

**KENT PLANNING COMMISSION
BUSINESS MEETING
APRIL 23, 2024**

MEMBERS PRESENT:

Amanda Edwards
Derek Salustro
Earl Clausson
Kenneth Crookston
Naser Matar

STAFF PRESENT:

Bridget Susel, Community Development Director
Eric Fink, Assistant Law Director
Tim Sahr, Development Engineer

I. Call to Order

Ms. Edwards called the meeting to order at 7:02 p.m.

II. Roll Call

Amanda Edwards, Derek Salustro, Kenneth Crookston, Naser Matar, and Earl Clausson were present.

III. Reading of Preamble

Ms. Edwards read the Preamble, which describes the purpose and procedures of the Planning Commission as well as the applicant's right to an appeal.

IV. Administration of Oath

Mr. Fink instructed those members of the audience wishing to be heard on any of the cases presented at this meeting to raise their right hand. Mr. Fink administered the Oath, "Do you solemnly swear or affirm that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth? Please say "I do." The participants responded, "I do."

Since there were many members of the public in the audience, Mr. Fink requested that anyone who was going to speak during public comment to affirm they were sworn in before beginning their comments.

V. Correspondence

Ms. Edwards stated that the Commission has received 5 additional pieces of correspondence regarding the 1541 S. Water St. case, which were also emailed in advance to the Commissioners. She stated that the correspondence were from 1) Lisa Washburn expressing her concerns that the project would be invasive to the neighborhood and tree removal; 2) Julie Grant regarding a Kent citizen contacting her as a member of the Sustainability Commission to get involved with the subject project due to it affecting forest and field; 3) a project narrative from the developer; 4) correspondence from Councilman Roger Sidoti, and 5) correspondence from

Councilwoman Gwen Rosenberg. Ms. Edwards questioned the Commissioners if they had had time to review the five additional pieces of correspondence.

The Commissioners responded that they have reviewed the documents.

VI. Old Business

None

VII. New Business

**A. PC24-002 Portage Health Network LLC
1541 S. Water Street**

The applicants are seeking a Conditional Zoning Certificate and site plan approval to allow an Assisted living facility to be located at 1541 S. Water Street. This site is currently dual zoned R-2: Medium Density Residential and R-C: High Density Multifamily Residential Commercial.

Mr. Sahr stated that the site is accessed from South Water Street and is surrounded by residential uses to the north and east and commercial uses to the south and west. He stated that the applicable code sections for this case are KCO 1103.10, 1103.14, 1105.03, 1106.17(a)(2), 1107.05, 1108, and 1111.02 (b-d). He stated that the property at 1541 S. Water Street is currently vacant but had previously operated as a religious institution for many years. He stated that the applicant is proposing to construct an assisted living facility, which is a conditionally permitted use in both districts. He further explained that the project configuration is as follows: Part is located in R-2: Medium Density Residential District on the eastern portion of the property on which the applicant is proposing to construct an assisted living facility and multi-family dwellings that are independent living villas, and part is located in the R-C: High Density Multifamily Commercial District on the western portion of the property on which the applicant is proposing to construct multi-family dwellings that are independent living villas. He stated that definitions for both the assisted living facility and multi-family dwelling are provided for clarification purposes. He stated that the proposed new Assisted living facility will be comprised of the two above-listed land uses. Assisted Living Facilities can have independent living as an accessory use and the project will have the following number of units per land use type: 38 total multi-family dwellings that are single bedroom individual residential dwelling units or villas limited to no more than two unrelated residents per unit. He added that the dwelling units/villas will be independent living and age restricted for persons 55 years of age and older. He stated that the assisted living facility will have 72 beds. He stated that assisted living facilities have some potential concerns and conditions such as on-site security and the conditions specific to Assisted Living Facilities, which specifies there can be no more than 20 beds per acre. He stated that the total bed count proposed for the entire project is 110 beds and the total acreage is 8.53 acres, which yields 12.9 beds per acre, which is below the maximum allowed per acre of 20 beds. He stated that the potential concerns for multi-family dwellings are noise, traffic, parking, trash, open space and recreational facilities, pedestrian connectivity, height, and density. He stated that the condition specific to multi-family dwellings are building location and placement must be developed with consideration given to minimizing the removal of trees and changes to the topography. He stated that in addition to the specific conditions, the general standards for conditionally permitted uses also apply, which are listed in the staff report for consideration. He stated that the setback requirements in the R-2 Medium Density Residential District are front yard: 45

