



CITY OF AVON

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REGULAR MEETING MINUTES AVON PLANNING COMMISSION JANUARY 15, 2025, 7:00 P.M. CITY HALL COUNCIL CHAMBERS

The meeting was called to order by Chair Witherspoon at 7:00 p.m. in Council Chambers.

PUBLIC HEARINGS

1. **Honeygrow Restaurant, Nagel Crossing, 1485 Nagel Road, Amend Special Use Permit**
Deville Development, LLC representing Honeygrow Restaurant is requesting a positive recommendation to City Council for approval to Amend the Special Use Permit for Honeygrow Restaurant to include outdoor seating at 1485 Nagel Road.

The Chair opened the public hearing at 7:00 p.m.

There were no comments from the audience.

The Chair closed the public hearing at 7:00 p.m.

2. **City of Avon, Code Amendment**

Per Article, VII, Planning Commission (D) Mandatory Referral of the Charter, Amending Zoning Codified Ordinance 1262.08(c) Minimum Yard Requirements for Accessory Structures.

The Chair opened the public hearing at 7:00 p.m.

There were no comments from the audience.

The Chair closed the public hearing at 7:01 p.m.

ROLL CALL

Present: Bryan Jensen, Mayor, Jim Malloy, Scott Radcliffe, Carolyn Witherspoon,
Chair. Staff: Ryan Cummins, City Engineer; Pam Fechter, Planning Coordinator, Jill
Clements, Zoning Enforcement Officer John Gasior, Law Director, Duane Streater, Safety
Director, Susan Pintz, Planning Commission and Zoning Secretary.

Absent: Bill Fitch

REVIEW & CORRECTION OF MINUTES

Mr. Malloy moved, seconded by Mayor Jensen, to approve the minutes of the regular meeting held on December 18, 2024, and approve the minutes as published. The vote was: "AYES" all. The Chair declared the motion passed.

REPORTS & CORRESPONDENCE

None

ADDITIONS & DELETIONS

None

1. **Lake Forest Development, LLC, Lot Split, PL20240066**

Polaris Engineering representing Lake Forest Development LLC is requesting approval of 6 lot splits to create parcels M-R which will be deeded to adjoining lots in the Lake Forest Subdivision north of Schwartz Road along the Westlake Corporation Line, PPN 04-00-026-108-116.

Kevin Hoffman, Polaris Engineering and Surveying, 34600 Chardon Road, Suite D, Willoughby, Ohio 44094.

John Chandler, Howard Hanna, 19204 Detroit Road, Rocky River, Ohio 44116.

Mr. Hoffman stated a subdivision in Westlake was completed in 2024 and there is a remaining portion of land at the rear of 6 parcels which is located and landlocked in Avon. He said since 2007 portions of the land have been split and deeded to whomever owns the parcel in Westlake. He indicated the current request is the same situation. He noted the deed language has been added to say: *the parcels will need to transfer with the parcels in Westlake so there is not a random lot with no frontage* (referred to drawing-Exhibit 1-Lake Forest Lot Split Map).

Mayor Jensen said he doesn't want to spend a lot of time on this subject because it is too late to address this issue, but he asked Mr. Gasior, Law Director, what sense did this ever make from the beginning because these are all landlocked pieces of parcels.

Mr. Gasior, Law Director, indicated, in 2007 Michael Antonyzyn owned the property which fronted Schwartz Road, and it had a long bowling alley-size lot. Mr. Antonyzyn was offered an opportunity to sell portions of the rear land. At that time, he presented to Planning Commission for approval of 9 lot splits. He retained a 10-foot easement along all the parcels that were sold to the adjoining property owners in Westlake because he needed to have access to the rear lots otherwise, he would have created a landlocked rear parcel. Mr. Gasior asked Mr. Hoffman what happened to the 10-foot easement and who is the owner of the rear parcel?

Mr. Hoffman said the rear parcel was sold to Rocco Puzzitiello.

Mr. Gasior stated Mr. Puzzitiello owned the land in Westlake that fronted the street which would have eliminated the need for the 10-foot easement.

Mr. Hoffman replied that Mr. Puzzitiello developed Lake Forest Subdivision in Westlake.

