

MINUTES  
Planning and Zoning Commission & Architectural Board of Review  
City of Willoughby Hills, Ohio

June 21, 2018

CALL TO ORDER      7:03 P.M

PRESENT:              Chairman Christopher Smith, Vice Chairman John Lillich,  
Mayor Robert Weger, Councilman David Fiebig, Jonathan Irvine,  
Michael Kline and James Shannon.

ALSO PRESENT:      City Engineer Pietro DiFranco, BZA Representative Frank Cihula

CLERK:                Katherine Lloyd

**Correspondence:**

- Email dated 6//18 from City Engineer DiFranco RE: House Addition and Lot Consolidation at 2203 River Rd.
- Email dated 6/12/18 from City Engineer DiFranco RE: Final Approval for New Office Building and Lot Consolidation – Loreto Development at 2723 S.O.M. Center Rd.
- Email dated 6/12/18 from Assistant City Engineer Trepal RE: New House at 29011 Eddy Rd.
- Email dated 6/12/18 from City Engineer DiFranco RE: Approval for a Protected Area Permit and Driveway/Earthwork Fill Operations at 37200 Chardon Rd with attachment.
- Email dated 6/12/18 from City Engineer DiFranco RE: Final Approval of a Change of Use and Building Addition – Aspire Fitness at 27845 Chardon Rd with attachment.
- Email dated 6/12/18 from Dorothy Lindmark RE: Query about greenhouse permits for 36851 Rogers Rd.
- Email dated 6/12/18 from Christine Corbissero RE: Master Plan.

**Disposition of Minutes              Meeting of June 7, 2018**

**MOTION:** Councilman Fiebig moved to accept the Minutes of June 7, 2018 as corrected.

Seconded by John Lillich.

Voice Vote: 6 Ayes and 1 Abstention (Irvine).

**Motion Passes: 7/0.**

**ARCHITECTURAL BOARD OF REVIEW**

**Public Portion opened at 7:05 P.M.**

No Public Input.

**Public Portion closed at 7:05 P.M**

1.) Sarah Dykstra

Agent/Contractor: N/A

**2203 River Rd. – House Addition - PPN: 31-A-016-0-00-002-0**

Plans received in Building Department 6/1/18

Plans reviewed by City Engineer 6/08/18

Present: Sarah Dykstra

Owner/Representative Comments:

- Applicant proposes an addition of a couple bedrooms to an old barn that was turned into a cottage at some point. Currently, it has a one room loft, kitchen, living room and a very small bedroom.
- Pictures of the existing cottage with pictures of intended colors and intended look were circulated. They are very similar. The two colors of the stucco are Accessible Beige and Neutral Ground. The trim is Alabaster. The gable ends are Cider Mill stain.

City Engineer's Comments (DiFranco):

This is the old Penfield property which is currently one large piece of land. This approval should be conditioned on the lot split which is in the Planning Commission portion of the Agenda today.

Board Comments:

(Smith) It fits well with the architectural style. It will enhance the structure. I love the front door, too.

(Lillich) It looks great.

**MOTION:** John Lillich moved to approve the plans architecturally for the House Addition at 2203 River Rd. pending the approval of the lot split of the Penfield property.  
Seconded by Councilman Fiebig.  
Voice Vote: Ayes Unanimous.  
**Motion Passes: 7/0.**

2.) Loreto Venture Group X

Agent/Contractor: Loreto Iafelice

Chuck Szucs – Polaris Engineering & Surveying

**2723 SOM Center Rd. - New Two-Story Office Building- PPN: 31-A-011-C-00-010-0**

**- PPN: 31-A-011-C-00-011-0**

Plans received in Building Department 6/12/18

Plans reviewed by City Engineer 6/12/18

Present: Loreto Iafelice, Sr., Loreto Iafelice, Jr. and Nick Biellilo.

Mr. Smith stated for the record that the applicants have already been before the Board for Preliminary Approval. They are back for Final Review.

Owner/Representative Comments:

- Photos were shown of the building that had been on the property. It is now gone.
- Rendering of the building proposed in its place was shown. It is like other buildings they have done, except for the changes discussed before from the red brick to the granite. Samples were shown. Granite color is Salt and Pepper.

City Engineer's Comments (DiFranco):

None

Board Comments:

(Smith) Are you laying that up like masonry? *No. So it is not like a veneer? It is a masonry veneer, like a brick veneer. It is a natural stone veneer, full bed depth.* You are not gluing it onto the sides? *No, not at all.*

It is a great material and an expensive way to build a building.

