

CONCORD TOWNSHIP ZONING COMMISSION
LAKE COUNTY, OHIO
MEETING

Concord Town Hall
7229 Ravenna Road
Concord, Ohio 44077

December 6, 2011
7:00 p.m.

TRANSCRIPT OF PROCEEDINGS

Commission members present:

Morgan McIntosh, Chairman
Richard Peterson, Vice Chair
Andrew Lingenfelter
Frank Schindler
Francis Sweeney

Also Present:

Kathy Mitchell, Zoning Inspector/Secretary

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

7:00 p.m.

CHAIRMAN McINTOSH: Good evening. I would like to call the Concord Township Zoning Commission meeting for Tuesday, December 6, 2011, to order. A short agenda this evening. We have a continued review of the amended site plan for Application Number 18, Aria's Way Condominiums, Phase III and Phase IV, for a proposed single detached cluster dwelling development at the corner of Johnnycake Ridge and Prouty Road, PPN 08A-31C-1 and 10A-31C-8. In accordance with Section 36.06 G of the Concord Township Zoning Resolution, any alterations to an approved site plan shall be submitted to the Zoning Commission for the purpose of amending the approval.

Who do we have here this evening to represent the builder?

MR. KEENEY: My name is Dustin Keeney, with Polaris Engineering and Surveying.

CHAIRMAN McINTOSH: Do you swear to tell the truth and the whole truth?

MR. KEENEY: Sure.

CHAIRMAN McINTOSH: Okay. Go ahead.

MR. KEENEY: I am here on behalf of the Concord Partners. And, actually, a representative of the ownership is supposed to be here. He must be running a few minutes late, so I'll get started.

We were here at the last meeting trying to get, I guess, the amendment to the original approval as the emergency access to State Route 84 for the sake of fire and rescue and emergency access. I do have — And I apologize that I did not have this prior but the ownership did meet with the existing homeowners' association. Unfortunately, that meeting did not

1 happen until Sunday night. I personally wasn't at the
2 meeting. Hopefully, the owner will show up and be able to
3 explain what happened at the meeting, but I do have an e-mail
4 from Bob Walick, from the homeowners' association, that I would
5 like to distribute to you folks.

6 MS. MITCHELL: I did give them copies.

7 MR. KEENEY: Oh, you did.

8 So it is my understanding — I know one of the
9 concerns of the board the last time we were here was the fact
10 of whether the existing homeowners were in agreement or on
11 board with what was happening. They did have a meeting and
12 discuss the alternatives, and my understanding, the board or
13 the association did vote to accept the plan contingent upon
14 your approval.

15 The plans have been submitted formally through ODOT.
16 Actually, that submittal took place on October 13th.
17 Unfortunately, as of this evening, we don't have a formal
18 approval through ODOT. And I made a couple phone calls. I'm
19 not sure just, procedurally, how long that will take but we
20 have gone through the steps of making an official submittal for
21 the emergency access and the approval through ODOT.

22 Unfortunately, without the owner here, I don't
23 have —

24 CHAIRMAN McINTOSH: So what you're saying, what
25 you're telling us is that the homeowners have approved what you
26 have on the board and what we were presented last month with
27 the modified emergency access —

28 MR. KEENEY: Correct.

29 CHAIRMAN McINTOSH: — from the development onto
30 Route 84?

1 And I know one of the questions we had last month was
2 what the issue had become with respect to why needing the
3 access off — The original site plan that we approved back in
4 May or whenever that was, about the widened access, that was a
5 question we were seeking an answer to.

6 MR. KEENEY: Sure.

7 CHAIRMAN McINTOSH: Do you have an answer for us?

8 MR. KEENEY: The owner can probably give a better
9 answer. My understanding of it, the biggest concern with the
10 existing homeowners was the fact of the, in their mind, a
11 larger gate meant more maintenance, more fees, more costs, more
12 future long-term maintenance because it was a wider access,
13 more to take care of. And that was their, my understanding,
14 that was their big sticking point was just the future and the
15 long-term maintenance and the costs of the gate. Beyond that,
16 unfortunately, I don't know any more.

17 MR. PETERSON: Dusty, is there any estimate of the
18 maintenance that it will take to keep that access drive, as
19 shown there, open and maintained?

20 MR. KEENEY: On a yearly basis, no. I know there
21 would be plowing and, obviously, maintenance of keeping the
22 aggregate in place. As far as costs, I don't know.

23 MR. PETERSON: Okay.

24 CHAIRMAN McINTOSH: So at this time, the only plan
25 that you're proceeding forward with is the plan that has the
26 route access — or the emergency access drive onto 84? There
27 is no further discussion then as to the original plan or that
28 remains a stopping point between you and the homeowners?

29 MR. KEENEY: And the existing owners, correct. At
30 this point in time, my understanding is they do not want to

1 widen the existing entrance, increase the size of the gate and
2 the entrance, so —

3 MR. PALMIERI: I am sorry I came late. I apologize.
4 I am the developer, Dino Palmieri.

5 CHAIRMAN McINTOSH: Could you please state your name
6 and address for the record?

7 MR. PALMIERI: Dino Palmieri 70 Falls Street,
8 Moreland Hills.

9 CHAIRMAN McINTOSH: Do you swear to tell the whole
10 truth and nothing but the truth?

11 MR. PALMIERI: Yes.

12 I have the e-mail from — I had homeowners'
13 association meeting two nights ago. Bob is the president and
14 we met at his house, and he give us this e-mail to everybody.

