

CONCORD TOWNSHIP BOARD OF TRUSTEES
LAKE COUNTY, OHIO
PUBLIC HEARING

Held via YouTube Live Streaming

Concord Town Hall
7229 Ravenna Road
Concord, Ohio 44077

November 3, 2021
7:00 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:

Stephanie Landgraf, Esq., Legal Counsel
Heather Freeman, Zoning Director

Melton Reporting
11668 Girdled Road
Concord, Ohio 44077
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1 7:00 p.m.

2 CHAIRMAN McINTOSH: I will call -- to amendments to
3 Section 17 -- 16 as outlined below. So we've got 12
4 amendments here and I know that we discussed this a bit in
5 office hours.

6 And, Ms. Freeman, do you want to just introduce this
7 in total so we have just a recap of where we are and then we
8 will get going with the public part of this meeting.

9 MS. FREEMAN: Sure, Mr. Chairman, I would be happy
10 to. So the Zoning Commission has recommended approval on
11 these 12 amendments that are in front of you this evening.
12 They, as a board, have been holding work sessions over the
13 last year, starting in January, to take a look at the RCD
14 Section 16 district requirements. And looking at the
15 Comprehensive Plan Update from 2015, there were some
16 recommendations in there that they initially started looking
17 at to determine whether or not they should incorporate some of
18 those ideas into the existing text.

19 So there are several amendments. One of the most
20 significant changes to the way that the RCD projects will be
21 reviewed and -- or not reviewed but some of the significant
22 changes that are proposed in front of you tonight really have
23 to do with how you determine the preliminary plan and the
24 minimum amount of open space and, also, what is allowed to be
25 considered open space. So those are some of the significant
26 changes that you will see in front of you this evening.

27 In trying to streamline the process a little bit,
28 too, as far as we're eliminating, potentially, the yield plan
29 requirement and asking the developer to submit their best
30 preliminary plan as part of their potential RCD project. So

1 there are several amendments surrounded around that and those
2 type of things.

3 So if there are any specific questions -- You also
4 have correspondence that we did send this to the Lake County
5 Planning Commission for their recommendation, which they did
6 recommend approval with some of the modifications that you can
7 see in their letter dated September 29, 2021.

8 CHAIRMAN McINTOSH: Okay. Before we open up the
9 public hearing, is there any questions from the Board?

10 MR. DONDORFER: Not at this point.

11 CHAIRMAN McINTOSH: Okay.

12 MR. DONDORFER: I'll listen to the public.

13 CHAIRMAN McINTOSH: Okay. With that, what I will do
14 is open up the public hearing to public comment. So the
15 process will be that we will open up the meeting to comment
16 from the public, at which point we can dialogue about that,
17 the Trustees. And then should we choose to close the public
18 hearing, then we will need to vote on this within 30 days.

19 MS. FREEMAN: Twenty days.

20 CHAIRMAN McINTOSH: Twenty days, yeah, okay. So we
21 will have to do that. If we want to continue conversation for
22 any reason, then we can leave the public hearing open and just
23 adjourn it. And then -- So we will get the public comments
24 going on here and then this will, the public hearing will
25 continue until it's, we are done with it. And then the
26 trustee meeting will begin at 7:30 or after, depending upon
27 when we finish with the public hearing.

28 So with that, I will open up to public comment to
29 anybody that's here in Town Hall in person. And I would just
30 invite anyone to come up, state your name and address for the

1 record and share with us your comments, if you have any.

2 (No response.)

3 Okay. Seeing none from the audience in person, I
4 will open it up to the phone line and welcome Ms. Pesecc to
5 address the Board with any questions or comments.

6 MS. PESEC: Sure. This is Vanessa Pesecc, 11705 Cali
7 Court, and I have a number of concerns that were expressed at
8 the Zoning Commission meeting but I would like to address just
9 two of them this evening.

