

City of Springdale Council

July 11, 2018

President of Council Vanover called Council to order on July 11, 2018.

The governmental body and those in attendance recited the Pledge of Allegiance.

Mrs. McNear took roll call. Council members Anderson, Emerson, Ghantous, Hawkins, Shroyer, Sullivan-Wisecup, and Vanover were present.

The minutes of the June 20, 2018 meeting were considered. Mr. Anderson made a motion to accept the minutes; Mrs. Emerson seconded. The minutes were adopted with six affirmative votes and one abstention (Mr. Shroyer).

Communications - None

President Vanover: While we're on Communications, just for a point of order that I would ask. I had received a request this weekend under an Open Records Request and I would just ask that if we receive one that we send it all through the Administration so that everything is coordinated properly and that everybody understands.

Communications from the Audience - None

Ordinances and Resolutions

Public Hearing (continued)

Ordinance No. 34-2018

APPROVING A MAJOR MODIFICATION TO THE PLANNED UNIT DEVELOPMENT AND PRELIMINARY DEVELOPMENT PLAN TO THE PRINCETON PLAZA PLANNED UNIT DEVELOPMENT (PUD) (SPRINGDALE BUSINESS CENTER)

President Vanover: This is a continuance from our last meeting. If we have a presentation, please come forward.

Mr. Gilhart: Good Evening everyone. You may recall, from the last month's meeting, I was here talking about a proposed flex space conversion of the current Princeton Bowl. For the record, by the way, my name is John Gilhart. Most of you know that. I'm the only one here tonight representing the project. Anyway, I put together packets for you. Planning Commission has seen this, I believe, on several occasions. There's one packet that basically shows the existence of the building on the site. You'll see an aerial. So, you'll see that in the blue, it shows the proposed part to remain and in red, it shows the part to be demolished. If you'll turn to the second page, it gives you a floor plan of what the remaining building would like. With the approximate locations of the interior walls; approximately ten tenants. The third page is just a rendering of what the fronts of each building would have. Again, we don't have full plans and details. We'll certainly provide everything for final review for the permitting, but, this gives you, I think a great idea of what we proposed. There's a floor plan showing, I think that's page number four, showing a typical floor plan of two units. Office upfront; handicap restroom and warehouse in the back. The idea on these buildings is to be able to use them for multiple uses. The next page shows you not the actual building, but, a good rendering of what I would propose. Those are the colors that we proposed for the building. You'll see dumpster enclosures. You know what they look like; it's just another sample. There's two proposed for the site. The second to last page, for this project, I believe we can have up to 100 square foot monument sign. This proposed sign would meet the code as far as the height and the square footage. That, of course, would be the blank spaces are for future tenants. The last page is just a business directory. A couple of different samples of what would go on the building itself. So, if people were to drive back there, they would see where the different tenants are located. That's that packet. The second packet you have is engineering drawings. Again, the first page shows you the site. The second page is engineering of fence and retention wall. C110 shows you the entire site. It shows it with the building section demolished and the dotted area would become the open space area. You can see the drainage culvert has been included on this site plan. C120 just shows you a little blown up version of it as C130. If you go to C140, you can see the drainage culvert. The design, the rip rap, the slope, so on and so forth and as you go back to C150, it just gives you a little more detail. Those are the elevations of the culvert. The remainder, I believe is notes. There's a landscape plan on L100. So, that's it for that. That pretty much sums up the project. I think the main concern was uses. I did contact Ms. McBride regarding uses. I started with the Springdale Zoning Code. I'll just show you what I've got here.

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Mr. Gilhart (continued): I started with, I'm not going to pass this around, but these are actual pages from the Zoning Code. So, what I did was I went ahead and crossed out the ones that I thought weren't applicable, sent those to her. She sent me back another list, red-lined with some additional ones. I've deleted some more items I didn't think were appropriate that she had mentioned. I came up with a list. Now, you've got 8 1/2 x 11 here which is the covenants and conditions for the project. In the first paragraph, it refers to PUD and it says, "Agreed uses of this property are attached as Exhibit B". I believe the sticking point was identifying the uses. So, what I did was, I took what was in the Zoning Code and certain items that were not clear to me that were not covered in there, may be on this list as well, meaning there may be duplications on this list, but there wasn't a clear definition that I could find. I wanted to make sure we covered everything. So, those are the uses that I propose. I just received this memo about ten minutes ago from McBride-Dale. Does anyone have that? I just had a chance to briefly read through it. It talks about flex space. I provided a definition in the past. This is, what I would say, not an accurate definition, it includes certain items, but I don't think it covers thoroughly what the intended uses are. We just have a difference of opinion there. I did briefly go through what she attached as Exhibit A. I didn't have a chance to go through all of them. But, basically, talks about uses that aren't appropriate and then it seems like lists the same uses that I put on Exhibit B. So, that's what we're down to tonight is if you have an interest in letting the project go through. If you do, that allow me some flexibility on the uses. I think I've been reasonable as far as that. I understand there's a neighborhood to the north, there's a wooded buffer there and if you look on the engineering plans there is a 50 foot buffer that we're going to add that's required and some additional open space back there. As you know, to the south, there's a shopping center. It blocks it to the east. There's the PetSmart and those buildings that block it and to the west there's a field behind Value City. That's where we're at; I guess we're down to uses. I respectfully request that you agree to move forward with it. Obviously, there would be final plans that would be required to be submitted to the Building Department. I think back to Planning Commission for final approval. I guess at this point, I'm ready for any questions you might have.

