

City of North Royalton

Mayor Larry Antoskiewicz

Board of Zoning Appeals

David Smerek Building Commissioner

PUBLIC HEARING LEGAL NOTICE

Pursuant to Section 1264.05 of the City of North Royalton Zoning Code, **Notice** is hereby given that the **Board of Zoning Appeals** of the City of North Royalton, Ohio, will hold a public hearing on Thursday, **February 22, 2024** at 7:00 p.m. local time in the Council Chambers at City Hall, 14600 State Road.

As required pursuant to Section 1264.04, the Public Hearing will be heard on the request by Jordan Berns, Esq. and Benjamin Ockner, Esq., of Berns, Ockner & Greenberger, LLC, on behalf of Revere at Woodcroft Glen, LLC and Traditions at Royalton Place, LLC, to appeal the decision of the Planning Commission, as set forth in Codified Ordinance Sections 1264.01(b) and 1264.01(c), in regards to application PC23-18 which, at the December 6, 2023 Planning Commission meeting, granted final site plan approval to 13393 York Road LLC for alterations to Mr. Divot's Sports Park located at 13393 York Road, also known as PPN: 482-27-005, in Research Office (RO) District zoning.

Hearings for each variance or appeal will be taken in order as set forth in agenda. Hearings generally take approximately ten (10) minutes but are fact based and may require a greater length of time. All applicants and anyone wishing to be heard on a variance or appeal request should be present at the start of the meeting. Plans and specifications and other documentation are on file at the Building Division, City of North Royalton Service Center, 11545 Royalton Road, for review by interested parties.

You can view the meeting live by entering the following link on your phone or computer or you may attend the meeting in person at North Royalton City Hall.

Link: Board of Zoning Appeals Website

If you would like to be heard on the subject of this application but do not wish to attend the meeting in person, please fill out and submit the attached Public Hearing form with any documents or photographs and return it to the Building Department no later than February 21st at 12:00 p.m. local time. PLEASE NOTE: THE PUBLIC HEARING FORM MUST BE NOTARIZED IN ORDER TO BE READ INTO THE RECORD.

BOARD OF ZONING APPEALS NORTH ROYALTON, OHIO

Ian Russell Board of Zoning Appeals Secretary City of North Royalton, Ohio February 8, 2024

SUPPLEMENT TO APPLICATION FILED 1/18/2024



City of North Royalton

Mayor Larry Antoskiewicz

Community Development, Building Division David Smerek, Building Commissioner 11545 Royalton Road, North Royalton, OH 44133



Phone: 440-582-3000

CITY OF NORTH ROYALTON BOARD OF ZONING APPEALS APPLICATION

13393 York Road		Mr. Divot	's Spo	rts Park
Address		Occupant, Busin	ess or Tena	nt (if applicable)
PPN: 482-27-005		RO	4	HOA Name:
Permanent Parcel Number		Zoning District	Ward No.	Letter of Approval Rec'd: Yes or No Letter of Denial Rec'd: Yes or No
2. Property Owner:				
13393 York Road LLC		Mr. Divo	's	
Name		Name of Business	s (if applicable	e)
13393 York Road		(440) 33	6-3002	/ (440) 336-6948
Address	h.,	Phone		
North Royalton, O	H 44133	alansfinance	@yahoo.c	om / aniederstnm@gmail.com
		Email (electronic mail)		
City, State and Postal Code 3. This request is being Representative): Revere at Woodcraft Glen, LLC and		esponsible p	oarty (Ow	ner / Authorized & Greenberger, LLC
3. This request is being Representative): Revere at Woodcraft Glen, LLC and Name By Jordan Berns, Esq.,	Traditions at Royalton Place, LLC and Benjamin Ockner, Esq.	Berns, C	oarty (Ow Ockner	& Greenberger, LLC
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Other Application Fee Information

CITY OF NORTH ROYALTON BOARD OF ZONING APPEALS APPLICATION

Type of Variance: Area Variance NRO 1264.08(e)(1) – complete sections 5, 6, 7 and questions relation area variances Use Variance NRO 1264.08(e)(2) – complete sections 5, 6, 7 and questions relation to use variance Riparlan and/or Wetland Setback Variance NRO 1492.11 – complete sections 5, and questions relative to riparlan setback and complete walver Administrative Appeal NRO 1264.04 – complete Notice of Appeal (pg. 13) NATIONAL SECTION 1264.08(e) – reason the variance is needed. NA Bescription or the nature of the variance(s) requested and the corresponding Section(s) the City of North Royalton Code of Ordinances.	
Use Variance NRO 1264.08(e)(2) – complete sections 5, 6, 7 and questions relative to use variance Riparian and/or Wetland Setback Variance NRO 1492.11 – complete sections 5, and questions relative to riparian setback and complete waiver Administrative Appeal NRO 1264.04 – complete Notice of Appeal (pg. 13) Narrative statement establishing and substantiating the justification for the var pursuant to Section 1264.08(e) – reason the variance is needed. NA Description or the nature of the variance(s) requested and the corresponding Section(sethe City of North Royalton Code of Ordinances.	
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The Board of Zoning Appeals or its agent(s) is hereby authorized to enter upon the property for which this variance is sought, without further notification, to inspect said property. Any such inspection shall be conducted between the hours of 9 a.m. and 5 p.m. on any day of the week, including weekends.

I further understand that any misrepresentation of data or facts or violations of the Ordinances of the City of North Royalton are cause for refusal, suspension or revocation of this license if issued.

Applicant Signature, Printed Name and Title

Sarah Zimmerman, authorized agent

Property Owner Signature, Printed Name and Title

Date

1/18/2024

Date

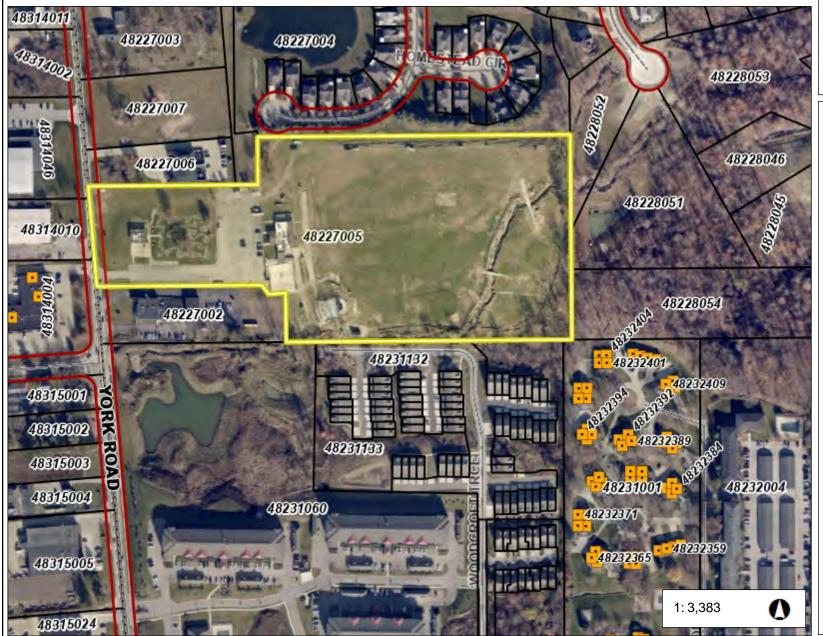
CITY OF NORTH ROYALTON BOARD OF ZONING APPEALS

NOTICE OF APPEAL FORM*

Date: 1/18/2024		
Revere at Woodcraft Glen, LLC and Traditions at Royalton Place, LLC Name (Appellant):	(by its counsel Jordan Berns, Esq. Benjamin J. Ockner, Esq., and	
Address: P.P. ## 48231132, 48231134, and 48231060	Berns, Ockner & Greenberger, L	
Telephone number: (216) 831-8838 (Exts. 2 or 3)		
Date of notice, order or decision appealed: December 6	20 <u>23#</u> . (*See note below)	
Copy of notice, order or decision attached as Exhibit If unabl decision or section of Zoning Code from which the appeal is sought:		
Per Sections 1264.01(b) and (c) of the North Royalton Codified Ordinances ("Coothe Planning Commission's decision in PC23-18 in which 13393 York Road LLC for the addition of a bathroom to the existing ice cream building, exterior modificate building and building signage, the construction of a pergola structure, the replaced exterior paving, and the area expansion of the existing miniature golf course at M at 13393 York Road, also known as PPN: 482-27-005, in Research Office (RO) In the property of the pro	sought final site plan approval utions to the existing ice cream ement and modification of the Divot's Sports Park located	
State error or grounds supporting appeal:		
Please see attached narrative, which includes relevant portions	of the approved minutes	
of the December 6 Planning Commission meeting and other ma	terials identified therein.	
To be completed by office of Building Commissioner:		
Date appeal filed: 1-18-2024		
*Appellant may submit any timely notice of appeal which includes the	decision appealed, the error	



Cuyahoga County GIS Viewer





Date Created: 1/31/2024

Legend

- Municipalities
- Right Of Way
- -- Platted Centerline
- □Parcel

564 0 282 564 Feet

WGS_1984_Web_Mercator_Auxiliary_Sphere

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION



NOTICE OF APPEAL

APPELLANTS:

Revere at Woodcroft Glen, LLC ("Revere")

Traditions at Royalton Place, LLC ("Traditions")

14300 Ridge Road

North Royalton, OH 44133

(P.P. ## 48231132, 48231134, and 48231060)

COUNSEL:

Berns, Ockner & Greenberger, LLC

Jordan Berns, Esq.

Benjamin J. Ockner, Esq.

3733 Park East Drive, Suite 200

Beachwood, OH 44122

(216) 831-8838

DECISION

APPEALED:

North Royalton ("City") Planning Commission ("PC") No. PC23-18, approving the application of 13393 York Road LLC ("York") for final site plan approval for improvements to Mr. Divot's Sports Park ("Park").

Voted on 12/6/2023; finalized on 1/3/2024.1

ATTENTION NORTH ROYALTON BUILDING COMMISSIONER:

Revere and Traditions (collectively "Revere") hereby appeal the PC's decision approving a "final site plan" for York regarding the Park on land north of and adjacent to Revere's property. The approval was voted on at the PC's December 6, 2023, meeting and was finalized by the approval of the December 6, 2023, minutes at the PC's January 3, 2024 meeting.

As set forth below, the PC's decision violates Section 1286.06(b) of the City's Codified Ordinances ("Code") because it allows for the extension/enlargement of a nonconforming use. In addition, there was neither notice to the community nor an opportunity to be heard as to changes in the Park's hours of operation as well as buffering and light-shielding requirements. The changes to the hours of operation and buffering and light-shielding requirements will all have a detrimental impact on apartments, homes, and common areas owned and/or managed by Revere.

The Park is located in the City's Research-Office ("RO") District and is a nonconforming use. By application filed March 2, 2023 ("Application 1"),² York requested "final site plan approval" for 6 specific "improvements" at the Park:

- 1. Add a 20 stall indoor/outdoor (non-enclosed) structure to hit golf balls.
- 2. Replace current 6 batting cages with 5 new, enclosed batting cages.
- 3. Repair current light poles and modify with LED heads.
- 4. Replace parking lot.
- 5. Continue with current net contractor to completely enclose side and rear of driving range with nets. Nets to reach 75 feet high.
- 6. Replace current miniature golf course with new 18 hole course.

¹ A copy of relevant portions of the minutes of the PC's December 6, 2023, meeting are attached as Exhibit "A."

² A copy of Application 1 (on file on the City's website) is attached as Exhibit "B."

Application 1 also included proposed hours for the mini golf and the batting cages at the Park (10 am -10 pm), and a significant increase in the hours for the Park's driving range (6 am - 11 pm for Sunday through Thursday, and between 6 am and midnight for Friday and Saturday). Application 1 referred to the mini golf and batting cage uses as "seasonal" and referred to the driving range use as "yearly." The driving range had been open on a seasonal basis only.

The PC heard Application 1 at its April 5, 2023 meeting. During that meeting, representatives of Revere expressed concerns over light intrusion, sound, hours of operation, and the lack of buffering in light of York's removal of trees along the Park's southern boundary and Revere's property's northern boundary including some on Revere's property. (4/5/2023 PC Minutes at 4.)³ York's representative (Mr. Erdman)⁴ explained that the trees had been removed "to facilitate the contractor coming in to install poles for the netting." (*Id.*)

According to the approved minutes of the April 2023 meeting, the PC approved York's final site plan subject to certain enumerated conditions including:

Driving range hours of operation (traditional):

Monday, Tuesday, Wednesday, Thursday 10:00 a.m. to 10:00 p.m.

Friday, Saturday: 10:00 a.m. to 11:00 p.m.

Sunday: 10:00 a.m. to 10:00 p.m.

• Batting cages (seasonal):

10:00 a.m. to 10:00 p.m.

- New Netting around three-quarters of the facility for driving range on north side, east side and on the south side: 75 ft. high.
- The tee boxes set forward in a curve arrangement, particularly on the northern end
- Additional buffering and landscaping along the southern border abutting the
 residential properties including 10 ft. high mounds and pine trees. Applicant to
 work with Building Commissioner and City Engineer for location of the mounds
 and types of trees.
- The lighting for the property be shaded fully on to the property
- The bar and volleyball operation: maintain current hours.
- Some specific attention be paid to the ice cream stand for renovation and improvement.
- Storage shed to be renovated or removed.
- The additional commitments that Mr. Erdman has made that are in the record and in the minutes will also be made part of this motion.

(4/5/2023 PC Minutes at 7.)

³ A copy of the relevant portions of the minutes of the PC's April 5, 2023, meeting are attached as Exhibit "C."

⁴ Mr. Erdman was designated as York's authorized representative by Alan Rothstein, one of York's members, on the notarized Written Authority Form (Application 1, Ex. "B," at 4), and as such was "authorized to represent [York's] interests and make decisions on [York's] behalf" when he appeared before the PC.

On October 27, 2023, York submitted another application for final site plan approval ("Application 2")⁵ for additional work at the Park as follows:

Add ADA Bathroom to front building; New putt-putt course to be wheel chair accessible; Pergola to offer shaded area; Renovation/Remodel exterior of front building; and Replace exterior concrete.

Application 2 was heard by the PC at its December 6, 2023 meeting. As with the April 5, 2023, meeting, representatives of Revere were in attendance even though they were not planning to object to the specific requests for which the meeting was advertised. After the conclusion of the public comment portion (12/6/23 Minutes at 15), York's representative (Ms. Rothstein) sought to change salient parts of the April 5 approval including hours of operation, buffering, and light intrusion. (12/6/23 Minutes at 15, 16, 17-18.) By a 3 – 2 vote (with the PC Chairman and Council representative opposing), the PC approved Application 2 "contingent upon submitting a buffering plan, shielding plan and driving range hours starting at 8:00 a.m. daily." (12/6/23 Minutes at 22.) The December minutes were approved on January 3, 2024.

AUTHORITY OF THE BOARD OF ZONING APPEALS ("BZA")

Per Code §1264.01(b) and (c), the City's BZA has authority to:

review ... any order, requirement, decision or determination made by the Building Commissioner, administrative official or agency in regard to the zoning ordinances, giving due deference to a public official's exercise of discretionary powers and duties; [and]

provide an administrative board, independent from all other City boards and commissions, to act only pursuant to and in accordance with the standards established by the Council to hear and decide appeals which are to be tried over again from the beginning (de novo).

REVERE'S GROUNDS FOR APPEAL

The grounds for this appeal are as follows:

1. <u>Extension/Enlargement of Nonconforming Use.</u> Code §1286.06(b) provides: "A non-conforming use may not be extended within a building, enlarged or added to in any

⁵ A copy of Application 2 (on file on the City's website) is attached as Exhibit "D."

⁶ Per Code §212.03, the minutes are "the official permanent record" of the December 2023 PC meeting. Per Code §1264.04(b), any appeal to the BZA must be filed "within fifteen days after the date of such decision...." As the Planning Commission's decision at its December 6, 2023 meeting wasn't final until the minutes of that meeting were approved by the Planning Commission at its January 3, 2024 meeting, an appeal from the December 6 meeting decision must be filed on or before January 18, 2024. As such, this appeal is timely.

manner." The PC's decision allowed for an expansion of the minigolf area, the addition of a pergola, and an expansion of the hours and additional months of operation. The PC lacks authority to allow York to extend or enlarge its nonconforming use. Accordingly, its decision should be reversed.

- 2. <u>Lack of Notice</u>. Neither Application 2, nor the Notice of Public Hearing for the December 6 PC meeting, nor the Agenda for the December 6 hearing⁸ include any mention of or reference to the hours of operation, or the light intrusion and buffering provisions that were established by the PC at its April 5, 2023, hearing. Having expressed concerns at the April PC meeting about these issues, Revere's representatives would have objected to revisiting them.
- 3. <u>Lack of Opportunity to be Heard</u>. The hours of operation, light intrusion, and buffering issues were not discussed until after the public comment portion of the December meeting had been closed. As such, Revere was deprived of any opportunity to object to York's requests.
- 4. <u>Violation of Code §1278.02 Pergola Not Permissible</u>. Code §1278.02 lists all of the main and accessory uses that are permitted in the City's RO District (where the Park is located). Per Code §1278.02(a), the only main uses permitted are:
 - (1) Office uses as permitted in Office Building Districts;
 - (2) Laboratories for experimental research and testing;
 - (3) Production operations;
 - (4) Hotels; and
 - (5) Single family cluster developments.

In addition, other "similar" office, research and ancillary production uses are permitted if allowed by the PC. Code §1278.02(b).

Code §1278.02(e) allows the following accessory uses, and no others:

- (1) Storage of materials and products produced in this District within enclosed buildings, only if clearly accessory to the main use, and the enclosed storage and distribution of products produced in this District.
- (2) Industrial, project, real estate, identification and directional signs, and nameplates, as set forth in Chapter 1284.
- (3) Off-street parking and loading facilities as required and set forth in Chapter 1282.

⁷ To be clear, Revere does not object to the presence of an ADA-compliant miniature golf course or the pergola. It is Revere's position, however, that owing to the nonconforming nature of the use of the Park, the Planning Commission lacked authority to approve them. Instead, Code §1264.08(e)(3) grants authority to the BZA to approve the expansion of a nonconforming use.

⁸ A copy of the Agenda for the December 6 hearing is attached as Exhibit "E."

In light of the foregoing, the PC lacked authority to allow York to add a pergola to its nonconforming use.⁹

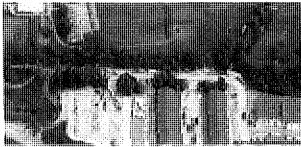
5. <u>Violation of Code §1278.14 – Landscaping</u>. Per Code §1278.14, properties in the City's RO District that adjoin a residential district (in which Revere's property is located) must maintain along the shared boundary line a five-to-seven-foot-high fence along with a landscaped visual buffer containing "deciduous and evergreen trees or shrubs sufficient to create a year-round visual barrier [that] shall be twenty feet in width." Code §1278.14(c). Additional buffering requirements are set forth in Code Ch. 1288. Per Code §§1278.14(d) and 1288.06, landscaping and buffering plans require the approval of the Planning Commission. (Code §1288.06(d) requires that the PC's consideration of a landscape buffer must be on the agenda of the meeting at which the PC will consider it.)

