

MINUTES OF THE BOARD OF ZONING & BUILDING APPEALS MEETING, MAY 4, 2016

WEDNESDAY, MAY 4, 2016, COUNCIL CHAMBERS, AVON CITY HALL

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

Present: Bruce Klingshirn; Chauncey Miller; Mark Ladegaard; Kurt Schatschneider; Randy Fratianne; Pam Fechter, Economic Developer/Planning Coordinator; John Gasior, Law Director; Rick Schneider, Zoning Enforcement Officer; and Jill Clements, Secretary.

MINUTES OF THE REGULAR MEETING – APRIL 6, 2016

A motion was made by Mr. Miller, seconded by Mr. Schatschneider to dispense with the reading of the minutes of Wednesday, April 6, 2016, and to approve said minutes as published. The vote was: “AYES” All. The Chairman declared the motion passed.

RICHARD SNEVEL APPEAL

Richard Snevel, 35352 Saddle Creek is requesting a 20’ front yard setback variance from C.O. 1262.08(c)(2) Minimum Yard Requirements to allow the construction of a driveway extension located at 35352 Saddle Creek.

Michelle Snevel is sworn in by Mr. Gasior. Mrs. Snevel says they are looking to do a driveway extension and they have contracted with Concrete and More to do a same thing as their neighbor did. It was confirmed that Mrs. Snevel’s neighbor is Derek Thomas who received a variance last month. Mr. Fratianne says they have come to the decision as how they are going to handle these and looking at their drawing they are ok. Mr. Fratianne confirms that the corner of the extension must meet at the sidewalk and driveway and extend out 45 degrees and then they can move to the garage. Mr. Fratianne asks about side yard setback and its determined they are still 6-8 feet off and that is not an issue.

A motion as made by Mr. Ladegaard, seconded by Mr. Miller to approve a 20’ front yard setback variance from C.O. 1262.08(c)(2) Minimum Yard Requirements to allow the construction of a driveway extension located at 35352 Saddle Creek. The vote was: “AYES” All. The Chair declared the motion passed.

THOMAS ALSPACH APPEAL

Thomas Alspach, 35368 Saddle Creek is requesting a 20’ front yard setback variance from C.O. 1262.08(c)(2) Minimum Yard Requirements to allow the construction of a driveway extension located at 35352 Saddle Creek.

Thomas Alspach is sworn in by Mr. Gasior. Mr. Alspach says he is a neighbor in the same area and is asking to do the same thing as Mrs. Snevel and Mr. Thomas.

A motion was made by Mr. Miller, seconded by Mr. Schatschneider, to approve a 20’ front yard setback variance from C.O. 1262.08(c)(2) Minimum Yard Requirements to allow the construction of a driveway extension located at 35352 Saddle Creek. The vote was: “AYES” All. The Chair declared the motion passed.

MEIJER'S APPEAL

Lonnie Wess with Meijer's is requesting a one year time extension pursuant to C.O 1232.09h.

Pam Fechter explains that Ms. Wess could not make it and Meijer's is moving forward with hope to break ground sometime next year. The original variance was granted on 6-13-15 and they are asking for the same 9' height variance to stay active for another year.

A motion was made by Mr. Klingshirn, seconded by Mr. Miller to approve a one year time extension pursuant to C.O. 1232.09h. The vote was: "AYES" All. The Chair declared the motion passed.

CITY OF AVON APPEAL

Rick Schneider of the City of Avon is requesting a 17.5 sq. ft. variance from 1290.05(e) (1) Maximum Sign Area to allow the construction of a replacement sign to be located at 36225 Detroit Road to identify the United States Postal Service and the Aquatic Facility.

