

**MINUTES OF A REGULAR MEETING  
OF THE PLANNING COMMISSION  
CITY OF INDEPENDENCE, OHIO  
August 3, 2021  
Held Virtually Via Zoom**

Chairman Lytkowski called the meeting to order at 5:53 p.m. August 3, 2021 and the following responded to Roll Call:

**PRESENT:** Chairman Dale Lytkowski  
Mayor Gregory P. Kurtz  
Vice Mayor David Grendel  
Cheryl Chase  
William Gutermuth

**OTHERS**

**PRESENT:** Michael Gero, Building Official  
Gregory J. O'Brien, Law Director  
Jeff Markley, City Planner  
Jessica Hyser, Economic Development Director  
Don Ramm, City Engineer

**Old Business:**

**Approval of Minutes of the Planning Commission meeting held on July 6, 2021.**

**Approval of Minutes of the Special Planning Commission meeting held on July 15, 2021.**

**New Business:**

- 1. 6599 Granger Road, Cleveland Cannabis College, PPN 561-03-005** – Seeking a Special Use Permit to operate an adult education facility within an existing building.
- 2. Rockside Woods Blvd., Parcel 3 and Parcel 5, Hub Valley Realty & Rockwoods 3 Ltd.** – Proposed lot split and consolidation.
- 3. 6160 Brecksville Road, Discount Drug Mart, PPN 561-26-004** – Proposed addition to existing building.

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Chairman Lytkowski stated that all the Planning Commission members have received the Minutes of the Planning Commission meeting held on July 6, 2021. He asked if there were any additions or corrections to those Minutes. He stated that if not, he would entertain a motion.

**A motion was made by William Gutermuth, seconded by Vice Mayor Grendel, to approve the Minutes of the Planning Commission meeting held on July 6, 2021.**

**ROLL CALL: Yeas: Gutermuth, Grendel, Chase, Lytkowski, Kurtz**  
**Nays: None**  
**MOTION CARRIED**

Chairman Lytkowski stated that they also had a Special Planning Commission meeting held on July 15, 2021. He asked if there were any additions or corrections to those Minutes. If not, he would entertain a motion.

**A motion was made by Mayor Kurtz, seconded by William Gutermuth, to approve the Minutes of the Special Planning Commission meeting held on July 15, 2021.**

**ROLL CALL: Yeas: Kurtz, Gutermuth, Grendel, Chase, Lytkowski**  
**Nays: None**  
**MOTION CARRIED**

Chairman Lytkowski stated that the Planning Commission had a couple of items on the agenda.

**6599 Granger Road, Cleveland Cannabis College, PPN 561-03-005** – Chairman Lytkowski asked Mr. Laver to fill the Planning Commission in one more time for the Regular meeting.

Mr. Laver thanked the Planning Commission for taking the time to review the matter. He stated that he also had the building owners, Marybeth and John Baron, Joe Balog, who was an investor in the project, Austin Biggs who was the President and Owner of Cleveland Cannabis College and Joe Zumpano and Chad Whitmer and Eliot Kajewski on the call as well.

Mr. Laver stated that what they were proposing to do was take an approximately 30,000 square foot building that has remained mostly vacant and under-utilized within the City for five plus years and re-develop it as the Cleveland Cannabis College's new home. He stated that they were currently in the Independence Tower building. He stated that they were split on two floors, on both the first and fifth floor; and ideally they would like to be on one floor in a single-story building which this building would fit the bill for them.

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Mr. Laver stated that they were proposing to go into the southwest corner of the existing office space shown in the blue color there. The red would be common area for restrooms and circulation, and they would take to market for lease the green colored office space in the front and the orange warehouse space in the back.

He stated that Cleveland Cannabis College currently offers both online and in-person learning. Most of their curriculum would be online, being about 70% and 30% in-person. He stated that they typically utilize approximately 30 parking spaces on an average day from 9:00 a.m. to 5:00 p.m. They currently have about a million dollars in payroll that they pay into the City of Independence, and they were growing. They have been around for five years within the community. He stated that they believe in their experience of re-developing the building, it would allow them enough parking to lease the remaining warehouse space and take to market the office space of the remaining parking that would be left in the building as part of the re-development and approval of the use.

