

RECORD OF PROCEEDINGS

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The Miami Township Board of Trustees met at the Miami Township Civic Center on Thursday, November 9, 2017 for the purpose of hearing Zoning Case #555 and #556 and any other business to come before the Board. Mr. Tracy called the meeting to order and led the Pledge of Allegiance. Mr. Ferry called the roll and Ken Tracy and Mary Makley Wolff were in attendance. Mr. Schultz left just before the meeting started as he was not feeling well.

The Common Rules of Conduct were read into the record.

Public hearings: Case #555, Lidl US, LLC / Andrew Miller, was called and the notice of public hearing was read. Mr. Elliff advised that the Clermont County Planning Commission and Staff recommended approval of this request. Mr. Elliff explained that the Ohio Department of Transportation concurred with the Traffic Impact Study and before improvements are made to the right of way on St. Rt. 28 the developer will have to comply with all of the requirements of the Traffic Impact Study. Mr. Elliff noted the Miami Township Zoning Commission recommended approval with conditions and they did have the ODOT information/report. Mr. Elliff gave a PowerPoint presentation and explained the applicant is requesting a zone change of 6.04 acres of R-2 Residence District to B-1 Neighborhood Business District with a Planned Business District Overlay for the construction of a grocery store. The PowerPoint presentation showed the location of the subject property, the surrounding area, the zoning of the surrounding area, the uses that surround the subject property, photos of the interior of the property and from across St. Rt. 28. Mr. Elliff explained the gross site acreage is 22.06 acres, the request is for 6.04 acres to be rezoned, the gross density currently is 1.83 units per acre, the building size will be 36,000± square feet, the front setback will be 120 – 202 feet, the east side yard setback will be 228 to 260 feet, the west side yard setback will be 123 to 220 feet, the rear yard setback will be 88 to 122 feet, the open and landscaped space will be 51% and the building and hard surface will be 49%. Mr. Elliff explained, with the PowerPoint presentation, where the entrance drive would be at the existing light on St. Rt. 28 at the existing Kohls, where the landscape and buffer will be including the landscaping plan, a rendition of the proposed building and building site including the parking lot, the grading plans which will go beyond the 6.04 acres and the signage being proposed. Mr. Elliff also noted the Vision 2025 Plan called for this area to be “Redevelopment/Commercial Mixed Use”. The Board asked about the easement to the east of the property and if that will be used for possible future roadway and Mr. Elliff stated yes and brought up the picture from the PowerPoint that showed the extra easement for public road improvement. The Board asked about the possibility of the proposed roadway connecting to Sorrel Lane for the residents of Algor Acres to get out at the traffic light. Mr. Elliff showed where there is a vacant parcel that could be use for that purpose. There was a brief discussion regarding the topography and existing vegetation of the property and where the grading line will be.

The proponent, Mr. Joseph Trauth attorney for Lidl, came forward to explain the request and the company noting the company is a German based company that is very strong in the European market and Lidl US, LLC is the American version. There are 30+ stores mainly on the east coast and this will be their first store in Ohio. Mr. Trauth stated this is reminiscent of the old neighborhood stores where they are not so big that you get lost in them and they are about 90% private label so they can afford to be less expensive. Mr. Trauth stated some of the questions from residents that came up in the past about drainage the engineers will take care of, they will take care of the landscaping and the easements and they are OK with the seven (7) conditions in the staff report.

Mr. Josh McIntosh of Civil & Environmental Consultants came forward and stated the Mr. Elliff had covered everything in his report and he would be happy to answer any questions. The Board asked about the landscaping of the road that will be coming into the development and the continual progression of that heading back and does he have any insight on the topography as development would continue towards the back. Mr. McIntosh gave a description of the topography and discussed the mass grading. The Board asked if they would consider

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more privacy between the development and the neighbors to the east including the possibility of a privacy fence. Mr. McIntosh stated they felt the setbacks they have and the additional landscaping they plan to do meet all of the requirements. The Board had concerns of the back of the property developing and the buffer for those other residents. Mr. Elliff stated when that happens it can be up to the Board of Trustees to decide what kind of landscaping or buffering is installed and who will be responsible for maintaining it. The Board stated they wanted more buffering for the existing residents that will be affected by the Lidl development and Mr. Elliff stated they can modify the landscaping or buffering if the request is approved. Mr. Trauth had a concern about getting an easement on someone else's property as it could become an issue later on down the road if the back of the property develops. The Board asked Mr. Braun, the Township's Law Director if there is something we can do to ensure maximum privacy, like a privacy fence, for the residents along the east side of the development. Mr. Braun explained during the public comment section the residents can comment on whether or not they would want a privacy fence in their back yard as opposed to landscaping and there could be an issue with the maintenance of that fence if it is on the homeowner's property. Another option is if that road is able to go through there and not touch the trees that would be an ideal situation but an easement could be worked out.

