

**ANDERSON TOWNSHIP ZONING COMMISSION
OCTOBER 28, 2024**

The Anderson Township Zoning Commission held a regular meeting, duly called, on October 28, 2024, at 5:30 P.M. Present were the following members:

Jay Lewis, Chair, Jonathan Gothard, Vice Chair, Brian Elliff and Janet Baker, alternate

Also, present when the meeting was called to order were Paul Drury, Director of Planning and Zoning and Sarah Donovan, Assistant Director of Planning and Zoning, Gary Powell, Legal Counsel, and Mallory Clapp, UC Co-op. A list of citizens in attendance is attached.

Mr. Lewis welcomed everyone and reminded all to sign in at the front of the doorway.

Approval of Agenda

Mr. Gothard moved, Mr. Elliff seconded, to approve the agenda for tonight's meeting with no changes. **A unanimous vote was taken**

Approval of Minutes

Mr. Lewis stated that we do not have a quorum to approve the **June 24, 2024 Zoning Commission minutes**.

Mr. Elliff moved, Dr. Baker seconded, to approve the minutes for the September 23, 2024 Zoning Commission minutes.

3 Yes, 1 abstain

Mr. Gothard swore in all those who wish to testify for **Case 2-2024 PUD and Case 1-2024 PUD Major Adjustment**.

Mr. Lewis stated that he reviewed the video from last month, as well as the minutes and is prepared to hear the following case.

CASE 2-2024 PUD (Continuation)

Mr. Drury stated that this is a continuation for Case 2-2024 PUD and read the staff report for an application filed by Christopher (Kit) Houston of Taft Law, on behalf of Laura Kitzmiller, Debra Weigel, TR, Brian and Melissa Anderson, Jeffrey Ruby, Brandon Ruby, Thomas Eger, TR, Justin Evans, TR, and Coldstream Estates Development LLC, property owners, located at Waterfront Estates at Coldstream Subdivision (Book 500, Page 183, Parcels 15, 16, 17, 18, 19, 20, 21 and 22), zoned "AA" Residence District.

Mr. Drury stated that the applicant is requesting approval of a Planned Unit Development (PUD) for an existing subdivision for the purpose of having a gate placed across a private drive, in lieu of a public street.



Mr. Drury stated the tract is 35.545 acres total, 1.328 acres in lot 8 (private drive), and 13.069 acres to be in the conservation area, with approximately 150' of frontage on Ayers Road and approximately 598' of frontage on Kellogg Ave, the topography is a steep decrease in grade moving southwest, and the existing use is a subdivision under construction with two homes complete.

Mr. Drury stated that the applicant is proposing a PUD for an existing subdivision for the purpose of having a gate placed across a private drive, in lieu of a public street due to "heightened security concerns." The applicant is also proposing to place 13.069 acres into a conservation area, which would be maintained by the individual property owners.

Mr. Drury stated that there is an approved record plat through Hamilton County and the subdivision infrastructure is complete. There are 7 existing lots, which meet the standard for the "AA" Single Family Residence zoning designation. Two of the homes have already received certificates of occupancy, while the rest are near completion.

Mr. Drury stated that in early 2021, the concept plan for the same 7 lot subdivision was approved through Hamilton County Regional Planning Commission, subject to the County's Subdivision Regulations. However, due to the request for a gated private drive, Hamilton County could not approve the development and required it to be a PUD.

Mr. Drury stated that a PUD application was submitted to the Zoning Commission, however, at the January 2022 Zoning Commission public hearing, the applicant requested a continuation before the case was heard.

Mr. Drury stated that on February 28, 2022 the Zoning Commission approved a Planned Unit Development, in Case 1-2022 PUD, for the property known as the Views at Coldstream (now known as Waterfront Estates) for 7 single family lots with 7.18 acres of dedicated open space (a separate parcel) and a no clearing limit line (within each individual parcel).

Mr. Drury stated that the applicant submitted an application to be heard at the June 27, 2022 Zoning Commission hearing for a Major Adjustment to the approved PUD, in Case 1-2022 PUD. The applicant was proposing to modify the "no cut line" and increase the proposed open space parcel from 7 to 8 acres while moving the "no cut line" south. The applicant withdrew the case before it was heard.

Mr. Drury stated that on July 25, 2022, the Zoning Commission approved the removal of the PUD overlay, Case 1-2022 PUD, from the property known as the Views at Coldstream (now known as Waterfront Estates), which reverted it back to the original "A-A" Single Family Zoning District. The applicant's reasoning for requesting removal of the PUD was that they had "encountered significant difficulties with the gate, a private street, utilities and water service."

