

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AUGUSTA PLANNING BOARD MEETING

TUESDAY, FEBRUARY 12, 2013
AUGUSTA, MAINE

RELEVANT MATTER ONLY

Partial proceedings of the Augusta Planning Board Meeting
held Tuesday, February 12, 2013, Augusta, Maine.

PROCEEDINGS

1
2 CHAIRMAN VOSE: Move on to the second item on the agenda,
3 please.

4 MR. NAZAR: The second item on the Planning Board's agenda
5 is a public hearing for a major development application of
6 C.N. Brown to construct a 5,100 square foot building that
7 includes a convenience store, restaurant with drive-through and
8 heating oil sales and delivery office. It is including 13
9 retail fueling pumps being proposed and it's Assessor's Map 49
10 Lot 1 and Lot 3. It's located off Riverside Drive in the
11 Planned Development Zoning District.

12 The Board has heard this proposal before. There were some
13 concerns that were expressed at the last meeting by both the
14 Planning Board and they requested more information that were --
15 questions that were generated, I think, in large part by
16 members of the public and concerns from members of the public.

17 The Applicant has provided some additional information
18 with regard to the proposal. The changes, I'll let the
19 Applicant describe the changes in detail but very briefly the
20 two most significant changes that I was able to glean from the
21 additional material that was provided were some additional
22 privacy fences that were being proposed both on the north side
23 and the south side of the property and a proposal changing the
24 use away from being a 24-hour use. The proposed open times
25 were 5:00 a.m. to -- it does say 12:00 p.m. but I believe the

1 request is actually 12:00 a.m. So probably 5:00 a.m. to
2 12:00 a.m. I don't expect that the request was 12:00 p.m.,
3 that that was intended. I think that was an error.

4 So those are the two significant changes that I noticed in
5 the proposal and I would suggest that you have additional
6 conversations with the Applicant at this point.

7 CHAIRMAN VOSE: Questions for Matt? Seeing none, I'd like
8 to invite the Applicant up.

9 MR. SAUCIER: Good evening Mr. Chairman and members of the
10 Planning Board. My name's Tom Saucier. I'm with Site Design
11 Associates out of Topsham, Maine. We're the civil engineers
12 for the project.

13 You can see up on the screen right now, the current site
14 plan. Just to recap a little bit of what we talked about at
15 the last meeting, the project is located in a Planned
16 Development District. It's permitted use in that district.
17 The proposal is a 5,000 square foot C-store with a heating oil
18 office and a drive-through. It involves consolidating three
19 drives on the site into two drives. MDOT has reviewed the
20 traffic analysis and issued permits with a condition for
21 highway improvements on Route 201. We've provided 33 parking
22 spaces and four truck parking spaces and significant
23 landscaping buffering.

24 In the submission, the latest submission of February 5th, I
25 responded, first of all, to Matt's summary of discussion on the

1 last meeting on January 8th and I'll go through those first.

2 One of the comments at the last meeting talked about
3 buffering and possibly a fence to buffer the abutters to the
4 north and south and those have been incorporated into the plan.

5 We've proposed a fence along the southerly abutter from
6 the right-of-way of Route 201 along the property line and then
7 down at a 90 degree angle. It's an eight-foot high vinyl
8 privacy fence. You can't see through it. We'd also proposed,
9 even though the abutter to the north spoke in favor of the
10 project, we also have a vinyl, eight-foot high vinyl privacy
11 fence along the northerly property line, too. Both of those
12 still include the significant buffering that we did along with
13 the fence.

14 There was a question about reduced height on the lights,
15 the perimeter lights. A couple things we're trying to do with
16 the lights is, one, limit trespass onto abutting property. Our
17 previous plan actually limited it more than the ordinance
18 required. I think the ordinance is 0.3 foot candles maximum on
19 abutting residential property. We had a couple spots in the
20 last plan that were 0.1 or 0.2 on abutting property so we've
21 done a couple things with the lighting design. We redesigned
22 it to make sure that there was zero on all abutting property.

23 We've also lowered the intensity of the plan and you can
24 see that in the averages. We had a 2.4 foot candle average on
25 the paved areas under the previous plan and we're down to 1.6

1 now which that's right about what the IES standard is for that
2 and that's the standard use in the ordinance.

3 Also in regard to a lesser mounting height, what that
4 would require is more poles to meet the same lighting standard.
5 With more poles you're going to have probably -- you're going
6 to have reduced coverage so we don't think that design would be
7 an improvement. In fact, it may be a worse design than this --
8 the design we've presented now which we think is a sensible
9 design because you'll see different lights at different angles.
10 They'll be lower. So we left the full heights at 19 but we did
11 reduce the intensity.

12 I believe it's a responsible plan and it complies with all
13 the ordinance standards.

14 The next one was the drive-through speaker, assurances
15 that we can meet the land use code relative to noise from the
16 drive-through speaker which is zero at the property line.
17 Given the distance and location we know we can accomplish that
18 and we have to accomplish that anyway. It's an ordinance
19 standard.

20 Free-standing signage. I did include a couple catalog
21 cuts in your package. The first is a price sign. It would be
22 25-foot tall, typical. That's not the whole thing but I'm not
23 sure that she can get that all on the screen or maybe she can.
24 Can you get that, Andrea?

25 There you go. It was a CITGO brand sign. The price --

1 the gasoline price lights would be LED fixtures. There was a
2 question at the last meeting about whether they would be
3 flashing message boards or things like that. There will not
4 be. Then we also included in your package a catalog cut of the
5 price signs.

6 It'll be internally lit, the CITGO sign will be, and then
7 there'll be a Big Apple sign and a tenant sign below. Again,
8 the square footage will all be in accordance with the sign
9 regulations in the ordinance.

10 There's was suggestion from Matt that we provide an
11 example for the Board to look at regarding the under canopy
12 lights and the board was very interested in what, 35 lumens at
13 ground level looks like. For a couple reasons we weren't able
14 to do that. Number one, we don't have a light meter but,
15 number two, we thought that maybe a better thing to do would be
16 look at other projects that the Board's approved seeing what
17 the lighting levels are.

18 We based our design on a meeting with staff to keep it
19 below 40 lumens per square foot under the canopy and, in fact,
20 we're down to an average of 21.2 under the diesel and 24.8
21 under the canopy -- the gasoline canopy.

22 One concern we had even looking at the record of older
23 approvals and the Board going out and looking at lighting
24 levels, unless the town or the city has some mechanism in place
25 to measure whether the newly installed lights conform with the

1 approved levels, there could be a discrepancy there. So we
2 thought that was -- might be a little misleading. We went by
3 the standards in the ordinance and the standards provided by
4 staff and we're well under those with that lighting.

5 Can you put up the elevation drawing, Andrea? Building
6 elevations.

7 CHAIRMAN VOSE: Front of the building. It'd be the ones
8 that look like the front of the building.

9 MR. SAUCIER: Looks like the front of the building. Yeah.
10 Some of the Planning Board's -- although we didn't hear it from
11 the neighbors -- some of the Planning Board members were
12 interested in possibly a different building design.

13 From a compatibility standpoint, and we feel it's
14 compatible with the neighborhood, it's 16-foot high. The
15 height, scale and bulk are within the limits of approximate
16 structures up and down Route 201. We've broken up the front to
17 sod. It's a CMU white masonry brick front. They'll be a lot
18 of landscaping on the site, as shown on the site plan, in
19 conjunction with the building.

20 I also -- if we can put up the aerial photo, Andrea, now,
21 the site aerial photo. Yes. Thank you.

22 It's also going to be located about 170 feet off the
23 highway. What I like about this slide is it gives you an idea
24 of where the buildings are relative to the abutters and the
25 existing buildings on the site. They'll be farther back into

1 the site. Actually, the canopy is set about where the existing
2 building in now but the main building will be farther back into
3 the site.

4 Again, they'll be a lot of screening out front. There's a
5 50-foot strip in front of the site and we have the 25-foot
6 strips on the side so we felt that it was within the scale and
7 bulk of the neighborhood.

8 Hours of operation. It is 5:00 a.m. to 12:00 p.m. is what
9 we put in our proposal -- 12:00 a.m. -- I put 12:00 p.m. in the
10 proposal. I'll get it straight here sometime.

11 One additional concern we had at the meeting was related
12 to overnight truck parking and idling and there will be none of
13 that and the site will be signed to not allow that. There will
14 be heating oil trucks parked on the site at night and that's
15 just where they park and the drivers go home. But idling
16 tractor trailers will not be allowed on the site.

17 I reviewed the minutes of the last meeting and the common
18 themes expressed by people in the audience were traffic,
19 lighting, hours and noise. We think we've submitted adequate
20 evidence that we meet the ordinance requirements and
21 neighborhood compatibility standards.

22 As far as traffic, as we testified at the last meeting, 60
23 to 70 percent of the traffic or more we expect to be by pass-by
24 traffic, cars and trucks. They're already on the road.
25 There's similar facilities in either direction on 201 so it may

1 even be higher, the pass-by traffic, as opposed to destination
2 traffic. MDOT approved a traffic movement permit for the site
3 which, I said before, included the conditions for mitigation in
4 the highway, creation of a center two-way turn lane.

5 The lighting design, we think it's essential to design
6 meets or exceeds the ordinance requirements for overspill onto
7 abutting properties. It's based on dark sky standards and we
8 think it's a good design.

9 The alternative to the 24/7 operation, that was a big
10 concern we heard at the last meeting so we've put that out
11 there, 5:00 a.m. to 12:00 a.m.

12 The project involves a (inaudible) of a permitted use on a
13 site historically utilized as a retail use located on an
14 arterial highway with a mix of commercial, industrial and
15 residential uses from North Belfast Avenue to the Vassalboro
16 Line.

17 We heard at the last meeting from people it's hard to
18 understand that they could be impacted by the project given the
19 distance from the site they we're located. We agree that there
20 are two direct abutters that certainly have the potential to be
21 impacted by the site if the design isn't sensible in keeping
22 with the ordinances and we've addressed that through buffers
23 and the fence and, actually, the abutter to the north testified
24 at the last meeting that she spoke for the project, according
25 to the minutes.

1 We brought up a waiver request at the last meeting which
2 we can discuss at an appropriate point later in the meeting.
3 I'd just like to close that the use is permitted use within the
4 Planned Development District which is an urban growth area
5 identified in the Comprehensive Plan and that is defined in the
6 plan as the city's growth area.

7 I just wanted to read an excerpt from the Comp Plan. It
8 talks about the north river Mixed Use District and it says it
9 straddles Riverside Drive from the intersection of North
10 Belfast Avenue to the Vassalboro Line and there's a mixture of
11 residential and non-residential uses. The non-residential uses
12 are dominant at the southern end of the district with the rest
13 of the district being at even mix of residential and
14 non-residential. There is no particular pattern to mixture of
15 uses and it is anticipated that the district will continue to
16 develop in the same manner. And then it goes on to say the key
17 in this area is not to exclude uses but, rather, to create
18 buffering standards that allow residential and business uses to
19 coexist in a practical and attractive way.

20 This site was designed in accordance with those standards
21 that apparently evolved out of the Comprehensive Plan. So we
22 do believe that the site plan fulfills the requirements of the
23 ordinance, Chapter 4, 5 and 6 and the Comprehensive Plan and is
24 compatible with neighboring residential and commercial land
25 uses.

1 I didn't state at the beginning of the meeting that I do
2 have with me tonight Jinger Duryea who is the president of
3 C.N. Brown Company to answer any questions that the Board might
4 wish to ask and Kevin Moore is with us again, as well, from
5 C.N. Brown.

6 CHAIRMAN VOSE: Questions? Allison?

7 MS. NICHOLS: Mr. Saucier. How high is the canopy? How
8 tall is the canopy going to be over the tanks out front?

9 MR. SAUCIER: I believe it's 14 feet to the bottom so it'd
10 be another 18, 15-and-a-half, 16 to the top.

11 MS. NICHOLS: Okay.

12 CHAIRMAN VOSE: Any other questions, Alison?

13 MS. NICHOLS: No. I'm sorry. That was it.

14 CHAIRMAN VOSE: Any other questions for the Applicant?
15 Seeing none, thank you.

16 MR. SAUCIER: Thank you.

17 CHAIRMAN VOSE: Lionel, could I ask you to come up again.

18 MR. CAYER: Certainly. Good evening, Lionel Cayer.

19 CHAIRMAN VOSE: Any further comments from our previous
20 meeting. They have the DOT permit now. Any --

21 MR. CAYER: No. I believe what we talked about at the
22 last public meeting was the center turn lane to allow the left
23 turns into the site will make safe ingress and egress from the
24 site. And I agree with the traffic analysis that was done that
25 a business like this primarily takes its trips from pass-by

1 trips just because of the nature of the business. And so the
2 only real changes that I saw were the changes in the hours and
3 then the fencing to try to alleviate trespass onto neighbors,
4 and such, from the last time they were here. Do you have any
5 other questions?

6 CHAIRMAN VOSE: Any questions for Lionel? No. Thank you.

7 MR. CAYER: You're welcome.

8 CHAIRMAN VOSE: At this time I'd like to invite anyone in
9 the audience who is in favor of the proposal. Seeing none,
10 anyone who's -- oh, in favor or against?

11 MR. RAYMOND: Favor.

12 CHAIRMAN VOSE: Please.

13 MR. RAYMOND: Good evening. My name's David Raymond. I'm
14 a resident of Augusta and a resident of Riverside Drive. I
15 live north almost to the Vassalboro town line but I travel the
16 Riverside Drive traffic quite frequently. I've been living on
17 Riverside Drive for over 27 years. It'll be 28 years in July
18 that I purchased that property.

