

**Upper Merion Township Planning Commission
Regularly Scheduled Meeting for March 9, 2022**

The Upper Merion Township Planning Commission met for its regularly scheduled meeting on March 9, 2022, in-person in the Henderson Room, located in the Township Building, and via Zoom. The meeting information was fully advertised and a meeting agenda placed on the township website. The meeting was called to order at 7:10 PM followed by the Pledge of Allegiance.

IN ATTENDANCE:

ABSENT:

Matt Popek, Chair
Mark McKee, Vice-Chair
Martin Trumpler, Secretary
Jaquelin Camp
Kenneth Brown
William Jenaway, Board Liaison
Anthony Hamaday, Township Manager
Patrick Foley, on behalf of Leanna Colubriale, Township Engineer (Remington & Vernick)
Ashton Jones, Township Planner

APPROVAL OF MEETING MINUTES:

Minutes for the February 23 meeting had not been previously distributed. No motion was taken.

320 W. Dekalb Pike – Popeyes

Drive through facility with various waivers

Amee Farrell, applicant's attorney, provided a brief overview of the site indicating that while the existing shopping center and site is two properties, it has historically been treated as one property/center. About two years ago, the township rezoned the property to Shopping Center (via court approval) and a voluntary covenant was established, specifically to address protections for adjoining residential neighbors. Comments in letters regarding lot consolidation and parking will be worked through, but it is the applicant's position that nothing has changed historically as related to the property's use and the center should be continued to be treated as one.

Wayne Kiefer, the applicant's engineer, provided a development overview, including proposed changes to the existing basin and a waiver request to only reduce stormwater flows from the disturbed area, not the entire site. Mr. Trumpler asked for clarification regarding the waiver and Mr. Kiefer explained code requirements. Mr. Kiefer went on to explain that the layout came from Popeyes and that site adjustments will be made so that variances and waivers are addressed or eliminated. Mr. Kiefer indicated that they will address fire marshal comments and parking waivers will not be necessary. Mr. McKee brought up a county review letter comment regarding trash, and Mr. Kiefer indicated that they think this is the best location considering truck turning and maneuverability, while also recognizing that there would be a conflict if trash pickup was scheduled during busy drive-through operations. Mr. Kiefer indicated that the trash area would be enclosed with concrete block, and painted to match the building, and that the ADA spot will have a crosswalk and is located closest to the building's ADA entrance. Mr. Kiefer indicated that the only other possible waiver would be related to landscaping - not to the number of trees or species, but location. Lastly, Mr. Kiefer, discussed the issue of sidewalks as related to the requirement of a pedestrian/bicycle way along

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DeKalb Pike. The site is currently nonconforming, and the applicant would gladly put a note on the plan indicating compliance if the sidewalk is ever replaced or install per requirements a pedestrian/bicycle way if this is a priority for the township (it should be noted that no other properties on DeKalb Pike have such).

Mr. McKee brought up the retaining wall and possible safety concerns, the need for a loading dock, and site parking. Mr. Kiefer indicated that he believes that a guide rail should be sufficient, but if a fence is needed he could provide. He only asks that any structural plans for the retaining wall be a separate plan set as his firm does not have a structural engineer in house. Mr. Kiefer indicated that the site required a loading spot and could just strip one of the proposed parking space (near loading area) as they have an extra space. Mr. Kiefer further added that Popeyes will likely ask employees to park in the main shopping center parking area (north of the site), but considering the shopping center use, overall parking should be sufficient. Ms. Farrell indicated that there are parking agreements between all parties.

Mr. Popek asked about the remainder of the stormwater basin and how the proposed system might work/flow. Mr. Keifer indicated that in the past the basin had some issues, sinkholes, but that those issue have been resolved. The intent is to leave the remainder of the basin as is, as not much can be done due to design, and tie in under DeKalb Pike. Mr. Brown asked about the reduced size of the basin and graduated flows. Mr. Keifer indicated that a reduced peak flow will be going into the basin because some will be stored in an underground basin and released gradually. A dialogue continued regarding stormwater, proposed changes and the sites functionality.

Other items discussed included traffic flow during construction, installation time for underground basin/site work, stacking in the front yard, traffic stacking, retaining wall design, facility seating and queuing requirements. Ms. Farrell indicated that she can confirm with the applicant, but that generally these types of facilities operations are scaled based on specific location. Mr. McKee indicated concerns regarding drive aisles and the lack of a control median at the site's entrance area. Mr. Keifer indicated that all out bound movements will have traffic control (stop signs). Mr. Foley indicated the same concerns and recommend a control median be reinstalled at the entrance to replace what is currently on site. Mr. McKee indicated questions regarding parking and site ownership/rental. Steve Powell, site owner, indicated that parking will be shared between all users, that there is no exclusive parking clauses, and that the building will be leased (all shopping center patrons can park anywhere).

