

REYNOLDSBURG BOARD OF ZONING
AND BUILDING APPEALS
OCTOBER 16, 2014

SPECIAL EXCEPTIONS

B. NEW BUSINESS

2. SPECIAL EXCEPTION USE PERMIT, 7623 EAST MAIN STREET, REYNOLDSBURG, OHIO; PRESENT ZONING, CC; PRESENT OWNER'S NAME, CMN QUINLAN, LLC CARE OF: CAPITAL EQUITIES; REQUESTING A SPECIAL EXCEPTION FOR A RECREATION FACILITY. CONTACT: JOHN GEIG FOR CARD ACADEMY (#166872).

Mr. Robbins: The application is #166872, Card Academy; requesting a Special Exception Use Permit to operate a recreational facility within the Community Commercial Zoning District and the Historic Overlay District. The property is located on the south side of East Main Street east of Graham Road. This is the small little strip center that had Classic Pizza.

The proposed recreation use will include the playing of card games and other tabletop games as well, with occasional painting activities. The proposed use will not include gambling. Adjacent businesses included an eating and drinking establishment and other retail and personal services. The current business is a retail store for collectible card games and accessories.

The Board should inquire to the applicant regarding the nature of the proposed activities. Gambling, betting, similar uses are not permitted within 1,000 feet of the property line of any church, daycare facility or public or private school, public library, public parklands or any premises that sell or distribute alcoholic beverages.

I just want to make it very, very clear that we need to be specific what we're voting on and make sure that's not an understanding that that activity would be allowed there. Following a determination by the Board, it's the recommendation of staff that the Special Use Exception be permitted as requested. The applicant has met the conditions outlined in Section 1145.09 of the Code. The proposed recreational use is in keeping with the character of the surrounding businesses and properties and will not adversely affect the health, morals and welfare of the community as a whole.

If you notice, I did skip over parking. Since the eating and drinking establishment is not there anymore, my guess is, just "back of the napkin" is they probably meet the parking requirements at this point. There is limited parking onsite, but I think it would be wise to ask the applicant what his projected peak demand is for parking and when you expect to see people in there.

Chairman Rettke: Come to the podium, please. That way we've got it on the microphone. State your name and address for the record.

Mr. John Geig: John Geig, 7623 East Main Street. Parking throughout the day, maybe eight spots. We're open noon to midnight except for Sunday which is noon to 10 p.m. We usually get our business about 6 p.m. until about midnight. The only place that's open until about eight on a couple of days is the barbershop. There's 32 parking spaces. Pies only need a few spots when they're open but, the thing is, because of internal conflict they're basically done. They may, in a month or so, open up, we're not sure; but, basically, it looks like they're closed. So basically now after 7 or 8 o'clock, I'm it; so, parking wise, I have the place. I doubt I'll ever need 32 parking spots unless I have some giant tournament, but the only amount I want in my store is about 70. That's about the ideal for me, 70 people.

Mr. Robbins: Can you give an idea of the kinds of games that you play there? What exactly it is that your current store does and—

Mr. Geig: Yeah, I've been waiting to explain that part. Uyo, magic, Pokemon, Vanguard, Yshorts, My Little Pony. We play deck building games like Munchkin, Legendary. If it's dorky, we play it. It's always got some card based format attached to it.

Ms. Wallace: What's the age range of your clientele?

Mr. Geig: Most are going to be about 15 to their 40s. You'll get — a lot of parents now are bringing their kids in to play. It's kind of like a bonding, cause when I was their age, we'd play it and now people my age are having kids so now they're passing their cards on to their kids and they play, but it's very low. It's very rare we get that many young people. It's mostly teenagers.

Mr. Robbins: And you'll still be selling — you'll still be a retail operation?

Mr. Geig: Oh, yeah, that's the majority of it. That's the whole reason why I have this. It brings — I have people now driving two hours away to get here; but people are a half hour away don't want to come here because they can't play. So why drive a half hour, buy stuff at a better price, but can't play? It's just boring. So now they can come here, buy their stuff and just play card games at my store. And there's so much food on Main Street, I'll never have that problem. And with Rev Café now opened up just a block or so down the road, that will help them out even more.

Mr. Donovan: You've got two pizza places right beside you.

Mr. Geig: Yeah, Pies and me, we have a basic understanding: As long as they don't mess with my parking, I'll allow them to let their customers park in

that lot. They technically weren't going to be allowed to park there, especially under Classic's rule, but since they're pretty much gone-- As long as they don't mess with me, I'll allow them to park there without getting them towed.

Mr. Robbins: How many tables are you proposing? How many seats? What kind of area are you proposing to take up within your existing store with—

Mr. Geig: I have right now 12 eight foot tables. Right now all that stuff's pretty much covered with cards, because that way people aren't inclined to sit down. So I have all the tables filled up. So it's 12 tables. I can usually fit four per table to six per table, and that's basically where I want to stand. That's basically comfortable. It's a 2900 square foot building, probably 1500 to 1800 all open. I don't need that much space for my cards, but I need all that room for tables. I had a shop in Cincinnati and I sold that. I used to have people that would drive 2-3 hours away just to come and do tournaments and stuff. We don't gamble. In fact, if I allowed gambling, I would lose my license to sell the products, so they're very strict on that.

Mr. Stoffel: I just have a question of interest. When you were talking about the description of activities that your brother will be helping out doing card alterations, what's that?

Mr. Geig: Let's say you have a card-- I'm a big fan of Heart Alts. So basically what you do is you take a card and he takes liquid acrylic paint and he'll either expand the borders -- like he'll paint extra on it so the card looks prettier, or have your own design on there. Magic's really the only one where you're allowed to play with those in tournaments, but everything else doesn't really use Alts. Right now he still has a lot of practice to do. I was told to add that into this, because it was part recreational. As far as a drinking and eating establishment, that basically is a 7-Up cooler and Little Debbie's and candy bars. When we have our midnight tournaments and we're there until 7-8 o'clock in the morning, you've got to have sugar.

Mr. Rettke: How many tournaments do you foresee having in a given year?

Mr. Geig: An average of one a day. I have all those card games. Some days we'll have 2-3. All a tournament simply means is that people are getting together to play. I give out free product, people get together, they hang out and we have a good time. It allows us, with Magic, sometimes to get the product early, called pre-releases. That's a big thing here in Columbus.

Mr. Robbins: Out of curiosity, is there a fee or charge that you levy against people who stay there to play?

Mr. Geig: No, no. I know a lot of people try to do that. I find that actually works against you. Of course, they get hungry, they get thirsty, they get bored and they want to open something.

Ms. Wallace: I personally don't have an issue with this. I have a friend's son who does this and does have to drive – or she had to drive him before he got his license – to go play and it would be nice. The clientele is certainly not anything that I would be concerned with. It's a good group of people that I've seen.

Mr. Robbins: Because this is a Special Exception, I think there's a lot that are coming through the Board tonight. Just a general overview right now while we're on the topic. The process is the Board's going to vote tonight and there's a couple outcomes that they can do. They can pass it as proposed, they can pass it with restrictions, they can table the application, or they can deny it. After the Board has made a determination, so let's say it gets passed or passed with provisions, City Council then has the opportunity to weigh in. So the minutes from this meeting will be recorded and written down and those documents are sent to Council. If any one of the Council members has an issue, they can bring it up as something to be looked at by Council. So once the Board makes a vote tonight, it's not over. Council still has the ability to take a look. If they do and they see no issue with it, they don't even take it up; or they do see an issue with it, it can be a little lengthier. So just anybody that's going through Special Exception, be aware that that's the process.

