

**In The Matter Of:**  
*Linden Development, LLC (Starbucks)*

---

*October 13, 2020*

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*M. Virginia Guinta*  
*Certified Court Reporters*  
*P.O. Box 184*  
*Rocky Hill, New Jersey 08553*  
*(609) 477-9342*

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1 CITY OF LINDEN  
 2 PLANNING BOARD  
 3 CASE NO: SP-1133-20  
 4 SD-756-20  
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OCTOBER 13, 2020

B O A R D M E M B E R S P R E S E N T :

CHAIRMAN JOSEPH LAPLACA  
 VICE CHAIRMAN ARMAND FIORLETTI  
 NICHOLAS PANTINA  
 FELIPE CABEZAS  
 CURTIS HUMPHREY  
 NOYO EDEM  
 MICHAEL ANDERSON  
 FRANK DELLA FEMINA  
 FRANK HETEM  
 BARRY JAVICK, COUNCILMAN

ANTHONY D. RINALDO, BOARD ATTORNEY  
 LEE KLEIN, PE, BOARD ENGINEER  
 DOROTHY KOTOWSKI, RECORDING SECRETARY  
 PAUL RICCI, BOARD PLANNER

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9	PUBLIC SPEAKER:	
10	NONE	
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FAEGRE, DRINKER, BIDDLE AND REATH, LLP  
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 Florham Park, NJ 07932  
 BY: JOHN P. MICHALSKI, ESQ.

BOHLER ENGINEERING  
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 Manasquan, NJ 08736  
 BY: BRAD THOMPSON

MMA ARCHITECTS  
 3297 Route 66  
 Neptune, NJ 07753  
 BY: BRAD KERN

DYNAMIC ENGINEERING, PC  
 1904 Main Street  
 Lake Como, NJ 07719  
 BY: James E. Henry, PE

PHILLIPS, PREISS, GRYGIEL, LEHENY,  
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 BY: KEENAN HUGHES

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10			
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12	EXHIBITS FOR EV.		
13			
14	None		
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1 MR. PANTINA: Okay, next case is  
 2 going to be Linden Development, 1016 West  
 3 Edgar Road, otherwise SP-1133 and  
 4 SD-756-20. This is for Starbucks  
 5 subdivision and site plan.  
 6 Can we do subdivision first?  
 7 MR. MICHALSKI: Well, Nick, the way  
 8 we're going to prepare it is it's going to  
 9 be a combined hearing for the subdivision  
 10 and the site plan. The variances kind of  
 11 play together. So, I'm presenting Brad  
 12 Thompson first to testify for the  
 13 subdivision, then we'll go to architecture  
 14 and engineering for the Starbucks, and then  
 15 our planner, Keenan Hughes, who will be  
 16 able to address all the variances.  
 17 MR. PANTINA: That's fine. Who's  
 18 your first witness?  
 19 MR. MICHALSKI: I just want to give a  
 20 quick intro.  
 21 MR. PANTINA: Go ahead.  
 22 MR. MICHALSKI: Thank you, board,  
 23 we're here for Linden Development, LLC,  
 24 this is block 469, lot 3805 in Linden --  
 25 MR. PANTINA: John, you've gotta

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1 keep your voice up, please.  
 2 MR. MICHALSKI: This is a combined  
 3 subdivision and site plan application, for  
 4 separate applications. If you recall,  
 5 earlier this year, we were before the  
 6 planning board and the board granted  
 7 preliminary and final major site plan  
 8 approval, subdivision will subdivide Legacy  
 9 Square into 9 lots. During that hearing,  
 10 we advised the board that what was  
 11 identified as proposed lot F, would be  
 12 later subdivided into two additional lots  
 13 once we knew who the tenants would be.  
 14 Now that we have a tenant in Starbucks  
 15 for one of those, one portion of that lot  
 16 F, we're back to seek separate approval.  
 17 One being to amend the subdivision approval  
 18 to subdivide lot F into two lots, and also  
 19 to get amended preliminary and final  
 20 subdivision approval to construct a 2300  
 21 square foot Starbucks on one of those lots.  
 22 Starbucks is excited for the  
 23 opportunity to be able to provide  
 24 drive-through service in Linden, which as  
 25 we seen this year, is pretty vital.

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1 As for our application, if you recall  
 2 back in 2019, we obtained preliminary and  
 3 final site plan approval, I'm sorry,  
 4 preliminary site plan approval for phase 3,  
 5 preliminary approved the Legacy Square PAD  
 6 sites located on Route 1 and 9, and so the  
 7 Starbucks will go on one of those PAD  
 8 sites, proposed to go on one of those PAD  
 9 sites.  
 10 We're gonna be seeking six variances  
 11 for the subdivision of the site plan  
 12 application. A subdivision for lack of  
 13 street frontage under ordinance section  
 14 31-11.4.B2, 31-43.B, whereas no street  
 15 frontage is proposed.  
 16 We're seeking a planning variance from  
 17 an MLUL, that's NJSA 40:55d-35, which  
 18 requires street frontage, where no street  
 19 frontage is proposed. Also, in connection  
 20 with that lot, we're seeking a variance for  
 21 lot area for reporting section 31-11.4.B1,  
 22 we're proposing a lot area of 23,620 square  
 23 feet, for a minimum lot area of 30,000  
 24 square feet required.  
 25 In connection with the site plan,

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1 we're seeking a variance for parking area  
 2 setback reporting section 31-27.17 which  
 3 requires a minimum off-street parking  
 4 setback of side and rear property line of  
 5 three feet where there is less than three  
 6 feet proposed. We're seeking a variance  
 7 from the drive-through landscape island  
 8 requirement, that's ordinance section  
 9 31-19.8.1, requires three to five-foot  
 10 landscape island between drive-through  
 11 lanes and parking lanes circulation aisles,  
 12 whereas the board planner has previously  
 13 required that to be opposed, we are not  
 14 providing that.  
 15 And finally, our last variance would  
 16 be for signage location. Ordinance section  
 17 31-11.8.F.3A, limits the use of  
 18 individually mounted signs in front of  
 19 stores, whereas the application proposes  
 20 such letters on the rear of the proposed  
 21 building. We'll get into more detail with  
 22 those variances in a few minutes, I just  
 23 wanted to enumerate those for you.  
 24 With regard to the reports, to just go  
 25 through the reports that we received, we

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1 received report from Nick Pantina, the city  
 2 engineer, dated October 9, 2020; we receive  
 3 a report with regard to the subdivision, he  
 4 needs October 9, 2020 from Paul Ricci; we  
 5 also received a report from Mr. Ricci dated  
 6 October 9, 2020 with a Starbucks site plan;  
 7 we also received a report from Lee Klein,  
 8 dated October 7, 2020; and we received a  
 9 report from the fire official dated October  
 10 8, 2020, and subject to the testimony  
 11 today, we can comply with all of those  
 12 comments in the review letters.  
 13 And with that, the witnesses that I'll  
 14 be calling are Brad Thompson, the engineer  
 15 handling the subdivision; the next, I'll  
 16 call Brad Kern, the project architect who  
 17 will discuss architecture; then we'll go to  
 18 Jim Henry, our engineer for the Starbucks;  
 19 then we'll conclude with Keenan Hughes, who  
 20 will handle the planning.  
 21 So, with that, I'd like to swear in my  
 22 first -- unless there's anything on your  
 23 end, I'd like to swear in my first witness.  
 24 MR. PANTINA: John? John? Can you  
 25 hear me?

