

**MINUTES OF A REGULAR MEETING
OF THE PLANNING COMMISSION
CITY OF INDEPENDENCE, OHIO
Held in the Council Chambers at City Hall**

7:00 P.M., MAY 1, 2007

Chairman Lytkowski called the meeting to order at 7:43 p.m., May 1, 2007 and the following responded to Roll Call:

PRESENT: Dale Lytkowski, Chairman
Fred P. Ramos, Mayor
Gregory Kurtz, Vice Mayor – returned at 7:46 p.m.
Jack Shallcross
Tom Narduzzi

OTHERS

PRESENT: Gregory J. O'Brien, Law Director
Don Elewski, City Engineer
Ron White, Economic Development
Jeff Markley, City Planner

AGENDA:

Old Business:

Approval of Minutes of Regular Planning Commission Meeting held on April 3, 2007.

Old Business:

- 1. St. Maron's Church** – Approval for Special U-3 Permit to operate a church and community center on the property located 7800 Brookside Road.
- 2. Acorn Drive, PPN 562-29-057** – Final site plan approval for 10,000 sq. ft. medical building and lot split and consolidation of property to accommodate building.
- 3. Chapter 1143A, Section 1141.021 of Codified Ordinances** – Approval of Ordinance amending the Zoning Code to create a senior citizen residential development district in a certain designated are of the City.

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New Business:

- 4. 6303 Granger & 6415 Granger Road, PPN 561-02-004, 013 & 027 –**
Proposed lot split and consolidation of property.
- 5. 6957 Brecksville Road & 7211 Cherry Street, PPN 564-01-016 & 018 -**
proposed lot split and consolidation of property.
- 6. 6990 Brecksville Road, PPN 563-06-002, 141 & 142 –** Lot split and
consolidation to create four parcels.

Chairman Lytkowski asked for the approval of the minutes of the Regular Planning Commission meeting of April 3 2007.

A motion was made by Jack Shallcross, seconded by Tom Narduzzi, to approve the minutes of the Regular Planning Commission meeting of April 3, 2007.

**ROLL CALL: Yeas: Shallcross, Narduzzi, Ramos, Lytkowski
Nays: None
MOTION CARRIED**

Acorn Drive, PPN 562-29-057 – Architect Bill Davison and owner Dan Glicksman stated that they were before the Commission last month and made some changes to the plan. They have increased the building to a little over 10,008 square feet. They have also provided a landscape buffering as you enter the front. They are also doing some land banked parking that was suggested by Planning. They have received Architectural Board approval on the building. Chairman Lytkowski asked the City Engineer if he had looked at it from a water standpoint. The Engineer asked if these were the final plans. Mr. Davison stated that he still has to submit drainage plans. Mr. Davison stated that they are looking for final approval, and they are before the Commission for the lot split. The Chairman stated that the lot split is not a problem because they talked about it at the last meeting. There are some questions about the final site plan. The Chairman also thought there were questions about land banking some parking. The Chairman stated that at the last meeting they talked about making the building a little bigger and moving the footprint a little to the east.

Mr. Narduzzi asked if the building had been increased to 10,000 square feet. Mr. Davison stated that it had been increased. The Law Director asked the applicant how they will dispose of the materials from dialysis. Mr. Dan Glicksman stated that they hire a company to take the waste away. They are regulated to dispose of the waste. The Law Director asked if they received a certificate from the State of Ohio. Mr. Glicksman said they had.

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Chairman Lytkowski asked if the applicant needed licenses for this type of facility – perhaps a Certificates of Need from the State. Mr. Glicksman stated that he did not need a Certificate of Need. He needed to get Medicare certified. Mr. Glicksman stated that in order to get Medicare certified they would need to have the building already built, they have to do dialysis on a patient and then they receive certification. The Chairman asked if the Commission approves the project before they get certified. Law Director O'Brien stated that they won't be able to operate without the certification. They will have to do a test run.

Law Director O'Brien asked if the applicant was splitting and consolidating for the back of the building. Mr. Davison stated that they are splitting off the property (inaudible). Mr. Frank Previt stated that they are splitting 1.5 acre off the western end with a 4.5 acre parcel on Acorn.

The Chairman asked if the applicant was looking for final site plan approval. The City Engineer stated that he can't give final site plan approval without looking at a drainage plan. The Commission can make it subject to that. Mr. Narduzzi asked if there was a drawing of the building. Mr. Davison produced a rendering of the proposed building. The Mayor asked if they had an opportunity to incorporate more landscaping on the site. Mr. Davison showed where they land banked parking and did some mounding with trees. The Mayor asked about the signage. Mr. Davison stated that right now they are not presenting the signage. It will be a minimal sign on the building. The Law Director stated that if they are going to split the lot up, they will be allowed a ground sign up to 5 feet in height and allowed a sign on the building. Anything else other than directional signs, they could request variances. The Chairman asked if they were going to have a sign on Rockside. The Law Director stated that they don't have any property on Rockside unless they convince someone to allow them to go on a sign, which means they will have to come back for a variance anyway. The Mayor asked the total height of the building. Mr. Davison stated that it would be approximately 18 feet.

