

CITY OF MIDDLEBURG HEIGHTS, OHIO

Ordinance No. 2022-**63**

Introduced By: Mr. Grech Co-Sponsors: Mr. Bortolotto, Mr. Ference

**AN ORDINANCE
APPROVING THE WXZ STAGE 2 PMU DEVELOPMENT PLAN AND
AUTHORIZING THE MAYOR TO ENTER INTO A DEVELOPMENT
AGREEMENT WITH WXZ DEVELOPMENT INC.**

WHEREAS, pursuant to Middleburg Heights Zoning Code Section 1137.08(d)(3)(C), City Council shall act on the Preliminary PMU Development Plan application by holding a public hearing, and following the public hearing, approve, disapprove, or modify the Preliminary PMU Development Plan in conformance with regulations, standards, criteria, and purpose presented by this zoning code; and

WHEREAS, City Council has duly considered the factors for consideration of the Preliminary PMU Development Plan as required by Section 1137.08(d)(4) of the Middleburg Heights Zoning Code; and

WHEREAS, City Council, after conducting a public hearing and considering all factors and applying the standards promulgated in Section 1137.08 of the Middleburg Heights Zoning Code, City Council hereby approves WXZ Development's Stage 2 PMU Development Plan application and authorizes the Mayor or the Mayor's designee to enter into a Development Agreement with WXZ Development Inc. as attached hereto as "Exhibit A", subject to any additional suggestions and/or recommendations by the City's Planning Consultant.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDDLEBURG HEIGHTS, STATE OF OHIO, AS FOLLOWS:

Section 1: That City Council hereby approves the WXZ Development Stage 2 PMU Development Plan with conditions as recommended to City Council by the Planning Commission.

Section 2: That the Mayor or the Mayor's designee is hereby authorized to enter into a Development Agreement with WXZ Development, attached hereto as "Exhibit A", subject to any additional suggestions and/or recommendations by the City's Planning Consultant.

Section 3: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Chapter 107 of the Middleburg Heights Code and Section 121.22 of the Ohio Revised Code.

Passed: 6/28/22

David Bortolotto
President of Council

Attest: M. Meola
Clerk of Council

Approved On: 6-29-22

Presented to Mayor: 6/29/22

Matthew Cashell
Mayor

	Yea	Nay
Bortolotto	<u>X</u>	_____
Ali	<u>X</u>	_____
Sage	<u>X</u>	_____
Meany	<u>X</u>	_____
McGregor	<u>X</u>	_____
Ference	<u>X</u>	_____
Grech	<u>ABSENT</u>	_____

I, Mary Ann Meola Clerk of the Council of the City of Middleburg Hts., Ohio, hereby certify that Ord. 2022-63 adopted by the Council of the City of Middleburg Hts., on 6/28/22 was posted for a period of fifteen days, beginning 6/30/22 and remained so posted for fifteen days at the two posting places as designated by Charter.

Mary Ann Meola
Clerk

CERTIFICATE

I, Mary Ann Meola, Clerk of Council of the City of Middleburg Heights, Ohio, do hereby certify that the foregoing is a true and accurate copy of Ord. 2022-63 passed on the 28th day of June 2022 by said Council.

Mary Ann Meola
Clerk of Council

WXZ PMU AGREEMENT 3rd DRAFT (6-27-2022)

WXZ, INC. – PEARL ROAD & 130th REDEVELOPMENT PROJECT
PMU PLANNED MIXED USE DEVELOPMENT AGREEMENT

THIS PMU PLANNED MIXED USE DEVELOPMENT AGREEMENT (the “Agreement”) is made and entered into as of this _____ day of _____, 2022, by and between **WXZ, INC. (“WXZ”) and THE CITY OF MIDDLEBURG HEIGHTS, OHIO (the “City”).**

1. Recitals.

- (A) WXZ applied to the City for a Stage 2 PMU Preliminary Development Plan review for a proposed commercial redevelopment of the existing site located at 6780 Pearl Road (the “Project” site).
- (B) WXZ has obtained a favorable recommendation from the Middleburg Heights Commission on the Stage 2 PMU Preliminary Development Plan subject to the conditions set forth in this Agreement and other conditions set forth by the Commission and agreed to by WXZ as contained in the minutes of the Planning Commission Public Hearing and regular meeting dated “May 25, 2022.”
- (C) The parties desire to enter into this Agreement to memorialize the substantive conditions governing this PMU Agreement.
- (D) The Middleburg Heights Zoning Code §1137.08(h) provides for the deviation from the strict application of the applicable zoning code standards when it is shown that the development will result in a more efficient use of land and creating a development project featuring upgraded quality, amenities and operational features beyond what could be achieved under a non-PMU zoning process.