The Board asked for adjoining property owners to come forward who wished to speak. Mr. Marv Hudson of 5969 Pinto Place came forward with concerns of noise, hours of operation, putting this development between two already established subdivisions, some of the property owners will have a street in front of their home and in the rear of their home, a residential development would be more appropriate, there is more space on the north side of St. Rt. 28 for this type of development, there is already Kroger and Meijer and now they want another grocery store is a little strange, the area on the development map that is being suggested for an easement for roadway is part of Algor Acres and Algor Acres has restrictions. Mr. Hudson read some of the restrictions with regard to changing of properties and stated the majority of the homeowners in Algor Acres would have to approve the rezoning of the part of the lot for the roadway easement. The Board asked Mr. Braun to address this. Mr. Braun asked Mr. Trauth if he researched this in the title search and Mr. Trauth said yes. Mr. Braun stated he does not have a copy of the deed and asked Mr. Trauth to be prepared to address this with the Board and the residents. Mr. Hudson believes the storm sewer will be a challenge. The Board asked Mr. Hudson if he would prefer a privacy fence of natural buffer in the rear of his property and Mr. Hudson stated he would prefer the natural buffer.

Mr. Trauth addressed the deed restriction and stated the Trustees have the right to rezone and the rezoning has nothing to do with underlying deed restrictions and stated he has not been able to find them in the deeds but they are on a plat restriction and plat restriction can run with the land. The Board asked Mr. Elliff if he was aware of any deed restrictions and Mr. Elliff stated he was aware. Mr. Braun explained that a small part of the property owned by the Fords and McBrooms is part of Algor Acres but if a public road would go over it then the public road would take precedence over the deed restrictions. It was noted that the back part of the property, if developed then those deed restrictions could be an issue. However, Mr. Braun stated he had not seen the restrictions and cannot comment regarding the back part of the property. Mr. Braun stated if there is a deed restriction that burden would fall on the developer and is not something the Township would need to consider.

Mr. Victor Kolb of Woodspoint Drive came forward with concerns of the amount of trees that will be cleared and the light pollution. Mr. Kolb asked if the hours of lighting could be restricted to hours of operation only. Mr. Elliff stated zoning does not restrict hours of operation or how long lights are on however lighting pollution can be mitigated.

Mr. McIntosh came forward to state the hours of operation are 8:00 a.m. to 9:00 p.m. and the purpose of the grading is not to lose the dirt but will provide the property owner more useable land. There was a discussion regarding where the grading will occur and how far they will stay from property lines and the creek.

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Mr. Joe Wood of 5946 Woodspoint Drive came forward to say he moved to the area four years ago and came because of the way the area was then and the wooded area. Mr. Wood stated he does not understand why there would be commercial construction allowed to develop between two residential subdivisions and there are other areas on St. Rt. 28 to put this in. Mr. Wood asked how much of the woods are going to be cleared and asked about landscaped mound or a wall. Mr. Wood also had a concern of the wildlife.

Mr. McIntosh came forward and explained the area that will be cleared and how far they will be staying from the creek.

Mr. Michael Budke of Pinto Place came forward to state Algor Acres is a large area and with the deed restrictions there, most of the residents of Algor Acres would be opposed to this development. Mr. Budke stated the definition of the B-1 district is to create clusters or groups of businesses and this is going to be a single business circled by residential and does not fit.

Mr. Elliff stated the B-1 district is Neighborhood Business and explained some of the regulations of that district and at a staff level feels it does meet the requirements of the district. The Board asked about all of the houses on St. Rt. 28 between this proposed development and Buckwheat Road and how would that fit in the redevelopment. Mr. Elliff felt it was a consideration when the Land Use Plan was adopted to have this area as redevelopment for commercial and the development for new residential, along that area, is not realistic. The Board asked why this user did not submit a plan to go on the other side of St. Rt. 28. Mr. Budke stated he spoke to a representative of Lidl and they told him it was because the proposed property was less expensive. Mr. Elliff stated that was the answer given at the Zoning Commission meeting when asked the same question in the open meeting.