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1 MR. MICHALSKI: Yes, I can hear you.  
 2 MR. PANTINA: Do you see anyone on  
 3 the participant's list that's part of your  
 4 team that needs to moved over to the other  
 5 side? Because I don't know who Alan Rodeo  
 6 is, Courtney Paraz, Sal [INAUDIBLE],  
 7 Richard Ortiz, Stephanie [INAUDIBLE], are  
 8 they on your team?  
 9 MR. MICHALSKI: Let's see,  
 10 participants, so if they're on the  
 11 participant list, then they're in to speak?  
 12 MR. COKER: This is Jeff Coker with  
 13 Cypress. All the people that he just  
 14 mentioned are either with MMA, who's the  
 15 architect, or with Cypress.  
 16 MR. PANTINA: Okay, move them all  
 17 over.  
 18 MR. COKER: Courtney is a project  
 19 manager with Cypress, and she can help  
 20 David do both the Starbucks and the medical  
 21 building.  
 22 MR. PANTINA: What about CA Cruz?  
 23 MR. MICHALSKI: Yeah, you can move  
 24 him over.  
 25 MR. PANTINA: Move them over. And

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1 John, just one more, the list of variances  
 2 you read off, I see all the attachments, I  
 3 was just going to ask you to submit them  
 4 tomorrow or later for Dorothy's sake,  
 5 and/or Deanna's sake, but I see that they  
 6 are listed as far as the application  
 7 package.  
 8 So, you can swear in your first  
 9 witness.  
 10 MR. RINALDO: John, who's that,  
 11 Brad?  
 12 MR. MICHALSKI: Yes, Brad Thompson.  
 13  
 14 BRAD THOMPSON, T-H-O-M-P-S-O-N, with a business  
 15 address of 2340 Highway 34, Building B, Suite  
 16 102, Manasquan, New Jersey, having been duly  
 17 sworn, testified as follows:  
 18  
 19 MR. MICHALSKI: I know Brad testified  
 20 before this board a lot, but Brad, just  
 21 quickly offer your qualifications.  
 22 MR. THOMPSON: Yeah, I'm a licensed  
 23 professional engineer in the State of New  
 24 Jersey and I've testified here many times.  
 25 MR. RINALDO: We can accept his

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1 qualifications, you may continue.  
 2 MR. THOMPSON: In terms of exhibits,  
 3 I don't know how we want to do that  
 4 tonight, guys, if the board has them or if  
 5 you want me to share my screen?  
 6 MR. MICHALSKI: Yeah, can he just  
 7 share his screen so he can show you the  
 8 first exhibit which has been marked as A-1.  
 9 MR. THOMPSON: I'm pulling it up  
 10 now. Let me know if you guys can see that.  
 11 Okay, great, so this is exhibit A-1, it's a  
 12 subdivision plan, it's dated September 24,  
 13 2020, and north is to the right of the  
 14 page, up here.  
 15 This is the overall development and  
 16 kind of the subdivision application tonight  
 17 are these two lots for the subdivision  
 18 which is lot F1, we're calling the  
 19 Starbucks lot, that's to the south, the  
 20 south half of the original lot, and then  
 21 proposed lot F2, which is outlot 4.  
 22 As John mentioned, there's a couple of  
 23 bulk variances associated with the size of  
 24 the lot, which is 23,620 square feet,  
 25 whereas 30,000 is required, and the

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1 remainder lot which we're calling lot F2,  
 2 or outlot 4, does comply with that.  
 3 The other variance we're seeking is  
 4 the street frontage variance, and I wanted  
 5 to remind the board that we're seeking that  
 6 variance because the developer maintains  
 7 control of all of the internal roadways as  
 8 well as their portion of the lot, and the  
 9 frontage along Edgar Road.  
 10 And the reason we did that is to  
 11 basically have one place to stop and call  
 12 someone in terms of landscape maintenance  
 13 or roadway maintenance. I think it's  
 14 easier for the developer, and it's also  
 15 easier for the City to reach out and  
 16 maintain contact with things as the site  
 17 agents.  
 18 So we think that's in the City's best  
 19 interest and that is why we have these zero  
 20 frontage lots out here, and it's very  
 21 similar to the other lots that we got  
 22 approved.  
 23 In terms of the size of the lot, that  
 24 is the one variance that we're seeking, I  
 25 think that's unique compared to the other

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1 outlots, and I'm sure Dynamic Engineering  
 2 will get into their particular design, I  
 3 would just like to add that Starbucks does  
 4 have one of the smallest footprints in the  
 5 drive-through business, so it's not  
 6 uncommon to see that variance.  
 7 MR. RICCI: You gotta speak up.  
 8 MR. THOMPSON: Sure, sorry.  
 9 Basically, the only other thing is you'll  
 10 see when Dynamic speaks to their plan that  
 11 there's a little bit of a change to the  
 12 curb on the south side of the lot here  
 13 where the Taco Bell and the Starbucks come  
 14 together, and I just wanted to say that  
 15 should the board act favorably on this, we  
 16 can certainly look on revising the Taco  
 17 Bell curb to match the design you see  
 18 tonight. We've already gotten buy in from  
 19 the owner to do that. And that is  
 20 basically it regarding the subdivision.  
 21 MR. PANTINA: Brad, other than the  
 22 fact that you named this exhibit A-1, is  
 23 there any difference between this  
 24 particular plan that you're showing and the  
 25 plan that you submitted that was sheet C-03

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1 dated 9/24/20?  
 2 MR. THOMPSON: There's no  
 3 difference --  
 4 MR. PANTINA: The same plan, okay,  
 5 thank you.  
 6 MR. THOMPSON: You got it, good  
 7 question. Anyone else?  
 8 MR. MICHALSKI: That's all the  
 9 questions I have of Brad, if the board has  
 10 any further questions of you.  
 11 MR. PANTINA: We're having  
 12 continual problems hearing you guys. I  
 13 don't know what the solution is, but we'll  
 14 just yell a little louder, I guess. We  
 15 have a supplemental mic here so we can't  
 16 get any louder on our part.  
 17 Okay, next witness.  
 18 MR. MICHALSKI: That would be Brad  
 19 Kern.  
 20 MR. KERN: Can I have confirmation  
 21 that I am audible?  
 22 MR. PANTINA: You are audible.  
 23 MR. KERN: Do I need to be sworn in?  
 24  
 25 BRAD KERN, K-E-R-N, with a business address of

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1 3297 Route 66, Neptune, New Jersey, having been  
 2 duly sworn, testified as follows:  
 3  
 4 MR. MICHALSKI: Brad, I know you  
 5 testified before this board before, but can  
 6 you give the board your qualifications,  
 7 please?  
 8 MR. KERN: Sure, I'm a licensed  
 9 architect in the State of New Jersey, and I  
 10 have also testified before this board  
 11 before.  
 12 MR. RINALDO: We will accept your  
 13 qualifications as a licensed architect in  
 14 the State of New Jersey.  
 15 MR. MICHALSKI: And Brad needs access  
 16 so that he can share his screen and display  
 17 our next exhibit which will be marked as  
 18 A-2.  
 19 MR. KERN: Can you see my screen?  
 20 MR. PANTINA: That's A-2?  
 21 MR. KERN: A-2. So what I'm  
 22 displaying on the screen here is the  
 23 southwest facade perspective, which again,  
 24 is also included in the architectural  
 25 documents that were submitted with the

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1 application.  
 2 So, the full building design, the  
 3 architectural design was prepared by  
 4 Bergmann Architects, Engineers, and  
 5 Planners. And as shown on the architectural  
 6 exhibits that were submitted, and as you  
 7 can tell from this rendering, the building  
 8 is comprised of a combination of brick  
 9 veneer, EFIS, store fronting glass, wood  
 10 cladding, and the majority of these  
 11 materials are used on other buildings  
 12 throughout the development. As you can  
 13 also tell, the masking of the facades are  
 14 broken down by a variety of ways in terms  
 15 of change in materials, change in color,  
 16 texture, canopies are incorporated, and  
 17 other architectural features.  
 18 So, based on the design and what I've  
 19 reviewed for the documents that were  
 20 submitted, in my opinion, the architectural  
 21 design is complimentary and consistent with  
 22 the overall design scheme of the  
 23 development.  
 24 Now, in terms of building signage,  
 25 again, as you can see from the exhibits

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1 that were submitted, building signage is  
 2 proposed on all four sides of the building  
 3 and it will be discussed a little bit  
 4 further in detail later by the professional  
 5 planner's testimony. But just to kick it  
 6 off, we are requesting a variance for the  
 7 individual Starbucks lettering on the rear  
 8 of the building that's facing 1 and 9.  
 9 MR. MICHALSKI: And Brad, just to  
 10 confirm, even though Bergmann prepared  
 11 these plans, that you are fully familiar  
 12 with them and you can testify to them in  
 13 your professional capacity?  
 14 MR. KERN: Yes.  
 15 MR. MICHALSKI: That would be it for  
 16 Brad, so if the board had any question, I  
 17 would open it up.  
 18 MR. PANTINA: Does the board have  
 19 any questions for either Brad Thompson or  
 20 Brad Kern concerning the subdivision plans  
 21 and for the architectural rendering?  
 22 MR. FIORLETTI: Are you going to  
 23 address the signs?  
 24 MR. RICCI: The size of the lot, set  
 25 back from -- the side property line,

