

PLANNING COMMISSION MEETING  
NOVEMBER 11, 2014  
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: Carolyn Ghantous, Dave Okum, Richard Bauer, Marjorie Harlow, Robert Diehl, Marge Boice and Don Darby

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

III. MINUTES OF THE REGULAR MEETING OF OCTOBER 14, 2014

Chairman Darby: The Chair will accept a motion for the approval of the Minutes of the October 14, 2014 Planning Commission meeting.

Mrs. Boice: So moved.

(Mr. Okum seconded the motion and with unanimous approval from the Planning Commission Members the October 14, 2014 Minutes were adopted.)

IV. REPORT ON COUNCIL

(Mrs. Harlow gave a report of the October 15, 2014 and the November 5, 2014 City of Springdale Council Meetings.)

V. CORRESPONDENCE

Chairman Darby: There is no correspondence this evening.

VI. OLD BUSINESS

(No Old Business presented at this meeting.)

VII. NEW BUSINESS

- A. Chairman Darby: The first item is Minor Modifications to the PUD, Home Emporium wall sign at 11360 Princeton Pike.

Mr. Chad Koehneke: I work for Sign-A-Rama, the contractor of the sign for this project. What we are proposing is basically moving the existing wall sign from the existing Home Emporium store in Springdale to their new location at Cassinelli Square.

(At this time Mr. McErlane read his Staff comments.)

Mr. Okum: What is the approximate distance from Princeton Pike for this building?

Mr. McErlane: Probably 400' to 500'.

Mr. Okum: Based upon that I see no problem with the size of the sign that has been requested.

Mr. Bauer: The depiction of the sign on the building that we have in front of us, scale-wise is that an accurate depiction?

Mr. Chad Koehneke: Yes, it is.

Mr. Okum: Mr. Chairman, I would like to move for approval of the sign request based upon the application submitted for the Home Emporium on the previous Hobby Lobby facility in Cassinelli Square as presented.

(Mrs. Boice seconded the motion and with a unanimous "aye" vote from the Planning Commission Members, the request was approved.)

B. Chairman Darby: Moving on to Item B on the agenda, Minor Modifications to the PUD for McDonald's Landscaping at 11723 Princeton Pike.

Mr. Paul M. Booth: Thank you for allowing us to present to you this evening. I am here to represent Cobco Enterprises, owner, operator of McDonald's here in your community. With me this evening are Rick Gilhart and Clark Gilhart of the Towne Center at Tri-County, and also Mr. Jack Bresnin who is our landscape artist. We are here today to request a modification of the approved landscape plan for our restaurant located at 11723 Princeton Pike. The approved plan calls for the planting of six trees on the perimeter of the landscape area; this includes five European Hornbeam trees at 1 ½" inch caliper and one 2" caliper Honey locust tree. McDonald's has made a substantial investment in the Springdale location, people, property and product. Currently we employ fifty individuals combined full time and part time. Our building includes a contemporary exterior, a double drive-thru and a spacious lobby with modern decor. The plantings on the ground far exceed anything that we have done to date. We certainly have a beautifully landscaped property thanks to Mr. Jack Bresnin and his company. We are seeking a modification of the approval of the plan due to our concerns that the already low-profile required monument sign will, in time totally be obscured creating an identity location problem for our customers. McDonald's typically is identified by larger, higher signs that attract customers from a visibility standpoint from miles away before arriving at our location. The restrictions of the low-profile sign required by Springdale, essentially requires customers to identify our property location upon approach. If they miss the turn to our location, they have to turn around and circle back. The planting of trees in the perimeter would further exacerbate an already existing identity problem. To underscore this situation, records will substantiate that our projected revenues are down. The sign identity problem is a contributing factor. I would want to make one correction; we did begin planting the trees as requested in the perimeter by our grand opening which was on Thursday, August the 22<sup>nd</sup>, 2013. However, due to a subsequent storm the trees that we did plant were damaged requiring that they be removed. In fact, Mr. Gilhart was out that night and he called me on the phone and told me the trees are falling down and a couple of them he was able to save for us; but he can certainly testify to that. Due to subsequent complaints of visibility problems with our customers, we did not replant the damaged trees or plant the remaining trees. We never had them there and removed them, as was stated in the information that we received. As a community partner that has made a substantial investment in the community and a long-term commitment to the community, we would respectfully request modification of the approved landscape plan thereby permitting us to plant the trees to the rear of the building to the southwest corner of the site or anywhere else on the site. I am going to ask Mr. Gilhart to run through the slides and explain them to you.

(At this time Mr. Rick Gilhart and Mr. Clark Gilhart presented photos of the McDonald's site on the overhead screen for the Planning Commission Members.)

Mr. Rick Gilhart: It would be worse if there were more trees and also as these trees are younger and they get bigger, obviously they are going to spread out and get taller and the sign will completely disappear from that site. It is a critical area because coming from the highway there towards McDonald's you wouldn't be able to see it and they rely on a lot of traffic from the highway with their highway signs

to tell them to get off at this exit and it takes longer to look for it and by the time they find it they are past it already.