Rick Schneider is sworn in by Mr. Gasior. Mr. Schneider says he has a request for a new monument sign that will replace the existing one at the Post Office. The new sign will include the Aquatic Center, the Post Office and an electronic message board. Mr. Fratianne notes there will be a 17.5 sq. variance requested and asked about the sign. Mr. Schneider says they will use the same brick pillars. Mr. Fratianne say there could be two signs there but with the layout, we are only having one and that is confirmed by Mr. Schneider. There was concern about the plan was reviewed by Mr. Burik and given approval. Mr. Gasior adds that the property has a Special Use Permit and that will need to be amended in Planning Commission. It was also talked about how electronic message boards are frowned upon in the French Creek District and Mr. Gasior says that is something the Planning Commission can address. Mr. Schatschneider asks if the sign will need a height variance and it was confirmed yes, it will also need a 1.9 foot height variance. The Special Use Permit amendment will be heard at the May Planning Commission.

A motion as made by Mr. Ladegaard, seconded by Mr. Schatschneider to approve a 17.5 sq. ft. variance from 1290.05(e)(1) Maximum Sign Area to allow the construction of a replacement sign to be located at 36225 Detroit Road to identify the United States Postal Service and the Aquatic Facility. The vote was: "AYES" All. The Chair declared the motion passed.

A motion was made by Mr. Schatschneider, seconded by Mr. Klingshirn to approve a 1.9 ft. height variance from 1290.05(e)(1) Maximum Sign Area to allow the construction of a replacement sign to be located at 36225 Detroit Road to identify the United States Postal Service and the Aquatic Facility. The vote was: "AYES" All. The Chair declared the motion passed.

UN-TABLE ANETTE OSTER APPEAL

A motion was made by Mr. Ladegaard, seconded by Mr. Miller to un-table the Anette Oster Appeal. The vote was: "AYES" All. The Chair declared the motion passed.

Ms. Fechter says that the City Engineer is working with Mr. Gasior and in front of them is an ordinance in front of Council that is under review that could fix the Oster and Schuler Appeals. Ms. Fechter says that she would request that the Board table both Oster and Schuler appeals until

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the next meeting just in case. Mr. Schatschneider asks if it will change everything and Ms. Fechter says it modifies certain aspects and the main thing still there is compensatory storage and the riparian zone.

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. Miller seconded by Mr. Klingshirn to table the Anette Oster appeal until the June meeting. The vote was: "AYES" All. The Chair declared the motion passed

UN-TABLE ROBERT SCHULER APPEAL

A motion was made by Mr. Miller seconded by Mr. Klingshirn to un-table the Schuler appeal. The vote was: AYES" All. The Chair 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. Ladegaard, seconded by Mr. Miller to table the Robert Schuler appeal until the June meeting. The vote was: "AYES" All. The Chair declared the motion passed

UN-TABLE THE AVON 25 REAL ESTATE, LLC/AVON 4 REAL ESTATE, LLC/PIRHL APPEAL

A motion was made by Mr. Schatschneider, seconded by Mr. Klingshirn to un-table the Avon 25 Real Estate, LLC/Avon 4 Real Estate, LLC/PIRHL Appeal. The vote was: "AYES" All. The Chair declared the motion passed.

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

John Slagter of Buckingham, Doolittle & Burroughs, LLC representing Avon 25 Real Estate, LLC, Avon 4 Real Estate, LLC and Pirhl Developers, LLC is appealing the January 20, 2016 Planning Coordinator's recommendation and the Planning Commission's decision to remove items from the agenda due to insufficient information.

Mr. Fratianne explains there was a lot of conflicting scheduling and are here to discuss the issues at this meeting. Mr. Vacanti requests the opportunity to ask any rebuttal question if necessary.

