



HAMILTON COUNTY

# Regional Planning Commission

## SUBDIVISION ADMINISTRATIVE ITEM

FOR CONSIDERATION BY THE REGIONAL PLANNING COMMISSION ON MARCH 4, 2021

**SUBDIVISION  
PRELIMINARY  
PLAN:**

**ANDERSON 19-02**

# ANDERSON VALLEY

**OWNER:** Paul Edward Tomes & Suzanne Marie Krehnbrink, Trustee of Constance S Caldwell First Supplemental TR, Jeffrey R & Deborah A Heitzman

**APPLICANT:** Thomas M. Tepe, Jr., KMK Law

**LOCATION:** Anderson Township: 7139 Dunn Road and 1105 Markley Road on the west side of Markley Road south of the English Garden Lane (Book 500, Page 273, Parcels 151 (partial), 164, 380, 486 & 487 AND Page 271, Parcels 1 & 113)

**SITE DESCRIPTION:** Tract Size: 9.0 acres gross (7.2 acres net)  
Proposed Lots: 35  
Topography: Relatively flat gradually sloping down towards west  
Existing Use: Single-family home and lake

**PROPOSED IMPROVEMENTS:** ROW: 50 ft. Pavement Width: 28 ft.  
Water District: GCWW Sanitary: MSD

**ZONING:** Jurisdiction: Anderson Township District: "C" Residence  
Minimum Lot Size: 6,000 sq. ft. Permitted Density: 7.26 du/acre  
Proposed min. lot 6,120 sq. ft. Proposed Density: 4.86 du/acre

**REQUEST:** Per Section 5.6.7 of the Hamilton County Subdivision Regulations, Preliminary Plan approvals are valid for 2 years from the date of approval. The original Preliminary Plan for the subdivision was approved on June 6, 2019 making it valid until June 6, 2021. During this 2-year period, Improvement Plans may be submitted for review and approval to allow the construction phase of the subdivision to begin. The Improvement Plans for this development were submitted on August 31, 2020. Per Section 5.7.7 of the Regulations, Improvement Plan approvals are valid for 2 years from the date of approval. However, if the Improvement Plan is not approved, the expiration date does not transfer to the Improvement Plan per Section 5.7.7 and the Preliminary Plan is still subject to expiration per Section 5.6.7. In this case, it is possible that the approved

Preliminary Plan may expire prior to the approval of the submitted Improvement Plans. Therefore, the applicant is requesting an extension for 3 years, which would extend the Preliminary Plan approval until March 4, 2024. The applicant has received conditional sewer availability until April 17, 2021.

The applicant states that the subdivision has been involved in a lawsuit that has delayed the project and that this is the reason for the request. The applicant is requesting the maximum extension permitted by the subdivision regulations as a precaution for the potential for the litigation to continue for an undetermined amount of time.

**STANDARDS:**

**Section 5.6.7 – Time Limit on Approval of Preliminary Subdivision Plan.**

Approval of the Preliminary Subdivision Plan shall be good for two (2) years from the date of approval or, in the case of a Preliminary Subdivision Plan approved by the Planning Commission to be completed in two or more phases, such approvals shall be good for two (2) years from the date of approval of the Improvement (Construction) Plans of the last preceding phase of the development. Preliminary Subdivision Plan approval shall confer upon applicant the following rights for the two (2) year period from the date of approval:

- (a) The general terms and conditions upon which the approval was granted shall not be changed.
- (b) The applicant may submit for Improvement (Construction) Plans and/or Final Plat approval on or before the expiration date of Preliminary Subdivision Plan approval of the whole, or a section, or sections of the Preliminary Subdivision Plan.
- (c) The applicant may apply for and the Planning Commission may grant extension on such Preliminary Subdivision Plan approval for additional periods of at least one (1) year but not to exceed a total extension of three (3) years, provided the applicant has a current concept approval from the applicable sewer authority.
- (d) In the case of unusual or extraordinary circumstances, the Planning Commission may grant the rights referred to in Subsections (a), (b) and (c) above for such period of time longer than three (3) years as shall be determined by the Planning Commission to be reasonable.