Mr. Rettke: I have no problem with it, so that being said, I think it's a unique opportunity. I don't know another one in Reynoldsburg or even close to it, so good luck with your business. I make a motion to approve Special Exception Use Permit for 7623 East Main Street, #166872.

Mr. Enfinger: I'll second it.

(Mr. Robbins called the roll. Mr. Stoffel voted "yes." Ms. Wallace voted "yes." Mr. Donovan voted "yes." Mr. Enfinger voted "yes." Mr. Rettke voted "yes.")

Mr. Robbins: Congratulations. We'll need to get in contact with you to let you know if and when it goes through Council. A zoning certificate is still required, so that's something that verifies that it's been approved by both Council and the Board.

5. **SPECIAL EXCEPTION USE PERMIT, 491 LANCASTER AVE., REYNOLDSBURG, OHIO;** PRESENT ZONING, NC, PRESENT OWNER'S NAME, SHATON WOLFE; REQUESTING A SPECIAL EXCEPTION FOR A DAYCARE FACILITY. CONTACT: SHATON WOLFE (#167096).

Mr. Robbins: Application #167096, Special Use Permit. Property is located on the southwest corner of Lancaster Avenue and Daugherty Drive. Application's for a childcare facility and it's a transfer of Special Exception. There is an existing childcare facility there right now and they are proposing new ownership.

The proposed hours of operation are to be Monday through Friday 6:30 a.m. through 6 p.m. The proposed childcare will include nine employees and 65 children or clients onsite during the hours of operation. Again, the existing space has been used as a childcare for several years. An existing play area is located to the rear of the building on the west side of the property. Adjacent tenants in the building include a gas station, carryout and various commercial businesses. The existing commercial development has access to all necessary public amenities. I want to say I believe there's a karate studio directly next door.

Reynoldsburg lacks specific parking requirements for daycares, but I can say with the businesses onsite we have a fair amount of excess parking on this property.

As far as the play area, the Board should consider the proximity of the existing play area in relation to the proposed daycare. Children have to cross the parking lot to reach the existing play area. When I say "parking lot" it's an access drive in the back, which could create a potential safety concern. Staff would like to know which exit the children are proposed to leave from the building to the play area. In addition, staff would like the Board to require a crosswalk across the rear access from the building to the existing play area.

As far as the recommendation, the intent of the NC Neighborhood Commercial District is to provide commercial and personal services in close proximity to residential districts. The uses are less intense than seen in areas along Main Street and Brice Road. Staff finds the continuation of the childcare facility will not cause undue harm on adjacent tenants or the neighborhood as a whole. Following a determination by the Board, it is the recommendation of Staff that the Special Exception Use Permit be granted as requested. The applicant has met all conditions as outlined in Section 1145.09 of the Zoning Code to allow a special use of the existing space. It is the finding of staff that the operation of a daycare within this district is in keeping with the desired character set forth in the zoning code and does not represent a burden to nearby property owners or the community as a whole.

Mr. Zollars: Can we zoom in on the play area from the door?

Mr. Robbins: Can you see it right here?

Mr. Zollars: Yes.

Mr. Rettke: Can we have the applicant please come forward and if you could state your name and address for the record. I don't know whether you got to sign in or not.

Ms. Shaton Wolfe: No, I did not, 7111 Snowberry Lane, Canal Winchester, Ohio.

Mr. Rettke: Any questions, concerns, comments from the Board?

Ms. Wallace: I actually live in the neighborhood right behind there and have for years. I can say I go up to Ameristop all the time and get gas there, I drive down Daugherty Drive and I've never had any issues or concerns for the safety of the kids at that daycare. I've never even seen a car drive behind that building. I've lived there for 19 years and I've never seen a car back there. My concern on numerous other ones for the rest of the Board here, has always been concern for people going back or driving through there and I've never seen – I feel okay about that play area being where it is with the daycare. Usually the kids come out the back and get in the grass right over there.

Mr. Robbins: I think one of the differences as well in this versus a lot of the other ones that we've had come before the Board, again as Ms. Wallace said, I think the amount of traffic you have back there is negligible. It's not a big strip. There's not a lot of activity there. The play area itself is in a green area. It's next to some wooded area next to some grass. It's a far cry from, I think, placing it next to the dumpsters and truck loading zones that we've seen in the past.

Mr. Enfinger: Can you pull back up the specific definition for a neighborhood like you had pulled up a few minutes ago and brought over from that other page, just as a refresher for this district?

Mr. Robbins: Certainly, just a minute.

Ms. Wallace: While he's doing that, also it's never like traffic coming in and out. I've been up there all hours of the day. I don't think I've ever seen more than four cars there at the same time and I know your staff parks out farther towards the air pump, I think.

Ms. Wolfe: Yes.

Ms. Wallace: So your traffic doesn't even infringe upon Ameristop's parking, like your parent parking. And the Ameristop people usually don't park in front of your business either.

Ms. Wolfe: No.

Mr. Rettke: So have you been with the current business or are you coming in new?

Ms. Wolfe: I am coming in new.

Mr. Donovan: Are you retaining any of the current employees or are you just bringing in everybody new?

Ms. Wolfe: I am bringing in new, yes.

Mr. Donovan: Are you having the same kids showing up?

Ms. Wolfe: Well, the daycare has shut down completely because of licensing with my name change. I can't obtain her license and carry on with the daycare facility, so it has to be completely shut down.

Mr. Donovan: Starting over then.

Ms. Wolfe: Starting over.

Mr. Rettke: Yeah, but Friday it can be open and Monday it can be reopened, right?

Ms. Wolfe: Uh-huh.

Mr. Robbins: To address Mr. Enfinger's question about NC Neighborhood Commerce. For the record, the "NC Neighborhood Commerce District provides land for small individual retail establishments including convenience type stores and personal services which serve the daily needs of the people in residential areas. Since such establishments are located in close proximity to the residential areas, the area requirements are more restrictive than in other commercial districts." Again, there's no district in which a childcare facility is a permitted use by right, so they are always Special Exceptions. So we have to figure out which of these districts, on a case-by-case basis, has the most appropriate places to put them.

Mr. Donovan: I live in the neighborhood also and I've gone by there many, many times and I didn't even know that driveway was behind there. Believe me, I've been in the Ameristop many times, in fact I was over there Sunday buying ice.

Ms. Wolfe: Yeah, before coming over, I did not know that that was a place where you could drive behind as well. But, as Ms. Wallace stated, there's not traffic there. I did receive a letter from Ameristop owner, Ron, and he indicated that his – when he does his loading and unloading such as pop and

whatever he sells in there, it's done in the front of the building, not the back. So no one other than Ron gets drop off service.

Mr. Donovan: I think the only ones that used to park back there were the pizza place when it was Minuteman, but, other than that, no.

Ms. Wolfe: But now with the pizza place there, I'm noticing that they park on the side.

Mr. Robbins: This is a view from the back of the building. I'm going to shut the lights off here for a second so you can get a good look and I'm going to ask you a couple questions about how students are going to enter and leave the facility. Again, I think when they leave out the back, I think a crosswalk is probably appropriate just to signify to drivers and to the folks crossing that that's a place where children might be present. I think whatever action the Board makes, it's our recommendation that that be a condition of approval. Just one moment while I turn the lights off.

