

RECORD OF ORDINANCES

Ordinance No. 3755

Passed: August 22, 2023

AN ORDINANCE APPROVING A MAJOR AMENDMENT TO THE SOUTH ALEX ROAD PLANNED UNIT DEVELOPMENT DISTRICT BY ADDING "RECREATION - COMMERCIAL RECREATION FACILITIES" AS A PERMITTED USE WITHIN THE PUD.

WHEREAS, an application has been filed by Lindsey Gabriel DBA Capabilities Play LLC, 131 W. Lytle Five Points Rd., Springboro, OH 45066, agent for the owner Sousa Realty Group, LLC, P.O. Box 307, Newport, KY 41072, proposing a major amendment to paragraph (C)(1) the South Alex Road Planned Unit Development District by adding "*Recreation - Commercial Recreation Facilities*" as a permitted use within the PUD; and

WHEREAS, a public hearing regarding this application was held on July 6, 2023 by the West Carrollton Planning Commission, at which time all people who wished to testify gave their comments, and the Planning Commission unanimously recommends approval of the proposed amendment; and

WHEREAS, a Notice of Public Meeting regarding this application was mailed on August 1, 2023 to all abutting property owners within 200 feet; and

WHEREAS, this application was posted on the City's website; and

WHEREAS, a sign regarding this application was placed in a conspicuous location on the property; and

WHEREAS, a public meeting regarding this application was held by the West Carrollton City Council on August 8, 2023; and

WHEREAS, Section 154.10.706(G) of the West Carrollton Zoning Code specifies that amendments to PUD Districts may be amended only by the use of the same procedures as are applicable for the original adoption of a PUD District, and Sections 154.10.701 through 154.10.706 of the Zoning Code govern the establishment of PUD Planned Unit Development Districts and preliminary PUD plans; and

WHEREAS, the City of West Carrollton has determined that adoption of the proposed amendment is in the best interest of the citizens of West Carrollton to preserve and enhance property values and protect the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WEST CARROLLTON, COUNTY OF MONTGOMERY, STATE OF OHIO:

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SECTION I. That the City Council makes the following findings of fact with respect to the proposed major amendment to the South Alex Road Planned Unit Development pursuant to case PUD MOD 23-1, said findings of fact based upon the conditions outlined in Zoning Code Section 154.10.705(E) regarding the establishment of the PUD District and the approval of preliminary PUD plans:

- a) The applicant is seeking approval of a major amendment to the South Alex Road Planned Unit Development to permit "*Recreation - Commercial Recreation Facilities*" as a permitted use within the PUD.
- b) Sections 154.10.701 through 154.10.706 of the Zoning Code govern the establishment of PUD Planned Unit Development Districts, preliminary PUD plans, and detailed PUD site plans. Section 154.10.705 outlines procedures for approval of preliminary PUD plans, and requires that the Planning Commission report to City Council as to whether the preliminary PUD plan meets all application requirements and the following specific conditions outlined in Section 154.10.705(E).
- c) Section 154.10.706(G) addresses amendments to PUD regulations. PUD Districts may be amended only by the use of the same procedures as are applicable for the original adoption of a PUD District. Minor amendments may be approved by the Planning Commission, but major amendments such as changing the mixture of proposed land uses as specified in (G)(5) requires City Council approval.
- d) Surrounding the South Alex Road PUD is R-4 Multi-Family Residential District adjacent to the west and north, and across S. Alex Road is R-4, B-1 Convenience Commercial District, and R-PUD Residential Planned Unit Development District. These districts are comprised of multi-family residential uses, while the B-1 district property is currently vacant.
- e) The applicant is seeking approval of a major amendment to paragraph (C)(1) the South Alex Road Planned Unit Development District by adding "*Recreation - Commercial Recreation Facilities*" as a permitted use within the PUD.
- f) The applicant plans to create a commercial indoor play gym in the vacant space at 1953 S. Alex Rd., within the shopping center located at 1925 to 1953 S. Alex Rd. This property comprises 3.21 acres and is zoned South Alex Road PUD. The application states that "*Capabilities Play LLC will be a tenant at 1953 S. Alex Rd. Capabilities will be an indoor play gym where children with physical and developmental disabilities will be able to play alongside their peers.*"
- g) The City Council is aware of no proposed alterations to the building or property for the proposed use, other than a new wall sign. Interior alterations would be reviewed through the city's building permit process.
- h) The *West Carrollton Sustainable Comprehensive Plan's* future land use map designates this parcel for future commercial use (Figure 3-7). The applicant's proposal to permit "*Recreation - Commercial Recreation Facilities*" in this PUD is entirely consistent with that designation, in that it establishes new commercial opportunities. The proposal facilitates and encourages the *Comprehensive Plan's*

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goals to maintain and enhance the community's economic vitality; promote available sites and buildings as a potential business location; encourage business growth; redevelop/re-use available buildings and sites; and provide new job opportunities for residents (Chapter IV).

