Mayor Infeld called the special meeting to order at 7:35 p.m.

Roll Call: Present: Mrs. Frankie B. Goldberg
Mr. Steven D. Bullock
Mr. Kevin Patrick Murphy
Mr. Frank Consolo
Mr. Steven Sims
Mr. Phillip Ertel
Mrs. Susan D. Pardee

Also Present: Law Director Kenneth J. Fisher
Clerk of Council Nancy E. English
Finance Director Jennifer Esarey
Chief of Police Gary Stehlik
Fire Chief John Pitchler
Service Director Christopher Vild
Building Commissioner David Menn
City Engineer Joseph R. Ciuni

Agenda Items:

A. Planning Commission Recommendation: McDonald’s Corporation final approval of proposed development plans for 2216 - 2234 Warrensville Center Road

At its meeting on July 1, 2010, the Planning Commission passed the following motion with respect to the application of McDonald’s:

“MOTION BY MR. REICHEK, SECONDED BY MR. SIEMBORSKI to recommend to Council approval of the proposed development plans for a McDonald’s at 2216 - 2234 Warrensville Center Road, as presented by McDonald’s Corporation on plans dated 6-17-10, subject to the following: a reduction in hours of operation from 6:00 a.m. to 10:00 p.m.; to have a proper 6 ft. squared off wall on the west side of the property; to maintain the landscape buffer and consider adding a few more trees; and to investigate the buffer on the west side of the property to determine if it is adequate for the project contemplated. On roll call, all voted ‘aye,’ except Ms. Goldberg, who voted ‘nay.’”

Law Director Kenneth J. Fisher read his memorandum of July 21, 2010, which gave an overview of the history of the proposed McDonald’s project, which is included herein in its entirety:

“1. Board of Zoning Appeals.

On April 23, 2010, McDonald’s Corporation filed an application with the City for a special permit (special use) pursuant to Section 1244.03 of the City of University Heights Codified Ordinances to use the property located at 2216-2234 Warrensville Center Road (U-7 District) as a restaurant with a double drive-thru.

On May 12, 2010, the Board of Zoning Appeals approved the application of McDonald’s Corporation granting a special permit (special use) to allow the operation of a restaurant with double drive-thru in a U-7, Local Retail District.

Pursuant to City of University Heights Codified Ordinance Section 1244.08(a), any person aggrieved by any final decision of the Board of Zoning Appeals may appeal such decision to Council within ten (10) days of the published notice of the decision of the Board of Zoning Appeals.

No aggrieved person made a timely appeal of the May 12, 2010 decision of the Board of Zoning Appeals granting McDonald’s Corporation a special permit (special use) to the City as provided by Codified Ordinance Section 1244.08(a).

Please note a restaurant is not a permitted use in a U-7 zoning district, but restaurant use has historically been approved by special permit granted, per Code, by the Board of Zoning appeals.

On May 13, 2010, the Architectural Review Board (the “ARB”) met to review the proposed McDonald’s restaurant wherein the ARB tabled the project in order to allow McDonald’s Corporation the ability to redesign and present the ARB with certain suggested design alternatives.

On June 10, 2010, the ARB recommended approval of the project to the Planning Commission with certain enumerated contingencies.

The City of University Heights Codified Ordinances does not provide a mechanism for the appeal of a decision of the ARB, when such decision is subject to further Planning Commission and/or Board of Zoning Appeals action.


On July 1, 2010, the Planning Commission made a recommendation to Council, pursuant to Codified Ordinance Section 1220.06, that Council approve the proposed site plan submitted by McDonald’s Corporation with certain enumerated conditions.

The July 1, 2010 Planning Commission recommendation may not be appealed as such recommendation is subject to final action by the City Council.


It appears from the site plan that the McDonald’s structure will be entirely located in the U-7 zoning district although the subject property is located in both the U-7 and U-3 zoning districts.

The following restrictions apply in the U-7 zoning district, which should be considered by City Council in reviewing the Planning Commission’s recommendation:

a) Buildings and structures may be built to a maximum heights of three (3) stories or 35 feet (C.O. Section 1262.03);
b) Every lot shall have a front yard not less in depth that the setback building line shown on the Building Zone Map (C.O. Section 1262.05(a));
c) Each building that adjoins a residence district at the side or rear, shall have a rear yard not less than 20 feet in depth (C.O. Section 1262.05( c); and

d) At least 20 feet in the rear of any lot located in the U-7 zoning district shall remain clear and unobstructed by any main building, accessory building, structure or obstacle whatsoever, and no such building, structure or other obstacle shall be erected, placed or left, or permitted to be erected, placed or left in the 20-foot fire lane herein established (C.O. Section 1262.06).

The following restrictions apply in the U-3 zoning district, which should also be considered by City Council in reviewing the Planning Commission’s recommendation:

a) All parking areas shall conform to all applicable regulations (C.O. Section 1252.02(b)); and
b) Not less than one off-street parking space shall be provided on the same premises for each 100 square feet of gross floor area in a restaurant or tavern (C.O. Section 1272.02(a)(5)).

Please note the drive-thru restaurant use previously approved by the Board of Zoning Appeals on May 12, 2010 is not presently subject to review by City Council.”

Mr. Fisher stated that the issue before City Council at this meeting was the July 1, 2010 recommendation of the Planning Commission for site plan approval. Councilman Consolo inquired as to what will happen if the site plan is not approved. It was Mr. Fisher’s opinion that the site plan had to be approved in some form based on the recommendation of the Planning Commission because the use has been approved. He added that Council could consider the height and size of the building, the setbacks, parking spaces, and traffic flow. Mr. Fisher advised that Council’s discussions should be restricted to planning issues rather than zoning issues.
Present representing McDonald’s were Mr. Bruce G. Rinker, Esq., and Anthony Coyne, Esq., counsel for McDonald’s with Mansour, Gavin, Gerlack & Manos Co., L.P.A., Christa Small, director of operations, Gust Meccera, regional construction manager, Jason Fenton, area real estate manager, Mr. Dave Gnatowski, P.E., area construction manager, Dave Stiles, owner/operator, all with McDonald’s, and James Ptacek, project manager with Larsen Architects.

Mr. Rinker presented a PowerPoint presentation of the proposed project. He displayed the aerial images of the existing site and surrounding area from two different perspectives. He showed the site plan and gave a brief overview of key points: heavy screening to residential district; trash enclosure location to the north end of the building with gates facing west; black aluminum fencing to define the edge of the property for both aesthetics and the function of directing pedestrian traffic; appropriate site signage with monuments signs at a 45° angle; sustainable design highlights; low traffic impact -- not having a curb cut on Warrensville Center Road promotes a better traffic flow between Lansdale and Bushnell Roads; appropriate site lighting by using directional lighting to reduce glare with extra shielding along the western property line near the residential district; minimized noise impact by increasing the height of the wall and added landscaping with speakers directed away from the residential area; and building materials will fit in well along the Warrensville Center Road corridor.

