

**A RESOLUTION APPROVING A MAJOR ADJUSTMENT WITH CONDITIONS TO
THE SITE PLAN FOR AN APPROVED PLANNED UNIT DEVELOPMENT FOR
THE SHOPPES OF KENWOOD, 7700-7724 MONTGOMERY ROAD
AND DISPENSING WITH THE SECOND READING**

WHEREAS, an application was made by KMK Law (the "Applicant") on behalf of RCG-Cincinnati, LLC of Atlanta, GA 30305, the owners, for a major adjustment to the planned unit development (original case 2000-01Z) for the proposal of earlier customer operation hours of 5:30 a.m., and other matters; and

WHEREAS, the real property in Case No. 2023-06MA consists of the real property located at 7700-7724 Montgomery Road in Sycamore Township and is designated as Hamilton County Auditor's Parcel Numbers 060002110038, 060002110039, 060002110040, 060002110543, 060002110554, 060002110558, 060002110559, 060002110638, the "Real Property"; and

WHEREAS, the Real Property is located in the "EE"-Retail District; and

WHEREAS, on August 14, 2023, after proper notice having been given, in a public hearing and an open meeting, the Sycamore Township Zoning Commission held a public hearing to consider the application for a major adjustment for the subject properties in case No. 2023-06MA. The Sycamore Township Zoning Commission recommended approval of the Application with conditions and communicated its recommendation to the Board of Township Trustees; and

WHEREAS, on September 19, 2023, after proper notice having been given, the Board of Township Trustees of Sycamore Township held a public hearing to consider the application for the major adjustment to the planned unit development in Case Number 2023-06MA; and

WHEREAS, the applicant and members of the public, after being duly sworn, gave extensive testimony regarding the application for the major adjustment to the planned unit development;

NOW THEREFORE, BE IT RESOLVED, by the Board of Township Trustees of Sycamore Township, State of Ohio:

SECTION 1.

The recommendation of the Zoning Commission is modified as set forth hereinafter. The Application of KMK Law on behalf of RCG-Cincinnati, LLC, the owners, is hereby approved as modified in the conditions of Exhibit A. This approval is subject to the Real Property being in compliance with all of the conditions contained within this Resolution and those conditions set forth in Exhibit A attached hereto and incorporated herein.

SECTION 2.

All other approvals, conditions, obligations, and requirements contained in previous approval of the development as amended in prior resolutions of the Board of Township Trustees and not adjusted herein shall remain in full force and effect.

SECTION 3.

Any use and improvements made to the Real Property, which is the subject of this Resolution, shall be constructed in compliance with the plans, specifications, and renderings submitted to the Board of Township Trustees of Sycamore Township at the public hearing on September 19, 2023, and approved by this Resolution, including any conditions contained on the Exhibit A attached hereto, and any previous resolutions in effect that affect the Real Property that are not amended herein.

SECTION 4.

No Zoning Certificate shall be issued by the Zoning Administrator until:

- A) a Zoning Compliance Plan in compliance with this Resolution has been received and approved by the Zoning Administrator;
- B) all documents submitted for zoning certificates are fully coordinated and consistent with the approved Zoning Compliance Plan;

No building permit for actual construction shall be issued by the Hamilton County Building Commissioner before a Zoning Certificate is received from the Zoning Administrator.

SECTION 5.

No Final Zoning Certificate shall be issued by the Zoning Administrator until the development complies with all requirements contained in this Resolution and the Zoning Compliance Plan and, unless waived by the Zoning Administrator, the following documents are received and approved by the Zoning Administrator:

- A) a summary report from Hamilton County Engineer certifying that the approved plans and specifications for roadway and access improvements, either on-site or off-site, have been completely implemented and that any required rights-of-way have been dedicated;
- B) a summary report from the developer's registered engineer or surveyor as required by and addressed to the Hamilton County Director of Public Works Department certifying that the approved plans and specifications for storm drainage improvements have been completely implemented; the Director of Public Works shall inform the Zoning Administrator when such letter is received and approved;
- C) a summary report from the Metropolitan Sewer District or Hamilton County Board of Health certifying that the approved plans and specifications for sanitary sewer and waste water treatment have been completely implemented;
- D) a summary report from the registered landscape architect who prepared the plan, certifying completion of the landscape plan, and soil erosion and sedimentation control measures as specified on the approved plan and noting any deviations and the reasons for such deviations;

- E) a summary report from the Sycamore Township Fire Chief certifying that the approved plan and specifications for fire prevention and control have been completely implemented, and
- F) a summary report from the applicant's registered engineer, surveyor or attorney certifying that required easements for access, utilities, or other purposes have been recorded in the Office of the Hamilton County Recorder.

SECTION 6.

