

**CITY OF HIGHLAND HEIGHTS
REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION
HELD: APRIL 22, 2019 8:00 PM**

PRESENT: Commissioners Adamus, Becka, Mastrangelo, Urban; Recording Clerk Olson;
Law Director Paluf

ABSENT: Commissioner Warner; Building Commissioner Grabfelder

MOTION ON THE MINUTES: The reading of the minutes of the regular meeting held April 8, 2019 was dispensed with. Mr. Urban moved to accept the minutes as written; seconded by Mr. Mastrangelo.

FURTHER DISCUSSION: None

VOTE: Ayes all; motion carried.

**SUBJECT: K. HOVNANIAN HOMES, 242 NORTH LEGEND COURT, S/L 4,
ABERDEEN AREA "J"
PZ19009 FINAL HOME APPROVAL**

Mark Marquette, K. Hovnanian Homes, 3296 Columbia Road, Richfield, Ohio 44286, appeared before the Commission to obtain final home approval for a proposed 50-Baltimore style home on property located at 242 North Legend Court, Highland Heights, Ohio 44143, S/L 4, Aberdeen Area "J".

The Aberdeen Area "J" subdivision is located at the northernmost border of Highland Heights on Miner Road. It is a six-acre parcel consisting of a short cul-de-sac, North Legend Court, with a total of 14 sublots, one of which fronts Miner Road and the remaining 13 that front North Legend Court. Area "J" has been integrated into the existing local Waterford HOA of Area "I". One undeveloped lot will remain in Area "J" after approval of the home on subplot 4.

The two previously approved home styles on sublots 11 and 12 across the street from subplot 4 are also Baltimore styles but with different elevations. The following approvals apply for the proposed home: Aberdeen Architectural Control Committee – 4/9/19; City Engineer – 4/11/19; and City ARB – 4/22/19.

MOTION: A motion was made by Mr. Urban to grant final home approval to K. Hovnanian Homes for a proposed 50-Baltimore style home on property located at 242 North Legend Court, Highland Heights, Ohio 44143, S/L 4, Aberdeen Area "J", per the home drawings dated March 18, 2019 and the site plan dated March 19, 2019; seconded by Mr. Mastrangelo.

FURTHER DISCUSSION: None.

VOTE: Ayes all; motion carried.

**SUBJECT: PANINI'S RESTAURANT, 6237 WILSON MILLS ROAD, P.P. 822-23-035
PZ19008 REQUEST FOR CONDITIONAL USE PERMIT TO SERVE ALCOHOLIC
BEVERAGES; VARIANCE TO ALLOW CONSUMPTION OF FOOD AND
ALCOHOL ON AN OUTDOOR PATIO**

Rick Favazzo, owner, the pending Panini's restaurant, 6237 Wilson Mills Road, Highland Heights, Ohio 44143, permanent parcel 822-23-035, and Bruce Rinker, Esq., counsel, Mansour Gavin LPA, North Point Tower, 1001 Lakeside Avenue, Suite 1400, Cleveland, Ohio 44114, appeared before the Commission to request a conditional use permit to serve alcoholic beverages and a variance to allow the consumption of food and alcohol on an outdoor patio at the pending Panini's restaurant, to be located in the upcoming outlot building in the front parking area of the Kohl's plaza at the northwest corner of Wilson Mills Road and Alpha Drive, a General Business district. The public hearing was held immediately prior to this regular meeting.

MOTION: A motion was made by Mr. Urban to grant Panini's restaurant, on property located at 6237 Wilson Mills Road, Highland Heights, Ohio 44143, permanent parcel 822-23-035, a conditional use permit to serve alcoholic beverages under provisions of HHCO 1109.03(e); seconded by Mr. Urban.

FURTHER DISCUSSION: There was discussion regarding the period of validity for the conditional use permit as outlined in HHCO 1109.05 which establishes a conditional use permit is effective for a period of two years from its date of issuance. Law Director Paluf stated this requirement is antiquated and has not been enforced in the past for conditional use permits to serve alcohol. Mr. Rinker addressed the Commission at tonight's meeting and requested the permit be effective for the duration of Panini's ten-year lease to ensure stability for the business. Mr. Paluf said liquor licensure must comply with federal, state and local guidelines and that those government agencies will notify the City of any non-compliance at which time City Council would address the matter. The consensus of the Commission and Mr. Paluf was to allow the permit to run concurrent with Panini's liquor licensure.

AMENDED MOTION: A motion was made by Mr. Urban to amend the original motion to be effective continuous with Panini's liquor licensure at this property and compliance with federal, state and local guidelines; seconded by Mr. Mastrangelo.