The next few slides showed the site plan with improved green space and landscaping. The existing green space for the site is 2.3% and the proposed green space is 26.4%. The landscape plan, which included the cumulative input from the various boards and commissions, was reviewed. In regard to residential screening, the existing 5 ft. high masonry wall, which is stepped down on both the north and south ends, will be in squared off and increased to 6ft. high. The 27 ft. area to the north where the trash corral currently sits is proposed to be heavily landscaped with Cleveland Select Pear trees, 6 ft. Norway Spruce trees, and 6 ft. Mission Arborvitae. The double drive-thru area will also be well landscaped with Burning Bush, Boardmoor Juniper, Red Knockout Rose, Mission Arborvitae, Dwarf Korean Lilac, Little Princess Spirea, Crimson Pygmy Barberry, and Dwarf Fountain Grass. The drive-thru area landscaping will also screen the rear wall of the trash corral and the corral doors from the north. The bike rack is proposed at the southeast corner of the building. The 3' black anodized aluminum decorative fence is proposed to run along the perimeter of the property up to the driveways on Bushnell Road and Lansdale Road. Openings at the crosswalks on Bushnell Road and Warrensville Center Road would be incorporated into the fencing. Low and medium height plants of the above mentioned species are proposed along the fence line as well. The in-ground planters on Warrensville Center Road will be filed with pavers.

In regard to signage, Mr. Rinker noted that McDonald’s sign have traditionally had a red background; however, the Architectural Review Board recommended that other color options be provided. Therefore, black and gray options were presented. He noted that black was the most stylistic coordinating with the fence and light pole fixtures. The sign package is code compliant except for the two monument signs which are at a 45° angle. Mr. Rinker noted that the code requires that the sign be perpendicular, but the police and building departments preferred the angle for line of site.

Sustainable site highlights include: +20% permeable surface for water quality, construction erosion control plan, high albedo concrete to reduce heat island effect; trees a perimeter to reduce heat island effect; construction waste recycling; regionally sourced/native landscape plants.

Energy and water conservation highlights include: white roof reduces heat island effect and cooling; ultra low flow urinal (.25gpf) -75% use reduction; ultra low flow toilet (1.0gpf) -37.5% use reduction; auto sensor lavatory faucets -75% use reduction; high efficiency roof top and water heating equipment; high efficiency cooking hoods 50-60% more efficient; high efficiency interior lighting 50% more efficient; LED egress lighting - 90% more efficient; LED building lighting - 90% more efficient.

Materials and resources highlights include: locally sourced building and materials where possible; recycled content; certified materials used in decor; non-ozone depleting refrigerants.

Mr. Rinker explained the proposed traffic pattern. He mentioned that more than half of the traffic which would be traversing the proposed site, but will be captured from traffic traveling on Warrensville Center Road. Traffic would enter at either Lansdale Road or Bushnell Road from Warrensville Center Road, circle one-way through the site and the double drive-thru in a counterclockwise motion. Upon leaving the drive-thru lane, the traffic would either exit at Bushnell Road or circle around the site to exit at Lansdale Road.
Mr. Rinker noted that there is more drive aisle space than the code requires. He noted that the proposed traffic pattern reduces traffic movements and provides clear site lines for pedestrians and motorists. Parking would be around the perimeter of the site. Forty-six (46) parking spaces are required by the code, forty-eight (48) parking spaces are proposed. Mr. Rinker reiterated that the potential traffic would not have an adverse impact on the area because McDonald’s utilizes the existing traffic flow rather than generating new traffic. He added that if traffic calming mechanisms are required the Chief of Police and City Engineer could make those recommendations if the need arises.

With regard to sound, Mr. Rinker stated that a sound analysis has been provided to the City. The speakers are proposed to the placed 100 ft. and 110 ft. from the wall and are proposed to be pointed northeast toward Warrensville Center Road. He added that the state-of-the-art speakers modulate with the background noise so that ordering can be done in a normal speaking voice, and the system eliminates any sound spillage between the customer and the order taker. He also noted that the manufacturer’s specifications indicate that during the loudest portion of the day the speaker sound level will be approximately 54-55dba, which is comparable to normal conversation, and a night the sound level will decrease to approximately 36-37dba.

The lighting plans calls for directional lighting as the proposed exterior shield guards will direct the light downward keeping light pollution to a minimum. The light fixtures along the west property line will have glare shields at the rear of the fixture to screen the lamp from view of the residential district. The seven (7) Cleveland Select Pear trees would be strategically positioned to further disperse the light.

Mr. Rinker reviewed the floor plan. The front southern portion of the building would be the customer dining area (gold color). The customer restrooms would be in the center of the building, north of the main entrance on Warrensville Center Road (yellow color). The operations area would be on the north side of the building (blue color) and has access to the trash corral from the north end of the building.

Mr. Rinker reviewed the building elevations. At the request of the Architectural Review Board, the facade of the building (3-window design feature) was shifted north to the Warrensville elevation in order to orient the building toward Warrensville Center Road. The Bushnell elevation has a second door and design feature. The west elevation (faces residential area) depicts the trash enclosure, limited lighting and no signage. The Lansdale elevation faces the side-by-side drive-thru and has an architectural feature on the building. In concluding the presentation, Mr. Rinker showed conceptual drawings of the proposed site from various directions.

Fire Chief John Pitchler, Service Director Christopher Vild, and Finance Director Jennifer Esarey had no comments.

Building Commissioner David Menn stated that the requirements addressed in Mr. Fisher’s memo of July 21, 2010 under 4 (a), (b), (c) and (d) have all been met.

Chief of Police Gary Stehlik and City Engineer Joseph Ciuni deferred their comments regarding traffic to a later time.

Councilman Murphy asked for an explanation regarding the comment that 50% of the traffic on the site will come from Warrensville Center Road. Mr. Rinker responded that the correspondence from Mr. Mike Hobbs of GPD Group indicated that the use is supported by pass-by traffic. It stated that, “According to Data Collected by ITE in the Trip Generation Handbook (which is the industry standard utilized by Traffic Engineers when completing Traffic Impact Studies), a fast food restaurant receives about 50% of its customers from pass-by traffic.”

Councilman Consolo asked Mayor Infeld for her thoughts regarding the project. Mayor Infeld replied that the proposed development project is before Council as the last step in the approval process. She noted that all prior board and commissions have given their approval with modifications. She added that the proposal is to replace the existing building with a McDonald’s restaurant. Mr. Consolo asked if Mayor Infeld wanted the Council to approve the proposal, and he also asked what she thought are the benefits of the project. He mentioned that Council does not have the authority to stop the project, but can modify the site plan. Mr. Fisher concurred. Mayor Infeld stated that she could not give the Council guidance. Mr. Consolo stated that he was not looking for guidance, but rather was asking if the project is good for the City.
Mayor Infeld stated that the project would allow the City and community to have a new building on the site and that the City would receive financial benefit in the form of payroll taxes.