19 I purchased the property back that far back with the idea
20 that it was a commercial/residential area looking, in my
21 future, of the potential of seeing another Western Avenue to
22 potentially happen down that way. I think that it's a plus.
23 Our arteries into Augusta are narrowed. Western Avenue,
24 there's not much more we can do with it. Civic Center Drive,
25 et cetera, et cetera. As we look at our avenues I see in their

1 future a potential opening to that.

2 I see, as a business owner -- I used to own a business in
3 the City of Augusta for 20 years from 1988 through to 2008. I
4 see potential as a business owner and for the city for tax base
5 as well as labor base. We're looking at the potential for the
6 tax base on the properties, the tax base on the city, equipment
7 tax that that the city levies on businesses. That's potential.

8 The labor, you look at a convenience store that could
9 potentially look at another ten employees. There's some more
10 tax base there, potential. A drive-through. There's a another
11 ten employees, potentially, being hired there. So we're
12 looking at all plusses for the city.

13 The convenience of it, it's off of the brand new bridge
14 and the convenience, I know myself. I travel that road a lot
15 going head -- heading north or south on the highway so I'm
16 always traveling that way. It would be nice to have a
17 convenience store that's only a mile away from me. To be open
18 a little late or when I have that --

19 CHAIRMAN VOSE: I'm just going to interrupt real quick and
20 can everybody in the audience please keep any interruptions to
21 a minimum. We'd like to give everybody the chance to speak as
22 well as be respected as when they're up here. Whether anybody
23 agrees or disagrees with the testimony, please give everybody a
24 chance to speak freely. Thank you.

25 MR. RAYMOND: That's pretty much my viewpoint towards it.

1 I am agreeing with the proposal.

2 CHAIRMAN VOSE: Any questions? Delaine?

3 MS. NYE: I have two. How close do you live to the
4 property?

5 MR. RAYMOND: How close do I live to the property?

6 Approximately two miles.

7 MS. NYE: Oh, two miles --

8 MR. RAYMOND: Two miles north of that property.

9 MS. NYE: I see. Does your property have frontage on --

10 MR. RAYMOND: Yes. My property has frontage on Riverside
11 Drive.

12 MS. NYE: Okay. Thank you.

13 MR. RAYMOND: Uh-huh.

14 CHAIRMAN VOSE: Any other questions? Thank you. Is there
15 anyone else in the audience who'd like to speak in favor of the
16 proposal? Seeing none, anyone against? Please.

17 MR. LIACOS: John Liacos, 394 Riverside Drive. I live
18 about 300 yards north of the proposed site.

19 I think we stated our objections quite clearly during the
20 last meeting. I disagree (inaudible) some of the comments of
21 the C.N. Brown person made but I'll get to that in a minute.

22 Objections were pretty clear from the last meeting. The
23 additional traffic, the noise the traffic will cause, the
24 concern regarding the effect of this traffic, all those trucks,
25 these would be the school buses that are there morning and

1 afternoons, the additional lighting and how that will affect
2 the quality of people's night life and also the accident
3 potential.

4 Nobody goes 45. I've been there two years but I can tell
5 you that, zip zip, if you don't turn off quickly you get tooted
6 at and people zip around you. There's a lot of potential for
7 accidents, especially those school buses.

8 And I feel that all of the above will negatively impact
9 the quality of our life in the neighborhood. I also understand
10 that our section of Riverside Drive is zoned Planned
11 Development. I'm not sure what that means. But there must be
12 other regulations and concepts (inaudible) that could come into
13 play here. For it is hard for me to believe that the city
14 would allow this degradation of what is essentially a
15 residential neighborhood to occur.

16 In my opinion, C.N. Brown is looking to obtain PFG which
17 is the old (inaudible) trucking business. Why else would you
18 build a big truck center there? And that's -- the pursuit of
19 profit's okay but the result of that pursuit will be
20 detrimental to our neighborhood and I would ask you to
21 understand that once you make this decision this will forever
22 change the neighborhood.

23 There's no going back once -- if this project gets
24 approved, that's it, the neighborhood will never be the same.
25 Never. Thank you.

1 CHAIRMAN VOSE: Any questions? Seeing none, thank you.
2 Please?

3 MR. ZIEBART: Hi. I'm Danny Ziebart. I live at 381
4 Riverside Drive. I got a couple questions. About the
5 convenience store, they plan to be open from 5:00 to midnight,
6 okay. Are they planning on pumping fuel after that? I mean,
7 can trucks go in, can cars go in and get fuel with a credit
8 card? Because I helped open up the convenience store down the
9 road at Capital City Tire and we were not allowed to do that
10 unless somebody was in the store 24/7, okay, so someone had to
11 actually be in the store in order to pump gas? I'm just kind
12 of curious if they're going to be allowed to have gas after the
13 hours.

14 The other thing is me and my wife have just moved here,
15 almost be two years now this August we'll be living in our
16 house. I live next to all these people and it's pretty nice,
17 for the first time in our lives, that we can live in a place
18 where it's quiet, it's peaceful. You look out, your neighbors
19 take care of their property. It's always clean. These people
20 don't take off and go to Florida, they stay here because
21 they're happy and proud of where they live. And to me, it's
22 just an eyesore.

23 If you take and drive up Riverside Drive right now the
24 biggest eyesore you got is the C.N. building that's sitting
25 there right now. That's pretty much all I got to say.

1 CHAIRMAN VOSE: Any questions? Thank you.

2 MR. BOUCHER: Ross Boucher. We spoke at the last one.
3 You're talking about your hours 5:00 a.m. to 12:00 midnight.
4 I've worked retail. Guess what? They don't start at 5:00 and
5 open the door ready for business. People's going to be in
6 there at 4:00 a.m. People are going to be there after 12:00.

7 I get up. I drive trucks in this city for you guys. I
8 need sleep. I've already been woken up numerous times, trucks
9 in there fueling up, plow guys in there. C.N. Brown's drivers
10 yelling in the yard. You know, I worked pretty close to 25, 30
11 hours this weekend. I'm on my ninth day straight right now
12 with the city. Think you guys want me sleeping. I'm the one
13 that's driving around your children and everything else.

14 You know, I'm -- we live there. They don't. It's easy to
15 say eight-foot fence. I've sold vinyl fencing. It ain't
16 privacy fence. Okay. They say people to the north, the house
17 up north, I don't even see people living there. We're there
18 every day. So are the neighbors across the street --

19 MS. PETERS: We live together. I'd like to say something.

20 CHAIRMAN VOSE: Could you --

21 MS. PETERS: My name's Amanda Peters. I don't live two
22 miles north. The only thing that separates myself and C.N.
23 Brown is grass line and --

24 MR. BOUCHER: A row of cedar trees.

25 MS. PETERS: No, a grass line and their pavement line,

1 that's how close we are. We're on -- you're putting a Dysarts
2 on top of me. We have a 13-year old son who still has five
3 more years of high school to go through. He has to walk to the
4 trailer park because of tax cuts with school busing which,
5 completely understandable. We've gone through that. We've
6 been through that battle. It's something that we've had to
7 deal with, but now you're talking about putting in another
8 centerline. You're talking about putting a Dysarts on top of
9 me. Like, this is where we live. This is our home life. It's
10 -- the noisiest part is the front -- Riverside Drive, you sit
11 on my back deck or go in my backyard you hear nothing because
12 C.N. Brown's closed at 5:00 p.m. There's nothing there. It
13 may look like an eyesore, but I still have my family life out
14 back. I still can have a barbeque. I can have -- my son has
15 friends over. We have our -- you don't even --

16 MR. BOUCHER: Our kids --

17 MS. PETERS: -- hear the traffic --

18 MR. BOUCHER: Our kids --

19 MS. PETERS: -- traffic --

20 MR. BOUCHER: -- play on this back lawn.

21 MS. PETERS: You don't hear the traffic from the deck or
22 the back lawn at all, whatsoever.

23 MR. BOUCHER: I don't want --

24 MS. PETERS: This is where we live. This is our life.

25 MR. BOUCHER: You know, our children are out there. I

1 don't want to sit there and have strangers over there pumping
2 gas looking in our backyard wondering what we're doing and, you
3 know, I've already been woken up many, many, many times
4 throughout the night --

5 MS. PETERS: And that's -- and that's a business that
6 closes at 5:00 p.m.

7 MR. BOUCHER: The last meeting we were at, we left here
8 and went home and they decided to leave lights on in that
9 place. I could read a book laying in my bed at 1:00 in the
10 morning.

11 MS. PETERS: It was that bright with the blinds and
12 curtains closed.

13 MR. BOUCHER: Their diesel pump right now is under our
14 bedroom window so I hear everything and it's closer --

15 MS. PETERS: 5:00 a.m.

16 MR. BOUCHER: -- than me and you are right now to where
17 the trucks are. This is -- it's bad --

18 MS. PETERS: The only thing that separates us is green
19 grass and pavement.

20 MR. BOUCHER: It's a bad idea right from the start in a
21 residential neighborhood.

22 CHAIRMAN VOSE: Any questions? No. Thank you. Please.

23 MS. SMEDBERG: Hi, I'm Linda Smedberg. I live at 350
24 Riverside Drive. I reviewed the proposed changes, some of
25 them. I mean, the landscaping buffering is better than what it

1 originally was. Obviously, the fence is more than what there
2 is now but the noise level is going to be way more than what it
3 is now. Just a quick comment on the actual fence they put in
4 there as, I believe, the color is supposed to be gray. If this
5 does go forward and they happen to put up a fence I would
6 suggest something either brown or green that blends out with
7 the landscape, doesn't look like a concrete wall.

8 CHAIRMAN VOSE: There is a mockup. Can we ask Andrea to
9 put the mockup? Sorry. It is photo number three on the -- it
10 is part of the (R.H. Foster map). It was just included with
11 the email so never mind. Moving on. Sorry.

12 MS. SMEDBERG: That's okay. I didn't see a color photo
13 but concerns, the hours of operation again, 5:00 a.m. to
14 12:00 a.m. in a neighborhood not really acceptable. The noise
15 alone that late just would be too many people around, it's
16 going to be too busy. Being in the neighborhood you want to be
17 able to go to sleep and feel safe when you're going to bed and
18 not wondering who's out there at 12:00 a.m. and speaking from
19 experience in my line of work these late night establishments
20 and with restaurants with that provide beer, cigarettes, things
21 like that, it brings -- it doesn't -- it -- with a fueling
22 office you've got homeowners coming there paying their bill
23 ordering fuel. A place like this you have everybody under the
24 sun going there, sitting in the parking lot shooting up heroin
25 and anything else and, like I said, I know this because I've

1 worked around it. And that's what we have to worry about.

2 So the hours of operation till 12:00 a.m. you just don't
3 feel safe. You don't feel safe there.

4 The traffic, 30 to 40 percent more than what it is now.
5 My house shakes as it is now with vehicles going by which I've
6 gotten used to but 30 to 40 percent more is more than what
7 we're used to dealing with and, like I said, my son is
8 (inaudible) right now where he doesn't walk he takes the bus
9 elsewhere but he will be eventually one of the kids that do
10 walk now. I've seen some other ones and traffic, what's that
11 going to do?

12 Is that -- right now it's at 45 as the speed limit. It is
13 proposed that the speed limit's going to be lowered at all in
14 this area where the proposed site is? I'm thinking 45 -- if
15 it's kept at 45 (inaudible) it's going to be too fast you can
16 have -- you're going to have vehicles on top of each other and
17 just being in a neighborhood with that much traffic going
18 through it, it should be slowed down.

19 Where the road is going to be widened, that's a concern.
20 It affects my property. It's going to cut into what is the
21 right-of-way. My concern is what -- when they -- if they do
22 cut into it, how are they going to take care of my property
23 when it's cut into? Is there going to be a retaining wall
24 there? My front lawn is a hill that I mow and weed whack now.
25 If they cut into it, are they going to put a retaining wall

1 there, put some low maintenance landscaping, something? What
2 are they going to do for us to make our -- to fix what they're
3 damaging, what they're taking away?

4 I think those are most of my concerns. I know the
5 lighting will still be an issue. I'm the second house south so
6 I don't get as much. I've got a buffer there, fortunately.
7 Still concerned about the north, like I said, the hours and the
8 people that are coming there I would ask -- I believe there are
9 trees. There are some, I believe, some larger trees between
10 the south -- the line on the south end, feeder trees, and I
11 don't know if that plan proposes that those are disturbed at
12 all. I would hope not, only because that -- those are taller
13 buffers than what their eight-foot shrubs and eight-foot fence
14 are going to do. So I would hope that those aren't disturbed
15 if this goes through.

16 So I'm not completely opposed to a small gas station but
17 the size of this one, still the pumps, the amount of pumps
18 there are, the drive-through, the amount of traffic it's going
19 to bring in -- traffic bringing people in and out and how busy
20 it's going to be it's not a small little Big Apple on the
21 corner. It's a -- like she said, like a Dysarts and it's just
22 too big for the area, so scaling down, yet again, we haven't --
23 I don't think that's (inaudible). I think that's it.

24 CHAIRMAN VOSE: Thank you. Any questions? Delaine?

25 MS. NYE: Yes. I wonder, perhaps Lionel could answer her

1 concern about where the pull off lane is going to be, how it
2 might potentially affect her.