10 CHAIRMAN McINTOSH: Okay.

11 MS. PESEC: And the first is very important. The
12 Lake County Planning Commission submitted comments when the
13 Zoning Commission meeting was in session. And most
14 importantly, they state that the density could be higher than
15 what was even allowed in the previous version of the RCD. It
16 can be much higher because of the way that the current text is
17 written. You only require 30 percent open space, not the 40
18 percent, and then you will allow double the number of homes
19 that are currently allowed in the existing zoning text with
20 the remaining percentages, with the remaining percent of the
21 land.

22 And when the director of the Lake County Planning
23 Commission did a rough estimate on one of the subdivisions
24 that was RCD permitted previously, I think it was last year or
25 the year before, he came to the calculation that there would
26 be a number of additional homes that would be granted via this
27 RCD versus that which is on the books currently.

28 And so I am very concerned that, that we're giving
29 away far too many additional homes for something that is good,
30 is good for the community if it's done correctly. But if it

1 is a give-away to the developers in terms of density, then it
2 is not a good idea. Every home costs less money. And so it
3 is not in our best interest to increase density without
4 getting a sufficient amount of open space preserved instead.

5 And then the second -- This is all under Amendment
6 Number 5 on 16.24 is the section of the zoning text that I am
7 talking about tonight. And the second is that the purpose in
8 one of the lines talked about preserving in the natural state
9 the land that is to be considered open space, and it's
10 wonderful. Its purpose is there. It makes sense. It's all
11 really important. Except the next line says that, however,
12 land that is disturbed during zoning (sic) or otherwise not
13 preserved in its natural state, other than common areas and so
14 forth, shall be landscaped with vegetation that is compatible
15 with the natural characteristics of the site.

16 So in the first sentence, you say it must be
17 preserved in its natural state and then, in the very next
18 sentence, you contradict yourself and say that it's allowed to
19 be destroyed and that you're allowed to put up some vegetation
20 and that that will be okay. Those two sentences should not be
21 in the same zoning text, especially one that is a conservation
22 development where you don't want land disturbed.

23 So it seems to me that these two significant issues
24 need to be further discussed and further tweaked so that we
25 can all feel good that the RCD that will be coming on board
26 is, in fact, going to be most protective for Concord and the
27 residents and allow everyone to feel good about it because,
28 currently, I think that this is a lose-lose proposition in its
29 state.

30 And I hope that you will respond to these comments

1 and, most importantly, that you will keep this public hearing
2 open so that you can address these issues and a couple of
3 others that have been brought up and make sure that you're
4 really proud of this legislation before you pass it. Thank
5 you.

6 CHAIRMAN McINTOSH: Okay. Then we had no other
7 public comment.

8 Mrs. Freeman, could you -- And I may turn and ask
9 Mrs. Pesec this question, the first one she brought up with
10 respect to Planning Commission comments. I don't have
11 anything in front of me. I am confused to what she was
12 referencing.

13 MS. FREEMAN: Mr. Chairman, I am really unclear.
14 The direct comment that we had from Lake County Planning
15 Commission was that the density was removed in Section 16.24
16 and is no longer regulated, and they were recommending that we
17 create a density standard.

18 CHAIRMAN McINTOSH: But we don't, we are not
19 proposing to have one now.

20 MS. FREEMAN: Right now, the way that the density is
21 regulated is, is based on setting aside that 30 percent of
22 open space.

23 CHAIRMAN McINTOSH: Open space.

24 MS. FREEMAN: And then having that minimum lot size
25 requirement, so similar to how we do it, basically, in like an
26 R-1 district. We don't have a separate density requirement
27 for the R-1.

28 CHAIRMAN McINTOSH: Right.

29 MS. FREEMAN: We just have a minimum lot size with
30 different setback standards.

1 CHAIRMAN McINTOSH: Okay.

2 MS. FREEMAN: So not completely clear on the
3 analysis that Ms. Pesecc was referring to.

4 MS. PESEC: Dave Radachy did say that he -- And I
5 heard it read at the Zoning Commission meeting, so maybe you
6 want to take a look at it before you continue on. He said
7 that, he stated that the density may be too high without an
8 upper limit, and he did say that he did explain the comment in
9 the letter that was transmitted to Concord. And he further
10 stated, in a subsequent phone call I had with him, that he
11 would be happy to talk with everybody more about this.

