



COLERAIN TOWNSHIP ZONING COMMISSION

Regular Meeting Minutes

Tuesday, July 19, 2022- 6:00 p.m.

Colerain Township Government Complex
4200 Springdale Road - Cincinnati, OH 45251

Meeting called to order: 6:00 pm by Ms. McMullin.

The Pledge of Allegiance was led by Ms. McMullin.

(Prior to Roll Call Mr. Bachman was sworn-in by Legal Staff as a primary Zoning Commissioner)

Roll Call: Mr. Bachman – aye, Mr. Fehring – aye, Mr. Gehring – aye, Mrs. Smith – aye,
Ms. McMullin – aye.

Also present was Jarrod Alig as Staff, and Sarah Schild as Legal Staff.

Approval of Minutes: Minutes from the May 17th, 2022, Zoning Commission meeting
(Ms. McMullin noted that a minor edit was required)

Mr. Gehring made a motion to approve the May 17th, 2022, meeting minutes, Mrs. Smith
seconded the motion.

Roll Call: Mr. Bachman – aye, Mr. Fehring – aye, Mr. Gehring – aye, Mrs. Smith – aye,
Ms. McMullin – aye.

Public Address: None

Election of Officers: Per Mr. Grote's resignation, it was necessary to elect a new Commission
member to the position of Chairperson. Mr. Gehring made a motion to nominate Ms.
McMullin, Mrs. Smith seconded the motion.

Roll Call: Mr. Bachman – aye, Mr. Fehring – aye, Mr. Gehring – aye, Mrs. Smith – aye,
Ms. McMullin – aye; **motion carried.**

Ms. McMullin noted that due to her being elected as Chairperson, it was now necessary to
elect a new Commission member to the position of Vice-Chairperson.

Ms. McMullin made a motion to nominate Mr. Bachman, seconded by Mr. Fehring.

Roll Call: Mr. Bachman – aye, Mr. Fehring – aye, Mr. Gehring – aye, Mrs. Smith – aye,
Ms. McMullin – aye; **motion carried.**

Final Development Plan: None.

Public Hearings:

**Case ZA2022-07, Zoning Map Amendment / Major Amendment to: ZA2001-08 (Wyler);
ZA2001-09 (Target); & ZA2002-02**

CASE ZA2022-07: Major Amendment to ZA2001-08 (Wyler); ZA2001-09 (Target); & ZA2002-02 (Wyler)
Location: 8944 Colerain Ave.
Parcel No.: 510-0093-0014-00
App. / Prop. Owner: James Watson, with McGill Smith Punshon, Inc., representative for the property owner(s), Mountain Agency Colerain, L.L.C.

Application for a Major Amendment to Case ZA2002-02 for a Zoning Map Amendment for the re-zoning of a 3.863 acre portion of the property (parcel 510-0093-0014-00) from “R-6” Urban Residential, to “PD-B” Planned Development - Business.

Ms. McMullin introduced the case. Staff provided a presentation providing information regarding the case.

Staff recommended APPROVAL of the requested Major Amendment to ZA2002-02 Wyler, regarding the property located at 8944 Colerain Ave., known as Parcel: 510-0093-0014-00, subject to the following conditions and variances:

Conditions:

1. That no off-premise signage be permitted;
2. That parcels 510-0093-0010-00; 510-0093-0212-00; and 510-0093-0014-00 be included with this request, and be incorporated within the Final Development Plan;
3. That the Final Development Plan shall comply in all other respects with the regulations of the Zoning Resolution;
4. That unloading of inventory be done on the project site only; and,
5. That the applicant agrees to designate a 25-foot cross-access easement, and participate in a good faith effort to achieve the “automobile connectivity” mentioned in the Colerain Township Comprehensive Plan: Imagine Colerain

Variances:

1. 13.4.3 Design Standards (Required for 17 spaces)

(B) Maneuverability Areas

(2) Back-Up Area - Each parking space shall be provided with a sufficient back-up area so as to permit egress in one maneuver, consisting of one backward and forward movement. See maneuvering aisle widths in Table 13-5 and Figure 13-6.

