

The Noblesville Plan Commission met in regular session on Monday, December 12, 2022 at 6:00 PM in the City Council Chambers. Members in attendance were as follows:

Malinda Wilcox, President - Citizen Member
N. Scott Smith, Vice President – Citizen Member
Dave Burtner – Jurisdictional Member
Christine Albregts-Cook – Jurisdictional Member
Steve Cooke – Citizen Member
Dr. Joe Forgey – Citizen Member
Gretchen Hanes, Board of Public Works Representative
Jim Hellmann – Assistant City Engineer
Darren Peterson – Council Representative
Anita Rogers – Citizen Member
Member Absent: Angie Sutton – Park’s Board Representative

Others in attendance: Planning Director/Secretary, Caleb Gutshall; Development Services Manager, Joyceann Yelton; Senior Planner, Denise Aschleman; and Plan Commission Attorney, Jonathan Hughes

President Wilcox calls the meeting to order at 6:00 PM.

OPENING CEREMONIES

President Wilcox leads the Plan Commission in the Pledge of Allegiance.

DETERMINATION OF A QUORUM

Mr. Gutshall, Secretary commences with the roll call and declares a quorum with ten (10) members present.

MINUTES

Motion by Mr. Burtner seconded by Mr. Peterson to approve the November 21, 2022 minutes as presented.

AYES: Burtner, Peterson, Rogers, Hanes, Cooke, Smith, Hellmann, Wilcox NAYS: Zero ABSTAIN: Albregts-Cook, Dr. Forgey Motion carries 8, 0, 2

RULES OF CONDUCT/MEETING PROCEEDURES

President Wilcox states that if you are present to speak about an item there are orange cards on the table outside of the Council Chambers that will need to be filled out and brought back to us. She states an individual will be given three minutes to speak and we will let you know when you are getting close

to that time limit. She also reminded the audience that the Plan Commission continued Application LEGP-0110-2022 until the January meeting so if you are present this evening for that item you will not have to wait around.

Application No. 0110-2022 Change of Zoning from “R5 Multi-Family Residential” and “PB Planned Business” to “R5-PB/PD Residential-Planned Business/Planned Development” to be known as “Midland Pointe Planned Development” for approximately 34 acres (Noblesville City) (12.5 commercial acres, 21.5 residential) including the adoption of the preliminary development plan, ordinance, and waivers for property located adjacent to the southeast intersection of State Road No. 32 (Westfield Road) and Hazel Dell Road. Submitted by Secure Holdings, LLC (Owners’ Rep – Jim Adams), and Steven D. Hardin, Attorney *Continued until the January 17, 2023*
Staff Reviewer – Joyceann Yelton

NEW PUBLIC HEARINGS

#2 Application No. 0191-2022 Change of Zoning from “R1 Low Density Single-Family Residential” to “R4 Single-Family and Two-Family Residential” for approximately 27.5 Acres and located in the 7500-7600 block of E. 196th Street, North side behind the existing residences (Noblesville Township). Submitted by Harbour Properties, LLC and Gordon Land Development Co., LLC (Owners); Apollo Developers (Applicant – Neil Goradia; and Matthew Skelton, Attorney

#2A Application No. 0192-2022 Change of Zoning from “R4 Single-Family and Two-Family Residential” to “R4/PD Residential Planned Development” to be known as “Retreat at Morse” for approximately 27.5 Acres including the adoption of a preliminary development plan, ordinance, and waivers regarding 47 paired villas and located in the 7500-7600 block of E. 196th Street, North side behind the existing residences (Noblesville Township). Submitted by Harbour Properties, LLC and Gordon Land Development Co., LLC (Owners); Apollo Developers (Applicant – Neil Goradia; and Matthew Skelton, Attorney
Staff Reviewer – Denise Aschleman

Miss Aschleman states this property is located behind the ranch houses that were built in the late 50’s – 60’s along East 196th Street and Hague Road. She states the total acreage is approximately 27 acres for the construction of 94 new units with those structures being villas (47 structures). She states the applicants are requesting a change of zoning from “R1 Single-Family Residential” to “R4 Single-Family/Two Family Residential” with the structures being the same as those constructed in “Miller’s Walk”. She states they are also seeking the adoption of a planned development ordinance and plans. She notes that in their booklet they have cited a few waivers; however, Staff considers it to be only two waivers. She states they are seeking relief from the 50-FT buffer yard requirements so as to be less than 50-FT along their western property line for only a portion that is adjacent to the pickle ball court and the looped internal trail (amenity area). She states there are several mature trees in this area that the applicant’s wish to keep and use as their landscaping buffer. Miss Aschleman states that we do have regulations in the UDO (Unified Development Ordinance) that allow for us to give them credits for trees. She states that both trees and shrubs are required to be planted as a part of the buffer yard requirements so they are seeking a waiver from the shrub plantings in this area. She states she has had a telephone conversation with the attorney representing the adjacent property owner to the west

