

RESOLUTION NO. 102 (22-23)

A Resolution by the Council of the City of Marietta, Ohio granting a "reasonable accommodation" to Pathway Community Church, with regard to Marietta's zoning practices and enforcement, so as to permit Pathway Community Church to use the former North Hills Bowling Alley for religious Church services, although said building which is situated at 318 Colegate Drive, lies within a C-3 Zoning District, and declaring an EMERGENCY.

WHEREAS, municipalities have wide range discretion in regulating land use as a function of their police power. Zoning is a constitutionally permitted form of land use control; and,

WHEREAS, the City of Marietta enacted zoning regulations and controls by creating Part Eleven – Planning and Zoning Code of the Codified Ordinances of the City of Marietta, Ohio, by Ordinance No. 81 (66-67) passed on December 15, 1966; and,

WHEREAS, specifically enacted was:

Chapter 1101 – Definitions and General Provisions;
Chapter 1109 – "R-1 Single-Family Detached Residential District";
Chapter 1111 – "R-2 Single-Family Detached Residential District";
Chapter 1113 – "R-3 General Residential District"; and
Chapter 1115 - "R-4 General Residential District"; all of which outline the intended purposes, uses and regulations for each zoning district; and,

WHEREAS, also specifically enacted was:

Chapter 1117 – "C-1 Local Restricted Business District";
Chapter 1119 - "C-2 Local Restricted Service District";
Chapter 1121 – "C-3 General Retail and Service District";
Chapter 1123 – "C-4 Downtown Commercial District"; and

WHEREAS, Pathway Community Church entered into a Purchase Agreement with L. & L. Enterprises, Inc., an Ohio Corporation, for the purchase of the former North Hills Lanes bowling alley located at 318 Colegate Drive, Marietta, Ohio, and

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WHEREAS, Pathway Community Church then contacted the City of Marietta, Ohio, to inquire as to whether there would be any zoning issues if a Church was to purchase and occupy the former bowling alley for religious purposes and assemblage; and

WHEREAS, after much discussion, Pathway Community Church then requested that the City of Marietta grant them a "reasonable accommodation", allowing Pathway Community Church to purchase, occupy and use the former North Hills Bowling Alley that is located within a "C-3" Zoning District, for religious purposes and assemblage; and,

WHEREAS, the intended use of the former North Hills Bowling Alley located at 318 Colegate Drive, Marietta, Ohio by Pathway Community Church, conflicts with the definition of a "C-3 General Retail and Service District", because a Church does not meet the allowed uses as defined in a "C-3 - Downtown Commercial District"; and,

WHEREAS, a Planning, Zoning, Annexation and Housing Committee Meeting was held on Monday, May 15, 2023, wherein a discussion was had concerning Pathway Community Church's request to be allowed to operate a Church in the former bowling alley located at 318 Colegate Drive that is zoned "C-3"; and

WHEREAS, the Committee on Planning, Zoning, Annexation and Housing, acknowledged that there are currently five (5) different Churches in the area of the North Hill Lanes. Those Churches are situated in R-1, R-2 and R-3 zones, with at least one of those Churches being within sight of the former bowling alley. Furthermore, each of these Churches have either commercial businesses, or residential homes, surrounding them; and

WHEREAS, Churches are permitted in "R-4", "R-3", "R-2" and "R-1" zoning districts, however, Churches are not permitted in "C-4", "C-3", "C-2" or "C-1" zones; and

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WHEREAS, certain Federal Laws exist, specifically, the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), which municipalities must follow when considering whether to allow a Church in an area not zoned for Churches; and

WHEREAS, in this case, although the North Hills Lanes is situated in a commercially zoned area, there is residentially zoned property immediately behind and beside the bowling alley; and

WHEREAS, because the North Hills Lanes is also surrounded by numerous commercial properties, it is the intent of the City of Marietta, not to re-zone the area wherein the former bowling alley is situated, and

WHEREAS, instead of re-zoning the area where North Hills Lanes is situated from a "C-3" zoning district, to a residential zoning district, the City wishes to grant the Pathway Community Church a "reasonable accommodation" which will permit Pathway Community Church to use the former bowling alley as a religious institution for conducting Church services, prayer meetings and other religious functions; and

WHEREAS, this "reasonable accommodation" applies only to the property listed in the deed description for the property, and only to the lots that are described in the deeds pertaining to said property; and

WHEREAS, it is understood that if Pathway Community Church sells the property sometime in the future, the purchaser can only use the property for uses permitted in a "C-3" General Retail and Service District; and

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WHEREAS, the “reasonable accommodation” being granted herein, is being granted exclusively to Pathway Community Church, specifically meaning that Pathway Community Church is not permitted to sell, rent or lease the building to another Church or religious institution, without that Church or religious institution, first obtaining a “reasonable accommodation” from the City of Marietta.

