

architecture along Walton. He did not see it as being a prelude to additional commercial development beyond the residential areas on Walton. He agreed with the theme of the design in terms that a resident in the City needed to know that it was a fire station. The red roof was significant in that regard, and people associated it with fire stations. He stated that it was in the interest of public safety for everyone. If a person drove down Walton and there was a crisis, they could pull into the lot and know it was a fire station. He thought that Mr. Mason had made every effort to try to blend the building in with the changes in elevation, the roof line and the design of the façade, and he could support it. He suggested, based on the lineal footage along the two property lines, increasing the landscaping allowance to \$35k, since they would be adding landscaping along the south property line. If it was being done in a bid environment, he felt that they should take advantage of that environment and do it up front. If everyone was in agreement and they had money left over, that would be great. He wanted to make every effort to make the residents happy and screened as best as they could.

Mr. Anzek said that as they worked with the neighbors, a couple of matters came up. He recommended that the planting of the materials should be deferred until the wall and structure were built, and then it would be a coordinated effort with the residents on the placement and size. Mr. Kaltsounis amended his motion to include both recommendations.

A motion was made by Kaltsounis, seconded by Brnabic, that this matter be Approved. The motion carried by the following vote:

Aye 8 - Boswell, Brnabic, Dettloff, Hooper, Kaltsounis, Reece, Schroeder and Yukon

2012-0158

Request for Reconsideration of the request for a Conditional Use Recommendation - City File No. 12-006.3 - To construct a drive-through at The Walton Shoppes, a 22,880 square-foot retail center on a 6.33-acre portion of the development at 1200 Walton Blvd., east of Livernois, Parcel No. 15-10-351-081, zoned B-2, General Business, Tower Construction, LLC, Applicant.

(Reference: Memo, prepared by Sara Roediger, dated January 16, 2015, site plans and updated landscape plans had been placed on file and by reference became part of the record thereof.)

Present for the applicant was Arkan Jonna, A. F. Jonna Development Co., 4036 Telegraph Rd., Suite 201, Bloomfield Hills, MI 48302.

Chairperson Boswell explained that in order for this matter to proceed, a motion for reconsideration would have to be made by someone in the majority in the vote for the Conditional Use Recommendation at the last

meeting. That would include Ms. Brnabic, Mr. Hooper, Mr. Kaltsounis, Mr. Reece or Mr. Yukon. Mr. Kaltsounis moved the motion, seconded by Mr. Schroeder:

MOTION by Kaltsounis, seconded by Schroeder, in the matter of City File No. 12-006.3 (Walton Shoppes Drive-Through) the Planning Commission will **reconsider** its December 16, 2014 motion to **recommend** City Council **denial** of the requested **conditional use**.

Voice Vote:

Ayes: All
Nays: None
Absent: None

MOTION CARRIED

Chairperson Boswell affirmed that the motion had passed.

Mr. Anzek stated that subsequent to the December meeting, Mr. Jonna contacted Staff, and they met on site to discuss the condition of the landscaping. They looked at the dumpster because of complaints about the trash and the gates always being left open. Mr. Jonna had not been there for a while, and he saw the need for the landscaping. He also wanted to meet with residents and present a new landscape plan. It was Staff's recommendation that he meet with the residents prior to coming back to the Planning Commission. Mr. Jonna did not want to go to Council with a recommendation for denial with the previous landscape plan. Mr. Jonna had asked for a list of all the residents who spoke or sent letters, and he contacted them, and they met at City Hall last week. Staff also contacted Mr. Cooke of the Fire Department, and he was agreeable to a speed hump across the back access road.

Mr. Jonna thanked the Planning Commissioners for giving him the opportunity to be in front of them again. A few months ago, his property manager had been contacted by the neighbors regarding a trash situation and dead trees between the properties. The trash situation was taken care of. At that time, they transplanted ten very mature evergreens from another property directly behind the Walton Shoppes. They were in replacement of dead trees, but Mr. Jonna thought that they could have done a better job of placing the evergreens throughout the whole screening area. He agreed that they met with the neighbors at City Hall. Prior to that, Staff drove both sides of the screening area. There were three different areas that were very inefficient, and there was no screening. He was not sure if it was never done correctly in the beginning or if

plantings had died and nothing was done. They had identified the areas that were lacking, and they wanted to fill them in. The plan in the packet was created after the meeting with the neighbors, but they had already planned to do something. He said that the areas to the east and west and one in the middle where there were headlights from Walgreen's needed the most attention. He assured that they would replace the dead plantings whether the drive-through happened or not, and they would fill in areas to the satisfaction of the neighbors. They identified 29 evergreens for planting, but if it took another ten, they would put them in.

Mr. Jonna mentioned that there was a concern about traffic. They hired Mike Labadie, a traffic engineer, to look at the situation with the drive-through. He had given recommendations via a letter that was included in the packet, and he did not feel that there would be a traffic problem. If approved, Mr. Jonna advised that they would incorporate Mr. Labadie's recommendations.

