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The Board of Zoning Appeals (BZA) met in the Council Chambers at 5:30 p.m. Members present: Klapper, Kappas, Huskey, and Throckmorton.

APPROVAL OF MINUTES: September and October 2018

****Throckmorton moved to approve the September 20th minutes. Kappas seconded. Motion carried unanimously.**

****Throckmorton moved to approve the October 18th minutes. Kappas seconded. Motion carried unanimously.**

REPORTS, RESOLUTIONS AND COMMUNICATIONS:

Jackie Scanlan, Development Services Manager, explained that Board member Huskey would like to recuse herself from hearing petition P#CU-43-18 due to a prior affiliation with the petitioner for that case. The BZA will now consist of three (3) members instead of four (4) members. Moving forward, all members must agree in order for the petition to be approved because three (3) is the majority of a five (5) member board. Scanlan noted that in January 2019 there should be a full board again.

~There are no petitions withdrawn or continued at this time.

PETITIONS:

CU-43-18 **1000 W. 1st St., LLC**
1000 W. 1st St.
Request: Conditional Use approval for a 'Rehabilitation Clinic' in the Medical (MD) zoning district.
Case Manager: Jackie Scanlan

Jackie Scanlan presented the staff report. The petitioner is requesting a Conditional Use approval for a 'Rehabilitation Clinic' in the Medical (MD) zoning district. The definition of 'Rehabilitation Clinic' in the UDO (Unified Development Ordinance) is a facility used for the purposes of temporary or long-term inpatient treatment of victims of alcohol or drug use addiction. The petition site is .44 acres in size and developed with an existing medical office building with a parking lot in the back. The proposed facility is an inpatient—only detox facility and the proposed user would use the entirety of the building for this purpose. This is considered the 1st step for someone looking to treat addiction. Patients will stay in the facility an average of (7) seven days; patients undergo a 'tapering therapy' to reduce the effects of withdrawal. At that point, they would move on to a more permanent facility. The maximum number of employees on-site will be ten (10) at any given time, while the numbers employed there will range from twenty (20) to twenty-five (25). The maximum number of patients will be twenty (20), and possibly eighteen (18) if the interior remodel will only allow that number. Approval of this Conditional Use would require the site to come into compliance with the site plan section of the Unified

Development Ordinance (UDO); some landscaping required and potential parking changes. Staff plans to work with the petitioner on that if the Conditional Use is approved. Scanlan noted that Planning and Transportation received outreach from neighbors who had concerns that were related to other facilities in the area associated with ICFR, including concerns about patients who are a nuisance or whom exemplify obnoxious behavior (see staff report). Staff recommends approval of this petition based on the written findings, including the following condition:

1. A site plan meeting the site plan requirements listed above must be approved and installed before the use can commence on the site.

Cheyenne Ryker, Attorney spoke for the petitioner. He talked about the proposed operation and the type of facility it will be. He addressed the nine (9) factors and why they believe they meet those factors. He gave a brief overview of why they think public policy considers this to be a good project at this location. The proposed facility is going to be fully licensed by the *Indiana Division of Mental Health & Addiction*. The overall purpose of the clinic (and their #1 goal) is to save lives. He said this facility will have a positive impact on the community, and thereby the public health by providing a high-level treatment option that isn't currently provided in Bloomington. He concluded by saying this a Medical (MD) zoning district so it's a high traffic area. There is also an ambulance service down the road. In his opinion there isn't much noise from the petition site, but it certainly pales in comparison to the noise generated from the hospital and ambulances down the street.

~Discussion ensued between the BZA and the petitioner regarding how the proposed facility would be used with its occupants coming and going from the facility, including the amount of noise generated from the proposed use. Also discussed were the complaints made by neighbor Mark Jackman, and whether or not Mr. Jackman's complaints were substantiated by means of a written report or citation(s) from the Police Department. They also discussed neighborhood concerns pertaining to drug paraphernalia being strewn about the area. Throckmorton questioned how patients would get to the proposed facility.

The following members of the public spoke in remonstrance: Elizabeth Cox-Ash, Paul Ash, Mark Jackman, Sam Fershar, and Jack Baker. Vince Taylor who is an Attorney in Bloomington also spoke about the proposed use and questioned what the zoning will be once the Bloomington Hospital moves from the area in 2020 to their new location. He asked the BZA to look at the future of the area and not what it is right now. He said these are questions that should be answered before a decision is made about this petition. Taylor also mentioned the fact that the McDoel Neighborhood is one of the largest historic neighborhoods in the entire City of Bloomington; a factor that is also impacted by this proposal.