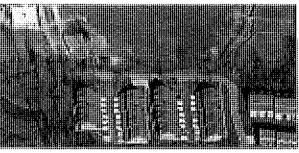
The April meeting minutes reflect that the PC's approval was conditioned on, among other things:

Additional buffering and landscaping along the southern border abutting the residential properties including 10 ft. high mounds and pine trees. Applicant to work with Building Commissioner and City Engineer for location of the mounds and types of trees.

During the December meeting, however, the PC backed off of this requirement and conditioned its approval of the other improvements sought by York on the submission of a buffering plan and light shielding plan. In addition, it appears that the review and approval of those plans was left to the Building Commissioner. (12/6/23 Minutes at 18-19.)

The need for a properly approved compliant landscape buffer is particularly acute in this case. A substantial buffer of landscaping and trees (shown in Picture 1 below as of July 2022) ran along the boundary line between York's property and Revere's before York initially sought approval in April 2023 for improvements. But, as shown in Picture 2 below (as of November 2023), York took down almost all of the vegetation along that boundary line. It is Revere's understanding that York did not seek any approval from the City before taking down the trees. York also took down trees and vegetation on Revere's property, again without permission. ¹⁰





(Picture 1) (Picture 2)

⁹ Code §1264.08(e)(2) grants authority only to the BZA to allow any use that is not permissible under the terms of the Code in the zoning district in which the property is located.

¹⁰ Revere reserves all of its rights in connection with York's conduct.

No landscape buffer plan for the Park has been included as an agenda item for any PC meeting. Any landscape buffer plan that the PC considers must satisfy the requirements of Code Chs. 1278 and 1288. What's more, the PC lacks authority to delegate approval of the buffering plan to the Building Commissioner. As such, the mere submission of a buffer plan does not satisfy the requirements of Code Chs. 1278 and 1288.

6. Violation of Code §1278.09 – Lighting. Code §1278.09(b)(12) applicable to the York property provides: "Exterior lighting shall be so installed that the surface of the source of light shall not be visible from any bedroom window and shall be so arranged, as far as practical, to reflect light away from any residential use." The April 2023 approval directed that "lighting for the property be shaded fully on to the property." But in approving Application 2, the PC directed that lighting would be pursuant to a "shielding plan" to be submitted to the Building Commissioner. Per Code §1278.13(a)(6), lighting must be included on the preliminary and final development plan and must be approved by the PC. While there was discussion during the December PC meeting about the lights being on timers, that will not suffice for purposes of the Code.

CONCLUSION AND RELIEF REQUESTED

For all of the foregoing reasons, and for those to be presented at a public hearing on this appeal, Revere respectfully urges the BZA to reverse the PC's decision voted on December 6, 2023, and finalized on January 3, 2024, granting Application 2.

Respectfully submitted,
Berns, Ockner & Greenberger, LLC

By: /s/ Jordan Berns Jordan Berns, Esq.

By: /s/ Benjamin J. Ockner
Benjamin J. Ockner, Esq.

Counsel for Appellant

NOTICE OF APPEAL

APPELLANT: Rever

Revere at Woodcroft Glen, LLC ("Revere")

14300 Ridge Road

North Royalton, OH 44133

(P.P. ## 48231132 and 48231134)

COUNSEL:

Berns, Ockner & Greenberger, LLC

Jordan Berns, Esq.

Benjamin J. Ockner, Esq.

3733 Park East Drive, Suite 200

Beachwood, OH 44122

(216) 831-8838

DECISION

APPEALED: North Royalton ("City") Planning Commission ("PC") No. PC23-18,

approving the application of 13393 York Road LLC ("York") for final site plan approval for improvements to Mr. Divot's Sports Park ("Park").

Voted on 12/6/2023; finalized on 1/3/2024.

EXHIBIT "A"

(Minutes of PC Meeting 12/6/2023)

The North Royalton Planning Commission met in the City Hall Council Chambers, 14600 State Road, on December 6, 2023 to conduct the Regular PC Meeting. The meeting was called to order at 7:04 p.m. by Chair Gene Baxendale and opened with the Pledge of Allegiance.

PRESENT: Planning Commission: Chair Gene Baxendale, Mayor Antoskiewicz, Paul Marnecheck, Marie DeCapite, John Ranucci. Secretary/City Planner Ian Russell. <u>Administration</u>: Law Director Tom Kelly, Director of Community Development, Thomas Jordan, City Engineer Justin Haselton, Building Commissioner David Smerek.

REGULAR ORDER OF BUSINESS:

Approval of the Minutes:

Moved and seconded to approve the minutes of October 4, 2023. Motion carried.

The Public Hearing portion of meeting called to order. A brief overview of the meeting process was given.

Chairman Baxendale: What we will do is get through one application at a time. The first applicant will be asked to come up and present their case. Different departments from the city will give their comments about the project. Once the comments have been addressed, we will open it up for discussion or comment from the public. Once the public portion is completed, we will close the public portion and go in to the regular portion of the meeting for that specific application. We will talk about anything else that needs discussed or addressed and then take a vote on the application. After that is completed, we will move on to the next application and this process starts over again until all applications have been heard.

PUBLIC HEARING / OPEN MEETING

Old Business

The applications will be out of order as PC23-15 coincides with PC23-17 in New Business.

 PC23-02ext: Thomas Denk, of 12557 Abbey Road, LLC., is seeking a 180-day extension of the Preliminary Site Plan Approval granted on January 4, 2023 for a proposed 11,675 square foot flex industrial office building located at 12557 Abbey Road, also known as PPN: 483-03-007 in General Industrial (GI) District zoning.

Tom Denk (applicant): My name is Tom Denk, I live at 7425 Cady Road. In order to go ahead with this project, I want to make sure that there's a pending sanitary sewer project. I want to make sure that's going to actually happen because the new sewer is supposed to be a quite a bit deeper than it is right now. I don't want to do drawings twice to accommodate that project. I'm hearing that it's going to happen, but I want to see it happen or at least go out to bid before we move ahead with this project.

Chairman Baxendale: What is your understanding on the timing of the sanitary sewer project?

Tom Denk (applicant): At a meeting in May, they were saying the part of the sewer project in front of our property would be done by June, which I knew was pretty ambitious on that part. But if I see it go out to bid, I'll know they're serious about doing it, and I've been dragging my feet because of that.

Chairman Baxendale: So, it is projected to be done in June of 2024?

Tom Denk (applicant): In the May meeting, six months ago, that's what was implied at that point. That's why I'm here.

Director of Community Development: To the chair, the bid would be out before then. So, what he's asking for, the work would not be performed by June, if it did go out to bid in the next couple of months.

Tom Denk (applicant): Understood, but at the May meeting...

City Engineer: Correct, the basins are designed in such a way as to actually reduce the amount of water that is ultimately outlet during most storm events. There is a 50-foot storm sewer easement on the far east side, that's on sublot 6. They're proposing to vacate 20 feet of that which would still leave 30 feet. Currently, there's no storm sewer in that easement so we don't have a problem, at least preliminarily, thinking that we could vacate that portion that they're proposing right now.

Mayor Antoskiewicz: Thank you and I appreciate you for putting basins in the back of all the houses, I think that will be a big help in that regard. I know there was a talk about that little stretch of sidewalk on the back, connecting your subdivision to the current subdivision. Is that part of your plan to put it in that part, or are you still getting together with the other HOA to try to talk about that?

Russell Sposit: Yes, we will be installing the 100 feet of sidewalk on the north and roughly 70 on the south.

With no further discussion the Chair asked for a motion to approve the application for sketch plan approval. Roll call: Yeas: Five (Baxendale, DeCapite, Marnecheck, Antoskiewicz, Ranucci). Nays: None. Motion approved (5-0).

2. PC23-18: Ashley Rothstein, on behalf of 13393 York Road LLC., is seeking final site plan approval for the addition of a bathroom to the existing ice cream building, exterior modifications to the existing ice cream building and building signage, the construction of a pergola structure, the replacement and modification of exterior paving, and the area expansion of the existing miniature golf course at Mr. Divot's Sports Park located at 13393 York Road, also known as PPN: 482-27-005, in Research Office (RO) District zoning.

Ashley Rothstein (applicant): My name is Ashley Rothstein. My address is 39695 Lockmore Drive in Solon, Ohio and my architect, Steve, will be presenting.

Stephen Ciciretto (applicant architect): Thank you for seeing us again tonight. After Ashley's Corporation took over the project in January of 2023, an earlier submittal came in and you had seen that relative to adding nets to the driving range, covered tee boxes, and new batting cages. So, dealing with the portion of the property to the east, which abutted the apartments and residential districts. What we're coming in tonight to talk about is the ice cream shop and the mini golf course and basically the western section of the parcel. So, at the original meeting, the Planning Commission asked as part of the overall project to take a look at could we do something to upgrade the ice cream shop. It's been years and years since anything's been done in that. The original owner had it from at least the early 80s. So, I think at that point it was more or less conceived of maybe giving it a paint job, freshening it up, landscape, do something with the front because it actually fronts on York Road, which is the most important part of the parcel in terms of streetscape.

Chairman Baxendale: Excuse me, would you move the microphone closer?

Stephen Ciciretto (applicant architect): So as Ashley ran the ice cream shop and we were dealing with issues inside of that building, how dated it was, it became apparent that there were several issues that, because it was so old and not updated, it became apparent that there were several issues with the property that were major issues in terms of ADA compliance. So, since the building predated the adoption of the ADA laws in 1992 as part of the Ohio Building Code, nothing really happened. In theory what happens with ADA is that as you over time fix up you're building or do work on it, a certain percentage should go to ADA compliance. Clearly it never happened. So, we looked at that as an issue that needed to be addressed along with fixing up the building, painting it, whatever we were going to do. In addition, we found there was breaks in underground wiring in the patio lighting. So, in the little patios that are off to the side of the ice cream shop, there were breaks in the wires. The lights didn't work. There was just numerous problems. So, we took a grander look at the front of the building, at the front parcel, and remembering that because in I believe 2021 this this parcel was rezoned as Research Office district, we continue to be non-compliant so we predated

zoning but it's a non-compliant use and so it brought up some issues as we started working through the process with the Building Department and planning and all that. I guess what ended up happening was it became quite a bit grander in scale than what was originally maybe thought of or intended or asked for by the Commission. And so tonight I'd like to present to you what our plans are for how we'd like to see the property finished developing. The back section of the parcel is, as we said, the nets and the batting cages, the covered tee box, all that's been addressed and is under construction now that golf season has kind of come to an end. And so, it's time to concentrate on the front. This is the overall site plan. This aerial map is probably a good object that will tell us that this is the building area here and this is the putt-putt, mini golf, course. There is a non-compliant building in the district to the north which is the care center and office building to the south. As we look at this parcel in the development, it's important to remember that this parcel and this piece of the project doesn't really deal with as many issues as we had with the residential concerns next door. So, this drawing shows in pieces that this red area is the existing mini-golf course, and of course, as you can see in that plan, more than 50% of these areas that we're designating as mini-golf or landscape areas, you know, they're lawns, you can see the tee boxes. And so, the blue area to the north is the expansion, and the expansion is primarily driven on the mini-golf because of the ADA compliance. So, the new course would be ADA compliant and meet all the standards and definitions for that. The current course is not compliant, so not everyone can use that.

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City Planner: Excuse me, Mr. Ciciretto, I just want to point out that the plan on the screen is not the plan that was submitted. So, since you amended the plan, we would need you to request the amendment of the plan. If you want to talk through the original plan and then the differences, that would be helpful as well.

Stephen Ciciretto (applicant architect): So, the original submission was this and after some input from the Building Department, we realized that this piece right up here is still, even though it's not, there's no homes, it's a landscaped area, it's still part of the residential zone. And so, technically, there is a one-hundred-foot setback from that lot. So, on this revised set that you may have had, you'll see this kind of circular piece. We were advised that we would be required to go for a variance if we wanted to build it like that. And certainly, as we've discussed, since so much of this is landscape, that area can definitely be a landscape portion of the new proposed mini golf course. So, as we go into it, you'll see that little circle cut out, that's the 100-foot radius from this point here. In addition to the golf course, the primary things that we wanted to work on was the building and the concrete courtyards that are existing around it. So right now, basically, these areas are concrete courtyards where people get their ice cream and go out. Baseball teams from the community will come out and, you know, hang out after their ballgames, getting their ice cream. So, we thought that as part of that concept, we can soften some of the shapes, change some materials in concrete and, you see, this is again schematic and conceptual and we'll be developing construction drawings pending your approval. But for our purposes, you'll see that we thought that it would be a good idea to introduce some landscaping, some trees, some buffer to soften up the appearance and to screen a little bit of the courtyards and the mini-golf that's going on behind it. So, there were several iterations back and forth with questions that the Building Department had and as we go through, I'll try and touch on those for you. Any questions about that? There is, of course, primarily a summer season that people are using the outdoor venues, so we anticipate adding a pergola structure, which we'll talk about in a little bit. A pergola is just a shade structure to cover some tables and provide a new look and shade for anybody that's sitting there. So, the only difference between the original plan that was submitted after input from the Building Department was the elimination of the variance request for that 100-foot setback from a residential lot.

Chairman Baxendale: Steve, just a clarification, the blue area on the new plan is going to be part of the new golf course?

Stephen Ciciretto (applicant architect): Yes, that's correct. So originally, the last time that we had submitted, I think there was an extension of the course that kind of came up in front of the building in this area here, and we've pulled that back and kind of changed it. It's further from the street, and again, remember, it's just that blue area also includes some landscaping elements of the golf course,

okay? But it's primarily used for expanding the golf course to make it ADA compliant, and frankly, to make it funner for everybody that goes there and uses it. Okay, so these elevations, they're not showing up great up there in color, but you'll get the idea. One of the key issues that drove the renovations to the building, as I talked about earlier, was...

Mr. Marnecheck: Are you changing the name?

Stephen Ciciretto (applicant architect): Yes, we were taking Queen off, I guess. This plan indicates that one of the things that was driving this is, you'll see there's no bathroom for users upstairs. There's actually a bathroom in the basement. Originally, it was probably intended for staff because it wasn't really a place that you would stay. But the reality is that people come here, get their ice cream, go play putt-putt. And right now, they have to go to the buildings in the back, to the restaurant building in the back, crossing the parking lot. And so, it's also short of the ADA compliance. So, this plan proposes a minor addition back at the back of the building here that is for the golf course users ADA compliant bathroom. We feel it's a safety concern and it keeps people and kids from crossing the parking lot, If you look at that overall plan, you can get a sense of that a little better. People golfing have to cut across here to go to use the bathrooms back in this building and then come back over. And of course, there's a question of ADA compliance. So now that you sort of see, that's adjacent to the back side. This plan just shows that there is the foundation plan, the basement plan, just to show that there's a basement bathroom that we wouldn't want anyone to use and it's non-compliant. So, the idea came when we looked at this building, and this is the front of it, can we do some of the things the Planning Commission hoped for or asked for and maybe take it even a little bit of step further. It became a little bit of a surprise because, being a non-compliant building, the question was whether or not the Planning Commission would consider this an expansion of the non-conforming use and well, we saw it as an uplift and not really a change of the use at all. So, there's a big overhang that kind of wraps around the building and there is also, as you can see from this photo here, and when you're on York Road, a bunch of rooftop equipment that is clearly visible. So, as I looked at the project and thought, what enhancements can we make? Certainly, signage is a big thing, so we added a sign on the front of the building. This is a screen wall that's built above the flat roof up there, a lattice and solid board that will hide the rooftop equipment so it cleans up the building from York Road particularly, but really from all sides because we wrap around 360-degree architecture. The back should look as good as the front in my mind and so we're introducing some shingle shake style shingles there so a little bit of detail to define the entrance corner. The two signs that we're adding here and here, on the plan, are actually 57 square foot smaller than the existing signs that are on this side and not shown on the other side of the building. So, there's two signs like this. So, we're decreasing signage, but we think it's better signage, more useful. A little playful cupola, something to draw attention to the center. The Fire Department, I believe, has asked for a large address that's clearly visible on the building. And so, you see that there. So, some of those things were in reaction to the city input. The back wall shows kind of where that you go get, if you've ever played there, you go pick up your balls back there and this is the addition for the ADA compliant bathroom. So basically, what we were we're asking for and seeking tonight is a preliminary approval to proceed with updating the building, providing ADA compliance to the to an ADA-compliant bathroom, ADA-compliant mini golf range. And by the way, I told you about the pergola and the little shade structure that would go in the front. It's small, it's a 10 x 20 area, and looks just like this. Those are vinyl materials that simulate wood. So, they will create a shade structure. There'll be a few tables under there and it's 10 foot deep by 20 foot in size of course there'll be details for that one we do construction drawings but that's the concept.

Chairman Baxendale: One clarification, you just indicated preliminary approval.

Stephen Ciciretto (applicant architect): We would submit construction documents at the Building Department, so I think Planning Commission would be a final approval and then pending approval, I guess, by the Building Department.

Chairman Baxendale: But tonight, would be preliminary approval.

Mayor Antoskiewicz: Are you seeking final?

Stephen Ciciretto (applicant architect): So, I guess my terminology was improper. It's actually looking for final. And then our submission to the Building Department would be in compliance with what we told you tonight.

Chairman Baxendale: Okay, we'll discuss that a little further after the public hearing portion. Okay, let's move over then to the City Engineer and get his thoughts and comments on the proposal.

City Engineer: Thank You. Mr. Chairman. If this project goes forward and we get to review the plans at that point we can look to see how much new impervious area is actually going to be proposed here with the putt-putt course and at that point we could recommend a best management practice feature like a bioretention cell in some of this new landscaping if necessary. I would also say that the applicant has a contractor working on site and they've actually built up a bridge over the stream in the back, to get access from one side to the other which really isn't allowed. I want to make sure that the applicant knows that they need to have that restored to pre-existing conditions as soon as possible.

Chairman Baxendale: I'm sorry, did you say that was not allowed?

City Engineer: Yes, they're impeding the flow of the stream. They put some stone in the stream to get from one side to the other. You're not allowed to do that. That has to be restored to pre-existing conditions.

Chairman Baxendale: Okay. Thank you. The Building Commissioner asked me to refer over to Mr. Jordan, Director of Community Development.