(Smith) Last time, we talked about the front entry. You were thinking through the balcony and windows and such. Did you decide on a solution? *We will go with the limestone, pretty much as it is drawn.* The color? *Limestone.*

(Smith) Last time we talked about signage. *The sign will be three feet from the bottom of the railing to the top. The sign itself will be similar to signs on the other buildings.* It looks great.

(Fiebig) I agree.

**MOTION:** Councilman Fiebig moved to approve the Plans for the New Two-Story Office Building at 2723 SOM Center Rd. as submitted.  
Seconded by John Lillich.  
Voice Vote: Ayes Unanimous.  
**Motion Passes: 7/0.**

3.) Willie E. and Sharon Brand

Agent/Contractor: Skoda Construction

**29011 Eddy Rd. - New Single Family Home - PPN: 31-A-025-0-00-057-0**

Plans received in Building Department 6/12/18

Plans reviewed by City Engineer 6/12/18

Present: Chris Skoda and Mike Skoda. They are representing Mr. and Mrs. Brand.

Owner/Representative Comments:

- This house will be the same design as the house they built on Rockefeller last year.
- The owners will go with a gray color scheme for this house. It will have slate gray siding, cobblestone gray stone and dark gray Certainteed shingles
- There is a difference from what is on the plans that the Board has and what they want to do on this house. They want to take the stone up only three feet rather than taking it all the way up. The corners will be wrapped. They will also change the full stone for the foundation to a foundation of poured stamped concrete. All the windows will be wrapped with white trim.

City Engineer's Comments (DiFranco):

None

Board Comments:

(Smith) So it will just be the water table? *No, the stone will be up three feet. [Height and location demonstrated on the plan.]*

(Fiebig) Does that window go around the bottom at 4 inches or is that a sill? *There is a sill on top of that. [Trim drawing detail demonstrated].* It looks good.

(Lillich) Will the poured stamped concrete foundation be painted or dyed in the back? *They would probably do the whole foundation. We have not discussed it. It is their decision. Probably paint if that is necessary.*

(Shannon) Will there be a plan to save a wall of greenery in the back to separate you from the freeway? *They plan to clear from the street to about 30 feet behind the house. They will probably leave about 60 feet of trees.*

(Lillich) Will you dye the whole pour or not? It is more maintenance free for the owners, rather than having to repaint it. *I will talk to them about that. It means that the basement would be dyed as well.*

I don't have a preference as long as something is done. The drawing shows that the ground line drops off. You can see it on the final grade [Indicated on drawing]. *It will be gray any way. Everything else in the house is gray.*

(Smith) It will look awkward if the foundation is lighter than the composition color of the stone and darker colors on the top. We would suggest that if you plan to dye or paint the cement, that it be a darker gray than the slate gray siding.

**MOTION:** John Lillich moved to approve the plans for the New Single Family Home at 29011 Eddy Rd. as presented with the condition that the concrete will be painted or dyed a darker shade of gray.  
Seconded by James Shannon.  
Voice Vote: Ayes Unanimous.  
**Motion Passes: 7/0.**

## **PLANNING COMMISSION**

**Public Portion opened at 7:24 P.M.**

### **1.) Jenna Bing, 36951 Beech Hills Drive**

I do not want to talk about the four things on the Agenda, so when is the Public Portion that I can address some other things that are Planning-related? Is that now?

(Smith) Okay.

Two things. I did not come to the last meeting. I came to the meeting before. I am very disappointed. You laid out a very clear path for what would be done for the blood plasma place, and then, boom, it wasn't there anymore like that. I understand and I have heard the discussions and my husband said he bet it was probably a permit-able use now and all of that. But there is something extremely, like, you break the trust of us. You tell us there is a process. You tell us we will have a chance to say something and then it's boom, it's not there anymore. So this is us having trust in our city, in our village, in the processes and stuff like that. If there had been any doubt in your mind, then you should have said that. But instead, it's like nope, this is the process we are going to use and you even told them that was the process. So, lack of trust from that standpoint.