feet, side yard: 10 feet, rear yard: 45 feet. He added that the proposed project meets all of these setback requirements. He stated that the setback requirements in the R-C District are front yard: 30 feet, side yard: 10 feet plus 1 foot for each 2 feet of height in excess of 20 feet. Mr. Sahr stated the peak height of the proposed buildings is less than 20 feet therefore the required side yard setback is 10 feet. Mr. Sahr stated the rear yard setback requirement is 30 feet in the R-C District. He stated that the proposed project meets the setback requirements. He stated that the proposed project also has a minimum 30% open space requirement, and the current design provides for open space in excess of 47% in the R-C District. He stated that the assisted living facility is a conditionally permitted use in the R-2 and R-C Districts and allows for independent living as an accessory use. He stated that the proposed assisted living facility will have 72 beds and the number of 1-bedroom villas surrounding the facility in the R-2 is 30, which yields 42% of the assisted living beds and thereby categorizing the villas as an accessory to the primary use of the assisted living facility. He stated that the unit density in the R-2 District is 102 beds on 7.19 acres, yielding 14.2 beds per acre, which is below the maximum density allowed of 20 beds per acre. He stated that in the R-C District, the maximum density is 30 dwelling units per acre and the portion of the project that is located in the R-C district is 8 1-bedroom villas on 1.34 acres, yielding a density of 5.97 beds per acre, which is below the maximum density of 36. He stated that per Kent Codified Ordinance (KCO) Section 1107.05, each individual multifamily residential dwelling unit must provide 1.25 parking spaces per unit and an assisted living facility must provide 1 parking space per employee on day shift, plus 1 parking space for each 10 beds. He stated that per the plans submitted, the minimum parking spaces required is 86 and the total provided is 177 parking spaces. He further explained that parking for the villas will be 1 parking space in the garage and 1 parking space in the driveway with an additional 13 parking spaces along the private drive near the villas. He stated that the parking for the assisted living facility will be on the west, south and east side of the building. He stated that a dumpster and dumpster enclosure will be used to service the assisted living facility as shown on the submitted plans. He stated that each individual villa will use trash cans moved from the unit to the curb on a weekly basis for trash pickup service. He stated that the landscaping shown of the plans meets or exceeds all KCO requirements in Chapter 1108. He stated that the lighting as shown on the plans does not trespass onto the abutting properties at the property line as measured at grade pursuant to KCO 1106.17(a)(2). He stated that currently there are no signs proposed for this project and no Architectural Review Board review requirements. He stated that should this project be approved by the Planning Commission, no variances from the Board of Zoning Appeals will be required. He stated that staff finds that the conditionally permitted use for an Assisted living facility, as presented, to be in accordance with the intent of the applicable sections of the City of Kent Zoning Code.

Ms. Susel stated that after the City of Kent Staff Report was completed, it was identified that the two parcels that comprise the project have not been consolidated, and if the Planning Commission approves the Conditional Zoning Use Certificate, she requests that the consolidation of the parcels be made a condition of that approval. She stated that she would like to clarify the difference between the potential concerns versus conditions as there are new members as well as a large audience. She stated that conditionally permitted uses need to meet certain conditions as requirements of the project approval, as those conditions are listed in the staff report. She stated that the condition for an Assisted living facility is that there can be no more than 20 beds per acre and the proposed project meets that condition with 12.9 beds per acre. She continued that potential concerns are listed as matters that the Planning Commission can consider but they may not be applicable to every project. She added that potential

concerns apply the land use community wide. She stated that areas of potential concerns apply to all multifamily dwelling projects in the community so potential concerns, such as noise, traffic, parking, trash, open space, pedestrian, etc. are not conditions that are required to be met, but they are matters to consider based on the nature of the multifamily project. She stated that the only condition for the multifamily is that the building location and placement must be developed with consideration given to minimizing the removal of trees and changes to the topography. She added that minimizing does not mean absolutely no tree removal and that this is private property, and such development activities are allowed whether it be residential or commercial.

Josh **Fratowski**, 1221 Barlow Rd., Hudson stated that he was sworn in. He stated that their proposed property is described as a Continuing Care Community (CCC). He stated that main focus of a CCC is to allow its residents to age in place. He stated that they are proposing to offer both independent and assisted living with 38 independent living villas of which 14 units will be one bedroom while 24 will be one bedroom with a den. He stated that there will also be a 72-unit traditional assisted living building that will be positioned at the rear of the property. He stated that residents from the entire CCC will be able to access and utilize the facility and the amenities and services offered such as the availability of nurses, doctors, and other healthcare professionals on site, several resident lounges, a game room, a crafts room, a café, a main dining room, and a library. All residents can partake in many activities and events hosted in and around the assisted living facility. He stated that market analysis shows that there is an immediate demand for further assisted living and independent living units in the greater Kent area. He stated that while their proposed community will not completely fill the demand burden as indicated by the market data, it will certainly provide a much-needed relief for the immediate senior housing needs in the area.

Mr. Salustro questioned if the proposed community would take Medicare/Medicaid funding now or in the future.

Mr. Fratowski responded yes.

Mr. Salustro questioned if the recent Biden Administration proposal will change or affect their operations.

Mr. Fratowski stated that it will not, as those proposed changes only apply to skilled nursing facilities and this is an assisted living facility so it is not applicable.

Mr. Clausson questioned if the site will be graded from border to border.

