

*BZA minutes are transcribed in a summarized manner. Video footage is available for viewing in the (CATS) Audio-visual Department of the Monroe County Public Library at 303 E. Kirkwood Avenue. Phone number: 812-349-3111 or via email at the following address: [moneill@monroe.lib.in.us](mailto:moneill@monroe.lib.in.us)*

The Board of Zoning Appeals (BZA) met in the Utilities Board Room—600 E. Miller Drive at 5:30 p.m. Members present: Klapper, Stewart Gulyas, Throckmorton, and Kappas (McManus absent).

**APPROVAL OF MINUTES:** May & July 2018

**\*\*Kappas moved to approve the May minutes. Stewart Gulyas seconded. Motion carried unanimously.**

**\*\*Kappas moved to approve the July minutes. Stewart Gulyas seconded. Motion carried unanimously.**

**REPORTS, RESOLUTIONS AND COMMUNICATIONS:**

Eric Greulich thanked Carol Stewart Gulyas for her service on the Board of Zoning Appeals—this will be her final meeting.

Greulich stated that #AA-12-18 (Bryan Rental, Inc---3175 W. 3<sup>rd</sup> Street) had been withdrawn and would not be heard.

**PETITIONS:**

V-14-18      **Michael Boulton (Storage Express)**  
606 W. Gourley Pike  
Request: Variance from landscaping standards to allow riprap to be placed around the perimeter of a building without landscaping.  
*Case Manager: Eric Greulich*

Eric Greulich presented the staff report. The petitioner is requesting a variance from landscaping standards in order to allow riprap to be placed around the perimeter of the building. The property is zoned Commercial Arterial (CA) and developed with mini warehouse storage buildings. There were two new buildings constructed in the middle of the parking area in 2017. At that time, landscaping was installed around the property. There was some confusion or miscommunication on the petitioner's part regarding gutters around the perimeter of the roof of the building. After the buildings were constructed, and as a result of the storm water that was occurring along the perimeter of the buildings, the petitioner installed a series of riprap around the perimeter in order to deal with the storm water runoff and erosion occurring around those perimeters. The Unified Development Ordinance (UDO) only allows riprap around landscaping. Riprap and stone planter beds are only allowed around landscaping and only allowed to extend

---

1-foot beyond the dripline of shrubbery and 6 feet surrounding trees. Greulich noted there is zero landscaping around the perimeter of these buildings so riprap is not allowed. Also, there is nothing unique about this particular portion of the buildings or site that would not allow for grass to be grown. This property isn't different than any other property in Bloomington that would not allow for grass or landscaping to be installed. The lack of gutters around the perimeter of the building is a self-imposed hardship by the petitioner and it's something that could be fixed. Staff was unable to find peculiar condition associated with the property that would not allow for the property to be used in the manner for which it is zoned. Therefore; Staff recommends denial of V-14-18 based on the written findings outlined in the staff report.

Tom Clark is a field service director for Storage Express. Originally we had no plans to install gutters. We realized with the retention pond along the east side that the 2:1 slope would be a hardship to get grass to grow with water coming off the roof, which is why we did the riprap along the side of the building. There was riprap along the north end of the building which was in the original plans. In essence, we just wrapped the riprap all the way around the building. To put gutters in after the fact; the way the building is manufactured it would require cutting the roof panels so we can't simply call a gutter service. It actually has to be a pre-engineered gutter and the roof would have to be cut. There is potential for the roof to rust which is why we can't put guttering up at this point. We put the riprap in because of the excessive slope. It's a lean-to roof so the water flows to the back of the building and comes off of the building right into the retention pond. It hits the riprap, it's cleaned (there is no erosion), and then it flows directly into the retention pond. We are asking the Board to allow us to do some plantings, ground cover, or possibly ivy along the base so it would grow up and help cover the riprap. In essence to make it green. The project is now mature and everything has come in. We have some additional photos of the trees and you can see that the riprap really isn't visible. There is a very limited sight line from the Bypass or from Gourley Pike. Our original plans never included gutters. We realized that the water coming off the roof was going to cause a problem and that's why we opted to put the riprap in behind the building. We don't feel the riprap causes a negative impact on the neighborhood. We are close to Harley-Davidson with only about a 40-foot area between the two buildings. If the City would like us to do additional plantings that would grow up into the riprap we would be open to doing that.

**BZA Discussion:**

Jo Throckmorton asked if plantings was discussed with the City. You didn't mention it in your presentation.

Greulich said if they were to incorporate landscaping (plantings) along this area it would have to meet the requirements as previously mentioned. You can have stone mulch within 1-foot of shrubs or 6 inch of trees. If they were able to come up with a landscape plan that would accomplish that it would be allowed and it would bring the site into compliance. (Throckmorton said I'm asking was it discussed before just now).

Greulich responded they mentioned the idea of planting ivy or something to that effect. We said it could be fine but we (Planning and Transportation) didn't have a specific landscape plan presented to us to accomplish that.

Throckmorton said so the petition came before us without that being formalized? (Greulich: Correct. If they had given us a landscaping plan a variance would not have been required).

Throckmorton asked if there is only one option for guttering.

Clark responded correct. These buildings are manufactured by Track-T Building Systems in Wisconsin. It's an engineered building and they have a pre-engineered gutter that goes on the building. Typically the gutter is installed at time of erection because the roof sheets have to be lifted up and then the gutters go underneath it. Since we weren't doing gutters these are actually elongated roof sheets. So the roof sheets would have to be trimmed back in the field and then the gutters installed.

Throckmorton asked if any research had been done to find out if there is any aftermarket products that could be glued or constructed as stand-alone that would gather the water.

Clark said they've looked into doing seamless gutters. A residential grade gutter would not work on a commercial building of this size.

Throckmorton: There is no other commercial option at all? (Clark said none that we are aware of).

Clark added we would want to go with the manufactured gutter because it's the same color of blue—it's the accent color. If we found another commercial gutter we would have to paint it as well. The manufactured gutters are the same as the roof and the same color as the building.

Barre Klapper: If they had produced a different landscape plan, including the riprap in this location, it would have been acceptable?

Greulich said if a landscape plan had been provided that accomplished the requirements of the UDO, then it would be completely acceptable and the riprap could stay. (Klapper asked Greulich to define what riprap is as opposed to other types of aggregate).

Greulich said we do not have a specific definition of riprap. It's a gravel stone. There isn't a size difference. There is nothing in the Unified Development Ordinance (UDO) that distinguishes riprap at the end of an outfall structure versus a stone planting bed within a parking lot—it's all stone.