Mr. Drury stated that on August 4, 2022, Hamilton County Regional Planning Commission reviewed and approved Waterfront Estates at Coldstream for a subdivision of 7 lots with a public street and sidewalk

on one side of the street.

Mr. Drury stated that at the September 23, 2024 Zoning Commission hearing, the Zoning Commission moved to continue Case 2-2024 PUD for the request of additional information. The motion included the following:

- A copy of the proposed declaration of covenants, easements and restrictions that includes the conservation area.
- Details of the design of the gate and how it will function with the Knox box.
- An ingress and egress maneuverability study for emergency services to bypass the gate
- Landscaping plans for the entrance.
- Clarification of the red line (the conservation area) and the blue line (the existing clearing) on the PUD site plan —in terms of will more trees be removed or not.
- Clarification on public / private responsibility of infrastructure and utilities if the drive becomes private.

Mr. Drury stated that the purpose of the Planned Unit Development (“PUD”) Overlay District is to encourage the efficient use of land and resources, promoting greater efficiency in public and utility services, orderly improvement of property in accordance with community plans, and to encourage innovation in the planning and building of all types of development without detriment to neighboring properties. The PUD regulations are intended to permit property to be used in a manner or intensity not permitted as of-right by the underlying district regulations. Since this is a continuation, staff has outlined below the findings as related to the request for additional information by the Zoning Commission.

- A copy of the proposed declaration of covenants, easements and restrictions that includes the conservation area. **The recorded declaration of covenants was submitted, which adds the definitions of Common Property, No Clearing Zone and Rules. Under the section for common property, it includes maintenance expectations which states that “the Home Owners Association will be responsible for maintenance which shall include, without limitation, maintenance, repair and replacement of all paved areas, landscaping and other flora, structure (entry and signage) and improvements situated upon the Common Property and all personal property used in connection with the operation of the Common Property.” The declaration for the Common Property also includes easements for “utilities including constructing, installing, maintaining and operating poles, pipes, conduit, wires, swales, land contours, ducts, cables and other equipment or conditions necessary to furnish electrical, gas, sanitary or storm sewer, storm water retention or detention, potable water, telephone, cable television, and other similar utility or security service.” The submitted declaration of covenants also includes a section regarding the No Clearing Zone, stating that it shall not be changed or modified, and that the owners cannot change the declaration without approval from the Township. This section also includes a statement that each individual property owner is responsible for maintaining their part of the No Clearing Zone and also granting the Township access to inspect. Staff recommends that if approved, any proposed change to the declaration shall be considered a Major Adjustment to the PUD and would need to be heard by the Zoning Commission.**

- Details of the design of the gate and how it will function with the Knox box. **Multiple designs for the gate were submitted, along with details of the Knox box.**
- An ingress and egress maneuverability study for emergency services to bypass the gate. **Detailed plans have been submitted, however, the Fire Department believes that material noted on the plan is not sufficient enough for the weight of the equipment. The Fire Department recommends Truckpave by Terram (the same company of the proposed Bodpave) be used instead in order to hold the equipment. The Fire Department also requires that the gate have a manual release in case of emergency.**
- Landscaping plans for the entrance. **A landscaping plan was submitted.**
- Clarification of the red line (the conservation area) and the blue line (the existing clearing) on the PUD site plan—in terms of will more trees be removed or not. **As stated in the submitted letter, the applicants are requesting the ability to still be able to further clear between the red and blue lines. Therefore, there is the possibility of more trees to be removed or pruned up to the red line.**
- Clarification on public / private responsibility of infrastructure and utilities if the drive becomes private. **The private responsibility was outlined in the declaration of covenants and easements that were submitted.**

Mr. Drury stated that Staff findings based on the Planned Unit Development evaluation criteria (Article 4.1, G):