Mr. Gasior said he doesn't know who vacated the 10-foot easement or if it is still on the property.

Mr. Hoffman said as he reviewed the previous plats, he doesn't think there was a 10-foot easement. He stated there was a Lot Split Map filed in April 2007 which showed a 10-foot strip. Then in later years the 10-foot strip was removed, and the land was redistributed making it a landlocked parcel. Mr. Hoffman believes possibly the thought process was that Mr. Puzzitiello had access to the property through Westlake.

Mr. Gasior stated he thought that might be the case. He said when this was done in 2007 there was a deed restriction, he assumed it was placed on all the deeds but that has not been confirmed. Mr. Gasior looked at one deed for Aaron and Katelyn Shea, but this deed restriction language was supposed to be in all the deeds that were conveyed. Mr. Gasior read

a portion of a deed that said: *grantees accept the deed hereby covenant and agree that the property described in Exhibit A shall be subject to the following restriction: shall remain in full force and effect in perpetuity upon the grantees, their heirs and assigns and all subsequent owners of the property.* Mr. Gasior said a restriction would be: *a fence constructed on the boundaries of the property, there shall be no structures constructed or placed on or upon the property, structures shall include but not be limited to: a dwelling house, a garage, a barn, a swimming pool; whether inground or above ground, a playground, or any other type of out building, equipment or apparatus.* Mr. Gasior said this language is stated in the deed and the city would require that same deed restriction language to be placed in any of the deeds that are created with the current requested lot split. Mr. Gasior pointed out that an aerial of the properties can be viewed on the Lorain County Auditor's website to confirm there are violations of the deed restriction. He thinks it is a policy matter for the city, and he is uncertain if the city would cite the violators. The owners of the property are clearly in violation of the deed restriction for the structures they have on the property. Mr. Gasior indicated that if the Planning Commission decides to grant the current request for the lot splits it would be subject to the inclusion of deed restriction language.

Mayor Jensen said if there are 2 separate lots, is the lot in Lorain County is subject to taxes.

Mr. Gasior said yes because a permanent parcel number is obtained from the Lorain County Auditor, and it is subject to taxes.

Mayor Jensen asked what if the owner defaults on the parcel of land located in Lorain County.

Mr. Gasior stated Lorain County could sell the parcel at the Sheriff sale but if someone purchased that parcel, they would then own a landlocked parcel. The owner would then realize there is nothing they can do because the parcel is land locked.

Mayor Jensen asked what would encourage or discourage someone from paying or not paying the taxes on the parcel if there is no value to anyone because no one else can use it because it is land locked.

Mr. Gasior read an excerpt from a deed that states: *there should be no sale, transfer of property separate from the contiguous property it adjoins in Westlake.* He said if someone were to default it would create an interesting legal problem. However, Mr. Gasior stated he is not prepared to answer that question, nor does he think there is an answer to it. There would be a foreclosure but with the restriction in the deed he doesn't know if the property could be sold at the sheriff sale without the property in Westlake. He said if this would end up in court a Judge could impose a lien on the Westlake property but because it is in a different county he is not sure if a Judge would have the jurisdiction to do so. Therefore, it could create some interesting problems. Although, since lot splits were approved in 2007 it would now be the decision of the Planning Commission whether to approve the lot splits presented tonight subject to the same deed restrictions that were in place in 2007.

Ms. Fechter, Planning Coordinator, stated if the Planning Commission decided to approve the Lot Split this evening, we would not be in position to give signed documents to the Applicant for filing at the county until Mr. Gasior had an opportunity to review the deeds.

Mr. Gasior replied that is correct. That is what occurred in 2007, the deeds were reviewed prior to the approval of the Lot Splits to make sure the restrictions were in the deed language. He thinks the same type of deed would be prepared with the same restrictions.

Mr. Hoffman asked if the restriction language is already in a past deed.

Mr. Gasior replied yes that is correct.

Mr. Hoffman said he reviewed one of the deeds and did not see the restriction language, but it might have been in a different deed.

Mr. Radcliffe asked why is the Lot Split request being brought forward?