Klapper responded that this is pretty large scale aggregate that you typically see for storm water remediation and not for landscaping uses or applications.

---

Greulich said Klapper’s point is something that can be highlighted for improvements and modified in the UDO as we go forward. However; what is currently in the UDO for commercial properties does not allow for any riprap to be placed around the perimeter of building or outfall structures.

No public comment.

Clark added that they talked about some of their other landscaping options to cover up the riprap in their April 25<sup>th</sup> letter to Eric Greulich. He said Mike (Storage Express) brought some photos of different types of ground cover (i.e., types of ivy) that we feel would grow along the perimeter. Our take was that it wasn’t well received so we didn’t go to the next step of doing a plan to show it. But as you can see it was in the second page of the letter. We were trying to get some other options and the ivy is what we suggested in the letter.

Carol Stewart Gulyas asked about the implications or downside of granting this variance.

Greulich said the first obstacle is that the Board would need to find something unique about this property that makes it different than other commercial properties that doesn’t allow it to meet code, which is one of the three criteria. The site is pretty much flat. There was nothing unique about this particular location that didn’t allow them to meet code. The Board would need to make positive findings for the three (3) criterion that would be unique.

Stewart Gulyas asked the petitioner to clarify why this actually happened.

Clark responded we typically do not do gutters on our self-storage buildings. We were building this right up against an existing retention pond so it wasn’t flat from the get-go. We had the slope to start with and then we actually had to re-engineer the retention pond to accommodate additional water. In doing so, it became even more of a slope. The gutter was never in the plan. We thought grass would work, but with the 2:1 slope there was no way grass would hold up to the water coming off the roof.

Klapper explained further to Stewart Gulyas that statements were previously made that riprap was allowed in some other specific areas, so there was an assumption that riprap could be carried throughout and that is why this happened. I am sympathetic to the situation but I will be voting against this petition. I think it’s unsightly and I think there is a reason why we have the ordinance written the way that it is. We really do want to limit this type of large scale aggregate. I think there are ways to add a commercial gutter even if it doesn’t match your paint perfectly. If you were to come back with a landscaping plan that could be reviewed, there might be a way that some of this material could remain or be modified to some extent for more of a balance.

**\*\*Throckmorton moved to deny V-14-18 based on the written findings the staff report. Kappas seconded.**

---

Throckmorton said this petition probably should have been pulled off of the agenda and discussed with the City, if the City was willing to work with you on a landscaping plan. In my opinion, it's a much better way to address it. My hope would be for you to withdraw your petition prior to the vote and work with the City. (Clark said we would like to do that).

Klapper: We have a motion on the floor.

Greulich. Yes. Once the motion has been made it cannot be withdrawn.

**ROLL CALL: 3:1 (Stewart Gulyas opposed). Petition is denied.**

AA-19-18      **ICFR Residence, LLC**  
909 W. 1<sup>st</sup> St.  
Request: Administrative Appeal from the Planning and Transportation Department's decision to issue a Notice of Violation of non-compliance of the UDO Section 20.02.550.  
Case Manager: Jackie Scanlan

Jackie Scanlan presented the staff report. The property is zoned Medical (MD). The current setup of the property; there is currently one building that was previously used as a dwelling, multi-family use and associated parking lot. The petitioner is requesting an Administrative Appeal from the Planning and Transportation Department's decision to issue a Notice of Violation (NOV) that the property is being used as a Rehabilitation Clinic without a Conditional Use approval. Again, a (NOV) was issued notifying the property owner of an illegal land use in a Medical zoning district. A Rehabilitation Clinic requires a Conditional Use approval and one has not been issued for the site. The petitioner appealed the notice and that is what we're talking about tonight. Staff was alerted to the use of the property through a building permit application that was received on April 11, 2018. The use for the site was listed as residential/treatment center. The name on the permit was Indiana Recovery Center. The Unified Development Ordinance (UDO) defines Rehabilitation Clinic as "A facility used for the purposes of temporary or long-term in-patient treatment of victims of alcohol or drug use addiction." This particular facility has a website and on the front page they classify their business as a family-owned addition rehab center. There were some other things in the staff report identifying other details from the website. There are two facilities across the street from each other (You will see the second location in the next Administrative Appeal). The other property is located at 1004 W. 1<sup>st</sup> St. and it functions as the clinic whereas this location is the residential portion. In the main description of the site the petitioners say, "Our spacious grounds allow us to offer a genuine residential experience where guests live and receive addiction treatment, and comfortable, peaceful surroundings 24-hours per day." These units are listed as private recovery housing on the website. As previously mentioned, 909 is the residential component of what is a larger complex that includes clinical treatment at 1004 W. 1<sup>st</sup> St. which is across the street, Again, listed as private recovery housing which they have described in this way, "When our clients finish treatment for the

---

day they are comforted by the fact that they can retreat to our spacious, peaceful, community housing. Our Indiana Center for Recovery state-of-the-art recovery housing has a feel of a luxurious hotel.” So the petitioners are appealing the fact that they are in fact, a Rehabilitation Clinic. Staff has determined that the use of the property is “Rehabilitation Clinic” as defined by the (UDO). And because the (UDO) requires a rehabilitation clinic to have a Conditional Use approval to operate within this zoning district, the petitioner is out of compliance with code. Staff recommends denial of AA-19-18 based on the written findings outlined in the staff report.

