

BOARD OF ZONING APPEALS MEETING
FEBRUARY 25, 2020
7:00 P.M.

I CALL MEETING TO ORDER

Meeting called to order by Chairman Anderson.

II ROLL CALL

Members Present: Jeffrey Anderson, Dave Nienaber, Tom Hall, Carolyn Ghantous, Douglas Stahlgren, Michelle Miller, David Gleaves

Staff Present: Carl Lamping, Anne McBride, Randy Campion

III PLEDGE OF ALLEGIANCE

IV MINUTES OF THE REGULAR MEETING OF JANUARY 28, 2020

Chairman Anderson: Before us we have the, in your packets you have the minutes from the January 28th meeting. Are there any changes or corrections? If not I will take a motion.

Mr. Nienaber: I'll move to accept them.

Mr. Stahlgren: Second.

Chairman Anderson: Alright by voice acclimation of accepting the minutes

(Voice vote taken and the minutes were approved with a vote of 7 to 0.)

V CORRESPONDENCE – None.

VI REPORTS

Report on Council

Chairman Anderson: Mrs. Ghantous.

Mrs. Ghantous: Thank you Mr. Chairman. City Council met on February 19th. The first item on the agenda was swearing in the new Police Chief, Chief Thomas Wells. We then had three Ordinances and one Resolution. We started with Ordinance No. 7-2020. That was an Ordinance authorizing the execution of an agreement with the Fred A. Newman Company for the Landan Lane reconstruction project and that passed with a 6 to 0 vote. We had Ordinance No. 8-2020. An Ordinance authorizing the execution of an agreement with John R. Jergenson Company for the Beacon Hills Subdivision Street Grind and Resurfacing project. That passed with a 6 to 0 vote. We had Ordinance No. 9-2020. That Ordinance was authorizing the execution of a collective bargaining agreement with the Fraternal Order of Police, Ohio Labor Council for the full-time Sergeants and Lieutenants in the Springdale Police Department. That passed with a 6 to 0 vote also. Then we had Resolution No. R4-2020. A Resolution making Andy Kuchta, did I do that right, our new Economic Development Director. We voted that Andy would be the Springdale Representative to the Board of the Directors for the Deer Park, Loveland, Sharonville, Sycamore Township, Symmes Township Energy Special Improvement District and that passed with a 6 to 0 vote also. Jeff do you have anything to add?

Chairman Anderson: Just color commentary for a second on the swearing in for Captain Wells. It was really impressive. If you haven't been to a swearing in like that. Hopefully we don't have another one for some time but the room was packed. There was Police Chiefs and departments from all over the City and the State. Family and friends came in from hours away to see the ceremony and then there was a reception after. It was actually very impressive to see the entire hall filled

out with a lot of dedicated workers. I thought that was great.

Mrs. Ghantous: It was wonderful. Keep in mind if you want more detail on what happened at the Council meeting you can see that on the City web site. You can see each meeting and if there is a specific Ordinance or something you are interested in you can hear more details about it. That concludes my report.

Chairman Anderson: Thank you. Report on Planning Mr. Hall.

Report on Planning Commission

Mr. Hall: Thank you Mr. Chairman. The Planning Commission held its regularly scheduled meeting February 11, 2020 at 7pm here at the Municipal Building. On the matters of business the first case was 35755, which was 12110 Princeton Pike in Springdale. That was withdrawn at the applicant's request. That passed 7 to 0. Under new business case number 36369 which was a Minor Improvement at 370 Glensprings Drive and that was passed with a 7 to 0 vote. The next on the agenda that evening was case number 36370 which was 12110 Princeton Pike. That was continued until the next meeting. The last one the agenda for that evening was case number 36372, Cincinnati Commercial Contractors on behalf of Jake Sweeney, 30 Tri-County Parkway. That was also tabled at the request of the applicant. At that point that concludes my report. If there's any questions or comments I'd be glad to help with them.

Chairman Anderson: I have one question on that and maybe we will get into that tonight. Why was the Sweeney item tabled for Planning?

Mr. Hall: It was tabled at the request of the applicant.

Chairman Anderson: Was there insufficient information, whether gathering or do you have a feel for

Mr. Hall: No, it was at the request of the applicant, you can check with the applicant why they tabled or asked it to be continued.

Chairman Anderson: Okay.

Mr. Hall: Anything else? Thank you.

VII CHAIRMAN'S STATEMENT

Ladies and Gentlemen, this is a Public Hearing, and all testimony given in cases pending before this Board is to be made a part of the public record. All testimony and discussion relative to said variance is recorded, and it is from this recording that our Minutes are taken.

Citizens testifying before this Board are directed to sign in on the clipboard in the rear of the room, take their place at the podium, state their name and addresses and the facts as they are pertinent to the subject before this Board.

As this is a Public Hearing, being sworn in prior to giving testimony is required by law.

At this time, please stand up, raise your right hand and repeat after me:

If you think you may want to testify make sure that you have signed in at the back. Okay. Raise your right hand and repeat after me:

*I (state your name)
Do solemnly swear
To tell the truth, the whole truth
And nothing but the truth,
So help me God.*

Please be seated. Please be advised that anyone who was not standing and sworn in cannot testify unless they request the Chair to be sworn in as they come up to the podium.

VIII OLD BUSINESS

- A. Cincinnati Commercial Contracting on behalf of Jake Sweeney Automotive variance request for 30 Tri-County Parkway to reduce parking stall sizes and drive aisles and to eliminate curved landscape areas and plantings within the parking lot.

PUBLIC HEARING cont. (Application 36373)

Chairman Anderson: Mr. Lamping or Mrs. McBride.

Mrs. McBride: Thank you. Good evening. So, this is, as you mentioned BZA application 36375 that has been filed by the Sweeney Automotive group for the property at 30 Tri-County Parkway. First, I think to answer the Chair's question relative to the Planning Commission meeting. Information was submitted by the applicant within two days of the Planning Commission meeting and staff did not have sufficient time to review that. So, the applicant requested a postponement of that until next month. So, the case that is before you this evening contains 6.86 acres. It is within our GB, General Business district and it has been developed as 114,886 square foot hotel facility. Sweeney Automotive is proposing to demo the northern portion of the building which would be the addition, the rectangular addition that is at the north end and then a significant portion of, all the way up to kind of like that, well that shows you what they are proposing to keep. So, they are proposing to demo about 99,544 square feet of the development. The majority of the building will go away. The remaining 24,773 square feet then would be used for Sweeney Automotive, a portion of their corporate offices. The floor plans indicate some of their HR and some of their payroll and I think maybe some training and so forth that would accompany about 14,420 square feet of that 24,000 square foot to remain. Then they are going to locate a used car facility also within that building. They would have a showroom and then sales office and management offices and so forth that would be about 10,353 square feet of the remaining square footage. The area that is to be demoed, as you can see on the plan that is up on the screen right now is to become a 510 vehicle storage inventory lot for their vehicles. There is to be customer and employee parking out front facing Tri-County Parkway and the basically, kind of like the corner so to speak of Jake Sweeney and Tri-County would be the area where their used car sales lot would be. They are requesting a number of variances, I think five from different sections of our code and I tried to outline those in your staff report but I'll just go through those kind of briefly here this evening so that if you have questions or whatever we can discuss those. So the first one is a variance from section 153.302(B). That is the section that dictates what design criteria is required for parking space sizes, drive aisle widths, those types of features. So, for 90 degree parking which is what they are proposing for the entire site, we would require a 9'x18' parking space, 9 feet in width and 18 feet in length with a 24 foot drive aisle. What they are requesting is a variance to allow the inventory/storage spaces only. Again that would be the 510 spaces on the northern portion of the site to be striped 8'x16' with a 22' drive aisle. So, they have indicated that that would only be Sweeney employees that would be going in there moving the cars and so forth. Staff doesn't really have a problem with that variance so long as that is what that is going to be used for in terms of storage and inventory. The general public isn't going to be parking in there. We would suggest and have continued to suggest that the entrance to that 510 space area be signed or gated or something so that the general public doesn't either wander in there by accident or sometimes on a Saturday night after you have had dinner you tend to go in and your husband drags you there to look at cars. Yeah. At any rate it could happen. So, we are suggesting that with the reduced drive aisle width and so forth it is not a good idea either for their cars or for the traveling public to be back in there. They are also requesting a number of variances from our section 404. That has to do with the landscaping that is required for parking lots, either within the interior of the parking lot or on the streetscape or adjacent to other properties. So, I will just kind of run through those quickly. For the parking lot adjacent to Tri-County Parkway they are required to have 9 trees and 103 shrubs. They are proposing 12 trees and no shrubs. For the parking adjacent to

