

EXHIBIT
9-18-17
MARA 2

Report in Opposition to Proposed Development by Capital Investment Group, Inc.



Report prepared by
Timothy G. Mara
Attorney at Law
1600 Scripps Center
312 Walnut Street
Cincinnati, Ohio 45202-4038
(513) 762-7674
Tmara4570@aol.com

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I. Introduction

This 7.26 acre site is currently zoned "D" Multi-Family Residential, and is currently fully occupied by 22 buildings containing 96 apartments, which use is consistent with the zoning classification. The tenants have already been given notices to leave and some have already done so. The buildings would be razed, and the site redeveloped by Capital Investment Group LLC ("Capital") for an intense mixed-use development that would include:

- 258 apartments
- 117,622 square feet of office space
- 16,765 square feet of retail space
- 1290 parking spaces
- 125 room hotel

The township staff report produced at the time of the Zoning Commission hearing clearly states that "retail is not a permitted use 'as of right'" on the subject site under the current multi-family residential zoning. But, because the site is within the Special Public Interest Overlay District, the township may BUT IS NOT OBLIGATED to vary the use regulations "in order to accommodate unified development and to promote the purposes of Specific Plan Districts." The criteria to be used in evaluating the specific proposal are found in the SPI standards of Chapter 8, the PUD standards of Chapter 18, and the underlying zoning of "D" Multi-Family Residential in the Zoning Resolution. The township's original staff report is helpful in further understanding the criteria.

The proposed use was first reviewed by the Sycamore Township Zoning Commission which voted 4 to 1 to recommend denial of the application, citing reasons of health and safety. On September 6, Capital submitted a revised plan to the Township. The revisions are more on the order of tweaks which the opponents view as addressing their concerns only in a very minimal way. As provided in the Zoning Resolution, the final decision is to be made by the Board of Trustees which may either approve, deny, or approve the proposal with conditions. The Trustees' decision will be considered as administrative rather than legislative, and thus subject to review by the Hamilton County Court of Common Pleas as provided in Sec. 18-10.3 of the Sycamore Township Zoning Resolution.

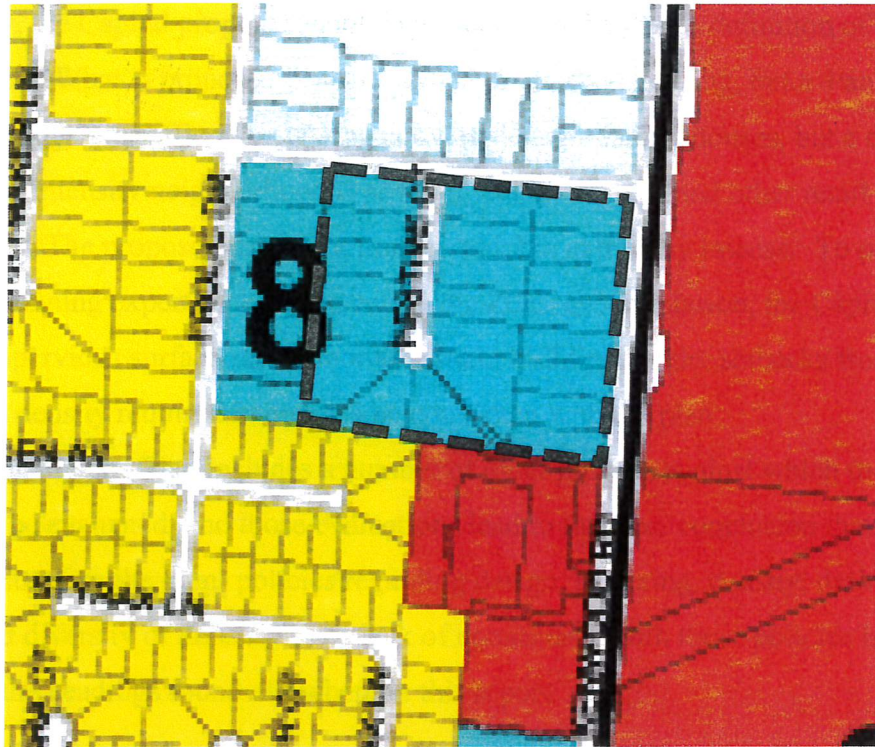
The Sycamore Township Citizens urge the Trustees to deny the application for the reasons set forth in this report which, for ease of understanding, can be grouped as follows:

- The proposal is not consistent with adopted plans
- The proposed development is not compatible with adjacent residential uses
- The proposal is not innovative in its design
- The existing infrastructure, especially roads, is not adequate to handle the proposed development, and Kenwood cannot be widened to meet the need without destroying the economic viability of businesses which now line Kenwood Road
- The project will result in the destruction of already scarce affordable housing essential to Sycamore Township's economic viability

II. Inconsistency with Adopted Plans and Policies

Sec. 18-7(B) of the Zoning Resolution says that “in determining whether a Site Plan ... shall be approved ... the Board of Township Trustees SHALL apply: ... (B) Applicability and consistency with adopted objectives and policies of the Township related to land use and township plans duly adopted” (emphasis added) The adopted plans are the Sycamore Township Land Use Plan of 2002 and the Sycamore Township Southern Area Land Use Plan of 2008, as updated (map only). In its September 6 letter of intent, Capital asserts that the proposed development “is a fulfillment of the vision for the site put forward by the Sycamore Township – 2008 Southern Sycamore Land Use Plan.” But, this is absolutely not true, as explained below.

There are a number of provisions of those plans which are relevant to the Capital proposal and against which the proposal should be evaluated. Foremost among the applicable provisions of the Plan is the future land use designation of the site. The subject site was identified in the 2008 plan as Critical Area #8, worthy of special consideration and ultimately designated on the 2008 plan as “Mixed Use.” See the map on the next page.



