

Shaquila Mathews Commission Member	Teri Horsley Commission Member	Dale McAllister Commission Member	Candice White Commission Member
Patrick Moeller Mayor	Matthew Von Stein Commission Member		Joshua Smith City Manager
Lisa Sandlin Alternate			Larry Bowling Alternate

Four (4) Public Hearings

Roll Call:

Horsley	Mathews	Sandlin for McAllister	Moeller	Von Stein	Werdmann for Smith	White
Here		Here	Here left at 2:50pm rejoined at 3:50pm	Here	Here	Here

Motion to have Ms. Lisa Sandlin serve as Chair for the April 7, 2022 Meeting

Motion by: Moeller
 Second: Von Stein
 Unanimously approved

Swearing in of Those Providing Testimony to the Commission:

Notary Public : Liz Hayden

Approval of Meeting Minutes- Written summary and audio recording for the following dates:

1. N/A- to be provided when available

New Business:

1. **Agenda Item #1- Public Hearing**

105 North Erie Boulevard- Final Planned Development & Specific Use application for a drive-thru restaurant (Starbucks)

Section A: Introduction and Background

Section A.1: Proposal Overview

Jeffery Stahl, applicant, on behalf of Compton Addy, owner, submitted an application for a Final Planned Development to allow construction of a new drive-thru restaurant facility, at 105 North Erie Boulevard (See Exhibit A, Location Map). The proposal is to allow the construction of a proposed Starbucks coffee shop on property zoned BPD (Business Planned Development). Due to the BPD zoning, the proposal requires a final plan and specific use approval per the city zoning ordinance.

Section A.2: Final Planned Development Plan & Specific Use Overview

The applicant requests approval for the construction of a new Starbucks, a coffee shop featuring a drive-thru. The application is for a Final Planned Development and requires a Specific Use approval. The main proposal includes:

- 1) Construction of 2,265 square foot restaurant / coffee shop, & a 361 square foot outdoor seating area. (Construction on a PD zoned property requires a Final Planned Development).
- 2) The restaurant includes a drive-thru that allows stacking for up to 17 vehicles, (this requires a Specific Use approval).
- 3) 10 foot setback and landscape buffer for the entire perimeter of the site
- 4) Two variance requests to the commercial design standards (Sections 1904 & 1905 of the Zoning Ordinance) due to the proposed “rear” façade being visible from North Erie Boulevard / Route 4.

Section A.3: Existing Site Conditions

105 North Erie Boulevard is a vacant, formerly developed property. The site features existing gravel with grass and weeds, with overhead utilities. A six (6') foot tall privacy fence is located in the western part of the property, somewhat parallel to the existing property lines. There is also evidence of damage and replacement of fence boards. Note that the existing privacy fence is within the property of 105 North Erie Boulevard, not the property boundary.

The site features an existing large curb cut, and is also accessible from the adjacent Walgreens parking lot. The owner, Edward Larkin, utilizes the site for storage of vehicles for sale. The property is zoned BPD (Business Planned Development), see Exhibit B, Zoning Map. 105 North Erie Boulevard is also east adjacent to the Dayton-Campbell Historic District, with Campbell Avenue terminating at the western property line. The property abuts 1024 & 1025 Campbell Avenue. There is also a 6 foot elevation difference between Campbell Avenue and the site, with the site having a higher grade, and a notable slope at the western boundary of the property.

Section A.4: History

There was a previous submission of plans and a final PD (Planned Development) plan application in August 2021. However, prior to the Planning Commission meeting, the applicant requested that the application be postponed. Planning Staff received no further information or contact from the applicant for the remainder of 2021 and the early part of 2022.

The previous plans were for a restaurant with a drive-thru (Starbucks), like the current proposal. However, the previous plans featured a lot split:

- The Southern two-thirds of the property allotted for the drive-thru coffee shop,
- The Northern one-third reserved for the current owner of the property, Ed Larkin, Rose Chevrolet (auto sales & repair), to store excess vehicle inventory.

The current applicant/future owner returned to the city with a revised site layout to restart the proposed Starbucks, submitting preliminary construction drawings and contacting various departments for feedback. The proposal now would utilize the entirety of 105 North Erie Boulevard, and has no indication of vehicle storage on the northern part of the site.

After sufficient feedback was received, the applicant contact the Planning Department to arrange the Planned Development submission for Starbucks. Due to the lack of Planning and Zoning approvals for the property, Planning Staff considers this application as a new Planned Development application.

Section A.5: Outreach to the Dayton Lane Neighborhood

As indicated previously, 105 North Erie Boulevard abuts the Dayton-Campbell Historic District. Staff has been in contact with the Dayton Lane Neighborhood Association to hear and address the neighborhood's concerns pertaining to the proposed Starbucks.

- Overall, Dayton Lane wanted the terminus of Campbell Avenue addressed, noting the preponderance of trash, debris, dumping, overgrowth of invasive plants, flooding and mudslides.
- Additionally, while a pedestrian connection from Starbucks to Campbell Avenue was discussed, after further review, Dayton Lane forewent the idea, noting cost and other potential issues with such a connection.
- Staff also sent early notice of the public hearing to the owners of 1024 & 1025 Campbell Avenue. As of this report, only the owner of 1025 Campbell has replied and submitted comments (see Section E: Notification)

Section B: Petition Review

Section B.1: Submitted Request (See Exhibit C)

The application is a Final Planned Development Plan & Specific Use request to construct a drive-thru coffee shop on property zoned BPD (Business Planned Development).

Due to the applicant's timeline, and the use of building permit level drawings in the revised application, Staff has determined that there is sufficient information and rationale to proceed with the project as a Final Planned Development application.

Section B.1.1: Preliminary Planned Development & Specific Use

The Applicant's project proposal consists of two major components:

- 1) Final Planned Development review and approval for the new development, Starbucks, a drive-thru coffee shop.
- 2) Specific Use Approval to allow a drive-thru per [Section 1330](#) of the zoning ordinance.



Section B.2: Synopsis of Proposal

The proposed development plan includes the following items:

- 1) Proposed construction of a 2,265 square foot drive-thru coffee shop.
- 2) This proposal includes a drive-thru that allows stacking for up to 17 vehicles. Only a singular drive-thru is proposed.
- 3) A 361 square foot outdoor seating area is proposed as part of the coffee shop.
- 4) Removal of the existing privacy fence located at the western portion of the property.
- 5) Proposal includes a ten (10') foot setback and landscaped buffer for the entire perimeter of the site – specifically the western property line (this area abuts residential uses and the Dayton-Campbell Historic District).
- 6) The main vehicle access will be from North Erie Boulevard. On site traffic will be one-way counter clockwise, with pavement markings to indicate traffic flow and direction.
- 7) A secondary access is proposed from the adjacent Walgreens.

Section B.2.1: Building Elevations & Materials

Elevations of the proposed coffee shop include:

- 1) East elevation / Front Façade 1 (Main Front Façade, visible from Route 4)
 - a. Aluminum storefront windows and an entry door is included on this façade, and comprises the majority of the façade. 48% Transparency.
 - b. A black metal awning is also included above the storefront façade and entry door.
 - c. Brick masonry is proposed for the lower half of the façade.
 - d. Wood, dark brown in color, is utilized for the upper half of the façade.
 - e. EIFS is proposed for the remaining upper portion of the façade.
- 2) South elevation / Front Façade 2 (visible from Route 4)
 - a. Aluminum storefront windows and an entry door is included on this façade, and comprises the majority of the façade. 48% Transparency.
 - b. A black metal awning is also included above the storefront facade
 - c. Wood, dark brown in color, is utilized for the upper half of the façade.
 - d. Brick masonry is proposed for this façade as the remainder of the façade.

- 3) West elevation / Drive-Thru Façade (not visible from Route 4)
 - a. A drive-thru window with accent windows is proposed for this facade
 - b. A black metal awning is also included above the drive-thru window
 - c. Wood, dark brown in color, is utilized for the drive-thru window, including the upper portion of the facade.
 - d. Brick masonry is proposed for the lower half of the façade, and covers a portion of the whole façade at the southern end.
 - e. EIFS is proposed for the remaining upper portion of the façade.
- 4) North elevation / "Rear" (visible from Route 4)
 - a. Brick is proposed for the lower half of this façade.
 - b. EIFS is proposed for the upper half of this façade.
 - c. There are no windows proposed for this façade. The façade includes a rear entry door for employees only. 0% Transparency

Section B.2.1.1: Building Materials Evaluation / Variances:

Commercial Design Standards:

Note, that per Supplementary Building Materials, Supplementary Building Materials, Section 1904, B, secondary materials may not exceed 25% of the exterior wall surface area. Those materials include: architectural grade metals, EIFS/stucco, glass block, and precast concrete.

Note: that per the Commercial Design Standards, Transparency, Section 1905, B, secondary facades, non-front facades visible from right-of-way, require 30% transparency minimum.

Per the HZO, Staff may authorize reductions of required transparency and increased use of secondary materials if the applicant provides building improvements and site amenities that enhance the quality of the development.

In that instance, two of three provisions would need to be met:

- a) The primary facade of the proposed building most visible to pedestrians and the right of way include the following:
 - i. Provision of transparency greater than the requirements of the zoning ordinance. – On the front façade and the south façade, 48% transparency is proposed (the requirement is 35% and 30% respectively)
 - ii. Provision of building articulation in excess of the requirements of the zoning ordinance. – N/A
 - iii. Provision of architectural and design elements that enhance the aesthetic value of the public experience on the site. – The modern design, windows, masonry, and awning can qualify as an enhanced aesthetic value.
- b) Provision of landscaping on the site greater than the requirements of the zoning ordinance. – The proposed plans greatly exceed the requirements (see Section B.2.3 & B.2.4 for specifics).

- c) Provision of public amenities such as green space, recreation space, and space set aside and specifically designed for the purpose of social interaction and gathering. – **The proposed plans provide a 321 square foot outdoor space.**

However, please note: that due to the BPD (Business Planned Development) and due to the overall nature of the proposal, the Planning Commission would make the final determination on the subject of no transparency/windows and proposal of 25%+ EIFS on the rear façade. For this reason, these items are included as variance/waiver requests to the HZO (see Sections C.5 & C.6 of this report).

Section B.2.2: Off-Street Parking & Access Controls

1. Off-Street Parking: The submitted site plans indicate conflicting parking totals.
 - A. The base site plan indicates 28 parking spaces.
 - o Parking is located along the Route 4 frontage of the site, and the southern portion of the site.
 - o The parking includes two (2) ADA parking spaces located in the center of the front parking row.
 - o Two (2) bike racks are proposed.
2. Asphalt & Concrete (Paving):
 - a. Heavy duty asphalt is proposed for the majority of the paving of the site.
 - b. Light duty asphalt is proposed for the parking spaces.
 - c. Heavy duty concrete is proposed for the drive-thru, including the intended vehicle reservoir length (the entire intended length of the drive-thru). Heavy duty concrete is also proposed for the dumpster enclosure area.
3. Access & Circulation:
 - a. The existing curb cut on Route 4 (North Erie Boulevard) would be modified to 24 feet in width, and serve as ingress/egress for the site.
 - b. A secondary ingress/egress is proposed at the southern portion of the site and would be modified to 24 feet in width.
 - c. The drive-thru and the on-site vehicular circulation is one-way counter clockwise. This also includes a “Do Not Enter” pavement marking at the southern end of the site.
 - d. The proposed drive-thru would be designed to accommodate up to 17 vehicles.
 - e. There is also a proposed five (5’) foot wide sidewalk that would connect the parking lot to the existing sidewalk on Route 4.
 - f. Three pedestrian crosswalks are proposed.



