



## LANDMARK RECOVERY

August 31, 2022

Mr. Skylor Miller  
Planning & Zoning Administrator  
Sycamore Township  
8540 Kenwood Road  
Sycamore Township, Ohio 45236

RE: Case# 2022-11MA - Major Adjustment to the PUD for 4650 E. Galbraith Road  
Cincinnati, OH 45236

Dear Mr. Miller,

This letter, along with the application and requested documentation which was previously submitted on July 18, 2022, shall serve as our amended request for a major adjustment to the previously approved Planned Unit Development for the property located at 4650 East Galbraith Road, Cincinnati, OH 45236 (“Property”) and corresponding parking variance. The plan was initially adopted by the Hamilton County Commissioners in February of 1997 (HCC Resolution No. 97-1). Landmark Recovery (“Applicant”) requests that the plan be amended to permit the Proposed Use (as defined herein), which is most similar to a hospital, as defined under the Sycamore Township Zoning Resolution.

A public hearing was held before the Sycamore Township Zoning Commission (“Commission”) on August 8, 2022, to address Applicant’s request for a major adjustment to the existing PUD and parking variance. This hearing was continued until September 12, 2022, to allow Applicant time to provide more details related to its parking variance request.

Landmark Recovery previously proposed to convert the Property, which most recently operated as a 119 bed assisted living/memory care community, to a 136 bed inpatient/outpatient substance use disorder treatment facility. A detailed narrative describing the scope of services currently provided and proposed to be provided by Landmark Recovery is attached as Exhibit “A”. In order to address parking concerns expressed by the Commission during the public hearing, Applicant is now proposing to exclude their outpatient services from this facility and only provide inpatient services, which would allow for an increased bed count to 160 (“Proposed Use”). It is important to note that although the proposed inpatient bed count has changed, the on-site employee count does not significantly change.

### **Required Parking**

The Sycamore Township Zoning Resolution includes the following parking requirements that could be applicable to the Proposed Use:

- Hospital use requires 1 parking space per bed
  - 160 beds = 160 parking spaces
- Nursing Home use requires 1 parking space for every 6 beds + 1 parking space per employee
  - $160 \text{ beds} / 6 = 27 + 56 \text{ employees} = 83 \text{ parking spaces}$
- Group Home use requires 1 space per employee on shift of max. employment + 2 visitors' spaces or 1 space per employee plus 1 space per 2 residents where residents can own vehicles ( $56 + 2 = 58$ )

The Property has a total of 63 existing parking spaces, per the site plan attached to the application submitted previously.

### **Applicant's Request**

Applicant requests a variance to reduce the number of parking spaces required for its classified use, or in the alternative, to be permitted to (i) follow the parking requirements of a group home (given the discriminatory definition of Group Home in violation of the ADA) as Applicant's patients are not permitted to bring or leave vehicles on site; or (ii) follow the parking requirements of a nursing home and grant a variance based on Applicant's employees on site during shift of maximum employment.

### **Legal Standard**

The Commission should review Applicant's request under a "practical difficulties" standard, which Ohio Courts have applied to area variances. The Ohio Supreme Court explained the "practical difficulties" standard for area variances in *Duncan v Middlefield*, 23 Ohio St.3d 83, 491 N.E.2d 692. It stated: "While existing definitions of "practical difficulties" are often nebulous, it can safely be said that a property owner encounters "practical difficulties" whenever an area zoning requirement (e.g., frontage, setback, height) unreasonably deprives him of a permitted use of his property. The key to this standard is whether the area zoning requirement, as applied to the property owner in question, is reasonable." *Kisil v Sandusky*, 12 Ohio St.3d 30, 34, 465 N.E.2d 848.

