

November 28, 2022

Hudson Community Living
Responses for City of Hudson Planning Commission

Staff Comments:

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 Planning Commission. (See attached provided by Majeed G Makhoulf, Esq.)
2. Site plan shall be revised to incorporate the following:
 - a) 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;
 - b) The removal of a three unit building as depicted in figure 2 of this report with consideration of reorienting the drive along the center of the northwest buildings.
 - c) The addition of a sidewalk connection at the south side of the clubhouse as depicted in figure 3 of this report.
 - a) We will work with engineering to move the fence as close as possible to requested location. Exact location will be determined by grading and site lines.
 - b) We have removed the 3 unit building in our property layout. We do not feel we can change the drive to accommodate the second ask in this request as it breaks up our safe walkway to the clubhouse and brakes up our open space.
 - c) Our current site plan adds a walkway to the city sidewalk on the south side of the clubhouse.
3. Submit a landscape planting plan in compliance with the applicable standards of Section 1207.04. (See attached provided by Nate Bailey – Peninsula Architects)
4. The use be required to obtain a new conditional use approval if sold or transitioned to new operators. (See attached provided by Majeed G Makhoulf, Esq.)
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 .2 acres of delineated onsite wetlands. Acknowledged, a variance will be obtained.
6. The comments of Assistant City Engineer David Rapp shall be addressed per the November 2, 2022 correspondence.

We are committed, as required, to meet the standards of the City of Hudson Storm Water Management code. We will work with the city to provide additional storm water measures where applicable and reasonably practical.

Other Questions submitted:

1. Staff comments 1-6, except #4 (from 11.14.22 staff report) – [See above](#)
2. Submit a legal opinion for review by the City Solicitor regarding
 - I. Developers’ ability to restrict tenants to those which have developmental disabilities. ([See attached from Glenn Billington, Esq.](#)).
 - II. Determination per ORC 5123.19 regarding licensing by the State of Ohio. ([See attached from Glenn Billington, Esq.](#))
3. Submit a detailed landscape planting plan. ([See attached from Nate Bailey – Peninsula Architects](#))
4. Reduce the project density – specific number of units not dictated at the continuance due to the need to first confirm institutional use per item #2 above.

[We respectfully submit the site plan as proposed in the meeting held on Nov 14 2022.](#)

DECLARATION OF RESTRICTIONS

This Declaration of Restrictions (“Declaration”) made this _____ day of _____, 2022, by Hudson Community Living Company, an Ohio nonprofit company (“Declarant”) to evidence the following:

W I T N E S S E T H

WHEREAS, Declarant is the owner of property with Summit County, Ohio, Permanent Parcel Numbers 3200331, 3201170, 3200328, and _____ [new PPN that will be created for portion of 3201843 being purchased by Declarant], described in the attached Exhibit A hereto (the “Property”);

WHEREAS, Declarant has submitted an application to the City of Hudson (“City”) for a conditional use and site plan approval to operate an institutional residential use, either as individuals or roommates within a unit, to serve individuals with developmental disabilities on the Property, including staff (“Proposed Use”); and

WHEREAS, the City has conditioned the approval of the Proposed Use on Declarant’s agreeing to use restrictions on the Property as provided herein.

NOW, THEREFORE, Declarant, for itself and its successors and assigns, hereby covenant and declare:

1. Definitions. For purposes of interpreting this Declaration, the following terms shall be defined as follows:

- (a) "Condominium" means a form of real property ownership in which a declaration has been filed submitting the property to the condominium form of ownership pursuant to this chapter and under which each owner has an individual ownership interest in a unit with the right to exclusive possession of that unit and an undivided ownership interest with the other unit owners in the common elements of the condominium property.
- (b) "Dwelling unit" means rooms providing complete living facilities for one family, including equipment for cooking or provision for the same, and including rooms for living, sleeping, and eating.

- (c) "Dwelling" means a structure designed for occupation as a residence by one or more families each living independently in a separate dwelling unit.
- (d) "Two-family dwelling" means a detached building designed for occupation as the residence of not more than two families, each living in a separate dwelling unit. The dwelling units may be divided horizontally or vertically.
- (e) "Multi-family dwelling" means a structure other than a single-family dwelling, two-family dwelling or institution, designed for occupation as a residence by three or more families each living and occupying rooms in apartments, suites or groups, each such apartment, suite or group comprising a dwelling unit.
 - a. "Townhouse" means a multi-family dwelling comprised of at least three dwelling units attached by common fireproof walls, each unit having at least two separate exterior entrances on the ground floor, with no common lobby, foyer or similar hallway serving more than one apartment. Included are townhouse types such as atrium house, patio house, rowhouse and attached single-family dwellings.
 - b. "Apartment" means a multi-family dwelling comprised of three or more dwelling units, apartments, arranged side by side and/or one above the other, and each having a separate entrance or entrances connected to a common outside entrance or entrances.

