



PLANNING AND ZONING COMMISSION

RECORD OF ACTION

DECEMBER 7, 2006

CITY OF DUBLIN.

Land Use and
Long Range Planning
5800 Shier-Rings Road
Dublin, Ohio 43016-1236

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The Planning and Zoning Commission took the following action at this meeting:

6. **Conditional Use – 06-152AFDP/CU – NE Quad, Subarea 5A – Average Joe’s Pub and Grill – 3876-3880 Hard Road**
Location: 27.951 acres located on the north side of Hard Road, east of Emerald Parkway.
Existing Zoning: PUD, Planned Unit Development District, (NE Quad plan).
Request: Review and approval of an amended final development plan under the provision of Code Section 153.050 and a conditional use under the provisions of Code Section 153.236.
Proposed Use: A 750-square-foot outdoor dining patio within an approved retail center.
Applicant: Plaza Properties, 3016 Maryland Avenue, Columbus, Ohio 43209-1541; represented by Mike Porreca, 3880 Hard Road, Inc., 9217 Mead Court, Powell, Ohio 43065.
Staff Contact: Jennifer M. Rauch, AICP, Planner.
Contact Information: (614) 410-4690/Email jrauch@dublin.oh.us.

MOTION #1 (Amended Final Development Plan): To approve the Amended Final Development Plan because the proposal complies with the Amended Final Development Plan criteria set forth in the Dublin Zoning Code, the proposal, as modified herein, is consistent with the approved NE Quad plan, the development is compatible with adjacent uses and proposed development in the area, and the proposal meets the requirements of Section 153.053(G), with no conditions.

VOTE: 7 – 0.

MOTION #2 (Conditional Use): To approve the Conditional Use application because the proposal complies with the Conditional Use criteria set forth in the Dublin Zoning Code, the proposal furthers the Community Plan goals encouraging gathering places to promote interaction among people, with the three conditions:

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6. Conditional Use – 06-152AFDP/CU – NE Quad, Subarea 5A – Average Joe’s Pub and Grill – 3876-3880 Hard Road (Continued)


- 1) That all patio furniture be stored off-site from November 1st through April 1st;
- 2) That no streamers, flags, or other decorations be allowed on the patio; and
- 3) That the umbrellas and awnings exhibit no logos, signage, names or advertising.

* Mike Porreca agreed to the above conditions.

VOTE: 7 – 0.

RESULT: This Amended Final Development Plan/Conditional Use was approved.

STAFF CERTIFICATION


Claudia Husak, AICP
Planner

Ms. Jones said she was inclined to support Planning's position. She said she definitely would be opposed to the permanent window signs, and she thought the sign package should conform to the overall character of the development. She said she understood the need for national branding, having sign packages is important to create a level of consistency.

Mr. Gerber said the Commission is accustomed to the national brand argument. He said with organizations such as this, a way has been found to comply with Dublin's rules and regulations. He asked if the applicant did not look at the approved site development plans before considering this center.

Mr. Garand said they looked at them extensively, and it was the client's desire that they present this case to the Commission to see if there is any way they can have any of the modifications requested.

Mr. McCash said the sign branding is the font, not necessarily the pin-mounted letters.

Mr. Garand said the combination was their nationally branded image.

Mr. McCash said the font could be on the panel and still have the same look. He asked if a particular font was limited on the sign.

Mr. Rex said different fonts can be used on the sign panel.

Mr. Gerber said he suspected the registered trademark was the font.

Mr. Gerber said a lot of time had been spent working through the details and Planning did an excellent job of working with all the retailers. He said the home office should be told that the approved plan is clear. He said he was inclined to support Planning and ask that this be tweaked a little. He said he did not think it would hurt the image. He said this was a beautiful center and Coldwater Creek will fit in nicely by following the approved plan.

Motion and Vote:

Mr. Fishman moved to disapprove this Corridor Development District (CDD) application, because the proposed modifications are not consistent with the architectural character previously approved by the Commission, the proposed modifications to the previously approved display windows and other architectural elements detract from the character established for this shopping center, and the proposed modifications to the signage for this tenant space do not comply with the approved sign plan or Code.

Mr. Gerber seconded the motion and the vote was as follows: Mr. McCash, yes; Ms. Jones, yes; Mr. Saneholtz, yes; Mr. Fishman, yes; Mr. Walter, yes; Mr. Zimmerman, yes; and Mr. Gerber, yes. (Disapproved 7 – 0.)

6. Conditional Use 06-152AFDP/CU – NE Quad, Subarea 5A – Average Joe's Pub and Grill – 3876-3880 Hard Road

Mr. Gerber swore in the representative of the applicant, Mike Porreca, who then agreed to the conditions as listed in the staff report. Mr. Gerber said that this application required two votes.

Motion and Vote #1:

Mr. Gerber moved to approve the Amended Final Development Plan because the proposal complies with the Amended Final Development Plan criteria set forth in the Dublin Zoning

Code, the proposal, as modified herein, is consistent with the approved NE Quad plan, the development is compatible with adjacent uses and proposed development in the area, and the proposal meets the requirements of Section 153.053(G), with no conditions.

