MS. MORALES: It's R-2.

1 ZONING EXAMINER: R, R-2.

2 MS. MORALES: R-2 right now. The gentleman that -
3 well, we were hoping he would - I don't think he's here tonight.
4 He actually speaks very little English, but he and I had a
5 chance to chat in my best Spanglish after the, the first meeting
6 that he is, is considering pursuing a rezoning on that to either
7 an office or commercial use as well. Not sure he has any users
8 yet, but he was, he was looking at that rather than a
9 residential use along 22nd Street.

10 ZONING EXAMINER: Do you know if your client ever
11 contemplated acquisition of that property for their parking
12 rather than the (inaudible)

13 MS. MORALES: Yes. We, we did actually look at that,
14 and the configuration was, was very difficult to get every - the
15 circulation in there and make it work because then you end up
16 with a very small area. And here with a tight turn to get in,
17 and it - we did look at it, and it, from a configuration
18 standpoint, it just did not flow well.

19 ZONING EXAMINER: Okay. Let me just - for those of
20 you who have questions, I don't take questions from the

1 audience. I will - oh, you just want me to speak louder.

2 Okay.

3 (Inaudible comments.)

4 ZONING EXAMINER: Okay. Let me just say that for the
5 record because -

6 MS. MORALES: You can hear me, right? I've been
7 trying to - oh, you're okay. Oh, yeah, you hear me.

8 ZONING EXAMINER: Okay. I'll, I'll make an effort to
9 speak directly into the microphone. I apologize.

10 MS. MORALES: It's my advantage of being a little
11 short, so I'm right here.

12 ZONING EXAMINER: Usually I have a loud stentorian
13 voice that people complain about, so -

14 MS. MORALES: It's true.

15 ZONING EXAMINER: But I will - I'll try to make an
16 effort to speak directly in here. And as I said, if you have a
17 question about the case, I'm gonna have to call you up.

18 MR. KONTOVAS: (Inaudible)

19 ZONING EXAMINER: I'm gonna take, I'm gonna let people
20 speak as long as they need to speak that - in order to say

1 things without being repetitive and irrelevant. But I, I don't
2 have a time limit on what people come up and speak.

3 So don't - it's, it's not like everybody just gets
4 three minutes to speak. You get to say your peace and I may
5 stop you if you go on for too long, but I'll try to give
6 everybody a chance to, to speak. All right. I'm sure there's
7 gonna be other questions.

8 MS. MORALES: Absolutely. I'll be happy to get back
9 up afterwards. Thank you.

10 ZONING EXAMINER: Thank you. Anybody else wishing to
11 speak at this time in support of the application? All right.
12 Now, anybody wishing to speak against the application? Just a
13 show of hands. Okay. So we have a few people here. I'm gonna
14 try to get to you in a fair manner. Sir, right back here. The
15 one who just spoke. If you can come forward.

16 What I ask you to do is you come forward, sign in,
17 speak your name to me so I can write it down for my notes. I
18 want to make sure that I have everybody's name and that I can
19 call you by your name.

20 MR. KONTOVAS: Name is Demetrius Kontovas.

1 ZONING EXAMINER: Kontovas?

2 MR. KONTOVAS: Kontovas, K-O-N-T-O-V-A-S. I'm a
3 property owner exactly behind the present McDonald's and we're
4 speaking of relocation of a business.

5 ZONING EXAMINER: Okay. And if you could speak into
6 the mike as well. But that's if - if you did hear him, that's
7 exactly what I want people to do when they come up. Just tell
8 me your name, where your property is, and that's what I just
9 heard, so that helps me out tremendously.

10 MR. KONTOVAS: I'll repeat. My name is Demetrius
11 Kontovas. I'm a property owner just behind the present
12 McDonald's. And we are here speaking of rezoning to accommodate
13 the relocation of McDonald's which is two city blocks on 22nd
14 Street to the west of what they propose today.

15 My objection to the rezoning is for the purpose that
16 it's done, and I have questions as to what will be done with the
17 vacancy and the consequences of the present location. That's my
18 main concern.

19 ZONING EXAMINER: All right. Thank you. And if you
20 have questions like this, like Mr. Kontovas, then I'd ask you to

1 ask them to me. I'm gonna write them down and then I'm gonna
2 invite the Applicant back up and we'll, we'll talk about that.
3 All right. I saw a hand over here. Ma'am? Yeah, come on up.

4 MS. SANDOVAL: I'm Jennifer Sandoval, and I live in
5 the property directly north of the home that is to be
6 demolished. So needless to say, I have lived there for 16
7 years.

8 As much as the gas station was available to people for
9 24 hours, it was closed at 10:00 P.M. for people who wanted to
10 stop and buy something. When they pulled in, they could use
11 their debit or credit card, and they did turn their engines off.
12 So it's very different than idling engines.

13 The City, and the reason I moved into the neighborhood
14 is the City has put millions of dollars into Randolph Park and
15 the Reid Park area making it a family area, putting in the zoo,
16 the golf, the outdoor drama department, the pottery, the sports
17 area. It's a very vital, very expensive area for the City to
18 maintain, and they've put in a beautiful family area.

19 Fast food, not my favorite thing. I'd like to point
20 out on our side of 22nd and in our block, there is not a fast

1 food restaurant. They have not infiltrated into our residential
2 area until this proposed one.

3 I, of course, look at my child, my mother who doesn't
4 walk as fast as she used to, my dogs, my cat, and of course,
5 more traffic coming down the street endangers all of them. I
6 also, of course, am very concerned for my sleep. I'm not very
7 happy when I don't sleep.

8 And I understand decibels and I understand that if
9 currently 22nd and Alvernon is actually as loud at night as it
10 is during the day, which is what it sounded like, it's in the
11 50, 60 decibel range, that surprises me, 'cause I don't sleep as
12 well during the day, I'm sure, with the noise that it would be
13 at night. Adding to that noise, even if it is at a lower
14 decibel, does not make less noise.

15 Imagine your neighbor having that all-night party
16 every night 365 days a year, that's reasonably well-behaved, but
17 always in the background. That's how I picture the drive-
18 through at McDonald's. And, of course, for me, I am going from
19 having a home across the street, which is really a lovely home.
20 I know they call it a rental, and it is a rental, but it's

1 really maintained very nicely, has beautiful sahuaro in the
2 front yard, which hopefully they will keep, and a palo verde
3 that blooms absolutely beautifully. And that is my view.

4 My view, if this proposal goes through, is an eight-
5 foot wall with some vegetation in front of it. And we all know
6 property value-wise, view matters. Granted, I'm not on the 34th
7 floor in Manhattan, but view does count.

8 My home happens to be built with a crawl space
9 underneath it, so my floors are higher than most homes. So an
10 eight-foot wall for me is like a six-foot wall. And I heard
11 many, many times that we agreed to an eight-foot wall. My
12 understanding to the meetings that I went to, we were asking for
13 a 10 or 12-foot wall.

14 Perhaps an agreement was made at a meeting that I did
15 not attend, but I know we were asking for a very high wall so it
16 could not be jumped over, and it would maintain noise. We
17 actually also at one point, asked for a wall that would come
18 towards them, so it would enclose the sound acoustically. Also

19 -

20 ZONING EXAMINER: Is that the comment I saw about -

1 MS. SANDOVAL: Yes.

2 ZONING EXAMINER: - the angle at the top?

3 MS. SANDOVAL: Exactly.

4 ZONING EXAMINER: Okay.

5 MS. SANDOVAL: On the top so it would keep the noise
6 inside. And I was up in Sedona recently and their McDonald's
7 has a lovely turquoise M, and their lighting is turquoise, and
8 they did that because of the night colors. That has not been
9 mentioned at a meeting 'cause of course my Sedona trip was very
10 recent. But it was lovely, and people stopped to get their
11 picture taken next to it, so I'm not sure it's a real good idea.

12 And this morning, being the person that I am, I
13 stopped at the McDonald's on Campbell close to Fort Lowell which
14 is built in this design with the two drive-through lanes. It
15 also does have the third window up front for those who take
16 longer. And I thought, let's see how this works.

17 So I went in to get my oatmeal. And I pulled into the
18 lane that looked like it would be the best lane for me to go
19 into to get through the quickest. There was a car at the
20 speaker, there was a car at speaker in lane one, I was in lane

1 two. There was a car behind, car behind. I pulled into this
2 one, another car pulled in here.

3 The car at the speaker, I heard her give her order,
4 and she pulled up and two cars pulled in front of her because
5 she was very polite and actually waved the second one through,
6 not really understanding the whole concept of how this was
7 supposed to work. Okay. Second person went up to the
8 speaker, and in the meantime, before that second person moved,
9 eight cars had gone through lane one. This person was sitting
10 here getting angry and started yelling at the speaker that, of
11 course, was very nicely turned down low. I could not hear the
12 speaker whether it was on or not. But, of course, I was behind
13 her.

14 My engine is running. Her engine is running. Eight
15 cars have gone through, and by the time we got up to the window,
16 they did apologize, which is lovely, but it doesn't stop the
17 fumes.

18 And I went through. When she got up to the window,
19 the one that was in front of me, it took a while for her order,
20 and I thought, "Well, they should push her up to the third

1 window," which no one did. She got her order. She pulled out.

2 And as we pulled out, there were two cars in the
3 front, parked in front of the restaurant rather than at the
4 third window, waiting for their orders. So out of those eight
5 that came through, two were parked in front waiting. The third
6 window was not being used, and I thought this didn't look like a
7 great solution for me. It certainly didn't get me my food any
8 faster.

9 And feeling in the middle of the night, as these cars
10 are coming through, I know that south of 22nd down on Palo Verde
11 is a big machinist industry. There's a lot of people that start
12 work at 5:00 A.M. Of course their reason for being open is to
13 catch these people on their way to work so they get their
14 oatmeal, too. But at 4:30 in the morning, if they're going to
15 get to work by 5:00, if they're all coming through that drive-
16 through, it's gonna be jammed.

17 So I find the idea of a fast food restaurant coming
18 into our residential neighborhood that I've absolutely loved for
19 16 years that I moved into because the City had put millions of
20 dollars into this area to make it a very safe, fun family area,

1 I find it horrifying.

2 I will say the McDonald's people have, as well as
3 Kelly. I realize she doesn't work for McDonald's, have put
4 forth many meetings trying to talk to us, trying to let us know
5 what's been going on. And I do appreciate that. And I thank
6 you for your time.

7 ZONING EXAMINER: Thank you. All right. More hands?
8 Ma'am, you want to come forward?

9 MS. SUSAN DARKO: My name is Susan Darko. I live at
10 3942 East Camino De Palmas, and we're actually gonna do kind of
11 a tag team thing here just because of some circumstances with my
12 health today. You need to tell them who you are, please.

13 MS. STACEY DARKO: Oh. My name is Stacey Darko, and I
14 live at the same address. One thing I'd like to do first and
15 foremost is respond to the presentation. Is that allowable?

16 ZONING EXAMINER: Yeah.

17 MS. STACEY DARKO: Okay.

18 ZONING EXAMINER: You can give me your thoughts on
19 that. But I would request you keep it factual rather than
20 personal.

1 MS. STACEY DARKO: Okay. I'll just maybe add it into
2 what we have written down.

3 MS. SUSAN DARKO: Well, I, I would like to add
4 something to what Jennifer just talked about, because I think
5 it's really important, and it is part of a letter that we're
6 also going to present as well as present - give the copy to you.

7 When Jennifer was talking just now about the traffic
8 coming in, and the McDonald's over on Campbell and Fort Lowell,
9 looking at this, looking at this same diagram coming in off of
10 22nd Street in the morning, and if that's the two accesses onto
11 two- -- off of 22nd Street into the drive-through lanes, if you
12 get any amount of cars coming in there, you are now in the
13 right-turn lane for the people that will be going westbound on
14 22nd Street trying to access northbound Alvernon. And I can see
15 if that backs up that far, that it's going to impede that
16 traffic. It seems a little -

17 ZONING EXAMINER: I apologize. I'm trying to
18 visualize this.

19 MS. SUSAN DARKO: Okay.

20 ZONING EXAMINER: Just walk me through it.

1 MS. SUSAN DARKO: Okay.

2 ZONING EXAMINER: Your concern is that as -

3 MS. SUSAN DARKO: Traffic is going to be westbound on,
4 on 22nd Street.

5 ZONING EXAMINER: Traffic is westbound on 22nd Street.

6 MS. SUSAN DARKO: They're going to be turning into one
7 of those two access - probably the very furthest east one to get
8 into the drive-through lanes -

9 ZONING EXAMINER: Okay.

10 MS. SUSAN DARKO: - as well as people coming in to
11 dine in, in the morning, in the evening, whatever time of day
12 you're talking about. Where they're going to be coming in is
13 actually a right-turn lane for people to be turning northbound
14 on, onto Alvernon. So now you have people accessing any
15 restaurant or any facility there as well as people trying to
16 turn.

