

AVON PLANNING COMMISSION REGULAR MEETING MINUTES 1-19-21

MINUTES OF THE PUBLIC HEARINGS HELD ON WEDNESDAY, JANUARY 19, 2022, IN COUNCIL CHAMBERS OF CITY HALL

The meeting was opened by Chairman Carolyn Witherspoon at 7:00P.M

AMEND THE PRELIMINARY PLAT FOR A NEW 37 HOME SUBDIVISION GRANDE ESPLANADE TO BE LOCATED ON THE EAST SIDE OF NAGEL, NORTH OF MILLS ROAD WITH SANITARY CONNECTION TO ST. THERESA. The Chair opens the Public Hearing at 7:00P.M.

Vince Bobkovich of Euthenics says this was approved in March and the only thing that is changing is they are removing the 4' walking path. Ms. Fechter asks where the path was located. Mr. Bobkovich says it is located on the north and south property lines.

Mary Khouri of Carnegie Residential Development says they are the abutting property to the north and they drawing they have seen shows a connection across private property where there is no legal authority to this developer to have this connection and that is her objection.

There being no further comments or discussion, Chairman Witherspoon closes the public hearing at 7:03P.M.

CREATE A SPECIAL USE PERMIT FOR AVON SKILLED NURSING, AN 82 BED SKILLED NURSING FACILITY TO BE LOCATED ON THE EAST SIDE OF NAGEL ROAD, NORTH OF HEALTH CAMPUS BLVD. The Chair opens the Public Hearing at 7:03P.M. There being no one present in the audience; Chairman Witherspoon closes the public hearing at 7:03P.M.

COMMSTAR IS REQUESTING TO AMEND THE PLANNING AND ZONING CODE TO ALLOW INTERACTIVE BANK TELLER MACHINES TO BE PERMITTED IN THE CITY OF AVON
The Chair opens the Public Hearing at 7:03P.M.

Dave Jezewski of CommStar explains they want to remain in Avon as their lease comes up in February and they have a long-standing relationship with Avon and this technology will allow them to expand their services and continue to serve the City of Avon more efficiently and cost effectively for a not for profit. Mr. Jezewski says there was some concerns early in zoning about primary use, drive thru, all kinds of things and all they are asking is some appropriate language be carved out for financial institutions for community banks and credit unions to remain in Avon. These interactive machines do about 98% of transactions that traditional banks buildings with drive thru' s but allow to have larger service hours for members. Mrs. Witherspoon says this is still a stand- alone. Mr. Jezewski says yes, this is what they are asking.

Mary Burgess, 35985 Itica Drive, asks if the code isn't changed to allow for this type of structure, or if it is changed, the property you want to put it on doesn't work, do you have a plan B? Mr. Jezewski says they touched on it last time and Plan B is tough to foresee, it's the cart before the horse. If they don't get the language changed then it doesn't matter where it goes, it wouldn't be allowed. Their commitment is to stay in Avon. Mr. Jezewski says if the language changes, however the current property has issues, then they would look for another location.

There being no further comments or discussion, Chairman Witherspoon closes the public hearing at 7:09P.M.

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MINUTES OF THE REGULAR PLANNING COMMISSION MEETING HELD ON WEDNESDAY, JANUARY 19, 2022, IN COUNCIL CHAMBERS OF CITY HALL

Present: Bryan Jensen, Mayor; Jim Malloy; Scott Radcliffe; Carolyn Witherspoon, Chairman; Ryan Cummins, City Engineer; Pam Fechter, Planning Coordinator; John Gasior, Law Director; Duane Streater, Safety Director and Jill Clements, Secretary.

Not Present: Bill Fitch

MINUTES OF THE REGULAR MEETING-DECEMBER 15, 2021

A motion was made by Mr. Malloy, seconded by Mayor Jensen to dispense with the reading of the minutes of the Regular Meeting held on December 15, 2021, and to approve the said minutes as published. The vote was: "AYES" All. The Chair declared the motion passed.

ADDITIONS/DELETIONS

GORNEY-MILLS ROAD-SECOND PRESENTATION-REZONE

Ryan and Kara Gorney are requesting a positive recommendation to Council for consideration of the rezoning of PPN 0400024116043 from M-1 to R-1 located at 33910 Mills Road.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to un-table the Gorney Appeal. The vote was: "AYES" All. The Chair declared the motion passed.

Ms. Fechter asks that this be tabled indefinitely as they don't have a specific plan at this time and if they find something they want to do, then they will come back.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to table the Gorney appeal indefinitely. The vote was: "AYES" All. The Chair declared the motion passed.

GRANDE ESPLANADE SUBDIVISION-FIRST PRESENTATION-AMEND PRELIMINARY PLAT

Vince Bobkovich of Euthenics is requesting approval to amend the Preliminary Plat for Grande Esplanade Subdivision to include 37 new single-family homes to be located on the east side of Nagel Road, north of Mills Road with sanitary connection to St. Theresa.