Mr. Zimmerman seconded the motion and the vote was as follows: Ms. Jones, yes; Mr. Saneholtz, yes; Mr. Fishman, yes; Mr. Walter, yes; Mr. McCash, yes; Mr. Zimmerman, yes; and Mr. Gerber, yes. (Approved 7 – 0.)

Motion and Vote #2:

Mr. Gerber made a motion to approve the Conditional Use application because the proposal complies with the Conditional Use criteria set forth in the Dublin Zoning Code, and the proposal furthers the Community Plan goals encouraging gathering places to promote interaction among people, with the three conditions:

- 1) That all patio furniture be stored off-site from November 1st through April 1st;
- 2) That no streamers, flags, or other decorations be allowed on the patio; and
- 3) That the umbrellas and awnings exhibit no logos, signage, names or advertising.

Mr. Zimmerman seconded the motion and the vote was as follows: Mr. McCash, yes; Ms. Jones, yes; Mr. Saneholtz, yes; Mr. Fishman, yes; Mr. Walter, yes; Mr. Zimmerman, yes; and Mr. Gerber, yes. (Approved 7 – 0.)

7. Final Development Plan/Final Plat 06-153FDP/FP – Ballantrae Golf Community – Section 9 – Lots 615 through 654 – Barronsmore Way

Mr. Gerber swore in those who intended to testify in regards to this case.

Claudia Husak presented this case and slides. She said this was a request for review and discussion regarding parkland and dedication options in the Ballantrae Subdivision. She said the applicant had made a formal application for the approval of Section 9, but the provision of required parkland could alter the layout of this section. She said the issue of parkland dedication should be decided by the Commission before a formal vote on this plat is taken at a subsequent meeting.

Ms. Husak said the proposed final plat contains 40 lots and 2.7 acres of open space which is located in the entry feature off Cosgray Road and in a neighborhood park. She said the parkland provided in this section is slightly less than the preliminary plan, and including this section, the overall development will be deficient by 0.8 acres of open space.

Ms. Husak said the preliminary plat and the development text previously approved included 35.7 acres of open space. She presented a slide of the approved open space plan, showing the locations and sizes of the various open spaces. She said as single-family sections were platted, discrepancies in the amount of parkland provided were recorded. Ms. Husak said while most final plats varied in parkland dedication, approximately eight out of 15 total plats (including this section) were deficient. She said the final plat line adjustment and site changes have contributed to these deficiencies. She said the applicant has agreed throughout the process to achieve the final acreage indicated on the preliminary plat with the intended deficiencies being corrected.

AMENDED

PLANNING AND ZONING COMMISSION

RECORD OF ACTION

OCTOBER 21, 2004

The Planning and Zoning Commission took the following action at this meeting:

6. **Final Development Plan/Conditional Use 04-121FDP/CU – NE Quad PUD Retail, Subarea 5A – Kroger Center – 7625 Sawmill Road**
Location: 9.975 acres located on the northwest corner of Sawmill and Hard Roads.
Existing Zoning: PUD, Planned Unit Development District (NE Quad plan).
Request: Review and approval of a final development plan under the PUD provisions of Section 153.053, and a conditional use request for an auto-oriented use under the provisions of Section 153.237.
Proposed Use: A 198,000-square foot shopping center anchored by a 99,945-square foot grocery store with a drive-thru pharmacy, and two 8,500 square-foot retail buildings.
Applicant: Sawmill Partners Investment Company, 1798 Frebis Avenue, Columbus, Ohio 43206-3729; represented by Ben W. Hale, Jr., Smith and Hale, 37 West Broad Street, Suite 725, Columbus, Ohio 43215.
Staff Contact: Jamie E. Adkins, Planner.

MOTION #1: To approve this **Final Development Plan** because it is consistent with the Northeast Quadrant PUD plan, it is compatible with adjacent uses and proposed development in the area, and it meets the requirements of the new Planned Districts Ordinance, with 12 conditions:

- 1) That the landscape plan be revised to incorporate the comments in this staff report, subject to staff approval;
- 2) That traffic study issues be resolved to the satisfaction of the City Engineer;
- 3) That the plans be revised to include seven additional parking spaces as required by text, subject to staff approval;
- 4) That the design of all private drives, parking areas, and drive approaches meet or exceed the requirements and standards of the Engineering Division;
- 5) That the site must comply with the Division of Engineering Administrative Policy for Intersection Visibility Triangles at all proposed access points;
- 6) That all utility connections and/or extensions meet or exceed the requirements and standards of the Engineering Division;

AMENDED

PLANNING AND ZONING COMMISSION RECORD OF ACTION OCTOBER 21, 2004

6. **Final Development Plan/Conditional Use 04-121FDP/CU – NE Quad PUD Retail, Subarea 5A – Kroger Center – 7625 Sawmill Road (Continued)**
- 7) That the applicant and Engineering Division staff meet prior to applying for building permit approval to review stormwater management;
 - 8) That the individual tenant wall signs be fastened into the mortar joints rather than the brick;
 - 9) That the proposed stripe on the light pole housing be removed;
 - 10) That the parapets for the building be varied in height, subject to staff approval;
 - 11) That all mechanicals be painted to match the buildings and screened to Code;and
 - 12) That other than the Kroger sign, signage colors be limited to no more than four, with an emphasis on subdued, muted color, and that the colors be brought back for approval by the Planning and Zoning Commission.