- One to connect to the proposed sidewalk extension.
- A second would connect the two (2) ADA parking spaces to the front entrance.
- A third is located at the rear of the site, connecting to the dumpster enclosure.

Section B.2.3: Landscaping

The submitted application and landscaping plan includes the following:

- 1) A ten (10') foot setback and landscape buffer is proposed for all property lines.
- 2) Twenty-two (22) trees proposed:

This includes, 15 shade trees, and 7 ornamental trees

- a. Skyline Locust: 1
 - b. Tulip Tree: 3
 - c. Silver Linden: 3
 - d. Patriot Elm: 4
 - e. Zelkova: 3
 - f. Redbud: 3
 - g. Red Jewel Crabapple:
- 3) 185 shrubs proposed:
 - a. Boxwoods: 20
 - b. Annebelle Hydrangeas: 11
 - c. Ruby Slippers Hydrangeas: 10
 - d. Calgary Carpet Juniper: 18
 - e. Gray Owl Juniper: 59
 - f. Drift Roses: 3
 - g. Goldflame Spirea: 8
 - h. Neon Flash Spirea: 7
 - i. Dense Yew: 4
 - j. Rheingold Arborvitae: 18
 - k. Green Giant Arborvitae: 21
 - l. Wine & Roses Weigela: 6
 - 4) 159 perennials proposed:
 - a. Moonbeam Coreopsis: 18
 - b. Mixed Daylilies: 100
 - c. Lily Turf: 12
 - d. Blackeyed Susan: 5
 - e. Autumn Joy Sedum: 24

Section B.2.4 Landscaping Areas

1. Landscape Areas include:
 - a. A ten (10') foot setback at the rear of the property (western property line). This consists of the following plantings from the landscape provided:
 - i. 3 Silver Linden, 3 Red Bud, & 3 Red Jewel Crabapple at the southern half of the western property line.
 - ii. 3 Tulip Trees & 19 Green Giant Arborvitae line the northern half of the western property line.
 - b. A ten (10') foot setback at the southern property line (abutting Walgreens)
 - i. 2 Patriot Elm and 1 Zelkova at the southern property line
 - c. A ten (10') foot setback at the northern property line
 - i. Plantings include: 2 Patriot Elm, 2 Green Giant Arborvitae, 18 Rheingold Arborvitae, and 1 Red Jewel Crabapple
 - d. A landscaped area at the North Erie Boulevard curb cut.
 - e. A landscaped area at the southeast corner of the property. This is the location of the proposed signage and the sidewalk connection.
 - f. The proposed Starbucks building features landscaping around the entire perimeter including the outdoor seating area and the rear (drive-thru) facade. This consists of primarily shrubs with some perennials.
 - g. The visible rear façade of the building features 6 Wine & Roses Weigela (shrubs) and 1 Skyline Locust (tree).
 - i. Note: the intent of the landscaping is to help screen the rear façade from view. This stemmed from discussions between Staff and the applicant.
2. Landscape Calculation (Property is 1.25 acres approximate)
 - a. The proposal requires:
 - i. Eleven (11) trees per Landscaping Provisions of [Section 1902](#) of the Hamilton Zoning Ordinance (HZO), and an additional twenty-three (11) trees or tree equivalents per Section 1902.2, Commercial Design Standards
 - b. The proposal provides landscaping that exceeds the requirement:
 - Twenty-two (22) trees
 - 185 bushes - equivalent to 61.6 trees
 - 159 perennials - equivalent to 26.5 trees

Section B.2.5 Lighting

Note that the applicant's submitted plans show a discrepancy in provided lighting, between the site plan and the lighting plan. This Staff review will utilize the lighting and photometric plan to assess the proposed lighting. Staff will also recommend that the applicant reconcile and finalize the proposed lighting.

1. Proposed lighting includes:
 - a. Seven (7) Maxilume, Wall lights, mounted 6 feet high
 - i. Five located at the rear (drive-thru) elevation
 - ii. Two located at the front façade, towards the rear facade
 - c. 15 Juno accent lights, mounted 10 feet high
 - i. Nine at the front elevation
 - ii. Six at the south elevation
 - iii. Each storefront entrance features two accent lights with lesser lighting
 - d. One (1) mounted light, 14 foot tall - located on the rear facade
 - e. Four (4) single-headed pole lights, 30 feet tall



- i. One at the main ingress/egress
 - ii. One at the front property line above the parking row
 - iii. One at the south property line above the secondary egress
 - iv. One located at the rear/western property line – directed towards the property
 - f. One (1) double-headed pole light, 30 feet tall
 - i. This light is located near the proposed drive-thru menu location (northern portion of the site).
2. Photometrics (light glare): The applicant's submitted plan indicates an average of zero point five (0.5) footcandle illumination at the rear and side property lines. The City Performance Standards (Section 3000 of the Zoning Ordinance) requires that commercial uses have no direct light glare on to adjacent properties. The proposed lighting would meet this requirement.

Section B.2.6 Buffering

A landscape buffer is proposed for all property lines. See Section B.2.4 Landscaping Areas for a detailed description of the plantings. No other buffering (fences, etc.) are highlighted in the proposed plans.

Section B.2.7 Signage

The submitted plans note a monument sign at the southeast corner of the property.

1. One (1) 28 square foot monument sign, round shaped, Starbucks logo.
 - a. The sign is 8 feet in height.
 - b. This includes a two (2') foot tall base made of brick.
 - c. The sign is located in a landscaped area.

Section B.2.8 Utilities

The submitted plans note that utilities will be provided. Utility specifications shall be addressed through the Interdepartmental Review/Permit Drawing review.

- Electric: City of Hamilton will install utility pole, guy wire, and re-routing of existing overhead lines. – connects to the west
- Gas: Proposed to connect to existing 12 inch gas – connects to the west
- Water: Proposed 2 inch water line – connects to the west
- Sanitary: 4 inch sanitary main proposed – connects to the west

Section B.2.9 Drainage & Stormwater

Stormwater management was included as part of the submitted drawings.

1. Eight (8) storm sewer structures (basins, manholes) are proposed as part of drainage and stormwater mitigation.
2. An Underground Detention System is proposed.

Section B.2.10: Refuse Storage Area

1. One dumpster enclosure proposed as refuse storage for one (1) dumpster. This enclosure is located at the northwest corner, rear portion of the site.
 - a. Measures 22 feet in width by 12 feet deep
 - b. Dumpster area to be enclosed with masonry to match the building.

The doors/gates were not specified in the submitted materials. Per the Commercial Design Standards, the refuse enclosure must be have an exterior finish matching the principal building, and must have a gate or door that can be secured.

Section C: Statutes:

Section C.1. Zoning District & Zoning Regulations

[Section 2430](#) of the Hamilton Zoning Ordinance (HZO) governs the Business Planned Development zoning district (BPD). The purpose of the Business Planned Development (BPD) District is to enhance commercial neighborhood/community shopping centers, or the Central Business District, by integrating a variety of uses to ensure more efficient, successful, and aesthetically please developments.

[Section 2400](#) of the Hamilton Zoning Ordinance regulates the Planned Development (PD) provisions, providing an alternative to standard zoning guidelines.

Per Section 2400.1 the regulations are intended to:

- A. Encourage superior and imaginative design and function in developments
- B. Establish an alternative procedure for the development of land in order to allow for more efficient and economic development of property than customarily permitted by conventional zoning and subdivision regulations
- C. Ensure orderly and thorough planning and review procedures that lead to higher quality design and development
- D. Encourage the conservation of natural amenities of the landscape
- E. Encourage the provision of usable common open space
- F. Enable greater review of design characteristics to ensure that the development project is properly integrated into its surroundings and is compatible with adjacent development.

Section C.2. Specific Use Approval

Drive-In, Drive-Through (drive-thru), or Drive-Up Uses are regulated by Section 1330 of the Zoning Ordinance. [Section 1250](#) of the HZO, Zoning and Permitted Use Chart specifies a Restaurant / Eating & Drinking Place with a Drive-In, Drive-Thru as a Specific Use.

- Section 1330, of the HZO provides specific requirements for a Restaurant with Drive-Thru Service.

Section C.3. Automobile and Other Motor Vehicle Fueling Station (Gas Station)

1330 Drive-In, Drive-Through, or Drive-Up Uses (includes financial institutions; restaurant and eating places; carry-out establishments and similar uses) - In any zoning district in which this use is a Conditional or Specific Use, all these conditions shall apply:

- A. Proposed new buildings, additions, and the entire site shall comply with Section 1900.
- B. Trash/Recycling containers shall be kept behind the principal structure, enclosed by an opaque fence or wall with a minimum height of six (6) feet. – **Condition Met. / Condition of Approval**
- C. No outdoor storage of any material or waste shall be permitted on site. – Condition of Approval.
- D. Access and storage capacity shall be approved by the Director of Engineering. – Condition of Approval.
- E. Must be located along a street classified as major arterial, minor arterial, or a collector street, in accordance with the City of Hamilton Roadway Functional Classification Map. – **Condition Met.**
- F. If at any time these and any other conditions of approval are not maintained in compliance a notice of violation will be sent to the applicant of record providing 30 days to achieve compliance or be subject to the Penalties listed in Section 4400 herein. – Condition of Approval.

Section C.4: Plan Hamilton (City of Hamilton Comprehensive Plan)

[Plan Hamilton](#) is the updated Comprehensive Plan for the city; a living document meant to guide zoning and land use decisions for the present and the future. Rezoning proposals and subsequent land use implications should be compared with the recommendations of Plan Hamilton.

- Plan Hamilton and the [Future Land Use Map](#) categorize 105 North Erie Boulevard, and the corridors of Route 4 and East High Street as “Regional Commercial”.
- Regional Commercial is characterized by a variety of building sizes that incorporate commercial retail, services, and office uses that typically have on-site parking.
- Regional Commercial areas also contain commercial uses that attract local residents and people from the surrounding region.
- These commercial areas often reflect the quickly changing nature of commercial development trends and as such, the city continues to be open to redevelopment opportunities that serve as attractors to local and regional residents.
- Note that this property is adjacent to the Dayton-Campbell Historic District, which is classified as a Traditional Neighborhood.