Mr. Gasior said the lot split needs to be completed. He said there is nothing to convey by way of a deed until the lot split is approved, the deeds are reviewed and then it will be recorded by the county.

Mr. Radcliffe asked if this property can be joined to other property in Avon instead of the property in Westlake.

Mr. Gasior stated possibly someone could assemble land in that area of Avon and potentially approach the owner of the property and negotiate a purchase and build a subdivision. It can be viewed on the Lorain County Auditor's website to see exactly where the parcel is located. The property is not near any public street. It would be subject to being assembled at some point in the future if someone were to develop in that area. Mr. Gasior believes the land was purchased as a buffer to prevent the development of a subdivision because the owner did not want a subdivision that close.

Mr. Radcliffe wanted to know if the land has already been transferred to the individual owners.

Mr. Gasior responded yes it was transferred in 2007.

The piece of land before Planning Commission right now is the piece that was retained by the owner who fronted Schwartz Road, which is why he needed to do the easement, so he didn't end up with a land locked parcel. Subsequently he sold the land in Westlake. The Westlake developer is requesting to split the land so it can be attached to the new lots that are being built in the new subdivision.

Mr. Hoffman stated that Rocco Puzzitiello owned the remainder of this property but passed away in 2017 and the family chose another developer in 2022 to finish the current subdivision that is being built. At one time Mr. Puzzitiello owned all the land up to Schwartz Road. As the other phases of the subdivision were being completed the land was being split off.

Mr. Gasior stated the deeds will need to be provided and he will review them to make sure the deed restriction language is included. Once he approves the deeds, then the signed Lot Split Map and Legal Descriptions can be released to the Applicant and recorded at the Lorain County Auditor.

Ms. Fechter stated all staff comments have been addressed.

Mr. Cummins stated all surveying comments have been addressed.

There were no other comments or questions.

Mr. Malloy moved, seconded by Mayor Jensen, to suspend the rules. The vote was: "AYES" all. The Chair declared the motion passed.

Mr. Chandler stated he was involved in the sale to the developer from the Puzzitiello Family in November 2022.

Mr. Gasior stated in 2007 it was Michael Antonymzyn who owned the land off Schwartz Road. He was the person who petitioned to split the original 9 lots.

Mr. Chandler stated that land was sold and added in Phase 3 of the development of the subdivision. Currently Phase 5 is being developed which will be the last phase of the subdivision. He wanted to point out that a Homeowner's Association did not exist in the first 4 phases of the development of the subdivision. When the last phase (Phase 5) was developed it was recommended and discussed with the Westlake Law Director that a Homeowner's Association was to be established for the 34 lots that include the Avon parcels.

Mr. Chandler said if this Lot Split request is passed with the deed restriction requirement, the plat with the lot splits would become Exhibit D of the Homeowners Association documents which the Westlake Law Director has approved and will be filed. It will then be recorded with the Homeowners Association documents, the deed restriction and the Homeowners Association documents referring to the restriction. Mr. Chandler added if these parcels become 1 acre lots in Westlake by adding the Avon portion, then these properties could be listed for approximately \$500k each. He believes once the valuation is recorded it will increase the property value and the property tax.

Mayor Jensen stated the Homeowners Association is only as good as the residents who are willing to contribute money to bring a lawsuit against a neighbor for installing a shed in the rear of the property and these scenarios typically do not happen.

Mr. Chandler said at least there would be a governing body where there wasn't one before in the other phases. He agreed that he has seen sheds on other properties in the subdivision. There has never been any governing body such as a Homeowners Association to monitor the subdivision. He said a Homeowners Association is now being formed and has been approved by the Westlake Law Director.

Mr. Malloy moved, seconded by Mayor Jensen, to approve 6 Lot Splits to create M-R parcels which will be deeded to adjoining lots in the Lake Forest Subdivision north of Schwartz Road along the Westlake Corporation Line, PPN 04-00-026-108-116 contingent upon deed review from the Law Director. The vote was: "AYES" all. The Chair declared the motion passed.

2. Honeygrow Restaurant, Nagel Crossing 1485 Nagel Road, Amend Special Use Permit, PL20240065

Deville Development, LLC representing Honeygrow Restaurant is requesting a positive recommendation to City Council for approval to Amend the Special Use Permit for Honeygrow Restaurant to include outdoor seating at 1485 Nagel Road.

