

**Miami Township  
Zoning Commission  
Tuesday, May 15, 2018**

**Members of the Zoning Commission present:**

Michael Pothast, Chairperson  
Karen Kreuzsch  
Cynthia Griffith  
Kurt Hatcher

**Members of Township Staff present:**

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

**Others Present:**

John Bucklew, 6965 Vienna Woods Trail  
John Bieber, 6960 Rosecliff Trail  
Ronald Riddle, 2860 Silvercliff Drive  
Tony Beckert, 8854 Wildfire  
Mark Ruetschle, 5851 Overhill Lane  
Ruth Ann Morgan, 6753 Rosezita Lane  
Mark Morgan, 6753 Rosecliff Lane  
Ellen Rosenthal, 2572 Vienna Estates Drive  
Donald Sickler, 6909 Rosecliff Place  
Sharon Hughes, 2631 Vienna Estates  
Jim and Nancy Hamilton, 6903 Vienna Woods Trail  
Pat Palmisano, 6760 Rosezita Lane  
Fred and Paulyne Sinder, 2511 Oakmoor Drive  
Marjorie Burkhart, 7200 Fawn Willow  
Martin and Arlene Crawford, 2662 Vienna Estates  
Mike and Kim Delts, 2594 Vienna Estates  
Mike Lucisano, 7014 Rosecliff Place  
Dave McElwee, 2597 Vienna Estates  
Adam Zengel, 2431 Vienna Parkway  
Ulrich and Louise Gaetner, 2570 Vienna Estates Drive  
Bob Wright, 7001 Rosecliff Place  
Doug Wales, 6953 Rosecliff Place  
Anita Wales, 6953 Rosecliff Place  
Thomas Grady, 2580 Vienna Estates  
John and Carole Pappas, 2316 Vienna Parkway  
Debbie and Tony Grosheck, 2635 Vienna Estates Drive  
Wendell McChord, 2311 Linwald Lane  
Skip Schafer, 7071 Corporate Way  
Charles Foster, 2852 Vienna Estates  
Lisa Bracci, 9248 Heritage Glen

Matthew Turton, 6600 Jamaica Road  
Carole Dorn, 7041 Rosecliff Place  
John C. Neumann, 2612 Pinegrove Drive  
Mark Glock, 884 Pleasant Valley Drive  
Tony Groshek, 2635 Vienna Estates Drive  
John Bucklew, 6965 Vienna Woods Trail  
Geoffrey Robinson, 2366 Georgeland Trail  
Michael Lucisano, 7014 Rosecliff Place

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

### **Special Announcements**

There were none.

### **Approval of Minutes**

Ms. Griffith made a motion to approve minutes of April 17, 2018 with the noted grammatical corrections and Mr. Pothast seconded the motion. Ms. Kreusch abstained from the vote and the rest of the votes were all ayes. The motion passed.

### **New Business**

#### **1. ZC #413-13 – Dayton Christian School – 9391 Washington Church Road**

Mr. Pothast made a motion to open case ZC #413-13. Ms. Kreusch seconded the motion, the vote was all ayes, and the motion passed.

Mr. Hinkelman came forward and stated that all the surrounding property owners had been notified and that all the legal requirements had been met. He explained that the applicant was requesting a major modification to the preliminary plan to allow for the future location of a gym which is a modification from the previous request. He stated that the change would affect some of the parking area as well.

Mr. Hinkelman stated the applicant was not requesting modifications to the existing development standards and noted this modification would only affect portions of the preliminary plan to accommodate the gym's new location and any affected parking areas. He further noted if the proposed modification is approved, the applicant would later have to come before the Commission with a final development plan.

Ms. Griffith asked if the staff had any comments or concerns as it relates to traffic flow. Mr. Hinkelman replied that the proposed changes would only affect traffic

within the site and should not affect any exterior traffic. He noted that the changes would move the parking area further from any residential properties.

Mr. Pothast asked for confirmation that no other changes were being requested to the site and Mr. Hinkelman reiterated that a final development plan would be required at a future date.

Mr. Tony Beckert, the engineer for the project came forward. Mr. Beckert commented that the reconfiguration for the location of the gymnasium would cause changes to parking circulation. He further noted that some landscaping would need to be modified to accommodate the development standards at the time the final development plan is applied for.

Mr. Pothast asked if there were any further public comments or if anyone else would like to speak in favor or opposition to this case. There were none.

The Commission discussed the case.