and also have spoken to the property owners. She states they have problems with individuals riding ATV's on their property now and they are concerned about the stub street that is required to be provided and also the reduction of the landscaping along the western property line. She states it is my belief that the landscaping is really not being reduced; it is just another way of looking at the plantings required. She states the buffer yard is being reduced in width and not in the number of plantings. She states the applicants and the owners of the adjacent property have come to an agreement so the attorney for those property owners will not be present this evening. Miss Aschleman states she received a statement of commitments this afternoon. She states the main point of the agreement is that no additional water will be forced onto the western property. She states this document should be recorded and they also wanted a fence along the western property line to be maintained by the developer. She states Staff recommends a favorable recommendation be sent to the Council.

Mr. Andrew Wert, Land Use Professional with Church, Church, Hittle & Antrim, located at Two North Ninth Street, Noblesville states present with him this evening are the owners – Dick and Frank Gordon; and Neil Goradia and Ed Hamilton with Apollo (developers). He states the Apollo guys have previously developed Trailside Woods, Shafer Woods, and currently Marilyn Woods along 141st Street and Marilyn Road. He states we are proposing 94 villa units to be built by Beazer Homes. He states in the surrounding area to the west is agricultural acres; north is Feather Cove constructed 20+ years ago and are the same type of structures; south are single-family structures and east is the Noblesville School's transportation facility and single-family homes. Mr. Wert states this is an "infill" project and is a very walkable community in that it is very close to "Morse Beach". He states it is our intent to keep the mature trees and only enhance those areas. He states they did receive approval from the Architectural Review Board and they have also met with the Technical Advisory Committee. He states they conducted a virtual neighborhood meeting last month and have also met individually with several of the neighbors. He states the developers will be extending sanitary sewer adjacent to the homes along 196th Street and Hague Road. He states this will provide an option for the adjacent property owners to connect to the City's sanitary sewer should they have a failing septic system in the future. He states we have been working with the owners (CSF Enterprises) that own the property to the west and their attorney Greg Zubek and have verbally agreed to certain commitments with the chief one being a shadow-box fence along the common property line. He states those commitments detail the maintenance of the fence and we still are working on the landscaping and the utilities to be sure that there are no conflicts. He states the property is outside the City limits but the property is adjacent on the west and north sides. Mr. Wert states that they will follow-up with an annexation application should this item be adopted by the Council. He states the Gordon Family has been purchasing properties in this area for a number of years in the hopes of freshening up this area and adding investments.

President Wilcox asks if the villas would be age-restricted.

Mr. Wert states it is not age-restricted but maybe age-targeted.

Mrs. Albrechts-Cook asks if this is currently a farm field that has been farmed.

Mr. Wert states the majority of the property has been farmed; however, there are lots that have residential units existing.

President Wilcox opens the public hearing.

Mr. Guy Barger, 7510 E. 196th Street, Noblesville, Indiana states my property is in the lower left had corner of the aerial photograph and to this development. He states he is not present to speak against the project. He states he is concerned about two items: (1) drainage as this property is 6-8 feet higher is some areas and currently behind my house is a retention pond and I am concerned that if the pond overflows it will flow onto my property or others along 196th Street. He also questioned if the (2) drive next to his house would still remain open.

Mrs. Albrechts-Cook asks if he built the house where he currently resides.

Mr. Barger states he did not.

Mr. Byran Gamble, 7690 E. 196th Street, Noblesville, Indiana states he lives on the corner behind the proposed pond. He states his property and the property behind him are natural areas for drainage and it looks like a canal when there is a hard rain. He states when the City built the round-about, they attempted to accommodate the drainage. He states the Engineering Department has seen the problem, and they have studied it, installed a bigger manhole culvert to run through the trench down the road some 1,000-feet. He states they also installed an overflow pipe under the road that goes to the ponds to the south. He states his questions is where is the overflow for this pond as every pond must have an overflow.

Mr. Jeff Leathers, 7552 Hollow Reed Court, Noblesville, Indiana states I live directly across the street from the guy that is on the west corner of 196th Street. He states there are two homes that are served by the drive from 196th Street, will those structures remain? He asks if there will be additional lanes at the entrance from 196th Street.