12 But he did show, through calculation, that you are
13 giving away too much higher density. So I'd encourage you to
14 both read the document that he provided the township and that
15 you also talk with him.

16 CHAIRMAN McINTOSH: I don't have record of that in
17 his comments to the Zoning Commission. Was there a letter
18 that was read that's not in front of us?

19 MS. FREEMAN: No.

20 MR. DONDORFER: This is the only letter, I think.

21 MS. FREEMAN: The only letter that we had from, a
22 formal letter from Lake County on these amendments are the one
23 that you received dated September 29th.

24 CHAIRMAN DONDORFER: Right, yes, and there is no
25 comment as to density on that correspondence.

26 MS. FREEMAN: Just what I read.

27 CHAIRMAN McINTOSH: Right.

28 MS. FREEMAN: The fourth -- the third bullet point.

29 MS. PESEC: I am sorry. What? I can't hear
30 Heather. What did she -- What did it say? What did the

1 document say?

2 CHAIRMAN McINTOSH: The letter dated September 29,
3 2001 (sic), from Mr. Radachy, "Density was removed in Section
4 16.24 and is no longer regulated. Create a density standard
5 for the district." Is that to what you're referring?

6 MS. PESEC: You broke up. I am so sorry. I can't
7 hear that. Now, he made a specific comment that was read at
8 the Zoning Commission meeting about 16.24 and the density.

9 CHAIRMAN McINTOSH: It just states that it's no
10 longer regulated and says create a standard for the district.
11 There is no, there is no calculations, there is no additional
12 comment as to implications of that. That's the only
13 statement.

14 MS. PESEC: Well, there was a whole, there was a
15 complete discussion after Andy read the Lake County Planning
16 Commission comments and there was actual discussion by all of
17 the members. Heather was there at that meeting where it was
18 discussed, Well, is the density too high or is it okay? And
19 you looked through and said, Oh, no, it's okay because, you
20 know, in one of the other sections, in Section B, 16.25(B),
21 the lot area and so forth and it would be this and that. So
22 there was a lot of discussion at the Zoning Commission meeting
23 based on the letter. So there was a fair amount of discussion
24 at the Zoning Commission meeting.

25 David did tell me that he specifically wrote,
26 clearly, he said, that he was worried about the density and
27 there should consider --

28 CHAIRMAN McINTOSH: Well, Vanessa, I am going to
29 stop you there because I am not going to, I am not going to
30 have you recount conversations that you had with Mr. Radachy

1 and then portray them. If I feel like that's important, then
2 I think the Trustees or the Zoning Commission can talk with
3 him specifically. Let's not waste the time of the community
4 for us to have you recount a private conversation with him
5 about this text. I don't think that's, that's relevant.

6 So if you have any other additional comments as to
7 that point that are yours, I would invite you to continue.

8 MS. PESEC: Right. My points are, in reviewing the
9 calculation, I did see that the density that would be, would
10 have been yielded with this proposed plan was higher than the
11 actual density that was granted to -- I don't know what it was
12 called -- (inaudible) Estate or something like that in an R-4
13 than what was actually granted and currently being platted.
14 So I saw that there is a problem with the, with the current
15 calculation as is.

16 And so knowing this RCD as I do, and having been
17 part of the initial Concord RCD study group that was probably
18 done in, you know, at least ten years ago, I'm very, very
19 familiar with the zoning text and can tell you that there is
20 an extensive density bonus that is being granted to developers
21 if you pass this.

22 CHAIRMAN McINTOSH: Okay.

23 MS. PESEC: So you can just hear that and do nothing
24 or you can hear that and do a little bit of homework to figure
25 out why that, why the Planning Commission said what it said,
26 why I am saying what I am saying, and make sure that Concord
27 is not giving away the store.