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1 there's a planning variance for not having  
 2 access on an approved public roadway? Am I  
 3 missing anything?  
 4 MR. MICHALSKI: Lot frontage and the  
 5 drive-through landscape island.  
 6 MR. RICCI: Drive through landscaping  
 7 where they don't have the design criteria  
 8 that's landscaped, but the planning  
 9 variance is the lot frontage.  
 10 MR. PANTINA: Hearing none, do you  
 11 have any other witnesses?  
 12 MR. MICHALSKI: Yes, Jim Henry, he's  
 13 our engineer for the Starbucks, for the  
 14 site plan.  
 15  
 16 JAMES HENRY, H-E-N-R-Y, with a business address  
 17 of 1904 Main Street, Lake Como, New Jersey,  
 18 having been duly sworn, testified as follows:  
 19  
 20 MR. MICHALSKI: And Jim, if you can  
 21 give the board the benefit of your  
 22 qualifications, please.  
 23 MR. HENRY: Sure, I'm a licensed  
 24 professional engineer in New Jersey,  
 25 Pennsylvania, and New York. I have a

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1 bachelor's of science from Rutgers  
 2 University with a minor in public planning,  
 3 a master of science in civil engineering  
 4 from Rutgers University, I'm a principal of  
 5 Dynamic Engineering Consultants with over  
 6 10 years experience.  
 7 In particular, I've worked on a lot of  
 8 different QSR in my career, over 50, I've  
 9 been accepted in the field of engineering  
 10 by over 70 municipalities in New Jersey,  
 11 New York, and Pennsylvania.  
 12 MR. RINALDO: We'll accept your  
 13 qualifications, go ahead, Mr. Michalski.  
 14 MR. MICHALSKI: All right, thank you,  
 15 and Jim, if you could share your screen and  
 16 display your exhibit which we'll mark as  
 17 A-3.  
 18 MR. HENRY: Sure.  
 19 MR. MICHALSKI: And then you can go  
 20 ahead, Jim, and just walk the board through  
 21 the site plan, please.  
 22 MR. HENRY: Sure, can everyone see  
 23 the plan?  
 24 So, this is a site plan rendering  
 25 dated October 13, 2020 prepared by Dynamic

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1 Engineering. The parcel size as mentioned  
 2 earlier is 23,620 square feet, and it was  
 3 described as outlot F1. There is a  
 4 nonconformance as far as the 30,000 square  
 5 feet is required.  
 6 As mentioned earlier, Starbucks is  
 7 moving more and more towards drive-through  
 8 oriented type development. This parcel in  
 9 particular is well-suited for the  
 10 particular size of the building, it really  
 11 doesn't need a very large parcel. So,  
 12 that's kind of the plan, the idea behind  
 13 it, there's no reason to take up more land  
 14 than --  
 15 The zoning is the PCD district,  
 16 proposed use for restaurant with  
 17 drive-through, and that's gonna be a  
 18 Starbucks. Permitted use, square footage  
 19 is 2300 square feet, there is 37 interior  
 20 seats, 24 exterior seats. One thing to  
 21 mention, there is going to be a fence  
 22 around the exterior seats, that was a  
 23 comment in one of the review letters, so a  
 24 total of 62 seats.  
 25 Topography, generally the topography

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1 is fairly flat in general, and -- onsite.  
 2 Impervious coverage, we're gonna be  
 3 reducing impervious coverage onsite  
 4 permitted up to 90 percent, and we're  
 5 proposing 79.3.  
 6 As far as access, there's a full  
 7 movement driveway at the northwesterly  
 8 corner of the exhibit, which is the top  
 9 left corner, and then we're proposing an  
 10 egress only driveway out of the  
 11 drive-through at the northeasterly corner  
 12 of the exhibit.  
 13 As far as circulation, we're proposing  
 14 a -- I'll zoom in a little so you can see  
 15 the layout a little bit better. We're  
 16 proposing a 25-foot wide drive aisle on the  
 17 southside of the building, and I believe  
 18 there was a comment in the review letter as  
 19 far as trying to make this landscape island  
 20 between the taco Bell and the Starbucks  
 21 larger, we're agreeable to do that.  
 22 We can reduce this drive aisle down to  
 23 24 feet and still be compliant with the  
 24 zoning ordinance, and we're willing to do  
 25 that to increase this island, almost to 5

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1 feet wide. The drive aisle works well, and  
 2 provides circulation for SU-30 truck which  
 3 is the largest truck that will be servicing  
 4 the site.  
 5 As was mentioned earlier by Brad, this  
 6 Taco Bell did have a cross-access from the  
 7 original design and will be revised to  
 8 basically eliminate the cross-access. We  
 9 didn't show a potential for cross-access on  
 10 the adjacent property as well. If that  
 11 ultimately is not constructed, it will be  
 12 more landscaping that will be constructed  
 13 on the southeasterly corner of the site.  
 14 MR. ANDERSON: Jim, is that 9 cars  
 15 in cue?  
 16 MR. HENRY: It will be 10 cars.  
 17 As far as sidewalk, we're proposing a  
 18 7 foot sidewalk in front of the building  
 19 that is compliant with ADA standards, even  
 20 with a 2 foot overhang.  
 21 As far as a drive-through, we're  
 22 proposing two 12-foot wide drive-through  
 23 lanes around the northerly side of the  
 24 building. There will be a clearance bar as  
 25 you pull in, a preview board, and then a

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1 menu board. It stacks approximately 10  
 2 cars generally with QSR, you usually  
 3 require 7 to 9, and we're proposing 10.  
 4 Given for whatever reason you did have a  
 5 significant amount of stacking, it will be  
 6 completely encompassed on site.  
 7 The radiuses on the drive-through are  
 8 20 foot whereas 15 is generally an industry  
 9 standard. As far as the drive-through  
 10 operation, we're anticipating approximately  
 11 70 percent of the customers that access  
 12 this Starbucks will use the drive-through,  
 13 and that was kind of going that way before  
 14 COVID and now it's really been emphasized  
 15 as far as how the operations are  
 16 proceeding, moving forward.  
 17 We have 16 spaces plus 10 car stack,  
 18 the equivalent of 26 cars on site can be  
 19 accommodated. The parking stall sizes we  
 20 comply with the ordinance requirement.  
 21 There are 3 stalls at the northwesterly  
 22 corner of the building, 3 stalls will be  
 23 designated strictly for mobile pick up.  
 24 So, those will be people who ordered 5  
 25 to 10 minutes before they came to the site.

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1 They just pull up and come in or we would  
 2 bring the order out to you. If you want to  
 3 reserve the ability from an operations  
 4 standpoint to potentially have an exterior  
 5 window service, especially, no one really  
 6 knows where this COVID-19 thing is going.  
 7 In some other markets, Starbucks has  
 8 proposed extra windows so that people did  
 9 not have to go inside, so we want to just  
 10 ask for the ability to do that on this  
 11 site, if needed.  
 12 As far as the parking setback, I  
 13 believe that was mentioned earlier, there  
 14 is a 5-foot, approximately a 5-foot wide  
 15 landscape island between the curb and Taco  
 16 Bell. The curb, once we reduce it down to  
 17 24 feet, it's like 4 and a half feet or so.  
 18 So we don't have the ability to basically  
 19 landscape in this area between the two, the  
 20 Taco Bell and the Starbucks. We can plant  
 21 some shrubs and things of that nature in  
 22 that island.  
 23 On the other side, the curb is pretty  
 24 close to the property line. We are  
 25 anticipating the landscape buffer -- as far

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1 as an island -- I think that will work well  
 2 once the site is --  
 3 (At which time the court reporter  
 4 interrupted due to poor connection)  
 5 MR. RICCI: I'm not sure where we  
 6 are, it's very difficult to hear here.  
 7 Mr. Henry, you spoke about the side  
 8 yard adjacent to Taco Bell, I thought you  
 9 mentioned something about 5 feet, is that 5  
 10 feet combined with both properties or, what  
 11 is your proposal on the Starbucks property,  
 12 I guess on the southwest, the southern  
 13 boundary along there?  
 14 MR. HENRY: Yeah, it's approximately  
 15 4 and a half feet or so, when you take the  
 16 curb line on the Taco Bell property to the  
 17 curb line on the Starbucks property.  
 18 MR. RICCI: So, you're not bringing  
 19 it to 3 foot on Starbucks, but what is the  
 20 variance that you're seeking?  
 21 MR. HENRY: So, I think the variance,  
 22 I have to ask the board planner, I believe  
 23 the variance is actually technically for  
 24 parking setback, is that correct?  
 25 MR. RICCI: Yeah, but if you look,

