

THE PLANNING AND ZONING COMMISSION MEETING WAS HELD AT BEACHWOOD CITY HALL ON THURSDAY, FEBRUARY 27, 2014.

ROLL CALL: PRESENT: C. Cohen, M. Gorden, R. Hecht,
O. Jacobs B. Mann, M. Wachter,
B. Zabell
ABSENT: Wm. Griswold
ALSO PRESENT: M.A. Cannon, J. Ciuni, G. Smerigan

Chairman Mann welcomed several Council members to the meeting; i.e. Fredic Goodman, James Pasch, and Alec Isaacson.

A motion was made by R. Hecht and seconded by O. Jacobs to approve the minutes of the January 30, 2014, regular meeting

ROLL CALL: AYES: C. Cohen, M. Gorden, R. Hecht, O. Jacobs
B. Mann, M. Wachter, B. Zabell
NAYS: None
MOTION APPROVED – MINUTES APPROVED

COUNCIL REPORT

Mr. Wachter reported that Ordinance no. 2014-22, amending various sections of the City's Zoning Code, was referred to the Planning and Zoning Commission from City Council on February 18, 2014.

P&Z 2014-03 HERSCHMAN ARCHITECTS, INC., REPRESENTING R.H.
MYERS/MENORAH PARK, LOCATED AT 27200 CEDAR ROAD
IS REQUESTING PRELIMINARY AND FINAL APPROVAL FOR
THE PROPOSED ENCLOSED ELEVATOR ADDITION ON THE
WEST SIDE OF THE EXISTING BUILDING.

Mr. Herschman stated that he was representing R.H. Myers located at 27200 Cedar Road, and is requesting approval for the construction of an elevator on the west side of R.H. Myers.

Mr. Ciuni stated there will be very little impact on the site. The Engineering Department recommends approval along with the Building Department and Police Department. The Fire Department requested the applicant comply with the new size elevator for the 84" State code ambulance cots. The applicant sent a letter stating that compliance with the State code will be met.

Mr. Smerigan stated that this request is for both preliminary and final site plan approval to construct an elevator addition on the west side of the existing R.H. Myers building. The elevator would occupy approximately 140 square feet of ground area. The elevator would be constructed on the exterior of the building. The applicant proposes to construct the elevator with a bronze metallic finish to match the façade of the existing building. Since the elevator is proposed to be located in an existing notch in the building, there is no impact on the required setbacks. The extremely small floor area does not change the percentage of ground coverage on the site.

Mr. Smerigan stated that preliminary and final site plan approval is recommended subject to compliance with the comments of the Fire Department.

Mayor Gorden stated that the City of Beachwood has purchased three (3) motorized cots for the rescue squads. It makes it easier in the transporting of people.

A motion was made by R. Hecht and seconded by B. Zabell to grant Herschman Architects, representing R.H. Myers/Menorah Park, located at 27200 Cedar Road preliminary and final site plan approval to construct an enclosed elevator addition on the west side of the existing building, contingent upon complying with the comments of the Fire Department.

ROLL CALL: AYES: C. Cohen, M. Gorden, R. Hecht, O. Jacobs
B. Mann, M. Wachter, B. Zabell
NAYS: None
MOTION APPROVED -

P&Z 2014-04 RIVKY FRIEDMAN, DIRECTOR OF CAMP GAN ISRAEL OF BEACHWOOD IS REQUESTING PRELIMINARY AND FINAL APPROVAL TO OPERATE A SUMMER AND WINTER DAY CAMP AS WELL AS ADDITIONAL EDUCATIONAL AND RECREATIONAL PROGRAMING TO BE LOCATED AT 25400 FAIRMOUNT BLVD.

Ms. Friedman, Director of Camp Gan Israel of Beachwood was present to request preliminary and final approval to operate a summer and winter day camp and other educational programming.

Mr. Ciuni stated that the Building Department, Engineering Department, Police Department and Fire Department have no comments on this application.

Mr. Smerigan stated that this request is for both preliminary and final site plan approval to conduct summer and winter day camps and to operate educational and recreational programs. The Planning and Zoning Commission will need to make a determination that the proposed uses comply with the current zoning of the subject site, which is U-5 Public and Institutional District. While camps are not specifically listed as a permitted use, the actual activities are the same as those of several permitted uses.

