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# Transcript of Hearing

**Date:** February 3, 2017

**Case:** Burtonsville Towne Square, LLC, In Re:

**Planet Depos**

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10	Before Hearing Examiner Lynn A. Robeson		10		
11	Rockville, Maryland		11		
12	Friday, February 3, 2017		12		
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1	A P P E A R A N C E S	2	1	P R O C E E D I N G S	4
2	ON BEHALF OF THE APPLICANT:		2	LYNN ROBESON: This is a public hearing in the matter	
3	STACY PLOTKIN SILBER, ESQUIRE		3	CU-1706, Starbucks Corporation, an application for	
4	LERCH, EARLY & BREWER, CHARTERED		4	conditional use to operate a drive through restaurant under	
5	3 Bethesda Metro Center		5	Section 3514.e of the Montgomery County Zoning Ordinance.	
6	Suite 460		6	The property is located at 15600 Old Columbia Pike,	
7	Bethesda, Maryland 20814		7	Burtonsville, MD on land in the CRT, I'm not going to list	
8			8	all of the numbers, Zone. The property is further	
9			9	identified as a Portion of Parcel B, Burtonsville Shopping	
10			10	Center Subdivision and the formal applicant was	
11			11	Burtonsville Town Center which recently sold the property.	
12			12	A motion to amend was filed to change the applicant to	
13			13	Starbucks Corporation and the last date to object to that	
14			14	Motion to Amend was February 6. The motion to amend	
15			15	doesn't decide the case. It just allows the applicant to	
16			16	modify the application. My name is Lynn Robeson. I'm the	
17			17	hearing examiner and I'm going to be taking all the	
18			18	testimony and evidence in this case and I'll make a	
19			19	decision. If anyone disagrees with the decision, then you	
20			20	have ten days to appeal to the Board of Appeals. But the	
21			21	Board of Appeals doesn't take any additional testimony. So	
22			22	whatever you have to say you should say here. And then it	
23			23	goes up on the record. If the parties could identify	
24			24	themselves for the record:	
25			25	STACY PLOTKIN SILBER: Sure, Stacy Silber. I'm an	

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2 (5 to 8)

5	<p>1 attorney with the law firm of Lerch, Early &amp; Brewer on 2 behalf of the applicant. 3 LYNN A. ROBESON: Alright, is there anyone that is not 4 going to be called by the applicant which is to testify 5 today? Okay, seeing none. Did you put your applicant, 6 okay; I do have the affidavit of posting. So, that will be 7 Exhibit, what are we up to here? That will be sixty two. 8 Alright, Miss Silber, do you an opening statement? 9 STACY PLOTKIN SILBER: Yes, again, I'm Stacy Silber 10 with the law firm of Lerch, Early and Brewer. Today here on 11 behalf of the applicant and in Case CU-1706 and through 12 evidence that's been submitted in writing through staff, 13 Planning, Park and Planning staff, and the Planning Board 14 and through verbal testimony today we intend to prove that 15 the application complies with all applicable requirements 16 of the code, consistent with the hearing examiners December 17 28, 2016 order. And because- 18 LYNN A. ROBESON: The codes, plural? 19 STACY PLOTKIN SILBER: Yes, multiple codes. 20 LYNN A. ROBESON: Right. 21 STACY PLOTKIN SILBER: And because all of the 22 information is in the record, we'll plan on going through 23 various sections of the code. When you get to a point and 24 ask, if you would ask us to elaborate further- 25 LYNN A. ROBESON: Well, I was going to say, sometimes,</p>	7	<p>1 Maryland 20715. 2 LYNN A. ROBESON: Okay. Go ahead Miss Silber. 3 STACY PLOTKIN SILBER: Mr. Fox, can you please 4 describe for the record your educational background? 5 BRADFORD FOX: Yes, I have a Bachelor's of Science and 6 Civil Engineering with a concentration in land development 7 from Ohio University in Athens, Ohio. And I graduated in 8 June of 2003. 9 STACY PLOTKIN SILBER: And can you describe your 10 professional experience? 11 BRADFORD FOX: Yes. 12 LYNN A. ROBESON: Well, let me ask you this. Have you 13 ever qualified as an expert in- your resume; is his resume 14 in the record? 15 STACY PLOTKIN SILBER: It's in the record. 16 LYNN A. ROBESON: Okay. Have you ever qualified as an 17 expert in any type of judicial or quasi-judicial proceeding 18 like this? 19 BRADFORD FOX: I've never testified under oath. But I 20 have presented in front of multiple Planning Boards or 21 similar. 22 LYNN A. ROBESON: Are you licensed to practice in 23 Maryland? 24 BRADFORD FOX: I am, since 2009. 25 LYNN A. ROBESON: Okay. Based on your resume, that's</p>
6	<p>1 I have some questions. I saw some communications on the 2 stacking, whatever, the drive through. I see Mr. Lenhart 3 in the audience, but to the extent that if you disagree 4 with the Planning Boards or the staff or the Planning 5 Board, if you could point that out or if you want to 6 elaborate on it, otherwise, if you want to adopt their 7 conclusion, and findings as your own. The other issues I 8 just saw was staff didn't really analyze the landscaping 9 under either zoning ordinance and I'm asking you to address 10 that because it just wasn't in the staff report. 11 STACY PLOTKIN SILBER: Okay. 12 LYNN A. ROBESON: So, with that you can proceed. I 13 just sort of expected coffee. But, I'll let it pass. It's 14 not going affect my decision. Okay? 15 STACY PLOTKIN SILBER: So with that I will call our 16 first witness, Mr. Brad Fox. Mr. Fox? 17 LYNN A. ROBESON: Please raise your right hand. Do 18 you solemnly affirm under penalties of perjury that the 19 statements that you're about to make are the truth, the 20 whole truth and nothing but the truth? 21 BRADFORD FOX: I do. 22 LYNN A. ROBESON: Please state your name and address 23 for the record. 24 BRADFORD FOX: Bradford Lee Fox, company address is 25 Bohler Engineering, 16701 Melford Blvd, Suite 310, Bowie,</p>	8	<p>1 in the record, I'm going to qualify you, the threshold for 2 an expert is, well, I don't want to say relatively low, but 3 since you're obviously qualified. But, I'm going to 4 qualify you as a, are you (inaudible) as an expert in what? 5 STACY PLOTKIN SILBER: Engineering and land 6 development. 7 LYNN A. ROBESON: Land development, I've never heard 8 of that one. How about just civil engineering? 9 STACY PLOTKIN SILBER: That's fine. So, what he will 10 be (inaudible) on are discussions about compliance with the 11 code, compliance with the master plan description. 12 LYNN A. ROBESON: Oh, the master plan? 13 STACY PLOTKIN SILBER: Umm hmm 14 LYNN A. ROBESON: Do you have any planning experience? 15 BRADFORD FOX: We do various site feasibility analyses 16 for a variety of clients. I don't have an educational 17 background in it. But it is, runs hand in hand with the 18 Civil Engineering field that I do. 19 STACY PLOTKIN SILBER: And can I ask a question to him 20 too? 21 LYNN A. ROBESON: Sure. 22 STACY PLOTKIN SILBER: In terms of your educational 23 background, in school, what else was your concentration in? 24 BRADFORD FOX: Ohio University has a land development 25 concentration where we focused on the various issues that</p>

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3 (9 to 12)

9	11
<p>1 affect land development. They come to a Senior Project</p> <p>2 that basically requires the analysis of raw land and the</p> <p>3 development of the project.</p> <p>4 STACY PLOTKIN SILBER: And can I ask him some other</p> <p>5 questions?</p> <p>6 LYNN A. ROBESON: Yes. Oh sure.</p> <p>7 STACY PLOTKIN SILBER: So, in terms, what type of work</p> <p>8 do you do with your clients with regards to entitlements</p> <p>9 and evaluating a property? Can you describe what you do in</p> <p>10 terms of evaluation of the Master Plan?</p> <p>11 BRADFORD FOX: Yes, it depends a lot on the client and</p> <p>12 a lot on the project. It depends on how early we get</p> <p>13 involved. But a lot of times if someone is trying to enter</p> <p>14 into the area, I spend a lot of time in Montgomery County</p> <p>15 and working in Montgomery County. And so, someone's trying</p> <p>16 to expand into Montgomery County, we guide them on the</p> <p>17 various requirements. For instance, the initial use</p> <p>18 requirements here today. We review the feasibility of the</p> <p>19 land, get involved at the due diligence level. And then we</p> <p>20 also review the applicable Master Plan and the Zoning Code</p> <p>21 for the use that is proposed on the site.</p> <p>22 LYNN A. ROBESON: Alright, I'll qualify him as an</p> <p>23 expert in land development and civil engineering.</p> <p>24 STACY PLOTKIN SILBER: Okay. Thank you for that. Mr.</p> <p>25 Fox, as we mentioned, we're going to go through some of the</p>	<p>1 South of that access drive into the center and it is the</p> <p>2 corner between that access drive and Old Columbia Pike.</p> <p>3 STACY PLOTKIN SILBER: Okay, thank you.</p> <p>4 BRADFORD FOX: I will flip over the new exhibit and</p> <p>5 talk about the existing conditions at the site. This is the</p> <p>6 existing conditions on so (inaudible).</p> <p>7 LYNN A. ROBESON: So that's Exhibit 13B in the record?</p> <p>8 BRADFORD FOX: Exhibit 13B in the record. As</p> <p>9 previously discussed here's Old Columbia Pike and here's</p> <p>10 the access drive. On the other side of Old Columbia Pike</p> <p>11 it's referred to as National Drive. The site consists of</p> <p>12 existing curb and gutter surrounding a pad site that is</p> <p>13 currently open land. It's not vegetated it's just sitting</p> <p>14 open. And the parking is installed around that curb and</p> <p>15 gutter with asphalt running to the face of the curb and</p> <p>16 gutter. The existing utilities are all stubbed into that</p> <p>17 site.</p> <p>18 STACY PLOTKIN SILBER: Okay. Mr. Fox, can you</p> <p>19 describe what you would consider to be the neighborhood for</p> <p>20 purposes of this application?</p> <p>21 BRADFORD FOX: Yes, I will for discussion of the</p> <p>22 neighborhood, I will use Park and Planning picture and also</p> <p>23 their graphic that is Exhibit 51 in the record.</p> <p>24 LYNN A. ROBESON: And now, do you agree, I thought</p> <p>25 their definition of the neighborhood was a little overly</p>
10	12
<p>1 criteria. As we move through, we may, since most of this</p> <p>2 is in the record already, we may move past some things and</p> <p>3 we'll turn to the hearing examiner to see how much in</p> <p>4 detail she'd like to go. Can you describe what your</p> <p>5 services have been for Starbucks with regard to this</p> <p>6 application?</p> <p>7 BRADFORD FOX: Yes, we reviewed the existing site as</p> <p>8 an existing pad site. And we also reviewed the suitability</p> <p>9 of the site for the proposed use. The pad site is entirely</p> <p>10 constructed.</p> <p>11 LYNN A. ROBESON: I think we went into this, but can</p> <p>12 you just say what's there now? When you say constructed,</p> <p>13 what does that mean?</p> <p>14 BRADFORD FOX: Okay. Would you like to start with the</p> <p>15 location of the project?</p> <p>16 STACY PLOTKIN SILBER: Sure.</p> <p>17 LYNN A. ROBESON: Sure.</p> <p>18 BRADFORD FOX: The location of the property is here.</p> <p>19 LYNN A. ROBESON: When you testify, you have to, the</p> <p>20 transcript doesn't know where here is. So-</p> <p>21 BRADFORD FOX: The property borders, Old Columbia Pike</p> <p>22 and the property is located in the Burtonsville Shopping</p> <p>23 Center, Burtonsville Town Square Shopping Center. The</p> <p>24 property is located next to the insurance firm, Old</p> <p>25 Columbia Pike, (inaudible) on the east side. It is just</p>	<p>1 broad. And I noticed in your prehearing, or your land use</p> <p>2 report, you limited it. Do you agree with Planning's</p> <p>3 definition?</p> <p>4 BRADFORD FOX: I agree that it is broad. And we also</p> <p>5 had a separate definition based on the Master Plan, which</p> <p>6 would be the Village Center 29.</p> <p>7 LYNN A. ROBESON: Okay, bring that. Bring it on.</p> <p>8 Sorry.</p> <p>9 BRADFORD FOX: So this is Page 39 of the Burtonsville</p> <p>10 Neighborhood Plan, where it discusses the Village Center 29</p> <p>11 neighborhood.</p> <p>12 LYNN A. ROBESON: Umm hmm.</p> <p>13 BRADFORD FOX: As you can see, Old Columbia Pike and</p> <p>14 their neighborhood is bound, it's basically with the</p> <p>15 commercial developments, Burtonsville Crossing Shopping</p> <p>16 Center, Burtonsville Office Park and then also the</p> <p>17 Burtonsville Town Square Shopping Center.</p> <p>18 LYNN A. ROBESON: Okay. What is that called again, the</p> <p>19 area under the Master Plan? I'm sorry.</p> <p>20 BRADFORD FOX: It is the Village Center Business 29</p> <p>21 Neighborhood.</p> <p>22 LYNN A. ROBESON: Okay. I missed all of that.</p> <p>23 BRADFORD FOX: Which is part of the Burtonsville</p> <p>24 Crossroads Neighborhood Plan.</p> <p>25 LYNN A. ROBESON: Okay. So, which do you think is</p>

