

**CITY OF HIGHLAND HEIGHTS
REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION
HELD: JULY 23, 2007**

PRESENT: Commissioners Kerr, Knezevic, Mastrangelo, Pilla, Urban
Recording Clerk Olson; Building Commissioner Stouffer

ABSENT: None

MOTION ON THE MINUTES: The reading of the Minutes of the regular meeting held July 9, 2007 was dispensed with. Mr. Kerr moved to accept the Minutes as written; seconded by Mr. Pilla. Ayes all; motion carried.

**SUBJECT: MICHAEL CHRISTOPHER SALON, 6255 WILSON MILLS ROAD
PZ07006 FINAL PLAN APPROVAL**

No one from Michael Christopher Salon was present to discuss this matter.

Chairman Mastrangelo advised that the Architectural Review Board (ARB) approved the drawings for the Michael Christopher Salon on July 23, 2007. He said that the Fire Department approved the building plans on April 9, 2007. He said that the only outstanding approval is from the Landscape Architect who is currently on vacation.

Chairman Mastrangelo requested that the Commission be provided with the most recent drawings of the proposed building. Building Commissioner Stouffer replied that he has the revised drawings which include changes to the roof-line and the front building entrance.

MOTION: A motion was made by Mr. Pilla to grant final site plan approval for the Michael Christopher Salon located at 6255 Wilson Mills Road, contingent on final approval by the Landscape Architect; seconded by Mr. Kerr. Roll call on the motion. Ayes Kerr, Knezevic, Mastrangelo, Pilla, Urban. Ayes all; motion carried.

**SUBJECT: ABERDEEN COMMONS ASSISTED LIVING DEVELOPMENT, 399
BISHOP ROAD
PZ07007 FINAL PLAN APPROVAL**

Scott Allen, President, LifeServices Development Corporation, 1625 Lowell Avenue, Erie, Pennsylvania 16505, appeared before the Commission for final site plan approval of the proposed Aberdeen Commons Assisted Living Development at 399 Bishop Road, Permanent Parcels 821-07-010 and 821-07-012, sublots 1 and 2 of the Aberdeen Business Park, a P-C-M District.

Chairman Mastrangelo reported that the Commission is in receipt of a letter from the City Engineer dated July 20, 2007 approving the Aberdeen Commons Assisted Living Development plans. He stated that the Architectural Review Board (ARB) approved the plans on May 30, 2007. He said that the Fire Department is continuing its review of the project. Mr. Allen replied

that the Fire Department is investigating rear access of the building and at this time may be satisfied with sidewalk access only. Building Commissioner Stouffer agreed and added that any outstanding issues with the Fire Department would not affect the proposed foundation of the building. Chairman Mastrangelo said that the Landscape Architect is on vacation and that his approval is still pending.

Chairman Mastrangelo stated that the following matters will be addressed at the next meeting on August 27, 2007: approvals from the Fire and Police Departments and Landscape Architect; and lot consolidation of Permanent Parcels 821-07-010 and 821-07-012.

MOTION: A motion was made by Mr. Pilla to grant final site plan approval for the Aberdeen Commons Assisted Living Development located at 399 Bishop Road and only to allow for the clearing of the site and proceed as far as footers; seconded by Mr. Kerr. Roll call on the motion. Ayes Kerr, Knezevic, Mastrangelo, Pilla, Urban. Ayes all; motion carried.

**SUBJECT: ALPHA RETAIL SHOPPING PLAZA, ALPHA DRIVE
PZ07012 DISCUSSION OF PROPOSED SHOPPING PLAZA**

No one from the Alpha retail shopping plaza was present to discuss this matter.

**SUBJECT: DONALD L. BARR & CO., THE LEGENDS AT ABERDEEN, ABERDEEN
AREA “J”, PHASE IV
PZ06018 REVIEW OF BUILDING ISSUES**

Messrs. Donald and Scott Barr, Donald L. Barr & Co, Legends Building Co., 7059 Old Mill Road, Chesterland, Ohio 44026, appeared before the Commission to review building issues for the proposed development of The Legends at Aberdeen, Aberdeen Area “J”, Phase IV.

(**History:** August 28, 2006 - The Commission granted preliminary site approval for The Legends at Aberdeen, Phases IV & V; May 21, 2007 – City Engineer Blackley approved the Improvement Plans for The Legends at Aberdeen, Phase IV; June 11, 2007 – Fire Department approved plans for The Legends at Aberdeen, Phase IV; July 16, 2007 – Police Department approved plans for The Legends at Aberdeen, Phase IV.)

Mr. Donald Barr stated that the architectural drawings are 85% complete and that the landscape plans are not complete; consequently, Architectural Review Board (ARB) and Landscape Architect approvals are outstanding.

Mr. Donald Barr said that he requires clarification on building issues that are not addressed in Highland Heights code or the Tri-Party Agreement. (The Tri-Party Agreement is for golf course lots only.)

Golf course lots: In response to Mr. Donald Barr’s inquiry if decks can be built on the rear of units on the golf course if they do not encroach into the 25 foot setback area, the Commission replied yes and emphasized that no structure can protrude into the 25 foot required setback area. The Commission also advised the applicants that patios, and any on-grade structures, and any

other improvements cannot protrude into the 25 foot required setback area on golf course lots. Mr. Barr concurred.