Director of Community Development: For some of the folks with us tonight, and for the benefit of the audience, a little history on the site. The site was originally developed almost four decades ago as a driving range and putt-putt. At what point, all of the features were added over the years. We do have a number of building permits, but clearly in 2004, the site was rezoned to Research Office. At that point, the use became a legal non-conforming use. That's what that term you've heard mentioned this evening. What that is that the use is grandfathered in. But in 2004, this city wanted to balance out, it was primarily an outer ring suburb residential, and they wanted to attract more commercial. So, State Road and York Road specifically, in this case, the residential homes that were on it, that fronted on that section of York Road, were rezoned to Research Office to really provide that. And they used research office specifically on those lots on that side of the street to transition from a residential neighborhood into a commercial neighborhood. It was meant to gently bring it, step down the commercial to residential. So, at that point, that particular use became non-conforming. A lot of these driving ranges and putt-putt areas are typically developed in outer ring suburbs in northeast Ohio as a placeholder by the developers to hold the land while they consider development options in the outer years. You may see a number of these developments, most recently in Avon, where these golf ranges and driving ranges are demolished as development moves out to the outer ring suburbs. And four decades ago, we were very definitely in an outer ring suburb. So, what has happened, Harley Hills has developed around it, the city rezoned the lot, became a legal non-conforming use. And in this instance, when it went up for sale about two years ago, over that period, we did receive a number of proposals to redevelop it into commercial, into what would be a conforming use. But we actually, the owner, wanted to continue its legal non-conforming use. And at that time, during the due diligence period, we told all the parties that they could do that as long as it's a one-for-one exchange. Meaning that the current site could be developed as long as the uses stayed pretty much the same. There is no doubt, if any of the neighbors ever visited that site, that that site did not need investment. All of the site, everything from those nets in the back, to the tees that were there, to the bar that is there, to the ice cream place, they all need serious investment. And we welcome the new owner's investment. They transferred the property, it's still legal non-conforming, they came in April and a new site plan was approved. During all of that period, they are allowed to operate that continued use. The city has not removed anybody's ability to operate a putt-putt or a driving range up there at any point and they have approval from this Commission to do so and have had it since April. What we're here for tonight is for a final site plan approval which is essentially a revision of the April approval and that's what they're here tonight to do. So, they have further site plans and actually I believe are, from what I can see, making further investment at the site. It's just about this non-conforming use, are they so

substantial that would they would become out of compliance with that non-conforming use, so we are asking the Board to review that. Also, we want to make sure, all of this has to do with the sensitivity to the neighbors. What happens when commercial creeps into the residential and we talked about when those rezonings occurred back in 2004. There's also been two master plan updates that, that I chaired both of and what we try to do is try to make them peacefully coexist. Those setbacks are very important, as are the buffers. We now have a commercial use that immediately abuts a residential use. We have setbacks in the code for people to observe. There has been an 11th hour revision. So, what I want to again emphasize is that they were grandfathered in, they were allowed to use it, they made a revision in April, they're going for another revision now. Since they submitted for this Planning Commission date, they made another revision. In that revision, they dropped the requirement because they moved it back further from Harley Hills, essentially. By doing that, they removed the request for a variance. So, they have respected to some level that setback to Harley Hills. I have with me tonight; the Building Commissioner and Ian Russell, our City Planner, have been tracking this. The Building Commissioner is gonna give an update about the status of construction and may address many of the neighbor's concern because they are under construction, they have been making improvements, and he does have some comments about that. But all of this, people get wrapped up. I want to be really clear, the city never stopped anybody from operating Mr. Divots. There have been two permits issued at the site for a batting cage and the nets. They are allowed to continue to use it. They have an approved revised plan. This is just another revision. All of the discussion and this Board's concern is to make sure that they are sensitive to the neighbors and abide by the zoning code and the zoning code is set up there to make sure that those two uses commercial and residential peacefully coexist. So, that hopefully gives you a little bit of an intro. The City Planner and our Building Commissioner have more comments about this revised proposal that was submitted shortly before this meeting and they could fill you in on that. I appreciate your time Mr. Chairman.

Chairman Baxendale: Thank you. We will move over to the City Planner.

City Planner: Regarding the proposal, I won't repeat what Mr. Jordan and the applicant had already said, but it is a legal non-conforming use in the Research Office District. Just a couple comments on the proposal and the different pieces, because there's quite a few of them. First and foremost, the existing ice cream shop is a non-conforming building under our current code due to the front yard setback. Part of the application is to add that 63.75 square foot restroom at the rear of the building. As the applicant had stated, if it were built today, this would be required. You'd have to have a restroom for that use that is accessible. The bathroom would not have any issues as far as zoning as far as encroachments or setbacks. As far as the building upgrades itself, the two of the three proposed architectural columns for the front of the building would move the roof to ground of the building four feet forward. Now one thing to keep in mind is the building has a four-foot overhang currently so the columns would be roughly level with that current overhang. Functionally, the building wouldn't necessarily be moving forward from the overhang from the roof. The height of the building, as they had stated, they're proposing the screening around the edge of the roof line and then the pergola up at the front. The overall height of the building would be going from 11 feet currently to 25 feet total, and that would be to the top of the little pergola, not including the flag. Again, not an issue with our zoning code. Buildings in RO are permitted to heights of 40 feet when adjoining residential, so they would be 15 feet under that requirement. There would be no new usable area with the increase, it's purely aesthetic. As far as the signage goes, there are two existing non-conforming signs on the building totaling 120 square feet. Our code does allow for signage to be on the front of the building facing the street and then at a doorway. Now the door to this building is actually on the south side, and I think there's one on the north side as well. So, they would be proposing two signs, one facing the street and then one on the south side by the door, that would be acceptable per our code. Now our code does require that a building and Research Office is allowed one square foot of signage per linear foot of building frontage. The existing building is roughly 31 feet so their proposed signage total would be 63 square feet so it would be over what code would allow but again it would be a significant reduction from the existing non-conformance on-site. As far as the existing concrete patio, there's one to the south and one to the north that currently has tables, there's some rides out there, things of that nature, and totals 5,500 square feet currently. The applicant is proposing to

replace those patios and change the footprint of them, and it would be, again, I believe 5,500 square feet, so it would be a one-to-one as far as square footage, just with a new footprint. The pergola structure, 200 square feet, 10 feet high, it would be a new accessory shelter on the property, but it would be within the existing paved area and it would meet all setbacks including the 100-foot front yard and the 25-foot side yard against that research office parcel to the north. The last item is the expansion of the putt-putt course, and I am going to amend my comment based on the new submittal a little bit. So just for some history the putt-putt course that's existing is 18 holes. The Planning Commission previously approved a slightly redesigned course that would total 26,000 square feet in size and that was at the April meeting. Based on the new submittal, the applicant is proposing a roughly 32,600 square foot course which would be an additional 6,600 square feet but as they had stated they did remove that northeast portion to have it outside of that 100-foot setback. Another piece of our code does require a buffer and screening along the boundary with a residential parcel. Now there is existing landscaping on that boundary and they are proposing some additional to further visually screen the putt-putt course from the Harley Hills R1-B zoned parcel. Overall, it would be an improvement to the existing screening of the course that currently isn't there. The final piece, parking on-site would be adequate per the calculation they provided even with the expanded putt-putt course. It would remain at that 18 holes and then the final piece and something the applicant didn't mention on their application and I just wanted to mention and bring up for the Board for future reference is the hours of operation. At the previous Planning Commission approval, there were hours that were put forth by the Commission Monday, Tuesday, Wednesday, and Thursday it was 10 a.m. to 10 p.m. Friday and Saturday 10 a.m. to 11 p.m. and Sunday 10 a.m. to 10 p.m. and that was for the driving range and then the batting cages were seasonal 10 a.m. to 10 p.m. so just a note for future conversations as this this meeting goes on. That's all for me, Mr. Chair.

Building Commissioner: My office has received some resident concerns and calls about some light glare and trespass from the neighboring properties from the north and south. So, at this time, we're going to request some kind of shielding or a timer on the lights so they go off at close. Buffering is required between the residential and commercial properties, specifically the new northwest portion of the proposed putt-putt course expansion, and all the buffering along the south property line has yet to be installed. The new batting cages are in and they are provided with a concrete sidewalk in front of the entrances. The new walkway in front of batting cages 3 and 4 must have some kind of a fence or a guard around it as it's very high. I'd also like to say that approval of the final site plan from this Planning Commission today does not allow the project to start immediately. Plans and applications must be submitted and approved for concrete replacement, any building signage, any interior modifications to the ice cream building. Once all fees are paid and permits are issued, work can begin. All commercial construction work shall be done by contractors registered to work in the city of North Royalton per section 1444.01, thank you.

Chairman Baxendale: Thank you, Dave. Let's move on to Mr. Kelly, Law Department.

Law Director: Thank you, Mr. Chairman, members of the Commission. None of this is new to any of you or any of us because we've seen this on at least two prior occasions. As has been said, this is a non-conforming use, but it's a use that has historical significance, has merit to the community, and is not likely going anywhere. The new owners, happily, are willing to put some money into this project and to improve the existing facilities in a way that not only benefits them and their customers but also to some degree benefits the community, Particularly with regard to the new netting that, if I understand correctly, is going up even now. That will hopefully save somebody a broken window or battered siding. That said, the focus of a non-conforming use from the city's point of view is to accommodate only a minimum level of improvement with the idea that over time the use will conform to the zoning code itself. It is in my view, and I think I think it's shared by other people, Mr. Russell, hopefully and Mr. Jordan, that the likelihood of research office coming into this area is very significantly diminished from whatever it might have been 20 some years ago when the thought was that this would be a grand use for the property. The objective then is, at least ought to be, to recognize the tension between holding to the non-conforming use and allowing some level of improvement that recognizes that the property is going to be there and it's going to be this use for the foreseeable future. That being the case, then you have to look at each individual request, as has

been done, and determine whether or not these are appropriate. Well, certainly ADA compliant efforts on behalf of the owner to allow for handicapped people and people who are otherwise impaired to be able to make use of the facility is something nobody can argue with, and no court's going to argue with it. Putting sanitary facilities adjacent to the eating establishment is not something anybody can argue with. I certainly wouldn't want to be going into the court of common pleas and asking a judge to strike down your efforts to put a bathroom on the ice cream shop. It would seem to me, and it does seem to me, that subject to their ability to comply with our rules and our ordinances and our restrictions, in particular with regard to the hours of operation, that this is something that the Commission should very likely approve.

Chairman Baxendale: Ian, any submittals to be read?

City Planner: We did receive one letter. The letter was written by Rebecca Hudach, who is located at 9500 Madison Lane in North Royalton, Ohio. The letter is stated as follows: Good evening, my name is Rebecca Hudach. I have lived in North Royalton for 37 years and now, along with my husband, we chose to raise our four children here. While we love that North Royalton is a bit low key with no big box stores, etc, we also recognize the fact that our family often visits neighboring cities for family entertainment. When we heard Divots was being sold, we feared it would close. We were thrilled when we found out that the new owners not only want to keep the legacy of Divots alive but they also want to invest in it and make it better. I have seen and read about the proposed plans for the property and are excited for these much-needed improvements especially the addition of a restroom and wheelchair accessibility on the course. While we can all love and appreciate the nostalgia of the current building/course, I don't think there has been any major updates in decades. We are thrilled that the new owners are willing to put the time, effort and money into a beloved North Royalton landmark and hope the city will help ease the process and do everything they can to help the new owners make Divots better than ever. Thank you.

The Chair opened the Public Hearing portion of the meeting.

Chairman Baxendale: Anyone that wishes to come up and be heard, please do. I would ask you again, please consider if a number of other people have said the same thing that you want to say, maybe let that stand. By no means am I trying to restrict anybody, though. If you want to come up and be heard, you're more than welcome to come up and be heard. So, anyone that would like to be heard, come on up. And when you come up, please state your name and your address.

Dave Fesz (resident): Dave Fesz, 9828 Ridge Road. I'm a product of North Royalton. I was born here in 1970, 53 years old and I have memories going back from the beginning of my memories of hanging out at Divots, from when my older sister was on t-ball teams and we'd go there after t-ball there. When I was on t-ball teams and we would go up there rolling down the front hill, eating our ice cream If you didn't know, underneath the volleyball courts, there was once bumper boats there. We went on bumper boats. I used to ride my bike up there as a child to play video games. Excite-A-Bite was my favorite video game. This is a jewel of North Royalton. We're so into ripping down things and making new and having veneer wood and everything. Divots is interesting because it is identical to my memories from T-Ball. Nothing has changed. These improvements, I think, are needed and should be embraced and the community leaders should come together and wrap their arms around this establishment and save it for future generations. I brought my son, my son played T-Ball and went up to Divots and did the same things I did and I don't know if he'll have kids or raise his kids in North Royalton. It's a fine community. I would have no objections to that but I think it should be preserved for future generations and I just think it's something that we should embrace and hold on to rather than go with something new.

Chairman Baxendale: Thank you. Anyone else?

Frank Castrovillari (resident): Frank Castrovillari, 7675 Harley Hills Drive. I actually really like this project. I do have some concerns. One, it was brought up, the lighting issue. So, I would like that, again, to be addressed. The second thing is, I just want to clarify, I don't think the entire course is ADA compliant. I think it's maybe half of it is but that's here nor there. I do agree with the bathroom. I

have no problems with that expansion. I am a little concerned about the cedar siding on it, we all know how that goes. That's never going to be maintained 10-15 years from now. Maybe they can change that material to something that's maybe a little bit more durable especially, little kids with wood you don't know if they're going to be picking at it or hitting it, but it would be a maintenance issue. My main concern is the social media that has been posted about the hours. I've read it's going to start at 7:00 a.m., that's what they're advertising. I was here at the April meeting when everyone said it was staying with the hours that are there. But they're advertising way more hours than what was agreed upon. So, I'd really like this Board to make sure that they're very clear that they have to maintain the hours that are there now. That was approved by this Board and take it down from the website social media that it's being offered for more hours. That's a major concern for me. I live right back there; I hear every ball being hit. Also, I believe I thought I read something that the golf was going to be all season instead of seasonal. It'll be all year around. It is not all year round now, so I don't know if that was something that was approved that I didn't know about. But with the heated stuff in there, I'm not surprised that they're not going to be extending those hours. So, I would like that to be clarified. What are the hours of the actual establishment and how long golf is going to go and baseball? Thank you.

With no further comments, the public portion of the meeting was closed.

Chairman Baxendale: I'll ask the applicant to come back up and respond to the comments and questions that may have been asked.

Stephen Ciciretto (applicant architect): Steve Ciciretto, 270 Park Place. Yeah, we would not venture with the true cedar shakes on this building, so these are fiberglass, full fiberglass shakes, so they are pre-made with pre-finished, so with a 50-year warranty on it, so just for that perspective. There's it's a much higher quality than what you think of as vinyl siding, and I would challenge anyone to know the difference between these and cedar shakes when we're done. So that addresses that item. I think Ashley can talk to you a little bit about the different entities and their hours.

Ashley Rothstein (applicant): My name is Ashley Rothstein. My address is 39695 Lockmore Drive in Solon. To go back to the bridge that was put in, there's just some gravel that we had to line the stream with in order to get the equipment back. We were unable to access the rear of our property to put up the nets that were approved and required. So, we made a temporary gravel roadway, which will be removed as soon as they are done with the nets, that was that question. In regards to the hours the property runs with different entities. The batting cages is seasonal and it is 10 to 10, which was approved and we will follow those hours likely to open early spring and go to fall. I mean, it's Ohio and mother nature, I don't I don't know exact dates, I don't have set dates but it would be seasonal. As far as the ice cream shop, that would also be seasonal. We opened this past year the beginning of May and we closed the middle of October and those hours kind of vary based on school season. The earliest we ever opened was 11, the latest we ever closed was 11. During weeknights we closed at 10. We employ about 30 North Royalton, Brunswick, Strongsville kids there, so it's nothing crazy there and it goes based on school schedule. The driving range, there are some, there was some confusion and I guess issues with the hours. I was not present at that meeting. None of the owners were able to appear at that meeting. We were basically told at the time to send anybody with a heartbeat. It's a formality and that is what we did and some hours were discussed and agreed upon that just are not feasible for a driving range. We have a sister property right down the street that goes 6 a.m. till midnight, seven days a week, all year round. We're not asking for that. We're happy to try to meet in the middle, but 10 a.m., and I don't we don't have issues with closing at 10 and 11 p.m., it's the morning hours of 10 a.m. That are just not really feasible for a driving range. It's a business that doesn't have a huge opportunity of time to serve customers and based on the amount of money that we are pouring into this investment it just it's unreasonable hours for the driving range.

Chairman Baxendale: What is it that you're proposing?

Ashley Rothstein (applicant): Um, we would like 7 a.m. till 11 p.m. To open at 7 a.m. and then close at 10 p.m. on the weeknights and 11 on Fridays and Saturdays.

Chairman Baxendale: So, it's 7 a .m., seven days a week?

Ashley Rothstein (applicant): Correct.

Chairman Baxendale: Okay, any other comments, responses to anything that has been asked?

Stephen Ciciretto (applicant architect): I'm not sure if we missed any questions.

Ashley Rothstein (applicant): The driving range would not be seasonal. It's open, it would be open year-round, which is the whole point of the enclosure and the heated base.

Director of Community Development: Mr. Chair, the one area that perhaps they could help us while they're still at the mic, is the lights and turning them off in the off hours and the shielding.

Ashley Rothstein (applicant): The lights are currently on a timer. I checked it yesterday. They turn off at 10:10 p.m. but they are supposed to be closing them off sooner since we're under construction and there's no point in paying an electric bill. And then the batting cages are off for the season.

Director of Community Development: So, the applicant agrees that the lights would be turned off when you're not in operation?

Ashley Rothstein (applicant): The lights are on a timer, yes. So, when the facility closes in the evening, the lights go off about 10 minutes, 15 minutes after, just so everyone can get cleaned up and out of there safely with the light path.

Director of Community Development: One last thing, the shielding request?

Chairman Baxendale: I'm sorry, Tom, please speak a little bit louder.

Director of Community Development: My apologies, Mr. Chair. The shielding request.

Ashley Rothstein (applicant): We can look into the shielding request. I know we previously looked into it prior to the light study, that showed that no lights went off of our property. But we can definitely look into shields for those lights to make sure that Harley Hill residents don't have any reflection.

Director of Community Development: Mr. Chair, it came up and it was in the Building Commissioner's comments that there still seems to be a light trespass. We appreciate the light study but during construction sometimes that doesn't always work out. The Building Commissioner went and did some research on some shielding. But if the applicant will work with us, I believe it was your intent not to have any lights light trespass on the residential properties. We believe there might be an issue as they're being constructed, so if you would work with us to conform to that original intent, we'd appreciate it. The Building Commissioner brought some shields for the architect to look at tonight.

Chairman Baxendale: Yes, I do recall that discussion at the previous meetings, too, about the shielding, and so I'm a little surprised that it hasn't gone further than this.

Mr. Marnecheck: And I've experienced it and I've had residents complain to me. So, I'm glad the Building Commissioner brought it up tonight. There definitely seems to be more lighting in that area now.

Chairman Baxendale: Let me ask the first question to the Building Department. How is the construction going now? We had the bridge concern that Justin brought up, but how, generally, is the construction going of the parts that have been approved and are moving forward?

Building Commissioner: The nettings, I would say, the poles are about half done for the guard netting. Right now, they have the foundation in for the heated tee boxes and it's ongoing.

Chairman Baxendale: Is it going along the lines of how a construction project should be going? The things, the stipulations that we've made, are they in place? Other than the bridge that we talked about, are we following the rules?

Building Commissioner: So, basically, from the previous meeting, we had talked about 10-foot mounds and buffering and trees along the south property line that borders residential. I suspect they'll be doing that after they get the poles and the netting in. I should hope that would be the time to do that. That's not done yet.

Chairman Baxendale: That is the intent, to do it?

Building Commissioner: They just haven't reached that stage of construction yet. Yes, I should hope so.

Chairman Baxendale: Generally speaking, it's proceeding fairly well along the lines the way we hoped it would.

Building Commissioner: It's moving along now. It got off a little rough. It was a rough start, but it's moving now.

Chairman Baxendale: It's moving back on track?

Building Commissioner: Yes.