1. The proposed density for the development is consistent with the "A-A" district. Lots 1-7 zoning certificates have been issued for single family houses, which meet the zoning requirements.
2. Staff is of the opinion that the application is not consistent with the Vision and Goals of the Board of Trustees as outlined in the adopted Anderson Plan.
3. The use (single-family) is compatible with surrounding residential land uses. There is a similar private drive with gate on Ayers Road. However, this development was a minor subdivision which did not require approval through Hamilton County Subdivision review. As this is an already approved subdivision, it is compatible with the surrounding land use with or without the PUD approval.
4. There is a 30' landscaping buffer from the Carriages of Coldstream PUD, as well as previously proposed landscaping near the entrance of the Waterfront Estates Subdivision. There was a landscaping plan for the entrance area submitted.
5. The proposed phasing and timeframe for completion of the development is unknown at this time. However, some of the residences are completed, others are under construction.
6. The submitted declaration of covenants stated that all utilities will be private and under common ownership, including regulations for the maintenance and upkeep. Details for the Knox box were also submitted.
7. There are no historical features on the site.
8. As the subdivision is already built and the conservation area will be located on private property, staff see no reason why modifications of the zoning or other regulations are warranted.
9. Sidewalks are existing within the development and are proposed to connect with Coldstream Club Drive along Ayers Road.

10. The development is single-family, consistent with surrounding properties.
11. The 13.069 acres of conservation area will be on private property and therefore will not have public access.
12. The development is existing.
13. The subdivision has already been approved and recorded without a PUD. Township staff does not believe that the addition of a gate warrants a PUD overlay. It seems there are other methods of achieving the applicant's goal of security and a private drive without the PUD process, such as, replatting the subdivision to provide panhandle lots, fencing, and landscaping.
14. As the development is already existing without a PUD, it meets the vision and goals of the Comprehensive Plan as is.
15. This standard looks at whether the development provides adequate protection of natural features on the property, including land over 20% slope, flood-plain and wetland areas, areas permanently inundated by water, and areas protected by the Ohio Department of Natural Resources. The 13.069 acres proposed to go into a conservation area include very steep slopes. However, it will be under private ownership and will be a challenge for staff to enforce. The previous PUD had an open space parcel to be under the ownership of the HOA, which provided assurance that it will not be developed in the future, this application does not.

Mr. Lewis asked if the public hearing was closed last month. **Mr. Drury** replied yes, but we requested additional information, so therefore it will be open for the matters that pertain to the requested information.

Mr. Elliff asked if the Zoning Commission were to approve the PUD, what would it be comprised of. He asked if it would be the declaration of covenants, the PUD plan, landscaping, the gate details and referenced the note on Page 2 of the staff report. **Mr. Drury** replied that the only thing that staff would like to add if approved would be a recorded copy of the declaration of covenants submitted to the Township, since the one submitted with the application was a draft.

Mr. Lewis asked for specification on how it does not meet the visions and goals. **Mr. Drury** replied that this subdivision has already been approved as a standard subdivision through Hamilton County and staff feels like this is a step backwards for the fact that PUDs are in place to protect natural resources prior to being under construction and ultimately was approved without it.

Kit Houston, Taft Law on behalf of the applicant, stated zoning matters are flexible and nothing ever fits zoning perfectly. He stated that what the Township now gets out of this PUD is declaration of preservation of trees, as well as no longer having to take care of the street. **Mr. Houston** stated that the applicant has no problem with adding the statement that modifications to the conservation line will have to be a Major Adjustment brought before the Zoning Commission. **Mr. Houston** stated that they have found another material that is rated to hold a fire truck, but that the pavers were really only for Greater Cincinnati Water Works and based off conversations with the Fire Department they are fine with the Knox box and manual operation. **Mr. Houston** stated that he does not see the blue line nearing the red line in the future, however, it provides flexibility if trees need trimmed for viewshed.

Mr. Lewis asked what needs to be done for the road and utilities to be private. **Mr. Drury** replied that it is stated in their covenants that it is private and that is acceptable for the Township.

Rich Arnold, MSP, stated that he spoke with Chief Martin of the Anderson Fire Department this afternoon and he stated that as long as the knox box is functional and there is a manual release, that the Fire Department has no issue with the emergency access. Mr. Arnold also read off details regarding the knox box that were on the submitted plan sheet.

The public hearing was closed at 5:56pm.

DECISION

Mr. Gothard moved, **Mr. Elliff** seconded to approve Case 2-2024 PUD for the Waterfront Estates subdivision based on the submitted documents, including the PUD plat, the declaration of covenants, landscaping plan and gate details, with the following conditions: that the declaration of covenants and restrictions be recorded and submitted to the Township staff, that a clause be added to the declaration that any changes to the no clearing zone will be addressed as a Major Adjustment to the approved PUD through the Anderson Township Zoning Commission, that the gate meets NFA code and is in compliance with the Anderson Township Fire Department requirements, that the gate have a manual override, that the aesthetics of the gate shall not deviate from options A-G submitted to the Township with the application, and that the bypass area shall be of a material which is acceptable by any proposed user of the bypass and submitted to the Township.