* Ben W. Hale, Jr. agreed to the above conditions.

VOTE: 6-0.

RESULT: This **Final Development Plan** was approved.

MOTION #2: To approve this **Conditional Use application** because it meets the conditional use criteria listed in 153.236(C), and the requirements of the Northeast Quadrant PUD preliminary development plan.

VOTE: 6-0.

RESULT: This **Conditional Use** was approved.

STAFF CERTIFICATION

Daniel D. Bird, FAICP
Director of Planning

Kerry Reeds, MSI Design, indicated the screen along the future retail area is a three-foot mound, which wraps around to the side, along the entire area. There is a decorative six-foot wood fence that occurs on top of the mound and there are evergreen trees.

Mr. Reeds explained that on Sawmill Road, mounding occurs sporadically in areas. Where it does not occur; there is an evergreen hedge in three areas. On the corner, leather leaf viburnum and evergreen plant materials have been added, per staff's request. Evergreens wrap the entire perimeter of the fuel station. In addition, there are a number of trees along the Summer Drive frontage, as well as along Sawmill, which will be preserved. Per Council's request, it will be opaque.

Mr. Reeds said behind the sign there is a curvilinear wall about waist-high, with perennials in front and behind. That is the mound where the broad-leaf evergreen shrubs are on top, and then the evergreens, and then it drops back down to the fuel station. That is all elevated above the ground plane at that corner.

Mr. Hale said they believe they have a product that is on par with, or better than, anything ever built in Dublin in terms of a shopping center. He noted the Staff Report incorrectly states the pharmacy will be open from Midnight to 6 a.m. The agreement is that the drive-thru pharmacy, the fuel station, and the restaurant, etc. will be closed from Midnight until 6 a.m. The grocery store, by the text, is permitted to stay open 24 hours, and the pharmacy is located inside that building. The Kroger building in the text is listed as 99,945 square feet, but it is actually 101,416 square feet after adding on the improvements.

4. Final Development Plan 04-122FDP – NE Quad PUD Retail, Subarea 5A – Kroger Center Fuel Station – 7515 Sawmill Road

[See joint presentations for this case and Cases 5 and 6 earlier given by Jamie Adkins and the applicant's representative, Ben W. Hale, Jr.]

Mr. Sprague asked about the width of the pillars; he said from the side, they looked more substantial.

Mr. Ford said as requested, they are the exact size as those at the Perimeter Center Shell gas station.

Mr. Messineo said it looked too tight. He asked how cars flowed through the stalls with trailers, etc.

Mr. Ford said they looked at the turning radiuses within that area, as well as, for delivery of the fuel itself, in terms of access to the western-most point on the pumps. He said a Civil Engineer looked at that to make sure that all turning radii met the requirements.

Ms. Boring said it was 14 feet 6 inches for clearance. She asked if there was a minimum allowable for a clearance on a fuel station, and could it be lowered.

Mr. Ford said ODOT standards for bridge clearance are 14 feet 6 inches. He said that was the minimum height you can access with an overland vehicle.

Ms. Boring asked how the changeable copy signage was permitted on the pumps.

Ms. Adkins said the Sign Code permits fuel stations to have changeable copy signage.

Mr. Gerber asked about advertising on the pumps, etc.

Ms. Adkins said it is covered in the Sign Code.

Mr. Gerber made the motion for approval of this **Final Development Plan** because it is consistent with the Northeast Quadrant PUD plan, it is compatible with adjacent uses and proposed development in the area, and it meets the requirements of the new Planned Districts Ordinance, with eight conditions:

- 1) That the design of all private drives, parking areas, and drive approaches meet or exceed the requirements and standards of the Engineering Division;
- 2) That the site comply with the Division of Engineering Administrative Policy for Intersection Visibility Triangles at all proposed access points;
- 3) That all utility connections and/or extensions meet or exceed the requirements and standards of the Engineering Division;
- 4) That the site stormwater management be in compliance with the current Stormwater Regulations, to the satisfaction of the City Engineer;
- 5) That the landscape plan be revised to conform to the comments contained within this staff report, subject to staff approval;
- 6) That sign placement be coordinated with the grading and landscaping proposed for that area, as well as the required sight triangle and all utilities, subject to staff approval;
- 7) That the fuel station canopy lighting use recessed flush lens fixtures; and
- 8) That gutters, downspouts, soffits, vents and other similar architectural and mechanical elements be painted to match the canopy.

Ben Hale, Jr., representing the applicant, agreed to the above conditions.

Mr. Messineo seconded the motion and the vote was as follows: Ms. Boring, yes; Mr. Zimmerman, yes; Mr. Sprague, yes; Mr. Sanholtz, yes; Mr. Messineo, and yes; Mr. Gerber, yes. (**Final Development Plan** - Approved 6-0.)