3 CHAIRMAN VOSE: You could either come up or use your mike.

4 MR. CAYER: Yes. Mr. Chairman, the design would move
5 forward if this project is, in fact, approved for that center
6 turn lane and, at that time, the details about how any widening
7 would interface with the abutting properties would then be
8 dealt with. But you can rest assured that they wouldn't be
9 allowed just to simply leave you with an unmaintainable front
10 lawn area. They would have to either slope it back or put in a
11 retaining wall if that's, in fact, your situation there. But
12 it would have to be left in a condition that you could -- that
13 would satisfy your needs.

14 MS. SMEDBERG: Thank you.

15 CHAIRMAN VOSE: Thank you. Any other questions? Thank
16 you.

17 MS. SMEDBERG: Thank you.

18 CHAIRMAN VOSE: I'd like to invite anyone else, please.

19 MS. HUDSON: Good evening. My name is Sylvia Hudson. I
20 live at 375 Riverside Drive. In the plat that's up on the
21 screen right now if you go above where Jellison Traders is
22 there's my neighbor and I'm right on the corner of Tracy and
23 Riverside Drive.

24 I would like to respond to the letter of February 4th that
25 was sent to the Planning Board. I do have a number of concerns

1 and a number of questions.

2 The fence that is going to be placed on the north side of
3 the property appears, from what we have seen as drawings, as
4 being right up against the driveway of the neighbor as if it's
5 sitting one on top of the other. I'm wondering how one can
6 maintain their property with that fence right there. So
7 basically, an observation on my part.

8 If you go further on in the response, they talk about the
9 huge 25-foot high sign. So we're talking about a sign that's
10 as tall as the ceiling in this room. Now, Riverside Drive has
11 a curve in it. Why do you need a sign that tall? You're not
12 going to be able to see it because of the curve. The only
13 impact that that's going to have, which would be negatively,
14 which will be our neighborhood. It just doesn't make any sense
15 at all. And because a sign like this is allowed on Western
16 Ave, which adds a whole different set of parameters to it, why
17 does that then mean that it should be allowed in our
18 neighborhood?

19 Number three. They talk about the fact that this is
20 compatible within our neighborhood. We have no Red Roofs. We
21 have no house that's 105 feet long lit up to light up the
22 world. There is nothing in our neighborhood that even comes
23 close to this. This is not compatible with our neighborhood.
24 The only thing that is compatible and the only thing that they
25 mention in this is that it is a 16-foot high building. The

1 rest of it is not.

2 Number four. To have a building that operates as a
3 business from 9:00 in the morning until 12:00 at night is just
4 not acceptable. We work hard in this community. We take care
5 and maintain our property. We should be entitled to have peace
6 and quiet. It is not going to happen with these kind of hours
7 of operation.

8 And I have a question concerning that. They make an
9 emphasis of the fact that no trucks are going to be allowed to
10 idle. You have somebody coming up down the road at 2:00 a.m.
11 in the morning, a semi, and he needs diesel. Is he going to be
12 allowed to use a card or a key and utilize this site? He
13 doesn't have to idle in order to do that. I have that concern.

14 There are kids up and down this road. There is a huge bus
15 stop down by -- just south of what you see at the trailer park.
16 How do kids cross three lanes of traffic safely? Over the past
17 two years, we've had a number of really major accidents
18 concerning pedestrians. How do we maintain the safety of our
19 citizens with this kind of a traffic situation?

20 (Inaudible) want to talk about the fact that this is not
21 going to have an impact on anybody else except the neighbor to
22 the north and the one to the south. But it will. It's going
23 to impact our quality of life. It's going to impact the value
24 of our property. It is going to impact the value and the
25 sustainability of the Riverside neighborhood. This is not

1 being compatible. This is not being compatible. This is now
2 being not even any sort of cohesive type of existence. This is
3 commercial gobbling up the rest of us.

4 They make a really big deal in here about the fact that
5 they're going to be installing Japanese tree lilacs. The
6 Japanese tree lilac is a very slow-growing tree. It's going to
7 take three years just to work to get it rooted into the ground
8 because of all the dirt and pollution from all of the 13 bays,
9 the diesels or whatever. It is a very slow-growing tree. It's
10 going to take it approximately 20 years to get 20-feet high.
11 We're not going to have the added looking really good spiffy
12 kind of situation. Maybe my great grandchildren, maybe.

13 I would also like to say in here that if they are saying
14 that they will have no impact on our property in our
15 neighborhood then let's ask them to prove that. Let's ask them
16 to have evaluations done of five house, both sides, up and
17 down. Will this type of development impact our property?
18 Those of us who are here tonight all believe that it will and
19 it's not going to be in a positive way.

20 The other concern that I have is we now have two lanes and
21 two right-of ways, so we have 12 feet, 12 feet, a 10 and a 10.
22 Now we're going to have three lanes. We have a 12, a 12, a 12
23 and two 10's. What happens to our front lawns? Is Jellison
24 Trader going to be able to park in the front of their building?
25 They're showing their plot plan and their project, okay, which

1 means we've got to start counting from the front of them
2 heading east and east means that we lose out. Thank you for
3 listening. Any questions?

4 CHAIRMAN VOSE: Questions? No. Thank you. I'd like to
5 invite anyone else who'd like to speak against the proposal.
6 Okay. Please.

7 MR. HUBER: Curt Huber, 492 Riverside Drive. I just have
8 two quick items that came from the meeting last week. I
9 thought we discussed that no drive-throughs would be allowed at
10 all and, obviously, that change wasn't made at all in the
11 proposal. And the second item I have is we were talking about
12 no 24 hours allowed and they changed that from 5:00 in the
13 morning to midnight which, in my opinion, is a disgrace.

14 Just as a comparison, the Kennebec station is open from
15 6:30 in the morning to 8:00 a.m. and closed on Sundays which is
16 a lot more reasonable and that's all I have unless any other
17 questions.

18 CHAIRMAN VOSE: Questions? Thank you. Please.

19 MS. SKILLINGS: My name's Ruby Skillings. I live at 349
20 Riverside Drive. There's a lot of times on weekends and during
21 the week that VIP coaches, as well as logging trucks, park in
22 the C.N. Brown parking lot. What's to say if a larger area of
23 parking for these vehicles that there are more trucks and buses
24 that will use it as idling if they are tired? So as they were
25 saying before, C.N. Brown said that they would have No Parking

1 signs for idling trucks so what does that put on us as
2 neighbors? Do we need to call the police when we do see
3 something like that happening after hours? Is it something
4 that really should be patrolling or having cameras or something
5 because it's very loud?

6 There are many people that work every day in our area.
7 Having this store open until 12:00 is unacceptable. Say if a
8 carwash happens to come in or even the stores of drive-through,
9 there's a lot of noise that goes along with that so having the
10 store open till 12:00 at night is not a good thing for the
11 neighborhood. Maybe having the store open from 5:00 to 10:00
12 would be acceptable. That's my opinion.

13 Another concern of mine is if there was ever a disaster,
14 heaven forbid, what is the area of destruction that if there
15 was an explosion what does it take out? So those are my
16 concerns and if there's any other questions?

17 CHAIRMAN VOSE: Questions? No. Thank you.

18 MS. SKILLINGS: You're welcome.

19 CHAIRMAN VOSE: Did you want to speak? Okay.

20 MS. LIACOS: My name is Hsin Liacos. I live four doors --
21 I mean four house down from the C.N. Brown. I think 13 pumps
22 and a drive-through it just is such a massive project in our
23 neighborhood and it's definitely it's going to influence the
24 traffic pattern. If their building is designed like the one in
25 the Western Avenue that means we're going to have a Dunkin

1 Donuts in the store. If you ever go through a Dunkin Donut
2 (inaudible) line coming out everywhere and this is going to be
3 two-way of traffic and the people it's going to be cutting in
4 and out the parking lot from the site so I just don't think
5 it's such a good idea and a fit through our neighborhood.

6 Thank you. Do they any questions?

7 CHAIRMAN VOSE: Questions? No. Thank you. I'd like to
8 invite anyone else that'd like to speak against the proposal.

9 MR. LOCSIN: Hi. My name's John Locsin. I live at 3
10 Sanctuary Lane which used to be 342 Riverside Drive which is
11 about four houses south of this project. I don't think --
12 everyone here has tried to say what this is going to do to the
13 traffic. There was an accident there just this morning right
14 outside our house which is also where the bus stop is and it
15 was about 8:00 in the morning. That's the kind of thing, it is
16 not an irregular occurrence. This is not something that was
17 like, oh, wow, there was suddenly an accident. It happens.
18 And if this -- it's very easy for people that don't live there
19 to look at it and say, oh, we've got this great plan. There's
20 going to be this lane or we're going to change the speed limit
21 to 45. I think the speed limit's 45 there now. Nobody cares.
22 They go 65 through there.

23 And so there's going to be no enforcement, whatever kind
24 of signage they put up, and your lanes, you know, it's just
25 going to create another bit of confusion and havoc for the

1 people that are careening down that road, I believe last time
2 Councilman Munson mentioned about the snow that's there when
3 they plow it. The road narrows because of the snow and that's
4 going to happen, as well.

5 The idea is that they're going to cut into the
6 right-of-way to make the road wider. That's still people's
7 property. Yes, it's the right-of-way and, yes, I guess they
8 can do that but it's still cutting into the value of our homes
9 and our property so that this project can sell gasoline and
10 fast food.

11 It just a -- it's a very bad tradeoff for the people in
12 the neighborhood and I think if neighborhood compatibility is
13 an issue it seems to me that the neighborhood is expressing to
14 you that this is not compatible and maybe I think there's more
15 to compatibility than the height of the building. I'll stop
16 there for now.

17 CHAIRMAN VOSE: Questions. Delaine?

18 MS. NYE: Are there pedestrians who walk along that
19 stretch?

20 MR. LOCSIN: Absolutely. Pedestrians. Bicycle traffic,
21 yes.

22 MS. NYE: And the pedestrians that walk, they walk on the
23 shoulder.

24 MR. LOCSIN: Yes.

25 MS. NYE: Are there children who walk there on their --

1 MR. LOCSIN: Yes.

2 MS. NYE: -- way to -- I think somebody had mentioned that
3 earlier where do children --

4 MR. LOCSIN: There are a lot of children there actually.

5 MS. NYE: -- catch -- where do they catch the school bus?

6 MR. LOCSIN: I don't know -- it's not on this map but --

7 CHAIRMAN VOSE: Again, please let the person at the podium
8 speak.

9 MR. LOCSIN: -- about four house south of the C.N. Brown
10 complex is where the bus stop is. The bus stop, if you're
11 familiar with Riverside Drive and the road that cuts off to the
12 trailer park there, that's where the bus stop is and so kids
13 from the houses stretching out in both directions walk up the
14 shoulders and they wait on both sides of the street for the bus
15 to come up and then they cross over and they get it. They were
16 delayed this morning because the bus couldn't get there because
17 of the accident.

18 MS. NYE: And this time of year when there's a lot of snow
19 where do they walk?

20 MR. LOCSIN: They -- in the smaller shoulder and that's
21 where they wait.

22 MS. NYE: Thank you.

23 CHAIRMAN VOSE: Any other questions? Thank you. Anyone
24 else in the audience who'd like to speak against the proposal?
25 Let's see if we can get everybody through first.

1 MS. SHANNON LOCSIN: I live at 342 Riverside Drive, now 3
2 Sanctuary Lane. Just further clarification. One of the things
3 that happens with the traffic is that you have trailer park and
4 so you have people coming inwards and out and it's a wide zone
5 but people come very fast, both in and out, and where we are we
6 have to turn very carefully and cautiously because people cut
7 out around us and they cut out around us into the sort of the
8 cutout where -- I don't know the specific (inaudible) the
9 egress, wherever you go, the cutout for the trailer park, they
10 cut it around and so there's constantly this maneuvering and
11 it's really just three houses away from this proposed widening
12 of it.

13 And so what you have is this kind of chaotic thing where
14 no one knows what's happening at any given time so you pull out
15 really slowly, you're cautious. And then people still cut out
16 around you on the right or the left like, I'll pass you this
17 way. And it is 45 miles an hour. It's a chaotic intersection
18 and so I'm trying to figure out how that -- adding that extra
19 lane is going to help because no one knows what's going on
20 there on a given day now because people just think of it as a
21 throughway and they're just going really fast.

22 And different than the turn in at the Irving station, you
23 really have to slow down an approach that parking lot. You
24 have to kind of slow down. I'm concerned that people are just
25 going to come tearing in at 45 miles an hour here, as well, and

1 add to that confusion.

2 It's taken me 15 minutes to cross Riverside Drive at 3:00
3 in the afternoon, at 7:00, at 8:00, at 12:00 at 6:00 with my
4 bicycle, just trying to cross the street to ride. And we have
5 lots of cyclists that come up and down the streets and they're
6 not just your athletes. They're regular people who, for
7 whatever reasons, don't have licenses, don't have cars, can't
8 afford them and there's a lot of people who ride there and that
9 was a concern when they were doing that construction.

10 So I just think, really, I know that it's the state who is
11 in charge of the speed limits but this is kind of a -- really
12 it's like it's a bad idea for a use mixed with that traffic and
13 so I just -- I can't I can't support it. Aside from the
14 neighborhood compatibility issue, I just think it's dangerous.
15 You know, traffic gets backed up and then that's just going to
16 -- I mean this morning there was a car going crossways, you
17 know, and that stops everything and there's a backup one way.

18 It's just I don't think it's -- there's not enough space
19 to accommodate it unless there's going to be some kind of
20 massive behavioral change which, in the 30 odd years I've lived
21 there, I haven't seen. So.

