

CONCORD TOWNSHIP ZONING COMMISSION
LAKE COUNTY, OHIO
PUBLIC HEARINGS and MEETING

Concord Town Hall
7229 Ravenna Road
Concord, Ohio 44077

7:00 p.m.

July 6, 2010

TRANSCRIPT OF PROCEEDINGS

Zoning Commission members present:

Andrew Lingenfelter, Chairman
Morgan McIntosh, Vice Chairman
Larry Wentz
Richard Peterson
Frank Schindler

Also Present:

Michael Lucas, Esq., Legal Counsel,

Kathy Mitchell, Zoning Inspector,
Zoning Commission secretary

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

7:00 p.m.

1
2 CHAIRMAN LINGENFELTER: Good evening. I would like
3 to call the Concord Township Zoning Commission meeting of
4 Tuesday, July 6th to order. We have a couple of continuations
5 of public hearings going on today, and Number 1 on the agenda
6 is the continuation of the public hearing for Zoning Amendment
7 Application Number 0909-132, by Ryan Sommers, Gray Fox Capital
8 Limited, for a Permanent Parcel Numbers 08A-31C-1 and
9 10A-31C-8, located at the corner of Prouty Road and State
10 Route 84, proposed to be rezoned from the R-1 Residential
11 District to the R-3 Multi-Family District for a single detached
12 cluster dwelling project.

13 The last time we finished up, there was some work to
14 be done. And I wanted to invite Ryan up and, of course, legal
15 counsel to fill us in on where we're at.

16 MR. MONROE: Thank you, Mr. Chairman. My name is
17 John Monroe. I am with the law firm of Mansour, Gavin, Gerlack
18 and Manos. I represent the applicant this evening, Gray Fox
19 Capital and Ryan Sommers. I think you will remember from the
20 last month's meeting when we were here, there were basically
21 three items that you wanted to be addressed, and the law
22 department, so we have worked to address all three of those
23 items and we have documents to submit to you for your
24 consideration.

25 The first issue was tying into the existing sanitary
26 sewers. And there was a question because, currently, there is
27 two or more lots, which causes a problem under the county sewer
28 regulation. And so we have proposed the question of whether —
29 If the additional lands were added to the condominium through
30 amendment of the condominium declaration, would that be

1 acceptable for the county? And Randy Roethlisberger, of the
2 Lake County department of utilities, has answered the question
3 in the affirmative. If they are added, that would be
4 acceptable for the county's sewer purposes, so I'd like to give
5 to you copies of that e-mail from Randy. We have provided one
6 previously to Mr. Lucas but I have another copy this evening,
7 and you can see the dialogue between Ryan and Randy regarding
8 the sewer issue. And one for you. So that was the first
9 issue.

10 The second issue, when we were here last month, was
11 the, I want to call it, the gap between the time that you
12 approve this zoning — this rezoning and the time that the
13 units are declared because, as you know, we can't declare
14 condominiums until the foundations have been dug and built, and
15 so there is a gap between when you rezone the property and when
16 the property is condominiumized.

17 And so what we — what the developer had proposed was
18 to put down a declaration of covenants and restrictions that
19 would restrict all 16 acres so that it would be developed in
20 the way that the developer is telling you tonight or the
21 developer would have to come back before you and amend the
22 declaration. So I am going to pass out the proposed
23 Declarations of Covenants and Restriction. Again, we provided
24 these to your legal counsel. We've also worked with the
25 homeowners' association to make sure that they're comfortable
26 with what the developer is saying he is going to do and is
27 going to be restricted to do and what they expect.

28 So we will certainly hear from them but I believe
29 their testimony will be that they are satisfied that, once
30 these declarations are filed, that there will be protections

1 they are looking for.

2 The final piece of the puzzle was a development
3 agreement with the homeowners' association. I think your legal
4 counsel was a bit concerned that, at the time we were before
5 you last month, we had basically a letter of intent, an
6 agreement to agree. And the good news is, we've hammered out
7 all of the issues with the homeowners' association — again,
8 representatives are here this evening — but I wanted to pass
9 out what we have agreed to with the homeowners' association.

10 So in addition to the covenants and restrictions that
11 will be placed on the record, there will be a contractual
12 agreement between the homeowners' association and the
13 developer. And, I guess, the hammer that the association has
14 is that they get to — they have to agree to the amendment to
15 the condominium declaration to let the additional units be
16 joined or we're back to square one with the sewer issue, and so
17 this agreement lays out the terms between the developer and the
18 homeowners' association, so they're here and will certainly
19 testify.

20 This was prepared by the homeowners' association's
21 attorney and we've reviewed it and are comfortable with all the
22 terms.

23 MR. SOMMERS: John, if I could interrupt, just
24 quickly, what I think ties this all in between Concord Township
25 and the homeowners' association are the exhibits, and the
26 exhibits are, essentially, what we've presented, the site
27 concept plan and the proposed units that we're looking to build
28 and the deed restrictions. So all those exhibits that we are
29 presenting as part of the rezoning, we're also agreeing to in
30 the, in the development agreement. So it ties the three

1 parties together, so what we are presenting is actually what
2 we're going to do. I just wanted to note that.

3 CHAIRMAN LINGENFELTER: Okay. Thanks.

4 MR. MONROE: Would you like to hear from —

5 CHAIRMAN LINGENFELTER: Yeah, sure. We'll get down
6 to that in a moment.

7 MR. MONROE: If you have any other questions —

8 CHAIRMAN LINGENFELTER: Sure. We'll summon you.

9 MR. MONROE: Thank you.

10 CHAIRMAN LINGENFELTER: Michael, have you had an
11 opportunity to review the documents that we've been given?

12 MR. LUCAS: Yeah, I did, actually.

13 CHAIRMAN LINGENFELTER: Did you have any comments for
14 the Commission that you would care to share?

15 MR. LUCAS: Well, a couple things. In the order that
16 they were presented, Mr. Roethlisberger's e-mail regarding the
17 accessibility of the sanitary sewer is, obviously, contingent
18 upon there being a combination of the parcels into a single
19 parcel, which was the problem if they had proceeded forward as
20 a separate parcel and that. So, I mean, that would be
21 consistent with my understanding of Mr. Saari's restrictions in
22 terms of accessibility to the sanitary sewer permits and that.

23 Again, Mr. Roethlisberger, on behalf of the sanitary
24 engineer's office, is careful to say "if the parcels are
25 combined." And there is one homeowners' association, so there
26 are two contingencies to that which are being addressed by the
27 following two documents that Mr. Monroe presented.

28 Did I — And I was out of the office last week and I
29 will tell you that Mr. Monroe attempted to call me and I did
30 not get back to him.

1 In looking at the Declaration of Covenants and
2 Restrictions, the thing that I noticed initially, John, on
3 page 2, where you got the living area restrictions and you have
4 two stories at 1,400 square feet, the floor area, our code —
5 or our resolution, rather, is 1,600 for two stories.

6 MR. SOMMERS: Is that under R-3?

7 MR. LUCAS: Yes. It's 17.10.B.3 under the R-3. The
8 1,400 is for one and a half stories.

9 MR. SOMMERS: Okay. Then we can amend that. It was
10 meant to mirror the R-3 code.

11 MR. LUCAS: Right. I thought it was. I am just
12 pointing that out that —

13 MR. SOMMERS: Yeah. Obviously, that should be one
14 and a half story. We could add —

15 MR. LUCAS: Yeah. If you wanted to put in the one
16 and a half at 1,400 and then the two-story at 1,600 —

17 MR. SOMMERS: We would like that flexibility, just
18 because some ranches would be considered Cape Cods and there
19 has been demand for that, so if we could just add that to the
20 restrictions.

21 MR. LUCAS: Okay. What I don't want though, Ryan, is
22 a two-story under your declaration of covenants that's less
23 than what we require in the resolution, obviously.

