

Circuit Court for Anne Arundel County
Case No. C-02-CV-17-002324

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 473

September Term, 2018

IN THE MATTER OF RL BB ACQ II-MD
RGD, LLC

Kehoe,
Berger,
Beachley,

JJ.

Opinion by Beachley, J.

Filed: August 1, 2019

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

This appeal arises out of a dispute between appellant, RL BB ACQ II-MD RGD, LLC, and appellee, the Planning Commission of the City of Annapolis (the “Planning Commission”). On May 5, 2016, appellant submitted an application seeking a major modification of its previously approved Rocky Gorge Residential Planned Development (the “Development”). Following two separate public hearings—on November 3, 2016, and March 2, 2017—the Planning Commission denied appellant’s application. Appellant appealed to the Circuit Court for Anne Arundel County, and following a hearing, that court affirmed the decision of the Planning Commission. Appellant timely appealed the circuit court’s decision and presents one issue for our review:

Did the Planning Commission ignore the substantial evidence before it and improperly render an arbitrary and capricious decision based on preconceived biases, unsubstantiated information, and personal opinions?

We conclude that there was substantial evidence to support the Planning Commission’s decision. Accordingly, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

This appeal concerns a proposed major modification to the Development, which is located south of Aris T. Allen Boulevard, a major freeway that runs east and west in Annapolis. In 2006, the City of Annapolis Board of Appeals approved the Development for 48 residential units consisting of 17 single-family attached dwellings and 31 single-family detached dwellings. As originally approved, vehicular access to and from the Development was authorized via Yawl Road through the adjacent Oxford Landing neighborhood. The Development consists of two parcels (the Arundel Land and

Development Property and the Bowen Property) that the City of Annapolis annexed at different times.

When the Arundel Land Development Property was annexed in 2003, the Annapolis City Council adopted Resolution R-13-02, which provided in pertinent part:

[o]nly one point of access shall be allowed to the site from Aris T. Allen Boulevard (also known as Route 665). This access point shall be the relief road right of way; and when developed principal access to the site shall be from Yawl Road through the Oxford Landing subdivision; and no direct access to the site shall be allowed from Aris T. Allen Boulevard.

The Bowen Property was annexed in 2005, and corresponding Resolution R-23-04 provided:

[w]hen developed, principal access to the site shall be from Yawl Road through the Oxford Landing subdivision. Yawl Road is an existing public right-of-way which terminates at the eastern boundary of the Bowen property. No direct access to the site shall be allowed from Aris T. Allen Boulevard.

The parties do not dispute that, at the time the Development was approved in 2006, the City of Annapolis contemplated construction of a “Forest Drive Relief Road,” which would allow for vehicular ingress and egress to the Development in addition to the Yawl Road access. The Forest Drive Relief Road was never built and, for reasons not relevant to this appeal, the City of Annapolis has abandoned its plan to construct that roadway.

After it became apparent that the Forest Drive Relief Road would not be built, appellant requested the Annapolis City Council to remove the condition set forth in R-13-02 and R-23-04 that “No direct access to the site shall be allowed from Aris T. Allen Boulevard.” In response, the Annapolis City Council enacted Resolution R-33-14, which provided in relevant part, that

the Annapolis City Council, SUBJECT TO THE CONDITIONS AND PROVISIONS HEREIN, hereby removes the limitations IN THE ARUNDEL LAND ANNEXATION AND THE BOWEN ANNEXATION established in R-13-02 Amended and in R-23-04 Revised regarding prohibitions on vehicular access to Aris T. Boulevard[.]

R-33-14 further provided that the resolution would take effect “UPON APPROVAL OF THE ARIS T. ALLEN CONNECTION BY THE STATE HIGHWAY ADMINISTRATION AND THE PLANNING COMMISSION.”

In May 2016, appellant filed with the City of Annapolis a “Planned Development Application” requesting a “major modification” to the previously approved 2006 plan.¹ In its application, appellant sought approval for proposed access to Aris T. Allen Boulevard directly from the Development, noting that it was “working with the State Highway Administration (“SHA”) on the design of the right-in / right-out access[.]” The application also requested removal of the previously-approved Yawl Road access to the Development and a reduction in the number of dwellings from 48 to 46.