Cheyenne Ryker is representing the petitioner. This is a clear issue. The question you have to answer is, *“Is treatment rendered at 909 W. 1<sup>st</sup> Street?”* The definition of “Rehabilitation Clinic” requires that treatment be rendered at the location. In this case, there is no evidence that treatment is rendered at 909 W. 1<sup>st</sup> St. First, the property is an apartment building. It’s operating under a valid, multi-family use. Second, the property is a discretionary choice on the part of the tenant. So if someone is being treated at 1004 W. 1<sup>st</sup> St., they can stay at 909 W. 1<sup>st</sup>—it’s an option, but they don’t need to and not everyone does. It’s not a requirement of treatment because there is no treatment there, it’s where they live. The definition that Ms. Scanlan described is, “A facility used for the purposes of temporary or long-term inpatient treatment of victims of alcohol or drug use addiction.” Accordingly, in order to find in favor of the City and deny our appeal, the Board must answer that one question. The answer to that question is unequivocally—No. You cannot deny our appeal because there is no treatment rendered. This is not a rehab clinic, it’s an apartment building with people living in it. The City’s position is that if someone receives treatment at one location and they leave and go home, their home then becomes a rehabilitation clinic which is absurd. Under these circumstances, let’s say I go to my doctor’s office which is operating as a medical clinic, and the doctor says, “You need to go home and take a break. You’ve got a broken arm and you have a 10 pound weight restriction.” I go home for one week and I don’t lift anything more than 10 pounds then I go back. Under the City’s interpretation of the (UDO), when I’ve gone home, I have created a medical clinic in my home. Because the City is saying when you receive treatment at some place, and you go somewhere else, that “somewhere else” becomes a treatment center. It doesn’t make logical or factual sense. The fact is people in treatment need a place to stay when they are in recovery. To correct the record, it’s not Indiana Center for Recovery Residence, LLC its ICFR Residence, LLC. ICFR Residence, LLC offers a solution to meet the need in the form of low cost housing which is what 909 W. 1<sup>st</sup> Street is—a low cost housing option. This housing option allows patients a place to live within a walking distance of a treatment facility and to avoid the hurdles associated with transportation to get to treatment. The City refers to the website of ICFR, LLC (a separate organization) which states that “It offers a genuine, residential experience where guests live and receive addiction treatment in comfortable, peaceful surroundings 24-hours per day.” That is what the website says but this disregards the definition of “Rehabilitation Clinic.” The question isn’t about what the website says, the question is “How are the properties used?” Zoning is about use it’s not about websites or the accuracy of websites. In fact, on July 26 of this year, I logged on to the City’s website and found that this hearing was actually scheduled for August 16<sup>th</sup>. So I emailed Ms. Scanlan on that date and told her there was an error on the City’s website. Sometimes

---

websites aren't factually accurate. There is no treatment at 909 W. 1<sup>st</sup> St. The City also claims that the website advertises private recovery housing. This is true. ICFR Residence, LLC is "Private Recovery Housing". It means they have signed a lease that requires them not to engage in the use of substances on the property. As a matter of basic contractual rights, anyone can have that kind of provision in their lease. For example, IU students who live in dorms cannot drink alcohol. Are they now a Rehabilitation Clinic? No. In the staff report the City claims that the BZA's role in this proceeding is not to address legal questions related to issues of federal discrimination law, which is true. You have to remember that the City is subject to the dictates of the American with Disabilities Act, the Rehabilitation Act of 1973, and the Fair Housing Act. So the decisions the BZA makes today will be subject to scrutiny under those acts. You're not here to determine compliance with the ADA but your actions must be in compliance with the ADA. I submit to you that if you call this place a Rehabilitation Clinic, which would effectively disallow patients who are victims of substance use disorder (a disability under the ADA), then you will be in violation of Federal Law, specifically the ADA—the Rehabilitation Act of 1973 and the Federal Housing Act. The only difference between the 909 property and every other property in Bloomington is that it's an apartment building, and the fact that the people who live at 909 W. 1<sup>st</sup> Street are people who suffer from addiction and substance use disorder. I'm asking you to help do away with the stigma associated with substance use disorder. I'm asking you to look at the manner in which the property is used as an apartment building, as a multi-family residence, and to determine that it is not a Rehabilitation Clinic. It is an apartment building operating under a valid occupancy permit from HAND (Housing and Neighborhood Development) and I respectfully request that you rule that way.

**BZA Discussion:**

Jo Throckmorton asked if any of the professionals with this organization go in and out of the building where recovery is taking place.

Ryker: Professionals—what do you mean?

Throckmorton said anybody who provides treatment within your organization. Do they ever enter the other building?

Ryker said to my knowledge no. The treatment doesn't occur at 909.

Throckmorton: I didn't ask you that. I just want to be clear. Do they ever enter that building? Have they ever been inside it? (Ryker said I'm sure they probably have).

Throckmorton: So it's possible that they have interacted with people inside that building if they have been inside the building? (Ryker said sure it's possible).

Throckmorton: You mentioned that a contract exists for those who stay in this facility, correct? (Ryker responded there is a lease).

Throckmorton said you called it a contract. Is that accurate? (Ryker: Well it's a lease. A lease is a contract).

Throckmorton said when a person receives outpatient surgery and they go home, would it be fair to say that most people don't have a contract with owners of their own home, with banks, or whatever? Or a convalescent home; they don't have a contract or lease that has language saying they are going to be there to recover? (Ryker responded that is not the case here either).

Throckmorton: You just said there is a contract for those that are in the building. (Ryker explained there is a lease between the tenants and ICFR Residence, LLC).

Throckmorton: There is language in the lease that they can use that facility to recover?

Ryker said I think you have to be clear. There is a lease with ICFR, LLC which is a separate organization from Indiana Center for Recover, LLC. They do not have a lease with Indiana Center for Recovery, LLC. They have a lease with ICFR Residence, LLC which owns the building at 909 W. 1<sup>st</sup> St.

Throckmorton said so Indiana Center for Recovery and ICFR are two separate entities altogether? (Ryker: Yes).

Ryker: ICFR Residence, LLC owns the property at 909 W. 1<sup>st</sup> St. and that is who the lease is with. ICFR Residence, LLC is not a licensed treatment facility. They don't do any treatment they are just the landlord.

Throckmorton: What is the legal relationship with Indiana Center for Recovery? (Ryker responded there isn't a legal relationship).

Throckmorton: So they're not incorporated by the same people? (Ryker: They have common owners).

Throckmorton: So it's common ownership, two separate entities, both LLC's? (Ryker: Yes).

Throckmorton responded to a comment about it being a legal issue. If it's a legal issue it gets solved in a court of law. If you do have a legal issue, we have encouraged many petitioners to take it in front of the courts. However; this is a citizen board that has a task of interpreting local ordinances and providing decisions as a community based decision-making organization. We are not a legal organization so those arguments don't really mean anything in this setting.

Carol Stewart Gulyas asked what treatment is thought to be occurring at this residential facility.



---

Scanlan said our understanding is that the complex operates as one large complex and that they're not actually separate. They are separated physically but that it's one center. For instance, if you went to a different Rehabilitation Center that happened to own twenty (20) acres in the country, they might have a building where you go to counseling and then a separate building where you sleep. We have not received any information regarding where specific treatments are located.

Nick Kappas: So 1004 W. 1<sup>st</sup> Street is the treatment center and there is residential on the site? (Ryker responded no. There is no residence at 1004 W. 1<sup>st</sup> Street).

