

PLANNING COMMISSION MEETING

May 9, 2017

7:00 P.M.

I. CALL MEETING TO ORDER

The meeting was called to order at 7:00 p.m. by Chairman Darby.

II. ROLL CALL

Members Present: Richard Bauer, Don Darby, Tom Hall, Marjorie Harlow,
Lawrence Hawkins, Dave Okum, Joe Ramirez

Staff Present: Elizabeth Fields, City Planner; Don Shvegza, City Engineer;
Gregg Taylor, Building Official

III. PLEDGE OF ALLEGIANCE

IV. MINUTES OF THE REGULAR MEETING OF APRIL 11, 2017

Minutes were unavailable at the time of this meeting and will be addressed at the next meeting.

V. REPORT ON COUNCIL

Mrs. Harlow: On April the 19th Council met, all members were in attendance. This is the evening where we have our committee and official reports. Administrators report was that the equipment would be on sight to remove the Sheraton and I don't know if anyone has been by there or not but the Sheraton is no longer. It is gone. So we are very happy about that. We also had the first reading of the PUD Preliminary Development Plan for Tri-County Mall PUD. We met again on May 3rd with all members in attendance. We had a public hearing and a presentation by Tri-County Mall and the PUD Modification was approved 7-0. We had an Ordinance for worker's comp group rating program that was also approved 7-0. We had an Ordinance with the State of Ohio Transportation for paving of Route 4 from Cameron Road to I-275. I was thinking that we had an introduction of a new employee. No not yet we have introductions of new employees coming up in May. That will conclude my report.

VI. CORRESPONDENCE

Chairman Darby: Thank you very much. Any questions? Ok we will move on.

VII. OLD BUSINESS

NONE

VIII. NEW BUSINESS

A. Tri-County Commons Associates, 600 Kemper Commons, Minor Modification of a PUD

Chairman Darby: Applicants please come forward to the podium.

(off mic. from the audience): I'm sorry could you repeat that.

Chairman Darby: Yes sir. Are you Tri-County Commons?

(off mic. from the audience): Yes I am.

Chairman Darby: Please come forward. Our protocol here is you are allowed to make an opening statement, comments that you would like to share with us and then we will move on to our reports.

Mr. Reite: Okay perfect. I'm an attorney for Tri-County Commons. My client Robert Shasha, principal at Tri-County Commons will be here momentarily. So the application today is to modify the PUD to allow the installation of a chain link fence with some slats along the exterior of a portion of the building that's the former Wal-Mart in particular. The back ground to this is the history of the damage to the property from theft. There have been multiple thefts of HVAC equipment from the top of that building, exceeding \$300,000 relatively recently even with the building occupied in part. So there is a significant concern there that without some protection it will likely lead to more damage. So the proposal today would be to install a barrier that would hopefully impede... This is Mr. Shasha.

Chairman Darby: Good evening Sir.

Mr. Shasha: Good evening.

Mr. Reite: ... hopefully impede the ability of people to get on top of the property and cause further damage. The current barrier seems to have stopped the issue. We've got concerns that something less may not continue to do the job but the proposal would be as stated with the intent to stop further theft, further damage to the property. The property has become less occupied recently with HH Gregg with national closures. The situation honestly has become more acute from a traffic stand point. There's less traffic out there then there was even relatively recently and so the concerns with theft are higher now than before. I think the application is fairly straight forward as far as what's requested. I don't know if Mr. Shasha, if you have anything to add to that statement at this time being.

Mr. Shasha: No I think you pretty much covered that.

Chairman Darby: Thank you. With that we will move on to our reports. We want to welcome Ms. Fields who is sitting in for Mrs. McBride this evening.

Ms. Fields: Thank you. For staff report this property the Tri-County Commons is zoned Planned Unit Development (PUD). The application as stated is to install a 4' chain link fence on the roof in place of the razor/barbed wire fence and to install beige slats in that chain-link fence. The two members of Council who serve on Planning Commission will need to determine if this is a major or minor modification to that PUD. Staff believes that it is a minor modification to the PUD. Additionally the chain-link fence would be attached to the building utilizing the existing posts and frame work that was used to mount the razor barbed wire and then they will add additional bracing to accommodate the load and the increased wind load from the chain-link fence and slats. With that this concludes my report. Let me know if you have any questions.

Chairman Darby: Now we'll move on. But prior to moving on to the next report we get our Council persons to advise us as to their opinions about this being a major or minor modification.

Mr. Hawkins: I think it's a minor modification.

Mrs. Harlow: I agree with Mr. Hawkins.

Chairman Darby: So agreed it is a minor modification. Mr. Taylor.

Mr. Taylor: Thank you Mr. Chairman. I don't really have anything to add. I believe you all are familiar with the situation with the razor wire. This is in lieu of that as you know we pursued legal action to have it removed. I believe and you might want to correct me if I'm wrong I think you guys received a kind of delay pending the outcome of this, is that not correct?

Mr. Reite: That is correct.

Mr. Taylor: Okay. That's really all I have to add.

Chairman Darby: Mr. Shvegza

Mr. Shvegza: Thank you Mr. Chairman, I have no comments.

Chairman Darby: Okay. We will open it up to our members. Comments. Questions?
Mr. Okum.

Mr. Okum: Thank you Mr. Chairman. Ms. Fields if this were not in a PUD would this be compliant with our zoning code.

Ms. Fields: No it would not be an appropriate screening mechanism to screen rooftop mechanicals. A chain-link fence would not be permitted.

Mr. Okum: Could this establish a precedent on other developments?

Ms. Fields: Yes it could.

Mr. Okum: That being said the applicant is not only done the Wal-Mart, old Walmart Store but they've added a redline on David's Bridal which is an occupied space is that correct? On this drawing at least that's what I'm looking at.

Ms. Fields: That's what the drawing indicates yes.

Mr. Okum: Are we going to see this, I guess I will ask the applicant then. Are we going to see this on Guitar Center, Sam's, the other developments?

Mr. Reite: That is not the intent I think the red line is where the existing razor wire is.

Mr. Okum: I don't believe the razor wire is on David's Bridal currently is it? I don't recall seeing it there is it? Maybe staff can answer that?

Mr. Shasha: On the left side of David's Bridal

Mr. Okum: On the left side of David's Bridal. That's only where the razor wire is at?

Mr. Shasha: Sorry

Mr. Okum: It's only where the razor wire is currently? That you're replacing. If you could come to the microphone, it helps for the minutes.

Mr. Reite: So your question is whether this would be expanded beyond where the existing razor wire is?

Mr. Okum: So this is a replacement for the razor wire?

Mr. Reite: Correct.

Mr. Okum: Okay and you are aware that it is not compliant with our current zoning code for a typical GB district.

Mr. Reite: That the proposed new fence is not compliant?

Mr. Okum: Yes.

Mr. Reite: That is the statement we, I did hear that I guess that's why we are here tonight.

Mr. Okum: I understand. This being a PUD there are, there's a consideration that can be applied to that.

Mr. Reite: Understood.

Mr. Okum: My biggest concern is in most land use applications is how that impacts other developments in other areas of the city that makes this unique or substantially different than Springdale Plaza, Tri-County Mall, Princeton Plaza or the Towne Center, or any of the other developments in the city and this is basically an alteration but it could be very easily intuitively by someone that is applying for a permit to see this is an ordinary and customary approval process for how to deal with this issue. Did you examine other means of, since your are the podium I just ask you anyway did you examine other means of protecting your mechanical units?

Mr. Shasha: Yes sir we did.

Mr. Okum: I'm very familiar with those, I've looked at them, I've managed property projects that have those enclosures. I have people that I know that are using those enclosures except for the property being depressed by virtue of lack of renters currently is there a reason that that alternative wasn't used?

Mr. Shasha: Yes sir.

Mr. Okum: Can you tell me why?

Mr. Shasha: It's number 1 it doesn't prevent people from getting on the roof and a lot of damage can be done to a building when vandals are on a roof. Number 2 it's very costly and not as effective.

Mr. Okum: Okay. So you're indication is this then basically every project that we have in the City of Springdale has this same potential?

Mr. Shasha: All I know is there was \$300,000 worth of damage on the Walmart roof and HH Gregg had about \$50,000 and in order for us to have tenants we cannot have vandals coming on the roof because no tenant wants anyone on their roof.

Mr. Okum: Sure.

Mr. Shasha: It's a problem because it's hidden particularly in the back; you know there's no one there. That's where they climb up.

Mr. Okum: I mean the development behind you which is.....

Mr. Shasha: No I'm saying behind our wall and then there's their back wall and like no one goes there.

Mr. Okum: Does staff have any record of the other property where they, the other stores Golf Galaxy and

Mr. Shasha: At Home and all that.

Mr. Okum: Yeah At Home, are they having the same problem.

Mr. Shasha: I have no idea.

Mr. Okum: Staff? If you could....

Mr. Taylor: We weren't advised of any. That truthfully doesn't mean that they have or have not. I do think the extent of the vandalism was extreme by comparison to anything that we have heard of anywhere else in town actually.

Mr. Okum: I mean if that would have been, you know if it was \$300,000 you're talking 30 maybe 40 air conditioning units.

Mr. Shasha: It was for 125,000 ft. and in fact there still litigating ...

Mr. Okum: I'm sorry

Mr. Shasha: The store was for the entire Walmart store and Walmart and the former tenant Home Emporium are undergoing litigation currently about that because Home Emporium was in occupancy when this vandalism occurred.

Mr. Okum: Which basically applies to whether their tenant policy would have taken care of the replacement or somebody else would?

Mr. Shasha: Right but I mean you're a business man

Mr. Okum: Yes sir.