Director of Community Development: Mr. Chair, I'll follow up on that. I have been in contact with the neighbors as well the Council people and I want to make a real sure the applicant understands. I believe it was also your intent to put that buffering in, but that buffering is very important and it gets back to what I started out originally saying. Those setbacks and the buffering that they required in their April meeting need to be installed. We realize it's winter now, that the proper time prior to do that is a later stage in the project, but a number of the people here tonight and I know that a number of people that have contacted our office want to make sure that they get installed. If you could comment in the affirmative that is part of the plan and will be installed this spring.

Ashley Rothstein (applicant): I would just like some clarification on exactly what is expected as far as buffering. I actually came from there this evening and walked it and walked the property line. I know that a couple of trees were taken down on that property, the property line that provided buffering. I counted, I want to say it was five, and most of them were like small little twigs that had to get removed to get all of the trash. I mean, we hauled three 40-yard dumpsters worth of garbage that was sitting in the woods and the trees were growing up in them. And then there was a larger tree that was dead that was half fallen down that was cut down so we really did not remove any buffering that was priorly there. We don't have issues figuring out buffering, I just want to be clear because I don't understand. I mean, it's a very large property line and then I'm also a little bit confused. No disrespect as to why It wasn't required for the housing development to put the buffer in for their residents if I believe that real estate is recent. Those buildings are newer and we're just built within the last couple years. Our neighbors on the other side do have large gorgeous trees and mounts which they put in and are on the edge of their the Harley Hill residents have buffers that they had put in. So, I just wanted clarification in regards to the expectations and just out of curiosity why it's completely solely our responsibility to put in trees that really were never there?

Director of Community Development: Actually, the City Planner can explain what was approved and submitted by you.

City Planner: At the last meeting, I believe the property to the south actually brought in photos showing that there was quite a bit of thinning of the landscape buffering between your property and the property to the south, the residential property. At that meeting, one of the requests was that there be new buffering installed with landscape mounds to help shield that. Now typically within our buffering code, the way it works is buffering is usually installed by the less restrictive use so, for instance, a residential use is more restrictive than a research office use or a commercial use I guess in this case. So, the buffering that was there was removed and now that you're making modifications to your site, such as taking down the poles to put up the new poles, understand that it is your responsibility to put up that new buffering along that property line and to replace especially what was removed initially.

Stephen Ciciretto (applicant architect): Well, of course, the issue goes to full compliance. If you start mounding over existing tree roots, now you're going to lose the existing tree roots. So, I'm sure there's a compromise that would work out. I mean, the intent is to shield the residential parcel from ours. But, of course, now we have polls and things in the way, too. So, it's a little more complex when we predate, when the field actually predated the apartments. And since there was no work done originally on this property, it seemed, if I was on the Planning Commission, that I would have wanted to make sure that the apartments screened themselves from issues because there was no mandated reason until now. So, if you're saying that some of the trees and things were removed, we certainly can replace those in infill, but mounding becomes a little bit more of a challenge.

City Planner: I believe the request at the last meeting was mounding, but it was open to you submitting something to us for our review. I believe it was to the Building Commissioner for a review of the landscape plan to ensure that there was adequate buffering. If you would like to propose something different than the mounds, you're welcome to submit something and we can review that.

Director of Community Development: Mr. Chair, I want to be very clear. There is a requirement on this applicant to have buffering at this site. They are to submit a plan to the Building Commissioner as a requirement of the April meeting, and that still stands.

Chairman Baxendale: Okay, are there questions with that?

Stephen Ciciretto (applicant architect): I can work with the Building Department to design a plan.

Chairman Baxendale: Just like earlier tonight, with the design criteria, it would be your responsibility. I think based on what we've talked about a couple of times, you can come up with a proposal for what the buffering should be, then we can take a look at it. At that point, as you say, we can go back and forth, but we can come to a compromise.

Stephen Ciciretto (applicant architect): Agreed.

Director of Community Development: I believe a good landscape architect, and I'm sorry if you're not so designated, but you are an architect. I think this buffering issue isn't a complex design issue at all. I do believe he had the room for it and it is a very customary requirement of any, whether it was on the residential side or on the commercial side, whenever the new construction occurs that we do. I might add that all of our residential developments also, we require this when they also do their installation.

Stephen Ciciretto (applicant architect): So, did they do it in the apartments?

Director of Community Development: The apartment buildings are in full conformance with any of the site plans that were approved for them.

Stephen Ciciretto (applicant architect): So, they have their own buffering to this property?

Director of Community Development: They are in full conformance with the requirement.

Chairman Baxendale: Questions or comments from anyone on the Commission?

Mayor Antoskiewicz: I want to thank you in your dissertation that you didn't throw me under the bus as I was the one that wanted the front of the ice cream shop fixed. Full disclosure, at the last meeting I was the one that brought it up. I do think it's a good improvement. As Mr. Kelly said, I think the bathrooms are a necessary addition. I do believe the putt-putt is going to be 9 holes with ADA compliance which is great. I think it's something that, any more, is overlooked and I think it's necessary and a great addition for the community to have that feature there. I do believe that we should be able to work within the spirit of non-conforming. I do believe I think you guys have done a lot of work working with our Building Department to get in compliance with a lot of the other stuff as lan so eloquently described. Regarding the 4-foot frontage and a lot of other stuff and I appreciate the work that both sides have done to try to come as much in compliance with it as it is. It wasn't an easy task and I think that's what everybody here, even in the audience, needs to know. It isn't easy when you start dealing with a non-conforming use, it becomes a little more difficult and I'm not sure how

many people understood exactly what that was. Luckily, we have people here that can explain it a lot better than I, so I don't want to go back over it again. But it does make it difficult. I think we've worked through this thing very well from where we started and I love the improvements. I do think it would be a welcome addition for the city to move forward with this. I think we've come a long way from where we started.

Chairman Baxendale: Anyone else?

Mayor Antoskiewicz: Mr. Chair, one more thing. Talking about the hours of operation, and I if I heard you right, the batting cages everything else will stay 10 o'clock, correct? I believe that for the driving range, I do think there's some flexibility there. I don't think 7:00 a.m., I think 8:00 a.m. makes more sense. Most of our noise ordinances as far as when you can pick up a dumpster is 8:00 a.m. I think that makes probably the most sense. As a golfer who doesn't golf much anymore because I just don't have the time, you know, I mean I've never done the six or seven o'clock bucket of balls, but I think eight o'clock is fair. Like I said, I think it complies more with our noise ordinance because, you know, if you were having your dumpster picked up, it couldn't happen until 8:00 a.m., so I think some of that makes perfect sense with the 10:00 a.m. I think being a little bit too late for the driving range but that's my opinion.

Chairman Baxendale: What's your thought on the all-season driving range?

Mayor Antoskiewicz: I don't have a big problem with it only because I think in the winter it becomes less of an impediment because usually everybody's windows are closed. I think it's actually less of an impediment in the in the winter than it is in the summer.

Chairman Baxendale: Let me ask a question to Mr. Kelly. They're looking for final approval tonight. This is really the first time that we have seen this. There seems to be a number of issues still involved or still to be resolved. You can look at the stormwater that Justin talks about over on the northwest. The buffering, the light shielding, those are all issues that are still open.

Law Director: Mr. Chairman, I understand your concerns, and I recognize that we've discussed all those things, but they're more enforcement issues. We have a wonderful group of people who review all these things and they can hold Mr. Ciciretto's feet to the fire to make sure that he does what he promised he would do. Considering the fact they've already had an approval and this simply is a minor, I don't want to say minor, somewhat minor, de minimis kind of an expansion for the purposes for which are being displayed. Yeah, I would recommend that you treat it as a final, but that's entirely up to the Commission. You guys get to vote, I don't get a vote.

Mayor Antoskiewicz: I'll reiterate a little bit. I think the lighting issue, I think the buffering issue, I think Mr. Ciciretto said he would work with the Building Commissioner. Dave is fully capable of handling the landscaping issue as far as what he thinks would work.

Stephen Ciciretto (applicant architect): I think you have to understand that we intend to be good neighbors, and nobody wants to operate a business with any animosity with their neighbors. So that's our intent. This group, this family has an impeccable reputation of doing what they say they will do. So, we intend to do the light screening.

Mayor Antoskiewicz: I'm glad you said that, because I could tell you I've sat on Planning Commission now for maybe 15 years. We always believe that when people coming forth with us are going to do what they say they're going to do and we rely on that. I will say, in most cases, that is exactly what happens and that helps us. I know on this end the Board when they give the approvals they give, they're doing it based on the fact that that's exactly what you're going to do. We like to live up to our word on our end as far as what we're going to do, the Building Department lives up to their end so we appreciate the fact that you're going to live up and do what you say you're going to do because that's very important to us.

Law Director: Mr. Chairman, I still recommend, however, that we have a very clear and very fixed understanding on the record of what the hours of operation will be for the driving range. That we must

have, and that would be something that essentially, we would be in a position to refer to in the event that the operation changed in any way. So, we again, hopefully we have something from you, Ms. Rothstein, as to what the hours of operation will be and that conform to what the Commission here is attempting to secure.

Chairman Baxendale: Okay, let me ask Mr. Russell to read the hours of operation that we have discussed and see if that makes sense.

City Planner: For the driving range, based on the mayor's comments, and anyone else on the Board is welcome to comment, Monday, Tuesday, Wednesday, Thursday 8:00 a.m. to 10:00 p.m. Friday and Saturday, 8:00 a.m. to 11:00 p.m. It was previously 10:00 a.m. to 11:00 p.m. Sunday would be 8:00 a.m. to 10:00 p.m. Would those be acceptable?

Ashley Rothstein (applicant): We could agree to those hours for the driving range.

Mr. Ranucci: I like the plan. I've been living here 40 years, and like the other resident, took many baseball teams there for ice cream, my own kids to ice cream, and now looking forward to taking my grandkids to get ice cream there. The improvements look very nice, and it's a good job on your behalf. The only comment I was going to have on the hours is doing the 7 o'clock during the week, 8 o'clock in the weekends when people are home, sleeping in later and stuff. But the 8 to 8, or the 8 to 10, that's been recommended, I'm obviously good with that.

Ms. DeCapite: My only comment would be on the cedar siding, just because the note says cedar shingle stained, which says wood to me. So, if you're saying that's not what it's going to be, it's going to be the composite and not a vinyl sided type of shape. That was my main comment on the architecture. The vinyl lattice roof screen, is that sitting on the main building wall or at the awning?

Stephen Ciciretto (applicant architect): It's a cast fiberglass shape. It's a fiberglass product. We haven't secured the color yet. The vinyl lattice is at the awning. Yeah, a little bit set back just because I want to get a little difference between the gable and that. So, it could be back, but I, frankly, those old, those overhang awnings, I think, date the building. And so, with the new look, we're trying to conceal that a little bit. It doesn't have to be but we're trying to screen everything that's up there.

Ms. DeCapite: I feel like it wants to be at the main building wall, set back a little. The other thing might be the lattice over the other board could be a maintenance cleaning type of issue. If it's white vinyl and you have rooftop units.

Stephen Ciciretto (applicant architect): It's a PVC back with PVC on it so it could be power washed. And it's through color so it's always white.

Mr. Marnecheck: So, I think I share my fellow commissioners as well as Dave's feelings. I have fond memories of Divots years ago. I achieved a life goal, I hit the car that's in the driving range and I kid you not, I called my childhood friend and I said, "I hit the car at Divots". We've been coming here for 20 years I finally achieved this this life goal. He said, "what do you do now?" I said, "I'm going to go get some ice cream". I came here and I don't view the change in hours as a small change, that's a pretty big deal when you consider the time of day as well as the time of year. I represented this area for 14 years so I know the residents that border it and that that is a big deal. I came here tonight to consider a bathroom addition, paving, and a pergola to a great city gem. This is something pretty big, so I'm a little torn on this. I see the need for investment to keep this a great city gem. But those hours, I felt that was kind of a settled issue coming in tonight. So, I'm a little torn still on what I'm going to do. Must you change the hours from what was agreed upon at the last meeting?

Ashley Rothstein (applicant): Honestly, yeah, I mean you have different people that visit the range. So, you have your set people that go in the morning before they go to work, it's a driving range. I mean, it's, yes, the hours we would like them to be 8 a.m. We would like them to be originally I think when we submitted the application was 6 a.m. to mimic a sister property that is 15 minutes away.

Mr. Marnecheck: I'm not familiar with the sister property, there might be other reasons.

Ashley Rothstein (applicant): Stonebrook in Middleburg Heights, which is also located on, there's housing directly on the property line. So, that was what we originally asked for in the meeting in April. We would contest to or we would agree to 8 a.m. but 10 a.m. it's just you'd be missing a whole pocket of customers that would be visiting the range during that time.

Mr. Marnecheck: So, why did your previous representative agree to it then?

Ashley Rothstein (applicant): To be 100% honest. We were told that they did not, the city did not want to delay this project. It was set for a date that all four owners were gonna be in Florida. We were told it is just a formality send anybody with a heartbeat. I had no idea, no one knew that it was going to be a whole negotiation and some of the items would have been discussed. The representative who attended was doing his best and thought, I guess, he was doing what was right at the moment. It wasn't something that any of the owners would have agreed to in regards to those hours.

Law Director: Ms. Rothstein, can you tell me who it was that told you that you just need to, quote, send a body with a heartbeat? Because I don't imagine anybody who works for the city would have ever said that.

Ashley Rothstein (applicant): It was nobody on this Planning Commission that I'm looking at and unfortunately, I don't feel comfortable throwing anyone under the bus here. Because it's someone that I'm going to have to continue to work with going forward.

Law Director: I want you to tell me right here and now who that person was. Don't play games with us.

Ashley Rothstein (applicant): Mr. Kelly, last time I talked to you, you looked at me and told me I was a liar, so I am not going to be saying anything at this moment.

Law Director: Well, isn't that sweet?

Mr. Marnecheck: I don't know if the community was aware, when they're sent the notices and it says what it said. I don't know if the community was aware that the hours of operation might be rediscussed. So that's kind of where again, I'm coming from. This is really hitting me in an odd place that we're discussing the hours of operation when that wasn't something I thought I'd be discussing tonight. I thought this was more the aesthetics, the buildings, not hours of operation and how it's going to impact people's ability to use their porches and yards. That's just where I'm coming from.

Chairman Baxendale: Question for the Mayor. Can we go in next summer assuming it's three or four months into the summer and we're getting all kinds of complaints about noise. Can we have City representative there at 8:00 in the morning a couple of times and yeah, it's really noisy. Then some sort of noise ordinance that would come into play? Or is there nothing there that would help that?

Mayor Antoskiewicz: I doubt it would ever, if you know anything about the noise and the machine, I doubt it would ever go to that level of a noise violation. I doubt that. I'm very aware of residents, but I also know that as people testify here, Mr. Divots has been around for 40 years, 50 years. People have been hitting golf balls from there for that many years and I think a variety of times. I know the last at least 5 years or so that the hours were whatever he wanted the hours to be. They were, sometimes 8 o'clock in the morning, sometimes 10 o'clock in the morning, sometimes 8 o'clock at night, sometimes 10 o'clock, they were all over the place. You can't do a lot of things in the city before 8 o'clock and to me this is a facility that's been there, it's got the same purpose it's had for 50 years and I believe that in those times that 8 o'clock is a reasonable time to allow for operation. I don't believe 6:00 a.m. is reasonable. I do believe 10 a.m. is too late. I think the compromise is 8 o'clock, and I think it's a good compromise, just based on the way we run a lot of our, residential areas, they can't run their lawnmower before 8 o'clock.

Chairman Baxendale: Commission members, any other thoughts or comments? Let's then entertain a motion to approve. Let me say, before I do that, let me say that's one of the reasons, particularly the outbursts that we had here just a couple of minutes ago, why I would suggest that we go with a preliminary approval and not a final approval. And we can revisit at a later date.

Mayor Antoskiewicz: I honestly don't think that we should. Mr. Chairman, especially based on the time. Do you want to agree or you don't want to? I don't think that changes anything. I think they're still going to be requesting the same thing coming back if everybody's stuck on it.

Stephen Ciciretto (applicant architect): The issue starts becoming construction timelines. So, we're already behind where we thought we would be. Another month of review of planning means that we don't start construction. Obviously, Ashley doesn't want to start paying me to develop construction documents and then building department review. And as it continues, we'll be getting our approvals by the time we should be starting, should have been through construction.

Law Director: Mr. Chairman, in spite of the little outburst and the little exchange with Ms. Rothstein, I still would recommend to you that you treat it as a final approval and move forward. This is a revision of a plan previously approved. The revised portions aren't that significant. The greater issue was really the hours of operation and to the extent that the applicant is willing to compromise, and the city is willing to compromise, I think that you ought to move forward on that basis. If you're inclined to grant approval, do it conditionally upon the understanding that the hours of operation are as committed to by the applicant who is here tonight, heartbeat and appropriate.

Chairman Baxendale: Would it be appropriate then to have a motion to approve contingent upon submitting a buffering plan that eventually is approved by the city? Submitting a shielding plan that is eventually approved by the city? Also, with the stipulation of the 8 o'clock a.m. driving range hours and year-round.

Mr. Marnecheck: You're looking to be able to operate the driving range 12 months a year?

Ashley Rothstein (applicant): I believe that was on the April meeting.

Mr. Marnecheck: I don't believe so. I think it was listed as seasonal. But you're looking to operate this 8 a.m. to 10 p.m. every day of the year?

Ashley Rothstein (applicant): Correct except for on Fridays and Saturdays which would be open till 11.

Mr. Marnecheck: So at least 8 a.m. to 10 p.m. every day of the year?

Stephen Ciciretto (applicant architect): It's weather dependent.

Chairman Baxendale: Okay and we'll add the 8 a.m. to 10 p.m. or 11 p.m. depending on the day all year round. Okay can I have somebody to place that motion?

With no further discussion the Chair asked for a motion to approve contingent upon submitting a buffering plan, shielding plan and driving range hours starting at 8:00 a.m. daily. Roll call: Yeas: Three (Ranucci, Antoskiewicz, DeCapite). Nays: Two (Baxendale, Marnecheck). Motion approved (3-2).

3. <u>PC23-19</u>: Randy Parsons, of MPG Architects, on behalf of Dean Costello, of TMRD, LTD., is seeking preliminary site plan approval for a 24,928 square foot building addition and associated parking lot expansion for an industrial building located at 9601 York Alpha Drive, also known as PPN: 483-15-008, in General Industrial (GI) District zoning.

Chairman Baxendale: Can you state your name and address please?

Randy Parsons (applicant representative): Randy Parsons, MPG Architects, 3660 Embassy Parkway, Fairlawn, Ohio. What we have here to show you is, this is the existing site as it exists today. There are 46 parking spaces for 49 staff. So, they have a few staff that don't work at the facility, that work remotely because they don't have enough parking. The new facility, the expansion of the new facility shown in red, is what lan discussed, of almost 25,000 square feet. We are developing up to a

With no further discussion the Chair asked for a motion to approve. Roll call: Yeas: Five. (Baxendale, DeCapite, Marnecheck, Ranucci, Antoskiewicz). Nays: None. Motion approved (5-0).

MISCELLANEOUS (IF ANY):

Chairman Baxendale moved, Mr. Marnecheck seconded, to approve the 2024 Planning Commission meeting schedule. Motion Carried.

• The next Planning Commission meeting is scheduled for January 3, 2024.

ADJOURNMENT: Moved and seconded to adjourn the PC meeting. Motion carried. Meeting adjourned at 9:42 pm.