Mr. Parham: Council, for your information, the memo that Mr. Gilhart spoke of is one that was put together by Mrs. McBride as you had requested her to work with the applicant. She attempted to do that, but she sort of summarized where we are today. As a part of his proposed development, he has shared with us this evening, and she has agreed that most codes, including our code does not have a definition for a flex space. She provided the one that she was able to identify. As he said, it doesn't agree with his, but, that's okay. It wouldn't be the first time we didn't agree with an applicant's information. Exhibit B, as he shared tonight are the items he identified as permitted uses. Exhibit A are the things that we, as a staff, taking his list of items and eliminated those that we did not think were appropriate and arrived at this list of uses. That's how the list came about. It is not a different list. It is inclusive of things he pretty much already had included on his list. The other items that you will see on Page Two under the additional comments, Item Number 8, where he is requesting that the covenants and restrictions lapse if the demolition does not occur within a one year period. Nowhere does, in all the covenants in the community, does any of them lapse and so we would not be in agreement with that suggestion. We would think that the covenants are, once, if they are adopted by Council, that they remain with this development until such time as they are amended. Also, the language relative to outside storage; we're a bit more specific than the language that he provided. I don't have it in front of me, I'm not sure, but Mr. Taylor may have that particular language, but as the particular language here says, "there should be no outside storage of materials, equipment, vehicles, or goods stored on the site without approval of the Planning Commission." The other thing on the Exhibit A is that we're a bit more specific with the uses and identifying those that are principally permitted as opposed to those that may be accessory uses and then other items that we think would be acceptable, but they would need more clarification and so they would have to come back before the Planning Commission to receive approval. Gregg is there anything that I may have left out? (Addressing Gregg Taylor, Springdale Building Official).

Mr. Taylor: No.

Mr. Forbes: Just along those same lines, I did speak with Mrs. McBride today about this. On that page of her memo where it has the additional comments, Number Eight and Number Twelve. That paragraph right above those also. She just asked that I could make sure that those were emphasized. This is a suggestion from Staff and you can read it, but, it basically says that whatever the permitted uses end up being, that they "be subject to the Industrial

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Mr. Forbes (continued): Performance Standards contained in Section 153.253 (6) (a-j), and that parking be required at the maximum number of spaces needed to serve the most intense use, per Section 153.302 (P), ...". Those are just a couple of additional staff comments that I wanted to make sure were clarified.

Mr. Gilhart: I haven't had a chance to even know what that section says regarding the parking standard. Excuse me, would you by chance have the definition of the parking standards? (Addressing Mr. Anderson).

Mr. Anderson: It's not just parking standards, it's "and parking standards". That section refers to enclosures, explosive material handling, dust and smoke requirements for industrial use. It's on page 38 and 39 of the Code. I have a copy if you need it.

Mr. Gilhart: The only reason I ask is because I don't know how I would even begin to keep adjusting parking ratios for different tenants if that's what it's all about.

Mr. Anderson: It's not "parking" it's "and parking". Parking is a separate in that comment. It was the industrial use standards (colon) and parking standards. Those are two separate comments that she was making. The section that you referred to the (6) (a-j) is around material handling.

Mr. Gilhart: Industrial standards probably are common sense. The only problem would be in parking standards if you try to increase or decrease parking, you only have so much parking.

Mr. Shroyer: A question for Mr. Taylor relative to that paragraph. This is a "non-sprinkled building, correct? So, the separation walls creating the ten spaces will likely be fire separation walls? What I'm getting at is it's not very likely that one tenant would take the whole 36,000 square feet unless the building was sprinkled because they won't be able to open up between the separation walls anyway, will they?

Mr. Taylor: Excuse me. It would depend on the use. Let's say all the uses were similar and it was basically a warehouse that was storing non-hazardous material. You would judge by the maximum allowable square footage. This is a 2B building; un-sprinkled and there's standards in the code, as you know, that permit a certain amount of square footage to be provided without being further subdivided and/or sprinkled. There are other conditions. For example, if there was hazardous materials stored that absolutely mandate the addition of sprinklers regardless of size. When, at such time, if you all approve this and this thing moves forward, the building plans would have to be reviewed for how ever he (Mr. Gilhart) was planning on subdividing it and then we also have a requirement in our Code for a Change of Occupancy permit so that even if the building was sub-divided into the ten particular units with no known use at each time. Let's say it was set up for a S1, a storage use and a B use. There's typically no separation required between a S1 and a B, as long as the spaces are small enough. Then, what we would do, let's just say if there was a use approved that had a storage requirement that was in excess of what was normally allowed under the S use and it turned into an H use which is a High Hazard Use. I'm doing "Building Code Speak". I apologize. I know Mr. Shroyer knows what I'm talking about because he lived in that Code. But, in any event, we would basically have to, at that point in time when that occupancy was getting ready to take over a space, we'd have to review each occupancy to make sure whatever they were doing in there didn't require some additional measures for fire safety.

Mr. Shroyer: But, at that point, the Industrial Performance Standards would come in to play through the permit process anyway, right?

Mr. Taylor: Yes sir.

Mr. Shroyer: So, rather than impose the whole standard on the entire building, would it be safe to believe that the standard is going to become part of the program per individual tenant if it goes that direction anyway?

Mr. Taylor: Because, in all cases, every tenant would have to, in theory, before you got a Certificate of Occupancy, to have to get a Zoning Certificate and part of that Zoning Certificate would be required to comply with those standards. I think the idea with adding that language

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Mr. Taylor (continued): was to make it clear that just because an industrial use was a permitted use, that those standards would still apply. I think that was Mrs. McBride's thinking. Is that sort of an answer?

Mr. Shroyer: Okay. But, they would apply whether we put that specific language in the covenants or not.

Mr. Taylor: Yes.

Mr. Shroyer: Thank you.

Mr. Gilhart: So they would basically start off, I would believe at one-hour firewalls. Let's say you had a higher use than when you go to get your Certificate of Occupancy, you would have to probably have a fire inspection or something similar to that and then if it was a restaurant, they would say you need a two-hour firewall. So, at that point you would have to add another layer of Type X 5/8ths. Up in the shopping center, we've done that many times over the years. So, if a space was a Hancock Fabrics and you took a portion, which we did, and that became Red Squirrel at the time, that needed a two-hour firewall. So, then we took that wall and we added to it. It's on a case-by-case basis. But, it starts out at one-hour firewall I think which would probably handle most of it.

