

AVON PLANNING COMMISSION REGULAR MEETING MINUTES 11-17-21

MINUTES OF THE PUBLIC HEARINGS HELD ON WEDNESDAY, NOVEMBER 17, 2021, IN COUNCIL CHAMBERS OF CITY HALL

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

SANITARY SEWER DISTRICT MODIFICATION TO INCLUDE ON PPN 0400012102072 A 4.38-ACRE PARCEL. The Chair opens the Public Hearing at 7:00P.M. There being no one present in the audience; Chairman Witherspoon closes the public hearing at 7:00P.M.

CREATE A SPECIAL USE PERMIT FOR BEEHIVE HOMES OF NR, LLC TO INCLUDE A PHASED MEMORY SUPPORT FACILITY TO BE LOCATED ON THE NORTH SIDE OF CHESTER ROAD, WEST OF CHESTER INDUSTRIAL PARKWAY. The Chair opens the Public Hearing at 7:00P.M. Ms. Fechter says Mr. Bruno will not be here tonight, he has tested positive for Covid but has given Mr. Bramhall full permission to act on his behalf. Mr. Bramhall says the request is for Special Use consideration, the proposal is for memory care only in phases. The first phase will be on Chester Road and there is a lot of engineering that needs to be done and will be back with that. They are very much aware of the situation with non-emergency care and is willing to work with the city to make sure there's a good understanding with the agreement.

Jeff Petros, representing RCI properties, they own the 38600 Chester Road just north of this parcel and the driveway. Mr. Petros is curious to see the plans and if there would be any access needed on their driveway. Mr. Petros says looks like the later phase would be off that drive. Mr. Bramhall says they started to survey on this and have the title report come in with a recorded access easement for this parcel off this driveway. Mr. Bramhall says they will work with him on this, and they are showing it on the plan there will be full buffering on the north and the facility will be fully fenced. There being no further questions or comments Chairman Witherspoon closes the public hearing at 7:05P.M.

MINUTES OF THE REGULAR PLANNING COMMISSION MEETING HELD ON WEDNESDAY, NOVEMBER 17, 2021, IN COUNCIL CHAMBERS OF CITY HALL

Present: Bill Fitch; 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.

MINUTES OF THE REGULAR MEETING-OCTOBER 20, 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 October 20, 2021, and to approve the said minutes as published. The vote was: "AYES" All. The Chair declared the motion passed.

ADDITIONS/DELETIONS

SPEEDWAY-FIRST PRESENTATION-TIME EXTENSION

Paul Coleman representing Speedway is requesting a one-year time extension for the final development plans approved 12.16.21 for the proposed 4,600 sq. ft. Speedway Gas Station to be located at 35045 Chester Road.

Ms. Fechter says Mr. Coleman will not be here tonight and asked her to let them know the reason they hare back is 7/11 has purchased Speedways around the country. The SCC has determined they can not be located next to each other. The interesting part is 7/11 does not own any real estate but Speedway owns

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all their real estate. Ms. Fechter says as they go trying to figure out how the merger is going to go; they want a time extension to see how they will be moving forward if they do. Mayor Jensen asks if it necessary to do the extension if they don't know. Mr. Radcliffe says if they don't know, and they need to come back. Ms. Fechter says the plan would be the same and it would be a Speedway gas station, their question is if they are moving forward or not. The only thing they would need to do is bring in their approved drawings for reapproval. Mayor Jensen says he doesn't know if they need to do this. Mayor Jensen asks, the extension is for a year? Ms. Fechter says yes. Mayor Jensen says if it changes in the year and we want to ask for something different, if it comes back through and it's the same, we will work things out. Mayor Jensen says he would like to hold off until they come back and see what has changed in terms of that area. There were some issues with landscaping and if we need to have them spruce it up, we can.

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 a one-year time extension for the final development plans approved 12.16.21 for the proposed 4,600 sq. ft. Speedway Gas Station to be located at 35045 Chester Road. The vote was: "NAYS" All. The Chair declared the motion failed.

SCOCO-MILLER-FIRST PRESENTATION-LOT SPLIT CONSOLIDATION

Alan Scoco is requesting taking 33467 Cherry and 33447 Cherry splitting a portion of each lot and consolidating to reconfigure the lot lines to make 33467 Cherry .9224 acres and 33447 Cherry .7576 acres.