2. 13.4.7 Alternative Parking - (C) Off-Site Parking

A portion of the required parking spaces may be located on a separate lot from the lot on which the principal use is located if the off-site parking complies with the following standards and is authorized in accordance with Subsection 13.3.4 (Modification of Required Number of Spaces).

(2) **No off-site parking space shall be located more than 500 feet from the primary entrance of the use served**, measured along the shortest legal, practical walking route. This route may include crossing a right-of-way provided it uses a legal crosswalk.

After the conclusion of Staff's presentation, Ms. McMullin asked Commissioners if they had any questions.

Mr. Gehring mentioned the concerns of water runoff of neighbors during previous hearings regarding this property and asked what is being done to address this issue.

Staff stated that he was not an expert on the specifics of water detention / retention and would defer to the Applicant for the specifics of the question. However, the concern had been raised prior to the hearing and the Applicant had included elements upon the proposed plan that went above and beyond the requirements of the Colerain Township Zoning Resolution.

Ms. McMullin asked Commissioners if they had any additional questions, hearing none she asked if the Applicant was present.

Legal Staff swore in all in attendance who wished to speak.

Applicants made their presentation to the Zoning Commission.

Mr. Tim Burke, of the Manley-Burke Law Firm 225 W. Court St. Cincinnati, OH, 45202 spoke on behalf of the property owners.

Mr. Burke gave a brief overview of the multiple zoning map amendments that happened within quick succession of each other, including the properties of the both the Target and

Wyler Planned Developments. These zoning map amendments caused much confusion at the time when they were presented to Colerain Township. Additionally, Mr. Burke stated that they agreed with the proposed conditions but would like to work with staff to address the language regarding the condition of the cross-access easement.

Brian McNair, general counsel to Jeff Wyler Automotive Family, 401 Milford Pkwy., Suite A, Milford, OH, 45150 spoke on behalf of the property owners, and gave extensive history of the property and the Wyler company.

James Watson, McGill Smith Punshon, 3700 Park 42 Dr, Suite 190-B, Cincinnati, OH, 45241 gave a presentation on the proposed submittal, specifically addressing the questions regarding water detention / retention.

Paul Rini, Director of Operations for Jeff Wyler Automotive Family, 401 Milford Pkwy., Suite A, Milford, OH, 45150

Mr. Gehring asked Mr. Watson about controls to contain water runoff issue during the construction phase of the project.

Mr. Watson stated that the required perimeter control elements would be utilized to contain sediment.

Mr. Bachman asked Mr. Watson if the proposed detention basin was for the property of the proposed area to be rezoned only.

Mr. Watson answered that was correct.

Mr. Bachman asked what would be done to address detention issues relative to the exiting development.

Mr. Watson explained that currently the existing development was served by the required detention basins.

Mr. Watson also mentioned the landscape and lighting plan in conclusion of his presentation and asked the Commissioners if they had any further questions.

Mr. Fehring asked Mr. Watson how many parking spaces were included on the proposed plan.

Staff and Mr. Watson indicated that the specific number of parking spaces indicated upon the plan was 250, however there were 16 additional spaces along the western edge of the proposal that were not specifically indicated upon the proposed plan.

Mr. Fehring asked how many parking spaces were existing per the former use of the property by the Moose Lodge.

Staff and Mr. Watson indicated that estimates were between 90-94 for the existing parking spaces.

Mr. Fehring noted that those existing spaces did not have any (storm water runoff) retention.

Ms. McMullin asked Commissioners if they had any additional questions for Mr. Watson, hearing none she asked Mr. Paul Rini if he desired to speak (Mr. Rini indicated that unless there were any specific questions, he did not wish to speak.)

Ms. McMullin asked Commissioners if they had any additional questions for the Applicant.

Mr. Bachman asked Mr. McNair for clarification that the intended use of the expansion was for “storage of vehicles”, and not for auto sales with “loudspeakers, and the salespeople...”