Mr. Hatcher made a motion to approve ZC #413-13 find that the proposed major modification to the preliminary development plan for the Dayton Christian Planned Development complies with the standards of Article 31, Section 3104 and recommend to the Board of Trustees approval of Zoning Case #413-13 and for lands zoned "PD-5" Planned Mixed-Use District.

Mr. Pothast seconded the motion and the vote was all ayes.

Mr. Hinkelman noted that this case would be forwarded to the Board of Trustees on May 22, 2018 at 6pm for final approval.

## **2. ZC 393-07 Zengel Construction Company - Rivendell**

Mr. Pothast made a motion to open case ZC #393-07. Mr. Hatcher seconded the motion, the vote was all ayes, and the motion passed.

Mr. Hinkelman came forward and stated that all the surrounding property owners had been notified and that all the legal requirements had been met.

Mr. Hinkelman informed the Commission that this case is similar to the one heard less than a year ago consisting of the 31 acres commonly known as the Rivendell development. He explained the current proposal was for a development consisting of 82 homes. The proposed homes within the development would have a front and rear yard setbacks of 25', a side yard setback of 6' and two access points.

Mr. Hinkelman continued that the proposed development would take place in three phases with an estimated time of completion of 2019 for phase one, phase two in 2020, and phase three in 2021. He noted that phase one would include

access to Rosecliff and that phase two would include access to Fox Run Road and would not include the earlier proposed access point at the west.

Mr. Hinkelman explained that the Miami Valley Fire District would require two access points for emergency access at each phase.

Mr. Hinkelman noted each proposed phase would include construction of roughly 27 homes and noted the development plan would include three wet retention ponds with bubblers (or fountains), one new roadway, and two continuations of existing roads. He further noted that each lot would have an average of 75' of frontage and have a minimum 0.21 acre lot size.

Mr. Hinkelman also noted that the applicant provided a traffic count and construction traffic numbers that have been reviewed by Montgomery County.

Mr. Hinkelman further informed the Commission that Staff is recommending one lot on the west side be removed to allow for a potential third access point if warranted. He added that the cul-de-sac would need to meet any regulations for the fire district.

Mr. Hinkelman stated that Montgomery County reviewed the potential impact of traffic on Rosecliff Trail and Fox Run Road as a result of this development and have reported that those roadways were sufficient to handle the potential increase in traffic.

Mr. Hinkelman explained that the applicant was providing a layout based on the current standards and requirements noting that if the property was rezoned to what it was previously, it would have to meet different setback requirements. He explained that the current "PD" Planned Development zoning has development standards that limits designs by comparison to that of a standard "R" residential zoning.

Mr. Hinkelman informed the Commission that the applicant is proposing setbacks that would accommodate two cars in the driveway and two cars within the garage with no shared street or parking lot.

Mr. Hinkelman further noted the applicant is also requesting a stream, open air gazebo, monument sign with landscaping, and realtor signage. He explained that the proposed elevations consisted of six different home designs that would have craftsman style front elevations and more brick on the other three sides.

Mr. Hinkelman stated that Montgomery County requires necessary drainage and storm water requirements to be met and would further review at the time a Final Development Plan is proposed. He further noted that many concerns of the neighbors related to tree cover would also be addressed at the time a final development plan is proposed.

Ms. Kreuzsch asked if there would be a traffic impact on Pine Grove Drive and Silvercliff Drive on St Rt. 741 going south. Mr. Hinkelman replied that the County stated traffic numbers studied in 2017 indicated those roads were sufficiently sized to handle the proposed traffic increase. Ms. Kreuzsch also asked if Pine Grove specifically would be impacted and Mr. Hinkelman again noted the county felt the existing roads were adequate to handle any potential traffic increase.

Mr. Pothast asked if the traffic map provided was current or projected and Mr. Hinkelman stated it was current data.

Ms. Kreuzsch asked if the traffic on 741 would be affected and Mr. Hinkelman noted the County Engineer had no concerns other than some difficulty making a left turn in that location.

Mr. Pothast asked about the drainage and how it may affect the trees located on the eastern boundary. Mr. Hinkelman explained that the buffer, tree study, and drainage would be addressed at the time a final development plan is applied for.

Mr. Pothast asked if the southeast corner access was for EMS only to which Mr. Hinkelman replied it would be public access when it is open.

Mr. Pothast asked if the applicant would like to address the Commission.

Mr. Jim Zengel came forward and stated that he is the one applying as he is the owner of the property. Mr. Zengel noted that whether it is this builder or another builder he would get zoning approval on the property to do with it what he wants. He explained that the fire district was only requiring two access roads for emergency and that those requirements would be met.

