

CONCORD TOWNSHIP BOARD OF TRUSTEES  
LAKE COUNTY, OHIO  
PUBLIC HEARINGS

Held via Facebook Live  
and YouTube Live Streaming

Concord Town Hall  
7229 Ravenna Road  
Concord, Ohio 44077

June 16, 2021  
6:30 p.m.

TRANSCRIPT OF PROCEEDINGS

Present on behalf of the Board of Trustees:

Morgan McIntosh, Chair  
Amy Lucci, Vice Chair  
Carl Dondorfer, Trustee  
Amy Dawson, Fiscal Officer

Also Present:

Andy Rose, Administrator  
Michael Lucas, Esq., Legal Counsel  
Heather Freeman, Zoning Director

**Melton Reporting**  
11668 Girdled Road  
Concord, Ohio 44077  
(440) 946-1350

6:30 p.m.

CHAIRMAN McINTOSH: All right. Good evening. I am going to call to order two public hearings that we have this evening ahead of the regular Board of Trustee meeting. So we have two.

We will start off with the first hearing and that is a Zoning Amendment Application Number 2021-1, by ALM Lake Properties LLC, requesting a Zoning Resolution map amendment and Preliminary Plan approval from the current zoning district of R-1, Residential to R-2, Residential Conservation Development for the following properties: 10090 Hoose Road, current parcel number 10-A-026-C-00-055-0, owned by Shirley A. Loxterman; Hoose Road Rear, current parcel number 10-A-026-C-00-051-0, owned by Shirley A. Loxterman; 10100 Hoose Road, current parcel number 10-A-026-C-00-062-0, owned by Shirley A. Loxterman; Morley Concord, current parcel number 08-A-026-0-00-075-0, owned by William H. Loxterman, TR; 7574 Morley Road, current parcel number 08-A-026-0-00-003-0, owned by Jerry V. Patriarca; 7554 Morley Road, current parcel number 08-A-026-0-00-022-0, owned by Jerry V. And Constance M. Patriarca; and a portion of 0 Ilsley Square, Concord, current parcel 08-A-026-0-00-056-0, owned by Humanitarian Consulting LLC -- or LTD. I am sorry. Corrected.

Okay. With that, I would like to start off with the applicant. Why don't we have the applicant come forward and give us an update. I know we've had -- Would you please state your name and address for the record?

MR. SMUL: Jeff Smul, 7992 Stillwater Court.

CHAIRMAN McINTOSH: Okay. And I know we did have the public hearing with the Zoning Commission. So if you

1 could just give us a brief of the project, and I know there's  
2 been a few updates and any further information you have to  
3 present to the Trustees.

4 MR. SMUL: Okay. First, I would like to say, I  
5 thank you guys for your time in considering our zoning  
6 request. So we are requesting a zoning change from R-1,  
7 Residential to R-2 RCD, as recommended by the township's 2004  
8 Comprehensive Plan, allowed by Concord Township zoning code.

9 Concord Township Zoning, as well as Lake County  
10 Planning Commission, recently recommended rezoning the  
11 property to the R-2 RCD district. Based on the various  
12 meetings and discussions we had with Concord Township and the  
13 residents, we made several adjustments to the plans. I'll  
14 start off with the yield plan. In formulating our 55 lot  
15 yield plan, we followed RCD Code 16.24(A) and 16.28, which is  
16 to create a conceptual plan not involving significant  
17 engineering costs which demonstrates proposed street layouts  
18 with a reasonable and marketable number of lots that could be  
19 developed under the existing zoning district.

20 We have provided a cross-section from our engineer  
21 proving the buildability of these lots. Under the current R-1  
22 zoning there would be zero percent open space requirement.  
23 Most, if not all, of the trees on the property could be cut  
24 down. If this happens, a lot of the sensitive conservative  
25 spaces would not be protected, which none of us would like to  
26 see. Also, with no open space requirement, there will be zero  
27 buffer space between adjacent properties.

28 For our RCD plan, we used Code 16.24(B), which  
29 states a density bonus is allowed based on the percentage of  
30 open space proposed. We are proposing over 30 percent open

1 space, thus are allowed a density increase of four lots. We  
2 believe the 59 lot RCD plan, which would be an active adult  
3 community, is the best development plan for the site and the  
4 community. The open space areas protect some of the most  
5 sensitive areas on the site, which is the main intent of the  
6 RCD zoning. It also provides buffers for most of the adjacent  
7 properties. Our RCD plan, per Lake County Commission,  
8 conforms to the subdivision regulations.

9 The traffic from this RCD development overall will  
10 generate approximately 50 percent less traffic due to lower  
11 population density than the current zoning and even less  
12 percentage of traffic during peak hours due to different time  
13 travel patterns of the residents.

14 The residents of this development will enter and  
15 exit using the new intersection of Canterwood Trail and Hoose  
16 Road due to the proximity of their new homes to this  
17 intersection onto Hoose. In order for there to be a smooth  
18 transition in housing on Canterwood Trail from Hobby Horse,  
19 sublots 24 and 25 will be wider lots to accommodate bigger  
20 houses with deeper setbacks. The homes on these lots will be  
21 of the traditional single-family variety, similar in nature to  
22 the existing houses along Canterwood Trail.

23 20th Century Construction will be the home builder  
24 for this development.

25 Now, after talking to some of the residents -- I  
26 would like to flip this over -- we proposed, listened to their  
27 concerns about traffic coming through and we worked with Lake  
28 County Planning and we had our engineer create what they call  
29 a traffic calming island. So this would give more buffer or  
30 more separation space or transition space from Canterwood

1 Trail going to the north.

2           With this plan though we need four of the residents  
3 who are touching the new traffic calming island to dedicate  
4 the highlighted space to the county as part of the right-of-  
5 way. So as long as they go along with the four residents  
6 agreeing to that, then this is something that we could do.

7           All -- Let me switch it back. All common and open  
8 space will be privately held and maintained and monitored by  
9 the HOA. The HOA will be active, unlike most HOAs, since  
10 they'll be responsible for operating the clubhouse, pool area,  
11 lawn maintenance, snowplowing, and making sure nothing is  
12 built in the open space.

13           I would also like to hand over some of the -- I  
14 think you guys have already seen some of the pictures but I  
15 would like to submit it, along with the letter from a funeral  
16 home on how they would take care of the cemetery.

17           MR. DONDORFER: Thank you.

18           MR. SMUL: Sorry. The letter from the funeral home  
19 states, "I, Michael Coyne, licensed funeral director and owner  
20 of McMahon, Coyne" -- I am going to butcher this last name --  
21 "Vitantonio Funeral Homes, would hereby oversee and conduct  
22 the disinterment of graves located on the property. The  
23 remains will be disinterred in a caring and respectful manner  
24 and relocated to the location specified."

25           I'd also like to turn to the second page with an  
26 email from the Loxterman family identifying or describing the  
27 site in the pictures for the cemetery. "The entire site is  
28 difficult to reach, being overrun by poison ivy, poison oak,  
29 as well as exceptionally prickly underbrush. To the best of  
30 my knowledge, relatives of the descendents have not visited

1 the site in more than 20 years and have never made any effort  
2 to maintain the graves in any fashion." She also states  
3 latter that none of the headstones' inscriptions are  
4 decipherable today. It's clear from the pictures that this is  
5 clearly an abandoned cemetery.

6 The current ponds on the site are man-made and are  
7 not regulated under Section 404 of the Clean Water Act or  
8 Section 10 of the Rivers and Harbors Act. Authorization is  
9 not required if we use fill material in this area. We will  
10 hire a geotech engineer to guide us to properly develop these  
11 areas on the property for construction.

12 Now I would like to hand it over to Brian  
13 Uhlenbrock, from Neff & Associates, to talk about the  
14 engineering and any stormwater management questions that you  
15 have, and then I can come back and answer any questions that  
16 you have. Thank you.

17 MR. DONDORFER: Thank you.

18 MR. SMUL: Oh, actually, one other thing. We got  
19 some signatures for in support of our developments. I think  
20 there is about 81 here.

21 (Handing.)

22 MR. SMUL: Brian.

23 MS. DAWSON: Brian, could you spell your last name  
24 for us, please?

25 MR. UHLENBROCK: Yes. My name is Brian Uhlenbrock,  
26 U-h-l-e-n-b-r-o-c-k, 6405 York Road, Parma Heights. I am the  
27 planner on this protect. I work for Neff & Associates. We do  
28 civil engineering, surveying, planning, landscape  
29 architecture. And I want to just kind of briefly go over some  
30 of the minor updates that we've made since the Zoning

1 Commission meeting.

2           The, what you see on the screen is the site plan  
3 that was presented at that meeting. It was submitted as part  
4 of that. When we did this plan, we received some comments  
5 from the county and from the Zoning Commission a few days  
6 before. I addressed those in the meeting, I kind of talked  
7 about them, but since then we've updated the site plan. And  
8 so I guess I will turn here. There we go.

9           So this is the updated site plan. You can see  
10 it's -- there is not a whole lot of change between the two.  
11 Just to highlights some areas, the county had some comments  
12 about the cul-de-sac. They have a max diameter for the right-  
13 of-way on that. We had a right-of-way that was a little bit  
14 larger than that max diameter to get a little bit more green  
15 space in the center of the island. We have since reduced  
16 that. That's the cul-de-sac on the end down here. So we have  
17 reduced that to meet the county requirements so we don't have  
18 to go for any variances on that one.

19           We've also updated our building pad definitions.  
20 These are Epcon houses and single family. And Jeff kind of  
21 mentioned the transition from the existing development to the  
22 south to, into our development. So you will see those kind of  
23 gray boxes down there. That represents the houses that would  
24 be more the single family and the more colored houses would be  
25 the Epcon houses.

26           We've also updated our open space percentage on the  
27 plan. There has been some discussion about whether or not the  
28 stormwater management should be included in the open space  
29 calculations or excluded. We've updated our plan to include  
30 them, which results in a 36 percent open space. If we took

1 them out, we go back down to about the 30 percent that we were  
2 before. It doesn't change any of the density bonuses that we  
3 received. It's just a matter of the way you look at it and  
4 just kind of cleans things up a little bit, makes things a  
5 little bit smoother by including them so we're not constantly  
6 adjusting lines when we're doing our stormwater management.

7 And, finally, in the end of the cul-de-sac to the  
8 east, we adjusted one lot -- and my pointer is not really  
9 working here -- but there is a yellow unit to the, on the  
10 eastern cul-de-sac. It was up against the northeast unit. We  
11 have kind of slid it down to help kind of get a little bit  
12 more buffer to the wetland and the wetland setback on that  
13 end.

14 And so for the meeting, you know, we talked about  
15 the RCD plan and how we got to our density. There were some  
16 questions about whether some of the lots were buildable and we  
17 kind of went through, did some cross-sections to show how  
18 that, how some of those lots would be built. And if there's  
19 any questions on those, I can answer them, if needed.

20 We talked a lot about stormwater management and  
21 drainage. This plan here, like, the red line, which is kind  
22 of hard to see, shows some of the drainage areas and where  
23 things were flowing on the sites. During that meeting, some  
24 of the residents talked about some of the concerns that they  
25 had, some of the problem areas. We will definitely take those  
26 into consideration when we do our final stormwater  
27 engineering. I've already shared that information with our  
28 engineers so that they can be focused on certain areas that  
29 were of concern. But we will, this will all go through the  
30 county requirements, review, through that process.

1           Jeff talked about the updates that we made, that,  
2 you know, potential traffic calming island that could go in to  
3 the south. So we are sort of looking at that as a potential.

4           And then one of the other comments during that  
5 Zoning Commission meeting was about the sight distance study,  
6 and it had an old plan on it. So there was concern whether or  
7 not that it would still meet all the requirements. We didn't  
8 update it because it didn't change anything but I did promise  
9 that we would make an update, so we did update it. It doesn't  
10 change anything but the sight distance and everything still  
11 complies with the ODOT standards, but we have done that as  
12 well and we can share that with anybody that would like to  
13 receive that.

14           That's the end of my presentation. If you have any  
15 questions, I am willing to --

16           CHAIRMAN McINTOSH: I have one question. And I am  
17 going to -- I don't know if you are the one that wants to  
18 answer it but you mentioned the stormwater features there  
19 along the road. Have you -- I am wondering if there is any  
20 road issues with them being right there. Has that been  
21 discussed with either the county or ODOT, whoever would  
22 regulate that?

23           MR. UHLENBROCK: Yeah, are you talking about the  
24 relationship of the stormwater management basins to the  
25 existing road?

26           CHAIRMAN McINTOSH: Right, because it's basically  
27 right on top of the road, so I was curious if any of the  
28 agencies had commented on that.

29           MR. UHLENBROCK: Yeah, they have not commented on  
30 that in particular. They did comment on, we had the basin on

1 some previous plans that were adjacent to some -- the north  
2 residential units. There were some questions on there. We  
3 have since moved the basin since then. One of the things that  
4 we are going with this is we have -- we're outside the right-  
5 of-way. There is also probably a utility easement that, you  
6 know, like right behind the right-of-way, so we are outside of  
7 that as well.

8 The road is actually higher than our basins and the  
9 emergency overflow will not go towards the road, it will  
10 actually go towards the west. So there isn't any concern with  
11 that relationship to the road.

12 CHAIRMAN McINTOSH: I wasn't really thinking about  
13 the pond flooding the road. I was thinking more just a road  
14 safety issue, if there is any, from a traffic standpoint.  
15 I mean, it's right there. So --

16 MR. UHLENBROCK: Right, yeah. So you're worried  
17 about somebody coming off the road?

18 CHAIRMAN McINTOSH: Going into the -- yeah.

19 MR. UHLENBROCK: That has not been brought up. It  
20 is something we can certainly look at as part of the  
21 engineering design.

22 CHAIRMAN McINTOSH: I mean, it would be subject to  
23 somebody's approval at some point, either ODOT or the county  
24 road regs would have to touch that.

25 MR. UHLENBROCK: Yes, yep, for sure.

26 CHAIRMAN McINTOSH: Any other questions?

27 MR. UHLENBROCK: Anybody else?

28 CHAIRMAN McINTOSH: All right. None from us.

29 MR. UHLENBROCK: Thank you.

30 MR. DONDORFER: Thank you.

1 CHAIRMAN McINTOSH: Is there any other questions for  
2 the developer from the board?

3 MR. DONDORFER: Yeah, I had a couple questions. In  
4 regards to lot 57, 58, and 59, it indicates that they don't  
5 seem to be integrated into the development. What's the way to  
6 accomplish that? I know there was some discussion on a  
7 potential, was it a trail or footpath?

8 MR. SMUL: Yeah, we would like to do a walking path  
9 but the zoning disallows it. They won't let us put it in, per  
10 the code. So we have proposed it but I was told to take it  
11 out. So if you guys would like to grant a variance for that,  
12 that would be great.

13 MR. DONDORFER: I was just curious how that gets  
14 integrated into the development.

15 MR. SMUL: Yeah, it would just be towards the front  
16 of the lot and towards the, you know, next to the -- is that  
17 56 -- 56.

18 MR. DONDORFER: What's the setback on those three  
19 lots from the --

20 MR. SMUL: Right now, it's 30 feet.

21 MR. DONDORFER: Okay.

22 MR. SMUL: That's per the, per the code.

23 MR. DONDORFER: In regards to the cul-de-sac, I know  
24 there has been some discussion between the developer and some  
25 of the residents in the area. That was a big concern. I  
26 talked to some of the residents as far as the transition area  
27 by, on Canterwood, right?

