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2 CONCORD TOWNSHIP ZONING COMMISSION
3 LAKE COUNTY, OHIO
4 REGULAR MEETING
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8 Concord Town Hall
9 7229 Ravenna Road
10 Concord, Ohio 44077
11
12 November 7, 2023
13 7:00 p.m.
14
15 TRANSCRIPT OF PROCEEDINGS
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18 Zoning Commission members present:
19 Andrew Lingenfelter, Chairman
20 Rich Iafelice, Vice Chair
21 Hiram Reppert, Member
22 Frank Schindler, Member
23 Ron Terriaco, Member
24
25 Also Present:
26 Heather Freeman, Planning & Zoning Director/Zoning
27 Inspector
28 Keith Petersen, Esq., Legal Counsel
29

1 CHAIRMAN LINGENFELTER: Good.
2 MR. REPERT: Yes, I do.
3 CHAIRMAN LINGENFELTER: I knew you would.
4 MR. REPERT: Page 9, Line 2, this is me
5 talking. And it goes up to Page 8, Line 25. It
6 says, What's the intent of this drive-thru
7 restaurant and coffee shop? Is it just for you, or
8 your three tenants.
9 It should be Y-O-U, not Y-O-U-apostrophe-R-E.
10 And then following on, on Page 9, Line 6,
11 Duncan, should be D-U-N-K-I-N-apostrophe, I think,
12 not D-U-N-C-A-N. And I found that -- I think I
13 found them all. Page 25, Line 5 is Dunkin' again.
14 And Page 26, Line 4. 4? 4 is again, Dunkin'.
15 We're talking about Dunkin' Donuts.
16 Now, I have a question. On the previous
17 minutes that we had, we had some sheets on the back
18 that put all the words, with where they were found.
19 CHAIRMAN LINGENFELTER: Uh-huh.
20 MR. REPERT: Do you still do that? Do you do
21 that? You just didn't give it to us.
22 Because, if you could, go back and make sure I
23 caught all the Dunkin', because I don't know if I
24 got them all.
25 CHAIRMAN LINGENFELTER: There was no word

1 CHAIRMAN LINGENFELTER: Good evening. I would
2 like to call this Concord Township Zoning
3 Commission meeting to order. Today is Tuesday,
4 November 7th, 2023.
5 If we could have a roll call of members,
6 please.
7 MS. FREEMAN: Mr. Iafelice.
8 MR. IAFELICE: Here.
9 MS. FREEMAN: Mr. Schindler.
10 MR. SCHINDLER: Here.
11 MS. FREEMAN: Mr. Reppert.
12 MR. REPERT: Here.
13 MS. FREEMAN: Mr. Terriaco.
14 MR. TERRIACO: Here.
15 MS. FREEMAN: And Mr. Lingenfelter.
16 CHAIRMAN LINGENFELTER: Here.
17 Okay, we have approval of minutes for
18 October 3rd of 2023. I was not here, so I will
19 not -- I will abstain from the vote, in the
20 process. So I would certainly entertain a motion,
21 though, to either accept the minutes as provided
22 and/or any amendments.
23 Hiram, do you have any observations for us
24 today?
25 MR. REPERT: Yes, I do.

1 inventory to compare it to.
2 MR. REPERT: Well, there was -- no. And we
3 used to get those sheets --
4 CHAIRMAN LINGENFELTER: Right.
5 MR. REPERT: -- on the back.
6 CHAIRMAN LINGENFELTER: That's the word
7 inventory.
8 MR. REPERT: Yeah.
9 MS. FREEMAN: Mr. Reppert, we do have that. I
10 think we just didn't print those. But I'll make
11 sure, moving forward, that we give those to you
12 guys.
13 MR. REPERT: Okay. I just didn't know. I
14 didn't get it. So I didn't know. I went through
15 it twice.
16 MS. FREEMAN: Yeah.
17 MR. REPERT: I didn't know if I got them all
18 or not.
19 MS. FREEMAN: Okay.
20 MR. REPERT: So I found three Dunkin', and
21 that one, you versus you're.
22 CHAIRMAN LINGENFELTER: Okay.
23 MR. REPERT: That's all I have.
24 CHAIRMAN LINGENFELTER: Anyone else? I know
25 that's pretty hard to top. Hiram always sets the

5
1 bar high.
2 MR. SCHINDLER: Yeah.
3 CHAIRMAN LINGENFELTER: But we do appreciate
4 your due diligence. Don't think for a minute --
5 MR. REPERT: I'm sure you do.
6 CHAIRMAN LINGENFELTER: -- that we don't
7 appreciate your hard efforts.
8 Okay, so we have some corrections to be made.
9 So I guess what we'll do is I would entertain a
10 motion to approve the minutes as amended by
11 Mr. Reppert.
12 MR. SCHINDLER: I second it, Mr. Chairman.
13 CHAIRMAN LINGENFELTER: No, I need someone --
14 MR. SCHINDLER: You need a motion.
15 CHAIRMAN LINGENFELTER: I'm asking for a
16 motion.
17 MR. SCHINDLER: I so move that we accept the
18 minutes as corrected.
19 CHAIRMAN LINGENFELTER: Okay. Motion made.
20 MR. TERRIACO: Second.
21 CHAIRMAN LINGENFELTER: Seconded.
22 All those in favor, say aye.
23 MR. TERRIACO: Aye.
24 MR. REPERT: Aye.
25 MR. SCHINDLER: Aye.

7
1 been quiet. Right. Okay.
2 Public Participation this evening, with the
3 agenda, moving on to the next item.
4 We don't appear to have any public
5 participants out there today. It doesn't look like
6 we have anyone on the phone.
7 Anybody, Heather, that's supposed to call in
8 or anything?
9 MS. FREEMAN: No, sir.
10 CHAIRMAN LINGENFELTER: Okay. I didn't think
11 so, but I figured I'll ask. You never know.
12 MS. FREEMAN: Uh-huh.
13 CHAIRMAN LINGENFELTER: So with that, since we
14 don't have any public participation to participate
15 with the public, we will move on to the new item of
16 New Business. And that is blank.
17 So Heather, anything coming up at all, New
18 Business-wise? Anything on the agenda?
19 MS. FREEMAN: Nothing has been submitted. So
20 no new applications that I'm aware of coming your
21 way.
22 CHAIRMAN LINGENFELTER: Okay.
23 MS. FREEMAN: I'm not sure if the Board has
24 any other ideas about potential work sessions for
25 the future. Maybe we'll do some of that work over

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1 CHAIRMAN LINGENFELTER: Opposed?
2 MR. IAFELICE: I abstain.
3 CHAIRMAN LINGENFELTER: Abstain, all right.
4 I abstain, as well.
5 So we've got three ayes, two abstentions.
6 That's the record. Okay.
7 Correspondence.
8 Frank, any correspondence report?
9 MR. SCHINDLER: None from me, Mr. Chairman.
10 CHAIRMAN LINGENFELTER: Okay. Mr. Reppert.
11 MR. REPERT: None, Mr. Chairman.
12 CHAIRMAN LINGENFELTER: Mr. Terriaco?
13 MR. TERRIACO: Nothing.
14 CHAIRMAN LINGENFELTER: None.
15 Mr. Iafelice?
16 MR. IAFELICE: Thankfully none, Mr. Chairman.
17 CHAIRMAN LINGENFELTER: Nothing at all. Wow.
18 That's unusual. We didn't have any -- and I,
19 personally, have had no contact or any
20 correspondence with anyone, either. So it's been
21 kind of quiet. Well, there hasn't been a whole lot
22 going on that's been very contentious. The first
23 few waves hit on the other stuff.
24 MR. IAFELICE: Right. Just an election.
25 CHAIRMAN LINGENFELTER: Right. Yeah, it's

8
1 the winter. So I can envision some of that.
2 CHAIRMAN LINGENFELTER: I know when we had
3 kind of the general meeting over at the Community
4 Center --
5 MS. FREEMAN: Yes.
6 CHAIRMAN LINGENFELTER: -- we were talking
7 specifically about conditional use definitions, and
8 where they belong in the various resolution -- you
9 know, with the various sections in the Zoning
10 Resolution.
11 You know, I was thinking that it might be a
12 good idea to put something on -- you know, target
13 at least something here in the near future to do a
14 work session, and really go over the conditional
15 use definitions, and what's there, and where we're
16 allowing things. Because that seems to be what is
17 a big bugaboo for us, with regards to having things
18 that pop up that we weren't expecting, because it
19 falls within the conditional use, and if it goes in
20 front of the BZA, and they find that it's
21 acceptable, and they approve it, then we don't have
22 a whole lot of choice but to move along.
23 So we want to make sure -- I think we need to
24 really tighten down the acceptable uses, and things
25 of that nature, and where they go, and where they

1 really belong. And if we want them, you know,
 2 where they are, and maybe make some changes, make
 3 some adjustments. Because I think that's a good
 4 way that we can battle, without putting
 5 ourselves -- painting ourselves into a corner,
 6 battle some of these issues with uses.
 7 MS. FREEMAN: Okay.
 8 MR. REPERT: Well, didn't we just -- I think
 9 I read someplace, maybe it was even in the minutes,
 10 where something was not allowed, period. And it's
 11 out there. It went through BZA -- even though it
 12 was not allowed, it was not permitted, per our
 13 zoning, and we've got it. So what good does that
 14 do?
 15 CHAIRMAN LINGENFELTER: So are you saying it
 16 was --
 17 MR. REPERT: And it's not conditional. It's
 18 not -- it's prohibited.
 19 CHAIRMAN LINGENFELTER: Then why was the BZA
 20 involved?
 21 MR. REPERT: They went for a --
 22 CHAIRMAN LINGENFELTER: What was the appeal?
 23 If it's not even in there, then what difference
 24 would it make? Why would you make an appeal on
 25 something that's not even in there?

1 not typically permitted in a district.
 2 CHAIRMAN LINGENFELTER: Right. I am not as
 3 concerned with that --
 4 MS. FREEMAN: Yeah.
 5 CHAIRMAN LINGENFELTER: -- as I am with
 6 putting ourselves in a compromising position
 7 because we have conditional uses that could kind of
 8 wrap us around the axle on something we don't want,
 9 in a district we don't want it to be in. And then
 10 because it's conditional use, and if they meet the
 11 conditions, guess what, there's nothing we can do
 12 about it.
 13 MS. FREEMAN: Right.
 14 CHAIRMAN LINGENFELTER: So if we take the
 15 conditional use out of the district, then we don't
 16 have to worry. Or tighten it down, or whatever.
 17 MS. FREEMAN: Yeah.
 18 CHAIRMAN LINGENFELTER: We can make some
 19 tweaks and adjustments, whatever would seem
 20 appropriate.
 21 MS. FREEMAN: Uh-huh.
 22 CHAIRMAN LINGENFELTER: I think we really need
 23 to make an effort on that. And I think with some
 24 of the development that's going on right now, and
 25 some of the interest in other businesses coming to

1 MR. REPERT: It was in the minutes.
 2 MR. IAFELICE: A rezoning, perhaps?
 3 MR. REPERT: No, no.
 4 MS. FREEMAN: I'm not sure what specific
 5 incident you're referring to --
 6 CHAIRMAN LINGENFELTER: Yeah, I'm not
 7 familiar.
 8 MS. FREEMAN: -- but there are variances for
 9 uses that the Board of Zoning Appeals has approved
 10 in the past, a use variance. So it's a use that is
 11 not typically allowed in the district --
 12 MR. IAFELICE: Right.
 13 MS. FREEMAN: -- but someone could potentially
 14 submit an application testing that use.
 15 MR. IAFELICE: Right.
 16 MS. FREEMAN: It has happened in the past.
 17 The BZA has approved use variances. But there's
 18 nothing you can do to deal with that kind of -- you
 19 know, that's a function of the BZA. That's up to
 20 them --
 21 CHAIRMAN LINGENFELTER: Right.
 22 MS. FREEMAN: -- to decide whether or not it's
 23 appropriate to grant --
 24 CHAIRMAN LINGENFELTER: Correct.
 25 MS. FREEMAN: -- a variance for a use that is

1 the community, I think we should probably try to do
 2 this sooner than later.
 3 MS. FREEMAN: Okay.
 4 CHAIRMAN LINGENFELTER: I think it would make
 5 sense. Because things are -- I mean, things sit
 6 around, and we get kind of complacent because
 7 nothing goes on for years, and years, and years,
 8 and years, and years, and then all of a sudden,
 9 it's coming at you, wham, you know. And I would
 10 like to be a little proactive, if we can, instead
 11 of reactive. It's hard to be reactive in this
 12 business.
 13 MS. FREEMAN: Right.
 14 MR. REPERT: It's in the minutes from last
 15 month.
 16 MS. FREEMAN: Okay.
 17 MR. REPERT: Page 12, Line 7.
 18 MS. FREEMAN: What were we talking about?
 19 MR. REPERT: "First of all the drive-thru, in
 20 the PUD R-2 is not a permitted use."
 21 MS. FREEMAN: Oh.
 22 MR. REPERT: Okay?
 23 MS. FREEMAN: Yeah. Now I know what you're
 24 talking about.
 25 MR. REPERT: "Heather, this is a question I

13
1 guess for you, it's not a conditional use, it's
2 just not permitted."
3 MS. FREEMAN: Right.
4 MR. REPERT: "Would that go before the Zoning
5 Appeals, or do they have authority over that as
6 well?"
7 And it goes -- Heather says, "That would be
8 the Board of Zoning Appeals."
9 MS. FREEMAN: Uh-huh.
10 MR. REPERT: "They could authorize" -- it
11 goes back to Peterson. "They could authorize, even
12 though it's not permitted?"
13 "Yes."
14 MS. FREEMAN: Now that you're -- yes. So if
15 you recall, the ice cream store at the intersection
16 of Old Crile and Crile, the ice cream store, they
17 wanted a drive-thru, but it was in the Capital
18 District, which Capital Districts do not allow for
19 drive-thrus.
20 They decided that that was important to their
21 business operation to have a drive-thru, so they
22 went to the Board of Zoning Appeals to see if the
23 BZA would approve them a variance to allow the
24 drive-thru, which the BZA did approve.
25 MR. IAFELICE: They can do that?