Vice Mayor Kurtz stated that by way of history this relates to the applicant's project to the extent that there is a bigger picture and a greater opportunity for the City of Independence. It relates in part to this property. More importantly, Mr. Lombardo and his family over the years have been very generous in donating right-of-way for a number of roads and projects spanning the past 30 or 40 years. It is Mr. Lombardo's family that helped create the opportunity for potential of the I-480 interchange, and it was Mr. Lombardo's family that helped develop a number of buildings in this area over the years. The applicant is now seeking to have the City sub-divide some of the property so that this building can be built. The Vice Mayor would like to look at a long term approach to this property, and the opportunities for the City of Independence well beyond the next several

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decades. The Vice Mayor stated that he has worked with Mr. Lombardo for a long time, and in many respects, this potential of taking Acorn Drive and extending it onto I-77 has been both reviewed and discussed with various State agencies. For a long time it even received much traction. At one of the most recent meetings of the I-77 corridor project, the expanded road third lane project that is proposed, and the barrier walls that are proposed, he had the opportunity to meet with the ODOT engineer. He extended the City's original idea of taking Acorn and extending it onto I-77. The log jam was that they were always trying to extend the ramp from Rockside. What was suggested was that the City re-classify that as a marginal road. Re-classify the ramp onto to I-77 from Rockside going south as a marginal road, and as it gets past Acorn and approaches Chestnut, it would then become a ramp onto to 77 southbound. The benefit of that to the City is right now the log jam they have is that if you are on the west side of I-77, the traffic is log jammed at West Creek. Between West Creek and I-77 is where all the traffic backs up. Even with the new proposed project, it is not going to eliminate that problem. What this does, by extending Acorn Drive onto I-77 in the form of a marginal road, it allows them to take all of the traffic that is west of 77, there is a proposed major multi-million dollar development in Seven Hills that will be incorporated into this. The property north of Rockside would be incorporated. It is a form of regionalization that would be dealing with Seven Hills, Brooklyn Heights and Independence.

What the Vice Mayor is suggesting tonight is that as part of this lot split and approval, Mr. Lombardo would agree to donate right-of-way that would accommodate and accomplish the potential for an Acorn Drive extension that will then go into a marginal road that would then go into a ramp on I-77 for southbound traffic. It would not only complement the existing property, but also put up infrastructure for future property to the east. The Vice Mayor is not asking Mr. Lombardo to pay for that, he is asking if he will consider as part of this process to donate the right-of-way necessary. What the City would then do, if you look at the Planning Commission's Charter, the Planning Commission has the ability to plan and design public roadways and right-of-ways. Then what the Vice Mayor would propose is that the City receive proposals to do a study. He met with the deputy director of ODOT. The City has to perform the study. The study then has to meet all the criteria of the State of Ohio and Federal government before it becomes a reality. These projects aren't done overnight.

What the Vice Mayor is suggesting is whether Mr. Lombardo would consider as a part of the approval process to donate any right-of-way necessary to build this Acorn Drive extension. There would be a number of benefits to the landowner and the City of Independence and to the region of Seven Hills and Brooklyn Heights and anyone else that would eventually build and participate in this area.

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The Vice Mayor is asking Mr. Lombardo if with what he controls, would he be willing to participate. Mr. Lombardo stated that he thinks that the road that runs across L& M (inaudible). They have a plan that shows that extending to 77. Vice Mayor Kurtz stated that this approval doesn't interfere or disrupt anything of what Mr. Lombardo is planning. Even with the extension, it would not interfere with what the applicant is proposing this evening. Mr. Lombardo stated that the road can be shifted a little (inaudible). The Vice Mayor stated that the first phase of any opportunity is to do a study. The study may present too many obstacles or it may present a number of opportunities. All the Vice Mayor is suggesting is that at this juncture that is clear as part of the record that Mr. Lombardo is willing to donate whatever infrastructure or land needed for future infrastructure that Mr. Lombardo controls today. Whatever he does not control, can be talked about in the future. Mr. Lombardo stated that they do show that going to I-77. The Vice Mayor wants to make sure that on the record before he asks the Planning Commission or the Council or the Mayor's office to pay for a study that the City knows that Mr. Lombardo is on board. The Vice Mayor stated that the benefits greatly outweigh any little movement. The Vice Mayor asked Mr. Lombardo if he would concur and not object to donating right-of-way as part of this approval.