Mr. McNair stated that the primary intended use “purely for storage”, and that there would be no loudspeakers. He stated that it could be possible for people to “walk back there”, but the goal was purely for storage.

Ms. McMullin asked Commissioners if they had any additional questions for the Applicant, hearing none, she requested a motion to open the public hearing portion of the meeting.

Mr. Bachman made a motion to open the public portion of the hearing, seconded by Mr. Gehring.

Roll Call: Mr. Bachman – aye, Mr. Fehring – aye, Mr. Gehring – aye, Mrs. Smith – aye, Ms. McMullin – aye; **motion carried.**

Ms. McMullin referenced the sign-in sheet to call those wishing to speak to the podium.

Mr. Alfred Nagle, 9109 Zoellner Dr. [Rd.], Cincinnati, OH, 45251 – Mr. Nagle stated concerns over the proposed development adding to the existing water runoff issues from other existing developments. Mr. Nagle presented photographic evidence to the Zoning Commission. (Please see Exhibit “A” below.) Mr. Nagle also stated water volume calculations to the Commission, however, the paper from which he read was not submitted as evidence to the Zoning Commission. Mr. Nagle made mention of property maintenance issues at the property but did not present the referenced evidence to the Zoning Commission.

Mr. Robert Kattine, 3120 Pavlova Dr., Cincinnati, OH, 45251 – Mr. Kattine stated his concern over the volume of water runoff from the numerous developments in the area. Mr. Kattine referenced photographic evidence which was on Mr. Tim Osterbrock’s cell phone and asked if the evidence could be presented to the Commission.

(Ms. McMullin deferred to Legal Staff for the request to present the Commission with electronic photographic evidence. Legal Staff indicated that would be acceptable so long as the photographs were emailed to Staff. However, as of the date

of accepting these minutes, Staff has NOT been provided with the presented evidence.)

Mr. Bachman asked for clarification as to where Mr. Kattine lived in reference to the property included within the proposed zoning map amendment. Mr. Kattine indicated where upon the map (displayed on the projection screen) 3120 Pavlova Dr. is located.

Mr. Bachman also asked for clarification as to where Mr. Osterbrock lived in reference to the property included within the proposed zoning map amendment. Mr. Osterbrock indicated where upon the map (displayed on the projection screen) 8965 Palomar Dr. is located.

Mr. Kattine and Mr. Osterbrock were speaking and transitioning from the podium to the projection simultaneously. Due to the dynamic situation Staff asked that only one individual speak at a time. Mr. Kattine indicated that he was finished speaking and returned to his seat.

Staff asked Mr. Tim Osterbrock to state his name and address for the record. Mr. Tim Osterbrock stated that he resides at 8965 Palomar Rd. [Dr.] Cincinnati, OH, 45251 – Mr. Osterbrock stated his concern over existing storm water runoff.

Mr. Fehring asked which direction the stream flowed at in reference to the image being displayed on the projection screen.

Mr. Osterbrock stated that the stream flowed “southeast”.

Mr. Fehring corrected him and stated “northeast”. To which Osterbrock answered in the affirmative.

Mr. Osterbrock asked if there were any other questions he could answer.

Staff requested that Mr. Osterbrock ensure that he email the photos presented as evidence and provided Mr. Osterbrock with Staff’s email address.

(Again, as of the date of accepting these minutes, Staff has NOT been provided with the presented evidence.)

Mr. Osterbrock continued to address the Commission, however, most of what was said is inaudible.

Ms. Dianne Creech, 9107 Zoellner Rd., Cincinnati, OH, 45251 stated her concerns regarding lighting from the proposed improvement, and property values.

Ms. McMullin stated that all who had signed-in had spoken and asked if there was anyone present who wished to speak that did not sign the sign-in sheet.

Mr. Alfred Nagle indicated that he desired to speak once more. Mr. Nagle offered clarification on the exiting creeks. Mr. Nagle indicated that “the two creeks” meet at the

intersection of Zoellner Dr. and Palomar Dr. causing flooding issues, then flow to the intersection of Compton Rd. and Pippin Rd.