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4 (13 to 16)

13	<p>1 correct? Or do you want to address both?</p> <p>2 BRADFORD FOX: I can address both. I think the</p> <p>3 immediate neighborhood is the Village Center Business 29</p> <p>4 Neighborhood. As I previously said, staff came up with a</p> <p>5 2000 square foot which is a 2000 foot radius, which is a</p> <p>6 very broad definition. But I don't disagree with either.</p> <p>7 LYNN A. ROBESON: How would you characterize, if it's</p> <p>8 just the Village Center 29 Neighborhood?</p> <p>9 BRADFORD FOX: Yes.</p> <p>10 LYNN A. ROBESON: How would you characterize that?</p> <p>11 BRADFORD FOX: In the same way that the Master Plan</p> <p>12 states. This neighborhood is a group of larger properties</p> <p>13 that have smaller uses.</p> <p>14 LYNN A. ROBESON: Is it mostly commercial? Can you</p> <p>15 just describe the uses that are there?</p> <p>16 BRADFORD FOX: Correct. Across from Columbia Pike</p> <p>17 there is the Burtonsville Crossing Shopping Center which is</p> <p>18 where the existing Starbucks is currently today.</p> <p>19 LYNN A. ROBESON: Right.</p> <p>20 BRADFORD FOX: At the corner you have the Burtonsville</p> <p>21 Office Park and then you have our site of which the</p> <p>22 proposed conditional use area is entirely contained within</p> <p>23 Burtonsville Crossroads.</p> <p>24 LYNN A. ROBESON: So, how would you characterize that</p> <p>25 area in terms of land uses? Usually the neighborhood is</p>	15	<p>1 see open space in that.</p> <p>2 BRADFORD FOX: Yes, there is a, it's a large circle so</p> <p>3 it is a lot of open space in there. It also extends to the</p> <p>4 Pepco power lines to the North. It broads into a point</p> <p>5 that it's pretty distant from what was defined as the</p> <p>6 Neighborhood 29.</p> <p>7 LYNN A. ROBESON: Okay.</p> <p>8 BRADFORD FOX: Right at the crossroads.</p> <p>9 LYNN A. ROBESON: Alright. Thank you.</p> <p>10 STACY PLOTKIN SILBER: Do you believe that the</p> <p>11 proposed drive through use will not alter the character of</p> <p>12 this neighborhood?</p> <p>13 BRADFORD FOX: Yes, I believe that it will not alter</p> <p>14 the character of this neighborhood.</p> <p>15 STACY PLOTKIN SILBER: The hearing examiner discussed</p> <p>16 briefly-</p> <p>17 LYNN A. ROBESON: Wait, why? Are you adopting the</p> <p>18 findings of the staff report or why won't it alter the</p> <p>19 character of the neighborhood?</p> <p>20 BRADFORD FOX: The character of the neighborhood is</p> <p>21 currently commercial. The character of the neighborhood</p> <p>22 contains the Starbucks across the street. It's going to be</p> <p>23 relocating to this area. And the pad site is already in</p> <p>24 place. And people expect development to take place there.</p> <p>25 LYNN A. ROBESON: Okay. I'm only asking for the</p>
14	<p>1 characterized to determine the compatibility. So, are you</p> <p>2 saying that this is predominately commercial?</p> <p>3 BRADFORD FOX: The active uses in the area are</p> <p>4 predominately commercial. If you look at it as a land area</p> <p>5 basis, there is a large portion of forest conservation that</p> <p>6 is on the Burtonsville Town Square property.</p> <p>7 LYNN A. ROBESON: Right.</p> <p>8 BRADFORD FOX: Storm water management, there's a</p> <p>9 large-</p> <p>10 LYNN A. ROBESON: That doesn't count. I'm just saying</p> <p>11 for the purposes, what's the main predominate land use</p> <p>12 characteristic of this smaller area?</p> <p>13 BRADFORD FOX: The used land would be predominately</p> <p>14 commercial. There is an institutional use. The elementary</p> <p>15 school exists to the rear of the property.</p> <p>16 LYNN A. ROBESON: Okay. Now, let's talk about staff's</p> <p>17 neighborhood.</p> <p>18 BRADFORD FOX: Alright.</p> <p>19 LYNN A. ROBESON: Do you want to characterize that?</p> <p>20 BRADFORD FOX: Staff's neighborhood, because it</p> <p>21 expands quite a bit, if you still use the developed land,</p> <p>22 it would be still predominately commercial, office,</p> <p>23 warehouse for the areas that we previously discussed.</p> <p>24 LYNN A. ROBESON: Okay. But is there any difference</p> <p>25 in the characterization? Does it have more residential? I</p>	16	<p>1 record to make sure I have the record.</p> <p>2 STACY PLOTKIN SILBER: Okay. Thank you.</p> <p>3 LYNN A. ROBESON: Go ahead.</p> <p>4 STACY PLOTKIN SILBER: Can you please describe the</p> <p>5 zoning history for the property?</p> <p>6 BRADFORD FOX: Yes. The site was previously zoned C2,</p> <p>7 and was rezoned to the current CRT zoning with the</p> <p>8 Burtonsville Sectional Map amendment.</p> <p>9 STACY PLOTKIN SILBER: Did you prepare the conditional</p> <p>10 use plan for this property?</p> <p>11 BRADFORD FOX: Yes.</p> <p>12 STACY PLOTKIN SILBER: Were you involved in preparing</p> <p>13 the Land Use Report?</p> <p>14 BRADFORD FOX: Yes.</p> <p>15 STACY PLOTKIN SILBER: Can you describe what will be</p> <p>16 built on the pad site?</p> <p>17 BRADFORD FOX: Yes. I'm going to pull up Exhibit 20A,</p> <p>18 which is the Site Grading and Utility Plan. And it also</p> <p>19 for a lot of the features that we will be talking about</p> <p>20 that are relative to the conditional use. To describe what</p> <p>21 is proposed the applicant is proposing a 2,278 square foot</p> <p>22 Starbucks restaurant, drive through use. The lease area</p> <p>23 circles the drive through and the back of curb around the</p> <p>24 site, and is approximately 10,000 square feet. So, we</p> <p>25 compare the FAR of the restaurant to the lease area. It's</p>

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<p>17</p> <p>1 an FAR of approximately 0.24.</p> <p>2 STACY PLOTKIN SILBER: And Mr. Fox, is the leased area</p> <p>3 the conditional use area?</p> <p>4 BARDFORD FOX: It is. The proposed building will be</p> <p>5 approximately 22 feet in height. It has a drive through</p> <p>6 lane that is existing today that will accommodate between</p> <p>7 seven and twelve vehicles. It also has a bypass lane</p> <p>8 leading around that drive through lane to allow vehicular</p> <p>9 circulation through the shopping center. The drive through</p> <p>10 lane and bypass lane merge together at the exit to minimize</p> <p>11 potential vehicular conflicts for cars that are exiting the</p> <p>12 drive through lane and entering from the bypass lane.</p> <p>13 There are three pedestrian access points to the store, to</p> <p>14 the restaurant. One to the North, one to the South to the</p> <p>15 recently constructed green turtle, and one to the East that</p> <p>16 will connect to the existing (inaudible) path. There's an</p> <p>17 outdoor seating area and there's also the other things that</p> <p>18 you would expect at a Starbucks; he (inaudible), the pickup</p> <p>19 window, directional signs.</p> <p>20 STACY PLOTKIN SILBER: Can you describe how-</p> <p>21 LYNN A. ROBESON: Are the signs shown on the</p> <p>22 conditional use plan, the directional signs?</p> <p>23 BRADFORD FOX: Directional signs are shown. You can</p> <p>24 see it there.</p> <p>25 LYNN A. ROBESON: Okay. Thank you.</p>	<p>19</p> <p>1 center and whether you impact that. But I discussed it with</p> <p>2 staff and they were supposed to address it in that power</p> <p>3 point. Where is the power point? Exhibit 51A. Okay, so</p> <p>4 they did address it. Because the way this, this is unusual</p> <p>5 because you're a lease site not an independent pad. And</p> <p>6 so, it's ten percent of the lot area of the shopping</p> <p>7 center. And the questions is whether this is going to</p> <p>8 bring it over or under the ten percent. And staff has</p> <p>9 answered you still have 33.3 percent of green area. So,</p> <p>10 before you get into this, I think that's really the</p> <p>11 question and not independently the pad site.</p> <p>12 STACY PLOTKIN SILBER: So, I guess Mr. Fox, do you</p> <p>13 agree with the findings of staff as found on Exhibit 51A on</p> <p>14 Page 9 of their power point?</p> <p>15 BRADFORD FOX: Yes, I agree with staff that there's</p> <p>16 approximately 33.3 percent of green area (inaudible) site.</p> <p>17 STACY PLOTKIN SILBER: And Mr. Fox, can you describe,</p> <p>18 you said again that you agree with staff in terms of the</p> <p>19 compliance of this project with various C2 standards, also</p> <p>20 listed here as parking? Can you just please summarize how</p> <p>21 this project complies with parking requirements?</p> <p>22 BRADFORD FOX: Yes. Going back to the table, when you</p> <p>23 calculate the patron area of the proposed Starbucks use,</p> <p>24 interior floor area devoted to patron area, patron use is</p> <p>25 approximately 1100 square feet which would require twenty-</p>
<p>18</p> <p>1 STACY PLOTKIN SILBER: Can you describe how this</p> <p>2 application complies with the C2 Zone standards?</p> <p>3 BRADFORD FOX: Yes. Let me move a little closer to the</p> <p>4 exhibit so I can read it off. We have a table included on</p> <p>5 this sheet where we talk about the building height; the</p> <p>6 permitted building height is forty two feet. The proposed</p> <p>7 is twenty two</p> <p>8 LYNN A. ROBESON: When you say, on this sheet, you're</p> <p>9 referring to Exhibit 28?</p> <p>10 BRADFORD FOX: Correct. The building setbacks would</p> <p>11 be per the previous zoning code, 10 foot minimum from the</p> <p>12 front building line. This would be Old Columbia Pike.</p> <p>13 LYNN A. ROBESON: This is the road to the East?</p> <p>14 BRADFORD FOX: Correct.</p> <p>15 LYNN A. ROBESON: Right.</p> <p>16 BARDFORD FOX: Old Columbia Pike to the East. The set</p> <p>17 back from Old Columbia Pike to the building is seventy six</p> <p>18 feet. The rear and side yards are both internal to the</p> <p>19 shopping center and therefore no setback is required and</p> <p>20 it's not applicable. Alright, the green area right here</p> <p>21 ten percent minimum of lot is required. We considered-</p> <p>22 LYNN A. ROBESON: Well, I think, you know this is</p> <p>23 weird. I think staff addressed it but the ten percent is</p> <p>24 for the whole parcel, so the question really is not what's</p> <p>25 on the lease area, it's what's on the entire shopping</p>	<p>20</p> <p>1 eight spaces under the previous code. The outdoor patron</p> <p>2 area is approximately 500 square feet, and would require</p> <p>3 eight spaces under the previous code. Add the two</p> <p>4 together, you have thirty-six total spaces of which twelve</p> <p>5 are provided on the West and South sides of the restaurant</p> <p>6 and the remaining twenty-four spaces are provided within</p> <p>7 the overall shopping center parking field.</p> <p>8 STACY PLOTKIN SILBER: And is there an allowance</p> <p>9 within the shopping center for Starbucks to be able to park</p> <p>10 outside of the conditional use lease area?</p> <p>11 BRADFORD FOX: Yes. The lease for the shopping center</p> <p>12 allows the shared use of all spaces located at the shopping</p> <p>13 center with no reservations.</p> <p>14 STACY PLOTKIN SILBER: And will there be a loading</p> <p>15 space on the property?</p> <p>16 BRADFORD FOX: Yes. The loading space is shown on</p> <p>17 Exhibit 20A. It is adjacent to the bypass and drive through</p> <p>18 lanes. It is a ten by thirty foot area.</p> <p>19 LYNN A. ROBESON: Where is it?</p> <p>20 BRADFORD FOX: To the North side of the building.</p> <p>21 LYNN A. ROBESON: Outside of the drive through lane?</p> <p>22 BRADFORD FOX: Outside of the drive through and bypass</p> <p>23 lane.</p> <p>24 LYNN A. ROBESON: Do you have to cross the drive</p> <p>25 through lane to deliver into the store?</p>