Alan Scoco, owner of the property says when the lot was originally split, the whole property has been in the Miller family since 1978. Mr. Scoco says because of the frontage that was needed on Cherry St at the time, you can see how the lot is divided in a strange way. The goal is to split so one doesn't own the others front yard and the back and the lines cleaner. Mr. Scoco asks with the review notice, he noticed they are talking about extending the right of way 60' to the east property line of 33467 Cherry and asks is this getting approved predicated on them willing to do that. Mr. Cummins says yes that comment came out of the meeting and would prefer that. Mr. Scoco says when they time, they looked at this, there was no time to extend the street. Mr. Scoco says they are giving up acreage for something that may never happen and would reduce the value. Mr. Scoco says the right of way does not currently existing now so the only thing bringing this forward is they are looking to split the box. Mr. Scoco says he is looking for an opinion if there is value to the land and with the way it set up, it would reduce the value of the land. Mr. Gasior says the reason we were going to do that is we dealt with a similar situation on Pear Street. Mr. Gasior says we are trying to be consistent and understands the concerns about giving up the land and there could be a couple things they could talk about and this not being the forum. Mr. Scoco says he would like that. Mr. Gasior says then there would be no action and they can schedule something. Mr. Scoco says if this was to happen, who would be responsible to maintain that property. Mr. Gasior says in Pear Street the property owner would still maintain it, but this lot is a little different as the property to the east will need drive easement. Pear was a little different so it would be better to sit and have a discussion.

The Chair declared this First Presentation.

CONNIE HRICOVEC-FIRST PRESENTATION-SANITARY SEWER DISTRICT MODIFICATION

Connie Hricovec is requesting a sanitary sewer district to be included in the Core Sanitary Area and removed from District 5A for a 4.38 parcel, PPN 040001202072 to construct a single-family home.

Ms. Fechter says Ms. Hricovec is here if anyone has any questions but she and Mr. Cummins are going to speak on her behalf. Ms. Fechter says Ms. Hricovec wants to sell her lot to her friend's son who wants to

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buy it and build one house on that land. They are requesting the district be moved to accommodate that house. Mr. Cummins says its at the end of Countryside Lane and the property will stay one with one residential home deed restricted. Ms. Fechter says Ms. Hricovec is aware of the turn around and it is added in the purchase agreement that they will be required to construct the turn around. Mayor Jensen says he spoke with Mr. Gasior sand will need title company information to put that deed restriction. Mr. Gasior says he would like to get in touch with the title company to let them know what he will be needing for the deed restriction. Mr. Gasior says any action tonight would be contingent on the deed restriction being accepted and approved by the seller and buyer and ultimately recorded then they would move forward with Council action and do the modification. Mr. Malloy asks if there is any benefit of doing this? Mr. Cummins says the benefit is you are taking area out of potential future development and committing it to one single structure instead of multiple.

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

Amotion was made by Mr. Malloy, seconded by Mayor Jensen to approve a sanitary sewer district modification to include in the Core Sanitary Area and removed from District 5A for a 4.38 parcel, PPN 040001202072 to construct a single-family home contingent upon deed restrictions being recorded according to City regulations. The vote was: "AYES" All. The Chair declared the motion passed.

GRANDE ESPLANADE-FIRST 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.

Vince Bobkovich of Euthenics says we have 2 approve preliminary plans, this one is where we are connecting into St Theresa Blvd and the other the sanitary is being run down Nagel Road. Mr. Gasior says you are stubbing to the end of your property adjacent to Carnegie Development property. Mr. Bobkovich says yes but connecting into St. Theresa. Mr. Gasior asks you got the property rights? Mr. Bobkovich says no. Mr. Bobkovich says they have a final plan ready for approval with the engineering. They just submitted a phase 2 which is the connection into Mills Road which would give the interconnectivity into Mills Road. Mr. Bobkovich would like to have both Preliminary's recommended by Planning to go to Council so they can decide on which preliminary would be best. Once they do that, they will bring it back to get engineering approval. Ms. Fechter says the intention was to get a positive or negative recommendation for the final plat for the connection to St Theresa. Mr. Bobkovich says yes. Ms. Fechter says so now you want instead of those two preliminary plats be forwarded to Council for review and consideration. Mr. Bobkovich says yes and no.

Pete Restivo says they presently have preliminary approval on two plans for Grande Esplanade. One of the plans show the connection to St Theresa, the other shows a connection down Nagel Road. They just submitted a plan for Grande Esplanade 2 and its important to allow Planning to look at all this because they are going to make a request. Mr. Restivo says they have been in front of Planning Commission for two years now. They have two plans that are viable, they believe the issues at hand need to be resolved by Council as Planning Commission has done their jobs. They have considered both these plans, both have viability, but both have implications. Implications about following the city master plan for both traffic and sanitary and overall connectivity and has been a long-term goal. Mr. Restivo says they need an opportunity because what they are requesting isn't something that Planning can give them, they need direction from Council. If Council tells them to go down Nagel, he will submit a final plan. Right now, the final plan for St Theresa is here and the merits of both plans should be considered by Council. Mr. Restivo is asking to go in front of Council and can explain the viability of this project. Mr. Gasior asks if we have final engineering on any of the two plans? Ms. Fechter says on St Theresa. Mr. Gasior says we have the final engineering on the St Theresa plan except for the connection itself over