Vince Bobkovich says this is the amended preliminary plat that was approved on March 20, 2020, and they are limiting a 4' aggregated path that is on the north and south side of the property. Ms. Fechter asks why are you removing the path? Mr. Bobkovich says when they went into final design to get the drainage to work better and final grade, they had to eliminate the path. Mr. Radcliffe asks if the path affects the drainage. Mr. Bobkovich says not really but you have to have a 4' where they are meeting, they are coming down grade to add a smooth it was easier to grade slope. Mr. Radcliffe says this would have been a walking path, right? Mr. Bobkovich says yes. Mr. Radcliffe says there's a lot of discussion about those that residents are looking for those. Mr. Bobkovich says it was on everyone's property as well, so it would have been an easement. He says the adjacent owner to the north did not like it being there because they were afraid people would walk back there and go onto their property. They will still have a normal sidewalk; this was an added feature they thought it would be nice. Mr. Cummins says he did compare the previously approved plan and the current and the only thing changed is the removal of this path. Mr. Cummins says he doesn't know if the removal of the path as necessary to make the grading work, that would be their choice. Mr. Cummins says from an engineering point of view it could be there or it could not be there. The area where the path is would already be an easement or block. Mr. Cummins says in his

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mind its not an engineer question, it's a developer question. Mayor Jensen says if Planning or Council would like to see a path in front would they be open to that on one side or the other?

Al Piatak of Euthenics, ask the mayor to make sure he is clear within the road right of way, instead of providing two, five-foot walks, they would provide a five-foot walk on one side and then a wider walking trail on the other. Mr. Restivo says that's a change to the plan and a lot more concrete. Mayor Jensen says black top would be fine. Mr. Restivo says yes, he would agree. Mr. Cummins says at one point they would have to end up in a plan. Mayor Jensen says if it's going to be concrete, 8 feet would be fine, if black top, possibly 10 foot in terms we are trying to connect. Mayor Jensen says the challenge is it will have to go into a print, if you do blacktop you will want to do the whole side when its finished. Mrs. Witherspoon says we did have a comment about access does this interfere with her comment? Mr. Cummins says the comment about access, he believes the adjacent property owner who spoke it speaking about roadway, sewer, drainage access. These plans are based on them acquiring those property rights and thus far they have not been acquired, that is a true statement. Mayor Jensen says it doesn't have a bearing on the walking path issue, its more on the next one. A motion was made by Mr. Malloy, seconded by Mayor Jensen to suspend the rules. The vote was: "AYES" All. The Chair declared the motion passed.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve the amended Preliminary Plat for Grande Esplanade Subdivision to include 37 new single-family homes to be located on the east side of Nagel Road, north of Mills Road with sanitary connection to St. Theresa. The vote was: "AYES" All. The Chair declared the motion passed.

GRANDE ESPLANADE-SECOND PRESENTATION-FINAL PLAT

Vince Bobkovich of Euthenics requesting approval of the Final Plat and the recommendation to Council to create a Subdivider's Agreement for Grande Esplanade, a 37-home subdivision located on the east side of Nagel Road, north of Mills approved Preliminary Plat 3.22.21 with sanitary connection at St Theresa.

Al Piatak of Euthenics says they received final engineering comments back in November or early December and met with the engineer in mid-December and went through them one by one and they believe they resolved them except for one or two. They are requesting that they pass this and pass along to Council to make the adjustments. Mr. Cummins says there was a resubmission in January, and they are still under review, he has not completed that yet and there will be some comments left. They are still in the review process. Ms. Fechter says City staff comments have been addressed. Mayor Jensen says we can't move forward without those issues being resolved. Mr. Cummins says those plans need to be finalized, engineers estimate prepared before its ready for a final vote. Mr. Piatak says when they met in December, they went line by line and there was one outstanding item, are there going to be additional? Mr. Cummins says he provided comments on the plat itself last week. There will be other comments and they are less than what they were but there are still issues with drainage. Mr. Piatak acknowledges receiving them. Mr. Restivo says he is disappointed to hear that, they went to the meeting to resolve those issues to be on the December meeting. Now, they have the comments, they responded to them in a timely fashion and to be told now they haven't had time to review after this constant process of review, you should understand their disappointment. Mr. Restivo says there is nothing consequently regardless, they are compliance issues that can't be resolved in the Planning Commission. They agreed in the December meeting they will be moved onto to Council and be heard at Council. Mr. Restivo says let the recommendation be whatever it needs to be from Planning, even if it's a negative recommendation but they need advice from Council. He needs an opportunity to discuss these plans with the city especially now with Phase 2 connecting to Mills Road. All consideration that is necessary for the City to comply with its own ordinances, all they want is an answer from City Council, Nagel Road or St Theresa right of way. If its Nagel Road, lets do it and get on with it, enough of this Mr. Restivo says. This is wrong, its

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wrong, its wrong, he wants to go talk to Council, they agreed to that. Mr. Restivo says he is not mad at the mayor, he kept his word and he appreciated that, and he got to see his daughter in Guam, thank you, now this is business. To come here again, halfway around the world to hear the same thing he heard in November and December, why couldn't it have been reviewed. Mr. Restivo says to put yourself in his shoe, look at the cost, it goes on and on, let Council tell him in an orderly fashion if they are going to follow the ordinances and which ones and get on it. Make the recommendation and let him go to Council.

