



Board of Zoning Appeals & City Planning Commission Minutes
Tuesday, April 6, 2021
6:30 P.M.
Via Video and Audio Conference

Members Present: David E. Weiss, Mayor
Sean P. Malone, Council
Joseph J. Boyle III, Member
Kevin Dreyfuss-Wells, Member
Joanna Ganning, Member

Others Present: Joyce G. Braverman, Director of Planning
William M. Gruber, Director of Law
Daniel Feinstein, Senior Planner

The meeting was called to order by Mayor Weiss at 6:30 p.m.

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Approval of the March 2, 2021 Meeting Minutes

It was moved by Mr. Boyle and seconded by Dr. Ganning to approve the minutes.

Roll Call: Ayes: Weiss, Malone, Boyle, Dreyfuss-Wells, Ganning
Nays: None

Motion Carried

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#2100. goPuff – 3625 Lee Road:

A Public Hearing was held on the request of Behnam Malakooti, property owner, on behalf of goPuff, proposed tenant, 3625 Lee Road, to the Board of Zoning Appeals and City Planning Commission for variances and a Conditional Use Permit for a use similar to assembly and packaging of finished goods and retail. The proposed tenant, goPuff, is a business that stores, assembles, packages, and delivers consumer goods typically found in a convenience store. Online orders are assembled from merchandise stored on site, then packaged and delivered to customers. Independent contractors using personal passenger vehicles would make deliveries. Delivery service would be available 24 hours a day; pick up service would be limited to between 9:00 a.m. to 9:00 p.m. A variance is required to operate 24 hours a day as code limits deliveries to between 5 a.m. and 11 p.m.

CITY OF SHAKER HEIGHTS

The rear yard landscape buffer is proposed to be a 7-foot deep landscape area with an 8-foot tall wood fence, evergreen shrubs and two pine trees. Code requires a 20-foot wide landscape buffer area with a 6-foot tall brick wall. Code also requires parking lot landscaping consisting of 100% coverage of 2 to 3 foot tall bushes from the street view and two interior parking lot landscape islands. The applicant proposes 50% coverage of bushes from the street view and no interior parking lot landscape islands. The Conditional Use Permit requires Council confirmation.

Mr. Feinstein showed slides of the site. He stated this is a request for a Conditional Use Permit and variances for a use similar to assembly and packaging of finished goods in order to operate a 24-hour business that assembles, packages, and delivers consumer goods. The applicant proposes to locate a goPuff business in this vacant building. goPuff packages, assembles, and delivers consumer goods typically found in a convenience retail store. Delivery is 24 hours a day by individual private contractors driving personal vehicles. Deliveries are proposed 24 hours a day. A variance is needed for 24-hour delivery. The rear yard landscape buffer is 7 feet wide with an 8-foot tall fence, evergreen bushes and 2 pine trees. A variance is required, as code requires a 20-foot wide area with bushes and a 6-foot tall brick wall. Code requires the front parking lot landscaping to be 100 percent covered with 2 and 3-foot tall bushes. The applicant needs a variance to propose 50% coverage of bushes. Code requires 2 interior parking lot landscape islands. No interior parking lot islands are proposed. Staff suggests continuation of the request with additional information on peak delivery hours and traffic issues with the bus garage, late night delivery numbers, a security plan, and a list of site plan modifications listed in the Staff Report.

Behnam Malakooti, owner, introduced Leor Reef of goPuff to explain the alterations.

Mr. Reef said goPuff has many locations and he is located in Chicago, Illinois. This location would have 15 employees. The staff packs goods for take-out and delivery. There would only be 20 per day walk-in traffic. Deliveries are ordered on their app or website with a goal to deliver within 20 minutes. They are open 24 hours a day, 7 days a week. They have 2 to 3 drivers, 10 to 15 deliveries per hour. Supplies are delivered via 1 to 2 box trucks per day during daylight hours.

Mr. Mackay of EBA Inc., and Bob Shae, architect, 3361 Avalon Road said this is a 4,200 square foot building in the C-3 business zoning. The parking lot and front lawn remain.