Mr. Gerber made the motion to approve this **Conditional Use** application because it meets the Conditional Use criteria listed in 153.236(C), and it meets the requirements of the Northeast Quadrant PUD preliminary development plan, with no conditions.

Mr. Zimmerman seconded the motion, and the vote was as follows: Mr. Messineo, yes; Mr. Sanholtz, yes; Mr. Sprague, yes; Ms. Boring, yes; Mr. Zimmerman, yes; and Mr. Gerber, yes. (**Conditional Use** - Approved 6-0.)

5. Conditional Use 04-123CU – NE Quad PUD Retail, Subarea 5A – Kroger Center Multi-Tenant Out Building Drive-Thru – 7625 Sawmill Road

[See joint presentations for this case and Cases 4 and 6 earlier given by Jamie Adkins and the applicant's representative, Ben W. Hale, Jr.]

Mr. Saneholtz was concerned about the drive-thru and the deliveries to this building. He understood that it is screened behind the delivery paddock, but asked if the drive-thru lane was actually to the west of that separation wall. He asked how many cars stacked from the first drive-thru window would it take to block the delivery area.

Mr. Reeds said it would take eight cars in the drive-thru to block deliveries.

Mr. Saneholtz asked what were the standard stacking requirements.

Ms. Adkins said twelve vehicles.

Mr. Hale said Dublin has a higher requirement than most. Most jurisdictions require eight.

Mr. Saneholtz asked if the proposed drive thru window was shown on the plan.

Mr. Gerber said they only know approximately where it is going to be on the south building.

Ms. Boring thought the Commission wanted to know exactly what it looked like.

Mr. Saneholtz said he did not know if their drive-thru window would change the visual of that south side of the building. He did not know if there's going to be one or two windows, or whether it's going to have an awning or a flat roof.

Mr. Gerber asked if it was defined in the text. He said the Commission is talking about the Conditional Use, not necessarily the structure. He said it was a question he thought needed to be clarified.

Mr. Messineo asked where was the escape lane.

Mr. Saneholtz predicted that high school students would enter the drive thru from the south parking lot, through parking spaces. He said a drive thru on this building did not work for him. He asked what is the anticipated traffic flow, and how do those vehicles get queued, especially those vehicles coming from the west, coming off of Hard Road on the south side of this parking lot.

Mr. Hale said they will either come down the first row of parking nearest the woods, go around the building and enter the queue, or they could drive down and come up the fourth aisle, and go into the queue.

There was a discussion about an escape lane. Mr. Hale said in order for all eight vehicles to escape in a lane, trees will need to be removed.

Mr. Gerber said he was most interested in the traffic pattern of the whole center as it relates to, and how this plays a part of that. He said potentially, there could be many cars at one given time going to various different points in the center.

Mr. Hale said they have the right to do a drive-thru, on these two buildings, and the question is where is that drive-thru going to be. He said they have put the drive-thru on the end of the building, so when you drive south on Sawmill Road, they can turn into the drive, get into and out the drive-thru, and get back on Hard Road, and go south. He said they think the predominant movement during that time of the day when there is heavy traffic will be a right-in, which is a very safe movement, come in get in the line, get whatever they want, come out and exit here and continue their drive south. They also have the major north-south drive abutting this building, so if somebody wants to come down, they obviously can drive there, to get in if they're at Kroger or some place else. Mr. Hale said if you put it in the other building you'll lose a lot of efficiencies and with the 2½-acre woods there, the drive-thru from Sawmill Road, or from Hard Road is going to be practically invisible. He said they have tried to do it in an aesthetic way at one of those right-in/right-out intersections, so it works.

Ms. Boring read the Conditional Use Criteria: 1) The proposed use will be harmonious, and 2) That the proposed use will be harmonious with the existing intended character of the general facility. She said she thought it is very clear the reason they do not know where the awning and the windows are. Ms. Boring said the intent in 1995, was that Councilman Strip wanted absolute discretion of Council as to the proposed usage of these outlots at the time. She said Mr. Hale mentioned last time, the intent - they would be primarily restaurants. She said he met with the residents and they objected to the possibility of drive-thrus on those sites. She said Mr. Hale said that they were going to be smaller restaurant types. The Civic Association told them they did not want drive-thrus on those parcels. Ms. Boring said the fact that they relented to drive-thrus in the text meant that they were allowing, again, for the outparcels. She said they were supposed to have one outparcel. The City let them change the two outparcels, and ended up with three outparcels (two out parcels and a gas station). Ms. Boring said it ended up with instead of three out parcels on these two things, having three outparcels and a gas station, which technically could be an outparcel.

Ms. Boring said she was very upset about this proposal, because when they said "drive-thru," they were talking a bank. She said they did not want to raise that possibility so that a drive-thru cleaners or something similar could be permitted. She said at no time were they ever thinking of a drive-thru, fast food restaurant. She said Council wanted absolute discretionary choice over that. Ms. Boring said there has been no discussion about that because it was always clear. She said "fast-food" restaurant has always been clear from day one. The intent was that they did not want one on the outparcel. Ms. Boring said this Conditional Use does not meet that criteria. She said she thought this is a shame that it has gotten this far.

