

**Concord Township
Board of Zoning Commission (BZC)
Administrative Building
6385 Home Road • Delaware • Ohio • 43015**

CONCORD TOWNSHIP BOARD OF ZONING COMMISSION LEGAL NOTICE

The Concord Township Zoning Commission will hold a Public Meeting at 7:00 p.m. Tuesday, December 19, 2017 at the Concord Township Administrative Building, located at 6385 Home Road, Delaware, Ohio, 43015.

The purpose of the Public Meeting is to consider an application, designated as ZC042017, filed by Metro Development LLC of 470 Olde Worthington Road, Westerville, OH, 43082. The application is a Modification to the previously approved Scioto Reserve Expansion development plan also filed by Metro Development LLC to change previously designated school site to be used as condominiums, Parcel #41933003001000, 23.180+/- acres, owned by The Board of Education of the Buckeye Valley Local School District.

The Application is available for public review during normal business hours at the Ostrander Branch of the Delaware County District Library, 75 North Fourth Street, Ostrander, Ohio 43061 and on the Concord Township Website. After the conclusion of the Public Meeting(s), the matter will be submitted to the Concord Township Board of Trustees for review and action. The BZC will also conduct a Business Meeting for the purpose of completing any outstanding action items from previous meetings. Area residents are encouraged to attend.

*Concord Township Zoning Commission
Connie Resanovich, Chairperson
Ric Irvine, Zoning Inspector*

**Meeting Minutes
December 19, 2017**

Call To Order

Chair, Resanovich called the Public Meeting to order

Roll Call

Connie Resanovich, Chair	Present
Virginia Farneman, Vice Chair	Present
Gary Davis	Present
Steve Pierce	Present
Steve Smith	Present
Mike Hamilton, Alternate	Present
Darin Hilt, Alternate	Present

Officials Present

Zoning Inspector, Ric Irvine
Higgins and Associates, Court Reporter, Angie Moore

Swearing In

The Court Reporter swore in all present

Public Present

See attached Sign In Sheet

New Business

Chair, Resanovich stated that Steve Pierce agreed to continue on the Board of Zoning Commission for another term. Mr. Pierce's term will end this year and his new four year term will be 2018-2022.

Purpose of Meeting ZC042017

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previously designated school site to be used as condominiums, Parcel #41933003001000, 23.180+/- acres, owned by The Board of Education of the Buckeye Valley Local School District.

ZC042017 Exhibits

Exhibit A – Application, Exhibit B – Legal Notice, Exhibit C – Meeting Notice Letters to Applicant & Surrounding Property Owners, Exhibit D – Sign-In Sheet

Begin Meeting

Mr. Todd Faris, Faris Planning and Design, introduced Jill Tangeman, Joe Thomas, and Joe Miller. Mr. Faris began by saying that this was the first major plan amendment that they have presented to the Board. The developer's request is to change a school site to a housing development. Mr. Faris said the original land was rezoned in 2004 with the Scioto Reserve Expansion development which included; approximately 238 acres, 172 single family homes, 128 condo homes, large open space and a 24.4 acre school site located at the north of the development off of Hyatts road. Mr. Faris said the project was zoned, platted and completed except for the school site. When the project was presented, there was a density limit due to sewer issues. The development was based on the Scioto Reserve Subdivision sewer system which determined the maximum of 300 homes. Mr. Faris said that a new school site has been determined by the school system. Subsequently, the school would like to sell the land. The developer would like to purchase and develop the site. The original rezoning in 2004 was for 1.256 units per acre, which is below the maximum of 1.5 units per acre. The developer looked at the site as a standalone project. If the Board considers the proposed modification of the 24.4 acre site and includes the Scioto Reserve Expansion development the density increases to 1.495 units per acre, which is still under the maximum 1.5 units per acre.