All aspects of the development of the Real Property including, but not limited to, drainage, property improvements, lighting, landscaping, and ground cover, as set forth in the plans, specifications, covenants, conditions, requirements, and limitations of the Zoning Compliance Plan and contained in this Resolution shall be continually maintained by the owner of the property. Any failure to so maintain the development shall be considered a violation of the Sycamore Township Zoning Resolution and shall be subject to all penalties and remedies thereunder.

SECTION 7.

The Decision of the Board of Trustees modifying the recommendations of the Zoning Commission is based upon the Staff Report presented at the hearing, the testimony of the applicant, and the testimony of the public.

SECTION 8.

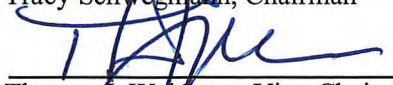
The Trustees of Sycamore Township, upon at least a majority vote, do hereby dispense with any requirement that this resolution be read on two separate days, and hereby authorize the adoption of this resolution upon its first reading.

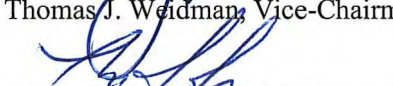
VOTE RECORD:

Ms. Schwegmann AYE Mr. Weidman AYE Mr. James AYE

passed at the meeting of the Board of Trustees this 3 Day of October 2023.

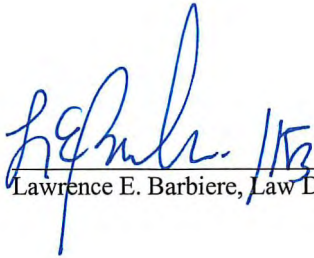

Tracy Schwegmann, Chairman


Thomas J. Weidman, Vice-Chairman

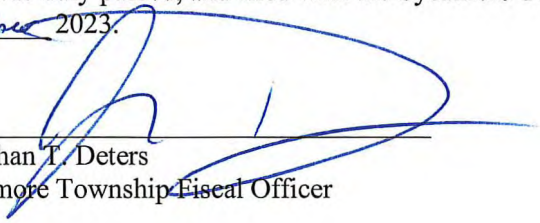

Thomas C. James Jr., Trustee

AUTHENTICATION

This is to certify that this Resolution was duly passed, and filed with the Sycamore Township Fiscal Officer, on this 3 Day of October 2023.



Lawrence E. Barbieri, Law Director

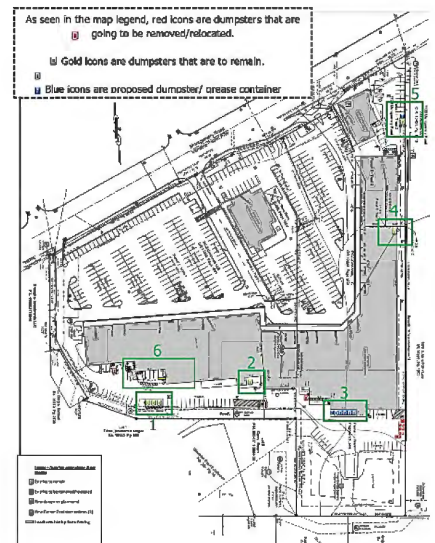


Jonathan T. Deters
Sycamore Township Fiscal Officer

EXHIBIT A

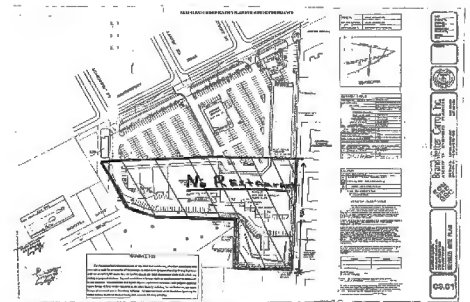
1. All of the conditions of Case 2000-10MA, 2009-10MA, and 2014-10MA shall remain in full force and effect unless specifically modified as follows.
2. All conditions of Case 2000-01Z shall remain in full force and effect unless specifically modified as follows.
3. (Amending Condition 4 from Case 2000-01Z) No dumpsters are permitted in the drive aisle of the east access lane, and all dumpsters shall be setback a minimum of 30 feet from residential property lines. All dumpsters, cardboard/ recycling dumpsters, and grease storage containers require masonry dumpster enclosures in accordance with Chapter 10-5 of the Sycamore Township Zoning Resolution (regulating commercial dumpsters), with the following exceptions:

- A) The dumpster in the notch of the building by the east access lane (in Box 4 as cited in the Board of Trustees staff report) shall remain, without a masonry enclosure.
- B) In conformance with Section 10-5 of the Sycamore Township Zoning Resolution, the GFS/ Dollar General cardboard enclosure is required to be masonry and shall completely screen all cardboard (in Box 6 as cited in the Board of Trustees staff report).
- C) The original/existing rear brick/block dumpster enclosure along the rear property line (in Box 1 as cited in the Board of Trustees staff report) shall remain.



