



PLANNING COMMISSION STAFF REPORT

FOR CONSIDERATION BY THE PLANNING COMMISSION ON JUNE 28, 2022

BATAVIA TOWNSHIP ZONING CASE B-04-22ZPD

- APPLICANT:** Paul Shirmer
Commercial Development Services Group, LLC
P.O. Box 9833
Cincinnati, OH 45209
- OWNER:** MTP Properties, LTD
4590 Shepherds Way
Batavia, OH 45103
- REQUEST:** Batavia Township Zoning Map Amendment Case B-04-22ZPD requesting to rezone parcel 012008D030 consisting of +/- 18.26 acres from PD – Planned Development District (Case B-03-19ZPD) to a “New” PD – Planned Development District.
- LOCATION:** The subject properties are located between Amelia Olive Branch Road and Clough Pike just west of Batavia Township Park in Batavia Township.
- ZONING:** **Existing Zoning:** PD – Planned Development District (Case B-03-19ZPD)
Proposed Zoning: “New” PD – Planned Development District (Case B-04-22ZPD)
- North:** R-1 – Single-Family District
East: A – Agricultural District & PD – Planned Development District
South: R-1 – Single-Family District & PD – Planned Development District
West: R-1 – Single-Family District

LAND USE: **Existing Land Use:** Single-Family Vacant Agricultural

 Proposed Land Use: Single-Family Residential Planned Development.

HISTORY: On November 26, 2019, the Clermont County Planning Commission voted to recommend approval of Batavia Township Zoning Map Amendment Case B-03-19ZPD.

DEVELOPMENT PROPOSAL:

Per the application, the applicant is requesting to rezone parcel 012008D030 consisting of +/- 18.26 acres from PD – Planned Development District (Case B-03-19ZPD) to a “New” PD – Planned Development District as stated below:

Total Site Area: 18.26 acres

- **Ex. Amelia Olive Branch R/W:** .180 acres
- **Ex. Clough Pike R/W:** .552 acres
- **Ex. Net Area:** 17.528 acres

Proposed Number of Lots: 56

- **Single-Family Lots:** 36
- **Single-Family Attached Lots:** 20

Area in Lots: 9.127 acres

Area in Proposed R/W: 1.923 acres

Area in Open Space: 5.76 acres (34%)

Proposed Project Density: (3.19 units /acre)

Approximately 5.76 acres (34%) of the property would be dedicated open space, with the number of open space lots to be clarified. The proposed percentage of open space provided does exceed the required rate (20%) under Batavia Township Zoning Resolution (Article 36: (G)). The creation of a Homeowners Association would maintain the open space. The proposed site plan shows a pedestrian walking path through the proposed open space and connecting to Batavia Township Park across Clough Pike via a proposed cross-walks.

RELATIONSHIP TO TOWNSHIP ZONING & FUTURE LAND USE:

As designed, this request does **not** meet some of the recommended site development minimums: density, setbacks, and lot size, as stated within the PD – Planned Development District regulations within the Township’s Zoning Resolution (Article 36). However, if deemed appropriate, the Township may allow an increased density for attached dwellings or multi-family dwellings in a PD – Planned Development. This is only permitted if the Township determines that the proposed density will be appropriate for the surrounding area and that the proposed design justifies an increase in density.

36.01 PLANNED DEVELOPMENT

Planned Developments shall be regulated as follows:

A. Objectives for Planned Developments

The Planned Development (PD) District and the associated planning and development regulations as set forth and referred to herein are designed to achieve the following objectives:

- 1. Provide flexibility in the regulation of residential, commercial and office land development;*
- 2. Encourage a variety of housing and building types, a compatible mix of commercial and residential development and creative site design;*
- 3. Encourage provision of useful open space, and preservation of valuable and unique natural resources;*
- 4. Provide a development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, prevents the disruption of natural drainage patterns, and contributes to the ecological well being of the community;*
- 5. Promote efficiency through a more effective use of land than is generally achieved through conventional residential and/or commercial development resulting in substantial savings through shorter utilities, streets and other public services, and*
- 6. Provide a residential and/or commercial development pattern in harmony with land use density, transportation facilities, community facilities, and objectives of the Batavia Township Growth Policy Plan.*

B. Provisions Governing Planned Developments

1. General

Because of the special characteristics of Planned Developments, special provisions governing the developments of land for this purpose are required. Whenever there is a conflict or difference between the provisions of this Article and those of the other Articles of this Resolution, the provisions of this Article shall prevail for the development of land for Planned Developments. Subjects not covered by this Article shall be governed by the respective provisions found elsewhere in this Resolution.