Mr. Zengel noted that the Zoning Commission approved the previous proposal which was similar to this one and was encouraged by the trustees to apply once again.

Mr. Zengel commented on the traffic impact on surrounding roadways and commented that the Engineer's standards force more traffic down Rivendell.

Mr. Zengel stated he is open to removing lot 21 to have access to the west and intends to have a conversation with the adjacent property owner in regards to implementing this in Phase 2.

Mr. Zengel stated that all the properties in the development will be capable of having a total of four cars in the driveway and garage. He noted that Silvercliff is congested because many of the homes on that street have converted their garage into a storage area or living room which forces more cars onto the street.

Mr. Zengel further commented on the logistics of regulating construction traffic, landscaping deliveries, and roadway construction.

Mr. Zengel stated that requests for the detention basins and the roadway to be restored after construction traffic use was excessive. He noted EMS would need two access roads and not all traffic would be from the new development. He further noted changes that were made to the proposed retention ponds, the maintenance of those ponds, and discussed the requirements of the Montgomery County.

Mr. Zengel discussed the density of the development in comparison to other similar developments, the desire to save as many trees as possible on the site, and his concerns in regards to creating a walkable trail and any associated maintenance costs to the HOA.

Mr. Zengel stated the current proposal is for 81 homes. He noted when Vienna Park was first established there were people against it. He expressed his confidence in the project and his desire to move forward. He then asked the Commission for a swift decision one way or the other on the proposed modifications.

Mr. Pothast asked about access from lot 21 and Mr. Zengel replied that the construction at that location would depend on the requirements of the fire district.

Mr. Pothast asked how any construction damage to surrounding roadways would be addressed and/or regulated.

Mr. Hinkelman added that the proposed document requests a contractor be required to walk through and work with the Miami Township Public Works Department to determine damage to the roadway caused by construction traffic and determine any required repairs.

Mr. Pothast asked if damage to the adjacent roadway would be monitored on a routine basis and who ultimately would be responsible for determining damage.

Mr. Snyder responded that it would have to be something very specific and something that was obviously caused by construction traffic.

Mr. Zengel stated that he needed clarification on the specific area that would be affected by this agreement.

Mr. Snyder stated that would be arranged and that he understood that not all potential road traffic damage could be the responsibility of the developer.

Mr. Pothast noted that the developer had concerns as it relates to the walking trails.

Mr. Hinkelman commented that staff felt that trails would add value to the development and that the site was a good fit for it.

Mr. Snyder commented that the Crains Run Development also has a trail.

Mr. Mark Locke came forward and expressed he was still interested in being the builder for this development. He noted this was the third time he has applied and stated that square footage was never addressed as a concern by staff prior to this meeting.

Mr. Locke explained that the square footage of the homes are market driven and he believes that homes that start at 1400-2050 square feet are in demand based on current market trends. He also noted he is confident these homes will sell in the \$300,000 range based on current market research.

Ms. Kreuzsch asked if the modifications to drainage and the trees were the only changes from the plan that was previously submitted.

Mr. Locke noted that in addition to those items there is also a modification to lot 21 on this proposal.

Mr. Pothast asked if there was anyone else to speak in favor to this case and there were none.

Mr. Pothast asked if there was anyone to speak in opposition to this case.

Ms. Ellen Rosenbaugh came forward and asked for clarification on the zoning standards as they relate to different types of zoning and asked if the property could go back to being an R-2.

Mr. Hinkelman explained the property used to be zoned R-2 and was now a PD-1 which has a different set of development standards that may or may not impact different aspects of the development.

Ms. Rosenbaugh asked if the minimum square footage could be restricted and Mr. Hinkelman stated that under a planned development specific types of models may be approved or disapproved as part of the development plan.

Dr. Bob Wright came forward and stated that the proposed modification was essentially unchanged from the last proposal and noted he had concerns in regards to traffic. He asked that the case be denied for the same reasons stated previously.

Mr. Ronald Riddle came forward and stated that the traffic since he moved into the neighborhood has significantly increased and explained that truck traffic have already damaged Silvercliff Drive. He explained that traffic on Silvercliff speeds often and that it needed studied. He said that a light at 741 would solve the traffic issue and without it the surrounding roads would not be adequate. He noted that the roads have already suffered damage by both traffic, water, and ice in part because of poor drainage.