2. Prohibited Uses. The following uses shall be prohibited and not permitted on the Property for a period of 25 years from the effective date hereof:

- (a) Condominium;
- (b) Two-family dwellings; and
- (c) Multi-family dwellings.

None of the foregoing restrictions may be interpreted in a manner to prohibit or otherwise restrict or limit the operation of the Proposed Use on the Property.

3. Effective Date. The restriction in paragraph 1 shall go into effect only upon the City's approval of Declarant's applications for a conditional use and site plan for the Proposed Use.

4. Enforcement. This Declaration shall be governed by the laws of the State of Ohio. This Declaration is intended for the sole benefit of the City and may be enforced solely by the City. This Declaration may be modified, amended, or revoked by Declarant, its successors, and assigns, in whole or in part, only with the consent of the City by an ordinance enacted by its Council. The

City shall have all the rights to which it may be entitled under law or equity to enforce the provisions of this Declaration.

5. Successors in Interest. This Declaration shall run with the land and shall be binding upon Declarants and their successors in interest in perpetuity.

IN WITNESS WHEREOF, this Declaration of Restrictions is executed by Declarant this ___ day of _____ 2022.

DECLARANT

HUDSON COMMUNITY LIVING

By: _____

Its: _____

STATE OF OHIO)
) SS
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me on _____, 2023 by _____, _____ of Hudson Community Living, an Ohio nonprofit company, on behalf of said company. No oath or affirmation was made by the person signing this instrument.

Notary Public

Attached: Exhibit A – legal description

This Instrument Prepared By:

Majeed G. Makhlouf, Esq.
Berns, Ockner, & Greenberger, LLC
3733 Park East Drive, Suite 200
Beachwood, OH 4412

GLENN E BILLINGTON

ATTORNEY AT LAW

2000 Lee Rd #219

Cleveland Heights, OH 44118

216-371-5551

billingtonlaw@gmail.com

Chris Gurreri

Hudson Community Housing Company

1602 E Haymarket Way

Hudson, OH 44236

Dear Chris:

Thank you for asking me for my legal opinion regarding questions from Hudson's Planning Commission. I authorize you to share this with the Commission, County DD Board or any other entity.

For the past 40 years, I have been involved in the highly successful movement to provide safe and humane community-based housing options for persons with developmental disabilities. In the late 1970's I served on the Cuyahoga County Board of Developmental Disabilities. Then Superintendent of that Board, Michael Donzella, along with many others, championed closing the large state institutions of that era and developing small scale community-based living environments for persons with developmental disabilities. When I finished my term on the Board, I was asked by the Superintendent to carry out that vision by representing North Coast Community Homes. Since 1984, I have successfully handled multiple zoning challenges on behalf of North Coast and other similarly situated organizations. There are now approximately 250 such homes in Northeast Ohio and perhaps as many as 1,000 such homes in Ohio. I am not aware of any significant problems associated with such homes.

The City of Hudson deserves respect for recognizing the importance of such housing options and approving the re-zoning of your property for this purpose. Your housing proposal is supported by the Summit County Board of Developmental Disabilities and thus is eligible for funding to meet the unique needs of your future residents.

I have been advised that the Hudson Planning Commission would like a legal opinion which responds to two questions. First, is there a requirement that this housing proposal be licensed by a governmental entity? Second, would it violate the Fair Housing Act to exclude non-disabled persons as potential tenants? My response to both questions is NO, a license is not required and there would be no such violation of the Fair Housing Act.

If it is being asserted that this project requires licensing under ORC Sec. 5123.19 as a Group Home, that is incorrect. These homes would be considered as a Supported Living environment under ORC Sec. 5126.40-47 which does not require licensure. The proposed residents and the caretakers selected by the residents will, however, be subject to oversight and support by the Summit County Board of DD.

The Fair Housing Act protects the legal rights of persons with disabilities. It does not protect any rights of potential non-disabled applicants. The Fair Housing Act prohibits discrimination against individuals with disabilities and requires that reasonable accommodations be made to ensure that persons with disabilities have an equal opportunity to use and enjoy housing. An approval of this proposed development would be consistent with protecting the legal rights of these individuals with disabilities.