Mr. Gasior says that MR. Cummins can complete his review that if he goes in front of Council with either a positive or negative recommendation, he is going to have to prepare a Subdivider Agreement and he is going to have all the engineering finalized. Mr. Restivo says he is not unwilling to do that, he will meet whatever deadlines are. Mr. Gasior says if they want to take this issue up tonight, they could entertain a motion to either approve or disapprove the preliminary plat, but he advises the panel that there are no property rights in the area of St Theresa where they can make the connection to the sewer and under 1244.12 of our code you must have those property rights. Mr. Gasior says you must certify you are the property owner of all the property on that plat and they are showing a plat that even though its small, you don't own. Mr. Gasior says this body must follow its law and the law would be to vote not to recommend this to Council. Mr. Restivo says if he understands, it would be a negative recommendation to Council and Council can consider on those terms. Mr. Gasior says in the meantime, Ryan will continue to finalize his review, so he has the figures he needs to prepare the subdivider agreement. Mr. Restivo says that is all understood and agreed to. Mr. Gasior says under the circumstances he would recommend the Chair make the motion to disapprove. Mayor Jensen says he heard MR. Restivo say there are two options out there one, we did a preliminary approval on terms of the connection at Nagel Road, that's not an option for this body correct? Mr. Gasior says the only thing on the agenda is what he is dealing with and that is the preliminary plan approval, which is done, you don't need to own the property you just need to show where you want to put the sewer. The final plat approval which is what we are on now says you must own all the land upon which you want to develop, and we know you don't own a small portion, but it changes the plan, and they can't approve it. Mr. Restivo says what he is trying to understand what is the difference in disapproving it a negative recommendation? Mr. Gasior says it's the same thing. Mr. Restivo says all he wants is the opportunity, he is not trying to fool anyone, he is wearing his heart on this sleeve, he wants them to give him an answer. Mr. Restivo says just go ahead and vote. Mayor Jensen asks Mr. Gasior let's say Council says its Nagel Road, will it have to go back to Planning Commission? Mr. Gasior says no, he wants to go forward with this plan to connect to St Theresa and its going to be denied every step until he acquires the property rights to connect to that sewer. Mr. Gasior says if he wants to abandon and then go down Nagel, that final plan will need to be submitted and then a new subdivider agreement will be made and sent back to Council. We are doing one thing at a time, and this is the first. Mayor Jensen says so then it won't have to go to Planning and Mr. Gasior says yes, it will have to, they will have to start over.

A motion was made Mr. Malloy, seconded by Mayor Jensen to **disapprove** the final plat and recommendation to Council to create a Subdivider's Agreement for Grande Esplanade, a 37-home subdivision located on the east side of Nagel Road, north of Mills approved amended Preliminary Plat 1.19.22 with sanitary connection at St Theresa. It was asked and confirmed this motion was in favor of disapproving. The vote was: "AYES" All. The Chair declared the motion passed to disapprove.

NAGEL FARMS SUBDIVISION-THIRD PRESENTATION-PRELIMINARY PLAT

Tom Kuluris of Liberty Development is requesting approval of the Preliminary Plat for Nagel Farms Subdivision to include 38 new single-family homes to be located north of Detroit Road, east of Nagel Road off Middleton.

Tom Kuluris of Liberty Development says they are here to get preliminary plan approval for Nagel Subdivision. Ms. Fechter says staff comments have been addressed. Mr. Cummins says in the December meeting there was discussion on the drainage, and they did submit a revised plan that does a couple thing.

