



Project: Restore Medical Partners, PLLC
Special Exception Petition No. 17-10SE

Staff Report

Applicant: Restore Medical Partners, PLLC

Agent: Scott Rudacille, Esquire, Blalock Walters

Address: 333 S. Tamiami Trail, Suites 101 and 169/171

Parcel ID #s: 0000-00-7731 and 0000-00-7898

Future Land Use Designation: Mixed Use Corridor

Existing Zoning: Commercial, General (CG), Venetian Urban Design (VUD) overlay District, and Venetian Theme (VT) architectural control district

Summary of Special Exception:

On October 18, 2016, the Planning Commission approved Special Exception Petition No. 16-02SE to allow as a special exception use a pain management clinic at 333 S. Tamiami Trail, Suite 169/171. The applicant proposes to expand the pain management clinic to a different suite (Suite 101) at the same address. At the request of the applicant, both the existing/previously approved (Suite 169/171) and proposed (Suite 101) pain management clinics are included in the subject petition. The Planning Commission's review and approval of the requested special exception is limited to the pain management clinic expansion into Suite 101, and the Planning Commission's action on the subject petition will have no bearing on the previously approved pain management clinic in Suite 169/171.

Technical Review Committee (TRC): The subject petition has been reviewed by the TRC and has been found in compliance with the regulatory standards of the City Code of Ordinances.

I. BACKGROUND

On February 12, 2013, the City of Venice adopted Ordinance No. 2013-03 to provide regulatory standards for pain management clinics within the city. The ordinance also contained a sunset provision whereby the pain management clinic regulations would automatically expire two years after its adoption. On February 12, 2015 the regulations expired.

On August 23, 2016, the City of Venice adopted Ordinance No. 2016-10 which amended the Commercial, General (CG) and Commercial, Intensive (CI) district regulations. The ordinance established pain management clinics as a special exception use in the CG district and a prohibited use in the CI district.

On October 18, 2016 the Planning Commission approved Special Exception Petition No. 16-02SE allowing a pain management clinic at 333 S. Tamiami Trail, Suite 169/171. The approval was effective upon City adoption of a pending ordinance which re-established the same pain management regulations that were sunset. One week later, on October 25, 2016, City Council adopted Ordinance No. 2016-19 re-establishing the sunset pain management clinic regulations.

II. PROPOSED USE/PROJECT SUMMARY

In accordance with Section 86-92(d)8, the applicant proposes a pain management clinic in the Commercial, General (CG) zoning district. The Restore Medical Partners request special exception approval to expand its practice at 333 S. Tamiami Trail. Since the approval of Special Exception Petition No. 16-02SE, the practice has been conducting business in Suite 169/171. Through the subject petition, the Restore Medical Partners request approval to expand the practice into another suite (Suite 100) on the same property. Based on the narrative submitted by the applicant, it is the practice's intent to use Suite 169/171 for surgical procedures and to use Suite 101 for patient visits and office space.

The practice has remodeled Suite 101 and is currently conducting business from the suite with a written assurance that the suite will not function as a pain management clinic until special exception approval is obtained. The assurance specifies that, at Suite 101, only non-narcotic patients will be seen, less than 20 controlled medications will be prescribed on any given day and the suite will not be identified in any advertisement.

