

**KENT PLANNING COMMISSION
SPECIAL BUSINESS MEETING
MAY 14, 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 7:00 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 who did not receive notice of the April 23, 2024 meeting and who wish to be heard on the case to be 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."

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 included: 1) a 5/8/24 email letter from 24 abutting residents in regard to a motion for a berm and fence; 2) a 5/8/24 letter from 24 abutting residents regarding the signatures of residents requesting the berm and fence; 3) a 5/7/24 email from Lisa Washburn in regard to the lots and information on the case; and 4&5) two emails from 5/14/24 from Mr. John Thomas. She stated that she also personally received a phone call from Ms. Washburn on her personal line regarding communication and correspondence. She stated that she advised Ms. Washburn to go directly to Community Development and nothing on the case was discussed. Ms. Edwards questioned the Commissioners if anyone else had calls that they needed to add to the record.

Mr. Crookston stated that he received a phone call on his personal line regarding walking through the site. He stated that he did walk the site with the caller. He stated that he remarked several times during the walk that he did not speak for the Commission as a whole. He also stated that he did not make any statements regarding the case but listened to what they had to say.

Mr. Fink stated that any vote that Mr. Crookston makes on the case will be based on the testimony he hears at this meeting and not allow anything that happened outside of this meeting to influence his vote.

Mr. Crookston agreed.

Ms. Susel stated that the Commissioners are under no obligation to respond to inquiries from the press or the public under personal or professional means outside of a Planning Commission meeting.

VI. Old 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.

Ms. Susel stated that the Community Development Department uses a GIS software to identify properties within 200 feet of the parcel lines of a proposed project. She stated that because the parcel at 1541 S. Water Street was used as the primary address and because the smaller parcel that is also part of the project had not yet been consolidated with the primary parcel, 17 addresses did not receive notification for the April 23, 2024 Planning Commission meeting at which the case was first heard. She stated that the Community Development Department consulted with the Law Department and the decision was made to hold a second Planning Commission special meeting for the case and send notices to the 17 property owners that did not receive the first notification. Ms. Susel stated that public comment will be limited to only those who did not receive notices for the April 23, 2024 meeting. She added that those that did not receive notice, but who still did attend and speak at the April 23, 2024 will not be allowed to repeat the same comments, but they can introduce a new public comment or ask a question of the developer that was not previously asked. She stated that to ensure that the 17 addresses are acknowledged, she will call for comments address by address, and any resident from those properties who wish to comment will come to the microphone and affirm their address and that they were sworn in.

Mr. Sahr read the applicant's narrative, which described the purpose and function of the assisted living facility as well as the villas for the Planning Commission members and the audience. He stated that this letter was provided to the Commission in the original case documents and the applicant read it into the record at the April 23, 2024 meeting.

Ms. Susel confirmed that the staff report for the May 14, 2024 meeting is the same as the staff report from April 23, 2024 meeting. It had not changed.

Mr. Fink stated that the State of Ohio has notification requirements for these types of hearings and the Community Development Department did comply with those requirements. He added that the City of Kent has higher standards than the State for notifications and it was found that those requirements were not met so the Community Development Department had to take steps to address this issue and to comply with getting proper notice to all the citizens. He stated that the original vote is voidable based upon if there is any additional comment by the residents that did not receive notice. He stated that comments that were made at the original hearing on 4/23/24 will be incorporated into the discussion of the Planning Commission and have already been recorded in draft minutes and will be a formal record when the minutes are approved by the Planning Commission. He stated that the City wants to ensure that all people do get the opportunity to speak, which includes public comment from the previous meeting and the current meeting, and all addresses are checked. He stated that the Planning Commission members will then have the opportunity to have further discussion and make their judgements based upon that.

Ms. Susel clarified that public comments from the 4/23/24 meeting will not be repeated today and that those comments are a part of the record.

Limited Public Comment

Ms. Susel called for the residents at 1514 S. Lincoln St.

No response.

Ms. Susel called for the residents at 7471 Skyview Dr.

No response.

