

Application for Variance

City of Gahanna, Ohio ■ Planning Commission
200 S. Hamilton Road, Gahanna, OH 43230 ■ Phone: (614) 342-4025 ■ Fax: (614) 342-4117

***REQUIRED INFORMATION: All correspondence will be addressed to the applicant, unless noted otherwise.**

*Project Name: 121 James Rd., Gahanna, OH 43230
 *Address for proposed Variance 121 James Rd., Gahanna, OH 43230
 *Parcel ID#(s) 025-000855-00 *Current Zoning CC
 *Description of Variance Requested See attached Exhibit "A"

*Applicant Name Access Energy LLC c/o Donald Plank, Attorney *Phone 614-947-8600
 *Applicant Address 411 East Town Steet *City/State/Zip Columbus, OH 43215
 *Applicant's Relationship to Project Attorney *Email dplank@planklaw.com
 *Agent Name Donald Plank *Email dplank@planklaw.com *Phone 614-947-8600

***ADDITIONAL REQUIRED INFORMATION: If different than applicant.**

*Property Owner Name Access Energy LLC *Phone 614-915-4638
 *Property Owner Address 99 N. Brice Rd., Suite 360 *City/State/Zip Columbus, OH 43213
 *Contact Name Patty Parsley *Email patty.parsley@accessoh.net

***SUBMISSION REQUIREMENTS: Applications are not complete until all submission requirements are received and accepted by the Planning and Zoning Administrator.**

1. Two (2) 11" x 17" copies of a survey and legal description of the property certified by a registered surveyor.
2. One (1) digital copy of all submitted documents. Plans to be in 11x17 format.
3. A list of contiguous property owners and their mailing addresses.
4. Pre-printed mailing labels for all contiguous property owners.
5. A statement of the reason(s) for the Variance request. The statement must address the three (3) conditions listed on page 2 of this application in order for Planning Commission to grant approval for the Variance.
6. Please refer to section 1131 of the City of Gahanna Code Ordinance (found at www.municode.com).
7. Application Fee of \$150 for Single-Family Residential Districts and \$300 for all other Zoning Districts.

Applicant's Signature: Donald Plank Date: 8/25/16

For Internal Use:

***PLANNING AND ZONING ADMINISTRATOR REVIEW AND APPROVAL:**

Code Sections to be varied: 1153.03(b)

Description of the governing code and the requested variance: To allow a conditional use not listed for Community Commercial zoning district

In accordance with Section 1131 of the Codified Ordinances of the City of Gahanna, Ohio, I hereby certify that this project, as stated above, was for approved by the City of Gahanna Planning Commission on _____. The applicant shall comply with any conditions approved by the Planning Commission and shall comply with all building, zoning and landscaping regulations now in place.

Planning & Zoning Administrator's Signature: _____ Date: _____

PC file No. _____
 Sunguard File No. _____
 Reference File No. _____
 Hearing Date: _____
 Revised: February 2016

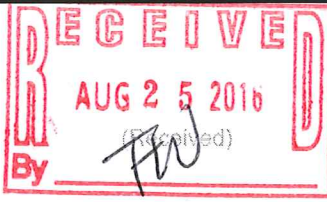


EXHIBIT “A”
STATEMENT OF HARDSHIP

This variance application accompanies applicant’s request for the approval of a conditional use to permit the use of the property at 121 James Road to include living quarters as an integral part of the applicant’s permitted use of the property as an outpatient drug and alcohol rehabilitation facility (see Gahanna Zoning Code Section 1153.03(b)(2)). In order to categorize the residential use requested by the conditional use, the term “Residential Care” as set forth in subsection 8361 of the Standard Industrial Classification Manual best describes the use as follows:

Establishments primarily engaged in the provision of residential social and personal care for children, the aged, and special categories of persons with some limits on ability for self-care, but where medical care is not a major element. Included are establishments providing 24-hour year-round care for children.