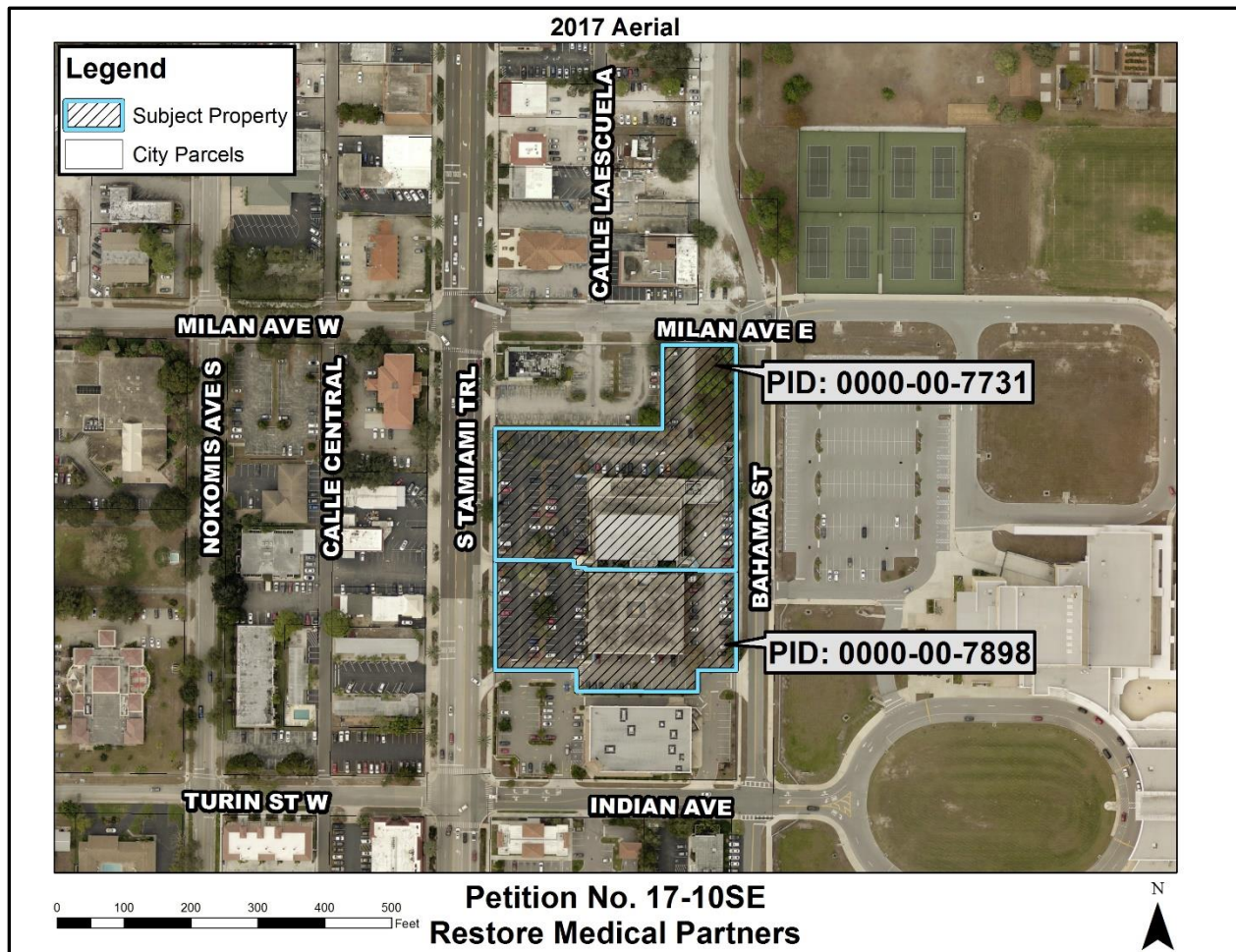
III. SUBJECT PROPERTY/SURROUNDING AREA INFORMATION

On- and Off-Site Conditions:

Map 1, on the following page, shows the subject property is located on the east side of the 300-block of South Tamiami Trail (U.S. 41 Business). Vehicular access to the property is via Tamiami Trail and Bahama Street. The property is comprised to two parcels (0000-00-7731 and 000-00-7898), with a three-story office building on each parcel. Pedestrian access (stairways and elevators) connect the two buildings.

The existing, approved pain management clinic in Suite 169/171 is located at the southwest corner of the first floor of the south office building. The proposed pain management clinic in Suite 101 is located at the southwest corner of the first floor of the north office building. Existing parking is provided along all four sides of the office buildings, with the largest parking area located on the west side of the office buildings.

Map 1: Aerial Photograph



The following photographs shows the location of the existing/approved and proposed pain management clinics.



The existing/approved pain management clinic in Suite 169/171, located in the south office building.



The proposed pain management clinic in Suite 101, located in the south office building.