The proposed development would include; 57 units of detached, single family condos, ranch style units, on private streets, including an abundant amount of open space. The open space totals 13.45 acres, which is 58% of the site. The open space for the entire Scioto Reserve Expansion development would increase to 12% for the development. The proposed development would provide additional funds for the school system, offer condos that are age targeted which would be a less intense use on the property and there would be no buses, drops off, no lights, no school zone, and it would increase the property taxes for the township. Mr. Faris said that the application contains the original Scioto Reserve Expansion application and written in red ink are the changes for the new development. Mr. Faris explained that some of the platting is different and the changes are very minor. The main difference from the original plan is the current side setback of 20 ft. which they are now asking for a 12 ft. setback. The setback change is because in 2004 the stand alone condominium was a brand new product. The new product can have a setback of 10 ft. however, this particular developer prefers to stay at a 12 ft. setback. The setback is the only main difference between the original and new application, other than the 57 additional condo units in place of the school. The proposed modification would include walkways and pathways throughout the site, a gazebo overlooking a pond, and a connection along the trail and to Hyatts road. The proposed drive is aligned with the Scioto Reserve Expansion entry, and the developer has provided a secondary 20 ft. access drive for emergency vehicles only. Schottenstein Homes would build; a ranch product, catered toward empty nesters, they offer various options similar to Epcon, including an upstairs den, basement and sunroom, base models are approximately 1,700-2,500 sq. ft. and the price point \$400,000+. The modification includes widening streets to 26.5 ft. to allow parking on one side of the street, opposite of the fire hydrants. The change creates the look of a multi-family development.

The landscape provides significant buffering along Hyatts road to the north, east, and west. The dense buffering is in response to the BZC and Trustee's requests in previous developments. The dense landscaping would provide a natural look, while preserving the tree line, wooded area and stream flowing to the river. The development setbacks are as near to the center of the site as possible, they had to accommodate storm water in low areas to the west and increased the buffering for that reason. The developer has provided; a minimum 50 ft. building setback, a 125 ft. setback to the north, 230 ft. and 80 ft. setbacks to the east, and a 90 ft. front setback.

Open Floor to Board

Mrs. Farneman asked for clarification concerning the connection between the proposed and existing developments. Mr. Faris said they are across the street from one another and the entrances are directly across from one another. Mr. Davis asked why they stated the site would revert to green space if not used for a school. Mr. Faris said they had to state something if the site was not used as a school and they said green space. The school took the land and did not use it for a school and now they want to sell it. Mr. Faris and Mr. Davis agreed it was not an ideal site for green space since it was across the street from the development, however a park for the community would be an option. Mr. Miller said in 1998 and again in 2004 they discussed the use for the site as a school or open space. The site location changed in 2004 and the open space was not made a requirement when the Trustee's approved the Scioto Reserve Expansion development. The zoning map still shows the site as PRD, it is not practical for open space, the school is not going to use it, and the developer has offered to purchase the site. The sewer capacity was an issue and that has been remedied. The plan conforms to the code, the Scioto Reserve standards and the Scioto Reserve Expansion standards. Mr. Miller stated that an attorney would say that you have to work with what is in the development standards and what was approved by the Trustees, which does not specify open space. The plan benefits the schools, the township and the greater Scioto Reserve development. The developer feels that this is a fair development. Chair, Resanovich asked for clarification regarding the school location in 1998 to the new location in the 2004 Scioto Reserve Expansion development. Mr. Miller said that Charlie Vince handled the development. Mr. Miller feels that it was a hypothetical discussion regarding the school site and that the current site was not the original site discussed. Chair, Resanovich said in 2004 the site was relocated to the Hyatts road frontage. Mr. Miller said the proposal of the earlier site being reverted back to open space may have made more sense with the previous location in 1998. Chair, Resanovich asked for clarification on the 2004 discussion, when two different residents asked, what would happen to the site if it wasn't a school and the residents were answered, that it would go to the HOA as open space. Chair, Resanovich asked if Mr. Miller was now stating that wasn't a true statement. Mr. Miller said that the discussion was that, if the school turned it down that it would become open space however, the school did not turn down the site. The site was deeded over to the school, the school did not use the site however, it was not turned into open space. Mr. Miller added that the 2004 Trustee's approval does not state that the site be converted to open space. Chair, Resanovich said in one discussion the question is asked what if the school turns it down and in another discussion it states what would happen if it is not a school. Chair, Resanovich added that the two discussions are slightly different and the way the public perceived those statements. Mr. Miller said the only conditions stated in the Trustee's approval was a security gate and the building height.