3 Yeas, 1 No- Dr. Baker

CASE 1-2024 PUD MAJOR ADJUSTMENT

Mr. Drury stated that this is a quasi-judicial hearing for Case 1-2024 PUD Major Adjustment and read the staff report for an application filed by Mihail Sevastakis, PE, of Bayer Becker, on behalf of Wawa, on behalf of Robert C Hedlesten TR, property owner, located at 5315 Beechmont Ave (Book 500, Page 430, Parcel 208), zoned "E-PUD" Retail Business Planned Unit Development.

Mr. Drury stated that the applicant is requesting a Major Adjustment to the Planned Unit Development (PUD) approval in Case 1-2024 PUD on January 22, 2024. The request is for the construction of a 6,372 SF Wawa Fuel and Convenience Store with 41 parking spaces, dumpster enclosure, landscaping and lighting with an impervious surface ratio of 67.5%.

Mr. Drury stated the tract is 2.161 acres, with approximately 230' of frontage on Beechmont Avenue

and approximately 430' of frontage on Elstun, the topography is a steep increase in grade from north to south, and the existing use is a former BP and vacant land.

Mr. Drury stated that the applicant is proposing to construct a Wawa Fuel and Convenience Store, size 6,372 SF with six fuel pumps and canopy. The development will contain 41 parking spaces, dumpster enclosure, landscaping and lighting. Full access is proposed on Elstun Road with a right-in / right-out on Beechmont Avenue. A future 12' wide ODOT multi-use trail is proposed on Beechmont Avenue that will connect to Mt. Washington and the Township's Elstun connector to the Little Miami Trail; and a 5' wide sidewalk is proposed on Elstun. A mixture of building materials is proposed (brick, composite wood siding, EIFS or stucco, and tile). Retaining walls are proposed around the majority of the site due to the steep topography. Variances are requested for the front yard setback on Beechmont and Elstun, as well as for the parking setback along Elstun.

Mr. Drury stated that the building on the property was constructed in 1973 and the last use of the property was a BP gas station. The BP has been closed since at least 2002 according to the Hamilton County Auditor website.

Mr. Drury stated that the Zoning Commission approved a PUD for Wawa, size 5,919 SF with 50 parking spaces, dumpster enclosure, landscaping and lighting with an impervious surface ratio of 81.4%, on January 22, 2024, with the following conditions:

1. The two parcels, 500-430-021 and 500-430-007, shall be consolidated.
2. That a lighting plan in compliance with the Anderson Township Zoning Resolution Article 5.3, K, shall be submitted for approval.
3. That the dumpster enclosure shall be brought into compliance with Anderson Township Zoning Resolution Article 5.3, D, 8.
4. That any retaining wall exceeding 4' in height shall have a fence on top of the wall.
5. That any retaining wall on the property shall have architectural detail and not just be a flat cast in place wall.

Mr. Drury stated that a zoning certificate was issued for the project on May 23, 2024.

Mr. Drury stated that the Zoning Commission is reviewing the application because the proposed development will have an impervious surface ratio greater than 60%, which triggers the PUD overlay, and the standards found in Article 4.1 of the Zoning Resolution. The revised site plan requires consideration for additional variances not reviewed during the January hearing, as well as the applicant requesting a retaining wall material inconsistent with Condition #5 of the original resolution.

Mr. Drury stated that the proposed development is non-compliant with the following articles of the Anderson Township Zoning Resolution:

Article 3.14, C, 2, a, Lot and Yard Standards: The proposed front yard building setback is 13.25' on Beechmont Avenue, and 16.04' on Elstun Road, where 30' is required.

Article 5.2, 10, Additional Use, Height, and Area Regulations and Exceptions: The proposed canopy height is 25'-2" at the peak where a maximum height permitted is 18' (canopy is at an angle).

Article 5.3 D, 1, d, General Design Requirements for Parking and Loading Areas: A 10' streetscape buffer is required from the right-of-way line of any street. Parking along Elstun Road is setback 5' vs. the required 10', to a future R/W dedication.

Article 5.3, D, 8, b, Dumpsters and Trash Handling Areas for Non-Single Family Zoning Districts: The dumpster is proposed to be setback 26' from the R/W where dumpsters are required to be located in compliance with the same minimum setbacks as the main building as determined by the zoning district (30').