17 And if that, if, if traffic backs up from either the
18 drive-through or people just accessing the parking, then you're
19 gonna have people out onto 22nd Street not only holding up those
20 people trying to make a right turn, but people on 22nd Street.

1 I see it as a dangerous situation, i.e., there's a place on
2 Campbell and Broadway, the new Starbucks. It's been there for
3 years. Have you ever seen that in the morning?

4 ZONING EXAMINER: That was, that was what came to
5 mind. Yeah.

6 MS. SUSAN DARKO: Yeah. I can see that being a
7 potential hazard right there. And since I'm talking about
8 hazards right now, and it is part of our letter a little further
9 in, the access, the one and only access back onto Alvernon is
10 right there by a bus bay.

11 Now if you've ever tried to make a left off of 22nd
12 Street eastbound onto Alvernon northbound, it's two lanes, and
13 the bus does have a little access to pull over there. But to
14 get into it, because it appears to me that that, that access
15 into McDonald's - sorry. The access into McDonald's is actually
16 north of the bus bay.

17 If you have a bus stop there, how do you know that
18 they're not gonna come back out? And if you're turning in, who
19 has the right-of-way? If you have cars coming out and a bus
20 there, where is that right-of-way again?

1 Another dangerous situation, especially if you have
2 cars trying to get in, trying to get out. You have a bus stop
3 there, and I can guarantee you that there are quite a few people
4 there accessing that bus stop, both morning and afternoon.

5 In the evening, I've walked to Walgreens. There are
6 people waiting there at that point in time. It just seems like
7 a real dangerous situation to have such a high volume restaurant
8 of any kind on a major intersection as we have there. And I'm
9 going to stop at that point, and we're going to read the letter.

10 ZONING EXAMINER: Okay.

11 MS. SUSAN DARKO: So I'm, I'm just -

12 ZONING EXAMINER: No, I -

13 MS. SUSAN DARKO: It's medication.

14 ZONING EXAMINER: I understand that, as you mentioned,
15 you're not feeling well. I appreciate that you come out to
16 speak under that circumstance.

17 MS. STACEY DARKO: So -

18 (Inaudible conversation.)

19 MS. SUSAN DARKO: Let me do it. Okay. Basically,
20 this is a family letter, and it goes, and it basically goes, "We

1 the, we the Darko family, living at 3942 East Camino De Palmas,
2 the Palmar Subdivision, Block, Block 10, Lot 9. We're lived
3 there for nearly 40 years. It'll be 40 years next June, 2015."

4 "And we are adamantly, adamantly opposed to the
5 rezoning of the property adjacent to ours, 3926 East Camino De
6 Palmas for the purpose of becoming a parking lot for the fast
7 food company known as McDonald's, or any other food business or
8 any company that is open 24 hours a day, and most, most of the
9 year. So basically 24/7 almost 365, as I hear it. Please tell
10 our elected officials, Mayor and Council, 'no' on the rezoning
11 request."

12 "The first neighborhood meeting was held on June the
13 9th by the Planning Center at the Randolph Community Center, and
14 there was a larger group of people that came out, not only from
15 our area but from surrounding neighborhoods as well. At that
16 meeting, no one expressed that they were in favor of the
17 relocation of the McDonald's existing east on 22nd Street -,"
18 sorry, lost my (inaudible) here. "- to the northeast corner of
19 Alvernon and 22nd Street."

20 "For this - for some unknown reason, this project was

1 then put on hold. We were told that the next neighborhood
2 meeting, September the 21st - September the 25th, held at the
3 Randolph Golf Complex."

4 "We are of the viewpoint that the quality and
5 integrity of our neighborhood would be negatively impacted and
6 comprised. Any rezoning changes approved by the Mayor and
7 Council would not be a win-win decision. It would benefit
8 McDonald's but not our neighborhood."

9 "Therefore, we are opposing the rezoning from R-1 of
10 the property at 3926 East Camino De Palmas and O-3 for the
11 property to the immediate south of this property to P zoning, a
12 parking lot. And the reasons below, but they're not limited to
13 why we oppose."

14 MS. STACEY DARKO: And it doesn't - these, all these
15 reasons are very important, so it's not like in order of
16 importance. Basically this rezoning (inaudible) would
17 negatively affect our neighborhood property values, especially
18 ours because it would be on the other side of our wall.

19 Next one is the increase in foot and vehicular traffic
20 in the neighborhood will also decrease our personal safety and

1 increase vehicular pollution and - which would basically mean
2 that the quality of our air would be nasty in our immediate
3 area.

4 MS. SUSAN DARKO: I'd like to interject something at
5 this point. Before, when there was - we've had gas stations on
6 there for probably the 40 years that we've lived there. Before,
7 it was a Texaco station.

8 And the quality of air at that point was so horrendous
9 every time they would come and fuel the tanks. And we finally
10 got something done about that. It took a very long time through
11 the Pima County Air Control. We see this as starting all over
12 again.

13 MS. STACEY DARKO: Next is the traffic flow that we
14 feel that will be increased on our street from drivers who would
15 like to go back around east on 22nd Street, or south on Alvernon
16 Way, again, creating noise, pollution and safety issues on our
17 now quiet and safe street.

18 ZONING EXAMINER: So I just want to distinguish. The
19 first traffic concern was generally in the area. And your next
20 concern is on your -

1 MS. STACEY DARKO: Right. Like the first -

2 ZONING EXAMINER: - on (inaudible) street.

3 MS. STACEY DARKO: - the first thing that my mom was
4 pointing out with the in's and outs and the traffic backup, and
5 - on 22nd -

6 ZONING EXAMINER: Okay.

7 MS. STACEY DARKO: - and Alvernon. There's, there's
8 all kinds of different pollution. Another concern that we have
9 is noise pollution will also increase not just from, you know,
10 the, the speakers that they were talking about, even though they
11 are now more modernized. But there's also noise pollution such
12 as people talking, or yelling, or loud music from, you know,
13 people waiting in line to, to get their food.

14 There's also general car and truck and motorcycle
15 noise, not to mention the large trash removal trucks and large
16 delivery trucks every day and every night. It is from our
17 understanding from a recent meeting at the Ward 6 office that
18 any traffic mitigation comes out of the neighbors' pockets.

19 Any traffic mitigation reduces our personal freedom as
20 drivers in our own neighborhood. We have a huge concern about

1 the increase, the increase of insects and rodent population, or
2 other critters not presently in our neighborhood.

3 Next is unsightly tall walls that will inhibit our
4 view of sunsets and mountain views that we have to the west, and
5 in general be aesthetically displeasing. In my opinion, there
6 are no walls tall enough to block the view of McDonald's.

7 We already stated this one. Cars could become backed
8 up on 22nd Street trying to turn into the McDonald's and impede
9 vehicles wanting to turn, to turn north from 22nd onto Alvernon.
10 Also within our neighborhood, like how I drive every morning,
11 turning up Longfellow, which is just the side street to the east
12 of, the first block east, is called Longfellow.

13 Turning up Longfellow to turn right onto 22nd Street
14 might get backed up due to the overflow of traffic trying to
15 turn into McDonald's. Next is that we - there is a perfectly
16 good home next to us. There's -

17 MS. SUSAN DARKO: And the home next to us has actually
18 been lived in for the last three years, I believe, from renters
19 and such. They keep it nice. I can't see demolishing something
20 that someone would have a roof over their heads. It just, it

1 just seems criminal.

2 MS. STACEY DARKO: And, and it has -

3 MS. SUSAN DARKO: (Inaudible) to be a parking lot.

4 MS. STACEY DARKO: And it has been occupied for years,
5 different renters, but it still has been occupied.

6 MS. SUSAN DARKO: We'd also like to suggest that when
7 you were asking, I believe a little earlier about the lots that
8 are along 22nd Street that are for sale, there's a new sign on
9 the south side of 22nd Street just east of all of the other fast
10 food locations that says five acres available.

11 I believe that would be a better place to place any
12 kind of, of fast food restaurant or any type of restaurant where
13 it's already established, not in a neighborhood.

14 MS. STACEY DARKO: We have a concern, of course, of
15 potential increase of vandalism in our neighborhood from people
16 walking through the neighborhood at night to go to the
17 McDonald's or coming from the McDonald's. Potential graffiti,
18 theft, break-ins.

19 There's a daycare facility that is at the corner of
20 22nd and Longfellow within the - within a block of the proposed

1 McDonald's. Again, we think that this is a huge safety issue.

2 And then lastly -

3 ZONING EXAMINER: Is that the Learning Bee?

4 MS. STACEY DARKO: Uh-huh.

5 ZONING EXAMINER: Okay.

6 MS. STACEY DARKO: Yes. And then the other is, is the
7 night - the, the lights. And I mean we do understand that
8 McDonald's will install night lighting to minimize any kind of
9 light overflow. But again, there's only gonna be a wall that
10 separates my house - my home from this.

11 MS. SUSAN DARKO: (Inaudible)

12 MS. STACEY DARKO: No. Just my writing. I'm not
13 done. Well, just one last thing, like I want - I would like
14 for, for everyone in the room to consider the following -

15 MS. SUSAN DARKO: Okay. What we would like you to
16 think about was something that we brought up with our neighbors,
17 even the ones we spoke to someone on a street just north of us
18 who when the wife came out, she said, "But we like McDonald's."
19 And, yes, I used to eat there, too.

20 And she said, and now it would be easier for them to

1 walk there. And I said to them, or actually Stacey said to
2 them, "Would you like McDonald's on the other side of your
3 wall?" And she goes, "Well, no, I wouldn't."

4 MS. STACEY DARKO: So if this were your home, you
5 know, would you want to have a McDonald's or any other fast food
6 business literally next door to you? We don't. We don't. We
7 don't want this at all. We would love to see something put in
8 there.

9 MS. SUSAN DARKO: Absolutely.

10 MS. STACEY DARKO: A park, a mini-park.

11 MS. SUSAN DARKO: Office buildings.

12 MS. STACEY DARKO: An office building that's 9:00 to
13 5:00, you know, 8:00 to 5:00, 6:00, whatever. Absolutely no
14 food. Absolutely nothing 24 hours. Absolutely nothing that
15 would require the rezoning, the tearing down of a house to
16 rezone.

17 MS. SUSAN DARKO: We're done. This is a copy that
18 (inaudible)

19 ZONING EXAMINER: All right. Thank you.

20 MS. STACEY DARKO: Thank you.

1 ZONING EXAMINER: Thank you. Mr. Mayer. And I'm -

2 MR. MAYER: Mr. Kafka, -

3 ZONING EXAMINER: - sorry to interrupt you, Mr. Mayer.
4 I'm admitting the letter into the record.

5 MR. MAYER: Good evening. My name, for the record, is
6 Mark Mayer, address 3361 East 23rd Street. I'm here on behalf
7 of the Julia Keene Neighborhood Association as Co-Chair. There
8 are a number of other residents from Julia Keene here this
9 evening, and including Demetrius, who's already spoke.

10 We are firmly opposed to this rezoning request, and it
11 seems in terms of the Applicant's team, there's been a certain
12 amount of tone deafness because I've been to two of these
13 neighborhood meetings, and have been to many of these types of
14 meetings over the years, and I've never seen such universal
15 opposition expressed in a neighborhood meeting that somehow
16 through some kind of alchemy gets reduced into these various
17 atomized concerns that somehow can all be satisfied.

18 In general, we have dual concerns. Number one, the
19 subject location of the development site is catty-corner to our
20 northeast corner of our neighborhood. The intersection of 22nd

1 and Alvernon is probably the intersection our residents drive
2 through more than any other intersection in the area. It's on
3 the way to the Fry's supermarket in the Randolph Center on the
4 south side of 22nd down a little ways from this site. And
5 certainly going anywhere throughout the community to the north
6 or, or east, you travel through that area.

7 And what's being proposed in just general terms,
8 before I get into the planning, is the character of the area is
9 being proposed to be dramatically changed. And I believe it was
10 Ms. Sandoval touched on this earlier.

11 On the north side of the street, first three blocks
12 there are some vacant parcels, but that's three-eighths of a
13 mile. But the existing development is an office building and a
14 daycare center and, and the zoning and planning is consistent
15 with that.