VOTE ON AMENDED MOTION: Ayes all; motion carried.

MOTION: A motion was made by Mr. Urban to grant Panini's restaurant, on property located at 6237 Wilson Mills Road, Highland Heights, Ohio 44143, permanent parcel 822-23-035, a variance from HHCO 1131.04(d)(2)C: "USE REGULATIONS; General Business District; Main buildings and uses", to allow the consumption of food and alcoholic beverages on an outdoor patio; seconded by Mr. Mastrangelo.

FURTHER DISCUSSION: None.

VOTE: Ayes all; motion carried.

MOTION: A motion was made by Mr. Urban to grant Panini's restaurant, on property located at 6237 Wilson Mills Road, Highland Heights, Ohio 44143, permanent parcel 822-23-035, a variance from HHCO 1109.04(c): "Conditional Use Permits; Application Evaluation Standards", to allow the serving of alcoholic beverages at Panini's which is less than 1,500 feet from other businesses serving or selling alcoholic beverages; seconded by Mr. Urban.

FURTHER DISCUSSION: None.

VOTE: Ayes all; motion carried.

Mr. Mastrangelo advised the applicants they must appear before the Commission for signage approval. The applicants agreed.

Mr. Adamus requested the clerk poll the Commissioners in the majority for their reasoning in the manner in which they voted. The consensus of the Commission for granting the conditional use permit and variances to allow the consumption of food and alcohol both indoors and on the outdoor patio is that there is an existing City review process for conditional use permits issued for serving alcohol that do not comply with federal, state and local guidelines; Code section HHCO 1109.04(c) which requires that establishments that serve alcohol must not be less than 1,500 feet apart is antiquated, overly-restrictive and has never been enforced in the past; Panini's is a reputable company and an asset to Highland Heights; there is negligible noise concern to the surrounding commercial properties; and this is an appropriate location for this use and current zoning designation.

EXIT – LAW DIRECTOR PALUF AT 8:31 PM

SUBJECT: PLANNING AND ZONING CODE CHANGE RECOMMENDATIONS **PZ19004 DISCUSSION**

The Commission added item numbers 9 and 10 to the list of ordinances under consideration for changes.

- 1) Signs: increase ground sign area from 20 SF to 32 SF, including an increase from 16 SF to 32 SF for church signs addressed in HHCO 1145.04(d);
- 2) Signs: increase ground sign height from 6 feet to 7 feet;
- 3) Signs: need to review signage requirements for buildings with multiple tenants;
- 4) Signs: need to review digital sign requirements;
- 5) Signs: need to review HHCO 1145.03(a)(1) - requirements for public authority (City) signs and non-public authority signs;
- 6) Commercial vehicles: need to review signage requirements for commercial vehicles in residential districts;
- 7) Building height: need to review feasibility of increasing existing maximum building height requirement of 35 feet in non-residential districts which may be possible with availability of the City's 100' ladder truck; regard to height restrictions must be considered due to the proximity of the Cuyahoga County Airport on Curtiss Wright Parkway.
- 8) HHCO 1109.04(c): "Conditional Use Permits; Application Evaluation Standards" - consider eliminating the minimum 1,500-foot restriction from other businesses that serve alcohol while maintaining the minimum 500-foot distance restriction from churches and schools.
- 9) HHCO 1131.04(d)(2)C: "USE REGULATIONS; General Business District; Main buildings and uses", which requires that the sale, serving and consumption of food and beverages be conducted wholly within enclosed buildings – consider whether to continue to require a variance for outdoor dining or to add outdoor dining to HHCO 1109.03: "Schedule of Uses Requiring Permits".
- 10) HHCO 1109.05: "PERIOD OF VALIDITY" (for conditional use permits) – consider changing the current two-year period of validity for conditional use permits.

Mr. Mastrangelo suggested the Commission request an opinion from Law Director Paluf regarding Code and outdoor dining since most restaurants seek a variance to allow outdoor dining.

ADJOURNMENT: A motion to adjourn the meeting was made by Mr. Urban. Said meeting adjourned at 8:48 p.m.

Susan M. Olson, Recording Clerk

Vince A. Adamus, Chair

CITY OF HIGHLAND HEIGHTS
PUBLIC HEARING OF THE PLANNING AND ZONING COMMISSION
HELD: APRIL 22, 2019 8:00 PM

Chair of Commission Adamus presiding.