In *Duncan*, the Ohio Supreme Court set forth the following, nonexclusive list of factors to be considered and weighed when determining whether a property owner has encountered practical difficulties in the use of property:

(1) whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance; (2) whether the variance is substantial; (3) whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance; (4) whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage); (5) whether the property owner purchased the property with knowledge of the zoning restriction; (6) whether the property owner's predicament feasibly can be obviated through some method other than a variance; and (7) whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Furthermore, Ohio courts have also ruled that the zoning board need not consider every *Duncan* factor. *Phillips v. Westlake Bd. of Zoning Appeals*, 8th Dist. Cuyahoga No. 92051, 2009-Ohio-2489, 2009 WL 1505617. “The key to this standard is whether the area zoning requirement, as applied to the property owner in question, is reasonable.” *Duncan* at 86, 491 N.E.2d 692.

Additionally, under the Sycamore Township Zoning Resolution, specific conditions and limitations concerning construction, character, location, landscaping, screening and other matters relating to the purposes and objectives of the Resolution may be imposed upon the premises benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services.

### **Analysis**

Applicant contends that the requirements above should not apply to its Proposed Use for the following reasons:

1. Applicant’s patients are not permitted to leave a vehicle on site during the course of treatment. Unlike a conventional hospital where patients come and go on a daily basis, Applicant’s patients will remain on site for up to 35 days. Applicant has additionally amended its business model for this location to exclude its intensive outpatient program, thereby eliminating the need for additional parking for IOP patients during peak times.
2. The maximum number of employees there could be on site at this Property during peak hours is 56. See the Parking Calculations Spreadsheet attached as Exhibit “B”. The existing parking allows for one space for each on site employee during periods of maximum employment, plus seven spaces in excess.
3. Visitor hours are not scheduled during peak hours. Visitor hours are scheduled only on weekends and in limited circumstances. For the most part, Applicant have transitioned to telehealth for family therapy sessions, and in most instances, these sessions are scheduled

and held via the Teams platform to allow for flexibility with family members' schedules and locations.

Additionally, Applicant has received a letter of intent from the owners of an adjacent property to lease additional parking spaces as needed. There exists a plethora of parking spaces on the surrounding properties, none of which appear to be utilized at full capacity. The mere fact that adjacent landowners are offering to allow Applicant to utilize their unused spaces clearly indicates that the adjoining properties would not suffer a substantial detriment as a result of the variance.

In this instance, the parking requirement of one parking space per bed is unreasonable as applied to Applicant. As there is no use specific to the Proposed Use, the hospital classification is most similar. However, when looking at length of patient stays and visitor policies, Applicant is very different for the reasons set forth above.

### **Conclusion**

Applicant has had no parking issues at its 12 currently operating facilities and does not foresee parking being an issue at this facility given its on site employee count at peak hours and visitor policy. Moreover, the Commission noted no previous parking issues or violations at this facility since the PUD approval in 1997, which based its parking requirements off of a 119 bed facility, which presumably accommodates visitors during peak hours and significantly more visitors than Applicant in general. Further, per the Sycamore Township Zoning Resolution, conditions may be placed on such approval. It is clear that the major concerns of the Commission relate primarily to Applicant's provision of outpatient services and that a variance in parking requirements would remain with the use as part of the PUD in the future. Applicant suggests that to alleviate these concerns, the Commission grant the variance on the condition that Applicant does not provide outpatient services, that the variance be applicable only to Applicant and any other conditions the Commission deems reasonable and appropriate. Accordingly, Applicant's request should be granted.

Sincerely,



Michelle Lubbert for Applicant, Landmark Recovery

## **EXHIBIT “A”**

### **Landmark Recovery Narrative**

Landmark Recovery (“Landmark”) is a privately funded, family-owned organization, currently operating 12 facilities located in Kentucky, Nevada, Indiana, Oklahoma, Tennessee and Ohio. Landmark specializes in providing top quality inpatient and outpatient services and programs for those affected by alcohol and drug addiction as well as co-occurring mental health conditions. Landmark has a very ambitious plan to open 6 additional facilities this year alone, including facilities in Colorado, Indiana, Virginia, Wisconsin and Ohio. This narrative will provide you with more information about our operation and the services we provide.