28 MR. SMUL: Yes.

29 MR. DONDORFER: We're talking about the traffic  
30 calming --

1 MR. SMUL: Traffic calming island, yep.

2 MR. DONDORFER: -- as a solution.

3 MR. SMUL: Yes.

4 MR. DONDORFER: So those four residents have to  
5 agree to give the county an easement. Is that the way it  
6 works?

7 MR. SMUL: It's not an easement. They have to deed  
8 or transfer that part of the property to the county.

9 MR. DONDORFER: So what happens if --

10 MR. SMUL: And then they have to have any  
11 lienholders on there sign off on it.

12 MR. DONDORFER: So any lienholder, that could be a  
13 second mortgage or somebody else that liened the property,  
14 depending on who it is.

15 MR. SMUL: It could be anybody. It's been done  
16 before. There is records of it. I mean, banks do that all  
17 the time, they sign off. They would just have to agree to it  
18 and then want to do it, basically. So we need four of the  
19 people to agree to it.

20 MR. DONDORFER: And what was the dialogue between  
21 those residents that are affected by it in that cul-de-sac  
22 there? I mean, I know there was some discussion between --

23 MR. SMUL: They're here, two of them are here.

24 MR. DONDORFER: Okay.

25 MR. SMUL: I think one of them was for it but, yeah,  
26 it's hard for me to speak. Maybe they can come up.

27 MR. DONDORFER: You have had dialogue with those --

28 MR. SMUL: Yeah, we have had dialogue and that's why  
29 we proposed it, because I think this addressed a lot of their  
30 concerns of what they wanted. So now it's up to them if they

1 want it.

2 CHAIRMAN McINTOSH: So you have not started the  
3 process formally, so there is no buy-in. So four signatures  
4 are needed and we're at zero right now?

5 MR. SMUL: Right. Once four people -- You can get  
6 three, it doesn't matter. So we actually need four. So once  
7 we get four, then we can plan accordingly and do the  
8 improvement plans for this.

9 CHAIRMAN McINTOSH: Is there any other, are you  
10 aware of any other issues that will need to be bridged as far  
11 as regulations if that were -- If you get all for residents to  
12 sign off, is there anything else that needs, is there any  
13 other, is there anything else that needs to be addressed  
14 before that would be approved? Are there any --

15 MR. SMUL: Not that I am aware of. They need to sign  
16 off on it.

17 CHAIRMAN McINTOSH: -- setback or frontage issues  
18 or --

19 MR. SMUL: Yeah, I mean --

20 MR. RIEBE: It would have been to be lien, it would  
21 have to be lien free.

22 MR. SMUL: That's -- yeah.

23 MR. RIEBE: It would be have to be lien free because  
24 the county will not accept a right-of-way with any kind of  
25 lien on it.

26 CHAIRMAN McINTOSH: Why don't you give your name and  
27 address for the record.

28 MR. RIEBE: I am Tom Riebe, 10210 Ilsley Square,  
29 Concord.

30 I just wanted to let them know, yeah, in talking to

1 them, it would have to be, if there is mortgages, normally, a  
2 lender will, if it is being dedicated as a right-of-way,  
3 normally, a lender will do --

4 CHAIRMAN McINTOSH: I guess my question is, have you  
5 looked at any of the other zoning regs or does that create,  
6 does it create any problems with our -- okay.

7 MR. SMUL: No, no. We talked to Dave at Lake County  
8 Planning.

9 MR. RIEBE: So the homeowners that were there  
10 requested this, so we had the engineer lay it out and now it  
11 will be their decision, really, not ours.

12 CHAIRMAN McINTOSH: Okay, yep.

13 MR. LUCAS: Did Dave Radachy indicate that that  
14 would be a minor subdivision by splitting --

15 MR. RIEBE: What's that? No.

16 MR. SMUL: He didn't say anything.

17 MR. LUCAS: He didn't view it as a lot split?

18 MR. RIEBE: No.

19 MR. SMUL: It's not a lot split.

20 MR. RIEBE: They have to sign that they're deeding  
21 it as -- There's not a separate lot. It's not a separated  
22 lot. It's a deeded right-of-way.

23 MR. LUCAS: Right, yeah, okay.

24 CHAIRMAN McINTOSH: Anything else from the --

25 MR. DONDORFER: I have --

26 CHAIRMAN McINTOSH: Okay.

27 MR. DONDORFER: As far as in that transition area,  
28 we're talking about lots 24 and 25 that are right out there.  
29 I know there was some dialogue from the zoning meeting about a  
30 natural buffer there. How far are those setbacks?

1 MR. SMUL: Those are 45 feet.

2 MR. DONDORFER: Okay. And there is natural barrier  
3 area there now as far as trees?

4 MR. SMUL: Well, yeah, the whole area right back  
5 there is treed, yes.

6 MR. DONDORFER: So some of that, if it was approved,  
7 would be maintained as a natural buffer?

8 CHAIRMAN McINTOSH: Where are you talking?

9 MR. SMUL: Some of it can't, yeah, so --

10 CHAIRMAN McINTOSH: I don't think so.

11 MR. SMUL: So we're trying to make those lots bigger  
12 lots, wider lots. So if you do put a smaller house or any  
13 type of house on there, that you will have more of a buffer  
14 than a traditional Epcon lot.

15 CHAIRMAN McINTOSH: When you look, if you look at  
16 lots 24 and 25, they would share property lines, I believe,  
17 basically, to the south with two homes that are existing now.

18 MR. SMUL: Correct.

19 CHAIRMAN McINTOSH: Just to clarify Carl's question,  
20 he is talking about natural buffer. On those lot lines, is  
21 there going to be anything left or that's going to be, there  
22 wouldn't be natural --

23 MR. SMUL: Would there be any natural buffer? There  
24 could be. I mean, we don't have anything planned.

25 CHAIRMAN McINTOSH: Gotcha.

26 MR. SMUL: Like, there is no landscaping plan  
27 putting a buffer there or anything like that. So our intent  
28 is to make them more like an R-1 lot and have them wider, a  
29 bigger single-family house.

30 CHAIRMAN McINTOSH: So you are saying it would

1 depend on what size property somebody decided to build on  
2 those lots?

3 MR. SMUL: Yeah.

4 CHAIRMAN McINTOSH: Right now, you're depicting  
5 larger homes in this, the preliminary plan.

6 MR. SMUL: Yes.

7 CHAIRMAN McINTOSH: If somebody decided to put a  
8 smaller home, it would be a different footprint.

9 MR. SMUL: Yes. So we're not going to know who is  
10 going to pick and build on that house right now.

11 CHAIRMAN McINTOSH: I actually, now that I am  
12 thinking, I have a -- I know that before I got a chance to  
13 look at this plan, you and I had a conversation yesterday.  
14 But just maybe for the record, if you could recount what we  
15 talked about, because I had asked you what was going to be  
16 done with the existing homes and how those would be brought  
17 into -- Just explain your thought process on keeping them  
18 versus not keeping them and how you will integrate those into  
19 the plan.

20 MR. SMUL: Okay, sure. So the Loxterman, existing  
21 Loxterman house, if that's going to be kept, that's why we're  
22 proposing single-family houses on the left side, so it's more  
23 of a natural transition on the left side -- or I shouldn't say  
24 left side, west side. So it would be 23, 24, that's why we're  
25 proposing those single family, so on that side of the street  
26 it's single family. And then on the right side, it would be  
27 the single lot right there. That would be the single-family  
28 lot.

29 So the other ones, you have a ranch that's back  
30 there. It looks somewhat, you know, updated. We could update

1 the model a little bit but it's sitting so far back that I  
2 don't think that's going to be visible from the street. And  
3 then the colonial on subplot -- is that 35 -- 35, we would have  
4 to evaluate, you know, how the rest of the subdivision is  
5 going to look and we're going to blend, you know, possibly  
6 those materials onto that house but we're going to try to,  
7 best we can, match it to the subdivision so it's not a  
8 different, you know, looking house, as much as possible.

9 CHAIRMAN McINTOSH: And if you decided to not to  
10 keep all the house or the houses, would you still build a  
11 brand new house back on 33 or would you just leave that open?  
12 That's the one that's the flag driveway.

13 MR. SMUL: Which one?

14 CHAIRMAN McINTOSH: Thirty-three.

15 MR. SMUL: Oh, 33, that one, more than likely, will  
16 probably be kept.

17 CHAIRMAN McINTOSH: Okay. Regard -- that's the  
18 highest --

19 MR. SMUL: Yeah. It's a ranch house. It matches  
20 the demographics of the subdivision.

21 MR. DONDORFER: Where's 33 at?

22 CHAIRMAN McINTOSH: (Pointing.)

23 MR. DONDORFER: Is that the Loxterman house?

24 CHAIRMAN McINTOSH: Yeah.

25 MS. LUCCI: So what are your landscaping plans along  
26 Hoose?

27 MR. SMUL: Along Hoose? I guess, Brian can probably  
28 address that since he's our landscape architect.

29 MR. UHLENBROCK: Yeah, so we don't have any detailed  
30 plans for that area yet. We have some kind of concept stuff

1 on the plan currently. What we're envisioning is a couple  
2 small monument signs at the entrance to identify the  
3 subdivision. Right now, there is existing split-rail fence  
4 that goes along the roadway, so we're looking at proposing to  
5 maintain that same look along the frontage, so continue that  
6 split rail. We're kind of looking at the condition of the  
7 split rail, whether to replace it or not. And then behind  
8 that would be landscaping, some trees, some shrubs to help  
9 kind of highlight the fence on the front so you get a kind of  
10 nice view from the street and kind of maintain that rural  
11 character along the street.

12 MS. LUCCI: Any plans for a buffer in back of Ilsley  
13 behind lot 42, 43 and --

14 MR. UHLENBROCK: Forty --

15 MS. LUCCI: Or is that all going to be cleared  
16 there?

17 MR. UHLENBROCK: So, yeah, so that was, we actually  
18 talked about that in the Zoning Commission meeting. One of  
19 those residents actually had some comments about that and was  
20 asking about the buffer.

21 So my response to that was those lots are actually  
22 deeper than some of the other lots on the site, so there is a  
23 potential to leave a little bit of natural buffer there. Our  
24 number one priority though is stormwater management, so we've  
25 got to make sure that we're picking up the stormwater behind  
26 those. So there is probably going to be some grading, either  
27 some swales or some storm sewers. So we will end up having to  
28 take out some of that as part of that.

29 And then what happens after that is, you know, it  
30 would be up to the homeowner to put fencing or landscaping

1 behind there to help kind of rebuild that buffer.

2 CHAIRMAN McINTOSH: I know we've only had these  
3 plans, the updated plans, the updated preliminary plan for  
4 about a day. And I know that the -- Heather did a lot of work  
5 this afternoon and went through that today and I know there  
6 were some concerns and the Trustees have a couple. So I do  
7 want to give her a chance to pass on some of her observations  
8 and concerns to the board and give then give the applicant an  
9 opportunity to respond or answer to those observations or  
10 concerns.

11 MS. FREEMAN: Thank you, Mr. Chairman. Yeah, we  
12 received the revised preliminary plan yesterday at 3:00 from  
13 Mr. Smul. I immediately forwarded it over to the Board of  
14 Trustees and then we looked at the email that was sent along  
15 with the summary of the changes that were indicated to us that  
16 were made on the plan.

17 I noticed a couple other things and I just want to  
18 point them out. Like, the site data title sheet was revised.  
19 On the former plan that was received by our office on May 18th  
20 indicated that the net RCD parcel acreage was 34.2428 acres.  
21 Now that net RCD acreage has changed, it's been reduced to  
22 34.215 acres. That's one thing I noticed there. I am not  
23 sure what changed, if that meets the -- you don't have -- how  
24 that affects the legal description that was presented to the  
25 township or if there was a boundary change or something like  
26 that.

27 The other item I noticed, obviously, the open space  
28 calculations that was brought up by Brian. On the original  
29 plan, it was 10.41 acres which represented 30.4 percent open  
30 space. With the reduction of the stormwater basins now on the

1 revised plan that we received yesterday, the open space area  
2 increased to 12.26 acres, with an open space at 35.83 percent.  
3 And now we're not subtracting out the stormwater basins. It's  
4 my opinion, based on the Section 16.24, the Open Space Design  
5 Criteria, that the stormwater management areas don't meet that  
6 and should be subtracted out.

7 I was looking for a frontage dimension on a couple  
8 of the open space blocks just to make sure that they're  
9 meeting that minimum 25 foot width. Those dimensions still  
10 aren't on there, so at some point we will need to see those to  
11 make sure that we're still in compliance with that minimum  
12 width.

13 I've indicated the signs would not be permitted to  
14 be located within the open space as presented on the plan.  
15 That would be considered construction, so those signs would  
16 not be allow at the entry there if the open space is going to  
17 -- if that's where they're proposed, which they are in this  
18 plan.

19 Some of my comments were made initially, you know,  
20 were the same. On subplot 33, the house that you are going to  
21 keep, those existing decks will have to be modified to make  
22 sure that they're going to meet the 10 foot side yard. And  
23 there is a deck on the rear of the house that's not being  
24 shown. That would also have to make sure, if it's attached to  
25 the house, that it's going to meet that 30 foot rear yard  
26 clearance. That can be, you know, hashed out before it gets  
27 platted with the county if it moves forward.

28 MR. SMUL: Right.

29 MS. FREEMAN: And just note that any of the existing  
30 structures that are located within the open space areas would

1 have to be removed. I think most of those are identified on  
2 the plan as being removed.

3 I had a similar question to Ms. Lucci about the  
4 landscaping plan. You know, will you be presenting an  
5 official landscape plan to the township as far as what the  
6 intentions are along Hoose Road? With the cul-de-sac islands,  
7 do you have something in mind specifically that you want to  
8 put in those islands?

9 And, also, I noticed that you have, you're proposing  
10 street trees. So I am curious on what your thoughts are as  
11 far as the placement and the type of street trees that you are  
12 putting there. And who would be responsible for the  
13 maintenance of the street trees and then also the landscaping  
14 in the islands? I do not believe that the township Service  
15 Department wants to have the responsibility of those items.

16 And I know it was brought up by the County Planning  
17 Commission, the extra road pavement proposed on Cambridge  
18 Court, we'd probably want to make sure the Service Department  
19 would be okay with that, that you're proposing for the access  
20 for the central mailbox unit.

21 So I think that's, that's really it.

22 CHAIRMAN McINTOSH: Okay. Thank you, Heather.

23 MS. FREEMAN: I am happy to answer any questions.

24 CHAIRMAN McINTOSH: I think what I would like to,  
25 right now, ask our legal counsel, I know, as we've had some  
26 direction on this with regard to the inclusion of the  
27 stormwater in or out of open space, I know that's -- we're  
28 having his advice on that. So I guess I would ask legal  
29 counsel if you had any additional comment regarding that point  
30 right now since that's, obviously, going to be fairly

1 impactful on how this would go forward.

2 MR. LUCAS: Thank you. Yes, yeah, I do, as a matter  
3 of fact. Number one, I realize there is a legal question that  
4 is currently ongoing regarding the township's position on  
5 this. I will note that not only are we talking about the open  
6 space criteria that Heather mentioned regarding Article 16,  
7 but of more import is the definition of open space under the  
8 Concord Township zoning definitions under Chapter 5. And I  
9 will just read this for the record. Under enumerated  
10 paragraph 137, "Open space: Open space is defined as land  
11 area with any district -- within any district devoid of  
12 buildings, parking structures or accessory structures, et  
13 cetera, but land which consists of wooded areas, lakes and  
14 streams, walkway systems, pedestrian paths, bike paths,  
15 greenways, and natural site amenities. The function of open  
16 space are active recreation, passive recreation and  
17 preservation of environmental amenities for the collective  
18 enjoyment."