The following members of the public spoke in favor of the petition: Amanda Barge is President of the Monroe County Commissioners. She thanked the petitioner for trying to make the community better by tackling the opioid epidemic. She spoke about her personal and positive experiences with the *Indiana Center for Recovery* with regard to people battling addiction. She also spoke about some of the neighbors having valid concerns in terms of the vision and direction of the neighborhood and what it means. Barge would be willing to work with Isabel Piedmont Smith (Council Representative) or anyone to try and make that issue better. Debra Hackman, Beth Sarchett, and Christy

Thrasher also spoke about the importance of having a detox facility like this in Bloomington. Many people cannot handle the detox process and will continue to die. It's crucial to have this type of service in the community versus sending people to other communities for 3-5-or 7 days where they're not connected to long-term care. This type of medical care is necessary for people seeking treatment.

Ryker spoke again for the petitioner. This facility is the only one of its kind in the McDoel Gardens area, in Bloomington or in Monroe County. He encouraged the BZA to approve the operation of this facility at 1000 W. 1st St.

~Discussion ensued between the Board and Planning staff about whether there is on-going litigation between those seeking this resolution and the City. Scanlan explained that Staff identified those other two locations at (1004 and 909 W. 1st St.) as *'Rehabilitation Clinics'* and then the petitioners filed Administrative Appeals saying they didn't think they were *'Rehabilitation Clinics'* at both locations. The BZA upheld the Staff's determination; the petitioner then filed suit in court to fight that determination, so that particular litigation is still ongoing. Scanlan explained that the Board's decision does not legitimize or de-legitimize the other two locations. Throckmorton confirmed that the ongoing litigation is trying to provide definition to the code; Scanlan agreed. Scanlan further explained that if the court agrees with the petitioner then the issue about the definition would come to an end, but if the court doesn't agree with them, then they would need to seek the Conditional Use that was requested initially. Discussion ensued about the meaning of "nuisance" as it's described in the code versus the ongoing problems as described by neighbors during the hearing and whether or not those problems actually constitutes a true nuisance. Klapper queried whether or not there could be a condition of approval about future conversations between the City and the neighborhood. She suggested quarterly neighborhood meetings (possibly) or a subset facilitated by an appropriate party from the City to address any ongoing concerns. Kappas indicated that he was hesitant to impose such a condition. He believes the petitioner would be amendable to meeting with neighbors about their concerns without requiring it as a condition of approval. Klapper went on to say it seems from neighborhood comments that their concerns aren't being dealt with. Throckmorton didn't discount the concerns raised by residents in the area; however, the hospital is only ½ block away. This facility is essentially surrounded by commercial buildings except for a small, connector to another building across the street and then 1st Street comes to a dead-end with more commercial buildings. Throckmorton went on to say it's difficult to see how it could be considered a nuisance or having an adverse impact because it's bounded by those types of businesses and other service agencies. Klapper agreed with Throckmorton. She also agreed with the Staff's findings. In her opinion, this organization has some history already in the neighborhood. Klapper said she is looking for a way for that issue to be addressed and for there to be a balance, and also give a voice to some of the community issues, which is why she made the suggestion about meetings between the City and the neighborhood. Kappas said he thinks that type of condition should apply across the board to other social service agencies in the community. Throckmorton clarified that the Board is trying to find a way to assure that there is a manner by which concerns are addressed in a mutually beneficial manner. Klapper said maybe it's a matter for the commission that was represented by Amanda Barge.

****Kappas moved to approve CU-43-18 based on the written findings, including the one condition outlined in the staff report. Kappas questioned the phrasing of the condition so Scanlan restated it. Kappas re-read Condition #1 for clarity. "A site**

plan meeting the site plan requirements listed above must be approved and installed before the use can commence on the site.” Klapper seconded.

Kappas said this is a matter of economics. This happens a lot when you're trying to establish a public good—and it's expensive. It's an expensive market and in order to operate you have to find what is best suited for these services. Unfortunately, McDoel is a product of local industry back in the early 1900's. McDoel has continued to flourish but the hospital was built nearby and there is a lot of medical uses in existing commercial buildings. Who's to say these services won't move in the future when the hospital moves—no one knows. At this juncture, with a detox facility so close to the hospital it fits. He apologized that there are so many in the area and that it's congested. However; Kappas said he thinks these service agencies are trying to do the right thing and that it's not anyone's purposeful intent to have a negative impact.

ROLL CALL: Motion carried 3:0—Approved.

Meeting adjourned.