as amended on 1-20-17 -2017 Ming File No. 17010011 = CV-Date Received: 1-20-17Fee: \_ Initials: \_ Scheduled Public Hearing Date: Check or Receipt No. \_

## APPLICATION FOR CONDITIONAL USE **CITY OF GAHANNA - Planning Commission or Zoning Division**

*REQUIRED INFORMATION	
*Site Address 121 James Rd.& 175 Johnstown Rd., Gahanna,	
*Applicant's Name Donald T. Plank, Attorney	Email dplank@planklaw.com
*Status: Land Owner Option Hol *Business Owner Access Ohio LLC	Cont. Purchaser
*Business Address 99 N. Brice Rd., Suite 360	Fax# 614-386-9736
*City/State/Zip Columbus, OH 43213	Current Zoning CC
*Proposed Use Health and allied services/drug and alcoh	
*Reason for Conditional Use To permit living quarters an a	······································
*Developer N/A	
*Complete Address N/A	Phone
*Contact N/A	Titl
Landowner Access Energy LLC	Title Phone 614-915-4638
Complete Address 99 N. Brice Rd., Suite 360, Columbus,	OH 43213
Complete Address 60 14. Block 14., Guite 600, Columbus,	011 10210
Note: Planning Commission and/or City Staff may visit the	e property prior to the hearing.
	, , ,
I mald tank	1/20/17
*Applicant's Signature	Dáte
Submission Re	<u>equirements</u>
1. A plan that complies with the list of Conditional Us	e requirements stated in Section 1169.02(b).
See attached sheet.	,
<ol> <li>Two (2) 11x17 and nine (9) 8 ½ x 11 copies of plar</li> <li>Statements of information as required in Section 1</li> </ol>	
4. Application Fee of \$100.	100.02(a).
5. A list of contiguous property owners and their mai	<u>ling addresses</u> .
ABBBO	N/AI
APPRO	
In accordance with Section 1169 of the Codified Ordinance as stated above, has been approved by the City of Gaha	es of Gahanna, Ohio, I hereby certify that this project,
copy of the minutes is hereby attached. The applican	
Planning Commission, and shall comply with all building	
This approval is valid from public hearing date to	•
Planning & Zoning Administrator	Date
*Note: All correspondence will be to applicant above unless otherwise stated.	Revised August 2014
	JAN 2 0 2017  Many APPEAL BINDER
	1000 11/1°
	APPEAL BINDER
	PAGE OR

PAGE 98

TRANSFERRED

NOV 1 8 2015

CLARENCE E, MINGO II AUDITOR FRANKLIN COUNTY, OHIO Conveyance
Mandatory 310.00
Permissive 310.00 Rb
CLARENCE E. MINGO II
FRANKLIN COUNTY, AUDITOR

201511180163154 Pas: 2 328.90 11/18/2015 2:54PM T20160084890 BASTEUARY BOY Forry J. Brown Franklin County Recorder

File No.: 01032-18457

1001

#### **GENERAL WARRANTY DEED**

Fern J. Dolman, a married woman, for valuable consideration paid, grants with general warranty covenants to Access Energy LLC, an Ohio limited liability company, whose tax malling address is:

175 Johnstown Rd. Gahana, OH 47230 , the following Real Property:

SEE EXHIBIT "A" ATTACHED HERETO

Property Address: 175 Johnstown Road, Gahanna, OH 43230

Parcel Number: 025-000798-00 and 025-000890-00

Prior Instrument Reference: Official Record 18895 Page I18 of the Franklin County, Ohio Records.

Mortimer Dolman, husband of the grantor, releases all rights of dower therein.

Excepting from said general warranty covenants, all legal highways, restrictions, and easements of record, and taxes and assessments from the date of the closing.

Executed this 13 day of November, 2015.

Fern J. Dolman

Mortiner Colman no.