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Mr. Cummin says there was concerns about sublots extending into ditch area and the extent that they could except for one lot, they did pull that rear lot line out of the ditch area. They also upsized the storm water management system quite a bit while they did not bring it fully inline with the Levin site, they did bring it closer. Mr. Cummins says part of the discussion with the developer was that we wanted to see the ratio of what they were providing come into compliance with the Levin site. He continues to say what was stated was they would work to do that when the commercial property portion of the land is developed. Mr. Cummins says he spoke with them today that there will be some letter or written agreement to memorialize that. Mr. Cummins says on average the drainage is being reduced about 70% that all storms 1-100, it's a very positive move to help the drainage issues in that area. When they did expand the basin, the one thing noted is the bottom of the basin is left nearly level and Mr. Cummins says it could be a problem maintenance wise if it's constructed that way. Mr. Cummins says he spoke to them about that, and they seem to be agreeable to work out a better design in final engineering and its doable to do and all the details would be worked out. Mr. Cummins says his recommendation is this be contingent upon improving the proposed basin to it does not have a flat bottom and working to memorialize that storm water management will be increased even further when the commercial portion of the property is developed. Mayor Jensen as the property stands right now, there really is no retention correct? Mr. Cummins says no, its farm field even though its not paved has a very high run off so this will capture the drainage, manage it and about a 70% reduction. Mayor Jensen says when you say contingent, he must come back for the final so all of that will be shown right. Mr. Cummins says yes, all those details will be worked out before they come back for final design. Mr. Radcliffe asks about the 3 houses in Detroit and the path? Mr. Kuluris says the way the plan is shown they have 3 houses on Detroit with a path, right now those don't exist, it's the farm stand and a couple of barns, the plan shows putting 3 houses on Detroit. Mr. Kuluris says it's a long shot that they come back and ask to do something commercial there, so they are moving forward with this plan and the 3 houses. Mayor Jensen says they talked about the concern of them getting out of their driveways. Mr. Kuluris says those are big lots. Mr. Cummins says the path was requested by the Utilities department as there is water, sanitary running through there and provides the benefit of connecting for pedestrian's access.

Ed Pavicic represents Shire Glenn Management, and they own the land contiguous to the west and north of the property. Mr. Pavicic says he spoke with Dru Siley, and he was supposed to get back to him after their last meeting and never touched base on anything. Mr. Pavicic says his concern is this, he is pro for the development, but he wants to make sure from the engineering standpoint they engineered the whole 278 acres, and he knows where the water goes. He said they don't want to do anything on the commercial site, but he believes the splits they need to make sure the water is maintained prior to the future development. Mr. Cummins says the storm water management for the commercial site when that happens, they will need to provide stand alone management for that or they have casually suggested that they move this basin at some point. Mr. Pavicic says that is one of the conversations he was supposed to have with Dru but hasn't yet. Mr. Pavicic says his concern is if it does get approved, which he hopes it does, that if there is no commercial tenant lined up, he wants to make sure that the water can be diverted. Mr. Kuluris says it sounds like this might help you and Mr. Pavicic says he agrees he just wants to make sure his concerns were addressed on the record. Mayor Jensen asks if its not developed how can we put stimulation on the commercial property that isn't before us to be developed. Mr. Cummins says that is correct, once it gets to that point it's a blank canvas you apply based on the land and the regulations and come up with ways to provide the most retention and storm water management as you can, every bit helps. Mayor Jensen says he would request tonight that in moving forward we get more from the residential with the understanding when the commercial does come in, that will need to be addressed. Mr. Kuluris says the understanding is what was done with Levin and Mr. Cummins says yes.

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A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve the Preliminary Plat for Nagel Farms Subdivision to include 38 new single-family homes to be located north of Detroit Road, east of Nagel Road off Middleton contingent upon basin improvements and further drainage memorialized with commercial development. The vote was: "AYES" All. The Chair declared the motion passed.

CONCORD VILLAGE-THIRD PRESENTATION-REZONE

Jason Friedman is requesting approval and the recommendation to Council for approval of taking 7.89 acres and rezoning that from M-1 to R-3 leaving the remainder 4.20 acres M-1 for proposed Concord Village Phase 3 to be located on the north side of Chester Road.

Jason Friedman says they are here tonight to talk about the rezoning from M-1 to R-3 and secondly the general development plan. Even though the rezoning is the first item, they are closely linked, and he wants to start with addressing the development plan. Mr. Friedman says a public hearing has been held and this is the third presentation of the plan and wants to be clear that they are not asking for the rezoning on a general basis. They are seeking the rezoning in connection with a specific development plan and use. Mr. Friedman says its important to consider both together as it makes more sense, what they are proposing is consistent with the surrounding area and the immediate adjunct uses including Concord Village Phase 1, Concord Village Phase 2 the recently completed townhomes and the Village of Avon Apartments. Mr. Friedman says they have made some significant changes to the plan and were told to come back with a plan that wows them. They have reduced the number of units from 83 to 78 and include open and common area space, the total density is still below the allowed for the R-3 zoning. Mr. Friedman continues to say they are providing 14730 sq. ft. of open space and amenities in the center of the parcel, almost twice what is required by the code. The open space includes a dog park, playground and hardscape. They have also added additional landscaping throughout the property. In the center you will see a traffic calming island was added and will allow them to slow down traffic on the main street. They were asked to work with the owner of the Village of Avon to provide emergency vehicular access and they did just that, there is a gated road that connections to Americana Way, the owner has agreed to execute an easement and they are supportive to them developing as residential and would be opposed to any industrial use this close to them. Mr. Friedman says they will provide future road access to the north of their property allowing for a street to be built as far west as Freeman and as far east onto 83. Mr. Friedman says they will provide a temporary cul de sac at their northern property and thought about donating the future park land or keeping it as a buffer. Mr. Friedman says its important to know they are at the end of the sanitary sewer district for this area, and they are the last property to the west that can be developed with the sewers that are in place. No other property to the north or west can be developed until sewer is extended from the far west or far north. Mr. Friedman says R-3 would work best on this parcel then any industrial use. Mr. Friedman names a few permitted industrial uses per the code. In order to access this parcel for industrial use, traffic would be required to enter off Chester Road, go through a residential private street and neighborhood. Mr. Friedman says rezoning of this property is the right and appropriate use for this property as its consistent to what exists and will be consistent with the building existing. Mayor Jensen says when you say you are trying to work with us in terms of numbers and that you came down 5 units and that's not significant. Mr. Friedman asks what is significant? Mayor Jensen says your original was 83 and you came down to 78 and Mr. Friedman says yes 83 was the last one but we can down on that as well. Ms. Fechter says 86 was the original. Mayor Jensen says it makes sense to both at the same time, but his standard is bigger and there can be further discussion. Mayor Jensen tells him being on Planning knowing how Council feels, moving forward today is not going to be beneficial, there needs to be more discussion on how this works out. Mayor Jensen says it would be tough for him to vote on anything today, he is not against further discussion. Mr. Friedman says its hard to have a one-way discussion, a discussion is when you provide feedback to what they present so saying that we need to have discussion is very open ended. He would appreciate anyone's feedback which you provided, and they re-presented it, he is open as along as someone expresses what they are looking for. Mr. Friedman