Section C.5. Discretion of Planning Commission (Section 2400.2 / 2409, I)

[Section 2409, I](#) of the Hamilton Zoning Ordinance (HZO):

1. Planning Commission and City Council have the discretion to vary the dimensional, design, use, area, and development standards that are applicable to a Planned Development.
2. It shall be the responsibility of City Council and/or Planning Commission to determine the restrictions that shall apply to a particular Planned Development.
3. In exercising their review authority relative to Planned Developments, the Planning Commission and City Council may impose provisions for buffers, open space, lighting, underground utilities, hours of operation, parking, signage, and/or other safeguards as part of the approval of the Planned Development Plan.

Section C.6. Standards for Waiver or Variance of General Design Standards

(Section 2400.8 / 2409, J)

[Section 2409, J](#) of the HZO: In determining whether or not to waive or vary the General Design Standards found in any PD district, the Planning Commission and City Council shall consider and find that four out of the five following criteria apply to the specific development:

1. The proposed development is in conformance with the principles of the City's Comprehensive Plan;
2. The proposed development advances the general welfare of the city and immediate vicinity and will not impede the normal and orderly development and improvement of surrounding and abutting areas;
3. Adequate utilities, access roads, drainage, retention/detention facilities are provided;
4. The proposed development design, site arrangement, and/or anticipated benefits of the proposed development justify any deviation from the General Design Standards found herein; and,
5. The proposed development design exceeds the quality of the building and site design in the immediate area.

Section D: Interdepartmental Review:

The City's Interdepartmental Review Committee evaluated the proposed Specific Use and Final Planned Development for 105 North Erie Boulevard. The following comments were received:

Fire: (Objection)

There are no usable hydrants within 400'. A hydrant will need to be added on the site or adjacent to the site.

Public Works: (Objection)

1. Revised outlet structure by adding 2-ft sump on each side of weir wall
2. Describe how will runoff from proposed slope near 1024 Campbell Avenue be mitigated
3. Work in right-of-way (Utility/Sidewalk/Drive Approach) requires inspection trench excavation and backfill and inspection of forms prior to pour by City Engineer's office. Drive approaches must be minimum 7" for commercial.

Call Engineering for inspection. Concrete in R/W shall be ODOT CLASS QC 1 or ODOT Class C and contain no reinforcing wire or rebar. The concrete ticket provided to the City inspector for proof of proper material must state "ODOT" and either QC 1 or Class C in order to meet the City standard and obtain approval.

4. Any damaged curb and sidewalk along parcel frontage to be replaced. Deficiencies include ½" or greater lip, missing or cracked sidewalk or curb.
5. Any necessary street cuts for utility connection will be required to acquire a street permit from the Department of Engineering and an approved Maintenance of Traffic plan.
6. Additional erosion and sediment control will be required by City staff during construction if proposed measures do not adequately control sediment and erosion.

Electric: (No Objection)

Sheet C2.0 - note #13 does not apply to the item adjacent to N Erie Blvd. (Owner to coordinate with Duke Energy, not City of Hamilton owned). Sheet C6.0, note #12 does not apply to the item adjacent to N Erie Blvd. (Owner to coordinate with Duke Energy, not City of Hamilton owned); note #10 - conduit under drive lanes shall be encased with flowable fill LSM-50. Sheet L1.0 - the new pole at Campbell Ave. will influence location of proposed trees. Contact Hamilton Electric Engineering for details of construction for the conduit and transformer pad.

Utilities (Gas/Water/Sanitary): (Objection)

COMMENTS FROM THE FIRST REVIEW STILL APPLY.

GAS:

- Add the following statement to the plans: "an operator qualified (OQ) contractor must install the gas service from the curb valve to the gas meter".
- List on the plans the total BTU load. We saw the note - 300 CFH + future use. We need to know the future use in order to verify the size of the gas meter and gas service.
- Label the size of the proposed gas service.
- Show the location of the gas meter.
- Curb valves cannot be located in the sidewalk or drive approach. The valve can be located just inside the property line. The city crews must be able to access the valve.



- Curb valve must be in direct line with the gas meter if possible.
- Gas services are to be direct bury.
- The GIS map provided is not correct. Relocate the existing 4" gas main to the west side of the existing 4" water main (in the island) on Campbell. Adjust the proposed gas service accordingly.

WATER:

- List on the plans the peak water demand (GPM). We saw the note stating 50 GPM. Please confirm.
- Have fire protection requirements been considered?
- Have fire protection requirements been met?
- Curb valves cannot be located in the sidewalk or drive approach. The valve can be located just inside the property line. The city crews must be able to access the valve.
- What size irrigation meter is needed?

SANITARY:

- The proposed sanitary lateral within the right-of-way must be 6" and sdr-26.
- The minimum slope for a 6" sanitary lateral is 2%
- Cleanouts must be located at the r/w and any bends in the lateral. Use a countersunk head when a raised head is a trip hazard.
- Minimum vertical distance between the finished floor elevation of the lowest level and the crown of the sanitary sewer main is 3-ft.
- Cleanouts are not to be located in the public sidewalk or drive approach.
- Use an inside drop rather than an outside drop when connecting the lateral to the existing manhole.
- FEES: TBD

Municipal Arborist:

Substitute Frontier Elm for the Skyline Locust. Skyline locust are overplanted, susceptible to insects and disease and prone to storm damage.

Substitute Rugged Ridge Maple or State Street Maple for the Tulip Poplar. Tulip Poplar are sensitive or low tolerance to dry conditions, susceptible to insects & disease and prone to storm damage.

Substitute Happidaze Sweetgum (Seedless) for the Silver Linden. Silver Linden are overplanted and susceptible to insects & disease.

Substitute Espresso Kentucky Coffee for the Patriot Elm. Patriot Elm is susceptible to insects & disease and prone to storm damage.

Substitute Musashino Zelkova for Green Vase Zelkova. Green Vase Zelkova has shown to decline overtime to the impact of cold winters with bark splitting and treefailure/death.

The remaining plant material is fine.

Heading "LANDSCAPE REQUIREMENTS":

#3. TREES AND SHRUBS SHALL BE NURSERY GROWN AND BE HEALTHY AND VIGOROUS PLANTS, FREE FROM DEFECTS, DECAY, DISFIGURING ROOTS, SUNSCALD, INJURIES, ABRASIONS OF THE BARK, PLANT DISEASES, INSECT PEST EGGS, BORERS AND ALL FORMS OF INFESTATIONS OF OBJECTIONABLE DISFIGUREMENTS. PLANTS SHALL BE IN ACCORDANCE WITH THE CURRENT "AMERICAN ASSOCIATION OF NURSERYMEN'S STANDARDS" AND CONFORM IN GENERAL TO REPRESENTATIVE SPECIES.

Change the following: American Standard for Nursery Stock. (ANSI Z60.1) 2014. American Association of Nurseryman, Inc., 1250 IStreet. N.W., Suite 500, Washington, D.C. 20005 in place of: "AMERICAN ASSOCIATION OF NURSERYMEN'S STANDARDS"

#8. MULCH TREES AND SHRUBS WITH MIN. 4" DEPTH OF SHREDDED HARDWOOD MULCH or 4" DEPTH OF ROCK MULCH WHERE DESIGNATED. VERIFY ALL MULCH TYPE FOR LOCATIONS WITH THE PROJECT MANAGER.

Change to say, "MULCH TREES AND SHRUBS WITH NO MORE THAN 3 INCHES OF SHREDDED HARDWOOD MULCH or 4" DEPTH OF ROCK MULCH WHERE DESIGNATED. VERIFY ALL MULCH TYPE FOR LOCATIONS WITH THE PROJECT MANAGER.

#9. PLACE 5 OZ. WOVEN WEED BARRIER UNDER ROCK MULCH. ALL ROCK OR HARDWOOD MULCH SHALL EXTEND IN A CONTINUOUS LAYER WITHIN PLANTING BEDS FROM FACE TO FACE OF SITE STRUCTURES - WALKS, BUILDING, CURBS, OR OTHER PLANT BED LIMITS. ALL HARDWOOD BED EDGES SHALL BE SPADE-CUT AND CLOSELY ALIGN AS POSSIBLE WITH EDGES AS SHOWN ON DRAWING. KEEP ALL MULCHES A MIN. 1/2" BELOW ADJACENT PAVED SURFACES.

Add the following: WOVEN WEED BARRIER IS NOT TO BE PUT ON TOP OF THE TREE ROOT BALL AND/OR SHRUB ROOT BALL.

Section E: Notification

The Planning Department mailed Public Hearing Notices to the owners of 119 properties within 500 feet of the subject property per statute requirements. Planning also sent early notice of the public hearing via mail to the property owners of 1024 & 1025 Campbell Avenue.

The Planning Department received the following comments pertaining to the proposal.

Ms. Monika Hesse, 1024 Campbell Avenue, called.

She had no comments or objections, but was processing how close the project would be to her house.

Mr. John Brock, 1025 Campbell Avenue, emailed.

The overall comments pertained to the existing privacy fence at Walgreens and 105 North Erie Boulevard, that it is subject to repeated damage, loose boards, cut-throughs by pedestrians, and that trash from the adjacent properties flows onto his property constantly. Mr. Brock noted that a sound wall could be used in lieu of privacy fencing, and suggested a height of 12 to 15 feet.

Section F: Motions

The Planning Commission can approve or deny the Final Planned Development and Specific Use and can add or amend any conditions of approval. Either motion could be utilized:

1. [Approval:] That the Planning Commission take action to approve the Final Planned Development & Specific Use for 105 North Erie Boulevard, Restaurant with Drive-Thru, as presented, subject to the conditions of approval

And

[Approval or Denial of Waiver:]

That the Planning Commission approves (or deny) the waivers for:

1. Section 1904, Secondary Building Materials for the “rear”/north facing façade, allowing 50% EIFS.
2. Section 1905, Transparency for the “rear” / north facing façade, allowing 0% Transparency (no windows)

Or:

2. [Denial:] That the Planning Commission take action to deny the Final Planned Development Plan and/or Specific Use.