19 So with reference to that particular definition,  
20 it's the position of the township, my position -- and, again,  
21 it's subject to a legal debate at the moment -- but I don't  
22 consider detention and retention ponds to be part of a  
23 definition of open space. It's not a natural amenity, number  
24 one. And number two, it doesn't fall within any of the cited  
25 examples of open space in the definition itself. So --

26 MR. SMUL: I would like to address that item.  
27 16.24, if I read 4, it talks about the open space criteria  
28 proposed within the development shall comply with the  
29 following: "Any area within the designated open space that is  
30 disturbed during construction or otherwise not preserved in

1 its natural state shall be landscaped with vegetation that is  
2 compatible with the natural characteristics of the site." So  
3 if you are putting in a retention area, you're going to bring  
4 it back to its natural state.

5 MR. RIEBE: Water, so water purification will  
6 probably be wet. It will attract, probably attract ducks,  
7 wildlife, probably be stocked with fish. So I don't know what  
8 would be more natural. If it's actually an open area, it's  
9 going to be redone, but if it's stocked with fish and ducks  
10 land in there, it's really kind of an open area.

11 And I think another thing, point I would like to  
12 make and not -- We are over 30 percent at this point. I've  
13 been a resident of the area for nearly 50 years. Every  
14 subdivision that's ever been rezoned to this designation has  
15 included, has included the retention and the water  
16 purification within the open area.

17 That said, I mean, I think if you were to, if  
18 someone were to pick out -- And the reason it was originally  
19 separated, we were told by somebody it was not allowed, but  
20 there was no specific language excluding it within there. If  
21 we or any person or company coming to rezone a property RCD in  
22 the future and they, say, let's presume they went below the  
23 allocated amount of percentage because of that, I think, under  
24 the terms of the law -- and Mike can maybe correct me if I am  
25 wrong -- but if you specifically allow the use, it's not an  
26 excluded use, and all of the sudden you deny the next person  
27 coming in, I think it could be considered spot zoning and I  
28 think the township would be probably in a situation it would  
29 be defending lawsuits. With the spot zoning, I don't know how  
30 we would win it, being a resident.

1           That said, when the use has been granted to every  
2 subdivision for 20 years of counting it as open area, to pick  
3 out any subdivision and say, "Well, it's not going to count  
4 anymore because you're moving it," when specifically, as Jeff  
5 read, it accounts for, it gets disturbed during construction,  
6 putting back together, I think that would be prejudicial. I  
7 think it would be discriminatory. And I think you would be  
8 taking a set of rules, the same exact language and applying it  
9 towards some future or some company, you would be applying  
10 standards which had never been applied before.

11           So without some kind of a change, I don't know why  
12 it wouldn't be, I mean, open area. Again, it's going to  
13 become a natural area just like if you are disturbing  
14 something putting in sewers. Does that mean it's not open  
15 area? Are you going to start taking out a little spot and say  
16 it's not? I think the text does, as Jeff read, this will be a  
17 disturbed area that will be repaired. Eventually, it may even  
18 become wet area which could bring wildlife, stocking with  
19 fish, people go take their grandchildren there, go fish in the  
20 pond, so pretty much more natural.

21           Also, you, specifically, in reading that, I don't  
22 know if that came out of the PUD because I think we're being  
23 denied allowing trails but he said trails were included. So  
24 it's a little confusing to me what you are reading and what  
25 we're being told. We'd like to put a trail there to connect  
26 the three houses if we could.

27           MR. LUCAS: Trails are considered open space.

28           MR. UHLENBROCK: But we were told they're not. So,  
29 again, it's not outside -- We were willing to go along and I  
30 think with homeowners, homeowners who came in, first, they

1 were worried about the lights. We exceeded that. The  
2 homeowners that are directly connected to here wanted the  
3 roundabout kept. We made, we made a, I won't say -- We  
4 actually made a situation where we got it kind of approved by  
5 the planning. It's up to them.

6 So, again, if they ask for something, if they want  
7 it, you know, we can't jump back and forth. We will though.  
8 I mean, whatever way that cul-de-sac comes into play, we'll  
9 either leave it and bring it like it normally would be or do  
10 what they want. So, again, on the open area --

11 CHAIRMAN McINTOSH: Yeah, I was going to say, yeah,  
12 let's get back to that. We were talking about water, so I  
13 don't want to get off on a tangent. So --

14 MR. RIEBE: Yeah, on the water, it's been used as  
15 open area in every RCD subdivision. Specifically, there is  
16 nothing in the text excluding it. In fact, there is a  
17 provision made, if you disturb the area, what you do with it.  
18 So I think it's covered and, again, I don't think it  
19 necessarily is going to affect us but it could in the future.  
20 Then the township's a problem -- into a situation.

21 It will, also, could maybe, maybe, potentially, let,  
22 allows us to maybe create a little bit bigger buffer between  
23 the lots next to the Silverstens. I don't know. I don't have  
24 a plan. Potentially, we could maybe move some of the open  
25 area there, potentially. But if we start, if we have to cut  
26 down, we obviously can't cut it down, so it could create a  
27 bigger, larger lot there. So --

28 But if we had to start shrinking the open area, then  
29 you'll say, well, we're losing -- which we can't really afford  
30 to do. It's not economically possible.

1           CHAIRMAN McINTOSH: Any additional comment's?

2           MR. LUCAS: Yeah, just two things. Number one,  
3 again, certainly, what the design criteria for open space is  
4 that was read, that's what it says. All right? But what was  
5 not included within that is what the definition of "open  
6 space" is, which I specifically read. There is a reference to  
7 restoration of disturbed areas that would be, come back then  
8 as open space, and he cited 16.24 of the Resolution, but 16.24  
9 of the Resolution talks about when there is a disturbance of a  
10 defined open space area. So, in other words, it presupposes  
11 that an open space is disturbed during construction, which  
12 does happen and I don't have to say that to Mr. Riebe. He's  
13 an expert in that area of restoration after, you know,  
14 construction process are completed and that. But it's limited  
15 and required as to a defined open space area. And, again, the  
16 definition of "open space" in Article 5 doesn't include, you  
17 know, the detention or retention basins.

18           MR. RIEBE: There is no retention there now, so it's  
19 defined as an open area. The retention and water purification  
20 will be put in and that will be disturbed. And I will tell  
21 you, if anybody, if you know of a manner that we can put the  
22 development in without retention, we'd be happy to.

23           MR. LUCAS: Yeah.

24           MR. RIEBE: If you get that approved, we'd be happy  
25 to do that.

26           MR. LUCAS: I am sure with you.

27           MR. UHLENBROCK: And I am sure the neighbors would  
28 not be real happy, all right, if it were put in in that  
29 manner. On the one hand, it is not an excluded use. Every  
30 RCD development, include -- and I've gone through the notes of

1 the last one, last year. Everyone here agreed that it was  
2 part of the open area. So I am not exactly certain if the law  
3 changed or if somebody's opinion changed or how that happened  
4 but the rules have changes. It was actually not brought up  
5 once but several times in the last rezoning hearing and  
6 everybody agreed it was part of the open area. So --

7 CHAIRMAN McINTOSH: All right.

8 MR. RIEBE: And, Mike, I have known you, Mike, a  
9 long time. He's an honorable guy. Has something changed from  
10 that one to this one?

11 MR. LUCAS: Well, I would have to look at the other,  
12 earlier -- I am not disputing what you are saying. I just  
13 haven't looked at it.

14 MR. RIEBE: In fact, it was agreed to and brought up  
15 here. Has something between now, then and now changed within  
16 the text?

17 MR. LUCAS: There hasn't been any zoning amendment  
18 dealing specifically with open space in the last year.

19 MR. RIEBE: Okay. Is there some reason -- I am not  
20 trying to put you on the spot.

21 MR. LUCAS: You're not.

22 MR. RIEBE: It is kind of like putting me on the  
23 spot or it could tend to be, potentially. What would lead you  
24 to a conclusion, a different conclusion at this meeting than  
25 you had last summer?

26 MR. LUCAS: Well, I don't know how you could  
27 possibly include, again, and I acknowledge that --

28 MR. RIEBE: It was and it's been in every one.

29 MR. LUCAS: Well, you know --

30 MR. RIEBE: You don't know how I could possibly

1 include it?

2 MR. LUCAS: In prior developments?

3 MR. RIEBE: Every RCD rezone has included retention  
4 areas and water purification areas.

5 MR. LUCAS: Well, again, as you said --

6 MR. RIEBE: Every one was included.

7 MR. LUCAS -- in reverse, I have known you a long  
8 time and you're an honorable man.

9 MR. RIEBE: Right.

10 MR. LUCAS: But I am not going to be in the position  
11 of answering that question without looking at the prior  
12 developments that were approved and that.

13 MR. RIEBE: Well, I could have brought the notes.  
14 I'm sure the notes are available. And I think Ms. Freeman  
15 brought it up. I think the Trustees brought it up. I think  
16 it was brought up in the zoning and it was an approved use.  
17 So --

18 CHAIRMAN McINTOSH: Thank you.

19 Okay. I think, I do know we have some public here.  
20 So I'm going to ask if the Trustees have any other questions  
21 for the applicant and then maybe we'll move on to the public.

22 MR. DONDORFER: I don't.

23 CHAIRMAN McINTOSH: Okay, all right. I do, I  
24 believe we have some people here. So what I am going to do, I  
25 don't see a whole lot, so I will just let folks kind of come  
26 up one at a time and just state your name and record -- name  
27 and address for the record and then just let us know if you  
28 are speaking for or against the rezone. All right. So I will  
29 invite -- Come on forward, please.

30 MR. VALENCIC: How's everyone doing?

1                   CHAIRMAN McINTOSH: Good. How are you?

2                   MR. VALENCIC: Good. Anthony Valencic, 7611  
3 Canterwood Trail. I am one of the -- Let me back up. I am  
4 speaking in favor of the RCD rezoning tonight, which is a  
5 change from my past position at the zoning meeting. I would  
6 like to thank Tom and Allison and Jeff, everyone yesterday for  
7 meeting with the residents. I was one of five households that  
8 participated in a meeting yesterday. I thought it was  
9 productive. We had a lot of concerns and, you know, 20th  
10 Century took care of a lot of those and alleviated a lot of  
11 the anxiety that would normally come with the development.

12                   You heard tonight about that roundabout traffic  
13 calming area. The chances of getting all four neighbors on  
14 board with that are very slim, so I will probably just state  
15 for the record that that's not going to happen. Number one, I  
16 think the deeding of the property back to the county and the  
17 public right-of-way is going to prove to be problematic.

18                   With that, I sent Allison a list of emails that  
19 really don't relate to a zoning amendment but addressed kind  
20 of the put-back of the property to its state. You know,  
21 currently, our property lines go as if the Canterwood Trail  
22 would be a straight road and now it's currently set up as a  
23 cul-de-sac. So how that gets restored and the  
24 responsibilities of checks and balances on how that gets  
25 planned and completed, I had concerns about that. Allison  
26 addressed them, saying that they were the developer's  
27 responsibility to do that, which satisfies my concerns.

28                   I do have some comments that I would like to use  
29 this time to try and further understand. You know, at the  
30 planning meeting or at the zoning meeting, Mr. Lingenfelter --

1 Shame on me for not understanding kind of the process of how  
2 this went with down but, you know, I had some concerns with  
3 the way that was addressed. Mr. Lingenfelter made the comment  
4 of, you know, anybody in Concord that lives next to woods  
5 should just assume that that's going to be developed. Okay.  
6 We shouldn't have that outlook, you know, as a community. You  
7 know, we're putting in these conservation developments to try  
8 and conserve woods and green space and all this stuff. So  
9 just taking that approach that says just because there's woods  
10 it's going to be developed?

11 We moved to Concord from, you know, different  
12 suburbs for the reason, I mean, it's a country feel that's  
13 close to the city and I think it would be a shame to try and  
14 lose that. So as a zoning precedent, I'd like to, you know,  
15 see what can be done about comments like that.

16 You know, at the zoning meeting, the board had a  
17 public comment, you know. We came up here, made comments.  
18 Those comments, some of which were and were not addressed. I  
19 am curious as to how the zoning board, which is an advisory  
20 position to the Trustees, as I understand it, do they issue a  
21 report to you guys based on those or are you responsible to  
22 read minutes and formulate your own opinions? Is that  
23 something you guys can answer or is this --

24 CHAIRMAN McINTOSH: I mean, we watched -- I was at  
25 the meeting, actually.

26 MR. VALENCIC: Okay.

27 CHAIRMAN McINTOSH: So that's not normal.

28 MR. VALENCIC: Okay.

29 CHAIRMAN McINTOSH: I normally watch them. I won't  
30 speak for -- The others can answer. We watch them and review

1 the transcripts. Their vote is their recommendation.

2 MR. VALENCIC: Yeah.

3 MR. DONDORFER: Yeah, pretty much, what we do,  
4 especially with major issues or if there is contentious issues  
5 with developments, is all of us do our due diligence. If  
6 we're not at the meeting, like Mr. McIntosh was, I watched it.  
7 I watched it twice. I took copious notes to identify what the  
8 concerns were of the residents there so we have an  
9 understanding what the issues are. So we do, you know, going  
10 forward in the public hearing, have a good understanding of  
11 what the development is and what the concerns of the residents  
12 are.

13 MR. VALENCIC: Okay.

14 MS. LUCCI: And I concur. You know, we definitely  
15 take into perspective what the residents feel and we look at,  
16 you know -- I actually was on that meeting watching. So we  
17 make sure that we have full understanding before we come to  
18 any conclusion.

19 MR. VALENCIC: Good.

20 CHAIRMAN McINTOSH: I did want to clarify. I mean,  
21 just so you understand, their vote is their recommendation to  
22 us and then we receive all the same information. In other  
23 words, that's the public hearing. We received the same  
24 material that the Zoning Commission received. And then ever  
25 since then, we get, as we said, we had some comments from the  
26 Zoning Inspector. So we get the same information. The Zoning  
27 Commission isn't responsible to submit a report per se.  
28 Again, their vote is their action, but then we receive all the  
29 information, we're connected and able to talk to all the  
30 authorities, the county and whatnot. So it's --

1 MR. VALENCIC: They're an advisory board.

2 CHAIRMAN McINTOSH: They're an advisory board but  
3 the efforts were done and our responsibility is sort of the  
4 same as theirs and ours is the more binding decision.

5 MR. LUCAS: Although, just for the record, it should  
6 be noted that, occasionally, and this is one of them, you  
7 don't get -- the Trustees do not get the same information per  
8 se that the Zoning Commission did for their purposes of  
9 recommendation. As you pointed out, modifications were made  
10 after meeting with the developer, with the residents in the  
11 area, including yourself, Mr. Valencic, which resulted, in  
12 part, and as Heather pointed out, some changes in the  
13 development plan.