Mr. Shasha: You know if you have a store, I mean this is like, you're trying to make money, you know and

Mr. Okum: And I certainly understand that. You have to understand as a student of planning I have to look at how this is handled in other situations as far as I'm, and I am only one member of this commission so but I look at it as, Ok so if this were to be approved then we're basically establishing a façade approval for basically the three sides of commercial properties including Springdale Crossing or the Towne Center if I can go through Springdale Plaza I can go through them all you know even COSTCO. If you go down to the bottom SK Properties and all of them, that's where I have a problem with it because this is really with it right on the edge of the building it really is a façade change. I realize that it's on those three sides and I realize the situation but it's not temporary it is a permanent façade change that we're, that the applicant is requesting so I'm really torn on this because I work in the insurance restoration field so understand I know what theft and damage is. I've been involved in projects where they have literally spent a week stripping rooftop units apart on buildings and stolen the guts of them and left parts there. It's an awful situation but on the other hand I've got to look at okay if I'm looking at it as a community I've got to say how does that impact the situation how I would listen to someone who wanted to use chain link fence as a facade application with slats in another retail Center in the city of Springdale and whether it be small or big or whatever because it doesn't matter the size of the business if you're a small business and you lose your \$10,000 rooftop unit it's still \$10,000 rooftop unit you're losing whether it be 30 of them or one of them is still a significant impact.

Mr. Shasha: Right and I may point out that as you know retail now a days is really under attack not only in Springdale, I mean you have a mall that is failing, you have across the street from us the Best Buy left Dicks left. I mean there is a real problem now and in fact you know the tenants are very concerned, it's hard enough to get them in you know what I'm saying to our property as you can see we've only put one tenant in Bargain Hunt. We don't know what else to say. It's a hardship situation.

Mr. Okum: It really is and it's also a quandary for me to deal with I mean we tried to help the site with significant amount of additional signage on your street sign I think I was probably one no vote to it but the commission did support it so it was an opportunity for the center to be and we were told that that would generate you know occupancy in the center.

Mr. Shasha: We did we got an all state but they went out of business. That particular operator. I mean everything helps believe me.

Mr. Okum: Yes sir. Thank you.

Chairman Darby: Mrs. Harlow.

Mrs. Harlow: Yes. Are there other options to this problem? I'm not a big fan of the chain link fence with the slats. I don't want to see it as a precedent for other buildings but I do hear what you're saying I do hear your hardship. Are there other options for securing your rooftop units?

Mr. Shasha: We don't know of any other effective options.

Mrs. Harlow: Have you researched with other companies or other developments that have had this problem and what are they doing?

Mr. Shasha: Some people put units you know to protect his unit on top of each unit problem with that is that people still get on your roof and then sometimes they break into the stores make holes and all that so nothing is as effective as you know what we currently have to be honest.

Mrs. Harlow: Well I can't support a chain link fence with slats on it but I want to see your problem resolved in some manner and I don't know what that manner is. I'm not in that industry and I don't know.

Mr. Shasha: I mean the best thing would be if we were occupied, you know what I'm saying and if it was a 24 hour operation or something. Probably the problem would take care of itself. Where we area vulnerable is the level of vacancy we currently have so even if you let this go for a while we try to occupy the property that would be much appreciated to be honest with you.

Mrs. Harlow: Okay

Mr. Shasha: We're doing the best we can.

Mrs. Harlow: I know you are. I know the retail in Springdale as you mentioned Tri-County Mall, they were just before Council last week and they are planning on making a lot of changes to the mall which we hope will draw more retail to our area and given our area more of a selling point for retailers.

Mr. Shasha: We are also actually looking into office use for our property. Industrial distribution. We have totally broadened our marketing because when you look at all the boxes in the area that are vacant and we don't know of any more retailer names to contact.

Mrs. Harlow: Right. Exactly.

Mr. Shasha: So we are trying to because your industrial occupancy is tight here, I don't mean like a factory but distribution we're looking into that and the first thing those tenants say is security. So you know we are just trying to do the best we can.

Mrs. Harlow: I think retail in general is changing so fast..

Mr. Shasha: Exactly.

Mrs. Harlow: that it is really difficult for the stores to keep up with it for the you know, I think online shopping has just. My husband and I were talking about it at dinner; it used to be that Sears, everybody ordered from a catalog when I was a young people ordered out of a catalog at Sears. It's done differently now and I understand your dilemma but I can't support chain link fence we need to come up with another plan.

Mr. Shasha: And we're trying to bring more jobs to the community I mean by filling up these stores. It's not like, I mean in that sense we're all together.

Chairman Darby: Mr. Hawkins.

Mr. Hawkins: Thank you Mr. Chairman. For the first question for the applicant have you guys been able to ascertain what part of the building people are finding their way onto the roof is it the west side is it?

Mr. Shasha: The back side.

Mr. Hawkins: So the north side, the back side of the building is where folks are usually coming up on there?

Mr. Shasha: Well we think, we were not there when it occurred but that would be the obvious spot because it is the lowest access and the most hidden. You know they come with their trucks, they put the ladder up and you know there is five guys up there they spend twenty minutes and you've lost \$100,000 worth of equipment. If you catch them what are you going to do put them in jail for life they have no money you know. I mean there's no repercussions against these people.

Mr. Hawkins: For staff have there been any other suggestions that have been given to the applicant with regard to solutions to the problem. Obviously we have gone through the issue with regard to the razor wire but have there been any other suggestions that have come from staff or the administration?

Mr. Taylor: Some time ago, actually I think it was probably just about this time 2 years ago when these folks came before you before with the whole razor wire thing. There were a number of suggestions forwarded being closures that Mr. Shasha spoke of, you can alarm them, you can put security cameras you could even hire security people to patrol, you know the area and I mean those are all somewhat viable suggestions but I'm not an expert in the field to know how effective or not they are. There's several, this was a big problem Nationwide and that's really why these cage things came up. Alarming the units if there's a disconnect even putting security cameras up or again hiring security service to Patrol the site periodically. None of that stuff is inexpensive and again I can't really say how effective or not it is. The unfortunate part of some of this is that it doesn't really do anything until after the problem has already occurred. If the alarm if you catch somebody it's a very difficult call. One thing that the applicant mentioned was occupancy I don't know if there's a vehicle to try to work something out that could be tied to occupancy in other words maybe some sort of temporary solution. And I'm not trying to put words into the commission's mouth here I'm just looking for you know potential solutions I don't know whether if the chain link fence with slats could be allowed until such time as there was some occupancy. I don't know how to monitor that exactly but I wanted to just put it out there.

Mr. Hawkins: Was the idea that is before the commission right now something that staff or administration had, in talking with the applicant, suggested or thought was a good idea?

Mr. Taylor: No this was the applicant's suggestion.

Mr. Hawkins: Thank you.

Chairman Darby: Mr. Ramirez.

Mr. Ramirez: Thank you Mr. Chairman. Currently do you have the razor wire does that run on the backside of the building and they still managed to get up on the roof?

Mr. Shasha: No that was before we put it up.

Mr. Ramirez: Okay

Mr. Shasha: Since we put it up it is extremely effective, I mean no one has come on our roof. This is a very effective system and even if we could leave it until we occupy the plaza because everyone wants us to occupy the plaza. I know that you are a very business friendly community. We need like temporary reprieve so that's not an issue when a tenant comes, he goes I heard your units were vandalized so we're not coming here. You know then we will never lease it.

Mr. Ramirez: So you are trying to circumvent taking down the razor wire and in exchange put up this chain link fence is that correct?

Mr. Shasha: I mean our preference is to be honest with you leave the razor wire until we can occupy the center. I mean we have a real hardship here. We have no money to pay for all of these fancy systems, security guards.....

Chairman Darby: Let me interject here, that's not an option that we are considering this evening. There has already been adjudication about the razor wire correct?

Mr. Shasha: I'm just expressing....

Chairman Darby: That's not a part of our agenda.

Mr. Shasha: ... as a human being and a participant in this community I'm just explaining, you know what our brokers think and what we think as owners.

Mr. Ramirez: So once the razor wire is taken down is the vandalism or the theft of the units have those been replaced at this time?

Mr. Shasha: sorry

Mr. Ramirez: Have your air conditioning units been replaced?

Mr. Shasha: Yes they are all replaced for \$300,000 and we don't want to do it again.

Mr. Reite: I think just to clarify the thefts occurred, then they were replaced and then the razor wire went up to prevent it from happening again.

Mr. Ramirez: Okay

Mr. Reite: So the razor wire is there, the units are back in so I think that the fear with something less than the razor wire simply is it may look nicer but it is not the same barrier.

Mr. Ramirez: I don't believe like Mr. Chairman said the subject matter is not to approval of the razor wire, we're trying to come up with an alternative that may be affordable for you and not jeopardize setting a precedent for every building in the city will have a chain link fence on the top of it.

Mr. Shasha: I don't think buildings would start doing it unless they were affected right. So I just think we are hidden and because we are unoccupied we are vulnerable right now.

Mr. Ramirez: Thank you.

Chairman Darby: Mr. Hall.

Mr. Hall: Thank you Mr. Chairman. The applicant through Counsel had indicated that you had researched different viable alternatives rather than the chain-link fence is that correct?

Mr. Reite: Yes

Mr. Hall: I'm having a hard time understanding how a 4 ft. fence would stop a perpetrator from getting into the air conditioning units when he just pulls the truck up and he jack the ladder up 4 ft. higher.

Mr. Shasha: I don't think will either.

Mr. Hall: But you are spending a lot of money to do that.

Mr. Shasha: It's not my choice.

Mr. Hall: What were your other alternatives?

Mr. Shasha: Well \$200,000 is for security 24 hours a day. Okay that will put us; we won't be able to pay taxes to the town of Springdale. Okay. The unit, it is \$100,000 to put cages on all the units. Okay, but they can still get on the roof and mess with the. Security cameras, the problem is somebody's got to be looking at them so you know

something's happening. That's a cost as well. Then you call the police and if the police take a half hour to get there because, you know they may be busy then, you know you have \$100,000 of damage. I mean this is in the American Ethos of efficiency you know this is the most efficient system we could think of and we are worried about the chain link fence that it won't even be effective. You really hit the nail on the head. We've asked our fence contractor, who's here, maybe he could come up actually and address that point and talk about alternatives and you know fences if you want to hear about it.

Mr. Hall: No I kind of thought that you had some other alternative other than the cage around the unit that is so expensive. I, and this is just my personal thing, I don't see where a 4 ft. chain link fence is going to stop anything. Like you indicated earlier when you pull up the truck, you pull the ladder up there; you just get a 16 ft ladder instead of a 12 ft. ladder.

Mr. Shasha: I mean what I would like to do to be honest with you I would like to put a fabric round what we have and hide the thing. That's really what I would like to do because then it doesn't, no one sees it and you know we stop these people from coming up. That's really my first choice.

