



AGENDA

**BOARD OF ZONING AND BUILDING APPEALS
THURSDAY, MAY 19, 2016 6:30 PM**

**PLACE: COUNCIL CHAMBERS
7232 E. MAIN ST, REYNOLDSBURG, OH 43068**

A. CALL TO ORDER

1. ROLL CALL
2. APPROVAL OF MINUTES

1. Board of Zoning and Building Appeals – Regular Meeting – April 21, 2016

3. APPROVAL OF AGENDA
4. SWEARING IN OF SPEAKERS

B. PUBLIC COMMENT

C. UNFINISHED BUSINESS

1. **6366 E. Main St.; Sixth Month Review of Application #170493; Applicant Jason P. Goss; Business Auto Direct Columbus; Permit #102-SE; Ord. #81-15**

D. NEW BUSINESS

E. OTHER BUSINESS

F. ADJOURNMENT

MINUTES

BOARD OF ZONING AND BUILDING APPEALS THURSDAY, APRIL 21, 2016 6:30 PM

PLACE: COUNCIL CHAMBERS
7232 E. MAIN ST, REYNOLDSBURG, OH 43068

A. CALL TO ORDER

PRESENT: Linder, Donovan, Enfinger
ABSENT: Rettke

2. APPROVAL OF MINUTES

Minutes stand approved.

3. APPROVAL OF AGENDA

Agenda stands approved.

4. SWEARING IN OF SPEAKERS

Chairman Enfinger: Good evening everyone. If we have anyone that would like to speak before the Board this evening. I would like for everyone to know that we need you so sign in so that we have a record of everyone that spoke this evening. I also need to swear in all parties. You can wait until you step up to sign in, just before you leave this evening, just make sure everyone signs the form. If you do plan on speaking this evening, I need you to swear in. So, if you could please stand and raise your right hand. Do you swear or affirm that the testimony you will give in front of the Board will be truthful? If so, please answer, "I do" (*Audible I do's.*) Thank you.

B. PUBLIC COMMENT

No public comment.

C. UNFINISHED BUSINESS

No unfinished business.

D. NEW BUSINESS

1. **6630 E. Main St.; Application #173126; Applicant: Tony Fredenberg; Business: the Kroger Co.; Special Exception Use Permit - Gasoline Station**

Mr. Snowden: Mr. Chairman, and Members of the Board, as you can see, all of our items except for item number twelve are going to be pertaining to one particular project. So I am going to give a combined Staff Report for items number one through eleven addressing all of these various applications. However, due to the manner that we handle special exceptions and variances, the Board will need to go through and improve each application. Does that make sense? I do not want to confuse anyone. That is the most efficient way if the Board is comfortable, rather than having me read the same information eleven times. I will proceed

Minutes Acceptance: Minutes of Apr 21, 2016 6:30 PM (APPROVAL OF MINUTES)

with the presentation as if this was one application.

Chairman Enfinger: Very good.

Mr. Snowden: Good evening. This was 6630 E. Main Street - Kroger - Major Site Plan, Variance, Special Exception Use Permit, Comprehensive Sign Plan. Application: #173126-173136. For the property located on the northwest corner of E. Main Street and Rosehill Road. Existing Zoning: CC - Community Commerce / CCO - Community Commercial Overlay. Request: Request for review of a major site plan, variances from the Zoning Code, special exception use permits and a comprehensive sign plan in order to construct a new commercial building. Current Use: Vacant land. Applicant: The Kroger Co. C/o Tony Fredenberg/David Hodge. The applicant is requesting the Board review and approve a major site plan, variances, special exception use permits and a comprehensive sign plan to construct a new 101,497SF commercial building, gasoline station and related improvements. In front of you is the site plan. The 16.47AC site consists of multiple parcels that have a variety of legacy uses, including residential dwellings, a mobile home park, a retail sales business, some personal services uses. The main tracts are undeveloped at this time, but were previously used for a trailer sales business. Along Main Street, the site abuts other commercial businesses, all in the CC district. To the north, the property abuts a multi-family housing complex. Along the northernmost lot line, the site is adjacent to single family dwellings in the City of Columbus. All parcels that front E. Main Street are within the Community Commercial Overlay. Records indicate that commercial zoning has been applied to the majority of the site around 1972. Site Layout - The applicant met with Staff several times during the pre-application phase. Staff requested that the applicant include pedestrian accommodations and access to the front of the main building. You can see along the center entrance drive there that the applicant has provided a walkway up from the public street that provides a safe access to the front of the building, which was at the request of Staff. The applicant has also moved the fuel center away from the corner of Rosehill Road and E. Main Street. It was shown in the corner where it says Phase 2 Development, that was shown as the fuel center in the original version of this plan that was presented to Staff in pre-application. The applicant was agreeable to Staff's proposed changes and Staff supports the general layout of the site plan. Staff has reviewed the site circulation study and found that the applicant is exceeding the minimum parking requirements of Table 1179. The required parking for grocery store is 1 space for every 300SF of building area. This would require the applicant to have 338 parking spaces on site, and they have provided 634 spaces. The applicant has provided a traffic study for review by the City Engineer. The applicant proposes to reduce the number of curb cuts on E. Main Street and Rosehill Road as part of this proposed development. So, each one of these parcels has at least one or several curb cuts, and the overall number of curb cuts is going to be reduced. We have two on Rosehill and three on Main Street, and currently there are five on Main Street and three on Rosehill, so we are reducing the overall number of curb cuts in general. The applicant has provided a detailed landscape plan showing proposed screening to the neighboring single and multi-family dwellings. Upon review of the plan, Staff requested that the applicant extend the proposed mound along the entire rear of property. After conducting a meeting with the neighboring property owners, the applicant has submitted a revised landscape plan extending the mound and adding a rear privacy fence. Staff is comfortable that the fence and the

amount of landscape materials shown on the plan meet or exceed the requirements of Chapter 1180 for buffering between commercial use. So, based on the Code, the applicant is above that, given the mound, and the landscape, and the fence. You can see my table of lot characteristics showing that the applicant is meeting the minimum requirement which is basically the site table that is in our zoning code. Variances - You can see that the applicant has requested several variances. The first group of variances, all but one of the variances pertain to Chapter 1196 of the Zoning Code. That is the Community Commercial Overlay. For those of you who are not familiar with the Community Commercial Overlay, it was enacted in about 2008-2009 to deal with some of the issues that were happening with existing commercial structures on Main Street. Mostly, these are small to medium sized commercial buildings in multi-tenant shopping centers. What that required was buildings to be up to the street, parking behind, a few other details. It really wasn't designed to apply to development of this scale. In this case, if you look only the portions that front E. Main Street, and not this lot back here where the majority of the applicants building is, is actually in the overlay. So, when it was written, it was written in a bizarre manner. You would have to cross over the overlay to get to this property back here. The tools that are provided for in that chapter, don't really apply well to a big box style development. That is just a fact. So the applicant has requested a variety of variances, including parking lot, light height, and mostly having to do with the orientation of the building. They can give you more of an explanation as to why orienting the building to the public street is not going to work for them, but I will defer to their various statements about that. I know that there are members who have questions. So basically, the applicants are asking to vary. They have complied with the materials requirements, and some site design requirements, but given the big box style development, they are not able to meet many of those regulations and that is why they are requesting the variances. The other variance is Section 1175.08. If you look in that section, there are some minimum setbacks for properties from neighboring residential uses. Those can be varied by 50% by the Board, as part of the site planning process, given that the applicant would have landscaping. In this case, the minimum would be twenty-five, and you can see the applicant is requesting a twenty foot setback for the parking lot. So, they would need a variance to get to that twenty. That is the only variance that doesn't deal with the Community Commercial Overlay, is this variance. I think that in the original application, one of the buildings was too close to the property line, but, once you look at that section that says you can cut it by half, with the Board's approval, you won't need the variance. You will only need it for the five feet along the south side of that multi-family.

Special Exception Use Permit - Drive Thru
The applicant has requested a special exception use permit for drive-thru service for a pharmacy. The proposed drive-thru is along the west side of the building. The drive-thru complies with provisions of Section 1196.07 that requires drive thru to be attached to the main building and located at the side or rear. The large setback of the building and the location of the attached drive-thru prevents vehicles from stacking back into any public street. The drive-thru is screened from the neighboring office use by a mound and landscaping that exceeds the requirements of Chapter 1180.

Special Exception Use Permit - Gasoline Station
The applicant is requesting a special exception use permit for a gasoline station. Gasoline stations are a typical part of this applicant's business model. Staff has worked with the applicant to move the gasoline station away from the corner of E. Main Street and Rosehill Road in order to allow a site for future commercial development directly on the corner. Staff is comfortable with the location because it is not adjacent to any of the

abutting residential uses and does not directly block the main structure. Obviously you don't want to create a situation where you have fumes from the fuel center creating a nuisance for any of the existing single family or multi-family. In this case it is about as far away as it can be, and still create these pads for future development. Comprehensive Sign Plan - Per the Code, the applicant is permitted one sign up to 760SF in area on the main building. The applicant has submitted a comprehensive sign plan showing 273.66SF of signage to be split up in 6 individual, internally illuminated signs. They are proposing less signage than they are entitled to per the Code. And they are proposing to break that up into the different uses and sub-services that they are going to be providing. I feel like what they are proposing is much more attractive than having one gigantic sign that is up to 760 SF which is what they are entitled to per the Code. The applicant also proposed 141.12SF of signage on the gasoline station. Signage areas for gasoline stations are very difficult to determine based on the code, but staff is comfortable the proposed signage is consistent with typical gasoline stations and is not overpowering the canopy. Calculating signage based on our code for fuel centers, is really hard because it says that it has to deal with the size of the tenant space. So, the question is, do you deal with the small tiny building where the payment goes, or do you deal with the entire canopy. That would be really too big. They could have a huge sign if you went with the entire canopy. What they are proposing is reasonable. I would like clarification, one of the drawings shows the canopy signage as LED and one shows it as copy change, so I want to just clarify. One final comment about the fuel center, in discussion Dan and I felt they are using the brick material that is on the main building pretty consistently throughout the whole site, except for whatever reason on the small payment building at the fuel center they are proposing a CMU wall panel. Dan and I would like to see that brick material utilized as well. The applicant is proposing a 118.02SF ground sign with multiple sign panels for service uses and an LED style sign for fuel pricing. Staff supports that idea that the applicant is concentrating all of their signage is one location rather than having separate ground signs for the store and gasoline station. The proposed signage is larger than would be permitted under the Community Commercial Overlay, but a building setback of this distance was not envisioned when that Chapter was enacted. The applicant worked Staff to lower the height of the sign, change the style and materials to be consistent with the design on other signage along E. Main Street. They have also extended the materials from the main building to the ground sign, which is great, and they have mimicked some of the design choices that were made for other signage when the Main Street streetscape was done, and they have mimicked that in their design, while still utilizing the materials for their site. They are entitled to one per lot, and then the Rosehill one, they would be entitled to two on that lot since it is a corner lot, so they would be up to three, so if they are down to two, we are still at less signage than they would be entitled to.

Mr. Donovan: Does it also include the names on that sign on Rosehill also?

Mr. Snowden: I will have to take a look. It is in the file. It is in the sign packet that is in your packet. It looks like just the fuel LED signage. It is that sign package on the second or third page of the 8x11 sign cut sheets. It says consistent with the other one as well.

Mr. Donovan: They would both be the same kind of sign?

Mr. Snowden: They are similar in size. Rosehill has a smaller scale so it would be nice not to have the same type of signage that we are having on Main Street.

Mr. Donovan: Are they speaking of putting a traffic light anywhere on one of those cuts?

Mr. Snowden: I am going to refer to the applicant, but I did not see that in the traffic report. Let me wrap this up since you are eager to hear from the applicant and his team. The Board should determine if the applicant has met all the criteria for major site plan review and approval as outlined in Section 1143.03(c) of the Zoning Code, and if the site plan as proposed will have a negative impact on the public health, safety, morals, comfort and general welfare. Staff finds the proposed site plan in compliance with those standards and recommends approval of the site plan as submitted. Staff also recommends that the required variances and special exceptions be approved based on the standards contained in those chapters of the Zoning Code. Staff recommends one condition of the site plan approval: That the applicant be required to submit new architectural drawings to the Design Review Board and Staff, utilizing the same brick material for the gasoline station structure that is used on the main building. With that, I will turn things back over to Mr. Enfinger, and I am here to answer any questions. To give the Board insight into what I am dealing with, we do not have what is called a Planned Commercial District here in Reynoldsburg. I have everyone here trained that when you have a high number of variances that you might have a problem. For two reasons, I do not think that is the case here, one is because all of the variances they are requesting are from the same overlay district that they simply can't meet because of the type of development, two, we don't have a Planned Commercial District where instead of having to get all of the variances, you could have just gone to Planning Commission and City Council with a site plan and gotten that approved. I have been treating all of this as one big package. These are the things that need to happen in order for Kroger to construct generally what they want. My view is that everybody is just viewing this as one big case. So, unless anyone has strong objections to one particular Special Exception Use Permit, I think it would be best to proceed in that manner.

Mr. Hodge: 8000 Walton Pkwy., New Albany, OH 43054. I am the attorney for the applicant, the Kroger Co. A preliminary remark first, it is a bit of a point of pride for me to be in a position to be legal council for the Kroger Co. My second job was a bagger, or a courtesy clerk at Kroger, and nobody in the world except my mother thought I would be in the position one day to be Kroger's lawyer, but here I am. Thanks mom! This is an exceptionally complicated site. It is about 16.5 acres. It is thirteen different parcels. It is six different property owners. It is a relatively complicated assemblage. It is also currently zones, and has been for a very long time been zoned, in the CC - Community Commerce District. It is largely undeveloped property. There is a horse barn, single family residential, and office, some general retail, and a trailer park. Truly, this is, over the course of a pretty long term, arguably 1972, a target for development in the City of Reynoldsburg, and certainly an economic development target for the City of Reynoldsburg, for job creation and general economic health. The applicant here is not a mom and pop. This is the Kroger Co. And they are the major regional grocer in our market, and surrounding markets. Eric made a fantastic presentation and it is truly complex in terms of the number of variances necessary, the two Special Exceptions, the Comprehensive Sign Plan, and the Major Site Plan, and it is

a lot. And Eric is absolutely right, in most instances in other municipalities, in the City of Columbus where I do a lot of work, and Eric use to be in the City Clerk's Office, they have a Commercial Plan Development District which allows you to develop a site plan and write some texts to go along with it, and then you go through a rezoning process. You go to the Planning Commission and eventually to City Council. Unfortunately that is not available in Reynoldsburg. But, fortunately there is more than one way to skin the cat. And, the way to skin the cat in Reynoldsburg today, is through the variance process, and the special exception process. So, without belaboring all the technical issues, I feel like this process always works best when there is question and answer, and when neighbors are engaged, and issues are addressed. A couple of remarks in terms of the request. For us, the biggest issue with development of this commercial property, and for the neighbors, the biggest issues with development if this commercially zoned property is the perimeter. The Kroger Co. Recognizes that issue. If folks had their druthers, and I do this a couple of nights a week for the last fifteen years, when they live next to a field, their preference is that that stay a field, and I understand that. It is truly incumbent on the Kroger Co., and us as a team, to develop a strategy, to take appropriate measures, to mitigate the impact on the residential neighbors around the perimeter. And, before the meeting we passed out an updated landscape plan. That landscape plan becomes a commitment through this process. Essentially, what has happened around the perimeter, most specifically the single family residential perimeter, is that a landscape perimeter has been created. It is mounding along that perimeter, from three to five feet in eight. It is a six foot board on board fence on the top of the mound. It is landscaping on both sides of the fencing and the mounding. So. It is truly the creation of a landscape barrier. That is the big one for us, and probably for the neighbors. All that has to be tempered with the fact that it is zoned commercially, and it has been for a very very very long time, forty-three years it has been zoned commercially. That is relevant, and it is an important factor here. So, because we understood the sensitivity with introducing some commercial development along the residential perimeter to the north, we invited the neighbors out, had a meeting, and we shared the updated landscape plan, and we attempted in earnest to answer their questions, and to reach out to our neighbors and try to address those issues. So, we have truly tried to address this responsibly in terms of that buffer. The remainder of the other variances are to this overlay. The overlay, as Eric indicated, is not the kind of development that is appropriate for the overlay. Kroger is in the business of providing a necessary service to their customer base, and they are effective at it, and they know what is necessary to effectively deliver that service. With relatively few exceptions, this is the model of the Kroger store. It is the model of the Kroger stores that I shop at, and it is the model of the Kroger store that is already here in Reynoldsburg, and it is the model of just about every Kroger store I have ever seen. They know how to operate their business. The overlay is generally an esthetic type of regulation to bring buildings to the street, and to provide a pedestrian corridor, and to have window glass on the front, and to create this late 1800/early 1900 Americana, and that is not what is going to happen here. It is likely to happen on Main St. anyplace. We have requested variances to many of those regulations that we just cant possibly meet. Now, there are a couple of special exception requests associated with this. One special exception is for the fuel center. There is a special exception statement that is part of the package where we went in and addressed the various special exception criteria. Really those special exception criteria are applicable to service stations where there is a service provided, that is not what his is. We have all been to a Turkey Hill, or a Kroger