### **Overview**

Landmark is unique because we provide a full continuum of care. Yes, detox is the first step in recovery, but while recognizing that genetics play a significant role in the predisposition of addiction, we also focus on causes, beyond genetics, of why a person has fallen into addiction. We want to get to the root of what is not being dealt with or is burdensome in the life of the addict. We provide life-skills and services to create a healthier and more hopeful way of living. We believe these are cornerstones of success with long-term recovery.

Our patients typically stay, on average, between 28 and 35 days. Our facilities serve both male and female adult patients in gender-separated areas and are equipped with a staff made up of nurse practitioners, registered nurses, licensed practical nurses, licensed clinical social workers, individual therapists, group therapists, intake therapists, patient advocates, technicians, maintenance and custodial staff, kitchen staff, administrative staff, and other staff as needed. Our facilities are staffed and monitored twenty-four hours a day, seven days a week, and patients are under continuous care and supervision, accordingly.

Our facilities are secured with state-of-the-art equipment, including card-only access, delayed egress door alarms, staff and video-monitored interior and exterior cameras. Visitors are not allowed, unless invited for a family treatment session in limited circumstances. Landmark has transitioned primarily to telehealth for family therapy sessions, and in most instances, these sessions are scheduled and held via the Teams platform to allow for flexibility with family members’ schedules and locations. Landmark does not accept walk-in patients, so patients must complete our admissions process prior to arriving at our facility at a scheduled date and time. Landmark does not permit its patients to keep a vehicle on site. Additionally, the proposed facility would be subject to regulation by the state and annual auditing by The Joint Commission.

## **Clinical Services Provided**

Landmark provides a wide range of services and programs in each of our clinical service levels, consisting of medical detox, residential treatment, partial hospitalization, and intensive outpatient care. A more detailed description of the services and programs that would be offered at this particular facility is provided below.

**Medical Detoxification:** *Carefully tapering of the body from the harmful side effects of substance withdrawal.*

Detoxification is a crucial step in rehabilitation and recovery but depending on the severity and type of substance addiction, the detoxification process may be uncomfortable and present potentially severe health complications. Landmark's detox unit exists to provide a safe environment in which to help manage moderate to severe withdrawal symptoms associated with alcohol and drugs like opiates and sedatives. The detoxification program also serves to prepare the patient for appropriate ongoing treatment within our facility with the goal of restoring the patient to a healthy and sober state of life.

Upon admission to our detox unit, Landmark staff perform a comprehensive history and physical exam on the patient. Further, within 24 hours of admittance to our detox unit, the intake clinician or primary addiction counselor completes a biopsychosocial evaluation, and using the results, in conjunction with information learned from the comprehensive history assessment and physical exam, compiles a Master Treatment Plan for the duration of the patient's stay. A discharge plan involving a variation of intensive outpatient services and alumni support after completion of residential treatment is also crafted to ensure that appropriate care continues after detoxification.

Depending on the severity of the addiction and type of substances that have been used, Landmark clinicians may prescribe specific supplements designed for detoxification, such as Suboxone, Buprenorphine or Campral. Depending on usage history and intensity, detoxification often lasts for the first ten days of treatment. At Landmark's detox unit, patient withdrawal is medically managed in a supportive residential environment by 24/7 registered clinicians, with both a psychiatrist and an internal medicine specialist monitoring daily for possible life-threatening withdrawal symptoms such as seizures and/or hallucinations.