The Department of Planning and Zoning (“DPZ”) for the City of Annapolis reviewed appellant’s application to modify the Development as approved in 2006. On October 27, 2016, DPZ issued a five-page memorandum, concluding that appellant’s request to “remove vehicular access via Yawl Road and relocate access to Aris T. Allen Boulevard” was “feasible,” subject to enumerated conditions not pertinent to the appeal.

¹ In 2006, the Board of Appeals was responsible for decisions concerning residential planned developments. By the time appellant sought its major modification, the Annapolis City Ordinance had been amended to delegate that authority to the Planning Commission. Annapolis, Md., Code of Ordinances § 21.08.070.

The Planning Commission then scheduled a public hearing for November 3, 2016. At the outset of the hearing, E. Thomas Smith, Jr., DPZ’s Chief of Current Planning, referred to the October 27, 2016 memorandum that he had authored and advised the Planning Commission that DPZ staff recommended approval of appellant’s modification request. The October 27, 2016 memorandum was admitted into evidence.

Mr. Smith further explained that appellant’s application included an analysis of the traffic study submitted to the SHA. The study reviewed several intersections which connect to Aris T. Allen Boulevard near the proposed access to the Development. Mr. Smith informed the Planning Commission that the traffic study indicated that the proposed access would cause only a minimal impact on nearby intersections, and that the plan would be acceptably safe. Additionally, the application included a “weave analysis,” a study that examined the safety of vehicles exiting the proposed access point onto Aris T. Allen Boulevard, and shifting through five lanes of traffic in order to make either a left turn or U-turn at a nearby major intersection—Chinquapin Round Road. Mr. Smith testified that the weave analysis indicated acceptable levels of service in both the morning and afternoon.

After Mr. Smith’s presentation, appellant submitted additional testimonial and documentary evidence in support of its modification request. One of appellant’s witnesses was Pete Mellits, a land development engineer employed by the McLaren Engineering Group, and the designer of the originally approved plan. Mr. Mellits testified that the SHA approved the proposed access in a letter dated September 9, 2016.

Appellant also called Kenneth Schmid, a traffic engineer with the firm Traffic Concepts, Inc. Mr. Schmid prepared a traffic impact study that indicated that “all the intersections during the AM and PM peak period continued to operate at the level of service or better except for the intersection of Chinquapin Round Road [and Aris T. Allen Boulevard],” which was projected to operate at an “E” level of service. According to other documentary evidence in the record, only service levels of “A” through “D” are “acceptable.” Regarding the weave analysis, Mr. Schmid testified that in the morning, the access point would provide a “B-level service weave” and in the afternoon, there would be a “C-level of service.” Mr. Schmid’s traffic study concluded that the proposed access “will have a minimal impact on the key intersections and will not change the levels [of safety] observed from the plan background condition.”

The last witness in appellant’s case in chief was Shep Tullier, a land use and planning consultant, and a member of the American Institute of Certified Planners.² Mr. Tullier testified that the proposed access would improve the safety of the Development and the nearby Oxford Landing Community. He further explained that, in light of the City’s abandonment of its plan to construct the Forest Drive Relief Road, the proposed access to the Development was justified.

Following appellant’s case in chief, the Planning Commission opened the hearing to the public. The first individual to testify from the public was Dave Humphreys, the

² Mr. Tullier apparently told the Planning Commission his place of employment, but a portion of the name of the company appears as “(indiscernible)” in the transcript.

executive director of the Annapolis Regional Transportation Management Association. Mr. Humphreys began by stating that he did not “have heavy disagreements with a lot of” appellant’s presentation. Nevertheless, Mr. Humphreys testified that he held numerous concerns about the proposed access to Aris T. Allen Boulevard.

Mr. Humphreys told the Planning Commission that his organization’s primary concerns were safety issues. He explained that

Aris T. Allen Boulevard[] is a substandard road and it was built as a substandard road from day one. It didn’t conform to a lot of ASHTO standards, which is the American Society of [Highway] Transportation Officials. It was the only way to shoehorn it in. It has curbs instead of shoulders in most of its area. Most of the ramps are too short, both acceleration and deceleration.

