

**PLANNING COMMISSION MINUTES  
JULY 14, 2021**



TYPE: Regular Meeting  
PLACE: City Council Chambers  
TIME: 6:00 P.M.

MEMBERS PRESENT: John Langhorne      Todd Moore      David McCauley-Myers  
Paul Nenni      Roger Daniel      Gary Gross  
Jeremy Loukinas

STAFF PRESENT: Ashley Combs, Development Services Director  
Devra Wells, Zoning Administrator  
Joe Mulligan, Councilman

OTHERS PRESENT: Tim Cleary

**CALL TO ORDER**

Chairman Gary Gross called the meeting to order at 6:00 pm and the roll was called by Ms. Combs. Mr. Gross led the Planning Commission in the Pledge of Alliance.

**PREVIOUS MEETING MINUTES**

Mr. Gross presented the previous meeting minutes for May 12, 2021 and June 9, 2021 and asked if there were any needed changes. Mr. Moore made a motion to accept the meeting minutes as submitted. Mr. McCauley-Myers seconded the motion. The motion for acceptance carried unanimously through roll call.

**PUBLIC HEARING:**

**DEVELOPMENT PLAN AMENDMENT – ASPEN GROVE APARTMENTS**

Ms. Gross introduced the request by applicant Timothy Cleary for Amended Development Plan approval for an Aspen Grove Apartments. The amendment proposes the addition of one 12-unit apartment building that will match the existing buildings. The properties are located near the intersection of Aaron Drive and South Breiel Boulevard, Parcel IDs: Q6542063000003 and Q6542055000010. The properties are a total of approximately 0.66 acres. The Development Plan for Aspen Grove Apartments was originally approved in 1996 by the City Planning Commission.

Ashley Combs, Development Services Director, presented the case using a PowerPoint presentation.

Ms. Combs displayed property photos showing the subject property.

Ms. Combs displayed the proposed site plan.

Ms. Combs explained the Aspen Grove Apartments were originally approved as a Planned

Development. Per City record files, the planned unit development was approved in September 1996 to construct 84 dwelling units in seven 12-unit, two and one-half story buildings comprising 5.8 acres. The applicant has purchased and is in process of combining the two additional lots at the corner of Aaron Drive and S. Breiel Boulevard to the development. If approved, the applicant will construct one 12-unit apartment complex to match the existing Aspen Grove Apartment buildings.

Ms. Combs noted that the request for an additional building requires review as an amendment to the original approved Planned Development.

Ms. Combs read that per Middletown Development Code Table 1218-1: Number of Off-Street Parking Space Requirements, Household Living Category (All Use Types), 1.5 parking spaces are required per dwelling unit for multi-family dwellings. There are 18 parking spaces proposed. This meets the Code parking space requirement of 18 parking spaces.

Ms. Combs concluded the staff report.

Ms. Combs stated that the proposed building materials will match the existing materials on the Aspen Grove Apartment buildings. The first floor of the buildings will be brick and have vinyl used as an accent.

Ms. Combs read that per the Middletown Development Code, Chapter 1210: Architectural Standards, Architectural Standards for Multi-Family Dwellings with Over Four Dwelling Units:

1. The first above-ground story of a residential dwelling shall have facades constructed of stone, brick, wood, stucco, cultured stone, cement siding, or hardy plank when such facades are visible from a public street.
2. All other exterior walls areas of the dwelling may be constructed of other code approved building materials.
3. At least three design features are to be provided on the front façade of each dwelling unit with frontage on a public street.

Ms. Combs displayed renderings of the proposed apartment building.

Ms. Combs stated that per the Middletown Housing Study in 2016, the study recommended a total of 670 multifamily units.

Ms. Combs explained she had a conversation with Terry Hall with Danter on July 13, 2021, the 670 multifamily units were recommended based on the current suburban demand at the time of the study. Per Danter, the housing study was deemed outdated as of 2018.

Ms. Combs noted that Mr. Hall stated to keep in mind that the figure included a variety of product types and price points. However, annual demand for apartments will vary depending on a number of factors including but not limited to employment and household growth, internal mobility, external support and the existing/proposed apartment market.

Ms. Combs explained that City staff has requested proposals with estimates from Dinn Market Foresight and Danter to update our Housing Study.