The other thing I am concerned about is that we do not seem to have a really good plan of what is allowed and not allowed in the village and that that is supposed to be updated and all of that, and it has not been. I think there's been ramifications for that. I mean, I understand from the meeting that was held, the regular Council meeting, a lot of people stood up and said about the brothel. Well, how did that get through? Why are they not here? Why was that massage parlor not coming through for permitting use and permits and all of that? So I think something is a little broken in our system but I think a really clear Master Plan of saying here is what it allows and here's what's not allowed and get that moving and get that done with a lot of public input. I understand that there's some timing that you all have, but it wouldn't hurt to just hold a couple of meetings and say, hey, we are going to start to start really kicking this off at this timeline, can you all please, as a village, come and share what you would like to have and what you don't want to have in our Master Plan. And that would probably go a

long way building trust again back with you all, the Planning Commission, because right now, my trust with you is kind of low. Thank you.

(Lillich) I would like to make a comment on the plan that was supposed to be laid out and followed. What everybody was told, and what the minutes reflect, is that if they receive a Conditional Use permit, then Public Hearings would be held and the public would have a chance for input. They did not even get a Conditional Use permit. Mistakes were made and it was determined that it was a Permitted Use. So they did not even have to get the Conditional Use. So the Public Portion would not be held because it did not get as far as that the Conditional Use. The public input would after they received a Conditional Use and then we'd have Public Hearings. That is what the minutes reflect and that's what I recall was said a couple times. That was the plan, if they got their Conditional Use Permit. But it never got that far

(Smith) I will add that it is not our Master Plan that allows for uses, it's our Zoning Code. Our Zoning Code, as ruled by this Board, said it was a Permitted Use within the City. I have no idea about a brothel. I am pretty sure that is not permitted. If a business is operating illegally, that is simply not something the Planning Commission has any control over.

## 2) John Plecnik, 2890 Bishop Road

Looking to the Agenda, we see some good business moving into the City. It's wonderful to see Aspire Fitness come into Loehmann's Plaza, now called Shoppes of Willoughby Hills. Hopefully, we will rebrand. It is good to see Loreto building an office building that will bring, hopefully, doctors, lawyers and professionals into the City. But I do express disappointment that the Planning and Zoning Board would approve as a Permitted Use, or any type of use, a Blood Plasma Center in the City. I won't rehash why I don't think it's not good for my neighborhood, but I don't. I would second the concerns of expressed by Mrs. Bing that procedure was laid out to residents and it was suggested, and I would say more strongly than just suggested to residents, that Conditional Use was the path that was going to be taken. We were reassured that there would be time to give more input. In one meeting there was a decision made to rule as a Board, as a Commission, that this was a Permitted Use, based on the opinion our City Prosecutor Mike Germano. I am concerned on that line as well because the Mayor sued the City and the judge ruled that neither the individual appointed by Council nor the individual appointed by the Mayor which was Mr. Germano himself could be the Acting Law Director. In fact there could be no such thing as an 'Acting Law Director'. So I do not see how he was competent to offer a legal opinion to you as a Commission. I know from the comments of some Board members that you had concerns about whether a Blood Plasma Center was good for the City, but you felt bound because your City attorney, as he was represented to you, told you this is 'in my legal interpretation' a Permitted Use. If he were the Law Director for the City, I could understand you taking that position. But I want to clarify that this was ruled in the Mayor's own law suit against the City of Willoughby Hills that Mike Germano is not the Law Director, the Acting Law Director or any sort of Law Director. So I suppose he sat up there as a resident who happened to be a lawyer. So am I. So are many residents, but we are not in a position to give you legal advice that is in anyway binding on you as a client. So I am saddened that a process that was laid out for residents was left behind because the Mayor volunteered a resident who was also a lawyer to give an opinion to you. I am sure you listened to him in good faith, but I do want to clarify that he was not competent. He was not hired by the City as a Law Director to give you that opinion. I find it unfortunate that residents lost their voice because of that. Thank you.

(Smith) I would just respond by correcting everybody. It wasn't a Conditional Use. It was being considered for a Similar Use which is different. This Board voted 5 to 1. There was one dissention. It comes from Mr. Fiebig. But the rest of us that were here voted in favor. We listened to the opinion of the legal representative who was here. I deemed him qualified because he is the Counsel for the City

of Willoughby Planning and Zoning Commission and Kirtland and Concord. He was credentialed. Our Planning and Zoning Administrator agreed with that ruling. Speaking for myself as a registered architect in the State of Ohio, it is a Permitted Use. It was clearly under Definitions as a 'blood bank' that is permitted in our City. If we want to change that, then we should change it through our Zoning Code.