He stated that they have talked with the adjacent tenant, Strong Style, and their Director of Operations about their intentions of moving into the building; and in a neighborly way wanted to have an understanding of their parking needs and hours and when the peaks would most likely be, being 9:00 a.m. to 5:00 p.m. and their hours of being after hours from 5:00 p.m. to the 8:00 p.m. range when they would really be busy. He stated that they had really good meetings on that topic, and they feel comfortable in moving forward with the re-development of the building with Cleveland Cannabis as the anchor tenant and the catalyst going forward to bring additional jobs to the City of Independence.

Mr. Laver stated that he thought that was really a pretty good summary of where they were with the project. He stated that it was before the Commission that they were asking for the approval to move forward. He asked if there were any questions.

Vice Mayor Grendel asked Mr. Laver when he would anticipate, if it would get approved and everything, that they will be moving in.

Mr. Laver stated that if they get approval on this, they would move forward with their architectural plans to submit to the Building Department; and they would close on the building, engage contractors to do the work and move them in approximately in five months.

Law Director O'Brien stated to Mr. Laver that he was wondering if he would agree that the Planning Commission would restate so they wouldn't have to go over them again and incorporate into this meeting all the testimony and statements and representations made during the Public Hearing, in particular regarding restrictions of parking for future use; and the fact that they were in a flood plain. He asked Mr. Laver if he was okay with that.

Mr. Laver replied yes.

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Law Director O'Brien stated that would be the same for John and Marybeth Baron and Joe Balog. He asked if there were any objections into incorporating that into the Minutes of this meeting so they don't have to re-hash that.

Mr. Balog replied no objection.

Mr. & Mrs. Baron replied no objection.

Chairman Lytkowski asked if there were any other comments.

Law Director O'Brien stated that he felt more comfortable to incorporate by reference in full the Minutes of the Public Hearing into the Minutes of the Planning Commission; and if that would get approved, he would feel better doing it that way.

Chairman Lytkowski asked Mayor Kurtz if he had any comments.

Mayor Kurtz stated that based on the conversation earlier about limiting the City's exposure or expectation relative to flooding issues and the parking variances. He stated that he didn't have any other objection. He stated that the current owner has been a gentleman for many, many years. He has done a great job. He stated that he was sorry to see him leave, but you move on.

Chairman Lytkowski asked Ms. Chase if she had any comments.

Ms. Chase stated that she had no concerns.

Chairman Lytkowski asked Law Director O'Brien if he wanted to draft a motion.

Law Director O'Brien stated that first and foremost, the motion would be to incorporate by reference in total all statements and questions and comments and admissions from the Public Hearing into the Minutes of the Planning Commission for this applicant.

**A motion was made by Vice Mayor Grendel, seconded by William Gutermuth, to incorporate by reference in total all statements, questions, comments and admissions from the Public Hearing into the Minutes of the Planning Commission for the applicant.**

**ROLL CALL:           Yeas: Grendel, Gutermuth, Lytkowski, Chase, Kurtz**  
**Nays: None**  
**MOTION CARRIED**

Law Director O'Brien stated that the motion would be for recommendation from the Planning Commission to City Council for the approval of a Special Conditional Use

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Permit to operate an adult education facility within the existing building located at 6599 Granger Road, PPN 561-03-005.

Chairman Lytkowski asked the Law Director if the Planning Commission back in 2017 put a time limit on the Conditional Use Permit.

The Secretary stated that they did not put a time limit on it. She checked this afternoon.

Chairman Lytkowski replied thank you. He stated that he would entertain a motion to that effect.

**A motion was made by William Gutermuth, seconded by Vice Mayor Grendel, to recommend to City Council for the approval of a Special Conditional Use Permit to operate an adult education facility within the existing building located at 6599 Granger Road, PPN 561-03-005.**

**ROLL CALL:           Yeas: Gutermuth, Grendel, Chase, Kurtz, Lytkowski**  
**Nays: None**  
**MOTION CARRIED**

Chairman Lytkowski thanked the applicants for their time. He wished them good luck with the project. He stated that it will be another fine asset for the City of Independence.