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1 it's the parking area, it says that it's  
 2 routinely been, that's routinely been  
 3 considered the whole parking field, not  
 4 parking spaces, right? In other words, you  
 5 have pavement to pavement which is not the  
 6 ordinance, and that's such a long standing  
 7 interpretation of that ordinance.  
 8 MR. MICHALSKI: Paul, I think what  
 9 Jim's saying is that we have a 25-foot  
 10 wide, two-way aisle right there and we can  
 11 reduce that to 24 feet, so we would be  
 12 about 1 foot off the property line on the  
 13 Starbucks side, so the variance would  
 14 essentially be for 1 foot where 3 feet are  
 15 required.  
 16 MR. RICCI: But you're saying, in  
 17 other words, I only know the setback  
 18 extension, it's not dimensions, is it 1  
 19 foot today? What is existing on the plan  
 20 and you're proposing 2 feet there?  
 21 MR. HENRY: The plan is about 6  
 22 inches off the property line, so what we're  
 23 looking to do is we can reduce it down by 1  
 24 foot so it would be a foot and a half.  
 25 MR. RICCI: Then you put a curb in

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1 and is it really a foot and a half? So,  
 2 you still need the variance there.  
 3 MR. MICHALSKI: Yes.  
 4 MR. RICCI: And then can you speak to  
 5 the opposite side? On this plan you show  
 6 the Taco Bell, but on the opposite side I  
 7 think that the adjoining property had a  
 8 larger landscape edge. I think, the  
 9 concern is, Mr. Chairman, is that I'm gonna  
 10 step up, on Taco Bell, they are gonna have  
 11 cross-access, not on this lot, so you're  
 12 gonna have a curb. Is it one curb or is it  
 13 gonna be curb to curb? We are dealing from  
 14 a site plan perspective is continuous  
 15 cross-access parking we're not  
 16 understanding, but to have a curb to a curb  
 17 with no separation is very odd and I don't  
 18 think it's very appealing.  
 19 MR. HENRY: There will be separation  
 20 on the Taco Bell side, there will be  
 21 approximately a 36-planting area with  
 22 shrubs and things of that nature. The  
 23 other thing is to note --  
 24 MR. RICCI: Yes, but that's on the  
 25 median, I don't mean to interrupt you, but



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1 that's on the median area, but down where  
 2 you work and have cross-access, what are  
 3 you gonna do there?  
 4 MR. HENRY: We're gonna put a radius  
 5 on here and this is gonna be even larger  
 6 than 5 feet. So, I think the really real  
 7 idea is to have the ability for, in case  
 8 bumpers have to go over the curb, they're  
 9 not gonna hit, and really, where the  
 10 bumpers are gonna go over the curb is where  
 11 the curb actually occurs. And where the  
 12 curb occurs on both of these properties,  
 13 there's plenty of room. There's an excess  
 14 of 5 feet.  
 15 MR. MICHALSKI: And Paul to clarify,  
 16 on the Taco Bell side, as Brad Thompson  
 17 previously indicated, and of course Brad  
 18 Thompson is the engineer that's working on  
 19 the Taco Bell site, that bottom right  
 20 corner of the plan, where that cross-access  
 21 was proposed from the Taco Bell side,  
 22 that's gonna be cleaned up so that there's  
 23 gonna be, the curbing is gonna be pulled in  
 24 a little bit consistent with what's further  
 25 up the line whether that separation, it's

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1 gonna continue down now because there will  
 2 be no cross-access. So you'll have,  
 3 whatever bumper that we have between the  
 4 two up at the top of the plan will continue  
 5 down towards the bottom of the plan where  
 6 that cross-access was previously shown.  
 7 MR. RICCI: Okay, so that one and a  
 8 half feet that you're talking about, does  
 9 that include, because you put a curb in and  
 10 you start cutting into things that tight,  
 11 is that really what you want to put,  
 12 because the curb faces that --  
 13 MR. HENRY: So, there's a 6-inch curb  
 14 and then there's gonna be approximately a  
 15 36-inch planting area, and then another  
 16 6-inch curb, approximately.  
 17 MR. RICCI: So, are we really saying  
 18 it's a one-foot green area now, because the  
 19 curb is gonna occupy some of that?  
 20 MR. MICHALSKI: No, he's saying  
 21 there's 3 feet between the curb, inside the  
 22 curb, right, Jim?  
 23 MR. HENRY: Right, so I'm counting  
 24 the Taco Bell side, but we're not gonna --  
 25 MR. RICCI: Can you go over to the

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1 screen and show us, it's on Taco Bell,  
 2 you're saying but on, because one of the  
 3 applications is Starbucks, so.  
 4 MR. HENRY: So, on the Taco Bell  
 5 side, there's just gonna be a one-foot to  
 6 the face of the curb, to the back facing  
 7 curb. So, we're gonna ask for one foot to  
 8 be permitted because in essence, really the  
 9 5 foot is kind of met between the two  
 10 sites, but we're gonna ask for 1 foot  
 11 whereas 3 curb foot is required by  
 12 ordinance.  
 13 MR. RICCI: The other thing --  
 14 MR. COKER: This is Jeff Coker with  
 15 Cypress. If you'll scroll down further  
 16 below where originally we had those two  
 17 entrances where Taco Bell was gonna have  
 18 access across to whatever tenant we were  
 19 talking to, Chick-Fil-A decided they don't  
 20 want that. So, if you started the 25-foot,  
 21 go back to your left, 25-foot is, right  
 22 where the 25 foot points to the property  
 23 line. If you take that curb line and go  
 24 straight down to the front of the building,  
 25 or the front of the lot, that's what you're

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1 gonna get between the Starbucks and  
 2 Chick-Fil-A and we're gonna expand that by  
 3 a foot, going a foot over on to the  
 4 Starbucks side and making that island  
 5 between the two, is it 5 feet?  
 6 MR. HENRY: It's like 4 and a half  
 7 feet, approximately.  
 8 MR. COKER: So, 4 and a half feet.  
 9 So, you'll have a 4 and a half foot island  
 10 all the way north and south between the  
 11 two.  
 12 MR. HENRY: Just so everyone can see,  
 13 this whole area down the corner here, this  
 14 is all going to be landscaped, you can see  
 15 my cursor, right? So this whole corner is  
 16 going to be landscaped and then as you pan  
 17 up, this is gonna be approximately 4 and a  
 18 half feet here, and there's gonna be a  
 19 landscaped area between the two sites, and  
 20 then we're gonna put shrubs.  
 21 MR. RICCI: But what I don't  
 22 understand, it's gonna be seamless, it's  
 23 gonna be 4 or 5 feet, I mean, of shared  
 24 land between the two with no curb line, are  
 25 you gonna have like 5 feet of grass? Or

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1 are you gonna break it up?  
 2 MR. COKER: We got curbs on both  
 3 sides. There's gonna be a curb on either  
 4 side, in the middle, there will be a  
 5 36-inch green space.  
 6 MR. RICCI: And 36-inch total what?  
 7 MR. HENRY: A 36-inch like green  
 8 area, we're going to put landscaping there.  
 9 MR. RICCI: Okay, so you're  
 10 essentially cutting the green area in half  
 11 as proposed, between the two sides,  
 12 correct? Because you have to have three  
 13 feet on each side.  
 14 MR. HENRY: Yeah, there has to be  
 15 three feet on each side, yeah.  
 16 MR. RICCI: Okay, do you understand  
 17 the concern though that as of right now  
 18 it's proposed, you have that curb to curb  
 19 and there's no separation between  
 20 properties. It's usually either you  
 21 continue parking through a site like this  
 22 or you'll break it up, are you going to  
 23 plant it in that 3 feet? Break it up and  
 24 plant it?  
 25 MR. MICHALSKI: It is 3 feet and it

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1 will be planted as a buffer. So, we hear  
 2 your comment, Paul, and that's why we're  
 3 moving this curb line that's on the  
 4 Starbucks side 1 foot in so that we have  
 5 that 3 foot clearance continuously from the  
 6 top of the plan, all the way to the bottom  
 7 of the plan, and then we'll propose  
 8 vegetation there, you know, on the approval  
 9 of you and Nick to get the buffer in there.  
 10 MR. PANTINA: So, that 3 feet that  
 11 you're talking about, it's gonna go along  
 12 the property line, 1 foot is on Starbucks,  
 13 2 feet is on Taco Bell, correct?  
 14 MR. MICHALSKI: Yes.  
 15 MR. PANTINA: And the standard is 3  
 16 feet on either side, right?  
 17 MR. MICHALSKI: I mean, I would just  
 18 say that that 3 feet on the Taco Bell side,  
 19 had not been raised before. I know Paul is  
 20 saying now and we'll get the variance, but  
 21 when we went for Taco Bell, we weren't  
 22 required to get this variance, so I don't  
 23 know --  
 24 MR. RICCI: I thought you had the 3  
 25 feet when you showed us, it's 2 point