15 MR. SCHINDLER: Yeah. We have it.

16 MR. PALMIERI: Oh, you have one?

17 MR. SCHINDLER: Yeah. That's okay.

18 CHAIRMAN McINTOSH: I think we have a copy.

19 MR. PALMIERI: I am not prepared. It is my fault.

20 In that meeting, we discussed — Because last year —
21 this year, in June, we tried to get them to make the gate
22 bigger. And I think, going forward, their — And you can
23 verify with them. He could not make it tonight because he had
24 to travel for business. He would love to meet here.

25 But their reason for not wanting the gate widened —
26 because we were willing to do that and pay for it — it's the
27 long-term will break more, you know, will be a lot more
28 maintenance and then it will be broken and then will not be
29 usable.

30 So we cooperated with them, says, "Okay. We are

1 going to build the road." It will cost us more money but it
2 will be best. Even though there is only 8 residents in the
3 condominium association, you got to get everybody approval and
4 that's been the difficult part. They voted on it in front of
5 me and everybody was in agreement.

6 So that was the reason why they didn't want a wider
7 gate. And I know this came up at the last meeting and I wasn't
8 here. They wanted, basically, long-term maintenance and it is
9 broken all the time.

10 They doing some repairs to the gate. They gonna make
11 sure that it's got all new technology that's going to be by
12 telephone. They gonna do it with a pad. But it's a nice
13 feature to have a gate, but I've also built houses in
14 Barrington where there is wider gate and they broke all the
15 time — not all time but it is a lot more maintenance.

16 MR. PETERSON: I think our three concerns were,
17 number one, the residents, which sounds like they're okay with
18 this; number two is ODOT approval; and thirdly would be, is it
19 acceptable to the Fire Department? And I believe — Do we know
20 that?

21 MS. MITCHELL: I guess I would refer to the addendum
22 to the staff report submitted at the last meeting. They want
23 some guarantees that if — aside from waiting, also, on the
24 comments from ODOT — that they would be assured year-round
25 maintenance of that emergency roadway. They didn't want it to
26 be just gravel. They wanted to have it plowed and maintained
27 so that there was always, at any point in time, access to it.

28 We've had a couple of other instances in the township
29 where they had a private drive that was an emergency access
30 only. It was grassed over and it was never properly maintained

1 and then they eventually abandoned it, so it never served its
2 true purpose. So they wanted some guarantees, whether
3 something was put into the development agreement and/or they
4 verbally agreed, maybe as a condition to this amended approval,
5 that there would be a more permanent improvement to that drive
6 and that there would be an agreement of year-round maintenance.

7 MR. PALMIERI: It doesn't reflect on this e-mail that
8 I got from him but it was discussed and it was their
9 understanding and it was very clear that this — it is going to
10 be maintained all year round. Most importantly, I think, is
11 for the snowplowing, even though, like I said, it is going to
12 have to be asphalt. I think it is only —

13 MR. KEENEY: At this point in time, it is proposed to
14 be an aggregate.

15 MR. PALMIERI: Aggregate. I think that their concern
16 was more like, what happened if you didn't use it? You know,
17 people can just come in and out of there. And that could be
18 addressed, I think, by just having, you know, a wood over, you
19 know, like that, you know? Then people would not just go,
20 especially a car. It is not necessarily a closed gate, that
21 the fire department can come in and just come right through it.

22 CHAIRMAN McINTOSH: So you're saying that you're
23 proposing, with respect to the Fire Department then, you're
24 proposing an aggregate base per ODOT requirement?

25 MR. KEENEY: Correct. Our initial submittal, we
26 actually — Our initial submittal had an inch of topsoil, more
27 for the aesthetic, and grass over top. After we received the
28 comments from the Fire Department, the submittal that did go to
29 ODOT proposes aggregate all the way to the surface, so it will
30 be a — It will be a dedicated and obvious drive to the width

1 that the Fire Department requested per ODOT specifications.
2 There will be a gate. There are notations that have been added
3 to the plans, as per the Fire Department's request, as far as
4 the, you know, it's a lock box and their access. So that it
5 will not be —

6 Because that was one of the maintain concerns
7 initially, months and months and months ago, from the ODOT
8 standpoint, that they did not want to see this as a cut-through
9 for the sake of additional traffic on 84. So it would purely
10 be an access that, obviously, is maintained by the snowplow
11 folks and the maintenance folks but the only other access would
12 be through the requirements of the Fire Department.

13 MR. LINGENFELTER: Can you define "aggregate"?

14 MR. KEENEY: What we're proposing is a 304, which is
15 an ODOT —

16 MR. PALMIERI: Asphalt mix.

17 MR. KEENEY: Right. It doesn't have the binder that
18 asphalt does but it's a stone, it's a limestone-based material
19 that is a mix of 57s and little finer material but it is
20 stone. I believe it's a 6-inch stone. I mean, it's a pretty
21 heavy duty section.