Mr. Rinker mentioned payroll is estimated at $500,000 per year with approximately fifty (50) full-time and part-time jobs provided. He added that Kevin O’Brien, Cleveland State University, School of Urban Studies, mentioned that McDonald’s is an industry leader for entry level job training. He gave two examples, Christa Small and Dave Stiles, who started with McDonald’s as teenagers and advanced through the ranks. Mr. Rinker mentioned that in addition to the $2 million invested into the site and new building, the positives are numerous because McDonald’s will bring the resources of an international corporation, but will focus it through a local business operator, who has the responsibility to make sure the employees work well, provide service, provide a clean site, and adapt to the issues of the community, such as hours of operation. Mr. Rinker commented on the economic impact of McDonald’s in Ohio, $681 million spent locally for 637 restaurants, which returns $.46 of every dollar earned into the local economy.

Councilman Consolo inquired if McDonald’s could share their estimates of what 2.5% of the net profits would be, which is payable to the City. Mr. Rinker stated that 2.5% would be paid as income tax. Mr. Consolo clarified that he was talking about the net profits of the business. Mayor Infeld stated that McDonald’s employees would pay income tax to the City, and after the land is improved property taxes would be increase. Mayor Infeld added that no one was prepared to answer the question on net profit taxes, and she did not believe it is a 2.5% take.

Councilman Bullock requested that the representatives from McDonald’s provide information in order to ease the residents’ fears. Mr. Rinker replied that he cannot produce the data to erase people’s preconceived beliefs, but he can put fears to rest because of the nature on the investment, the quality of the architecture, the quality of the jobs provided, the overall operation, the service it will provide to the community, that the project involves a positive investment into the community, and that McDonald’s has proven that it is a good community participant and has learned over the years to improve and refine the services that it provides.

Councilman Sims asked the Law Director what action the Council is to take at this meeting. Law Director Kenneth J. Fisher explained that the Board of Zoning Appeals approved the Special Permit for McDonald’s to operate a restaurant in a U-7 District. He added that this decision was not appealed to City Council; therefore, the restaurant becomes a permitted use based on the Special Permit. Next, the Architectural Review Board approved the structure. After which, the Planning Commission approved the site plan including recommendation from the ARB. Mr. Fisher stated that the recommendation of the Planning Commission is now before the Council for approval. He added that the use was approved by Special Permit based upon the unappealed May 12, 2010 decision of the BZA. Mr. Sims stated that there may have been confusion as to when in the process an appeal could be filed. He noted that there was belief that time to file an appeal was at the end of Planning Commission process. He added that the process was stated several times, but the appeal process was never mentioned.

Councilman Sims stated that he had mixed emotions about the project due to traffic issues and whether or not there would be adverse impact on the surrounding community which would include the possibility that the development would have a negative impact on the surrounding housing values. Mr. Sims did not believe that McDonald’s could not provide more concrete information than has been offered about what happens to the surrounding values in communities when McDonald’s restaurants are located there.

Mr. Sims asked Mr. Rinker what he meant when he stated that McDonald’s would work with the City if traffic calming is needed. Mr. Rinker replied that the possible suggestions included modifying turning movements in and out of the site and re-timing the traffic light sequence. He added that residents have suggested cul-de-sacing the street; however, he did not believe it is McDonald’s responsibility to change traffic patterns on city streets. Mr. Sims inquired if McDonald’s would bear the costs of traffic calming measures that are deemed appropriate. Mr. Rinker replied that considering the types of calming measures discussed, they probably could while working with the City, but he could not commit without knowing the potential costs involved. Mr. Rinker stated that it is hard to alleviate the public’s concerns regarding traffic, but he is relying upon the City’s experts who have stated McDonald’s would not cause adverse impact.

City Engineer Joseph Ciuni introduced Michael Hobbs, a professional traffic operations engineer with GPD Group, who has reviewed the traffic studies performed for the Waterway project, the traffic analysis presented by McDonald’s, and who also performed his own analysis.
Mr. Hobbs stated that the first step in traffic calming at the site given the street layout would be a turning movement restriction via signage at the driveways to the development, which would be the least intrusive improvement that would not adversely impact safety services. He noted that other measures would include speed humps, island narrowing, making the street one-way, a small section of the road one lane in order to deter motorists from cutting through local streets. Mr. Hobbs requested that the Chief of Police and the Fire Chief comment on the various types of improvements. He noted that speed humps, raised crosswalks, and speed tables are popular, but they cause problems with maintenance and snow plowing as well as safety services.

Chief of Police Gary Stehlik agreed with Mr. Hobbs and added that adjusting the timing of the traffic light at Bushnell Road to reduce the wait time could be used in an attempt to persuade motorists to use Warrensville Center Road instead of going down the side street. Chief Stehlik mentioned that when the retail strip was full and the bank was busier, left hand turns were restricted by signage to keep traffic from going down Lansdale Road. He also noted that left hand turns were restricted onto Bushnell Road when National City Bank (now PNC) had a curb cut on Bushnell Road. Mr. Hobbs added that the traffic signals on Warrensville Center Road is set up as a progressive system in order to move the traffic on the street in the fastest way possible. He added that in this type of system, the side streets experience long wait times, which leads to potential traffic backups. Part of what would need to be done if McDonald’s was on the site, would be traffic signal timing changes which would reduce the wait time on Bushnell Road thus encouraging motorists to take Warrensville Center Road access instead of diverting down the side street.

Councilman Sims asked Mr. Hobbs for his professional opinion as to what he would suggest in order to restrict traffic from exiting McDonald’s and traveling west on either Bushnell or Lansdale Roads. Mr. Hobbs suggested that the first step would be through signage and police enforcement. If that was not sufficient, the next step would be driveway improvements such as curved radius construction to force the turn toward Warrensville Center Road while making the turn on the residential side street difficult to make.

Vice Mayor Goldberg stated that she is uncomfortable making a determination with regard to traffic flow from a traffic study that was performed in 2007 even though the standard practice of the Ohio Department of Transportation (ODOT) is that any traffic study less than three years old can be reused. She questioned McDonald’s to determine if its volume would reach 100 to 120 cars during each hour during the peak period of 11:00 p.m.-1:00 p.m. McDonald’s confirmed. Vice Mayor Goldberg asked Mr. Hobbs about his comment that McDonald’s AM Peak Trip Generation was higher by almost a factor of 2 then the AM Peak Trip Generation of the Waterway project. Mr. Hobbs explained that McDonald’s traffic analysis attempted to compare the McDonald’s development to the Waterway development, which were not comparable because one was a gas station and the other was a fast food restaurant with drive-thru. He added that the specific reference to traffic volume was the generated volume according to the ITE trip generation characteristic versus McDonald’s. He added that in McDonald’s letter they claimed they are the same, but in fact they are not. In fact, the trip generation of McDonald’s would be twice of what the gas station was. But, he added that it is also less than what would currently would be seen if the site was fully occupied.

Vice Mayor Goldberg inquired if she should rely on information based on the traffic studies conducted in 2007 and 2008 even though the peak hours are different. She also asked if she should feel comfortable and not ask for another traffic study. Vice Mayor Goldberg stated that she wants the residents in the surrounding properties to feel comfortable with regard to safety, traffic flow and market analysis in terms of the intersections of Lansdale/Warrensville Center Road, Bushnell/Warrensville Center Road, and Warrensville Center Road itself.

