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**MINUTES OF SYMMES TOWNSHIP ZONING COMMISSION**  
**REGULAR MEETING**  
**OCTOBER 21, 2020**  
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The meeting was called to order at 7:00 p.m. Members of the Commission present were: Ms. Bucco, Mr. Etter, Mr. Flynn, Mr. Kessler, and Mr. Singler.

Also present: Bryan Snyder - Hamilton County Rural Zoning, Jeff Forbes - Law Director, and Jana Grant - Zoning Secretary.

MR. FLYNN made a motion to approve the Agenda. MR. SINGLER seconded the motion. Ms. Bucco - 'yes'; Mr. Etter - 'yes'; Mr. Flynn; Mr. Kessler - 'yes' and Mr. Singler - 'yes'.

MS. BUCCO made a motion to approve the September 16, 2020 minutes. MR. FLYNN seconded the motion and the roll call vote was as follows: Ms. Bucco - 'yes'; Mr. Etter - 'yes'; Mr., Flynn – "yes"; Mr. Kessler - 'yes' and Mr. Singler - 'yes'.

**FINAL DEVELOPMENT PLAN MODIFICATION:**

**GREG KESSLER** called to order the public hearing for case **SYMMES 2014-02, SILVER SPRING HOUSE III** a continuance from the September meeting to consider approval of a modification to the Final Development Plan to allow the construction of a 3,158 square-foot building addition and a walk-in cooler on the main building and installation of a 500 square-foot storage shed on the property. The subject property is located at 8322 E. Kemper Road.

Mr. Kessler stated that in the interest of full disclosure the Board received in their packets two (2) documents from Mr. Goldberg. One is a judgement entry approving a settlement agreement with Cincinnati Hills Christian Academy and the second is a consent decree and final judgement entry regarding Robert Lucke Interest. Also, the applicant submitted a parking agreement between the Office Condominiums and Silver Spring House, pictures of "No Parking" signs in the right-of-way off of Snider Road and a ITE Parking Generation Manual.

BRYAN SNYDER stated that in reviewing the documents relating to approval of Lucke Office Condominiums and reviewing Symmes Township Zoning Code the spaces that are located within "OO" planned office district were not granted to the use of Silver Spring House as part of that settlement agreement and because they are zoned office they are not permitted to be used for commercial parking. The nineteen (19) spaces that were granted as part of that agreement are located on the Silver Spring House property and the access easement allows to go over the office property to access those parking spaces that are in the "EE".

GEORGE FLYNN asked Bryan if he could update them on the total parking count, if in fact that they cannot use the nineteen (19) spaces on the Office Condominium's property.

Mr. Snyder stated that no they can. The nineteen (19) that they counted, they are allowed. The parking numbers do not change because they do not get the benefit of parking on the office property and they never could legally park at CHCA property either. That is a residentially zoned piece of property in Sycamore Township. They have more spaces than they are required to have. The minimum parking spaces they are required to have based on the current code is one hundred twenty-six (126) and they have one hundred fifty (150) total spaces.

TODD ETTER asked Mr. Snyder just to be clear, parking doesn't necessarily dictate their approval?

Mr. Snyder stated that they do not have to approve it simply because it meets the parking requirements.

BRIAN DOLL, Cincinnati United Contractors, 7143 East Kemper Road, Cincinnati, Ohio 45249, representing Silver Spring House stated that they have submitted the recorded document of the easement access and parking agreement between the Office Condominiums and Silver Spring House and the document from ITE Parking Generation Manual. They also installed "No Parking" signs on the right-of-way on Snider Road to discourage people from parking there.

Mr. Doll stated that they have a total of fifty-two (52) spaces that are in the agreement as being non-exclusive. The recorded agreement states that the non-exclusive parking spaces shall be limited to use by the Silver Spring House Monday through Sunday, between the hours of 6 p.m. and 3 a.m. Mr. Doll asked Mr. Snyder does the zoning not allow for cars to be parked on the Office Condominiums property? Mr. Snyder stated that the restaurant cannot use those spaces for restaurant parking because it is not zoned retail. Mr. Doll asked if the employees would be allowed to park there? Mr. Snyder stated no. Mr. Doll asked what would be the process before getting approval for something like that? Mr. Snyder stated that they would have to change the zoning of office property from office to retail.

CYNTHIA BUCCO asked Mr. Doll if the "No Parking" signs on Snyder Road are new? Mr. Doll stated that yes, they are new. They just installed them after their last meeting. Ms. Bucco asked if they are finding them helpful? Mr. Doll stated that when they drive by, they have not seen anyone parking in the right-of-way.