22 CHAIRMAN VOSE: Questions? Thank you. Anyone else in the
23 audience who'd like to speak against the proposal?

24 MS. Von HERRLICH: I live on Bangor Street just off Bangor
25 Street which really connects to Riverside Drive. And I'm not

1 really speaking against the larger proposal but just like an
2 aspect of it. I learned from Sylvia that the sign is going to
3 be 25 feet high and somebody else mentioned that it was going
4 to be internally lit and there's nothing in that area that is
5 anywhere close to that. So if you do go ahead and approve
6 this, which I hope you don't, but if you do can you require a
7 shorter sign and externally lit? Any questions?

8 CHAIRMAN VOSE: Questions? Thank you. Anyone else who'd
9 like to speak against the proposal?

10 MS. SUE LOCSIN: (Off mic.)

11 CHAIRMAN VOSE: When you get up to the mike, could you
12 introduce yourself, please?

13 MS. SUE LOCSIN: My name is Sue Locsin. I have lived -- I
14 used to live at 342 and then I convinced my daughter to move
15 back to Connecticut -- from Connecticut to raise my
16 granddaughter on Riverside Drive seven years ago. I have lived
17 on that land since 1977. Concerns I have.

18 I currently reside at 16 Sanctuary Lane which is the --
19 which is off Riverside Drive but I also abut the land. I am on
20 the map. If you scroll down you can see me. I have
21 five-and-a-half acres of land. I have a 12-year old house down
22 there and I pay a sizable chunk in tax dollars. So I would
23 have to kind of reiterate what John said.

24 Please don't throw us out, us residents out, because a
25 business is going to be providing some whatever. A concern

1 already stated but definitely is a concern, the proposed seven
2 days and 19 hours a day is just too much for people to be able
3 to sleep. Currently, there is no retail presence in that
4 building. So we are going from three years ago when we had
5 just the office to -- I think of it as putting a Walmart when a
6 corner store would do. That's kind of what I -- so I have to
7 agree with the image of Dysarts.

8 Traffic accidents, problems (inaudible) and Mr. Saucier
9 did mention that DOT had problems with and has consistently had
10 problems with traffic and whatever. But -- and I have to say I
11 don't think it's going to help, the three lanes is not going to
12 help the children because there are over probably I would say
13 45 to 60 kids that live in the trailer park that take the bus.
14 When I taught at Hussy School they used to have a bus just for
15 those kids. So that was a run for the children that are out
16 there and that doesn't include the kids that walk up and down
17 the drive, that live within -- there are six -- I've talked
18 with, I think, 15 neighbors in the last few days and out of
19 that, five of them had children that they're concerned about
20 the traffic on the drive and they're concerned about the --
21 those things.

22 Increase in the building size and usage is almost a
23 thousand percent compared to what we've had in the last three
24 years. I know you're trying -- you changed the code or
25 whatever but that just doesn't -- that just doesn't quite

1 justify what we're seeing and what they're asking for. It's
2 like I'm going to ask for everything that you can possibly get
3 and let's see what we whittle it down to and it's kind of
4 insulting to the people in the neighborhood that we would be
5 treated that way.

6 Increasing building size and usage, the new design does
7 not use trees, as the city requested, but short shrubs that do
8 not add to the issue of residential congruency. If we want it
9 to look the same we need to do that.

10 Number four, increase in potential pollution to the
11 aquifer from the heating oil gasoline and diesel sales on the
12 property. Right now, we only have two tanks. They want to add
13 two more tanks and, as the DEP pointed out, I went to their
14 website and they have had oil spills, 1996, 1997, 2000, 2003,
15 2004, 2005, 2007, plus or minus 12 spills that have gone into
16 the aquifer.

17 In the site plan, I saw nothing that would take the
18 wastewater off. If we have a spill and with 13 versus zero gas
19 pumps we're going to have a whole lot more potential wastewater
20 and pollution issues.

21 And I also have to say I'm concerned about the underground
22 tank issue because we are on a fault line which starts in
23 Malbaie, Canada and comes straight down the Kennebec underneath
24 the new bridge. And if you want to look on a geological survey
25 you can find it and Malbaie is B A I E. It's spelled the

1 French way.

2 We also put up with, and it's been a while since it's
3 happened, but we also have another explosive fire situation
4 with -- I'm sorry I was up at 1:00 this morning and did not go
5 to bed. It's just I am so upset and concerned what's
6 happening. It's just not --

7 The Suburban Propane tanks that are along Riverside Drive
8 on the back part on the (inaudible) we have had problems with
9 them in the past but that -- we have two major industrial
10 danger zones, I guess you could say. So I just -- it would
11 bother me a lot to make this one larger than it is in terms of
12 fire hazards and whatever.

13 Drainage, the grading. The erosion plan doesn't provide
14 the safe cleanup of fuel and there's no system to separate out,
15 that I could see on the drawings, to separate out the petroleum
16 spills from the groundwater.

17 The light pollution we have addressed several times. The
18 noise pollution, I have a question about the speakers because
19 if we have 13 new pumps, some of the other ones have speakers
20 on them. Now, do we need speakers on the pumps? Not if there
21 -- not if no one is there. So there would be not just the
22 drive-through, which I thought when I left the meeting last
23 time we had decided was maybe not a good idea and that was
24 going to be a questionable thing. So the speaker with the
25 drive-through was going to be muted but what about the 13

1 pumps? Because right now we have no speakers except for one
2 that goes from out in the yard but since they're not even using
3 the building because all of their other stuff, including gas
4 pumps, are on Western Avenue. They're not using that building
5 for taking money in from people, bills, et cetera.

6 And the quality of the people and she is a policeman, the
7 lady Linda that came up. She works in Winslow as a policeman
8 and she knows about where the kids around the area go to do
9 their drugs, et cetera. So the quality of the people we're
10 going to get aren't the people that are homeowners that are
11 paying taxes or they're doing whatever. It's not going to be
12 the same.

13 Noise pollution, air pollution from the idling vehicles
14 and the -- was it 303 cars per day was what they had talked
15 about so I'm wondering what that's going to do with the air
16 quality around us and the ozone layer, et cetera, et cetera.

17 And my other question is, is C.N. Brown getting a tax
18 write off or a TIF for this change in usage, and does this
19 balance with the property taxes currently being paid to Augusta
20 by the homeowners in this neighborhood whose property and
21 resale values will be threatened by those changes? Are they
22 getting some sort of special write off to, yes, they need to
23 clean it up. It's a mess. It's an eyesore. Is the building
24 design truly in sync with the other gateway properties and how
25 does this compare with both the color, light issues at the

1 Courthouse.

2 I've been to other planning meetings, you were talking
3 about the Courthouse and does that fit, the lighting, will you
4 see it all the way across the river? What about -- what about
5 us in our neighborhood who want to sleep at night?

6 And what about possible oil spills and contaminations and
7 continued contamination of the aquifer because I went on to the
8 website and there has been 11 spills into the ground and they
9 have taken out dirt, they have taken out -- well, I have -- I
10 have the -- I have copies of the reports and some of them when
11 they've had spills they had to take a ton, a ton-and-a-half of
12 the soil out. Where are they going to take the soil from if
13 it's tar? Where -- what kind of, you know, what kind of
14 alleviation are we going to have?

15 And I am very concerned about the aquifer because I had --
16 after I built my house in 1996-97, I had DEP test the water and
17 I had MBTE in it which is a water soluble additives that they
18 put into fuel and at one point they took over the testing but
19 it was -- the testing was 75 dollars every month to see whether
20 I had toxins in my water that I drank and washed with. And I
21 don't want to see a further issue of that. So I would like to
22 know that there were going to be some safeguards and whatever
23 aside from me going and hoping that a secretary had the time to
24 put in the report to DEP so I could look and see.

25 I just want you guys -- we live there in the community.

1 We pay taxes here and, as I said, I've been there 35 years and
2 I want you to be thinking about our needs and not just the
3 needs of a business which, for three years, basically abandoned
4 the property except as a commercial thing.

5 So I'm done. Thank you.

6 CHAIRMAN VOSE: Questions. Delaine?

7 MS. NYE: I do. It's not clear to me from your comment
8 about the oil spills. The spills that you spoke of they were
9 all attributed to C.N. Brown?

10 MS. SUE LOCSIN: Yes. I have --

11 MS. NYE: What locations?

12 MS. SUE LOCSIN: At the -- well it's very interesting
13 because when -- I learned something. When you have a waste
14 spill there are four different delineations. It's either above
15 the ground tank, under the ground tank, none, no tank or
16 non-specified. So at first I thought oh, look there's only
17 four spills since then. No. I went under the little pull-down
18 menu and I discovered there were four other categories or three
19 other categories and I ended up with 12 which I never would
20 have discovered if I hadn't done the research.

21 MS. NYE: Going back to 1997,

22 MS. SUE LOCSIN: Uh-huh. And because they haven't been
23 using it as much, the last one that I have recorded was 2007,
24 in 2007. That was -- let me see, that was a tank truck because
25 there were -- some had the tank, the hose broke and all the

1 (inaudible) went into the soil and that's what you also notice
2 up there if you ever go to the site how yucky and packed down
3 the dirt and whatever is from the oil that's been there.

4 DEP has been there and has addressed some of the issues
5 and they've reported those but there hasn't been -- since 2007
6 there hasn't been a spill that was reported. Now, is it
7 reported because there is someone in the office that can go get
8 the things and then make the call or is it reported by the
9 driver? And this is with professional drivers. I mean, these
10 are people that, you know, drag the thing and put the oil in
11 your tank at home and all that. What about people that are
12 just kind of idiots or maybe 16-year-old kids filling up dad's
13 car going off somewhere. Are they going to be careful? I
14 don't know, but I just don't want to put any more at risk than
15 we already have and that's what I'm asking your consideration
16 for.

17 MS. NYE: Thank you. Okay.

18 CHAIRMAN VOSE: Any other questions? Thank you. Anyone
19 else in the audience who'd like to speak against the proposal?
20 Seeing none, anyone either for nor against that would like to
21 speak? Do you have any -- anything --

22 MS. PETERS: (Off mic.)

23 CHAIRMAN VOSE: Yes, new testimony. Please.

24 MS. PETERS: Amanda Peters. I just want to address as far
25 as the bus. Say this is the end of my driveway right here,

1 even though C.N. Brown only, from my yard to their yard, we're
2 literally on top of each other. From my actual driveway it's
3 about as far away as the Board right here. This way would be
4 to the wall and down is where the trailer park is and where the
5 pickup is. From that trailer park, like where the exit is
6 right there, one mile either way is how far the children have
7 to walk from that bus stop. That's all.

8 CHAIRMAN VOSE: Thank you. Anyone either for nor against
9 that would like to speak?

10 MR. MUNSON: Good evening Mr. Chair and members of the
11 Board. I'm Cecil Munson. I'm here as a counselor-at-large for
12 the city of Augusta and I was handed a petition to postpone,
13 I'm just acting in that capacity. They asked me if I would
14 present that. It says, "I the undersigned resident of
15 Riverside Drive neighborhood would request that the Planning
16 Board postpone, table its decision about the expansion on the
17 C.N. Brown property until further inquiries into the design and
18 impact on neighborhood can be determined." There are 32
19 signatures on that petition.

20 I also looked at this handout and I also looked very
21 closely at the site map and I noticed that there's a wetland to
22 the south of the current fueling racks. It's designated on the
23 plan as a wetland. I'm not sure just exactly where the aquifer
24 flows from that or through that wetland, but a wetland is a
25 sponge and what it does is it collects everything under the

1 sun, including any toxins, and passes that along through the
2 aquifer.

3 I haven't heard anything about an aquifer or an aquatic
4 study being required for them to determine, one way or the
5 other, whether this is a factor or not. I haven't heard it.
6 (Inaudible) hear that from an official who can say that it's
7 absolutely not a problem or it is a problem and how are they
8 going to mitigate that problem?

9 They -- I've had a number of people talk to me about this,
10 obviously, and they're all very concerned. I'm not going to
11 repeat everything that was said there. I concur with whatever
12 they've said there because it's very important to them. It's
13 their quality of life.

14 I understand that this is a Planned Development
15 neighborhood. What has historically happened on Riverside
16 Drive is mixed use. It was -- it's been that way forever but
17 it's not in-your-face kind of development. We don't have those
18 tall signs, don't have the 24/7 or 12/5 operation where you're
19 5:00 to 12:00 operation. They are -- the businesses out there
20 are basically smaller. They're less intrusive. This is a very
21 intrusive operation that's being planned. Very, very
22 intrusive. In your face.

23 I want to go back to the Japanese maple or the lilac. I
24 planted one of those 15 years ago and it's just about ten-feet
25 high now and it blooms a little late, it blossoms a little late

1 and the leaves fall off very early. Very early. So that's not
2 much of a buffer. If that's what they think is an adequate
3 buffer I have one they can come up and take a look at. It's
4 not that big and it doesn't do a very good job of buffering.
5 It's just a nice looking thing to look at, but it doesn't
6 really do the job.

7 I heard from the engineer that we haven't got a DOT permit
8 yet, in hand. Is that correct? Maybe I heard that wrong but
9 that's what I heard. So you move ahead without a DOT traffic
10 plan or permit. Question mark.

11 The number of schoolchildren that have to walk in those
12 narrowed lanes in the wintertime, you know, it's probably okay
13 in the summertime because they can walk out there and go to the
14 school bus and the school bus doesn't run in the summer. But
15 we've had a lot of snow. We've gotten by pretty lucky but we
16 had a lot of snow and the road gets narrower. Even Riverside
17 Drive, they don't come out and collect the snow from the banks
18 out there like they do in town. That snow stays on those
19 breakdown lanes longer so they have to move closer to the road.