Kappas said I was looking at the commercial building permit application and the "use group" is residential/treatment center. Can you please explain why that use group was identified for 909 W. 1<sup>st</sup> Street?

Ryker: No. I can't because Brown Sprinkler System completed the application. I don't know who they ran it by or if they ran it by anyone. I know that we wanted to make the place safer so we contacted Brown Sprinkler System or Brown Sprinkler's Corp. and said, *"Hey we want to increase the safety at this place because we have residents there and we want to take care of them."* So they filed this for some reason but I can't say for certainty why. We didn't have any say in how that application was completed.

Klapper asked if the building permit application was for the sprinkler system because "sprinkler" was checked on the application. (Ryker: Yes, I think they were going to put a sprinkler system there).

Klapper responded and that wasn't triggered by any change of use or anything at the State with regard to the actual building type as defined with the building code? (Ryker: No. It was not. It's always been a residence. We have never changed that use; it's not a treatment center).

Scanlan said there is an on-going discussion with the Fire Department about what requirements need to be done to upgrade this facility in a similar vain to the discussion that we're having. When this application was submitted I don't think that had happened yet. I believe there is an on-going discussion with the Fire Department that improvements do need to be made and the class of use has changed. Klapper explained further that the building code categorizes different building uses and you have to meet certain standards for the State of Indiana, which is a separate process aside from zoning. If the State feels this isn't typical for a residential use and that something could go wrong, there could be other requirements for sprinkler systems or provisions that need to be put in place.

Stewart Gulyas said wouldn't any residential building require a sprinkler system? (Scanlan responded to my knowledge only certain kinds do).

---

Klapper added that the code classifies different types of multi-family. Nowadays a lot of multi-family structures do require it but this is an existing structure. So unless it was a change in use it would not have had to be brought into compliance.

Klapper asked Staff to clarify ownership with regard to LLC's.

Scanlan said it appears that there are two LLC's. When you look it up on the State website, they have the same registered agent. He is the individual listed on the application for the sprinkler system for 909 W. 1<sup>st</sup> St., with a property owner address of 1004 W. 1<sup>st</sup> Street. As long as we've known about these facilities they have both been operating together.

Throckmorton: Do you happen to know where all payments are issued out of? Are they issued out of separate bank accounts with separate entities? (Scanlan didn't know).

Throckmorton asked the petitioner if he knew.

Ryker said I can say with certainty that the checks rendered by each are separate because they are separate companies.

Throckmorton: Separate companies and separate accounts? (Ryker responded that is correct).

Klapper asked the petitioner if 100% of the tenants in the 909 building are participating in treatment.

Ryker responded they all suffer from substance use disorder and are openly seeking treatment.

Throckmorton: With your organization across the street?

Ryker said with Indiana Center for Recovery at 1004 but it's not a requirement of treatment.

Klapper: But the people who are living there? (Ryker responded right. They do seek treatment at that location).

**Public comment:**

Michael Whatley said it looks like a non-stop party late into the evening on any given night. If anybody wanted to observe would see that this is an unusual situation going on. I've been approached by the person running this operation to buy my property and the property adjacent to me. I think it's important to note that they are looking to expand. I flipped a property on Wylie Street that is 100 yards away which is when I first encountered a lot of people who were staying there. Someone should be taking note of what is going on. They go from one building to another all night long. I can't imagine how

---

this Rehab Clinic is successful or if this is how Rehab Clinics are run. And if they are ever this close to residential areas.

Mark Jackman has lived in the area for thirteen (13) years. He lives directly across the street from the Recovery Center office and two doors down on the same side of the street from the apartment building in question. First, to say that this apartment building has nothing to do with the office building is kind of like saying a doctor's office waiting room has nothing whatsoever to do with the examination rooms. Once treatment is given across the street, the residents return to the waiting room (the apartment building), but what the neighborhood is concerned about is what the residents do in the interim waiting for their next treatment. This apartment building is staffed 24/7. The folks that show up for the midnight shift, actually bypass the office and go directly to the residence. I'm not sure what they do during the course of their evening there but staff is always available to these residents. I see staff hanging out on a particular balcony. Staff may have an apartment within this building but I'm not sure. There are loud cars, loud car stereos, and people shouting using vulgar language. There was no communication to the neighborhood when this business arrived other than the word "eviction" to those living in the apartments. Some of those folks had been there for fifteen (15) years or more. One year later, there isn't even a sign on the place. The noise started almost immediately. It took us one (1) year to get them to stop revving engines and blaring their radios. At last count there were forty-eight (48) patients. The residents yell and use vulgar language. There is not much incentive to discipline their residents. There was no problem when I began circulating this petition with twelve (12) out of fifteen (15) people signing the petition.

Morgan Sims said he was a resident of Stonehenge before it was turned into the facility it is now. Everyone in the building was given an eviction notice; we were given about a three (3) day notice from when we were initially told that the ownership had changed hands. All of this caused a great amount of stress. We had to move in with my parents for a month. We also had to commute to Columbus every day for our jobs. Fire crackers go off regularly at this location. I've been yelled at by the residents going to and from work. I've been exposed to cigarette smoke and loud radios coming from the center. Residents peel out of the parking lot in their cars. The police show up at the building regularly. Trash is all over the place; empty drug tests and cups scattered about. It's miserable having to deal with it.

Elizabeth Cox-Ash is a long-term resident of McDoel since 1991. I first heard about this and how disruptive it's been through a meeting held by Isabel Piedmont-Smith. I contacted a caseworker through Housing and Neighborhood Development approximately 1-1/2 months ago. HAND said they don't cover this as far as inspections go because it's a short-term rental. As a long-term resident, we never had a problem with the residents in Stonehenge. Now we've got problems and it's been from these folks. According to your code, *"The proposed use and development will not have an undue adverse impact on adjacent property, the character of the area, or the public health safety or general welfare."* This unit is against all of that. I request that you deny their petition.

---

Paul Ash said there is an emotional aspect to this. My neighbors have a 2-year old son and obviously they are very protective of him. They found a syringe and an empty packet of Suboxone in the gutter in front of their house and it frightened them. My neighbor's comment was, *"If we keep having this we're moving."* The City is going to a lot of expense to purchase and repurpose the hospital site. If the hospital site is ruined by this sort of thing no one is going to want to live there.