22 MR. PALMIERI: It has to hold the traffic of the same
23 amount.

24 MR. KEENEY: Correct.

25 MR. PALMIERI: So the fire department truck.

26 MR. KEENEY: So the specification is an ODOT
27 specification.

28 MR. LINGENFELTER: Right. How does that hold up to
29 snowplowing?

30 MR. KEENEY: I suppose, if the snowplows push the

1 aggregate — Once it's compacted, it holds up very, very well.
2 Initially, within the first year, if they push some off, it
3 would probably need to be retopped or, potentially, need to be
4 retopped.

5 MR. LINGENFELTER: Who is going to do that?

6 MR. PALMIERI: It's probably going to be in the
7 agreement.

8 MS. MITCHELL: The development agreement?

9 MR. PALMIERI: We gonna redo the development
10 agreement and if we can put that in there, that mean everybody
11 is going to be happy with that, that it is going to be ongoing
12 maintenance just like they will maintain the road. They have
13 to maintain that just like they maintain the private road.

14 MR. LINGENFELTER: Why not make it an impervious
15 surface like asphalt, concrete?

16 MR. PALMIERI: I think, at the time, it is not
17 necessarily to save money because you can do 6-inch of this
18 304. It is not necessarily cheaper material. But I think it
19 is like to discourage people from coming in and using it as a
20 road, even though it is — there is pole that it's got the
21 thing in, you can have someone coming home or get lost or get
22 drunk or just drive into it.

23 MR. LINGENFELTER: Well, my concern is degradation.
24 Okay? And after you're done developing and you've moved on,
25 the people that are left there, they're going to be held
26 responsible to maintain. Okay? And my concern is that, when
27 you use an aggregate material, that the snowplows push it
28 around and push it off and it ends up becoming a grassy area
29 instead of a road again at some point. They're going to be
30 responsible for footing the bill to make sure that it's taken

1 care of properly.

2 I would be more in favor of seeing some sort of a
3 more permanent material, like an asphalt or concrete, so that,
4 moving forward, the homeowners don't get saddled with
5 maintaining a poorly designed road to begin with. I think it
6 would be better for the homeowners long term and fairer for
7 them. You know, I am just — I see those kind of situations
8 where it works initially and then three, four years, five years
9 from now, it's really starting to degrade. You guys are gone.
10 They're going to be stuck with it and they've got to fix it and
11 that's not cheap. Then they get —

12 MR. PALMIERI: It just doesn't come from us. I wish
13 Bob was here, the president. He can speak for himself.
14 Because I understand what you are saying. It was discussed the
15 other night. I am the developer. I'll be gone. And they want
16 to make sure, in the homeowner, you know, in the new guidelines
17 that we're going to have, they're going to have involvement,
18 the homeowner.

19 MR. LINGENFELTER: But Aria's Way has their own
20 homeowners, right?

21 MR. PALMIERI: We're going to change that.

22 CHAIRMAN McINTOSH: Is it going to be one association
23 or two?

24 MR. PALMIERI: One.

25 CHAIRMAN McINTOSH: So it's all, when this gets done,
26 all phases will be rolled into one?

27 MR. PALMIERI: Exactly. So I had to have — The
28 condominium association, you have to have unanimous approval,
29 so this will be spelled out as well. And long-term was
30 discussed. It's cheaper to, say, every year, put a load of 304

1 on that — say you need that every year or arrange it, the
2 304 — than putting asphalt every five years. It could be more
3 of a maintenance. If you don't have money to put asphalt in,
4 it looks a lot worse to me, but that's a decision that you guys
5 would have to — you know, if they are willing to put it in the
6 agreement that they've got to maintain it, just like they
7 maintain the private road, you know, the asphalt long term will
8 cost them more money.

9 CHAIRMAN McINTOSH: I want to come back to the gate
10 issue for a minute here. So what you are saying is they're
11 going to put a functioning gate? Because I drive by it. I
12 don't see that they close the gate there. That development
13 must know —

14 MR. PALMIERI: It is broken.

15 CHAIRMAN McINTOSH: Okay. So it is not in operation
16 presently.

17 MR. PALMIERI: Yes.

18 CHAIRMAN McINTOSH: Okay.

19 MR. PALMIERI: We are going to make sure that thing
20 is going to be up.

21 CHAIRMAN McINTOSH: So the idea is this is going to
22 be a gated — this whole thing will be gated. And then I was
23 reading something, so please refresh me. What is going to be
24 the, the gate or something on the access, the fire access?
25 Were you going to put something there?

26 MR. PALMIERI: Describe it, if you can.

27 MR. KEENEY: Sure. The notes here have been
28 specifically requested as per the Fire Department and they have
29 been included as part of the plan that the fire apparatus road
30 shall be maintained to support the imposed loads of fire

1 apparatus so as to provide all-weather driving capabilities,
2 including snowplowing. The minimum access gate shall be 20
3 feet and be of a swing or sliding type. Construction of the
4 gate shall be of materials that allow manual operation by one
5 person and be maintained in an operative condition at all times
6 and replaced or repaired when defective. Manual operating gate
7 shall be required — or secured with a Knox lock and electric
8 opening gate shall be equipped with a click-to-enter opening
9 device.