The Plan designates Area #8 in blue as Mixed Use. The Capital site, outlined in a dashed black line, covers about 75% of Area #8.

According to the Plan,¹ there are two categories of “Mixed Use,” which are defined as:

Mixed Use Transitional

Detached or attached housing, low intensity office (such as conversion of a single family residence) and related compatible uses (excluding retail and industrial) that provide a transition between residential uses and other types of development.

Typically 1 and 2 story structures with scale, massing, intensity, layout and specifications compatible with site constraints and character of surrounding residential development.

Mixed Use with Retail

Detached or attached housing, low intensity office (such as conversion of a single family residence), low intensity neighborhood type retail and related compatible uses (excluding industrial) that provide a transition between residential uses and other types of development.

Typically 1 and 2 story structures with scale, massing, intensity, layout and specifications compatible with site constraints and character of surrounding residential development.

¹ See page iv of the plan

Clearly, the Capital proposal is not consistent with the Plan's definition of either category of "Mixed Use." What is proposed is not detached or attached housing, but a 4 and 5 story apartment building. Not offices occupying converted single family houses, but a 6 story office tower. Not low intensity neighborhood type retail, but restaurants and other retail closely tied to an 8 story hotel. The proposed use is not transitional, but extremely intense. To paraphrase the testimony of planning expert Jack Pflum before the Zoning Commission, the Capital project exceeds the impervious surface ratio, floor area ratio, building height, setbacks from the street, and residential density required in order to be consistent with the plan.

Additionally, the Plan includes a number of other policies against which the Capital proposal must be evaluated, and those evaluations lead to the clear conclusion that the Capital proposal is contrary to the Plan's policies regarding design, buffering, density, drainage, traffic generation, and diversity of housing. The lack of consistency with those policies is discussed under each of the headings found elsewhere in this report.

III. Land Use Compatibility

The Capital site is within the Kenwood/Montgomery Roads Special Public Interest (SPI) Overlay District. One of the purposes of an SPI is to assist the development of land so it is compatible with the area beyond the site. SPI regulations require that the public and other property owners in the district be protected from harmful effects of development. Sec. 8-1.3 of the Sycamore Township Zoning Resolution.

A. Traffic

SPI regulations are intended to minimize traffic congestion and to coordinate land use intensity with local capacities and goals. Sec. 8-1.3(G)(5) of the Zoning Resolution. Related to this, one of the most puzzling statements by Capital is found at page 3 of its September 6 letter:

"Both the hospital and the site form a gateway to the residential neighborhood to the west."

Planners often use the word "gateway" as a label for development which they believe and hope will draw people to the neighborhood or area just beyond the gateway. Here, Capital both giveth and taketh away, first describing its development as a gateway and then acknowledging that their project will increase traffic in the residential neighborhood to the west, followed by the statement that the problem "will be eliminated by closing Happiness Way." However, dead-ending

Happiness Way is something over which Capital does not have direct control, and they cannot guarantee that it will happen or if it does that it will stay that way.

B. Impervious surface ratio

“Impervious Surface” is defined at page 15 of the Zoning Resolution as any hard-surfaced, man-made area that does not readily absorb or retain water, including rooftops, paved areas, and compacted gravel. The total area of impervious surface divided by the net area of any lot is the ISR or impervious surface ratio. Sec. 8-2.3.1.5 of the Zoning Resolution says that in an SPI, the maximum ISR is 50% (Table 8-1).

Yet, Capital is asking the Trustees to approve a site plan which has an ISR far in excess of the maximum ISR allowed by the Zoning Resolution. Capital proposes 75% ISR. This is important because, by definition, the greater the amount of impervious surface, the less rainwater can soak into the ground and the more that must be handled by the stormwater detention pond shown on the site plan. The proposed detention pond can probably handle routine storms, but can it handle the torrential downpours experienced just this month? The potential consequences for downstream property owners is too significant to warrant such a major deviation from the maximum ISR of 50%.

C. Building height

Table 8-1 of the Zoning Resolution limits the height of buildings in the Kenwood/Montgomery Roads Corridor Overlay District to 40 feet. Yet, Capital ‘s site plan (Drawing A109) shows heights as high as 102’ 8.” The buildings closest to the houses on Frolic Drive and Duneden Avenue range in height from 34’ 2” to 44’ 10”. This is a major deviation from the maximum height and should not be permitted.

In an attempt to convince the Trustees that its taller buildings do not compromise privacy in the back yards of adjacent houses, Capital has submitted photos which have been photoshopped, purportedly to show how little of the tall buildings will be seen (Drawing A358). But, these photos may be deceiving. For example, in the photos of 4701 Happiness Way and 7934 Frolic Drive, it appears that the photos still show trees on the Capital site that will be removed by Capital, and the photos were taken at the back line of the houses and not from points in the back yards closer to the Capital buildings. From the top floors of Capital’s apartment buildings, tenants will be able to look down into the back yards of homes on Frolic Drive and Duneden Avenue, compromising the privacy and enjoyment of homeowners.

Additionally, Capital's plans (Drawings C600 and C601) show that half of the proposed landscaping along the property line is actually on the properties of the homeowners on Frolic and Duneden. To properly maintain that landscaping, Capital would need an easement across each of those properties. But, those homeowners who have mortgages may find that their mortgage agreement prohibits placement of encumbrances on the property without advance approval of the lender. To the extent that the lender is out of town, obtaining the approval may be a laborious process or even impossible.

D. Density

Table 3-2 of the Zoning Resolution limits the density of housing in the DD District (including the area of any SPI Overlay District where the underlying zoning is DD) to a maximum of 14.5 dwelling units per acre. Yet, Capital proposes a density of 31 dwelling units per acre (plus the hotel, retail, and office uses and related parking). Actually, the true density is far higher than 31 dwelling units per acre because the apartments only occupy a portion of the Capital site. The true density of the apartments is closer to 60 per acre, or more than four times the maximum allowed density under the Zoning Resolution.