Conditions for Approval:

The Planning Commission’s final action of approval are subject to the following conditions (which may be added to or amended by the commission):



1. The construction drawings for the proposed work, including site/engineering plans, to be revised subject to any future requirements of the City Interdepartmental Review (IDR) Committee upon review.
2. That the Final Planned Development Plan will meet the Commercial Design Standards ([Section 1900](#)) of the Hamilton Zoning Ordinance.
3. If waivers/variances are granted to Section 1904 and 1905, they shall only apply to the “rear” / north façade of the building. All other facades shall adhere to Section 1900, the Commercial Design Standards of the zoning ordinance.
4. The refuse enclosure (trash enclosure) shall have materials matching the exterior finish of the buildings, with a gate of solid wood or other sufficient screening to reduce visibility into the refuse enclosure.
5. Windows/Transparency shall not be darkened or tinted beyond 35% darkening, and glass manufactured to reflect light (spandrel, etc.) shall not be permitted.
6. All landscaping shall be reviewed and approved by the City of Hamilton Municipal Arborist.
7. Any future signage (permanent or temporary) on the site shall comply with the regulations of the City of Hamilton Zoning Ordinance ([Section 1700](#)) and any other relevant City regulations.
8. All landscaping, parking areas, site improvements, exterior finishes and other improvements be installed and maintained in good repair and replaced as necessary to remain in compliance with the relevant City of Hamilton codes.
9. The condition of the entire parking lot will comply with all Health and Zoning Code regulations, including Section 1779.07 of the Hamilton Health Code: “Paved grounds, including parking areas, shall be maintained in good repair, free of debris, chuck holes, loose asphalt, loose concrete, and vegetation.”
10. Any off-street parking spaces shall be allotted, striped, and arranged in an orderly manner to maintain the safe, orderly flow of traffic, as well as egress & ingress from the site.
11. The final on-site traffic circulation, parking, and location of the curb cuts will be approved by the Department of Engineering. Any parking conflict identified by the Department of Engineering will be remedied by the applicant.
12. No automobile repair, sales, or storage is permitted on the property, only dispensing of fuel and fluids for operable motor vehicles.
13. Illumination on the development shall be constructed, installed, and maintained as to not allow the light to shine beyond the property lines or onto any adjacent property or land uses.
14. Sound levels shall be consistent with acceptable levels set forth within City of Hamilton Ordinances.
15. The owner/operator of the drive-thru restaurant (Starbucks) shall ensure that the venue site and the whole of 105 North Erie Boulevard, including frontage & the terminus of Campbell Avenue, will be clear of trash, debris, and litter.
16. The terminus of Campbell Avenue shall be addressed, with the foliage cleared, trash and debris removed, and a suitable retaining wall shall be erected to prevent mudslides and

flooding onto Campbell Avenue and the adjacent properties (1024 & 1025 Campbell Avenue).

17. Fence/Barrier: If requested by the neighbors or the neighborhood, the applicant shall work with the neighbors on the design and provision of a sufficient barrier at the western property line abutting residential property. The fence/barrier shall be maintained at all times, made of a high quality, durable material, with no gaps at the ground or between panels. A final design will be approved by the Department of Planning through the permitting process.
18. The City of Hamilton shall track public safety calls and nuisance complaints associated with the applicant and the property. If issues related to violations of the City of Hamilton Municipal Code are identified, the property owners and business operators will work with the City to rectify issues. If issues are not resolved in a timely manner, a Notice of Violation will be sent to the property owner to address the issues within 30 days, and the Planning & Specific Use approvals may be revoked.

Section F: Staff Comments

Staff provides the following comments for consideration of the proposed Final Planned Development and Specific Use:

1. The site design stemmed from repeated discussions between the applicant and Staff to generate a more refined site layout and architectural proposal.
2. The western area beyond the subject property is residential, and the Dayton-Campbell Historic District. Plan Hamilton and the Zoning Ordinance recommend consideration of existing nearby land uses when considering new development projects.
3. A BPD (Business Planned Development) only permits a drive-thru if Planning Commission grants specific use approval. The BPD zoning district does allow for less intense land uses.
4. North Erie Boulevard (Route 4) is considered a Regional Commercial land use area by Plan Hamilton. These are commercial areas that serve as attractors to local and regional residents.
5. North Erie Boulevard (Route 4), and by extension East High Street, are streets that experience extensive traffic through the daytime hours. There should be consideration of present traffic conditions and potential traffic concerns with the proposal.
6. The applicant's proposed landscape totals notably exceed the requirements of the Commercial Design Standards, with a focus on the rear (western) property line as a 10 foot landscape buffer setback.
7. Due to the parcel size, configuration, and site constraints, the proposed building orientation has the rear façade visible from Route 4. Reorienting the building and drive-thru, or adding transparency to the rear façade could present difficulties to the applicant.
8. Ensuring that any operation at 105 North Erie Boulevard will not adversely impact the well-being of the area, particularly through, trash, debris, mudslides, activity, noise, and hours of operation is important given that the location abuts residential uses and is located on/near two primary street corridors in Hamilton.



Public Hearing:

Mr. Ed Wilson from the Planning Department presented this agenda item.

Mr. Moeller talked about transparency and Mr. Wilson said that you would see the rear of the building by the way that is set up. Werdmann wanted a clarification question, due to it being BPD (Business Planned Development) this is the final step before final plan review. Mr. Werdmann was concerned about the waiver on the materials. There are also some plants that would affect the view as well.

Mr. Von Stein asked how the turning would work if you are not able to turn left. Mr. Wilson said it's a right turn and right turn out. There is an entrance at Walgreens and there is a turn lane that is available.

The applicant, Mike Gilbert, 4209 Gallatin Pike, is working with the development team. The end of the building is 29 feet wide and there will be electrical materials mounted to that wall as well.

Ms. Sandlin made a comment that because of the drive thru the electrical would be placed where it is. The material that is being used is from the Starbucks brand that is used.

Michael D Pitman from Journal News what is the time frame for construction of the building upon approval. The applicant said upon approval it would take 8-9 months after being approved to final completion. The proposed landscaping plan actually exceeds what is required by the ordinance.

Mr. Werdmann if there is an elevation difference due to run off. Mr. Rich Engle said that there will be a review to ensure that the runoff does not affect the neighborhood.

Moeller said there were a lot of interdepartmental reviews that were completed. Has there been any issues that have come up that would not allow it to finally be completed. The application is actively working with the other departments. If the applicant changes anything that goes against the planning commission that would need to be addressed.

The applicant said that Starbucks will come back with an retail package and will be resubmitting in the next week.

Diane Combs is here representing several of the neighbors (from the Dayton-Campbell Historic District). Ms. Combs brought up that there will not be a fence or a barrier. She expressed that this is an issue because of garbage and maintaining the area. Ms. Combs brought up the issue of an increase with traffic, and wants a status update. Mr. Wilson said that one of the conditions of approval is that the applicant must work with the neighborhood to have a sufficient barrier and then it will be approved by the planning commission.

Moeller asked if there could be a meeting with the neighborhood and the applicant. Director Hayden said yes.

Tim Spoonster, 819 Dayton Street, wanted to know how the neighbors would work together. a sound barrier might not be plausible. Mr. Spoonster, a neighbor of the area, said that with the addition of new shrubs the homeless population can live there. Mr. Wilson addressed the question of having a gate to connect the Starbucks to the park. Mr. Wilson said that at a neighborhood meeting the members did not want it.

Monika Hesse, 1024 Campbell Avenue, spoke to the matter. She agrees with the barrier and doesn't want plants, people, and garbage areas. She asked if she was able to purchase the property. Mr. Wilson did not have an answer to that question. The city of Hamilton is working with her to ensure that her electric pole that is on the property will be removed to ensure continued service.

The applicant stated that he spent a lot of time with the neighborhood and is open to talking about the fence and stated that there is not enough time to table this meeting, however the fence is important. The applicant said they would take responsibility for their property and will take pride in their facilities and clean up the trash. The applicant said that they would not be in support of giving access to the property via the fence. The landscape plan would use materials to help get rid of the issue of headlights. They are not willing to sell the property to Ms. Hesse.

Ms. Hayden brought up the issue that the trash is going underneath the fence. Director Hayden asked if the applicant would be comfortable with creating a fence that would not have a gap at the bottom. The applicant agreed that they would be able to do this.

Mr. Spoonster returned to the podium and asked if they would be responsible for Campbell Avenue. Ms. Sandlin and Mr. Wilson said that the applicant would be responsible for their property only.

Mr. Aries Jones, 20 North Tenth Street, is concerned about the traffic pattern and the turn out of Walgreens onto Stewart Street. Mr. Moeller asked if there has been a traffic flow review. Mr. Engle said no it is not complete and North 10th Street said it would become a one way street. Ms. Hayden said that improvements will be made.

Ms. Diane Combs returned to the podium said her concern is that the applicant would pick the color, style, and design. The applicant said that he wants to know what they are interested in. Mike Gilbert said that it would be a white vinyl fence. Mr. Moeller brought up the fact that it is a historic neighborhood and would prefer wood. Director Hayden said that once you touch the boundary you are in compliance. Mike Gilbert said he is willing to work with them but wants to resolve it here in this meeting. Mike Gilbert asked who is

Mr. Werdmann said condition 17 would make the fence wood, color and whatever it is and in the future the Dayton-Campbell neighborhood could decorate it. In the future Streetspark and other local artists can paint on their side.

Mr. Spoonster asked about the retaining wall and Mr. Wilson ensured that it was being looked at.

Cynthia Jones asked about the Walgreens entrance and the traffic flow pattern. Mr. Engle said that 10th street will become a one way street. In order to leave through Walgreens to Stewart Street will have to be entering the neighborhood. This would help reduce the traffic. Mr. Engle said that corrective action will be taken if Stewart Street is being used more. The traffic flow will mostly be on Route 4.

Ms. Sandlin said that the city does not know what is going to happen but they are willing to work if issues arise.

Motion to Close the Public Hearing Horsley

Second: Werdmann

Unanimously roll vote.

Motion: That the Planning Commission take action to approve the Final Planned Development & Specific Use for 105 North Erie Boulevard, Restaurant with Drive-Thru, as presented, subject to the conditions of approval and the expectation on 17 and amended to read that the fence barrier shall be installed at the western line, made of wood and no gaps between the ground and the panels and be of brown color.

Motion by: Werdmann

Second: Von Stein

Roll Call:

Horsley	Mathews	Sandlin	Moeller	Von Stein	Werdmann	White
Yea		Yea	Yea	Yea	Yea	Yea

Yeas (6) Nays (0)

Agenda Item #2- Public Hearing

999 Laurel Avenue- Conditional Use for a temporary Truck Driving Training

Section A: Introduction and Background

Section A.1: Project Overview

Napier Truck Driver Training Inc. located at 3113 Dixie Highway in Hamilton, is requesting the use of the existing empty lot at 999 Laurel Avenue to utilize for truck driver training as an extension of their main facility. They are proposing to use the site for up to two (2) years as a temporary use.

Napier Trucking received approval to be at 3113 Dixie Highway in 2008. Napier’s clients include PepsiCo, Reinhart Foodservice Distribution, and McLane Foodservice. This proposal is an extension of their existing school to address the current demand for truck drivers. The proposal is for up to five (5) trucks to utilize 999 Laurel to train truck drivers Monday through Friday 8 am to 4 pm. All maneuvering would occur on private property – they would not leave the property or utilize local roads. Because the proposal is an extension of their existing facility and is proposed as a temporary use, they are proposing only temporary changes to the site and minor cleanup work.

Section A.2: Existing Site Conditions & History

999 Laurel has a long history as an industrial site in Hamilton. It was a vacant and/or underutilized facility for many years before it burned down in 2019. The City completed the demolition and now it is a vacant lot that is primarily the remnants of a concrete floor of the former building. CarBob 2 LLC purchased the property in 2021. The owner has discussed utilizing 999 Laurel to complete an expansion for Kaivac, the business at 900 Laurel. 999 Laurel consists of 41 parcels. Before a building could be constructed on it, a lot combination would be required.