10 So those were the specific requests of the Fire
11 Department that have been specifically added to the plan.

12 CHAIRMAN McINTOSH: The question that's hanging in my
13 mind at this point is I'm looking at the fact that you're going
14 to have two gates to maintain now. The association is going to
15 have two gates to maintain. If you're not talking about — You
16 guys are developers. I am not going to — you know, aggregate,
17 whatnot, concrete road. I mean, concrete is going to have to
18 have surface treatment on that at some point as well, so it's
19 not like it is maintenance free. And I don't know which one is
20 more costly over the long term.

21 I am looking at this thing. And if the major
22 objection, right off the front, is a larger gate at the
23 entrance and now you are looking at the two gates that you're
24 looking at that has to be maintained, so when that breaks or
25 gets — There is no waiting. They're going to have to fix
26 that, you know, for the Fire Department.

27 So there is two gates versus one large gate, and I
28 don't know how that zeroes out in the long run as far as cost
29 goes.

30 MR. PALMIERI: Their logic — And, again, I speak for

1 them and I spent a lot of time talking to them the other
2 night — is that the smaller gate gets used every day versus
3 this is going to get used very seldom and they're willing to do
4 that. I mean, you are welcome to verify with Mr. — Bob, the
5 president, but I have a long discussion with all of them
6 because I gotta get everybody on board.

7 CHAIRMAN McINTOSH: I understand. And I think — I
8 just moved out of a condo development here in Concord and it is
9 getting up there in years. Some of the developed units I am in
10 now are getting 15 to 20 years old and I am familiar with the
11 long-term costs. You start to look at this stuff and, all of
12 the sudden, you've got roofs and siding and concrete.

13 And when I look at a lot of the people that moved
14 into those smaller units around here, a lot of folks that are
15 retired, fixed income people or single people on small — you
16 start talking, "Hey, we've got an assessment here, \$2,000
17 assessment," you know, I went to a couple meetings and it's —
18 the money is not there and people belly ache and scrutinize.

19 And I am looking at this. You are saying, "Hey, here
20 is an issue." You are telling us as a developer — And as you
21 said, we all agree you're going to walk away at some point and
22 they're going to be stuck with these. And I don't know what
23 the price point is that we're looking at here but I am just
24 looking at this, the infrastructure, and that's going to be a
25 cost. And all of the sudden, we're talking public safety here
26 and it becomes a burdensome thing and I understand.

27 But I'm — I mean, that's just the two issues here.
28 That's a regular maintenance thing that I just feel, at some
29 point, is going to become an issue and that's something that I
30 think we have to consider.

1 MR. PALMIERI: We would definitely, as a developer,
2 be happy to enlarge the gate. That was definitely our first
3 choice. If you look at it logically, it makes sense for us.

4 CHAIRMAN McINTOSH: Right.

5 MR. PALMIERI: But after long discussion — This is
6 going on since May, June.

7 CHAIRMAN McINTOSH: Yes.

8 MR. PALMIERI: And now after I heard from all of
9 them, they felt that, exactly what we described, that adding
10 the secondary gate was better for them. The wider gate, we put
11 in \$6,000 or \$7,000 into the gate to make it operable because
12 it is not operable right now. So it was driven by the
13 residents. And I had the same concern. I had the same
14 question. Like you said, they maintained the — That road is
15 privately maintained.

16 And with the new subdivision, as long as the
17 association provides for a reserve, let's hope that there is
18 enough money there and they don't give it to some association
19 that steals money, which that happened, too, in the past.

20 CHAIRMAN McINTOSH: Just speaking from personal
21 experience with a couple of associations, as you say, it would
22 be nice. But the reality is these things happen, somebody
23 swipes some cash and the association ends up — it is all too
24 common. So the association, in 10 to 15, 20 years, it is not
25 uncommon for them to be in a pinch on money. Or they don't
26 raise their dues and, all of the sudden, "Hey, gees, our cost
27 has gone up and we've got to do roofs and roads and stuff and,
28 all of the sudden, gee, we've only collected 150 bucks a month
29 from everybody and it's not enough."

30 I look at it from the standpoint of looking at the

1 association and saying, "Hey, they might be in a hardship and
2 this is a problem." Again, I am looking at it from the
3 standpoint of the township. Down the road, these people become
4 in a spot and then we have these requirements and public safety
5 matters. We're setting forth the conditions that can be a
6 problem.

7 MR. PALMIERI: No. I understand. I think right now
8 even the discussion the other night, since there is only 8
9 residents, there is more liability on them versus having 38.

10 CHAIRMAN McINTOSH: More, right.

11 MR. PALMIERI: It is going to be 30. There will be a
12 lot more money to be assigned to the association. And,
13 obviously, infrastructure, we're going to put it all in now.
14 And with the Fire Department which, usually, they — I mean, we
15 have to comply with them.

16 MR. LINGENFELTER: What about the drainage issue in
17 the back? What's been done with that? Has anything been done
18 with that yet?

