



CITY OF PATASKALA PLANNING AND ZONING COMMISSION

City Hall, Council Chambers
621 West Broad Street
Pataskala, Ohio 43062

STAFF REPORT

December 7, 2016

Rezoning Application ZON-16-008

Applicant:	Michael Scharfenberger, NCM Realty Co.
Owner:	Karen Davis & Michael Sharfenberger
Location:	72 N. Hazelton Etna Rd. & 144 E. Broad St.
Acreage:	1.94 acres & 4.16 acres (6.1 total acres)
Zoning:	PRO – Professional Research Office and R-20 – Medium Density Residential
Request:	Requesting to rezone properties from PRO - Professional Research-Office and R-20 – Medium Density Residential to PRO - Professional Research-Office pursuant to Section 1217.10 of the Pataskala Code.

Description of the Request:

The applicant is seeking to rezone the first property (Davis property) to allow for the expansion of an existing nursing care facility and second property (Pataskala Oaks property) to correct an error on the zoning map.

Staff Summary:

The first property (Davis property) is located at 72 North Hazelton-Etna Road and is 1.94 acres in size. The property currently contains a 1,425 square foot home constructed in 1960, a 2,400 square foot pole barn constructed in 1978 and a 1,000 square foot and a 2,400 pole barns both constructed in 1940. The applicant is seeking to rezone the property from the R-20 – Medium Density Residential district to the PRO – Professional Research Office district so that the property can be used as part of a potential expansion of the existing nursing care facility.

The second property (Pataskala Oaks property) is located at 144 East Broad Street and is 4.16 acres in size. The property is split zoned; approximately 0.65 acres is zoned R-20 – Medium Density Residential while the remaining portion of the property is zoned PRO – Professional Research Office. The property contains an approximately 12,200 square foot portion of the existing nursing care building, of which approximately 3,300 square feet is located in the R-20 – Medium Density Residential District. The applicant is looking to rezone the entire property to the PRO – Professional Research Office district to correct the split zoning of the property and to correct the nonconforming use of the R-20 portion of the property.

Staff Review:

The following summary does not constitute recommendations but merely conclusions and suggestions from staff.

The future land use map designates the Davis property for Medium Density Residential (R-20) which is defined by the comprehensive plan as a residential land use for single-family homes. Although the future

land use map designates the property for a single-family residential land use, staff would question the likelihood of the property to be used in that manner in the future. Due to the location at the corner of Broad Street and State Route 310, the property is not well suited for a residential use, particularly single-family. Although the property does abut existing single-family homes, the PRO district focus is on office uses rather than more intense commercial uses such as gas stations or restaurants. Furthermore, adequate screening would be required should the property develop; any development of this property would require approval by the Planning and Zoning Commission through the Transportation Corridor Overlay District.

The future land use map designates the Pataskala Oaks property for Office which is defined by the Comprehensive Plan as office uses. Rezoning the entire property to PRO would not only bring the property in line with the future land use map, it would remove the split zoning and eliminate the nonconforming use. Staff spoke with the Law Director, whose comments are attached, who stated that split zoning of a property is “clearly impermissible” based upon case law.

Surrounding Area:

Direction	Zoning	Land Use
North	R-20 – Medium Density Residential	Single-Family Home
East	R-20 – Medium Density Residential PRO - Professional Research Office	Single-Family Home Nursing Care Facility
South	PRO – Professional Research Office GB – General Business	Single-Family Home Restaurants
West	R-20 – Medium Density Residential AG - Agricultural	Single-Family Home Golf Course

Rezoning Approval:

According to Section 1217.04 of the Pataskala Code, the Planning and Zoning Commission shall consider approval of a rezoning if the proposal:

1. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the Comprehensive Plan and/or this Code.
2. Will be designed, constructed, operated, and maintained so as to be harmonious in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
3. Will not be hazardous or disturbing to existing or future neighboring uses.
4. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.
5. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
6. Will not involve uses, activities, processes, materials, equipment and conditions of operations that will be detrimental to any persons, property or the general welfare by reason of excessive

production of traffic, noise, smoke, fumes, glare, odor, air or water pollution, or potential for explosion.

7. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.
8. Will not result in destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

Department and Agency Review

- Law Director – See attached
- Zoning Inspector – No Comments
- City Engineer – No Comments
- Public Service – No Comments
- Utilities Department – No Comments
- Police Department – No Comments
- West Licking Joint Fire District – No Comments
- Southwest Licking School District – No Comments

Modifications:

Should the Board choose to approve the applicant's request, the following modifications may be considered:

- None

Resolution:

For your convenience, the following resolution may be considered by the Planning and Zoning Commission when making a motion:

"I move to (approve/disapprove) rezoning application number ZON-16-008 pursuant to Section 1217.10 of the Pataskala Code. ("with the following modifications" if modifications are to be placed on the approval)."

From: [Zachary Cowan](#)
To: [Aaron M. Glasgow](#)
Cc: [Scott Fulton](#)
Subject: RE: Multiple Zoning Districts on Same Parcel [WBBB-DMS.FID1714711]
Date: Tuesday, November 01, 2016 11:19:17 AM
Attachments: [image001.png](#)

Aaron,

I appreciate you looking into this! This is what we needed.

Thank you,

ZACK COWAN
City Planner
City of Pataskala
621 West Broad Street, Suite 2-A
Pataskala, Ohio 43062
Phone: 740-964-1316
Fax: 740-927-0228

From: Aaron M. Glasgow [mailto:aglasgow@isaacwiles.com]
Sent: Tuesday, November 01, 2016 11:00 AM
To: Zachary Cowan <zcowan@ci.pataskala.oh.us>
Cc: Brian M. Zets <bzets@isaacwiles.com>
Subject: Multiple Zoning Districts on Same Parcel [WBBB-DMS.FID1714711]

Zach:

Brian passed your question on to me about multiple zoning districts on one parcel, and whether multiple zoning districts on one parcel is permissible.

Having the whole area of a one parcel placed in two zoning districts is clearly impermissible. The fundamental purpose of zoning is the segregation of uses, and “to the extent this segregation is not carried out, the value of zoning is diminished.” *City of Kettering v. Lamar Outdoor Advertising, Inc.*, 38 Ohio App. 3d 16. As you know, each zoning district contains specific use and area requirements for the use permitted in that district. If a property were zoned in more than one category at the same time, it is likely that the requirements for each district would conflict, resulting in confusion and difficulty in the application and enforcement of zoning. A multiple zoned property would also undermine the purpose of segregation of uses. It is worth noting that earlier zoning codes were “cumulative,” meaning that they allowed less intense uses in more intensive zoning districts, which would give some flexibility to mix uses. However, Pataskala, like most current municipalities, has an exclusive or non-cumulative code, meaning that the uses listed for each zoning district are the *only* uses permitted in that district absent a use variance.

In addition, the concept of “split zoning” also involves multiple zoning districts in one property. In a split zone situation, different areas of the same parcel are in different zoning districts and subject to

different zoning standards. While we have not located a case in Ohio stating that split-zoning is *per se* impermissible, all of the cases related to split-zoned properties treat them in the same way that non-conforming uses are treated: undesirable conditions that should be removed if possible and not approved in the future. Specifically, split zoned properties present the same problems with the lack of segregation of uses. In addition, if the boundaries of where each zoning district are not very clear described, problems with vagueness and enforceability will arise, as property owners will not know where they can and cannot make use of the property for a given use. Our suggestion would be that where a property owner wants use the property for uses that are permitted in different zoning districts, the City require a lot split along the lines of the uses, or consider a planned zoning district/mixed use district flexible enough to cover each of the desired uses.

Please let me know if you have any questions.



Aaron M. Glasgow, Esq.

