

City of Oxford
Community Development Department
STAFF REPORT

Planning Commission

Case # PC-05-2013

Date – March 12, 2013

APPLICATION

Applicant:

City of Oxford

Action Request:

ZONING CODE TEXT AMENDMENT to Amend Chapter 1143.11 MU (University) District to Include Conditional Uses
City of Oxford, Applicant

DESCRIPTION

As part of a city wide zoning ordinance update in 2003, some privately owned properties were rezoned from R-1 (Suburban Single-Family Dwelling) to MU (University District). The R-1 District no longer exists in the current zoning code. The properties not owned by Miami University comprise less than 1% of the MU zoned portions in the City of Oxford. This is a code clean-up item on the list of 2013 work priorities of the Planning Commission.

While the 2003 comprehensive update did permit privately operated land uses to continue, it did not accommodate for expansions or changes of those private land uses. Additionally, Site Development Regulations were not included in the 2003 amendment, so there is no guidance for dimensional requirements for any use other than single family. This proposed amendment proposes adding conditional uses that are the same as the R1MS (Single-Family Mile Square Residential) District. This would provide property owners the same rights as owners in other residential districts who desire to change from a single family use to one of several other conditional uses. It would also allow places of worship to expand under the same Conditional Use Permit process for other residential districts.

ZONING CODE

The attached text amendment proposes changes to Section 1143.11 by adding Site Development Regulations and a Conditional Use Section.

The proposed amendments fall within the Intent and Purpose Statements listed in Section 1143.11.

AGENCY REVIEWS

Requests for review were made to the Police, Fire, Engineering and Economic Development Departments. The following comments have been received:

Police:	No comment
Fire:	No comments received
Engineering:	No comment
Econ. Dev.	No comment

COMPREHENSIVE PLAN

Some applicable **Land Use Principles** of the Comprehensive Plan are as follows (p. 3.9):

- Infill development and redevelopment of underutilized sites is a priority. (3.9)

Some applicable **Land Use Goals** of the Comprehensive Plan are as follows (p. 3.21)

Objective 9: Create new residential areas with traditional neighborhood qualities

LU 9.4 Create standards, or modify existing standards, to allow for a mix of housing types within neighborhoods. (p. 3.24)

DECISION CRITERIA

A copy of the Text Amendment Decision Criteria is attached.

ANALYSIS

There is one privately owned property on Bouden Lane that is zoned MU. However, the majority of privately owned properties are in the East Chestnut Street area with nearby intersections of Oak Street, Maple Street and Garrod Lane.

The 2003 rationale for not having any Site Development Regulations in this zoning district may have been because Miami University owned nearly all of the property in the proposed district. However, after 10 years have passed, nine houses, one vacant lot and one church are not owned by Miami University. This means that if the church wanted to expand or redevelop, there would be no guidance for building setbacks, height, or lot coverage.

Additionally, none of those properties are able to change to a use allowed as a conditional use in nearly all other residential zoning districts. It may be wise to provide the owners with the same land use opportunities and dimensional guidance as in other districts. The Conditional Uses Section 1147 gives specific guidance for the Planning Commission review of those particular uses listed in the proposed amendment: Community-Oriented Residential Social Service Facilities, Shared housing for the elderly, Government recreation facilities, Bed and breakfasts, Day cares, Schools and Places of worship.

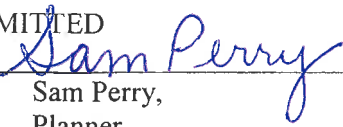
The Planning Commission and City Council are not obligated to approve a Conditional Use Permit. However, by allowing the opportunity for the case to be heard, it brings consistency among the residential category districts (11 are listed in Section 1133).

RECOMMENDATION

Staff recommends that the Planning Commission consider the proposed amendment as clean-up and ensure its alignment with the Purpose Statement of the district and the Comprehensive Plan.

SUBMITTED

BY:


Sam Perry,
Planner

DATE: March 4, 2013

(c) Planning Commission and Council Review. The Planning Commission shall base its recommendation on a proposed Zoning Code amendment upon the complete application, upon any staff report, and upon any relevant and credible public comment presented during the public hearing. Council shall base its decision on the same materials and shall also consider the Planning Commission recommendation.

If the Planning Commission or Council finds that the information provided is insufficient to make a determination, it may suspend its review until sufficient information has been provided.

