

**PLANNING COMMISSION MEETING
CITY OF WIXOM
49045 PONTIAC TRAIL
MONDAY, JUNE 1, 2009 – 7:30 PM**

Chairman Day called the meeting to order at 7:32 pm.

The Pledge to the Flag was given.

PRESENT:

William Day, Chairman
Phillip Carter
Jim Crowley
Cory Lupinacci
Guy York
Nick Kennedy

CITY CONSULTANT:

Sharon Hood, LSL

CITY STAFF:

John R. Lipchik, Building Official

RECORDING SECRETARY:

Jennifer Garrett

ABSENT:

Kurt Gottschall (excused)
James Maher (unexcused)
William Henning (excused)

There being a quorum, the meeting was declared in session.

CHANGES OR ADDITIONS TO THE AGENDA:

There were no changes or additions made to tonight's agenda.

APPROVAL OF MINUTES:

May 4, 2009 Regular

MOTION and second by Mr. Lupinacci and Mr. York to approve the May 4, 2009 Regular minutes as presented.

VOTE:

MOTION CARRIED

CORRESPONDENCE:

There was no correspondence received for tonight's meeting.

CALL TO THE PUBLIC:

Recording Secretary, Jennifer Garrett, read the Rules of Conduct.

Chairman Day asked if there anyone from the public that would like to address the commission at this time. A gentleman from the audience asked if now was the time to speak about the public hearing scheduled during this meeting, and Chairman Day told him he would be able to speak at

the time of the public hearing which would be in a few minutes. He then asked if there were any other members of the public that would like to address the commission. There being no further comments, the first call to the public was closed at 7:35 pm.

CONSENT AGENDA:

There were no items listed under the consent agenda for this meeting.

UNFINISHED BUSINESS:

There was no unfinished business listed on the agenda for tonight's meeting.

NEW BUSINESS:

PUBLIC HEARING FOR SPECIAL USE #09-005: BILL POULOS, 968 COLDSRING DRIVE, NORTHVILLE, MI 48167: The applicant is seeking special use approval to operate an "alternative medicine" clinic within the Light Industrial District. The Wixom Municipal Code, Section 18.09.020 requires approval from the planning commission for this request. The property is located at 28317 Beck Road, Suite E-4 and zoned M-1, Light Industrial. The tax parcel number is 22-08-426-032.

Ms. Hood introduced herself to the commission members and mentioned the last time she was here was three years ago on her first day with LSL. She indicated she was here on behalf of Mr. Avantini and Mr. Nesbitt and said Mr. Nesbitt was unable to make it tonight because of an illness.

Ms. Hood stated first and foremost she wanted to let the commission know we did take a look at the application as it was presented by the applicant. So in that light we will be able let the applicant sort of explain questions about the proposed use. She knows there are probably some but said we looked at it in terms of a clinic because that is how it was presented to us by the applicant. We feel in a lot of ways that it is a similar use in the terms of the patterns of parking and uses to a medical clinic. So we felt that was a reasonable place to start for the discussion of use.

She went on to say as a medical clinic it is a special land use allowed in the M-1 District, and we did take a look at all the special land use criteria in the zoning ordinance; and in general we think it is a compatible use with the M-1 District. It is not likely to cause additional traffic that would be detrimental to the M-1 District. We think the level of use is potentially less intense than maybe a medical office. Certainly one of this size is not likely to cause a lot of additional traffic, parking needs or generate any offensive noises, odors and things of that nature. The one thing we did want to point out to the commission is the issue of parking. The applicant has noted that they feel they only need three spaces. According the zoning ordinance it would be five and a half spaces required for a use of this size, so it is up to the planning commission to sort of discuss the parking there if you feel there is a concern. She indicated she drove through there on her way in and didn't see a lot of people parked there, but yet that was after five o'clock so you guys might know a little bit more about the patterns of parking you see out there and whether that is a concern. So tonight is the day to talk about that. As she mentioned, we don't anticipate that

being a large problem given that they will be taking people by appointment only which generally helps space out the parking demand. She said for those of you that have some questions maybe you can talk about that with the applicant. In general we do feel the use is compatible with the other uses in that business park. It would not be detrimental to the M-1 District.

Continuing, Ms. Hood stated a couple of things she wanted to point out also was that we did hear from the applicant that they have hours of operation proposed for 8 am to 8 pm so just keep that in mind for whatever you need to be concerned about. The other is if we feel that there is a use clarification on the proposed use and whether it is a medical clinic that is something the ZBA could consider if that is an item of concern. Then she wanted to bring up to the commission that if say they are successful here and do want to expand. You will have another opportunity likely to review any expansions of the use. She believes anything in the zoning ordinance that is over a certain percentage of expansion of the existing size, and given that in this business park you have very similar size uses and they were to say add another unit to their use. They would have to come back in for another approval so she just wanted to put the commissioners' minds at ease in that regard. What you are approving is not likely to sort of spin out of control once they get into the business park. With that our recommendation is to approve the special land use request, and they do meet the standards of approval in the zoning ordinance for a medical clinic. She offered that if anyone had any questions of course she was here as a resource.

Mr. Lupinacci thanked Ms. Hood very much for her presentation and said he does recognize that she was here on a substitute basis. So to the extent that his questions are not something she can answer he will certainly understand. First of all he noticed that within our meeting agenda, within the planning commission brief and the letter from LSL, all of those places we refer to this business as an alternative medicine location. He also noticed that the petitioner for their business has never used the word medicine and has never used the word medical. He would like to know why it is that we have decided to dub this a medical business.

Ms. Hood stated she thinks they were calling it a clinic, and so generally speaking when you are bringing people in for therapy or any kind of healing in a clinical setting our general opinion is that it is similar or most similar to a medical clinic.

Mr. Lupinacci said he understands that, but it appears that the use of the word medical clinic in these documents has been crafted in such a way as to meet the special land use item within our ordinance when really he doesn't see it being described within the application as a medical clinic.

