

**WEST CHESTER TOWNSHIP
ZONING COMMISSION
January 19, 2022**

MEMBERS PRESENT: Jim Hahn, Mark Murphy, Doug Rinnert,
Jim Williams, Richard Grow,

MEMBERS ABSENT: Larry Whited (alternate not seated)

STAFF PRESENT: Timothy Dawson, Township Planner
Jon Roach, FBT; Legal Representation

LOCATION: Township Hall

CALL TO ORDER: 6:00 p.m.

Mr. Hahn called the meeting to order. Mr. Dawson called the roll. A quorum was established.

Mr. Murphy made a motion to approve November 15, 2021 minutes, seconded by Mr. Grow. Mr. Dawson called the roll. Motion carried 5-0.

Mr. Hahn made a motion to approve denial of MC11-21 BC TID at Liberty Way, Phase III, Thornton's Fuel Station was officially withdrawn.

Mr. Dawson was sworn in. Mr. Dawson swore in case participants.

ZMA 10-21 Highlands Square Market

The applicant is Neyer Development. The applicant is requesting approval for a Zoning Map Amendment from C-PUD (Commercial Planned Unit Development) to SP-PUD (Special Purpose Planned Unit Development) and a Preliminary Development Plan for 209 single-family residential lots (townhomes) and 96 condominium units on 28.06 acres located along Cincinnati Dayton Road; Parcel #'s M5620128000005, 006, 007, 008, 009, M5610-024-000-121.

Mr. Dawson presented the staff report including a PowerPoint presentation, aerials, staff comments, and case history.

Action

The West Chester Township Zoning Commission is to recommend approval, approve with modifications, or deny the submitted Zoning Map Amendment and Preliminary Development Plan unless additional information is deemed necessary to make an informed decision.

No questions from the Board

Applicant **Jeff Chamot**
 Neyer Properties

Mr. Chamot gave a PP presentation of the proposed development and the project history.

Mr. Murphy asked what urbanist home meant.

Mr. Chamot stated the 'new urbanism' design refers to the connectivity of the product with the connectivity of the walkability and the amenities of the development.

Applicant **Jose Castrejon**
 MSP

Mr. Castrejon explained the term 'newer urbanism'.

Applicant **Michael Dinn**
 Market Foresight

Mr. Dinn serves development teams with market assessments. Mr. Dinn gave a presentation on his company and the market assessment for WCT.

Mr. Castrejon returned to the podium to complete the presentation.

Mr. Williams asked if they agreed with the conditions.

Mr. Castrejon stated they will work through on the couple of items they disagree with they feel they are things they can handle as they move forward.

Proponents **None**

Opponents **None**

Neutral **None**

Deliberations

Mr. Williams stated that the concept is feasible.

Mr. Rinnert was in agreement with Mr. Williams.

Mr. Grow was concerned that there are too many items that still need to be addressed.

Mr. Murphy stated the density is heavy and agreed there was still a lot to work out.

Mr. Hahn felt it was good project and that the Board needs to give the applicant an opportunity to come back and work out the details in the FDP.

Mr. Dawson stated that the information wasn't required at this stage of the application. The details will be need to worked out and finalized at the FDP stage if the Trustees approve it.

The Board had general discussion regarding the width of the streets.

Mr. Hahn made a motion to approve Case # - ZMA10-21 Highlands Market Square based on staff and other agencies comments and recommendations. Mr. Williams seconded the motion.

Aye: Mr. Hahn, Mr. Murphy, Mr. Grow, Mr. Rinnert, Mr. Williams

Nay:

Motion carried 5-0

FDP 01-22-A Crossings of Beckett, Outlot 9

The applicant is Beckett Partners I, LLC. The applicant is requesting approval for a Final Development Plan for a 7,450 sq. ft. multi-tenant medical office building on .99 acres located at 7925 Crossings of Beckett Drive; Parcel #'s M5620-474-000-027, M5620-474-000-063.

Mr. Dawson presented the staff report including a PowerPoint presentation, aerials, staff comments, and case history.

Action

The West Chester Township Zoning Commission is to recommend approval, approve with modifications, or deny the submitted Final Development Plan unless additional information is deemed necessary to make an informed decision.