PRESENT: Commissioners Adamus, Becka, Mastrangelo, Urban; Recording Clerk Olson;
Law Director Paluf

ABSENT: Commissioner Warner; Building Commissioner Grabfelder

SUBJECT: PANINI’S RESTAURANT, 6237 WILSON MILLS ROAD, P.P. 822-23-035
PZ19008 REQUEST FOR CONDITIONAL USE PERMIT TO SERVE ALCOHOLIC
BEVERAGES; VARIANCE TO ALLOW CONSUMPTION OF FOOD AND
ALCOHOL ON AN OUTDOOR PATIO

Public hearing was called to order at 8:03 p.m. Panini’s restaurant is requesting a conditional use permit to serve alcoholic beverages and a variance to allow the consumption of food an alcohol on an outdoor patio. Pursuant to HHCO 1109.02, a notice of the public hearing for the conditional use permit appeared on April 11 and 18 in the local Sun Messenger, and pursuant to HHCO 1109.041, the same notice was mailed to the owners of the properties within ten parcels of 6237 Wilson Mills Road on both sides of the street and appeared as follows:

The City of Highland Heights Planning and Zoning Commission will conduct a public hearing on Monday, April 22, 2019 at 8:00 p.m. in the Council Chamber of the Highland Heights City Hall, 5827 Highland Road, Highland Heights, Ohio 44143, concerning an application submitted by Panini’s, on property located at 6237 Wilson Mills Road, Highland Heights, Ohio 44143, permanent parcel 822-23-035, for a conditional use permit to serve alcoholic beverages, which is permitted under provisions of HHCO 1109.03(e) of the Planning and Zoning Code of the City of Highland Heights, which allows places to serve alcoholic beverages for use on premises in business districts.

Additionally, separate notices for this hearing were mailed in accordance with HHCO 1113.04 to abutting property owners and to property owners located directly across the street from Panini’s advising the variance request to allow the consumption of food and alcohol on an outdoor patio, and appeared as follows:

1. Variance from HHCO 1109.04(c): “Conditional Use Permits; Application Evaluation Standards”, which establishes that a business serving alcoholic beverages shall be not less than 1,500 feet from any other business which is serving or selling alcoholic beverages, to allow a business serving alcoholic beverages to be closer than 1,500 feet from another business which is serving or selling alcoholic beverages.
2. Variance from HHCO 1131.04(d)(2)C: “USE REGULATIONS; General Business District; Main buildings and uses”, which requires that the sale, serving and consumption of food and beverages be conducted wholly within enclosed buildings, to allow the consumption of food and alcoholic beverages on an outdoor patio.

Rick Favazzo, owner, the pending Panini's restaurant, 6237 Wilson Mills Road, Highland Heights, Ohio 44143, permanent parcel 822-23-035, appeared before the Commission to request a conditional use permit to serve alcoholic beverages and a variance to allow the consumption of food an alcohol on an outdoor patio at the pending Panini's restaurant located at 6237 Wilson Mills Road, to be located in the front parking area of the Kohl's plaza at the northwest corner of Wilson Mills Road and Alpha Drive, a General Business district.

The pending Panini/Dunkin outlot building, including an outdoor patio for Panini's restaurant, was approved by the Planning and Zoning Commission on December 10, 2018. Mr. Favazzo stated the Panini lease was finalized with the property owner, Hauck Holdings, and that construction has begun. The outdoor patio will consist of an outside bar located in front of an outside cooler, a fireplace or fire pit and potted landscaping. Seating capacity is uncertain.

Code requires that a conditional use permit must first be granted in order to serve alcoholic beverages. Mr. Adamus had contacted Law Director Paluf after the last regular meeting held April 8, 2019 inquiring if Code section HHCO 1109.04(c): "Conditional Use Permits; Application Evaluation Standards", which establishes that a business serving alcoholic beverages shall be not less than 1,500 feet from any other business which is serving or selling alcoholic beverages, would apply as there are several existing businesses serving alcohol within 1,500 feet of Panini's. At tonight's meeting, Mr. Paluf was present and stated section HHCO 1109.04(c) is antiquated and has never been enforced and recommended it be considered by the Commission for removal from Code; however, it cannot be ignored for the conditional use permit at this time because it currently appears in Code. The Commission was in support of Mr. Paluf's opinion because the 1,500-foot restriction seems overly-restrictive, especially in a small community like Highland Heights with limited retail business districts.

Public hearing opened to the public. No one spoke nor was any correspondence received from the public on this matter. Public hearing closed at 8:08 p.m.

Susan M. Olson, Clerk

Vince A. Adamus, Chair