Mr. Hale begged to differ. He said there is no mention of this drive-thru being for a bank or anything else. He said it states a drive-thru and/or drive-in shall be permitted on one of the multi-tenant retail sites as a permitted use. He thought it was clear on the record at the zoning that the Civic Association did not have a closure of the mind on they did not want any drive-thrus and they restricted the drive-thru. He said if they had not said anything about it, they would have used this language in this text, and they would have been allowed multiple drive-thrus on this piece of property. He said they limited it to one drive-thru. He said they have put the drive-thru in what he thought was the best place for it. He said if there is a better place to put the drive-thru, they would move the drive-thru.

Mr. Hale said Ms. Boring was going back to a zoning that precedes this, and there is also no question that zoning required that there was one large restaurant at the corner, and there were also restaurants on the northeast, which they are not in for tonight. He said those restaurants all had to be sit-down type restaurants without drive-thrus.

Ms. Boring asked when did Council's absolute discretion to proposed usage disappear.

Ms. Adkins said when the property was rezoned in March, the previous zoning became ineffective.

Ms. Boring asked if the conditions were lost. Ms. Adkins said yes.

Ms. Boring reiterated hers and the Civic Association's concerns over the location of this drive-thru. She also discussed the history and how the site had changed.

Mr. Hale said the record was clear that the Civic Association did not want drive-thrus, and they had a drive-thru. He said they did not hide this drive-thru.

Ms. Boring said a drive-thru facility and drive-thru restaurant are two different things.

Mr. Hale said they put this Conditional Use consideration in the text, and what that Conditional Use consideration stated is that they get a drive thru in both multi-tenant uses. He said staff wanted to cull it out as to what uses were allowed. He said had they said nothing about drive-thrus, they would still have a right to a conditional use for multiple drive-thrus. However, they only had one and limited it.

Mr. Sanholtz said he remembered discussing the mounding on the south side obstructing the view of the woods. He said he had not considered a drive-thru on this building.

Ms. Boring asked how to differentiate a drive-thru dry cleaner and drive-thru bank, when it lists in the text that a drive-thru is permissible. She asked if that meant a drive-thru fast-food restaurant or bank, dry cleaner or other facility. Ms. Boring said "drive-thru" does not necessarily specify it is a fast-food restaurant.

Ms. Adkins said the text lists all those things as permitted uses, and separately, as Mr. Hale read before into the record, the drive-thru on one of the two multi-tenant buildings. She said the text

does not specifically limit the type of drive-thru or the permitted uses that can be associated with the drive-thru.

Ms. Boring said she was extremely disappointed that that was not found and not carried through. She said it was very clear that fast-food restaurants or drive-thrus were not wanted in that out parcel or in that whole area.

Mr. Messineo asked if they are bound by this limited use of a drive-thru.

Ms. Adkins said they are permitted to have one drive-thru, in one of the two retail buildings, subject to the Code section for Conditional Use approval.

Ms. Readler said that they are entitled to a drive-thru as in the text, and there is no limitation on the type of drive-thru. She said it could be in conjunction with any of the permitted uses, which include eating and drinking establishments. However, it would have to meet the Conditional Use criteria listed in the staff report.

Mr. Messineo asked which criteria did this not meet.

Ms. Boring said “the proposed use would be harmonious with and in accordance with the general objectives, or with any specific objective or purpose of the Zoning Code and/or the Community Plan.”

Mr. Sprague asked about the stacking requirement for 12 cars.

Ms. Adkins said it is a part of the Conditional Use section of the Code, as amended in 1999, to list the required stacking spaces for different uses. A drive-thru restaurant requires 12 spaces.

Mr. Sprague was concerned the stacking would block the service area. He suggested keeping the buffer along the woods, but eliminating some of the landscaping on the southwest corner.

Ms. Boring suggested no drive thru.

Mr. Sprague continued, and said eliminating landscaping on the southwest corner of the stacking out straight, instead of bending it would enable 12 cars to stack.

Mr. Hale said you could be crossing this driveway, and going into parking areas. He thought it was better to wrap the cars.

Ms. Boring and Mr. Sprague agreed the drive-thru restaurant did not meet the following Conditional Use criteria:

- 1) The proposed use will be harmonious with and in accordance with the general objectives, or with any specific objective or purpose of the Zoning Code and/or Community Plan.
- 3) The proposed use will be harmonious with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.

- 4) The use will not be hazardous to or have a negative impact on existing or future surrounding uses.
- 7) The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation, including, but not limited to, hours of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the base zoning district.
- 8) Vehicular approaches to the property shall be so designed as not to create interference with traffic on surrounding public and/or private streets and roads.

Mr. Hale asked how cars stacking at a bank, restaurant, or cleaners drive thru differed.

Mr. Gerber said the hours of operation would be different.

Mr. Hale said the drive thru would be the busiest from 6-10 a.m. when not much else is happening in the center.

Mr. Messineo asked if a sit-down restaurant with a patio would be more agreeable. He said he thought that was what was going to be there.