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the property to the north because they don't have access to the sewer because they don't have acquired property rights. Mr. Cummins says based on the March preliminary plan that was approved, they have reviewed and continue to review the final engineering associated with that plan. Mr. Gasior says we will call that St Theresa plan. Mr. Gasior says he has not been given any indication that they have the property rights to build that plan. Mr. Cummins says via the roadway connection which is shown as well as the sanitary connection. Mr. Gasior says the other plan referenced, lets call it the Nagel Road plan, has there been final engineering done on that. Mr. Cummins says there has been no final engineering submitted for the Nagel Road plan. Mr. Gasior says the last thing is, they show a Phase 2 coming out on Mills Road, has there been a preliminary plat request for that. Ms. Fechter says it was submitted yesterday and it is set for December agenda.

Mr. Restivo says that's a good summary, the point being that it considered this subdivision without considering the connection to Mills Road and the talk about the issues involved with the Nagel connection. Mr. Restivo says 1800 linear feet down Nagel Road, he believes is a conversation for Council to have which ordinance they want to pass. Mr. Restivo says if they choose Nagel, he will abide by that but there is a lot to consider. Mr. Restivo doesn't think that the city is at no risk both plans should be acted by Council at this point. Mr. Restivo says he lived in Avon for 28 years and what he is bring forward is a stellar project with Phase 2, you will now have 62 lots on 60 acres, there is nothing like that in Avon. What he has done for here for his career is support wealth into Avon and wants to continue to do that and wants the opportunity to have discussion on this issue.

Mr. Radcliffe asks do we normally take Preliminary Plans to Council? Mrs. Witherspoon says we don't, its final engineering is when both plans can be submitted. Ms. Fechter says that's her question, what vehicle do we have to get the preliminary plats to Council. Mr. Restivo says he would like them to consider the master plan for the St Theresa connection, it would be very beneficial for Council to see both because there will be more discussion. Mr. Restivo says you can't have a full discussion of these issues without considering both plans simultaneously especially with Phase 2 connecting to Mills Road.

Mrs. Witherspoon says doesn't ever recall Planning ever sending them to council without final engineering. Mr. Restivo says he is not asking them to act on them, he is asking them to consider it in terms of information. Mr. Radcliffe says so you want to come before Council to talk about your two preliminary plans in an open work session. Mr. Restivo says yes, since we have final plans available, the opportunity to discuss the impact of those two plans is very different. Mr. Restivo says both plans look the same, but the impact is dramatically different and that's not an understatement. Mr. Gasior says the problem we are having is its unprecedented in the sense he is asking to take two preliminary plans to Council to approve or disapprove and he is asking Planning to make a recommendation on those plats. Mr. Gasior says under the code, Planning Commission approves or disapproves a plat. If it's a disapproved preliminary plat, the matter is usually over at that point. Then they have 90 days to come back and resubmit an acceptable plan. If the plan is approved, they don't go to Council until they have done final plat. Mr. Gasior says its sounds like because of the nature of this development and the issues are presented by the strip of land that can't be acquired but need access too, they don't want to spend the money on the engineering perhaps and want to get an opinion from Council as to whether they should do the engineering on the St Theresa plat because Council would approve it. He continues to say Council can't approve it unless it takes the property. If Mr. Restivo doesn't work out the property rights with the adjoining property owner, he is going to be asking City Council to appropriate the land. Mr. Gasior says that's what he wants, a vehicle to get in front of Council to ask Council to appropriate the land because he can't acquire it. It's extremely unusual and he sees nothing in the code that would approve of something like that. Mr. Restivo says Mr. Gasior that is not exactly what he is proposing, its pretty close. Mr. Restivo says right now there is a final plan which shows a connect at St Theresa. Presently Planning Commission has a full set of plans that they can approve. Mr. Cummins says we have final plans for the March preliminary plat that is still under review. Mr. Restivo says it would be safe to say that the level of