Law Director O'Brien just wants to make sure that the record is clear that in addition to considering this lot split and consolidation, the City would be taking advantage of Mr. Lombardo's donation in the event the City went forward with the marginal road. Mr. Lombardo stated that at this point he believes so. Mr. Lombardo stated that a couple of questions have to be addressed. The Law Director stated that there are a lot of questions. The Law Director stated that Mr. Lombardo knows as a seasoned developer what it takes to build a public road, the amount of square footage on either side; and that the City would ask for that as a donation in the event that the City went forward and constructed some sort of public roadway that connected with I-77. Mr. Lombardo stated that he would like to see how it impacts the acreage that they have left there. The Vice Mayor stated that isn't a yes. The Vice Mayor stated that generally it would be the same terms that Mr. Lombardo's plan has always shown that road being extended. It would be nothing Mr. Lombardo hasn't seen already. The Vice Mayor stated that if Mr. Lombardo is saying that he wants to move the road one way or the other, as part of the final approval, he does not think that's an issue. The Vice Mayor is saying conceptually it is the same thing that Mr. Lombardo has on his plans. Mr. Lombardo stated that the safest statement as this point is that he will commit to L & M's. The (inaudible) parcel is another story. He does not know how that will be impacted. The Vice Mayor stated that Mr. Lombardo only controls L & M anyway. The Vice Mayor asked the Law Director if that was good enough. The Law Director stated that he always looks at it in writing. The

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City can always take it and pay Mr. Lombardo and access the property as well. The Vice Mayor stated Mr. Lombardo is willing to donate it. The Law Director stated that he would have to pay for it back anyways through assessment or something. The Law Director stated that he takes that Mr. Lombardo is saying that he would agree to donate the land necessary to build a public roadway for all the land owned or controlled by him personally and L & M Properties. Mr. Lombardo said “yes”.

The Chairman asked the City Engineer if the only thing he would need is to make this subject to review of the final water sewer lines, etc. The Law Director also stated that it was subject to their certification from the State of Ohio to the Building Department.

Vice Mayor Kurtz stated that normally he would not support a building this small, but considering the bigger picture and opportunities, he will support this.

City Planner Markley asked if the hours of operation would be regulated. Mr. Glicksman stated that they first start at 6:00 a.m. and could go as late as 8:00 p.m. Mr. Markley’s question relates to the lighting and if there would be cut off lights. He wanted to know if the lighting would be more focused on the parking lot and less on all over; and if it was, would be controlled.

Mr. Narduzzi and Mr. Shallcross had no comments with regard to this project. The Mayor stated that he had an opportunity to talk to Frank Previt, one of the persons involved in this, and just to remain consistent, the Mayor will be voting no because even though he certainly welcomes the applicant into Independence as a corporate citizen; he has a concern about the size of the building in this location. He thinks that it would be better on other appropriate sites. The Mayor will be voting no just to remain consistent with his last month’s vote.

A motion was made by Jack Shallcross, seconded by Tom Narduzzi, to approve the final site plan subject to receipt of Certification from the State of Ohio to the Building Department, drainage plans to be reviewed and approved by the City Engineer and donation of the right-of-way for the extension of Acorn Drive to I-77 by the owner Sam Lombardo.

**ROLL CALL: Yeas: Shallcross, Narduzzi, Kurtz, Lytkowski
 Nays: Ramos
 MOTION CARRIED**

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A motion was made by Tom Narduzzi, seconded by Jack Shallcross, to approve the lot split and consolidation for Acorn Drive, subject to receipt of Certification from the State of Ohio to the Building Department, drainage plans to be reviewed and approved by the City Engineer and donation of the right-of-way for the extension of Acorn Drive to I-77 by the owner Sam Lombardo.

**ROLL CALL: Yeas: Narduzzi, Shallcross, Kurtz, Lytkowski
 Nays: Ramos
 MOTION CARRIED**

Chapter 1143A, Section 1141.021 of Codified Ordinances - Law Director O'Brien stated that essentially this Ordinance is presented to the Planning Commission for their review, and he would ask that after he presents some information and Mr. Markley presents some information that the Planning Commission members who haven't had a change to digest this information; take it back and provide him and Mr. Markley any comments over the next thirty days prior to the next meeting. This Ordinance comes to the Commission via Council and the Senior Coalition members. This deals with land essentially behind Concordia Lutheran Church and other pieces of property. It is designed to be an aged restricted, single-family residential district. The code that the Commission has and the overlay has certain restrictions that are designated and pertinent to age restricted types of facilities. This by no means should be considered as a final version. The senior issue has been with the City for quite some time. This does not involve any multi-family congregate attached or cluster type of housing. This is single family and certainly within the prevue of Council and the Planning Commission. Eventually it is a goal of the Senior Coalition to present it to Council and have Council vote on the overlay district. The Law Director will turn it over to City Planner Markley for some additional information.

Mr. Markley passed out drawings to the Commission of conceptual houses. These plans are conceptual in nature. They took a boundary line which has been presented over the years and adopted that boundary line; and within those parameters defined what they thought was a buildable lot with specific dimensions and square footage which is tied to the Ordinance which is between 1,000 and 1,500 square feet of building. Also, it shows the appropriate lot they would fit. They then started to lay out that plan. There are two illustrations. One shows the yield plan. This is the maximum density that one might be able to put on under zoning. Please recognize that this Ordinance has a 30% minimum, 30% required open space. It allows for a fairly high density of 6 units per acre. You could not get 6 units an acre on this plan. This yield plan is also a reflection of maximum, but by no means is it the plan Mr. Markley would recommend for this particular site. It just shows total density.