Mr. Clark Gilhart: And also, looking at the property today, and I am really not in tune to the discussions that have gone on in the past or anything, this is just me taking a look at the property and I don't know the stipulation of where exactly those trees need to be on the property, I just took some pictures of the property there and I noticed there are some grass bed around the drive-thru that wouldn't obstruct anything. Looking south there is a grass area that you could put some trees there too and it wouldn't obstruct any signage or anything like that; food for thought.

Mr. Paul M. Booth: So we have several possibilities, not that we are against trees, we have several locations that we can locate the trees.

Mr. Rick Gilhart: The old former Frisch's sign that was up there that we covered with a banner when we were getting ready to lease, you can see the height difference from where it was way up there and now we are bringing it down to a smaller monument sign which is now hidden. You can also see to the right of the former Frisch's space that was put in, in 1992, they just have the shrubs out front so there were no trees required out front, and Frisch's said the same thing, it blocks and obstructs the front of their beautiful store, their beautiful restaurant. They have spent a lot of money, a lot of time and effort going into the landscaping and it just seems like it might be hiding the building as well as hiding their sign and it is quite an investment that they have made.

Mr. Paul M. Booth: And certainly Mr. Bresnin can speak to what we have communicated to you this evening in terms of any kind of trees that we place there would be an obstruction to the property and to the sign, as well.

Mr. McErlane: I have a question about the picture on the screen; Mr. Gilhart, did you actually photo shop in any trees in a location where a motorist would actually be?

Mr. Clark Gilhart: No, I didn't.

Mr. McErlane: Because the views that you have shown us were either in a landscape bed or located on the site somewhere where you typically wouldn't be looking as a motorist coming down Princeton Pike.

Mr. Clark Gilhart: And I can put something together obviously too; but I have been back to take pictures, getting off of the roadway as much as I can before I get smacked, but it is close.

Mr. Rick Gilhart: I have driven it several times and can testify, just by coming up the road and going over there several times, it definitely hides the sign; it is not a question.

Mr. Clark Gilhart: I think the problem is too, it is a small sign and it comes up on you quick. I think that is what Mr. Booth is worried about because once I go past that, I know people in their routines are not going to turn around.

Mr. Rick Gilhart: And prior to getting to our property there are also two trees just before the Monroe site, which is now the Noodles site, larger trees that have been there, mature trees and they definitely block. You are blocked before you get to the property and you are blocked as you get to the property.

(At this time Mr. McErlane read his Staff comments.)

Mr. McErlane: With regards to some of the comments that were made by the applicant, by the Gilharts, if you do recall early on in the whole redevelopment project there was some discussion about Frisch's and I think even at that time you had indicated that Frisch's lease was running out and that there was going to be some changes there. There was some discussion about the thirteen free-standing

signs that are on the shopping center site and that possibly that one might have to go away and I think Planning Commission actually gave a concession in allowing there to be a free standing sign on this property.

(Ms. McBride followed with her Staff comments.)

Ms. McBride: We also allowed the European Hornbeam trees to be planted at 1 ½" caliper trees, as opposed to the 2" calipers that are actually required, trying to work with them. We have talked about "some of the trees were in", "all of the trees were in"; none of the trees are there today. I have some pictures.

Mr. Paul M. Booth: Can I correct that statement? Those are the only two trees that were planted at the time of opening. Those are the trees that were damaged by the storm that we had. So, we never had all of the trees then and removed them; so that would be incorrect.

Ms. McBride: So, they probably should not have gotten their Certificate of Occupancy. I am passing down some photographs of other successful retailers on this same street, such as Thompson Thrift, who have extensively landscaped per our requirements, their sites and have tenants that are much less known than McDonald's and somehow seem to be keeping those buildings full and attractive. (At this time Ms. McBride shared the photos with the Planning Commission Members.) I think what you will see from the pictures, going southbound is the Bowl sign and that blocks the McDonald's building. If we are going to continue to grant relief from this then I think that is something that the zone change code review committee needs to look at, removing that requirement from the code because I don't think it is particularly fair to ask some developers to do it, such as Wendy's, and not all developers.

Mr. Paul M. Booth: I did want Mr. Bresnin, our landscape artist to speak to the size of these trees at maturity. You see them at planting and you see what they are starting out but in a few years they will grow to full maturity and I want Mr. Bresnin to speak to that.

Mr. Bresnin: If we change to a locust, it is going 40' to 50'. A locust, even though you are correct about a smaller leaf, it is still pretty dense and I just don't see anyway of views going through there; it is going to be a total blockage. As I am demonstrating from that article in our OMA book, Nursery Association book, I just think it would even be worse than the Hornbeam. But all of these are going to mature and as they mature in width they're just going to give the broader effect and blockage.