Mr. Shae said the rear landscape area should be corrected from 7 feet to 11 feet. He explained the floor plan, windows, and entrances of the building.

Mr. Malakooti said goPuff has agreed to rent the building. They have provided everything that was asked. They can comply with the landscape area and can provide traffic details. All answers are addressed in the material.

Mr. Malone asked if there is any precedent for deliveries between 11 p.m. to 5 a.m.

Mr. Feinstein said on Lee Road there are two daycares businesses open until midnight and Sam Sylk's restaurant is open until midnight.

Mr. Reef said 24 hour operation is key to their business. They expect only 3 to 5 deliveries per hour to operate here between midnight and 5 a.m.

Mr. Malakooti said the pace and type of people's lives has changed. The code was written a long time ago but modern life is now 24/7. People want and need items from goPuff for modern life. Walk-in pick up is closed at 9 p.m.

Mr. Boyle asked about the rear property line. Is it able to grow anything?

Mr. Malakooti said they propose an 8-foot tall wood fence at the rear property line to block noise to the rear neighbors. The area slopes up 3 to 4 feet. The view is of the rear of the garages. A property he owns nearby has the same rear slope area and it holds landscaping now.

Mayor Weiss asked for photos of the other properties mentioned.

Dr. Ganning asked the number of bushes that are proposed and how many are needed to meet code requirements.

Mr. Feinstein explained code requires 100% landscaping in the front landscape area. 50% coverage is proposed. The landscape beds need 8 and 6 bushes instead of the proposed 4 and 3 bushes.

Mr. Malakooti said additional plants are no problem. They can comply with the additional landscaping if a condition of approval.

Mr. Boyle asked if pick up is from the rear door. When are in-bound deliveries for stocking expected?

Mr. Reef said it is acceptable to limit in-bound deliveries to not between 11 p.m. to 5 a.m. for supplier deliveries. He expects incoming deliveries to the property to be during daylight hours.

Mr. Malakooti said the side double door would be the majority of delivery traffic. They want to be safe and easy access. The other door is for customer and delivery drivers.

Mayor Weiss asked about walk-up ordering.

Mr. Reef said customers order on a digital kiosk, and then staff assembles and gives the order to the customer in the same rear order area as the delivery drivers pick up their orders.

Mr. Dreyfuss-Wells asked about the trash enclosure and frequency of deliveries.

Mr. Feinstein explained the dumpster location and an alternate location.

Mr. Reef said between 11 p.m. and 5 a.m. there are 3 to 5 deliveries expected per hour. They take care of their employees. The security system will be monitored with internal and external cameras.

Mayor Weiss asked if there are other locations in Cleveland.

Mr. Reef said he does not know the other Cleveland locations.

Mr. Malakooti does not want the trash truck to turn into #13 parking space this causes damage to the parking lot pavement. He has experience at another property.

Mayor Weiss opened the Public Hearing.

Mr. Feinstein read the public comments received.

Belinda Johnson was concerned with traffic and the rear fence.

Ms. Shanklin was concerned with noise from 24 hour delivery.

Vicki Elder said she was concerned with food and storage regulations. How are delivery drivers vetted?

Sara Schiavoni, 2940 Morley Road, is impressed with goPuff. Residents have different work hours. She and her husband have late hours in this new age economy. She would rather shop local than at Walmart.

Nick Fedor, Shaker Heights Development Corp, 3558 Lee Road, asked if there would be a liquor permit. What is the status if there is?

Mr. Reef said they will have a takeout liquor permit. The drivers have a background check and training process.

Mayor Weiss said there is a list of items to consider including the dumpster, the landscape islands, and approval of a business for 24 hour in and out deliveries.

Mr. Dreyfuss Wells indicated the request should be continued to address these questions.

Mr. Malone said he struggles with the overnight delivery request but is open to more information. He looks forward to hearing more.