Mike Wohlwend, Wohlwend Engineering, 4216 Karg Industrial Pkwy, stated that he has been sworn in. He stated that the vast majority of the site will be graded as it needs to have a flat pad in order to get the building and utilities to work. He stated that the setback will be graded where it needs to be adjusted up or down and then be planted with landscape buffering as indicated on the plans.

Mr. Clausson questioned if staff reviewed the selection of native plants as outlined in KCO Section 1108.01 #7.

Ms. Susel stated that staff reviews the number of proposed trees and planting types, but not specific species. She reported that it is typical for a developer to choose native species because if the plantings do not survive, the owner is required to replace them in

for as long as the use continues. She stated that the proposed landscaping plan includes more than is required by code. She stated that the City allows plants that will survive in Kent's Planting Zone 5. She stated that the code no longer specifies what type of plants are required but they do limit the number of evergreens because arborvitae was being overused. She stated that they require a mix of plantings and did not find any non-compliance or areas of concern in the proposed landscaping plan.

Mr. Matar questioned the frequency of the weekly trash removal and if there will be any special medical waste pick-up, if any.

Mr. Fratowski stated that there isn't any special pick-up.

Mr. Crookston questioned the site access with regards to fire and emergency due to the one ingress/egress.

Mr. Wohlwend stated that pages C6 and C7 in the provided drawings show the fire truck and fire hose routing through the site.

Ms. Susel stated that as a part of the technical plan review, it will all be reviewed again to ensure that everything aligns with the Fire Department's requirements as well as the placement of the hydrants.

Mr. Crookston reported he had walked the property. He questioned if there are similar Portage Health Network projects that have been constructed and if so, what are the results.

Mr. Fink stated that other projects are outside of the site plan review for this project.

Mr. Crookston questioned if the two parcels are consolidated, will the zoning change for one parcel.

Ms. Susel stated that zoning boundaries do not change with property lines. She stated that a Geographic Map Amendment is required to change Zoning District boundaries. She explained that this is a formalized request and a separate process that requires Planning Commission review and a separate approval from City Council. She stated that both zoning districts will stay the same after the consolidation of the parcels.

Mr. Salustro questioned how the sheds that are on the wrong side of the property line will be dealt with.

Ms. Susel stated that these are called an illegal encroachment and it is a trespass issue so the structures will need to be removed or a formalized agreement will need to be arranged by the two private owners. She stated that it is a private matter that the City does not have authority over.

Mr. Clausson asked for the technical definition of the rear boundary with respect to a side boundary.

Ms. Susel and Mr. Fink stated that in Section 1102: "Definitions," a front yard must front on a right-of-way and the rear boundary is the largest line opposite the road right of way. For this project then, the front boundary is the portion of the parcel that abuts S. Water Street and the rear boundary is the back boundary line that is opposite of that. Ms.

Susel explained that the smaller parcel that has not been consolidated with the larger parcel yet, is considered a landlocked parcel because it does not front any right-of-way so technically that parcel has four side yards.

Public Comment

Ms. Edwards stated that it is the role of the Commissioners to take a neutral position and make a decision based on the Zoning Code and overall, what is right for the whole community. She stated that they will be looking at the conditions for the assisted living and multi-family dwellings. She read the general conditions that apply to all conditionally permitted uses. Ms. Edwards stated that due to the size of the audience, she will be limiting comments to 2 minutes per person. She stated that comments must be related to the site plan.

Ms. Edwards stated she will keep a list of all questions asked and after public comment is closed, she will have the applicant and/or staff answer those questions.

Henry Ollis, 1544 Vine St. stated that he has been sworn in. He stated that his concern is regarding any potential run-off from the grading onto neighboring properties and if his property taxes will be affected.

Blake Grossi, 421 Ivan Dr. stated that he has been sworn in. He stated that as a prior law enforcement officer he responded to hundreds of calls to these facilities. He stated his concern is that there would be an increase in emergency services that would take away from the needs of the other residents in the area. He stated that tax money could be better spent in the community rather than it being used to install fire hydrants and adjust the roads, if that is part of the plans, and use Kent's emergency services to assist people, most of whom will not be from Kent. He stated that Portage Health Company isn't an Ohio company and that it is receiving a tax abatement for this project.

Thomas Kingsley, 431 Ivan Drive stated that he has been sworn in. He stated that his family has lived on Ivan Drive for 56 years and knows that the rear parcel was used for a garden club for the neighbors. He stated that the proposed project is not harmonious with the neighborhood. He referenced Highland Park and Chadwick. He stated that he feels that they should keep the development on Water Street and not build anything in the rear lot.

Lisa Washburn, 323 Ivan Dr., stated that she has been sworn in. She presented a petition of 90 signatures of people in the surrounding area who do not want the project to move forward. She questioned if any bat surveys had been done.

Ms. Edwards questioned if the bat survey question is germane to the site plan discussion.

Ms. Susel stated that it is not, and it is not required as part of the site plan review process.

Ms. Edwards reminded the audience that questions need to be answered with regards to what is in the Zoning Code.