Article 5.5, Signage: Proposed wall signage for the building is not in compliance. A maximum of 250 SF of wall signage is permitted where 440 SF is proposed (excluding gas canopy which is an additional 31 SF).

Mr. Drury stated that in addition to compliance with the Township's Zoning Resolution, the development is also being reviewed in light of adopted plans for this area, such as the Anderson Plan, the Anderson Trails and Walkways Plan, and the Anderson Township Design Guidelines.

Anderson Plan

The proposal is consistent with the goals and objectives of the Anderson Plan and its recommendations for enhancing economic activities. The Future Land Use classification identifies the site for General Mixed Use, which is defined as "Community and regional oriented businesses, offices, and services that are located primarily along major thoroughfares. These uses may be located in individual-user buildings, multi-tenant buildings, or mixed-use buildings. Buildings are encouraged to be located close to the road with the majority of parking located to the side and rear of buildings. Residential uses may be located in mixed-use buildings but should only be located on the second floors or higher or behind nonresidential buildings." The proposed use meets this description.

The application is consistent with the following Goals of the Anderson Plan:

Economic Vitality: The Township should attract a variety of businesses to meet changing demographics and market demands. With a focus on an expanded tax base with an increasing amount of land developed for a mixture of non-residential uses, this will attract new businesses and promote and retain existing businesses.

Land Use and Development: Anderson Township will be a well-planned community with a mixture of parks, recreational uses, residential neighborhoods, commercial centers and an industrial base balanced with agricultural uses.

Land Use and Development Initiatives: The Township will undertake economic development activities to help fill any vacant storefronts and businesses. The site has been vacant since at least 2002.

Anderson Trails Plan

Beechmont Sidewalks: Right-of-way for a proposed ODOT shared use trail is identified for the frontage along Beechmont Avenue. In addition, a 5' wide sidewalk along the Elstun frontage is identified. Grading is proposed for a future connection to the existing sidewalk at Spindlehill which is located offsite, in the City of Cincinnati. The sidewalk on the opposite side of Elstun connects to the Little Miami Scenic Trail.

Design Guidelines

The proposal is consistent with the following elements of the Anderson Design Guidelines:

Site Planning: Upgrading visual character and sense of human scale in spaces through particular attention to architecture, site planning, signage, landscaping, and lighting.

Landscaping: Incorporate appropriate plantings that are in scale with their surroundings. Separate roadways from commercial development by attractive landscape planter strips.

Architecture: Building design should be developed to a human scale through careful consideration of architectural forms, massing, detailing, number and use of materials, and color. The proposed building contains a mixture of building materials, on all sides, with two main entrances.

Service stations and convenience stores that sell gasoline should be designed with facade and roofline elements that reduce their scale and add architectural interest to the building. The proposed canopy exceeds the height requirement of the Zoning Resolution.

At the January meeting, the appearance of the retaining walls was discussed as the site will be surrounded on all sides with very large walls. The wall at the corner of Elstun and Beechmont will be approximately 10' tall, and the wall along the southeast property line ranges in height from 15'-20' tall. The Zoning Commission placed a condition that the retaining walls shall have architectural detail and not just be a flat cast in place wall. A design was chosen that met this condition when the zoning certificate was issued in May, 2024. The applicant is now proposing a cast in place wall that contradicts this condition.

Pedestrian Circulation: Connections to the public sidewalk should be included in the site plan to encourage pedestrian use. Access routes leading to or from service stations and convenience stores should minimize conflicts with pedestrian circulation.

Mr. Drury stated that Staff recommends approval based on the Planned Unit Development evaluation criteria (Article 4.1, G):

1. The proposed fueling center development is consistent with the "E" Retail District. The PUD Plan is compliant with the Zoning Resolution except for the requested variances for fuel canopy height and streetscape buffer requirements for parking spaces (see below), and the noncompliant items noted above.

