

CONCORD TOWNSHIP ZONING COMMISSION
LAKE COUNTY, OHIO
REGULAR MEETING

Concord Town Hall
7229 Ravenna Road
Concord, Ohio 44077

July 5, 2016
7:00 p.m.

TRANSCRIPT OF PROCEEDINGS

Zoning Commission members present:

Rich Peterson, Chairman
Rick Gorjup, Vice Chairman
Andrew Lingenfelter
Frank Schindler
Morgan McIntosh

Also Present:

Bruce Bullard, Zoning Inspector
Heather Freeman, Planner

Melton Reporting
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1 7:00 p.m.

2 CHAIRMAN PETERSON: Good evening, everyone. I would
3 like to call to order the Concord Township Zoning Commission
4 meeting for Tuesday, July 5, 2016. We have a fairly short
5 agenda tonight but the first item on our agenda is a work
6 session for potential zoning amendments. And I believe this is
7 where we get our homework, Bruce.

8 MR. BULLARD: This is where you get your homework.

9 CHAIRMAN PETERSON: Okay. Do you want to enlighten
10 us?

11 MR. BULLARD: Okay. Let me actually skip down to
12 your second, second item.

13 CHAIRMAN PETERSON: Oh, okay.

14 MR. BULLARD: Which is introducing our new Zoning
15 Commission alternate, Gerry Morgan. He's currently the
16 director of Water Resources and Sanitary Engineer for Geauga
17 County and he's been with Geauga County for ten years. Prior
18 to that, he's worked 13 years for engineering firms performing
19 site design and planning for residential and commercial
20 developers. In addition to his Professional Engineering
21 license, he is also a licensed attorney. We're very fortunate
22 to have him as a resident in Concord Township and, you know,
23 willing to offer his services on the Board. Gerry, he's right
24 here.

25 And I also am very thankful that we have a full Board
26 tonight because we are going to be giving you, on this list of
27 work session potential agenda, some things I want you to really
28 think about which ones you really want to, you know, start
29 pursuing seriously because, as you know, any type of text
30 amendment becomes a very time-consuming and involved process.

1 There is a couple things that I will step in on with
2 Heather, but Heather will lead you through what the idea is as
3 far as what we're going to have as far as changes that we see
4 need to be done.

5 So that being said, it's your game, Heather.

6 MS. FREEMAN: Thank you. Okay. In the memo that we
7 sent in your packet, we kind of went through a list of
8 potential amendments that we are considering, that we would
9 like you to consider. Some of -- The first one was the
10 reorganization and consolidation of the Zoning Resolution.
11 About a year ago when that other -- that list that we were kind
12 of working through, that was one of the ideas we kind of threw
13 out there. We've got, currently, like, 38 sections in the
14 Zoning Resolution and, of those, like 9 of them have been
15 repealed. They were old sections and they just never replaced
16 them with new, new ones. So we've got, like, these holding
17 places for things that we don't really have items for.

18 So I think, if we wanted to, it would be a much
19 larger comprehensive update that could take -- I don't know --
20 several months to even a year or something if we wanted to go
21 through the whole, whole Zoning Resolution and look at where we
22 might be able to clean some things up, add some headings like
23 we've done and just consolidate some of the text. We've
24 noticed, like, some of the items are repeated over in several
25 sections. So we might be able to just make it a little bit
26 more user-friendly for staff, the Commission, the boards and
27 residents, developers.

28 Number 2 on the list, reviewing our site plan review
29 process, along with the design review and the landscape review.
30 There was a recent court case that came out of Cuyahoga County,

1 the *Willow Grove versus Olmsted Township*, where a real estate
2 developer challenged their development review process, which is
3 kind of synonymous with our site plan review process, and
4 whether or not they had the adequate statutory authority to do
5 that.

6 The issue they had was the developer had to submit
7 their development plan to the zoning inspector, who would then
8 transmit it to the Zoning Commission, and then it would
9 actually go the township trustees who would then issue the
10 zoning permit, which got challenged in court for two different
11 reasons. As you know, like, with the Planned Unit
12 Developments, we have the authority to do it that way. But
13 with site plan review, there is no specific statutory authority
14 to do it.

15 So they lost the case because the zoning -- the
16 zoning inspector is the person that issues the zoning permit,
17 which we do here. Our site plan review goes to the Zoning
18 Commission. You give your approval. And then, at the end of
19 the day, Bruce issues the zoning permit. So that's not an
20 issue in our case. But there may be some things that we want
21 to discuss with legal to make sure that we're okay within our
22 limits of the ORC. And I know that Mike Lucas is aware of that
23 and he did mention to us that, yeah, we may want to take a look
24 at that.

25 And then, last year, we also talked about the Sign
26 regulations and the U.S. Supreme Court decision that had to do
27 with content neutrality. And we just did a recent update to
28 our Signs, like, prior to me starting here. So I think we're
29 pretty good, although where we, where we see some issue really
30 has to do with how we're regulating temporary signs. So there

1 was in your handout, too, like, kind of an update as to what
2 happened since that Supreme Court case and some additional
3 guidance on what communities can do to make sure that their
4 regulations would pass any kind of strict scrutiny if it was,
5 on the face, content based.

6 So there are a few things that I know, right off the
7 bat, that we need to -- that we really need to change.

8 CHAIRMAN PETERSON: In those sign ordinances?

9 MS. FREEMAN: In the signs, yeah, where some of them
10 are just like where we exempt certain types of signs based on
11 its content, so, like, exempting real estate signs or political
12 signs, things like that. There's some good suggestions on how,
13 in here, on how we can make sure that we wouldn't be subject to
14 strict scrutiny.