Ms. McBride: Our landscape architect would be happy to work with their landscape architect to come up with a species that they feel would be appropriate to relocate along Princeton Pike. The Skyline Honey locust can be limbed up so to provide visibility. The trees that I have suggested could be grouped along the frontage to provide visibility corridors into the site, so those are just some alternatives that we would suggest.

Mr. Okum: I guess the issue is becoming and is very clear in my mind in regards to developments in this area of Springdale, in regards to consistency. Thompson Thrift obviously was successful and able to do that and comply with requirements per the code and able to plant trees in front of their facility but for some reason McDonald's hasn't been able to do that, or you are not offering a solution that complies with the code, but other businesses have. Sir, you are a landscape architect, have you observed the other businesses in Springdale, Thompson Thrift on the corner where the Vitamin Shoppe is? That has a very well landscaped front. I don't see any problem seeing the Vitamin Shoppe or seeing the Verizon store signage or the building on that building elevation during the summer or the winter. Have you observed that problem?

Mr. Bresnin: I think there is a difference that a McDonald's customer coming in is looking and they're going to be going to that location on a request or a purpose. I

think there is a difference between a person going down looking maybe for McDonald's than there is in that case there. Maybe they have a total intention prior to going there; do you read me a little bit of what I am saying?

Mr. Okum: I understand what you are saying but I have an easier time finding a McDonald's than I do a Vitamin Shoppe if I am looking for it. That is o.k., I understand what you are saying. You are the landscape architect and we have varying differences with the two landscape architects here.

Mr. Paul M. Booth: Can we show you some additional slides?

Mr. Okum: Let me finish, if you would please. The location of the McDonald's sign, the ground mounted sign, that wasn't driven by this Commission. That placement of sign was within placement location but for it to be at that point on the site was probably driven, in my opinion, by the Princeton Bowl sign that was on the corner there.

Mr. Paul M. Booth: The location is not the problem.

Mr. Okum: Oh, it is not the location?

Mr. Paul M. Booth: What was driven by you, was the size of it.

Mr. Okum: Because that sign was literally, after you get past that entrance where Princeton Bowl is, if you want cars to turn into the McDonald's my thinking would be that the Princeton Bowl sign should have probably been maybe considered eliminated or something alternate and the McDonald's sign should have been there if that was the primary purpose of that entrance for the McDonald's business. Because if you are driving down 747, which I do probably twelve or thirteen times a week, I would say that I can pretty well know where McDonald's is.

Mr. Paul M. Booth: That is because you know the area.

Mr. Okum: O.K., but if I was coming off of the expressway, my point is that, if the McDonald's sign were closer to that entrance drive then McDonald's would get predominance on it. That Princeton Bowl sign has been sitting there for thirty years on the corner. I agree with Staff in regards to up-limbing. I agree with Staff in regards to choice of species. I agree with Staff in, if you are going to allow it for one business then you should allow it for all businesses and, in my opinion, you haven't given me any reason why planting trees according to our zoning code and according to the approved plan has not been accomplished. Let me comment in regards to the storm; I was there the night the storm blew the trees over. The ground was very saturated, extremely saturated. I was on the site that night when the storm blew those trees over. There were probably, all the trees along Frances Lane were pushed over and they were reset and the trees on the backside of the building, and we need to look because I think there are some trees missing on the backside, because there were trees on the backside that were blown over. But, for some reason, the trees on the front of the site which were much smaller trees were eliminated and I am not quite sure why that happened. Maybe it was because those were smaller trees, a smaller variety and the trees along Frances Lane were a heavier type tree and they were able to be straightened up and supported. I was there and I saw them blown over, I knew they had been blown over. The ground was extremely saturated and if you walked on that sod that was planted, it was like walking on mud and it was literally mush at the time, so the trees were planted in liquid dirt at that time. Based upon that, at this point I don't see any reason to give a change to what we require on other businesses.

(At this time Mr. Clark Gilhart and Mr. Rick Gilhart presented photos on the overhead screen of neighboring Springdale sites.)

Mr. Paul M. Booth: I would point out that one of the differences here is, if you see the height of these signs that we refer to at Jake Sweeney.

Mr. Okum: Those signs have been there for a good number of years.

Mr. Paul M. Booth: I understand that but what I am saying is, if there were trees there, there wouldn't be any problem because you can see the sign because of the height of the sign, which is totally different from having a monument sign that is just a few feet off of the ground.

Mr. Okum: Did you see the picture that Staff provided regarding Thompson Thrift on the corner?

Mr. Paul M. Booth: I did, but we have some other slides that we want to show you, as well.