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21	<p>1 BRADFORD FOX: Yes. Deliveries are scheduled for non-</p> <p>2 peak times.</p> <p>3 LYNN A. ROBESON: Non-peak in terms of?</p> <p>4 BRADFORD FOX: In terms of the-</p> <p>5 LYNN A. ROBESON: Not LETR but-</p> <p>6 BRADFORD FOX: Correct.</p> <p>7 LYNN A. ROBESON: Store hours?</p> <p>8 BRADFORD FOX: Correct, store hours.</p> <p>9 STACY PLOTKIN SILBER: And we have Mrs. Lisa</p> <p>10 Sunderland here, she can talk about that.</p> <p>11 LYNN A ROBESON: Okay, I'll leave it.</p> <p>12 STACY PLOTKIN SILBER: Are there any parking setbacks</p> <p>13 or other parking requirements under the prior zoning</p> <p>14 ordinance that apply to the drive through lane and</p> <p>15 associated parking?</p> <p>16 BRADFORD FOX: Yes. The previous code section 59-e-</p> <p>17 2.71 requires a ten foot landscaping strip, which is</p> <p>18 provided and existing on the site.</p> <p>19 STACY PLOTKIN SILBER: And can you describe how the</p> <p>20 proposed lighting complies with the lighting requirements</p> <p>21 of the code?</p> <p>22 BRADFORD FOX: Yes. Briefly, section 59-e-2.6 of the</p> <p>23 previous code specifies that adequate lighting should be</p> <p>24 provided and in and installed manner not to cause glare or</p> <p>25 reflection into abutting or facing residential premises.</p>	23
22	<p>1 There are no abutting or facing residential premises and</p> <p>2 therefore, this is not an issue due to the surrounding</p> <p>3 commercial uses. They also require that the, the previous</p> <p>4 code also requires that it does not interfere with the safe</p> <p>5 operation of vehicles and the lighting provided per our</p> <p>6 plan will increase the safety for both vehicles and</p> <p>7 pedestrians using the site.</p> <p>8 STACY PLOTKIN SILBER: And when you refer to our plan</p> <p>9 are you referring to Exhibit 13G which is the Lighting</p> <p>10 Plan?</p> <p>11 BRADFORD FOX: Yes. I can bring up Exhibit 13G which</p> <p>12 is the Lighting Plan and shows the lighting to be provided</p> <p>13 for the conditional use.</p> <p>14 STACY PLOTKIN SILBER: And can you describe how the</p> <p>15 proposed landscaping complies with the landscaping</p> <p>16 requirements of the prior zoning ordinance?</p> <p>17 BRADFORD FOX: Yes. The ten foot landscaping buffer</p> <p>18 has been provided along Old Columbia Pike as previously</p> <p>19 stated. Perimeter landscaping is provided around the</p> <p>20 shopping center and does not apply to our internal lease</p> <p>21 area. I'm now displaying Exhibit 13E which is the</p> <p>22 landscaping plan and depicts additional plantings that will</p> <p>23 be provided to enhance the beauty and environment of the</p> <p>24 proposed Starbucks.</p> <p>25 STACY PLOTKIN SILBER: And was this landscaping</p>	24
	<p>1 required by code?</p> <p>2 BRADFORD FOX: This landscaping was not required by</p> <p>3 code. It accomplishes a lot of the items that are stressed</p> <p>4 in the current zoning ordinance. It goes above and beyond</p> <p>5 previous zoning code.</p> <p>6 LYNN A. ROBESON: What do you mean, items that have</p> <p>7 addressed in the current zoning ordinance? What items?</p> <p>8 BRADFORD FOX: Shade trees have been added to further</p> <p>9 comply with the current zoning ordinance.</p> <p>10 LYNN A. ROBESON: Which code?</p> <p>11 BRADFORD FOX: The current zone.</p> <p>12 LYNN A. ROBESON: Okay, in the old code?</p> <p>13 BRADFORD FOX: Yes.</p> <p>14 LYNN A. ROBESON: This is not easy here. I know,</p> <p>15 because you have to know two codes. In the old code, I</p> <p>16 guess what I was worried about is in the old code to my</p> <p>17 recollection that there was a shading, in the current code,</p> <p>18 there's also a shading requirement. But it was in the old</p> <p>19 code too about having so much tree canopy, so I guess what</p> <p>20 I was concerned about is does this meet this. And I didn't</p> <p>21 bring the old code with me, so I can't point you to the</p> <p>22 section at the moment.</p> <p>23 BRADFORD FOX: I did bring the old code. And I will</p> <p>24 provide for you some items. So 59-e-2.73.</p> <p>25 LYNN A. ROBESON: Yes.</p>	

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7 (25 to 28)

<p>25</p> <p>1 stop us as we're going through if we're getting into too 2 much detail. 3 LYNN A. ROBESON: Sure. Let me ask you this before 4 you start, is there anything in the staff report that you 5 disagree with? 6 BRADFORD FOX: No. 7 LYNN A ROBESON: No. Okay, go ahead Miss Silber. 8 STACY PLOTKIN SILBER: So Section D1 says that the use 9 of proposed location cannot create a traffic hazard or 10 traffic nuisance because of its location in relationship to 11 similar uses, necessity of turning movements in relation to 12 access to public roads and intersections or it location in 13 relationship to other buildings or proposed buildings on or 14 near the site and the traffic patterns from such buildings 15 or cause frequent turning movements across sidewalks or 16 pedestrian ways, thereby disrupting pedestrian circulation. 17 What is your evaluation of this section of the code and 18 does it apply? 19 BRADFORD FOX: You'll hear more a little later from 20 Mr. Lenhart, but from a land development and engineering 21 perspective, I'll touch on a few items. This pad site has 22 already been developed, the vehicular areas are already in 23 place, therefore the circulation of the shopping center has 24 been established. The access to the property is internal 25 to the shopping center, meaning it's not located on a</p>	<p>27</p> <p>1 proposed Starbucks sits significantly below Old Columbia 2 Pike to further reduce any impaired visibility to the 3 shopping center and that the overall shopping center was 4 designed with this pad site in mind and the shopping center 5 anticipates its development. 6 STACY PLOTKIN SILBER: Sub-Section B3 talks about not 7 obstructing visibility to intersections or entrances or 8 exits. Can you please describe how this complies with that 9 Sub-section? 10 BRADFORD FOX: Yes, there'll be no outdoor displays 11 and the site layout has been designed to insure the clear 12 visibility of the drive through entrance and exit as 13 previously discussed. 14 STACY PLOTKIN SILBER: Sub-Section B4 talks about when 15 a drive through occupies a corner lot. In your opinion, is 16 this occupying a corner lot? 17 BRADFORD FOX: No, this is not a corner lot as 18 defined. 19 STACY PLOTKIN SILBER: And in case someone else should 20 determine that it is a corner lot, do you believe that it 21 complies with this Sub-Section? 22 BRADFORD FOX: Yes, while it's technically not a 23 corner lot it complies with this requirement even if the 24 existing private access drive was considered a public 25 right-of-way.</p>
<p>26</p> <p>1 public road and therefore it will not negatively affect Old 2 Columbia Pike, the nearest public road. The drive through 3 view has been designed to be accommodated on the site and 4 will not interfere with the primary drive isles within the 5 shopping center. The shopping center was well planned by 6 the owner so that this drive through is not adjacent to 7 another drive though use and is separated by the Green 8 Turtle, which is a non-drive through use. It has different 9 peak hours of operation they do not open until 11:00 10 o'clock. In regards to pedestrian circulation, we're 11 providing the three previously mentioned pedestrian 12 connections and enhancing the pedestrian crossings with 13 cross walks ADA accessible ramps and signage. This will 14 improve the safety and experience of pedestrian accessing 15 the site. 16 STACY PLOTKIN SILBER: In terms of Section B2, it 17 talks about not pre-empting visibility or reducing 18 visibility. Can you please describe how this complies with 19 Sub-Section B2? 20 BRADFORD FOX: Yes the project is an existing pad site 21 as previously stated and the access to the shopping center 22 will remain unchanged as previously stated. This Starbucks 23 restaurant is a one store building and it will not impair 24 visibility to the existing uses throughout the remainder of 25 the shopping center. It's also worth noting that the</p>	<p>28</p> <p>1 STACY PLOTKIN SILBER: Mr. Fox, Section 7.3.1.e. of 2 the ordinance has some additional findings and Sub-Section 3 7.3.1.e.1.a. talks about how the conditional use satisfies 4 any applicable previous approval on the subject site. Can 5 you describe whether it does comply? 6 BRADFORD FOX: Yes, my findings are consistent with 7 staff that it is, this conditional use is consistent with 8 the approved preliminary plan for the shopping center. The 9 preliminary plan approved 250,000 square feet of retail 10 use. The shopping center is currently constructed as 11 approximately 125,000 square feet. So the addition of this 12 Starbucks will still be well below the allowable limits of 13 the preliminary plan. And it's also consistent because the 14 sight is being constructed; it's also consistent with the 15 other construction documents that have been approved by the 16 county. 17 STACY PLOTKIN SILBER: Section 7.3.1.e.1.b. requires 18 that the condition you satisfy the requirements of the zone 19 use standards under Article 59.3 and applicable general 20 requirements. Does it do so? 21 BRADFORD FOX: Yes, once again I agree with staff. It 22 complies with all applicable document standards and as I 23 went to the table previously these are all met. 24 STACY PLOTKIN SILBER: Section E1C requires that it's 25 substantially; the conditional use substantially conforms</p>



