



MEETING MINUTES

Planning Commission

Friday, June 14, 2019

The meeting was called to order at 1:30 p.m.

Chair Julie Oyster asked for a moment of silence and the Pledge of Allegiance. Roll was taken, and the following members were present: Ms. Julie Oyster, Dr. John Dubos, Mr. Larry Titus and Mr. Jim Rauck. Mr. Mike Linder was not in attendance. Others present: Kyle Rauch, Development Director; Kim Shields, Community Development Manager; Kendra Spergel, Development Planner; Thaddeus Boggs, Frost Brown Todd; William Vedra, Deputy City Administrator; Tami Kelly, Clerk of Council; Laura Scott, Planning and Zoning Coordinator; Jennifer Stachler, Public Service Superintendent; Lt. Jason Stern, Grove City Police and Mary Havener, Development Assistant.

Organizational Items:

Chair Oyster noted a quorum was present and asked for approval of the May 7, 2019 Planning Commission minutes. Dr. Dubos moved that the minutes be approved. Mr. Titus seconded the motion, and the minutes were approved 4-0.

ITEM #1 – Beulah Park Sub-Area H 13.664 Acres – Lot Split

PID #201905170024

Ms. Spergel presented the Development Department's findings. She stated that the applicant is proposing to split 13.66 acres from an existing 48.5-acre site within the Beulah Park development. The proposed split will divide the southern portion of Beulah Park Subarea H into its own parcel.

The Beulah Park Apartments in Subarea H were approved in July 2018. The applicant has indicated that the proposed split is for financing reasons only and that the lots encompassing Subarea H will be combined prior to receiving building permits for construction on the site. If Planning Commission approves the lot split, it will then be ready for finalization with Franklin County.

The proposed lot split generally divides the subarea with seven of the 12 approved apartment buildings to be located on the lot and by the proposed public roadway (Street A). The Beulah Park zoning text states that all buildings are required to be set back at least 15 feet from all side lot lines, and the proposed lot split will place three of the buildings less than 15 feet away from the side lot line. Staff is supportive of the lot split as long as all of the Subarea H lots are combined prior to construction, as the applicant has indicated will occur.

Therefore, after review and consideration, the Development Department recommends Planning Commission approve the lot split with the one stipulation that no building permits shall be issued for the Beulah Park Apartments (Subarea H) until all lots comprising the subarea have been combined.

Ms. Rebecca Mott, Plank Law Firm, was present to speak to the item. Ms. Mott stated that they are in agreement with the Staff Report and have nothing more to add.

There being no questions or discussion, Dr. Dubos moved to approve the Lot Split with the one stipulation as noted in the Staff Report:

1. No building permits shall be issued for the Beulah Park Apartments (Subarea H) until all lots comprising the subarea have been combined.

Mr. Titus seconded the motion and it was approved 4-0.

ITEM #2 – Beulah Park Sub-Area H 10.260 Acres – Lot Split

PID #201905170025

Ms. Spergel presented the Development Department's findings. She stated that the applicant is proposing to split 10.26 acres from an existing 48.5-acre site, within the 212-acre area comprising Beulah Park. The proposed split will divide the northern portion of Beulah Park Subarea H into its own parcel.

The proposed lot split generally divides the subarea around the stormwater detention for the subarea and by the proposed public roadway (Street A). Five of the approved apartment buildings will be located on this site as well. As was stated previously, the Beulah Park zoning text states that all buildings are required to be set back at least 15 feet from all side lot lines. The proposed lot split will place three of the buildings less than 15 feet away from the side lot line. Staff is supportive of the lot split if the two proposed lots encompassing Subarea H are combined prior to construction.

Therefore, after review and consideration, the Development Department recommends Planning Commission approve the lot split with the one stipulation that no building permits shall be issued for the Beulah Park Apartments (Subarea H) until all lots comprising the subarea have been combined.

Ms. Rebecca Mott, Plank Law Firm, was present to speak to the item. Mr. Rauck asked if the engineering had been done to ensure that the drainage would not run across the 2-acre parcel, not part of Subarea H, that is between the apartment buildings and retention pond, to not place a burden on the 2-acre parcel. Ms. Mott stated that the Development Plan has already been approved, and she's not aware that they would come back with another subsequent Development Plan for this subarea. Whatever was approved before with the engineering and drainage, should stay in place. Mr. Rauch added that the engineer is currently working on a grading plan. These issues have been contemplated and addressed with the engineering at the site.