Ms. Susel called for the residents at 438 Rellim Dr.

No response.

Ms. Susel called for the residents at 1973 Parker Rd.

No response.

Ms. Susel called for the residents at 426 Rellim Dr.

No response.

Ms. Susel stated that the residents at 420 Rellim Dr. spoke at the 4/23/24 meeting. She asked if someone from that address was present and stated that if they have a different question or a different comment, they may speak now.

Timothy Driver, 420 Rellim Dr., stated that he has been sworn in. He stated that he has new information to present. He distributed a document to the Commission and staff. He stated that he feels that the project will change the essential character of the neighborhood in relation to the destruction of the wooded areas. He referred to the "Canopy Cover Assessment" that he provided and stated that the tree cover of that area offers significant benefits to the region. He stated that an estimate of 3.86 tons of carbon with 223.13 lbs. of various air pollutants are sequestered into the trees on the property. He stated that the area also provides biodiversity in the region for pollinators and for

habitat for various wildlife. He stated that the proposed replacement trees will not make up for the benefits from the mature trees on the parcels. He stated that the area also provides important aesthetic benefits to the neighborhood as well as adding value to the surrounding properties. He stated that the removal of the canopy will prove to be hazardous and disturbing to the adjoining properties for several reasons, including the additional heat on the adjoining properties caused by the increased electrical infrastructure, exposure to solar radiation, Urban Island Heat Effect, stormwater management, and water cycle stability. He stated that it is unavoidable that some of the surrounding properties will have increased stormwater runoff from the project, which will be expensive and potentially dangerous. He stated his concern that a certified landscape architect was not used in the planning of the project, which he feels increases the potential hazards to the adjoining properties. He stated that the documents are a result of their own personal estimates and research, and the true nature of the environmental impact that this development will have is unknown. He stated that they are asking that the Commission require a complete environmental impact study be submitted and reviewed before a final vote is made on this project. He stated that if the project moved forward, they would like to call for mitigation of the potential hazards that they outlined this evening and the addition of their unified condition that a 50-foot buffer setback from all perimeter property lines be required to provide a vegetative screen that is a minimum installation height of 8 to 10-feet and a minimum growth height of 15-feet.

Ms. Susel stated that the residents at 414 Rellim Dr. spoke at the 4/23/24 meeting. She asked if someone from that address was present and stated that if they have a different question or a different comment, they may speak now.

Mr. Fink administered the oath to the upcoming speaker.

Sarah Abell, 414 Rellim Dr., presented the Commission and staff with a document. She stated that the neighborhood is characterized by wooded lots full of mature trees, open green spaces, and quiet streets with single family homes tucked among two city-owned land-locked parks. She stated that she feels that the function of multi-family units is not an appropriate land use in the district and does not fit the character of the neighborhood. She stated that she is concerned about future variances and construction on the property. She asked the Commission to accept the neighborhood's unified condition that no lot on the surrounding three sides of the proposed project will ever be utilized as a right-of-way or thoroughfare as defined in the City of Kent Planning and Zoning Code; the only ingress/egress is on South Water Street.

Ms. Susel called for the residents at 408 Rellim Drive. Another resident from 414 Rellim Drive announced they also wished to speak.

Colin Abell, 414 Rellim Dr. stated that he speaks for many of his neighbors in saying that they are not necessarily opposed to development in the City or to an assisted living facility but are concerned about the lack of care for the Zoning Code and the overall well-being of their neighborhood specific to this project. He stated that Section 1106.10 of the zoning code is confusing, and it seems to him that calling multi-family dwellings accessory buildings is a stretch. He noted that the multi-family code was used to establish the parking for those units. He stated that approximately 24 of the detached units have 1 bedroom, 2 bathrooms, and a den/office. He stated that according to the plans, the den has a separate entryway, which he would consider another bedroom. He stated that if those units are 2-bedroom units, then there are almost as many beds in those units as there is in the main dwelling. He stated that this concern was raised by

staff in an email sent to the architect regarding closets in the den and the bedroom count. He stated that he feels that the accessory use is a loophole that the applicant is trying to use and that the City is well within its right to deny the project based on that. He urged the Commission to make a motion to review the following plan along with all the corresponding codes to verify the plan as presently configured does not violate the Code specifically, but not exclusively with respect to the location of the multi-family dwellings in an R-2 district.