Amanda Barge said I am President of the Monroe County Commissioners. I've spent almost twenty (20) years helping people. Almost every person I've ever worked with has some connection to substance use disorder. I'm here to ask you to grant this variance because we are in the middle of an endemic. We are losing our residents, particularly young ones to opioids, alcohol, methamphetamine and other drugs. People with substance use disorder don't ask to be ill, and it's our responsibility as governing bodies to make it easier not harder to obtain treatment.

Bonnie (last name inaudible) said I have a son who struggled with addiction for a very long time. He's been in and out of those clinical/cold places where I'm sure zoning is no problem. He is thriving today. I visited the center and I know I'm not there 24-hours per day so I can't say about noise levels and disturbance for the neighborhood. But I'm hoping that we can work together and we can clean up the mess. Having apartments that they can live in was a real life experience. They also took them horseback riding and hiking. They teach them about meditation and how to live again. I have never seen my son happier.

Ryker noted that none of the testimony involves evidence about there being treatment rendered at 909 W. 1<sup>st</sup> Street. There was a comment made about non-stop partying. We live in a college town. When you live next to an apartment building like this one sometimes it happens. It's unfortunate but this is a medical district in a college town—it's a high traffic district. I'm not suggesting that people move but this is an essential part of being able to have access to treatment.

Jo Throckmorton asked if there is anywhere in the city where we have zoning that allows for a recovery center like the one in dispute.

Scanlan responded a residential Rehabilitation Clinic is allowed as a Conditional Use everywhere.

Throckmorton: So there are places in the City?

Scanlan said it's allowed in this place if they got a Conditional Use approval from the BZA. If the petitioner had applied for a Conditional use and met the nine (9) findings then we could recommend approval and you could approve it if you found that they met those.

Throckmorton said there was a comment made about staff being a part of the 909 residential building. Is that correct? (Ryker said there are some parts of the operation that I don't know, which is why Jackie Daniels is here).

Jackie Daniels said to answer your question about staff at the 909 W. 1<sup>st</sup> St. property; the office that Mr. Jackman was referring to is our housing or leasing office. We do have staff on occasion go into that office and provide a service that any other housing manager would on a property.

Throckmorton said so what he saw was housing staff? And that staff doesn't have any duties across the street with the other organization? (Daniels: No).

Throckmorton asked if there is a dedicated room within the residential facility for the staff to use. (Daniels: Not a room—it's an office).

Throckmorton asked the petitioner to clarify the difference between a lease and a short-term rental. Are both lease agreements?

Ryker explained that a lease is an agreement to allow someone to live in your property in exchange for payment.

Throckmorton: Is it attributed to a unit of length? (Ryker: No. It can be a 1-day lease or 360 days).

Throckmorton: So there really is no difference between the term lease and short-term rental?

Scanlan explained the way we use "short term rental" from the City's perspective is like a—you would call and Airbnb a short-term rental. You're not signing a lease. You are going there for two (2) days or whatever.

Throckmorton said there were a couple of comments that seem to be inflating the issue between the treatment center and the question about what this building is. I want to make it clear that it's my understanding that this is not a request for a variance to the treatment center across the street. In fact, the treatment center across the street really isn't a part of this question—correct?

Scanlan said this petition is an Administrative Appeal where we have issued a Notice of Violation (NOV) saying, "*We think that you are a Rehabilitation Clinic and because you don't have a Conditional Use, you are in violation of the UDO.*" The petitioner is saying, "*We don't think we are a Rehabilitation Clinic and that's why we're here.*"

Throckmorton: And that's 909? (Scanlan: Correct).

Throckmorton: The idea of it being a treatment center is not an issue, we're talking about the proper usage under ordinance?

---

Scanlan responded we are discussing whether or not you will uphold the department's determination that this is in fact under our definition of "Rehabilitation Clinic" and that as a result they need a Conditional Use approval to operate there.

Barre Klapper asked how long the whole operation has been here. (Ryker: I think it's been open since June 2017).

Stewart Gulyas said it seems like the issue at 909 is the use of the building. (Scanlan: Yes. We think they function as one complex).

Klapper said the BZA needs to decide if this functions as one or not. The City has determined that they function as one.

Nick Kappas: So you can only reside there if you're getting treatment across the street. (Ryker said that is the policy, yes).

**\*\*Throckmorton moved to deny AA-19-18 based on the Staff's recommendation as outlined in the staff report. Kappas seconded.**

Throckmorton said I will be voting yes to deny the appeal because the residents are only from the treatment center; the evictions are a deciding factor as well. The people that lived there were evicted for the sole purpose of making room for people that are in treatment across the street. So we're being asked to make a judgement whether this is acting like one business. Again, "acting" like one business is the deciding factor for me.

Kappas said I want to echo that "acting" as one business.

**ROLL CALL:**

**Motion carried by voice vote 3:1 (Stewart Gulyas opposed)—Administrative Appeal is denied.**

AA-20-18      **Indiana Center for Recovery, LLC**  
1004 W. 1<sup>st</sup> St.  
Request: Administrative Appeal from the Planning and Transportation Department's decision to issue a Notice of Violation of non-compliance of the UDO Section 20.02.550.  
*Case Manager: Jackie Scanlan*

Jackie Scanlan presented the staff report. This property is located across the street from 909 W. 1<sup>st</sup> Street. The building was formerly a doctor's office—one building with associated parking lot and zoned MD (Medical). This building was previously used as a medical clinic. This petition is kind of paired with the last petition (909 W. 1<sup>st</sup> St.) with a lot of the same details. We received a building permit request for a residential treatment facility upgrade at 909 W. 1<sup>st</sup> St., with this property listed as the property owner address. A little more investigation showed that Indiana Center for Recovery was leasing this

---

property and using it for what we determined was a Rehabilitation Clinic. The petitioners were notified that a Conditional Use approval is required in the Medical (MD) zoning district, and instead of filing a Conditional Use they filed an Administrative Appeal to that determination. Again, the use “Rehabilitation Clinic” is defined as *“A facility used for purposes of temporary or long-term patient treatment of victims of alcohol or drug use addiction.”* On the ICFR website there are a few items directly related to 1004 that indicate that what happens on this site is not just a medical clinic but is a Rehabilitation Clinic. *“This is the setting where our guests receive highly customized relapse recovering plans to help them develop recovery, not only today but long after their return home to their lives. For more information on different treatment, we offer Indiana Center for Recovery contact treatment experts today.”* And the building at 1004 W. 1<sup>st</sup> Street is listed as the clinical facility. Again, part of what we would consider a larger complex including the residences at 909 W. 1<sup>st</sup> Street. In addition, the property is listed on the website as *“Our clinical offices with the address of 1004 W. 1<sup>st</sup> Street.”* Again, this is information that we’ve gotten from members of the public, input that we have derived from the petitioner themselves, and the original building permit. The property operates as what the user deems “clinical facility” portion of a family-owned addiction rehab center, advertised with the address of 1004 W. 1<sup>st</sup> Street. We believe that use falls under the Unified Development Ordinance (UDO) definition of “Rehabilitation Clinic”. Again, that requires a Conditional Use approval to operate in the Medical (MD) zoning district. Staff recommends denial of AA-20-18 based on the written findings outlined in the staff report. Staff recommends adopting the *Findings of Fact* in the report and affirming our determination and denying AA-20-18.