There being no further discussion, Dr. Dubos moved to approve the Lot Split with the one stipulation as noted in the Staff Report:

1. No building permits shall be issued for the Beulah Park Apartments (Subarea H) until all lots comprising the subarea have been combined.

Mr. Rauck seconded the motion and it was approved 4-0.

ITEM #3 – Scotch Woods Drive - Plat**PID #201904220020**

Ms. Spergel presented the Development Department's findings. She stated that the applicant is requesting approval of a plat for the first and southernmost portion of Scotch Woods Drive. The proposed portion of the roadway will have a 60-foot right-of-way and be approximately 920 feet in length. It will extend north from Borror Road, east of Buckeye Parkway, and will be one of the main roadways for the eastern portion and final phases of Meadow Grove Estates North that are yet to be constructed. The proposed plat of the road matches that on the Meadow Grove Estates North development plan approved in 2006.

Plats have two appearances before City Council, with a first reading and a hearing, which can be as early as the next meeting after the first reading. If City Council approves the plat, it becomes effective 30 days later. The proposed plat is for a portion of the roadway only, and all other sections of Meadow Grove Estates North yet to be constructed, will need further plat approvals.

Therefore, after review and consideration, the Development Department recommends Planning Commission make a recommendation of approval to City Council for the plat as submitted.

Mr. Matt Kirk, EMH & T, was present to speak to the item and answer any questions. Mr. Rauck asked if there could be an easement in the northern part of the property where the road loops around, that could be used for a bike path that would go up to Holton Road. Mr. Kirk stated that he was unable to answer this question.

Mr. Rauch stated that there is a section that is not reflected on the aerial portion of the map that is currently under construction, and as part of this process, the City has been working with Rockford Homes to get a bike path through that section. He continued to state that this is not the section that Mr. Rauck is referring to; it is directly to the west and will go north. This Development Plan was approved in 2006 before a bike path was contemplated going out to the metro park. Consequently, through the review process, these conversations have been occurring to get some type of connectivity out to Holton Road and ultimately, to the Scioto Grove Metro Park.

There being no additional questions or discussion, Mr. Titus moved to recommend approval of the Plat to City Council as submitted.

Dr. Dubos seconded the motion and it was approved 4-0.

ITEM #4 – Tree of Life Chiropractic – Certificate of Appropriateness**PID #201905030023**

Ms. Spergel presented the Development Department's findings. She stated that the applicant is requesting approval of a Certificate of Appropriateness to renovate the front exterior of 3725 Broadway, which is located in the Historical Preservation Area (HPA).

The applicant received approval of an Administrative Certificate of Appropriateness from the Building Division for other updates on the building's façade; however, the proposed updates to the front brick could not be approved through the Building Division and the applicant has applied for a Certificate of Appropriateness through Planning Commission and City Council. Certificates of Appropriateness have one hearing before City Council, and if approved, go into effect the same day.

The building fronts onto Broadway and that portion is finished in a brown brick, which was applied to the structure approximately 50 years after its original construction. The applicant is proposing to paint the brick on the building's front white, utilizing a whitewashing technique that shows some of the original brick color. The Building Division approved a number of improvements on the building, including the blue shake and vertical siding, and the white trim. Although white is an approved color on the HPA Color Palette, the Building Division was unable to approve the proposed painting of the brick.

Staff is supportive of the proposed painted brick due to the context of the proposed façade changes. The building is of a Dutch Colonial Revival style from the 1920s. Other homes in the vicinity are the same style and utilize similar color schemes to what is being proposed, including 3800 and 3789 Broadway, both built in the same era. The current brick on the building's front was added in the 1970s, covering up the site's original siding and was added prior to the enactment of the HPA. The proposed improvements to the building are meant to bring it closer to its original design. Additionally, it is not the first site in the HPA to have painted brick. Cultivate, located at 3989 Broadway, was approved in 2015 to paint its brick grey on the front of the building.

Therefore, after review and consideration, the Development Department recommends Planning Commission make a recommendation of approval to City Council for the Certificate of Appropriateness as submitted.