Mr. Shroyer: Without speaking for Mr. Taylor, I just wanted to make the point that it's not likely that one tenant would end up with all 36,000 square feet and the fact that you're aware, that, depending on what the occupancies are on each side if you had a tenant that thought they wanted two spaces and they were going to open up the connecting wall, that may not be an option based on what occupancies are on each side.

Mr. Gilhart: There were interested parties for the entire building. One of them was at the last meeting. I don't think we'll see them again. It's possible that you could have one use, but, they understand, when they go into the Building Department, if it's one use and it's whatever the use is, that if it requires sprinklers, it requires sprinklers. Or, if they have to separate it at any point.

Mr. Shroyer: Alright. Thank you.

Mr. Hawkins: Mr. Taylor, with regard to the Exhibit A from Mrs. McBride, if that was adopted, would that allow the applicant to use the facility for a union hall or training center or assembly hall or meetings rooms or education or training facilities?

Mr. Taylor: I believe the intention, this was stated that this was going to be flex-space and our interpretation of flex-space was that that was a space that typically did not generate a lot of traffic coming in and out of the space. So, I think it would be Staff's advice that, if that building was sold to those people, that we would expect that they would have to come back to Planning Commission and add that use. Because it doesn't really meet our definition of flex-space.

Mr. Gilhart: We can get rid of the word "flex-space" if you want. If that's the "hang up" here is the word. I think that maybe that's the problem that was trying to use that terminology just to kind of get an overview of the idea is to have it flexible so that you could have a meeting hall, or I have an interested party right now that wants to use it as a religious community center. That's why it's on my Exhibit B here. If that were not the case, well that's why I'm trying to get some flexibility and get all of these included because I do have a couple of people, another one is a union hall training center; the IBEW, I think it's Local 347. Those two parties are interested. I'm trying to get the Zoning to be reasonable, but, at the same time, ask for flexibility because I can't keep coming back here. That's not going to work. I understand what you're saying. On certain things, that's fine, but most of this is handled in the Building Department as far as the tenant separation, the use, the sprinkler, things like that. But, if I have to come back here every time I don't have an approved set of uses that I feel comfortable with, if I have to come back here every time. I can't do it. It will kill the deal. It will kill the project, excuse me.

Mr. Parham: Council, the problem isn't trying to identify. The problem that we have is trying to get him (Mr. Gilhart) to figure out what the use is and us to agree what that use. The

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Mr. Parham (continued): Building Department doesn't handle the uses. Council handles the uses. Typically, when a developer or someone comes with their project and goes before Planning Commission, they have identified what project they want. He has identified a project. Now he wants to include

Mr. Parham (continued): all uses underneath the code for his project.

Mr. Gilhart: No.

Mr. Parham: Sir, when you speak, I didn't talk. Most people who come to you, have identified their project and that project typically gives you what type of use they intend to request. If they're unable to sell it to whoever it is that wants to buy it, or use it then they find a new tenant or a new opportunity. They may have to come back before you. That isn't anything unique. He's (Mr. Gilhart) not being treated in any way differently than anyone else. We've simply tried to identify, as best as we could, as we treat most people, to have a specific use for the process. Now, we've gone through and we've identified multiple uses. As Mr. Taylor indicated in response to Mr. Hawkins question, what we see best fit is to not have a bunch of traffic that has to travel to that particular location for services, for retail, or for anything of that nature. It's more for services that are leaving that facility. That's the suggestion on the part of Staff.

Mr. Gilhart: May I respond?

President Vanover: Sure.

Mr. Gilhart: Excuse me. Since exactly what I did last time I was here was you requested that I come up with a list of uses that I would like for this project. As a matter of fact, I think, in the minutes, Mr. Hawkins said, "Mr. Gilhart, if you have a list of 30 uses; bring us that list." Now, I went through the entire Code and that's what I've done. Now, I understand Mrs. McBride may have a difference of opinion. With all due respect, she's not doing the project. She's not familiar with the uses and she's not familiar with the flexibility upon the tenant that you have to have. I have come back with a list. I actually counted them and I think there's 38 on there coincidentally. I think if you go down these items, florist sales and supplies? Why could you not have a wholesale florist where they've got office up front and they've got a warehouse in the back? Inventory storage. My gosh, a shopping center, you know during Christmas and things like that, why couldn't they store their inventory? Showrooms, for example. We talked about plumbers and electricians. Some of them have a little office up front and a little showroom. Electric, heating, and ventilation? Animal day care? Camp Bow Wow boarding and training? All these are self-contained within the building. The fronts of the buildings are facing the east. Auto, truck, trailer, ATV, these are common. Bodywork, sales. These are little individual businesses. We don't want them behind in the hole, so to speak behind the shopping center, but yet we want them facing the street. Kerry Ford, Sweeney Chevy. Personal self-storage. Why couldn't a person rent a space and use it as their personal storage? I just don't see anything here. Assembly halls and meeting rooms? If a religious community center wanted to buy the place and put a little kitchen in like they're talking about it and make it like a little community center, I don't see where that's a problem. Health and Fitness Center; we're not talking about Planet Fitness; we're talking about an individual or a couple of individuals that are personal trainers that want to have their little personal gym in there. I don't see why there is such resistance on this.

Mr. Shroyer: I guess my question again would be to Mr. Taylor without belaboring this. Is it possible to go down the Exhibit B? I'm assuming a number of the items that he has spelled out individually on Exhibit B actually fit within the Exhibit A permitted uses that we have suggested or that Staff has suggested?

