MINUTES OF THE BOARD OF ZONING AND BUILDING APPEALS MEETING HELD WEDNESDAY, MARCH 2, 2016, IN COUNCIL CHAMBERS, AVON CITY HALL

The meeting was called to order at 7:00 P.M. by Chairman Randy Fratianne.

Present: Bruce Klingshirn; Mark Ladegaard; Kurt Schatschneider; Randy Fratianne; Pam Fechter, Planning Coordinator; John Gasior, Law Director; Rick Schneider, Zoning Enforcement Officer; Gail Hayden, Acting Secretary

Chauncey Miller arrived after Roll Call during the discussion of "Chris Rozzo Appeal"

MINUTES OF THE REGULAR MEETING – FEBRUARY 3, 2016
A motion was made by Mr. Ladegaard and seconded by Mr. Klingshirn to dispense with the reading of the minutes of the Regular Meeting held on Wednesday, February 3, 2016, and to approve said minutes as published. The vote was: Mr. Klingshirn, "aye"; Mr. Ladegaard, "aye"; Mr. Schatschneider, "aye"; Mr. Fratianne, "aye". The Chairman declared the motion passed.

ADDITIONS/DELETIONS – None

UN-TABLE ANETTE OSTER APPEAL
A motion was made by Mr. Schatschneider and seconded by Mr. Klingshirn to un-table the appeal of Anette Oster, and the vote was: Mr. Klingshirn, "aye"; Mr. Ladegaard, "aye"; Mr. Schatschneider, "aye"; Mr. Fratianne, "aye". The Chairman declared the motion passed.

ANETTE OSTER APPEAL
Anette and Kurt Oster are requesting a variance from 1051.06(a) Structures and Uses Prohibited in Riparian Zones to allow the construction of a new single family home to be located at 3410 Williams Court.

A motion was made by Mr. Schatschneider and seconded by Mr. Ladegaard to re-table the Anette Oster Appeal, at the applicant's request, until the April meeting. The vote was: Mr. Klingshirn, "aye"; Mr. Ladegaard, "aye"; Mr. Schatschneider, "aye"; Mr. Fratianne, "aye". The Chairman declared the motion passed.

UN-TABLE ROBERT SCHULER APPEAL
A motion was made by Mr. Schatschneider and seconded by Mr. Klingshirn to un-table the appeal of Robert Schuler, and the vote was: Mr. Klingshirn, "aye"; Mr. Ladegaard, "aye"; Mr. Schatschneider, "aye"; Mr. Fratianne, "aye". The Chairman declared the motion passed.

ROBERT SCHULER APPEAL
Robert Schuler, 3791 Williams Court, is requesting a variance from 1051.06(a) Structures and Uses Prohibited in Riparian Zones to allow the construction of a new single family home to be located at 3791 Williams Court.

A motion was made by Mr. Schatschneider and seconded by Mr. Klingshirn to re-table the Robert Schuler Appeal, at the applicant's request, until the April meeting. The vote was: Mr.

Klingshirn, “aye”; Mr. Ladegaard, “aye”; Mr. Schatschneider, “aye”; Mr. Fratianne, “aye”. The Chairman declared the motion passed.

Mr. Fratianne stated, for the record, that he was not going to let the meeting go beyond 9:30 P.M. this evening because of prior commitments so if we could get everything in tonight, he would appreciate it with everybody.

CHRIS ROZZO APPEAL

Chris Rozzo, 3640 Nagel Road, is requesting a 414 sq. ft. variance from C.O. 1262.08(a)(2) Maximum Area and Number of Accessory Buildings to allow the construction of a 32x48 ft. pole barn to be located at 3640 Nagel Road.

Mr. Rozzo was sworn in by Law Director John Gasior.

Mr. Rozzo stated that he wants an additional outbuilding for cars and personal landscaping equipment. The building would be located about 25 ft. past the center line of the creek that runs behind his home in a wooded area. In the summer or springtime, it would not be visible to any neighbors at all.

Mr. Fratianne asked if these are the only two structures he is going to have on the property. Mr. Rozzo responded that currently there is a 6 x 8 self-contained structure, basically a plastic shed with an attached floor, and that would be removed. Mr. Fratianne asked Mr. Klingshirn if he had a question and Mr. Klingshirn said that was straightened out. Mr. Fratianne said, so this is the proper variance requirement and Mr. Klingshirn answered, yes, he did not have the other one building that Mr. Schneider had on there and Mr. Schneider said that there is a 16 x 16 pavilion. Mr. Fratiane asked, so that is another structure? That is not the one you were talking about? Mr. Rozzo said that was correct. Mr. Fratianne asked if this was up by the pool and Mr. Rozzo said, yes. Mr. Fratianne noted that in the rear setback area, Mr. Rozzo had room. He asked Mr. Rozzo what that setback off the rear lot line would be, and Mr. Rozzo said that Jill Clements, the Zoning Board Secretary, figured that out and said he had an extra 20 ft. Mr. Schneider said that he did not even figure it in because it did not impact any of the setbacks.

Ms. Fechter stated that she had received a phone call from one of the residents and he asked that his comments be made part of the record. Ms. Fechter then read the following for the record: “Eric Prohbst of 33724 Maple Ridge called on Tuesday, March 1st. Mr. Prohbst was questioning why Mr. Rozzo needed another building and such a big building. He was also asking if trees were going to be cut down for the building. He said he isn’t too concerned as it’s on the northern part of his property and not so close to his house (he lives on the southern end). Mr. Prohbst says he doesn’t understand why the City is bending over backwards for the money people. He says he does not want the king of the hill on his property because he is rich and thinks he can cut the size of the building to follow code.”

Mr. Schatschneider asked Mr. Rozzo if he was going to add landscaping around the building and Mr. Rozzo said, no, actually it is wooded. Mr. Fratianne asked if Mr. Rozzo was removing some trees where the footprint is going to go and Mr. Rozzo answered, not many because the City came through last year or the year before for the ditch cleaning and they basically did all the clearing for him.

Chauncey Miller arrived at the meeting during the above discussion.

A motion was made by Mr. Ladegaard and seconded by Mr. Schatschneider to approve the variance as requested. The vote was: Mr. Klingshirn, "abstain"; Mr. Ladegaard, "aye"; Mr. Miller, "aye"; Mr. Schatschneider, "aye"; Mr. Fratianne, "aye". The Chairman declared the motion passed.

NORTON PLACE SUBDIVISION APPEAL
John Eavenson of Perpetual Development representing Wasilko Trustees, is requesting a 642 ft. variance from C.O. 1246.4(a)(14) Cul De Sac length, a 170 ft. variance from C.O. 1246.06(c) Blocks and a 10 ft. variance from C.O. 1262.04(d) Yard Requirements to allow the construction of a 42 sublot subdivision to be located on the east side of Jaycox Road, North of Detroit Road.