19 MR. KEENEY: Well, as part of the design, that has
20 all been submitted and approved through the county engineer.
21 They've reviewed it and I know one of the stipulations is that
22 that infrastructure goes in prior to any building permits being
23 released. So we're still willing to agree to that stipulation
24 as per the county requirements.

25 CHAIRMAN McINTOSH: Given the time of year we're at
26 now, if we're to do something like this, what's your timeline
27 on the project? When would you begin to address these drainage
28 issues? Because, from what I understand, we're having a wet
29 fall and we can expect this to last into the spring, is what I
30 am starting to hear. I know that this has been one of our

1 primary reasons for trying to be accommodating to someone to
2 get this done. What's your timeline on dealing with that?

3 MR. PALMIERI: As soon as we get approval, we get to
4 work on it right away. Even if it is wintertime, hopefully, it
5 freezes. The work out should be easier if you're doing that.
6 Right now, you couldn't do anything. It would be a mess.

7 CHAIRMAN McINTOSH: Right. It's too wet.

8 MR. PALMIERI: The complaint to the residents the
9 other night, because there is pipes that — The previous
10 developer left pipes everywhere. And this was designed to be a
11 retirement community of empty nesters but there is a lot of
12 kids there. There's three or four family with kids. So most
13 likely, with the single-family, there will be a lot more kids.

14 And their concern was — They says, hey — They're
15 addressing it to me. They say, "When you come in, you know,
16 make sure that you clean all the mess back there because there
17 is a lot of holes there." And where those concrete casting
18 are, you know, I said they're going to be using. It depends on
19 the design and some of them might not be reusable but we have
20 to clean it up for the safety of the neighborhood.

21 So what you brought up is a good point but it was
22 brought up the other night as well and we want to get on it
23 right away. If you give approval, we will get the contractor
24 involved and we can work in the wintertime providing that the
25 ground is frozen. And they didn't have any water problem this
26 year at all, even though we had the worst —

27 CHAIRMAN McINTOSH: The current residents.

28 MR. PALMIERI: The current residents, yeah.

29 CHAIRMAN McINTOSH: I think the Township has some
30 flooding issue with respect to the surrounding developments. I

1 think that's —

2 MR. PALMIERI: Yes. There was a concern.

3 CHAIRMAN McINTOSH: There is a lot of existing
4 problems that, hopefully, this solves because it is running off
5 to other developments, I think.

6 MR. PALMIERI: Well, that's what we —

7 CHAIRMAN McINTOSH: We got more complaints from those
8 developments than we do from the Aria's Way people.

9 MR. PALMIERI: Yeah. I, myself, was speaking of wet
10 basement and they were fine. But this should be — He is the
11 engineer, so he can — He can speak for this, why this is
12 designed so it will hold before it gets discharged and it will
13 help everybody down the street.

14 MR. KEENEY: The increase in the size of the
15 detention is going to be quite significant from what's there at
16 the present time, so the discharge to the properties to the
17 east, north are going to be much less. I know the folks to, I
18 guess, to the east here —

19 CHAIRMAN McINTOSH: Yes.

20 MR. KEENEY: — have some problems, especially, with
21 very wet back yards. That will be — Quite honestly, the
22 outlet structure, when the original development went in, was
23 never properly installed. So that's a number one thing right
24 there. When the outlet structure is properly installed, that
25 will help that situation immensely.

26 MR. PALMIERI: As soon as we get approval, we will
27 address those things with the contractor. With the city
28 approval, we will do that first before we do anything else.
29 And I think — I don't know but the first thing has got to be
30 that detention.

1 MR. KEENEY: Correct.

2 MR. PALMIERI: That takes care of all the problem.

3 MR. LINGENFELTER: What happens if you don't get
4 approval from ODOT?

5 MR. PALMIERI: We come back here. We have to go to
6 the residents again. I don't know. Good question. They give
7 us a verbal agreement. And the fact that this line up — if it
8 was, like, off, maybe not, because this lines up with the other
9 road, which is favorable. But you had a conversation.

10 MR. KEENEY: Right. We submitted to ODOT and the
11 folks that we submit to is the only communication that I've
12 had. They've reviewed it. They did not see any issues with
13 it. But they have to pass it on, unfortunately, to central
14 engineering and it goes through the channels. So we had
15 positive feedback but that doesn't, of course, guarantee
16 approval.

17 MR. LINGENFELTER: What happens if it doesn't get
18 approved?

19 MR. PALMIERI: We have to then meet with the
20 residents. There has got to be a reason why it wouldn't be
21 approved. We will find out and we will have to come back and
22 meet with the residents and then come back to you guys at that
23 point.

24 If you were to give us conditional approval on ODOT,
25 then we can — but, again, you cannot — I don't know what kind
26 of relationship but they've been telling us for a month, month
27 and a half that it's coming. Christmas was going to come
28 before that probably. It's extra work that we don't want to do
29 but that's the process.