Mr. Laver thanked the Chairman and thanked Economic Development Director Hyser for helping them out. He also thanked Mayor Kurtz for working with them on the project.

**Rockside Woods Blvd., Parcel 3 and Parcel 5, Hub Valley Realty & Rockwoods 3 Ltd.** – Economic Development Director Jessica Hyser stated that the project was actually a really great one. She stated that it stems from the work that they were doing with CBIZ and Welty. She stated that in order for that project to move forward, there would need to be some cleanup work that they would need to do.

She stated that as many of the members may know, Parcel 5 which was located to the north was a slag landfill pit at one point and time; and there was a little bit of contamination that spills over onto Parcel 3, which was the parcel to the south. She stated that in order to make the parcel a little bit easier for Welty Rockside Woods Visibility to take title to it, they were proposing to do the lot split and consolidation which would be moving about .6 acres of contaminated land over onto Parcel 5; and in return, moving about .7 acres of non-contaminated land to Parcel 3.

Mayor Kurtz stated that by way of reference, this was always anticipated and requested irrespective of the current development that has been proposed.

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Economic Development Director Hyser stated that they also have on the line with them Engineer Don Ramm and Todd Sciano with Bohning & Associates for any other questions that anyone might have regarding this property.

City Engineer Ramm stated that Bohning & Associates was able to put together a more formal draft, but it very closely mirrors the previous exhibit that was estimated at the time. He stated that it was near identical, and again it was an arbitrary line that would follow the historical landfill limits from the original operation and permit.

Chairman Lytkowski stated that he had one question. He asked if it would affect (inaudible) by any chance.

Economic Development Director Hyser replied no.

Chairman Lytkowski asked Vice Mayor Grendel if he had any questions.

Vice Mayor Grendel replied no. He stated that what they received today in their e-mail was a more exact type of map then of the proposed change. He stated that he had no problem at all.

Chairman Lytkowski thanked Vice Mayor Grendel. He asked Ms. Chase if she had anything.

Ms. Chase replied no.

Mr. Gutermuth stated that he didn't have any questions.

Chairman Lytkowski stated that he would entertain a motion for approval of this lot split and consolidation.

**A motion was made by Vice Mayor Grendel, seconded by William Gutermuth, to approve the lot split and consolidation.**

**ROLL CALL:        Yeas: Grendel, Gutermuth, Kurtz, Chase, Lytkowski**  
**Nays: None**  
**MOTION CARRIED**

**6160 Brecksville Road, Discount Drug Mart, PPN 561-26-004** – Mr. David Boodjeh was in attendance on behalf of Discount Drug Mart.

Chairman Lytkowski asked Mr. Boodjeh to tell the Planning Commission what he wanted to do with Discount Drug Mart.

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Mr. Boodjeh stated that what they were proposing was a 960 square foot addition to the back of their building to give them additional staging area for the trucks that they were unloading. He stated that every time a truck was unloaded, it fills up the back room; and because of the business it has become more frequent that they were using an elevator that they have there to take the merchandise to the second floor. He stated that when they go to head to work on it, they have to bring it back down. He stated that it would be much better for them labor wise if they could stage it on the main level.

Vice Mayor Grendel asked would any unloading take place on that road in the back of the store?

Mr. Boodjeh replied not at all. He stated that there were no windows, not access whatsoever.

Vice Mayor Grendel asked if that went all the way to the curb of the road.

Mr. Boodjeh stated that what they were looking at was the building would go to about one foot from the curb allowing a guardrail to be placed.

Mayor Kurtz stated that he drove that yesterday, and the one challenge would be that when you would get past that building, that was when they exit from the prescription line. He stated that the Economic Development Director suggested was that they look at it more globally since there were new owners for the adjoining shopping center. He stated that they were wondering if there would be an opportunity to do something more globally rather than just kind of like stick that in there.

Mr. Boodjeh stated that he was not sure he understood what globally would mean.

Mayor Kurtz stated that the fact that the driveway was owned by an adjoining property owner, and the question was if there was an opportunity to reconfigure something to make it better between the two properties and more effective and efficient.

Mr. Boodjeh asked if the Mayor meant being in the plaza.