2. Scope of Application for this Agreement.

- (A) This Agreement shall serve as the PMU Agreement for the entire Project area as specifically delineated in the Stage 2 PMU Preliminary Development Plan documents attached hereto and made a part hereof as Attachment #1.
- (B) This Agreement shall provide guidelines that affect the overall Project area. All documentation referring to the proposed Project included with the WXZ PMU application and all subsequent document submissions shall be incorporated into and made a part of this Agreement along with any and all documents entered into the record at the PMU Public Hearings before the Middleburg Heights Planning Commission and City Council including but not limited to: The proposed Project layout, building elevation styles and floorplans, exterior material selections, and Project amenities. In addition, any relevant document or

WXZ PMU AGREEMENT 3rd DRAFT (6-27-2022)

conditions of approval provided for at the Planning Commission or City Council meetings for the Stage 3 PMU Final Development Plan shall also be incorporated into and made a part of this Agreement.

- (C) All Project improvements and proposed uses upon the Project site shall strictly conform to the PMU regulations and any other applicable zoning code standards, unless specifically waived by this Agreement.
- (D) Any deviations from the provisions set forth in this Agreement, not accounted for herein, shall require WXZ to make a written request to City Council for an amendment to this PMU Agreement. Associated modifications to the Stage 2 or Stage 3 Plans shall be undertaken prior to City Council considering the amended PMU Agreement request. PMU Plan modifications shall follow those plan modification procedures set forth in §1137.08 of the Middleburg Heights Zoning Code.

3. Conditions of PMU Project Approval

- (A) Active Open Space / Bench Seating Area. The bench seating area as shown on the Stage 2 plans shall consist of the following elements: two benches, two bike racks, a public art piece and supporting hardscape and landscape features. The final location of this seating area may either be along W. 130th Street or Pearl as approved by the Planning Commission. WXZ, or WetGo, shall work with the City on the design and/or selection of the public art piece. All elements of the bench seating area shall be properly maintained by WetGo or subsequent owners of the WetGo parcel. All elements of the bench seating area shall be fully constructed prior to the issuance of the Certificate of Occupancy for the WetGo Carwash Building.
- (B) Cross Access Easement / Parallel Driveway Connection. WXZ is responsible to record a cross access easement, containing language as approved by the City, along the western property line (near the Pearl Road access cut into the site). In the event it is determined that the adjacent property to the West has been previously required to construct a connecting parallel access road, WXZ shall also be required to install the necessary infrastructure connecting the Pearl Road driveway area to the common property line with the adjacent western parcel as approved by the City Engineer. The recordation of the cross access easement shall occur prior to a certificate of occupancy permit being issued for any building within this PMU. In the event WXZ is required to install the connecting infrastructure to the adjacent western parcel, this connecting infrastructure must be fully constructed during the construction of the other Pearl Road driveway improvements.

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4. PMU Waivers

The following PMU Waivers are hereby granted consistent with Zoning Code Section 1137.08(h):

- (A) A waiver from Zoning Code Section 1137.08(b)(1)(E) to permit a car wash land use in a PMU zoning district.
- (B) A waiver from Zoning Code Section 1151.09 to allow certain portions of the building foundations to not have landscaping based upon the locations shown on the Stage 2 PMU plans.
- (C) A waiver from Zoning Code Section 1149.10 to allow certain sections of the parking areas to forgo perimeter parking area landscaping based upon the locations shown on the Stage 2 PMU plans.
- (D) A waiver from Zoning Code Section 1149.03(c) to allow a proposed building wall featuring a ground floor entrance to be located less than the required 10' from the parking areas based upon the building locations shown on the Stage 2 PMU plans.
- (E) A waiver from Zoning Code Section 1149.11 to allow the construction of less parking stalls than the minimum number of parking stalls required by the Zoning Code. This waiver shall allow a total reduction of 18 parking stalls from the required number of 76 stalls for the two buildings fronting on Pearl Road.
- (F) A waiver from Zoning Code Section 1137.09(j)(4) to allow a reduced number of street frontage lights to be installed. A waiver of three (3) total street frontage lights shall be provided.