28 CHAIRMAN McINTOSH: Okay. Thank you. Does that
29 conclude your comments at this time?

30 MS. PESEC: Yes.

1 CHAIRMAN McINTOSH: Okay.

2 MS. PESEC: And then the only other thing is
3 reiterating the fact that it does not have in there that you
4 should be -- that the developer should be allowed to destroy
5 as much as of the open space as they want.

6 CHAIRMAN McINTOSH: Okay. All right. With that, is
7 there any comments or questions for the Board, from the Board?

8 MR. DONDORFER: I have, I have one question and,
9 Vanessa, I am going to direct it to you because I am listening
10 to your comments, and I did watch the meeting on October 5th.
11 But the second area that you just mentioned about preserving
12 -- Where is it at?

13 CHAIRMAN McINTOSH: Right here.

14 MR. DONDORFER: Yeah, "Any area within the
15 designated open space is to be preserved in its natural
16 state." That's letter (e), correct, is that what you're
17 speaking to?

18 MS. PESEC: Yes.

19 MR. DONDORFER: And it says here, "However, land
20 that is disturbed," not destroyed. It says "disturbed during
21 construction." I think that's indicative of any area within
22 the open space that might be altered during the course of
23 normal construction. That's, I think, where they're talking
24 about shall be landscaped with vegetation that is compatible
25 with the natural characteristics of the site. I don't think,
26 is that --

27 MS. PESEC. Right, well, right, exactly. And I can
28 imagine that there will be some, you know, disruption --

29 MR. DONDORFER: Right.

30 MS. PESEC: -- for easements and for roads and all

1 of that. The second half of that is what is probably even
2 more concerning because, if you keep reading, "land that is
3 disturbed during construction or otherwise not preserved in
4 its natural state." That means the developer can do whatever
5 they want with the rest of the open space.

6 CHAIRMAN McINTOSH: I am not --

7 MR. DONDORFER: I'm not sure it does.

8 CHAIRMAN McINTOSH: I am not sure I agree with that.
9 I also would like to add, and we have legal counsel here, so I
10 am going to, in a second, I am going to defer to counsel. But
11 I would also note that this, I don't know if it's the entire
12 bullet, it seems like it was amended on 9/1 of 2006. The only
13 thing that's new here is that we've added the -- It originally
14 read as follows: "Any area within the designated open space
15 that is disturbed during construction or otherwise not
16 preserved in its natural state," yadda-yadda, shall be -- and
17 we've add "is to be preserved in its natural state. However,
18 land" -- it's a grammatical thing here.

19 So I still, Stephanie, I am just seeing this as we
20 are basically saying, if anything is disturbed via
21 construction, they need to return it to its natural state.

22 MS. LANDGRAF: Sure.

23 CHAIRMAN McINTOSH: And we've had that in the zoning
24 text, pretty much, in the same effect since 2006. We've been
25 operating under, you tear it up when you're building stuff,
26 you return it to its natural state. Since 2006, that's been
27 the standard in Concord. Is that fair to say?

28 MS. LANDGRAF: That's correct. And I think we're
29 mixing kind of two different theories here. We're talking
30 about areas that are disturbed as part of construction that

1 have to go back to its natural state.

2 CHAIRMAN McINTOSH: Right.

3 MS. LANDGRAF: And then there is area that's
4 specifically designated on the plan as open space.

5 CHAIRMAN McINTOSH: Right.

6 MS. LANDGRAF: So those things are two different
7 aspects that we're talking about that have different legal
8 effect.

9 CHAIRMAN McINTOSH: Right.

10 MS. LANDGRAF: But the text is saying, either put it
11 back to how it was -- Don't disturb it. But if you have to
12 disturb it, put it back with similar vegetation.

13 CHAIRMAN McINTOSH: Okay.

14 MS. LANDGRAF: So that it essentially is
15 undisturbed.

16 CHAIRMAN McINTOSH: Undisturbed.

17 And just a question for Mrs. Freeman. In your
18 tenure as the Zoning Inspector here or working with the
19 township, have you ever run across a time where we've had a
20 problem with this not being complied to in an RCD, being as
21 that it's been in the text this way for so long?