Mr. Ed Hamilton, 17451 Natchez Court, Noblesville, Indiana and Engineer for the project states he will attempt to address the questions regarding drainage. He states in regards to the low area and the retention pond he knows that the adjacent area is approximately five feet higher ground. He states the pond at the southeast corner will have a high water level five feet lower that the existing low area. He states so they can plan for the capture of the water at the southwest corner and convey it to the southeast corner pond. He states there is a 70-FT buffer along the south property line with 50-FT of that being a landscaping easement that includes mounding with the remaining 20-FT being used for utilities. He states as for the drive it will be removed between the stub street and 196th Street and replaced with turf. He states the remainder of the existing drive will be used as the stone trail and a part of the amenity area. Mr. Hamilton states the outlet for the drainage is the natural outlet now that drains from the northwest to the southeast. He states everything will continue to go to the natural outlet which is the existing culverts. He states they will meet with Mr. Gamble to answer any other questions. He states the pond is designed for the 100-year storm or what is now called the 1% storm because those have been happening more frequently than every 100-years. He states the pipes will be sized to help with any overflow. He states if we would get a 1% storm and the outfall pipe could not handle the overflow, it would just go to its current natural path towards the south to the culvert. He states that would be after the pond has filled up. He states a third home will be removed to create the new entrance into the subdivision from 196th Street. He states the only other entrance that could be

created in the future may be the connection to the stub street and the adjacent property to the west. He states there is a passing blister on our side of the road which will extend close to the existing trail along 196th Street. He states we are not impacting the trail on the south side of the homes along 196th Street but will accomplish this by doing a lane shift slightly to the north. He states we are currently working with the neighbors on the north side of 196th Street to be sure that we have sufficient right-of-way for the decel-lane and the accel-lane.

Mrs. Albrechts-Cook asks if they are tapping into a natural aquifer.

Mr. Hamilton states no, it is the natural earth water that is causing the run-off problem.

Mr. Hellmann states there are three drainage problems in the area. He states drainage issue the first gentlemen mentioned has to do with a low spot. He states when we built the round-about there was a natural low spot where we had low-flow structures and big structures under the road and another drainage issue at the north end the property that flows towards Hague Road. He states with this development they will be addressing all of those issues as those were found when they did their preliminary engineering. He states as a condition of approval the developers will have to obtain the required right-of-way before the issuance of permits regarding the accel/decel lanes including the off-site drainage easement being obtained. He states so now with a decent rain, it flows to the side of this gentlemen's yard but he is going to have a pond and pipe. He states your driveway and stack wall are where there will be a pipe; however, I am not going to say that the overflow is never going to happen but it should be very minimal. He states based on what we have viewed in the past those situations will be much improved with this development by the interception of the water through the storm sewers, the dumping into the pond, and then releasing the water at a much slower rate.

Mr. Barger returned to the microphone stating that due to the water and it's eroding my yard, if the developers would build a concrete wall so that it does not continue to erode my property.

Mr. Hellmann states as the water with this development will be passing through a pipe, you will no longer get those eroding conditions. He states you are more than welcome to meet with the developers and discuss what they may be willing to do.

Mr. Barger states that we hired a company to clean the drainage from his western property line to Morse Beach but it still needs to be done again.

Mr. Hellmann states that ditch is outside the responsibilities for this development. He states the developer can only detain the water that is on his property and not adversely affect the surrounding properties.

Mr. Peterson asks if there is parking for the amenity area.

Mr. Hamilton states no as it is just a pickle ball court.

Mr. Peterson asks if the internal roads will be public or private.

Mr. Hamilton states public.

Mr. Peterson states he is concerned about parking in general for this development and asks if there is space to park in the driveway.

Mr. Hamilton states the driveway length is 25-FT so the answer is yes.

Mr. Hughes, Plan Commission Attorney, states as a reminder we do have commitments that need to be included in the motion. He asks if the Plan Commission has a copy. The answer was yes by Denise Aschleman. He states he has reviewed the commitments and they are fine as these are commitments between the developer and the adjacent property owners regarding the fence.

Motion by Mr. Peterson seconded by Mr. Smith to forward Application No. 0191-2022 with a favorable recommendation for the adoption of a change of zoning from "R1 Low Density Single-Family Residential" to "R4 Moderate to High Density One and Two Family Residential" for approximately 27.5 acres for a residential subdivision to be known as "Retreat at Morse" and containing up to 47 paired villas for property located in the 7500-7600 block of East 196th Street, north side behind the existing residences.

**AYES: Peterson, Smith, Hellmann, Hanes, Burtner, Albregts-Cook, Dr. Forgey, Cooke, Rogers, Wilcox
NAYS: None ABSTAIN: None Motion carries 10, 0, 0**

Motion by Mr. Peterson seconded by Mrs. Albregts-Cook to forward Application No. 0192-2022 with a favorable recommendation for the adoption of a change of zoning to "R4/PD Moderate to High Density One and Two Family Residential/Planned Development" including the adoption of the preliminary development plan and ordinance and all documentation presented in the Staff Report and Applicant's Booklet including the following waivers and condition:

WAIVERS

1. Reduction of the buffer yard width
2. Reduction of the landscape buffer plantings
3. Allowance of a trail in the perimeter buffer yard