Fuel. This is a relatively small convenience kiosk and gas. It is addressing the special exception statement, and I think we more than meet those legal requirements. The other Special Exception request is for the pharmacy drive thru. That is up at the northwest side of the building there. Both, in terms of the pharmacy, we think it is sensitively located, behind the buffer, not detrimental to the residential neighbors at all, and in terms of the pharmacy itself, and the gas sales, these are really integral parts of a Kroger, or really any grocery store. I will do my best to answer any questions that you have, but in terms of the variances requested, the two Special Exceptions requested, the Comprehensive Sign Plan, the Major Site Plan request, I think we more than meet and exceed the legal requirements for the grant of the variances and special exception requests. Really, this is an important redevelopment in Reynoldsburg. We think we have been sensitive, we have worked hard with Staff and submitted all of the necessary requirements, and we are hopeful that you will agree that we have been responsible, and that this is a commercially zoned property, and that this is the appropriate type of development to go here.

Chairman Enfinger: Ladies and gentlemen, at this time I will open it up to public comments.

Mr. Fleming: My name is Chuck Fleming. We own one of the residential single dwelling homes right behind the existing farmland. There are a lot of concerns we have about the vagrancy, the view. But, two are the main concerns are we would like a ten foot noise mitigation type wall. The small mound of dirt and a few deciduous trees, and a six foot wooden fence, is not going to get it. It is not going to block the view of the building, or the trucks, or the traffic that is back there. And, we have six foot fences all along some of those properties and they deteriorate and fall apart. Anyone that wants to get into our yards can simply pull the boards off, or climb over the fence. So that is a concern. The landscaping they are talking about is deciduous trees. I do not know what purpose they are going to serve. They are going to be bare six months out of the year, and they are going to put a lot of leaves in our back yard that we don't need. To me that is a real waste. If they want to put up some pine trees and such, I think that would work. The other concern, we have power lines, telephone poles that go down through our lots, the company should have access to these telephone poles. They can't be driving trucks into our yard to work on these telephone poles. There is a transformer that is out behind our house, and that went out last year, and they had to drive the trucks up onto that farmland to get to it. AEP goes back into there to trim trees. I feel we need an easement, and at least a ten foot wall back there for safety, privacy, and noise, and something that is going to be lasting. That is all I have to say and I know there are others that would like to speak.

Ms. Fleming: Hi, I am Sondra Fleming. I also live at 6527 Portsmouth Dr, and on the schematic, that is lot 137. I understand that nothing stands still, and everything moves on. I was fortunate enough to live here for the last eighteen years, looking out over a beautiful green pasture, and the trees. But, as I said, all things come to an end. But, with that being said, that is fine that that comes to an end, but this is impacting the value of our property. I they put this store in my back yard, that will drop my property values by \$20,000 to \$30,000. The only way I am going to leave it is if I have to go to a nursing home. I think the wall would be one way of retaining some of our property value. Our neighbor next door is wanting to sell their home. They are a young couple and wanting to move to something

larger. We are not going to be able to sell these homes with that little puny three to four foot high mound, and a deciduous tree that is vacant for six months out of the year, and will probably die four years down the way, and they probably will not replace it. I think that should be taken into consideration when you guys make these final decisions. That is all I have to say. Thank you very much.

Ms. Hartley: My name is Shelby Hartley and I live at 6519 Portsmouth Dr. Mr. Chairman and Board Members, thank you for letting us speak this evening. I live in, and own the property, directly behind the proposed site. The Kroger Co. And their representatives were kind enough to meet with us earlier in the week to talk about some of what they were planning to do with the development, and to listen to some of our concerns as well. I think I can echo the sentiments of my neighbors that we do have some concerns with the proposed site. First and foremost that I have are the property values. I have spoken with some area realtors and they have told me that my property values could decrease by 1/3, should this business go in on the proposed site. And, like Mr. And Mrs. Fleming, I plan to be there for a long time. I have lived there for seventeen years. Having something like this directly in my back yard is going to impact my property values considerably. There is just no getting around that. A six foot high wooden fence on a mound of dirt, that may or may not be maintained, and I know Krogers was very quick to assure us that they would maintain a wooden fence, but one only has to look at the other wooden structures around the City of Reynoldsburg to know that they are not well maintained right now. They fall down, they invite crime, they invite vagrants. I don't see how this is going to change with a six foot high wooden fence with some pine trees to help with the noise mediation issue. Wooden fences rot, they fall down, they don't last very long, and I don't think they will withstand a winter. How is going to maintain them then? That is one of the concerns that we have. Safety is another factor. It will be no time at all before kids, quite candidly pan handlers, drug dealers, are going to end up behind that facility. There will be no time at all before they notice there is little barrier between the Kroger store and a residential neighborhood. They are going to hop the fence, they are going to knock it down, they are going to be in our back yards, and we are going to be left to deal with the problem. So, I do respectfully ask Kroger and the Board Members to consider some type of noise mitigation wall that they use along the interstates. Something higher than 6'2", that would property maintained. Along with more landscaping than deciduous trees that again, aren't going to bare leaves during the winter months. Noise mitigation is another factor I would like to bring up. We were told at the meeting on Monday night that Kroger semi trucks are going to be coming in there 24/7. They are going to be docking right in our back yard, and they are probably going to be idling. A wooden fence is going to do very little to mitigate that noise and the fuel emissions are going to be coming into our back yard. We have the right to spend time in our back yards and enjoy the outdoors. And frankly, looking at the proposed plans, I don't see that being an option, and I think that right is going to be taken away from us. My neighbor also brought up a very good point at Monday's meeting regarding the utility companies having access to their equipment back there. I understand now there is an easement where they are allowed to go back. Our power goes out frequently. If they don't have access to their equipment back there, it is going to be a big problem for us. Or, if they are delayed in getting back there because trucks are parked there for whatever reason. That is something I think also has to be considered. I realize I can't prevent the sale of this property from taking place, or Kroger

from buying the land. It is not my intent to do that. I want to be a good neighbor and I am sure Kroger wants to be a good neighbor. And, I just feel this has to be done the right way and I just not sure the plans they proposed offer a lot of security for the property owners. As I mentioned Monday night, they are pretty pictures, they have done a lot of work. It does little to alleviate a homeowners concern when you see something of that size coming into your back yard. I will point out too, the City of Reynoldsburg has a lot of blighted property they have deal with along Main St., along Livingston Ave. I just don't want something like this to come in and damage my property values with something like this being constructed. We don't want a nuisance that we are going to have to deal with for years to come.

Mr. Snowden: Mr. Chairman, if I could just interject. I am assuming that if there is an easement back there that it is probably on the subdivision plat?

(Inaudible)

Mr. Snowden: They are getting back there because they can see it from the street, and they say, hey there is an easy way for me to get back there so I am just going to do it.

(Inaudible)

Mr. Snowden: For clarity, there is a utilities easement on the subdivision plat? Ok.

Chairman Enfinger: Any further comment? So, Mr. Hodge, I do have a few questions. And, since we did not have the opportunity to be at the meeting, could you maybe give the perspective of Kroger so that we can understand the concerns with the deciduous trees versus evergreens. I know that some of the requirements are probably in the Code. Maybe talk a little about what you are proposing.

Mr. Hodge: I think this is probably the best way to take a look at what is being done.

Mr. Snowden: They have that in front of them right now.

Mr. Hodge: So, along that residential perimeter is a forty foot landscape buffer. And the goal here is to create a barrier. It was forty feet in width, along the center of the barrier is a mound, and the mound is four to five feet in height. So, this depicts a four to five foot mound in the middle of that landscape buffer. At or near the top of the mound is a six foot board on board fence that will go up. On other side of the fence, along the edges of the mound, trees will be installed, both deciduous, and a row of evergreen. And, if you look, you will see the fence. On the southern portion of the fence is a row of evergreen trees. They are expected to reach forty to sixty feet at maturity. They are five to six feet at installation.

Mr. Donovan: If you are going to put those in there, they are on the wrong side of the fence. Deciduous trees are going to get leaves in their yards.

Mr. Hodge: We are perfectly willing to put the evergreens on the residential side of the fence, and flip flop the plan. Our goal was just to create a landscape barrier.

Mr. Snowden: Mr. Hodge, a comment from Dan and myself, clearly there is some concern about the fence materials not being adequate enough. Rather than go to a stone type fence, would the applicant have any concerns with utilizing a vinyl type fence that could not be easily disassembled?

Mr. Hodge: Vinyl fencing is less expensive for Kroger to do than board on board.

Mr. Snowden: I am aware of that, I was just wondering how folks feel about the materials in general. Mrs. Fleming, I can not have people speaking off the microphone, I am sorry.

(Inaudible voices from room.)

Mr. Snowden: He is the applicant. He is being given a rebuttal to make additional comments and answer questions of the Board.

Chairman Enfinger: We are talking about, not just a three board vinyl fence, but a privacy vinyl fence? Not like what we see throughout New Albany. So you are agreeable to that?

Mr. Hodge: We are.

Chairman Enfinger: That way that address some of the concerns about the longevity and maintenance of the wood. The vinyl has a lot longer shelf life, so to speak, it will weather much better, and look nice. As the neighbors were speaking, I was jotting down the primary concerns so that I could revisit them.

Pastor Linder: Just what would be your comments related to noise abatement, in this set up?

Mr. Hodge: Obviously, as we have been discussing, there is this landscape barrier that has been created along the property line. There were some comments regarding truck traffic, and things like that. The expectation is that the store is going to have reasonably. Truck deliveries do not occur all night. Trucks don't sit and idle overnight. I don't know what the distance is from Main St. There is already some main Street noise for these residents. We are not going to deny that there is going to be some truck traffic up to the delivery docks. But it is not idling overnight or irregular hours. By in large, they are making the deliveries during regular business hours.

Pastor Linder. Thank you. To get a feel for what happened Monday, did you have twice the number at that meeting?

Mr. Hodge: We had probably three times that number. Some of the commercial folks to the west were at the meeting. I don't know if there were any other residential neighbors there. It was my impression that those were mostly commercial folks from the small office uses to the west.

Chairman Enfinger: With regards to the loading docks, which side will the trucks be coming

in. Are they coming in from the east side?

Mr. Hodge: They back up to the shaded area there, and it is recessed, so it drops down below grade.

Chairman Enfinger: When they go in, do they back in?

Mr. Hodge: Let's say they came in from that western most access point, they would go straight in from the back, pull to the east, and then back down. And, when they leave, they come back down and around, and out the Rosehill Road access point. They may go straight out, although there is a light at Rosehill, so they may take the other route.

Chairman Enfinger: So where I am going with this, if the residents would really feel comfortable with a wall, instead of running a wall the entire length of the back of it, what about shielding the loading dock? Especially if the trucks sink down as they head in, is there any feasibility to putting a six to eight foot wall there that will shield the noise?

Mr. Hodge: We do not think that a six to eight foot wall is going to make any difference at all, in terms of noise abatement.

Mr. Snowden: Just to give everyone some realistic understandings, typical freeway scale go from fifteen to twenty-five to provide minimal level of improvement. And the distance between the highway noise being much greater and the distance being further.

Mr. Hodge: Part of our effort here as these discussions have occurred, our effort was to have a landscape architect do something that is esthetic. Let's make this a landscape barrier, and plant trees like crazy. Trees that are going to grow to thirty to forty feet at maturity. And, make this so that these back yards are usable, and they are not looking at an ugly freeway wall. Let's have it so that it is something that is a natural buffer, does something that it is suppose to do, and it is esthetic for those back yards.

Chairman Enfinger: I read through your presentation, and I made a few notes, and I have a few questions. As far as the orientation of the building and how it is moved all the way to the back, I know this is the typical application, but if you could expound and let me know why you are opposed to bringing it forward. There are some issues like the trucking and where that happens, but just top be dismissive as to it applying to this style of development, I think we could at least have that conversation. Could you address some of the concerns?

Mr. Hodge: As I mentioned earlier, Kroger, with relatively few exceptions, and these corporations are constantly improving and tinkering, and getting all of this down to an absolute science. An example of this is at a fast food restaurant, they even put feet on the floor to show guys where to stand. It is a time tested proven method, and with relatively few exceptions, this is the model with how these stores work best in terms of customer interface, in terms of parking lot circulation, in terms of customer safety, in terms of the deliveries, and from my perspective, in terms of esthetics. I drove into town, and I have been to Reynoldsburg a ton recently. I have seen the Harbor Freight many times. The Harbor

Freight building probably complies with the overlay, I do not know if they got variances or not, but in terms of a big box development, it does not promote the esthetic that those overlay standards are driving towards. For me, it is too massive of a structure. The overlay is for out lots and single lots development on Main Street where you have the window glass up front, you promote the pedestrian corridor. It doesn't really lend itself to a big box development like this.

Mr. Gardner: Andrew Gardner, Civil Engineer for Kroger. To expand on that question, this was not the first site plan we drew, it was not even the last. I have looked at spinning that blueprint many different ways, I have turned it, I have put it against the street, to try to match the overlay. A couple of things that happen when you do that, let's say you turn it sideways and you try to put it up against the street, what we wind up with is the majority of our parking field to the side of the store, which certainly does not work well for the grocery store model. People are coming out of the front of the store, they want to go to their vehicles. The other issue it creates, if you turn it and you put it up against the road, these Kroger stores have two entrances, one of those entrances invariably is very close to where traffic is trying to exit the site. You will have a drive coming in, and you will have people coming out, and what happens when we are that close to the road, cars are stacking up in front of the entrance. I have this on other Kroger stores, I do them all over the state, and it is a problem. That is a safety issue, having cars stacked with people coming out as well, to try to access the road. That combined with the parking, in working with Staff, I committed that the corner would be some type of future development where the building will need to be up on the corner to try to meet more of that overlay esthetic. So, to have this building up front, and to force the parking in the rear or side, really does not work well for the grocery store model, and it really does not leave us any room to make the site work. The trucks, similar issue, we will have the trucks pulling in and trying to back right down into the loading dock, very close to either the commercial properties there or over here. If we go into the store the other way, you have all this space behind it and then you try to get the trucks in there. We could not make it work and make a parking lot that was functional for Kroger with that orientation. Hopefully that makes sense.

