



## Legislation Details (With Text)

**File #:** 1390-2019      **Version:** 2

**Type:** Ordinance      **Status:** Passed

**File created:** 5/13/2019      **In control:** Zoning Committee

**On agenda:** 6/3/2019      **Final action:** 6/5/2019

**Title:** To rezone 5720 N HAMILTON RD (43230), being 2.6± acres located on the east side of Hamilton Road, 275± feet north of Preserve Boulevard, From: CPD, Commercial Planned Development District, To: CPD, Commercial Planned Development District (Rezoning #Z19-029) and to declare an emergency.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. ORD1390-2019.Legal\_Description, 2. ORD1390-2019.Attachments, 3. ORD1390-2019.Labels

Date	Ver.	Action By	Action	Result
6/5/2019	2	CITY CLERK	Attest	
6/4/2019	2	ACTING MAYOR	Signed	
6/3/2019	2	COUNCIL PRESIDENT	Signed	
6/3/2019	1	Zoning Committee	Amended to Emergency	Pass
6/3/2019	1	Zoning Committee	Approved as Amended	Pass

### Rezoning Application: Z19-029

**APPLICANT:** Swenson's Drive-In Restaurants; c/o David Hodge, Atty.; 8000 Walton Parkway, Suite 260; New Albany, OH 43054

**PROPOSED USE:** Drive-in restaurant.

**DEVELOPMENT COMMISSION RECOMMENDATION:** Approval (5-0) on May 9, 2019.

**CITY DEPARTMENTS' RECOMMENDATION:** Approval. The site has remained undeveloped since it was zoned to the CPD, Commercial Planned Development District for fuel sales and commercial development in 2013. The requested CPD, Commercial Planned Development District will remove fuel sales as a permitted use and provides for a drive-in restaurant on a portion of the site while enhancing previously negotiated buffering commitments along abutting residential properties to the north and to the east. The site is within the planning area of the *Northland Plan Volume II* (2002) which recommends "Preserve District" for this location, calling for a mix of single and multi-unit residential development with some commercial uses. No specific land use guidelines apply to this site, however, Staff is supportive of commercial uses at this location given the existing development pattern of this commercial corridor. The CPD text commits to a site plan and includes development standards addressing site access, landscaping, building design, lighting, and graphics provisions. A variance to increase the maximum number of parking spaces from 35 permitted to 65 provided is included in this request and is supported given the nature of the proposed use. With the commitments within the CPD Plan and text, the request is compatible with the established zoning and development pattern of the area.

To rezone **5720 N HAMILTON RD (43230)**, being 2.6± acres located on the east side of Hamilton Road, 275± feet north of Preserve Boulevard, From: CPD, Commercial Planned Development District, To: CPD, Commercial Planned Development District (Rezoning #Z19-029) **and to declare an emergency.**

**WHEREAS**, application #Z19-029 is on file with the Department of Building and Zoning Services requesting rezoning of 2.6± acres from CPD, Commercial Planned Development District, to CPD, Commercial Planned Development District; and

**WHEREAS**, the Development Commission recommends approval of said zoning change; and

**WHEREAS**, the City Departments recommend approval of said zoning change because the requested CPD, Commercial Planned Development District is compatible with the established zoning and development pattern of the area and will not add incompatible uses;

**WHEREAS**, an emergency exists in the usual daily operation in the City of Columbus in that it is immediately necessary to pass this ordinance to begin construction as soon as possible for the immediate preservation of the public peace, property, health and safety; now, therefore;

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**SECTION 1.** That the Official Zoning Map of the City of Columbus, as adopted by Ordinance #0179 -03, passed February 24, 2003, and as subsequently amended, is hereby revised by changing the zoning of the property as follows:

**5720 N HAMILTON RD (43230)**, being 2.6± acres located on the east side of Hamilton Road, 275± feet north of Preserve Boulevard, and being more particularly described as follows:

**(SEE ATTACHMENT FILE ORD1390-2019.LEGAL\_DESCRIPTION)**

**To Rezone From:** CPD, Commercial Planned Development District.

**To:** CPD, Commercial Planned Development District.

**SECTION 2.** That a Height District of thirty-five (35) feet is hereby established on the CPD, Commercial Planned Development District on this property.