Mr. Jonna talked about the dumpster, and he reiterated that the complaint was that the gates were always left open. He stated that it was difficult to police, because every tenant in the center used the dumpster. The idea would be to lock the gates, and the only person who would have a key would be the waste hauler, who would remove the dumpster every seven to ten days. On the east side, they would cut an opening in the wall so the tenants could put trash in the dumpster without opening the gates. They would screen around it so it would not be visible to the neighbors.

Mr. Anzek said that when Mr. Jonna and Staff traveled the area, they did see dead trees that were primarily on the Walgreen's property, and they would be the responsibility of Walgreen's. Mr. Anzek notified Code Enforcement to start a file for Walgreen's to begin efforts to assist in replacing dead trees. Mr. Jonna said that he would also work with Walgreen's to help that happen. Mr. Anzek corrected that Mr. Jonna was proposing 33 additional trees rather than 29.

Mr. Schroeder noted that Walgreen's had been included in the new plan. He asked if Mr. Jonna had done that on his own or if Walgreen's was working with him. Mr. Jonna agreed that they had done it on their own. The problem was that in the last four to six weeks, Walgreen's corporate disbanded its whole real estate department and was outsourcing it. It would be a while before they got to the right people to get answers. He thought that if Code Enforcement sent letters to Walgreen's, that it would be very helpful.

Mr. Yukon asked how many tenants were in the development currently that used the dumpster, and how often it would be emptied. Mr. Jonna said that the dumpster was computerized to tell when it was between 80-85% full. It was automatically scheduled for pickup, usually between 90-95% of capacity. Mr. Yukon said that his concern was that there would be a side-loaded dumpster with several tenants emptying trash, and the trash could build up. Mr. Jonna explained that it was a compactor. Regarding the letter from the traffic engineer, Mr. Yukon indicated that there were some very good recommendations made. He noted that the site plan showed that the proposed drive-through lane would be separated by a raised median that was eight feet, three inches wide, including the curbs. Mr. Yukon said that the site plan also indicated that the median would have a sidewalk and landscaping. Mr. Jonna explained that the sidewalk would be along the western portion of the median. The idea of the sidewalk was to create a connection within the property to make it more walkable from north to south. Mr. Yukon asked if there was a concern about safety with the sidewalk. Mr. Jonna said that he did not think so, because the traffic would be very slow. He added that the drive-through stacking would be at a virtual stop, and the cars would just creep along. He offered to make it all landscaped. Mr. Yukon asked where the two "Do not enter" signs would be. Mr. Jonna pointed out that they would be at the south ends of the drive-through. Mr. Yukon said that Mr. Labadie recommended a stop sign at the very southwest corner of the building facing north. He asked where that would be. Mr. Anzek believed that was intended for people using the drive-through so they would stop before they got to the pedestrian crossing. Mr. Yukon stated that he had concerns about pedestrians next to a drive-through lane. It would only take one car not stopping, and he said that he would like to hear what other Commissioners had to say about that.

Mr. Kaltsounis noticed that a photometric study had been done, but he did not see any improvements for the drive-through. Mr. Anzek did not believe that any lights would be added. He advised that the lights on the building were installed when the center was originally rebuilt in 2006, and there were a couple of wallpacs on the back. Mr. Kaltsounis said that he was worried about the curbing in the back. He stated that the latest shoebox was quite far away, and he considered that they might need some enhancements to the lighting for the curbed area to be seen at the north end of the median. The nearest shoebox was four parking spots to the right of the curb. Mr. Anzek asked Mr. Jonna if the company that leased the facility would be putting in directional signs. Mr. Jonna agreed. Mr. Anzek thought that a ten-foot light could be added to assist people in seeing the curb. Mr. Jonna said that would not be a problem,

but he felt that a directional sign would serve as well.

Ms. Brnabic asked Mr. Jonna what would be used to buffer the outdoor seating area or if he even had a plan for something to be placed in that area. Mr. Jonna said that was a great idea, and he suggested that they could create some hedging around the edge. Ms. Brnabic asked for confirmation that with that in place, no one would be able to walk right into the drive-through traffic. Mr. Jonna thought that even better than a hedge, he could add some ornamental fencing similar to what Buffalo Wild Wings had. He said that it would definitely stop people from walking into the drive-through traffic. Ms. Brnabic asked if he had remedied the Fire Department connection issue. Mr. Jonna did not recall that it was an issue. Ms. Brnabic explained that the Fire Department had asked that the FDC be moved from the patio area. She read the comment from the Fire Department: "The outdoor seating would have to be reconfigured to provide for clear, unobstructed access to the Fire Department Connection." Mr. Jonna said that it would not be a problem.

Ms. Brnabic said that she agreed with Mr. Yukon about the sidewalk. She could understand wanting to provide walkability, but at the same time, she was concerned about having a sidewalk in between two drive-throughs. She stated that she would not like to see a sidewalk in that location. She thought that having the proposed signs were a good idea.