15 MR. SCHINDLER: Have we been challenged already?

16 MS. FREEMAN: No, no, I mean, no. The only way we'd
17 be challenged, if someone took us to court on it.

18 MR. SCHINDLER: Right.

19 MS. FREEMAN: But, no, so we haven't had any. I
20 mean, as far as enforcement of, like, temporary signs, we've
21 really just been enforcing, like, whether or not people are
22 putting it in the right-of-way, on utility poles, stuff like
23 that. I mean, anything that's, kind of, blatantly, it really
24 hasn't, it hasn't become an issue.

25 Do you want to add anything to that or --

26 MR. BULLARD: Yeah. We don't, we don't judge any
27 sign based on the content. We're basing it on location as far
28 as any type of temporary sign that you are seeing out there.
29 All the ones I am pulling are right-of-way signs. Nobody
30 really is supposed to have signs in the right-of-way.

1 The problem comes when, you know, you start reading a
2 sign and you say, well, you know, like, if you have a garage
3 sale sign, you have garage sale signs go up different places.
4 Well, Joe Landscaper has his business someplace else but he
5 starts putting signs up. Well, the only reason you know it's
6 not a garage sale sign, that you may allow according to your
7 text -- which you really can't because now you are saying what
8 the text can say on your sign -- you're looking and you're
9 reading it. Once you read it and you say, "Well, he can't have
10 that because he's a business," well, now you have a problem.
11 This is what, essentially, one of the problems they have.

12 MR. McINTOSH: How many -- How many instances in our
13 text do we reference, do we classify things as to content?
14 Because if I recall correctly, we had a couple.

15 MR. BULLARD: We, we still do. And one of the
16 biggest things they caution you on is to not just not regulate
17 it. You need to clean your text up and fix your text. That's
18 one of the things that this is actually -- one of the hotter
19 things that this -- The problem is the Supreme Court is, kind
20 of, still all over the place as far as how they're interpreting
21 what they're interpreting. Until these court cases out there
22 that are challenged, we won't really get a clear direction. So
23 going back to size, shape, number, you know, in making -- in
24 paring down your text in that manner, those are the things that
25 give us, you know, complete control over what we want on a
26 piece of property. But it doesn't end up being that simple
27 because you have directional signs that are, kind of, used for,
28 you know, internally and we can't use the word "directional"
29 either now.

30 So, you know, it's going to take a little bit of

1 thought process to make it work. At the same time, we need to
2 do something but we can't be in such a hurry that we are back
3 in the same place in about six months after a couple court
4 cases. So it's going to have to be a well thought out process
5 but it's going to be one of the hotter items that we need to
6 look at.

7 CHAIRMAN PETERSON: I thought we were heard on that
8 because, a couple years ago, we had a task team. I was part of
9 that, in fact. We had several meetings. You were on that,
10 too, Frank. We had several meetings with the consultant and
11 brought everything up to, what we thought was up to snuff.

12 MS. FREEMAN: And this case came out after that,
13 yeah.

14 MR. McINTOSH: After that.

15 MR. BULLARD: This came out after.

16 MS. FREEMAN: Some of the things that were thought to
17 be okay aren't based on after this decision.

18 CHAIRMAN PETERSON: Okay.

19 MR. GORJUP: We need to be --

20 MR. SCHINDLER: I was going to say, I thought it to
21 be all right but still the courts still haven't made up their
22 own minds yet.

23 MS. FREEMAN: Yeah.

24 MR. SCHINDLER: So we could be going into this again
25 and just spinning our wheels.

26 MR. LINGENFELTER: I think we should just not do
27 anything, just leave it alone and see what happens.

28 MR. SCHINDLER: Well, exactly.

29 MR. GORJUP: Let them sue us?

30 MR. LINGENFELTER: Did you read that decision? Did

1 you read that?

2 MR. SCHINDLER: Yeah, I read this.

3 MR. GORJUP: Are we too specific or too ambiguous?

4 MR. LINGENFELTER: Gerry may have understood it but I
5 sure as heck couldn't make --

6 MS. FREEMAN: Well, some of, some of the temporary
7 sign stuff is a little -- Like, for residential, you know, for
8 residential, you're allowed to have a temporary sign for a
9 garage sale. I mean, that's way too specific. We can't say
10 what the sign can say.

11 MR. LINGENFELTER: When you start talking about
12 facially --

13 MS. FREEMAN: Yeah. Because I should, if you're
14 allowed to put up a sign for a garage sale, I should be allowed
15 to put up a sign that says whatever I want, but our text says
16 it has to say it's for a garage sale and it can only be up
17 during that sale.

18 MR. McINTOSH: Technically, by that decision, now
19 it's confining it and we're restricting free speech is the
20 premise of --

21 MS. FREEMAN: Right.

22 MR. McINTOSH: We can't do that. So everything in
23 our text now just has to reference temporary with no subject
24 matter definition, further definition to it as to political or
25 anything.