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review these plans have had, he would be surprised if there is anything but very minor issues yet to be decided, they have been sitting there for 14 weeks. Mr. Restivo says he is not trying to blame anyone but there has been time to review it. Mr. Gasior says we have in the past recommended with contingencies and there could be time to complete that review before City Council. Mr. Cummins says there may well be final plans and he is certain that they will have review comments on the current submittal within the next days but there are still structural issues dealing with drainage on the northern property line that have not been dealt with. Mr. Gasior says then maybe the best thing to do is to consider this a first presentation, get the final engineering done and come back in December. It will be before the work session that there is possibility to get on that with a vote. Ms. Fechter asks if this body would have no other course of action except for a negative recommendation, Mr. Gasior says without the property rights, absolutely. Mr., Restivo say the negative recommendation is alright, there are many more issues to be considered here, these are significant issues. Mr. Restivo continues to say he has great respect for Mr. Cummins, but they have been waiting for those comments, to address those issue so the sooner we can get those the better. Mr. Restivo says if those drainage issues are that big, lets get those comments so they can address them. Mr. Cummins says you have had the comments about the northern property line 5 months ago and are still unresolved. Mr. Bramhall says one thing that hasn't been brought up is how we got here. Mr. Bramhall says on this plan, St Theresa Blvd. was extended with the total length of all the street is over 3,400 feet long. In 1246.04 Design Standards for Streets has 3 points in there of requirement. Mr. Bramhall says he and Mr. Gasior worked on this they tried to get rid of the reserve strips. There is an existing reserve strip here, if it wasn't for that reserve strip, we wouldn't be having this conversation. He continues to say they are required in the latest review coming up Nagel by the City Engineer to show a stub going to the property. Mr. Bramhall says 1246 also states that the streets are to interconnect and provide for adjoin access and limits the length of the street to 600 feet. This street is 1700 feet and how we got here is important. If it wasn't for 1246.04 being enforced properly in 2018, we wouldn't be here and that's what's missing in this conversation. Mr. Bramhall says at the end of the day you want to rip up Nagel Rd. 2000 feet long, there's a lot of utilities out there and this sewer would have to go down the middle of the road, but Mr. Restivo wants to have his day in court to show this is the best plan because of the mistake the city made. Ms. Fechter says she would like to add the preliminary plat for Red Tail subdivision occurred in the 90's, the code was changes in 2001. The preliminary plat is what we have gone by as it's been the formal approval of the golf course community. Mr. Bramhall says with all due respect, that doesn't enable them to have abide by the ordinance. Mr. Gasior says reserve strips have been in the codified ordinances before 2001 and they go way back. Mr. Gasior says what you are pointing out is Red Tail Phase 15 and he believes that Pete Restivo brought that before Planning Commission for approval and he also believes there was never any mention of any reserve strip or anything of that, no one made the comment. Maybe Planning missed it, he doesn't know but ultimately it was City Council who voted to approve the final plat and subdividers agreement for Phase 15, and it was City Council who accepted the improvements for Red Tail Phase 15. Mr. Gasior says that was the plan that was submitted so if Council approved it, they overruled 1244.04, we must assume they know the existence of 1244.04, they approved a plan that appeared to violate it, that you say, so they must have believed the plan was a better way to approach Phase 15. Mr. Bramhall says he doesn't know what Council was thinking when they did that, but he would ask the question to the City Engineer, Mr. Gasior says Council passed the ordinance. Mr. Bramhall asks its not as he says that is doesn't pass, does Red Tail 15 comply with 1244.04? Mr. Cummins says it complies with its master plan, which was used as guidance. Mr. Bramhall says so the master plan is a sketch that limited density, it did not give geometric layouts on the roads, the roads were yet to be build out, it did not exempt them from complying with the design standards. Mr. Gasior says that's a good argument for City Council, because it was Council who passed the ordinance that accepted the plan. Mr. Gasior says he knows this body recommended it; Mr. Bramhall gets on the city not being perceived of doing eminent domain to promote a developer. Mr. Bramhall says but, in this instance, there was an oversight made to have a reserve strip of 6', you have a sewer connection that could be 61 or 2000 feet. His client is willing to go down Nagel Road but wants to have a conversation about that. Mr. Bramhall says he wasn't going to talk tonight but as he sat there, everyone is dancing around this big