24 MR. SOMMERS: We can adjust that.

25 MR. LUCAS: Okay. And I think the other thing I
26 would like, under page 2, the first enumerated paragraph, first
27 sentence where it says, "The project shall include only
28 detached cluster homes," I'd like, again, mirroring the R-3
29 language, I would like that to read "single cluster homes,"
30 which is what you intend anyway.

1 MR. SOMMERS: Yes.

2 MR. LUCAS: That's really the comments I had on the
3 Declaration of Covenants and Restrictions.

4 The last document, the development agreement, I
5 guess, my preliminary observation on that, John, when you sent
6 it to him was it seems to be a work in progress, the
7 development agreement. It doesn't seem to be a final document
8 yet. And the only reason I mention that is because, for
9 instance, under A1 on page 2, Mr. Manning, who is an excellent
10 attorney, says, in a parenthetical, "I would give some examples
11 of what types of roadways, et cetera, to put here." I mean,
12 that's kind of, to me, indicative of a work in progress, to
13 some extent.

14 And then, you know, "condominium," in the first
15 paragraph of the development agreement, is spelled wrong, which
16 isn't a big deal but —

17 And then under A6, there is a — there is typos there
18 about "shall not seek a receive," it should be "and," I'm sure.
19 And then you've got 54 spelled out for the buffer but the
20 numerical one is "fifty," under enumerated paragraph 6 there on
21 page 2.

22 Obviously, the notices haven't been put in, under the
23 third page, for Aria's Way, which, again, is a clerical thing
24 but, to me, is indicative of a work in progress as opposed to a
25 finished document.

26 MR. SOMMERS: And I appreciate the, you know — It
27 has been a work in progress.

28 MR. LUCAS: Yeah.

29 MR. SOMMERS: And it probably — In all likelihood,
30 there may be amendments and that's why we're going to amend the

1 condominium declaration as we go; but this is really just to
2 memorialize what we've agreed to in the letter of intent to
3 satisfy Concord Township's concerns. We probably would have
4 just worked off the letter of intent and went straight to the
5 declaration, but I will say, I have executed it and, you know,
6 if there is typos and, you know, things changed, well, it will
7 be —

8 MR. LUCAS: I am not trying to nitpick it. I am just
9 saying that —

10 MR. SOMMERS: No, no. I appreciate that.

11 MR. LUCAS: — this is being represented to the
12 Commission. I am not trying to give you a hard time about it
13 either. I am saying you are representing this as the agreement
14 that was reached and, as I read it, it seems to be the form or
15 core agreement that needs to be tweaked a little bit.

16 MR. MONROE: Since all the parties — We appreciate
17 your help and we've been trying to limit the amount of, shall I
18 say, chefs in the kitchen. We're trying to satisfy a lot of
19 people. What I would recommend this evening is, since the
20 parties are here, we can interlineate any of the changes that
21 you've requested right on the document and execute it before
22 this body, if that makes you feel more comfortable going
23 forward.

24 I think, again, the homeowners are here. They're
25 anxious. I think, they're as anxious as we are to get the
26 process going, hopefully continue on, in this building season,
27 in selling units and getting them sold out as quickly as
28 possible. We talked about that before the meeting tonight
29 because that seems to be in everybody's best interest.

30 So if there are — I didn't hear any that I thought

1 we couldn't fix by interlineating this document and finalizing
2 it this evening, and we would certainly be happy to do so.

3 CHAIRMAN LINGENFELTER: Anything else, Michael?

4 MR. LUCAS: Well, if the Board is going to consider
5 that, I guess, the only thing I would ask, John, you do have a
6 copy of the Concord site single detached home concept plan as
7 being appended as Exhibit C to the development agreement?

8 MR. SOMMERS: Yeah.

9 MR. LUCAS: Yeah. I mean, if the Board is agreeable
10 to that and the association is authorized to sign the agreement
11 as it's presently constituted — and there is a representation
12 to the fact — and you can interlineate it and have everyone
13 sign, I don't have an objection to that.

14 CHAIRMAN LINGENFELTER: Any other comments or
15 observations?

16 MR. LUCAS: No.

17 CHAIRMAN LINGENFELTER: Now, I have a question, and
18 it's based on the e-mail from Randy Roethlisberger with John
19 and Ryan. What if — Now, this e-mail supposes that there
20 would be an approval of the rezoning request. Okay? What
21 happens if the zoning request is not approved? What happens
22 with the — What happens with the sewer situation if, for
23 whatever reason, this Commission would decide to not approve
24 the request?

25 MR. SOMMERS: Well, I would — We haven't really
26 contemplated that but I would say that we're in the spirit of
27 working with the existing homeowners, and if it's a new
28 development plan that would impact the existing sewers, we will
29 just have to cross that bridge through engineering or
30 discussions with Lake County if we come to that; but we haven't

1 contemplated design — redesigning that sewer and we intend to
2 work with the association regardless of what's built there.

3 MR. MONROE: The short answer would be, we'd have to
4 subdivide it. Under your current — There is two lots of
5 record. There is the sewer that is available on Johnnycake.
6 And so the question, if the rezoning would not be approved, we
7 would have to figure out another way to subdivide the property
8 to get individual tap-ins for, I assume, as many, as many lots
9 as the developer could plan in two lots there of record.

10 MR. SOMMERS: Which may require us to remove part of
11 the existing sewer or relocate.

12 CHAIRMAN LINGENFELTER: Okay. I was just curious.

13 Okay. Since the public hearing is still open, what
14 I'd like to do is I would like to ask anyone that's out there
15 this evening that is interested in having a say in support of
16 this rezoning request, I'll start on my left, the audience's
17 right, anybody here that would like to come up and say
18 anything? Ma'am?

19 MS. NELLS: Yeah. I just — I haven't followed it
20 all. I just have a question with these cluster homes. How
21 far —

22 CHAIRMAN LINGENFELTER: Why don't you come on up
23 because people at home can't hear you. You need to speak on up
24 here by the microphone. Please state your name and your
25 address and everything for the record, please.

26 MR. MONROE: Okay. Peggy Nells, 2052 Ridgebury
27 Drive, Painesville Township. I have a question. They want to
28 build the cluster homes. Has there been a change in the
29 distance between the cluster homes and how much distance is
30 allowed between the cluster homes? I am interested in that,

1 particularly, for other reasons.

2 CHAIRMAN LINGENFELTER: Okay. Kathy, do you have
3 any —

4 MS. MITCHELL: The minimum distance between single
5 detached cluster dwellings for a single story is 10 feet, for
6 one and a half stories is 12 feet, and for two stories is 15.

7 MS. NELLS: Has that been negotiated or is that a
8 matter of record that has existed beforehand?

9 MS. MITCHELL: It's in our Zoning Resolution.

10 MS. NELLS: Okay. Thank you.

11 AUDIENCE MEMBER: Are they talking about the setback
12 requirement or buffer —

13 MR. LUCAS: No. I think she's talking about the
14 setback between buildings.

15 CHAIRMAN LINGENFELTER: Okay. Anybody on my right,
16 audience's left, that would like to come up and speak in favor
17 of the rezoning request? Please state your name, again, and
18 address for the record.

19 MR. WALICK: I'm Bob Walick, 6890 Aria's Way.

20 CHAIRMAN LINGENFELTER: And do you swear to tell the
21 truth, the whole truth and nothing but the truth?

22 MR. WALICK: I do.

23 CHAIRMAN LINGENFELTER: Thank you.

24 MR. WALICK: We have been working diligently with
25 Concord Partners on trying to put this plan together and come
26 to an agreement and it appears that we have successfully done
27 that. And from the way everything looks, it's like it's
28 turning out. This type of development will probably be as
29 close to the original plans of the development that we could
30 possibly come across and it still serves the developer's

1 interest in trying to, you know, accomplish this through single
2 detached clusters. We did — The association does support the
3 development as it's been proposed.

