

## **Addendum to November 14, 2022 Planning Commission Staff Report**

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December 12, 2022  
Case #22-822

Meeting Date:

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December 12, 2022

Location:

33 S. Oviatt, 35 S. Oviatt,  
parcel #3201170, parcel  
#3201843 (partial)

## Request:

## Conditional Use and site plan application for Hudson Community Living, an institutional residential use

**Applicant:**

Nate Bailey,  
Peninsula Architects

**Property Owner:**

## Hudson Community Living Company, City of Hudson

## Zoning:

## D3-Suburban Residential Neighborhood District

### Case Manager:

Nick Sugar  
Nick Sugar, City Planner

## Staff Recommendation

Approval subject to conditions  
on pg. 4.

## Contents

- Applicant Response Letter, 11.28.22
- Applicant Deed Restriction
- Applicant Legal Opinion
- Site Plan/Landscape Plan, 11.28.22
- Asst. City Engineer review dated 12.5.22
- Public Comments Received



## Staff Update:

The application has been previously presented to the Planning Commission at the September 12<sup>th</sup> and November 14, 2022 meetings. At the conclusion of the discussion on November 14<sup>th</sup>, the Planning Commission approved a motion to continue the application to the December 12, 2022 Planning Commission meeting with the request for the applicant to address the following:

- Conditions from the November 14<sup>th</sup> staff report to be addressed, excluding condition #4.
- Applicant to submit a draft deed restriction for review by the City Solicitor.
- Applicant to submit a legal opinion for review by the City Solicitor regarding:
  - Developers ability to restrict tenants to those with disabilities.
  - Determination per the Ohio Revised Code regarding licensing by the State of Ohio.
- Applicant to submit a detailed landscaping plan.
- Reduce the project density – specific number of units not dictated at the continuance due to the need to first confirm institutional use per the legal opinion.

These items are further outlined in the following report which has been prepared as an addendum to the staff report of the November 14, 2022 meeting (attached).

## Considerations from the November 14<sup>th</sup> Planning Commission meeting

- **Recommended conditions provided within the November 14<sup>th</sup> staff report:**

1. A deed restriction shall be placed on the property prior to the issuance of a zoning certificate limiting the use to serve adult persons with Developmental Disabilities. The deed restriction shall be subject to approval by the City Solicitor and shall include a requirement that it cannot be released without approval by City of Hudson.

Staff Comment: The applicant has submitted a draft deed restriction. Staff notes the draft should be revised to have definitions match the LDC and should reference the existing improved infrastructure cannot be converted to a townhome/duplex/single family-attached development. The City Solicitor has completed a preliminary review, has no objection to the establishment of a deed restriction, and recommends any decision be subject to final review and acceptance by the City Solicitor.

2. Site plan shall be revised to incorporate the following:

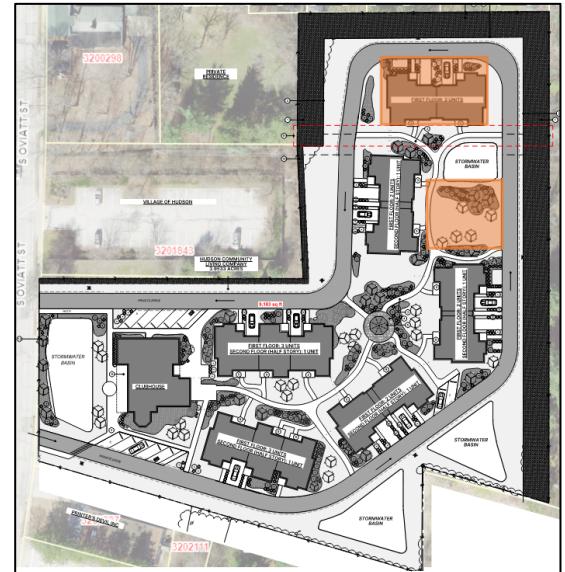
- i. The repositioning of fencing in the northwest and southeast portions of the site so as to be located closer to the private drive on a higher slope;

Staff Comment: The site plan has not been modified to reflect this condition; however, the applicant has requested to work with staff through the zoning certificate review to find an amenable location.

- ii. The removal of a three unit building as depicted in figure 2 of the November 14, 2022 staff report with consideration of reorienting the drive along the center of the northwest buildings.