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issue. Mr. Gasior says its being addressed but thinks the forum you are addressing this needs to be in front of City Council and Mr. Bramhall says yes, that is what his client is requesting. Mr. Bramhall says there was talk that he wouldn't get that ability. Mr. Gasior says the talk is, is there enough time to review a final plat. Mr. Bramhall says they are not seeking final approval, not action requested from Council, just a conversation about what the best way to remedy the situation. Mr. Bramhall says they are trying to negotiate. Mr. Gasior says the bottom line is, can he have everything done except for the connection by December so this body can make a recommendation on the final plat except for the connection. Then they can vote it up or down to Council, then they will have a final plat with no connection to a sewer and they can listen. Mr. Gasior says this body does not pass legislation; your point is well taken but you're in front of Planning Commission. Mr. Bramhall says his client wants to go to Council and Mr. Gasior says he can get there in December and Mr. Bramhall says if he does final engineering. Mr. Gasior says Mr. Cummins says he is close; in fact, your client says he's close. Mr. Bramhall says the drainage on the north line is the problem and they must figure out a way to go onto Red Tail property and remove the concrete that was placed in the storm drains, that's part of the issue. Mr. Radcliffe says you are asking for the final recommendation from this body knowing that engineering won't have a sewer connection to go to Council, he just doesn't see how it will work. Mr. Gasior says take this example, he is indicated that he is going to make a third attempt to acquire the property so if you were to make a recommendation tonight based on the plan submitted, he would venture to say it would recommend against the plan since there is no sewer connection. So, they could say we will pass this plan contingent upon him getting the sewer connection but you don't have the final engineering so there would be another contingency. Why wouldn't we come back in December, get the final engineering taken care of, get things resolved then the only contingency if there is one, but he could be successful in getting the property, but contingency would be getting access to the sewer. Mr. Gasior doesn't see how you could recommend approval of plat that doesn't have access to a sewer. Mr. Radcliffe says then that will go to Council as a negative. Mr. Gasior says yes, then he believes what Mr. Restivo is going to do is make the case to Council that you City Council, created the devil strip and you can do something to resolve that. Mr. Gasior says what they are asking for is only something Council can provide. Mr. Restivo says he wants the final plan to be completed and reviewed, he believes that the point Mr. Cummins brought up can be resolved between his engineer, that is available. Mr. Restivo says he doesn't believe there will be any major issues except the issue of connectivity. Mr. Restivo says he would prefer to go to Council with a recommendation on that master plan even if its negative. He says it doesn't prevent him from going to Council to discuss these plans. Mr. Restivo says if you look at both these plans on something that is going to impact this community for 9 months, disrupt traffic down a major connection between I-90, 480 and the turnpike and act like it's a simple matter is not realistic in the best interest of thousands of citizens here in Avon. All he wants to have an opportunity to address Council, he has no issue with Planning Commission. Mr. Restivo says he went to catholic school and all he wants to do is follow the rules and he is just following the rules. Mr. Restivo says they have always had to comply with every aspect of engineering except density on the lots and they have. Mr. Restivo says he did not make application for Red Tail 15, the engineers of Carnegie did for the record. Mr. Restivo says they will prepare final plan that can be reviewed and recommended and send him to Council. Mr. Gasior says we have approved a preliminary plan and we need to see the final plan. Mr. Gasior says it sounds to him, you don't want to do any engineering, you want to skip that step and go to Council. Mr. Gasior says for 2 years now you have been working to get this property and if you can it, its quick move but not that you can't, you want to force the issue on Planning Commission and Council, and he is just saying its fine, but it needs to be done in December. Mr. Restivo says if in fact the requirement is to finish the master plan and they are close to finishing it, they are waiting on comments. They will respond with a full set of final plans that his body can consider a vote on and let's assume the negative recommendation because the issue of the taking, then he can make his case. Mr. Restivo says let's go over that timeline, assuming we have a set of plans ready is it an unrealistic expectation to have plans done and reviewed by December. Mr. Cummins says it will take effort on both sides to make that happen, including resolving the drainage issue on the north line that has of yet doesn't seem to be a desire to resolve. Mr. Cummins says it seems to be part of this property

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dispute issue. Mr. Restivo says it is and that's a good way to put it. They would like to be back on the 15th of December with hopes of being at Council even with a negative recommendation Mr. Restivo says. Mr. Restivo says all the action for the approval of this to go forward starts at Council and its either going down Nagel or connecting to St Theresa.

The chair declares this first presentation.

Mayor Jensen says this has been going on a long time, here's the issue for us, the road this is going down if it goes a certain way could cost the taxpayers a lot of money if you can't work this out. Mayor Jensen says we don't want to go to court on this, we shouldn't have to go to court on this, there are two adults that need to work this out. He continues to say, its not fair to Planning, its not fair Council to put us in the middle of this and it's not fair for the taxpayers. You say your going to bring in a great project but again it shouldn't be forced upon Planning or Council when it could be resolved between two adults. It's frustrating for us all. Mr. Restivo says this is his 3rd offer and maybe it will help, its not for lack of trying.

BEEHIVE HOMES OF NR, LLC-FIRST PRESENTATION-SPECIAL USE PERMIT

Michael Bruno of Beehive Homes of NR, LLC is requesting approval and the recommendation to Council for approval to create a Special Use Permit to include phased memory support facility to be located on the North Side of Chester Road, west of Chester Industrial Parkway.

Mike Bramhall says this is a proposal for memory care only living center. As mentioned earlier his client Michael Bruno can't be here, he has covid, but they request the approval of this Special Use Permit for the memory care unit. It will be built out in phases, the first would be about 5 million dollars off Chester Road south of Avon's ditch. Mr. Bramhall says there's a lot of engineering issues that will go on in the final design, this is for the Special Use aspect only. Mr. Bramhall says his client understands there will be an agreement with this as there is a big concern with the taxing of emergency services for non-emergency transports. Mr. Bruno will be prepared to work with the city and do what he can to make sure its not a burden.