2. *Construction*

No construction, grading, tree removal, soil stripping, or other site improvements or changes shall commence, and no permits shall be issued until approval of the PD Final Development Plan by the Township Zoning Administrator in conformance with the requirements of this Section 36, PD Planned Development Provisions have been met.

C. *Uses Permitted*

Any use that is permitted in any zoning district may be approved within a Planned Development provided that the project shall be planned, developed and operated in accordance with an approved development plan. Specific uses, structures, and developments shall be properly integrated with the surrounding area in such a way as to promote the health, safety, morals, general welfare and wholesome environment of the general public and of the occupants of nearby property, and to avoid nuisances to the general public or to the occupants of nearby property. All uses shall be approved by the Township as part of the development plan review process

D. *Recommended Minimum Project Area*

It is recommended that the gross area of the tract to be developed under the Planned Development approach shall be a minimum of five (5) acres.

E. *Definitions*

1. *“Common Open Space” is a parcel of land or any area of water, or a combination of land and water within the site designed and intended for the use or enjoyment of occupants of the Planned Development, or consistent with use as described in Section 36.01 H. Common Open Space may contain such complimentary structures and improvements as are necessary and appropriate for the benefit and enjoyment of occupants but shall not include rights-of-way and required private yards;*
2. *“Landowner” shall mean the legal or beneficial owner or owners of all of the land proposed to be included in a Planned Development. The holder of an option or contract to purchase, a lessee or other person having an enforceable proprietary interest in such land, shall be deemed to be a landowner for the purposes of this Article;*
3. *“Plan” shall mean the written and graphic submission for a Planned Development, including a Preliminary Development Plan (denoting a prospectus for development), Final Development Plan, a plat of subdivision, all covenants relating to use, location, and bulk of buildings and other structures, density of development, private streets, ways and parking facilities, common open space and public facilities;*

4. *“Planned Development” (PD) is an area of land, controlled by a Landowner, to be developed as a single entity for a variety of dwelling units and/or other uses, the Plan for which may not correspond in lot size, bulk or type of dwelling, density, lot coverage and required open space to the regulations established in any one zoning district created, from time to time, under the provisions of the Batavia Township Zoning Resolution; and*
5. *“Professional Consultant” shall mean a person who possesses the knowledge and skills, by reason of education, training, and experience to comprehend the full nature and extent of the project in question regarding its social, economic, physical, environmental and design characteristics and implications in order to foster a unified plan for development. The professional consultant may be, a registered architect, landscape architect, engineer, planner, or equivalent.*

F. Project Ownership

The project land may be owned, leased, or controlled either by a single person or corporation, or by a group of individuals or corporations. Such ownership may be by a public or private corporation.

G. Common Open Space

No less than twenty (20%) percent of the gross acreage in any Planned Development shall be reserved for common open space and recreational facilities for the residents or users of the area being developed. The open space shall be disposed of as required in H of this section. All required open space shall be readily accessible and usable by occupants of the approved development.

H. Disposition of Common Open Space

The required amount of common open space land reserved under a Planned Development shall be held in corporate ownership by owners or the Homeowners Association of the project area for the use of each owner who buys property within the development or under exceptional circumstances be dedicated to the Township, following consent and approval by the Township, and retained as common open space for public parks, recreation, and related uses. All land to be dedicated to the Township must meet the Batavia Township Board of Trustees requirements as to size, shape, and location. Public utility and similar easements and right-of-ways for water courses and other similar channels are not acceptable for common open space dedication to the Township, unless such land or right-of-way is usable as a trail or other similar purposes and approved by the Batavia Township Board of Trustees. A Homeowners Association (HOA), or other appropriate management entity for non-residential use projects, shall be established and in place prior to the development of any land within a PD with the open space(s) under their control being denoted on the record plat and identified as “non-buildable” other than for HOA approved uses.