Mr. Taylor: A number of them do; that's correct. I think the issue here really is, well, there's several, but, to begin, this was presented to Planning Commission with this idea of flex-space and ten small spaces and if we approve a myriad of uses that don't appear to really fall into that flex-space category, there's nothing that prevents one or more of these spaces to be occupied by something that, I believe, Planning Commission really didn't envision. For example, the religious assembly place or the community center, a union hall. I don't know that any of those uses are good, bad, or indifferent at this point. I think the idea is it was approved under a certain set of circumstances. What's being asked of you, I think at this point in time, is

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Mr. Taylor (continued): somewhat outside those circumstances that Planning Commission approved this under. Again, I think it was Planning Commission's understanding, it was certainly Staff's understanding, that the intent of this when we started down this road some months ago, was the idea of these ten flex-spaces where you might have a plumber, an electrician, a landscaper, appliance repair. Something where people require a small little office to operate their business and some shop space or some warehouse space. It really wasn't envisioned, at that point in time, as a place where people might gather. As you recall, complicated by the culvert failure and the whole idea of the flood plain. We went through this flood plain question at length. I think those are issues that Planning Commission considered very carefully when they determined what uses they felt like were appropriate. I think, by trying to include everything and not ever having to come back before Planning Commission, I think that, essentially, creates a project that really wasn't envisioned by Planning Commission. I think the attempt on what's on Exhibit A of Mrs. McBride's memo, was to try to narrow those uses that, at least Staff felt like, were in keeping with what was approved by Planning Commission.

Mr. Shroyer: If we get past the terminology of flex-space and we call it something else "office warehouse".

Mr. Taylor: Well, I think if it was "office warehouse" for example, a union hall, a community center would not be a permitted use unless they came back to Planning and that's really the suggestion here. Let's try to narrow these uses as you would any PUD and if there's some use that's outside that scope, the applicant or the property owner or the potential occupant always has the opportunity to come and talk to Planning Commission and you folks (Council) and explain why their use is appropriate for a certain location. I think the other issue with some of these potential uses is sensitivity to the residential area to the north. While the industrial performance standards would apply, I think there's businesses that are inherently noisy and would potentially be disruptive to the residents to the north. Again, these are, I believe, thought processes that were vetted through the Planning process.

Mr. Shroyer: But, again, if we rely on the Building Code, the occupancies such as the religious community center, the union hall. Those are going to be limited by the assembly standards anyway and it looks like his drawings show one entrance; one way in, one way out which is going to limit the number of people able to assemble in one of the spaces anyway. I guess I'm just trying to get past the, yes, it wasn't necessarily all that was presented to Planning Commission, but at this point, as opposed to a non-project and a vacant building that stays there, I'm trying to get past what our issues are with these other things that are on the list that wouldn't be addressed by Building Code. Just because it's on the list that he may want to put a union hall in there, if he has one way in and one way out, and no option to add another egress, his union hall idea is going to fall through anyway.

Mr. Taylor: That particular user was interested in the whole building and they were going to do major modification to the building. And again, were that put on the, let's just say that that use was included in that list, if a person was willing to buy the building and make the modifications required, in other words, put sprinklers in, or add some exits, or whatever the case may be, I think we would have a use down there that was not envisioned and there wouldn't be a way for me to stop it from a Building Code standpoint because if somebody complied with the Code, that's all I can do.

Mr. Gilhart: They would still have to comply with the Building Code though.

Mr. Taylor: They would have to comply with the Building Code, but that doesn't do anything to alter the fact that there may be a use down there that was not appropriate for the space. Again, all I'm saying is I think Planning went through this and tried to determine these uses that they felt were appropriate with the idea that if we include a bunch of uses, there's nothing to prevent a future owner, occupying as much space as they potentially would want and doing whatever modifications were required of the building to meet the Building Code. There wouldn't be a way for stop a use that we really didn't want.

Mr. Shroyer: Alright. Thank you.

Mrs. Sullivan-Wisecup: I believe that Mr. Taylor is correct in the way that I was thinking about it during Planning was that it was introduced as people who need an office with some

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Mrs. Sullivan-Wisecup (continued): warehouse space in the back. When I look at Exhibit B, I think of strip mall. I don't think of flex-space. You're talking retail stuff. Floor sales and supplies and different things on here. I guess that's what I was confused by because they do have all of these uses and I understand what you're saying. If you sold it for the assembly hall or whatever, but if we accept all of these and you sell it to do the union hall and they make that, then, later on they could change it to any other use that they want to that fall on this list without coming before Planning again. This big list was not what I had envisioned when you came before Planning. Some of them are. Like, the Light Industrial, Manufacturing, Warehouse, Production, that kind of stuff, Office Space, Light Production, Inventory Storage. Retail and wholesale sales that was nothing that I had thought or heard during anything that you (Mr. Gilhart) had said before. Just things like that, I guess that, in my mind, this was not what you had said during Planning and this wasn't what I had approved or what I had said go on to Council with. All I had to say about that was that my vision was closer to Exhibit A with a few more, but not very many more things from your list. Overall, it was kind of in keeping with light industrial, office space, a little bit of warehouse, that was pretty much it and that what was approved then. Thank you.

Mr. Gilhart: Excuse me and I understand, for example, the retail. That's a tough one for me. What's a printing shop? We've got one up in the shopping center. I don't want to have a shopping center down there, but I don't want to prevent someone that has some form of retail and I can't find a definition for that.

Mrs. Sullivan-Wisecup: I don't know exactly how you would put that, but, when I see floral sales, retail wholesale, things like that, I see Strip Mall. I don't see flex-space. That was my whole entire thing when I looked down this list was and you were saying some of the things that you were saying was I wasn't seeing a flex-space office with small warehouse. I was seeing retail strip mall. I don't think that that's necessarily . . .

Mr. Gilhart: That's not my intention.

Mrs. Sullivan-Wisecup: I just wanted to clarify that. I don't think that's what anybody wants down there. But, if we have all of these uses on there, it could be.

