

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

PRESENT: Mr. Gum, Mr. Kruszinski, Mr. Wortham, Mr. Tornichio  
Chairman Tornichio called the meeting to order followed by roll call.

ABSENT: Mr. Self

Mr. Wortham MOVED, Mr. Kruszinski seconded the motion to excuse Mr. Self. It was approved by unanimous consent.

Mr. Wortham MOVED, Mr. Kruszinski seconded that the agenda be approved. It was approved by unanimous consent.

PUD 06-5 Rezoning and Concept Plan, Beaver Creek Business Campus at Factory Road

Clerk Carone read the notice of public hearing on an application filed by Robert S. Arnold, 630 Orchard Lane, Beaver Creek, OH 45434. The applicant requests approval of a C-PUD, Commercial Planned Unit Development (Beaver Creek Business Campus at Factory Road) by rezoning 26.992 acres from A-1 Agricultural to C-PUD Commercial Planned Unit Development. The property is located on the west side of Factory Road and the east side of North Alpha Bellbrook Road approximately 1,500 feet south of the intersection of Factory Road and North Alpha Bellbrook Road, further described as Book 6, Page 18, Parcel 55 on the Greene County Property Tax Atlas.

Alan Schaeffer, Attorney for the Applicant, Arnold Development, stated that the site plan on this project is radically different from the previously presented plan. This is the last piece of the property on Factory Road. There is flooding which occurs from time to time on Factory Road. On the east side of Factory Road is the sewer plant and wetlands. Property in the northeast corner abuts Little Alpha Bellbrook Road, and there is some residential property that abuts up against the property. To the North is the Casto Property that runs up to Factory Road and St. Rt. 35. There is residential property to the South in the Township. He stated that what is being presented this evening is a concept drawing and not at all what the property will look like ultimately. The planned Store and Lock will be on the front and middle of the property. The 100-foot setback continues along Factory Road. The concept plan shows where the Store and Lock will be located. The site plan does not indicate where the road will be located.

The Store and Lock will be fully secured with access by swipe cards. Constant security will be provided by video. Names and addresses of renters will always be on file. A full security plan will be in effect.

The project is currently zoned A-1.

Mr. McGrath presented the Staff Report with exhibits and stated that the applicant is requesting a rezoning approval for 26.992 acres of land located across from the Greene County Water Treatment Facility on Factory Road east of N. Alpha Bellbrook and immediately south of The Colony Sec. 3 residential

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

development within Beaver Creek Township from A-1 Agriculture to a C-PUD Commercial Planned Unit Development.

The property is currently zoned A-1 Agriculture and is located to the west and north of Beaver Creek Township. The property is west of a beer drive-thru, an RV storage yard and a sewer treatment plant on Factory Road within Beaver Creek Township. To the north is vacant property owned by the Casto Group, single-family residential to the west that fronts along N. Alpha Bellbrook located within the City of Beaver Creek and single-family residential homes to the south within The Colony Sec. 3 within Beaver Creek Township.

A significant portion of the property is located within the FEMA 100-year floodplain and further studies are required of the applicant should the rezoning request be approved. A condition has been added to the Resolution requiring a HEC study be submitted to the City Engineer at the specific site plan stage.

Public water and sewer are available to the site.

This area is within the heavily discussed VPA 77. The current designation is for research and office uses but the language of the VPA also states that other non-related and non-residential development that would not create adverse impacts upon the adjacent residential uses could be considered. The uses established in the proposed Resolution are restrictive as compared to the applicant's original request for a number of uses from the commercial, office, and industrial principal permitted use table. The uses specified for this development come from the O-1, RP-1, and ORP-1 use classifications with a limited number of permitted uses from the I-1 permitted use classification. The list of permitted uses is difficult to determine given this property sits between residential development on two sides and a sewer treatment plant, RV storage yard and a drive-thru on the other.

The rezoning request is consistent with the Land Use Plan as determined by the proposed permitted uses within this PUD.

There is a 100-foot building and parking lot setback along the south, east and west property line and a minimum building and parking lot setback of 50 feet from the north property line. A 50-foot minimum open space buffer is required along the adjoining property lines with the residential development to the south and to the west.

The concept plan is the plan dated "Received July 7, 2006" and the approved phasing plan is the plan dated "Received June 8, 2006." The phasing plan indicates a conceptual layout of the site that would not meet the requirements mentioned above. For example, the building location along the north property line appears to be within the proposed required 50-foot building and parking lot setback and the access drive off Factory Road to the south of the property runs along the southern property line where there would be a required 50-foot buffer from the adjacent residential. For these reasons, the more detailed concept plan has not been recommended to be the approved concept plan and is only

referenced for the phase line locations.

The proposed concept plan dated "Received July 7, 2006" excludes the "Key Development Guidelines" because of contradicting information on the phasing plan and information, such as a 21.1 percent open-space calculation, that would not be permitted at the specific site plan stage and is not consistent with the PUD rezoning requirements.

The City Engineer will require a traffic study, should this proposal move forward to the specific site plan stage. There will need to be a determination from the study as to what traffic improvements may be required of the applicant as the project moves forward. The access points for this development are also to be specifically determined by the City Engineer at the specific site plan stage and approved by Planning Commission and City Council.

There are two proposed main access points into the PUD from Factory Road, at the middle of the development and at the south end of the development. Should the Resolution, and ultimately an Ordinance, be approved by Planning Commission and City Council as drafted, the southernmost access point would have to be shifted further away, a minimum of 50 feet, from the southern property line. An emergency access point is also shown on the west side of the development where the project abuts N. Alpha Bellbrook Road. This will be an emergency access that could also be opened should there be a situation where a vehicle would need to access the site at a time when Factory Road has flooded and caused the road to be closed. That access point is not permitted to be used as a primary access point to the site due to the unimproved status and line-of-sight issues at that location.

Based on this analysis, staff recommends approval of this request subject to the conditions outlined in the attached Resolution.

#### PUBLIC HEARING:

Mr. Tornichio opened the public hearing and said that attendees may speak for three minutes or donate their three minutes to someone else. The maximum allowable time is 9 minutes.

Bruce Dolbeer relinquished his time to Mr. Fike.

Al Fike, 2690 E. Tara Trail, Beavercreek, said that there are three issues regarding this proposal that should be considered: trust, recourse and reality. Trust with the builder has been broken when he removed a line of trees approximately 40 – 70 ft deep in the whole width of his property without notifying Mr. Fike. Mr. Fike's neighbor, seeing the handwriting on the wall, sold his property and moved away within the next year.