14 MR. VALENCIC: Yeah.

15 MR. LUCAS: Within the last 24 hours.

16 MR. VALENCIC: Right.

17 MR. LUCAS: So, again, there is occasionally  
18 modifications that are made from the original development plan  
19 that's presented in front of the Zoning Commission, sometimes  
20 for the better because they address in, you know, the revised  
21 development plan, which I know you're familiar with from your  
22 CAD background, the revised development plan and that that  
23 addresses and modifies some of the concerns that were raised  
24 both by residents at the public hearing and then, secondly,  
25 and maybe more importantly, the Zoning Commission members  
26 themselves.

27 MR. VALENCIC: No, that's good. I just wasn't clear  
28 on how that worked.

29 CHAIRMAN McINTOSH: And following Mr. Lucas'  
30 comments, actually, I had something else to add. You know,

1 this is a rezone hearing, so this is a classification of  
2 zoning. So I think, at the public hearing, people brought up  
3 to the zoning board a lot of concerns and we talked a bit  
4 about stormwater. Those aren't, we're not here -- So a rezone  
5 would still hold the developer accountable to all of those  
6 other standards. So those things, you know, people got  
7 concerned about preliminary versus final. Well, as they  
8 reconcile their plan to meet the zoning classification, those  
9 things are still there and the final deal works out as far as  
10 them, you know, going through the diligence of actually  
11 developing that plan. That's why we approve a preliminary  
12 plan versus --

13 MR. VALENCIC: The follow-up question to that is --

14 CHAIRMAN McINTOSH: Yes.

15 MR. VALENCIC: We're approving preliminary plans  
16 here.

17 CHAIRMAN McINTOSH: Right.

18 MR. VALENCIC: Which is not atypical of any  
19 development. What occurs in between now and final plans as  
20 far as public viewing and hearings and -- Is this it or does  
21 the Trustees see the final plan before it's approved?

22 CHAIRMAN McINTOSH: The vote that the Trustees are  
23 being asked to do is to approve, to approve the application  
24 and the preliminary plan. So the preliminary plan would be  
25 approved and then, again, it would be held subject to  
26 regulations. So they'd have to comply with all the stormwater  
27 and all the street and the county. All of those things have  
28 to be met, but we are preliminarily approving the general  
29 plan.

30 MR. VALENCIC: So as far as the approval, approving

1 agencies, you leave that to all of the counties --

2 CHAIRMAN McINTOSH: To do their job.

3 MR. VALENCIC: The governmental industries and  
4 everything else?

5 CHAIRMAN McINTOSH: Correct, yep.

6 MR. VALENCIC: As long as it meets RCD, which is  
7 what's being voted on tonight.

8 CHAIRMAN McINTOSH: We're just voting on the zoning  
9 classification.

10 MR. VALENCIC: Okay.

11 CHAIRMAN McINTOSH: And the, and the construct of  
12 the preliminary plan.

13 MR. VALENCIC: So this is the last, essentially,  
14 public, because most of those are closed-door reviews and  
15 submissions, right?

16 CHAIRMAN McINTOSH: It's all public information  
17 though. I think you can request that.

18 MR. VALENCIC: After, yeah, yeah, correct.

19 MS. FREEMAN: Mr. Chairman.

20 CHAIRMAN McINTOSH: Yeah, go ahead, yeah.

21 MS. FREEMAN: If I could just add to that, if you  
22 don't mind. So the developer now would be submitting, should  
23 the rezoning go through, their development plans to the Lake  
24 County Planning Commission. So the Planning Commission will  
25 have subsequent public meetings that public can attend and  
26 listen to.

27 MR. VALENCIC: They do?

28 MS. FREEMAN: Yes, yes. Those are voted on in  
29 public by the public -- the Planning Commission, which is a  
30 public board.

1 MR. VALENCIC: Okay.

2 MS. FREEMAN: So if you check out their website, you  
3 can find out when those dates would be.

4 MR. VALENCIC: Okay. Thank you.

5 MR. LUCAS: Yeah. Lake County has a series of  
6 subdivision regulations and that, which is part of the voting  
7 to make sure that there is compliance in the final development  
8 plan with the Lake County Subdivision Regulations, which the  
9 township doesn't have any involvement with.

10 MR. VALENCIC: Right. Just as a, something to  
11 consider -- And I know, you know, going and attending zoning  
12 meetings is something we should probably do more regularly,  
13 not just when it affects, you know, the street you live on. I  
14 do think there needs to be more definition related to the open  
15 space, not the stormwater, as to whether or not these  
16 retention basins are but to identify something as a green  
17 space.

18 You know, a developer can come in and just clear-cut  
19 trees and do different things like that but, you know, when  
20 you are coming up against an existing neighborhood, defining,  
21 you know, I've been part of other neighborhoods where they're  
22 -- not in Lake County or Concord -- where their open space or  
23 buffers, landscape buffers, they kind of shield and try and  
24 create a more natural buffer rather than just identifying  
25 green space. So I don't know if there is a recommendation or  
26 how that goes about to try and get some additional definition  
27 within what the green space should be for future developments  
28 but I understand, for this one, it's probably too late but I  
29 am assuming you guys can make approvals with recommendation as  
30 well.

1           So, hopefully, you consider, consider those buffers,  
2 especially along Harlan Silversten's property and Gus  
3 Downing's, which are two neighbors on Canterwood Trail.  
4 That's, you know, there is other neighbors here tonight that  
5 have additional concerns, so that's what I wanted to talk  
6 about.

7           Once again, I am happy that it's 20th Century/Riebe  
8 building the property. I am happy that it's RCD, not an R-1  
9 where we're going to have additional cut-through streets and  
10 things like that. Tom builds a very high quality house. And,  
11 you know, for the record, I am approving, in favor of that,  
12 but just some of the other concerns were more administrative  
13 that I wanted to get addressed. So thank you.

14           CHAIRMAN McINTOSH: Thank you.

15           MR. DONDORFER: Thank you.

16           MR. SILVERSTEN: Hello.

17           CHAIRMAN McINTOSH: Hello.

18           MR. SILVERSTEN: Harlan Silversten, 7595 Canterwood  
19 Trail. I am the last house before this development. So I  
20 just wanted to say, to begin with, that I have changed my  
21 attitude towards this. I have known Tom for 40 years. I will  
22 reinforce what Anthony said. He is a wonderful builder. He  
23 builds a quality property. And I am happy, if it does get  
24 approved, it will be him building it.

25           So I also am not in favor of that roundabout. I  
26 know that I talked to Tom about it but I am the one, if you  
27 look at that plot, that has to give up the majority of that  
28 property. I will have a 30 or 40 foot larger front lawn if we  
29 go with the straight street. So to deed something away that  
30 would be a nicer front lawn for nothing, I appreciate that he

1 did this but, talking to my wife about it, I am not in favor  
2 of it. So all that discussion you guys had, I am back here  
3 saying it's all moot because I am not going to approve doing  
4 it. So I won't sign off on that.

5 One comment I want to make is -- and I've talked to  
6 some of the other Lake County people -- I don't understand why  
7 we have to have that second form of entrance and egress. And  
8 the reason I say that, I have traveled around in the last --  
9 since this all came about and there are numerous, numerous  
10 developments that have one way in, one way out. Now, the  
11 difference, I think, is that they didn't have a choice. Like,  
12 I don't know the name of the development but if you go down  
13 across the street from Hellriegel's is a brand new  
14 development. It's about 90 homes, 90 homes. If I lived in  
15 the 90th home and a tree fell on -- by Mentor Avenue and I had  
16 a heart attack, I'd be out of luck because there is 90 houses.  
17 They couldn't get in to get me.

18 This is nowhere near that large and the fact that we  
19 have a way to do it, I was told that it's dangerous and you  
20 have to have two ways. Well, if it's dangerous for my street,  
21 why isn't it dangerous for their street? And why was it  
22 approved if it's that dangerous? Why did you have to approve  
23 property like that? If it's dangerous, it's dangerous. So  
24 that's my one thing. I know we're going to go nowhere with  
25 that. I have made a number of phone calls and it is what it  
26 is and it's going to be what it's going to be.

27 CHAIRMAN McINTOSH: I think the development you are  
28 referring to is Painesville Township.

29 MR. DONDORFER: Painesville Township.

30 CHAIRMAN McINTOSH: Not Concord.

1 MR. SILVERSTEN: But it's still Lake County.

2 CHAIRMAN McINTOSH: Well, but they would have,  
3 Painesville Township trustees and their Zoning Department  
4 would have done that, not us.

5 MR. SILVERSTEN: Okay. But I was told by a county  
6 official and he knew what --

7 CHAIRMAN McINTOSH: I want to, I'll defer to Heather  
8 but I believe that's usually the Fire department. I think  
9 it's part of the Fire Code. It's a state, it's a state driven  
10 regulation. I know we don't -- We, obviously, do have a  
11 number of --

12 MR. SILVERSTEN: Well, let ask you another one. I  
13 don't know where the boundary is. If you are going down  
14 Button Road towards 84, the little stretch, one mile, on the  
15 right-hand side as you are going down there is a development  
16 there, 30 or 40 homes.

17 CHAIRMAN McINTOSH: Right.

18 MR. SILVERSTEN: Three cul-de-sacs, one way in, one  
19 way out. Is that Concord?

20 CHAIRMAN McINTOSH: Yeah.

21 MR. DONDORFER: That's Concord.

22 MR. SILVERSTEN: I rest my case. Okay?

23 CHAIRMAN McINTOSH: Yeah.

24 MR. SILVERSTEN: If it's not safe for me, it  
25 shouldn't be safe for them but it is. So I go along with  
26 that. It just doesn't make sense to me.

27 CHAIRMAN McINTOSH: I understand.

28 MR. SILVERSTEN: It's never made sense to me why  
29 that has to be. That's always been my number one goal. I've  
30 been in that house, I built it 37 years ago. I had the

1 benefit of having not only the property we're talking about  
2 but the property behind me that I think the Pages sold to the  
3 extension of Hobby Horse. That was all forest behind me. So  
4 I was told it was never going to be built on. Half of it was  
5 built on, and I was okay with that. You know, things happen.  
6 And I am okay with this now, too. Things happen.

7 This is going to be a great addition to Concord  
8 Township. There is a lot of people my age. Mr. Riebe and me  
9 and a lot of our friends, this is going to be something that I  
10 might even consider down the road. Okay? I have a big house  
11 and it is more and more difficult for my wife and I to take  
12 care of. So I am okay with that.

13 The traffic on the street -- And I could be all  
14 wrong. Maybe it will be minimal increase in traffic on Hobby  
15 Horse.

16 But, so I just want to say, I am in favor of this  
17 rezoning. I made my case on that two entrances and exits. I  
18 don't understand that. But, you know, that's all I have to  
19 say. And I appreciate you guys letting us come up and hearing  
20 from us and, hopefully, listening to us. Okay?

21 CHAIRMAN McINTOSH: Thank you.

22 MR. DONDORFER: Thank you.

23 MR. SILVERSTEN: Thank you.

24 MS. KILFOYLE: Hello. My name is Barbara Kilfoyle  
25 and I am located at 10100 Meadowlake Court. If I can borrow  
26 this, I am the pizza pie shaped 1.2 acres. My husband and I,  
27 Kevin, we built, bought and built the land from Mary Page back  
28 in 2014. So we are the newest addition. And we are, just by  
29 shape of our land, the ones that are going to be greatly  
30 impacted by the homes going around us. So instead of just

1 having the Loxterman home in our back yard right here, we're  
2 going to get all this for our view right there.

3 So when the neighbors or there is issues or talk  
4 about the wetlands right over here, our creek, which ruled the  
5 development on where our house is, we have a creek going in  
6 the front yard and we had to have our house set back this far  
7 in order to respect the creek that goes into the wetlands  
8 there. So when neighbors talk about, you know, the possible  
9 flooding issues and that, you know, we could be impacted by  
10 anything that's done over here.

11 The Canterwood Trail folks, the cul-de-sac, again,  
12 what goes in here is going to be in our back yard. And what  
13 we do in our back yard is going to be for their viewing  
14 pleasure as well.

15 So I'm still against it, not because 20th Century is  
16 not a great builder but because there has been repeated issues  
17 brought up by the zoning committing members, as well as the  
18 citizens behind you that still have not been addressed or put  
19 on paper, one of which is, again, this whole notion of yield  
20 plan, no yield plan. I mean, it was brought up again tonight  
21 and there has been multiple points throughout this process  
22 going back to February 3rd preliminary where it was stated  
23 that there is just -- the yield plan is not correct. Too many  
24 lots on the yield plan that, you know, are not marketable and  
25 not feasible. That was stated back on February 3rd. It was  
26 stated again on 6/1 by Mr. Reppert. He came up with 41 -- 48  
27 yield. Again, on the letter that Mr. Lingenfelter spoke about  
28 but never presented to us in the zoning committee meeting on  
29 June 1st, again, Mr. Iafelice said, "I cannot accept the 55  
30 lots." So there we have it again.

1           But at the end of the zoning committee meeting,  
2 Mr. Lingenfelter basically said we're going to be getting rid  
3 of yield plans anyways. So I guess that was our, you know,  
4 just forget about the yield plan.

5           So, again, we've talked with Mr. Riebe about putting  
6 a buffer on 24, 25, lot 24, 25. That was requested again on  
7 February 3rd at the preliminary meeting by Mr. Iafelice,  
8 page 29, line 17 through 27 on the minutes. It was again  
9 addressed at the June 1st meeting with Mr. Lingenfelter,  
10 stating that, as well as the citizens, that there should be a  
11 buffer between 24 and 25, something to separate new 2021  
12 construction from 1980s construction. I know they're talking  
13 about a single-family home but there is a difference between a  
14 single-family home from 1980s to now and that, the Downing  
15 home, is a Cape Cod from 1980s. Very, it would be very  
16 evident, the transition. There is no transition.

17           So, again, we have asked that and, again, in the  
18 letter, the memo from 5/31, Mr. Iafelice said, "I think the  
19 side lots for subplot 24 and 25 against an R-1 is not ideal,  
20 but not sure what leverage we have. Can we stipulate  
21 landscaping or board on board fencing?" Again, the Trustees  
22 have stated that as well. Can we get something done?

23           I mean, there are people listening on the phone that  
24 call in to me and tell me, "Hey, this is what happened with  
25 Summerwood. We had to go all the way to referendum vote. A  
26 day or two beforehand is when they came to table to make some  
27 of the changes that we requested. Do we really need to do  
28 that again in order to just get a buffer of some sort for us  
29 so maybe, maybe there will be a little bit more separation  
30 between the two communities?

1           And, again, you know, I brought up multiple times,  
2 because watching the land and seeing it, coming outside where  
3 I am at, I see everything. I can see when all the accidents  
4 are happening up on the Hoose, on Hoose Road. So I'm like,  
5 there is a lot of accidents in this area. How many accidents  
6 are there? You pull it up and there's been 13 accidents  
7 between Hobby Horse and Canterwood Trail, this proposal. And,  
8 yes, Hobby Horse, we just talked about that. There is now  
9 going to be two points of in and out for both.

10           So 13 accidents. I have said it multiple places.  
11 If nobody wants to do anything about it, just realize, as you  
12 increase traffic to the area, more accidents will happen.  
13 This has been said multiple times, as well as to Lake County  
14 planning committee. Nobody wants to do anything about it. I  
15 don't know. I mean, I guess -- I don't know about the  
16 liability there. So -- And I presented that to the zoning  
17 committee as well, the crash report from the Highway, State  
18 Highway Patrol.