Chair, Resanovich asked what building material would be used and Mr. Faris answered the same standards as Scioto Reserve; all natural materials on the front, with the rear and sides of homes in vinyl. Mr. Smith mentioned that the Board preferred all natural materials on the homes. Chair, Resanovich asked if they had conversations with Chief, Cooper regarding the vinyl siding. Mr. Faris said they met with Chief, Cooper and he was not in favor of the vinyl siding. Mr. Faris said he knew there were issues in Scioto Reserve with a home catching on fire and the vinyl siding on the house next door melting. Mr. Thomas added that the vinyl siding is not flammable. Vinyl is within the national fire code with the 5 ft. separation distance. Chair, Resanovich mentioned that there are several age targeted developments in the area and asked what would prevent the proposed development from becoming starter homes. Mr. Thomas said the beginning price of \$300,000+, also the condo community which does not include a pool, playground, or play areas, which all lends itself to young families. The target age group want to downsize but stay in a single family home, without exterior maintenance or lawn care. The school district and tax point also have the target age group moving out of Olentangy and into this lower tax area. Chair, Resanovich asked about the street maintenance. Mr. Thomas said the streets are private, so the driveway and roads in the development would be maintained by the condo association. Mr. Thomas added that the waterlines and the exterior of the condos would also be maintained by the association.

Mr. Smith asked if the sewer would go back across to the other side of the river and Mr. Thomas said yes. Mr. Thomas added that the change in sewer is how the modification became possible. The developer built a ten million dollar sewer system that goes up Butts road and south on South Section Line and to the Meadows

development and also past the proposed community. The system took off 400 homes from the Scioto Reserve system and added those to the lower Scioto Reserve treatment plant. Mr. Pierce asked what the proposed start date would be for the homes. Mr. Thomas said approximately 8 months from the township's approval.

Chair, Resanovich opened the floor for Public Input and added that they were still sworn in by the Court Reporter.

Open Floor to Public

A resident wanted clarification on what was stated in the zoning meeting in 2004. The resident attended the meeting in 2004 and asked what would happen if it was not a school and he was answered that it would be green space. The resident is now understanding that in the Trustee's meeting the stipulation for green space was not added to the approval. Chair, Resanovich said that it was not added as a condition to the approval however, as submitted in the meeting it was to be green space. The resident asked if what was stated during the meeting by the developer is applicable or not. Chair, Resanovich said that council is saying no however, inquiries would made for verification.

A resident received a notice in the mail on November 07, and asked why the drawing he received is different from what was being presented. Mr. Thomas said the residents received a preliminary drawing which was updated to the current proposed modification. The developer wanted to provide notification to the residents as soon as possible. The modification was updated after working with the engineer and the actual property site. The resident stated that surface water is an issue on his property, all of the water drains to the south east. He owns 2 acres and there are mounds near his property. The resident asked if there were options other than the mounding. Mr. Thomas said they have mounding currently planned with vegetation for a buffer for his property. The resident and Mr. Thomas discussed different buffering possibilities for his property and ensuring the water runoff would not be an issue on the resident's property.

A resident, who lives across the street from the proposed development, said that they did not receive a notice from the developer. Mr. Thomas said they did not send notices to every resident, only to the abutting properties. The resident said traffic is a huge issue for the area. Mr. Miller said the condos would be a less impactful use of the property than a school. The resident feels that traffic will be a problem.

A resident who lives west of the proposed development, said that he had previously discussed drainage with the developer. He said that he spoke to Metro Development and they looked over the property because the property owner does not want to have the same drainage problems that are in the Clarkshaw development. The water runs along the east side of the property. The existing homeowners on Clarkshaw road have a Petition right now regarding the drainage problems in the Clarkshaw development. The developer did not take care of the drainage problems and now the developer is trying to make the existing property owners pay to correct the drainage problems. The residents were told during the zoning meeting when the development was proposed that the developer was responsible.