22 MS. FREEMAN: It did come up a little bit with, if
23 you recall, at the, with the Villas at Canterwood. The
24 engineer was making the assumptions that they could utilize
25 the existing language and disturb the open space as part of
26 construction and then just put it back to normal.

27 CHAIRMAN McINTOSH: Right. And that's effectively
28 what we're saying with this is that, if you have to do it --

29 MS. FREEMAN: So like there was, you know -- I
30 looked at their grading plan. There was a little bit of

1 grading within a few feet, you know, of the boundary of the
2 open space.

3 CHAIRMAN McINTOSH: Right, okay.

4 MS. FREEMAN: So that hasn't been finally approved
5 but --

6 CHAIRMAN McINTOSH: But by and large when we're
7 doing RCDs, we're not having a problem with this particular
8 point in the text? We haven't had random problems here?

9 MS. FREEMAN: Well, there's been a debate on that,
10 you know. We went back and forth on the detention basins.

11 CHAIRMAN McINTOSH: Correct.

12 MS. FREEMAN: And whether that was a permitted
13 disturbance. But with this amendment that's in front of you
14 tonight, if it gets passed, you know, we are very clear on the
15 record that those, that infrastructure is not allowed to be
16 counted nor be included in the open space at all.

17 CHAIRMAN McINTOSH: Right. And just one final
18 question for counsel. Stephanie, the way I am reading this, I
19 mean, if we got into a situation here where we were trying to
20 enforce, I mean, this could definitely be, say, a developer's
21 attorney coming to us and us standing a point and we would be
22 into discussing how various attorneys might view this text.
23 And, you know, that's what attorneys do is debate the nuances
24 of it. And the point to that being is that no text, no
25 legislation is ever perfectly written, that it's always
26 ultimately tried out through process.

27 MS. LANDGRAF: That's what courts are for.

28 CHAIRMAN McINTOSH: Yep, okay.

29 MS. PESEC: I am sorry. I couldn't -- I had, again,
30 some difficulty. I am not quite sure what's going on. But,

1 so the question that I have for legal then is, land that is
2 otherwise not preserved in its natural state, so, for whatever
3 reason, they decide that they want to fill in some wetlands,
4 they're going to mitigate those wetlands to, you know, a land
5 bank in Ashtabula County, that's their prerogative. They're
6 allowed to do that. They're allowed to fill them in and
7 mitigate them. And it says that land that is otherwise not
8 preserved in its natural state can be landscaped with
9 vegetation. This text does allow that, correct?

10 MS. LANDGRAF: I am not sure I understand your
11 question. Say that again about wetlands.

12 MR. DONDORFER: It can be mitigated.

13 CHAIRMAN McINTOSH: It's a different part of the --

14 MS. PESEC: If the developer decides that they want
15 to, they have 30 percent open space and they've designated as
16 open space and even though -- And then they decide that,
17 during the negotiations with you and the township and with
18 everyone, they decide that they want to fill in some of the
19 wetland, it's still considered open space because they're not
20 building anything on it. They're allowed to fill in that
21 wetland because that sentence says, However, land that is
22 disturbed during construction or otherwise not preserved in
23 its natural state just needs to be landscaped with vegetation.
24 That would be allowed because of that sentence.

25 CHAIRMAN McINTOSH: Well, I guess I am confused a
26 little bit in the sense that the text addresses wetlands and
27 says that it's not counted as open space, right?