5. Miscellaneous

- (A) This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns. The parties agree that the specific conditions set forth in this Agreement shall be wholly enforceable against all subsequent purchasers and/or users of the Project or any portion thereof. Compliance with the approved PMU Stage 2 Preliminary Development Plan and associated documents shall be controlled by those applicable standards set forth in the Middleburg Heights Zoning Code unless specified otherwise herein. All requirements set forth in this Agreement and all approved plan and associated documents shall be deemed to run with the land.
- (B) Failure to comply with the PMU Stage 2 Preliminary Development Plan and all other associated documents, may result in enforcement actions provided for in the Middleburg Heights Zoning Code and any other applicable remedy provided in the Zoning Code or Codified Ordinances of the City of Middleburg Heights. The City shall also retain the right to pursue any other means of enforcement of the

WXZ PMU AGREEMENT 3rd DRAFT (6-27-2022)

PMU Preliminary Development Plan and this Agreement as provided under Ohio State Law.

- (C) If one or more of the provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unconstitutional, or unenforceable in any respect, that invalidity, illegality, unconstitutionality or unenforceability shall not affect any other provision. This Agreement shall be construed as if the invalid, illegal, unconstitutional, or unenforceable provision had never been contained herein.
- (D) This Agreement constitutes the sole and entire Agreement between the parties, their successors, and assigns and no modification hereof shall be binding unless set forth in writing signed by the parties. This Agreement shall be governed under the laws of the State of Ohio.
- (E) WXZ shall cause this fully executed PMU Agreement and any subsequent PMU Agreement amendments to be properly recorded at the Cuyahoga County Recorder's Office prior to the building permit being granted for the approved PMU Preliminary Development Plan and prior to Planning Commission consideration of a Stage 3 PMU Final Development Plan submittal.

WXZ PMU AGREEMENT 3rd DRAFT (6-27-2022)

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in their names by their respective duly authorized representatives on the date first written above.

Signed in the presence of:

THE CITY OF MIDDLEBURG HEIGHTS, OHIO

By: Matthew Castelli

Name: Matthew Castelli

Title: Mayor

WXZ, INC.

By: _____

Name: _____

Title: _____

Approved as to substance and form:

By: _____

Santo Incorvaia
City of Middleburg Heights Law Director

WXZ PMU AGREEMENT 3rd DRAFT (6-27-2022)

STATE OF OHIO)
)SS:
COUNTY OF CUYHOGA)

SWORN to and SUBSCRIBED in my presence by the said _____,
_____ of the CITY OF MIDDLEBURG HEIGHTS, OHIO on this
_____ day of _____, 2022.

Notary Public

STATE OF OHIO)
)SS:
COUNTY OF CUYAHOGA)

SWORN to and SUBSCRIBED in my presence by the said
_____ of WXZ, INC. on this
_____ day of _____, 2022.

Notary Public

WXZ PMU AGREEMENT 3rd DRAFT (6-27-2022)

PMU Attachment #1

Placeholder for
Project Site Legal Description

WXZ PMU AGREEMENT 3rd DRAFT (6-27-2022)

PMU Attachment #2

Placeholder for
PMU Stage 2 Preliminary Development Plan Documents

June 27, 2022

To: Norm Herwerden
Middleburg Heights Building Commissioner

From: Jay Stewart
Stewart Land Use

Re: Final Zoning Review Memo: WXZ Development Stage 2 PMU
Preliminary Development Plan

Please find the following updated recommendations and PMU Waivers regarding the WXZ Development Stage 2 PMU Preliminary Development Plan.