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1 something. If that's an oversight, that's  
 2 a continuous variance that's identified,  
 3 and sometimes, to be frank, when you're --  
 4 out here, the scale we're looking at these  
 5 plans on without dimensions, we don't have  
 6 the ability to even determine if -- because  
 7 you have a plan zoomed out on a 200 stick,  
 8 so I mean, I don't think that's a valid  
 9 argument, you have the scale.  
 10 MR. MICHALSKI: Got it.  
 11 MR. HENRY: One other thing we can  
 12 do, just a possible solution, we do have a  
 13 7-foot wide sidewalk, we can reduce that  
 14 down to 6 foot and get 2 feet here on our  
 15 side, just to try to meet the ordinance as  
 16 much as possible. I don't know what you're  
 17 thoughts would be on that, Paul.  
 18 MR. RICCI: You realize you're  
 19 dealing with an undersized lot here, it's  
 20 significantly undersized, it speaks to the  
 21 appropriateness of the lot. So I think you  
 22 should try to provide it, and I asked Mr.  
 23 Klein, do you need a letter for drive  
 24 aisles? Do you need 24 feet backup from a  
 25 parking space when you have no car on the

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1 opposite end of that drive aisle?  
 2 MR. KLEIN: 24 feet is standard, they  
 3 have 9 by 18 parking spaces, so I would  
 4 like to see the 24-foot wide drive aisle.  
 5 Can you slide over to the other side, to  
 6 the drive-through side? You got two  
 7 12-foot lanes which includes that no  
 8 parking, zoom up, so you've got 20 -- you  
 9 can probably pick up a foot there as well,  
 10 right, you can make it 11 and a half, so  
 11 you can pick up a foot there, a foot on the  
 12 7-foot sidewalk, and a foot on the -- you  
 13 can pick up 3 feet. I don't think it will  
 14 be too tight, do you?  
 15 MR. PANTINA: Hey Lee, let me ask  
 16 you a question, this is Nick. I forgot who  
 17 was speaking, maybe it was Brad, maybe it  
 18 was Jim. About cutting the sidewalk down  
 19 to get more room on the left side?  
 20 MR. KLEIN: Yep.  
 21 MR. PANTINA: You have 9 by 18  
 22 parking spots, I don't see any parking  
 23 bumpers, so are the front ends going to  
 24 hang over on the sidewalk, and you're  
 25 actually gonna need that 7 feet?

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1 MR. KLEIN: Yeah, he said he's got 7  
 2 feet with a 2 foot overhang gives you 5,  
 3 you only need 4.  
 4 MR. PANTINA: Right, so if he was  
 5 going to cut that down to 6, all right so  
 6 then he'll have 4, all right, I'm just  
 7 checking.  
 8 MR. KLEIN: Yeah, so that's why, I  
 9 think he can go with, even if he did 11 and  
 10 a halves, a 6-foot sidewalk, and 24-foot  
 11 drive aisle, he would end up with 3 feet on  
 12 this side of the property line.  
 13 MR. HENRY: The one thing that  
 14 Starbucks is very particular about is the  
 15 width of their drive-through lane. I'll  
 16 just have to double check with them, make  
 17 sure they're okay with the 11 and a half.  
 18 Maybe if we do 12 and then 11?  
 19 MR. KLEIN: Yeah, because at that  
 20 point, people are going to be hugging the  
 21 building, so I don't think it's a problem  
 22 to make it 12, 11, 12, 6, and 24, and then  
 23 you'll pick up 3 feet.  
 24 MR. HENRY: Then we'll get to the 3  
 25 feet. So, we'll pick up the 1 foot here,

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1 the 1 foot from the drive aisle, and 1 foot  
 2 from the by-pass lane.  
 3 MR. MICHALSKI: Yeah, that would be  
 4 acceptable on our end.  
 5 MR. PANTINA: Jim, you're gonna  
 6 have to provide this exhibit, too in  
 7 digital form because we don't have this.  
 8 MR. HENRY: So, just continuing on,  
 9 in case anybody has any other questions,  
 10 feel free if you can't hear me too well.  
 11 So, as far as the bulk standards, the  
 12 majority of the bulk standards, we need,  
 13 other than the lot area as was previously  
 14 mentioned, from a loading perspective,  
 15 there is not a loading area designated on  
 16 here primarily because Starbucks intends to  
 17 do deliveries overnight. We're  
 18 anticipating deliveries to be approximately  
 19 one time per week. Trash, recycling, we're  
 20 anticipating two to three times per day --  
 21 per week, will be picked up. Because the  
 22 trash is rotated 90 degrees to the drive  
 23 aisle, they will have to be rolled out and  
 24 then it will be picked up. There's two  
 25 employee spaces parked in front of the

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1 trash enclosure, and the trash will be  
 2 picked up during off-peak hours.  
 3 I think there was a question by Mr.  
 4 Klein about as far as the overall center  
 5 and whether or not the traffic would still  
 6 be within the original approval for the  
 7 traffic perspective, and we did review that  
 8 with Langan, and we did, this has been  
 9 determined below the overall shopping  
 10 center size by 566 square feet, so it's  
 11 smaller than the original assessment  
 12 letter, so we're not anticipating any good  
 13 impacts from traffic perspective.  
 14 As far as hours of operations, we're  
 15 anticipating hours of operation to be 5:30  
 16 to 10:00 p.m. Monday through Saturday, and  
 17 6 a.m. to 9 p.m. on Sunday. We're  
 18 anticipating 5, approximately employees per  
 19 shift. From a landscaping perspective, I  
 20 think we already went over that in pretty  
 21 good detail. The trash enclosure will be 9  
 22 by 18. We are going to comply, I believe  
 23 the planner made a comment about the color  
 24 of the brick to match the facade of the  
 25 building, we're fine with that.

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1 From the lighting perspective, we  
 2 really tried to illuminate the site and  
 3 I'll zoom out so everyone can see the site  
 4 again. Really trying to illuminate the  
 5 site to comply with IES, the borough  
 6 ordinance, and the needs of Starbucks,  
 7 really to provide lighting for safety,  
 8 security, and to minimize off-site glare.  
 9 So, we're proposing two single LED  
 10 energy efficient lights, one double-headed  
 11 LED energy efficient light, and three  
 12 wall-mounted LED fixtures. I think  
 13 overall, there weren't many comments on the  
 14 lighting, we really tried to minimize the  
 15 amount of glare.  
 16 As far as landscaping, you can see  
 17 we're adding a significant amount of  
 18 landscaping in the center of the site.  
 19 There might not be large islands on the  
 20 outside, but we are proposing as you can  
 21 see -- especially in the front along the  
 22 drive aisle, along the drive-through lane,  
 23 and also along Edgar Road.  
 24 MR. KLEIN: Quick question, Jim.  
 25 MR. HENRY: Sure.

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1 MR. KLEIN: So, like you said you  
 2 were going to do on the Taco Bell side,  
 3 that little spot in the curb, are you going  
 4 to be able to do that in that little spot  
 5 on the curve in the corner there?  
 6 MR. HENRY: Adding more landscaping?  
 7 So it is really to be determined. We left  
 8 it on the plan particularly because we're  
 9 not sure who the tenant is on the adjacent  
 10 lot. If for whatever reason they want to  
 11 cross-access, we want the ability to be  
 12 able to do that, but if, for whatever  
 13 reason they don't, then we're gonna  
 14 landscape that corner just like we're doing  
 15 with Taco Bell.  
 16 MR. KLEIN: Okay, only because you  
 17 brought it up, how does cross-access work?  
 18 If I get in line at the Starbucks, and I  
 19 don't want to go to Starbucks, I can go to  
 20 the next lot?  
 21 MR. HENRY: Right.  
 22 MR. KLEIN: And if I'm in the next  
 23 lot, I'm gonna come in to the bypass lane?  
 24 MR. HENRY: You'll be forced to the  
 25 bypass lane, yeah.