Mr. Gilhart: I'm trying to cover as many as I can because here is my problem. For example, the one group that wants to possibly purchase it for a community center, they know they're going to have to come before you (Planning Commission). They know they're going to have to go to the Building Department and everything else, but what scares them and what scares the gentleman that is not here tonight, I think we're done with him. You scared him off last week. That was the IBEW. What scares them is that they see the difficulty in getting things approved to get in there so my idea is to try and get as many things that are acceptable without doing anything crazy and there are some checks and balances in the Building Department. I don't have any intentions of putting many things in there. We don't want to sell automobiles down there. We don't want to be a used car lot. However, there are small businesses that do service ATV's, motorcycles, things like that. Keep in mind, these are all inside. These are little mom and pop businesses. These things are the engine that drives things. In Florida, I have 70 office spaces. They're incubators. We have people go in, they start small, one office, then a bigger one. Sometimes they go off and buy a building or they come back, get smaller if the economy gets bad. It's an incubator for small businesses and that's really the idea of this. I just look at some of these. Yes, there's a list here. I think I've got 38. There's a list of 20 (referring to Exhibit A), but I see things like personal self-storage not on there. Showrooms, for example, the example I've given is cabinets, countertops. There's little businesses that have an office and a little showroom and they might build cabinets in the back. Marble flooring, marble tops, furniture, things like that. Small businesses. I'm not talking about retail. So are they retail or are they wholesale or are they light industrial, I don't know. I don't know what the answer is. That's why I came up with the list as Mr. Hawkins suggested. I'm looking for direction, and, unfortunately, I got this memo, like I said, 15 minutes before the meeting started. So, I'm trying to rush through to see what's there and what's not there.

Mrs. Sullivan-Wisecup: Mr. Hawkins did absolutely suggest that, but he didn't say that we were going to approve all 30.

Mr. Gilhart: No, I understand that.

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Mrs. Sullivan-Wisecup: He just said make a list. I just want to be clear that he didn't say that if you make a list of 30, we're on board. He just said make a list and we'll look at it.

Mr. Gilhart: I didn't expect that.

Mrs. Sullivan-Wisecup: I just wanted to make sure that you...

Mr. Gilhart: I took and I made the list. It's not like these are crazy. Here's the Code. We had page after page. Most of them are crossed out. These are all allowed in a PUD. It wasn't like I threw everything. I don't know where to go from here.

Mr. Hawkins: Mr. Gilhart, I want to make sure that everything that I said is clear. I wanted you to make a list and I wanted you to get with Staff and you guys could go over all of that. I don't know what the time parameters were and I know you're saying you're just seeing the Exhibit A and that document tonight, but it was that entire statement that was critical to make a list and then get with Staff to go over. That's sort of the whole thing that came from Planning Commission was that uses would get worked out between you and Staff and when you'd come back the last time, that hadn't quite happened, so the hope was that between then and now you and Staff would get to go over that and it sounds like you guys had some back and forth, but it also seems like there was not as full communication as I guess there could be. So, here's where I am. I'm one of seven people. Staff has given us Exhibit A as what they're suggesting. I said it before, it's been said again tonight, if there are things that are not listed on Exhibit A, there's always the opportunity to come before the City and make requests for an additional use. You're hearing the issue; the concern with regard to just sort of a blanket open opportunity. You will have likely more success in coming through and asking for one thing that is maybe not on Exhibit A when you have that person who's saying, "Mr. Gilhart, we really want to do 'fill in the blank'" and the Planning Commission asking for that one thing versus asking for all those other things. I'm listening to what Staff's saying. I'm in support of what Staff is saying. I also am saying to you that that list that Staff presented to you doesn't have to be exhaustive and there may be a circumstance where you come back before Planning Commission and you've got an applicant where if there's something else that's on your Exhibit B, you sit there or they sit there and they present it and sits there and they say, "Hey it seems like that fits with what we have going on down there".

Mr. Gilhart: With all due respect, that sounds good in theory, but in reality, you have a project, and you're advertising space for lease and if every time, not every time. I get what you're saying, there's some extraordinary uses. I've eliminated cemeteries was on there. Not on my list. Should there be a cemetery there? No. So, there's a lot of crazy stuff that's been off there. But, to try to; it's like a shopping center. If you had to review all the different uses that go into a shopping center, you would have an empty shopping center. I'm just looking at some of these and I'm shaking my head. They just don't make sense to me. I just don't know what to do about it. Because, I know the reality is if you can't tell a person; when someone calls me and they say, "I've got this", "Well, maybe I can put you in. It's not on my Exhibit A or B or whatever it is, well, I have to go through the process." "Well, what's the process?" "Well, you've got to put in an application. I don't know if it's a minor or major change. You've got to go through Planning Commission, Council, and back." If they hear that, then they're done. If we want more businesses coming into the community, you're going to need to eliminate more barriers without just permitting crazy stuff in there. Florist, Self-Storage, Inventory? It just doesn't make sense to me. I guess that's where we're at.

Mr. Anderson: I've been listening to the conversation about Zoning Code and the changes to the PUD. I guess my question to you is I support the idea of Flex-Space. Our Zoning Code doesn't accommodate that very well which you're seeing at least with these barriers that you're talking about. My question is how do we ensure that if we embrace this idea of flex-space and there's a lot of different uses that will change over time. How do we ensure that this space in the PUD remains in that spirit of a flex-space and doesn't just gravitate to one of these approved uses and then stay there forever? The challenge that I'm having is I'm trying to find a way to accommodate these uses and I was going through Exhibit A versus Exhibit B and many of the ones that you're listing and describing in Exhibit B when you mention them is, "Oh yeah, I could see that being a flex-space. That makes some sense". The florist use case. The market will help decide what's right and wrong. What type of florist; I get that. But, how do we, as planners, in supporting our Planning, ensure that it stays in that flex model and doesn't become just a training center or just a community center? Because, if

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Mr. Anderson (continued): it was going to be a community center, we would just make it a community center, right? Then it's not a PUD.

Mr. Gilhart: Somebody could come back and say we want to make this a community center. That's a whole different ball game. Then, they have to go through the process.

Mr. Anderson: So how do we ensure that it stays as a flex-space? We only have the tools that we have in the Zoning and PUD, so we're going to accommodate it by allowing a number of

Mr. Anderson (continued): uses. Exhibit A is a lot. There's a lot of flexibility in what's being proposed in Exhibit A. How do we ensure it stays flex-space and not one of the use cases? You're just saying we just don't. It'll just gravitate to whatever it gravitates to?

Mr. Gilhart: If that's the answer. Create a new category I guess.