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Mr. Markley referred to his drawing with images of potential single family detached homes. This is not the architectural style for Independence; it is simply just a reflection of what could be built if they move forward. These have a footprint of between 1,000 and 1,500 square feet. Mr. Markley referred to the locator map. That reflects the boundaries as well as parcels that would also need to be applied. Lastly, Mr. Markley referred to a typical lot plan. Again, some parameters had to be put in place in order to create a yield plan. They went ahead and created a lot based on the footprint of the building. The setbacks are flexible, the distance between units, all of that stuff will have to be refined in Planning Commission meetings. This gives everyone a place to start from to conceptualize how an age appropriate housing project fit on this particular parcel. Mr. Markley referred to the yield plan – the maximum density. It has 31 acres of open space. It shows 117 units with 4.3 units per acre.

Mr. Markley referred to a more open space concept. Mr. Markley showed a 41% open space plan with 96 units. In this concept they tried to link a lot more open space together. One of the main boundaries that won't change is the ridge line along the National Park. If you look to due east of the project, that boundary is firm, and they will not want to encroach on that boundary line at all. This plan also shows the connection to Route 21. This is on City owned land. This plan is conceptual in nature. There can be debate, they can add lots or remove lots. Mr. Markley wanted to show how a development could occur on this property.

Mr. Narduzzi asked how much land does the City own already. Mr. Markley stated that the City owns the strip from 21 behind the Old Town Hall straight back to the darker brick colored patch. Chairman Lytkowski asked how the other land can be acquired. Mr. Markley stated that this is something for City Council and the Mayor to work through. Chairman Lytkowski asked if there was a price for the other land. The Mayor stated that they have an appraisal for the Concordia portion. Chairman Lytkowski asked how many square foot the units would be. Mr. Markley stated that they are between 1,000 and 1,500 square feet. Chairman Lytkowski asked about the suggested selling price. Mr. Markley stated that market rates in the area are from \$170k's up into the \$225k to \$240k. A lot will depend on the price of the land.

Someone asked about the square footage of the Middle School. He wanted to know how much land was at the middle school property compared to land shown. The Mayor stated that he thinks that the Middle School property is about 14 acres. All the land put together on the drawing is about 24 acres. Dr. Aseff asked the Mayor if the City owned the Middle School land. The Mayor replied that they do. Dr. Aseff stated that there would not be a lot of site prep for the Middle School land. You could put senior housing right into the center of town. Mr. Nicaastro stated that this is what they wanted to do in the

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beginning. Dr. Aseff stated that it is the role of leadership to take the City and lead it where it should go. Not let voters go back and forth. Let's build the right plan with the right housing that fits the seniors' needs. It puts them in the City on land that the City owns. Once you fill that area with seniors, then they can look at land somewhere. At the same time, when you look at this as far as producing revenue, he doesn't know how many seniors in Independence are on the Homestead Act; they are not generally paying taxes and also paying 10% less in school taxes. The best place to get the best revenue is putting them on the Middle School property. Look at the other land to develop it in another way for more income for the City.

A resident asked the Mayor if he could state what the appraisal was for the Concordia property. The Mayor stated that he could not say. It would be showing the City's hand as far as their offer price.

Frances Burant stated that she thought that the Middle School property was earmarked for development. Chairman Lytkowski stated that they are still in the planning process and no one really knows yet.

Jim Piteo asked Mr. Markley about the cost of the units. Mr. Markley stated that the cost is just a market rate in this particular area. It is not specifically tied to this property.

Dr. Aseff stated that he sat on the Downtown Redevelopment committee. That project really circles around Mr. Marotta and his shopping center. They are going nowhere. If senior housing is put on the Middle School site, the City has now made the move that they are going to develop the downtown area. With seniors purchasing and so on, it would be up to Mr. Marotta how he wants to develop and enhance the shopping center to gain more revenue. Let's force his hand and utilize the land the City has and take the monies that they would be using for this area and get the sewers fixed, get the water fixed and get everything else done and use the land to the best of the City's ability without having to go out and borrow more funds. Some funds still may need to be borrowed, but it will be less utilizing the land the City has.

A resident stated that she would vote for the senior housing in the old Middle School because there would be services available to the seniors there. There's churches, a coffee shop, a bakery, etc. If the rest of the downtown area was developed, there would be more services. Mr. Markley stated that there is the ability, as part of the downtown redevelopment plan, to provide accessibility into the Stone Road area.