Mr. Smerigan continued that the applicant indicates that the summer camps consist of approximately 150 campers and 25 staff persons. Winter camps host an average of 18 campers and are operated by 3 staff members. Holiday educational programming ranges from 15 to 125 participants and is staffed based on attendance. The ages of campers range from preschool to middle school. Camps run Monday through Friday from 8:00 AM to 5:00 PM. Education sessions are generally Sundays or after school. The applicant is also seeking to use this site as their permanent facility. The principal issue on this site has typically been parking. The subject site has a total of 30 parking spaces. The last approval for this site was for a day care. The day care parking standard is one space for each staff employee plus one space for each 20 children. Using that standard the summer camp would require 33 parking spaces; the winter camp would require 4 spaces, and the educational classes would require from 3 to 28 spaces. It appears that the proposed use could work on the subject site; however, the Commission may wish to limit the maximum number of permitted campers at any one time in order to insure that the operation does not exceed the available on-site parking.

Ms. Hecht asked the applicant if there were other locations for her Camp and if the location of the Camp is currently on Green Road. Also, is the applicant agreeable to limiting the number of campers during the summer?

Ms. Friedman stated that the Camp has always rented from year to year. They are hoping that this location will be a more permanent home for the school. They have previously used the Ratner School for their location. Ms. Friedman also stated that she believes that there are double the amount of parking spaces. There should be 60 parking spaces instead of 30 parking spaces.

Mr. Smerigan stated the site plan showed only thirty parking spaces. There used to be permission for there to be overflow parking at the High School property.

Mr. Wachter stated that the site plan previously showed only the old section with thirty parking spaces. When the addition was constructed there were additional parking spaces made available when the property with the single family resident was removed. There should be no issue with enough parking.

A motion was made by C. Cohen and seconded by O. Jacobs to grant Ricky Friedman, Director of Camp Gan Israel of Beachwood, preliminary and final site plan approval to operate a summer and winter day camp as well as additional educational and recreational programming to be located at 25400 Fairmount Blvd. with the stipulation that there will be a maximum of 150 participants for the camps.

ROLL CALL:	AYES:	C. Cohen, M. Gorden, R. Hecht, O. Jacobs B. Mann, M. Wachter, B. Zabell
	NAYS:	None
	MOTION APPROVED – CONDITIONAL USE PERMIT GRANTED	

P&Z 2014-05	23900 BCP, LLC, IS REQUESTING APPROVAL FOR A CONDITIONAL USE PERMIT TO ALLOW AN ADULT HEALTH SERVICES BUSINESS TO BE LOCATED AT 23900 COMMERCE PARK.
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Mr. Kahn stated that he would like to stipulate that 23900 BCP, LLC is the owner of the property located at 23900 Commerce Park Drive and is applying for a conditional use permit for Adult Wellness Center LLC whose owners are Gary Zillan and Alana Litvak. All are present to answer any questions regarding this conditional use permit.

Mr. Ciuni stated that the Police Department, Building Department and Engineering Department have no comments regarding this application. The Fire Department recommended that a fire alarm be installed notify the occupants to exit the building in an emergency. Also, a fire alarm is currently the industry standard throughout Adult Day Care facilities in Beachwood. Also, an alarm needs to be installed for exterior doors notifying the staff should any client try to leave the building.

Mr. Smerigan stated that this request is for a Conditional Use permit to operate an adult day care facility. The subject site is a one-story building containing a total of 9,318 square feet of floor area. The applicant proposed to use the front portion of the building for the day care operation, and the rear portion of the building for offices. No changes are proposed to the exterior of the existing building except for the addition of a covered entry on the east side of the building as required by Section 1155.03(f)(7). As a result, there are no setback issues associated with this request. The subject site is located in the U-8 Industrial and Office Mixed-Use District. Adult day care facilities are permitted in the U-8 District with a conditional use permit. The applicant indicates that all of their clients will be ambulatory and that they will not handle dementia patients. The applicant estimates the total number of clients at 100 adults. They would have a staff of 15 persons. Based upon the floor area of the building, there is adequate parking on the subject site to comply with the Zoning Code requirement for adult day care facilities. The applicant states that meals would be catered and that there will be no cooking on site. The existing restrooms would need to be expanded to comply with the requirements of Section 1155.03(f). An emergency alarm system would also need to be installed to comply with Section 1155.03(f).