Mr. Trauth came forward to state it is correct that the proposed property was less expensive than the north side of St. Rt. 28.

Mr. Budke stated it was brought up that his would be a neighborhood store that they can walk to and there is already a Kroger and Meijer store they can walk to and as a resident of this area he does not want this retail there. The Board asked if he would be ok with some kind of multi-family development or housing and Mr. Budke stated he preferred housing instead of retail. Mr. Budke stated when he moved there in the 90's he had just left an area that was becoming more retail.

There were no other adjoining property owners, concerned citizens or correspondence regarding this case.

Mr. Elliff recommended the Board approve this zone change request with the seven (7) conditions in the staff report. Mr. Elliff stated the Board could include the part about the right of way being rezoned. Mr. Braun stated the applicant should decide if they wanted the 0.52 acre rezone of the right of way included in the rezone.

Mr. Trauth stated they are fine with the seven (7) conditions in the staff report.

The Board asked what did ODOT require on St. Rt. 28? Mr. Elliff stated there will be an east bound turn lane required and the west bound center lane will be restriped to make it a dedicated turn lane at the traffic light.

Ms. Wolff made a motion to close the open portion of Case #555, seconded by Mr. Tracy with all voting "AYE".

The Board discussed the highest and best use of land, that corridor being used for redevelopment, the infrastructure is there to support redevelopment, this will be a benefit to consumers, competition is good, complies with the Vision 2025 Plan, follows the requirements

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of the code, redevelopment makes sense, appreciates the feedback from residents, St .Rt. 28 has become a commercial corridor and the easement should have been taken into consideration but that is something the developer and residents will have to deal with.

Ms. Wolff made a motion that regarding the rezoning of Case #555 to approve the zone change request with the inclusion of the seven (7) conditions in the staff report and the recommendation of the Rural Zoning Commission for this redevelopment of this property, seconded by Mr. Tracy with all voting "AYE".

Case #556, Redwood Living c/o Greg Thurman, was called and the notice of public hearing was read. Mr. Elliff explained the Clermont County Planning Commission and Staff recommended approval of this rezone request. It was noted that the county water and sewer departments had adequate capacity for this proposed development and the traffic study showed no roadway improvements were being required. It was noted that the Miami Township Zoning Commission recommended approval with the condition that the sign face area shall not exceed 30 square feet. Mr. Elliff gave a PowerPoint presentation that explained the applicant is requesting a zone change from B-1 Neighborhood Business and R-2 Single Family Residential to R-3 Multi Family with an R-PUD Overlay. The presentation showed the location of the subject property, the surrounding properties and the zonings of all of those properties, a rendition of the proposed development and photos of the property from the interior and from St. Rt. 131. Mr. Elliff stated the applicant is requesting to rezone 12.9± acres to build 49 ranch style apartment units at a density of 3.8 units per acre. Mr. Elliff noted the Land Use Plan calls for redevelopment and to maintain present character in this area. A retaining wall is shown on the plan because of slope change. The site plan had a landscape plan included and staff recommended an enhanced landscape plan and the applicant provided that plan. It was noted this same type of development was just finished on Montclair Boulevard. The Board asked when the traffic study was done and Mr. Elliff stated he does not have the precise dates.

The proponent, Mr. Greg Thurman Division Manager of Redwood Living came forward and stated he brought his design team consisting of Todd Foley of a landscape and design firm and Mr. Rich Arnold of MSP Engineering. Mr. Thurman asked Mr. Arnold to comment on the timing of the traffic impact study. Mr. Arnold came forward and stated ODOT gave them the dates of the traffic impact study as July 18, 2017 which was after the closed road was re-opened.

Mr. Todd Foley came forward and gave a presentation on the request. Mr. Foley gave a little background on the company noting they are a low density, single story only apartment builder. The presentation showed the buildings will be clustered, there will be 49 ranch style apartments with each having a two car garage, a private driveway for each unit and a concrete patio in the back of each unit, there will be a 24/7 onsite maintenance person and the development would be accessed off of St. Rt. 131. The proposal states the community would appeal to older residents and empty nesters who, want to stay in the community but not have to perform maintenance. Rents would range from \$1,300 to \$1,700 per month. Every unit is 2 bedrooms and two baths, zero clearance threshold, ADA compliant, vaulted ceilings and every unit has a washer and dryer. The creek on the site makes for a beautiful site and an amenity for the future residents. Mr. Foley explained the entrance will be off of St. Rt. 131, all streets and driveways in the development will be concrete, the building will have different architectural interests with different colors and materials, the site will be landscaped extensively, a walkway path, is a pet friendly community, there will be a leasing office and a maintenance building, there is approximately 40% open space, there will a retention pond on the west side of the development, granite counter tops, they will be energy efficient and will be a smoke free community. Mr. Foley stated with regard to the lighting each unit will have coach lights that operate on a photo cell system, there are no street lights and the patios have a jelly jar light that is operated by the resident. The Board stated Mr. Foley used the work typically when referring to the type of resident in their community being seniors and young professionals and wanted to know if that is how it is or do other family types live there. Mr. Foley stated because it is only