Non-golf course lots: There was discussion as to the setback requirements on non-golf course lots. Highland Heights code section 1124.05(a)(3)C: “Building Setbacks Abutting R & R Development Area Boundary or Common Open Space Area”, establishes the following setback requirements for attached dwelling units:

- 1) A minimum 40 foot setback from any R & R district boundary
- 2) A minimum 15 foot setback from common space areas for end walls
- 3) A minimum 25 foot setback from common space areas for main walls

Mr. Knezevic defined a main wall as the wall that spans all units of an attached building, as in the common back wall of the units within a single building. He defined the end wall as the wall at the side of a building.

Mr. Donald Barr stated that some of the buildings in Phase IV are adjacent to the northerly basin, which is common area owned by the City and maintained by the Master Association. All parties agreed that the minimum setback requirement of main walls from the common area is 25 feet, and that the minimum setback requirement of end walls from the common area is 15 feet.

Mr. Donald Barr addressed the matter of patios encroaching into the required setback areas on non-golf course lots. He said that the architectural drawings for Phase IV are almost complete and that the building designs will not allow for the addition of patios of adequate size if the patios are not allowed to encroach into the required setback areas on non-golf course lots. He urged the Commission to consider allowing patios on non-golf course lots to encroach no more than 10 feet into the required setback area. He said that the stipulation for patios and structures could be designated on the plats for his fee simple units and filed as permanent records to ensure their management and control.

Building Commissioner Stouffer replied that Highland Heights code section 1101.03(a): “Buildings and Structures” was revised in 2006 to broaden the definition of a structure to include patios thus prohibiting them from encroaching into any required setback area.

Chairman Mastrangelo questioned whether the 2006 revision applies in this case because, as written, even a sidewalk that is laid adjacent to the perimeter of a dwelling along the side of a garage may be in violation if it is in the required setback area.

Proposed variance request on golf course and non-golf course lots: Mr. Donald Barr stated again that the architectural drawings for Phase IV are 85% complete and that the buildings as designed will not allow for the addition of patios of adequate size when taking into consideration the setback requirements established by code. Mr. Barr presented the Commissioners with a drawing of the footprints of the units in Phase IV for which code setback requirements would prohibit the addition of a patio of adequate size. He also presented a drawing of the same footprints but with revised front yard setbacks which would require a variance, and which would

allow for the addition of patios of adequate size. Mr. Barr said that the proposed variances are necessary to ensure the design and integrity of the units and his ability to sell the units.

The proposed variance to front yard setbacks would apply to the following buildings:

1. Variance of 6 feet 8 inches (6'8") from Section 1124.05 (3)A1: "Building Setbacks/Front Building Setbacks", which requires a minimum front building setback of 35 feet (35') from the nearest edge of the street of dwelling units abutting any dedicated street within a Recreation and Residential District, to allow a front yard setback of 28 feet 4 inches (28'4"). This variance applies only to Building #34, Cypress Unit "C". (Building #34 is a golf course lot).
2. Variance of 2 feet (2') from Section 1124.05 (3)A1: "Building Setbacks/Front Building Setbacks", which requires a minimum front building setback of 35 feet (35') from the nearest edge of the street of dwelling units abutting any dedicated street within a Recreation and Residential District, to allow a front yard setback of 33 feet (33'). This variance applies only to Buildings #1 through #14 and Buildings #23 through #40, Doral Units "A". The variance will apply only to one (1) "A" unit per building. (Buildings #1 through #14 are non-golf course lots; Buildings #23 through #40 are golf course lots.)

Mr. Donald Barr reminded the Commission that the required minimum front yard setback for dedicated streets is 35 feet; whereas the required minimum front yard setback for private streets is only 30 feet. He said that the streets in Phase IV are dedicated streets.

Mr. Knezevic responded to the variance request by saying that he is in favor of granting a variance that would create less front yard and maintain the sanctity of the 25 foot rear yard setback. Chairman Mastrangelo agreed.

Mr. Donald Barr inquired as to whether a set of steps can be built on the side of those units with walk-out basements on-grade that would lead to the rear patios. He said that the stairs would encroach 3 feet 10 inches into the sideyard. He said that this occurs on golf course units and units on the northerly basin and not on the interior lots.

There was discussion as to whether fences are allowed in the front yard near the garage. Mr. Knezevic replied that R & R code is silent on fences and that the default is residential code which allows 3 foot open ornamental fences.

Mr. Donald Barr inquired as to whether it would be permissible to obtain all required approvals that would allow him to build units #1 and #2 in Phase IV to use as the model homes. He said that the dedicated street and utilities already currently exist for those units only in Phase IV. The Commission agreed that this is permissible.

Chairman Mastrangelo and Mr. Donald Barr recommended that they meet with Law Director Paluf, City Engineer Blackley, and Building Commissioner Stouffer to discuss these issues and to determine whether additional variances are required.

CITY OF HIGHLAND HEIGHTS – REGULAR MEETING OF THE PLANNING AND
ZONING COMMISSION – JULY 23, 2007 – PAGE 5 OF 5

Chairman Mastrangelo advised that a Public Hearing will be held on August 27, 2007. He advised the applicants to submit all required documentation by August 15, 2007.

ADJOURNMENT: A motion to adjourn the meeting was made by Mr. Pilla and seconded by Mr. Kerr. Said meeting adjourned at 9:25 p.m.

Susan M. Olson, Recording Clerk

Robert J. Mastrangelo, Chairman