Dr. Jason Feltz, owner, was present to speak to the item. Mr. Titus expressed his gratitude to Dr. Feltz for the many upgrades that he has done to the building.

There being no discussion, Dr. Dubos moved to recommend approval of the Certificate of Appropriateness to City Council as submitted.

Mr. Rauck seconded the motion and it was approved 4-0.

ITEM #5 – Tree of Life Chiropractic – Rezoning (C-1 to PSO)

PID #201905290026

Ms. Spergel presented the Development Department's findings. She stated that the applicant is requesting to rezone 3725 Broadway from C-1 (Service Commercial) to PSO (Professional Services) to allow Tree of Life Chiropractic to relocate to the site.

Rezoning a site is a four-month-long process. After Planning Commission gives their recommendation to City Council, the proposed rezoning will have two appearances before City Council with a first reading and then a hearing 30 days later. If City Council approves the rezoning, it becomes effective 30 days after that.

Although C-1 zoning allows for a variety of commercial uses, it does not allow for smaller or neighborhood scale medical offices. Rezoning the site to PSO will allow for the chiropractic use on the site, as well as other types of medical offices, law offices, insurance agents and other types of offices.

The site is surrounded by a number of different zoning districts including both commercial and residential. Within these properties are also a variety of uses including a day care center, religious center, residential housing (both single and multi-family) and various types of offices.

Staff believes the uses and scale of development permitted under the PSO zoning is in line with The GroveCity2050 Future Land Use and Character Map which recommends this site be classified as Town Center

Core Neighborhood, acting as a mixed extension of Town Center with a variety of residential and non-residential uses.

Therefore, after review and consideration, the Development Department recommends Planning Commission make a recommendation of approval to City Council for the rezoning as submitted.

Dr. Jason Feltz, owner, was present to speak to the item.

There being no questions or discussion, Mr. Titus moved to recommend approval of the Rezoning to City Council as submitted. Dr. Dubos seconded the motion and it was approved 4-0.

ITEM #6 – Grove City Self-Storage Phase II – Special Use Permit

PID #201905010022

Ms. Spergel presented the Development Department's findings. She stated that the applicant is requesting approval of a special use permit to expand the existing self-storage facility at 5965 Haughn Road. This site previously operated as Evergreen Self-Storage and is currently under new ownership. The facility has operated as a legal nonconforming use, as the use was existing when it was annexed into the city in 1999. Due to the new owner seeking to expand upon the use, a special use permit is required.

Special Use Permits are an approximately three-month process. Once Planning Commission gives their recommendation, the application is forwarded to City Council, where it will have two appearances, a first reading and a hearing. The applicant is intending to submit a Development Plan for the proposed expansions if the Special Use Permit is approved.

The expansion of the site will primarily be used to provide additional indoor and outdoor storage options. A preliminary plan was provided to show the potential expansions for the site. This plan includes three new buildings and a new office, as well as an expansion of the parking area for vehicles, most of which is proposed to be paved.

The outdoor storage of vehicles on the site is currently located to the rear of the buildings, and the applicant is proposing to continue doing so to minimize the visibility of these vehicles from the street, as well as utilizing landscaping. Furthermore, the electric fencing, which is located at the site's front will be removed, and replaced with black wrought iron fencing.

Materials indicate that a U-Haul business is also proposed on the site. This business will require the approval of a separate special use permit for outdoor sales and display, and the review of this use is not included as part of this special use permit.

Staff is supportive of the proposed expansion as it is in character with existing developments in the surrounding area including another self-storage facility, Capital City Mechanical, an ODOT storage facility, as well as a C-2 zoned site to the south, which is currently used as residential but could be redeveloped as a commercial use. The new property owner will be working to make improvements on the site that will bring it further into compliance, including paving the site and landscaping. The site is currently being used as a self-storage facility and the overall use of the site will not be changing. GroveCity2050's Land Use Objective LU2 states that priority needs to be placed on developing underutilized land ahead of undeveloped land on the city's edge. The expansion of this site will provide additional storage space on an existing site, in lieu of developing on a new site.