16 And going north on Alvernon for a full mile, it's
17 almost entirely single-family residential, multi-family
18 residential and office building type development with the
19 exception being the Double Tree and the Circle K and that little
20 area. And, of course, across the street is all of the

1 recreational facilities.

2 Just because we're talking about intersections of
3 arterial roadways, or being on arterials does not dictate we
4 have to have the most intensive uses at every corner in the
5 city. And I'll get into some of the detail. But we need some
6 relief from that. We don't want 22nd Street, which further east
7 is, is much more of a replica of long stretches of Oracle or
8 Speedway. It doesn't have to have that character the entire
9 length of 22nd Street.

10 Now the second half of our dual concern is the
11 existing McDonald's. I personally live 85 feet from that
12 property. We have three other Julia Keene residents here.
13 Again, Demetrius touched upon this, and I think you'll hear from
14 one more speaker in that regard, is that we do not want to have
15 another vacant building on the perimeter of our neighborhood.

16 The, the commercial site, C-1 zone, backs right up to
17 homes, and we've seen what's happened throughout the area where
18 you can kind of take a parade going down 22nd Street a little
19 bit, bit west of Country Club, you may well remember that from
20 the cell tower issue, we've got that vacant El Campo there.

1 That has been vacant for, I'm gonna guess about eight or ten
2 years with no prospect in the near to medium term for
3 redevelopment. And has been a magnet for various kinds of
4 damage and graffiti.

5 Then we move a little bit to the east, to the
6 southeast corner of Country Club and Alvernon (sic). We have
7 what was redeveloped as Arco AM/PM in about the late 1980's.
8 And that location has been vacant and has been fenced and has
9 been a total graffiti magnet now for, I'm gonna guess about four
10 or five years.

11 And then we have residential along the frontage until
12 we get to the existing McDonald's. And the existing McDonald's
13 do not want to overstate that it's a perfect neighbor, but the
14 property is kept up, it's open. We don't have a bunch of fences
15 surrounding it or security. And you don't see graffiti on that
16 property.

17 Well, let's keep going east, and then next door we got
18 a smoke shop. And then after that we got a tattoo shop that's
19 been all kinds of problems. Then we got another vacant property
20 that for many years was a liquor store, and we've had extremely

1 negative circumstances with liquor licenses in the immediate
2 area that I'll touch on a little bit more.

3 Then if we want to get over on the Alvernon frontage,
4 we've got the very large Cactus Bowl is vacant. We've got a
5 service station that has been vacant for many years before the,
6 the mega QuikTrip, Circle K stations drove some of the others
7 out of business like the Shell at issue. That is, I believe, at
8 Juarez and Alvernon.

9 And then you go to the end of that commercial strip.
10 We've got an abandoned radio tower and what was once a radio
11 station decades ago. That building hasn't been used for many,
12 many years. So we got - the input - the impact of this is we
13 got a very soft real estate market.

14 The existing McDonald's is C-1 zoned. And we see that
15 as being vacant and, and potentially fenced and, which didn't,
16 at the Arco AM/PM stop the graffiti there at all with the
17 construction fences. And this is right behind our homes and so
18 this isn't talking about something that's entirely new
19 construction. We're, we're talking about vacating one location
20 to move to another.

1 And if this seems like this is pure conjecture, which
2 I certainly do not think it is, all you have to do is look at
3 the McDonald's that was vacated at 7202 East 22nd Street about a
4 long block to the east of Kolb. And that remained vacant for
5 about a year and a half.

6 And now it has some sort of contractor use in there
7 with tall fences and some of the things that go along with that.
8 And there's a massive ghost sign that's never been taken down.
9 And, and, and it was for the exact same scenario here of moving
10 off of one location on 22nd and building a new McDonald's at the
11 southwest corner of Kolb and 22nd.

12 And so that's a healthier economy out there. Maybe
13 not by a lot, but certainly than, than in our area. And that
14 stayed vacant for a year and a half and, and had a, a, a use
15 that is more contractor-oriented.

16 So these are, are two really big concerns, the dual
17 concerns of we have two negatives for our area. And I want to
18 get into the planning a little bit. This simply, this proposal
19 simply does not -

20 ZONING EXAMINER: Before you do that, let me just -

1 MR. MAYER: Sure.

2 ZONING EXAMINER: I want to see if I've got this down.
3 The first concern is the neighborhood concern regarding the
4 character of the area. Think this is gonna be a dramatic
5 change, this proposal is a dramatic change.

6 MR. MAYER: Yes. On the northeast quadrant of 22nd
7 and Alvernon.

8 ZONING EXAMINER: That, that's primarily residential
9 and recreational. The -

10 MR. MAYER: Office.

11 ZONING EXAMINER: - commercial side is really the
12 south side of 22nd.

13 MR. MAYER: Yes.

14 ZONING EXAMINER: And then the second concern is that
15 although this would be taking away a blighted property, the gas
16 - been a gas station at the corner, it would be a net - there
17 would be no net gain, a zero sum -

18 MR. MAYER: A zero sum gain.

19 ZONING EXAMINER: - because you'd have another
20 property (inaudible)

1 MR. MAYER: You might say just moving the chairs on
2 the deck of the Titanic.

3 ZONING EXAMINER: Okay. All right. Now - sorry to
4 interrupt you.

5 MR. MAYER: There's no problem at all. And I would
6 reiterate the point that I believe Ms. Darko made about there's
7 a unusual large amount of geography on the south side of 22nd
8 east of Alvernon, it's all hard zoned C-2, and there's plenty of
9 room for intensive development there.

10 And our neighborhood has not really raised its voice
11 on any of the development there. And so there's certainly,
12 within the community, there is plenty of land available within
13 this general area of Tucson for more intensive uses.

14 ZONING EXAMINER: Well, before we get too far down
15 that road. There is a part of this, I mean this is hard zone C-
16 1, talking about rezoning for the parking. But there is a hard
17 zone C-1 parcel on that corner.

18 MR. MAYER: And sure. And, and, and as I indicated,
19 I'm assuming you received our five-page letter, and that's in
20 your -

1 ZONING EXAMINER: That's part of the protest?

2 MR. MAYER: Yes.

3 ZONING EXAMINER: I, I had your protest form which
4 said, and there's an attached -

5 MR. MAYER: That, that would be a forthcoming -

6 ZONING EXAMINER: Let me just make sure. I have yours
7 stating that a more detailed letter would be coming.

8 MR. MAYER: It's on Julia Keene Neighborhood
9 Association letterhead.

10 ZONING EXAMINER: Okay. I think I - I have the
11 Colonia Solana one. I don't see the Julia Keene one.

12 MR. MAYER: Well, it was hand-delivered and -

13 ZONING EXAMINER: Okay.

14 MR. MAYER: - dated stamped, photocopy retained.

15 ZONING EXAMINER: Well, that's, that's why we mention
16 these things. Let's make sure I got it in the file.

17 FEMALE SPEAKER: (Inaudible)

18 ZONING EXAMINER: There's a copy available tonight, so
19 let me just make sure that Staff has a copy as well.

20 MR. MOYER: If Mr. Mayer brought in a copy, I assume

1 we have it. I have not reviewed the (inaudible) protests, but
2 we can make sure it gets into the file.

3 ZONING EXAMINER: Okay.

4 MR. MAYER: Maybe we can get that clarified, but we -

5 ZONING EXAMINER: Yeah.

6 MR. MAYER: - have the date stamped receipt that was
7 brought in early Tuesday morning, hoping to give you three days
8 with it.

9 ZONING EXAMINER: And thank you for that. I, since I
10 already have your date stamped form that mentions that there's a
11 letter attached, I'm not gonna be worried that it comes in
12 later, I will make sure to review it. I'll make sure to have a
13 copy of it.

14 MR. MAYER: Okay.

15 ZONING EXAMINER: And actually if we have a copy
16 tonight, I'll take it, so -

17 MR. MAYER: Okay.

18 ZONING EXAMINER: All right. But -

19 MR. MAYER: Okay. (Inaudible)

20 ZONING EXAMINER: - review the contents of that for

1 me.

2 MR. MAYER: In, in some of these general concerns,
3 it's a soft market. Likely, the likely outcome for the short to
4 medium term is a property staying vacant for some time, and then
5 what are the alternative uses? We've had all these problems
6 with liquor licenses.

7 And one thing the immediate neighborhood is just
8 horrified is the prospect of another, of a drive-through liquor
9 window right over back fences. And I'm not going to take the
10 time to go through some of the kind of consequences we've had
11 from a past liquor license or past liquor licenses in that
12 immediate area.

13 I wanted to talk some about how this proposal simply
14 flat-out does not comply with the Alvernon-Broadway Area Plan,
15 and it should have gone through a plan amendment, and we're
16 giving the given reasons that are novel, inventive and for the
17 first time, why it didn't have to do so. Now the Alvernon -

18 ZONING EXAMINER: Let me help, let me help you out.
19 If you could focus, for me, on the plan, and what the plan says
20 rather than whether we're here mistakenly, because I can't

1 remand it to the Planning Commission. But I can say whether I
2 think it's compatible with the plan or not.

3 MR. MAYER: Okay.

4 ZONING EXAMINER: So that's probably where I want to
5 focus your energy.

6 MR. MAYER: I, I understand. There may be limits, you
7 know, that you can do and our recourse could ultimately be
8 somewhere else, but it's clearly not within the administrative
9 system on that issue.

10 But the reasons are that this is designated on the
11 plan for low density residential use. The plan has a parking
12 buffer designation, so this isn't a matter of interpretation or,
13 or getting into a discussion about what low density residential
14 use encompasses. The plan clearly has a designation for parking
15 buffer.

16 If the plan adopted by Mayor and Council had intended
17 to have the R-1 lot next to the Darkos' home be a parking
18 buffer, then it could have been designated in the plan as such.
19 But the plan did not so designate it.

20 Furthermore, looking into the plan, again, the letter

1 has a lot of citations and detail on this. The whole gist of
2 the plan, and I include a reference of the Planning Department
3 report to the, what was then called the Citizen Advisory
4 Planning Committee, which is called the Planning Commission
5 today, about how the whole gist of the plan, the whole genesis
6 of the plan was protecting single-family residential areas
7 because of the number of requests for redevelopment that were
8 coming in.

9 And that's what garnered support of all those
10 citizens, the Planning staff goes out and invites all these
11 people for 18 months of meetings, and that was the result of
12 that. And yet today we're being told the plan doesn't matter.
13 And I'll be even more pointed is that this is the first time
14 that this gambit has ever been attempted in the plan area
15 itself.

16 Only a mere couple blocks north of the site we're
17 talking about when the, the credit unions there, the dual credit
18 unions, the Arizona State Credit Union and there's one other
19 there, wanted to make their facility efficient and, and some
20 additional customer parking, that it had to go through a plan

1 amendment where there was a designation of parking buffer. And
2 then later there was a rezoning.

3 We also have - that was 1998, and I know full well
4 about it 'cause I was on the Planning Commission at the time
5 when that passed through the Planning Commission.

6 Our own neighborhood went through an identical
7 situation, the Goldman case which is now the Alvernon Donuts at,
8 I believe it's 1550 South Alvernon, or thereabout, an even side
9 of the street. That case. And again, the citation to the, the
10 case numbers is in your - is in this letter. That was a case of
11 an R-1 lot.

12 Now it wasn't tearing down, you know, people's homes,
13 and it had a street buffer on each side, but that had to go
14 through a plan amendment. And the neighborhood came to an
15 accommodation with the developer under the, you know, particular
16 situation there to not object to the plan because certain things
17 were woven into it that those R-1 properties have been used
18 possibly even before the, the Pima County Zoning Code was
19 adopted, but did not have development. It wasn't tearing down
20 single-family homes.

1 And if those seem - that was 2006, and if that seems a
2 long time ago, all we have to do is go forward to right now, we
3 have pending before Mayor and Council the Broadway Village case
4 where you have an O-3 property, and apartment buildings on it
5 that they want to designate for parking and convert to a rezoned
6 P zone and, and that went through a plan amendment. Matter of
7 fact, the Planning Commission hearing on that was just a few
8 weeks ago.

9 But it's hard for us not to think as the further south
10 you go, the more you go into lower socio-economic strata, there
11 just are different rules to the game. And that seems to be
12 what's going on here. I'll just offer that as speculation.

13 So I don't think there's any question that, that it
14 doesn't comply with both the letter and the intent. And, and,
15 Mr. Zoning Examiner, I'd be more than happy - it's not in the
16 record, I didn't bring it, but the Planning Department report in
17 1995, I'll be more than happy to supplement the record if, if
18 there's a mechanism to do that and provide it to the Applicant
19 if you, you know, so desire.