20 The speed limit of 45 is fiction. I mean it's 45 but
21 nobody does it. I live there. I live on that road. I know
22 exactly how fast they go. You take your life in your hands
23 when you go to the mailbox. You want to make sure that you've
24 got nothing coming from either direction. I have actually
25 pulled out of (Littman) Road saw nothing and then about the

1 space of 100 feet I've got somebody on my tail. So you know
2 what they're doing. I didn't even see him a quarter of a mile
3 away.

4 So the speed down there is really critical. I said this
5 before. We ask the Maine Department of Transportation to move
6 the 45 that starts at Brookside out past what is now the
7 Jellison Trading Post to 35. They rejected that. There's
8 nothing to say -- I don't think if we went back again, the
9 Council went with a resolution saying would you please do this?
10 And they said no.

11 I'm going to do that again and do it again until they get
12 sick of me but the point is they have control of the speed. It
13 doesn't look to me like they're very interested in
14 accommodating the speed reduction through that zone. If you
15 add a third lane, all you're going to have is that center lane
16 and they'll zip on around that and won't slow down. It's just
17 a fact of life out there. I worry about the children because
18 they are down at the corner, right there by the trailer park
19 entrance, mobile home, sorry.

20 I heard Sue Locsin talk about the runoff and I think
21 that's a showstopper folks. Until you're sure that that is not
22 a problem, if it's dumping into the aquifer and it's going into
23 the river, what is it, Three Mile Pond or Brook down there,
24 whatever it is. There's a brook. There's a brook and it's
25 right below their house and is that dumping in there? I just

1 don't know.

2 Planned Development is you can do anything out there. I
3 mean, you put the convenience store or whatever it is there you
4 can have a Hammermill. You can have a slaughterhouse. You can
5 have everything. I mean, this is where people also live out
6 there. The little building that I -- was across the street
7 from me that at one point there was some discussion of putting
8 in, 200-feet from my doorstep, a slaughterhouse. Well, you
9 know, that might be just fine.

10 That's commercial development but people who have to live
11 with that, with the threat of that it's serious. Their
12 property values go down. Every time you do this, your property
13 values go down, your quality of life goes down. They've stated
14 it. I'm just repeating it. It's a matter of fact. Ask any
15 realtor. That's what happens.

16 These folks have some very nice houses out there, some
17 nice property. They're trying to protect themselves and they
18 are concerned and they need to be heard.

19 Now, the last time that they addressed you there was a
20 discussion about drive-through and I got the sense from you
21 that there was some concern about drive-through. The Applicant
22 did not address drive-through this time. They ignored it. Oh,
23 it's not a problem. They didn't hear it or if they heard it,
24 they turned the switch off.

25 That, to me, doesn't speak very well for their

1 consideration of the people who are asking for consideration.

2 Thank you.

3 CHAIRMAN VOSE: Any questions for Counsel Munson? Thank
4 you.

5 MR. MUNSON: Okay.

6 CHAIRMAN VOSE: Anyone else in the audience who'd like to
7 speak neither for nor against or would like to speak? Seeing
8 none, the Applicant has the final say.

9 MR. SAUCIER: I'll try to respond to as many of these as I
10 wrote down. Again, we heard about traffic, lighting, things of
11 that nature.

12 We heard a lot about historical -- a history of accidents
13 out there and things like that. We've done some research since
14 the last meeting and, in fact, that area out there is not a
15 high crash location. From 2010 to -- 2008 to 2010 there were
16 seven reportable accidents. No pattern to the accidents. One
17 was a mattress blowing off the back of a pickup hitting the car.
18 Somebody slid off the road in the snow in an accident, so it's
19 things like that. So there really is no -- seven accidents in
20 three years and no pattern. So --

21 As far as pumping fuel afterhours. That is not part of
22 our proposal which, currently, it does happen out there now.
23 There is a diesel pump. There's one, as the neighbor stated,
24 with a key on it and people can pump diesel anytime they want,
25 I think, right now.

1 I'd like to have, after I'm done, Jinger Duryea, the
2 president, she can speak to you about the hours.

3 The privacy fence, the vinyl. It's a solid privacy fence.
4 You have a detail in your package.

5 And as far as the pavement edge is to the south, it
6 actually ranges up to within about ten-feet of the southerly
7 property and we're increasing that buffer to 25-feet from ten-
8 feet as part of our plannings and fence along that side. So we
9 are actually moving the pavement away from that property
10 significantly.

11 You heard about bright lights in the windows last night or
12 the other night. That does happened with the old style light
13 fixtures and it won't happen with the new style light fixtures.

14 The diesel pumps under the window, again, we heard about
15 that. That will be moved. There will be no diesel pump, even
16 that close to the property line.

17 We heard about noise from a few people. The noise level
18 is higher. We have an ordinance, number one, governing the
19 speaker noise out of the drive-through. I personally believe
20 that the noise of the traffic on the highway will be louder
21 than noise emanating from this site. There is -- there will be
22 speakers on any pumps out there. It's a requirement of ADA and
23 it's a safety consideration. We talked, at the last meeting,
24 about no TVs, no movies, things like that on the pumps which we
25 are not proposing.

1 The different fence color, I'm sure if it comes down to
2 that we can negotiate something there with the abutters.

3 Is the speed limit going to be lowered at all? We heard
4 about that and we heard that from the counselor that apparently
5 that's been attempted out there and hasn't been successful.

6 As far as the DOT permit, we do have a DOT permit in hand,
7 a traffic movement permit for that which depicts the
8 improvements out there as a center two-way turn lane.

9 Ad far as the center two-way turn lane, we heard a lot of
10 talk about children crossing three lanes of traffic down at the
11 bus stop. The center two-way turn lane is actually in front of
12 the site and extends about 150 feet southerly of the site down
13 the road. So there -- beyond that there is no third lane for
14 anybody to cross. And by the time they get down to the major
15 bus stop, there is no construction proposed. There's no
16 improvements or anything that are going to be down there.

17 The comment about us being close to the drive on the
18 northerly boundary with the fence, we've got it five-foot
19 inside our property line. Again, that was an abutter that
20 didn't even ask for a fence. We're doing it out of
21 consideration. That was something that can be worked out.

22 The sign height. It's within ordinance standards. The
23 ordinance standards speak directly to requirements in the PD
24 Zone. The sign will have to meet all those requirements.

25 Major accidents concerning pedestrians, if there has been

1 some there's none in the records that the state keeps on
2 accidents like that in that area.

3 The idling trucks we already addressed that, that they
4 will not be allowed.

5 The hours, again, Jinger will address.

6 Again, the proximity of the bus stop, the widening I
7 addressed.

8 I heard a couple of comments on the landscaping. We heard
9 one that it was not adequate. The ordinance outlines
10 landscaping requirements that we have to follow and we've got
11 significantly more along all the property lines where we're
12 required to have it than the ordinance asked us to put out
13 there, requires us to put out there. And buffers are wider,
14 particularly in the front, than the ordinance requires. It's a
15 50-foot buffer and I believe we needed 35 out there if I'm not
16 mistaken.

17 The spills into the aquifer. We have done some
18 preliminary geotechnical research out there that indicate
19 there's clay under that site, not an aquifer. So if there is
20 other information out there, that's something that our
21 geotechnical guys don't know about.

22 And I would like to ask to the Chair, I just wondered if
23 Sue Locsin is now on public water and still monitoring for MTBE
24 when you have a moment.

25 Spoke about the speaker.

1 There's no TIF associated with this project.

2 The discussion about erosion control, spill prevention,
3 things like that, what we're doing to water quality. Part of
4 our erosion control plan we've called for traps in all the
5 catch basins that trap floatable petroleum products, if there
6 is a small spill, in the event of a spill. That's called for
7 in all the catch basins. It's pretty much standard practice on
8 sites like this.

9 I can't address the southerly abutter's comment that one
10 mile each way kids are walking but that would put them a
11 half-a-mile from the other side of Route 3 walking to this bus
12 stop. So --

13 Wetland --

14 CHAIRMAN VOSE: Everybody had a chance to speak. Please
15 just agree/disagree keep comments (inaudible) --

16 MR. SAUCIER: Wetlands to the south of fueling racks.
17 Okay. There is a wetland there. We're going to have a little
18 fill in it. No permits are required for what we're proposing
19 to do in that wetland. It was delineated by a wetland
20 delineator and I believe the notes reference that on the
21 drawings.

22 The discussion about the Japanese lilac, it loses its
23 leaves early. That Japanese lilac is being used in conjunction
24 with a significant number of plantings to the front of that
25 site to dress it up and significantly more than required under

1 the ordinance. Various species, various heights.

2 I'm not sure, we did hear about children walking in the
3 shoulder as part of the project in the highway improvement
4 there's still going to be a shoulder there so I'm not sure what
5 the issue is with that.

6 The runoff from the site doesn't go into Two Mile Brook.
7 It actually goes to the bottom and sits next to the railroad
8 tracks more than anything and probably -- I didn't notice any
9 culverts when we did the surveys down there.

10 I think Matt can answer whether slaughterhouses are
11 permitted in the zone and, as far as the last meeting about the
12 drive-through, we did have one question from one of the
13 Planning Board members that -- whether the project can move
14 forward with a drive-through or not or if the neighbors could
15 live with a drive-through or not. That was one question.
16 There was no follow-up required. It wasn't included in the
17 planner's comments so that's why it wasn't addressed tonight.
18 It's not avoiding it. It's still in our plan.

19 So that's it and if Jinger could come up and speak a
20 little bit about the hours it might help you with their
21 position on that, as well.

22 CHAIRMAN VOSE: I'm going to go over a couple of questions
23 first.

24 MR. SAUCIER: Oh, sorry.

25 CHAIRMAN VOSE: All right. So afterhours pumps, what

1 you're saying is that if approved they will not be allowed via
2 key or card to be done after --

3 MR. SAUCIER: Correct.

4 CHAIRMAN VOSE: -- closing hours and prior to opening
5 hours.

6 MR. SAUCIER: Correct.

7 CHAIRMAN VOSE: Okay. And you have all applicable DEP
8 permits for these?

9 MR. SAUCIER: Not DEP permits. DOT was the question.

10 CHAIRMAN VOSE: Right. But --

11 MR. SAUCIER: DEP requires a permit by rule under the
12 storm water law which is a routine filing.

13 CHAIRMAN VOSE: And have you filed?

14 MR. SAUCIER: No.

15 CHAIRMAN VOSE: Okay. And the speakers, we do understand,
16 are required by law at fueling stations but we can restrict the
17 use of any --

18 MR. SAUCIER: Right.

19 CHAIRMAN VOSE: -- broadcast over them to be restricted to
20 just employee-user conversation only.

21 MR. SAUCIER: Understood.

22 CHAIRMAN VOSE: And just as a general comment from my
23 perspective, with kids that travel on roads. I think the
24 general concern that you've made multiple mentions of not
25 understanding what the point was. The general point is kids

1 traveling on the road and what you, as the Applicant, can do to
2 mitigate the danger of kids traveling within the vicinity of
3 your project. And so that does include a certain amount of
4 area before and after, so the general concern is people's fear
5 of children traveling and so rather than blow it off for future
6 discussion, if you could maybe address it a little bit better
7 of how, on your property section, you're going to better
8 mitigate the traveling section for pedestrians.

9 MR. SAUCIER: Okay.

10 CHAIRMAN VOSE: Alison?

11 MS. NICHOLS: I do have one question I didn't hear the
12 answer to and that was that when the business is closed will
13 you turn off the lights in the sign?

14 MR. SAUCIER: The lights in the sign?

15 MS. NICHOLS: The big CITGO sign out front.

16 MR. SAUCIER: Yeah.

17 CHAIRMAN VOSE: You're saying you will?

18 MR. SAUCIER: Yes. Yeah.

19 CHAIRMAN VOSE: Any other questions? Delaine?

20 MS. NYE: Yes. The question of filing with DEP, I'm sorry
21 but your answer isn't clear to me.

22 MR. SAUCIER: Okay.

23 MS. NYE: When do you intend to file?

24 MR. SAUCIER: It's a permit by rule of process and it's a
25 routine filing with the DEP in regards to storm water. You

1 submit a notification. It's not even a permit application.
2 It's just simply a notification that we're going to build this
3 project and comply with your regs, so there really is no permit
4 that is issued as part of that process.

5 MS. NYE: I see. All right. One of the people who spoke
6 made reference to some spills attributed to C.N. Brown. Can
7 you speak to that, please?

8 MR. SAUCIER: I cannot. I'm not aware of that and -- the
9 reportable spills DEP's got a record of them. Other than that,
10 I really can't tell you the details on them.

11 MS. NYE: Okay. So you don't know whether they're above
12 average, average. You don't know. Okay. Thank you.

13 CHAIRMAN VOSE: Any other questions? Thank you.

14 MS. DURYEA: Hello. My name is Jinger Duryea. I'm
15 president of C.N. Brown Company and have been since 1995. My
16 father was president of C.N. Brown Company prior to me and the
17 next generation is queued up for after.

18 And we've been in business for 65 years in the State of
19 Maine. We're a Maine-based company. We have 78 Big Apple
20 Convenience Stores throughout Maine, New Hampshire and Vermont
21 and I believe that we are response -- a responsible retailer
22 and we have some wonderful facilities and we have a lot of
23 fantastic employees. And we've been property owners at this
24 particular facility for 29 years.