- (1) Decision standards. A proposed amendment shall be approved only if it meets at least one of the following criteria, and if its benefits will likely outweigh any potential pitfalls.

Text Amendments

- A. The proposed amendment will make the Code conform more closely to the Comprehensive Plan.
- B. The proposed amendment will improve the public health, safety, and general welfare of Oxford.
- C. The proposed amendment will clarify the intent of the Code.
- D. The proposed amendment will better implement the intent of the Code.
- E. The proposed amendment will improve enforcement of the Code.

1143.11 MU UNIVERSITY DISTRICT.

(a) Purpose. The purpose of this district is to accommodate the academic, administrative, cultural, recreational, residential and ancillary uses comprising and supportive of the respective requirements of a college or university. Any parcel, property or structure that is within the Historic District Overlay shall also consult the current design guidelines of the Historical Architectural Preservation Commission and Chapter 1331 of the Oxford Codified Ordinance and shall follow the procedures for approval contained therein.

(b) Uses.

(1) Permitted uses.

A. University complex, including all affiliated educational structures and other supporting uses owned, operated, affiliated, leased or licensed by the university, such as dormitories, eating facilities, recreational and athletic facilities, laboratories, retail facilities, library, etc.

B. Single-family dwellings shall comply with the standards of the R-1MS District.

~~C. Public and semi-public facilities.~~

~~D. Day Care, Child Day Care Center, Day Care Home Type B family.~~

~~E. Places of worship.~~

(2) Conditional Uses. The following Conditional Uses are subject to review and regulation in accordance with Chapter 1147.

A. Community-Oriented Residential Social Service Facilities (CORSSF's).

B. Shared Housing for the elderly.

C. Government owned and/or operated parks and recreation facilities.

D. Bed and Breakfast homes.

E. Publicly owned and operated neighborhood recreation centers.

F. Day care facilities, including Child Day Care, Child Day Care Center and Day Care Home Type A family.

G. Schools: primary, intermediate, and secondary, both public and private.

H. Places of worship.

(c) Site Development Regulations. (Unless superseded Conditional Use Requirements)

(1) Lot requirements.

A. Minimum lot area 6,000 sq. feet

B. Minimum lot width 60 feet

(2) Yard requirements.

- A. Minimum front yard depth 20 feet
- B. Minimum rear yard depth 35 feet
- C. Minimum side yard width 7.5 feet on each side

(3) Structural requirements.

- A. Maximum building height 35 feet
- B. Lot Coverage
- C. Lots with vehicular access from a public street

- 1. Lot total – 35 percent
- 2. All enclosed buildings – 25 percent of lot
- 3. Front yard – 25 percent of front yard

(4) Mile Square Design Standards. Single family dwellings shall comply with the Mile Square Design Standards of the R1MS District.

(5) Proposals requiring major infrastructure improvements shall be referred to Planning Commission and City Council as determined by the City Manager. Site development specifications and a project overview for all university uses shall be submitted to the Planning Department for review for the following:

- A. Integration of transportation improvements with existing and planned services and facilities.
- B. Adequacy of public utilities and services.
- C. Conformance with Ordinances regulating the Historic Architectural Preservation Commission.
- D. Potential incompatibility with abutting zoning districts necessitating modifications to the site plan to mitigate potential negative impacts.

(6) A descriptive text shall be submitted indicating the nature of the proposed activity, expected levels of noise, odor, dust, smoke, light, glare, and vibration from normal operations, and a plan for addressing these impacts. Administrative review shall be conducted and response made within 30 days of receipt. (Ord. 2782. Passed 5-20-03.)

MU District Stats

	Shape Area sq. ft.
MU Poly 1	37787092.45
MU Poly 2	10265509.04
MU Poly 3	2002525.44
Sum	50055126.94
Acreage	1149.11
Sq Miles	1.80
Total City Sq M.	7.24
% MU zoned	0.25

MU Zone Non-Miami-Owned Property Summary		
Addr.	Sq. Ft.	Use
445 Bouden Ln	11,027.95	house
614 Garrod Ln	9,819.05	house
815 S. Maple	11,141.01	house
Garrod Ln	4,509.01	vacant
841 S. Maple	19,397.50	house
612 E. Chestnut	8,323.49	house
800 S. Maple	88,613.14	church
400 E. Chestnut	18,447.53	house
819 S. Oak	18,914.54	house
811 S. Oak	10,940.41	house
711 S. Oak	10,940.43	house
Tot sq ft.	212,074.06	
% MU Zone non-Miami	0.00424	
9 houses and 1 church		

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/5/13

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

PC-05-2013 ZONING CODE TEXT AMENDMENT to Amend Chapter 1143.11 MU (Miami University) District to include conditional uses, **City of Oxford, Applicant**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **3/8/13** Note: If no comments are received, we will assume the project meets your department's standards.

