

**CHESTERTON ADVISORY PLAN COMMISSION**  
**OCTOBER 18, 2018**  
**6:30 P.M.**

The meeting was called to order at 6:30 P.M. Present were members J. Trout, T. Kopko, S. Darnell, N. Cobbs, J. Kowalski and president G. Stone. Attorney C. Parkinson was present as legal advisor. Town Engineer M. O'Dell in attendance. Member F. Owens was absent. The pledge of allegiance was recited.

**APPROVAL OF MINUTES**

Member T. Kopko moved to approve the minutes from September 20, 2018 seconded by member J. Trout and passed by unanimous voice vote.

**COMMENTS FROM THE PUBLIC**

Member J. Trout suggested hearing the business marked on the agenda under old business. The board agreed.

**William and Marcie Stone, BMS Property MGMT., Requesting a reduction in a Sidewalk Bond for Stone Meadows Subdivision.** Mr. Stone was present to request a reduction in sidewalk bond for the Stone Meadows Subdivision.

Town Engineer M. O'Dell told the board the necessary paperwork was completed and Mr. Stone would like to extend the bond for a 4-year period. There are five lots left to build on. The extension would be until May 19, 2023, subject to the attorney's approval, a check in the amount of \$11,013.75 would be held by the town for the remaining work.

Member T. Kopko moved to extend the bond until May 19, 2023 in the amount of \$11,013.75 seconded by member J. Trout and passed by unanimous voice vote.

**PRELIMINARY HEARINGS**

**Lake Erie Land Company, Primary Plat, 5<sup>th</sup> Addition to Coffee Creek Center Phase "B" Lot 7 & 8.** Todd Bauer was present as representation for the Amerilodge Group project. Back in June of 2018 Amerilodge presented a concept plan proposing two hotels, since that meeting they have been working out the details of the project with M. O'Dell and staff. He gestured to a site plan depicting the two Lots 7 & 8, within the 1<sup>st</sup>. Addition of Coffee Creek Center Phase B. The property is located on the west side of Village Point bordered on the south by Blackwell Lane and to the far west by Matson Street. There is currently water and sewer in the Matson and Blackwell area they are looking to extend some services and utilities. Some of the current detention services would be extended onto this site. There would also be some onsite detention/swale areas.

President G. Stone questioned why the developer is facing the main entry towards Matson St. and not Village Point.

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Mr. Bauer said the parking would be located on the Matson Street side. It's a logical direction to bring occupants in from that access.

President G. Stone suggested flip flopping the project. He commented that when other things start to build up Amerilodge won't have meadow sightlines from the building to SR49.

Mr. Bauer said his clients worked that out with Lake Erie Land Development. There would be a one-story restriction on the land between Matson Street and SR49 in that location so there would still be visibility from the highway.

Member T. Kopko commented that there would be stormwater detention ponds and garbage containers on what is likely the main road going through the development.

Mr. Bauer said there would not be garbage containers. There would be a swimming pool area and the detention area which is primarily a large swale with natural vegetative plants.

Member J. Kowalski moved to set this item for public hearing at the November 15, 2018 meeting seconded by member S. Darnell and passed by unanimous voice vote.

**CONCEPT REVIEW**

**John Nekus, JVJ Development, Duneland Prairie Residents** Attorney G. Babcock was present as legal representation for the petitioner. Mr. Nekus accompanied him. Attorney Babcock gestured to a concept drawing which would take into account the board's suggestion to have an ingress/egress off of Richter Street. The density would be reduced since the board was first introduced to the project. There would be 62 paired units and only 2 single units. The drainage board granted a reduction in the drainage easement. Furthermore, walking trails had been approved. There would be designated on street parking areas within the development. The petitioner was looking to be back in November with a Plan of Development.

It was clarified that the ingress/egress road would be east of Second Street.