The quality of what is already zoned and built has created a loss of privacy. Mr. Fike said that his home, built by Arnold, sunk on one corner and the cost to fix it was \$550 and \$2,000 in additional miscellaneous repairs; related to this are

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

problems yet to be fixed. Ultimately a fence will be necessary between his property and the proposed site. The City only allows a maximum of a 6-foot high fence, yet a 15 to 25-foot high fence is what is necessary to hide what will be out there. What recourse do the residential property owners have? None. The City just keeps on having hearings without consideration of their property value. When they improve their property, they access more taxes; but if they devalue their property with installations such as this, we won't pay less taxes; you can bet on that. This is evident. How can we fight it? Now, the reality. Privacy is also a major issue for some of us. Quality of life will be lowered for some of us; it will go away. The wildlife that we enjoy, will also go away. Structural integrity of the soil - - concrete weighs 145 lbs. per cubic foot. The load-bearing capacity for concrete of the soil is not adequate for buildings of this size. Adding the weight of the stuff these buildings will store only adds to the weight the soil will have to bear. Architects and engineers spread this weight out in their designs to reduce the bearing at any one point, but it still weighs 145 lbs. per cubic foot. What I related earlier shows the integrity of what he builds. He won't spend what it takes to keep these buildings from sinking. This type of construction, if done right, is very expensive. Floating foundations are used in some flooding areas of the United States, but even they can tilt on one end and down on the other. Sooner or later even they will sink in this type of soil. Will this type of zoning by Arnold or any other type of builder help our property? No. Two messages to Arnold and the City of Beavercreek Zoning Board: don't mess with Mother Nature, and what part of "no" do you not understand?

He said that the Ohio Building Code will be the bible, and if done right, you do it by the book. He recommends that the zoning board and City engineers closely review Chapter 18 which deals with soil quality, load bearing capacity, aquifer levels, etc. He said this section addresses water tables being within 5 feet of the bottom of the foundation. You don't have to be an engineer to understand that if there is water on the ground, it will hardly support a concrete structure. Chapter 18 also talks about soil, foundations and the aquifer tables. He said that if the water levels are not known, a study will have to be made and turned in to the State. He stated that elevation of water table will have to be revealed, and FEMA will have to do a study of the site before final approval. Mr. Fike said that the lowest grade of soil is the type that is at the site. For this type of soil, 1500 lbs. per square foot is allowed, but the trouble is that it has less resistance laterally. It may take 10 – 20 years, but it's going to go squish.

Laura Fike, 2690 Tara Trail East, questions what recourse homeowners will have if the Mr. Arnold's proposal presented is approved this evening. She said that the last time she was here the City Land Use Plan needed to be amended and approved before Mr. Arnold's request could come before the Council. It is Mrs. Fike's understanding that the Land Use Plan is not completed. Why is the request coming before you now when the Land Use Plan has not been completed? She said that the plan notes that the buildings closest to their property would be one story buildings that could be 35 feet tall. If the City says that the buildings can only be one story, the only thing I can imagine would be an industrial warehouse or an industrial garage that would bring in semis on the

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

drive just behind our homes. Mrs. Fike also stated that there are many instances in Beavercreek to date areas where fill in was used in flood plane areas and the fill has had to be removed. She said there was a farm by Beaver Valley Road where fill was used without permission and the fill had to be removed. She stated that at Country Club of the North, some land was donated to the Park District rather than messing with filling to make it usable. Mrs. Fike also discussed concerns about damage from runoff to surrounding vegetation and fish wildlife in the Beaver Creek. She said that the parking lot for the Chapel at the top of the hill on Shakertowne Road, was paved with an impervious surface. The solvents that ran off the parking lot killed the fish in a large part of the Beaver Creek. Has Mr. Arnold decided to use permeable surfaces? What is the plan for use of the retention ponds to deal with runoff?

Plan notes hillside to the west is an effective buffer for the residential neighborhood. You would have to add a lot of trees to replace the trees Mr. Arnold removed without any warning or notice to any of them who relied on them as a buffer from the noise from St. Rt. 35. What remains there are deciduous trees and the honeysuckle. Residents have let the honeysuckle grown to also be a buffer from the already obnoxious water treatment plant which has grown and grown and grown. Mrs. Fike was asked to stop as her time had expired.

Susan Marticello, 270 Rebel Ct., donated her time to her husband.

Daniel Marticello 270 Rebel Ct., Beavercreek, gave Clerk Carone four e-mails opposing the application. He requested that they be incorporated into the minutes of the meeting since those individuals were unable to attend the meeting. Those e-mails are attached hereto as Attachments 1, 2, 3 and 4. He expressed concern that the citizens are required to take the oath but that the developer and his attorney did not. He sees some inconsistencies there and thinks the developer and the attorney should have to take the same oath they have to take, but thought that matter could be addressed at another time than on his time. He said he also sees inconsistencies with this proposal in that Mr. Schaeffer said that this proposal is different than the one presented two years ago, but that this proposal on the screen is not representative. He does not know how Mr. Schaeffer can make those two statements, as they seem opposed. If you don't see what is being proposed, how can you make a determination?

Mr. Marticello said that the key aspect on both proposals involve storage facilities. Phase I and II are set with clear timeframes for construction for the storage units and are the concrete aspects of the proposal, but that Phase II and IV are labeled "yet to be decided". That makes it clear to him that the aspects that are in place to make it more palatable to the community, are not very well fleshed out, while aspects that are most erroneous to the community are in fact very fleshed out with timeframes for construction. He stated that he believes that two years ago there was discussion that in order to allow storage facilities, there was a requirement to change this to an industrial zone in order to allow storage facilities. He said that there was no industrial zoning in the City Plan going forward so how does this become a Commercial PUD versus an Industrial

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

Zoning application? He would like a change would have to be made to zone this property from industrial to commercial public use. He would like the Commission or the Council to address how this property can be used for commercial use. He would like the Zoning Board and/or the City Council to clarify this issue. Again, if it refers to the "mixed use" for Phase III and IV, he will go to the "yet to be decided" quote on the application.

Mr. Marticello also said that climate control, light and noise pollution will potentially affect property values of homes to the south in Arlington Place of the \$300,000 dollar range.

Mr. Marticello alluded to the types of problems associated with storage units such as violent crime, drug production and other non-desirable activities. He said that while he was stationed at Edwards Air Force Base, the Lancaster Palmdale area near Los Angeles experienced major problems with storage facilities including increase in violent crime, production of methamphetamine in those facilities and theft. These potential problems combined with the definitized portions of this project are not consistent with VPA 77. Finally, he asked for a show of hands of how many people were opposed to the proposal, and there was an overwhelming majority show of hands.

Tina McNachtan, 2580 Paden Randolph Rd., said that she and her husband moved into the area last Thanksgiving. She said that when they were looking at buying in the neighborhood, they would not be able to build in the flood plane area. She said the storage buildings would be located at the back of their property. Her home cost over \$300,000 and she doesn't look forward to looking at a big building at the back of her property. She said they have children and now she is concerned about potential crime problems. They were looking forward to enjoying their property; now it looks like they won't be doing that.