Continued with the following comments and considerations:

1. Provide peak delivery time/hour. Does it conflict with school bus traffic?
2. Provide a written security and procedure plan and driver vetting/hiring process.
3. Provide a written driver arrival, departure, and building entry procedure.
4. Indicate the addresses of the other two goPuff facilities in the Cleveland metropolitan area.
5. Revise the rear landscape area to indicate and confirm width, a survey will confirm.
6. Provide photo of nearby referenced landscape bed in similar rear yard situation.
7. Redesign the rear landscape area to include two additional pine trees and shift the bushes to accommodate.
8. Redesign the front parking lot landscape beds to indicate 8 bushes planted at 2 ft. tall in the northern landscape island and 6 bushes planted at 2 ft. tall in the south landscape island.
9. Reposition the dumpster so it in parking space #13 and or not visible straight up the parking lot from the street view.
10. Lower the dumpster brick wall to 6 ft. tall.
11. Change the species of two trees proposed in the front yard to a larger shade tree species.

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#2101. Van Aken District Apartments – 20005 Farnsleigh Road:

A Public Hearing was held on the request of Mackenzie Makepeace, RMS Investment Group, 20005 Farnsleigh Road, to the Board of Zoning Appeals and City Planning Commission for variances, site plan review, and a Conditional Use Permit to construct an apartment building as the next phase of the Van Aken District development. Site plan review is required for this 229 unit apartment building with two towers and a parking garage located on the current Farnsleigh Road parking lot. A Conditional Use Permit is requested for dwelling units on the first floor in the CM Commercial Mixed Use zoning district. Variances are required for a single use residential building, as code requires a mix of uses and 50% of the first floor to be retail in the CM Commercial Mixed Use zoning district. The south facing first floor facade is 45 percent open windows while code requires 60% open glass on the first floor facing a street. A variance is required to the number of parking spaces, as code requires 275 spaces and 263 spaces are proposed in the parking garage. A variance is required to the minimum size of a one bedroom unit of 700 square feet to allow a 499 square foot one bedroom unit. A building height variance is required as the applicant proposes building heights of 199 foot 6 inches for the eastern building and 165 foot 6 inches for the western building. Code permits a maximum 70 foot building height. The mechanical enclosure on the roof is proposed to be 15 feet tall when code limits rooftop mechanical equipment to 10 feet tall. The front yard setback is proposed to be 20 feet to the western building and 27 feet to the eastern building when code allows a maximum of 10 feet. The generator and the loading area are located in the western side yard when code requires both to be in the rear yard. The driveway width proposed for two driveways is 25 feet when code allows a maximum of 24 feet. The Conditional Use Permit requires Council confirmation.

Mr. Feinstein showed slides of the site. He stated this is a request for site plan review, variances and a Conditional Use Permit to construct an apartment building as the next phase of the Van Aken District Development. Site plan review is required for the 229 unit building on the Farnsleigh Road parking lot. There are several variances under the CM Commercial Mixed Use district including the front set back, building height, mixed use, and first floor retail or restaurant space, minimum size of units, lot area per unit, loading spaces, and mechanical units. A Conditional Use Permit is required to have dwelling units on the first floor. A design standards variance is required to the open first floor open glass percentage. Parking variances include minimum number of spaces and driveway width. There was a joint Work Session review with the Architectural Board of Review on January 12. The Architectural Board of Review reviewed the plans preliminarily at their March 15 and April 5 meetings. At the March 15 review, the Board reviewed design changes including a varied roof height, additional balconies, narrower bridge features, and wall details. The Board members reacted positively to the changes and the overall design. At yesterday's review, the Architectural Board reviewed additional garage cladding, generator and loading screening. The Board's comments included: additional study of options for the location and extent of garage cladding, rear garage wall treatment, additional renderings from the east and west, a section through the loading area and including the adjacent bank building in an east side view of the garage. Staff recommends continuation of the request with a list of information to be submitted including: detailed landscape plan, screening plan of the loading area and generator, a traffic and parking study, site lighting, accessory structures, materials and color list for the building and a signage plan.

Ms. Braverman described the history of planning for the Warrensville/Van Aken neighborhood. She said it includes the Strategic Investment Plan of 2000 and progressed up through a Transit Oriented Development plan and several plans around the transit station. She said the planning has included 20 years of planning, 6 plans and 61 public meetings.