Updated List of PMU Waivers

Two additional waivers have been added to the list, bringing the total number of requested waivers to six. Below is the updated waivers list:

- 1) A waiver from Code Section 1137.08(b)(1)(E) to permit a car wash land use in a PMU zoning district.
- 2) A waiver from Code Section 1151.09 to allow certain portions of the building foundations to not have landscaping based upon the locations shown on the Stage 2 PMU plans.
- 3) A waiver from Code Section 1149.10 to allow certain sections of the parking areas to not have perimeter parking area landscaping based upon the locations shown on the Stage 2 PMU plans.
- 4) A waiver from Code Section 1149.03(c) to allow a proposed building wall featuring a ground floor entrance to be located less than the required 10' from the parking areas based upon the locations shown on the Stage 2 PMU plans.
- 5) A waiver from the minimum number of parking stalls as required in Code Section 1149.11. The required number of parking stalls for the buildings fronting on Pearl Road (based on a proposed restaurant land use) is 76 stalls and the Applicant is proposing the construction of 58 stalls for these two buildings. Therefore, a total waiver of 18 parking stalls would be required.
- 6) A waiver from the minimum number of frontage street lights as required in Code Section 1137.09(j)(4). In discussions between the Applicant and Staff, we are recommending that two of these decorative street lights be placed at the site entrances along both Pearl Road and W. 130th Street. The Code requires one light for every 75 feet of street frontage which equals three lights for the W. 130th Street frontage and four lights for the Pearl Road frontage. The frontage areas of the site currently feature landscaping beds, existing and new trees and ground mounted signs. A waiver of three total street lights is proposed in order to avoid creating visual clutter in order to properly showcase all of the frontage site amenities. The street lights should match the Wald & Fisher property lights and will satisfy the intent of the Code requirement while not detracting from the other frontage site features.

PMU Development Agreement

I have attached the 3rd and final draft of the PMU Development Agreement to this memo. This final draft has the updated list of PMU waivers. This final draft also includes additional text describing the common seating area requirements (and associated public art piece) and adds a requirement for the Applicant to provide a cross access easement and cross access drive connection to the adjacent property line due west of this PMU project site.

Final Recommendations

I have revised my recommendation to approve the Stage 2 PMU Preliminary Development Plans subject to the following conditions:

- 1) The identified PMU waivers either need to be granted by City Council or those deficient requirements must be satisfied and shown on a set of revised plans.
- 2) Two street frontage lights must be installed at the site entrances located at Pearl Road and W. 130th Street and be shown on the plan per Code Section 1137.09(j)(4). The street light poles and fixtures must match those installed on the nearby Wald & Fisher site.
- 3) A plan note indicating the proposed development and infrastructure improvement phasing schedule should be added.
- 4) Revise the Parking Stall Charts to reflect the correct parking stall minimum Code requirements.
- 5) Provide a plan note detailing the post-construction landscape maintenance plan.
- 6) Dumpster enclosures should be wrapped in brick matching the brick used on the respective building for which the dumpster enclosure serves.
- 7) Require a plan note indicating the bench seating area (two benches), two bike racks, and supporting landscaping will be installed prior to the issuance of the Certificate of Occupancy for the WetGo building. The Plan note shall also indicate that the bench seating area, bike racks, public art piece, and supporting hardscape and landscaping shall be maintained by WetGo or subsequent owners of the WetGo parcel.
- 8) The Applicant, or WetGo, will work with the City in the design and/or selection of the required public art piece located in the common seating area as indicated on the PMU plans.
- 9) The Applicant must submit all the civil engineering information and address all the City Engineer questions as found in his April 29, 2022 engineering review memo prior to Stage 3 Final PMU Plan submission.
- 10) The Applicant must satisfy the review comments in the June 17, 2022 review memo prepared by Stewart Land Use.
- 11) The Applicant is responsible to record a cross access easement, containing language as approved by the City, along the western property line (near the Pearl Road access cut into the site). In the event the adjacent property to the West has been previously required to construct a connecting parallel access road, the Applicant for this PMU shall also be required to install the driveway infrastructure from the Pearl Road driveway area to the common property line with the adjacent western parcel as approved by the City Engineer.
- 12) The final architectural design, colors, and exterior building materials for the structures shown on the Stage 2 PMU plans shall be approved by the Building Commissioner.