Mr. Hall: How's the lighting back behind there and during the nights season.

Mr. Shasha: The lighting is fine but the problem is that there's an area, some areas where they can sneak behind and you couldn't even see them climbing up.

Mr. Hall: In the shadows.

Mr. Shasha: We've put like motion detector lights, we have signs in the back of the building that says area with video, alarms and all that.

Mr. Hall: So do you feel that the 4 ft., if the commission would approve it do you feel like that they 4 ft. fence would cure the problem?

Mr. Shasha: No. I think we are going to have more vandalism. Unfortunately. Believe me I am not trying to be disrespectful; you know I think it is a beautiful community here, I'm just really scared.

Mr. Hall: I can understand that. Thank you so much for your comment.

Chairman Darby: Mr. Bauer.

Mr. Bauer: Thank you Mr. Chairman. Not to beat a dead horse, but alarms you have talked about security and alarms so and electronic alarm system, I really can't visualize where these folks are getting up on the roof but there's no way to alarm that area you are talking about that is acceptable for people climbing?

Mr. Shasha: Well you've got to do the whole roof of course and then the alarm goes off someone's got to come there and catch them.

Mr. Bauer: Right.

Mr. Shasha: That's the problem

Mr. Bauer: Okay.

Mr. Shasha: You know it's like in your home if you have a burglar alarm its fine as long as the police come and catch the burglars.

Mr. Bauer: Right. You can hear it in most of the commissioner's views that the fence is not too acceptable. I like Mr. Taylor's idea of how we could do something temporarily and not set a precedent for other facilities because your \$300,000 is a hefty price to pay for theft and it is definitely something that you could go back to and say, hey this center was being hurt to the tune of \$300,000 and that is why we did

what we did, so I'm not in that part I don't want to see you incur another \$300,000 worth of damage. I'm a little concerned that you're not convinced, that you are going to spend \$36,000 or whatever it is for a fence and you're not convinced that, that is going to work. Obviously the razor wire is out the window so that bothers me a little bit that you are willing to spend that money if you're not convinced it's going to help you.

Mr. Shasha: Well we could call our sign man, that's why we brought him maybe he has other ideas. He can probably speak to that point. Shall we invite him up here?

Mr. Bauer: Sure.

Mr. Lyttle: I did bring a sample we can closely match the building color with slats and they look almost identical.

Chairman Darby: Would you please come to the mic. please for the recorder.

Mr. Shasha: (off mic. muffled talking)

Mr. Lyttle: The razor ribbon..

Chairman Darby: Could we get your name.

Mr. Lyttle: John Lyttle, Mills Fence Company.

Chairman Darby: Thank you.

Mr. Lyttle: The razor ribbon has proven to be very effective, not just here but just about anywhere it's a great visual deterrent and I know it's probably part of the problem is it looks pretty industrial pretty institutional. I drove by there tonight about 6:30 just to kind of refresh my memory there are two memories from the front where you can see it fairly clearly that go, I would say east to west on the building but the whole back of the building are about 80% of the wire you can't see it unless you drive back there and it's a ghost town at 6:30 I drove back there and there's nobody there. So it wouldn't surprise me if anybody, they would feel very comfortable parking a truck back there certainly once it's dark and it's very easy to access that roof without that razor ribbon up there. I know where you guys are coming from on terms of not wanting it but the razor ribbon is effective, yes, the chain link fence although not nearly as effective is still a deterrent. Most of the time what we do is basically push people to go somewhere else. We have done a lot for work for the housing authority over the years in all kinds of different places like that they just want to send somebody away from their property somewhere else. So the 4 ft. chain link fence is a pretty good visual deterrent a little unyielding to get over. Not real convenient to get up there and climb over. You can put the ladder on the side of the building and get on the building but put it up against the fence and it having nothing real sharp but it is just a little inconvenient to get over and certainly to try to get back over if you are hauling anything. So not saying it is the best solution but in terms of looks we could make it look very close to the building color. The chain link and that I know you worried about the chain link and I understand that you know from a distance you essentially see a wall the same color as the building. I even took a picture I don't know if I can show you guys now but I would be happy to email it to anybody in terms of the color of the slat that is available and the color of the building and they are almost identical. So if you pulled up you certainly wouldn't look up and see it or it wouldn't jump off the page at you because it looks so similar to the building.

Mr. Shasha: So could the chain link be cut with a wire cutter so the guys does not have to go over it.

Mrs. Harlow: Of course.

Mr. Lyttle: The slats make it a lot harder to cut. It's a little time consuming; you have to take the slats out to cut it, that can happen yes. You can also cut the razor ribbon but it's, the razor does a really good job, you see it around prisons and that sort of

thing that is what it is there for. It's dangerous, very sharp but for that, that is why it is effective.

Mr. Lyttle: If anybody wanted to see the picture I would be happy to email it to them or send it to them. I could show you now on my phone I actually held the slat up to the building. Well I took one on my phone when I drove over; I took a picture with the slat up against the building just to show how similar they were. It's on my phone and I could grab it if anyone would like to see it.

Chairman Darby: I think personally with this representation I think I have a good idea what it is. Anyone else. Mr. Okum.

Mr. Okum: Thank you Mr. Chairman. Everything you said I totally understand I really do. David's Bridal is an occupied space and it's got razor wire and it's being proposed to be changed to chain link fence with slats so it's not just Walmart we've got

Mr. Shasha: HH Gregg that building where David's is they've gotten to that building to.

Mr. Okum: Right and what were going to see here unfortunately unless another alternative solution comes up is HH Gregg and the other properties associated with that because now HH Gregg is empty and I guess you take over unless their lease is longer and they carry their insurance you take it over as the landlord. Is the Walmart space currently under lease?

Mr. Shasha: No.

Mr. Okum: Okay so it has no lease at all so it is basically you and your insurance.

Mr. Shasha: We are basically heating it and maintain it.

Mr. Okum: David's Bridal is under lease?

Mr. Shasha: Yeah, David's Bridal and Guitar Center, Bargain Hunt are the only tenants there currently.

Mr. Okum: Okay and HH Gregg is, do they still have time on their lease.

Mr. Shasha: No they went bankrupt. They closed

Mr. Okum: They did file their bankruptcy? I didn't know that they actually, so you're stuck with no lease on that property as well. It's an awful situation and, but like you said you're not confident that the chain link would do it.....

Mr. Shasha: If you ask me honestly I'm telling you.....

Mr. Okum: Sure and I totally understand and my problem is that and I sort of like the idea if it didn't establish a precedent of what I think Mr. Ramirez stated about a short term solution but the problem is that the short term solution would end up growing. Its need may end up growing and I'd like to see a different alternative. Not taking anything away from you the gentleman from Mills Fence because you are a very reputable firm been in Cincinnati for fifty years or whatever I know you know fences, if anybody in the area knows fences it's you guys. So but we're still talking a fence on top of a building. And something that we would have to deal with. Unfortunately with other properties as well. So I mean let's say that the hotel up on Tri-County Parkway has a problem and they said well we need to put up a fence around our property to enclose our mechanical units our code calls for enclosing mechanical units, I think we've really got a serious problem on a planning standpoint of a precedent that we probably don't need and my recommendation is I'll have to vote against the request because I think worst a pushing something that would be far-reaching and affect us in the long term even if unless somebody comes up with a solution I'd like to I'm thinking for thinking that that darn border fence down in Texas and Arizona and now you think could they run a laser and catch somebody crossing the line with a laser light you

know because lasers fire pretty decent distance and there's point-to-point reception and maybe there's that type of approach like an alarm when it comes to police we are very small footprint our community is and we have a very robust police department and I would not like to leave this meeting or you leave this meeting feeling because I've lived in this community now geesh 40 almost 40 years and there's never been a time that police and has been called to any of my family members homes that or at a business that I know of that there's been a 30 minute wait for policemen to show up our Police Department is not that if there's an alarm they respond and that's something we have a benefit of and here businesses are supported that way you know I'm really sorry to see that this happened you know the patrol didn't catch that because it had to take some time to take those units off that roof you know you're saying it was occupied by Home Emporium at the time so we're in the heck were they I'm sorry but I'm in the Building Trades I know what it takes to put money on a roof and to strip them off the roof that many units that was a lot of time and effort. You are....

Mr. Shasha: They took the copper off.

Mr. Okum: Okay they just stripped the coils out.

Mr. Shasha: They vandalized the units

Mr. Okum: Copper and aluminum. Okay

Mr. Shasha: Right so this is like a really low level vandal. This is not like an HVAC....

Mr. Okum: That's a high level when they get what they want.

Mr. Shasha: No but I'm saying it's not like a guy who wants the HVAC....

Mr. Okum: But he had the mechanical equipment because he had to cut the Freon. And he can cut the chain link fence and he can strip it down, I mean you cut it and peel it back I mean you see it in movies all the time. Not that I've ever done one but I can cut it and so the chain link fence. Once they're up there they could open and spread it discard the materials over top but I think we need to stay with the issue. The issue is we need to either stay with our code the way it's written be consistent or breach from consistency and open ourselves up two other things. Thank you.

Mr. Shasha: Or have a hardship provision.

Mr. Okum: It doesn't have that in it.

Mr. Shasha: Sorry?

Mr. Okum: The code does not have a hardship provision.

Mr. Shasha: Can it be added?

Mr. Okum: I don't know. I mean I'm not at liberty that is legislative. It would have to be drafted and there would have to be through review a law and the law director would look at that over other cases to establish what those precedents are that would establish it. I understand what your request is but I don't know where it would fall into this body at this time.

Chairman Darby: Mrs. Harlow.

Mrs. Harlow: This is way out there but isn't there something that you could do around each of the unit's fence wise so that it couldn't be seen so much from the ground or the surrounding area and electrify it?

Mr. Shasha: But then let's say you know someone a contractors up there you know and he gets electrocuted or something.

Mrs. Harlow: So there's you put signs up you put signs up that you know these this building has been electrified you know don't go up to the units.

Mr. Shasha: But let's say we do that and the guy goes up there he doesn't speak good English or be able to read it and he gets electrocuted or killed whose liable then?

