

**AGENDA  
ELKHART CITY PLAN COMMISSION  
MONDAY, APRIL 1, 2024 AT 1:45 P.M.  
COUNCIL CHAMBERS – MUNICIPAL BUILDING**

**THIS MEETING WILL BE HELD ELECTRONICALLY VIA WEBEX.**

This meeting can also be accessed via WebEx. To join, go to <http://coei.webex.com>, enter **2310 506 8344** as the meeting number and **"PLAN"** as the password. Attendees may preregister or enter during the meeting. Comments and questions may be submitted via the WebEx app during the meeting, or may be submitted to [Carla.Lipsey@coei.org](mailto:Carla.Lipsey@coei.org) prior to the meeting.

1. **ROLL CALL**
2. **APPROVAL OF AGENDA**
3. **APPROVAL OF MINUTES, March 2024**
4. **APPROVAL OF PROOFS OF PUBLICATION**

5. **NEW BUSINESS**  
**24-X-03 PETITIONER IS NM VYT, LLC (d/b/a Voyant Beauty)**  
**PROPERTY IS LOCATED AT 1919 Superior St.**

A Special Exception per Section 18.3.L, Special Exception Uses in the M-1, Limited Manufacturing District, for the storage of any liquid or gas in excess of 10,000 gallons, to allow for the addition of 2 – 10,000 gallon tanks and 2-5,000 gallon tanks.

6. **ADJOURNMENT**

**PLEASE REMEMBER TO USE YOUR MICROPHONE WHEN SPEAKING.  
ERRORS IN THE MINUTES MAY RESULT DUE TO VOICES BEING INAUDIBLE.**



# Staff Report

## Planning & Zoning

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**Petition:** 24-X-03

**Petition Type:** Special Exception

**Date:** Plan Commission: April 1, 2024; Board of Zoning Appeals April 11, 2024:

**Petitioner:** NM VYT, LLC (d/b/a Voyant Beauty)

**Site Location:** 1919 Superior Street

**Request:** A Special Exception per Section 18.3.L, Special Exception Uses in the M-1, Limited Manufacturing District, for the storage of any liquid or gas in excess of 10,000 gallons, to allow for the addition of 2 – 10,000 gallon tanks and 2- 5,000 gallon tanks.

**Existing Zoning:** M-1, Limited Manufacturing District

**Size:** +/- 43 Acres

**Thoroughfares:** Superior Street and Simpson Avenue

**School District:** Elkhart Community Schools

**Utilities:** Available to site.

**Surrounding Land Use & Zoning:**

The site in question is surrounded by: to the north – B-1, Neighborhood Business District – Medical Clinic and Office Uses, M-1, Limited Manufacturing District – Industrial Use, R-2, One Family Dwelling District – Residential Uses; to the south – M-2, General Manufacturing District – Industrial Use; to the west – R-2, One Family Dwelling District – Residential and cemetery uses; to the east – R-1, One Family Dwelling District - Park