He went on to state that the proposed deceleration lane

presents a rear-end collision hazard. People will come in clusters. They’re not going to come one at a time or one per minute. This development doesn’t present a huge volume of traffic. . . . It’s not that big of a development.

The safety issues are what we’re talking about, so the rear-end and lack of much sight distance from vehicles coming up upon that deceleration lane is where a potential for rear-end collisions occur.

Mr. Humphreys next expressed his concern about the weave analysis appellant provided. He explained that a weave analysis “is generally blending traffic from different directions at the same speed or relatively similar speeds.” According to Mr. Humphreys, whereas most weave analyses deal with freeways, the proposed access to Aris T. Allen Boulevard involved “a stop sign and vehicles starting from a stop having to accelerate five lanes to make a U-turn.” Furthermore, he explained that 60 percent of the trips out of the Development will require acceleration through five lanes to make a U-turn into the

westbound lanes. Mr. Humphreys characterized the task of traversing those five lanes as “daunting.” He joked that every home in the Development should come with a 400-horsepower Corvette to accomplish the lane shifting.

Noting yet another safety issue, Mr. Humphreys testified that the proposed access to the Development presented “the most circuitous of routes” because that access would only connect to the eastbound portion of Aris T. Allen Boulevard. He noted that, because traffic must be heading eastbound to enter the Development, vehicles coming from other nearby major intersections seeking to use the proposed access point must make challenging and dangerous maneuvers to do so.

The Planning Commission then asked Mr. Humphreys about the safety of the proposed ramp that would serve as the access to Aris T. Allen Boulevard from the Development. Mr. Humphreys responded, “That’s one of the problems. You’re starting at the top of the hill and you cannot see. You’re well above traffic there. And generally when you’re dealing with a somewhat elevated ramp, you want to extend that ramp beyond even minimum standards.” Mr. Humphreys ultimately expressed the view that the proposed acceleration and deceleration lanes were substandard.

Following Mr. Humphreys, other members of the public expressed their views to the Planning Commission. This included two Alderwomen, the Chair of the Annapolis Transportation Board, and residents and representatives of the Oxford Landing community. Those individuals generally voiced their support for appellant’s proposed modification.

Jeff Carlsa, another member of the public, spoke at the hearing. Mr. Carlsa explained that he lived in the Vineyard Road community, which lies west of the

Development, but also connects to Aris T. Allen Boulevard’s eastbound lanes. From his experience as a resident of Vineyard Road, Mr. Carlsa stated that traffic on Aris T. Allen Boulevard traveled “really fast,” that the oncoming traffic was “pretty heavy” sometimes, and that it was challenging to traverse the five lanes of traffic in order to make a U-turn at Chinquapin Round Road, which he had to do “typically about 90 percent of the time.” Vindicating Mr. Humphreys’s joke about 400-horsepower vehicles, Mr. Carlsa testified that “When we go to buy cars, we buy cars that have some horsepower. And it’s not just a joke, you really have to be able to get out there.” When the Planning Commission asked if the “Corvette joke was serious[,]” Mr. Carlsa replied “Well, maybe it doesn’t need to be that much horsepower, but yes, you can’t have a little putter car.”

Christine Eck, who used to live in the Vineyard Road community, bolstered Mr. Carlsa’s testimony. Ms. Eck testified that “we have to gun it to get out” onto Aris T. Allen Boulevard. She also explained that it could be challenging to return home at night because traffic travels approximately 50 to 60 miles per hour, and that she would have to slow down very quickly to make a sharp turn off of Aris T. Allen Boulevard and onto Vineyard Road.

The final witness to oppose appellant’s proposed access was Anastasia Hopkinson, who represented the Annapolis Neck Peninsula Federation. Ms. Hopkinson expressed her concern with the fact that the SHA appeared to have reversed course by recommending approval. She noted that in a letter dated May 29, 2014, the SHA stated, “Due to existing access controls along [Aris T. Allen Boulevard], permanent future access will not be granted.” Yet on June 6, 2016, “based on internal discussions held,” the SHA approved the proposed access to the Development. Ms. Hopkinson asked the Planning Commission

to invite SHA’s management to explain what internal discussions took place and why SHA seemingly reversed course over the proposed access in only two years.