Ms. Fechter stated that, currently on the agenda, we are requesting three variances. We are asking that the 170 ft. variance from C.O. 1246.06(c) Blocks be removed as the developers have satisfied that requirement. We will just be looking for a variance for the Cul de Sac as well as the block on the eastern property line.

Mr. Eavenson was sworn in by Mr. Gasior.

Mr. Eavenson stated that they have had an interest in this piece of land for quite some time and have had different ideas of how they could lay out a subdivision there. Over the course of working with the Administration, they found out some of the things that would help facilitate the City's traffic patterns and one of the primary issues is Middleton Drive where it comes off from Jaycox Road. As shown on their plan, the new connection that they are proposing would continue Middleton to the east, and therein lies the request for the 600 ft. cul-de-sac variance. They are asking for a 600 ft. variance to complete that cul-de-sac and still allow Middleton to end up going to the east where it needs to go.

Ms. Fechter added that we had a conversation in regard to putting a stub street in the middle of that long section. The east property is wetlands, so as opposed to the stub street, we have asked Mr. Eavenson's group to put two full cul-de-sacs at both ends. Originally, they were proposing temporary cul-de-sacs but the Fire Department told us that they needed the full cul-de-sacs for their trucks to move about in the neighborhood. Mr. Eavenson agreed to that and because that property is going directly into wetlands, we removed the stub requirement.

Mr. Eavenson said, also, because of the wetlands, that leads us to the second variance, which is the 10 ft. variance. Because this area is wetlands, there is never going to be anything built behind those homes. They have spoken with the City and they are going to donate a 10 ft. area to the City's right-of-way. In exchange for granting that to the City, they are asking for the City to remove 10 ft. from the rear yards, along the wetland area.

Mr. Fratianne said, so we understand this, the developers are donating some of their land to us for the Jaycox right-of-way. Ms. Fechter said, yes, Jaycox is a collector street. Still, with their development, we have asked for the 10 ft. right-of-way. Without giving us that, they would not need any variances at all for their project. They are giving us a 10 ft. right-of-way, as well as a

bike path along Jaycox Road and have shifted their property. The footprint is no different. In speaking with our Service Director, he would like a block along the back for anytime we have to get back there to do any ditch cleaning, as opposed to an easement.
Mr. Fratianne stated, so really, we are in a "cause and effect" to move his subdivision over 10 ft. and we just need to wiggle this wetland piece on the back of these lots. Mr. Fratianne said he thought that is pretty minor, considering there is nothing going to be in there. Ms. Fechter said, no, and there is a main ditch behind him as well as the wetlands.

Mr. Fratianne said that he noticed that Mr. Eavenson had aligned the roads up and that is nice. It alleviates a lot of things there and keeps those corner lots at their full capacity. Especially on an entrance going into that section, it is a lot nicer than he has seen in the past. He understands why they are doing the block in the back and does not have an objection. His opinion is that it is not changing our precedent on single family subdivisions by creating rear yard set back variances just for the sake of bigger buildings. He does not think this is the case. And Mr. Eavenson is offering the City some concessions to alleviate some of the issues we had too.

Mr. Schatschneider asked how many lots this affected and Mr. Schneider answered, nine. Mr. Schatschneider said, so it does not affect Middleton Drive on either side and Mr. Eavenson answered, no, those are all still typically 50 ft. setbacks. Mr. Schatschneider asked what is proposed for that whole section of property behind the east side of Norton Subdivision; is that whole area all wetlands? Mr. Eavenson said, yes, at this point there is no chance for using that land for development purposes. The Army Corps is going to require them to put a third party easement on it to protect it so nothing will ever be built there.

Mr. Schatschneider asked Mr. Eavenson if he thinks there is going to be a chance for these nine homes coming in for variances to put porches in the backs because the footprint of these houses are 40 ft. off the back but they seem to come in and want to put a 20 x 20 porch on the back; does he forsee any of that happening? Mr. Eavenson said that they are building 70 ft. buildings now; the houses have been typically 55 and 65 ft. so that additional 10 ft. would be the patio.

A motion was made by Mr. Miller and seconded by Mr. Klingshirn to approve the 550 ft. variance requirement for the cul-de-sac length as applied for. The vote was: Mr. Klingshirn, "aye"; Mr. Ladegaard, "aye"; Mr. Miller, "aye"; Mr. Schatschneider, "aye"; Mr. Fratianne, "aye". The Chairman declared the motion passed.

At this point, someone from the audience had a question. He noted that the section of Jaycox Road from Detroit Road down to the highway overpass has no natural gas service and he asked how these homes will be heated. Mr. Eavenson answered that they will be natural gas; they will work with the utility provider to bring gas to the intersection of Jaycox Road and Middleton Drive. The person in the audience then asked if the residents on the west side of Jaycox Road would be able to tap into it and Mr. Eavenson said he could not answer that. Mr. Fratianne suggested that the person talk to the Utilities Department to see if there were plans for that.

A motion was made by Mr. Schatschneider and seconded by Mr. Klingshirn to approve the 10 ft. (rear yard) variance on each of the nine lots. The vote was: Mr. Klingshirn, "aye"; Mr.

Ladegaard, “aye”; Mr. Miller, “aye”; Mr. Schatschneider, “aye”; Mr. Fratianne, “aye”. The Chairman declared the motion passed.

UN-TABLE THE MARKETPLACE AT AVON APPEAL
A motion was made by Mr. Miller and seconded by Mr. Klingshirn to un-table the appeal of The Marketplace at Avon, and the vote was: Mr. Klingshirn, “aye”; Mr. Ladegaard, “aye”; Mr. Miller, “aye”; Mr. Schatschneider, “aye”; Mr. Fratianne, “aye”. The Chairman declared the motion passed.

THE MARKETPLACE AT AVON APPEAL
Stu Friedman of Avon 83, LLC is requesting an 18.6 sq. ft. variance from 1290.05(d)(2) Maximum Sign Area and a 1ft. 7 in. height variance from 1290.07(d) Height of Freestanding Sign to allow a “topper” sign to be added to the existing monument signs located at 35514 Detroit Road and 35676 Detroit Road.

Ms. Fechter stated that everyone has a new packet of information in front of them that was supplied by Mr. Friedman this week.

Mr. Friedman was sworn in by Mr. Gasior.

Mr. Friedman stated that last month it seemed that the primary concern had to do with the height of the signs and what he presented to the Board last month had incorrect measurements. The total height of the sign is 7 ft. 10 inches. The sign itself as it exists today is 7 ft. so really all he is doing is adding 10 inches in height. Not all of the surrounding competition is in the same zoning district as The MarketPlace and they have their development names on them. In order to be competitive with them, The MarketPlace welcomes the opportunity to brand their development.