Ms. Fechter asks to hear from Mr. Streator as the safety protocols seem to be very important with a facility like this. Mr. Streator says he spoke with Chief Swope of the fire department, and this is our major concern as we have experienced when they come in, they indicate they use a private service and whatever happens falls off and 911 gets the call. Mr. Streator says the transport could be considered non emergent but the reality, it's the easiest way to get the person to the hospital. Sometimes it's based upon the facility, and he knows that the response on this is they are going to rely on the family. Sometimes it's the family wanting their loved ones to get to the hospital in a quicker manner and calling the ambulance does that. Mr. Streator says we are willing to work with them but at this point only thing given is we will work with you (the city). Mr. Radcliffe asks if there is a template or something or could this be a long process to figure something out. Mr. Bramhall says its his understanding there will be an agreement, contract between the developer and the City part of the Special Use Permit. Mr. Gasior says that would be great but would like to have Planning Commission see it before they make a recommendation. Mr. Gasior recommends a first presentation to look at the contract and make the recommendation after we see the contract. Mr. Bramhall says its his understanding Council does the agreement with Special Use. Mr. Gasior says they do with Planning recommendation. Mr. Gasior says he thinks to have the contract in case they have things they would like to insert then they can insert things as well. Mayor Jensen says this is going to be a phased project, at any point we can come back and look at that special use. Mr. Gasior says, that's another part of the contract. Usually, special use has issued with expansion and coming back to amend it. Mayor Jensen says to Mr. Bramhall, it's not like we are against this, it is coming up with the wording. Mr. Gasior says in a case like this with the seriousness of the issue with EMS, it would be good for Planning to have a specific recommendation which would be in the contract, then go to Council. It would make the whole process work better instead of Council inserting their information without

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Planning approving them. Mr. Gasior says he knows it takes time, but we want to make sure it done right. Mr. Malloy asks how many residents will be there. Mr. Bramhall says the houses have 24 beds each. Mr. Bramhall says there is an option on this land, and it was their hope to get a positive recommendation and start doing the work with Council and if they need to get kicked back then they do. He knows how important it is to make this work and he's trying to decide to see if he wants to spend all the money, so he was hoping to get a good feel for this. Mr. Gasior says he understands time is critical but if you break it down, its two weeks. He says if a recommendation is made tonight, the work session wouldn't be until December 6th for Council and if you come back, it's the 15th of December with work session on the 20th. Mr. Bramhall says its fair and he's ok with that and it would allow Mr. Bruno to be here and talk on the issue as well.

The chair declares this first presentation.

AVON PLAZA-FIRST PRESENTATION-GENERAL DEVELOPMENT PLAN

Lynn Miggins of KS Associates representing Ryan Mann is requesting approval of the general development plan for the proposed retail/office development to be located on Chester Road.

Ms. Fechter asks if this agenda item be tabled at the applicant's request. In your packet this month there were 3 options, and she is assuming those will change hence the item being tabled. Mr. Radcliffe says these plans show the drive thru and he knows the rules for stacking call for 10 and it might be who of us to pull it back from the speaker or something where you start the stack count to avoid potential issues. Ms. Fechter says they pulled the two restaurants away from the road and her concern in the bank. Mr. Radcliffe says he understands and maybe its something we need to look at.

SAFOS CAR WASH-FIRST PRESENTATION-LOT SPLIT/CONSOLIDATION

Ross Safos is requesting taking a 2-acre lot and splitting it to create Parcel A, 1.2936 acres and taking the remainder .9059 acres and consolidating it to create a 13.6091-acre Parcel D to be located on the east side of Nagel Road, north of Detroit Road.

Clarence Watkins of Bramhall Engineering says there have been some changes in what they are trying to get approval for. Mr. Watkins says they were going to split the 1.5 acres and the remainder to be consolidated to the neighboring property. After looking at that and listening to comments from the administration, they are going to end up with a lot that is less than one acre and it's a nonconforming lot and they are going to ask for a variance. Ms. Fechter says the first split would leave a non-conforming lot and it would be very small and we would not do a consolidation for two zoning districts. We asked them to go back and try to reconfigure another option with a conforming lot. That new lot lines were all over and they decided they would rather go the route of the variance.

Mr. Cummins asks for a contingent approval as we continue the last details reviewing the lot split and getting those revisions made and the site plan upcoming.

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 take a 2-acre lot, and splitting it to create Parcel A, 1.2936 acres and taking the remainder .9059 acres and consolidating it to create a 13.6091-acre Parcel D to be located on the east side of Nagel Road, north of Detroit Road contingent upon a variance and final engineering. The vote was: "AYES" All. The Chair declared the motion passed.