So just to orient you, this is Lancaster out here. This is looking from the south and this is the play area. So it looks like this is the door from which people leave and they come across the street to get to the grass and come here and then into the play area. Would that be correct?

Ms. Wolfe: Yes, that's correct.

Mr. Robbins: Okay, so it's this door right here and that would be basically the only one you would be using for entering and exiting to the play area?

Ms. Wolfe: Well, the other door, which is on the far left, toddlers are at that door, on that side of the facility, so they will exit that door; and preschoolers, school agers will exit the door that you were at initially.

Ms. Wallace: So there will be two exits from each room out to the back?

Ms. Wolfe: Correct.

Mr. Robbins: To your knowledge there's no bollards or any kind of signaling put up when they go to enter and exit kids from this area? Are you aware of that?

Ms. Wolfe: No, but what I came up with, I thought about putting cones, maybe 2-3 cones on the end of the building when it is play time, when they are exiting the building, it's time for play time. I thought that that would be a great idea. That would be served as a barrier. Also, near maybe the dumpster, yes,

sir, right there. So maybe a total of six orange cones that would kind of be an awareness that there are children back there perhaps.

Mr. Stoffel: It probably wouldn't be a bad idea either to actually – I don't know if you're permitted to erect a sign on the north drive there as people are coming around just a caution sign "Children At Play" or some kind of signage maybe on either side of the building.

Ms. Wolfe: Okay.

Mr. Robbins: There are certain sign sizes that are allowable without having to go through.

Mr. Donovan: You could ask the landlord if they could paint some kind of a crosswalk type thing across there for you.

Mr. Robbins: Yeah, I think a crosswalk would be very appropriate in this area.

Ms. Wolfe: Okay.

Mr. Rettke: Well, I think both of those should be conditional on approval.

Ms. Wallace: A crosswalk and a sign?

Mr. Rettke: Crosswalk and signage.

Ms. Wolfe: Okay. I don't think that will be a problem at all with the owner.

Mr. Rettke: Any other concerns, comments, questions?

Mr. Enfinger: The previous owners, how many children did they have there at any given time?

Ms. Wolfe: Fifty with the staff included.

Mr. Enfinger: And you're estimating or hoping for about 65?

Ms. Wolfe: Well, that was before finding out that I would need to put in a sprinkler system if I go above 50, so it will be 50.

Mr. Robbins: Well, if somebody makes a motion, I would encourage you to include the requirements that a crosswalk be painted on and signage not requiring Design Review be put on the side of the building, so small in nature.

Mr. Rettke: And cones at the corners?

Mr. Robbins: Yeah.

Mr. Stoffel: I'll make a motion then that we approve Item 5, Special Exception Use Permit for 491 Lancaster Avenue, #167096 with the conditions of two crosswalks placed one at each of the two exit doors in the rear; small signs, one each at the north and south drives small enough not to require Design Review Board; and cones placed on either end of the drive and around the dumpster area as applicable when the children are going to and from the play area.

Ms. Wallace: I'll second.

(Mr. Robbins called the roll. Mr. Stoffel voted "yes." Ms. Wallace voted "yes." Mr. Donovan voted "yes." Mr. Enfinger voted "yes." Mr. Rettke voted "yes.")

Mr. Robbins: There's a couple more housekeeping type things. Zoning Certificate, if you have not submitted one already, will need to be submitted and approved by staff. Before that happens, again, as I tried to explain, Council will need the ability to look over it. So it's maybe a week or two out from where we are now before I can issue the Zoning Certificate, assuming Council has no issue. Consult the Building Department to make sure everything's in order with them because, from what I understand, if a new business comes in, they are required to get a Building Permit as well if there's any change. So, just a blanket, make sure you contact them and everything's in order with them as well.

Ms. Wolfe: Okay, will do. Thank you.

6. **SPECIAL EXCEPTION USE PERMIT, 7524 E. MAIN STREET, REYNOLDSBURG, OHIO;** PRESENT ZONING, CC; PRESENT OWNER'S NAME, TAMMY SCHUELER; REQUESTING A SPECIAL EXCEPTION FOR THE RELOCATION OF A DAYCARE FACILITY. CONTACT: BETTY SMITH (#167097).

Mr. Robbins: This is Application #167097 for It Takes A Village, Special Exception Use Permit. The property is located on the north side of East Main Street west of Waggoner. The existing zoning is CC Community Commercial and it is within the Historic District. They are requesting a Special Exception Use Permit to operate a childcare facility within the Community Commercial and Historic District. Applicant is proposing a childcare facility serving children six weeks to 12 years of age.

The property was originally developed as a strip center. Adjacent businesses include a business financial service including, I believe it's – I don't want to say Morgan Stanley, but I know Nationwide has an office there; a catering business and other various retail establishments.

What staff is going to ask the Board to do is consider two separate questions on this and I'm going to give you a little background and let you decide how the code is to be interpreted. In 2013 there was a code amendment, an Ordinance that was passed by Planning Commission and Council that states childcare facilities are a Special Exception within all districts except the CC Overlay and Historic District along East Main Street. The way that actually plays out, there's a page that I included in the packets you'll find at your desk, the very last page, and that's the actual Ordinance as passed by Council. It reads, "Childcare centers, Type A homes, school aid centers except all R Districts and the Historic and Community and Commercial Overlay on Main Street where state licensed daycare facilities shall not be permitted."

The existing childcare facility, It Takes A Village, is currently located along East Main Street within the Historic District, so it's only a few properties to the west of where they're proposing to go. The applicant is proposing to move the existing nonconforming business to a new location within the same district. Staff would like the Board to determine whether this is permitted under Section 1145.02. So these are the situations in which Special Exceptions are required. Section 1145.02 states, "A Special Exception shall only be established in a district in which it is listed, 1175 as a Special Exception and only subsequent to review and approval by the Board of Zoning and Building Appeals. Approval as a Special Exception shall also be required for the expansion or alteration of an existing use established prior to the adoption of this code if such use is listed as a Special Exception for its district."

So, the question before you is an existing business relocating to the same district in which it's existing now, would this be allowed under the current code amendment? That's question number one. And I'm sure you'll have some questions on that that we can get into a little later.

The second part of this is our typical test for Special Exception dealing with parking, play area, ingress and egress and character. So some of the concerns we had with the play area and the parking, we weren't necessarily clear on the extent and the amount of parking being taken up by the proposed play area. So if the Board can see on the screen right now, this is Main Street to the left and the building is facing south. The area in which they are proposing to take over is this portion in the back and then roughly a quarter, maybe a fifth of the retail frontage and this used to be a bank. The play area, as far as I can understand, is proposed to take up part of this lot, be provided underneath the existing drive teller and then take up three spaces of the parking to the rear. I'm going to turn the lights off so the applicant can see exactly what we're talking about and maybe respond here in a minute. So I'm going to finish the review and pose a specific question to the Board and I think we can go back and forth on some of the questions.

Again, the concern by staff is how many parking spaces that's going to take up and whether or not it's appropriate to have a play area visible from the commercial corridor. Staff would encourage the applicant to explore using green space to the north of the property as a play area if available. So I think, if the Board answers yes to the first question and we start to consider where these play areas are, speaking with Mr. Johnson earlier in the day, he indicated that this area was considered originally but something the County doesn't contend that it's an appropriate spot for a play area because it would cross a traffic aisle. So, again, I think this is something the Board should consider.