No questions from the Board

Applicant **Tim Burgoyne**
 Silverman & Company

Mr. Burgoyne shared his concern regarding the consent decree. He stated the section regarding the access to the development needed more clarification. Other than the concern shared, applicant is in agreement with staff on all other items.

Mr. Hahn asked if he or anyone from his company reached out to WCT Staff to discuss this cross access easement before the ZC meeting. If so, what was there response?

Mr. Burgoyne stated that Hal Silverman (owner) spoke to Aaron Wiegand (WCT Director of Community Development). Mr. Wiegand spoke to Legal Counsel which stated that the ZC Board could make the determination/clarification.

Mr. Hahn asked legal counsel if what Mr. Burgoyne said was correct.

Mr. Roach (Legal Counsel) stated that he had not spoken with anyone about this cross easement access issue. He disagrees with the applicant on the wording. Mr. Roach stated he is in agreement with the Township's wording in the resolution.

Mr. Hahn asked if there is a discrepancy in the consent decree, is it the responsibility of the ZC Board or should it go in front of a Magistrate.

Mr. Roach stated that the decision today is based on this application.

Mr. Burgoyne read aloud the wording of the decree and stated how each party was interpreting the wording.

Mr. Hahn stated that he disagrees that the ZC Board should be making the final decision. It should be between the applicant and the Township staff.

Mr. Williams stated that this has happened historically. The applicant is asking for our recommendation to the Trustee's in deciphering this.

Proponents **None**

Opponents **None**

Neutral **None**

Deliberations

Mr. Williams stated he supports the proposed application if the applicant abides what staff has recommended in condition #'s 1B & 6.

Mr. Grow asked Mr. Roach if the Board had legal authority to make the decision about the cross access.

Mr. Roach stated the Board does not have legal authority to over-rule the consent decree, just authority over this request. The consent decree requires cross access between the outlots. This is a serious disagreement between the developer and the Township over this portion of the application.

Mr. Dawson asked Mr. Roach if there is a disagreement with the recommendation from staff and the developer as to the interpretation of the consent decree; is it an option for the developer/applicant to request a continuance for legal counsel to discuss the interpretation

with the attorneys who created the consent decree.

Mr. Roach stated it is an option.

Mr. Murphy stated he agreed with the presentation; it doesn't need to be connected however the consent decree states it does. Mr. Murphy asked for confirmation on what the Board is to be approving: the applicant doesn't want to do it; the consent decree states they have to do it so we are arbitrators of that decision.

Mr. Hahn stated that is correct.

Mr. Williams disagreed. He stated the Board is only to recommend or deny these conditions. The consent decree has to be dealt with but not through this Board.

Mr. Dawson commented that for clarification this is the judiciary board on FDP, so this rendering is approval not a recommendation. The Board is to make approval or denial based on consistencies on the consent decree.

Mr. Roach stated that the consent decree proposed certain conditions on the PDP and was to be held throughout the FDP. That condition is binding on how this moves forward. The decree states that the cross access through all outlots and to the property lines.

Mr. Dawson demonstrated on the PP slide and discussed the recommended staff conditions based on the staff's interpretation of the consent decree. Mr. Dawson recommended a continuance for the attorneys to speak.

Mr. Hahn asked the applicant to return to the podium.

Mr. Burgoyne asked for a continuance.

Mr. Grow made a motion to continue Case # - FDP 01-22-A Crossings of Beckett, Outlot 9 when both parties can come to an agreement. Mr. Williams seconded the motion.

Mr. Dawson stated staff will monitor the negotiations between the attorneys and update the staff report next month what the findings are and what staff recommend.

Aye: Mr. Hahn, Mr. Murphy, Mr. Grow, Mr. Rinnert, Mr. Williams

Nay:

Motion carried 5-0

Administrative Business:

The next ZC meeting is Monday, February 28, 2022 @ 6:00 p.m. This serves as Public Notice for this meeting.


Mr. Hahn adjourned the meeting at 7:32 p.m.

