



# PLANNING AND ZONING COMMISSION STAFF REPORT

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**Date**                      **June 3, 2021**

**To**                            **Planning and Zoning Commission**

**From**                      **Cody Gleason**  
Principal Planner

**Subject**                  **Inpatient Physical Rehabilitation Facility**

## ***PROPOSAL***

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Burch & Cracchiolo on behalf of America Development is requesting a Conditional Use Permit (CUP) to allow an inpatient physical rehabilitation facility that will provide post-acute surgical care for patients with overnight stays located at 13451 N 94<sup>th</sup> Dr., within the Plaza Del Rio master development.

## ***APPLICATION INFORMATION***

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**Case Numbers**        Conditional Use Permit (CU21-04)

**Applicant**              Burch & Cracchiolo P.A. on behalf of America Development

**Request(s)**            Approval of a Conditional Use Permit (CUP) allowing for the construction and operation of an inpatient physical rehabilitation facility.

## ***LOCATION AND CONTEXT***

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### **SUBJECT SITE**

The site is located at 13451 N 94<sup>th</sup> Dr. The vacant 3.71 acre parcel where the subject development is proposed is located within the Plaza Del Rio master development, as shown in Exhibit 2.

### **CONTEXT**

The Plaza Del Rio master development that encompasses the subject site is one of the earliest iterations of horizontal mixed use within the City. The Plaza Del Rio master development contains a myriad of medical uses ranging from primary care or specialist doctors' offices, memory care and assisted living facilities, as well as a similar Banner Inpatient Physical Rehabilitation facility (Exhibit 2). The mixed-use development also contains single-family residential uses, as well as both age restricted and non-age restricted multi-family developments.

## INPATIENT PHYSICAL REHABILITATION FACILITY CU21-04

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The overall Plaza Del Rio development is bounded by Thunderbird Road to the north, New River on the east and south, and mixture of attached and detached single-family homes in Sun City along the western boundary. The immediate surroundings of the subject site within Plaza Del Rio also include a mixture of uses as shown in Exhibit 3. North of the subject site is the existing Vista Del Rio independent senior living multi-family development. East of the subject site is the Ocio Plaza Del Rio multi-family development. South of the subject site is the existing Auberge at Peoria assisted living / memory-care facility. West of the subject site is 94<sup>th</sup> Drive, which services as the main thoroughfare for Plaza Del Rio, and connects to Thunderbird Road at a signalized intersection to the north. On the west side of 94<sup>th</sup> Drive is a multi-tenant medical office building.

### **APPLICANT'S PROPOSAL**

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The applicant is planning to develop a new inpatient physical rehabilitation facility that will provide post-acute surgical care and physical therapy services for patients. No emergency room services will be provided on site. Patient overnight stays would range on average from 12-14 days. The proposed facility would consist of approximately 49,084 square feet spread across the 3-story building. The facility would accommodate up to 40 patient beds with the initial phase. Potential future additions would allow expansion up to 60 beds (Exhibit 5).

Any material expansion of the facility may require an amendment to the Site Plan and Conditional Use Permit.

### **DEVELOPMENT INFORMATION**

<u>Existing Use:</u>	Vacant land
<u>Proposed Use:</u>	Inpatient Physical Rehabilitation Facility
<u>Property Size:</u>	49,084 square foot building on 3.71 gross acres
<u>Height:</u>	Approximately 55 feet 6 inches, including mechanical equipment.

## **STAFF ANALYSIS**

### **ZONING**

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The zoning designation for the subject site is Planned Unit Development (PUD) Intermediate Commercial (C-2). Planned Unit Developments are legacy zoning districts that have largely been extinguished within the City. The purpose of the Planned Unit Development Zoning District was to provide a developer the flexibility to wait until a site plan had been formulated for the property before permanent zoning was affixed to the property. Through the PUD zoning designation, standard zoning districts (e.g. Intermediate Commercial C-2) would overlay an area and would not be affixed to the property until such time as a Site Plan is approved by City Council. The

subject site is one of the few remaining PUD sites in the City and the only remaining vacant PUD parcel within the Plaza Del Rio (Exhibit 4).