Jake Sweeney they are required to have 21 trees and 248 shrubs and they are proposing 20 trees and no shrubs. On the eastern property line which is adjacent to a non-residential district they are required to have 18 trees and 209 shrubs and they are providing no trees and no shrubs. Within the VUA area the parking area, so this would be for the employees and the customers of the used car facility they would be required to have 3 trees and 18 shrubs and they are providing 4 trees and no shrubs. For the VUA display area, this is the section of our code that we amended within the last year to 18 months or so ago. We amended that and we created this VUA display area for car dealerships because we heard a lot of issues about not wanting trees in those display or storage areas because of the potential damage to cars. So, that then requires no trees but 138 shrubs. The idea is to have some green in there but not tall and they are proposing no trees and no shrubs. So, the total of the variances then that are being requested, we are requiring 55 trees and 740 shrubs and they are proposing 40 trees and no shrubs. So, the variance difference between all of those different criteria is a deficiency of 15 trees and 740 shrubs. That is the variance that they are asking for. In addition to that then section 404E also requires that there is green space based on the display area and that is required to be 5% of the display area. Their proposed display area is 152,706 square feet so they would be required to have 7,635 square feet of landscape area within that. They are proposing 1,409 square feet which is a variance of 6,226 square feet in terms of landscape area. They have indicated in their submission that they would like to be counted 1,348 square feet of building foundation plantings but as I indicated the pictures aren't very good in your staff report so I am going to pass these down to you. When staff went out there, all of the foundation plantings have been removed. All of them recently. Then they also asked for consideration that 3,152 square feet of the VUA area would be counted toward the landscaping but as the pictures indicate the shrubs have been removed from those so those don't comply with code either. Those, I can go through then the specifics of each one of those if the board would like. They are contained in the staff report. I have just tried to do kind of an overall summary for that. The other variance that they are asking for, two other variances is a variance from section 153.302(K). That has to do with the requirement for curbing around parking areas. They have asked for a variance to eliminate the curbing on the north and east sides of the inventory lot. This really falls in the purview of the City Engineer. He has indicated that he believes that the curbing is necessary and that it should be provided. They also asked for the elimination of the requirement to provide any new bumper blocks within the parking areas. Those are required wherever you have a parking space that abuts a sidewalk or a landscape area and the idea is to keep the car overhang from either damaging the landscape material or from encroaching into the sidewalk area so that pedestrians can't use it. Again the City Engineer feels that the bumper blocks should be provided per section 153.032(C) in that particular account. We have specific requirements relative to auto sales in our code and they really kind of piggy back, back to the variances that I have already listed but they are separate requirements. The numbers, how can I phrase this, the numbers have already been accounted for in those numbers that I have given you but just so you know we do have requirement under section 153.253(E)(1)(c) which requires auto sales facilities to have the headlights 100% screened from public streets and adjacent property owners. Then section 153.253(E)(1)(d) which requires compliance with section 153.404(E) and again that is the request where they are asking to instead of planting 55 trees they are planning 20 trees and instead of 740 shrubs they are providing zero shrubs. So, again I can go through very specifics but I think the board gets the general idea from that.

Chairman Anderson: Okay, why don't we hear from the applicant and then we will go back to questions. Welcome back.

Mr. Patterson: Thank you. Good evening. My name is Matt Patterson and I am with Cincinnati Commercial Contracting, we are on Red Bank in Cincinnati. Thank you for your time this evening in hearing this case. So, this is a partial landscaping plan that is on the screen right now of what has been proposed and there is a lot of color coding there as we made our best effort to work with staff to try to understand and represent the different areas and how the calculations needed to occur based on what part of the parking lot we were talking about or what part of the site. So that is why you see a bunch of different colors on there. But, the Jake Sweeney Automotive Group is very excited about the potential for this piece of property and desires to make it look great and we feel like we have come up with a plan here that does so

with adding perimeter trees that are currently not existing on the two streets. Just kind of filling in the gaps from where maybe if there were trees there once before and they have died out and been gone but the intent there is to complete the trees along the streets on both streets to make that look good. We have representation here, Mr. Jonathan Evans our Civil Engineer is here and Mr. Josh Sweeney is also here to be able to answer questions that you might have. You can start with me if you would like.

Chairman Anderson: So, there is quite a bit going on with this application; so how I'd like to handle it to start with is first open it up to the board for general questions that might cover across or general questions about the overall request that happening and make sure we understand what is going on. Then I think we can go through each of the five variances separately with specifics. I think that might work best just to keep things organized. So, that is how I see it. There are five independent variances and they have sub sections but there is some over-arching kind of requests across them. So, let's start there and see if we can make some headway against it. So, at this point I will open it up to questions from the board for either staff or the applicant. This is general questions just to understand what is going on before we dive into each of the five variances. Mrs. Ghantous.

Mrs. Ghantous: Thank you Mr. Chairman. Why zero shrubs? Zero.

Mr. Patterson: That's probably a Mr. Sweeney question.

Mr. Sweeney: So, the way I understand

Mr. Patterson: We might have a team approach here to answer some of these questions.

Mrs. Ghantous: That's quite alright.

Mr. Sweeney: So, maybe I asked you about the shrubs, what is the definition of a shrub? I mean is landscaping verses shrubs. What is that?

Mr. Patterson: Maybe ask Anne on that one?

Mrs. McBride: Yes. So, I mean in terms of landscaping you have trees, you have deciduous and non-deciduous trees, you have grass, you can have ground cover and then you have shrubs. So, things like Boxwood or those kinds of things, Junipers.

Mr. Sweeney: Okay. So, unfortunately I believe that around the actual building or the upper part we intend to put shrubs in there. I say the upper part, well I guess maybe to explain it to you is that if you look at the picture that Anne took there I a lot of those areas that were around the building that we cleared out and I'd like to explain that and have you understand why that happened. This property has been abandoned I think since July of 2016 and nobody has been maintaining, actually we have been maintaining it out of our own expense and have had people come in, cut the grass, take things down. Last year we actually did call the city, Bill Caldwell, and he talked to Gregg Taylor about it. Can you go to the larger picture? That shows the entire area. The northern part of this area, it is where the detention is. So, that northern part there and I don't know if most of you remember, that was heavily overgrown actually it go to the point that I was being used by people to kind of come into the lot in the back and steal and do things and the trees were growing up over into our property so we called the city and we asked if we could take that down to the roots and they approved it and said yes please. So, when we did that we got a bid to also look at the landscaping around the rest of the building in which they said that they would take down anything dead. Most of the stuff around the buildings were dead. I don't know if any of you saw it on a regular basis, I saw it every day. So, when we did that northern portion we also had a bid to take down the low shrubs so we took those out with the intent that we are going to put shrubs back in there. I apologize if the application says no shrubs but we will repopulate those beds with boxwoods or smaller things. The trees, we intend to put trees around the border obviously to continue, if you are familiar you drive up and down McGillard or Jake Sweeney Place now, there's trees that are mature and have been grown and we did

not touch those. We actually cut around and maintain them. We trimmed around them to make sure that they looked nice and our intent is to continue that line because we do want to create some privacy for that lot because our intent, again, is inventory and storage, not for the general public to go in there. So anything we can do to shield it would be our intent. So, as far as the upper portion of the building, there will be Boxwoods, there will be lower shrubs that aren't high. We don't want things that are too high, obviously being a car dealer, any time you block your line of sight with people pulling in and out cars it results in accidents and we have found that. So, that's the explanation of why things have kind of been moved. So, when they say no shrubs

Mrs. Ghantous: Well this, the materials that I am looking at it says zero and I'm like, the requirement is 740 and they want to do zero? That struck me as outright bizarre. So, I understand and appreciate the fact that you took all of the dead material out. Naturally that was an unfortunate necessary evil but, I just wasn't grasping why they weren't going to be replaced.

Mr. Patterson: With the 740, Anne I'll ask you. It starts to become screening right?

Mrs. McBride: Right.

Mr. Patterson: Is that the purpose of the shrubs is really to provide screening?

Mrs. McBride: That's correct.

Mr. Patterson: So, that's a thing where you know driving down the street then you don't see in there. It is the intent with all of the shrubs.

Mr. Sweeney: So, is there a height that that's what makes a shrub a shrub verses

Mr. Patterson: Well there is a minimum planting height right? Or a height at planting?

Mr. Sweeney: Maybe that is why we have zero shrubs.

Chairman Anderson: Mrs. McBride.

Mrs. McBride: Thank you. Just a couple of things. First of all I just want to point out to the board that the landscape plan that the applicant submitted, and that is colored up there, says in a number of locations, existing shrubs to remain and that includes those foundation shrubbery that is gone and also shrubbery out of the landscape islands that is no longer there. So, what is up there is a little bit misleading unless we get a revised planting plan from you all saying you are going to plant Boxwoods or Junipers or whatever it is that you are going to plant. So, I'm sorry to answer your question about

Mr. Patterson: About the minimum planting height?

Mrs. McBride: Yes. So, we have a minimum size at planting and it is in the code. I can look it up if you want, but the intent is to screen the car bumpers and so forth. Now, what we have done with the Sweeney Automotive before is that we have granted, some of your property is zoned PUD and the Planning Commission has allowed them to group the plantings so that there are gaps where you can see the vehicles but to cluster several trees and some shrubs and so forth in a landscape bed and you have done that further on down Jake Sweeney Place.

Mr. Sweeney: Okay.

Mrs. Ghantous: That seems reasonable to me. I mean we don't want to cover up your cars. That's not, that's really just not the intent but I'm just trying to understand since it just looks like you weren't planning on putting any shrubs in. I understand a little bit better now. Thank you.

Chairman Anderson: Mr. Lamping.

Mr. Lamping: In addition to what Anne said, part of the reason, I believe, and I don't want to put too many words in your mouth, but part of the reason there is no shrubs in some of these areas is because this north parking lot is designed to hold vehicle stock and the more the City's Zoning Code requires plants the parking lot and around it. If we were to add landscape beds in the middle of this it would eliminate the available parking spaces for stock and it is not for the public to go into.