Minutes Transcribed by Theresa Antal.

APPROVED: /s/ Eugene Baxendale

Chair

DATE APPROVED: January 3, 2024

ATTEST:

/s/ Ian Russell

Planning Commission Secretary

NOTICE OF APPEAL

APPELLANT:

Revere at Woodcroft Glen, LLC ("Revere")

14300 Ridge Road

North Royalton, OH 44133

(P.P. ## 48231132 and 48231134)

COUNSEL:

Berns, Ockner & Greenberger, LLC

Jordan Berns, Esq.

Benjamin J. Ockner, Esq.

3733 Park East Drive, Suite 200

Beachwood, OH 44122

(216) 831-8838

DECISION

APPEALED:

North Royalton ("City") Planning Commission ("PC") No. PC23-18, approving the application of 13393 York Road LLC ("York") for final

site plan approval for improvements to Mr. Divot's Sports Park ("Park").

Voted on 12/6/2023; finalized on 1/3/2024.

EXHIBIT "B"

(Application 1 - 3/2/2023)



City of North Royalton

Mayor Larry Antoskiewicz

Planning Commission David Smerek, Building Commissioner

Ian Russell PC Secretary

PUBLIC HEARING LEGAL NOTICE

Pursuant to North Royalton Codified Ordinance 1220.06, notice is given that the Planning Commission of the of the City of North Royalton, Ohio, will hold a meeting on **April 5, 2023** at 7:00 p.m. local time in the Council Chambers at City Hall, 14600 State Road, upon the following subject:

Alan Rothstein, on behalf of 13393 York Road LLC, is seeking final site plan approval for the renovation of the Mr. Divot's Sports Park located 13393 York Road, also known as PPN: 482-27-005 in Research Office (RO) District zoning.

Plans, specifications, and other documentation are on file at the Building Division, City of North Royalton Service Center, 11545 Royalton Road, and on the City's website for review by interested parties.

You can view the meeting live by entering the following link on your phone or computer or you may attend the meeting in person at North Royalton City Hall.

Link: www.northroyalton.org/PlanningCommission

If you would like to be heard on the subject of this application but are not able to attend the meeting in person, please fill out and submit the Public Comment Form with any documents or photographs and return it to the Building Department no later than April 4th at 12:00 p.m. local time. The form is available on the Planning Commission page of the city website which can be found at the above link. PLEASE NOTE: THE PUBLIC COMMENT FORM MUST BE NOTARIZED IN ORDER TO BE READ INTO THE RECORD.

PLANNING COMMISSION NORTH ROYALTON, OHIO

Ian Russell Planning Commission Secretary 11545 Royalton Road North Royalton, Ohio 44133



Phone: 440-582-3000

City of North Royalton

RECEIVED

Mayor Larry Antoskiewicz

Community Development, Building Division David Smerek, Building Commissioner

11545 Royalton Road, North Royalton, OH 44133

MAR 0 2 2023

CITY OF NOATH ROYALTON BUILDING DEPT.

CITY OF NORTH ROYALTON P	LANNING COMMISSION A	APPLICATION NORTH ROYAL
l. This request is made for the following p	roperty:	MAR 0 2 2023
13393 York Road	Mr. Divot's Name of Occupant, Business or Ter	P.C. B.
482-27-005	Hame of Cossipant, Basiness of For	iant (ii appriousto)
ermanent Parcel Number	Zoning District and Ward	
Property Owner of Parcel:		
13393 York Road LLC	Mr. Divot's Name of Business (if applicable)	-
13393 York Road	Hone 440-336-6948	
North Royalton, Ohia 44133 City, State and Postal Code	<u> </u>	Yahoo.com
This request is being made by the following (Owner / Authorized Representative):	wing responsible party	
alan Bothstein	13393 York Ro Name of Business (if applicable)	oad LLC
Name	Name of Business (if applicable)	
13393 York Road	<u> 140~336/3002</u> Phone	
North Royalton, Ohio 44133 City, State and Postal Code	<u>Alans Finance @ Parall (electronic mail)</u>	yahoo.com
For Office Use Only		
03/02/2023 04	105/2023	PC23-07
) Date Assigned	Identification Number Assigned
Application Fee Payment Information (date, check numb	per, cash, etc.)	Received By

Other Application Fee Information

PAGE 3 OF 6

THIS AND OTHER FORMS ARE AVAILABLE ON NORTHROYALTON.ORG

REV 10/21/2022

CITY OF NORTH ROYALTON PLANNING COMMISSION APPLICATION

Replace Current beatting Cage area with 5 new, enclosed bacting cages Breplace current 6 beatting Cage area with 5 new, enclosed bacting cages Breplace current light poles and modify with LED breachs. Replace parking lat Breplace parking lat Continue with arrent net contractor to completely enclose side and rear of driving lange with nets. Nets to teach 75 feet high. Breplace arrent minimature gible causes with new 18 rate course. Proposed Hours: Mr. Divols area emini gale (seasonal) Idam-IDam Diving Roange (Yearly): Bunday Tourselay (sam-Ilpm & Triday - Salvictay (sam-Ilpm & Triday - Salvictay (sam-Ilpm & Triday - Salvictay) (sam-Ilpm & Triday)	4. Narrative statement describing the project and its features:	
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Drains Range (Verry): Bunday - Trusslay (com-Ilpm & Friday - Salvictay Commercial/ Industrial/ Residential: Preliminary Site Plan Approval Preliminary Site Plan		
Drains Range (Verry): Bunday - Trusslay (com-Ilpm & Friday - Salvictay Commercial/ Industrial/ Residential: Preliminary Site Plan Approval Preliminary Site Plan	to hit golf balls.	
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Owner Signature Printed Name and Title Date	Owner Signature Printed Name and Title Date	

PAGE 4 OF 6

THIS AND OTHER FORMS ARE AVAILABLE ON NORTHROYALTON.ORG

REV 10/21/2022

CITY OF NORTH ROYALTON PLANNING COMMISSION APPLICATION

Written Authority Form (complete this form i (submit original – do not fax or email)	f you are <u>unable t</u> o be present at meeting).
1, Alan Rothstein (no	ame) of 13393 Yele Row 11c
(company, if applicable), hereby certify that I	
(owner(s), executor(s), etc.) of 13393 8/k	(property address or
permanent parcel number) and further verify that	Brad DErdmon (name
of representative) is authorized to represent my/o	our interests and make decisions on my/our behalf
when appearing before the North Royalton Plannir	ng Commission.
A	3/29/23
Signature	Date
act and deed. In testimony where of I have hereunto set my han	oregoing instrument and the same is his or her free damping and official seal at $\frac{\sum_{o} _{\overline{v}}}{\sum_{o}}$,
Notary Signature Seal: ALEXANDER J. HA NOTARY PUBL STATE OF OH Comm. Expire	IC IO
State of Ohio County of Cuyahoga	

CITY OF NORTH ROYALTON PLANNING COMMISSION APPLICATION

Written Authority Form (complete (submit original – do not fax or e	e this form if you are <u>unable to be present at meeting).</u> emall)
1. Alan Bothstein	(name) of 13393 York Road 11C
(company, if applicable), hereby co	ertify that I/we are the OWNER
(owner(s), executor(s), etc.) of 133	393 York Roul DEN. Royalles (property address or
permanent parcel number) and furthe	r verify that Steve Cicicetto (name
of representative) is authorized to re	present my/our interests and make decisions on my/our behalf
when appearing before the North Roy	alton Planning Commission.
. 0 1	9/23/23
Signature	Date
act and deed. In testimony where of I have hereunte	o set my hand and official seal atSalon
Ohlo on this and day of For	
Netary Signature	2
Seal:	MICHELLE OATES Notary Public, State of Ohio My Comm. Expires 10/27/2025
Seal: State of Ohio	Notary Public, State of Ohio

PAGE 5 OF 6

THIS AND OTHER FORMS ARE AVAILABLE ON NORTHROYALTON.ORG

REV 10/21/2022



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(1822**1**7000)

Date Created: 3/13/2023 **Legend**

□Municipalities

Right Of WayPlatted Centerline□Parcel

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Cuyahoga Count Enterprise

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION

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564 Feet

282

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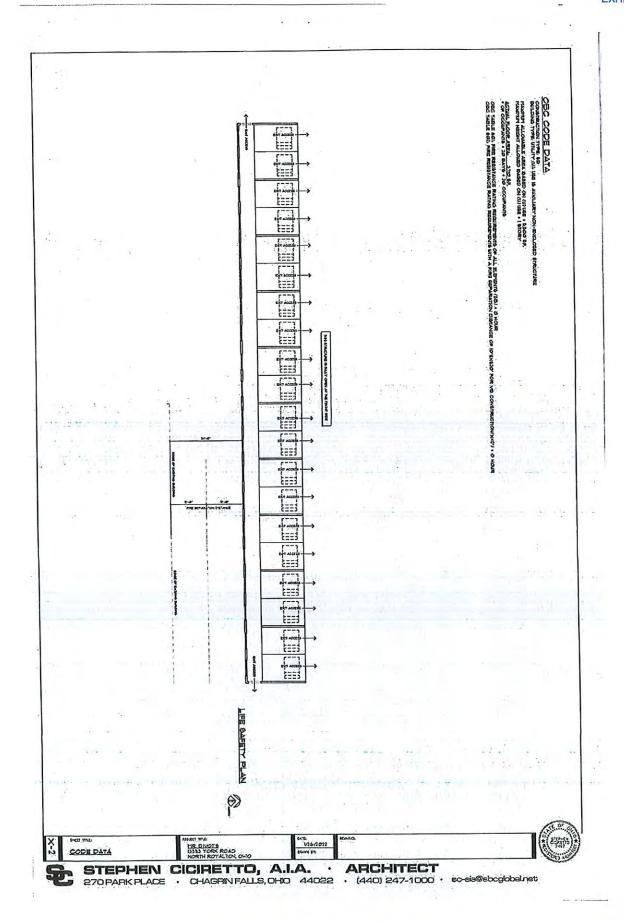
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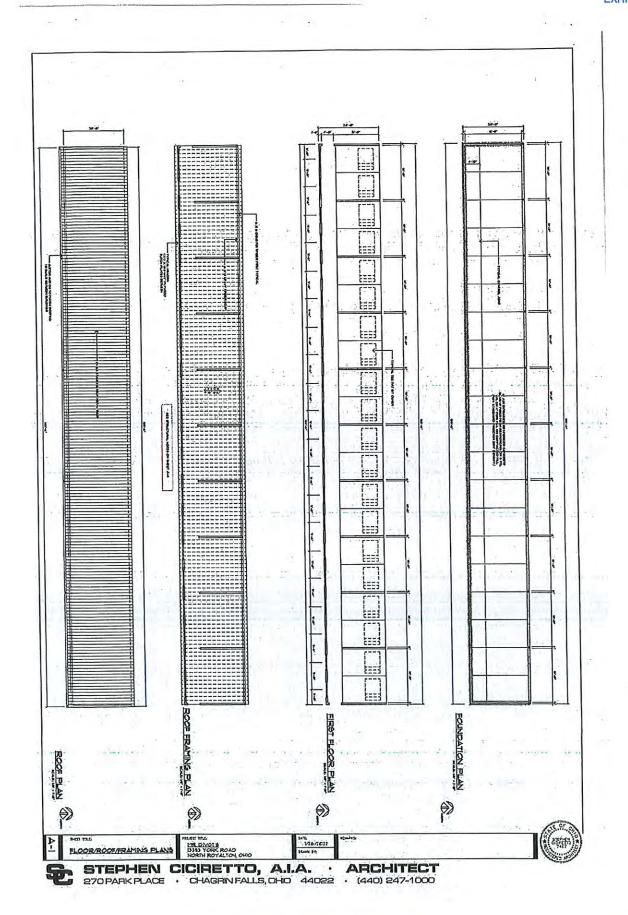
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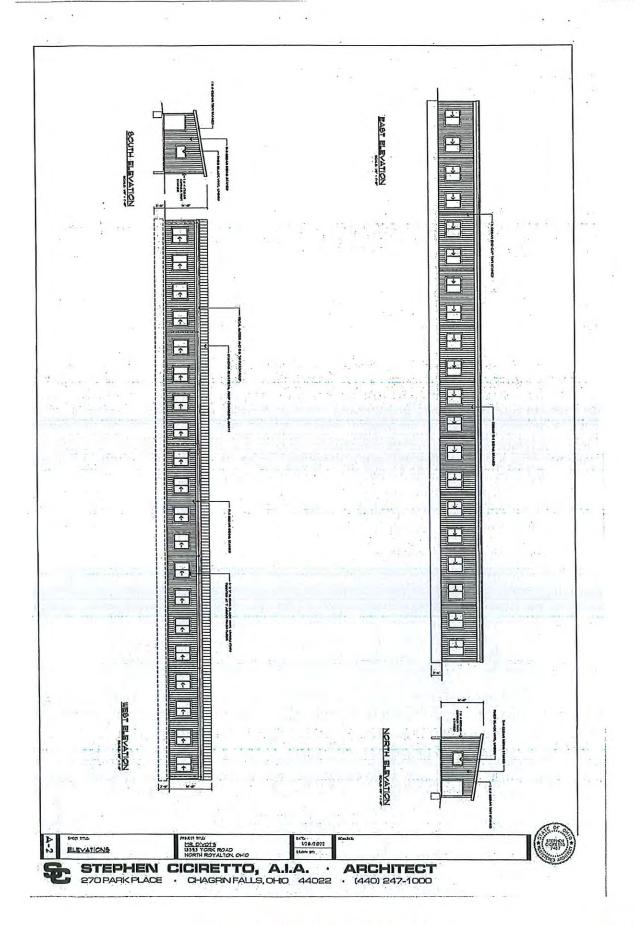
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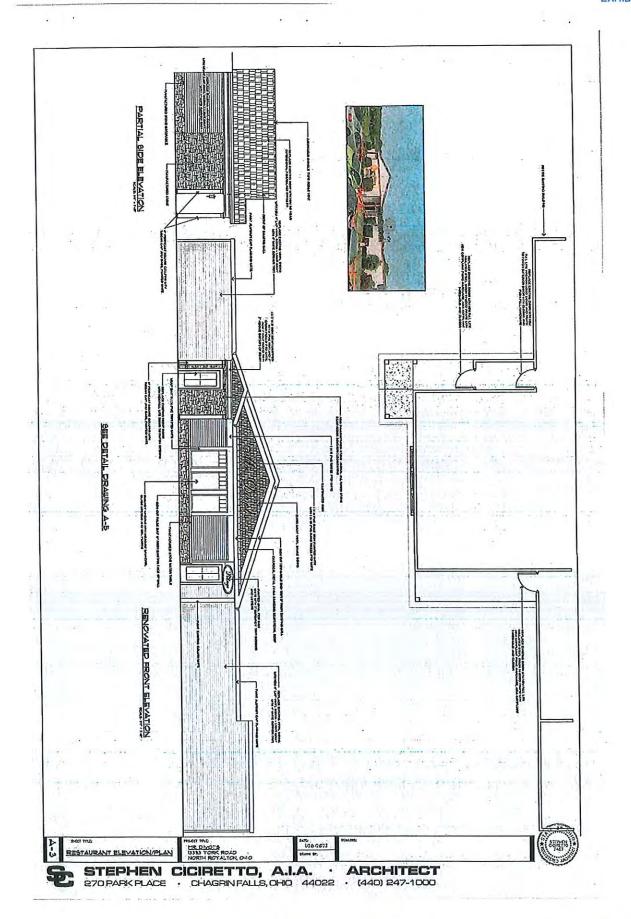
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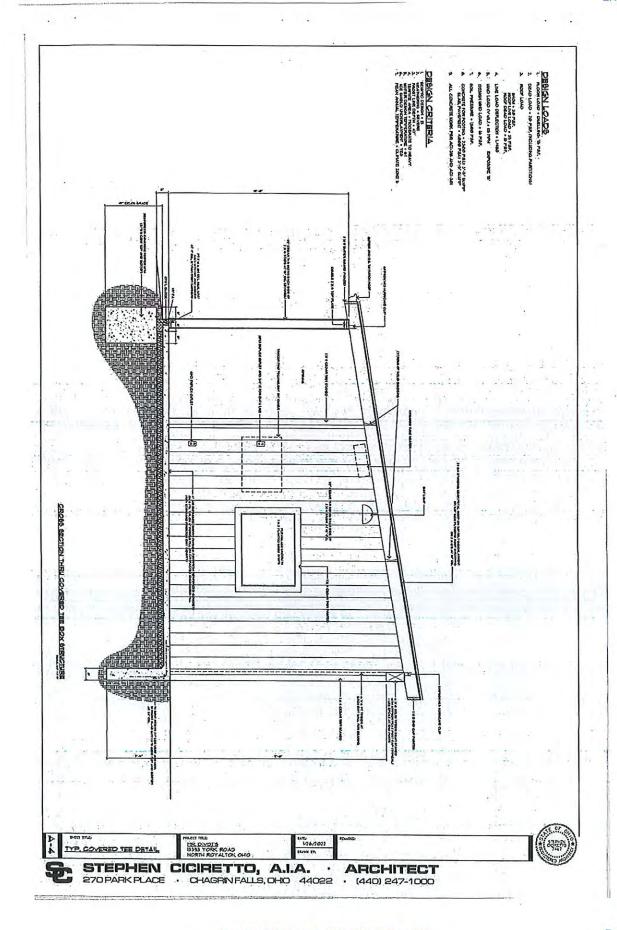


