

AUSTINTOWN ZONING COMMISSION – FEBRUARY 25, 2016

PUBLIC HEARING  
AUSTINTOWN ZONING COMMISSION  
February 25, 2016

In accordance with Section 519.12 of the Ohio Revised Code, the Austintown Township Zoning Commission held a public hearing on Thursday, February 25, 2016, at the Township Hall, 82 Ohltown Road, Austintown, Ohio, for consideration of and recommendation to the Board of Township Trustees amendment request 2016-01-Z.

The following Commission members were in attendance:

Bonnie Sovik  
Keith Marstellar  
Atty. Robert Price  
Brett Hendricks  
Ron Latone

The Public Hearing was opened at 6:00 P.M. by Mrs. Sovik leading the Pledge of Allegiance.

Court Reporter in attendance, complete transcript taken of the hearing.

Motion by Atty. Price to **APPROVE** the minutes of the December 3, 2015 public hearing.

Seconded by Mr. Marstellar.

Roll call vote: Mr. Latone – Yes; Atty. Price - Yes; Mr. Hendricks - Yes; Mr. Marstellar – Yes; and Mrs. Sovik – Yes.

Motion by Mr. Hendricks to appoint Mr. Latone Chairman of the Zoning Commission for calendar year 2016.

Seconded by Atty. Price.

Roll call vote: Mr. Latone – Abstain; Atty. Price - Yes; Mr. Hendricks - Yes; Mr. Marstellar – Yes; and Mrs. Sovik – Yes.

Motion by Atty. Price to appoint Mr. Hendricks Vice-Chairman of the Zoning Commission for calendar year 2016.

Seconded by Mr. Latone.

Roll call vote: Mr. Latone – Yes; Atty. Price - Yes; Mr. Hendricks - Yes; Mr. Marstellar – Yes; and Mrs. Sovik – Yes.

**AMENDMENT 2016-01-Z**

Cocca Development, LTD, 100 DeBartolo Place, Suite 400, Boardman, Ohio, 44512, requests the rezoning of a 40' x 178' (0.163 acre) westerly portion of two parcels of land containing a combined total of approximately 3.341 acres, Lot No. 4, Fitzgerald Plat, Parcel 48-075-0-036, 1514 South Raccoon Road, and Lot No. 1, RePlat of Lot No. 1 F. Morgan Plat, Parcel 48-075-0-035, Austintown Township, from Residence R-1 Districts to Business B-2 Districts for a total Business B-2 District lot depth of 240 feet. Lot No. 4, Fitzgerald Plat, 1514 South Raccoon Road is rectangular in shape, is located on the west side of the South Raccoon Road right-of-way, approximately 209 feet south of the Fitzgerald Avenue-South Raccoon Road intersection; and is zoned as a Business B-2 District for a depth of 200 feet with the remaining westerly 40 feet zoned as a Residential R-1 District. Lot No. 1, RePlat of Lot No. 1 F. Morgan Plat is irregular in shape, is located on the west side of the South Raccoon Road right-of-way, approximately 309 feet south of the Fitzgerald Avenue-South Raccoon Road intersection; and is zoned as a Business B-2 District for a depth of 200 feet with the remaining westerly portion zoned as a Residential R-1 District in Austintown Township, Mahoning County, State of Ohio.

Zoning Inspector Crivelli read the applicant's letter dated January 21, 2016 into the case record, referenced two site plans and a survey submitted with the letter of request, the case mailing list, three plat maps, and a copy of the original zoning map depicting the B-2 District being set as 150 feet deep and the accompanying zoning language allowing for an extension of an additional 50 feet.

Zoning Inspector Crivelli read the following recommendation into the case record: **MAHONING COUNTY PLANNING COMMISSION:** Recommended **APPROVAL** of the request per the agenda.

Zoning Inspector Crivelli advised the audience of the procedure for the public hearing.

Brice Jackson, Cocca Development, LTD, 100 DeBartolo Place, Suite 400, Boardman, Ohio, 44512, reviewed the color coded drawings requesting a total of 240 feet of B-2 zoning with the remainder to stay as R-1. The property will be re-platted into one lot. Mr. Jackson stated the survey depicts existing paving from the previous business and asked for permission to do what the previous businesses were already doing. Cocca Development purchased the property five years ago and demolished the Burger Chef building. Cocca Development also owns the Teri-Mar building that abuts the subject property.

Atty. Price inquired about the history of the property. Zoning Inspector Crivelli advised that based on a permit search the Burger Chef was constructed in 1971 for a depth of 200 feet. He could not find approvals for the extension of the parking to a depth of 240 feet and speculated that over the years the operator may have extended the parking lot without township review or approval. Mr. Jackson stated the proposed building will be entirely in the existing B-2 District and only paving and the dumpster area will be in the proposed

B-2 District. Atty. Price observed the request appears to be a correction for what has already been done in years past. Mr. Jackson stated they would do whatever the zoning code required for buffering.