Ms. Washburn questioned if a wetland delineation survey had been completed.

Ms. Susel stated that this will be an item for technical plan review not the Planning Commission site plan review, but there are no identified wetlands on this property.

Ms. Washburn questioned if an ecological survey and a vernal pool survey for the proposed stormwater reservoir has or will be conducted and who would be responsible for testing that water and maintaining a clean environment. She asked if canopy logs have been considered in the removal of the trees and if so, what are the plans for the mitigation of this lot. She questioned who is responsible for ensuring the accuracy of these surveys and if they are completed, when and where are the results available and how long do concerned residents have to respond to the survey findings.

Michelle Culley, 1550 S. Lincoln St., stated that she has been sworn in. She thanked Mr. Crookston for walking the property. She stated that she doesn't feel that the project is harmonious to the backyards of the abutting properties. She asked the Commissioners to consider the impact this will have on the nature and feel of the neighborhood. She stated that they do not know who this large company is.

Tim Driver, 420 Rellim Dr., stated that he has been sworn in. He stated that he feels that this will cause a disruption to the neighborhood. He stated that they moved to Kent in 2021 for the harmonious connection between community and nature. He stated that this project will destroy the uniqueness of the neighborhood environment, as they will lose a huge part of what makes Kent special as well as a great environmental value. He stated that he feels that there will also be significant light and noise pollution.

Christina Grossi, 421 Ivan Dr., stated that she has been sworn in. She stated that she is a local ER nurse. She stated that first responders, hospitals, nurses, and medical professionals all are short staffed, overworked, and under paid. She stated that the healthcare crisis is exacerbated by the influx of facilities such as this. She expressed her concern for the increased strain on emergency services and hospitals. She stated that this facility will receive a 75% tax abatement for 10 years. She expressed her concern for staffing issues.

Joy Washburn, 323 Ivan Dr. stated that she has been sworn in. She stated that it has been her experience that Medicare does not pay for room and board. She suggested that the developers could divide the existing church in half for a chapel and medical use and use the existing house as a property manager to oversee the facility. She stated that she feels that the 38 villas will bring 76 people with 2 vehicles each and possibly various recreational vehicles with nowhere to park them. She also was concerned that there could be older adults living there that are raising grandchildren. She stated that they could have a peaceful plot of land with seniors in the assisted living or a noisy multifamily complex with all of the people, animals, and vehicles located on small lots. She stated that the hospitals in the area are not equipped to take on additional loads. She stated that the proposed assisted living facility is like the one her husband is in, and it is a beautiful setting inside. She stated that if the project moves forward she would like an embankment with a solid vinyl fence at her rear property line instead of the landscape buffer. She presented pictures of that area.

Martin Skok, 1570 S. Lincoln St. stated that he has been sworn in. He stated that to him the villas are two family homes and multifamily dwellings, which are not allowed in the R-2 District. He stated that the renderings show that the assisted living facility is a one-story building, but the key on the plans states it is a two-story building. He stated that he feels that this is an end-run around the Zoning Code.

Wendy Yuzik, 1583 Chadwick, stated that she has been sworn in. She questioned how neighbors are kept in the loop for this whole process and how were they notified. She stated that the date and time on the posted sign were hidden by grass. She questioned how many buildings will be erected. She asked for clarification of how grading/leveling and minimizing tree removal go together. She stated that restoring native plants is not the same as keeping plants that survive in Zone 5. She expressed her concern regarding mature tree removal on the 3 acres. She stated that some of her neighbors knew nothing about this meeting but were concerned about the consolidation of the unbuildable lot.

Colin Abell, 414 Rellim Dr., stated that this project at best is a slap in the face as they never thought that a landlocked parcel of woods in this community would be torn down. He stated that he didn't receive any notification.

[Mr. Fink swore in more members of the public who wished to speak]

Maggie Kelling, 1595 Chadwick Rd., stated that this seems like it is a done deal because they have been working on it for years and this is the first most residents have heard about it. She questioned if the rim of mature trees that are shown on the drawings will really be kept.

Tonya Lipton, 1575 S. Lincoln St., stated that she was sworn in. She questioned why they didn't receive the notice by certified mail. She stated that this meeting was not on the online City agenda. She shared a drawing that was shared with the Sustainability Commission and asked them to attend because it didn't feel truthful. She expressed her concern for her property values with the incessant EMS loop around the building. She stated that Section 1101.03 Conflict of Law in Zoning Code states that the more restrictive applies when there is a conflict. She questioned the setbacks and density, the traffic impact study, environmental assessment. She stated that it is very important that the project function with the existing and intended character of the general vicinity and must not change essential character of the same area. She stated that she feels that this project is too densely populated and doesn't feel that it's appropriate.