These Minutes do not purport to be the entire record. A complete transcription of these proceedings was taken under supervision of the Secretary from an audiotape and may be obtained upon written request. Any charges for preparing such transcripts shall be borne by the person requesting same and must be prepaid.

Chairman:


James Hahn

Secretary:


Timothy Dawson

**WEST CHESTER TOWNSHIP ZONING COMMISSION
BUTLER COUNTY, OHIO
RESOLUTION NO. 21-16
HIGHLANDS MARKET SQUARE
ZONING MAP AMENDMENT AND PRELIMINARY DEVELOPMENT PLAN -
ZMA 10-21 (C-PUD to SP-PUD)**

WHEREAS, on March 28, 1995, the West Chester Township Board of Trustees approved a Zoning Map Amendment from A-1 (Agricultural District) to C-PUD (Commercial Planned Unit Development District) and a Preliminary Development Plan (95-13 - Tom McGill/ Cin-Day Properties), which included the conversion of the existing residences along the Cincinnati-Dayton Road frontage to office and retail uses and the remaining open space tract, located east of the residences, designated for a future development of office/ retail uses on approximately 60.88 acres; and,

WHEREAS, on July 22, 1997, the West Chester Township Board of Trustees approved a Zoning Map Amendment from C-PUD (Commercial Planned Unit Development District) to I-PUD (Industrial Planned Unit Development District) within the original C-PUD District and a Preliminary Development Plan (27-97), which included a revised layout of the internal roadways and five (5) lots containing a total of 254,500 square feet of light industrial office/ warehouse uses on approximately 25 acres; and,

WHEREAS, on March 15, 2004, the West Chester Zoning Commission approved a Revised Preliminary Development Plan (04-13) for the original C-PUD District, which renamed the District from Cin-Day Properties to Highland Square and included a revised layout of the internal roadway and lot lines, consisting of four (4) outlots along the Cincinnati-Dayton Road frontage on approximately 35 acres; and,

WHEREAS, on June 20, 2005, the West Chester Zoning Commission approved a Revised Preliminary Development Plan (05-20) for Lots 5-9 within the original C-PUD District, which included three (3) outlots along the Cincinnati-Dayton Road frontage, an extension of the internal roadway, and one (1) internal lot east of the internal roadway, containing a total of 26,500 square feet of office and retail uses on approximately 4.71 acres; and,

WHEREAS, on December 5, 2006, the West Chester Township Board of Trustees approved a Zoning Map Amendment from I-PUD (Industrial Planned Unit Development District) to C-PUD (Commercial Planned Unit Development District) and a Major Change to the original C-PUD District for a combined Preliminary Development Plan (41-2006), consisting of a 179,800 square foot retail center located on the east portion of the site and three (3) internal lots along the east side of the internal road (Highland Pointe Drive), containing a total of 36,388 square feet of retail/ restaurant uses on approximately 32 acres; and,

WHEREAS, multiple Final Development Plans were approved by the Zoning Commission throughout the legislative and judicial case history. However, those Resolutions were not applicable to future reference, and;

WHEREAS, on October 18, 2021, Neyer Acquisitions submitted an application requesting a Zoning Map Amendment from C-PUD (Commercial Planned Unit Development District) to SP-PUD (Special Purpose Planned Unit Development District) and a Preliminary Development Plan for two-hundred and nine (209) single-family residential lots (townhomes) and ninety-six (96) (122) single-family units (condominiums) on 25.02 acres (12 units/ acre) and a central activity area, which includes a clubhouse and pool; and three (3) outlots on approximately 2.86 acres; totaling approximately 28.05 acres; and,

WHEREAS, on November 3, 2021, the West Chester Township Land Use Planning Committee conducted a public hearing for the aforesaid application and recommended approval for an amendment to the Comprehensive Land Use Plan's previous recommendation of a General Retail land use classification to the Community Mixed Use land use classification for the proposed site and surrounding parcels; and,

WHEREAS, on November 15, 2021, the West Chester Township Zoning Commission conducted a public hearing for the aforesaid application and passed a motion to continue the case upon the request of the applicant; and,