20 ZONING EXAMINER: I think if it's the supplement to -

1 this is staff report that is a supplement to the plan, in
2 support of the plan amendment at that time?

3 MR. MAYER: This was, this was the staff report when
4 the initial Alvernon-Broadway Area Plan went to the Planning -
5 what's now called the Planning Commission for consideration.

6 ZONING EXAMINER: In 1995?

7 MR. MAYER: Right. I just didn't get time -

8 ZONING EXAMINER: You don't, you don't need to submit
9 it because I can - it's a City record. (Inaudible)

10 MR. MAYER: Yeah. And I do cite the plan -

11 ZONING EXAMINER: Okay.

12 MR. MAYER: - verbatim, so -

13 ZONING EXAMINER: All right.

14 MR. MAYER: So then let's move along to the General
15 Plan. The General Plan is cited. It's, you know, generally a
16 sound principle to have some substantial uses at the
17 intersections of arterials.

18 ZONING EXAMINER: Let me ask if you're, you're citing
19 the newly-adopted Plan Tucson?

20 MR. MAYER: This is the Plan Tucson, that's correct.

1 And in that plan, there is a map. It's, you can kind of throw
2 out these platitudes of general planning, but in the map
3 specifically, the designations, what's referred to as the
4 Opportunities Map, the two designations are mixed use corridor
5 which runs along 22nd, including the frontage of this property,
6 and then the rest of the area behind that frontage is designated
7 Neighborhood Center.

8 Now when you look at the policies that are under the
9 review guidelines, it says that you can consider expansion of
10 commercial into the neighborhood if there are natural boundaries
11 like drainage ways, they cite in specific. Well, there's no
12 drainage ways or anything like that, or if the, the other one
13 they mentioned is streets.

14 Well, you obviously have a street, but there's no
15 street between the Darkos' residence and this proposed
16 development. So I mean clearly when you get beyond some general
17 planning concepts and into the actual planning of this, just
18 adopt the General Plan, it doesn't comply with those, those
19 provisions. And the specific provisions are cited in the
20 letter.

1 I also want to go back to whether this is really
2 appropriate for a P zone, in any event. I think when we talk
3 about P zone in general we're often thinking of this kind of
4 idyllic parking lot with, you know, a lot of those nice canopy
5 trees and, and it's maybe for an office building, and maybe a
6 lot of the spaces are used for someone that comes at 8:30 in the
7 morning and parks and is in work all day and comes back and get
8 their car. Maybe every once in a while, the insurance agent has
9 a customer to pull up and sedately park.

10 Well, that's not what this is about here. We have
11 three things going on with this P lot that I don't think there's
12 any specific guidance in the code. Perhaps there is and hasn't
13 been found, but what's gonna traverse the parking area access
14 lane that goes through the middle of this P lot?

15 Well, first of all, you're gonna have delivery trucks
16 going through there. It's clear, it's inherent with the design
17 in the Preliminary Development Plan that they may come in on
18 the, the, the inner lane, or maybe we'll call it the outer lane
19 that's not in the P zone. But the only way that you can get
20 into that loading zone is to go into the 45-degree angle feature

1 and then back in.

2 That means when that truck leaves, it has to go out
3 and come through the P zone. And if anyone around town has seen
4 those McDonald's trucks, we're talking semi-trailers here.
5 We see them all the time over our back yard fences.

6 The other thing is your waste hauling. It's the same
7 scenario. It might be reversed where it has to come in through
8 the P zone, and, and that's just not your low intensity parking
9 zone. And last, but not least, all you have to do is look at
10 the, the design.

11 Most customers for the drive-through lanes are going
12 to be coming in off of 22nd through the P zone to directly
13 access the drive-through lane. So that means a regular flow of
14 drive-through customer traffic that are not customers that are
15 parking, going in and eating and spending, you know, half hour,
16 45 minutes and coming back, but the, the, the whole flow of
17 drive-through traffic.

18 So I would submit that I don't think there's any
19 specific guidance on this, but it certainly does not seem when,
20 when staff cites that the P zone's for within residential areas,

1 I just don't think semi-tractor trailers, garbage trucks, and a
2 constant flow of people utilizing drive-through lanes is
3 appropriate.

4 Second of all, I do not agree with the Zoning Adminis-
5 -- Administrator's interpretation that you can have this
6 configuration in the C-1 zone, and that's detailed in the
7 letter, and I hope you can read that and give consideration
8 (inaudible) something still being looked at.

9 But you can only have one drive-through lane in the
10 C-1 zone. And it's obvious there are two lanes to go through
11 the ordering, but we count five service points altogether. And
12 I don't think this is what was had in mind if you go back enough
13 years ago to have this kind of exception for this quasi-outdoor
14 usage of having one drive-through lane in the C-1 zone.

15 So anyway, those, I think, are, are the salient
16 points, and we live in a neighborhood that's tremendously under
17 stress. We're on the flight path of the Davis Monthan Air Force
18 Base. We're dealing with all of those issues. As I've noted,
19 we have many vacant buildings, the commercial real estate market
20 is soft in this area, to say the least. And we just don't, we

1 don't need another burden in that regard of having another
2 vacant, empty building.

3 And the character of the northeast corner should be
4 preserved. The planning documents should be recognized in terms
5 of protecting the existing residential development, and as I
6 think you noted, there is hard C-1 zoning on a portion of that,
7 but I mean given the lot size and everything, it's not that
8 there shouldn't be commercial there at all, but it should be
9 something that, that is allowed in a way like you referred
10 earlier to smaller scale fast food restaurants even.

11 But ideally something more in your typical store, you
12 know, local store retail and office and it fits in with the
13 character of the area there and is not pushing into the
14 neighborhood to destroy existing single-family residential
15 (inaudible) So those conclude my comments, Mr. Zoning Examiner,
16 and I would particularly dwell on the improprieties of the way
17 this whole plan, this whole rezoning process was brought
18 forward.

19 ZONING EXAMINER: All right. Thank you for your
20 comments. I want to make sure to get the Julia Keene letter -

1 MR. MAYER: Here it is.

2 ZONING EXAMINER: - if you have - oh, you have it
3 already. Okay. Mr. Moyer, if you could grab that. Thanks.

4 MR. MAYER: If you'll excuse me. This was a copy from
5 one of the other Co-Chairs. It has, you know, scrap paper on
6 the back, but I have something -

7 ZONING EXAMINER: That's fine. While Mr. Mayer's
8 getting that, can I - who else wants to speak? Now let me just
9 ask. It's now 8:30. I'll - I'm here as long as I need to be.
10 But some of you, if, if some of you have to go and really want
11 to speak, I can let you come up and speak, but please respect
12 that other people are allowing that. So is there anybody who's
13 really pressed for time, needs to get home - okay. But, sir,
14 you're - do you want to add anything?

15 MALE SPEAKER: Yes. (Inaudible)

16 ZONING EXAMINER: Let, let me, let me get you on the
17 microphone so that we have a record of what you're saying. I
18 heard you say that you cut your time short.

19 MALE SPEAKER: I cut my time short so everybody had a
20 time to speak about their concerns. My concern about the

1 vacancy has many implications. That's why I left it to a
2 question. I think it's the responsibility of the proposal of
3 McDonald's to say, "This is what will happen to the current
4 property." It's across from a monument, the cancer survivors,
5 there are thousands of people that come there at the occasion of
6 that celebration, if you will.

7 And having a vacant property, because McDonald's want
8 to relocate three blocks down for convenience and acquisition of
9 property is improper, regardless of zoning. That's why my
10 question was, what will happen to the vacant area? Thank you
11 very much.

12 ZONING EXAMINER: Thank you, sir. All right. Ma'am,
13 you're standing up. You wish to speak?

14 MS. PATTESIN: Okay. My name is Ann Pattesin. I live
15 at 333 South Eastbourne Avenue.

16 ZONING EXAMINER: Is that Pattesin?

17 MS. PATTESIN: Pattesin.

18 ZONING EXAMINER: Pattesin, okay.

19 MS. PATTESIN: And I just want to express my concern
20 that you're changing a neighborhood plan or an area plan that

1 uses, that establishes buffers for the residential. And you're
2 trying to tear down existing and established and occupied
3 residential units in order to create parking. It's especially
4 concerning in this era where people are, the younger generation
5 is driving less than my generation does. Parking is generally
6 less needed because of that.

7 But mainly, I'm concerned about what seems to be a
8 trend, 'cause my neighborhood's got the same issue of commercial
9 interest encroaching into the established residential areas in
10 order to create more - rezone those areas for business, and
11 that's all I have to say. Thanks.

12 ZONING EXAMINER: Thank you. Anybody else? Ma'am?

13 MS. MILLS: Good evening. My name is Phoebe Mills and
14 I reside at 3915 East Paseo Grande, which is one street north of
15 Camino De Palmas. And our house is also on the map as well on
16 Paseo Grande.

17 And I basically just wanted to stand here and voice
18 that myself and my husband, who is also here, that we oppose,
19 and I strongly oppose what the proposed rezoning and building of
20 the McDonald's, and also to echo support of the different

1 concerns that were shared by our neighbors on Camino De Palmas,
2 and also in the surrounding community.

3 I share those same concerns and my husband and I, we
4 just moved there, it's almost two years ago, to our home on
5 Paseo Grande, and the number one reason why I wanted to move
6 there was specifically due the residential and recreational
7 character of the neighborhood and the immediate, in the San
8 Gabriel community.

9 And I see this proposal dramatically and negatively
10 changing our neighborhood, our community, and I think - I echo
11 the concerns about the concerns about pollution, for noise
12 pollution, air pollution, light pollution, environmental
13 pollution related to the - visual pollution and anything like
14 littering and things like that that could tie into the
15 environmental pollution as well.

16 And it's definitely a very serious concern to me how
17 the proposal does back up directly to the home of the family
18 that spoke earlier. And I don't think that's right. I think
19 that's a very significant concern. And I think it was somebody
20 who spoke before me and just speaking about that nature of the

1 commercial properties encroaching into our, our beautiful and
2 beloved residential, residential neighborhood.

3 And so basically I just wanted to share and echo the
4 concerns that I have, and that I strongly oppose the
5 proposition. Thank you.

6 ZONING EXAMINER: Thank you. Sir.

7 MR. MASSINGILL: Good evening. My name is Christopher
8 Massingill. I live at 3273 East 23rd Street.

9 ZONING EXAMINER: Can I just ask you to spell your
10 last name?

11 MR. MASSINGILL: M-A-S-S-I-N-G-I-L-L.

12 ZONING EXAMINER: Thank you.

13 MR. MASSINGILL: I live pretty much kitty-corner to
14 the existing McDonald's. I mirror Mr. Mayer's concerns about
15 that area becoming another blight, taking the corner of 22nd and
16 Alvernon and basically giving that to us.

17 I have three small children, and I, I strongly oppose
18 the, the rezoning for that, for that purpose. I've seen a lot
19 of changes happening just east of the McDonald's there in that
20 small strip. And I, with Mark, I - there's been a lot of issues

1 with the type of businesses going in there. I am strongly
2 concerned that we could get a, because of the convenience of
3 having that drive-through window having another drive-through
4 liquor store, something of that sort.

5 And we like to go to the park every single day. I was
6 all for the WASP light getting put in there, and I have to say
7 that McDonald's does keep a very clean area. The, the
8 landscaping is nice. It's, it's nice enough to walk by that and
9 we don't go there very often, but I, I just really don't want to
10 see anything else - anything worse happen to that corner.

11 That's my concern.

12 ZONING EXAMINER: Thank you. Anyone else? Sir. And
13 I think we, we have this portable microphone that you can use.
14 I think it's attached.

15 MR. DARKO: Oh, thank you. Oh, sorry. Is this
16 working? Good.

17 ZONING EXAMINER: Yes, sir.

18 MR. DARKO: My name is Louis Darko, and I live at 3942
19 East Camino De Palmas adjacent to the proposed rezoning. And my
20 wife and daughter read the letter that we collectively composed

1 that we are adamantly against this rezoning.

2 And one of the things that has really stuck in my mind
3 since I've been here is the gentleman in the red sweater next to
4 you, and I'm sorry, I don't remember his name, when he was
5 reading -

6 ZONING EXAMINER: Mr. Moyer.

7 MR. DARKO: - earlier, if I heard correctly, the
8 estimate is 685 customers a day coming through that, is that
9 correct? Is that what you read earlier because if that's -

10 ZONING EXAMINER: It's correct.

11 MR. DARKO: - true, which would be wonderful for
12 business, just means that much more noise and pollution and cars
13 going down our street, and the, the talk about the traffic
14 mitigation is totally against the way I feel about it because
15 any changes in the traffic as it is, is a loss of our personal
16 freedom to use our street both ways in, in all legal directions.