Ms. Camp indicated concerns over the lack of pedestrian connections and a past history of allowing applicants to not provide adequate connections. Additionally, Ms. Camp indicated a desire to provide for future electric vehicle charging infrastructure. Mr. Brown indicated that he wants to make sure velocity at the new outfall location is handled. Mr. Jenaway asked about architecture and what is facing DeKalb Pike. Mr. Keifer indicated that the building will have canopies and the only blank wall will be in the rear of the building. Mr. Jenaway added that any utilities or fire connections should not be facing DeKalb Pike.

Mr. Jones, indicated that there is a discrepancy between the county parcel lines and those shown on the submitted plans, required pedestrian path along front and the possible need for a variance, and confirmed that there will be no additional monument signage. Ms. Farrell indicated that the Chick-fil-A site was not required to modify sidewalk as per the Zoning Officer. It is her belief that this is the same scenario and that the sidewalk is well outside the limit of disturbance.

No action was taken by the board.

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Hookah Bar Ordinance

Mr. Popek provided a summary of the ordinance.

Mr. Trumpler asked about the locational requirement and where this use would be permitted. Mr. Jenaway responded that the locational requirements in the commercial districts would likely limit its use to the mall and possibly one other site. Mr. Jenaway went on to indicate that the Village might be able to get permission, as it might be an acceptable location, with some additional study and coordination.

Mr. Popek indicated that Collegeville Borough indicates hookah operations are allowed from 11 AM to midnight vs. 8 AM to midnight in the proposed ordinance. Mr. Jenaway provided additional details and indicated that the draft before the Planning Commission was drafted by the Township Solicitor.

Mr. Popek seconded wanting to know precisely where this ordinance would permit a hookah bar. Mr. Jenaway provided additional clarity indicating that it could not go in the Aldi shopping center or a couple spots on US 202 such as the Exxon, once the Stonebrook Townhomes are built. Mr. Jenaway indicated that there are a number of areas in the industrial area where it might meet locational criteria. Additionally, considering that the mall would have its own measures and controls, there could be added measures beyond the ordinance.

Ms. Camp suggested the possibility of adding school bus stops to the locational criteria with Mr. Jenaway responding by indicating that might eliminate nearly every location and Mr. Popek indicating that bus stops might be already captured under the residential zone limitation.

Mr. Trumpler asked a follow-up question regarding what is hookah tobacco - is it flavored tobacco, does it contain nicotine, etc? A conversation followed as to what hookah is with a conclusion that it is in essence flavored tobacco. Mr. Jenaway indicated that the board is trying to regulate all the other adverse situations that might come along with the specific use.

Mr. McKee questioned the age requirement of 18 years and older when on December 20, 2019 legislation known as "T21" raised the minimum age for the sale of all tobacco products to 21 years of age. The Planning Commission indicated that the ordinance text should be changed to 21 years of age.

Ms. Camp asked additional questions regarding the sale of alcohol and somehow converting one use to another in an attempt to change a restaurant to some other use and thus allow smoking. This was followed by a discussion of internal operations, food, alcohol sales, personal preference, ventilation.

Mr. McKee questioned if it was intended to limit outdoor cooking, regardless of smoking, and the rationale for requiring visibility into a building. Mr. McKee questioned how would that work in a second-floor industrial building in a Limited Industrial zone.

Mr. Jenaway indicated to the Township Manager a question regarding ventilation and township regulations. Mr. Hamaday indicated that the building code does regulate air filtration based on certain uses and that the use may require additional ventilation mechanisms.

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Mr. Jones indicated PA regulations regarding smoking and the consumption of alcohol. This was followed by a discussion of regulations, issues related to a previously operating hookah bar that was shut down, merits of applications, and reasons for by right/special exception. Follow-up discussion of various topics took place.

Mr. Trumpler moved to recommend approval of the zoning ordinance with a text revision of legal age from 18 to 21, with Ms. Camp seconding and all in favor.

ADJOURNMENT:

With no other business to discuss, Mr. Brown moved to adjourn the meeting with Mr. McKee seconding and all in favor at 8:50 PM.

Respectfully Submitted:

Martin Trumpler, Secretary