30 MR. SCHINDLER: You initially asked for the request

1 because you were able to, with this new layout, put in more
2 units. Is that why —

3 MR. KEENEY: From the very beginning?

4 MR. SCHINDLER: From the very beginning, yes.

5 MR. KEENEY: I think, from the very beginning, I
6 think the desire was to split from the duplexes to the singles,
7 to be able to split the units just because that was a more
8 desirable product than having the duplex attached units. It
9 was more of a single family.

10 MR. SCHINDLER: So when you went to that, you had to
11 restructure the whole development; hence, the decision was made
12 to move the access road, right?

13 MR. KEENEY: Well, and I guess, if you go back to the
14 very, very beginning —

15 MR. SCHINDLER: Yes.

16 MR. KEENEY: — the initial development with the
17 duplex units, if you count it, was approved with 32 units —

18 MR. SCHINDLER: Yes.

19 MR. KEENEY: — with one access. And it actually had
20 two cul-de-sacs with a couple stub streets coming off of it.

21 MR. SCHINDLER: Right.

22 MR. KEENEY: Which in the current code now, stub
23 streets are not longer permitted.

24 MR. SCHINDLER: And you had to have a second access.

25 MR. KEENEY: And the second access comes into play as
26 soon as you get above 30 units. So in theory, if you go back
27 and look at the original one that was approved back when — I
28 am not sure of the date. That one that was approved
29 technically doesn't meet the current — You know, if we were to
30 build that today, it doesn't meet the codes that are in place

1 today.

2 MR. SCHINDLER: Right.

3 MR. KEENEY: So with the desire to split units, I
4 guess, our initial — Our first comeback with the Fire
5 Department was to loop. That's when the loop came into place
6 because, at one point in time, we had gotten rid of the stub
7 streets and proposed two cul-de-sac streets.

8 MR. SCHINDLER: Right.

9 MR. KEENEY: But access and emergency was an issue,
10 so we went ahead and looped things. There was still,
11 unfortunately, the pinch point at the entrance but at least it
12 provided flow within the development.

13 MR. SCHINDLER: Right.

14 MR. KEENEY: So that was the first step. You know,
15 we eliminated the stub streets and eliminated the two dead end
16 cul-de-sac streets, but then that's when the emergency
17 access —

18 MR. SCHINDLER: Became an issue again.

19 MR. KEENEY: Correct.

20 MR. SCHINDLER: Right now, you indicated that — I
21 guess the drawings don't show — the grades can't be any
22 greater than 10 percent, according to this. I assume that's
23 going to be addressed.

24 MR. KEENEY: Correct. And that is — The plan that
25 was submitted to ODOT and the current plans do dictate, as per
26 the Fire Department, a maximum slope of 10 percent.

27 MR. SCHINDLER: Right. Also —

28 MR. PALMIERI: I was not part of that, sir.

29 MR. SCHINDLER: Pardon me?

30 MR. PALMIERI: I was not part of the meeting with the

1 Fire Department but was the Fire Department more accommodating
2 to make a wider gate or they prefer to have an extra access? I
3 was not part of that meeting, so I can't tell.

4 MR. KEENEY: Right. Initially, I think they — The
5 initial approach was the wider gate and then that's when we ran
6 into the snag when the residents did not support that.

7 MR. PALMIERI: I was wondering if they decide they
8 have an extra exit, or they prefer.

9 MS. MITCHELL: A full service access drive, that's
10 what they originally wanted.

11 MR. PALMIERI: Full service.

12 MS. MITCHELL: Not an emergency access.

13 MR. PALMIERI: Right.

14 CHAIRMAN McINTOSH: To State Route 84, you mean?

15 MS. MITCHELL: Yeah. That was their original goal.
16 And then once they discussed it, it changed over time. This
17 was proposed at one time and then this came off the table.

18 MR. KEENEY: Right.

19 MS. MITCHELL: Now it's back on.

20 MR. KEENEY: Well, part of it, when you go to a full
21 service, then you have the potential, if it is used
22 permanently, ODOT would not — they just wouldn't agree to that
23 at all for the potential of cut-throughs. And, at that point
24 in time, the grade becomes an issue. For an emergency access,
25 the 10 percent grade that the Fire Department has requested is
26 attainable for an emergency standpoint. If you're going to use
27 that on a daily basis for — that does not meet even the county
28 standards for a full service —

29 MR. PALMIERI: Unless you have four wheel drive, you
30 won't be able to get out.

1 MR. KEENEY: Right. That doesn't meet the county
2 standards, so that's why a permanent, you know, continuous use
3 access or roadway — it doesn't meet those standards.

4 MR. PETERSON: If that were permanent, with that
5 Prouty Road light, the way it jams up, everybody would be
6 cutting through, including myself.

7 MR. KEENEY: And that was the concern, that they
8 were, unfortunately, introducing maybe more potential for
9 fender-benders.

10 MR. SCHINDLER: I see the Planning Commission also
11 wants to consider setbacks to be increased.

12 MR. KEENEY: And I believe they were —

13 MR. SCHINDLER: Where the access road comes in.

14 MR. KEENEY: And that can be achieved. I believe we
15 could shift these units a few feet this way and definitely
16 Units 5 and 6 could be shifted so that there would be a little
17 bit more of a side yard.