Examples listed under Subsection 8361 include:

- Alcoholism rehabilitation center, residential: with healthcare incidental; and
- Drug rehabilitation centers, residential: with healthcare incidental.

The purpose of this variance is to put a name to the residential use being requested by the conditional use and to ensure that the granting of the conditional use permits the applicant to establish the use intended.

Addressing the standards set forth in Section 1131.04 for the granting of a variance in this case:

- a. This variance to allow the property to be used for Residential Care does not require the application of special circumstances or conditions to the land, building referred to in this application. Since approximately 1979, the property has operated as a full service nursing home until the property owner purchased the property in September 2015. The property’s use as an inpatient drug and alcohol rehabilitation facility is synonymous to that of the previous nursing home use.
- b. Granting this variance is necessary for the preservation and enjoyment of substantial property rights. The existing building with minor building code changes is constructed to accommodate a drug and alcohol treatment facility with inpatient and outpatient care. The property has been used in a very similar manner and disallowing the use for Residential Care would have a detrimental effect on the property.

- c. Granting this variance will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use and will not be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood. Granting this variance will benefit the community by providing drug and alcohol rehabilitation treatment, creating additional jobs in the community and occupy a building that has sat vacant since its purchase.

121 James Rd. Contiguous Property Owner Information

	<u>Name</u>	<u>Mailing Address</u>	<u>Parcel ID No.</u>
1	Mile High Investments, LLC	151 W. Johnstown Rd., Columbus, OH 43230	025-000808-00
2	Access Energy LLC	175 W. Johnstown Rd., Columbus, OH 43230	025-000798-00
3	Access Energy LLC	175 W. Johnstown Rd., Columbus, OH 43230	025-000890-00
4	Lawrence Antoine	8964 Shoreham Dr., Las Angeles, CA 90069	025-013457-00
5	Christine Harrington	144 Creekside Green Dr., Columbus, OH 43230	025-013605-00
6	Karen Cowans	142 Creekside Green Dr., Columbus, OH 43230	025-013464-00
7	Patricia & Zoran Botic	140 Creekside Green Dr., Columbus, OH 43230	025-013665-00
8	George & Jean Herbst	138 Creekside Green Dr., Columbus, OH 43230	025-013664-00
9	Garry & Marianne Devictor	134 Creekside Green Dr., Columbus, OH 43230	025-013436-00
10	Jeffrey & Kristen Bateman	136 Creekside Green Dr., Columbus, OH 43230	025-013663-00
11	JR Nicewarner	143 S. James Rd., Columbus, OH 43230	025-000856-00
12	Mark Sweatland	1200 Taylor Station Rd., Columbus, OH 43230	025-000926-00
13	Bryan Ruder & Jennifer Dietrich	128 James Rd., Columbus, OH 43230	025-000927-00
14	Richard Lenihan	115 Orchard Dr., Columbus, OH 43230	025-000928-00
15	Lizabeth Dible	110 James Rd., Columbus, OH 43230	025-000947-00

NOT A CERTIFIED COPY

Situated in the County of Franklin, in the State of Ohio and in the City of Gahanna, and bounded and described as follows:

Beginning at a railroad spike in the centerline of James Road at the southeasterly corner of said Bon-Ing, Inc. tract the southwesterly corner of the 1.75 acre tract conveyed to Anthony Salamony, et al (4), by deed of record in Deed Book 3503, Page 74; thence along said centerline of James Road, South 4 42'00" West 200.98 feet to a railroad spike at the northeasterly corner of the 2.325 acre tract conveyed to W. R. and A. L. Baker, by deed of record in Deed Book 1266, Page 356; thence along the northerly line of said 2.325 acre tract, North 85 44'30" West (passing an iron pin at 24.8 feet), 512.45 feet to an iron pin at the northwesterly corner of said tract and being in the easterly line of the 2.4 acre tract conveyed to R. D. Hall, by deed of record in Deed Book 1551, Page 21; thence along said easterly line of the 1.0 acre tract conveyed to A. F. and G. P. Dolle, by deed of record in Deed Book 939, Page 196, North 3 09'30" East, 192.96 feet to an iron pin at the southerly line of said A. F. and J. L. Dolle 1.0 acre tract and the southerly line of the Anthony Salamony 1.75 acre tract South 86 38'00" East (passing an iron pin at 492.76 feet), 517 feet to the place of beginning, containing 2.329 acres, more or less.