Chairman Enfinger: My follow up would be, I find that the opposite would be the case if you go to like Easton. They built the new Whole Foods right up against the road. To me that looks fantastic, and the parking is on the other side. Hearing you say that you worked at it to try it, at least I know this wasn't the first thing and that you didn't say this is what we are going to do, end of discussion. It just doesn't work, you can't pull it forward?

Mr. Gardner: Again, it really makes it difficult for the parking lot if the bulk of the parking winds up on the side of the store to the north, which does not function well for Kroger. Unless we put an entrance out the north side, which doesn't work for fixturing inside of our store. You know, there are certain things that have to happen inside this store as well, where the pharmacy and deli are. So, to have all the parking on the side, really creates a difficult problem with pedestrians coming out without having to walk that distance. I am not familiar with where the Whole Foods is at Easton. Easton is largely also geared to a very pedestrian type development. People are going to drive to this Kroger store. I know the idea is to promote pedestrian traffic along Main St. But, by in large, people will be driving to this

Kroger store. They need the convenience of having the parking as close to the entrances as possible.

Chairman Enfinger: I guess I hate to push the point, but people are going to come to Kroger no matter what. The responsibility we have is to take the long term view of things. The way the development is going, it is very pedestrian, it is multi use. This model is forty - fifty years old. I know it works, but as things move forward, to just re-install an old model, things are changing. I know you guys are confronting this and dealing with it. But, that is my perspective. I think that if the gas station works close to the street, why cant the actual building itself. I know we are really far into it and it is already at this point. This is probably a Design Review Board question, but it is a question that I had.

Mr. Snowden: It is a perfectly legitimate question, and I will state that the applicant has provided Staff with multiple site plans. With the exception of what you are talking about, they did everything else that staff asked them to do in terms of the building site. With regards to the issues that some of the neighbors are having, if you bring the building up to the front, then you are going to be pushing the parking towards the rear, and so there is going to be just as much, if not more activity of vehicles, and folks in that area. And, I think that concern is not mitigated regardless of that.

Pastor Linder: Mr. Hodge, can you speak a little bit to what Kroger's practices are as to security around the building and behind the building, in their present locations?

Mr. Hodge: Sure, we actually have their Loss Prevention Representative here with us this evening. The experience at the existing Kroger store is that throughout the day it is mostly seniors that shop at the store. In the evening hours there is a mix. Really low crime at the store. At this store, and at all their other stores, there are issues with shop-lifters. It is my understanding that the Reynoldsburg Police response time is phenomenal. Those are their words, not mine. There are video monitors. I am told that typically those come into play when somebody says their car was hit in the parking lot or that when someone states that their credit card was used at the store. It is all monitored. It is well lit. It is patrolled by the employees daily. It is something that Kroger has a designated group dedicated to loss prevention, and monitoring their site in terms of security, and this one will be no different.

Chairman Enfinger: To revisit the Comprehensive Sign Plan, are there any questions that we have on that?

Mr. Snowden: the applicant should just clarify, and I am pretty sure, that all of the fuel signs are LED signs, correct? The cut sheets show LED, so as long as any further submissions, the zoning sign plans, and the building plans show LED, then I think we are in the clear.

Chairman Enfinger: There was a Staff condition that the building material for the gas sales kiosk be the same building material as the store, and we do agree with that condition.

Mr. Snowden: So, Mr. Chairman, you want to make that condition under the site plan, which is number three on the Agenda. Before you make any motions, I would recommend, given

that I had to cut off one of the members of the public, that you give people another chance to speak. I do not want anyone to feel as if their voices were not heard, but I just can't have folks speaking at the same time, and not on microphone. I apologize Ms. Fleming, had I known about your foot, I would have had a microphone for you.

Chairman Enfinger: Yes, do any neighbors have rebuttal comments.

Mr. Fleming: I just want to reinstate my concerns. This ugly highway fence that he is talking about, some of those fences they have been putting up on 71, and around 270, to protect the homes that are along those highways. That wall would last forever. It looks nice, and it would be high enough to eliminate a lot of noise, and if they want to put those pine trees on the north side of that wall, in another ten to fifteen years, you probably would not see that wall anyway. But, it certainly would be more beneficial, and more secure, and more pleasant looking, than a pile of dirt and a wooden fence with deciduous trees. I am sorry, but that just don't get it. The other concern, the easement goes through our backyards. Those telephone poles are two feet inside of our fence line. Those AEP trucks, and some of those other utilities that come back there, can not come through our yards. They have to have access. There is going to be a problem down the road if they don't have some access. One final comment, whatever wall they put up there, we would appreciate the wall going up before construction starts. That's it.

Mr. Snowden: I did not want anyone to feel they got cut off, it really is a procedural thing.

Ms. Hartley: I just want to make a few comments. With respect to the semi truck traffic, this is in direct contradiction what we were told Monday evening by the Kroger Representatives, because they told us there would be deliveries there 24/7, and that is a problem for us. My ninety year old mother lives with us. There is no way she is going to be able to get any sleep with truck traffic coming in and out of there 24/7. You have to realize how close these homes are to that property line. I think we all want what is best for the community. We want something that is going to be esthetically pleasing to the residents, that is not going to hurt our property values more than it probably already is, something that is going to be well maintained. It is fine when you put up these structures and they look good for about six months, but we need assurances from the Kroger Company that it is always going to be maintained, it is going to be mowed and weeded, and it is not going to be an eyesore. I would like some clarification and I want it on the record about semi truck delivery. Is it going to be at all hours of the night? Can the trucks remain idle for a certain period of time? What are the ramifications if they don't meet those obligations?

Mr. Snowden: To answer those questions from the standpoint of zoning. There is no requirement. They can have deliveries at any time they wish. I recommend that the Board not make that a condition of any approval, because it simply is something that is impossible for Staff to attempt to enforce. I think we should confine ourselves to the physical characteristics of the site and not operations.

Chairman Enfinger: Did you understand what he was saying? We have certain limitations that this body has any purview over. Operationally, we don't have anything we can dictate

on that.

Mr. Donovan: I would like to know what your hours of operation are going to be.

Mr. Hodge: 6 am to 1 am are the standard hours of operation. Things change over time. They don't presently have twenty-four hours, but they could in the future. As it stands today, 6 am to 1 am.

Chairman Enfinger: is that for the gas station also?

Mr. Hodge: Typically 11 pm. Just to sum up. It is a big project for the property. It is a big project for the neighbors. It is a big project for Reynoldsburg. We understand it is difficult, and it is impossible for everybody to walk out of the room totally happy and satisfied. I recognize that. The property does have commercial zoning on it. We have worked in earnest to try to mitigate concerns, to build this landscape barrier, and to provide for responsible development. This is an important store for Kroger. They are forced out of the other location. They want to be on Main St. They want to build a store that is more than three times larger than their existing store to provide a better service to Reynoldsburg customers. State of the art, beautiful architecture, on a property that has been for a very long time on the development target in the City. We respectfully request approval of the variances, the Special Exception, the major Site Plan, the Comprehensive Sign Plan, and we stand ready to answer additional questions.

Chairman Enfinger: I have no further questions. Does anyone else from the Board have additional questions.

Mr. Snowden: I don't know what the Board has decided regarding the landscape plan revision, but that should be a condition under number three, if that is the will of the Board.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Aaron Enfinger, Chairman
SECONDER:	Richard Donovan
AYES:	Linder, Donovan, Enfinger
ABSENT:	Rettke

2. 6630 E. Main St.; Application #173127; Applicant: Tony Fredenberg; Business: the Kroger Co.; Special Exception Use - Drive Thru Service

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Aaron Enfinger, Chairman
SECONDER:	Richard Donovan
AYES:	Linder, Donovan, Enfinger
ABSENT:	Rettke

3. 6630 E. Main St.; Application #173128; Applicant: Tony Fredenberg; Business: the Kroger Co.; Major Site Plan Review - New Commercial Building

Chairman Enfinger: I make a motion that we move to adopt given these certain conditions:
 1. That the architect be required to submit two drawings to the Design Review Board and Staff, utilizing the same brick material for the gasoline structure that is used on the main building, as well as an amended landscape plan that includes the vinyl fence, and moving the evergreen trees to the north side of the fence submitted to Staff as well.

RESULT: APPROVED [UNANIMOUS]
MOVER: Aaron Enfinger, Chairman
SECONDER: Richard Donovan
AYES: Linder, Donovan, Enfinger
ABSENT: Rettke

4. **6630 E. Main St.; Application #173129; Applicant: Tony Fredenberg; Business: the Kroger Co.; Variance from 1175.08 of the Zoning Code of the City of Reynoldsburg**

RESULT: APPROVED [UNANIMOUS]
MOVER: Aaron Enfinger, Chairman
SECONDER: Richard Donovan
AYES: Linder, Donovan, Enfinger
ABSENT: Rettke

5. **6630 E. Main St.; Application #173130; Applicant: Tony Fredenberg; Business: the Kroger Co.; Variance from Section 1196.05(A) of the Zoning Code of the City of Reynoldsburg**

RESULT: APPROVED [UNANIMOUS]
MOVER: Aaron Enfinger, Chairman
SECONDER: Richard Donovan
AYES: Linder, Donovan, Enfinger
ABSENT: Rettke

6. **6630 E. Main St.; Application #173131; Applicant: Tony Fredenberg; Business: the Kroger Co.; Variance from Section 1196.05(B) of the Zoning Code of the City of Reynoldsburg**

RESULT: APPROVED [UNANIMOUS]
MOVER: Aaron Enfinger, Chairman
SECONDER: Richard Donovan
AYES: Linder, Donovan, Enfinger
ABSENT: Rettke

7. **6630 E. Main St.; Application #173132; Applicant: Tony Fredenberg; Business: the Kroger Co.; Variance from Section 1196.07(E) of the Zoning Code of the City of Reynoldsburg**

RESULT: APPROVED [UNANIMOUS]
MOVER: Aaron Enfinger, Chairman
SECONDER: Richard Donovan
AYES: Linder, Donovan, Enfinger
ABSENT: Rettke

8. **6630 E. Main St.; Application #173133; Applicant: Tony Fredenberg; Business: the Kroger Co.; Variance from Section 1196.09(C) of the Zoning Code of the City of Reynoldsburg**

RESULT: APPROVED [UNANIMOUS]
MOVER: Aaron Enfinger, Chairman
SECONDER: Richard Donovan
AYES: Linder, Donovan, Enfinger
ABSENT: Rettke

9. **6630 E. Main St.; Application #173134; Applicant: Tony Fredenberg; Business: the Kroger Co.; Variance from Section 1196.10(A) of the Zoning Code of the City of Reynoldsburg**

RESULT: APPROVED [UNANIMOUS]
MOVER: Aaron Enfinger, Chairman
SECONDER: Richard Donovan
AYES: Linder, Donovan, Enfinger
ABSENT: Rettke

10. **6630 E. Main St.; Application #173135; Applicant: Tony Fredenberg; Business: the Kroger Co.; Variance from Section 1196.10(B) of the Zoning Code of the City of Reynoldsburg**

RESULT: APPROVED [UNANIMOUS]
MOVER: Aaron Enfinger, Chairman
SECONDER: Richard Donovan
AYES: Linder, Donovan, Enfinger
ABSENT: Rettke

11. **6630 E. Main St.; Application #173136; Applicant: Tony Fredenberg; Business: the Kroger Co.; Comprehensive Sign Plan**

Mr. Snowden: I think Mr. Hodge has worked with us enough to know the procedure almost as well as I do at this point. But, the items to complete your review are listed on page six of our Staff Report, except that the Special Exceptions will be forwarded to City Council. I will provide that to you in writing. Any other questions, you are welcome to get a hold of me during our normal business hours.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Aaron Enfinger, Chairman
SECONDER:	Richard Donovan
AYES:	Linder, Donovan, Enfinger
ABSENT:	Rettke

12. 7088 E. Main St.; Application #173147: Applicant Viktor Prozapas; Business: Adrenaline Trampoline Park; Special Exception Use

Mr. Snowden: 7088 E. Main Street - Adrenaline Trampoline Park - Special Exception Use Permit. Application: #173147 - Special Exception Use Permit. Location: Property is located on the north side of E. Main Street between Aide Drive and Briarcliff Road. Existing Zoning: CC - Community Commerce / CCO - Community Commercial Overlay. Request is for a special exception use permit to operate a commercial recreation facility. Current Use: Retail Sales. Applicant: Viktor Prozapas. The request of the applicant is for a special exception use permit to convert an existing retail sales establishment into a commercial recreation facility use. The facility will be a trampoline park that has small attached party rooms. The entire site consists of a multi-tenant commercial building in the CC - Community Commerce District. The properties to the north are single family homes in the R-3 district, which are screened by fencing of various styles. To the east, the property is adjacent to a commercial shopping center in the CC district across Aide Drive. To the south, across E. Main Street, the property abuts other commercial businesses. To the west, the property abuts a residential care facility use in the AR-1 district. All parcels that front E. Main Street are within the Community Commercial Overlay. In this case, just a couple of comments from staff. Commercial recreation facilities are listed as a special exception use, which is why this permit is required. The proposed facility will be adjacent to a fitness gym, and several retail stores. Although the use will appeal to all ages, children are one of the primary users of the property facility. Since the trampoline activity takes place inside of the structure, no exterior loading or unloading activity along the rear service drive will be adjacent to any location accessible to children utilizing the facility. That is always one of our concerns when we are dealing with any use that appeals to children. Although we have dealt with daycares that have play areas adjacent to these loading areas. In this case, the activity takes place inside of the structure. Staff is not concerned that there will be a danger of children becoming injured due to any adjacent uses. The interior nature of the use will not increase the noise impacts to the adjacent single family beyond the impact of the retail sale use. The exterior appearance of this is not going to be significantly different, than the retail sales, because it is taking place inside. I think one of the reasons that a commercial recreation is a special exception is because it also can include golf courses and batting cages, and outdoor sports activities. But, in this case, the applicant is proposing to utilize an existing building. The difference between this and commercial retail is going to be pretty limited from the standpoint of the physical site. The applicant has provided a parking plan showing that 513 spaces are provided on site. If the entire complex was developed as retail sales uses, only 509 spaces would be required. The parking requirements for the proposed recreation facility are the same as retail sales: 1 space/200SF of building area. So again, the parking requirements for this type of use are not different than retail, so it still can be accommodated at the existing site. I recommend that the Board should apply the standards

Minutes Acceptance: Minutes of Apr 21, 2016 6:30 PM (APPROVAL OF MINUTES)

for review of special exceptions contained in Section 1145.09 of the Zoning Code and determine if the proposed special exception complies with those standards. With that I will turn it back over to the Board and I would be happy to answer any questions.

Chairman Enfinger: Do we have any questions?

Pastor Linder: I know you opened one up in Hilliard. How long has that been opened.

Mr. Prozapas: I am Viktor Prozapas of Adrenaline Trampoline Park. The Hilliard location has been open for about six months now.