As far as recommendations, staff would like the Board to make two determinations: 1) Is the relocation of the existing Special Exception allowable under current code, and 2) does the Special Exception meet the criteria as outlined in Section 1145.09. As far as the specific questions about the parking, when it comes time I'll go ahead and turn the lights off and we can go back and forth exactly what's being proposed.

Mr. Gene Johnson: Good evening, folks. I'm Gene Johnson, been around here for a long time. We own a real estate company on Main Street next to Heartland Bank where we've been for 40 years. I'm pleased to introduce to you tonight Ms. Betty Smith. I'll give you a little quick capsule version of her background. In 1980, 34 years ago, the earth trembled around Cleveland and she had the nerve to leave her favorite football team, The Cleveland Browns, which is also mine, and came down to Columbus. She graduated from Mount Carmel Nursing School and practiced as a Registered Nurse at Mount Carmel for something over 20 years. I have a math problem that maybe some of you can help me with, but-- So from 1980 until sometime over 2000 she was a nurse. Then she started this business which is just three doors down the street at 7458 East Main Street and she's been there for 11 years. My dilemma is she's a good friend, but she continuously tells me that she is 39 years of age. So maybe you can vote on that also, but the math doesn't seem to work.

Anyway, she has a very successful operation, most of you are probably familiar with it, it's called It Takes A Village. We can show you an aerial here. Take it down to the west three doors to 7458. Okay, there we are. She been there for 11 years. It's been a very successful operation for her, but there's several things wrong. It's two levels, it has very tight parking as you can see; back to the left there at the rear is the playground area. Can you put the arrow on that, Justin? Ironically recently these learning centers of childcare always get checked out thoroughly several times, sometimes several times a year by the county and Children's Services and she always has good standing with them and she can explain her history with them. However, a couple weeks ago when they visited the site, there were two investigators, and they actually challenged her coming out the back door of the existing building there with kids and going just across their own parking lot to the children's playground, which I thought was kind of ironic. But, in any case, that's the way it's been for years and by moving

now – let's go down to the new site. This is the front building, the main building, which is the former State Savings Bank will be the entrance for the place and where the administrators, the office manager and the owner, and also the infants and toddlers – or maybe just infants in that first building. The Children's Services were excited about having the three playground areas, being the first one right there at the drive-thru. Can you give me an arrow there, Justin? That's the former drive-thru. That's be the play area for the youngest kids and then it'll wrap around the corner, if you show us the wrap around, Justin, with the arrow. I think we'll take three of those parking spaces and that will be the alternative – not the alternative, but the other two playground areas for the older kids. I don't think she's required to have three separate ones, but she's required, like all daycares, to have 65 square feet of play area for the number of kids that are outside. That doesn't mean 65 square feet for the number of kids enrolled, but 65 square feet for however many are out there at any one time. We originally thought about to the east there on the grassy area, but Children's Services did not like that idea because they considered that a thoroughfare to the east of the drive-thru. We differed with that, but why fight it. So the landlord was perfectly happy to grant us the space that we designated on the drawings that you have and that you can see here in the aerial.

The other tenants in the building to the west of the main building for It Takes A Village are all excited about having some activity there. This has been a very dead building for a long time and so have the two spaces behind there which she's taking, which is the former State Farm Insurance office and Jazzercise, which if you could flip back there, Justin, to show us the back building. There's the strip and there's the bank building. Thank you, sir. And then around back we'll attack the two storerooms. Yeah, right there. That will also be connected with the first building. So it's a total of 6,600 square feet.

I'll tell you a little bit more about this 39-year-old lady. She is wildly popular in the industry -- there's the layout there, yeah – and, in fact to this extent. Some of the kids enrolled there are children of parents who work in other childcare centers, but they bring their kids here because this is not just a daycare. This is a learning center truly. It blows my mind when I'm in there and I see kids 6 years old learning how to play chess, just as an example. It's exciting to be around there. Megan Moeller visited both the old and the new with me recently. It's a very impressive operation. If you'll leave that on the screen when Betty talks she can tell you how she's going to be using that space. But if you'll see in the main front building there, the old bank building, you come in the front door, her office will be to the left and to the right would be administrative people and reception area and behind that is kitchen area, and across the hall there is the infants. It's almost like it was designed to be this. It's going to take minimal changes to create this space. We're excited for her. Does anybody have any questions for me at the moment before I bring Betty up? (No response.)

Oh, I can tell you an important fact. The guy that was pushing – the Council member was Mel Clemens who submitted the Ordinance to eliminate any more daycare centers on Main Street, said to me in a meeting today and has told me previously, he has no objection to this one at all. It's not creating a new one, it's just simply moving three doors down the street and he will support it 100% when it goes through Council. I think that's important to know that. The present facility, as you saw, at 7458 is successful, but seriously handicapped: not enough parking, difficult ingress and egress, and it's a two-level building. By moving down here-- Let's look – move down again, Justin, to the bank building. If you look at the overview of the center, we have lots and lots of parking front and rear, around behind the strip and you'll see all the room in the world for the employees to park and lots and lots of retail space. The same ownership owns all the way over to Waggoner Road. The owner of that is Tammy Schuler, who was the owner and Chairman of the Board of Evans Adhesive, a very successful lady and very good landlord, who does all the right things in terms of maintenance and preventative problems. Questions at this point?

Mr. Rettke: I think the presentation was pretty much spot on. I don't know that I have any major questions. If we can get Ms. Smith to come on up and we'll have her introduce herself, state her address for the record.

Ms. Betty Smith: Good evening. My name is Betty Smith. My address is 5990 Rockhill Road, Columbus 43213.

Mr. Rettke: So as far as capacity-wise, is this going to increase your business opportunity or is it going to keep it about the same?

Ms. Smith: It's pretty much going to increase. Right now we have a long waiting list for infants and school age children and that number can fluctuate and change throughout the year. We just want to be able to accommodate whatever age group is most needed.

Mr. Rettke: Those two buildings connect, right, through a hallway?

Ms. Smith: Yes.

Mr. Rettke: As far as changes to the building itself, is there going to be a lot of construction work or is it minimal?

Ms. Smith: Minimal.

Ms. Wallace: So mostly what you'd have to do is just work on the play area outside?

Ms. Smith: Correct.

Mr. Johnson: They request that we have six bathrooms in there, which is always an issue when you're creating a children's learning center, having enough bathrooms.

Ms. Wallace: So do we need to decide on, first, is it okay to move to the new location? Is that correct?

Mr. Robbins: Yes. We need an interpretation of that code and how the Board is going to proceed to follow it.

Mr. Rettke: That gets a little tricky.

Mr. Robbins: So the two questions, you're not required to vote on them. It will be, at the end, a vote yea or nay for the project itself, but you can cite either the standard Special Exception or the piece of code that is in question here. I think moving forward it would be helpful for just understanding what we're dealing with to discuss and come to a conclusion. As a group you're on your own as to what that means. I don't envy your position.

Mr. Enfinger: So, Justin, is what you presented us the only narrative that we have concerning the ordinance or is there anything additional that you have?

Mr. Robbins: That's it.

Mr. Enfinger: This is it. Okay.

Mr. Robbins: So it's basically an addendum onto the Special Exception. Within our code, daycares are listed as Special Exceptions in all districts and it was added on that says "shall not be located on Main Street within the Historic or CC Overlay District." Now the question is when something like that in code changes, you can't retroactively go back and cease businesses from operating. That's not the way zoning works. The question here is there's a business already in operation and they're moving locations into the same district, three stores down. So, in my mind, it's not completely clear and that's kind of what I'm leaving up to the Board.