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1 MR. KLEIN: Okay.  
 2 MR. COKER: We'll, it's not optimal  
 3 but this is kind of the site, we had  
 4 originally, we had a much better site plan  
 5 where everybody had access across the front  
 6 of the lots or everybody had access across  
 7 the bottom of the lots. And when we  
 8 started laying out actual tenants, nobody  
 9 wanted it that way. So to be able to do  
 10 the deal, we're gonna have to do what the  
 11 tenants want.  
 12 MR. HENRY: So, from a landscaping  
 13 perspective, I think everyone is aware that  
 14 there are 5 trees, basically, they are  
 15 planted along Edgar Road. We are proposing  
 16 3 additional trees in front of the  
 17 building.  
 18 As far as shrubs, we're proposing 97  
 19 evergreen shrubs, 9 deciduous shrubs, 106  
 20 shrubs in total, and then we're proposing  
 21 31 perennials, and 37 ornamental brasses.  
 22 There will be, overall, 177 plantings on  
 23 the site.  
 24 MR. RICCI: Mr. Henry?  
 25 MR. HENRY: Yes.

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1 MR. RICCI: I received a last minute  
 2 letter, I literally got it in my inbox from  
 3 the City's landscape architect. Have you  
 4 seen it? It's dated today.  
 5 MR. MICHALSKI: No, he has not seen  
 6 it.  
 7 MR. RICCI: A lot of it has to do  
 8 with details but he asked the cherry trees  
 9 to be swapped out. Do you have any  
 10 opposition? It's not asking for additional  
 11 plantings, but essentially, his letter  
 12 deals with, he doesn't like the cherry  
 13 trees as a species, he's looking for more  
 14 planting details. Timing of like full  
 15 hazard, when things were planted, the  
 16 warranty, two year establishment, he asked  
 17 for in his letter, things like the type of  
 18 bark mulch, he doesn't like, and it's  
 19 mostly, it's not asking for really  
 20 additional plantings, it's asking for  
 21 really swapping out more details and things  
 22 of that nature.  
 23 So I could send that over to you, it's  
 24 up to the board as to whether they want to  
 25 accept the letter at this point.

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1 MR. PANTINA: To the Shade Tree  
 2 consultants, or the Shade Tree Commission's  
 3 defense, whether it's a defense or not, I  
 4 talked to Mr. Michalski prior to tonight's  
 5 meeting probably about two hours ago, or  
 6 three hours ago, and there was a problem  
 7 with these plans and how they were located  
 8 on the website. And after Mr. Michalski  
 9 showed me where they were, Shade Tree  
 10 Commission was able to go on and look at  
 11 them real quick. So that's why he couldn't  
 12 get it in there, I don't have any other  
 13 excuse for that.  
 14 MR. RINALDO: Let them work it out.  
 15 MR. RICCI: I'll just put it on the  
 16 record, because I don't think anyone has  
 17 it.  
 18 MR. HENRY: We don't have any issues  
 19 picking out the species and working with  
 20 the landscape architect on specific  
 21 species.  
 22 MR. PANTINA: Jim, I just want to  
 23 ask you a question real quick. The 5 trees  
 24 that you are showing on this exhibit that  
 25 are located down in the, I'll say it, the

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1 Cypress -- well, in the Legacy Square  
 2 property, not the PAD sites. Well, not  
 3 really the frontage, that other property  
 4 that he lets --  
 5 MR. RICCI: The finished area, the  
 6 planting strip between the road and the  
 7 front property.  
 8 MR. PANTINA: Exactly. So, the  
 9 monument sign which is hidden in the fourth  
 10 tree in like blue ink that you can hardly  
 11 see, but I'm looking at the original site  
 12 plan, what happens to the monument sign,  
 13 can you see it? Is it going to be higher  
 14 than those trees? Right there, right  
 15 there, right there.  
 16 MR. HENRY: As you're aware, I wasn't  
 17 involved in the original application.  
 18 MR. PANTINA: No, I'm just saying  
 19 because when we picked it up here, like how  
 20 are you going to see the sign? I'm  
 21 thinking that the signs's gonna be higher  
 22 than the tree, but maybe it's not, I really  
 23 don't know.  
 24 MR. RICCI: If you have street trees  
 25 -- they're low signs, those are low signs.

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1 MR. FIORLETTI: Are there any other  
 2 property planting within that strip?  
 3 MR. COKER: No, there's not, and  
 4 that's a landlord area to be --  
 5 MR. RICCI: Aren't those trees  
 6 already there?  
 7 MR. COKER: No.  
 8 MR. FIORLETTI: I would put them in  
 9 just on this one property.  
 10 MR. COKER: Hold on, this is Jeff  
 11 from Cypress. This is the first time we  
 12 are seeing this plan and we haven't  
 13 approved it.  
 14 MR. FIORLETTI: Why are we just  
 15 putting these five things on this one piece  
 16 of property?  
 17 MR. COKER: We're not going to.  
 18 MR. FIORLETTI: They're gonna be  
 19 eliminated, right?  
 20 MR. COKER: No, they don't need to be  
 21 eliminated, we can move them back.  
 22 MR. FIORLETTI: There's nothing on  
 23 the other properties, that's a clear strip.  
 24 MR. RICCI: The area you're referring  
 25 to, the planting strip, it's between Edgar

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1 Road and the front parking retaining wall,  
 2 correct?  
 3 MR. COKER: It's between Edgar Road  
 4 and the retaining wall that we put in.  
 5 That is the landlord property/common area.  
 6 And maybe Mr. Thompson can speak to  
 7 this, because he's been part of more of the  
 8 master development, but all that  
 9 landscaping, to my understanding, are even  
 10 part of previous approvals and not subject  
 11 to this application.  
 12 MR. MICHALSKI: I just want to make  
 13 one point.  
 14 MR. FIORLETTI: If you give it to  
 15 Legacy there, they're gonna maintain in  
 16 their own fashion. I don't think they want  
 17 trees there, they probably want grass  
 18 and --  
 19 MR. RICCI: I think they want trees  
 20 out there, maybe not where the --  
 21 MR. MICHALSKI: Just one minute, just  
 22 one minute, the only reason that these  
 23 trees are being shown is just to depict --  
 24 [CROSSTALK]  
 25 MR. MICHALSKI: So, what I was just

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1 saying is, the only reason that these trees  
 2 are shown on the plan, these 5 trees, were  
 3 because that was part of the phase one,  
 4 that's what's proposed and approved to be  
 5 out there, we're just trying to show what  
 6 this lot is gonna look like. The trees,  
 7 the landscaping, will continue across the  
 8 whole frontage, that was a prior approval.  
 9 Same thing with the monument sign, that was  
 10 the prior approval. We're just trying to  
 11 depict what this is gonna look like once  
 12 the Starbucks is up and developed.  
 13 MR. HENRY: And one thing to note  
 14 about the sign, the sign was part of the  
 15 previous approval as well, the  
 16 free-standing sign, and that was part of  
 17 the original sign as well. So we're just  
 18 going to be revising the insert to be  
 19 Starbucks, but it was a part of the  
 20 original design.  
 21 MR. PANTINA: So, for  
 22 clarification, Deanna, and everybody else,  
 23 okay, and for the people sitting in this  
 24 room, again, fist time we're seeing this,  
 25 this color rendering, it's been awhile

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1 since we approved phase 1 and however other  
 2 many variations of this amended site plan.  
 3 The trees along phase 1 strip, and the  
 4 memorial -- the monument signs were already  
 5 approved, they're just being added to this  
 6 rendering to show the overall look, is that  
 7 correct?  
 8 MR. MICHALSKI: Correct.  
 9 MR. PANTINA: Okay, hold on, so and  
 10 the only reason only 5 trees show up there,  
 11 is because we're not talking about anything  
 12 else, correct?  
 13 MR. MICHALSKI: Correct.  
 14 MR. PANTINA: Got it, and along  
 15 that whole strip, you're gonna have trees  
 16 just like that and the monument sign,  
 17 you're gonna have to, you guys are worried  
 18 about it because it's your site and you  
 19 know what look you want, right?  
 20 MR. HENRY: And it will probably be  
 21 adjusted to make sure the visibility of the  
 22 sign is sufficient.  
 23 MR. PANTINA: Okay, got that? What  
 24 else you got?  
 25 MR. MICHALSKI: We have nothing else