Mr. Reece pointed out that the plan called for a wrought iron fence around the patio seating area. He also did not believe the sidewalk would be used much. If anyone came to the site on foot, he or she would probably come off of Livernois along the sidewalk by the Walgreen's and enter the building from the south. He suspected that people who parked in the back would be employees rather than shoppers. Mr. Jonna said that he had no problem taking the sidewalk out. Mr. Reece said that he would take it out and add a low hedgerow. He felt that it would better define the drive-through and make it safer. He did not believe that the Fire Department would have an issue with a low hedge.

Mr. Reece asked about the potential tenant, and if it still planned to locate there. Mr. Jonna said that it was called Tropical Smoothie, but they had all but gone away. His leasing people had tried to resurrect it, but he felt that it was now about 50-50. Mr. Reece said that if it was a smoothie type operation, he did not believe that there would be a significant amount of drive-through traffic. If it was a Starbucks or Tim Hortons, however, he would be more concerned about the amount of traffic and the hours of operation, and he also thought the residents to the north would be more

concerned. If a smoothie shop went until 10 or 11 at night and then shut down, it would be one thing. If it was a drive-through coffee shop that went until 2:00 in the morning, it would be much different. He wondered if that could be revisited if the tenant were to change, because he felt that was a significant part of whether the project should or should not get approved.

Mr. Anzek advised that the Planning Commission could condition the hours of operation with a Conditional Use. He observed that Walgreen's was a 24/7 operation, and Mr. Reece had earlier pointed out that the drive-through at Walgreens was not busy. Mr. Reece felt that it came down to getting a satisfactory meeting of the minds between the residents and Mr. Jonna. Mr. Reece indicated that it was 90% a landscaping issue. If they could come to some form of agreement that there was adequate screening the residents deserved, and even add more, the residents would be happy. He would like to see that level of satisfaction be met to a reasonable degree, and in his opinion, they then could move forward.

Mr. Yukon echoed Mr. Reece's and Ms. Brnabic's thoughts regarding the sidewalk. He would prefer to see it removed. He asked if there was any discussion about the east-west access in front of the drive-through and the safety aspects. Mr. Jonna felt that was why the stop signs were being recommended for control.

Mr. Dettloff clarified that Mr. Jonna no longer had the tenant under contract. Mr. Jonna replied that they were never under contract. Mr. Dettloff asked if the smoothie company had any other operations in the area. He knew of one at Maple and Crooks, but he was not sure it was the same operator. Mr. Jonna was not sure where other locations were. Mr. Dettloff said that he had driven by that smoothie shop many times, and he had never seen many cars in the drive-through. He wished Mr. Jonna good luck, and he thanked him for taking the time to meet with the residents. He asked about the turn out, and Mr. Jonna informed that there were about ten people.

Chairperson Boswell opened the public comments at 8:03 p.m.

Phil Bates, 1267 Oakwood Ct., Rochester Hills, MI 48307 Mr. Bates said that he had the opportunity to speak at the December meeting. He asked Mr. Anzek if he had been there when they viewed the site. Mr. Anzek agreed, and he said that Ms. Roediger, Mr. Jonna and his landscape architect were also there. Mr. Bates asked if there was an effort to contact anyone from the homeowner's association for Fairwood Villas to accompany them. Mr. Anzek said that there was not, because he

wanted to point out the problems he saw. Mr. Bates said that he still saw significant problems. He said that Mr. Jonna wrote a letter dated January 14, 2015 to the Planning Commission, where he indicated that in the summer of 2014, they transplanted ten pine trees between the commercial development and the residential property. They proposed to fill in the gap areas with additional plantings to provide an enhanced, natural screening. When Mr. Bates was before the Commissioners in December, he mentioned that they had a commitment from someone in Mr. Jonna's company to remove and replace the trees and shrubs that were there. Mr. Bates complained then that it had not been done, and after six weeks, he went to the president of the association and said that not only had it not been done, but the grass was at least 12 inches high. January 14th was the night that Mr. Jonna held a meeting with the residents, but Mr. Bates did not receive the notification for that meeting until January 12, and he already had a prior commitment. Mr. Jonna had handed out a plan for supplemental plantings of 29 trees. The plan on the website said that there would be 33 trees, but only 30 Norway and Colorado Spruce trees were shown. The plan had been updated to show 33, but Mr. Bates stated that there were a lot of inconsistencies. He mentioned that he was an Eagle Scout, but he did not know the difference between a Colorado Spruce and a Norway Spruce. He suggested that as the project moved forward that the residents be involved. He said that they lived there, and they knew what the problems were. They would like to be involved in the selection and placement of the trees, and they wanted to be sure that the maintenance went forward afterwards. He had read old minutes, and the Planning Commission had been very adamant about ensuring that there was adequate screening - visual and sound - and that it had to be harmonious. He maintained that it did not happen. He commented that the neighbors were not anti-development; they just wanted proper screening. He thought that the other issues with the drive-through were valid concerns. They wanted to be a part of the landscaping, like the neighbors were going to be with the fire station.