In its September 6 letter, Capital attempts to justify its double density by citing Sec. 8-4.3.2 of the Zoning Resolution. However, there are two problems with its effort. First, the underlying density limitation of 14.5 units per acre is not a supplemental regulation adopted for the SPI Overlay District – it is a limit imposed by the underlying DD zoning. Second, Capital has failed to demonstrate that the higher density will result in public benefit as required by the Zoning Resolution. No open space has been provided for the use of area residents, and there will be no publicly dedicated open space. There is not even an assertion that there will be an improvement in public safety or in energy conservation, and so on.

Capital's assertion that walkability is increased is truly absurd, as is its claim that its surface parking courtyard from Kenwood Road will be welcoming and that the resulting mid-rise urban district will have a great sense of openness. To the contrary, the courtyard, like Capital's courtyard at the Aqua in Newport, KY, will be sterile and claustrophobic (see photo on the next page). All that is accomplished by allowing increased density is greater profit for Capital, which is not one of the purposes of the SPI.



The surface parking courtyard at Capital's Aqua project in Newport, KY, is neither welcoming nor does it create a sense of openness.

IV. Poor design

A. Not an innovative design

Sec. 18-7(H) of the Zoning Resolution requires that the design of the proposed development be sufficiently innovative to warrant the modification of the applicable zoning regulations. In other words, the Zoning Resolution gives the Trustees the power to waive strict application of the technical requirements like setbacks, density limits, height restrictions, landscaping requirements, parking requirements including quantity and design, if and only if the design is sufficiently innovative to justify the relaxation of those regulations.

Arguably, the greater the relaxation of the regulations proposed by the applicant, the more innovative the design must be to satisfy this criteria. Unfortunately, in this proposal, the requested relaxation of the regulations is maximal and the innovation indiscernable. Consider the table below.

<u>Standards</u>	<u>Underlying "D" Zoning</u>	<u>Proposed</u>
Apartment density	14.5 units per acre	31 units per acre
Building height	40 feet	65 feet
Front yard setback	30 feet	12 feet
Impervious surface ratio	.65 (high density)	.82 (beyond high density)

What, then, is the developer giving the township in the way of quality design in exchange for the relaxation of these regulations and others that would justify such quantum relaxation of the zoning regulations? The answer is “nothing.” In fact, not only is the design of the development plan not special or innovative in any way, it is inferior to a design which recognizes and adheres to the zoning standards. It is obvious that Capital has submitted a design which maximizes its return by squeezing more development on to the site but has given nothing back. This may be acceptable at an inner city location, such as at Capital’s Aqua Apartments in Newport, Kentucky (see Google Earth photo on the next page), but is completely out of character in Kenwood. In fact Capital proposes 258 apartments in Kenwood compared to 239 in Newport. Both projects have hotels, but Aqua has no office building as is proposed in Kenwood, and the Newport project has only minimal retail space compared with the Kenwood proposal, so that Capital’s proposed project is, in many ways, larger and potentially more impactful than Capital’s Newport project.

B. Scale

Capital’s proposed project is enormous, and completely out of scale with adjacent residences as shown on the photo and drawing on page 10.

Also, the abutting homes on Frolic Drive and Dunedin Avenue will be completely dwarfed by the proposed apartment buildings. The enjoyment of their backyards will be compromised because apartment dwellers will loom over them, some as close as 50 feet from their property lines.

Also, a quick tour of the Kenwood commercial area clearly shows that the Capital development would not be “transformational,” as the applicant alleges in its September 6, 2018, letter, but is totally inconsistent with the existing built environment.

There is no innovation in Capital’s design, beyond cramming as much building onto the site as possible. Truly innovative designs could include a “green garden roof,” quiet open contemplative (mindfulness) space for the occupants, free electric car charging slots, outdoor dining areas, 100% green pervious surface in ground level parking areas and circulation drives, embedded electric wires for ice-free surface, a “grand entrance” gateway on Happiness Way, expressed in terms of landscaping and a water feature, etc.

In addition to not meeting the standard of Sec. 18-7(H) of the Zoning Resolution, the Capital proposal is not consistent with policies of the Land Use Plan. The Land Use Plan states² that it is township policy to:

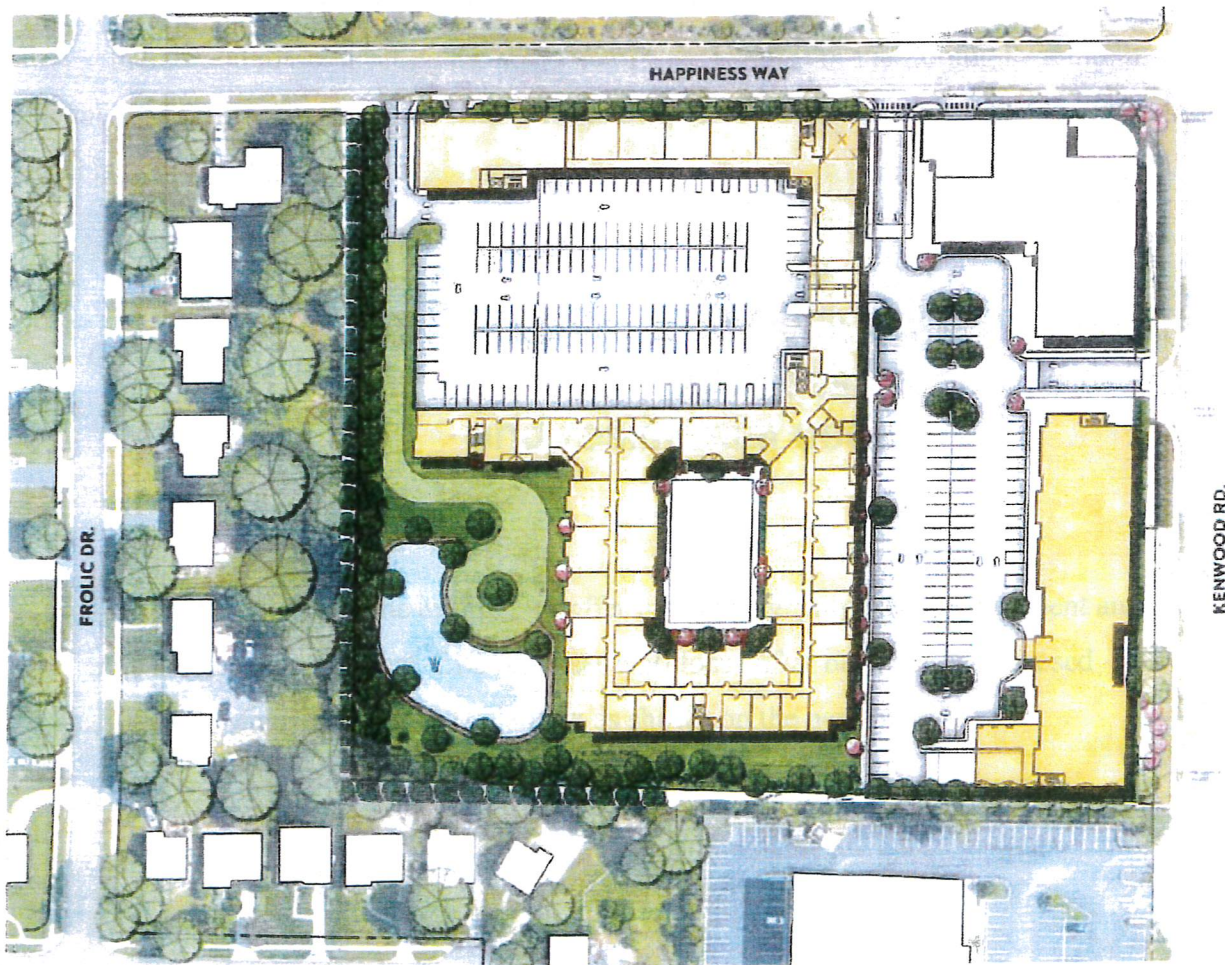
- 3. Require that development proposals meet the high standards of design and are compatible with the residential land uses.**

Clearly, the scale of the proposed development is not compatible with adjacent residences.

² See Policy No. 3 under "Zoning, Land Use Controls, and Development" at the upper left hand corner of page 1-15



Google Earth photo depicting Capital's Aqua Apartments and related hotel (background) in Newport, KY



Capital's Kenwood proposal dwarfs the adjacent homes to the west (left) and south (bottom)
Note: This drawing is a merger of the new site plan (C601) and Drawing A001 from Capital's original plans.

C. Western access drive too close to adjacent residences (a boundary buffer issue)

The western-most access drive is just under 20 feet from the western boundary of the site, and this is so narrow that an adequate landscaped buffer cannot be provided on the site itself. Capital's solution is to encroach upon neighboring properties to provide the balance of the landscaped buffer. Sec. 14-7 requires a boundary buffer of at least 20 feet, and Sec. 14-6.3 prohibits a driveway from crossing into the boundary buffer.

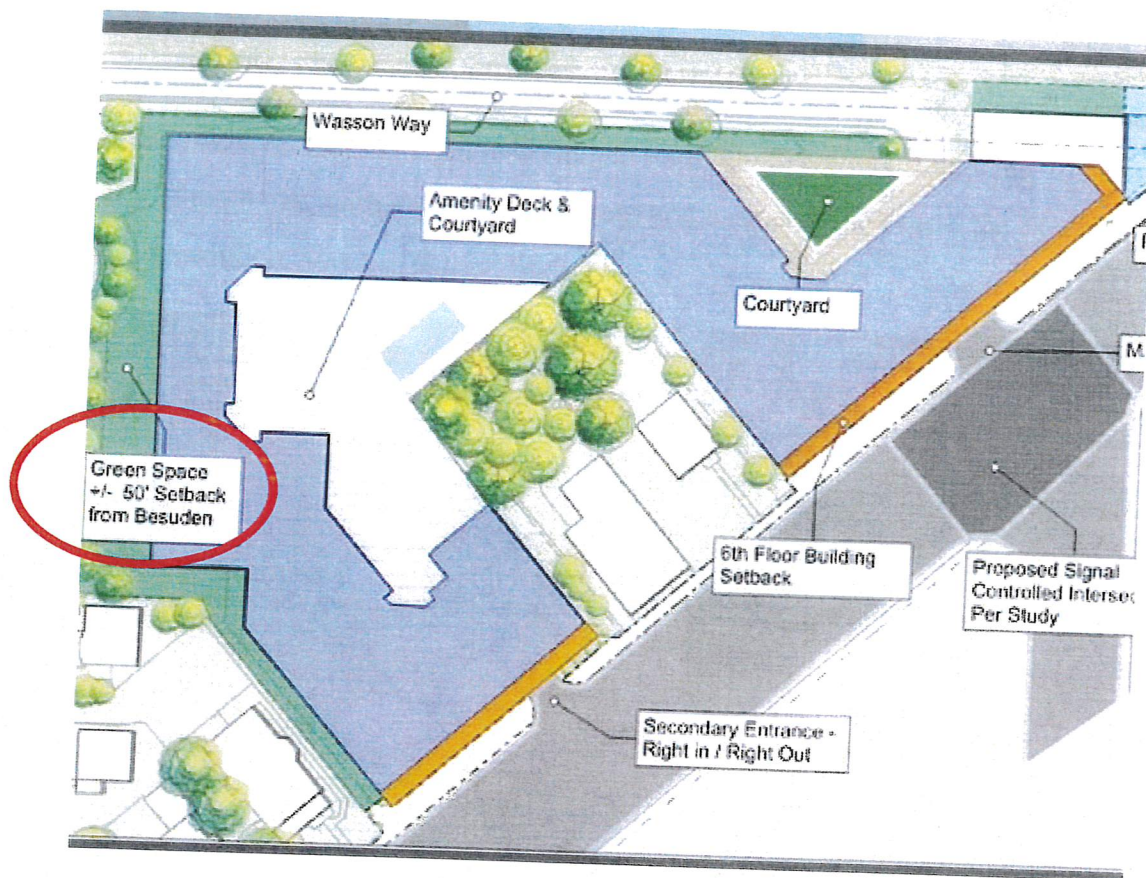
The word "driveway" is deceiving as applied to this route of access to the 897 space parking garage. The so-called driveway will in fact be a busy, private street. Good design, if applied, would provide a buffer yard which exceeds the 20' minimum in order to truly buffer adjacent homes from this very intense development.