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SAFOS CAR WASH-FIRST PRESENTATION-FINAL DEVELOPMENT PLAN

Ross Safos is requesting approval of the site plan for a proposed 3,926 sq. ft. carwash and vacuum islands to be located on the east side of Nagel Road, north of Detroit Road.

Mr. Watkins says due to the changes on the lot split, they also have some changes to address on the site plan most notably the dumpster was removed to the back. Mr. Watkins says they are moving the dumpster and they adjusted the sanitary sewer lateral; they still have somethings to work out and they will adjust to what they must and are asking for a contingent approval. Mr. Cummins says that is acceptable.

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 a proposed 3,926 sq. ft. carwash and vacuum islands to be located on the east side of Nagel Road, north of Detroit Road contingent upon final engineering. The vote was: "AYES" All. The Chair declared the motion passed.

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.

Ms. Fechter asks that this be tabled until the January meeting to see if they can work out something with the neighbor. Allows them to do some more work and get through the holidays for more time.

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

A motion was made by Mr. Malloy, seconded by Mayor Jensen to table the Gorney Rezone request until the January meeting at the applicant's request. The vote was: "AYES" All. The Chair declared the motion passed.

CONCORD VILLAGE-FIRST 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 it's been 2 and half years since he was in front of you last and its nice to be back. Last time he was here was to request the approval for what they call Concord Village Phase 2. Concord Village is located on Chester Road and in Phase 1, 30 townhomes were built, and it was not finished in 2008. Mr. Friedman says he had the opportunity to get involved in this 3 years ago and saw an opportunity to construct an additional 83 townhomes which is what is called Phase 2. Mr. Friedman says it's been a tremendous success, the market received it very well, they are ahead of schedule and Ryan Homes is the building partner and have sold all 83 units. As of today, they have constructed about 70 and the remaining 13 units will be complete by the first of next year. As a result of this success, they have looked at a portion of the property to the north which is identified on the drawing as pink. Mr. Friedman says that is about 13 acres and it is currently zoned M-1. As they finish Phase 2, they started to look at the opportunities they must finish off the development of this property. He says industrial zoning is not feasible for them to do. Mr. Friedman says looking at the neighbor uses; they have the Village of Avon Apartment then they have their project and then to the west its residential and its their desire to built more. The 83 units they are proposing for the rezoning will be the same as they have in Phase 2. They feel it's important for consistency purposes to continue the same buildings, so they look the same as they

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move to the north with existing street access. Mr. Friedman says the northern part is part of the 13 acres they are not requesting the rezoning. This is next to other industrial property, and they feel it would be right to stop the residential where the next-door residential ends. They also accommodated for a street stub at the end, this was the foresight of the administration thinking for future access points. Mr. Friedman says its thinking ahead and it's a great idea that was proposed and they agreed to install that stub. They feel it's an important buffer for the residential area and will allow future access with neighboring properties. Mr. Friedman shows the drawing of Phase one and two and how it blends, the road will continue north for the next phase. Mr. Friedman says this product is in high demand and the buyers are upgrading and they will have HOA management and as a reminder he owns and operates all of phase one. They have been in several conversations for months and are excited to finish this out. Mr. Malloy says he would assume the street would tie into the other. Mr. Friedman says it's an emergency access stub. The Village of Avon have private drives as does his development, they have talked to the owner, and they are open to this idea. It would be only for City of Avon Emergency vehicles only. Mr. Malloy says that's a long stretch for a street, he likes the idea of the stub. Mr. Friedman says they need to work with engineering to work out the details. Mr. Radcliffe asks if there needs to be a cul de sac at the end for a turn around or a second stub street? Ms. Fechter says they will look at that more in the general development not so much in the rezoning. Ms. Fechter says most of them have been addressed but they still need to do a public hearing in December before this goes to Council. Mr. Radcliffe asks if the next-door neighbor is M-1 and are they ok with that? Mr. Friedman says he has spoken to Mr. Hadgis and he likes the residential, he says they keep in touch as neighbors. Mayor Jensen asks if we have ever had private road connecting into private roads? Mr. Gasior says we have private streets with different owners, he can't think of anything off the top of his head. Mr. Gasior says when they have private streets under cluster laws it's in the confines of that development. When you have separate owners, things can get a little messy as who is going to plow the snow, maintain the road, things like that but we haven't had to deal with that. Its not illegal just doesn't happen often. Mayor Jensen says if you get more and more houses each development you want to funnel them out. Mr. Gasior says its private property and how much they want to restrict that's up to them. Mr. Friedman says they will not have access to either just for emergency vehicles only not the tenants of each development. Mr. Friedman says the idea for the future is to connect down to the east and some how get those connected. Mayor Jensen asks if this is all in the same Homeowners Association as the first phase under Schafer is private and then your phase is private. Mr. Friedman says they are under two different HOA's as phase one is one and the second and this phase would be in one association all managed by the same management company. He says they have the same snowplow, landscapers but they are under two. Mayor Jensen says they are using the same roadways even though they are private streets. Mayor Jensen says what is before them tonight is deciding if we want to rezone it and the other issue is to discuss the plan. Mr. Gasior says you need a public hearing and Mayor Jensen says then we can't do that.