Frank Jensen, 1263 Oakwood Ct., Rochester Hills, MI 48307 Mr. Jensen noted that he was a resident of the Fairwood Villas Condo Association, and he said that he appreciated the opportunity to speak. In his opinion, Mr. Jonna had developed a property that would be very visually appealing from the front elevation of the project. He supported any development that would increase the property values of both his residential area and Mr. Jonna's property if they could work hand in hand. They did not want to see a depreciation of their property values at the cost of appreciation of Mr. Jonna's. As things currently sat, he felt that might be the course of action. In a Staff Report dated December 12, 2014,

page two under Site Plan Review Considerations, Staff recommended filling in the gaps along the northern property line to create a continuous landscape wall. A wall, to him, indicated a much denser foliage than what was currently proposed. In a follow-up letter from Ms. Roediger to the Planning Commission on January 16, 2015, it summarized the meeting that took place between some of the residents, the applicant and Staff, and the results of that were the recommendation of 33 evergreen trees to be planted to replace dead trees and to fill in the gaps, as well as to lock the dumpster and screen it. The report also mentioned that the applicant was willing to work with Walgreen's to correct the problems of the entire site. He asked what assurances the residents had that Walgreen's would be willing to allow Mr. Jonna on its property to do the plantings other than just his word. Mr. Jensen stated that Walgreen's had not been very cooperative in replacing dead trees, so they needed something to assure the residents that it would, in fact, take place. There was a good indication that Mr. Jonna wanted to do the right thing, but Mr. Jensen wondered if he legally had the capability of replacing the trees there. In that same letter, a finding for consideration of approval was that the development should not be detrimental/hazardous or disturbing to any existing or future neighbors. One of their concerns was the speaker situation. He pointed out that Walgreen's was not a 24-hour operation; it closed at 10:00 or 11:00 p.m. The drive-through for the pharmacy closed at 7:00 or 8:00 p.m. That speaker system was shut down much earlier than what they had discussed for the proposed. He said that the directional positioning for the speaker was also an issue. They rarely heard the Walgreen's speaker, because it pointed directly east. With a drive-through that wrapped around a building, such as Starbuck's, it was positioned diagonally such that it caught traffic on a corner. Diagonally would point directly towards one of the condo buildings, so he maintained that it could be an issue as well. Mr. Jensen said that the residents thought that there definitely needed to be more than 33 trees. He put a diagram on the overhead. He said that it showed a combination of evergreen and deciduous trees and shrubs. Between the shrubs and the deciduous trees and the current status of six-months of winter type weather, 30% of the foliage did not exist. He did not think that 33 trees was anywhere near what they would need to fill in the gaps to create a landscape wall. Mr. Jensen stated that their concerns were multiple. He summarized concerns: The landscape wall would need to be denser; the speaker situation; having the full, true cooperation of Walgreen's and having some assurance that Walgreen's would cooperate with Mr. Jonna; and the fact that the Walton Shoppes had been constructed for about three or four months, and the first discussion they have had about replacing any of the dead trees had only come at the proposition of the drive-through. He

asked why none of that was considered when it was strictly the Walton Shoppes. They were still looking at the backside of a building that was very detrimental to their property values. He claimed that the only reason they were even considering the replacement of the trees was because of the conversation with the drive-through.

Mr. Jonna disagreed. He said that his property manager was called, and they transplanted very large evergreen trees. The thought was that the screening was just for behind the Walton Shoppes, because that was what they were developing at the time. They spent a small fortune to transplant trees to try to cure the situation.

Mr. Jensen said that he understood. He asked Mr. Jonna if he would consider the current transplant of the trees to be sufficient to block the view of the backside of the Walton Shoppes, regardless of whether there was a drive-through. Mr. Jonna answered that he did. Mr. Jensen asked Mr. Jonna if he felt that the view was currently blocked. Mr. Jonna said that they took two areas into consideration. When they originally were developing Walton Shoppes, they created a landscape island in the middle of the parking lot behind the property so it would further screen the residents. They thought they were doing the right thing.

Mr. Jensen said that one of the neighbors would show some photos that would clearly show that there were not enough dense trees. Mr. Jonna stated that he had already agreed that there was not enough density. Looking back, he felt that the evergreens should not have been planted behind the Walton Shoppes; they should have been planted to the east and west.

Mr. Jensen reiterated what Mr. Bates had said about the residents being involved in the placement and selection of the trees. The visual effect occurred looking out their kitchen windows, which faced the backside of the development. Moving a tree one foot left or right would have a significant effect on whether their views were blocked from the neon sign of Walgreen's or the lighting on the backsides of the buildings. He would like to get a couple weeks' notice about the digging and planting so they could be onsite to assist with that.