26 MS. FREEMAN: Right.

27 MR. McINTOSH: We can't call those kinds of things
28 out anymore. It's temporary and that's the only --

29 MS. FREEMAN: And you can limit the size of it.

30 MR. McINTOSH: Right.

1 MS. FREEMAN: Which I don't think we really do right
2 now as far as the sign of a -- the size of a temporary sign
3 for, like, a garage sale, say, for example, or whatever it is.
4 Location, we do, you know, outside of the right-of-way, 10 feet
5 away from -- so many feet from a property line. Time, we do
6 somewhat. But those things, you know, those are --

7 MR. McINTOSH: It will be interesting when you try to
8 define duration without talking about subject matter, purpose
9 of the sign.

10 MS. FREEMAN: And even in the short year and a half
11 that I've been here I've noticed that the temporary sign
12 allowance for, like, churches or maybe even commercial
13 businesses isn't quite enough for what they need, potentially.
14 We have a lot of churches in the community and they host a lot
15 of different events throughout the year. And we have,
16 currently, they're allowed up to 45 days for one temporary sign
17 and, you know, a certain size and setback. But -- And they can
18 break it up into different events. We've seen a lot looking
19 for more, like maybe they host four or five events and they
20 want to put a sign up for two weeks for each event. So that
21 may be something that we may want to look at, too, whether or
22 not we're giving those commercial and, you know, nonresidential
23 uses enough temporary signage or even --

24 MR. GORJUP: And you were right, Andy. Just don't
25 have anything. I don't mean to be funny but --

26 MR. LINGENFELTER: Leave it alone.

27 MR. GORJUP: Yes.

28 MR. LINGENFELTER: Until the dust settles.

29 MR. SCHINDLER: Okay.

30 MS. FREEMAN: A couple things on that, too, was they

1 were -- Allen Weinstein, who is a well-known expert in First
2 Amendment rights and also a professor at CSU, gave a recent
3 presentation at this planning and zoning workshop. He
4 indicated that we need to be checking, too, our sign
5 regulations to make sure there's a severability clause and,
6 like, that substitution clause, and I don't believe our text
7 has that. So those are things that we should look at adding as
8 well so, if one section of the Sign regulation is found to be
9 unconstitutional, it won't throw out the whole Sign regulation.
10 And the substitution clause would indicate where commercial
11 speech could be and noncommercial speech.

12 Okay. The private roads, we were -- The idea was
13 brought to us to consider allowing fee simple lots to have
14 frontage on private roads versus only public roads. I know
15 Bruce wanted to talk about this a little bit as far as why we
16 may want to -- may look at that maybe in limited circumstances.

17 MR. BULLARD: Yeah. Essentially, what's come up is
18 the R-3, where we ended up getting single detached family
19 dwellings, we watched that Ryan Homes not only is selling the
20 condo but they're giving these people exclusive rights to an
21 area around it, which resembles a fee simple lot but it's not a
22 fee simple lot. These people are actually fencing in their
23 neighbor's property behind themselves based on, you know, R-3
24 definitions. But because they're given an exclusive easement,
25 they're creating fee simple lots. And if you look at it --

26 MR. LINGENFELTER: Where is this happening?

27 MR. BULLARD: This is in R-3, like Aria's Way and,
28 also, Gabriel's Edge. What it amounts to is they don't want to
29 be part of a maintenance operation, they don't want to be, you
30 know -- They're eliminating the maintenance factor as far as

1 each one of the units.

2 Now, that being said, with the appearance of a fee
3 simple lot on a private street, it's come, the question -- Like
4 over in Quail, there's a lot of places to be developed. But
5 when you go to develop a condominium, you don't have the same
6 value when you go to finance the building of it because you
7 don't have the piece of property. You have the whole land mass
8 is part of what you're going to be doing instead of an
9 individual lot.

10 So it's been questioned by developers, well, is it
11 possible to create fee simple lots on a private street?
12 Currently, our text does not allow that.

13 My thought, and I think Heather concurs, is, you
14 know, looking at that idea, looking at it for, like, a PUD or
15 the RCDs where you have, you know, specific control over the
16 properties, that would be good, possibly, which I think we've
17 got to look at it with more of a greater eye on this because,
18 legally, I don't know what it opens up.

19 In the township, you know, we have all these flag
20 lots that have an easement road. Well, that easement road,
21 quite possibly, could have ended up being a private street.
22 And that private street, if controlled correctly through our
23 program, would meet the standards for the safety departments,
24 which, you know, the easement doesn't necessarily have to meet
25 that as a drive with the houses and everything else, the
26 distance they're going back, according to our regulations. In
27 that aspect, it could, it could be beneficial in the R-4 and
28 the R-1.

29 But, mainly, the application for developed areas in
30 the R-2 and the RCD, I think, it might be more beneficial both

1 to developers and to get a nice, you know, product out of them,
2 possibly, if we end up with fee simple lots because then they
3 would be able to finance the houses and everything else they
4 want to do.

5 Now, it's just an option that's come up. We do have
6 developers that are interested in finding that out. Of course,
7 you know, they're excited. But, you know, the Trustees have
8 not given me an indication whether they're really, you know,
9 pro this or negative to this. There's -- It's definitely a
10 financing benefit for the builder.

11 So that's, that's something that I know that, with
12 the corridor expansion and everything else, the other place
13 that could possibly do it is on the C District for the
14 innovative site plan, you know, could conceivably do a private,
15 you know, private streets in there and come out with something
16 that would work, you know, better for the Township.

17 Now, the benefit of the Township is those private
18 streets are not maintained by the Township and expenses are not
19 put into it.