Anthony Vacanti, Marc Strauss, Pam Fechter, Rick Schneider and Jim Piazza are all sworn in by Mr. Gasior. Mr. Vacanti says that it's important to identify what they are in front of the BZA for and what is not to be heard. There are two issues they are appealing, one is the Special Use for congregate care on the Avon 25 property has expired and if Avon 25 and the applicants are able to proceed with General Development Plan for approval. Mr. Vacanti says on issue one, the Special Use for congregate care was originally granted in June 2014 for all the properties, it was

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a blanket Special Use. Mr. Vacantti says it was amended in September of 2014 as it relates to Rose as they received Final Development Plan approval. The January 20th letter says the Special Use for the use had expired because final development plans were not approved within one year or construction had not begun. Mr. Vacantti says their position is construction had begun and final development plans were approved with regards to Rose Parkway and Rose development. Mr. Vacantti says the construction of the drive and the Rose building both started. Mr. Vacantti says there was a clear concept for all those properties, that's why there was a blanket special use was granted in June and that was for the congregate care use. Mr. Vacantti says they need to follow to final development plan through planning as they disagree that the Special Use has expired. He also says that the one year time limit was not specific in the Special Use ordinance so by implication it was not clear that the one year time limitation was in effect. Mr. Vacantti continues in regards to general development plan and final development plan with the codified ordinances, Chapter 1228 clearly provides two options. In the January 20th letter one of the reasons the general development plan was tabled was because it did not comply with the final development plan criteria. He also says, of course it doesn't as they are not proceeding for final development plan. They do understand they are required to at some point but this is a preliminary plan. As Mr. Vacantti continues to say it's not unusual that you go through preliminary plan, work out the kinks with the city, understand what the issues are then they spend the money and get into the details for final development plan. All he is asking for, is they can go forward with a general development plan approval and then condition upon the final development plan. Mr. Vacantti says the codified ordinances clearly provide for those two separate types of approval, a lot times it's at the same time, but it is not required that it be done. Mr. Vacantti says what is not before the BZA are future plans, future extension of the roadway and utilities. Mr. Vacantti says the rest of the issues are in front of Planning Commission and they do not want to be tabled so they can proceed down the right path. Mr. Fratianne asks who will present on the City's behalf and Mr. Gasior says Pam is probably the best one to start and he knows that everyone had the time to review the minutes from the March meeting. Ms. Fechter says that she will start with what was mentioned, that it was not in the ordinance regarding the one year time frame. Ms. Fechter says in our code, section 1230.09B clearly states the Special Use Permit shall expire one year from the date and reads the section of that code and it lists the requirements of the final development is approved, construction begins or unless specified by the Planning Commission. Ms. Fechter says in regards general development plan versus the final development plan, they are correct when a use is permitted, someone is allowed to come in with a general development, in this situation, this is a special use permit according to 1228.02 Final Development plan is required for any new construction of Special Uses. The general development plan that was given to Ms. Fechter in December only had a building footprint, acreage, number of units, setback, wetlands and roadway. Ms. Fechter says that the information given to her does not allow her or the board to make a determination if the use that is being presented is what they want in the area and that is why the code requires a final development plan. Ms. Fechter continues to say that Mr. Strauss did come in in May of 2014 and received a special use permit for 47.066 acres that is a confirmation that in C-4/M-1 zoning a congregate care facility is allowed but requires a special use permit. Ms. Fechter says yes, a blanket was given that a congregate care facility could be done but you would need to bring in a final development plan before construction begins. Mr. Fratianne asks, they did not do that? Mr. Vacantti on behalf of property owner says they agree a blanket special use permit was granted for congregate care. Mr. Fratianne says what they applied for they already told you could do. Ms.