Deborah Niccastro of 8303 Stone Road spoke and wanted to ask the Law Director to answer Dr. Aseff's comment regarding the Middle School property. She wanted to know

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if today Council had the authority to re-zone the Middle School property to adopt this plan that is the single-family, unattached cluster housing on the Middle School property. The Law Director replied “yes”.

John Stoika of 5508 Chestnut Road spoke. He stated that they have talked about the Middle School property for some time. He believes that they don't have the majority of Council to vote for that because they believe they can put that into the business area. The problem is with Rockside Terrace being built in Seven Hills, which is a much larger area than the Middle School property; he doesn't see how businesses can move into a smaller area like that and be supported by the people of Independence. He always believed that the Middle School plan was the break point. He doesn't see how this area can be called the downtown area of Independence and be viable for people coming in and supporting businesses in that area. He does not see how it can ever be viable. He thinks that the Middle School property would be the best bet, but he would take what they can get.

Law Director stated that Jeff put this plan together for this site, but the Ordinance before the Planning Commission which will eventually be voted on by Council is an overlay. If Council's passes the overlay, they can apply that overlay to the Middle School or this site because it meets the purpose and intent set forth in the preamble of the Ordinance because it is in downtown close to churches, the main travel lines, etc. Just because that is up there, this land is not going to be re-zoned if Council passes the Ordinance. It is just used for illustrative purposes. The Law Director stated that overlay is as long as it meets the purpose and intent of the Ordinance; he would not say that the overlay would not meet the purpose and intent if you tried to put the overlay over on Hillside.

Chairman Lytkowski asked what the Law Director is expecting today from the Planning Commission. The Law Director replied “nothing”. Chairman Lytkowski wanted the Law Director to state for the record what options the Planning Commission has with respect to the proposed zoning to the overlay district and to the Ordinance. The Vice Mayor asked the Law Director if he could attach the Ordinance to the proposed revised draft provision. He wanted to make sure all of Council gets a copy of it because what is going to happen is that they do not have the information that they needed. The Vice Mayor needs to have all the information to be tied together. The Law Director stated that the Ordinance 2007-23 is not going to change. It is the exhibit that is going to change. The Vice Mayor stated that the Law Director is asking everyone to act on the Ordinance.

Chairman Lytkowski stated that with respect to Chapter 1143A, Section 1141.02 of the Codified Ordinance to create a senior citizen residential development district, he would like to know the options that the Planning Commission has. The Law Director stated that the Planning Commission can review the proposed Chapter 1143A and Chapter

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1141.02(1) and make recommended changes and send the recommended changed Codified Ordinances to the Council with a recommendation of passage; it could review the Codified Ordinances and not make any recommendation to Council and decide to take a pass; it could send the proposed Codified Ordinances with a recommendation not to pass them. The Chairman asked if they make no recommendation, in other words, the Planning Commission does not take any action with respect to this Ordinance, what happens at Council. The Law Director stated that no recommendation or recommendation not to pass would require Council to pass the Codified Ordinances by a super majority vote, that means 5 or better Council people. A recommendation by the Planning Commission for passage of the Codified Ordinance, that Codified Ordinance if voted on by Council, would only need a 4 vote for passage. The Chairman asked the Law Director if tonight he doesn't want any action taken. The Law Director stated that he is going to clarify what the Vice Mayor has said because he has agreed that there may be confusion as to what to review. He will send them by e-mail because they are on Revision 3 of the Codified Ordinances. He will ask that the Commission review, but they will be working on them throughout the month, so as the Commission is making recommended changes, they will be making recommended changes. The Law Director will try to get those changes back to the Commission and Council as any substantial changes are made and continue to document them by Revision 4,5, etc. with the attached Ordinance 2007-23; leading the Commission back here in June where the Commission can come and provide any recommended changes and/or additional comment. At that point they can decide as a Board what they want to do; if they want to continue the process or make a vote or not make a vote.

The Chairman asked why the Commission had the Ordinance as opposed to going to a vote to the citizens of the Independence. The Law Director stated that there never was an Ordinance before Planning in the 21 years of their file of any Ordinance that solely deals with single family housing district. You have always had an Ordinance that had a multi-family attached feature to it, which would require a vote per the Charter. This is the first time that the Law Director is aware of where the Commission has been presented with a proposed Ordinance that deals with just a single family, albeit age restricted, situation which would not require a vote of the citizens. It does not preclude it, which they saw a few years ago with the sidewalk issue. Chairman Lytkowski asked if there have ever been any lots this small previously proposed. The Law Director stated "no". He is not aware of any lots that small. The lots would be less than a ¼ acre. Chairman Lytkowski stated that there is a 10 foot variance between the units. The Law Director stated that they would be close. Mr. Markley stated that this is merely a concept. The width could go to whatever you want; however, you would chew up the land. That is the key thing. They are still trying to maintain 30% open space minimum.