As a matter of process, with the exception of the remaining PUD zoning designations in the City, Site Plans are no longer taken to City Council for approval. Since the establishment of PUDs, Site Plans for every other zoning district have transitioned to an administrative process and reviewed for compliance with the zoning designation. The unique nature of the PUD designation is why subsequent to Planning and Zoning Commission action on the Conditional Use Permit, the Site Plan for the subject site will be forwarded to City Council to formally assign permanent zoning to the property.

### **ANALYSIS**

#### **ZONING HISTORY**

The City Council adopted the PUD zoning designation for the Plaza Del Rio mixed-use development in 1983 through Ordinance 83-04. Over the years, all of the immediately surrounding parcels within Plaza Del Rio have developed while the subject site has remained vacant.

#### **APPLICABILITY**

As referenced the subject site is zoned PUD C-2, which is a specialized zoning district that refers to the Intermediate Commercial C-2 Zoning District. As a result of this PUD C-2 zoning designation, uses on the proposed site would need to comply with the applicable C-2 allowances and restrictions that are contained within the City of Peoria Zoning Ordinance.

The proposed use is one that is not specifically identified within the use listings of the Non-Residential section of the Zoning Ordinance. As a result of information conveyed by the applicant it was determined that a formal Planning Manager Interpretation would be necessary to further evaluate whether or not the proposed use would be permitted in accordance with the C-2 use allowances. As a part of the Planning Manager Interpretation, the applicant provided materials for review as to the analogous uses identified within the C-2 Zoning District. After evaluation of the materials provided, the Planning Manager Interpretation (Case AI21-01) identified that the unique characteristics of the proposed development were similar to uses that would otherwise be permitted within the C-2 Zoning District subject to the issuance of a Conditional Use Permit (Exhibit 6). The subject Conditional Use Permit seeks to address this requirement. Additionally Planning Manager Interpretation Case AI21-01 clarified development standards such as height allowances and parking requirements that were otherwise unclear for such an unspecified use.

### **KEY FINDINGS**

1. In accordance with Planning Manager Interpretation AI21-01 the proposed use is in alignment with permitted uses within the PUD C-2 Zoning District, subject to receiving a Conditional Use Permit.

### ***CONDITIONAL USE PERMIT***

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The purpose of the Conditional Use Permit requirement for is to ensure compatibility with the surrounding area, consistency with the Peoria General Plan, and that the use is not injurious to the health, safety, and general welfare of the community.

### ***ANALYSIS***

#### **REVIEW CRITERIA**

Section 21-321 of the Peoria Zoning Ordinance outlines the applicable criteria for evaluating Conditional Use Permits. The Planning and Community Development Department shall review applications and make a recommendation for approval or denial to the Planning and Zoning Commission based on the following criteria:

1. Whether the use is designated as a permitted Conditional Use within the zoning district in which the property is located.
2. Whether the use meets the locational and development standards provisions, as applicable for the Conditional Use Permit, for the zoning district in which the property is located.
3. Whether the use is consistent with the goals, policies, and intent of the General Plan and any adopted Specific Plan applicable to the site where the proposed use is located.
4. Whether the use is consistent with documentation and recommendations provided by reviewing City Departments.
5. Whether the use complies with all applicable City Codes, standards, and guidelines governing such use.
6. Whether the use will be materially detrimental to the health, safety, or general welfare of persons residing or working in the vicinity of the property, to the neighborhood, or to the public welfare; or if the use will unreasonably interfere with the use and enjoyment of nearby properties. Consideration shall include, but not be limited to the following factors:
  - a. Damage or nuisance arising from noise, smoke, odor, dust, vibration, or illumination;
  - b. Impact on surrounding areas resulting from an unusual volume or character of traffic;
  - c. Ingress and egress to the property and proposed structures;
  - d. Pedestrian and vehicular circulation with particular reference to fire protection;
  - e. Parking and loading; and
  - f. Impact on public services, including schools, utilities, and recreation.
7. The Planning Manager shall not approve or recommend approval of any Conditional Use Permit unless the Department has received a Waiver of Proposition 207 from the Owner(s) of the property that is the subject of the Conditional Use Permit or has determined that the absence of such a Waiver of Proposition 207 is consistent with the City's General Plan and zoning goals and regulations.