**Applicable Sections of the Zoning Ordinance:**

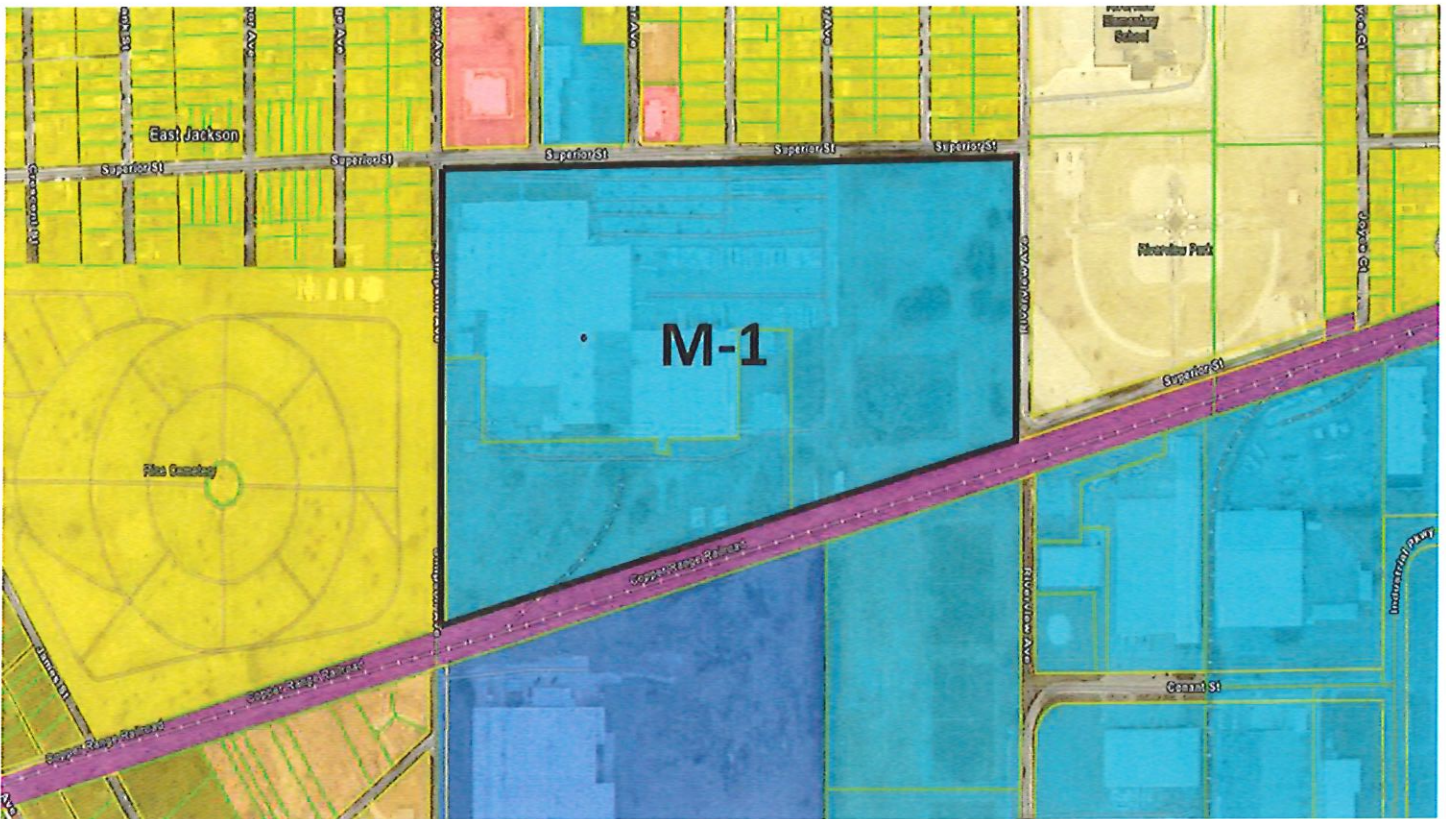
Enumerated in request.

**Comprehensive Plan:**

The Comprehensive Plan calls for this area to be developed with commercial uses.

**Plan Commission Action:** Recommendation to Board of Zoning Appeals.





## Staff Analysis

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The petitioner is requesting a special exception to allow for the addition of four (4) new tanks as a part of an expansion project at the Superior Street facility. The petitioner, d.b.a. Voyant Beauty, is a manufacturing and packaging plant for aerosol blend configurations and specialty viscous liquids in bottles, tubes and jars; for use in hair, body, face, sun and natural formulations.

The plan is to add additional product lines to increase capacity. The tanks are proposed to be used as a part of the product line expansion. No new chemicals are being added – just additional capacity. Based on plans submitted to the City for review, the tanks will be contained within an enclosure that will have a drain connected to the existing monitored sanitary sewer line, should the tank need to be drained.

The construction plans have been submitted for review and approval at Tech Review for a +/- 60,000 square foot addition on the south side of the current building on Superior Street. This addition is adjacent to the Norfolk Southern Railroad.

