

January 9, 2023

Mr. Roger Friedmann – Chairman
Mr. Rich Barrick – Vice-Chairman
Ms. Anne Flanagan – Member
Mr. Bill Mees – Member
Mr. Steve Roos – Member
Bill Swanson - Alternate

Item 1. – Meeting called to Order

Mr. Friedmann called the regular meeting of the Zoning Commission to order at 6:00 p.m. on Monday, January 9, 2023.

Item 2. – Roll Call of the Board

Mr. Mees called the roll.

Members Present: Mr. Friedmann, Mr. Barrick, Mr. Mees, Mr. Roos, and Mr. Swanson

Members Absent: Ms. Flanagan

Staff Present: Skylor Miller, Jeff Uckotter, and Kevin Clark

Item 3. – Approval of November 14, 2022 Minutes

Mr. Friedmann tabled the approval on the November 14, 2022 meeting minutes until the next meeting pending some corrections being made.

Mr. Miller introduced Jeff Uckotter who had been hired by the Township to replace him as Planning & Zoning Administrator and will be taking over for him beginning with the February Zoning Commission meeting.

Item 4. – Old Business

Case: 2022-17MA

Applicant: Landmark Recovery of Louisville, LLC

Location: 4650 E. Galbraith Road

Request: Major Adjustment to a PUD

Reading the staff report word for word, Mr. Miller first presented the case and case history for Zoning Case 2022-17MA. He said the applicant, Landmark Recovery LLC requests a Major Adjustment to a PUD for the property located at 4650 E. Galbraith Road. Mr. Miller went on to describe the surrounding zoning districts and the site in question. He noted the applicant's request is to convert the existing 119-bed nursing home into a 132-bed inpatient substance use disorder treatment facility. Mr. Miller discussed the case history of the site. He noted Landmark's original request in Case 2022-11MA was for an inpatient/outpatient 160-bed substance use disorder treatment facility, which was modified to a 160-bed inpatient-only facility and was denied by the Zoning Commission and the Board of Trustees.

Mr. Miller reviewed the current application and submittal stating the applicant argues that the facility should be considered hospital use for zoning review. Mr. Miller argued the use is most accurately categorized as a halfway house which is not permitted in the “DD” – Planned Multi-Residence District. He stated neither the Zoning Commission nor the Board of Trustees has the authority to grant approval of the applicant’s application per Chapter 19 of the Zoning Resolution. Mr. Miller concluded that based on the provisions of the Sycamore Township Zoning Resolution, staff respectfully advises denial of the application.

Mr. Friedmann invited the applicant to speak.

Ms. Jill Tangeman, Esq., outside legal counsel for Landmark Recovery with Vorys, Sater, Seymour and Pease LLP, and Ms. Michelle Lubbert, Esq., Director of Sourcing and Zoning for Landmark Recovery, addressed the Board using a PowerPoint presentation.

Ms. Tangeman said they first wanted to address Mr. Miller’s conclusion that the use should be classified as a halfway house. She stated that is a misclassification and said they will review the Zoning Resolution definitions of a hospital and halfway house and compare those with the definitions in the Ohio Revised Code and the Ohio Administrative Code. She said the two key points are a halfway house does not include inpatient or temporary housing and it does not include medical care. She went on to provide arguments for this point noting a halfway house is more permanent housing whose residents most likely sign a lease, and Landmark is a temporary treatment center where patients are admitted and have 24-hour medical staff on site. Ms. Tangeman stated the zoning regulations may not conflict with the Fair Housing Act or Americans with Disabilities Act.

Ms. Lubbert addressed the Board briefly discussing Landmark Recovery’s operations. She said Landmark currently has 14 facilities in operation and more opening. She discussed the parking plan and the services provided at the facility which include medical detox. She reviewed Landmark’s policy for admissions and visitors as well as the facility’s security. Ms. Lubbert also discussed the need for Landmark’s services in Ohio and Hamilton County. She discussed Landmark’s community objectives.

The Board asked questions of the applicant.

Mr. Friedmann asked if there was anyone present among the public who would like to comment on the case.

