

COLERAIN TOWNSHIP ZONING COMMISSION
Regular Meeting Minutes
Tuesday, March 2, 2021- 6:00 p.m.

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

Meeting called to order at 6:00 pm.

The Pledge of Allegiance was led by Mr. Grote.

Roll Call: Mr. Fehring – aye, Mr. Grote - aye, Ms. Smith – aye, Ms. McMullin – aye and Mr. Gehring – absent. Alternate Mr. Wilson was seated to take Mr. Gehring's place.

Also present was staff member Michael Ionna and legal counsel Jonathan Deters.

Approval of Minutes: No minutes were available for approval.

Public Address: none

Preliminary Development Plan:

ZA2021-01 – Abbeytown Zone Change from R-4 and R-6 to PD-B

Mr. Grote introduced the case. Mr. Ionna presented the case which has been submitted by MI Homes of Cincinnati. The property is 29.8 acres on the north side of West Kemper Road west of Pippin Road. The request is a zoning map amendment from R-4 Suburban Medium Residential District and R-6 Urban Residential District to PD-R Planned Development Residential District for the purpose of constructing 68 single family homes. Mr. Ionna reviewed the development plan review and approval process and history of past plan approvals for this property.

Mr. Ionna showed location maps, a zoning map and site photos. He reviewed application sections of the Colerain Comprehensive Plan and reviewed the details of the proposal. The proposal is asking for a waiver of the sidewalk requirement of West Kemper Road due to topography issues but is providing pedestrian connectivity with a public walkway through a lot located behind the Township fire station. The proposal includes buffering from adjacent properties, a stormwater retention area, street trees, and entry feature, and a playground area. The proposal includes smaller lots that would be allowed in the underlying zone in exchange for dedicated open space. Setbacks for front and side yards are also reduced from the underlying

districts. Mr. Ionna reviewed the statutory findings that are required for the approval of a Preliminary Development Plan.

Staff recommends APPROVAL of the Zone Change and Preliminary Development Plan to allow for the construction of the 68 single-family dwelling units, subject to the following conditions:

- a. That the front façade of all dwellings contains an element of stone, brick, or other masonry unit.
- b. The minimum housing size shall be 1,400 square feet for one-story residential dwellings and 1,600 square feet for two-story residential dwellings.
- c. All homes shall feature a basement. Said basement shall not be considered part of the floor area established within Condition 2.
- d. That a plan for the intent and treatment of the open space areas be included within the Final Development Plan. Said plan shall address the manner in which the common open space will be developed or treated which includes one or more of the following options: keeping it natural and maintained, provision of a playground, provision of paved walking trails, provision of planting and landscaping.
- e. That a Homeowners Association (HOA) be formed to manage and care for the common open space, retention ponds, fencing, and vegetative buffers.
- f. The maintenance of the vegetative buffers, fencing, and open space areas shown on the approved preliminary plan and final development plan shall be included and outlined within the HOA documents of Abbeytown Subdivision. Maintenance shall be conducted in a manner that promotes and fosters the intent of the buffer to screen the new development from existing adjacent development.
- g. That a street lighting district be set up for this development in accordance with the standards of Colerain Township Zoning Commission.
- h. That a waiver be granted for the sidewalk connection along Kemper Road
- i. That future sale of the "panhandle" portion of the tract to adjacent property owners and only adjacent property owners to the east or west be permitted to occur as an Administrative Modification to the approved Development Plan.
- j. That the proposed development meets applicable standards and regulations for other development review agencies.

The recommendation includes APPROVAL of the variances from the underlying area and height standards of the Zoning Districts. The basis for the recommendation is as follows:

1. The plan is consistent with the comprehensive plan as it pertains to permitted types of land use, the vision for the Bevis / Pleasant Run Character Area and the corresponding guidelines and policies. The proposed density, character and form of the proposal, as conditioned, is also generally consistent with the land located within the immediate and peripheral areas of the site which consist of churches, a school, a Fire Station, suburban residential development and single-family larger lot development.
2. The proposed zone change will benefit the community through the provision of new homes for new residents within a development design that preserves and protect natural open space rather than clear cutting land for development.