Fechter says the first thing is what they are referring to is that if a final development plan or general development plan was required, Ms. Fechter stands behind her letter and her position has not changed, that a special use permit, new construction requires a final development plan as a general development plan is not good enough for anyone to make a determination if that special use is allowed there or not. Mr. Gasior adds in 1228.02b4 requires a final development plan for special use permit for new construction. Ms. Fechter says back to the special use permit gives a time line, in May 2014 a blanket special use permit was granted verifying the zoning for 47 acres. Mr. Gasior asks with that special use that was granted, did it grant anymore rights under 1270.03 and Ms. Fechter says it did not. Ms. Fechter continues that under section 2 certain stipulations will require an amendment to the Special use permit with the recommendation of Planning Commission and approval from Council. Mr. Gasior says, isn't that wording taken from 1280 and Ms. Fechter confirms it is. Mr. Gasior says again nothing in that ordinance 64-14 goes beyond what the codified ordinances for the City of Avon provide. Mr. Gasior continues to say there were no rights conveyed beyond what anybody gets, regardless of whether they come before Council for a blanket special use, they get nothing over and above what anybody else in the City has already by zoning. Ms. Fechter says in C-4/M-1 a special use permit is required to have a congregate care facility in that building. Ms. Fechter continues that in August of 2014 the Special use permit for the 47 acres was amended and 32.6009 was transferred to Edward Rose, leaving Avon 25 Real Estate with 19 acres. She continues at that time Edward Rose moved forward amending the special use permit to construct and operate a congregate care facility. They presented a general and final development plan to move forward. Ms. Fechter says at that time, Edward Rose property and Avon 25 went two separate ways. Mr. Gasior says there was a road, or a driveway installed as part of Rose Congregate Care and asked if there was an amended Special use and Ms. Fechter responded, there was not. Ms. Fechter says a developer's agreement was entered into in January of 2015 with Avon 25 to construct a private access drive and public utilities for Rose Parkway under ordinance 116-14. Mr. Fratianne asks for which property. Ms. Fechter says the access drive to service Rose Senior Living. Mr. Fratianne says the road was granted permission to go ahead for the Rose project. Ms. Fechter says yes, a small portion of the road was installed along with the utilities to service the Rose project and Mr. Gasior says at the request of Avon 25. Mr. Fratianne says to clarify for himself, he says, you're asking for a general development plan. Mr. Fratianne asked didn't the special use give you that. Mr. Vacantti says there wasn't a general development plan or final development plan submitted for the Avon 25 property, it was a blanket special use confirming that the congregate care use can be used on all those properties. Mr. Vacantti now wants to proceed with the plans for the structure on subject property and they want to do a general development plan. Mr. Vacantti says he would disagree with what Ms. Fechter and Mr. Gasior have indicated about the half being acquired on the ordinance chapter 1228. Mr. Vacantti says they are not disagreeing that that they have to proceed with final development plan approval, but would like to ask Ms. Fechter a couple questions. Mr. Fratianne says he can do that in a few minutes, he just needed to clarify if they did what they needed or didn't and apparently you did not. Mr. Vacantti says no, yeah, it confirmed the use now they want to identify structures and furtherance of the use on the rest of the Avon 25 property. They have already installed the road or access drive. Mr. Fratianne says that didn't satisfy what you're asking for. Mr. Vacantti says with regard to general development, that's correct. Mr. Vacantti confers with Mr. Strauss for a few seconds. Mr. Vacantti wants to clarify one point, we're talking about the special use and the general development plan. The special use only issue for this board is if it's expired. The general development plan is completely separate.