Pastor Linder: You mentioned that most of your staff members are younger people, is there any age limit in terms of coming into the park unaccompanied by an adult, or that sort of thing?

Mr. Prozapas: Everybody under eighteen has to have adult supervision to come in because at least first time they have to come in with their parents to sign the waiver. After that, we would allow teenagers to come in, but anyone under ten years old has to be with their parents to come into the building. After that, if they would leave the kids in the building, kids under sixteen have to be accompanied with somebody else, if not parents, staying in the building.

Mr. Donovan: Are you going to have any kind of food service there?

Mr. Prozapas: yes, there will be parties and we will service food in the parties, such as pizza and drinks, but we will not have anything on the premise besides the vending machines. All the pizza will be brought over from Massey's Pizza from across the shopping plaza.

Mr. Donovan: So there will not be any cooking going on there?

Mr. Prozapas: No.

Chairman Enfinger: Do you have health personnel on staff for all the injuries.

Mr. Prozapas: Yes, basically everybody who works there has to be certified and they go through training, So everybody is certified, to work there they have to be certified. Plus, we will have at least one person with basic knowledge to give first aide if necessary.

Mr. Donovan: What about alcohol?

Mr. Prozapas: Nothing allowed.

Chairman Enfinger: Any other questions?

Mr. Prozapas: I want to add, if we succeed and do this project in Reynoldsburg, it is going to add huge value, not just for that shopping plaza that is already half to 60% empty, but it is going to bring a lot of kids into one space. It is going to add, schools will have ability to do

fundraising. Churches and everybody will be able to do fundraising like we do in Hilliard location. Also, having a place here in Reynoldsburg where you can go and have a birthday party, corporate event, team building, playing dodge ball and everything on a trampoline. It adds that uniqueness that a lot of people don't have right now. There is nothing around this area.

Mr. Donovan: What are you going to do about security?

Mr. Prozapas: So, there is only one entrance to the building. The back exit door is always on alarm, so you can not just walk out without seeing that someone walked out. Also there will be video surveillance inside 24/7, so if there is anything going on, we will be able to track what happened, and why. As far as security, in our first location in Hilliard, we never had an issue of kids fighting, nor any of that stuff we because a lifeguard position throughout the trampoline. So, for every area, there is a dodge ball area, so there is a lifeguard there all the time to control and monitor what is going on with the kids.

(Vote)

Mr. Snowden: Viktor, the items that you are going to have to complete are listed on page nine. To be clear, I will forward this to City Council and the clerk will contact you when Council elects to hold additional hearings. I would think the first or second Monday in May. I will be there and do the same presentation. If you are interested in having it passed as an emergency, as you stated in our pre-application meeting, that would be the time to ask the City Council. The procedure will be very similar to what happens his evening. And then, at the following meeting, that is when Council could pass the permit. From there you can proceed to make any other plans to make it happen.

RESULT:	REFERRED TO COMMITTEE [UNANIMOUS]	Next: 5/16/2016 7:30 PM
MOVER:	Aaron Enfinger, Chairman	
SECONDER:	Richard Donovan	
AYES:	Linder, Donovan, Enfinger	
ABSENT:	Rettke	

E. OTHER BUSINESS

F. ADJOURNMENT

Chairman

Planning Administrator



Planning and Zoning Office
City of Reynoldsburg
7232 East Main Street
Reynoldsburg, Ohio

Section 1139
BOARD OF ZONING & BUILDING APPEALS
APPLICATION

Application #: 170493
Permit #:
Date Submitted: 7/8/15
Fee Amount: \$350.00
☒ Paid: 393/

I. PROPERTY INFORMATION

Property Address:

6366 E. Main St

II. PROPERTY OWNER OF RECORD

Property Owner Name(s):

Auto Direct Reynoldsburg LLC

Contact Email:

Auto Direct 73@yahoo.com

Contact Phone Number:

614 565 7763

III. BUSINESS INFORMATION (IF APPLICABLE)

Business Name:

Auto Direct Columbus OH Inc

Contact Phone Number:

614 565 7763

Description of Use:

Auto Sales

Contact Name:

Jason Goss

Contact Email:

Auto Direct 73@yahoo.com

IV. APPLICANT INFORMATION

Applicant Name:

Jason P. Goss

Applicant Phone Number:

614 565 7763

Applicant Address

6675 CLARK STATE RD
BLACKICK OH 43004

Applicant Email:

Auto Direct 73@yahoo.com

☒ Property Owner

☒ Business Owner

☐ Contractor

☐ Architect

PROJECT INFORMATION

CHECK AND DESCRIBE IF APPLY:

Variance (☐ Non-Residential (\$450) / ☐ Residential (\$100)):

☐ Major/Minor Site Plan Review (\$500/\$250):

☒ Special Exception Use (\$350): Auto Sales

☐ Other:

Applicant shall submit **nine (9) copies** of application and materials to the Planning Administrator. Please review the attached sections of the Zoning Code and note the items you are responsible for submitting with this application.

Applicant Signature:

Date: 7-1-15

Additional Notes:

OFFICE USE ONLY

Zoning Information

Zoning District: CC

☐ Historic District

☐ CC Overlay

Other Board Approval

☐ DRB

City Council Meeting

Date:

☐ No Action Taken

☐ Approved (w/ Conditions)

☐ Introduced As Ordinance

☐ Denied

BZBA Meeting

Date: 8/28/15

☐ Approved as Submitted

☐ Approved w/ Conditions

☐ Tabled

☐ Denied

Clerk of Council

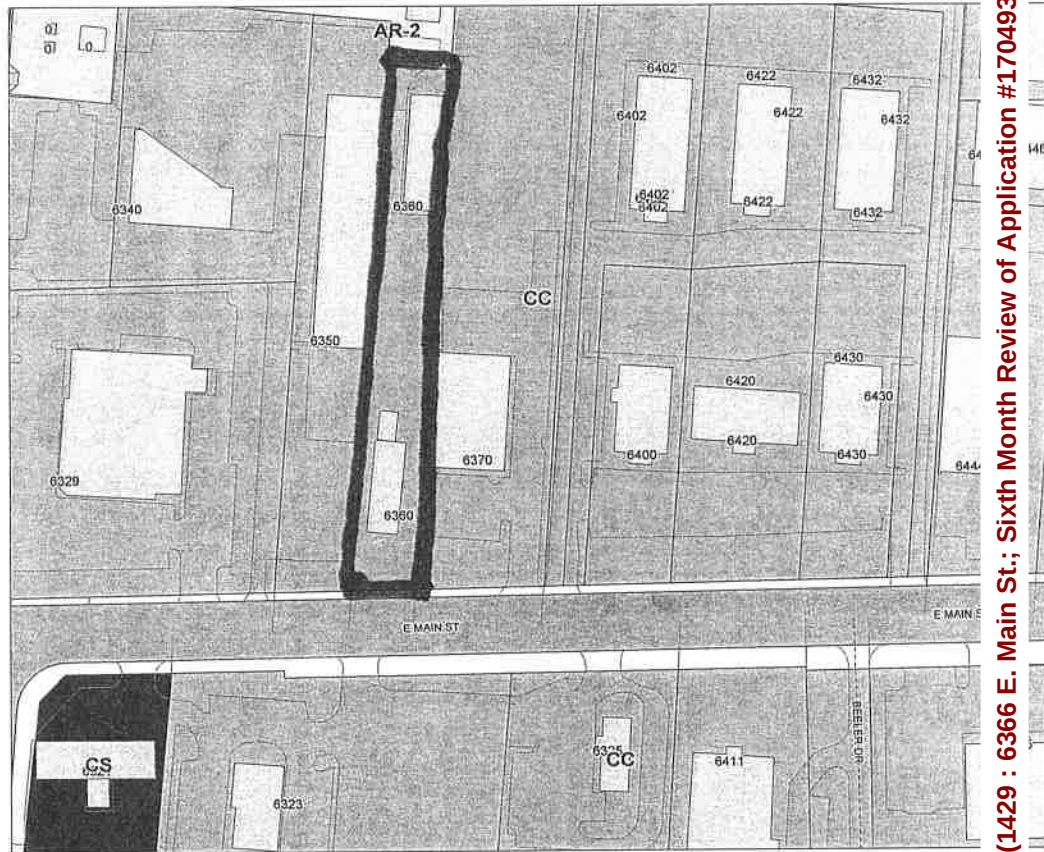
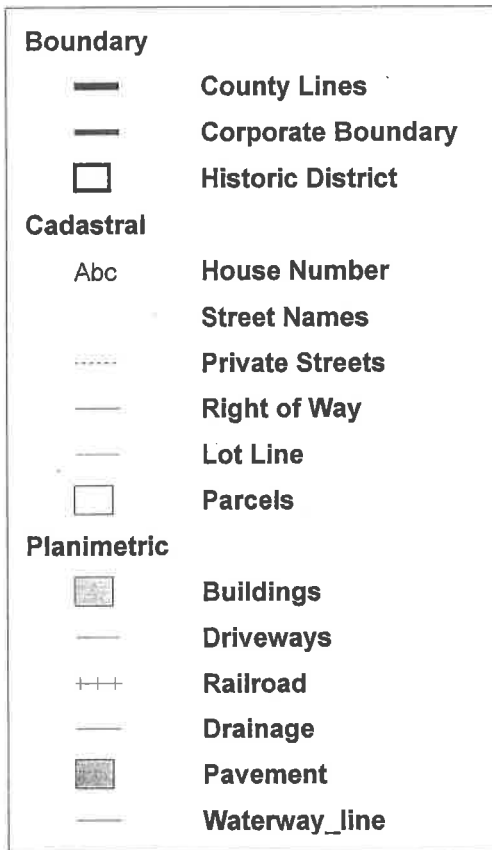
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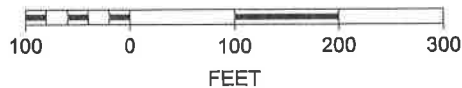
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Date:

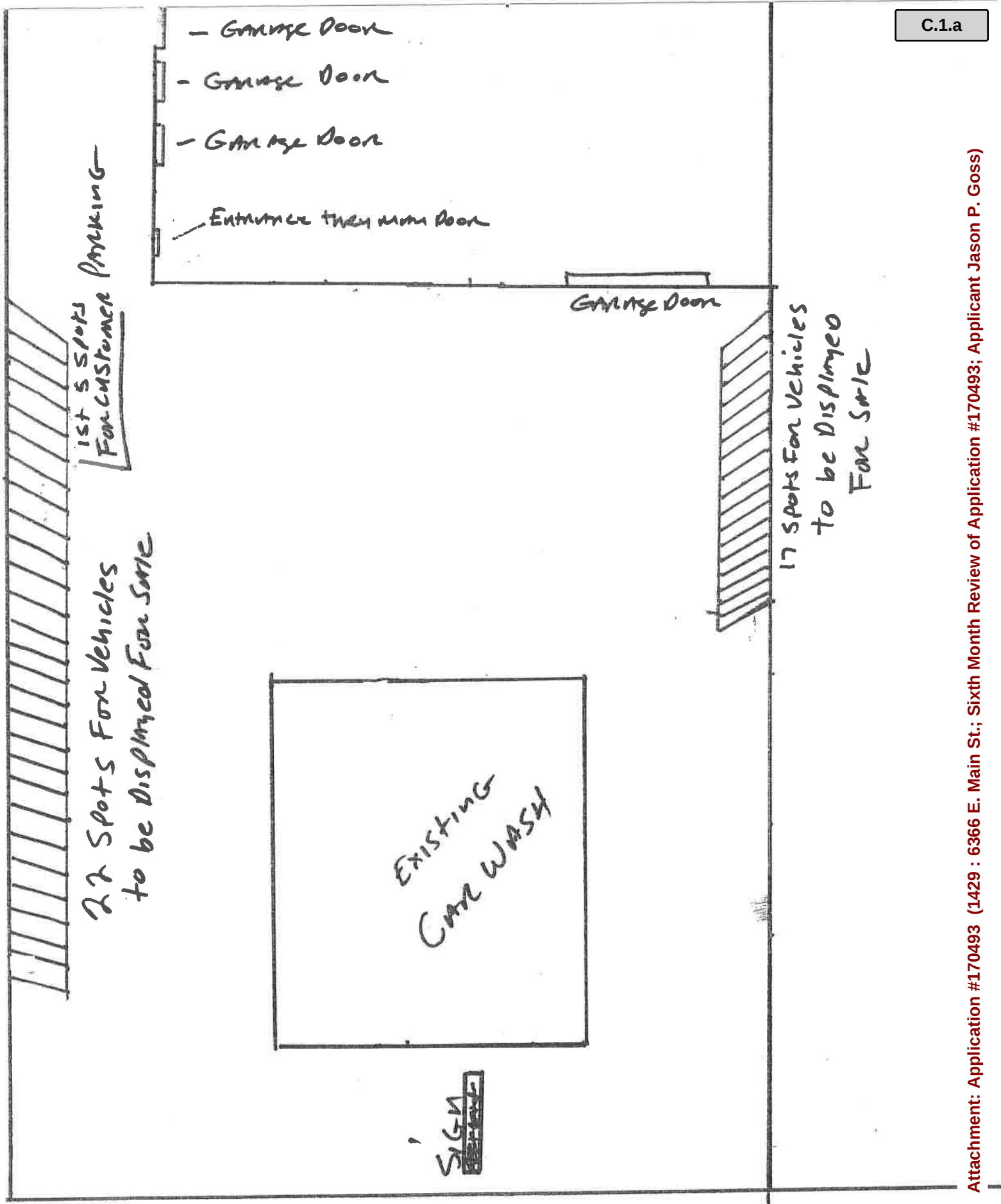
Map1



SCALE 1 : 2,216



Attachment: Application #170493 (1429 : 6366 E. Main St.; Sixth Month Review of Application #170493; Applicant Jason P. Goss)



Description of proposed activity's at 6366 E Main St Reynoldsburg Oh 43068

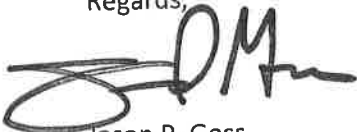
- 1) Used Auto Sales
- 2) Auto Detailing
- 3) Minor auto repair on Auto Directs vehicles only.
- 4) Approximate employees will be 5
- 5) Approximate sales 40 autos per month
- 6) Hours of operation 10-7 MON-FRI 10-4 SAT CLOSED SUN

Proposed Site improvements

- 1) Seal and repair black top
- 2) There is no grass or landscaping to maintain on property
- 3) Long term goal is to demolish front building 6360 E Main St. It will not be operating as a business.
- 4) A 4 yard dumpster will be in fenced area once front building is demolished. It will be at the rear of the front building until demo.
- 5) Used car sales will not have any negative effects on adjoining lots than the existing business that's here. It will have a positive effect on adjoin lots by eliminating the traffic jams that occur daily when the car wash is busy due to the car wash being closed.

If there are any question's that you have please feel free to call me anytime at 614-565-7763

Regards,



Jason P. Goss

CITY OF REYNOLDSBURG

MINUTES

BOARD OF ZONING AND BUILDING APPEALS THURSDAY, AUGUST 20, 2015 6:30 PM

**PLACE: COUNCIL CHAMBERS
7232 E. MAIN ST, REYNOLDBURG, OH 43068**

A. CALL TO ORDER

PRESENT: Linder, Donovan, Enfinger, Wallace
ABSENT: Rettke

2. APPROVAL OF MINUTES

Minutes of May 21, 2015 and July 16, 2015 Stand Approved

3. APPROVAL OF AGENDA

Agenda Stands Approved

4. SWEARING IN OF SPEAKERS

Chairman Enfinger: Please stand and raise your right hand if you will be speaking this evening. Do you swear and affirm that the information you give tonight before the Reynoldsburg Board of Zoning and Building Appeals is true and honest to the best of your knowledge? (All affirmed.) Please sign in and list your address, as well. And, when you come to the microphone, state your name and address so we have that on the record as well. Thank you.

