

CITY OF KIRTLAND  
PLANNING AND ZONING COMMISSION

MINUTES OF THE MEETING  
JULY 11, 2023

The meeting was called to order by Chairman Denk at 7:03 p.m. Present were Commission members Richard DeMarco, Michael Denk, Daniel Laux, Lita Laven and Joseph Vinciguerra.

Also present were Mayor Kevin Potter, Law Director Matthew Lallo, City Engineer Douglas Courtney and Zoning Inspector Rick Loconti.

MINUTES OF THE JUNE 12, 2023 WORK SESSION

Mr. Vinciguerra moved to approve the minutes as presented, with the second by Mr. DeMarco. Upon roll call vote, the motion passed 5-0 (Ayes – DeMarco, Laux, Laven, Vinciguerra and Denk; Nays – None).

MINUTES OF THE JUNE 12, 2023 MEETING

Mr. Vinciguerra moved to approve the minutes as presented, with the second by Mr. DeMarco. Upon roll call vote, the motion passed 5-0 (Ayes – DeMarco, Laux, Laven, Vinciguerra and Denk; Nays – None).

PUBLIC SESSION:

PUBLIC REQUESTS

Conceptual Review – Potential Commercial Development at 8181 Euclid Chardon Road (Parcel Nos. 20-A-028-0-00-039-0; 20-A-028-0-00-023-0; 20-A-028-0-00-018-0)

Mayor Potter introduced Dave Mitchell of Biltmore Group, noting that his partnership came to the City and inquired about the property at the intersection of Route 6 and 306. The Mayor said the potential development would be a five-star nursing facility, noting that they also have facilities in Mentor and Hudson. He noted that the facility would bring 140 good paying jobs to the City.

Dave Mitchell said he is an attorney on behalf of Biltmore Health Care, which is a contracting arm for a group of investors that develop nursing homes, predominantly in northeast Ohio. He said they typically form a new entity for each project they do, noting their group has been an active developer of nursing homes in northeast Ohio and the State of Ohio for the past ten years. They have developed new facilities in Hudson, Highland Heights, Brunswick, two buildings in Mentor, Talmadge, and the most recent building in Kent, along with several others in various stages of development.

Mr. Mitchell noted they have under contract the Mills property at the northwest corner of the Route 6 and 306 intersection; the site is approximately 22 acres. He said they are looking to construct a new nursing home that would consist of 90 to 99 beds and approximately 70,000 to 75,000 square feet, all on a single floor. Referring to a concept drawing board he brought with him, he noted that the site offers an opportunity to construct a stand-alone medical office building on the corner.

Mr. Mitchell said the property is located in a Retail Business District; office buildings are permitted by right, and nursing homes would be permitted only if the Planning and Zoning Commission determines it is similar to a permitted use or a recognized conditional use in that district. After reviewing the City's zoning ordinances, Mr. Mitchell said that nowhere in the City does it allow nursing homes by right; it is a conditional use in only one district, the R-5 Multi-family District. He noted there is currently one nursing home, the Kirtland Rehab facility on Route 306.

Mr. Mitchell said that the use is consistent with the comprehensive plan. The plan recognizes the aging population of Kirtland and the concept of aging in place; approximately 27 percent of the City's residents are seniors. The plan recognizes that the intersection of Route 6 and 306 is a prime development location, and it recognizes the need for extension of sanitary sewers to that intersection. It recognizes the need to generate revenue. Both the owner and the operator of this facility are for-profit tax-paying entities. The plan recognizes the need to explore senior housing options by addressing the needs of seniors in the community.

With regard to the existing nursing home in Kirtland, Mr. Mitchell said they are a different segment of the nursing home industry. The existing nursing home facility was built in 1965 and is currently licensed for 180 beds, which means that it has dual occupancy rooms primarily. Its average occupancy currently is 60 percent, which is extremely low, which means they are carrying bed taxes on 70 to 80 empty beds. He said that facility has a one-star rating out of five-star possible. They have a fairly stable mix of patients, between Medicare, Medicaid, private pay and Medicare Advantage contracts. Unfortunately, their hospital re-admittance rate is extremely high at 22.64 percent; the County average is 17 percent and the State average is 15 percent.