Mr. Fratianne said, to clarify what his concern was last time, he has no problem with the sign on the west, which is exactly the same sign with maybe a couple inches difference in measurement. The issue that he had about that sign is the fact that not only is it the same sign and it complies fairly close to what we are looking to do, it is on top of a mound. And when we measure these things, you measure a base line height evaluation from the center line. So his concern about the east side sign, was that it was going to be 2 or 3 ft. or whatever the height of that is over the center line more than the sign on the west side. He said that he has looked at them and he understands what Mr. Friedman is trying to do and thinks it is important to let people locate The MarketPlace. He knows why the sign had to be placed where it is - the issue of some of the other owners and some legal issues, and the fact that Mr. Friedman had to move it over to where the Avon Commons sign is. The two of them are basically back to back so it does create some congestion. He does not know what else Mr. Friedman could do with this and have any kind of an effective sign other than what he is proposing; it is probably the minimum that he can do with it. The other thing is that the mixed usage in zoning in there presents a problem and he understands that too. He said that he is not real happy with the height on the one sign but does not think there is anything else Mr. Friedman can do with it. So applying some common sense to it, he thinks Mr. Friedman is fine with what he has going here.

A motion was made by Mr. Ladegaard and seconded by Mr. Klingshirn to approve the square footage variance of 18.6 sq. ft. per sign. The vote was: Mr. Klingshirn, "aye"; Mr. Ladegaard, "aye"; Mr. Miller, "aye"; Mr. Schatschneider, "aye"; Mr. Fratianne, "aye". The Chairman declared the motion passed.

A motion was made by Mr. Miller and seconded by Mr. Klingshirn to approve the 1 ft. 7 in. height variance requirement for both signs. The vote was: Mr. Klingshirn, "aye"; Mr. Ladegaard, "aye"; Mr. Miller, "aye"; Mr. Schatschneider, "aye"; Mr. Fratianne, "aye". The Chairman declared the motion passed.

GET GO APPEAL

George Dragon of Cicogna Electric and Sign Co. representing Get Go is requesting a 107.3 sq. ft. variance from 1290.05(e)(1) Maximum Sign Area to allow additional signage at the new Get Go located at 33501 Just Imagine Drive.

A motion was made by Mr. Ladegaard and seconded by Mr. Klingshirn to table the Get Go Appeal, at the applicant's request, until the April meeting. The vote was: Mr. Klingshirn, "aye"; Mr. Ladegaard, "aye"; Mr. Miller, "aye"; Mr. Schatschneider, "aye"; Mr. Fratianne, "aye". The Chairman declared the motion passed.

AVON 25 REAL ESTATE LLC/AVON 4 REAL ESTATE LLC/PIRHL DEVELOPERS, LLC APPEAL

Anthony R. Vacanti, of Buckingham, Doolittle & Burroughs, LLC representing Avon 25 Real Estate, LLC, Avon 4 Real Estate, LLC and Pirhl Developers, LLC is appealing the January 18, 2016, decision of the Planning Coordinator and the Planning Commission Chair to remove items from the Planning Commission agenda of January 20, 2016, due to insufficient information.

Mr. Vacanti and Mr. Marc Strauss of Avon 25 Real Estate, LLC, were sworn in by Mr. Gasior.

Mr. Vacanti stated that this is not a variance request; this is an appeal of the Planning Coordinator and the Planning Commission Chair's interpretation of the Zoning Code. He said they are not at this meeting asking the Board to get involved in determining whether the general development plan is appropriate or the final development plan is appropriate (and that has not been submitted yet; that is one of the concerns here.) They are just asking that the Board review the interpretation of the Zoning Code because they feel that it is in error.

Mr. Vacanti said that in December, 2015, Avon 25 Real Estate, Avon 4 Real Estate, and Pirhl Developers had submitted a general development plan with the Planning Commission, and this is an appeal of a January 18, 2016, letter from the Planning Coordinator and the Planning Commission Chair, interpreting some provisions of the Zoning Code. Under the Codified Ordinances, they have to appeal in order to preserve their rights; they disagree with that interpretation.

Mr. Vacanti handed out a packet of information and explained it to the Board. He stated that the general development plan and the issue here involves the properties shown under Tab A. Avon 25 owns the property identified as A, and Avon 4 is under contract to purchase the property

identified as B. Tab B is the appeal letter outlining their position on the interpretation of the Zoning Code. Tab C is the January 18, 2016, decision by the Planning Coordinator and Planning Commission Chair, rendering a couple interpretations under the Zoning Code and indicating that the Planning Commission is going to table and hold in abeyance hearing the general development plan application. Tab D is Ordinance No. 104-04, an amendment to the Special Use Permit issued in June and this is dated September, 2014, and it concerns the subject properties (excluding Property B, which was not under contract yet). Tab E is Ordinance No. 146-15, enacting a Special Use Permit for the property identified as B. Tabs F and G contain the two relevant provisions of the Zoning code that they take issue with the interpretation of.

Mr. Vacanti continued by saying, they are on appeal here of the Planning Commission's January 18th decision concerning the interpretation of the Zoning Code as to two particular matters and two Sections: Section 1230.09 and 1228.02. There are two issues that they take issue with. The January 18th letter states in the second paragraph that the Special Use Permit granted on June 9, 2014, and amended in September, has expired because no final development plan has been approved within one year of that date (that it was granted) and no construction has begun. That is the first determination that they are requesting this Board to review because they feel that it is in error.

Mr. Fratianne asked what makes him feel that it is in error? Mr. Vacanti responded, a couple of items. With regard to the property, this was a blanket Special Use Permit that was issued for these properties (Tab D). It was issued in June and amended in September. Construction began by September, 2015 as Mr. Strauss will testify to, construction with regard to Rose Congregate Care facilities, which was the first aspect of this total congregate care development. Another aspect of construction that had started within one year as part of the overall plan, was a road on the Avon 25 property. As Mr. Strauss will testify to, construction had commenced in furtherance of the congregate care use within one year of the issuance of that Special Use Permit.

Mr. Fratianne said he thought they were talking about the two parcels, A and B. Mr. Vacanti said that was correct and they are included as part of the Special Use Permit. It was a blanket permit and that is why they are shown on here. Mr. Schatschneider asked if Mr. Strauss owned the land at the time and Mr. Vicanti said he believed that Avon 25 was under contract at the time the Special Use Permit was granted and Mr. Strauss said that was correct. Mr. Vacanti then asked Mr. Strauss, and in reliance on the granting of the Special Use Permit, you closed that transaction and acquired that property? Mr. Strauss said that was correct. Mr. Schatschneider said, so you had those properties prior to the original request for a Special Use, and you have those dates. Mr. Vacanti stated that they were under contract and a Special Use was granted to Avon 25, LLC and this is shown in September, 2014. Mr. Fratianne asked, so you sold this other part? Somebody else owns this now? Mr. Vacanti responded that after the Special Use was issued, the Rose Congregate Care facility which was the first phase of this, was conveyed from Avon 25 to the entity that owned the Rose Congregate Care facility.