Corin Mullen, 430 and 432 N. Alpha-Bellbrook Rd., said she doesn't understand why this issue is scheduled for a hearing again. Two years ago they were here for the same proposed facility. If any thing, their concerns and opposition has grown stronger. She said that the proposed facility is larger. Flood zones wetlands, and traffic flow patterns have not changed, so why not keep the land zoned as agricultural? The proposed zoning change will create an increase in crime risk, traffic, safety concerns, environmental impact and decrease in property value. When Mr. Arnold bought the property, it was zoned agricultural and the price probably reflected that variable. Is the City developing a fund for homeowners if this proposal is approved and home owners' property value drops considerably? Ms. Mullen said that VPA 77 states that projects could be used as long as "they do not cause adverse impact on adjacent property. Ms. Mullen believes that increased crime, traffic, and safety concerns, environmental impact and decreased property value all qualify as adverse impact on adjacent property.

Robert M. Kerner 2730 Tara Trails

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

It is a beautiful plan, and it's hid pretty well, but if he had known that storage units were going to go in near his property, he would have never bought the property. Within a 3 mile search around his house there are 7 vacant buildings. Storage units bring in crime; he has seen problems in other cities with Meth lab explosions at these storage facilities and believes if they go in that we will have to increase tax dollars for police and fire. He thinks the property owner should donate property to the City for a park.

Paul Cops is a new resident to the Arlington area who worked 30 years for the Air Force. Several years ago he was stationed at Wright Patterson and he liked the area and decided he wanted to settle here upon retiring. But now with this proposal, he is not sure he made a good decision. He is worried about property value. He said that taxpayers carry city for school and fire dept etc. Regarding storage facilities, he said that many of these facilities have a high vacancy rate and he wonders why anyone would want to put in such a facility. He hopes the Planning Commission will vote against the proposal.

Terry Brennan, 382 Alpha-Bellbrook Rd., is concerned about the flood plane located just 10 feet away from his property. He researched FEMA's website and said that Mr. Arnold's property is located in the flood plane. He said that he is concerned about what all of the concrete and asphalt will do to the area including causing flooding in his home. He said he has already had a problem of 3 feet of water in his house. He doesn't need 5 feet of water in it. He is afraid that runoff will damage his property and wildlife in general. He is concerned about the light pollution and how it will affect property owners' privacy.

Jim Whitmore, 406 N. Alpha-Bellbrook Rd, supports the concerns of his neighbors and expressed his opposition to the proposal. He brought photos of his back yard for the Commission to see.

Karen Neyra, 418 N. Alpha-Bellbrook Rd., wished to donate here time to Mrs. Fike, but Mr. Tornichio said that he would like to give time to those people who have not yet had an opportunity to speak.

Mr. Tornichio asked if there was anyone else wishing to testify. Mark Backues came forward and said that his property is near the 20-foot access easement, and he would like to know what will happen to that easement and his property value. He doesn't want his property value to drop.

Mr. Tornichio requested that the e-mails presented during public testimony be incorporated in the minutes and then closed this portion of the hearing,

Commission Discussion:

Mr. Kruszinski asked McGrath where the mini storage units would fit into the permitted uses of C-PUD. Mr. McGrath answered that the third condition of the resolution states:

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

Phase I, as indicated on the Phasing plan dated "Received June 8, 2006", shall be permitted a maximum of 50,000 square feet of mini-store and lock units in addition to the permitted uses listed in condition #2.

Mr. Gum asked Mr. Beach what is involved with HEC study regarding this location as a 100-year flood plane area and is this going to be a tough site. Mr. Beach said that with enough money you can replace bad soil. There was discussion about the retention pond and what will that do to the water table. Mr. Beach explained this matter.

Mr. Wortham called upon Mr. Schaeffer and asked him if this is a viable site without the storage site development. Mr. Schaeffer took the oath in response to a previous comment by an audience attendee. Mr. Schaeffer said that the storage units are a necessary part for the development if it is going to work. Mr. Wortham asked questions regarding security of the site, and Mr. Schaeffer answered that the storage units will be secured by a fence and that swipe cards will be used to allow access to the site, though that does not mean that the renters can't give the card to a third party. The gates will be monitored by videos 24 hours a day, 7 days a week so they will know who is going in and out when. These videos will also show the license plates of those vehicles entering and exiting the site as well as the faces of drivers. The videos will be retained for a period of time. Though there will not be a security guard present 24 hours a day, during the day, there will be a developer's employee monitoring the site and performing maintenance. The videos can that can be viewed at a later time.

Mr. Wortham asked staff about information on soil conditions. Mr. Beach said that in the past these matters have been left to the developer as to how much money he wants to invest on the site to replace the soil. He stated that usually it is the Greene County Building Inspection Department that follows and enforces the Ohio Building Code. He said that he has seen numerous bad residential building sites where owners have had to over-excavate bad soils, often to great cost to private property owners. He does not think this site would be any less scrutinized by the inspection department.

Mr. Wortham said that regarding Land Use Plan, he appreciates the comments of the residents who said that this may be their first time or maybe never have been to Planning Commission meetings. He said that he has been on the bench for almost 20 yrs., and dealing with plans for this specific site numerous times. He said that someone referred to the Land Use Plan not being effective for this parcel. He said there is a land use designation for this parcel right now in place since 1989, and that this is one of the most difficult pieces of property to deal with because of the proximity to the sewer plant on one side and residential property on the other. He said that his point is that, of all of the many applications made for this property; this application is the best one he has seen thus far. He said that the Commission has to deal with the codes that they are given. The Commission deals with the legal side of this matter. The Commission then makes a reference on to legal council either for or against, and legal counsel will go through the same process again. Mr. Wortham said that public input is very

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

important, but that the Commission has to consider a constitutional issue that property owners have a rights to their property just as residence property owners have. But when the city rejects too many proposals, and essentially takes ownership of the property, the property owner can take legal action against the city and the taxpayers end up paying for it. Mr. Wortham said he did not want to get into the position of refusing everything simply because it is a difficult piece of property. Mr. Wortham said that all property owners have legal rights which the Commission has a legal responsibility to protect.

Mr. Wortham said that this is a zoning case at this point. He said that the applicant is within his right to simply come in and put up a blank square and not indicate any land usage at all. He is not required to tell them what they are planning to build. The actual proposal for construction comes in at the Site Plan which, if then the Council would have then approved the rezoning of the property, the Commission would start that whole phase of the situation. He then said to Mr. Tornichio that that was all he had to say.

Mr. Tornichio asked Mr. Schaeffer most store lock facilities have an on-site place to make contact to rent a unit. Will there be such a contact? Mr. S said this will be a small site for store lock facilities and not warrant a live in contact person. Mr. S said that there will be a person on site during the week for normal business hours.

