

**Miami Township
Zoning Commission
Tuesday, April 17, 2018**

Members of the Zoning Commission present:

Brent Anslinger, Chairperson
Michael Pothast
Cynthia Griffith
Kurt Hatcher

Members of Township Staff present:

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

Others Present:

Landon White, Site Enhancement Services
Charles Swain, RCG Southland LLC
Daniel Brown, Brown Law Office LLC
Greg Smith, Crains Run HOA

Mr. Anslinger called the meeting to order at 6:00 P.M.

Special Announcements

There were none.

Approval of Minutes

Ms. Griffith motioned to approve the minutes from March 20, 2018 with the noted grammatical corrections and Mr. Hatcher seconded the motion. Mr. Pothast abstained and the vote was all ayes. The motion passed.

New Business

1. ZC #130-83 – Olive Garden – 2789 Miamisburg-Centerville Road

Mr. Anslinger made a motion to open case ZC #130-83. Ms. Griffith seconded the motion, and the vote was all ayes. The motion passed.

Mr. Hinkelman confirmed that the surrounding property owners had all been notified and all the legal requirements for this case were met and stated the request is for a major modification to the final development plan for the area known as Mad River Station.

Mr. Hinkelman noted that an Olive Garden restaurant was currently located on the property and the case was in relation to the monument sign at that location. He further noted that the sign is currently in the right-of-way and the application proposes an update to the sign and also move it out of the right-of-way.

Mr. Hinkelman explained that the applicant has provided a survey and the proposed sign would sit one inch from the right-of-way. He noted that the required setback was for auto and pedestrian line of sight safety and that Staff would be agreeable to a one inch setback, due to the large area within the right-of-way between the edge of the pavement and the sign.

Mr. Hinkelman stated that the survey was provided by the applicant and the Montgomery County Auditor's website has an approximate 10' difference. He explained that the auditor's site is provided only as a guide and there was no reason to believe the survey provided wasn't accurate. He noted that should the applicant's survey be proven to be inaccurate then those findings would result in the sign being in violation and it would need to be moved.

Mr. Hinkelman displayed an illustration of the proposed sign and stated that the proposed base was not in conformance with the current requirements. He also stated that an equivalent number of landscaping material must be shown in a landscape plan prior to the issuance of a zoning certificate.

Ms. Griffith asked if there were any lighting concerns in regards to the sign and Mr. Hinkelman replied that the sign was lit from the inside and there were no concerns from staff.

The applicant, Mr. Landon White, came forward. Mr. White explained that the old monument sign was located 8" beyond the property line and that the new sign would be 1" behind the property line.

Mr. White stated that the sign would be a positive change and would bring the sign into a more current aesthetic.

Mr. White noted the name of the surveyor that was used to determine the property lines, that the base of the sign would be widened as requested by staff, and that a landscape plan would be provided.

Mr. White gave a copy of the proposed landscaping plan to Mr. Hinkelman and Mr. Hinkelman asked if he would also provide a digital copy to which Mr. White agreed he would.

Mr. Anslinger asked if there was anyone else present to speak in favor or opposition of the case or if there were any further comments. There were none.

The Commission closed the public hearing and proceeded to discuss the case.

Mr. Anslinger asked where the county believes the right-of-way is located.

Mr. Hinkelman stated that the county provides a free service online which is meant as a guide and is not a formal survey. He explained that the applicant has provided a formal survey and staff is requesting the Commission be clear that if it is proven later that the survey provided is inaccurate the Commission approve the case with a stipulation the sign be located 0" from the right-of-way.