M. O'Dell told the board that the police and fire department are in agreement with the proposed plan.

**PUBLIC HEARINGS**

**Larry D. Wright, As Trustee of The Larry D. Wright Family Trust Dated October 2, 2014 and Olthof Homes, L.L.C. requesting an Amendment to The Springdale Subdivision PUD Ordinance No. 2007-29.** Rules for conducting a public hearing were read aloud. Attorney C. Parkinson reminded the board that the public hearing was declared closed at the September

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meeting. The board would be considering the revised technical issues raised at the September meeting.

Attorney Greg Bouwer was present as legal representation for the petitioner. Mr. Larry Wright and Ed Recktenwall from Olthof Homes accompanied him. In addition, language was added to address fencing. A fence would be installed by the commercial property developers when construction begins on Lot 75. Signage language was also added. Both commercial and residential entrances on 1050 N. would be allowed one freestanding monument sign. He respectfully requested the board to forward a favorable recommendation to the town council.

Town Engineer M. O'Dell said he had worked with the developer to go back over the original outdated PUD Ordinance for Springdale. Items of concern were addressed and reworked into the PUD Ordinance presented this evening.

Member Kopko commented that he was not happy that the developer is seeking to reduce the area designated for commercial use.

Attorney Bouwer told the board that the area was destined to be a pond since inception. The wetland delineation was the reason the ponds are being expanded. The density of the residential area does not increase.

Member S. Darnell questioned if the DNR would not allow a road over the wetland area when the commercial buildout is contemplated then its still an issue that residential would not have that buffered area between businesses and industrial uses that work around the clock. She commented that she would want to see a really nice park if this becomes a stumbling block. The PUD was contemplated this way to provide a transition between the two uses.

Member S. Darnell moved to forward a favorable recommendation to the town council for this item seconded by member J. Trout and passed by a roll call vote of 5 to 1 with member T. Kopko voting no.

**Lake County Trust Company, as Trustee under a Trust Agreement**

**Dated 02/20/1998 and Known Trust No. 4965, Petition to Amend a Planned Unit**

**Development District Ordinance.** The secretary verified proof of publication notification and payment. The client is seeking to install a third freestanding sign on the parcel at the southwest corner of Indian Boundary Road and SR 49. Attorney Bouwer distributed site plan depicting where the proposed freestanding sign would be installed. He told the board his client owns these corner parcels which are comprised of Walgreens and a small strip center which currently houses McColly Realty a discount cigarette shop and a few other units/businesses. There are currently two freestanding signs which incorporate some of the seventeen sites/businesses but not all. The freestanding sign nearest SR49 is located on the Trust 4965 parcel while the second parcel that contains the other units has no freestanding sign. All the sign spaces are taken by the different

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businesses and are included in a declaration. The strip center as a separate parcel does not have space on either of the two existing freestanding signs. The declaration from 1998 anticipated the need for a third sign to be located in the area shown on the site plan. The businesses that exist in that strip center have requested additional signage to stay competitive in the marketplace.

The owners are looking to amend the PUD to appease the current tenants as well as attract other national tenants. This pylon sign exposure would help keep the spaces fully leased and provide stability which keeps property values up. The variance request would increase the current signage to 240 square feet or 120 square feet of display surface per side. They would also be requesting a variance that would increase the height of the sign to 25 feet. Attorney Bouwer told the board the perimeter wall that runs along SR49 and the rate of speed at which traffic travels necessitate this height increase. The proposed sign would be located 10 feet from the property line.

Attorney G. Bouwer distributed two reports one being from the United States Sign Council which outlined the rule of thumb for sign legibility and a second report which was from the University of Cincinnati offering information regarding the economic value of on-premise signage. He once again told the board that signs make a significant impact on business. This unique parcel of land necessitates this request for an additional freestanding sign.

Member S. Darnell asked if Attorney Bouwer was aware that the documentation, he distributed was from the years 2006 and 2012.

Attorney Bouwer said he was aware of the study dates and felt that in today's market it was much more imperative than the studies even indicate. All the commercial businesses surrounding this parcel will benefit from this sign by increased traffic.

There was no one present to speak in support of this petition.