Subject, however, to all legal rights-of-way and/or easements if any, of previous record.

DESCRIPTION VERIFIED
DEAN C. RINGLE, P.E., P.S.
BY: *[Signature]*
DATE: 09/23/2015



0-059-B
ALL OF
(025)
000855

DESCRIPTION VERIFIED
DEAN C. RINGLE, P.E., P.S.
BY: *[Signature]*
DATE: 09/08/2015

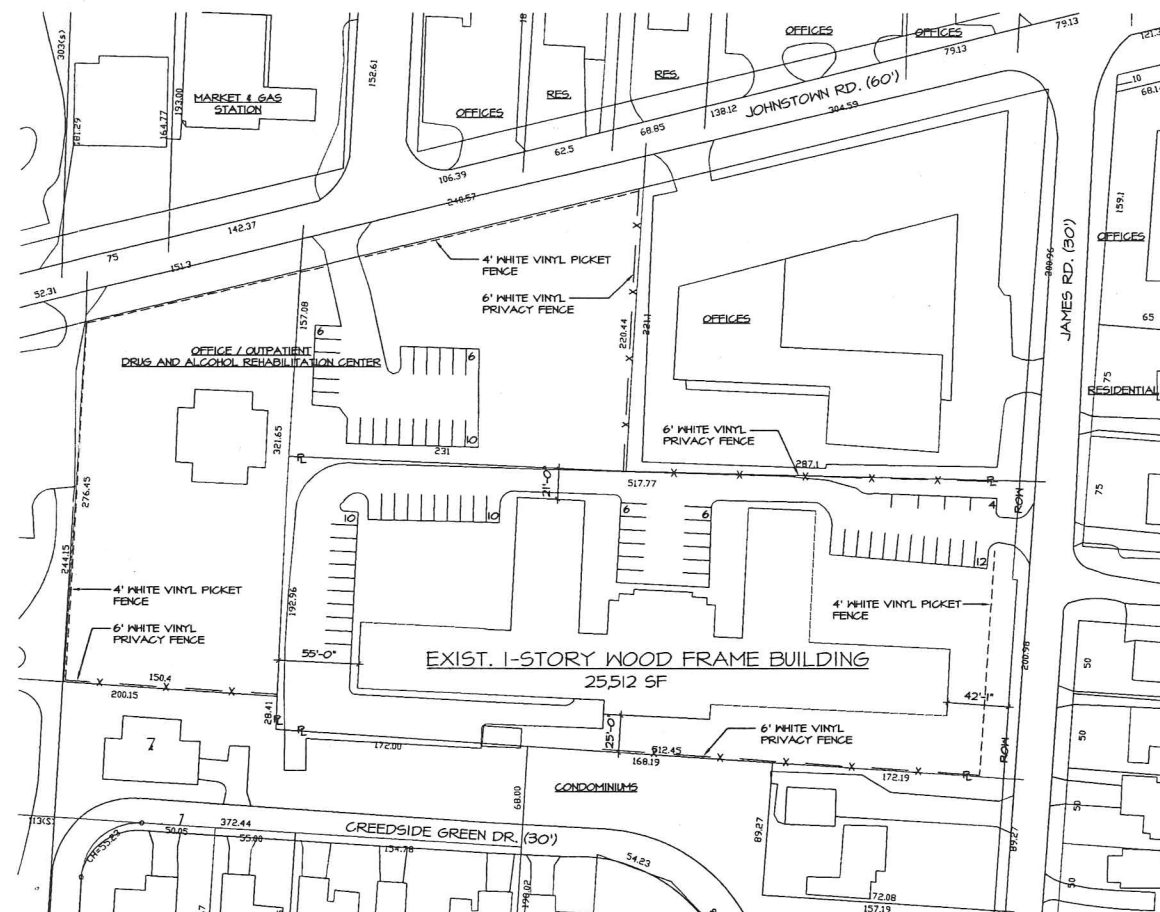


121 JAMES ROAD

GAHANNA, OHIO 43230



LOCATION MAP
1" = 100'