Mr. Patterson: So that is part of that 740 I believe is the islands on the inside and when you look at this plan here you see the end of parking rows, it looks like something that could be an island, it is just striped out asphalt in the proposed plan here. The goal is to maximize and get as many possible inventory spots in this lot that we could get. That is why you see it proposed that way. So, some of that shrub quantity, a good portion of it is based on that we are asking for a variance to not have landscape islands within the inventory lot.

Chairman Anderson: Mrs. McBride.

Mrs. Ghantous: I'm fine with that.

Mr. Patterson: Okay.

Mrs. McBride: I know staff doesn't really have a problem with that but just so the board is aware that is 138 shrubs of the 740.

Mrs. Ghantous: Whittling it down.

Chairman Anderson: I'm sorry a

Mrs. Ghantous: (talking off mic. not audible)

Mrs. McBride: They are asking for

Chairman Anderson: 138 of the interior ones or 138 is the

Mrs. McBride: 138 would be in that northern inventory storage area. Inside, correct.

Chairman Anderson: Oh, the inside ones of that 740. Thank you. Mr. Gleaves.

Mr. Gleaves: Who's responsible for making a determination on how many trees and shrubs?

Mr. Patterson: That's a good question. I am not sure how to answer that question. Who's responsible for determining the quantity?

Mr. Gleaves: Well you have a variance of what you want to do, who's making that determination?

Mr. Patterson: So, are you coming from the perspective that the variance the way that it is written is not clear and that leaves some room for interpretation?

Mr. Gleaves: No, it is just that you are stating how many that you want to put in, correct?

Mr. Patterson: Oh, I see what you are saying.

Mr. Gleaves: Who's responsible for making that determination?

Mr. Patterson: I got you now. So, in our early design discussions before coming up with the plan, this ended up representing our discussions and what we were talking about in our discussions. So, the end result and that is just how we came up with the quantity. Right, we wanted to address the street tree requirement and knew that that was a good bang for the buck putting landscaping in as the street trees because that adds the best look for what you are trying to do. Then by putting the shrubs, the shrubs in then you hide the inventory so the idea was that let's don't hide the inventory. This is a car lot, these cars are for sale. We want them to be seen. So,

that was some of the thinking and I don't know if I have done a good job of answering your question completely.

Mr. Gleaves: You're fine.

Mr. Patterson: Okay. Thank you.

Chairman Anderson: Mr. Nienaber.

Mr. Nienaber: Thank you. Back to the shrub topic. In our latest edition of the Zoning Code it reads that large shrubs installed for screening, a minimum of 36" high and a 24" spread at the time of planting. Certainly you can then keep them no taller than that which would basically still make the cars visible. Under small shrubs it doesn't give any height it just remarks that those need to be at least a three gallon container sized shrub. At that point, putting some shrubs in there shouldn't really block too much visibility. That is what I am looking at.

Mr. Patterson: I would tend to agree in certain places that that's the truth. In other places like when you are coming up Jake Sweeney Place here the portion of the site that you see here, the street is lower than the parking lot and so that hill is going to act as screening to some degree that you will be able to see, obviously the cars that are parked along the street but from that part of the street, I don't believe that you will be able to see in the site. No that is different on the south side of the property because that street is higher and you can see down in. But the south portion of the property where the main sales lot is, the intent there is to have the, maintain the islands that are there and we had a hiccup on our submittal obviously, where we show existing shrubs and so forth that are staying in that have since been pulled out. So, we have to remedy that and get those back in as new because they were dead.

Mr. Sweeney: I am going to put live shrubs in.

Mr. Patterson: You know, I apologize on our submittal that we have that hiccup there, that wasn't our intent to present it that way.

Mr. Sweeney: Again, it is going to be a corporate office so it is going to look like a corporate office when people come in and it is also going to be a showroom. So, you want to have some sort of presence outside with landscaping that looks good.

Mr. Patterson: Also, on that northern part of the site, the east property line, that abuts the back side of a retail building, okay. Currently that is a grass hill that goes from the existing parking lot on this property, it goes up to the back of the retail center. So, I don't even, me personally, I don't know what shrub even would do there. You have got a grass hill that goes up so what would you really even see? It is sort of already established as a precedent, I feel that the shopping center and the hotel, neither one put anything in there so obviously codes have probably changed or somebody has just ripped that stuff out at some point. So, to us it did not make sense to invest in trees or shrubs on the east side of the property since it is pre-existing and it is a grass hill. It just doesn't lend itself so well to the landscaping, one man's opinion. The north side is the existing detention basin that was full of honeysuckle and all of that was cleaned out. So, to maintain and visual and continuity between the two Jake Sweeney properties is valuable so that they can see across their inventory not only on this lot but the lot to the north. So, to screen the property, they are basically screening the view from themselves. So, that doesn't add value from the owner's perspective. Josh, you'd want to see out through there?

Mr. Sweeney: Our goal is that you would be able to see if you were at the Chrysler store or at the Chevrolet store and you look back you would be able to see that that is part of Jake Sweeney's property and that they do have storage back there and cars available. So, we didn't want to screen that.

Mr. Patterson: So really the northern part is where we're asking for skimping back on mainly shrubs obviously. That's the big quantity. The southern part, while I know that we are asking for some variances on the southern part, it is much more in compliance as you can see with the landscaping islands that are there and we could, if some sort of approval this evening could be worded so that it would include that

the landscaping islands that are there were landscaping has been removed and not shown in this submittal, that that has to be put back per the zoning requirements. Maybe something could be worded like that possibly?

Chairman Anderson: Well, so in terms, I guess we could start getting into the more specific questions. I just want to remind everyone what we do here tonight, just so you are clear, we are not Planning and we don't generally look at aesthetic or necessarily the value or a personal opinion of it. We look for if there are special circumstances or some relief that is required from the existing zoning code that would require you or would need for you to avoid or not follow them. So, as we go through them just understand what we are asking for is to help us understand what those special circumstances might be where you would need that relief and we need to assess whether it is significant or not and if it still meets with the essential characteristics of the neighborhood and the intent and the spirit of the code. It is not just to avoid it because it is difficult or may not be optimal. So, just understand that is what we are looking for as we go through it. The other thing I would remind you is as we go through these five specific ones, the application has very specific numbers that we use to generate the motions that we use to either grant or deny the variance. Already in the discussion you are hearing that there is some question about some of the specific numbers. Just know when we get to the specifics of each of these, we do need to understand what that number is that would be the minimum to meet because that variance will live with the property. It is not just for when you are using it this time. If we grant relief to a portion of the zoning code that lives with the property forever regardless of who uses it or who owns it after you. So, we have to look at it for a longer period of time than just your specific use. Just so you understand why we are asking some of those questions and we are going to need to know the specifics in terms of things like shrub count since that's specifically what we are looking at. So, with that, Mrs. McBride did you have another comment before we get to the number one.

Mrs. McBride: Yes. I just wanted to make the applicant and the board members aware, we are not requiring any shrubs or trees, no screening on that north property line to the adjacent Sweeney property. That is not required by our code. So, they are not requesting any relief and that is not included in anything that the board is looking at. I would, however; comment and hope that the applicant would clean up the trash and the garbage that is on there because it looks terrible.

Mr. Sweeney: It is actually in the bid. So what happened on that was, he had two dumpsters and the dumpster that he used is only a natural refuge dumpster, you can only put leaves and trees in it and he couldn't put trash in it at the same time. He has the one scheduled to come in in the spring and he is going to get that cleaned out. I actually talked to my younger brother too and he is going to start getting people back there to clean it up. Again, we didn't like looking that that trash either, it is terrible.

Chairman Anderson: Okay, so, let's start going through the specifics of the five variance requests that you have and we will go through the questions and get to some understanding and then I would like to do all of the motions at the end after we get through all five. So, we will start with the first one. So, the first request, and this is for questions or discussions around the first variance request. I am going off of the staff report for the numbers that you have here. No. 1 was the variance for 153.302(B), this is the parking space size, reducing it from a 9' width 18' length to 8'x16'. So are there any questions from the board for staff or the applicant regarding the parking space variance request? Mrs. Ghantous.

Mrs. Ghantous: Thank you Mr. Chairman. I don't have a question. I just want to say that I don't have a problem with this as long as there would be signage that, as Mrs. McBride suggested. It's reasonable, I think, a reasonable request.

Chairman Anderson: Mr. Stahlgren.

Mr. Stahlgren: I would add that at again, some type of blockage just to prevent people from coming in as we talked about. You know coming in at night. To prevent someone looking for cars to get in and get stuck, hit a car, that's not good.

Chairman Anderson: The one thing that I would add for that, just so the board understands, I don't believe, and staff can correct me if I'm wrong, that with the variance request that we can require that signage. Just understand that if we grant the variance, are we able to, we can't require a sign or ongoing signage or we can?

Mrs. McBride: I believe that you can.

Chairman Anderson: We can. So in that motion if that's something that the applicant is comfortable with, whoever makes the motion would need to include that in that variance. So, what do you think?

Mr. Sweeney: We would be fine with a sign at that, going back saying "Employees Only" or no trespassing or whatever would be suitable to you. That is fine with us. Again the intent is storage and inventory, not for the general public to go back there.

Chairman Anderson: Okay. So, we just need to make sure that is in the motion. Alright, any other questions or comments on the first one? Great. So, moving to the second variance request this was the variance request from 153.404 to reduce the number of trees on the site from 55 trees to 20 and reduce the shrubs from 740 to 0. So this is the shrub and tree question. This would be across all of the facings. Are there specific questions or comments that we have on this one? Mr. Nienaber.