15
1 approved, because you are supposed to -- and I
2 don't want to speak from a legal perspective --
3 but, you know, you're supposed to prove that
4 there's a hardship.
5 MR. IAFELICE: Yeah, you have to.
6 MS. FREEMAN: A hardship. There's no other
7 use that is allowed in that district that could be
8 put on that property, for whatever the reason is.
9 And it's supposed to be a higher standard than just
10 some kind of, you know, side yard setback variance
11 or height variance.
12 The BZA is charged with holding that to a
13 higher standard and really reviewing that. Some of
14 that comes with practice with the BZA. I mean, you
15 can't always anticipate what the BZA is going to
16 do, because they are a separate Board, and they go
17 by their separate procedures.
18 MR. REPERT: Yeah, right.
19 MS. FREEMAN: And I don't think you can -- I
20 think your work that you're doing here as far as
21 setting what's in the Zoning Resolution, and what
22 you want to allow, is still something very
23 important that you need to do, even though there
24 could potentially be variances granted. I don't
25 want you to get discouraged, thinking that anything

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1 MS. FREEMAN: Yes.
2 MR. REPERT: So even though it's not
3 permitted, not a conditional, which is one step
4 lower, I guess, if you want to look at it that way,
5 and it got approved. So why are we even talking
6 about conditional? It doesn't mean anything. It
7 can go through BZA and get approved. Because if we
8 say something is not permitted -- just like what we
9 did with gas stations in Capital --
10 CHAIRMAN LINGENFELTER: Uh-huh.
11 MR. IAFELICE: Uh-huh.
12 MR. REPERT: -- somebody can come in here and
13 put in a gas station, and get it approved through
14 BZA. So what good does it do to put it as, not
15 permitted? Unless we want to put something in here
16 and BZA that says if it's not permitted, you've got
17 to go through us before you go through BZA, see if
18 that works.
19 MS. FREEMAN: I don't know if that's legal,
20 honestly.
21 MR. SCHINDLER: Well, that's the only way --
22 MS. FREEMAN: Yeah, some communities have
23 written to their Zoning that they don't allow use
24 variances. I mean, the use variance is supposed to
25 be the most difficult variance that someone can get

16
1 we put in here is just going to be thrown out by
2 the BZA, because that's not what they're trying to
3 do. But there have been instances where --
4 MR. REPERT: But now, if you approve one, you
5 can approve them all.
6 MS. FREEMAN: Not necessarily. I mean, each
7 property is unique and different. So it is
8 supposed to be specific to the site itself. It's
9 supposed to be a case by case scenario.
10 MR. REPERT: Okay.
11 MS. FREEMAN: I get it. It does appear to set
12 a bad precedent.
13 MR. REPERT: It does.
14 CHAIRMAN LINGENFELTER: And their decision is
15 final.
16 MS. FREEMAN: Yeah.
17 CHAIRMAN LINGENFELTER: So when they make a
18 decision on it, to allow it, there's nothing --
19 MR. REPERT: The Trustees can't --
20 CHAIRMAN LINGENFELTER: But that's really not
21 our job. That's really not our job. As Zoning
22 Commissioners, that's not our job. That's the
23 BZA's job. Our job is to set the policies, and
24 come up with the guidelines, and put the framework
25 together, and let the BZA and the Trustees use that

1 as a tool to do what they need to do.
2 I can't worry about, is the BZA going to grant
3 somebody a variance. What am I going to do about
4 it? Just like we come up with legislation, and we
5 forward it on -- we vote on it. We have a public
6 hearing, we vote on it, and we move it on to the
7 Trustees. They could very easily overturn our
8 decision.

9 MR. REPERT: And they have.

10 CHAIRMAN LINGENFELTER: And they have. It's
11 happened before. They could modify it, or accept
12 it as it has been presented. They've got options.
13 But what they do after -- when it leaves here, it's
14 out of my hands. I don't really pay any much
15 attention. I don't really care.

16 MR. SCHINDLER: We're only considered a
17 recommending Board.

18 CHAIRMAN LINGENFELTER: Right. We do our job.
19 I think we do our due diligence, and we do what
20 we're supposed to do, and we do it well.

21 MR. SCHINDLER: That's correct.

22 CHAIRMAN LINGENFELTER: And I think whatever
23 the product is that we forward on is usually a
24 pretty good product, and I think it's -- but if
25 they choose to make changes, or they choose to, you

1 MR. REPERT: Oh, that's this --

2 MR. IAFELICE: This one.

3 MR. REPERT: That's this one.

4 MR. IAFELICE: This one.

5 MR. REPERT: That's not the ice cream store.

6 MR. IAFELICE: This one, with all sorts of
7 traffic conflicts. Okay, I'm not going to dwell on
8 that. That just screams, like, non-Concord. That
9 screams Mentor. Sorry. That screams to me as
10 Mentor, not Concord Township, as commercial
11 development. That's what we're turning into.

12 CHAIRMAN LINGENFELTER: Well, and therein lies
13 the challenge we have --

14 MR. IAFELICE: I know.

15 CHAIRMAN LINGENFELTER: -- to try and come up
16 with a framework that will help us make these
17 issues less frequent, make it a little more
18 difficult for these things to be, you know, twisted
19 around.

20 You know, is there a silver bullet? No.
21 Hell, no. There's not. There's no silver bullet
22 for this.

23 But you know what? We can at least try, you
24 know, put some stuff together that makes sense and
25 try. So anyway.

1 know -- or deny it, or refuse it, that doesn't
2 offend me in the very least.

3 MR. IAFELICE: Can I say something,
4 Mr. Chairman?

5 CHAIRMAN LINGENFELTER: Yes.

6 MR. IAFELICE: First of all, I appreciate
7 Hiram bringing this up. I think that's real
8 important. And I understand what you're saying.

9 For me, it does offend me. And I speak to
10 Sheetz.

11 CHAIRMAN LINGENFELTER: Right.

12 MR. IAFELICE: We sat here, 5 - nothing,
13 telling that developer --

14 MR. REPERT: No, 4 - 1.

15 MR. IAFELICE: Whatever. It was overwhelming.
16 It was overwhelming. And I called it an
17 end-around.

18 On this particular design, it wasn't here. I
19 mean, I thought it was a terrible design, those
20 were my comments, putting a drive-thru in front of
21 a -- and then it's not a permitted use. So I
22 thought it was -- I thought it would have been
23 clearer to the developer, hey, it's not a permitted
24 use, but he's going to go to the BZA, right, to put
25 a drive-thru in front of a warehouse, or an office.

1 Well, I appreciate everybody's input.

2 MR. IAFELICE: Yeah.

3 CHAIRMAN LINGENFELTER: Anybody else have
4 anything to say on the matter? Hiram?

5 MR. REPERT: I think that's a good idea.
6 Whenever we went through -- I think we went through
7 two columns, and looked at the usage.

8 CHAIRMAN LINGENFELTER: Right.

9 MR. REPERT: And I think we need to do more,
10 and maybe even beef up the definitions, or whatever
11 it may be. I think that's a good avenue we can
12 look at.

13 CHAIRMAN LINGENFELTER: Right.

14 MR. REPERT: I do.

15 CHAIRMAN LINGENFELTER: Frank, anything else
16 to add?

17 MR. SCHINDLER: No, you're right. There
18 again, it's up to us to do our due diligence --

19 MR. REPERT: Right.

20 MR. SCHINDLER: -- and scrutinize this stuff
21 more thoroughly, you know.

22 CHAIRMAN LINGENFELTER: Uh-huh.

23 MR. SCHINDLER: And state our reasons why
24 something like this shouldn't be done, to bring up
25 the thing about safety, or whatever else needs to

21
1 be done, so that we have a case when it finally
2 comes up to a public hearing and goes to the
3 Trustees, that we've submitted a good reason.
4 CHAIRMAN LINGENFELTER: Right.
5 MR. SCHINDLER: And the Board, in their due
6 diligence, would realize that. Because we're
7 bringing up the things that are critical, and why
8 we made our decisions. And hopefully, the BZA
9 would -- yeah, well, these are good points, guys,
10 you know, I don't think we should be allowing this
11 to take place, as long as we do our job --
12 CHAIRMAN LINGENFELTER: Right.
13 MR. SCHINDLER: -- to the best we can.
14 MR. REPERT: Does BZA hear our comments, if
15 we have comments whenever we're looking at
16 something?
17 MS. FREEMAN: I mean, it's out there. If
18 they're looking for it, it's available. I don't
19 know, you know, how diligently the BZA follows what
20 you guys do at your meetings.
21 MR. SCHINDLER: Well, that's what we would
22 hope --
23 CHAIRMAN LINGENFELTER: Right.
24 MR. SCHINDLER: -- that they take our minutes
25 and stuff, and all the stuff we've done, and look

23
1 based on experience, and based on the will of the
2 people. We're supposed to be governing ourselves
3 under the comprehensive plan, for example. That's
4 supposed to be our Bible, you know. Because this
5 is what the Township and the residents over the
6 years have wanted us to do, to keep the Township a
7 Township. We know darn well they don't want us to
8 become a city. That's been a given over the years,
9 in all the years I've been on the Board. No, no,
10 we want to remain a Township, because we have more
11 governing we can do with that kind of laws.
12 MR. REPERT: That's what they want, you're
13 right.
14 MR. SCHINDLER: That's right.
15 MR. REPERT: That's right.
16 CHAIRMAN LINGENFELTER: Ron, do you have any
17 input? Anything you want to say on the matter?
18 MR. TERRIACO: I totally agree on the work
19 session. I think it's always good. I'm a firm
20 believer that you do have to go back and review
21 policies, and rules, and regulations. That was
22 my role for 40 years.
23 So you've got to always refresh, because then
24 it cleans up the complacency. Sometimes we forget
25 what the intent was of what we wrote. So when you

22
1 it over thoroughly before they make their
2 decisions, realizing what we have done, and the
3 things we have scrutinized. Hopefully, they take
4 that into consideration.
5 MR. IAFELICE: Well, that's a good point.
6 Perhaps it's our responsibility, when we feel
7 something is important --
8 MR. SCHINDLER: Exactly.
9 MR. IAFELICE: -- to author a brief --
10 MR. SCHINDLER: Exactly.
11 MR. IAFELICE: -- memo to say, hey, this is
12 how we reviewed --
13 MR. SCHINDLER: That's correct.
14 MR. IAFELICE: -- from our perspective, for
15 your use in your decision-making.
16 MR. SCHINDLER: Correct.
17 MR. IAFELICE: I don't know if that's
18 appropriate or not. I don't know if there's any
19 legal obstacle to doing that, sharing an opinion
20 from one Board to the other.
21 MR. SCHINDLER: This is what we're all up here
22 doing, is giving our opinions, right, as being a
23 member, and working on legislation.
24 CHAIRMAN LINGENFELTER: Uh-huh.
25 MR. SCHINDLER: We're boasting our opinions,

24
1 review it -- yeah, you know what, we've been
2 stepping out of lane on this, and we need to bring
3 it back into the lane.
4 And I appreciate the work session, too, as a
5 new person coming in. That is more training for
6 me --
7 CHAIRMAN LINGENFELTER: That's right.
8 MR. TERRIACO: -- to understand the mission of
9 what we're doing.
10 CHAIRMAN LINGENFELTER: Super. Okay. All
11 right.
12 We will move on to the next item on the
13 agenda, and that is Old Business. We have a work
14 session to review proposed text amendments to
15 Section XVI, Planned Unit Development and
16 Residential Conservation Development District.
17 And we have some documents here to -- we were
18 given some documents to review, and a memorandum,
19 some of the verbiage.
20 Heather, why don't you give us a little bit of
21 an outline as to what we're looking at tonight.
22 MS. FREEMAN: Okay, I'd be happy to do that,
23 Mr. Chairman.
24 Well, at our last -- last month's meeting, we
25 had received some feedback from Mike Lucas at Wiles

25
1 and Richards regarding some tabled amendments that
2 we were working through over the last year or so.
3 So we kind of brought those back to the table, and
4 the Chairman decided that we wanted to give
5 everybody an opportunity to review those again
6 before moving forward with setting potentially a
7 public hearing. But I did provide a memo that kind
8 of summarizes what the changes are per section, and
9 I'd be happy to kind of go through that.