Mr. Thomas Grady came forward and explained that he has already seen a 50% increase in traffic. He commented that the county only looks at the structure of the road. He also stated that he felt the density of the development was only for profit and that Mr. Zengel should listen to the recommendations of the Miami Township staff.

Ms. Anita Bowles came forward and stated she is not opposed to progress but believes this development is not well thought out. She commented that she did not receive notice because she is outside the 300 feet notification area but would be directly affected by traffic. She said that she believes the traffic counts are off and that she has previously spoken to police about the current traffic.

Mr. Pothast commented that the traffic study was provided by Montgomery County and Mr. Hinkelman explained that a rubber tube traffic counter collected the data.

Ms. Shirley Chattaueu came forward and commented that she has been waiting for years for the connection at St. Rt. 741 to be constructed. She asked when construction on the development would actually begin.

Mr. Locke replied that if approved the construction would begin in March 2019 and Mr. Hinkelman added that Phase 1 would begin between March and July, 2019.

Mr. John Bucklew came forward and expressed concerns in regards to construction traffic and that this case should not move forward for approval by the trustees.

Mr. Donald Stickler commented that he felt a 24 hour traffic study was not adequate and does not sufficiently cover rush hour traffic.

Mr. Tony Groshek came forward and commented that he felt the comparisons had too many differences and that the engineer studies do not reflect accurate data and noted concerns in regards to an increase in traffic.

Mr. Geoff Robinson came forward and noted he would live near the proposed phase two and asked if the west access location through Alderon had been examined as a full access road.

Mr. Hinkelman explained that the applicant was looking into possible access points or construction roadways and noted that location would involve the City of Miamisburg and the applicant may be able to provide further information on that option.

Mr. Robinson also asked if the project could require that 741 access be completed first in order to relieve traffic on the other roadways and if any wildlife study has been performed in regards to that area.



Mr. Michael Lucisano came forward. He noted that Vienna Estates has a private road that is maintained by the development and expressed concerns over damage.

Mr. Pothast asked if the applicant would like to address some of the concerns stated tonight.

Mr. Zengel came forward and noted that completing all the access points would be best suited for the entire development including the Miller property project.

Mr. Zengel commented that all the other areas of the neighborhood were approved as planned developments and that the previous proposal was approved by the Commission. He further stated that if a traffic light is installed at St. Rt. 741 that the Ohio Department of Transportation would control the timing based on traffic on St. Rt. 741. He stated that the traffic count study was based on worst case scenario and that he felt the impact would actually be much less.

Mr. Zengel explained that Vienna Parkway would be completed. He further explained that according to conversations he had with the police department that it would be neighborhood residents that would be given tickets for speeding in the neighborhood.

Mr. Zengel stated that if a traffic light is installed at St. Rt. 741 that the Ohio Department of Transportation would control the timing based on traffic on St. Rt. 741.

He noted there would be requirements that need to be met to protect any possible endangered wildlife.

Mr. Adam Zengel came forward.

Mr. Zengel stated that many of the homes in Vienna Parkway started out at 1,500 square feet and that upgrades would be promoted and spoke about the current demands and retail value of new construction.

Mr. Zengel reiterated that the police monitored traffic in the area ten years ago and it was residents that were given tickets. He also noted that a lot of the traffic issues would be resolved once the new development is completed and that the proposed development would have a better connection than previous proposed developments.

Mr. Chris Snyder asked if there were any questions of staff and there were none.

Ms. Griffith asked if staff had any comments.

Mr. Hinkelman noted there were a couple things to clarify in regards to the development standards involving roadways, the spring manor plans, square

footage (which may affect the types of permitted models), maximum number of lots in addition to any trails or protection of trees on the property.

Mr. Doug Wales came forward and stated that there were differences between the state and county traffic study and understood that the neither the county, township, nor developer wanted to pay for a traffic study.

Mr. Hinkelman noted that the traffic study is not warranted by the county engineer's office.

Mr. Wales continued that even if the development gets built the traffic impact would become a township issue and asked why Vienna Parkway was never completed.

Mr. Snyder commented that it was because the developer has not completed the road.

Mr. Bowles came forward and asked why there can't be access from the west.

Mr. Snyder commented that the land to the west is in another jurisdiction and the landowner cannot be forced to allow an access point.

Mr. Jim Zengel came forward and noted that there is an agreement to make a connection at Vienna Parkway but only have a verbal understanding with the Chamberlin property owner and are unable to move forward without their consent.

Mr. John Bucklew asked if there was a signed agreement to continue the road at Vienna Parkway.