Ms. Boring said that was exactly what she thought the intent was.

Mr. Messineo said this seemed like the best location in the whole site for a sit-down restaurant with a patio. However, that does not contradict their right to have a drive-thru on one of these two buildings.

Mr. Messineo said he could not see how 12 cars can be stacked the way it is designed. He did not think the stacking will be as shown on the drawings.

Mr. Hale assured that they could get 12 cars in that space comfortably. He said there is no way the stacking could obstruct a public street.

Mr. Messineo stated that it looked like those cars are very close to the front of that building, and there is no way they can get that far up on the building.

Mr. Sanholtz said if they cannot stack those 12, and they need to move just one more back, they are obstructing the drive aisles for the parking lot, not to mention the impact upon pedestrian traffic of all this cross traffic within the parking lot, that this entity is going to cause. He said he was concerned about pedestrian safety, as well.

Mr. Hale did not think pedestrian safety was an issue since customers park in front of this use.

Mr. Gerber asked if traffic studies had been done for inside the center.

Ms. Readler said traffic studies were not typically done on private sites with private internal traffic.

Mr. Saneholtz said Tim Horton's is not the only user of the building – there are two other retail establishments. He suggested there would be an issue from the other two tenants about user delivery. He asked if delivery hours would be limited.

Mr. Saneholtz asked if Dublin's stacking requirements are written to allow for the creation of gaps for cross traffic.

Ms. Adkins did not think that the Code addresses it.

Mr. Hale said they put this drive thru where they thought it was the absolute best in terms of its visibility. He said they had a right to a drive-thru for this restaurant because is a permitted use. He said they thought they were meeting the criteria. Mr. Hale said Ms. Boring was going back to a history that pre-dates this zoning. He said they are doing here what is legal.

Mr. Gerber said with respect to the traffic patterns, he could see where additional time to review it might make sense based on what he heard from the Commissioners. However, he said he heard from the Commissioners that there was an impression that they were not contemplating this type of activity taking place at this location. He thought perhaps a tabling would help, but it sounded like there was a fundamental difference with respect to this impression. He was not sure if time could cure that or if staff can work something out. He did not want to hold this up, but hated to disapprove this based on what he heard.

Mr. Hale said there is not a word in the current zoning record about this use not being allowed here, or a use similar to this.

Mr. Gerber said he thought Ms. Boring acknowledged that that was a prior rezoning, but this summer, there were statements made and there are impressions from Commissioners that this would not be a drive-thru - that there would be a sit-down restaurant. He recalled a discussion that the Commission wanted to move the building where people would sit and look out at the trees.

Mr. Zimmerman said he remembered that conversation specifically. He asked the other Commissioners to assume that the applicant has the right to a drive-thru at one of these buildings and asked if they would be more amenable to it at the other building.

Ms. Boring cited UDF and Starbucks as two successful Dublin businesses without drive thrus. She said the problem was that the drive-thru does not meet Dublin's Code. She said drive thrus jam up traffic in shopping centers. Ms. Boring said it definitely does not blend with the intended character of the area.

Mr. Sprague said it seemed that there is more room to play with the stacking at the southern building.

Mr. Gerber said the issues are the traffic pattern, which could be worked out with staff, and the drive thru, which does not fit with the locale.

Mr. Saneholtz said Tim Horton's isn't the only one using the delivery area, and someone's delivery area will be blocked with the stacking. He saw no solution with these layouts.

Ms. Boring said pedestrian traffic is another issue that should not be ignored.

Mr. Saneholtz agreed pedestrian traffic should be encouraged.

Mr. Hale suggested they could extend the brick wall, remove one or two parking spaces, and put them elsewhere, so the service area has a separate entry and there's no conflict between the service area and the stacking. There would be a total screen wall on the whole back of that building.

Mr. Saneholtz suggested that if Tim Horton's had a vehicle backed in there, it would take cooperation to make it work.

Mr. Sprague said that is true for any tenant building.

Ms. Boring made a motion to disapprove this **Conditional Use** because it does not meet the following Conditional Use criteria:

- 1) The proposed use will be harmonious with and in accordance with the general objectives, or with any specific objective or purpose of the Zoning Code and/or Community Plan.
- 3) The proposed use will be harmonious with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
- 4) The use will not be hazardous to or have a negative impact on existing or future surrounding uses.
- 7) The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation, including, but not limited to, hours of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the base zoning district.
- 8) Vehicular approaches to the property shall be so designed as not to create interference with traffic on surrounding public and/or private streets and roads.

Mr. Gerber said if this site becomes a Tim Horton's, and they leave, another user would have to get approval for a Conditional Use as well.

Ms. Readler said they would have to look to see if it was a similar use.

Mr. Gerber asked if it could be a minor modification.

Ms. Readler said the Law Director's office had researched the issue and there is not a lot out there, but you can analogize to certain permit situations.

Mr. Gerber said Dublin's definition of "fast food" is very broad.

Ms. Readler said she did not think “fast food” is listed as permitted. She said in the text, they are permitted to have eating and drinking establishments.

Mr. Saneholtz seconded Ms. Boring’s previous motion to disapprove.