3.) Janet Majka, 2939 Bishop Rd.

Just to echo disappointment with the Plasma Center. I am not going to go on and on. I do find it interesting. Moving forward, I think that Mayor, maybe this is something you can look at. I find it interesting that not one person on this Commission lives in District 2. I think it would be good going forward to have equal representation in the areas of the City when we are going to be discussing items like this, especially items that impact so forcefully District 2, and especially with all the economic development we are trying to get and a lot of activity, hopefully, in that area. I think it would be very good advice to have more representation on this Commission from that District.

On a different note, I would like to ask, and perhaps Sarah herself when she gets up again, just out of curiosity, I saw that this is the Penfield property. I would like to know if the Frank Lloyd Wright building going to be preserved and still doing what they're doing and how is that lot split being accomplished. I know there are additional properties. Just pure curiosity in case anybody asked me.  
Thanks.

4.) David Fiebig

I will just weigh in very quickly. The 'blood bank' definition I believe is something we seriously need to look at, to change because there are other municipalities that have three different definitions. The 'blood bank' is a donor facility. The 'blood plasma center' is where people are compensated. There is a distinction between those. I believe our Code only uses the word 'blood bank'. If you look at just the donation of blood, that is the generic, understood name. These Plasma Centers are something new. The business model is what I was arguing that it's different than what was the intent of our Zoning Code when that was put in. Those years ago, they did not have such a thing. That is why we do need to update that. I was going to ask in our 'Council Representative' section that we re-visit where we are with the Master Plan and hopefully we can move forward with that.

It is also a great comment from our Councilwoman from District 2. Now this is a Mayor's appointed body but I would urge the Mayor for the next appointment to look at where we are appointing people. I know that most of us are actually in District 1. There is really only one exception for that. We really should spread ourselves out across the City, as representatives of the City. I think that is an excellent idea.

**Public Portion closed at 7:35 P.M.**

1.) Sarah Dykstra

Agent/Contractor: N/A

**2203 River Rd. – Lot Split - PPN: 31-A-016-0-00-002-0**

Plans received in Building Department 6/1/18

Plans reviewed by City Engineer 6/08/18

Present: Sarah Dykstra, joined by her mother, Debbie.

Owner/Representative Comments:

- She is the new owner of the property. She does not want to change anything. The Frank Lloyd Wright property will continue to operate as a guest house. She hopes to eventually build the last Frank Lloyd Wright house and bring that to the City of Willoughby Hills as well.
- She does not want to split the lots. She has been working on it because they really want to build the addition. She has many questions about why it is necessary.
- There are four parcels. Two smaller ones are on the other side of the river. The two larger parcels are on the side of the river where the buildings are, which is designated as an agricultural tree farm.
- She asks why, if she can build a barn with the setbacks for an agricultural property, why there are not similar exemptions for building a smaller structure? Why is it so different than adding something to a garage apartment or adding something to a pool house?
- This particular building on this particular lot will stay in my name.
- Lot split is done. Copies of the lot-split paperwork were distributed. The three existing buildings were split up. She has also accounted for the eventual 'River Rock House', which is what they call the last Frank Lloyd Wright residential plans ever done. There is another lot which might be for her brother. Even though she does not want the split, she will get it done now because they do not want to hold up the addition.

City Engineer's Comments (DiFranco):

- The lot split is needed because the property is zoned R-1 Residential: traditional single family which allows only one dwelling per lot.
- Four different houses or dwellings are proposed.
- It is laid out so that each parcel has 40 feet of access along the road. Each has 100 feet of width at the building, as required by Code. They are all a minimum of one acre. They do all conform to the Code.
- If you plan to build four houses, the lot split is necessary by definition of the Single Family Zoning District with one dwelling per lot.

(Dykstra) I have the overlap of being 'Agricultural'.

(Smith) You are saying that if you have a barn and a house, there are two structures, but the barn is not a dwelling.

(Dykstra) And if I had a pool house, it is a structure and it could be livable. A garage apartment is a separate building. Also, there are exemptions to the zoning rules if you are 'Agricultural'. I am trying to figure out the overlaps of those and what we could do here.

Board Comments:

(Lillich) What you have to remember is 'Residential' and Agricultural. You can be permitted buildings on the 'Agricultural'. Size of the building is limited by the size of the lot it is going on. You would not be permitted any residence in that building. Just like if a pool house was added, there could be no living quarters.