Mr. Strauss said that was partially correct. What happened was in May of 2014, he received a Special Use Permit on 47 acres of land that he had under contract with the Jacobs Group and that went into effect in June of 2014. In August and September of 2014, he and Edward Rose & Sons, came in to amend his original Special Use. The Special Use was divided and part of the

land that Rose intended to acquire was granted to them and part of the land that he was going to have the remainder of was granted to him as an amendment in September of 2014. The Special Use has to come in with a final development plan; a Special Use cannot be issued without a final development plan. Both he and Rose went before the Planning Commission in August of 2014 with a final development plan. Avon 25's final development plan was for the construction of Rose Parkway and roadway. Rose's final development plan was a final and a general – a final for their existing building which is under construction now, a 177-unit independent, assisted, and memory care facility, and a general development plan was approved for 76 town home units. The issue under the Section that Mr. Vacanti is referring to is with regard to the Special Use's expiration; all it says is that a final development plan must be submitted and approved. It does not say that the final development plan has to be a building, or a structure. All it has to do is be defined as a final development plan. There are three factors, and there is an "or" in the Special Use section. It expires within one year, if, 1.) a final development plan has not been approved. 2.) foundations and structures have not been constructed, or 3.) conditions are put on that Special Use. He said their position before the Board this evening is that they have satisfied two of the prongs of a Special Use being indefinite: he has the final development plan awarded to his company, Avon 25 Real Estate, LLC in September of 2014, and construction has begun. Construction actually began on Rose Parkway in March of 2015.

Mr. Fratianne stated, you got a Special Use on the whole property. Mr. Strauss said, and that is another reason that it got amended. The original was for 47 acres; the first Special Use for the entire parcel that he had under contract was for 52 acres. Mr. Fratianne asked, then when did he transfer the ownership? Mr. Strauss answered that he transferred the ownership of part of the 52 acres. In round numbers 32 acres of the 52 was transferred on the same day that he purchased the 52. So he purchased 52 acres on December 30 in the morning and then in the afternoon of that same day, he split off and sold 32 of the 52 acres but the original Special Use was over the whole 52.

Mr. Fratianne asked when that date was and Mr. Strauss responded, December 30, 2014. Mr. Fratianne said, so you no longer had ownership in the property where the construction is now. On the remaining part that you still own, what have you done to act on the Special Use? You are saying that you that you initiated something. Mr. Strauss said, yes, he did, and it is the final development plan signed by the Planning Commission Chair and the City Engineer and which was approved and a development agreement was entered into with the City and they have begun the construction of Rose Parkway on land that Avon 25 owns. That is the beginning of the development of the property that he owns. Mr. Vacanti then asked Mr. Strauss, if the intent for that roadway was not only to serve Rose Congregate Care facility but also the rest of the development once he went through with the other site plans, and Mr. Strauss answered, yes, and when the project was originally planned and went before Planning Commission, the reason it went from 47 acres to 52 acres was because Mr. Piazza would not allow him to develop his 19 acres by going through the Rose development with his roads or having access. Mr. Piazza was going to say that when he transferred the property, technically his property was landlocked in that he could not use a private road to access his property. So he had to buy an additional 5 acres from Jacobs so that he could have access to his property. It cost him more money because now he had to put in a $700,000 road to access his property when initially his agreement was that he could access his property through the Rose facility. And, as he mentioned, it says "Final

Development Plan, Avon 25 Real Estate, LLC" and it is dated September, 2014, which is within the same time frame of when his Special Use Permit was amended.

Ms. Fechter asked Mr. Strauss when he had the additional acreage to get to the 52? She does not show the 52; she shows 47.066 acres on June of 2014, Special Use Permit for Avon 25, and then the lot split of 30.0043 for Rose and 17.13 for Avon 25. Mr. Strauss said, you have to look at the amended Special Use for Rose and Strauss. The amended Special Use expanded the original and changed the acreage of the two parcels. Mr. Vacanti noted that the amended Special Use is Ordinance No. 104-14 and that was done in September 2014. Mr. Strauss added, and to the point also, Ms. Fechter's letter does not even address the amendment in September. She said it expired because of the fact that the June Special Use Permit was no longer in effect. Well, the June one was amended in September and the plans were approved within a week after. Council signed the Special Use on September 8. That is when it went to Council but Planning Commission approved it and the City Engineer approved it at the meeting on September 2 and then subsequent to that, all the construction began in the first week in January 2015 and the road construction began in March of 2015, and right now it is about 90% complete. It will all be completed at the time that Rose will open their facility in September of this year.

Mr. Strauss stated that there have been three disbursements so far on the road totaling about $170,000. and he had that information for the Board. All that money was put into escrow at the time of closing to insure that would occur. In fact, with the development agreement that he signed, he posted a bond and showed security for the construction of public improvements of water and sanitary as they are going to be dedicated. The road is not being dedicated at this time because one of the conditions was that it had to remain private until it served more than one user.

Mr. Fratianne stated, so Mr. Strauss is saying that the expiration issue did not happen because he started that road. Mr. Vacanti said, yes, he started the road, and the first aspect of it, the Rose Congregate Care, was commenced as well, which establishes the use. Mr. Fratianne said, but that was on property Mr. Strauss sold. He is contending that because he started the road that that would satisfy the need to ……Mr. Strauss said, no, he is contending that he has an approved final development plan. Mr. Fratianne asked, and what is that for? Mr. Strauss responded, for the road. Mr. Fratianne asked, a development plan for the road? Mr. Strauss said, yes, a final development plan for the road and one more thing, that Code Section also refers to conditions. If you look at his Special Use Permit, there were conditions placed on it and that is another reason why it does not expire. The Ordinance, which is the governing document in this particular issue, says there are conditions: he can only develop the property under his Special Use, under certain Code sections that refer to congregate care facilities. By conditions on his Special Use, he has approval of the final development plan for a portion of the development on his property. This is a staging process of a project; a staging process of a congregate care facility on 52 acres that he controlled at one time and he has taken that and split if off and is developing it as he goes.