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<p>29</p> <p>1 with the recommendations of the applicable Master Plan. 2 Does it do so? 3 BARDFORD FOX: Yes. It is consistent with the 4 Burtonsville Crossroads Neighborhood Master Plan and this 5 proposed use substantially complies with the neighborhood 6 plan. It's located within the approved and adopted 7 Crossroads Neighborhood Plan and the Neighborhood Plan as 8 forming things which are all furthered by this proposed 9 project. 10 STACY PLOTKIN SILBER: Do you agree with staff's 11 description within their staff report and their power point 12 in regards to how this complies with the applicable Master 13 Plan? 14 BRADFORD FOX: Yes. 15 STACY PLOTKIN SILBER: And Mr. Fox, you just described 16 that in more detail in the Land Use Report, correct? 17 BRADFORD FOX: Correct. 18 STACY PLOTKIN SILBER: Can you describe how this use 19 complies with Sub-Section E1D which requires that the 20 conditional use be harmonious and will not alter the 21 character of the surrounding neighborhood in a manner 22 inconsistent with the plan. I think you may have spoke 23 briefly about that earlier. 24 BRADFORD FOX: Yes, and that is either Page four of 25 the staff presentation or the (inaudible) 29 Exhibit that</p>	<p>31</p> <p>1 use that you mentioned, indicated earlier is a CRT zone and 2 is located within a shopping center that is zoned CRT. 3 Correct? 4 BRADFORD FOX: Correct. 5 STACY PLOTKIN SILBER: Can you describe how it 6 complies, conditional use complies with E1F, which requires 7 that the conditional use will be served by either public 8 facilities and services including, schools, police, fire, 9 water, sewer, etcetera as described within that subsection 10 of the code? 11 BRADFORD FOX: Yes. Adequate public facilities were 12 tested with the preliminary plan for 250,000 square feet of 13 development. It was deemed that they were adequate. This 14 proposed Starbucks use falls within this preliminary plan 15 and continues to be adequately served by police or fire, 16 water, sanitary sewer, public roads, and storm connection. 17 STACY PLOTKIN SILBER: And sub-Section 3.1.e.1.g. 18 indicates that conditional use will not cause undue harm to 19 the neighborhood as a result of non-inherent adverse 20 effects alone or in combination of an inherent and non- 21 inherent adverse effect. Will any of the specific 22 categories listed, staff had gone through this with them in 23 their Staff Report. Do you agree with staff's conclusions? 24 BRADFORD FOX: I agree with staff's conclusions. 25 STACY PLOTKIN SILBER: We're going to skip over need,</p>
<p>30</p> <p>1 was previously displayed. 2 STACY PLOTKIN SILBER: Okay, Mr. Fox, I think you 3 actually already answered that so we can move forward. 4 BRADFORD FOX: Sure. 5 STACY PLOTKIN SILBER: Can you describe how it 6 complies with Sub-Section 7.31.e.1.e. which requires that 7 the conditional use will not, when evaluated in conjunction 8 with existing and approved conditional uses and any 9 neighboring residential (inaudible) zone increase the 10 number intensity or scope of conditional uses sufficiently 11 to affect the area or alter the predominately residential 12 character of the neighborhood. Can you describe how this 13 is applicable or non-applicable and whether it complies? 14 BRADFORD FOX: Yes. Using Exhibit 7, which is the 15 Applicant Zoning Map or the Staff Zoning Map from the 16 presentation, Page 5, there are no adjoining residential 17 zones which should be adversely affected. This property 18 itself is not within a residential zone. And also the 19 shopping center, it's located within the boundary of the 20 shopping center on an existing pad site. Lastly, the 21 Starbucks is replacing, relocating the existing Starbucks 22 across the street, which is in a similar neighborhood and 23 will not increase the overall number of similar initial 24 uses. 25 STACY PLOTKIN SILBER: So, Mr. Fox, this conditional</p>	<p>32</p> <p>1 we have another expert to talk about that. Do Park and 2 Planning staff and the board agree with your evaluation 3 that the proposal complies with the C2 standards of the 4 code? 5 BRADFORD FOX: Yes. 6 STACY PLOTKIN SILBER: Just for the record that's 7 Exhibit 50 for the Staff Report and 59 for the Board 8 recommending approval. Have you done an evaluation 9 regarding storm water management for the site? 10 BRADFORD FOX: Yes. We evaluated storm water 11 management for the site and the project limits of 12 disturbance are within the previously approved storm water 13 concept plan. 14 STACY PLOTKIN SILBER: And has Forest Conservation 15 requirements been met? 16 BARDFORD FOX: Yes. Staff also agreed with me, with 17 us that the final Forest Conservation Plan that was 18 approved for the shopping center on February 19, 2014 19 covers the site and the property as within those limits. 20 STACY PLOTKIN SILBER: And are water, sewer, gas and 21 other utilities available and other capacities adequate for 22 this use? 23 BARDFORD FOX: Yes. Water and sewer are available and 24 gas, electric and telephone, utilities are all available to 25 the site.</p>

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<p>33</p> <p>1 STACY PLOTKIN SILBER: And is it your professional 2 opinion that the proposal meets all the requirements of the 3 applicable ordinances and your tests are factual and should 4 be approved in your professional opinion because of its 5 compliance. 6 BRADFORD FOX: Yes. 7 STACY PLOTKIN SILBER: To the hearing examiner's 8 earlier question, do you agree with conclusions and 9 findings of the staff and the board? 10 BRADFORD FOX: Yes. 11 STACY PLOTKIN SILBER: Thank you. I have no further 12 questions. 13 LYNN A. ROBESON: Alright, seeing no, is there still 14 no one here that wishes to, that is not going to be called 15 by the applicant? Okay, seeing none, you get to be excused 16 without cross examination. 17 STACY PLOTKIN SILBER: I would like to call Mrs. Lisa 18 Sunderland. 19 LYNN A. ROBESON: Mrs. Sunderland, please raise your 20 right hand. Do you solemnly affirm under the penalties of 21 perjury that the statements that you're about to make are 22 the truth, the whole truth and nothing but the truth. 23 LISA SUNDERLAND: I do. 24 LYNN A. ROBESON: Please state your name and address 25 for the record.</p>	<p>35</p> <p>1 Starbucks since 2005, for eleven years. We started with 2 the land acquisition program and they would find sites, we 3 would then vet the sites, provide a report about the 4 feasibility and then we would help them attain 5 entitlements, which is conditional use permits, planning 6 approvals and then permits themselves. Then we actually in 7 the Western Mountain, which is Colorado, in and around 8 Colorado, do project management for them. 9 STACY PLOTKIN SILBER: Can you describe why Starbucks 10 chose this shopping center? 11 LISA SUNDERLAND: They have a need for a drive through 12 that is a better location than across the street. I think 13 there are some challenges they had to find one that was 14 more accessible and then they could build their own 15 building, that it would operationally work better. 16 LYNN A. ROBESON: Is it currently part of the existing 17 old shopping center, the shopping center across the street; 18 is it in line with the shopping center? Is that what you're 19 saying? It's not a separate pad site. 20 STACY PLOTKIN SILBER: Is the Starbucks a standalone, 21 maybe this will help. 22 LYNN A. ROBESON: Is the existing location a separate 23 pad site? 24 STACY PLOTKIN SILBER: The one across the street. 25 LISA SUNDERLAND: It was then when there was a bank</p>
<p>34</p> <p>1 LISA SUNDERLAND: Lisa Collins Sunderland, 1281 East 2 Magnolia Street, Suite D and at 186 Fort Collins, CO, 3 80524. 4 LYNN A. ROBESON: Okay. Thank you. 5 STACY PLOTKIN SILBER: Mrs. Sunderland, what is your 6 educational background? 7 LISA SUNDERLAND: I have a degree in architecture and 8 I have twenty-three years experience in the construction 9 field. 10 STACY PLOTKIN SILBER: Who is your current employer? 11 LISA SUNDERLAND: S M Solutions which is my company 12 that I own. 13 STACY PLOTKIN SILBER: What services do you provide to 14 your clients? 15 LISA SUNDERLAND: We provide from due diligence, 16 entitlements, permitting and project management. 17 LYNN A. ROBESON: Are you seeking to qualify her as an 18 architect? 19 STACY PLOTKIN SILBER: No. She will be testifying 20 today on behalf of Starbucks with regards to the project 21 itself, so not as an expert per se. 22 LYNN A. ROBESON: Okay. Keep going then. 23 STACY PLOTKIN SILBER: Can you explain your company's 24 relationship with Starbucks? 25 LISA SUNDERLAND: We've been a consultant for</p>	<p>36</p> <p>1 building. 2 LYNN A. ROBESON: Okay. 3 LISA SUNDERLAND: So, it was a conversion from a bank 4 building. 5 LYNN A. ROBESON: Okay. Thanks. 6 STACY PLOTKIN SILBER: This is Stacy Silber from the 7 record. Mrs. Sunderland, I'm showing to you an image of 8 the existing Starbucks building that's across the shopping 9 center is that correct? 10 LISA SUNDERLAND: It's across the road from Old 11 Columbia Pike. Yes, correct. 12 STACY PLOTKIN SILBER: This is not in the record, but 13 if it's helpful, we thought this could be something that is 14 entered into the record. 15 LYNN A. ROBESON: Okay. Why don't I enter it as 16 Exhibit 63, Photo of Existing Starbucks. 17 STACY PLOTKIN SILBER: So, Mrs. Sunderland, you 18 mentioned that this is a conversion, that this building 19 where the Starbucks is currently located is a conversion of 20 an old bank building. Is that correct? 21 LISA SUNDERLAND: Yes. 22 STACY PLOTKIN SILBER: Okay. And does that old bank 23 building have the more recent state of the art services in 24 place in terms of your drive through? 25 LISA SUNDERLAND: It does have some of the programs</p>