20 MR. SCHINDLER: Right.

21 MR. BULLARD: They'll be built to the standards that
22 they have to be as far as the fire safety and hydrant distances
23 and everything else, and there won't be any stub streets in
24 them. They'll all have to have, you know, turn-arounds and
25 everything else for the safety forces. But it just becomes a
26 matter of, is that a direction that we want to go and is it
27 beneficial overall? So --

28 MS. FREEMAN: Just to, kind of, add to that, I mean,
29 the Zoning Resolution doesn't prohibit private streets
30 anywhere. So we, we really don't regulate them but we allow

1 them. Like he was saying, for flag lots, we have a lot of
2 shared, you know, easements. So it's not like we're against
3 private roads. We don't have any guidelines on them. But
4 what's limiting us to allow lots to front on private roads is,
5 kind of, is the definition of "lot." The definition of "lot,"
6 it specifically says it has to have frontage on a, on a public
7 dedicated road. So --

8 MR. BULLARD: So, essentially, essentially, what
9 could happen, we do have prints downstairs. Over in Quail, we
10 have, we have a development that was proposed on Ravenna Road
11 up here and we don't have, in Quail, a width that is required,
12 like 50 foot lot width that we are -- required frontage at. So
13 you could have a one- to two-foot wide piece of strip of land
14 coming all of the way out of the parcel, all the way out and
15 touching Ravenna and going through mathematical CAD drawings so
16 that everybody has a frontage on Ravenna. And we have, you
17 know, we have, unfortunately, engineers out there who are more
18 than willing to do these CAD drawings for you to create that
19 number of drawings, you know, frontages and, you know, they can
20 do that.

21 And, you know, that's one of the things they're
22 looking over at Quail. I mean, the engineers are still
23 available for them to, you know, draw those drawings and bring
24 Hunting Lake through, if they decide they want to do it on
25 Hunting Lake, and create a development, they could with their
26 creative writing. But now you're talking about one- or
27 two-foot wide flag lots going back to where the houses sit and
28 does that really, you know, make a lot of sense, you know,
29 whereas, the fee simple lot, you know, based on a road with
30 normal boundaries and corners, you know, instead of long tails

1 and that?

2 MR. SCHINDLER: What would the two foot give a
3 benefit, the homeowner?

4 MR. BULLARD: The two foot just gives them frontage.

5 CHAIRMAN PETERSON: Frontage.

6 MR. SCHINDLER: That's all?

7 MR. BULLARD: That's all it gives them. It gives
8 them frontage, the required frontage according to our text.
9 That's all it gives them.

10 MS. FREEMAN: They could do lots on a private road
11 with one foot frontage and not even use that as their frontage.
12 They would just use the private Road.

13 MR. BULLARD: Now, that's, that's only in the PUDs
14 where the width of the lot can vary on the frontage. Now, when
15 you get in the R-1 and the R-4, you are required to have 50
16 foot, which is where our big, extended flag lot developments
17 are, down the road from Summerwood and across the street from
18 Summerwood.

19 MR. McINTOSH: You mentioned Aria's Way and Gabriel's
20 Edge, I think.

21 MR. BULLARD: Yeah.

22 MR. McINTOSH: Do we have current issues then with
23 respect to enforcement on this or do we have things that are --

24 MR. BULLARD: No, we don't. We don't have issue with
25 what they're doing. It's just -- It just is a similar scenario
26 as to what a fee simple lot looks like. And the reason I call
27 it similar is because the number of people that come in to buy
28 a condo come in and they say, "That guy is doing something on
29 my yard."

30 I say, "You don't have a yard."

1 "Well, yes, I do. I've got this."

2 I say, "No. You've got the building. This other
3 stuff is something that, you know, you've agreed to." But this
4 is going -- This is only going to get worse in their mind-set
5 because these people in there, they're allowed to put fences
6 up.

7 MR. McINTOSH: Right.

8 MR. BULLARD: Now, if I bought a piece over there and
9 I knew I could put a fence up, I would probably put the biggest
10 fence up in the whole area so that, when I've got to resell my
11 house, I've got the most land, right?

12 MR. McINTOSH: Right.

13 MR. BULLARD: Because my price is going to be higher
14 than the next guy.

15 MR. McINTOSH: So when I lived in a condo then, I had
16 a small patio. Everybody had privacy fences and that was all
17 dictated by the association documents and so forth. I don't
18 recall anymore but I believe there was a limit to how far off
19 the property they could go. But that's an association issue
20 then, that's not really a zoning --

21 MR. BULLARD: Well, that's correct. That's correct.
22 But it ends up, it ends up being calls that we get, you know,
23 consistently. And it will get worse as these people that have
24 these structured fences, you know, controlling their property
25 because it won't be the group that's there now. It will be the
26 next group that goes in and they will be wondering why their
27 yard is bigger than my yard. Well, they don't ever read what
28 they bought, you know. They go find out that you didn't buy a
29 fee simple lot. And that was really hard in the very beginning
30 to explain to people over in Aria's Way. They did not have a

1 fee simple lot. They bought a condo with exclusive use
2 easements, you know. And we shouldn't be even dealing with
3 that but --

4 MR. McINTOSH: Right.

5 MR. BULLARD: You know, they're residents, so we try
6 to explain it the best we can and a lot of them were very
7 disconcerted about it. But realistically, you know, a fee
8 simple lot, you know, it is what it is. I mean, they're doing,
9 essentially, the same thing on a fee simple lot because they're
10 responsible for maintaining everything in that easement.