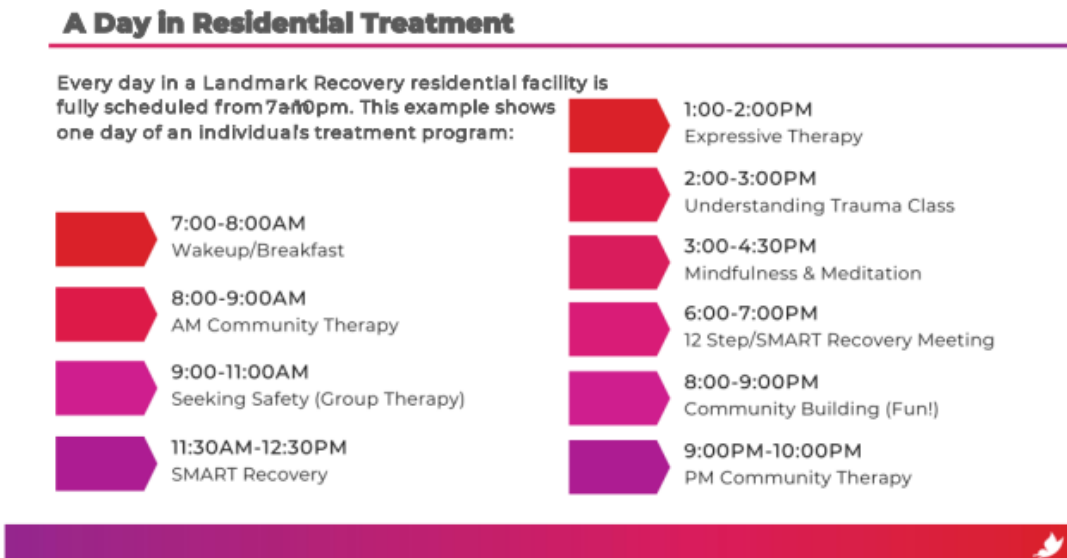
**Residential Treatment:** *Individualized and group treatment programs, inclusive of detox and partial hospitalization.*

Landmark’s residential treatment program takes place at our inpatient facilities and involves inpatient residential care lasting typically between 28-35 days. The goal of Landmark’s residential treatment program is to stabilize and improve the life and functionality of patients who have experienced withdrawal from alcohol, opiates, sedatives, or other mind-altering substances. Our program is transitional in nature and aims to ultimately return the patient to their community sober, healthy, and prepared to continue and maintain their recovery. Landmark’s residential treatment program includes individual and group therapy containing nine evidence-based curriculums, including Seeking Safety, SMART Recovery, Adverse Childhood Experiences, and Family Programming.

Our program is centered around teaching skills related to continued sobriety, with therapy sessions designed to explore the underlying triggers of substance use disorder and support groups designed to help recovering addicts share their story in a safe, private environment. Here, patients have the opportunity to build a network of support and skills that can last well beyond our doors.

Our residential treatment program is carefully structured, so patients have a balance of structure and free time. Not all residential treatment centers operate the same way, but many offer some form of both group and individual therapy sessions. Patients are assigned to therapists and counselors in either group blocks or assigned to meet with their individual clinician daily.

Below is a typical day in Landmark’s residential treatment program.



***Partial Hospitalization:*** *A transitional program that provides support for patients integrating back into their communities.*

Landmark's partial hospitalization program offers daily scheduling of group therapy and extracurricular activities comparable to our residential treatment program. However, patients on the partial hospitalization level of care receive just one individual therapy session per week, compared to two on the residential level of care.

Our partial hospitalization program is based on the patient's need for additional structure due to a compromised recovery environment, need for increased motivational interventions, or moderate to severe risk of relapse. Patients in our partial hospitalization program remain on site and typically attend morning and/or evening sessions and engage in structured programming, weekly individual therapy and ongoing psychiatric evaluation and treatment as needed.