Mayor Kurtz replied no. He stated it would be between the two properties, was there some way of reconfiguring, come up with a different expansion proposal that would take into consideration the relationship with the neighbor. He stated that was just the Economic Development Director's concern.

Mr. Boodjeh stated that if they would notice, the area where the addition was planned, the ground floor of the current building would be at least five foot below that; so the addition height would be about eight foot. That would taper down as you would go forward towards Brecksville Road. He stated that he didn't know where else they could put

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something like that. He stated that as you would unload the truck, you could see the dock, they would pull the product in; and it would go right back into that area.

Economic Development Director Hyser stated that she wanted to elaborate a little bit on what the Mayor was saying. She stated that when you were looking at the site layout of the current building with the addition, one of the challenges would be that it would cover not just the current property owner's property line but also the adjoining property owner. She stated that in that area, according to building code, there would need to be a fire wall; and Building Official Gero could speak a little bit more eloquently to that. She stated that when you look at the property line, and there have been a couple of additions to the property; what would be the long term plan. She stated that the addition would only extend 12 feet out. She asked if there would be additional capacity needs of the store going forward? If so, potentially there could be some opportunities for the adjoining property owner to do a little bit of re-development as well. She stated that in that plaza there was potential for re-development in terms of creating some end caps for that plaza; so maybe there could be a better solution for everybody if they bring both parties together to overcome of the challenges that Mr. Boodjeh was experiencing being so tightly landlocked on that side as well as some future re-development opportunity for the adjoining property owner.

Mr. Boodjeh stated that he understood now what she was saying. He stated that there were no plans for future development, nor would there be a need. He stated that this store, compared to their other 78 stores, was 20,000 square foot larger than those stores. He stated that there was no reason to expand it any more; but there would be the need to open up the area where the merchandise would be being delivered into. He stated that it was just crammed back there. He stated that they would use that space, that would be as far as they could go with the 12 foot. He stated that he understood about the fire retaining wall. He stated that they have approached the owner of the other property; and it might be a possibility that they will sell now as of yesterday. He stated that they made an offer, but they haven't decided if they are going to do that or not.

Mr. Boodjeh stated that as far as future plans, they have adequate parking, the sales floor, storage in the upstairs; it was right at the dock it was very tight for them.

Building Official Gero stated that if may interject, the proposal that was currently proposed by the architect crosses a property line, and Ohio Building Code would require that at any property line that there will be a certain amount of fire resistance or separation distance put into play. He stated that in essence, what it would boil down to would be you cannot build a building across a property line. He stated that was why they have so many consolidations over the last few years because this was something that has changed in the code over the last few years. He stated that what they in essence would be doing, they would have to be building a fire separation wall down the center of the strip. He stated that what they have proposed were a couple of doors. He stated that unfortunately



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as presented, this would not function. Now whether or not they could come up with a design that could work to limit and reduce the amount of penetrations in that separation wall, he doesn't know. He stated that would be something for the architects to examine the code and determine whether or not they would be able to even make that happen.

The Building Official stated that at this point the best proposal, the best possibility that he sees would be that Mr. Boodjeh and Drug Mart would be able to acquire that extra property; and then they would be able to build that wall without the fire wall. Then that would be something they would have to figure out what would work. He was not sure if that would be the best viable solution for him as it was proposed.

Mr. Boodjeh stated that he would have to agree with that. He stated that was not the best solution for them. He stated that it was not making the best use of that 960 square feet.

Chairman Lytkowski asked about the timing of the project.

Mr. Boodjeh stated that he was hoping to start after this meeting.

Mr. Gutermuth asked where was the property line at?

City Engineer Ramm indicated on the drawing where the property line was located.

Mr. Gutermuth stated that the wall itself was not really an issue for the Planning Commission. That would be someone else. He asked if they would be able to do something. If Planning was able to approve this, that would be for someone else to work out as far as what the actual building to meet code would be.

Law Director O'Brien stated yes, but if he listens to the Building Official, he doesn't know if it could take place. He stated that he wouldn't think the Planning Commission would want to have a compliant building that they would approve versus approving something and placing it all in the Building Department. He asked the Building Official what were his thoughts?