19           And you know, lastly, I think there was just,  
20 especially from the zoning meeting and that, just hearing  
21 about this abandoned cemetery, it really -- I see the  
22 cemetery. I've seen it. I can walk outside and see it from  
23 my back yard. And I know that nobody wants to put names to it  
24 but I will definitely go on the record and put some names to  
25 it since the stones were read by members of the Lake County  
26 Genealogical Society back in 1999.

27           And they said, This quaint little family burial plot  
28 is located under a huge old maple tree. It's currently  
29 enclosed by a tall, white picket fence. The tree is growing  
30 into several of the marble stones. One of the first people

1 laid there to rest was Adrienne Michelson, age seven years  
2 old, eight months, April 13, 1846. The next person laid to  
3 rest was Norton Michelson, May 25, 1846, about a month later,  
4 42 years old. And then Roxie Michelson died March 3, 1853,  
5 age 41. There is two other stones there.

6 And after the Michelsons sold the property of 104  
7 acres to Edward Prouty in 1853, 79 acres were then sold to  
8 Elijah Button in April of 1856. By 1874, Elijah Button owned  
9 the full 104 acres.

10 So you have a piece, a cemetery that has been there  
11 for 175 years. And over 175 years, there's been how many  
12 different people have owned that land up to the Loxtermans,  
13 and they've all made a choice. They've all made a choice to  
14 leave it alone, respect it, rest in peace there. So now here  
15 in 2021 and 2022, now we are deciding to abandon it.

16 CHAIRMAN McINTOSH: There is a point of order. We  
17 are talking about a zoning classification rezone. We're  
18 not -- There is no business here tonight that will result in  
19 any decision about that cemetery.

20 MS. KILFOYLE: I understand that but it's like  
21 just --

22 CHAIRMAN McINTOSH: Your comments are welcome and  
23 fine. I just want you to be clear that, if the rezone is  
24 granted, the cemetery issue is not, has been not been  
25 resolved.

26 MR. SILVERSTEN: Right.

27 CHAIRMAN McINTOSH: So we are not declaring it  
28 abandoned with tonight's vote. That is not happening. That  
29 would be a separate action taken at another time.

30 MS. KILFOYLE: Right, yeah.

1           CHAIRMAN McINTOSH:  So I just want to make sure you  
2 understand that.

3           MS. KILFOYLE:  Oh, yeah.  That's why, you know, I am  
4 speaking to it.

5           CHAIRMAN McINTOSH:  No, your comments are well --

6           MS. KILFOYLE:  Because it's, again, it's right  
7 there, and the white picket fence that's up there, that's not  
8 from -- that's not 175 years old.  So it's still, it's there.  
9 And I know just from watching the upkeep of the land there  
10 that it's been being plowed under on an annual basis up till  
11 the last couple years ago.  So the fact that, again, that was,  
12 kind of, answering what I already heard as far as being told  
13 that there is bramble and all this stuff and the weeds and  
14 that.  Well, that was being plowed under until the last couple  
15 of years.  So --

16           And, again, there has been minor things that we've  
17 asked for, a buffer and that.  That still has not come to  
18 pass.  So -- And I hope the street lights are not there, as he  
19 said, but I know that some people from Summerwood said that  
20 they got their street lights even though they didn't want them  
21 either.  So I hope some of this stuff can be written in before  
22 this is approved, and that's all I have to say.  Thank you.

23           MR. DONDORFER:  Ma'am.

24           MS. KILFOYLE:  Yeah.

25           MR. DONDORFER:  So you don't have to sit down and  
26 come back up, I just had a couple questions for you.

27           MS. KILFOYLE:  Sure.

28           MR. DONDORFER:  Now, I understand where you're at on  
29 these maps.  So as far as the RCD, you addressed your  
30 concerns.  Are you okay with the zoning of the R-1 right now?

1 Because the way I see your property here, there is more of a  
2 natural green space buffer in the RCD than the R-1 proposed  
3 plan right now.

4 MS. KILFOYLE: Well, the R-1 that's proposed,  
5 realize that that whole cul-de-sac is the wetlands that I  
6 couldn't touch. You know, the creek that goes into the  
7 wetlands, I couldn't -- that's been zoned by or that's been  
8 declared by the Army Corps of Engineers to be Wetland A.

9 MR. DONDORFER: Okay.

10 MS. KILFOYLE: So that's where I am saying the yield  
11 is not correct in that plan, in the R-1.

12 MR. DONDORFER: Okay.

13 MS. KILFOYLE: And that's what, again, all the  
14 commissioners have said before is that you can't build here.  
15 You can't -- I mean, you can, again, go through the minutes  
16 and see again. I actually still have the minutes up here  
17 where they're kind of saying you can't -- There is  
18 specifically lots that even Mr. Iafelice put in his memo that  
19 you can't build. So, you know, the RCD -- Again, it's the  
20 density, it's the how many that we have that does not  
21 necessarily fit, I mean, with what, with the land that we  
22 have.

23 MR. DONDORFER: Okay. And you mentioned your  
24 concerns about safety and traffic.

25 MS. KILFOYLE: Yeah.

26 MR. DONDORFER: Now, and I just want to clarify some  
27 information.

28 MS. KILFOYLE: Right.

29 MR. DONDORFER: Because I know from my -- I watched  
30 the zoning meeting and you mentioned you had talked to Captain

1 Izzo, from the Sheriff's Department.

2 MS. KILFOYLE: Izzo, yeah.

3 MR. DONDORFER: And he took over the job that I did  
4 there for several years at the Sheriff's Department.

5 MS. KILFOYLE: Oh, yeah?

6 MR. DONDORFER: So I would annually have to tabulate  
7 statistical data on accidents for townships that the Sheriff's  
8 Office provided service for.

9 MS. KILFOYLE: Sure.

10 MR. DONDORFER: And make sure that that information  
11 was correctly filed with the Department of Public Safety.  
12 So -- And I know you stated there were 13 accidents there.

13 MS. KILFOYLE: Yeah.

14 MR. DONDORFER: I went back to the Ohio Department  
15 of Safety's website and with Captain Izzo. You know, that  
16 site's been in effect since 2016. We're at 2021. The data  
17 that I pulled up said there were 10 accidents over that five-  
18 year period. Okay? We're not talking -- And I think you said  
19 13.

20 MS. KILFOYLE: Yeah, because --

21 MR. DONDORFER: That's not within a year.

22 MS. KILFOYLE: Right, right, no.

23 MR. DONDORFER: If we're looking at 10 crashes over  
24 a five-year period, that's two crashes a year. The database  
25 did also stipulate that, out of those 10 crashes, two were  
26 potential minor injuries.

27 MS. KILFOYLE: Yes.

28 MR. DONDORFER: The rest were all property damage.  
29 I know, from my time at the Sheriff's Department, that that  
30 area on Hobby Horse near Button, between Hobby Horse and

1 Trotwood, was never a flag as an area that we had traffic  
2 safety concerns at for accidents. So I just want to -- And  
3 when I look at this concept, I actually think, you know, with  
4 the R-1 being, taking Canterwood Trail out onto Morley, my  
5 impression and opinion would be that I think there would be  
6 more traffic funneling in Hobby Horse to get to the back part  
7 of that development versus the RCD where you take Canterwood  
8 and punch it out onto Hoose because anybody coming down Button  
9 Road that's going to go to that development is going to make a  
10 left and make their right into the development, and I think  
11 that would lessen the amount of traffic going into the Hoose.

12 And I know there was some concern by a resident at  
13 the corner there about the blind spot. So I see that the --  
14 And I am addressing your concern because you are up here but I  
15 see that RCD plan is more conducive to maintaining fluid  
16 traffic that doesn't result in an increase in traffic  
17 accidents versus the RCD-1.

18 MS. KILFOYLE: Well --

19 MR. DONDORFER: I am the R-1.

20 MS. KILFOYLE: Yeah. When I talked to Captain Izzo,  
21 he kind of told me about how the stars were all superimposed  
22 on top of each other on Button Road.

23 MR. DONDORFER: Right.

24 MS. KILFOYLE: So that's where he came up, together,  
25 we came up with the 13 because he's like, "There's so many  
26 stars on top of Button Road."

27 MR. DONDORFER: Right.

28 MS. KILFOYLE: He says that Hobby Horse is a known  
29 blind spot. He's like, "That's a known blind spot." And then  
30 the concern is -- I don't know if you needed to see this but

1 the concern that, you know, we talked about is there is a  
2 bunch of single-family homes that are emptying out here  
3 onto -- These are all single-family homes right there, so  
4 their driveways go directly out on Hoose. So we're actually  
5 going to be increasing the single driveways with, I believe,  
6 these three right here. You're going to increase them that  
7 you're going to have here, and then those other accidents were  
8 happening right here, Button. So I don't know. I mean --

9 MR. DONDORFER: Well, I mean, did you look at the  
10 trip analysis that they did as far as, I mean, from the RCD  
11 plan? It said that, you know, between the hours of 7:00 to  
12 9:00 there might -- weekly and during peak hours of 7:00 to  
13 9:00 a.m., 27 trips, and between 4:00 and 6:00 p.m., 32 trips.

14 MS. KILFOYLE: Right, and that was just for certain  
15 hours.

16 MR. DONDORFER: Right.

17 MS. KILFOYLE: And then when I compared it to the  
18 2/3, the February 3rd meeting, which they stated there were  
19 about 330 trips a day, I'm like, "How do we have such a  
20 difference?" And I asked that question at the zoning  
21 committee meeting because there was such a difference between  
22 a snippet of 7 to 9 and then the 330-some traffic trips per 24  
23 hours coming out of here. So that's where -- It's like, that  
24 was one of my questions is, why was there a difference between  
25 the February 3rd meeting, what was presented to us, and then  
26 also what was the trip analysis for such a small 7 to 9  
27 window? Yeah.

28 MR. DONDORFER: Okay. Thank you.

29 MS. LUCCI: I have just a comment.

30 MS. KILFOYLE: Sure.

1 MS. LUCCI: I appreciate your thoughts, and it  
2 sounds like you've certainly done your homework and we  
3 appreciate that. So do you have issues with water now?

4 MS. KILFOYLE: Well, we have, when they built our  
5 house, which is newer, we have a creek in the front and they  
6 did a really good job as far as lining the whole creek bed and  
7 that. We actually, and I know I shared this before, when they  
8 proposed our house to us, we were going to have a walk-out  
9 basement and all this. And then when they actually came to  
10 dig and do it, couldn't do the walk-out basement and we have  
11 swales in our back yard because everything from Canterwood  
12 goes like this and then from Hoose it goes like this, so  
13 everything is in like a basin type of situation there.

14 So when Concord did the roundabout and put the trees  
15 in that, in the center, there is roundabout right now here or  
16 right there at the Canterwood Trail presently and they have a  
17 sewer there, they have mulch and they put a bunch of trees.  
18 And our back yard is not as soggy as it used to be. We do not  
19 currently have any water issues but all the water from  
20 Canterwood, as well as Hobby Horse filters through T's before  
21 it goes underneath our driveway and carries on to the Wetland  
22 A. So --

23 CHAIRMAN McINTOSH: I had a conversation with -- You  
24 brought stormwater up. I called the stormwater management  
25 group myself because I wanted to know, get into this. And I  
26 have seen a lot of conversation about mitigation and I wanted  
27 to talk to them about how they're going to move that pond.  
28 And, apparently, there was a development -- and don't hold me  
29 to this -- I believe, recently, somewhere in Painesville where  
30 this was done where they built over it. So I said, "Explain

1 to me how they did that," and got into this whole lengthy  
2 conversation about how that's done.

3 And I said, the wetland mitigation process -- and he  
4 gave my very basic -- but when we talk, when you take a look  
5 at the -- You have, when it's declared a wetland, there is the  
6 ability to delineate. They can mitigate it so it's buildable.  
7 That becomes a decision the developer would choose to spend  
8 the money or not. There is a process of changing out the soil  
9 and there is a lot of testing and all kinds of things. So I  
10 want to be clear that you can build on wetlands. I think it  
11 becomes more of a cost decision for the developer.

12 The other thing I do want to give you a little bit  
13 of assurance about with respect to the stormwater is that,  
14 when I talked with that department, they said they were going  
15 to be very thorough on the calculation and that he was, he had  
16 said that he was going to insist everything go to drains. So  
17 I certainly think that those things will be managed and I was  
18 assured that those things will be taken care of. So I don't  
19 expect the problem to get worse. If anything, I would expect  
20 the features they are talking about putting in to improve the  
21 situation. So I think you can have some comfort in that.

22 MS. KILFOYLE: Okay. Like I said before, I mean, as  
23 far as knowing that 20th Century Construction is a good  
24 developer, I mean, we know that. And you also have to, have  
25 to admit that the 42 neighbors of Hobby Horse, when you drive  
26 around, everybody keeps their homes up. And it's not an easy  
27 task to find a development where everybody is keeping their  
28 homes up and, you know, up to 1.7 acres and responsible,  
29 respectful homeowners. I mean, that's a hard thing. We're a  
30 good catch, too, you know. So thank you.

1 MR. DONDORFER: Thank you for your comments.

2 MR. SILVERSTEN: Do I need to repeat my name again?

3 CHAIRMAN McINTOSH: Just say your name again for the  
4 record.

5 MR. SILVERSTEN: Harlan Silversten, 7595 Canterwood  
6 Trail. Just one quick thing I forgot to say as I am standing  
7 up here. We met with Riebes yesterday, the Riebe family, and  
8 we sent Allison a letter this morning and she responded  
9 immediately with five of our concerns about the redo of our  
10 street once it's a street, and we're going to be sending that  
11 to you tomorrow. So I would like you just to have it, look at  
12 it and put it in your records so that, when the time comes,  
13 what they have agreed to is going to be done.

14 CHAIRMAN McINTOSH: Okay.

15 MR. DONDORFER: Thank you, sir.

16 MR. MANILLA: Hello. My name is Bernie Manilla. I  
17 live at 10065 Meadowlake Court, 29 years. I live on the  
18 western edge of the proposed development. As I look at it  
19 now, I am trying to get my bearings. I am over here.

20 CHAIRMAN McINTOSH: Okay.

21 MR. MANILLA: Okay. At this point, I would say I am  
22 in favor of the rezone. When I look at the plan as it's  
23 presented, it provides me with a lot of open space from my  
24 existing property where I've been for 29 years. It's going to  
25 remain. It says it's going to remain open. If that happens,  
26 I am very, you know, I am very unaffected by this development.

27 I was at the meeting last night and I raised this  
28 with them and it's a concern but what you just said may  
29 alleviate this. My concern is this wetland area A feeds -- My  
30 property is wetland, also. It's connected. And my

1 understanding of the proposed -- And I know the property very  
2 well. I have walked it for 29 years with my dogs. I know the  
3 topography, how creeks flow, where the wetlands are. And my  
4 only concern would be that they say they will manage the flow  
5 of the water into my property and it will not be any different  
6 than it is today. There is just a little creek coming from  
7 that wetland that comes into mine, it flows down through the  
8 next-door neighbor's property into the big pond at the corner  
9 of Hoose and Hobby Horse and it flows on out.

10 The only time I get water in my little area is after  
11 a storm. It's a little creek. Within five or six hours, I  
12 don't even know there's been a storm. My concern is that this  
13 will become a perpetual flow into my property making it  
14 something different than it is today.

15 And, otherwise, I am happy with it. The property or  
16 the homes that would be built wouldn't be very close to where  
17 I live. It seems to be a huge amount of open space that will  
18 remain that way. At least, that's what the proposal is today.  
19 So I am happy about that. My only concern, what you said.  
20 Hopefully, that's what you were talking about.

