



PLANNING COMMISSION STAFF REPORT

FOR CONSIDERATION BY THE PLANNING COMMISSION ON AUGUST 23, 2022

BATAVIA TOWNSHIP CASE B-05-22ZPD

- APPLICANT:** Carl G. Hartman P.E., P.S.
3478 Holly Ridge Drive
Cincinnati, OH 45245
- OWNERS:** Keton Patel
1029 Asbury Road
Cincinnati, OH 45255
- SASA Property, LLC.
1029 Asbury Road
Cincinnati, OH 45255
- REQUEST:** Batavia Township Zoning Map Amendment Case B-05-22ZPD
Requesting to rezone parcel 012024.044 (2.64 acres) & a portion of parcel 012024.078 (0.982 acres) consisting of +/- 3.621 acres from I – Industrial District to PD – Planned Development District.
- LOCATION:** The subject properties are located +/- 375 feet north on Curliss Lane of the Old State Route 32 and Curliss Lane intersection. The Norfolk and Southern Rail Line is located along the northern boundary line of parcel 012024.044
- ZONING:** Existing Zoning: I – Industrial District
Proposed Zoning: PD – Planned Development
- North: I – Industrial District (*Norfolk and Southern Rail Line*) & *M-I – Major Industrial District*
East: I – Industrial District & R-1 – Single-Family District
South: I – Industrial District
West: I – Industrial District
- LAND USE:** Existing Land Use: Single-Family Residential Rental Property & Storm Water Retention for Commercial/Retail Business.
- Proposed Land Use: Multi-Family Apartments
- HISTORY:** No relevant history regarding previous zoning requests for the subject parcel could be established.

RELATIONSHIP TO TOWNSHIP ZONING & FUTURE LAND USE:

Batavia Township's 2018 Growth Policy Plan specifies this area of the Old State Route 32 Development Corridor of the Township as a "Business Development Area" area.

Business Development Area

The Business Development Areas are locations where the Township should encourage the development of retail, service, or office type uses to serve the population of Batavia Township, as well as the surrounding region. Business development is important to the Township for several reasons, including the need to provide goods and services to the Township's residents, providing a balanced tax base between residential and nonresidential, and providing jobs. The locations designated for Business Development Areas are adjacent to major traffic corridors (SR 32) and at or near "interchanges." These areas also reflect a combination of existing business uses and existing zoning designations.

Future Development Policies

- *Confer with the County Engineer's Office relative to requiring traffic impact studies for proposed office, commercial, or institutional developments.*
- *Encourage new business development in the Business Development Areas as commercial planned developments.*
- *The Township should work closely with the County Engineer to monitor/pursue construction of the Armstrong Boulevard extension to Amelia Olive Branch Road to increase access to existing and future Business and Commerce Development Areas.*
- *Encourage construction of an interior, parallel access road system on the north and south side of SR 32 in the Bauer Road/Herold Road Development Area.*
- *Encourage access management practices to control traffic and driveway locations. This will require coordination and collaboration with the County Engineer's Office and the Ohio Department of Transportation.*
- *Consider allowing mixed-use developments that include a combination of non-residential and residential uses within a unified, coordinated development. This provision may require zoning resolution text amendments, or may be able to be accomplished through use of planned development regulations.*

The request for the proposed zoning map amendment falls outside the overall development policies stated in *Batavia Township's 2018 Growth Policy Plan: Business Development Area* and its vision for commercial planned developments to take advantage of existing public services, roads, and particularly rail service at this location. The proposed multi-family residential development is incompatible with the current industrial properties along this development corridor.

As designed, it appears this request is **incompatible** with the Planned Development regulations within the Township's Zoning Resolution (Article 36).

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 the provision of functional open space, and preservation of valuable and unique natural resources;*
4. *Provide a development pattern that 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 more effective use of land than is generally achieved through conventional residential and commercial development resulting in substantial savings through shorter utilities, streets, and other public services, and*
6. *Provide a residential and commercial development pattern in harmony with land use density, transportation facilities, community facilities, and objectives of the Batavia Township Growth Management Plan.*

B. Provisions Governing Planned Developments

1. General

Because of the special characteristics of Planned Developments, special provisions governing the development 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 Commission 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 the occupants of nearby property, and to avoid nuisances to the general public or 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.

(Requesting to rezone parcel 012024.044 (2.64 acres) & a portion of parcel 012024.078 (0.982 acres) consisting of +/- 3.621 acres from I - Industrial District to PD - Planned Development District.)

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 complementary 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 the 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.

(Proposed 1.134 acres or 33%)

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 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 watercourses and other similar channels are not acceptable for common open space dedicated 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 the 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 to 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 Footage, 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"(Not Applicable)
2. "Two-family" (Not Applicable)
3. "Multi-family" dwellings and "Attached Single-family" dwellings. Multi-family and attached single-family dwelling units, including apartments, attached townhouses, 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 areas, 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.(not referenced)
4. "Non-residential Uses" (Not Applicable)
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.