John Ratner, RMS Investments, introduced this project as the next phase of the Van Aken District. The current use of the parking lot is not the highest and best use of this area. The development team has studied the site extensively. They intend to expand the density of the district. This new building is unique and special for this part of the city and overall metropolitan area. This project represents progress in order to move the city forward to the future.

James Michaels, Senior Designer with SCB Architects described the site and building plan. He showed various site and building layouts that were studied. He described some of the design enhancements that have been included with recent input from the city. Key parts of the design includes 229 apartment units and 263 garage parking spaces.

Joe Fox, Project Manager at SBC Architects, said the eastern building is 199 feet 6 inches tall. This height is in line with the Tower East building. The height allows them to build up instead of out, which leaves increased open green space on the site. The front yard setback is pushed back to allow more open space adjacent to the multi-use path and a comfortable amount of landscaping. They propose only one loading berth in the side yard that reduces pavement and keeps the loading area further from neighboring units. The generator is screened from view with a wall and landscaping from view of the street and recessed below grade. A Conditional Use Permit is needed for first floor residential units and is not over 40% in the district, and has no adverse impact. The front of the building is a main lobby entrance. They did not want to pursue additional retail due to left over space in Van Aken District. The minimum square feet of a unit is only for a one bedroom unit and there are only 2 of them. The remainder of the units range in size and comply with code regulations as 1, 2 and 3 bedroom units. The largest unit is 4,000 square feet. The street facing glass includes the main lobby and 40% glazing which is an appropriate balance of pedestrian, public and private scale. The number of parking spacing is reduced to a 1.15 ratio of parking per unit due to the proximity of transit. They need a variance to increase two driveways to be 25 feet wide to allow access to and from the auto court. This design is important for emergency vehicles and for the drop-off lane.

Mr. Boyle asked about the loading dock and dumpster operation.

Mr. Fox said trash chutes with compactors will collect and store trash inside the building. Staff will then fill dumpsters and then roll them outside for pickup.

Mr. Dreyfuss-Wells said there are site lines of the generator from the adjacent building.

Mr. Fox said the generator is 130 feet from the adjacent building.

Mackenzie Makepeace, RMS Investments, said the variance to have the loading area in the side yard avoids the rear yard. If the area were in the rear yard, then it would be closer to the adjacent neighbor's view.

Mr. Dreyfuss-Wells said he appreciates efforts to limit views. How will they schedule maintenance, trash pickup and move-ins?

Ms. Makepeace said scheduled activities will be held with staff who are on-site all days.

Mr. Malone asked about recycling.

Ms. Makepeace said yes, they will recycle. The loading berth is wide enough for the side-loading recycle truck.

Mayor Weiss asked about the green space on-site.

Jeff Pongonis, a landscape architect with MKSK Studios, said they propose a transition from landscaping just on the hill to a site that is 36% landscaping. A detailed landscape plan is being developed.

Mr. Malone asked about the need and explanation of the height of the building.

Mr. Fox said the building is the approximate height of Tower East, as that iconic building is on ground 20 feet above the elevation of their project. The construction quality of this building is for 70 year life span commensurate with Tower East.

Ms. Makepeace said RMS is a firm proposing long-term ownership of and operation of this building. RCL Company did a market study in 2018-19 that supports this type of investment. The height of this building gives differentiation from the Upstairs apartment units in type, view, location and amenities.

Mr. Ratner said a multifamily 4-5 story building is the cheapest building type but the proposed height allows a return on the increased cost as an enduring development. This building is a century's worth of building and investment in the city. These are simple, long-standing materials. RMS intends to build and own the project long-term. The Upstairs building had 103 units open since October 18 and full since 100% occupancy soon after. That demand has shown the type of demand that exists for more units in this project.

Mr. Malone said this type of development is appropriate and he hopes this is a successful project.

Mayor Weiss asked about the parking allowed by code.

Ms. Braverman said the code allows 40% reductions in the total parking requirement for Transit Oriented Development like this building. There is other parking nearby as well.

Mayor Weiss asked about the HVAC screening on the top of the building.

Mr. Fox explained the screen walls are designed to hide the rooftop mechanicals and must be 15 feet tall to accomplish this.