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says when you say less units, his first question is how many and why. Mayor Jensen says you know that area and you show how many houses are in that area, you are asking us to rezone a piece of property that is industrial, and he gets what he is trying to do. Mayor Jensen says his understanding with Council is we will recommend to Council, and they decide and adding that many more homes without a reduction, and you're asking him what that is and has says you start at 80 some and I start at 50 and come up with something in between that would be reasonable but uncomfortable with. Mr. Friedman says this is the first time he's heard a number and why would they reduce the units, is it a traffic issue? Mayor Jensen says it could possibly be as they develop as we move forward to the west. What is in place is all R-3 and you are asking to expand beyond that. Mr. Friedman says they did a traffic study and that was confirmed by Mr. Cummins this does not negatively affect the improvements that are in place and that he contributed to improve Chester. Mr. Friedman says he doesn't appear traffic is an issue to the units and Mayor Jensen says at this point right now with no more development its not an issue, can it be an issue if we put more units? Mr. Cummins says certainly it can become an issue on Chester Road if you were to develop further to the west. Mr. Friedman says as he said you would charge accordingly for improvement including himself and anyone else. Mr. Friedman says he wants to know what and why, they been in front of them for a few months now and would be opened to consider anything, just need something to go on. Mr. Radcliffe says he would like to see less density in there and he liked the green space that was added and its going in the right direction. Mr. Radcliffe says maybe taking this from the 5 driveways maybe taking it down to 3 would give you less units that would be a little better. Mr. Radcliffe says to him if it was left as the M-1 it would be a great buffer for something to come in in the future. Chairman Witherspoon wonders if they could come down to at least four. Mr. Friedman says it's a good point as previously they were asked to provide a plan with the same buildings as Phase 2 so the reason for the 4/5's it's the same building, with the same product, with the same spacing to keep things consistent. That request was made through conversations with the city that if they did this, they would like it to be the same. Mr. Friedman says it's frustrating. Ms. Fechter asks how many units in Phase one. Mr. Friedman says it has 30 units, Phase 2 has 83 units and proposed Phase 3 is at 78 less than the density of both and what is required under the zoning.

Jordan Berns representing Mr. Friedman says Mr. Friedman alluded to some of the points he will be making. Mr. Berns says he is going to focus on the zoning of the property since it's the first agenda item. As it's been noted, the property is M-1 general industry and mentions a few other uses. Mr. Berns says the reason they mention that when you are considering an application for rezoning its important to note what's wrong with the current zoning, why should they make the change? Mr. Berns says the current zoning doesn't fit this location given several factors like the proximity to the two existing residential developments and its only accessibility is by a private street. Mr. Berns says your zoning code provides a purpose clause for each of the zoning districts. Mr. Berns reads a section of the code 1278.01(d) and says that's an appropriate purpose for industrial zoning, this is just the wrong spot given its location, the residential land next store and the access point is through a private street. Mr. Berns says all those factors make this an unsuitable zoning classification for this property. Mr. Berns says when it doesn't serve the purpose under the zoning, courts have found that the zoning is arbitrary and capricious and therefore is unenforceable. Mr. Berns says the property can't be developed for industrial use properly, the code has a provision of a minimum lot frontage of 150 feet along any street, this does not have frontage, only to the private street. He continues to say this property can't be used much less used in an economically feasible way as its zone. Mr. Berns says that too is important under the law and the one thing that Cities can never do is zone property in a manner that doesn't allow it to be used in an economically and feasible manner and this cant be used. Mr. Berns says that answers the question, what's wrong with the current zoning. The next thing is what's right about the zoning being proposed and those are things Jason outline earlier and he doesn't want to repeat. Clearly this is a use that is consistent with the adjacent development and as mentioned they were asked to present a plan that was consistent with Phase 2 and that was the original plan. They have reduced the units by 10%, green space is a unique feature and presents the buffer and protects the residential aspect. Mr. Berns says another benefit is the possibility of donating land for the