Mr. Lyttle: Mind if I chime in here for a second? There is some low voltage wiring that they used to use like cattle fencing...

Mrs. Harlow: Right.

Mr. Lyttle: and that is not going to electrocute anybody but when you touch it you know you've touch it.

Mrs. Harlow: Right.

Mr. Lyttle: I mean so not

Mrs. Harlow: I grew up on a farm and that is what I was thinking. That's where; I don't know they probably could cut that to. I don't know that there's an answer to this, I really don't.

Chairman Darby: This I agree with Mrs. Harlow this is a tough one. We sit here and as one of you mentioned, we are a very business-friendly district. We try to assist people in removing barriers but this discussion has, and I think you've seen this sentiment of this group I'm not quite so sure sir that there aren't, and this comes from a lay person I'm not in the building trades, I'm not so sure that there aren't some options other options that can be explored. We just got one individual fencing but not to electrocute anybody. Alarms, enclosures, security I mean some manifestation of those and I think the other thing that really caught my ear is that you yourself are not sure that this fencing would be effective. That's like permanent solution for a temporary problem you mentioned also when you get occupancy and we certainly hope to see that come about will probably be no need for it. So all of these things

Mr. Shasha: I hope so but you know depending on their hours.

Chairman Darby: Yeah, that's right all of those things need to be taken into consideration but I think and I want to clear one thing up earlier I jumped in when mention of razor wire came in and the reason I did that was because as you know we were part of this situation that hole area about the razor wire being there it's still in the courts but it has been ruled upon so it would be counterproductive for us to revisit that at this time. Okay so unless there's something else I don't have any more lights here unless you have something else to present I think I'm going to call a motion for the submittal.

Mr. Okum: Ready?

Chairman Darby: Yes.

Motion was made by Mr. Okum to approve the Tri-County Commons PUD Amendment request for a change in fencing on the rooftop units as presented included in that motion shall be this specifications and designs contained in the exhibits as submitted and reviewed by staff prior to this meeting. Case number 32032.

Motion was seconded by Mr. Hall.

Motion was not approved with a vote of 6-1.

Chairman Darby: So the motion has not been approved and I assume you guys will be in touch with staff about future direction for this location thank you very much for coming. Moving on to the second item of new business.

B. Springdale Church of the Nazarene, Conditional Use Permit.

Mr. Wolf: Hi, I'm John Wolf from Springdale Church of the Nazarene.

Mr. Okum: Mr. Chairman.

Chairman Darby: Excuse me.

Mr. Okum: We have a Conditional Use so we swear in.

Chairman Darby: We have a Conditional Use Permit we have to do some swearing in.

Mr. Wolf: Okay.

Mr. Okum: Is there anyone here that would like or could potentially speak in regards to the conditional use request? At this time are you here for the conditional use? (speaking off mic.) Okay. At this time since you're the only one sir I'm going to ask you to raise your right hand and repeat after me.

Mr. Okum as Vice Chairman swore in Mr. Wolf to speak regarding this submission.

Mr. Okum: Let the record that those that wish that speak in regards to this conditional use have been sworn in.

Chairman Darby: Thank you.

Mr. Okum: The floor is yours.

Mr. Wolf: Yes, we currently have a sign out front. I understand that it is 5 feet inside the right-of-way for the Rt. 4 corridor and we are wanting to replace that sign with an electronic sign. Something that is more efficient. I think much more than really the right words but more attractive for the community. Easier to reach out into the community with different wording, events, times of services things of that nature. The sign that we have now currently you change the letters so that does get inconvenient when it's 0° outside and can't change the letters or raining for whatever. This would be more convenient for us to be able to change it from a computer inside the building. Mainly wanting to do that as an outreach for the community. I think it would in our notes even if Springdale at an event going on we could even scroll that into that also. I know that you can advertise on the sign on 275 from that in and then from this and on Rt. 4 if there's something going on or signups for youth or whatever. We could always do that. So were mainly looking at it as an outreach for the community in a little bit easier to change from our end.

Chairman Darby: Thank you. Ms. Fields.

Ms. Fields: Thank you Mr. Chairman. The sign in question is for the church of the Nazarene. It is located in our public facilities district and also in the sub area D of the corridor review district. Their current sign is 70 square feet it is a ground mounted sign and as stated is a manual, has a manual message board. The proposed sign would be in that same location. The new sign would be 50 square feet 6 feet in height and the electronic portion of that would be 25 square feet in size. Per our code electronic signs in the public facilities district does require conditional use. Per the conditional use standards there are a number of review standards in the code that the commission should consider when making their decision on this application. Those are in the write up for your review. The applicant has stated that the electronic portion of the sign will comply with our electronic signs standards. As stated the sign is currently located, their current sign is located 5 feet within the right-of-way. The proposed sign per our code since the existing sign would be taken down the new sign would have to meet and location requirements in our existing code which is 10 feet back from the right-of-way. That is the standard that is throughout the city. Staff recommends enforcing that due to state safety concerns. There's two sections in our code that require the sign to be located on a base of stone or brick that is in our sign

section and in our corridor review district. The applicant has requested to have the base be constructed out of brown metal trim to match the building. But to be consistent with the corridor staff recommends that the base be brick to match the building and to be consistent with the other signage requirements them out the corridor. The sign will also need to be located into a landscaped bed equal to the size of the sign face per the code than a landscape plan will need to be submitted for staff to review and approval. Lastly the corridor review district requires that 50% of the sign the comprised of earth tone colors. The proposed sign does not, is not proposed to be an earth tone color. So planning commission will need to waive that requirement if you choose to approve the sign as submitted. There are a number of considerations also in the write up but I believe I've already touched base on all of those but I'd be happy to expand on anything or answer any questions that you may have.

Chairman Darby: Mr. Taylor did you have anything you like to add to that.

Mr. Taylor: Nothing further thank you.

Chairman Darby: Mr. Shvegza.

Mr. Shvegza: No additional comments.

Chairman Darby: So we're letting her do all the work? Okay. Do we have questions from our panel? Mr. Okum.

Mr. Okum: Mr. Chairman we just need to find out if there's anybody else in the audience that would like to address the commission in this regard. I don't see anybody coming forward Mr. Chairman so I think we can close the public portion of the proceedings. Okay I guess I still have the floor.

(someone in audience talking off the mic.)

Chairman Darby: Ma'am. And that was the reason we announced being

Mrs. Wright: I did not know it was connected to this one. I thought you were referring to something the former speech so I

Mr. Okum: Let me swear her in

Chairman Darby: Well we will swear you in. Would you stand please?

Mr. Okum: Okay and if you're....

Chairman Darby: Sir, do also want to speak?

Mr. Okum: You may want to speak let me swear you in at the same time that way will make everything straight away to supposed to be.

Mr. Okum as Vice Chairman swore in Mr. & Mrs. Wright from the audience to speak regarding this submission.

Mr. Okum: Mr. Chairman based upon that let the record show that we have two other people that have been sworn in and for the purposes of the meeting our request that we close this public portion of the proceedings I am asking yet the chair allow the public portion be opened again so that these folks have an opportunity to speak.

Chairman Darby: We are reopened. Would you please come so we can get the MIC please?

Mrs. Wright: First of all the church of Nazarene has been a wonderful neighbor. We probably, your sign would have the biggest input on us we're the only people that have a porch facing that sign. So far from what I gather the sign will be smaller than

the one that is there now basically in the same space. As the person who would probably be most impacted I see no problem with that. They get something done very well could live with thank you.

Chairman Darby: Thank you for your input.

Mr. Okum: Mr. Chairman Thank you. As a follow-up to your comments that's one of the big things that I was going to be bringing up. This is a conditional use application so should there be issues move over lighting or issues it's a matter that you still would have the opportunity for this to be brought back to this commission and therefore this commission could hear those issues if the church were not sensitive which state have always been a good resident to the community sell that wouldn't be the situation or could just call for lighting adjustments at night and so forth. This is probably the first practical application of the code that would put it in proximity to a residence. So that's my comment for right now and I saw a hand go up.

(audience speaking off mic)

Chairman Darby: Could you come to the podium so can be part of our minutes please.

Mr. Wright: My question is whether the church is intending to do and the kind of like a flashing or is it going to be a steady illumination?

Mr. Wolf: No it would just be script no TV shows nothing like that.

Mr. Wright: Yeah that would be my only concern but if it were flashing are doing something magic.

Mr. Wolf: And at night at night the sign will automatically it sets its lights sensitive so at night it will game itself during the day it would bring back up.

Mr. Wright: Okay no problem. Thank you.

Mr. Okum: Seeing no other comments Mr. Chairman I move that the public portion of the proceedings be closed.

Chairman Darby: Hereby closed. Just for an editorial comment I know we do this quite often but I think what we just witnessed was an example of the intent for this procedure. We just had the applicant involved in dialogue not only with us but also with a resident. You can't have too much of that thank you very much. So Mr. Okum you still have the floor.

Mr. Okum: Mr. Chairman Ms. Fields if this were another use other than a public facility use in the business uses category would be assigned be permitted in that location?

Ms. Fields: Yes it would. There still would be the location question with this property if the sign was in the right-of-way. There still would be the earth tone question because it is still the corridor review district. I'm trying to think if there's anything, and also the base of the sign. Those items would still be something that the staff would have to work with the applicant and you would've had to have made the decision on if it was a sign located in GB not in public facilities.

Mr. Okum: If it were GB next to residential is there a distance factor that needs to be applied for signage?

Ms. Fields: You know what I don't know that off the top of my head I can check though.

Mr. Okum: If you can check that I'd appreciate it. Not that you didn't spend enough hours on the code.

Ms. Fields: It's been a while though

Mr. Okum: Nor myself or the committee that was on it.

Ms. Fields: I am not seeing anything but I will keep looking.

Mr. Okum: Okay. In regards to the church's position the staff has made a recommendation that it be relocated to the legal location.

Mr. Wolf: Right.

Mr. Okum: Outside of the right-of-way.

Mr. Wolf: And we don't have a problem with that at all.

Mr. Okum: Okay. Thank you. Let me ask the table here.

Chairman Darby: Mr. Bauer.

Mr. Bauer: Thank you Mr. Chairman. While all this go down the list of other things here as far as the brick base is that going to be an issue?