In rebuttal, appellant argued that the proposed access was not substandard, and that it was built in accordance with “all ASHTO requirements that were in place at the time that roadway was constructed.” Next, appellant noted that the 2014 SHA letter rejecting “permanent future access” only responded to appellant’s request for temporary construction access, and that SHA did not intend to convey that it was permanently prohibiting any proposed future access. Finally, appellant reinforced its position that the proposed access met all SHA, ASHTO, and related traffic standards, and that “the safety fear that’s being proposed does not exist.”

Following appellant’s closing arguments, the Planning Commission began its deliberations. Several commissioners expressed concerns for safety, and appellant, sensing a potentially unfavorable decision, requested that the Planning Commission allow it to participate in a work session and to continue the public hearing. The Planning Commission agreed to appellant’s request and deferred making a final decision.

Apparently, the work session never occurred, due in part to appellant’s inability to secure the presence of a representative from SHA. Nevertheless, the public hearing continued on March 2, 2017. At that hearing, appellant explained that SHA had declined to attend any work session. Instead SHA issued a letter dated February 14, 2017, indicating that it had approved the proposed access and that the plan was safe. Appellant also requested that the Planning Commission narrow its focus to the evidence presented rather than any preconceived notions about the proposed modification.

In an Opinion and Order dated June 26, 2017, the Planning Commission rejected appellant’s application by a vote of 5-0. Appellant then petitioned the Circuit Court for Anne Arundel County for judicial review. On April 16, 2018, the parties appeared for a hearing where the circuit court affirmed the decision of the Planning Commission. Appellant timely appealed.

DISCUSSION

In *Motor Vehicle Admin. v. Shea*, the Court of Appeals articulated the standard of review for administrative decision-making:

A court’s role in reviewing an administrative agency adjudicatory decision is narrow; it is limited to determining if there is substantial evidence in the record as a whole to support the agency’s findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law.

In applying the substantial evidence test, a reviewing court decides whether a reasoning mind reasonably could have reached the factual conclusion the agency reached. A reviewing court should defer to the agency’s fact-finding and drawing of inferences if they are supported by the record. A reviewing court must review the agency’s decision in the light most favorable to it; . . . the agency’s decision is prima facie correct and presumed valid, and . . . it is the agency’s province to resolve conflicting evidence and to draw inferences from that evidence.

Despite some unfortunate language that has crept into a few of our opinions, a court's task on review is not to substitute its judgment for the expertise of those persons who constitute the administrative agency. Even with regard to some legal issues, a degree of deference should often be accorded the position of the administrative agency. Thus, an administrative agency’s interpretation and application of the statute which the agency administers should ordinarily be given considerable weight by reviewing courts. Furthermore, the expertise of the agency in its own field should be respected.

415 Md. 1, 14-15 (2010) (quoting *Motor Vehicle Admin. v. Delawter*, 403 Md. 243, 256-57 (2008)). When reviewing an administrative agency’s decision, appellate courts “look

through the circuit court’s . . . decisions, although applying the same standards of review, and evaluate[] the decision of the agency.” *Id.* (internal quotation marks omitted) (quoting *People’s Counsel for Balt. Cty. v. Loyola College in Md.*, 406 Md. 54, 66 (2008)). Accordingly, we look through the decision of the circuit court to determine whether there is substantial evidence in the record to support the Planning Commission’s decision, and we defer to the Planning Commission to draw inferences and resolve conflicting evidence. *Shea*, 415 Md. at 15.

Lastly, we note that Md. Code (2012, 2018 Supp.), § 1-206(a)(2) of the Land Use Article (“LU”) requires that,

Within 6 months after appointment to a planning commission, a member shall complete an education course that includes education on:

- (i) the role of the comprehensive plan;
- (ii) if applicable, proper standards for special exceptions and variances; and
- (iii) the local jurisdiction’s local laws and regulations relating to zoning, planned development, subdivision, and other land use matters.