In answer the question, Mr. Hobbs explained the traffic impact study process. He noted that typically developers are required to do traffic impact studies on the AM and PM peak hour periods because while they may not be the highest generating hours for that land use or that development, it is the highest hours of traffic on the roadway. Therefore, the more congested the background roadway is the more impact the development would show when its traffic is superimposed on top of background traffic. He added that is why the ITE Trip Generation Manuals were set up for AM and PM peak hours. He added that it does not matter whether McDonald’s peak hours are different. He explained that if they were doing the study for the City, they would do it on the AM and PM peak hours.
In an effort to satisfy some of the issues, Mr. Hobbs reviewed the PM peak hours by assuming that all the traffic that is associated with McDonald’s is generated traffic, then he added that traffic onto the PM peak hours, and performed an analysis. The results of the analysis told him that with timing modification of the traffic lights Warrensville Center Road and Bushnell Road there will be no impact in terms of level of operation to Warrensville Center Road, Bushnell Road or Lansdale Road. Therefore, Mr. Hobbs stated that the traffic volumes used in the 2007 and 2008 traffic studies would be acceptable and based on the additional analysis that he performed in reviewing the analysis presented by McDonald’s, he believe that if a new traffic study was requested that it would produce the same result.

Councilman Ertel inquired if the traffic study took into consideration any of the traffic that would be added to the flow when the south side of Cedar Center reopens. Mr. Hobbs replied that it did not because typically that would not be something that a developer would not be required to do because the requirements of geographic area are limited. He stated that adding traffic for a development which may or may not occur is something that is not required by the State of Ohio. Mr. Ertel also asked if the vacant stores at University Square were taken into consideration as if they were full. Mr. Hobbs responded no because it is not part of a typical traffic impact study.

Councilwoman Pardee inquired as to why two curb cuts on Warrensville Center Road as opposed to Bushnell and Lansdale Roads would not be a good idea. Mr. Hobbs stated that anytime there is a development the intent is to limit the number of curb cuts on the major streets with the idea that it is safer to have turning movements completed on local streets because the local streets have lower traffic volumes than to have motorists trying to make a left hand turn on a street that handles approximately 18,000 cars a day. Mr. Hobbs added that if the State was looking at the site plan, they would like it because there is no curb cuts on the major street and the movements are restricted to the side streets opposite other businesses.

Councilwoman Pardee stated that she knows McDonald’s can move cars through the drive-thru in 30 seconds or less because she went to a McDonald’s and timed it. She added that at 120 cars an hour, how many car lengths are there from Warrensville Center Road to the curb cuts. Mr. Dave Gnatowski stated that there are approximately six (6) car lengths from the Warrensville Center to the exit point on Bushnell Road or 5 five if they stop at the stop bar. Chief Stehlik confirmed. Mr. Hobbs stated that based on the calculation he performed there should not be an issue with stacking. He advised that it would be optimal conditions if the Bushnell traffic signal, which is currently on a 120-second cycle, was changed to a 70-second cycle. He added that at that rate only two cars would stack on Bushnell Road per cycle.

Councilman Sims asked Chief of Police Stehlik how the coordination of the traffic lights in the proposed area would be handled. Chief Stehlik responded that the traffic light on Warrensville Center Road at the driveway to University Square is currently on flash because of the lack of traffic coming out of the access road. He added, however, that if McDonald’s was on the site, that development light would have to be synchronized with the traffic light at Bushnell Road.

Councilman Sims asked Fire Chief Pitchler as to his feeling regarding not allow any turns onto Bushnell or Lansdale Roads heading west or not to allow traffic to enter the streets from the west. Chief Pitchler replied that it would be okay as long as the street was not narrowed and that the fire department could get the apparatuses through. Mr. Sims stated that the idea of cul-de-sacing the side streets have also been mentioned. He stated that if he were to support cul-de-sacing, he would want to see the wall and landscaping continued into this area. Mr. Sims asked Chief Pitchler if he has an issue with the possible cul-de-sac. Chief Pitchler remarked that the cul-de-sac would have to meet the requirements of the code and there would have to be sufficient turning radius in order to turn the trucks around unless the two streets are joined to make a turn around. Councilman Murphy inquired if the Chief could think of a way to make a turn around without razing houses. Chief Pitchler mentioned that a house had to be razed on Jackson Blvd. in order to make that turn around and he could not think of a way immediately.

Vice Mayor Goldberg mentioned that the proposed building is beautiful and the entire site is aesthetically pleasing. She added that the proposal is a vast improvement over the existing building, but she would prefer a restaurant without a drive-thru. Vice Mayor Goldberg stated that even though Council is considering site plan approval, she asked if McDonald’s would perform a 2010 traffic study so they could explore the various options with more concrete, up to date knowledge and data as to whether a cul-de-sac or traffic review should be done. Mr. Rinker deferred to the City’s traffic expert who said they did not need a new traffic study.
Councilman Murphy mentioned that Mr. Hobbs was talking about what ODOT would do, which might not be the best thing for a residential neighborhood. Mr. Murphy stated that Council is struggling with the question of how to make the project work for McDonald’s and the residents. He added that there may be a solution and noted that more discussion is necessary.

Mr. Rinker stated that site plan review is a different consideration from the use. He noted that cul-de-sacing the street and razing homes are significant issues that are requesting far more of the applicant than is appropriate. Mr. Fisher agreed that cul-de-sacing streets and razing homes is beyond the scope of the project. But, he stated that restricting traffic on the residential side streets and configuration of the drive-thru to best accommodate the site are legitimate planning issues.

Mr. Rinker reiterated that McDonald’s wants to work with the City in terms of restrictions of traffic movements. However, he suggested that they wait until the restaurant is operational in order to determine if a change in the configuration of the curb cut is needed. He added that at that time, if there is a good analysis and if the City’s traffic experts recommend changes in the curb cut, McDonald’s would do that. However, he stated that it was not appropriate to commit to that now without the opportunity to operate the site because they do not think it will be necessary.

Mayor Infeld opened the floor for public comment. Mr. Fisher recommended that the public limit comments to the site plan and not the use. He added that planning issues include: size of the building, height of the building, setbacks, ingress and egress to and from the site, and traffic.

Herb Cowder, University Heights resident, commented that the Council should look at what the development would do to property values. He wanted to be sure that the community gets a development that is designed to have the least adverse impact on property values.

Frederick Prizant, 3869 Bushnell Road, expressed concern regarding the potential for increase in traffic on Bushnell and Lansdale Roads and suggested that an independent traffic study should be considered. Mr. Prizant remarked that it seems the building was intentionally blighted.

Paul Miller, 2370 Charney Road, agreed that a new traffic study should be performed. He commented that the potential increase in traffic on Bushnell and Lansdale Road would affect the quality of life for residents on those streets. Mr. Miller stated that a real estate agent informed him that once McDonald’s is on the site, property values within a quarter of mile will decrease. Mr. Miller asked the Council to remember who they represent, the residents.