Ms. Susan Weeks, retired nursing professor and neighboring property owner of 7970 Merrymaker Lane, Cincinnati, OH 45236, addressed the Board. She stated she lives one block down and across the street from the site. She described her nursing career experience. Ms. Weeks said her two major concerns are about good patient care and security for the neighborhood. She read a letter from another neighboring resident, Carol Martini, of 8098 Merrymaker Lane, who was unable to attend the hearing and had concerns about the impacts an approval of Landmark’s request would have on the neighborhood. Ms. Weeks noted there is a nursing shortage.

Mr. Miller pointed out that while members of the public may make any comments they wish, the Zoning Commission must base any decisions made strictly on zoning matters.

Mr. Friedmann asked if any other members of the public would like to comment on the case. No response.

The Board asked questions of Mr. Miller regarding the definitions and use classification.

Mr. Miller directed the board to focus on the Sycamore Township Zoning Resolution definition of “Halfway House.” Mr. Miller gave the reasoning for staff’s determination that the halfway house use is not permissible for the underlying zoning district.

Mr. Friedmann asked questions of the applicant about the length of stay of those served by Landmark and the rehabilitation services provided.

Mr. Friedmann entertained a motion.

Mr. Mees made a motion, seconded by Mr. Barrick, to consider Case 2022-17MA.

The Board discussed the issue brought before them. Mr. Friedmann concluded it is not the Board’s job to render a legal decision. He said staff has advised the Board to decide on the use under the definition of a halfway house.

Mr. Mees asked for a roll call vote:

Ms. Flanagan – Absent

Mr. Roos - No

Mr. Swanson - Aye

Mr. Friedmann - No

Mr. Barrick - No

Mr. Mees - No

Mr. Friedmann stated the case was recommended for denial and will be heard by the Board of Trustees.

Mr. Miller stated the case will be heard in February by the Board of Trustees.

Item 5. – New Business

Case: 2022-18Z

Applicant: Capital Investment Development Group, LLC

Location: 11604 & 11680 Grooms Rd., 6529, 6711 & 6963 E. Kemper Rd.

Request: Zone Change and PUD2

Mr. Uckotter presented the case and case history for Zoning Case 2022-18Z. He stated the applicant is Capital Investment Development Group, LLC, and listed the parcels involved in the request. He said the current zoning is “F” Light Industrial and the applicant requests a zone change to “DD” Planned Multi-Family Residential S-PUD. He reviewed the surrounding zoning districts and described the property in question. Mr. Uckotter stated the applicant is proposing a well-landscaped high-density residential use containing nine detached multi-family housing

facilities with associated parking and amenities and six signs. He reviewed the building materials proposed. He noted the location is adjacent to both the Cities of Blue Ash and Sharonville and a possible negative consequence of not considering the potential rezoning could be annexation by one of those municipalities.

Mr. Uckotter discussed his review of the frontage and yard requirements for the site, parking, dumpster, photometric plan, signs, and landscape plan. He pointed out the applicant must provide details for a masonry and gated dumpster enclosure and a revised photometric plan compliant with the .05-foot candle standard at all property lines. He stated the Township is awaiting some outside agency comments and noted MSD reports that sewer capacity is not available. He said the applicant must resolve that with MSD.

Mr. Uckotter stated staff recommends the approval of the request subject to the following conditions:

1. A unit roster for this development (roster of unit sizes) shall be provided so the required analysis to determine sufficient parking counts can be performed.
2. Typical parking space size shall be 9'x19', consistent with Chapter 12 of the Sycamore Township Zoning Resolution.
3. Curb stop locations and placement, or curb location and detail shall be provided, consistent with Chapter 12 of the Sycamore Township Zoning Resolution.
4. Staff would like to work with the applicant to address and amend several elements (species selection and/or site arrangement) of the landscape plan prior to the Board of Trustees meeting.
5. All sign elevations shall be provided prior to the Board of Trustee's meeting. At the southern ingress and egress point, a double monument sign is shown, please provide detail on this element.
6. A detail of the masonry + gated dumpster enclosure shall be provided.
7. Applicant shall provide a lighting plan meeting the .05-foot candle standard at all property lines.