# Recommendation

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Staff recommends **approval** of the request based on the following findings of fact:

1. The Special Exception is so defined, located and proposed to be operated that the public health, safety and welfare **will be** protected because all tanks will be built per all applicable codes, located within the building and have the necessary floor drains connected to the sanitary sewer system;
2. The Special Exception **will not** reduce the values of other properties in its immediate vicinity because the additional tanks will not change the use of the property and will not impact the adjacent uses;
3. The Special Exception **shall** conform to the regulations of the zoning district in which it is to be located because the tanks will not generate adverse effects on adjacent properties with noise, emissions or vibrations.



# Photos

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**PLAN COMMISSION**  
**-MINUTES-**  
**Monday, March 4, 2024 - Commenced at 1:45 P.M. & adjourned at 2:30 P.M.**  
**City Council Chambers – Municipal Building**

Elkhart City Plan Commission was called to order by Tory Irwin at 1:45 P.M.

**MEMBERS PRESENT**

Tory Irwin  
Dave Osborne  
Ron Davis  
Dan Boecher  
Diana Lawson  
Aaron Mishler-WebEx

**REPRESENTING THE PLANNING DEPARTMENT**

Eric Trotter, Assistant Director of Planning

**LEGAL DEPARTMENT**

Maggie Marnocha, Corporation Counsel

**RECORDING SECRETARY**

Carla Lipsey

**APPROVAL OF AGENDA**

Motion to approve by Davis; Second by Boecher. Voice vote carries

**APPROVAL OF MINUTES**

Motion to approve by Boecher; Second by Osborne. Voice vote carries.

**APPROVAL OF PROOFS OF PUBLICATION**

Motion to approve by Davis; Second by Osborne. Voice vote carries.

**OLD BUSINESS**

None

**NEW BUSINESS**

**24-FSP-03 PETITIONER IS Elkhart General Hospital  
PROPERTY IS LOCATED AT 3301 County Road 6**

As required by Section 20.10.B seeking approval for an Amendment to a Final Site Plan for a new 2,670 square foot building addition at an existing medical facility at 3301 County Road 6 E.

**STAFF ANALYSIS**

The petitioner owns and operates a medical clinic at the southwest corner of Jeanwood Drive and County Road 6 E. in the Banks Industrial Park. The clinic is proposing to add additional exam rooms in a 2,670-square-foot addition onto their approximately 21,774-square-foot building.

The development proposes no new curb cuts on Jeanwood Drive or County Road 6. The project has passed technical review – it meets setbacks and lot of coverage. No additional parking is required and therefore no new paving. There is an additional retention area proposed to accommodate for the new addition.

**STAFF RECOMMENDATION**

The Staff recommends approval of the final site plan based on the following findings of fact:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The proposed use is permitted by major amendment within the underlying zoning of the Planned Unit Development;

3. The project has passed the City's Technical Review Process;
4. The use do not conforms to the Comprehensive Plan which calls for industrial uses however, the use was approved by major amendment by this body and the Common Council;
5. The proposed use should not be detrimental to the property values of adjacent properties.

Trotter states there were 10 letters mailed, 0 returned

Irwin asks if there are questions from the Commission.

Irwin calls the petitioner forward.

Ryan Chasman, representing Danch, Harner & Associates, is speaking on behalf of the petitioner. The petitioner is seeking approval for a Final Site Plan to construct a 2,670-square-foot building addition to an existing medical office. The plan also includes expanding the storm retention facilities to accommodate any possible future additions and ensuring that the site is future-proof. We have surpassed the city's requirements for parking and as Eric noted, there are no negative impacts.

Irwin asked the petitioner about the future usage of the site.

Petitioner stated that there is a parcel south of the current parking lot that could be used in the future. This has been considered in our stormwater plan.

Irwin inquired about the parking.

The petitioner has responded by stating that the parking will be sufficient for the development.

Irwin inquired about the utilities.

Petitioner states there should be no conflict.

Irwin asks if there are questions from the Commission.

Mishler inquires about the proposed timeline and the number of potential positions to be added.