Section A.3: Proposed Site Improvements

Napier Trucking plans to clear the lot of debris and remove rebar so that there is smooth surface for trucks. They are proposing a small landscaped area near the residential area on Weller and plan to fence in an office trailer, porta lets, and dumpster.

Section A.4: Site Operations

The proposed site plan is set up so that truck activity is not occurring near the residential area on Weller. Activity will occur on site from 8 am to 4pm Monday through Friday and no vehicles will be stored overnight. The vehicles will be transported back and forth daily by Napier instructors who are licensed by The State of Ohio Department of Public Safety. Napier stated that the site might not be used every day. Staff enquired about noise from the trucks. From Napier Trucking: "There literally will be ZERO noise from this operation. All of our trucks have DEF fuel which have particulate filers that clean any exhaust prior to emission. That means They are GREEN according to emissions standards."

Section B: Petition Review

Section B.1: Review of Applicant Submittal Materials

Circulation/Site Plan/Parking

- See site plan included in their submission.
- Napier proposes to have up to five (5) trucks on site. They will exclusively use Laurel Avenue for truck entry and exit.
- No vehicles will be parked over night or stored on-site.
- On the north side of the lot, the site plan shows an area for parallel parking and straight parking.
- In the middle of the site, the site plan shows an area called the "pre-trip area"
- On the southeast side, the site plan shows an area for 90 degree backing and an area for offset parking.
- On the southwest side of the site, the site plan shows an office trailer, dumpster, and student parking. Students will access the site from Van Hook Avenue.
- No parking or driving will occur on gravel and non-paved areas of the site.
- Traffic Engineering is requiring a truck turning movement analysis for the proposed truck access point off Laurel Ave.

Office Trailer

- Napier is proposing to utilize an office trailer on site. This would require a variance from the Conditional Use regulations.
- Trailer being proposed is attached as an Exhibit.
- They are proposing to construct a 6-foot wood privacy fence around the office trailer and two porta lets.

Dumpster/Enclosure

- There is a dumpster proposed on site adjacent to the office area.
- They are proposing a wooden dumpster enclosure.
- The dumpster is to provide a location for students to throw trash away.

Fencing

- Proposed wooden privacy fencing around the office trailer and dumpster enclosure.

Landscaping

- 9 medium bushes proposed between the fenced office area and the residential area on Weller Avenue.
- This will require a variance to the landscaping regulations, as it does not meet the minimum landscaping requirements.

Lighting

- No lighting was proposed by the applicant.

Signage

- No signage was proposed by the applicant.

Screening/Buffering

- The site plan proposes to have truck activity occur away from the residential area on Weller. However, the site has frontage on all four sides, so the truck activity is not in a rear yard as required by Section 1362 of the Hamilton Zoning Ordinance. There is no buffering plan for the parking, loading, and training areas. This results in a request for two (2) variances:
 - When located adjacent to a residential use, parking, loading, and passenger pick-up/discharge areas shall be screened with an opaque fence with a minimum height of six (6) feet and a six (6) foot landscaped buffer area shall be created.
 - Schools that require outdoor training areas shall be located in the rear yard and include a buffering and screening plan appropriate to the intensity of the proposed use and context of the surrounding uses.

Section B.2: Interdepartmental Review

This project has been circulated for Interdepartmental Review. The Traffic Division is requiring a truck turning movement analysis for the proposed Truck access point off Laurel Ave. As of this report there were no objections to the proposed conditional use.

Section B.3: Submitted Request

Request 1: Conditional Use to allow a Vocational School in an I-2 Industrial Zoning District. As a conditional use, this request requires review and a recommendation from the Planning Commission and approval by the City Council.

Request 2: Four (4) Variance Requests for the Following:

Variance to the Commercial Design Standards Section 1902: Landscaping. The proposal does not meet the minimum landscaping requirements.

Variances to Conditional Uses, Section 1372:

1. No trailer, camper, manufactured housing unit, modular office trailer or industrialized units shall be used on the property except related to construction work that requires an active building permit without Planning Commission approval.
2. When located adjacent to a residential use, parking, loading, and passenger pick-up/discharge areas shall be screened with an opaque fence with a minimum height of six (6) feet and a six (6) foot landscaped buffer area shall be created.
3. Schools that require outdoor training areas shall be located in the rear yard and include a buffering and screening plan appropriate to the intensity of the proposed use and context of the surrounding uses.

Section C: Statutes

Section C.1: Conditional Use

Section 1300.4 item C (Conditional Uses – Application and Review, General Standards) contains specific findings outlined within the zoning ordinance for review and approval of a Conditional Use by the Planning Commission.

In reviewing an application for a Conditional Use, the Planning Commission shall consider whether there is adequate evidence that the proposed Conditional Use is consistent with the following nine (9) criteria, general standards for a conditional use:

- (1) The proposed Conditional Use is to be located in a district wherein such use may be permitted, subject to the requirements of this Section and the Zoning Ordinance.
- (2) The proposed Conditional Use will not substantially or permanently injure the appropriate use of neighboring property and will serve the public convenience and welfare.
- (3) The proposed Conditional Use will be harmonious with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.
- (4) The proposed Conditional Use shall be adequately served by essential public facilities and services such as, but not limited to, roads, public safety forces, storm water facilities, water, sanitary sewer, refuse, and schools. If not, the applicant shall be responsible for the extension or establishment of any public facilities and services to effectively service the proposed Conditional Use.
- (5) The proposed Conditional Use will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding streets.
- (6) The proposed Conditional Use will comply with all applicable development standards, except as specifically altered in the approved Conditional Use.



(7) The proposed Conditional Use will not be hazardous to or have a negative impact on existing or future neighboring uses.

(8) The proposed Conditional Use will not involve uses, activities, processes, materials, equipment and conditions of operations, including, but not limited to, hours of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the base zoning district.

(9) The proposed Conditional Use will not impede the normal and orderly development.

Section C.2: Variance

Section 1300.4 item D - Conditional Use Review Criteria – Use Specific Standards and Variances states:

In reviewing an application for a Conditional Use, the PC may also consider any variance applicable or corresponding to a conditional use request, and determine whether there is adequate evidence that the proposed Conditional Use is consistent with the applicable use-specific standards. Any waiver, variance, or deviation from zoning regulations and standards will become part of the PC recommendation.

1. Variance-Findings of the Commission and Council: No variance to which this Ordinance is applicable shall be recommended for approval by the Planning Commission, or authorized by the City Council, unless the Commission and Council find, by a preponderance of the evidence, that all of the following facts and conditions exist.

A. Exceptional Circumstances: That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same Zoning District.

B. Preservation of Property Rights: That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same Zoning District and in the same vicinity.

C. Absence of Detriment: That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the purposes of this Ordinance or the public interest.

D. Not of General Nature: No grant of a variance shall be authorized unless the Planning Commission or City Council finds that the condition or situation of the specific piece of property for which the variance is sought is not of so general or regulation for such conditions or situation.

Section C.3: Vocational School Regulations

The following are the Conditional Use regulations associated with this use:

1372 – Vocational and Industrial Trade Schools - In any zoning district in which this use is a Conditional or Specific Use, all these conditions shall apply:

- A. Proposed new buildings, additions, and the entire site shall comply with Section 1900 herein.
- B. No trailer, camper, manufactured housing unit, modular office trailer or industrialized units shall be used on the property except related to construction work that requires an active building permit without Planning Commission approval.
- C. Off-street parking shall comply with the lighting paving and screening requirements of Section 1600 herein. Off-Street parking shall be provided for employees and customers on site or through the use of public facilities located within 500 feet of the site, or with a combination of the two. On street parking does not count towards this requirement.
- D. When located adjacent to a residential use, parking, loading, and passenger pick-up/discharge areas shall be screened with an opaque fence with a minimum height of six (6) feet and a six (6) foot landscaped buffer area shall be created.
- E. Minimum lot size for new construction shall be two (2) acres.
- F. Schools that focus on occupations that create noise or odor or operate industrial machinery shall not be located adjacent to a residential district or use without a plan to mitigate the impact on adjacent properties.
- G. Schools that require outdoor training areas shall be located in the rear yard and include a buffering and screening plan appropriate to the intensity of the proposed use and context of the surrounding uses.
- H. No outdoor storage of any material or waste shall be permitted on site.
- I. Trash/Recycling containers shall be kept behind the principal structure, enclosed by an opaque fence or wall with a minimum height of six (6) feet.
- J. If at any time these and any other conditions of approval are not maintained in compliance a notice of violation will be sent to the applicant of record providing 30 days to achieve compliance or be subject to the Penalties listed in Section 4400 herein.

Section C.4: Plan Hamilton

Plan Hamilton is City's Comprehensive Plan; a living document meant to guide zoning and land use decisions for the present and the future. Conditional Uses should be compared with the recommendations of Plan Hamilton. 999 Laurel is designated Urban Mixed Use in the City's Future Land Use Plan. Urban Mixed Use is a part of the community where the broadest mixture of land uses may be appropriate with well-designed structures and the use of transitional uses and buffers between uses that are significantly different in scale or intensity. Any changes of land use or zoning regulation should take into consideration the residential character of the surrounding areas.

The plan says the following: Light industrial and research or development uses that are located with completely enclosed buildings and are constructed with a high-quality design that allows the

buildings and related uses to blend into the surrounding neighborhood while also mitigating any potential land use impacts such as noise, odor, vibrations, etc.

Section D: Notification

Notices were sent to 160 property owners within 500 feet of the subject property and an email was sent to Frank Downie, president of the Lindenwald neighborhood group PROTOCOL. As of the printing of this report, staff has not received any inquiries from neighbors.

Section E: Motions

The Planning Commission can recommend that City Council approve or deny the Conditional Use Application and Variance Requests. The Planning Commission can also add, amend, or remove conditions of approval. Planning staff has provided the following sample motions for the commission or the commission may choose to compose a different motion:

1. [Approval:] That the Planning Commission take action and recommend that City Council approve of the Conditional Use application for a vocational school with four variances for up to a two year period after the approval goes into effect, subject to the recommended conditions of approval.

Or

2. [Approval without Variance Approval:] That the Planning Commission take action and recommend that City Council approve of the Conditional Use application for a Vocational School and deny the Variance requests, subject to the recommended conditions of approval.

Or

3. [Denial:] That the Planning Commission take action and recommend that City Council deny the Conditional Use application.

Conditions of Approval:

1. The Conditional Use for a Vocational School will expire two years after the date of approval by City Council. At this time, the vocational school must cease operations on site.
2. All areas that vehicles will drive and park on will be paved. Parking areas will be striped.
3. The business operations, including but not limited to the hours of operation and number of vehicles, and site plan submitted as part of this application must be adhered to.
4. The Conditional Use will not be approved and granted until Traffic Engineering receives and approves the truck turning movement analysis for the proposed Truck access point off Laurel Ave.
5. The site will be kept clean and tidy.
6. The business will abide by all noise, odor, glare, and other regulations found in the Hamilton Zoning Ordinance.