William Washburn, 323 Ivan Dr., stated that he has been sworn in. He presented some poster boards with drawings of the neighborhood and reviewed the businesses and the size of the property in each district, as he felt it was important to see in order to determine harmony. He stated that the assisted living facility is set up for a 72-bed facility but could be increased overnight as a multifamily dwelling. He stated that he received an email from staff stating that multifamily developments are not permitted or conditionally permitted in the R-2 Zoning District. He stated that he doesn't feel that this project is right for this parcel. He expressed his concerns for the increased cars and delivery vehicles. He stated that currently the parcels are 8% building and the rest open space and after the project it will be 69% building and parking area.

Mike McClure, 5701 Caranor Rd., stated that he has been sworn in. He stated that he would like to ask the Commissioners to do more than look at the conditions. He stated that he doesn't feel that moving the project forward is the right decision.

Michael Levicki, 1560 Vine St., asked to be sworn in. He asked about storm drains from Rellim St. to the end of Vine St. which abuts up to the proposed property and how water will flow to the basin they have proposed. He questioned temporary screening

during the demolition and grading process and the possibility of asbestos. He questioned if they could make a public walking trail around the property.

Terry Lancaster, 1560 S. Lincoln St., stated that he has been sworn in. He stated that the rear of his property abuts the proposed project's parking lot. He stated that he was concerned that the rear setback was being used as a parking lot and the car lights that would be shining into their bedroom windows.

Ms. Edwards closed public comment and requested that the applicant or staff respond to questions raised by the audience. The first question she presented was to clarify the grading of the project and potential runoff.

Mr. Wohlwend stated that the existing site currently has runoff to the west, north, and south as well as water that runs onto the site from abutting properties. He stated that their stormwater basin will accept any water that runs from the neighbor's properties onto the site as well as catching the water that will drain off the site. Mr Wohlend stated that generally speaking, the proposed stormwater system will reduce the amount of runoff to neighboring properties and accept everything that currently is coming onto the site from abutting properties.

Ms. Edwards questioned staff about the suggested studies and surveys that can be done and how technical plan review might address those and not the Planning Commission.

Ms. Susel stated that this is a private development and some items that were brought up are not applicable to this project. She stated that a bat survey is not required if trees are not removed between April 1 and October 1 due to ODNR's requirements. She read the definition of wetlands as established in 2023 through federal court cases and the EPA and Army Corp of Engineers; in short, wetlands need to be connected to some sort of river or lake and that is not the case with this site. She stated that the stormwater will be reviewed as a part of technical plan review by staff. She stated that canopy loss is not measured as private property owners are allowed to remove trees from their property although many try to maintain as many trees as possible when developing a site. She stated that the question regarding the effects on property taxes is not a question for the City nor the Planning Commission. She added that the Portage County Auditor does valuations of properties based on comparable properties and determines value. She stated that the developers are not receiving a tax abatement because it is not in a City CRA area. and she explained that even if it was, which it is not, it would not be an option for this project type. She stated that an ecological survey is not a requirement.

Ms. Edwards questioned traffic impact studies and the others.

Ms. Susel stated that traffic impact studies are only required when the traffic is excessive, but due to this project's lower density, scope, scale, and size, it is not warranted. She stated that as an example, of all of the large student housing projects that were constructed between 2012 and 2018 and which had densities that are 3-4 times greater than this project, only one required a traffic study due to how it connected with E. Main Street.

Ms. Edwards raised the question of public notification.

Ms. Susel stated that notifications are not required to be mailed by certified mail, but rather regular first class mail 15 days prior to the meeting. She checked the Zoning Code during this meeting and stated this has been the requirement since the Code was amended in June 2021. She continued that the Code does require 3 forms of notices: 1) a public notice in a newspaper of general circulation and this notice was published on April 7, 2024, which was 16 days prior to the meeting and 1 day more than the requirement; 2) public notices mailed to all property owners within 200 feet of the subject parcel were sent on April 2, 2024, which was 21 days prior to the meeting and 6 days more than the requirement; and 3) a sign advertising the meeting was posted at the site on April 8, 2024, which was 15 days prior to the meeting.

Ms. Edwards questioned who would ensure that emergency services are appropriate.

Ms. Susel stated that the Fire Department looks at every project for ingress/egress ability for the safety vehicles during technical plan review, but determining whether a project will generate more emergency calls is not a factor in determining if a project will move forward as it is speculative and cannot be determined. She stated that neither the Fire Department nor Police Department have raised concerns in the past regarding other more densely populated projects.

Ms. Edwards called a 2-minute recess. The meeting resumed at 8:54 p.m. She asked the staff to address the steps after tonight's case based on either outcome.

Mr. Fink stated that the Planning Commission has several options: 1) vote to approve the project in which case the developer works with the City to complete technical plan review by various departments and receives the necessary inspections including demolition to ensure they abide by the plans; 2) vote to reject the project and nothing further happens with this proposal; 3) the Planning Commission can decide to take this matter under further advisement if they choose to wait for a vote as they are not obligated to make a decision today, but the Planning Commission does have a time limit of 60 days within which to make a decision. He concluded that regardless of which decision is made, any interested party can then appeal the decision of the Planning Commission to the Court of Common Pleas in accordance with the Ohio Revised Code 2506 and anyone wishing to do so is advised to seek private legal counsel to ensure that they are doing it appropriately.