25 And I do owe an apology to the neighbors for the site,

1 that it is -- and the disrepair that this facility is in at the
2 moment. I wish money grew on trees and if it did every single
3 one of my locations would be a Taj Mahal but it doesn't. It's
4 tough. Business is hard right now but what we do is we work
5 hard, day in and day out, and we make money and as we earn that
6 money we take that and we reinvest it in our business. So
7 today we employ 800 employees and I'm proud of that and we've
8 been raising money for Muscular Dystrophy for over 25 years and
9 we're almost to the \$5 million mark, and I'm proud of that.
10 And we help the local snowmobile clubs with money for their
11 gasoline for their snowmobiles so they can groom the trails.

12 We do a lot of good stuff and so I'm really proud of our
13 company.

14 And at this particular facility, we've been in business
15 for 29 years. We've had a heating oil facility and attached to
16 the heating oil facility for years was -- I believe it was a
17 furniture store. That furniture store left and we've always
18 wanted to build a Big Apple Convenience Store here but we
19 haven't had the money. So we moved our heating oil office over
20 to Western Avenue temporarily so that we could asses this
21 particular location and build something that we can be proud
22 of.

23 And I think Western Avenue Big Apple is a beautiful
24 location. Yes, it has a Dunkin Donuts. Yes, it has beer and
25 wine and we're a responsible retailer. We card people. We

1 don't let people hang out in our parking lots. It's not a bar.
2 It's not going to be loud. It's a convenience store. People
3 pull up. They buy gasoline. They go inside the store, they
4 buy items, they go into their car and they drive away. They're
5 not hanging out and if they're hanging out I wish somebody
6 would give me a call at the office and I'd call the manager and
7 I would say, "Don't let these people just hang out 'cause it
8 scares the customers."

9 We're here to treat the customers well and so that's what
10 we've done with this project. We looked at it. We heard the
11 concerns and so we've created the extra buffers. I would love
12 to be open 24 hours because I'm making a big investment and I
13 need a return on that investment, but the neighborhood doesn't
14 want it to be open 24 hours. But I have to be open enough
15 amount of time to make a living, to pay for the ten people who
16 are going to work for me, to help the company who, hopefully,
17 will be running the restaurant inside so that they can pay for
18 their ten employees, so that we can pay for the property tax,
19 so that we can be good retailers and a good community partner.

20 So we've come with this 5:00 a.m. to 12:00 midnight. Our
21 heating oil facility that's been there forever, I just wanted
22 to clarify something that occasionally a heating oil truck will
23 be called out in the middle of the night because someone's out
24 of product and that heating oil truck has always come to this
25 facility, filled the truck up with some product and has taken

1 it to the customer who is in need and I would expect that to
2 continue to happen because it's been happening for 29 years.

3 And as far as any spills that have taken place over those
4 29 years, a lot of things have changed in 29 years in our
5 society and DEP does require us to report any spill of any size
6 when it comes to heating oil. Even if it's a teaspoon we have
7 to call and report it. And it could be a large spill but we
8 take care of it. We clean it up like we're supposed to and
9 we're in good standings with DEP.

10 And I think that's what I would like to say and if you
11 have any questions feel free to ask them but I might request
12 that Kevin Moore and our company here that has helped us design
13 this beautiful project to help me.

14 CHAIRMAN VOSE: Questions? Delaine?

15 MS. NYE: I don't know if this is so much of a question as
16 it is a comment and that is we have to make a decision whether
17 to approve this project, deny this project or something in the
18 middle, approve it with conditions. And what we're hearing
19 from a number of people, both at this meeting and the previous
20 meeting, is this is way too big for their neighborhood, that it
21 is going to hurt their quality of life, that it's not safe,
22 that it's just way too big for that spot on Riverside Drive,
23 that it's inappropriate.

24 So we have a big decision to make here and we understand
25 that -- that you hire a lot of people, you're successful,

1 you're providing service and product to the public that will be
2 very handy and convenient for a lot of people but do you
3 have -- what can you say that will help us so that we can make
4 this project possible without hurting the people who live in
5 the vicinity, without endangering the children, without
6 creating traffic hazards, and you know, we've heard a lot
7 tonight. How --

8 MS. DURYEA: Right. It's a commercial zone, too. It may
9 also be a neighborhood or whatever, but there's been commercial
10 property there for a long time. Across the street there used
11 to be a woodstove place. There's been businesses in and out --

12 MS. NYE: Small businesses.

13 MS. DURYEA: Yes. With convenience stores there's be more
14 and more pressure and in order to make a living you can no
15 longer have a little gasoline facility that only sells gasoline
16 and cigarettes. You cannot make a living anymore on the margin
17 on gasoline. You just can't. You have to have a lot of
18 products. You see a lot of these gas stations, originally,
19 they were converted. They took their bays and they converted
20 them to gasoline facilities and convenience stores but as time
21 has gone on they've also had it -- had to add on either a deli
22 or a Dunkin Donuts or some other thing to make a go of it.
23 It's what this industry has (inaudible) --

24 MS. NYE: I think we all understand the economics.

25 MS. DURYEA: Uh-huh.

1 MS. NYE: We just have to find a way to make it fit, if
2 that's possible. That's what I'm saying.

3 MS. DURYEA: Right. We have a very large property here.
4 We're using a very small amount of it. I implore you to
5 realize that we're a great retailer. We're a Maine company.
6 We're not from away. We will be good neighbors. There's
7 nothing that we're going to be doing to create harm to society.
8 These cars are already traveling back and forth past our
9 location. They may pull in and pull out but we're not adding
10 more traffic to the area, it's just the traffic that already
11 exists there.

12 MS. NYE: Thank you.

13 MS. DURYEA: Just let a Maine company continue to do what
14 it does.

15 MS. NYE: Thank you.

16 CHAIRMAN VOSE: Any other questions? Seeing none, Thank
17 you.

18 MS. DURYEA: Thanks.

19 CHAIRMAN VOSE: Anything you'd like to add before we close
20 this section of the public hearing? Okay.

21 At this time, we will close the section of the public
22 hearing and open it to Planning Board discussion. Any
23 questions for Matt generated from our conversations?

24 MS. NICHOLS: Actually, I have some information that I
25 found today that might help one way or the other just to give

1 us some background.

2 CHAIRMAN VOSE: Please.

3 MS. NICHOLS: Okay. As was suggested by C.N. Brown I did
4 a little bit of research on a comparable gas station that went
5 in within the last year with a canopy and everything else and
6 it's one that we're all familiar with. It's North Augusta
7 Market. And I came in today and I spent quite a bit of time
8 with the files digging out some information. So I thought for
9 purposes of comparison for those of you who have driven by that
10 at night it would at least help to know how they look next to
11 each other.

12 At the North Augusta Market, the canopy is 14 feet high
13 where the lights are. That's exactly what they just told me
14 that theirs was going to be. The lumens under the canopy that
15 C.N. Brown talked about were 21.2 to 24.8. The lumens under
16 the canopy at North Augusta Market are 25.24. So theirs is
17 actually going to be a little less. I was unable to get the
18 height of the light poles out at North Augusta Market. I did
19 go out and look at them but I'm really bad at guessing height
20 so I really can't safely compare that but I felt that that was
21 information that, at least, we're comparing apples to apples
22 and we would have a sense of what it would look like at night.
23 So that's it for that.

24 CHAIRMAN VOSE: Any discussion on this or questions for
25 Matt?

1 MS. NYE: I have a question and that is at the council
2 meeting last week, the council is asking the Planning Board to
3 look at rezoning the stretch of Riverside Drive to PD-2 because
4 of a concern about big projects and development out there in
5 view of the fact that it is a real mix of uses that have
6 been -- there are some businesses that have been there for
7 decades. But there's houses that have also been there for
8 probably longer. And so we're going to have to look at
9 rezoning Riverside Drive, making a recommendation to the City
10 Council.

11 I think that's a very important fact that we all have to
12 take into consideration and, legally, where does that put us?
13 I mean, I know where it puts us morally, but where does it put
14 us legally?

15 MR. NAZAR: Well, at this point, Board Member Nye has just
16 --

17 MS. NYE: I'm sorry. I'm putting you in a hard spot.

18 MR. NAZAR: Well, not really. No. I'm just trying to
19 sort out exactly where we are at this point with respect to
20 that.

21 The City Council has made a request that the Planning
22 Board -- and that was -- that occurred just this last Thursday
23 so about four days ago -- four business days ago -- that the
24 Planning Board take a look at rezoning Riverside Drive from the
25 brook crossing north from PD to PD-2, or something along those

1 lines. Because I -- at that -- at this point all we have is
2 that request, is a request for a recommendation from the
3 Planning Board to the City Council. I'm not going to pretend
4 that I know what sort of recommendation you folks are going to
5 make to --

6 MS. NYE: We don't know.

7 MR. NAZAR: -- City Council, nor do I have any idea what
8 City Council might or might not consider and pass.

9 So I would say at this point what you have from a legal
10 perspective is you have the zoning that's in place. That's
11 Planned Development, PD. You have a zone where this particular
12 use that's being requested, which is retail convenience, is a
13 permitted use. It's not a conditional use. It's a permitted
14 use so that you're looking at it within that context, within
15 the Planned Development District. So the standards that you
16 have in the ordinance are intended to help guide the Board on
17 site design and guide the developer on site design.

18 But in essence, from the perspective of the legislative
19 process that creates the zoning standards that everybody in the
20 city lives with, that legislative process, being City Council,
21 the City Council has determined, by vote, that this type of use
22 is a permitted use in that zoning district. And by virtue of
23 being a permitted use it -- that conveys the fact that the
24 Council, whether or not they've thought very specifically about
25 this use or not, there's a vote that occurred that made that a

1 permitted use and, therefore, it has a level of compatibility
2 with -- it's determined to have a level of compatibility with
3 the district that it is a use that is permitted in the
4 district.

5 MS. NYE: Okay. If I could expand upon that a little bit,
6 I think that some people may consider this a project that might
7 be worthy of an exit off I-95 but not worthy of a location in
8 that section of Riverside Drive. So how much latitude do we
9 have in addressing the size of the project to ensure that it is
10 compatible with the location?

11 MR. NAZAR: I think I'm going to give you a wishy-washy
12 answer and I'm sorry about that and the reason I'm --

13 MS. NYE: I need the best answer you can.

14 MR. NAZAR: I will give you the best answer I can. The
15 reason for that is, like I say, this is -- it is a permitted
16 use in the district. It's not a conditional use. It's a
17 permitted use in the district which, by virtue of that fact, by
18 virtue of the City Council vote along those lines sets the
19 playing field, creates the rulebook that the use inherently
20 fits in the district.

21 The question then becomes what can fit on the site from a
22 logistical perspective? From a traffic perspective, what can
23 you actually move around on the site for vehicles? And you
24 have engineers that go through that process to determine, from
25 a very technical perspective, what can legitimately move around

1 onsite safely. You have additional standards with regard to
2 your lighting issues, with regard to your noise issues and
3 landscaping, all of those things are details that are outlined
4 as standards in your ordinance with a fairly objective set of
5 standards. Lighting standard is very specific, what can cross
6 the boundary line of your property and what cannot. The
7 standard of -- with respect to noise, how much noise can cross
8 your boundary line and how much cannot.

9 Those are very, very specific, hard lines in the sand with
10 regard to what's allowed and what isn't and if the Applicant is
11 meeting those standards the issue of neighborhood
12 compatibility, which is something that the Board has latitude
13 to look at with respect to a permitted use, becomes one that is
14 -- that I as staff wouldn't recommend you go really, really
15 hard on. I certainly wouldn't recommend that you deny a
16 proposal based solely on neighborhood compatibility issues for
17 a use that's permitted in the district.

18 MS. NYE: But we can add conditions. For example,
19 children's safety.

20 MR. NAZAR: Certainly, you have --

21 MS. NYE: Something like requiring a signaled crosswalk in
22 front of the -- I don't know I'm just trying to come up with
23 something that would address parent's concerns.

24 MR. NAZAR: I would suggest that you get-- if you are
25 concerned about safety of pedestrians along the side of the

1 road, I would suggest that you get the recommendation or at
2 least have some conversation with your city engineer who has
3 some experience in that issue and some expertise in that issue
4 and take that advice under consideration as you deliberate.

5 Again, with respect to neighborhood compatibility some of
6 the other standards I've talked about have very, very nice
7 solid, easy measurable standards. The one with respect -- the
8 issue with respect to neighborhood compatibility does not.
9 That's a very subjective issue that the Board deals with.

10 As I said, with regard to the fact that this is a
11 permitted use in the district the City Council has,
12 essentially, made some level of determination by that vote that
13 it is compatible with the district so you have to take --
14 that's why I say the leeway in neighborhood compatibility is
15 significantly narrower for a permitted use because that
16 decision has, essentially, been made by the legislative body.

17 CHAIRMAN VOSE: The bottom line with it being a permitted
18 use and meeting the other standards of the Land Use Ordinance
19 is that we can do our best to mitigate the effects of the
20 neighborhood based on the neighborhood compatibility clause.
21 Right? We can't outright deny it for anything other than that
22 and if we do it's still difficult. And so our job is to either
23 accept it or put conditions on it that we feel would make it
24 more in line with the neighborhood.

25 MR. NAZAR: And I'm not going to -- I wouldn't suggest

1 that what you can and can't deny on. I'm not going to say that
2 you can't do something. It would not be my recommendation that
3 you deny it on that basis alone. Linda?