Noting that the aesthetics of the development will be reviewed with the future submittal of a development plan, to ensure a quality development particularly where visible from a public right-of-way, the Development Department recommends Planning Commission make a recommendation of approval to City Council for the special use permit with the two stipulations outlined in the staff report.

Mr. Scott Emerick, Grove City Self Storage, was present to speak to the item and answer any questions. Mr. Rauck asked how much paving was planned for this area. Mr. Emerick stated that they anticipated paving approximately half of the facility, up to the electrical easement. They plan on leaving the area from the electrical easement to the back undeveloped. The parking will remain in the back of the gravel area.

There being no additional questions or discussion, Dr. Dubos moved to recommend approval of the Special Use Permit to City Council with the following stipulations as noted in the Staff Report:

1. A separate special use permit for outdoor sales and display shall be obtained prior to the operation of any vehicle or trailer rental business, including U-Haul.
2. All outdoor storage on the site shall be located to the rear of the buildings and shall be screened with landscaping as to not be visible from roadways.

Mr. Rauck seconded the motion and it was approved 4-0.

ITEM #7 – Grove City Villas – Development Plan

PID #201904030018

Ms. Spergel presented the Development Department's findings. She stated that the applicant is requesting approval of a development plan for a condominium development in Beulah Park. The proposed development will be the second phase of Subarea I's development, with the first phase being the Danbury Grove City Assisted Living facility which was approved in August 2018.

The entire Beulah Park development received approval of the Preliminary Development Plan and Rezoning in 2018 and now all individual subareas are being submitted for the Final Development Plan process. Once Planning Commission makes their recommendation, the Development Plan is forwarded to City Council, before which it will have one hearing.

This second phase will contain 30 single-story condominium units that will be age restricted for residents 55 and older. The units will be of a two-family design, with the units spread out in 15 different buildings and attached with a common wall on one of the sides. It is meant to act as an extension to the Danbury Assisted Living Facility. The proposed site's layout meets the requirements of the Beulah Park Zoning Text in terms of setbacks, parking and density.

All of the units are proposed to be located off one main roadway throughout the development and five foot wide sidewalks throughout the development connecting into the larger Beulah Park development to create a walkable environment for the residents.

The primary greenspace for the development will be located in the center of the subarea and is proposed to contain a detention basin. Preliminary stormwater plans and calculations have been provided; however, a more thorough review will be conducted with the Site Improvement Plan.

Additionally, per the Zoning Text, a three-foot mound is required along the northern property line adjacent to Southwest Boulevard. The plans currently do not show the mounding and this will be required for compliance with the Zoning Text for the site and to create a cohesive appearance along Southwest Boulevard, with the previously approved Danbury Assisted Living facility.

Two different building types are proposed, each with two units. Each building type offers three variations for a total of six unique building designs. Each of the units will be one-story with a two-car garage, have a side or rear patio and will have at least 1,400 square feet of finished floor area. The color and material scheme proposed will be the same as was approved for the Danbury Assisted Living facility creating a cohesive design theme throughout the subarea.

Units backing up to the public roadways, including Southwest Boulevard and Streets E and F will utilize a rear elevation that mimics a front elevation, with windows and a door provided, as well as enhanced brick or stone accents to provide more architectural interest to these elevations.

This development will finish out Subarea I, one of nine subareas within the Beulah Park redevelopment project. The overall site is meant to transition from the industrial area to the north to the larger single-family lots to the west, and to the denser residential lots in the Beulah Subdivision to the south. This site is near the single-family homes along Demorest Road and will utilize more suburban architecture to blend more into the existing area.

Therefore, after review and consideration, the Development Department recommends Planning Commission make a recommendation of approval to City Council for the development plan with the four stipulations outlined in the staff report.

Mr. Daniel Roush, GPD Group, was present to speak to the item and answer any questions. Mr. Roush stated that they are in agreement with the Staff's recommendations.

Mr. Rauck asked if there was an area in front of the garage doors to park a vehicle. Mr. Roush responded that there was room in front of each garage door to park cars. Mr. Rauck asked if there was on-street parking. Mr. Roush responded that there were eight additional spaces located within the condominium development.