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future for a street to be built to serve the industrial property. Mr. Berns says the plan that has been presented helps make that property useable. Mr. Berns says the access to emergency vehicles is important as is not something that can be realistically available to an industrial development of the property. The limits on the sewer are important as that protects the city against any fear that there will be a run-on effort to rezone any industrial property there to residential. Mr. Berns says what they are trying to do is create that buffer, create a proper use of this property to give the city the opportunity to create the infrastructure that will allow for industrial development to the remaining industrial property. For all those reasons they think the R-3 zoning that they are proposing is the right zoning. Mr. Gasior says the only comment he has was this body back in November of 2018 voted to disapprove the rezoning of that back parcel and he knows that things have changed perhaps with the development of Concord Village Phase 2. Mr. Gasior says Mr. Berns sent him a letter on Monday the 17th and was able to share it with the mayor but haven't been able to share with the Board. Mr. Gasior says some of the points he makes in the letter are valid and that's what has been repeated here tonight. Mr. Gasior says he thinks they need an opportunity to talk about it and doesn't think an executive session would be appropriate with the number of people who still need to be heard but maybe at the end we can go into executive session to discuss this and perhaps the city will contact Mr. Berns to solidify some sort of a plan going forward. Mr. Gasior says he doesn't think it would be a good idea to vote on it tonight. Mr. Gasior says there is a lot to discuss, if you take it up and pass it, it goes to Council with a positive recommendation, you take it up and vote it down, it goes with a negative recommendation and it ultimately goes to Council. We can take it up and get whatever vote comes or we can bring it back as fourth presentation in February. Mr. Friedman says his preference would be a positive recommendation.

Mr. Gasior asks if he wants a vote or move it to February. Mr. Friedman says he would like the Commission to provide him feed back if it needs to be looked at further then he will. Mr. Friedman would prefer to move forward with Planning Commission being on board, if the issue is the plan, then they can take it up on the next item. Mr. Gasior says he doesn't think it would be appropriate until they go into executive session to talk a little more about it, his feeling is the executive session should be called before the Comments to discuss the potential litigation that can come from this and then they can make a better vote when they know all the circumstances. Mayor Jensen says if Mr. Friedman is willing to wait another month, he thinks that the best way to as both need to be talked about together. Ms. Fechter asks should we just table them? Mr. Gasior says yes, they both are together and should be tabled. Chairman Witherspoon says it's the consensus that we have the executive session and table this until ethe February meeting.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to table until the February meeting. The vote was: "AYES" All. The Chair declared the motion passed.

CONCORD VILLAGE-THIRD PRESENTATION-AMEND GENERAL DEVELOPMENT PLAN

Jason Friedman is requesting approval of amending the General Development plan for Concord Village to include Phase 3, 78 new units to be located on the north side of Chester Road.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to table until the February meeting. The vote was: "AYES" All. The Chair declared the motion passed.

CRASH CHAMPIONS-FIRST PRESENTATION-MINOR MODIFICATION

Adam Liska of Crash Champions is requesting approval of the site plan for the minor modification to convert the existing motorcycle showroom into an automotive repair shop to be located at 38401 Chester Road.

Carmen Onken says they are going to convert the Harley Davidson into a Crash Champions Collision repair store and they are asking for approval for that. Ms. Fechter says they have asked them to come to Planning as a lot of people are asking what they ar doing in the back with the cars. Ms. Fechter says we take pride in our city and when people are traveling on I-90 we want them to see nice things. Ms. Onken

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says if they can fill up that lot, they would be happy. She says they have 22 service bays in total with 9 employees and 8 in the office. She says they flip the cars quick. Mayor Jensen asks if there is a buffering by the highway. Ms. Onken says in the past they have put up a fence or more screening if the city asks. Ms. Fechter asks if the aback will be fenced. Ms. Onken says yes, there currently is a chain link fence, but they can add more if they need too. Mr. Gasior ask what they do, is it car repair because we have prohibition on scrap yard. Ms. Onken says this isn't scrap yard. Mr. Gasior thinks a buffer would be great. Mr. Radcliffe says that is a large parking lot and would like to see some mounding or buffering back there instead of looking at a bunch of crashed cars. Mr. Radcliffe says with 9 people working with 22 bays, how quickly do the cars be moved inside.