4 CHAIRMAN LINGENFELTER: Do you have any other
5 comments or anything else you would like to add?

6 MR. WALICK: Not at this time.

7 CHAIRMAN LINGENFELTER: Okay. Thank you.

8 Anybody else that would like to speak in favor of the
9 rezoning request? Okay. I will come back and ask the same
10 side of the room if anybody would like to speak in opposition
11 of the rezoning request? Ma'am, I think you had —

12 MS. BABUREK: It's not really for or against.

13 CHAIRMAN LINGENFELTER: Would you like to come up to
14 the microphone, please?

15 MS. BABUREK: I have —

16 CHAIRMAN LINGENFELTER: Please state your name and
17 address for the record.

18 MS. BABUREK: My name is Shelley Baburek. I am at
19 10195 Danvers, which is directly behind the development. I was
20 not here over the winter when all this was brewing, but I am
21 under the assumption that when they do build — which is fine
22 with me — but my major concern is, whether we have the 15-foot
23 or 50-foot buffer, I want to make sure that my back yard is not
24 going to be a swamp if they put mounds or however they do the
25 buffer because our whole street, for some reason, in the
26 spring, we can't cut our grass for a long time because of the
27 water. If it rains a lot, we have water. So I don't want to
28 have a mound that's going to constantly bring water into my
29 back yard. That's my big concern.

30 And when they do come up with plans, I would like to

1 have it in writing stating what they plan on doing because I
2 know they're, you know, concerned for the homeowners'
3 association but they have to realize you got a lot of neighbors
4 behind them and our land is just as important as the people in
5 Aria's Way.

6 So, I mean, if you rezone it, guess it's okay. I
7 mean, I don't know if I am for it or against it. I am just
8 more concerned about my yard and the rest of the yards going
9 down.

10 CHAIRMAN LINGENFELTER: Okay. Thank you.

11 MS. BABUREK: Thank you.

12 CHAIRMAN LINGENFELTER: Anybody else that would like
13 to speak in opposition or in favor, if anybody's got a change
14 of heart? Okay. All right.

15 Ryan, do you have something more you would like to
16 add?

17 MR. SOMMERS: Yeah. I just wanted to add that I
18 appreciate that last comment. It's obviously been one of the
19 major concerns of not only the residents in Aria's Way but also
20 Danvers and Brian Drive and State Route 84 and Prouty. We've
21 shown and plan on improving storm water through additional yard
22 drains in that buffer area, and we plan on improving and
23 expanding, if required or necessary, to improve the storm water
24 pond, add an outlet structure.

25 And, obviously, we will be going through detailed
26 storm water approval with our site plan improvement plans, so I
27 think adding the green space and increasing the buffer to 80
28 feet can only help that. We don't intend on mounding unless
29 its absolutely necessary. And if we do have mound, you know,
30 we will not be negatively impacting people's yard drainage.

1 So I just want to go on record that we are aware of
2 those issues and we are going to be very sensitive to those.

3 CHAIRMAN LINGENFELTER: Okay. I guess, I would like
4 to hear from my fellow Zoning commissioners. If they have any
5 comments or concerns, I guess, now is the time to get them out
6 on the table and have them discussed. We'll start down on your
7 end, Frank. Anything you would like to say?

8 MR. SCHINDLER: Well, it seems like the biggest
9 concern has been with the surrounding homes in the area have
10 been flooding. I guess, as long as you can address those
11 issues, because it sounds like, in talking to some of the
12 residents, the mounding of land that's already been there, for
13 example, now has been the biggest cause because people — It
14 doesn't allow the waters, when they have, quote — Since I've
15 live out here, we've had three 100-year rains already. And if
16 it's not allowed to flow out to its natural source then it
17 backs up and stays in their yards forever.

18 Now, you even said that you're going to try to
19 minimize that even if you have to mound it. Well, how would
20 you stop it? Once you put a mound in there, already, you are
21 trapping the water. Would there be some kind of storm drain
22 behind the mound for people that are living there?

23 MR. SOMMERS: We've proposed storm drains. I don't
24 anticipate mounding. I don't anticipate any significant
25 mounding than what's already there; and what's already is there
26 is actually on the high slope along 84 and Prouty.

27 Keep in mind, the reason I think this plan — This
28 plan is going to actually — it's superior to the R-1 duplex
29 plan is that we have these big buffers requirements that have
30 to be landscaped and they have to grow trees and they have to

1 be green. So with the other plan, we only go within 15 feet of
2 impervious surface and buildings. Correct?

3 MR. LUCAS: Side area.

4 MR. SOMMERS: Right, side yard setback.

5 So this plan, you know, as far as a buffer and not,
6 you know, impervious surface, I think, is superior.

7 Are we going to be able to fix every single problem
8 out there? I am not going to come up here and say we can fix
9 every single yard problem there is because I'm not sure that,
10 you know, drainage is flowing all from our property, but I
11 think this plan is going to give us the best opportunity to do
12 that.

13 And we intend to install yard drains and we do not
14 intend to mound if it is going to create issue. We have to
15 work with your engineer to get approval for the project and,
16 you know, I'll go on record saying that we'll work with them
17 every way we can if it's feasible to make that not be an issue
18 anymore.

19 MR. SCHINDLER: Well, that's the thing I'll be
20 watching for very closely because when people start calling me
21 up and this thing starts going and start complaining, "Frank,
22 you were on the Board and you allowed this to take place and
23 now look at what it's caused," you best believe I am going to
24 be on you guys like you know what.

25 MR. SOMMERS: And I appreciate that. We will be back
26 here for site plan approval because it's R-3.

27 MR. SCHINDLER: Okay.

28 MR. SOMMERS: So you'll have another opportunity to
29 review actual plans because we, obviously, can't move forward
30 with full improvement plans until we know we have the zoning,

1 so this is just one step along the process.

2 MR. SCHINDLER: I understand.

3 MR. SOMMERS: We will come back here with the
4 landscape plan and we'll come back here with the full plan as
5 part of the site plan review, which is much more detailed than
6 what we're bringing in tonight. So, at that point, if there
7 are still concerns, we will be able to modify that to gain your
8 approval.

9 MR. SCHINDLER: That's good. I just wanted to put
10 the emphasis on it right now so you will know when it's down
11 the road, from me, anyway.

12 MR. SOMMERS: I understand.

13 CHAIRMAN LINGENFELTER: Morgan, any comments?

14 MR. McINTOSH: A few. I think, initially, when we
15 started talking about rezoning here, with the density, I wasn't
16 particularly a fan because I don't think it suits the
17 neighborhood as much, but when we had our first public hearing,
18 I think, a few months ago and the residents came in from
19 Danvers and were talking about the flooding, I wasn't aware of
20 that issue. I have become a supporter of this plan because
21 you've made everything work well with Aria's Way, and I am
22 pleased to see that.

23 I have been a resident of Concord a long time and
24 that's been vacant a long time and I think a lot of people
25 would like to see something done, and I am pleased to see you
26 moving forward.

27 And I am going to say — I'm going to second what
28 Frank said. I think, at this point, my biggest concern would
29 be drainage. It does look like you've addressed it. You've
30 got the retention basins and got the green space and you've

1 addressed those issues as far as doing it, and that's going to
2 be my number one concern now because everything else seems to
3 be, you know — The community doesn't seem to have a problem
4 with it and, therefore, I don't have a problem with it but my
5 chief concern is going to be that drainage.

6 My hope is that your developing this will resolve it.
7 It seems like it's definitely a step in the right direction at
8 this point.

9 MR. SOMMERS: Thank you.

10 CHAIRMAN LINGENFELTER: Larry, questions?

11 MR. WENTZ: No. I think you've addressed the thing
12 we asked you to look at, and I would like to remind you that,
13 when you come back on the next steps, we'll probably say what
14 we said to another developer that wanted to change some things
15 a long the way: Just do what you said you were going to do.
16 Okay.