Mr. Wortham MOVED for approval of PUD-06-5 with the following conditions:

1. The concept plan dated "Received July 7, 2006" is the approved plan, with the exception of the data listed under the "Key Development Guidelines" on said plan, and only the Phase delineations on the plan dated "Received June 8, 2006" shall be incorporated as part of this zoning amendment approval except as further modified by the following conditions.
2. The permitted uses for this C-PUD shall be the following uses:
  - *Dental services*
  - *Dental laboratory services*
  - *Industrial research laboratories*
  - *Health studios-inside activity only*
  - *Medical clinics-outpatient services*
  - *Medical research laboratories*
  - *Offices are as follows:*
    - i. *Accounting, auditing and bookkeeping services*
    - ii. *Advertising services*
    - iii. *Audio and visual communication services and banking services*
    - iv. *Commodity brokers and security*
    - v. *Credit reporting, adjustment and collection service*
    - vi. *Computer services or data processing facilities*
    - vii. *Conference center services*
    - viii. *Educational and scientific research services*

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

- ix. Employment services*
  - x. Engineering and architectural services*
  - xi. Engineering research and prototype development associated with offices*
  - xii. Engineering research and prototype development facilities, and related accessory manufacturing*
  - xiii. Executive, administrative and similar enterprises*
  - xiv. Financial holding and investment services*
  - xv. Insurance carriers, agent broker and services*
  - xvi. Legal Services*
  - xvii. Security and commodity brokers*
  - xviii. Real estate and related services*
  - *Office with warehouse space*
  - *Physician services*
  - *Public buildings including community center buildings and libraries*
  - *Research and engineering laboratories*
  - *Schools are as follows:*
    - i. Business, stenographic, correspondence and typing (Conditional Use)*
    - ii. Technical training schools (Conditional Use)*
  - *Sign painting and manufacturing*
  - *Travel bureaus and ticket sales*
  - *Welfare and charitable services*
3. Phase I, as indicated on the Phasing plan dated "Received June 8, 2006", shall be permitted a maximum of 50,000 square feet of mini-store and lock units in addition to the permitted uses listed in condition #2.
4. There shall be a 100-foot building and parking lot setback required from the south, east, and west property lines. The minimum building and parking lot setback from the north property line shall be 50 feet.
5. There shall be a minimum 50-foot open space buffer required along the adjoining property lines of the residential districts to the south and west. The buffer shall be landscaped to provide adequate screening for those properties using dense plantings or other methods approved by the Planning Commission and City Council at the specific site plan stage.
6. A traffic study shall be provided to the City Engineer at the specific site plan stage. All roadway designs and locations are subject to the approval of the City Engineer, Planning Commission and City Council at the specific site plan and record plan stage. All roads, determined to be acceptable as public roads at the specific site plan stage, shall be built to the Subdivision Construction Standards of the City of Beavercreek.
7. The design and location of the emergency access easement(s) shall be subject to the final approval of the City Engineer and the Beavercreek Township Fire Department at the specific site plan and record plan stage.

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

8. All buildings shall incorporate four-sided architecture and shall have no apparent rear. The buildings shall be designed as required by the Planning Department, Planning Commission and City Council at the specific site plan stage.
9. All buildings shall have a gabled or hipped roof constructed with dimensional asphalt shingles. Roof top units for mechanical and/or HVAC purposes shall be prohibited. All mechanical equipment shall be ground mounted and screened or located completely within a building.
10. The mini-store and lock units within Phase I of this development shall be properly secured to the satisfaction of the Police Department at the specific site plan stage and prior to the issuance of a zoning permit and shall provide appropriate video surveillance and keypad or card reader secured entrances.
11. There shall be no outdoor storage or display of material, equipment, machinery or merchandise at anytime unless approved by Planning Commission.
12. A HEC study shall be conducted and provided to the City Engineer and all applicable floodplain regulations shall be addressed prior to the issuance of a zoning permit for any buildings located within the floodplain or floodway.

The motion was seconded by Mr. Kruszynski. The roll call was 4/1 with Mr. Gum voting against it.

Mr. Tornichio adjourned the meeting, and reopened it after a five-minute break.

PUD 124-86 MOD 6/06 Cambria Suites, Major MOD

James Rybolt, the architect for the building, presented a revised site plan and overview of this project

Mr. McGrath presented the staff report.

The applicant is requesting a major modification approval for a specific site plan that includes an 83-room 21,559 square foot hotel to be located within the Kempton Square PUD 124-86 just south of the Tire Kingdom and the Woodcraft Retail Center on approximately 2.38 acres.

The Kempton Square Planned Unit Development was approved in 1987 by City Council who adopted the Resolution approved by Planning Commission. The conditions of approval dealt with infrastructure and buffering requirements that were added on top of the underlying straight zoning districts for the PUD. The original approval called for O-1 Office, R-2 and R-3 Residential uses, and B-3

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

General Business District. The different underlying zoning districts were established for certain acreages that divided the 98.833-acre tract for those appropriate uses. The request being considered with this application falls within the original 28.111 acres approved for B-3 General Business District.

The permitted uses within the B-3 zoned portion of this PUD were nonexclusive and allow the principal and, consideration for, conditional uses within this district as found in the Table of Permitted uses within the Zoning Code. Hotels and motels are classified as conditional uses within a B-3 district and thus required approval for the use by Planning Commission and City Council which occurred in March and April of this year.

The conditional use for the hotel on this site was approved by Planning Commission in March of 2006 and then by City Council in April of 2006 with 9 conditions of that approval. The conditions of approval are attached along with this report. The conditions related to architecture of the building, meeting minimum parking requirements, and screening and buffering from the residential units to the west. These issues have been addressed in the subsequent sections of the staff report.

The building setbacks are regulated by the B-3 requirements of the Zoning Code unless otherwise stated in the conditions of approval of the PUD overlay. The PUD called for a 70-foot building setback from Esquire Drive that has been satisfied by the proposed plan. There is a 50-foot buffer required between this development and the multi-family residential development to the west, Mallard Landing, due to the fact that the applicant is proposing a non-residential use to abut a residential use. The 50-foot buffer has also been indicated on previous plan approvals for this lot and the others along the western property line of the commercial portion of the PUD where it abuts the residential portion of the PUD. The buffer is more specifically addressed in the landscape and screening section of the staff report.

The applicant has indicated a 21-percent building coverage calculation based on the building being 21,559 square feet on a lot that is 103,545 square feet. The maximum building coverage permitted within a PUD allowing B-3 uses is 35-percent.

The applicant has not revised or submitted new plans for the architectural elevations of the building since their presentation for the conditional use approval. The drawing, dated "Received April 10, 2006", has been attached to the report and reflects three sides of the building but does not address the west face of the building. Staff assumes that the west will be treated the same as the east, but the conditional use approval specified four-sided architecture at the specific site plan stage of review. A condition has been added to the Resolution requiring the architectural design and materials be continued to the west elevation and the design be approved by the Planning Department prior to the release of a zoning permit for the building. Neither a color rendering nor architectural elevations that specify material types and colors have been

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

submitted with this application. The applicant did bring in a brick sample and two EIFS product samples for the City's Architect to review, but in order for there to be no question as to the approved elevations for the building, staff needs more detail either at this stage or prior to issuing a zoning permit for the hotel. The color rendering dated "Received March 1, 2006" shall reflect the colors to be approved for the building, should Planning Commission and City Council find the rendering appropriate. A condition has been added, that if Planning Commission and City Council should choose to accept the rendering, that the colors for building to be consistent with the colors on the rendering dated "Received March 1, 2006", and the final materials and colors shall be approved by the Planning Department prior to the issuance of a zoning permit. The rendering reflects a five-story, not a three-story, hotel and utilizes two different colors of EIFS with a darker color being shown around the top of the building. Staff is also conditioning, based on a three-story and not a five-story structure, that the EIFS façade be one color, the tan color indicated on the rendering. Other conditions regarding the architectural have been included in the Resolution.