The chair declares this first presentation with a public hearing in December.

CONCORD VILLAGE-FIRST PRESENTATION-AMEND GENERAL DEVELOPMENT PLAN
Jason Friedman is requesting approval of amending the General Development plan for Concord Village to include Phase 3, 83 new units to be located on the north side of Chester Road.

Mr. Friedman says he won't go through the whole presentation as he will answer any questions. Mr. Gasior says they have talked if the property is rezoned, this is what you would want to build. Mr. Friedman says yes, on the record they will build the same buildings that we show, and Mr. Gasior says same density. Mr. Friedman says that is exactly what they want to and will build. Mr. Gasior says you know that does not meet our code; Mr. Friedman says he is aware of that. Ms. Fechter questions the application and for clarification. The Ryan Homes rep says the configuration of those units for Phase 2 is

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a little novice. You walk in at ground level and there is living space there, then a few steps up is the first full floor and the combine square footage is about 1100-1200 square foot. Ms. Fechter says right now on the first floor you have about 400 sq. ft. of living space and then then garage. Mr. Cummins in talking with the Utility Department they will have a private pump station? Mr. Hoffman of Polaris Engineering says yes, they looked at doing a gravity sewer but its too shallow so it will be a private pump station. Mr. Hoffman says they are looking at two options, one would be keeping it on their property taking it back to phase one. The other option could go shorter route with permission to tie into the neighbor's sanitary sewer but would need an easement. Mr. Friedman says they looked at a variety of options but best is to pump it out. Mr. Cummins says there is some concern for the gravity going to the pump station with a public line to a private station and asks if there is any objection of having the gravity line and the pump station both be private? Mr. Friedman says that would be fine. Mr. Hoffman says if something comes along the north with a sanitary sewer line, they will look to abandon their pump station and tie into that if it happens. Mr. Cummins says it could fall under City inspection even though its private. Mayor Jensen says he realizes they can rezone this but asks can we approve it if it doesn't meet the code. Mr. Gasior says you are recommending to Council the approval of a plan that does not meet. Mayor Jensen says you can't recommend if it doesn't meet code. Mr. Gasior says that is his position at this time, that you could not recommend because it doesn't meet our current R-3 requirements. Now if they are proposing something contract or conditional zoning there could be a way that it could get in front of Council because they have the authority to approve that layout. Mr. Gasior says the circumstances under Concord Village 2 on how that came about the approval are different than what is presented tonight. Mayor Jensen says that was partially under way. Mr. Gasior says the circumstances for Phase one and the desire to finish is different that what is presented tonight. When you have a Public Hearing, you may hear from the neighbors and it's a rezoning to R-3 but they product doesn't meet the zoning.

Jordan Burns, legal council to the applicant says we talked about this a moment ago. The aspect the law director is indicating doesn't conform to the R-3 is the first-floor square footage. Mr. Burns says this issue can up in Phase 2 as well, there were two considerations. One was as just indicted the desire to finish a project if at best half completed but at the same time, your zoning code for the R-3 still had the same requirement. Mr. Burns says the other consideration is the first-floor configuration, the code doesn't define first floor, we all think we understand what a first floor is but here the way the units work is the area where they enter, and the main living area are treated as the first floor, and it was on that basis they went on. Mr. Burns says its unconventional but one of the goals that is critical these units match in Phase 2 as they finish up. Mr. Burns says that is the configuration they would like to request to create a unified project. Mr. Malloy asks if the design of these is like the ones in Lorain? It was noted they aren't familiar with that product. Mr. Sear says he is not familiar with that, and the living area is on the second and third floor. The first floor is a garage and in the back of the garage is a finished area much like a finished basement. Mr. Sear says they are building the exact same product as the second phase, it was very well received. He says the price range is from \$320,000 to \$370,000 peak which is good for the area and want to continue to do the same.

The chair declares this first presentation.

COMMENTS

Happy Thanksgiving to all.

Ms. Fechter is to make a correction on the agenda to update Connie Hricovec Permanent Parcel Number. She also says we will be working with Mr. Gasior and staff to adjust the time frame for planning submission requirements and making a preapplication mandatory for some code changes.

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ADJOURN

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