Ms. Susel called for the residents at 408 Rellim Dr.

No response.

Ms. Susel called for the residents at 402 Rellim Dr.

Gregory Lovinski, 402 Rellim Dr., gave documents to the Commission and staff. He stated that he noticed how far onto the residential district the principal building was located and felt that the uses were flipped with the most disruptive use in a location that will most affect the current residents. He stated that the proposed layout seems a bit contrary to the zoning ordinances such as the term independent living is not defined nor does it include multi-family housing, and multi-family dwellings do not fit the code description for accessory buildings, which are sheds, garages, etc. He stated that the Zoning Code required that accessory structures be located behind the primary structure and be considered subordinate and incidental to primary use. He asked the Commission to make a motion to review the project with regards to the Zoning Code and the definition and distribution of multi-family dwellings surrounding the R-C zoned primary structure before the final vote is made. He would like the Commission to consider the motions seriously to ensure that the development enhances the community and is much of a win-win result as possible. He stated that he feels that the project seems pretty heavy on invasion with respect to the residential side.

Noel Palono Lovinski, 402 Rellim Dr. stated that she is concerned about the traffic that will come as a result of this project from employees, residents, visitors, residential and commercial deliveries, emergency services, etc. She noted that the Akron Metropolitan Area of Transportation study reports that the section of South Water Street between S.R. 261 and Summit Rd. has been consistently listed in the top 20 of high crash intersections listed by community. She stated that they would like to understand why the project doesn't warrant some kind of traffic study as it is already difficult to get in and out of the neighborhood and feels that with the added traffic it is almost impossible to make a left turn. She asked the Commission to make a motion to ensure that a complete traffic impact study, which would include the potential tax burden on the residents for traffic control, to be submitted and reviewed before the final vote is made.

Ms. Susel called for the residents at 332 Rellim Dr.

Sandra Eaglen, 332 Rellim Dr. stated that the others have said everything that she could have been said. She stated that she has lived in her home for 40 years and purchased it due to the backyard because it was open, treed, no traffic, and no houses. She stated that the project will disrupt the quite life of the neighborhood.

Ms. Susel called for the residents at 326 Rellim Dr.

No response.

Ms. Susel called for the residents at 320 Rellim Dr.

No response.

Ms. Susel called for the residents at 314 Rellim Dr.

No response.

Ms. Susel called for the residents at 302 Rellim Dr.

Laura Riddle, 302 Rellim Dr. stated that she purchased a home because of the park-like nature of the area. She stated that they have made significant financial investments into the home and is concerned about her property values due to the increased lighting and traffic. She is concerned about the impact on the amount of wildlife that is in the area. She is concerned about what will happen should this business close. She feels that the project would be an encroachment on the beauty of their neighborhood.

Ms. Susel called for the residents at 1527 Vine St.

No response.

Ms. Susel called for the residents at 1533 Vine St.

No response.

Ms. Susel called for the residents at 1539 Vine St.

No response.

Ms. Edwards closed public comment and stated that this is the time for the Commission to ask any further questions that they may have.

Planning Commission Discussion

Mr. Salustro asked staff to explain the use of the assisted living facility.