11 MR. SCHINDLER: Yeah. So what can we do to take care
12 of this situation?

13 MR. BULLARD: Well, we can't do anything to resolve
14 that, that situation. That's, that's done right now, not --
15 But I am just saying, in the R-2 and around, is it practical to
16 go to the fee, fee simple lots on a private street? Some
17 developers want to, kind of, do a private street. Obviously,
18 there's benefits to them as far as dimensionally what they
19 don't have to have as far as the right-of-way, not the pavement
20 area but the right-of way. There is, you know, there is
21 savings for them.

22 That's why I say, this is -- These are things to, you
23 know, think about, you know, talk about, different ones to the
24 Trustees and see what their feelings are on this because it
25 could, it could be good and, you know, it also could have a
26 down side. But it's something that's out there that we
27 probably need to address, especially with, you know,
28 potentially, the C District where we have, actually, zero
29 clearance on the commercial buildings. If we had an
30 infrastructure that was allowed to be a little bit closer, it

1 would be more, you know, beneficial in some ways for that to be
2 -- have a higher -- probably not dramatically but it would
3 affect the density ability of what you are allowed to build
4 there.

5 So, I mean, there is, you know, there's possibilities
6 there that, you know, that may come up. And, fortunately, we
7 are not at that point where we have anybody knocking on the
8 door with any plans but we're trying to put this list that we
9 have in front of you to anticipate some of the things that are
10 coming up because it's better to, you know, think about them
11 ahead of time than, all of the sudden, have everybody be in a
12 hurry and we end up with something that's not really a good
13 piece of legislation, or it's denied and we get caught up in
14 court because it really had no basis for being denied.

15 Now, I think Heather can talk on, Mentor has a few
16 places that do have private streets that they're using. Didn't
17 you have --

18 MS. FREEMAN: Yeah. I didn't see anything specific
19 in their, in their zoning code that really spoke to it. It was
20 more like as approved by their Planning Commission. So, like,
21 to relate that to the Township's view, it could be like private
22 streets as approved or as approved by the Township. If it was
23 during, like, the PUD or the RCD process, you know, you guys
24 would get a look at it and then the Trustees would get a final
25 say on it and they can add stipulations, you know, making sure
26 that the right legal documents are recorded and making sure
27 that the right fire apparatus and all the safety measures were,
28 you know, agreed to.

29 So we wouldn't have to necessarily allow them
30 straight out but -- and maybe that's a little too vague for our

1 legal. They don't like that discretion. But maybe there is
2 some type of language that we could look at. But I think
3 during the, you know, PUD and the RCD and then maybe even,
4 maybe even the R-3, because that goes through the whole site
5 plan review, that might be something we may want to consider.

6 MR. BULLARD: All right. Moving right along --

7 MS. FREEMAN: Actually, the next item, Number 5 on
8 here, the PUD and RCD, to me, I know that section was really
9 confusing when I first started here because the PUD was develop
10 -- was written first by a developer and that, obviously, went
11 through the process and got adopted. And then we added the RCD
12 and kind of, like, piggybacked on how to improve the process.
13 It's kind of, like, in this section and then it's also in this
14 section but, ultimately, they're both reviewed the exact same
15 way. But, to me, it could be improved a little bit just
16 clarifying the process.

17 And then even looking at, you know, with the new
18 Capital District, the Township adopted that innovative site
19 plan development and they decided to make it a conditional use
20 because there is, like, four different ways that the Township
21 could adopt those planned developments. One, it could be like
22 an overlay, one way is a conditional use, and the option that
23 the Township went with would be a conditional use.

24 And as you're aware, that Capital District is really
25 in that area where the Township is looking at developing the
26 Town Center. And my thought was we, the Trustees, may want a
27 little bit more review of that. We may want to pitch the idea,
28 in lieu of -- instead of having it as a conditional use where
29 it just goes straight to the BZA and, if it meets all the
30 criteria, bam, you get to develop it, we may want to take a

1 second look at and maybe it should be more of, like, an overlay
2 district where, where it can only be applied within the Capital
3 District but it's kind of still required maybe a -- It would
4 require a zoning change to go through the Zoning Commission and
5 the plan gets approved, just like a PUD or an RCD, and then the
6 Trustees -- or you would recommend it to the Trustees and then
7 they make the final, you know, approval of it.

8 I think that might be in the -- may benefit the
9 Township if, you know, there is interest in that property in
10 the future of that area. It might be something that we would
11 consider doing or, at least, looking at and maybe reaching out
12 to the administrator to see if that's something that she thinks
13 that we should pursue.

14 Okay. Number 6, the parking, the Parking section
15 that we have, we don't have any definitions for any of the
16 terms that are in there. So that was my main, kind of, concern
17 with that, that we should probably create some definitions for,
18 for the terms that are within there.

19 With that, we may want to look at incorporating some
20 of the green infrastructure, like allowing maybe impervious
21 pavers and impervious pavement in certain areas and
22 encouraging, like, the bioretention and rain gardens as part of
23 the stormwater management. We do reference "bioretention" in
24 our landscaping standards, that we, you know, don't have to do
25 the mounding if you are going to do the bioretention in the
26 right-of-way. So I know that's something that the Township is
27 interested in allowing. We might want to incorporate that a
28 little bit more into the Parking regulations.