Tasha Glutting, Deville Developments LLC, 3951 Convenience Circle #301, Canton, Ohio 44718.

Ms. Glutting appeared on behalf of Deville Developments.

Ms. Fechter, Planning Coordinator, stated the Honeygrow Restaurant will be located at the end cap of the Nagel Crossing building at 1485 Nagel Road. In that section Chipotle has a fence and bollards, it is being proposed that the same fence and bollards be placed in front of the Honeygrow Restaurant. She indicated the front of Chipotle and Honeygrow will look the same and it will look very nice (referred drawing as Exhibit 2).

Ms. Glutting stated as a requirement of the lease the fencing and bollards will need to be a mirror image of what is currently placed at the Chipotle.

Mr. Gasior referred to Exhibit 2 which showed the fencing and bollards more clearly. Chipotle has a special use for outdoor seating currently.

Ms. Fechter had no comments.

Mr. Cummins had no comments.

Mr. Gasior stated this project will be at the City Council Work Session on Tuesday, January 21, 2025.

Mayor Jensen stated a rendering of the building would be helpful to present to City Council.

Mr. Malloy moved, seconded by Mayor Jensen, to suspend the rules. The vote was: "AYES" all. The Chair declared the motion passed.

Mr. Malloy moved, seconded by Mayor Jensen, to approve a positive recommendation to City Council for approval to Amend the Special Use Permit for Honeygrow Restaurant to include outdoor seating at 1485 Nagel Road. The vote was: "AYES" all. The Chair declared the motion passed.

3. 7 Brew Coffee, Code Amendment, PL20240053

Per Article, VII, Planning Commission (D) Mandatory Referral of the Charter, 7 Brew Coffee is requesting a positive recommendation to City Council to Amend the Planning and Zoning Code, Section 1270.03(b)(9) Scheduled Permitted Uses and Section 1280.06(ee) Supplemental Regulations for Certain Uses, to allow a restaurant with no indoor seating in the C-4 Zoning District, south of I-90. First Presentation held on October 16, 2024; Second Presentation held on November 20, 2024; Third Presentation held on December 18, 2024.

Mr. Malloy moved, seconded by Mayor Jensen, to untable. The vote was: "AYES" all. The Chair declared the motion passed.

Ms. Fechter requested this item be deleted at the Planning Coordinator's request. She is still in conversation with the restaurant and as much as they would prefer the Nagel Road location, they understand the city is not interested in changing the code for the entire city. 7 Brew is trying to search for another location within the city that would be acceptable and within the city code.

Mayor Jensen asked if this item needs to be deleted or voted on.

Ms. Fechter stated a vote could be taken rather than deleting the item.

Mr. Malloy moved, seconded by Mayor Jensen, to suspend the rules. The vote was: "AYES" all. The Chair declared the motion passed.

Mr. Malloy moved, seconded by Mayor Jensen, to approve Per Article, VII, Planning Commission (D) Mandatory Referral of the Charter, 7 Brew Coffee is requesting a positive recommendation to City Council to Amend the Planning and Zoning Code, Section 1270.03(b)(9) Scheduled Permitted Uses and Section 1280.06(ee) Supplemental Regulations for Certain Uses, to allow a restaurant with no indoor seating in the C-4 Zoning District, south of I-90 . The vote was: Mayor Jensen "no", Jim Malloy "no", Scott Radcliffe, "no", Carolyn Witherspoon "no"

0 "AYES"

4 "NAYS"

The Chair declared the motion failed.

4. City of Avon, Code Amendment

Per Article, VII, Planning Commission (D) Mandatory Referral of the Charter, Amending Zoning Codified Ordinance 1262.08(c) Minimum Yard Requirements for Accessory Structures.

Ms. Fechter stated Ms. Clements would explain the proposed Code Amendment.