.....
Drawings are returned: w/comments without/comments

Drawings reviewed by: *A. Popescu*

Date: 3-6-13

VICTOR POPESCU

PRINTED NAME

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/5/13

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

PC-05-2013 ZONING CODE TEXT AMENDMENT to Amend Chapter 1143.11 MU (Miami University) District to include conditional uses, **City of Oxford, Applicant**

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Comments or status update requested by: Lynn Taylor

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Drawings reviewed by:



Date: 3-6-2013

R.B. Holzworth

PRINTED NAME

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/5/13

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From: Community Development

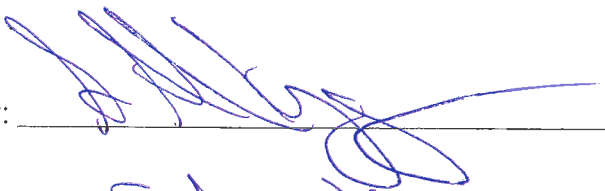
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Drawings are returned: w/comments without/comments

Drawings reviewed by: 

Date: 3-8-2013

G. Alan Kuchler
PRINTED NAME

Case No.: PC-05-2013
Date Filed: 1/23/13

Zoning Code Text Amendment Application
City of Oxford, Ohio

REQUIRED INFORMATION

Name of Applicant:

Sam Perry, City of Oxford

Mailing Address:

(Attach a Letter of Agency if the applicant is not the property owner.)
101 E. High St., Oxford, OH, 45056

Telephone Number(s)

Email Address

SUBMISSION REQUIREMENTS

A written, detailed description, where applicable, is required for each subsection.

1143.11, MU district

All applications must include:

- A. A general description of the proposed amendment.
- B. A narrative statement that describes how the proposed amendment relates to the Comprehensive Plan.
- C. A statement that identifies potential negative consequences of the proposed amendment.
- D. Any existing section number and text that is proposed to be deleted or amended.
- E. Any new or amended text as it is proposed to be codified including its proposed location in the Code. (section numbers)
- F. A narrative statement that describes the expected effects of the proposed text.
- G. A narrative statement that compares the expected effects of the proposed text with any existing text that it will replace, if applicable.

Planning Commission and Council Review The Planning Commission shall base its recommendation on a proposed Zoning Code amendment upon the complete application, upon any staff report, and upon any relevant and credible public comment presented during the public hearing. Council shall base its decision on the same materials and shall consider the Planning Commission recommendation. If the Planning Commission or Council finds that the information provided is insufficient to make a determination, it may suspend its review until sufficient information has been provided.

Decision Standards A proposed amendment shall be approved only if it meets at least one of the following criteria, and if its benefits will likely outweigh any potential pitfalls. The proposed amendment will:

- A. make the Code conform more closely with the Comprehensive Plan.
- B. improve the public health, safety, and general welfare of Oxford.
- C. clarify the intent of the Code.
- D. better implement the intent of the Code.
- E. improve enforcement of the Code.

All materials and the application fee in the amount of **\$150.00 plus actual postage**, payable to the City of Oxford must be delivered to the office of Community Development, 101 East High Street, Oxford, Ohio 45056 45 days prior to the proposed meeting date. Any questions should be directed to the Community Development Department at (513) 524-5204.

NOTE: Incomplete applications will not be processed. City Staff will erect a public hearing sign on the subject property. It is the Applicant's responsibility to remove the signage once the hearing(s) are completed.

SIGNATURE OF APPLICANT:

Sam Perry

Date: 1-23-13

PRINTED NAME:

Sam Perry

FEE / RECEIPT

\$150 Fee plus Actual Postage Paid / Receipt Number:

NA

City of Oxford
Community Development Department
STAFF REPORT
Planning Commission

Case # PC-07-2013

Date – March 12, 2013

APPLICATION

Applicant:	City of Oxford
Action Request:	ZONING CODE TEXT AMENDMENT to Amend Chapter 1145 Planned Developments, Specifically 1145.09 Period of Validity, to Define a Period of Validity of an Approved Preliminary PUD, City of Oxford, Applicant

DESCRIPTION

The current planned development regulations in the Oxford Zoning Code do not contain any provision related to the expiration date for an approved preliminary planned development. It allows the approved plan to be valid indefinitely, which creates potential issues in the future when the development proposal does not reflect the surrounding environment.