Mr. Enfinger: To me it actually is clear, just from my perspective, that I do think that it would classify – currently you're grandfathered in, but, at the moment, where you do activate some type of a change, in my opinion, you do, at that point, fall under this code and that it would not be permitted in this district. So that's the way that I read that.

Mr. Johnson: Well, you're the first person that we heard say that. We talked with the Mayor and several Council members and none of them felt like this ordinance that was passed fairly recently had any intent to squelch an existing business just located three doors down the street.

Mr. Enfinger: Well, it's not going to squelch the business if it remains where it is.

Mr. Johnson: Well, it really can't do that. It's an antiquated facility and it just needs all kinds of repair and the landlord is not willing to do any of those things. We've got a wonderful new landlord who will do all the things we want to. It's really a classy operation. Incidentally, none of us, I guess, in this room here, well maybe Justin has small kids, but this is a high tech operation. You've probably heard about some of the childcare centers where parents can check on their kids with their cell phone any time during the day via cameras that are placed throughout the center. I just think that's wonderful. We have, I think, like 106 or 108 kids, something like that, in the current facility. We have such a waiting list, and if you have babies it's really hard to find an adequate childcare facility that can handle infants and she will be able to handle up to about 150 kids all together and we think the population of the infants will probably go – I'm thinking 30-35 anyway. So it's a much needed operation.

Ms. Wallace: My thought is it's an existing business that has been grandfathered in and I would interpret that as it's the business and not the building. So, for me, moving down the street, I would feel like it would be-- I think the business is what was grandfathered in. It's not a new business and I personally don't have an issue with it moving three doors down. It's a good, established business that brings and keeps good families in the area too. I take it as being for the business as opposed to the building itself.

Mr. Johnson: I didn't mention, but it's important to note too that she has a close relationship with Reynoldsburg School System and is involved with their Latchkey program. That's something to see when those kids arrive at, what, 3:30? From a traffic standpoint, even though she's just three doors down the street, the ingress and egress out of the new center is just dramatically improved over where she is now.

Mr. Rettke: That current facility drops off on the back, too, so you've got to come up the hill.

Mr. Johnson: Yes, it does. When I was talking to Mel Clemens about it, he said, "Oh, that's the one that goes down in the hole."

Mr. Stoffel: As far as the fencing and whatnot to screen from the businesses to the east, was that intended just to be a chain link fence?

Mr. Johnson: Yes, but it has to comply with the rules for the county. The playground area is right up against the building, not out in the drive at all. The only thing out towards the drive is the playground area underneath the bank drive-thru.

Mr. Stoffel: Right, but the strip center to the east would be able to see all that, correct?

Mr. Johnson: Oh, yeah, yeah.

Mr. Rettke: That brings up some issues, Justin, because we had the whole issue with the bank on the corner and their sign being of natural materials. Pies, that was an issue with their sign. I'm seeing the sign—

Mr. Robbins: The signage is not going to happen.

Mr. Rettke: But how can a chain link fence, when you have sign regulations, how can a chain link fence even be remotely—

Mr. Robbins: I don't think a chain link fence would be allowable in this district. It would have to be wood.

Mr. Johnson: Children's Services does not like wood. They fuss about that all the time because of kids getting splinters and stuff.

Mr. Stoffel: Well, we can have, and we did it for Pies, it's not wood, but it's wood-looking. It's durable vinyl.

Mr. Rettke: And that's what First Federal backed over to. I think our sticky point was the location.

Ms. Wallace: And I think one of the other concerns was the visual from Main Street, where you would see part of that play area under the drive-thru and that could be done with any number of false fronts, or put the fence up and then put brick up, or fake-looking brick or something to make it more pleasing to the eye, so you're not driving by and seeing the—

Mr. Johnson: You've got two schools of thought. You're probably familiar with the Bright Beginnings over on Livingston Avenue. They have – when we did that one we had all kinds of issues over fencing with the Children's Services people. They wanted it where people driving by could see the kids, cause it's a great marketing tool and it's safer, because they can see the kids are there. So you've got that school of thought. Then you get the well, hide them with a white vinyl fence or a wood fence and you don't see them. But I guarantee you that the ultimate end on this is Children's Services. They dictate what kind of playground equipment, what kind of fencing, all that kind of stuff.

Mr. Rettke: Well, to some extent they do. I mean we can't tell her she has to have vinyl, but Children's Services said chain link, but chain link's got to be totally excluded in the Historical District. So there has to be a mix there.

Mr. Robbins: Yeah, when it does go through Design Review, I don't think that's something that would be allowable.

Mr. Johnson: We envisioned at one point putting the fancier white vinyl across the front, running it east and west in front of the drive-thru and we can still do that. I mean there's nothing carved in stone at this point.

Ms. Wallace: Just so it's more pleasing.

Mr. Donovan: You'd probably have to deal with Design Review on that. We're just saying it's probably something you'd have to do.

Mr. Johnson: I was thinking along the north/south side, running next to the drive-thru and then around back, what Children's Services has leaned towards is the fancier chain link with the inserts, I think it's vinyl.

Mr. Donovan: The slats? That just blocks the view. Again, we have people that have problems with children. I think that's what they're trying to prevent.

Mr. Rettke: My point is the Historical District is so laden with – I don't want to say requirements, but restrictions, that you have to be very, very careful.

Mr. Johnson: And we understand that and certainly don't want to argue with that. We're going to comply with what we need to do to adhere to the rules that are in place there.

Mr. Stoffel: And this may not be something for us, but I'm just curious how – what kind of flooring – base will you be having in there. I'm sure you're not taking out asphalt to put-- What are you putting down, rubberized mulch?

Mr. Johnson: The mulch stuff. You've seen it in all of them and that's what she has down at the existing one. Very expensive stuff. She spent \$22,000 on the playground down at 7458, so we know it'll be more than that.

Mr. Rettke: You've got to dig that out and put it down there?

Ms. Smith: We're taking it right with us, yes.

Mr. Rettke: I don't blame you there.

Ms. Wallace: I know Justin brought up in the presentation at the beginning I think was a concern of the view from Main Street, which is why that could be a stipulation of it going as having that blocked off and to be harmonious with the rest of the center. So to extend it so it doesn't look like it ends and there's this, even if you have to build a wall and then have the playground behind

that with your fencing or whatever Children's Services required, like to extend — so it looks like an extension of the building, to be pleasing and fit in with the character, which is always a consideration for the Board.

Mr. Johnson: And we don't want anything that's shabby or tacky, because we don't want the kids getting out where they don't belong, either.

Mr. Rettke: So in consideration of whether this is even allowable, normally Special Exceptions are identified to the owner at a specific site. A new owner comes, tough luck; you've got to go before the Board again. That owner wishes to change sites, tough luck; you've got to come before the Board again. Right?

Mr. Robbins: Yeah. The typical way I frame it is the Special Exception Permit gives a particular business permission to operate in a particular property in a specific fashion. That's the best way I've been able to sum it up. When we transfer the Special Exceptions like the last daycare, same building, same use, different owner comes in, they have to transfer the permit. Again, I'm not sure which way to go on this one.

Mr. Rettke: But one doesn't guarantee the other. You know, just because we've had some people walk in wanting to do the same use on the same facility, you could say no to that.