Staff Comment: The intent of the staff recommendation to remove three units was to increase compatibility with the residential development adjacent to the northeast portion of the site. The site plan presented by the applicant at the November 14<sup>th</sup> meeting responded to this comment through the following revisions:

- A duplex building was removed. Additional open space/plantings are shown in its place.
- The three-unit building at the northernmost portion of the site was reduced to a two unit building by removal of a second-floor unit.



The revisions do address the staff comment by removing three units from the northern portion of the site.

**Total unit count for project:** The staff report of November 14<sup>th</sup> recommended a total count of 17 units (20 previously proposed minus the removal of a three-unit building). The current proposal is for a total of 19 units. Three units have been removed from the northern portion of the site; however, two units have been added to the southwest

portion of the site. Staff is acceptable with this revision as it addresses the need to improve compatibility within the northern portion of the development.

Staff notes the applicant has stated that reorienting the drive would conflict with the intentional design of a central open space and accessible interior walkways connecting the buildings.

- iii. The addition of a sidewalk connection at the south side of the clubhouse as depicted in Figure 3 of this report.

Staff Comment: The applicant has modified the site plan to include a sidewalk connection.

3. Submit a landscaping plan in compliance with the applicable standards of Section 1207.04

Staff Comment: The proposal is subject to a 25ft landscape bufferyard (Bufferyard D – Substantial) where adjacent to residential uses. The applicant has submitted a detailed landscaping plan in compliance with the bufferyard and planting requirements stipulated in Section 1207.04.

5. A variance shall be obtained from the Board of Zoning and Building Appeals from Section 1207.03 Wetland/Stream Corridor Protection to fill the approximate 0.2 acres of delineated onsite wetlands.

Staff Comment: The applicant has indicated intent to pursue a variance from the Board of Zoning and Building Appeals.

6. The comments of Assistant City Engineer David Rapp shall be addressed per the November 2, 2022 correspondence.

Staff Comment: Assistant City Engineer David Rapp has submitted a revised review letter dated December 5, 2022. Staff acknowledges many of the technical comments of the Engineering review are related to construction and outside agency approvals and could be finalized through the zoning certificate review.

- **Applicant to submit a legal opinion for review by the City Solicitor regarding:**

- Developers' ability to restrict tenants to those with disabilities.
- Determination per the Ohio Revised Code regarding licensing.

Staff Comment: The applicant has submitted documentation from Attorney Glenn E. Billington stating the development is able to restrict tenants to those with developmental disabilities and is not required to obtain licensure from the State of Ohio. The City Solicitor has reviewed the submitted documents, obtained further legal opinion for outside counsel, and is acceptable with the submitted documentation.

- **Reduce the project density – specific number of units not dictated at the continuance due to the need to first confirm institutional use per the legal opinion.**

Staff Comment: The legal opinion submitted by the applicant and accepted by the City Solicitor states the developer is able to restrict tenants to those with developmental disabilities and that the project does not require a state license. This documentation further supports that the proposal is applicable to the proposed Institutional Use standards.

A residential density standard or count is not applicable as this project is not regulated as a residential use (ex. townhome, duplex, etc). The Planning Commission may consider physical and operational compatibility of the proposed development per the conditional use standards of Section 1206.02.

### **Findings:**

The staff finds that the application is in compliance with the general conditional use standards of Section 1206.02(b) and the Special Conditions and Standards 1206.02(c)(4),(14),&(22) applicable to Institutional Residential Uses (attached).

### **Required PC Action**

The PC shall consider the development application, the staff report, and then take final action. PC shall approve, approve with conditions, or deny the application based on its compliance with the appropriate review standards. All decisions of the Commission shall be based on findings of fact related to the relevant standards of the Code.

### **Recommendation**

Staff recommends that the Planning Commission approve the Conditional Use and Site Plan request for Hudson Community Living, a proposed institutional residential use, per Case 2022-822, as the application is in compliance with the general conditional use standards of Section 1206.02(b) and the Special Conditions and Standards 1206.02(c)(4),(14),&(22) applicable to Institutional Residential Uses and subject to the following conditions:

1. Site plan shall be revised to reposition the fencing in the northwest and southeast portions of the site so as to be located closer to the private drive on a higher slope.
2. The submitted deed restriction shall be reviewed and accepted by the City Solicitor and recorded prior to issuance of a zoning certificate.
3. A variance shall be obtained from the Board of Zoning and Building Appeals from Section 1207.03 Wetland/Stream Corridor Protection to fill the approximate .2 acres of delineated wetlands onsite.
4. The comments of Assistant City Engineer David Rapp shall be addressed per the December 5, 2022 correspondence.