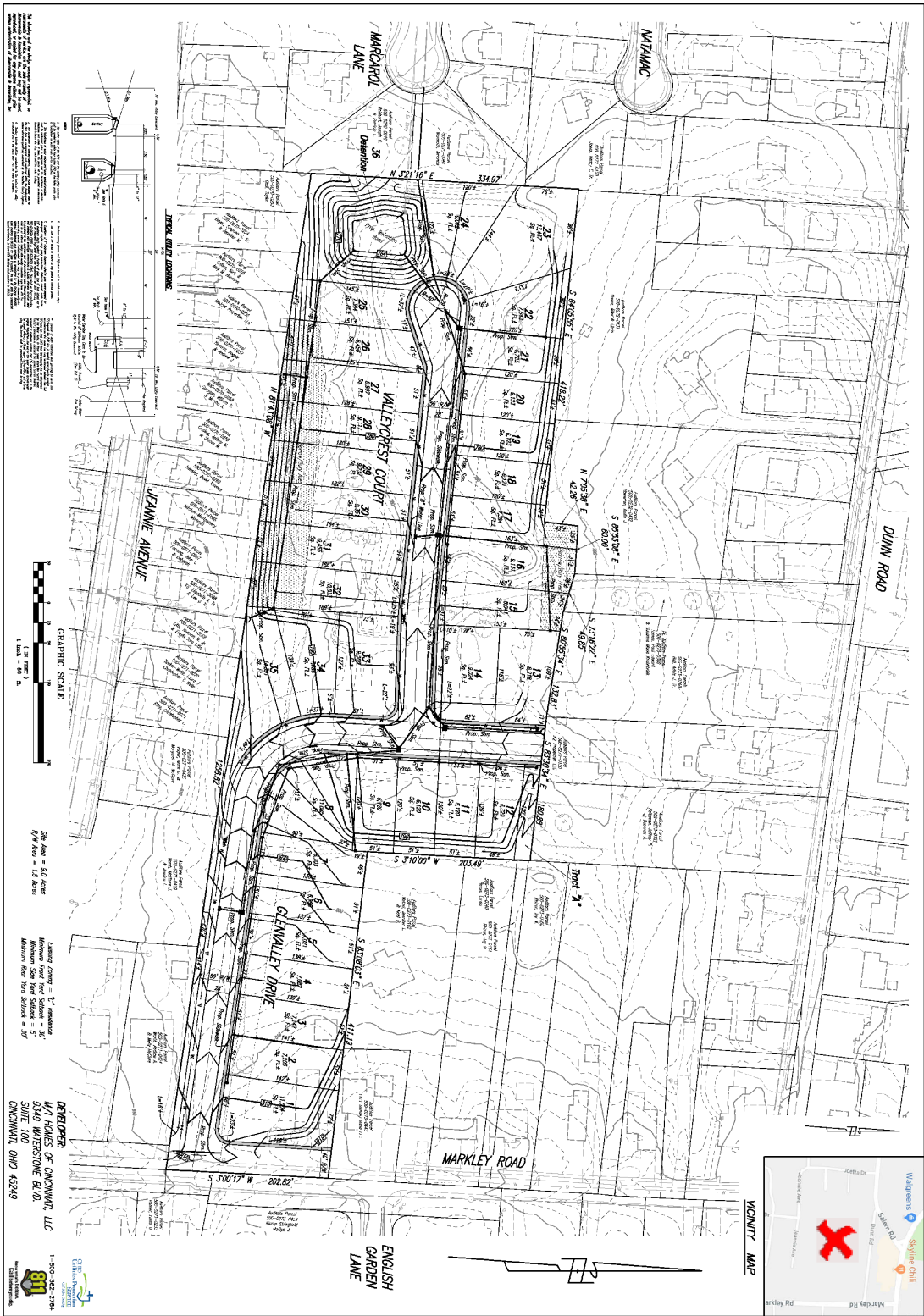
If the decision of the Planning Commission is for disapproval of the Preliminary Subdivision Plan, an applicant may submit a revised Preliminary Subdivision Plan pursuant to Section 5.6, or elect to proceed under Alternative II and submit a Final Record Plat for approval pursuant to Section 5.8. (See Section 4.2)

**Section 5.7.7 – Time Limit on Approval of Improvement (Construction) Plans.**

Approval of Improvement (Construction) Plans shall be good for two (2) years from the date of approval and shall authorize the developer to commence construction in accordance with the requirements of the office of the County Engineer and those of other applicable offices and agencies.



# APPROVED SUBDIVISION PRELIMINARY PLAN



<p><b>Abercrombie &amp; Associates, Inc.</b>        Civil Engineering + Surveying        1237 Center Road, Suite 100        Cincinnati, OH 45240        513-555-0200</p>	<p><b>PRELIMINARY SUBDIVISION PLAN</b></p> <p>ANDERSON VALLEY        MILITARY SURVEY #909        ANDERSON TOWNSHIP        HAMILTON COUNTY, OHIO</p>	Date: 1-22-19 Drawn by: C.R. Checked by: R.G.R. Scale: 1" = 50' Title: PRELIM SUBDIVISION PLAN	18-0131 1
		<p>DEVELOPER:        M/J HOMES OF CINCINNATI, LLC        5346 WATKINSON BLVD.        SUITE 100        CINCINNATI, OHIO 45246</p>	<p>Lottery Drawing: 1<sup>st</sup> Milestone        Minimum Total Pool Size: \$1        Maximum Total Pool Size: \$25</p>

