

PLANNING COMMISSION MEETING

August 14, 2012

7:00 P.M.

I. CALL MEETING TO ORDER

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

II. ROLL CALL

Members Present: David Okum, Don Darby, Tom Vanover, Marge Boice, Carolyn Ghantous, Richard Bauer and Robert Diehl

Others Present: Anne McBride, City Planner; Don Shvezda, City Engineer; William McErlane, Building Official

III. MINUTES OF THE REGULAR MEETING OF JUNE 12, 2012

(Mr. Vanover moved to adopt the minutes of the June 12, 2012 Planning Commission Meeting; Mrs. Boice seconded the motion and with 5 “aye” votes the minutes were approved as written, Mr. Bauer and Mr. Diehl abstaining as they were not present at the June 12<sup>th</sup>, 2012 meeting.)

IV. REPORT ON COUNCIL

Mr. Vanover: No report.

V. CORRESPONDENCE

Chairman Darby: As far as correspondence, we have a letter from this Commission for the Storm Water Regulation Amendment and a Zoning Pamphlet.

VI. OLD BUSINESS

- A. Chairman Darby: In Old Business, we have Minor Improvements to the PUD Building Elevation Color Changes to Hooters, 12185 Springfield Pike.

Mr. Terry Marty: I represent Hooter’s Building. I have below me samples of the stone that we are recommending for the Hooter’s building. We tried to match the brick that is on the south wall of the building; these are the samples that the architect has put together for us. In that plan that you received in your packet there is one error, Butler County is stated on the real estate area on the bottom of the plan. There are two columns on the east wall, the architect cornered those two areas as you can see on the print and although it cost more money, I think it looks very nice. Right above the entrance roof where there is brick, originally we had that just painted the same color, the grey color. We can go either way depending on your feelings, it is a cost factor but it is not that big of a deal.

Mr. McErlane: We have no additional comments from Staff; the applicant was given guidance at the June meeting to increase the amount of stone on the front of the building. This is really a subjective thing for Planning Commission to consider in regard to a deviation from what the Corridor District requires.

Mr. Bauer: The stone that goes up, the orange band at the top, it looks like the stone is banded on either side by the dark grey still, is that just the photo?

Mr. Terry Marty: I think it is just the photo, they may not have taken that grey out. I assume when it is approved there will be an edging but it won’t be that color.

Mr. Bauer: That goes around the north corner?

Mr. Terry Marty: Yes, sir.

Mr. Vanover: I like what I see, it is a nice improvement. My only comment is for the northeast corner; we have the stonework on the corner and I would almost like to see that stonework balanced over by the entrance, replicated over in that wing because I think it would look more finished.

Mr. Okum: I think that I had stated at the previous meeting or the meeting prior to that, that the northern side is not significant and the reason is because that exposure of the building is only seen if you are in the parking lot. There is no Corridor view of that elevation from Ray Norrish Drive. If there is any criticism I have is to carry the vertical point up to "Now Open", and that would be my only suggestion. I don't think value of the property would be benefited that much from putting it over to that north side up against Butler County line. I think this is a significant improvement and certainly we are not going back to brick like we had originally. We understand the situation with the property and what has happened with the existing facing that is on that building. I would encourage support of giving Mr. Marty some latitude on the amount of stone and masonry on this building. It is a significant building and it is a significant element. It is also the entrance into the Corridor Review District which we are going to discuss later this evening.

Mr. Vanover: Mr. Okum, I understand the balance thing and I understand that it is tucked back. If the Board feels that, I am not that strong on it just because I do know that it is tucked back and you have a wall of vegetation there that actually tapers down. I would agree wholeheartedly with you, I would love to see the front corner by the "Now Open" done and that would be more visually completing.

Mrs. Boice: When my packet was delivered and I looked at these papers, I liked what I saw. I think it looks absolutely great. I don't have any strong opinion on this corner or that corner. I think it is a great improvement and the only other comment I would make is that I wish it was done yesterday. Do you have a date when the work would be completed?

Mr. Terry Marty: In the June meeting, as you will recall, you wanted it done by October. If we can get approval tonight we will do everything we can to have it completed. Once we go to the builder, Michael Lichtenberg, we can emphasize that we would like to have it done no later than mid-October.

Mr. Okum: Seeing there is no other comments, I am going to leave the plan as submitted and the motion will read very simply; Mr. Chairman I move to approve the Hooter's Springdale Concept Plan as presented, dated plan project # 7155, as presented this evening in its entirety.

(Mrs. Boice seconded the motion and with seven affirmative votes from the Planning Commission Members the Minor Improvements to the PUD Building Elevation Color Changes to Hooters at 12185 Springfield Pike were approved.)

## VII. NEW BUSINESS

- A. Chairman Darby: For New Business we have a Conditional Use Permit, outdoor seating for Tan Thai Restaurant at 11482 Springfield Pike. In your packets you received a letter and I am going to ask Mr. McErlane to explain this to us.

Mr. McErlane: We require applications for Planning Commission to be submitted a month in advance of the meeting. During the first two weeks of that time period Staff does a preliminary review of their plans and then forwards comments to them allowing the applicant to make revisions and then resubmit enough copies to distribute to Planning Commission. We had forwarded comments on the Tan Thai project for the outdoor dining on July 26<sup>th</sup>, and required them to be resubmitted by August 3<sup>rd</sup>, and never received any revised plans or additional copies at that point

and actually haven't heard from anybody since then. I did actually talk to the person working with the applicant two days prior to the submittal date and he understood that Friday 3<sup>rd</sup>, was the submittal date but we never saw anything. Our recommendation is that because it is a Conditional Use and we have advertised for it and sent out mailings for it, that Planning Commission open the Public Hearing for it and then ask for it to be continued until next month so that we don't have to re-advertise or re-mail.

Mr. Okum: For purposes of opening the Public Hearing, we will open up the Public Hearing for Conditional Use Variance for Tan Thai for outdoor seating area at 11482 Springfield Pike. Anyone in the audience that would like to speak in regards to this, this is a public hearing and all testimony given is part of the public record, therefore if you are going to be commenting in regard to this request, will you please stand at this time and we will swear you in. (No one from the audience came forward.)

Mr. Chairman, there is no one here for public comment concerning this request. I move to continue the public hearing in progress.

(Mr. Vanover seconded the motion and with a unanimous "aye" vote from the Planning Commission Members the public hearing was continued.)