4 MS. CONTI: I'd like to ask some clarifying questions if I
5 might.

6 CHAIRMAN VOSE: Please.

7 MS. CONTI: Now, Matt, it's a permitted use.

8 MR. NAZAR: Yes.

9 MS. CONTI: So I would agree with you that a convenience
10 store and a gas station are permitted use within the district
11 and we certainly couldn't deny an application. Would it be
12 your testimony here today that 13 pumps -- a 13-pump gas
13 station is a permitted use based on all the applicable
14 ordinances, that they've met all the ordinances and that we
15 would not be able to deny them the scope of having 13 pumps at
16 that site?

17 MR. NAZAR: The measurable -- the objective measurable
18 standards of the ordinance have been met.

19 MS. CONTI: With respect to 13 pumps? Okay. That's one
20 question. Another question would be would we -- is it a
21 permitted use that they have a drive-through operation?

22 MR. NAZAR: Yes. A drive-through is permitted in that
23 zoning district.

24 MS. CONTI: In that zone. Okay. And is it a permitted
25 use in that zone that they have hours of operation that are

1 5:00 a.m. to midnight?

2 MR. NAZAR: There is nothing in the ordinance that
3 regulates hours of operation, specifically.

4 MS. CONTI: So we could make them 7:00 to 7:00. We could
5 say as a condition to make it compatible with the neighborhood
6 the hours of operation are 7:00 a.m. to 7:00 p.m.

7 MR. NAZAR: It becomes a neighborhood compatibility issue
8 which has some subjectivity to it. Like I say, there's no
9 defined standard --

10 MR. CONTI: So that is up for us to define, then, this
11 body is --

12 MR. NAZAR: There's nothing -- there's nothing that says a
13 24/7 is permitted or prohibited. It's that --

14 MS. CONTI: So that's up to us to determine.

15 MR. NAZAR: It falls into that neighborhood compatibility
16 leeway area.

17 MS. CONTI: Okay. I have one final question. Now, four
18 days ago you suggested that four -- you suggested that the
19 criteria that they've met, that they have met the permitted use
20 requirement for criteria that have been set by the City
21 Council, and that four days ago the City Council made some type
22 of vote that indicated that they are interested in revisiting
23 their own criteria. So as being in charge and managing our own
24 docket, I suggest it would be in order for us to make a motion
25 to table this until after action on the City Council's request

1 that we revisit this item. And I think that that would be well
2 within the order of us managing our own work to do that.

3 I don't feel comfortable rushing something through, at
4 this point, three days after we've gotten a signal that further
5 work revisiting the standards is in order. So I suggest
6 that -- I would ask the Board if they would entertain a motion
7 from me to that effect.

8 CHAIRMAN VOSE: I'll let Matt answer the question first.

9 MS. CONTI: It's an administrative issue so I don't think
10 it's a legal issue. I think --

11 CHAIRMAN VOSE: The question is we have application in
12 front of us. Based on the ordinance at the time, what are we
13 hearing it on?

14 MR. NAZAR: At this time, you're certainly hearing it with
15 respect to the existing regulations. The Applicant submitted
16 an application based on the existing regulations and those are
17 the regulations that, up until four days ago, four business
18 days ago --

19 CHAIRMAN VOSE: Right but if a member --

20 MR. NAZAR: -- we're not different.

21 CHAIRMAN VOSE: -- of the planning Board made a motion to
22 table and the Board tabled it and this item gets in front of us
23 and a recommendation is made to change zoning and if a zoning
24 change was made this item was started before there was a zoning
25 change.

1 MR. NAZAR: Right.

2 CHAIRMAN VOSE: So what merits do we hear this item on?

3 MR. NAZAR: Right. Well, that's a great legal question
4 that, off the top of my head, I'd rather not answer because
5 there have been -- and the reason I say that is because several
6 years ago I would have gladly answered it but I think there's
7 been some legislation that may have changed -- had some effect
8 on the issue and I just -- I'm not recalling, right now,
9 whether or not there was.

10 Fisherman's Wharf case that occurred back in 1988 down in
11 Portland set out the ability of communities to retroactively
12 enact ordinances. The Maine Supreme Court clearly said that it
13 was okay for a legislative body of a community to make an
14 ordinance retroactive, effectively nullifying previous
15 approvals. I believe that there have been changes to the law
16 in the last couple of years that no longer enable that to
17 happen. There was obviously significant concern that was
18 expressed, and has been over the last couple of decades, about
19 the possibility of getting a Planning Board approval and then a
20 year later having it nullified by City Council vote or Town
21 Meeting vote in communities that have Town Meeting. But
22 nonetheless, the Maine Supreme Court had said that that was
23 legal in the Fisherman's Wharf case, like I said, from 1988.

24 I'd like to get more information before I answer that for
25 under present law. I'd be talking with our municipal attorney

1 on that.

2 CHAIRMAN VOSE: From the assurance standpoint, I guess,
3 for both the neighborhoods and C.N. Brown, the process that
4 we'd be looking at, in general, if this were tabled to either a
5 date certain in two weeks or four weeks from now, in order to
6 change the zone you're talking about Planning Board hearing it,
7 discussing it, maybe voting in one meeting, if not a second
8 meeting, eventually putting a recommendation back to Council in
9 which they would hear a first reading and then two meetings on
10 it, as well. So you're talking about four to five meetings, at
11 least, before any action could be taken on changing the zone.

12 MR. NAZAR: A typical zone change, considering where the
13 process is right now that you have a request from City Council
14 to review a zone change out there, a minimum, unless this is
15 enacted as an emergency action and then enacted as a regular
16 action, a minimum amount of time for a zoning change to take
17 effect is typically three months from start to finish. That's
18 basically your shortest timeframe. If it's made -- if it's an
19 emergency action where the second waiving is -- the second
20 reading is waived, it could potentially be done in a
21 month-and-a-half. That's I -- and I think that is the absolute
22 fastest amount of time that you could potentially do it.

23 CHAIRMAN VOSE: And from the procedure that we're on here
24 today of the item that's in front of us, a two-week window in
25 order for you to get with City Council or Langsdorf would be a

1 reasonable timeframe?

2 MR. NAZAR: Well, I can certainly get information -- I can
3 -- I can send questions off to Steve Langsdorf and -- who is a
4 city attorney, and see what sorts of answers I can get. The
5 catch we have with regard to time right now is during the next
6 two weeks, for at least one and a little bit more of them, I'm
7 on vacation and then next week is a tough week, as well, as far
8 as timing. But two weeks from today, I'm going to be in
9 another location, warmer.

10 CHAIRMAN VOSE: So I think the bottom line is that, yes,
11 you can make a motion to table. If you make a motion I would
12 request that it would be with more information to come back
13 based on a conversation with city attorney.

14 MS. CONTI: Well, I don't know. I mean, maybe you know
15 more about this than I do but is what they want us to talk
16 about rezoning this entire area to be commercial or do they --

17 MR. NAZAR: The Council order was to have the Planning
18 Board take a look at PD-2, Planned Development 2 for this
19 zoning district. There was some discussion, as well, at the
20 pre-meeting, I believe, I think I had a couple of other
21 conversations. The proposal was from Counselor Munson and the
22 pre-meeting discussion, I think, or some other discussions were
23 that something similar to PD-2 was what the Planning Board was
24 being asked to take a look at and for PD-2 it's a very pared
25 down version of Planned Development.

1 FEMALE SPEAKER: No drive-through restaurants.

2 MR. NAZAR: Right. And no retail convenience, which is
3 what this is. So this use would not be allowed either as a
4 permitted or a conditional use and that, like I say, starts to
5 come into question about exactly -- from a timing perspective
6 and a process perspective I'd really want to have a
7 conversation with this city attorney about that.

8 MS. CONTI: Yeah, I can understand that because they have
9 applied under the old --

10 MR. NAZAR: Absolutely.

11 MS. CONTI: -- standard.

12 CHAIRMAN VOSE: Pete?

13 MR. PARE: Just a comment. Some piece of this makes me
14 uncomfortable. Okay. I mean, I'm going to put myself in the
15 neighborhood shoes and then I'm going to put myself in the
16 Applicant shoes. I personally don't feel like the Applicant
17 has engaged in any egregious behavior here. I mean, it's a
18 permitted use in that district and that's what they're applying
19 under. If, in fact, the conversation that's going on here, and
20 I'm not saying it is, I'm just, you know, is that if something
21 comes before us and it puts us in a difficult situation, which
22 this one is -- I mean, I absolutely hear the neighbors, I
23 absolutely hear the Applicant, okay, and both have very, very
24 valid concerns.

25 I heard the fact that, you know, it's a Maine company.

1 They run a tight ship, you know. Like all companies they need
2 to make a profit, you know, and they've been good neighbors.
3 Well, I would hope that from a neighborhood compatibility
4 perspective if this was a go through then they would spend time
5 with the neighbors and work out certain issues, you know, not
6 ignore those things.

7 On the other hand, I think of cases like when we did Coney
8 Village, now I'm going to the child safety issue. These are
9 all the things I've been torn with the last couple of hours.
10 If you remember when we went through the Coney Village piece we
11 had a lengthy discussion relative to having them build
12 sidewalks -- even the dance studio that went up there -- to
13 build sidewalks coming down. Well, there's certain elements
14 that are in the purview of the Applicant of fulfilling and
15 there's others that belong to the city or Department of
16 Transportation or whomever.

17 But personally just so you know where I am right now I
18 wouldn't support tabling something just because there's a
19 possibility that we'll change zoning and that could affect the
20 outcome. I think to some degree we've been dealt the hand
21 we've been dealt. Can't pitch the cards back and say deal me
22 another five cards. I think we need to make a decision based
23 on the information that's before us. I just wanted you to know
24 where my position was.

25 MS. CONTI: You going to make a motion?

1 MR. PARE: I'm not doing anything yet. I'm waiting for
2 comment.

3 CHAIRMAN VOSE: Delaine?

4 MS. NYE: Well, just pursuant to what Pete is saying I
5 mean I think Pete has made some valid comments, some valid
6 points. However, you know, I think that we ought to have, must
7 have some latitude about how much -- at what point is a project
8 too much? You know? They have a lot of land there. This
9 project could have been three times as big. Would we still
10 feel compelled to approve it if they met all the requirements
11 of the ordinance? Would we still feel compelled to approve it
12 if it met all the ordinances when it would have had an impact
13 perhaps three times as large?

14 MS. CONTI: Yeah, we would have to if it's a permitted
15 use. But that's -- I don't think the neighborhood people
16 should suffer because, in my view, we've had longstanding
17 problems with poor zoning laws. That's --

18 CHAIRMAN VOSE: This is a more recent issue with poor
19 zoning laws. This isn't a longstanding issue (inaudible) --

20 MS. CONTI: I mean, it's been up in the air. There are
21 other neighborhoods like this where there's this mixed use
22 issue where we don't know whether to go completely commercial
23 or completely residential and this is how these things are sort
24 of playing -- it's not the businesses fault and it's not the
25 residents' fault. It's just that when some big project comes

1 up it comes to a head because they're not compatible but there
2 hasn't been any proactive kind of zoning that -- all of our
3 zoning has sort of been done on a case-by-case basis as opposed
4 to this is really going to be our plan and we're going to stick
5 with our plan. Whenever we have a plan someone comes in and
6 asks for an exception from the plan so that's, you know, the
7 flip side of it. And they all usually get it so that's just
8 what we deal with, you know, on a monthly basis here.

9 MS. NYE: My feeling would be to table it. I suspect that
10 we have to table it to a time certain but I would rather table
11 it to have had a chance to talk with Steve Langsdorf about the
12 issue of the size of the project because, in my mind, that's
13 still an issue and the issue of the rezoning of that strip of
14 highway. I -- if I had to vote tonight I would vote no and --
15 but I feel that we need a little bit more time on this. I
16 mean, it's ten after ten. We're all tired. We just want to do
17 the right thing.

18 CHAIRMAN VOSE: My concern with tabling it with the impact
19 of what a future Council vote might be is that we heard it on
20 the merits of what the zoning currently is and that's the
21 information that was presented to us and so we have an
22 Application presented to us based on the zoning that exists
23 today and I think we need to move on from the application as it
24 stands today. And if the zoning changes and they decide to
25 reapply based on a positive or negative motion, so be it.

1 I mean, I do believe tabling is an option but I think we
2 should try to come to some resolution unless the purpose of
3 tabling is to further discuss that resolution on this issue and
4 not the future issue of a possible rezoning.

5 MS. NICHOLS: I agree with Corey.

6 MS. CONTI: Okay.

7 MS. NICHOLS: If we table it for the resolution for
8 further discussion that's one thing, but I don't think we can
9 table it based on a possible zone change. I'm not comfortable
10 with that. These folks have applied in good faith under the
11 rules that we've given them.

12 MS. CONTI: Okay. Then I make a motion, are you ready for
13 this?

14 MS. NICHOLS: Not quite.

15 MS. CONTI: Okay.

16 MS. NICHOLS: Because I have a couple more questions that
17 I need answered and, Matt, you may know the answer to this one.
18 Do you know what the square footage is of the original C.N.
19 Brown building that is on the site right now? I've checked
20 everywhere and I can't find the dimensions?

21 MR. NAZAR: I don't, unfortunately. I guess my suggestion
22 is if you'd like to you can certainly ask the Applicant that
23 question. The Board has the authority to ask anybody anything
24 they would like. If that's a question you want answered, they
25 can answer it.