17 CHAIRMAN LINGENFELTER: Rich?

18 MR. PETERSON: I am satisfied with the three
19 responses tonight. I am glad to say the Aria's Way group is
20 satisfied with the conclusion of the agreement. And as long as
21 the drainage is no worse than it currently is, and hopefully
22 better, I am good with it.

23 MR. SOMMERS: We plan to make it better. I think
24 this plan allows us to do that.

25 CHAIRMAN LINGENFELTER: Well, normally, when I take
26 under consideration rezoning requests after you get a feel for
27 what's going on with the property and whatnot, to me, a lot of
28 times, it's a pretty clear-cut decision. This one, for some
29 reason, I am having a real tough time with trying to decide
30 which way I am leaning on this situation, and I feel that way

1 for a couple of reasons. There are some pros and there are
2 some cons. And, you know, at the end of the day, I think a lot
3 of the pros, you know, outweigh some of the cons and some of
4 the cons outweigh some of the pros.

5 One of the things that I'm concerned about is,
6 usually, when we consider or take under consideration a
7 rezoning request, there is usually some compelling reason, from
8 a land use or access or something, that there is a really
9 strong, compelling reason from the developer's standpoint that
10 would bring him in front of us to consider a rezoning request.
11 And I just, you know, despite everything you've done and all
12 the good work you've done and all the effort you put in, I am
13 still having a hard time seeing the compelling reason behind
14 all of this, other than it's what you want and you think that's
15 the best use for your business and moving forward, and I don't
16 consider that to be a compelling reason to make a rezoning
17 request or to consider that.

18 I don't see any real clear-cut advantage to the
19 township in rezoning this piece of property, primarily, because
20 there are no other pieces of property in the area that are
21 zoned similarly. This is going to, basically, create a small
22 parcel of R-3 in the midst of predominantly R-1 zoning, and
23 that concerns me on a couple of — for a couple of reasons.

24 Number 1 is, if we grant this rezoning request, it's
25 ours to live with, to deal with, regardless of what happens to
26 you and your business moving forward. And, believe me, I wish
27 you nothing but the best and the most success, you know, that
28 you could possibly have, Ryan, because you've been a great
29 person to work with in the township. You've brought, I think,
30 some very valuable development ideas to the township. I think

1 some of the work you've done speaks for itself. You do a good
2 job. I don't consider there is any hidden agendas with what
3 you are trying to do here.

4 But the bottom line is, once we approve this rezoning
5 request, we are hung with that, that R-3 section, kind of,
6 sitting out there as an island in the midst of all this R-1
7 zoning, where, for instance, Gabriel's Edge, the rezoning you
8 did over there, you are right behind the condo complex with
9 Country Scene. It was in an area, you know — With a lot of
10 the other zoning areas that you were within, I found that that
11 rezoning request made a lot of sense with regards to our
12 existing zoning map and the way everything is laid out.

13 This, I don't see that. I don't see that. I am
14 trying to get my head around why I would want to just plop
15 down, you know, a section of R-3 in the midst of all this R-1
16 zoning. And I wish, I really wish, on the side, that you would
17 have worked within the existing zoning to come up with all the
18 ideas that you've come up with and done something, made some
19 modifications and adjustments to accommodate the existing
20 zoning because I would then feel a lot more comfortable moving
21 forward and keeping everything as one, so to speak.

22 And I think, to that, I mean, when you purchased this
23 property, it was zoned R-1. You knew that. You knew what you
24 were buying. You knew what you were getting into. This wasn't
25 something that got changed in the midst of your decision-making
26 process and, suddenly, you were straddled with an issue that
27 you really didn't — It wasn't a consideration when you made
28 the conscious decision to make the purchase and move forward
29 with this development. You knew you were buying a piece of R-1
30 property. You knew the challenges that existed there before

1 you made that purchase. You are aware of everything.

2 So, again, I wonder what was going on or what you
3 were thinking, from a business standpoint, in wanting to
4 purchase an already partially developed piece of property under
5 the R-1 zoning and then wanting to switch that over to rezone
6 it, put in a request to rezone to R-3. So that's another issue
7 that I have a problem with.

8 I don't want to understand your business. I am not
9 trying to understand your business dealings. That's for you to
10 deal with, not me. I am saying, when I look at this, I mean,
11 you knew what you were buying and now you're asking that, you
12 know, after you made the conscious decision to make that
13 acquisition, now you're saying that the existing zoning that
14 you purchased and agreed to purchase suddenly doesn't suit your
15 needs.

16 And like I said, I really appreciate the work you've
17 done with Aria's Way and trying to accommodate them because,
18 obviously, they, I feel, were people that were kind of caught
19 up in a situation they had very little, if any, control over.
20 And that I think you did a really admirable job in putting
21 together these covenants and the requirements for the
22 development and things like that, and so that makes me feel
23 better that I don't have a town hall this evening that's packed
24 full of angry residents with pitch forks and torches wanting to
25 take everybody at task for this project.

26 I mean, I think, a lot of times when we have these
27 types of requests, to me, an empty room tells me a lot because,
28 if there was a lot of problems with this, there would be a lot
29 of people here expressing those concerns. Because there is
30 nobody here voicing a lot of concerns, obviously, the residents

1 affected directly and around the area, their questions have
2 been answered, their concerns have been taken care of. And,
3 again, that's one of those pro things. That's the thing that,
4 you know, is pushing me in the direction of saying, "Well,
5 geez, if the residents surrounding the property don't have a
6 problem with it, then who am I, you know, to question what
7 they're, what their concerns are if they don't have any?"

8 So, like I said, normally, I can see it. It becomes
9 very clear to me in the process. But, this one, I am just
10 having a lot of issues with and I think, you know, I can go to
11 my fellow commissioners and I can say, you know, that if we can
12 consider this, like I said, consider the long-term
13 ramifications of rezoning a piece of property because we're
14 hung in that. That's something that's going to be hung with us
15 moving forward and if, if something were to happen — And we
16 already know that there is a lot of uncertainty out there in
17 the marketplace with real estate.

18 I mean, who would have seen what happened, you know,
19 just recently with the real estate bubble burst and you hear
20 about double-dip recessions and you hear about the commercial
21 real estate bubble that hasn't burst yet that's on it's way to
22 causing problems and I hear these things and it starts to
23 concern me because what if things don't pan out and this
24 development gets partially done and, next thing you know, it
25 comes to a screeching halt due to circumstance beyond your
26 control.

27 That doesn't matter because then, moving forward, we
28 have a piece of R-3 property there that we have to deal with
29 moving, you know, going on. So, you know, those are some
30 things that come to my mind and those are some things that I

1 would like my fellow commissioners to consider when we make a
2 decision on this rezoning request.

3 And, like I said, I appreciate all the work you've
4 done, Ryan. I mean, you do good work. You've done your
5 homework. You've worked hard, I think, at trying to meet
6 everybody's concerns, and that's all a very good and positive
7 thing, you know, but those aren't — that, in itself, to me, is
8 not reason enough to just say, "Sure. We should just move on
9 with this." And I just wanted you to understand that. And if
10 you want to respond to any of the points that I brought up,
11 feel free to do so.

12 MR. MONROE: Just a couple things. I guess, the
13 important thing to note here is the prior developer failed.
14 The bank had to take back the property. So the product,
15 whether it was the product or the marketplace or history, we
16 don't know. It was probably some combination of that. So the
17 property is out there, sort of, half developed, in a way, and
18 it will be developed in some fashion at some time, whether it's
19 Ryan, the next guy or the next guy. That's just the reality, I
20 think.

21 I think to address your concern about the
22 precedential effect, there is a couple of things here. First
23 of all, you have the Declaration of Covenants and Restrictions
24 which puts a, what I call, a collar on just, sort of, unlimited
25 R-3 development, because that would be a concern of mine. If
26 Ryan was saying, "This is just going to be multi-family for
27 multi-family," that would be a big concern, but you have the
28 additional security of the limitation of the declaration that
29 will be placed on the property.