Mr. Nienaber: Thank you. I don't know if it is fair to ask you but there ought to be some kind of a number we can suggest rather than 0. I understand you're not wanting to have any on the perimeter but where you have the areas blacked out here, why not along those that way you pick up your space rather than having it along the roadside where you're afraid it is going to block the vision? Because right now you said that is just going to be painted or striped asphalt.

Mr. Sweeney: That would be landscape islands right? We are trying to avoid the islands.

Mr. Patterson: They would want curbs around and then landscaping.

Chairman Anderson: So, are those, that black area, is that just paint or is that actual curbs and islands?

Mr. Patterson: Just paint.

Chairman Anderson: So that is just paint currently.

Mr. Nienaber: So far. That's why I was just asking. One way to get past the lack of shrubbery would be make use of the areas that you are currently just going to use to control traffic.

Chairman Anderson: Do we have an idea how many shrubs are used in similar sized property in the Sweeney, in the PUD in this area that we could use as a reference?

Mrs. McBride: Really not right off of the top of my head again because we have worked with them on each site. We worked with them on the BMW site, we worked with them on Mitsubishi and so forth. So, they are all different because, again they are not standard compliant with our code. So, we have worked with them to try to accommodate as much of the, as many of the shrubs and trees that are required and still keep open viewing areas and so forth for their vehicles.

Chairman Anderson: Mrs. Ghantous.

Mrs. Ghantous: So, could part of the motion be that the applicant would work with staff and come up with some kind of a solution like we came to with Mitsubishi or BMW?

Mrs. McBride: That should have happened prior to tonight. I don't think you can grant a variance to be whatever staff is satisfied with. I mean you have to be able to grant a variance from 740 shrubs to 600 shrubs and what if I only came up with 599.

So, I wish that that had transpired before this evening because that would have been much easier I think for the board to consider.

Chairman Anderson: So, do we have an idea for the number?

Mr. Patterson: Question that we have is that currently, as submitted there are shrubs around the building existing. Now we know that they have been taken out and the intent is to put them back in and it could be put back in exactly to this plan but those are obviously shrubs on the project so is 0 the correct number here or where do those shrubs get counted? Do they get counted somewhere else?

Mr. Sweeney: Yes, I kind of feel like we're

Mrs. McBride: Those shrubs don't get counted anywhere because you have marked them existing and you have taken them out.

Mr. Sweeney: Right.

Mrs. McBride: So

Mr. Patterson: So, we are saying 740 additional, not what the site required.

Mrs. McBride: Right now the way the zoning code reads, you don't get credit for foundation plantings and if the board wants to count some of those that is fine but we can't sit here tonight and say, well let's see they had 10 here and 10 here, because 10 might be the right number, it might not be the right number. What species? What size are they at planting? We can't design this landscape plan while we are sitting here this evening.

Chairman Anderson: Mr. Nienaber.

Mr. Nienaber: I think that the first variance is probably one that is readily doable but this second one without any real numbers to work with is probably something that should be tabled until they hammer out more detail with the City.

Chairman Anderson: Are there other questions or comments on number two? I just want to make sure that we are getting all of the information that we can. This is their second time back and I understand that there is missing information. I agree with Mr. Nienaber and Mrs. Ghantous. It would be very difficult for me to say 0. It is not that I don't believe that you'll make it look nice, we are saying what the requirement is for zoning code that will live with the property forever and we need to know is there something that prevents you from doing the 740. Looking at the plan I don't know that you can't get 740 going just edging and avoiding the trees. I don't know what the spacing requirement is. How many if you didn't have islands, how many could you get in? So, it's very difficult for me, like what you have heard before as to what that number should be. I agree it is difficult to plan on the fly. The question I will have on this is if we, are we able to move, can we grant a variance with a partially tabled variance just from a procedure standpoint or do we have to wait for the rest to come through?

Mrs. McBride: I think that you are going to consider each of the variances independently and you are going to make a motion independently on each specific request so I think you can move forward on the ones that you feel comfortable with and table the ones that you do not.

Chairman Anderson: So we would continue, we would table the application but grant variances for the ones that we feel are, because it is a public hearing we have to continue the hearing as a whole.

Mrs. McBride: Right, you would table, you would continue the public hearing in process on section 404(E) etc. okay, but you could go ahead and act on whichever ones you feel comfortable acting on.

Chairman Anderson: Mr. Nienaber.

Mr. Nienaber: I was going to essentially say the same thing that we should be able to grant variances. We are looking at five separate motions and some of those could be tabled for the night. In my mind.

Chairman Anderson: Okay. Are there any other questions or comments for the applicant or staff regarding the second number, the tree and shrub count that you want to get addressed? So, I will ask you now, at least for this one based on what you have heard, is it your view, would you like us to consider, when we come to motions for continuing this one while you get more numbers, would you want us to vote on it as it is submitted? This is entirely up to you.

Mr. Sweeney: I think number 2, we would probably would be smart to table that until we get a more, and I apologize.

Mr. Patterson: If you are firm on not adding bushes then you have them rule on it. But if you think we can add some bushes then table it.

Mr. Sweeney: I think we can add some. So we can table it again, yeah.

Chairman Anderson: That's all, I just wanted make sure that we are moving and to be fair you certainly have the right to have us vote on it tonight. I'm not saying you can't, just know what you have heard. Okay. Let's move on to number 3. This is the variance request for provision 153.44(E). This is to reduce the landscape area required for the automotive display area parking from 7,635 square feet to 1,409 square feet. This is in addition or separate from the shrubs? This is general landscaping area required for the site.

Mrs. McBride: That is the square footage that is required, that is correct.

Chairman Anderson: So, this is now a time for anyone on the board that has questions for staff or the applicant regarding the square footage of the landscape area. Mrs. Ghantous.

Mrs. Ghantous: Thank you Mr. Chairman. So one of the biggest components of these numbers is the removal of the landscape islands right? Is that correct Anne?

Mrs. McBride: They removed from the parking areas, they removed, it appears that they removed the shrubs from those.

Mrs. Ghantous: So that is a component of the big difference between these two numbers was the removal of that landscaping? Am I thinking about that correctly?

Mrs. McBride: The numbers that you are looking at now has to do with the area of the display that they are required to have as landscape area, the square footage as opposed to a plant requirement and they are asking for a reduction in that. I mean the applicant is correct in that, that area is to the north and the visibility is questionable whether or not it would actually do us any good. I'll put it that way.

Mr. Patterson: It might help if staff could show in the plan to the board what the 1,409 square feet is, where that is located. I am a little fuzzy myself because all of the different designations.

(Talking off mic. not audible)

Mrs. McBride: So the variance that is discussed here in number 3 which is the reduction from the 7,635 square feet to 1,409 square feet deals with the area that is the inventory area to the north. The area that we just talked about putting a sign or something on so the area where the parking spaces would be reduced in size, proposed. Then also the display area for the used car area which is at the corner of Jake Sweeney and Tri County. We treat, again, we treat the landscaping within display areas differently at the request of our automotive dealers then we do the interior landscaping that is required in a general parking lot say for Tri-County Mall because they did not want the trees and those kinds of things. So, there is less landscaping material required within a car display area than a general parking area.

Chairman Anderson: So, how does this compare to other automotive, we have other automotive lots. This is a reduction from the already reduced amount that is required or is this similar to what other automotive lots have for storage?

Mrs. McBride: This is a reduction from what is required in terms of plant material two other landscaping within other parking areas. How does it compare with the Mitsubishi dealership for the BMW? Again, those were negotiated on a, I don't want to say negotiated but discussed were approved shall we say, they were discussed with the applicant, mostly Sweeney automotive to come with landscaping plans. Their landscape architect typically would work with ours and we would come up with acceptable plans that we thought would try to meet the intent of the ordinance but still work for them.

Chairman Anderson: I'm trying to get my head around, this is granting special privileges to this lot that other lots don't have without a reason. Right so I am trying to understand that portion of the request and is it from staff's perspective is that consistent with what we have done in the spirit with the other automotive one sort is this different?

Mrs. McBride: So, I would address that kind of in two parts. On the northern part which is the inventoried part those 510 spaces, I would say that there were special circumstances that go to court the landscaping area that is required for those 510 spaces. I don't want to make the applicants case but, it is for inventorying it is not for sales. Theoretically we're not going to back there and get a car. Again, because of the grade change between Jake Sweeney and where that is located I think it is more important than they are being street presence of landscaping then within that actual vehicle storage area because I don't believe you are going to see much of that from the street. You're not going to be going back there is the public. So I think there are special circumstances that the accord that lot. For the display lot that is up on the corner for the used cars, I think it is hard to make a compelling argument of how that is different than any of the other car lots that are within the city.

Chairman Anderson: Is that 1409 square feet inclusive of both areas? So the 7000 number that is required and the 1400 that they're proposing is that inclusive of that northern section and southern part?

Mrs. McBride: That's correct.

Chairman Anderson: Do we have an idea of how much of a variance, if it was cut in half, I guess it doesn't matter, they could move it around however they wanted if the variance was granted.

Mrs. McBride: Correct.

Mr. Patterson: I believe that the majority of the 1409 is in that southern corner, maybe all of it.

Mrs. McBride: Yeah there's very little if any in the 510 spaces.

Chairman Anderson: But they wouldn't be required from a zoning code standpoint of maintaining that, they can change that or the next owner to change that and put it all on the north side if they wanted to?

Mrs. McBride: Unless you specify, you tie the variance to the plan that was submitted.