28 MS. PESEC: What?

29 CHAIRMAN McINTOSH: Isn't that what it says, the
30 stormwater features --

1 MS. FREEMAN: Stormwater.

2 CHAIRMAN McINTOSH: Stormwater, not wetlands.
3 Disregard.

4 MS. FREEMAN: Yes.

5 CHAIRMAN McINTOSH: Oh, okay, I am mixing two
6 issues.

7 MS. LUCCI: I have a comment.

8 CHAIRMAN McINTOSH: I guess the question is, if you
9 mitigate wetlands, is that -- and then return it to like, say,
10 around is grasses and then you sort of mitigate the wetlands
11 and then you extend the native open space, less the wetlands,
12 is that -- again, this is the attorney thing -- is that still
13 the definition of native --

14 MS. LANDGRAF: I consider the open space as
15 designated on that preliminary plan.

16 CHAIRMAN McINTOSH: Right. And I don't know why you
17 would mitigate wetlands in an open space.

18 MS. LANDGRAF: You wouldn't be disturbing wetlands
19 as part of the development; but I guess, if you did, we are
20 concerned about that defined open space area, not necessarily
21 whether it's determined to be a wetland or what grade it would
22 be. In the text, is wetlands considered part of the open
23 space?

24 MS. FREEMAN: The wetland is a natural resource --

25 CHAIRMAN McINTOSH: Well, right.

26 MS. FREEMAN: -- that could be protected within the
27 open space.

28 CHAIRMAN McINTOSH: I mean, not to sit there --
29 Again, I don't want to, I really don't want to run down the
30 what-ifs and whatnot because I don't think that's

1 constructive, and we can sit here all night and debate the
2 legal back and forth. I mean, I'm not an attorney, so maybe I
3 couldn't. But I think, you know, I run the question of like,
4 well, if it's a wetland, why wouldn't you, why wouldn't you --

5 MS. PESEC: I don't think it's to just like say it
6 has to be this or that. I am giving you just one example.

7 CHAIRMAN McINTOSH: Well, Vanessa, no, I am not
8 going to sit here all night and run through potential
9 examples. I mean, the text is the text and the process is the
10 process. So I hear your comment. It's taken, it's received.
11 I am not going to debate it.

12 I want to just ask and say to the Board and to
13 Stephanie and Heather my observation is this, is that, to use
14 that example, mitigating wetlands, if it was in the open
15 space, the open space isn't going to be touched. The only way
16 it would be touched is if we, oh, we had to take a tractor
17 through this area to do construction and now, when it's done,
18 we put it back. You wouldn't, it's not really not part of --
19 that wouldn't happen.

20 MS. LANDGRAF: I just want to jump in here.

21 MS. PESEC: Right. So another example that you've
22 just --

23 CHAIRMAN McINTOSH: Vanessa, I am not addressing
24 you. I am addressing legal counsel and I'm addressing my
25 Zoning Inspector.

26 MS. PESEC: -- were because, in Eagle Pointe, the
27 developer considered, and you agreed, that a lot of their land
28 is open space was natural forest and woodland and yet then
29 they mowed it all down and took away the timber. So, again,
30 because of this exact language that you just told me was fine

1 and have no problem --

2 CHAIRMAN McINTOSH: I didn't say that.

3 MS. PESEC: It really was a problem because it was
4 open space that was supposed to be in its natural, preserved
5 state and yet they mowed down all the trees to harvest them
6 and left, you know, bare, bare woods with potential problems
7 with water, as well as with no trees. So you heard a big
8 problem with that exact old language and that's why I am
9 asking that you do something to modify that language to better
10 preserve, to better preserve the open space and protect it.

11 MS. LANDGRAF: So open space is not -- You're not
12 required to do an RCD, and open space is a benefit to the
13 township and the developer.

14 CHAIRMAN McINTOSH: Right.

15 MS. LANDGRAF: They're getting something in return,
16 smaller lot sizes, increased spacing, but we're also getting
17 the open space back that would otherwise be buildable.

18 CHAIRMAN McINTOSH: Right, right.

19 MS. LANDGRAF: So it's not a designated area in
20 every single preliminary plan, like, okay, there is houses
21 here, it has to be in this specific area. The developer still
22 has the ability to decide where that open space is.

23 CHAIRMAN McINTOSH: Right.

24 MS. LANDGRAF: So the wetland hypothetical, I guess,
25 isn't applicable across the board, but the open space is not
26 going to be the same for everybody.