- B. Chairman Darby: The next item on the agenda is a Conditional Use Permit for a drive-through window for the Shell Station at 11595 Princeton Pike.

Mr. Okum: For purposes of opening up a Conditional Use Permit hearing; at this time this is a public meeting and all testimony is going to be made part of the public record, therefore anyone that is intending to give testimony in regard to the Conditional Use Permit for the property at 11595 Princeton Pike, will you please stand and I will swear you in at this time.

(At this time two members of the audience were sworn in by Mr. Okum; Mr. Pat Gilligan and Mr. Eric Morris.)

Mr. Pat Gilligan: I am President and CEO of Gilligan Oil Company. I will walk through a summary of the project that addresses the various issues.

Mr. McErlane: I was going to suggest for procedural purposes that you consider the applicant's project in entirety including any discussion on the development plan, as well, and address motions for the public hearing part of it and motions independently.

(At this time, Mr. Pat Gilligan used a Power Point demonstration to show existing features at the Shell Station 11595 Princeton Pike and proposed changes to that site.)

Mr. Pat Gilligan: What we are proposing to do is rebuild the facility with about a 4,000 square foot building that is going to house a GoCo convenient store, as well as a Dunkin Donuts with a drive-through. We are rebuilding with five pumps, which is the same number of fueling positions that we have today. We are eliminating the car wash as part of the proposal. There has been discussion on the development because it doesn't meet all of the current codes and I would like to say, in general is that when I look at rebuilding the stores and we have rebuilt a number of them over the last two years in Sycamore Township, Deerfield Township and out in Clermont County, we are stuck with smaller parcels that have been subject to a lot of right of way takes and so on and so forth over time and so we look at trying to develop a site that looks right and tries to meet as much of the landscaping piece as it can; so it is kind of a balance between the two. The building is going to be a brick façade across the entire structure with limestone elements. As we talk about the site plan, relative to where we are today on the facility, there is landscaping added on all the perimeter islands, we have added landscaping per Staff comments into these islands on the end of the parking isles; landscaping on Kemper Road and we have added landscaping to the side of the dumpster corral as was indicated. Relative to the parking and the flow of the site and parking spaces; current code is 38 spaces and we have shown 38 spaces around the perimeter of the

lot and in the front. Part of Staff comments include some issues, not with the parking spaces themselves, these spots were 17' and they still are 17'. Some of the isle ways are a little less than what the code calls for; we have made them as wide as we can and it is sort of a balance of adding landscaping if we take feet away or if we add feet to the isle ways then we sort of take away from landscaping. Based on this design there is 22' in the isle way and with the 45° angle it actually flows pretty well for us. Additionally, this is a drive-through lane, so Dunkin is a business that runs about 75% of their total sales by about 11:00 or 11:30 a.m., so this is not really a high use area. Generally there is stacking in the morning but we don't expect that to be an issue at all. On the traffic flow, it was recommended on the "one way" signs that we will paint them on the asphalt. On the curb cut there was an issue and we will remove that variance from it; we had shown 30' and we have reduced it to the 24' that is code. On the landscaping, there is a pretty significant amount that is in the right of way that we will maintain, and we will add landscaping and a big tree. Regarding the signs, what we currently have today was previously approved at some point and time for 159', I guess it is 168' and I am not sure but this is how it was when we got it; we are proposing to re-panel this and I guess the LED sign is required to be approved. That is an identical square foot sign that we are simply re-fac-ing to add the "Dunkin Donuts" which we are adding into the store and the "GOCO". The signs on the building face, we do have three signs shown, two are facing north onto Kemper and one on the side facing east and the total sign square footage for those is 110 s.f.; code allows for 164 s.f. We also have three Shell logos on the canopy that are 9 s.f. each, so that is an additional 27 s.f. Together it would be 137 s.f. versus the 164 s.f. that is allowed per code for building signs. On the lighting component, we typically put in LED lights that are flush with the canopy and they shine straight down; under the canopy is where it is bright. These are the lights that we put in and we have had these approved everywhere we've gone. Relative to the canopy, the red band on the canopy is illuminated. It is a metal band and the red piece is illuminated. There was a question regarding the screening and we will be screening (Mr. Gilligan demonstrated by Power Point screening at the Sycamore Township station). As far as the details on the retaining wall, we will be doing that as part of the construction drawings. Relative to the Conditional Use Permit, it is a drive-through for a food franchise and it is very typical and customary at fast food restaurants today. This site is in a very commercial intense area and certainly meets what would be a standard for a commercial use; it will certainly benefit the property itself and the neighboring property owners. It is not more dangerous than it is today, it is controlled on site relative to the movements. We also have a similar conditional use today in terms of the carwash that we are eliminating as part of this redevelopment. In summary this project is going to create over ten full-time jobs as part of the Dunkin Donuts coming in; those are full-time jobs that are paying City taxes and we are spending in excess of 1.4 million dollars in land, building and equipment improvements; the auditor is going to catch up with us and the tax base will be increased. As you can see from the pictures the quality of the corner is dramatically improved.

Mr. McErlane: I think it would probably be worthwhile to hear Staff comments on the entire project and then consider the Conditional Use.

(At this time Mr. McErlane, Ms. McBride and Mr. Shvegza read their Staff comments.)

Ms. McBride: One additional item, I had mentioned in my Staff report that the pylon sign is proposed to include digital fuel pricing which is not something that the City has allowed previously, so that is something that the Board of Zoning Appeals would have to approve.

Mr. Okum: Ms. McBride, if it is a variance request for the digital sign then should comment come from this Commission as well, in regard to our favorable decision as to the warrants and benefits of that, prior to it going to the Board of Zoning Appeals? If this Commission does not approve by a 5-2 vote this development as a result of the applicant having digital signs requested on this site, then Board of Zoning Appeals has the right to approve by variance but on the other hand we still have the decision to approve the development plan with those digital signs that have been submitted tonight.

Ms. McBride: If you were to approve it, you would be approving it subject to those variances being granted by the Board of Zoning Appeals.

Mr. Okum: What if this Commission doesn't agree with that and decides that they don't want the digital signage? Currently we don't have that at any of our facilities.

Ms. McBride: What I would urge is that if Commission Members have a strong preference about specific variances that Staff has pointed out that will need to be the subject of the Board of Zoning Appeals that each Commission Member offers their comments that they might want to say, "I am supportive of all of the variances 100% across the board" or "I am supportive of all of them with the exception of maybe the lot size".