Mr. Robbins: That's correct.

Mr. Rettke: That's where this gets tricky.

Mr. Robbins: Which the Board has done in the past.

Mr. Stoffel: That's right and where it gets tricky, too, for me is if she's granted this and she decides to sell in a year, it can still — it could forever be a daycare, right? If she—

Mr. Robbins: If that happens, you'll be deciding that again.

Mr. Stoffel: That's what I want to make sure, that if we grant her this grandfather, that this grandfather isn't transferable to ABC. I just want to make sure we understand that.

Mr. Rettke: Yeah, that's the other — because it says no—

Ms. Wallace: But they would have to come back, that next person — which I really doubt that happening in our lifetime, or at least on our position here, because it's a very well established business—

Mr. Johnson: And she has a long-term lease on the new location, 10 years with a 10 year option.

Ms. Wallace: I mean I don't think it's going to be we're going to have somebody else in a year trying to do another daycare there. And, if they do, they would have to come back before us and then that could be declined at that point depending on the nature of their business or their reputation as a business owner. I mean there's a lot to consider. It's not just – to me it's more than just saying this has to go here. I mean I think that's why there's people to decide if there's exceptions to the rule.

Mr. Johnson: Well, when we write contracts for places like this, let's just say six years from now she's been run over by a bus and we have to find a new owner, or she goes back to coach the Browns, when we write contracts for the next person, we always put in there contingent upon obtaining whatever reviews and permits necessary from local authorities. It's just standard language that you put in.

Mr. Rettke: Yeah, but so is that grandfathered in? So now we're potentially moving it because the business is already existing. She moves down the road. This specifically says "none on Main Street." So six years from now a new owner comes in, the same use, but not on Main Street.

Mr. Johnson: I beg to differ. Legal interpretations have told us that that whole ordinance, and I wasn't a part of the writing of it, but the whole ordinance was not intended to prevent grandfathered situations, but just prevent any additional new Main Street daycare centers. This is not an additional. It's just plain and simple. And the guy that wrote it and sponsored it will tell you himself. That's Mel Clemens. He said that was not the intention of that, to eliminate an existing one.

Mr. Enfinger: Again, I want to reiterate my interpretation of this and that is that in any given situation in any other circumstance that anything that's ever grandfathered in, once any kind of change is made, that grandfather status is lost. Now if that's—

Mr. Johnson: That's included even if it burns down, isn't it?

Mr. Enfinger: If it's not specifically stipulated one way or the other, it's my assumption that that would be what it is. So, additionally, and probably specifically because it is in the Historic District, is the reason why they took this position. So, with that being said, all the conversation – and it being the Historic District, one of the concerns additionally that they have is the fact of how everything looks. So now we're in the Historic District and we're adding fencing right up by Main Street, right completely in visible view everywhere and we're significantly impacting the visual impact that this building is having on the

community. And, again, to me, that's specifically the reason why they stipulated that this shouldn't be here is because of the types of alterations you have to make to the buildings.

Mr. Johnson: Excuse me, let me beg to differ with you on that. The brick building, which has been there for years, is a very attractive building in the Historic District. The only thing we'd be changing would be the fencing and we already stated in our motion here tonight that we would comply with whatever's necessary to meet the historical—

Mr. Enfinger: Yes, sir, I understand that, but I'm saying when you look at the building to see this large fencing coming around, that is completely out of place with what this building should look like. This building shouldn't have this appendage sticking off the side with fencing. And I'm saying that this is in the Historic District and especially it's preserved in the Historic District to preserve the look of everything. That's the reason why, is what it looks like. So we're changing what it looks like.

Mr. Johnson: So we want to preserve the drive-thru, the empty drive-thru?

Mr. Enfinger: Well, again, it's grandfathered in. I mean it's there. There's nothing we can do about that. So what we do is whenever these types of decisions are made by people in the city that going forward, looking forward, this is how we're going to operate. So when a business moves, that grandfather status, in my opinion, is lost and I think that's the way that it should be. Now whether Mel, or the Mayor, or whomever was involved with making that, if they wanted this specific daycare to be excluded from that grandfathered clause, maybe they could have added that in. But, as far as I'm concerned, when you move, it triggers this clause and it applies. So I just want to reiterate that.

Mr. Johnson: Let me make sure I understand what you're saying. Are you saying that your interpretation of the new ordinance is that it didn't mean-- We would not have a net gain of daycares. It would be the same daycare count on Main Street. That was the intent of the ordinance I'm told, is that there would be no new count, no higher count than what there is now.

Mr. Enfinger: Okay. The only thing I can go on is specifically the verbiage, the wording, the narrative written which states, "And in the Historic and Community Commercial Overlays on Main Street where state licensed daycare facilities shall not be permitted." So it's not saying, "Shall not be permitted with the exception of existing ones." It just says they shall not be permitted. And if I'm to interpret this as basic and plain as it is, that's why I asked for extra narrative. Is there anything else somewhere in this ordinance that we could base this on? Going off this, this is what we have.

Mr. Johnson: Not to be a smart ass, but is that your Board's job to determine that, or is it the City Attorney?

Mr. Enfinger: Actually I was told this evening that, yes, this is our duty to decide.

Mr. Johnson: Okay.

Mr. Robbins: When there are questions of code that are unclear to staff, it's one of the duties of the Board to provide clarification to us. So in terms of how a certain ordinance is to be followed or how certain uses are to be determined is something that we kick up to the Board when it's unclear to us and I think this is a prime example of the situation that has happened.

Mr. Rettke: And, in the past, we've asked the attorney for help on those matters and he's refused, i.e. Title Loan. "No, that's up to the Board to determine," and there's no legal advice from the attorney on that. I found that rather disheartening that we couldn't get an opinion—

Mr. Johnson: I would too.

Mr. Rettke: --or any legal statute on that. We were just told that it was ours and ours alone to determine that and we did.

Mr. Robbins: Again, for the Board and for the applicant, how the process is going to work, either up or down vote or tabling: If it's voted "yes," then it still goes in front of Council, which any Council member would have the ability to speak to that. We're expecting a week to two weeks until they get the minutes from this meeting. If the Board votes "no," then the applicant will have the ability to appeal in writing to the Clerk of Council, which basically if you did that immediately it would be taken up at the same meeting and then Council could then overrule what the Board has decided on.

Mr. Johnson: I would suggest that you guys consider voting yes and since Council's the ones that created the ordinance and the issue, let them decide how they want to interpret it. You surely can't have any objection to this child learning center being located in that center. We've had an empty building there for I don't know how long. We're not talking about an adult bookstore or massage parlor or something. We're talking about an 11 year business, highly successful, right there down the street three doors. If that concept makes sense to you, then let City Council decide how they want to interpret their ordinance. They're the ones that put it in place and they can certainly be the ones that amend it if they want to amend it.

Mr. Enfinger: I'd personally like to, like we did on the title company, I'd like for the attorney to interpret that, not the -- not anyone but that.

Mr. Johnson: The City Attorney you mean?

Mr. Enfinger: Yeah, the City Attorney to interpret that for us, because it's his job. And I also think that whether it's the Design Review Board that deals with it or not, I agree with Justin that this needs to look – the intent is for it to look like it does and maintain the integrity. If I were to have any say over it, there'd be some money put into that to make it look consistent, to make it look good, to make it look good. You know what I'm saying? Because it is a prime piece of real estate and I think if we're to grant a variance for this, I think because of all the special circumstances around it that there should be some effort on the part of the applicant to make it really nice.