This educational requirement bolsters the notion of appropriate appellate deference to the administrative agency. With this deferential standard in mind, we turn to appellant’s arguments.

In its brief, appellant raises only a single question: “Did the Planning Commission ignore the substantial evidence before it and improperly render an arbitrary and capricious decision based on preconceived biases, unsubstantiated information, and personal opinions?” Throughout its appellate brief, however, appellant trifurcates this question into three arguments: 1) “There was substantial evidence before the Planning Commission illustrating compliance with all applicable Code standards and demonstrating that the

[a]pplication merited approval”; 2) “Unsubstantiated citizen opinions and the Commission Members’ personal beliefs and prior experiences impermissibly led to the Planning Commission’s denial of the [a]pplication”; and 3) “The Planning Commission appeared to be biased against [appellant] and the [a]pplication from the beginning, it was focused on irrelevant distractions rather than the substantial evidence before it, and it fundamentally misunderstood its charge.”

We shall hold that: 1) the Planning Commission’s decision was supported by substantial evidence in the record; and 2) that the Planning Commission did not rely on unsubstantiated citizen opinions, nor did the Planning Commission improperly rely on its prior experiences or biases in reaching its decision.

I. There Was Substantial Evidence to Support The Planning Commission’s Decision

Initially, we note that appellant misapprehends the substantial evidence test. In its brief, appellant argues that it “provided substantial evidence as to how the proposal satisfied all Code requirements” and that the materials it submitted “illustrate the thorough and substantial evidence . . . in support of the [a]pplication.” The substantial evidence test does not concern whether an aggrieved party provided substantial evidence to support its position before the administrative agency. On the contrary, the substantial evidence test requires us to determine whether the *agency’s decision* is founded upon substantial evidence in the record. *Shea*, 415 Md. at 14.

We conclude that there was substantial evidence in the record to support the Planning Commission’s decision. Annapolis, Md., Code of Ordinances § 21.24.090

requires the Planning Commission, in deciding planned development applications, to make written findings based on the following criteria:

- A. The planned development is compatible with the character of the surrounding neighborhood and consistent with the Comprehensive Plan and the purposes of planned developments.
- B. The proposed locations of buildings, structures, open spaces, landscape elements, and pedestrian and vehicular circulation systems are adequate, safe, and efficient and designed to minimize any adverse impact upon the surrounding area.
- C. The planned development will promote high quality design and will not result in greater adverse impacts to the surrounding area compared to the development that may otherwise be permitted pursuant to the Zoning Code if a planned development were not approved.
- D. The planned development complies with the planned development use standards and bulk and density standards.
- E. The planned development complies with the Site Design Plan Review criteria provided in Section 21.22.080.
- F. The planned development plan includes adequate provision of public facilities and the proposed infrastructure, utilities and all other proposed facilities are adequate to serve the planned development and adequately interconnect with existing public facilities.
- G. The planned development complies with Chapter 21.71 of the Annapolis City Code.

Here, the Planning Commission denied appellant’s application based on criteria A, B, C, and E. As we shall show, the Planning Commission’s decision focused on the impact of the proposed modification on traffic efficiency and safety. In our view, there was substantial evidence in the record to support the Planning Commission’s decision, particularly with reference to criteria A, B, and C.

Regarding criteria A, Consistency with the Comprehensive Plan, the Planning Commission concluded that appellant “failed to prove consistency with the Comprehensive

Plan in the areas of public safety and efficient operations of city infrastructure.” The Comprehensive Plan that the Planning Commission referred to was the 2009 Annapolis Comprehensive Plan, which the City Council adopted in Resolution R-32-09. Chapter 4 of the Comprehensive Plan covers transportation, and that section provides that, “Without a decisive course correction in transportation policy, by 2030, traffic congestion will impede the flow of goods and services, choke the quality of life in the city and its environs, and dim the ambience that attracts millions of yearly visitors.” 2009 Comprehensive Plan (<https://www.annapolis.gov/DocumentCenter/View/1236/Chapter-4-Transportation-PDF> page 42) (last visited July 24, 2019). In fact, the 2009 Comprehensive Plan specifically mentions Aris T. Allen Boulevard as a major freeway that has “continued to experience increasing traffic volumes and deteriorating levels of service.” *Id.* at 44.