Mr. Wolf: No.

Mr. Bauer: No?

Mr. Wolf: No sir.

Mr. Bauer: Okay. And that's more for staff 50% earth tone color what color do we consider that that sign at this point? Or how much is....

Ms. Fields: I believe that the sign is mostly kind of a dark red.

Chairman Darby: There is a rendering here.

Mr. Wolf: The illustration in the side. We would actually not... The main section in here would just be wording there (inaudible)... Like this red background and things like that that would not be it would just be script that's it. And then it would be finished around and like a brown earth tone such as what our sign is now.

Mr. Bauer: Okay

Ms. Fields: If you can see the picture you know what is shown things kind of the title in a red block with what looks lot to be a dark brown finish around the remainder of it and then with electronic component. The electronic component with the kind of red sign band of the top would put it over that 50% earth tone requirement.

Mr. Bauer: Okay you wouldn't be considering the video board obviously that new sermon series is something that would change correct? So that wouldn't be part of the color the 50% color.

Ms. Fields: Yeah I'm not sure how the city has looked it that in the past but obviously the electronic you know it's not into the earth tone colors that are displayed on their electronic message board it's going to be all colors of the rainbow. So I don't know how that's been looked at in the past as part of it or if it's just the actual sign itself.

Mr. Okum: This is the first time.

(background laughter)

Ms. Fields: So this is the precedent?

Mr. Okum: This is it.

Ms. Fields: I mean I would recommend that you think about it as the sign as a whole. Obviously it's not as simple as you know as a stone base sign with the words of the business on it so I think you'll probably be making that favor with every electronic sign that comes in the corridor.

Mr. Bauer: What is the square footage of the total sign?

Ms. Fields: 50

Mr. Wolf: 50 per side correct?

Ms. Fields: Correct?

Mr. Wolf: And 25% of that is.

Mr. Bauer: Is the electronic

Mr. Wolf: The electronic itself yes.

Mr. Bauer: Okay. Thank you.

Chairman Darby: Ms. Fields.

Ms. Fields: Yes I do have an answer to a follow-up to Mr. Okum. In our ground sign section we do have a requirement that ground signs should be set back 50 feet from any residential zoning district or lot line. So there's not a specific requirement for electronic signs to be further back than that but they would have to meet that 50 feet back from the residential.

Mr. Okum: If I could Mr. Chairman. This is about 1000 feet from the residence so it meets the 50. Thank you.

Chairman Darby: There being no other lights, we're ready for a motion.

Motion was made by Mr. Okum to approve the Springdale Nazarene church case number 32033 the conditional use request to include this specifications designs contained in the exhibits as submitted and reviewed by staff prior to this meeting and to also include the city planners considerations and recommendations.

Motion was seconded by Mr. Ramirez.

Motion was passed with a 7 – 0 vote.

Chairman Darby: Congratulations.

Mr. Wolf: Thank you.

Chairman Darby: Thanks for coming.

Mr. Wolf: Thank you for your time and consideration in this

Chairman Darby: And thank you folks for coming out also and you're welcome to stay sometimes we stay here a long time.

(background laughter)

Chairman Darby: Everybody okay? We're going to move on now.

C. Awa's Child Care, Northland Boulevard, Conditional Use Permit to run a daycare.

Chairman Darby: This is also...

Mr. Okum: She's already got her hand up.

Chairman Darby: Do a swearing in for conditions

Mr. Okum as Vice Chairman swore in Mrs. Deusing & Ms. Ba to speak regarding this submission.

Mr. Okum: Let the record show Mr. Chairman that those that are present now have been sworn in for this case.

Chairman Darby: Thank you. The MIC is yours.

Mrs. Deusing: Good evening and thanks for having us here today. I represent, my name is Karen Deusing, and I am with Everest real estate. I represent the landlord at the Olde Gate shopping center and Awa has come to us to open a daycare in the center and we've talked to the city and understood it was a conditional use, so Awa filled paper out and presented the package to the board, and listening, the board all has copies of that of the site plan, of the proposal or the proposed location. They also would have the location. Can I walk up here?

Mrs. Harlow: We do have all of that.

Mrs. Deusing: ...showing in the back where the play area is going to be, and have a parking area of the shopping center and then I kind of want to go to a couple of points that there's a few concerns in the documents that were sent to us and she had answered most all of them. This was a conditional use to be located. It's adequately serves essential public facilities that complies with all of the applicable development standards so A through F, G it seems like everything is in compliance. The proposed daycare is 1940 square feet. The site plan, we had provided the site plan, the site plan was provided to the board and the proposed play area will be in the rear of the retail center and will be 3 feet from the property line which is adjacent to single family residential use. I'm not sure what the concern the play area is based on previous city history from, and where what happened there. She's planning on laying the schedules out for the kids so that she has three classes and they will start as far as classes of kids going outside to play of the starting like at 10:30AM so from 10:30AM to 11:00AM, 11:00AM to 11:30AM, 11:30AM to 12:00PM, and 10:30AM to 12:00PM. So the timing is about ½ hour for each class about 20 kids. It's going to be classes aging from 2 ½ to four years old and they're going to be supervised out there and if you look at the aerial I don't know if it shows on the site plan and to try to pull it up on Google maps but I didn't get a chance to do that but you can see kind of the play area going to be back here and there's a hill and then there's a lot of space and land between the play area and the backside of the residences. I try to pull it up on Google maps but I can do it. So this area's got a lot of trees and areas that block against the noise if it is an issue. So she feels like because of the age limit and because the supervision of the children that and you've got the hill you've got the wooden fence you've got the barrier and then you've got a lot of land and the trees that it should not be an issue and we're not familiar of where there were other issues. I know that there's some other day cares in the area that are a little closer to the residents maybe that's what it was but we understand it's a concern and we will do everything in our power to make sure that if there are issues and our complaints that we would be more than happy to address those accordingly. And then in the afternoon the kids will come and probably play outside from about 5:00PM to 5:30PM. And that's the evening in afternoon and there's a lot of kids you know people are out working in their yard or whatever. They indicated that there would be eight employees and be a total of 49 children in and out due out the day care and for the hours of daycare are going to be from 6:00 AM till 6:30 PM. And then as far as the parking spaces the shopping center is 34,000 square feet there's over 200 parking spaces. Based on the requirements that are addressed here and is it you know 131 parking spaces and we've got plenty of parking and if you look at the plan normally during the day it's not ever really crowded. The employees park in the back over in the back here there was an issue about possibly off loading and loading in the fire lane which they're not supposed to do and could be something that the landlord would have to stay on top of to make sure that they are not blocking the fire lane. So if that were shoe store has a delivery they're going to have to park

somewhere off to the side and make sure that the tenants would be aware of that that they can't park because of the safety hazard with the kids coming in and out and the picking up the kids. So that would be something that they would address and then the parents we could even if it back to the point where we had to designate parking areas or parking spaces here in the front we could also do that and put signs up. Drop off for children between certain hours. So that is something we could also address with the landlord as well and that was number 7 and it can that there were some staff that had concern about regarding semi truck unloading during drop-off. That is something that we will talk to and we have also talked to the tenants about the possibility of a daycare going in there and I think that and they have the same feeling that they are anxious to have other tenants and people in the there to have some foot traffic in the center and that they would be willing to work with us knowing what the timings are for the drop offs and the pick-ups for the kids and we could make sure that they don't utilize that front area during those times. She's got an existing business now. Do you want to talk a little bit about your business?

Ms. Ba: I've been doing child care since 2008 and I've lived in Springdale since 2009. I have a license with Hamilton County jobs and family services and they have an associate on child development and I want to move a daycare from my house which I just bought yesterday on Summerfield Lane and move it to another level.

Mrs. Deusing: Everything as you know it's very strict with the state and she has to follow all of the guidelines for the state of so that's with the health department fire department and then with the building officials and then within the city all of the codes. And then you get how often need inspections?

Ms. Ba: Four times a year from the State of Ohio.

Mrs. Deusing: So she's been doing this since 2008 and she's not had any complaints. She is very aware what the rules and regulations are. She needs to expand she would like to expand I think there's a floor plan in there as well that shows the rooms and how she's going to divide everything up. There's presently three ingress and egress exits out of this space. There's one in the front door there's one on the side and there's one in the back and she plans on putting into more doors.

Ms. Ba: We will be adding two, doors one on the infant room that leads to the playground and another one from the toddler room they goes to the play ground. Actually their windows but they will be converted to doors.

Mrs. Deusing: She's working with an architect as far as food does a lot of day cares and is very familiar with codes as far as fire codes and stuff goes and everything would be in compliance and she could not even open until the State gets all of the approvals. Signage would be standard signage she's in that kind of the corner area if you look at the site plan. It is between the Jerusalem grocery store and then we haven't been in space here that we're working on trying to get filled so she has a small area here and it's based on your frontage so it's going to be assigned be that of the very minor. There's brackets up there now will basically put a box sign up there now and then utilize the doors for lag hours of operations and things like that is what they'll do. It was issues in again there was talk about the city dumpster, the center dumpster we talked the landlord if we have to have the trash picked up twice a week you'd be willing to do that and I think online and pallets are from the furniture store. As far as getting furniture and that this is an in the in so I think that's probably been an issue and we will definitely make that landlord aware and the tenant aware that they can't do that and if it is because we have to enter the dumpster twice a week he's more than willing to do that to. Cleanliness is very important to her she could get shut down her businesses from livelihood and she's going to do everything she can to follow the guidelines with the city then with the state to make sure that she's there for many years and they'd like to have are there for many years.

Chairman Darby: Thank you. Ms. Fields I realize the applicant has responded in some way too many of the items raised in your report that I'm going to ask you to go through it and as you usually do so we can get the full emphasis of the intent.