Mr. Rick Gilhart: This is a picture directly across the street from us at Jake Sweeney Chevrolet, Mazda and Chrysler Jeep. To the left where the trees are is where our First Watch restaurant is and Sprint. Across the way at Sweeney, from that corner all the way up to the Shell Station is one tiny tree. There is probably 500' there on Kemper road that has one tree. That is an adjacent property and then there is Kerry Ford that is just down the street on Northland and those guys don't have a single tree and that goes from the corner of Kemper and Northland, all the way up another 500' or 600' without a tree. I know what you are saying with Thompson Thrift and that you are trying to, as you go forward, to put some trees up in front of these places but there are reasons why there are no trees in front of these businesses because they want the visibility of their cars, of their product, of their facility. I understand about putting in trees because I think trees are great to have. I think it looks great on the property and I think we would like to add more in our parking lot at some point and time but as you can see from the slide it is just common sense. If you look from down the road it is very similar, but when you put the trees in it blocks the sign. And, again that is two trees that you put in. To me, it is very common sense that this gentleman has put a lot of time, effort and money into this and he has brought a new business to Springdale. A lot of our businesses in Springdale have been lateral moves, Hobby Lobby has come over.

Mr. Clark Gilhart: I would like to add, even though that sign is a little bit further down from the Princeton Bowl sign, there is ingress and egress right there so if people can pick that up they can turn right in there.

Mr. Rick Gilhart: Another reason for that sign being where it is and not being out where the old Frisch's sign was is that they picked up another parking space, too. If you remember when they moved it down there, it was incorporated to their island before you come in, as opposed to bringing it down. That was part of the reason why the sign was pushed down, too, and it also gave some distance to the Princeton Bowl sign and the McDonald's sign so that they didn't appear stacked.

Mr. Bauer: One comment, the thing that concerns me is that you were here a little less than two years ago and reviewed this with us and then with Staff. We came to an agreement on this landscape plan and we are back here re-looking at the plan that you agreed to. That quickness, that quick turn around like that doesn't make a whole lot of sense to me. I wonder if you can comment on that?

Mr. Paul M. Booth: That was prior to our opening, I believe that the plan was approved. But, since then we are trying to do all that we can to draw in business. McDonald's, sometimes there is a misnomer that if you open the doors then automatically people are going to come in. McDonald's is like anyone else, it has competitors so we are trying to do everything that we can and visibility is very important. And as I said our revenues are down tremendously. Our corporation will tell you this and McDonald's corporation will share that with you, as well, from the initial projections. We want to be sure that we can do everything that we can to drive customers in the door and visibility is very important. McDonald's is not like a furniture place or some other business establishment, you generally know you are going to shop for furniture or shop for jewelry. McDonald's, yes, we do have regular customers but we also want to drive in new customers, to drive them in the door. So, individuals need easy and quick access and they need to be able to see us in order to get in.

Mr. Bauer: Wouldn't visibility, to me that is pretty common sense, that when you are putting together this landscape plan that visibility would have come up a year and a half ago when you reviewed this with Staff. Our approval is based on, we don't see the final landscape plan and some of these things we agree with Staff's comments on them and we know that they do a great job in coming to a conclusion with the applicants. I am sure that they worked with you guys on that and to be back here in a year and a half or nine months later and wanting to change that, I wouldn't support that at this point and time.

Mr. McErlane: I just want to give you a little bit of additional information on a couple of things that the applicant said tonight; with regard to the Kerry Ford property and the Sweeney properties, just like any sites that have been built forty years ago in the City of Springdale, their pavement goes up to the right of way line. And just like some of the areas within the shopping center, the pavement goes up to the right of way line which leaves you no room to plant unless you are going to plant in the right of way. That is probably the primary reason there is no plantings on those properties. With regard to the trees obscuring the sign which was demonstrated by the applicant, this picture is taken from the roadway, as opposed to being in a landscape bed looking at how it is going to obscure the sign. Granted, if you plant a few trees closer to the sign there is probably a chance that it is going to obscure it. Right now, the only thing that is obscuring it is, from that view, is a pole and some illegal signs that were put up at the grand opening.

Mr. Paul M. Booth: Those signs were taken down immediately. When we were asked to take them down, then they were taken down.

Mr. Okum: Mr. Booth, you may not be aware of it but we actually went out on a limb on this project during the process of deliberation and discussion on it. We approved a full-color digital display sign to be permitted on this site. It is the first one that we have approved in this community. That sign was approved two years ago and to this date, like I said, twelve times a week I probably go past that business and that sign is still yellow. It is not a full-color display and if it is it has never been utilized and I am a little bit inquisitive about that because we bent a little bit and gave way for McDonald's and allowed that sign to be placed there and it has been underutilized and I think the term that I thought of was it certainly hasn't lived up to its expectations. There were Members of this Commission that were very concerned about a digital sign being permitted on that site. We allowed that sign to be permitted for that site and again it has been two years now and it is still yellow. Very disappointing for business that really wants to be out there and promoting its product to the public. In regards to the view, this view shown, you would have to be driving over top of the curb for you not to be able to see that sign. If you are in the driving lane, that sign is perfectly visible to anyone going down 747 south. I agree that it is too far down but I didn't put it there, that was the development that put it there. Your client put that sign there, we didn't put that sign there. In regards to trees and up-limbing, I disagree with your landscape architect. I am sorry, I can't agree because I go by example and what I see everywhere. I travel all over the tri-state area and I see developments all over Anderson Township, Sycamore Township, Kenwood, all over the communities of Hamilton County. I serve on the Hamilton County Regional Planning Commission and we have developments come before us every month with good landscape plans, trees planted in front of businesses and those businesses are surviving. I understand that McDonald's business is down, it is down nationally. I subscribe to National Restaurant Magazine and I see the blurbs all the time concerning business being down at McDonald's but it is not because of six trees, it is down because it is down and there are other factors involved. I will tell you that a sign that we gave you permission, your client permission to have a full-colored digital display to promote their product has been totally ignored for two years and it is a big factor, I think in my opinion, for people noticing the McDonald's on this site. I can see the building, trees or no trees, so based upon that I will not support your request.