Mr. Smerigan stated that the Planning and Zoning Commission has final authority to either grant or deny this application. Approval of the Conditional Use Permit to operate an adult day care facility on the subject site is recommended subject to the following conditions: 1) this conditional use permit is for Adult Wellness Center LLC only and is not transferrable without the approval of the Planning and Zoning Commission; 2) the applicant shall make all interior building renovations as necessary to comply with the provisions of Section 1155.03(f); and 3) the daily operation of the facility shall comply with all applicable regulations of the State of Ohio regarding such operations.

Ms. Hecht asked the applicant if there were other Adult Day Care Center that he operated. Also, are there going to be any evening events held at the facility?

The applicant stated he is moving his current business located in Bedford, Ohio to the Beachwood area.

A motion was made by O. Jacobs and seconded by R. Hecht to grant Adult Wellness Center LLC, to be located at 23900 Commerce Park, approval for a conditional use permit to allow an adult health services businesses with the following stipulations: 1) this conditional use permit is for Adult Wellness Center LLC only and is not transferrable without the approval of the Planning and Zoning Commission; 2) the applicant shall make all interior building renovations as necessary to comply with the provisions of Section 1155.03(f); and 3) the daily operation of the facility shall comply with all applicable regulations of the State of Ohio regarding such operations.

ROLL CALL:	AYES:	C. Cohen, M. Gorden, R. Hecht, O. Jacobs B. Mann, M. Wachter, B. Zabell
	NAYS:	None
	MOTION APPROVED – CONDITIONAL USE PERMIT GRANTED	

P&Z 2014-06

ORDINANCE NO. 2014-22 - AMENDING VARIOUS
SECTIONS OF THE CITY'S ZONING CODE, INCLUDING
CHAPTERS 1111.02, SUBSECTION (k), 1127.20 and 1131.02
SUBSECTIONS (A)(5) AND (A)(6).

Mr. Smerigan stated that in response to requests from several property owners and pursuant to discussions among the Administrative Staff, he has prepared a couple of amendments to both the U-7A General Office Building District and the U-9 Motor Service District.

Mr. Smerigan stated that the amendment to Section 1131.02 of the Beachwood Zoning Code is intended to permit the hotels to have special event sales and trade shows operate. Under the current language special event sales and trade shows are not permitted in the U-9 district at the hotels. The language in the present code would permit such sales with a special permit issued jointly by the Safety Director and the Building Commissioner. As the Commission is aware, various vendors and the hotels themselves have been requesting permission to do this for some time. Hotels are generally the host venues for these types of events as they have meeting space and accommodations available for participants. One of the amendments to the U-9 District would permit temporary special event sales to be held at hotels. Such events shall be conducted solely in the common areas and meeting facilities of the hotel and would not be permitted in the individual bedroom units. A second amendment to the U-9 Motor Service District would eliminate the current restrictions with regard to trade shows, which also must be conducted solely in common areas and would not be permitted in the individual bedroom units. There would be a special permit need that would be issued by the Safety Director and Building Commissioner. It is his belief that this permitting procedure will provide better control and reduce violations.

Mr. Smerigan continued that the U-7A General Office Building District amendments would permit specialty retail and service uses in the district and would make restaurants a conditional use. The U-7A area Zoning District on Chagrin Blvd. starts at Richmond Road and continues to Green Road on both the north and south sides. Virtually all of the south side is U-7A and there are a variety of zoning classifications on the north side. What is being proposed is a follow up to the Commerce Park Area Revitalization and the City's Economic Strategy report. The character of Commerce Park was to be changed. While maintaining a high level of control, these changes would provide more flexibility in the district, be consistent with our move toward mixed-use developments, and provide some relief and expanded usage for the City's office building owners. The Revitalization Study recommended "broadening the mixture of land uses to include more retail and service type commercial uses within the study area." The Action Plan contained a recommendation that the City focus on "retail and/or service businesses that support the tenants in Commerce Park and the wider region." There are some provisions that have been outlined in the regulations. There have always been those services that have been permitted by a special conditional use permit. Added to that list is a restaurant. The one change is permitting restaurants within the building with another use. Restaurants could also be permitted as free-standing with a conditional use permit. The idea is making it more mixed use in nature.

Mr. Smerigan stated that the U-8 Zoning District uses were modified, recommended and approved by City Council. The next step in implementing the study recommendation is these amendments for U-7A District. These were prepared with the intent of adding the specialty retail and support services uses recommended in the two studies to create a more mixed-use land use pattern for the Chagrin Boulevard corridor adjacent to Commerce Park.