Ms. Susel added that another option for the Planning Commission is approve the project, but with conditions that be added by the Planning Commission as they see fit, such as the condition to consolidate the parcels that Ms. Susel had requested earlier in the meeting.

Ms. Edwards requested that staff review the definitions and how the uses of assisted living and independent living are being classified.

Mr. Fink read the definition of an Assisted Living Facility as per the Zoning Code: "a residential or institutional complex containing dwelling units for assisted living with each dwelling or room occupied by no more than two residents who do not require skilled nursing care; the facility may offer meals, housekeeping, social programming and other personalized care and may have common dining, gathering and recreational areas; the facility may offer other specialized services as an accessory use, including but not limited, to memory care or independent living." He stated that this is the definition that they are working under as it is what is in the Zoning Code that was approved by City

Council. He added that this is what we are obligated to follow both here as well as if this needs to be dealt with in the Court of Common Pleas. He stated that the statement made earlier by a member of the public that the assisted living facility will quickly go from 72 beds to 144 beds cannot happen because it has to stay as approved by the Planning Commission so any increase in the bed count will violate the Zoning Code definition and the density condition that limits the independent living to an accessory use to the assisted living facility. He read the multifamily dwelling definition, as per the Zoning Code, stating that it is "a building or buildings consisting of 3 or more dwelling units including condominiums with each dwelling unit containing no more than 2 unrelated individuals or a single household unit as defined by this chapter." He stated that the independent living villas may qualify as multifamily dwellings, but they are also an accessory use to the assisted living facility. He stated that the villas are limited to no more than 2 unrelated or a single household unit. He added that the villas are age restricted.

Ms. Susel stated that a multifamily project can exist as a conditionally permitted use in an R-4 Zoning District and certain commercial districts, however, multifamily is also a description of a unit type similar to a two-family dwelling and a single-family dwelling. She stated that multifamily is a unit type that is an accessory use to the assisted living facility on this site. She stated that the developer had previously come to talk to staff about proposed multifamily projects for this site, but that multifamily is not permitted nor conditionally permitted in the R-2 Zoning District. She further explained that an Assisted living facility is a conditionally permitted use in the R-2 and that it does allow for accessory structures for independent living. She added that independent living structures for 3 or more tenants are not be allowed.

Mr. Fink agreed.

Ms. Edwards requested that the project engineer address the project screening during the demolition and construction.

Mr. Wohlwend stated that the demolition of the two structures will follow all City and Ohio EPA codes with regards to dust reduction and asbestos abatement. He stated that there are studies that have to be done before any structures are removed. He stated that normally during construction a project site of this size will not be fenced.

Dan Karam, Portage Health Network, 265 W. Portage Trail, stated that he has been sworn in. He stated that they usually put-up silt fencing because of the dirt that will be moved but they can consider possibly putting some type of buffering up during the demolition period of time.

Ms. Edwards asked for clarification for the proposed lighting.

Ms. Susel stated that the Zoning Code requires that the fixed lighting have zero bleed at the lot line, which means that no illumination can go past the parcel line. She stated that they are proposing cobra lights in the parking lot to angle the light down and the illuminations that were provided as part of the plan. She added that there have been two completed commercial projects that used blue-white LED lights that did not bleed over the property lines, but the illumination was bright so for those projects the owners were required by the Community Development Department to add shades to redirect the light downward due to complaints from abutting property owners. She stated that with

this project, the lighting is primarily focused inward to the lane and the road with zero bleed at the lot line around the entire property.

Planning Commission Discussion

Mr. Matar stated that some of his major concerns that he is considering is the trash hazard issue with not having a special pickup for waste from the assisted living facility. He stated that he is also concerned with the parking lot traffic lighting from within the site.

Ms. Edwards commented that with regards to site plan review, the Members can look at where the dumpster is located and how it will be accessed, but the frequency or what company they use to manage solid waste on the site is out of the purview of the Planning Commission.

Mr. Salustro stated he is concerned about the R-2 density according to the analysis on page 2 of the staff report. He noted that it states that there are 38 single bedroom individual residential units of which 30 are located in the R-2 district. He stated that based on 7.1 acres, it seems to be over the allowed amount when it states in the Zoning Code that only 3 units per acre are allowed.

Ms. Susel stated that the density for the entire site is based on the use of the Assisted living facility, not each separately by the different Zoning Districts. She referred Mr. Salustro to page 4 of the staff report that shows the density of the entire project site. She stated that the multifamily information was provided to explain the villas, but they are considered accessory independent living to the primary use, which is the assisted living facility. She stated that the assisted living facility standards applies to the entire acreage and is conditionally permitted in both Zoning Districts. The density is 12.9 beds per acre for the entire site.

Mr. Salustro stated that the density is under 20 people per acre.

Ms. Susel stated that that is correct.