Ms. Susel stated that independent living villas are an accessory use, not accessory structure, to the primary use of an assisted living facility. She stated that the definition of assisted living, which is listed in the staff report, states that the facilities may offer specialized services such as an accessory use, including but not limited to memory care or independent living. She explained that the independent living uses for this project are not accessory structures, but rather, an accessory use to the primary use of assisted living and all together it is assisted living, which is the land use. She stated that the different unit types are either a multi-unit or congregate living, but that is the unit type. She stated that the actual land use that is before the Commission is the assisted living use of which the independent living is an accessory use. She stated that the email from staff regarding bedrooms that was referenced was from her. She stated that it was noted in a meeting as well with the developer and the engineer of record that in the Ohio Building Code and City of Kent Zoning worlds, a closet makes a bedroom in a facility. She stated that when plans came into the Community Development Department that showed bedrooms in the den, she notified the design professionals and explained that this does not meet the code for accessory use so new plans were submitted removing

the closets from the bedrooms and that is what the Planning Commission is reviewing. She stated that the closets are no longer in the dens, which are not considered bedrooms under the City's zoning laws. Ms. Susel stated that the Dunkin Donuts at S.R. 261 and Water St. did not require a traffic study. She stated that requiring a traffic study has a high threshold because an increase in traffic does not necessarily mean it's a reduction in traffic quality. She stated that the City Engineer determines the traffic study needs with the use of a matrix. She stated that they have only needed two traffic studies in the last six years and neither project met the threshold to warrant any change in traffic control devices for the project sites: 1) Starbucks at 1005 E. Main St. and a proposed student-oriented housing project on Horning Rd. She stated that the City Engineer governs the public roads and determines when a traffic study is needed and during plan review it was not determined to be needed; it is not a zoning matter.

Mr. Clausson questioned if there was a precedent for an environmental impact study for a project like this.

Ms. Susel stated that there is not because private development projects do not require an environmental impact study. She stated that wetland studies are provided by developers when there are identified wetlands and those are reviewed by the Corp of Engineers. She stated there were no wetlands on the property.

Mr. Clausson asked for further clarification regarding accessory use versus accessory structure.

Ms. Susel stated that the Zoning Code defines structure and dwelling unit, and that multi-family is a dwelling unit type. She stated that the land use of this project is an assisted living facility. She stated that independent living is an accessory use not a structure to the assisted living facility. She explained that an accessory structure is a shed or detached garage as defined in Chapter 1106 and this does not apply to an accessory use.

Mr. Clausson pointed to the map and stated that the assisted living is the entire project and not just the one building. He stated that the independent living structures are not individual multi-family dwellings but rather accessories to the entire project.

Ms. Susel agreed.

Mr. Crookston stated that he doesn't want to go overboard with regards to a barrier but wants to further discuss the options.

Ms. Edwards stated that the motion from the previous meeting was to have an evergreen screen planted around the perimeter of the property.

Mr. Salustro asked for the definition of an evergreen screen.

Ms. Susel clarified that the landscaping plan as presented remains so the evergreen screen would be in addition to the landscaping plan. She stated that the evergreen screen will be an arborvitae or evergreen trees spaced closer together to block the view with another level of landscaping on the inside perimeter of that.

Mr. Salustro stated that he feels that the suggestion regarding an 8-foot wall around the perimeter was overboard and feels that you can't expect the owners to do that. He stated that he feels that an evergreen buffer is acceptable.

Ms. Edwards agreed.

Mr. Fink stated that the Planning Commission would not have the authority to institute an 8-foot-high wall as there would need to be a variance from the Board of Zoning Appeals.

Mr. Crookston questioned what the code allows for fence heights.

Ms. Susel stated that city-wide it allows a 6-foot-high fence in the rear and side yards, and a 4-foot high fence in the front yard. She stated that a berm as defined in the landscape code is a maximum of 3-feet. She stated that the only exception is by a case-by-case review and approval only in an Industrial District to allow an 8-foot-high fence due to the nature of certain businesses storing equipment outside.

Mr. Salustro questioned the comments about future rights-of-way.

Ms. Susel stated that all of the surrounding properties are privately-owned and would need to be purchased in order to build any such area. And the City has no plans to do that.

Ms. Edwards added that that is also out of the Planning Commission's purview.

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. Matar 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. New Business

None

VIII. Other Business

None

IX. Adjournment

MOTION: *Mr. Matar moved to adjourn. The motion was seconded by Mr. Salustro. The motion carried 5-0. The meeting adjourned at 7:58 p.m.*