CONDITION

1. Inclusion of the commitment correspondence discussed at the meeting

**AYES: Peterson, Albregts-Cook, Hellmann, Hanes, Smith, Cooke, Rogers, Burtner, Dr. Forgey, Wilcox
NAYS: None ABSTAIN: None Motion carries 10, 0, 0**

#3 Application No. 0220-2022 Amendment to the adopted Plan Development Ordinance for the "Hamilton Town Center" regarding signage for Chuy's Restaurant located at 14150 Town Center Boulevard (Noblesville City). Submitted by Hamilton TC, LLC (Owners) and Humble Sign Company (Applicant)

Staff Reviewer - Joyceann Yelton

Ms. Yelton states this application was filed in October for a public hearing at the December 12, 2022 meeting. She states the notices to the surrounding property owners and the legal advertisement appeared in both newspaper as per the Rules of Procedure. She states no correspondence was

received regarding this application by Staff. She states this is a proposed amendment to the adopted sign regulations for the Hamilton Town Center that would be specific to the Chuy's Restaurant. She states the sign applications have been rejected as the signs proposed do not meet the requirements of the Hamilton Town Center and/or the Unified Development Ordinance. She states the restaurant has been located within Hamilton Town Center since 2014 with the approval of the overall development for Hamilton Town Center occurring in 2005. She states the Hamilton Town Center planned development is completely surrounded by the Saxony Corporate Campus Planned Development. She states this property (Chuy's Restaurant) is on a primary arterial that is a traffic carrier across the county and to other major thoroughfares such Interstate 69 and it is also located adjacent to the first entrance into the Hamilton Town Center for traffic moving in a easterly direction along Campus Parkway. Ms. Yelton states that during the past several months there has been discussion with several individuals regarding their signage. She states as per the exhibits attached to the Staff Report, Planning Staff has been very thorough in their responses. She states there were also numerous telephone calls that are not a part of the Staff Report. She states they were also told by Staff that if they pursued the amendment through a public hearing, Staff would not be supportive. Staff has included the emails relating to this discussion. Ms. Yelton states the following are the regulations not being met by the proposed signage for Chuy's:

1. Requires individual mounted channel letters
2. Backers and/or cabinet signs are prohibited
3. Exceeds the maximum 30% maximum permitted for logos and/or graphics
4. Open-faced channel letters are prohibited.

South Wall

5. Exceeds wall sign maximum size
6. Exceeds maximum letter height
7. Exceeds logo maximum requirements

West Wall

8. Exceeds wall sign maximum size
9. Exceeds maximum letter height

North Wall

10. Exceeds wall sign maximum size
11. Exceeds maximum letter height

12. Proposing LED lighting around the building which is also considered a sign.

Ms. Yelton states prior to the applicants actually being issued a sign permit, they must receive approval from the developers for the Hamilton Town Center. She states they did receive approval from the Hamilton Town Center (HTC). She states that the adopted sign regulations were presented to Staff several years ago by the Developer – Simon Group for the development of the Hamilton Town Center based on what they had done in other areas. She states even though they received approval from the HTC group that does not guarantee a sign permit will be issued by the City based on HTC group approval

as Staff is bound by the adopted ordinance presented by this same group. She states the developer usually approves the signs whether or not they meet the ordinance requirements and leave the City to disapprove or reject the submittals. She states the applicants have provided no additional documentation except to say that the proposed signs are what they want to install at this location. She notes that during all of the discussions, there was a compromise offered by the Planning Director to the Chuy's, which could have avoided a public hearing process but as per the application they have chosen to move forward with the public hearing. She states simply modifications such as the removal of the backers/cabinets and the installation of individual letters would help to meet the requirements of the ordinances. Ms. Yelton states there were emails in your packet submitted by the applicant alluding to the signage at Ford's Garage. She states the location of Ford's Garage is in a different section of the Hamilton Town Center and has different regulations than the location of Chuy's. Ford's Garage is a "Main Street Tenant" and Chuy's is an "outlot tenant". Ms. Yelton states that again the sign regulations adopted were proposed by Simon Group/Hamilton Town Center and presented to the City for adoption. She states that these same sign regulations have been in place since 2007 with others being able to meet the standards. She notes that the current Chuy's signs are not all in compliance with this same ordinance but can remain. She states Staff does not support the amendments to the adopted HTC ordinance as we do not believe they have justified their modifications with supporting statements or documentation.

Mr. Peterson asks if the signs that are existing, if we asked Chuy's to remove and replace with the new signs.

Ms. Yelton states no as the signs that are currently located on the building can remain. She states Chuy's is proposing to update their signage based on what they have done elsewhere in the past few years. She states this is a bit of re-branding on their part.

Mr. Peterson asks what would be in violation with the proposed signs.