Mr. Anderson: I want to be able to help you tonight. Creating a new category and flex-space and going through that process. That's changing our Zoning Code which, we can talk about, right? As a group? We can take back to Planning and we can discuss those changes, but how do we accommodate you (Mr. Gilhart) so you can keep moving with the project that's flex-space based with a number of use cases that we would be okay with without losing all control.

Mr. Gilhart: Possibly, the ones that are on my list that are not on your list, so to speak, if there was something there that said conditional. You do have such a thing as conditional uses. I'm not that familiar with them, but if there was some word or something that would trigger at least a review.

President Vanover: Well, the problem is that. The word "triggers" you have one on your list Auto, truck, trailer, ATV, and motorcycle bodywork, sales, rental, service, repair, detailing, window tinting. Well, the guy is selling cars. There are a ton of them. You go up and down Route 4, Colerain Avenue, they're all over. But, that's a better home for them.

Mr. Gilhart: But, keep in mind there's no outside materials, no outside equipment, no outside vehicle storage. Nothing, that's what it says right here in the restriction.

President Vanover: But, this car is ready to be sold, they're moving it out. It's going to sit someplace. Well, for example, you've got Laboratories, Internet technology, Distribution center and those are all Mrs. McBride's Exhibit A except that they require Planning Commission approval. They're not saying you can't have it, but you've got to come back and get that approval. Dog day care, pet boarding. Most places want to have the animals to be able to take them outside. The mixes don't jive. That's one that's not going to

Mr. Gilhart: We use three four different ones where I live. Believe it or not, there's certain ones that are just daycare and there's certain ones that are training. You're right. If they have to go outside, but then they eliminate themselves.

President Vanover: According to your list of permitted uses, it's a permitted use.

Mr. Gilhart: That would be fine. Absolutely, but if they need outside, that's not permitted.

President Vanover: Well, personally, I'm a dog and a cat person, I wouldn't board my animal where he's got to do his business in his cage. They've got to go out someplace.

Mr. Gilhart: I would tend to agree with you on that. Sure.

President Vanover: So, that's the problem. We have this list for PUDs but, not every PUD is going to encompass that entire list.

Mr. Gilhart: For example, the automotive, if it would just strike the word "sales", because I don't know of anyone here that would have a problem with someone pulling a car in and tinting the window or putting on a bumper or doing some work. That's the kind of space it is. It's a light industrial warehouse. If you go up Route 747 and you turn left after Reading Rock and go back there, that's exactly what this is. There's hundreds of them back there. I get what you're saying.

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Mr. Gilhart (continued): How do we do it is the question. How do you give me enough flexibility, but how do you keep it restricted enough so you don't get something crazy in there.

President Vanover: I think we have a difference of opinion on flexibility.

Mayor Webster: John, have you taken your list of 38 and tried to fit them under the 17 principal and accessory uses that Mrs. McBride has suggested, and if so, how many of your 38 don't fit?

Mr. Gilhart: That I don't know. Because, like I said, I got it 15 minutes before the meeting. I sent these last week to Mrs. McBride. Two days ago, I, after we had a back and forth, I sent my Exhibit B to Mr. Taylor and copied Mrs. McBride. I think I copied you as well Mr. Mayor.

Mayor Webster: Mr. Anderson, you went through a bunch of them didn't you and didn't most of them fit?

Mr. Anderson: No, I'd say there's just, as a quick count, keep in mind that I just got it, I'd say there's probably ten on Exhibit B that are not covered on Exhibit A.

Mayor Webster: That would not fit on here (Exhibit A).

Mr. Anderson: Right, and several of them we've discussed several times. There's some that it looks like more uses than not because its accessory uses and they're not really use cases; the permitted use, so it's kind of blurred. But, there's about nine or ten that I counted as a quick count that are not covered.

Mayor Webster: So that says that there's 28 of your 38 would fit in here.

Mr. Gilhart: Probably so, yeah. So, we're close. There's no question about that.

Mayor Webster: So, if Council adopted it and pulled this in as Exhibit A, as far as the covenants, then if you had one of those nine or ten that didn't fit, then you have to come before Planning Commission. If it's deemed a minor change, then it's one Planning Commission meeting and then you're done. If it's a major change, then yes, you have to go through the whole process and come back to Council and everything.

Mr. Gilhart: Then, the question is, is it a major or minor change. Because, if it's, let's say, office warehouse or whatever and want to change it to a florist, that's a totally different change than what is permitted. Is it minor or is it major? I don't know. I'm just trying to see if there's a process. Is there a way that we can agree to take what has been given and somehow or other have a workshop or something?

Mayor Webster: No, I think each individual user that you identify, the two members, Mrs. Sullivan-Wisecup and Mr. Hawkins are the members on Council here that sit on Planning Commission and it's up to either one of them to decide if it's a major, it's got to come back here. If those two decide it's minor, then you go to Planning Commission and hopefully get approval and you're done.

Mr. Gilhart: I understand what you're saying. With all due respect, it doesn't happen that fast. When I started this process, I was 55 years old. I am 57 years old now and I've still got nothing. Whose fault it is, we can talk about that all day long, but it is what it is. I can't do business like that. That's okay. I said from the beginning, tell me yes, tell me no, take it from me, but pick one. I just can't keep coming back.

Mrs. McNear: Mr. Gilhart, I think you can get the impression that if you took a vote now; if you called a vote right now, that you would not get all 38 of these items. So, the option you have here is to take Option A or table this again and go back and figure out something else. I don't get to vote, but I can tell you that I do not get the impression that you would get a positive outcome if you stick to your guns and you say, "I want Exhibit B". We can argue this all night long, but the negotiation in my mind is finished.

Mr. Gilhart: I understand. It's quite clear.

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Mrs. McNear: Okay.