7. No work shall be completed on semi-trucks and no semi-trucks shall be parked on site overnight.
8. All signage (permanent or temporary) on the site shall comply with the regulations of the City of Hamilton Zoning Ordinance.
9. No vehicle repair, sales, salvage, or storage is permitted on the property.
10. No exterior storage of any kind or exterior sales of merchandise or material shall occur on the site in question.
11. All vehicles will be properly licensed and operable. No long-term storage of vehicles of any kind can occur on site. Vehicles shall not be parked on site overnight.
12. All landscaping, site improvements, exterior finishes and other improvements be installed prior to occupancy and maintained in good repair and replaced as necessary to remain in compliance with the relevant City of Hamilton codes.
13. In addition to abiding by the Conditions of Approval, the Conditional Use and subject property shall adhere to all applicable zoning, building, health, public safety, and fire code regulations. If issues are identified, the City shall work with the property owner to remedy issues. If issues are not resolved in a timely manner, a Notice of Violation will be sent to the applicant allowing thirty (30) days to achieve compliance.

Section F: Staff Comments

Staff provided the following comments for the Conditional Use application:

1. The proposed use and plan are more appropriate for a temporary use rather than for a permanent use of the site.
2. Consideration and respect for adjacent residential uses must be made for the use of 999 Laurel.

Public Hearing:

Planning Director Liz Hayden presented on this agenda item.

Steven Gebhart is with the Community Design Alliance, 236 High Street. He is representing the trucking school and noted this is an industrial zone. They are working with the city and there will be only 3-5 trucks there during the day. Once approved they do have a person contracted to clean up the site. There will be no structures permanently there.

Motion to accept the applicant's material: Werdmann

Second: Von Stein:

Unanimously approved

The instructors would leave at 4pm and it would only be during working hours. The trucks that are going to be used will be green.

The applicant, Aimee Napier, 3113 Dixie Highway, said everything was addressed. The students are not driving on the road. The reason to have a modular building and that the Department of Transportation requires to have a facility. There is now a new rule that requires new truckers to enter a school to receive certification. There is a huge demand for truck drivers and this new regulation for food service deliveries and training.

Ms. Sandlin is addressing the sound. Ms. Napier said, the trucks are just going into first and reverse and the trucks will not be stopped and started. The exhaust will not come out of the truck and more energy efficient gas. This new lot would give the students a chance to be proactive before they take their test.

Adam Collins, 4180 Bedford Avenue, is the training coordinator for Napier. He stated that the students are not able to hit the fuel during their practice. Ms. Horsley asked about the GREEN emissions. He also explained that the only exit that would be used is on Laurel Ave.

Mr. Werdmann asked if 901 laurel is a commercial/drive thru. The answer was yes.

Theresa Johnson, is a resident on Weller Ave, 909 Weller Avenue. Her concern is the noise that the trucks would idle for days and it would shake the windows and the exhaust would make them unable to sit on their porch.

Tim Gentile, 888 Forest Avenue, stated that it is impossible for a semi to get into the turn lane and make a 90 degree angle. The trucks would still be required to use the other lane still.

Adam Collins addresses the noise issue again. Mrs. Hayden asked if the new trucks would use the new emissions. Mr. Collins said yes.

Ms. White asked how long a truck and trailer be in those positions where it could potentially obstruct the view of someone turning onto a street.

Theresa Johnson said that when the cars are in idle they shake the houses.

The trucks that are used for this training are a lot smaller. If there is a problem with the sound Ms. Johnson would need to contact the Planning Department. Working with the neighbors and the trucking company.

Mr. Werdmann asked if there would be a fence surrounding the dumpster and it will be enclosed. Ms. White asked if the lease could be renewed and the requirements dictate that it only can be two years. They have gotten the approval to clean the area.

Motion to Close the Public Hearing: Werdmann

Second: Von Stein

Unanimously voice vote

Von Stein said that if this was put in a residential area it would not be well received and that there should be a better place. This will be no longer than a 2 year period. Several commissioners had concerns but now feel better about.

Motion: That the Planning Commission take action and recommend that City Council approve of the Conditional Use application for a vocational school with four variances for up to a two year period after the approval goes into effect, subject to the recommended conditions of approval.

Motion by: Werdmann

Second: Horsley

Roll Call:

Horsley	Mathews	Sandlin	Moeller	Von Stein	Werdmann	White
Yea		Yea		Nay	Yea	Yea

Yeas (4) Nays (1)

Agenda Item #3 - Public Hearing

100 Berkeley Square, Berkeley Square- Major planned Development Amendment for Berkeley Phase 15

Section A: Introduction and Background

Section A.1: Project Overview

The submitted application pertains to Phase 15 of Berkeley Square, a senior living development. The applicant proposes construction of ten (10) new duplexes, two-family dwellings, on undeveloped, vacant land, for a total of 20 new residences. Berkeley Square is a Planned Development (PD) community that was originally approved in 1989. If approved, the development would be the next phase of development within the subdivision.

Section A.2: Existing Site Conditions

The development, Berkeley Square is a senior living complex located at 100 Berkeley Square accessed via Berkeley Drive. Access throughout the development is provided through a combination of public and private streets. The Berkeley Square Development includes the Berkeley Senior Living Complex, multiple Senior Living Apartments, Independent Homes, and attached condominiums (see Exhibit A for Location Map).

The subject area is located east adjacent to the main Berkeley Square complex, consisting of parcels #P6411063000033 & #P6411063000003, accessed via Capitol Crescent Drive. The proposed Phase 15 would be located east of the recently approved Phase 14 (16 residential units). The site consists of vacant, undeveloped land, and features two (2) existing drainage ponds. The subject property is zoned RPD (Residential Planned Development) (see Exhibit B, Zoning Map) and is also located southwest of the Washington Estates development.

Section A.3: History

The Berkeley Square Planned Development has had multiple amendments to Development Plan. A history of those amendments is as follows:

1. In 1989 the Planning Commission approved Berkeley Square as a PUD (Planned Unit Development) on two (2) contiguous parcels, consisting of 289 Units including:
 - 137 Individual Homes
 - 57 Congregate Apartment Units
 - 46 Assisted Living Apartments
 - 49 Full-Service Nursing Care Rooms
2. Department, Planning Records note that there have been multiple notable changes to the Planned Unit Development, brought to the Planning Commission's consideration, including:
 - 1991 - Revisions
 - 1993 - Community Building
 - 1995 - Carport
 - 1996 - Manor House; and Phase 8, Independent Housing
 - 1998 - Replat of Lots
 - 1999 - Nursing Wing, 1999 - Sidewalk
 - 2003 - Phase 8
 - 2007 - Phase 11, Single-Family Homes
 - 2009 - Moderate Change
 - 2017 - Phase 13, 12 residential units
 - 2020 - Phase 14, Eight (8) duplexes

Section B: Development Plan Review

Section B.1: Development Plan Overview - Major Amendment to the Development Plan

The site in question, containing an area of approximately 5.5 acres, located in the eastern, undeveloped portion of Berkeley Square. The site, along with the rest of the subdivision is currently zoned RPD (Residential Planned Development) District.

The submitted application is for Phase 15 of Berkeley Square, to build ten (10) one-story patio duplexes on the site in question (20 dwelling units total). The proposed duplexes would be consistent with the existing, single-family, one-story patio homes in the recently completed Phase 13 and Phase 14. Centennial Drive is proposed to be extended eastward, and a proposed new asphalt drive extending north would serve as access for the proposed duplexes.

The specifics of the proposal are discussed in greater detail in the section below.

Section B.1.2 One-Story Patio Homes, Duplexes, Characteristics (Exhibit B)

The applicant submitted four (4) building options that would be utilized in the construction of Phase 15.

- Architectural Characteristics:
 - The proposed homes will be consistent in architecture to the homes found in Phase 13 & Phase 14 of the development (see attachments pictures).
 - Each duplex will be one-story ranch patio home
 - Patio homes will be built on concrete building pads
 - Proposed duplexes range from approximately 58' x 90' to 63' x 112', with an average of approximately 4,100 square feet
 - Each dwelling unit will have a two-car attached garage on the front façade
 - Driveways for each unit will be asphalt or concrete.
 - Façade Materials include:
 - Brick Veneer walls
 - Brick Veneer and/or Vinyl Siding for the gables
 - Dimensional Fiberglass shingle roofing
 - Steel Panel garage doors
 - Single-hung vinyl windows with vinyl louvered shutters
 - Exterior trim, gutters, and downspouts will be prefinished aluminum
- 1. Duplex, Building Option 1:**
 - a. Total building area: 3,975 square feet
 - b. Dwelling Unit - the minimum size of living space in each dwelling unit will be a minimum of 1,491 square feet.
 - c. Two (2) bedrooms per dwelling unit, with an optional third bedroom
 - d. Building pad with will be approximately 57 feet deep by 106 feet wide
 - e. Attached two-car garages would range from 461 to 490 square feet
 - 2. Duplex, Building Option 2:**
 - a. Total building area: 3,854 square feet
 - b. Dwelling Unit - the minimum size of each dwelling unit will be a minimum of 1,433 square feet of living space
 - c. Two (2) bedrooms per dwelling unit, with an optional third bedroom
 - d. Typical dimensions will be approximately 58 feet deep by 90 feet wide
 - f. Attached two-car garages would range from 469 to 514 square feet

3. Duplex, Building Option 3:

- a. Total building area: 4,346 square feet
- b. Dwelling Unit - the minimum size of each dwelling unit will be a minimum of 1,593 square feet of living space
- c. Two (2) bedrooms per dwelling unit, with an optional third bedroom
- d. Typical dimensions will be approximately 63 feet deep by 112 feet wide
- e. Attached two-car garages would be 539 square feet

4. Duplex, Building Option 4:

- a. Total building area: 4,188 square feet
- b. Dwelling Unit - the minimum size of each dwelling unit will be a minimum of 1,555 square feet of living space
- c. Two (2) bedrooms per dwelling unit, with an optional third bedroom
- d. Typical dimensions will be approximately 67 feet deep by 102 feet wide
- e. Attached two-car garages would be 539 square feet

Section B.1.3 Conservation and Landscaping

The submitted Development Plans indicate the following:

- 1. Mounding and landscaping barriers will be constructed in the following locations:
 - a. Along the northwest and northern portions of the development to limit the view of the existing Washington Estates Development.
- 2. Provision of landscaping around each dwelling unit as required to meet City of Hamilton Zoning Ordinance (HZO) requirements.
- 3. Approximately 48 trees are required for the development, including at least two (2) trees per duplex structure.

Section B.1.4 Lighting

The submitted Development Plans indicate the following:

- 1. Exterior Lighting will be similar to lighting found at Phase 13 & Phase 14:
 - a. Streetlights will be posted near the entrance to the new asphalt drive.
 - b. Streetlights will also be posted at the circle of the loop cul-de-sac.
- 2. Exterior Lighting at Duplexes:
 - a. Post Lights/Lamps will be at the end of driveways.
 - b. Recessed downlights in the roof will overhang above front entrances.
 - c. Decorative wall lights will be posted on both sides of the garage doors and at rear patios.