Mr. Pothast moved that the Zoning Commission find that the proposed major modification to the final development plan complies with the standards of Article 31, Section 3104 and recommend approval of Zoning Case #130-83 a Major Modification to the Final Development Plan for the Mad River Station PD – Olive Garden and for lands zoned "PD-5" Planned Mixed-Use District with the following stipulations:

1. The sign is permitted to be setback 0" from the edge of the right-of-way. In the future if the right-of-way line is determined by the Ohio Department of Transportation or Montgomery County Engineer's Office to be further from the roadway, the applicant must move the sign outside of the right-of-way.
2. The base of the sign must meet Article 41, Section 4106, particularly the gap between the base and the sign face and the base width.
3. Landscaping at the base of the sign must be equal to the overall sign face square footage. This can include flowers, bushes, or other similar plantings.
4. The sign is approved as shown in the provided drawing for design and height. Changes to the sign in the future will require additional review by the Zoning Commission.

Ms. Griffith seconded the motion and the vote was all ayes. The motion passed.

2. ZC #283-96 Crains Run Home Owners Association

Mr. Anslinger made a motion to open case ZC #283-96, Mr. Pothast seconded the motion, and the vote was all ayes. The motion passed.

Mr. Hinkelman confirmed that the surrounding property owners had all been notified and all the legal requirements for this case were met.

Mr. Hinkelman explained that the applicant was seeking approval on a modification to the final development plan to construct three gazebos in the common areas of the development. He noted the proposed gazebos would be open air structures on a concrete slab. He informed the Commission that the applicant intends to build only one of the structures at this time but is also requesting approval on two additional structures for possible future construction.

Mr. Hinkelman noted that staff was agreeable to the proposed modification.

Mr. Greg Smith came forward. Mr. Smith stated that he has been the president of the Crains Run HOA for a number of years. He explained that the existing gazebo on the property was a popular amenity with residents of the development. He noted that residents expressed interest in having additional options constructed so as not to overlap events within the development. He also explained that there have been some scheduling conflicts and residents have expressed interest in having options closer to the existing playground and the basketball court.

Mr. Smith noted that the proposed illustration of the gazebo is of a product available at Costco and that the actual gazebo purchased may be similar in aesthetic but may have a few different roof details than the one shown.

Mr. Hinkelman noted that the Commission can set requirements in regards to the exact model being proposed if desired.

Mr. Anslinger noted that he was comfortable with staff approving the design.

Ms. Griffith asked if the base was included in the purchase.

Mr. Smith noted the structures would have a concrete base.

Mr. Anslinger asked if there were any further comments or if there were any other proponents or opponents to come forward in regards to this case. There were none.

The public hearing was closed and the Commission discussed the case.

Ms. Griffith asked if a cement pad required a zoning certificate and Mr. Hinkelman replied there was no certificate required for the pad but there was for the gazebo.

Mr. Pothast moved that the Zoning Commission find that the proposed major modification to the final development plan complies with the standards of Article

31, Section 3104 and recommend approval of Zoning Case #283-96 a Major Modification to the Final Development Plan for the Crains Run Subdivision PD and for lands zoned "PD-1" Planned Residential District with the following stipulations:

1. Prior to construction of the gazebo the Crains Run HOA will provide final design details to Miami Township Staff for review and final approval prior to the issuance of a zoning certificate.

Mr. Hatcher seconded the motion and the vote was all ayes. The motion passed.

Mr. Hinkelman informed the applicant the Zoning Commission recommendation for this case would be forwarded to the next Board of Trustees meeting on the following Tuesday for final approval.

3. ZC #408-12 RCG Southland LLC – Southland 75

Mr. Anslinger made a motion to open case ZC #283-96, Mr. Pothast seconded the motion, and the vote was all ayes. The motion passed.

Mr. Hinkelman confirmed that the surrounding property owners had all been notified and all the legal requirements for this case were met.

Mr. Hinkelman stated that the applicant was seeking approval on a major modification to the preliminary development plan and development standards for the retail shopping center known as Southland 75 located north of Lyons Road on Springboro Pike.

Mr. Hinkelman noted that the development previously belonged to a single owner and has now been divided into three separate owners. He informed the Commission that the development plan approved in 2012 originally included a roundabout and that the applicant no longer has the intention to conduct a roundabout in that location.

Mr. Hinkelman explained that the proposed plan would bring the site into further conformance with the proposed site and landscape plan. He stated the applicant told him they wanted to bring the shopping center more into conformance and fix some of the existing problems as they relate to pedestrian safety and landscaping.