30 The other thing is —

1 CHAIRMAN LINGENFELTER: Now, let me ask you —

2 MR. MONROE: Yes.

3 CHAIRMAN LINGENFELTER: I don't want to interrupt but
4 I am going to.

5 MR. MONROE: Yes.

6 CHAIRMAN LINGENFELTER: Now, let's just suppose that
7 that property changes hands at some point in time. Will those
8 covenants follow that, that change of hands or could that —
9 could those covenants be rewritten at that point in time? Are
10 they considered a part of the, of the real estate transaction
11 to the new owners? What's the ramifications if the property
12 changes hands?

13 MR. MONROE: There is two. Would that run with the
14 land? Yes. That's the point of the declaration, it would run
15 with the land.

16 Could the subsequent other than attempt to change
17 those? Yes. But there is two things that are important. If
18 they want to be with the condominium, they are going to have to
19 deal with those people and so there is that control. And,
20 secondly, if they want to become part of the condominium, they
21 are going to have to go to that group, who there is a
22 contractual arrangement.

23 So any subsequent purchaser would have to take it
24 subsequent to that agreement with Ryan's group, so there are a
25 number of controls. And then your sewer district regulations
26 which limit the tap-in and the condominium, so there are a
27 number of different controls in place. Can we say that this
28 will never change and will be exactly as planned? Obviously
29 not. You have seen that.

30 I think it's also — There are two other points. I

1 think it is important. I would argue that having control over
2 a Multi-Family District can be a good thing for subdivisions in
3 townships that, you know, yes, we have multi-family zoning in
4 our township and, yes, we still have some control over it, and
5 I think that is important.

6 If there is another, say, real estate cycle comes on
7 and someone says, "We want to build apartment buildings."

8 You know, you may say, "Well, we have multi-family
9 zoning already in Concord Township," so that's something to the
10 upside.

11 Just one last thing. What's in it for the county is
12 increase in tax revenue. You know, that may not be an issue
13 with your current budget but I know, for many of the
14 subdivisions that I've worked — political subdivisions that I
15 worked with before, that's a huge issue that they need the tax
16 revenue, both from income tax and from the increased property
17 tax because, as it sits, the tax value is probably what Ryan
18 and his group were willing to pay for it with the risk of
19 having to rezone it, whereas, if you get the tax revenue on the
20 other side, which is fully improved, you know, 30-some
21 condominium units, there is a lot of value that's going to be
22 added and reflected. And, obviously, the township doesn't get
23 a ton but the school district will get a fair share.

24 The final point, you have a bit of a quirky Zoning
25 Resolution, in that, I am not familiar with any other Zoning
26 Resolution that I've reviewed — and I've reviewed probably 50
27 in northeast Ohio — that permit duplexes in an R-1 single-
28 family zoning district, so it's a little bit of a quirk that is
29 unique to Concord Township.

30 And so I think your point was, well, couldn't you

1 just work with what's there? And the answer would be, well,
2 the market doesn't necessarily support that. And, two, it's
3 kind of a little bit of an oddity, so if you want to do a
4 single detached cluster, you're forced to go up to the next R-3
5 zoning.

6 MR. SOMMERS: Well, Andrew, really, I appreciate all
7 your thoughts. And I think, if this was a clean slate, if this
8 was a green piece of property, I wouldn't be here and I
9 wouldn't even ask because I would know that you work with the
10 zoning and you move forward based on the market and what you
11 are able to do, what's allowed, the legal allowed use for the
12 land use.

13 But this is not a clean slate. This is a project
14 that was bank owned. It's half developed. It doesn't look
15 real good from the street. That has utility issues. It has
16 flooding issues. It has numerous issues. And I see those as
17 all hardships. If this was a green site that was zoned R-1, I
18 wouldn't be here. This far from it. And I see this zoning, it
19 gives me the most opportunity to address those issues
20 successfully.

21 And we wouldn't be here — have made it this far or
22 be here tonight with an empty room and without that zoning,
23 without all these agreements and concessions and working
24 together with three interested parties, I don't feel that we
25 could accomplish that. And it was proven that that wasn't
26 accomplished because this was a half-finished condominium that
27 was bank owned. It is not an R-1 parcel that's a green site.
28 If it was, we wouldn't be here and I wouldn't be asking this.

29 So those hardships, to me, outweigh any of the cons.
30 And we're taking this site and we basically have everyone in

1 the room that can agree to agree, and that doesn't happen often
2 with sites that have a bank-owned site that has these issues
3 that we are looking to create something very nice for Concord
4 and turn it from a bank-owned site to a site where everyone is
5 pretty happy with our plan and we have a lot more controls
6 going forward. We are going to have to be back here for other
7 meetings. We are going to have to meet with Kathy and Bruce to
8 get zoning permits.

9 So this is just one step in many controls, but I
10 appreciate your consideration. And I know it's been a very
11 long process that started before we even owned the property,
12 and we looked forward to hopefully continuing this, this plan,
13 so I just want to thank you all.

14 CHAIRMAN LINGENFELTER: Thanks. I guess, gentlemen,
15 that would bring one other point to my consideration here, is
16 that, you know, in thinking about the Comprehensive Plan and
17 the information that was compiled with regards to the
18 Comprehensive Plan and surveys and everything else, you know,
19 there has been pretty clear-cut opposition to additional R-3
20 zoning within the township. I know that's going back a few
21 years now and things have changed. A lot of issues have come
22 before us, but we have typically always run into some pretty
23 strong opposition to adding more R-3 because, for the most
24 part, residents feel we already have an adequate amount of that
25 zoning in the township, so that's just something else to
26 consider.

27 Any other comments?

28 MR. SCHINDLER: A couple weeks ago, I attended a
29 zoning conference where I learned a few things. I learned more
30 than a few things but, in any case, one of the classes I

1 attended — I have always been against spot zoning for a long
2 time, but there was a session I attended that talked about
3 zoning overlay. Zoning overlay is a technique that's being
4 used in many communities now where, if you have parcels of
5 land, for example, that are unique, where the current zoning
6 that's there doesn't allow you to take the attributes that that
7 land holds, communities are starting to use this more and more
8 because it does give you somewhat flexibility, especially in
9 our case, that if we were to rezone this land, we have a lot
10 more control over it based now, with the process we have in
11 line, where if he was just to take the land right now and
12 continue to develop it the way it is, these issues of flooding,
13 for example, and everything and sewers could still cause us
14 havoc and we basically can't do anything about it.

15 So with this consideration now, I think, we have a
16 lot more control where we can work with the surrounding
17 homeowners. We can see the process. We can go through, every
18 time it comes to us for additional approvals, we have that
19 control that we never had before.

20 So coming away from those classes, sort of, opened up
21 my mind a little bit more about what we can do for the township
22 and still make it a better place to live and also address
23 issues that we couldn't address before but now we can.

24 So I just wanted to bring that to everyone's
25 attention because I think your comments are well taken and I
26 understand what you are saying but now I see a strength that we
27 have now more that we never had before. And when something
28 like that, for example, if we were to vote in favor of it,
29 gives us that strength that we can make sure we can address
30 issues that would be brought up among the residents and, of

1 course, in the future for other development that we can get
2 involved with if we need to.

3 CHAIRMAN LINGENFELTER: Well, I think that's one of
4 the things, that's one of the, you know, that pro/con
5 circumstance that we're kind of put in here. That's one of the
6 things that I think as a pro, is that in an R-3 scenario, we do
7 have more control moving forward as far as, you know, the
8 process that's in place and making sure that things are done
9 the way you want them done, so we do. I agree.