2. The application is consistent with the Vision and Goals of the Board of Trustees as outlined in the adopted Anderson Plan. The application is consistent with the following Goals of the Anderson Plan as outlined above:
Economic Vitality: The Township should attract a variety of businesses to meet changing demographics and market demands. With a focus on an expanded tax base with an increasing amount of land developed for a mixture of non-residential uses, this will attract new businesses and promote and retain existing businesses.
Land Use and Development: Anderson Township will be a well-planned community with a mixture of parks, recreational uses, residential neighborhoods, commercial centers and an industrial base balanced with agricultural uses.
Land Use and Development Initiatives: The Township will undertake economic development activities to help fill any vacant storefronts and businesses. The site has been vacant since at least 2002.
3. The use (fueling center) is compatible with surrounding retail land uses.
4. The size and physical features of the project area enable adequate protection of surrounding property and orderly and coordinated improvement of property in the vicinity of the site.
5. No proposed phasing was submitted.
6. The proposed development is serviced adequately and efficiently by essential public facilities and services, which are in existence on Beechmont Avenue.
7. There are no scenic or historical features, as identified or contained in plans duly adopted by the Anderson Township Board of Township Trustees and Hamilton County Regional Planning Commission, which would not be conserved.
8. Certain modifications of the zoning regulations may be warranted such as the reduced streetscape buffer on Beechmont Avenue.
9. The adequacy of the proposed pedestrian circulation system insulates pedestrian circulation from vehicular movement.
10. Although adjacent to residential zoning and apartments on Spindlehill Drive, the topography and proposed retaining walls will help achieve visual and acoustical privacy.
11. The development does not include dedicated open space, other than the required parking lot landscaping.
12. The development will not be detrimental to the present and potential surrounding uses.
13. The development is consistent with recommendations from Township, County, State and/or Federal agencies. ODOT is required a Traffic Impact Study (TIS) for this proposed development and improvements to Beechmont and Elstun are shown on the plan. In addition, ODOT is coordinating a 12' multi-use trail with the City of Cincinnati on Beechmont Avenue.
14. The development is consistent with the Vision and Goals as adopted by the Anderson Township Board of Trustees.
15. The development does not provide adequate protection to land over 20% slope.

Staff recommends variances from the following articles of the Zoning Resolution:

Article 3.14, C, 2, a, Lot and Yard Standards: The proposed front yard building setback is 13.25' on Beechmont Avenue, and 16.04' on Elstun Road, where 30' is required.

Article 5.2, 10, Additional Use, Height, and Area Regulations and Exceptions: The proposed canopy height is 25'-2" where a maximum height permitted is 18'. A variance for 25.5' was granted in January, 2024.

Article 5.3 D, 1, d, General Design Requirements for Parking and Loading Areas: A 10' streetscape buffer is required from the right-of-way line of any street. The parking along Elstun Road is setback 5' vs the required 10'. A parking setback variance of 2-8' was previously approved along Beechmont Avenue.

Article 5.3, D, 8, b, Dumpsters and Trash Handling Areas for Non-Single Family Zoning Districts: The dumpster is proposed to be setback 26' from the R/W where dumpsters are required to be located in compliance with the same minimum setbacks as the main building as determined by the zoning district (30').

1. The variances are not substantial. By moving the building closer to the intersection, this allows for parking to be to the side of the building along Beechmont, and the fueling pumps to be located behind the store. There will be an approximate 10' tall wall at the corner of Elstun and Beechmont that will provide separation from the road and the proposed building. The canopy height is consistent with the building height (25') and is designed at an angle, complimenting the architectural style of the building. The parking setback, like the building, will be separated at grade by a retaining wall. The dumpster enclosure, while located in the front yard setback, will be screen by the retaining wall along Elstun, and Western Red Cedar evergreen trees.
2. The essential character of the neighborhood will not be altered and adjoining properties will not suffer a substantial detriment as a result of the variances. Building heights vary greatly in this area with UDF across Elstun to the Skytop Apartments opposite Beechmont. This location is also at the base of the Beechmont hill with varied topography.
3. The variance would not adversely affect the delivery of governmental services (i.e. water, sewer, garbage).
4. The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. The site is challenging due to the steep topography as evidenced by the retaining walls along the periphery of the site. Although variances are requested, staff is of the opinion that the proposed development is still consistent with the Design Guidelines and adopted Township Plans (Comprehensive Plan and Trails and Walkways Plan).

If approved, staff recommends the following conditions from the previous approval (as applicable):

1. That any retaining wall exceeding 4' in height shall have a fence on top of the wall.
2. That any retaining wall on the property shall have architectural detail and not just be a flat cast in place wall.
3. That the wall signage be brought into compliance with the previous granted variance of 337 SF max. (excluding gas canopy signage proposed at 31 SF)

****Staff is not supportive of additional wall signage as the main building is proposed at a reduced front yard setback, which will increase visibility of the wall signage. Previous signage was approved at 337***

SF where this application is requesting 440 SF. The free-standing sign is proposed at 71.5 SF which is compliant.