Mr. Osterbrock asked to speak once more, however almost no part of his statement was recorded by the audio equipment.

An additional member of the audience that did not sign-in indicated a desire to speak.

Mr. Phillip Russo, 3272 Sunnyside Dr., Cincinnati, OH, 45251 stated that flooding was an issue. That the stop sign located upon the subject property was often obstructed by foliage as well as disobeyed. That the current traffic pattern presented other dangers. Mr. Russo noted that the adjacent dealership (Ford) cut half of their lights off at night, but that the lighting upon the Wyler property was not reduced at any point during the night. Mr. Russo stated that the use of the car alarm to allow for the location of the car caused problems

Ms. McMullin again asked if anyone present wished to speak, seeing and hearing none she requested a motion to close the public portion of the hearing.

Mrs. Smith made the requested motion, seconded by Mr. Fehring.

Roll Call: Mr. Bachman – aye, Mr. Fehring – aye, Mrs. Smith – aye, Mr. Gehring – aye, Ms. McMullin – aye; **motion carried.**

Ms. McMullin asked Commissioners if they had any questions for Staff or the Applicant.

Mr. Bachman asked the Applicant to address some of the issues brought up during the public portion of the meeting. Specifically speaking to the issue of storm water discharge from the subject property, that the Applicant's proposed detention pond would assist in reducing the overall storm water discharge problem currently existing, only in proportion relative to the overall area.

Mr. Watson stated that while the acreage of the subject property was small (3.863 acres) compared to the water shed (approximately 120 acres) that the proposed improvement to the property would help reduce the overall problem of storm water discharge.

Mr. Bachman indicated that he had an operational question for Mr. Rini regarding the lighting issues mentioned Mr. Russo.

Mr. Paul Rini, Director of Operations for Jeff Wyler Automotive Family, 401 Milford Pkwy., Milford, OH, 45150 - Indicated that the proposed lighting for the subject property is of a type that is directionally pointed, and that each fixture "lowers themselves down as the night goes on". But that the current lighting throughout the facility has not been converted.

Mr. Bachman asked for clarification as to the specifics of the dimming process.

Mr. Rini gave an example that where a light could be shining at a 100-Watt intensity at the beginning of the evening, at 3:00 A.M. that intensity is automatically lowered to 60-Watt.

Mr. Bachman stated that the proposed lighting is different than the existing lighting. Mr. Rini answered in the affirmative.

Mr. Bachman indicated that his last question was for Mr. Burke regarding the “good faith easement”; when the “master plan” for the entire development is brought back before the Commission, would the Wyler team be willing to specifically designate location of the proposed cross-access easement?

Mr. Burke answered that the Wyler team is open to discussing and exploring indicating the cross-access easement on the Final Development Plan, but that challenges remain regarding the desires of Colerain Township, and adjacent property owners.

Mr. Bachman suggested that given the circumstances, that Mr. Burke contact Colerain Township, and the adjacent property owner (Ford) to discuss what the details of the easement would like for the future of the Final Development Plan.

Mr. Burke indicated multiple times that the Township, as well as approximately “a dozen” other property owners would be stakeholders in the overall process, and many questions remained due to the lack of details provided by the Township. Mr. Burke stated multiple times that Wyler was more than willing to discuss the particulars but was concerned regarding the timeline. Mr. Burke indicated that they were willing to continue to explore the issue in good faith.

Mr. Bachman indicated his concern was that the Final Development Plan would come before the Zoning Commission without the necessary questions being answered.

Mr. Burke indicated that Wyler would work with the Township to clarify the particulars of the matter.

Mr. Gehring stated that his understanding was that if the Commission does not act on the matter, the issue related to the storm water runoff would not be resolved. However, approving the development could have a beneficial effect.

Mr. Gehring instructed Staff to discover the agency responsible for the storm water infrastructure in this area and begin the process of rectifying the issues related to storm water runoff.