Mr. Malone asked about shadow study.

Mr. Michaels showed the shadow study. Shadow is mostly on their own property due to the angle and siting of this building. The adjacent building is out of shadow by mid-morning.

Ms. Braverman said the shadow image is cropped. There is a request to expand the view further.

Mayor Weiss opened the public hearing.

Mr. Feinstein listed and summarized comments received.

Annie Richman, Shaker Rocks owner, asked about first floor dwelling units, concerned about overall height and shadows.

Garrett Dreyer, 21209 Colby Road, supports density and investment.

Jennie Doran, Room Service owner, supports development and users it will bring to the district.

Robert Rosenthal, Exhibition owner, supports development and revitalization.

Megan O'Donnell, 19900 Marchmont Road, appreciates careful design and added density.

Kevin Crowe, Diplomat Condominiums, asked about market research, demand, traffic and any impact on the Parkland/Van Aken intersection and sewer infrastructure impact.

Matthew Ciccone, Ao Office owner, strongly supports a sustainable mixed use district.

Erin Andrews Wervey, Andrews Color owner, supports additional density.

Elliot Endsley, Nature's Oasis owner, says the added density is crucial to business survival.

Anthony Zappla, Lock, Stock & Brisket owner, supports the development.

Penny Harris, Spice for Life owner, supports the added density and diversity of development.

Brian and Emily Kellett, Stump owners, support continued investment in area.

Barbara and Irwin Feldman, residents, support the development with enthusiasm. It appeals to them and adds tax revenue.

Kyle Merrill, resident, supports the development.

Brenda and David Goldberg, residents, support continued revitalization and residents to stay after leaving single-family homes.

Christine and Andrew Medvedev, residents, support density, increase diversity of housing stock.

Harley Gross, resident, supports residential density and this is an appropriate site for development.

Carmen Paponetti, Domo Yakitori & Sushi owner, supports the added density.

Charles Chaikin, resident, supports empty-nester housing. Modern design and product is needed to add to Shaker's excellent housing.

David Osage, E²G owner, 20600 Chagrin Boulevard, asked about plans for the site and if any more tall buildings planned for the site? Will a scale model be made?

Kathy Stamler, resident, supports continued investment.

Scott Cowan and Leslie Kaufman, residents, support residential density.

Matthew Stipe, Banter Beer and Wine owner, said the development will increase sales and create more sustainable mixed-use district.

Jeremy Paris, resident, supports this bold new addition to Shaker's skyline and density.

Tom Adler, resident, strongly supports approval of the project, which has been a long time in the making. Modern design brings the district and city in line with today's architecture.

Zoximo Maximo, GrooveRyde owner, supports additional density.

Meg Ratner, Van Aken District storeowner, supports the second phase of development and it will enhance a sense of community for the district.

Penny Harris, Spice for Live co-owner, supports the development. It will boost density and sales.

Sara Merrill, resident, supports the improvement to residential density.

Judith Stenta, resident, supports the development, which will be of interest as residents leave single-family homes.

Todd & Amy Gerber, support as an improved asset for the community.

Robin McCann, Luster owner, supports increased sales for a sustainable mixed-use district.

Anastasia Karel, Shaker Villas 2 condominium association, said a primary concern is construction vibration and effect on the brick building, locations of transformers/trash in side yard and screening and fencing. One loading berth may lead to more frequent pick-up. They are also concerned with exterior site lighting, the glare of sunlight bouncing off the building, traffic and a parking study for the site.

Mr. Osage, said he supports overall development, but the building is too tall and does not meet the architectural intent of Shaker.

Roland Stenta, resident, said he supports the kind of building and location, which he would consider when he moves out of his house.

Colin Murphy said he supports the proposal. The Van Aken District has brought more children to his Sussex neighborhood and attracts people. We should welcome more people to the area to expand our community. He is a resident of 22 years supports the project and lives on Traynham. It is a 1/2 mile 10 minute walk. This type of project sets the city apart and attracts people. The city grows with projects like this and then survives into the future.