Mr. Ciuni stated that there were no comments from the staff at this time.

Mr. Zabell questioned no. 6 where it states: "Specialty Retail and Service Uses including, but not limited to." Is there another means by which we could define what Specialty Uses are? How open to interpretation is this list?

Mr. Smerigan stated that there is no further definition. If there is some discomfort it could be limited to these uses. If something else comes in there would have to be a determination made by the Commission.

Mr. Zabell stated that if it is a use potentially similar but not listed on the list in the Code as drafted before the Commission, who makes the decision.

Mr. Smerigan stated that it would have to come before the Commission for a conditional use permit or interpretation to determine if it was similar or consistent with the specific uses listed.

Mr. Cohen asked regarding Section 1131.02, if Mr. Smerigan could elaborate on some of the special event or trade shows that have been requested in the City.

Mr. Smerigan stated that he wasn't aware of the particular trade shows. There have been some different specialty sales events such as high end stereo equipment sales and clothing sales. Typically it is very specialized merchandise. Also, the trade shows have wanted to use the Beachwood location.

Mayor Gorden stated that there have been jewelers wanting to sell jewelry and also fur dealers. There have been specialty areas such as home remodelers. It is more crucial today since we have a Convention and Visitors Bureau.

Mr. Wachter stated that we need to keep in mind that this has been referred from Council with some expectation that it will be studied and then the Commission will make some recommendations. Mr. Smerigan has drafted some changes and has reviewed it with the Mayor, the Building Department and other people involved. There should be some time taken to discuss the impact in different areas. In looking at the zoning map U-7A on the south side of Chagrin abuts U-8, all of Commerce Park. There are pieces and parts of U-7A where Signature Square is on Richmond Road and is abutted by residential property. There is a mix of uses in this area. The U-7A District could be interpreted differently in all of these areas. There are a couple of outlying areas on Cedar and Chagrin Highlands.

Mr. Mann also suggested there be a special meeting to review and determine any recommendations or changes to these amendments to City Council.

Mr. Smerigan stated that as Mr. Wachter said there is nothing pending at this time and it might be good to have a work session to discuss the needs for special consideration where U-7A abuts residential and whether there should have special buffering, setbacks, etc.

Mr. Mann asked for a motion to move this to pending.

A motion was made by R. Hecht and seconded by B. Zabell to place P&Z 2014-06 on pending.

ROLL CALL:	AYES:	C. Cohen, M. Gorden, R. Hecht, O. Jacobs B. Mann, M. Wachter, B. Zabell
	NAYS:	None
		PLACED ON PENDING – February 27, 2014

P&Z 2013-33	ORDINANCE 2013-71 – REZONING CERTAIN PARCELS FROM U-1 TO U-3 FOR ANDREW E. BRICKMAN, WHO WAS GRANTED PERMISSION FROM CRANBERRY COURT LLC, TO REQUEST THIS PROPERTY LOCATED ON RICHMOND ROAD (PPN'S 741-15-005, 006, 007, 008, 009) TO BE REZONED FROM U-1 TO U-3 (Referred from Council 7/1/2013).
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An introduction of representatives for the rezoning property was as follows: Mr. Andrew Brickman, Chelsea Kulhanek, Brie Constantino, Brenda Rodriguez, Matthew Summer and Roger Bliss. Mr. Brickman stated that the company has been extremely busy since the last presentation before the Commission. Work has been going on between Abode, the Mayor, Mr. Smerigan and Mr. Griswold to bring forth this presentation. They have tried to engage all of the adjacent neighbors to the property to get their input with regard to the impact of this project. Mr. Brickman feels that there is a lot of interest in the project.

Mr. Brickman explained several significant changes that have been made to the original plan. Five residences have been eliminated and created a significant amount of green space and more parking. There are ten parking spaces in front on Richmond Rd. on each side of the driveway, ten parallel spaces along the western property line, and an additional 8 parking spaces in the common area. In conversation with the neighbors at Cranberry Court mutual parking was requested. There is a significant landscape buffer along the western and eastern property lines. There is a created green space available to all residents like a community garden since individuals don't have their own backyard. Mr. Brickman stated that the planned Cranberry Court lot coverage was about 37% of the land. The proposed revised project indicated for Abode shows only 24% to 25% land coverage. A couple of other Mayors have sent their comments regarding projects that have been completed in their communities.

