

**Miami Township
Zoning Commission
Tuesday, August 16, 2016**

Members of the Zoning Commission present:

Mitch McElroy, Chairperson
Cynthia Griffith
John Barber

Members of Township Staff present:

Kyle Hinkelman, Deputy Director of Community Development
Chris Snyder, Director of Community Development

Others Present:

Tim White Jr, 2 River Place Drive, Dayton, Ohio
Karol Hadick, 6866 Lorien Woods, Miami Township
Russ Hadick, 6866 Lorien Woods, Miami Township
Steve Pitchel, 5970 Mad River, Miami Township
Carolyn Root, 6858 Lorien Woods, Miami Township
Adam Zengel 2431 Vienna Parkway, Miami Township
Alice Lawle, 6847 Lorien Woods, Miami Township
Mildred Hudson, 6860 Lorien Woods, Miami Township
Jeanne Hudk, 6862 Lorien Woods, Miami Township
Jan Kowal, 6875 Lorien Woods, Miami Township
Jane Reed, 2376 Vienna Parkway, Miami Township
Mike Madges, 6868 Lorien Woods, Miami Township
Larry Lehman, 6818 Lorien Woods, Miami Township
Vivien Pignatiello, 2374 Vienna Parkway, Miami Township
Joann Chapman, 2396 Vienna Parkway, Miami Township
Ron Catanzaro, 6845 Lorien Woods Dr, Miami Township
Jo Ann Catanzaro, 6845 Lorien Woods Dr, Miami Township
Bob Russell, 2423 Vienna Parkway, Miami Township
Gene Mayleben, 6815 Lorien Woods, Miami Township

Mr. McElroy called the meeting to order at 7:00 P.M.

Special Announcements

There were none.

Approval of Minutes

Mr. Barber requested more time to review the minutes from January 19, 2016 and Mr. McElroy announced that they would be held over until the next regularly scheduled meeting.

Ms. Griffith made a motion to approve the minutes from July 19, 2016 and Mr. Pothast seconded the motion. The vote was all ayes.

New Business

1. ZC #271-94 Final Development Plan – Zengel Construction

Mr. McElroy made a motion to open case #271-94 and Mr. Barber seconded the motion. The vote was all ayes.

Mr. Hinkelman stated the applicant was seeking approval on changes to the Final Development Plan specifically for lot 7 of the development. He noted that the Board of Trustees previously approved a use change to allow for car sales on lot 7 and at the time the applicant had agreed to the assigned development standards. He further explained that the applicant previously requested building a 9,000 square foot used car sales facility, but is now requesting to build a 20,200 square foot new car sales facility. He noted the applicant was not requesting any changes to parcel lines, but was requesting changes to increase the number of parking spaces.

Mr. Hinkelman stated the applicant has submitted a landscape and lighting plan along with the completed traffic impact study approved by the Ohio Department of Transportation.

Mr. Hinkelman noted that when the change of use was approved in March that the applicant agreed to abide by the approved standards which are based on the Austin Center standards, and that it was explained to the applicant that there was some flexibility built into the standards to allow the Commission to modify specific standards but not change them completely.

Mr. Hinkelman said that along with the 20,200 square foot building that the plan called for 218 parking spaces, an access point, and a dumpster located at the rear of the property with the required screening. He also stated that the applicant was in agreement with the required sidewalk maintenance agreement and that the Township would be legally required by the county to accept responsibility initially, but this responsibility would be transferred to the developer.

Mr. Hinkelman also stated that a landscape plan was submitted but noted that the plan submitted was short twenty trees as required by the standard. He said that the applicant has substituted some deciduous trees required by the development standards with spruce or evergreen trees. He noted the applicant felt that the evergreen trees would add more of a buffer within that zone and he also stated that Staff would rather see deciduous and shade trees that are consistent with the rest of the township areas with the same required zoning standards.

Mr. Hinkleman also noted that there was a 36" curb shrubbery requirement for commercial properties and that staff would like to see additional shrubbery to accommodate the applicant's desire to not have curb shrubbery on the property.

Mr. Hinkelman stated that the applicant has included a lighting plan and that Staff reviewed the plan and found numerous areas that included roughly 30 foot candles which was five times more than what is permitted in the rest of the Township. He further explained that the requirements do not have any flexibility in regards to lighting but stated that applicant has suggested they would dim the lights at night after closing. He noted that Staff believes ten foot candles are adequate and if the applicant would like additional considerations they should request to change the standards.