Mrs. Boice: Is it just me or does it seem, in the last several months, we have spent an inordinate amount of time discussing trees? I am all for trees. I wanted to back

up what Mr. Okum has said, I think that this Commission extended themselves and worked very well with McDonald's development. I was one who bent when the vote came around and I was not in favor of that sign, still am not in favor of it but Mr. Okum notices more about it being fully utilized. It would seem to me that we have a landscape artist here, we have our people here, that there must be some type of tree in God's green earth that would be acceptable up there. I think we can go around and around but surely there is some little skinny thing or some short thing or something. I am not a tree expert but I think we can go on and on about these trees and some place here we have to meet in the middle because we are just repeating ourselves, we are getting nowhere, we are at an impasse and that serves no purpose at all. Surely we can find some solution.

Mr. Diehl: Mr. Gilhart, do you have any pictures of the jewelry store?

Mr. Clark Gilhart: I don't think I have anything on this slide at all. I would have to take a look. Are you talking about the side that faces Princeton Pike?

Mr. Diehl: Yes.

Mr. Clark Gilhart: I don't have anything on here; is there a row of bushes there?

Mr. McErlane: That is another situation where the pavement is up against the right of way line. There is no green space on the property adjacent to the right of way. I think the reason that was given by Planning Commission at the time it was redeveloped is because you wouldn't be able to fit parking in there and still get green space.

Mr. Diehl: What you are saying is no trees in front of the jewelry store?

Mr. McErlane: There may be one in the corner. There are some on the north side but I am not sure if there is any on the corner up against the building.

Mr. Clark Gilhart: If you see the row of red bushes, I think that is very similar to what is in front of Jared right now.

Mr. McErlane: By the slide on the screen, I can't tell if there is any against the front face of that building. There are none out at the right of way because the pavement is paved all the way up to the right of way line. There may be some smaller ornamentals there. Actually the trees that you see on the north side of that building are European Hornbeams, which are the ones that were planted. The two small ones there that were removed are the same tree.

Mr. Clark Gilhart: The ones on the north elevation of Jared, right there?

Mr. McErlane: Right.

Mr. Diehl: I have another question; part of the problem is the Princeton Bowl sign, as far as visibility. What is your plan there?

Mr. Clark Gilhart: Unfortunately, we had to shut the bowling alley down a couple months ago. One of the bigger leagues decided one week before they started to not come back, so financially it was getting by for several years and we couldn't really reinvest that money in that business. So, right now we are in leasing mode on that and we are developing a plan for that, those signs are a valuable asset for trying to acquire new tenants, especially for that space back there which has zero visibility. That is the big hindrance, as far getting that filled up right now. I think we actually put the leasing material on those signs, as well.

Chairman Darby: Before we move to a motion, I would like to make a few comments. A lot of the discussion tonight is mirrored what has been discussed about this project in the past and it has been very, very positive. The whole process has been very cooperative. It has been give and take and certainly we are not going to allow six trees to change the process as it has gone on before us. We are a tree

city and this streetscape does fit in with our overall plans and we have a Staff, to go back to what Ms. McBride mentioned earlier, they usually work wonders when they work with the applicants in terms of coming up with alternatives that are maybe not one hundred percent for each side but at least they work for both sides. I think you folks have heard the tenor of the Commission, in terms of where the vote is going but I very strongly recommend that Ms. McBride will follow through with her suggestion that her people and your landscape person would work to try to come up to something that is going to be pleasing to you. McDonald's is a great addition to our community and we want to see it flourish. I am going to ask for a motion if there are no more comments.

Mr. Rick Gilhart: Which way are we going here, is there a motion on the floor?

Chairman Darby: There will be.