3. The proposed street extensions connect to the existing street network in a manner that is consistent with the required findings of the Zoning Resolution. The plan shows access from Kemper Road and provides a stub to the property located immediately east of the site. The proposed stub is the most logical area of the site to provide future access to.
4. The proposed development is accessible from Kemper Road. A Traffic Impact study was submitted, found to be valid, and approved by the Hamilton County Engineer regarding the proposed access.
5. The proposal is consistent with the intent and purpose of the Zoning Resolution for Planned Development.
6. Staff finds the variance from the underlying area and height requirements to be appropriate. The intent of the Zoning Resolution for Planned Developments is to allow for creative designs that protect and preserve open space. The submitted development plan effectively clusters development in certain areas of the site using smaller lots and larger preserved open spaces, thus necessitating the proposed variances. The result is a development is not only impactful in the preservation of open space and natural land but it is also less dense at 2.38 units per acre than the 3.11 units per acre that is permitted by-right in the R-4 District. Furthermore, the clustering of development is also consistent with best practices for fiscal policies of the Township regarding maintenance. Shorter lot widths require less road maintenance over the long run, a considerable cost in the upkeep of all new residential development.

It should be noted that approval of this Preliminary Development Plan locks in the site plan and all corresponding proposal information as contained herein this staff report as well as in what has been submitted by the applicant. Once approved through a final action by the Board of Trustees, any deviation or change must follow the review and approval processes outlined in Section 4.5 of the Zoning Resolution.

Mr. Grote asked about the sidewalk waiver with the sidewalk connection on lot 17. Does this need to be in writing? Mr. Ionna said that it is on the development plan and a part of the application. Mr. Grote asked if there was a sidewalk connection from the fire station to Pippin Road. Mr. Ionna said that he was not aware if there was a connection.

Mr. Brad Austing with MI Homes, having been sworn, said that this is very similar to their previous proposal. He gave an overview of MI Homes and types of communities they build. He gave a description of the development including that the detention facility would hold water and have extra holding capacity to reduce drainage problems downstream. He reviewed sales prices of surrounding neighborhoods compared to the proposed development. Mr. Austing showed the sidewalk connection noting that the waiver fee should cover the Township cost of extending the sidewalk through the fire station property to Pippin Road. Mr. Austing showed photos of existing flooding conditions caused by undersized culverts on private driveways. Mr. Austing showed illustrations to demonstrate that the planned development would have less impact on the neighboring properties than a traditional subdivision.

A Traffic Impact Study has been reviewed and approved by the County Engineer demonstrating that the point of access is appropriate for the development.

Ms. Smith asked if the adjacent residents have approved the proposed solutions to the flooding problem. Mr. Austing said that it is the responsibility of the neighboring property owners to manage their drainage. Ultimately the County Engineer could enforce drainage regulations.

Mr. Grote asked if the Traffic Impact study resulted in the recommendation of any improvements or turn lanes on Kemper Road. Mr. Austing said that there were to be no modifications to Kemper Road as a result of the study.

With no further questions for the staff or developer, a motion was made by Mr. Fehring and seconded by Ms. McMullin to open the public hearing.

Roll Call: Mr. Fehring – aye, Mr. Grote - aye, Ms. Smith – aye, Ms. McMullin – aye and Mr. Wilson – aye.

Mr. Rich McVay, having been sworn, is requesting an amendment to the application. He cited results of a recent community survey. He is concerned about the density. He would like to see more amenities and sidewalks on Kemper. He presented photos of other MI Home community amenities. He spoke about the property tax revenue anticipated by the development and impact on the school system.

Mr. Calvin Hunter, having been sworn, expressed concerns regarding the sanitary sewer system that will serve the proposed development. This area relies on a pumping station that could fail and result in sewage spills. He believes that it was designed for the Huntersdon Subdivision and does not have capacity for the proposed development. He was also concerned about the description of the area in the Comprehensive Plan. He believes that this should not be considered as Bevis and should be considered to be rural in character. The Huntersdon subdivision meets the current R-4 zoning with larger lots and much greater spacing between houses. Mr. Hunter presented photos of current flooding issues. He is concerned about the impact on the storm water detention basin in the Huntersdon development. Mr. Grote asked if Mr. Hunter had any written information regarding the capacity of the sewer lift station in Huntersdon. Mr. Hunter said that he did not.