27 CHAIRMAN McINTOSH: Right.

28 MS. LANDGRAF: So wherever we can manage the open
29 space, that's why we're saying, wherever you can fit it, if
30 you have to do something else to build around there, you have

1 to put it back.

2 CHAIRMAN McINTOSH: Right.

3 MS. LANDGRAF: So I just wanted to clarify that
4 there is no requirement --

5 CHAIRMAN McINTOSH: Correct.

6 MS. LANDGRAF: -- where that open space is or that
7 it has to be the wetlands.

8 CHAIRMAN McINTOSH: Right.

9 MS. LANDGRAF: It's wherever the developer can make
10 it fit in compliance with the rest of the district.

11 CHAIRMAN McINTOSH: And I guess to my point of what
12 I was attempting to ask you was that wetlands and open space
13 are kind of, that's a commingled -- It's two separate issues,
14 really.

15 MS. LANDGRAF: It is. I think, from a development
16 standpoint, you would want that wetland to be towards your
17 open space because it kind of is unbuildable, but whether or
18 not they choose to designate that as the open space is not up
19 to the township.

20 CHAIRMAN McINTOSH: Correct. That would be up to
21 the developer at the time.

22 MS. LANDGRAF: Right.

23 CHAIRMAN McINTOSH: And I guess I will just make a
24 statement. It's theoretical or rhetorical. I am not asking
25 to debate this. But if you're going to, if a wetland chunk is
26 there and it happens to be developable, houses are going to
27 end and the tail end of the property is now going to be
28 wetlands to the property line. This is a rhetorical question.
29 But why would the developer even bother to mitigate it if it's
30 going to be open space? I don't even know that that seems --

1 I guess I am asking, to be clear to counsel, there is that.

2 And then, Heather, I mean, open space is open space.
3 You wouldn't mitigate wetlands within the open space. It
4 doesn't make sense.

5 MS. FREEMAN: No, I don't think a developer would do
6 that because there is a fee.

7 CHAIRMAN McINTOSH: Well, it cost money.

8 MS. FREEMAN: There are permits that are required.
9 There is a cost to them that would be unnecessarily taken on.

10 CHAIRMAN McINTOSH: All right. So I guess, if the
11 other Trustees have any questions regarding either of those
12 points?

13 MS. LUCCI: I just want to mention on that first
14 point, the density, sort of the same thing. It seems like
15 each, you know, each parcel of land or each, whatever, area to
16 be developed has its own challenges. So to create a density
17 standard based on sort of those challenges may be difficult.
18 And I would, I know the, this took a year sort of in the
19 making. So I am just wondering what the Zoning Commission,
20 how they determined that that 30 percent kind of met that
21 balance. Can you comment on that at all, Heather?

22 MS. FREEMAN: Sure. So the Zoning Commission, they
23 did debate on, you know, what should be the minimum amount of
24 open space. We did take a look at all of the previously
25 approved RCDs in the township. All of them except for one was
26 at 40 percent or more. At that time, obviously, you know,
27 there was the density bonus baked in, so every developer was
28 going to try to maximize their density. And so in order to do
29 that, they were going to do that 40 percent. Some, a couple
30 projects, like Orchard Springs, was much higher open space

1 because they had more wetlands and were able to protect more
2 areas.

3 So the board felt comfortable with -- There was a
4 little bit of debate. Some wanted 40, some wanted 30, 35, and
5 they ended up recommending 30 to this Board. We looked at
6 some other communities, too, that their minimum open space is
7 maybe 40 percent. I will note that our current RCD text, the
8 minimum open space is really, the required --

9 CHAIRMAN McINTOSH: Is ten.

10 MS. FREEMAN: -- is 10 percent. So, right now,
11 we're increasing that minimum open space requirement even
12 though a developer never came in and did a project with the
13 minimum 10 percent open space. That is our current threshold,
14 you know, on any, on any RCD.