At the November 2016 hearing, Mr. Schmid conceded that the proposed development would cause some deterioration in the levels of service near Aris T. Allen Boulevard. Specifically, he testified that the proposed access would result in an E-level of service—which falls below an acceptable standard—at the Aris T. Allen Boulevard and Chinquapin Round Road intersection. Because the 2009 Comprehensive Plan mentioned deteriorating levels of service as a concern, and because appellant’s own witness conceded that its proposed access would further deteriorate the level of service at the intersection of Aris T. Allen Boulevard and Chinquapin Round Road, there was substantial evidence to support the Planning Commission’s finding concerning criteria A.

Furthermore, there was substantial evidence to support the Planning Commission’s findings regarding criteria B and C. Criteria B required appellant to prove that the proposed

plan would provide safe and efficient vehicular circulation systems. Criteria C required appellant to prove that the proposed plan would promote a high quality design that would not result in adverse impacts to the surrounding area. Contrary to those two criteria, the Planning Commission found that appellant “failed to prove that proposed vehicular circulation systems [would] meet requirements for adequate, safe and efficient operation.”

Additionally, the Planning Commission stated that appellant

failed to prove the compliance with the State Highway Design Manual and relevant [ASHTO] standards, failed to prove that the awkward separation of vehicular entry and exit systems and the unsafe reliance on U-turns at a busy intersection meet requirements for high quality design in planned developments, and failed to prove that Aris T. Allen Boulevard access would be a better and improved design tha[n] the design previously approved.

Essentially, the Planning Commission concluded that the proposed plan was not sufficiently safe and did not meet required standards.

There is substantial evidence in the record to support this finding. First, regarding compliance with ASHTO, the Planning Commission heard contradictory testimony. Mr. Humphreys testified that “Aris T. Allen Boulevard[] is a substandard road and it was built as a substandard road from day one. It didn’t conform to a lot of ASHTO standards. . . . It has curbs instead of shoulders in most of its area. Most of the ramps are too short, both acceleration and deceleration.” In its rebuttal at the November 2016 hearing, Mr. Mellits simply told the Planning Commission that Aris T. Allen Boulevard “was designed in accordance with all ASHTO requirements that were in place at the time that roadway was constructed.” As noted above, “it is the agency’s province to resolve conflicting evidence and to draw inferences from that evidence.” *Shea*, 415 Md. at 14. Here, the agency

resolved this conflict by relying upon Mr. Humphreys’s testimony, and our task “is not to substitute [our] judgment for the expertise of those persons who constitute the administrative agency.” *Id.*

Next, regarding the safe access to and from the Development, on February 18, 2016, SHA informed Mr. Schmid in writing that the SHA Access Manual required “a full acceleration lane (1,200 ft) . . . for the proposed access in addition to a taper within an approximately 1300 ft section from the [Aris T. Allen Boulevard and Chinquapin Round Road] intersection.” Four months later, in a letter dated June 6, 2016, SHA told Mr. Mellits that, despite the lane length requirements mentioned in the February 18, 2016 letter, “Based on internal discussions held, it was agreed upon that the acceleration lane could tie in to the additional outside right through lane. This would create an acceleration lane length of 562 ft including a 180 ft taper which exceeds the requirements for a partial acceleration lane of 360 ft.” The record does not indicate what internal discussions allowed for a shorter acceleration lane.

In contrast, however, Mr. Humphreys testified that because the proposed access would require a “somewhat elevated ramp,” the ramp length should extend “beyond even minimum standards.” In light of the fact that appellant failed to explain why the SHA approved shorter lanes, and because Mr. Humphreys claimed that in this particular location longer lanes were appropriate to provide adequate safety, the Planning Commission was permitted to find that appellant failed to prove that its plan was safe or efficient under Criteria B.