29 CHAIRMAN PETERSON: So we're only talking commercial
30 parking here?

1 MS. FREEMAN: Yeah. The parking is just, yeah,
2 commercial, yeah, yeah.

3 CHAIRMAN PETERSON: Okay.

4 MS. FREEMAN: Commercial and nonresidential uses,
5 like institutional uses.

6 CHAIRMAN PETERSON: Right.

7 MS. FREEMAN: And then looking at adding in some
8 regulations that are, kind of, along the access management
9 guidelines there, maybe looking at encouraging cross-access
10 easements between different commercial developments. Just with
11 some recent projects, we have seen the county may be, kind of,
12 leaning towards that way, too, which is good management on
13 township roads. You don't want to have curb cut after curb
14 cut. So if you have two commercial developments with parking
15 lots where it makes sense where maybe they could have shared
16 access, it would eliminate all the turnouts and people coming
17 in and out of some of the commercial corridors.

18 Nonconformities, that was a section that we, I think,
19 right when we started zoning, in 1955, is that --

20 MR. BULLARD: Yeah.

21 MS. FREEMAN: That was probably one section that's
22 never been touched. I guess it's not really a priority
23 because, I mean, it works. It's kind of vague but never, I
24 mean -- It's something that, if we were going to go through
25 this whole reorganization and consolidation, that we may want
26 to look at updating just a little bit.

27 MR. LINGENFELTER: But it's worked since 1955.

28 MR. GORJUP: It's not broken.

29 MS. FREEMAN: With real ambiguity. I mean, I'm like,
30 what? Yeah, there's some things that could be find-tuned.

1 Okay. The Definition section, I noticed a few terms
2 that might need tweaked and then some additional terms that we
3 way may want to define, items that we regulate but we don't
4 necessarily define. It's always good to have a definition.
5 And then if we were going to do that, we could just go through
6 all of them and see if there is anything that needs changed.

7 And then we have an existing Section 33 on satellite
8 receiving antennas. Those were like when those big dish
9 antennas were popular. I asked Bruce if we have issued any
10 permits on that. He didn't recall. So I don't know if that's
11 something that's antiquated or if that's something that we
12 really need to regulate anymore.

13 MR. BULLARD: That text was written for, you know,
14 the 6 foot diameter dishes when they first came out, you know,
15 and the technology and everything else. I think our text
16 actually says under three and a half feet.

17 MS. FREEMAN: Three and a half feet, yeah.

18 MR. BULLARD: Under three and a half feet, you don't
19 need a permit. So what we have in our text, I mean, three and
20 a half feet is actually bigger than what they are using on
21 anyplace now. It's, what, about 18 inches or something like
22 that?

23 MR. LINGENFELTER: A large pizza.

24 MR. BULLARD: Yeah. Good reference. So, yeah.

25 MS. FREEMAN: Okay. And then along with that, too,
26 Section 32 that we have, the oil and gas wells, as you know,
27 townships aren't permitted anymore to locate -- or to regulate
28 the location of the oil and gas wells. So we probably should
29 change that because that's what we're doing, in essence, there.

30 And I know you guys have thrown around the idea in

1 the past several times of, well, should we regulate structures,
2 new structures in relationship to existing gas, oil and gas
3 wells? And that's something, if you wanted to look at, we
4 could. I know I personally probably would prefer not to but, I
5 mean --

6 MR. SCHINDLER: Yeah. We spent a lot of time. We
7 made a big regulation for oil and wells and it got all thrown
8 out.

9 MS. FREEMAN: Yeah.

10 MR. SCHINDLER: And a lot of work went on with that.
11 We spent months on that.

12 MR. LINGENFELTER: It was unnecessarily painful.

13 MR. SCHINDLER: Yeah, very.

14 MR. LINGENFELTER: It was. It was just
15 unnecessarily --

16 MS. FREEMAN: Do you know why it got thrown out? Did
17 it get to be --

18 MR. LINGENFELTER: Because of the changes in the law.
19 Because of the changes in the law.

20 MS. FREEMAN: Oh, okay.

21 MR. SCHINDLER: We spent months on this.

22 MR. LINGENFELTER: Yeah.

23 MR. SCHINDLER: We did land research and where it
24 should actually -- a well should be drilled depending on the
25 type of land and soil.

26 MR. LINGENFELTER: Right. And it all got chucked.

27 MR. SCHINDLER: Yeah. We had experts here and
28 everything and then, finally --

29 MR. LINGENFELTER: Yeah, yeah, because they changed
30 the ORC, came in and said we had no authority over that. And,

1 personally, I mean, I don't even -- Putting a structure in
2 relationship to -- is there -- For me, the only thing that
3 would even be a compelling reason to consider that would be if
4 there is any liability on the Township's behalf. If there is
5 no liability, if you want to build your house next to a gas
6 well, that's your business, I mean, seriously, you know. But
7 if it blows up and then if the Township is somehow liable for
8 that, then I think we ought to look at it. But if there is no
9 liability on the Township's behalf, I mean --

10 MR. BULLARD: Well, it's no different than everybody
11 with a gas line in front of their house.

12 MS. FREEMAN: Right.

13 MR. BULLARD: If one of the houses blows up.

14 MR. LINGENFELTER: Right.

15 MR. BULLARD: Where is the liability?

16 MR. LINGENFELTER: Yeah. The house blew up over
17 there on -- What was it?

18 CHAIRMAN PETERSON: Morley Road.

19 MR. LINGENFELTER: On Morley Road. There was no gas
20 well anywhere near that. So --

21 MR. SCHINDLER: It's not only that but we found that,
22 you know, miles away, if they tap into the under water, for
23 example, we were -- they were contaminating wells, people's
24 wells that they couldn't use the water anymore. They had to
25 start pumping in their own water and we couldn't get the city
26 to bring water out to them, getting water lines and stuff. I
27 mean, it got to be real messy. We tried to govern that and we
28 thought we did have it done and then find out the state said we
29 couldn't do anything and all that work we did for nothing.