**SECTION 3.** That the Director of the Department of Building and Zoning Services be, and is hereby authorized and directed to make the said change on the said original zoning map and shall register a copy of the approved CPD, Commercial Planned Development District and Application among the records of the Department of Building and Zoning Services as required by Section 3311.12 of the Columbus City Codes; said site plans being titled, "**SITE PLAN FOR SWENSONS NEW ALBANY**," "**OVERALL LANDSCAPE PLAN**," "**EXTERIOR ELEVATION 1**," and "**EXTERIOR ELEVATION 2**," and said text being titled, "**COMMERCIAL PLANNED DEVELOPMENT TEXT**," all dated May 10, 2019, and signed by David Hodge, Attorney for the Applicant, and the text reading as follows:

**COMMERCIAL PLANNED DEVELOPMENT TEXT**

**EXISTING ZONING:** CPD, Commercial Planned Development

**PROPOSED DISTRICT:** CPD, Commercial Planned Development

**PROPERTY ADDRESS:** 5700 North Hamilton Road

**OWNER:** Hamilton II Retail LLC

**APPLICANT:** Swensons Drive-In Restaurants

**DATE OF TEXT:** May 10, 2019

**APPLICATION NUMBER:** Z19 - 029

## 1. INTRODUCTION

The property subject to this rezoning is located at 5700 North Hamilton Road (the “Property”). The Property is 2.6+/- acres located south of the Hamilton Road “S” curve, north of Preserve Boulevard, on the east side of Hamilton Road. The property is presently zoned CPD, Commercial Planned Development, for a retail gas filling station and convenience store, and other regional scale commercial uses.

The Applicant and Owner seek to modify the existing CPD zoning, to remove fuel sales as a permitted use, to allow a drive-in restaurant, while maintaining and enhancing existing negotiated buffering commitments along the north, and to the eastern residential boundary.

## 2. PERMITTED USES

Uses permitted per Columbus City Code Section 3356.03, C-4 Permitted Uses and a drive-in restaurant.

## 3. DEVELOPMENT STANDARDS

Unless otherwise indicated herein, or on the Site Plan for Swensons New Albany, Overall Landscape Plan, Exterior Elevation 1, or Exterior Elevation 2, the applicable development standards of Chapter 3356, C-4, Regional Scale Commercial District of the Columbus City Codes shall apply.

### A. Density, Height, Lot and/or Setback Commitments.

1. The site development and setback commitments are depicted on the registered plans.
2. There shall be a 20-foot continuous landscaped no-build zone along the eastern perimeter of the Property. A screening fence, as hereinafter described, shall be installed within the no-build zone 10 feet from the property line.

### B. Access, Loading, Parking and/or Other Traffic Related Commitments.

1. The Property shall be accessed via a right-in, right-out, left-in access point on Hamilton Road. The property has additional means of ingress and egress through existing cross-access easements.
2. To minimize speeds along the existing north/south access drive two speed bumps shall be installed as indicated on the Site Plan for Swensons New Albany.
3. The view of all loading docks shall be fully screened on all sides from any adjacent roadway, building or parking lot achieving 90% opacity to a minimum height of 7 feet from finished grade.

### C. Buffering, Landscaping, Open Space and/or Screening Commitments.

1. Landscaping shall be provided as depicted on the Overall Landscape Plan. The plant species listed on the Plan may be substituted for similar species. The landscaping is based on the following standards:
  - a. Within the 40-foot parking setback area along Hamilton Road, there shall be a minimum 3-foot continuous uniform earth mound and a 4-rail white horse fence located along the right-of-way line except for areas of ingress and egress. The mound shall have a minimum 8:1 slope that will begin at the right-of-way. The mound will also have a 3:1 maximum slope on the opposite side, which will begin approximately 12 feet from the setback line and have an approximate width of 4 feet.
  - b. Two rows of ornamental trees shall be planted within the open space corridor in a grid-like fashion at an approximate spacing of 15 feet on center, both ways. The first rows of trees shall be planted 20 feet from the right-of-way. Trees may be planted in pairs or staggered.