ZONING CODE

The attached text amendment illustrates changes to Chapter 1145.09 Period of Validity

COMPREHENSIVE PLAN

Not applicable

AGENCY REVIEWS

Requests for review were made to the Police, Fire, Engineering and Economic Development Departments. The following comments have been received:

Police:	No comment
Fire:	No comments received
Engineering:	No comment
Econ. Dev.	Comment received

DECISION CRITERIA

A copy of the Text Amendment Decision Criteria is attached.

ANALYSIS

The purpose of a planned development is to incorporate land uses and development patterns that are intended to allow and encourage creative and flexible land development that would otherwise not be permitted. The planned development is a good alternative to a traditional subdivision and infill development that utilizes available land and existing utility resources where they already exist.

The current provisions regarding the period of validity only addresses the final planned development approval, but not the approved preliminary planned development. This could be potentially problematic when the preliminary planned development is approved years prior that the conditions and circumstances of the surrounding environment may be totally different, and the environment when the approval was approved is no longer the same. In the absence of any sunset provisions, the decision body would have to honor the approved preliminary plan even though the approval may have been years ago.

Staff initiated email correspondence to all Ohio planners to see what their jurisdictions' regulations might be on this matter. For those who responded to this request, the approval period ranged from 6 months to three years. The validity also varied based on either the approval of the final plan or on the final plan

application submission date. Additionally, those who responded to this request also aired some caution as to whether the planned development is an overlay district or a rezoning request. Geographically, those who responded to this request were located in the southwest region of Ohio, so there were some locality factors that could be drawn upon when considering proposed changes.

Additionally, the purpose of preliminary planned development is to create a gauge between the applicant and the Planning Commission and/or City Council as to how a creative development could take place. After the approval of the preliminary planned development, the developer would further develop detailed plans, based upon the approved preliminary plan. The approval of the preliminary planned development provides some assurance to the applicant/developer to move forward with the final plan and the perimeter of how the final plan should look. It also provides a reference for the decision maker when reviewing the final planned development. More importantly, it provides the applicant/developer to secure finance for the development.

Based on these considerations, it would not be unreasonable to set a two-year time frame for the approval period, with the possibility to obtain four extensions, each extension being good for a 6-month period. An application seeking an extension shall be filed prior to the expiration of the approval period.

RECOMMENDATION

Staff recommends that the Commission concur with the changes and forward to Council for legislation.

SUBMITTED

BY:


Jung-Han Chen

Community Development Director

DATE: February 25, 2013

ATTACHMENT

(c) Planning Commission and Council Review. The Planning Commission shall base its recommendation on a proposed Zoning Code amendment upon the complete application, upon any staff report, and upon any relevant and credible public comment presented during the public hearing. Council shall base its decision on the same materials and shall also consider the Planning Commission recommendation.

If the Planning Commission or Council finds that the information provided is insufficient to make a determination, it may suspend its review until sufficient information has been provided.

- (1) Decision standards. A proposed amendment shall be approved only if it meets at least one of the following criteria, and if its benefits will likely outweigh any potential pitfalls.

Text Amendments

- A. The proposed amendment will make the Code conform more closely to the Comprehensive Plan.
- B. The proposed amendment will improve the public health, safety, and general welfare of Oxford.
- C. The proposed amendment will clarify the intent of the Code.
- D. The proposed amendment will better implement the intent of the Code.
- E. The proposed amendment will improve enforcement of the Code.

1145.09 PERIOD OF VALIDITY

(a) An application for a final planned development shall be filed within two (2) years from the approval date of the preliminary planned development, otherwise the approved preliminary planned development is considered null and void, unless an extension of the approval has been granted within this two-year period by the Planning Commission. An extension application may be filed in accordance with subsection (c) and (d) of this section.

~~(a)~~ (b) If an approved final planned development has not been substantially established within one year of its approval, or if construction falls more than one year behind the approved schedule, the Zoning Administrator shall consider the approval null and void and shall not issue any permits for the development.