The applicant is proposing two access points to the site. The main entrance will be located directly across from the entrance to the Precision Tune and the Gemini Eye care retail center on Lakeview Drive at the north end of the site and the second access will be a connection to the Woodcraft retail center to the north. The Woodcraft connection was planned during the approval for the retail center to provide interconnectivity between this area of Kempton Square and it will provide convenient access for the patrons of the hotel to the uses within the retail space and to the LaRosa's site without requiring vehicles to enter and exit from Lakeview Drive. The design and exact locations of the access points shall be subject to the final review and approval of the City Engineer prior to the release of a zoning permit.

The parking requirements for a hotel, as outlined in the Zoning Code, call for one space to be provided for each room, one space for every three seats within meeting areas, and one space for employees on the busiest shift. As indicated on the plan that the applicant is providing, there are 100 parking spaces. When the plan was brought forward through the conditional use review and approval, staff had some concerns with the mentioning of a bar and a restaurant and to exactly what extent those services would be utilized by the hotel. The floor plans have been submitted and there is not a restaurant associated with the hotel and the design of the "bar" area is conducive to only serving the patrons of the hotel and would not draw an outside crowd.

Upon further examination of the floor plan, staff has found the applicant is proposing a conference room, which could be two rooms when separated by a partition and a boardroom containing a total seating capacity of 78 seats (14 in the board room and 64 in the conference room). This number far exceeds the amount of meeting seats indicated on the site plan submitted with this application and the conditional use application that was approved by Planning Commission and City Council. The total meeting seats indicated on the site plan has been 30 seats throughout this process. The 78 seats indicated on the floor plan pushes

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

the number of required parking stalls to over 100 and since the applicant can't provide more than 100 stalls this application is in direct conflict with the conditional use approval.

The applicant is working with his architect to come up with an alternative use for that space in the hotel. Staff will not have a revised plan prior to the meeting on the 19<sup>th</sup> of July but will update Planning Commission of the status of the plan at that time.

There is a 50-foot buffer required on the west property line. The buffer separates the proposed hotel from the Mallard Landing residential units and was required as part of the original PUD approval. The applicant's proposed site plan indicates that the parking lot to the west of the property will sit approximately 5-feet above the elevation at grade of the apartments. The drop-off indicated on the grading plan in your packets will require a retaining wall in order to minimize the impact of grading within the buffer and, at the same time, provide a flat ten-foot planting area immediately to the west of the parking lot to screen the cars, parking lot and headlights of the vehicles from the residents to the west. The design of the retaining wall and fencing shall be reviewed and approved by the Planning Department prior to the release of a zoning permit

The Engineering Department has identified areas where the applicant is not showing appropriate collection of the stormwater that currently runs to or through this site. The existing easement is being relocated but a connection to the existing infrastructure to the relocated pipe on the site has not been accounted for on this proposed plan. A condition has been added that all grading and stormwater plans and all other concerns of the City Engineer be addressed prior to the issuance of a zoning permit for the building.

Staff had indicated that a detailed photometric plan and detailed cut sheets will need to be provided to meet the criteria established in the Zoning Code regarding lighting regulations to the applicant but fixture details have been included in the packet without a photometric plan. A photometric plan and detailed cut sheet will need to be provided and approved by the Planning Department prior to the release of a zoning permit.

Specific sign details have not been included in this packet and a condition has been added that the applicant receive approval for the signage on the building by Planning Commission prior to the issuance of a zoning permit for any signage. The PUD currently calls for B-3 sign regulations to apply to projects within this portion of the PUD, but it is obvious that applicant will not be proposing a single sign on the east face of the building, the only wall sign that would be permitted under B-3 regulations, but will also be seeking signage on the north side of the building on the tower feature associated with the main entrance to the hotel.

Based on this analysis, staff recommends the tabling or disapproval of this request based on the inability, at the time of this report, of the applicant to meet the minimum parking requirements established in the Zoning Code for hotels and

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

the noncompliance with the condition requiring the applicant to meet those minimum standards as part of the Conditional Use approval earlier this year.

The Resolution has been drafted assuming the applicant will be able to address these issues at the meeting and conditions of approval have been attached for Planning Commission's consideration.

Commission Discussion:

Mr. Wortham asked if the Planning Department is satisfied with the information presented this evening. He said that he had reviewed the recommendation to refuse this proposal due to insufficient information. Mr. McGrath said that since that report was made, they have received updates. He said that the applicant has met the conditions of the conditional use and added 6 additional parking stalls. These revised plans were presented today and they are now comfortable with the information they currently have.

Mr. Gum expressed concern about stairwells in the wooden buildings and about the stairwell composition. Mr. Rybolt stated that the stairs could be made of concrete but the stairwell would be made of wood.

Mr. Kruszinski asked about the tower and how high it would extend. Mr. McGrath said that the C-PUD limits it to 50 feet, but he is not sure how high it would be, but that it would remain within limits.

Mr. Tornichio asked about Ms. Jones issue with drainage. Mr. Beach said that some of the drainage from the undeveloped site still runs into her site, but that when developed it will be drained into the sewer. He said he does not believe it is coming from the ditch in the rear. Mr. Beach said that he thinks it is a site issue and he will work with Ms. Jones to finalize this issue.

Mr. Tornichio questioned Mr. McGrath about changes presented this evening about the number of parking stalls and the change of seating and conference room setups, etc. Mr. Tornichio also expressed concern about the late changes in the proposal and the need to have all of this provided in a timely manner so that everyone who needs to review it can do so with adequate time. The architect provided an explanation about why the delays occurred.

Mr. Wortham asked McGraw if he was comfortable with the information provided this evening. He said that with regard to #1 of Section 2 the approved site plan would be dated received July 19, 2006. The Landscape Plan would be dated received June 27, 2006. The Elevations Plan would be dated received April 10.

Mr. Gum stated that he thought there are too many loose ends on this project and that he thought the Commission should not proceed at this point. He said usually the plans are submitted in advance so that people have time to review them and that that has not been done in this case.

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

In an effort to clarify the changes, Mr. Kruszinski asked Mr. McGrath if he understood correctly that the reason for the changes was the conference rooms relative to parking space additions - - that the conference room was changed to two small ones with 28 seats each and adding 6 extra parking stalls. Mr. McGrath confirmed his assessment.