The petitioner has responded saying that they believe there will be enough room for three new doctors, with each doctor having access to about four exam rooms. The petitioner is unsure about the number of nursing staff but assumes that there will be around two per doctor, so approximately eight in total.

Irwin suggests that as these parcels are separate, it might be more appropriate to direct this question to Trotter. Are we assuming they're going to be the same order owner with a shared drive and other sorts of easement-type issues.

Trotter responded and confirmed that the entire lot at the corner was included. The development plan also included shared parking for both the current and future proposed projects.

Irwin suggests preparing legal documentation to avoid potential issues if one parcel is sold and the new owners share resources at a single site.

Trotter said that he would need to review the major amendment as enough time has passed and he doesn't recall the details exactly. He suggested that we address this issue when the next petitioner comes in.

Irwin opens for public comments in favor or opposition to the petition

Hearing none, Irwin closes the public portion of the meeting.

Irwin calls for a motion.



Osborne makes a motion to approve 24-FSP-03, Second by Davis. Motion carries

Mishler- Yes  
Boecher- Yes  
Lawson- Yes  
Davis- Yes  
Osborne- Yes  
Irwin-Yes

#### **NEW BUSINESS**

##### **24-PUD-01 PETITIONER IS 2 Cass Opportunity Fund LLC Patrick Matthews**

##### **PROPERTY IS LOCATED AT 2 Cassopolis St**

Per Section 20.4.B approval of a Conceptual Planned Unit Development (R-4, Multiple Family Dwelling District standards) for the purpose of developing an apartment complex development. The parcel number is 02-29-426-015 and is approximately 8.34 acres in area.

#### **STAFF ANALYSIS**

The petitioner is proposing to develop a new apartment complex on land that is currently vacant in the 2100 block of Cassopolis Street. Amenities will include a clubhouse, playground, a dog park and a pedestrian exercise path that will built around the perimeter of the property. The development will also provide sidewalks that connect to the public sidewalks to Cassopolis Street. The area of the parcel in question is 8.34 acres. The site is accessed through a platted easement behind what is currently the Communitywide Federal Credit Union and a small strip center with medical offices.

This proposal serves to meet the need for housing diversification by adding additional dwelling units in our community as highlighted in the Zimmerman Volk study. The developer is proposing 240 new units built over six buildings containing a mix of one-, two-, and three-bedroom units. Four of the six buildings are planned to have 36 units each with the remaining two buildings having each 48 units.

The petitioner is proposing a reduced number of on-site parking spaces at a rate of 1.5 spaces per dwelling unit versus the two spaces per dwelling unit, which is the current standard for parking. Staff agrees with the parking reduction as the 1.5/unit rate reflects current industry standard parking ratios. 360 parking spaces are being provided. Where 480 spaces would be required for a typical development, there are 360 spaces proposed for the project – a reduction of 25%. Staff supports this reduction - there isn't a need for the extra pavement when the site could be better programmed for natural areas and common space.

The proposed buildings are situated so that the parking is contained mostly in the center of the site with all but one building at the perimeter of the property. The setback exceptions are minor for a project of this scale. A reduction of the front yard setback by five feet to twenty feet where twenty-five is required; a corner side reduction by ten feet to fifteen where twenty-five is required; and a reduction of the rear yard setback by five feet to twenty-five feet where thirty is required. The plan depicts the storm water collection areas at the western part of the property – currently with a drainage easement agreement for the southernmost retention pond.

The proposed Planned Unit Development (R-4) is conceptual, which means the submittal contains general information for the plan – property boundaries, existing site features, general street layout, proposed use, setback, and preliminary on-site drainage. The project will need to be submitted for review and approval at the City's Technical Review – this will also address any potential traffic concerns raised during that review. The Indiana Department of Transportation (INDOT) will also review as a part of the overall permitting process.

If this request is approved by the Common Council, a final site plan must be submitted to the Plan Commission for final approval at a public hearing.