~~(b)~~ (c) An applicant may request a time extension from the Planning Commission. No application materials are required, however, the Zoning Administrator may request information he or she deems necessary for the Planning Commission to make a decision. Planning Commission shall consider the request at its next regularly scheduled meeting. Such request does not require a public hearing. **An application seeking an extension shall be filed prior to the expiration of the approval period.**

~~(c)~~ (d) If the scope of the approved planned development has not changed and the proposed use and site plan still satisfy the decision standards, the Planning Commission shall grant a 6-month extension of time for compliance. No more than four such extensions may be granted.

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/5/13

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

PC-07-2013 ZONING CODE TEXT AMENDMENT to Amend Chapter 1145 Planned
Developments to include the period of validity for an approved preliminary planned development, **City
of Oxford, Applicant**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **3/8/13** Note: If no comments are received, we will assume the
project meets your department's standards.

.....
Drawings are returned: w/comments without/comments

Drawings reviewed by: *A. Popescu*

Date: 3-6-13

VICTOR POPESCU
PRINTED NAME

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/5/13

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From: Community Development

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 X Review Revisions Other

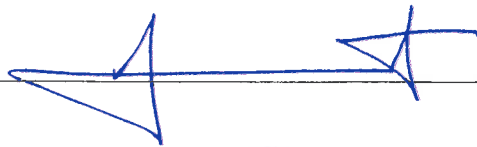
Comments or status update requested by: Lynn Taylor

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Drawings are returned: w/comments without/comments

Drawings reviewed by:



Date: 3-6-2013

R.B. HOLZWORTH
PRINTED NAME

City of Oxford
Inter-Office Review Transmittal Sheet

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To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

PC-07-2013 ZONING CODE TEXT AMENDMENT to Amend Chapter 1145 Planned
Developments to include the period of validity for an approved preliminary planned development, **City
of Oxford, Applicant**

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.....
Drawings are returned: w/comments without/comments

GREAT IDEA.

Drawings reviewed by: _____

Date: 3-8-2013

John G. Almy
PRINTED NAME

Zoning Code Text Amendment Application
City of Oxford, Ohio

REQUIRED INFORMATION

Name of Applicant:

Sam Perry, City of Oxford
(Attach a Letter of Agency if the applicant is not the property owner.)

Mailing Address:

101 E. High St., Oxford, OH 45056

Telephone Number(s)

Email Address

SUBMISSION REQUIREMENTS

A written, detailed description, where applicable, is required for each subsection.

All applications must include:

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Planning Commission and Council Review The Planning Commission shall base its recommendation on a proposed Zoning Code amendment upon the complete application, upon any staff report, and upon any relevant and credible public comment presented during the public hearing. Council shall base its decision on the same materials and shall consider the Planning Commission recommendation. If the Planning Commission or Council finds that the information provided is insufficient to make a determination, it may suspend its review until sufficient information has been provided.

Decision Standards A proposed amendment shall be approved only if it meets at least one of the following criteria, and if its benefits will likely outweigh any potential pitfalls. The proposed amendment will:

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NOTE: Incomplete applications will not be processed. City Staff will erect a public hearing sign on the subject property. It is the Applicant's responsibility to remove the signage once the hearing(s) are completed.

SIGNATURE OF APPLICANT:

Sam Perry

Date:

1-23-13

PRINTED NAME:

Sam Perry

FEE / RECEIPT

\$150 Fee plus Actual Postage Paid / Receipt Number:

NA

City of Oxford
Community Development Department
STAFF REPORT
Planning Commission

Case # PC-06-2013

Date – March 12, 2013

APPLICATION

Applicant: City of Oxford
Action Request: **ZONING CODE TEXT AMENDMENT** to Amend Chapter 1139
Variances to Include the Minimum Period of Time for Reapplication
City of Oxford, Applicant

DESCRIPTION

One of the issues the Planning Commission is reviewing is considering the addition of a minimum period of time for a Board of Zoning Appeals reapplication. Under the current regulations, there is no set time period stipulated when a substantially similar application can be refilled after being turned down, wholly or in part, by the Board of Zoning Appeals.

ZONING CODE

The attached text amendment illustrates changes to Chapter 1139 Variances

COMPREHENSIVE PLAN

Not applicable

AGENCY REVIEWS

Requests for review were made to the Police, Fire, Engineering and Economic Development Departments. The following comments have been received:

Police:	No comment
Fire:	No comments received
Engineering:	No comment
Econ. Dev.	Comment received

DECISION CRITERIA

A copy of the Text Amendment Decision Criteria is attached.