Mr. Kruszinski moved for approval of PUD 124-86 with changes in Section 2 of the Resolution that Mr. McGrath will give to the clerk, relative to the site plan date received stamp of July 9, 2006, the elevation plan date received stamped April 10, and landscape plan date received stamped June 27, 2006

1. The approved site plan shall be the plans stamped "Received July 19, 2006" and the approved building elevations shall be those elevations stamped "Received April 10, 2006" except as modified herein. The approved landscape plan shall be those plans stamped "Received June 19, 2006.
2. The material and color of the areas located on the exterior walls below the windows of the rooms associated with the heating and air conditioning unit for each room shall be subject to the final review and approval of the Planning Department prior to the issuance of a zoning permit.
3. The colors used on the building shall be consistent with the brick color and the tan color EIFS indicated on the color rendering dated "Received March 1, 2006." The rendering indicates a five-story building with two different EIFS colors but on the three-story elevation for this hotel only the tan EIFS color shall be used on the second and third floors.
4. The architectural design and materials shall be continued to the west elevation of the building since the west elevation was not indicated on the drawing dated "Received April 10, 2006", per the approval of the Planning Department prior to the issuance of a zoning permit.
5. Scuppers and downspouts will not be visible on the exterior of the building.
6. The dumpster enclosure shall be designed to match the building by using the same materials and colors for the enclosure that can be found on the building. The design of the dumpster enclosure is subject to the final approval of the Planning Department prior to issuance of zoning permit for the building,
7. A detailed floor plan shall be submitted and approved with no more than 30 seats available within meeting rooms.
8. All concerns of the City of Beavercreek Engineer or the Beavercreek Township Fire Department shall be addressed prior to the issuance of a zoning permit and as any issues may arise after the issuance of a zoning permit.

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

9. The design of the retaining wall and fence on top of the retaining wall are subject to the final approval of the Planning Department prior to the issuance of a zoning permit. The retaining wall and fence shall be included as part of the landscape bond amount.
10. A sign package shall be approved by Planning Commission prior to the issuance of a zoning permit for signage.
11. Debris and trash shall be routinely collected by the owner from the parking lot and grounds of all areas of the project including the storm drainage facilities. The City reserves the right to require more frequent collection as necessary.
12. All building mechanical equipment is to be screened from all directions with architectural features (roof forms or parapet walls) of each building. Metal screening will not be accepted.
13. Lighting in the development shall comply with the city's exterior lighting standards. A detailed photometric plan and cut sheet shall be submitted for review and approval prior to issuance of a zoning permit.
14. A PUD Agreement, acceptable to the City, must be signed by the owner and a bond or letter of credit must be submitted prior to issuance of a zoning permit for any portion of the project for the purpose, but not for the sole purpose, of insuring the installation of landscaping. Said bond or letter of credit must meet the requirements of the city's landscaping and screening regulations.
15. Perpetual maintenance of landscaping shall be provided and any dead or diseased materials shall be removed and replaced with similar types, species and sizes, as originally planted, within three months, weather permitting.
16. All man doors shall be painted to match the color of the brick on the building.
17. The façade shall not be painted or altered without the express permission of the Planning Department and/or Planning Commission

The motion was seconded by Mr. Wortham. There was a unanimous roll call vote.

Decision Items:

PUD 91-2 mod 3/06 outback & Cheeseburgers, Major MOD (Public Hearing closed 4/5/06)

Mr. Tornichio said that this had been previously tabled and asked for a motion to untable it. Mr. Kruszynski MOVED, Mr. Wortham seconded to untable it. It was passed by unanimous voice vote.

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

Mr. McGrath said that the applicant has been authorized to move forward with this request with specific considerations, and he presented the staff report. The applicant is requesting approval of a major modification to the approved specific site plan for PUD 92-1 to allow for the construction of two restaurants, a 5,061 square foot Outback Steakhouse and a 6,280 square foot Cheeseburger in Paradise, along the frontage of North Fairfield Road within the proposed outlot development area of the Shoppes at Fairfield Commons directly north of the Abuelo's restaurant and south of the access drive to the Target store.

The original Planned Unit Development was approved in 1991 and included 31.332 acres of land to be zoned to a C-PUD and 16.514 acres of land to be rezoned to an R-PUD. The permitted uses within the C-PUD, the portion of the property associated with this application, permitted B-2 and B-3 principal permitted uses while excluding 14 uses within these districts and excluding all conditional uses. Maximum square footage was the only other consideration that would apply to this request, which was set at 385,000 square feet for the C-PUD. To date, the Target portion of an approved retail center, the +Kentucky Fried Chicken/Long John Silver, and Abuelo's restaurant are the only buildings within the commercial portion of the approved Planned Unit Development. The R-PUD portion of this approval remains vacant on the north side of Lakeview Drive.

The specific site plan approved for the C-PUD occurred in 1996 and included all 31.332 acres. The total building square footage approved with the site plan was 276,071 square feet. The SSP approval is still in effect and the applicant is seeking a major modification to that approval due to the fact that there were only two outlot buildings approved in this part of the PUD, but when Abuelo's was approved it was approved at 7,767 square feet in the location where a 25,000 square foot building was permitted. The three buildings would add up to a total of 19,108 square feet in the same area where the 25,000 square feet and 10,000 square foot building area was originally approved.

A copy of the PUD ordinance, Specific Site Plan conditions and a copy of the originally approved site plan have been included in your packets for your review and consideration.

The Outback Steakhouse building will be 5,061 square feet and will sit on a 1.5575-acre parcel after the subdivision occurs. The building covers approximately 7.5-percent of the land area, well below the maximum building coverage allowed within a C-PUD. The open space area will consume 0.5197 acres of the land area yielding an open space calculation of 33-percent exceeding the minimum 25-percent requirement.

The Cheeseburger in Paradise building is 6,280 square feet on a 1.3147-acre land area (parcel after subdivision) yielding an approximate building coverage area of 11-percent of the site and meets the applicable requirements. The applicant has proposed 0.4163 acres of open space yielding an open space calculation of 32-percent of the site and this calculation, again, exceeds the minimum requirements for pervious areas.

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

The building setbacks are consistent with the building setbacks as shown on the original site plan approval. The locations of the buildings do not pose a problem to the application at this time.

There have been a number of conditions placed in the Resolution for your consideration. The application review process has yielded a number of different renderings and architectural drawings presented by the applicant and each time the designs improved. The original submission was completely unacceptable and would have been an eyesore in this part of Beaver Creek. The applicant has worked with staff to improve the design of the buildings and use materials and architectural design elements that the citizenry has come to expect around the mall. The only issue facing the Outback Steakhouse would be the color of the man-doors and the siding on the building and the exterior ladder for roof access on the eastern elevation. Staff has added a condition that would allow for further review of the siding color and has prohibited roof access from the exterior façade of the building by stating that the roof should be accessible from inside the restaurant.