In addition to not meeting the standard of Sec. 18-7(H) of the Zoning Resolution, the Capital proposal is not consistent with policies of the Land Use Plan. The Land Use Plan states³ that it is the township policy to:

5. Require extensive green belt buffers between business/commercial uses and residential uses.

Yet, CIG has provided only the minimum buffer between the proposed development and adjacent residences. In contrast, CIG proposes a 50 foot buffer between its proposed development on Madison Road in Hyde Park as shown on the next page.

³ See Policy No. 5 under "Commercial Land Use" on the right column on page 1-15



D. Destruction of mature and/or valuable trees

As part of the quest for good design, Sec. 8-1.3(F) of the Zoning Resolution states that the Special Purpose Interest Overlay designation is intended to protect the public from the loss or destruction of mature and/or valuable trees and other natural resources. Yes, it is a matter of aesthetics, but it is also a matter of public health. Presumably, the requirement to protect trees was included in the criteria for evaluating site plans because, among other things:

- Trees provide oxygen, and improve air quality by absorbing dust and pollutants like carbon monoxide, sulfur dioxide, and nitrogen dioxide
- Trees deflect sunlight and reduce the heat island effect caused by pavement and commercial buildings, a particularly important reason in the Kenwood / Montgomery Roads commercial corridor
- Trees are beautiful and majestic; most people react to the presence of trees with a pleasant, relaxed, comfortable feeling
- Trees increase property value⁴

⁴ www.savatree.com/whytrees

Currently, there are more than seventy (70) mature trees on the site.⁵ Many of them appear to be at least 60 feet in height (see Google Earth photo below). Replacing 70 magnificent trees, many of them oak, with a mix of small trees and bushes doesn't meet the expectations of the Zoning Resolution.



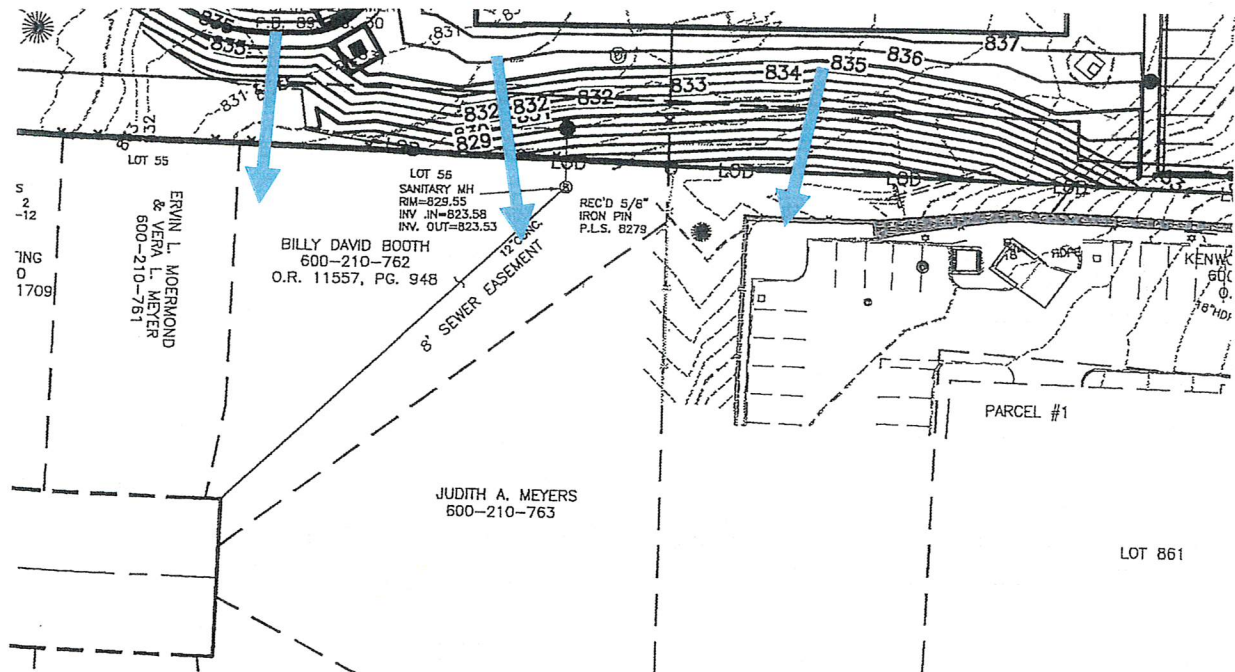
As best as can be determined from the site plan, only one of those trees will be saved and incorporated into the new site plan. Capital should get an “F” for its noncompliance with Sec. 8-1.3(F) of the Zoning Resolution.