Ms. Fields: Thank you Mr. Chairman. The conditional use is being requested for the day care at 302 Northland Boulevard again in the Olde Gate Plaza shopping center. This property is zoned general business and daycare centers are a conditional use in that zoning district. And again as the last one and when you review a conditional use there are a number of criteria in the code that should be considered with that review. Those are in our staff review letter for review. The proposed daycare is 1940 square feet and again is in the northwest corner of the shopping center. The site plan that was provided shows that there should be a 3 foot gap between the fence of the play yard and the adjacent to single family residential property line. Anne had mentioned to some of previous issues were day cares in the city that I don't know the full story on but I'm guessing some of you all do. The applicant has indicated that there will be 8 employees 49 children and again the hours of the from 6:00 AM to 6:30 PM. That the proposed parking a daycare are the center has plenty of parking to accommodate the existing tenants and this proposed tenant so parking is not a concern with this application. Again the deliveries for the center will be made to the front door and again when staff as in the site at 8:00 AM on a weekday there was a semi truck that was backed in and blocking the front door of the space so that would then get on the concern that semis blocking the entrance having children walking across the parking lot obviously a concern for both the parents and the applicant as well. Signage for the day care will be building mounted and conform with the signage requirements. There are three considerations if planning commission chooses to approve the conditional use that the day care and form and is consistent with the conditional use standards and the code. That the proposed, that planning commission determined that the proposed play area is an appropriate location given its location adjacent to residential use. And that the signage for the day care comply with the provisions of the code.

Chairman Darby: Mr. Taylor do have anything you would like to add to this?

Mr. Taylor: Just to mention that should the commission approve this conditional use there still a requirement for building permits and so forth so I just wanted to make sure that you understood that.

Mrs. Deusing: She has talked to the architect who's got....

Ms. Ba: We have to work with building and zoning the health department and the fire department before starting to work with the state.

Mrs. Deusing: They have to approve, the state's got to approve everything.

Ms. Ba: Yes after approval from fire department city department building and zoning is first fire department and after health department.

Chairman Darby: Mr. Shvezda.

Mr. Shvezda: No comments.

Chairman Darby: They're those members who are too young to recall its been eluded to a few times but we did have issues with a really state of the art daycare that opened here in the city adjacent to residential and it had to do with the noise level of the children. We discovered during that process that no amount of supervision keeps the little ones from creating a situation that was really untenable for the residents. I just wanted to say that because it is come up a couple of times and as we go on I just wanted to say to the applicant then I'm really impressed that you've been in the business for a while and I'm sure all the credentials and that you comply with the state and what have you but as I look through this report the issues there with location location location. And I think that's what we're going to be talking about.
Mr. Ramirez.

Mr. Ramirez: Thank you Mr. Chairman. Riding on what Mr. Darby was speaking of I have a little concern on the fencing in the back where the play area is. Can you tell me a little bit about that fence we know the height of it, what is the construction of the fence?

Ms. Ba: It will be a wood fence and will be as tall as 5 feet.

Mr. Ramirez: 5 feet but it's constructed of what?

Ms. Ba: Wood, wood fence.

Mr. Ramirez: Is it a solid wood fence?

Ms. Ba: Yes

Mr. Ramirez: Will there be a gate out the back?

Ms. Ba: Yes would be an exit from both sides in case....

Mr. Ramirez: Is there concern with kids opening that eight and going out the back side of the premises?

Ms. Ba: No they will be always under supervision.

Mr. Ramirez: Okay. I guess it's just probably in the code that have you made provisions for handicapped children?

Ms. Ba: Yes in the space right now they only have one restroom and we're planning to add another one that will be compatible with ADA children so we can accept even handicapped children because there's no discrimination in day care.

Mr. Ramirez: Okay. I guess the question for Mr. Hall as the Olde Gate condominiums and aware or are they aware of this?

Mr. Hall: Not to my knowledge they haven't been.

Mr. Ramirez: Can you see that being a concern?

Chairman Darby: Mr. Taylor we had an invitation process in place right? Do you want to explain that please?

Mr. Taylor: Every property within 300 feet of the site was sent a notice in addition it was in than paper as well. Because of the conditional use there's a protocol for advising surrounding property owners and we did do that.

Chairman Darby: Okay. Thank you. Mrs. Harlow.

Mrs. Harlow: Thank you I have two concerns in your original application that was received in our building department on April 10 you stated that the program would be beneficial to the community by providing child care and education during traditional and nontraditional hours. It will help adults and the community to go to work for school during the evenings and weekends when most Day Care Centers are closed. Do you operate on the evenings and weekends?

Ms. Ba: It will be our plan after we have approval from the state to see if we can open.....

Mrs. Harlow: I'm sorry I can't hear could you please pull the MIC down a little bit or talk a little louder?

Ms. Ba: After we have all the approval from building zoning fire department we will be applying with the state to see if they will allow us to work during non-traditional hours which would be after 7:00 PM to 1130 and weekends.

Mrs. Harlow: So up until 1130 in the evening and weekends?

Ms. Ba: It would be up to the state to approve us for that.

Mrs. Harlow: Can you help out?

Mrs. Deusing: So right now the hours are from 600 to 630, 6:00 AM to 6:30. After they are open in which she will do is she will apply to the state which it's probably another procedure. That they would have to apply for non-traditional hours. So I think it's probably it's a next step in the process with the state where she has to meet criteria and qualification that you have to do to make that into a non-traditional hourly center.

Mrs. Harlow: Okay.

Mrs. Deusing: Probably some provisions but right now in the beginning she's going to do just the traditional hours for the day care.

Mrs. Harlow: Has Hamilton County looked at this yet?

Chairman Darby: Mrs. Harlow I think Mr. Taylor had a clarification he wanted to add in here.

Mr. Taylor: Thank you Mr. Chairman. I just, the comments so far have been based on the traditional hours and so if there was a change to that that would be a change to that of the conditional use and you have to come back to this board a later date/

Mrs. Deusing: So right now it's traditional hours.

Mrs. Harlow: I have two other questions. Has Hamilton County approved your building site as well as this layout? Have they been out to look at the property?

Ms. Ba: Not yet, we have to have approval from city and zoning from the city of Springdale first before we work with the state. The state is last.

Mrs. Deusing: So we came to you first. Because it is suggested that we come to you first to get approval.

Mrs. Harlow: First, Okay.

Ms. Ba: Because you cannot get approval from the state if you don't have approval from your own city.

Mrs. Harlow: Right, Okay. My last question is how close were your fence be to the nearest residential property?

Ms. Ba: They will not be close to the residential area because after we put the fences we see that there is a hill over there and there are a lot of trees that are between the commercial area and the residential area.

Mrs. Harlow: 10 feet?

Ms. Ba: It's more than that. They're not very close.

Chairman Darby: Ms. Fields do have those dimensions.

Ms. Fields: The application material stated that the fence would be 3 feet from the residential property line I think what the applicant is alluding to that there's the, fence will be 3 feet from the property line but there's a hill and there may be a significant distance between that and the house.

Mrs. Harlow: I took that to be 3 feet from the center's property line.

Ms. Fields: Yes

Mrs. Harlow: And then there's other property on the other side before it goes over to the residents but no. Tell me how much distance there is between.

Mr. Taylor: I can't say how far it is to the actual building but the property line it's a common line between the residential property and the center so the play fence the playground fence would be 3 feet from the residential property and Mr. Okum I believe

Chairman Darby: Mr. Okum has pulled something up.

Mr. Okum: I've got it up on Google. Tom you would say 40 feet if the property lines here to the back of the house?

Mr. Hall: Probably close to a yes.

Mr. Okum: We are side estimating here.

Mrs. Harlow: That's really close 40 feet is really close.

Mr. Okum: We'd say 40 feet to the house behind that.

Mrs. Harlow: The back fence of the play area?

Mr. Okum: From the property line yes.

Mr. Hall: Which is 3 feet from the property line

Mr. Okum: The fence is 3 feet from this property line. 43 feet. If the two planning commission members giving you a best guess.

Mrs. Deusing: So and it can this area back here and it's hard to see in the aerial but you've got this house and this is commercial property.

Mrs. Harlow: And we don't care about commercial were worried about our residents.

(laughter)

Chairman Darby: We do care but you know.

Mrs. Harlow: We do care but not for this, not for this.

Mrs. Deusing: I mean from here to here and looks a little farther than 40 feet. And this is where the playgrounds can and sounds going to go this way.

Mrs. Harlow: Sound goes all over the place.

Mrs. Deusing: I think that this might be near 40 feet is this one here Mr. Okum?

Mr. Okum: Now the other one

Mrs. Deusing: 40 feet this way really?

Mrs. Harlow: That's all.

Chairman Darby: Okay thank you. Mr. Hall.

Mr. Hall: Thank you Mr. Chairman. Along with staff and some other members of the commission we have a concern on the noise level. As staff indicated here there's going to be 20 children there between the hours of 9:00 AM and 6:00 PM which is a 9 hour gap to start with. Then there is also they have the noise area associated with the play area is based on. You've got a 5 foot fence in 20 children in and we're concerned about 122, 123 single family homes that live behind that within 43 feet.

Mrs. Deusing: Okay and there they are between the hours and 10 to 1030 and noon so a lot of people living...

Mr. Hall: Okay, whatever time.

Mrs. Deusing: Yeah how many people are there for many people working?

Mr. Hall: Well the thing is we have to make sure that the residents that are there and longtime residents there are able to enjoy quiet, quiet enjoyment.

Mrs. Deusing: Right we understand that.

Mr. Hall: We can't go in there and say mothers only can the children of theirs play from this time of this time I believe on your application you indicated from 9:00 AM to 6:00 PM to start with and that it could be later. So have you made any other provisions to protect those residents other than just a 5 foot wooden fence?

Ms. Ba: The thing is the kids will not be outside all day there will be hours when the kids are inside learning and each class when they go outside just for 30 minutes and during the school year the school agers are all day at school and come back, 345 to 4:00. When they come they eat their snack, do their homework and they are outside mostly maybe from 5 to 5 30 and waiting for their parents to pick them up. During the day we only have two classes that can go outside. It would be the toddlers who are 2½ to 3 years old and the preschoolers for 3 to 4 years old. And each class has the right to go only 30 minutes the day.

Mr. Hall: Well kind of back to my original question, have you made any provisions to take into account that you're within 40 feet of single residence homes and people will sit on their back porch is and try to have a nice evening and they'll be disturbed by the times that you just set forth of the children being out there. How have you, how are you going to handle that?

Ms. Ba: The children will be always supervised and they'll be playing game that don't have to disturb the neighborhood or do anything that can harm them.