In response to that Ms. Hood stated generally speaking, when dealing with interpretations of the use generally, what we try to do as planners is look in the zoning ordinance to find out anywhere in here if there is a more suitable or more comparable use; and she guesses we just don't see that and something that we can compare. This is an unusual type of request, and she will grant you that. She is not sure she has ever reviewed sort of a holistic healing type of a clinic like this; but for lack of another use that is similar that is really what the zoning administrator does, reviews anything that comes in and says well we may not have this particular type of use listed specifically in the ordinance. Well, what is it most similar to? So that has been the

determination made, and she thinks if the planning commission feels as a commission that that is not an appropriate interpretation then that is where the Zoning Board of Appeals would need to come into play.

Mr. Lupinacci stated his reason for asking is he doesn't see anything that characterizes the business as medical, and that is why he is calling into question this description. He has done further research on this subject since receiving this package, and he has looked at other alternative treatments which include holistic faith healing, angel healing, unicorn healing and other similar holistic businesses. He is just wondering if those also would be characterized as medical clinics for placement within our industrial districts.

Ms. Hood told him she guesses she would have to review that as they come along. She doesn't know. She is not familiar with those businesses, but if there is something where they are taking in clients or patients or customers (however you want to call them) on an appointment basis and they are treating some ailment that they have. She realizes that is a broad interpretation, but it is for lack of another one; and that is where she says if we could find another use description or use category that would be more applicable to this she thinks we would have some place to start with the discussion that maybe this isn't the appropriate district. But seeing that we can't find another one, she is not really sure what else we would call it, a personal service use or a therapy type.

Mr. Lupinacci stated that is truly his point. He thinks it is really a stretch to say that this has a place within the industrial district. He could go on and say that the other alternative treatment he found is Haitian voodoo. It has the same kind of training and same kind of purpose, but he is questioning if we want that in our industrial district. So he guesses what he is asking is for the sake of the record. Since we are stretching the definition of medical and medicine for this location, are we not establishing a precedence whereby someone can say well okay we would like to establish a unicorn healing facility in your industrial district and you have obviously characterized this type of activity as suitable for the industrial district and are we not then going to have to argue against our own precedence when that application comes forward?

Ms. Hood said well she would say if you are looking at another use that is similar to this one that wants to go into the same building then yes you may be applying the same rationale to that use interpretation, but the one thing that you have as a planning commission obviously is the ability to recognize something that maybe we haven't thought about in the zoning ordinance; and maybe if that isn't an appropriate use in the M-1 district you guys might want to consider characterizing that as its own use and describing that as its own specific use if it is that much different and then deciding where it would be appropriate. Once you make that kind of amendment you are essentially recognizing that yes we really didn't have a better way to treat that today but now we have learned from that experience, and now we know where we would like it to be and direct people better in the future. Just at the moment we were not really anticipating that; but she guesses she would argue the parking and the other. If you think and take away the spiritual and the potential religious or any of those contestations to the use, we are talking about a pattern of people coming and going. What are the activities that go on and how do those mesh with the others that are allowed in that district? She guesses in that very basic sense we don't feel that it is going to be a problem in that area.

Chairman Day said he knew Mr. Lupinacci had other questions but asked Ms. Hood, in coming up with using the medical clinic use as the one this most fits into when looking at this application, if you look at what uses in this zoning district would be most appropriate to consider it as in order to look at it or if you look at what uses are allowed throughout the City and whether this would be the most appropriate zoning district or another zoning district would be more appropriate.

Ms. Hood inquired if he was talking about when determining where this type of use should go or if he was talking about medical clinics, and Chairman Day replied where this type of use should go.

Ms. Hood told him you would look anywhere. If you were to say lets put in holistic healers as a use listed in the zoning ordinance of course that is up to the planning commission to decide where that is appropriate. Is it in your general commercial districts or is it in a more industrial area that is not frequented by residents as often? She doesn't know. That is up to the commissioners to have a discussion about. In this case she would say when we read the use that is proposed we review the entire ordinance to see if it matches anything that is in the ordinance, and then if it doesn't match any specific listing we try and find the most comparable use in the zoning ordinance within any of the districts.

Chairman Day stated so you would say this would be the most comparable use within any of the uses contemplated by the zoning ordinance regardless of district.

Ms. Hood said right and added what she was here to do she guesses is support her colleagues' interpretation of that. She cannot say that she has personally read through all the uses, but she knows Ms. Maise and Mr. Avantini certainly know (having written the ordinance) where all the uses are. So she is certain they went through that exercise. It is a common practice of planners, trying to figure where this fits in. That is the normal course of that, so she would say yes that would be the determination by LSL.

Mr. Kennedy questioned if there are times when something doesn't fit in at all and they have to rewrite new zoning ordinances.

Ms. Hood replied that in those cases in her opinion it is more appropriate to go to the Zoning Board of Appeals to address the particular use at hand. You certainly want to be able to process their use in an efficient way that does substantial justice to the applicant, but in those cases she thinks when you are dealing with a time sensitive application it is probably appropriate to discuss it with the Zoning Board of Appeals (certainly with planning commission input) and then the planning commission can follow up with an amendment to identify where it should go.

Mr. Kennedy stated he understands Mr. Lupinacci's concern about that because he had questions once before about plastic fencing. We did it once so we have to keep on doing it. So he was just wondering what happens when something doesn't fit?

Ms. Hood said she wanted to refer you to the section it would be under where the Zoning Board of Appeals, which one of their duties is to review appeals and then also interpretations of the zoning ordinance if the interpretation of the administrator is questioned. So if there isn't a question about what this sentence in the ordinance means and we can't really decide it that is all where the Zoning Board of Appeals steps in. Section 18.22.030 C talks about interpretations. The ZBA has the power to make an interpretation of the ordinance when they are not clear. The ZBA may make a determination of which zoning district to allow a use not currently listed as a permitted or special land use in any zoning district. She stated earlier in the ordinance you will likely find that it says zoning administrator has a reasonable ability to interpret uses as being similar to others, so when that is not clear or when they are not certain or aren't confident then they can send it to the Zoning Board of Appeals. So too could the planning commission or the applicant if they didn't like how that was being classified.