Building Official Gero stated that he would think that they should have, before Planning Commission would approve this, that they would be presenting something that could be considered; and as Mr. Boodjeh even said, putting a separation in that space was not the best use for him. He stated that maybe it should be tabled at this point and some more negotiations or attempts to negotiate to acquire some of that property, or ask the Economic Development Director stated the structure, the addition in some way, to make an improvement that would work for the long term.

Mr. Boodjeh stated that he would agree with that. He stated that his question was, again that was not the best use for that area; but he would like to ask if they could move

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forward and then come back with the property owner with the purchase of it that they would make.

He stated that as far as the structure itself, the fire separation wall was not a bearing wall. It would just be a matter of just eliminating it. He stated that he was assuming that would have to go to another Planning Commission meeting. He asked if there was any way they could get a conditional approval and then proceed from there to follow up with the additional information as far as the property purchase?

Chairman Lytkowski stated that he heard Mr. Boodjeh, and they have been a great citizen for Independence. He wanted to face that fact. He stated that if the Planning Commission could accommodate them, he believes they should do it. He stated that a conditional approval would not bother him one bit. He was sure that the Law Director could draft the conditional approval.

Law Director O'Brien stated that he will tell him that he appreciates the confidence, and he believes that up to this point he has always been able to craft something, but he doesn't know how to craft something that would straddle over a property line. That was going to be his question because he has been doing this a long time, he hasn't seen where the Planning Commission has allowed a building to be built on property that was not owned, and now he knows why because of the Building Official's citation. He doesn't even know how they would do that. He stated that it could be subject to, he would thin the only practical approach would be to have Drug Mart acquire the land they need to do a lot split and consolidation with their current property; and then probably there would be the need of a variance for a building structure next to a lot line. He doesn't speak for the Board of Zoning Appeals, but he doesn't see a problem there considering the lot line would be just a private driveway.

Mr. Gutermuth stated that he wanted a quick point on clarification on that. He asked if they were asking to build over the property line or just so close to it that it would trigger the fire wall necessity? He didn't think by the initial prints that were given that they were actually crossing the line. He asked if he was mistaken there?

Building Official Gero stated that the proposal, if they would look at the drawing that was provided, they would be coming out 12 feet. The property line was about 6 feet, and they want to come out 12 feet.

Mr. Gutermuth stated that he didn't realize that. He stated that made a lot more sense. He just thought they were giving right up to the line.

Mayor Kurtz stated that it would probably make sense to table it until they could have more information and not to try to shove it into a bottle.

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Mr. Boodjeh stated that he can't argue with the Mayor there. He stated that it was a matter of moving along. He stated that the holidays were coming up, and it would take time to get bids. He stated that he knows that they have to follow the code and regulations; and he doesn't mean to put anybody on the spot. He stated that he feels confident, and again these things as far as the purchase; it just came up yesterday. They haven't had time to decide what to do; but ultimately he believes they want to go forward with it. So, what he would like to do then, he would suggest tabling the matter; and they will provide the Commission with the Purchase Agreement as well as the original addition plans that they had submitted which did not have the fire separation wall.

Mayor Kurtz stated that he appreciates Mr. Boodjeh's flexibility. He thinks that he could communicate any progress and any questions relative to the project with the Economic Development Director that she could advise us and see how they can help in the future once Mr. Boodjeh dots his i's and crosses his t's.

Mr. Boodjeh stated that sounds fair.

**A motion was made by Mayor Kurtz, seconded by Vice Mayor Grendel, to table the matter.**

**ROLL CALL:           Yeas: Kurtz, Grendel, Lytkowski, Gutermuth, Chase**  
**Nays: None**  
**MOTION CARRIED**

Chairman Lytkowski asked if there was anything else for the Planning Commission.

Mayor Kurtz stated that they may be going in the future, one of the future Planning Commission meetings, they may be going into Executive Session on some legal and real estate issues; but he will keep everyone informed as to any progress on some of the proposals.

Chairman Lytkowski asked if the City Planner was on the meeting today.

City Planner Markley stated that he was on the meeting.

Chairman Lytkowski stated he had his favorite question.