Mr. Schneider stated that Mr. Strauss keeps referring to this as a road, but isn't it a private driveway to access Rose? Mr. Strauss said, only for right now; there is going to be an extension of it and is a road that he owns. Mr. Schneider asked, is it a road or is it a private driveway? Mr. Struass answered, it is a private road. Mr. Schneider then asked, is it going to be dedicated to the City? Mr. Strauss said he has been told a couple of different things by the Jacobs Group. He has

been told that there are people in the City who believe that he did not build it to the standards of public dedication when in fact it beats the G-1 standard, and he has been told that it is an arterial road and not a collector road and it should have been 28 ft. wide and not 26 ft. wide. He has all his bills from the prior engineer that this road and its approval was done. He also paid for additional inspection on the road to the extent that if the City ever did accept it for dedication, that they were comfortable that it was built to standard. The only reason that Mr. Piazza would not let it be dedicated until he developed the rest of the property was because it served only one user. But that was not the intent; that was not why he bought 52 acres.

Mr. Schneider stated that it was his understanding that it was always built to be a private drive. His understanding was that it was built for Rose and the only reason the inspectors were out there was because you were pouring concrete. It was not built to City standards. Ms. Fecther added that the minutes from the Planning Commission meeting state that this is a private driveway. Mr. Strauss said that it is a private driveway until it serves more than one user; that was the agreement. Mr. Schneider said that was never stated.

Mr. Fratianne stated, let's just establish the fact that Mr. Strauss is considering the start of this drive or private road, whatever you want to call it, as his action taken to satisfy the Special Use Permit. Mr. Vacanti said, it is furtherance of the congregate care use which the Special Use Permit addressed for these properties. Construction of that road on the Avon 25 property was commenced within one year which is in furtherance of the Special Use Permit. In addition, as Mr. Strauss mentioned, conditions were set forth in Section 2 of the Ordinance granted and there are specific Ordinance sections that are incorporated that have to be complied with and the one year time limitation was not identified by City Council as a condition to be complied with so that is an alternative.

Mr. Fratianne said, that is clearly in the Ordinance unless otherwise they provided you with a date. Mr. Vacanti stated that, with regard to interpretation of statutes and actions of municipalities, the Ohio Supreme Court has recently reaffirmed that any ambiguity is supposed to be construed in favor of the property owner and here, because it is a canon of statutory construction when you specifically include sections and certain other sections are not included, it is implicit that those sections are not included. That is their position because the City Council went to great lengths to specifically identify which Ordinance sections apply. It did not include the one year time limitation, therefore it does not apply. And just to be clear, we are saying that the establishment of special use on these properties has been established within the one year time period or in the alternative, that one year time period did not apply as a condition. They understand that they have to go through general and final development plan approval with regard to any changes. They are talking about the congregate care use. So they are not trying to avoid Planning Commission; in fact they are here this evening because they want to get to Planning Commission.

Mr. Vacanti stated that the second issue on appeal deals with whether you have to apply with final development plan criteria when you are just proceeding with general development plan. In December, the applicants applied under the City's ordinances, for a general development plan application. They did not go through final development plan because it is very extensive. You want to make sure that the City and Planning Commission are aligned with the concept. Once

you get that approved, then you go through the final development plan approval process which is a lot more costly; there is a lot more detail involved. Many times, this is done at the same time but as the City ordinances set forth, you do not have to do both at the same time so our position is found in Chapter 1228.02 of the City's Zoning Code which deals with development plan review required. With regard to the general development plan, 1228.02(a) indicates that a plan for the general concept of the site is required; you do not get into the heavy detail. With regard to the other various provisions under Chapter 1228, there are two types of approval processes. 1228.07 states "General Development Plan Submission Requirements" and 1228.09 governs "Final Development Plan Submission Requirements". As set forth in the January 18th letter (this is the second issue), this letter cites to a host of requirements in 1228.02 and its subsequent sections dealing with final development plan approval that the Planning Coordinator and the Planning Commission Chair took the position that we have to comply and submit a final development plan and they would not entertain the general development plan first. The plain language of the codified ordinances allows to proceed with a general development plan first and then a final development plan. They feel that their general development plan should be heard by Planning Commission and reviewed under the general development plan criteria and not be held up because they have not submitted a final development plan.

Mr. Vacanti stated that Mr. Strauss has experience in this and confirmed that Mr. Strauss is a real estate developer, has been developing real estate for 14 years, is a licensed attorney, and has developed projects throughout northeast Ohio. He then asked Mr. Strauss if this two-tiered general development and final development plan is an unusual anomaly and Mr. Strauss answered, not at all, especially with regard to the construction that they do as far as land development. Also, he said he would like to point out that the City's application itself to get before the Planning Commission does not say "Final" and "General". It says specifically there are separated items of general and final development plan. There are different fees and different sections that you have to comply with. The City accepted his application for general development plan. If he was required to file for a general and final, the City should not have accepted his application and fees and therefore, under that circumstance alone, it leads to believe that Planning Commission considers a general development plan as a stand-alone plan. Mr. Vacanti asked Mr. Strauss what the benefit was of going through a general development plan before final development plan and Mr. Strauss responded that under the criteria of the Avon Codified Ordinances, there are less stringent requirements to come in with a general development plan. A final development plan, based on the City of Avon's requirements, in a situation for something like what he is trying to do can be anywhere from $45,000. - $80,000. You have to do all your studies, get your grading plans all mapped out, have all your topographies. So once you have the idea that the general development plan complies, there is usually no issue.

Ms. Fechter stated that the City's position is that its use is a Special Use and not a permitted use in C-4, so therefore if you look at 1228.02(b)(4), the final development plan, it states that a final development plan is required for new construction of all special uses. The City took the stance that the information received in the general development plan was not sufficient enough to determine if the use was accepted. We referred to the (b)(4): new construction requires final development plan. We did not receive a number of the items required in 1228.09 and therefore that it why the City took that position.

Mr. Fratianne asked Mr. Strauss what his general plan was. What did you give the City for that? Mr. Strauss said that what he gave them was exactly what he gave with Rose on the general development plan. He mirrored the Rose general development plan; he mirrored what the Cleveland Clinic has given to the City on general development plans. He set forth parking spaces, the size of the building, the footprint, everything for the zoning classification, setbacks, access, all those things so it was very well thought out and very well detailed for the City. Ms. Fechter's letter from January indicated that she was going to table him but he has not seen one thing specifically laying out what is deficient. All she referred to were Code sections. He is the developer and believes that he has complied with the general development plan requirements and all he is asking for is to give him requirements.