(Dykstra) How did we get to this point with the three buildings? When did those rules change? I just recently purchased it and no issues came up with the title or mortgage. They are pretty strict about what you can and cannot do.

(Smith) The first agency that does a review of that is actually this Board when you submit a plan to do something. At time of purchase, they are looking for easements and clear titles. Will the lot split hurt you in any way?

(Dykstra) I am not sure. There are some tax considerations for 'Agricultural. I have already incurred a lot of expense getting to this point with this map.

(Smith) You would have two choices. One, you can continue. Or two, you can take some more time to really evaluate if there are any exceptions or anything in the Zoning Code that would allow you to do this.

(DiFranco) 'Agricultural' is a Use. It is not a Zoning District. We go by the Zoning, not the Use.

(Smith) That 'Use' applies because it allows the residents to grow vegetables and stuff on their property.

(Lillich) It gives tax benefit.

(Fiebig) That does not sound like your use here unless you harvest the trees.

(Debbie/Mom) When we originally started this process, we called to find out what we needed to do in order to add on. We were told we would need a variance. When we started the actual process of it, Pete said 'no, we can't do a variance'. So we called Frank [Cihula]. He told me that we don't do variances any more. He told us to read the Code and see if we fall under any of those instances. There are seven reasons why we do and 3 reasons why we do not, or vice versa. We read it through. It appeared to me that we would fall under one of those. I do not have them in front of me now to specify. Pete said he did not think we did. We went ahead and did all of this which is costly. We started last February. It is now June and we are still renting three miles away and having to go back and forth every day. By adding the apartment and making that second structure a dwelling is requiring the one lot split.

(DiFranco) Right. The only reason to do the other two was because it would be cheaper for you to do it now.

(Debbie/Mom) Yes, except that one dwelling is already a residence. It's not that we are adding an apartment. We are adding a bedroom because it was a loft. We are separating the bedroom from the living room.

(DiFranco) It can exist as a nonconforming use but when you change it, you have to bring it into conformance.

(Debbie/Mom) Correct. In your Code with the variance, we don't fall under any of those? I thought we did on a couple of them.

(Smith) If we voted 'No', they could go to BZA. You could plead your case to BZA. They can grant you a variance. We cannot grant you a variance for that.

(Debbie/Mom) That would hold us up another couple months.

(DiFranco) Yes, and in the opinion of the BZA Chairman and my opinion, we do not recommend that.

(Debbie/Mom) Okay, we just wanted clarification.

(Lillich) Explain why they cannot put the addition on.

(DiFranco) Currently there is more than one dwelling on the overall parcel.

(Lillich) If we make the lot split, they can put the addition on?

(DiFranco) Yes.

(Debbie/Mom) But it will cost us more in taxes.

(Lillich) You will because you will have individual buildable lots. Your taxes will go up.

(Fiebig) But you will have the opportunity to build the other house. If that is your plan, then you are putting the process in place. You will pay more tax but the value of your land will increase radically.

(Cihula) Because you have worked this into 4-5 parcels, does not mean you have to utilize each one of those parcels. You can continue doing everything the same way you are today. But you have the ability to do it. I can't speak to the Auditor's Office and if they will change the value of it. If your overall plan is to keep the overall parcel the same as it has been, you can do that anyway. The lines will be there but you do not have to utilize them. The biggest thing that concerned me from a zoning appeals standpoint was that your land extends underneath the freeway. It is not State ROW. The freeway is actually an easement on your property. Apparently that is what the Penfield settlement was



when the State purchased the property. With this lot configuration, it is now approved to build or add on, but you do not have to.

(Lillich) Those lines do not mean anything until you want to use them.

(Cihula) You have the ability to do it.

(Lillich) This is the way the law is now. Since I have been on this Board, the width of property needed on the ROW to build a house or sub-divide has changed twice.

(Fiebig) Does it make any sense at this point to address the fact that the property is in the river and they could lower their lot coverage by changing the property line? Is part of the property in the Chagrin River?

(Lillich) Generally they own some portion of the land under the river.

(Fiebig) Would it make sense to lower the amount of land you have which would lower your tax bill because it is unusable to you?

(Lillich) Someone has to own it and pay taxes on it.

(DiFranco) It is up to them to see how to re-lay it out to get more lots.

(Lillich) River frontage is becoming more desirable all the time.

(DiFranco) Most of it is in the Flood Plain and the Protected Area so it cannot be developed.