#### **STAFF RECOMMENDATION**

The Staff recommends approval of the conceptual Planned Unit Development based on the following findings of fact:

- 1.) The Comprehensive Plan calls for this area to be developed with mixed uses. The proposed use is compatible with Commercially mixed uses.
- 2) The proposed use should not negatively impact surrounding properties. The proposed apartments should benefit the commercial businesses along Cassopolis Street.

3) The proposed use is compatible with other activity currently occurring in the general area – which is largely service commercial and service-oriented.

Trotter states there were 23 letters mailed, 1 returned in favor

Irwin asks if there are questions from the Commission.

Mishler asked if this was the same property that was considered for an assisted living facility a year or two ago.

Trotter responds yes.

Mishler mentioned that someone stated during the planning commission that traffic would not be a major concern due to the age of the residents. Although you mentioned that INDOT will be reviewing this, I still think that we need to consider the potential traffic concerns that come with a full-on apartment complex. Additionally, the complex is located within walking distance of the nearest elementary school, which is 1.7 miles away from Beardsley. Therefore, if we decide to proceed with this plan, we will need to work closely with INDOT to ensure that the students who walk to school are safe.

Trotter replies agreed.

Irwin states there is no doubt that whether or not INDOT records that the city is going to require a traffic study for this proposed development when it goes through tech review.

Osborne asks if there are requirements for so many handicapped parking spaces per the number of units.

Trotter replies yes.

According to Osborne, there are no handicapped parking when looking at Building 3.

Trotter clarified that these are conceptual and will be finalized during tech review before a final site plan is created.

Irwin calls the petitioner forward.

Crystal Welsh is speaking on behalf of Abonmarche, requesting approval for an 8.34-acre apartment complex development through a Conceptual Planned Unit Development.

Osborne inquires whether the apartment will have any fencing.

The petitioner replies on the proposed site plan, that there is a proposed fence along the northern property line.

Osborne inquires about the presence of any existing sidewalks.

The petitioner replies that the existing sidewalk will connect seamlessly with the sidewalk design of the development leading out to Cassopolis.

Osborne inquires whether elevators will be available.

Petitioner states no.

Mishler inquires about the affordability of the units and the potential rent for tenants.

The petitioner states that the current layout is only a conceptual one and they have not yet delved into the details. As a result, the information regarding the 1:2:3 bedroom units is quite vague. The final interior layout has not been designed yet, and the petitioner plans to move toward interior architecture and layout once the bedroom mix is finalized. This will enable them to have a better idea of which units will be included. The proposed development is intended to be at market rate, but the petitioner is also looking for potential incentives to help and include some more affordable units in the project.

Mishler asks if the developer will be asking the City for any type of TIF assistance or abatements.

The petitioner replies that at this time, they have not gone into those details yet.

Osborne says the development has only one retention pond which won't hold deep water after rain.

The petitioner confirms that the pond already exists. There will be significant engineering involved, including underground facilities, during the engineering phase.

Irwin mentioned that there are some properties located east of this property that are seeking to get utilities. I suggest that you and the developers keep an open mind about communicating with the private property owners and possibly working out certain details.

Irwin opens for public comments in favor or opposition to the petition

Hearing none, Irwin closes the public portion of the meeting.

Irwin calls for a motion.

Lawson makes a motion to approve 24-PUD-01 with a Do-Pass Recommendation to Common Council; Second by Davis. Motion carries

Davis-Yes  
Mishler-Yes  
Lawson-Yes  
Boecher-Yes  
Osborne-Yes  
Irwin-Yes

#### **NEW BUSINESS**

##### **24-X-01 PETITIONER IS Francisco Sesmas and Maria Torres**

##### **PROPERTY IS LOCATED AT 2006 Benham Avenue**

A Special Exception per Section 5.3, Special Exception Uses in the R-2, One-Family Dwelling District, to allow for a Day Care Center.

#### **STAFF ANALYSIS**

The petitioners are submitting an application for a daycare at 2006 Benham Avenue this month. There are five other daycares on the same block of Benham also owned and operated by the petitioners. They have been able to expand and fill their childcare openings in part because of the demonstrated need for daycare in Elkhart.