Mr. Okum: This Commission should comment on that?

Ms. McBride: Correct.

Mr. Okum: For purposes of the public hearing, we need to see if there is anyone else in the audience that would like to comment in regard to the Conditional Use. (No members from the audience came forward and this portion of the hearing was closed.)

Mr. Bauer: Sections 153.708(B) and 153.708(D), what are those specifically?

Ms. McBride: One is a Section of standards that the Commission is to consider when looking at a Conditional Use and one is a Section of factors that the Commission is supposed to look at when considering a Conditional Use. (At this time Ms. McBride read part of the Sections for the Commission Members.)

Mr. Bauer: Thank you.

Mr. Okum: I just had one comment in regard to the Conditional Use; this is a gas service facility so cars are pulling in and pulling out all the time. As long as they comply with the other items that are restrictive on the drive-through window use I would support the Conditional Use Variance for this particular site for those reasons. I will be supporting it and making a motion, if it is o.k.

Mrs. Boice: When I first looked at the review of this plan, and I did see the facility at the Mason Montgomery area, having spent a lot of years on the Board of Zoning Appeals eight variances troubles me very much. The square footage doesn't look like much but you are still talking 796 square feet. The setback is almost 12' difference. The greenspace and the open space going from 25% to 12%, I have a lot of trouble with some of the variances that have to be granted. The facility itself, I think there is just going to be so much movement on that corner and that bothers me in the morning with people getting the coffee and the gas. The way it is laid out it looks very, very nice but eight variances is a lot of changes that have to be made.

Mr. Bauer: I echo Mrs. Boice because that was my first thought when I saw the number of variances and I was concerned about that. I heard a lot of discussion this evening and some of those things have changed. Is there a way to summarize from the presentation that we have this evening what has changed as far as how many variances and what they actually are now?

Ms. McBride: We haven't had a chance to look at that plan so just in working off of what the applicant has shared with us this evening, in looking at the variances obviously they can't make that lot any bigger. It is a fuel station today and it is going to stay a fuel station for quite a while. The size of the lot is still an issue, the setback, the location of the principal building, I believe is still a variance that would need to be acquired, the height of the canopy would still need to be approved and the amount of open space on the site they have increased it over the 12.2% that they were proposing on Staff's review copy but I don't believe they are at 25% so that would still require a variance. The five parking spaces in the southwest corner that

they have turned to diagonal parking spaces, I don't believe that will meet the minimum isle required although it is a better situation with the diagonal lines, diagonal parking spaces, and I believe that would still need a variance. The parking setback required to be 10', I believe that they will still need setbacks on those three property lines and the right of way line from West Kemper whether or not it is still 3, 5, and 9; again I don't know without scaling that off. The free-standing sign, if they are going to re-face the existing sign, the 30' in height would go away because that is a non-conforming use but the BZA would be looking at the inclusion of digital fuel pricing and potentially the increase in square footage because there are two blank panels on the existing sign. The "H" under my considerations on Staff report, the variance to increase the travel widths on the Princeton Pike access, that would go away. I think a portion of those won't meet the requirements of the code.

Mr. Okum: For purposes of bringing this to the floor, the first motion I am going to make this evening will be on the Conditional Use Variance only and it will be conditional, so the Commission understands, this approval is based upon in addition to the approval of the development plan request that we will consider next and the approval of variances that are considered by the Board of Zoning Appeals. The reason I am going to phrase it that way is so that it is tied together to a package so that there is not just a Conditional Use approval for the drive-through without the other elements tied to that. If everyone is o.k. with that I would like to make that motion and get it to the floor.

Mr. Diehl: I would like to echo Mr. Okum's opinion and I am in favor of the Conditional Use.

Mr. Vanover: On that canopy, it is 17'-9 1/2" and I know that is from the top edge of that to the ground. Do we know what the clearance from the floor of the canopy to the ground is? Most of the overpasses are 14' or 15'?

Mr. Shvegza: I believe the overpasses are higher than that by new requirements.

Ms. McBride: To answer your question, based on the information that the applicant had submitted it is 15' from the bottom edge of the canopy to the pavement.

Mr. Okum: For purposes of the Conditional Use Variance, Mr. Chairman I would like to make a motion to approve the Conditional Use Variance for a drive-through window at 11595 Princeton Pike with the following conditions, that this approval is conditioned upon the Development Plan request approval by this Commission and the Board of Zoning Appeals approval of variances that are necessary for the development to occur, as required.

(Mrs. Ghantous seconded the motion and with 6 affirmative votes and 1 "no" vote from Mrs. Boice, the motion was approved.)

C. Chairman Darby: We will continue discussion on the Development Plan.

Mr. Okum: My question is for facilities for future natural gas and battery charging location on the site?

Mr. Pat Gilligan: There are none indicated here and there are none planned here.

Mr. Okum: So, if changes in fuel opportunity change in the next ten years then you have no potential for dealing with the space that you have got for those two elements or other fueling sources?

Mr. Pat Gilligan: I am not sure what those look like, to be honest. With the site restrictions that we have we can really only apply today's standards and today's products. Most of those would be sold through similar dispensers that would require some sort of supply if it is natural gas product. If it was a charging station, we could assume we would hope to be able to supply those at the current pumps, taking away some of the existing pumps to supply the electric. We don't have intentions of doing that today based on most projections.

Mr. Okum: I had heard that Shell was tied to electric charging prototypes at one time.

Mr. Pat Gilligan: They are. We sell Exxon/Mobile product as well. They are all doing a tremendous amount of technology on alternative energies and the day it is commercial is the day it will be supplied at these facilities, once those standards are made.

Mr. Okum: What is your approach to deal with your landscape management?

Mr. Pat Gilligan: We typically do not put in actual irrigation but we do provide spigots throughout the facility for watering throughout the summer months. We have done irrigation if it is required per code.

Mr. Okum: Maintenance is, but not irrigation.

Ms. McBride: Yes, landscaping has to be maintained in the condition as it was emplaced.

Mr. Pat Gilligan: I own and operate approximately 30 stores in the City and we have a landscape company that comes to all of them on a weekly basis, it is contracted out for all landscape services. We take care of everything that touches our facility. In this case, I assume we can do that, it includes right of way grass and so on in these areas.