Mortiner Dolman, signing solely to release his dower rights

State of Ohio, County of Franklin

Notary Public

. My Commission Expires:

This instrument was prepared by: Joseph E. Budde Attorney at Law 259 W. Schrock Road Westerville, OH 43081

Stewart Title Agency of Columbus Box

A STATE OF S

KEIRSTAN URICK NOTARY PUBLIC FOR THE STATE OF OHIO My Commission Expires October 15, 2017

# EXHIBIT "A" LEGAL DESCRIPTION

#### PARCEL I:

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

Beginning at a R.R. spike where the east line of Albert A. Beem's lot intersects the center line of the Columbus and Johnstown Road; thence with the center line of said road S. 77° 15' W. 151.3 ft. to a R.R. spike; thence S. 4° 00' W. (passing a stake at 26.04 ft.) 276.45 ft. to an Iron stake; thence S. 86° 00' E. 150.40 ft. to an Iron stake; thence along the west line of the Albert A. Beem lot N. 3° 00' E. (passing a stake at 295.61 ft.) 321.65 ft. to the place of beginning, containing (1 A) one acre of land.

#### PARCEL II:

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

Beginning at a stake in the center of the Columbus and Johnstown Pike, it being the northeast corner of John Clott's land, and running thence with Clott's east line nine (9) poles and thirteen (13) links to a stake in said line; thence east fourteen (14) poles to a stake, thence north thirteen (13) poles and nine (9) links to a stake and stone in the center of the Columbus and Johnstown Road; thence south seventy-four (74) degrees west with the center of said road fourteen (14) poles and fourteen and one-half (14 1/2) links to the place of beginning, containing one acre of land.

PARCEL 1

0.059-B

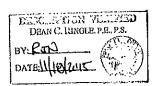
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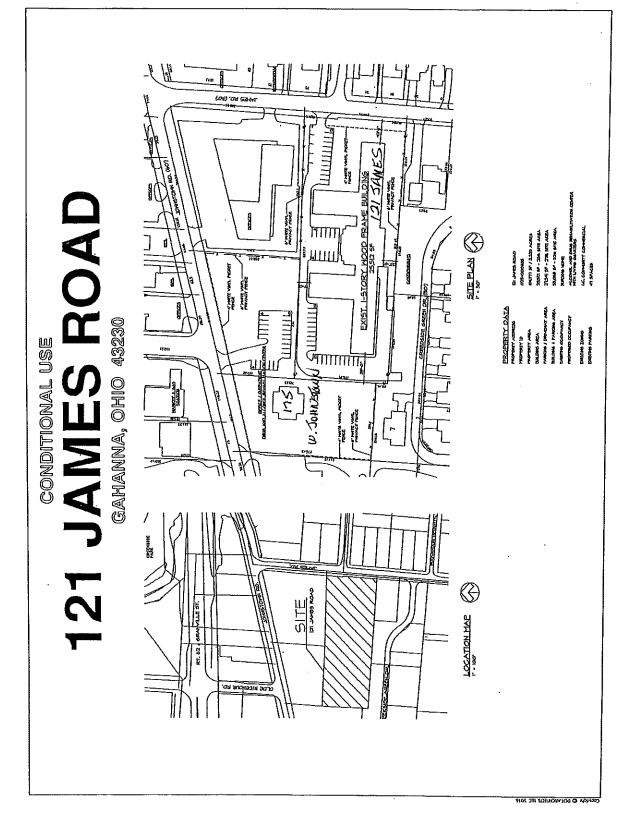
(025)

000890

000798



APPEAL BINDER
PAGE 101



DCH ARCHITECTS, LL

CONDITIONAL LIME.
IZI. JAMES RIAD
6AMMA, ONIO 45250

SITE PLAN PROPERTY DATA

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# SUPPORTING STATEMENT FOR CONDITIONAL USE APPLICATION

The property is located at James Road and Johnstown Road, Gahanna, OH 43230 and more particularly described on the attached legal description (the "Property"). The James Road portion of the Property has been used as a full service nursing home since approximately 1979. The nursing home operation ceased and the facility has since sat vacant. The proposed uses of the Property are that of a drug and alcohol rehabilitation facility at the 121 James Road address and a drug and alcohol therapy outpatient facility at the 175 W. Johnstown Road address. Under the Property's current zoning classification, CC — Community Commercial, an outpatient drug and alcohol rehabilitation facility is permitted; however, a conditional use is required to allow for living quarters as part of the residential drug and alcohol rehabilitation programs. The proposed use of this Property is a necessity and will be an asset to the community due to the increasing difficulties of drug and alcohol abuse and/or addiction. The programs offered at this facility will aid people in the community.

The properties in the area consist of office, condominiums, residential houses, a veterinarian hospital and a gas station. The proposed uses of the Property should not have an adverse impact on the surrounding area and will be an improvement to the community.