Diane Johnson, 3937 Bushnell Road, inquired how security would be handled to address potential problems with students and why the City allowed the area to become blighted. Mayor Infeld replied that Chief Stehlik gathered information to determine what type of police calls were made to fast food restaurants with drive-thru in and around University Heights. With respect to all the properties, the calls to disperse large groups of youths were use less than five times a year. With regard to the site being blighter, Mayor Infeld explained that the area has been inspected more often since she to office became aware of the problem. Councilman Ertel inquired as to how many times the building has been inspected and the owner cited. Mr. Menn stated that he will research the matter. Ms. Johnson commented that snow removal should also be considered because the business should not be allowed to block the sidewalk.

Ms. Johnson stated that the residents on Bushnell Road were upset about the way Council has handled the process because they feel that they have not had input into the matter. Councilman Sims explained that several boards and commissions of the City have considered the proposal independently, but this was the first time City Council has had to opportunity to consider the project.

Councilman Sims requested that Mayor Infeld outline the process in order to help the residents understand how the different levels of authorities fit into the process. Mayor Infeld explained that she mailed a series of letters to over 200 homes and businesses in the general vicinity of the proposed development informing residents and business owners of the initial application of McDonald’s and another prior to each board meeting in the approval process. She stated that even though the code only requires notification to property owners within 100 ft. of the proposed site, she went way beyond that boundary because of the major development. Mayor Infeld noted that when McDonald’s presented its application to the Building Commissioner for a restaurant with drive-thru on the proposed site. It was denied, and McDonald’s appealed to the Board of Zoning Appeals.
Mr. Fisher continued to explain that a restaurant use in a U-7 Local Retail District is not permitted by the zoning code; however, special permits have been approved historically for restaurants on the site in question. Therefore, the Board of Zoning Appeals approved the special permit on May 12, 2010 and notices were mailed to 168 residents and businesses informing them of the decision of the Board and the right of affected or aggrieved parties appeal. He added that no appeal was made to the Board of Zoning Appeals decision. Therefore, the use was approved.

Mayor Infeld went on to say that the Architectural Review Board considered the matter next a two (2) separate meetings on May 13, 2010 and June10, 2010. The ARB requested several architectural changes at the May meeting, which McDonald’s made, and the project was approved by the ARB at its June meeting. After which, the Planning Commission heard the project on July 1, 2010 and recommended approval to Council, which is what is before Council at this meeting.

Dan Green, Bushnell Road resident and member of group opposing McDonald’s, stated that it was unusual for a Council meeting to be extended into the fire department and added that it would be nice if everyone were in the same room. Mayor Infeld explained that she was not sure if there would be an overflow crowd, but she wanted to be sure that everyone who came could hear the meeting and see McDonald’s PowerPoint presentation. Mr. Green requested that Mr. Kevin Holmes be allowed to make his PowerPoint presentation and permission was granted. Mr. Green compared the differences between the former Empire Kosher Chicken and the proposed McDonald’s. He commented that the 2008 traffic study does not address new traffic traveling to University Heights from other areas where stores have closed and does not factor in the potential business growth on the north side of Cedar Road. He expressed concern for the large number of children living on Bushnell and Lansdale Roads. Mr. Green presented information to the Council regarding sources of funding for urban development and urban renewal.

Clarence Jones, 4034 Bushnell Road, requested that the Council be mindful of what the residents is requesting. He suggested that the City generate revenue without causing the community a lot of hardship.

Art Sherson, 2356 S. Belvoir Blvd., stated that the reality is a choice between a new McDonald’s or a blighted building. He offered congratulations to the Architectural Review Board and appointed city officials who have worked with McDonald’s to produce such a nice site. Mr. Sherson commented that the existing building is not viable because if it were full there would not be enough parking. He added that, in his opinion, the only type of business that would thrive in the space is a low square footage, high volume business such as McDonald’s. Mr. Sherson stated that he cares about the City and that the residents rely upon the elected and appointed officials to make the correct decisions for the City. He urged City Council not to hold up the project by requesting another traffic study, but rather to do the responsible thing for the City and help move the project forward.

Liz Henry, 3848 Bethany Road, encouraged the Council to consider traffic flows at all times of day not just during the lunch hours. Ms. Henry expressed her safety concern with regard to loitering and youth activities. She also encouraged the Council to take time to think through the traffic issue and make the best decision possible for the residents.

Kate Uhlir, 2448 Fenwick Road, thanked the Mayor and Council for their work and encouraged City to move forward with the project and allow the McDonald’s to be build.

Scott Banko, 2435 Fenwick Road, was in favor of McDonald’s being built. He mentioned that Council has the authority to enforce and correct all the concerns expressed by the residents, such as traffic control, noise control, and controlling children visiting the restaurant.

Joe Gruber, University Heights residents, mentioned that the proposed McDonald’s is one of the nicest he has ever seen. He mentioned that he supports Sustainable Cleveland 2019 and asked if McDonald’s incorporated local artists in the design, if the choose local native plants, if they have contracts to only accept produce for within 30 miles or local livestock and grass fed cows. Mayor Infeld replied that the building was designed by a local architect and they intend to use native plants. Mr. Gruber stated that there is so much more to consider.

Beverly Potter, 3916 Lansdale Road resident, expressed her concern of the affect the location of the proposed McDonald’s would have on the population of young people. She noted that during the time they would be at the restaurant there would be congestion, pedestrian traffic, and vehicular traffic. He added that the location of the restaurant would promote truancy.
Mrs. Potter’s son and students from Cleveland Heights High School commented about students cutting class and going to Wendy’s across the street from Cleveland Heights High School, and about the riots that have occurred at the Wendy’s during school hours. Mrs. Potter stated that she is concerned about the young people and for her safety. She was disturbed that the Council members seemed uninformed.

Susan Haught, 3639 Berkley, Cleveland Heights, requested that the City review the traffic lights on Warrensville Center Road adjacent to the proposed McDonald’s site because she felt the proposed dual drive-thru would potentially be a hazardous situation for the elderly and disabled.

Jeri Shore, 4026 Bushnell Road, noted that the increase in the amount of traffic will potentially affect property values which have already decreased. She commented that the decrease in values will affect the residents who will try to sell their homes and also and the City and the school district because they will be receive less in taxes. She suggested that the matter be tabled until a new traffic study is completed to include pedestrian traffic and the traffic in the residential neighborhoods.

Gloria Rucks, 3927 Washington Blvd., stated that Jeri Shore, Beverly Potter, Thomas Rucks and she filed an appeal to the Planning Commission decision of July 1, 2010 because they were also confused on the appeal process. Due to the fact that the appeal was considered moot and untimely, Mrs. Rucks remarked upon the points of appeal under Section 1262.02(b)(7) of the Codified Ordinances, which reads, “the use is not likely to be seriously harmful to a residential area.” She shared information from “Understanding Tax Based Consequences”, a study on Wal-Mart and big box stores (fast food restaurant were included), which suggested that the declining tax base in an area was due to the location of big box stores. It also hinted that the new development had eroded the value of residential properties possibly due in part to increased traffic and noise.