10 The first amendment you'll see is in
11 Section 16.13. It includes adding a new statement
12 that basically says, once the Preliminary Plan has
13 been approved by the Township, that it's an
14 integral part of the Zoning Resolution and that
15 you can't deviate from that.

16 CHAIRMAN LINGENFELTER: Uh-huh.

17 MS. FREEMAN: And then obviously we have a
18 process for deviations in future sections of this.
19 Which most of the proposed amendments tonight are
20 really to try to clarify the process with Final
21 Development Plan approval and modifications to a
22 previously approved plan.

23 But one of the significant changes that was
24 proposed in this text is in Section 16.14. And
25 currently, the Board of Trustees is the Board that

27
1 Section 16.16.

2 And then this section also was adding, under
3 16.14 B., a new section that talks about, what
4 are the criteria for the Zoning Commission to be
5 looking at when they're potentially going to
6 approve a Final Development Plan. So those are
7 the criteria that we added in there.

8 The next change was with Section 16.15. This
9 is -- we're proposing to modify this by deleting
10 out the reference to the Trustees, and adding in
11 the requirement that the proposed improvements must
12 be constructed and accepted by the agencies before
13 the Zoning Inspector is going to issue any permits.

14 MR. IAFELICE: Uh-huh.

15 MS. FREEMAN: Improvements, I mean by that,
16 like, the streets, the sewer, the water. I hope
17 that's kind of clear to everyone regarding what
18 that intent is.

19 Section 16.16, "Modifications from an approved
20 development plan." We're going to be adding into
21 this section the time limits and the process for
22 previously approved development plans. That might
23 need to be modified, whether it's the Preliminary
24 Plan or the Final Development Plan.

25 We're kind of changing the time frames on the

26
1 would use the Final Development Plan, and with this
2 proposed change, rather than going to the Trustees,
3 it was the Zoning Commission that was suggested to
4 be the Board that would approve the Final
5 Development Plan.

6 MR. REPPERT: Are the Trustees okay with that?

7 MS. FREEMAN: We have not -- I've mentioned it
8 to the Trustees during a staff meeting. I really
9 did not get feedback from them on that. I think --
10 because it's kind of early on, I think you'll get
11 their comments, you know, kind of as this moves
12 through the public hearing.

13 I know that legal counsel had questioned that,
14 and thought -- it seemed like he thought it would
15 be more appropriate that if the Zoning Commission
16 wanted to see the Final Development Plan, that
17 maybe, again, this Board should be the recommending
18 body to the Trustees on the Final Development Plan,
19 and then still allowing the Trustees to have the
20 final say on that.

21 CHAIRMAN LINGENFELTER: Okay.

22 MS. FREEMAN: The other changes from this
23 section is kind of deleting out some of the
24 process -- the way some of these processes and time
25 frames were, and moving them to a new section,

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1 years, too. I know that Mike Lucas had thought
2 three years might be a long time. So I don't know,
3 that was up a little bit more from, I think
4 initially we had one year. But with these proposed
5 changes, we were saying that three years after the
6 Preliminary Plan is approved, if the first phase of
7 the project -- wait, hold on -- that the
8 Preliminary Plan is void if within -- not within
9 the first three years, that the Final
10 Development -- the Preliminary Plan shall become
11 null and void unless within three years the final
12 PUD or RCD plan for the first phase of the project
13 has been approved by the Zoning Commission.

14 CHAIRMAN LINGENFELTER: Do you want to comment
15 on that now?

16 MR. REPPERT: Yeah, might as well.

17 On C., the last line and a half, it says,
18 "and whether a reasonable effort has been made
19 to accomplish the plan within the original time
20 limit." That's vague as all get-out.

21 MS. FREEMAN: Yeah.

22 MR. REPPERT: So we've got to give some
23 criteria for that.

24 MS. FREEMAN: Well, and that would be -- you
25 know, the way this is written, it would be up to

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1 the Trustees to decide, you know, if that
2 reasonable effort has been made. I don't know if
3 you could come up with criteria to specify that or
4 not.
5 Do you feel like that's too open-ended?
6 MR. REPPERT: I do.
7 MS. FREEMAN: I think the point of putting
8 that in was to allow for extensions for some
9 unforeseen circumstances that --
10 CHAIRMAN LINGENFELTER: I think it's the term,
11 reasonable.
12 MS. FREEMAN: Okay.
13 CHAIRMAN LINGENFELTER: That's a very open to
14 interpretation term.
15 MR. SCHINDLER: Yeah. Lawyers love to see
16 that.
17 CHAIRMAN LINGENFELTER: Yeah.
18 MS. FREEMAN: Yeah.
19 MR. SCHINDLER: No, they don't. Well, I mean
20 the way they fight things.
21 CHAIRMAN LINGENFELTER: It depends on what
22 side of the table they're sitting on.
23 MR. SCHINDLER: That's what I meant.
24 MS. FREEMAN: Right.
25 MR. SCHINDLER: That's what I meant.

31

1 judgment as reasonable, in this case, the Zoning
2 official, I would say. And I say that because lots
3 of times we have this language where it says in the
4 judgment of the engineer we deem whether that's
5 acceptable. Not some -- it's just defining some --
6 some person, not a body, but an individual, I think
7 is what Hiram is looking for, some definition of
8 reasonable. In the judgment of, is a suggestion.
9 I also thought -- where did the three years
10 come from? Did we suggest three years?
11 MR. REPPERT: I don't know.
12 MR. SCHINDLER: No. I don't recall.
13 MS. FREEMAN: I put that in there as a
14 suggestion.
15 MR. IAFELICE: Oh, okay.
16 MS. FREEMAN: Because I think we had --
17 MR. IAFELICE: Your experience?
18 MS. FREEMAN: Well, looking at some other
19 communities' resolutions, as well.
20 MR. IAFELICE: Okay.
21 MS. FREEMAN: But I get it, if three years is
22 too long.
23 So basically what happens after a Preliminary
24 Plan is approved by the Township, they still have
25 to likely go to Lake County Planning --

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1 MR. REPPERT: And the same thing is in D.,
2 also. C. and D. both have "reasonable effort."
3 CHAIRMAN LINGENFELTER: Right.
4 MS. FREEMAN: Well, I know -- I don't know,
5 Keith, do you have a comment on that? Mike didn't
6 question that initially, other than the fact that
7 he thought three years was already too long.
8 MR. PETERSEN: Yeah, it does kind of make my
9 ears perk up. But I don't know if there's a better
10 way to word it. If you do want to make an
11 extension available -- you know, if you did
12 something cut and dry, like if an application is
13 submitted within three years, okay, then that's not
14 leaving things up to interpretation. When you say,
15 reasonable, it does make me wonder, okay, well,
16 what's reasonable about this and not reasonable
17 about that.
18 CHAIRMAN LINGENFELTER: Uh-huh.
19 MR. PETERSEN: Unfortunately, sometimes that
20 does just get defined in lawsuits. But, you know,
21 you always want to try to avoid that.
22 MR. IAFELICE: Keith, I guess I'll draw from
23 my engineering background. Typically -- because my
24 notes here about, within reasonable effort, is, in
25 the judgment of. So it defines who makes the

32

1 MR. IAFELICE: Yes.
2 MS. FREEMAN: -- and work through the
3 subdivision review process. And so they have to
4 go to Lake County for preliminary review on a
5 subdivision, and then go to the County for their
6 Final Development Plan review, as well, and then
7 still come back to the Trustees or the Zoning
8 Commission for the final Township Development Plan.
9 So, I don't know, it could take more than a year to
10 do that, on the first phase, if something were to
11 come up.
12 MR. IAFELICE: Oh, for sure.
13 MS. FREEMAN: Maybe some delay on a permit.
14 MR. IAFELICE: Actually, my comment is, I
15 think it's reasonable. It's reasonable to avoid
16 often extensions, because it's -- all of the
17 agencies -- we can't make decisions. It has to go
18 through all those agencies.
19 MS. FREEMAN: Right, there's other parties.
20 MR. IAFELICE: I think it's reasonable.
21 MS. FREEMAN: I think it would be difficult
22 to come up with a list of what items could be
23 considered reasonable, honestly.
24 MR. SCHINDLER: Well, so much, especially in
25 the construction industry --

1 MR. IAFELICE: Yeah, right. 33
2 MR. SCHINDLER: -- nowadays it's very
3 difficult. You have weather concerns that you run
4 into. Right now we're going into a stage of the
5 world with global warming, about how stuff can be
6 done, when it can be built. Material availability
7 is becoming critical.
8 In the work that I do, a lot of my customers
9 are finding it difficult to get parts, equipment,
10 and everything like that, availability, which can
11 extend deliveries out considerably. So three
12 years, I guess, going the way we're going, maybe
13 might not be so bad. It could be reasonable, as
14 you said.
15 MR. IAFELICE: Mr. Chairman, I had some
16 general comments, but I didn't know if Heather was
17 finished overviewing.
18 CHAIRMAN LINGENFELTER: She was just about
19 done.
20 MS. FREEMAN: I'm almost done, yeah. But if
21 it's germane to this section, then we can --
22 MR. IAFELICE: No, no. It's general.
23 MS. FREEMAN: Okay.
24 If you recall, we made a couple of changes to
25 what are considered the major modifications, just

1 So first of all, if you recall when we talked 35
2 about this, the proposed -- proposing this due to
3 some hiccups we had in some other preliminary plans
4 that didn't come back to us, that got changed down
5 the road. So I really appreciate the direction
6 coming to the Zoning Commission should the Trustees
7 be okay with that. But if that's the intent,
8 spirit of the legislation, then I'm wondering
9 about the consistency of it.
10 So I'll begin with the Pre-Application
11 Conference. So that's on Page 16.8 -- or Section
12 16.11, Pre-Application Conference.
13 So if the intent of this -- the PUD and RCD is
14 for the Zoning Commission to review, review, and
15 then final, then is it necessary -- is it
16 consistent to -- right now, it includes the
17 Trustees in pre-app, in 16.11, and it includes the
18 Trustees in 16.12, that's got to be notified for a
19 Township Preliminary Plan. Maybe that's just a
20 notification, and that's okay.
21 But in -- so anyhow, this is just a question
22 for consistency of approach, if this is to be
23 modeled for the Zoning Commission to run through
24 the steps with this. Do you understand what I'm
25 saying?

1 changing location of the required pavement widths. 34
2 And then the other potential changes are in
3 Part II of this Section XVI that are applicable to
4 the RCD Option.
5 16.29, we're proposing to strike out from
6 Subsection B., that the Final Development Plan is
7 set forth in Section XVI. This is a housekeeping
8 cleanup thing --
9 MR. IAFELICE: Uh-huh. Yeah.
10 MS. FREEMAN: -- based on the changes that we
11 are making in Part A -- or Part I.
12 And then two other sections, Section 16.30,
13 again, similar to Part I, just to reflect that all
14 the improvements must be constructed and approved
15 before we're going to issue permits for -- zoning
16 permits to start building homes, or businesses, or
17 whatever, in the PUD. Oh, this is the RCD.
18 And then the last one is just modifying
19 Section 16.31 to add time frame limitations to
20 mirror what we do in Part I.
21 MR. IAFELICE: Part I.
22 CHAIRMAN LINGENFELTER: Okay, Rich.
23 MR. IAFELICE: Okay.
24 CHAIRMAN LINGENFELTER: Unload, baby.
25 MR. IAFELICE: Mr. Chairman, I'll unload.