21 CHAIRMAN McINTOSH: Yeah.

22 MR. DONDORFER: Right.

23 CHAIRMAN McINTOSH: They had indicated to me that,  
24 you know, obviously, as what I was saying before, when you  
25 talk about a preliminary plan, like, the size of those basins  
26 or whatnot that are depicted now, when they get around to  
27 doing the final versions, some of that may shift and change  
28 and that's what would be the difference between the  
29 preliminary plan and the final as those things are calculated  
30 formally and officially and, you know, that. And they're

1 assuring me that they're going to hold to the standards and  
2 all of that as far as the water flow. So --

3 MR. MANILLA: Okay. Thank you for your time.

4 MR. DONDORFER: Thank you.

5 MS. LUCCI: Thanks.

6 CHAIRMAN McINTOSH: Is there any other members of  
7 the audience?

8 (No response.)

9 Okay. Hearing none, any of the applicants would  
10 like to add further comment or address anything that was  
11 brought up by the residents, I would invite them to do that at  
12 this time. If you guys have any comments, I would welcome  
13 your responses if you want to add to --

14 MR. RIEBE: You know, again, we appreciate all the  
15 residents that live adjacent to it really being in favor now.  
16 I think it really does -- Again, we live, you probably know,  
17 potentially, but we live right here. So we've been here  
18 nearly 40 years. And I'm really happy to be, we will be  
19 really happy to put this type of subdivision in. I think it's  
20 a real need for the township. Really, really happy that our  
21 family was able to meet with the homeowners and allay their  
22 concerns.

23 Again, really, I don't think, in defense of  
24 Mr. Lingenfelter, who is a quality gentleman and I don't think  
25 that she meant anything derogatory about it. I think what he  
26 really meant is, if there is a piece of property, a large  
27 piece of property owned adjacent to where you move, the  
28 likelihood is, at some point in time, it will be developed  
29 unless somebody deed restricted it not to be developed. And I  
30 don't think he was trying to make light of anything. I think

1 he is a gentleman and, again, he is a quality individual as  
2 well.

3 I don't know of any plowing that went on there.  
4 Mr. Loxterman is here. I don't think it was. I think, again,  
5 that's not part of the rezoning but it's -- I would not want  
6 my ancestors for 200 years to be living in that condition. I  
7 don't know who's going to maintain it because it could be that  
8 maybe the homeowners here are going to call upon the people to  
9 come back, wherever they live, and do it. It's really a mess  
10 at this point because you have a dead tree coming. You see  
11 the picture of a tombstone, of a headstone being encompassed,  
12 actually surrounded by a tree that's probably 40 years old.  
13 If you look from the front, the top of that tree is dead, I  
14 think, at least. I didn't walk in.

15 And, again, I appreciate the fact that there was  
16 some concern maybe about potential of a two or three units  
17 coming out onto Hoose Road. Under R-1, there would be 16, if  
18 you look at it. So I think that concern is, while understood,  
19 nobody wants to see any additional housing go in there. I  
20 think this really minimalizes, virtually, by 80 percent, it  
21 cuts it down, I believe, or more.

22 In the end, Ms. Kilfoyle doesn't like it but she  
23 actually will -- I think, I don't know where she is. She's  
24 right here. She's actually going to have open area behind her  
25 rather than have a clear-cut home. So I'm not sure. She had  
26 expressed concern about the sewer tie-in, which we haven't  
27 engineered yet, but it appears Lake County put an easement  
28 there. We told her, I mean, talking to the gentleman who is  
29 probably going to do the excavating for us when we get there,  
30 it will only be open for a couple of days. It's not going to

1 be open for a long time. They'll dig down, put a box in, pull  
2 the pipe. It's only like 10 feet, I think.

3           Also, the concern about the '80s homes, I would  
4 assume that a newer style home will actually increase the  
5 value of those properties, potentially. And I think our  
6 family, and, again, trying to be a good neighbor, trying to  
7 create a single-family home in a different environment there,  
8 I think, is really, you know, is a nice transition because  
9 there would be a, there would be a house next to those houses  
10 regardless, no matter what the zoning would be. All right?

11           You know, I'm not sure. It was interesting, you  
12 know, talking about the accidents, that you know about that.  
13 So I didn't know. I would think that most of, many of those  
14 homes will drive through here as a safer means of escape,  
15 potentially. I can't imagine somebody going back to go out  
16 through Hobby Horse.

17           Other than that, again, we appreciate all the  
18 support of all the neighbors. We appreciate all of your time  
19 and your patience with us as well.

20           CHAIRMAN McINTOSH: I have, actually, I do have a  
21 question for you or Mr. Smul. I know Mrs. Freeman brought up  
22 a number of things here as far as a couple things. Do you  
23 have any comments about some of the -- I know there were a  
24 couple things here that are or are not called out. Do you  
25 want respond to any of those? I know maybe you would like to  
26 have some --

27           MR. RIEBE: Such as?

28           CHAIRMAN McINTOSH: Like the landscaping, the  
29 landscaping plan, the grading. I know that there is some  
30 issues with regard to -- it doesn't sound like -- but the

1 subplot 33, you have the setback issue there with existing that  
2 aren't depicted. So there's a little bit of housekeeping to  
3 go on a couple things and I would like to see if we couldn't  
4 discuss addressing them. And of course -- Well, we'll start  
5 there. And I know we do still have a little bit of a  
6 lingering issue, one, as far as the stormwater management  
7 areas but maybe these other ones, if you could respond to --

8 MR. RIEBE: Well, I think the landscaping plan,  
9 Neff & Associates will be doing the landscaping plan. They're  
10 pretty well known and highly-regarded company, as you may or  
11 may not be aware. They do not only stuff in Ohio, they do  
12 things interstate.

13 And regarding the engineering and the drainage and  
14 the grading, that will be done by the -- They will be putting  
15 that up and they will be doing it. I talked with the  
16 excavator. Interestingly, the excavator we're going to choose  
17 for this job actually has GPS bulldozers. He can bring things  
18 within a quarter inch. So it's not, it's not going to be like  
19 a, know, normally -- It's the first time we will have done a  
20 subdivision using that kind of equipment. But the grading  
21 will have been done with a GPS bulldozer and, again, brand new  
22 technique, very expensive equipment. All right?

23 But we really want this subdivision to come in and  
24 become a signature subdivision for our family and for the  
25 township. We want this to be for posterity.

26 And I think you had another question.

27 CHAIRMAN McINTOSH: Well, I know you've already  
28 responded to the stormwater, so maybe I should just, it would  
29 be easier to kind of go down this list.

30 MR. RIEBE: The landscaping, he will do the plan.

1           CHAIRMAN McINTOSH: Right, okay.

2           Well, let's go down. So issue, to provide front  
3 drain dimensions for open space blocks to ensure the 25, 25  
4 foot width is being provided.

5           MR. RIEBE: That would be -- I believe, if it's not  
6 25, it won't be open area. So it will, it will definitely be  
7 25 feet or it will not count against the open area.

8           Is that correct? Do you want to step up?

9           MR. UHLENBROCK: Yeah, so we can do an updated plan  
10 to get the dimensions on those, those areas to show they're 25  
11 foot wide. That's no problem.

12          CHAIRMAN McINTOSH: And, again, Mr. Riebe was  
13 addressing the grading, preliminary site and grading plan  
14 shall be split in two sheets with a scale of at least 1 inch  
15 to 60 foot which show proposed building envelopes with the  
16 proposed grading and storm sewer.

17          MR. UHLENBROCK: Yeah, so that's on the county  
18 comments, I think.

19          CHAIRMAN McINTOSH: It's one of ours.

20          MR. UHLENBROCK: One of your comments. Yeah, so  
21 that's like a final development plan that, like, when we get  
22 into the final engineering, we would share that type of  
23 detail. For the preliminary plan, we do show a grading of the  
24 roadway, which kind of gives us our earthwork balance to show  
25 that things work. But the next level, once we get through  
26 preliminary, that's when we get into that level of detail.

27          CHAIRMAN McINTOSH: Okay. And I guess I would just  
28 say, you know, we're stating the signs aren't permitted to be  
29 in the open space, part of the open space calculation.

30          I was just addressing the subplot 33, the existing

1 decks will need to be modified to meet the minimum. And  
2 that's just, kind of, that will have to comply at some point  
3 with those setback regulations.

4 I am going to hold on on this, 6.

5 Any existing structures, so -- located in the open  
6 space shall be removed, including but not limited to sheds,  
7 the sheds, fences and driveways. I mean, is that -- I mean,  
8 obviously, the current homes, if you choose to keep them,  
9 those would be maintained but everything else will be,  
10 obviously, removed?

11 MR. UHLENBROCK: Yeah, the sites will be adjusted  
12 accordingly.

13 CHAIRMAN McINTOSH: Phasing plan, the entire 1.3  
14 acres of open space B should be platted as part of the final  
15 phase.

16 MR. RIEBE: I spoke with Mr. Radachy and I told him  
17 we were -- Actually, the property in question is very, very  
18 expensive and we are buying that portion of that one open area  
19 in the second phase. And I talked, spoke with him and we  
20 received a letter from the owner of the property to  
21 Mr. Radachy agreeing to the rezone and agreeing to it. So  
22 that's been addressed with Mr. Radachy, also, because I was  
23 concerned, too. You can't transfer something you don't own.

24 MS. LUCCI: Do we have something from Mr. Radachy  
25 about that?

26 MR. RIEBE: Pardon?

27 MR. LUCAS: Did he give you a letter stating such?

28 MR. RIEBE: No. He just, he says do the rezone. I  
29 told him, "Dave, we are not buying that. That's the next  
30 phase of the property."

1           He said, "Well, just get a letter from the owner  
2 allowing the rezone," which we have. And I think --

3           MR. SMUL: Dave has it.

4           MR. RIEBE: You have a copy of it from the owner.  
5 All right? You can't -- In other words, I said, "Dave, we are  
6 not going to -- we're not buying it in one clump, we're buying  
7 it in two sections. So that will be done with the second  
8 phase, the rest of it," and he agreed with that.

9           CHAIRMAN McINTOSH: You addressed the landscaping.  
10 And I think, last, or one of the township -- The landscaping  
11 as far as the islands go, and then I know that there is  
12 concern in the central mailbox. You've got, you've depicted  
13 that front end road that we'll plow. So the problem would be  
14 if the township comes by and plows and it gets obstructed, I  
15 think we would need to have a better understanding or  
16 agreement or we are, basically, saying we don't want to be  
17 responsible. When we come by and plow that in, you're going  
18 to have to clear it or you should probably consider putting it  
19 in a spot that's not going to be on the road where we're going  
20 to be interfering with it.

21           MR. UHLENBROCK: So that is, what you are talking  
22 about is where you have the pull-off for the mailbox units.

23           CHAIRMAN McINTOSH: Correct.

24           MR. UHLENBROCK: And that can stay or that can go  
25 away. I don't think there is really a preference one way or  
26 the other from a development standpoint. So I don't know if  
27 you can get some, get a thought -- you said it was the Service  
28 Director or whoever would be taking that up -- their thoughts  
29 on it. But if we can get some opinion in that regard so we  
30 can remove it or keep it, either way.

1 MR. RIEBE: You know, to address that, I will tell  
2 you, if it's not required, I would prefer to have individual  
3 mailboxes match throughout the subdivision. That's our  
4 preference. I mean, I know a lot of condominiums and things  
5 or apartments, they require that, but we prefer not having  
6 that. We prefer individual mailboxes, which we have done in  
7 every subdivision we've ever done, virtually every one. Okay?

8 MR. UHLENBROCK: It's U. S. Postal Service that's  
9 requiring those central mailbox units. We can talk to the  
10 mail, the local.

11 MR. RIEBE: Okay. I don't know the rule. I am not  
12 sure about that. I mean, I see in Summerwood that they're not  
13 requiring it. I know the new phase of Summerwood, they did  
14 it. So I don't know. Do we have to call the post office  
15 service or we just put the mailboxes in?

16 CHAIRMAN McINTOSH: I would imagine. I don't know  
17 about the post office.

18 MR. RIEBE: I don't know anybody at the post office.  
19 My father, my father retired from there like --

20 CHAIRMAN McINTOSH: We have new houses going in  
21 Concord Township and I have seen central box.

22 MR. RIEBE: Mailboxes?

23 CHAIRMAN McINTOSH: The central one, they're  
24 requiring it.

25 MR. RIEBE: They required it?

26 MS. DAWSON: On Hunting Lake Drive, they have the  
27 central units.

28 MR. RIEBE: I don't know. If it's required, we'll  
29 do it. If it's not required --

30 CHAIRMAN McINTOSH: Well, I am just asking that you

1 not put it on the street where we're going to have the burden  
2 to plow.

3 MR. RIEBE: We can probably -- It probably can go  
4 into the common, by the clubhouse.

5 CHAIRMAN McINTOSH: I forgot about that, yes. And I  
6 apologize. I'm a little bit behind in my -- Mr. Rose, I know  
7 you did receive a letter from a resident regarding this  
8 rezoning, if you could read it at this time. I forgot about  
9 that.

10 MR. ROSE. There was a letter submitted earlier  
11 today. I am going to read this letter verbatim. It's from  
12 Paul and Jenniviere Homitz-Daniels, 10205 Ilsley Square,  
13 Concord Township.

14 "To the Concord Township Trustees in regards to  
15 proposed zoning change from R1 to R2 RCD in zoning amendment  
16 application #2021-1;

17 "My wife and I reside at 10205 Ilsley Square and are  
18 neighbors of the developer, Tom Riebe. We are the home that  
19 would be most directly impacted by phase 2 development, as  
20 five of the units, numbers 40-44, would be directly in the  
21 back of our property.

22 "We have researched the proposed development and  
23 others of its kind and can see its merits and value.  
24 Therefore, we are in favor of the plan, but do have the  
25 following two concerns which were initially mentioned at the  
26 zoning commission hearing on June 1.

27 "1. Distance between our back property line and the  
28 proposed building structures. We understand that under  
29 current regulation, the setback required is 30 feet. However,  
30 we believe that it would be more appropriate for there to be a

1 50 foot setback" -- excuse me -- "of the undisturbed natural  
2 green space between our property line and the proposed units'  
3 property lines. This would ensure privacy for all concerned  
4 as well as adhering to Concord Township's stated goal of  
5 maintaining environmental balance with natural hedgerows and  
6 woodland corridors between borders. As this is currently in  
7 existence at the back of our property line, we would like it  
8 to be maintained.

9 "We understand that the wetland setback on the  
10 southeast portion of the development may have caused high  
11 density of the planned units directly along our property line.  
12 However, we believe the ability to have a 50 foot setback  
13 could exist with some development modifications. We  
14 respectfully request that this be considered.

15 "2. Drainage. Since we moved to our home four  
16 years ago We have had issues with flooding in our basement.  
17 We have just now managed to get these issues somewhat  
18 controlled with the use of four sump pumps as well as  
19 diverting water flow from an intermittent stream. The  
20 embankment that currently exists on the back of our property  
21 line and directly behind it has been a great help in impeding  
22 excess water from flowing onto our property. We would like  
23 this to be maintained. This concern was addressed initially  
24 at the Zoning Commission meeting by members of the development  
25 team.

26 "We would like to thank the Township Trustees,  
27 Zoning Commission, as well as Tom Riebe and his team for  
28 listening to our concerns and considering our requests."