Mr. Johnson: That's fully our intent. I mean if you just thought—

Mr. Enfinger: I don't know whether the intent was a chain link fence is something nice.

Mr. Johnson: Well, we didn't talk about that front section. That's the only thing that's affecting the view from the street.

Mr. Enfinger: Well, if you're driving west on Main Street, you see all of that. So, yeah, half the people that drive that will see that.

Mr. Johnson: Well, we wouldn't have any objection to putting concrete block up and then brick that matches the brick on the shopping center across the front. I certainly see no reason to be building a wall down the side or around back. We're just as interested as you are in having a really attractive business there.

Mr. Rettke: I just think that Historical District just has so many restrictions on it, even playground equipment might qualify for having natural materials and all that other good stuff.

Mr. Robbins: Yeah, for signage, that's something that they have stipulated within the code, but the Historic District and the overlay allows the Board a certain amount of subjectivity to determine something that is acceptable. So it's going to be, I think, on a case-by-case basis. There might be some minimum standards have to be met, chain link, I can check real quick to see if that's even an option in the Historic District. My guess is even the Design Review Board would take a look and say that it has to be something a little – something better than chain link. But, as to what that exactly is – I mean you had mentioned vinyl. I think that would depend on the look of it. You had mentioned some sort of block wall or something and I think that would probably classify and, again—

Mr. Johnson: Well, with brick facing, of course.

Mr. Robbins: Yeah, that's another step in the process. So I think that's definitely concern for this Board as to how it affects the district.

Mr. Johnson: Keep in mind that this is a lady who does over \$1 million a year with her current daycare operation. It's a big time operation. She is not interested in doing anything that's cheap or that tarnishes the shopping center.

Mr. Enfinger: And there are probably a lot of opportunities in just different locations for her to move her business to.

Mr. Johnson: No, there are not.

Mr. Enfinger: I'm sure there's somewhere out there that she can go. So don't present this as this is her only other option for staying in business.

Mr. Johnson: We're not presenting that.

Mr. Enfinger: I know, but you're making the plea that she-- I understand she has a great business and that's obviously -- we want that type of business in this community, but it just has to be in a certain spot and, in the Historic District, in my opinion, is not where it belongs.

Mr. Robbins: Our Commercial Overlay and Historic District states, Section 1194.07(k) that "Fences with or without masonry piers shall be decorative and constructed of ornamental metal tubes or solid metal bars. Fences may not exceed a height of 4'. Chain link fences are not permitted."

Mr. Johnson: Okay, metal bars or vinyl, we're going to be fine with that.

Mr. Robbins: But it does set a minimum standard, I think.

Mr. Rettke: And that was my point. In looking at the Historical District, before we go too much further, that needs to be addressed. Can you do what you really want to do with all the restrictions? It doesn't matter if we say yes or no, or Council says yes or no. That's ultimately going to hit you down the road and at some point you're going to have to say "Is that a worthwhile endeavor or not?" Because when you talk those additional materials, that's additional cost. I've heard nothing bad about your business. I don't want to say I don't want it in Reynoldsburg, but when you're given a document, absent of that document I'd have no problem. Honestly I don't think there would be an issue with transferring three doors down, 10 doors down, but with this document here I can't read intent. I can't take you saying the Mayor says this, Mel says this. I have the written word. It doesn't say no more additional daycares are given, it says, none. Okay? That's where I have the problem. If they didn't mean it that way, they shouldn't have written it that way. I understand your point of saying, yes, let City Council take it up. That's a good argument. The same could be said with saying

no, so that's where I struggle. I've got the written word and I can't see much that would comfortably say, "Ahh, they're full of crap. That's not what they really meant. This is what they meant." If it would have been outside that Historical District, I don't think we'd be arguing. I really don't.

Mr. Stoffel: No, no, not at all, and that's where – part of me, I really want to vote yes, because I know it's a good business and I know it's good for the community, but I also know it's in a historical district and I also know that I'm just not sure about that grandfather. And, again, I'd like to see the City Attorney clarify that. I don't know that he really can, to be honest with you.

Mr. Enfinger: Well, then, you know what? There's part of me that says, you know what? I'm going to vote no, because if he's right and City Council's all gung-ho about it, then let them have it. I just don't – I don't feel that comfortable with that.

Mr. Rettke: And another issue that really gets me is you're spending money. You're making an investment in a business.

Mr. Johnson: A lot of money.

Mr. Rettke: With this same ordinance, I don't know that I can transfer it to the next guy with the language. It doesn't say only one daycare in the Historical District, it says none. So, for you as a business owner, I hate to see you spend \$50,000 on a playground because, guess what? You can't sell that to somebody potentially. They come before this Board again, maybe six new faces, five new faces, four new faces, they read this same language and they say no and you've got to take it to Council again. Council faces change and they may say no because that's the written word. Now they may be able to have the power to change that, but it's going to take time.

Mr. Johnson: We understand your premise, but also understand that we're dealing with a shopping center that is still, even though it's a couple three decades old, it's still a very attractive center which houses O'Toole's, a beer drive-thru, I think a Goodwill Center, a pizza joint. We're not exactly talking historic businesses. We're talking historic area.

Ms. Smith: Where does the Historic District actually end?

Mr. Robbins: Give me a couple seconds and I'll pull up the map. I do want to be clear that the ordinance that was added, it's specifically for businesses fronting Main Street. So you have to have frontage on Main Street within the CC or the Historical District. So you can have a daycare or a childcare facility in the Historic District and this doesn't apply. It only applies when it's on Main Street.

Mr. Rettke: So if he took that whole back ell section and none of that front corner unit—

Mr. Robbins: I would be back to the Board with another question, because—

Mr. Johnson: It's still a Main Street address.

Mr. Rettke: Well, it's only Main Street because that's your access point.

Mr. Johnson: Well, I know that.

Mr. Rettke: But if you define "along" the way I define "along" in my current business, that isn't along Main Street, in my opinion.

Ms. Wallace: I've lived here my entire life and if you'd have asked me before this meeting where the Historical District ended, it certainly wouldn't be at that shopping center. So I think the appearance of that shopping center, compared to the appearance a quarter mile west of there is huge. It's a shopping center. It's a brick shopping center and, to me, that doesn't look like a historical building. You see them on Brice Road, you see them on Livingston Avenue. It doesn't appear—

Mr. Rettke: Yeah, but look at how far this Historical District goes.

Ms. Wallace: But to the eye and we're talking about it has to be pleasing to the eye, it has to fit all these codes, it's a strip mall. It's not like it was a Tudor house or whatever, a house built in 1910 like my sister's remodeling. It's a brick strip mall and, to me, that's — there's got to be some leeway. I mean, I don't know. It's not like it's going in Connell's Hardware and we're going to put a playground in front of Vic's.

Mr. Rettke: But when a planner sits down with City Council and decides these, don't you think they looked at that and said, "Well, why are we putting it out here where there's a strip mall?" This wasn't just somebody sitting in an office that decided it. This went through hearings. This went through discussions—

Ms. Wallace: You mean this amendment?

Mr. Rettke: Yeah. Even the Historical District itself.

Mr. Enfinger: If you think a little bit still east of Graham Road there and this building itself may not have many historical elements, but there are a number of smaller homes, some extant buildings that are there that do have a significant historical—

Mr. Johnson: There's a Lustron home there. Are you familiar with those?