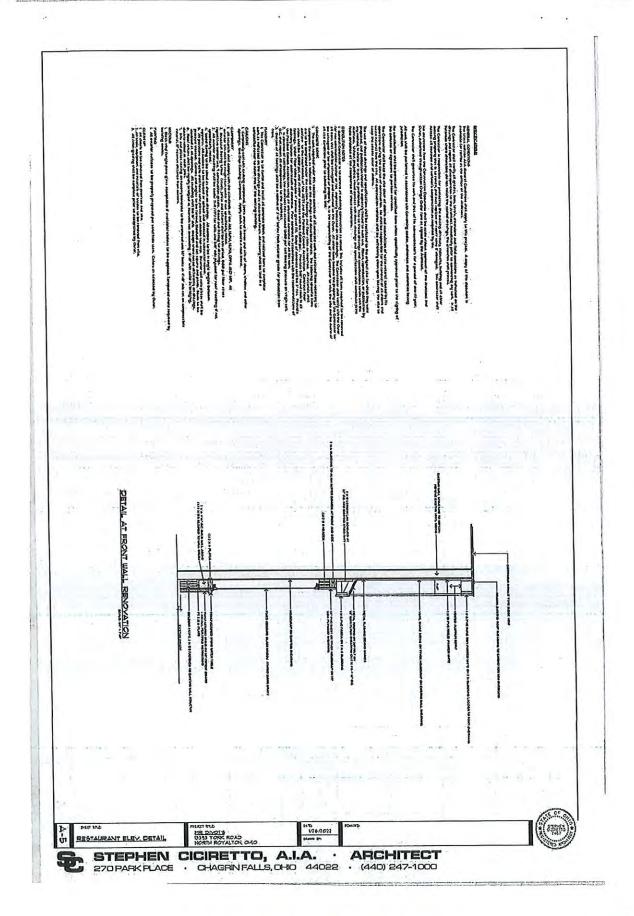


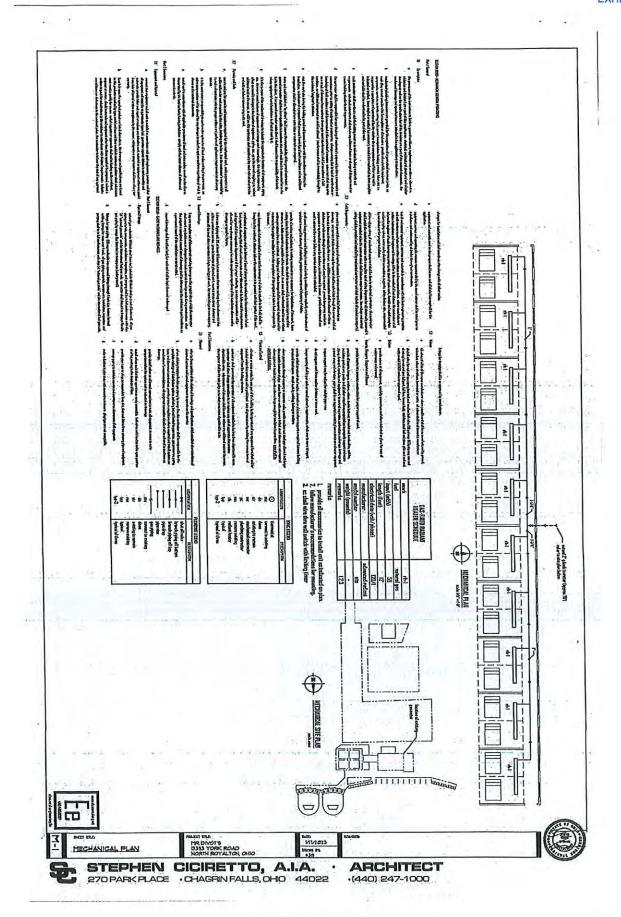


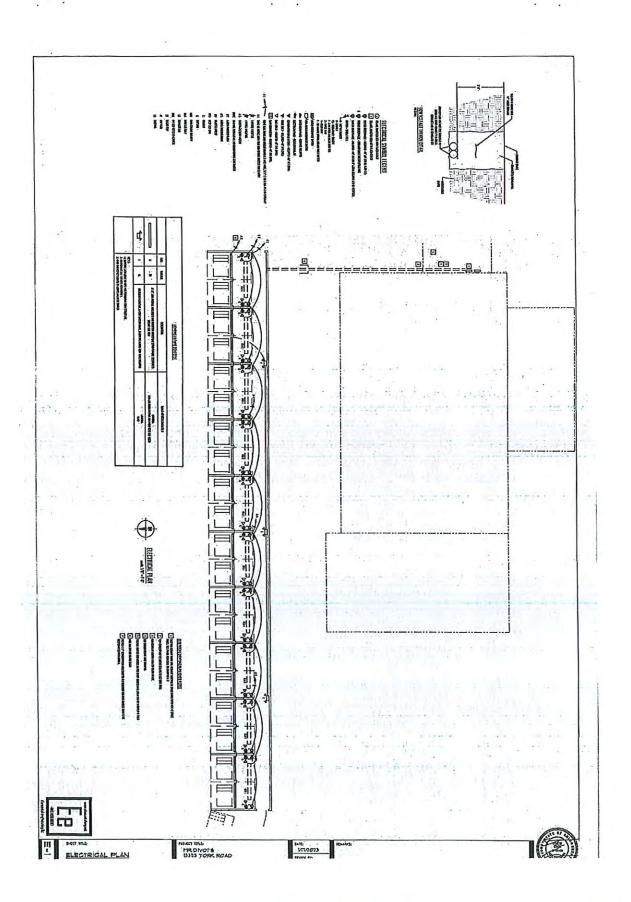


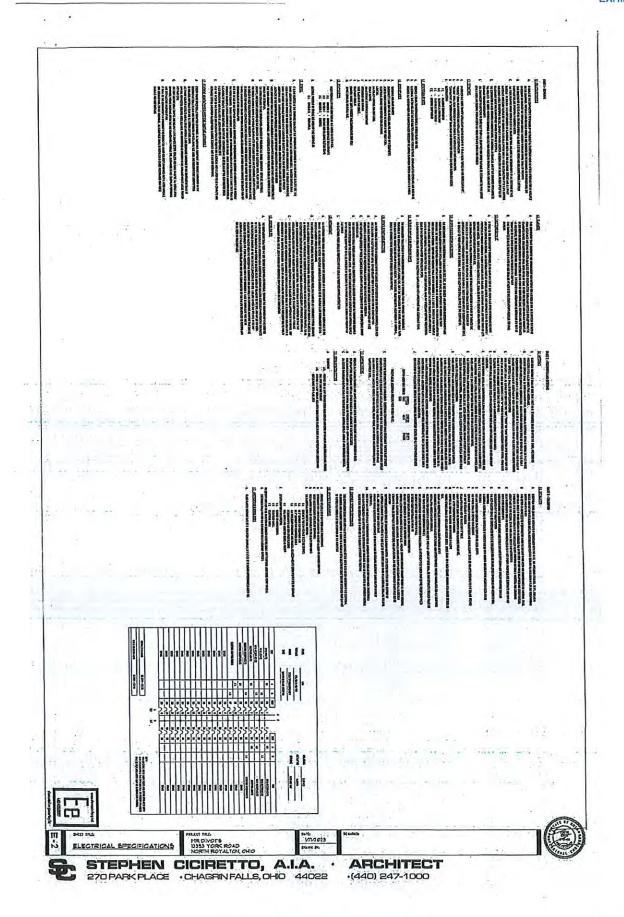


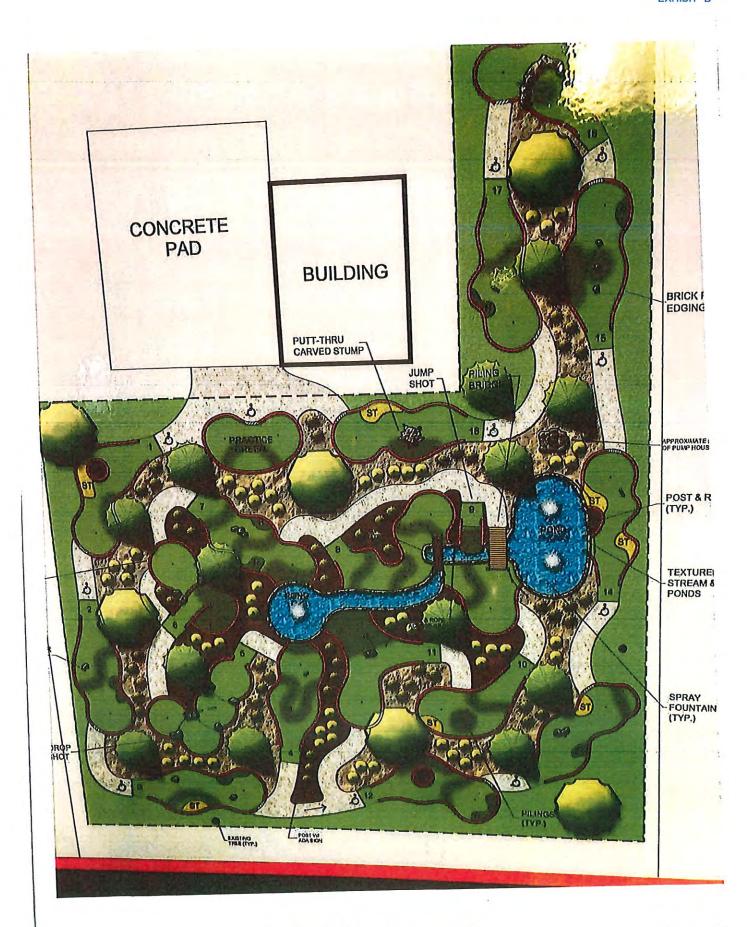












NOTICE OF APPEAL

APPELLANT:

Revere at Woodcroft Glen, LLC ("Revere")

14300 Ridge Road

North Royalton, OH 44133

(P.P. ## 48231132 and 48231134)

COUNSEL:

Berns, Ockner & Greenberger, LLC

Jordan Berns, Esq.

Benjamin J. Ockner, Esq.

3733 Park East Drive, Suite 200

Beachwood, OH 44122

(216) 831-8838

DECISION

APPEALED:

North Royalton ("City") Planning Commission ("PC") No. PC23-18, approving the application of 13393 York Road LLC ("York") for final site plan approval for improvements to Mr. Divot's Sports Park ("Park"). Voted on 12/6/2023; finalized on 1/3/2024.

EXHIBIT "C"

(Minutes of PC Meeting 4/5/2023)

The North Royalton Planning Commission met in the City Hall Council Chambers, 14600 State Road, on April 5, 2023 to conduct the Regular PC Meeting. The meeting was called to order at 7:00 p.m. by Chair Gene Baxendale and opened with the Pledge of Allegiance.

PRESENT: <u>Planning Commission</u>: Chair Gene Baxendale, Mayor Antoskiewicz, Paul Marnecheck, Marie DeCapite, John Ranucci. Secretary Ian Russell. <u>Administration</u>: Law Director Tom Kelly, City Engineer Justin Haselton, Building Commissioner David Smerek.

REGULAR ORDER OF BUSINESS:

Approval of the Minutes:

Moved and seconded to approve the minutes of March 8, 2023. Motion carried.

The Chair gave an overview of the PC meeting process. He stated the order on the agenda will be slightly changed. PC 23-11 will be heard first. The Public Hearing portion of meeting called to order.

PUBLIC HEARING / OPEN MEETING

New Business

1. <u>PC23-11</u>: As required by North Royalton Codified Ordinance Sections 1220.06(e) and 1244.07, Jeff Rucinski is seeking final plat approval for the Huntington Park Phase 4 Subdivision and the dedication of the roadway extension for Angelina Drive. The subdivision is to consist of 7 single-family residential lots located on PPN(s) 488-12-036 and 488-12-037 in residential (R1-A) District Zoning.

The Chair recused himself from involvement in this application and handed the meeting over to the Vice-Chair Paul Marnecheck.

Jeff Rucinski stated they are seeking final plat approval for the subdivision. Dan Engle, stamping surveyor on the project, stated they have taken care of all the comments from the City and County for the platting process.

City Engineer: We have monitored the construction. Phase 4 has been added to the existing HOA. A dedication checklist and punch list has been included in the packet. Many of the items have been completed. The Engineering Department has no concerns at this time.

Law Director: Mr. Rucinski has demonstrated to our satisfaction the new phase will be joined to the existing HOA. There is sufficiently protective language incorporated into the documents to evidence the responsibility for the storm water facilities.

With no additional comments from the Departments, the Vice-Chair opened the meeting for public comments.

Terry Kaminski, 11331 Villa Grande, questioned the downed trees on the existing property. Will the developer be clearing the large uprooted downed trees or is it up to the future homeowners.

With no further Public Comment, the Vice-Chair closed the Public Hearing portion of the meeting and called to order the Regular portion of the meeting for discussion by the Board members.

Moved by Ms. DeCapite to approve final plat approval for the Huntington Park Phase 4 Subdivision and the dedication of the roadway extension for Angelina Drive and open the meeting up for discussion.

Mr. Rucinski stated it is a large piece of land with a lot of trees scattered throughout. He said they brought in a tree company to remove most of the trees and debris. As the lots get sold, the new owners

will continue to clear out the remaining trees on their property. Their intention is not to remove any additional downed trees as part of the project.

Mayor Antoskiewicz asked about the three houses coming down from Villa Grande and wanted a catch basin in the back yard of one of those properties. Mr. Rucinski responded that catch basins were added in. Dan Engle stated that as part of the platting, there is an easement for the stormwater and pipe network in the rear of those lots. The City Engineer stated he was out there and there is an easement for storm; the plat does not show the catch basins but they are there. Mr. Marnecheck stated they have done more than the minimum required by adding the additional catch basins for storm water management.

With no further discussion the Vice-Chair asked for a motion to approve. Roll call: Yeas: Three (Marnecheck, Mayor Antoskiewicz, DeCapite). Abstained: Baxendale. Not present for vote: Ranucci. Nays: None. Motion to approve (3-0).

After a brief delay, John Ranucci joined the meeting.

 PC23-07: Alan Rothstein, on behalf of 13393 York Road LLC, is seeking final site plan approval for the renovation of the Mr. Divot's Sports Park located 13393 York Road, also known as PPN: 482-27-005 in Research Office (RO) District zoning.

Brad Erdman spoke on behalf of Alan Rothstein as his owner agent; the proper signed document permitting him to speak on behalf of the applicant was part of the submittal. Mr. Rothstein recently purchased the property. He said they are now looking for final approval. There is approximately \$1.5 million dollars in improvements slated over the next year for this project. He displayed a picture of the proposed plan. The main items include the repaving of the parking lot, they are looking to install new poles with nets encompassing the entire back side of the property in a "U" shape to protect the surrounding homes; the nets will also be higher. We have the electronic capability to track on electronic security if someone were to intentionally hit a ball above the nets. The light poles will be sanded down and repainted with high-efficient head lamps installed to replace the current lights. In the front area they will be redoing the existing putt-putt course. The batting cages will be replaced and will be fully netted. Some of the golf bays will be enclosed to make them more customer centric and make them more all-weather friendly. The bar and the volleyball court are owned by a separate entity that does not have anything to do with this project. The landscaping on the existing ice cream business will be maintained and beautified.

City Engineer: From a site civil engineering perspective, the changes are not major and are mostly refurbishing of existing areas, there does not appear to be very much new impervious area. Therefore, we do not have stormwater concerns. If PC approves the plans, the Engineering Department will review the final site plans such as the resurfacing of the parking lot.

Building Commissioner: Mr. Divots is considered a legal non-conforming use in the Research Office District. They are proposing a tee-box structure over the existing tees. They have six batting cages removed and they intend to replace them with five cages. They are repairing the light poles with LED heads; no new poles will be added. Based on the current photometric plan submitted, there will be no light intrusion onto the neighboring properties. Shields can be put on the lights to stop light intrusion or by putting buffering up. Plans are to replace and restripe the current parking lot. The current ball net is 50 ft.; they are proposing to raise it to 75 ft. The ball net along the north side line runs short of the tee-boxes. It stops at about the 50-to-70-yard line. That opening allows some balls to get over to approximately four or five lots on Heritage Trail. He recommends it be extended down to cover that gap opening. It appears all the trees buffering the west side line have been removed; possibly to put the net

up. Unfortunately, there is residential to the south of it; it is now exposed. Because of the two different zones, Research Office and Multi-Family zoning, buffering is required. He requires some buffering along the south and east side line, such as trees. Regarding the hours of operation, we found some historical data from 1990 and 2010 which basically said they are permitted to be open from 10:00 a.m. to 11:00 p.m. on the weekends, and 10:00 a.m. to 10:00 p.m. weekdays. They are proposing to go to midnight; maybe 11:00 p.m. on Friday and Saturday would be fairer and can be discussed further by the Planning Commission.

City Planner: The existing, Mr. Divots, is a legal nonconforming use. As such, anything that would be considered an expansion of that use would require additional approvals. Based on our review, most of the proposed improvements are one-to-one replacements for routine maintenance of that property.

Law Director: He believes the entire property has been under a singular ownership of Mr. Bogucki and his family at least since the early 80s. He said he has concerns that the reference to the bar and the volleyball courts as representing separately owned buildings and separately operated businesses on the same parcel. He said if it were under common ownership, he would not have a problem; the fact that they are going to be operating multiple businesses as legally nonconforming uses on the same piece of property, that is a troublesome concern. In every other business district, the parcel is lawfully entitled to have one business as the main use; the question now becomes what is the main use. Another question is the nonconforming quality of the uses that are currently being made. The law prohibits an expansion of the nonconforming use. Is what is being described here an expansion or simply maintenance or renovation. The City Planner and Building Commissioner have made a determination and are satisfied that these are renovation efforts and therefore would not violate the provision against an expansion of a nonconforming use.

The Chair opened the Public Hearing portion of the meeting.

An affidavit was received from Karen Linder, 7673 Homestead Circle, the increased business will impact the lives and wellbeing of their neighbors. The hours of operation will impact the lives of the neighbors for 17 hours Sunday through Thursday and 18 hours of the day on Friday and Saturday, yearly. She expressed concern about being able to safely use their yard or sit on their patio because of those engaged in trying to hit the golf balls over the netting causing property damage to the residences. The netting does little to stop that. She expressed concerns regarding the additional lighting which would also impact the neighborhood and the loss of the use of their property.

Rosemary Hern, 7655 Homestead Circle, said she lives on the cul-de-sac on the north side of the applicant's property. She expressed concern that some of their homes angle out to the view of the driving range. She said she has 80-plus cracks and gaping holes on the three sides of her house. They have replaced a car windshield and had her car repaired. She asked if the plans are to not only add on to the fencing but also if they are planning to reposition the angle of the driving range so people can't purposely aim at the houses. She expressed it being a safety concern; they are limited to using their back yard because they have almost gotten hit by a golf ball while grilling out last year.

Frank Castrovillari, 7675 Harley Hills Drive, he expressed his opinion after looking at the redesigned drawings. He said he feels this is an expansion because the 18-hole golf course is larger than what is there now; however, he does not see that to be an issue. He expressed concern regarding the lighting and the hours of operation. He said there is a noise ordinance and said the proposed application shows going to midnight and starting hours of 6:00 a.m., seven days a week. He said he would like the hours to be changed to opening later in the morning and not as late at night. He said the noise travels; they hear the hitting of every golf ball and every bat swing hitting the ball. Because of the height of the lights,

he asked some shades be added. Possibly lower the lights or something to minimize the big glow of the lights; the LED lights may make the existing situation worse than it is now.

Karen Linder, 7673 Holmstead, has bags of golf balls which were collected in her yard. They have not used their patio because they were hit with golf balls. She is unable to use her yard. She spoke against the hours.

Eric Edwards, Design Manager and Architect for Gross Residential, and Derik Long with Gross Residential were present to represent Revere Woodcroft Glen Townhomes as well at Traditions at Royalton Place which are neighboring properties to the south on each side. Mr. Long expressed concerns regarding the application. He said they have similar concerns; the three main concerns being the light intrusion, the sound and the hours of operation. The 6 a.m. start and the midnight closing is a change of what exists now and will be difficult for the neighboring residents. He spoke of the tree line buffering the southern line which was removed. It is now a clear open area where sound transfer will be more than what it was. Even without the intrusion of the lights they are more visible with the existing buffer being removed. Mr. Edwards displayed some pictures of the property. The first picture was of the road at the back of Revere Woodcroft Glen; it was obscured before with the trees which have been taken down. Our property line is the creek that separates their property from the property of Mr. Divots. Because of lack of space, it does not allow the Revere Woodcroft Glen Townhomes to add buffering with trees. Looking northward, we can see the lights from the existing parking lot and the batting cages and tees. He said their biggest concern is the batting cages that are 30 feet from the property line and have no sound buffer and will hear the constant ting-ting from the batting cages from 6 a.m. to midnight. He asked if they are planning any speaker system that will be played during those hours of operation that might add to the noise pollution that would escape the property. He asked for a copy of the photometric. Mr. Long discussed the two separate operating businesses on a single parcel. He said the proposal shows upgrades to that building. He questioned if it is a single ownership with a leased business inside. If that lease changes, will there be an intent to play music at night or anything else. The Chair asked if the trees which were removed along the property line taken by the owners of Mr. Divots. Mr. Long responded they were taken down by Mr. Divots; they were on their property.