Ms. Clements, Zoning Enforcement Officer, stated there have been several requests for driveway extensions, the city is dealing specifically with section 2 which is the Supplemental Paved Area for Parking. Several requests are presented to the Board of Zoning and Appeals (BZA) where the applicant is requesting a driveway addition. They applicants are requesting to start the extension from the rear of the sidewalk where it connects with the driveway, then extend it at an angle and move up toward the house. Currently the code has a 20 foot or a 10-foot setback where it would start from the sidewalk towards the house either 20 feet or 10 feet and then start the addition for the concrete. All the variance requests have been granted therefore instead of having the applicant appear at BZA it was discussed to potentially change the code. Currently if the applicant wants to extend the driveway from the house to the street a variance is not required which includes work in the right of way. However, if the code amendment is passed the extension can begin at the sidewalk or the right of way (if there is no sidewalk). If the applicant decides to extend the driveway to the road a variance would be required because the work is being completed in the right of way. The applicant would be required to remove the sidewalk, and they would need to comply with the apron requirements.

There were no other comments or questions.

Mr. Malloy moved, seconded by Mayor Jensen, to suspend the rules. The vote was: "AYES" all. The Chair declared the motion passed.

Mr. Malloy moved, seconded by Mayor Jensen, to approve a positive recommendation to City Council to Amend Zoning Codified Ordinance 1262.08(c) Minimum Yard Requirements for Accessory Structures. The vote was: "AYES" all. The Chair declared the motion passed.

COMMENTS

Mayor Jensen had no comment.
Mr. Malloy had no comment.
Mr. Radcliffe had no comment.
Ms. Fechter had no comment.
Mr. Cummins had no comment.
Mr. Gasior had no comment.
Ms. Clements had no comment.
Mr. Streater had no comment.
No comments from the audience

ADJOURN

Mr. Malloy moved, seconded by Mayor Jensen to adjourn. The vote was: "AYES" all. The Chair declared the motion passed. The meeting was adjourned at 7:29 p.m.



Carolyn Witherspoon, Chair
Planning Commission



Susan Pintz, Planning Commission and
Zoning Secretary

02-19-25
Date

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT I HAVE SURVEYED THE PREMISES AND PREPARED THE ATTACHED PLAT IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 4733.07 OF THE OHIO ADMINISTRATIVE CODE AND THE DIMENSIONS ARE IN FEET AND DECIMAL PARTS THEREOF. ALL OF WHICH ARE CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. IRON MONUMENTS OR PINS AS INDICATED WERE FOUND OR SET AS SHOWN ON THIS PLAT. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE SURVEYOR WHICH IS FORMULATED ON THE BEST KNOWLEDGE, INFORMATION AND BELIEF, AND AS SUCH, IT DOES NOT CONSTITUTE A GUARANTEE OR WARRANTY, EITHER EXPRESSED OR IMPLIED. THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE OF FACTS NOT KNOWN TO ME AT THE TIME OF SURVEY. THIS PLAT IS BASED ON THE STATE PLANE COORDINATE SYSTEM OF 1983 - NORTH ZONE - 1986 ADJUSTMENT. ALL IRON PINS SET ARE 5/8" X 30" LONG REBAR WITH A PLASTIC CAP STAMPED "POLARIS".