Mr. Hinkelman stated that the submitted building plan included standard elevations with glass sides and standard signage. He explained that the current standards required a clearly visible front door and this was somewhat weak. He also explained that the view from the future road side (that would allow access to Vienna Parkway) met the brick standards and also included side doors and service entrances and does not believe the structure has a recognizable base as required.

Mr. Hinkelman noted that Staff was unable to determine if the rooftop mechanicals would be visible from the ground. He further noted that the east elevation of the building would face the Vienna Parkway neighborhood and has a brick veneer but would likely have an obstructed view due to some construction between the neighborhood and that side of the building. He explained that the south side had multiple elevations and would face the existing dealership.

Mr. Hinkelman explained to the commission that the development standards list very specific standards in regards to roofs which do not allow metal nor flat roofs. He noted that Staff may be agreeable to having a pitched roof and if the Zoning Commission was acceptable to a flat roof that Staff would like to see the standards modified, to permit it.

Mr. Hinkelman then read for the record a letter submitted by Bill and Janet Matthews expressing their opposition to the applicant's plans.

Ms. Griffith asked Mr. Hinkelman why the case was being heard if the applicant had not met so many of the existing required standards to which Mr. Hinkelman replied that the applicant wanted to bring the plan before the Commission as is.

Mr. McElroy asked if there was anyone present on behalf of the applicant to speak in favor of the case and Mr. Steve Pitchel and Tim White came forward.

Mr. Pitchel stated that the case was brought before the Zoning Commission as is because he feels it is not far from the required standards. He also noted his confusion in understanding the Zoning Commission process in regards to modifying the required standards.

Mr. Pitchel further explained that the landscape architect wanted to include both evergreen and deciduous trees on the property to provide additional screening of the property especially in the winter time when there are no leaves on the

deciduous trees. He noted that there was an approximate 300-400ft buffer between the lot and the residential neighborhood which is currently zoned for future office buildings.

Mr. Pitchel continued that he was told by Staff that the purpose of the shrubbery at the curb was to prevent headlights from shining into the roadway. He stated that the cars that would be parked in the lot would be for sale, would not have their headlights on, and that he would be agreeable to providing other landscaping.

Mr. Pitchel stated that he felt 71 large trees on the property were sufficient but would be willing to negotiate. He also noted that there were eight trees on the plan at the front of the property and Mr. Hinkelman confirmed. He agreed that the absence of low level screening would not meet the required standards.

Mr. Pitchel explained to the Commission that the LED lighting plan was unlike the previous HID lighting and that the LED lighting could be dimmed. He stated that he understood there was a six foot candle requirement but that in order to sell cars on the lot that he would need to run the lights at 30 foot candles at the front of the property during regular business hours. He offered the compromise that after closing the lighting would be reduced from 30 foot candles during business hours to six foot candles at night and that the north and east side of the lot would be at a consistent three foot candle.

Mr. Pitchel explained to the Commission that the previous approval was for a used car business but now they are seeking approval on a new car Volkswagen dealership. He noted that he needed approval from Volkswagen Retail and stated they had specific image requirements for the building which needed to be met in order to build it as proposed. He further noted that he had to contact Volkswagen and have a number of conversations to receive approval from them for the brick located on the sides of the building. He noted that Volkswagen would not allow anything but their glass front building design with a flat roof and that the proposed building would be the only Volkswagen dealership that included brick on the sides. He explained he did not have time to receive samples of the brick color and materials but that they were on the way and that he should have them to share shortly.

Mr. Pitchel also stated that he was not asking for any changes to the other buildings on the lot to not have a pitched roof. He explained that he felt his suggestions on the lighting would meet most of the requirements, that he could adjust the landscaping plan to meet the standards, and stated that the rooftop mechanicals were purposely set further away from the front of the building to accommodate the site line.

Mr. McElroy asked Mr. Pitchel what the site line of the rooftop mechanicals were from the Vienna Park neighborhood and Mr. Pitchel stated that it would depend on the topography of the land and the type of trees planted.

Tim White came forward to explain to the Commission that the main reason they switched from planning a used facility to a new facility was that Land Rover and Jaguar would not sign on as a dealer at that facility.

Mr. McElroy asked if there was anyone else who wished to speak in favor of the case and Mr. Jim Zengel came forward.

Jim Zengel noted to the Commission that when he originally built his office he was required to have a mix of both evergreen and deciduous trees.

Mr. Hinkelman explained that the reason he was required to have a mix of trees on his office property was because it abuts a residential neighborhood whereas the car dealership would be located next to the office district section located in between the car dealer lot and the residential neighborhood.

Mr. Zengel stated that is why he felt that the addition of evergreen and deciduous trees on the proposed dealership property would work better in creating a buffer between that and the residential properties.