There being no additional questions or discussion, Mr. Titus moved to recommend approval of the Development Plan to City Council with the four stipulations as noted in the Staff Report:

1. Mounding, three-feet in height, shall be added along the northern property line along Southwest Boulevard as per the Beulah Park Zoning Text.
2. Mail kiosks shall be decorative in nature with supplemental landscaping around the sides as approved by the Development Department.
3. Site lighting fixtures shall utilize the same fixtures as approved for Danbury Assisted Living.
4. Details for any proposed signage shall be submitted to the Development Department for review and shall be part of a shared entrance feature with Danbury Assisted Living.

Mr. Rauck seconded the motion and it was approved 4-0.

At this time, Mr. Boggs, Frost Brown Todd, requested that Dr. Dubos abstain from hearing this item since he is the property owner and it would present a conflict of interest.

Ms. Spergel presented the Development Department's findings. She stated that the applicant is requesting approval of a development plan for a building addition at 3425 Grant Avenue. This site was previously used as the Stoner Periodontics office and is proposed to be used for the Novocaine Lounge, a members-only "speakeasy" and lounge. The southern portion of the building will continue to be used as the John J. Dubos DDS dental practice.

Once Planning Commission provides a recommendation, the application will be forwarded to City Council. Only one hearing is needed before City Council and if approved, the Development Plan will go into effect the same day. A variance has also been applied for, for the front setback which is tentatively on the agenda for the June 24 Board of Zoning Appeals meeting.

The proposed addition will be 436-square-feet in size and be located on the north side of the building along Grant Avenue, replacing the building's current entrance. Buildings in the Central Business District (CBD) may be set back no closer than 50 feet from the centerline of a road. The proposed addition will be set back approximately 26 feet from the centerline of Grant Avenue, encroaching by 24 feet. The applicant has applied for a variance and will be heard by the Board of Zoning Appeals at the June 24 meeting. Staff is supportive of the front setback encroachment, as other nearby buildings along Grant Avenue are spaced less than 50 feet from the centerline (with distances measured between 18 to 33 feet), and the proposed setback being between these distances and in character with the surrounding properties.

The building will be finished primarily with brick, utilizing a lighter brown brick along the sides and roofline to match the existing stucco on the remaining portion of the building. Darker brown brick will be utilized on the front portion to provide some accent to the expansion's front. In addition to the brick, windows will be placed along the roofline and shutters on the front/north side of the building to break up the building and provide additional accents. Staff is supportive of the building's design, as it will match and complement the existing stucco on the building, coordinating well with the existing materials.

Staff is also supportive of the building with its usage of brick, which is a predominant building material in the Town Center. The building will utilize more traditional materials while having a unique and modern design for the area. Nearby buildings, including the Grove City Library and Sound Communications, also have more modern architecture, and the mixture of architectural types allows for a transition between the eras of each building, allowing the new to exist with the old.

Therefore, after review and consideration, the Development Department recommends Planning Commission make a recommendation of approval to City Council for the development plan with the one stipulation that a variance be obtained for the encroachment into the front setback.

Mr. Andrew Maletz, Maletz Architects, Inc., was present to speak to the item. Mr. Maletz stated that they support proceeding with the BZA process.

There being no questions or discussion, Mr. Titus moved to approve the Development Plan to City Council with the one stipulation as noted in the Staff Report:

1. A variance shall be obtained from the Board of Zoning Appeals from Section 1135.12(b) for the encroachment into the front setback.

Mr. Rauck seconded the motion and it was approved 3-0, with Dr. Dubos abstaining.

ITEM #9 – Ohio Addiction Recovery Center – Rezoning (Use Approval)

PID #201904020016

Ms. Spergel presented the Development Department's findings. She stated that the applicant is requesting a use approval for 3880 Jackpot Road to operate an inpatient and outpatient addiction recovery center. This site was previously used for Harrison College and has been vacant since September 2018.

This application was heard at the May 7 Planning Commission meeting and was tabled until the June meeting. Since the last meeting, the applicant has held a public informational meeting at City Hall and has provided a revised narrative with added information regarding the proposed use. Additionally, two members of the Development Department toured some of the Center's existing facilities. Use approvals are taken through the same approval process as a rezoning, with a hearing before Planning Commission, two meetings before City Council with a 30-day notification period between the meetings, and a 30-day effective period after. At this time, the use approval is tentatively on the agenda for the July 1 and August 5 City Council meetings.