Cheyenne Ryker is representing the petitioner. He said there are forty-four (44) employees at the Indiana Center for Recovery. There are seventy-one (71) people who are currently being treated. There have been hundreds of people who have reached recovery through the services of Indiana Center for Recovery. And while those things don’t go to the definition of “Rehabilitation Clinic”, they show the value that Indiana Center for Recovery produces in Bloomington. It’s important to understand that what you do tonight has a substantial impact on what happens to this center. The City has determined that this property is a Rehabilitation Clinic as defined in the Unified Development Ordinance (UDO). There are several reasons why you should grant our appeal. First and most important, the Indiana Center for Recovery is an out-patient facility. No one goes there and sleeps and gets treated. The second is that the facility is operating in a Medical (MD) district. This property was purchased in June of 2017. We bought it based on the notion that it was a permitted use and that we didn’t need to come to the City. In fact, if we had gone to the City and applied for a Conditional Use, we would have been saying that we are something that we’re not. And that is why we didn’t ask for a Conditional Use. The issue is whether or not we engage in inpatient treatment. The UDO describes the word “outpatient” in seven (7) other locations in the UDO. In this definition, you won’t find the word “outpatient”. If the directors of the UDO intended to include the word “outpatient” or “outpatient treatment” in the definition of Rehabilitation Clinic, they were more than capable of doing that because they used that same term in seven (7) other locations but not here. The City is saying that the Rehabilitation Clinic includes outpatient treatment, which is what we do, but it’s contrary to the entire UDO

---

and the definition of Rehabilitation Clinic. In this case, the closest and non-discriminatory definition is the definition of Medical Clinic. The definition of Medical Clinic is, *“A facility for examining and treating patients with medical problems on an outpatient basis, providing medical services that are usually by appointment only, that generally require a stay of less than 24-hours.”* This is the perfect definition and why we bought the property in the MD zoning district. ICFR is a facility for examining and treating patients with medical problems. In fact, there is a physician who is regularly on-site treating the patients at ICFR. Also, ICFR only treats patients on an outpatient basis. No one stays at the property overnight—it’s an outpatient facility. The services are medical services. Federal Law does define this type of treatment as medical treatment. For these reasons, the Board should determine that the property at 1004 is not a Rehabilitation Clinic—it’s a Medical Clinic. The Notice of Violation (NOV) should not be honored. This appeal should be granted. Ryker talked at length about death rates from opioid use, the opioid crisis, and the treatment crisis. The Indiana Center for Recovery seems to meet that need of people who suffer from substance abuse disorder. He encouraged the Board to grant their Administrative Appeal.

**BZA Discussion:**

Carol Stewart Gulyas asked the petitioner if ICFR would be successful if there wasn’t a residential center next to it.

Ryker said I think they could continue to offer treatment but the patients would have barriers to reach the treatment center. The building next to it offers that bridge to get to the treatment center so there wouldn’t be any barriers.

Stewart Gulyas said it seems to be the desire to “Have your cake and eat it to” in that they are separate (referring to both buildings) in the previous appeal, but they seem to be together in this appeal. It becomes a Rehab Clinic only if they’re together in (inaudible).

Jo Throckmorton said the City has in place the request for a Conditional Use for a facility that they believe this to be. The City is asking you to have a Conditional Use for this property. You disagree but just as you stated that, the language “temporary long-term” is being interpreted incorrectly. So my question is why not get the Conditional Use?

Ryker responded if we applied for a Conditional Use then we would be saying we are something we’re not. The definition of Medical Clinic describes exactly what we do.

Throckmorton: You don’t offer any treatment for victims of alcohol or drug use—is that what you’re stating? (Ryker: No. We don’t offer any inpatient treatment).

Throckmorton: Does the entity at the 1004 building offer treatment services for victims of alcohol or drug abuse addiction? (Ryker: Yes).



---

Throckmorton said by asking for a Conditional Use, you would be admitting that you offer treatment for victims of alcohol and drug use addiction but you're having a dispute over the word "temporary long-term?" (Ryker: No. We're having a dispute about what inpatient means).

**Public comment:**

Elizabeth Cox-Ash said Centerstone operates on S. Rogers Street and they've been around since 1966. Cornerstone does alcohol and drug treatment and counseling but they don't do housing. Cornerstone is non-profit. The ICFR is for a profit. McDoel already has Centerstone so why do we need another one within the neighborhood? Why can't we spread the love to other neighborhoods like Sterling Woods, Hype Park or Renwick? These are commercial uses that impact residences and the people living within the neighborhood in a negative manner. Why should they all be clumped together in one neighborhood? I understand the need for this type of clinic but why should all of them be put in the McDoel Neighborhood?

Greg (last name inaudible) said this is an emotionally charged issue. This specific area was zoned Medical (MD) because of the influence of the hospital. Obviously, with the changes going on in the hospital that designation is not going to get addressed until after the sale goes through, etc. Regarding the argument that "It's in our neighborhood and it's influencing our McDoel Neighborhood", it's because it is within the Medical district. I understand the concerns. This epidemic crosses all boundaries. We need more treatment facilities because there is over 100% increase since the 90's. The epidemic is going to get worse and not better. It's the whole "Not in my backyard" type of thing.

Ryker said we had a discussion between the "inpatient" versus "outpatient" distinction and 1004 W. 1<sup>st</sup> St. operates independently. You can receive treatment and not live at 909 W. 1<sup>st</sup> St. I think it's important to address the issue of profit but there are people who are treated for free. I respectfully request that you grant our appeal.

Stewart Gulyas said this issue is extremely difficult. I resent that it's being implied that we don't know that there is an epidemic or that there is a terrible need for these centers. All of this word wrangling between inpatient versus outpatient makes it clear that Bloomington wasn't ready and is not ready for all of these centers to happen. I would like to defend the idea of having a moratorium so the City could get ready and have clear language. Having said that, this should be a Conditional Use because of the neighbors. This is very complicated and I don't think this one decision is going to make a statement about Bloomington never wanting to have a Rehab Center for opioid addicts. I don't know how that helps our vote but I will probably vote against the denial.