Section B.1.5 Off-Street Parking & Access Controls

The submitted Development Plans indicate the following:

1. Proposed extension of Centennial Drive eastward to provide access to the proposed ten (10) duplexes. Two (2) duplexes will be directly accessible from this drive. The proposed extension is approximately 600 feet.
2. A proposed new asphalt drive would extend north from the extended Centennial Drive would provide access to the remaining eight (8) duplexes. This proposed drive would be approximately 450 feet.
3. The new asphalt drive would include a cul-de-sac "loop". This drive would also feature two extended drives, one northwest and one northeast, both of which terminate as stubs.

Section B.1.6 Utilities

The submitted Development Plans indicate the following:

1. Water Service

- a. Existing (six inch) 6" water main at end of Centennial Drive will extended along drive and capped for future use east of the un-named drive branching off to the North. The water line will run north along side of un-named drive and dead end at a new fire hydrant inside the center of the cul-de-sac.
- b. An additional fire hydrant will be located near the intersection of Centennial Drive and the un-named road.
- c. $\frac{3}{4}$ " service laterals with curb box/stop will extend to serve each of the 20 dwelling units.

2. Electric / Communications

- a. Existing primary electric service near northeast corner of Centennial Drive will be extended to a new primary pedestal located near the intersection of Centennial Drive and the un-named road.
- b. Two (2) 4" empty conduits will extend from the new primary pedestal to new transformers along new drive (located between duplex patio homes) and looped around cul-de-sac.
- c. Additional empty conduits will be provided in same trench for Cincinnati Bell and Spectrum and stub up at telephone/CATV pedestals near transformers.

3. Gas Service

- a. Existing 4" gas main capped at end of Centennial Drive will be extended along Centennial Drive and be capped for future extension east of intersection with Centennial Drive and un-named drive. 4" main will run along un-named drive and loop around cul-de-sac.
- b. Gas main will have 1 1/8" service taps to each of the 20 dwelling units (at each end of 10 duplex units).

4. Sanitary Sewer

- a. Existing 8" sanitary sewer main will be tapped at existing manhole on northeast side of Centennial Drive, east of Harmony Drive.
- b. New 8" sanitary main to extend along Centennial Drive to a manhole near the intersection of Centennial Drive and un-named drive. Sanitary main will then extend north along un-named drive and have (10) 6" line taps to each of the duplex units.



Section B.1.7 Drainage & Stormwater

1. Stormwater Management
 - a. Applicant believes that the stormwater management system will be able to handle this phase of the development.
 - b. Storm pipes connecting downspouts from (10) duplex units and catch basins in center of drive will drain to proposed and existing retention ponds.
 - c. Stormwater management calculations will be provided by Civil Engineer for approval as part of the construction drawings permit.

Section B.2: Points Requirement for an RPD (Residential Planned Development)

Section 2404 provides the regulations and requirements for a development in an RPD zoning district. This also includes the stipulated minimum points required for RPD consideration.

The PD Regulations were recently revised in early 2022 and went into effect March 11, 2022. However, the Applicant devised and submitted their application prior to this date. Therefore, the Berkeley Square, Phase 15, proposal will be reviewed under the previous zoning regulations, as described below:

Section 2400 stipulates the minimum required points for RPD consideration:

Two-Family developments regardless of average lot widths above shall provide for a minimum of sixteen (16) points.

1. A review of the submitted plans for Phase 15 and review of the Berkeley Square development indicates the following:
 - a. **3 - Points** for 5% passive open space in Phase 15. Passive open space, land not used for the development of duplexes and the private drive in Phase 15 (5.75 Acres) represents approximately 25% percent (1.4 Acres) of the subject area.
 - b. **1 - Point** for Open space being located within ¼ mile radius of 75% of the proposed dwellings (All dwelling units in Phase 15 are within ¼ mile radius of passive and active open space).
 - c. **5 - Points** for clubhouse or community building minimum size 2,000 square feet (Berkeley Square Main Campus would suffice for this requirement – Manor House is 13,676 Square Feet; Wellness Center is 4,400 Square Feet).
 - d. **2 - Points** for decorative lighting fixtures throughout the project. Decorative lighting fixtures are proposed along portions of the proposed private drive, and at the ends of proposed driveways. The proposed lighting matches existing decorative lighting found at Phase 13, Phase 14, and found throughout the Berkeley Square development.
 - e. **3 – Points** for covered front porch minimum size four (4') feet by six (6') feet (Applicant indicates the structures will match the designs found in the adjacent Phase 14 which also matched Phases 11 & 13. Submitted pictures indicate a covered front porch on front entry of each dwelling unit).
 - f. **2 – Points (Planning Commission Discretionary Points)** for increasing passive open space from 5% to 10%. Per Section 2410.6, Planning Commission may grant discretionary points for meeting supplementary criteria. The proposal exceeds the 10% threshold for proposed passive open space.

A total of sixteen (16) points has achieved based on a review of the plans submitted. However, the proposal would require that Planning Commission grant two (2) discretionary points (please see Staff Recommendation, Section G; Staff Basis/Rationale, Section H).

Section C: Interdepartmental Review

The city's Interdepartmental Review Committee evaluated the proposed Development Plan. The following comments were received:

Fire: No Objection

Gas, Water: No Objection, contingent upon satisfying the following items:

- Will need to review the construction plans.
- The water main extension should be an 8-inch pipe.
- The gas and water mains should loop to Lisa Renee. The future gas and water mains will need to loop to mossy grove.
- No fees at this time.

Electric: No Objection; Contact Electric for Design Development related to electric distribution

Municipal Arborist: No Objection

Public Works / Engineering: No Objection

1. Provide storm water management in accordance with the City of Hamilton Storm Water Drainage Policy and Plan Review Checklist found on the City webpage at <https://www.hamilton-oh.gov/engineering>. Stormwater management (detention/retention/infiltration, etc.) shall meet Ohio EPA water quality requirements, maintain predevelopment rates for 1-yr, 2-yr, 5-yr, 10-yr, and 100-yr events, and detain post development rates according to the critical storm method.
2. A general storm water (NPDES) permit from the Ohio EPA and a storm water pollution prevention plan are required for projects disturbing more than 1 acre.
3. All proposed storm sewer facilities are to be privately owned and maintained by the property owner.

Section D: Submitted Request

In order to accomplish the project as proposed in **Section B.1**, the applicant is requesting the following request.

Major Amendment to the Development Plan

The applicant is seeking approval for a major amendment to the approved Development Plan for a site located within an RPD (Residential Planned Development). The proposed plan is for Phase 15 of the Berkeley Square development and, if approved, would allow the construction of ten (10) one-story patio duplexes on the site in question, a 5.5 acre portion of a vacant parcel.

Two (2) Discretionary Points Granted by Planning Commission

The proposal also requires two (2) Planning Commission discretionary points in order to achieve the required sixteen (16) points required for a two-family planned development.

Section E: Statutes:

Section E.1 Findings for Approving an Amended Development Plan

The HZO states that multi-family residences are permitted within a Residential Planned Development (PD) District. There are specific findings outlined within the HZO for review and approval of a Residential Planned Development by the Planning Commission.

1. The Planned Development (PD) provisions of the Zoning Ordinance are intended to provide an alternative to standard zoning guidelines. More specifically the regulations are intended to:
 - A. Encourage superior and imaginative design and function in developments
 - B. Establish an alternative procedure for the development of land in order to allow for more efficient and economic development of property than customarily permitted by conventional zoning and subdivision regulations
 - C. Ensure orderly and thorough planning and review procedures that lead to higher quality design and development
 - D. Encourage the conservation of natural amenities of the landscape
 - E. Encourage the provision of usable common open space
 - F. Enable greater review of design characteristics to ensure that the development project is properly integrated into its surroundings and is compatible with adjacent development.

2. Section 2410.5 stipulates the minimum required points for RPD consideration:

As indicated previously (see Section B.2), the proposal achieves sixteen (16) points for a two-family Residential Planned Development.

However, this is contingent upon Planning Commission granting two (2) discretionary points. The proposal for Phase 15 of Berkeley Square exceeds the 10% passive open space requirement in order to qualify for the discretionary points.

Section F: Notification

The Planning Department mailed Public Hearing Notices to the owners of 174 properties within 500 feet of the subject property per statute requirements.

As of the writing of this report, the Planning Department received no phone calls or inquiries pertaining to the proposal for a major amendment to a Residential Planned Unit Development for the proposed Berkeley Square, Phase 15.



Section G: Motion:

Request 1: Major Amendment to the Development Plan

- The Planning Commission can take final action to approve or deny the major amendment to a residential planned development for Phase 15 of Berkeley Square.
- The Planning Commission can take final action to approve or deny two (2) discretionary points for an RPD development.

The following sample motions have been provided and can be utilized or amended by the commission:

1. [Approval:] That the Planning Commission take action to approve the Major Amendment to the Final Planned Development for Berkeley Square, to allow construction of Phase 15, as presented, subject to the conditions of approval

Or:

2. [Denial:] That the Planning Commission take action to deny the Major Amendment to the Final Planned Development Plan.

Conditions for Approval:

The Planning Commission's final action of approval are subject to the following conditions (which may be added to or amended by the commission):

1. Construction drawings and documents for the proposed improvements and work shall be revised subject to any current interdepartmental review comments, and future review requirements of the City of Hamilton Interdepartmental Review.
2. Landscaping, site improvements, and all exterior finishes and other improvements be installed and maintained in good repair and replaced as necessary to remain in compliance with the approved Final Development Plan.
4. All proposed landscaping items shall be reviewed and approved by the City of Hamilton Municipal Arborist.
5. All proposed landscaping item sizes to conform to the minimum size requirements found in Section 1802 of the Hamilton Zoning Ordinance. All tree species proposed shall be reviewed and approved by the City of Hamilton Municipal Arborist.
6. Phase 15 shall adhere to the required site improvements to meet the required points for a two-family residential planned development per Section 2410.5 of the Hamilton Zoning Ordinance.
7. The findings of approval for the requested and required Planning Commission Discretionary Points are consistent with the requirements of the Zoning Ordinance necessary for granting such requests.
8. Existing trees and passive open space for Phase 15 shall be at or above 10% of the subject's development area.

Section H: Staff Basis / Comments

Staff provides the following comments pertaining to the amended development plan and discretionary RPD points.

1. The proposed development establishes an alternative procedure for the development of land which allow for more efficient, economic, and consistent development of property than customarily permitted by conventional zoning and subdivision regulations.
2. The proposed project has been through substantial planning and review procedures to facilitate a higher quality design and development. The applicant has met with staff to incorporate comments and input from all city departments to produce a plan that will be compliant with respect to city requirements.
3. The proposed project is a continuation of an ongoing residential planned development, Berkeley Square, and features façade and site design consistent with recent development phases and the character and form of Berkeley Square.
4. The proposed development plan encourages the conservation of natural amenities of the landscape through retention of existing trees in the development area, and establishment of landscape buffers along the northern perimeter.
5. The submitted plans indicate a significant area of the development site as passive open space, exceeding the 10% requirement for granting two (2) discretionary points.
6. The submitted plans meet the requirements of City Staff and have been approved with no objection through the interdepartmental review process.
7. The proposed development will not harm the general public, health, safety, and welfare of the site or surrounding area.