B. PUBLIC COMMENT

Chairman Enfinger: Is there any public comment this evening? Since none is apparent, we will move on.

C. UNFINISHED BUSINESS

Chairman Enfinger: There is no unfinished business.

D. NEW BUSINESS

1. **ORDINANCE APPROVING SPECIAL EXCEPTION USE PERMIT - (6366 E. Main Street; Proposed Use – Auto Sales); Applicant, Jason P. Goss**

Mr. Enfinger: Staff, may we have the presentation please?

Mr. Snowden: Application #170493, for a Special Exception use Permit; 6360/6366 E. Main St.. The applicant is Auto Direct Inc. For the property located on the north side of East Main St. Between Brice Rd. And Rosehill Rd. Existing zoning is CC- Community Commerce District, and the property is in the CCL- Community Commercial Overlay. The request is for the Board to review and approve a Special Exception Use Permit for auto sales use in the CC district; current use is Auto Services, and the applicants representative is Mr. Jason P. Goss.

The location was an existing car wash and auto detailing shop. Adjacent uses include commercial businesses, also in the CC District. To the west the property is adjacent to an auto repair business. It is marked on the map as Dodd's Bodyworks. To the north, the property is abutting some single and multi family dwellings in the AR-2 district of the city of Reynoldsburg, and of the city of Columbus. To the immediate east is an auto parts retailer. There are several auto uses clustered in this area. Staff's Review: Background information - the applicant has changed the use of the parcel without a Zoning Certificate, or a Certificate of Occupancy from the Building Division. This issue was referred to the Planning and Zoning staff from the Code Compliance Division. Use Classification - the property as it exists is Auto Services. The change to an Auto Sales Use requires a new Special Exception Permit. The applicant stated in their narrative that minor repairs to vehicles will take place on the site. Staff's view on this is, as long as the service is not a service that is being provided to the general public, it could still be classified as an accessory use and the entire parcel could still be classified as Auto Sales, rather than Auto Repair. Staff is comfortable with the assessment of Auto Sales. Addressing - when Mr. Goss came in to turn in his application, Staff found that the property was addressed by the County Auditor's Geographic Information System as 6360 East Main St. Staff consulted the City Engineer and found that no address had formally been assigned to the rear building. Staff's suggestion is that, although this permit is going to be for the entire parcel to be used in this auto sales business, Staff would suggest that the applicant contact our Service Department and request a certified address for the rear building. There is no fee for that, and the Service Department can have our consulting Engineer assign one. Demolition of the front structure - the applicant has proposed to demolish the front car wash structure at some future date. This does require zoning approval and a demolition permit from the Building Division. The applicant has made some comments about the dumpsters, which are currently stored in a screened area, directly behind this front building. Any new dumpster which is installed here, or any relocation of dumpsters, is going to need to comply with the screening requirements of the Zoning Code. There are certain actions, in this case, that may require Design Review Board approval. Staff would like the applicant, in their presentation to clarify exactly what they are thinking and proposing, so Staff can assist with that process. The current condition of the awning on the front structure is not in compliance with the City's Property Maintenance Code. The Code states that any signage, or any detailing such as this, needs to be maintained. You can see from the photo, that the awning material is separating from the structure. Parking - you can see from the series of photographs that this is an extremely narrow site. The property is only about 60 feet wide. Staff measured it using our Geographic information System. The applicant, in their provided plan, provided for forty-four parking spots. Staff has some concerns about the narrowness of the lot. Generally, with car dealership uses or auto sales uses, property owners and operators like to have as much public street frontage as practical. In addition to that, you should be able to see that when this was a car wash, the lane pictured on the left was the entering/manuevering lane, and the exit lane on the right, which is now being used for car storage. That was not indicated on the plan, so the staff would like some more clarification. You can see cars displayed in front of the building which is different from what is indicated. Staff has some concerns regarding the entry/exit. The Board may want to suggest some enrty/exit signage so that people know how to enter and exit the property. Rear yard - the applicant did not mention the rear yard in their plan. The rear of the property has a fenced in/storage yard of some type. I stated generically

that some of the brush is several feet in height. Staff would like clarification about what is back there. I was unable to determine what material is on the ground... gravel, pavement, yard. Staff would like to know what the applicant proposes to do in that area. Signage - any reface signage in our Community Commercial Overlay, will require Design Review Board approval. Staff gave three recommendations in the event that the Board is comfortable with the application and is willing to approve it. Staff would suggest that the applicant be required to apply for a Certificate of Appropriateness for the ground side, remove the damaged awnings on both buildings, and remove the high grass in the rear yard and maintain that as it was originally installed. The authority items are the sections of the Special Exception Use Permit Chapter of the Code which have to do with the maintenance of the property. I am happy to answer any questions.

Mr. Enfinger: Very thorough. I appreciate that Mr. Snowden. Would the applicant please step to the mic?

Mr. Goss: 6366 E. Main St., Reynoldsburg, Ohio 43068. In regards to the back, I am planning on getting a bulldozer back there. I want to level and gravel that area. Most likely, when the front building comes down, and everything is approved, I will pave the entire lot. I own the building. I am going to be improving the building. I am going to be improving the property. It is a narrow lot. My plan was to have parking on one side of the property, at the rear, which would give room to turn around. We will be keeping about forty to fifty vehicles.

Mr. Donovan: The sign says ninety.

Mr. Goss: It says, "Seventy vehicles available." I always have twenty to thirty cars in the pipeline. We have cars at auto auctions. It does not necessarily mean they are sitting on the property. It means they are available to us.

Mr. Snowden: Mr. Chairman, may I ask Mr. Goss a question please? Mr. Goss, what is the material that is in the rear yard? Is it suppose to be a yard.

Mr. Goss: No, it's gravel and weeds.

Mr. Snowden: So it was originally gravel and has become overrun?

Mr. Goss: It had gravel but is not level, so I am not real sure what it was because it has been like that since I have had it. It has had gravel down but the grade is not at all level.

Mr. Enfinger: So, you have owned the facility for some time now?

Mr. Goss: I bought it in either April or May of last year.

Mr. Snowden: Mr. Chairman, gravel may be added if there is existing gravel there. Any paved surfaces in the City have to be permanent paved surfaces. But, if there is gravel there now, you can maintain gravel.

Mr. Goss: There is definitely gravel.

Mr. Enfinger: So my first question was going to be, "When did you take ownership without going through the proper channels?"

Mr. Goss: We have been out there about sixty days. When I first got out there, we ran a repair facility for our own vehicles out there. I have owned Auto Direct for eight years, we have sold seven thousand cars. I had twenty employees. I am downsizing. I own this property, I was leasing the other building. When I opened my other car lot, I did not do any of that. I had no idea. I did not know that I had to get zoning or anything like that. When Reynoldsburg came, it was a complete surprise to me and I came directly down here and spoke with Josh.

Mr. Enfinger: As far as the number of vehicles on the property, how many do you currently have?

Mr. Goss: I'm going to guess fifty. The number of vehicles I control. I had a car lot that had two hundred cars on it. I can get two hundred cars now but we obviously don't have the space. Whatever number you are comfortable with, that works for me, will be the number. The old Target building on Scarborough, there is a Capitol City Auto Auction there, I could put fifty cars inside there tomorrow, and store them. That is not an issue. When we get everything set up, if it's approved, it will be a very nice looking building. We will take care of it. We are going to pave, paint, change the awnings or tear them down. Whatever we have to do.

Mr. Enfinger: So the condition you have kept the buildings in up to this point, will not be indicative of how you are going to treat them?

Mr. Goss: There have been a lot of improvements in the building already. They have just been interior improvements.

Mr. Enfinger: You have had the property for a while and the back has grown up with weeds. So you can understand our concern, we just want to make sure that it is perfectly clear that everything needs to be kept to code. What is the plan and time frame for the demolition of the front structure?

Mr. Goss: Obviously I have to get an approval from you before I tear the building down, since it is an existing car wash and it is going to be an auto sales place. Once that is done, I have quotes, I have to apply for demo permits, I will get it done. The front building is not only a hindrance to me, it is a hindrance to Reynoldsburg. It is an eyesore. It is also a hindrance to traffic. The traffic backs up on Main St., and the place has lost money as a car wash for the last eight years, I have their financial statements. It's not a business that can make it in today's world. I ran it as a car wash for a year. It lost money month in and month out. Whatever that property becomes, it can not be a profitable car wash. I bought the property from a friend of mine who owns a title company. He is very successful. He ran it himself for a year to try to get it to make money. It can't make money. The building is an

eyesore. I lived in Reynoldsburg twenty-five years ago. I am shocked at how nice Reynoldsburg is today. That building is not doing any good for Reynoldsburg. I opened up eight years ago, I've sold seven thousand cars. I have an "A+" rating with the Better Business Bureau. We have always gotten compliments on our buildings. In the event that you approve this, I can guarantee that whatever we do will benefit Reynoldsburg.

Mr. Enfinger: Once that is gone, what is the configuration of the parking? What do you envision going forward?

Mr. Goss: No matter what, the vehicles are going to have to line up on both sides of the property. They are going to have to be on the east and west sides of the property. I don't envision having cars across the front of the property. I heard somebody say something about car lots liking to have frontage. In today's market, frontage means nothing. People run car lots out of warehouses. It's the internet. So, is the drive by traffic customer good? Yeah, it's a plus, but that's not where the customers are coming from anymore. They are price shopping on the internet.

Mr. Enfinger: How many cars would you be able to stack on one side and not have to have them on both? When I went in there, it was next to impossible to turn around.

Mr. Goss: My thoughts were to have the cars on both sides, but towards the rear, and have the cars stop. That way there is an opening so someone could pull in and park and have plenty of room to back out. It's going to be tight no matter what. It is tight with no cars. It was tight as a car wash. The only thing I can think of is, one side has cars all the way, the other side has cars halfway, and that opens up a lot to be able to pull in and back up. And, on Dodd's Body Shop, what I would do is put signs that say "Customer Parking" on that brick wall. That way they know to pull in over there and they could back right out.

Mr. Enfinger: Will they park parallel to the wall there?

Mr. Goss: They could pull right into the wall. Or it could be on either side. If they are parking there, that gives them room to back up. It would have to be three or four spots towards Main St. We are not going to have fifty customers there at a time. If we have three customers there at one time, that is going to be the most.

Mr. Enfinger: Mr. Snowden, is there anything stated in the Code regarding number of vehicles per square foot of property. It is a very narrow piece of property so you are going to have to make it work, but in doing so, that may mean limiting the number of vehicles you have there.

Mr. Snowden: Mr. Chairman, and other members of the Board, I don't think the Code is going to provide us with any guidance on this particular detail. Staff's position would be that this is going to be a narrow property for anyone. There are not going to be a whole lot of other uses that are not going to have the same issues, except maybe in and out retail at a particular spot, and they would be upset with how far back the building is located. There are not a lot of other uses that are going to work.

Mr. Enfinger: It has the potential to work, with what you are wanting to do.

Mr. Snowden: Assuming that Mr. Goss's application was approved this evening, and he carried through the process, and went through to remove the structure at the front, Staff at that point would want to see a minor site plan, to show how the whole thing is going to look. It is a Zoning/Administrative approval, which means, I would approve it before the demolition approval could be issued through building. Mr. Goss could show Staff at that time. It is going to be something that someone with the experience of laying this out would have to do. That would be a good time for him to show Staff a more defined parking area. The impression that I am getting is that Mr. Goss had to move his business in, and that he is on the right path. We just need a system in place to make sure all of these details are taken care of. He stated in his application that he wants to repair the asphalt and repave. I would like more detail to see how it will all come together.

Mr. Enfinger: In that minor site plan, there would be a clear understanding of how many vehicles would be allowed on the property?

Mr. Snowden: Parking would have to be delineated based on the number of spaces per the Code. Right now this is open tar. This was travel lanes. The spaces are not detailed out. It's not as if I could look at a site plan of a shopping center and say they have a certain number of spaces. We can't really do that here. If he did that, Staff could review it based on the Code, how many parking spaces would need to be left for customers, and so forth. It is really murky now because the lot is not laid out in a normal manner for parking fields. And there is additional land there. It would seem to me that it would be unfortunate to deny the permit based on a lack of parking when Mr. Goss said he is willing to remove the building as soon as the Board approves the use.

Mr. Enfinger: My only concern is the amount of vehicles that will be on the property. It is a small property so it could really feel cramped, it's going to feel jammed up and we are going to be trading one eyesore for another. That is a concern I have. Again, with the minor site plan, I think it is reasonable to expect that we could know the number of vehicles. And, at that point it is laid out, you could make a decision as to what would be an appropriate number of vehicles to have on the property at any one time.

Mr. Snowden: Mr. Chairman, give me just one moment.

Mr. Enfinger: Any other questions from other Board members?

Mr. Donovan: I would like to know if you will be doing warranty or repair work on this property?

Mr. Goss: The only work we will be doing is minor repair work to our own vehicles. We will not be doing any work for the public. We have a four car shop behind there and we are going to use it. But, we will not be doing any major repairs. We will be doing brakes, oil changes, and things like that.

Mr. Donovan: This is for the vehicles you have on your lot?

Mr. Goss: For our own vehicles. We will not be trying to make a profit off of servicing cars. It will be strictly to service the vehicles that we are selling.

Mr. Snowden: Mr. Goss, do you know the approximate square footage of the back building?

Mr. Goss: 50 feet by 120, seems like that is about right.

Mr. Snowden: There is no specific requirement in the code for parking for this specific type of use. One for every two hundred square feet is the standard for retail and one for every one hundred square feet is the standard for in and out restaurant use. Even if we held them to a very high standard for parking, it is still going to be essentially ten spaces.

Mr. Enfinger: That would be for the customers and not for display of the merchandise.

Mr. Snowden: Correct. My point is, if that is a finite number, I will calculate the amount. And, if Mr. Goss does a minor site plan to remove the front building, he will only be allowed to have as many cars as what remains after that number. Even if I calculate off the retail, which is the lower number.

Mr. Enfinger: I follow.

Mr. Snowden: That is going to leave him with a finite number. Hypothetically, let's say he has fifty spaces, he will need ten for customers and will have forty spaces in which to display vehicles. However you want to space this out. And the spaces must be a certain size per the code, and I get that to whoever is going to do your site drawing.

Mr. Enfinger: That is the kind of clarity, kind or specificity, I think is necessary. At this point, when you drive through there, it is a hodgepodge. I understand you have the building to get down, so it is in the process. So to approve this, we want to make sure we know exactly what we are approving and not just a hypothetical situation where we leave it to you. That is the point of the concern.

Ms. Wallace: In this picture, even if you had cars down both sides and double deep on the one side, you could still have room if he only went back half way. Plus, when coming down Main Street, you are not going to be seeing this big line of cars because there is no frontage. It is all going front to back, so I don't have a problem with seeing the cars lined up, especially if the lot looks better than it looks now. I do not thin the front to back will be any kind of eyesore at all. You will see one or two cars and the rest will be hidden behind those.