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Mr. Narduzzi asked why just one resident had to be 55 years of age for the senior housing. What would stop a 55 year old man marrying a 24 year old girl and having four kids? The Law Director stated that they are mirroring the Fair Housing Act, and they only require one occupant to be 55 or older. The Law Director stated that this comment has come up in another Public Hearing. The Law Director stated that it also came up if in fact children can be restricted. The Law Director thinks that you can. They have to research this. Children could be restricted. The Vice Mayor asked how it can be restricted. The Law Director stated that it could be restricted to occupancy. There could be an 85 year old father and a 55 year old daughter who could live there. Currently, the way it is written now, it can be done. Jeff Markley stated that it could be done through a deed restriction. The Vice Mayor asks what happens when they sell the unit. That could be done by deed restriction.

Mr. Nicastro asked if there was going to be a Public Hearing on this. Law Director O'Brien stated not before the next meeting. Council said that they wanted to make sure the entire Ordinance was substantially complete before they have a Public Hearing. Mr. Nicastro stated that he is sitting here listening to everyone talking, and the Commission is looking for reasons why they don't want this to go. The City is putting roadblocks in everything the seniors do. Mr. Nicastro asked the Commission if they are for senior housing. What other information could the Commission possibly want to say no or yes. This is the first time Mr. Nicastro heard the Chairman ask the Law Director what would happen if they turned something down. When somebody brings a subject up like that, they are not in favor of it. Chairman Lytkowski stated that he has voted for every senior housing issue as long as he has been a resident. The Chairman thinks it is wrong to circumvent the democratic process without bringing this up to a vote. Mr. Nicastro asked the Law Director if they are doing something illegal with this Ordinance. The Law Director stated that this is a major subdivision that you are zoning. Are there issues from a smaller lot size? It is going to be age restricted, beyond that it is no different than any other major subdivision. To hear that somehow the City is circumventing the Charter is ridiculous. The Law Director has issues with smaller lots for zoning purposes. He has some issues with this plan. If Council wants to ask his opinion, he will give them an opinion. This has nothing to do with senior housing, and everything to do with zoning and what it turns into after 40 years if not done correctly is another issue. He has talked to a couple of members on Council about that.

Mr. Nicastro stated that the Chairman has a lot of influence in town. When he goes around and tells people that the seniors are circumventing it, he is being dishonest. The Chairman stated that he would further suggest that it is the Law Director's opinion, which he respects, but in the Chairman's opinion; an issue which is this sensitive should be decided by the citizens of Independence. The Chairman stated that he has talked to a

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dozen or so people, and each one has said that this should be brought for a vote of the citizens. The Commission's job, in his opinion, they have a fiduciary responsibility to the entire community. The Chairman really believes that this type of issue is so sensitive and so important, the people of Independence should have a right to say yeah or nay. Mr. Nicastro stated that there were a lot of people against the podiatry school. There were people against the bereavement center right in the middle of residential property. There were some people that didn't want the Cavs' facility here. There was not a vote of the people taken on that. If the Commission is going to relinquish its responsibility to vote on something like this, then he wants to be able to vote on everything the Commission talks about up there when they want to re-zone something else. He wants everything to go to a vote of the people. The Chairman stated that the last vote they had regarding senior housing, the Commission voted to put it on the ballot. The Chairman stated that he likes senior housing. He is not opposed to the idea; he is saying that they should let the citizens decide. Mr. Nicastro asked the Chairman why he didn't like this idea. The Chairman stated that the citizens should decide. The Chairman stated that it is very difficult to take the Cavs' training facility and equate that to senior housing. It is difficult to equate the podiatry school to senior housing. Mr. Nicastro stated that he wants the same options that they gave the Cavs. The City bought the property and leased it back to them. The City will get their money back, and in 25 years get the thing back. Mr. Nicastro wants the same thing for senior housing. Vice Mayor Kurtz stated that whoever says you can relate the Cavs' issue to this issue, it is apples and oranges. Mr. Nicastro stated that you can use the same procedure. Vice Mayor Kurtz stated that you are talking about different issues completely. The Vice Mayor stated that if the residents are going to have to vote on senior housing every time, then they should vote on every re-zoning that takes place. The difference is in 1982 people voted to amend the Charter that said any multi-family goes before the people. In 1991, 92 or 93, that issue mandatory referral was put on the ballot, and the people did have a choice and they voted it down 2 to 1. The Vice Mayor stated that what Mr. Nicastro is saying is correct. He can get a petition and take it to the people, and have it go on the ballot and the people will decide the issue again. The people did have a choice on doing that type of restricted re-zoning. The people have a choice with multi-family. Mr. Nicastro stated that they voted down multi-family. The Vice Mayor is talking about all re-zoning going to the vote of the people. It was already voted on by the people, and they turned it down. If this continues, when you guys have a difficult decision to make, and you don't want to make it; there are two things you can do. Both the Chairman and Vice Mayor stated that the issue was complex. Mr. Nicastro stated that they are talking about bungalows versus big buildings! How difficult can that be! Mr. Nicastro stated that everyone in town that he talks to is for senior housing, but . . . Mr. Nicastro stated that it is beyond him.