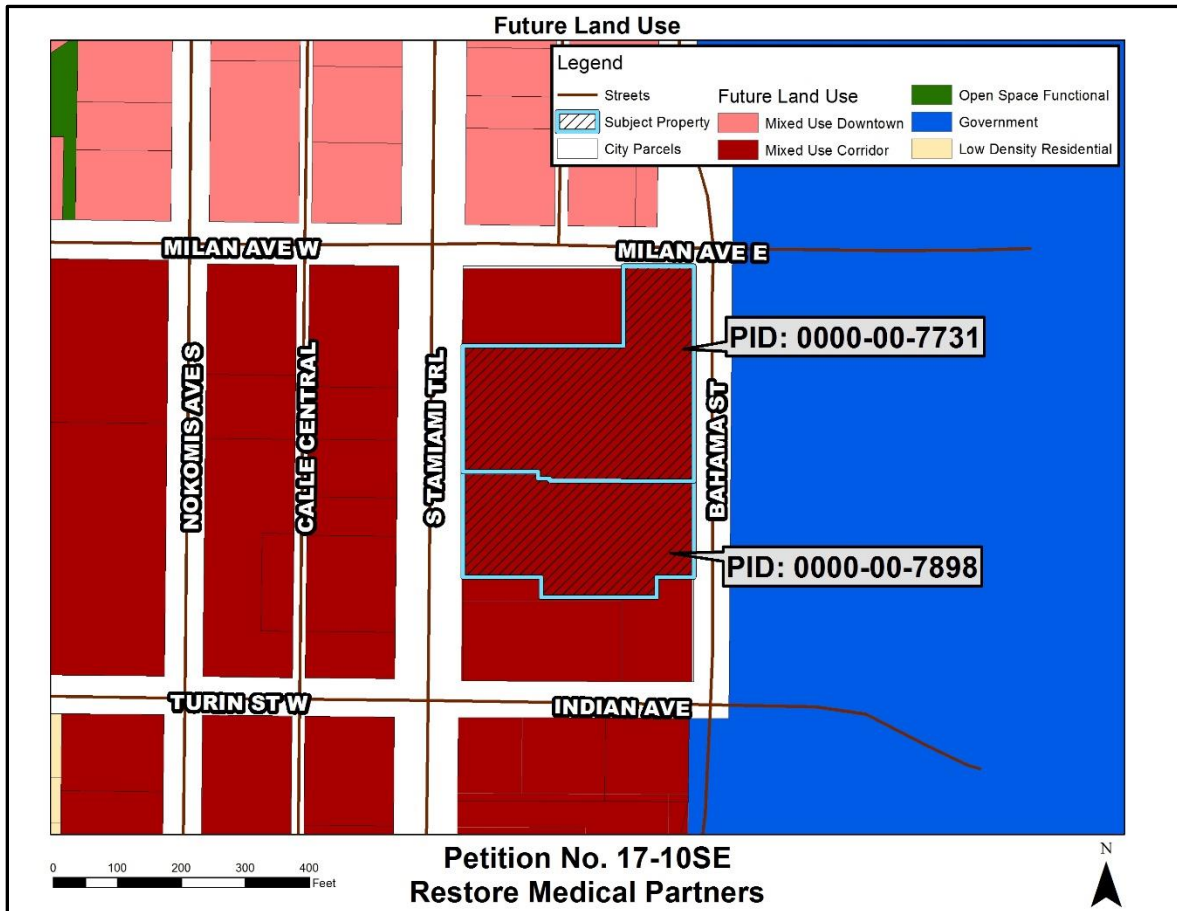
Existing uses, current zoning and the future land use designation of surrounding properties is provided in the following table.

| Direction | Existing Use(s) | Existing Zoning | Future Land Use Designations |
|-----------|--|---|---|
| North | Former restaurant, bank and strip commercial building | Commercial, Intensive (CI), Commercial, General (CG), Venetian Urban Design (VUD) and Venetian Theme (VT) | Mixed Use Corridor (MUC) and Mixed Use Downtown (MUD) |
| West | Office building, farm and meat market, salon, motel & commercial parking lot | CG and VT | MUC |
| South | Pharmacy, bank and dentist office | CG and VUD | MUC |
| East | Venice High School | Government Use (GU) | Government |

Future Land Use:

Map 2 on the following page shows the future land use map designations for the subject property and surrounding properties. The subject property has a Mixed Use Corridor (MUC) designation. Strategy LU 1.2.9.c.4 specifies that non-residential uses in the MUC are limited to commercial and institutional-professional.