30 MR. LINGENFELTER: I think as long as we keep

1 ourselves in line with the ORC, that's all we need to worry
2 about.

3 MR. McINTOSH: Agreed.

4 MR. LINGENFELTER: That's the simple way.

5 MS. FREEMAN: Yeah.

6 MR. BULLARD: That's it.

7 MS. FREEMAN: That was, that was really the list. I
8 mean --

9 MR. LINGENFELTER: That was it?

10 MS. FREEMAN: Yeah. That's it, yeah.

11 MR. LINGENFELTER: Only those ten things?

12 CHAIRMAN PETERSON: So how do you envision us
13 tackling this list, a couple at a time or --

14 MS. FREEMAN: Well, it's kind of --

15 MR. GORJUP: No. Do them all at once.

16 MS. FREEMAN: It's up to the Zoning Commission. If
17 you're -- I mean, obviously, we should probably go back and
18 touch base with legal on, like, the site plan review stuff.
19 And we could, we could start looking at the sign stuff, too,
20 and propose some stuff or some changes that would eliminate
21 some of the content, the content-based items.

22 CHAIRMAN PETERSON: Is there a way to prioritize it
23 one through ten? What's the --

24 MR. BULLARD: Tonight, no.

25 CHAIRMAN PETERSON: Okay.

26 MR. BULLARD: Tonight, no. But I would say the, you
27 know, realistically, as much as Heather would like to probably
28 eliminate all the dead sections in the binder, it's probably
29 not going to happen. We are probably going to have to pick out
30 some that will be done as a group repair, you know, patch that,

1 you know, clean it up a little bit because I guarantee you,
2 with the interconnection and the text that we have, somebody is
3 going to show us a whole bunch of things in that C text that
4 needs to be changed. And at that time might be a better time
5 for, you know, a little bit more of an extensive change on our,
6 you know, combined text when we get to that.

7 Because I, you know, I hear rumblings from
8 consultants that there's some things that we need to change,
9 and rightfully so. I mean, every time we do something like
10 this, we find out we have issues. One of the -- You get into
11 parking, one of the things -- We have the, actually, the ground
12 breaking for Crile Crossings, which is going to have the
13 Starbucks and the B2B, is tomorrow. And what they've done is
14 shared parking. We've always been making them go in front of
15 the Board of Zoning Appeals. Well, when it's presented as a
16 full, total plan, one of the things we really probably should
17 look at is, okay, that should almost be an office in our
18 department, you know, decision, because everybody has
19 overlooked, you know, looked the whole plan over and see that
20 this is all being used as a unit, that it has to be three, you
21 know, programs and everything else and they're all following
22 suit.

23 Now, we have to have some type of language in there
24 that shows that they have reciprocal easements for -- in
25 perpetuity so that, if a building gets sold on a different lot
26 or something like that, somebody isn't putting a fence up on
27 the line that they think exists and blocking out parking and
28 restricting units, which in other communities we have, all of
29 the sudden, seen that happen. Somebody buys a parcel and they
30 don't really understand and respect the easement that was

1 there.

2 Obviously, those are legal things that we'd have to
3 look at. But I see some of these things, you know, showing up
4 that, you know, we never really thought about earlier because
5 we weren't really into the commercial development area, you
6 know, that greatly. We were into the residential. And some of
7 them are done every day in other places and it's what makes
8 them work. We like, we like shared parking. We like shared
9 access, limiting access onto main roads. Those things, we
10 like. We've got to make sure that we do it right. We also
11 have to make sure the language is there so someone doesn't shut
12 that access off at a later date.

13 MR. LINGENFELTER: Right.

14 MR. BULLARD: And we have to have documentation so
15 that whoever is victimized, it's on record so that they can go,
16 you know, support it. So --

17 MS. FREEMAN: Well -- I'm sorry. With that being
18 said, then maybe parking, the updates to the parking is
19 something that we may want to look at as one of the --

20 MR. SCHINDLER: Things that you've already found that
21 started to become an issue.

22 MS. FREEMAN: Yeah.

23 MR. SCHINDLER: I think we should probably address
24 those first, you know. If this parking situation now,
25 especially with the Town Center being developed, it sounds like
26 it could be an issue real quickly.

27 MR. BULLARD: Sure.

28 MR. SCHINDLER: So I would suggest, look at those
29 targets like that and make that at the top of the agenda. Give
30 us the supporting data that you could find to help us in making

1 decisions would be very helpful.

2 MS. FREEMAN: Okay.

3 MR. SCHINDLER: And start with that first.

4 CHAIRMAN PETERSON: Private roads is an issue, you
5 think, because of pending development?

6 MR. BULLARD: Well, I think private roads is going to
7 be something that people are going to be looking for.

8 CHAIRMAN PETERSON: Okay.

9 MR. BULLARD: Whether -- Again, I've asked the
10 question to the Trustees, you know, at staff meetings a couple
11 times and I've not gotten any real direction from what they
12 want to do or not want to do. I mean, we could actually -- The
13 thing I don't want to see, we could put it back on the
14 developers to do a presentation. Then it is reliant upon him
15 doing the text and presenting a text to us to go through this
16 process. And I've got a greater appreciation for our staff's
17 quality of writing than some developer who really doesn't know
18 what they need to put together.