1 MS. FREEMAN: Yeah, I get what you're saying. 36
2 But I think it's appropriate to leave it in, in
3 these two steps, because at any pre-application --
4 for any new RCD or PUD, it's going to require a
5 rezone and an approval of the Preliminary Plan.
6 MR. IAFELICE: Yes.
7 MS. FREEMAN: So we're not changing that first
8 step. So it's still going to go through the same
9 zoning amendment process and a Preliminary Plan
10 approval process --
11 MR. IAFELICE: Oh, okay.
12 MS. FREEMAN: -- which requires this Board to
13 give the recommendation to the Trustees on the
14 rezone and the Preliminary Plan --
15 MR. IAFELICE: Okay. That makes sense.
16 MS. FREEMAN: -- and then the Trustees still
17 make the final decision.
18 MR. IAFELICE: Makes sense.
19 MS. FREEMAN: And they could accept your
20 recommendation --
21 MR. IAFELICE: Got it.
22 MS. FREEMAN: -- on it, or they could modify
23 it.
24 MR. IAFELICE: Okay. That makes sense.
25 MS. FREEMAN: Yeah. So I'm good with leaving

1 it.
 2 MR. IAFELICE: That makes sense to me.
 3 Thank you, Heather.
 4 And then under the first -- 16.13 -- 16.13 I,
 5 the insert. This goes to Hiram's comment about
 6 reasonable. The plan approved in accordance shall
 7 be an integral part and any departure from this
 8 plan.
 9 In my mind, that needs definition. How? Who
 10 determines that? Again, I would say, in the
 11 judgment of the Zoning official. Who determines
 12 the departure that the Preliminary Plan -- has any
 13 departure from the plan.
 14 Do you understand what I'm saying?
 15 MS. FREEMAN: Right. I mean, I don't know if
 16 it implies it would be the Zoning Inspector,
 17 because I'm charged with enforcing the Zoning
 18 Resolution, or do we have to say that? Or how do
 19 we --
 20 MR. IAFELICE: Yeah. I leave it to the Board.
 21 I'm just looking, thinking, as we find things, that
 22 we close up the loop. I think that's a little loop
 23 there, if we can say, in the judgment of. That's
 24 just my comment on I.
 25 MS. FREEMAN: Okay.

1 MR. REPERT: -- 16.12?
 2 MR. IAFELICE: It's got to get fixed.
 3 MS. FREEMAN: Oh, yeah. That should be a C.
 4 there.
 5 MR. IAFELICE: That should be a C.
 6 MR. REPERT: That should be a C. Gotcha.
 7 MR. IAFELICE: Okay, so Hiram one upped me on
 8 my typo.
 9 MS. FREEMAN: I'm sorry, now I'm not finding
 10 yours.
 11 CHAIRMAN LINGENFELTER: He's like that.
 12 MR. REPERT: So go ahead.
 13 MR. IAFELICE: Okay. So then to the three
 14 year -- well, not actually the three year. So now
 15 I'll go to 16.16 C. and D.
 16 So up to this point, it's been the Zoning
 17 Commission, but the extension is to be granted by
 18 the Trustees.
 19 Is it proper for them to intervene at this
 20 point, to be able to be -- enter into a -- is it
 21 fair to them, if they haven't been involved in the
 22 process, to grant an extension?
 23 MR. REPERT: Yeah.
 24 MR. IAFELICE: And that's C. and D.
 25 That was it, that I had, Mr. Chairman.

1 MR. IAFELICE: I found a Hiram. On 16.14 --
 2 I had to say that.
 3 CHAIRMAN LINGENFELTER: See the influence you
 4 have on people, Hiram.
 5 MR. IAFELICE: 16.14 B.
 6 MR. REPERT: 16.14 what?
 7 MR. IAFELICE: B., Number 2. 16.14 B. 2.,
 8 letter c.
 9 MR. REPERT: Oh.
 10 MR. IAFELICE: The internal streets and
 11 thoroughfares proposed.
 12 MR. REPERT: B. 2.
 13 MR. IAFELICE: B. 2., letter c.
 14 CHAIRMAN LINGENFELTER: Yeah, I see where he's
 15 at.
 16 MS. FREEMAN: What page?
 17 MR. IAFELICE: 16.13 -- 16.14. Did I say -13?
 18 MR. REPERT: Here's B. We've got two Bs.
 19 MR. IAFELICE: It's the new B.
 20 MR. REPERT: We've got two Bs.
 21 MR. IAFELICE: It's the new B.
 22 MR. REPERT: Yeah, B. 2. I see it.
 23 CHAIRMAN LINGENFELTER: Right there.
 24 MR. REPERT: But don't we have a B. on --
 25 MR. IAFELICE: Yeah, we do.

1 CHAIRMAN LINGENFELTER: Anything,
 2 Mr. Terriaco?
 3 MR. TERRIACO: I do not. I'm learning and
 4 listening.
 5 CHAIRMAN LINGENFELTER: And thank you for your
 6 due diligence there, Mr. Iafelice. That was well
 7 done. I appreciate the effort.
 8 Frank, anything?
 9 MR. SCHINDLER: No, Mr. Chairman. I just
 10 feel -- I'm glad to see this, to be honest with
 11 you. Because this is the thing I've been wanting
 12 for a long time, ever since the development took
 13 place on Heisley there, that this gives us more
 14 control, and that's what I was basically looking
 15 for. So the theme here, I feel very comfortable
 16 with.
 17 CHAIRMAN LINGENFELTER: Good.
 18 MR. SCHINDLER: Yeah, sure, words and stuff
 19 have to be adjusted and massaged. But the intent,
 20 I like. I'm happy.
 21 CHAIRMAN LINGENFELTER: Good stuff.
 22 Hiram, you've got some more things. You've
 23 got a couple more burrs under your saddle, don't
 24 you?
 25 MR. REPERT: No, it's not a burr at all.

41

1 CHAIRMAN LINGENFELTER: What have we got?
2 MR. REPERT: 16.17, A. 1. and A. 2. "If the
3 Zoning Inspector shall find," blah, blah, blah,
4 blah, blah, "he shall issue orders to the
5 developer."
6 Shouldn't that be a he/she? Or the Zoning
7 Inspector? That would make it clear. But it's
8 not, he. And it's not a she in all cases, either.
9 So I think it should maybe be he/she.
10 MR. SCHINDLER: Why don't we just leave the
11 gender out?
12 MS. FREEMAN: Yeah, right.
13 CHAIRMAN LINGENFELTER: I liked the idea of
14 substituting that with, the Inspector. That way,
15 it keeps it --
16 MR. SCHINDLER: Neutered.
17 CHAIRMAN LINGENFELTER: -- gender nonspecific.
18 MR. SCHINDLER: That's right, leave the gender
19 out.
20 CHAIRMAN LINGENFELTER: Right? I think that's
21 a happy medium. So yeah, just get rid of, he, and
22 insert, Inspector, or the Inspector, or whatever
23 would be appropriate.
24 MR. SCHINDLER: I think it should be, the
25 Inspector.

43

1 would have enough time to do it in December,
2 Heather?
3 MS. FREEMAN: It would meet the time
4 requirements --
5 CHAIRMAN LINGENFELTER: It would meet the
6 requirements?
7 MS. FREEMAN: -- if you wanted to do it at the
8 December meeting.
9 CHAIRMAN LINGENFELTER: If you wanted to put
10 this on next month's agenda for the public hearing,
11 we have the time frame. So, I mean, if somebody
12 wants to make a motion and set that date, we can do
13 it.
14 MR. REPERT: Mr. Chairman.
15 CHAIRMAN LINGENFELTER: Yes.
16 MR. REPERT: I would like to make a motion
17 that we put our changes to Section XVI, R-2 Planned
18 Unit Development District and Residential
19 Conservation Development District on the agenda for
20 a public hearing in December.
21 MR. IAFELICE: I will second that motion,
22 Mr. Chairman.
23 CHAIRMAN LINGENFELTER: I have a motion made
24 and seconded.
25 All those in favor, say aye.

42

1 CHAIRMAN LINGENFELTER: The Inspector shall
2 forward.
3 MS. FREEMAN: How about, the Zoning Inspector?
4 MR. REPERT: That's fine.
5 MS. FREEMAN: All right.
6 MR. IAFELICE: I think Hiram is just trying to
7 find more than I had.
8 CHAIRMAN LINGENFELTER: He's digging. He's
9 digging.
10 MR. REPERT: I had that before you.
11 CHAIRMAN LINGENFELTER: Anything else, Hiram?
12 MR. REPERT: No, sir.
13 CHAIRMAN LINGENFELTER: Are you sure?
14 MR. REPERT: Yes.
15 CHAIRMAN LINGENFELTER: Okay.
16 First of all, I'd like to thank you, Heather,
17 for the work.
18 MR. IAFELICE: Uh-huh.
19 CHAIRMAN LINGENFELTER: You did a nice job
20 getting this put together.
21 MR. REPERT: And your patience.
22 CHAIRMAN LINGENFELTER: Yes.
23 If we don't have any further input on this
24 work session, I guess I would entertain a motion to
25 put a public hearing on the agenda. I think we

44

1 MR. TERRIACO: Aye.
2 MR. REPERT: Aye.
3 MR. SCHINDLER: Aye.
4 MR. IAFELICE: Aye.
5 CHAIRMAN LINGENFELTER: Aye.
6 Opposed? None opposed.
7 Let the record reflect that we have five ayes,
8 and no nays, no abstentions.
9 Okay. So we've got a public hearing set.
10 Good job. Nice work.
11 I don't think -- is there anything anybody
12 would like to see on next month's agenda added to
13 New Business or any other things we want to talk
14 about?
15 MR. REPERT: Nothing here, Mr. Chairman.
16 MR. TERRIACO: No, sir.
17 MR. IAFELICE: No.
18 CHAIRMAN LINGENFELTER: Any other comments?
19 Okay.
20 With that, I will set the next meeting,
21 December 5th of 2023, and this meeting is
22 adjourned.
23 (Whereupon, the meeting was adjourned at
24 7:45 p.m.)
25

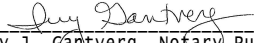
CERTIFICATE

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State of Ohio, }
County of Cuyahoga. } ss:

I, Ivy J. Gantverg, Registered Professional Reporter and Notary Public in and for the State of Ohio, duly commissioned and qualified, do hereby certify that the foregoing is a true, correct and complete transcript of my stenotype notes which were taken at the time and place in the foregoing caption specified.

I do further certify that I am not a relative or counsel of either party, or otherwise interested in the event of this action.


Ivy J. Gantverg, Notary Public
in and for the State of Ohio,
Registered Professional Reporter.
My commission expires November 5, 2023.