I. *Maintenance of Open Space*

A Homeowners Association, or other appropriate management entity for nonresidential use projects, shall be responsible for maintenance of open space and other required amenities within the proposed PD. A Homeowners Association shall be established, and the Bylaws and Articles of Incorporation shall be recorded at the time of approval of the Final Development Plan, prior to issuance of a Zoning Certificate or approval of a record plat.

The Batavia Township Board of Trustees may require a maintenance bond be provided or an escrow account established by the developer for maintenance and upkeep of all common areas until such time as 75% of the lots have been sold.

J. *Utility Requirements*

Underground utilities, including telephone and electrical systems, are required within the limits of all Planned Developments. Appurtenances to these systems which can be effectively screened may be exempt from this requirement.

K. *Planned Development*

Planned Developments may be developed following the provisions of L-N of this Section.

L. *Minimum recommended Lot Sizes, Setbacks, Building Line Widths, Dwelling Square Footages and maximum recommended Density Levels.*

Minimum requirements with respect to lot sizes, setbacks, building line widths, and dwelling square footages shall be duly noted on the record plat. The Township shall evaluate the proposed off-street parking to determine if adequate parking is provided and may require additional improvements if deemed necessary.

1. **“Single-family”.** **Each lot intended for a single-family detached dwelling is recommended to have a minimum area of 10,000 square feet and a minimum width at the building line of 75 feet.** *Variable setbacks may be granted by the Township if considered appropriate. If not, minimum setbacks shall be:*

a. **Front yard: 35 feet from right-of-way;**

b. **Side yards: 20 feet total; 5 feet minimum on one side; and**

c. **Rear yard: 30 feet from rear lot line.**

2. **“Two-family”.** *Each lot intended for a two-family dwelling is recommended to have a minimum area of 15,000 square feet and a minimum width at the building line of 100 feet. Variable setbacks may be granted by the Township if considered appropriate. If not, minimum setbacks shall be:*

a. **Front yard: 35 feet from right-of-way;**

- b. Side yards: 25 feet total; 10 feet minimum on one side; and
- c. Rear yard: 35 feet from rear lot line.

3. “Multi-family” dwellings and “Attached Single-family” dwellings.
Multi-family and attached single-family dwelling units, including apartments, attached townhouse and condominium units, may be incorporated into a proposed Planned Development, if the Township finds that such use will be consistent with the character of the area, compatible with surrounding uses, and in compliance with the standards of this chapter. The Township may allow higher density for mixed use development when determined to be of benefit to the project. In no case shall the complex of multi-family structures, including paved area, utilize more than 60% of the net acreage allocated to such complex. In areas where townhouses or attached condominiums are developed, a maximum of eight (8) townhouse units in any contiguous group is recommended. Variable setbacks may be granted by the Township for each multi-family dwelling or attached single-family building if considered appropriate. If not, minimum setbacks from the perimeter property line shall be:

- a. Front yard: 50 feet from the public right-of-way; or 30 feet from a private right of-way easement.
- b. Side yards: 50 feet on each side; and
- c. Rear yard: 50 feet from rear lot line.
- d. Between buildings 25 feet between buildings.

4. “Non-residential Uses”. Each lot intended for a non-residential use is recommended to have a minimum area of 15,000 square feet and a minimum width at the building line of 100 feet. Yard setbacks shall be as follows:

- a. Front yard: 40 feet
- b. Side yards: 20 feet on each side;
- c. Rear yard: 40 feet from rear lot line;
- d. Parking setback from right-of-way 10 feet; and
- e. Parking setback from other lot lines 5 feet

5. The square footage of all dwelling units, attached and detached units, within a PD shall follow the guidelines established by the Zoning Resolution in effect at the time of issuance of Zoning Certificates unless modifications are agreed upon at the time of PD approval.