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Chairman Lytkowski stated that the Commission will take no action, and this will be back on the Agenda next month. In the meantime, the Law Director will give them the correct documentation.

6303 Granger & 6415 Granger Road - Vice Mayor Kurtz stated that he will be abstaining from this matter. No one was in attendance with regard to this matter.

6957 Brecksville Road & 7211 Cherry Street – Jane Roscoe was in attendance. She stated that for 17 years she owned the property on Brecksville, and she lives on Cherry Street. At one time it was only one parcel. She has about 17 feet of the Brecksville Road property for her yard. She has had a fence there for sometime now. She just needs that little bit of extra land, and she would just like to put it in writing now. The Mayor asked Mrs. Roscoe if she owned the Brecksville land also. She does own it. The Vice Mayor asked the City Engineer if there were any utility issues if they create this lot split and Sublot 3 is sold. Are they doing something to compromise Sublot 3? The City Engineer stated “no”. City Engineer Elewski stated that all utilities are going to the front. There is nothing on the side lines. Vice Mayor Kurtz asked if the Commission had to wait 30 days to approve this matter. The Law Director stated that if you are creating a non-conforming lot, you do have to wait 30 days. The Vice Mayor stated that the law says anytime a proposal comes to the Commission with an existing lot; if it is less than 100 x 200 feet, they have a 30 day moratorium before they can approve it. The Vice Mayor does not think there is an objection; they have to follow the law in terms of the time period they have to follow. Chairman Lytkowski asked if Mrs. Roscoe had to return to next month’s meeting. The Law Director stated that someone could present on Mrs. Roscoe’s behalf next month. Then the plat can be signed, and she will be able to file it with the County Recorder.

6990 Brecksville Road, PPN 563-06-002, 563-06-141 & 563-06-142 – Mrs. Elaine Kukawka was in attendance. She stated that originally the property was three pieces, and she is requesting that it be put into four pieces so that they can make it sellable. Mrs. Kukawka stated that Parcel 2 is an existing house on Brecksville Road which is 6974-6976 which is a double house. That is an existing lot. What she is asking for is on Parcel 1 which is actually the address for the entire property is 6990. She would like to take 6990 and cut that in line with the middle of the creek so that she can build a house on that lot. That would be a buildable lot. The Law Director stated that it is a non-conforming lot. The Vice Mayor stated that it is almost 3 foot short of the 100 foot front. Mrs. Kukawka stated that she believes when the surveyor did the split, he took a little bit from Parcel 2 to make it a little wider lot. Mrs. Kukawka stated that the existing house for 6990, the entrance to it would be Parcel 3. She stated that she wanted to make that an

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Archwood frontage. She would like to make Parcel 3 an Archwood address. She would give an easement for ingress and egress, since Archwood is owned by the property she has to the north of it. Mrs. Kukawka stated that the street is connected with the two houses behind the Aamoco. Those two lots will stay as they are. The road belongs to those two houses. That is part of that parcel. She needs to give ingress and egress. The Law Director asked if it was a publicly dedicated road. It is not. Mrs. Kukawka stated that it is owned by the two houses behind the Aamoco station.

The Law Director asked Mrs. Kukawka if she wanted to create Parcel 1, a non-conforming lot, fronting Brecksville; 2 where the current house remains, and then Parcel 3 and a Parcel 4 that has no access onto any publicly dedicated road. Mrs. Kukawka stated that Parcel 4 could be accessed from upper Archwood. The Law Director stated that he needs to be more specific. It is required frontage. He can see where there is access to it; however, the access is limited to a 25 foot drive. Mrs. Kukawka stated that they can do it as a private drive. She is proposing that Parcel 4 be one home only. Mrs. Kukawka stated that there is five acres there. She does not want to subdivide it. The Law Director stated that someone could come in and subdivide it. Mrs. Kukawka stated that she would deed it that it can only be a single residence. Everyone began talking at once. Mrs. Kukawka stated that the access for Parcel 3 would be off of Archwood.

The Law Director stated that from a legal aspect Mrs. Kukawka would have to get a variance for all of the parcels from the Board of Zoning Appeals because she would be creating non-conforming lots. Even though Parcel 4 has potentially 5 acres, it does not have any required frontage on a publicly dedicated roadway. This parcel has major safety issues. The Law Director stated that from a legal standpoint, he is not objectionable to Parcel 1, provided Mrs. Kukawka received all the variances. From a safety issue, Parcel 3 and Parcel 4 have serious legal issues. The City Engineer stated that there is access there. The Law Director stated that he has no doubt you can access any property. He has a problem with the fact that there is a 25 foot strip that you will go on a private driveway to service two potential houses. The Law Director stated that they would have to come in with a plan to put in a publicly dedicated road back there. The Law Director does not know if Eugene Drive is a publicly dedicated stub right there. There is only 25 feet there.