Finally, there was substantial evidence in the record to support the Planning

Commission’s finding that appellant failed to meet Criteria C for high quality design due to “the unsafe reliance on U-turns at a busy intersection.” The Commission heard evidence that traffic travels from 50 to 60 miles per hour on Aris T. Allen Boulevard, and that despite these speeds, traffic departing the Development seeking to travel westbound would have to accelerate from a stopped position and then traverse five lanes of traffic in order to make a U-turn at the intersection of Aris T. Allen Boulevard and Chinquapin Round Road. Mr. Humphreys, Mr. Carlsa, and Ms. Eck all testified that due to the speed of eastbound traffic, weaving through five lanes of traffic in order to make the U-turn onto the westbound lanes was challenging, and required a vehicle with sufficient horsepower to make the necessary maneuvers. Furthermore, as mentioned above, appellant’s own witness, Mr. Schmid, conceded that the proposed access would cause the intersection of Aris T. Allen Boulevard and Chinquapin Round Road to operate below an acceptable level of service. Accordingly, there is substantial evidence in the record to support the Planning Commission’s conclusion that the proposed U-turn at a “busy intersection” did not meet the requirements for a high-quality design.

In sum, the record provides substantial evidence to support the Planning Commission’s findings that appellant’s proposed plan was not consistent with the Comprehensive Plan, was not sufficiently safe, and did not promote high quality design.

II. The Planning Commission Did Not Improperly Rely on Unsubstantiated Citizen Opinions, Personal Beliefs, and Bias

Finally, we combine appellant’s arguments that the Planning Commission improperly relied upon unsubstantiated citizen opinions, and that the Planning Commission

improperly relied upon its own personal beliefs and biases in reaching its decision. We begin with the contention that the Planning Commission relied upon unsubstantiated citizen opinions. Specifically, appellant claims that the Planning Commission erred in relying on Mr. Humphreys’s testimony because, per a footnote in its brief, appellant implies Mr. Humphreys may not be a traffic engineer. In making this allegation, appellant relies on the fact that Mr. Humphreys’s resume was not transmitted with the administrative record, although appellant acknowledges that the resume was referenced in the November 2016 hearing transcript. Appellant further argues that Mr. Humphreys’s opinions should not have been sufficient to overcome its own “expert” testimony from the hearings because, in appellant’s view, Mr. Humphreys is not an expert, but appellant’s witnesses are.

We soundly reject appellant’s contentions regarding Mr. Humphreys’s qualifications. First, this argument is not properly before us because appellant never objected to Mr. Humphreys’s qualifications at the November 2016 hearing. It is generally true in Maryland that when questionable evidence is admitted, the party seeking to exclude it must object at the time the evidence is actually offered, and here appellant never objected to the admission of any of Mr. Humphreys’s testimony. *See Reed v. State*, 353 Md. 628, 637 (1999) (stating that if a trial court admits questionable evidence, the party must object at the time the evidence is actually offered in order to preserve an objection on appeal). Additionally, at the November 2016 hearing, the Planning Commission consistently declined to recognize any of the witnesses as experts, telling appellant on multiple occasions, “we do not recognize experts, but we recognize [a witness’s] talents and . . . experience.” Appellant never lodged any objection to the Planning Commission’s

procedure of not accepting “expert witnesses.” In light of the fact that the Planning Commission did not treat any of the witnesses as experts, and that “it is the agency’s province to resolve conflicting evidence and to draw inferences from that evidence[,]” *Shea*, 415 Md. at 14, we discern no error in the Planning Commission’s reliance on Mr. Humphreys’s testimony.

Lastly, we reject the contention that the Planning Commission improperly relied on personal beliefs or that the Planning Commission was biased. As we thoroughly explained in Part I of this opinion, the Planning Commission properly considered and relied on substantial evidence in the record in rejecting appellant’s application. Regardless of any comments members of the Planning Commission may have made at the two hearings, its Opinion and Order correctly consisted of findings pursuant to Annapolis, Md., Code of Ordinances § 21.24.090, and we decline to disturb those findings.

**JUDGMENT OF THE CIRCUIT COURT FOR
ANNE ARUNDEL COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**