### APPLICABILITY

The purpose of the Conditional Use Permit requirement for the inpatient physical rehabilitation facility in alignment with Planning Manager Interpretation AI21-01 is to ensure compatibility with the surrounding area. As previously noted, the subject site is a vacant parcel within an existing mixed-use development and is immediately surrounded by a mixture of multi-family residential (both age restricted and non-age restricted), memory care / assisted living, and medical offices. One of the predominant uses within the Plaza Del Rio development is medical care and associated facilities. A similar facility within Plaza Del Rio was recently constructed at the end of the same street. When evaluating the surrounding context, the proposed use would maintain continuity for the area and allow for context sensitive development.

The subject site would gain access directly from 94<sup>th</sup> Drive, and would not share access or parking with the facilities around it. The proposed facility would be parked in accordance with the analogous ratio identified within the Planning Manager Interpretation AI21-01, which identified a minimum of two (2) parking spaces per patient bed. This ratio would result in the requirement of 80 parking spaces. The proposed site plan provides 92 parking spaces. The proposed layout can be seen on the Site Plan (Exhibit 7).

Though the operation of the facility will be 24 hours a day, the operations occur interior to the building and are of a low intensity nature that will prevent impacts on adjacent uses and property owners. Patients for the facility would be receiving post-acute physical rehabilitative care and as a result, there would be no emergency delivery of patients via ambulance. The non-emergency nature of the facility further illustrates its subdued operational characteristics as referenced in the narrative (Exhibit 5).

If any issues arise regarding the operation of the business, Section 21-321.1 provides the Planning Manager with continuing jurisdiction over all Conditional Use Permits. This means that the Planning Manager may recommend to the Planning and Zoning Commission that a permit may be revoked, modified, or suspended should any of the following occur:

1. The permit was obtained by fraud or misrepresentation;
2. The use authorized by the permit has been exercised in violation of the conditions of its approval;
3. A change in circumstances consisting of any of the following has occurred:
  - a. Impacts from the approved conditional use to neighboring properties.
  - b. Changes in aesthetic or environmental impacts such as noise, odors, or pollution.
4. The use authorized by the permit has been exercised in a manner that is detrimental to the public health, safety, or welfare of the community or in a manner that constitutes a nuisance to neighboring property owners, adjacent neighborhoods, or the City.

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### COMMUNITY INVOLVEMENT

#### *Public Noticing*

The application was properly noticed pursuant to Section 21-315 of the Peoria Zoning Ordinance, which includes notification to all property owners within 600 feet of the site and registered HOAs within one (1) mile, posting of a sign on the site, and placing an ad in the Peoria Times at least 15 days prior to the Public Hearing.

#### *Support / Opposition*

At the time of this writing, no correspondence has been received in support or opposition to this request.

### KEY FINDINGS

1. The proposal meets the Conditional Use Permit standards and the above referenced development criteria as outlined in Planning Manager Interpretation Case AI21-01 and further detailed within the applicable sections of the City of Peoria Zoning Ordinance.
2. When operated in accordance with the recommended conditions of approval, the use is not expected to disrupt other nearby uses and is consistent with the character of the area.
3. On behalf of the owner, the applicant has submitted a signed and notarized Proposition 207 waiver, which will be recorded with the conditions outlined below.

### PROPOSITION 207

The voters of Arizona approved Proposition 207, which among other things requires municipalities to compensate property owners for actions which have the effect of diminishing the value of property. The City Attorney's Office has drafted an agreement which waives the applicant's rights to future Proposition 207 claims against the City. Accordingly, the applicant has furnished a signed and notarized Proposition 207 Waiver.

### RECOMMENDATION

Staff recommends that the Planning and Zoning Commission take the following action:

**Approve the applicant's request for a Conditional Use Permit under Case CU21-04, subject to attached conditions of approval in Exhibit 1.**

### STAFF CONTACT

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