Mr. Ciuni stated that there were no comments from the Building Department, Engineering Department, Fire Department and Police Department.

Mr. Smerigan stated that there have been several proposals for this project. This request is for a Zoning Map amendment to rezone approximately 1.78 acres of land located on the west side of Richmond Road from U-1 Single-Family House District and U-2A Attached Single-Family Home District to U-3 Apartment House District for the purpose of constructing townhouse style dwelling units.

Mr. Smerigan continued that the proposed concept development plan still incorporates attached townhouse style units clustered around a courtyard with driveway access around the outside of the building cluster. The development plan shows the proposed buildings generally in alignment with the existing building setbacks on Richmond Road. While the plan is conceptually similar to the earlier submissions, the applicant has made numerous design changes in response to the earlier review comments from the Planning and Zoning Commission. Those design changes include reducing the proposed density by five dwelling units or approximately 16%. The current concept development plan contains a total of 27 townhouse style dwelling units. With the new concept plan, the unit mix based upon bedroom count is no longer an issue. Even if all of the proposed dwelling units have three bedrooms, the proposed plan will meet the maximum density for such units permitted by the Zoning Code.

Mr. Smerigan stated that a second design change has been to increase the total number of guest parking spaces provided from the original 12 spaces to 28 parking spaces. In addition, the plan provides for better distribution of those guest parking spaces around the site, which improves accessibility to the guest parking for the dwelling units near the western and southern portions of the site. The plan now indicates 8 spaces at the front of the subject site, 8 spaces at the rear (or western edge) of the site, and 8 spaces at the southern end where the parking spaces would also be available for use by the existing Cranberry Court units.

A third change has been to shift the proposed dwelling units further from the western property line and to incorporate a screen fence along the entire western edge of the subject site. Increasing the setback reduces impacts on adjoining properties to the west and the inclusion of the fence will help to block headlights from vehicles traversing the access drive. The nearest dwelling unit is now located approximately 45 feet from the rear lot line, which exceeds the minimum Code required setback of 35 feet.

The proposed townhouses have also been shifted further from the rear yard of the first single-family residence on Maidstone Lane. The three townhomes at the southern end of the subject site are now approximately 70 feet from the southerly property line, which should effectively mitigate any impacts on the adjacent single-family residence or its swimming pool.

Mr. Smerigan stated that the final change made has been to reorient the balconies and roof top decks to face them toward the internal green space and away from the adjoining properties. No decks or balconies are oriented so as to overlook adjacent residences. This reorientation of the balconies and roof top decks mitigates the concerns raised regarding potential impacts associated with the proposed height of the townhouses relative to the adjoining single-family residences. The applicant is still proposing three-story dwellings with a total height of 35 feet. As noted previously, that building height is permitted not only in the U-3 District, but in all of the single-family residential districts in the City of Beachwood.

The applicant indicates that he has made an offer to the owner of the odd-shaped lot at the southwest corner of the subject site to either acquire some acreage and shift the property boundary line or obtain a landscaping easement to enhance the buffering in that area. Without that change in the property boundary line, the southwestern most townhouse unit appears to be too close to what is a side lot line by a few feet. It is clear, however, that given the reduced density, it is possible to put 27 dwelling units of the type proposed on the subject site without encroaching into the external building setbacks, whether or not the applicant acquires the additional land as proposed. Two of the townhouse units are located 10 feet from the southern side lot line abutting the first phase of Cranberry Court. This is an internal setback given that these units will share the access driveway with the existing Cranberry Court units. The nearest of the proposed townhouse units is just over 40 feet from the nearest condominium unit in Cranberry Court.

Mr. Smerigan stated that with the exception of the three units described above, the proposed development plan complies with the required building and parking setbacks for the U-3 Apartment House District, and as noted above, it is clearly possible to construct 27 of the proposed townhouse-style units on the site without the necessity of variances. In fact, the revised development plan actually has less building ground coverage on the Cranberry Court portion of the site than the approved plan for Phase 2 of Cranberry Court.