Michael Abdalian, Shaker Heights Country Club president, said he echoes Mr. Murphy. He speaks on behalf of the Country Club and the Board. The Board is supportive of the project and they are appreciative of the time working with Ms. Makepeace to address any of their prior questions.

Ms. Braverman said there is a question in the comments of the site lines from Mercer, Sussex, and Malvern. Resident Amy Rosenfeld has asked about the type and reflectivity of glass.

Another comment is to provide additional views beyond the two views from Van Aken and from Farnsleigh/Chagrin.

Mayor Weiss asked about bird-safe glass.

Mr. Fox said there are bird-friendly design standards that concentrate up to 36 feet in height, which is the space usually, inhabited by birds. The overall building height does not really contribute more to the danger to birds. There are already a lot more opaque surfaces near the ground level.

Mayor Weiss asked about lights and the kind of fencing along the western property line to screen the loading area.

Ms. Makepeace said they will be submitting a lighting plan and the property line fencing is visualized as ornamental aluminum fencing.

Ms. Braverman said the Architectural Board of Review has also asked about additional solid fencing as screening for the loading area.

Mr. Gruber asked about any sewer impact.

Ms. Braverman said the project will require flow calculations and NEORSD review. As part of Phase 1 of the Van Aken District, local sewers were tied into NEORSD deep tunnels. That flow was already moved prior to allow more flow from this project.

Dr. Ganning said she looks forward to continuing the studies to complete the details and answer questions about the project.

Mayor Weiss asked about the Architectural Board of Review's opinion of the garage design.

Ms. Braverman said the Board had questions about the location, design and extent of the proposed garage cladding. They asked for additional study.

Ms. Braverman said there was a public comment asking if the building will affect phone reception.

Mr. Michaels said he has never heard of a building affecting phone reception. He showed google earth views from the Country Club and down Van Aken Boulevard. He showed the garage side elevation, which is only 15 feet above grade at the street.

Ms. Braverman said there are comments about the loading dock times of use.

Mr. Fox said they could make between 7 a.m. to 7 p.m. for most loading dock access. Move-ins are usually after the morning rush and before the evening.

Mayor Weiss asked about electric vehicle charging in the garage.

Mr. Ratner said they intend to study and include them.

Ms. Braverman indicated there are additional comments relating to hours of operation of the pool and how long construction last.

Ms. Makepeace said the pool operation will not be late. She expects construction for 22 months.

Mayor Weiss said more information will be submitted at further meetings. There are additional studies that need to be completed and submitted.

Dr. Ganning said she is interested in the traffic study addressing pulling out of the loading area.

Mayor Weiss asked about next steps.

Ms. Braverman said a list of questions and comments from this meeting will be addressed at a future meeting when the applicant is ready.

The request was continued with the following additional submission documents:

1. Perspective and elevation drawings looking at west side yard with a truck in the loading berth and proposed screening.
2. Sight line view of the generator and screen wall plus landscaping from the neighboring property and the sidewalk.
3. Perspective drawing of the east garage façade with the neighboring bank property wall and building shaded.
4. Detailed landscape plan including fencing, hardscape and pedestrian lighting.
5. Detail of material treatment of the back wall of the parking garage.
6. Traffic and parking study, including info on Farnsleigh/Van Aken intersection and Van Aken/Parkland intersection.
7. Photometric plan and lighting study.
8. Accessory use and structure details and design.
9. Complete list of building materials.
10. Expanded shadow study area.
11. Unit sizes broken down by number and size.
12. Utility coordination with City for both sanitary and storm water systems.
13. Size and decibel sound level of the generator.

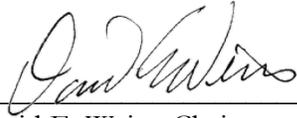
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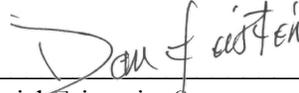
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There being no further business, the meeting was adjourned at 9:30 p.m. The next meeting will be May 4, 2021.



David E. Weiss, Chair
Board of Zoning Appeals
City Planning Commission



Daniel Feinstein, Secretary
Board of Zoning Appeals
City Planning Commission