Mr. Gilhart: I get that. There is one other issue regarding the covenants. Now, the reason these are set up this way, and these were actually taken from Cassinelli Square; a sample from theirs. I don't want to impose covenants and conditions and restrictions on something that never happens. For example, this property is the only asset in Gilhart Enterprises. Gilhart Enterprises has no money. They have no income. It's not me; it's a separate corporation. So, it's at the point, and this is not a threat, or anything else, it's just reality. It's at the point where we either get something approved and try to either sell it, or me try to get financing. I don't even know if that's possible at this point. I'm not some big developer, or, we file bankruptcy. That's an option. Certainly that's not your problem, that's my problem, but, that's where we're at. This is kind of the last ditch effort. Either something we can work out and it goes forward or pull the plug. So, I'm open for suggestions.

Mrs. McNear: Mr. Gilhart, I just offered you to say, "Hey, I'll accept Exhibit A and forget about Exhibit B". Because, frankly, you're not going to get "B".

Mr. Gilhart: I can do that, the other issue is the covenants. I can't have a piece of property to where it doesn't move forward and then now it's restricted. That's why you do something like this. You set up your covenants and conditions and restrictions. If the project moves forward, it's applicable to that. If it doesn't; it lapses and it goes back to the way that it was, which is where we are today. These are exactly what you did several years ago with Cassinelli. This is not something unusual. Because, if I go ahead and don't do the project, now whoever ends up with the property is stuck with whatever that is.

Mr. Forbes: Just with respect to this question about covenants and lapsing of covenants. First, I'll say I cannot speak to what the Cassinelli covenants say. But, what I can tell you, is the concept of covenants and restrictions do not lapse. They run with the land. That is the whole point of covenants is once you decide what the uses are going to be, and that's how you decide what the uses are going to be, by the way, is by putting it in the covenants. Mr. Gilhart, you're absolutely correct that if the project doesn't go the way he (Mr. Gilhart) foresees it going, someone down the line will have to amend and modify those covenants. That happens. I don't know about the Cassinelli ones, but I can tell you about every other set of PUD covenants that I have ever seen. They specifically run with the land. That's the whole point of covenants. They don't lapse. There might be some confusion because there is a provision in our Zoning Code and Mrs. McBride points this out in her memo. Once a PUD Final Development Plan gets approved, if no permits are pulled within, I think it's 18 months, then the Development Plan lapses and you would have to come back and get a new Development Plan approved. That's not the case with covenants. Covenants run with the land. They don't lapse. In the event that Council is going to take any action tonight, I would, as is suggested in the memo, I would hope that Council would make that clear as one of the elements of any approval that the covenants would have to be clear that they run with the land, and they do not lapse.

Mr. Shroyer: Mr. Gilhart, I understand your dilemma. I support your effort, but, at this point, based on the discussion, my suggestion, again would be similar to Mrs. McNear. If you think that Exhibit A lets you move forward the project, I would support Exhibit A. As far as the covenants, I would agree with Mr. Forbes. That's not to say that your project doesn't go and you have a buyer for the building; that they couldn't come back and those covenants be modified or reconsidered. My thought on the covenants is based on your project. If it there's a different person standing there with a different project and a different request for covenants, I think that would be a bridge to cross at that time. Again, I don't want to see a vacant building. I want to see your project move forward, but, by the same token, based on tonight's discussion, that's where I'm at. I would support Exhibit A with the covenants if you think that's where you want to go to move forward. Thank you.

Mr. Gilhart: Is there any other comments or questions? I think we're at a point where it is what it is. I guess we'll just have to wait and see what happens. We'll take it and if it works, it works. If it doesn't work, it doesn't work. Is Council supportive of the project and the uses proposed by Mrs. McBride and the conditions and restrictions without the lapse so to speak? Will I have to move forward with that?

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President Vanover: Okay. Well, at this point, we'll close the Public Hearing. We have had two readings. Before I close, is there anyone else that would like to speak on this issue either for or against? Second call. Third and final call. We'll close the Public Hearing.

Mr. Forbes: Not my pleasure, but as Council is considering whatever action you might want to take, I would just, based on the discussion that we just had, whatever motion that Council intends to take here, I think it would be appropriate that as part of that motion that it include some clarifying language such as which list of permitted uses it is that you're approving and if you are also including, as a condition, either of the Staff Comments and Mrs. McBride's memo about Number Eight about the covenants and Number 12 clarifying the outside storage language and to the extent that she has a request in that paragraph right above it about the Industrial Performance Standards and the parking standards. Those are the things that have been recommended by Staff. All I'm suggesting is in whatever motion comes forth, it's clear which of those you are imposing.

Mr. Gilhart: Would you agree that if the Council basically approved the memo from Mrs. McBride that that would cover everything?

Mr. Forbes: Well, if that's Council's intention. I don't know what Council's intention is, but if it were to approve Ordinance 34-2018 upon all of the conditions included in Mrs. McBride's staff memo, I'm not purporting to make a motion for you. But, if it included the permitted use list of Exhibit A as well as the other conditions suggested in the staff report dated July 11, 2018. If that's Council's intention, that could be a way for you to address it.

Mr. Parham: One of the things that the Mayor just pointed out that I think would be a clarifying point is to identify which of the exhibits; whether it's Exhibit A or Exhibit B not to include them both because they're both a part of the memo. I think the importance of specifying will make those very clear what you're approving what those uses are will be helpful for Mr. Gilhart or whoever may be looking to develop the property, but as well as for Staff when Staff is looking at someone who comes in. It isn't always when someone is curious as to whether or not their proposed project fits that they have to go through the process. They can very well come in and meet with Staff and Staff will give them feedback on it without them needing to go fill out an application and go through the Planning process.

Mr. Gilhart: I'm sorry, I just realized that the Exhibit B was included in that memo. Sorry about that.

Mr. Shroyer: I make a motion to adopt Ordinance No. 34-2018 with the inclusion or provisions that suggestions made by Mrs. McBride in her memo dated July 11, 2018 that under additional comments; Comment #8) Approval; will be included, Comment #12) Outside Storage; be included and that Exhibit A dated July 11, 2018 specifying uses be included as well.

President Vanover: What about her comments on Performance Standards and Parking?

Mr. Shroyer: I would not include that in the motion. I think that's covered under the Building Code.