With no more public input the Public Hearing portion of the meeting was closed and the Regular meeting was called back to order.

Brad Erdman responded to the questions regarding the issues with the above the ground lights. The current ownership has a number of other driving ranges. He will speak with current ownership regarding the lights facing Heritage Trail. They are not putting the poles up higher; they are sanding them down, painting them and putting the new light heads on. The new ownership is looking at putting a shield on the side. They are using a tighter beam of light so it does not fan out as much. The trees were taken down to facilitate the contractor coming in to install poles for the netting. We can define what goes back up to give a visual buffer and sound buffer such as trees or arborvitaes. We are raising the nets up 25 feet higher to alleviate the balls going onto neighboring properties. Our IT Manager can look at a system of capturing someone on video. It is a 24/7 camera system recording all of the different bay's activity. There is a motion sensor alert system as it leaves the net. There are signs which are planned for each bay that spells out consequences such as a lifetime ban or legal charges for intentionally hitting over the net.

Hours: Mr. Erdman questioned if the traditional hours of operation were 6:00 a.m. The Building Commissioner responded the hours in 2010 were 10:00 a.m. until 10:00 p.m. Friday and Saturdays they were permitted to stay open until 11:00 p.m. The Chair asked what are the proposed hours. Mayor Antoskiewicz responded Monday through Thursday 6:00 a.m. to 11:00 p.m.; Friday and Saturday 6:00

a.m. to midnight, Batting cages 10:00 a.m. to 10:00 p.m. seasonal. He thinks the volleyball courts are 10:00 a.m. to 10:00 p.m.

Chair asked for clarification regarding ownership of the bar building and the volleyball courts. Mr. Erdman said he is unsure of the answer; he will need to get that information on what that arrangement is.

Mayor Antoskiewicz asked the applicant if they can slant the tees so it would be more difficult to go towards the residences. Mr. Erdman said he will make that suggestion; however, the increase height of the nets should prevent that from happening. The net has a tighter mesh so there is less occurrence of a ball getting through. The Chair stated the angling of the tee boxes are all on a straight line; can they be put on a concave. Mr. Erdman said he will add that to his notes.

The City Planner stated that based on the plan, the northern section of those tees have been realigned to face more south, away from the homes. Mr. Erdman responded he will verify the realignment of the tees is correct on the plans.

The Chair opened the meeting up for discussion of the Board.

Law Director: He said he is still not clear, based on what he is hearing as to who owns what. This is one permanent parcel with multiple businesses and multiple uses. They are legal nonconforming uses; it is fundamentally nonconforming. The Commission has some discretion as to what they will allow or not allow.

Mr. Erdman confirmed that the applicant does own that building and they have inherited the lease for the bar/restaurant and volleyball court which is good for another two years. At that time, they can either take over that business or be up for another lease.

Law Director: There is one common ownership for the entire parcel for all the businesses that are on it, leasing out the bar to another individual. The plan indicated an intention to renovate the front façade of the existing restaurant. Controlling the hours of operation is within the PC's purview. They have a history and it is a matter of public concern because it is a non-conforming use in a Research Office zoning district. Do we need to speak to ownership about commitment for hours of operation. Mr. Erdman responded it is for the Commission to decide on the hours of operation and what they are going to enforce; he said they have made a request for what they would like the hours of operation to be.

Mayor Antoskiewicz asked what are the hours of operation for the other facilities and what are the heights of the nets; he added the hours of operation being proposed are 'way out there'. Are those hours typically at the other facilities. Mr. Erdman said he does not have the answer but he knows it is early in the morning, such as 7:00 a.m. The facilities hours and height of netting vary.

Mayor Antoskiewicz asked what is the life cycle on the nets being proposed and will it be safe for neighboring residents. Mr. Erdman responded he is unsure what the degradation cycle is but it is made of a polystyrene, UV resistant.

Mayor Antoskiewicz asked if the applicant is doing the renovation to the restaurant/bar facility. Mr. Erdman said yes, they will be contracting it out. Mayor Antoskiewicz asked if they are plans for any renovations including a facelift to the ice cream shop. Mr. Erdman responded he does not know; he would have to check with ownership. He said they would not shy away from anything that needs to be restored possibly a new sign and landscaping out front.

Mr. Ranucci asked if there is some type of soundproofing that can be put around the batting cages to deaden the noise of the ball being smacked. Mr. Erdman responded arborvitaes are an inexpensive solution. He said if vegetation needs to be added or a mounding of dirt, they can consider that.

Mr. Ranucci asked if the poles with the lights can be lowered. Mr. Erdman said he does not know if they can physically lower the poles because of the way electricity may be part of the poles. He added the side shields take away a lot of the light pollution problem. The light bulbs themselves can be angled so it is not a wide flood.

Mayor Antoskiewicz spoke on the removal of the nice mature trees that bordered the property and had created the right kind of buffer. He said the applicant was premature when removing the trees. He said he would discuss with ownership regarding planting fast-growing trees vs. shrubs. Buffering will also need to be planted in the rear for the new planned houses abutting those homes. The Building Commissioner stated the minimum for buffering is 10 ft, in width. Installation of landscape mounds and possibly evergreens which would match the north side of the property.

Ms. DeCapite asked for clarification of the expansion of a non-conforming use. The Law Director explained our code which prohibits the expansion of a non-conforming use. The meaning can vary. He explained the uses of the current property are technically all the same; they are not change the uses. They are renovating the facility. The one area would be the construction of the proposed tee box structures which previously did not exist. Mr. Erdman said they are doing that in order to keep the people out of the rain. It may also help to encapsulate some of the sound as well. The Law Director stated that it is up to the Commission to determine if that is a reasonable extension or modification other than an expansion. The applicant seems to be cooperative with regard to other issues that are of greater importance.

The Building Commissioner responded the way he looked at the tee boxes is that no additional tee boxes are being added; they are covering them.

Mr. Marnecheck said he is familiar with the area and realizes Mr. Divots was there first. However, this is a great opportunity to fix some of the issues that have been simmering for a while. He asked for clarification on the netting and the ability to make repairs when needed to the netting. Mr. Erdman responded the mesh is smaller and will be approximately 25 ft. higher. They plan to extend the netting farther down to protect the other houses on Heritage Trail. It is unlikely the golfer, unless they are facing York Road, would be able to hit beyond the net.

Mr. Marnecheck asked if there are plans to add new machines which may cause additional noise. Mr. Erdman responded he does not know. He said the antiquated machines that were replaced at their other facility are much quieter.

Mr. Marnecheck asked if signage with our code on it can be added allowing the Police to charge individuals. The Law Director responded, yes. Any intentional act that is directed at property destruction, vandalism, such as if someone were purposely trying to hit a golf ball over the fence at a home; yes, that is a crime. Mr. Erdman responded they have signs that are very similar that they put up in each bay. It can be tailored to the language supplied by the City.

Mr. Marnecheck asked if the applicant is seeking Final site plan approval. Mr. Erdman responded yes. The Law Director said if approved, it would not be required to go to City Council for approval of any of these modifications. The motion to approve would need to include a listing of stipulations.

Ms. DeCapite said the ice cream store should be part of the renovations. Mr. Erdman responded, certainly, he understands.

The Law Director stated the application is limited and does not include the ice cream stand. We can request attention be paid to that but that is not part of the application. Unless Mr. Erdman, on behalf of the ownership, indicate that they are willing to modify the application orally and incorporate a renovation to the ice cream stand.

Mr. Erdman said he can pass along to ownership the request to beautify the ice cream shop. And he said he can promise you that yes it would be done.

The application can be tabled and allow Mr. Erdman share with the ownership all of these concerns and requests and modifications and see if they are willing to modify the application accordingly.

Mr. Erdman responded to a question regarding the height of the netting. In Ohio the typical netting is anywhere from 50 ft. to 150 ft.

The Law Director and Mayor stated that while we would like to see all of these improvements, we recognize the applicant has certain rights that need to be adhered to in order for them to move forward. It might be better if the Commission were to consider final site plan approval tonight subject to all of the limitations that have been discussed. The Mayor has indicated that Mr. Smerek will make a personal concern in seeing to it the ice cream store is properly improved. Mr. Erdman said he does agree to those improvements.

The Building Commissioner stated some attention needs to be made to the red storage shed along the south property line. Mr. Erdman said they will either make improvements to the structure or remove it.

The Law Director stated the motion properly framed would be: Final site plan approval of 13393 York Road LLC be approved subject to the following limitations:

- Driving range hours of operation (traditional):
 - Monday, Tuesday, Wednesday, Thursday 10:00 a.m. to 10:00 p.m.
 - Friday, Saturday: 10:00 a.m. to 11:00 p.m.
 - Sunday: 10:00 a.m. to 10:00 p.m.
- Batting cages (seasonal):
 - 10:00 a.m. to 10:00 p.m.
- New Netting around three-quarters of the facility for driving range on north side, east side and on the south side: 75 ft. high.
- The tee boxes set forward in a curve arrangement, particularly on the northern end.
- Additional buffering and landscaping along the southern border abutting the residential properties including 10 ft. high mounds and pine trees. Applicant to work with Building Commissioner and City Engineer for location of the mounds and types of trees.
- · The lighting for the property be shaded fully on to the property
- The bar and volleyball operation: maintain current hours.
- Some specific attention be paid to the ice cream stand for renovation and improvement.
- Storage shed to be renovated or removed.
- The additional commitments that Mr. Erdman has made that are in the record and in the minutes will also be made part of this motion.

Motion made by Mr. Marnecheck, seconded by Mayor Antoskiewicz to approve Final site plan to include the stated limitations. Roll Call: Yeas: Five (Marnecheck, Baxendale, Antoskiewicz, DeCapite, Ranucci). Nays: None. Motion to approve (5-0).

The Chair called for a five-minute break.

The Chair called the meeting back to order.

 PC23-08: William Mason is requesting a lot split and consolidation located at 9781 State Road, also known as PPN(s): 489-17-007 and 489-17-008, in Residential (R1-A) District zoning. The existing lots are non-conforming and the requested split will also result in non-conforming lots that do not meet the required 100-foot lot width.

Bill Mason, 3667 Rachel Court in Seven Hills, said he is proposing a lot split and consolidation. The lot is currently a 90 ft. lot that runs into the existing house. That is lot split #2. He wants to shrink the frontage right down the middle of the driveway of the 90 ft. lot; it would then be a 70 ft. and make the existing house an 80 ft. to square it all off. The back part of the northern lot now becomes part of the southern lot. The current large barn in the back is on the northern parcel. This separates it and puts it on lot split #2 on its own parcel instead of encroaching on the other.

City Planner: The City Departments, including Building and Law collaborated internally on this proposal. The existing lots are non-conforming. Currently the home and the accessory large barn structure in the back are both over the existing property line. His proposal is trying to correct those property encroachments. In doing so, the solution is that they will still be non-forming but the encroachments would be corrected and the side setback requirements for both the accessory structure and the home would be dealt with. Mr. Mason is also proposing an access easement along the existing driveway which is intended to service both properties. The resulting lots would be: 70 ft. on the northern side and the existing lot with the home on it would be about 80 ft.

Law Director: Each lot would have frontage of less than the currently requirement of 100 ft. Both such parcels are less than that now. The applicant is essentially clearing up some of the inconsistencies that exist and did so in some measure largely at our request. We were trying to make this a better circumstance than he found it or what currently exists. From the City's perspective, this is a desirable modification.

Patrick Ryan, 9880 Ridgeline Drive, we abut the rear of the back corner of parcel #1. He expressed concern of what will be put on the first lot; will it be a home, a rental home and will it be dropped in his backyard which would mean he would lose his view and privacy. In the past the renters did not take care of property, didn't cut the grass and left the fence in disarray. It is a unique property because of the valley and water runoff. He liked the rural area with 100 ft. lots.

Ron Baraona, 9920 Ridgeline Drive, spoke against the approval of the application. He said his concern is similar to Mr. Ryans. The current renters are not taking care of the property; will this additional lot be another rental lot that is not taken care of.

Violet Imre, 9705 State Road, spoke against the approval of the application. It should not be allowed. We bought the property because of the rural area lots. The owners own not only the property we are talking about but also nearly all of the development behind them. They were told the parcels would not be developed. They went before BZA for a small variance which was denied. She spoke of the area that dips and is a lake after a rain storm. She showed how the water empties onto her lot through a

• The next Planning Commission meeting is scheduled for May 3, 2023.

ADJOURNMENT: Moved and seconded to adjourn the PC meeting. Motion carried. Meeting adjourned.

Minutes Transcribed by D. Veverka.

APPROVED: <u>/s/ Eugene Baxendale</u>

Chair

DATE APPROVED: May 3, 2023

ATTEST:

/s/ lan Russell

Planning Commission Secretary

NOTICE OF APPEAL

APPELLANT:

Revere at Woodcroft Glen, LLC ("Revere")

14300 Ridge Road

North Royalton, OH 44133

(P.P. ## 48231132 and 48231134)

COUNSEL:

Berns, Ockner & Greenberger, LLC

Jordan Berns, Esq.

Benjamin J. Ockner, Esq.

3733 Park East Drive, Suite 200

Beachwood, OH 44122

(216) 831-8838

DECISION

APPEALED:

North Royalton ("City") Planning Commission ("PC") No. PC23-18, approving the application of 13393 York Road LLC ("York") for final site plan approval for improvements to Mr. Divot's Sports Park ("Park"). Voted on 12/6/2023; finalized on 1/3/2024.

EXHIBIT "D"

(Application 2 - 10/27/2023)



City of North Royalton

Mayor Larry Antoskiewicz

Planning Commission David Smerek, Building Commissioner

lan Russell PC Secretary

PUBLIC HEARING LEGAL NOTICE

Pursuant to North Royalton Codified Ordinance 1220.06, notice is given that the Planning Commission of the City of North Royalton, Ohio, will hold a public hearing on **December 6**, **2023** at 7:00 p.m. local time in the Council Chambers at City Hall, 14600 State Road, upon the following subject:

Ashley Rothstein, on behalf of 13393 York Road LLC., is seeking final site plan approval for the addition of a bathroom to the existing ice cream building, exterior modifications to the existing ice cream building and building signage, the construction of a pergola structure, the replacement and modification of exterior paving, and the area expansion of the existing miniature golf course at Mr. Divot's Sports Park located at 13393 York Road, also known as PPN: 482-27-005, in Research Office (RO) District zoning.

Plans, specifications, and other documentation are on file at the Building Division, City of North Royalton Service Center, 11545 Royalton Road, and on the City's website for review by interested parties.

You can view the meeting live by entering the following link on your phone or computer or you may attend the meeting in person at North Royalton City Hall.

Link: www.northroyalton.org/PlanningCommission

If you would like to be heard on the subject of this application but are not able to attend the meeting in person, please fill out and submit the Public Comment Form with any documents or photographs and return it to the Building Department no later than December 5th at 12:00 p.m. local time. The form is available on the Planning Commission page of the city website which can be found at the above link. PLEASE NOTE: THE PUBLIC COMMENT FORM MUST BE NOTARIZED IN ORDER TO BE READ INTO THE RECORD.

PLANNING COMMISSION NORTH ROYALTON, OHIO

Ian Russell Planning Commission Secretary 11545 Royalton Road North Royalton, Ohio 44133 November 21, 2023



City of North Royalton

Mayor Larry Antoskiewicz Community Development, Building Division David Smerek, Building Commissioner 11545 Royalton Road, North Royalton, OH 44133



Phone: 440-582-3000

CITY OF NORTH ROYALTON PLANNING COMMISSION APPLICATION

Name of Occupant, Business or Tenant (if applicable) 4322-700 5 Permanent Parcel Number 2. Property Owner of Parcel: 13393 York Ruad UC Mr. Divids Name of Business (if applicable) 13393 York Rd Address Phone North Rayaltan, Ohio 44133 3. This request is being made by the following responsible party (Owner / Authorized Representative): 13393 York Rayaltan Name of Occupant, Business or Tenant (if applicable) Mr. Divids Name of Business (if applicable) 1410-33(6-3002 Phone Aniederst North agmail.com Email (electronic mail) 13393 York Rayal LL(Name of Business (if applicable) 1440-336-3002 Phone Sulan Oh 44139 City, State and Postal Code Email (electronic mail) Aniederst North Rayal LL(Name of Business (if applicable) 1440-336-3002 Phone Aniederst North Rayal LL(Name of Business (if applicable) Hull - 336-3002 Phone Sulan Oh 44139 Email (electronic mail) For Office Use Only 1012712023 12104 2023 PC23-18	3393 York Rd	Mc Divots
Permanent Parcel Number 2. Property Owner of Parcel: 3393	M.S. C.	Name of Occupant, Business or Tenant (if applicable)
2. Property Owner of Parcel: 3393 Yark Reach LLC Mr. Dival 5 Name Name of Business (if applicable) 3393 Yark Red LLC LLC Mr. Dival 5 Name of Business (if applicable) 13393 Yark Red LLC LLC Address Phone North Rayaltan	48227005	
13393 Vork Raad LLC Name of Business (if applicable) 140-336-3002 Phone Anieders+ um @ gmui]. (augmui]. (augmui). (augmui)	Permanent Parcel Number	Zoning District and Ward
Name of Business (if applicable) 13:393 Var & Rd Address Phone ANieders + Nm @gmail.com Email (electronic mail) 3. This request is being made by the following responsible party (Owner / Authorized Representative): 13393 Vor & Rand LLC Name of Business (if applicable) ANieders + Nm @gmail.com Email (electronic mail) 3. This request is being made by the following responsible party (Owner / Authorized Representative): 13393 Vor & Rand LLC Name of Business (if applicable) Email (electronic mail) 13093 Vor & Rand LLC Name of Business (if applicable) Email (electronic mail) Anieders + Nm @gmail.com Email (electronic mail) Alieders + Nm @gmail.com Email (electronic mail) Alieders + Nm @gmail.com Email (electronic mail) For Office Use Only 101712023 Date Application Submitted Application Fae Payment Information (date, check number, cash, etc.) Received By	2. Property Owner of Parcel:	
Address Phone ANiederst Nm @gmail.com Email (electronic mail) 3. This request is being made by the following responsible party (Owner / Authorized Representative): 1393 York Rand LLC Name Name of Business (if applicable) 1440-336-3002 Phone Address Phone Aliederst Nm @gmail.com For Office Use Only 1393 York Rand LLC Name of Business (if applicable) 1440-336-3002 Phone Aliederst Nm @gmail.com Email (electronic mail) Aliederst Nm @gmail.com Email (electronic mail) PC3-18 Identification Number Assign Incomplete Information (date, check number, cash, etc.) Received By	13393 York Road LLC	Mr. Divols
Address Phone North Rayaltan Ohio 44133 ANiederst Nm agmail.com Email (electronic mail) 3. This request is being made by the following responsible party (Owner / Authorized Representative): 13393 York Rayal LLC Name Name of Business (if applicable) 440-336-3002 Address Phone ANiederst Nm agmail.com Email (electronic mail) ANiederst Name of Business (if applicable) 440-336-3002 Aniederst Nmag mail.com Email (electronic mail) For Office Use Only 1012713023 Date Application Submitted Application Fae Payment Information (date, check number, cash, etc.) Received By		
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3. This request is being made by the following responsible party (Owner / Authorized Representative): 13393 York Road LLC		Phone
3. This request is being made by the following responsible party (Owner / Authorized Representative): 13393 York Road LLC	Worth Royalton, Ohio 44133	ANiederstum agmail.com
(Owner / Authorized Representative): Ashley Rothstein 13393 York Received By Ashley	City, State and Postal Code	Email (electronic mail)
Name of Business (if applicable) 39695 Lochmoor Drive Address Phone Solon Oh 44139 City, State and Postal Code For Office Use Only 1012712023 Date Application Submitted Meeting Date Assigned Application Fee Payment Information (date, check number, cash, etc.) Name of Business (if applicable) 440-336-3002 Phone Anieclevs+um@gmail.com Email (electronic mail) PC23-18 Identification Number Assigned I. Check 410 Application Fee Payment Information (date, check number, cash, etc.) Received By		See
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Address Phone Solon Oh 44139 City, State and Postal Code For Office Use Only 1012712023 Date Application Submitted Meeting Date Assigned Application Fee Payment Information (date, check number, cash, etc.) Phone Aniecters+unegmail.com Email (electronic mail) PC23-18 Identification Number Assigned T.R. Received By	Name	Name of Business (if applicable)
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	Other Application Fee Information	