Map 2: Future Land Use Map



Existing Zoning:

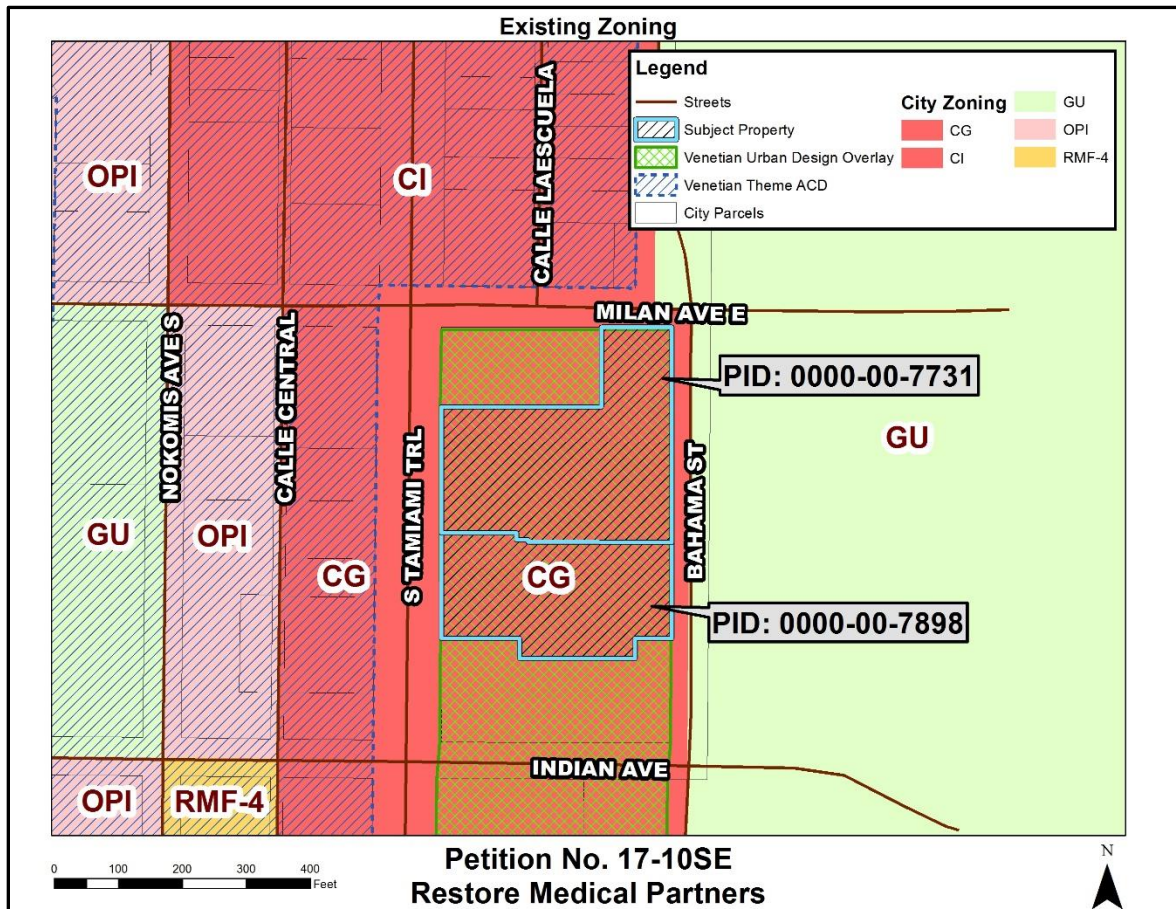
Map 3 on the following page shows the existing zoning of the subject and surrounding properties. The subject property is zoned Commercial, General (CG) and in the Venetian Urban Design (VUD) overlay district. With the exception of the Government Use (GU) zoned Venice High School property to the east, all surrounding properties have either CG or CI zoning. Strategy LU 1.2.9 identifies the implementing zoning districts for each of the five mixed use future land use map designations. The CG district is an implementing district for the MUC.

State and County Regulation of Pain Management Clinics:

In addition to the City's pain management clinic regulations, Florida laws and Sarasota County also regulate pain management clinics. Florida laws that apply to pain management clinics include Section 458.3265 F.S. and Section 459.0137 F.S. These statutes specify which clinics are deemed to be pain management clinics and subject to the regulations, and which clinics may be deemed not to be pain management clinics and therefore not subject to the regulations. Clinics deemed to be pain management clinics are required to register with the State of Florida Department of Health, Division of Medical Quality Assurance and comply with regulations related to physician responsibilities, including data collection and reporting, Department of Health, Division of Medical Quality Assurance annual inspections, and penalties and enforcement.