Mr. Okum: In regards to the greenspace that you've accommodated by the changes that you have made, a best guess of what percentage you are at right now?

Mr. Pat Gilligan: My best guess, based on the engineer, it is 15.2%.

Mr. Okum: Do you find it possible to get 20% on this site?

Mr. Pat Gilligan: It is a give and take on some of these dimensions. I indicated these are soft areas because of the nature. We operate five Dunkin Donuts and four of them have drive-throughs so we have experience on them. Seventy-five percent of the sales are finished in the morning in the a.m. hours. Employee parking, we always put in the back so it is a balance of picking up square footage.

Mr. Okum: You were able to gain some on the west side by angled parking.

Mr. Pat Gilligan: We added a little bit.

Mr. Okum: So, if you were to do angled parking on the east side because of that one-way traffic?

Mr. Pat Gilligan: We would lose parking spots. This part of it is one-way; but I would expect people are going to come in here and make a right turn.

Mr. Okum: I would like to see them discouraged from parking there going against the one-way traffic and the angled spots would generate less reason for turning in that way to park there. I think Mr. Shvezda would agree with that.

Mr. Shvezda: That, with the one-way traffic.

Mr. Okum: I would encourage Staff when they are working with the applicant on the final layout for those spots to be angled. I would be up to giving up a parking space to increase that landscaping width on that corner island, because you are going to angled parking spaces. If you were to do that I think it may get you to 20%; I would like to set a threshold of 20% at this Commission's level and aim for you to work towards that. I can't speak for everyone but I know that we require 38 parking spaces on this site; I am out everyday and I go to a lot of these facilities and you could put 200 parking spaces on them and there is only going to be a few

people parking for any extended period of time. I would be willing to give up a parking space to get the landscape ratio up to the 20%.

Mr. Pat Gilligan: We would like to get to 20%.

Mr. Okum: It is a simple thing and if you can't accomplish it you can come back to us with your final plan and we make an adjustment. If BZA holds to the 20% then it comes back to us if they can't reach the 20%.

Mr. McErlane: And back to BZA.

Mr. Okum: I would like to see them closer to the 20%.

Mr. Pat Gilligan: We are happy to accommodate that if you don't mind talking through it for a minute. If we eliminate some of the distances, which we can do if the spaces are angled because then it doesn't need to be as wide, realistically we are happy to come back if you are not comfortable with the plan. Our intentions, if we can come to an agreement on the total piece, is to start construction at the end of October so we can get it buttoned up before winter so we will open in spring.

Mr. Okum: Let's see what we can do to get to the 20%.

Mr. Pat Gilligan: I am happy to add as much as possible in there to make all of the accommodations. I think being limited to that number is kind of a bucket that is hard to fill.

Mr. Okum: We would sort of like to get the applicant to design it instead of us. Are you intending to re-pave the entire development?

Mr. Pat Gilligan: Yes.

Mr. Okum: The walk-in cooler that I observed on the elevation pictures of the Deerfield facility, is there going to be a walk-in cooler?

Mr. Pat Gilligan: It is on the inside.

Mr. Okum: It is internal?

Mr. Pat Gilligan: Yes.

Mr. Okum: There is one on the Deerfield site that is external; there is no external one on this project?

Mr. Pat Gilligan: No, sir. All four sides on this elevation are all brick; it is a rectangle enclosure.

Mr. Okum: I will say that until a standard is set for the City of Springdale, I cannot support the digital sign information so that we have a consistent standard for the City. It obviously makes sense that a standard be set for it but at this time I would have a hard time approving it and that will be one of the items of exception that I would be stating for the benefit of the Board of Zoning Appeals. I think it is time that we consider that and we develop that into our sign standards.

Mr. Pat Gilligan: I think that is fair and I don't disagree with you. I would say, if that is where businesses are going it will have to be changed at some point and time. If you don't approve it we are not obviously going to put in an LED; that is not going to prevent the project from going. It is easy for us to change prices in rain and snow and so on.

Mr. Okum: That is pretty much my main concerns. The canopy height I don't have a sincere problem with because of the 15'. I can't see the band on the canopy being narrowed down, three foot is fairly narrow for a feature element on the development.

On the landscaping, the two trees off of Princeton Pike are those on your property line?

Mr. Pat Gilligan: On the property line.

Mr. Okum: So those two trees are not truly development trees unless the development put them in?

Mr. McErlane: One of them is an existing tree and the other is proposed to be planted, right?

Mr. Pat Gilligan: Yes. The two south of the entrance are existing.

Mr. Okum: So, the one that is on the north corner, that is an added tree.

Mr. McErlane: Actually the existing trees, four of the five existing trees are in the right of way.

Mr. Pat Gilligan: The right of way is currently right on the asphalt line.

Mr. Okum: So, we would need to incorporate a street-scape maintenance agreement for Shell. Do we have an agreement with Thompson Thrift?

Mr. McErlane: No.

Mr. Okum: We probably should have an agreement that they maintain the landscaping area that is next to the curb, between them and us, so that there is a responsibility and accountability to it and it becomes part of their landscape area. We are not turning it over to them we are just leasing it to them for a penny a year, or whatever.

Mr. McErlane: I think they currently maintain landscaping in the right of way.

Mr. Okum: I believe they do and I am glad they do; just so it is part of their package. And if it going to be incorporated or counted into their package for your landscaping certainly it should be certainly some type of agreement between the City and you.

Mr. Pat Gilligan: That is fine with us.

Mr. Diehl: I am a little concerned with the drive-through. If I come to buy a donut, when I want to get out, is there one way out?

Mr. Pat Gilligan: Cars cycle in, order, pick up and either exit right or exit down further and go right into the far left lane.

Mr. Diehl: In your other locations, is that an issue with cars all over the place?

Mr. Pat Gilligan: I would say that people in the morning are busy and rushed but we operate five of them and it is very common that they stagger out. The reason we chose Dunkin Donuts is because we are really not that busy of a facility in the morning, we have people fueling in the morning but it is not generally packed. Dunkin is busy but they are kind of scooting off. They are generally spitting out about every minute and a half so it is not as crazy as you think.

Mr. Diehl: In reference to the digital signs, I happen to be in favor of them but I also agree with Mr. Okum that the City probably needs to do something for everybody.