E. Stormwater runoff

The Land Use Plan provides that “Drainage shall be designed and constructed so as to not detrimentally affect adjacent properties.”⁶ However, Capital’s proposal calls for creation of a long embankment along the southern boundary of the site that will make the site about 10 feet higher than the backyards of adjacent homes on Duneden Avenue.

⁵ Based on an actual walking survey of the site. Only mature trees which appeared to be healthy were counted. Tall shrubs were also not included in the count.

⁶ See page 1-30 of the Land Use Plan



This base map is an excerpt from Drawing C300 submitted by the applicant, with the blue arrows added to show the direction of stormwater flow

That means that stormwater from the embankment will flow down the embankment and pond in those backyards unless provisions are made to direct that water into public sewers if available. Without such an effort, the enjoyment of back yards on Duneden will be impacted.

V. Inadequacy of Road Infrastructure

Traffic is often a primary reason given by neighbors for opposing proposed development, and increased traffic is often a negative byproduct of major development projects. In response to the opposition, developers and their supporters

It appears that the argument that “traffic is not a valid reason for rejecting a zoning matter” is used to discourage opposition, as if there are no other reasons for opposition and the law requires the Zoning Commission to ignore all traffic-related considerations. And, as we know, the “traffic is not a valid reason ...” argument is a gross oversimplification of the law. The purpose of ensuing sections of this report is to (1) explain what the courts have said about traffic as a valid reasons for denying zoning approval, and (2) offer a logical reason why the facts in this case lead to the conclusion that traffic is, indeed, a proper consideration and an important reason why the township should reject Capital’s application.

A. What the courts have said about traffic and zoning decisions

While local governments may legitimately weigh traffic generation from proposed land uses in deciding whether or not to authorize them, controlling traffic is not a primary purpose of zoning. If the proposed use is or should be a lawful one given the context of the surrounding area, then the prospect of additional traffic becomes a secondary consideration.⁷ This issue was first addressed by the Ohio Supreme Court in the 1959 case of *State ex rel Killeen v. City of East Cleveland*.⁸ In *Killeen*, the court was confronted by the zoning authority's denial of a request for a variance where the board of zoning appeals relied on traffic considerations as the sole reason for denial. The Court reversed the denial by the board of zoning appeals, saying:

“Traffic considerations may be a part of the calculus of such decisions [variances] but are insufficient alone to justify the denial of any otherwise permitted use....”

The court went on to say that it is up to the local government to widen the road to accommodate the additional traffic.

Lower court decisions have attempted to follow this reasoning and at various times have helped to clarify this principle. But, at other times court decisions have further contributed to a gross misunderstanding of this principle to the delight of developers and local officials sympathetic to their cause. Proponents of less restrictive zoning all but chant “traffic is not a valid reason for a zoning denial” as if determinative of any and all cases where opponents raise traffic-related concerns as part of their case in opposition.

To add to the confusion, zoning regulations are much more complicated today than they were at the time of the *Killeen* decision in 1959. Back in 1959, zoning codes were relatively short and simple – they specified where residential, retail, office, and industrial uses were to take place and the lines were distinct and the zoning regulations were much easier to understand. Today, the Sycamore Township Zoning Resolution is more than 200 pages in length and includes provisions for planned districts, specific plan districts, special public interest overlay districts, and conditional uses - things virtually unheard of in 1959. Many of these new, “sophisticated” regulations are factors in the Capital case, and they greatly

⁷ See discussion at page 181 of *Ohio Zoning and Planning Law*, 2018 Edition, Thomson Reuters

⁸ 169 Ohio St. 375, 8 Ohio Op. 2d 409,160 NE2d 1.

complicate the application of the so-called principle that traffic alone cannot be the sole basis for a zoning decision.

The Franklin County Court of Appeals attempted to come to grips with the degree to which traffic can be considered in a zoning decision in the 1995 case of *Elbert v. Bexley Planning Commission*.⁹ There, the court cited *Killeen*, saying:

“We make clear that we do not hold that traffic concerns could not have been considered as part of the review process.... However, evidence that a proposed facility will generate increased traffic is insufficient, standing alone, to justify the denial of an otherwise permitted use by a property owner.”

From these court decisions, it is clear that traffic congestion is also an appropriate consideration where there are other factors which might make the proposed development “contrary to public health, safety, welfare, or morals.” *Ohio Valley Orthopaedics and Sports Medicine, Inc. v. Board of Trustees of Sycamore Township*.¹⁰ Other factors have, indeed, been identified and explained throughout Parts II, III, and IV of this report, and so we can go on to add traffic congestion and safety issues to the list of reasons why the Trustees can and should deny the application.

B. The inadequacy of roads serving this site

Even now, the volume of traffic is so great that it is difficult to get through the Kenwood / Montgomery Roads intersection without prolonged delay, particularly during rush hours and during the holiday shopping season. That intersection is a bottleneck which surely impacts the shopping public’s perception of the Kenwood / Montgomery Road retail corridor as a convenient shopping destination.

As part of the review process for any large development, the Hamilton County Engineer requires a Traffic Impact Study (TIS) to quantify the amount of traffic that would be generated by the new development, assess the ability of the existing road network in the immediate vicinity to handle the projected traffic, and to recommend what road improvements (widening, signalization, etc.) are needed to accommodate the anticipated traffic.