Sarasota County also regulates pain management clinics by Chapter 62, Article XI, Pain Management Clinic Code. These regulations contain applicability provisions, definitions, standards for new local business tax receipts for pain management clinics, regulations of pain management clinics, and violations and penalties.

Map 3: Existing Zoning Map



IV. PLANNING ANALYSIS

This section of the report evaluates the subject petition's consistency with the comprehensive plan, evaluates concurrency, and evaluates the proposed use for compliance with the pain management standards contained in Section 86-155 and required finding of approval contained in Section 86-43(e).

Consistency with the Comprehensive Plan:

The subject property is located in the Island Neighborhood of the 2017 Comprehensive Plan. The neighborhood is comprised of 140 acres of land, including the subject property, which has a Mixed Use Corridor (MUC) designation. Part C of Strategy LU-IS 1.1.3 specifies that in the Island Neighborhood MUC designation, development and redevelopment may incorporate either a horizontal or vertical mix of uses, typically locating higher activity uses use as retail, restaurant,

or similar on the ground floor, and lower intensity uses such as professional office, residential, or similar above the ground floor. Part B of Strategy LU-IS 1.1.3 specifies that in the Island Neighborhood MUC designation, the maximum non-residential intensity for the overall area is calculated based on a FAR of 0.50 (designation-wide and 1.0 (for individual uses). Strategy LU 1.2.9.c.4 of the Land Use Element specifies that non-residential uses in the MUC are limited to commercial and institutional-professional.

The proposed pain management clinic is consistent with the above land use strategies. The strategies on maximum intensity do not apply due to the fact that no construction is proposed.

There are no strategies in the Island Neighborhood or Land Use Element, including the MUC designation, that specifically apply to pain management clinics, nor is the requested special exception use in conflict with any strategy contained in the 2017 Comprehensive Plan.

Concurrency/Adequate Public Facilities:

Due to the fact that the proposed uses is consistent with permitted uses and there is no proposed construction or expansion of the existing office buildings, there are no anticipated negative impacts to public facilities.

Compliance with the Land Development Code:

Compliance with Pain Management Clinic Standards:

Section 86-155 provides development standards that apply specifically to pain management clinics. Many of the standards are performance standards which regulate the conduct of business at a pain management clinic.

- (1) *Controlled substances.* The on-site sale, provision, or dispensing of controlled substances at a pain management clinic is prohibited except as specifically authorized by applicable federal or state law.

Staff Comment: *The applicants will be required to comply with this standard in the conduct of their business, including compliance with state and county reporting/monitoring requirements.*

- (2) *Loitering.* The pain management clinic shall provide adequate seating for its patients and business invitees. The pain management clinic shall not direct or encourage any patient or business invitee to stand, sit (including in a parked car), or gather or loiter outside of the building where the clinic operates, including in any parking areas, sidewalks, right-of-way, or neighboring properties for any period of time longer than that reasonably required to arrive and depart. The pain management clinic shall post conspicuous signs on at least three sides of the building that no loitering is allowed on the property.

Staff Comment: *The practice has a waiting room for patient and business invitees at both suites. The applicant has installed no loitering signs on multiple sides of the north and south buildings.*

- (3) *Queuing of vehicles.* The pain management clinic shall ensure that there is no queuing of vehicles in the right-of-way. The pain management clinic shall take all necessary and immediate steps to ensure compliance with this paragraph.

Staff Comment: *Off-street parking facilities exist on all four sides of the office buildings.*

- (4) *Alcoholic beverages.* No consumption of alcoholic beverages shall be allowed on the premises, including in the parking areas, sidewalks, or right-of-way. The pain management clinic shall take all necessary and immediate steps to ensure compliance with this paragraph.

Staff Comment: *The applicants will be required to comply with this standard in the conduct of their business.*

- (5) *Separation distances.* Pain management clinics and pharmacies shall not be co-located on the same property.

Staff Comment: *Staff has confirmed that there is no pharmacy located on the subject property. A Walgreens drug store is located on the adjacent property to the south.*

- (6) *Operating hours.* Pain management clinics shall only be allowed to operate between 7:00 a.m. and 7:00 p.m., Monday through Friday, and between 7:00 a.m. and 12:00 p.m. on Saturdays. Pain management clinics shall not operate on Sundays.

Staff Comment: *The posted hours for the practice comply with this standard.*

- (7) *Compliance with other laws.* All pain management clinics shall at all times be in compliance with all federal and state laws, Sarasota County regulations and the City of Venice Land Development Code, as amended.