Mr. Vanover: You have been a corporate neighbor for quite awhile and you have always done an outstanding job keeping the facility looking nice. I know there were several commercial landscaping awards that you were presented with and we appreciate that. I, like Mr. Diehl, am concerned about activity within the site; I do

think the one-way and on the south side with angled parking would help tremendously. I agree with Mr. Okum, I would love to see more landscaping. I would echo Mr. Diehl's comments about the digital sign; I don't have a big problem with it but I would hold it back until the City gets a standard in place. It is a small site with a lot of activity and that does worry me. It is inflicted by the City at some points rather than self-inflicted. When you passed the color palette around, one of the elevations shows two colors; side by side the orange and red present quite a bit of contrast. I know colors are set by retailers, as far as their standards, is there some way that on the north elevation we could leave the orange under the Dunkin Donuts but the other two shades to the left of the door to match the others.

Mr. Pat Gilligan: Yes.

Mr. Vanover: And then wrapping the building, I don't have a problem with because it is a different focus. I'll yield to the rest of the Commission if they don't see the same thing.

Mr. Bauer: In regards to the landscaping, I would prefer to not set a number. I think the applicant has shown by some of the changes that he has talked about this evening with parking changes, the diagonal parking to be able to increase that green space to whatever that percentage was, I am comfortable with that number. I see the site and look at it as the only other changes that we can make is to take from the drive and I am concerned about that; I don't want to give up driving space or driving isles and parking space to try to get that number to 20%. That site is limited and we are trying to squeeze something out of there that we shouldn't be trying to do because of the isle and the parking space. The sides of the elevation that don't face Kemper and 747 are kind of stark in my mind, they face other businesses and you can see them from the street, I believe. Is there any thought to break up the starkness of those two sides.

Mr. Pat Gilligan: The Deerfield site is an old metal fabricated building. It is just painted metal, so it might have a few things on it. This site is a much more expensive building. It is all brick and limestone; the south facing side and the west facing side will have some visibility there, we haven't looked at doing anything there because it didn't seem necessary. I am not sure what you are proposing but it is a good looking building.

Mr. Bauer: I just think that the awnings and the protrusions on both of those other sides; I like those. I am not a designer; I am a mechanical engineer so that tells you how much design experience I have had. That just seems very stark but I am not going to hold out for that.

Mr. Pat Gilligan: If this was visible and it was felt that it would be a better piece to sort of wrap. The awnings look good and there could be a couple put on this side; we would be fine with that.

Mr. Bauer: I have not heard any of the other Commission Members echo that so I am not holding for that. The different color awnings are just to define the different parts of the store, right?

Mr. Pat Gilligan: Yes.

Mr. Bauer: On all these variances, I go back to parking and driving isles and that is my big concern. I am not worried about setbacks because of where you are at on that site, you are kind of limited. I would like a standard set for digital signs.

Mr. Okum: I think that this Commission needs to set a number for that green space so that the Board of Zoning Appeals has some type of a point of reference, otherwise it is going to go to the Board of Zoning Appeals at the 15.2% as presented. I think by changing to angular parking we are going to gather some; the drive isle doesn't need to be 20' wide if you have angular parking going into it plus you have the drive lane in addition to that. I will speak to increasing the landscaping in any case on this site. It is one opportunity in twenty years for this

site to meet those standards. We do have the Thompson Thrift property across the street and I believe it was over 20% for green space that we maintained and held to that project and this site should be no different. They are both two icon corners as the development planners came up with when they did the Tri-County plan. The other item is the item of the retaining walls and I think the simple term that I would use in architectural retaining wall, "that shall be in color tone with the building elevation", so that it would be in the red tones and it would be approved with Staff with railings; that way Staff can do the review of it.

Mr. Pat Gilligan: On the retaining walls, it looks like they are going to be low enough and there is a code for where the railing is needed; it looks like it won't be needed.

Mr. Okum: I am asking the Commission to give me a number that they feel comfortable with for the amount of green space and I am pretty much ready to do a motion based upon the comments.

Chairman Darby: You have articulated this so well that I am going to go with the 20%. Before we go with the motion I would like to say that I commend you for the work that you have done. You are working with a pretty constricted space and it is not your fault; a number of issues have been identified. I see no reason why we can't come to a good resolution on this project. This is a critical corner for us and I echo what he said about this being a twenty year project and we would like for you to work as hard as you can to make it look as nice as you can.

Mr. Diehl: How do you feel about the 20%?

Mr. Pat Gilligan: I was just going to beg for 20% plus or minus. We want it to look good and to work right and to flow right so we are not looking for ulterior objectives. It is going to be difficult to get to 19%, to squeeze everything down on the site for the sake of a couple feet on these beds. We will do it if we can, but it just can't come out of nowhere. We will maintain the right of way, we will plant in it if you want landscaping planted in there we will plant it. We would treat that as our own, because it was and we will treat it like that because it is the entrance to our building as well. I understand where you are coming from with BZA and setting a number and we could probably get this settled before BZA and have an agreement. There is a few feet over the tank pads but we have to keep the manholes, vapor recovery and so on from being covered. We eliminated the vacuums and hoses that are there today. I would hate to say that we cannot do the project because we got to 17.1%. I don't know what the percentage is but we can max it as best as we can. The easement is not in the calculation of the 15.2%. We came in at 12.5 % and the changes that we just incorporated that are now on this are 15.2%.

Mr. Diehl: We can go ahead and say we want 20% but if it doesn't work, it doesn't work and then what do we do?

Chairman Darby: Personally, I think that if they show a good effort working with Staff, we should acknowledge that.

Mrs. Ghantous: That is what I think.

Mrs. Boice: Being the person up here that voted "No", I did want to clarify what you presented here I like very much and I don't have a problem with that at all and your presentation is excellent; the paperwork that we got ahead of time and your display up on the screen. My concern continues to be the traffic flow and the tightness of the parking. With all of the comments that have been made since if we can tweak it a little bit here and tweak it a little bit there I probably could get on board this train. We have a couple sites in Springdale that to be honest I am not happy with the parking. Your concept is wonderful and would be a great addition to that corner.

Mr. Pat Gilligan: This does clean up the flow and accommodates the flow better than the existing store because the existing store is in the middle and in the new

plan the parking is lined up really around the facility and so it is kind of set up to manage the various business areas.