<p>CHAIRMAN LINGENFELTER: [100] MR. IAFELICE: [67] MR. PETERSEN: [2] 30/8 30/19 MR. REPPERT: [74] MR. SCHINDLER: [38] 2/10 5/2 5/12 5/14 5/17 5/25 6/9 14/21 17/16 17/21 20/17 20/20 20/23 21/5 21/13 21/21 21/24 22/8 22/10 22/13 22/16 22/21 22/25 23/14 29/15 29/19 29/23 29/25 31/12 32/24 33/2 40/9 40/18 41/10 41/16 41/18 41/24 44/3 MR. TERRIACO: [9] 2/14 5/20 5/23 6/13 23/18 24/8 40/3 44/1 44/16 MS. FREEMAN: [82]</p>	<p>7 7229 [1] 1/9 7:00 [1] 1/13 7:45 [1] 44/24 7th [1] 2/4</p> <p>A able [1] 39/20 about [21] 3/15 7/24 8/7 11/12 12/18 12/24 14/6 17/2 17/3 20/25 27/3 30/16 30/17 30/24 33/5 33/18 35/2 35/9 37/5 42/3 44/14 abstain [4] 2/19 6/2 6/3 6/4 abstentions [2] 6/5 44/8 accept [4] 2/21 5/17 17/11 36/19 acceptable [3] 8/21 8/24 31/5 accepted [1] 27/12 accomplish [1] 28/19 accordance [1] 37/6 action [1] 45/13 actually [2] 32/14 39/14 add [2] 20/16 34/19 added [2] 27/7 44/12 adding [4] 25/11 27/2 27/10 27/20 adjourned [2] 44/22 44/23 adjusted [1] 40/19 adjustments [2] 9/3 11/19 after [3] 17/13 28/5 31/23 again [7] 3/13 3/14 20/18 25/5 26/17 34/13 37/10 agencies [3] 27/12 32/17 32/18 agenda [7] 7/3 7/18 24/13 42/25 43/10 43/19 44/12 agree [1] 23/18 ahead [1] 39/12 all [29] 3/13 3/18 3/23 3/24 4/17 4/23 5/22 6/3 6/17 7/17 12/8 12/19 16/5 18/6 19/6 21/25 22/21 23/9 24/10 28/20 32/16 32/18 34/13 35/1 40/25 41/8 42/5 42/16 43/25 allow [6] 13/18 13/23 14/23 15/22 16/18 29/8 allowed [4] 9/10 9/12 10/11 15/7 allowing [3] 8/16 21/10 26/19 almost [1] 33/20</p>	<p>along [1] 8/22 already [1] 30/7 also [4] 1/22 27/2 30/2 31/9 always [5] 4/25 15/15 23/19 23/23 30/21 am [4] 11/2 11/5 17/3 45/11 amended [1] 5/10 amendment [2] 25/10 36/9 amendments [4] 2/22 24/14 25/1 25/19 Andrew [1] 1/19 anticipate [1] 15/15 any [19] 2/22 2/23 6/8 6/18 6/19 7/4 7/14 7/24 17/14 22/18 23/16 27/13 36/3 36/4 37/7 37/12 42/23 44/13 44/18 anybody [3] 7/7 20/3 44/11 anyhow [1] 35/21 anyone [3] 4/24 6/20 7/6 anything [12] 7/8 7/17 7/18 14/6 15/25 20/4 20/15 23/17 40/1 40/8 42/11 44/11 anyway [1] 19/25 apostrophe [2] 3/9 3/11 app [1] 35/17 appeal [2] 9/22 9/24 Appeals [4] 10/9 13/5 13/8 13/22 appear [2] 7/4 16/11 applicable [1] 34/3 application [5] 10/14 30/12 35/10 35/12 36/3 applications [1] 7/20 appreciate [7] 5/3 5/7 18/6 20/1 24/4 35/5 40/7 approach [1] 35/22 appropriate [6] 10/23 11/20 22/18 26/15 36/2 41/23 approval [4] 2/17 25/21 36/5 36/10 approve [8] 5/10 8/21 13/23 13/24 16/4 16/5 26/4 27/6 approved [15] 10/9 10/17 14/5 14/7 14/13 15/1 25/13 25/22 27/19 27/22 28/6 28/13 31/24 34/14 37/6 are [20] 9/2 9/15 10/8 12/5 14/5 15/1 15/16 21/7 21/9 25/8 25/19 26/6 27/4 27/6 33/9 33/25 34/2 34/3 34/11 42/13</p>	<p>around [4] 11/8 12/6 18/17 19/19 as [29] 2/21 5/10 5/18 6/4 11/2 11/5 13/5 14/14 15/20 15/20 16/21 17/1 17/12 19/9 19/10 21/11 21/11 22/22 24/4 24/21 26/11 28/16 28/20 31/1 31/13 31/19 32/6 33/13 37/21 ask [1] 7/11 asking [1] 5/15 attention [1] 17/15 author [1] 22/9 authority [1] 13/5 authorize [2] 13/10 13/11 availability [2] 33/6 33/10 available [2] 21/18 30/11 avenue [1] 20/11 avoid [2] 30/21 32/15 aware [1] 7/20 axle [1] 11/8 aye [10] 5/22 5/23 5/24 5/25 43/25 44/1 44/2 44/3 44/4 44/5 eyes [2] 6/5 44/7</p> <p>B baby [1] 34/24 back [9] 3/17 3/22 4/5 13/11 23/20 24/3 25/3 32/7 35/4 background [1] 30/23 bad [2] 16/12 33/13 bar [1] 5/1 based [3] 23/1 23/1 34/10 basically [3] 25/12 31/23 40/14 battle [2] 9/4 9/6 be [59] because [25] 3/22 3/23 8/16 8/18 9/3 11/7 11/10 12/5 12/6 14/7 15/1 15/16 16/2 21/6 23/4 23/10 23/23 26/10 30/23 31/2 31/16 32/16 36/3 37/17 40/11 become [2] 23/8 28/10 becoming [1] 33/7 beef [1] 20/10 been [18] 6/20 6/21 6/22 7/1 7/19 16/3 17/12 18/22 23/8 23/9 24/1 25/13 28/13 28/18 29/2 39/16 39/21 40/11 before [8] 13/4 14/17 17/11 22/1 25/6 27/12 34/15 42/10 begin [1] 35/10 being [1] 22/22 believer [1] 23/20</p>	<p>belong [2] 8/8 9/1 best [1] 21/13 better [1] 30/9 Bible [1] 23/4 big [1] 8/17 bit [2] 24/20 28/3 blah [5] 41/3 41/3 41/3 41/4 41/4 blank [1] 7/16 Board [15] 7/23 10/9 13/8 13/22 15/16 17/17 21/5 22/20 23/9 25/25 25/25 26/4 26/17 36/12 37/20 boasting [1] 22/25 body [2] 26/18 31/6 both [1] 30/2 brief [1] 22/9 bring [2] 20/24 24/2 bringing [2] 18/7 21/7 brought [1] 25/3 Bs [2] 38/18 38/20 bugaboo [1] 8/17 building [1] 34/16 built [1] 33/6 bullet [2] 19/20 19/21 burr [1] 40/25 burrs [1] 40/23 business [6] 7/16 7/18 12/12 13/21 24/13 44/13 Business-wise [1] 7/18 businesses [2] 11/25 34/16 BZA [21] 8/20 9/11 9/19 10/17 10/19 13/23 13/24 14/7 14/14 14/16 14/17 15/12 15/14 15/15 16/2 16/25 17/2 18/24 21/8 21/14 21/19 BZA's [1] 16/23</p> <p>C call [3] 2/2 2/5 7/7 called [1] 18/16 can [23] 8/1 9/4 10/18 11/11 11/18 12/10 13/25 14/7 14/12 14/25 15/19 16/5 18/3 19/23 20/11 21/13 23/11 33/5 33/6 33/10 33/21 37/23 43/12 can't [5] 15/15 16/19 17/2 25/15 32/17 Capital [3] 13/17 13/18 14/9 caption [1] 45/10 care [1] 17/15 case [4] 16/9 16/9 21/1 31/1 cases [1] 41/8 caught [1] 3/23 Center [1] 8/4 certainly [1] 2/20</p>
---	---	--	---	---

C
CERTIFICATE [1] 45/1
certify [2] 45/7 45/11
Chair [1] 1/19
Chairman [15] 1/19
5/12 6/9 6/11 6/16 18/4
24/23 25/4 33/15 34/25
39/25 40/9 43/14 43/22
44/15
challenge [1] 19/13
change [2] 26/2 27/8
changed [1] 35/4
changes [10] 9/2
17/25 25/8 25/23 26/22
28/5 33/24 34/2 34/10
43/17
changing [3] 27/25
34/1 36/7
charged [2] 15/12
37/17
choice [1] 8/22
choose [2] 17/25
17/25
circumstances [1]
29/9
city [1] 23/8
clarify [1] 25/20
cleans [1] 23/24
cleanup [1] 34/8
clear [2] 27/17 41/7
clearer [1] 18/23
close [1] 37/22
coffee [1] 3/7
columns [1] 20/7
come [10] 14/12 16/24
17/4 19/15 29/3 31/10
32/7 32/11 32/22 35/4
comes [2] 15/14 21/2
comfortable [1] 40/15
coming [6] 7/17 7/20
11/25 12/9 24/5 35/6
comment [5] 28/14
30/5 32/14 37/5 37/24
comments [6] 18/20
21/14 21/15 26/11
33/16 44/18
commercial [1] 19/10
commission [13] 1/2
1/18 2/3 26/3 26/15
27/4 28/13 32/8 35/6
35/14 35/23 39/17
45/18
commissioned [1]
45/7
Commissioners [1]
16/22
communities [1]
14/22
communities' [1]
31/19
community [2] 8/3
12/1
compare [1] 4/1
complacency [1]

23/24
complacent [1] 12/6
complete [1] 45/8
comprehensive [1]
23/3
compromising [1]
11/6
concerned [1] 11/3
concerns [1] 33/3
CONCORD [6] 1/2 1/8
1/10 2/2 19/8 19/10
conditional [10] 8/7
8/14 8/19 9/17 11/7
11/10 11/15 13/1 14/3
14/6
conditions [1] 11/11
Conference [2] 35/11
35/12
conflicts [1] 19/7
Conservation [2]
24/16 43/19
considerably [1]
33/11
consideration [1]
22/4
considered [3] 17/16
32/23 33/25
consistency [2] 35/9
35/22
consistent [1] 35/16
constructed [2] 27/12
34/14
construction [1]
32/25
contact [1] 6/19
contentious [1] 6/22
control [1] 40/14
corner [1] 9/5
correct [5] 10/24
17/21 22/13 22/16 45/8
corrected [1] 5/18
corrections [1] 5/8
correspondence [3]
6/7 6/8 6/20
could [16] 2/5 3/22
10/13 11/7 13/10 13/11
15/7 15/24 17/7 17/11
29/3 32/9 32/22 33/13
36/19 36/22
counsel [3] 1/24 26/13
45/12
COUNTY [5] 1/3 31/25
32/4 32/5 45/3
couple [2] 33/24 40/23
cream [3] 13/15 13/16
19/5
Crile [2] 13/16 13/16
criteria [4] 27/4 27/7
28/23 29/3
critical [2] 21/7 33/7
currently [1] 25/25
customers [1] 33/8
cut [1] 30/12
Cuyahoga [1] 45/3

D
D-U-N-K-I-N-apostro
phe [1] 3/11
darn [1] 23/7
date [1] 43/12
deal [1] 10/18
December [4] 43/1
43/8 43/20 44/21
December 5th [1]
44/21
decide [2] 10/22 29/1
decided [2] 13/20 25/4
decision [5] 16/14
16/18 17/8 22/15 36/17
decision-making [1]
22/15
decisions [3] 21/8
22/2 32/17
deem [1] 31/4
defined [1] 30/20
defines [1] 30/25
defining [1] 31/5
definition [2] 31/7
37/9
definitions [3] 8/7
8/15 20/10
delay [1] 32/13
deleting [2] 26/23
27/9
deliveries [1] 33/11
deny [1] 18/1
departure [3] 37/7
37/12 37/13
depends [1] 29/21
design [2] 18/18 18/19
determines [2] 37/10
37/11
developer [3] 18/13
18/23 41/5
development [20]
11/24 19/11 24/15
24/16 25/21 26/1 26/5
26/16 26/18 27/6 27/20
27/22 27/24 28/10 32/6
32/8 34/6 40/12 43/18
43/19
deviate [1] 25/15
deviations [1] 25/18
did [9] 13/24 14/9
25/7 26/9 30/11 31/9
31/10 38/17 42/19
didn't [12] 3/21 4/10
4/13 4/14 4/14 4/17
6/18 7/10 9/8 30/5
33/16 35/4
difference [1] 9/23
different [1] 16/7
difficult [5] 14/25
19/18 32/21 33/3 33/9
digging [2] 42/8 42/9
diligence [5] 5/4
17/19 20/18 21/6 40/6
diligently [1] 21/19
direction [1] 35/5

Director [1] 1/23
Director/Zoning [1]
1/23
discouraged [1] 15/25
district [9] 10/11 11/1
11/9 11/15 13/18 15/7
24/16 43/18 43/19
Districts [1] 13/18
documents [2] 24/17
24/18
doesn't [3] 7/5 14/6
18/1
doing [4] 15/20 22/19
22/22 24/9
don't [36] 3/23 5/4 5/6
7/4 7/14 8/21 11/8 11/9
11/15 14/19 14/23 15/2
15/19 15/24 17/14
17/15 21/10 21/18
22/17 22/18 23/7 24/20
28/2 29/2 29/19 30/4
30/9 31/11 31/12 32/9
37/15 38/24 40/23
41/10 42/23 44/11
done [8] 20/24 21/1
21/25 22/2 33/6 33/19
33/20 40/7
Donuts [1] 3/15
down [3] 8/24 11/16
35/4
draw [1] 30/22
drive [8] 3/6 12/19
13/17 13/19 13/21
13/24 18/20 18/25
drive-thru [7] 3/6
12/19 13/17 13/21
13/24 18/20 18/25
drive-thrus [1] 13/19
dry [1] 30/12
due [6] 5/4 17/19
20/18 21/5 35/2 40/6
duly [1] 45/7
Duncan [1] 3/11
Dunkin' [5] 3/13 3/14
3/15 3/23 4/20
during [1] 26/8
dwell [1] 19/7