1. *Recommended Maximum Density*
3.621 gross acres (including min. of 20% open space or 7.92 acres)
 - 0.00 acres of > 20% slope
 - 0.152 acres of existing public rights-of-way and/or utility easements
 = 3.469 net acres **3.469 x 3 D.U.A. = 10.4 (max. # of dwelling units)**

3.469 net acres – 1.134 acres of open space = 2.335 acres (max. 10.4 D.U. to be built on a max of 2.335 acres)
2. *Proposed Density*
3.621 gross acres (including proposed. 33% open space or 1.134 acres)
 - 0.00 acres of > 20% slope
 - 0.152 acres of existing public rights-of-way and/or utility easements
 = 3.469 net acres **3.469 x 9.22 D.U.A. = 31.9 (i.e. 32) (proposed # of dwelling units)**

SITE ACCESS:

The proposed multi-family apartment development would have a singular point of ingress/egress from Curliss Lane located +/- 375 feet north of Old State Route 32. The onsite traffic circulation has not been shown on the site plans submitted but is preferred counterclockwise traffic circulation to prevent vehicles from impeding others during ingress and egress. No additional right-of-way or roadway improvements have been proposed.

DEVELOPMENT PROPOSAL:

Per the application, the proposed Planned Development would be to develop 32 Multi-Family Apartment Units on 3.469 net acres (3.621 gross acres) with a stated 33% of proposed open space, with an overall project density of 9.22 dwelling units per acre. Proposed amenities within the open space include the existing retention pond to include proper aeration and a visual fountain, walking paths, and a gazebo have also been shown.

DEVELOPMENT DATA:

Batavia Township Case: B-05-22ZPD

Parcel Number: 012024.044 (2.64 acres) & a portion of parcel 012024.078 (0.982 acres)

Current Zoning/Density: I-Industrial (N/A)

Proposed Zoning/Density: PD (9.22 units/acre)

Unit Yield: 32

Total Gross Area: 3.621 acres

Area in Open Space: N/A (33%)

Front Yard Setback: 50 Feet

Side Yard Setback: 50' min, **proposing 25' min on the Northside.**

Rear Yard Setback: 30 Feet

School District: Batavia Local School Districts (BLSD)

STAFF ANALYSIS:

The proposed Planned Development would permit the applicant to develop 32 multi-family apartment units on approximately 3.469 net acres. The existing I – Industrial District zoning does not allow for residential uses and does not have a potential development density. The Planned Development proposes a density of approximately 9.22 dwelling units per acre, which is a (207%) increase from the recommended maximum potential density of 3.00 units/acre. The proposed density also falls below the recommended maximum of 3 dwelling units per acre under *Batavia Township Zoning Resolution Article 36: PD – Planned Development District*.

The proposed development is situated on the north side of the Old State Route 32 development corridor and is surrounded by limited residential development. The adjoining parcels are commercial services or large-scale industrial sites, including the Norfolk and Southern Rail Line, located along the northern property boundary.

The Planned Development as proposed does **not** address the adjoining conflicting uses by providing additional buffering. The proposed PD plan shows the existing mature trees to remain; however, it is challenging to confirm that any type of additional buffering, either constructed or planted, would prevent or limit unwanted pollution (light, noise, particulate matter) from either of the adjoining commercial and industrial properties.

This proposed buffer has been described as a “tree buffer.” Details regarding the specifications for the buffering have not been provided at this time. A more detailed review of the proposed landscaping and buffering will be determined by the township during future phases of development. In addition to the limited buffering, the proposed amenities within the open space on the southern side of the development are designed to add additional acreage to the proposed site while also providing stormwater infrastructure. All stormwater infrastructure within the open space will need to be maintained by creating a Homeowners Association or by the property owner.

Pedestrian circulation has been shown by providing paved walking paths through the development. Walking trails have been shown connecting the existing commercial property on Old State Route 32 while incorporating the stormwater retention basin behind the facility and using it as a water feature.

This request is considered spot zoning, considering the adjoining land uses and zoning of properties situated north of Old State Route 32 and Curliss Lane. The implementation negatively affects the potential future residents and existing industrial businesses in the area. By situating incompatible land uses you create undue hardships for existing businesses by impeding their usable property and creating a possibility for public interference in future requests. The approval of this request also could set a precedence for future land uses within this development corridor and throughout Batavia Township.

Spot Zoning: *“the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of such property and to the detriment of other owners.” Anderson’s American Law of Zoning, 4th Edition, § 5.12 (1995).*

Clermont County Community & Economic Development Comments:

- Case B-05-22ZPD is incompatible with 2018 Batavia Township's Growth Management Plan.
- Case B-05-22ZPD is incompatible with the adjoining properties by creating undue hardships on the surrounding I – Industrial District properties.

Clermont County Engineer's Office Comments:

- No objections or comments to offer at this time.

Clermont County Water Resources Department Comments:

- Public water is available for the proposed development.
- Public sewer will need to be extended from Old SR 32 down Curliss Lane.
- Water and sewer capacity for the proposed development will be verified by Water Resources.

STAFF RECOMMENDATION:

Based on Staff Analysis, move to **RECOMMEND DENIAL** of Batavia Township Zoning Map Amendment Case B-05-22ZPD requesting to rezone parcel 012024.044 (2.64 acres) & a portion of parcel 012024.078 (0.982 acres) consisting of +/- 3.621 acres from I – Industrial District to PD – Planned Development District.