Mr. Okum: Mr. Chairman, I am going to make the motion with the 20% green space requirement. We don't know where that is going to go but we at least owe that to the applicant to understand where we would like to see it go, the best it can. I think the benefit is the Board of Zoning Appeals has an idea where the Planning Commission is but additionally if the applicant comes in there and he is at 17.5% and he has a landscape maintenance with the City of Springdale for the public right of way area and he offers that, I am going to be a happy camper. Based upon that I am going to make a motion Mr. Chairman that Shell Oil at 11595 Princeton Pike be approved to include specifications and designs contained in exhibits as submitted and reviewed by Staff prior to this meeting to include all Staff, City Engineer and City Planner's recommendations, that the conditions set forth in the Conditional Use Variance are included; that the mechanical units shall be screened as requested by Staff and they shall be in the Staff's approved enclosure for screening; that the lighting fixtures and the lighting plan be reviewed by Staff with the conditions of reducing the overall lighting as suggested by the City Planner; that the landscape and green space areas be increased up to approximately 20%, this shall be reviewed and approved by Staff, as well. That the retaining walls on the site consist of an architectural material of similar color to the main building elevations and that shall also be approved by Staff. That railings, if required for the retaining walls, they shall also be reviewed and approved by Staff. That the parking and drive site conditions be modified as provided in the example this evening with the additional change in the parking on the east side of the building to an angular parking with increased landscaping on the Princeton Pike side. All four building elevations shall be as presented and the exterior color palette shall be as submitted. The signage conditions shall include the signage package as submitted with the exclusion of the digital sign from gas prices, regular and diesel as submitted, they shall not be permitted.

If they can present an exhibit to BZA that they can get to the 20%, or approximately 20% and BZA gives an approval on that, it may be very quick.

Mrs. Boice: If BZA approves all of the parking and doesn't do anything about it, it would stay as is, correct? I can't put myself in a position of voting for something if those parking spaces are going to stay that way if BZA says they can.

Mr. McErlane: BZA is going to address the green space requirement and something obviously has to be done to address that. If BZA agrees that 20% is a correct number then something will have to be done to the site to accommodate that. BZA won't be addressing angled parking; they will be addressing the drive-isle width and the green space requirement.

(There were no further questions presented by the Commission and at this time Mr. Vanover seconded the motion and with 6 "aye" votes and 1 "no" vote from Mrs. Boice the motion was approved.)

- D. Chairman Darby: Moving on to the next item, Exterior Elevation Changes for Beef O'Brady's Restaurant at 370 Glensprings Drive.

Mr. Tom Drennen: I am the owner of Kangaroo Foods and I currently own one Beef O'Brady. I am in the process of purchasing Perkins and my deadline to purchase is August 31<sup>st</sup>, assuming everything is approved here today; we would begin construction the first week of September. What we are going to do to this location is definitely going to pick it up and it should change it 100% from what it is now. What I am proposing is some material updates, color changes and signage updates. The only materials that we will be completely changing are the parapets which kind of go in line with the current signage now: right now they are oval shaped and we are just going to square those in to fit my logo for the Beef O'Brady's sign and that would be on the south side and the west side which is the entrance side. We will be removing all the glass block window that is there now for the entrance and we will replace that with storefront glass doors. We will use

some cedar siding as well, to trim it out. I have color samples as examples; you will see four corners of the location is covered in field stone and it is just painted. It is a veneer and we are going to remove all of that and replace it with this ledge stone veneer. The stone on the south and north side will go all the way up to the top. On the east and west side it will go underneath the awnings that are there now. There won't be any changes to any of the roofline in that regard to the awnings. Some of the color changes that we are doing, we are going to darken the color of the roof awning now; it is a faded forest green and I am going to go within a kind of slate color, it is in the green color palette but it is very dark grey. The main color is called "flagstone" and it is just pretty much a basic grey color and the trim color is called "plantation moss". We will also have cedar-stained siding; right now it is replacing the T1-11 that is there now and also some pergola awnings that we will be replacing the yellow and green awnings that are there now. I am proposing 731 s.f. of sign and I was not aware that the pole signage is counted into the overall square footage, that is something that is new to me. Basically the proposal is 148 s.f. more than what is there now and what that is primarily a sign on the north side by the dumpster side.

(Mr. McErlane and Ms. McBride read their Staff comments.)

Chairman Darby: Is it typical for a site of this nature to have that number of large dumpsters?

Ms. McBride: I believe the small dumpster is the grease dumpster and I believe the middle one is recycling based on the label; the one to the left is their general dumpster.

Mr. Tom Drennen: We typically use just two for the grease and regular trash. I would like to recycle if the space is there. Also, I would like to add that when Mr. McErlane and I were going over the percentages on the materials that are there currently, and he had described replacing the brick veneer that is there now that is at wainscoting height with the EIFS material; the plan is now to keep the brick veneer and paint it the same base color. We would still be replacing the fieldstone corners with the stack stone veneer.

Chairman Darby: Did you mention painting brick?

Ms. McBride: It is painted today.

Mr. Okum: I am glad to see that you are making a good re-use of a key location; it has great street appeal. I think you could possibly increase some of your stone by the wainscoted paneling on the entryway carrying your ledge stone on that instead of the cedar on that entry side.

Mr. Tom Drennen: Where it is currently glass block now?

Mr. Okum: Yes, the lower portion.

Mr. Tom Drennen: We had initially put that into the plan. The current brick veneer doesn't wrap all the way around the entrance now, they have an EIFS material that goes from the top all the way to the ground now. We would have to fill those areas that aren't currently filled in.

Mr. Okum: That glass block that is being removed is on some type of a foundation because of the weight. I would certainly think that taking glass block out and putting stone in its place would be a little bit nicer than the wood. The problem with cedar is it looks great on that sample today but in six months it won't from the sun. In a year and a half it is going to look weathered.

Mr. Tom Drennen: I am not opposed to that; the only thing that we were trying to do there is mimic the material that is there now.

Mr. Okum: Mimicking that is not really a good idea.

Mr. Tom Drennen: We can put the stone veneer at the store front entrance, as well.

Mr. Okum: I think it ties it together because you have that big wall there and up at that entry and the entry is fairly narrow and small but at least it brings your stone back to the middle and centers on the entryway. Are you going to reconfigure the overhangs?

Mr. Tom Drennen: The current green vinyl awnings are to be removed on the south and north end. The metal will be completely painted the dark color all underneath of them and the sides. The doors on the east elevation, the steel emergency exit doors will be painted the same base color as the wall.