18 MR. SCHINDLER: Right.

19 MR. PALMIERI: Yeah, you would need, especially here
20 because this is too close.

21 MR. KEENEY: That could be achieved, yes.

22 MR. SCHINDLER: That would be something you would
23 agree upon?

24 MR. KEENEY: Correct.

25 MR. SCHINDLER: More than likely. So, right now, the
26 holdup is ODOT.

27 MR. KEENEY: Correct.

28 MR. SCHINDLER: And they gave you no timetable when
29 they're going to make a decision?

30 MR. KEENEY: Unfortunately. I spoke to them. The

1 last communication I had was — it was a week ago today and the
2 fellow was hoping to have something by the end of the week. I
3 called again yesterday and today and just have not heard back.

4 MR. LINGENFELTER: I think it's important for
5 Mr. Palmieri to understand, too, that, you know, you may sense
6 that we're a little bit cold about this whole idea, maybe a
7 little hesitant, and one of the reasons why is we've been
8 through this development multiple times. And the last time we
9 went through this, we settled on a solution that everybody
10 thought was good and then it fell apart again.

11 They were assured that the homeowners were in
12 agreement and everything was done, covenants, restrictive
13 covenants were in place, supposedly, and as it turns out,
14 everything fell apart. So this is not the first — You're not
15 the first person to stand here before us and discuss this
16 particular development.

17 MR. PALMIERI: I know. I met with them.

18 MR. LINGENFELTER: Right.

19 MR. PALMIERI: Trust me.

20 MR. LINGENFELTER: I just want you to understand. I
21 don't want you to think that we're giving you a hard time or
22 that we're not in favor of seeing this project move forward.

23 MR. PALMIERI: No, no, no. I understand. I
24 completely understand.

25 MR. LINGENFELTER: Because we are. This has been a
26 very laborious issue for us, too, because the whole scope of
27 the project keeps changing, from the number of units to the
28 access to the road design to, you know — And all the time that
29 this has been going on, we still have residents living off of
30 David Drive, to the east of that area, that have been adversely

1 affected by them clearing the lots at the beginning and doing
2 the initial grade work. You know, their yards and their
3 property has been in terrible condition and this has been going
4 on for over, you know, for a couple years now.

5 MR. PALMIERI: It's probably more than that.

6 MR. LINGENFELTER: Yeah. So it's important that we
7 make sure that when we, if we're going to approve this project,
8 that, you know, number one, it would be nice for somebody to
9 actually start doing some work, you know, on this project.
10 And, number two, it would be nice to actually see it come to
11 fruition for the reason of, primarily, helping the residents,
12 giving them some relief to the east there, off of David Drive,
13 and getting this thing under way because, you know, as
14 residents, we use that intersection of Prouty Road and 84 a
15 lot. We drive past that area every day and it's frustrating to
16 see that sitting there and it's like a big dirt pile for the
17 last how many years. It would be nice to start seeing some
18 actual buildings go up and some residents move in and
19 everything move along.

20 MR. PALMIERI: Absolutely. The city engineer for
21 Solon lives right here and he teases me all the time because
22 I'm in Solon. John Bush, he lives right by there and he drives
23 every day that intersection and he always calls me and says,
24 "When are you going to get going?"

25 And I say, "Well, we got a couple snags to work out."
26 He is the city engineer.

27 CHAIRMAN McINTOSH: And just to be clear on something
28 Frank, I think Frank and Andy brought up some good stuff with
29 respect to the timeline here. We went against, I think, a very
30 reluctant rezone to go with the R-3 just from the standpoint

1 that we know there is residents all around that development
2 that want this done. And we, this board, feels like we bent
3 pretty severely in order to accommodate and then the chair got
4 pulled out from under us and we're back here. We're stuck. We
5 want to see it done. You want to see it done. But our pattern
6 of expectation here is very low at this point. We keep looking
7 at — We have meetings, we make approvals and nothing gets done
8 and we keep coming back.

9 We need you to just go ahead and — It's every five
10 minutes, we get a, "Hey, can you tweak this? Can you tweak
11 that?" And I think what would be helpful for a lot of us is —
12 I suppose it comes down to your word — but some sort of
13 assurance or some sort of understanding, one of these days,
14 we're going to cross the final hurdle and we're going to get
15 this done.

16 I think that's what most of us are feeling here
17 because, a year ago, we were talking about rezone and then we
18 were doing an approval and now we're back here again making an
19 amendment.

20 MR. PALMIERI: If you can understand, this
21 development cost us more money to do it this way. It was not
22 the intent. In June, we had the homeowners meeting and it was
23 canceled and it's taken us from June until now to get everybody
24 together, and it's only 8 residents. I have been in those
25 homeowners' meeting before on other project. I told them last
26 night or two nights ago, I says, "Can you imagine when you have
27 30 of them? You will never agree on one single item."

28 So I hope that — I don't want to be back here again,
29 obviously, and we want to get it done.

30 And this is not funded by bank because no bank loaned

1 money. This is private money. So we have the money to do it,
2 that's not been the problem. We have private money, so we can
3 do this work.

4 But, again, now, unfortunately, we come here tonight
5 and we don't even have approval from ODOT, which is not our
6 fault. And we redesign everything according to accommodate
7 everybody, so it's not like we didn't try. It is just,
8 unfortunately, that's what it takes.