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1 of Jim, unless you have any other questions  
 2 of Jim. We have one more witness after  
 3 Jim, that's our planner, Keenan Hughes.  
 4 MR. PANTINA: Paul, any more  
 5 questions.  
 6 MR. RICCI: No, I don't.  
 7 MR. PANTINA: You know what I have  
 8 a question on, I just reminded Paul, too.  
 9 Sorry about that.  
 10 MR. RICCI: Real quick. Before Mr.  
 11 Hughes speaks, the individual letter signs,  
 12 that is on the rear face of the building  
 13 fronting toward Edgar Road, correct? And  
 14 the rest are logo signs, correct?  
 15 MR. MICHALSKI: Correct.  
 16 MR. RICCI: So, I consider that the  
 17 front yard and not needing a variance, I'm  
 18 not sure, I think it's inconsequential,  
 19 nonetheless but.  
 20 MR. MICHALSKI: I think it just says  
 21 the rear of the building and so it's  
 22 opposed to facing the street. So we were  
 23 just being conservative and saying well,  
 24 technically, it's on the rear of the  
 25 building so we'll just request the

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1 variance.  
 2 MR. RICCI: Okay, because I consider  
 3 that the front yard so I don't think that's  
 4 needed. So, I think it's inconsequential,  
 5 I'm not sure how the board feels.  
 6 MR. PANTINA: I have a question. I  
 7 saved this for the end but Jim, and/or  
 8 Brad, you looked at my report, right?  
 9 MR. HENRY: Yes.  
 10 MR. PANTINA: My staff picked up on  
 11 their review as to whether you would have  
 12 grease traps or not and where would they be  
 13 located. Do you want to talk about that  
 14 now or do you want to talk about that  
 15 later?  
 16 MR. HENRY: Sure, the grease traps  
 17 are inside the building, it's pretty common  
 18 with this type of use. There's really no  
 19 cooking that's going to be taking place on  
 20 site, mostly just reheating, so they do  
 21 have interior grease traps just in case for  
 22 whatever reason there is some grease  
 23 somewhere, but they generally don't install  
 24 exterior grease traps.  
 25 MR. PANTINA: Okay. The other

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1 stuff is self explanatory and you can look  
 2 at the important comment on it later on.  
 3 MR. HENRY: Okay, thank you.  
 4 MR. PANTINA: Next witness.  
 5 MR. MICHALSKI: Keenan Hughes, our  
 6 planner.  
 7  
 8 KEENAN HUGHES, H-U-G-H-E-S, with a business  
 9 address of 33-41 Newark Street, Third Floor,  
 10 Suite D, Hoboken, New Jersey, having been duly  
 11 sworn, testified as follows:  
 12  
 13 MR. MICHALSKI: Keenan, if you can  
 14 give the board the benefit of your  
 15 qualifications, please.  
 16 MR. HUGHES: Sure, I'm a licensed  
 17 professional planner in the state and a  
 18 member of the American Institute of  
 19 Certified Planners. I have a master's in  
 20 science from Pratt Institute, I'm a  
 21 principal with Phillips Preiss which is a  
 22 planning firm based in Hoboken, and I  
 23 represent municipal clients as well as  
 24 private applicants before boards throughout  
 25 the state. And I have appeared before the

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1 Linden Planning Board in the past.  
 2 MR. MICHALSKI: I offer Keenan as a  
 3 witness in professional planning.  
 4 MR. RINALDO: I accept his  
 5 qualifications, proceed.  
 6 MR. MICHALSKI: Keenan, if you can  
 7 walk the board through the six variances  
 8 and the justifications, please.  
 9 MR. HUGHES: Sure, so with respect to  
 10 the subdivision, the first two I'll speak  
 11 about are the lack of street frontage which  
 12 is a requirement under the local ordinance,  
 13 and then also the so called planning  
 14 variance under section 35 of the Municipal  
 15 Land Use Law.  
 16 So, the MLUL under section 36  
 17 specifies the criteria for the board to  
 18 grant relief from this provision which  
 19 requires lots to have frontage on a public  
 20 street. The first is in cases that would  
 21 entail practical difficult or unnecessary  
 22 hardship, secondly where the circumstances  
 23 of a case do not require the building or  
 24 the structure to be related to the street,  
 25 and then third, the relief must be subject

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1 to conditions that provide adequate access  
 2 for emergency services personnel to access  
 3 the property.  
 4 I will say just with respect to the  
 5 overall build out of Legacy Square, this is  
 6 not the first time this board has  
 7 contemplated this variance by virtue of the  
 8 overall site design here, which as Mr.  
 9 Thompson mentioned contemplates this  
 10 internal, private roadway to provide access  
 11 to the various lots.  
 12 But the key point here is that, the  
 13 internal roadway way does provide  
 14 sufficient access for emergency services  
 15 personnel in addition to anyone that wants  
 16 to acces these privately developed  
 17 properties. So, I believe the applicant  
 18 can satisfy the criteria under the MLUL for  
 19 the planning variance as well as the relief  
 20 from the local ordinance with respect to  
 21 street frontage.  
 22 In addition, there's a variance  
 23 required for lot area which was mentioned  
 24 earlier, 30,000 square feet is required,  
 25 whereas this lot is 23,620 square feet. In

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1 my opinion, this lot size is adequate for  
 2 the proposed Starbucks use. The site plan  
 3 is fully conforming in terms of the primary  
 4 bulk criteria, not, I mean setbacks,  
 5 building coverage, impervious coverage,  
 6 onsite parking. The compliance with all of  
 7 those provisions certainly support the  
 8 claim that the lot size here is adequate to  
 9 support the use.  
 10 Now, as you heard, there was  
 11 discussion about accommodating some  
 12 additional setbacks along the northerly and  
 13 southerly lot lines, which I'll speak to up  
 14 in the site plan, but I think with the  
 15 adjustments that we're making to that  
 16 design to accommodate a planted buffer  
 17 along both of those property boundaries, in  
 18 my opinion, the proposed lot area is  
 19 adequate and sufficient to support the  
 20 proposed Starbucks use.  
 21 Now, turning our attention to the site  
 22 plan, because technically we're requesting  
 23 the variance with the rear signage, I  
 24 happen to agree with Mr. Ricci that from a  
 25 zoning standpoint, that sign is actually

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1 located within the front yard. Either way,  
 2 I think this is a property where visibility  
 3 both to 1 and 9 as well as the internal  
 4 commercial access road certainly makes  
 5 sense. So from a planning standpoint, the  
 6 sign is merited, I happen to think it may  
 7 not be technically required, but there's  
 8 the justification, nonetheless.  
 9 Now, with respect to the parking area  
 10 setbacks, you heard from Jim about what  
 11 we're proposing to do to accommodate what I  
 12 think is really the intent here which is to  
 13 provide some planted area in between the  
 14 commercial lots here so we don't have one  
 15 continuous parking area, or in absence of  
 16 the continuous parking area, just sort of  
 17 curb separating the various properties.  
 18 So, based on the adjustments that you  
 19 heard during Jim's testimony, we will be  
 20 able to provide a more than 3-foot planted  
 21 buffer in between, or planted area in  
 22 between the Taco Bell and the Starbucks,  
 23 and then to the north we're gonna pick up  
 24 another foot, and then with respect to the  
 25 future development of the northerly lot,

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1 there will be, in that area also, an area  
 2 to enforce some additional planting.  
 3 So, I think the intent of the  
 4 ordinance, which is to encourage that  
 5 demarcation and to visually enhance the  
 6 area by including some additional  
 7 landscaping, will be met, albeit that will  
 8 be accommodating a 2 and a half foot  
 9 setback to the south, and a 1 foot setback  
 10 to the north, whereas the ordinance under  
 11 section 31-27.17 requires 3 feet.  
 12 Now, finally there's a variance for  
 13 the drive-through landscape island. The  
 14 ordinance requires 3 to 5 foot landscape  
 15 islands between the drive-through lanes and  
 16 the parking area circulation aisles. In  
 17 terms of landscaping, as you can see from a  
 18 site design, the emphasis is really on that  
 19 rear area between the building and 1 and 9,  
 20 as well as creating the outdoor space in  
 21 front of the building.  
 22 Starbucks does prefer to have some  
 23 free flow of traffic between the  
 24 drive-through lane and the bypass lane,  
 25 rather than demarcating the drive-through

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1 lane with a 3 to 5 foot planted buffer  
 2 area. So I think in terms of meeting the  
 3 intent here with the additional landscaping  
 4 provided along the north and south of the  
 5 property, we're gonna definitely visually  
 6 enhance this site. We're so below the  
 7 requirements in terms of coverage, anything  
 8 from a vehicular circulation standpoint,  
 9 what we're proposing does make sense.  
 10 So, with those points in mind, I think  
 11 the variance relief that we're requesting  
 12 here in connection with both the  
 13 subdivision and the site plan can be  
 14 justified on C-2 grounds, and that we're  
 15 furthering purposes A, G, and H of  
 16 Municipal Land Use Law by promoting the  
 17 general welfare, accommodating a commercial  
 18 use here which is the Starbucks  
 19 drive-through on an adequately-sized  
 20 property in conformity with the bulk  
 21 criteria, and with some modifications to  
 22 include some additional landscaping to the  
 23 north and south of the lot.  
 24 And then finally in terms of the  
 25 negative criteria, it's my opinion that the