Ms. Yelton states the signs are exceeding the overall size and letter size permitted. She states the open faced letters, the LED around the building is additional signage also would be a violation. She states the blue area behind the word "Chuy's" is a cabinet which is not permitted by ordinance.

Mr. Peterson states so if the blue area behind the letters was painted on the building, would that still be a violation.

Ms. Yelton states yes as it would be a backer that is prohibited by both ordinances.

Mrs. Albrechts-Cook states that the City sign people should be reviewing these proposed signs against the Unified Development Ordinance and not the Hamilton Town Center and/or Saxony Ordinances and should not the individuals submitted for a permit know the sign regulations.

Ms. Yelton states anytime within a planned development ordinance there are sign regulations such as in the Hamilton Town Center, those regulations are applied to the review of the proposed sign initially. She states if there is a regulation that is not addressed in the Hamilton Town Center planned development ordinance then it would revert to the Unified Development Ordinance for that review. She

states you are correct in thinking that those individuals with the developer would know those sign regulations as they are the same individuals that proposed those sign regulations. Ms. Yelton states they are asking for signs that are not permitted by the adopted ordinances.

Mrs. Rogers states it appears in Exhibit 6 there was a lot of correspondence going back and forth between Caleb (Planning Director) and Mr. Cantrell (Humble Sign Company representing Chuy's) and Caleb offered a compromise (Option C), was this the end of the correspondence.

Ms. Yelton states that was the end of the correspondence that I had in regards to the topic.

Mr. Gutshall states they responded to me thanking me and they would get back to me. He states so they got back to us by submitting for the variances.

Mrs. Rogers states that she understands that Simon and the Hamilton Town Center established these rules and then those were approved by the Plan Commission. She asks if any variances have been granted to the sign regulations and would this be setting a precedent.

Ms. Yelton states since the adoption of the HTC ordinance in 2007, there have not been any amendments granted to the sign portion of this ordinance by other tenants.

Mrs. Albrechts-Cook states but you can go to the Hamilton Town Center and see all of the signs are different.

Mr. Smith states but they still meet the requirements.

Ms. Yelton states yes.

Mrs. Albrechts-Cook states she does not understand the backer and cabinet portion of the sign regulations.

Mr. Smith asks did we not allow an amendment for BJ's Wholesale Club way back off the road.

Mrs. Albrechts-Cook states Chuy's is in a good spot being right adjacent to the main road and a main entrance to the center. She states it is not like they are way back in the center by "Dick's Sporting" store.

Ms. Yelton states Chuy's is along the main roadway and also at a main entrance into the shopping mall.

Mrs. Albrechts-Cook states that it is only Chuy's asking for these amendments regarding their signs.

Ms. Yelton states that is correct. She states those amendments include the exceeding the overall sign size; letter sizes; open faced letters; and cabinet/backer signs.

Mr. Gutshall states so my compromise would have permitted the blue backer, if they made the letters pop out as a trend letter so that it would no longer be a cabinet sign and they could keep with their branding and the letters would stand out.

Mrs. Albrechts-Cook asks what is a channel letter.

Mr. Gutshall states it like a 3-D picture where it is not all flat like a cabinet sign but the letters would stand out.

Mr. Peterson states we run into this same situation every day in my day job and that is corporate branding. He states there is an identity that goes with these businesses so that out of the corner of your eye, when you see these things you know what it is. He states in some jurisdictions, McDonald's is 100% signage because you identify the entire building as McDonald's. He notes that he has seen some very obnoxious signs. He states he believes the proposed signage is in context with the sizing out there. He states we can get into the semantics but I do not think the proposed signs are obnoxious and think that we can reach a compromise as proposed by Mr. Gutshall. He states if this is their corporate brand and it is close, then I would vote for the approval. He states he believes this is tastefully done.

Mrs. Wilcox states she agrees with Mr. Peterson.

Mrs. Albrechts-Cook states at the entrance there is a sign, are they on that sign? It appears that the reference was being made to the designation sign for the Saxony Corporate Campus.

Ms. Yelton states the designation sign for the Hamilton Town Center only indicates "Hamilton Town Center" and has a artistic metal butterfly below the centers name. She states the sign adjacent to Bj's Restaurant is a part of the Saxony Corporate Campus Planned Development and that particular designation sign does identify businesses located in the Saxony Corporate Campus. She states BJ's Wholesale Club is a part of the Hamilton Town Center.

Mr. Peterson states in regards to the lighting around the building, neon lighting always eventually flickers and causes distractions. He states if it is LED, then I am comfortable with this in the way that the light shines and it is not flickering or strobing as long as it is the same color.

Mr. Burtner states he does not know of anyone that does neon anymore.

President Wilcox states I believe we need to have a presentation by the applicant.