Mr. Enfinger: My comment on trading an eyesore for an eyesore, was not meant to indicate that I feel running down both sides would be an eyesore. I think that is perfectly reasonable and would look very nice. My point is, if you take the cars all the way back, there is no way

to turn around and there is too much going on. But, if you have it stop at a point, you could turn around.

Ms. Wallace: It seems like, with the building gone, and with cars in rows, and with the paving and lines, it will be much more appealing when driving down the road.

Mr. Snowden: Mr. Chairman and Members of the Board, it seems the Board is comfortable with the use, but wants to make sure these details are addressed. One of two things may need to happen. Either Mr. Goss will need to get a minor site plan where he can address that specific portion of it, in addition to the other items I listed as suggestions for requirements. The other thing that could happen, depending on how much Mr. Goss wants to change the building, as far as color changes, material changes, etc...DRB could review and assist with these changes. In addition to the comments that I made in my report, as part of the review at three months, Mr. Goss will have either submitted a site plan, or submitted a package to Design Review, for Design Review Board's approval. Essentially it will amount to the same thing. I don't know if that is something the Board is open to, but that is the only other guidance I can give the Board.

Mr. Donovan: I thought there was a set-back requirement for selling vehicles from the street.

Mr. Snowden: I have had that told to me by several individuals since I have been here. I have searched the code for literally hours, attempting to find that. Including electronic searches. I can not find anything stating that. The only thing I could find related to that was regarding setbacks for the parking lots for new construction. I have not seen anything else. If anyone knows the code and wants to help me out, I would welcome that. But, I have looked at the code ad nauseam and I have not found any detail about that.

Ms. Wallace: I am comfortable with Mr. Snowden's suggestion of going with the recommendations and letting the Board decide if there needs to be a site plan and letting that go before the Design Review Board.

Mr. Enfinger: I think so as well. So, I make a recommendation that we move to approve Application #170493 with the following conditions: The applicant seeks the appropriate permits for the sign from DRB. The applicant brings the existing structures to code regarding the awnings. And, that the area in the back section be addressed. Seeing that those are agreed to, and pending approval of this Special Exception Use and a Minor Site Plan, that can be reviewed by staff.

Ms. Wallace: I will second.

Mr. Snowden: This application will be forwarded to City Council. The Clerk of Council will contact you if Council elects to hold any additional hearings, or take any additional action. You have already submitted for your zoning certificate. Once staff receives a notice of approval from the Clerk of Council, Staff will contact you when the certificate is ready for pick up. Once that certificate is secured and ready for pick up, you will need to contact the Building Division and submit plans for building occupancy. Those plans will be interior

drawings of the rear building that you want to occupy for your business. After that, have all required inspections. Board members, to clarify a procedure that has not been consistently followed, per Section 1145 of the Zoning Code, Staff will review this permit approval in six months. And to confirm compliance with the conditions and report those findings to the Board. If the applicant has not complied with all conditions of their approval, and completed all the required steps to open the business or use, the Special Exception Use can be revoked by the Board. With that, I will turn it back over to the Chairman.

RESULT:	REFERRED TO COUNCIL [UNANIMOUS]	Next: 9/14/2015 7:30 PM
MOVER:	Aaron Enfinger	
SECONDER:	Libby Wallace	
AYES:	Linder, Donovan, Enfinger, Wallace	

2. 7524 E. Main St.; Application #170630; Unnamed Eatery Serving Ice Cream, Sandwiches, and Festival Foods; John and Heather Fry

Mr. Enfinger: Application #170630 for 7524 E. Main St. May we please have the presentation?

Mr. Snowden: For Special Exception Use Permit, for an eating and drinking establishment, with a drive thru service, for the property located on the north side of E. Main St., between Jackson St. And Waggoner Rd. It is in the CC - Community Commerce District, as well as the HCO - Historic Commercial Overlay. The request is for the Board to review and approve a Special Exception Use Permit for drive thru service in a multi-tenant building, in the CC - Community Commerce District of the City. Current Use: the structure is vacant. It has previously been retail sales and an eating and drinking establishment. The applicants representatives are John and Heather Fry. Adjacent uses include commercial businesses in the CC - Community Commerce District. All adjacent properties are within the Historic Commercial Overlay. To the north, the property is abutting multifamily dwellings in the AR-2C District of the City. In front of you is a site plan of the lot as well as an indication of the specific tenant space. Use clarification: the property is in the CC District, as stated. In this district, eating and drinking establishments are normally a Special Exception Use and the Board reviews permits for those. However, Section 1194 of the Zoning Code provides a modified use table for commercially zoned properties that are within the Historic Commercial Overlay District, and assigns eating and drinking establishments as a permitted use. It did not modify the drive thru service use requirements, so Special Exception Use is still required. What the Board is considering is whether the drive thru use, and location of the window and its details, are acceptable. There is a separate use table for the Commercial Overlay that removes that from being a Special Exception. The applicant is proposing to repurpose an existing drive thru window for their service window, which was originally constructed for a bank and contains two bays. Under 1194 of the Code, regarding drive thru services, and mostly referencing new construction, it states that the architectural detailing and materials need to be carried throughout. Looking at the canopy, although it would be nice if there were brick elements on the pylons, to tie that in consistently, if it were a new building. The idea is that the drive thru should not look like an afterthought and should be integrated into the structure. Staff is comfortable that has been met. The only concern, that staff had specifically, is the entry into that drive thru. If you look on this site plan, you can see it

better indicated, this is an entry point and this is an exit, to access this window, you will be crossing the opposite window and then have to turn around. It is going to be a problem for the Fry's, it was probably a problem for the bank. Although, the bank may have had folks coming a different direction. Obviously the ice cream and sandwiches can not go through a pneumatic tube to get to the customers. That is really what the issue is there. The opposite argument is that there really is not any traffic back there right now, although there are some other tenant spaces. I would encourage the Board to listen to how the Fry's are presenting, and how much business they anticipate and so forth. There may need to be some additional signage or striping for the drive thru in order to get to that window.

Mr. Enfinger: Would the applicant step up to the podium please.

Mr. Fry: We do have a name now. I noticed that it was listed as "Unnamed." It is Carnival Ice Cream. We want to do a lot of hard dipped ice cream, subs, carnival foods, corn dogs, cotton candy, popcorn, etc... Items you can only get at a fair and not all year long. We have teamed up with Johnson's Ice Cream. We have met with them, and we have Matt and team and they are going to be our supplier. Technically, we are bringing Johnson's Ice Cream back to Reynoldsburg. As far as the drive thru, our thought was, there are a couple of ways to exit. You can do a reverse u-turn out, or you can take the other exit that takes you into the other shopping center, or back out to Waggoner Rd.

Mr. Donovan: Have you spoken to the property owners regarding being able to do that?

Mr. Fry: Yes. We have talked to them about being able to operate as a drive thru, and they know exactly what kind of business we are doing. We are in the process of putting the lease together. We are finalizing a couple of things. We have agreed to what each party is responsible for, especially from a cosmetic standpoint, because it has been vacant for twelve years. So, we have a lot of work to do. It is the largest retail space in that complex. We would like to get it going and bring more retail back into that area. There are a lot of vacant spots in there.

Mr. Donovan: Are you going to have sit down service at all?

Mr. Fry: Yes. One of the things we were concerned about was the stacking, so if you look behind there, there is parking. There is a back door, so the staff can run it out to them, and they can then leave. So, it keeps the process and the flow going.

Mr. Snowden: Mr. Chairman, and Members of the Board, I was wondering if it would be possible for the Board to require specific signage, or if the Board feels it is necessary. In staff's view, that could be helpful. A lot of fast food restaurants are utilizing the waiting areas and because of the unique configuration, maybe it is something the Board should require instead of just recommending.

Ms. Wallace: I know most drive thrus have the pull over and wait for your food thing. And I'm sure it wouldn't be an issue to paint an arrow and have a corner sign that directs you to pull around the building to the left and into a numbered space. This is common in drive thrus

that have a longer cook time. I have lived here fifty years and that complex does not have a ton of constant traffic thru it. In a shopping center, my personal thought is that you don't have continuous constant traffic flow like you would have on Main St. So I don't think it would be an issue to come in up against the building.

Mr. Fry: Right now, there are no businesses behind there. It is all vacant.

Mr. Snowden: Mr. Fry, let me interject, there is one catering business at the very back of the property. But the tenant spaces that face that are actually currently empty.

Mr. Enfinger: So, around the corner where we are talking staging the stacking of the drive thru, there are actual parking spaces?

Mr. Fry: And that is on an as needed basis.

Mr. Snowden: You should be able to see that on your site plan.

Mr. Enfinger: Is there a way that you could have an agreement with the landlord and be able to designate that these two to three spaces are yours? I don't know how far away it would be before another tenant would desire to have that area.

Mr. Snowden: Mr. Enfinger, if you look on this site plan, there are two tenant spaces here, this is an access pathway between the two buildings approximately six feet wide, so there is a little bit of room there. I don't think we are going to be overwhelming the rear tenants and taking away their parking. In addition, the catering use utilizes this area for vehicle storage and parking.

Mr. Enfinger: Are you going to have a board you drive up to before moving forward? Or will you place the order face to face?

Mr. Fry: There will be a prior menu.

Pastor Linder: Where will that be. Will that be toward the entry?

Mr. Fry: If you can see the very far part of the building, there is going to be a menu there. At the very beginning.

Pastor Linder: The only thing I'm curious about is, if they are going to drive into this holding space, and then back out, will there be any anticipation that if someone just got their order and is backing out...

Mr. Fry: No need to back out. When they pull in, they are in a lane.

Pastor Linder: Almost off and into a space?

Mr. Fry: So if someone wanted to go past them, you have that other lane that we are not going to use. I have no use for that second lane.

Mr. Enfinger: That does bring up the concern of where the menu board is, so if you have two or three people staged in line, where are they going to be? Maybe the best thing is to have the board next to the window. These are things you are going to have to work through with striping...

Mr. Snowden: Mr. Chairman, and Members of the Board, unfortunately the Code offers us absolutely no guidance on stacking space requirements. Some cities require up to eight, and that is usually the communities that have the lane wrapping around the building. In my experience, I have only seen a handful of locations that utilize that.

Mr. Enfinger: So the concern is, it is going to be a wildly successful business, and on any kind of warm evening you can drive by the Dairy Queen and see that the traffic is very problematic. So you can see our concern in wanting to make sure that these kinds of things are thought thru.

Mr. Fry: We put a lot of thought into the drive thru. It is one of the first things we talked about and addressed. The first question I had was, where is the stacking?

Mr. Snowden: What about stacking in front of the building and then turning left into the lane?

Mr. Enfinger: That goes against the flow of traffic.

Mr. Snowden: You are right.

Mr. Enfinger: Theoretically, how many vehicles could you put if you had one at the window? Are you talking three at most once you get past the corner of the building?

Mr. Fry: Actually, we can get four before we get into the intersection where people are going to come in and turn left to go in front of...

Mr. Enfinger: If we have six vehicles?

Mr. Fry: You pull two around to the holding spots.

Mr. Enfinger: maybe you have two in the holding spots, and there are six vehicles with four stacked up, and two more trying to get in. There obviously will be a lot of issues with people trying to leave and everyone trying to stack in. That is where clear definition on striping would be, like a little stop sign or some pavement markings like "Stop Here to Wait for Clearance." Otherwise, they will just back up and stack up, into that exit lane. Who has the purview for deciding and requiring that? Is that us?

Mr. Snowden: The Board has that power. If the Board thinks that it can work, the Board can approve. If the Board thinks it will not work, the Board can deny it. If the Board would like to see more information, the Board could table it and give Staff parameters to view such a plan. It is really up to you. You have pretty much unlimited discretion.

Mr. Enfinger: So what time are you looking at to try to open?

Mr. Fry: What we have worked out with the landlord, because of the cosmetic work which needs to be done inside, we have a four month build out, which means going inside with new flooring, painting, dry wall, bringing in of equipment. So we have a four month window before we actually open, once everything is done through the City.

Mr. Enfinger: So, the restaurant can open irrespectively. Our concern here is strictly the drive thru.

Mr. Snowden: Given the persnickety Use Table of the Code, Staff was not totally clear with Mr. Fry that that was the case. So, now that he knows that, he can move forward with securing a zoning certificate for the main part of the business and start going through that process while the details are worked out with this drive thru.

Mr. Enfinger: I certainly think it is doable, I just think we need some specifics and exactly what it is that we want to do. And maybe the officer might be able to help out there.

Mr. Fry: I know there was a coffee shop prior. Is there any documentation for this business as to what they had and what they did?

Mr. Snowden: That is a great question. Do we know what year they were approved?

Mr. Fry: It was empty in 2003.

Mr. Snowden: Staff probably does not have those records accessible. They are beyond the retention schedule. Did they utilize the window?

Mr. Donovan: In the frontage of that building there was a pastry place.

Mr. Enfinger: It use to be Five Cups or Three Cups, something along those lines.

Ms. Wallace: I don't have an issue with the drive thru if we would give Staff the authority to have guidelines for arrows on the pavement, if allowed by code to have hash marks so drivers don't block the side that goes down to Tyler's. Just something for a visual to tell people to wait here. I don't think it is going to be an issue.

Mr. Enfinger: If you have ever sat at Moo Moo's waiting, there is a place where you cross a couple of times. I think people could get use to it. And even if they are stacking up in the traffic lane, not right in front of the building, but farther away, if everyone learns that this is where they stack before they come in, we are all smart.

Mr. Fry: Like above the drive thru have "Drive Thru Entry"?

Ms. Wallace: Or arrows on the pavement that show the traffic pattern. Most people are courteous drivers. You do have people that are not. Most people would allow someone to turn that was waiting for the drive thru.

Mr. Donovan: I will give you an example, go out on the street corner out here and watch all the people run through the red light. People do not care. My thing is, he has already covered the property thing about being able to use the other property's driveways to get in and out. That will alleviate a lot of their problems.

Ms. Wallace: I don't think it is going to be an issue going in and out.

Mr. Snowden: As I stated before, all of our Special Exceptions are suppose to be reviewed at six months. The Board could put on some sort of condition that would address this. Staff could also attempt to pull accident data to see if there have been any issues. I do not know what else the Board could require. It's one of those things where it looks like it could work. Staff is not overly panicked about it. But, obviously the Board wants to make sure that it is done properly.

Mr. Enfinger: I think specificity on the issue again, like before. I think it is completely doable. Let's just have a plan. I make a motion that we move to adopt and approve Application #170630 with the following condition, that the applicant works with Staff in coming up with a traffic flow plan that is suitable to safety concerns for the community as well as other tenants in the building.

Mr. Donovan: I will second it.

Mr. Snowden: Mr. Fry, that stands approved. I always provide a written notice, mailed out, stating the information I am about to read to you, but I want to read it into the record. The application will be forwarded to City Council, and the Clerk of Council, if Council wants to have any additional hearings or take any other action. I will check my files. I think I have a Zoning Certificate application for you already. Once I receive notice from the Clerk of Council, I will contact you that it is ready to pick up. At that point I would really like to see a more detailed plan for the drive thru configuration. Once the Zoning Certificate is obtained, you need to contact the Building Division to submit your plans for building occupancy, as we have discussed. Per Section 1145 of the Code, Staff will review this in six months and report the status back to the Board. Have a great night.