Mr. Gerber clarified that there was a motion, calling for disapproval of this **Conditional Use** based on the Conditional Use criteria 1, 3, 4, 7 and 8 listed above. He said a Yes vote would mean disapproval, and a No vote meant the motion was not supported.

The vote was as follows: Mr. Zimmerman, no; Mr. Sprague, yes; Mr. Messineo, yes; Mr. Gerber, no; Mr. Saneholtz, yes; and Ms. Boring, yes. (**Conditional Use - Disapproved 4-2.**)

6. Final Development Plan/Conditional Use 04-121FDP/CU – NE Quad PUD Retail, Subarea 5A – Kroger Center – 7625 Sawmill Road

[See joint presentations for this case and Cases 4 and 5 earlier given by Jamie Adkins and the applicant’s representative, Ben W. Hale, Jr.]

Regarding the **Final Development Plan**, Ms. Boring asked about the change in pavement, which was supposed to be pedestrian-friendly.

Mr. Reeds explained there is a band, and between that band there will be stamped concrete. It also occurs at the accessible aisles, so that at the accessible parking spots there will be sidewalk.

Ms. Boring asked if there would be a change of color with the stamped concrete.

Mr. Reeds responded that there would be a change of color and texture. Benches typically occur adjacent to planters and there are numerous locations for benches and bike racks. Also, there are decorative lights along the storefronts.

Mr. Gerber said these were things talked about at the preliminary and there were conditions at that time. He did not see any of those conditions still listed. He had thought they had a practice where they would continue to be listed, so they could be crossed off. Ms. Boring also asked where the previous conditions were listed.

Ms. Adkins explained staff had done that in the past and apologized for their not being included this time. In the future they will be included; however, staff made sure that the conditions were met for this application.

Mr. Gerber asked what the traffic study issues were to be resolved to the satisfaction of the City Engineer.

Ms. Adkins stated most of the issues have been resolved. Staff has received confirmation from the City of Columbus for the applicant to do work in the City right-of-way. It was a condition to make sure that the proposed improvements get done.

Mr. Gerber asked the meaning of Condition 5: “That the site must comply with the Division of Engineering, Administrative Policy for Intersection Visibility Triangles at all proposed access points.”

Ms. Adkins explained that meant that the final Engineering drawings have to show the Engineering triangle for site visibility, to make sure that there is no obstruction in using those triangles.

Ms. Boring asked about Condition 10: “That the parapets for the building be varied in height, subject to staff approval.”

Ms. Adkins said it was a requirement of the text that parapets be varied in height, so there is not one long expanse, one length of the building, that the parapet height does not change within. She said staff wanted a little break-up in the height.

Ms. Boring asked what did not match the Large Format Retail Design Guidelines.

Ms. Adkins responded that the Guidelines require if you have a certain length of a façade, that at some point the building has to recess 10 feet, for a distance of 50 feet. She said the way that the building was laid out it was not physically possible to do that. However, a few feet were recessed to attempt to meet the intent, which was essentially to break-up some of those long building façades. She said the roofline and material changes, etc. also meet the intent of the Guidelines.

Ms. Boring asked about the sign colors proposed.

Ms. Adkins showed samples of the four sign colors proposed: Ivory, Blue, Green, and Burgundy. She said they are now more muted and darker, as the Commission had requested last time.

Mr. Zimmerman asked to see a rendering of the cart corrals, but Mr. Ford did not have a cart corral rendering available.

Mr. Reeds said they are evergreen hedges that curve along a landscaped hedge.

Ms. Boring said the sign colors proposed were too bright and not subdued enough. Mr. Reeds explained that they would be backlit.

Ms. Boring felt the Forest Green had to be toned down, the Blue had to be toned down to Navy (except for the Kroger sign), and the Burgundy needed to be burgundy, instead of red. Mr. Ford felt for chroma colors they were not too high a color. Mr. Messineo asked if there was somewhere else, where these colors could be seen on a sign. Mr. Ford said they were similar to those at Perimeter Center. He did not know the Perimeter Center PMS colors used for signs; however, he agreed to match them, if asked to by the Commission. Mr. Hale repeated that if they do not match now, they would match them.

Ms. Boring said the condition was not to “match” the colors. She read from page eight of the May 17, 2004, Council Minutes: “That the reference to the colors in the text be eliminated at this

time, that the color palette be brought back for approval by staff and P&Z, that the color palette other than the Kroger sign, be limited to no more than four in the center with an emphasis on subdued, muted colors.

Mr. Hale said they brought back colors at the informal hearing, and the Commission thought they were too bright. He said these colors are substantially more subdued (darker in color).

Mr. Messineo added that in the March 18 minutes, Condition 10 references that building materials and trim colors will be earth tone in color.

Ms. Boring said that the sign colors Council requested were Navy Blue and Forest Green, not Emerald Green, and that they should come back for approval by the Commission. Ms. Wanner thought they were referring to the informal hearing, which did not have any conditions. The minutes from that informal hearing stated that Navy, Green (not Kelly Green, and Tan, in addition to eliminating the Sunflower color, were requested.