Mr. Vacanti stated that they understand the City's position but that is not what the Codified Ordinances say. And they are not saying that they are not going to come back with a final development plan. They will do that after they have general development plan approval and they know it is fine to release the funds and prepare a final development plan that is consistent with the general development plan. So they are basing it off from the plain language of the Codified Ordinances which allows for this two-tiered approach. He handed out information with all the costs that were incurred in reliance on the closing of the transaction. Mr. Strauss explained that the first item is a document that he prepared (Avon 25 Real Estate LLC due diligence expenses) during the time period of February, 2014 – October, 2014, which was shortly after he and Rose received final development plan approval and as you can see, he had invested $175,000. to get to the final development plan approval not only for Rose Parkway but also in furtherance of the Rose project. Mr. Vacanti asked, and this was in reliance of the Special Use Permit that was issued in September? Mr. Strauss said, yes. Ms. Fechter asked, so the blanket Special Use Permit that was issued to you led you to go forward with preparing all this cost information? Mr. Strauss responded that he relied on the blanket Special Use Permit in June to move forward to get to the August Planning Commission meeting with the general and final development plan for Rose Parkway and Rose. Ms. Fechter asked, where in our Code are you allowed to have a blanket Special Use Permit? In our Codified Ordinances, it does not state anywhere that you can have a blanket Special Use Permit. Mr. Strauss said, it was not a blanket Special Use; it was a Special Use that involved a congregate care facility on 47 acres in the City of Avon. It was not a blanket, it was specific; it said 47 acres to develop a congregate care facility. And there was a condition in the contracts between himself and Jacobs and himself and Rose that a congregate care facility could be constructed on those properties. So there was no blanket Special Use; there was Special Use specific to 47 acres to develop a congregate care community. Mr. Fratianne asked, and did they issue you something? Mr. Strauss answered, yes, it is an ordinance.

Mr. Schneider said to Mr. Strauss that he referred to this as a blanket Special Use Permit earlier in the conversation tonight. You said a few times that this was a blanket special use when you bought all this property. Mr. Vacanti said a Special Use Permit was issued on all the property. Mr. Strauss added, the same way it is a blanket Special Use that the Cleveland Clinic has on 72 acres; they have a blanket Special Use for the development of a health care facility. Mr. Fratianne said, when you got this Special Use granted to you, this included these two parcels that you are talking about now? You had some development plans laid out on that? Mr. Strauss said he was here with Mr. Piazza, probably December of 2013, and he has plans. Mr. Fratianne

asked, on these two parcels? Mr. Strauss answered, yes, on everything, on the whole thing. Mr. Fratianne asked, including the parcel you sold off that they actually did construct something on? Mr. Strauss said, yes, the whole concept of what they are doing off from Nagel Road was started in August of 2013. Our first meeting with Mr. Piazza was in November or December of 2013 when they came in with the Rose project. They expanded the original project; they came in in May of 2014 with a general development plan and a request for a Special Use Permit on the land. They did not come in requesting the general development plan approval at the time but they knew at the time, from conversation with Mr. Piazza and the City Administration, that this was something that the City wanted. And it is going on now; there is $27.5 million dollars being spent right now on the first phase of this development. No different than what the Cleveland Clinic has done, what they did with the medical building, and the outpatient surgery, and the emergency. Mr. Fratianne stated that there is one difference and that is that the Clinic still owns that property and Mr. Strauss only owns half of what he started with, so he has changed some things. Mr. Strauss said, no he has not because it it is still a Special Use. Ms. Fechter stated that the Special Use was amended out of Mr. Strauss' name and in to Rose. She said that the Special Use Permit is not in Mr. Strauss' name anymore for the 30 acres that belong to Rose; Mr. Strauss has 17 plus the 6 he added recently, but Rose moved forward with the 30 acres. Marc Strauss did not move forward. Mr. Strauss said, but Rose's only access to their 32 acres is through Marc Strauss right now; that is the only access they have. Mr. Vacanti added, and Mr. Strauss has testified that the construction of that road was in furtherance of the congregate care use that was granted to all of the property shown. And under the City's Zoning Code, Chapter 1280 which governs Special Use regulations, it does not talk about them being unique to the particular applicant; it runs with the land. Ms. Fechter said, no, it does not; it was amended. It was amended to the name of Rose. Mr. Vacanti asked Mr. Strauss if there was ever any retraction of the Special Use Permit granted by the City which has been submitted under Tab D; are you aware of any ordinance redacting or rescinding that Special Use Permit that was issued? Mr. Strauss answered, no. Ms. Fecther stated that it was amended to change the name from Avon 25 to Rose (whatever their official name is) when they took over ownership of the property. Mr. Strauss said, it was a portion of the property; the rest of the property still had the Special Use. He did not get rid of the Special Use; he signed it the same day. Council signed it the same day. Ms. Fechter stated, you have a blanket Special Use on yours; they have an amended Special Use to construct a building.

Mr. Fratianne said, let's focus on the items that you claim you have already taken care of that would move this forward. One is the road construction that you have started. The other one is that you have already gone forward and gotten a Special Use and your plans approved. Those are the two items that you are talking about. Mr. Vacanti said, yes, those relate to whether the Special Use Permit has expired or not. The other issue deals with the general development plan and final development plan – whether we are allowed under the City's Codified Ordinances to proceed with general development plan approval and wait to apply for final development plan. Or whether we have to do both at the same time. Our position is that the language in the Codified Ordinances clearly states that they can proceed with general development plan criteria first. Once they have that general development plan approval, satisfying the general development plan criteria, then they can submit the final development plan to the City to satisfy the final development plan criteria. What they had submitted to the Planning Commission was a general development plan. One of the reasons that it is being held from being heard by Planning

Commission, is because that general development plan does not satisfy the final development plan criteria.

Mr. Fratianne stated, so that is the contention there. You are claiming that the general development plan offers enough information that they can review and give you a determination. Mr. Vacanti said, yes, on the general development plan criteria. Mr. Fratianne then said, and you say that you have given that to them already. Mr. Strauss answered that it was filed on December 14, 2015. Mr. Fratianne asked, then what is the problem? You have your Special Use Permit, what is the problem with moving forward with your final and getting a determination? Mr. Strauss responded, because they have not gotten approval of their general development plan yet nor have they been told why it is deficient. Mr. Vacanti added that they feel that they satisfied the general development plan criteria. They want to make sure that they are on the same page with the City with regard to that general development plan criteria before they spend a lot of money in creating final development plans.

Mr. Strauss stated, and there is one other issue. The general development plan that was submitted, one of the issues is for a skilled nursing home. The skilled nursing home sits on 8.15 acres. He is only buying 5-1/2 additional acres from Jacobs so almost 3 acres is sitting on land that Ms. Fechter and Mr. Gasior are contending that he no longer has a Special Use for. So that is the other reason that he does not want to spend money on a final development plan. He does not want to spend $40,000. on a final development plan, walk into Planning Commission with it and be told that he is tabled because part of the building is on property that does not have a Special Use. This is a $19 million dollar nursing home project, and there is $1,250,000. going to the County to purchase nursing home beds for it. There is a lot of money at stake here and only 5-1/2 acres right now, under the theory of Ms. Fechter, has a Special Use.