Mr. Hinkelman stated the applicant was proposing modification of the site to add landscaping and trees as well as mimic other portions of the shopping center, such as Hobby Lobby, using more EIFS material and higher elevations. He noted staff is recommending a time line of one year be required for landscaping.

Mr. Hinkelman also noted that the proposed uses would include arcade, bowling, and bounce facilities that would offer some restaurant services in conjunction with those facilities.

Mr. Hinkelman explained that the proposed development standards show a more consistent layout that would require additional ground signage, landscaping, and lighting.

Mr. Anslinger asked if the proposal would bring the landscaping into complete conformance.

Mr. Hinkelman stated that if the site was to come into current conformance it would require there be 200 trees added to the location because of all the impervious surface at that location. The site would not meet the full requirements, even with the proposed trees.

The applicant, Mr. Daniel Brown came forward. Mr. Brown noted that the some of the common types of retail businesses previously located in the development were having a hard time competing with online commerce and going out of business. He explained they found a company called "Get Air" for kids and that it was a good fit for the location. However, he noted that in order to secure the tenant these changes would be necessary.

Mr. Brown explained that the owner of the property was willing to commit to updating and improving the site and felt this would add value to the shopping center and address issues with the pedestrian "cut through" at the corner of the shopping center.

Mr. Brown noted that a fence would be installed until spruce trees were planted and grew large enough to cover the area.

Mr. Pothast asked if the current landscaping would be removed along State Route 741.

Mr. Brown replied that the current retention pond did not have any fence requirements and that the plan was to remove trash and debris on the fence and replace broken fence portions for a more consistent cleaner look.

Ms. Griffith asked if there were any objections from the other businesses on the property in regards to this proposal.

Mr. Hinkelman noted he spoke with the owner of Hardees who stated no objections to this proposal.

Ms. Griffith asked if the number of parking spaces was sufficient in this proposal and Mr. Hinkelman stated there was.

Mr. Anslinger expressed his disappointment that the entire development was not being included in the updates and Mr. Hinkelman suggested it may help persuade the other owners to update their portions as well.

Mr. Anslinger asked for clarification on the intent for the fence.

Mr. Hinkelman noted the intent would be to clean the debris and the tree trunks from the fence line but to also dissuade pedestrian traffic from using the corner as a cut through.

Mr. Anslinger asked if Mr. Charles Swain would like to come forward and address the Commission concerns in regards to the fence.

Mr. Swain noted that the intent is to place the fence on the grade in such a manner it dissuades pedestrian traffic on that corner. He noted the trees would then be placed in front of the fence. He stated the fence would likely be a black vinyl chain link once completed.

Mr. Anslinger asked if it would be possible to construct a more upscale fence and Mr. Swain explained that there are economic restrictions at this time.

Mr. Anslinger asked if the entire fence could be replaced and Mr. Swain explained that the fence could be painted to match or shrubs planted. Mr. Swain also noted he would be willing to discuss those options with staff to create a consistent and clean look.

Ms. Griffith asked what staff would like to see happen.

Mr. Hinkelman stated that staff would at minimum like to see a consistent and clean fence but noted the corner was very prominent and would ideally like to see further upgrades due to its visibility and location.

Mr. Swain noted that from the tenant's perspective, the hope is these upgrades will attract and encourage additional family traffic as the development improves.

Mr. Anslinger asked if there were any further comments or if there were any other proponents or opponents to come forward in regards to this case. There were none.

The public hearing was closed and the Commission discussed the case.

Mr. Pothast moved that the Zoning Commission find that the proposed major modification to the preliminary development plan complies with the standards of Article 31, Section 3104 and recommend approval of Zoning Case #408-12 a Major Modification to the Preliminary Development Plan for Southland 75 and

associated development text and for lands zoned "PD-5" Planned Mixed-Use with the following stipulations:

1. The development standards dated April 17, 2018 are accepted.
2. Fencing along Springboro Pike and Lyons Road is cleaned completely, with all plant material being removed prior to the approval of a Zoning Certificate for façade changes.