Mr. Zengel mentioned an agreement he has with the township in regards to the property involved with the completion of the roadway at Vienna Parkway.

Mr. Locke requested staff to clarify.

Mr. Snyder noted there is a signed memorandum of understanding between the township and the property owner that the township could potentially acquire the property at the end Vienna Parkway with the intent of finishing the roadway if funding becomes available or a developer for the property is found. Mr. Snyder stated that the township could not at this time confirm that the property would be acquired, agree to a timeline of completion, nor guarantee access to funding in the future that would give the township the ability to have the roadway completed. He noted however that the township's interest in obtaining the property is for the purpose of assisting in facilitating the completion of the roadway.

Mr. Zengel stated that everyone is working to close out Vienna Parkway in the best way possible for everyone.

Mr. John Pappas came forward and asked in regards to extending Vienna Parkway or extending the connection through this other lot to 741 what would be the easiest to accomplish and what jurisdictions would be involved.

Mr. Hinkelman clarified that both properties at the end of Vienna Parkway are currently owned by the same property owner and the property to the west is owned by an entirely different property owner that is not related to the property owner or properties located at the end of Vienna Parkway.

Mr. Pappas commented that if the possible connection to St. Rt. 741 is addressed it may relieve some of the concerns being discussed.

Mr. Skip Schafer came forward and noted that he was speaking as a representative for the Miller family who owns the 66 acres currently known as the Chamberlain farm.

Mr. Schafer noted there have been discussion in relation to allowing a construction easement via the Chamberlain property in connection with Vienna Parkway. He further noted that while it is a possibility a formal agreement has not been reached yet.

Mr. Pothast asked if there were any other questions or comments and there were none.

Mr. Pothast closed the public portion of the meeting and the Commission discussed the case.

Mr. Pothast made a motion 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 #393-07 a major modification to the final development plan for the Rivendell Planned Unit Development and for lands zoned "PD-1" Planned Residential District with the following stipulations:

1. The development standards dated May 15, 2018 be adopted as part of the approved and revised standards for the development with the following considerations.
  - a) The minimum square footage be set at 1400 square feet to allow for the Spring Manor elevation
  - b) The maximum number of lots be 81 with the understanding that lot 21 will be left undeveloped to allow for future potential access point.
2. The plans meet all Miami Valley Fire District requirements and Montgomery County and Miami Township storm water requirements.

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

Mr. Hinkelman noted that this case would be forwarded to the Board of Trustees for final approval on May 22, 2018 at 6pm.

### **3. ZC 429-18 Text Amendment – Article 19**

Mr. Pothast made a motion to open case ZC #429-18. Ms. Griffith seconded the motion, the vote was all ayes, and the motion passed.

Mr. Hinkelman came forward and stated that all the legal requirements and notices had been met.

Mr. Hinkelman noted that Article 19, 20, 21, 22 were modified and condensed approximately two years ago for clarification purposes. He continued that some numeric reference numbers were in need of updating as the numbers currently being used, for example 19.1 should be adjusted to read 19.01 and so on. He further noted that in one of the child care facility is not specifically listed in any district and that staff is requesting that child care be listed as a specific use in section "B-2" business district.

Mr. Snyder noted that the uses listed in this section are examples but staff felt it was important to add this specific use to the list.

Mr. Snyder read the Montgomery County Planning Commission recommendation for the record.

Mr. Thomas Grady came forward and stated that the word principle was misspelled.

Mr. Pothast thanked Mr. Grady for his comments.

Ms. Griffith asked if some of the uses listed in this section should be addressed.

Mr. Hinkelman stated that although some of the uses listed may be archaic that is not the intention of the noted changes at tonight's meeting and that staff hoped to bring those items forward in the future.

The Commission discussed the case.

Mr. Pothast made a motion to accept case #429-18 and Ms. Kreuzsch seconded the motion. The vote was all ayes and the motion passed.

### **4. ZC 430-18 Text Amendment – Article 31**

Mr. Pothast made a motion to open case ZC #430-18. Mr. Hatcher seconded the motion, the vote was all ayes, and the motion passed.

Mr. Hinkelman came forward and stated that all the legal requirements and notices had been met.

Mr. Hinkelman explained that the intent of this amendment is to consolidate the standards for approval and clarify the language for future planned developments.

Ms. Griffith asked how it would be referenced.

Mr. Hinkelman noted that the code previous to any changes would still need to be referenced by dates.