⁹ 108 Ohio App3d 59, 670 NE2d 245

¹⁰ 158 Ohio App3d 460, 816 NE2d 1088, 2004-Ohio-4662 (App. 1 Dist. 2004)

The initial Traffic Impact Study (TIS) commissioned by Capital Investment Development Group LLC¹¹ and with oversight by the Hamilton County Engineer, the Ohio Department of Transportation, and the Township's traffic engineer, recognizes the importance of eliminating this bottleneck and recommended the following long range improvements for the intersection:

Kenwood Road north leg – widen from existing 5 lanes to 9 lanes

Kenwood Road south leg – widen from existing 5 lanes to 9 lanes

Montgomery Road west leg – widen from existing 5 lanes to 7 lanes

Montgomery Road east leg – widen from existing 7 lanes to 8 lanes



The latest Traffic Impact Study (TIS) dated August 20, 2018, recommends improvements for almost every intersection along Kenwood Road from Galbraith Road on the north to Montgomery Road on the south. These recommendations include additional turn lanes and signalization. Because of the high volume of traffic, the turn lanes recommended for the Kenwood / Montgomery Roads intersection are as long as 800 feet. One wonders how much distance is left between the intersection improvements. Strung together, these intersection widenings begin to look on paper like one big widening project with only a few gaps remaining to be closed.

¹¹ The Hamilton County Engineer submitted a lengthy list of comments and questions regarding the initial TIS, and as of this writing, the revised TIS is not available to the public.

However, a TIS study paid for by the developer is typically limited in scope to the area immediately proximate to the site and limited to determining how best to handle the traffic generated by the project, and the developer is usually held responsible for making improvements directly in front of the development site, with implementation of the remaining improvements some at an undetermined time in the future.

In this case, that leaves two important questions unresolved:

- the TIS failed to address the devastating impact that such widening would have on existing businesses at or near the intersection, as required by Sec. 18-7 of the Sycamore Township Zoning Resolution
- the TIS did not consider the increased traffic that would be generated by this project in an area or corridor context, failing to consider the adequacy of the road network given other announced or rumored projects in the Kenwood / Montgomery Corridor.

These two major omissions are a recipe for disaster as explained below:

1. The impact of required widening of Kenwood Road on existing businesses

Consider, for example, the impact of the various recommended intersection improvements on existing businesses along Kenwood Road. Presently, Kenwood Road is five (5) lanes wide. To add four (4) continuous additional lanes as recommended would require the acquisition of as much as 20 feet of additional right-of-way on each side of the road, and even just new or longer turn lanes at intersections means taking existing parking spaces from existing businesses, in some cases half of their parking spaces. Losing half the parking directly in front of their businesses means that those stores become less inviting to their customers.



The loss of landscaping along Kenwood Road caused by widening and the loss of as much as half of the parking in front of smaller businesses along Kenwood Road will make these businesses less inviting to customers and could lead to vacancies and blight.

The result will be empty storefronts and blight. Clearly, this is so much more than an issue of traffic congestion.

Other issues of welfare, health, safety, and morals include the diversion of emergency ambulance traffic to Frolic Drive in an attempt to avoid traffic congestion on Kenwood Road, and the lack of acceleration and deceleration lanes facilitating traffic to and from the site.

2. The area context of traffic congestion

The Capital proposal is not the only major development planned or rumored in the Kenwood / Montgomery Corridor. As many as 8 or 10 major developments are planned or rumored for the area, each one of which has the potential to generate as much new traffic as Capital's project. Together, they could cause a major traffic bottleneck for the entire corridor. It would be a colossal mistake to make any land use decision without considering the resulting traffic problems in the context of the entire Kenwood / Montgomery Corridor.

Lastly, the Capital proposal is contrary to the Land Use Plan ¹² which has as a policy:

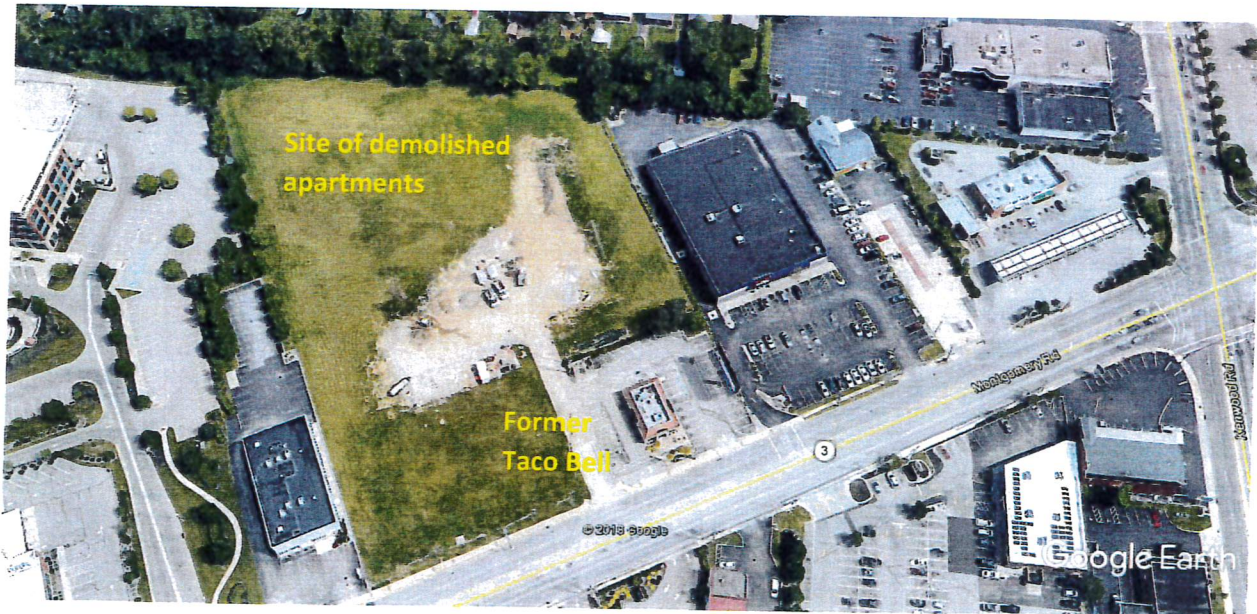
¹² See page 2-14 of the Land Use Plan

3. Prevent the development of densities and land uses that cannot be reasonably served by the existing street system unless provisions are made to improve the system to a level of adequacy.