The Cheeseburger in Paradise building has been significantly improved since the original building elevations were presented to staff. The remaining issue with the elevations is the water tower or cistern feature above the main entry into the building. This is a franchise identification feature that presents the theme of the restaurant on the outside of the building as well as the inside. Typically franchise identification signs or features that would be out of character with the surrounding buildings or an area of Beaver Creek in general are not given much consideration. Staff is very concerned with the design, appearance, material, and uniqueness of the cistern. Staff has included pictures of existing buildings as attachments to this report and more will be included in the presentation. Staff has not conditioned the cistern element in the Resolution and will react appropriately to comments and direction from Planning Commission and City Council regarding this design element.

There are little improvements that need to be made regarding the development of this area of the PUD. There will be one shared access point off the access road to the east of the buildings and connections will be made to the Abuelo's parking lot at the east and west end of the site to allow for limited access points on the rear access drive and provide appropriate interconnectivity between the three restaurant users.

One of the major concerns with the application, outside of the legal issues, that has been causing a delay in the review process for this project has been the amount of parking provided for the two users collectively and individually. Originally the applicant was approximately 30 parking stalls short from being able to meet the parking requirements for the intensity of their respective uses within the boundaries of the proposed parcels and/or ground lease area. There were discussions regarding lease agreements allowing parking across the access drive to the east but staff was not comfortable with this scenario for two reasons.

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

First, the owner, Lofino, would not be willing to enter into a specific agreement that could be recorded with the record plan outside of all the involved lease documents and, second, the original site plan was approved with fewer parking stalls than what the Zoning Code required. With the uncertainty of the rest of the development of that retail center, staff did not want to allocate any of the parking across the access drive for the restaurants without also restricting some provisions of the retail center future development at the same time and that could not be done without the consent of the property owner, Lofino. This option was not considered viable by staff.

The applicant has since reduced the size of the Outback Steakhouse building and reduced the number of seats in each restaurant. The plans dated "Received July 12, 2006" reflect the new seating arrangements and floor plans and the plans dated "Received July 5, 2006" reflect the reduction in the size of the Outback Steakhouse building. On a summary sheet submitted by the applicant, the new parking counts are as follows:

Outback: 192 seats, 22 employees on the busiest shift  
Required 1 stall/every 3 seats and one for each employee: 86 required; 90 provided

Cheeseburger in Paradise: 201 seats, 24 employees on the busiest shift  
Required: 91 stalls; provided 87

The applicant will be allocating the four additional parking stalls on the Outback site to the Cheeseburger in Paradise user and any subsequent user in the future through a legal document to be recorded with the plat. This needs to occur in case of a transfer of ownership or lease of one or both of the lots to thwart any dispute over what parking belongs to whom. *The applicant has, technically, met the requirements for parking collectively on the site although staff would have liked to have seen the parcels divided in a way that the required parking stalls for a particular user would be on the same parcel as that particular user, which is still not out of the realm of possibility.*

The landscaping is well designed on the site and the applicant did address staff's concern with maintaining a common streetscape design along North Fairfield Road by using the same planting scheme as the Abuelo's and the recently approved Fairfield Place to the south.

Revised lighting detail cut sheet and photometric plans shall be submitted to meet the criteria within the Beavercreek Zoning Code. Staff has also restricted neon accent lighting around the building since details have not been provided indicating where the neon accent lighting would be located and to what extent. Staff will want to review and approve all accent lighting before releasing a zoning permit for that particular building.

All stormwater plans shall be reviewed and approved by the City Engineer prior to the release of a record plan.

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

The sign package was approved with the original specific site plan and still applies except for a few additional restrictions contained in the Resolution that prohibit exposed neon accent tubes within the channel letters of the signage, raceway mounted signs have been excluded and requirements for individually mounted signs have been included and ground signs have been excluded from the development of these parcels.

Based on this analysis, staff recommends approval of this request subject to the conditions outlined in the attached Resolution.

Brian Sullivan, attorney for Outback Steakhouse and Cheeseburger in Paradise, said that the proposal was presented in April and subsequent changes were made to accommodate proposed changes made by Staff.

Mr. Wortham asked Mr. McGrath about the landscaping for Outback Steakhouse. He said that there is landscaping around the parking lot, but almost none around the restaurant site, which is not in compliance with the original PUD requirements. Mr. McGrath said he is aware of that and recommends including conditions regarding landscaping and restaurant foundations. Mr. Wortham agreed.

Mr. Gum questioned the developer about what part of the restaurant has been reduced. Kevin Garden responded that the total square footage was reduced from 61,000 to 5,000 sq. ft.

Mr. Gum MOVED to approve PUD 91-2 MOD 3-06 with the 20 conditions in the resolution and modified changes to Section II, no. 6 and 15.:

1. All conditions of PUD 91-2 and PUD 91-2 SSP #2 and all subsequent amendments or modifications to the PUD shall remain in full force and effect unless specifically modified by the conditions below.
2. The approved site plans for both the Cheeseburger in Paradise and Outback Steakhouse plans are marked "Received July 5, 2006."
3. The approved floor plans for the Cheeseburger in Paradise and the Outback Steakhouse shall be the plans dated "Received July 12, 2006." The Cheeseburger in Paradise restaurant shall not exceed 201 total seats and shall have no more than 24 employees working at one time. The Outback Steakhouse restaurant shall not exceed 192 total seats and shall not have more than 22 employees working at one time.
4. The approved roof plan, architectural elevations, material samples, and signage shall be the plans dated "Received July 5, 2006" by the Planning Department for the Outback Steakhouse and the plans dated "Received May 5, 2006" for the Cheeseburger in Paradise Restaurant. These shall be the

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

approved plans except where modified by the conditions contained herein.

5. A revised lighting plan shall be submitted to the Planning Department for approval prior to the release of a zoning permit for either restaurant. The lighting and photometric plan shall meet the requirements of the Beavercreek Zoning Code §158.136. The light fixtures must be the same fixtures that are currently located on the access drive to the east of the buildings and the fixtures located on the lot to the south.
6. A PUD Agreement, acceptable to the City, must be signed by the owner and/or the owner's tenant and a bond or letter of credit must be submitted prior to the release of a zoning permit for any portion of the project for the purpose, but not for the sole purpose, of insuring the installation of landscaping and shall show detailed foundation plantings for both restaurants. Said bond or letter of credit must meet the requirements of the City's Landscaping and Screening Regulations.
7. Perpetual maintenance of landscaping, including eradication of weeds, shall be provided and any dead or diseased materials shall be removed and replaced with similar types, species and sizes, as originally planted, within three months, weather permitting.
8. The signage for these restaurants/outlots shall be governed and regulated by the approved sign package contained within the conditions of PUD 92-1 SSP #2. Additionally, there shall be no signage mounted to the building using a raceway and all letters shall be individually mounted on the building. If the signs come down, are relocated, or replaced in a different location for any reason, the façade shall be repaired prior to the issuance of a sign permit. Exposed neon accent lights within the letters of the signage shall be prohibited.
9. Ground signs will not be permitted along North Fairfield Road frontage.
10. The ladder on the east elevation of the Outback Steakhouse building shall be removed and the "forest green" standing seam parapet roof shall be extended across the entire east elevation. Roof access shall be from within the restaurant.
11. The "Rockwood Terra Cotta" color used for the metal doors and the hardi-plank siding shall be subject to change if required by the Planning Department prior to the issuance of a zoning permit for the Outback Steakhouse building.
12. Scuppers and downspouts shall not be visible on the exterior of any elevation for either restaurant.
13. All RTUs and mechanical equipment shall be completely screened from all views with architectural features (roof forms or parapet walls) of each

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

building. This includes screening all RTUs and mechanical equipment from North Fairfield Road, which sits above the grade of the proposed site.