ANALYSIS

Section 8.08 of the Oxford Charter stipulates that the Board of Zoning Appeals shall have the power to hear and determine appeals from refusal of building permits and to permit exceptions to and variations from the zoning regulations in individual cases as may be required to afford justice and avoid unreasonable hardship to property owner. Chapter 1139 of the Oxford Zoning Code also prescribes a detailed process to file said application to go before the Board of Zoning Appeals, along with the decisions standards for the deliberation of its adjudication.

Apparently, the current code does not state a minimum period of time to allow for an application to be filed after it has been turned down, in whole or in part. It is common to allow for reapplications to take place after a certain period of time has lapsed since circumstances or conditions may have changed. Additionally, given the nature of the hearing process and the judicial proceeding, it is important to allow sufficient time for any interested parties to prepare, contemplate and comment on any application; therefore, it is desirable to set a time period before the same request may be considered.

Other types of applications such as a Conditional Use or Planned Development all have a minimum period of time of one year for reapplication. Furthermore, the State statute does not have any

predetermined period of time for reapplication and it suggests that it should be left with the local government to determine what would be a reasonable timeframe for reapplication. Staff also has contacted several other municipalities to find out what their regulations are pertaining to this matter. It would be reasonable to consider the same time frame.

It seems that this was inadvertently left out to be consistent with other regulations outlined in the Oxford Zoning Code. Based on these considerations, it would be reasonable to consider placing a one-year period of time to allow for a substantially similar application be filed before the Board of Zoning Appeals.

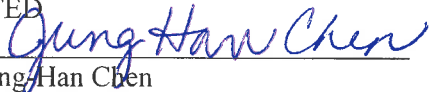
Making this change would codify the process to be consistent with the similar provisions of other sections of the Oxford Zoning Code.

RECOMMENDATION

Staff recommends that the Commission concur with the change and forward to Council for legislation.

SUBMITTED

BY:


Jung Han Chen

Community Development Director

DATE: February 25, 2013

ATTACHMENT

(c) Planning Commission and Council Review. The Planning Commission shall base its recommendation on a proposed Zoning Code amendment upon the complete application, upon any staff report, and upon any relevant and credible public comment presented during the public hearing. Council shall base its decision on the same materials and shall also consider the Planning Commission recommendation.

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- D. The proposed amendment will better implement the intent of the Code.
- E. The proposed amendment will improve enforcement of the Code.

1139.01 GENERAL.

1139.02 Procedure

(a) Purpose. A variance permits variation from the strict interpretation of this Code so that no specific provision prevents development of a specific site that would otherwise not be possible and that would satisfy the general intent of the Code. Use variances are prohibited.

(b) Variance Requirement. Each variance shall be granted according to the provisions of this chapter.

(c) Effect of Variance.

- (1) A variance shall be valid only for the specific use, site, location, and provision for which it is granted and changes to the use and site that change the facts upon which it was granted shall be strictly interpreted.
- (2) A variance does not expire, but becomes invalid if the use, site, or location is changed in some way that changes the facts upon which it was granted.
- (3) An action or construction that is undertaken following the granting of a variance does not create nonconformity. A variance actually changes the specific provisions of the Code as they pertain to a specific use, site, and location. (Ord. 3036. Passed 12-2-08.)

1139.02 PROCEDURE.

(a) Application. An application for a variance shall be filed with the Zoning Administrator. An application shall be complete prior to being scheduled for an adjudication hearing. An application will be placed on the agenda only if the Zoning Administrator is satisfied that all of the materials required by this chapter are included and are sufficient in their content to satisfy the intent of the application requirements. The Board will not hear any appeal on an application the Board deems incomplete.

(1) Contents of application for variance. Eight complete sets of all information shall be submitted with an application. The Zoning Administrator may modify this requirement based upon the type of materials included. The applicant is encouraged to contact the Zoning Administrator prior to submitting an application to discuss the submission requirement. If any information is submitted in color or on non-standard paper, more copies may be required.

- A. Application Fee.
- B. Description of Use and Site.
- C. The name, mailing address, and telephone number of the applicant and the property owner.
- D. If the applicant is not the owner, a statement from the owner that the applicant is entitled to apply on his or her behalf (Letter of Agency).
- E. A legal description of the site, including all separate lots.
- F. A description of the existing uses of the site.
- G. The zoning district in which the site is located.
- H. A description of the existing and proposed use.
 - 1 A description of operations, including type of goods sold, services performed, and expected number of customers, clientele, delivery, and service vehicles.
 - 2 The hours of operation.
- I. The nature and magnitude of the requested variance.
- J. The Code section from which the variance is requested.
- K. A separate narrative statement that explains how the proposed variance satisfies each of the Decision Standards required granting a variance.