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<p>37</p> <p>1 that are internal, but as far as functionality, it does not 2 work as well as if a grounded is constructed. 3 STACY PLOTKIN SILBER: Okay. With regards to your 4 lease arrangements for the new store, what type of lease 5 arrangement do you have? 6 LISA SUNDERLAND: It will be a ground lease and of a 7 period of twenty years. 8 STACY PLOTKIN SILBER: Okay. Has that, I understand 9 that the shopping center has been sold, is it your 10 understanding that lease has been assigned to the new 11 owner? 12 LISA SUNDERLAND: Yes it has. 13 STACY PLOTKIN SILBER: Can you describe Starbucks 14 proposed new store? 15 LISA SUNDERLAND: The new store is a 2,270 square foot 16 footprint which has back of house, which is ideally easier 17 for them to work the front and back bar, the drive through 18 bump out, again operationally works more efficiently, and 19 then a café space. There's also some outdoor seating. 20 STACY PLOTKIN SILBER: Is the hearing examiner 21 interested in hearing about the architecture of the 22 building? 23 LYNN A. ROBESON: It's part of the compatibility so 24 yes. 25 STACY PLOTKIN SILBER: Can you please describe.</p>	<p>39</p> <p>1 neighborhood residents or people that are having business 2 meetings. The drive through will serve the community as 3 far as being able to go through and do pick up without 4 actually going into the store. They have anywhere from 5 four people during shift to eight maximum during the peak 6 hours and the shifts rotate. Starbucks tries to hire a lot 7 of people that are students and so that they're very 8 flexible about their hours and so there's no set shifts 9 other than being there a half hour before opening and an 10 half hour after closing. 11 LYNN A. ROBESON: Alright, I guess I just had a 12 question, which would be the traffic, the operations with 13 the loading and the drive isle. When are the peak, when do 14 you have eight people there? 15 LISA SUNDERLAND: Eight people would probably be from 16 6:00 in the morning to possibly 9:00 or 9:30. 17 LYNN A. ROBESON: Umm hmm. 18 LISA SUNDERLAND: Then if they have an afternoon peak 19 which I'm not sure at this store if they will have that but 20 if they do have an afternoon peak then they would have more 21 staff at that time. The standard- 22 LYNN A. ROBESON: But when would the afternoon peak 23 typically be? 24 LISA SUNDERLAND: The afternoon peak could be either 25 lunch time or it could be when people are going home to</p>
<p>38</p> <p>1 LYNN A. ROBESON: What exhibit is that? 2 STACY PLOTKIN SILBER: Exhibit 14B. 3 LYNN A. ROBESON: Okay, go ahead. 4 STACY PLOTKIN SILBER: Utilizing Exhibit 14B, can you 5 please describe the proposed architecture and how it fits 6 in with the shopping center and what you're proposing for 7 the store? 8 LISA SUNDERLAND: So, the body of the building is 9 masonry product which fits in with, there's a masonry, 10 stucco in the shopping center. So it elevated the design a 11 little bit by not having stucco, it's also more durable. 12 There is a, also a masonry band which is on top of all the 13 windows and the awnings, basically to give you a continuous 14 horizontal break and then the tower elements for the front 15 door and at the drive through booth is an oko skin, which 16 is a concrete board that also gives you a different texture 17 in a little bit more elevated design. 18 LYNN A. ROBESON: Can you spell for the record oko? 19 LISA SUNDERLAND: It's O-K-O. 20 LYNN A. ROBESON: Okay. 21 STACY PLOTKIN SILBER: Can you describe the proposed 22 operations for this Starbucks restaurant? 23 LISA SUNDERLAND: The operations would be from 5:30 in 24 the morning to 11:00 o'clock at night. It's going to 25 operate as a café so it would be a meeting place for</p>	<p>40</p> <p>1 pick up a cup of coffee or pick up something. So it could 2 be anywhere from 4:00 to maybe 5:30. 3 LYNN A. ROBESON: Okay. 4 STACY PLOTKIN SILBER: With regards to your lease 5 agreement, Mr. Fox touched on this, but does your lease 6 allow your store employees and patrons to use parking 7 outside of the conditional use area? 8 LISA SUNDERLAND: Yes, it does. 9 STACY PLOTKIN SILBER: Can you describe your proposed 10 signage on the building? 11 LISA SUNDERLAND: On the South side of the building, 12 which is the main entrance will be the logo disc and then 13 there will be a drive through box with the chevrons 14 directing the customers to go around the building to enter 15 the drive through. On the North side there is, which is 16 the pickup window, and visible when you come into the 17 shopping center off of Old Columbia Pike, there is another 18 logo disc and with a drive through box and directing 19 customers to enter the drive through. On the East side- 20 LYNN A. ROBESON: What exhibit is that? I'm sorry. 21 LISA SUNDERLAND: 14A. 22 LYNN A. ROBESON: Okay. 23 LISA SUNDERLAND: On the East side there is a logo 24 disc and a drive through box. This is what is visible, 25 it's not really visible, but if it could be from Columbia</p>

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11 (41 to 44)

<p>41</p> <p>1 Pike, just probably the top of the building will be. And 2 then on the left side which is interior to the shopping 3 center, you have what they call a board mark which says 4 Starbucks Coffee and again the drive through box directing 5 customers to the entrance to the drive through. 6 STACY PLOTKIN SILBER: And will the Starbucks signage 7 in your opinion comply with Montgomery County? 8 LISA SUNDERLAND: Yes. 9 STACY PLOTKIN SILBER: Can you describe how Starbucks 10 operates its drive through lane? 11 LISA SUNDERLAND: So a few years ago, probably about 12 four or five ago, Starbucks (inaudible) the drive through 13 evolved program, which was to do speed of service and so 14 they developed the size of the bump out which- 15 STACY PLOTKIN SILBER: So what you're looking at is 16 Exhibit 20B. 17 LISA SUNDERLAND: So in the floor plan it, they put 18 (inaudible) is the expresso machine and they have access to 19 the cold beverage station- 20 LYNN A. ROBESON: Wait, who is they? 21 LISA SUNDERLAND: Sorry, the partners, sorry. 22 LYNN A. ROBESON: The what? 23 LISA SUNDERLAND: The partners, which partners are the 24 employees, of Starbucks. 25 LYNN A. ROBESON: Oh okay.</p>	<p>43</p> <p>1 efficient and when you order at the third car, you're up at 2 the window and you're having to wait to get your drink and 3 your food. So by changing the interior and doing the bump 4 out, it's more efficient and then moving the order point 5 back to the sixth car they were able to service and more 6 efficiently so that people want be in line as long. 7 STACY PLOTKIN SILBER: Can you describe how and when 8 loading and unloading of delivers are made at Starbucks? 9 LISA SUNDERLAND: The loading and deliveries is after 10 the store is closed. The company has their own keys so 11 they'll park into the loading area and they'll deliver 12 usually- 13 LYNN A. ROBESON: You mean the company making 14 deliveries has their own key? 15 LISA SUNDERLAND: Yes. 16 LYNN A. ROBESON: So it's not during operational 17 hours? Do you have a problem with the conditions of it 18 stating that it not be within operational hours? 19 LISA SUNDERLAND: No. 20 LYNN A. ROBESON: Okay. I'm sorry, go ahead. 21 STACY PLOTKIN SILBER: And so deliveries are made 22 after hours? 23 LISA SUNDERLAND: Deliveries are made after hours. 24 STACY PLOTKIN SILBER: And in terms of trash pickup. 25 Is trash pickup during a certain time during the day?</p>
<p>42</p> <p>1 LISA SUNDERLAND: So the partners, the employees have 2 access to the cold beverage station so that they're able to 3 fix the drinks without impeding or impeding the front bar 4 for the customers that are in the café. So when the first 5 car comes in to the drive through cue and they order, it 6 takes three minutes from the time they order to the pickup 7 window and that is now because they have the order point at 8 the sixth car so that they have a little bit more time from 9 the order point to pickup to be able to create the drinks 10 and then get any pastries or anything the customers would 11 like. After the cue starts rolling the second, third, 12 fourth, fifth car it then takes two minutes because they've 13 gotten operation, they've gotten moving and they're getting 14 into a rhythm so that if there's six cars in the cue, they 15 can actually empty the cue within a two minute period to 16 each car subsequently. 17 STACY PLOTKIN SILBER: Mrs. Sunderland, in terms of 18 how this, let me back up. There was an email 19 correspondence that had mentioned about the cues that 20 currently occur at the existing store. Can you just 21 describe how this has improved the circulation through your 22 store as compared to your existing store? 23 LISA SUNDERLAND: In the existing store, the order 24 point is at the third car and they don't have the bump out 25 and so that the operationally inside they're not as</p>	<p>44</p> <p>1 LISA SUNDERLAND: Trash would be off hours, so it 2 would not be during peak. If they have a lull at 2:00 or 3 3:00 in the afternoon they could schedule it for that. If 4 they're busy pretty much continually all day, then they 5 would do it after the stores closed or the store opens. 6 STACY PLOTKIN SILBER: And have you reviewed- 7 LYNN A. ROBESON: Is trash loading in the same loading 8 spot? 9 LISA SUNDERLAND: It is- 10 LYNN A. ROBESON: Is the dumpster in the same loading 11 spot? 12 LISA SUNDERLAND: No, the dumpster is here at the 13 entrance to the drive through. 14 LYNN A. ROBESON: Okay. 15 STACY PLOTKIN SILBER: Have you reviewed the Planning 16 Staff and Board's recommendations for this project? 17 LISA SUNDERLAND: Yes. 18 STACY PLOTKIN SILBER: Do you agree with their 19 recommendations? 20 LISA SUNDERLAND: Yes, I do. 21 STACY PLOTKIN SILBER: Okay. I have no further 22 questions. 23 LYNN A. ROBESON: Okay, I'm still writing. Alright, so 24 you're saying that you're not going to experience the 25 twelve car cues because your order point is further in</p>

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12 (45 to 48)