Ms. McMullin restated a comment made during the public portion of the hearing by Mr. Nagel that “forty years ago it was a stream, now we have a creek. Let’s hope in forty years it doesn’t turn into a river” as further direction for Staff to investigate the matter and provide understanding on Colerain Township’s ability to influence a solution to the problem.

Mr. Fehring added that through his personal experience with working with the Metropolitan Sewer District (M.S.D.) was that sanitary, and not storm water, is MSD's primary concern. Mr. Fehring asked if the residents located in that area were on "a private lane?"

Mr. Osterbrock approached the podium and stated that he had previously called "them" when the "storm sewer" was "underwater", "they came out and said they didn't care..."

Mr. Gehring advised Mr. Osterbrock to retrieve a sample during the next overflow event to have it tested for fecal matter, as that may lend a higher priority to solving the matter.

Ms. McMullin asked the Commissioners if they had any further questions, hearing no questions Ms. McMullin asked if any of the Commissioners would like to make a motion on the subject.

Mr. Gehring made a motion to accept the plan as submitted for Case ZA2022-07, Mr. Bachman seconded the motion and clarified to include the conditions as presented by Staff. (For clarification, Staff asked if the two variances could be formally mentioned.)

Ms. McMullin clarified that the motion to approve Case ZA2022-07 included the conditions, and variances as recommended by Staff.

Ms. McMullin requested a Roll Call vote on the matter.

Roll Call: Mrs. Smith – nay, Mr. Fehring – aye, Mr. Gehring – aye, Mr. Bachman – aye, Ms. McMullin – aye; **motion carried (4-1).**

Case ZA2022-07, Zoning Map Amendment / Major Amendment to: ZA2001-08 (Wyler); ZA2001-09 (Target); & ZA2002-02 (Wyler) – APPROVED (4-1)

Conditions:

1. That no off-premise signage be permitted;
2. That parcels 510-0093-0010-00; 510-0093-0212-00; and 510-0093-0014-00 be included with this request, and be incorporated within the Final Development Plan;
3. That the Final Development Plan shall comply in all other respects with the regulations of the Zoning Resolution;
4. That unloading of inventory be done on the project site only; and,
5. That the applicant agrees to designate a 25-foot cross-access easement, and participate in a good faith effort to achieve the "automobile connectivity" mentioned in the Colerain Township Comprehensive Plan: Imagine Colerain

Variances:

1. 13.4.3 Design Standards (Required for 17 spaces)

(B) Maneuverability Areas

(2) Back-Up Area - Each parking space shall be provided with a sufficient back-up area so as to permit egress in one maneuver, consisting of one backward and forward movement. See maneuvering aisle widths in Table 13-5 and Figure 13-6.

2. 13.4.7 Alternative Parking - (C) Off-Site Parking

A portion of the required parking spaces may be located on a separate lot from the lot on which the principal use is located if the off-site parking complies with the following standards and is authorized in accordance with Subsection 13.3.4 (Modification of Required Number of Spaces).

(2) **No off-site parking space shall be located more than 500 feet from the primary entrance of the use served**, measured along the shortest legal, practical walking route. This route may include crossing a right-of-way provided it uses a legal crosswalk.

Informal Concept Review – None.

Old Business – None.

New Business – None.

Administration – None.

Announcements – None.

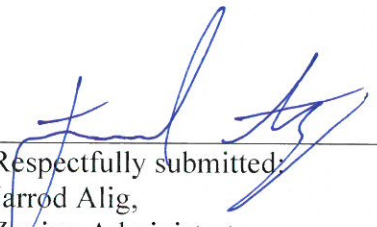
Next Meeting – Next Scheduled meeting is September 20, 2022.

Adjournment – (Due to uncertainty, Staff requested that a motion be made to err on the side of caution.)

Mr. Fehring made a motion to adjourn, seconded by Mr. Gehring.

Straw Poll: All Members – aye

Meeting Adjourned at 7:54 P.M.



Respectfully submitted:
Jarrod Alig,
Zoning Administrator



Accepted:
Lori McMullin,
Chairperson

