1 MS. NICHOLS: Mr. Saucier, do you know what the square
2 footage is of the existing building?

3 MR. SAUCIER: (Inaudible) similar to

4 CHAIRMAN VOSE: Please come up to the mike. Sorry.
5 (Inaudible) recorded or be heard on TV if you don't.

6 MR. SAUCIER: Right. I think if Andrea's still down
7 there if you could put the aerial photo back up? I don't know
8 exactly but I think it's comparable to the existing store. The
9 aerial photo shows that pretty good. There. So you can see
10 the two stores are about the same size.

11 MS. NICHOLS: That's what it looks like to me, that on the
12 rough sketch that I have that the building to building is
13 actually pretty comparable.

14 MR. SAUCIER: Pretty close and that's one thing we talked
15 about in our discussion in the -- of the compatibility
16 standards.

17 MS. NICHOLS: Okay.

18 MR. SAUCIER: So it would just be moved further back from
19 the road.

20 MS. NICHOLS: The one thing I -- one of the things that I
21 do have trouble with I'm in favor of not granting the buffer
22 yard reduction. I did a lot of work today looking through the
23 types of shrubs that you've chosen and, other than the lilacs
24 in the front of the building, none of them are taller than five
25 feet and to me that's not going to mitigate the light, the glow

1 coming from underneath the canopy for the people diagonally
2 across from you, directly across and diagonally north. So my
3 inclination is to make a change there anyway.

4 MR. SAUCIER: And staff recommended that in their original
5 review comments that the Board, should we get to the point of
6 making motions, that that conform to the seven trees required
7 under the ordinance (inaudible) --

8 MS. NICHOLS: Right.

9 MR. SAUCIER: -- (inaudible).

10 MS. NICHOLS: And I would probably go one step further and
11 say that of the canopy trees I'd like most of them to be
12 coniferous as opposed to deciduous so that at least there would
13 be year round buffering. But it -- I think that can be done
14 within the setup that you have. That's where I'm coming from.
15 But thank you for the information about the building.

16 MR. SAUCIER: Thank you.

17 CHAIRMAN VOSE: Pete?

18 MR. PARE: One question maybe you can answer. How many
19 pumps are there at the Big Apple on Western Avenue?

20 MR. SAUCIER: Do you want to try that, Kevin? Four.

21 MR. PARE: Four. Okay. I was trying to get a relative
22 size.

23 CHAIRMAN VOSE: Okay. That it? Any further discussion or
24 motions?

25 MS. NICHOLS: Yeah. I would like to talk about the gas --

1 the loudspeakers over the pumps. I think that we need to be
2 very specific should we move ahead with this tonight to make
3 sure that we specify what can come out of those speakers
4 because even though we talk about it here, it doesn't
5 necessarily get translated into what we think it's going to.
6 So we need to be very specific about speaker usage.

7 CHAIRMAN VOSE: I would say based on the Applicant saying
8 they were fine with it that if there's a motion to approve that
9 the speaker use be limited to essential communication between
10 the person manning the register --

11 MS. CONTI: I thought it had to be not audible at the
12 property line.

13 CHAIRMAN VOSE: That, but I think what Alison's referring
14 to is if they decide to play music over it 24/7. I mean, you
15 go to some stations and there's constantly music playing or at
16 J&S and some other places, there's a commercial that's played
17 as you drive up.

18 MS. NICHOLS: Right and it's fine if you have the option
19 of turning it off. J&S has a button that you can literally
20 mute and so that you don't have to listen to it while you're
21 pumping. But other places don't and so you get all of this
22 verbiage coming at you about what you can buy inside and I
23 don't think we -- the neighbors need to hear that or the person
24 pumping needs to hear that, necessarily.

25 CHAIRMAN VOSE: Matt?

1 MR. NAZAR: And just for some clarity on that particular
2 issue with respect to the issue of what can and can't be heard
3 at the property line. With respect to drive-through speakers,
4 it can't be audible at the property line. But with respect to
5 other speakers on the property, non-drive-through speakers,
6 other speakers, the decibel limit is 60 at the boundary line
7 which is the same for any other -- somebody has a -- is running
8 a concert or something along those lines. So the -- as has
9 been discussed just a few seconds ago, speakers are required by
10 state law to be at the pumps so that the individual inside can
11 communicate with people at the pumps. That is a requirement so
12 you can't eliminate them but with respect to what comes out of
13 them, like you say, what has become much more common in some of
14 the other fueling facilities in the city and elsewhere have
15 been -- has been music and advertising across those speakers
16 when they're not in use for communication, you certainly, I
17 think, have some authority with respect to that.

18 CHAIRMAN VOSE: Any other items, Alison?

19 MS. NICHOLS: Not that I can think of right now.

20 CHAIRMAN VOSE: Any further discussion?

21 MS. NICHOLS: Yes, one other thing. I do think we need to
22 specify, even though they said that they don't intend to have
23 any letters and numbers moving across the sign, I think we
24 should specify that because that is an allowable use in this
25 district and if that's not what we want here then we need to

1 specify that that's not.

2 CHAIRMAN VOSE: So no moving letterboards.

3 MS. NICHOLS: So no moving letterboards and that's --
4 they're fine with that but I think we need to write it in the
5 conditions, as well.

6 CHAIRMAN VOSE: Matt?

7 MR. NAZAR: Can I just add to that? Our ordinance doesn't
8 allow movement of any sort and state law, actually, doesn't
9 allow movement of any sort just like what you see driving
10 around the rest of the state.

11 FEMALE: (Inaudible.)

12 MR. NAZAR: Yeah. No. Well, you won't see movement in
13 the city of Augusta on those changeable message board signs.
14 If you do, we have code enforcement officers that go out and
15 take care of that. You do see it elsewhere in the state but
16 that's not allowed by state law, technically.

17 So what our ordinance allows for changeable message boards
18 is a change in the message every four seconds. Static. You go
19 from one message to another message. You can't scroll it in.
20 You can't dance it across the screen. You can't do any of
21 those things. My understanding from what has been presented to
22 you is that what the Applicant's proposing is a LED price sign.
23 The LED price signs can't display anything besides prices.
24 That's what they display. So that's my understanding as what
25 they're proposing to display. In some cases, those LED price

1 signs can be bright, if brightness is a concern of the Board,
2 and that has been a concern in the past.

3 MS. NICHOLS: Well, those are always all adjustable,
4 aren't they, Matt? The brightness is --

5 MR. NAZAR: Yes, the brightness is typically adjustable.
6 What the Planning Board has required with the changeable
7 message board signs is that that dimming be automatic via a
8 built-in photometric eye so that the brightness of the sign in
9 order to be read during the daytime when there's sunlight, the
10 brightness comes up, and then when the nighttime when the sun
11 goes down the brightness goes down because they don't need to
12 be as bright during the evening in order to be read. And
13 that's -- often what you'll see is it'll be turned up on some
14 of the ones that you see that are particularly bright at night
15 is they've been turned up very high for sunlight to deal with
16 being in direct sunlight during the day and aren't on an
17 automatic dimmer. So the Board may want to consider that if
18 that is going to be used that it be on an automatic dimmer.
19 That's something that can be ordered as part of the sign
20 package.

21 MR. BEDARD: Matt, can we limit the number of pumps that
22 they have?

23 MR. NAZAR: If it fits on the site and vehicles can move
24 around on the site safely, it's a use that's allowed on the
25 site. That's I think the biggest question is one of -- from a

1 permitted use perspective the biggest question is one of can
2 the use function safely on and offsite and if you've got the
3 developer's engineer and the city engineer and DOT's engineers
4 saying that it can operate safely, that's not saying that there
5 won't be accidents that occur, accidents occur even on sites
6 that are technically safe, that it fits on the site.

7 CHAIRMAN VOSE: Delaine?

8 MS. NYE: Hours of operation, you know, they -- the
9 Applicant has requested 5:00 to midnight and somebody pointed
10 out that even if they're open at 5:00, any business their
11 employees are going to have to get there well in advance to
12 make the coffee and turn up the heat or whatever needs to be
13 done, charge up the cash register, and the same with closing.
14 I mean, employees are going to be there for a while afterhours.
15 And maybe we ought to be thinking about 6:00 a.m. to 10:00 p.m.

16 CHAIRMAN VOSE: I think that was a recommendation we had
17 at the last meeting and I would still stand behind those hours.

18 MS. CONTI: I'm not going to vote for anything greater
19 than 7:00 a.m. to 7:00 p.m. I think that's the one area where
20 we can use our discretion to limit the scope of this project.
21 Everything that Matt said to me, legally you can do this and
22 legally you can't do that, but you have discretion on setting
23 the hours. I think that if we really want to limit this
24 project we cannot limit the number of pumps, we cannot take
25 away the drive-through but we can limit the hour of operations

1 and that if there's going to be a vote to approve this project
2 tonight I will only vote for it if those hours are very
3 restricted.

4 CHAIRMAN VOSE: Pete? Take a motion.

5 MR. PARE: I understand where Linda's coming from but I
6 think 7:00 to 7:00 is too constricting, you know. I actually
7 was thinking 6:00 to 10:00. I could go 7:00 to 9:00 but 7:00
8 to 7:00 doesn't really give you a lot of latitude but that's --
9 I understand where you're coming from but that's --

10 MS. CONTI: That's when people are home in the evening.

11 CHAIRMAN VOSE: Alison?

12 MS. NICHOLS: I'm not ready yet.

13 CHAIRMAN VOSE: Would anybody like to make a motion?

14 MS. CONTI: Well, I don't know all the details that Alison
15 is -- I can start a motion but I have a feeling that Alison is
16 much more into the weeds on this than I am.

17 MS. NICHOLS: Go for it and we'll do it collectively
18 because you know where you're coming from first.

19 MS. CONTI: First of all, I make a motion that we deny the
20 buffer waiver request.

21 MS. NICHOLS: I'll second that.

22 CHAIRMAN VOSE: We have a motion to deny the buffer
23 waiver. Second by Alison. Further discussion? Seeing none,
24 please vote. Five in favor, none against. Six in favor, none
25 against. Motion passes.

1 MS. CONTI: I make a motion that we approve the project as
2 presented to us with -- as meeting the current ordinance as in
3 place as for the hours of operation I make a motion that we
4 limit those -- my approval would be conditioned upon the
5 limiting of those hours from 7:00 a.m. to 7:00 p.m., from -- I
6 believe the drive-through speaker to meet the standard has to
7 be not audible at the property line and I would also restrict
8 the speakers on the pumps to being used only for necessary
9 communication and not for advertising or playing music.

10 CHAIRMAN VOSE: We have a motion.

11 MS. NYE: I'll second it.

12 CHAIRMAN VOSE: Second by Delaine. Further discussion?
13 Seeing none.

14 MS. NICHOLS: Yeah. I'd like to make an amendment.

15 CHAIRMAN VOSE: Okay.

16 MS. NICHOLS: I'd like to amend the hours of operation
17 from 6:00 a.m. to 10:00 p.m.

18 CHAIRMAN VOSE: We have a motion --

19 MR. DUMONT: Second.

20 CHAIRMAN VOSE: -- to amend. Second by Steve. Further
21 discussion on the motion to amend. Seeing none, please vote on
22 the amendment. Four yays, two nays. Motion is amended as far
23 as hours of operation. Further discussion --

24 MS. CONTI: I'd like to make a motion to withdraw my
25 motion.

1 CHAIRMAN VOSE: Couldn't you just vote against it?

2 MS. CONTI: I voted against the amendment.

3 CHAIRMAN VOSE: Okay. Couldn't you vote against your
4 motion that's on the table?

5 MS. CONTI: But first I want to make a motion to withdraw
6 it. I will if I lose this motion.

7 CHAIRMAN VOSE: Okay. We have a motion to withdraw the
8 original motion. Do we have a second? Seeing none, motion
9 stands on the table. Further discussion on the original motion
10 as amended.

11 MS. NICHOLS: The item that we just voted on I thought I
12 saw a bunch of nays.

13 CHAIRMAN VOSE: Two.

14 MS. NYE: It's confusing because you see all the votes. I
15 did that last time.

16 MS. NICHOLS: What was the vote?

17 MR. NAZAR: Four in favor, two against.

18 MS. NICHOLS: Oh.

19 MR. NAZAR: For the amendment.

20 CHAIRMAN VOSE: Correct and so we have a motion on the
21 tale to approve the project with limitations on the speakers to
22 be not audible at the property lines and the speakers at the
23 pumps to not -- be used for anything other than necessary
24 communication between the teller and the pump user and an
25 amendment which puts the hours of operation at 6:00 a.m. to

1 10:00 p.m. We have an original motion by Linda, second by
2 Delaine. Further discussion on that item.

3 MS. CONTI: My original motion limited the hours but
4 that's now been amended so I'm not going to vote for my
5 original motion.

6 CHAIRMAN VOSE: Fair enough. Any further discussion.

7 MS. CONTI: And I'm not going to make any more motions.
8 You people can make your own motions.

9 CHAIRMAN VOSE: Please vote. Four in favor, two opposed.
10 Motion passes. Okay. Thank you.

11 MS. CONTI: Sorry.

12 (COMMENT FROM AUDIENCE OFF MIKE): standing here pouring
13 out our hearts and our souls (inaudible). This has been a
14 charade.

15 CHAIRMAN VOSE: It hasn't been a charade. It's been voted
16 on based on the laws that we have --

17 MS. CONTI: If you're an abutter you may have rights. You
18 should contact an attorney.

19 (Transcription concluded at this point)

20

21

22

23

24

25

C E R T I F I C A T E

I hereby certify that this is a true and accurate transcript of the proceedings which took place on February 12, 2013 which have been electronically recorded in this matter.



Beverly A. Lano
Transcriber

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25