Mr. Fratianne said, and you do not have any idea what they are asking you to do to get this approval process moving? Mr. Strauss answered, they have not told him what is wrong with his general development plan, other than go read the Code. Mr. Fratianne said, they are not here to provide you with everything you need to do. He thought that those are engineers who do those things. Mr. Strauss responded that he got that information from Mr. Piazza, he gets from every city engineer where he has developed. He believes that his general development plan, as submitted, complied with the statues of the Codified Ordinances of the City of Avon. If it does not, he as a developer, is entitled to know where it is deficient specifically.

Mr. Vacanti stated that they feel that they are entitled to a hearing before Planning Commission on their general development plan where they can address concerns over the concept or whether it is a Special Use or not. If the Planning Commission has a concern as to whether the proposed use falls under the definition of congregate care, then we should have the opportunity before Planning Commission to address that. They are trying to proceed through the process and they are being stopped based on more detailed criteria than they are obligated to submit at this time. They should not be held hostage because they have not provided a whole separate set of criteria that they are not obligated to proceed with in the first place. They want to proceed as they have the right to – through the first tier of the general development plan criteria first.

Mr. Strauss stated that he spent nearly $3 million dollars in reliance upon the Special Use that he could build a congregate care community on 52 acres. There is a $27.5 million dollar building going up right now, one of the general development plan criteria is a $19 million dollar skilled nursing facility, and the other thing is 76 town homes. He hopefully does things of quality and expertise. He was given fairness by the prior Administration; he is only asking for fairness now. And he is asking that he be given the opportunity to know what he has done wrong. He is asking to develop a congregate care facility on 52 acres, 32 of which he has already taken the initiative to better the community with the $27.5 million dollar building going up right now and the 76 town homes that are probably going to be another $15 million. They are creating something that does not exist right now in the City of Avon of the scale that they are bringing.

Mr. Strauss stated that the other document that the Board has is a listing of what has been spent on the road to date, and the last few pages are several of the different general development plans that were filed subsequent to conversations he had when he thought he was going in the right direction with the City, between December 14, 2015, and when he got to the date of the Planning Commission, and was tabled.

Mr. Vacanti said that, in conclusion, they are just asking for the opportunity to go before Planning Commission, not to be held up on the Special Use issue because, based on the language of the Zoning Code, they feel that they have established they should not to be held up because they have failed to comply with the final development plan criteria because that is not what they are seeking; they are seeking the first phase. They are obligated to file this appeal because they do feel that those two determinations are in error in order for them to get before Planning Commission.

Mr. Gasior stated that the Board has heard testimony from Mr. Strauss and you have heard the argument from Council and Mr. Strauss has submitted some documentation here. Mr. Gasior said that he believes that the City should be given an opportunity to call witness to rebut some of the information that the Board has heard. And he would like to have that opportunity at a subsequent meeting; he would probably call Jim Piazza, who was involved in this at the early part. This body really owes it to the City to hear from Mr. Piazza at a subsequent meeting in order to confirm or not confirm some of the evidence that they heard tonight. Mr. Fratianne said that he was going to suggest that they do that.

Mr. Gasior said he thought that there are some issues by way of clarification. One that he would like to just point out for them to think about and that is, even if you assume that there was a "blanket" Special Use Permit, there has to be, at some point, an amendment to that Special Use Permit to move forward with any type of work on that property. An amended Special Use Permit has to come with a final development plan submission, otherwise it is meaningless. A general development plan will provide Mr. Strauss with very little assurance that his ultimate amendment to the Special Use for the construction of a building that might house a congregate care unit will be approved; it is not going to save him any money if Planning Commission recommends negative on the construction of that building because it does not meet the criteria of the Code. So we need to hear more from the City, mainly the witness Jim Piazza, and then Mr. Gasior said he will be better prepared and Ms. Fechter will be prepared to respond to the points that have been made.

Mr. Vacanti stated that their position has been set forth; it was submitted a month ago and nothing that they have said here is any different than what was submitted in the letter. The City has been well aware of their position; they prepared to present their case this evening. They ask that the hearing be closed. There is no valid reason why the City could not have been prepared to address any of these issues. So they just want to request that the hearing be closed. They do not think it is proper to continue it and allow this to continue and continue. That is the first item he wants to note. Secondly, he does not believe that the Codified Ordinances require an amendment. He does not see anywhere in the plain language of the Special Use Permit provisions of the Codified Ordinances that require that and any ambiguity is interpreted in favor of the property owner. Mr. Strauss said that the purpose of amending the Special Use Permit that has already been issued is simply to attach the approved final development plan. They do not run hand in hand. Once he has final development plan approval, then he goes to Council and amends his Special Use because the Special Use has the final development plan attached to it, and that is the purpose of it. As he went through with the Rose situation, all Rose did was attach their final development plan for their building to the Special Use that they got.

Mr. Fratianne asked if any proposals on this parcel here had any drawings or anything on them that represent what you have approval for? What did you give them? When they granted your Special Use Permit, did you have drawings for these parcels? Mr. Strauss said yes, and here it is the final development plan. This was part of the drawing – how the road was to be constructed. This was the first phase; Rose Parkway Final Development Plan was the first phase and this was what came in with the amended Special Use.

Mr. Gasior stated that Mr. Strauss was correct. Rose Parkway, as a private drive, was approved on that plan, he assumes during Mr. Piazza's reign, but if you read the Ordinance that grants the Special Use, it does say in Section 2: "any other expansion, development, enlargement, improvement, change in tenancy, use or the like, other than maintenance of the property in its current condition, will require an additional amendment to the Special Use". So they wanted approval of a general development plan for a site that had been approved for congregate care as a concept. Now the only thing that they have done in furtherance of building this congregate care facility is install a private drive. Mr. Strauss is seeking, under this general development plan, to expand upon that Special Use. There is nothing he can present in that general development plan that does not expand upon the Special Use that he has been granted up to this point.