Plank Law Firm

A Legal Professional Association

Donald T. Plank
dtp@planklaw.com
David Watkins
dw@planklaw.com
Christopher R. Kessler
crk@planklaw.com

423 E. Town St., FL 2 Columbus, Ohio 43215 Business: 614-947-8600 Fax: 614-228-1790

January 20, 2017

City of Gahanna Planning Commission c/o Kayla Holbrook, Deputy Clerk of Council City of Gahanna 200 S. Hamilton Rd. Gahanna, OH 43230

\*\*\*Via Hand Delivery\*\*\*

RE: Proposed Conditions – Residential Drug and Alcohol Rehabilitation Facility, 121 James Road

#### Commission Members:

Based on comments from neighbors and some City officials regarding our proposed residential drug and alcohol rehabilitation facility, Applicant submits the following terms to be included as conditions to applicant's conditional use request. Applicant's agreeing to the imposition of these terms should not be construed as a sign of the neighbors' support or opposition.<sup>1</sup>

- 1. No smoking areas. There shall be no smoking permitted on the Facility Property (including the grounds), except in the designated area (the existing patio area in the northwest corner of the Facility).
- 2. Outside Activity. No group or other activity shall be permitted between the south perimeter of the Facility and the south property line of the Facility Parcel before the hour of 8:00 a.m. and after the hour of 8:00 p.m.
- 3. Fence.
  - a. A six (6) foot high privacy fence shall be built along the entire south property line of the Property, starting at the required building setback line of James Road.

1 For purposes of these conditions:

- The word "Property" means Tax Parcel Nos. 025-000855 (the "Facility Parcel"), 025-000798 and 025-
- The word "Facility" means the existing nursing home building on the Property.

- b. A four (4) foot fence shall be built along the north, east and west property lines of the Property.
- 4. Access Drive. Subject to the approval of the City based on an access study provided by Applicant, within two (2) years from the date of the granting of the zoning certificate for the drug and alcohol rehabilitation center with living quarters in the Facility, the access drive to/from James Road from/to the Facility will be closed to all traffic except emergency vehicles and occasional maintenance or contractor vehicles.

5. Occupants.

- a. No person under the age of 18 shall be permitted to be a resident of the Facility.
- b. No person identified as a sex offender under Ohio Revised Code Section 2950.01(B)(1) shall be permitted to be a resident of the Facility.
- 6. <u>Safe Zone</u>. The Property or any portion of the Property shall not be used as a drug safe zone or drug safe house.

Thank you,

Donald T. Plank

d-Hank

DTP/bp

372.00//Corres/LtrHolbrook Proposed Conditions 121 James Road (1-20-17)

# **Plank Law Firm**

A Legal Professional Association

Donald T. Plank dtp@planklaw.com David Watkins dw@planklaw.com Christopher R. Kessler crk@planklaw.com 423 E. Town St., FL 2 Columbus, Ohio 43215 Business: 614-947-8600 Fax: 614-228-1790

January 20, 2017

Bonnie Gard Zoning Administrator City of Gahanna 200 S. Hamilton Rd. Gahanna, OH 43230

\*\*\*Via Hand Delivery\*\*\*

RE: Amended Application CU-0009-2016 - Access Ohio LLC

Ms. Gard:

Enclosed are the following documents regarding the Access Ohio LLC Amended Application:

- Amended Application for Conditional Use
- Supporting Statement
- Contiguous Property Owners Mailing Labels
- Proposed Conditions Letter

Please call if you have any questions.

Thank you,

Donard Heart

Donald T. Plank

DTP/bp

Encl.

372.00//Corres/LtrGard Amended Application (1-20-17)

JAN 2 0 2017

#### APPLICANT:

Access Energy LLC c/o Donald Plank, Attorney 411 East Town Street Columbus, OH 43215

#### OWNER:

Access Energy LLC 99 N. Brice Rd., Suite 360 Columbus, OH 43213

# CONTIGUOUS PROPERTY OWNERS

Mile High Investments, LLC 151 W. Johnstown Rd. Columbus, OH 43230 Access Energy LLC 175 W. Johnstown Rd. Columbus, OH 43230 Lawrence Antoine 8964 Shoreham Dr. Los Angeles, CA 90069