Chairman Anderson: That's helpful. Mr. Nienaber.

Mr. Nienaber: Thank you. First of all when we talk about the north parking area, there has been discussions about whether or not as far as consumer access. From last month's discussion, my understanding was that we didn't want consumer cars driving back there but you would have been fine with pedestrian access for them to go back and look at the inventory. Did I misunderstand that?

Mr. Sweeney: Well I don't think we would want pedestrian access either.

Mr. Nienaber: Okay

Mr. Sweeney: I think it is more for just storage.

Mr. Nienaber: Okay then on behalf of the idea in general I think the plus part of this is that that is replacing an abandoned building. So, I'm good with that part. Going back to Mrs. McBride, this dropping from 7600 square feet to 1400 square feet that is in generally in line with what dealerships usually have percentage wise of green space verses parking lot?

Mrs. McBride: I really couldn't answer that this evening without doing those calculations just for this portion. I will tell you that they are not adding any landscaping to that area. The islands that are there, they are going to preserve. They are not adding any.

Mr. Nienaber: I didn't think there were any islands

Mrs. McBride: There are several islands. There are one, two, two islands and then there are some islands that, oh I'm sorry are you talking about the north side?

Mr. Nienaber: The north section.

Mrs. McBride: I'm sorry I totally misunderstood. So know there's nothing in the north side at all.

Mr. Nienaber: But with regards to variance number three, that square footage accounts for the entire property and not just the north for the south it is the entire property?

Mrs. McBride: It only accounts, it accounts for the entire north the 510 storage spaces lot. Okay. It accounts for the used car lot at the corner. It does not account for the parking lot. The street parking lot that is required for the office building component and they retail sales of the used cars. Again, remember we have two different criteria is here. One because we require less landscaping for car sales lots than we do for regular parking lots.

Mr. Nienaber: I don't see how that is designated in article three here.

Mrs. McBride: Article three the 7635 square feet pertains only to the 510 spaces to the north that are car storage spaces and the used car lot at the corner.

Mr. Nienaber: Okay. Thank you.

Chairman Anderson: So, is that what is indicated for automotive its display area parking in the variance request I think is the piece that you are looking for Mr. Nienaber?

Mr. Nienaber: Yes. Now I

Chairman Anderson: So that specifies that variance is just for those components of the plan.

Mr. Nienaber: Thank you.

Chairman Anderson: Is that right?

Mrs. McBride: That is correct.

Chairman Anderson: I did want to ask one question on the mechanics of the variance for that if we work to precede with that one. If we were to tie it to plans as submitted, that the plans are being updated based on the shrub and landscaping and is that something that we would be able to do tonight or does that need to come back with the tree and shrub? We would either take it as it is without the plan.

Mrs. McBride: You may want to table that just to give the applicant some flexibility in terms of if they wanted to modify or any of those, and I don't know that they do, but modify any of those islands for rework them or whatever. I mean if they are going to table some, they might want to do that to give them some more flexibility.

Chairman Anderson: So that's really a question back to you. The question I am asking is because this is around green space and you're moving some things around to address the shrub area, for us to be more comfortable with this number I have heard some people that they want to tie it to a planned or a submission. If that is going to change based on tabling the second item, is this one that you wanted us to precede with tonight or would you prefer us to table this one knowing the feedback that you got tonight and just do that one with the other shrub and greenery one next time?

Mr. Patterson: So depending on how this works with trying to work with staff to come up with something that you guys are wanting to do that you think then fits your use of the site, if you go out and shrubs it is probably going to change the square footage area of landscaping. So that would affect that one. So really you gain a benefit by having some sort of approval on number three in my mind if you're going to add some shrubs

Mr. Sweeney: I understand what we are saying.

Mr. Patterson: So it would be best to go ahead and table that if we're a table in item two.

Chairman Anderson: Okay. Are there any other questions on number three tonight knowing that that number may change based on the applicants comments? Okay. Great. Well we are more than half way there, we are on number four. Thank you for your patience, I know that this is tedious.

Mr. Patterson: We are moving along, you are doing great.

Chairman Anderson: We are trying. I know it is detailed but we are trying to make this work. For number four now, the variance for 153.302(K). This is the one around curbing to the north and east side of the inventory lot. You hear staff comments and you hear that feedback from engineering. Are there questions or comments from the board to staff or the applicant regarding the curbing variance request? Mrs. Ghantous.

Mrs. Ghantous: Thank you Mr. Chairman. Mrs. McBride, did the engineer say why they thought it was necessary? You said that they felt like we should have that. Did they give an explanation?

Mrs. McBride: Well I think it has to do with storm water management and quite frankly I don't know that there's any unique circumstances why this parking area wouldn't be curbed. All of the other parking areas in the city are curbed and bumper blocks are provided. So, I think that perhaps Mr. Shvegza felt that there weren't any unique circumstances that would warrant a variance in this situation. The other rationale for requiring curbing it does keep the vehicles on the paved area and it keeps them out of the grass and the landscape area.

Mrs. Ghantous: Why did you guys opt to ask for no curbing? What was your thought process?

Mr. Patterson: Well, I'll say a piece and then you can. The east side of the lot, talking about the north piece, the east side doesn't have curb now and the owner sees no benefit in adding curb. So, the additional parking area that was added, that creates an east boarded, since the existing didn't have curb we just didn't plan to put curb on the other portion. So, if the owner of the property sees no benefit in it then that's why he asked for the variance right? So, I think the thing with the City Engineer, along the north side, Jonathan, you might be able to answer this better but the whole thing is about storm water quality right? Having that curb and it controls where the sheet draining. This lot sheet drains so the storm water is going to run downhill to the detention basin and the ideal is to control where it goes into

the detention basin so that there is some sort of filtration before it gets to the outlet. Correct?

Jonathan: That's correct.

Mr. Patterson: So I think that's why Don said we recommend something on the north is because he is concerned with storm water quality. So, he is looking at it from a different perspective. On the east, I don't recall him suggesting that it was required on the east. He may have I just don't recall that. I think he was only concerned with storm water quality on the north. Then on the west, that side is currently curbed and so extending further up, the intent was to add additional curb so that the west side is curbed. But this site, the way it is going to handle storm water runoff is that it is going to hit that site and everything is going to run north on this page that you are seeing here and it is just going to drain right down into the detention basin. So, I think we do have to address in Planning Commission the Engineer's concern about where the curb is required on the north side to control where the water goes into the detention basin. Does that answer your question? I feel like I gave you a segmented bunch of answers.

Mrs. Ghantous: No, I guess I kind of get it but having said that this specifically says the north and the east side and you said that there is already on the north side?

Mr. Patterson: There's not.

Mrs. Ghantous: It's the west side you said already has it?

Mr. Patterson: The west side.

Mrs. Ghantous: The west side already has one.

Mr. Patterson: Right. So the variance would just be for the north and east side that we are asking for.

Chairman Anderson: Mr. Lamping.

Mr. Lamping: Another reason that I believe it is in the staff comments to have the curbing is to keep the cars on the pavement. The City has a large problem around the city keeping the cars on the pavement. We are hoping that the curbing would designate where the parking is and keep the cars on the pavement.

Chairman Anderson: Mr. Stahlgren.

Mr. Stahlgren: Refresh my memory, when I look at the east side here, is that where the hill is?

Mr. Sweeney: Yeah, there's going to be no cars on the hill.

Mr. Stahlgren: Well the grass.

Mr. Sweeney: The grass, that's a pretty steep hill.

Mr. Stahlgren: Okay, so where's that water draining now? Is that water all coming down into the lot and then going north? Is that part of the issue with the storm drainage issue on the north side in being able to contain that? If there's not a curb where's all that water going? Just a question.

Mr. Patterson: So currently water that doesn't soak into the ground on that hill, it is going to flow down that hill into the parking lot and then flow north and we are not proposing a change for how that storm water is handled and don't see an issue with that at all.

Mr. Stahlgren: So, there's not currently an issue with that drainage now?

Mr. Lamping: That's the way it works now.

Mr. Patterson: It's fully functioning.

Mr. Stahlgren: So is the big concern what then, keeping cars out of the grass in both areas?

Mr. Patterson: I think there is also a piece that was mentioned too, and I apologize I don't remember if it is in here or in Planning Commission comments but concern for having a car bumper over hang into a landscaping bed. Well the east side we are not proposing a landscaping bed right? So, that, I don't think the code has a concern for a car overhanging a seeded or grass area. I think the concern is overhanging a landscaping bed or sidewalk.

Chairman Anderson: Mrs. McBride.

Mrs. McBride: I guess just to answer the applicant's comment. Right now you are required to have the landscaping on the east side. I understand you don't want to do it but right now you are required to have it. What I would suggest to the board is rather than us kind of speculate what Mr. Shveg zda's thoughts are on this would be to consider continuing this also in progress and we could ask Mr. Shveg zda to be at the Board of Zoning Appeals or one of his Engineers. I don't feel comfortable representing to the board his exact thoughts on this but I know that he was specific on it and transmitted comments to that effect to the applicant. So, the board might just want to continue this one as well.

Chairman Anderson: Mrs. Miller.

Mrs. Miller: They coved it for me.

Chairman Anderson: I do have a question myself then on this and I appreciate Mrs. McBride's comments on tabling. I think we can address a little bit more of it tonight. Other than you don't think it is necessary, is there some special reason it can't have curbs. Curbs are required for some of these reasons. Is there a reason you couldn't put them there? Is there something about the site that prevents you from putting curbs there? I guess I am trying to understand why a variance would be required.