SITE PLAN
1" = 50'



PROPERTY DATA

PROPERTY ADDRESS	121 JAMES ROAD
PROPERTY ID	025-000855
PROPERTY AREA	101,271 SF / 2.325 ACRES
BUILDING AREA	25,512 SF - 25% SITE AREA
PARKING / DRIVEWAY AREA	21,541 SF - 21% SITE AREA
BUILDING & PARKING AREA	53,053 SF - 52% SITE AREA
EXISTING OCCUPANCY	NURSING HOME
PROPOSED OCCUPANCY	ALCOHOL AND DRUG REHABILITATION CENTER WITH LIVING QUARTERS
EXISTING ZONING	CC, COMMUNITY COMMERCIAL
EXISTING PARKING	47 SPACES

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This document is Official Copy of the record of Survey to the Ohio Surveyor's Office.

Derek C. Hughes, License No. 5274
Expiration Date December 31, 2017
Issue Date **JULY 13, 2016**
Revision Date _____ Mark _____

General Notes

NOT FOR
CONSTRUCTION

DCH
DCH ARCHITECTS, LLC

4625 Tremont Club Drive
Hilliard, Ohio 43026
614.742.7525

dcharchitect@sbglobal.net

Project **21606**

CONDITIONAL USE
121 JAMES ROAD
GAHANNA, OHIO 43230

Sheet Title
**SITE PLAN
PROPERTY DATA**

Sheet Number

A1 | of |



CITY OF GAHANNA

STAFF COMMENTS

Project Name: Access Energy

Project Address: 121 James Rd

Planning & Development

The applicant requests a conditional use and variance to allow for a drug and alcohol rehabilitation center with living quarters. The property is located within the Community Commercial (CC) zone district. Among the allowed uses in CC are administrative, business, and professional uses. The Code includes, under professional uses, a reference to the Standard Industrial Classification System (SIC) industry group 809. Industry Group 809 is entitled "Miscellaneous Health and Allied Services not elsewhere classified. Uses within this group includes but is not limited to the following: blood banks, hearing test services, kidney dialysis centers, alcohol treatment centers with outpatient clinics.

It is not clear why the code classifies a rehabilitation center as a professional use. The use appears to have substantially different needs and impacts compared to typical professional/medical uses. The added element of onsite living quarters further differentiates the use from other CC uses. SIC classifies a rehabilitation center with onsite living in Industry Group 8361: Residential Care. This group is not a permitted use group in CC or any other zoning district. Typical uses within this group include but aren't limited to the following: drug rehabilitation centers, group foster homes, and orphanages.

The effect of the proposed conditional use and variance would be to allow a use that is not permissible within CC or any other zoning. While the use is not specifically prohibited, approving the requested applications would essentially be permitting a prohibited use. Planning staff has some concern with this as little to no information about the use has been provided. Without details regarding the use it is impossible to accurately assess potential impacts and how to mitigate those impacts. Even with additional information related to the use, staff would still have concerns with allowing prohibited uses through a conditional use and variance rather than a more traditional route such as rezoning or code amendment.

Conditional Use Criteria

Planning Commission shall approve an application for Conditional Use if the following conditions are met:

1. The proposed use is a conditional use of the zone district and the applicable development standards established in this zoning ordinance are met.