Staff Comment: *The applicants will be responsible for ensuring that the proposed pain management clinic is in compliance with all federal and state laws, Sarasota County regulations and the Land Development Code at all times. Sarasota County staff have confirmed the existing/approved pain management clinic in Suite 169/171 is in compliance with Sarasota County pain management regulations. The Venice Police Department informed staff that there have been no incidents at the existing/approved pain management clinic since its October, 2016 special exception approval.*

- (8) *Nonconformities.* The requirements for separation distances as outlined in this section shall be prospective only from the effective date of the ordinance codified herein, and therefore existing clinics in the city which do not meet the separation distance requirements shall be granted nonconforming status. These nonconforming characteristics of use shall be regulated in the same manner as set forth in Section 86-555 of this Code. Therefore, no change shall be made by existing clinics which increases the nonconforming characteristics of use of separation distances. Notwithstanding any other provision of Section 86-555 of this Code, all other characteristics of use (controlled substances, loitering, queuing of vehicles, alcoholic beverages, operating hours, and compliance with other laws) shall be applicable to all existing and future pain management clinics.

Staff Comment: *This standard is not applicable; the existing and proposed pain management clinic complies with the above separation distances standard.*

Required Planning Commission Findings for Special Exception Approval:

In accordance with Section 86-43(e), before any special exception shall be approved, the planning commission shall make a written finding that the granting of the special exception will not adversely affect the public interest and certify that the specific requirements governing the individual special exception, if any, have been met by the petitioner and that, further, satisfactory provision and arrangement has been made concerning the following matters, where applicable.

Staff has provided commentary on each finding to facilitate the Planning Commission's review and evaluation of the special exception application. Due to the nature of the subject petition, namely the establishment of a special exception use in an existing developed property, many of the considerations listed below are not applicable.

1. Compliance with all applicable elements of the comprehensive plan.

Staff Comment: *The proposed use is consistent with the Mixed Use Corridor designation which allows commercial and institutional-professional uses. No other comprehensive plan strategies specifically apply to the proposed pain management clinic.*

2. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

Staff Comment: *No changes are proposed to the ingress and egress to the property.*

3. Off-street parking and loading areas, where required, with particular attention to the items listed in subsection (e)(2) of this section and the economic, noise, glare or odor effects of the special exception on adjoining properties and properties generally in the district.

Staff Comment: *No changes are proposed to the existing off-street parking facilities.*

4. Refuse and service areas, with particular reference to the items listed in subsections (e)(2) and (e)(3) of this section.

Staff Comment: *This matter is not applicable to the subject petition.*

5. Utilities, with reference to location, availability and compatibility.

Staff Comment: *This matter is not applicable to the subject petition.*

6. Screening and buffering, with reference to type, dimensions and character.

Staff Comment: *This matter is not applicable to the subject petition.*

7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effects, and compatibility and harmony with properties in the district.

Staff Comment: A sign permit was issued for the existing sign associated with the existing/approved pain management clinic at Suite 169/171.

8. Required yards and other open space.

Staff Comment: This matter is not applicable to the subject petition.

9. General compatibility with adjacent properties and other property in the district.

Staff Comment: The proposed pain management clinic will be located inside an existing office building.

10. Any special requirements set out in the schedule of district regulations of this chapter for the particular use involved.

Staff Comment: Development standards for pain management clinics are contained in Section 86-155(b). Staff review comments on each of the development standards are provided on pages 7 through 9 of this report.

V. SUMMARY FINDINGS

Based on the planning analysis provided in Section IV of this report, sufficient information has been provided to allow the Planning Commission to make the following findings on the subject special exception petition.

1. **Consistency with the Comprehensive Plan:** *The proposed special exception use may be found consistent with the comprehensive plan.*
2. **Concurrency:** *Due to the fact that the proposed uses is consistent with permitted uses and there is no proposed construction or expansion of the existing office buildings, there are no anticipated negative impacts to public facilities.*
3. **Required Planning Commission Findings for Special Exception Approval:** *It can be found that the proposed special exception use:*
 - *Will not adversely affect the public interest,*
 - *Can operate in compliance with the specific pain management clinic standards contained in Section 86-155(b), and*
 - *It can be found that satisfactory provision and arrangement have been made concerning the matters listed in Section 86-43(e).*