29 "Sincerely, Paul and Jenniviere Homitz-Daniels."

30 And that is submitted to you for the record, sir.

1 Give Mr. Riebe a copy.

2 CHAIRMAN McINTOSH: Okay. I guess, I would like to,  
3 I'd like to ask the law director. I know we've got a handful  
4 of things here that are, from a housekeeping standpoint, not  
5 completely addressed. We have had some answers here but we  
6 don't have the final, and I know we've got the issue as far as  
7 the water.

8 What are -- And if we close the public hearing,  
9 we're going to have to vote on this within -- before our next  
10 trustee meeting, if not tonight.

11 MR. LUCAS: You've got, if you close the public  
12 hearing, you have to vote within 20 days.

13 CHAIRMAN McINTOSH: Right.

14 MR. LUCAS: Which will be beyond the --

15 CHAIRMAN McINTOSH: Right.

16 MR. LUCAS: Or you could recess the public hearing  
17 but take into account the new information and that, reopen the  
18 public hearing then at the next township meeting or special  
19 meeting and then, hypothetically, have the information and  
20 additional questions answered. Those are really your two  
21 options.

22 CHAIRMAN McINTOSH: So the only way to button up  
23 some of this new stuff is to recess and get things more  
24 formally buttoned up as far as these open issues that we are  
25 working through from just the last 24 hours.

26 MR. LUCAS: Well, there is a third option, too. You  
27 could close the public hearing, continue the vote on it, on  
28 the agenda, and schedule a special meeting to vote on that  
29 limited approval or disapproval on the rezoning.

30 MR. RIEBE: Wouldn't there be an option to close the

1 public hearing and pass the resolution?

2 MR. LUCAS: What's that, Tom? I'm sorry.

3 MR. RIEBE: Would there be an option to close the  
4 public hearing if everything has been satisfied, potentially,  
5 vote and pass the resolution?

6 MR. LUCAS: Yeah, absolutely.

7 MR. RIEBE: Because, not saying we want to rush  
8 anybody. I think, hopefully, everybody -- If there's any  
9 other questions that we can answer, we will. We can't go into  
10 engineered plans, bring those, obviously, until we have the  
11 zoning approval. And we have, quite frankly, we have a lot of  
12 people that would like to move into this subdivision. We  
13 would really, if at all possible, we're trying to pave it this  
14 fall so we can get the paving in before the winter.  
15 Otherwise, we're pushed out till next May.

16 So if there are any other questions or concerns, I  
17 think we really are ready to have it. We would really  
18 appreciate if you could consider, if you don't have no  
19 negative thoughts, which it sounds like virtually everybody  
20 has positive thoughts about the subdivision, then we can  
21 answer or allay those.

22 CHAIRMAN McINTOSH: I think I'll open. I guess I'll  
23 start off and then I'll see if the other trustees have  
24 anything they would like to add. I appreciate that we have  
25 answers and I feel positive about the dialogue. I want to say  
26 I genuinely appreciate the work that you have done since the  
27 Zoning Commission hearing and with the residents and I am  
28 pleased to see that folks have come on board with it. So I am  
29 encouraged by that and I want to say thank you for doing that  
30 diligence. I think that's an important part of the process

1 here between the township, the developers and the community.  
2 I like to see that.

3 So carrying on with the conversation of some  
4 things -- And, again, I want to stress the fact that we've had  
5 about 24 hours to digest this updated plan based on that  
6 effort that you made. And I still think there are some, we've  
7 had offers but there are still some things where I've gotten  
8 answers but they're not definitive. These things aren't on  
9 paper. There is not -- "Oh, we'll talk to the Service  
10 Director" as kind of a conversation and, yes, we'll do that,  
11 but I don't have, I don't have something that's tangible that  
12 really holds me into that.

13 And I do know, pursuant to the conversation that you  
14 had with Mr. Lucas, our law director, as far as the water, I  
15 don't know that I feel that issue is resolved. I mean, he's  
16 asked to review the other approvals. I can certainly  
17 appreciate your time, your need to move this along. My  
18 question is, does -- what have we got, two weeks until the  
19 next trustee meeting -- represent something that's a hurdle  
20 you just can't tolerate?

21 MR. RIEBE: I would say, I know there were some  
22 changes, addressing what you said, there were some changes  
23 made. I think they were only to make them compliant with Lake  
24 County Planning's request. There was nothing major. In other  
25 words, reducing, I think we reduced the cul-de-sac.

26 What other changes were made? Can you --

27 CHAIRMAN McINTOSH: I think the water question maybe  
28 on our side is something that we would like some time with our  
29 law director on, possibly.

30 MR. RIEBE: Yeah, we're 30 percent already, so we're

1 over 30 percent, regardless. I will tell you, in other words,  
2 I think the plans originally submitted were still at 30  
3 percent. The thing we were -- The thing I would suggest is if  
4 you view -- You guys, you guys did a rezoning last year. Do  
5 you recall the rezoning? I think I remember having read it.  
6 It was not brought up once. It was actually, it was actually  
7 mentioned multiple times by multiple people within the  
8 meetings.

9 And the only thing I would suggest is this. I mean,  
10 if you -- I don't know that it can be resolved. If the law  
11 director thinks it should not be included where it was  
12 included, included in every other one, it's agreed that it was  
13 part of it in every other one, I think anybody in our  
14 position, us or anybody, would think they're interpreting law  
15 and zoning text differently, being treated differently. So --

16 MR. LUCAS: Tom, are you saying -- I want to make  
17 sure I understand your initial comment. Are you saying that  
18 you meet the open space 30 percent whether the water is  
19 included?

20 MR. RIEBE: As it exists, as we resubmitted, it  
21 does.

22 MR. SMUL: Yes.

23 MR. RIEBE: Now, will it make a better subdivision  
24 and might they expand some of the retention area to allay some  
25 of the concerns of the people and to make sure it's a better  
26 subdivision? Potentially. Now, if that drops us to 29.5  
27 percent, are you going to come back and say we have one less  
28 unit?

29 I think it would be, my understanding is of the  
30 law -- And, again, he is an attorney, Tony Aveni. I've been

1 in this long business. I understand what happens. But if you  
2 use one certain set of rules, no change in the language and  
3 it's been the custom of doing it every time, to turn around  
4 and specifically say, "We're going to change it now and  
5 interpret it a different way," that's called spot zoning and  
6 that can leave the township liable, I mean, not for me because  
7 we'll stay within the limits.

8 CHAIRMAN McINTOSH: Well, Mr. Riebe, I think I'd  
9 like to bring up the point that, if we continue the public  
10 hearing, we're not doing that.

11 MR. RIEBE: What's that?

12 CHAIRMAN McINTOSH: If we continue the public  
13 hearing, that's not the action that we're taking. We are  
14 respectfully requesting time to do some diligence so --

15 MR. RIEBE: Sure.

16 CHAIRMAN McINTOSH: -- we get it correct, I think,  
17 is the thing taht I'm --

18 MR. RIEBE: To answer the question, we would really,  
19 really prefer being able to give them the go-ahead to start  
20 the preliminary laying out of the engineering. If it's really  
21 required on your part and you can't find it will work for you  
22 today, then, certainly, I mean, you are in control and you are  
23 the trustees. We trust your better judgment. We trust you  
24 will come to a -- I think, hopefully, all the positives that  
25 you heard from virtually everybody this evening is unusual in  
26 this kind of meeting. I've been at one where we had people  
27 rounded up by the hundreds not to put in -- to clear-cut --  
28 and Mike was there -- to clear-cut the property to bring in  
29 septic. We brought in sewers and preserved 59 acres.

30 So I think this is very, very unique and unusual

1 public hearing, in that, virtually everybody is in favor of  
2 it.

3 CHAIRMAN McINTOSH: Okay.

4 MR. RIEBE: So if you could find your way of doing  
5 it, we would really appreciate it.

6 CHAIRMAN McINTOSH: Okay.

7 MS. LUCCI: Mr. Chairman, if I may, I feel that  
8 because we are putting so much emphasis on this issue and it  
9 is something that just came to us yesterday, I feel that I  
10 would need a little more clarity on it before making any  
11 decisions.

12 MR. DONDORFER: First off, I would like to start out  
13 by saying that, as far as the collaboration here within the  
14 community and Mr. Riebe between the R-1 plan and the RCD, and  
15 I commend you on that. That's great. I think it helps to,  
16 you know, show cooperation, spirit of cooperation with the  
17 residents on what their concern is.

18 I like the concept. I think it fits the area. I  
19 think the RCD is much more suited for the area than the R-1.  
20 And I know, from our perspective, that this board, you know,  
21 we, as a benchmark, try to do is, in making decisions, what is  
22 in the collective best interest of the township when we make  
23 those decisions.

24 You know, with that, I like the concept. I just  
25 have, you know, my issues still though is I am concerned about  
26 the stormwater management and whether or not there has been --  
27 You know, I know that, in the past, I am trying to recall from  
28 what Mr. Riebe is saying other plans we've been involved in  
29 where we've approved and, you know, I can't recall exactly  
30 what plans those were as far as whether or not those

1 stormwater management basins were counted in the open space.  
2 So, you know, I think we need to clarify that or get some  
3 clarity before we can determine --

4 MR. SMUL: I think it was Eagle Pointe was the last  
5 one, if you read the transcripts.

6 MR. DONDORFER: My understanding is, was there more  
7 than one?

8 CHAIRMAN McINTOSH: Well, he is saying all of them,  
9 which that was the one we did and there's been --

10 MR. SMUL: That was the one recently that I read the  
11 transcripts on.

12 MR. DONDORFER: Okay.

13 MR. RIEBE: We were told, actually, I read that --  
14 And, again, I didn't read through every text. I read through  
15 the last one where it was an undeniable fact at that point  
16 that it was included. At that point, I thought it was brought  
17 up during those minutes that it had been included in every one  
18 in the last ten years. Rick Sommers did it and he put it in  
19 his previous ones, it was included as well.

20 So, again, I don't think that taking the position  
21 would necessarily affect us, potentially. It may make some  
22 lots not as desirable or not as nice if we have to trim them  
23 down to put in more stormwater. But I'll tell you, I don't  
24 know if it's not a, kind of, a dangerous precedent for the  
25 township because, again, if a developer comes in, it's kind of  
26 like a taking. If you had a set of rules and you always  
27 continued to use the same, apply the same rules with no  
28 language specifically eliminating stormwater from the open  
29 area, if that's the rule that's been applied, an individual  
30 can come sue our township, where I have been here a long, long

1 time, all right, and we'd be forced to defend spot zoning.  
2 That's my understanding. Again, I got two different legal  
3 opinions. That's what they're saying.

4 CHAIRMAN McINTOSH: I understand what you are saying  
5 but, again, that only occurs if we actually make a vote.

6 MR. RIEBE: No, I understand what you are saying.  
7 In other words -- yeah.

8 CHAIRMAN McINTOSH: I think you've got a couple  
9 trustees indicating they'd like some more diligence on it to  
10 understand that issue. I don't want to put words in their  
11 mouths but that's what I am saying. And you keep bringing  
12 that up but we're not suggesting that in a form of a vote. So  
13 without a vote --

14 MR. RIEBE: Sure.

15 CHAIRMAN McINTOSH: -- I don't think that's fair --

16 MR. RIEBE: What I am --

17 CHAIRMAN McINTOSH: -- to say that we would be  
18 guilty of spot zoning when we haven't voted yet.

19 MR. RIEBE: What I am suggesting is this: If you  
20 decide that it's not included.

21 CHAIRMAN McINTOSH: Right.

22 MR. RIEBE: All right? Which you -- We will take  
23 the plan as it is. All right?

24 CHAIRMAN McINTOSH: I appreciate --

25 MR. RIEBE: We are over 30 percent.

26 CHAIRMAN McINTOSH: I understand.

27 MR. RIEBE: If that's the thing that would hold back  
28 a vote, the stormwater, I'd say take that and whatever you  
29 decide you decide. We'd like to know what you decide and,  
30 hopefully, it won't affect us adversely. If you are going to

1 decide that it does, I mean, I don't know how you made that  
2 decision without getting it tested in court, which I don't  
3 think you want, anybody wants.

4 CHAIRMAN McINTOSH: Right.

5 MR. RIEBE: We don't. We will stay within the 30  
6 percent if you say it's not there. That's why we submitted it  
7 showing, originally, showing it that way, along with the fact  
8 we were told that it was not -- it was forbidden. So -- And,  
9 again, I am not -- I know you guys have plenty of work to do,  
10 also. I don't know if another additional meeting in another  
11 week or two will be something to give you a real clear answer  
12 other than if you go back and read the minutes. And I think  
13 some of you may already remember it was brought up and  
14 included in the past one. It was only last summer, I think  
15 last July, so less than a year ago, I believe.

16 So -- But, again, I don't know what decision you  
17 would make that would not -- that would change our plan. I  
18 really don't know what decision you can make that would change  
19 our plan. If we -- I will tell you what would happen. If it  
20 was judged -- I mean, you guys are all fair people. You guys  
21 are all upstanding. We've talked to each of you individually.  
22 You are all good people. I am really, really happy the three  
23 of you are the trustees at this point. You're younger. I  
24 mean, maybe that's -- I think you are addressing, I think  
25 you're trying to do what's right for the township. I want to  
26 tell you we are, too.

27 If the question over the stormwater is going to  
28 delay it, I don't know what's going to change between now and  
29 then. It was there. I think some of you remember that having  
30 been done in the last -- Eagle Pointe. And, again, it's

1 not -- Our timing should not, is not and should not be  
2 necessarily your concern.

3 CHAIRMAN McINTOSH: Right.

4 MR. RIEBE: But if all of our -- all of your  
5 questions have been answered --

6 CHAIRMAN McINTOSH: Right.

7 MR. RIEBE: -- and you're all satisfied and like the  
8 development, all right, and the only change that you want to  
9 review would be just the size of the cul-de-sac shrinking, a  
10 couple of things that were to satisfy the Planning, which in  
11 the preliminary plan you don't have to satisfy, actually, we  
12 could have given you the plan that existed and did it in the  
13 final planning. We just -- They only did that to kind of  
14 blend it in, probably unnecessary because it is preliminary  
15 and, obviously, has to meet all the requirements.

16 CHAIRMAN McINTOSH: Okay.

17 MR. RIEBE: But if it's possible, we'd love it.

18 CHAIRMAN McINTOSH: Right.

19 MR. RIEBE: If it's not possible, we understand.

20 CHAIRMAN McINTOSH: Okay.

21 MR. DONDORFER: So, Mr. Lucas, if we do vote on this  
22 today and, like Mr. Riebe indicated, without the stormwater  
23 retention basins included, he does, he's at 30 percent, which  
24 meets --

25 MR. LUCAS: And that's what Mr. Riebe said. I don't  
26 know that with certainty, perhaps Heather does. As I  
27 understand what you are saying, Tom, and I might be wrong  
28 about this, you're saying that whether that stormwater  
29 detention is there or not, you're still over 30 percent?

30 MR. RIEBE: We were originally on the preliminary

1 plan. What I am suggesting is this, all right -- And, again,  
2 I am trying to --

3 MR. LUCAS: The preliminary -- Tom, I apologize for  
4 interrupting. I want to make sure I understand. The  
5 preliminary plan right now that's in front of the board,  
6 you're over the 30 percent?