Mr. Gerber asked how accurate were the palettes. Mr. Reeds said they were from the actual sign manufacturer. Ms. Boring noted the sign colors were to match the awning colors. The colors were Navy, Green (not Kelly Green), and Tan, and Forest Green as mentioned. Mr. Sanholtz agreed.

Mr. Reeds said they would match the PMS colors at Perimeter Center, subject to staff approval.

Mr. Gerber said to make it a condition to get the colors Ms. Boring listed, subject to staff approval.

Ms. Boring suggested the condition read: “That the colors be brought back to the Commission for approval.”

Ms. Wanner pointed out that the color struggle might be a comparison by of internal vs. external illumination for the signs.

Mr. Sprague said the colors at night, when they are backlit are the problem, as they are quite different. Ms. Wanner added that the Perimeter Center comparison may not be as good in this case because those have a completely different light fixture and they are externally lit, gooseneck, engraved signs. She was not sure how the applicant could address the internal illumination of the sign.

Ms. Boring said Ms. Wanner made a very good point in that the other center is not internally illuminated. She said either the lighting should be gooseneck, or the colors should be toned down. She did not think the condition needed to be rewritten.

Mr. Gerber said a Condition 12 was needed. Mr. Sanholtz added Condition 12: That the sign colors accurately coordinate with the colors intended for the awnings. He said it was difficult to compare these colors to those of the awnings without the color samples of both.

Mr. Gerber added to Condition 12: ...sign color palettes, subject to Commission approval. Ms. Boring revised Condition 12: That other than the Kroger sign, colors be limited to no more than four, with an emphasis on subdued, muted colors, and be brought back for approval by staff and the Commission.

Mr. Gerber made the motion to approve this **Final Development Plan** because the development is compatible with adjacent uses and proposed development in the area; and, it meets the requirements of the new Planned Districts Ordinance, with 12 conditions:

- 1) That the landscape plan be revised to incorporate the comments in this staff report, subject to staff approval;
- 2) That traffic study issues be resolved to the satisfaction of the City Engineer;
- 3) That the plans be revised to include seven additional parking spaces as required by text, subject to staff approval;
- 4) That the design of all private drives, parking areas, and drive approaches meet or exceed the requirements and standards of the Engineering Division;
- 5) That the site must comply with the Division of Engineering Administrative Policy for Intersection Visibility Triangles at all proposed access points;
- 6) That all utility connections and/or extensions meet or exceed the requirements and standards of the Engineering Division;
- 7) That the applicant and Engineering Division staff meet prior to applying for building permit approval to review stormwater management;
- 8) That the individual tenant wall signs be fastened into the mortar joints rather than the brick;
- 9) That the proposed stripe on the light pole housing be removed;
- 10) That the parapets for the building be varied in height, subject to staff approval;
- 11) That all mechanicals be painted to match the buildings and screened to Code; and
- 12) That other than the Kroger sign, colors be limited to no more than four, with an emphasis on subdued, muted colors, and be brought back for approval by staff and the Commission.

Ben W. Hale, representing the applicant, agreed to the above conditions.

Mr. Zimmerman seconded the motion and the vote was as follows: Mr. Sanholtz, yes; Mr. Sprague, yes; Mr. Messineo, yes, Ms. Boring, yes; Mr. Zimmerman, yes; Mr. Gerber, yes. (**Final Development Plan** - Approved 6-0.)

Regarding this **Conditional Use** application, Mr. Messineo asked if prescription orders are taken at the drive-thru pharmacy, and are cars going to wait in line for 15 minutes or more for them. Jim Brown, a Kroger Senior Engineer, said prescriptions are dropped off. If they're not immediately available, the customer returns. Linda Patterson, Kroger, said most of the time it is a drop-off or pick-up point.

Mr. Zimmerman made the motion to approve this **Conditional Use** because it meets the conditional use criteria listed in 153.236(C), and the requirements of the Northeast Quadrant PUD preliminary development plan.

Mr. Sanholtz seconded the motion and the vote was as follows: Mr. Sprague, yes; Mr. Messineo, yes; Ms. Boring, yes; Mr. Gerber, yes, Mr. Sanholtz, yes; and Mr. Zimmerman, yes. (Conditional Use - Approved 6-0.)

7. Amended Final Development Plan 04-128AFDP - Killilea Park - 6811 McDevitt Drive

The applicant, Laura Karagory, City of Dublin, Division of Grounds and Facilities was present. Being no conditions or issues to discuss, Mr. Gerber moved for approval because the park provides a gathering place and community focal point that will contribute to a positive sense of place, residents' quality of life and Dublin's "green" image, with no conditions.

Ms. Boring seconded the motion, and the vote was as follows: Mr. Messineo, yes; Mr. Sanholtz, yes; Mr. Sprague, yes; Mr. Zimmerman, yes; Ms. Boring, yes; and Mr. Gerber, yes. (Approved 6-0.)

Mr. Gerber thanked everyone for their presentations and their patience.

The meeting was adjourned at 9:45 p.m.

Respectfully submitted,

Lois Willard
Clerical Specialist II
Division of Planning