(Dykstra) Did you get the copy of the Site Plan?

(DiFranco) Yes.

**MOTION:** Councilman Fiebig moved to approve the plans for the Lot Split at 2203 River Rd.  
Seconded by John Lillich.  
Voice Vote: Ayes Unanimous.  
**Motion Passes: 7/0.**

## 2.) Parkview Land Development

Agent/Contractor: N/A

**37200 Chardon Rd. - Approval for a Protected Area Permit and Driveway/Earthwork Fill**

**Operations - PPN: 31-A-002-A -00-002-0**

Plans received in Building Department 6/12/18

Plans reviewed by City Engineer 6/12/18

Present: Mark and Julie Belich, 2476 Parsons Drive, WH.

### Owner/Representative Comments:

- We will import some fill to improve the driveway so we have access to our two existing homes.
- We will be back for an addition and work on the first house and we will engage Pat Cloonan will do the Landscape design for the second house.

### City Engineer's Comments (DiFranco):

None.

### Board Comments:

(Lillich) I think they answered all of my questions the first time they were here. It is an amazing, ambitious project.

(Smith) For those who were not here the first time, this is a pretty major fill operation. I do not have any further questions.

(Fiebig) Questions were addressed. When asked about construction debris, the applicant stated that they own two street sweepers. I don't think that will be a problem. It will be a great addition to our community.

(Belich) With this kind of project, there are problems. It is the way we address the problems. You can trust that, because we live here and these are our neighbors, we will address them completely.

**MOTION:** Councilman Fiebig moved that the Board approve the plans for a Protected Area Permit and the Driveway/Earthwork Fill Operations at 37200 Chardon Rd.  
Seconded by Mayor Weger.  
Voice Vote: Ayes Unanimous.  
**Motion Passes: 7/0.**

3.) Loreto Venture Group X

Agent/Contractor: Loreto Iafelice

Chuck Szucs – Polaris Engineering & Surveying

2723 SOM Center Rd.

– Final Review - New Two-Story Office Building Development Plan and Lot Consolidation

- PPN: 31-A-011-C-00-010-0

- PPN: 31-A-011-C-00-011-0

Plans received in Building Department 6/12/18

Plans reviewed by City Engineer 6/12/18

Present: Loreto Iafelice, Sr., Loreto Iafelice, Jr., Nick Bialillo (Contractor),  
Chuck Szucs (Polaris Engineering).

City Engineer's Comments (DiFranco):

Currently, there are two parcels. They need to be consolidated in order to build this building. We already had a Work Session. They have addressed all of our comments, which included adding landscaping, site lighting and Stormwater and Erosion control. I recommend approval.

Owner/Representative Comments:

None

Board Comments:

(Lillich) I have no questions. Everything looks good. I believe we need two motions here, one for the Consolidation and one for the Final Approval.

**MOTION:** John Lillich moved that the Board approve the Lot Consolidation Plan for Loreto Venture Group X at 2723 SOM Center Rd.  
Seconded by Councilman Fiebig.  
Voice Vote: Ayes Unanimous.  
**Motion Passes: 7/0.**

**MOTION:** John Lillich moved that the Board give Final Approval for the New Two-Story Office Building Development Plan for the Loreto Venture Group X at 2723 SOM Center Rd.  
Seconded by Mayor Weger.  
Voice Vote: Ayes Unanimous.  
**Motion Passes: 7/0.**

**Chairman Smith recused himself for the next review because his Architectural Group is doing the plans. He passed the gavel to Vice Chairman Lillich for the review.**

4.) Aspire Fitness

Agent/Contractor: TBD

**27845 Chardon Rd. – Change of Use Review from Retail to Health Club**

– PPN: 31-A-008-0-00-017-0

- PPN: 31-A-008-0-00-022-0

Plans received in Building Department 6/12/18

Plans reviewed by City Engineer 6/12/18

Present: Eric Rivchun (representing ownership) and Bill Griffith (Project Manager).

Owner/Representative Comments:

- We are changing the use from Retail to a Health Club.
- We are putting up a steel building to accommodate basketball.

City Engineer's Comments (DiFranco):

One of the last items they had to address was the underground utilities from the old Sam's Club. They did the investigation. They will need to re-locate the sewer from Sam's Club further back so it does not conflict with the new gymnasium. Everything else has been addressed. Approval is recommended.

Board Comments:

None.