Public Hearing:

This agenda item is being presented by Ed Wilson.

Evan Kelsey, Applicant, 414 Reading Road, Mason Ohio, said Berkeley Square has been around for a while.

Janice Glenn, 1211 Summer Street, said she doesn't have any opposition to the development. The last few times construction has been the big trucks and that the streets have cracked and have caused traffic jams.

Mayor Moeller said to refer this to public safety for them to check.

Richard Bower, Community First Solutions, 236 Ludlow Street, noted that construction vehicles used the back entrance and the plans for this phase and the entrance and exit will be going through Berkley Square and NW Washington.

Mark Koehler, 2247 Mossy Grove, wants to ensure that they will not connect utilities. Mr. Koehler asked about a phase 16 and the applicant said they hope so.

Tim Ryan, a resident currently on Fern Lane there is a big huge berm. The applicant Mr. Kelsey said that the berm is to remain and serve as a buffer.

Motion to Close the Public Hearing: Horsley

Second: Von Stein

Unanimously approved via voice vote.

Motion: That the Planning Commission take action to approve the Major Amendment to the Final Planned Development for Berkeley Square, to allow construction of Phase 15, as presented, subject to the conditions of approval

Motion by: Horsley

Second: Von Stein

Roll Call:

Horsley	Mathews	Sandlin	Moeller	Von Stein	Werdmann	White
Yea		Yea	Yea	Yea	Yea	Yea

Yeas (6) Nays (0)

Agenda Item #4- Public Hearing

Tobacco Retail, Zoning Ordinance Text Amendments

Section A: Introduction & Background

The Planning Department is proposing to add Tobacco, Nicotine, and Vaping Sales as a defined use in the Hamilton Zoning Ordinance and regulate it as a Conditional/Specific Use. The Planning Department has been collaborating with Envision Partnerships, the Health Department, Law Department, and City Clerk’s Office on establishing both a Tobacco Retail License and these proposed zoning ordinance amendments. Envision Partnerships is a Butler County organization dedicated to the creation of a healthy, safe, and drug-free environment throughout all of Butler County. Frost Brown Todd completed a legal review of the proposed Zoning Ordinance text amendments.

In the proposed text amendments, Tobacco, Nicotine, and Vaping Sales are defined as any retail establishment that devotes 20 percent or more of floor area or display area to the sale of tobacco products and/or derives 51 percent or more of gross sales receipts from the sale of tobacco products. Tobacco products include electronic smoking products and all tobacco components, parts, and accessories.

Conditional and Specific Uses require Planning Commission and City Council approval. Tobacco Retailers are proposed as Conditional/Specific Uses in the following zoning districts. They would not be permitted in other zoning districts.

- Conditional Use in B-2 Community Business
- Specific Use in Business Planned Development

The proposed conditions for approval include not permitting future Tobacco, Nicotine, and Vaping Sales to locate within 1,000 feet of a primary or secondary school, a youth center, a licensed-

child care facility or preschool, or other Tobacco, Nicotine, and Vaping Sales and within 500 feet of a park or library.

Reasoning for Proposed Text Amendments

- E-cigarette usage among young people is on the rise. In 2020, for the first time, e-cigarette (Vapes/JUUL) use in the past 30 days by 7-12th grade students in Butler County (14.1%) surpassed alcohol past 30-day use (12.2%). Alcohol has consistently been the most often used substance. (Source: 2020 PreventionFIRST! Student Survey)
- In 2020, nearly 40% of students grades 7-12 in Butler County reported that e-cigarettes were fairly/very easy to obtain. (Source: 2020 PreventionFIRST! Student Survey)
- A model ordinance from ChangeLab Solutions recommends regulating the number of tobacco retailers in a community at one tobacco retailer per 2,500 residents. Currently, there is one tobacco retailer per 685 Hamilton residents. Note that this includes all businesses that sell tobacco products, not just those that would meet the definition of Tobacco, Nicotine, and Vaping Sales. Also, no per capita limit is being proposed in these text amendments, but this information is being provided for context.

Other Communities Regulating Tobacco, Nicotine, and Vaping Sales

City staff researched other communities that regulate Tobacco, Nicotine, and Vaping Sales. Toledo and Kettering both regulate Tobacco, Nicotine, and Vaping Sales and Louisville, Kentucky does as well. All three communities regulate how far away Tobacco, Nicotine, and Vaping Sales can locate from different uses. They are Conditional/Specific Uses in Toledo and Kettering.

Collaboration

The City of Hamilton has been working with Envision Partnerships, Interact for Health, and Tobacco 21 on regulations for tobacco retailers. The proposed zoning text amendments are in conjunction with a new Tobacco Retail License that all businesses that sell tobacco products will have to obtain.

Envision Partnerships and Interact for Health are supportive of the proposed zoning text amendments, but Tobacco 21 has expressed their preference for keeping all tobacco regulations within the Tobacco Retail License and concern for the proposed zoning text amendments. The Planning Department has been working with Tobacco 21 since mid-February to better understand their concerns. We have had a number of phone conversations with them and have asked for them to put their concerns and suggestions in writing but as of writing this staff report, Planning staff have not received that information. Given the support of Envision Partnerships and Interact for Health as well as legal counsel approval of the proposed zoning text amendments, Planning staff is presenting the text amendments for Planning Commission review.



Section B: Petition Review

The proposal consists of amending the following sections of the Hamilton Zoning Ordinance (HZO):

- Section 3900 Glossary – Add Tobacco, Nicotine, and Vaping Sales, Tobacco Retail Establishment, Youth Center, and Child-Care Facility definitions
- Section 1250 Zoning Land Use Chart – Identify Tobacco, Nicotine, and Vaping Sales as a Conditional Use in B-2 and a Specific Use in BPD
- Section 1300 Conditional Uses – Establish conditions for Tobacco, Nicotine, and Vaping Sales

Section C: Notification

The City of Hamilton sent letters to all existing tobacco retailers that have a tobacco license with Butler County as well as shops identified by Envision Partnerships that do not sell tobacco but sell tobacco accessories in early February. We provided an overview of the proposed Zoning Text Amendments and invited them to participate in the Ordinance Review Commission meeting on February 16th. We also notified them of other ways to connect with the City to ask questions or provide input.

The Ordinance Review Commission voted to support the Tobacco Retail License and tobacco Zoning Text Amendments at their February 16th meeting.

The Planning Department posted notification of the Zoning Ordinance text amendments on the Planning Department's website, per [Section 4400](#) of the Hamilton Zoning Ordinance. Notice was posted on March 17, 2022. The public hearing notices were posted on the Planning Commission's website. www.hamilton-oh.gov/planningcommission.

As of writing this report, the Planning Department has received three phone calls from tobacco retailers inquiring about the license and text amendments. None expressed opposition to the proposal.

Section D: Statutes

[Section 4400 Amendments](#)

[Section 4400](#) of the Hamilton Zoning Ordinance outlines the process for amending the Zoning Ordinance. This includes major amendments and significant revisions to the Hamilton Zoning Ordinance.

Plan Hamilton

Plan Hamilton is the Comprehensive Plan of the City of Hamilton. It is a living document meant to guide the land use and zoning decisions of the city. Plan Hamilton recommends modernizing land use policies to reflect common uses occurring in the community and to support City objectives, such as the health-related objectives of the City's tobacco retail efforts.

Section E: Motion

The Planning Commission can recommend that the City Council approve the Zoning text amendments, add to or amend the proposed changes, or recommend denial. The following motions could be utilized:

- 1) [Approved:] That the Planning Commission take action and recommend that the City Council hold a public hearing and approve the proposed zoning text amendments as presented.

Or

- 2) [Deny:] That the Planning Commission take action and recommend that the City Council deny the proposed zoning text amendments.

Section F: Staff Comments

1. The proposed text amendments aim to further the City’s tobacco retail regulation efforts based on the research cited in the staff report.

Public Hearing:

Director Liz Hayden presented this agenda item.

Motion to Close the Public Hearing Horsley

Second: White

Unanimously Agreed

Ms. Teri Horsley has to abstain from voting because of her connection to Envision Partnership

Motion: That the Planning Commission take action and recommend that the City Council hold a public hearing and approve the proposed zoning text amendments as presented.

Motion by: Von stein

Second: Moeller

Roll Call:

Horsley	Mathews	Sandlin	Moeller	Von Stein	Werdmann	White
Abstained		Yea	Yea	Yea	Yea	Yea

Yeas (5) Nays (0) – (1) Abstention



Pre-Application:

1. 304 North Second Street, Pre-application

- a. convert first floor office space into a residential unit- James and Brittney Vogel

Public Discussion:

Liz Hayden said that the president of the German Village association and the entire association would be involved. The way that the regulations are written and that their preference is for single families. Anything other than single family must be reviewed. There is a general concern to adding new apartment buildings.

The application stated that there would be five parking spaces. Ms. Sandlin asked if ADRB would be involved. There would be no exterior provisions. In the past there has always been three meters

Werdmann can see why the neighborhood group would have a concern to make it multiple units. In the grand scheme of things if it could be a good thing.

The applicant would have the best tenants in the building just because the applicant would live with them.

Mrs. Hayden said that a good next step would be connecting her with the German Village Association

2. 845 NW Washington Boulevard, Pre-Application- putt-putt/mini golf proposal

Public Discussion

Tami Hatfield, applicant, spoke to the matter.

They want to add a putt putt course, talked about where the location would be, creating a concession stand, possible phase 2 of a beer garden.

Mr. Moeller likes the idea a lot and wants them to move forward.

The board members were excited about this and want them to continue with the process.

3. 211 South Front Street, pre-Application- Dog Daycare, Sound Test

Public Discussion:

Mayor Moeller left as a commission member at 4:39pm.

Mr. Moeller participated in this discussion as the owner of a business adjacent to the property in question.

There needs to be a regulation on how high the decibel can be. There needs to be a certain regulation and those rules are in place. This would be a full rezoning.

Mr. Moeller talked about his concerns. He is willing to work with them and that it is good for them. Steven Gebhart would follow health department regulations. Only 10 dogs would be allowed outside at one time.



Ms. White expressed her concerns about using a DJ vs a trained professional.

Mr. Moeller asked to put into writing how it can be used to measure decibels.
The board is interested in attending an onsite visit.

Miscellaneous:

- April 21, 2022
 - Badin preliminary development
 - 201 South B Street

Reports: Update on General Planning items

Adjournment:

Motion to Adjourn: Von stein

Second: Werdmann

Unanimously approved via voice vote

Time: 4:57 pm