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CITY OF PATASKALA PLANNING AND ZONING COMMISSION

City Hall, Council Chambers
621 West Broad Street
Pataskala, Ohio 43062

REZONING APPLICATION

(Pataskala Codified Ordinances Chapter 1217)

Property Information		
Address: 72 Hazelton-Etna Road & 144 East Broad Street		
Parcel Number: 064-309102-00.000 & 064-309030-00.000		
Current Zoning: R-20	Proposed Zoning: PRO	Acres: 6.1
Water Supply:		
<input checked="" type="checkbox"/> City of Pataskala	<input type="checkbox"/> South West Licking	<input type="checkbox"/> On Site
Wastewater Treatment:		
<input checked="" type="checkbox"/> City of Pataskala	<input type="checkbox"/> South West Licking	<input type="checkbox"/> On Site

Staff Use
Application Number: ZON-16-008
Fee: \$750.00
Filing Date:
Hearing Date: 12-7-16

Applicant Information		
Name: Michael Scharfenberger, NCM Realty Co.		
Address: 7265 Kenwood Road, Suite 300		
City: Cincinnati	State: Ohio	Zip: 45236
Phone: (513) 793-8804	Email: mscharfenberger@fuse.net	

Owner Information		
Name: Karen Davis & Michael Scharfenberger, NCM Realty Co.		
Address: 8775 Watkins Road & 144 E. Broad Street		
City: Pataskala	State: OH	Zip: 43062
Phone:	Email:	

Documents
<input checked="" type="checkbox"/> Application
<input type="checkbox"/> Fee
<input type="checkbox"/> Narrative
<input type="checkbox"/> Site Plan
<input type="checkbox"/> Deed
<input type="checkbox"/> Address List
<input type="checkbox"/> Area Map

Rezoning Information
Request (Include Section of Code):
Rezone the properties from R-20 - Medium Density Residential to PRO - Professional Research Office pursuant to Section 1217.02 of the Pataskala Code.
Describe the Project (Include Current Use and Proposed Use):

Documents to Submit

Rezoning Application: Submit 14 copies of the rezoning application.

Narrative Statement: Submit 14 copies of a narrative statement explaining the following:

- The reason the rezoning has been requested.
- The specific reasons why the rezoning is appropriate as it pertains to Section 1217.04 of the Pataskala Code:
 1. *Will be harmonious with and in accordance with the general objectives or with any specific objective of the Comprehensive Plan and/or this Code.*
 2. *Will be designed, constructed, operated, and maintained so as to be harmonious in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.*
 3. *Will not be hazardous or disturbing to existing or future uses.*
 4. *Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.*
 5. *Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.*
 6. *Will not involve uses, activities, processes, materials, equipment and conditions of operations that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor, air or water pollution, or potential for explosion.*
 7. *Will have vehicular approaches to the property which shall be so designed as to not create an interference with traffic on surrounding public thoroughfares.*
 8. *Will not result in destruction, loss, or damage of a natural, scenic, or historic feature of major importance.*

Site Plan: Submit 14 copies of a site plan to scale of the subject property indicating the following:

- All property lines and dimensions
- Location and dimensions of all existing and proposed buildings and structures.
- Location and dimensions of all existing buildings and structures on adjacent properties within 500 feet.
- Setbacks from property lines for all existing and proposed buildings, structures and additions
- Easements and rights-of-way
- Existing and proposed driveways
- Floodplain areas
- Location of existing wells and septic/aerator systems.
- Number and dimensions of existing and proposed parking areas
- Existing and proposed refuse and service areas
- Existing and proposed landscaping features
- Any other information deemed necessary for the rezoning request

Deed: Provide a copy of the deed for the property with any deed restrictions. Deeds can be obtained at www.lcounty.com/rec.