Mr. Jonna said that they were slated to install 33 evergreen trees. He said he would put in whatever it took. It did not matter to him where the trees were. They should go in where they would plug the holes. He said he would look for the residents' suggestions and to his landscape architect about where to place them.

Sharon Whitmire, 1290 Oakwood Ct., Rochester Hills, MI 48307 Ms. Whitmire said that she had been enlightened about some things, but they were begging the Commission to do the right thing for the residents as property owners in the community. She stated that with the drive-through, they would be setting a precedent for future use. Mr. Jonna might have a smoothie shop for a tenant now, but she asked what would happen if a Tim Hortons went in. She had seen backups at Starbucks. She stated that drive-throughs were not typically in the middle of a shopping center. If they were represented, they were in a stand-alone building, not end units of a building. In her opinion, it was hazardous and unsafe. The Planning Commission had talked about adding more lights and signs and speaker noise that the residents would have to deal with, and she felt that a berm with landscaping was necessary. She added that it did not have to be straight across; they could add landscaping with imagination. They were excavating in downtown Rochester for parking structures, so she suggested that there was a lot of free fill. She felt that the developer could build up a berm and put some trees on it, because she claimed that it would be the only thing that would block noise. It would not be just trees needed, which would not be a long-term solution to the problem.

Marlena McLaughlin, 1271 Oakwood Ct., Rochester Hills, MI 48307 Ms. McLaughlin noted that she lived directly behind the line of cars looking at the Walgreen's sign where people came through the pharmacy, and there was also a red exit sign. She said that there was lighting on Mr. Jonna's property that shined into her upper level room, and she could not even watch television without having the drapes closed. Their objection was not to business development, but to a continued exposure to the disturbances that were cited at the December meeting. They were a neighboring community, and they used the shops in Mr. Jonna's development. They put money into his investment every time they walked through his doors. It was quite evident to her that with the parked cars at Buffalo Wild Wings at any time after 5:00 p.m., that it was a very profitable business. From her personal experience, the Red Olive was also in that category, and it was in a very prime location. As neighbors, they loved the selection of stores at the Walton Shoppes, and they spent their money there. She could not understand why it was so difficult for Mr. Jonna to accept that it was a two-way street. They accepted what Mr. Jonna had selected for their shopping enhancement, but she asked about the neighbors that had to endure what the good business brought to the front of their homes. It was stated at the last meeting that they were proud of their community and of what Rochester Hills offered. They did not want to stand for just 33 trees - they needed more than that. They

needed their privacy back. Before the development started, it was vacant land and a Walgreen's, and they did not know what would happen in the future. She stated that if they all turned on their front courtyard lights at night, it would be very evident to see how lacking the present barrier was and how in need they were of a dense, Type E Buffer. She felt that the landscape condition on Fairwood Villas property was irrelevant, and she felt that the burden of providing an adequate green buffer between the existing RM-1 property and the adjacent B-2 zoned retail property was the developer's. It had been proven that what was installed had not met the Ordinance requirements for maintenance and longevity. The Planning Commission members had stated that they would like to see plantings to completely screen the condos to the north. It was also suggested that an opaque screen with non-deciduous trees, eight feet tall, staggered twenty feet on center be installed to create the buffer. She claimed that they were possibly the only condo complex in Rochester Hills where the front entrances faced the rear of a commercial site. She claimed that without a berm to raise the elevation so as to diminish and seclude their residential property, the commercial site was damaging and diminishing their home values. The Planning Commission had the latitude to require buffering as appropriate to specific conditions, and it was the residents' contention that due to the light and sound trespass experienced since the original development and the increase in activity on the site, that the buffer requirements should be enhanced to a Type E Buffer along the entire shared property lines.

Chairperson Boswell closed the public comments at 8:25 p.m. He asked Mr. Anzek how they could ensure that Walgreen's would cooperate with Mr. Jonna.

Mr. Anzek said that was one of the reasons, when they returned from their tour of the site, that they opened a Code Enforcement file for Walgreen's to immediately begin the process. He commented that going through the courts with Code Enforcement was very time consuming. They had to start with due process to give them time to correct the situation before they could begin a court action. That process had been started. He agreed with Mr. Jonna that it might be difficult with Walgreen's corporate change, but the Code Enforcement folks would stay on top of it.

Ms. Brnabic said that she wished to clarify some things. There was an impression by some residents that they should be present when landscaping was planned and installed. Ms. Brnabic wanted them to understand that the Fire Station matter was a rare circumstance. There were factors involved, including that the station was being moved over to

the east side of the property, that there was a cell tower on the site, that the Planning Commissioners were concerned about the drip lines of the trees, and that they could possibly die, and whose property the trees were on that had to be ironed out. As always, the Commissioners and the Planning Department welcomed and listened to opinions, input and concerns from residents, but she was a little concerned they would be opening up a hornet's nest when she heard residents say that they wanted to physically be present, and that they should choose the placement and the type of trees for the landscaping. In general, the plantings were selected by the applicant and Staff. She would not want to see it where every time there was a landscape plan that residents would come forward and insist on being physically there and on choosing the selection of plant materials. She indicated that really was not how it worked. She realized that the residents might have gotten an impression during the Fire Station review, but she advised that there were a lot of different circumstances of how it got to that point, and having that level of resident involvement was a rare situation.