Mr. Russell Burns, Area Supervisor for Chuy's Restaurants in Indiana and Kentucky, 20252 James Road, Noblesville states I have been a resident here since 2007. He states we opened the Chuy's Restaurant here in 2014. He states this location looks nothing like a Chuy's in other locations but that is fine but because of all of the compromises required by the Hamilton Town Center and the City of Noblesville at the time we opened up, the signage at that time was fine. He states since that time we have seen others have different signage that includes back lit letters when we have gooseneck lights, signs with just letters on the wall and others. He states so in 2019 we submitted for new signage and it was within three months afterwards that "Ford's Garage" opened and ours was declined but "Ford's Garage" was

approved and if you drive by you can see that it is lit-up. Mr. Burns states that we went back in 2020 to review the situation and have submitted new sign applications (2022) that are based on our more traditional Chuy's signs. He states we feel like we are at a disadvantage based on what is allowed at other locations. He states we can compromise on some of the issues such as the LED lighting around the top of the building (no neon lighting). He states based on the sign company the backer on the sign is needed but the letters do not have to be open-channel letters. He states we may be able to reduce the depth of the backer or how far away from the building it is located.

Mr. Peterson states so you are willing to compromise on the building lighting being LED and on the type of lettering so we are really down to the size of the signs. He asks if the backer were removed would the lettering meeting the size requirements.

Ms. Yelton states she is unsure but does not believe so.

President Wilcox asks how much larger is the sign than what it should be.

Mr. Burns answers, I do not know.

Mr. Burtner states that he is not sure what they are looking at in regards to the proposed signs and what was submitted.

Mr. Burns states currently it is gooseneck lights over the signs but we are wanting our signs to be backlit like others in the area.

There was discussion about the proposed signage amongst the members. There were too many members talking at the same time and Staff was unable to decipher from the digital recording the inaudible chatter.

Mr. Burtner asks if the gooseneck lighting will remain.

Mr. Burns states there would be no reason for that lighting as we are proposing internally lit signs and provided we get the LED around the building.

Mr. Peterson states that he sees the Ford's has wording of "Prime Burgers, Craft Beer" which is no different than Chuy's wanting "Fine Tex Mex" as being the same and is a tag line that is not considered a part of the sign, in my opinion. He states there is Michaels that has "crafts" and that does not count against the signage.

Ms. Yelton states but it does.

Mr. Peterson states that Ford's Garage has a lot of signage.

Ms. Yelton states that you need to understand that these two buildings are designated in different areas within the Hamilton Town Center Ordinance and there are very different regulations for each area. She states "Ford's Garage" is farther back from the primary road where Chuy's is adjacent to the primary

road. She states some of the newer sign ordinances address the setback of the buildings from the road and relate it to the size of sign permitted. She states based on the regulations proposed by the Hamilton Town Center and adopted in the planned development ordinance, those tenants that were farther away from the main thoroughfare received the benefit of larger signage and maybe additional signage as opposed to those tenants along the main roadway.

Mr. Smith states it seems that we are negotiating a lot of things, have questions, and discussion regarding this application. He states he would like to know exacting what it is that we are approving and also provide us with bullet points of the changes so we know what are the concessions and what they are willing to do. He states I believe that moves us in a positive direction. He states he is not willing to approve anything until I know exacting what it is we are voting on and what are the specific compromises made.

President Wilcox opens the public hearing and seeing no individuals coming forward to speak; closes the public hearing. She notes to Mr. Burns that maybe he can provide the commitments and I think that should move us along in a positive manner.

President Wilcox states she is restating what she believes are Chuy's commitments:

1. Willing to do the closed lettering
2. Willing to do LED lighting around the building
3. Wanting the size of signs that you are proposing in the presentation.

Mr. Peterson states that he notes that the lettering of the signage meets the ordinance minus the backer.

Ms. Yelton states the lettering does not meet the ordinance requirements.

Miss Aschleman states that the ordinance states that the first letter can be as large as 36-inches with the remaining letters being 24-inches. She states that the "C" and "h" are 36-inches and the "y" is larger.

Mr. Hellmann states where are we with these concessions as per the compromise offered by Mr. Gutshall in the emails.

Mr. Gutshall states that we noted they could keep their existing sign size, even though it was larger than allowed, (currently at 52-Inches in height).

President Wilcox states she likes what they are proposing. She states in her opinion the sign that exists is too small and she does not object to what is being proposed.

Mr. Burtner states Chuy's is not hurting for business. He also asks about the lighting around the building and it location.

Ms. Yelton states it is around the top of the building.

Mr. Burtner asks if Staff is opposed to it as they approved lighting on the top of a building for another restaurant located along State Road No. 37.

Ms. Yelton states Staff is not necessarily opposed to it but notes that the other restaurant did go through the public hearing process and she wants this restaurant to follow the same procedures.