6. *The total residential density of the PD shall be established on the NET acreage of the residential portion of the PD, excluding any areas of commercial, office, or non-residential use including open space lots. Slopes greater than 20%, existing public right of ways, and existing utility easements shall be subtracted from the total acreage to calculate net density. **The total maximum recommended net residential density of PD's shall be 3 D.U.A. (dwelling units per acre).** The Township may allow increased density for attached dwelling or multi-family dwellings in a PD if the Township determines that the proposed density will be appropriate for the property and the area, and that the proposed design justifies the increase in density.*

B-04-22ZPD RECOMMENDED NET DENSITY

1. *Recommended Maximum Density*

18.26 gross acres (including min. of 20% open space or 7.60 acres)
 - 0.0 acres of > 20% slope
 - .732 acres of existing public rights-of-way and/or utility easements
 = 17.528 net acres **17.528 x 3 D.U.A. = 52.58** (max. # of dwelling units)

17.528 net acres – 5.26 acres of open space = 12.268 acres (max. 52.58 D.U. to be built on max of 12.268 acres)

B-04-22ZPD PROPOSED NET DENSITY

2. *Proposed Density*

18.26 gross acres (including proposed. 34% open space or 5.76 acres)
 - 0.0 acres of > 20% slope
 - .732 acres of existing public rights-of-way and/or utility easements
 = 17.528 net acres **17.528 x 3.19 D.U.A. = est. 56** (proposed # of dwelling units)

7. *Other Development Controls for Non-residential Uses. The following development controls shall be applied to non-residential uses within a PD*
- Parking and loading requirements shall be in accordance with the provisions set forth in Article 8 of this Resolution or as approved on the Preliminary or Final Plan.*
- a. *No outdoor sales or display of any materials shall be permitted in the PD unless approved as a part of the Preliminary or Final Plan.*
 - b. *No lighting shall be permitted which will have unreasonable glare from any use located in the PD onto any street or into an adjacent property. A lighting plan illustrating the proposed location, height, pole and fixture type, design, lamp, and photometric plan shall be approved on the Preliminary or Final Plan.*
 - c. *All business activities permitted within the PD shall be conducted within a completely enclosed building, except for the following:*
 - i. *Off-street parking and loading and/or unloading areas.*

- ii. *Outside play areas as part of child day care centers, churches, and schools.*
- iii. *Accessory seating area for eating establishments.*
- iv. *Open air display areas located on the same lot as the primary permitted uses. Such area shall be clearly identified on the PD plan as “outside display area”.*
- v. *Fuel Dispensing*
- vi. *Other activities as approved on the Preliminary or Final Plan.*
- vii. *Mechanical equipment, whether ground or roof mounted, shall be screened from view from public rights-of-way.*
- viii. *Circulation systems (vehicular and pedestrian) shall be coordinated with those of adjacent areas.*
- ix. *No use producing unreasonable objectionable odors, noise, or dust shall be permitted within five hundred (500) feet from the boundary of any residential zone.*
- x. *All waste receptacles shall be contained in an area screened on three sides by a six (6) foot tall solid wood or masonry enclosure. The fourth side is to contain steel enforced wood gates.*
- xi. *Signage is to be consistent with Article 40 of this Resolution or as approved on the Preliminary or Final Plan.*
- xii. *Landscaping/Screening shall be as approved on the Preliminary or Final Plan.*

M. Lots to Have Access to Common Open Space

Every residential property developed under the Planned Development approach should be designed to easily access common open space or similar areas. Open space areas shall be accessible to all residents and dwelling units and shall be conveniently located in relation to dwelling units. This does not limit the creation or protection of buffer areas not intended for active use. Open space areas shall have minimum dimensions which are usable for the functions intended and which will permit proper maintenance. The Batavia Township Board of Trustees may require that natural amenities, such as but not limited to, ravines, rock, outcrops, wooded area, tree or shrub specimens, unique wildlife habitat, ponds, streams and marshes be preserved as part of the open space system.

Common open space within non-residential use areas shall be designed to provide maximum benefit to the users of the development and should not be provided in unusable fragments. The design of the open space should create open space areas that are accessible and oriented to pedestrian activity.

N. *Height Requirements*

It is recommended that heights of principle use structures in the PD shall not exceed forty (40) feet and that heights of accessory structures shall not exceed 15 feet.

O. *Street Design*

The design of streets is significant in determining the character of Planned Developments. The following conditions are recommended standards within Planned Developments.