CITY OF NORTH ROYALTON PLANNING COMMISSION APPLICATION

4. Narrative statement describing the project and its features:
· add ADA Bathroom to Front building
· New putt-putt course to be wheat chair
accessible,
· Pergola to offer Shaded aven
· Renovation/Remodel exterior of front building
· Biologe exterior concrete
5. Applicant's Plan Request: (please mark appropriate box) Commercial / Industrial / Residential: Preliminary Site Plan Approval Final Site Plan Approval Subdivision: Sketch Plan Approval Preliminary Site Plan Approval Final Site / Preliminary Plat Approval Final Plat / Dedication Approval
The Planning Commission or its agent(s) is hereby authorized to enter upon the property for which his approval is sought, without further notification, to inspect said property. Any such inspection shall be conducted between the hours of 9 a.m. and 5 p.m. on any day of the week, including weekends. I further understand that any misrepresentation of data or facts or violations of the Ordinances of the City of North Royalton are cause for refusal, suspension or revocation of this license if issued. Shley Rothstein Owner 10/27/23

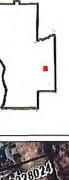
PAGE 4 OF 6

THIS AND OTHER FORMS ARE AVAILABLE ON NORTHROYALTON.ORG

REV 04/19/2023



Cuyahoga County GIS Viewer



48226030

Date Created: 11/3/2023 Legend

☐Municipalities —Right Of Way

─ Platted Centerline
□ Parcel

County Se Cuyahoga Enterpr

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

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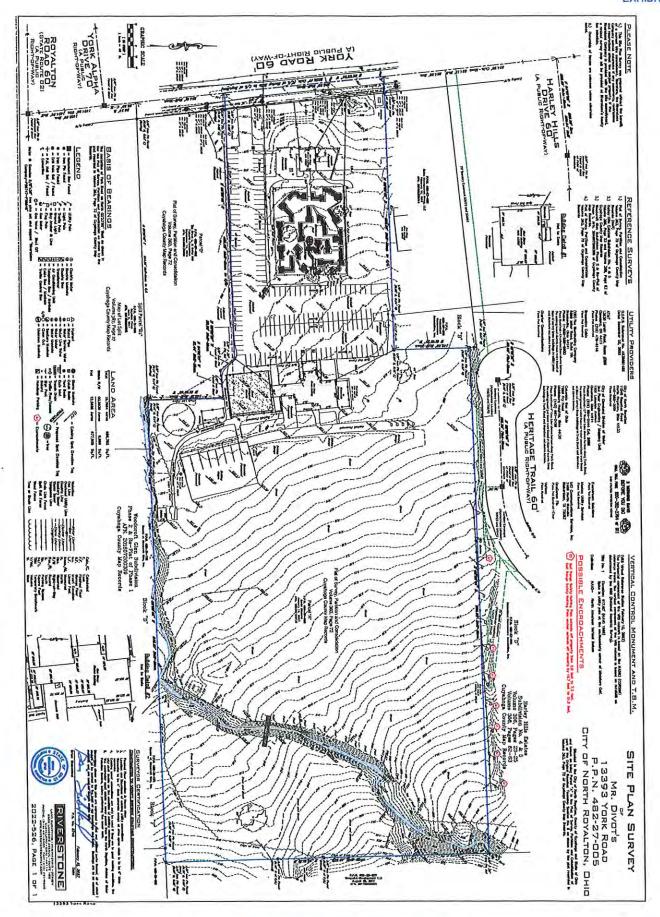
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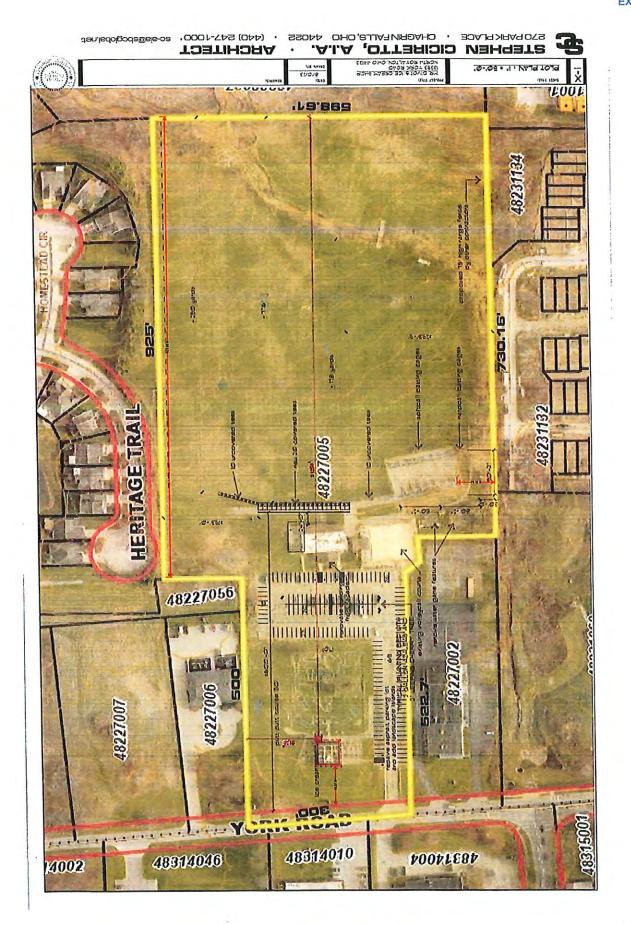
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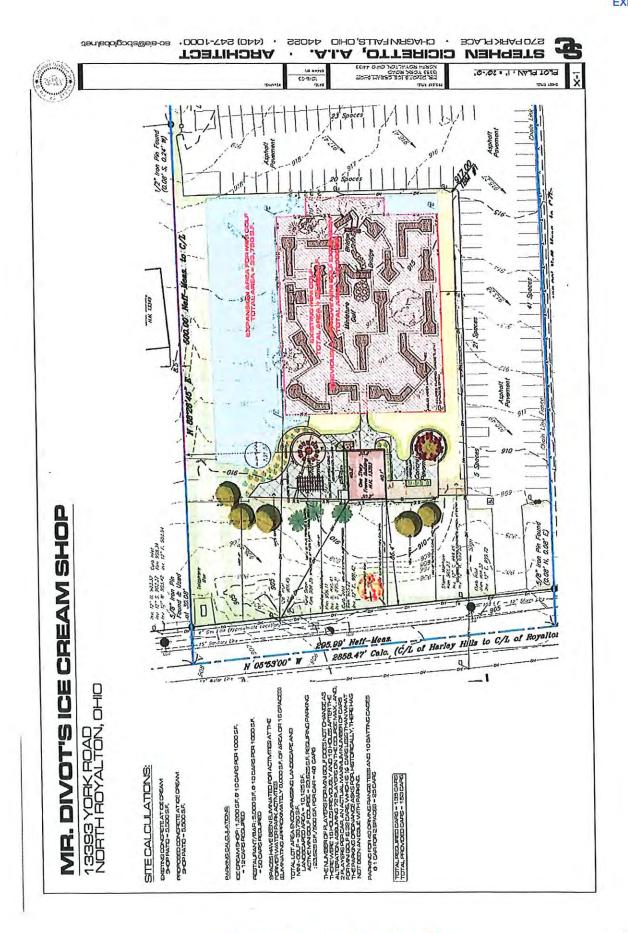
YORK ROAD

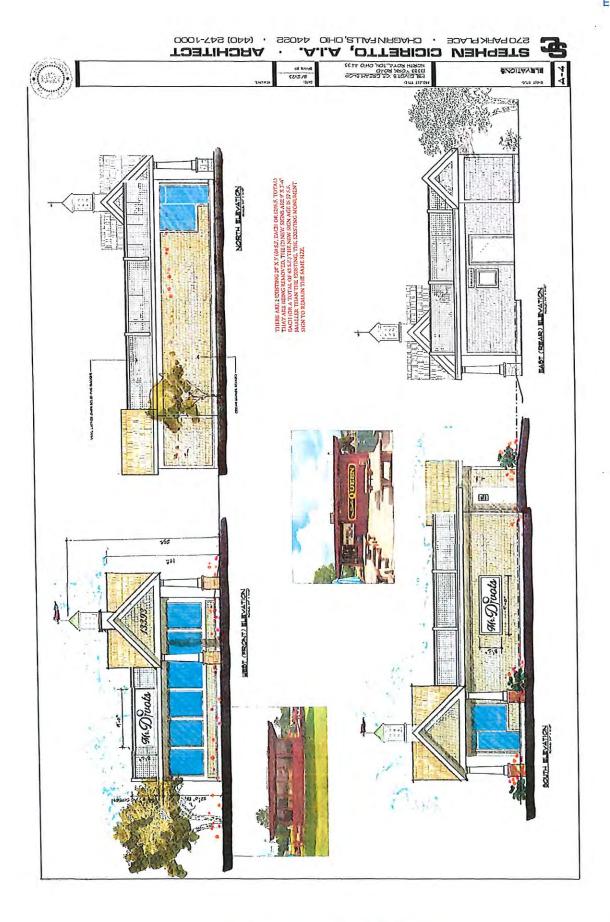
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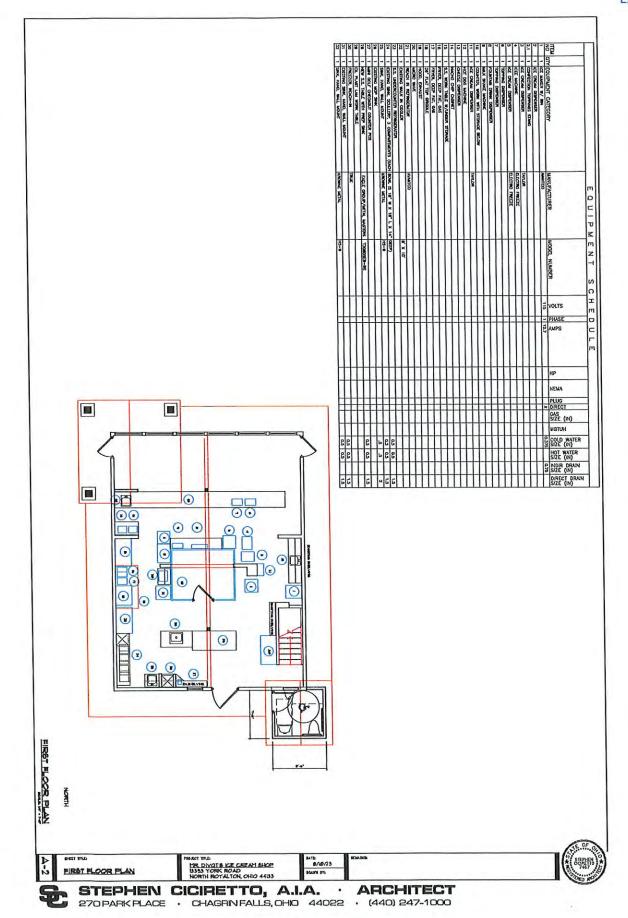
meaning.

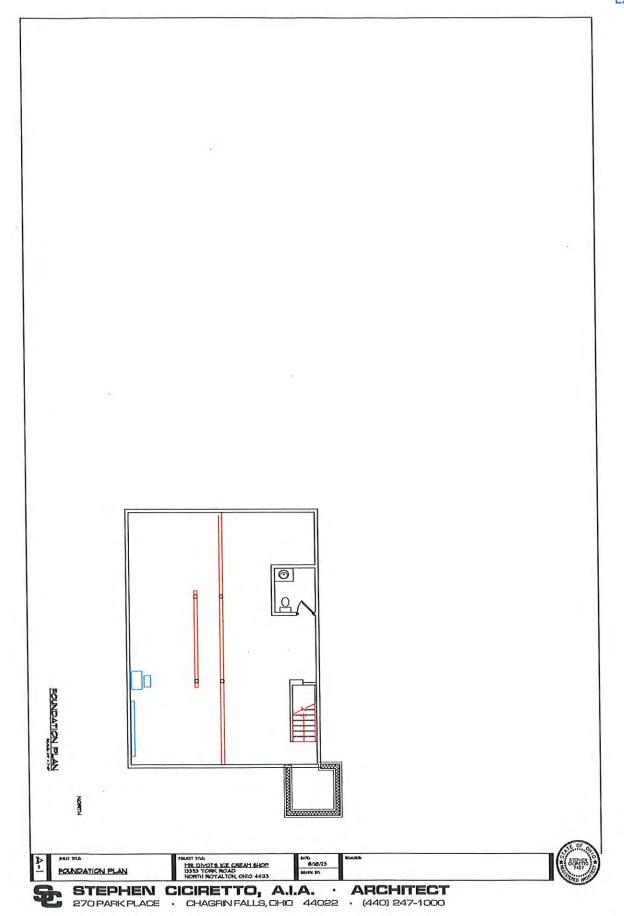


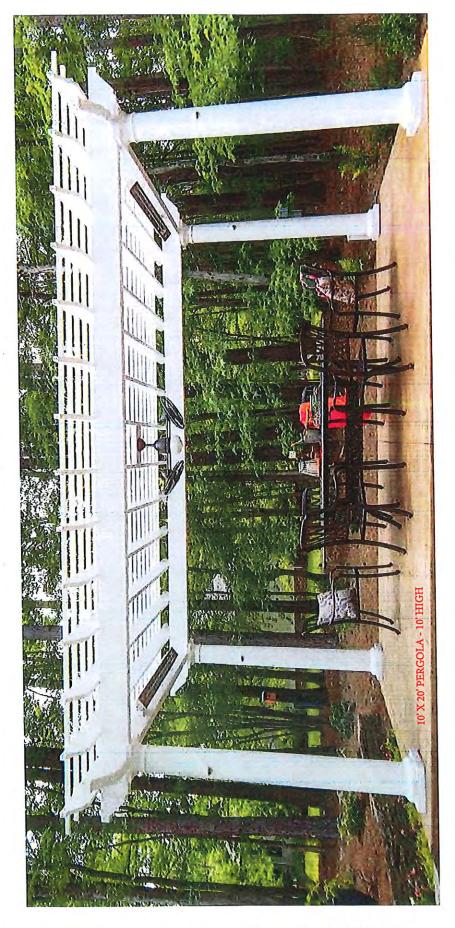












NOTICE OF APPEAL

APPELLANT:

Revere at Woodcroft Glen, LLC ("Revere")

14300 Ridge Road

North Royalton, OH 44133

(P.P. ## 48231132 and 48231134)

COUNSEL:

Berns, Ockner & Greenberger, LLC

Jordan Berns, Esq.

Benjamin J. Ockner, Esq.

3733 Park East Drive, Suite 200

Beachwood, OH 44122

(216) 831-8838

DECISION

APPEALED:

North Royalton ("City") Planning Commission ("PC") No. PC23-18, approving the application of 13393 York Road LLC ("York") for final site plan approval for improvements to Mr. Divot's Sports Park ("Park").

Voted on 12/6/2023; finalized on 1/3/2024.

EXHIBIT "E"

(Agenda – PC Meeting 12/6/2023)



City of North Royalton

Planning Commission

Agenda December 6, 2023

lan Russell PC Secretary

North Royalton City Hall – 14600 State Road Caucus: 6:45 p.m. / Public Hearing & Meeting 7:00 p.m.

REGULAR ORDER OF BUSINESS

- 1. Call to Order
- 2. Opening Ceremony Pledge of Allegiance
- 3. Roll Call
- 4. Approval of Minutes
- 5. Adjournment

PUBLIC HEARING / OPEN MEETING / REGULAR MEETING

- 1. Call to Order
- 2. Old Business:
 - a. PC23-15: Russell Sposit, on behalf of CWP Enterprises, LLC, is requesting the withdrawal of his previous application for sketch plan approval for a 4-lot minor subdivision located off of Harley Hills Drive, also known as PPN: 482-27-001, in Residential (R1-B) District zoning.
 - b. PC23-02ext: Thomas Denk, of 12557 Abbey Road, LLC., is seeking a 180-day extension of the Preliminary Site Plan Approval granted on January 4, 2023 for a proposed 11,675 square foot flex industrial office building located at 12557 Abbey Road, also known as PPN: 483-03-007 in General Industrial (GI) District zoning.
 - c. PC22-07ext: Shawn Inks is seeking a 180-day extension of the Final Site Plan approval granted on July 13, 2022 for a proposed minor subdivision consisting of 5 lots with a shared private driveway located on PPN: 485-27-003 in Rural Residential (RRZ) District zoning. A 180-day extension was previously granted at the July 6, 2023 Planning Commission meeting.

3. New Business:

- a. PC23-17: Russell Sposit, on behalf of CWP Enterprises, LLC., is seeking sketch plan approval for a proposed subdivision consisting of 10 buildable single-family lots located on 2 lots off of Harley Hills Drive, also known as PPN: 482-27-001 and PPN: 482-27-008, in Residential (R1-B) District zoning.
- b. PC23-18: Ashley Rothstein, on behalf of 13393 York Road LLC., is seeking final site plan approval for the addition of a bathroom to the existing ice cream building, exterior modifications to the existing ice cream building and building signage, the construction of a pergola structure, the replacement and modification of exterior paving, and the area expansion of the existing miniature golf course at Mr. Divot's Sports Park located at 13393 York Road, also known as PPN: 482-27-005, in Research Office (RO) District zoning.

- c. PC23-19: Randy Parsons, of MPG Architects, on behalf of Dean Costello, of TMRD, LTD., is seeking preliminary site plan approval for a 24,928 square foot building addition and associated parking lot expansion for an industrial building located at 9601 York Alpha Drive, also known as PPN: 483-15-008, in General Industrial (GI) District zoning.
- d. PC23-20: Ted Polesiak, of CDMG, on behalf of Stevens Painton Corporation, is seeking preliminary site plan approval for a 25,000 square foot accessory storage warehouse building located at 14470 York Road, also known as PPN: 483-26-001, in General Industrial (GI) District zoning.
- 4. Miscellaneous
 - a. Approval of 2024 Planning Commission Meeting schedule.
- 5. Adjournment