Mr. Zengel continued that it was never their intention to have sloped roofs along the retail portion facing State Route 741 but that he understood that this was part of the standards originally approved on the site. He also noted that however it was always their intention to have sloped roofs on the office buildings to be built between the car lot and the residential neighborhood.

Mr. McElroy asked if there was anyone else present that would like to speak in favor of the case and there were none. He then asked if there was anyone present to speak in opposition.

Mr. Russ Hadick, 6866 Lorien Woods, asked for clarification to the terminology in regards to the height of the lighting.

Mr. Hinkelman stated that the highest foot candle level being proposed was 29.1 foot candles and that there were areas of the plan that would allow for 10 foot candles.

Mr. Pothast noted that this was in regards to brightness not height and Mr. Hinkelman confirmed stating that the height of the actual light pole was a proposed at 25 feet.

Mr. Hadick asked for clarification as to where the dealership would be located and Mr. Hinkelman explained the location as shown on the slide. Mr. Hadick also noted that there had been issues with noise and the trash pickup in the past and explained that it had recently happened again but that the dealership was quick to remedy the situation. He also wanted to confirm that the proposed dealership would dim the lighting after hours to which Mr. Pothast replied that anything agreed to in regards to the lighting would be specifically called out and documented prior to approval.

Ms. Karol Hadick, 6866 Lorien Woods, then came forward and noted that her property is on a hill and that she believed the roof top mechanicals would be very visible as well as the lighting, especially in the winter. She expressed concern that the applicant was first asking for a 9,000 square foot facility and was now asking for a 20,200 square foot facility. She further stated her concern that it would affect the value of her property because it would then face a car dealership. She stated she felt she was already paying higher taxes on her condo and felt it was once nice but that this would lower the value.

Mr. McElroy explained that there were already a line of trees behind her condo and that these would stay as a buffer between the properties.

Mr. Hinkelman noted that because the proposed lighting was LED that she would likely experience less light pollution or halo effect than those of the past in regards to her property. He also noted that the applicant was not asking for approval for any development within the office district between the parcels but that the office district would serve as a buffer between the two parcels if and when it is ever developed.

Ms. Hadick stated she was concerned in regards to the visibility of the lighting on the automobile dealership property because she is located at a higher elevation then the proposed dealership and could be impacted by the light levels.

Mr. McElroy stated that he wasn't sure if the elevations submitted would explicitly call out the site line from the neighborhood.

Mr. Pitchel came forward and agreed that the neighborhood was at a higher elevation and tried to explain the topography of the locations in regards to the site line and then there was a discussion about the parcel lines of only the proposed lot before he could continue.

Mr. Adam Zengel came forward and further explained that there was a 300 foot space between the back of the proposed lot and the fifty foot tree line buffer behind the neighborhood which was more than the required buffer between the residential section and the office district.

Mr. Pothast explained that the original zoning of the properties have been in place since 1994 and clarified that the applicant explicitly requested a change of use for the one single lot next to State Route 741 not all the parcels around it and in between. He noted that those all still have the original zoning in place which is for office use.

Mr. Pitchel continued with his explanation in regards to the site line stating that the location of the lot was lower than the Vienna Woods neighborhood but that in order to build on a level service that some cutting into the hill would be necessary which would make the lot lower then it is now.

Mr. McElroy thanked Mr. Pitchel and asked if there was anyone else to speak in opposition of the case.

Mr. Ron Catanzaro, 6845 Lorien Woods Drive, came forward and stated that he understood the need for development of the property but that he believes the standards set by the Township should be met. He expressed his need for clarification on the amount of lumens that would be allowed asked what size spruce would be planted as smaller spruce may take years to grow.

Mr. Hinkelman stated that currently in other areas where spruce trees are permitted the minimum plant height is six feet.

Mr. Catanzaro suggested that it be required to initially plant 8' spruce instead of the required 6'. He also stated that he understood that the plan is presently to construct buildings between the proposed lot and the neighborhood but felt that there were three major concerns that needed to be addressed which are; the size of the spruce trees to be planted, the amount of lumens of the lighting, and concerns about noise in regards to body shop, repairs, and unsightly automobiles on the property.

Mr. McElroy asked if the applicant would like to address Mr. Catanzaro's concerns and Mr. Pitchel and Mr. White came forward.

Mr. Pitchel explained that the standards for lighting are measured by foot candles and lumens have more to do with power or brightness. He explained that the proposed LED lighting was much more directional and that there is a very visual difference between the LED lighting and the old lighting and said the existing car lot located in Miamisburg had recently made this notable change. He further explained that while the lights have a higher foot candle they appear to be much less since they are more directional and directed more specifically at the cars.