Mr. Patterson: There's not a special feature about the site that would dictate one way or another right? I guess at some point you just ask yourself, does a property owner have a say in what they want to do, if in their mind they are beautifying a site and spending over \$1,000,000 to do so? At what point do you say well you have to do this and you have to do all of that right? I guess, in our world today we have all of these rules and we can't do with what we want with a property because we have to abide by all of the rules right? So, that's where we are right? I think we all recognize that but to some extent, I think you know a land owner want to be able to say, this is what I'd like to do, you know. It is up to you guys to decide if that's acceptable.

Chairman Anderson: I appreciate that. It is not, and we are not just minimizing the improvement that the overall change would be to the site. I'm just trying to understand if there is something about it in addition rather than speculating on what the reasons are for Mr. Shveg zda's concern. If there was something there that we could address tonight. But I know from my perspective, I like to understand what that concern is rather than if there isn't an overriding reason why you can't, I'd like to understand why Mr. Shveg zda thinks it needs to be there.

Mr. Sweeney: I think curbs, they make a property look good but again this property is not the intent, where this is going to be isn't going to be for the general public to see the curbs. And again on the east side it is a hill. So to put a curb on a hill, to me it doesn't make sense. How are you going to cut the grass? To be honest, we have a property down at 1280, I'm replacing those curbs constantly because they wear and they deteriorate and it's just to me would be an added expense that really is just not necessary for this piece of property and its intent which is storage. It's just extra.

Chairman Anderson: Mr. Lamping.

Mr. Lamping: I did speak with Mr. Shvegza, the City Engineer and to my knowledge, based on our discussion, there was no engineering reason why the curbs would be necessary. It is a requirement of the zoning code, it is a requirement of the code and I believe the reason is to keep the vehicles on the pavement. I think it is as simple as that.

Chairman Anderson: Mr. Stahlgren.

Mr. Lamping: And looks obviously.

Mr. Stahlgren: Yes, that is what I was thinking. Is the hill really the barrier to keep those cars from getting into the grass anyway? I'm not that familiar with that hill and how steep it is.

Mr. Sweeney: If you go over and look at the hill, you are not going to park your cars on it. It is a steep hill.

Mr. Stahlgren: Well no just backing the car up to the edge of the hill.

Mr. Sweeney: Yeah, you're even backing the car

Mr. Stahlgren: Then the issue is do you want someone to back the car into the hill or would you rather have a curb there? But that I your call.

Mr. Sweeney: I don't think it would be a problem if you didn't have a curb. Put it that way.

Chairman Anderson: Your comments about the hill are both for the north and east side? That is what the variance request is for.

Mr. Sweeney: The north side, there is no hill issue, to us it is more of just not a necessary feature. As far as parking on the grass, there won't be any grass to park in. It is a parking lot and a detention basin. So, to me that is just something there to make the property appear a certain way that eventually we will be replacing. If water is flowing that way all of the time and ending up against the curb, that curb will deteriorate and all of a sudden we are replacing a curb every, which I said I have that at the 1280 Kemper lot. If you go down to 1280 Kemper you can see those curbs, they are deteriorated and we are replacing and fixing them all of the time. But that again is for beautification. People are on that lot, they come into that lot and they see it, where here no one is going to see it.

Chairman Anderson: So having heard the feedback from Mr. Shvegza and what Mr. Lamping said his understanding of it is, do you, are you comfortable with us having enough information to move forward with this tonight or is this something where you feel that you want to get a definitive answer from him? That would be a question for the board as well. Do you feel comfortable with the information you have or would you want to give feedback to the applicant before they make a decision if we proceed on this one? And you're are comfortable with us proceeding on this one when we come to motions based on the information that we have heard?

Mr. Sweeney: If you are granting a variance, sure.

Chairman Anderson: I will tell you in all candor, I do appreciate the concern being a business owner and wanting to make smart choices. I personally would struggle with this one because the reasons that you have given would be true for any applicant. Wanting to save cost or not necessarily needing, especially on the north side. I am not sure I understand. This feels like we would be giving you special privilege that other people who follow the zoning code and haven't come here would get. For me personally, I don't know that I have enough for this one. I don't feel like there is a reason for it that justified a variance that would live with the property in perpetuity. That's just my view point and I am not sure how you would overcome that with more information just for me. Mr. Stahlgren.

Mr. Stahlgren: I was just going to say that I concur. I just, until I have more information about that storm water issue and that this is going to be in perpetuity that I can't make a decision without more information.

Chairman Anderson: Mr. Hall.

Mr. Hall: Thank you Mr. Chairman. I echo the comments that were just presented to the applicant. I think there needs to be a storm water evaluation done on it. Do you have that this evening?

Mr. Patterson: That is part of the Planning Commission submittal and that has already been reviewed by Mr. Shvegza. So, I guess I would ask which board rules on this? I'm not clear.

Chairman Anderson: So, we are not addressing storm water drainage. That's certainly the purview of Planning and we wouldn't grant variances based off of that. We would assess variances based off of the zoning code request and the reasons in the application you provided. My comments weren't based off of that, it was more the north side. I could see an argument being made if there's features of the site such as a hill that directly abuts a parking space that prohibits or prevents you from putting in curbs that might cause some undue hardship. I don't see that on the north side of the site. So that is where I struggle. I am not an engineer and I am not assessing that based on drainage. I am assessing it based on the zoning code and the conditions that we use and the rules that we use to be consistent with all applicants for it. It is just off of that. So, to answer your question we don't adjudicate storm water or Planning issues here.

Mr. Patterson: Right and I should have been more clear, because I guess I am directing it more toward the curbs. Let's say, I don't know if it eases the mind of the board here tonight to think of it like, if you were to grant a variance, grant this request this evening and then Mr. Shvegza, at Planning Commission, in two weeks says you have to put it in for some storm water control thing, then he's really, isn't that Planning Commission ruling going to override the BZA's decision to allow no curb?

Chairman Anderson: Mr. Lamping.

Mr. Lamping: That's one of the issues that we recommended that this meeting happen after the Planning Commission. That was one of the reasons. A lot of the things that get decided in Planning Commission then can be discussed here. If you remember we told you this is sort of going in a little backwards.

Mr. Patterson: Right.

Mr. Lamping: What I am talking about here is that most of the projects that come before the City go to Planning Commission first and then BZA second. That is what I am referencing.

Mr. Patterson: That makes sense because at some point we have to stop tabling everything on both of these so that we can actually get somewhere. It is a challenge. What we are asking for, you know, obviously there are several sections of the code that we are asking for variance on and there's a lot of unique characteristics about what is being proposed here for this site. So, we're not trying to make it hard.

Chairman Anderson: And we are trying to work with you. I hope you see that. Mrs. McBride.

Mrs. McBride: Just to be clear. Only this board can grant relief from the requirements of the zoning code such as the curbing and the bumper blocks. Mr. Shvegza can make suggestions and raise concerns to the Planning Commission but only this board can grant that relief.

Chairman Anderson: Alright. Any other questions or comments on this one? Obviously we are not doing motions and votes on this but if there's anything else that we need to know about this one, this is also your chance to tell us knowing what you have heard here tonight. If there are any other comments on this one that you

want to share. Okay then we will move on to number five, the final one that I have on the list. This is the request for a variance for section 153.253(E)(1)(c) & (d). This is the headlight screening and specific landscape requirements. I believe this is largely around the lot, the storage area. This is where the lower requirements are to do some screening without blocking the fact that there's cars there. Mrs. McBride.

Mrs. McBride: Yes, actually this is the requirement that goes to the used car sales facility so this actually pertains to the corner property where they are going to sell the used cars. But the fact that it goes to those specific sections it refers you back to 153.404(E). I would suggest that if you are tabling, if you are going to consider continuing in progress or tabling the 153.404, it's directly tied to that.

Chairman Anderson: So this goes back to the hedging since some of the hedging and screening would comply. So some of your screening that you put back in could help you comply with this variance and may make it not necessary any more.

Mr. Patterson: We might need a little clarity on this one. Just from a person that has looked at a lot and bought a car, right. If I am a customer and I am driving down that street, I want to know what is being offered there and if it's completely screened because of zoning requirements then I am not seeing that. It forces me to go on the lot and maybe that is the intent of the zoning code. I don't know but it seems odd that for the cars that are for sale and on display to screen them seems odd and if it is a headlight issue, they're just sitting there. They're going to go for a test drive once in a while right but it is a commercial area, it is not a residential district. I might need some help in understanding so that when we go to work with staff on adding shrubs, which is the intent expressed correct? Is this the best place to be adding them? To me as a consumer, I am thinking not.

Chairman Anderson: Mrs. McBride can you help give some guidance here.

Mrs. McBride: Yes. We would be happy to work with the applicant through these issues. The intent was it is not to block the cars it is to the headlights and I think you will find this requirement in a number of zoning codes and we specifically, the committee that looked at updating the code specifically put these in here relative to car sales and used car sales. So, that was one of their suggestions.

Chairman Anderson: This is intentional and it is not intended to screen the entire, this isn't a privacy fence made out of shrubs, this is to make it look less industrial because you do abut residential. That's what it is for to do some landscape screening of it without blocking. Mr. Nienaber.

Mr. Nienaber: The problem that I have with this item five is that there's no way that defines that that is for the used car sales or the sales section of the lot. It is still an at large for the entire six acres. It is not defined any other way. So as it is, I couldn't have worded a variance on it.