A resident asked about the outside of the condominium units and what the restrictions would be for the property. Mr. Faris said the exterior of the units provided a patio for the residents so they could have a small fire pit however, playsets, out buildings, etc. are prohibited. Mr. Smith asked if they would have fences. Mr. Faris said there is potential for fencing in the back. A resident asked whether it was the BZC or township that decided the requirements for the condo association, or if it was the developer that established the regulations, fees and responsibility for the upkeep of the development. The resident asked how it would be handled if the association had problems which then resulted in units having issues. Mr. Thomas said that even during the down turn in the market, the association was better for the area and surrounding property values. Ms. Tąngeman added that condo associations are regulated by state law with strict requirements on how the association is setup, structured and they regulate how it is funded and maintain a reserve account. The proposed development would be a condo association and would be very difficult to change from a condo association to a homeowner's association. Mr. Thomas added that the residents would also pay a master association fee along with the condo fee because they

are part of Scioto Reserve. A resident asked what type of fence would be used. Mr. Faris said the modification includes three different styles of privacy fence. If the residents want to make changes to the exterior, they must receive association approval.

A resident said the traffic is a problem; the speed limit is too fast, dump trucks go through the area and it's a major outlet for both developments. Mr. Thomas said they submitted a traffic study to Delaware County a couple of months ago and they make the decisions. Mr. Thomas added that the development would offer less traffic than the school. Mr. Thomas said they have a left turn lane which is more than what is necessary for the proposed development.

Chair, Resanovich asked for the Zoning Inspector's comments or questions. Zoning Inspector, Ric Irvine wanted to clarify and confirm information regarding Exhibits F2 and F3. Inspector, Irvine asked if F2, which shows the emergency access, and F3 would be RCC, with a base of 1 ½ inches of asphalt on top. Mr. Faris answered yes. Inspector, Irvine asked if RCC will be down before they begin building lots and Mr. Thomas said yes. Inspector, Irvine asked if the affidavit submitted for owner authorization by the Buckeye Valley School District was voted on by the school board. Mr. Miller said the school board voted to approve the purchase sale agreement which required all reasonable and necessary cooperation from them. The school superintendent was to attend the BZC meeting however, there was a school board meeting. Mr. Miller stated; the superintendent is able to issue the sale agreement, express support for the sale agreement and he can execute the sale. Inspector, Irvine said the 2004 Trustee's agreement seems to cover Vince's property at the Meadows rather than Hyatts road. Most of the data states the property was deeded to Buckeye Valley Schools for a school. The Buckeye Valley School district is growing just like Olentangy and Dublin, they will need property for future growth. Property value increases and the school will spend more money to purchase land in the future, even considering the profit from the sale of this current site. The school will purchase property at a higher price rather than keeping property that they currently own. The site was one density unit for Scioto Reserve, or to be green space. Inspector, Irvine stated in his opinion the site should be used as one of the two options given in 2004. Mr. Miller said there are several benefits to this development rather than the school site. Mr. Miller said the township is governed by their zoning code and Trustee's decision. Mr. Miller said the open space option was discussed, however it was not made a requirement by the Trustees. Mr. Miller said the site was deeded to the school and they do not want the site for their school. Inspector, Irvine inquired about Wallingford vs. Liberty Township in 2001. Mr. Miller said the developer did not go to the township to change the zoning. Mr. Miller said in the current development, 238 acres has nearly been built out and in the other case, no activity was taken under the zoning.

Chair, Resanovich said this is a different type of request than what they typically hear. Chair, Resanovich said that usually the request is for a change in zoning for a piece of land, for example farm residential rezoned to PRD. Chair, Resanovich does not have an issue with the proposed development as presented. The intention for the site in the minds of the residents and others, according to what they heard appears to be school site. This modification is a modification of the plan not the site, so the change is not like changing a road entrance, lights or the mailboxes. To drastically change a legal binding decision by the Trustees is a major decision. The modification is also increasing the density. The BZC needs to consider whether they will be setting a precedence for going back and changing land use and/or changing the use of open space.