Ms. Combs stated that the subject property is included in a redevelopment opportunity Green Tree Opportunity Area. The 2005 Master Plan identifies the subject property as “neighborhood preserve and enhance”.

Ms. Combs stated that per the Middletown Development Code, Table 1226-1: Notice Requirements, public notice was published a minimum of 30 days prior to the public hearing of Planning Commission. Notice was also provided to all property owners within 200 feet of the subject property. No comments have been received at this time.

Ms. Combs read the City Engineering Department comments:  
The construction plans need to comply with the Engineering Manual of Design (Grading, Storm Water, Utilities, Erosion Control, Traffic, etc.). There is a watermain easement present under the proposed parking lot.

Ms. Combs displayed the 2005 Master Plan map.

Ms. Combs read the requirement for Changes to Approved Planned Developments: A planned development shall be constructed and completed in accordance with the approved PD final development plan and all supporting data. The PD final development plan and supporting data, together with all recorded amendments, shall be binding on the applicants, their successors, grantees and assignees, and shall limit and control the use of premises (including the internal use of buildings and structures) and the location of structures in the planned unit development as set forth therein.

Ms. Combs read the requirements for a Major Change:  
B. Changes that require the approval of only the Planning Commission include, but are not limited to, the following:  
i. Changes in the plans relative to the size and arrangement of buildings, the layout of streets or circulation patterns, the size, configuration and location of common open space, and changes in any approved elements of the PD that may affect adjacent property owners; and  
ii. Amendments to the conditions that were attached to the original PD approval.

Ms. Combs concluded the staff report.

Mr. Gross asked if there were any questions for staff. Seeing none, Mr. Gross opened the public hearing.

Tim Cleary was sworn in by Mr. Moore to speak for the proposal.

Mr. Cleary explained the proposal and stated that he would be happy to answer questions.

The Planning Commission discussed issues pertaining to the layout of the proposed building and the visibility of the proposed parking lot location from South Breiel Boulevard. Mr. Cleary displayed another building location to the Planning Commission. The Planning Commission discussed that the City is currently is evaluating the need for multifamily housing. The Planning

Commission noted the need to be on the same page as City Council when making decisions pertaining to multifamily developments. The Commission requested more information about greenspace requirements for multifamily apartments.

Mr. Gross asked for staff recommendation.

Ms. Combs stated that based on the staff report provided and compliance with the requirements outlined in the Middletown Development Code for Development Plan Amendments, staff recommends APPROVAL for Amendment Case #4-21 for Aspen Grove Apartments for the construction of one additional 12-unit apartment building that will match the existing buildings on the properties located near the intersection of Aaron Drive and South Breiel Boulevard, Parcel IDs: Q6542063000003 and Q6542055000010 with the condition that the parcels are combined prior to construction.

Mr. Gross asked for a motion. Mr. Moore made a motion to deny the request. Mr. McCauley-Myers seconded the motion. The motion for denial carried unanimously through roll call.

**PUBLIC HEARING:**  
**TEXT AMENDMENTS – MIDDLETOWN DEVELOPMENT CODE**

Ms. Gross introduced the request by the City of Middletown for consideration of text amendments to the Middletown Development Code pertaining to Chapter 1204: Zoning Districts and Use Regulations, Chapter 1206: Accessory and Temporary Use Regulations, Chapter 1210 Architectural Standards, Chapter 1220 Signage, Chapter 1226: Review Authority and Procedures, and 1228: Enforcement and Penalties. Planning Commission's recommendation will be forwarded to City Council for final review and decision.

Ms. Combs explained she would read through each proposal and discussion would follow.

Ms. Combs stated that staff requests to add "and" so that notice is considered served if provided to either the owner or tenant of a property. This adds extra protection for notice being served by staff for code violations. It also clarifies that both the owner and occupant may be held responsible for separate violations and issued civil penalties or court citations.

Ms. Combs stated that staff requests to add a \$25.00 fee for Architecture Review Board application submittals, \$30.00 review fee for residential driveway expansion review, and a \$30.00 review fee for residential uses installed above commercial uses. These are items that staff currently reviews and there no associated fees.