Mr. Sean Callan, attorney representing Ken and Beck Pitcher, noted that his clients have a nice house on eight acres. He reviewed basis for Zoning Commission's previous denial of the development. Since the development has not changed the reasons for denial still exists. The Comprehensive plan calls for few to no cul-de-sacs and three are proposed. The proposed density is not compatible with the density of adjoining properties. Mr. Callan said that the proposed open space is land of poor quality that could not be developed. He is also concerned about a lack of amenities in the open space and the lack of sidewalks on Kemper Road. Mr. Callan showed a map of the development that was presented to the Trustees illustrating a standard subdivision on the property. He explained the reasons that he believes that the plan is not feasible. He urged the Commission to deny the request.

Mr. Kevin Gerth, having been sworn, said that he borders the proposed open space and is concerned about how it will be treated. He would like to see the existing vegetation be retained. He does not think that the sidewalk along Kemper Road should be constructed due to the speed of traffic. Mr. Fehring asked Mr. Gerth about the number of pedestrians that use the sidewalk on the Kemper frontage of Huntersdon. Mr. Gerth said that the sidewalk is not used.

Mr. Ken Pitcher, having been sworn, said that he built his house in 2006 and he thinks that the plan is too dense. He wants higher quality development. He clarified that there are no sidewalks between the fire station and Pippin Road.

Mr. Don Smith, having been sworn, said that he lives next to the panhandle portion of the proposed development. He presented some storm water calculations to the Commissioners. He showed an illustration of the storm water drainage area that flows into the proposed development. He is concerned about problems that the development will cause downstream.

Mr. Tom Tepe, attorney representing the developer, noted that the issue of storm water drainage is under the jurisdiction of the County Engineer and not Colerain Township. The Comprehensive Plan is in need of updating. The development is consistent with Colerain zoning, the Comprehensive plan and the character of the neighborhood.

With no further persons present to speak in favor or opposition to the development, a motion was made by Ms. McMullin and seconded by Ms. Smith to close the public hearing.

Roll Call: Mr. Fehring – aye, Mr. Grote - aye, Ms. Smith – aye, Ms. McMullin – aye and Mr. Wilson – aye.

Ms. McMullin said that she appreciated that the developer has provided additional information regarding traffic and the feasibility of the sidewalk on Kemper Road. She also has a better understanding of the storm water drainage downstream from the development. She would like to see additional amenities in the open spaces. She is concerned that it is unusable due to the hillsides. She would like to see a playground and walking trail.

Mr. Wilson asked for additional information regarding the consistency of the development with the Comprehensive Plan. Mr. Ionna responded that the Comprehensive Plan is general in nature that deals with guiding principles and concepts and does not deal with specific properties. The surrounding area has a wide variety of densities.

Mr. Grote asked Mr. Callan about the County regulations regarding the number of homes permitted on a cul-de-sac. Mr. Callan responded that it includes everything in the development since there is only one access. Mr. Grote asked Mr. Austing about the market demand for small residential lots. Mr. Austing said that their buyers prefer smaller lots. Mr. Grote asked how much of the sidewalk on lot 17 would be built by the developer. Mr. Austing said that it would only be the portion on the side of lot 17 and that the Township would be responsible for the sidewalk on the fire station property.

Ms. McMillin asked how the sidewalk waiver fee was calculated. Mr. Ionna said that it is calculated based on the length of the sidewalk that is required but not proposed for construction on the Kemper Road frontage.

Mr. Wilson asked about the feasibility for the construction of recreational amenities in the open space. Mr. Austing said that the options suggested by staff may not be possible.

A motion was made by Ms. Smith to deny the proposed Zoning Map Amendment and development which was seconded by Ms. McMullin.