Mr. Snyder stated that those signs have to be moved or they have to be approved by Hamilton County Engineer. They were installed in the right-of-way without approval. The signage related to parking on the grass has to be moved to their property.

JOE KENDELL 8322 E. Kemper Road, co-owner of Silver Spring House stated that when he said they had no intention or desire to ever expand again, they really did not have any need for it, but COVID came and now there is a definite need to expand. Six (6) foot spacing could last for years, restaurants cannot survive on 50% occupancy. Restaurants are being forced to cut their staff by 50% and they are closing doors permanently. They need to expand Silver Spring House to stay ahead of all this and save their business of thirty-two (32) years. The tent, which currently occupies the space of the proposed expansion, seats one hundred twenty-five (125) people but it is at a significant cost. They have already spent over \$80,000 for the rental of the tent. They need to make this tented area into something permanent to stay ahead of this uncertainty.

RICHARD GOLDBERG 8354 Jeanette Lane, Cincinnati, Ohio 45249 stated that his backyard is diagonally across the street from the Kemper Offices and Silver Spring House. He has very strong opposition to the expansion because of the parking. You can drive by the restaurant any day between 5 pm and 7pm, practically on the weekends, the parking lot is full and there are always cars parked on the edge of Snider Road, which is a safety hazard. Silver Spring House is not allowed to use parking areas at CHCA or the Office Condominiums per court agreements. It is also a concern that the Silver Spring House property is bordered by north and south residential zoning and the expansion of it just keeps creeping into the residential character. It is not in harmony or consistent with the surrounding area.

MARK STEINHARDT 8387 Chesney Lane, Cincinnati, OH 45249 stated he lives in the neighborhood across the street from Silver Spring House and he agrees with Mr. Goldberg on the parking situation. One of the things they really need to consider is the resident's quality of life. He can hear live music at Harpers Racquet Club a half a mile away and he can only imagine with the expansion of 65% what kind of additional noise this will create.

JACK HORVATH 8366 Jeanette Lane, Cincinnati, OH 45249 stated that he has two (2) points. The first issue is he has seen patrons of Silver Spring House parking in Hartland Subdivision on Jeanette Lane. His neighborhood is not a parking lot or an extension to Silver Spring House. The Silver Spring House needs to supply sufficient parking that does not include CHCA, the Hartland community streets and the Lucke Property. The second issue is in the evenings, particularly in the summer time, he can hear the noise coming from the Silver Spring House.

MR. FLYNN move to approve the Final Development Modification for case Symmes 2014-02; Silver Spring House III, to allow the construction of a 3,158 square-foot building addition and a walk-in cooler on the main building and installation of a 500 square-foot storage shed on the property with the following conditions:

1. That the lower level shall not be utilized for any additional seating or any public gathering.
2. That there shall not be any outdoor music venues.

MR. SINGLER seconded the motion and the roll call was as follows: Ms. Bucco - 'no'; Mr. Etter - 'yes'; Mr. Flynn - 'yes'; Mr. Kessler - "no" and Mr. Singler - 'yes'.

**GREG KESSLER** called to order the public hearing for case **SYMMES 98-1, SYMMES GATE LOT SPLIT** to consider approval of a modification to the Final Development Plan to create a separate parcel for the existing Burger King fast food restaurant within the existing shopping center with less rear yard setback than required. The subject property is located at 10558 Loveland Madeira Road.

BRYAN SNYDER stated that the rezoning for this site from "H" Riverfront & "G" Heavy Industry to "EE" Planned Residence District (with Subservient Retail) was originally approved by the Symmes Township Board of Trustees as part of case Symmes 98-1 to permit the development of an approximately 42,000 square-foot retail center containing four (4) separate buildings with the appropriate parking and traffic circulation. The development of the site was constructed in two (2) phases in 1998 and eventually included three (3) stand-alone retail buildings, and one (1) retail strip center.

Mr. Snyder stated that the applicant is requesting the FDP Modification to vary the minimum rear yard setback from fifty (50) feet to thirty (30) feet to allow creation of a separate parcel for the existing Burger King fast food restaurant. The applicant wants to sell the parcels and buildings to separate users but must split the parcels in order to do so. In order to have a lot split approved, the two (2) parcels must comply with all zoning regulations. However, due to the proposed rear yard setback of the future parcel, it cannot be split unless a variance to the minimum rear yard setback of fifty (50) feet is approved. No other changes have been submitted as part of the applications. The proposed subdivided parcel would have one hundred seventy-nine (179) feet of frontage along Loveland Madeira Road.