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a two bedroom complex it is not conducive to a family. Mr. Thurman came forward to state they do not allow parking on the street and having a two (2) bedroom design limits the amount of people that can live in their units and their study of their communities have shown about 80% are empty nesters, 10% young professionals and 10% single parent. The no parking on the street also limits a household with teenage drivers. The Board asked about their Thornhill community and what is the occupancy there and Mr. Thurman stated it is near 100%.

The Board asked for adjoining property owners to come forward if they wished to speak. Mr. Joe Woodall of St. Rt. 131 came forward with concerns of the traffic study not being accurate because of the delays and road closures. The Board asked Mr. Elliff about the accuracy of the traffic study. Mr. Elliff stated ODOT is very well versed in traffic studies and he feels if there would have been an unintentional error in the traffic impact study because the study would have been taken during a road closure, he believes ODOT would have been completely on top of that issue because of the numbers that would have come back during that time or they would have had general knowledge of the traffic conditions on St. Rt. 131 and almost immediately would have looked at the traffic counts and known something was seriously wrong. The fact that ODOT, who is in charge of that road and is the reviewing agency, didn't raise any questions about the study to him indicates that it is a valid study.

Ms. Kim Woodall of St. Rt. 131 came forward and stated she was surprised that ODOT did not re-do the traffic study. Ms. Woodall stated when the property was sold one of the conditions was that there would only be a single family house back there and that is why ODOT cut the guardrail at the entrance. Ms. Woodall does not feel this is a fit in the area, that houses would be better than the proposed apartments and is concerned about the animals on the property.

Mr. Tom Huelsman of Mt. Vernon came forward with a concern of their street being a cut through, increased traffic on St. Rt. 131 during rush hour and the traffic impact study not being accurate and that it was done during the road closure.

Ms. Janet Hatton of Sugar Camp Road came forward with concerns of traffic, existing drainage overflow for her property, losing the existing tree line, she may have septic drainage issues due to the new development, questioned the Vision 2025 Plan and does not think this is a responsible plan.

Mr. Todd Foley came forward to address the drainage stating the drainage should improve because of the County regulations. With regard to the retaining wall if they did not have a retaining wall they probably would have had the building farther to the west towards the ravine. By having the retaining wall they will save the ravine area. The proposed site sits lower than the neighbors to the east which will help with the neighbor's drainage concerns. The Board had a concern with the height of the retaining wall and Mr. Elliff noted the wall would be three (3) feet high and the Township does not have a requirement for that drop off. Mr. Elliff stated he does not know what the County would require.

Ms. Linda Roll of Tall Oaks Drive came forward representing the Day Heights Fireman's Board. Ms. Roll stated their building sits pretty much adjacent to this property and wanted to know if this is the only egress to the property and wanted the Board to know that the Fireman's Building was contacted to purchase some of their property for an egress and she said she was told that the same offer was given to people on Sugar Camp. Ms. Roll stated putting that many more vehicles in that dangerous area of St. Rt. 131 will not be good. Ms. Roll wondered at \$1,700.00 per unit how long will residents stay if they cannot get out onto St. Rt. 131.

The Board asked for correspondence. Mr. Ferry read one letter from Georgia Williams of 1311 State Route 131 with concerns of rental units being open to all types, school bus stops on 131, safety issues with the retention pond, ADA compliance, subsidizing of units if desired clients are not filling vacancies, increase in traffic, ingress and egress concerns, traffic study accuracy concerns, the exterior of buildings and a feasibility study to support its need in Miami Township. This letter is in the case file and incorporated herein by reference.

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Mr. Foley asked to address the concerns of the letter. Mr. Foley stated these units will not be subsidized in any way and they own and operate their own communities. Mr. Foley stated the road re-opened on July 16th and the traffic study was done on July 18th.