June 17, 2022

To: Norm Herwerden
Middleburg Heights Building Commissioner

From: Jay Stewart
Stewart Land Use

Re: Zoning Review: WXZ Development Stage 2 PMU
Preliminary Development Plan (Revised Submission)

This review memo is for the revised Stage 2 PMU Preliminary Development Plans and associated documents for the proposed WXZ Development located at Pearl Road and West 130th Street.

I have included my prior (May 19, 2022) review memo comments (in black text) below to accompany my new follow-up comments (in red text).

Below are my follow-up review comments:

Chapter 1137 Business and Mixed Use Zoning Districts

- 1) The plan notes indicate that the active and passive open space area has been provided. Applicant should provide details on where the active and passive open space is within the site and the area of each open space. The Applicant should also provide details on the type of active open space area(s) proposed. See Sections 1137.09(c) and 1137.08(d)(1)(G)

Applicant provided an open space plan identifying the passive and active open space areas within the site. The Applicant also incorporated a sitting area in the NE portion of the site featuring two benches and landscaping. Given that this PUD project is such a small site, I believe this seating and landscaped area can adequately satisfy the active open space requirement, but would require a waiver from the active open space minimum area.

- 2) The Applicant should provide a plan note regarding the proposed construction phasing for the site. If developed in phases, will both curb cuts be open in the first phase? See Section 1137.08(d)(1)(H)

I do not see a proposed phasing schedule on the plan sheets. I recommend this should be made a condition of approval.

- 3) The required details for all exterior site lighting have not been provided as required by Section 1137.09.(j).

The Applicant has submitted a photometric analysis including exterior light pole information. The plan still does not show the required street frontage lights pole and fixtures to be placed along Pearl Road and West 130th Street as required by Code section 1137.09(j)(4).

- 4) Both buildings fronting on Pearl Road are proposing outdoor dining areas. The Applicant should provide more detail on these two outdoor dining areas as required by Section 1137.12.(b)(1)(A).

The Applicant provided details on the proposed seats and tables for these two patio areas.

Chapter 1147 Development Plan Review

- 1) The Applicant should provide a brief description of the proposed use of the site shall be included with an estimate on the number of employees for these buildings. See Section 1147.02(c)(4)

An estimated employee count for the three buildings has not been provided. An employee count appears to have been used to figure the required parking stall amount for the two buildings along Pearl Road. The Applicant will be requesting a waiver for a reduced parking stall number.

- 2) The Applicant should indicate the existing land use and current zoning classification of all abutting parcels. See Section 1147.02(c)(5)

An Area Map has been provided identifying the adjacent land uses.

- 3) A photometric analysis plan has been submitted as required in Section 1147.07. However, I have requested that the Applicant resubmit this plan since the version provided to us does not adequately show the foot candle readings on the plan. We need to see the footcandle readings to check for adequate light levels in the pedestrian and parking areas as well as making sure foot candle readings satisfy the Code requirements for the NW portion of the site backing up to residential property.

See Comment #3 on Page 1.

- 4) No elevation drawings of exterior light poles and fixtures as well as the Lighting Operations Plan have been provided as required in Section 1147.02(c)(11).

The proposed exterior light pole and fixture information has been provided. The Lighting Operations Plan note has been added.

- 5) It does not appear that the stormwater management plan and supporting documentation information have been provided. See Section 1147.02(c)(14).

It appears preliminary stormwater calculations have been included, but I will defer to the City Engineer for a full review of this item.

- 6) No illustrated drawing has been provided for the proposed ground mounted sign for the car wash site. See Section 1147.02(c)(12).

See response to #7 immediately below.

- 7) Question for the Applicant...are there any other signs proposed for the site beyond the ground mounted signs and building wall signs shown in the submitted architectural renderings? These signs may include site directional signage and menu board signs, etc. See Section 1147.02(c)(12).

The Applicant has provided the preliminary sign packages for the three buildings on the site. The sign permits for these buildings will be reviewed separately from the PMU development plan set as is consistent with previous City practice.

- 8) The development standards table as required by Section 1147.02(c)(17) has not been provided.

This information has been provided.

- 9) The landscape plan does not show the required stamp by a landscape architect licensed in the State of Ohio. See Section 1147.02(c)(16)

The landscape architect's Ohio stamp has been provided on the landscape plan sheet.