Mr. Pothast and other members of the Commission discussed the definitions of the following stipulation with Staff. The final stipulation was determined as follows:

3. That a final fencing plan improving the appearance of the corner be provided for final Staff approval in addition to consistency in the fence design.

Ms. Griffith seconded the motion and the vote was all ayes. The motion passed.

Mr. Hinkelman informed the applicant the Zoning Commission recommendation for this case would be forwarded to the next Board of Trustees meeting on the following Tuesday for final approval.

Text Amendment Initiations

Article 19

Mr. Snyder explained that staff is proposing an amendment to Article 19 of the Miami Township Zoning Resolution.

Mr. Snyder noted that the proposed change includes clerical changes to the numbering system and how it refers to other portions of the code.

Mr. Snyder further explained that in addition to the noted changes, an addition to allow child care as a permitted use in area zoned "B-2" and general "B-3" districts is being proposed. Mr. Snyder noted that the code currently has requirements in place pertaining to child care but explained those requirements are already regulated by the state.

Article 31

Mr. Snyder explained that the proposed changes to Article 31 involve the current standards for planned developments pertaining to the Commission and Trustees review of the findings of fact. He noted that often times the findings do not coincide with the actual issues of the case and these proposed change would

better fit the intent of their review as it pertains to each case. Mr. Snyder gave some examples of the findings that are currently reviewed.

Mr. Snyder further explained that the proposed changes would help to address local issues unique to each case and not review issues that will likely be addressed by other governing entities.

Mr. Hinkelman noted that the changes would address the goals and direction of the Township's Comprehensive Plan which he noted would be updated to reflect the current goals of the township and community.

Article 32

Mr. Snyder explained that the proposed change to Article 32 is to clarify the site plan standards for final development plans and to define some of the language used in regards to major and minor streets and traffic.

Mr. Anslinger suggested a change in the text from "major" to "adequate".

Mr. Hinkelman noted that the definition of the impact on adjacent streets is specifically what needed addressed.

Mr. Snyder gave the example that if the engineer's office would suggest adjacent streets can support development traffic that the Commission could potentially disagree for reasons that are unique to the location.

Ms. Griffith noted a previous case as an example.

Mr. Hinkelman stated that these changes would likely help clarify the intent of the findings of fact.

Mr. Snyder noted the changes could also relate to impacts on natural features of an area, pedestrian traffic, or other unique local concerns.

Article 38

Mr. Snyder informed the Commission that the proposed changes to Article 38 related to the use of cargo or railroad shipping containers and their use as accessory structures. He explained that the code does not currently prohibit the type of material that can be used as an accessory structure.

Mr. Anslinger asked if this change would affect properties in the agricultural district.

Mr. Snyder explained that it would not include agricultural or business districts. He further noted that some clarifications would be included in the final proposed text.

Ms. Griffith asked if containers of that size are currently regulated by the current standards.

Mr. Hinkelman stated that currently the size of the structures are regulated by the size of the lot and Mr. Snyder noted this change would be listed under 3803 as a clause specifically prohibiting shipping containers used as accessory structures.

Additionally, Mr. Snyder requested an amendment to Article 2 be included so the definitions may be changed to reflect any amendments, if necessary.

Ms. Griffith made a motion to initiate amendments to Article 2, 19, 31, 32, and 38. Mr. Pothast seconded the motion and the vote was all ayes. The motion passed.

Other Business

Nominations

Mr. Hatcher made a motion to nominate Mr. Pothast to serve as the Vice Chairperson of the Commission. Mr. Anslinger seconded the motion and the vote was all ayes. The motion passed.

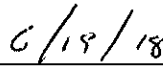
Meeting Close

Mr. Pothast made a motion to adjourn the meeting at 7:45 p.m., Mr. Anslinger seconded the motion, and the vote was all ayes. The motion passed.

Respectfully submitted,
Nicole Kessel, Recording Secretary



Chairperson



Date