4. (Amending Condition 5 from Case 2000-01Z) All parcels shall be consolidated into two (2) RCG parcels, less the 5/3 parcel (as that is not under common ownership). The consolidation into three (3) separate parcels must occur prior to the approval of the Zoning Compliance Plan.

5. (Amending Condition 10 from Case 2000-01Z) No restaurant accessory uses, such as grease storage container(s), shall be located in this area. The area being the "No Restaurant" zone as shown on the zoning compliance plan for case 2000-10MA: *The Restaurant/Bar/Delicatessen/Bakery or any other food service use, other than prepackaged food items sold at retail for consumption off the premises, as stated in the Sycamore Township Zoning Resolution, shall not exceed 13,500 square feet, net leasable area, in the entire development, which shall include any existing or proposed structures. Any such use shall not be located within the area designed "No Restaurant" on this rendering. This amendment shall replace all prior requirements, restrictions, and conditions regarding square footage of food service operations on the entire property, including, but not limited to, any square footage of restaurant uses in the existing buildings. All other provisions of the Resolution approving the zoning on these parcels not amended hereby shall remain in full force and effect. "November 2, 2001"*



6. (Condition 11) Repeal of Condition 11 from Case 2000-01Z. See revised Condition 10.
7. (Amending Condition 12 from Case 2000-01Z) The property shall provide evidence of the installation of a sufficient odor mitigation system for all restaurants. This system shall be maintained. The property owner shall provide documentation of the system prior to approval of the Zoning Compliance Plan.
8. (Amending Condition 13 from Case 2000-01Z) The two (2) businesses in question (Homegrown Strength & Conditioning and 6 'N The Mornin') shall be allowed to operate between the hours of 6:00 a.m.-1 a.m. The remaining businesses shall continue to operate between 7 a.m. and 1 a.m. The only exception being the out-parcel financial institution Automated Teller Machine(s) shall maintain 24 HR. a day service or operate during the hours of 1 a.m. to 6:00 a.m. In the event that a new tenant wishes to operate outside of the 7 a.m.-1 a.m. hours, a new major adjustment case must be applied for.
9. (Amending Condition 15 from Case 2000-01Z) There shall be no music, public address system, or other exterior noise source audible from the exterior of the building at any time. No business with building elevations that face residential properties shall maintain open doors except when only accepting deliveries.
10. (Amending Condition 23 from Case 2000-01Z) Prior to approval of the Zoning Compliance Plan, a landscape plan shall be reviewed and approved by staff that shows existing conditions (e.g., existing plant locations), and the location of new plantings as specified in this case. The revised landscaping shall be installed by November 30, 2023, and shall be maintained in healthy condition. If, in the future, plantings are in unhealthy condition or dead, plantings shall be replaced as specified in the revised landscape plan.
11. (New Condition 33) A revised site plan showing the location of dumpsters and other site features, such as refreshed landscaping, shall be consistent with this case. The plan shall be finalized prior to the approval of the Zoning Compliance Plan, consistent with Amended Conditions 4, 5, and 10 and applicable regulations specified by the Sycamore Township Zoning Resolution.

12. (New Condition 34) All customer entrances and parking locations be maintained on the Montgomery Road side/parking of the building. No customers shall enter from the rear of the building (see rendering, right). If a



tenant space is rented out in front of another tenant space, effectively blocking the entrance of a tenant space further back in the building, for the tenant space situated further back in the building, it shall be required that a customer-access hallway be built to access the Montgomery Road side of the building. Any hallway construction shall be compliant with all applicable fire, building, and zoning regulations.

13. (New Condition 35) No space outside of the development's building(s) shall be used for business purposes other than normal vehicular movements (e.g., parking, ingress, and egress). For example: A use such as a gym (or the like) or a grocery store shall not move operations outside of the building (e.g., no outdoor farmer's market or no outside exercising activities).
14. (New Condition 36) All rear parking, at the rear of the building, (in the area of the "No Customer Entry Zone as specified in New Condition 34) shall only be used for employee parking. So as not to disturb nearby residential zoned property, no rear employee parking shall occur from 11 p.m. to 7 a.m. High-reflectivity signs shall be erected at equal intervals, noting no parking between 11 p.m. to 7 a.m. Staff shall review the no parking sign plan, prior to approval of the Zoning Compliance Plan.
15. (New Condition 37) No commercial business shall maintain outdoor storage of materials. All waste and materials (such as cardboard) shall be in masonry-screen dumpsters located in designated areas as conditioned by New Condition 33 and other applicable conditions.
16. (New Condition 38) A lock (located on the inside of the garage door) shall be required on the rear garage door for any occupant. The garage door shall be locked at all times. The lock shall be controlled by the tenant.