Christine Harrington 144 Creekside Green Dr. Columbus, OH 43230 Karen Cowans 142 Creekside Green Dr. Columbus, OH 43230 Patricia & Zoran Botic 140 Creekside Green Dr. Columbus, OH 43230

George & Jean Herbst 138 Creekside Green Dr. Columbus, OH 43230 Garry & Marianne Devictor 134 Creekside Green Dr. Columbus, OH 43230 Jeffrey & Kristen Bateman 136 Creekside Green Dr. Columbus, OH 43230

JR Nicewarหุ๔√ 143 S. James Rd. Columbus, OH 43230 Mark Sweatland 1200 Taylor Station Rd. Columbus, OH 43230 Bryan Ruder & Jennifer Dietrich 128 James Rd. Columbus, OH 43230

Richard Lenihan 115 Orchard Dr. Columbus, OH 43230

Lizabeth Dible 110 James Rd. Columbus, OH 43230 158 Johnstown Road LLC 158 Johnstown Road Columbus, OH 43230

Challomilu Enterprises Inc. 2701 Tally Ho Dr. Blacklick, OH 43004 Time Warner Cable Midwest LLC 7820 Crescent Exec Dr. Charlotte, NC 28212 United Dairy Farmers Inc. 3955 Montgomery Rd. Cincinnati, OH 45212

Club Properties Investments LLC 1207 Harrison Pond Dr. New Albany, OH 43054

APPEAL BINDER
PAGE 106

	121 James Rd & 175	121 James Rd: & 175 Johnstown Rd. Configuous Property Owner Information	というない はない はいかい かんしょう かんしょう はんない はんない はんかい かんしょう はんしょう はんしょう はんしょう はんしょう はんしょう はんしょう はんしょう しょうしゅう しょうしょう しょうしょうしょう しょうしょうしょう しょうしょうしょう しょうしょうしょう しょうしょうしょう しょうしょう しょうしょう しょうしょうしょう しょうしょうしょう しょうしょうしょうしょう しょうしょうしょうしょうしょうしょうしょうしょうしょうしょうしょうしょうしょうし
	Name	Mailing Address	Parcel ID No.
Н	Mile High Investments, LLC	151 W. Johnstown Rd., Columbus, OH 43230	025-000808-00
7	Access Energy LLC	175 W. Johnstown Rd., Columbus, OH 43230	025-000798-00
ന	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
ιΩ	Christine Harrington	144 Creekside Green Dr., Columbus, OH 43230	025-013605-00
ဖ	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
∞	George & Jean Herbst	138 Creekside Green Dr., Columbus, OH 43230	025-013664-00
6	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
Additi	Additional Property Owners for Amended Application CU-0009-2016	ication CU-0009-2016	
16	158 Johnstown Road LLC	158 Johnstown Road, Columbus, OH 43230	025-000842-00
17	Challomilu Enterprises Inc.	2701 Tally Ho Dr., Blacklick, OH 43004	025-000797-00
18	Time Warner Cable Midwest LLC	7820 Crescent Exec Dr., Charlotte, NC 28212	025-000826-00
13	United Dairy Farmers Inc.	3955 Montgomery Rd., Cincinnati, OH 45212	025-000820-00
20	Club Properties Investments LLC	1207 Harrison Pond Dr., New Albany, OH 43054	025-000862-00

### STAFF COMMENTS

### \*\*\*Updated 2/15/17\*\*\*

Project Name:

**Access Energy** 

Project Address:

121 James Rd & 175 W Johnstown Rd

#### Planning & Development

Comments have been updated to reflect the revised application which no longer seeks a variance and which includes an additional piece of property, 175 W. Johnstown Rd.

#### 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.

It has been determined by the City Attorney that the proposed use is a conditional use of the Community Commercial zone district. It is staff's opinion that the request is consistent with this condition.

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

The question has been raised if the application is considered "development" or not. It has been stated by the applicant that the request is not "development" and therefore the conditions which refer to "development" are not applicable. To answer this question we must review the Code. The Code does not define the term "development". In cases where words are not defined in the Code, then the definitions found in The Latest Illustrated Book of Development Definitions shall be used. The Latest Illustrated Book of Development Definitions defines Development as "The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance; or any use or extension of the use of land".