Mr. Anderson seconded the motion.

Mrs. McNear: Just for clarification; Mr. Shroyer, in your motion, you said "uses specified". Can we further describe that as "Exhibit A" so that we know which ones you are referring to.

Mr. Shroyer: Exhibit A dated July 11, 2018.

Mrs. McNear: Thank you.

President Vanover: Any further discussion?

Ordinance No. 34-2018 passes with six affirmative votes and one opposing vote (President Vanover).

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Mr. Gilhart: Thank you.

Public Hearing

Resolution No. R9-2018

ADOPTING THE TAX BUDGET OF THE CITY OF SPRINGDALE FOR THE YEAR JANUARY 1, 2019 THROUGH DECEMBER 31, 2019

Mr. Hawkins made a motion to adopt; Mrs. Emerson seconded.

Resolution No. R9-2018 passes with seven affirmative votes.

Resolution No. R11-2018

APPROVING THE REPORT OF THE ASSESSMENT EQUALIZATION BOARD FOR THE BEACON HILLS SUBDIVISION/KENN ROAD REHABILITATION PROJECT

Mr. Hawkins made motion to adopt; Mrs. Sullivan-Wisecup seconded.

Mr. Parham: Council, at the last meeting, you appointed the members of the Board of Equalization. Those members were: Mr. Rodney Swope served as the Chair, Mr. James Dunigan served as Vice-Chair, and Mr. Tom Hall served as Secretary. Those three gentlemen met on two occasions. The first meeting was on June 28, 2018. The second meeting was on July 3, 2018. The need for two meetings is because one of the residents could not be in attendance at the meeting on June 28, 2018. We wanted to make sure that every resident had an opportunity to be heard, so we rescheduled a second meeting for July 3, 2018. There were six cases that came before the Board. Five of those cases were confirmed by the Board that the requirement to replace the driveway apron of the residents were upheld. The sixth case, we found out prior to the first meeting of June 28<sup>th</sup> that we received notice that the resident had actually gone out and replaced the apron and so tonight, we are asking that Council would consider the approval of the resolution which will then support the process moving forward and then the next piece of legislation would be the Ordinance to proceed with those improvements for those particular properties.

Resolution No. R11-2018 passes with seven affirmative votes.

Ordinance No. 37-2018

ADOPTING ESTIMATED ASSESSMENTS AS REPORTED BY THE ASSESSMENT EQUALIZATION BOARD, DECLARING A DETERMINATION TO PROCEED WITH CERTAIN PUBLIC IMPROVEMENTS FOR THE BEACON HILLS SUBDIVISION/KENN ROAD REHABILITATION PROJECT AND DECLARING AN EMERGENCY

Mrs. Emerson made a motion to adopt; Mr. Anderson seconded.

Ordinance No. 37-2018 passes with seven affirmative votes.

Executive Session – Personnel Matters

Mrs. Emerson made a motion to go into Executive Session for the purpose of discussing the appointment of a public employee. Mrs. Sullivan-Wisecup seconded the motion. The motion passed with a 7-0 vote to go into Executive Session. Council departed chambers at 8:18 p.m. Council returned to chambers at 8:42 p.m.

Old Business - None

New Business - None

Meetings and Announcements

Mrs. Zimmerlin: The Concert in the Park that was rained out; we're going to try it again. We're going to do it on Thursday, July 19<sup>th</sup> from 7:30 – 9:00 p.m. It will be Lieutenant Dan's New Legs. They'll perform a compilation of popular rock, hip hop, R & B and Soul music and will be held at the Community Center Amphitheater. The Springdale Youth Boosters will have the concession stand open with beverages and food for sale. Youth sports registration is going

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Mrs. Zimmerlin (continued): on. Late registrations are being accepted for a limited number of openings for fall youth soccer and volleyball teams and you can contact the Community Center for those details. I just wanted to let Council know that the Springdale Towne Center's Safety Day will be on August 18<sup>th</sup> from 11:00 a.m. until 3:00 p.m. and we will have representatives from Fire, Police, Public Works, Park and Rec, Health Department, and SWAT there.

Mrs. Emerson: The Capital Improvement Committee will meet Wednesday, July 18, 2018 at 6:00 p.m. in the Conference Room to discuss the SCIP Project for 2018 and future projects.

Communications from the Audience - None

Update on legislation still in development

Mr. Hawkins: As you review your Internal Memorandum; Item I was addressed with Ordinance No. 34-2018; An Ordinance Approving a Major Modification to the Princeton Plaza (Tri-County Towne Center) Planned Unit Development (PUD) and Approving the Preliminary Development Plan to Redevelop the Former Princeton Bowl into Flex Office-Warehouse Space. That passed with a 6-1 vote. Item II was addressed with Resolution No. R9-2018; A Resolution Adopting the 2019 Tax Budget of the City of Springdale for the Year January 1, 2019 through December 31, 2019. That passed with a 7-0 vote. Item III was addressed with Resolution No. R11-2018; A Resolution to Approve the Report of the Assessment Equalization Board for the Beacon Hills Subdivision/Kenn Road Rehabilitation Project. That passed with a 7-0 vote. Item IV was addressed with Ordinance No. 37-2018; An Ordinance Adopting Estimated Assessments as Reported by the Assessment Equalization Board and Declaring a Determination to Proceed with Certain Public Improvements for the Beacon Hills Subdivision/Kenn Road Rehabilitation Project and Declaring an Emergency. That passed with a 7-0 vote. All other matters are forthcoming.

Recap of legislative items requested for next Council meeting

Mr. Hawkins: There is a request for An Ordinance Authorizing the City to Fund the Employees' Health Savings Accounts in 2018 and Declaring an Emergency.

Adjournment

Mr. Hawkins made a motion to adjourn; Mrs. Emerson seconded the motion and Council adjourned at 8:46 p.m.

Respectfully submitted,

Kathy McNear  
Clerk of Council/Finance Director

Minutes Approved:  
Tom Vanover, President of Council

\_\_\_\_\_, 2018