Mr. Rick Gilhart: What do you think about if we have to do something out there, obviously Mr. Booth would work with Ms. McBride on that, but is there anyway to minimize the amount of trees that are in that area; around the side where there are not any or around the back to get your numbers that you want? Our concern is a multitude of trees there is too busy, in our opinion, even if you put six pencils, six trees that don't look like they have anything to them; so that is not going to be any good either. Over at Jared Jewelry, landscaping plan required them to put in trees, if you were to go over by Jared, there are trees jammed in there to make the number of trees fit on the property that you all wanted but in a few years. The problem is that you are just putting trees in for the sake of putting trees there; if you need thirteen trees then you are going to put thirteen trees in. My thoughts are, if we could minimize the number of trees that are up front there and put a few around the side and few around the back that would be helpful to Mr. Booth. He is not coming here because he wants to come here and say I don't want these trees up here, he is coming because he feels in his heart that he is putting his money forward to go to Planning Commission and let you hear what he has to say tonight. I just think that we have to bend a little bit or if you could help us in that respect then we would certainly appreciate it.

Mr. Clark Gilhart: I want to get confirmation; those trees at Jared are the trees that would go at McDonald's?

Ms. McBride: Those are the trees that they proposed.

Mr. Clark Gilhart: O.K.

Mr. Rick Gilhart: So, when we go to Macy's and buy clothes and then the next day we try them on and it didn't work out and we want to take them back. Sometimes we put in trees and we think it looks good on paper and then we drive the property and we see how it affects our sign and then we want to make a change. It is not that we are making a change so quick, a year or two years later it is just the fact that he recognized that it is not working out and it doesn't look right there. That is why he is not doing it. If we could change the type of tree, maybe minimize the number of trees.

Ms. McBride: We are very open to working with this applicant, as we have a number of other applicants in the City, to find a species that will work in terms of height and leaf and ability to limb it up. We are willing to work with them in terms of trying to group the trees to create these view corridors into the site and so forth. I really don't want to limit my staff in saying that we are now going to move three of these trees to the side. You have just heard that we have crammed these trees already on the side so I really don't, based on these comments, know that there is any space for trees on the side. I would really ask the Commission to let us sit down and work with them. If we do not feel that we can put the trees in on the frontage in a way that creates view visibility for them and will allow the trees to thrive, then we will look at relocating them on the side; and I will report back to the Commission on that but I really don't want to limit that at this point and time with my staff. I think they should have the ability to sit down and work with their

landscape architect. I am not doing this, it is a registered landscape architect that is going to be doing this, just like we always do. I don't want to tie her hands at this stage of the game, I don't think that is in the intent of our code.

Mr. Diehl: I have one comment to make on behalf of the applicant; if they don't have trees in front of Jared then I don't see how we can force trees to be in front of McDonald's.

Mrs. Ghantous: I agree with that.

Chairman Darby: My answer to that is that Jared is not before us this evening.

Mrs. Boice: Sometimes less is better than more. I think anytime, this is like decorating, you hang so many pictures on the wall and you stand back and know that it is not working. I think working with our Staff, and every meeting we are sending these tree problems over to you, is the definite answer. If four is better than five or if for some reason the style of tree that six is better than four; whatever. We can go around and around here tonight but I think we need to have the people who know all of the kind of trees. I am not an expert and I don't think many of us up here are and we are just kind of spinning our wheels. I would agree with what she has said and I would hope that the Commission might go in that type of agreement.

Mr. Rick Gilhart: In the area that we are talking about, we wouldn't be jamming in trees there, it is an area that is wide open. So, the space out front is probably a little bigger and if you are putting six trees up front that is a lot of trees in the front blocking the sign and blocking the visibility of the business. I would prefer not to have them, much like Sweeney and Kerry Ford prefer not to have them, so that you can see all of their cars; it is the same thing for a brand new business in Springdale. You have an individual here who is a fantastic person for the City of Cincinnati; he and his family are great, great people. If the man sees that there is a problem then I think we really ought to work with him and come to a conclusion; if we have the Staff and we have Anne's group and this gentleman over here is holding firm on zero and she is holding firm on six, how do you work through that?

Chairman Darby: Couple of points on that, one of the things that you could do is go with what has been approved, agreed upon by both sides. But, we don't need to dig our heels in the sand like that. Your comments about the Booths; they are great folks and they are great to have here. But quite frankly, with all of the pictures and the photos and the prognostication, I haven't seen any indication that these trees are blocking that sign. The pictures that you have taken are from the wrong angles and quite frankly I just don't see it as presented, that it creates the problem that is being presented.

Ms. McBride: I just wanted to offer a comment; the photo that is up here, the reason that Staff didn't press for more landscaping in this area and you may remember this because McDonald's explained to us that they needed that area free because that is where they do their loading, their deliveries so that is why we didn't make that area more landscaped than what was on the original plan. I just wanted to point that out.

Mr. Clark Gilhart: I was unaware of that, we just looked at the property and thought, hey! Food for thought.