<p>45</p> <p>1 advance and you have a more efficient layout of the 2 interior drive through window than what's permitted in the 3 bank. Is that what your testimony is? 4 LISA SUNDERLAND: No. Possibly if it's raining or you 5 know the weather is inclement with snow, you might have a 6 longer cue if people don't want to get out and go into the 7 café. 8 LYNN A. ROBESON: Right. 9 LISA SUNDERLAND: But, instead of taking as long when 10 you get in a cue, you'll be processed faster so you'll move 11 through the cue much faster. So, if they did go to twelve 12 or fifteen which would be unusual, but even if they went to 13 twelve, it would be very quickly that they would go through 14 so that you wouldn't have the extended cue that you do now 15 for the longer periods of time. 16 LYNN A. ROBESON: I see. Okay. 17 STACY PLOTKIN SILBER: And Miss. Sunderland- 18 LYNN A. ROBESON: Well, what's going to happen if the 19 cue goes to twelve? Or is Mr. Lenhart going to- 20 STACY PLOTKIN SILBER: Yes. Mr. Lenhart will discuss 21 it in more detail- 22 LYNN A. ROBESON: I have to tell you Mr. Lenhart 23 always gets the tough questions. I have to tell you. 24 Anyway, go ahead. 25 STACY PLOTKIN SILBER: It's because he's so good at</p>	<p>47</p> <p>1 you a traffic engineer or a transportation planner? 2 MICHAEL LENHART: Yes. 3 LYNN A. ROBESON: Okay. 4 STACY PLOTKIN SILBER: I would like to enter him as an 5 expert in this area, if I may. Mr. Lenhart, are you 6 familiar with the conditional use application? 7 MICHAEL LENHART: Yes, I am. 8 STACY PLOTKIN SILBER: What were you hired to do in 9 this case? 10 MICHAEL LENHART: I was hired to prepare a traffic 11 statement and to look at the onsite circulation and any 12 potential impacts. 13 STACY PLOTKIN SILBER: Have you made a personal 14 inspection of this location as well as existing location of 15 the Starbucks store? 16 MICHAEL LENHART: Yes, I have been to the site and to 17 the existing numerous times. 18 STACY PLOTKIN SILBER: Did you and your firm prepare a 19 written report regarding the proposed conditional use? 20 MICHAEL LENHART: Yes, I have. 21 STACY PLOTKIN SILBER: Are you familiar with 22 Montgomery Counties LATR and TPART requirements? 23 MICHAEL LENHART: Yes, I am. 24 STACY PLOTKIN SILBER: Does this comply with the LATR 25 requirements?</p>
<p>46</p> <p>1 it. He can handle those. I think what we will do is have 2 Mr. Lenhart answer those questions- 3 LYNN A. ROBESON: And if there needs to be any follow 4 up, that's fine. 5 STACY PLOTKIN SILBER: Okay well obviously we'll come 6 back/ 7 LYNN A. ROBESON: Thank you. 8 STACY PLOTKIN SILBER: And it's Mr. Lenhart's turn. 9 MICHAEL LENHART: Good morning. 10 LYNN A. ROBESON: Good morning. Please raise your 11 right hand. Do you solemnly affirm under penalty of 12 perjury that the statements that you're about to make are 13 the truth, the whole truth and nothing but the truth? 14 MICHAEL LENHART: I do. 15 STACY PLOTKIN SILBER: Please state your name and 16 address for the record. 17 MICHAEL LENHART: Michael Lenhart, 645 Baltimore 18 Annapolis Blvd., Suite 214, Severna Park, Maryland, 21146. 19 STACY PLOTKIN SILBER: Mr. Lenhart, have you testified 20 and qualified as an expert in transportation and 21 engineering before the Montgomery County hearing examiner? 22 MICHAEL LENHART: Yes, I have. 23 LYNN A. ROBESON: He has testified multiple times and 24 I don't see anyone that would have an objection to 25 qualifying him as an expert. I just can't remember, are</p>	<p>48</p> <p>1 MICHAEL LENHART: It does comply with the 2 requirements. So the underlying property was tested for 3 LATR at the time of the initial preliminary planned 4 subdivision. That is preliminary plan 1-2004-109B at which 5 time it was approved for 250,000 square foot of retail and 6 10,000 square feet of office space. There is currently 7 approximately 123,590 square feet based of the Park, 8 Departments of Assessments and Taxation's current records 9 that has been built. Starbucks is 2,278 square feet which 10 would still take the site to under current conditions 11 approximately fifty percent of the approved build out 12 level. Since the detailed transportation study was done at 13 the time of the preliminary planning of subdivision and 14 this fits within the existing approvals, no further 15 transportation review was required. 16 STACY PLOTKIN SILBER: Does this application comply 17 with TPART requirements? 18 MICHAEL LENHART: It does. Actually, the site, when 19 it was originally approved, TPART didn't even exist and now 20 it's been removed so, yes it (inaudible). 21 STACY PLOTKIN SILBER: Can you describe the general 22 traffic circulation in the area of the site and how 23 vehicles enter and exit? 24 MICHAEL LENHART: Yes. The site again is located 25 along the North side of Maryland 198 and the West side of</p>

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13 (49 to 52)

<p>49</p> <p>1 Old Columbia Pike. The shopping center has two main access 2 points, one via a signalized access 3 LYNN A. ROBESON: Can we have the site, is that 4 MICHAEL LENHART: Its 12B, I think. 5 LYNN A. ROBESON: We're high tech here, aren't we? 6 MICHAEL LENHART: Yes. 7 LYNN A. ROBESON: Well, 12C would work, 12B would be 8 better. I apologize it just helps me to follow along with 9 what you're saying. 10 STACY PLOTKIN SILBER: Here's 12B. 12b is in the back 11 of this? 12 LYNN A. ROBESON: Okay, if we can work with 12B that 13 be helpful. Okay, go ahead. Sorry to hold you up. 14 MICHAEL LENHART: So Maryland 198 runs East and West, 15 there's a un-signalized access point on Maryland 198 for 16 the overall shopping center and there's a signalized access 17 point on Old Columbia Pike to the shopping center. The pad 18 site in question, well, the signalized access has 19 signalized turning movements left turns, right turns into 20 the site and it's controlled, there's a cueing and stacking 21 area for access to the site. The un-signalized access on 22 Maryland 198 also has turning lanes in and out of the site, 23 there's safe ingress and egress to the site at both access 24 points and overall access to the center is safe and 25 adequate based upon what's out there today. We've looked,</p>	<p>51</p> <p>1 basically, there is a drive isle, when you access the site 2 from Old Columbia Pike at the traffic signal, there's a 3 main circulation drive that goes through the site and 4 connects back down to the entrance that comes out to 198. 5 We'll call it the main spine road through the site. And 6 then there's access to the front area of the shopping 7 center which contains the Roy Rogers, the Green Turtle and 8 the proposed site off of that main spine road. There's 9 also access to the rear, to the North side of the site for 10 the larger uses and the grocery store, back in that area. 11 Parking field in front of this site, or when I was there- 12 LYNN A. ROBESON: When, you were saying the front, you 13 mean the area behind- 14 MICHAEL LENHART: The Starbucks. 15 LYNN A. ROBESON: Behind the Starbucks. 16 MICHAEL LENHART: To the West. 17 STACY PLOTKIN SILBER: You're pointing to the West. 18 MICHAEL LENHART: To the West of the Starbucks front 19 door. There's a parking field there and that is also to 20 the West of the Green Turtle and to the West of the Roy 21 Rogers. There's a large parking field there to serve those 22 pad sites. The morning peak hour again, between 8:00 and 23 9:00 a.m. there was very few cars parked in there, probably 24 half a dozen. 25 LYNN A. ROBESON: Are you talking about LAPR peak hour?</p>
<p>50</p> <p>1 even though, LATR has been satisfied, not tested, we have 2 looked at recent State Highway administration traffic 3 counts in the area and (inaudible) service at the study 4 intersections very good. 5 LYNN A. ROBESON: Okay. 6 STACY PLOTKIN SILBER: Can you describe the findings 7 of the evaluation of your study? 8 MICHAEL LENHART: Yes. As discussed previously, the 9 Starbucks pad site is located adjacent to the signalized 10 entrance off of Old Columbia Pike to the South of that 11 entrance in between the Green Turtle pad site and as you 12 move further down there's the Roy Rogers pad site as you go 13 down the line. Access- 14 LYNN A. ROBESON: Does Roy Rogers have a drive 15 through, do you know? 16 MICHAEL LENHART: It does have a drive through and 17 when I was out there last week, it was 8:00 to 8:30 or so 18 in the morning and it was very lightly used. I think I saw 19 two or three, four vehicles going through it. No more than 20 one or two in a cue at a time. 21 LYNN A. ROBESON: Okay. 22 MICHAEL LENHART: When I was out there, well I don't 23 want to jump ahead. 24 LYNN A. ROBESON: Well, take your time, go ahead. 25 MICHAEL LENHART: So, the access to the site is</p>	<p>52</p> <p>1 MICHAEL LENHART: I'm talking, well that would, the 2 LAPR peak hour is 6:30 to 9:30. 3 LYNN A. ROBESON: Right. 4 MICHAEL LENHART: Starbucks has indicated that their 5 peak is probably 6:00 a.m. to 9:00 a.m. which coincides 6 with the morning peak hour because people are going to 7 work. They drive by, they pull in to get their coffee for 8 their drive to work. 9 LYNN A. ROBESON: Right. 10 MICHAEL LENHART: So that's why they come up with 11 that. 12 LYNN A. ROBESON: Right. 13 MICHAEL LENHART: Meanwhile shopping centers peak hour 14 really is the evening peak hour, PNP. People don't go to 15 shopping centers at 8:00 a.m. to go grocery shopping or 16 banking or whatever. Usually those things occur later in 17 the day. The Starbucks use has a peak that's early, most 18 other things in the center have a peak that's later in the 19 day. So the access and circulation for the Starbucks works 20 very well because most of the other uses are either not 21 open or have different peaks than the Starbucks. 22 STACY PLOTKIN SILBER: Mr. Lenhart, how many cars are 23 required by code for there to be in this type of a cue? 24 MICHAEL LENHART: Yes, Zoning Ordinance Section 25 6.2.7.A1 for cueing design standards requires a minimum of</p>

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14 (53 to 56)

<p>53</p> <p>1 five cueing spaces for a drive through. And our site plan 2 shows that we have dedicated exclusive cueing area- 3 STACY PLOTKIN SILBER: And that's Exhibit- 4 LYNN A. ROBESON: Oh, is that a part of the power 5 point? 6 STACY PLOTKIN SILBER: It is. It's Exhibit 51 and its 7 Page 8 of the power point. 8 LYNN A. ROBESON: Okay. I'm sorry, go ahead. 9 MICHAEL LENHART: Our plan shows that we have cueing 10 area for seven spaces completely within the cueing area for 11 the drive through. There have been discussions about cues 12 extending beyond the drive through. During the morning 13 peak hour, it is possible that it could extend. I believe 14 on average the peak would be contained within those seven 15 vehicles. There may be times, peak times within the peak 16 hour where you get some cueing that would extend out of 17 there. We believe probably no more than eight or nine at 18 maximum. 19 LYNN A. ROBESON: Eight or nine total, not eight or 20 nine in addition to the- 21 MICHAEL LENHART: In total. Yes. So we've, starting 22 within the drive through perhaps it could peak out to eight 23 or nine which if you look on- I'm sorry which- 24 STACY PLOTKIN SILBER: It's Exhibit 51, Page 8. 25 MICHAEL LENHART: Exhibit 51, Page 8 there are seven</p>	<p>55</p> <p>1 something like this occur where like they peak out beyond 2 the parking, what happens is the cue moves forward, if 3 there's a car trying to back out, the car in front of it 4 would move forward, the car behind it typically sees 5 somebody trying to back out. That car, if it's next in the 6 cue, you realize that you can't get anywhere by cutting 7 that person off, because you still have to wait for the cue 8 so you let a gap create, let that person out and they move 9 on. It's really no, no delay or inconvenience to anyone 10 and the only people that are impacted, even to that degree 11 would be Starbucks customers, not other users of the 12 shopping center or pad sites. 13 LYNN A. ROBESON: And what if somebody parks in the 14 parking field outside of the pad site? Is the cue going to 15 interfere with their access to the store? 16 MICHAEL LENHART: No, we believe that the cue would 17 never reach the Western end of the Starbucks store. It 18 would never extend out into the service road that goes 19 North and South in front of the Starbucks down by the Green 20 Turtle to the Roy Rogers and to the bank. It would never 21 extend out to that point and block traffic or block 22 peoples' ability to get to the main parking field to the 23 West of the Starbucks entrance. 24 LYNN A. ROBESON: Thank you. 25 STACY PLOTKIN SILBER: Mr. Lenhart, in terms of</p>
<p>54</p> <p>1 vehicles within the drive through and then there are two, 2 the first two blue vehicles beyond the drive through extend 3 back in front of the proposed dumpster and the, almost to 4 the first parking lot along the side of the Starbucks 5 building there. So, those nine vehicles really would not 6 impede any other traffic, any other parking on the site. 7 STACY PLOTKIN SILBER: Mr. Lenhart, what if there was 8 a time in which there were more than those nine spaces or 9 nine cars cueing? What would happen in your opinion in 10 terms of circulation? 11 MICHAEL LENHART: This plan shows the potential for up 12 to twelve. If that would occur, those cars would simply 13 cue along the curb line to the Green Turtle, the adjacent 14 use and wait for their turn to enter the drive through. 15 There have been some questions or discussions about well if 16 that happens it's going to block the people from getting in 17 and out of the parking spaces along that South side of the 18 Starbucks. While that is possible that could occur at 19 peak, peak time of the peak hour briefly, but as testified 20 by Mrs. Sunderland, this site is designed using the latest 21 technology increased separation from the window to the 22 order board and they process vehicles much quicker. That 23 twelve vehicle cue would reduce very quickly and typically 24 what would happen, you see this in other shopping centers, 25 other drive through fast food restaurants where you have</p>	<p>56</p> <p>1 parking that's here, if someone in the morning cue, there 2 were cars that were cued to the South of those parking 3 spaces that are on the South side of the building, where 4 else could patrons visiting Starbucks park? 5 MICHAEL LENHART: Sure. So what would typically 6 happen is let's say someone enters the shopping center from 7 either Old Columbia Pike or 198, they travel through the 8 site, they pull up in front of the Starbucks and they look 9 and see a cue that extends back from the drive through 10 along the side of the Green Turtle. What they're more than 11 likely to do is pull into the parking field in front and 12 just walk in, rather than wait through a cue, it's obvious 13 that the cue is long they just go inside and get their 14 coffee. 15 STACY PLOTKIN SILBER: Is there a pedestrian access 16 point for them to enter on that Western side? 17 MICHAEL LENHART: Yes there is along the front of the 18 West side of the building there. Yes. And there's parking 19 spaces along that frontage, the West side frontage of the 20 building, and then across the street and the main parking 21 field for all of the pad sites, there is a significant 22 amount of parking. 23 STACY PLOTKIN SILBER: There was a suggestion that the 24 cue should extend behind the Green Turtle. Can you please 25 describe whether you agree with that suggestion?</p>