Mr. White stated that there would be some repairs taking place on the proposed site but that there would not be a body shop located on the facility. He noted that while there may be an occasional car in disrepair on the lot that it's likely there would be none. He also noted that the service portion would close earlier than the sales portion of the site.

Mr. Catanzaro asked about the height of the light poles and Mr. Hinkelman clarified that the six foot candle was in regards to the amount of light and that the poles are actually permitted to be up to 25 feet tall.

Mr. White stated that the light poles in the plan are 20 feet tall.

Mr. Catanzaro suggested that it should be required for the applicant to present to the Commission a more accurate drawing of the building and site so there is less confusion in the future as to what has been agreed. He also expressed his concerns about the approval of one car dealership leading to more at the same location. He explained he was worried that the front of 741 would eventually become similar to that of Loop Road in Centerville and asked what would stop

future car dealerships from building on the lots between the Vienna Woods neighborhood and the proposed lot once the proposed new road was built. Mr. McElroy asked if there was anyone else present to speak in opposition.

Ms. Carolyn Root, 6858 Lorien Woods Drive, came forward and stated that she has lived in the condo directly behind the noted properties and inquired when she moved in as to what could be developed there. She stated that she was told all the properties were permitted as an office district and now the use has been changed to accommodate a car lot. She further expressed her concerns in regards to the trash and associated noise. She explained that she has had issues in the past with the noise level of the trash pickup located at the Miamisburg facility. She noted that the issue was addressed because Miamisburg has a noise ordinance and is worried that the proposed lot in Miami Township would have the same issue because Miami Township does not have a noise ordinance in place for commercial properties.

Mr. McElroy asked if there was anyone else present to speak in opposition.

Ms. Janet Kowal came forward and asked if the standards required six foot candles.

Mr. Hinkelman explained that as per the agreement there are some areas that would permit 10 foot candles for security purposes (doors, around the building, gas stations, etc.) but that generally overall there was a 6 foot requirement which was the standard for all planned developments since 2008.

Ms. Kowal, 6875 Lorien Woods Drive, then stated that she felt that meant the applicant was asking for special consideration above what has been the standard since 2008. She also noted that she had a letter from Zengel construction that noted there would be a ten foot berm around the property and that she has never heard anything about it but if it was to be installed that the trees would be raised even higher. She also asked what was on the roof shown on the plans and Mr. Hinkelman explained that those were the rooftop mechanicals and that Miami Township had requested a drawing showing the visibility of those mechanicals.

Ms. Kowal stated that she was concerned about the visibility of the rooftop mechanicals given their planned placement which moved them closer to the middle of the building.

Mr. McElroy asked if there was anyone else present to speak in opposition.

Mr. Bob Russel, 2423 Vienna Parkway, came forward to state that his property value would decrease and noted that he was really concerned about the lighting and asked about the proposed road that was previously discussed.

Mr. Hinkelman replied that the proposed lot is lot 7 and that the road was not required to be built until the next lot is developed.

Mr. McElroy asked if there was anyone else present to speak in opposition.

Ms. Hadick came forward and asked about the time frame for the proposed office buildings on the lots between the neighborhood and the proposed dealership.

Mr. Pothast explained that there was no proposal at this time for the office buildings and that this case in particular was only dealing with those items pertaining to lot 7 and the proposed car dealership.

Ms. Hadick stated that it has always been explained to her in the last nine years that all the properties located behind her residence were to be office buildings and now there is a car dealership.

Mr. McElroy explained that there were still an office district located behind the residence and that if and when those offices are built that they would have a pitched roof that could potentially block a lot of the view of the dealership from the neighborhood.

Mr. Russel came forward and expressed his concerns and opposition for more car dealerships in the area.

Mr. McElroy asked if there was anyone else to speak in favor or opposition and no one came forward.

Mr. Hinkelman stated that Staff had worked closely with the applicant to get the plans where they are. He noted that Staff would prefer to see the standards changed rather than approving this application and that any changes would reflect the intent of the current standards, but provide flexibility if appropriate.

Mr. McElroy closed the public discussion and the Board discussed the case.

Mr. McElroy made a motion to deny the case and Mr. Pothast seconded the motion. The vote was all ayes.

Mr. Hinkelman noted that the case would go before the Board of Trustees for a final approval or denial at their next regular scheduled meeting on August 23rd, 2016.

Other Business

Mr. McElroy moved to adjourn the meeting at 8:22 PM. and the vote was all ayes.

Respectfully submitted,
Nicole Kessel, Recording Secretary


Mitch McElroy, Chairperson