Chairman Day asked Mr. Lipchik if he was familiar with the different operations in this building to be able to tell us if there was anything going on in there that would be similar in nature to the type of service use, personal service use we are talking about here.

Mr. Lipchik stated he didn't believe there is anything specific, but it is office warehouse. We have many different types of businesses throughout the units. We have a cheerleader school and all kinds of different special land uses in that particular business park.

Mr. Lupinacci indicated he had several additional questions. Moving to the section of LSL's letter where it talks about the special land use general conditions, the first two points talk about the business being compatible in accordance with the goals, objectives and the policies of the City of Wixom's master plan. The second part talks about promoting the intent of the zoning district, and within LSL's write-up it for some reason reaches the conclusion (without explaining why) that this business is in fact compatible and promoting the intent of the zoning district. However, based on his reading of those documents, the business is not similar in any way to any of the permitted uses of that M-1 zoning district. In looking at the zoning district, it is described generally as having corporate office uses, manufacturing and assembly, research, development, and warehousing activities with some additional public uses and some ancillary retail uses. So his question is how specifically is this business compatible with the objectives for the industrial district?

Ms. Hood said she guesses her response to that would be that by being similar to a medical clinic use. That is what this is being interpreted as, has already been determined to be, compatible in the M-1 district. So this being less intense for all other purposes she thinks that is why. She would say she would agree that it is not a manufacturing use. It is not a wholesale use or anything like that, but she guesses in that respect if this use wasn't incompatible in our minds so too wouldn't be the medical uses; and they are similar in character.

Mr. Lupinacci stated the medical use when this zoning ordinance was established was held out as something that was not clearly suitable for the M-1 district, and that is why it was established as a special land use as opposed to a permitted use.

Ms. Hood said and that is where you as a planning commission do have the discretion to decide if this is an appropriate use but as a special land use. That is exactly why. So you did the right thing at the time in calling it a special land use so in this exact situation you have the ability that if you feel it is not compatible you do have the option to deny the request. You also have the option to impose conditions if you feel they are reasonable to mitigate any concerns you might have if that can be done. If it can't be done then denial would probably be more appropriate.

Mr. Lupinacci next stated that repeated reference within the LSL write-up is made to service type uses being consistent with the M-1 industrial district; and he has to beg to differ with that statement because in looking at the permitted uses within the M-1 district, service uses are very, very limited within those districts, in fact almost to the point of being exceptions to the rule. They are specifically called out as veterinary clinics, kennels, greenhouse, landscaping, banquet halls, and daycare centers. The general character of the district is not retails, not retail services, not services but rather the other type of businesses that he specified. So he does want to just call into question the assumption that by virtue of it being a service type business that is compatible with this district.

The next point he wanted to make was within point two of LSL's letter which says the proposed health clinic is a service type use compatible and consistent with the office uses of the district. Once again he would like to say he doesn't see that because within the text of the ordinance it uses language describing the preferred office establishment within the M-1 district as a corporate office (and that is found on page 386 of the ordinance) or office and R&D uses (which is found on page 387). So once again he doesn't see how this business would be consistent with a corporate office or an office in R&D use, and so linking this to being compatible and consistent with the office uses seems incorrect to him.

Ms. Hood told him she can respect his opinion to that. She thinks (if she may assume) that what they were meaning by this is that the business park or the physical building it's located in is not large warehouse, is not a large manufacturing location. Generally speaking you see contractor offices and landscape people and those types of uses in there, and so she thinks in that respect in most cases those do take on a character of an office (a general office) because you get people coming at the beginning of the day and leaving at the end of the day and maybe a few trips here and there. But she guesses there are more liberal uses listed in the M-1 zoning, and that is where she thinks it is sort of a melding of some of things that we see in here. For example, office buildings for executive administrative clerical drafting and sales, but you could have a very general office in there that doesn't require it to be a corporate office or anything associated with a manufacturing plant per se. Again we talked about personal service establishments, but that is not a good example because those are not in there.

Mr. Lupinacci indicated he was referencing the definition under Intent, Section B. That describes the M-1 light industrial district designed primarily to accommodate research and development, corporate office and light industrial uses. We have made a very intentional effort to describe this not as just whatever type of office it might be but specifically corporate offices and research and development establishments. He is saying we had intent when we put this ordinance together eight months ago, and he thinks that to just have a blanket statement that says

this is by virtue being a service type business compatible and consistent with the office uses is on its face incorrect.

Ms. Hood stated she didn't really have a response for that.

Mr. Lupinacci went on to say his final point is more of an editorial comment, and he just wanted to offer it for the sake of saying that in going through the LSL write-up almost without paying any attention to the appropriateness of the business and how it would fit into the M-1 district the focus is almost entirely oriented towards traffic and parking. He thinks from his perspective he would like to see a more balanced presentation of the whole fit of the business into our zoning and not just pay attention to traffic and parking. He concluded by saying that was all he had right now.

Chairman Day said he knows when we redid the zoning ordinance much discussion was given to the concept of form based zoning. He asked how this use in this district fits in with the concept of form based zoning.

Ms. Hood replied that she guessed she wouldn't say it is really anything specifically related. Form based zoning really addresses the building form, not so much the uses. Form based zoning essentially places the buildings in locations where you feel will essentially dictate the type of use that will go there. So instead of dictating the type of use you are dictating the building form, and that naturally will then present certain uses (say for example those in your VCA district that are built up to the zero property line where you are more likely to get retail and service uses there that people will frequent on a regular basis). With those in a business park setting that is more suburban, you are going to get more offices and clinics where people get intermittent parking. So the building form in that sense she guesses related to this is that you are looking at a building here that is essentially going to attract uses that are of a small office nature or contractor's office she imagines and obviously the ones that you have seen that aren't specifically manufacturing but can still fit that form of building.