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15 (57 to 60)

<p>57</p> <p>1 MICHAEL LENHART: No, I do not agree with that. We 2 think operationally-</p> <p>3 LYNN A. ROBESON: You said behind the Green Turtle, is 4 that between the Green Turtle and Old Columbia Pike, is 5 that which area you're talking about?</p> <p>6 MICHAEL LENHART: Yes.</p> <p>7 LYNN A. ROBESON: Okay. Oh and block that access.</p> <p>8 MICHAEL LENHART: The Green Turtle is located to the 9 South of the Starbucks, there was a suggestion by I guess a 10 citizen that we should route the people entering Starbucks 11 down the side of, the South side of the Green Turtle. And 12 then up behind the Green Turtle toward the entrance of the 13 Starbucks-</p> <p>14 LYNN A. ROBESON: Oh, I see and not use that access 15 between Starbucks and Green Turtle.</p> <p>16 MICHAEL LENHART: Right, rather that vehicles cueing 17 between the Starbucks and Green Turtle, they were 18 suggesting the cue behind the Green Turtle. We think it 19 would be difficult to sign and orient people to, it's 20 counter intuitive to say I'm going to drive between the 21 Green Turtle and Roy Rogers to get to the Starbucks so 22 there would be some confusion from that. Also, the 23 direction of the cue and different things, we just don't 24 think that is, and we don't think that cue is going to 25 exist very often.</p>	<p>59</p> <p>1 may be excused.</p> <p>2 MICHAEL LENHART: Thank you.</p> <p>3 STACY PLOTKIN SILBER: We are now planning to call Mr. 4 Ed Steere.</p> <p>5 LYNN A. ROBESON: Please raise your right hand. Do 6 you solemnly affirm under the penalties of perjury that the 7 statements that you're about to make are the truth, the 8 whole truth and nothing but the truth?</p> <p>9 EDWARD STEERE: Yes.</p> <p>10 LYNN A. ROBESON: Please state your name and address 11 for the record.</p> <p>12 EDWARD STEERE: My name is Edward Steere. My address 13 is 6240 Old Diamond Lane, Suite 140, Columbia, Maryland, 14 21045.</p> <p>15 LYNN A. ROBESON: Thank you.</p> <p>16 STACY PLOTKIN SILBER: Mr. Steere, which company do 17 you work with?</p> <p>18 EDWARD STEERE: I work for Lipman Frizell and 19 Mitchell.</p> <p>20 STACY PLOTKIN SILBER: And your report which is part 21 of Exhibit 6 indicated that you were working with Valbridge 22 Property Advisors. How does Lipman Frizell and Valbridge 23 Property Advisors relate to each other?</p> <p>24 EDWARD STEERE: There's been a change this year but 25 Valbridge Property bought Lipman Frizell and Mitchell and</p>
<p>58</p> <p>1 STACY PLOTKIN SILBER: So is it your conclusion that 2 the circulation and the layout of the drive through 3 complies with applicable code requirements?</p> <p>4 MICHAEL LENHART: Yes.</p> <p>5 STACY PLOTKIN SILBER: Is it your opinion that the way 6 that the drive through is configured will operate 7 efficiently and safely for customers coming to and from the 8 shopping center?</p> <p>9 MICHAEL LENHART: Yes.</p> <p>10 STACY PLOTKIN SILBER: One section of the code 11 7.3.1E1F just talks about how the conditional use, or 12 whether the conditional use is served by adequate public 13 facilities including roadways. You discussed that 14 previously, but do you agree that this application complies 15 with that sub-section of the code?</p> <p>16 MICHAEL LENHART: Yes. It basically says if the site 17 isn't approved APF tests that's currently valid based upon 18 proof of preliminary plan and this falls within those 19 approvals, then there's no further analysis required as 20 testified previously, there is an approved preliminary plan 21 still valid and the site is only half built out based upon 22 the approvals.</p> <p>23 STACY PLOTKIN SILBER: I have no further questions for 24 Mr. Lenhart.</p> <p>25 LYNN A. ROBESON: Okay. Thank you, Mr. Lenhart. You</p>	<p>60</p> <p>1 Valbridge Property Advisors merged operations several years 2 ago and in the fall of 2016 separated. Those operations and 3 are back to just Lipman, Frizell and Mitchell at this time.</p> <p>4 STACY PLOTKIN SILBER: Can you describe your 5 professional background?</p> <p>6 EDWARD STEERE: I'm a certified land planner at 7 American Institute of Certified Planners and a market 8 analyst; there is no certification for that.</p> <p>9 LYNN A. ROBESON: Have you ever testified as an expert 10 in market analysis?</p> <p>11 EDWARD STEERE: Yes.</p> <p>12 LYNN A. ROBESON: Where you qualified?</p> <p>13 EDWARD STEERE: I have testified in both areas in 14 Parker County, Cecil County and smaller jurisdictions 15 around the state.</p> <p>16 LYNN A. ROBESON: Alright, I'll accept him as an 17 expert in marketing analysis.</p> <p>18 STACY PLOTKIN SILBER: Are you familiar with the 19 conditional use application that we're here today 20 discussing?</p> <p>21 EDWARD STEERE: Yes, I am.</p> <p>22 STACY PLOTKIN SILBER: Can you describe your 23 responsibilities with regards to this application?</p> <p>24 EDWARD STEERE: Montgomery County Code 7.3.1E6 25 requires that a drive through should be granted if found</p>



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16 (61 to 64)

<p style="text-align: right;">61</p> <p>1 with preponderance of evidence of record that a need exists 2 for the proposed use due the insufficient number of similar 3 uses presently serving the existing population 4 concentrations in the county and the uses at the location 5 proposal not result in a multiplicity or saturation of 6 similar uses in the same general neighborhood. I prepared 7 a report studying those key factors, whether there was a 8 need and whether there was multiplicity or saturation that 9 would result from moving the store across the street. 10 STACY PLOTKIN SILBERA: And what did you- 11 LYNN A. ROBESON: You know, I, maybe I should disclose 12 something. See your market area, see the very Northern tip 13 that I commute every day? And I am going to disclose, 14 because, I'm just feeling guilty out of an abundance of 15 caution, I drive from Johns Hopkins Road, from Columbia, or 16 from Johns Hopkins Road down to 29 to find a coffee place 17 in Maple Lawn that was open on my commute and there was 18 none. And then I ran out of time, so I just, I was feeling 19 guilty, I have to disclose that. You may ask me to recuse 20 myself. 21 STACY PLOTKIN SILBER: We'll ask you questions about 22 noon today. 23 EDWARD STEERE: It saves me the testimony as to why- 24 LYNN A. ROBESON: No, I don't want to rain on your 25 parade, but I was feeling guilty, I just wanted you to know</p>	<p style="text-align: right;">63</p> <p>1 you pointed, the Northern tip of this is Scaggsville, Maple 2 Lawn and up Route 29, Route 29 being the main road with 3 little interruption in it becomes a long spine in a five 4 minute drive time. In between Burtonsville and Maple Lawn, 5 there's relatively little development. To the East, you 6 hit Route 95 Interchange to Route 190A to the South you're 7 going down to Briggs Chaney, to the West to Good Hope Road 8 and the in between areas are fragmented based on the 9 neighborhood design the circuitous roads are within them. 10 Generally speaking, as far as retail nodes go we are 11 centered. The next one is Maple Lawn to the North and 12 Briggs Chaney to the South- 13 LYNN A. ROBESON: Which doesn't have a coffee shop 14 open during commute times and that's all I'm saying. 15 EDWARD STEERE: I guess I'm going to leak here a 16 little bit, there's a Dunkin Donuts in Maple Lawn. 17 LYNN A. ROBESON: Yes, but that's- 18 EDWARD STEERE: But it's not a drive through. So, 19 we'll talk about that. 20 LYNN A. ROBESON: But that's only if you like Dunkin 21 Donuts. 22 EDWARD STEERE: I'm not disagreeing with you. 23 LYNN A. ROBESON: Okay. I'd better stop. They're 24 going to take me off this case. 25 EDWARD STEERE: You illustrate my point in that if we</p>
<p style="text-align: right;">62</p> <p>1 that, I went into, Johns Hopkins has a shopping center, I 2 went into Maple Lawn, so just for the record. 3 STACY PLOTKIN SILBER: Thank you. 4 LYNN A. ROBESON: So go ahead. 5 STACY PLOTKIN SILBER: What do you do Mr. Steere with 6 regards to completing your analysis? 7 EDWARD STEERE: I reviewed the plans from Starbucks. 8 I inspected the site, this trade area that I'll describe in 9 a couple of minutes and reviewed the Starbucks reports from 10 2015 and reports, some other available documents. We 11 created a trade area using- 12 STACY PLOTKIN SILBER: Mr. Steere, you're pointing to 13 a trade area and its part of Exhibit 6, the Land Use 14 Report. It's an attachment to Exhibit 6. 15 EDWARD STEERE: Yes, this is a flow map of the part of 16 my land use report, I'm sorry from my need study report. 17 We also looked at the consumer expenditure surveys, U.S. 18 census and other census data through Ezree Business 19 Systems. This trade area that I have on this map is a five 20 minute drive time. This is a good proximally that people 21 will travel before they want to get their coffee. The 22 reason it is this style and shape is due to the functional 23 classification of these roads that's on it. I'm jumping 24 ahead just a little bit here on this, but I want to 25 describe this area because I think it's important that as</p>	<p style="text-align: right;">64</p> <p>1 were to extend our market area a greater distance, we'd be 2 picking up the market areas of other shopping centers that 3 would go even farther and it would, so this does actually 4 naturally create the trade area for the Burtonsville 5 Crossing shopping area. We also looked at highway volume 6 maps and looked at, and we surveyed other drive throughs in 7 the area and coffee shops in the area. Then we calculated 8 the demographics. 9 LYNN A. ROBESON: So, there's no drive through in the 10 market area or just in- 11 EDWARD STEERE: There's no other drive through 12 specialty coffee shops in the market area. We do have 13 drive throughs like Roy Rogers and McDonalds. 14 LYNN A. ROBESON: Okay. That was my question. 15 EDWARD STEERE: Yes. 16 STACEY PLOTKIN SILBER: Can you describe some of the 17 major uses within the Burtonsville commercial area? 18 EDWARD STEERE: Yes. So in the shopping center, in 19 our subject shopping center, Burtonsville Town Center, the 20 main anchor, is giant to the sub-anchors, CVS which has a 21 drive through as well and there's other tenants here as 22 well. There is a Dunkin Donuts/Baskin Robbins place in 23 (inaudible). Pads sites include a Capital One Bank, Green 24 Turtle and Roy Rogers. There's some other, Verizon store, 25 liquor store, things like that. It's a fairly well</p>