The Board asked questions of staff.

Mr. Friedmann invited the applicant to speak.

Mr. Christian Dial, Vice President of Development with CIG Communities, representing the applicant, addressed the Board. Mr. Dial introduced his associate Danny McKelvey and legal counsel Barrett Tullis who were also present for the applicant. He stated their plan does not follow zoning exactly to allow flexibility to plan the best development for the site. Mr. Dial said a unit roster will be provided to accompany the parking plan. There was a discussion about the length of the parking stalls. Mr. Dial addressed some of the other issues noted in the staff report and reported they are working with MSD on sewer capacity.

Mr. Uckotter stated he omitted a condition for the incorporation of more of 12'' vertical elements to the exterior stating that should be added to staff's list of recommended conditions.

The Board and Mr. Uckotter asked questions of the applicant. There was some discussion of comparisons between the proposed development and CIG's Aspire Kenwood development. A pedestrian connection between phase 1 and phase 2 of the development was also discussed.

Mr. Friedmann asked if there was anyone present among the public who would like to comment on the case. No response.

Mr. Friedmann entertained a motion.

Staff noted the addition of several conditions to go along with the eight conditions listed in the staff report:

- The building materials must show the incorporation of more of 12'' vertical elements to the exterior
- The applicant submits a revised plan to show a dumpster enclosure on the north side.
- The applicant submits a development plan to show the phasing
- The addition of a walkability component to connect the north and south side of the development

Mr. Roos made a motion, seconded by Mr. Barrick, to consider Case 2022-18Z with the 11 conditions recommended by staff.

The Board discussed the issue brought before them. Mr. Friedmann stated he had concerns about the density of the project and expressed concerns about MSD's response with regard to the sewer capacity.

Mr. Uckotter stated the Zoning Commission should consider zoning requirements.

Mr. Friedmann disagreed, saying the sewage from MSD is part of the Board's job.

Mr. Uckotter reiterated concerns about annexation and stated there is a need for housing in this area.

Mr. Miller said the density limitation Mr. Friedmann referenced has to do with PUD2s as far as maximums and noted the Zoning Resolution states the Trustees have the authority to grant excess density in the SPUD districts. He stated Zoning Commission may advise the Board of Trustees as to its opinion on the density, but the Trustees will have to decide. Mr. Miller said it will be the responsibility of the applicant to manage the local sewer capacity issue. He said a condition that the applicant meets the stipulations of MSD would be appropriate if the Board chooses.

There was discussion about the density of the Aspire Kenwood development as a comparable development.

Mr. Miller noted the Land Use Plan update began prior to the pandemic and was finished shortly afterward before we saw the impact on the post-pandemic office market. He stated now that reality has set in, a more flexible, mixed-use development is viewed as much more marketable.

There was additional discussion about the MSD issue. Mr. Miller stated he does not think it is insurmountable or that it should impede the initial zoning approval.

Mr. Mees asked for a roll call vote:

Ms. Flanagan – Absent

Mr. Roos - Aye

Mr. Swanson - Aye

Mr. Friedmann - No

Mr. Barrick - Aye

Mr. Mees - Aye

Mr. Friedmann stated the case was recommended for approval and will be heard by the Board of Trustees.

Mr. Miller stated the case will be heard in February by the Board of Trustees.

Item 6. – Township Report

Mr. Miller stated there is no report from the Trustees. He then welcomed Mr. Uckotter and said it has been a true privilege to work with the Zoning Commission noting Sycamore Township has amazing zoning boards. He said the professionalism and expertise of Sycamore Township's Board of Zoning Appeals and Zoning Commission are unmatched. Mr. Miller informed the Board he had accepted the Delhi Township Administrator position.

Item 7. – Date of Next Meeting

Monday, February 13, 2023, at 6:00 p.m.

The Board then organized for the year 2023 retaining their current roles.

Item 8. – Adjournment

The meeting was adjourned at 7:46 p.m.

Minutes recorded by: Beth Gunderson