Chairman Day asked what about someone who is a hair stylist that wants to open up a one-chair salon. Would that be something that would fit?

Ms. Hood told him she sees in our ordinance under the commercial retail service uses that personal service establishments such as beauty parlors or barber shops are not permitted in that district. So those are uses that you have specified and decided were not appropriate in that district. So you have several others which are more of the office type nature rather than people that take in a lot of walk-in business.

Mr. Kennedy commented so you don't think hair dressers have appointments then, and Ms. Hood said she thinks they do but thinks they have probably more walk-in appointments than you would see at a medical office.

Chairman Day stated so what is putting this in the medical clinic is the claim that this is a place for a healing procedure.

Ms. Hood stated therapy, healing, yes. That is our opinion.

Chairman Day stated so somebody with a massage table might want to move into one of these units.

Ms. Hood stated we don't want to get into the whole issue of massage. She thinks that probably requires another review probably by the attorney as well if you are crossing the line into sort of an adult regulated business. In this case it depends on the type of massage. If it is like a medical therapeutic massage like you said we could consider that as a medical use. If it is something that you do alongside facials and other beauty shop type uses that would probably be more of a beauty parlor. You do have to look at each particular use individually. So she thinks the key in this case is to make sure the things you guys put in place when you listed out these uses if this falls into your minds when you were thinking about this district. The best way she can direct you is to have you remember that when you were reviewing the zoning districts in particular if this was a use that you had felt would be appropriate here.

Chairman Day asked if there were any other questions for Ms. Hood.

Bill Poulos, 968 Coldspring Drive, Northville, MI 48167, stated he guesses he would say that he can understand the concerns and issues that have been raised because this is very unusual at least from where he comes from. He is a retired auto executive and now has a growing administrative type business and happened on this particular healing process by chance. It was so compelling and took him by surprise, but it was so compelling that he felt obligated with his wife to offer this to people. He guesses the other view he has is it is completely benign in terms of interaction between the client and the practitioner because you are touching the person. You are not promising anything. The other point he would make is by appointment only is the way this is done, and the nature of it would require that only one person, the maximum you could handle would be one person per hour. The reason for 8 am to 8 pm is because people's schedules are flexible, and some are inflexible where some can only come at 7 pm. So we wanted to have that latitude. But he understands the concern around what this is exactly and how it relates to something you really know about, and it really doesn't so he understands the issues but thinks it is a benign thing. It wouldn't attract any particular attention anywhere he doesn't think, and he would like to get going on this.

Chairman Day asked if there were any questions for the applicant.

Mr. Lupinacci asked if the proposed business he was describing is similar to the reconnection.

Mr. Poulos told him it is indeed. It is reconnection healing.

Mr. Lupinacci stated so it is reconnection as sold by Eric Pearl.

Mr. Poulos said it is taught by Eric Pearl, and he doesn't sell it.

Mr. Lupinacci replied that he does sell it. He sells it through his website Wellness Profiles.

Mr. Poulos said okay but selling the profile does not enable you to do reconnective healing.

Mr. Lupinacci stated so in other words this is based on the use of axiational lines reconnecting your bodies meridian lines to the grid lines on the planet that connect us to the stars and other planets, quoting from the website. He asked what educational training is required to offer this service.

Mr. Poulos answered that it is a three-day full seminar.

Mr. Lupinacci said and that is available for sale through the Wellness Profiles group.

Mr. Poulos stated yes and said 40,000 people have been trained worldwide.

Mr. Lupinacci asked if it would not be appropriate then to ask the number of years of education associated with this activity.

Mr. Poulos asked of whose education and training, and Mr. Lupinacci replied to be a practitioner.

Mr. Poulos stated there is no particular requirement other than you have to satisfy the requirements at the seminar.

Mr. Lupinacci stated the reason he was asking that is we have once again described this as a medical activity. He is calling into question whether if this is in any way medical because when he sees in the zoning ordinance a special land use described as hospitals, medical clinics and medical offices the word medical in his frame of reference refers to the practice of medicine, and the practice of medicine at least within the State of Michigan generally refers to a person who has been granted either a medical doctor degree or a doctor of osteopathy degree license from an established medical school following years of training. So that would not in any way be comparable to a three-day seminar through Wellness Profiles. So there are no universities that offer this training. He asked what type of licensing is required by the State of Michigan to practice.

Mr. Poulos responded that there is no licensing.

Mr. Lupinacci stated generally a clinic would have licensing involved. He asked if there is any state agency that regulates this activity and when Mr. Poulos replied no he said so there is no government regulation of this activity. He then asked if any commercial insurance programs cover this activity, and Mr. Poulos replied no.

Mr. Lupinacci went on to say he checked with the website of the CMMS, which is the US Department of Health and Human Services Center for Medicare and Medicaid Services which is the agency that sets all the rules for government programs insurance coverage for medical

treatments. They do not recognize this. They do not recognize this for Medicare patients, and they also don't recognize this for Medicaid patients. So in other words this is not in the common parlance a medical treatment. He asked what the cost per session for this is.

Mr. Poulos told him it would be anywhere from \$97.00 to \$147.00.

Mr. Lupinacci then asked what experience he has in this business, and Mr. Poulos replied none.

Mr. Lupinacci said so you don't offer any other clinic locations, and Mr. Poulos replied no.

Mr. Lupinacci asked if it is his intention to conduct so-called distance healing,

Mr. Poulos replied we may and we may not. He doesn't know. They haven't thought of that.

Mr. Lupinacci questioned if he was correct in understanding from his reading that this is a process by which people pay for this activity through remote means via telephone or other processes.