- 10) More information regarding the proposed exterior materials and color selections for the future buildings and signage is needed as required under Section 1147.02(c)(18).

The Applicant has provided additional information regarding the proposed exterior materials and color selections for all three buildings.

Chapter 1149 Off-Street Parking and Loading Facilities

- 1) There are multiple instances where a proposed building wall featuring a ground floor entrance is located less than the required 10' from the parking areas. Section 1149.03(c).

There have been no changes to this item in the revised plans. The Applicant will need to request a PMU waiver for this requirement.

- 2) The three lane entry driveway serving Pearl Road is 36' wide and the maximum width permitted by the Code is 35'. The Applicant should confirm what the three lane driveway width is for the West 130th Street access point. See Section 1149.04(a)(8).

The three lane driveway fronting on Pearl Road is 36' wide and the code states a maximum width of 35' for a three lane driveway. After speaking to the Applicant's civil engineer about this item, he indicated they would reduce the total drive width down to 35' to comply with this Code section to be included in the next plan revision.

- 3) Applicant should confirm if curbs will be installed around the perimeter of the parking space areas as required by Section 1149.04(a)(13).

The plans indicate a 6" vertical curb is provided around the parking areas. The plans also indicate the installation of parking blocks on those parking stalls serving the Starbucks building (this is corporate requirement for Starbucks). The other parking stalls on the site feature the 6" curbing which should provide protection for any adjacent planting areas.

- 4) Applicant should provide details on any proposed on-site directional signage as required by Section 1149.07(b) and (c).

The Applicant has submitted the proposed on-site directional signage.

- 5) No off-street loading areas are provided for any of the buildings as required in Section 1149.08.

The Applicant has shown unloading areas for the two buildings fronting on Pearl Road. The Starbucks building proposes the loading zone in front of 5 parking spaces. This is not an optimal situation for the placement of a loading zone, but I am unaware of other options given how tight the overall site is being developed. One option we have is to request that the loading zone be moved further back in the parking area, closer to the dumpster enclosure.

- 6) There are portions of parking areas that do not show the required perimeter landscaping as required by Section 1149.10(f).

The plans still indicate some portions of the parking areas without the required perimeter landscaping. The Applicant will need to request a PMU waiver for this requirement.

- 7) Applicant should specifically point out where the 1,400 sq. ft. of interior parking lot landscaping is being installed on the site as required by Section 1149.10(g). Additional details are needed to properly check for the required interior landscaped area and plantings.

Applicant has provided a chart identifying the required landscaping and the proposed landscaping features. The Plan does not indicate exactly where these various landscaped areas are relative to the chart information. Overall, the level and type of landscaping proposed appears to be appropriate for the size of the overall site. The Applicant will need to request a PMU waiver for any deficient landscape requirements as indicated on the chart on plan sheet L2.0.

- 8) The Parking Information Chart shown on plan sheet C5.0 does not account for the required parking spaces for the proposed car wash use. Stacking spaces are provided for the proposed car wash use. The landscape plan indicates 70 (total) parking spaces are used to calculate interior landscaping requirements, which does not appear to match the parking spaces listed in the Parking Information Chart. Applicant should provide clarification on the number and location of parking spaces.

The required and proposed parking stall information has been provided on the plan.

- 9) Applicant is requesting a waiver for the minimum number of parking spaces. Applicant needs to provide clarification on the number of required spaces and the number provided and the types of land uses that are factored into this calculation. For example, the Parking Information Chart uses a 1 space for every 50 sq. ft. of building area which does not seem to match with the Required Parking Spaces Chart found in Section 1149.11.

The Parking Chart still references a code required 1 parking space for every 50 sq. ft. This does not match what the code requirement is. The Starbucks site should be using a 1 space for every 100 sq. ft. formula. The other building along Pearl Road should use the retail formula at 1 space per 250 sq. ft. formula since the tenant is unknown at this time. Regardless, these correct parking stall minimum requirements are less than what the plan chart is showing, so there is no effective impact to the proposed PMU waiver the Applicant will need to request. That said, the plans should be revised to reference the correct code minimum parking stall requirements.