City Planner Markley stated that he was prepared for it. He stated that they may recall that he forwarded an email from Robert Misbrenner of Kent State on July 23<sup>rd</sup> was when he received and forwarded that email. He stated that he was the Project Manager for the sustainability energy conservation and commissioning for Kent State. He stated that it indicated the reasons why they could not do mounding or why they could not put larger plants along the west side of the highway; and also why they would have a challenge

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doing anything on the south side, specifically that it would affect the solar gain on the panels.

The City Planner stated that they have upgraded their plantings slightly going from what amounted to 18 inch tall plants to 3 to 5 foot tall plants. He wanted everyone to bear in mind that the fence was 6 to 8 feet, he believes that it varies in height. He stated that they did comment that they put in a black vinyl coated fence per Planning Commission's recommendation; but they are disinclined to do anything more with plantings, specifically those that he recommended. He believed that he had Green Giant arborvitae which would actually get to a height that could screen off the views from the highway and then again from the south side. He stated that they have agreed to plant to 3 to 5 foot tall more of an upright Juniper which will grow about 12 feet high and 8 feet in diameter. It certainly will not provide any immediacy to the screening at all. It probably puts them out 5 years, maybe more before it would get to a height that begins to get beyond the height of the fence which was as they know 6 to 8 feet. So, it will take some time for that to happen. They will put it inside the fence so that they don't have to have access from the highway side for their staff. They were citing safety concerns. They were citing requirements in an ODOT agreement should they sign it which would not be financially or operationally feasible in their words.

So, the long and short of it was they have gone from 18 inch plants to 3 to 5 foot plants; and that was about it.

Vice Mayor Grendel asked so they were saying anything taller than that would affect the amount of sunlight they were able to get on those panels and everything?

City Planner Markley replied correct, the solar gain. He stated that he believed that he got the email to Debi and to the Mayor's office and to Greg O'Brien. He stated that he tried to include Don Ramm, and he doesn't know if the rest of the Commission got it forwarded to them. He was happy to circulate it again if they want to see the response.

Vice Mayor Grendel stated that at least it was somewhat better.

Mayor Kurtz stated that he needs to pass the response around. He stated that he knows that the Chairman has been pretty adamant, and they are going to have to review this and look at their legal options.

City Planner Markley stated that was why he passed it along to the Law Director also.

Chairman Lytkowski stated that he appreciated the City Planner following up.

City Planner Markley stated that he was sorry that it wasn't going the way they would like.

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Mayor Kurtz stated that when the City Planner passes things out in the future, if he expects a response, if he doesn't get a response from somebody with a narrative, follow up on that. That way they can make sure that it will be communicated thoroughly on these issues.

City Planner Markley replied absolutely.

Chairman Lytkowski asked if there were any other issues or any other comments.

Vice Mayor Grendel asked if anything was happening with Saucy Brew Works. Any word on what they were doing?

Mayor Kurtz stated that he thought they had a meeting scheduled with them next week.

Economic Development Director Hyser replied we do.

Mayor Kurtz stated that there were some recent developments for downtown and some potential positive changes on the building they approved recently; so as long as there were positive changes, they will entertain them. He stated that he will be able to speak more to that at the Council meeting next week. He stated that there were a lot of moving parts right now, and they expect expediency and commitment on behalf of the City. He stated that he thinks the Planning Commission, City Council and all of the advisors were doing a great job of keeping pace with developers. He stated that they were very much appreciative of their partnership and effort on their part. He stated that he thinks the Planning Commission members and Dave, he will talk to Council next week; but the team that they have assembled with the Economic Development team under Jessica's tutelage with Finance Director Blaze and all the other advisors and Don Ramm and some others; they are doing a great job with keeping pace with some of the new ways of having to bring customers to our City. We are keeping pace with them, and it's great to be able to say that.

Vice Mayor Grendel said thank you Mayor.

Mayor Kurtz stated that we may have to call another Special Planning Commission meeting just to outline some of these things coming around the corner pretty quickly. If you would entertain that, I would very much appreciate it. This is hot off the presses.

Chairman Lytkowski asked if there were any other comments. There were none.

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**There being no further business, the Planning Commission meeting of August 3, 2021 was adjourned at 6:36 p.m.**

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**Chairman Dale Lytkowski**

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**Debi Beal, Planning Commission Clerk**  
Minutes Unapproved at Time of Release 08/04/21