The house at 2006 Benham is 1032 square feet and built in 1950, according to Elkhart County Assessor records. The lot is .15 acres. At the writing of this report, staff had not yet visited the site. Information provided in the petition application, there will be some demolition of interior walls, and the backyard will be fenced.

They plan to apply for a Class II license with the state's Family and Social Services Administration (FSSA), which allows for up to 16 children. Pick up and drop off for the facility will be handled from the alley on the east of the building. There is ample parking in the rear for employees. Based on the information provided in the petition, they plan on enrolling in the Child and Adult Care Food Program (CACFP) to provide healthy meals. They also become members of The National Association for Family Child Care (NAFCC).

In terms of space, the house is adequate. The state requires a minimum of 560 square feet for a Class II license.

#### **STAFF RECOMMENDATION**

Staff recommends approval of the request based on the following findings of fact:

1. The Special Exception is so defined, located, and proposed to be operated that the public health, safety, and welfare **will be** protected;
2. The Special Exception **will not** reduce the values of other properties in its immediate vicinity because there will be no exterior changes to the existing building;
3. The Special Exception **shall** conform to the regulations of the zoning district in which it is to be located because it will not generate adverse effects on adjacent properties in the form of noise, smoke, or odor.



## CONDITIONS

If the Board chooses to approve the requested special exception, staff recommends that the following conditions be placed upon the approval:

1. The petitioner shall submit plans for the building renovations to the building department within 14 days of approval, and obtain permits for any work done there within 45 days of approval.
2. All children shall be restricted to the building and fenced-in play area except when arriving and leaving or on supervised walks or outings.
3. The facility and grounds shall be kept clean at all times.
4. The facility shall be subject to inspection upon reasonable notice, by the zoning administrator during hours of operation.
5. There shall be no exterior display, signs, or other forms of advertising on the premises.
6. A copy of the child care home license shall be submitted to the Department of Planning and Zoning upon receipt from the Indiana Family and Social Services Administration.
7. If the daycare ceases to operate for more than one (1) year, or the license is revoked, the Special Exception becomes null and void.
8. Any violation of the terms of this Special Exception as determined by the City Zoning Administrator shall render the Special Exception invalid.
9. There shall be a maximum of sixteen (16) children.
10. Pickup and drop-off shall be from the alley at the rear of the property.
11. The Special Exception is for two (2) years and shall be reviewed as a staff item by the Board of Zoning Appeals by March 14, 2026.

Irwin asks if there are questions from the Commission.

Mishler states I noticed in your message that you mentioned the site has not been visited by staff yet. You also mentioned that the house was built in 1950. If houses from that time are not renovated, they may have lead paint, which can be a concern. Additionally, not visiting the site prior to discussing it with us can also be problematic.

Trotter responded saying that they would have preferred to visit the site before the inspection, but due to their busy schedule, it was not possible. They plan on inspecting before the board of zoning appeals hearing to emphasize to the petitioner that they must obtain building permits for any construction. If there is any lead remediation required before occupancy, it is important to ensure that it is taken care of.

Irwin asks Trotter if he does the Lead inspection.

Trotter replies not for the lead inspection, but for the general walk-through that was previously conducted by other staff.

Irwin mentioned that the state has certain requirements that must be met before permits are issued.

Davis asked does the petitioner understand the requested conditions.

Trotter confirmed that he is familiar with the standard conditions for the request. He also assured that any further questions would be addressed before the deadline.

Irwin calls the petitioner forward.

Petitioner Francisco Sesmas & Maria Torres (2018 Benham Ave) is requesting approval for a daycare at 2006 Benham Avenue. We own five existing daycares on the same block of Benham. Maria Torres (Petitioner) has completed all the necessary state requirements and certifications. The house has been remodeled and is now ready.

Irwin calls for a motion.