A lady came back up to say originally the road was supposed to be closed during a certain date and people didn't know the road was re-opened.

There were no other adjoining property owners, correspondence or concerned citizens regarding this case.

Mr. Elliff stated he has reviewed the plan and finds the plan complies with the Township Land Use Plan and with the standards of the R-3 and R-PUD and recommends the Board approve the zone change requested with the condition of the size of the sign.

Ms. Wolff made a motion to close the open portion of Case #556, seconded by Mr. Tracy with all voting "AYE".

The Board discussed the highest and best use of the land, R-1 allowing 24 single family lots, the front of the property is B-1, the Thornhill product, the 131 corridor, the Land Use Plan, the other rental multi-family complexes in the area, market changes and the rental prices. The Board asked Mr. Braun about the accuracy of the traffic study and if they as a Board can request additional information or another traffic study to be done so that this decision can be made as the timing was only two (2) days after the road was re-opened. Mr. Braun stated the traffic study may be flawed but the Board is not allowed to consider traffic by state law, it is not something they can consider. Mr. Braun stated it would be nice of the County to look at the timing of the light at Buckwheat and whether that needs to be adjusted. Mr. Braun stated the Board cannot require another study. The question is what is the highest and best use of the property. The factors they can consider is density, the number of stories, the size of the buildings, setbacks and uses. If traffic becomes so bad that the owner cannot fill them then that is the owner's problem. Mr. Braun stated they can look at the density of 49 units would be the smallest of the rental communities. The Board asked if the County Planning Commission and the Township Zoning Commission's recommendation was made during the time that we are questioning the traffic study's accuracy we as a Board may not make them but other entities can possibly. Mr. Braun stated the Board could instruct the Township Administrator to write a letter to the County and ask them to go back and review the study. The Board stated they are not considering traffic but considering the accuracy of the information that is being presented to us as a Board which we would want to go back and ask the County to reconsider the accuracy. Mr. Braun asked Mr. Elliff if there will be another opportunity for the County to consider this and Mr. Elliff said he was not sure. Mr. Elliff recommended they contact ODOT District 8 and the permit supervisor, and ask if they were aware of the timing of the traffic study and do they want to look at it again. Mr. Elliff advised that ODOT has control of St. Rt. 131 not the County and not the Township. The Board asked Mr. Braun to define density under the legal terms of what they can consider and Mr. Braun stated density is one thing they can consider, which is the number of units per acre and setbacks. Mr. Elliff stated the setbacks are compliant and they can consider the Land Use Plan, intensity of the corridor, transition zoning, character of the development, landscaping plan and residential feel. The Board discussed redevelopment, the possibility of benefiting the drainage, following the zoning code, R-1 probably will not develop in the rear and B-1 will be hard to get in the front, R-3 allows to preserve more of the topography, the housing market is changing and can the Board ask the developer to do another traffic study. The Board asked Mr. Thurman about another traffic study and Mr. Thurman stated they hired industry standard professionals for the study and they did their due diligence, paid the fees, does not feel it is appropriate for them to have to do another traffic study, the traffic study is not flawed and respectfully declines to do another traffic study. Mr. Braun stated if the Board thinks the density of this development will not fit in this corridor or that the design does not fit with the Comprehensive Plan based on the number of residents that will be in there that goes with density. There was a discussion on density with single family on that site and the exact entrance of the proposed development. Mr. Wright stated they can follow up

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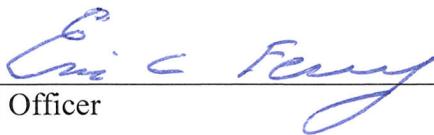
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with ODOT on the driveway permit and can reach out to ODOT regarding the timing and coordination of the lights on St. Rt. 131 at Buckwheat Road and Dry Run Road.

Ms. Wolff made a motion to approve Case #556 a zone change to R-3 with an R-PUD Overlay district and supports the recommendation of the Zoning Commission and approve the zone change and request the inclusion the recommending conditions stated in the staff report and that the Board of Trustees has given the authorization for Mr. Wright to contact ODOT with review and to express the Board's concerns, seconded by Mr. Tracy with all voting "AYE".

With no further business to come before the Board, Mr. Tracy made a motion to close the meeting at 9:56 p.m., seconded by Ms. Wolff with all voting "AYE".

ATTEST:



Eric Ferry, Fiscal Officer



Ken Tracy, Chairperson