17 And so I just want to express my feelings that I
18 appreciate everybody's comments that have said things that are
19 in disapproval of this, this rezoning of those two lots to
20 parking.

1 The biggest thing was the 685 vehicles, I guess a day
2 or something. I mean can you imagine what percent of those
3 people are gonna want to go back east and, and, you know, it's
4 only a two-block move from where the McDonald's would be down
5 our street to Longfellow and back. So I don't think it's
6 anywhere near .4 miles as was indicated. I think that is quite
7 a stretch.

8 But anyway, so because of the additional traffic and
9 the noise and pollution and all that, I, I just think it's a
10 very poor idea for the quality of our neighborhood. And it's
11 getting late, so I'm done, and I thank you guys very much in
12 giving me an opportunity to express myself. Thank you.

13 ZONING EXAMINER: Thank you, sir.

14 MR. DARKO: Got it turned off. It's off now, right?

15 ZONING EXAMINER: It's off now, yeah. Thank you, sir.

16 MR. DARKO: Thank you.

17 ZONING EXAMINER: Anybody else wishing to speak?

18 Okay, ma'am. Yeah.

19 MS. MINKLER: Hello. My name is Jing Minkler. I live
20 on the northeast corner of Longfellow and Camino De Palmas. And

1 I've moved into the neighborhood for about two, three years ago,
2 and I'm not remembering, but (inaudible)

3 ZONING EXAMINER: Can I just ask you can you spell
4 your last name for me?

5 MS. MINKLER: M-I-N-

6 ZONING EXAMINER: M-I-N-

7 MS. MINKLER: -K-L-E-R.

8 ZONING EXAMINER: -K-L-E-R. Okay. Thank you. And
9 it's Jing?

10 MS. MINKLER: Jing.

11 ZONING EXAMINER: Okay.

12 MS. MINKLER: Yes.

13 ZONING EXAMINER: Thank you.

14 MS. MINKLER: And my boyfriend and I live in our house
15 and we've done some remodeling and we really like our
16 neighborhood. And mainly, I just want to share the, the views
17 of our neighbors about what a bad idea this is. Our
18 neighborhood is not a McDonald type of neighborhood, not that I
19 want to put down McDonald.

20 Basically, my view is they sell very unhealthy food,

1 at very cheap prices which attracts the lowest socio-economic
2 people. There is teenagers who have a few bucks and they can go
3 to McDonald, hang around there.

4 It makes the neighborhood unsafe, and of all the
5 pollution and the traffic and - I share all those concerns. And
6 the, the neighborhood is, is a lovely single-family
7 neighborhood. It's not a McDonald kind of high traffic business
8 environment.

9 And if you look at the surrounding structures in the
10 neighborhood, there's the golf course and there's a big round
11 walk- -- walkway around Reid Park and it's, it's, it's a family
12 environment that we can enjoy. And this is gonna bring in lots
13 of traffic, lots of pollution and lots of risky and unsafe
14 potential.

15 And I see the sole purpose of this is just to, for
16 some McDonald owners to make a few extra bucks, okay? And at
17 the expense of ruining our street, and ruining our neighborhood,
18 and I beg everyone that's gonna make the decision to think about
19 that there's more, other more important things in life than
20 money. And that's what I have to say. Thank you.

1 ZONING EXAMINER: Thank you. I think there should be
2 a second page there. All right.

3 MS. ORNELAS: Hello. Thank you for this opportunity
4 to speak. I'm also from - I'm Rita B. Ornelas, O-R-N-E-L-A-S.
5 I'm also Co-Chair of the Julia Keene Neighborhood Association,
6 as is Mark Mayer.

7 I also have an additional letter from another Co-Chair
8 of our association, Rhonda Lane and her husband Chris Lane that
9 I will turn in. And first of all, her concerns are with the
10 effects of what's going to happen with the building right now if
11 they sell it. Those are very big concerns for them. They live
12 across the street from Mark on 23rd Street, and they're also
13 worried about the building that's gonna go, supposedly, on 22nd
14 and Alvernon.

15 I have a twofold purpose here. I agree with the
16 opposition to the parking - the rezoning, and to the McDonald's
17 there on that corner. One of the biggest things that I see is,
18 of course, a corner is very important, and McDonald's would take
19 advantage of that to make more money which that's what a
20 corporation does.

1 But at that corner, the way that they have it there
2 and with that neighborhood, that is not a good mix for that
3 neighborhood. The traffic itself, if you've ever been on
4 Alvernon going north and south, there's times of the day that it
5 is back-to-back traffic, solid from Broadway all the way to 29th
6 Street. And that is not an easy thing to get in and out of and
7 especially with the bus stopping right there in front of
8 McDonald's that would go in there.

9 The traffic on 22nd Street is very, very heavy. If
10 people are going to come out onto 22nd Street from that one
11 entrance, exit, whatever you want to call it to try and get onto
12 22nd Street to wherever they're going, that is going to create a
13 lot of, I believe, traffic accidents. And we're talking about
14 families with children. We're talking about older people. Just
15 a lot of people.

16 And they would most likely have to turn into the right
17 lane and have to turn right onto Alvernon, whichever way they're
18 going to go. A lot of people will want to try to get through
19 all the different lanes to get to the lefthand lane to turn left
20 to go south onto Alvernon. That will be very dangerous, very

1 dangerous situation.

2 Trying to get out of it on the Alvernon side is going
3 to be dangerous also because of the buses there, they can't see
4 another car coming. And once the bus is gone and they go, they
5 have to wait for a lot of traffic, and people are gonna get very
6 frustrated. They're not gonna want to come back to this
7 McDonald's just because of the traffic.

8 I, myself, like the McDonald's that we have in our
9 neighborhood in the Julia Keene Neighborhood. I know their food
10 is not very healthy. I happen to enjoy their breakfast. I go
11 there a lot for breakfast, even though it's not healthy.

12 But I see a lot of elderly people there that meet
13 regularly for breakfast. A lot of families that take their
14 children there after school, during the day, whenever. I see
15 students working on their computers. A lot of people in that
16 McDonald's.

17 It's a shame that that McDonald's wants to close,
18 because they don't have - they don't want to put enough money to
19 fix it. But they have enough money to build a new one. That
20 doesn't even make sense. That corner is just not suited for a

1 McDonald's, I believe, and so the rezoning for that parking
2 should not be approved, and that McDonald's should not go on
3 that corner.

4 These people that live in that neighborhood made very,
5 very good points. A lot of points that some of us wouldn't even
6 think about. And the letter that the two ladies read was
7 incredible. That alone should make everybody stop and think.

8 It is as very nice neighborhood and, and just like,
9 you know, and having all those delivery trucks and everything
10 else that's gonna go in there, plus you don't know what all is
11 gonna happen because that's a corner, and a lot of people are
12 gonna go in there, whether they're gonna go in there and eat
13 inside, or they're gonna drive through. A lot of people are
14 gonna get very frustrated when they don't get their order
15 quickly.

16 The McDonald's we have right now, to me, it runs very
17 smoothly. It's nice, polite, you know, the parking is good. I
18 enjoy this McDonald's and it's right across from the park.
19 McDonald's has, you know, whoever owns it, they have a right to
20 do whatever they want with their, with their property and, and

1 whatever.

2 But if they put stipulations that I've heard that they
3 don't want another restaurant to go in there if they sell it, I
4 don't understand why they would do that. It doesn't even make
5 sense. It's, it's almost like, you know, they're on purpose
6 trying to put something in there, or letting something go in
7 there that would not be a very nice thing for our neighborhood.

8 Our neighborhood has already been rundown a lot, and
9 it's getting worse and worse. And this would, this would make
10 it even worse. And I think that's about, that's about all I
11 have to say. I'd like to just submit this from Rhonda Lane and
12 her husband.

13 ZONING EXAMINER: Okay. Thank you.

14 MS. ORNELAS: And do I hand you the card or -

15 ZONING EXAMINER: I will collect the cards. There's
16 already a stack there and I'm gonna make sure that we collect
17 them at the end of the evening.

18 MS. ORNELAS: Thank you very much.

19 ZONING EXAMINER: Thank you. Anybody else wishing to
20 speak? Oh, if you could just flip it to the next page. I think

1 we have a line, sir. Sir, I'm gonna ask you, I think there's a
2 new page right underneath that. If you flip, flip the page on
3 the sign-in sheet. I'm sorry.

4 And is there a name at the top of that sheet already?
5 All right. I apologize. I just want to keep everybody's name in
6 order so that the transcriptionist gets the accurate testimony.

7 MR. ORTIZ: Good evening. My name's Ivo Ortiz, and
8 I'm here representing my neighborhood association, which is
9 Barrio Centro which is west of the present McDonald's. And our
10 opposition concurs with what was stated here tonight and also
11 what's verbally and written in the protest forms which is mainly
12 the representative from McDonald's spoke of fixing the blighted
13 property.

14 But in that, they'll be creating another blighted,
15 blighted property which will be in the heart of Julia Keene
16 Neighborhood Association. And it's just not neighborhood
17 friendly, and it doesn't, doesn't belong. If it needs to be
18 rezoned, it means it just doesn't belong, and we just hope that
19 it, just the McDonald's stays where, where it's at. Thank you.

20 ZONING EXAMINER: Thank you, sir. Anyone else? Come

1 on up.

2 MR. MAYER: Mr. Zoning Examiner, I just have a brief
3 factual comment I wanted to add for the record. The Applicant's
4 representative talked about the McDonald's in our neighborhood.
5 The address is 3310 East 22nd Street as being a very old
6 McDonald's.

7 I don't know what their standard or meaning of that
8 is, but this location is one of the very old McDonald's with the
9 large golden arches, if you can remember the ones a little bit
10 like the St. Louis Arch that go to the ground.

11 However, that was demolished and the current
12 McDonald's was built in the late 1980's, so it's somewhere in
13 the neighborhood of about 25 years old. So whether that's old
14 or not, I don't know, but I think it should be made a matter of
15 the record that this isn't a 50 or 60-year-old building.

16 ZONING EXAMINER: Okay. Thank you.

17 MR. MAYER: Also, I remain very troubled about the
18 letter that was submitted that did not get into the record. And
19 I did provide Mr. Moyer with a copy, but it's a hybrid of one
20 that was - had other material on the opposite side. I do have a

1 copy of the date-stamped front cover, but I would like to get a,
2 a, a proper copy.

3 ZONING EXAMINER: Absolutely. I'll, I'll accept a
4 submission, you know, if you want to make sure that I get one,
5 you can, you can either drop one off tomorrow, fax one in, e-
6 mail a copy and have it forwarded to me from Staff -

7 MR. MAYER: Yeah.

8 ZONING EXAMINER: - and we'll get a confirmation back
9 to you.

10 MR. MAYER: I'll send a e-mail, a pdf file to both
11 Mr. Moyer and Mr. Beal, and hopefully between the two of them,
12 you will actually get a copy this time.

13 ZONING EXAMINER: Thank you. Ma'am.

14 MR. PRIOR: Hello. My name is Catherine Prior,
15 P-R-I-O-R, and I live at 3956 East Camino De Palmas, next door
16 to the Darkos. And I think I am the newest member to the San
17 Gabriel Neighborhood as I just purchased a property this last
18 month at 4029 East Paseo Grande. So I am both a tenant and a
19 homeowner in the neighborhood.

20 And I just want to say that I'm very concerned, even

1 though I'm very new to the neighborhood, I'm very concerned
2 about the changes being made to this corner. Especially with
3 the fact that we have five acres of commercial property right
4 across the street that is clearly zoned for commercial, and that
5 side of the street is already all commercial. There is no
6 residence where people living in homes have to be concerned.

7 My other issue is that I'm very concerned that
8 McDonald's Corporation is not showing that they are a good
9 neighbor, based on all the comments that I hear from the Julia,
10 Julia Keene Neighborhood who has, you know, expressed very
11 diligently that they didn't want to see McDonald's change
12 locations, you know.

13 And so as a retired realtor, I'm concerned as a new
14 homeowner about the potential impact to our property values in
15 the San Gabriel Neighborhood. And I'm also very concerned about
16 the property values for Julia Keene and Barrio Centro, you know,
17 that have become dependent on that McDonald's.

18 So, you know, I, I think that the best thing would be
19 to possibly scrap these plans and start looking at a lot that is
20 already completely commercially zoned. That would be the

1 appropriate thing. I realize that corporations now, because of
2 citizens united think that they are people, but they're not
3 people. And they don't belong in any residential neighborhood.