E
each [1] 16/6
early [1] 26/10
ears [1] 30/9
easily [1] 17/7
effort [6] 11/23 28/18
29/2 30/2 30/24 40/7
efforts [1] 5/7
either [4] 2/21 6/20
41/8 45/12
election [1] 6/24
else [5] 4/24 20/3
20/15 20/25 42/11
end [1] 18/17
end-around [1] 18/17
ended [1] 29/5
enforcing [1] 37/17

engineer [1] 31/4
engineering [1] 30/23
enough [1] 43/1
enter [1] 39/20
entertain [3] 2/20 5/9
42/24
envison [1] 8/1
equipment [1] 33/9
especially [1] 32/24
Esq [1] 1/24
even [9] 9/9 9/11 9/23
9/25 13/11 14/2 14/5
15/23 20/10
evening [2] 2/1 7/2
event [1] 45/13
ever [1] 40/12
everybody [1] 25/5
everybody's [1] 20/1
everyone [1] 27/17
everything [1] 33/10
Exactly [2] 22/8 22/10
example [1] 23/3
expecting [1] 8/18
experience [2] 23/1
31/17
expires [1] 45/18
extend [1] 33/11
extension [3] 30/11
39/17 39/22
extensions [2] 29/8
32/16

F
fact [1] 30/6
fair [1] 39/21
falls [1] 8/19
familiar [1] 10/7
far [1] 15/20
favor [2] 5/22 43/25
feedback [2] 24/25
26/9
feel [4] 22/6 29/5
40/10 40/15
few [1] 6/23
fight [1] 29/20
figured [1] 7/11
final [16] 16/15 25/20
26/1 26/4 26/16 26/18
26/20 27/6 27/24 28/9
28/11 32/6 32/8 34/6
35/15 36/17
finally [1] 21/1
find [4] 8/20 37/21
41/3 42/7
finding [2] 33/9 39/9
fine [1] 42/4
finished [1] 33/17
firm [1] 23/19
first [12] 6/22 12/19
18/6 25/10 28/6 28/9
28/12 32/10 35/1 36/7
37/4 42/16
five [1] 44/7
fixed [1] 39/2
following [1] 3/10

F	23/23 28/22 35/4 35/18 36/21 38/18 38/20 39/2 40/22 40/23 41/1 44/9 Gotcha [1] 39/6 governing [2] 23/2 23/11 grant [3] 10/23 17/2 39/22 granted [2] 15/24 39/17 guess [7] 5/9 11/11 13/1 14/4 30/22 33/12 42/24 guidelines [1] 16/24 guys [3] 4/12 21/9 21/20	4/25 18/7 20/4 31/7 38/1 38/4 39/7 40/22 42/6 42/11 Hiram's [1] 37/5 hit [1] 6/23 hold [1] 28/7 holding [1] 15/12 homes [1] 34/16 honest [1] 40/10 honestly [2] 14/20 32/23 hope [2] 21/22 27/16 hopefully [2] 21/8 22/3 housekeeping [1] 34/7 how [6] 21/19 22/12 33/5 37/9 37/18 42/3 huh [13] 3/19 7/12 11/21 13/9 14/10 14/11 20/22 22/24 25/16 27/14 30/18 34/9 42/18	integral [2] 25/14 37/7 intent [6] 3/6 23/25 27/18 35/7 35/13 40/19 interest [1] 11/25 interested [1] 45/12 internal [1] 38/10 interpretation [2] 29/14 30/14 intersection [1] 13/15 intervene [1] 39/19 inventory [2] 4/1 4/7 involved [2] 9/20 39/21 is [73] issue [3] 27/13 34/15 41/4 issues [2] 9/6 19/17 it [118] it's [53] item [3] 7/3 7/15 24/12 items [1] 32/22 itself [1] 16/8 Ivy [2] 45/5 45/16	Lawyers [1] 29/15 learning [1] 40/3 least [3] 8/13 18/2 19/23 leave [4] 36/2 37/20 41/10 41/18 leaves [1] 17/13 leaving [2] 30/14 36/25 legal [5] 1/24 14/19 15/2 22/19 26/13 legislation [3] 17/4 22/23 35/8 less [1] 19/17 let [2] 16/25 44/7 letter [2] 38/8 38/13 lies [1] 19/12 like [17] 2/2 7/5 12/10 14/8 17/4 19/8 20/24 26/14 27/16 29/5 30/12 33/10 39/11 40/20 42/16 43/16 44/12 liked [1] 41/13 likely [1] 31/25 limit [1] 28/20 limitations [1] 34/19 limits [1] 27/21 line [7] 3/4 3/5 3/10 3/13 3/14 12/17 28/17 Lingenfelter [2] 1/19 2/15 list [1] 32/22 listening [1] 40/4 little [5] 12/10 19/17 24/20 28/3 37/22 location [1] 34/1 long [5] 21/11 28/2 30/7 31/22 40/12 look [4] 7/5 14/4 20/12 21/25 looked [1] 20/7 looking [8] 21/15 21/18 24/21 27/5 31/7 31/18 37/21 40/14 loop [2] 37/22 37/22 lot [3] 6/21 8/22 33/8 lots [1] 31/2 love [1] 29/15 lower [1] 14/4 Lucas [2] 24/25 28/1	
follows [1] 21/19 foregoing [2] 45/8 45/10 forget [1] 23/24 forth [1] 34/7 forward [5] 4/11 17/5 17/23 25/6 42/2 found [5] 3/12 3/13 3/18 4/20 38/1 frame [2] 34/19 43/11 frames [2] 26/25 27/25 framework [2] 16/24 19/16 Frank [4] 1/20 6/8 20/15 40/8 Freeman [1] 1/23 frequent [1] 19/17 front [3] 8/20 18/20 18/25 function [1] 10/19 further [2] 42/23 45/11 future [3] 7/25 8/13 25/18	H half [1] 28/17 Hall [1] 1/8 hands [1] 17/14 happened [2] 10/16 17/11 happens [1] 31/23 happy [4] 24/22 25/9 40/20 41/21 hard [3] 4/25 5/7 12/11 hardship [2] 15/4 15/6 has [12] 7/19 7/23 10/9 10/16 10/17 17/12 25/12 28/13 28/18 29/2 32/17 37/12 hasn't [1] 6/21 haven't [1] 39/21 having [1] 8/17 he [7] 26/14 30/7 41/4 41/6 41/8 41/9 41/21 he's [5] 18/24 38/14 39/11 42/8 42/8 he/she [2] 41/6 41/9 hear [1] 21/14 hearing [8] 17/6 21/2 25/7 26/12 42/25 43/10 43/20 44/9 Heather [10] 1/23 7/7 7/17 12/25 13/7 24/20 33/16 37/3 42/16 43/2 height [1] 15/11 Heisley [1] 40/13 Hell [1] 19/21 help [1] 19/16 here [19] 2/8 2/10 2/12 2/14 2/16 2/18 8/13 14/12 14/15 15/20 16/1 17/13 18/12 18/18 22/21 24/17 30/24 40/15 44/15 Here's [1] 38/18 hereby [1] 45/7 hey [2] 18/23 22/11 hiccups [1] 35/3 high [1] 5/1 higher [2] 15/9 15/13 Hiram [12] 1/20 2/23	I I'd [3] 24/22 25/9 42/16 I'll [6] 4/10 7/11 30/22 34/25 35/10 39/15 I'm [20] 5/5 5/15 7/20 7/23 10/4 10/6 19/7 23/19 33/20 35/8 35/24 36/25 37/14 37/17 37/21 39/9 39/9 40/3 40/10 40/20 I've [3] 23/9 26/7 40/11 Iafelice [4] 1/19 2/7 6/15 40/6 ice [3] 13/15 13/16 19/5 idea [3] 8/12 20/5 41/13 ideas [1] 7/24 II [1] 34/3 implies [1] 37/16 important [4] 13/20 15/23 18/8 22/7 improvements [3] 27/11 27/15 34/14 incident [1] 10/5 includes [3] 25/11 35/16 35/17 individual [1] 31/6 industry [1] 32/25 influence [1] 38/3 initially [2] 28/4 30/6 input [3] 20/1 23/17 42/23 insert [2] 37/5 41/22 Inspector [11] 1/23 27/13 37/16 41/3 41/7 41/14 41/22 41/22 41/25 42/1 42/3 instances [1] 16/3 instead [1] 12/10	J job [9] 16/21 16/21 16/22 16/23 16/23 17/18 21/11 42/19 44/10 judgment [6] 30/25 31/1 31/4 31/8 37/11 37/23 just [26] 3/7 3/21 4/10 4/13 6/24 9/8 13/2 14/8 15/9 16/1 17/4 19/8 30/20 31/5 33/18 33/25 34/13 34/18 35/19 35/21 37/21 37/24 40/9 41/10 41/21 42/6	K keep [1] 23/6 keeps [1] 41/15 Keith [3] 1/24 30/5 30/22 kind [16] 6/21 8/3 10/18 11/7 12/6 15/10 23/11 25/3 25/7 25/9 26/10 26/11 26/23 27/17 27/25 30/8 knew [1] 3/3 know [48]	M made [7] 5/8 5/19 21/8 28/18 29/2 33/24 43/23 major [1] 33/25 make [23] 3/22 4/10 8/23 9/2 9/2 9/24 9/24 11/18 11/23 12/4 16/17 17/25 19/16 19/17 22/1 30/8 30/10 30/15 32/17 36/17 41/7 43/12 43/16 makes [6] 19/24 30/25 36/15 36/18 36/24 37/2 making [2] 22/15
G Gantverg [2] 45/5 45/16 gas [2] 14/9 14/13 gender [3] 41/11 41/17 41/18 general [3] 8/3 33/16 33/22 germane [1] 33/21 get-out [1] 28/20 getting [1] 42/20 give [6] 3/21 4/11 24/20 25/4 28/22 36/13 given [2] 23/8 24/18 gives [1] 40/13 giving [1] 22/22 glad [1] 40/10 global [1] 33/5 go [18] 3/22 8/14 8/25 13/4 14/7 14/17 14/17 15/16 18/24 23/20 25/9 31/25 32/4 32/5 32/17 36/8 39/12 39/15 goes [7] 3/5 8/19 12/7 13/7 13/11 21/2 37/5 going [18] 6/22 11/24 15/15 16/1 17/2 17/3 18/24 19/7 26/2 27/5 27/13 27/20 33/4 33/12 33/12 34/15 36/4 36/8 good [17] 2/1 3/1 8/12 9/3 9/13 14/14 17/24 20/5 20/11 21/3 21/9 22/5 23/19 36/25 40/17 40/21 44/10 got [19] 3/24 4/17 6/5 9/13 14/5 14/16 17/12					

M
making... [1] 34/11
massaged [1] 40/19
Material [1] 33/6
matter [2] 20/4 23/17
may [1] 20/11
maybe [9] 7/25 9/2
9/9 20/10 26/17 32/13
33/12 35/19 41/9
me [10] 3/4 6/9 18/2
18/9 18/9 19/9 24/6
30/15 37/2 39/7
mean [11] 12/5 14/6
14/24 15/14 16/6 18/19
21/17 27/15 29/19
37/15 43/11
meant [2] 29/23 29/25
medium [1] 41/21
meet [3] 11/10 43/3
43/5
meeting [9] 1/4 2/3
8/3 24/24 26/8 43/8
44/20 44/21 44/23
meetings [1] 21/20
member [4] 1/20 1/20
1/21 22/23
members [2] 1/18 2/5
memo [2] 22/11 25/7
memorandum [1]
24/18
mentioned [1] 26/7
Mentor [2] 19/9 19/10
might [5] 8/11 27/22
28/2 28/16 33/13
Mike [3] 24/25 28/1
30/5
mind [1] 37/9
minute [1] 5/4
minutes [9] 2/17 2/21
3/17 5/10 5/18 9/9 10/1
12/14 21/24
mirror [1] 34/20
mission [1] 24/8
modeled [1] 35/23
modifications [3]
25/21 27/19 33/25
modified [1] 27/23
modify [3] 17/11 27/9
36/22
modifying [1] 34/18
month [1] 12/15
month's [3] 24/24
43/10 44/12
more [12] 19/17 20/9
20/21 23/10 24/5 26/15
28/3 32/9 40/13 40/22
40/23 42/7
most [2] 14/25 25/19
motion [10] 2/20 5/10
5/14 5/16 5/19 42/24
43/12 43/16 43/21
43/23
move [5] 5/17 7/15
8/22 17/6 24/12

moves [1] 26/11
moving [4] 4/11 7/3
25/6 26/25
Mr [3] 2/13 2/15 34/25
Mr. [22] 2/7 2/9 2/11
4/9 5/11 5/12 6/9 6/10
6/11 6/12 6/15 6/16
18/4 24/23 33/15 39/25
40/2 40/6 40/9 43/14
43/22 44/15
Mr. Chairman [12]
5/12 6/9 6/11 6/16 18/4
24/23 33/15 39/25 40/9
43/14 43/22 44/15
Mr. Tafelice [3] 2/7
6/15 40/6
Mr. Reppert [4] 2/11
4/9 5/11 6/10
Mr. Schindler [1] 2/9
Mr. Terriaco [2] 6/12
40/2
much [2] 17/14 32/24
must [2] 27/11 34/14
my [13] 17/14 18/20
23/22 30/8 30/23 30/23
32/14 33/8 37/9 37/24
39/8 45/9 45/18