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17 (65 to 68)

<p>65</p> <p>1 stabilized and occupied shopping center.</p> <p>2 STACY PLOTKIN SILBER: Did you determine the trade</p> <p>3 area demographics?</p> <p>4 EDWARD STEERE: Yes. Using this tool that we have</p> <p>5 from Ezree, we were able to download the demographics of</p> <p>6 the, this area from U.S. Census data.</p> <p>7 STACY PLOTKIN SILBER: Can you describe what you</p> <p>8 found?</p> <p>9 EDWARD STEERE: Okay. What we found is in this area</p> <p>10 we have residentially, 6,510 households. We use households</p> <p>11 as a typical measure in this kind of study. Of these</p> <p>12 households, in 2015 the average household income was</p> <p>13 \$103,000.00 the average household size was 2.93 people,</p> <p>14 though larger than typical, average owner occupied home</p> <p>15 value was \$403,939.00 and 65 percent of the households were</p> <p>16 home ownership in this market area as well. Persons over</p> <p>17 25 years old with at least their bachelor's degree, more</p> <p>18 than half, 50 percent. So this is an affluent area with</p> <p>19 high average income and the, you know a good customer base</p> <p>20 for shopping for these types of uses. So what we do is</p> <p>21 compute the income, what the trade areas aggregate income</p> <p>22 is and that was 6,500 households times \$103,000.00 dollar</p> <p>23 average income and that came out to \$673 million plus.</p> <p>24 Then we looked at the business side of it, the employment,</p> <p>25 as you know, there's a business park directly across the</p>	<p>67</p> <p>1 coffee obviously, but they're also selling, the way I put</p> <p>2 it is their niche. All these restaurants have a niche of</p> <p>3 foods, or products that they sell. Starbucks primary niche</p> <p>4 is the beverages and they have other foods that accompany</p> <p>5 the beverages. In a case of a Dunkin Donuts, they sell</p> <p>6 food and they have coffee to accompany that, so their</p> <p>7 primary niche is not the coffee. They have dessert foods</p> <p>8 and they have breakfast foods and Burger King, the Roy</p> <p>9 Rogers, Wendy's and McDonalds obviously are about the food</p> <p>10 and they have coffee products as well. So, they're not a</p> <p>11 coffee destination like Starbucks is which is a strong</p> <p>12 niche. In our shopping center we have Roy Rogers and we</p> <p>13 have Dunkin Donuts, there's a McDonalds across Route 198.</p> <p>14 At the North end of our market area, as I pointed out,</p> <p>15 there's a Dunkin Donuts with a Baskin Robbins and it's also</p> <p>16 an in line store, it does not have a drive through.</p> <p>17 STACY PLOTKIN SILBER: Mr. Steere, is there a</p> <p>18 saturation of this Starbucks product in this service area?</p> <p>19 EDWARD STEERE: Not at all.</p> <p>20 STACY PLOTKIN SILBER: In your professional opinion, is</p> <p>21 there a need for this type of conditional use?</p> <p>22 EDWARD STEERE: Yes, there is. Part of the reason,</p> <p>23 I'm saying there's a need for this is there's an existing</p> <p>24 Starbucks here today that is successful, we're not adding</p> <p>25 to the market, we're replacing it in the market. We've</p>
<p>66</p> <p>1 street, five buildings in Burtonsville Crossing and the,</p> <p>2 that we were figuring of estimating about 5,000 employees</p> <p>3 in this trade area. We estimate that they would spend an</p> <p>4 average of \$10.00 a week on drive through food. So that</p> <p>5 came out to another \$2.5 million dollar's worth of expense</p> <p>6 from the business side. So the total annual demand, we</p> <p>7 computed it was just over \$9.0 million a year, annual. So,</p> <p>8 let me step back a little bit, the consumer expenditure</p> <p>9 survey we looked at food away from home, what we have is</p> <p>10 .96 percent of annual gross income is spent on specialty</p> <p>11 foods away from home like snack foods and lunch foods.</p> <p>12 Using that, we computed to, I'm sorry, that's where we came</p> <p>13 down to the \$6.5 million dollars of household demand plus</p> <p>14 \$2.5 million dollars of worker demand was \$9.0 million</p> <p>15 worth of angle to that. The \$673 million times the .96</p> <p>16 percent was 6.5 million.</p> <p>17 STACY PLOTKIN SILBER: In terms of other similar uses</p> <p>18 in this area, can you describe what other uses would be</p> <p>19 competitive for that market share?</p> <p>20 EDWARD STEERE: Right in the immediate Burtonsville</p> <p>21 neighborhood you have McDonalds and Roy Rogers with drive</p> <p>22 throughs right now. At the southern end of the trade area,</p> <p>23 there's another McDonalds and there's Wendy's and Burger</p> <p>24 King I believe and the same up towards Maple Lawn. The, in</p> <p>25 our shopping center, there's a Dunkin Donuts that sells</p>	<p>68</p> <p>1 already had the demonstrated need and we're offsetting it</p> <p>2 by moving it across the street.</p> <p>3 STACY PLOTKIN SILBER: Is it your professional opinion</p> <p>4 that the proposed conditional use satisfies the ordinance</p> <p>5 requirement with regards to need?</p> <p>6 EDWARD STEERE: Yes.</p> <p>7 STACY PLOTKIN SILBER: No further questions.</p> <p>8 LYNN A. ROBESON: Alright. Thank you. Anyone else?</p> <p>9 STACY PLOTKIN SILBER: No, we're good with that. We do</p> <p>10 not have other witnesses that we were planning on calling.</p> <p>11 We did have someone from the shopping center, but I don't</p> <p>12 think it's necessary unless you have any specific questions</p> <p>13 for the prior shopping center owner.</p> <p>14 LYNN A. ROBESON: The prior owner?</p> <p>15 STACY PLOTKIN SILBER: The prior owner and we actually</p> <p>16 have the new owner here as well should you have any</p> <p>17 questions.</p> <p>18 LYNN A. ROBESON: No, I think the parking, the lease</p> <p>19 allowing parking in the entire center was sufficient.</p> <p>20 STACY PLOTKIN SILBER: Okay.</p> <p>21 LYNN A. ROBESON: Let me do this. I don't have any</p> <p>22 further questions. So what I'm going to do, the record, we</p> <p>23 have to keep the record open for ten days because we don't</p> <p>24 get the transcript for ten days and it's hard to write the</p> <p>25 decision even though I remember a lot of what you say, it's</p>

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<p>69</p> <p>1 hard to write the decision without the transcripts. Today 2 is the 3rd, I don't know what day the 13th falls on. If 3 it's a- 4 STACY PLOTKIN SILBER: The 13th is a Monday. Is it 5 February 13th? 6 LYNN A. ROBESON: Yes. 7 STACY PLOTKIN SILBER: It's a Monday. 8 LYNN A. ROBESON: Okay, so the record's going to stay 9 open until February 13th. I don't think there's any other 10 additional information that I need or that is outstanding. 11 I think you've provided most of that information. Then, my 12 decision is due within thirty days of February 13th. If 13 anyone has, disagrees with my decision, they have ten days 14 from the date of the decision to appeal it to the Board of 15 Appeals. And again, there's no testimony taken at the 16 Board, it's just on the transcript of what went on here 17 which is why I was saying, say West instead of here. So 18 with that, I'm going to keep the record open until February 19 13th, to get the- 20 STACY PLOTKIN SILBER: One thing, so, discussed the 21 applicant is now Starbucks Corporation and there's until 22 Monday for folks to- 23 LYNN A. ROBESON: That's right, if there is an 24 objection, I will, the record will still be open and if you 25 want to respond I will certainly give you an opportunity to</p>	<p>71</p> <p>1 Lighting Plan. 2 STACY PLOTKIN SILBER: Great. The only other thing I 3 wanted to mention was Exhibit 63 is a new exhibit and we 4 just wanted to make, that is the picture of the old 5 Starbucks, if that could just be entered into the record or 6 that all the exhibits are not entered into the record. 7 LYNN A. ROBESON: All the exhibits are now admitted, 8 yes. 9 STACY PLOTKIN SILBER: Thank you. 10 LYNN A. ROBESON: Do I have some photos of Exhibit 63? 11 STACY PLOTKIN SILBER: Yes. I labeled it. It's on the 12 board. 13 LYNN A. ROBESON: Can you bring that here just so, 14 these are duplicates, the boards you are using are 15 duplicates of what's in the record. 16 STACY PLOTKIN SILBER: That's correct. 17 LYNN A. ROBESON: This is new. 18 STACY PLOTKIN SILBER: That's the only new exhibit. 19 LYNN A. ROBESON: Alright, so with that you're going 20 to confirm whether any of the plans need to be updated to 21 reflect the new applicant. 22 STACY PLOTKIN SILBER: Correct. 23 LYNN A. ROBESON: Can you do that within, do you 24 think, I can leave the record open a few more days longer 25 if you think you need the time.</p>
<p>70</p> <p>1 respond. 2 STACY PLOTKIN SILBER: And my questions is, are plans 3 still reflect, some of the plans still reflect the 4 applicant as initially submitted, so would you like for us 5 to revise any of the plans to submit to you. 6 LYNN A. ROBESON: It depends on which plans. I didn't 7 check that. The site, the Conditional Use Plan and the 8 Landscape Plan that should be under the, that should be 9 under the current applicant's name. Because, the exhibits, 10 I'm not going to require you to change. But, it's those 11 three plans that are binding. And if you want to tell me 12 if any of those need to change, you can tell me how long 13 you need to make that change. 14 STACY PLOTKIN SILBER: I'm looking at Exhibit 20A 15 which is the Primary Conditional Use Plan and I do not see 16 the applicant's name on that. 17 LYNN A. ROBESON: Okay, that would have to change. 18 STACY PLOTKIN SILBER: I'm sorry; I do not see any 19 applicant's name on that to change or not change. 20 LYNN A. ROBESON: I see. You can let me; you can 21 confirm when the dust settles. After today you can go 22 through and check which ones and let me know in writing 23 whether the ones that absolutely have to be changed are the 24 Conditional Use Site Plan. Well you say it doesn't but the 25 Conditional Use Site Plan, the Landscape Plan and the</p>	<p>72</p> <p>1 STACY PLOTKIN SILBER: No, I think that 2/13 is 2 adequate time. 3 LYNN A. ROBESON: Okay, so with that I'll leave the 4 record open to receive the transcripts and any revised 5 plans or at least an email saying, confirming whether or 6 not you're going to, you need to revise the plans. Okay. 7 STACY PLOTKIN SILBER: Okay. Thank you very much. 8 LYNN A. ROBESON: Thank you. 9 (The hearing was concluded.) 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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I, Susan Wilson, do hereby certify that  
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of the recorded proceedings; that said proceedings were  
transcribed to the best of my ability from the audio  
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for, related to, nor employed by any of the parties to  
this case and have no interest, financial or otherwise,  
in its outcome.



SUSAN E. WILSON