4 We don't need to rezoning, you know, R-1 and R-2
5 properties to accommodate corporations. I, I just think that
6 that's a step in the wrong direction. And like I say, my main
7 concern is that they're not being good neighbors to the
8 neighborhood that has supported them for the last 40 or 50
9 years.

10 So now they're moving into my neighborhood and into my
11 neighbors' homes and they're going to affect our property
12 values, and we're supposed to believe they're gonna be good
13 neighbors to us? I'm, I'm very much a do unto others type of
14 person, and I, I just - this doesn't wash with me, okay? Thank
15 you.

16 ZONING EXAMINER: Thank you. Anyone else?

17 MR. ACEDO: Hello. I'm Rick Acedo, and I thought I'd
18 take this moment just to be sure - I'd be remiss if I didn't.
19 The Darkos are my neighbors, Jennifer Sandoval. I'm a
20 businessman in Tucson. I understand what it is to have a

1 challenge like this in front of you, and, and hope that maybe it
2 works for everybody.

3 But I think McDonald's needs to spend a little bit
4 more time. If they succeed with this and if they don't, then,
5 you know, we did well opposing it. But if McDonald's succeeds,
6 maybe they could, maybe we could reconvene and meet with them
7 and spell out some things that could work both ways. And maybe
8 we're supposed to be at that point now, but I'm not sure.

9 If this does succeed, I think I would like a taller,
10 higher wall. I would definitely like for the Camino De Palmas
11 access from Alvernon to be not available, and - but again, we
12 gotta see something happen there. I've watched - I've lived
13 there for, I think 15 years, 10, 15 years, I don't know.

14 It's a, it's a good corner, but it is active with a
15 lot of different situations. Even with the police department
16 right across the street, we still live in a, in a very
17 interesting area there. So I think that the Darkos and myself,
18 'cause I'm - it's gonna be in my back yard, too, we're taking a
19 chance.

20 And I'm not sure where this goes from here, whether

1 it's - who votes on it or how it succeeds, but if it does, I'd
2 like to have one more opportunity to meet with these guys and
3 make sure that we get some of the things that we really like,
4 want in there besides landscaping buffers and whatever.

5 I just think that might help, and let's see, I can't -
6 at this - maybe there's more, but I'm in, I'm in a neutral spot,
7 because I'd like to see something nice go there, and I'm a
8 little angry that maybe the guys that are involved with this
9 right now have left that place in disorder. And if their
10 goodwill was their intent, they sure as hell haven't showed it.

11 It's turned into a parking lot, and there's Winnebagos
12 and everything else over there, and total disregard for
13 businessmen that seem to want to do something positive in there.
14 They've left it for the last six months like a very unorganized,
15 very dirty, trees and whatever. And if it wasn't for the
16 goodwill of some of the neighbors that we, that we have done
17 there, I haven't been responsible for painting the existing wall
18 there, just so that it fit in our neighborhood, and it, it
19 showed our goodwill and how we maintain what is our little
20 neighborhood, regardless of what social status it's at.

1 But I, I think the McDonald's does bring something
2 kind of neat to the, to the corner. I know they, they keep
3 things in good order as far as landscaping and so on, but - and
4 I'm sure they're gonna have their hands full with the strategy
5 of business.

6 But I just thought that if they do succeed, which that
7 might be cool, and if it doesn't, at least we could sit down one
8 more time, I don't know if we get that chance or not, to discuss
9 the final designs of the street access and the height of the
10 walls. Thank you.

11 ZONING EXAMINER: Thank you. Is it Rick Acedo? You
12 bring up a point that perhaps I'm not doing as good a job as
13 possible at clarifying about where we are in the process, and
14 maybe this is a good point just, good time to briefly say where
15 we are.

16 The Applicant's come before me with this rezoning
17 application, Staff's reviewed it, they've given me a
18 recommendation on it. This is a public hearing that I hold on
19 behalf of Mayor and Council. And we have several different
20 paths in front of us that are possible.

1 My report to Mayor and Council is either a report that
2 says, "I think this is a good plan, or it could be made good,"
3 or I give a report where I say, "I don't think it's a good plan,
4 I don't recommend it."

5 Or I continue tonight's hearing to another time, not
6 more than 30 days from now, to allow opportunities for more
7 information to be presented, or for more discussion to take
8 place. So that's where we are, just to make that clear. Ma'am?

9 MS. SCHILTZ: Good evening. My name is Mary Terry
10 Schiltz. I live at 326 South Stratford Drive in the Broadmoor
11 Broadway Village Neighborhood Association that's within a half
12 mile of this location, and we're extremely concerned.

13 I don't know whether you saw our neighborhood letter
14 of protest regarding the matter from Broadmoor Broadway Village.
15 This is what the letterhead looks like. I don't understand. I,
16 I, I am extremely concerned about the fact that these materials
17 somehow haven't gotten through to you. But fortunately, I'm not
18 one -

19 ZONING EXAMINER: This is the, this is the letter from
20 Broadmoor Broadway Village?

1 MS. SCHILTZ: Yes. Neighborhood Association.

2 ZONING EXAMINER: What's the date of that?

3 MS. SCHILTZ: It is the 14th, I mean the 16th. I'm
4 sorry.

5 ZONING EXAMINER: Okay.

6 MS. SCHILTZ: It was sent in this morning.

7 ZONING EXAMINER: It was - okay. So it was sent in
8 this morning, and -

9 MS. SCHILTZ: It was e-mailed.

10 ZONING EXAMINER: It was e-mailed. Who's the
11 addressee on the e-mail, do you know?

12 MS. SCHILTZ: Yes. It went care of John Beal.

13 ZONING EXAMINER: Okay. So we should have it, but I
14 would like to - I didn't get it in my materials, which I get a
15 few days beforehand. Actually I, I get the letters a day or two
16 beforehand, the materials I get a long time beforehand. So
17 hopefully, that's in the pipeline, but if not, and you have a
18 copy you can spare -

19 MS. SCHILTZ: Absolutely.

20 ZONING EXAMINER: - I'd like to see it.

1 MS. SCHILTZ: Yes.

2 ZONING EXAMINER: All right.

3 MS. SCHILTZ: I brought one just in case, but it's
4 perturbing to know that other neighborhood entire associations
5 (inaudible)

6 ZONING EXAMINER: Well, I'm, I'm confident it would
7 get to me if it was sent in. And now that you've mentioned it,
8 I'm gonna make sure, you know, so -

9 MS. SCHILTZ: Thank you.

10 ZONING EXAMINER: - 99% confident it would get to me.
11 Now I'll be 100% confident.

12 MS. SCHILTZ: Appreciate it. Thank you. I'm glad
13 you're aware of it now anyway. I had gone through the area
14 plan, and I haven't gone through every single neighborhood plan,
15 but our neighborhood is in the Arroyo Chico, which is just
16 adjacent to the Alvernon-Broadway Area Plan.

17 And we have concerns to questions as to why this
18 wouldn't require an amendment to the neighborhood plans and to
19 the area plan. Also it would be interesting to me to note to
20 what extent other neighborhoods under the same area plan are

1 included in meeting notifications and so on because this affects
2 numerous neighborhoods.

3 ZONING EXAMINER: All - it should be that all
4 neighborhood associations within a one-mile radius of the
5 proposed development rezoning are notified to the neighborhood
6 association.

7 But those letters are sent to the personnel that
8 that neighborhood association has registered with the City.
9 So there's an obligation on the neighborhood association to make
10 sure those are current, but they are sent out (inaudible)

11 MS. SCHILTZ: And some of these do encompass way more
12 than a mile. I mean -

13 ZONING EXAMINER: Yeah.

14 MS. SCHILTZ: - you know, you're talking a lot of
15 neighborhoods.

16 ZONING EXAMINER: Well, any neighborhood that's within
17 a mile touching, so it's even bigger than a mile, so -

18 MS. SCHILTZ: Okay. Thank you. Also with all the
19 meetings that are referred to by the Planning Center, I'd like
20 to know to what extent those were noticed and, and if everyone

1 was given ample opportunity to attend those.

2 And as a matter of record, I would hope to see
3 Minutes. I'd be very interested in seeing those. I did attend
4 the June meeting and as was expressed earlier, people were
5 adamantly opposed. There was no - no one there in favor of
6 what's going on except the people from the Planning Center.

7 I'd like to see on the record the attendees at each of
8 these meetings when they're just broadly sweeping in with so
9 many meetings, and whether some of these were initiated by the
10 Planning Center going door-to-door knocking on doors, 'cause I
11 know that has taken place in our neighborhood from the same
12 individuals involved this time. And then (inaudible)

13 ZONING EXAMINER: You know, for the sake of
14 convenience, I'm gonna try to answer actually some of your
15 questions. I, I get, and it is part of the record, when - as a
16 required neighborhood meeting that the Applicant holds is held,
17 there's a sign-in sheet, and I do get that sign-in sheet, and I
18 do get Minutes. They, they take the notes and Minutes and they
19 give them to me.

20 If they're not required meetings, then the material

1 may not get to me. So there were some meetings that were held
2 that were not required, and Ms. Morales detailed those in her
3 initial presentation. And that's why I'd asked her to kind of
4 inform me which ones came at meetings that were not the meetings
5 that were noticed.

6 MS. SCHILTZ: And are there Minutes?

7 ZONING EXAMINER: Those, those, those were not
8 necessarily required to be noticed, so -

9 MS. SCHILTZ: Okay. So are there Minutes of those
10 meetings?

11 ZONING EXAMINER: There are and they are part of the
12 record.

13 MS. SCHILTZ: And the people who were involved in the
14 meeting?

15 ZONING EXAMINER: Yes. Yeah.

16 MS. SCHILTZ: I don't mean just of the ones that are
17 broadly noticed, but I mean however many they're referring to a
18 number of meetings. I, I would just be interested. I'm one of
19 those people who likes to thoroughly analyze everything. I'd
20 like to just see -

1 ZONING EXAMINER: I only have the records -

2 MS. SCHILTZ: - all the material.

3 ZONING EXAMINER: I only have the records from the, I

4 believe the two meetings. The one in June, the one in

5 September. They're the only ones that are - that I'm required

6 to have a record of, and they're required to be in there. But

7 I'm sure if they have Minutes and records from those other

8 meetings, they would provide them if requested, yeah.

9 MS. SCHILTZ: Oh, that would be terrific. I would

10 appreciate it. Thank you.

11 FEMALE SPEAKER: (Inaudible)

12 MS. SCHILTZ: That's kind of what I assumed from what

13 you were saying, because certainly from what I can understand

14 and people I've talked with and neighbors and so forth, there's

15 widespread opposition of this. And I do have some of the

16 precise locations, but as Mr. Mayer pointed out, so we've

17 already heard some of this, so I won't go through too much.

18 But page two under the overview of the plan area is

19 referenced to the low density, single-family residential use,

20 and again, under the plan development and adoption. And I would

1 hope that there's considerable attention given to these plans as
2 is pointed out there on page four, there not only was the
3 Steering Committee from neighborhood and area residents,
4 property owners, representatives of neighborhood associations,
5 and business and development interests. So I mean it's a very
6 thorough process.

7 It says that it went on for over a year. And, of
8 course, with City Planning & Development (inaudible), it's very
9 serious matter to talk about a rezoning. And certainly rezoning
10 from R-1 to P zone is, is radical and extreme.

11 And there just doesn't seem to be any valuable reason
12 for that, and demolishing a residence in, in this type of
13 neighborhood when Plan Tucson also refers to the integrity of
14 neighborhoods and how important it is to maintain the character
15 and so on.

16 And again, under general goals, protect - or I'm
17 sorry, preserve and protect the integrity of established low
18 density neighborhoods, and so forth. And the safe and efficient
19 circulation system for all appropriate modes of transportation,
20 including pedestrian. This is all on page eight of the Area

1 Plan. Protect private property rights, and recognize deed
2 restrictions.

3 And then again, under residential policies, and there
4 are plenty more examples, where this would be contrary to the
5 policies stated in the Area Plan. On page 14 is again
6 preservation of the character of the low density residential
7 neighborhood within the area, and, and refers - goes on to refer
8 to the character of the surrounding neighborhood, and that this
9 - from the way most of us read it would be contrary, but you're
10 the expert.

11 I think pretty much anything else that I object to
12 probably has already been extremely well stated. We would urge
13 you to please turn down this proposed request for rezoning.
14 Thank you very much. And I have the letter right here
15 (inaudible)

16 ZONING EXAMINER: Thank you very much. All right.
17 Anybody else wishing to speak?

18 COUNCIL MEMBER KOZACHIK: You didn't swear me in. Do
19 you want to?

20 ZONING EXAMINER: Oh, did you not swear in when I

1 swore people in?