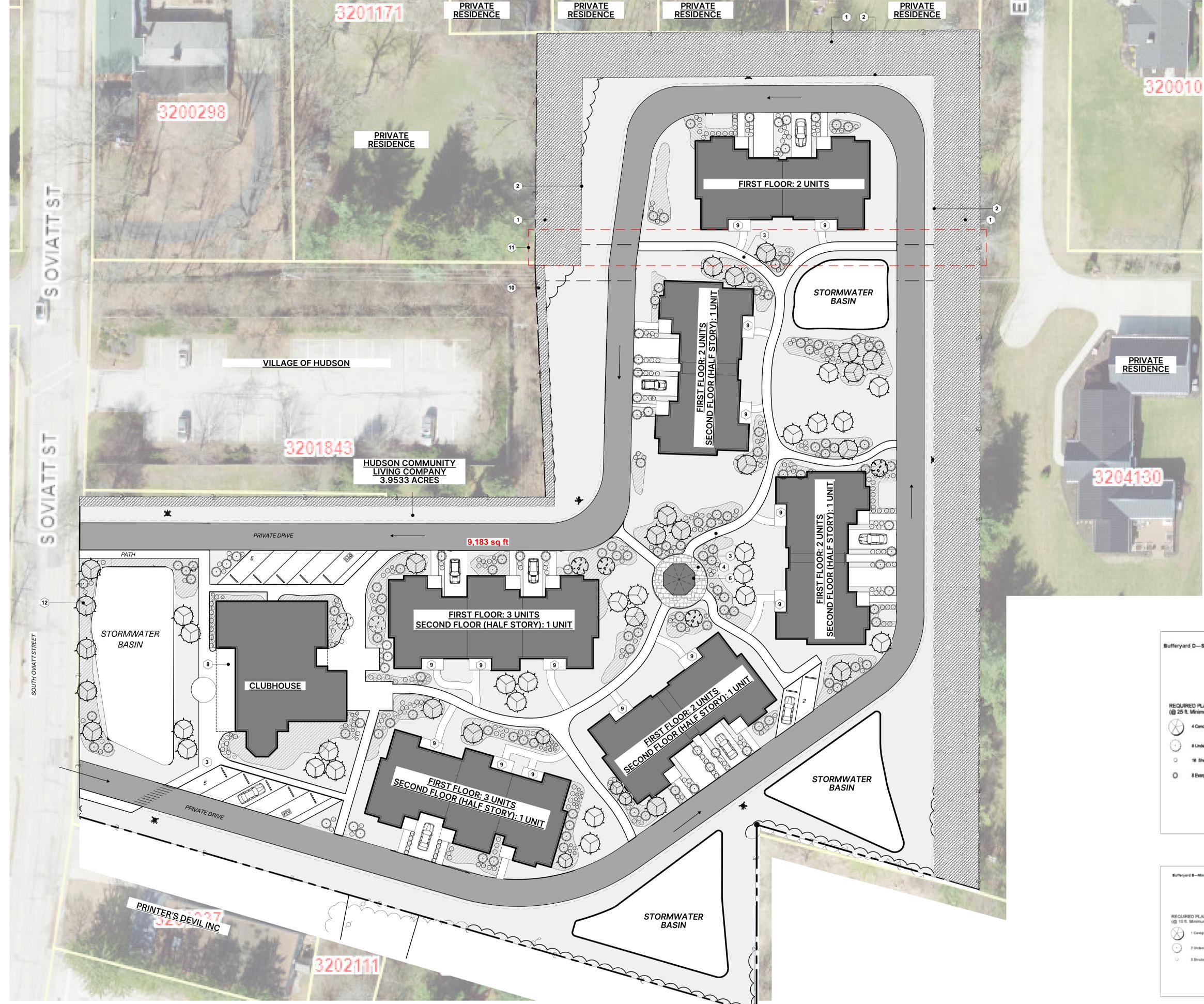
In addition, since this property has already been rezoned for a specific use, allowing any person who is not developmentally disabled to reside there (with the exception of staff) would be a violation of the approved use of the property. Also, as a practical matter, it is highly unlikely that any non-disabled persons will apply since the cost to reside in this community will include the cost of staffing the premises. This cost will be higher than the market rates for similar properties that do not provide such services in Hudson.

Finally, if your organization were to allow non-disabled persons to live in its homes, that could violate your organization's IRS Sec 501 (c) (3) public charity status which requires that assets be used exclusively in support of its approved charitable purpose. This would also preclude your non-profit from applying for real estate tax exemptions which must be based on using the properties exclusively for its charitable purposes.