RESULT:	REFERRED TO COUNCIL [UNANIMOUS]
MOVER:	Aaron Enfinger
SECONDER:	Richard Donovan
AYES:	Linder, Donovan, Enfinger, Wallace

3. 1914 Brice Rd.; Application #170778; Childcare Center; LaTarsha Pritchard

Mr. Enfinger: Application #170778 at 1914 Brice Rd., a childcare center. Mr. Snowden, may we have the presentation please?

Mr. Snowden: Thank you Mr. Chairman. It's Application #170778, Special Exception Use Permit for a Childcare Center for the property located on the east side of Brice Rd., just south of Livingston Ave. It is located in the CC - Community Commerce District of the City, as well as the CCO - Community Commercial Overlay. The request is for the Board to review and approve a Special Exception Use Permit for a child care center in the CC District of the City. Current use: vacant space. The most recent user was a charitable Bingo game. Applicant is LaTarsha Pritchard and the applicant's representative that is here with us this evening is Mr. David Hodge. Adjacent uses include commercial businesses in the CC district. The property abuts out lots which front Brice Rd. These contain a gasoline station and fast food type business in the CC and CS Districts. To the south, the property is adjacent to another commercial building in the CC District, one of which contains a childcare center. Along the east side, the property abuts the Truro Township Fire Station #162 and the City's Community Garden. And I believe, to the southeast, on a related parcel is the COTA park and ride. The applicant was previously denied for the same use at the same location at the March 2014 meeting of this Board. Staff reviewed the materials and minutes from that application extensively, and encouraged the applicant and their representative to address the concerns that were raised by the Board at that meeting. Since that time, the Big Lots retailer that was in this location on the map in front of you, has left the center and that space is now vacant. The entire center is now vacant except for a carry-out grocery store in the southern most tenant space, which I am indicating. Parking: we do not have a specific parking requirement. You can see some parking ratios taken from other zoning codes. In this case, Staff has calculated that there are over 330 parking spaces on site and the most this applicant could be required would be 20 spaces, and there are 210 spaces required if all of the property was filled with retail. Staff has met several times with the applicant and their representative to discuss the issues that were raised by the Board. Staff would like the Board to determine if there is a parking/loading/drop-off configuration that they would find more acceptable. Obviously, there is the potential to have additional tenants here. There is basically a conflict here between families and loading into the center, and other traffic. Even if you have a stand alone child care center, there is still some conflict between children, family, and other folks, because those centers have a parking facility as well. The applicant stated as part of their proposal that they are planning to load from the front, but staff questions if there is any merit to those details and whether the Board would like to see one or the other. The applicant is proposing to utilize the existing fenced in play area at the rear of the building. Obviously there is a potential conflict between loading and unloading and vehicles idling near the play area. If the Board were comfortable with the use in general, Staff's recommendation would be that the Board prohibit loading and unloading, and require the property owner to establish a specific no loading or unloading, or idling time for vehicles near this particular spot. Staff also suggests that the fence, which the applicant has proposed to detail, would have some sort of high visibility, so it is not just a service structure, but that it is blocking a specific thing. Character: the biggest thing that Staff took from review of the previous material is that the Board felt that moving a child care center into this type of location fundamentally changed the character of the center away from retail to institutional or educational type of use. Staff's main concern with these types of childcare centers is that when the play area is specifically

placed in the front, which you do see in commercial buildings from time to time, that is a very dramatic change from a retail in and out type of use, to an institutional type of use. In this location, they are proposing a place in the back. Staff is a bit more open to that location of the play area, and does not feel as strongly that this is a character change. Again, this is Staff's opinion. All that say, in a complicated way, is that Staff is open to it, and with that I will turn it back to the Board and Mr. Hodge.

Mr. Enfinger: If you could just state your name and address for the record please.

Mr. Hodge: My name is David Hodge and I am a Zoning and Land Use Attorney with the Law Firm, Smith and Hale, 37 W. Broad St., Suite 460, Columbus 43215. I am here this evening on behalf of the owner of the property. It is an LLC, called WK Brice, that consists essentially of two individuals, Jim Wiggins and Dimo Kuzmanovski. I think preliminarily, because this is relevant, all of us are able to speak on issues about which we have personal experience. I have an eight year old, a six year old, both of whom are now in elementary school. And, a three year old who is in preschool. I took the eight year old everyday to the same preschool, as well as the six year old, and as of yesterday, the three year old. So, I have some considerable experience with pick up and drop off at preschools or day cares. The preschool that my kids have gone to, and currently go to, is at the Bexley United Methodist Church, on Broad Street in Bexley, and the parking lot for that church is next to it. It has very narrow aisle widths. It has angled parking. None of which are the required width, which is about nine feet. And, it has no snow removal in the winter. It is tricky and not always easy. I can say without reservation, I have been to tonight's subject site many times. And, with reference to my experience and what is being proposed here, the parking situation, the pick up and drop off situation, is vastly better than my own personal experience. And truly, in my humble opinion, not an issue. There are sixteen spaces along the front. Within the "U" shape of the building, we would like to designate those spaces to exclusive use for the daycare. The way this daycare operates, is there is no hard and fast drop off time. A preschool starts at nine. This is a daycare so there are drop offs throughout the day. They are open from 5:30 a.m. and close at 7:30 p.m. And the potential operator says there are no more than five dropping off or picking up at the same time. Now there certainly could be multiple children in the same car. There have been in mine. But, in reference to the sixteen spaces across the front, we don't think there is going to be any conflict. Employees would park in the parking field to the west, so that employees are not in that front location. For the off chance, that folks/parents/grandparents may be dropping off in that parking field, we would propose painting a cross hatched cross walk, from that parking field, over to the front of the facility. As you are surely aware, and as Eric indicated, this shopping center is vacant. There is a Mexican grocery store at the far south space. Those same operators are in the process of finishing a restaurant, I'm not sure they have picked up their occupancy permit.

Mr. Snowden: They have not and their plan reviews may have expired.

Mr. Hodge: It really is a beautiful Mexican restaurant. They have done a fantastic job with the improvement of the interior. The remainder of the center is vacant. There was a Big Lots/Odd Lots at the northern most big box space, but they have since moved across Livingston Ave. From my clients perspective, they have no income. They have a lot of

obligation, they have a lot of maintenance, they have a lot of tax, and they have no income. And so, I am aware that historically, maybe today, there are folks in the city that take exception to having day cares in retail centers. I understand that perspective, but this center is drying on the vine and it needs some vibrancy, it needs some activity. And the hope is that when and if the restaurant opens, and when and if the day care opens, that there is some activity. And, any retailer will tell you that one of the first things they look at is the MORPC map that shows the number of cars up and down the street everyday to tell you whether or not it is a good retail location. Our clients, Mr. Wiggins and Mr. Kuzmanovski, they need some income, they need some life breathed into the center. With reference to the measures that are in that statement, that is part of the packet, I have mentioned the parking, which I think is adequate, and the commitment to painting the crosswalk on the pavement. We also would put some signage along the sidewalk in front, just to let folks know that the sixteen spaces, or some number of them, are reserved and designated for parent pick up and drop off, so there is no conflict. People pull in, see the sign, and they go back out into the parking field. With reference to the playground at the back, you know it's tired. The fence is in bad condition. It's not flush to the ground. So, we would propose moving the fence and installing a new board on board fence that's on the ground. There's also a mechanical in that area. That mechanical would be enclosed with the same fence, mulch would go down, play equipment would go out. There is already a door leaving the building and I think the idea to put some neon yellow bollards around the perimeter of the fence, to make certain that there are not issues with delivery trucks or other cars back there, is a fantastic idea and is something that we are willing to do. I think it is interesting that, as Mr. Snowden mentioned in one or both of the previous cases, that there is a check and balance in place in the code, which if an applicant or property owner doesn't comply with conditions, that the Special Exception can be revoked. That is a great checks and balance, and it holds folks' feet to the fire and really obligates them if they want to continue to keep their work. Even though I have a license to practice law, and even though I am here tonight on behalf of people, I'm not really a lawyer. This is what we do. We go to BZA's, and we go to Planning Commissions, and City Council, and I'm personally on the Bexley Planning Commission. So, I sit on that side of the table, sometimes. It has been good for what I do on this side, but I'm over there sometimes. I don't really like to talk about the law when I do this because it turns people off. It doesn't do what one thinks that it does. But briefly, a Special Exception, or a Conditional Use, or a Special Use, they're all legally synonymous terms, and what those are, are uses that are permitted in the zoning classification that may have a greater impact than just the family of permitted uses. And so, it obligates an applicant, or a property owner to appear before a Board, and there are criteria in the Code that we review to make sure, to make absolutely certain that the use is not going to have a negative impact on surrounding owners, traffic impacts, things like that. We have addressed those standards in our statement. We stand by what we wrote in the statement. And, to the extent that anybody would want me to speak about any of those five or six criteria in particular, I'm happy to do that. But, I am comfortable that we meet them, and exceed them, and certainly child care is a listed Exceptional Use in our zoning classification.

Mr. Donovan: Did you just say you are going to feed them there?

Mr. Hodge: Did I say that? I did not say that.

Mr. Donovan: I was looking for a kitchen and I do not see one. My question is, hopefully you are going to have a hundred and ten kids in there, so how much staff are you planning to have?

Mr. Hodge: Thank you for the question. It is a good one and it is something that I left out of my remarks. Any operator of a daycare/childcare is required to have a license issued by the State of Ohio, the Ohio Department of Jobs and Family Services Childcare Division, which this user has. She currently has another daycare center, one underway at the south end of Columbus, and potentially this one. She has that licensure. And there is a certain ratio, depending on the age of the children, that you have to meet. It's up to twenty employees. They would not all be there at the same time, but it is up to twenty employees/teachers.

Mr. Donovan: My next question is, how are you going to handle that with just two restrooms? And, with little kids who are being potty trained?

Mr. Hodge: Sure, that's a great question, and not one I anticipated. She believes it is an adequate number of restrooms. If additional restrooms are required by the licensing entity, the State of Ohio, or by any requirement in the City of Reynoldsburg, then additional restrooms would go in.

Ms. Wallace: I think with my history with daycare and preschool, that is a pretty average number. In regards to the restroom thing, that seems adequate to me.

Mr. Donovan: They are hoping for 130 people?

Ms. Wallace: Thirty or fifty are in diapers. Where my kids went, there was one bathroom for that same number of kids.

Mr. Hodge: My daughter has a bathroom in her classroom, she is not going to use it, but it is there.

Ms. Wallace: I really know she has a good successful business. I would like for her to bring her business to Reynoldsburg, being a successful business woman. The parking thing out front, and the traffic thing, most people would not send a two year old by themselves. I come down to, and not with just this application, but with every application for childcare, especially ones within strip malls, it is the back where the play area is, and the fact that is a drive through. Hopefully, eventually we will have all the strip malls in Reynoldsburg full again. But, knowing there are going to be semis and delivery trucks out back where the kids are playing, has always been pretty much my only concern. Knowing that is a drive through and cut through, and there is a traffic light there, it's just a traffic area out back with a play area out back is my concern every time someone wants to put a day care in a strip area. With parking out front, you are not going to get dropped off at the door anywhere. You are going to have to get out and walk. So I don't have an issue with the parking and walking across the street to take your kid in, but it's the back thing and I don't know how that can be remedied in this situation.

Mr. Snowden: May I bring you up to speed on the practical details here. I think Mr. Hodge has done an excellent job addressing the individual issues with the use, but there are some issues with the site that we are having, which is one reason I have asked Officer Kessler to be here this evening. He is our Community Liaison to the Brice/Livingston area. And although they are not specific to this application, there are some issues that are effecting the entire property that may need to be worked through. Let me just touch on them briefly. On the screen is the proposed area for the play area. We have found there are transients that may be trying to live on this property. It is something officer Kessler has been investigating. You can see behind the mechanical, one of the items I suggested in my longer Staff Report. Under Staff Recommendation, was suggested that the Board perhaps require some of these additional mechanical devices to be screened for this very reason here. If this was going to be built today, that mechanical structure would had to have been screened or integrated into the structure. It wasn't when the structure was originally built but it would have to be today. Obviously there is a safety issue with having folks attempting to live in the immediate area of where the children will be. That being said, I think Mr. Hodge's point is well taken in that having more activity at the site in general, may discourage that type of negative behavior. If you look to the north, this is another area where folks have been staying, and this is all at the rear of the property. One additional item, I understand that Mr. Kuzmanovski and the property owner have been attempting to prohibit semi tractor trailers from idling and being at the back of the property. The last thing I will state which is slightly separate, there is some issue with the signage. The Code says that anytime a business is closed for more than ninety days, the sign face needs to be replaced with a blank. The Livingston Ave. Entry sign has an open electrical hazard. Staff did an extensive review and was unable to find the permit required to erect the temporary development sign there that appears to have been erected in 2013, based on street view. Although these are things that don't necessarily apply to the specific use, these are some additional issues that are happening at the property, that Staff would like to see resolved as well. If the Board will allow me for one second, I want to see if Tim has anything else he would like to add as far as operations at the facility.

Officer Kessler: I would like to reiterate what Mr. Snowden is saying. We have had a lot of activity to the back of that, and Mr. Kuzmanovski has made contact with us about the semi traffic. He has tried to enlist our help in getting those out of there. But, on any given day, there are three or four semis parked at the back of that property. They use it for transient parking. Semis come and go constantly. As a matter of fact, the one that Mr. Snowden showed has moved on, but I had another one towed out today. They are back there constantly. The other problem we have is the transient population is starting to move into the Brice Road area. We are working with Truro Township to try to alleviate some of the problem. But there is evidence of people living to the rear of the property and the tree line behind the property. These all lead to safety concerns for the children. Obviously, it is a daycare. Back to the semis, I have found that some of the drivers live in adjacent apartment complexes, so they bring their trucks and they will let them set there for two to three hours at a time while they go home and eat dinner, or go do whatever. And the semis are idling and producing harmful side effects for the children. What can they do to alleviate this? Obviously, I have no idea, but it could be a major problem for the safety of the children that are going to be placed in this facility if it is approved.

Mr. Snowden: Mr. Hodge and Mr. Kuzmanovski did the right thing by getting in contact with Officer Kessler and starting to make him aware of the problems so he could assist in his role as Community Liaison. I don't generally like to drag every possible thing into a zoning review with the Board, but when we deal with child care, we deal with the rear of the property as well. So, these are things that our Board should consider addressing with our applicant.

Pastor Linder: I have not been out behind the property, and this may be a very naive suggestion, but is there any possibility of some sort of gated access on either side of those two openings. It would be a little bit of an expense for the owner, but would that create security for him moving forward? When I see the lane behind, it looks like it is fairly narrow?

Mr. Hodge: It is essentially wide open.

Pastor Linder: So, it is very wide. If the owner makes provisions, you are still concerned about a major security dynamic because it is so open. Would that be accurate?

Officer Kessler: That is an accurate statement. Mr. Kuzmanovski has taken steps to try to reduce the amount of traffic flow back there, but, unless you have a marked cruiser sitting out there twenty-four hours a day... One of the semi drivers was kind enough to leave his number on a post-it note on his window so he could be contacted if there were any issues. So, I contacted him over the phone that parking is not allowed. There are signs clearly posted across the back of the building, all the way down through there. And, he assured me that he would have the vehicle moved. I went back the very next day and it was still sitting there so it had to be sited. After he was issued a citation, he finally moved. The problem is, even with my presence there issuing warnings and citations, and ultimately towing vehicles out of there, it has been used for this purpose for so long that a lot of the semi drivers are not aware of it, or just don't care. Like I said, the signs are clearly posted all the way across the back of the building and they still park there. To alleviate that problem immediately, the only way I could see, would be to completely gate off that whole thing and I know that is a massive expense that I am sure they don't even want to consider. The only other option is to continue doing what we are doing, and that is going to take some time. So you are still going to have issues with semi trucks for the foreseeable future.