Mr. Snyder advised that the Symmes Township Board of Trustees placed ten (10) conditions on the zone amendment. These conditions related to development standards, signage, landscaping, lighting, and parking requirements. The proposed modification to allow a separate lot with less rear yard setback than required would not be in conflict with any of the approved conditions. Therefore, the proposed modification would comply with STT Resolution Z-9801.

Mr. Snyder stated that in reviewing the proposed development, staff finds that the only issue in regards to zoning compliance is the proposed rear yard setback. The site is part of an overall Planned Unit Development that governs the use and development of the site. The existing buildings have been constructed in compliance with the approved Final Development Plan. The proposed lot split would require a parcel line to run between the existing Burger King and the retail strip center building and there is not enough room between the buildings to meet all required setbacks, so there is no option available that would avoid the need for a setback variance. Staff finds that the proposed subdivided parcel is completely surrounded by retail uses and would not adversely impact any residential area. Therefore, granting a variance to the minimum rear yard setback of fifty (50) feet would not affect the development or surrounding area in any way. Further, the conditions of Resolution Z-9801 related to landscaping, lighting and parking would remain in effect and would apply to any future development. All existing setbacks would be maintained and all existing streetscape landscaping along Kemper Road and Loveland Madeira Road would remain undisturbed.

PETER KAIKO, Solli Engineer 501 Main Street, Monroe, CT 06458 representing Paragon Management Group stated that the overall direction of this is to be able to sell the Burger King Restaurant separate from the residual parcel and three (3) buildings. Mr. Snyder did a great job in summarizing why the twenty (20) foot variance for the rear yard setback was required. They wanted to maintain compliance with the residual parcel at the corner of the pharmacy, so the lot line had to go between them and all the setbacks would be maintained.

GEORGE FLNN asked Mr. Kaiko if there is a reciprocal easement agreement between the parcel and/or does it also include a reciprocal parking easement? Mr. Kaiko stated that there is not an existing blank easement for access or utilities at this time and there is not a parking easement as a parking easement would not be required, the out parcel provided sufficient parking for the Burger King.

MR. FLYNN moved to approve modification to the Final Development Plan for case Symmes 98-1; Symmes Gate Lot Split, to create a separate parcel for the existing Burger King fast food restaurant within the existing shopping center with less rear yard setback than required with the following condition:

1. That a reciprocal access easement and parking agreement shall be recorded between the properties.

MR. ETTER seconded the motion and the roll call was as follows: Ms. Bucco - 'yes'; Mr. Etter - 'yes'; Mr. Flynn - 'yes'; Mr. Kessler - "yes" and Mr. Singler - 'yes'.

**GREG KESSLER** called to order the public hearing for case **SYMMES 91-5, J. FONNER – CHIPOTLE** to consider approval of a modification to the Final Development Plan to allow renovation of the former restaurant building into a new restaurant use with a new drive thru lane, parking modifications and a new dumpster location. This subject property is located at 9430 Fields Ertel Road.

BRYAN SNYDER stated that the rezoning for this site from "A" Residence to "EE" Planned Retail was originally approved by the Hamilton County Board of Commissioners as part of case Symmes 4-87 to permit retail development of the site and an entrance drive to a condominium development to the north located in Deerfield Township. The retail site was partially in Symmes Township and partially in Deerfield Township to the north along Montgomery Road. Prior to construction of the retail development, the majority of the site (excluding the entrance drive to the Arbors of Montgomery) was approved for a Major Revision to the "EE" district as part of case Symmes 91-5; J. Fonner. This case replaced the Symmes 4-87 case and now governs the site.

Mr. Snyder advised that the development of the site was constructed in four (4) phases between 1993 and 1996 and eventually included three (3) stand-alone retail buildings, one (1) retail strip center, and a portion of a parking lot for an outlot located in Deerfield Township. In February of 2018, the Symmes Township Zoning Commission approved a Modification to the Final Development Plan to allow conversion of the Symmes Township portion of a vacant retail store to an indoor self-storage facility on the site. This modification also included the creation of a new out lot for future commercial use. In October of 2019, the Symmes Township Commission approved a Modification to the Final Development to allow construction of a car wash facility on the newly created outlot on the site. The area of this proposed FDP Modification encompasses what was approved as an existing stand-alone retail building on the site.