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Mr. Vacantti says he is going to hand to Ms. Fechter, section 1228.02 that deals with general development plan approval and Mr. Vacantti says that Ms. Fechter indicated that general development plan approval is only applicable for permitted uses not special uses and asks her to point out that information. Ms. Fechter says if you read through A and B, B clearly states that new construction of all special uses requires a final development plan. Mr. Vacantti asks where it states it is prohibited that you can proceed under special use for general development plan before final development plan. Ms. Fechter says the general development plan does not give her enough information. Mr. Vacantti says the special use is different than general development. Ms. Fechter says special use is different than permitted use. Mr. Vacantti says we just had conversation with the Chair that general development plan approval is different. Ms. Fechter says they are discussing two things that are happening today, the expiration of the special use permit and if Ms. Fechter should have allowed him to move forward in Planning commission with a general development for a special use permit and was agreeing that are two separate items to look at. Mr. Vacantti says so that is something that the Planning commission would review in conjunction with the general development plan is whether it's a congregate care use or not. Ms. Fechter says the Planning commission requires a final development plan for a special use to move forward. Mr. Vacantti says he understands that and asks would she agree there's not prohibition for them to proceed through general development plan approval prior to final development plan approval. Mr. Fechter says general development plan approval would give you misleading information as to whether your project was able to move forward or not with the limited information provided. Mr. Vacantti says that was not the question, that his question is whether the codified ordinances allows them to proceed through general development plan approval. Mr. Gasior says don't the ordinances speak for themselves. Mr. Gasior says Mr. Vacantti is asking Ms. Fechter to render an opinion, Mr. Vacantti says her testimony is rendering an opinion. Mr. Gasior says the ordinance says it goes to a special use subsection B when there is new construction involved and it's an interpretation. Mr. Gasior says to Mr. Vacantti you are asking her whether or not general development is required or not required and says the question you are asking is very difficult to answer in the abstract. Mr. Gasior continues to say in this case because it was new construction of a special use, the ordinance states 1228.02B4 applies, forget everything else. Mr. Vacantti says were not forgetting anything else and Mr. Gasior says that's the construction that has been placed upon that ordinance. Mr. Vacantti says she is rendering an opinion as to an interpretation and Mr. Fratianne interrupts and asks when the original special use was permitted or authorized was that enough information to move forward and you said it was not. Mr. Gasior says that we know what the issues are and it's been stated already and why we are here today is to tell you what we did as a city and Ms. Fechter just told you, under 1228.02b4 that's what we did. He continues to say if you want to ask about if we could have done this or could have that, its irrelevant to what we did. Mr. Gasior says you are asking her to render a legal conclusion and Mr. Vacantti interrupts we hashed that out and Mr. Gasior says she is telling you what she did. Mr. Fratianne says we are going to move on as we got Ms. Fechter's comments and opinion and is going to ask Mr. Piazza what his opinion is on the procedures we took to this point. Mr. Vacantti says he has one final question and Mr. Fratianne says about what. Mr. Vacantti says Ms. Fechter could not determine based on the general development what the use was and Mr. Vacantti says it's not accurate. Mr. Gasior says, that's what she just said. Ms. Fechter said she listed everything that was on the general development plan. There is some arguing between Mr. Vacantti and Mr. Gasior and Mr. Vacantti says he would object to the prohibition for questioning Ms. Fechter. Mr. Fratianne says he will have the time to rebut some of this once everyone gets a