**MOTION:** Councilman Fiebig moved that the Board approve the Change of Use Review from Retail to Health Club for Aspire Fitness at 27845 Chardon Rd.  
Seconded by Mayor Weger.  
Voice Vote: Ayes Unanimous.  
**Motion Passes: 7/0.**

**Vice Chairman Lillich passed the gavel back to Chairman Smith**

**UNFINISHED BUSINESS**

None

**NEW BUSINESS**

None

**MAYOR'S REPORT**

None

**COUNCIL REPRESENTATIVE'S REPORT (Fiebig)**

There was considerable outcry at the last Council meeting. I think you got a flavor of it. It was not so much that we don't want that business as it was the process. One of the things that came out that was, even if we wanted to vote 'No', we had someone representing themselves as the attorney for the City sitting up here giving his opinion and they would have pointed to that and said, if there was a lawsuit, if we had all voted 'No', tied or whatever, so I think it is something that we should consider, and we

should debate, how we handle this in the future. We can't go back and clean it up now. We should consider how we handle this sort of thing in the future so it does not put the City in a bad position, legally. To my mind, that is one of the most difficult things. Maybe it is not the end of the world that they are going to locate there. I hope that to be the case. Any business that is here in the City, we hope they succeed. If we could tighten up that, that would be helpful.

(Lillich) As I recall, we asked you to ask the Mayor to please have an attorney present, preferably versed in Municipal Law, to advise us. Not to hire a City Attorney. I don't think that he represented himself as a City Attorney. I myself did not look upon him as a representative of the City. I just look at him to advise us on Municipal Law. That's exactly how I saw it. That is what the minutes reflected when we asked for someone to give us advice. My vote was not based on his advice. It was based on my interpretation of what I read.

(Fiebig) Which is fine. Two things on that to clarify: you didn't ask me to ask the Mayor. The Body [PCABR] asked the Mayor to provide the Body with legal representation.

*(Lillich) I'm sorry about that.*

Let's be clear about that. I am not the go-between between administration and this Body. My motion was to get advice. It was not to come up here to review it for a few hours prior to the meeting, to sit here and then give his opinion. It was to get advice. If you recall, I had to send an email at 3:00 that day saying what has happened regarding this.

*(Lillich) I got it.*

For that entire 2-3 week period, we had no opportunity to discuss this with the lawyer. That is where I think the City was put in a bad position. That is what we could do better.

*(Lillich) We could do better by having a Law Director.*

#### Law Director:

(Fiebig) We did interview somebody at our last Council meeting. We are waiting for the Mayor to make a decision if he would like to nominate this person or not. It's his call. He needs four votes of Council. That is the update on that.

#### Master Plan:

(Fiebig) The other that also came out of this was considerable discussion about our Master Plan. Let's talk about where we are with that and what we can do to move this process forward.

(Smith) We reviewed a couple of sections of the Master Plan on the Board a while ago. There were two things. First, I offered my company services at no cost to do the leg work that has to be done for some of the details. The very first thing that came up was that the Census was not being done until 2020. That is part of the data that is used for a Master Plan. In doing that, I went through and reviewed the Master Plan process. The latest update said that the Planning and Zoning Commission formed a working committee on August 2, 2008 to review and update the June 2003 Planned, which was the 5-year increment to begin the review. The review continued through 2011 and they did that so as to include the 2010 Census data. That was the recommendation of the Board was to put it on hold until we had the Census data from 2020 to use as the basis.

(Shannon) Is there some provision for us? Are we bound to make these reviews only based on the Census? Is there provision if the residents wanted to make suggestions about medical buildings and where they are placed? Do we have any apparatus outside of this 5 year review?

(Smith) There is a huge difference between a Master Plan and the Zoning Code. The Zoning Code deals with uses and permitted uses and definitions of structures. The Master Plan sets a vision for the City. The 5 year review simply is an update. If we as a Board would want to fast-track this, I would

suggest that we hire DB Hart who did the last review to come in and begin working on this. They have resources to be able to predict what Census data may be for the City and then refine it once the Census comes out. It is a pretty expensive firm to hire.

(Mayor) Isn't D.B. Hart working for CT now?

(Smith) They do but they do the same thing.

(Fiebig) There are other firms, too. D.B. Hart just happens to be the one that we use. They did a substantial amount of work to it in 2008. Then there was a very cursory review in 2013).

(Lillich) In 2013, it was mainly map changes that had already transpired.