Chapter 1151 Landscape and Bufferyard Standards

- 1) Applicant should provide clarification on the Landscape Maintenance Plan as required in Section 1151.06. Landscape Note 3.9 found on plan sheet L1.0 is titled "Maintenance During Construction." Some of those maintenance notes seem to indicate maintenance going forward versus just during the construction period. Applicant needs to clarify if these maintenance notes apply beyond the construction period. Regardless, a Landscape Maintenance Plan (for post construction) needs to be incorporated as notes on the plan.

No post-construction landscape maintenance plan has been provided. This item should be a condition of approval.

- 2) Applicant has not provided elevation drawings showing the proposed dumpster area screening methods. Elevation drawings and material information should be provided in order to review for compliance with Section 1151.08.

The Applicant has provided elevation drawings and details of the proposed dumpster enclosures. The architectural plans indicate a 42' wide dumpster enclosure which does not match up to the size or shape of any of the three enclosures shown on the actual plan drawings. Accurate dumpster enclosure plans need to be submitted. The plans indicate utilizing a painted 8" CMU unit as the exterior material. I recommend that brick matching the building brick / materials for which the enclosure serves be utilized instead of the painted CMU units.

- 3) Portions of all three buildings do not show the building foundation landscape plantings as required in Section 1151.09. The Applicant has requested a PMU waiver for this requirement.

The plans still show portions of the buildings without the required building foundations landscaping. The Applicant will need to request a PMU waiver for this requirement.

- 4) Applicant should clarify the amount of frontage landscaping shown on the plan. The Code requires a minimum of 10% of the front yard area to be used as frontage landscaping.

The plan notes state that 10% frontage landscaping has been provided. I am unable to confirm that number on the actual plan (graphically). That said, the frontage landscaping appears to be appropriate for the site and the City's corridor design goals. I have requested the civil engineer provide this additional details on the plans which they have stated they will include in the next plan revision.

PMU Waivers Required

The Applicant will need to request and be granted the following PMU Waivers be granted for this proposed development. . As of the time of this review memo, the Applicant has not provided the written justification for all the necessary waivers as required in Section 1137.08(h)(2). I have been in contact with the Applicant and he has stated that written PMU Waiver request document will be submitted next week.

When City Council is considering granting proposed PMU Waivers, the PMU Waiver Standards of Review found in Section 1137.08(h)(3) should be utilized in your discussions and decision making process. The PMU waivers identified below will be required to be granted by City Council in order for the plans to be in compliance with the Zoning Code. Without a PMU waiver, the code requirement must be satisfied.

Unless otherwise noted, I would recommend that the following PMU waivers be granted as they represent minimal deviations from the respective Code requirement and provide the flexibility to develop this higher density site in an appropriate manner. The one waiver to offer additional feedback on is the proposed car wash waiver. This is a substantial waiver request given a car wash use is a prohibited use in a PMU zoning district. This car wash is affiliated with Giant Eagle. The current Code allows car washes as an accessory use in a GB district. Given the limited space availability on the Giant Eagle site and the close proximity of the proposed car wash to the Giant Eagle site, I believe using the flexibility of the PMU waivers to allow the car wash is appropriate.

- 1) A waiver from Code Section 1137.08(b)(1)(E) to permit a car wash land use in a PMU zoning district.
- 2) A waiver from Code Section 1151.09 to allow certain portions of the building foundations to not have landscaping based upon the locations shown on the Stage 2 PMU plans.
- 3) A waiver from Code Section 1149.10 to allow certain sections of the parking areas to not have perimeter parking area landscaping based upon the locations shown on the Stage 2 PMU plans.
- 4) A waiver from Code Section 1149.03(c) to allow a proposed building wall featuring a ground floor entrance to be located less than the required 10' from the parking areas based upon the locations shown on the Stage 2 PMU plans.

PMU Development Agreement

I have submitted the 2nd draft of the PMU Development Agreement with the list of identified waivers incorporated into the document. The only other item I included is a statement regarding the proposed bench seating area to satisfy the active open space requirement.