The applicant has indicated that the center is proposed to include bedroom space for a maximum of 32 clients and will provide offices, classrooms, meeting rooms and therapy rooms. Inpatient services at the site will include the first two levels in addiction treatment, Detox and Residential, with clients in those stages living and receiving treatment onsite. Ohio Addiction Recovery Center currently offers treatment for the final three levels of Partial Hospitalization, Intensive Outpatient and Outpatient, and is proposing to expand its services to include the first two levels. Outpatient services that the organization currently practices include individual and group therapy run by counselors, equine therapy, physical activities such as yoga, art therapy and workforce development. The applicant is proposing to renovate the existing building and is not proposing exterior changes to the building or site changes. The proposed facility on Jackpot Road will be for the inpatient services of Detox and Residential and outpatient services, except for equine therapy. The applicant has also indicated that there is a possibility that some of the clients in the last three levels of treatment may be housed at the proposed facility on Jackpot Road in the future, but this is not currently proposed for the site.

Hours of operation at the proposed Jackpot Road facility will be 24 hours a day, every day. The applicant has indicated that 20 staff members will be onsite staggered between three shifts, not creating a large change in traffic patterns on Jackpot Road. The shuttles bringing clients for off-site housing in for outpatient services will be the only other regular vehicles accessing the site during the day. Any added traffic will be from clients entering the program and going to the facility, which will be scheduled with the organization prior to their arrival.

Because the site is zoned PUD-C with no zoning text, permitted uses revert to those listed in section 1135.14. Uses permitted in M-1 districts, which includes inpatient and outpatient addiction treatment centers, are not included in this list, therefore the applicant has requested the use be reviewed as an "Other use as approved by Planning Commission" per that section. Use Approvals are amendments to the zoning of a certain property based on the review and recommendation of staff and Planning Commission and are subject to final approval by City Council. It does not change the existing permitted uses of the district, rather it allows additional uses to

that specific site. All changes and amendments to a site's zoning require approval from City Council, as they are a legislative action per Sections 1139.02 and 1139.03 of Grove City Code. It should be noted that although the public review process is the same for rezonings and use approvals, staff recommended the applicant pursue the use approval. This was done so under the premise and belief that the intent of PUD zoning is to permit diverse uses in the same area that do not need to be similar, based on the context of the area, and are "brought together as a compatible and unified plan of development which shall be in the interest of the general welfare of the public" per Chapter 1135.14.

Staff believes the proposed use is appropriate at this location, as the surrounding area contains a variety of different uses including self-storage, hotels, retail and multi-family residential. Addiction recovery centers in other central Ohio communities are located in similar contexts to the proposed site including the Buckeye Clinic in Dublin, The Recovery Village Columbus in Groveport, Recovery Works Columbus in the Crosswoods area and Cornerstone of Recovery off Riverside Drive, all located near hotels, restaurants, retail, multi-family housing or single-family homes. The City has approved other inpatient facilities within PUD districts in a variety of contexts, including the Meadow Grove Transitional Care within the existing Meadow Grove Estates residential subdivision, StoryPoint Senior Living near Fryer Park, and Ashford of Grove City adjacent to the Broadway Grove Apartments, CVS Pharmacy, and light industrial space. Additionally, several other medical uses have operated in the Jackpot Road area including NovaCare Rehabilitation and an eye care specialist within the Jackpot Road Office Park.

Therefore, after review and consideration, the Development Department recommends Planning Commission make a recommendation of approval to City Council for the use approval with the one stipulation outlined in our staff report regarding the existing highway sign on the site.

At this time, Mr. Boggs asked to address a couple of items based on the discussion from the last Planning Commission meeting and communications that have been received since that time concerning the nature of this application. He stated that is their opinion, as the City's legal counsel, that this is a legislative action that, while it is not changing the zoning from PUD-C to another district, it is legislative in nature by changing the use as a policy matter rather than as a matter that is subject to standards that are already established in the law. With that in mind, whatever recommendation the Planning Commission makes on this application, it will be forwarded onto City Council, and City Council will make whatever decision they deem appropriate. He continued to state that Mr. McGrath was present to represent the applicant and Mr. Slagter was present to represent his clients.