Mr. Smerigan stated that the Commission should be aware that the southern portion of the subject property that was originally part of the Cranberry Court development is subject to a recorded deed restriction in favor of the City of Beachwood. That deed restriction, which was proffered as an inducement for the rezoning to U-2A District, limits the total number of dwelling units that can be constructed on the entire Cranberry Court property to a maximum of 12 units. Since there are 6 dwelling units in Phase 1 of Cranberry Court, the deed restriction would limit the remaining undeveloped portion of that property to a maximum of 6 dwelling units. The current plan provides for 13 dwelling units on that portion of the property. There is no restriction on the single-family lot, other than the Zoning Code requirements, on the number of dwelling units permitted on the northern portion of the subject site. Development of the property as proposed in this application would require a waiver or amendment of that deed restriction to permit additional dwelling units to be constructed on the Cranberry Court portion of the site in addition to rezoning of the property. Waiving or amending the deed restriction would also impact the residences in Phase 1 of Cranberry Court, since that property is also subject to the same deed restriction.

Mr. Smerigan stated in summary that there have been numerous changes to the original concept development plan that accompanied this application for rezoning. Those changes have resulted in overall enhancements to the layout of the proposed development and to mitigation of its potential impacts on adjacent properties. While the development plan offered by the applicant as an inducement for rezoning has been refined, and may be refined further, the real issue before the Planning and Zoning Commission is the appropriate zoning classification of the subject site. It is clear from a land use planning and zoning policy perspective that the subject site is most appropriately suited for development with attached single-family dwellings units with an internal orientation where the dwelling units do not face directly on Richmond Road and where direct access to Richmond Road is limited. Use of the site for single-family attached units must be accomplished in a manner that provides suitable buffering setbacks to achieve an appropriate transition from the well-established existing single-family residential neighborhood to the west.

It is clear that the Commission is uncomfortable with merely rezoning the subject site to U-3 Apartment House District without some limitations on the future development of the property. Because of the unusual nature of the U-3 District regulations and the existence of deed restrictions on a portion of the subject site, any recommendation to City Council will need to address several issues. Those issues include, at a minimum: the total number and type of dwelling units to be constructed on the site, the setbacks and buffering from adjacent properties, vehicular access to the site, orientation of decks and balconies, and guest parking provisions. Because conditions or restrictions cannot be attached to a rezoning, those issues would probably best be addressed by means of a development agreement with the applicant that would agree to limit development of the site in conformance with the concept development plan as an inducement for rezoning. The executed development agreement would effectively provide control over future development of the subject site subsequent to the property being rezoned. The recommendation to City Council on the rezoning ordinance could then include companion recommendations to accept and execute the development agreement and to waive or amend the deed restriction.

Mr. Smerigan stated that in order to move forward and make a positive recommendation to City Council there would be three recommendations to the rezoning of the property: 1) that single-family attached would be an appropriate use on this property; 2) a development agreement to specify the conditions; i.e., setbacks, parking, etc., that the Commission is comfortable with; and 3) agreement to waive or amend the present deed restrictions.

Mr. Mann asked Mr. Smerigan how the recommendation to rezone this property and the lifting of the deed restrictions affect or control what is built on Cranberry Court (Phase I), and how does it protect those residents from any more units being built there?

Mr. Smerigan stated that it will not control what is already built on Cranberry Court. The applicant does not own the Cranberry Court property. That property is already a part of the deed restrictions and will be part and party to whatever changes are made. Phase I is zoned U-2A and is maxed out at the number of units that can be built on that property.

Mrs. Cannon stated that if Council would waive or modify the deed restrictions, it would be recommended that the changes if made would only affect Phase II and not affect Phase I of Cranberry Court.

Mr. Zabell asked Mrs. Cannon what is the difference between the modifications to the deed restrictions and the development agreement, and couldn't the control be obtained through the deed restriction.

Mrs. Cannon said that it would be possible, but that the development agreement would control specific aspects of the development, i.e., height, balconies and how they face, the configuration of the site, etc.

Ms. Hecht asked the applicant exactly how many of the neighbors had been contacted and what information was obtained regarding additional property from Ms. Lurie.

The applicant stated that five residents of Cranberry Court were contacted, Ms. Lurie on Brian Drive was talked with, and Mr. Eisenberg directly to the south at the corner of Maidstone. No conclusion has been reached regarding the obtaining of property belonging to Ms. Lurie for more landscaping and buffering purposes.

Ms. Hecht stated to Mr. Smerigan that it was stated that the applicant went from 12 parking spaces to 24 parking spaces and that there actually are 28 parking spaces proposed. Also, there has been a reduction in the number of units proposed, but she believes that it is still too dense for that property.

Mr. Cohen asked Mr. Smerigan if a variance or change to the U-2A Zoning Code could be made to enable the development of the number of units, height, etc. instead of rezoning the property to U-3? Also, could the density be increased allowing the deed restrictions to remain as written?