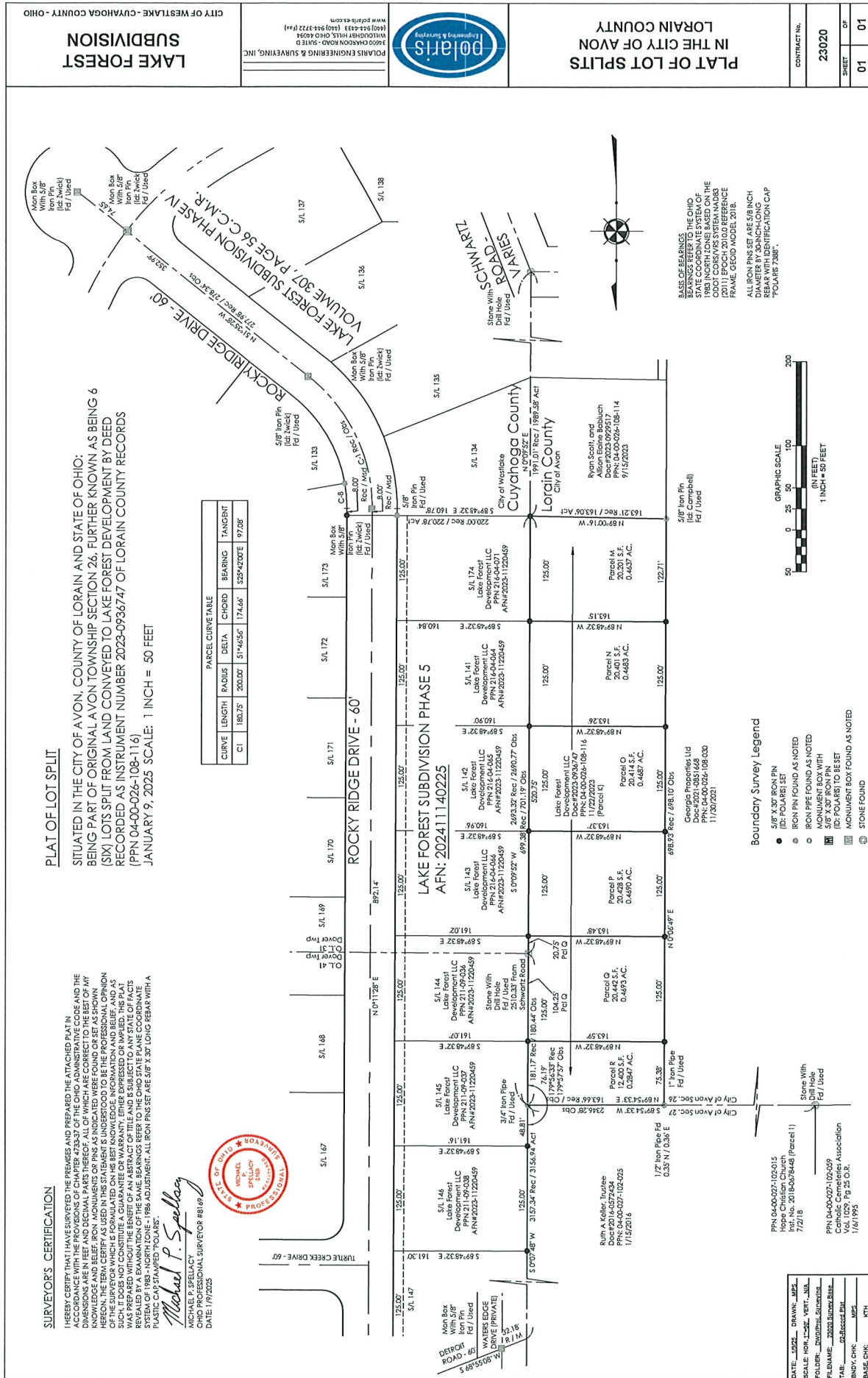
Michael P. Spellacy
MICHAEL P. SPELLACY
OHIO PROFESSIONAL SURVEYOR #8169
DATE: 1/17/2025



PLAT OF LOT SPLIT

SITUATED IN THE CITY OF AVON, COUNTY OF LORAIN AND STATE OF OHIO:
BEING PART OF ORIGINAL AVON TOWNSHIP SECTION 26, FURTHER KNOWN AS BEING 6
(SIX) LOTS SPLIT FROM LAND CONVEYED TO LAKE FOREST DEVELOPMENT BY DEED
RECORDED AS INSTRUMENT NUMBER 2023-0936747 OF LORAIN COUNTY RECORDS
(PPN 04-00-026-108-116)
JANUARY 9, 2025 SCALE: 1 INCH = 50 FEET

PARCEL CURVE TABLE					
CURVE	LENGTH	RADIUS	CHORD	BEARING	TANGENT
C1	180.75	200.00	51'46.56"	S29°42'00"E	97.08'