Mr. Crookston stated that the multi-family dwelling name doesn't matter because it falls under the primary assisted living use.

Mr. Fink agreed. He stated that the primary use is assisted living and the City is obligated to then follow those definitions and requirements.

Mr. Crookston questioned if it is primary use because it has the larger number of beds.

Ms. Susel stated that it is because it is the primary use of the project, and the independent villas are accessory use because they are 42% of the beds in the assisted living.

Mr. Clauson stated that he understands that what they discuss here is very technical but feels that there are bigger issues on both sides. He stated that he respects the neighbors and their concerns, as well as the property owners who are permitted to construct within the bounds of the Zoning Code, but he stated that there are many people present who do feel that it will disturb neighboring uses and will be detrimental to their properties.

Ms. Edwards stated that when it comes to planning there is a balance. She stated that of course a private party has the right to own and develop a piece of property according to the Zoning Code. She stated that the Commissioners need to look at what is the best situation. She stated that she is surprised that no one has asked for a map amendment for this parcel to be rezoned as commercial because they could, and she feels that the commercial uses would be detrimental to the environment there. She stated that someone at some point is going to develop this property and they need to look at what is the best way to protect everyone as a whole, the best of the possible development outcomes. She stated that if the parcel was rezoned commercial, the uses could be a strip mall, bars/night club, etc., which are uses that no one wants near their house. She stated that based on the uses that are allowed in the R-C, this is a decent scenario compared to other options as it is residential and for the most part pretty quiet. She stated that she is confident that everyone will be opposed to a commercial use such as retail, bars, and restaurants at this location. She stated that it would be possible to change both the R-C and the R-2 into a commercial district given their proximity to the commercial district. She stated that they are looking at the bigger picture of what could happen. She stated that based on the housing study that the City contracted to have done, it showed the largest deficit was housing for 55 and over population. She stated that she understands that no one wants anything in this location, she feels that this is a decent fit compared to what could be there. She suggested going through the conditionally permitted uses line by line and discuss the Commissioners' thoughts: 1) Consistent with the Comprehensive Plan.

Ms. Susel explained the Comprehensive Plan is the Bicentennial Plan that was adopted in 2008 and it has not been updated, however a housing study was completed in 2016 to look at residential uses. She stated that although the Zoning Code has been updated, the zoning districts in this area are still the same as when the Bicentennial Plan was adopted in 2008.

Ms. Edwards presented the next items to discuss: 2) Is this project designed, constructed, operated, and maintained as to be harmonious and appropriate in appearance and function with the existing and intended character of the general vicinity.

Mr. Clausson stated that he feels that it is a judgment call although he knows what the majority of the people in the room would say. He stated that it is zoned residential but it isn't just houses like the rest of the surrounding neighborhood.

Ms. Edwards agreed and added that the front Zoning District is commercial, which isn't residential so in a sense it blends them.

Mr. Crookston stated that according to the maps, it looks like it fits in with the other businesses that are on S. Water St., so it makes that part make sense. He stated that his only question is how does it all come together with the neighborhood, does it become part of the neighborhood.

Mr. Matar that as far as harmonious is concerned, he thinks it feels more like an island in the middle of the neighborhood because it has one entrance and one exit.

Ms. Edwards stated that it doesn't necessarily need to be connected.

Mr. Fink stated that he can give an example from case law in the instance to show if a project is changing the essential character of a neighborhood. He confirmed Mr.

Clausson's statement that this is a judgment call because this is a quasi-judicial board where you hear the evidence and make your own evaluations. He stated that case law tends to look at situations where the determinate for the essential character of the neighborhood is perhaps residential and someone proposes installing something that is completely contrary and will destroy the residential feel of the neighborhood such as night clubs or adult bookstores, which is obviously much more extreme than what is being contemplated here, but those are the examples that they have in court.

Ms. Edwards presented the next item: 3) such use must not change the essential character of the same area and questioned if there were any concerns.

Mr. Salustro questioned how long the church has been out of use.

Ms. Susel stated that it has been on the market since at least 2011.

Mr. Salustro stated that it seems like the design will be better.

Ms. Edwards questioned the Commissioners about their thoughts on "must not be hazardous or disturbing".

Mr. Salustro stated that he doesn't see it as disturbing.

Mr. Crookston stated that he feels that there is a giant lot in the middle of the City, and many have homes that back up to this amazing open lot, but someone does have the right to purchase that land and to build. He stated that there are definitely levels of reactions that people could have depending upon what is built in that area. He stated that something will be built in that space. He stated that this project doesn't fall under the category of hazardous or disturbing for him.

Ms. Edwards questioned if the any Commissioners felt that this project was detrimental to the vicinity or the community as a whole.

Mr. Clausson stated that the neighbors have enjoyed a quiet lot for many years and any increased activity will be disturbing by that definition. He stated that the neighbors or City don't own it, so he is unsure what the neighbors expect to happen there.

Ms. Edwards questioned if the Commissioners have any concerns that the project will be served by public facilities and services.