Pastor Linder: Just one more question. In your experience, does private security end up becoming more of a challenge all the way around, or can they be successful in providing their own type of security, if it is qualified?

Officer Kessler: Private security may help as far as the transient population, and as far as somebody climbing the fence and utilizing the playground for a sleeping area or something like that. Private security, as far as the semis and traffic, would have the same issues that I have; unless they are standing out there 24/7 directing cars and semis as they pull onto the lot, it is not really feasible.

Pastor Linder: Mr. Hodge, I come into this situation, new to the Board. I reviewed the minutes from the last time the applicant came, and I have a predisposition to be a little bit suspect of having a day care in this environment. But, I am very sympathetic to this owner because, what they made in terms of a case, seems to be a constant issue if we do not find a correction. So, just so you know, there is an empathy here, for an owner that says I can not find a way to get ahead here if we don't find some flexibility. I wish I could find a solution for you right now, as far as how to create safety there.

Mr. Hodge: Pastor Linder, I appreciate the comment and I truly think you hit the nail on the head. When we met with Mr. Snowden and Mr. Havener on the property and walked it and went onto the proposed play area, there were some discussion as to this being a chicken and egg scenario. The center has problems. Problems I was made aware of for the first time tonight.

Mr. Snowden: This is a new thing in this immediate area. Officer Kessler, that is correct?

Officer Kessler: That is correct.

Mr. Snowden: Even within the last couple of weeks. If the information came...

Mr. Hodge: No. No. It's not a criticism in the least.

Mr. Snowden: I had never seen that before. Having driven behind it many times when I visited the site earlier this week to take those photographs for the presentation, that was the first time I noticed it, and that was the reason I invited Officer Kessler. And again, the idea is not to abuse our applicants, but to have everyone involved so that we can come to a solution that hopefully addresses these ongoing issues.

Mr. Hodge: I've got very thick skin. I don't feel attacked in the least. I truly don't. I think it's incumbent upon me to do the best that I can to help my client to solve a problem. It's a problem for my client. It's a problem for the City. Hopefully there will come a day when there is somebody other than a day care that is willing to rent space from him, and pay him more rent, but there's not, there's just not. And, I am not here making the claim. The proof is in the pudding. Big Lots is gone. This space is vacant. It has been vacant. It's going to be vacant. And vagrants and the other issues that come along with it, that's not going to go anywhere with inactivity at the site. We have heard of the broken windows theory. I was a Sociology major in college, so I had no choice but to go to Law School. And the broken windows theory is, if you are in a place where there are a lot of broken windows, there are going to be a bunch of broken windows. So, I know it's a hard case. I talked to Miss Pritchard many times on the telephone. I spoke with her at length today. She seems like an earnest lady. She seems like a lady who knows what she is doing. She is an entrepreneur. She has got the appropriate licensure from Jobs and Family Services. I think the parking issue with reference to the pick up and drop off is a non issue. I understand that the play space in back is not a park, but we are trying to soften the space and put in new fencing. If we can put in fencing that can exceed six feet in height, we are certainly willing to do that. There is going to be play equipment back there. There is going to be mulch on the ground. It

is going to be screened from the parking field. So, with reference to the standards of the code, again it is a permitted use subject to the review of certain standards, A-H, I think we meet them all, I think arguably we meet them all, starting from the bottom, "H". It is a special exception use in the code. The use complies with the provisions/development standards of the code. We have had a lot of discussion here about the use being in accord with general and specific objectives. And the purpose and intent of the Zoning Code and Land Use Plan, which incidentally I understand is from 1992, the year I graduated from High School and the year Mr. Snowden was in Kindergarten, and other plans and ordinances of the City. Now, I am a zoning attorney so I have this stuff pounded into me. There is a case law that says zoning is a derogation of the common law and restricts otherwise permitted uses of property. So we have to tread lightly on restricting people's private property rights. And the purpose of any zoning code is to allow people to make a fair and reasonable use of their property. In this instance, we have a viable tenant. They have been sticking in there for the long term. And we really are doing our very best to mitigate the issues that have arisen in the past, and to mitigate issues that are here tonight. So, I think we certainly meet the objectives of Land Use Regulation, purpose and intent of Zoning Code, and the outdated Land Use Plan. Traffic impact, there is no traffic impact here. The proposed use is served adequately by public facilities, police, fire, storm water, water, sanitary sewer, schools. I think that anybody would say there is a significant impact there. The proposed use shall not adversely effect the health, safety, morals, or welfare of persons residing or working in the neighborhood. I don't think it will effect the neighborhood one iota. I think it is going to be just fine. The proposed use shall not adversely effect the use of adjacent property. If anything, this is going to improve the adjacent property because we are sitting here with a vacant center, and vagrants sleeping in the back, and trucks idling on private property where they should not. I am going to suggest to my client that he engage with a private tower, because those private towers are probably paying if they tow cars off there. That's one way to generate some income. He is not interested in having people idle there. When I was there today, I think I did see a truck in the back. I also saw some Rumpke trucks in the front of the lot. Maybe they were at the grocery store, I don't know.

Ms. Wallace: I appreciate your argument, and I agree with a lot of it. And, I want more than anything for that strip mall to have tenants in it, and for your client to be able to open another business and be able to expand her business. But, for me, the whole setting is just not going to change. If you did everything you said, it still does not change the fact that the back of the building is still on a thoroughfare to get from one main street to another main street. I appreciate and agree with your points about trying to make everything work out. Physically, it just cant be changed. The giant parking lot, if you could fence in the whole area and prevent any traffic at all, that would be a different idea, but that is not feasible. That would me millions of dollars to make it so you are not having traffic go through there. The ability of semis to go two doors down to make a delivery. That part for me is not changeable or fixable, even though everything else seems to be.

Mr. Hodge: Ms. Wallace, I don't know precisely what the ODJFS requirements are as to whether a operator has an obligation to have an outdoor play area. If the play area could be incorporated into the building...

Ms. Wallace: I am pretty sure there has to be an outside play area.

Pastor Linder: When the church had a day care years ago, we did have interior because of foul weather, so I do not remember now if you have to have both. We did have an outside and inside. I don't know if that is something worth looking into.

Mr. Hodge: Ours does too.

Pastor Linder: That had been a suggestion that I would have made, that if we could find more space for them to have an interior play area, that may have given the owner more room.

Mr. Snowden: Our zoning code is not going to require them. As far as what ODJFS requires, I don't know. I can't answer that question.

Mr. Hodge: I would on that issue, if it is important enough to one or more Board members, I would propose that this application be tabled until a later meeting so that we can get that answered. If you feel it is that important and makes a difference to your position.

Pastor Linder: Was the owner open to restricted hours in terms of delivery? Is that even practical for him and other tenants that would come in?

Mr. Hodge: At this point it is practical because there is nobody else there.

Pastor Linder: But could he work that with future lease agreements? Would he be comfortable trying it?

Mr. Hodge: At this point the answer is yes. One of the things he is looking at and has eluded to in my statement and I think it is a fantastic idea, again I drove it today, this building has a pretty significant face on Livingston Ave., and it's the site of old Big Lots, that could be broken into smaller spaces and have more of a presence on Livingston Ave. I think that is a direction he should go to breathe more life into the center and to draw traffic in off of Livingston. Currently it just looks like a long vacant front.

Mr. Snowden: So, to clarify what he means is taking the former Big Lots space and subdividing it into small tenant spaces that would face Livingston, that could be rented easier. For example, instead of renting the several thousand foot space, you could divide it and rent one to a barber shop, and one to a nail salon and so forth. So, it would be smaller and easier to rent.

Mr. Hodge: So, it is box truck delivery at that point?

Mr. Snowden: Correct, instead of the semi truck level delivery that Big Lots had.

Mr. Hodge: So, Pastor Linder, the answer to the question is yes.

Mr. Enfinger: Do we have any other questions, commentary, from members of the Board? My concerns still remain from the initial time. The proposed use is not going to be in character with the area, and I feel in my opinion that in the long term the proposed use will have an adverse effect on the use of adjacent properties, even though those might be empty right now. One of the questions that I think is obvious is, does it create the environment for other positive permitted businesses to move into the area. Once you start changing the actual character of that specific facility, all of the issues and things we discussed to this point seem to echo the fact that this place is not the proper place for a day care. It is my opinion, and we have voted consistently since I have been on the board, that day cares are long term, and as a zoning board, that's our perspective. Our perspective has to look beyond what Mr. Wiggins and Mr. Kuzmanovskis' short term objectives are, and we have to look at the long term thing. I have a couple of questions. Has WK Brice as an organization confronted the City administration and asked what is being done to turn this area around? What is the plan? Where is the vision? Have they put adequate pressure on the City to say, "This is not our fault. We are doing everything we can, but the neglect of the city, the neglect of a plan, of a vision, for that whole entire area..." And this center is not the only one that is struggling, and in my opinion, I think this is a larger issue. The one thing we have to be careful of here, in zoning, is to make sure we are preserving and protecting the long term financial interests of the district, of the city, and of the citizens. Maybe I am taking too broad of a view of it but I think that this is where the rubber meets the road. These are the types of decisions that have impact on those things subsequent years from now. Because, in all reality, if she is able to move in there, and she is successful through the years, it may be 10,15, or even 20 years she is there. Is that the right long term answer for us. It may be in their best interest to fill it, but long term I'm just not sure that it is. It all circles back around to the fact that it is beginning to change the essence and the character of this district, and this facility. When you begin to allow that type of a business, it fundamentally changes it. It has implications that reverberate through time. We have to be careful of that. And that is the position that the Board has taken since I have been on the Board for a little over a year now. And we have consistently upheld that as the position in the Community Commerce District. The day care centers do not fit the character, and it will have, as in Item "B", a negative impact on the neighboring and other businesses in that area. As a result, that is where I stand.

Mr. Hodge: I appreciate the comments Chairman Enfinger, and I think it is fair to say that reasonable people can reach alternative conclusions and I differ with your opinion. I am not just here as a mouthpiece for folks that have a goal, but I am here, and I believe what I say. I understand the position. I disagree with it. And, I think that in answer to your question, has this applicant reached out to the City? Yes, repeatedly, over and over. Mr. Havener is very active with this owner and his representatives, and very active with the City. And, the City to it's credit, has sent out many people to the site. They don't rent it. It's a challenged site. It is set back away from Brice Rd. The Brice Road frontage is all carved up into out lots. You cannot see it. The Livingston Ave. redo of the frontage is a great idea, but it hasn't happened yet. People will not rent it. And so, it is a chicken or egg and the client is here spending money on me and other things, and willing to engage with the City to improve the site and to make all effort to do what is necessary to improve the site. But, until they get some income, until they get some activity on the site, my opinion is it is going to continue to languish.

Mr. Snowden: I would have to characterize them as very engaged at the moment, not just with this application, but looking at any potential changes to the site.

Mr. Hodge: I guess I would reiterate if there are folks to whom it would make a difference, regarding the play area, I would ask your thoughts and propose tabling to allow me to check with ODJFS.

Pastor Linder: I started reading the minutes thinking along the lines of Mr. Chairman, but I would be open to hearing if that answer would make a difference. I don't know if we should make a motion to table it, but I do yield to the veteran members here because I do not know if that just gets us back to spinning our wheels. That would be a motion I would make to table it at this time because that would give the applicant the opportunity to answer another way for this day care to fit that we might find to be safer, with respect to the Chairman's objection to the idea.

Ms. Wallace: I think a big point that has been made by some of the Board members is that it being a day care in not just this strip mall, but any, is just something they are not comfortable with because it does not fit the character of the building. And, if somebody would want to put a sales business in there, it would not fit the character of what the strip mall was originally deemed for.

Mr. Enfinger: I concur, the issue of the play area, while it is germane, is not my only concern. So, was there a motion?

Pastor Linder: There was.

Mr. Enfinger: Do we have a second for that motion. No second, so the motion is declined. I make a motion that we move to approve Application #170778.

Ms. Wallace: I second.

Mr. Enfinger: As a result, the applicant has failed, in my opinion, to reach the standards and requirements for all Special Exceptions, delineated in Item 1145.09 of the Code, specifically Line A and Line B.

Mr. Snowden: Very well Mr. Chairman and members of the Board, it stands as denied. At this time, if I could interject, Mr. Hodge, you can appeal that to City Council within thirty days and I will discuss with you as soon as the meeting is adjourned what you need to do in order to do that.

Mr. Hodge: Well thank you all for the opportunity, and for listening to me ramble on. And, Mr. Enfinger, I made a pretty strident point, but it is all in the nature of doing my best to make my clients case.

Mr. Enfinger: I absolutely understand. Thank you for coming out this evening.

RESULT:	FAILED [0 TO 4]
MOVER:	Aaron Enfinger
SECONDER:	Libby Wallace
NAYS:	Linder, Donovan, Enfinger, Wallace

E. OTHER BUSINESS

Mr. Enfinger: Mr. Snowden, is there any other business on the Agenda.

Mr. Snowden: No other business or announcements at this time.

Pastor Linder: I would like to talk to you about the lights on the Dollar General store. They still have the lights on the top of the store.

Mr. Snowden: With regards to that, staff has been to the site several times since we last talked. The property went to pull electrical permits but were unable to because they did not heed my advice, which was that they needed to submit electrical plans to the building division, for review, before they could pull their permits. So, the property owner had to go back and have those plans drawn, and I believe they have yet to be submitted again.

Mr. Enfinger: Is there a specific time horizon in which there can be punitive action taken by the City, to encourage them to comply in a more timely manner?

Mr. Snowden: There is. When we made the initial statement, when the Board said thirty days to present a plan to Staff, they did present a plan to staff, although they are not in compliance at this time. So, they did meet that initial statement, but they have not met any subsequent timelines. The Board does not need to take any formal action. If it is the will of the Board that Staff and the Code Compliance Division move forward, there is nothing to prevent Staff from enforcing the Code.

Mr. Enfinger: I think we were, to say the very least, very generous in allowing them to move in there. Now they are dragging their feet and hoping that the whole thing goes away. I am just not comfortable with that. I don't think other members of the Board are as well. They have thumbed their nose at our requests. I think we need to move forward in those proceedings.

Mr. Snowden: Let Staff confer with Dan. One of the issues is that our Code Compliance Division is actually under Building so I am going to need to discuss with our Building Official exactly how he would want to operationally handle that. Let me try to get the Board a follow up from that either tomorrow or Monday. I will let you know whether they have submitted the plans, or whether citations are forthcoming.

Mr. Enfinger: Sounds good. Any other business? I would like for the record to reflect a point of clarity. Whenever I was speaking to Mr. Hodge about his client interacting with the City, and putting adequate pressure on the City, I wasn't speaking specifically of Mr. Havener. I know he is doing everything he can. I am speaking more broadly in terms of City Council, the Mayor's Office, and other entities in the City that seem to not be putting enough effort into making things happen, and not backing it with resources, and not doing what needs to be done, and just

standing by with hands folded. As a point of clarity for that, I did not want it to come across as though I was throwing Staff, or the Development Director under the bus, specifically. I'm talking about the City leadership in general. That is where my comments are directed. Any other comments.

F. ADJOURNMENT

Chairman



Planning Administrator