Nick Kappas agreed that it's an emotional topic. There is a desperate need for this, but once again, we have to look and see what our ordinances say and how it's being interpreted in terms of use. And what is the course of action? It has nothing to do with what is being done on the site. I'm not sure at this juncture what I'm going to do.

---

Throckmorton said I do agree that there is a great deal of semantics going on from the petitioners about what inpatient is or outpatient is. In my opinion, it's not an outpatient facility for the actual operation of the two buildings that we've already drawn a connection with. Regarding the facts that were provided how many were truly outpatient? Eleven (11) versus fifty-seven (57). It draws that distinction even more clearly that this is operating as an inpatient operation. Further, it could be done in a community effort by requesting a Conditional Use. Therefore, I will vote to deny this appeal.

Klapper said that is the tool we have at our disposal and the way our zoning is currently setup which is through a Conditional Use. We are not against your facility or your mission. We also recognize the dire need in our community to address this epidemic. I really take issue with, "We're voting against this petition; we don't understand; we don't take to heart those problems." I hope that you do come back. It's a tough decision to make because we know there are ramifications. Some of us believe that the two facilities are functioning as one business—they are serving each other. And, one really wouldn't exist without the other or in a very different way.

Scanlan said if the Board of Zoning Appeals upholds the Staff decision for the Administrative Appeal, ICFR isn't closed tomorrow. It would just go to the next option(s) which are to file for a Conditional Use approval or take it to the courts. It just keeps going. This isn't the end like its being made out to be tonight. This is just a step where the BZA isn't making a determination about whether or not we need Rehabilitation Clinics—I think it's clear we do. They are not making a determination about how much they like or dislike them. They are just determining whether or not they agree that we have read them in a way that makes sense and that that is defensible, and that they agree with us. Depending on which way the BZA goes, we will take the next steps if necessary.

**\*\*Kappas moved to deny AA-20-18 based on Staff's recommendation as outlined in the Staff report. Throckmorton seconded. Motion carried by voice vote 3:1 (Stewart Gulyas opposed)—Administrative Appeal is denied.**

**AA-24-18      Bloomington Transitions**

411 W. 1<sup>st</sup> St.

Request: Administrative Appeal from the Planning and Transportation Department's decision regarding the classification of a use as a rehabilitation clinic.

Case Manager: Jackie Scanlan

Jackie Scanlan presented the staff report. The petition site is located at the southeast corner of 1<sup>st</sup> and Rogers Streets. The petitioner has a leased space in an existing building with parking lot area. The site is also part of the Medical (MD) zoning district. A Notice of Violation (NOV) was issued on June 28<sup>th</sup> to Bloomington Transitions that the department believed that an illegal land use was taking place in the (MD) zoning district; Rehabilitation Clinic without a Conditional Use approval. The petitioner chose to file an

---

Administrative Appeal of that decision to issue the Notice of Violation. Again, Rehabilitation Clinic is *“A facility used for purposes of temporary or long-term inpatient treatment of victims of alcohol or drug use addiction.”* The petitioner contends that they are not a Rehabilitation Clinic but only a Medical Clinic which would be a permitted use at the site as opposed to a Conditional Use. Per the website operated by the business that runs in conjunction with another business called Bedford Transitions, the drug addictions treated by the business are for heroin, opiates and prescription pain killers and that they are an outpatient addiction treatment center. Additionally, there was a lengthy article in the Herald Times in May of 2018 interviewing both owners of the business and the doctors who would be operating there about what services were offered at the site. The types of services they offer on site include Suboxone prescriptions and Vivitrol shots, which are both addiction treatment medications. Listed on the website for both locations (Bedford Transitions & Bloomington Transitions), the following is stated, *“Our goal is to provide compassionate and caring medical and counseling services that will have a profound impact on the health and wellbeing of those recovering from addiction.”* Based on statements made by the petitioners as well as on the website, and what the department understands takes place on-site, we believe that the focus of the practice appears to be treatment of those who are suffering from addiction and that the use of the property is “Rehabilitation Clinic” as defined by the UDO, and that therefore Conditional Use is required to operate at this site which is in the Medical (MD) zoning district. Staff recommends that the Board adopt the *Findings of Fact* in the staff report affirming our determination and deny AA-24-18.

Tara Ali of Slotegraaf Niehoff, PC is representing Bloomington Transitions. We have heard the definition repeatedly about what is a Rehabilitation Clinic. *“It’s a facility used for the purpose of temporary, long-term inpatient treatment of victims of alcohol or drug use addiction”*. We are purely outpatient. We don’t have any separate building out there. There are no beds. We operate 8 AM to 5 PM; people go home and they come in for their visit and that is it. We are not a facility used for the purposes of inpatient care and would therefore not meet this definition. In addition, we treat a host of medical issues. We are not limited to just treating drug treatment. We market ourselves largely in that manner, but if you talk to the doctor about 50% of the issues he’s treating are opioid issues. The other 50% are other health issues—Hepatitis, HIV, and our doctor treats those. He is providing a more holistic medical care approach. Bloomington Transitions is more appropriately categorized as a Medical Clinic. The UDO defines a Medical Clinic as a *“Facility for examining and treating patients with medical problems on an outpatient basis. Providing medical services usually by appointment only that generally requires that they have less than 24-hours.”* The staff report contends that we’re reading the definition of Rehabilitation Clinic too narrowly. They assert that the UDO definition covers any kind of treatment for alcohol or drug use addiction. The Staff’s intent of the ordinance was to limit it to inpatient. If they wanted to say outpatient they could have. The “outpatient” is used other times in the UDO but they didn’t do so here. Also, the Staff’s interpretation creates an illogical application of the language. Essentially, the Staff’s interpretation would identify a Rehab Clinic as a facility providing alcohol or drug

---

addiction on a temporary inpatient or outpatient basis, or on a long-term inpatient basis. Regarding the drug treatment care provided by Bloomington Transitions, the treatment is targeted at providing long-term outpatient care—that is not in the definition. Bloomington Transitions’ treatments are setup weekly at the beginning, then they progress to biweekly treatments. It isn’t limited to one appointment which isn’t the intent of their treatment. In order to help people they need long-term outpatient care. We are distinguishable from Indiana Center for Recovery. We provide care from 8 AM to 5 PM and only on an outpatient basis. Bloomington Transitions should be more appropriately categorized as a Medical Clinic.