- L. A list of the names and mailing addresses of all landowners within 200 feet of the perimeter of the site.
- (2) Site Plan. A scaled site plan shall include the following information in detail. The required information may be submitted on multiple site plans if inclusion of all information on a single plan makes it illegible or difficult to understand.
 - A. North arrow.
 - B. Scale.
 - C. Vicinity map.
 - D. All existing and proposed lot lines within the site.
 - E. Dimensions of all lots and of the entire site and any adjacent rights-of-way.
 - F. Location, height, and use of all proposed and existing structures.
 - G. Location and design of all proposed vehicle management areas.
 - H. Location, size, and type of all proposed signs.
 - I. Location, height, and type of all proposed screening and landscaping.
 - J. Distances to residential zoning districts if within 1,000 feet.
 - K. The use of land and location of structures on adjacent property and across adjacent rights-of-way.
 - L. An indication of the regulation from which the variance is requested.
 - M. Other information as required by the Board of Zoning Appeals.
- (3) Elevations. Elevations of proposed structures, or typical elevations if structures are not yet designed, may be required by the Zoning Administrator if the proposed location, height, or bulk of the structure is such that it may negatively affect an adjacent use.
- (4) Other. Photographs of the existing use and its surroundings and other information regarding the proposed use, site, or surrounding area as may be pertinent to the application or required by the Board of Zoning Appeals.

(b) Reapplication.

(1) No application for a variance that is substantially similar to an application that has been denied or granted, wholly or in part, or revoked, shall be submitted **for one year** to the BZA for a decision. The Zoning Administrator shall determine if a similar application differs enough to be considered a different application and not subject to this section. The Zoning Administrator may consider factors such as the nature or size of a proposal, changes in the development or traffic patterns of the area, or newly discovered evidence pertinent to a decision on a previous application.

(2) An applicant may appeal the decision of the Zoning Administrator to the Board of Zoning Appeals as stipulated in this Chapter and Section 1129.09 of the Planning and Zoning Code.

(c) Board of Zoning Appeals Review. The Board of Zoning Appeals shall base its review of a variance application upon the complete application, upon any staff report, and upon any relevant and credible public testimony and evidence presented during the adjudication hearing. If the Board of Zoning Appeals finds that the information provided is insufficient to make a determination, it may suspend its review until sufficient information has been provided.

- (1) Burden of proof. The applicant shall be required to present by preponderance of reliable, probative and substantial testimony and evidence that supports the applicants request for a variance.
- (2) Decision standards. The Board of Zoning Appeals will consider the effect of the request on the public health, safety and welfare. Variances shall be granted only upon a determination that practical difficulties exist with respect to the property in question that would render strict application of the Planning and Zoning Code unreasonable. This determination shall be made without regard to the existence of variances and nonconformities on other land, sites, or structures not presently under consideration. In determining whether practical difficulties exist sufficient to warrant a variance, the Board shall consider and weigh the following factors:

- A. Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance;
- B. Whether the variance is substantial;
- C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- D. Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage);
- E. Whether the property owner purchased the property with knowledge of the zoning restriction;
- F. Whether the property owners' predicament feasibly can be obviated through some method other than a variance;
- G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
- H. Any other relevant factor.

(d) Action by Board of Zoning Appeals.

- (1) The Board of Zoning Appeals shall grant, grant with conditions, or deny a variance application as presented and shall clearly state the findings upon which its decision is based.
- (2) The Board of Zoning Appeals shall base its decision only upon the Decision Standards in this Chapter. In its decision, the Board of Zoning Appeals may waive or modify dimensional regulations of the Zoning Code, or impose more strict regulations and any additional conditions, guarantees, and safeguards it deems necessary to satisfy the purposes of this Zoning Code.

(e) Issuance of Permits.

- (1) The Zoning Administrator shall issue permits to permit the action for which a variance was sought after the Board of Zoning Appeals grants a variance. Construction permits shall not be issued unless the plans substantially conform to those upon which a variance was granted. Any action that exceeds a granted variance shall constitute a violation of the Zoning Code.
- (2) No order of the Board permitting erection or alteration of a building or the use of a building or premises shall be valid for a period longer than six (6) months, and upon the expiration of such period shall automatically be deemed revoked, unless a building permit for such erection or alterations is obtained and the work is started within such period, or, where no erection or alteration is necessary, the permitted use is established within such period, or an extension is requested in writing and granted by the Board.