Mr. Hall: I have a serious concern for the folks that live within 43 feet if the in for that reason I can't support this. Thank you.

Chairman Darby: Mr. Bauer.

Mr. Bauer: Thank you Mr. Chairman. Just for my clarification the playground would be to the west? Okay. I was thinking that was the case. And for those that may have been on the commission when we had the last issue with a daycare with noise could we have a little more explanation of what the issue was? Try to expound so we can learn from that because means is home.

Chairman Darby: Your old also you remember.

Mr. Okum: Noise goes and long one. We've learned a lot about noise with the previous facility and the applicant really wanted to continue to satisfy the needs but the neighbors were constantly annoyed. The biggest complaint from my recollection was 65 decibels is sort of ordinary and accepted and by the way Mrs. McBride now has a decibel meter as a result of this. But when children scream the screams go much higher than 65 decibels and those screams are sudden and they're not consistent so children have a good time and that's with kids are all about its great and it's wonderful it's not an with that particular case it was against new accord and the residents of Naylor Court were being hit with these children having a good time which is great. The problem was and I think Mr. Darby made the comment it was a location issue. Those sounds travel a long distance. I've got the expressway that runs diagonally behind my home I must be 1000 feet from the expressway and when trucks this Jake breaking going down the expressway and off the exit ramp at Glensprings that comes right of the valley and my house. My ordinary sound level in my backyard is about 70 decibels which is really above the level they should be but I bought the house I chose to live there I accepted those responsibilities. When the property owner bought the house if I can ago when that take your time but...

Mr. Bauer: I asked the question.

Mr. Okum: When the property owner bought the house on the property west of this property, he didn't buy that with that anticipation so people, and I didn't buy my house I built the house there so I did more and knew what it was I knew what I was getting when I built it. But I made those assumptions and acceptance is. The problem is that when we put a daycare that has variable hours those times when the children are out playing there going to do with children do and the neighbors were very inconvenienced by it. It was very difficult for us. Does that help?

Mr. Bauer: Yes. How many neighbors are we talking behind this area is it just one that I can see there or is it two?

Mr. Okum: There's, looking at my Google it is right at the corner of Pear, Pear, Plum I don't know with the name of the street is back there it's a fruit street that runs back and makes a turn. There it is on Google.

(talking off mic.)

Mr. Okum: Church goes to Hickory, thank you.

Mr. Bauer: That doesn't sound like a fruit.

Mr. Okum: Well.

Chairman Darby: Fruits and nuts come on

Mr. Okum: The fruits and nuts are back there many have yards they are well established homes that have been there.

Chairman Darby: Mrs. Harlow.

Mrs. Harlow: The people back in the Hickory and Church, they have rather large yards. I would think that if the noise level from the playground was going to impact any one it would impact the residents of Olde Gate.

Mr. Okum: Not in the position that it is on this

Mrs. Harlow: No?

Mr. Okum: No. Its true west.

Mrs. Harlow: True west?

Mr. Okum: Based upon the drawing based it on the site that I am looking at yes its true west.

Mrs. Deusing: So how many houses did you say there were?

Mr. Okum: Primarily two that I see.

Mrs. Harlow: So there's...

Mr. Okum: Oh no three. Three or four. Ms. Fields is there going as well.

Mrs. Deusing: Did you send the letter moved into some needed were did not send a letter and nobody responded?

Mr. Taylor: Nobody's here.

Mrs. Deusing: Okay, so there was a letter sent.

Chairman Darby: Please, what did you say?

Mrs. Deusing: So there was a letter sent out to the...

Mr. Okum: I'm sure there was.

Chairman Darby: Yes.

Mrs. Deusing: Everybody and nobody.....

Mr. Okum: It does not necessarily mean that people...

Chairman Darby: They're showing up or not doesn't prevent us...

Mrs. Deusing: Right but you know.

Mr. Okum: Mr. Chairman just for purposes of a public hearing seeing there's no one else here to speak on going to move that the public portion of the proceedings be closed.

Chairman Darby: That portion is closed. Mr. Bauer were you, still your floor? Okay Mr. Hawkins.

Mr. Hawkins: Thank you Mr. Chairman. For Mr. Taylor, with regard to the 300 feet is that we're working with as far as for notification.

Mr. Taylor: Correct.

Mr. Hawkins: How many, did that cover all of Carriage Circle there in Olde Gate do you know or would that not reach out that far?

Mr. Taylor: I don't believe that it, I'm not sure how many people actually, I don't recall. Ms. Morsch actually sent them out so maybe she can tell me a little bit here.

Ms. Morsch: Without having my stuff right in front of me I know that it took care of most of Carriage Circle Drive. It did take care of the three people that are listed over on Hickory Street as well. I had one gentleman stop in today, asked about it, said could I see the paperwork, showed us the letter for them to come in and look at it, is an okay fine, I said you're welcome to come to the meeting this evening, he said great thank you very much and he did not come in.

Mr. Hawkins: Okay. My concern would be with regard obviously to the residents noise, what have you I do have a as much if not bigger concern for the folks that are on Carriage Circle then he even the folks over on Hickory based on the size of those yards and how condensed the neighborhood is with those condos right there. I do think where that's placed right there that noise is likely to travel in that area. You do have a lot of folks, some folks back there working but I bet you as many folks as are working you probably have are retired that are back there likely to be there even during normal business hours when you would think folks may be away at work. So I think there can be a significant impact and answer my concerns with lie.

Chairman Darby: Are there any other comments at this time? I'd like to say I appreciate you coming in and day care increasingly is so important to all communities a specially Springdale. And I don't think that trend is going to lessen; however as I look at this entire proposal I think you just have a bad spot. There's the issue with the residential but also and I've driven that area myself, when our planner was in there and so all the semi backing up into that corner to make deliveries that's borderline scary. Because I'm thinking about to drop off and you pick up and I'm sure as landlords the folks will try to work with these people to make the necessary modifications but it's almost like Mr. Okum's analogy about the residence they were already there and it's not as I see it not easy to bring about those kinds of changes and habits as far as how the deliveries are made and when they are made etc etc etc... I will not be able to support this however I would encourage you to work with the city

staff to see what other venues are available because believe me we do want you but I don't want you in this spot, that's where I am of this time. So Mr. Okum I think we're ready for a motion.

Mr. Okum: Can I make one comment before I make my motion Mr. Chairman? We just recently approved another daycare center over on Kemper Road within the past four months or five months of the last month. It's not that the city doesn't have a place for daycare there's other locations which does this location in my opinion and I concur with the chairman this one's just not the right place. And for those same reasons that he quoted the noise and how it impacts residents as well as the safety as the children going in and out of the building. One market there to Jerusalem market, it's a market.

Mrs. Deusing: Right.

Mr. Okum: So there's people going in and out and traffic and so forth. It's not a lot but it still some.

Mr. Okum made a motion to approve Awa's child care, Olde Gate Plaza, application under a conditional use permit case number 32054 to include this specifications designs contained in the exhibits as submitted and reviewed by staff prior to this meeting. To include all staff city planner recommendations and considerations.

Motion seconded by Mr. Hall.

Motion was not approved with a vote of 7-0.

Chairman Darby: As I said I encourage you to work with our people about what is available in Springdale.

Mrs. Deusing: Okay thank you.

Ms. Ba: Thank you.

Chairman Darby: Moving on are there atoms to be brought forward for discussion.

IX. DISCUSSION

Chairman Darby: Moving on are there any items to be brought forward for discussion? I have one. Mr. Taylor would you give us a summary of our current situation with the razor wire in terms of where we are.

Mr. Taylor: This is going to be my best effort at this. We did in fact prevail at the court and there was a date for when it was supposed to be removed. The applicant filed some sort of a motion with the court to basically delay enforcement and for, and this thing happened as I understand it on a Friday and before Mr. Forbes could file his motion to oppose the motion on Monday morning they had already ruled in favor of the applicant to give them a delay until they came before this body to see if something else could be worked out. I guess just as an editorial comment as she wisely stated in the meeting you know that question has been best answered ruled on and the razor wire is a no go. I mean I think that's been decided.

Chairman Darby: But it's a right now it's still there because of the court's actions?

Mr. Taylor: Exactly.

Chairman Darby: And so while we are getting this education there is another one I would like you to comment on because we have a couple of new members and I'm forgetful and so why we have Ms. Morsch here let's talk about what we do what we have these conditional uses.

Mr. Taylor: Well there's in the code there are there's a listing of requirements for notification for all of different sorts of actions that you folks take. Many of them do not require us to notify adjoining property owners or advertise in the paper or any of that sort of thing however; some of them do require that and conditional use applications are one thing and as you, essentially anything that requires a public hearing requires notification and conditional use applications require a public hearing major modifications to the PUD require a public hearing zone map amendments zoning text amendments those types of things all require a public hearing and anything requiring a public hearing requires an advertising period which basically it's 15 days. We put an ad in the paper and it has to be a paper of general circulation and typically we try to get it into the Tri-County press because it's less expensive. But sometimes we'd have to do it and put it in the Enquirer just because of the way the timing works out or to make sure we're 15 days ahead of the hearing date. Then in addition there is a requirement to send out letters of notification to those affected property owners and the code defines affected property owners as people within 300 feet of the site and then finally we actually go out and put a sign on the property so that people just driving by notice that there is some sort of zoning action going to be taken and that alerts them as well. So that's kind of the procedure. The idea is when we get an application we are supposed to, step one view the application and see what it is for and then if it meets one of those requirements and if it's one of those applications requiring a public hearing then the whole notification process takes place.

Chairman Darby: Does anyone else have any questions? Is there anything else for discussion? Okay Mr. Bauer.

Mr. Bauer: The Towne center are they having an issue with their LED sign?

Mr. Taylor: Well the issue is they are not operating that properly and the new owners of the center are not quite as cooperative as Mr. Gilhart was the younger Mr. Gilhart. And so we are trying to work their way through that.

Mr. Okum: Is there a requirement that it function in certain manner?

Mr. Taylor: It was actually my understanding and was in your

Mr. Okum: My motion.

Mr. Taylor: Yes back in, I don't know before I even got here. But I know that there is a time period that the thing is supposed to be (finger snapping) like that now. It's certainly not the.....