Mr. Wilson asked for the rationale for the motion. Ms. Smith said that is was based on the comments during the meeting. Ms. McMullin explained she seconded the motion based on the objections to the previous re-zoning proposal. She is still concerned about the density of the development.

Roll Call: Mr. Fehring – aye, Mr. Grote - no, Ms. Smith – aye, Ms. McMullin – no and Mr. Wilson – no.

Ms. McMullin made a motion to approve the Zoning Map Amendment and development plan per staff recommendation. The motion was seconded by Mr. Wilson. Ms. McMullin added that she is also expecting an examination of the open space with respect to removal of dead trees and the feasibility of walking trails. Mr. Wilson agreed with this additional condition.

Roll Call: Mr. Fehring – aye, Mr. Grote - aye, Ms. Smith – no, Ms. McMullin – aye and Mr. Wilson – aye.

ZA2021-02 Crossing of Colerain Zone Change from R-7 to PD-B

Mr. Grote introduced the case. Mr. Ionna said that the Colerain Township Trustees have initiated this amendment for a 0.14 acre portion of Groesbeck Park. The site is an overgrown area that it proposed to be sold to the owners of the Crossing of Colerain Development for the purpose of storing vehicles waiting to be repaired. Mr. Ionna reviewed the zoning and development history of the site. He showed maps and photos of the site.

Staff recommends for the following:

1. APPROVAL of the Zone Change and Preliminary Development Plan to allow for the construction of the project as proposed, subject to the following conditions:
 - a. That sufficient fencing be provided to completely screen all vehicles located in the side and rear yard areas of the Colerain Crossings Shopping Center. Said fencing should be of high-quality materials and shall not consist of chain link, barbed wire or razor wire designs.
 - b. That sufficient screening and landscaping be provided to completely screen all vehicles located in the side and rear yard areas of the Colerain Crossings. Said landscaping should be in excess of what is required within the Zoning Resolution.
 - c. That the applicant properly care for the planted landscaping until it fully matures.

- d. That the growth located from the surplus lot on the site until the terminus of the property line be cleared out.
- e. That additional landscape be provided throughout the park as necessary to mitigate any issues associated with the proposed construction of the off-street parking area.
- 2. APPROVAL of the variance from the maximum fence height
- 3. APPROVAL of the variance from the minimum landscape buffer yard

The basis for the recommendation is as follows:

- 1. The plan is consistent with the comprehensive plan which states that commercial development is appropriate for the site. The proposed density, character and form of the proposal, as conditioned, is also generally consistent with the land used located within the immediate and peripheral areas of the site which consist of higher density commercial uses and a park.
- 2. The proposed zone change will allow for the construction of much needed parking
- 3. The proposed street extensions connect to the existing street network in a manner that is consistent with the required findings of the Zoning Resolution.
- 4. The proposed development has direct access to Clara Drive which is a Township Road of sufficient capacity to serve the development.
- 5. The proposal is consistent with the intent and purpose of the Zoning Resolution for Planned Development.
- 6. Staff finds the variance for fence height to be appropriate as it will allow the applicant to sufficiently screen the proposed parking area.
- 7. Staff finds the variance from the landscape buffer area to be appropriate as it will allow Colerain Township to retain ownership of park land. The conditions of approval ensure that fencing and screening will be provided to effectively screen the proposed off-street parking.

It should be noted that approval of this Preliminary Development Plan locks in the site plan and all corresponding proposal information as contained herein this staff report as well as in what has been submitted by the applicant. Once approved through a final action by the Board of Trustees, any deviation or change must follow the review and approval processes outlined in Section 4.5 of the Zoning Resolution.

With no questions for staff, a motion was made by Mr. Fehring and seconded by Ms. McMullin to open the public hearing.

Roll Call: Mr. Fehring – aye, Mr. Grote - aye, Ms. Smith – aye, Ms. McMullin – aye and Mr. Wilson – aye.

With no persons present to speak at the public hearing a motion was made by Mr. Fehring and seconded by Ms. Smith to close to the public hearing.