(f) Appeal of Board of Zoning Appeals Decision.

- (1) Appeals to the decision of the Board of Zoning Appeals shall be made to the Court of Common Pleas of Butler County. (Ord. 3036. Passed 12-2-08.)

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/5/13

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

PC-06-2013 ZONING CODE TEXT AMENDMENT to Amend Chapter 1139 Variances to include the minimum period of time for reapplication, **City of Oxford, Applicant**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **3/8/13** Note: If no comments are received, we will assume the project meets your department's standards.

.....

Drawings are returned: w/comments without/comments

Drawings reviewed by: _____

V. Popescu

Date: 3-6-13

VICTOR POPESCU

PRINTED NAME

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/5/13

To: Fire Department Engineering Division Police Department Economic Development

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PC-06-2013 ZONING CODE TEXT AMENDMENT to Amend Chapter 1139 Variances to include the minimum period of time for reapplication, **City of Oxford, Applicant**

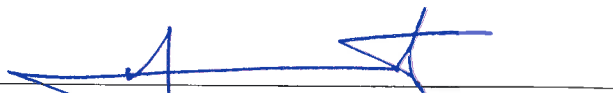
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.....
Drawings are returned: w/comments without/comments

Drawings reviewed by: _____



Date: 3-6-2013

R. B. Holzworth
PRINTED NAME

City of Oxford
Inter-Office Review Transmittal Sheet

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.....
Drawings are returned: w/comments without/comments

ANOTHER GREAT IDEA.

Drawings reviewed by: _____

Date: 3-8-2013

G. Andrew Jackson
PRINTED NAME

Case No.: PC-06-2013
Date Filed: 1/23/13

Zoning Code Text Amendment Application
City of Oxford, Ohio

REQUIRED INFORMATION

Name of Applicant:

Sam Perry, City of Oxford

(Attach a Letter of Agency if the applicant is not the property owner.)

Mailing Address:

101 E. High St, Oxford, OH 45056

Telephone Number(s)

Email Address

SUBMISSION REQUIREMENTS

A written, detailed description, where applicable, is required for each subsection.

1139, Variances

All applications must include:

- A. A general description of the proposed amendment.
- B. A narrative statement that describes how the proposed amendment relates to the Comprehensive Plan.
- C. A statement that identifies potential negative consequences of the proposed amendment.
- D. Any existing section number and text that is proposed to be deleted or amended.
- E. Any new or amended text as it is proposed to be codified including its proposed location in the Code. (section numbers)
- F. A narrative statement that describes the expected effects of the proposed text.
- G. A narrative statement that compares the expected effects of the proposed text with any existing text that it will replace, if applicable.

Planning Commission and Council Review The Planning Commission shall base its recommendation on a proposed Zoning Code amendment upon the complete application, upon any staff report, and upon any relevant and credible public comment presented during the public hearing. Council shall base its decision on the same materials and shall consider the Planning Commission recommendation. If the Planning Commission or Council finds that the information provided is insufficient to make a determination, it may suspend its review until sufficient information has been provided.

Decision Standards A proposed amendment shall be approved only if it meets at least one of the following criteria, and if its benefits will likely outweigh any potential pitfalls. The proposed amendment will:

- A. make the Code conform more closely with the Comprehensive Plan.
- B. improve the public health, safety, and general welfare of Oxford.
- C. clarify the intent of the Code.
- D. better implement the intent of the Code.
- E. improve enforcement of the Code.

All materials and the application fee in the amount of **\$150.00 plus actual postage**, payable to the City of Oxford must be delivered to the office of Community Development, 101 East High Street, Oxford, Ohio 45056 45 days prior to the proposed meeting date. Any questions should be directed to the Community Development Department at (513) 524-5204.

NOTE: Incomplete applications will not be processed. City Staff will erect a public hearing sign on the subject property. It is the Applicant's responsibility to remove the signage once the hearing(s) are completed.

SIGNATURE OF APPLICANT:

Sam Perry

Date:

1-23-13

PRINTED NAME:

Sam Perry

FEE / RECEIPT

\$150 Fee plus Actual Postage Paid / Receipt Number:

NA