N
nature [1] 8/25
nays [1] 44/8
near [1] 8/13
necessarily [1] 16/6
necessary [1] 35/15
need [9] 5/13 5/14
8/23 11/22 15/23 17/1
20/9 24/2 27/23
needs [2] 20/25 37/9
Neutered [1] 41/16
never [1] 7/11
new [12] 7/15 7/16
7/17 7/20 24/5 25/11
26/25 27/3 36/4 38/19
38/21 44/13
next [6] 7/3 24/12
27/8 43/10 44/12 44/20
nice [2] 42/19 44/10
no [27] 3/25 4/2 5/13
6/19 7/9 7/20 10/3 10/3
15/6 18/14 19/20 19/21
19/21 20/17 23/9 23/9
29/19 31/12 33/22
33/22 40/9 40/25 42/12
44/8 44/8 44/16 44/17
non [1] 19/8
non-Concord [1] 19/8
none [5] 6/9 6/11 6/14
6/16 44/6
nonspecific [1] 41/17
not [58]
Notary [2] 45/6 45/16
notes [2] 30/24 45/9
nothing [9] 6/13 6/17
7/19 10/18 11/11 12/7
16/18 18/12 44/15

notification [1] 35/20
notified [1] 35/18
November [3] 1/12
2/4 45/18
November 7th [1] 2/4
now [10] 3/16 11/24
12/23 13/14 16/4 28/15
33/4 35/16 39/9 39/14
nowadays [1] 33/2
null [1] 28/11
Number [1] 38/7

O
observations [1] 2/23
obstacle [1] 22/19
obviously [1] 25/17
October [1] 2/18
October 3rd [1] 2/18
offend [2] 18/2 18/9
office [1] 18/25
official [2] 31/2 37/11
often [1] 32/16
Oh [8] 12/21 19/1
31/15 32/12 34/17
36/11 38/9 39/3
OHIO [5] 1/3 1/10
45/2 45/6 45/17
Old [2] 13/16 24/13
once [1] 25/12
one [12] 4/21 14/3
16/4 19/2 19/3 19/4
19/6 22/20 25/23 28/4
34/18 39/7
only [2] 14/21 17/16
open [2] 29/5 29/13
open-ended [1] 29/5
operation [1] 13/21
opinion [1] 22/19
opinions [2] 22/22
22/25
opportunity [1] 25/5
opposed [3] 6/1 44/6
44/6
Option [1] 34/4
options [1] 17/12
order [1] 2/3
orders [1] 41/4
original [1] 28/19
other [14] 6/23 7/24
11/25 15/6 22/20 26/22
30/6 31/18 32/19 34/2
34/12 35/3 44/13 44/18
otherwise [1] 45/12
our [21] 9/12 16/21
16/21 16/22 16/23 17/7
17/18 17/19 20/18
20/23 21/8 21/11 21/14
21/24 22/6 22/14 22/22
22/25 23/4 24/24 43/17
ourselves [4] 9/5 9/5
11/6 23/2
out [14] 7/5 9/11
11/15 16/1 17/14 21/17
24/2 26/23 27/10 28/20
33/11 34/5 41/11 41/19

outline [1] 24/21
over [8] 7/25 8/3 8/14
13/5 22/1 23/5 23/8
25/2
overturn [1] 17/7
overviewing [1] 33/17
overwhelming [2]
18/15 18/16

P
p.m [2] 1/13 44/24
page [8] 3/4 3/5 3/10
3/13 3/14 12/17 35/11
38/16
painting [1] 9/5
part [8] 25/14 34/3
34/11 34/11 34/13
34/20 34/21 37/7
participants [1] 7/5
participate [1] 7/14
participation [2] 7/2
7/14
particular [1] 18/18
parties [1] 32/19
parts [1] 33/9
party [1] 45/12
past [2] 10/10 10/16
patience [1] 42/21
pavement [1] 34/1
pay [1] 17/14
people [2] 23/2 38/4
per [2] 9/12 25/8
perhaps [2] 10/2 22/6
period [1] 9/10
perk [1] 30/9
permit [1] 32/13
permits [3] 27/13
34/15 34/16
permitted [11] 9/12
11/1 12/20 13/2 13/12
14/3 14/8 14/15 14/16
18/21 18/23
person [2] 24/5 31/6
personally [1] 6/19
perspective [2] 15/2
22/14
Petersen [1] 1/24
Peterson [1] 13/11
phase [3] 28/6 28/12
32/10
phone [1] 7/6
place [3] 21/11 40/13
45/10
plan [29] 23/3 25/12
25/21 25/22 26/1 26/5
26/16 26/18 27/6 27/20
27/24 27/24 28/6 28/8
28/10 28/12 28/19
31/24 32/6 32/8 34/6
35/19 36/5 36/9 36/14
37/6 37/8 37/12 37/13
Planned [2] 24/15
43/17
Planning [2] 1/23
31/25

plans [2] 27/22 35/3
please [1] 2/6
point [4] 22/5 29/7
39/16 39/20
points [1] 21/9
policies [2] 16/23
23/21
pop [1] 8/18
position [1] 11/6
potential [2] 7/24
34/2
potentially [4] 10/13
15/24 25/6 27/5
practice [1] 15/14
pre [4] 35/10 35/12
35/17 36/3
pre-app [1] 35/17
pre-application [3]
35/10 35/12 36/3
precedent [1] 16/12
preliminary [13]
25/12 27/23 28/6 28/8
28/10 31/23 32/4 35/3
35/19 36/5 36/9 36/14
37/12
present [2] 1/18 1/22
presented [1] 17/12
pretty [2] 4/25 17/24
previous [1] 3/16
previously [2] 25/22
27/22
print [1] 4/10
proactive [1] 12/10
probably [1] 12/1
procedures [1] 15/17
PROCEEDINGS [1]
1/15
process [9] 2/20 25/18
25/20 26/24 27/21 32/3
36/9 36/10 39/22
processes [1] 26/24
product [2] 17/23
17/24
Professional [2] 45/5
45/17
prohibited [1] 9/18
project [2] 28/7 28/12
proper [1] 39/19
property [2] 15/8 16/7
proposed [8] 24/14
25/19 25/24 26/2 27/11
28/4 35/2 38/11
proposing [3] 27/9
34/5 35/2
prove [1] 15/3
provide [1] 25/7
provided [1] 2/21
public [14] 7/2 7/4
7/14 7/15 17/5 21/2
25/7 26/12 42/25 43/10
43/20 44/9 45/6 45/16
PUD [5] 12/20 28/12
34/17 35/13 36/4
put [15] 3/18 8/12
14/13 14/14 14/15 15/8

P
put... [9] 16/1 16/24
18/24 19/24 31/13
42/20 42/25 43/9 43/17
putting [4] 9/4 11/6
18/20 29/7

Q
qualified [1] 45/7
question [4] 3/16
12/25 30/6 35/21
questioned [1] 26/13
quiet [2] 6/21 7/1

R
R-2 [2] 12/20 43/17
rather [1] 26/2
Ravenna [1] 1/9
RCD [5] 28/12 34/4
34/17 35/13 36/4
reactive [2] 12/11
12/11
read [1] 9/9
real [1] 18/7
realize [1] 21/6
realizing [1] 22/2
really [12] 8/14 8/24
9/1 11/22 15/13 16/20
16/21 17/14 17/15
25/20 26/8 35/5
reason [2] 15/8 21/3
reasonable [16] 28/18
29/2 29/11 30/2 30/15
30/16 30/16 30/24 31/1
31/8 32/15 32/15 32/20
32/23 33/13 37/6
reasons [1] 20/23
recall [4] 13/15 31/12
33/24 35/1
received [1] 24/25
recommendation [2]
36/13 36/20
recommending [2]
17/17 26/17
record [2] 6/6 44/7
reference [1] 27/10
referring [1] 10/5
reflect [2] 34/13 44/7
refresh [1] 23/23
refuse [1] 18/1
regarding [2] 25/1
27/17
regards [1] 8/17
Registered [2] 45/5
45/17
REGULAR [1] 1/4
regulations [1] 23/21
relative [1] 45/11
remain [1] 23/10
report [1] 6/8
Reporter [2] 45/6
45/17
Reppert [5] 1/20 2/11
4/9 5/11 6/10

require [1] 36/4
required [1] 34/1
requirement [1] 27/11
requirements [2] 43/4
43/6
requires [1] 36/12
Residential [2] 24/16
43/18
residents [1] 23/5
resolution [5] 8/8
8/10 15/21 25/14 37/18
resolutions [1] 31/19
responsibility [1] 22/6
restaurant [1] 3/7
review [10] 23/20
24/1 24/14 24/18 25/5
32/3 32/4 32/6 35/14
35/14
reviewed [1] 22/12
reviewing [1] 15/13
rezone [2] 36/5 36/14
rezoning [1] 10/2
Rich [2] 1/19 34/22
Richards [1] 25/1
rid [1] 41/21
right [42] 4/4 6/3 6/24
6/25 7/1 10/12 10/15
10/21 11/2 11/13 11/24
12/13 13/3 15/18 17/18
18/11 18/24 20/8 20/13
20/17 20/19 21/4 21/12
21/23 22/22 23/13
23/14 23/15 24/7 24/11
29/24 30/3 32/19 33/1
33/4 35/16 37/15 38/23
41/12 41/18 41/20 42/5
road [2] 1/9 35/5
role [1] 23/22
roll [1] 2/5
Ron [2] 1/21 23/16
rules [1] 23/21
run [2] 33/3 35/23

S
saddle [1] 40/23
safety [1] 20/25
said [1] 33/14
same [2] 30/1 36/8
sat [1] 18/12
say [16] 5/22 14/8
18/3 20/4 22/11 23/17
26/20 30/14 31/2 31/2
37/10 37/18 37/23 38/2
38/17 43/25
saying [6] 9/15 18/8
28/5 35/25 36/1 37/14
says [6] 3/6 13/7
14/16 25/12 28/17 31/3
scenario [1] 16/9
Schindler [2] 1/20 2/9
screams [3] 19/8 19/9
19/9
scrutinize [1] 20/20
scrutinized [1] 22/3
second [3] 5/12 5/20

43/21
seconded [2] 5/21
43/24
section [19] 24/15
25/8 25/11 25/24 26/23
26/25 27/1 27/2 27/3
27/8 27/19 27/21 33/21
34/3 34/7 34/12 34/19
35/11 43/17
sections [3] 8/9 25/18
34/12
see [10] 13/22 14/17
25/10 26/16 29/15 38/3
38/14 38/22 40/10
44/12
seem [1] 11/19
seemed [1] 26/14
seems [1] 8/16
sense [6] 12/5 19/24
36/15 36/18 36/24 37/2
separate [2] 15/16
15/17
session [5] 8/14 23/19
24/4 24/14 42/24
sessions [1] 7/24
set [6] 16/11 16/23
34/7 43/12 44/9 44/20
setback [1] 15/10
sets [1] 4/25
setting [2] 15/21 25/6
sewer [1] 27/16
shall [5] 28/10 37/6
41/3 41/4 42/1
sharing [1] 22/19
she [4] 33/18 41/6
41/8 41/9
sheets [2] 3/17 4/3
Sheetz [1] 18/10
shop [1] 3/7
should [11] 3/9 3/11
12/1 21/10 26/17 35/6
39/3 39/5 39/6 41/9
41/24
shouldn't [2] 20/24
41/6
side [2] 15/10 29/22
significant [1] 25/23
silver [2] 19/20 19/21
similar [1] 34/13
since [2] 7/13 40/12
sir [3] 7/9 42/12 44/16
sit [1] 12/5
site [1] 16/8
sitting [1] 29/22
so [62]
some [33] 3/17 5/8
7/25 8/1 9/2 9/3 9/6
11/18 11/23 11/25
14/22 15/10 15/13
19/24 24/17 24/18
24/19 24/25 25/1 26/23
26/24 28/22 29/8 31/5
31/5 31/6 31/7 31/18
32/13 33/15 35/3 35/3
40/22