Mr. Mitchell stated that their buildings are all new and almost all private rooms. Most of their buildings are five-star rated. The Mentor facility is the closest facility they have developed; it is a 99-bed facility and it is full, with a waiting list. It is a five-star facility. The operator of that facility, Foundations Health, is the largest private operator of nursing homes in the State of Ohio. They also operate, as a tenant, Heather Hill, but they will be leaving that facility in 2025. It is likely that a large percentage of that operating team would operate this facility.

Mr. Mitchell said that at full occupancy they would expect to employ 130 to 140 full-time employees, with an annual payroll of \$7 million to \$8 million. At stabilization, the facility should generate between \$15 million and \$16 million annual revenue.

With regard to the nursing home business itself, Mr. Mitchell said a certificate of need must be obtained from the Ohio Department of Health in order to build and operate a nursing home. The State of Ohio currently has a moratorium on the number of nursing home beds. The State has approximately 85,000 beds in 950 facilities, for a State population of approximately 12 million people. By comparison, the state of New York has approximately 60,000 beds and a population of 20 million people. The State of Ohio is not issuing any more licenses and they are making moves to try to shrink the number of beds. In terms of reimbursement, the recent budget passed rewards nursing homes that have high occupancy, high quality metrics, high quality care and private rooms. Those types of facilities will benefit from the new budget bill; whereas facilities that have multiple patients in a room, provide poor quality care and have low occupancy will lose in terms of reimbursement.

Mr. Mitchell noted that licensed beds from another facility have to be moved to a new facility in order to build a new building. He noted that they have access to 99 beds they would propose to move to this location through their operator. It would go through the process in 2024.

Mr. Mitchell said they are interested in obtaining some feedback from the Commission concerning whether this is a use the City would like to have in this location and what is needed from a zoning perspective to make this happen. He noted they would address the remarks in a formal application.

Answering Chairman Denk, Mr. Mitchell advised that they are a rehab facility primarily, and more than half of the population of the building would be short-term stay residents for rehab following surgery, with a seven to ten day stay typically. He noted the Mentor facility is 55 to 60 percent short-term stay. The rest of the population is later stage of life care; those residents may be there for months or years.

Mr. Mitchell said that bringing sewers to the site would be much preferred as opposed to an on-site plant. Most of the metrics they have seen from local counties and water departments greatly overestimate the usage of water and sewer for a nursing home. They would provide to the county actual numbers from a similarly sized facility.

Mr. Mitchell noted that ambulances are an item of concern, both for people living around the facility and the safety forces. Concerning the number of calls for a building this size, the Mentor building averages three to five true 911 calls per week. Any transport is by private ambulance; 911 calls would be only for true life and death situations.

Responding to Mr. Denk, Mr. Mitchell said that visibility and proximity to hospitals and doctors' offices make this site attractive. He noted that this operator is a preferred provider for both the Cleveland Clinic and University Hospitals. The new Cleveland Clinic building in Mentor is beneficial to their Mentor facility and it is not far from this location. Mr. Mitchell said the operators find areas that are either underserved or poorly served.

In addition to Mentor Ridge, Mr. Mitchell said they also operate a facility in Kirtland Hills, which has a large excess of beds for occupancy.

Mr. Laux inquired if there is any area for expansion on the property. Mr. Mitchell said there is a creek on the property that leads into some wetlands, which somewhat limits the development. There are also some significant topography changes on that portion of the lot, which may present some challenges. Mr. Mitchell said they have not built a facility for more than 99 patients, noting that when it exceeds 100 patients, they must staff for another 25 patients.

Mr. Denk inquired about joining with the City on the sewer cost. Mr. Mitchell said that is an open question, which they would need to discuss. He noted that he assumes there would be an assessment process for those living along the route.