The application clearly qualifies as development as the application is for a use and would result in the reconstruction, conversion and/or structural alteration of any structure. The applicant has previously stated that the budget for renovations has been estimated at \$1,000,000. Therefore,

conditions #2, 3, and 4 found within Section 1169 are applicable to this request and must be met in order to be approved.

#### West Gahanna Development Study

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.

#### Economic Development Strategy

The project site is located within Priority Development Area (PDA) #1 but is not located within a Target Site. Target Sites have a conceptual site plan and recommended uses. The primary uses identified as being appropriate and having a need in PDA #1 include retail, office, and medium to high density residential. Medium and high density residential have been defined as traditional residential uses such as townhomes, apartments, and condominiums. Residential as used in the Strategy does not include inpatient treatment facilities.

The requested use is not in line with the recommendations of the Strategy. It should be noted that the Strategy does not mandate a particular development type but rather depicts development capacities based on property size and need as determined by market research.

### 2002 Land Use Plan

The project site is located within the Mixed Use Future Land Use designation. The 2002 Land Use Plan discusses redevelopment opportunities within Mixed Use areas. Although this specific property wasn't identified, the Plan states that areas within Mixed Use should be developed in a manner that involves a mixed use development consisting of commercial, office, and high density residential. The goal is to avoid a complete dependency on automobiles and incorporate a mix of uses with pedestrian connections. Encouraging a broad array of activities helps create a destination for living, employment, and shopping.

The proposed plan of development does not incorporate a mix of uses. It is a single use. Approval does not further the goal of encouraging and creating a broad array of activities. Approval may exacerbate the development trend that the Land Use Plan is trying to avoid, the proliferation of greyfields. Historically greyfields have most commonly occurred on properties that are single use and heavily rely on the automobile. The subject property appears to fit the

definition of a greyfield. It is staff's opinion that the request is not consistent with the 2002 Land Use Plan.

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

The subject property is located in an area that contains a mix of commercial, residential, and recreational uses. There has been significant discussions on the character of the area from residents. There has also been testimony from the Gahanna Police Department and the Mifflin Fire Department regarding the type and frequency of calls received from similar facilities. The nature of calls for a drug rehabilitation facility are in stark contrast to the typical calls for a residential neighborhood. It appears from the testimony received that the proposed use would have an undesirable effect on surrounding uses by creating a greater demand for police and fire protection.



The properties immediately to the south of the subject property are zoned and developed with residential uses. The property at 143 James Road is single family while the other adjacent property, Creekside Green, is multifamily. An unusual situation exists in that the inpatient building is located less than 40 feet from residential property lines. The proximity of uses can lead to undesirable effects. The most common negative impacts are noise, lighting and traffic. It is extremely difficult to mitigate these negative effects given the proximity of uses.

It is staff's opinion that the proposed development will result in negative impacts to several of the surrounding properties.

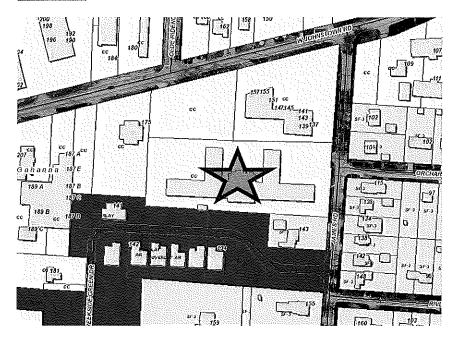
4. The proposed development will be in keeping with the existing land use character and physical development potential of the area.

Staff does not believe that the proposed development is consistent with existing land use The existing character of the surrounding area does not include inpatient rehabilitation facilities. Land uses are mixed and primarily consist of office, residential, and recreational uses.

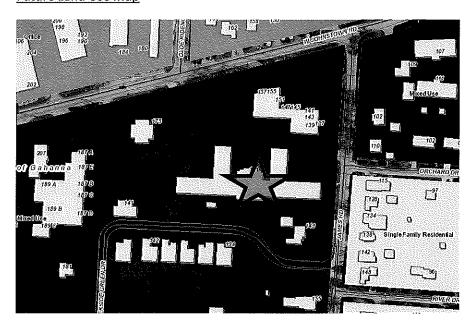
The development potential of the area has been identified in the aforementioned planning documents. These documents strongly recommend retail, high density residential, and mixed use development. A single use facility that is neither retail nor high density residential meets the development potential of the area.

Flanning and Development staff recommends denial of the request.