Mr. Hooper mentioned the speaker for the drive-through, and he asked if the location (at the northwest corner of the building) had changed. Mr. Jonna said that it had not. Mr. Hooper noted that it would be further south than the Walgreen's speaker. If the talking went due west, he thought that would be better than how it was at Walgreen's. Knowing that, and with the City's current Noise Ordinance, he was confident that Staff would not allow potential noise from the speaker to reach the property line. He pointed out a similar concern with the new Tim Hortons at Adams and Walton that was abated. Mr. Hooper said that he was fine with the ornamental fencing proposed for the outdoor seating area, and he was o.k. with dropping the sidewalk. He agreed with the recommendations per the letter from Mr. Labadie. He felt that it all came down to the screening. He thought that everyone needed to step to the plate, and he was glad that Mr. Jonna was doing so. Mr. Hooper suggested installing a minimum of eight trees per 100 feet. He scaled the site, and it was about 800 feet. That would be about 64 trees, plus three by the dumpster. He suggested a minimum of 67 trees to replace the dead trees, to fill in the gaps and to ultimately create a six-foot high, unobstructed visual screen from Mr. Jonna's property and from Walgreen's property. That was supposed to have been done when the property was first developed, but it never occurred. He asked if Mr. Jonna planned eight-foot Colorado and Norway Spruce trees. Mr. Jonna agreed that they would be six to eight feet. Mr. Hooper said that eight per 100 feet would be 12 feet on center, staggered to fill in gaps and to replace dead trees, and that would, in his opinion, create a visual screen that the residents deserved to have. He would support that as a

condition. He felt that Staff could take care of the issues with Walgreen's. He presumed that the installation would not occur until the spring.

Mr. Jonna asked if Mr. Hooper was talking about 800 feet from end to end, including Walgreen's. Mr. Hooper replied that was correct. Mr. Jonna asked if he should plant behind Walgreen's and whether that would include whatever had to be replaced that was dead, to which Mr. Hooper agreed. Mr. Hooper said that he should create a staggered, visual screen between what was out there now and what would be planted. He had seen the photographs a resident (Ms. Janulis) had presented, which substantiated the gaps, and he thought that 67 trees would do the job.

Mr. Jonna commented that the City had a tremendous Staff. He asked if Staff could be allowed to determine what was needed, and then he would do it. He did not personally feel that they needed that many, because it was dense as it was. When he and Mr. Anzek drove the site, they saw a major vacancy on the eastern end and a major vacancy on the western end. He did not even know if they could put in 67 trees that would serve the purpose for the screening. He said he was o.k. with it, but he thought that if they put in that many, some would die, and there was no where to put them all. He suggested that it would be redundant.

Mr. Hooper said that he just wanted to provide some clarity for the residents. He knew Mr. Jonna had the best of intentions, as did every developer that came before them. If they provided clarity, there should be no ambiguity, and everyone would understand what would be done to get a six-foot, unobstructed screen across the entire northern frontage of the property.

Chairperson Boswell said that when the project first began ten years ago, the City must have dropped the ball, because things had fallen apart since then. The Commissioners had insisted on practically the same thing that Mr. Hooper was mentioning, but it never fully occurred.

Mr. Jonna said that he did not remember any screening involved when he built the property to the east. He came in after the Walgreen's was developed. There was supposed to be an Art Van Furniture store on his property, and the site development had been completed when he came into the picture. He added that they did not have screening issues.

Mr. Anzek agreed that Mr. Vogt built Walgreen's, and he intended to develop what now was the Walton Shoppes. At that time, the landscaping was planted as approved, and the correct buffer was used. The

deciduous tree areas seemed to have the biggest gaps, because there were shrubs around the bottom but in the winter, people could see right through them. The trees that were planted were six to eight feet high and currently, they were 12-18 feet high. When Great Oaks mall was originally built, a row of pine trees was planted about two feet off the property line - south of the property line. Those were the tall pines that lined the driveway in front of the residents' homes. They were beginning to show some age, and because they were two feet off the road, they had been trimmed so cars did not brush against them. A lot of the intended buffer was lost. The trees planted in 2006 were supposed to grow over time and create a wall. He thought that the trees were growing pretty well, and many of the coniferous looked very thick. They might need to do some key staggering with additional trees. He was not sure if it would be 67. They had to decide if they wanted to go with smaller trees at 6 feet or with 50 ten-foot trees and get more immediate results. They also had to take into account that a typical Colorado Spruce that was ten feet tall would have a six to eight-foot spread at the bottom. When trees started growing into one another, they could die. He was not sure what the exact number should be, and he suggested that they could revisit that question. He was confident that he and Mr. Gerry Lee, Manager of Parks and Forestry could work with the residents and perhaps drive stakes into the ground where the residents felt would be good spots, if Mr. Jonna gave them permission to do that on his property. Mr. Anzek did not think that Mr. Bates wanted to travel to northern Ohio or Michigan to walk a nursery and tag trees, so he did not think Mr. Bates would want to be involved from start to finish. Mr. Anzek knew that the intent was to create a green wall, and he felt that they could create that with supplemental buffering.