Mr. Poulos said not for distance healing, no; and when Mr. Lupinacci asked how he would describe that Mr. Poulos stated distance healing is something as he understands it is done at the discretion of the practitioner; not the other way around; not the client coming in.

Mr. Lupinacci stated you are remotely separate from the client at that point, and Mr. Poulos replied that is correct.

Mr. Lupinacci said and you are considering that that might be a possibility in the future, and Mr. Poulos replied could be.

Mr. Lupinacci indicated he didn't have any other questions except to say that from the readings he has done once again he doesn't see anything which would characterize this business as medical. He doesn't see any professional training. He doesn't see any professional education, licensing, or any state regulation. There is no recognition of this activity by commercial insurance programs or government insurance programs. So for the record he would like to say once again he does not believe this is comparable to the medical clinic, medical office or hospital usage stated in our ordinance.

Chairman Day said he would like to say this is not like something that he would be interested in; and he knows new ideas come along and sometimes are ultimately rejected by society at large but sometimes become adopted and regulation comes with that. He thinks that has probably been true of the history of medical business. Chiropractic when it first came along was not condoned or licensed, and yet it has become an everyday occurrence in part of our medical. He said you mentioned only MD's and DO's but he thinks DC's and DPM's would also consider themselves medically trained, and certainly they all don't require college education. He thinks to get overly involved in the nature of this and whether or not we see it as some type of voodoo and don't appreciate it as being a science really is not what we are here to do in terms of deciding

whether or not this fits within this building and within this district. Frankly we are talking about having a cheerleading school in there, and he doesn't see where this is going to be any different in terms of the impact and will probably be much less impact on an industrial setting than a cheerleading school would have where you have groups of people over there.

Mr. Lupinacci stated he would just point out that a cheerleading institution establishment or whatever would be characterized as a commercial recreation establishment within the bounds of the ordinance.

Chairman Day agreed and said he thinks this can also be looked at as a medical or health clinic. Whether or not he agrees with the medicinal properties or the fact that it can really have an effect on ones health, he doesn't think that is necessarily what we are here to decide. That is just his take on it, and he would like to hear what the other commissioners have to say.

Mr. Kennedy asked when we are talking having it go back to the ZBA for a definition if they redefine it and then come back with it because it seems as this medical or clinic is wrong.

Ms. Hood read from the ordinance "The ZBA may make a determination of which zoning district to allow a use that is not currently listed as a permitted or special land use in any zoning district. If the use is not addressed in the zoning ordinance the ZBA shall select the use listed in the zoning ordinance that most closely resembles the proposed use. Once the use is determined the proposed use shall comply with any use standards that apply to the similar use. The determination as to whether the proposed use is similar in nature and class to another permitted or special land use within the district should be considered as an expansion of the use regulations, not a variance applying to a particular situation." She stated so in that regard they have the right to find the most closely matching use in the ordinance and consider that, and in this light it does say that then expands the definition of that use. So you are looking at classifying this particular use as a medical clinic until such time you specify it separately in the ordinance.

Mr. Kennedy asked if ZBA can make a new classification.

Ms. Hood replied not a new classification, no. That is something only the planning commission can do.

Mr. Kennedy commented so what we have is what we've got.

Ms. Hood stated you have to find the right location for it. In that regard if there is nothing that lists it that is even close she guesses that is where then we look at the patterns of the use and what is the essential operations that are going to take place there. Is it going to generate noise? Is it going to be bringing children into the area?

Mr. Kennedy indicated that is not his concern. His concern is whether or not we can get some kind of definition. He doesn't believe it is medical or a clinic, and if we can get something from the ZBA that would say it fits this and we can make this new classification he would like this to

fit a little closer. We are really putting a lot of grease on this trying to fit this in here. He is concerned about we do it once and how often we are going to need to do it again. He really would like to have something that we have a little better definition for.

Ms. Hood said she thinks you guys as the planning commission have a couple of options here. If you don't feel comfortable that this is closely related to a medical use or that this is the next closest use you can refer it to the ZBA. You also have the opportunity to change the ordinance yourself and decide where this type of use should go. If it isn't a medical clinic then where should it go? Then you are dealing with this particular use, and then in the future hopefully you can address this as a specific use in the zoning ordinance. The Zoning Board of Appeals is really there to interpret what is here. Say they did interpret it as a medical office. You may not agree as a planning commission. You may say well we have enough experience to know it is different in its characteristics, and we do need to treat it separately; and then you can modify the zoning ordinance to address it in a more specific way. So you guys have a little discretion in this regard if the people that support you feel it does most closely match the medical clinic use description. That doesn't mean the Zoning Board of Appeals may agree, but you certainly can ask for their opinion.

Mr. Crowley appreciated Mr. Kennedy's question because that was exactly kind of what he was wondering too. What is this process? To him it also seems relatively clear that this isn't per most of the definitions as a medical clinic so to say. He would like to really try to utilize the process to put some more definition around a use like this where it belongs. Now it may still be that we decide that M-1 is the right place. He thinks of things like yoga centers, and things like that might also be considered healing. He doesn't think people that teach yoga need four year degrees or anything to do that, and yet there are health benefits to that as well so he doesn't want to pigeon the hole. It is based on a personal bias if this is or is not a beneficial type of thing, but the fact that medical clinic is a large stretch to him is really what kind of holds the whole thing up in his mind. We need to know that this process is to put a better definition around this type of use so the dam doesn't just open up and allow all sorts of things to come flooding in.

Ms. Hood stated she guesses her advice to you would be to look through the uses in the zoning ordinance and see if you feel there is one that better matches this one. If you can apply reason to sort of assuming with what the ZBA might look at, they are going to see the same list of uses that you see. So her question to the commission is if there is a use listed in the zoning ordinance that you feel does most closely match this one in which case you may end up exactly in that situation that the ZBA says yes we consider this as a medical clinic, and then you as a planning commission want to follow up and say well then in that case we need to specify that separately; and you are addressing this interpretation to this particular use and time only. In the future it would have to meet whatever amendment maybe comes as a result of this discussion, but she guesses what would come from the ZBA is well this is the use in the zoning ordinance and whatever zoning district it may be this is the use we think most closely matches what is proposed.