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1 variances can be granted by the board  
 2 without creating any substantial detriments  
 3 to the public good, and in each case,  
 4 relative to the specific variances that  
 5 we're requesting, I don't find that there's  
 6 any substantial impairment of the zoning  
 7 ordinance of the master plan.  
 8 I think we're meeting the spirit and  
 9 intent of each of these provisions, albeit  
 10 that we cannot fully conform with those  
 11 particular ordinance items.  
 12 So with that, that concludes my direct  
 13 testimony, John unless you have anything  
 14 further from me.  
 15 MR. MICHALSKI: I have nothing  
 16 further, unless the board has any  
 17 questions.  
 18 CHAIRMAN LAPLACA: Nick, the other  
 19 members of our board, can they hear what's  
 20 going on? Can they hear what he's saying,  
 21 because I'm having a very difficult time.  
 22 MR. PANTINA: I see Lee Klein with  
 23 a thumbs up, so other than Lee Klein, can  
 24 everyone else hear the testimony and the  
 25 witnesses? Thumbs up will work.

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1 MR. RICCI: I think they can hear.  
 2 MR. COKER: I can hear clearly.  
 3 MR. PANTINA: We got a new camera  
 4 system here and a new mic, and I think the  
 5 only way that possibly we are going to cope  
 6 with this next time, not now, is to push  
 7 this table right up against the wall and be  
 8 right next to it, but it shouldn't make a  
 9 difference because we have the mic.  
 10 MR. ANDERSON: Nick, you guys do  
 11 have a lot of background chatter when your  
 12 microphone is open. When you're talking to  
 13 each other, even softly it comes across and  
 14 it is interfering a little bit.  
 15 MR. PANTINA: So, the mic was  
 16 working very well.  
 17 MR. RINALDO: With regard to Mr.  
 18 Hughes's testimony, he hit all the  
 19 variances on both the site plan and the  
 20 subdivision and he did provide testimony.  
 21 I listened to it because I have to. I  
 22 listened to it and I believe he hit the C2  
 23 aspect of it, the negative criteria, and  
 24 I'm satisfied with that testimony.  
 25 MR. MICHALSKI: That will conclude



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1 our presentation then if there's no further  
 2 questions.  
 3 MR. PANTINA: I'd like to open the  
 4 meeting to the public. Do we have any  
 5 public?  
 6 MR. RINALDO: Is there anybody in  
 7 the public who wants to say anything or ask  
 8 any questions with regard to this matter?  
 9 There's only one other person.  
 10 MR. MICHALSKI: Yeah, and she's  
 11 actually with us.  
 12 MR. PANTINA: Do we have anybody  
 13 out there who wants to ask a question?  
 14 Seeing no hands, I would like to close the  
 15 meeting to the public.  
 16 Do we have any board members that  
 17 would like to ask a question at this time  
 18 for any of these applicants for either the  
 19 subdivision or the site plan? Seeing none,  
 20 I would like to close that public comment I  
 21 guess.  
 22 MR. COKER: What about outlot 1, can  
 23 we go back to that?  
 24 MR. MICHALSKI: No, we'll go back to  
 25 that once we wrap this up.

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1 MR. PANTINA: Yeah, relax.  
 2 MR. RINALDO: Yeah, we didn't swear  
 3 you in either, Mr. Coker.  
 4 MR. COKER: Swear me in.  
 5 MR. PANTINA: Next time. So with  
 6 all the letters that this goes to John who  
 7 can relay it to the team, with all the  
 8 letters that you admitted to having, the  
 9 fire report, the planning report for the  
 10 subdivision and the site plan, traffic  
 11 report, and my report, do you have any  
 12 comments or questions or yes I will comply?  
 13 MR. MICHALSKI: We'll comply with the  
 14 reports, obviously subject to what we  
 15 discussed on a few items tonight including  
 16 the colloquy with Paul regarding the  
 17 setbacks and the adjustment of the curb  
 18 lines, but yes, we'll comply with the  
 19 reports.  
 20 MR. PANTINA: I was going to say, I  
 21 didn't hear the beginning but all I'll take  
 22 is a thumbs up, so you will comply. Seeing  
 23 that, I have no further questions. Do I  
 24 have a motion to move on this in a positive  
 25 way?

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1 MR. FIORLETTI: Armand Fiorletti  
 2 makes a motion to approve SD-733-20.  
 3 MR. PANTINA: One at a time.  
 4 MR. FIORLETTI: I move that we  
 5 approve subdivision 756-20, Starbucks with  
 6 the variances that are required.  
 7 MR. PANTINA: Okay, I have a motion  
 8 by Armand Fiorletti, do I have a second?  
 9 MR. JAVICK: Second.  
 10 MR. PANTINA: Before we do roll  
 11 call, I just want to acknowledge some other  
 12 people that showed up after we started. I  
 13 see Alex Lospinoso, you're still here?  
 14 MR. LOSPINOSO: Yes, sir.  
 15 MR. PANTINA: Felipe, you still  
 16 here?  
 17 MR. CABEZAS: Yes.  
 18 MR. PANTINA: And that is about it,  
 19 so roll call, please.  
 20 MS. KOTOWSKI: Joseph LaPlaca?  
 21 CHAIRMAN LAPLACA: Yes.  
 22 MS. KOTOWSKI: Armand Fiorletti?  
 23 MR. FIORLETTI: Yes.  
 24 MS. KOTOWSKI: Nicholas Pantina?  
 25 MR. PANTINA: Yes.

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1 MS. KOTOWSKI: Councilman Javick?  
 2 MR. JAVICK: Yes.  
 3 MS. KOTOWSKI: Curtis Humphrey?  
 4 MR. HUMPHREY: Yes.  
 5 MS. KOTOWSKI: Felipe Cabezas?  
 6 MR. CABEZAS: Yes.  
 7 MS. KOTOWSKI: Michael Anderson?  
 8 MR. ANDERSON: Yes.  
 9 MS. KOTOWSKI: Frank Hetem?  
 10 MR. HETEM: Yes.  
 11 MS. KOTOWSKI: Alex Lospinoso?  
 12 MR. LOSPINOSO: Yes.  
 13 MS. KOTOWSKI: And Noyo Edem?  
 14 MS. EDEM: Yes.  
 15 MR. PANTINA: Do I have a motion to  
 16 move on site plan 1133-20, Linden  
 17 Development, Starbucks?  
 18 MR. FIORLETTI: Armand Fiorletti  
 19 makes the motion to approve the subdivision  
 20 for Starbucks 1133-20, with the proper  
 21 variances and changes, minor changes that  
 22 we discussed in the hearing.  
 23 MR. PANTINA: Yes. Do I have a  
 24 second?  
 25 MR. JAVICK: Second.

1 MR. PANTINA: Seconded by  
 2 Councilman Javick, can I have a roll call,  
 3 please?  
 4 MS. KOTOWSKI: Joseph LaPlaca?  
 5 CHAIRMAN LAPLACA: Yes.  
 6 MS. KOTOWSKI: Armand Fiorletti?  
 7 MR. FIORLETTI: Yes.  
 8 MS. KOTOWSKI: Nicholas Pantina?  
 9 MR. PANTINA: Yes.  
 10 MS. KOTOWSKI: Councilman Javick?  
 11 MR. JAVICK: Yes.  
 12 MS. KOTOWSKI: Curtis Humphrey?  
 13 MR. HUMPHREY: Yes.  
 14 MS. KOTOWSKI: Felipe Cabezas?  
 15 MR. CABEZAS: Yes.  
 16 MS. KOTOWSKI: Michael Anderson?  
 17 MR. ANDERSON: Yes.  
 18 MS. KOTOWSKI: Frank Hetem?  
 19 MR. HETEM: Yes.  
 20 MS. KOTOWSKI: Alex Lospinoso?  
 21 MR. LOSPINOSO: Yes.  
 22 MS. KOTOWSKI: And Noyo Edem?  
 23 MS. EDEM: Yes.  
 24  
 25 (Hearing was adjourned at 8:05 p.m.)

1 C E R T I F I C A T I O N  
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