Chair, Resanovich asked the BZC if they were prepared to make a motion and vote on the development. The BZC requested representation by the school and recommendations from the Delaware County Regional Planning Commission (DCRPC). Chair, Resanovich asked if the developer had discussions with DCRPC. Mr. Faris said that he gave DCRPC a copy of the application two weeks prior for their review. Mr. Faris spoke with Scott Sanders to confirm that this was an amendment rather than rezoning. Mr. Sanders said he would try to give the township a report before the meeting. Inspector, Irvine said that Mr. Sanders said the change should be reviewed by DCRPC when he spoke with him. Mr. Thomas said that they did not have an issue with the development being fully reviewed by DCRPC. Mr. Davis wanted to confirm that the site did not separate from the Scioto Reserve Expansion development when it was deeded to the school and Mr. Miller said no, it did not. Mr. Miller said that it is still part

of the Scioto Expansion and all of the development standards. The request is for an amendment to the original development. Mr. Smith said the developer has been good to work with and residents should feel comfortable discussing their concerns/issues with drainage and the developer would resolve any problems.

Some Board Members said that the previous minutes stated that the site would be something different from what was being proposed in the modification and they found it difficult to agree to the development because the proper wording wasn't used in the Trustee's approval. Mr. Davis stated that the meeting should be continued for two reasons; 1) DCRPC should review the amendment to the development and 2) clarify the open space issue. Chair, Resanovich agreed that the development as a standalone rezoning would likely be approved with conditions. However, the Board would feel more comfortable with some clarification and more information before moving forward. Chair, Resanovich stated that the Board would appreciate representation from Buckeye Valley for the next meeting. Inspector, Irvine mentioned that DCRPC does not meet again until Jan. 25 to hear the modification. Discussion regarding a future meeting date began and January 30, 2018 was decided as the continued meeting date.

Motion

Mr. Davis made a motion to continue the meeting until January 30, 2018 and Chair, Resanovich seconded the motion.

Vote: Resanovich, yes; Farneman, yes; Smith, yes; Davis, yes; Pierce, yes

Motion passed

Old Business

- **Review/Approve Minutes**

Motion to approve November 21, 2017 meeting minutes as presented by Mr. Davis and seconded by Mr. Smith

Vote: Resanovich, yes; Farneman, yes; Davis, yes; Pierce, yes; Smith, yes

Motion passed

The BZC discussed the zoning process and the disconnect between the zoning commission hearings, the Trustee's meetings and their final approval. Ric Irvine said the code is very vague and every decision can be appealed which leaves the interpretation up to a judge. The BZC discussed approving a development on the basis that it meets the code with the possibility that it is not good for the township. Chair, Resanovich and Inspector, Irvine mentioned that the Zoning Code and Comprehensive Plan are guides for development. The BZC may turn down development and the Trustees consider the BZC recommendation of approval or disapproval and make the final decision. Chair, Resanovich offered to speak with the township's legal counsel for more information. Inspector, Irvine mentioned that if the zoning code included more detail, the Inspector would not have to argue many issues. The BZC wants to ensure that they don't set a precedence for changing green space and the Trustees need to be very specific in their approval with any conditions. Meeting minutes are only a condensed version of what is actually said during a meeting, they are not exact. The Trustees receive a copy of the BZC Recommendation and a copy of the meeting minutes.

Chair, Resanovich mentioned that the only place in the code regarding major and minor modification is in PRCD which says "*C. In the case of a request for a modification or amendment to the Final Development Plan that represents a substantial departure from the intent of the original proposal, said modification or amendment shall be subject to the same procedure and conditions of approval as the original application. The following shall be considered substantial departures from the original application:*

1. *A change in the use or character of the development;*
2. *An increase in overall coverage of structures;*
3. *An increase in the density or overall number of dwelling units;*
4. *An increase in the problems of traffic circulation or public utilities;*
5. *A reduction in approved open space;*

- 6. A reduction of off-street parking and loading space;
- 7. A reduction in required pavement widths;
- 8. A reduction of the acreage in the PRCD.

In approving such requests, the Township may impose such conditions, safeguards and restrictions in order to carry out the purpose and intent of this district."

The BZC agreed to include this information in every development section in the Zoning Code.

The next meeting will be January 30, 2018, an organizational meeting will begin the meeting.

Motion to continue the meeting January 30, 2018 by Chair, Resanovich and seconded by Mrs. Farneman

Vote: All in favor, none opposed

Motion passed

ATTEST

DATE APPROVED

Angie Ellerbrock

01/30/2018

Angie Ellerbrock
Administrative Assistant

cc: ZC Members, Fiscal Officer, Zoning Inspector, File