WHEREAS, on December 3, 2021, Neyer Acquisitions submitted a revision to the application requesting a Zoning Map Amendment from C-PUD (Commercial Planned Unit Development District) to SP-PUD (Special Purpose Planned Unit Development District) and a Preliminary Development Plan. The PDP was revised, to include two-hundred and twenty-four (224) single-family residential lots (townhouses) and sixty-three (63) single-family units (condominiums) on 25.02 acres (11.4 units/ acre) and a central activity area, which includes a clubhouse and pool; and three (3) outlots on approximately 2.86 acres; totaling approximately 28.05 acres; and,

WHEREAS, on December 20, 2021, the Butler County Planning Commission conducted a public hearing for the aforesaid application and recommended denial of the aforesaid application; and,

WHEREAS, on December 20, 2021, the applicant requested a continuance and due to a lack of a quorum, the public hearing was canceled; and,

WHEREAS, on January 19, 2022, the West Chester Township Zoning Commission conducted a public hearing for the aforesaid application.

NOW THEREFORE BE IT RESOLVED, that on the basis of the above actions and findings, the West Chester Township Zoning Commission does hereby recommend approval of the aforesaid application with the following conditions:

- 1.) The residential density shall be subject to the Final Development Plan approval.
- 2.) The commercial permitted uses shall only include the following principally permitted uses of the West Chester Township Zoning Resolution's (WCTZR) O-1, O-2, B-1 and B-2 Districts, Articles 18.021, 18.022, 18.023, 19.022, 19.026, 19.027, 19.028 (excluding hospitals) 21.022, 21.023, 21.024, 21.028, 21.032, 22.027 and 22.0210 (excluding night clubs).
 - *Professional offices, Banks, Daycare centers, Research facilities, Art galleries and studios, Veterinarian offices, Medical offices, Convenience businesses, Personal service businesses, Restaurants, Fast-casual restaurants, and Drive-thru restaurants.*
- 3.) The Conditional Use of the WCTZR, Article 21.032 shall only be permitted on the commercial outlots at the discretion of the Zoning Commission on a case by case basis at the FDP stage.
 - *Outdoor dining areas*
- 4.) A Traffic Impact Study (TIS) shall be approved prior to all subsequent FDP approvals. All recommendations of the approved TIS and requirements of the Butler County Engineer's Office (BCEO), in coordination with West Chester Township (WCT), shall be incorporated into each corresponding FDP to the extent said requirements are necessary as a result of traffic generated by the subject site.
- 5.) The applicant shall coordinate with the West Chester Township Fire Department (WCTFD) prior to submission of the FDP in regard to access ways and internal roadways; connections and locations of fire hydrants; fire lane signage; and all other applicable building and fire codes, to specifically include the following:
 - a) A minimum of a ten (10) inch public water main will need to be looped throughout the site;
 - b) All two-way streets will need to be a minimum of 26 feet in width;
 - c) the street names will need to be submitted for approval at the FDP or permitting stage;
 - d) The streets signs must be installed once construction begins; all streets must be posted "No Parking - Fire Lane" on both sides if less than 26 feet wide;
 - e) Fire hydrant locations will need to be illustrated and approved at the FDP stage;

- f) All roadways must meet safety service vehicle turning radius requirements; and
 - g) Building design will indicate requirement for sprinkler system.
- 6.) Detailed grading plans, including a geotechnical study of the soils, and stormwater drainage plans and calculations shall be provided at the FDP stage and shall meet all OEPA, BCSWCD, BCEO, and WCT requirements prior to the issuance of a zoning certificate.
 - 7.) All water and sanitary sewer main installation upgrades and sanitary lateral plans shall be coordinated with the Butler County Water and Sewer Department (BCWSD) and meet all requirements prior to the issuance of a zoning certificate.
 - 8.) All internal road circulation, road design, parking, vehicular cross-access connections, pedestrian connections and facilities, and central activity area shall be approved at the FDP stage.
 - 9.) All eleven (18) foot wide alleyways shall be posted as one-way streets.
 - 10.) Streetscape section drawings shall be provided at each FDP stage, which shall utilize key elements varying by street types, such as vehicular circulation, on-street parking, sidewalks, street trees, ornamental banner poles, lighting, outdoor dining areas, etc.
 - 11.) The parking ratios shall only be approved at the FDP stage. A parking matrix for each site shall be provide for each FDP, which meets the WCTZR parking requirements. The parking matrix shall designate how each site achieves the requirements by utilizing off-street, on-street, and/or off-site, shared parking spaces.
 - 12.) The amount of open space shall only be approved at the FDP stage. The percentage of open space for the overall PUD site shall be noted on the initial FDP and the percentage of open space shall be noted for each subsequent FDP site.
 - 13.) All pedestrian connections shall be approved at the FDP stage, as required by the WCT staff.
 - 14.) A ten (10) foot wide, public-use easement shall be illustrated along the extent of the eastern property line on the FDP and shall be recorded on the final plat, as required by Butler County.
 - 15.) All open space lots shall be designated as such on the record, subdivision plat.