Mr. Smerigan said that there are two parcels of land; the one zoned U-2A is the southerly property, and the northern property is zoned U-1. The U-2A was zoned for six dwelling units and U-1 is one single family. If the U-1 property was zoned to U-2A there would be allowed maybe five or six units. If the density were increased on the southern half (Phase II Cranberry Court), the deed restrictions would have to be waived or changed. If all of the property was to be rezoned to U-2A, then the issue would be density because it would only allow ten or twelve units to be built on the site.

Mr. Wachter stated that he isn't sure that this property is good for a U-3 zoned use, and that it is possibly a better use for a U-2A attached single family. There are restrictions to the U-2A, including a 10-acre minimum, and it only allows 6 units per acre. The density is still too much; there are problems with height and the problem regarding the deed restrictions that there could only be six more units built on the adjacent property.

Mr. Jacobs stated that this is a very creative plan. There is still some concern regarding the density and how this type of development would look from Richmond Road and the neighboring properties. What is the next step in the process, if this would be recommended to City Council, and what opportunity is there for public comment?

Mrs. Cannon stated that the Planning and Zoning Commission makes recommendation back to City Council. The Commission doesn't have a requirement for public comments to be heard. Council places the Ordinance on first reading and then waits for the recommendation from the Planning and Zoning Commission. There have to be two more readings at Council and then a public hearing must be scheduled. There is a lengthy legislative process for Council to follow.

Mr. Smerigan stated that there is no legal mandate that the Planning and Zoning Commission must complete before recommending the rezoning back to City Council.

Mrs. Cannon stated that this can be placed on pending, and we can determine how the Commission would like to receive public comment. This should probably be given approximately a month and can be heard at a special meeting.

Mayor asked Mr. Smerigan if this proposal met the intent of the Zoning Code of the U-3 District and whether it would need any variances. This became involved due to deed restrictions and neighbors' opinions.

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Mr. Smerigan stated that the proposal as submitted would meet the requirements of the U-3 Zoning District with the need for one unit to be modified but no other variances. The applicant has made changes to comply with the Zoning Code. It is essential to have a development agreement before the application is sent back to City Council. The nature of this zoning district is odd and any recommendation back to City Council may be unclear without a development agreement.

Mrs. Cannon stated that if Council ultimately rezones this property as requested by the applicant, as Mr. Smerigan recommended a development agreement must be written that specifies the parameters of the project, as discussed with regards to the configurations of the units, the landscaping, etc. Council would also have to modify or waive the deed restrictions as discussed. The deed restrictions are the provenance of Council. In terms of the procedure before the Commission, if the Commission would like to schedule a community meeting for the interest of comments of neighbors regarding this project, this will not be a formal public hearing. The project Abode presented before the Commission this evening would be the subject of the presentation at the community meeting. The applicant confirmed that.

Mr. Jacobs questioned should the development agreement come as a recommendation from the Planning and Zoning Commission?

Mrs. Cannon stated that yes the Commission should make a recommendation including the development agreement to Council. Also, if the Commission would determine to make a recommendation approving the rezoning to Council subject to a development agreement, it would be further recommended that the Commission at least specify to some extent the parameters discussed this evening to be included in that agreement.

Mr. Wachter asked the applicant what the number of units currently was in the proposal this evening and how close that number is to simply a walk-away.

Mr. Brickman stated that he was right there at 27 units. Mr. Brickman stated that most planners would determine that the present use of Cranberry Court is not the best use, and in his opinion this development would look better, increase the property values and draw in new families. This is what people want today. The profit margin has been reduced with the loss of five units and he doesn't want to make a compromise on the quality of the product.

Mr. Mann stated that all the work done on this project was appreciated. There is still a need to hear from those residents in the area around the project and schedule a meeting to get public comments and concerns.

A motion was made by R. Hecht and seconded by O. Jacobs to place P&Z 2013-33 on pending.

ROLL CALL:	AYES:	C. Cohen, M. Gorden, R. Hecht, O. Jacobs B. Mann, M. Wachter, B. Zabell
	NAYS:	None
	PLACED ON PENDING	

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Mrs. Cannon asked that all of the members and consultants send to the secretary, Ms. Ley, the dates in March and April that they are not available.

Adjourned

Bill Mann, Chairman

Sue Ley, Secretary

Karen Navolanic, Clerk of Council