- i) The specific business proposed for 1953 S. Alex Road by the applicant will have no detrimental impact on surrounding property. However, the proposed new "*Recreation - Commercial Recreation Facilities*" use would be permitted anywhere within the South Alex Road PUD. Since the PUD is surrounded by multi-family residential uses, it is possible that new future commercial recreation facilities could have a detrimental impact on adjacent multi-family residential property, depending on their location and design. However, Zoning Code Section 154.10.706 states that before a permit is issued for the construction, reconstruction, or alteration of any building in a PUD District, detailed site plans and other information necessary to determine compliance with the standards of the PUD District shall be submitted for Planning Commission review and approval. The Planning Commission would need to conclude that the conditions outlined in Zoning Code Section 154.10.706(D) are fully met by any such proposal. Any potential detrimental effects of future commercial recreational uses on surrounding property will be mitigated by this process requiring Planning Commission approval that the proposal meets specific standards, which will ensure compatibility with surrounding uses, be designed to be visually-appealing, and will enhance surrounding property values.
- j) This application to add a new use to the PUD does not affect the street system.
- k) The immediate use of 1953 S. Alex Road would benefit the community by re-activating a vacant storefront, and providing a new recreational opportunity for children including those with disabilities. Beyond the immediate use, this proposal to add "*Recreation - Commercial Recreation Facilities*" as a permitted use within this PUD would benefit the community by providing the opportunity for new future commercial recreational activities to residents and non-residents, as well as the potential for new jobs, thus enhancing the community's economic vitality. It would also establish additional uses which could fill available building space or be the impetus for new construction on vacant property.

SECTION II. That a major amendment to paragraph (C)(1) of the South Alex Road Planned Unit Development District be and hereby is amended by adding "*Recreation - Commercial Recreation Facilities*" as a permitted use within the PUD, as reflected in "Exhibit A" attached hereto.

SECTION III. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were taken in meetings open to the public,

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in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION IV. That this Ordinance shall take effect from and after the earliest period allowed by law.

Passed: August 22, 2023



Mayor

Attest: Graig Moore
Clerk of Council

Effective Date: September 22, 2023

EXHIBIT A

SOUTH ALEX ROAD PUD DISTRICT REGULATIONS

April, 2003

Amended June 2021

Amended August 2023

(A) Statement of Intent

One of the last sizeable areas within the City which is capable and suitable for high intensity commercial development is the area on the west side of South Alex Road in the vicinity of Elm Street and Royal Ridge Drive.

This area is one which can create a strong focal point due to its high visibility as a major entrance to the City; approximately 20,000 vehicles per day which use Alex Road. Recently approved and proposed development near this area will increase the importance of Alex Road as a regional connector and traffic volumes will increase in this corridor in the future.

The current B-2, General Commercial District zoning of this area poses potential problems. First, the zoning allows as principally or conditionally permitted uses which can be unsightly and/or nuisance prone. Heavy auto oriented uses such as fast-food restaurants, car washes, used car lots, and convenience stores can be disruptive to the neighborhood both visually and in terms of off-site traffic if careful attention is not given to curb cuts and to the negative visual impact of some of these uses.

Under current zoning of the site, the lack of minimum lot size or frontage requirements allows very little control over the location and number of curb cuts and the minimal requirements of 10' front yard and 0' and 10' side yard allow minimal control of the intensity of land use on this site.

The lack of specific landscaping requirements in the B-2 zoning district restricts the City's ability to link various sites together in a visually appealing manner. Also the lack of review of building design can allow separate small site development which may not be visually appealing and may negatively impact property values of surrounding developments and create a negative image on this major southern entrance to the City.

The objective of the creation of this District is to create a highly visible, yet attractive focal point for the City and the neighborhood while providing flexibility to the developer without negatively impacting surrounding land uses or traffic patterns.

(B) District Boundaries

(1) City lots numbered 2256, 3862 and 3863 (see attached map).

(C) Regulations

(1) Principally Permitted Uses.

- (a) Retail sales and services. Any retail sales and services including but not limited to supermarkets, grocery, or other food stores, drug stores, vehicles parts shops, barber shops, beauty salons, bakery shops, dry cleaning and laundries, clothing stores, florists, furniture stores, hardware stores, paint stores, shoe stores, sporting goods stores, and the like, which supply commodities or perform services.
 - (b) Business and professional offices. Finance and insurance offices, banks and financial institutions, business and industrial offices, administrative offices, real estate offices, and professional offices.
 - (c) Motels.
 - (d) Funeral homes and mortuaries.
 - (e) Fast-food restaurants.
 - (f) Animal hospitals or clinics which have no outdoor kennels.
 - (g) Restaurants with or without alcoholic beverages, which are establishments offering food and beverage including liquor, beer and wine for consumption inside a building or portion thereof; and
 - 1) Which is not operated as a dining room in connection with a hotel or private club; and
 - 2) Where hot meals are habitually prepared, sold and served on premises as the principal business of the establishment and in which the floor area devoted to the sale of alcoholic beverages does not exceed 20% of the gross floor area; and
 - 3) Where if alcoholic beverages are normally served to either complement meals or while awaiting meal service; and
 - 4) Such meaning excludes taverns and cocktail lounges.
 - (h) Building related trades.
 - (i) Business trade and technical schools.
 - (j) Adult Day Care Facility.
 - (k) **Recreation – Commercial Recreation Facilities**
- (3) Minimum Zoning Lot Size. None required for this district.