- 16.) Building setbacks shall be approved at the FDP stage.
- 17.) Detailed building elevations, to include the clubhouse, shall be provided at the FDP stage, which shall reflect a minimum of 50% high-quality exterior building materials. As required by the West Chester Community Development Department (WCTCDD) staff, colored elevations for all sides of the buildings shall be provided and the specific exterior building materials shall clearly be labeled on the plan.
- 18.) Specific interior finish details and individual unit amenities shall be provided at the FDP stage. Such interior finish details and amenities may include, but shall not be limited to granite countertops throughout, tile bathrooms, crown molding, washer/dryer connections, high-speed internet, etc.
- 19.) Detailed floor plans and specific details regarding the unit sizes shall be provided at the FDP stage, which shall include size (measured in square feet) and floor plans.
- 20.) Detailed plans and descriptions of any common/ public, exterior amenities and elements shall be provided at each FDP stage.
- 21.) Outdoor seating area plans shall be provided at each FDP stage. A minimum of four (4) feet shall be maintained between the back of street curb and the seating area to ensure adequate pedestrian circulation.
- 22.) Any dumpster locations, dumpster enclosure, and/or compaction building locations and details shall be provided at each FDP stage. The enclosures shall be pursuant to the WCTZR, Articles 10.031 and 20.043. The enclosure(s) shall be consistent with the high-quality, masonry building materials of the principle building. Dumpster enclosures shall not be located along the public frontages and in a manner to reduce detrimental impacts to residents.
- 23.) All light locations, light fixture details, and photometric analysis shall be provided at each FDP stage to ensure a consistent design that minimizes glare and light spillover and meets the WCTZR, Article 10.28.
- 24.) A detailed landscaping plan shall be provided at the FDP stage, which consists of adequate landscape screening of any building perimeters; trash collection areas; throughout any open space areas/ recreational areas; streetscape details; and ground sign perimeter landscaping details.
- 25.) Any residential development identification sign shall be illustrated on the FDP with setback dimensions. All signage details in regard to height, area, illumination, colors, and materials shall be provided at the FDP stage.

- 26.) Ground signs located on the commercial outlots shall only permitted to be located along the Cincinnati-Dayton road frontage and all signage shall be subject to the WCTZR, Article 10 and 20.
- 27.) Ground signs shall only be permitted to be externally-illuminated by LED lighting at a maximum of a 4,000 level on the kelvin color scale.
- 28.) Internally-illuminated building signs on any outlot shall be prohibited from being located on the east building wall.
- 29.) The Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements (DCCRRE) for “Highland Market Square,” to include the REA, POA, and HOA as designated for the subject site, shall be submitted the WCT staff for approval at the FDP stage.
- 30.) A temporary construction road and vehicle staging area shall be illustrated on the FDP, which shall be designed to support all construction traffic in all weather conditions. All roadways to access the site shall be maintained free of any dirt, debris, dust, etc. due to the construction of the site.

BE IT FURTHER RESOLVED, that all plats, plans, applications, and other data submitted are hereby incorporated in this recommended approval. This action shall take effect this 19th day of January, 2022.

West Chester Township,
Butler County, OH

Chairman:


James Hahn

Secretary:


Timothy Dawson
Township Planner