19 The other thing is, when you're writing text, one
20 part of the text affects the rest of the Resolution. You know,
21 it has to be read through. I mean, the mistakes that we find
22 day to day where we have things that contradict each other in
23 the text are getting less and less with the corrections that
24 have been made from, you know, Kathy's time and Heather being
25 here.

26 But, prior, there were times where you would go to
27 one page and it says one thing. You go to the next, you know,
28 the Parking section, and it will say something completely
29 different than what your site plan said. Those are things that
30 we need to, need to be corrected.

1 But if we have somebody from the outside present and
2 write text, okay, you're looking at that and you're making a
3 motion and moving on that and we may, you know, tweak it but
4 this is what he's giving you, you know. And you're going say
5 yea or nay or you're going to say make an amendment to it but I
6 think the quality starts to suffer at that point.

7 CHAIRMAN PETERSON: Okay. So you are going to
8 somehow prioritize these and put these on future agendas then
9 as you maybe -- Is there anything we need to do in preparation?

10 MS. FREEMAN: Not at the moment. I guess, if we
11 want -- I mean, it sounds like I'm going, I'm going to start
12 looking at the parking.

13 CHAIRMAN PETERSON: Okay.

14 MS. FREEMAN: And maybe that's just what we will
15 focus on.

16 MR. SCHINDLER: Yeah.

17 MS. FREEMAN: And in the background, we will throw
18 out the questions to legal and what, if anything, we need to
19 change on the site plan review and then we will look at those
20 as far as things that don't work as it exists.

21 And then maybe I would think then, like, the signs,
22 in my opinion. And then like Bruce is indicating with the
23 Capital District and potential development of that, that should
24 probably be a priority as well. Just focus on the one,
25 parking, for now and work on those things in the background
26 until we get some further direction from legal.

27 CHAIRMAN PETERSON: Great. Very good. Thank you.

28 The second item on the agenda that we already
29 covered, again, welcome, Gerry, to the Commission. Glad to
30 have you on Board.

1 Item 3 is the correspondence report from or to the
2 Zoning Commission members. And I will start over here. Andy,
3 did you have --

4 MR. LINGENFELTER: Nothing.

5 CHAIRMAN PETERSON: Rick?

6 MR. GORJUP: Nothing.

7 CHAIRMAN PETERSON: Morgan?

8 MR. McINTOSH: Nothing really specific. I've had a
9 lot of questions in general about what's going on on Crile Road
10 and so forth and are we getting a coffee shop or not. I get
11 that one a lot.

12 CHAIRMAN PETERSON: Thanks.

13 MR. McINTOSH: I relate what I know.

14 MR. SCHINDLER: I am the same way, questions that
15 come up. Someone I run into at the store say, "Hey, what's
16 going on on 44? Will I be able to have access to get around?"
17 Answering questions like that but nothing, you know, like in
18 writing, for example, or a phone call that's critical.

19 CHAIRMAN PETERSON: Me, too. Again, I say the same.
20 I get a lot of questions, today, in fact, about the
21 intersection of Auburn Road and 44 and I answer as best I can
22 but really not our issues.

23 MR. SCHINDLER: Yeah.

24 CHAIRMAN PETERSON: Okay. We have in front of you
25 the May 3rd meeting minutes. I assume --

26 MR. LINGENFELTER: They're voluminous.

27 CHAIRMAN PETERSON: -- everybody's had a chance to
28 take a look.

29 MR. LINGENFELTER: They're voluminous.

30 CHAIRMAN PETERSON: Yeah. Can I have a motion to

1 approve these, please?

2 MR. GORJUP: I make a motion to approve the minutes
3 of May 3, 2016.

4 CHAIRMAN PETERSON: Second?

5 MR. SCHINDLER: I second.

6 CHAIRMAN PETERSON: Okay. Thank you. All in favor?

7 (Four aye votes, no nay votes, one abstention.)

8 CHAIRMAN PETERSON: Very good. Okay. Our next
9 meeting then will be Tuesday, August 2, 2016. And if we have
10 nothing else tonight, we will adjourn the meeting.

11 (Whereupon, the meeting was adjourned at 7:45 p.m.)
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1 STATE OF OHIO)
2 COUNTY OF CUYAHOGA) CERTIFICATE

3 I, Melinda A. Melton, Registered Professional
4 Reporter, a notary public within and for the State of Ohio,
5 duly commissioned and qualified, do hereby certify that, to
6 the best of my ability, the foregoing proceeding was reduced
by me to stenotype shorthand, subsequently transcribed into
typewritten manuscript; and that the foregoing is a true and
accurate transcript of said proceedings so taken as
aforesaid.

7
8 I do further certify that this proceeding took
place at the time and place as specified in the foregoing
caption and was completed without adjournment.

9
10 I do further certify that I am not a friend,
relative, or counsel for any party or otherwise interested
in the outcome of these proceedings.

11
12 IN WITNESS WHEREOF, I have hereunto set my hand and
affixed my seal of office this 14th day of July 2016.

13
14
15
16 _____
17 Melinda A. Melton
Registered Professional Reporter

18 Notary Public within and for the
19 State of Ohio

20 My Commission Expires:
February 4, 2018
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