### Zoning Map



Future Land Use Map



Respectfully Submitted By: Michael Blackford, AICP Deputy Director

# City of Gahanna

200 South Hamilton Road Gahanna, Ohio 43230

### Record of Action

Conditional Use: CU-0009-2016

File Number: CU-0009-2016

To consider an amended Conditional Use Application to allow a residential drug and alcohol rehabilitation facility in a Community Commercial (CC) zoning district, for property located at 121 James Road and 175 W. Johnstown Road; Parcel ID No.s 025-000855, 025-000798, 025-000890; Access Ohio LLC; Donald T. Plank, applicant.

(Original Application/version 1: Advertised in the RFE on 9/22/2016 and 12/1/2016)

The City of Gahanna Planning Commission met on 2/22/2017 to consider along with other business, a Conditional Use application, CU-0009-2016.

A motion was made by Burba, seconded by Hicks to approve the application, contingent upon the attached conditions. The motion failed.

The Conditional Use Application was **DENIED**.

Please consider this an official copy of the Record of Action for this Conditional Use application. You may request a hard copy of this Record of Action to be mailed to you by contacting the City of Gahanna Council office at 614-342-4090.

Kayla Holbrook, Deputy Clerk of Council February 22, 2017

**Date Certified** 

#### CU-0009-2016 CONDITIONS:

- 1. That the building located at 175 West Johnstown Road (Parcel ID Nos. 025-000798, 025-000890) will be operated solely as an outpatient facility providing therapeutic intervention for clients by appointment only.
- 2. That the building located at 121 James Road (the "Residential Facility"; Parcel ID No. 025-000855) will be operated as a residential facility providing intense therapy and counseling in a residential setting for clients.
- 3. That both facilities will be operated by a state licensed provider of treatment for persons afflicted with drug and alcohol addiction.
- 4. That clients are permitted to stay for up to consecutive 180 days at the Residential Facility, Parcel ID No. 025-000855.
- 5. At the Residential Facility, Parcel ID No. 025-000855, smoking shall be permitted only at the existing patio area in the northwest, and shall be specified as a designated smoking area.
- 6. There shall be no outdoor group or other activity permitted between the hours of 8:00 p.m. and 8:00 a.m at the Residential Facility, Parcel ID No. 025-000855.
- 7. There shall be a fence along the property lines as submitted in the application.
- 8. The existing access drive to and from James Road will be closed to all traffic except emergency vehicles and occasional maintenance and contractor vehicles, within 2 years from the date of granting the zoning certificate for the Residential Facility, Parcel ID No. 025-000855, provided that a traffic impact/access study, approved by the City of Gahanna, concludes that West Johnstown Road is the appropriate means for ingress and egress for the site.
- 9. The state licensed provider, of the Residential Facility, Parcel ID No. 025-000855, shall:
  - a) There shall be no person under the age of 18 permitted to be a resident.
  - b) There shall be no person with an outstanding arrest warrant, or pending criminal charges, permitted to be a resident.
  - c) No person with a felony criminal record involving serious physical harm within the last five (5) years shall be permitted to be a resident.
  - d) There shall be no person identified as a sex offender under Ohio Revised Code permitted to be a resident.
  - e) That all prospective residents will have successfully completed a minimum of a 7 day detox before being admitted to the Residential Facility.
  - f) That all residents are drug tested when they enter the program and when they return from any offsite/chaperoned appointments.
  - g) That all residents are given unscheduled urine tests approximately 4 times a week and rooms are periodically searched.
- 10. There shall be no drug safe zone on the site.
- 11. That residents of the Residential Facility are not permitted to have vehicles at the site.
- 12. Staff shall monitor the yard area of the Residential Facility, Parcel ID No. 025-000855, before and during the period a resident is permitted to use the yard.
- 13. That there will be an unarmed licensed security officer at the Residential Facility, Parcel ID No. 025-000855, at all times.
- 14. That the facilities are required to have the required signage prohibiting concealed carry on the site.
- 15. That all doors at the Residential Facility, Parcel ID No. 025-000855, will be alarmed with locks that have a 30 second delay between alarm and opening.
- 16. Law enforcement services will not be used to transport residents to and from routine and non-emergency offsite appointments.
- 17. Residents of the Residential Facility shall not be permitted to leave the facility between the hours of 8:00 p.m. and 8:00 a.m.