Mr. Gothard asked which lighting plan submitted is the one they are planning on proceeding with. **Mr. Drury** replied that the one staff reviewed was in compliance with the Zoning Resolution, but that the applicant can confirm since two were in their submitted packets.

Dr. Baker stated that with the amount of retaining walls and concrete on the site, is giving her pause and concern due to their height and hillside stability.

Mr. Lewis asked why the specific amount of signage was approved during the previous Zoning Commission hearing. **Mr. Drury** stated he would need to look at the previous submittal, however, for this month's Case, the "Wawa" and the "bird logo" were calculated differently than they previously had been.

Mr. Lewis asked what the width of the bike path is. **Mr. Drury** replied that it's over 5' wide, but it has already been approved by ODOT.

Patrick Warnement, Wawa, 260 West Baltimore Pike, stated that they are still the great company they were back in January and that this site is a challenge, which is probably why the site hasn't been developed. He added that compared to the previously approved plan, this is actually less impervious surface. He stated that they can meet the 337 SF signage requirement and are happy to work with staff on that.

Mr. Gothard asked which elevation will be visible. **Mr. Warnement** replied that the second image on the design sheet will be visible from Beechmont Avenue.

Mr. Gothard asked if the light brown box is the electric panel. **Mr. Warnement** replied yes.

Mr. Gothard asked if Wawa could move some of the outside elements, such as the ice container and the electrical panel in order to make the front of the store as aesthetically pleasing as possible. **Mr. Warnement** replied that it had not been considered but is probably doable.

Mr. Gothard asked where the high side of the canopy will be. **Mr. Warnement** replied that it will be opposite of Elstun.

Mr. Gothard asked which lighting plan would be the one used. **Mr. Warnement** replied that they will be in compliance with lighting and apologized for the confusion in the plans. **Mr. Gothard** asked if the poles will be compliant as well as the limitations on footprint. **Mr. Warnement** replied yes.

Mr. Lewis asked when construction will start and end. **Mr. Warnement** replied that construction will begin early 2025, and open 2026.

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Mr. Lewis asked what the hours are. **Mr. Warnement** replied that they will be open 24/7.

Mr. Lewis asked how many employees will be on shift at a time. **Mr. Warnement** replied that there will be a minimum of 3 on site at a time.

John Bayer, of Bayer Becker on behalf of the applicant, stated that with the new application, the retaining wall is only 20' tall, where as it was taller in the previous application. He stated that the applicant has since been in touch with the Township Trustees and they have put them in contact with the Anderson Art Collaborative, which they would like to put a mural on the wall instead of the decorative material. **Mr. Warnement** replied that they will commit to not putting anything Wawa related and this this would be a great opportunity for a mural.

Mr. Lewis asked if the Township has regulations regarding signage and murals. Ms. Donovan explained the definition of non-commercial signage, commercial signage and murals.

Mr. Gothard asked which retaining wall the mural would go on. **Mr. Bayer** replied the one most visible from Beechmont Avenue.

Dr. Baker asked about the drainage of the site. **Mr. Bayer** replied that the site meets the drainage requirements of the County, with underground stormwater management. He added that the site is at a lower impervious surface ratio than it previously was.

Mr. Lewis asked if there is any history of the site with regards to the drainage. **Mr. Bayer** replied that they are not aware of any and he added that the County requirements have you look at previous impervious surface ratio and then what will be proposed.

Mr. Warnement replied that they have received approval for stormwater management on the previous plan and have no doubts that they will receive it for the revised plans.

Sean Sutter, Sutter LLC, 1502 Vine Street, stated that he is here on behalf of 2858 Spindle Hill Drive, and stated that they are the apartment complex that refused the easement for the tie backs for the retaining wall. He stated that while his client is in the City of Cincinnati, it does not excuse the Township and Zoning Commission from hearing their concerns. He stated that this is a significant hillside, and it ultimately supports the property that the apartments are on. He stated that they are concerned about blasting and potential foundation issues for this property. He stated that the client is not opposed to the land use, but this is an extremely challenging site and as much as his client would like the new use, they are questioning if a 24-hour facility with a 20 foot+ cut in the hillside and lighting being below 48 residents is the right use. He stated that if there are issues with the building that come from this, it's not going to be good for anyone. He asked if the lighting would be appropriate for an adjacent residential building. He stated that the BP facility went through environmental cleanup and they are concerned with the reintroduction of underground storage tanks, they will probably need stage 2 environmental

assessments when they go to do anything with the site.