Ryan Trejo of Crash Champion in Cleveland if they go with industry average, they turn cars in 7 days. Mr. Trejo says they are not in the business of storing vehicles and don't want to store vehicles, they want to get them in and out. Mr. Radcliff asks how many cars they turn over a month. Mr. Trejo says it would have the ability to turn about 160-200 at this facility per month, a scratch on the bumper counts as well. Mr. Radcliffe says with 9 people working he's a little fearful we could accumulate a large number of cars. Mr. Trejo says he understands what he is saying, we deal with that every day, but their goal is to get them turned around. Mayor Jensen asks what the customer base, car dealerships or general public? Mr. Trejo says its more general public but take what is sent to them. Ms. Fechter asks if the Napa Auto Parts will stay or go? Ms. Onken says they are part of the development but on their own lot. Chairman Witherspoon asks if this should be first presentation? Mayor Jensen says if we have the commitment then we can do contingent. Mr. Cummins says if you are doing any mounding for buffering, he would need to see the grading with the addition to the plan. Mr. Cummins says he looked at the Chagrin site and ask if they need all the asphalt? Mr. Trejo says they can work with the city and will reduce what they can and add buffering.

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

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve the site plan for the minor modification to convert the existing motorcycle showroom into an automotive repair shop to be located at 38401 Chester Road contingent upon final engineering with buffering. The vote was: "AYES" All. The Chair declared the motion passed.

RAISING CANE'S-FIRST PRESENTATION-FINAL DEVELOPMENT PLAN

Aerin Ledbetter of OLIO Development Group is requesting approval of the 3,331 sq. ft. new quick serve Raising Cane's to be located 35545 Chester Road.

Jara Barreto of OLIO says the proposal is a quick serve restaurant 3,665 sq. ft. building along Chester Road with a drive thru and patio to serve chicken fingers. Ms. Barreto says they have an extensive landscape package with their drawing and talks about the exterior features and the two drive thru windows. Ms. Fechter says all staff comments have been addressed. Mr. Cummins says they completed their review with just a few outstanding text issues on the title sheet and would recommend approval. Mr. Radcliff asks from the drive thru speaker to the main drive, how many cars does that allow stack. Ms. Fechter says 10- Mr. Radcliffe says from the speaker and Ms. Fechter says we normally count from the window. Mr. Radcliffe says a lot of time there is back up past the speaker. Ms. Fechter says if there were to be back up, it would be on their property. Mr. Radcliffe says there will be two lines? Ms. Barreto says yes two lines and one bypass lane. Mayor Jensen asks if they have an approximate wait time. Ms. Barreto says they pride themselves in fresh chicken, so they try to maintain a 6 min wait time. Ms. Barreto says Raising Cane's is trending and everyone want chicken, but they typically don't have big backups. The staff is 16 people at a time to keep the lines moving specifically lunch and dinner time. Ms. Barreto says they have created the total wrap around their building so there is no negative impact on the outside.

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Mayor Jensen asks how long they have been doing the double lanes. Ms. Barreto says about 2 years now. Ms. Barreto says they can not serve chicken that has been sitting for longer than 7 mins, so they keep moving and its fresh. Mayor Jensen asks if its local ownership. Ms. Barreto says OLIO use to be the franchisee for all Ohio but once they hit 50th store in June, corporate bought them and it's a franchise. A motion was made by Mr. Malloy, seconded by Mayor Jensen to suspend the rules. The vote was: "AYES" All. The Chair declared the motion passed.

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

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve the 3,665 sq. ft. new quick serve Raising Cane's to be located 35545 Chester Road. The vote was: "AYES" All. The Chair declared the motion passed.

RAISING CANE'S-FIRST PRESENTATION-SPECIAL USE PERMIT

Aerin Ledbetter of OLIO Development Group is requesting approval of the site plan and the recommendation to Council for approval to create a Special Use Permit for the proposed 3,331 sq. ft. Raising Cane's to include an outdoor patio to be located at 35545 Chester Road.

Ms. Fechter says everything highlighted shows bollards around the patio. Ms. Barreto says they are taking a lot of pride in their patios because most Cities want to engage with them and pedestrian's flow. They do have speakers outside for a little bit of music. Ms. Fechter says hours of operation are 10AM-11PM 7 days a week. Mr. Radcliffe asks if the bollards are yellow, or part of the landscape and Ms. Barreto says she believes they are red. Mr. Radcliffe says he would like to see them blend in because of the area. Ms. Barreto says they do have some bollards around the drive thru area and those are yellow. Ms. Fechter asks for a rendering for City Council and Ms. Barreto says of course she could. Mr. Gasior asks who the owner of the property is. Ms. Fechter says she has Raising Cane's Restaurant, LLC and confirms that is the formal name.

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

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve the site plan and recommend to Council for approval to create a Special Use Permit for the proposed 3,331 sq. ft. Raising Cane's to include an outdoor patio to be located at 35545 Chester Road.

AVON SKILLED NURSING-FIRST PRESENTATION-SPECIAL USE PERMIT

Michael Slyk of MSTC Developments, Inc is requesting approval and the recommendation to Council for approval to create a Special Use Permit to include 82 bed skilled nursing facility to be located on the east side of Nagle, north of Primrose.