## APPLICANT LETTER



**Thomas P. Tepe, Jr.**

D: 513.639.3947  
ttepe@kmklaw.com

February 2, 2021

### VIA OVERNIGHT MAIL

Mr. David Okum  
Chairman & Presiding Officer  
Hamilton County Regional Planning Commission  
Room 805, County Administration Building  
138 East Court Street  
Cincinnati, OH 45202

Executive Director  
Hamilton County Regional Planning Commission  
Room 805, County Administration Building  
138 East Court Street  
Cincinnati, OH 45202

Re: Preliminary Subdivision Plan: Anderson 19-02; Anderson Valley

Dear Mr. Okum:

I represent M/I Homes of Cincinnati, LLC, Abercrombie & Associates, Inc., Jeffrey R. Heitzman, Deborah A. Heitzman, Paul E. Tomes, Marie Suzanne Krehnbrink, and the Harold L. Caldwell Trust (collectively, the "Applicant") relating to the Preliminary Subdivision Plan for Anderson Valley, Anderson 19-02 (the "Preliminary Subdivision Plan"). On June 6, 2019, the Hamilton County Regional Planning Commission (the "Commission") voted to approve the Preliminary Subdivision Plan. Pursuant to Section 5.6.7 of the Rules and Regulations of the Hamilton County Regional Planning Commission (the "Rules"), I write on behalf of the Applicant to respectfully request that the Planning Commission grant an extension on the Preliminary Subdivision Plan approval that was received on June 6, 2019.

Shortly after the Applicant received the approval on June 6, 2019, certain neighboring property owners initiated litigation (the "Litigation") relating to the Preliminary Subdivision Plan, initially in the Hamilton County Court of Common Pleas at Case No. A 1903214, styled *Matthew J. Worth v. Hamilton County Regional Planning Commission, et al.* The trial court dismissed this action, and the dismissal is now on appeal before the First District at Case No. C 2000258, *Matthew J. Worth v. Hamilton County Regional Planning Commission, et al.* This appeal is currently pending.

As the Litigation remains pending in the court system, we are approaching the two year anniversary of the June 6, 2019 approval of the Preliminary Subdivision Plan by the Commission.

**Keating Muething & Klekamp PLL**

Attorneys at Law

One East Fourth Street | Suite 1400 | Cincinnati, Ohio 45202  
P: 513.579.6400 | F: 513.579.6457 | kmklaw.com

Mr. David Okum  
February 2, 2021  
Page 2

Section 5.6.7 of the Rules provides that “[a]pproval of the Preliminary Subdivision Plan shall be good for two (2) years from the date of approval.” Further, the Rules provide:

The applicant may apply for and the Planning Commission may grant extension on such Preliminary Subdivision Plan approval for additional periods of at least one (1) year but not to exceed a total extension of three (3) years, provided the applicant has a current concept approval from the applicable sewer authority.

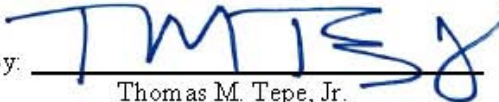
See Rules at § 5.6.7(c). Pursuant to this section, the Applicant respectfully requests that the Commission grant an extension for three (3) years for the Applicant’s Preliminary Subdivision Plan approval, or until **June 6, 2024**. The current Litigation has taken nearly two (2) years of time, and it has not yet been resolved. The Applicant seeks this extension to permit it to continue in seeking ultimate Final Plat Approval while addressing the delays caused by the Litigation. The Applicant reserves its right to seek an additional extension, as provided under § 5.6.7(d) of the Rules, in the event of unusual or extraordinary circumstances (particularly as the Applicant must address the necessary delays of the Litigation).

Pursuant to Section 5.6.7 of the Rules, the Applicant has confirmed that it has current concept approval from the applicable sewer authority for the Preliminary Subdivision Plan approval. See Approval, attached as **Exhibit A**. We respectfully request that the Planning Commission confirm in writing that: (a) the Applicant has current concept approval from the applicable sewer authority; and (b) that the Preliminary Subdivision Plan approval is extended for three (3) years, or until **June 6, 2024**. Accordingly, the Applicant would like to be placed on the Agenda before the Commission at its earliest convenience to formally make this request.

Thank you for your consideration in this matter. Please let me know what we can do to assist the Commission in the review and approval of our request, and if you would like us to submit any additional information.

Very truly yours,

KEATING MUETHING & KLEKAMP PLL

By:   
Thomas M. Tepe, Jr.

cc: Mr. Steve Johns (via e-mail only - [steve.johns@hamilton-co.org](mailto:steve.johns@hamilton-co.org))  
Mr. Jay Wampler (via e-mail only - [Jay.Wampler@hcpros.org](mailto:Jay.Wampler@hcpros.org))  
Mr. Brad Austing (via e-mail only - [bausting@mihomes.com](mailto:bausting@mihomes.com))