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It is Planning staff's opinion that the proposed use is not a conditional use. While living quarters is a conditional use, typically living quarters in association with commercial uses are for owner occupied structures. Living quarters in this instance would be for patients of the facility. Approving the conditional use changes the nature of an allowable use, an outpatient rehabilitation facility to a prohibited use, outpatient facility with residential. This use is not listed within our code as an allowable use. CC zoning along with several other zone districts uses the SIC system for categorizing uses. The proposed use is included in group 83: Social Services and described in group 8361: Residential Care. This group is not permissible within the code. The typical method for allowing a new or prohibited use would be through a mechanism that requires City Council action such as a rezoning or amendment to the zoning code. Planning staff believes this to be a more appropriate method than a conditional use and variance.

2. The proposed development is in accord with appropriate plans for the area.

The site is designated Commercial/Office by the West Gahanna Development Study. Principles of these land uses include identifying that more consumer service, retail, and professional offices are needed in the study area. A redevelopment principle includes that new development should be both aesthetically pleasing and beneficial to existing residents.

The requested use is considered a Health Services use by SIC. Therefore, the proposed use is not in-line with the principles of the West Gahanna Development Study. It should be noted that the Study is meant to be a guide. It does not mandate uses and principles be adhered to.

3. The proposed development will not have undesirable effects on the surrounding area.

More information should be provided in order to better assess potential effects of the proposed use. Jurisdictions frequently place restrictions on drug and alcohol rehabilitation centers because of potential impacts related to crime and compatibility issues with residential and commercial uses.

4. The proposed development will be in keeping with the existing land use character and physical development potential of the area.

This area of Johnstown and James Road is a mix of residential and commercial uses. The previous use of the property was for a nursing home. The proposed use is similar in some respects as there would be individuals living onsite for an extended period of time. However, other details related to the use are unknown. Without additional details, it is difficult to assess consistency with existing development.

Planning and Development staff recommends denial or additional details related to the use be provided and time be given to properly evaluate. Operational details could/should be evaluated, considered, and be included as conditions of approval if Planning Commission deems the request appropriate.



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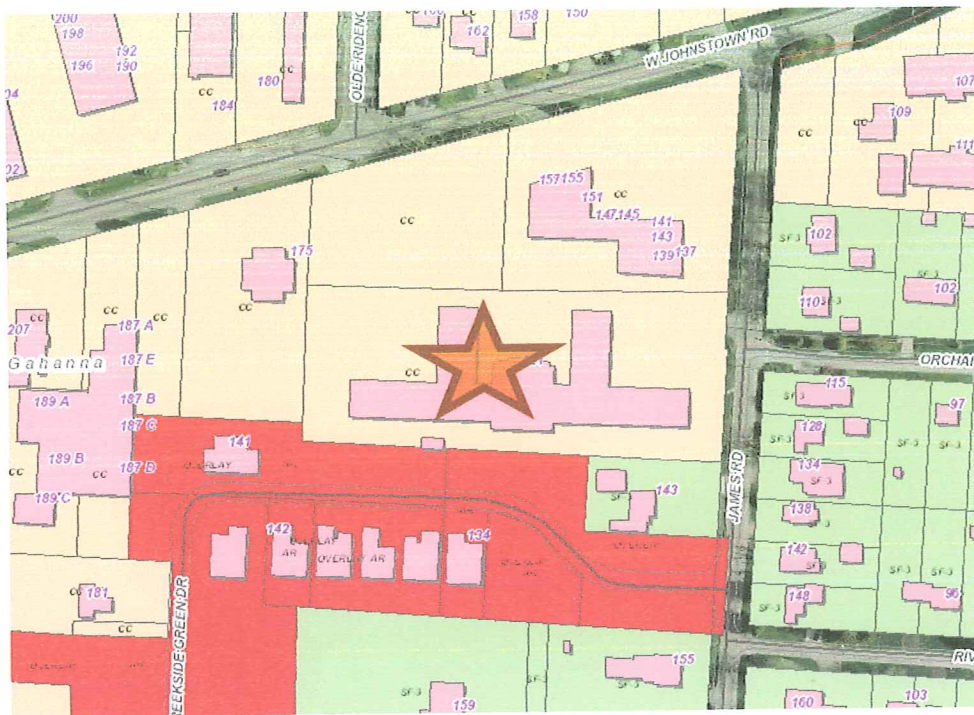
Variance Criteria

Planning Commission shall not grant a variance unless it finds that all of the following conditions apply to the case in questions:

- a) There are special circumstances or conditions applying to the land, building or use referred to in the application.
- b) The granting of the variance is necessary for the preservation and enjoyment of substantial property rights.
- c) The granting of the application will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use and will not be detrimental to the public welfare or injurious to property or improvements in such neighborhood.