15 And so even when the comment came in from the
16 Planning Commission asking us about the density requirement,
17 we did have some discussion at the Zoning Commission meeting
18 about that. There was no additional letter from Dave Radachy,
19 because I had a conversation with him after receiving this and
20 he was concerned that a developer could come in and try to,
21 you know, configure lots that might not be desirable, like
22 rear lots, like flag pole lots, and try to get something
23 approved by the board. And that was where some of his concern
24 was coming from as far as not setting a separate density
25 outside of the way we have it currently set up.

26 CHAIRMAN McINTOSH: Right.

27 MS. FREEMAN: But the Zoning Commission felt
28 comfortable with the way, since these are rezones and, as part
29 of the rezone, you do have a pretty good say on what gets
30 approved as open space and the number of lots, that they felt

1 that this, the current text in front of you, is solid. They
2 kind of compromised as a board on the 30 percent but, like I
3 said, there were a few that, you know, would have probably
4 pushed for higher, you know.

5 MS. LUCCI: So you did have that discussion. They
6 did have that discussion based on this Planning Commission
7 comment.

8 MS. FREEMAN: Yeah. But there was, but what
9 Ms. Pesec was referring to, I wasn't quite sure what she
10 was --

11 MS. LUCCI: Yeah, because this is what we have to
12 look at.

13 MS. FREEMAN: Yeah, yeah.

14 CHAIRMAN McINTOSH: Right.

15 MS. LUCCI: So I am confused as to where -- okay.

16 CHAIRMAN McINTOSH: I, you know, I will say, I like
17 the 30 number. I feel like a couple times we looked at, you
18 know, we looked at developers stretching themselves to that 40
19 and then kind of back to that desirable lot question. Hey,
20 we're trying to get here and we're doing this and that. I
21 sort of like having that a little more, stop trying to get
22 there. Stop trying to squeeze, get the 11 percent, get the 40
23 percent and then create, you know, utilize the 11 percent
24 increase in density and then you get some pretty, you get some
25 goofy stuff. Or, you know, you're like, well, it's not really
26 our position. They're the ones that are going to have to sell
27 it and we're not here to sell lots. That's not our problem.
28 But it does, certainly, it does make you scratch your head
29 when you look at a couple of those plans and you're like --

30 Are you --

1 MS. LUCCI: Thank you.

2 CHAIRMAN McINTOSH: Do we want to continue the
3 conversation? Do you have any research? Do you want to close
4 the public hearing and vote on this tonight? I mean, we have
5 20, we will have to do --

6 MS. LUCCI: How many?

7 CHAIRMAN McINTOSH: Twenty days.

8 MS. LUCCI: We have twenty days.

9 CHAIRMAN McINTOSH: But then the clock starts. A
10 little more time?

11 MR. DONDORFER: I think I would like a little more
12 time to research some of this.

13 CHAIRMAN McINTOSH: I mean, the Zoning Commission
14 has worked on this for 12 months, basically.

15 MR. DONDORFER: Right.

16 MS. LUCCI: Yeah.

17 CHAIRMAN McINTOSH: So I am not, if you want --

18 MS. LUCCI: We can leave it open.

19 CHAIRMAN McINTOSH: Okay. So can I have a motion
20 for that?

21 MR. DONDORFER: Yeah. I will make a motion to
22 keep --

23 CHAIRMAN McINTOSH: Recess, recess the public
24 hearing. We're going to recess.

25 MR. DONDORFER: -- recess.

26 MS. LUCCI: Is that what we're doing?

27 MS. FREEMAN: Stephanie.

28 MS. LANDGRAF: That's right.

29 CHAIRMAN McINTOSH: Yes.

30 MS. LUCCI: I will second.

1 CHAIRMAN McINTOSH: All right. All in favor?

2 (Three aye votes, no nay votes.)

3 CHAIRMAN McINTOSH: Okay. So we will recess the
4 public hearing and -- There we go.

5 MS. DAWSON: We can roll right into it.

6 CHAIRMAN McINTOSH: And we'll roll right into the
7 regular trustee meeting.

8 (Whereupon, the meeting was adjourned at 7:34 p.m.)

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