Kevin Holmes, 3087 Bushnell Road, presented a PowerPoint presentation developed by a group which opposes McDonald’s. He presented five (5) concerns: 1) restaurant with drive-thru was allowed in the U-7 zoning district; 2) 10-day appeal process -- pursuant to Codified Ordinance Section 1244.07, was followed, but 1244.08 was not because the BZA minutes of 5/12/2010 were not posted; 3) traffic study is outdated – Dec. 2007 traffic study outdated and needs new perimeters, concerns for safety of children on Bushnell and Lansdale Road and Wiley Middle School children, traffic generated by Empire Kosher Chicken and McDonald’s not comparable; 4) property values – $3,000 decline in home values within a quarter of a mile of the McDonald’s site at 86 homes there would be a decrease of $258,000 in property value; 5) Council concerns – trash receptacle, overlit areas, landscaping, sound, traffic study, traffic, property values, community, and safety. Mr. Holmes expressed the group’s proposal to add a new business development role/accountability to job description of one City Council member and to revise the standards of how new business proposals are communicated to the community. Mr. Holmes stated that the group does not want the site developed into a McDonald’s.

Mr. Fisher clarified that the provisions of 1244.07 was complied with as 168 notices of the decision of the BZA were mailed out. However, the provision cited by Mr. Holmes in conjunction with legal publication, Section 220.17, does not relate to Section 1244.08, but rather provides regulations for the manner of giving public notice of the enactment of legislation. Mr. Holmes stated that all the residents of the city should be notified of major projects.

Mayor Infeld stated that there was some discrepancies in the property values information presented in concern #4 and will attached correspondence from Dr. Robert Simons, professor of Urban Studies at Cleveland State University to the minutes of this meeting.

Councilman Bullock agreed that the City should be much more proactive as it relates to development in the city. But, he did not accept the validity of the statement made in concern #4. Mr. Holmes stated the his presentation was not a legal document, but rather his opinion.

Councilman Sims agreed with the concept and stated that Council has a responsibility to ensure accountability for new business development, but that it is not the job or the role of the Council. He added that it but could be a role for a city staff person.

Carrie Hutchins, 3963 Lansdale Rd., objected to McDonald’s locating in University Heights because of the potential for increased traffic, noise, trash, rats and crime.
Thomas Rucks, 3927 Washington Blvd., commented that even if the traffic light on Warrensville Center Road at Bushnell is reprogrammed to a 70-second cycle, the cars will still not be able to get out because 7 cars will be stacked – which is not reflected in the traffic study. He added McDonald’s traffic analysis does not give accurate information because it was based on a typical McDonald’s, but the University Heights proposal is not for a typical McDonald’s because it has two drive-thrus. With regard to process, Mr. Rucks asked how the Board of Zoning Appeals can put a law in motion and the elected officials cannot stop it. He did not think he was notified of the BZA decision. Mr. Rucks requested that Council make a decision in favor of the city.

A Lansdale Road resident, commented about the amount of traffic currently on her street and commented about how much worse it would be with McDonald’s.

Geraldine Brown, 3965 Lansdale Road, stated that she was at the Board of Zoning Appeals meeting and did not know she could have appealed the decision of the Board at that time. Ms. Brown added that she does not feel the residents have a voice. She said no to McDonald’s.

Carlos Cardona, 3970 Lansdale Road, asked how the car lights would be controled from disturbing the neighbors around the proposed site. He also mentioned that the operating lights around the site would be disturbing also because the restaurant would be open every day of the year from 6:00 am to 10:00 pm. Mr. Cardona did not feel the Council could make a decision at this meeting without regrets.

An elderly Silsby Road resident remarked that she and her grandchildren, who live on Bushnell Road, will not be safe trying to cross Warrensville Center Road if traffic increases because of McDonald’s.

Herb Cowder commented about problems with obesity and diabetes in America, and he asked Council to look at the bigger economic issues.

Councilman Sims stated that he still remains concerned about the proposed development. He mentioned that McDonald’s has presented a high quality project which addresses issues in terms of aesthetics. He added that they have also addressed his initial concerns about sound, lighting and landscaping. However, he continues to have concerns that the project might move forward, and then realize later that in the best interest of the community additional requirements are needed. But at that time, there might not be a way to provide those additional conditions. He did not know if a traffic study is the answer, but considered it an opportunity. Mr. Sims stated that even though the development would be high quality, very impressive, and one of the better McDonald’s in Northeast Ohio, he still questioned whether the development would not have an adverse impact on the surrounding residential properties, in particular. He also did not believe that McDonald’s could not offer any data with respect to what has occurred to property value surrounding its operation in other communities.

Councilman Sims cleared up the presumption that Council and the Mayor had conspired to bring McDonald’s into the city. He noted that the project was not sponsored by the Council nor the Mayor, but rather by the developer, who worked with a private property owner to decide whether or not to locate there. He added that as officials of the community, they have an obligation and responsibility to review the project. He added that City officials do not believe there are large gains to be made on behalf of the City in terms of property taxes or income taxes relative to this project. He added that many of the funding suggestions made by Mr. Green do not have any application to this project. Mr. Sims commented that the City needs to work more in the area of proactive development. He personally does not believe that it is tied to a need to redo the zoning code. But rather, believes that the City needs somebody who is working and on top of such matters. Mr. Sims was not convinced that the project is in the best interest of the City and to its long term viability. He believes that the traffic poses a safety concern and that there is a high probability that the surrounding properties will be adversely affected by the development despite the high quality of the project presented. He suggested that further consideration was appropriate because they have to find ways to calm the traffic so that it is diverted from proceeding west on Lansdale and Bushnell Roads. He suggested that one possibility would be to take the choice away from the motorists and require the direction to be taken. In his opinion, Councilman Sims thinks the project will result in excessive congestion and unsafe conditions in that area. He was unaware at this point if those impacts could be mitigated because he does not believe the Council had been provided with sufficient information to determine whether or not they could be mitigated.
Councilman Ertel agreed with Councilman Sims. He expressed his frustration about the process and the fact that Council does not have a lot of control over the development. Mr. Ertel stated that he is concerned about several issues. One concern was the blight -- why it is there, why has it been there so long, and why is the City is always being faced with deflecting less than optimal propositions to eradicate the blight. He also questioned why the City is not actively seeking economic development. Mr. Ertel stated that he has serious concerns about the traffic study because it has major flaws and compares apples and oranges. He added that it is old and does not account for a serious increase in traffic when the north side of Cedar Center reopens or when University Square is full. Mr. Ertel stated that the Council’s hands are tied and that this is something which cannot be considered at this meeting. He added that the financial aspect of the project is a welcome component, but at what cost. Mr. Ertel also commented that he does not believe the project is in the best interest of the residents financially, with regard to safety, and quality of life.