Preliminary discussion with police department staff indicated that facilities with inpatient treatment generate an increase in crime. This information indicates that the proposed variance does create safety issues. If desirable, Planning Commission may request additional information in order to more accurately assess potential impacts.

Zoning Map



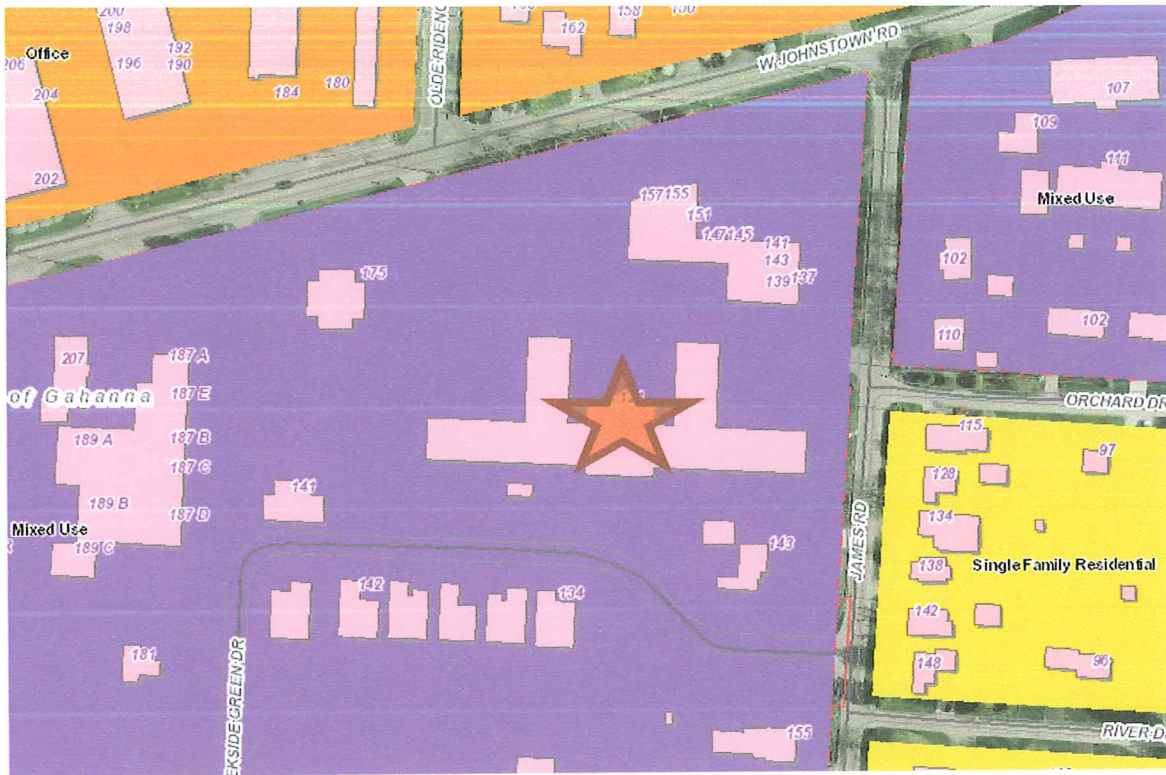
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Future Land Use Map