2 COUNCIL MEMBER KOZACHIK: Correct.

3 ZONING EXAMINER: Okay. Do you swear or affirm to
4 tell the truth, the whole truth and nothing but the truth?

5 COUNCIL MEMBER KOZACHIK: Yes.

6 ZONING EXAMINER: Thank you.

7 COUNCIL MEMBER KOZACHIK: And actually I just have a
8 procedural question I seriously don't know the answer to. The
9 question before you tonight is the rezoning of two parcels it
10 looks as though. You've heard a lot of concerns about the
11 parcel that's being abandoned a few blocks to the, to the west,
12 to the southwest.

13 To what extent does the vacated parcel weigh into your
14 decision? Can it, or are you really just focused on, on the
15 rezoning question here?

16 ZONING EXAMINER: It's a good question. It's one I'm
17 thinking about. I think to the extent that the Applicant is
18 relying on an argument that they are remediating a blighted
19 property, I believe that I can consider that the abandonment of
20 the other property could become blight, and that would be a

1 consideration I would want addressed -

2 COUNCIL MEMBER KOZACHIK: Okay.

3 ZONING EXAMINER: - to that extent.

4 COUNTY MEMBER KOZACHIK: Thank you. That was all.

5 ZONING EXAMINER: Thanks.

6 MS. SCHILTZ: (Inaudible)

7 ZONING EXAMINER: If you'd like to step forward, sure.

8 MS. SCHILTZ: I appreciate it greatly. Thank you. I
9 just - that triggered in my mind, I did mean to mention concerns
10 in terms of the environment and pollution and so forth and the
11 blight, and all forms of pollution, including noise as was
12 pointed out earlier.

13 But also to please take into consideration the
14 executive order from the President on environmental justice
15 because as numerous neighbors have pointed out tonight that
16 certainly applies here. This would be very contrary, and is
17 very much a concern for, for most of us. Thank you again.

18 ZONING EXAMINER: Thank you. All right. Ms. Morales,
19 there's been -

20 MS. MORALES: Summarize.

1 ZONING EXAMINER: - a lot of, a lot of commentary. I
2 don't think I'll be able to distill the comments with justice,
3 but I think starting with - and I have to, I have to write a
4 report, and one of the prime considerations that I have to weigh
5 is one that's been made, that many neighbors have made a point
6 of making is the integrity of the residential neighborhood.

7 MS. MORALES: Uh-huh.

8 ZONING EXAMINER: And all the plans at all levels say
9 that commercial development is appropriate if the plan preserves
10 and protects the integrity of the residential neighborhood
11 adjoining, and there are ways that were pointed out that that
12 could be achieved through natural borders. But here, I'm a
13 little perplexed. I'm having a little trouble, and maybe you
14 can guide me. This is a - it is a P zone -

15 MS. MORALES: Uh-huh.

16 ZONING EXAMINER: - but the arguments that are put
17 forward in opposition are appropriate, I think, in, in pointing
18 to concerns about how that P is used, how the P zone is used,
19 and that it will be used for traffic to traverse to the drive-
20 through. That there'll be trucks coming through there.

1 So this is a 24-hour fast food operation that's
2 supplanting a residential property that currently is there. So
3 that's the, the first issue, and how, how does this - and you,
4 you introduced mitigation efforts, but I think -

5 MS. MORALES: Right. Well, if, if I could just jump
6 in and clarify the one thing of the truck traffic. The
7 deliveries would actually come in. They would come in the
8 Alvernon entrance, and the trucks that are McDonald's corporate
9 trucks that, that are solely what they use for deliveries are
10 coming in in the right unload, or load and unload.

11 So, so the plan is actually for them to come in and
12 come across this driveway, and the loading area is in this area.
13 Again, we, as a mitigation technique, and as a mitigation
14 measure, working with Staff, we had to demonstrate that we could
15 do without encroaching upon the P zone, because again, the P
16 zone is restrictive in that we cannot do that. So, so that is
17 how that, that movement happens in this area.

18 So as far as the cars, I'm not aware of any
19 restriction of cars as a driveway in a P zone. Again, the cars
20 that are actually part of the drive-through operation, again,

1 Staff asked us to demonstrate, and we've actually moved that
2 from our very first plan.

3 Our very first plan, every plan we've presented has,
4 has had the drive-through lanes on the - solely on the
5 commercial site. They did not ever overlap onto the P zone, but
6 Staff asked us, "Can you move it? Can you add some more? Can
7 you make sure that even if this, in the unlikely event that it
8 all fills up, that you have additional stacking so even that
9 traffic would be off of the P zone?"

10 Again, we have no dumpsters, we have no - none of the
11 loading zones and none of the commercial type traffic. The only
12 thing that would be in here are personal cars, cars and
13 vehicles. It's not a loading area, and it's not a actual
14 stacking area for the operation.

15 I, I would submit that the mitigation that we have
16 done actually goes over and above - we have the transition,
17 which again is, is extremely restriction only to parking and the
18 driveway. But we've gone further than what a stand-only C-1
19 would have, would have had ever if, if this had not taken place,
20 if this request wasn't on the table.

1 The eco-vents, the, you know, the, the commitments to
2 the cleanup, the commitments to the wall. The wall height is
3 something that I'm a little perplexed on because our team all
4 thought that we had agreed on eight feet. That was not me
5 trying to say, "Oh, yes, they agreed to eight feet." That's
6 what we all thought. If, if, if ten feet is the number, I, I
7 need to hear that. But I also heard people saying they don't
8 want to look at a tall wall.

9 So I'm, I'm a little perplexed, so I need some clarity
10 there. But, but we're willing to work with that. Again, we
11 have always been willing to work with that. We've been willing
12 to talk about specifics about buffers, about more specifics,
13 about what the walls look like.

14 We've reached out, we have asked those questions and
15 we have gotten, "No, we don't want McDonald's here." That's
16 been the response. And it's very difficult for us to be able to
17 reach out and ask for those mitigation, what else we can do when
18 we get the, "No, this is not a use that we want here." So I
19 would submit that that, that has been really what has happened
20 ever since, you know, the very first meeting.

1 And I know, I know you have other questions, but I had
2 a couple other things that I wanted to clarify on the record,
3 too. That very last meeting that was held for, solely for that
4 traffic commitment, someone made a comment about that, "Well,
5 that's all putting it back on the neighborhood."

6 Well, the point of that meeting that we never got to
7 because, one, it was pretty low, low attendance meeting. I
8 think we had the Darkos and Mr. Mayer there. But the point of
9 that meeting was to say, "We can help with this." And what we
10 were prepared to offer at that meeting that night was - and I
11 even, I told them that at the end after they said, "No, there's
12 nothing you can do. We don't want any of those mitigation
13 things."

14 We, we were prepared to offer that we would do a
15 traffic study now, the way it is now. We have done the traffic
16 study, by the way. And you did, I hope, get a copy of the full
17 traffic impact analysis in your file. That was submitted with
18 the plan. If you did not, I do have a full copy of it here.
19 While you're looking for that, I'll keep talking.

20 But, but again, back to that meeting. We had said,

1 you know, we would, we would look at the traffic now, what's -
2 if there is any issue now with any cut-through traffic. And
3 then in, say, six months after the opening of this, we can go
4 back and study that. And if there's any indication that we did,
5 indeed, cause an issue with the cut-through traffic, then that's
6 - at that point in time, McDonald's would agree to, again,
7 details that need to be hammered out.

8 But we would agree to a X number of dollars that would
9 go toward that mitigation, whether, you know, what would be, and
10 the onus would have to be, again, on the neighborhood to agree
11 to those because we can't, on a public street, just say, "Hey,
12 we're gonna go put speed humps," or, "Hey, we're gonna put this
13 no turn bump out." But if they all agreed on that, then we were
14 willing to put that on the table.

15 We never got to that point because we heard, "No.
16 This is not a use that we want in our neighborhood," and there
17 was nothing - I, I, point blank at one point, asked, "Is there
18 anything else we can do," and the answer was "no", so -

19 ZONING EXAMINER: You know, I, I don't recollect
20 looking at a traffic report. That's doesn't mean I didn't get,

1 but I don't recollect looking -

2 MS. MORALES: Would you like mine? I don't think I
3 marked on it too badly.

4 ZONING EXAMINER: Yes.

5 MS. MORALES: Yes, this was a, this was prepared as
6 part of the rezoning as well as the development plan package,
7 so -

8 ZONING EXAMINER: Was it, was it incorporated into the
9 development plan package? No, I don't think so.

10 MS. MORALES: It was part of the development plan
11 package, (inaudible) submittal.

12 ZONING EXAMINER: I do not recall seeing it.

13 MS. MORALES: Yeah. And it has been reviewed and
14 accepted by Traffic. So it's - there were several speakers that
15 talked about concerns with the interaction of the, the turn lane
16 and the bus stop. That was studied by our traffic engineer, and
17 City staff as well, and it was approved at the location that we
18 have.

19 And actually, we had to move some of those existing
20 driveways to make sure that it was compatible. Same thing on

1 22nd. Fully approved by Transportation staff as a safe
2 movement.

3 ZONING EXAMINER: Okay.

4 MS. MORALES: Or safe design. And I would imagine you
5 would like me - I'm probably jumping ahead, but you'd probably
6 like me to address the other McDonald's.

7 ZONING EXAMINER: Yeah. The - these are legitimate
8 concerns by neighbors of the existing McDonald's. I know that
9 one of the things - that's not totally within my purview, I
10 don't think. But I, I do think if you're gonna say that you're
11 remediating blight -

12 MS. MORALES: I would -

13 ZONING EXAMINER: - and the reality is that -

14 MS. MORALES: - to provide more information. That's,
15 that's fine. And, and so, so as I said, and I think I alluded
16 to at the beginning of, of that, and I conferred with, with my
17 clients because I haven't actually been part of that, but they
18 did take a very hard look at that, that McDonald's to see if
19 they could remodel that, and obviously keep the, the same place.

20 They did not take on going through a rezoning and an

1 acquisition of, of other parcels lightly. They looked at that -
2 that site suffers from some of the same problems that we have on
3 the existing C-1 as well as some of the other parcels that sit
4 along 22nd Street.

5 It's too shallow. It doesn't meet current setback
6 standards. And so any major remodel would not fit on the site,
7 even to - you couldn't even build what's there today on that
8 because of its - the codes have changed. So it, it was looked
9 at.

10 It's certainly not McDonald's M.O. to go ahead and
11 just close a site and let it fall into deterioration. This
12 example on this corner in the Shell station is not what would be
13 a corporate move by McDonald's. The idea would be as soon as
14 the store is vacated and moved to the new one, that property
15 would go on the market. It, it would go, it would go on the
16 market for sale.

17 The reality is whether this is the site or not, that,
18 that store operator wants to be in a new store, a new modernized
19 restaurant. So the, the - this is their preferred site. This
20 is a wonderful site from a, from a retail standpoint.

1 It's at an intersection. Alvernon Way has 38,000-plus
2 trips a day on it. 22nd Street has 45,000 trips a day. That is
3 a lot of passerby traffic and a lot of people that, that could
4 be captured on the corner.

5 Some people brought up some of the mid-block type of
6 locations on the other side of 22nd Street. Those are far
7 inferior to this. This is worth enough that they're willing to
8 go through quite a long process. I mean we started this last -
9 late spring. I think we're, you know, well over ten, nine
10 months, something like that into this process of going through
11 this rezoning. And overcoming some other hurdles that we didn't
12 even talk about.

13 I mean there's overhead power lines that are
14 significant. That's - somebody asked about some of the delays.
15 We had to take a hard look at, at all those different things,
16 and all the things that go into the actual engineering of the
17 plan to make sure that it worked. So that's some of the things
18 we were doing.

19 All those things were worthwhile for this corner. So,
20 yes, but, but McDonald's will continue to look for, if this

1 isn't the site, they'll continue to look for another one, and
2 they will eventually vacate that site.

3 Again, Mr. Harpell (ph.), Brian Harpell is with us,
4 who is a broker for McDonald's. He, he is fully versed on, on
5 their procedures. But the idea is to get that on the market as
6 soon as they can, aggressively market that, because they don't
7 want to keep that property on their books anymore than the
8 neighbors want to have that site there.

9 But the commitment is that they will not let that get
10 blighted. They will not let there be graffiti. There's won't
11 be RV's parked on the site like you see at the Shell. It will
12 be kept up in a good state and kept safe until such time as
13 it's, as they find a seller (sic).