Mr. Robbins: They're fantastic.

Mr. Johnson: Metal sided. They were going to set the world on fire. It was a great idea, but there is one there that, to me, has historical significance, but it certainly doesn't look historical.

Mr. Rettke: Where's that one at?

Mr. Johnson: It's on the north side of Main Street about two or three doors east of Waggoner Road.

Mr. Stoffel: Kind of bluish teal metallic.

Mr. Johnson: It is metal. Even the studs inside are metal. Everything is metal, built to last forever.

Mr. Rettke: It's like what they have at the Historical Society, right?

Mr. Johnson: Yeah, exactly.

Mr. Rettke: I totally missed that all these years.

Mr. Robbins: I do want to – I don't want to say redirect the Board, but I do want to draw a difference between the Historic District and this part of the code. I don't think – and I might be wrong, but my understanding was the intent wasn't necessarily to keep daycares out of the Historic District. It was to lessen the conflict between the City's primary corridor where we saw a lot of daycares coming into place and there was a serious amount of safety concerns that were being brought up by that. So I do want to clarify I think there's two separate conversations and one is whether or not it can relocate according to our zoning code and according to what the ordinance says; and then there's the other one that's going to deal with the character of it. And I think the character, as long as it's done correctly, I don't think a daycare within the Historic District is out of the question. I don't think it's a bad thing as long as it has the right appearance and the right intent of how they're doing it. So I just wanted to make that clear.

Mr. Johnson: From a functional standpoint, the childcare in the former bank building won't look any different than the bank did. There'll be a different sign above the door that says that It Takes A Village Learning Center, but other than that there's no changes on the face of that building.

Mr. Enfinger: Well, the fence will be a significant change in the visual aspect to the building. And one of the things that I will go ahead and state here, is there's been a number of times in the-- This is in the Community Commercial Overlay, right?

Mr. Robbins: The Historic Commercial Overlay. It stops basically at the edge of the Historic District, the CC Overlay and then it picks up HCO and then once it leaves HCO, it starts back up CC Overlay on Main Street.

Mr. Enfinger: So even if -- but if it weren't the Historic Commercial, it would still be Community Commercial then.

Mr. Robbins: Yes. Well, the boundary of the CC Overlay is described as basically leading up to the edge of the Historic District.

Mr. Johnson: His question is important though. If it wasn't the Historical District, it would still be Community Commercial.

Mr. Enfinger: And, as such, there are daycares that come across our desk all the time and, for the reason of it not fitting the current intent of that district, they are turned down on a consistent basis. So irrespective of whether we're in the Historic District or not, and irrespective of whether it was grandfathered in or not, it's still, in my opinion, has that hurdle. The ordinance passed by City Council's one thing, then 1145.09 is another. And even if it were to cross the hurdle and the threshold required by the Ordinance 32-13, we still would have 1145.09 for Special Exemption Use. And where "It shall be in harmony with the existing and intended character of the district and nearby affected districts and shall not change the essential character of the districts."

Mr. Johnson: So were we keeping that in mind when we put the one in the Marathon station across from my office?

Mr. Enfinger: Well, it was not voted for by me. So I'm speaking for myself in the way that I interpret these.

Mr. Rettke: And that wasn't this Board that did that, I believe. I think that was overturned by Council.

Mr. Johnson: No, it wasn't.

Mr. Enfinger: So there are a number of other thresholds that -- and, in my opinion, and I've stated before and I'll continue to hold this position, that even though it may be an empty facility, filling empty facilities with Special Exemption Uses often don't solve problems, they exacerbate the problems.

Mr. Johnson: If they're the wrong kinds of uses, sure.

Mr. Enfinger: So, in my opinion, this is one of those types of uses that in a retail district, it's a mismatch. It's a mismatch. There are a number of hurdles that we're just not getting there. We're not crossing these hurdles in my opinion. So I'm one vote. Everybody else has a vote as well. So but I just wanted to clarify that irrespective of the ordinance that City Council has passed in the past about the Historic Community Commercial Overlays, there are still the considerations for 1145.09 that oftentimes is also another hurdle that these types of businesses have a difficulty navigating.

Mr. Rettke: Any other questions, concerns, comments, discussion?

Mr. Johnson: We've stated we'll do whatever we need to do in the face of that drive-thru area with materials that please everybody and adhere to the Historical District.

Mr. Rettke: Didn't realize it would be this tough, did you? I didn't either. I thought it was just a simple move.

Mr. Robbins: I don't think it's an easy question to answer either way.

Mr. Rettke: It's not. So, Justin, where do we proceed? Do we have to take a vote on—

Mr. Robbins: Yes. There's four options. Well, I guess there's two options on how to proceed and there's four outcomes. You can ask for it to be tabled. I don't know that that would resolve anything. I think there's larger questions unless the Board thinks it would be helpful to have the City Attorney come in and explain things. I'm not sure what his response will be, so, again, not sure how helpful that is. The second option is for the Board to take a vote. If the Board takes a vote there's "yes, as proposed," "yes, with additional requirements," there's "no." I guess there are three options. So, again, no matter what, Council gets a second take at it. If the Board says no, Council can overrule the decision based on the findings. If the Board says yes, Council can still adopt it as legislation and take another look at it.

Mr. Rettke: But we would have more than just 1145.09. We'd have the ordinance we could cite.

Mr. Enfinger: Once City Council does take it up, we've seen as recently the City Attorney's perfectly willing to step in and give his opinion on things. So he certainly will probably speak up if he does have a different opinion of the Board. So we know that by history. My opinion's my opinion. I can't speak for the Board. I speak for me.

So I make a motion we move to adopt Item B6, application for Special Exemption Use Permit, Item #167097.

Ms. Wallace: I'll second.

Mr. Rettke: Again, any votes in the negative should state a reason.

(Mr. Robbins called the roll. Mr. Stoffel voted "no, because I don't feel that just based on the code amendment it's Special Exception for all districts. It specifically says, 'shall not be permitted,' although I would have liked to have had more clarification on that if grandfathering did apply. But, based on information here, I'm going to vote no on that; and also "no" that it doesn't meet the requirements of Section 1145.09(a). Ms. Wallace voted "yes." Mr. Donovan voted "No, because of Section 1145.09(a) and the Ordinance 32-13." Mr. Enfinger voted "No, as pursuant to Ordinance 32-13 passed on May 28, 2013 by City Council, and with the consideration of Section 1145.09(a)." Mr. Rettke abstained.)

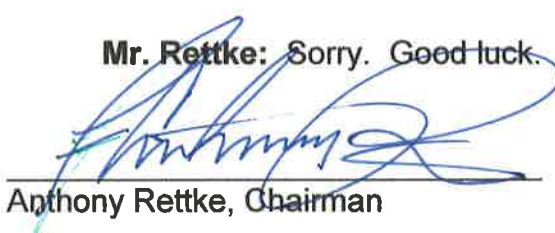
Mr. Robbins: As I had mentioned previously, any decision by the Board for a Special Exception can be appealed to Council. That appeal has to be in writing to Council Clerk and, from my understanding Council has 30 days to act on that appeal.

Mr. Johnson: We'll be there. Do we need to file some papers? We'll do it tomorrow.

Mr. Robbins: The Council Clerk's name is April Beggerow.

Ms. Smith: Thank you.

Mr. Rettke: Sorry. Good luck.



Anthony Rettke, Chairman

Justin Robbins, Planning