Roll Call: Mr. Fehring – aye, Mr. Grote - aye, Ms. Smith – aye, Ms. McMullin – aye and Mr. Wilson – aye.

With no further discussion a motion was made by Mr. Fehring to approve the proposed Zoning Map Amendment and Preliminary Development Plan according to staff recommendations. The motion was seconded by Ms. McMullin. Mr. Grote asked Mr. Ionna if the case would return to the Zoning Commission as a Final Development Plan. Mr. Ionna confirmed that it would. Mr. Wilson asked if the language in condition e. is sufficiently specific to give direction for the final plan. Mr. Ionna said that it is intentionally loose to give flexibility for the final plan.

Roll Call: Mr. Fehring – aye, Mr. Grote - aye, Ms. Smith – aye, Ms. McMullin – aye and Mr. Wilson – aye.

ZA2020-05 Text Amendment Regarding Massage Parlors and Massage Therapy

Mr. Grote introduced the case. Mr. Ionna said that this amendment was initiated by the Township Trustees in response to concerns regarding potentially illegal activity being conducted at massage parlors. The draft language was based on research of other community regulations and amended to meet specific Colerain concerns. The proposed amendment differentiates between activities that are illegal verses legal with references to Ohio Revised Code regulations. The key is that the people involved with the business need to be licensed to do their work.

Staff recommends for APPROVAL of the proposed text amendment adding regulations for massage parlors and massage therapy with the following basis:

1. The proposed text amendment will provide regulations that ensure businesses providing massage services in Colerain Township are doing so in a manner that is legal and consistent with the intent and purpose of the Zoning Resolution.
2. The proposed text amendment will provide regulations that ensure businesses providing massage services in Colerain Township are doing so in a manner that protects and promotes the public health, safety and welfare.
3. The proposed text amendment safeguards against illegal activities associated with massage operators through licensure requirements of personnel providing massage therapy.
4. The proposed text amendment does not adversely impact Massage Therapy uses as they are permitted in the same Zoning Districts as other medical and dental uses are permitted.
5. The use of Ohio Revised Codes (ORC) references makes the definition of Massage Parlor legally defensible for administrative and enforcement purposes.

Mr. Wilson asked if unlicensed operations are currently allowed in the township. Mr. Ionna explained that there is currently no distinction in the regulations and the proposal clarifies what is illegal verses legal.

With no further questions for staff, a motion was made by Ms. McMullin and seconded by Mr. Fehring to open the public hearing.

Roll Call: Mr. Fehring – aye, Mr. Grote - aye, Ms. Smith – aye, Ms. McMullin – aye and Mr. Wilson – aye.

With no persons present to speak at the public hearing a motion was made by Ms. Smith and seconded by Ms. McMullin to close the public hearing,

Roll Call: Mr. Fehring – aye, Mr. Grote - aye, Ms. Smith – aye, Ms. McMullin – aye and Mr. Wilson – aye.

Mr. Wilson asked about the two references to the Ohio Revised Code in the resolution. It appears that one reference may be a typo. Mr. Ionna agreed that there may be a typo.

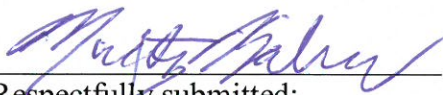
With no further discussion a motion was made by Ms. McMullin and seconded by Mr. Fehring to approve the proposed zoning text amendment.

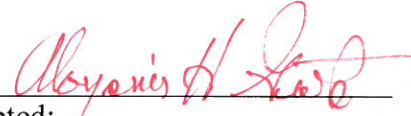
Roll Call: Mr. Fehring – aye, Mr. Grote - aye, Ms. Smith – aye, Ms. McMullin – aye and Mr. Wilson – aye.

The next meeting will be on March 16, 2021.

With no further business a motion was made by Mr. Fehring seconded by Ms. Smith to adjourn the meeting at the motion at about 10:45 p.m. All were in favor.

Meeting adjourned.


Respectfully submitted:
Marty Kohler, Interim Planner


Accepted:
Aloysius Grote, Chairman