Mr. Tim McGrath, Strip, Hoppers, Leithart, McGrath & Terlecky Co., was present to speak to the item. Mr. McGrath stated that there was extensive discussion on this proposal at the May 7 Planning Commission meeting. He felt that the conclusion of the board was that they wanted to know more about this facility and legal issues were brought by one of the nearby owners contending that this is not a proper facility for the City to be considering as a use-permit and perhaps there should be a rezoning instead. He continued to state that his client has been providing additional information to the City related to this type of facility. They also conducted a public meeting in Council Chambers to provide additional information related to the type of work that is being done at this type of facility. He stated that they are trying to do something that is good for the City by providing a service that is desperately needed. This facility would be low traffic, low impact and low visibility and this location is about as good as you could find for a use of this type. They have also looked into the crime issues related to these types of facilities and have found that there are minimal instances of

emergency runs – medical or police. In fact, he stated that it's generally lower than hotels, retail and even large apartment complexes.

Mr. Rauck asked if they could discuss the sign issue. He stated that he has no problem with the existing sign, as he doesn't consider it to be a freeway sign being around a fourth or a third of the height of one, which he believes people don't really look at as they are driving by. He doesn't feel it's appropriate to have the property owner go to the expense of changing it and asked how to amend the recommendation to remove the stipulation. Ms. Shields stated that Planning Commission could make a motion to remove that stipulation; however, she offered to explain Staff's reasoning for recommending the stipulation to remove the highway sign. She stated that, as mentioned, some Staff members toured the applicant's other facilities. Their existing office and facilities that staff toured do not have any signage and staff felt that this was a compromise for this site, as the use is intended to not be as visible and may make some more comfortable with the use on the site. This isn't something that necessarily needs to be advertised by a highway sign, which would not be typically permitted by code. The educational use that the sign was originally tied to had difficulty gaining approval of the sign and had to apply later for special approval of that sign. It's over and above code requirements and the City is always trying to bring things in compliance with code. This area is in a PUD, so there is the ability to deviate from it, which is why it was originally approved. Staff has spoken with the applicant about this issue and they've had the discussion about possibly removing it. It seems most appropriate to remove this highway sign, and if they do want signage, they are fully entitled under Chapter 1145 to a 50' square monument sign, more in character with recent development.

Mr. Boggs stated that procedurally, it is not necessary to make a motion to remove the stipulation; however, when you do make a motion, whether you include the stipulation in your motion or not, is up to you. You could move for approval and there could be an amendment if someone wants to hear the sign on its own.

Mr. McGrath stated that he hates the idea of throwing the sign away; however, neighbors are mindful of the surroundings, and it's not necessary for his client's operation. Mr. Rauck stated that if you think of a different use of this property years down the road, this sign would be an asset.

There was discussion on the best way, procedurally, to eliminate the stipulation.

Dr. Dubos asked if the plan was to utilize the sign. Mr. Josh Butcher, Ohio Addiction Recovery Center, stated that they would like to utilize the sign; however, that is the least of their concerns. They would like signage, but it doesn't need to be huge.

Mr. John Slagter, attorney for Gateway Lakes Apartments, asked to speak to the item. He stated that for the record, he would like to raise an objection to not swearing in witnesses and not following administrative procedure. He stated that he sent a communication to Planning Commission indicating that if this is deemed to be an administrative procedure, which he believes it is, you'd have witnesses sworn in, you'd have a right to cross-examine, use evidence, and you wouldn't have a three-minute limitation to speaking. Therefore, for the record, he is objecting.

Mr. Slagter stated that his client was unable to attend this meeting, but both he and his client testified at the last Planning Commission meeting and not much has changed since that time. He continued to note that it is important for him to object to this particular use because of its location. While they recognize that there is a need throughout Ohio, this is about zoning and proper placement of this type of use. The property owners and

