

17-104AA – Perimeter West PCD, Subarea 1 Memory Care Facility Use

Site Location

North of the intersection of Perimeter Drive and Hospital Drive.

Proposal

An Administrative Appeal of a determination by the Planning Division that a memory care facility is not permitted as a hospital within Subarea 1 of the Perimeter West Planned Commerce District.

Zoning

PCD, Planned Commerce District (Perimeter West)

Property Owner

PIV Realty Ventures LLC

Applicant/Representative

The Griffin 105 Group LLC/Aaron L. Underhill, Esq.

Applicable Land Use Regulations

Zoning Code Sections 153.002(A)(8)(d), 153.026(A)(4), and 153.231(F)

Staff Recommendation

A. Disapproval of the Appeal

Contents

1. Context Map.....	2
2. Overview	3
3. Criteria Analysis	4
4. Recommendation	5

Case Manager

Claudia D. Husak, AICP, Senior Planner/Current Planning Manager

(614) 410-4675

chusak@dublin.oh.us

Summary

The applicant is requesting the Board of Zoning Appeals overturn a determination by the Planning Division that a memory care facility is not considered within the Zoning Code definition of "Hospital" and is therefore not permitted within Subarea 1 of the Perimeter West Planned Commerce District.

Zoning Map



Next Steps

If the requested appeal is approved by the Board, the applicant is eligible to file a Final Development Plan application with the Planning and Zoning Commission for the construction of the facility and all associated site improvements.

If the requested appeal is disapproved by the Board, the applicant will be required to apply for a rezoning of the property to permit a memory care facility.

1. Context Map

The site is located on the north side of Perimeter Drive, across from the intersection with Hospital Drive.



 <p>City of Dublin</p>	<p>17-104AA Administrative Appeal Memory Care Facility Use 6700 Perimeter Drive</p>	<p>0 150 300 Feet</p> 
---	---	---

2. Overview

A. Background

The Planning and Zoning Commission reviewed and provided feedback on an Informal Review for the development of an assisted-living and memory care facility in April 2016. The site was zoned as part of 83 acres to PCD: Planned Commerce District (Perimeter West) on November 11, 1999.

1) Natural Features

No natural features exist on the site.

2) Historic and Cultural Facilities

There are no historic or cultural facilities present on this site.

3) Surrounding Land Use and Development Character

- North: PCD, Planned Commerce District, Perimeter West (Office and Medical Office Buildings)
- East: PCD, Planned Commerce District, Perimeter West (PNC Bank)
- South: PCD, Planned Commerce District, Perimeter West (Office Building ,across Perimeter Drive)
- West: PCD, Planned Commerce District, Perimeter West (Medical Center)

4) Road, Pedestrian and Bike Network

The site has 370 feet of frontage along Perimeter Drive. An internal service road along Perimeter Drive provides internal circulation to the parcels within this Planned District. There is a sidewalk located along the southern site boundary.

5) Utilities

The site is served by public and private utilities with water and storm provided along the north side of Perimeter Drive and sanitary provided to the west on the adjacent parcel. DubLINK is also located along the north side of Perimeter Drive.

B. Proposal

1) Use Appeal

The zoning of this site is included within the approved development text for Perimeter West, Subarea 1 (Exhibit C) which permits the permitted uses within Section 153.026A of the Zoning Code. This Zoning Code Section is the Suburban Office and Institutional District and permits administrative and businesses uses, professional offices, institutions (including hospitals), organizations and associations, and daycare centers.

The applicant is proposing an elderly care facility for memory care on this site and contends that this use fits within the definition of hospital per the Zoning Code.

The use of 'hospital' is defined in Zoning Code Section 153.002(A)(8)(d) as

“Any facility in which in-patients are provided diagnostic, surgical, obstetrical, psychiatric, or rehabilitation care for a continued period longer than 24 hours, or a medical facility operated by a health maintenance organization.”

Planning reviewed an informal application for a similar facility proposed for this site in 2016 and, at that time, considered the informal proposal to fit within the definition of a hospital.

In reviewing the current proposal for a memory care facility, considering the definition of 'hospital' contained in the Zoning Code and reviewing the issue with the Law Director, Staff concluded that any earlier interpretation that a memory care facility meets the definition of 'hospital' was made in error. Additionally, recently approved and constructed facilities for the elderly, including memory care facilities, have all been located in Planned Districts where this use was specifically included.

The applicant approached the City of Dublin with a proposal for a specialized memory care/Alzheimer care facility on the subject parcel on August 21, 2017. On September 6, 2017, Staff determined that the proposed facility is not included or contemplated in the definition of 'hospital' and therefore a rezoning would be required. Staff issued an official memorandum with this decision to the applicant on September 11, 2017 (Exhibit B). The applicant is requesting an Administrative Appeal to the Board of Zoning Appeals to reverse Planning's decision.

3. Criteria Analysis

Zoning Code Section 153.231(F) states that an appeal may be taken from any person or any governmental department affected or aggrieved, and review any order, requirement, decision or determination where it is alleged by the appellant that there is error or misinterpretation in any order, requirement, decision, grant or refusal made by an administrative official or body charged with the enforcement and administration of this Code.

In deciding the appeal, the Board is to determine whether or not the decision that was made was done so using the proper requirements and standards in this Code. The Board is limited to the information that was available to the administrative official or body who made the decision being appealed. Additional testimony is not appropriate.

After a determination that the administrative official or body making the decision did so improperly, the Board may reverse or affirm, wholly or partly, or may modify, the order, requirement, decision or determination appealed from, and may make an order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the administrative official or body from whom the appeal was taken.

A. **Administrative Appeal to the Board of Zoning Appeals Basis of Decision[153.231(F)]**

4) **The Board shall determine whether or not the decision that was made was done so using proper requirements and standards in this Code.**

Standard Met. While Staff has previously interpreted that a facility providing residence and care for the elderly is considered to fit within the definition of hospital, additional information and research specific to this proposal has concluded that this previous interpretation was made in error and that a memory care facility, while providing medical care, is primarily intended to provide housing for residents. Only uses designated as permitted are allowed

as a matter of right within the zoning district and it is Staff's interpretation that the proposed use is not permitted.

4. Recommendation

Administrative Appeal

Planning recommends that the Board of Zoning Appeals **affirm** its determination that a memory care facility is not included in the Zoning Code definition of 'hospital' and therefore not a permitted use in Perimeter West, Subarea 1.