10 That's one of the — As I said, there is pros and
11 there is cons going back and forth and, usually, it's a pretty
12 cut-and-dry process where, you know, one or the other, pretty
13 much, outweighs the other one and it's an easy decision. But
14 this one, for me, I think, is kind of a — we are just in an
15 awkward position as the Zoning Commission to make a decision on
16 this rezoning.

17 MR. SCHINDLER: Sure. I understand.

18 MR. McINTOSH: I would like to come back and say I
19 agree with your concern with respect to the zoning not fitting
20 the area. I have said it before. That's, kind of, my one big
21 hang-up and I struggle with that one, the Comprehensive Plan,
22 because being on this commission, you hear a lot about semi-
23 rural and the amount of flack that we have even gotten for
24 considering the RCD, as much as that has caused us drama.
25 It's the one thing that I am stuck on. I am not going to — I
26 said it before and I will say it again.

27 However, I, kind of, look at the fact that the Aria's
28 Way community has fallen in with it and I am looking at
29 bettering the situation with flooding. And that's probably one
30 of the things that pushes me over more towards favoring it.

1 Again, I am not a fan of the density as much. I agree, it
2 doesn't fit the area. It does fit over where Ryan's other
3 project is there, Gabriel's Edge.

4 It's a tough one and I still think seeing this go
5 forward, as far as development goes, I reluctantly would go
6 with the R-3. I wish we were in a situation that we were going
7 to develop it more within what's there, but my feeling, if we
8 can get moving with something that needs to be addressed sooner
9 than later, we go forward.

10 CHAIRMAN WENTZ: Larry, Rich, any comments?

11 MR. PETERSON: The only thing I would say is, as I
12 look at, it, too, I see your point and what you're saying. But
13 Aria's Way, to me, was a condo complex that was going to go in
14 there. It was going to be condos. We all knew it was going to
15 be condos. To me, this is a more desirable complex than a
16 condo complex. I know it's looking at it as an R-3. I look at
17 other R-3s on our zoning map there and we do have outposts of
18 R-3 at three different locations that are surrounded by R-1, so
19 I don't have a big concern there.

20 But I think, moving forward, I honestly feel the way
21 Ryan is proposing to do this, it's going to be an asset to the
22 community, so I don't really have a problem with it.

23 MR. WENTZ: I think we've agonized over this in a
24 variety of ways but I think we've also dealt with a, kind of,
25 problem piece of property in a way that's very specific,
26 targeted about that property and I think it will be better off
27 than having it the way it is. I think, for that reason, I am
28 for it.

29 Maybe it's not the optimum thing that would have
30 happened starting from scratch but we're not starting from

1 scratch. And if you turn left on 84 from there, it gets to be
2 pretty mixed in a hurry. So all things considered, I am fine
3 with it.

4 MR. MCINTOSH: I think another point that has
5 occurred to me as I am listening to everybody speak here, I
6 think the manner in which we have gotten here, I have heard a
7 number of my fellow Commission members say, is a constructive
8 way we have worked with the developer and the community. And I
9 think it's — I don't think, in any way, this is a precedent
10 for us to just concede R-3 zoning or high-density zoning across
11 the township, just, "Oh, the Commission is just going to go
12 ahead and grant this, you know, pro development."

13 We, most definitely, I feel, we have done some good
14 diligence here and we have — We could have voted on this last
15 month and we said no. We wanted assurances that we were going
16 to get what we wanted as far as — and I think still,
17 considering the strategic plan and the community, that's the
18 one thing that let's me say, I am comfortable going forward
19 without, you know — with not saying, "Hey, I would really
20 would rather that be R-1." But I don't think that we set this
21 up to the fact that we're going to have a whole slew of people
22 here, "Hey, let me get a rezone here." I just don't feel this
23 group is there, so that really, kind of, puts to bed some of my
24 concern.

25 We are faced with an issue like this in another part
26 of the township. I don't think this establishes a rubber stamp
27 by this group as far as just granting it R-1.

28 CHAIRMAN LINGENFELTER: Sure, Ryan.

29 MR. SOMMERS: If I could just make one last — I
30 think it's important — point. Driving by this parcel as

1 proposed, that we have before you, this plan is going to look
2 much more like R-1 than the previous plan that was R-1, if that
3 makes sense. Our proposed R-3 plan is going to look a lot more
4 like a single-family subdivision.

5 People aren't going to drive by and say, "Hey, that's
6 legally zoned R-3," but there is two-story homes, there is
7 ranch homes. It's going to look like a neighborhood, versus,
8 now, when they drive, it's R-1 but looks like a half-finished
9 condominium that most people know is bank owned. That's the
10 important point I want to make.

11 CHAIRMAN LINGENFELTER: Well, and, you know,
12 that's — When I look at this process, when I start, when I go
13 back to the beginning and I look at how it started, quite
14 frankly, I wasn't real enthused about the whole thing. I was
15 pretty, you know, I was pretty opposed to it from the — at the
16 beginning. And then as we start going through all the
17 processes and as I started hearing the concerns for the
18 citizens to be taken care of, and then I saw less and less
19 opposition, I started to feel a little better about everything.

20 And, you know, the things I threw out this evening
21 were, by no means, in support or in opposition to this
22 process. Just — I was just making sure that we were
23 considering everything and giving it to due diligence that it,
24 you know that it required. And I appreciate everybody's input
25 and I appreciate the consideration for this.

26 Michael, do you — Is there anything that you, at
27 this point, from a legal standpoint, that we need to flush out
28 that would require us to continue to keep this a public hearing
29 moving forward or can we move to close the process and consider
30 it?

1 MR. LUCAS: Yeah. I think you can — The only thing
2 I wanted to ask, actually, one of the condominium
3 representatives here, just so we have it on the record, the
4 development agreement that was presented by Mr. Monroe tonight
5 is the development agreement, at least in the substantially
6 similar state, that you're willing and have been authorized by
7 the association to agree to?

8 MR. WALICK: That is correct. There is only one
9 modification to the site plan that needs to be made,
10 repositioning of a couple units in the front, but the roadway
11 pattern and everything else remains as we approved.

12 MR. LUCAS: Okay. And, obviously, the development
13 agreement that was submitted, notwithstanding my nitpicking
14 about certain things —

15 MR. WALICK: Right.

16 MR. LUCAS: — that is substantially similar with
17 what you are in agreement with?

18 MR. WALICK: That is correct.

19 MR. LUCAS: Okay. I just wanted to have that on the
20 record.

21 MR. WALICK: We also have the amendments to the
22 declaration which incorporates the Phase 2 —

23 MR. LUCAS: Right.

24 MR. WALICK: — and the deed restrictions, so I think
25 we —

26 MR. LUCAS: Right.

27 MR. WALICK: — we are comfortable.

28 MR. LUCAS: Very good.

29 CHAIRMAN LINGENFELTER: And following that same
30 process, Michael, would we need to, if we make a motion in the

1 affirmative, would we need to — Let me think — would we need
2 to recognize or highlight those changes in the Declaration of
3 Covenants and the development agreement on those issues that
4 you found? Would we need to include or is that not to be —
5 does that not necessarily have to be a part of this?

6 MR. LUCAS: No. We want to make it part of this. I
7 think there was some discussion by Mr. Monroe about
8 interlineating right here and that. I want to talk to John a
9 little bit about some of the tweaking I think is needed, just
10 from a grammatical and clerical standpoint and that, and I
11 don't think we need to sit here and have it interlineated.

12 I think what we want to do is indicate what, when we
13 close the public hearing, if someone is going to make a motion
14 to approve the rezoning application of Ryan Sommers for this
15 particular area from the R-1 to the R-3, but we also want to
16 say "subject to the additional restrictions proposed by the
17 application in a form substantially similar to the Declaration
18 of Covenants and Restrictions that were presented here tonight;
19 and, secondly and independently, the submission of a signed and
20 finalized development agreement between Aria's Way Condominium
21 Homeowners' Association and Concord Partners, LLC, in a form
22 substantially similar to what they have presented here
23 tonight."