Attorney G. Babcock was present as representation for Cosmos Hospitality. They are the owners of sites 7, 8, 15 and 16 at Indian Oak where the proposed Holiday Inn Express was to be built. He told the board he didn't believe the petitioner is the actual owner of the property where the sign is proposed. He distributed a map depicting Site 8 and its relation to the proposed sign which indicated the proposed sign would be 67.04 feet from the proposed sign. He expressed concern that there was no actual placement information concerning his clients sign therefore they would be unable to determine if the new sign was within 75 feet of the Cosmos Hospitality sign. He stated he would also like to see a condition included in the petition that the sign would only be used for the particular building units referenced in the presentation.

Attorney Bouwer said the map that was presented to the town shows the boundary of the Cosmos parcel in relation to the proposed sign. He believed it to be outside of the 75-foot ordinance requirement. He once again referenced the declaration which granted his clients the right to put the sign in this location. He believed that declaration adequately addresses the matter.

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Attorney C. Parkinson said that if board is going to act on what amounts a motion to dismiss the petition, you should make some kind of determination on Attorney Babcock's statement that you don't have the legal owner present. The question is, does the petitioner have legal title to the real estate. He's given a legal description from a deed which says that they own a parcel of land and its described as such together with all easements, rights other interests are pertinent to the above described property. Mr. Bouwer is saying the easement is what gives them legal title to the real-estate. The easement is a very specific easement that's a grant of a sign easement. It's a perpetual easement which gives them a right to construct, reconstruct, replace and operate and maintain certain signs subject to the cooperation of Parcel A which is now Aqua. He said this could be easily solved by Attorney Bouwer going and getting a POA from Aqua. He explained a title is a right to legal to ownership of property an easement is only an interest in property. It's called a non-possessory right. It's a specific right to use for this very purpose. He could get the POA just by telling Aqua that they have given them that concession and cooperation. The real question is the sign. The biggest concern is that the legal description included in the PUD Amendment did not include any property other than what Attorney Bouwer's client owns and what Aqua had given them the right to have a sign up. Aqua is the owner of the property the petitioner wants to install the sign on.

Member J. Kowalski asked why Cosmos would be allowed to install a sign for a building that isn't even there.

Attorney Parkinson said there was a rezoning that occurred in 2011 with Cosmos and as a part of that rezoning they were given the right to a sign. It would have been a much easier process had that development occurred and the sign constructed. That's what makes it difficult to determine whether this proposed sign would have an adverse impact on that sign. It needs to be determined whether the board moves forward on the petition or you require the petitioner to go get a POA.

Member J. Trout commented that the handout from the University of Cincinnati regarding on-premise signage would suggest that on premise signage can be an important factor for retail business success but in this case the placement of the sign only adds more confusion. Brand names listed on sign that has no entrance or anything near it is a stretch of the word on-premise sign. On-premise signage is meant to lead people to the building. This signage is nothing more than a billboard.

Member Kopko agreed with member Trout. Traffic traveling southbound on SR49 will not turn back to patronize those businesses located on that parcel.

Attorney Bouwer said lots of signs are not located right where the entrance to the business is located. He commented that his client will not make money off this sign he is simply trying to make sure that those units stay filled. The sign is meant to make an impression.

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Attorney C. Parkinson said his opinion is that Attorney Bouwer's client has the right to be here requesting the variance based on the declaration.

Member J. Trout suggested the petitioners come up with a better way to create on-premise signage without sticking a sign that far from Building B.

Member J. Trout moved to send an unfavorable recommendation to the town council seconded by member T. Kolko and passed by a unanimous vote of 6 to 0.

**OLD BUSINESS**

**William and Marcie Stone, BMS Property MGMT., Requesting a reduction in a Sidewalk Bond for Stone Meadows Subdivision.** This item was addressed earlier on in the meeting.

**NEW BUSINESS- None**

**MISCELLANEOUS BUSINESS**

Members to review Comprehensive Plan for November meeting.

**ADJOURNMENT**

There being no further business before the board member J. Trout moved adjournment seconded by member S. Darnell and passed by unanimous voice vote.

Respectfully submitted,

Gail A. Murawski, Secretary

Approved;

G. Stone, President