**MOTION BY MR. ERTEL, SECONDED BY MS. GOLDBERG to deny the recommendation of the Planning Commission.**

Vice Mayor Goldberg stated that the problem with the geometry of McDonald’s site plan is that cars were not included in the picture. She read quotes from the City’s website which states, “walkable community with pleasant small-town features” and “great place to live and raise a family.” However, McDonald’s traffic volumes may reach up to 100 -120 cars each of two hours during a lunch period. Vice Mayor Goldberg stated that in her opinion McDonald’s is not a restaurant, but rather it is a drive-thru that is pumping out cars. She noted that University Heights’ residents are used to restaurants like Geraci’s, Bialy’s Bagels, Rascal House (formerly Aurora Restaurant), Pizzazz, Applebee’s, Jack’s Deli and North Park Grill and Bistro. She asked, “What does University Heights want to be?” She pointed out that the City should have an economic development director proactively working to bring businesses to the community. She added that based on the municipal income tax and city property tax that the City would receive from McDonald’s, “there is no gold in the arches.” Vice Mayor Goldberg repeated her second to the motion to deny the recommendation of the Planning Commission.

Councilwoman Pardee stated that what this situation indicates to her is that the City must be proactive rather than reactive. The lesson to be learned from McDonald’s is that the City must take the time to review the layout of the city, consider the zoning, and determine the citizens’ interests to ensure that the City is attracting the appropriate type of businesses to the city, rather than react to projects after the fact. She added that the City must identify the tools necessary to create a welcome environment for those businesses that the City wants to attract and include any necessary personnel when doing so. Mrs. Pardee suggested that perhaps some of the funds from the McDonald’s project could be used to hire someone part-time as an economic development professional. She noted that this person must have very specific professional experience with a masters in public administration or MBA. She added that the position would work with the officials and offer assistance as the Council guides the future of the City, rather than letting other forces drag the City along.

Councilman Bullock stated that he is not prepared to vote for or against the project, and if the motion goes forward, he would have to vote against it. He mentioned that the City has been saying it needs to be more proactive ever since the Waterway proposal failed, but somehow somebody gets in the way of progress in order to be more proactive. Mr. Bullock stated that the Council is taking the full blame for the situation in which they find themselves. He added that they should have had a conversation with the owners of not only that property, but other properties in the city. He urged that such action start immediately. He pointed out that the City waits for someone to come in with a project, the people scream, and then they say no. He also pointed out that it is time that at least one group come forth in support of something, instead of every group coming forth against. Mr. Bullock stated that no matter what decision is made on the McDonald’s project, some people will be happy and some people will be unhappy. He added that at some point, the City has to decide that it is going to start doing things that make University Heights an inviting community for business. Mr. Bullock commented that the blight has been there because the City has not invited businesses to come into the city and have not made coming to University Heights an attractive consideration. Councilman Bullock would prefer to see the City try to work through the issues that the residents have raised, and then move forward, rather than just voting against the project.

Councilman Murphy agreed with Mr. Bullock, and he too was not prepared to vote yes or no. He added that this was the first time the project was before the Council and many issues had been raised. Mr. Murphy was particularly concerned about safety. However, he believes a solution could be found. He noted that the options have to be considered as to how they would impact the neighborhood. He commented that everything could not be figured out at this meeting.
Mr. Murphy wanted an opportunity to hear more and dialogue with McDonald’s. Therefore, he indicated that he would have to vote against the current motion.

Councilman Consolo expressed his frustration that the residents believed there was a four-point plan, that the Council was point number four, and that the Council got the final approval when it was not the truth. He was also disturbed to hear that people think University Heights is not a business friendly community when it is. Councilman Consolo stated that the fact of the matter is that the site in question has brought forth two projects, the car wash and the 70% drive-thru. He added that both have been significantly centered on vehicular traffic, which is an issue. He stated that the property is zoned U-7, Retail District and it needs to be U-7. He added that just because the property owner wants to capitalize by selling his blighted building, the City cannot help the property owner that way either. Councilman Consolo stated that he does not care for the use and that it was very frustrating that the use got this far and now the Council’s hands are tied and it cannot be stopped. Mr. Consolo added that if the site plan is all the Council can consider, he wanted a curb cut on Warrensville Center Road and does not want curb cuts on Bushnell Road or Lansdale Road. He stated that is the only viable option he could see. He also mentioned that hours of operation had not been discussed.

Mayor Infeld stated that she was stunned to hear the reaction from the Council to the McDonald’s project. She stated that she believes the administration has been very assessable to the community in communicating what the project is about. She had many people in the community visit her over the past several months while the project was being discussed. Many people from the community sent emails. She also met with people who live near the property to go over the plans of the project with them in addition to answering emails. She was stunned that the McDonald’s project would potentially be a second very significant project proposed for this site that could be turned down.

Mayor Infeld took issue with Councilman Consolo’s suggestion that it was frustrating that the residents believed there was four-point plan and that the Council was the final approval body. She noted that he also said that was not true, but if the Council turns down the Planning Commission’s recommendation, the plan cannot go forward. Mayor Infeld stated that she is concerned for the health of the community if University Heights becomes known as a City that may not be friendly to businesses. She was also concerned about the tenor of the comments regarding the project. Mayor Infeld urged the Council, as they vote on denying the Planning Commission’s recommendation, to seriously consider what message it would send to the business community about how agreeable University Heights is to new business.

Mayor Infeld stated that Councilman Sims brought up concerns about important impacts that need to be mitigated including traffic calming. She pointed out that they heard from the City Engineer, the traffic engineer, and the Chief of Police, all of whom talked about traffic calming mechanisms such as no left turn on Lansdale Road and no right turn on Bushnell Road. Therefore, she took issue with his perception that he did not hear about traffic calming mechanisms.

Mayor Infeld stated that Councilman Ertel noted his frustration about the process and that he felt that he did not have a lot of control over the proposed development. However, she noted that Councilman Ertel sits on the Board of Zoning Appeals so you had plenty of opportunity to comment early on. She also mentioned that he wondered about the current blight, why it is there, and wondered if this was just a way of diverting that blight with a new project. Mayor Infeld felt that he was actually looking for a way to get around addressing the merits of this project. In addition, she noted that Councilman Ertel mentioned the traffic study as being old and that it does not account for potential phantom traffic that may result in a phantom development that may be developed on the north side of Cedar Road. She believes that there will be development on the north side of Cedar Road. But, noted that as the traffic engineer had mentioned phantom traffic cannot be addressed, they could only talk about the traffic that is currently there. She commented that this was a concern which was also mentioned by several other councilmen.

Mayor Infeld agreed with Vice Mayor Goldberg when she quoted from the Mayor’s message on the City’s website about University Heights being a family friendly community and pedestrian friendly. In her opinion, she does not see the addition of the McDonald’s project on the site in question as destroying the pedestrian friendly character of the community.

Mayor Infeld was also happy to hear that Councilman Bullock would be willing to work with the applicant. She hoped that he would not vote the project down. She heard the same sentiment from Councilman Murphy because he wanted a chance to dialogue.
Mayor Infeld did not understand why people felt they were not in a position to vote yes or no on the project. She understood that a few councilmen have expressed the need to be proactive about economic development, and mentioned that this is economic development. Mayor Infeld commented that she has talked to the business owners on Warrensville Center Road, and they have all said that a viable business will bring more business.