Mr. Crookston stated that as it was described, it will be put in place.

Ms. Edwards stated that in the event that the Commissioners decide to approve the project, they have the right to add conditions to the approval. She questioned the Commissioners if anyone would like to discuss any possible conditions. She suggested adding the condition that a privacy fence be added where there are residential properties. She asked for input from the other members.

Mr. Salustro stated that since many are concerned about light pollution, maybe it should have a buffer.

Mr. Clausson stated that he would not be in favor of fencing unless they heard from the property owners that about this property.

Mr. Matar stated that you would want to make it part of the neighborhood so there is no need for fences. He suggested perhaps a walkway.

Mr. Crookston stated that while he is grateful for a privacy fence that was installed near where he lives for a similar situation, however he would not want to put something in place without first getting the input of the people that it would specifically effect.

Mr. Salustro stated that he likes the idea of extra privacy for the properties.

Ms. Edwards stated that she is trying to think of ways to help residents with regard to conditions that would ease some of the concerns if it were to be approved.

Mr. Clausson stated that he is unaware of what conditions would make it palatable to those opposed to the project.

Mr. Salustro stated that they are voting on whether this is legal.

Ms. Edwards agreed that it is about whether it fits the Zoning Code. She advised the Commissioners that if they do not vote in favor of the project, they need to be clear about why it doesn't meet the Zoning Code.

Mr. Fink stated that if the Planning Commission determines they need more time to review this, they will need to give the staff instructions on what information is needed.

Mr. Crookston stated that what is realistic for being harmonious to this site that has been vacant for a long time. He stated that it is difficult to argue that this project is not a harmonious use because it would not be in the natural state that it is right now.

Ms. Edwards stated that the way she looks at that is that there are commercial businesses and residential properties. She feels that this project blends both. She stated that it isn't harmonious in that it isn't a park, but there is also the possibility that it could be changed to commercial zoning and then none of these factors will matter.

Mr. Salustro stated that they own the property, and they could put up a fence if they want to. He stated that if it was that important, then someone should have purchased it to hold it. He stated that the project follows what the law is and agrees that it could be a lot worse. He stated that they could approve it with more stipulations of more privacy if everyone is inclined.

Ms. Edwards stated that she would be in favor of approving with more privacy along the residential property lines.

Mr. Salustro stated that there are many properties that already have fencing in place.

Mr. Crookston questioned if there is a way to make that condition flexible enough to later determine what best meets the privacy of the neighborhood.

Mr. Fink stated that leaving a condition vague makes his job harder down the road and questioned what type of screening he is referring to such as additional vegetative screening, fencing, types of barriers, etc.

Mr. Crookston suggested using the term privacy barrier to be further discussed.

Ms. Susel stated that because it is a condition of the site plan approval, it does need a little specificity such as additional evergreens, or a privacy fence, etc. She stated that if they do say additional privacy, then the determination will be defined by the project property owner.

Mr. Salustro stated that he would say to increase the vegetative screen as the people want to keep the natural state of the property.

Mr. Crookston questioned if he is referring to additional vegetative screening that is more than what is on the site plan and if so, how do they determine what level that is.

Mr. Sahr stated that the base requirement is a 10-foot buffer so they could theoretically expand that by whatever measurement the Commission deems appropriate.

The Commission and staff discussed the composition of a buffer and suggestions that have been made with other projects.

Mr. Salustro suggested a perimeter of evergreens.

Ms. Susel noted that there is a walking path already proposed for around the retention pond.

MOTION: *In the case of PC24-002, Portage Health Network LLC, 1541 S. Water St., Mr. Salustro moved that the Planning Commission approve the Conditional Zoning Certificate and site plan approval to allow an Assisted living facility with the following conditions:*

- 1. Technical Plan Review*
- 2. Consolidation of parcels*
- 3. An evergreen screen planted around the perimeter of the property*

Mr. Crookston seconded the motion.

Roll Call Vote:

<i>Mr. Salustro</i>	<i>aye</i>
<i>Mr. Clausson</i>	<i>no</i>
<i>Ms. Edwards</i>	<i>aye</i>
<i>Mr. Matar</i>	<i>no</i>
<i>Mr. Crookston</i>	<i>aye</i>

The motion carried 3-2.

VII. Meeting Minutes

MOTION: *Mr. Matar moved to approve the January 16, 2024, Planning Commission minutes as presented. Mr. Salustro seconded the motion. The vote carried 3-0-2. Mr. Clausson and Mr. Crookston abstained.*

MOTION: *Mr. Matar moved to approve the March 5, 2024, Planning Commission minutes as presented. Mr. Salustro seconded the motion. The vote carried 3-0-2. Mr. Clausson and Mr. Crookston abstained.*

IX. Other Business

None

X. Adjournment

MOTION: *Mr. Matar moved to adjourn. The motion was seconded by Mr. Salustro. The motion carried 5-0. The meeting adjourned at 9:48 p.m.*