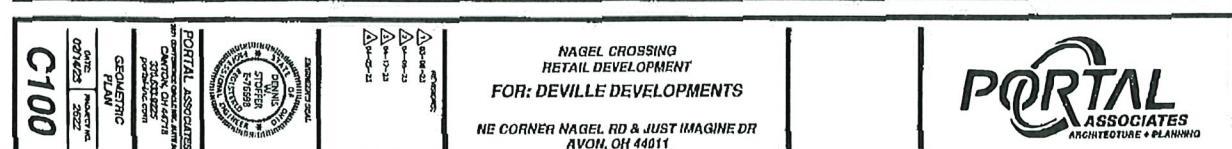
LAKE FOREST
SUBDIVISION

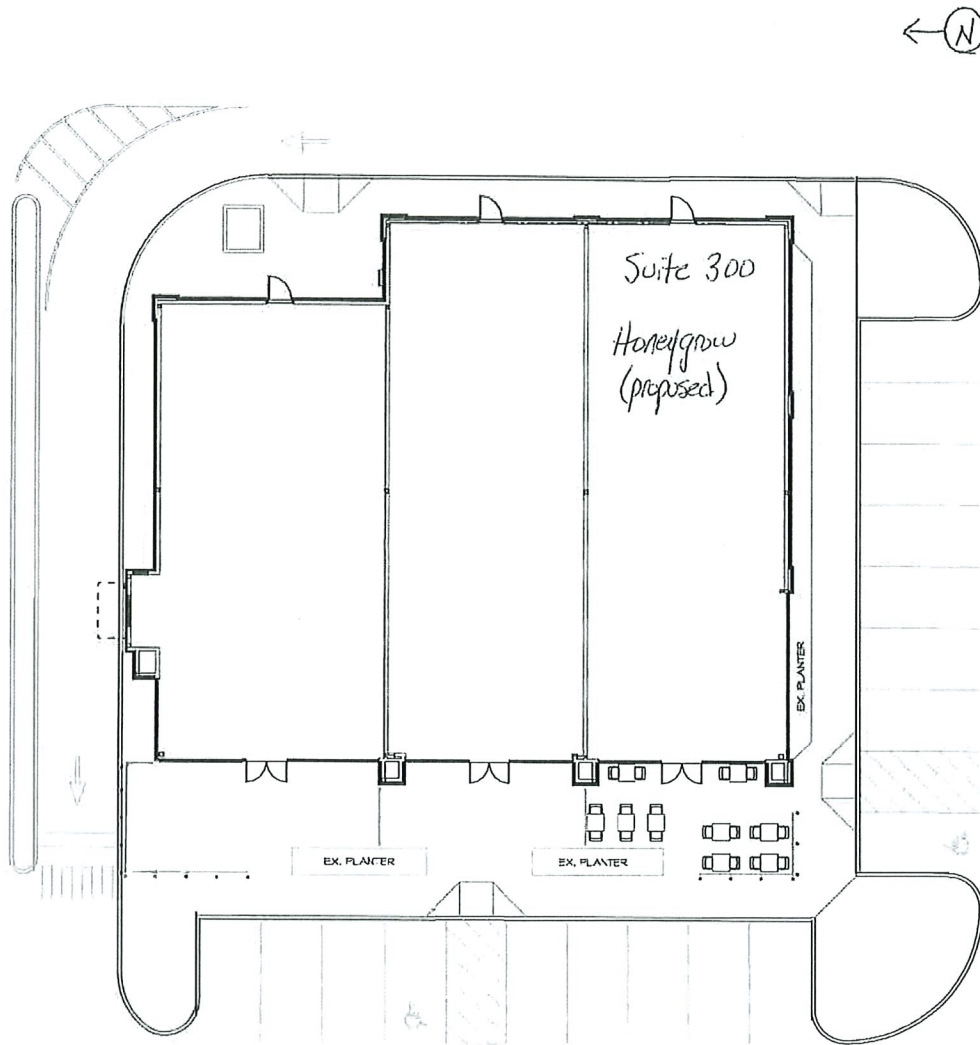
POLARIS ENGINEERING & SURVEYING, INC.
1600 S. 44TH ST.
MILWAUKEE, WI 53211
(414) 437-4433
www.polaris-es.com



PLAT OF LOT SPLITS
IN THE CITY OF AVON
LORAIN COUNTY

CONTRACT NO.
23020
SHEET
01
01





Building A
1485 Nagel Rd, Avon, OH 44011