14. The retaining wall(s) shall be reviewed and approved by the Planning Department prior to the release of a zoning permit. The walls shall be the same wall approved with the Abuelo's minor modification on the lot directly south of the Cheeseburger in Paradise site.
15. If a replat is recorded prior to the issuance of a zoning permit for either building, the replat shall include legal documents that will be recorded with the plat specifying cross-access easements. The three additional parking stalls on the Outback parcel that are being counted toward the parking requirements for the Cheeseburger in Paradise parcel shall be available for exclusive use by the user of the lot where Cheeseburger in Paradise is shown on the approved plans.
16. The dumpster enclosures shall be constructed to match the materials of the building.
17. The sign type and design on the water tower/cistern feature shall be subject to the final review and approval of the Planning Department prior to the release of a zoning permit for the Cheeseburger in Paradise building.
18. Neon accent bands on the roof line of the building have not been clearly indicated on the elevations and detailed plans shall be submitted and approved with the zoning permit for each building should the elevations include this accent feature.
19. Handicap parking spaces shall conform to ADA and Zoning Code requirements.
20. The building exteriors for both the Cheeseburger in Paradise and the Outback restaurants shall not be painted or modified without approval of the Planning Department and/or Planning Commission.

Motion was seconded by Mr. Kruszynski and passed by unanimous roll vote.

PUD 06-3 Rezoning & Concept Plan Willow Creek Villas

Mr. Gum excused himself from this vote as he lives across from the proposed site. Mr. Wortham MOVED and MR. Kruszynski seconded the motion to excuse Mr. Gum. Motion carried.

Craig Crossley said that message from the Planning Commission was clear and to the point to change the developer's plan to incorporate single family homes to the North and South property lines. Mr. Crossley said that in attempting to do so,

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

they were challenged in obtaining road access to those single family homes because of the boulevard running east and west through the center of the development. They felt that putting in road access to those single family homes would make the plat less desirable to their project. He discussed possibilities with landscape buffering zones to increase some building separation distances, but said that he is unable to accomplish the Commission's directive for single family homes at the north and south property lines for this PUD. He said that this is the best he could do today.

Mr. Wortham asked Mr. McGrath how many units were in the original proposal. He answered that there were 80 units and there are still 80 units in today's proposal, but some of the units are in quads instead of duplexes. Mr. Wortham asked Mr. Crossley that if they were to take the quads of lots 5, 6, 7, 8 and 9 to the north and quads 21, 22, 23, and 24 to the south and made those doubles, costing him 18 units, leaving 62 units to build and leave the rest alone, could he do that? Mr. Crossley said that he would have to think about that. Mr. Crossley said that he would need to take the proposal to the partnership for consideration, and asked if he could come back to the Commission.

Mr. Tornichio stated that since two of the five commissioners are absent, and because it takes a unanimous vote of the Commission to take action, he would entertain a motion to table this matter. Mr. Wortham asked Mr. Crossley if he could come to the August Commission meeting with an answer, and he said that he could. Mr. Wortham MOVED to table this matter to accord the applicant an opportunity to consider the suggestion provided this evening. Mr. Kruszynski seconded the motion which was approved by unanimous voice vote.

S-06-10 Hunters Ridge Section 12

Mr. McGrath stated that for the record this is for Section 12 and that Section 10 was already approved. Mr. McGrath presented the Staff Report.

The applicant is requesting approval of a final subdivision for 19.111 acres located in PUD 92-5 (Hunter's Ridge) west of Hunter's Ridge Section 11 within the City of Beavercreek and south of Hunter's Pointe Pointe Section 6 located in the township. The proposed final subdivision calls for the area to be platted into 35 buildable lots, with one non-buildable lot to be used for public bikeway purposes. This final subdivision application mirrors the specific site plan approval for this area received by the City in May.

Comments were received from the various area agencies, utilities, and city departments commonly included in reviewing proposed plans during the record plan review process. The applicant has received approval or conditional approval from the entities that submitted comments. The applicant has worked with staff to address the comments received. As can be seen on the plans submitted by the applicant, the proposed Lot #406 will serve as a non-buildable lot with a bikepath constructed on it to allow for connectivity to Hunter's Pointe Plat to the north. The final proposed subdivision adheres to the zoning

BEAVERCREEK PLANNING COMMISSION  
REGULAR MEETING, July 19, 2006

requirements for PUD 92-5 and the specific site plan approval related to this portion of the PUD.

Staff recommends approval of this final subdivision request subject to the following conditions, which must be addressed prior to release of the record plan:

1. The approved record plan shall be the plan stamped "Received June 22, 2006", except as modified below.
2. Prior to release of the record plan for recording, the applicant shall revise and/or add any necessary language on the record plan drawings as determined by the Planning and Zoning Department.
3. All concerns and comments of the Planning and Zoning Department, City Engineer, Greene County Sanitary Engineering Department, Greene County Auditor, public utility providers, and the Beavercreek Township Fire Department shall be addressed and satisfied prior to release of the record plan for recording.
4. Prior to the release of the record plan for recording, the applicant shall sign a Subdivider's Contract and submit a bond or letter of credit for any required public improvements for the subdivision and pay all required fees, **including fees in lieu of parkland dedication**.
5. Prior to release of the record plan for recording, the applicant shall provide a digital format file of the subdivision in Autocad or .dxf format.

Mr. Wortham MOVED, seconded by Kruszynski, to approve S-06-10. Motion passed by unanimous voice consent.

Mr. Wortham asked Mr. McGrath to contact the applicant for Willow Creek and tell him that the Commission would need to see the buffering plans. Mr. McGrath asked Mr. Wortham for clarification about buffering zones in the lots to the north and south where Mr. Wortham suggested changing the plans from quads to duplexes. He asked if Mr. Wortham expects the buffering to be increased between the homes and the duplexes and Mr. Wortham stated that it is not his intent to increase the buffering there, but that it would be ideal to do so. Mr. McGrath will work with the developer on that issue.

There being nothing further to discuss, Mr. Wortham MOVED, Mr. Kruszynski seconded, a motion for adjournment. Motion passed with unanimous voice vote.