Mayor Infeld addressed the residents about the safety concerns brought up by Mr. Holmes in his PowerPoint presentation as it related to traffic. Mayor Infeld stated that she was personally satisfied that there are ways to calm the traffic.

Councilman Consolo stated that it was unfair for Mayor Infeld to pick out each and every Council member who made a comment and vilify them for the comments they made at this meeting. Mr. Consolo stated that he asked Mayor Infeld at the beginning of this meeting to set forth for the Council her reasons why the project should go forward, and she did not say anything. He stated that she waited until the end of the meeting to express her leadership when it should have been done at the beginning of the meeting. Mr. Consolo stated that he had never heard any of this and commented that he personally wanted to know what her thoughts were on the project as the elected leader of the City. But, everyone was left wondering trying to figure it out, which was unfair. Mr. Consolo stated that this is the reason for all the confusion.

Mayor Infeld stated that she was sorry if she hurt anybody’s feelings by not expressing it sooner. Mr. Consolo stated that his feelings were not hurt, and added that is was disingenuous. Mayor Infeld did not see it that way because she noted that the Council was at the meeting to hear a presentation and they had a chance to hear the presentation. She added that she was alarmed by tone of the comments and that was why she expressed her opinions the way she did.

Mr. Rinker requested that the motion on the floor not be called to a vote and that the meeting be tabled. He reminded everyone that since the beginning of the approval process, McDonald’s has listened to people and tried to respond. Mr. Rinker stated that representatives from McDonald’s can answer the questions with respect to operational issues and could speak with experience in order to alleviate a lot of the concerns expressed. He was concerned that the traffic study issue is one that has been a focal point. Mr. Rinker noted that McDonald’s would be willing to work with the City further if it requires a traffic study as a condition of further action on the project. He added that the traffic study will validate what they have talked about. He suggested that the opportunity to have the dialogue would be time well spent. Mr. Rinker noted that the project is very important to McDonald’s because McDonald’s has invested a lot of money, time, and effort in a good faith effort trying to demonstrate that the project would be a win-win for the community. He added that they are not so cynical as to say that just because it is good for McDonald’s that it is going to be good for University Heights. Mr. Rinker stated that they have tried to handle the issues relevant to this meeting’s review. He added that they have heard the comments and would appreciate the opportunity for further dialogue. Mr. Rinker again requested that the Council not vote to deny the recommendation, but rather table for further dialogue.

Mr. Ertel asked Mr. Rinker if McDonald’s is willing to submit a new traffic study. Mr. Rinker responded that they would do that and would defer to the City’s traffic experts for guidance on a company to perform the study. He added that McDonald’s does not believe it is necessary, but if it is going to calm the concerns and address some of the other issues, they would do it. He added that if the City would like to hear from the representatives from McDonald’s at another meeting, they would be available.

Councilman Ertel asked Mr. Rinker if McDonald’s is willing to submit a new traffic study. Mr. Rinker responded that they would do that and would defer to the City’s traffic experts for guidance on a company to perform the study. He added that McDonald’s does not believe it is necessary, but if it is going to calm the concerns and address some of the other issues, they would do it. He added that if the City would like to hear from the representatives from McDonald’s at another meeting, they would be available.

Mr. Ertel withdrew his motion to deny. Ms. Goldberg withdrew her second.

After an inquiry by Vice Mayor Goldberg, Mr. Rinker stated that McDonald’s would cover the cost of the new traffic study. Vice Mayor Goldberg thanked Mr. Rinker. Mr. Fisher added that it is appreciated. He added that the discussion has been productive with valid points of view and differences of opinion. Mr. Fisher stated that it would be in order to make a motion to table and request as part of the motion to table that a new traffic study be done.

Mr. Murphy suggested that the motion be to table for further discussion because he was not convinced that a traffic study is the answer to all the issues unless the majority of Council is convinced that a traffic study is needed.
Mr. Rinker stated that they respect the fact the Council needs sufficient time for its discussions, but he noted that McDonald’s has business contractual issues to consider also. Therefore, he requested that the Council be mindful to put the matter on a realistic and but not unduly prolonged timetable.

MOTION BY MR. ERTEL, SECONDED BY MS. GOLDBERG to table the recommendation of the Planning Commission and require that a new traffic study to be submitted by McDonald’s Corporation with the scope of the study to be agreed upon by the City Engineer and McDonald’s.

Mr. Ciuni mentioned that if a standard traffic impact study is performed the same data will be received. He requested to define the scope of the traffic study in order to get the desired answers.

Mr. Bullock stated that Council should also have conversation with McDonald’s on how to resolve some of the issues raised at this meeting. Mr. Fisher suggested that Council hold a public work session to discuss the issue. Mr. Sims clarified that the traffic study a central issue, but there are other issues that have to be considered also. He added that although suggestions were made for possible options with regard to traffic calming, a decision of what would work best has not be made. Mr. Sims would like the Council to come up with a conclusive recommendation for traffic calming.

Mr. Rinker requested that everyone be objective in evaluating and analyzing the issues that are before the Council.

On roll call, on the motion to table the Planning Commission’s recommendation and to require a new traffic study, all voted “aye.”

Councilman Bullock recommended that the City find a way to communicate its processes more effectively. Mayor Infeld stated that when the work session is scheduled a notice will be mailed out to the general area, sent out through the email notification list, and posted on the website.

B. Ordinance No. 2010-34 Establishing the rate of compensation for the part-time position of Senior Services Manager

Ordinance No. 2010-34 establishes the position and rate of compensation of employment for the part-time appointed position of Senior Services Manager. The salary was established at $15,000 per year.

Councilman Sims stated that the City has a limited amount of resources to work with and it cannot do everything. He added that the City has to be more focused relative to setting priorities and understanding the urgency of those priorities. Mr. Sims noted that if he had to place having staff to work on development issues against a Senior Services Manager, he would have to say that development person would have a higher priority. He added that is not to say that senior services are not important and he is not going to support it. But, he added that something has to been done with the development issue and there are always trade offs.

MOTION BY MR. ERTEL, SECONDED BY MR. MURPHY to approve the passage of Ordinance No. 2010-34 as an emergency measure. On roll call, on suspension of rules, all voted “aye.” On roll call, on passage, all voted “aye.”

C. Ordinance No. 2010–40 Amending Ord. No. 2004-04 to update the fee schedule for emergency medical services

Ordinance No. 2010–40 amends Ordinance No. 2004-04 to update the fee schedule for emergency medical services in accordance with the National Fee Schedule as follows: Basic Life Support (BLS) Emergency Transport One Way increased from $350 to $450; Advanced Life Support (ALS) Emergency Transport One Way increased from $450 to $550; Advanced Life Support (ALS-2) Emergency Transport One Way increased from $500 to $700; and BLS/ALS per mile transport one way increased from $6 to $10.

Councilman Bullock stated that the Safety Committee studied this matter very throughly and the City’s fees were out of line with other communities. He added that the ordinance will allow the City to collect what it is authorized to collect.

Ordinance No. 2010–40 was placed on first reading. There were no objections.
There being no further business to discuss, the meeting was adjourned.

Mayor Susan K. Infeld

Nancy E. English, Clerk of Council