Mr. Okum: I don't totally agree with a couple of the Commissioner's perspectives in regards to, if Jared is not required to have trees then McDonald's shouldn't either. Basically we would have to apply that same philosophy to every business that comes before us and I think that Ms. McBride said it earlier, "then change the code". Change the code that we don't require trees in the front of properties. In other communities, I don't see that. We are in a unique position here with Ms. McBride and her firm representing the City of Springdale. Her firm represents retail developers all over the country. Their landscape architects work with Kroger and major developers all over the country. She won't say anything about it, but last Thursday I reviewed a site on Beechmont Avenue for McBride, Dale, Clarion,

presenting a new expansion to the Kroger store. They were expanding it to, I believe, 120,000 s.f. on Beechmont Avenue. It is probably the biggest Kroger store I think I have ever heard of in my life. That site had trees along Beechmont Avenue. They worked with Anderson Township and developed a process. Kroger is pretty picky about visibility because people want to get into their businesses and know where it is at. So, trees in front of businesses, if we are going to take them out then let's not have it in our code; let's not require it. If we are going to have it in our code then let's work through it and work with the applicant. We thought we had a plan two years ago when this site was approved. It was give and take on both sides by the City of Springdale, size of trees was lowered down to smaller diameter required on the front. The signage was approved with a digital message board for them to have on the front of that business so that they get the notice along Princeton Pike. There was an enormous amount of give and take on both sides. The applicant did a phenomenal job getting that business in there. We are pleased to have McDonald's there. It is one of the things that people said for years, why Springdale didn't have a McDonald's and I am glad they are there. But on the other hand, I understand what the reason of the code is and I understand that there is a process to get there. My feeling is that I don't want to bring a motion on the floor because I think it would be defeated to approve your request for the elimination of the trees along Princeton Pike. I think it is better that you go back and work with Staff and resolve it and come back to us next month with a resolution. I think the applicant is willing to do that, is that correct?

Mr. Paul M. Booth: Yes.

Mr. Okum: That, in my opinion, would be the right way to go on this. Instead of us voting on it and turning down your request.

Chairman Darby: The Chair will accept the motion to table.

Mrs. Boice: I move to table.

Ms. McBride: I was just going to suggest, if we can come to a resolution then is it really necessary to drag the applicant back before Planning Commission?

Mr. Okum: O.K., then I will be happy to make that motion.

Ms. McBride: If we can come to a resolution, perhaps I could present what that resolution is to the Planning Commission, rather than ask these folks to come back in December.

Mrs. Boice: I rescind my motion to table.

Mr. Paul M. Booth: Would any kind of modification, anything other than six trees be considered a modification; whatever we agree on in terms of that, would that require us to come back before you?

Chairman Darby: If you are in agreement there, then there is no need for you to come back in here.

Mr. Okum: We are talking six times 2", that is 12" of trees to be resolved; if we are going 2". The trees that were approved out front, the six were actually 1 1/2".

Mr. Paul M. Booth: The sixth tree was located right directly in front of the sign.

Mr. Okum: So, what we want to do is move it to Staff. Staff, if we make a motion to allow you to resolve the issue?

Ms. McBride: I am comfortable with that. I feel very comfortable that we understand the intent of the code and we understand the issues that the applicant has and that we can come to some resolution. If we can't, then we will be back here in December. I would like to at least be able to try to work it out so that they don't have to come back.

Mrs. Boice: Then I would make a motion that we conclude this discussion and that the applicant will work with our Staff to resolve this problem.  
(Mr. Okum seconded the motion and with a unanimous "aye" vote from the Planning Commission Members, the motion was approved.)

## VIII. DISCUSSION

- A. Chairman Darby: Under Discussion we do have an item that is going to be presented by Mr. McErlane.

Mr. McErlane: I will give you a little bit of history. When the Tri-County Commons shopping center was developed where Sam's and HHGregg and Five Guys Burgers is located, they developed directly adjacent to a residential property to the east. Hilda Richards property, which happened to be the homestead that owned all of that property at one point and time. At that time, Planning Commission required them to create a buffer along Commons Drive adjacent to this residential property. Planning Commission required a buffer along the residential property and in the covenants it says that it will be maintained as a buffer until such time as that property is developed. They divided the properties, that strip up into two separate parcels and we required those to be tagged to billable properties in the subdivision. The reason being, we didn't want those going to forfeited land sale because nobody wants to pay the taxes on them, or being donated to some charity so that somebody could get a write-off on it which we have seen happen before. This smaller lot currently is tagged that it can't be sold separate from the Boston Market / Five Guys Burger lot and the other one is tagged to the main shopping center where HHGregg is and there is a statement on the plat that says they can't be sold separately and there is a statement in the covenants. Because the covenants are part of the preliminary plan for the PUD, any modification to that has to be approved by Planning Commission. Subsequent to all of this happening, Target came in to develop the Hilda Richard's property and in order to build their building as close as they did to the west property line, Planning Commission agreed to take that strip as right of way and because the building code says that you can measure your distances from a property line or to the center line right of way, they were able to build this building the way that they did. Unfortunately, from that point forward, nothing happened to transfer the property to the City as right of way. What we are finding now, we are trying to get that squared away and what we are finding now, the covenant language that says it can't be transferred and the language on the plat that says it can't be transferred needs to change so the City can take that as right of way. There is actually two parcels that we are taking. There was a new one created for this driveway and then this strip; both strips we are taking as right of way, it is being donated to us as right of way but in order to do that we have to change that covenant language. What the City is asking, is that Planning Commission approve the modification of the covenants to accomplish that.