Mr. Kennedy didn't think we can do it for just a one-time thing without being caught legally later on. Someone can still sue you and say you did it before; you can do it again. He doesn't want to get caught in that kind of loop.

Ms. Hood stated let's just for hypothetical discussion here say that you feel we are comfortable moving ahead considering this as a medical clinic and you are concerned obviously that someone again in the future will come with a similar use, and your hands will be tied and you will have to allow them in the M-1 district. If you sit and do nothing to the zoning ordinance after that decision to approve this use in the M-1 district then yes that is exactly what you have done to yourself. You have interpreted this use to be a medical use in which case it can go anywhere those uses may be listed. If you choose to change the zoning ordinance after this experience and you say well we do need to modify the ordinance so we do more closely match this type of use whether you consider it a holistic health center or a healing whatever. However you define it once you change the ordinance to specify where that use should go that is what will govern, not the ZBA's interpretation because that is based on an old zoning ordinance. You will have updated it then to be clearer in that particular use. So she would say if you follow up with this discussion with the zoning ordinance you should not find yourself in this position again.

Chairman Day asked what we would be looking at if this were being looked at for a B-2 or B-3.

Ms. Hood stated we look at all the uses in the zoning ordinance. She is not sure how this came about, but she would say that to her it is closer to a clinic like a therapy or treatment center than it would be a salon where you are going in to have your hair done; and that would be the difference. Her opinion of a personal service establishment versus a medical clinic? You are going into the clinic to receive treatment and care for something that ails you whether it is mental, physical or whatever. When you are going to a salon you are there to beautify yourself physically so she doesn't know.

Mr. Lupinacci interjected that within the B-2 and B-3 there is much more broad coverage of both personal service uses, and plus also there is a line item described as "medical offices and dental offices and clinics" without characterizing it as medical business. So either of those districts might allow such activity.

Chairman Day said he thinks with use clinics in terms of medical and dental you are really splitting hairs to talk about non-medical clinics in that situation.

Mr. Lupinacci stated he would prefer the personal service characterization.

Chairman Day said he does not have a problem with this going into this location, but that is his opinion. He asked if there were any other questions for the applicant. He then asked if there was anyone from the audience that would like to address this case.

Wayne Glessner, 1950 Hopkins Drive, Wixom, MI, 48393, said wow a good conversation. He thinks all had good statements but in lieu of lack of definite clarification or a direction which assumes this particular activity he would not want to see it go to the ZBA. The ZBA just

clarifies the City identity issues relative to a particular situation, and he doesn't think this is there. This is a general characteristic or classification. He wants to see the planning commission identify this and say specifically what it is or is not, and he thinks the commissioners have hit on a couple of clarifications where it fits much better than medical.

Chairman Day asked if there was anyone else from the audience that would like to address this case. There being no further comments from the audience, the public hearing for Special Use #09-005 was closed at 8:27 pm.

Mr. Poulos asked if he could speak again, and Chairman Day gave him a few moments.

Mr. Poulos stated he is not an expert in your zoning rules and regulations, and of course that is why we are here. You and the consultant have to decide to do what you think is right and proper. What he looks at is when the day is done what we are trying to accomplish with all of this. He thinks we all want businesses in the Beck Business Center that are not disruptive, that are not inappropriate, that are not offensive to the residents in the other businesses in that area. To that point he would say they won't even know we are there meaning the effect of this, the bottom line effect aside from how you characterize it or how you classify it or next steps in the process. It is a benign sort of activity that will make no difference whatsoever to anyone in that business center. If he heard there was a remedy here (although he doesn't understand it) that you could conceivably okay our request and then follow up with some sort of remedial action to preclude a voodoo clinic nesting in the area. He can tell you that this particular type of healing has no (zero) religious contention. It is supported by quantum physics which is not understood by many people on the planet and neither does he understand it, but it is not that type of thing. So that voodoo characterization or relationship is completely inappropriate. Whether or not your approving this opens a door for something like that, you have to make that determination. We are ready to get going. We have a lot of people that are interested in this. He would ask for the commission's support on this, keeping in mind what the end in mind is and what will be the end result of this (of us) going in there in terms of the surrounding community.

Mr. York stated he would like to thank Mr. Lupinacci for his detailed evaluation of this and thinks he gave us certainly an opportunity to think things through. He is not so sure that he shares his concerns about some of the differentiation, and he struggles with this himself regarding the appropriateness of this particular application at this location. When he thinks about the different kinds of uses in that facility he is having a hard time justifying not being able to deny this special use.

Mr. Lupinacci thanked him for his comments but just wanted to say that as we look at the other usage within the facility there is generally a very close correlation between our ordinance and the usage. In this case his reason for calling it in question is because as Mr. Kennedy said we are going through herculean efforts to force this into a category that he believes is incorrect so he just wanted to state that for the record.

Mr. Kennedy stated we are really trying to make something fit that doesn't fit, but he is all foreseeing more business coming to the City of Wixom. He is also foreseeing the people under-leasing their buildings.

Mr. Crowley commented that if we vote on the motion as it is that is the problem. That is, the main problem he sees we have here right now is that it is still listed in here as being wedged in under medical. He doesn't have a problem putting it in there himself either. He would vote for that, but he won't vote for a motion that is still trying to be wedged in under medical clinic.

Chairman Day opined that all we are doing is allowing it as a special use. We are not saying that we agree with the medical. We are just saying we agree that it is a special use. Again we can talk to our consultants and with our city attorney and ask them to take a look at this issue and see if there are any suggestions on where we should go with it in terms of recommending some changes to the City Council for the future.

Mr. Crowley said he would like to make sure that we do follow up, definitely.