Exhibit "B"

Staff Counts - 4650 E Galbraith Road																								
Number of Patients		160																						
Max Staff Total On Site		56																						
TIME OF DAY	12a	1a	2a	3a	4a	5a	6a	7a	8a	9a	10a	11a	12p	1p	2p	3p	4p	5p	6p	7p	8p	9p	10p	11p
Alumni Coordinator	0	0	0	0	0	0	0	0	0	1	1	1	1	1	1	1	1	1	0	0	0	0	0	0
APRN	0	0	0	0	0	0	0	0	0	4	4	4	4	4	4	4	4	4	0	0	0	0	0	0
Assistant Director of Nursing	0	0	0	0	0	0	0	0	0	1	1	1	1	1	1	1	1	1	0	0	0	0	0	0
Assistant Clinical Director	0	0	0	0	0	0	0	0	0	2	2	2	2	2	2	2	2	2	0	0	0	0	0	0
Business Office Manager	0	0	0	0	0	0	0	0	0	1	1	1	1	1	1	1	1	1	0	0	0	0	0	0
Clinical Director	0	0	0	0	0	0	0	0	0	1	1	1	1	1	1	1	1	1	0	0	0	0	0	0
Cook	0	0	0	0	0	0	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0	0	0	0
Dietary Manager	0	0	0	0	0	0	0	0	0	1	1	1	1	1	1	1	1	1	0	0	0	0	0	0
Director of Nursing	0	0	0	0	0	0	0	0	0	1	1	1	1	1	1	1	1	1	0	0	0	0	0	0
Executive Director	0	0	0	0	0	0	0	0	0	1	1	1	1	1	1	1	1	1	0	0	0	0	0	0
Facilities Manager	0	0	0	0	0	0	0	0	0	1	1	1	1	1	1	1	1	1	0	0	0	0	0	0
Float Nurse	0	0	0	0	0	0	1	1	1	1	1	1	1	1	1	1	1	1	1	0	0	0	0	0
Group Therapist	0	0	0	0	0	0	0	0	0	10	10	10	10	10	10	10	10	10	0	0	0	0	0	0
Housekeeper	0	0	0	0	0	0	0	0	0	2	2	2	2	2	2	2	2	2	0	0	0	0	0	0
Individual Therapist	0	0	0	0	0	0	0	0	0	16	16	16	16	16	16	16	16	16	0	0	0	0	0	0
LPN Pods	3	3	3	3	3	3	4	4	4	4	4	4	4	4	4	4	4	4	3	3	3	3	3	3
NOC PES Pods	5	5	5	5	5	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5
Overnight RN	1	1	1	1	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	1
Patient Advocate	0	0	0	0	0	0	0	0	0	3	3	3	3	3	3	3	3	3	0	0	0	0	0	0
Patient Engagement Manager	0	0	0	0	0	0	0	0	0	1	1	1	1	1	1	1	1	1	0	0	0	0	0	0
Patient Advocate Manager	0	0	0	0	0	0	0	0	0	1	1	1	1	1	1	1	1	1	0	0	0	0	0	0
PES Pods	0	0	0	0	0	0	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	0
Receptionist	0	0	0	0	0	0	0	0	0	1	1	1	1	1	1	1	1	1	0	0	0	0	0	0
RN Pods	0	0	0	0	0	0	1	1	1	1	1	1	1	1	1	1	1	1	0	0	0	0	0	0
Enterprise Patient Navigator	0	0	0	0	0	0	0	0	0	1	1	1	1	1	1	1	1	1	0	0	0	0	0	0
<b>TOTAL EMPLOYEES (including on call)</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>17</b>	<b>17</b>	<b>66</b>	<b>66</b>	<b>66</b>	<b>66</b>	<b>66</b>	<b>66</b>	<b>66</b>	<b>66</b>	<b>66</b>	<b>17</b>	<b>15</b>	<b>14</b>	<b>14</b>	<b>14</b>	<b>9</b>	
<b>TOTAL EMPLOYEES (on site)</b>	<b>8</b>	<b>8</b>	<b>8</b>	<b>8</b>	<b>8</b>	<b>8</b>	<b>14</b>	<b>14</b>	<b>56</b>	<b>56</b>	<b>56</b>	<b>56</b>	<b>56</b>	<b>56</b>	<b>56</b>	<b>56</b>	<b>56</b>	<b>14</b>	<b>13</b>	<b>12</b>	<b>12</b>	<b>12</b>	<b>8</b>	