Chairman Darby: What are your thoughts about the current parking schematic; I seem to recall that it is kind of confused.

Ms. McBride: I was out there when I took the pictures and I didn't find it confusing.

Mr. Tom Drennan: It might work very well for us, as far as the handicap parking that is there now. You can pull in and there are spaces to the left, a single row of spaces and then you kind of drive into the parking area, and we will have "to go" carry out specific parking there. It actually lends well for our operation.

Mr. McErlane: I think the confusing thing is that there is a pretty wide area right in front of the door.

Mr. Bauer: It is your intent then to put a Beef O'Brady's sign on the pole sign?

Mr. Tom Drennen: Yes. It is not something that we sought out. If we built from ground up, it is not something that we would build there. Because they are there now we will most certainly utilize them, if allowed through the variance. We will have to reconfigure a logo and redesign a lot of what traditionally we use now to fit that space but we will absolutely do that.

Mr. Bauer: Is that something that would be brought back in front of this Commission?

Mr. McErlane: If Board of Zoning Appeals agrees to a variance on signs then it is just a panel change on the signs, unless the whole cabinet changes. A panel change doesn't come before the Planning Commission.

Mr. Bauer: You are adding that sign to the north side of the building which almost takes the place of that one; do you really think you need to add that one on Glensprings and Route 4.

Mr. Tom Drennen: We were trying to keep with what we have now as our traditional sign and logo and for us to go on that pole sign and configure our logo into this oval shape piece; it won't be very recognizable to the people who do know our brand and I know it is not very well known here but some people do know it. To stay within that straight logo sign, that was the whole purpose of that. I feel your eyes are drawn more to that side of the building as you are coming around.

Mr. Bauer: I think a sign would be better on the building, I guess if we are looking to cut a sign that one on the corner on the pole sign is what I would recommend doing away with that sign.

Mr. Tom Drennen: I don't know if that sign falls on 275 tomorrow, who is responsible for that?

(No response given.)

Ms. McBride: If they are taking a panel off of that sign would get rid of the sign, Staff might have suggested that they go to a ground mount sign which would be consistent but Howard Johnson's is on both of those signs so they are tied up with leases so Staff basically didn't touch either of those signs because of the lease issues.

Mr. Vanover: Very nice. I would love and I think it would serve it near as well if you could go to a ground mount, but I also understand the existing and the variances, as well. I am fairly familiar with Beef O'Brady's and fitting that logo on an oval will be a challenge at best. I would echo Mr. Okum's comments about the use of the cedar, it looks great for the first year.

Mr. Diehl: Could you just give us some background on the company?

Mr. Tom Drennen: My company, Kangaroo Foods, we opened our first restaurant three years ago in Newport Kentucky and that is where my location is now. As far as Beef O'Brady's, it is a franchise that has been around since 1985. Currently there are 215 locations and the majority are down south in Florida. Basically, it started out as an owner operator and he expanded his business into a franchise. The whole purpose of Beef O'Brady's is a neighborhood place to go and you feel that it is entrenched into the community. We do a lot of fundraising for the schools and we do everything we can to be part of the community. That is really what the core value is of Beef O'Brady's.

Mr. Diehl: And this would be your second location?

Mr. Tom Drennen: Yes, this is my second location.

Chairman Darby: What about the menu?

Mr. Tom Drennen: I would say it is very comparable to Apple-Bee's. It is a kid-friendly environment where we have games; we do fundraising. It is definitely a place where you can bring the family.

Mr. Diehl: Do you have a solution to the dumpster?

Mr. Tom Drennen: Sure, we can absolutely gate that with a privacy type fence that would hinge on the other side and open in the center to give us full access to the dumpsters.

Mr. Diehl: As you can tell from the last presentation, we are really big on landscaping and stuff like that. Perkins did a less than desirable job; do you have plans that you can address that?

Mr. Tom Drennen: I will pour my heart and soul into every piece of that place. If it is me out there pulling weeds and if it is me taking care of the landscaping, yes we are going to do everything we can to make it visually pleasing to have people drawn in there. Right now, we are fighting thirty years of what Perkins has offered. Now we are moving into a location and we have to show everybody that has been there and driving by it for years and years that they can be welcomed into the space and that is what we are going to do with the landscaping.

Mr. Diehl: Thank you for your answer and I wish you the best luck.

Mr. Okum: Are you totally redoing the bathrooms?

Mr. Tom Drennen: We are completely gutting the bathrooms and we are refinishing them.

Mr. Okum: They needed it. Ms. McBride, other than the dumpster area, you really didn't have any other conditions set forth?

Ms. McBride: Other than cleaning up the landscaping.

Mr. Okum: And what they said concerning the dumpster, if they are in compliance with the sections of our code under the dumpster enclosure, then they should be fine, right?

Ms. McBride: Yes.

Mr. Okum: Mr. Chairman and Planning Commission, I would like to make a motion to approve Beef O'Brady's plan at 370 Glensprings Drive to include Staff, City Planner and City Engineer's recommendations, if any. In addition, the dumpster and refuge enclosures shall be according to code within the City of Springdale and the gates shall be and remain closed at all times; that the building elevation adjustment shall be per the color palette submitted. The applicant has agreed to add stone veneer to the vestibule entry area in lieu of the T1-11 cedar siding. The outdoor seating area as presented on the application and plans is not to be considered at this time as it is part of a Conditional Use Variance application. (Mr. Vanover seconded the motion and with a unanimous "aye" vote the requested exterior elevation changes for Beef O'Brady's Restaurant at 370 Glensprings Drive were approved.)

### VIII. DISCUSSION

A. Chairman Darby: You received in your documents, "Public Hearing Notification", I would like, in addition to Staff, for the Council persons to lead us through this.

Mr. McErlane: I can outline the changes and I will defer to the Council Members and Mrs. Ghantous for their input on the reasoning behind it. The current requirement for notification for zone changes, conditional use permits and variances requires us to send notification to the property owners within 200 feet of the subject property. The change requires that 200 foot distance in addition to the ten properties on either side of the subject property on the same side of the street and then going across the street, ten properties on either side of that property. In addition to that we are also placing signs on the property. We used to have these signs once before and then stopped doing it. What we will have is a plastic sleeve that we will put what body is considering the public hearing and what the date and time is. It gets a little bit stretched out when we are looking at a corner lot because of the way it is worded, we are talking about ten properties in every direction from a corner lot, so I gave you some examples. Actually, if you look at some of the commercial properties, because the properties are large, that area that gets involved is pretty extensive. As it relates to the reasoning behind it, I will defer to the Council Members and to Mrs. Ghantous.