- 1. Streets should have a minimum pavement width of 28 feet for collector streets and 24 feet for local/cul-de-sac streets.*
- 2. Width of private streets are to be reviewed by the Township based on input from the Township fire and maintenance departments, and the County.*
- 3. Parking should be limited to one side of the street, recommended to be located opposite the fire hydrants.*
- 4. Sidewalks should be provided on both sides of public streets.*
- 5. The Township shall evaluate the proposed off-street parking to determine if adequate parking is provided and may require additional improvements if deemed necessary.*
- 6. Landscape islands and/or irrigation systems proposed in public rights-of-way shall be reviewed and approved by the Township, including the Township Service Director and Fire Department.*
- 7. Planting of trees within public rights-of-way shall not be permitted unless approved by the Township. Planting of trees on proposed private lots are encouraged at the rate of one (1) tree per lot in the front yard, and two (2) trees for corner lots.*

The subject properties are located in an area of the township designated Existing Neighborhood & Infill Area in Batavia Township's 2018 Growth Policy Plan.

Existing Neighborhood & Infill Area:

The Existing Neighborhood and Infill Areas identify locations within the Township where existing subdivision-type residential development has occurred. This land use category also identifies Infill Areas, property adjacent to or in close proximity to existing subdivision-type neighborhoods. Future residential development in Batavia Township should be guided to the areas designated as Existing Neighborhood and Infill Areas to take advantage of existing public services and roads and be compatible with the current subdivision pattern developing in these areas.

This petition for a zoning map amendment and the details provided conform to the overall future development policies and its vision for residential development to take advantage of existing public services as stated in *Batavia Township's 2018 Growth Policy Plan: Existing Neighborhood & Infill Area*.

SITE ACCESS:

The proposed street design gives two points of ingress/egress. Public Road “A” will enter from Amelia Olive Branch Road with a connection to Clough Pike. All Single-Family Residential lots will have direct access and legal road frontage by the dedication of a 50’ public right-of-way.

The Single-Family Attached lots will have access from Public Road “B,” a short cul-de-sac that accesses a private alley to the rear of the proposed “T” lots. All Single-Family Attached lots will have an undetermined legal road frontage from Clough Pike, with no direct access to Clough Pike permitted.

Per the Clermont County Subdivision Regulations, each lot shall be provided 25 feet of legal road frontage. If the development proposes to reduce this requirement, a variance request will need to be approved by the Clermont County Planning Commission before the approval of the Design Plan.

No proposed road names have been provided at this time; the Clermont County Engineer’s Office shall review proposed street names for duplicate or nearly duplicate names of existing streets of record or streets for which design plans have been approved.

The Clermont County Engineer’s Office has reviewed the site plan. A traffic impact study has been determined not to be required as less than 100 trips are expected to be generated by the proposed development during peak hours. For the Clough Pike entrance, a sight distance analysis and easement are needed for the entrance along Clough Pike. While public access to the Batavia Township Park is encouraged, the northern proposed crosswalk must be shifted to the North towards Gatetree Lane by a minimum distance of 33 feet. On the other hand, the southern proposed crosswalk location will not be permitted due to significant safety concerns with the proximity to the roadway curve.

STAFF ANALYSIS:

The development plan presented in Batavia Township Case B-04-22ZPD has been reviewed by the Clermont County Reviewing Agencies. It has been revised from previous submittals to improve the proposed street layout, though the County still has concerns with the public cross-walk location proposed, and it could be a public safety hazard. We encourage the applicant to work with the County on determining an improved area for a crosswalk across Clough Pike.

The development plan presented states a proposed net density of 3.19 units per acre,

slightly above the net maximum residential density of 3 units per acre. Most of the proposed single-family lots within the PD plan appear not to meet the Townships recommended site development minimums under Article 36: PD – Planned Development. The Township may grant variable lot configuration and setbacks if considered appropriate.

For comparison:

Batavia Township Zoning Case B-02-18ZPD

One hundred fifty-five townhomes and 68 single-family residential lots with a net density of 2.90 units per acre with a typical lot size of 8,000 sq. ft. (0.183 acres) with 60 ft. lot widths.