Ms. Hood stated she would certainly bring back your sentiments to Mr. Avantini and Mr. Nesbitt and was sure they would be here for the next meeting to discuss that with you and decide with the planning commission where those uses should go and how they should be distinguished from the medical clinic and how we should characterize them. So it will take a little bit of research to sort of define what the parameter of each type of use is, but that will be the exercise in discussing that.

Mr. Carter said it sounds to him like there is enough question and enough doubt here that if it is really the feeling that we need some more time to think about this then he thinks the only reasonable action at this point would be to move to table it for consideration by the planning consultants and by ourselves with further review of the ordinance.

Chairman Day stated he questions whether tabling it is going to do anything in terms of helping us out at any time in the immediate future. He thinks it is just going to put it off for quite some time while the ordinance is worked on, and this application is being made under the current ordinance. He agrees with Mr. Poulos' remarks that the ultimate effect is that this is not going to impact in a negative way the operation of the Beck Business Center or of our concept of an industrial business.

Mr. Carter stated his only thinking was that he thinks in the past we have had pretty good luck on anything that we have tabled with getting right back to it at the next meeting. His only thinking is personally is that he does not see an issue. To him, me this is considered a healing type of an establishment and in that regard and keeping in mind his belief that based on what the applicant has said this will not be something that is going to cause any kind of problems with the neighbors here. His personal feeling is that he is in support of it.

MOTION and second by Mr. Kennedy and Mr. Carter to approve /Special Use #09-005.

ROLL CALL VOTE:	YEAS (5)	Day, Carter, Crowley, York, Kennedy
	NAYS (1)	Lupinacci
	ABSENT (3)	Gottschall, Maher, Henning

MOTION PASSES

DISCUSSION:

There was no discussion held at this meeting.

CALL TO THE PUBLIC:

Wayne Glessner stated he wanted to thank the commission for the time and just wanted to apologize to Mr. Lupinacci for leaving him off his memo which he didn't know if they had the time to receive this. He asked the commission to bear with me for just a moment and said he watched Central, Western and Northern High Schools and listened to what they had to say there and looked at the enthusiasm and the resources that were coming out of the high schools around us. He put together and thought about it and said boy oh boy this brings back an awful lot of information and feelings that we had (specifically discussions you had down here at City Hall and Mr. Dornan's presentation on the land use for the Ford property here). Having said that, he indicated he would like to just run through this with you. He didn't want to read all of it but thinks there are some points here that he would like to mention. He read the following:

“There have been considerable discussions about the prevailing use and disposition of the Ford Industrial Property. Plans are available, and there are many community leaders working toward future projects that would return the property to a useful economic purpose.

“A quest for a potential purpose for the property and the rehabilitation or sale of the property should continue.

“Additionally, it has been noted that there is a necessity to ‘shift gears’ ...planning for the useful purpose of the area is desirable.

“However, noteworthy is the fact that the automotive driven economy of our region and the world has diminished: automotive bankruptcies prevail, home foreclosures predominate the landscape, unemployment persists and people have lost what little they have saved.

“‘Shifting gears’ in purposes of land use planning is a great idea, but to what ‘gear’ do we shift?

“Unfortunately, the present automotive-economically-driven-engine cannot perform in any other gear!

“Furthermore, no other economic gear presently exists!

“However, the necessity to ‘shift gears’ is a thought-provoking idea and a necessity for our consideration as a community.

“The prevailing automotive economy cannot perform or reform our local economy. Acknowledgement and recognition of this fact should be obvious.”

Mr. Glessner stated what he is trying to say in this memo is that we have in our surrounding, in our environment, an automotive industry that all of us have lived off of for many, many years. When you look at the unemployment situation here in this country, when you look at it not only in Michigan but other states, you can see the diminishing aspects of our economic engine. We look at what Mr. Dornan is saying. We have to shift gears; in the automotive industry there are no other gears to shift to. What gear do we shift to especially when the economic engine we are

asked to be driving has no other gears available? But the idea of shifting gears he thinks is a thought provoking and very interesting concept because as we look around today, General Motors is in bankruptcy going with Chapter 11. Ford is teetering. All the other ones around us are saying hey that engine we are looking at is not very good, and the future prospects of that are not very well either. However, we say what other engine is available? If we are going to shift gears what engine is going to drive this gear shifting and what are we going to shift into?

His answer and his review in talking with many, many leaders over the years and trying to diversify our economy here is we have to do other things, and he thinks shifting gears is an absolute great idea. Shifting gears in an education format to him has astonishing potential, and the reason he says that is if you look at the 1,200 or 1,400 kids that come out of high school Central High School he believed had 40 kids that had 4.0 averages. He thinks there was 30 some kids that had 3.5 to 3.7 averages, but what about those other 250 kids (like himself) that just kind of squeaked through and just got underneath the door and out. What he is saying is with the diversification we have here and when you look at the report coming out of Oakland County of the future businesses, education drives; and potential for jobs and employment are there. The automotive industry is still going to have a significant part in our economy; but he thinks if we look at the business of education, what that business does, what it thrives on, what it generates and look at education as a business (not just a business of education but education as theme) he thinks it has some considerable interest for us.

Mr. Glessner stated this body has a tremendous influence on where the direction of this City goes, what your opinions are and how we get there. With the resources available, hospitals sitting around us, professional people in our midst, technical, industrial parks with 15 or 20 businesses that have very good technology, he sees a tremendous resource to be used. If we set up an educational format that we understand, education as a business, and we look to business as an education for our future here in the City of Wixom he thinks we have a foundation that we can build on.