Chairperson Boswell recommended that rather than putting a definitive number down, that they should leave it up to Staff. Mr. Anzek said that he would like to walk the site with the residents and see where their concerns were and see if anything was missed.

Mr. Yukon asked what basis of evidence Mr. Labadie used for his recommendations. Mr. Yukon asked if he was at the site and physically counted cars and documented the movements. He wondered if Mr. Labadie had just looked at national studies for similar developments to make his determination.

Mr. Jonna said that he did not know what Mr. Labadie used. Mr. Jonna had mentioned at the last meeting that they had done this movement previously in other locations. Mr. Jonna had sent him the plans, and Mr. Jonna's staff handled it.

Mr. Yukon asked if the City had any recourse into possibly removing the drive-through if there was a safety issue down the road, or in taking additional steps to ensure safety. Mr. Anzek said that he had not experienced that, so he was not really sure how the City would handle it. He indicated that the worst part would be if people were hurt. If the property owner saw unsafe conditions, the property owner would be the first in line to remedy.

Chairperson Boswell summarized that as far as the site plan, the Commissioners were pretty much in agreement that the sidewalk next to the drive through should be eliminated; the FDC conflict needed to be taken care of; and that additional buffering would be required. He asked if there was anything further regarding the site plan. Ms. Brnabic reminded about incorporating the recommendations from Mr. Labadie.

Hearing no further discussion, Mr. Reece moved the following, seconded by Mr. Dettloff:

MOTION by Reece, seconded by Dettloff, in the matter of City File No. 12-006.3 (Walton Shoppes Drive-Through) the Planning Commission **Recommends** to City Council **Approval** of the **Conditional Use**, based on plans dated received by the Planning and Economic Development Department on November 14, 2014, with an updated Landscape Plan dated January 15, 2015, with the following seven (7) findings and subject to the following one (1) condition:.

Findings:

1. *The proposed drive-through meets the standards of the Zoning Ordinance.*
2. *The new drive-through will promote the intent and purpose of the Zoning Ordinance for the FB-3 district.*
3. *With the addition of the updated landscaping plan, the proposed drive-through has been designed and is proposed to be constructed, operated, maintained, and managed so as to be compatible, harmonious, and appropriate in appearance with the existing and planned character of the general vicinity, adjacent uses of land and the capacity of public services and facilities affected by the land use.*
4. *The proposal should have a positive impact on the community as a*

whole and the surrounding area by expanding the options for dining services.

- 5. The proposed drive-through should generate no net impact on public facilities and services, such as highways, streets, police and fire protection, drainage ways, and refuse disposal.*
- 6. The proposed development should not be detrimental, hazardous, or disturbing to existing or future neighboring land uses, persons, property, or the public welfare.*
- 7. With the addition of updated landscaping plan, the proposal will not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.*

Condition:

- 1. Hours of operation of the drive-through shall be limited from 7:00 a.m. to 10:00 p.m.*

Mr. Kaltsounis said that he wanted to explain the basis for his vote. He was concerned about the whole project, especially with two drive-throughs going in different directions. He had visited Mr. Jonna's site at 14 Mile and Crooks, and he noted that it was wider, and the drive-through for the Walgreen's was on the corner of the building, not on the side. He was concerned about setting a precedent going forward. One of the findings for the Conditional Use was that "the proposed development shall not be detrimental, hazardous or disturbing to the existing or future neighboring land uses, persons, property or public welfare." He realized that they had talked about trees and their effects on noise, etc., but when talking about the flow of traffic, the Commission had tried to make everything as walkable as possible, and they were eliminating a walkway between the Walgreen's and the Walton Shoppes. He was the type of person who would walk from the Walgreen's to Buffalo Wild Wings. He thought that having two drive-throughs would be a challenge, and someone would have to walk around gates and cars. He basically was not happy with the double drive-through concept.

Mr. Yukon concurred with Mr. Kaltsounis, and said that he was also concerned about a double drive-through. He was also concerned about Mr. Labadie's review without knowing what evidentiary support he had for it.

Hearing no further discussion, Chairperson Boswell called for a vote:

Voice Vote:

Ayes: Boswell, Brnabic, Dettloff, Hooper, Reece, Schroeder

Nays: Kaltsounis, Yukon

Absent: None

MOTION CARRIED

Chairperson Boswell stated for the record that motion had passed six to two.