Mr. Mitrisin of Elmerge Drive spoke. There is not only the issue of the street there. The plat does not show his driveway. Basically his driveway would almost have to be taken out. It would not look right. The Vice Mayor asked if Mrs. Kukawka was proposing coming in off of that way. Mrs. Kukawka stated that she is not proposing coming in off of anywhere, she just wants to split the property so she can sell. The Law Director stated that once the City splits and once she is granted a permanent parcel, from a legal

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standpoint, the City has really tied itself. Right now the City has a tremendous amount of discretion, but if they allow it and sub-divide, she has created parcels that if the City does not allow access to; generally speaking, the City would have to purchase that property because someone can't build on it. Right now if the City doesn't grant this lot split, the City is fine legally. The Planning Commission cannot take any action on this matter for 30 days. There are a lot of legal problems with this.

Mrs. Kukawka stated that she does not know the process that is required. When she received this property from her family, they are looking at it to split it for the best possible use. This is why they had it surveyed. There is a bowling alley strip behind her father's house. She wanted to put that strip into the back of the house, and then the rest of it onto the back of the field. Mrs. Kukawka referred to the drawing showing the strip. Mrs. Kukawka stated that it has a separate parcel number which is 563-06-002. 563-06-141 is what incorporates Parcel 1 and 3 and 4 right now. She has two parcels in essence. Discussion was had regarding the plat. Everyone began talking at once.

Chairman Lytkowski asked the City Engineer to work with Mrs. Kukawka to make some sense out of the plan. The City Engineer stated that she could extend the Archwood access to 60 feet. The Chairman would like the Engineer to look at it for next month.

Mrs. Bernstein of 6615 Elmerge spoke. She is interested in knowing if there are any plans for Eugene Road. She stated that her lot is next to Eugene. If there is an access road ever made on Eugene, she would be on a double corner. It is a dangerous intersection. If there is another road, it would be a huge safety issue. The Chairman stated that the Commission is not going to take any action, and the Engineer will try and work something out. Discussion was had about acquiring the land to widen Eugene Road. The Vice Mayor stated that unless those homeowners sell their property, there is no frontage there for a dedicated street. Mrs. Kukawka stated that there is one driveway serving two homes on Brecksville Road.

Chairman Lytkowski stated the Commission is taking no action today. It will be on the Agenda next month.

George Sogor of 6890 Hunting Lane spoke. He is trying to understand what the Commission wants the Engineer to do between now and the next meeting. Vice Mayor Kurtz stated that they need to say what their options are relative to this property, and they can't just approve something unless there is some long term plan. It has to be part of something that makes sense long term to the City. The Engineer has to look at it and apply the City code to it. They have to decide what is in the best interest for the City of Independence for this property realizing that there is an existing house proposed for

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Parcel 3, there is a potential lot for the house on 2, there is a potential buildable lot for 1. There is a vacant piece property. Where is the potential frontage? The Commission is asking Don to give the Commission their options. The Vice Mayor stated that the Law Director has to look at it from a legal standpoint.

City Planner Markley asked if the existing home on Brecksville Road is sacred to Mrs. Kukawka. She wants to keep that home there. Mrs. Kukawka stated that she also has to put in a water line to Parcel 3. Right now her dad's house is connected to the front house.

Chris Iula of 6895 Hunting Lane spoke. He stated that there is a major creek that runs through that property. (Inaudible). Mrs. Kukawka stated that the way she is asking for the property to be split it will protect his property value as well as hers. Mr. Iula stated that there is a problem with flooding.

Mrs. Sogor of 6890 Hunting Lane spoke. She stated that the water system is what the problem is there. There is a man-made creek that comes down from upper Archwood all through the back of the property. Mrs. Sogor stated that they have had problems with water in her backyard. She has had landscapers trying to remediate the problem. She thinks that any homes coming in that area could cause more water. The City Engineer stated that the water would go the other way. The Vice Mayor stated that there are two creeks there. Mrs. Sogor stated that she has had mulch wash away. Her neighbor has standing water. They have severe water problems.

Vice Mayor Kurtz asked the City Engineer what the 20 foot wide easement was on the plat. The City Engineer stated that it was the sanitary sewer that drains that whole western area that comes through there and goes out to 21.

Chairman Lytkowski stated that he wanted to assure the concerned residents that no action will be taken until they thoroughly investigate all options.

The Mayor stated that the people on Rosewood have issues too. The Mayor stated that they will check into the issues from the residents on Hunting Lane. Vice Mayor Kurtz asked the City Engineer if he could tie the back of Hunting Lane into the existing storm. The City Engineer will look at the topo with regard to this.

Chairman Lytkowski tabled this matter until next month.

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There being no further comments or business, a motion was made by Chairman Lytkowski, and approved by the Commission, to adjourn the meeting at 9:35 p.m.

Dale Lytkowski, Chairman

Debi Beal, Planning Commission Clerk
Minutes unapproved at Time Released 5/07/07