Chairman Anderson: Mrs. McBride.

Mrs. McBride: So, that requirement only pertains to the sale of used vehicles, we have separate screening requirements for the parking area to service the office building and a retail, for the retail component of the used car facility, but the actual storage lot. Sorry the actual sales lot for the used car facility, that is what this requirement pertains to and that is why you see it is under a different section number. It is under 153.253(E)(1). If you turn to page two of the staff report, you will see the section that we have printed in there from the automotive sales and used that is the 153.253(E)(1). So, if you look then under that C, you will see that the headlights, you will see the D for making sure that the landscaping is going to comply with 153.404(E). Then there are other requirements for the sale of used automobiles as well.

Mr. Nienaber: Thank you.

Mrs. McBride: For example, the delivery and loading are not permitted from a public street which very frequently happens on Jake Sweeney.

Mr. Nienaber: Thank you.

Chairman Anderson: Other questions from the board for staff or the applicant regarding the screening before we ask about how we want to proceed on this? Any other questions or concerns? I know for myself I would be concerned if there was no blockage and there's just bare cars on a corner lot. That's not the intent of area even as business. We've had that intended and that was by design in the zoning code. So, at least from my perspective I would want to understand when you are going back to look at it there's shrubbing. I would encourage you to understand that that was intentional to have some screening there. Not to block the cars and we can work with you.

Mr. Patterson: Yeah.

Chairman Anderson: But it is not an accident that that section specifically asks for some screening to break up that view of just cars.

Mr. Patterson: This is a critical one is what I am hearing.

Chairman Anderson: Well it is by design.

Mr. Patterson: Yeah.

Chairman Anderson: So, if there is a reason, we can grant relief if there is a reason, but for me personally I'd want to know what that reason was other than a convenience issue.

Mr. Patterson: Right. Okay.

Chairman Anderson: Okay. So, before we go back and ask for motions on it I will circle back to where we started. Oh, sorry let me ask and make sure we are good on this one for number five. This is for the applicant. I am hearing that you want to table this one because it, do you want to table this one or do you want us to proceed?

Mr. Patterson: Five, I think it gets tabled because it is a cousin to these other two right?

Chairman Anderson: Okay. We are happy to work with you on it either way. It's your choice.

Mr. Patterson: Yeah, let's table number five along with two and three.

Chairman Anderson: Okay let me circle back around to the top. Before I ask for motions on each of the five, are there any other questions that we can address tonight from the board to either staff or the applicant on any of the five issues that we have covered not limiting to the ones that you are on? So this is any questions on the five that we have covered or general questions before we start motions? Mr. Nienaber.

Mr. Nienaber: Only to follow that we are looking for motions on one and four but they are looking to table two, three and five is that correct? Thank you.

Chairman Anderson: Please.

Mr. Patterson: Just to clarification question for number four. Are you able to rule on one or the other, the north or the east or both together? Are you able to split those two?

Mr. Sweeney: The reason why I am asking is that those who are familiar with the property, I mean if you look at the east side of that property, I would argue that the curbing there was almost, it's just not necessary. That hill is so severe, I would even argue that the curb would interfere from us actually maintaining and cutting that side hill because it is so steep and to put curb there would be kind of, that would be ridiculous. I mean if you know the property. That's my questions. Could you look at one or the other?

Chairman Anderson: Mr. Lamping.

Mr. Lamping: I would recommend that this at least wait till after Planning Commission if I were you.

Mr. Sweeney: Okay.

Mr. Lamping: I mean request that I think because it is not separate now and it would... Part of the reason that you want to separate, is because there is an issue with Planning Commission with this, water quality and I think that's fair, but I think asking to switch it here midstream might not be such a good idea. That's all that I am thinking.

Mr. Sweeney: But ultimately only you can rule on it? Is that correct? Not you, them.

Chairman Anderson: So, we tend to work together.

Mr. Sweeney: Gottcha.

Chairman Anderson: We are still one City of Springdale. We have different roles in the process. Typically, as Mr. Lamping mentioned, we historically get the variance request after Planning so that we don't have, you get in a situation of back and forth and trying to guess what a different group was thinking at the time. We like to resolve it and the general hierarchy, if you can call it that is that we try always to do the fewest variances as necessary because those live forever and they are permanent and they are significant and they live with the property and there have to be reasons for them. So, that is typically why we follow Planning because they tend to tell you what is the art of the possible, and then we tell you if it is practical or not based off of it. If that makes sense? To answer your question, we can make a motion or grant a variance to either. You've applied in this application as one relief for both of those areas. We could certainly make a motion to either side. I would encourage you to, knowing that Planning is still considering this actively for good reasons, that you would consider holding off. I know based on what you have described from the hill. That is meaningful to me on that side. I'd want to know, I think it would be helpful to see what that looks like and understand how that variance, if you think about it over the life of the variance, a hill can be changed and landscaped right? So, we need to understand how we would phrase that because you don't have to blacktop all the way to the hill either right? You could back up and stop the pavement so that you have room to do your landscaping. So, I wouldn't want to do a change like that off the cuff. But it is your application. We are happy to talk about it. Based on what Mr. Lamping said, would you like us to consider number four tonight or do you want to wait until Planning finishes? I hate to kick back and forth. We are already coming back for one so I don't know how much time it really costs you. We really not trying, we are trying to work with you on this. We are not trying to make it difficult. We want it to be successful. What do you want to do?

Mr. Sweeney: Table it. I don't think I've got the answers so we will table it till after the Zoning. Make it easy.

Mr. Nienaber: Number four?

Chairman Anderson: Number four. We will still need a motion for each of these to consider but what I am hearing is that the applicant would like us to consider tabling and continuing number four as well knowing that is still being reviewed in Planning. Okay are there any other comments or questions about these five tonight? We do want to get through them. Is there anything else that we can do before we start? Mrs. McBride.

Mrs. McBride: Yes, I would just offer to the applicant that staff would be happy to have our Landscape Architect sit down with you and see what might work. We have been successful with that in the past on other Sweeney sites and like I mentioned grouping landscaping and so forth. So, it works for you but it provides something effective for the city. So, we are happy to do that.

Mr. Sweeney: I appreciate that, thank you.

Mr. Patterson: We'll need it.

Mr. Sweeney: We'll need it, yeah.

Mr. Patterson: I think when we are talking about tabling, we are talking about two months right? Realistically? I don't know that we can, because we're going to, it's two weeks before Planning Commission.

Chairman Anderson: There's an advertising requirement.

Mrs. McBride: You are going to continue this in progress. In each of these motions, you won't have to because it is continue the hearing in progress.

Chairman Anderson: If continuing a motion we don't have to re-advertise is my understanding. Is that right?

Mrs. McBride: If there is a new item then that would have to be added.

Mr. Sweeney: I think there's going to be things that come out of Planning Commission that are going to cause an issue with me submitting for this.

Mrs. McBride: And that could be. I don't know that but you would want to make any motion to say that you would like to continue the public hearing in progress and table. Just FYI.

Chairman Anderson: So, did you hear the answer to the question? So, there is an advertising requirement for any new variance that has to go two weeks before and if Planning is a week before, you wouldn't be able if there's a new variance it would be two months from now before we would hear that one.

Mr. Sweeney: Right. Right. Understood.

Chairman Anderson: But we could, if it is just these that you are coming back with we can deal with them then.

Mr. Sweeney: Yeah.

Chairman Anderson: Even though you have changed the plan slightly we can address them at the next meeting and move on.

Mr. Sweeney: Is there anything that we need to do on our part if there is another variance that gets added as far as this is going to be old business for you next month. Do we just don't show up because there is another variance that we are asking for? I guess you'll get the word from staff that we wouldn't be here if there's a new variance added?

Mr. Lamping: We can discuss that before the meeting after you know what you want to do we can discuss that further.

Chairman Anderson: What typically happens in those cases, if you know that it is continued, you can send a note to the City and just let us know that you would like to continue because of additional information. We would get that notice so that we wouldn't be surprised that you weren't here. That's fine.

Mr. Sweeney: I guess a better question to ask is, we can continue the continuance another month without there being some kind of submittal hiccup?

Chairman Anderson: Yes, we try to limit the number of times that we do that.

Mr. Sweeney: Yeah.

Chairman Anderson: But certainly if there's, that is certainly a good reason. We have in the past continued things that have been continued in process and we have done that as many as two to three times I think is the most that I have seen recently.

Mr. Sweeney: I think our point and our focus will be, we don't want to come back here next month and bother you guys again if we don't have everything absolutely all squared away, right. I am not optimistic that that will be next month but we will try.

Chairman Anderson: Well if there is something that we can do to help, you have heard the City's requests and if you are not getting the answers we can help you with that. So, we do want it to work. I hope you are seeing that. We are trying to find a way to make it work.

Mr. Sweeney: Right.

Chairman Anderson: Any other comments or questions before we go to motions. Alright, Mr. Nienaber.

Mr. Nienaber: Excuse me Jeff, my question has more to do with, on the ones that are going to be continued, we actually make a motion to that effect?

Chairman Anderson: Yes. My understanding is that for each one of those we would, yeah we would need a motion to continue the public hearing in process for that variance request and then we would need a second and then vote on that.

Mr. Nienaber: Well do we want to try the first one?

Chairman Anderson: Please.

