

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