Mr. Vanover: What drove this was an applicant on Park Avenue that came before BZA. A lot of people found out about it through the neighbors; a couple neighbors actually circulated petitions. The question was brought up, "why wasn't I notified?" We were forced to look at it and rethink some of this. I remember when we used the signs for the public hearing, way back when, and you are seeing more communities doing that. What came into play was where we cut off on notifications. We had some scenarios where we had upwards of one hundred houses that we were going to have to notify. It comes down to applying some common sense to some of this; if something is over on my side of town, do we send notifications to the other side of town? If you want to be fair, yes; but there is a point where you kind of have to draw the line and apply a little common sense to it and that is where we came down to these requirements and there is always going to be somebody that is going to throw the flag and say, "I didn't know about this." Quite honestly, we advertise as Mr. McErlane said, in the paper a legal advertisement and we will have the sign out there. My feeling is that if somebody that is not adjacent to it really wants to find out about it, it can be there. We actually brought up, although there is nothing here about it, looking into posting it on the website; that was being explored but that is not part of this right now. Again, I think we do a good job of making people aware of changes or variances that are

within their neighborhood. We figured we could do a better job, but then you have to pull the common sense out.

Mrs. Boice: Way back, it was originally just anybody that was adjacent, touching that property. You really are expanding it a great deal which I would think would cover the problem.

Mr. Vanover: It is definitely an expansion and, I think, an improvement. I think it is a good compromise from the blanket to the secret; so to speak.

Mrs. Ghantous: I think this is a good compromise.

Mrs. Boice: When you go back, it was just properties touching the property that was involved.

Mr. Okum: And then we expanded it to 200 feet.

Mrs. Ghantous: One thing that came out of this, because so many of the people in that particular group heard by word of mouth, there was a lot of inaccurate information that was out there about this particular case. I think this will help, even though it won't totally fix it, it will help people come to the hearings better informed about what the actual issues are.

Mr. Okum: Is the sign going to be in the front yard of the applicant?

Mr. McErlane: Yes.

Mr. Okum: Or will it be in the public right of way portion of the front yard?

Mr. McErlane: No, it will be in the front yard of the applicant. We will include that as a requirement on the application form.

Mr. Okum: Who will place the sign?

Mr. McErlane: We will place the sign. We used to give the sign to the applicant before and then we would have to go chase them down to get the sign back.

Mr. Okum: What kind of cost?

Mr. McErlane: We roughed out that it is about another hundred and seventy dollars per application to do the additional notification.

Mr. Okum: And our applicants do not pay a penny; commercial or residential?

Mr. McErlane: Right.

Mr. Okum: Possibly we should look at the commercial application for a variance; does the City Planner's time get billed against that application?

Ms. McBride: No, we do not comment on BZA applications.

Mr. Okum: There is no outside staffing or costs that are applied to commercial applications?

Mr. McErlane: No. So, what we need this Body to do is to make a referral to Council for an adoption as an amendment to the Zoning Code.

Mr. Vanover: Motion made; so moved.

Mr. Okum: Second.

(With a unanimous “aye” vote from all of the Planning Commission Members, the request to refer to Council the amendment to Public Hearing Notifications was approved.)

Mr. Okum: Just a question; are they going to put information packets with the signs?

Mr. McErlane: No.

Mr. Okum: So, if you want information you can call. And if I would call and want information then you could send it to me by email?

Mr. McErlane: Yes. We would have to scan everything in but yes. Then the additional cost of the application would go up to \$250.00 an application.

Mr. Vanover: And that was the thought, that it would eventually get it to the point that it is on the website.

Mr. McErlane: The agenda is posted on the website.

B. Chairman Darby: The next item for discussion is the Route 4 Corridor District Boundary revisions. You have seen this before.

Ms. McBride: This was something that we have been talking about for awhile and I think it really came home when we started looking at the Autism Center and we realized that this really wasn't what the City had intended initially when we did the Corridor Review District. The initial map that the City had was very vague; it is a small map and the district is not at all indicated on our zoning map. The first thing we did was to take the boundary map, as best as we could, and we put it onto the City's current cagis map. Then Mr. McErlane and I literally sat down and we printed off large scale aerials of the entire Corridor and looking at the property boundaries and looking at the use and their relationship to Springfield Pike, we now have recommended the reduction in the district area for the Corridor Review District. Again, what we tried to do is look at the properties that were oriented towards Springfield Pike or that their development or their redevelopment would have some impact on Springfield Pike and tried to back out the properties that really had no connection whatsoever to Springfield Pike. We have superimposed the sub areas A, B, C and D, are the same areas north and south as exists today. What we would like to do is get this implemented and included on our zoning map because if somebody comes in and checks the zoning, we have had instances where people have come in and checked zoning and didn't realize that they had this Corridor Review District unless they actually speak with someone and then they go and paint their building and “oops, we weren't supposed to paint it”. We would like to get this overlaid on the zoning map. To do this we would need Planning Commission to initiate a Zone Map Amendment to amend the boundaries of the Corridor Review District.

Mr. Okum: So moved.

Mr. Vanover: Second.

(With a unanimous “aye” vote from the Planning Commission Members the request to recommend to Council revisions to the Route 4 Corridor District Boundary was approved.)

## IX. CHAIRMAN'S REPORT

Chairman Darby: In the Chairman's report you can see that there were three wall signs approved. Mr. McErlane, do we know when the Firehouse Sub is going to open?

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Mr. McErlane: They had some shell building issues that they had to deal with but they are underway with regard to the under-slab plumbing; I think we are talking two to three more months.

Mr. Okum: Can I ask why we have yellow tape around Frisch's parking lot?

Mr. McErlane: I don't know; unless they don't want people to park there.

X. ADJOURNMENT

Mr. Okum moved to adjourn; Mr. Vanover seconded the motion and the meeting adjourned at 10:03 p.m.

Respectfully submitted,

\_\_\_\_\_, 2012 \_\_\_\_\_  
Don Darby, Chairman

\_\_\_\_\_, 2012 \_\_\_\_\_  
Richard Bauer, Secretary