24 So, that way, when it's time for the Trustees to
25 consider it, there will be a fully executed document, properly
26 typed and that, and signed and submitted because that's going
27 to be a condition of the rezoning as proposed by the
28 applicant. In the meantime, we are not delaying the process in
29 terms of moving forward, subject to your vote, of course.

30 And then, secondly and independently, I am

1 comfortable, you know, in terms of saying "a substantially
2 similar form to what was presented here tonight and subject to
3 what we discussed," so that's how I think you should proceed in
4 terms of making the motion.

5 And to go back, in a long-winded way, to answer your
6 question, I think you can close the public hearing if you want.

7 CHAIRMAN LINGENFELTER: I am glad I am not the one —

8 MR. SCHINDLER: Did you guys get that?

9 CHAIRMAN LINGENFELTER: I am glad I am not the one
10 that's going to make the motion.

11 MR. LUCAS: You better make that motion correctly,
12 too, or I will be on you, as Frank would say, like you know
13 what.

14 MR. SCHINDLER: I hope somebody was taking notes.

15 CHAIRMAN LINGENFELTER: Yes. At this point, then,
16 with all — Yes?

17 AUDIENCE MEMBER: I just have one question. What's
18 the price range of the cluster homes that you are proposing to
19 build? I mean, I don't want my neighborhood to go down in
20 value, basically.

21 MR. SOMMERS: I, actually, had brought some unit
22 plans that are exhibit to — some unit renderings, I should
23 say, elevation renderings — that are what we think we would
24 build there and I can share those with you and give you a
25 copy. We think they'll start — and this is a rough range —
26 but 200 to 250 thousand, they would start. So we don't feel
27 like they would be much lower than, you know, what has sold
28 there.

29 And, for instance, what we sold at Gabriel's Edge,
30 which is probably going to be a smaller product, our average

1 sale price there — and we've sold about, close to 20 over the
2 last year and a half or year, really — is \$205,000, and those
3 are smaller ranches. So we think it would be more than that,
4 which we think fits well in the neighbor, fits well in Aria's
5 Way. That's an estimate.

6 AUDIENCE MEMBER: And what square footage are we
7 starting at, and what's the high range?

8 MR. SOMMERS: Well, a ranch, which would probably be
9 one of the smaller plans, start, like, at around 1,400 square
10 foot for a ranch, which is only a one-story plan. And then I
11 can imagine — again, these are estimates because it's pretty
12 far down — but the low 2,000s, up to 25, 3,000. I don't
13 envision many 3,000s — that's a pretty big plan for this
14 footprint — but mid 2,000s for square footage. All two-car
15 garage, probably some three-car.

16 CHAIRMAN LINGENFELTER: Okay. Everything under
17 consideration, I would like to entertain a motion that we close
18 the public hearing.

19 MR. WENTZ: Mr. Chairman, I move that we close the
20 public hearing.

21 CHAIRMAN LINGENFELTER: All in favor, say I.

22 (Five aye votes.)

23 CHAIRMAN LINGENFELTER: Opposed?

24 (No nay votes.)

25 CHAIRMAN LINGENFELTER: Unopposed. The public
26 hearing is now closed. Is there anything that would prevent us
27 from moving forward to a vote this evening? I don't hear
28 anything. All right. At this point, I would entertain a
29 motion in the affirmative to the zoning — for the rezoning
30 application that's in front of us, keeping in mind that we need

1 to incorporate those changes and comments that Mike
2 recommended.

3 Mike, why don't you just go ahead and make the
4 motion?

5 MR. LUCAS: Well —

6 MR. SCHINDLER: Can we have the stenographer just
7 read it back? That way, we can —

8 MR. LUCAS: I mean, here, the motion should be a
9 motion to approve the Zoning Amendment Application 0909-132 by
10 Ryan Sommers, for permanent parcel 08A-31C-1 and 10A-31C-8,
11 located at the corner of Prouty Road and State Route 84, from
12 its current R-1 Residential District classification to the R-3
13 Multi-Family District for single detached cluster dwelling
14 project, subject to the additional restrictions proposed by the
15 applicant, as set forth in the Declaration of Covenants and
16 Restrictions that were presented here tonight and in a form
17 substantially similar to that presented; and, secondly and
18 independently, the submission of a finalized development
19 agreement between Aria's Way Condominium Homeowners'
20 Association and Concord Partners, LLC, in a form substantially
21 similar to what was presented here tonight to the Commission,
22 with the expectation that the finalized two documents will be
23 presented for consideration by the Trustees at the time of
24 their public hearing.

25 MR. SCHINDLER: I second that.

26 MR. LUCAS: Well, someone has got to —

27 CHAIRMAN LINGENFELTER: We need to say it.

28 MR. LUCAS: Yeah. Just say — I think you are fine
29 to say —

30 MR. WENTZ: That is the motion I would like to make,

1 probably, because it is, most likely, the longest motion on
2 record.

3 MR. LUCAS: Well —

4 MR. SCHINDLER: But it covers all our —

5 MR. LUCAS: I don't want to short-change you in my
6 legal representation.

7 CHAIRMAN LINGENFELTER: So I have a motion made and I
8 would like a second.

9 MR. McINTOSH: Mr. Chairman, I would like to second
10 that motion.

11 CHAIRMAN LINGENFELTER: We've had a motion made and
12 seconded. Kathy, would you call the roll?

13 MS. MITCHELL: Mr. Wentz?

14 MR. WENTZ: Yes.

15 MS. MITCHELL: Mr. McIntosh?

16 MR. McINTOSH: Yes.

17 MS. MITCHELL: Mr. Schindler?

18 MR. SCHINDLER: Yes.

19 MS. MITCHELL: Mr. Peterson?

20 MR. PETERSON: Yes.

21 MS. MITCHELL: Mr. Lingenfelter?

22 CHAIRMAN LINGENFELTER: Yes. Okay. The motion
23 carries anonymously. Good luck, gentlemen.

24 MR. SOMMERS: Appreciate your support.

25 CHAIRMAN LINGENFELTER: Thanks for your time and we
26 will see you again. Can we take a brief recess, Ed? Let's
27 take a brief recess, let everybody clear out and we will tackle
28 the next hearing.

29 (Short break.)

30 CHAIRMAN LINGENFELTER: Okay. Now that we've had a

1 short recess, we're on to number — Item Number 2 on the agenda
2 this evening, which is the continuation of the public hearing
3 for the following proposed text amendments for the Concord
4 Township Zoning Resolution, as recommended. And it's basically
5 just two amendments that are left out of — what was it —
6 seven or eight that we did already, and we will go through
7 those.

8 Amendment Number 1 is Section III, Enforcement, and
9 that would be, under (a), eliminating the existing text created
10 in 1955 pertaining to enforcement action and expand on
11 enforcement procedures. The current process is not spelled out
12 in the text, including written notification of violations and
13 establishing the time period for corrective action. Adding
14 language requiring information on the appeals process provided
15 in notification letters is recommended by the Lake County
16 Planning Commission.

17 And Section (b), to add section titles and expand the
18 chapter heading.

19 So let's tackle Amendment Number 1, Section III,
20 Enforcement, first, and then we can move on to Amendment 2.
21 Any discussion? Kathy, would you like to highlight what was
22 done? I know you —

23 MS. MITCHELL: At the last meeting, since there were
24 some comments made by the Lake County Planning Commission which
25 you read into the record, and specifically, in the
26 notifications that we give to the violator, or the alleged
27 violator, that there be language added to that notification
28 provision that we advise them of their right to appeal. We had
29 actually done that in the final notice section, Item (b), but
30 we hadn't identified that in Item (a), so I revised the

1 language and I actually made the language the same for both
2 sections, just reiterating that it would be stated twice every
3 time or every time notice is sent.