somebody [3] 14/12
17/3 43/11
someone [3] 5/13
10/13 14/25
someplace [1] 9/9
something [14] 8/12
8/13 9/10 9/25 11/8
14/8 14/15 15/22 18/3
20/24 21/16 22/7 30/12
32/10
sometimes [2] 23/24
30/19
sooner [1] 12/2
sorry [2] 19/9 39/9
sorts [1] 19/6
speak [2] 15/2 18/9
specific [2] 10/4 16/8
specifically [1] 8/7
specified [1] 45/10
specify [1] 29/3
spirit [1] 35/8
SS [1] 45/2
staff [1] 26/8
stage [1] 33/4
standard [2] 15/9
15/13
start [1] 34/16
state [4] 20/23 45/2
45/6 45/17
statement [1] 25/11
station [1] 14/13
stations [1] 14/9
stereotype [1] 45/9
step [2] 14/3 36/8
stepping [1] 24/2
steps [2] 35/24 36/3
still [7] 3/20 15/22
26/19 31/24 32/7 36/8
36/16
store [3] 13/15 13/16
19/5
streets [2] 27/16
38/10
strike [1] 34/5
stuff [8] 6/23 19/24
20/20 21/25 21/25 33/5
40/18 40/21
subdivision [2] 32/3
32/5
submit [1] 10/14
submitted [3] 7/19
21/3 30/13
Subsection [1] 34/6
substituting [1] 41/14
sudden [1] 12/8
suggest [1] 31/10
suggested [1] 26/3
suggestion [2] 31/8
31/14
summarizes [1] 25/8
Super [1] 24/10
supposed [10] 7/7
14/24 15/1 15/3 15/9
16/8 16/9 17/20 23/2
23/4

sure [9] 3/22 4/11 5/5
7/23 8/23 10/4 32/12
40/18 42/13

T
table [2] 25/3 29/22
tabled [1] 25/1
take [5] 11/14 21/11
21/24 22/3 32/9
taken [1] 45/9
talk [1] 44/13
talked [1] 35/1
talking [6] 3/5 3/15
8/6 12/18 12/24 14/5
talks [1] 27/3
target [1] 8/12
telling [1] 18/13
tenants [1] 3/8
term [2] 29/10 29/14
Terriaco [4] 1/21 2/13
6/12 40/2
terrible [1] 18/19
testing [1] 10/14
text [2] 24/14 25/24
than [6] 12/2 15/9
26/2 30/6 32/9 42/7
thank [3] 37/3 40/5
42/16
Thankfully [1] 6/16
that [164]
their [8] 13/20 14/23
15/17 16/14 21/5 22/1
26/11 32/5
them [11] 3/13 3/24
4/17 9/1 10/20 13/23
16/5 26/9 26/25 39/19
39/21
there [1] 40/15
therein [1] 19/12
these [7] 9/6 19/16
19/18 21/9 26/24 28/4
36/3
they [40] 3/18 8/8
8/20 8/21 8/25 8/25 9/2
9/21 11/10 13/5 13/10
13/11 13/16 13/20
13/21 13/25 14/23
15/16 15/16 16/17 17/1
17/7 17/9 17/10 17/11
17/13 17/25 17/25
21/24 22/1 22/3 23/7
23/12 29/19 29/20
31/24 32/3 36/19 36/22
39/21
they're [4] 16/2 21/18
27/5 29/22
They've [1] 17/12
thing [4] 20/25 30/1
34/8 40/11
things [13] 8/16 8/17
8/24 12/5 12/5 19/18
21/7 22/3 29/20 30/14
37/21 40/22 44/13
think [42] 3/11 3/12
4/10 5/4 7/10 8/23 9/3

T
think... [35] 9/8 11/22 11/23 12/1 12/4 15/19 15/20 17/19 17/22 17/24 18/7 20/5 20/6 20/9 20/11 21/10 23/19 26/9 26/10 28/3 29/7 29/10 31/6 31/16 32/15 32/20 32/21 36/2 37/22 41/9 41/20 41/24 42/6 42/25 44/11
thinking [3] 8/11 15/25 37/21
thoroughfares [1] 38/11
thoroughly [2] 20/21 22/1
though [5] 2/21 9/11 13/12 14/2 15/23
thought [8] 18/19 18/22 18/22 26/14 26/14 28/1 30/7 31/9
three [15] 3/8 4/20 6/5 28/2 28/5 28/9 28/11 30/7 30/13 31/9 31/10 31/21 33/11 39/13 39/14
through [15] 4/14 9/11 14/7 14/13 14/17 14/17 20/6 20/6 25/2 25/9 26/12 32/2 32/18 35/23 36/8
thrown [1] 16/1
thru [7] 3/6 12/19 13/17 13/21 13/24 18/20 18/25
thrus [1] 13/19
tighten [2] 8/24 11/16
time [11] 26/24 27/21 27/25 28/2 28/19 34/19 40/12 43/1 43/3 43/11 45/9
times [1] 31/3
today [3] 2/3 2/24 7/5
together [3] 16/25 19/24 42/20
tonight [2] 24/21 25/19
too [5] 24/4 28/1 29/5 30/7 31/22
took [1] 40/12
tool [1] 17/1
top [1] 4/25
totally [1] 23/18
Town [1] 1/8
TOWNSHIP [11] 1/2 2/2 19/10 23/5 23/6 23/7 23/10 25/13 31/24 32/8 35/19
traffic [1] 19/7
training [1] 24/5
transcript [2] 1/15 45/8
true [1] 45/8

Trustees [19] 16/19 16/25 17/7 21/3 25/25 26/2 26/6 26/8 26/18 26/19 27/10 29/1 32/7 35/6 35/17 35/18 36/13 36/16 39/18
try [6] 12/1 19/15 19/23 19/25 25/20 30/21
trying [2] 16/2 42/6
Tuesday [1] 2/3
turning [1] 19/11
tweaks [1] 11/19
twice [1] 4/15
twisted [1] 19/18
two [6] 6/5 20/7 34/12 36/3 38/18 38/20
typically [3] 10/11 11/1 30/23
typo [1] 39/8

U
Uh [13] 3/19 7/12 11/21 13/9 14/10 14/11 20/22 22/24 25/16 27/14 30/18 34/9 42/18
Uh-huh [13] 3/19 7/12 11/21 13/9 14/10 14/11 20/22 22/24 25/16 27/14 30/18 34/9 42/18
under [4] 23/3 27/2 37/4 40/23
understand [4] 18/8 24/8 35/24 37/14
unforeseen [1] 29/9
Unfortunately [1] 30/19
unique [1] 16/7
Unit [2] 24/15 43/18
unless [2] 14/15 28/11
unload [2] 34/24 34/25
unusual [1] 6/18
up [24] 3/5 7/17 8/18 10/19 16/24 17/4 18/7 19/15 20/10 20/18 20/24 21/2 21/7 22/21 23/24 28/3 28/25 29/3 30/9 30/14 32/11 32/22 37/22 39/16
upped [1] 39/7
us [12] 2/23 3/21 8/17 11/8 14/17 19/16 20/18 23/6 23/7 24/20 35/4 40/13
usage [1] 20/7
use [20] 8/7 8/15 8/19 10/10 10/10 10/14 10/17 10/25 11/10 11/15 12/20 13/1 14/23 14/24 15/7 16/25 18/21 18/24 22/15 26/1
used [1] 4/3
uses [4] 8/24 9/6 10/9 11/7

usually [1] 17/23

V
vague [1] 28/20
variance [8] 10/10 10/25 13/23 14/24 14/25 15/10 15/11 17/3
variances [4] 10/8 10/17 14/24 15/24
various [2] 8/8 8/9
verbiage [1] 24/19
versus [1] 4/21
very [7] 6/22 15/22 17/7 18/2 29/13 33/2 40/15
Vice [1] 1/19
void [2] 28/8 28/11
vote [3] 2/19 17/5 17/6

W
wait [1] 28/7
want [17] 8/23 9/1 11/8 11/9 14/4 14/15 15/2 15/22 15/25 23/7 23/10 23/12 23/17 28/14 30/10 30/21 44/13
wanted [6] 13/17 23/6 25/4 26/16 43/7 43/9
wanting [1] 40/11
wants [1] 43/12
warehouse [1] 18/25
warming [1] 33/5
was [34] 2/18 3/25 4/2 8/11 9/9 9/10 9/12 9/12 9/16 9/19 9/22 10/1 13/17 13/20 18/15 18/16 18/19 18/22 23/21 23/25 25/23 26/3 26/3 27/2 27/8 28/3 29/8 30/7 33/16 33/18 39/25 40/6 40/14 44/23
wasn't [1] 18/18
water [1] 27/16
waves [1] 6/23
way [10] 7/21 9/4 14/4 14/21 26/24 28/25 29/20 30/10 33/12 41/14
we [119]
we'll [2] 5/9 7/25
we're [20] 3/15 8/15 17/16 17/20 19/11 21/6 21/15 22/21 22/25 23/2 24/9 24/21 27/9 27/20 27/25 33/4 33/12 34/5 34/15 36/7
we've [9] 6/5 9/13 21/3 21/25 24/1 28/22 38/18 38/20 44/9
weather [1] 33/3
well [25] 4/2 6/4 6/21 9/8 13/6 14/21 17/20 19/12 20/1 21/9 21/21

22/5 23/7 24/24 28/16 28/24 29/19 30/4 30/15 31/18 31/19 32/6 32/24 39/14 40/6
went [6] 4/14 9/11 9/21 13/22 20/6 20/6
were [10] 3/18 8/6 12/18 18/20 24/17 25/2 26/25 28/5 32/10 45/9
weren't [1] 8/18
wham [1] 12/9
what [50]
what's [4] 3/6 8/15 15/21 30/16
whatever [9] 11/16 11/19 15/8 17/22 18/15 20/10 20/25 34/17 41/22
when [10] 8/2 16/17 17/13 21/1 22/6 23/25 27/5 30/14 33/6 35/1
whenever [2] 20/6 21/15
where [11] 3/18 8/8 8/15 8/25 8/25 9/2 9/10 16/3 31/3 31/9 38/14
Whereupon [1] 44/23
whether [4] 10/22 27/23 28/18 31/4
which [7] 13/18 13/24 14/3 25/19 33/10 36/12 45/9
who [3] 30/25 37/9 37/11
whole [2] 6/21 8/22
why [7] 9/19 9/24 14/5 20/23 21/7 24/20 41/10
widths [1] 34/1
Wiles [1] 24/25
will [8] 2/18 2/19 7/15 19/16 23/1 24/12 43/21 44/20
winter [1] 8/1
wise [1] 7/18
within [7] 8/19 28/8 28/8 28/11 28/19 30/13 30/24
without [1] 9/4
wonder [1] 30/15
wondering [1] 35/8
word [3] 3/25 4/6 30/10
words [2] 3/18 40/18
work [12] 7/24 7/25 8/14 15/20 23/18 24/4 24/13 32/2 33/8 42/17 42/24 44/10
working [2] 22/23 25/2
works [1] 14/18
world [1] 33/5
worry [2] 11/16 17/2
would [33] 2/1 2/20 3/3 5/9 9/24 9/24 11/19 12/4 12/9 13/4 13/7

13/23 18/22 21/6 21/9 21/21 26/1 26/4 26/14 28/24 28/25 31/2 32/21 37/10 37/16 41/7 41/23 42/24 43/1 43/3 43/5 43/16 44/12
Wow [1] 6/17
wrap [1] 11/8
written [2] 14/23 28/25
wrote [1] 23/25

X
XVI [4] 24/15 34/3 34/7 43/17

Y
Y-O-U [1] 3/9
Y-O-U-apostrophe-R-E [1] 3/9
yard [1] 15/10
yeah [35] 4/8 4/16 5/2 6/25 10/6 11/4 11/17 12/23 14/22 15/5 15/18 16/16 20/2 21/9 24/1 28/16 28/21 29/15 29/17 29/18 30/8 33/1 33/20 34/9 36/1 36/25 37/20 38/14 38/22 38/25 39/3 39/23 40/18 41/12 41/21
year [5] 25/2 28/4 32/9 39/14 39/14
years [20] 12/7 12/7 12/7 12/8 12/8 23/6 23/8 23/9 23/22 28/1 28/2 28/5 28/9 28/11 30/7 30/13 31/9 31/10 31/21 33/12
yes [12] 2/25 3/2 8/5 13/13 13/14 14/1 18/5 32/1 36/6 42/14 42/22 43/15
you [85]
you'll [2] 25/10 26/10
you're [10] 4/21 10/5 12/23 13/14 15/3 15/20 18/8 20/17 23/12 36/1
you've [4] 14/16 23/23 40/22 40/22
your [13] 3/8 5/4 5/7 7/20 15/20 21/20 22/15 22/15 31/17 36/19 40/5 40/23 42/21
yours [1] 39/10

Z
zoning [34] 1/2 1/18 1/23 1/23 2/2 8/9 9/13 10/9 13/4 13/8 13/22 14/23 15/21 16/21 25/14 26/3 26/15 27/4 27/13 28/13 31/1 32/7 34/15 35/6 35/14 35/23 36/9 37/11 37/16 37/17

Z

zoning... [4] 39/16
41/3 41/6 42/3