Jim Epple of Jacobs Group is with Michael Slyk and says they were here in December and have had some productive conversations with the city and believe they have addressed the comments for the Special Use Permit, and they will have more details when they get into development plans. Ms. Fechter says we have had several conversations with the group about non-emergency protocols, she has given each Board member their protocols and they are willing to work with Mr. Streater and the fire department as we move forward. Mr. Slyk has operated several other facilities in the area and what they are finding is what our EMS is concerned about so are the emergency rooms. Ms. Fechter says they are willing to work with the city and do what they can to help. Mr. Cummins says in the general development we are adding the street and had some comments about the drainage and lay out of street but that can be addressed with the final development. Mr. Streater says he talks with Chief Swope and the concern is like

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Beehive and they have addressed those concerns and are willing to work with us for an overall benefit. Mr. Streator says this is something that is continuously looked at and monitored. Mr. Slyk says yes, whatever he can do or say. Mr. Slyk says they all have same goal, and they are always looking at the issues and continue to develop new ideas. Mayor Jensen asks what the investment is in this property? Mr. Slyk says it will be close to 15 million to build. Mr. Radcliffe says if he understands the main entrance would be off Nagel Road until the new road is built? Mr. Radcliffe says there is no turn lane there and is wondering how much traffic they will have in there and could there be some back up issues? Ms. Fechter says we won't know until their final development plan is submitted. Mr. Slyk says they are not a high traffic operation. Staff coming and going is the most you will have, a slow trickle in and out. Ms. Fechter asks how many employees you have on staff. Mr. Slyk says it depends on the building and beds so he can get that information. Mr. Radcliffe says he knows Christian Brothers sometimes has a little back up. Mr. Slyk says he appreciates the feedback, he's been doing this for years and doesn't anticipate a backup. Mr. Cummins says they did talk about a traffic study being provided and they have started to take those steps.

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

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve and recommend to Council for approval to create a Special Use Permit to include 82 bed skilled nursing facility to be located on the east side of Nagle, north of Primrose.

COMMSTAR-SECOND PRESENTATION-AMEND PLANNING AND ZONING CODE

Dave Jezewski of Commstar is requesting approval and the recommendation to Council for approval to add a new definition for a financial institution and/or the exclusion of the word principal use in section 1270.03(b)(3) to allow a stand-alone drive thru banking facility to be permitted in the City of Avon.

Dave Jezewski, CEO of Commstar says when they started this journey, they saw some hang ups with permitted uses and code and what not pre-2019. Mr. Jezewski says they are asking for consideration of new language to allow them to stay in Avon and provide expanded service. Ms. Fechter says we are looking at two options, he was looking at making a definition of financial institutions that would allow the use or looking at drive thru for financial institutions to be a permitted use and not an accessory use to the primary business. Those two options are out there if the body is willing to change the code. The thought is if there is a definition for financial institutions calling out an interactive teller that would make it a permitted use in the C-4 area as stand alone. Mayor Jensen says unfortunately currently, he really isn't in favor of changing the wording. We liked having you in Avon and keeping the office but in terms of the stand alone, he doesn't think it works at this time. Mr. Jezewski says he doesn't want to speak for financial institutions in general, but his charge is for the Lorain County members. It's unfortunate to hear that as this technology is not going to go away and he is sure that sometime in the future someone else will be having this same conversation. Mr. Jezewski says the ability for cities to help support financial intuitions that support their communities is an essential partnership and he says it would be unfortunate to move forward with that.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to recommend to Council approval to add a new definition for a financial institution and/or the exclusion of the word principal use in section 1270.03(b)(3) to allow a stand-alone drive thru banking facility to be permitted in the City of Avon. The vote was: "NAYS" All. The Chair declared the motion failed and a negative recommendation will be sent to Council.

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Mr. Radcliffe says to Mr. Jezewski to keep trying and try to find a way to stay in Avon, we value you what you bring to the community and want to see you here just need to figure out another way. Mr. Jezewski says he appreciates hearing that. Ms. Fechter says the hard part for commercial buildings you need 150 feet of frontage and one acre, and she thinks how we carve out something for an ATM stand alone. Mr. Jezewski says he understands as this is something no one has gone through this experience and its tough to change. Mr. Jezewski says he appreciates trying to find a way.

COMMENTS

Mayor Jensen suggests not going into executive session, Mr. Fitch isn't here and if we can't get the information to the committee before the next meeting then maybe we will go into executive session before that. He feels there is a way to have discussions without going into executive session. Ms. Fechter thanks the Commission for their patience as several things coming in front of you are different and she appreciates you all working with her to figure out the best way to help the city move forward.

ADJOURN

A motion was made by Mr. Malloy, seconded by Mayor Jensen. The vote was: "AYES" All. The Chair declared the motion passed. The meeting was adjourned at 9:00P.M.

ATTEST

CHAIRMAN

DATE