Respectfully Submitted By:
Michael Blackford, AICP
Deputy Director





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STAFF COMMENTS

Project Name: Access Energy
Project Address: 121 James Rd

The Division of Police objects to the issuance of a variance to facilitate an in/out-patient drug treatment facility located at 121 James Road. While we are not opposed to the operation of such facilities to provide the care needed to those who suffer from substance abuse, the location is not suitable for such a facility. Without significant investment in security features to the physical structure and grounds patients could easily enter into residential neighborhoods immediately adjacent to the property. The opioid epidemic has, and continues to have, a significant impact on crime in Gahanna and the resources of the Division. As one example, we have experienced a significant increase in the past year in calls for service to the one existing residential drug treatment facility in Gahanna as a result of the opioid abuse problem. Additionally, certain treatment facilities have turned into drug "safe zones" where heroin and synthetics can be used under medical supervision. None of these facilities are adequately staffed to handle the myriad of problems such safe zones have on the communities that are located within. While there is no evidence that this facility will operate as a safe zone, it is a concern that cannot be ruled out should it be granted a variance and permitted to operate. Finally, the proximity of the facility to parks, trails, pools and the Creekside area creates a substantial concern to keeping the area safe and welcoming to our residents, those who wish to recreate, business community and visitors.

<http://www.nbcnews.com/nightly-news/heroin-safe-zones-coming-united-states-n550001>

Respectfully Submitted By:

Dennis Murphy
Chief of Police

Jeffrey B. Spence
Deputy Chief of Police (I)





CITY OF GAHANNA
STAFF COMMENTS

Project Name: Access Energy
Project Address: 121 James Rd

The building was not designed or approved for the proposed use. Building alterations would be required.

Respectfully Submitted By:

*Kenneth W. Fultz, P.E.
Chief Building Official*





CITY OF GAHANNA

STAFF COMMENTS

Project Name: Access Energy
Project Address: 121 James Rd

The applicant seeks approval for two items for this address: a variance to allow a conditional use not listed in the Community Commercial code, and to propose a conditional use that would allow the proposed use of a residential drug and alcohol rehab center in a former nursing home facility.

- Planning Commission shall not grant a variance unless it finds that all of the following conditions apply to the case in question:

(a)

There are special circumstances or conditions applying to the land, building or use referred to in the application.

(b)

The granting of the variance is necessary for the preservation and enjoyment of substantial property rights.

(c)

The granting of the application will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use and will not be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood.

- The Planning Commission shall hold a public hearing and act on a conditional use in one of the following ways:

(a)

Approval. The Planning Commission shall approve an application for a conditional use if the following four conditions are met:

(1)

The proposed use is a conditional use of the zoning district and the applicable development standards established in this Zoning Ordinance are met.

(2)

The proposed development is in accord with appropriate plans for the area.

(3)

The proposed development will not have undesirable effects on the surrounding area.

(4)

The proposed development will be in keeping with the existing land use character and physical development potential of the area.

(b)



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Approval with Modification. The Commission may approve, with modification, an application for a conditional use if the proposed use is a conditional use of the zoning district and the applicable development standards are met, but plot plan modification is required:

- (1) To be in accord with the appropriate plans for the area; and
- (2) To prevent undesirable effects on adjacent property and the surrounding area. Such modification may include but not be limited to a limitation on the extent or intensity of development, a requirement for additional screening by fence or landscaping, a change in the method or plan for lighting, time limits as to the length of time the use may be permitted to exist, control of access or other conditions of development as may be required. Requirements regarding the modification of plans or other appropriate actions shall be stated with the reasons for each requirement.

(c)

Disapproval. The Commission shall only disapprove an application for a conditional use for any one of the following reasons:

- (1) The proposed use is not a conditional use of the zoning district, or the applicable development standards are not and cannot be met.
- (2) The proposed development is not in accord with appropriate plans of the area.
- (3) The proposed development will have undesirable effects on the surrounding area.
- (4) The proposed development is not in keeping with the existing land use character and physical development potential of the area.

Respectfully Submitted By:

BONNIE GARD

Planning & Zoning Administrator
Department of Public Service & Engineering
Division of Building & Zoning



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