Mr. Burns states we did make a concession on the lighting around the top of the building because by our branding it is a squiggly border or it could be a metal piece with lighting behind.

Mr. Burtner states he agrees with Mr. Smith that he is not sure what we are voting on for this application request.

Mr. Smith states he likes branding but he also likes not using the branding in specific areas but would allow for certain elements of that branding that fit within the surrounding areas. He states there are many cities that they do not allow you to do what you want.

Ms. Yelton states we did request a Trademark Certificate and never received any of that information on the new branding.

President Wilcox asks about the Trademark information.

Mr. Gutshall states typically if we receive the trademark information then we do not require the tenants to receive a variance.

Ms. Yelton states that a trademark certificate typically does not provide letter sizes but might say it has a blue backer, red letters, and the initial letter is taller than the rest. She states it still needs to meet the sign ordinance requirements regarding size.

President Wilcox states that she does not feel that the sign code requirements are treating two restaurants equally as there is not an eighth of a mile difference. She states so what you are saying is the arrow, blue backer, and yellow letters are the trademark as sizes are not typically included but it up to us to be sure it meets the code requirements.

Ms. Yelton states from a roadway perspective, typically, the closer the building is to the road the smaller the signage and the farther away the larger the sign letters become. She states keep in mind that the Hamilton Town Center/Simon Group were the individuals that proposed the regulations and we as a City adopted those regulations without any modifications as we felt they would have a better handle on the sign regulations. She states this is the first request for a sign modification in the Hamilton Town Center.

President Wilcox asks Mr. Burns if he can be precise in what you are wanting for your signs such as size so that it could give us something to vote on.

Mr. Peterson states you also have the option to withdraw this for 30-days in order to work out the details. He states if we vote on this and it is denied, then you have to wait one year before re-applying.

Mr. Burns states he understands. He states that the only concession made was to not have open channel letters and the rest would be as proposed including sizes.

President Wilcox states that you are conceding to the channel letters on the signs but having the sign size as proposed.

Mr. Burns states yes but then says it may not be possible for the sign company to do that as I just don't know so I apologize for that.

President Wilcox then states maybe you should request a continuance.

Motion by Mr. Smith seconded by President Wilcox to continue Application No. 0220-2022 until the January 17, 2023 meeting.

AYES: Smith, Burtner, Cooke, Hellmann, Rogers, Albrechts-Cook, Dr. Forgey, Hanes, Peterson, Wilcox

NAYS: Zero ABSTAIN: Zero Motion carries 10, 0, 0

#4 Application No. 0222-2022 Amendment to the adopted Plan Development Ordinance for the "Saxony Corporate Campus" regarding signage for Outlaws Restaurant located in the 13000 block of Campus Parkway at Cabela Drive, South Side (Noblesville City). Submitted by Interstate Holdings, LLC (Owners), BML Holdings, LLC (Blake Lilly, Applicant) and BA Signs (Edgar Rivers) *Staff Reviewer - Joyceann Yelton*

Ms. Yelton states this is the second item that we are discussing located in the Corporate Campus. She states the applicant did send the required notices by Certificate of Mailing and was advertised in the newspapers. She states this sign is located in the Saxony Corporate Campus which surrounds the Hamilton Town Center. She states this particular tenant is wishing to place his name on the designation sign adjacent to Campus Parkway. She states the adopted ordinance allows for a maximum size of 12-inch letters and this applicant is asking for 18-inch letters. She states existing on the sign currently are tenants such as "Michael's, Marshal's, Cabela's and Duluth Trading Company. She notes that prior to the designation sign being installed, the developer went through the public hearing process to allow the word "Cabela's" to be larger in size with the remainder of the tenants allowed only a 12-inch maximum letter size. She notes that the Duluth Trading sign size is less than 12-inches and the "M, H., and L's" in Marshalls are larger letters due to their trademark and the same with the slighter larger letters for the name Michael's; however the largest letters are still less than 18-inches in height. Ms. Yelton states the Outlaws Restaurant is not a franchise and it a stand-alone facility. She states they are also required to seek approval from the Saxony Design Review Board to which they did receive approval. She states as with the adoption of this sign regulations, those were proposed by the developer of the Saxony Corporate Campus and adopted by the City of Noblesville. She states for those not familiar with this restaurant, they opened in the former building of Primanti Bros Restaurant and again Primanti Bros restaurant had their sign in this same location meeting the 12-inch or less letter size except for the first letters of each word. Ms. Yelton states as a compromise, Staff was willing to approve the letter "O" at 16-inches with the remaining letters being 12-inches or less. She states the

16-inch letter size is comparable to both the "M" in Marshall's and Michael's. She states again that the applicant applied to amended the ordinance as opposed to accepting the compromise.