Batavia Township Zoning Case B-03-17ZPD

One hundred seventy-nine single-family residential lots with a net density of 2.73 units per acre with a typical lot size of 8,400 sq. ft. (0.192 acres) with 60 ft. lot widths.

Batavia Township Zoning Case B-03-19ZPD

Sixty single-family residential lots with a net density of 3.12 units per acre with a typical lot size of 5,200 – 13,686 sq. ft. Avg. 8,498 sq. ft. (0.192 acres) with 24 ft. (Attached) and 60 ft. (detached)

In keeping with Batavia Township’s Zoning Resolution Article 36 - Objectives for Planned Developments, specifically item #6, the Township must be aware that recently proposed projects have routinely asked for higher densities and smaller lot sizes that do not meet the minimum recommended regulations under PD – Planned Development Districts.

Regarding the soil types listed on the design plan, no proposed lots or structures fall under the Steep Slopes & Erosion Hazards listed in the Clermont County Subdivision Regulations. They are not required to perform individual geotechnical reports at this time.

The proposed project is within Batavia Local School District’s jurisdiction and does not cause any overlapping issues with surrounding school districts. The proposed project would connect to the existing Clermont County water & sewer system with electricity being supplied by Duke Energy.

Batavia Township Comments:

- No objections or comments have been received at this time.

Clermont County Community & Economic Development Comments:

- If Batavia Township Case B-04-22ZPD receives a favorable recommendation, the adjacent parcel (012008D196) zoning district shall be returned to its prior zoning district before the approval of Case B-03-19ZPD.
- Proposed “T” Lots are to have 25 feet of legal road frontage per *Article V, Clermont County Subdivision Regulations*.

Clermont County Community & Economic Development Comments: Cont.

- Provide access to all open space lots from a public right-of-way.
- Remove all existing structures on the site before development.
- Detention Pond will be required for all proposed stormwater infrastructure. The existing farm pond can remain but cannot be increased in size or capacity.

The Clermont County Water Resources Department Comments:

- Public sanitary sewer and water capacity are available for the proposed development.
- The plans must demonstrate how Section 4 of the Clermont County Airport Zoning Regulations will be satisfied.
- The heights of the proposed buildings will need to be provided to conform to the height restrictions per the Clermont County Airport Zoning Regulations.

The Clermont County Engineer's Office Comment:

- A Traffic Impact Study is not required as less than 100 trips are expected to be generated by the proposed development during the peak hour.
- Street names are required to be shown on the plans.
- A sight distance analysis and easement is needed for the entrance along Clough Pike.
- The southern proposed crosswalk location is not permitted due to safety concerns with the proximity to the roadway curve.
- The northern proposed crosswalk needs to be shifted to the North towards Gatetree Lane by a minimum distance of 33 feet.

STAFF RECOMMENDATION:

Based on the Staff Analysis, move to **RECOMMEND APPROVAL** of Batavia Township Zoning Map Amendment Case B-04-22ZPD requesting to rezone parcel 012008D030 consisting of +/- 18.26 acres from PD – Planned Development District (Case B-03-19ZPD) to a “New” PD – Planned Development District with the following conditions:

1. Parcel (012008D196) zoning classification shall be returned to its prior zoning district before the approval of the previous overlay district in Case B-03-19ZPD.
2. Proposed “T” Lots are to have 25 feet of legal road frontage per *Article V, Clermont County Subdivision Regulations*.
3. Provide access to all open space lots from a public right-of-way.
4. Remove all existing structures on the site before development.
5. Detention Pond will be required for all proposed stormwater infrastructure. The existing farm pond can remain but cannot be increased in size or capacity.

STAFF RECOMMENDATION: Cont.

6. Demonstrate how Section 4 of the Clermont County Airport Zoning Regulations will be satisfied.
7. Provided the heights of the proposed buildings to conform to the height restrictions per the Clermont County Airport Zoning Regulations.
8. Provide proposed street names on the plans.
9. Provide a sight distance analysis and easement for the entrance along Clough Pike.
10. The southern proposed crosswalk location is not permitted due to safety concerns with the proximity to the roadway curve.
11. The northern proposed crosswalk needs to be shifted to the North towards Gatetree Lane by a minimum distance of 33 feet.