Mr. Snyder stated that the applicant is requesting an FDP Modification to allow conversion of an existing 3,268 square foot stand-alone retail building located along Fields Ertel Road into a Chipotle restaurant use. The applicant states that there would be modifications to the exterior building elevations, parking modifications to allow for construction of a drive-thru, and changes to the existing dumpster enclosure. The proposed building elevation changes include the request for building signage on the façade facing Fields Ertel Road and on the two (2) end elevations. The applicant also proposes a new façade that matches the red, maroon, and white colors theme of

Chipotle. Finally, the applicant is proposing to install one (1) directional sign, a clearance bar for the proposed drive thru, and modifications to the existing monument sign along Fields Ertel Road.

Mr. Snyder advised that the Hamilton County Board of Commissioners place twelve (12) conditions on the zone amendment. These conditions related to traffic and county engineer/ODOT approval, signage, landscaping, lighting, and parking requirements. The proposed modifications to traffic patterns, landscaping, parking, and lighting would be consistent with these conditions. Therefore, the proposed modification would comply with BCC Resolution #882.

Mr. Snyder stated that in reviewing the proposed development, staff finds that there would be no zoning issues with the use of the site for a fast-food restaurant with drive thru. The site is part of an overall Planned Unit Development that governs the use and development of the site. Since the applicant has submitted this request for FDP approval, there are no issues with the conversion of a stand-alone retail building on this outlot that was previously approved as part of a case Symmes 91-5. Further, the conditions of Resolution #882 related to driveways, landscaping, lighting and parking would remain in effect and would apply to any future development. Additionally, the removal of existing parking spaces would still result in the building being over the minimum required parking spaces and the modification to the existing dumpster enclosure angle would not negatively impact the existing or surrounding development. The existing setback of the parking lot from Fields Ertel Road would be maintained and all existing streetscape landscaping along Montgomery Road would remain undisturbed.

Mr. Snyder stated that the Symmes Township Zoning Resolution includes specific standards for signage in retail districts. The standards permit ninety (90) square feet of wall signage that may be located only on the Fields Ertel Road building elevation. The applicant has requested a variance to allow signage on three elevations with all three being thirty-eight (38) square feet individually. This would total one hundred fourteen (114) square feet which is above the permitted ninety (90) square feet allowed. The Zoning Resolution does not permit building signage on multiple facades. Staff finds that allowing a variance for three (3) separate building mounted signs with a total square footage exceeding the maximum requirements may set a precedent for future developments in terms of signage. However, staff also finds that this outlot is part of a larger development located at the intersection to two (2) major roads and one (1) joint access drive. Additionally, signage facing a large shared entrance drive is a typical request. The former Boston Market use within this building was also previously permitted to have signage on the same three (3) facades requested for Chipotle signage that appears to be larger than currently requested. Therefore, the additional signage would not likely look out of character with the area and there are no adjacent residents that would be impacted by the additional signage. The Commission will need to determine if these findings warrant the requested variance to allow additional signage with more square footage than permitted.

TODD ETTER asked Mr. Snyder if there is a zoning requirement for stacking in the drive thru? Mr. Snyder stated that yes, there is a five (5) stack requirement and they meet that requirement.

CURTIS SHANER, Red Architecture & Planning, 589 W. Nationwide Blvd, Columbus, Ohio 43215 stated that they are basically updating the site per the most current standards with the pick-up lane and the dumpster enclosure. The old monument sign has been taken down and the proposed monument sign in their package would be new. It will be in the same place and the same size as the old monument sign.

GEORGE FLYNN asked Mr. Shaner if the monument sign was going to have landscaping around the base? Mr. Shaner stated that currently there is no landscaping and the plan is to mulch around the sign. All other landscaping will remain the same.

MR. FLYNN moved to approve the Final Development Modification for case Symmes 91-5; J. Fonner – Chipotle to allow renovation of the former restaurant building into a new restaurant use with a new drive thru lane, parking modifications, and a new dumpster location with the following condition.

1. That landscaping shall be installed around the base of the proposed monument sign.

MR. SINGLER seconded the motion and the roll call was as follows: Ms. Bucco - 'yes'; Mr. Etter - 'yes'; Mr. Flynn - 'yes'; Mr. Kessler - "yes" and Mr. Singler - 'yes'.

OLD BUSINESS

None

NEW BUSINESS

Mr. Flynn requested Staff to research possible revisions to the Zoning Code to update the parking requirements for restaurants.

ADMINISTRATIVE MATTERS

None

ADJOURNMENT

MR. KESSLER made motion to adjourn at 9:04 p.m. MR. ETTER seconded the motion and the roll call vote was as follows: Ms. Bucco - "yes"; Mr. Etter - 'yes'; Mr. Flynn - 'yes'; Mr. Kessler - 'yes' and Mr. Singler - 'yes'.

Approved:

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Chairperson

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Zoning Secretary