Mr. Warnement stated that the all white area on the site plan will be left undisturbed so that they are even further away from the apartments in terms of cutting. He stated that their geotechnical engineer advised to slope the retaining wall 3 to 1 closer to the property line, however, they wanted to increase the distance between them and the property line, which is ultimately at a higher cost to them.

Mr. Warnement stated that the apartment has a drainage pipe that drains directly onto this site. He added that they are purchasing a couple of adjacent parcels in the city of Cincinnati and the apartment buildings have encroaching retaining walls and parking that they have not addressed yet.

Mr. Warnement stated that they have done phase 1 and phase 2 environmental assessments and that they are good to go.

Mr. Gothard asked if there is any sort of rock excavation that needs to be done to get to grade. **Mr. Bayer** replied no.

Robert Hedleston, 3905 Beech Street, current property owner of 5315 Beechmont Avenue, stated that the apartment complex has a large pipe that drains onto this site and has been causing a large amount of erosion. He stated that the drainage needs to go into a proper storm sewer system and not this site. He stated that there was no further action when BP left and everything was taken out related to the gas station.

Mr. Sutter asked how the canopy would be situated. **Mr. Gothard** replied that we heard testimony that the low side will face Elstun. **Mr. Drury** showed an aerial and described where the apartments are compared to the proposed facility. **Mr. Drury** replied that the submitted lighting plan shows a 0 footcandle at the property line and the apartment is 50 feet from the property line. **Mr. Sutter** replied that they would ask that the Township to hold the applicant to a higher standard.

Mr. Warnement replied that they cannot go less than 0 footcandle at the property line and that it is a trade mark that their canopy be faced a certain direction. **Mr. Warnement** added that Wawa did not start selling fuel until 96 and that their underground storage tanks exceed the federal standard on what is required.

Mr. Gothard asked how they are going to address stormwater from the adjacent property that is currently draining onto their property. **Mr. Warnement** replied that they are planning on channeling it into the underground system.

Mr. Elliff asked if the lights from the canopy are proposed to be directed down. **Mr. Warnement** replied yes. He stated that the retaining wall is basically the same height as the retaining wall and the apartments are at a substantially higher elevation.

Mr. Lewis asked how the Township normally handles a property that is adjacent to those not in the Township. **Mr. Drury** stated that the zoning standards are in place regardless of what community the property borders. **Mr. Lewis** asked if we still notify adjacent property owners. **Mr. Drury** replied yes, we notify 200' from the property line and that the apartment complex was given proper notification.

The public hearing was closed at 6:57pm

DECISION

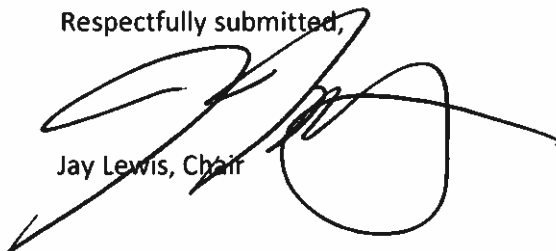
Mr. Elliff moved, **Dr. Baker** seconded to approve Case 1-2024 PUD Major Adjustment, for the construction of 6,372 SF Wawa with parking, landscaping, dumpster, at a 67.5% ISR, and also grant the requested variances, with the recommendations from staff. Variances are as stated on page 2 of the staff report, with the denial of the request for a variance of signage and the following conditions: that any retaining wall exceeding 4' in height shall have a fence on top of the wall, that any retaining wall shall have architectural detail and not just be a flat cast in place wall, that the wall signage be brought into compliance with the previously granted variance of 337 SF max (excluding gas canopy), that the liquid propane and bagged ice storage be moved to a non-prominent location on the site and that some sort of screening be used to conceal the inlet electrical systems on the front of the building, to the extent of being approvable by the Hamilton County Building Department and that a lighting plan be submitted in compliance with the Township Zoning Resolution.

4 Yeas

The next regular meeting would be held on November 18, 2024, at 5:30 p.m. at Anderson Center.

Respectfully submitted,

Jay Lewis, Chair

A handwritten signature in black ink, appearing to be 'Jay Lewis', written over the printed name 'Jay Lewis, Chair'.