Mrs. Rogers states just so I understand the requirement is 12-inches but currently there are signs like Marshall's and Michael's that have larger letters to 16-inches.

Ms. Yelton states in both cases, the majority of the letters are 12-inches or less with just a few letters measuring 16-inches.

Mrs. Rogers states so how do these tenants get larger letters.

Ms. Yelton states it is basically trademark signs. She states just by common sense letters such as 'l, k, h' are taller letters just by our alphabet.

Mr. Smith asks if Staff knows how tall the letters are in Duluth Trading Company. She states those a slightly less than 11-inches.

Mrs. Albrechts-Cook asks what is Staff's recommendation.

Ms. Yelton states we are recommending denial. She states again we did provide a compromise to the 18-inch lettering to approve the letter "O" at 16-inches and the remaining letters at 12-inches which there was not a response and this application was filed for the public hearing process.

Mr. Smith asks if Staff was given any reasons for why they could not meet the requirements or the compromise.

Ms. Yelton states we were not given any reasons.

Mr. Smith asks do we know that they have to be located on the bottom of that sign.

Ms. Yelton states she would say so as that is the same location of the previous restaurant and the vacant slot in the center of the sign is most likely for a larger tenant as per their Saxony development agreement. She states if you have driven by the sign, you will note that there is nothing at the bottom of the sign prohibiting seeing the sign such as shrubs and/or tall grasses.

Mr. Blake Lilly, owner of Outlaws Restaurant states if you drive by the sign, no one can read the words Duluth Trading Company. He states if my letters are only 12-inches, nobody will be able to read them. He states the reason Primanti Bros Restaurant is not there any longer is because no one knew they were located back there. He states that may also be the same reason the building was vacant for two years. He states I am back there by Cabela's but nobody goes back there. He states I have spent a lot of money on advertising and still nobody knows we are back there. He states that he did not know some of the information that was presented by Staff as there has been communication problems between the sign company and me. He states all of those other businesses are national chains and I am not as this is my only location. He states as for the color as stated in the Staff Report we could make it burnt orange or some other earth tone color but I just can't have the letters at 12-inches because those are not readable. He alluded to the fact that maybe the sign had already been constructed and it

would cost him additional money to change it. He states the national chain businesses people will drive specifically to those businesses as they know where they are located. He states I am just a small business trying to make it. He states my business would be the only restaurant located on this sign. He states he did ask Saxony if he could have the other spot on the sign and I was told no. He states Saxony has not been good to me in their emails regarding the sign, specifically Meg Ransford.

Mr. Smith asks about the offer for the 16-inch letters?

Mr. Lilly states I never heard anything about that. He states if I had known about the 16-inches then I might have agreed to it; however, I know that the 18-inch letter sign exists so he would be charging me additional money for the new sign and we would be at war. He states that Ford's Garage and Chuy's are in prime locations and my restaurant is not in a prime location and I don't know that it will ever be a prime location.

Mr. Burtner questioned that his statement referring to this location not being a prime location next to Cabela's is somewhat puzzling as it is in surrounding area of the Interstate and a major retailer.

Mr. Lilly states that I thought the exact same thing but the people coming to Cabela's are all out of town.

Mr. Burtner states that I went to Cabela's and then went to your restaurant because of your location.

Mrs. Albrechts-Cook states if I had not been at this meeting and was told that "Outlaws" was a restaurant, I would have had no idea. She states you have to tell the general public what it is you do whether it says "Outlaws Restaurant" or "Outlaws Bar & Grill" you have to provide the information. She states that she would suggest that you amend your sign to include words that describe what you do whether it is a steakhouse or bar and grill. She states this would help in your advertising that there is a restaurant back there.

Mr. Lilly states that if I add all those words, the letters become so small that you would not be able to read it.

Mrs. Albrechts-Cook states I can tell from experience that businesses have troubles when they have a name of a business and they do not describe what they do.

Mr. Lilly states you have a valid point about the additional words describing my business.

President Wilcox states that she was unaware that Outlaws was a restaurant. She states just by the name Outlaws there would be no reason for me want to look any further in regards to your business.

Mr. Lilly asks if the Commission would continue the item for at least 30 days and further reiterated that some of the proposals by Staff he was not told by his sign company and was unaware.

Motion by Mr. Smith seconded by President Wilcox to continue Application No. 0220-2022 until the January 17, 2023 meeting.

**AYES: Smith, Hanes, Albrechts-Cook, Burtner, Cooke, Hellmann, Rogers, Dr. Forgey, Peterson, Wilcox
NAYS: Zero ABSTAIN: Zero Motion carries 10, 0, 0**

ADJOURNMENT

There being no further Miscellaneous Business, a motion was made by Mr. Smith to adjourn the meeting.

Meeting adjourned at 7:31 PM.

Malinda Wilcox

President

Caleb P. Gutshall

Secretary