chance to speak. Mr. Schatschneider asks if they can talk about one issue at a time as they keep going back and forth and it's confusing. Mr. Gasior says we are here to present our side and Mr. Vacantti is presenting evidence and Mr. Vacantti interrupts Mr. Gasior citing Chapter 2506 that he is aware, they have to opportunity to rebut evidence and ask questions. Ms. Fechter says there is additional information listed on the plan and then what she listed as it's a copy of the code. Mr. Strauss says that is not true. Mr. Gasior says its evidence and asks for a copy, Mr. Strauss says he already has it, its public record. Mr. Vacantti says it's the general development plan that is referenced in the January 20th Planning commission letter. Mr. Strauss says what they are showing the Board is the general development plan that Ms. Fechter testified she did not have enough information and says it's very clear as what is identified. Mr. Strauss says there wasn't enough information and beginning in August of 2015 the City, Ms. Fechter and Mayor Jensen knew exactly what was going to be there as they were put under contract the 82 beds to purchase from Lorain County because Golden Acres is closing. Mr. Fratianne asks what specific information is needed and Ms. Fechter says more specific information and Mr. Fratianne asks yes or no. Mr. Strauss says no that is part of the final development plan. Mr. Vacantti clarifies under 1228.07 submission requirements says it's not shown that is under final plans. Mr. Vacantti says it's been delay after delay and the rules and requirements keep changing. Mr. Fratianne says they did not provide them with what they need to make the decision and Mr. Vacantti says she doesn't need that information. Mr. Fratianne says that Mr. Vacantti says they gave Ms. Fechter what was required but she wants more information. Mr. Strauss says that what is being asked, from the developers stand point, is approval that a skilled nursing facility can be built on this site with building layout and roads. Mr. Strauss says the difference with general and final is the final is going to cost \$85,000 and they want to know that the general plan they submit is what they want to build works on that property. Mr. Vacantti shows Ms. Fechter ordinance 64-14 and reads a portion of the ordinance. Ms. Fechter says yes, its site plan with acreage then section two tells what needs to be included to give permission to construct anything else. Mr. Vacantti says that the special use to construct a congregate care facility and the concern is that it's expired. Mr. Fratianne says if they issues a special use permit what more do they need to move forward? Mr. Vacantti says the general development plan was tabled in part Ms. Fechter says special use for congregate care has expired. Mr. Fratianne says he is not answering his question and asks again, if they gave you a special use permit that you could build your facility there, what more do you want to proceed. Mr. Vacantti says confirmation that is has not expired. Mr. Fratianne says hypothetically, what if it did not expire, what you need. Mr. Vacantti says than that issue is gone and the only issue is if they can proceed with general development plan. Mr. Vacantti says the general and final deal with structure and then use is obviously the use of the property. Mr. Fratianne asks what the general development plan is going to do that the special use permit cannot do. Mr. Strauss says the general approval will confirm the location of the structure, roads, topography and it will confirm all of that and then once that is confirmed they can come back with final development plan. The developer has to take the general to the engineer after the general is approved to show where the building and parking and roads need to be then they build from that and if there are phases show them so they can come back and add to the building. Mr. Vacantti gives Ms. Fechter exhibit 1-D from the March BZA hearing, 104-14 ordinance and says to look at exhibit A and says this also includes the roadway and Ms. Fechter says it's about where is would stop and its different than the June approval. Ms. Fechter says the June approval was for the 47 acres, the later approval was selling off to Rose and Mr. Gasior says, it's a lot split matter. Mr. Vacantti says exhibit An ordinance 64-14 does not show the

roadway, Ms. Fechter says it doesn't show anything other than the acreage. Mr. Vacantti says the second one is the amendment which shows the roadway. Ms. Fechter says based on conversation that was Mr. Strauss about the general development plan, those requirements in no way, shape, or form allow anyone to make a determination if the congregational care use is taking place under that roof, it shows where the building is, the setback and says she cannot believe that the special use permit is going to be approved with not knowing what's going on. Mr. Gasior for the record asks Ms. Fechter what her position is for the City. Ms. Fechter says she is the Planning Coordinator. Mr. Gasior asks her when she started that position. Ms. Fechter says on May 5, 2014. Mr. Piazza says he wants to clear up something on the blanket special use permit. Nowhere in the code will you find a blanket special use, it's not permitted, and it doesn't exist. Cleveland Clinic back in 2013 bought additional property and came asking if they could extend their special use permit on the vacant land. The response is normally nothing is granted until they have plans and a development, wants going on. They explained they needed it for financing, after talking with Council and they agreed a blanket was issued, in paragraph two it gives not authority to do anything as it is a permitted use under special use. Mr. Piazza asks Ms. Fechter to read the minutes to reference a comment he made that might clarify. Mr. Fratianne says what they did for the Clinic, they have done for them. Mr. Piazza says yes, it's a warm and fuzzy because they already had the right if they qualified under special use to do that project. Mr. Strauss came in and the city agreed to do the same and under no circumstances does it give them any rights to do anything without following the laws. Mr. Gasior asks with regards to final development plans, you says the drawing and do you know from looking at that the building was a best buy and Mr. Piazza says they know from discussion but not from what was submitted and there were a number of general development plans turned in on one day. Mr. Gasior says Mr. Piazza you were planning coordinator for the City for a number of years and were when this was taking place and Mr. Piazza confirms yes. Mr. Gasior says when a person owns a piece of property and wants to do something with that property the first thing you look at is the zone, is the use permitted or is the use permitted with special use. Mr. Gasior continues if someone comes in and lays out a plan for special use, isn't it true you would need to see exactly how that use is going to be developed by referring to 1228.02b4, Mr. Piazza confirms. Mr. Gasior says if it's a permitted use you would only need to see a general development plan and Mr. Piazza says yes and that's part of 1228. Mr. Gasior continues to say with special use the process of a general development plan doesn't give the city enough information what conditions can be placed on the special use. Mr. Piazza says it's a recommendation from Planning to Council that this property, development meets the special use requirements. Mr. Piazza says 1228.02 if you're going to phase it, you need a general development plan, special use you need the final development plan. Mr. Piazza says a preliminary plat in residential is like a general development plan and a special use is special. Ms. Fechter reads a portion of May 21, 2014 Planning Meeting. Mr. Piazza says 1270 permits it under special use and are to reference sections 1228, 1230 and 1280. Mr. Fratianne says when requested the special use permit for the land and it was granted, that now puts that property into a different set of requirements if it did not have a special use. Mr. Piazza says it would follow normal process without special use, it's a category that it's not a normal use in that district. Mr. Vacantti asks Mr. Piazza if he agrees that the special use was granted on Avon 25 for congregational care. Mr. Vacantti asks if he is aware of the final development plans on Avon 25 for Rose driveway and it was granted. Mr. Vacantti addresses Mr. Piazza regarding to 1228.02A with regards to general development use that it's only for permitted not special uses. Mr. Piazza says general plan is a general development and each subsection talks about what is required and under