Mr. Okum: Why didn't Target take it?

Mr. McErlane: At the time, there was a discussion at the time that Target developed. The developer of the shopping center where Sam's and Walmart was, at the time, there was a lease restriction on Walmart's lease that said they couldn't sell anything to a competitor. To overcome that, the City said we would take it as right of way. Another aspect of that is Target, in their covenants, has taken the responsibility for maintaining that.

Mr. Okum: Why don't we deed it to Target instead of the City?

Mr. McErlane: I don't know; I guess we could vacate it.

Mr. Okum: It makes sense because Target is maintaining it.

Mr. McErlane: My guess, at this point and time if the shopping center were to sell it to Target and knew that Target needed it from a building code standpoint, it

would be a very expensive piece of property for Target to buy. The City, I guess, could vacate it and give it to Target.

Mr. Okum: Right, that is my thought. I transferred a piece of property to the Habitat for Humanity and it was an all in one transfer. It went, to me to them, so that I could give it to them to build on it.

Mr. McErlane: At this point, we don't legitimately have control of it.

Mr. Okum: Right, but if everybody is in agreement, then I am just suggesting that if Target is taking care of it.

Chairman Darby: Is there a reason for us to think Target would not continue to take care of it?

Mr. McErlane: Most of it is pretty overgrown right now with honeysuckle and that type of thing; there is not a whole lot of maintenance.

Mr. Okum: I am good either way, I will make the motion whatever way.

Chairman Darby: What is the most expeditious way for it to move.

Mr. McErlane: At this point, I think we need to change the covenant anyway, regardless of how it happens.

Mr. Okum: I make a motion that we modify the covenant to reflect an agreement between all parties to the disposition in this parcel.

Mr. McErlane: The covenant actually just gives the opportunity to sell those pieces or to transfer those pieces. That is what we are doing in modifying the covenant, is to allow it to be transferred; right now, the covenant says it can't be.

Mr. Okum: So, we move to allow the covenants to be modified to allow transfer of the property, that is my motion.  
(Mrs. Ghantous seconded the motion.)

Mr. Shvegza: Just one other aspect of the complications on this thing, there is registered land aspect too, where you actually look at that, that has been recorded.

Mr. Okum: I think my motion is good. It will get it to the point where you guys can work through it.

Mr. Diehl: Why are we dealing with this now?

Mr. McErlane: Because we found that there were a number of pieces of right of way that had never been accepted all over that area there. There are pieces of Common Drive that had not been accepted. We are trying to get it cleaned up.

Mr. Okum: There are little things like, who is supposed to take care of that driveway there because it is in the right of way?

Mr. Jerry Thamann: There are another six parcels, I believe that have never been accepted by the City. When we found this out, we said let's clear everything up but we had to come to Planning Commission to get relief from the covenants in order to do it. Then we are going to Council with two ordinances, or how many it is going to take to go in and to accept all of those properties properly. One of the other issues that we had, we found out that when it was recorded they recorded the wrong parcel at the Recorder's office. They didn't record the correct two parcels; they recorded the parcels adjacent to them. We are finding all of this out through our attorneys and we are trying to get everything resolved before we come to Council. Planning Commission had to provide some relief to this covenant.

Chairman Darby: It has been moved and seconded.

Mrs. Harlow: I need more clarity to relay this to Council. Do we own those pieces of property?

Mr. Jerry Thamann: They have been dedicated but we have never accepted them. I can show you the plat books, we have all the parcels laid out what needs to be accepted, that has already been dedicated but not accepted.

Mrs. Harlow: Once we get it accepted, we will maintain that?

Mr. Jerry Thamann: Yes, it is the right of way.

Mr. McErlane: The Recorder's office lost a plat for almost a year. Because it is in registered land there are some additional things that have to happen and that didn't happen. The property owner changed hands twice in the whole process.

Chairman Darby: It has been moved and seconded that the motion be approved as presented and explained.  
(With a unanimous "aye" vote the motion was approved.)

#### IX. CHAIRMAN'S REPORT

No items were presented at this meeting for the Chairman's Report.

#### X. ADJOURNMENT

Mr. Diehl moved to adjourn, Mr. Okum seconded and the Planning Commission meeting concluded at 8:15 p.m.

Respectfully submitted,

\_\_\_\_\_, 2014 \_\_\_\_\_  
Don Darby, Chairman

\_\_\_\_\_, 2014 \_\_\_\_\_  
Richard Bauer, Secretary