- (4) **Maximum Height.** Maximum in this district is 45 feet or four stories except as hereinafter provided. Buildings may be erected in excess of four stories provided that prior to issuance of a building permit for any structure which is planned to exceed 45 feet or four stories, the Planning Commission shall make a finding that any such excessive height will not be detrimental to the public safety, to the light, privacy, or air of any other structure or use currently existing or approved for construction.
- (5) **Minimum Frontage.** None required for this district.
- (6) **Minimum Yard Requirements.**
 - (a) **Front,** 20 feet.
 - (b) **No side or rear yard shall be required, except that all district boundaries which are adjacent to an R, O-R, or A-1 Zoning District shall provide a 20 foot wide planting strip which extends along the outside boundaries contiguous to the R, O-R, or A-1 Zoning District. These strips shall be planted with trees and shrubs that will provide a dense screen at all times, and shall be maintained in good condition.**
- (7) **Off-street Parking and Loading.** Off-street parking or loading shall be provided in accordance with the provisions specified in Section 154.184 of the Zoning Code.
- (8) **Ingress and egress.** No ingress and egress to properties from a public street shall be permitted without approval of the Planning Commission with the recommendation of the Service Director as part of the District review process.
- (9) **Signs.** The style and color of signs shall be approved by the Planning Commission as part of the District review process. Refer to Chapter 153 of the Codified Ordinances for size and sign area permitted for the B-2 district.
- (10) **Other Regulations.** Refer to Sections 154.179 and 154.180 - Zoning Code.
- (11) **Exceptions.** Exceptions to the design standards for lot size, height, minimum frontage, yard requirements, and parking and loading can be granted by the Planning Commission when this body finds that any exceptions encourage an attractive, desirable commercial area and are warranted by the design and amenities incorporated in the District Plan for the site.

- (12) Additional Regulations for the District. The applicant for a zoning certificate shall submit the following information.
 - (a) Boundaries of the site(s) to be developed.
 - (b) Basic mapping of the property showing physical features, general topography, drainage way, water bodies, tree cover, and existing land uses.
 - (c) Highways and streets in the vicinity of the site(s), and the ingress and egress to site(s).
 - (d) Amount and location of land uses proposed to be developed.
 - (e) Proposed density and building size of each proposed use.
 - (f) Proposed treatment of existing topography, drainage ways, and tree cover.
 - (g) Proposed general location of major vehicular circulation and parking.
 - (h) Time schedule of proposed development, if the total landholding is to be developed in stages or if construction is to extend beyond a two-year time period.
 - (i) Proposed building plans, including floor plans and exterior elevations.
 - (j) Landscaping plans including quantity, size, locations, and specific varieties of landscaping.
 - (k) Copies of any restrictive covenants which are to be recorded.
 - (l) Proposed signage in the development to include size, color, and style.
 - (m) Lighting plan for the site to include type and style of lighting fixture and poles.

- (13) Conditions for approval of Detailed Final Plan.
 - (a) That all requirements of the zoning district have been satisfied.
 - (b) That a finding that the following conditions are fully met.

- (1) That the proposed PUD Final Plan for each individual portion of the development will serve to create a well-planned, visually appealing development which will create a positive image for the community and the neighborhood.
 - (2) The internal streets, circulation areas and parking are suitable and adequate to accommodate anticipated traffic within and development, and ingress/egress to the development will properly relate to the existing street system in terms of safety and ease of access.
 - (3) That proposed landscaping, lighting, and signage be coordinated within the site and create a visually appealing image for this major entrance to the City and for the surrounding neighborhood.
 - (4) That any exception from the standard requirements of the zoning code are warranted by the design and amenities incorporated in the PUD District Final Plan and in accordance with the adopted policy of the Planning Commission and City Council.
 - (5) That any part of the development not used for structures, parking and loading areas, circulation areas, shall be landscaped.
 - (6) The SPI District plan is consistent with the intent of this district to create a visually appealing focal point for the community and the neighborhood and which is properly planned so as to minimize negative impacts on the surrounding transportation network.
- (14) City Council Action. Nothing in these regulations shall supersede the authority granted to City Council for the creation and amendment of PUD Districts.