Shannon) I hope you will bear with my lack of experience. Can I ask the same question, not about the Master Plan, but about Zoning? How nimble are we in being able to change, even if we have to submit it to the voters, and in making suggestions. There seems to be a lot of ill feeling toward the plasma thing. We can't do anything about that but maybe we can do something about that in the future to protect the community to their satisfaction. So my question is do we have apparatus where we can establish changes in some timely fashion?

(Smith) I believe the mechanism is that we would recommend to City Council that they would put a ballot issued forth. It would need to be a legal review so we do not do anything exclusionary and the tests that they run. Then we would put it on the ballot for a vote.

(Smith) I want to put one thing back into the record. One of the things that weighed into our thinking in removing that item from our Agenda saying that it was a Permitted Use was the fact that Mentor's Zoning Code reads exactly the same as ours and they permitted that use. So they set a precedent that we thought was comparable.

(Fiebig) What I found out afterwards was that the City of Euclid, which I haven't looked into yet, but I was told, denied and it was upheld just fine that they denied the Plasma Center going into their place.

(Shannon) May I ask you, on the basis of what?

(Fiebig) I don't know. I found it interesting that, yes, one city could but another city didn't. I think we needed to do more research. I wish we could have just tabled it for at least two weeks.

(Shannon) Possibly there is a limitation about where they place a medical building, which is what I am suggesting that we may want to consider.

(Fiebig) You brought up a great point about defining 'Blood Bank' and 'Blood Plasma Donation facility', and the 'paid' or 'voluntarily 'donated'. They can be entirely different uses.

(Lillich) I would like to add that when you do these reviews, we do our best to take a look at what is out there and what other cities have seen. I guarantee that businesses will be created in the next years that we have no idea are coming now. We can work on classifications and things but I think this plasma thing is a good example. At the time of a review, we look at zoning codes in the cities around us and in the area and see what they have. We have a Building Commissioner also whose advice we weigh heavily on when we are doing these reviews because he is out there every day in the community. He sees what's going on. He is in contact with Building Commissioners in neighboring communities who see what is going on. But there is no way we can predict what will be here in five or ten or fifteen years. We get broad classifications. Sometimes you get broad-sided with this one. Fortunately for this one, blood collection is blood collection so I had no problem with it. It certainly is an arguable point. When you do these reviews, you rely on what has been seen in other communities. You try to anticipate from time in memorial with Master Plans and Zoning Codes.

(Shannon) Of course we are well aware of that. I would say that it's that possible our zoning could suggest that we shouldn't put a blood plasma place right next to a grocery store, or within a certain distance. We are all well aware of how rapidly things are changing, how fast technology is changing. We should be as nimble as the advance of society is. That is my opinion.

(Lillich) There are several things that encumber the City, not all cities. When he said it would have to go before the voters depends if it required a change in the zoning map. The zoning map is really what the voters voted. Little changes in code that do not affect changes in the map can be done.

(Cihula) The Charter provides for two separate reviews. It provides for the Master Plan review, which has to be done and it explains why it is being continued to a certain point. It also provides for a Zoning Code review. It is obvious that the Zoning Code review comes after the Master Plan review. That is to put into effect anything that the Master Plan has figured out should be done. You can have one inside the 5-year time period. You can also determine that there is no need to change anything today and approve it as it is.

(Fiebig) The article I read today was about the decline of retail as people are getting very comfortable with online ordering. So what is the future for 'brick and mortar' retail? It is definitely changing but it is probably going to be services and ways that people congregate. The health club tonight is a good example. You can't go online to exercise and socialize while you are exercising. If there are things that we can address under the retail area of our Code, we should because that is obviously changing. Another great example of how things have changed is Council was able to do a 12-month moratorium on medical marijuana facilities. That was more than a year ago.

(Lillich) Another thing to consider is how to handle drone delivery of packages in the City.

Good discussion. That ends my Council report.

BUILDING COMMISSIONER'S REPORT (DiFranco)

No Report.

CHAIRMAN'S REPORT (Smith)

No Report.

**MOTION:** John Lillich moved to adjourn the meeting.  
Seconded by David Fiebig  
Voice Vote: Ayes Unanimous.  
**Motion Passes: 7/0**

Meeting Adjourned at 8:17 P.M.

Katherine Lloyd  
Clerk

[Signature]  
Chairman  
7-19-18  
Date Approved