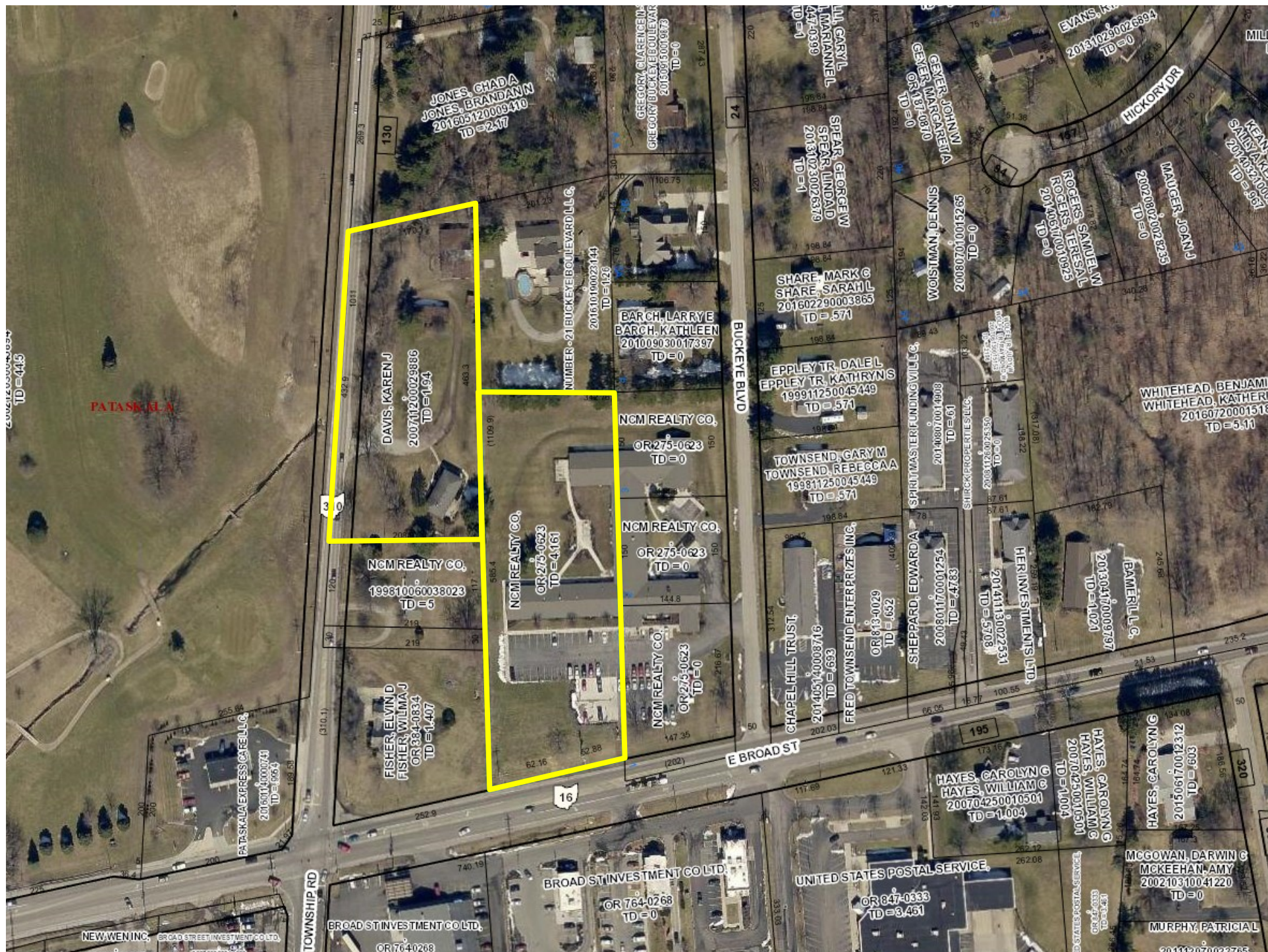
Address List: Submit one copy of a list of all property owners and addresses of those owning property within 200 feet or two parcels from any point on the subject property line, whichever creates more property owners. This list must be in accordance with the Licking County Auditor's current tax list and must be submitted on mailing labels.

Area Map: Submit 14 copies of an area map from the Licking County Engineer's office showing the area encompassed by the address list. Area maps can be obtained at www.lcounty.com/taxparcelviewer/default.

Signatures

I certify the facts, statements and information provided on and attached to this application are true and correct to the best of my knowledge. Also, I authorize City of Pataskala staff to conduct site visits and photograph the property as necessary as it pertains to this rezoning request.

Applicant: <i>Michael Schafferberg / NCM Realty Co.</i>	Date: <i>10/28/16</i>
Owner: <i>Michael Schafferberg / NCM Realty Co.</i> <i>Karen J. Davis Trustee</i>	Date: <i>10/28/16</i> <i>11-1-16</i>



2008 Zoning Map



2015 Zoning Map