residents are concerned about this. This is where they live and where their families are. Mr. Slagter stated that his client has a substantial investment in this property and they rely on zoning and the uses surrounding their property. Finally, he believes that the City's laws and zoning codes are not being followed. Looking at the zoning code, he couldn't find a provision for a change of use. He disagrees that this is a rezoning and believes it is a change of use. When you initially established this Planned Unit Development, that was a legislative action. The application of the standards in the PUD code, are set forth in Section 1135. Under 1135, there are different types of PUD's. One is a PUD-C and in that it lists out the types of uses that are permitted. If you go to section 1135.09 of the code, it specifically says that the permitted uses are exclusive and non-cumulative unless otherwise provided herein. All uses not shown, shall be considered by the Planning Commission, who shall thereafter recommend approval or disapproval. If a use is not listed in 1135.09, Planning Commission and Council have the right to say that this use is permitted or not. The problem with the argument here is that if you look at 1135.09, medical uses are listed. The Staff Report admits that this type of facility is a medical use that's permitted. While this is a complicated issue, there is no provision in code that allows for what Staff is recommending.

Generally, Mr. Slagter stated that they have a significant concern that a precedent is being created. He went on to explain how this facility is different than their other facility that has outpatient services and this facility which is proposed to have more intensive uses. He feels it's not right to not follow the rules and regulations that exist. He believes that if the City allows this use to locate there without restriction, then the City is permitting a lot of other similar types of uses to be permitted there. He believes that the other uses staff mentioned including a nursing home and physical therapy, aren't the same, as he believes they are permitted in the PUD-C district already. There are plenty of other locations where it could be permitted.

Mr. Rauch asked to clarify one point. Section 1135.14 of the Zoning Code gives Planning Commission and City Council the authority to consider uses that are not expressly permitted in the PUD section. This is why Staff has recommended that the applicant proceed.

Mr. Slagter responded by stating that it says Planning Commission, but not Council. Mr. Rauch stated that Planning Commission is a recommending body to City Council. Mr. Slagter asked where it says recommendation by Council in that section. Mr. Rauch responded that the only authority that Council has expressly permitted to Planning Commission is for approval of Lot Splits. Other than that, Planning Commission is a "recommending body" to City Council. Mr. Slagter stated that as a lawyer reviewing the City's code, Section 1135.14, the section cited by the Planning Director specifically says, Planning Commission can do the other uses. It doesn't say Council and it doesn't say recommending body. Further discussion was had regarding the wording of Section 1135.14.

Mr. Boggs stated that he understands Mr. Slagter's position; however, it is the City's position that this remains an application that is legislative in nature, and therefore, the Planning Commission is a recommending body. By approving a use, without there being standards set in place for approval of that use, Council has the final authority on making land-use policy decisions based on the context of the entire Code and City Charter. This includes use-approvals. He stated that this is similar in nature to if the site had a PUD text and someone wanted to revise the text and add new uses. He stated that there are places in the code that use the term "approval by Planning Commission" in the same sense to be recommendations from Planning Commission to City Council. Upon recommendation from Planning Commission, a final decision will be made by Council and there will be an effective date 30 days after, just as for any other ordinance. Mr. Boggs stated that he encourages Planning Commission to deliberate with that in mind.

Mr. Slagter stated that his concern is that for Special Use Permits there is an entire section that explains the standards, the same goes for variances. Here, there are no standards. Once you recommend and Council approves, if they do, there are no standards, requirements or conditions that govern it.

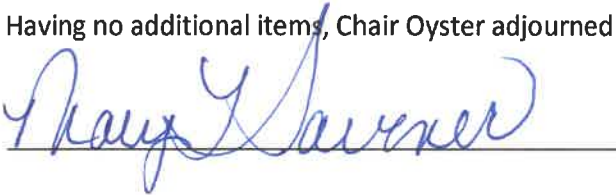
Ms. Debbie Cox, 3739 Gateway Lakes, asked to speak to the item. She stated that while she agrees that this is a much-needed service, she does not feel that this is an appropriate area. There are multiple medical areas which would be better suited for this facility away from transient areas with hotels and apartment buildings.

There being no additional questions or discussion, Mr. Titus moved to recommend approval of the Rezoning – Use Approval, to City Council with the one stipulation as noted in the Staff Report:

1. The existing highway sign on the site shall be replaced with a monument sign in conformance with the requirements of chapter 1145.

Dr. Dubos seconded the motion, and it was approved 4-0.

Having no additional items, Chair Oyster adjourned the meeting at 2:30 p.m.



Mary Havener, Secretary



Julie Oyster, Chair