There should be little doubt that the proposed land use at the proposed density cannot be handled by the current road system and maybe not even if Kenwood Road is widened to nine (9) lanes.

VI. The Threat to the Diversity of Housing Types

The demolition of the 20 or so small apartment buildings that currently occupy the Capital site poses a serious threat to the continuation of diversity of housing types in Sycamore Township, a policy clearly articulated in the Land Use Plan for South Sycamore Township (2008) at page 2-16. The existing apartment buildings provide safe, clean, affordable housing, an increasingly scarce commodity in Sycamore Township given the recent demolition by the township of modest housing behind the former Taco Bell site on Montgomery Road.



Sycamore Township acquired and demolished the affordable housing that was located behind the Taco Bell site which it also acquired. This site, most of which is owned and/or controlled by Sycamore Township, may be the next mega-project.

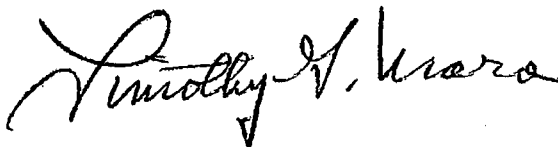
The apartments that will be razed to make way for the Capital project rent in the range of \$700 to \$800, whereas the apartments proposed by Capital will rent for \$1200 and up. Many of the residents who will be displaced will be unable to pay the additional \$500 or more per month. Many work at relatively low-paying retail or service jobs and are important to the continued economic vitality of the Kenwood / Montgomery Corridor.

VII. Conclusions and Recommendations

Given the facts outlined above and the questions still on the minds of nearby residents (see the Addendum to this report), it is difficult to see how the Capital proposal satisfies the criteria for evaluation found in the Zoning Resolution. The likely effects of approving this application are so consequential that it would be irresponsible to give this project the township's approval without more information about those negative consequences and a plan for their mitigation.

A denial would be the most prudent course of action, but an alternative worthy of consideration would be a moratorium of perhaps 12 months for the purpose of developing an updated plan for the Kenwood / Montgomery Corridor against which this proposal and other anticipated projects can be evaluated.

Respectfully submitted,



Timothy G. Mara

Addendum - A Random Collection of Questions and Comments by Residents of Sycamore Township

1. Why would the Deer Park School District insert themselves in Township affairs?
2. Isn't the reported \$1.2 million payment by Capital to the Deer Park School District basically a "Pay to Play? The understanding is that the District will get the money only if the Capital development is approved. Does the density get greater as the size of the check increases?
3. Would approval of such a high-density development put the Township in the position of having to approve other dense projects? A dangerous precedent.
4. If the development is in the School District, will they have to pay their full share of property taxes in the future? Or will they get a rebate based on the upfront payment?
5. I don't understand the details of the \$1.2 million sweetener payment. The Trustees should carefully explain the process.
6. We fully support the School efforts for air conditioning, however, it seems that it is on our backs.
7. Let's encourage the District to have a fund raiser. Indian Hill and Madeira is doing that.
8. Cut through traffic in our neighborhood is a mess now. Emergency vehicles often are seen on Orchard, Styra, Frolic, etc. when Kenwood is backed up.
9. The density of the Capital project is ridiculous. Not even Over the Rhine has such density. Almost all buildings in OTR are below 5 stories.
10. The apartments and parking for Mercy are fine. Cut out the Hotel, restaurants, and decrease the size of the office
11. I'm no traffic engineer, but the estimates of new traffic look way out of scale. Someone said there will only be 800 new trips, and most of those are already on Kenwood? Something is fishy here. Kenwood and Montgomery are regularly backed up at all times of the day.
12. Not opposed to development here. Just cut back the density and make it apartments.
13. The number of cars will be enormous. Just think about 258 apartments. In and out. Delivery vehicles, service people, etc. At least 400 trips per day.
14. The hotel and three or four restaurants serving lunch and dinner, mini-conventions, and retail activity will probably produce 1500 – 2000 cars a day. Add in all the jobs in the Office building, and we could generate over 5,000 trips.
15. I am in favor of the Jewish shared parking, good idea to get away from the Towne Center parking. But, it will just again concentrate parking on this site. Another 350 cars available per shift. Three shifts at the Hospital? Overlapping shifts will result in more than 350 cars in and out.

16. Capital says that lots of people will walk to/from the apartments to their job at the office building and to the restaurants. Also, people employed in the Office building will walk to lunch and dinner. I don't think so.
17. It seems the developer has made a bad business decision and now we, the taxpayer, have to bail him out. Apparently, he already has purchased the existing apartments for top dollar prices. Not very typical to buy first, work backward, and then ask for zoning approval later at inflated densities. Nice deal if you can get it.
18. If Capital gets the high density, obviously other developers will go for high and higher densities on other projects. Not good.
19. The high cost of buying the land is driving the density. I never saw such a mixed-use development that is putting 20 lbs in a 5 lb bag. Literally, the elephant in the room is named "Density".
20. The Mercy shared parking is a good idea. Why not downsize the project and work out a deal with the Hospital? They are going to expand anyway.
21. Lots of potential new development in the Kenwood area extending from SVF at I-71 northward to Galbraith. How will all that work?
22. I can accept re-development of the site. It must be lower density with apartments and a small office and, maybe, retail. Doesn't the 2008 Land Use Plan call for low density mixed-use?
23. Landscaping and buffer areas are, at best, minimal. Is it true that Capital wants to plant trees on our property instead of creating a buffer on the project land?