Ms. Griffith stated that she wanted to insure that there is archival storage of these changes to which Mr. Hinkelman replied there was entire process involved in the storage of those records.

Mr. Snyder read the Montgomery County Planning Commission recommendations for the record.

Mr. Pothast asked if there was anyone to speak in favor or opposition to this case.

Mr. Jim Zengel came forward and stated that he is on the Montgomery County Planning Commission and had questions in reference to what constitutes a "superior design" as referenced in the proposed text.

Ms. Griffith explained that the term "superior" in this reference is intended to hold a planned development to a higher standard than a straight zoned district.

Mr. Snyder commented that most planned developments are subjective and that the change in the language is to clarify the intent and direct questions to the appropriate area or jurisdiction.

Mr. Pothast asked if there were any other questions or comments and there were none.

Mr. Pothast made a motion to approve case #430-18 and Ms. Kreuzsch seconded the motion. The vote was all ayes and the motion passed.

## **5. ZC 431-18 Text Amendment – Article 32**

Mr. Pothast made a motion to open case ZC #431-18. Mr. Hatcher seconded the motion, the vote was all ayes, and the motion passed.

Mr. Hinkelman came forward and stated that all the legal requirements and notices had been met.

Mr. Hinkelman continued that the intent of this amendment is to clarify the intent of the language by removing sections I and J and amending A-H to be listed as sections 01-09.

Mr. Hinkelman further noted that the updates to the language is intended to group items together and specify what those items are intending to protect in regards to existing developments that may be affected by future developments.

Mr. Snyder read the Montgomery County Planning Commission recommendations for the record.

Mr. Pothast asked if there was any questions or if anyone would like to speak in favor or opposition to the proposed change.

Mr. Thomas Grady came forward and asked if anyone could read the text in section B as he was not able to read because of the size of the text on the screen.

Mr. Kyle Hinkelman proceeded to read the text change proposed for section B.

Mr. Hinkelman noted that if approved this would not affect the Rivendell case as there would be a thirty day waiting period to take affect if approved by the Board of Trustees at the next meeting.

Mr. Snyder stated that this change would only affect final development plans and not preliminary plans.

Mr. Hinkelman clarified that in the case of the proposed Rivendell development it would be affected if it is approved by the trustees and they bring forward a final development plan after the 30 day waiting period.

Mr. Pothast made a motion to approve case #431-18 and Mr. Hatcher seconded the motion. The vote was all ayes and the motion passed.

Mr. Snyder noted that that all four amendments heard tonight would get forwarded to the Board of Trustees for final approval.

Mr. Hinkelman noted that they would be heard at the Board of Trustees meeting scheduled for June.

#### **5. ZC 432-18 Text Amendment – Article 38**

Mr. Pothast made a motion to open case ZC #432-18. Mr. Hatcher seconded the motion, the vote was all ayes, and the motion passed.

Mr. Hinkelman came forward and stated that all the legal requirements and notices had been met.

Mr. Hinkelman explained that this amendment pertained to clarifying permitted accessory structures and their uses specifically noting that shipping containers and cargo and storage containers would not be considered as an accessory structure in a residential district.

Mr. Hatcher asked if anyone using this type of structure presently would then be required to remove it and Mr. Hinkelman replied that it would not need to be removed as it would be permitted as a pre-existing non-conforming structure.

Ms. Griffith noted that however if something happened to it that it would then need to be replaced with a permitted structure.

Mr. Hinkelman further noted that if in the future anyone was using this type of structure and had not received a permit for it then they may be required to remove it.

Mr. Snyder read the Montgomery County Planning Commission recommendation for the record.

Mr. Snyder further noted that staff recommends adding the clarification text noted at the bottom stating that these changes only apply to residential districts so as not to remove those businesses that legitimately use these containers for business purposes.

Mr. Pothast asked if there was any questions or if anyone would like to speak in favor or opposition to the proposed change.

Mr. Adam Zengel came forward and asked if there were any of these types of containers in use and where they are located.

Mr. Snyder noted that he may be able to see one in use on Lois Circle and that the concern is this may become a trend.

Mr. Pothast made a motion to approve case ZC #432-18 and Ms. Kreuzsch seconded the motion. The vote was all ayes and the motion passed.

### **Other Business**

Ms. Pothast made a motion to adjourn the meeting at 9:11 p.m., Ms. Kreuzsch seconded the motion and the vote was all ayes. The motion passed.

Respectfully submitted,  
Nicole Kessel, Recording Secretary

  
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Chairperson

  
\_\_\_\_\_  
Date