2. To enhance the buffer between the uses proposed with this rezoning, and existing surrounding uses, an 8-foot vinyl screening fence shall be provided along the eastern property line of the .956+/- acre drive-in restaurant parcel. In addition, an 8-foot vinyl screening fence shall be installed 10 feet from the eastern property line and within the 20-foot no-build zone, except for within an existing Gas Pipeline Easement of record in Instrument Number 199907200183458.
3. The existing row of evergreen trees along the perimeter shall be maintained if located on the Property. In addition, that existing landscaping shall be augmented within the 20-foot no build zone with newly installed evergreen trees that are a minimum 6-foot height at installation and planted a maximum of 12-feet away from one another, along the west side of the newly installed screening fence.
4. There shall be a 12.5-foot continuous no-build zone along the northern property line to preserve the existing tree row within that area running east/west. Within this area, a thorny shrub barrier along the northern property line shall serve to prevent pedestrian walk-thru and as an additional buffer for the adjacent property. This thorny shrub barrier shall be installed so as to preserve the existing tree row within that area.
5. To mitigate headlight impacts to residential property owners to the east, 5 evergreen trees with a minimum height of 6 feet at installation shall be installed along the eastern edge of the access drive pavement as indicated on the Overall Landscape Plan.

#### **D. Building Design and/or Interior-Exterior Treatment Commitments.**

1. The drive-in restaurant building shall be substantially similar to the Building Elevations labeled “Exterior Elevation 1” and “Exterior Elevation 2.”
2. For other buildings pitched, flat or mansard roofs shall be permitted and all flat roofs shall be required to have a parapet.
3. Blank facades on the rear of buildings are prohibited and articulation with recesses, fenestrations, fences and/or pilasters is required.

#### **E. Dumpsters, Lighting, Outdoor Display Areas and/or other Environmental Commitments.**

1. Parking lot lighting shall not exceed 14 feet in height.
2. Entry landscaping, if illuminated, shall be uplit by ground mounted concealed fixtures.
3. Dumpsters shall be emptied only between the hours of 8 AM and 8 PM and signs shall be posted on dumpster enclosures indicating permitted service times.

#### **F. Graphics and Signage Commitments.**

Graphics for the drive-in restaurant shall be by Graphics Plan reviewed by the Graphics Commission. Other graphics shall comply with those standards contained in Article 15 of the Columbus City Code as they apply to the C-4, Commercial District, unless varied by action of the Columbus Graphics Commission.

#### **G. Miscellaneous Commitments.**

1. The Property shall be developed in accordance with the plans titled “Site Plan for Swensons New Albany,” “Overall Landscape Plan,” “Exterior Elevation 1,” and “Exterior Elevation 2” dated May 10, 2019 and signed by David Hodge, Attorney. These plans may be slightly adjusted to reflect engineering, topographical, architectural or other data developed at the time of development and when engineering and architectural plans are completed. Any slight adjustment to the plans shall be reviewed and may be approved by the Director of the Department of Building and Zoning Services,

or a designee, upon submission of the appropriate data regarding the proposed adjustment.

2. The developer shall comply with Chapter 3318, Parkland Dedication, Columbus City Code.

#### **H. Other CPD Requirements.**

1. Natural Environment: The Property is located along the east side of Hamilton Road, south of the new round-a-bout “S” turn and north of Preserve Boulevard. The site is open, undeveloped, and relatively flat.

2. Existing Land Use: The Property is undeveloped and zoned in the CPD, Commercial Planned Development District for fuel sales and convenience store and regional scale commercial uses.

3. Circulation: The site shall have 1 direct access point to Hamilton Road and has additional off-site access points pursuant to existing cross-access easements.

4. Visual Form of the Environment: The drive-in restaurant will be developed in accordance with the registered plans. This proposed development is sensitive to surrounding uses and property owners, exceeding previously negotiated perimeter buffers by adding additional fencing and planting an additional row of evergreen trees along the far eastern perimeter.

5. Visibility: The property is visible from Hamilton Road and views into the site will be unobstructed and behind significant Hamilton Road buffering and the landscape treatment detailed herein and on the registered landscape plan.

6. Proposed Development: The proposed development is an old-fashioned drive-in restaurant along the Hamilton Road frontage, reserving the eastern portion for commercial development within the parameters established in this text and on the registered plans.

7. Behavior Patterns: The proposed use is appropriate for the location on an arterial road in a regional commercial area. The development proposed here is a downzoning from what was previously approved on the property.

8. Emissions: No adverse effect from emissions shall result from the proposed development.

#### **I. Modification of Code Standards.**

The drive-in restaurant development includes a modification to C.C. 3312.49 to exceed the maximum number of parking spaces permitted. This section would require a maximum number of parking spaces of 35 where 65 will be provided. With a drive-in restaurant of this type, there are no tables, patrons eat in their cars, and therefore additional parking is necessary and critical to the business.

**SECTION 4.** ~~That this ordinance shall take effect and be in force from and after the earliest period allowed by law.~~ **That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor or 10 days after its passage if the Mayor neither approves nor vetoes the same.**