14 ZONING EXAMINER: And your clients are committed to
15 that model of McDonald's, which is requiring the parking?

16 MS. MORALES: Absolutely.

17 ZONING EXAMINER: That's the one with the, the
18 amenities, the play amenities?

19 MS. MORALES: Absolutely. This is the state of the
20 art new style that it is. And it responds to their, their

1 customer desires to have these amenities in this, in
2 (inaudible), yes.

3 ZONING EXAMINER: And there's not another model that
4 responds to the customers' needs, but also responds to the
5 (inaudible)

6 MS. MORALES: There's not one that would fit on the
7 existing site.

8 ZONING EXAMINER: I find the arguments made about the
9 character of the neighborhood pretty compelling. My own survey
10 of that area, as I go through it, this is - as soon as you're on
11 the north side of 22nd and Alvernon, you're talking about a
12 residential area and a recreational area. Even the commercial
13 uses on 22nd that exist are in residential type environments.
14 They're not the intense commercial uses.

15 And clearly, there's one that's anticipated by the
16 plan on the C-1 parcel. As - if - what we're talking about is
17 encroachment into the, into the neighborhood here. And I'm
18 having some trouble with that.

19 MS. MORALES: You're having trouble - well, this - and
20 again, the commercial use is not encroaching into that. It's

1 parking.

2 ZONING EXAMINER: Well, it, it -

3 MS. MORALES: It's the transition. It's -

4 ZONING EXAMINER: I don't, I, I, technically speaking,
5 it's parking.

6 MS. MORALES: Uh-huh.

7 ZONING EXAMINER: And the rezoning is parking. It is
8 very difficult to separate the commercial use from this parking.
9 You just told me you wouldn't build another McDonald's here that
10 wouldn't use that. So this model necessitates that parcel's
11 use. It -

12 MS. MORALES: Unless we could secure a parking
13 variance to (inaudible) You can't do that, you can't grant me
14 that.

15 ZONING EXAMINER: There is a whole other problem about
16 whether we're over-parked in the development community.

17 MS. MORALES: And, and I'm speaking out of line. I
18 don't even know the parking requirements in -

19 ZONING EXAMINER: Yeah.

20 MS. MORALES: It's not something I've looked at.

1 ZONING EXAMINER: That's a - there is a, there's a
2 whole discussion about our parking requirements which is -

3 MS. MORALES: Right.

4 ZONING EXAMINER: - a policy discussion which is
5 (inaudible)

6 MS. MORALES: Well, and frankly, one of the last - the
7 last project we worked on with McDonald's was a parking variance
8 for the one on Speedway. So we did, we were successful in that,
9 but that's a different environment, too, which was much more
10 pedestrian-oriented, so -

11 Again, the other reason this is such a, a great site
12 for them is that it is - there is transit in the area. There's,
13 there's bus stops. It's real easy access for future employees,
14 as well as, as well as our customers.

15 So that is a plus for this, not that they don't have
16 it on 22nd, but now you have a couple of intersecting bus routes
17 as well. So it's a quality site for this.

18 We have, again, tried to talk about things like
19 landscaping that would continue to buffer. And, and we have not
20 gotten any, you know, back and forth on that of what we could

1 do.

2 We did get some of that along Camino De Palmas and
3 that's why you see what you do. Again, if someone had more
4 specifics, we'd be happy to do that, but we've responded to
5 everything that has been sent our way, with the exception of, of
6 the fact that we are what we are. We are the use that we are.

7 ZONING EXAMINER: You know, these are some of the
8 toughest cases. You have C-1 zoning. It's this necessitation,
9 the necessity of going into the neighborhood which is
10 troublesome. And, and there's no overarching concern in every
11 plan at every level, as I said, of preserving and protecting the
12 neighborhood.

13 And I also, I heard some voice from the neighborhood
14 about opportunities to speak. Mr. Acedo mentioned it, although
15 I don't - I think he left, didn't he? Yeah.

16 MS. MORALES: Yeah, Mr. Acedo and I have been in
17 contact. He was at our first meeting. He was invited to every
18 subsequent meeting, and did not, did not - he's actually
19 somebody I've been talking with about a development project as,
20 as, you know, (inaudible) a client of mine. So we're in pretty

1 regular contact, so -

2 ZONING EXAMINER: And, and -

3 MS. MORALES: - you know, there was the opportunity
4 there.

5 ZONING EXAMINER: And perhaps he needed to hear as
6 well what other people were saying and, I certainly want to have
7 time to study the, the noise report you submitted, the traffic
8 support you submitted. I don't know, I don't know anything. I
9 can't -

10 MS. MORALES: Uh-huh.

11 ZONING EXAMINER: - until I've reviewed them. You're
12 ready to move on mitigation efforts.

13 MS. MORALES: I'm ready to what?

14 ZONING EXAMINER: You're ready to move on mitigations.
15 You're, you're ready to talk about whatever the mitigation it
16 is, you need to nail it down. And how open are you to site plan
17 modifications at this point, if there's -

18 MS. MORALES: (Inaudible) I'm having a hard time
19 hearing. I'm sorry. How often (inaudible)

20 ZONING EXAMINER: How, how productive would a

1 discussion about modifying the site plan be at this time?

2 MS. MORALES: I haven't - I've been trying. I've been
3 trying -

4 ZONING EXAMINER: Okay.

5 MS. MORALES: - to have that discussion, and I haven't
6 gotten that back from the other side. It's been a "no". So you
7 know me, I, I love to talk things out.

8 ZONING EXAMINER: Okay.

9 MS. MORALES: I would love to come back to here and
10 say that we have. There has not been any give and take. I mean
11 if, if perhaps if you had some ideas and some other suggestions
12 (inaudible)

13 ZONING EXAMINER: Well, I certainly want to - I mean
14 you've had, you've had conversations with the, the Darkos?

15 MS. MORALES: Yes.

16 ZONING EXAMINER: Yeah.

17 MS. MORALES: They've been at every meeting.

18 ZONING EXAMINER: Well, let me - they're, they're
19 here. Let me ask you. Is there, is there an opportunity for
20 productive discussion if I continue this?

1 MS. SUSAN DARKO: (Inaudible)

2 ZONING EXAMINER: Not as far you're concerned. Okay.

3 MS. SUSAN DARKO: (Inaudible) of taking away someone's
4 home.

5 ZONING EXAMINER: All right.

6 MS. SUSAN DARKO: (Inaudible)

7 ZONING EXAMINER: You're, you're - let - Mrs. Darko,
8 you're making excellent points, but none of them are being
9 recorded. So just, just a nod of assent - okay. I mean I, I
10 can hear you, but none of this is now on the record. So I just
11 - I'll just say for the record that you were, you were
12 explaining your statements from before on the record.

13 I'd like an opportunity, as I said, to review those
14 without the pressure of having to write a report at the end. I
15 would like to give you an opportunity to tell me why this - an
16 extended opportunity or an additional opportunity to tell me why
17 this is compatible with, with the area plan.

18 MS. MORALES: Right now, or are you saying in the
19 future?

20 ZONING EXAMINER: No. No. When it's -

1 MS. MORALES: 'Cause I feel like (inaudible)

2 ZONING EXAMINER: I'd like to continue this without
3 having to rush my analysis of the noise report and the traffic
4 report and the letters that I've gotten at a late date.

5 MS. MORALES: So I'm presuming sometime hopefully -

6 ZONING EXAMINER: Early -

7 MS. MORALES: - shortly after the holidays?

8 ZONING EXAMINER: Early January. That's sometimes an
9 inconvenience to people, but I think we can, we have -

10 MS. MORALES: The 1st is a Thursday, so the following

11 -

12 ZONING EXAMINER: I think I have three hearings on the
13 8th already. I have two hearings on the 8th. And I have
14 nothing on the 15th. I'm - I would like to give this all the
15 attention that it deserves, and not have more than one hearing
16 on that day.

17 MS. MORALES: I'm looking at my clients. Okay.

18 ZONING EXAMINER: I, I'm - and I'm, I, I am having a
19 lot of difficulty. All right. I'd like to come back on January
20 15th because I want to be able to review these reports. I also

1 want them to go up on line so that other people have an
2 opportunity to see them as part of the record.

3 I'm gonna ask Development Services to scan the reports
4 so that they're available. That's probably what you were gonna
5 ask me, Mr. Mayer, that they become available. And I'd like to
6 - I know it's - people - it is inconvenient to come out. I do
7 appreciate people coming out and talking. These are very
8 important issues. I don't want to rush them.

9 The, the, the Applicant has an interest and a property
10 right. The neighborhood has an interest and property rights.
11 They are not to be taken lightly. I need to - and I don't want
12 to, to rush to judgment. So I'm gonna continue to the 15th. I
13 want to be able to digest all the information that I've gotten
14 tonight, as well as the new information. Mr. Mayer?

15 MR. MAYER: Yeah. Mr. Zoning Examiner, I'm sure
16 you're not into permitting perpetual rebuttals, but I, I think
17 if you would just indulge me on one particular point that -

18 ZONING EXAMINER: Some people accuse me of being too
19 indulgent -

20 MR. MAYER: Oh.

1 ZONING EXAMINER: - on that issue, so go ahead.

2 MR. MAYER: If I may approach the map?

3 ZONING EXAMINER: Up here?

4 MR. MAYER: Yes.

5 ZONING EXAMINER: Sure.

6 FEMALE SPEAKER: (Inaudible)

7 MR. MAYER: I'm not adept at these things, so it may
8 be better to approach anyway. But, oh, now what have I done?
9 May I just approach, please?

10 ZONING EXAMINER: Yeah. It might be - you know what?
11 I can, you stay right there.

12 (Inaudible conversation.)

13 MR. MAYER: (Inaudible)

14 ZONING EXAMINER: You know what? I'm gonna stop you
15 also again so that we can get you on the mike.

16 MR. MAYER: And for the record, Mark Mayer. Address
17 and identification entered earlier. Was based on entry of
18 refuse hauling trucks and the large delivery trucks through
19 either ingressing or egressing through here. And the
20 presentation indicated an entry on the Alvernon opening there.

1 Okay. Well, if you're talking about full size semi-
2 tractor trailer trucks, this is the R-1 lot, and if you are
3 going to back into that loading zone, that means you're gonna
4 have to pull that tractor trailer far enough, you know, at least
5 halfway into the P-1 (sic) zone to be able to maneuver back
6 there.

7 So whereas my presentation was it would be traversing
8 the zone in that case, and then I'm not quite sure how - you,
9 you, still if you enter through here and come back here, you -
10 and you rear-load, you still have to get back out and that means
11 that looks like a difficult maneuver.

12 But the long and the short of it, you're refuse
13 hauling trucks and your large delivery trucks still, even if
14 they're not traveling the full length of the P zone, they're
15 doing significant maneuvering in the P zone. And that's the
16 point I wanted to make.

17 I also wanted to make - even if the operator specifies
18 to drivers to do things a certain way, we can attest from our
19 McDonald's doesn't necessarily mean it happens that way. And
20 not only McDonald's. We have all kinds of tractor trailer

1 traffic in our neighborhood. And if a driver thinks it's more
2 convenient to go this way, that could be well what happens.

3 ZONING EXAMINER: All right. Thank you, Mr. Mayer.
4 Thank you. And I just want to, just in case some of that wasn't
5 recorded, primarily the discussion is regarding trucks entering
6 the development from Alvernon, whether they can maneuver without
7 utilizing the proposed P zone.

8 I think there was some Staff comment on that, and
9 perhaps in the - between now and the 15th, I can get a, an
10 update from Staff on the maneuverability of delivery trucks on
11 the site. Would that be possible? Okay. Thanks.

12 All right. Case No. C9-14-10 is continued to January
13 15th, 2015. The record will be supplemented with the various
14 letters from neighborhood associations and neighbors,
15 additionally supplemented with the traffic report from the
16 Applicant, as well as the noise analysis.

17 The report and the noise analysis, I'm gonna request
18 that Staff upload those to the PDS website. That can sometimes
19 be difficult to find. But, Mr. Mayer, I think you're pretty
20 familiar with accessing that, so - I need a chance to review

1 those, and Ms. Morales, what, what we discussed earlier. Okay.

2 All right. Thank you all very much for coming out on
3 a cold and I think it's still wet, I'm not sure, evening. This
4 is very important stuff. I appreciate your participation. I
5 want to acknowledge Mr. Kozachik again for sticking out to the
6 end of a very long hearing. I appreciate that. Thanks.

7 COUNCIL MEMBER KOZACHIK: All right.

8 ZONING EXAMINER: Thank you all.

9 (Case No. C9-14-10 was Continued.)

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: 12/30/14

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