WHEREAS, the City of Marietta finds that allowing Pathway Community Church to use the former North Hills Lanes for purposes of conducting Church services and other religious functions, does not conflict with the primary use at 318 Colegate Drive, because of the existence of other Churches in near proximity to the former bowling alley; and

WHEREAS, by the granting of a “reasonable accommodation” to the Pathway Community Church, the City of Marietta does not unduly substantially burden Pathway Community Church from religious land use or assemblage; and

WHEREAS, by the granting of a “reasonable accommodation” to the Pathway Community Church, the City of Marietta has not created a substantial burden on religion, which is prohibited by the Religious Land Use and Institutional Persons Act of 2000 (RLUIPA); and

WHEREAS, such a “reasonable accommodation” does not fundamentally alter the commercial nature of the “C-3” General Retail and Service District, because there are already five (5) Churches in the area of the former North Hills Lanes; now therefore

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MARIETTA, OHIO:

Section 1: That the Council of the City of Marietta, Ohio hereby grants a “reasonable accommodation” exclusively to the Pathway Community Church, permitting the Pathway Community Church to purchase, occupy, and use the former North Hills Lanes located at

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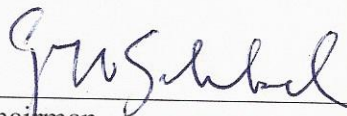
318 Colegate Drive, Marietta, Ohio, for purposes of conducting religious activities such as Church services, prayer meetings, bible studies and other religious functions within a "C-3" zoning district, thus allowing the City of Marietta to remain in compliance with the laws governing religious land use, and the laws designed to prevent the creation of a "substantial burden on religion", which is prohibited by Federal Law, specifically, the Religious Land Use and Institutional Persons Act of 2000 (RLUIPA).

- Section 2: The Pathway Community Church is granted this "reasonable accommodation" exclusively, and the Pathway Community Church is hereby prohibited from selling, renting, or leasing the premises located at 318 Colegate Drive, to any person or entity that intends to conduct business other than that which is permitted in a "C-3" General Retail and Service District, without the purchaser, tenant, or lessee first obtaining a "reasonable accommodation" from the City of Marietta, Ohio.
- Section 3: That the "reasonable accommodation" being granted herein, applies only to the property listed in the deed description for the property known as the North Hills Lanes, and only to the lots that are described in the deeds pertaining to said property.
- Section 4: That Pathway Community Church's use of the former North Hills Lanes for purposes of conducting Church services and other religious functions does not conflict with the primary use at 318 Colegate Drive, because of the existence of other Churches in near proximity to former bowling alley.
- Section 5: That the granting of a "reasonable accommodation" to the Pathway Community Church, does not fundamentally alter the commercial nature of the "C-3" General Retail and Service District.

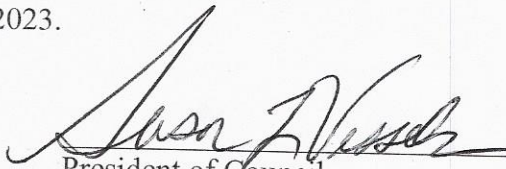
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Section 6: That this Resolution shall be and is hereby declared to be an EMERGENCY measure necessary for the immediate preservation of the public peace, health, and safety of the City of Marietta, Ohio, and for the further reason that immediate action is necessary in order to comply with "reasonable accommodations", as set forth in State and Federal laws governing religious land use; WHEREFORE, this Resolution shall be in full force and effect from and immediately after its passage and approval by the Mayor.

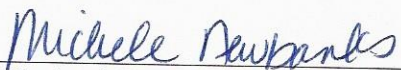
Introduced by the Planning, Zoning, Annexation and Housing Committee, Geoff Schenkel, Chairman.


Chairman

Passed this 3rd day of August, 2023.


President of Council

ATTEST:


Clerk of Council

Approved this 3rd day of August, 2023.


Mayor

First Reading May 18, 2023

Second Reading June 1, 2023

Third Reading August 3, 2023