That is his honest belief because you have professional people here in the City; we have people who are out of jobs. He and his family, no one in his family is working; and the reason is because of the automotive industry. We have designers, automotive designers and engineers with degrees that are laid off. We have a young man with a bachelor's degree in science, a master's degree in operation, and they have no jobs; but all of them can get a job in the new future over time because they have transferable job skills. If he is a designer and designing a car he can design prostheses. He can design buildings. He can design airplanes and can do anything he wants because he has transferable job skills. He can take the technology that he has and can move it along and granted it is going to take some education. If we set up facilities, if we let it be known that we want Walsh College or we want some extension universities, we need some education facilities in here, it brings those resources in here to get an education. The industrial based (the professionals) are already here and can use them because for the first time more older people are going to be on this globe than younger. The service industries are there. We have the resources available to us, and he honestly thinks if we look at a new engine based on education and try to adopt it you will make Wixom a center of educational excellence. He thinks it will lead us into these next service industries and build an economy that has a future.

Again Mr. Glessner wanted to thank the commission for the time and said that is his theme if you will. He thinks Wixom's character is such, and with the professional base we have established here, we can move into that direction and bring housing, medical facilities, he thinks if we take a look at that theme; and he would like the planning commission to look at that theme and see where we go from here because he thinks it does in fact offer us an opportunity for a future as we transition from this automotive based economy into a future of professional services.

COMMISSION COMMENTS:

Mr. Kennedy said he would like to make sure we follow up with the ZBA on that last case.

Ms. Hood stated yes. If you guys have any thoughts on the differentiation between the two uses and where you think they should fall, if you have concerns about the definitions, this is kind of the frame work of the discussion we need to have, like what things are different between the two.

Mr. Kennedy commented we don't want to turn away business, and he hates the fact that they couldn't get into the cheaper industrial space. They wouldn't take the B-3 commercial because it was going to be too expensive for them.

Ms. Hood stated so maybe it is defining a medical clinic. To her the medical sense that Commissioner Lupinacci mentioned, that it requires training in the medical profession; and you will be prescribing medicine. You can tailor that medical definition.

Mr. Kennedy doesn't think it is a matter of tailoring the medical definition so much as it is the holistic personal service concept that he thinks we were seeing here.

Ms. Hood stated maybe different than therapy. Just like going to see a counselor for mental therapy. Would that be considered different?

Mr. Kennedy replied that he didn't know.

Ms. Hood told him she sees where he is going in that he feels it is more of a service than a treatment. She knows we are going to have to wordsmith everything, but at least so she has some direction. Yes, there was some concern as to whether this fit into the medical; and she thinks the planning commission felt it might be more aligned with a personal service establishment.

Chairman Day stated it might be easier to group it into the personal service type of establishment just like someone offering diagnoses.

Ms. Hood stated we can discuss that in ways to differentiate them in the ordinance. We may have to have one of those laundry type lists of definitions that really tries to integrate those uses if that is a concern.

Mr. York said he guesses what he is struggling with is maybe two things. Number one, he is not sure what going to the ZBA will do. His impression is that if we ask the ZBA for an opinion they simply say yea or nay and that doesn't get us anywhere. If they say yea then that means there is no need for a special land use hearing.

Chairman Day doesn't think ZBA is the answer. He thinks it has to come from us.

Mr. York thinks it does belong on our plate and thinks the thing that occurs to him (and you started with) was what belongs in that development and what doesn't. We have ambulance drivers that spend the night there; we have cheerleading; we have the Pump It Up; we have contractors and have so many different things. It has become a catchall, and he guesses as he understands zoning you wouldn't put a restaurant in there because that doesn't fit. So you create zoning that is more conducive to restaurants, but as you go down the chain into the more industrial kinds of applications it puts facilities that you don't want in your downtown in the more industrial side of the community. So if he is wondering where this particular business belongs wouldn't it be more acceptable in the more industrial parts of town than say for example in the VCA? He thought Mr. Lupinacci's arguments were wonderful, and they certainly were thought-provoking.

Mr. Lupinacci said he agreed with him 100%. Personally he doesn't want to see it in the VCA, but we have the VCA zoning crafted in such a way that that is carved out as a specially protected area. He wouldn't necessarily want it on a primary strip on Wixom Road either where people say there is the Quizno's, and oh what's that next to it? His whole point was that presenting this as a medical establishment was a stretch. It is not a medical establishment. It is one step from voodoo. The guy has three days of attending a seminar which (whether he likes it or not) it is a huge money maker for this guy, Eric Pearl, who spends 40 weeks a year giving these seminars. Now whether you want to call it training or selling or whatever else this is called (in some of the reading he has done on reconnected healing it is called reconnected stealing); and so is there a place for it? Yes, he says some place where it is going to do as little damage as possible, where it is not going to be offensive to the community but let's not present it as a medical clinic.

Mr. York inquired if we know which way we are going then as far as having a discussion.

Mr. Lupinacci said he thinks we were talking about making some sort of characterization (probably not tonight) of whether or not this is something that would be characterized as a personal service.

Mr. Crowley mentioned that was actually his follow-up comment because the personal is already captured in one of the areas in the B-2 and B-3. Now we are going to put it in another so we are going to have it in two places, and how do you even characterize this?

Mr. Lupinacci thinks what we are talking about is amending the M-1 zoning ordinance that would allow a personal service like this.

Mr. Crowley commented so it is okay to have it in both places, and Mr. York said it may be preferable of a certain type in M-1.

Mr. Lupinacci stated maybe saying that above a certain square footage it is here, and below it is there.

Mr. York said his comment is an interesting thought and asked if fundamentally we think this is reconnected stealing and we don't like that kind of business in our community if we have the right to deny, and Mr. Lipchik replied no.

Mr. York stated we just have to find the right place for it.

Mr. Lipchik said exactly, but you can't bump it out. It is just like our adult uses that we have in our ordinance. We still have to provide an area for those kinds of businesses.

Mr. Carter thinks more importantly we would have been sued if we hadn't had all of this discussion and then shot it down.

STAFF COMMENTS:

There were no comments made by staff.

ADJOURNMENT:

This meeting of the Wixom Planning Commission was adjourned on motion and second by Mr. Lupinacci and Mr. York at 8:55 pm.

Jennifer Garrett
Recording Secretary