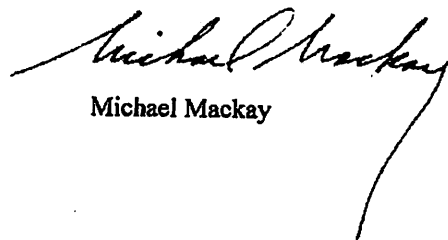
Final Recommendations

I would recommend approval of the Stage 2 PMU Preliminary Development Plans subject to the following conditions:

- 1) The identified PMU waivers either need to be granted by City Council or those deficient requirements must be satisfied and shown on a set of revised plans.
- 2) The street frontage lights must be installed and shown on the plan per Code Section 1137.09(j)(4).
- 3) A plan note indicating the proposed development and infrastructure improvement phasing schedule should be added.
- 4) Revise the Parking Stall Charts to reflect the correct parking stall minimum Code requirements.
- 5) Provide a plan note detailing the post-construction landscape maintenance plan.
- 6) Dumpster enclosures should be wrapped in brick matching the brick used on the respective building for which the dumpster enclosure serves.
- 7) Require a plan note indicating the bench seating area and associated landscaping will be installed prior to the issuance of the Certificate of Occupancy for the WetGo building.
- 8) The Applicant must have submitted all the civil engineering information as required for a preliminary development plan and such engineering information shall be reviewed and subject to approval by the City Engineer.

6. The plans should be submitted by the applicant to the Cuyahoga County Public Works Department, Sanitary Sewer Division for review and approval of any sanitary sewer work. It is not necessary for the County to review the storm water system.
7. The plans should be submitted to the Middleburg Heights Fire Department for review and approval.
8. The plans should be submitted to the Cleveland Department of Water for review and approval.
9.
 - a. The new parking lot should have 6" concrete curbs around the entire perimeter and around all interior edges of the parking lot.
 - b. The plans should provide a detail of the proposed parking lot pavement cross section and for all access driveways.
10. The final plans and reports must be signed and sealed by an Ohio Registered Professional Engineer.
11. The proposed landscaping plan will be reviewed by the City's Planner.
12.
 - a. The entrance drives must comply with the requirements of C.O. 1141.12 (copy attached) and the parking lots must comply with C.O. Chapter 1141. Designer should confirm compliance.
 - b. The radii of drive turnouts must be a minimum of 25 feet (C.O. Chapter 1141). Designer should confirm compliance.
13. Add a note to the plans that the property lines must be staked by a Registered Professional Surveyor prior to construction.
14. All proposed sewers should be shown in profile. Storm sewer sizing calculation should be provided.
15. The designer shall confirm the size, invert and capacity of the existing storm sewer in W. 130th Street proposed as the outlet for the proposed development. The designer must show that the existing storm sewer has sufficient remaining capacity to accept the flows from this site.
16. Any work within the City's right-of-way shall be in accordance with City requirements. Standard notes and details will be provided.
17. The developer of the site should investigate with the adjoining property owner to the west (proposed Pearl Plaza) whether a shared drive apron is possible for the drive off Pearl Road.

Designer shall respond to all comments in writing and indicate the plan sheets on which changes have been made.


Michael Mackay

Attachments
/pmb

Boards and Commissions

CITY OF MIDDLEBURG HEIGHTS

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Kim Earley
Secretary

Norman H. Herwerden
Building Commissioner



MEMORANDUM

TO: MARY ANN MEOLA, CLERK OF COUNCIL
FROM: KIM EARLEY, BOARDS AND COMMISSIONS SECRETARY
DATE: MAY 25, 2022
SUBJECT: WXZ DEVELOPMENT, 6780 PEARL ROAD

On May 25, 2022 the Planning Commission recommended approval with conditions of the WXZ Development Stage 2 Planned Mixed Use Development, 6780 Pearl Road, in accordance with Section 1137.08(d)(3)(B)(bb) of the Eight Draft of the new Zoning Code. The conditions are: The applicant complies with the items listed in Jay Stewart's memorandum of May 19, 2022, the applicant complies with the items listed in Michael Mackay's memorandum of April 29, 2022, Michael Mackay approves the traffic study, and the applicant addresses the accessibility and connectivity concerns. I have attached the development plans reviewed by the Planning Commission and the above-mentioned memorandums. Please return four copies of the plans after City Council takes action.