4 CHAIRMAN LINGENFELTER: Right. Did we get any
5 comments from the Lake County Planning Commission on these
6 changes that took place?

7 MS. MITCHELL: They didn't see those changes.

8 CHAIRMAN LINGENFELTER: They didn't see these?

9 MS. MITCHELL: No.

10 CHAIRMAN LINGENFELTER: Okay. So we would have to
11 assume that they would be in favor of them. Any comments from
12 the Commission? Is there anyone in the audience that would
13 like to speak in favor or in opposition? Okay. Then I'll
14 entertain a motion in the affirmative that we accept Amendment
15 Number 1 for Section III, Enforcement, in the affirmative,
16 please.

17 MR. WENTZ: Mr. Chairman, I move that we accept
18 Amendment 1 for Section III, Enforcement, as presented.

19 CHAIRMAN LINGENFELTER: And the second?

20 MR. PETERSON: Second.

21 CHAIRMAN LINGENFELTER: We have a motion made and
22 seconded. Kathy, do you want to call the roll?

23 MS. MITCHELL: Mr. Schindler?

24 MR. SCHINDLER: Yes.

25 MS. MITCHELL: Mr. Peterson?

26 MR. PETERSON: Yes.

27 MS. MITCHELL: Mr. McIntosh?

28 MR. McINTOSH: Yes.

29 MS. MITCHELL: Mr. Wentz?

30 MR. WENTZ: Yes.

1 MS. MITCHELL: Mr. Lingenfelter?

2 CHAIRMAN LINGENFELTER: Yes. Okay. That's four ayes
3 (sic.), zero nays on Amendment Number 1.

4 Amendment Number 2, which is the Section XI, Zoning
5 Permit, to, (a), expand and clarify zoning permit requirements,
6 when required, in Section 11.03. Make grammatical changes as
7 recommended by the Lake County Planning Commission.

8 (b) Clarify zoning permit application requirements in
9 11.04 by adding reference to site plan review.

10 (c) Eliminate Section 11.05, which is a duplicate of
11 Section 11.04.

12 (d) To eliminate Section 11.09, which is not the
13 correct procedure for reducing lot size due to access to public
14 sewer and water. Conditional Use Permit is not required, as
15 referenced in this section.

16 Letter (e), to eliminate Section 11.13 that requires
17 a deposit at the time of application for zoning permit,
18 establish under Resolution 84-6. The resolution for this
19 deposit was voted to be eliminated on June 21st, 1990, by the
20 Trustees at a regular meeting.

21 And (f) Delete the procedure for a proposed zoning
22 amendments in Section 11.14, which does not relate to this
23 chapter on zoning permits.

24 Kathy, would you like to tell us what you did?

25 MS. MITCHELL: Well, the additional changes can be
26 found in 11.01. They were grammatical changes as recommended
27 by the Planning Commission in their May 26 letter.
28 Specifically, they were added to Items (a) and (b) and they
29 were, in fact, grammatical changes.

30 The second item was in Section 11.14. We have just

1 eliminated that section altogether because it pertains to
2 zoning amendments and that is not the subject of this chapter.

3 CHAIRMAN LINGENFELTER: Okay. Anybody in the
4 audience who would like to speak in favor or in opposition of
5 these changes? What about anybody on the Commission?

6 MR. WENTZ: Mr. Chairman, I move we accept Amendment
7 Number 2 as presented.

8 CHAIRMAN LINGENFELTER: Okay. I have a motion made.

9 MR. McINTOSH: Second.

10 CHAIRMAN LINGENFELTER: Motion made and seconded.

11 Kathy, would you call the roll on this?

12 MS. MITCHELL: Mr. Peterson?

13 MR. PETERSON: Yes.

14 MS. MITCHELL: Mr. Wentz?

15 MR. WENTZ: Yes.

16 MS. MITCHELL: Mr. McIntosh?

17 MR. McINTOSH: Yes.

18 MS. MITCHELL: Mr. Schindler?

19 MR. SCHINDLER: Yes.

20 MS. MITCHELL: Mr. Lingenfelter?

21 CHAIRMAN LINGENFELTER: Yes. Four ayes (sic.) and
22 zero nays.

23 With all those, with that under consideration, is
24 there anything else to be discussed with regards to these
25 amendments as they are at this point in time on this public
26 hearing? Okay. I will consider the public hearing closed at
27 this point. I'll take a motion to close the public hearing.

28 MR. SCHINDLER: Mr. Chairman, I so move that we close
29 the public hearing on these amendments.

30 MR. PETERSON: Second.

1 CHAIRMAN LINGENFELTER: Motion made and seconded.

2 All in favor, say aye.

3 (Five aye votes.)

4 CHAIRMAN LINGENFELTER: Opposed?

5 (No nay votes.)

6 CHAIRMAN LINGENFELTER: None opposed. Okay. I think

7 we're, pretty much, since we voted on each amendment

8 individually, Kathy, I think we're good to go, right? We've

9 got all — Everything now is done. Okay.

10 Item number 3 on the agenda this evening is the
11 correspondence report by the Zoning Commission numbers. Frank?

12 MR. SCHINDLER: Mr. Chairman, no report from me.

13 CHAIRMAN LINGENFELTER: Morgan?

14 MR. McINTOSH: No.

15 CHAIRMAN LINGENFELTER: Larry?

16 MR. WENTZ: Nothing.

17 CHAIRMAN LINGENFELTER: Rich?

18 MR. PETERSON: Nothing.

19 CHAIRMAN LINGENFELTER: Nothing from me either.

20 Okay — either, either, either/neither.

21 And our next regularly-scheduled Zoning Commission
22 meeting will be —

23 MS. MITCHELL: August 3rd.

24 CHAIRMAN LINGENFELTER: — August 3rd. Any items

25 that we would like to have in consideration?

26 MR. SCHINDLER: Approval of minutes.

27 CHAIRMAN LINGENFELTER: Yes. We have to approve the

28 minutes, which I thank you, Frank.

29 MS. MITCHELL: We do have an application for site
30 plan review which you will be receiving and that will be under

1 consideration.

2 CHAIRMAN LINGENFELTER: All right. Let's get the
3 approval of the minutes.

4 MR. WENTZ: I move we approve the minutes of the
5 June 1 meeting.

6 CHAIRMAN LINGENFELTER: Second?

7 MR. SCHINDLER: I second, Mr. Chairman.

8 CHAIRMAN LINGENFELTER: Motion made and seconded.

9 All those in favor, say aye.

10 (Five aye votes.)

11 CHAIRMAN LINGENFELTER: Opposed?

12 (No nay votes.)

13 CHAIRMAN LINGENFELTER: None opposed. Motion made

14 and carried.

15 The next regularly-scheduled meeting is August 3rd.

16 This meeting is adjourned.

17 (The meeting was adjourned at 8:21 p.m.)

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1 STATE OF OHIO)
2) CERTIFICATE
3 COUNTY OF CUYAHOGA)
4

5 I, Melinda A. Melton, Registered Professional
6 Reporter, a notary public within and for the State of Ohio,
7 duly commissioned and qualified, do hereby certify that, to
8 the best of my ability, the foregoing proceeding was reduced
9 by me to stenotype shorthand, subsequently transcribed into
10 typewritten manuscript; and that the foregoing is a true and
11 accurate transcript of said proceedings so taken as
12 aforesaid.
13

14 I do further certify that this proceeding took
15 place at the time and place as specified in the foregoing
16 caption and was completed without adjournment.
17

18 I do further certify that I am not a friend,
19 relative, or counsel for any party or otherwise interested
20 in the outcome of these proceedings.
21

22 IN WITNESS WHEREOF, I have hereunto set my hand and
23 affixed my seal of office this 26th day of July 2010.
24
25
26
27

28 _____
29 Melinda A. Melton
30 Registered Professional Reporter

31 Notary Public within and for the
32 State of Ohio
33

34 My Commission Expires:
35 February 4, 2013
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