Mr. Gasior continued by saying, Mr. Strauss is going beyond the driveway. Even if he is in his general development plan proposing to extend the driveway another couple hundred feet to Avon Commerce Parkway and build a nursing home, this is all part of a Special Use amendment that he and Ms. Fechter, and the Planning Commission believe requires a final development plan because, again, we are talking about new construction under an existing Special Use. Now Mr. Strauss readily submitted a final development plan for that blanket Special Use when he constructed the road. When he got this blanket Special Use, he had not submitted anything except a request for a declaration that this 52 or 47 acres is suitable for congregate care. We told him that he did not need that because the Code says that it is a Special Use in C-4 but he insisted on going forward and requesting that Special Use. So he got it. When he came to put the road in for the Edward Rose development, he had to come in with a final development plan in order to get that Special Use amended to include those provisions. Now he wants to come in

with a nursing home, and he is going to have to submit a final development plan and show us that nursing home and everything that is involved in that nursing home so we know that he is building a nursing home there and he has to get the Special Use amended for that. He could put up a building there that could be an apartment house. How do we know that it is congregate care? He has to lay it out. This is what we are arguing over: the specificity that is needed in order to grant either an original Special Use or an amendment to a Special Use that already exists. This is what we did with the Clinic, what we have done with anybody else in town. Mr. Gasior said he does not think we are that far off in what we know we need to produce. He just thinks that there is a disconnect in talking about general development plan in the context of Special Use. They have quoted various sections of the Code that deal with development. They have not quoted the appropriate sections that deal with Special Use. That is Chapter 1230. If you read Chapter 1230, it refers to 1228.02 but it does not say "a" and it does not say "b". As you read all of 1228.02 you find that 1228.02 (b)(4) is the most specific to deal with new construction Special Use. And that is all we have here. We have a disagreement over procedure and we believe, and we can show through testimony, that the City's position is the correct position. It is the position that the City has been taking as far back as anybody can remember because at some point, to either get a Special Use Permit or to amend a Special Use Permit that you have already received, you are going to have to show the final development plans. Nothing goes to Council as far as being able to build a structure unless you have shown us exactly on a final development plan what you are building and then you get the Special Use Permit for that particular structure. Otherwise, all you have in this case, all Mr. Strauss has is a Special Use Permit over vacant land, part of which has a road on it because he got a final development plan and a Special Use amendment for that road.

Mr. Strauss stated that one of the reasons why we are here tonight is one sentence in the letter from Ms. Fechter: that his Special Use on his 19 acres has expired. If Mr. Gasior is saying that he can amend that and it has not expired he has no problem with drawing his general development plan for his nursing home and going straight to final development plan. But that is not what was represented to him yesterday before we came to this meeting. We do not need to extend this if he can be assured that when he comes in after spending $40,000. on a final development plan for a $20 million dollar nursing home, that they are not going to say, you cannot get it approved because 2-1/2 acres of where it sits does not have a Special Use. If he can be assured of that, he will write the finals. But that is not what was represented to him and that is not what the letter said, and that is his fear.

Mr. Fratianne said that he thought that Mr. Strauss has presented everything he has here. Mr. Fratianne said that he has not asked enough questions of them to make a decision and needs to read through everything. He is not prepared to make any decision on it this evening. He wants to go through this this thoroughly and discuss it with the Board members and work through these issues, with facts. He can back up facts on both sides by actually looking at the evidence or what has been presented up to this point. Mr. Strauss has to grant him some leeway to do that; he is not just going to make a decision off the top of his head. And he does not think this Board is prepared to do that either.

Mr. Vacanti stated that he had two final points: 1.) they are not seeking to circumvent the final development plan approval process. They understand that they have to go through that. They

want the opportunity to establish their congregate care use before Planning Commission. 2.) He just asks that when the Board is deliberating and looking through these items that it is based on what has been presented here at the hearing tonight, that the record is limited to what has been presented. And he does ask that the hearing be closed because there has been ample opportunity for any opposition or any questions.

Mr. Strauss said that the only reason he got excited about waiting another 30 days is because, from a developer's standpoint, he comes in in 30 days and you take a week to make your decision, he then misses the deadline for the May Planning Commission meeting to go in with his final plan, so now he has to file in May, go to Planning Commission the end of June, and not go to Council until July. He gets his contracts and is building again in the winter and that is the fear of all this.

Mr. Fratianne said that he can reassure Mr. Strauss that we are going to take this up as soon as possible and we are going to go through everything. If there is any additional information needed, he will request it from Mr. Strauss. We can come up with a reasonable review of this and make a decision on it. We do not have to wait until the next meeting if we have everything here; there is sufficient information to work with.

Mr. Strauss said he would just ask his attorney, based upon the fact that this was recorded and he was under oath, if things should be marked as exhibits.

Mr. Vacanti said that the City should have a copy of these plans; if not, we can reference them. Mr. Gasior suggested just stating the date that is on the plans right now. Mr. Vacanti said, yes, and the Board has the information packet with all the exhibits attached and then the only other exhibit is the financial information that Mr. Strauss distributed which includes the general development plans that were submitted that we would like to go before Council.

Mr. Vacanti then referred to the plans and stated that these are the final development plans of Rose Parkway, City of Avon, County of Lorain, State of Ohio, signed by the City Engineer 9/2/14, signed by Planning Commission Chair 9/2/14. Prepared by David D. Watkins, Professional Engineer for Avon 25 Real Estate. Mr. Gasior asked how many pages there were and Mr. Vacanti responded, there were 9 pages.

Mr.Gasior stated that we would call the information packet (the bound book) Exhibit 1 and the tabs in the packet would be 1-A, 1-B, 1-C, 1-D, 1-E, 1-F, 1-G. The map (the final development plans) are Exhibit 2, and the handout that Mr. Strauss gave out with his costs are Exhibit 3.

Mr. Fratianne said to Mr. Strauss and Mr. Vacanti, so that is going to be the way we are going to proceed on it. We have a lot to digest here. We understand the time frames are important and we want to clear these things up, too. So we will review it all and come up with a conclusion on it. Mr. Strauss and Mr. Vacanti thanked the Board and left the meeting.

Mr. Gasior said that he asked for an opportunity to bring in his witnesses and Mr. Strauss and Mr. Vacanti have argued against that position. Mr. Gasior said that he would like that

opportunity to call in Mr. Piazza for sure and Mr. Fratianne agreed. Mr. Gasior said if the Board wants to call a Special Meeting between now and April, he was sure that Mr. Piazza is available.

A motion was made by Mr. Miller and seconded by Mr. Ladegaard to table this item to the next meeting unless otherwise determined prior to it. The vote was: Mr. Klingshirn, "aye"; Mr. Ladegaard, "aye"; Mr. Miller, "aye"; Mr. Schatschneider, "aye"; Mr. Fratianne, "aye". The Chairman declared the motion passed.

ADJOURN

A motion was made by Mr. Miller and seconded by Mr. Klingshirn to adjourn the meeting and the vote was: Mr. Klingshirn, "aye"; Mr. Ladegaard, "aye"; Mr. Miller, "aye"; Mr. Schatschneider, "aye"; Mr. Fratianne, "aye". The Chairman declared the motion passed.

ATTEST:_____ CHAIRMAN:_____

DATE:_____