Ms. Combs stated that staff requests making changes to Table 1220-1: Maximum Building Sign Area Allowance to clarify the difference between "UC-C, UC-S, or BC-R Subdistricts" and "All other nonresidential zoning district" and non-residential uses in residential districts. This change corrects a conflict in the language concerning allowed square footage for nonresidential uses in residential districts.

Ms. Combs stated that staff requests the maximum sign area for banner signs from 24 square feet to 32 square feet. Staff have run into issues approving banners for special event permits,

etc. due to 24 square feet being an irregular size for banners. Staff typically receives requests for 32 square feet in size and this is a standard size for banner signs.

Ms. Combs stated that staff requests changes to Signage 1220.03(n)(10) to read "Blade/Feather" signs. Adding clarification due to number of questions we have received asking if a blade sign is the same as a feather sign.

Ms. Combs stated that staff requests changes to Accessory Structures Chapter 1206.01(b)(2) to allow accessory structures to be built on the lot that contains the principal structure and/or adjoining real property of the owner.

Ms. Combs stated that staff requests changes to Accessory Structures Chapter 1206.01(b)(9) to say any accessory structure over 200 square feet and visible from the public street shall have the same color as the front of the existing house. When the provision is not met, the material shall be reviewed by the Architectural Review Board.

Ms. Combs stated that staff requests adding language to the Accessory Structures Chapter to clarify that decks around swimming pools are exempt from the required 6' setback from other accessory structures including swimming pools.

Ms. Combs stated that staff requests changes to the Permitted Uses Table to add prohibiting the uses "of skilled nursing or personal care facilities, medical clinics, pharmacies, urgent care facilities, and similar uses" from the downtown from the UC-C Urban Core Central and UC-S Urban Core Support zoning districts.

Ms. Combs explained that the request is in response to an ordinance that was approved by City Council to impose a six-month moratorium on both the acceptance of development-related applications and the issuance of any permit or other approval regarding the establishment of skilled nursing or personal care facilities, medical clinics, pharmacies, urgent care facilities, and similar uses within the UC-C urban core central and UC-S urban core support zoning districts of the city of Middletown, Ohio. The moratorium will expire on November 7, 2021.

Ms. Combs noted that legal notice was provided 30 days prior to the public hearing and no inquiries were received. No other department comments were received.

Ms. Combs explained that recommendations and decisions on code text amendment applications shall be based on consideration of the following review criteria

1. The proposed amendment is consistent with the master plan, other adopted City plans, and the stated purposes of this code;
2. The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions;
3. The proposed amendment will promote the public health, safety, and general welfare;
4. The proposed amendment is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation.

Ms. Combs noted that in making its recommendation to the City Council, the Planning Commission may recommend approval, approval with some modification, or denial of the application.

Ms. Combs concluded the staff report.

The Planning Commission discussed Accessory Structures Chapter 1206.01(b)(9). The Planning Commission recommended that any accessory structure over 200 square feet be changed to read "material and color on 50% of all sides when visible from a public street".

The Planning Commission discussed pool setbacks and requested the changed text to ensure that the pool deck meet the 3-foot setback from the property line.

Seeing no one to speak on the request, Mr. Gross closed the public hearing.

Mr. Gross asked for staff recommendation.

Ms. Combs stated that Based on the staff report provided and compliance with the requirements outlined in the Middletown Development Code for Text Amendments, staff recommends APPROVAL for text amendments to the Middletown Development Code pertaining to Chapter 1204: Zoning Districts and Use Regulations Chapter 1206: Accessory and Temporary Use Regulations, Chapter 1210 Architectural Standards, Chapter 1220 Signage, Chapter 1226: Review Authority and Procedures, and 1228: Enforcement and Penalties.

Ms. Combs stated that Planning Commission's recommendation will be forwarded to City Council for final review and decision.

Mr. Gross asked for a motion. Mr. Moore made a motion to approve the text amendment request with the noted changes for swimming pool setbacks and architectural standards applying to 50% of all sides when visible from a public street. Mr. Langhorne seconded the motion. The motion for approval carried unanimously through roll call.

#### ADJOURNMENT

With there being no further business to discuss, a motion was made unanimously by all Planning Commission members to adjourn at 6:58 PM.

  
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Gary Gross, Chairman

  
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Ashley Combs, Development Services Director

\*The full meeting recording is available at the Planning & Zoning Department.