Answering Mr. Vinciquerra, Mr. Mitchell said that the state minimum reimbursement is \$206 per day for a Medicaid patient. He noted that occupational therapy is provided, noting that ancillary services are tacked on.

Ms. Laven inquired about the possibility of a second floor. Mr. Mitchell said that all patient care would be on one floor, but there would likely be a lower level for the laundry, kitchen, employee lounge, etc.

Ms. Laven inquired about affordability. Mr. Mitchell said that 90 percent of all patients receive reimbursement from the government for their care. For the remaining 10 percent, some is covered by insurance and some is private pay. He said it is predominantly a government reimbursed pay model, which is the reason for the heavy regulation.

Mr. Laux inquired about the cap on beds, and whether beds can be transferred to another facility. Mr. Mitchell said that an older building with an excess number of licensed beds can sell those extra beds to a new facility, and they can convert their double rooms to single rooms.

With regard to sewers, Mayor Potter said that for years there has been discussion about how to get sewers to the intersection to spur some activity and enhance the commercial tax base. The Mayor said he believes a project such as this could be the impetus to start that conversation. He said that he, Mr. Fornaro and Mr. Eckart have had discussions with Lake County Utilities related to bringing sewers to the intersection, and that discussion will continue. Mayor Potter noted that the proposed use would generate minimal traffic and would bring a service to the community.

In the event sewers are extended along Route 306, Mr. Denk inquired if all property owners along that route would have to connect. Mr. Courtney said there is discussion with the county regarding the possibility of running pipe with no connections and no requirement for those property owners to connect; the Health Department will also need to provide input. The master sewer plan will also need to be updated with NOACA; there are a lot of areas along that route that are listed as not expecting sewers for another 20 years.

Mr. Denk inquired about properties being required to tie in for other sewer projects. Mayor Potter noted that those projects were mandated; this project is not mandated. He noted there could be opportunity for property owners to have a connection if they want to tie in; these are questions that are being researched.

Mr. Laux inquired about the timeline. Mr. Mitchell said that the CON (certificate of need) process takes six to nine months to get the beds transferred to a site. He said they would probably be looking to commence construction in 2025. He noted that the situation with the sewer will also determine the timeline. Mr. Mitchell said they have to make some contractual decisions with the seller well before that time. He said they would need to know by the end of this year if this use is desired by the City.

Mr. Lallo advised that the Commission will need to determine whether this is a similar use. He advised that an application for conditional use permit will need to be filed, and they will come before the Commission for a determination of whether it is a similar use. If it is approved as a similar use, then the applicant will be able to formally start the process for putting this facility on the property.

Answering Mr. Denk, Mr. Mitchell said the Hudson facility is known as Heritage of Hudson and is located at 1212 Barlow Road.

Chairman Denk opened the meeting to public comments.

Domenic Grande of 7825 Euclid Chardon Road inquired if this would be a skilled nursing facility. Mr. Mitchell responded affirmatively. Mr. Grande inquired about the ratio of registered nurses and nursing aides. Mr. Mitchell said that information would be provided as part of the application.

Mr. Lallo advised that Chapter 1285 outlines what is needed for a conditional use permit.

Discussion ensued with regard to the Route 6 and 306 intersection. Mr. Denk said that he believes this would be an excellent use of the property. There was discussion regarding parking.

Mr. Vinciguerra inquired if the project would move forward if the sewer cannot be extended. Mr. Mitchell said it most likely would not go forward without a sewer. He said that Heather Hill has its own system and it has well water; he said it is problematic and very costly to operate.

Mr. Denk said the Commission would welcome the opportunity to discuss some of the regulations in more detail. Mr. Mitchell said they will start the application process once they have completed their due diligence.

Marc Koplow, K & K Barn Sales – Application for Conditional Use Permit for Continuation of Accessory Building Sales at 8202 Euclid Chardon Road

Marc Koplow of K & K Barn Sales was present in this regard. Mr. Denk noted there are a lot of buildings currently on the property. Mr. Koplow noted that some buildings are ordered and delivered without coming onto the lot. He noted that fall is the biggest season, so they are building up for fall. He said the sales are seasonal, noting that sales have been a little slower this year because of material costs. He said new buildings are brought in and others are taken out, and they are rearranged on the lot. Mr. Koplow said approximately 40 percent of their sales are off the lot; many of their customers are in Kirtland, Mentor and Chesterland.