Mr. Nienaber: Motion to allow the owner of 30 Tri County Parkway, as BZA application 36373 to permit a variance to section 153.302(B) to reduce the required size of parking spaces from 9' in width and 18' in length to 8' in width and 16' in length and to reduce the drive aisle widths for 90 degree parking spaces from 24' to 22'. The reduced space applied to the vehicle storage area only. The area to have controlled access signage.

Chairman Anderson: Is there a second?

Mrs. Ghantous: I'll second.

Chairman Anderson: Motion and second. Mr. Secretary if you could poll the board.

(Secretary polled the members and the motion was approved with a vote of 7 to 0.)

Chairman Anderson: That's it, the motion carried 7 to 0 for the first variance. Do I have a motion for the second?

Mr. Stahlgren: Second.

Chairman Anderson: No, do we have a motion for the second variance? I need a motion first. Mr. Nienaber.

Mr. Nienaber: Motion to permit the owner of 30 Tri County Parkway, BZA application 36373, a variance from the provisions of section 153.404 to reduce the number of trees required on the site from 55 trees to 20 and reduce the shrubs from 740 to 0. It is suggested that this be a continuing variance to be continued until next month.

Chairman Anderson: So I have a motion to continue in process the hearing for item No. 2. Do I have a second?

Mrs. Ghantous: Second.

Chairman Anderson: Motion and second. Mr. Secretary if you could poll the board.

(Secretary polled the members and the motion to continue was approved 7 to 0.)

Chairman Anderson: Okay we will continue in process item number 2. It carried with a 7 to 0 vote. Do I have a motion for number 3? Mr. Nienaber.

Mr. Nienaber: Motion to permit the owner of 30 Tri County Parkway, per BZA application 36373 a variance from the provisions section 153.404(E) requesting to reduce the landscape area required for automotive display area parking from the required 7,635 square feet to 1,409 square feet. This to be a continuing consideration until next month.

Chairman Anderson: We have a motion to continue with the hearing in process. Is there a second?

Mrs. Ghantous: Second.

Chairman Anderson: Motion and second. Mr. Hall if you could poll the board.

(Secretary polled the members and the motion to continue was approved 7 to 0.)

Chairman Anderson: Motion carried 7 to 0. We will continue that item in process for the next meeting. Do we have a motion for, are we on four?

Mr. Nienaber: Motion to permit the owner of 30 Tri County Parkway, per BZA application 36373 a variance from the provisions section 153.302(K) to eliminate the requirement to provide curbing around the north and east sides of the inventory lot. This variance request to be continued till next month.

Chairman Anderson: We have a motion to continue in process the hearing for item number 4, do we have a second?

Mr. Gleaves: Second.

Chairman Anderson: Mr. Hall if you will poll the board.

(Secretary polled the members and the motion to continue was approved 7 to 0.)

Chairman Anderson: Motion carried 7 to 0. We will continue that item in process item number five. Thank you baring with us as we went through the process to go through those five. I know that is probably the highlight of the night.

Mr. Sweeney: Glad we only brought five.

Chairman Anderson: Whatever we need to do to get it done. So, we have continued in process four of the five. I apologize that we couldn't get through more, we just did not have enough detail. I hope you saw that we did make a good effort to do that tonight. You do have the variance for the first one.

Mr. Sweeney: I appreciate it. I appreciate your time.

Chairman Anderson: So you can count on that first one. That's granted to the site regardless of what happens moving forward so you can plan for that one.

Mr. Patterson: That's a big one. That was important so thank you very much.

Chairman Anderson: Thanks guys and we will see you next time.

Mr. Nienaber: Doug, we haven't done number five.

Chairman Anderson: That was number five.

Mr. Nienaber: That was number four.

Chairman Anderson: Oh I am sorry.

Mr. Patterson: Yeah we have to do one more.

Chairman Anderson: I'm sorry. Mr. Nienaber.

Mr. Nienaber: Thank you. Motion to permit the owner of 30 Tri-County parkway, BZA application 36373. A variance from section 153.253(E)(1)(c) and (d) it eliminate the requirement of headlights screening and specific landscape requirements. This motion to be continued till next month.

Chairman Anderson: We have a motion to continue in process this variance request. Do we have a second?

Mrs. Ghantous: Second.

Chairman Anderson: Motion and second. Mr. Hall if you could poll the board.

(Secretary polled the board and the motion to continue in progress was approved with a vote of 7 to 0.)

Chairman Anderson: The motion carried 7 to 0 to table. Thank you. We will see you here next month and if not, if you are not available or the need to continue the free to send a note to the city and they will let us know. You don't need to up here and we're just continuing everything in process. Alright?

Mr. Patterson: Thank you very much.

Chairman Anderson: Thank you.

IX NEW BUSINESS

None.

X DISCUSSION

Chairman Anderson: I do have one item for discussion for the group. I know that was a long hearing that there is an item that we need to at least be brought forward to be considered. We do have a request from city administration to, for us to consider changing the way that we record and maintain our minutes as a board. So right now we do verbatim minutes from a transcript. It has been the process for some time. As part of Mr. Lamping coming aboard he has done some work to find ways that we can maybe be more efficient. This is one of the items that he would like us to consider. It does take a considerable amount of time for staff to do a full transcript. It is also, I don't know how common it is for these boards to do full verbatim transcripts. It's already been reviewed by legal, by the Law Director. It is not required per say, it's at the discretion of the board if we want to continue. So I am not asking for us to make a decision tonight but I did want to bring that to your attention and if you have any questions about it or immediate thoughts, I'd love to hear them. I don't want to rule on it unilaterally. I'm curious what people think about the full minutes. Mr. Nienaber.

Mr. Nienaber: So what are we looking to change from and to?

Chairman Anderson: So right now we have a full, we have a verbatim transcript that is done from the recording. The request we have is that we would maintain doing the recording but we would do what is called summary minutes. So from the recording staff would still create our minutes that we review is a board and of the capture the highlights and capture the motions specifically that were granted. Requested and granted and highlights from there. I don't know if there is something that you wanted to add to that Mr. Lamping or if I explained it correctly.

Mr. Lamping: Mr. Anderson, I think you summed it up very well. Thank you. I think that based on the law director's review that we can create what they call concise minutes in summary minutes if you will. It will still have the audio recording available.

They will still be easily reached by the public through the Internet and what we are trying to do is become more efficient. That is the only reason to do this. That we are requesting.

Chairman Anderson: Mrs. McBride.

Mrs. McBride: I will tell you, as somebody who appears between and before board of zoning appeals every month that most communities do not have verbatim minutes, either for their Board of Zoning appeals or their Planning Commission. They provide, obviously a detailed account of any motions but will give a summary of discussions and issues that are carried over in the meeting.

Chairman Anderson: I will share, I know I personally have reviewed the minutes before and I have used them for other things. For example, when we are doing things for City Council to address Zoning Code, I've gone back and looked at the transcripts to see some of the discussion that happened. So, there is value to them, whether it is worth the cost is really what is being asked. So, if you have any personal experience with them, if you have found them to be useful as you do your job. Think about it and then next time we meet, just if you have an opinion I'd be very interested in hearing that. If they are useful for us doing our job, we want to know that. We don't want to cut it if it is useful but if it is just being done for not, sometimes the transcripts take hours of work to get done and I know it is quite tedious, especially when I am sitting up here on the MIC, I sometimes go on and on.

Ms. Morsch: Every 15 minutes it is one hour of typing.

Chairman Anderson: But again, the work that we do is important. The discussion is important. This isn't to ask you to say less or do less, don't here that. This is just how they want to record the minutes. So think about them. The minutes are posted on the web site if you want to look at them and next time we will talk about it and see if there is value in it. OK? Anything else on that? I just wanted to share that. Mr. Nienaber.

Mr. Nienaber: On a different topic, I just want to take a moment thank Mrs. McBride for the work that she has put in in advance of this, because she had that locked down so it was really easy to do the motions. Thank you.

Chairman Anderson: Yeah there is a lot that goes on back there.

Mr. Hall: Mr. Chairman I had one question for Mrs. Miller. Are you familiar with the court reporting system?

Mrs. Miller: Barely, from a paralegal standpoint I do corporate so

Mr. Hall: Okay. I'm not sure if anybody is familiar with it. I am not that familiar with it anymore but I know it goes by time and it is only the highlights are taken and it's recorded for the integrity of it. So, that may be a possibility to check. Are either one of you familiar with the system you are talking about? Do you use that?

Mr. Lamping: I'm not sure which system you are talking about.

Mr. Hall: The system that you described with the briefed notes instead of the verbatim.

Mr. Lamping: So what we are currently talking about is still recording the meeting as we do today and the way we go about creating the minutes is that we listen to the recording and we type it. So what are you proposing? I didn't follow you.

Mr. Hall: That was the question.

Mr. Lamping: Okay. So, all we're looking to do is create summary minutes based on the motion and summarize the discussion for posterity for the minutes and not do them verbatim as spoken during the meeting.

Mr. Hall: Okay. Thank you.

Chairman Anderson: So to be clear it's not a new system, it would still be this path would review the minutes they would listen and then they would transpose based on instead of verbatim. Mr. Nienaber did you have another comment? Your light is still on.

Mr. Nienaber: No, you didn't turn my light off.

Chairman Anderson: You have a button to.

XI ADJOURNMENT

Mr. Nienaber: I motion that we adjourn.

Mr. Hall: I'll second that.

Chairman Anderson: Alright with that we are adjourned.

Respectfully submitted,

_____, 2020 _____
Chairman, Jeffrey Anderson

_____, 2020 _____
Secretary, Tom Hall