7 MR. RIEBE: Not counting. Now we're 36 percent.  
8 With the stormwater, we're at 36 percent, not 30. We're at  
9 36.

10 MR. LUCAS: All right. And without the stormwater,  
11 you're still over 30?

12 MR. RIEBE: According to the original preliminary  
13 plan. And the only thing that would come to be, quite  
14 honestly, we can either trim lots down to do it or if somebody  
15 said, "Well, now you qualify for one less lot," because we  
16 went a couple --

17 CHAIRMAN McINTOSH: Because your stormwater, yes.

18 MR. RIEBE: And we're shrinking one, then we have to  
19 figure out who took it and who bought it from us. And if we  
20 were treated -- In other words, let's say we shrunk down to  
21 29.5 percent but we're like 35 percent in actuality the way  
22 everyone's been treated, I think we would then have to look  
23 why would we be losing a unit because, because of a  
24 misinterpretation or a different interpretation of the rule?  
25 It's not, it's not in play now but, again, if not us then the  
26 next developer comes in might be in play. All right?

27 CHAIRMAN McINTOSH: Right.

28 MR. RIEBE: And they could take, accept it and they  
29 can -- I don't think anybody wants to go, spend the money to  
30 go to court over something that should be a moot point when

1 it's always been accepted and done in this manner.

2 So, but, yeah, we're under 30 percent and the only  
3 way --

4 MR. LUCAS: Under?

5 MR. RIEBE: We're over.

6 MR. LUCAS: You're over.

7 MR. RIEBE: We're over 30 percent, 30.4, I think.

8 MS. FREEMAN: I don't know. This is a different  
9 plan.

10 MR. RIEBE: 30.4?

11 MS. FREEMAN: This is a different plan. This is not  
12 the plan that we had.

13 MR. RIEBE: What? Well --

14 MS. FREEMAN: Mr. Chairman, I mean, this --

15 MR. RIEBE: Are we at 30.4? Hypothetical, are we at  
16 30?

17 MS. MOORE: Yeah.

18 MR. DONDORFER: It says "open space 30.4." It's  
19 right here.

20 MR. UHLENBROCK: I think what you are saying,  
21 Heather, we are at right about 30 percent.

22 CHAIRMAN McINTOSH: Right.

23 MR. UHLENBROCK: So we can meet that requirement.

24 And I think, Heather, what you're saying on the  
25 current plan that we have, it doesn't really show that. So  
26 it's hard to approve, like, a plan that doesn't actually say  
27 that. So it's a matter of getting a plan that says exactly  
28 what we're saying now, so I can definitely understand that.

29 And I think what Tom is saying is, like, what his  
30 fear is that if we get into the final design and we need to

1 increase that basin just a few feet here and there --

2 CHAIRMAN McINTOSH: Right.

3 MR. UHLENBROCK: -- and we break that threshold.

4 And we would rather error, we want that flexibility to be able  
5 to make the basin bigger, make the side slopes not as steep so  
6 we're not putting a big hole in the ground kind of thing. So  
7 I think what we're trying to do is get that flexibility kind  
8 of built in so that we can do that.

9 And I understand you kind of decide what the, what  
10 the code says and how to interpret it, what the precedent has  
11 been set and all that stuff. But as of right now, we're at 30  
12 percent but we just need to reflect that on the current  
13 updated plan.

14 MR. LUCAS: Is it right at the threshold of 30  
15 percent?

16 MR. RIEBE: Actually, we're at 36 percent. We are  
17 at 36 percent if the rules are applied as they, to us as  
18 they've been in every other subdivision.

19 CHAIRMAN McINTOSH: The question, obviously, is  
20 whether or not the storm features would expand in size. Under  
21 the plan that you proposed or the Zoning Commission  
22 recommended to us, you're right at 30. So if the stormwater  
23 features, coming more to your point, as you are saying, it's  
24 going to affect the lots, it's going to affect the lots.

25 MR. RIEBE: Well, potentially, it could.

26 CHAIRMAN McINTOSH: It could under that formula.

27 MR. RIEBE: It could.

28 CHAIRMAN McINTOSH: The formula that you presented  
29 to us, the odds are those features would increase and you  
30 wouldn't have to necessarily affect the lots because you have

1 the extra 5 percent.

2 MR. RIEBE: Well, it depends what you want to look  
3 at. As Brian suggested, if you want a really, really deep --  
4 In other words, I think you want to put a subdivision that's  
5 cosmetically blended --

6 CHAIRMAN McINTOSH: Yes.

7 MR. RIEBE: -- And not sitting to suit a new rule.  
8 If it's an existing rule that's been imposed, we do what we  
9 have to do. You know what I mean saying? But we would rather  
10 have the subdivision and -- put in properly and make assurance  
11 that we don't create problems downhill just to meet a new, a  
12 new expectation of us. All right?

13 So maybe that -- I don't know if that answers your  
14 question. That's kind of -- we want -- if it took a little  
15 bit more retention area to make the thing really work and not  
16 have a problem with everybody --

17 CHAIRMAN McINTOSH: Right.

18 MR. RIEBE: I don't know. If I were a trustee or  
19 anybody looking at it, I don't think I would want to say, you  
20 need to -- We're below the norm we need really to do the  
21 amenities we are putting there already. It's not an Epcon  
22 standard. They -- to put in -- They usually have like 100 to  
23 125 units to put in a clubhouse and a pool. We're only doing  
24 it because it's in my back yard. Okay?

25 So to state we're above and -- but we can't afford  
26 to lose another unit. I will tell you. And we also don't --  
27 want to make sure that it's put in properly. And it's not a  
28 flexibility, we don't believe. We believe we have 36 percent.  
29 We're over 30 percent --

30 CHAIRMAN McINTOSH: Yeah.

1 MR. RIEBE: -- with the drawing they've done and  
2 with what they did preliminarily. It's not been fully  
3 engineered.

4 CHAIRMAN McINTOSH: That one, not this one. That's  
5 what the Zoning Commission recommended to us.

6 MR. DONDORFER: Right.

7 MS. LUCCI: It would be, it would have been great if  
8 this was the plan that was presented to the Zoning Commission  
9 with the amount of open space and, you know, we had their  
10 recommendation.

11 MR. RIEBE: Oh, you know, at that point we were told  
12 it was not allowed. We were told it was not allowed.

13 CHAIRMAN McINTOSH: No, I understand that.

14 MR. RIEBE: In other words, I -- we would've  
15 presented it but we were told it's got to be separated, it's  
16 not an allowable use.

17 MS. LUCCI: So you just found out that we did it  
18 before, so --

19 MR. RIEBE: I watched, yeah, right. I appreciate  
20 what you are saying.

21 MS. LUCCI: I know but, you know, it's just a day  
22 before the --

23 MR. RIEBE: Yeah.

24 MS. LUCCI: And it shows, you know -- We have people  
25 that are accountable -- We're accountable for our township to  
26 make sure that we're making decisions based on what is in  
27 their best interest.

28 CHAIRMAN McINTOSH: I think I'd like to stress that,  
29 in the event that we --

30 MR. RIEBE: Okay.

1           CHAIRMAN McINTOSH: In the event that we recess the  
2 public hearing, insomuch as you kind of keep bring up the vote  
3 thing, I think that's -- The feeling I am getting from the  
4 board is that they would like a little more time to do  
5 diligence.

6           MR. RIEBE: Okay.

7           CHAIRMAN McINTOSH: So I don't want to go down the  
8 road of assumption and presume things of whatever. I think  
9 what you are hearing is a request for the board to confer with  
10 their Legal and Zoning Department and kind of sort out some of  
11 these things, as we've only had 24 hours. So I hope you can  
12 respect that, that our position to recess the hearing and just  
13 give it another couple weeks to sort that out so we can make a  
14 quality decision and, certainly, that gives us time to  
15 dialogue. So I don't, I don't want you to feel like we're  
16 trying to create road blocks or troubles for you.

17          MR. RIEBE: Sure.

18          CHAIRMAN McINTOSH: I think we're trying to be as  
19 cooperative as possible here. So I don't know if Carl or Amy  
20 have any additional comments.

21          MR. RIEBE: I do. I tell you, I do respect your due  
22 diligence, wanting to do due diligence. I know you guys are  
23 honorable people and I don't want you to think I am trying to  
24 rush you through it, and I respect the idea that you want to  
25 look it over.

26          CHAIRMAN McINTOSH: Right.

27          MR. RIEBE: I would hope that you do, as you do,  
28 that you confer with your law director, Mike, that you don't  
29 decide to take -- and this is in any case -- make an  
30 application of zoning and the subdivision rules --

1           CHAIRMAN McINTOSH: Right.

2           MR. RIEBE: -- and then change it. Not for me,  
3 we'll get around it, all right, potentially. It may not be as  
4 desirable as it was but we will get around it. The next  
5 person might not and it could lend to our township being sued  
6 because somebody didn't like the fact that it was being --  
7 they felt they were being treated unfairly. And I don't think  
8 you are going to. All right? And, but --

9           CHAIRMAN McINTOSH: Okay.

10          MR. RIEBE: I don't think -- I have confidence that  
11 you will not. I think Mike's an honorable guy. Hopefully, he  
12 will reconsider that. And I think it's called spot zoning. I  
13 talked to a couple attorneys and they think any change like  
14 that, if you made a change, that's what you've done, willingly  
15 or knowingly or not.

16          So thank you. I really appreciate your time.

17          CHAIRMAN McINTOSH: Thank you.

18          MS. LUCCI: Thank you.

19          MR. RIEBE: Appreciate you guys.

20          CHAIRMAN McINTOSH: Okay. And with that, we will  
21 consider the public hearing recessed. I need a motion for  
22 that.

23          MR. DONDORFER: I will make a motion to recess the  
24 public hearing.

25          MS. LUCCI: I second the motion.

26          CHAIRMAN McINTOSH: All in favor?

27          (Three aye votes, no nay votes.)

28          CHAIRMAN McINTOSH: Okay. Moving on tonight's  
29 agenda, we will get into Hearing Number 2 for zoning  
30 amendments to the Concord Township Zoning Resolution as

1 initiated by the Zoning Commission.

2 Amendment Number 1, actually --

3 MS. DAWSON: Just wait two minutes.

4 CHAIRMAN McINTOSH: Why don't we just wait, yeah,  
5 we'll wait for folks to clear out.

6 MR. RIEBE: Again, thank you.

7 MS. DAWSON: Thank you.

8 MR. SMUL: Thank you.

9 MS. LUCCI: Thank you.

10 CHAIRMAN McINTOSH: Okay. So back to resuming the  
11 -- Maybe we will wait.

12 MS. DAWSON: You just dropped something.

13 MR. SMUL: Hmm?

14 MS. DAWSON: You just dropped something.

15 CHAIRMAN McINTOSH: Okay. And moving on, Hearing  
16 Number 2 for the purpose of discussing zoning amendments as  
17 recommended by the Zoning Commission.

18 Amendment 1: Amendment -- Section 5.02,  
19 Definitions, modifies existing definitions for "microbrewery,"  
20 "microdistillery" and changes of the existing term "urban  
21 winery" to "microwinery." Adds new definition for "brewery,"  
22 "distillery" or "winery."

23 Amendment 2: Section 13.35, Microbrewery,  
24 Microdistillery or Urban Winery, includes the specific  
25 conditions for said uses and amends the conditions to include  
26 provisions requiring uses to operate in accordance with Ohio  
27 Division of Liquor Control and the Bureau of Alcohol, Tobacco  
28 and Firearms requirements, to hold current licenses, to file  
29 and provide reports demonstrating annual production has not  
30 exceeded the limit if requested, to prohibit outdoor storage

1 and to prohibit emission of odorous matter or smells that  
2 would produce a public nuisance or hazard.

3 And Amendment 3: Section 22.03, Table of Uses, adds  
4 brewery, distillery or winery as permitted uses in RD-2,  
5 Research and Limited Industrial District.

6 Okay. Well, there is no public here. So, Heather,  
7 is there anything you want to do as far as introducing these  
8 to this, to the Trustees, any conversation on the board?

9 MS. FREEMAN: Sure. So sometime ago, the township  
10 was in discussion with a potential user that might fall under  
11 one of these categories, and they had a concern with the  
12 maximum distilling capacity under the microdistillery option.  
13 So the Zoning Commission went back and reevaluated the  
14 definition of "microdistillery" that was initially capped at  
15 the 8,000 gallons per year. It was their understanding that  
16 there had been subsequent changes in the state law that  
17 actually upped that brewing capacity that would still allow a  
18 microdistillery to have some kind of retail or restaurant  
19 component to be associated with that, which is something that  
20 this zoning district, in definition, would require.

21 And so it went through a couple work sessions,  
22 gathered some, you know, recent codes from the area and all  
23 over the state, and decided that they wanted to propose  
24 increasing that capacity to be a little bit more, to allow a  
25 business to be able to compete more regionally should they  
26 choose to site one here in Concord Township.

27 And along with that, too, we started, they started  
28 looking at, okay, well, if they became successful, would they  
29 be able to have their own stand-alone production capacity or  
30 brewing facility somewhere in the township under more of a

1 manufacturing type use, and that is one of the reasons why  
2 they were proposing to add this as a permitted use under the  
3 Research and Limited Industrial District.

4 CHAIRMAN McINTOSH: Okay. And I will just say, as a  
5 member of the JEDD board and as a trustee, I met with that  
6 business and just having an understanding what's there, I  
7 think that it's a good addition to the code. And I think back  
8 to when we put it into the code to begin with, it was sought  
9 -- it did what it was -- It attracted interest.

10 So, I guess, with that --

11 MS. LUCCI: I was just wondering, when were the laws  
12 changed? When did the state change those?

13 MS. FREEMAN: I believe it was like in 2017. It  
14 actually could allow them to brew up to 100,000 gallons per  
15 year, but the Zoning Commission wasn't recommending it that  
16 high.

17 CHAIRMAN McINTOSH: Right. Well, I think when we  
18 first, when we first put it in when I was on the zoning board,  
19 we talked, we weren't really familiar with volumes and that.  
20 And I think we even went -- When I saw this little distillery  
21 that I was talking to, I said, "Yeah, your volumes are a  
22 little low."

23 He says, "I'm in a barn."

24 MS. FREEMAN: Right.

25 CHAIRMAN McINTOSH: So I think we do definitely need  
26 to take a look at that and make it more realistic for our  
27 business districts.

28 So any other questions?

29 MR. DONDORFER: No.

30 MS. LUCCI: No.

1           CHAIRMAN McINTOSH: All right. Well, I will  
2 entertain a motion to close the public hearing since there is  
3 no public to invite to speak.

4           MS. LUCCI: Mr. Chairman, I move that we close the  
5 public hearing.

6           CHAIRMAN McINTOSH: Second?

7           MR. DONDORFER: I will second.

8           CHAIRMAN McINTOSH: All in favor?

9           (Three aye votes, no nay votes.)

10          CHAIRMAN McINTOSH: All right. And that concludes  
11 our public hearings. I am going to request for a five-minute  
12 nature break. I feel we all probably need that.

13          MR. ROSE: Thank you.

14          (Whereupon, the public hearings were concluded at  
15 8:37 p.m.)

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STATE OF OHIO )  
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COUNTY OF CUYAHOGA )

CERTIFICATE

I, Melinda A. Melton, Registered Professional Reporter, a notary public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that, to the best of my ability, the foregoing proceeding extension 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.

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

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.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this 12th day of July 2021.

Melinda A. Melton  
Melinda A. Melton  
Registered Professional Reporter

Notary Public within and for the  
State of Ohio

My Commission Expires:  
February 4, 2023