Answering Mr. Laux, Mr. Koplow said he signed a lease for one year for the property, and it is continuing. If the property sells, he would have 60 days to vacate, and the buildings would be absorbed onto other lots.

Mr. Laux noted that the use does not generate much tax revenue for Kirtland. Mr. Koplow said they have \$800,000 in gross sales each year; he noted there are three part-time employees besides himself.

Chairman Denk opened the meeting to public comment. There were no public comments, and the public portion of the meeting was closed.

Mr. Vinciguerra moved to approve renewal of the conditional use permit until July 11, 2025, with the same conditions prescribed in items (a) through (j) of the original permit approval on April 10, 2017. Mr. DeMarco provided the second. Upon roll call vote, the motion passed 5-0 (Ayes – DeMarco, Laux, Laven, Vinciguerra and Denk; Nays – None).

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

WORK SESSION:

Communications and Bills

1. City Council Meeting Minutes – June 5, 2023 Work Session and Council Meeting; and June 20, 2023 Work Session and Council Meeting.
2. Zoning Permits Report – June 1, 2023 to June 30, 2023.

Old Business:

Review of Zoning Ordinances – Chapter 1275 (HTC District)

Chairman Denk reviewed the memo dated May 23, 2023 that was sent to City Council regarding possible amendments to the zoning ordinances.

With regard to the conceptual presentation earlier this evening, Mr. Denk noted that nursing homes are not permitted by right in any district and are a conditional use permit only in the R-5 multi-family district. Mr. Lallo noted that the only property in the city zoned R-5 is the property where Kirtland Rehabilitation is located.

The Commission reviewed the permitted uses in the HTC District, as listed in Section 1275.03, along with the conditional uses in Section 1275.04. Discussion ensued regarding Section 1275.03(g) and Section 1275.04(h) relating to any other use determined by the Planning and Zoning Commission to be a similar use. There was also discussion regarding the language in 1275.03(a) “including, but not limited to.” Mr. Vinciguerra noted that by listing specific permitted uses, they are limited to those listed. Mr. Lallo noted that exclusion of specific businesses could be subject to litigation. In discussion, it was suggested that the language in 1275.03(a) be amended to strike “but not limited to.” It was noted that the Commission can make a comprehensive list of permitted retail goods and services entirely within enclosed buildings, and include any use deemed similar by the Planning and Zoning Commission and approved as a conditional use permit pursuant to Chapter 1285.

Mr. Lallo noted that the same list of retail goods and services is also included in Section 1273.04 conditional uses in Institutional and Office Districts. The list is also referenced in Section 1277.03 permitted uses in Retail Business Districts. Mr. Lallo suggested creating the list in the Retail Business District, and referencing that list in the Historic Town Center and in the conditional uses in the Institutional and Office District. Mr. Denk noted that it should be a numbered list, rather than the current bullet points. Discussion ensued regarding permitted and conditional uses in each of the business districts. Mr. Loconti said he can provide the Commission with a list of all the businesses in the City.

Mr. Denk inquired about Section 1275.09 relating to landscaping. Mr. Lallo suggested that a paragraph be added to cross-reference the landscape regulations to Chapter 1284.

Following lengthy discussion, Mr. Lallo said he will put together a draft of the amendments to the language and the reorganizing and cross-referencing of uses; he will also include the cross-references for landscape requirements. The Commission members agreed to review the list of retail uses to determine if any additions or deletions should be made.

New Business:

None.

Adjournment

There was no further business before the Commission, and Mr. DeMarco moved to adjourn. Mr. Laux provided the second, and the motion passed upon unanimous vote. The meeting adjourned at 9:47 p.m.

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CHAIRMAN

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SECRETARY