Mr. Okum: It's also supposed to be full color and it's currently two colors so there definitely having issues.

Mr. Bauer: He said that there's a new owner?

Chairman Darby: All yeah.

Mr. Taylor: Yeah just to further complicate things you know as you all have seen the bowling alley and so forth that's really about the only property that I guess the Charles Gilhart [et.al.](#) Actually still owns it the bowling alley site. I think that Brother Rick owns, he's Denrick Properties which owns the property where McDonald's is I think if I'm not mistaken. And then the rest of it was bought by a firm that is in California. So of course that's what complicates this whole thing with the signage.

Chairman Darby: They don't have an onsite person correct?

Mr. Taylor: No.

Mrs. Harlow: Who owns the noodles area?

Mr. Taylor: That is part of the new ownership.

Mrs. Harlow: Of the shopping center?

Mr. Taylor: Yes.

Mrs. Harlow: So the McDonald's kind of stands out there by itself?

Mr. Taylor: Correct.

Mr. Okum: All one PUD, multiple owners. Cassinelli is all one PUD, multiple owners.

Chairman Darby: Oh I'm having so much fun with this. Mrs. Harlow would you please refresh Mr. Okum's memory about what we're doing there with the highway approach because my wife told me that my explanation wasn't good enough.

Mrs. Harlow: The southbound Rt. 4?

Chairman Darby: Yes.

Mrs. Harlow: Probably in 09 we had engineering done for a southbound dedicated. I'm sorry back up. A southbound dedicated lane to get onto the interstate and we had the funding. We had gotten funding from the state and we were all set to go and then it was decided that we probably needed to pull back on that because of that was the time when the city budgets were getting really tight and we were trying every way that we could to conserve every penny that we could. So we get that money back. Well I was in an OKI meeting about a year and half ago maybe two years ago and I heard that there was money available that had been turned back in from projects the community's couldn't do. They had \$450,000 some thousand dollars that was for a shovel ready project and I knew we had that shovel ready project sitting there. I couldn't get out of there fast enough to call Derrick Parham and say we can get this \$450,000 for the project. So it's going to be two lanes that are we going to get and will help move the traffic now. Mr. Okum's and I were approached by Fairfield City council people and the need to do something all the way back up to Burger King. Unfortunately they could not get their businesses along that southbound Rt. 4 to agree to do that.

Mr. Okum: Simple, they were no help.

Mrs. Harlow: Yeah. The boat company up there...

Mr. Okum: Hern Marine.

Mrs. Harlow: Yeah they really,

Mr. Okum: With the new sign.

Mrs. Harlow: Dug their heels in and said no they were not going to be giving up an easement for that lane. Since then Skyline has moved but until they do something that is going to be your traffic jam.

Mr. Okum: Can ask a question?

Chairman Darby: Sure this is discussion.

Mr. Okum: I mean I asked Mr. Shvezda about this the last meeting. So the improvement we made we utilize the dollar so we got.

Mrs. Harlow: Right.

Mr. Okum: Did we design for the anticipation and that because Mr. Darby is going, did we design for the anticipation that should Fairfield widen and will be able to interlace it to work?

Mr. Shveg zda: Yes that is true. When the work was done on what I call it the Rt. 4 Crescentville intersections which went quite a bit north up into Fairfield the intent of the original design was then there southbound lane would extend all the way to Muhulhauser/Mack intersection.

Mr. Okum: Where we turn up into the mission property.

Mr. Shveg zda: But that was deleted through some of the public meetings that was deleted from the project and we just have a third lane just a short distance from north of Crescentville road.

Mr. Okum: So that when the tie into, that lane would just continue and basically absorb that traffic that currently backs up all the way to

Mr. Shveg zda: Basically they would have the ability to have traffic queue in the far right lane to go to 275 westbound and the middle lane to go to 275 eastbound that would be able to queue up and you wouldn't have everybody jumping the gun sort of speak to try to get around.

Mr. Okum: There currently two cars sit in that lane going southbound and a jockey to get over and we end up with accidents and so forth.

Chairman Darby: Yeah I end up waiting just to turn into my place.

Mrs. Harlow: When Fairfield approached us, we talked to them

Mr. Okum: They sounded like they

Mrs. Harlow: They sounded like they wanted to do something and then we got the money for this expansion and I called the gentleman and talk to him and said you know we're going to go forward with this and you guys need to get your lanes in order and he said he can't get everybody on board.

Mr. Okum: And just so everybody knows those projects, that money whether it's CMAC or all the other different acronyms they've got down at OKI for funding those projects are funded like 10 years out.

Mr. Okum: Down at OKI the money is not just right (cell phone going off again) just not sitting there waiting for projects to come we have to make application. You have to be qualified and there's a whole process.

Chairman Darby: Well we lucked out on this one.

Mr. Okum: We did. And heads up here right there that jump on it and got the money but that they use those projects are... OKI has a 20/40 plan.

Mrs. Harlow: I was the only council member who voted to keep the money from our original pot of money and said I'm not a person who gives back money once we get it. Let's tighten our belt elsewhere. But I was the only one who voted to keep the money when everybody else wanted to get back so I lost.

Mr. Okum: But it's going to help some.

Chairman Darby: Okay my last question, how are we on the special meeting?

Mr. Taylor: Well that's a pretty good question. (laughter) okay we are definitely going to be hearing the.... We have a new owner for the, well we believe we have a new owner for the GE Park project. They have submitted and they're going to be on the agenda for sure. As you recall the original people that were actually calling the special meeting was the Ridgeline folks about the 15 acre piece at Northwest and Pictoria. However, they still have their application in, they paid their money they've got an application and they asked, I have an e-mail requesting their application be tabled until, well the public hearing continued in progress or whatever. It's actually I

guess the detail their final development plan so we don't have the public hearing. In any event and asked to be continued until the June 11 or the regular June meeting and the reason for this apparently they were unable or unwilling am not sure which can fulfill their terms with Mr. Byer the property owner and he has, we are told that he has a valid purchase contract with another developer to basically duplicate Ridgeline's plan and it very well may be that that's actually on June 11 or 10 or whenever the June Planning Commission meeting is. Thank you and stumbling all over in. In any event I don't exactly know what to tell you because I don't know who is going to be going forward with this thing. The people from Ridgeline I guess holdout some hope that they're going to some way or another become the developer; however the people from the new purchaser believe that they have a completely valid contract and they think they're going forward.

Mrs. Harlow: (off mic. unable to understand)

Mr. Taylor: The short answer is I do not know what's going on with that thing just stay tuned and I will certainly keep everybody informed as I find out what's going on.

Mrs. Harlow: But GE will be on.

Mr. Taylor: GE will be on.

Mr. Okum: The 23rd?

Mr. Taylor: Yes.

Mr. Okum: That was sort of added in?

Mr. Taylor: Well it was interesting that Mr. Darby raise the question about the advertising and so forth that really should have been on this meeting's agenda and we failed to get the notices out to the affected property owners so they were willing to delay by couple of weeks because I don't think it will it ultimately in the overall scheme of things really mess them up too bad, so it was very fortunate at least for me personally that meeting was already scheduled, and on the books and we can get them on without an undue delay. So that is why the point here about advertising that case, and that's also why we're not going to hear the 15 acre case.

Mr. Okum: But we will hear the bowling alley case?

Mr. Taylor: No we won't because he's also said that he is going to come in in June however; I think the deadline for June submittal is the 15th which is Monday so I hope he has something for us.

Mr. Okum: It is this commission person's point of view and recommendation is if it's not in we shouldn't hear it.

Chairman Darby: Well certainly not to keep this here much longer folks. We talked about this and the staff meeting and I don't think and we don't think it's fair to us as a commission to have people come in here and presentations partially based upon items they are pulling out of their briefcases and bring up to us so that is going to end. Okay. But this is critical, should have gotten it in. These folks know our schedules and they can do that. It is not fair to us to have to consider items that have not been filtered through our staff so that they can advise us. So you have my back on that right?

Mr. Okum: The rules give them an opportunity to get responses back to staff adequately to do with the so they can be on the agenda when staff responses that correct?

Mr. Taylor: Well that's why we have the, it's almost a 30 day of the time to get information so that we have time to have a little back and forth dialogue before we have to prepare the packets for you all. I mean that's it's the whole point if we didn't want to be able to allow them to you now have another shot let's say before coming

to the meeting and we wouldn't require that we would just say here's the comments will see you later. I think the whole idea is to initiate a dialogue and a conversation that enables us to bring something to you folks that you know we in the applicant are hopefully on the same page.

Chairman Darby: Thank you.

Mr. Okum: Can I ask one question Mr. Chairman. If the GEEAA project is coming back with a new owner and there are items associated with Heritage Hill's property lines in changes then we're going to need to be brought up to date on what we approved on the PUD from the previous application. Do we all agree?

Chairman Darby: Work for me.

Mr. Okum: If it means an open meeting workshop to bring it up to date I am open to that because it was a very contentious issue, very difficult to deal with, the motion was complicated probably one of my most complicated to do so I would really appreciate that same or I was back when we approve the thing two years ago. Thank you.

Mrs. Harlow: Any applicant but a specially the bowling alley applicant I felt like that Mrs. McBride would address in writing a lot of the issues and I felt like we were being heard by the applicant and I don't know how we can address that but it is very frustrating because it was out about an hour and 45 minutes but we just kind of kept going around the rose bush and not getting anything accomplished.

Chairman Darby: I would say one thing folks at any time when you're feeling uncomfortable and I say this because I recall when I used to sit over there and we had a meeting that was approaching 1:00 and I was sleepy and I just said Mr. Chair I have information overload over here because they kept pulling things out of pulling things out so if you ever get frustrated that the way that the presentation is going bring it up. I am very comfortable with that.

Mrs. Harlow: I just felt like we were going all round in a circle and not really accomplishing anything.

X. CHAIRMAN'S REPORT - None.

XI. ADJOURNMENT

Chairman Darby: Okay, is there anything else for discussion. I don't see you guys very often I like this. So I will take the magic motion. Move and second.

Mr. Hall: Second.

Chairman Darby: See you next time.

Respectfully submitted,

_____, 2017 _____
Don Darby, Chairman

_____, 2017 _____
Richard Bauer, Secretary