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B is the requirement is spelled out. Mr. Vacantti says under 1228.02B it indicates under subsection 4 is shall be required for new construction of all new special uses and you cannot move forward under general and just final. Mr. Piazza says Edward Rose had a general and final development plan done all together. Mr. Vacantti asks where in the codified ordinances it says you cannot proceed with a general development plan for special use before final development plan. Mr. Piazza asks how you would get approval of a general development plan for a special use if a special use requires the information. Mr. Piazza says he has interpreted the code that way. Mr. Fratianne says Mr. Piazza answered his question on what he thought that meant, you're asking him to describe it to you and Mr. Gasior says the testimony speaks for itself. Mr. Strauss says Mr. Piazza mentioned that Rose came in with a final and general and the final is for what is being built today. Mr. Strauss says in regards to the townhomes, they received general development plan approval and has never seen any specifics of the townhouses. Mr. Gasior says the City has established under the code final development is a certain requirement for special use permit and no final development plan has been submitted in this case and has shown nothing beyond what the ordinance states. Mr. Gasior says nothing has been constructed or amended for the remainder acreage has expired and as far as final development plan the ordinance state what needs to be done. Mr. Vacantti says he would like to review additional exhibits and Mr. Strauss reviews what the new exhibits are, #4-application for the special use permit, #5-application for the lot split for Rose Congregate Care , #6 is the May 21, 2014 Planning commission minutes, #7 is the City Council agenda for June 9, 2014, #8 is ordinance 104-14 and 105-14 which amends the special use permit for Rose Parkway, #9 is minutes from the August 20, 2014 Planning Commission meeting referencing page 4 and 5 showing Rose Senior living for general development plan and #10 memo from Mr. Piazza to Mr. Strauss stating final approval for Rose parkway and Rose Final development plan. Mr. Vacantti is requesting approval for them to proceed with the general development plan and move forward and would request a ruling this evening. Mr. Gasior reads a section of 122.02B19 and says by definition any of those drawing shown did not provide that information. Mr. Fratianne says they received a lot of information and will render a decision. Mr. Vacantti says they do request a ruling tonight or if they are going to continue as his client needs to proceed. Mr. Fratianne says there will be no decision this evening without reviewing all the information.

COMMENTS

Mr. Gasior gave the Board members the ruling of the Reifschneider Appeal and is proud of how the Board did their due diligence and made a good decision and the court ruled in the City's favor.

ADJOURN

A motion was made by Mr. Miller, seconded by Mr. Ladegaard to adjourn. The vote was: "AYES" All. The Chair declared the motion passed. The meeting was adjourned at 8:53P.M.