2014-0552

Request for Revised Site Plan Approval - City File No. 12-006.3 - To add a drive-through and outdoor seating areas at the Walton Shoppes, a 22,880 square-foot, multi-tenant retail building at on 6.33 acres at 1200 Walton Blvd., east of Livernois, zoned B-2, General Business, Parcel No. 15-10-351-081, Tower Construction, LLC, Applicant

Mr. Schroeder stated that he concurred with Mr. Anzek's suggestion about meeting with the neighbors and Mr. Jonna about the number of trees, so he would not recommend including a number in the motion until they made a determination.

The Commissioners discussed adding several conditions and adding language to condition seven prior to the motion being made by Mr. Reece and seconded by Mr. Schroeder:

MOTION by Reece, seconded by Schroeder, in the matter of 12-006.3 (Walton Shoppes Drive-Through), the Planning Commission **Approves** the **Site Plan**, based on plans dated received by the Planning and Economic Development Department on November 14, 2014, with an updated Landscape Plan dated received January 15, 2015 with the following four (4) findings and subject to the following eleven (11) conditions.

Findings:

- 1. The site plan and supporting documents demonstrate that all applicable requirements of the Zoning Ordinance, as well as other City ordinances, standards, and requirements, can be met subject to the conditions noted below.*
- 2. Circulation and off-street parking areas have been designed to avoid common traffic problems and promote safety.*

3. *With the addition of additional landscaping along the northern property line, the proposed improvements should have a satisfactory and harmonious relationship with the development on-site as well as existing development in the adjacent vicinity.*
4. *The proposed development will not have an unreasonably detrimental or injurious effect upon the natural characteristics and features of the site or those of the surrounding area.*

Conditions:

1. *City Council approval of the Conditional Use.*
2. *Shift the drive-through window at least six feet to the north to comply with the drive-through window setback from the front building wall.*
3. *Submittal of a photometric plan if exterior lighting is to be altered, prior to final approval by staff.*
4. *Adjust barrier free parking spaces and aisles to meet ordinance requirements.*
5. *Provide a cost estimate for landscape bond for proposed landscaping, prior to final approval by staff.*
- 6.. *Provide an irrigation plan and cost estimate, prior to final approval by staff. The plans should note that watering will only occur between the hours of 12:00 a.m. and 5:00 a.m.*
- 7.. *Add evergreen trees along the northern property line to create a continuous, 6-foot tall landscape wall as approved by staff, prior to final approval by staff.*
8. *Address all applicable comments from City departments and outside agency review letters, prior to final approval by staff.*
9. *Relocate Fire Department Connection (FDC) as needed, as approved by the Fire Department, prior to final approval by staff.*
- 10.. *Incorporate recommendations from M. Labadie's (Fleis&Vandenbrink) letter dated January 19, 2015 regarding traffic measures, prior to final approval by staff.*

11. *Eliminate the sidewalk on the west side of the drive-through along the median and provide a continuous hedgerow along the median, as approved by staff, prior to final approval.*

A motion was made by Reece, seconded by Schroeder, that this matter be Approved. The motion carried by the following vote:

Aye 6 - Boswell, Brnabic, Dettloff, Hooper, Reece and Schroeder

Nay 2 - Kaltsounis and Yukon

Chairperson Boswell stated for the record that the motion had passed 6-2. He called for a break from 9:05 p.m. until 9:15 p.m.

NEW BUSINESS

2014-0502

Public Hearing and request for Conditional Use Recommendation - City File No. 14-015 - for a drive-through at a proposed Taco Bell to be located west of Crooks and south of Avon Industrial, a 2,159 square-foot restaurant on .63 acres, zoned B-3, Shopping Center Business, Parcel No. 15-29-276-005, Guggenheim Retail Real Estate Partners, Applicant

(Reference: Staff Report prepared by Sara Roediger, dated January 16, 2015 and site plans had been placed on file and by reference became part of the record thereof.)

Present for the applicant were Kurt Overmyer, Guggenheim Retail Real Estate, 3000 Internet Blvd., Suite 570, Frisco, TX 75034, Charles Ashly, 3108 Regency Pkwy., Suite 2, Bentonville, AR 72712, and Jim McNally, Construction Manager for Taco Bell.

Mr. Anzek advised that the proposal was for a 2,200 square-foot Taco Bell to be located immediately south of the Shell station and car wash on Crooks. The Taco Bell would be on a portion of the parcel. In working with the owner of the property to ensure that the lands remaining were not undevelopable, a concept was worked out that had been briefly reviewed by Staff, and it looked feasible. It was not a part of the Planning Commission's consideration; Staff wanted to make sure that parcels in the back could be accessed if the owner chose to go forward with something else. Mr. Anzek noted that the property was zoned B-3, and the Taco Bell with a drive-through was permitted with a Conditional Use approval. He said that the proposed Taco Bell would look a little different than the other two in town. He advised that there were several provisions to consider, including a modification of the parking requirements and a setback modification. He had spoken with the owner about having a