Davis makes a motion to approve 24-X-01 with a Do-Pass Recommendation with listed conditions to BZA; Second by Boecher. Motion carries

Boecher-Yes

Mishler-Yes  
Davis-Yes  
Lawson-Yes  
Osborne-Yes  
Irwin-Yes

### **NEW BUSINESS**

#### **24-X-02 PETITIONER IS Balwinder Singh**

#### **PROPERTY IS LOCATED AT 115 West Hively Avenue**

A Special Exception per Section 12.3, Special Exception Uses in the B-2, Community Business District, to allow for a public school.

### **STAFF ANALYSIS**

The petitioner is requesting a special exception to allow the former commercial retail space to be used for classrooms, music space, and a dance studio. The property in question at 115 W. Hively Avenue is adjacent to the Premier Arts Academy at 2721 Prairie Street, which was approved for the use as a school in January 2023. Due to the growth at the school, there is a need to accommodate additional classroom space for 5<sup>th</sup>, 6<sup>th</sup>, and 7<sup>th</sup> grades serving up to an additional 125 students.

Based on information provided in the petition submittal, in order to provide movement between the main campus and the building on Hively, a path will be constructed allowing students, with supervision, to move between the two buildings while keeping the existing fence.

The pick-up and drop-off will remain at the main campus on Prairie Street. Only late arrivals will be permitted at the Hively Avenue facility. Additionally, the same safety measures will be installed at the Hively building as the main campus building – security cameras both inside and out, electronic monitors for door entry system, adult supervision of students moving between buildings and an active early warning system. For additional security, appliques will be applied to the windows to limit visibility into the classrooms.

With the growth of Premier Arts Academy, the proposed building on Hively is convenient and will allow for the growth at the school.

### **STAFF RECOMMENDATION**

Staff recommends approval of the request based on the following findings of fact:

1. The Special Exception is so defined, located, and proposed to be operated that the public health, safety, and welfare **will be** protected;
2. The Special Exception **will not** reduce the values of other properties in its immediate vicinity because it is a minor expansion of an already approved use;
3. The Special Exception **shall** conform to the regulations of the zoning district in which it is to be located because it will not generate adverse effects on adjacent properties in the form of noise, smoke, or odor.

### **CONDITIONS**

1. Plans for all modifications to the building at 115 W Hively Avenue be submitted for review and approval to the Building Department to ensure all necessary requirements are met for the safety of the occupants of the school.

Irwin asks if there are questions from the Commission.

Osborne asks has the school moved to a new location after the closure of the Cricket Wireless store.

Trotter replies that they are located off Prairie Street and with lifeline, therefore the Cricket facility is not included in the request.

Osborne asks if the proposed plan will encroach upon other people's properties.

Trotter explained that there is a direct connection between Lifeline and the neighboring properties.

Irwin calls the petitioner forward.

Kurt Weimer, who resides at (51870 Winding Waters Lane), is representing the Petitioner and submitting a request for the approval of the Premier Arts Academy School and Dance Studio. The school has experienced growth and now requires additional classroom space to accommodate an additional 125 students.

Mishler inquires about the size of the school after the expansion and the pickup time.

Weimer has suggested that we consider implementing staggered drop-off times for our older grades. The difference in times could be around 15-20 minutes, both at the beginning and end of the day. Since the upper grades have a longer instructional time, this tends to push those results anyway.

Irwin inquires whether the pick-up and drop-off location will be Hively or the Lifeline Campus.

Weimer replied that the pickup location would be at the Lifeline Campus.

Irwin asked Trotter if the parcel had a shared parking lot with the adjacent parcel, and if there was an existing agreement between them.

Trotter replied that he would have to check.

Irwin calls for a motion.

Lawson makes a motion to approve 24-X-02 with a Do-Pass Recommendation with listed conditions to BZA; Second by Davis. Motion carries

Davis- Yes  
Boecher-Yes  
Lawson-Yes  
Mishler-Yes  
Osborne-Yes  
Irwin-Yes

#### **ADJOURNMENT**

Irwin calls for a motion to adjourn the meeting. Davis approves motion to adjourn and is seconded by Osborne. Meeting is adjourned and all are in favor.

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Tory Irwin, President

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Dave Osborne, Vice-President