**Public comment:**

Elizabeth Cox-Ash said she has no problem with Bloomington Transitions operating as a Medical Clinic. I do have a problem with it operating for drug or alcohol addictions when one-half block north of this is Centerstone. I understand under the old UDO which this is operating under, that this is allowed. However; the new Unified Development Ordinance (UDO) states there should be 3,000 feet of separation between these units. If that particular UDO were in place 6-9 months from now, they would not be able to operate their clinic and they would have to find another location. So they’re trying to sneak in (meaning to sneak in under the old UDO rules). Let them operate as a regular clinic for other medical needs and not drug and alcohol treatment.

Paul Ash said these people have a right to a doctor’s office and now they are doing something quite different. They shouldn’t be allowed, especially since Bloomington Hospital (IU Health) is now going away. There will be no need for this Medical (MD) zoning around that area. All of that or most of it will be heading out towards the eastside. We’re going to have to repurpose these medical offices the same way we repurposed the old RCA and that was successful. We need to embrace this opportunity.

Ali said other Medical Clinics also treat drug and alcohol issues. We are not trying to sneak this in. We are operating under the current UDO. We’re an outpatient, long-term treatment center. We ask that the Board not categorize us as a Rehabilitation Clinic but a Medical Clinic that is a permitted use.

**\*\*Throckmorton moved to approve AA-24-18. Kappas seconded.  
Throckmorton wanted to clarify that a “yes” vote would be to grant the appeal for the petitioner. Motion carried by voice vote 4:0—the Administrative Appeal is granted.**

*Note: Scanlan advised the BZA that they had a total of five (5) days to create Findings of Fact and submit them to Planning and Transportation given that the Board ruled against Staff’s recommendation to deny the Administrative Appeal.*

---

Scanlan announced that Bloomington Transitions *requested to withdraw their Conditional Use petition—Case #CU-26-18 since the BZA granted their Administrative Appeal. (Klapper responded so noted).*

V-25-18      **Chad Vencel**

1110 S. Covenanter Dr.

Request: Determinate sidewalk variance from sidewalk requirements.

Case Manager: Eric Greulich

Eric Greulich presented the staff report. This property is zoned Single-family Residential (RS) and surrounded by other single-family residences. The property is currently undeveloped. The petitioner is requesting a determinate sidewalk variance as part of the construction of a new single-family house. The Unified Development Ordinance (UDO) requires sidewalks to be constructed. This includes the recent changes that were done to the UDO; requires sidewalks to be constructed along a property when there is new construction, if the adjacent property fronts on a classified street. The east and north side of this property both front on classified streets. High Street is on the east side and Covenanter is on the north side. Greulich said that Maryland Dr. to the south of this is classified as a local street and there are not sidewalks on the adjacent frontage. Sidewalks are required along High and Covenanter. There are some steep slopes on the south side of the property as well as some trees in this same location. The property kind of drops off and becomes more level on the north side of the property. There is also a drainage ditch that runs along Covenanter Drive that is on both the north and south side of Covenanter. This same ditch runs along the west side of High Street which is along the east side of the property. The petitioner is simply requesting a determinate sidewalk variance along the Covenanter Drive frontage. A determinate variance means that they are not required to install a sidewalk at this time. However; should this be approved, they will record a *Zoning Commitment* that states that the sidewalk could be required at a future time. The UDO has *Findings of Fact* for determinate sidewalk variances. Some of the changes to the Unified Development Ordinance allowed us to fold in some of the old criterion for determinate sidewalk variances. Those being that the lot would be better served with the sidewalk at a future time; that there isn't plans to develop any adjacent properties where sidewalks would be installed as well as the regular development standards variances that there is something unique about the property; that there was a practical difficulty with the use of the property. The drainage ditch along Covenanter runs along several properties along Covenanter Drive. We have looked at possible plans to install sidewalks along Covenanter however; it would require certain considerations for storm water drainage along Covenanter. This would best be served by doing some kind of unified sidewalk system along all of Covenanter and not just along one property. The petitioner will be working with the Utilities Department as the culvert project moves forward sometime next year, in order to facilitate the pedestrian facilities along High St. Staff finds that the criteria has been met to approve the variance. Staff received an email after the digital packet went out. This was an email from an adjacent neighbor expressing concern about the sidewalk. The Board has a copy of this email and you can read it. Staff recommends approval of V-25-18 based on the written findings in the staff report, including the following conditions:

1. Prior to release of a building permit, the petitioner shall execute and record a *Zoning Commitment* which states that a determinate sidewalk variance has been approved, and at some time in the future a concrete sidewalk along Covenanter Drive may be required pursuant to 20.09.130(g).
2. A sidewalk or other approved pedestrian facility is required along the High Street frontage.

Chad Vencel said it's a beautiful lot with a lot of trees. We plan to build on the lot. The design being put forth will allow us to save almost every tree. I would support sidewalks at a later date. It just seems odd because there are no sidewalks around now.

**BZA Discussion:**

Klapper asked if the ditch is located in the right-of-way (ROW).

Greulich said the entire ditch is in the ROW. The property line is a standard 65-foot wide lot but the ditch is entirely in the ROW of Covenanter and is a result of Covenanter Drive. Greulich noted that it was created as part of Covenanter Drive being installed.

Throckmorton asked to see the site plan.

Vencel explained all of the trees are to the south of the site and there is a 30% slope. The proposed footprint will not go into the slope and will not disturb probably 95% of the trees—it's a very small cluster we will have to remove to build on. The home will be natural, dark materials and more of a modern/contemporary structure.

Throckmorton: They will be putting a sidewalk along High Street? (Greulich: Correct).

No public comments.

Throckmorton stated this case is not precedent setting. Everything is done on a case-by-case basis. He referred to the staff report, recommendation #1 where it states, "a determinate sidewalk variance has been approved and at some time in the future a concrete sidewalk along Covenanter Drive **"may"** be required pursuant, etc." I just want to make sure that we're all happy with the word "**may**" rather than "**will**" be required.

Greulich said it isn't a guarantee. The "may" is IF the City comes forward with any kind of a project to do something here then they would be required to do that.

**\*\*Stewart Gulyas moved to approve V-25-18 based on the written findings, including the two conditions outlined in the staff report. Kappas seconded. Motion carried by voice vote 4:0—Approved.**

Meeting adjourned.