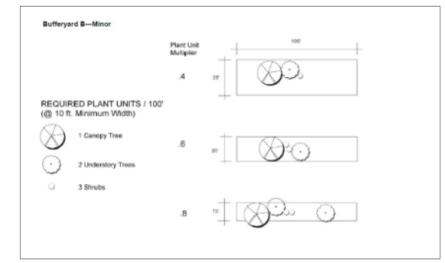
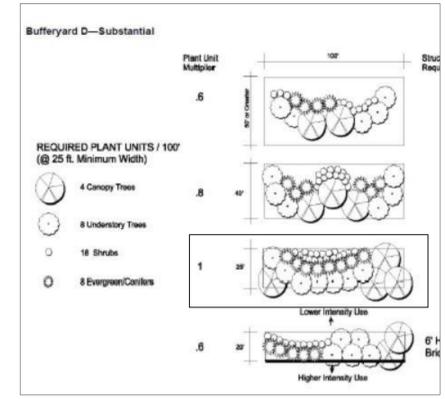
In conclusion, as an Attorney who has focused in these types of issues for over 40 years, I would recommend that the Hudson Planning Commission approve this proposal. The individuals who desire to live here deserve to be treated fairly, equally, and without being subject to discrimination.

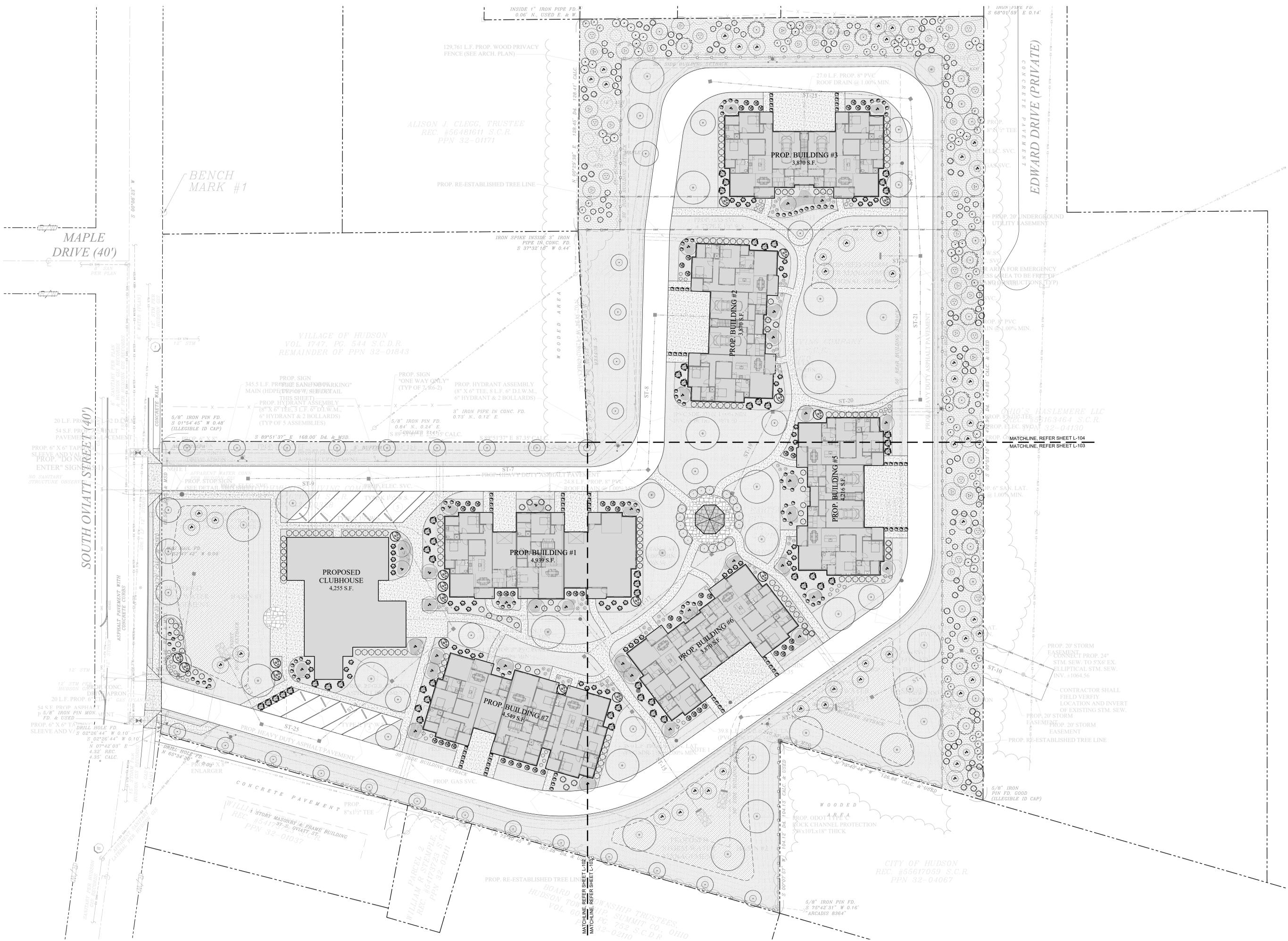
Sincerely,

Glenn E. Billington



- LANDSCAPE PLAN CODED NOTES**
 NOTE: ALL CODED NOTES MAY NOT OCCUR ON EVERY SHEET
- 1 LOCATION OF LANDSCAPE BUFFER YARD PER CITY OF HUDSON ZONING REQUIREMENTS. PLANTINGS WILL COMPLY WITH THE REQUIREMENTS OF BUFFERYARD D.
 - 2 FENCE TYPE: WOOD PRIVACY FENCE
 - 3 CONCRETE PAVING - PEDESTRIAN FINISH LIGHT BROOM JOINTS: SAW CUT
 - 4 UNIT PAVERS #1 - PEDESTRIAN TYPE: NATURAL STONE
 - 5 DRY STACKED STONE WALL: 30" OR LESS IN HEIGHT
 - 6 POTENTIAL LOCATION OF GAZEBO OR PERGOLA
 - 7 FREESTANDING FIRE PIT
 - 8 COVERED FRONT PORCH
 - 9 REAR UNCOVERED PORCH FOR RESIDENTS
 - 10 LOCATION OF LANDSCAPE BUFFER YARD PER CITY OF HUDSON ZONING REQUIREMENTS. PLANTINGS WILL COMPLY WITH THE REQUIREMENTS OF BUFFERYARD B.
 - 11 UTILITY EASEMENT - CITY OF HUDSON UNDERGROUND
 - 12 STREET TREES PER LAND DEVELOPMENT CODE REQUIREMENTS
 - 13 TRASH ENCLOSURE





PLANTING PLAN - OVERALL
Scale: 1" = 20'-0"





ENGINEERING • 1140 Terex Road • Hudson, Ohio 44236 • (330) 342-1770

Date: December 5, 2022

To: Nick Sugar, City Planner

CC: Bradley Kosco, P.E., P.S. City Engineer

From: David Rapp, P.E., P.S. Assistant City Engineer

Re: Hudson Community Living
Viewpoint #22-822

The City of Hudson Engineering Department has reviewed the plans submitted and the comments are below. Note: The City of Hudson Engineering Standards (Engineering Standards) and Land Development Code (LDC) are available online at the City of Hudson Website www.hudson.oh.us under the Engineering Dept. and Community Development Department respectively. The standards are also available in print for a fee. Please contact our office (330-342-1776) if you would like a cost for the printed version.

Your comments the City of Hudson Engineering Department has the following comments:

General Comments:

1. The site is designed with the drive being one-way traffic, this must conform to the MUTCD manual. Adequate signage is required to ensure drivers follow the proper route. Several locations should be widened for bypass traffic if a vehicle is picking up or dropping off residents.
2. Trees shall be cleared prior to April or after October due to Indiana Bats.
3. Summit County DSSS will have final approval for the sanitary connection. In addition, the existing lateral shall be checked to ensure it is free of debris and structurally sound.
4. Summit County Soil and Water will review the SWPP Plan.
5. Maintenance of Traffic plan required when construction equipment and parking will be within the City right-of-way and bores or open cuts of roadway will occur.
6. Edwards Street shall not be used as a construction drive.

Storm Water Comments:

1. The Engineering Standards Section 5 provide guidance for Storm Water Management. Per Section 5.4: The Peak discharge is calculated by reducing the 25 year post-developed discharge to a 2 year Pre-developed discharge as a minimum.
2. Four (4) ponds are proposed with 2 discharge points.

3. The storm system has a discharge to the east that will tie into an existing storm line. An easement must be acquired from the adjacent owner and filed with the county and the capacity of the existing storm sewer verified to ensure there is enough capacity.
4. The second discharge is from Pond 1 and discharges to a curb inlet on North Oviatt. Further investigation may require direct connection to the storm system.
5. Emergency spillways should be noted and discharge direction shown.
6. Per 5.7 of the Engineering Standards: All ponds shall have a maximum 3:1 side slopes.
7. The 100 year flood path will need to be shown.
8. Cut-off swales shall be utilized to reduce storm water from going offsite
9. The resubmitted landscaping plan has no contours and cannot be constructed as shown without obstructing flow in the swale.

Please contact me with any questions.
Sincerely,



David Rapp, P.E., P.S.
Assistant City Engineer
1140 Terex Road, Hudson, OH 44236
Ph: 330-342-1776