Mr. Hendricks inquired about the purchase of the property. Mr. Jackson stated both properties were purchased at the same time. Mr. Hendricks inquired about removing the front parking stalls and moving the building forward. Zoning Inspector Crivelli advised he discussed this with the applicant who stipulated they want to keep the building in line with the Teri-Mar Plaza. Mr. Jackson stated they cannot remove the parking stalls and still be in compliance with zoning. Zoning Inspector Crivelli advised the Teri-Mar Plaza is zoned B-2 for 200 feet with the remainder of the parking lot approved by the Board of Appeals as a conditional use. He stated on this property the proposed use is a travel lane and an area for the dumpsters and requires a zone change rather than a conditional use. There was discussion of the zoning depths of the abutting properties to the south and the original zoning district map.

Amy Marsilio, 4419 Fitzgerald Avenue, stated she is not against the request and her property abuts the Teri-Mar Plaza. She reviewed the map with the Zoning Inspector depicting the total depth of 240 feet and where it abuts the corner of her property. She asked for a privacy fence at the corner that abuts her lot, inquired about a non-functioning drain at the corner of the Teri-Mar Plaza, and stated she is having problems with litter from the dumpsters which also attracts wild animals. She also has concerns regarding noise and asked for a landscape buffer.

Zoning Inspector Crivelli advised there is a storm water line running through the property that ties into New Road and Raccoon Road and it appears to be functioning. Ms. Marsilio inquired about a catch basin in the Teri-Mar Plaza. Zoning Inspector Crivelli advised dumpsters are required to be placed in solid enclosures and storm water management will be required including as-built drawings and a letter for certification from the project engineer stipulating the system was installed per the approved drainage plans. The site will be designed for the one-hundred year storm and should not cause problems for abutting property owners. He also advised the developer is not obligated to fix existing storm water problems on other properties. Zoning Inspector Crivelli advised fencing and buffering allows for flexibility and the Commission will take into account the neighbors' concerns regarding buffering. There was a discussion of the R-1 portion of the lot being deciduous trees and how many would be taken down for the retention pond. Mr. Jackson stated there will be a retention pond behind the building. Ms. Marsilio complained about the noise from the car wash and the rear of the Teri-Mar Plaza and advised of a flood in 2009 that damaged their basements. There was discussion of dark sky lighting features.

Jo-Marie Marsilio, 4419 Fitzgerald Avenue, stated they are not trying to be difficult but past experience has created problems such as the automated dryer from the car wash and they have to lookout for issues that cannot be planned for. Atty. Price stated this is the resident's opportunity to speak and this is the democratic process. He acknowledged there are issues with their other property but as township officials we would like to see

new development. J.M. Marsilio stated privacy, drainage, and lighting are their main concerns. Mr. Jackson stated the existing lot is paved with no retention and the new development will have retention and will be an improvement. J.M. Marsilio stated water ponds at the lot corner and people dump trash on the lot. Zoning Inspector Crivelli advised storm water management was adopted by the township in the late 1980's and most of the commercial properties on South Raccoon were developed prior without storm water management. There was discussion of the catch basin at the Teri-Mar Plaza that is obstructed by debris.

Mary Margaret Hovanes, 4442 Rita Avenue, stated she loves the wooded area of the Cocca property and inquired if the pond will be wet and attract mosquitos. She also said the trees on the property are leaning against her house. Mr. Jackson stated he could not answer the question as the civil engineer has not designed the site and retention. Zoning Inspector Crivelli advised there are a number of drainage designs that can be implemented and stated the smaller retention ponds tend to be dry. He referenced the Dollar General pond on South Raccoon Road as an example. Mr. Jackson stated if the pond were 30 feet wide it would still be about 170 feet from her property. Ms. Hovanes inquired about a drive-thru. Mr. Jackson advised there will be a drive-thru. She was given the opportunity to review the drawing and there was discussion of buffer types. A. Marsilio requested the buffer be arborvitae or pine trees. She complained about the condition of the chain link fence at Teri-Mar Plaza.

Mr. Jackson stated the lighting will not flood into other properties. He also stated the Dunkin Donuts will operate 24 hours a day.

No one else in attendance to speak in favor of the request.

No one in attendance to speak in opposition of the request.

The Zoning Commission adjourned at 6:43P.M.

The Zoning Commission reconvened at 6:51 P.M.

**2016-01-Z-Cocca**

Motion by Mr. Hendricks to accept the recommendation of the Mahoning County Planning Commission and recommended **APPROVAL** to a **Business B-2 District** with the following stipulations:

- 1) The natural buffer disturbed by construction shall be replaced by a conifer buffer;  
and
- 2) Exterior lighting shall be dark sky compliant.

Seconded by Atty. Price.

Roll call vote: Atty. Price – Yes; Mr. Marsteller – Yes; Mrs. Sovik – Yes; Mr. Hendricks – Yes; and Mr. Latone – Yes.

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Zoning Inspector Crivelli advised the Trustees will hold a hearing for final determination of the case at a future date to be determined. A mailing will be done advising of the next hearing date.

Motion by Atty. Price to adjourn the public hearing.

Seconded by Mrs. Sovik.

Roll call vote: Atty. Price – Yes; Mr. Marsteller – Yes; Mrs. Sovik – Yes; Mr. Hendricks – Yes; and Mr. Latone – Yes.

There being nothing further to come before the Commission, the hearing was adjourned at 6:53 P.M.

AUSTINTOWN ZONING COMMISSION

Darren L. Crivelli, Zoning Inspector

APPROVED: \_\_\_\_\_  
Mr. Latone – Chairman

DATE: \_\_\_\_\_