9 Ideally, if you give us approval conditional tonight,
10 then we can get to work on it, providing the ODOT. Then we can
11 have this project in the springtime. The residents said they
12 want the same thing.

13 CHAIRMAN McINTOSH: Right.

14 MR. PALMIERI: Because they can get more money from
15 the other residents. There were three homes that were sold
16 that money had to go back to them because there were no — we
17 did not sell it. There is definitely desire for people to live
18 there.

19 CHAIRMAN McINTOSH: With respect to, you know, going
20 through this all, I think everything has been brought up. We
21 have some — The addendum to the current staff report, we've
22 got three conditions from the Zoning Department, we've got the
23 two conditions from the Fire Department, we've got the two
24 conditions from the county engineer, and then the final
25 condition from the Lake County Planning Commission.

26 What you are telling us is you have no problem
27 complying with any of these things?

28 MR. KEENEY: Correct.

29 CHAIRMAN McINTOSH: Obviously, contingent on ODOT's
30 approval of your road?

1 MR. KEENEY: That's correct.

2 CHAIRMAN McINTOSH: Any more questions?

3 MR. SCHINDLER: The only thing, I think, is it's
4 unfortunate but, I guess, I feel much more comfortable, if I
5 made any decision tonight, that ODOT finally put their stamp of
6 approval on this. I mean, I know you're saying you're going to
7 comply to it but there is nothing binding to that.

8 CHAIRMAN McINTOSH: Right.

9 MR. SCHINDLER: Once we say — we make that in favor
10 of you, that's it. We have no recourse after that. We can't
11 come back and do anything without, you know, ODOT. Even if we
12 said tonight — too bad legal counsel isn't here. I don't know
13 if we can have the authority to say, "Well, let's make it
14 contingent on their approval." I don't think we can, to be
15 honest with you.

16 Am I right, Kathy?

17 MS. MITCHELL: I guess, one suggestion would be to
18 make some of the changes to the plans, make the shift in the
19 units so that we can see them.

20 CHAIRMAN McINTOSH: Yeah. I'd like to see that.

21 MS. MITCHELL: As I understand, Dusty, you correctly,
22 this one-inch topsoil and seeding is not going to be.

23 MR. KEENEY: That's been eliminated, correct.

24 MS. MITCHELL: Okay. So we would like to see that
25 updated in the plans. Some sort of reference to this "no
26 parking any time" along the private road here so that you don't
27 have residents or guests of residents parking at any time along
28 here somehow, again, identified on the plan. Well, the Fire
29 Department's concerns are noted here but — And then maybe some
30 draft language that would go into the development agreement as

1 to the maintenance year round of the road.

2 If maybe you could come back and bring us all of that
3 information with an updated plan, maybe the board would be more
4 comfortable, again, if they had something in front of them
5 instead of yes, yes, yes and then wait for it to be changed
6 again.

7 CHAIRMAN McINTOSH: I think that's probably a good
8 idea from the standpoint that we've been through this plan
9 several times. And if ODOT says no and you're going to have to
10 give us another plan, we're going to have to look at something
11 else, I feel that we need something solid because we've done
12 this a couple of times. We've talked about several different
13 plans here.

14 I understand this is probably inconvenient for you in
15 that sense but we have a township to look after and we have
16 some very serious public safety issues to address here, and I
17 feel like we want to do this correctly. I mean, we're not
18 trying to necessarily hang you up but we feel like there is a
19 lot of dangling issues. And if we could see a representation
20 that modifies the things that we've talked about here today and
21 gives us a level of assurance that we're going to indeed see
22 what we're going to approve and we're going to see it and
23 that's what the result is going to be, I personally would feel
24 better about that. Again —

25 MR. LINGENFELTER: Let me ask you a question. Excuse
26 me, Morgan. I am sorry. How detrimental or debilitating would
27 it be to extend this process one more month until our next
28 meeting in January? Would that be a big problem? Does that
29 pose a big issue for you? Is that something you really need to
30 get done this month?

1 MR. PALMIERI: No. If you were to approve it tonight
2 — And I am not pushing, by the way. The only thing between
3 now and Christmas, obviously, a lot of people are not working,
4 you know, the holiday, so it is not the end of the world.

5 When is next meeting?

6 MS. MITCHELL: January 3rd.

7 MR. PALMIERI: Oh, that wouldn't be a problem, not a
8 problem. Because let's be honest, nothing is going to happen.
9 The only I would do if you give me the okay, I start to get
10 preliminary price from the excavator and people that do the
11 work. But, again, at the next meeting, even if you guys were
12 to approve it, I wouldn't have the legal document that's going
13 — because that's going to take some time by the legal counsel
14 because they're going to redo the whole agreement.

15 We made the decision that because it's going to be
16 single family, it's all one, it is going to address the issue
17 of the gate, the front and the back gate, so it's all going to
18 be brought out, so we're going to amend the old one and then
19 we're going to start with the new one again. And in that
20 agreement, I can make statement that it will be addressed and
21 will be supplied to the law director and we can show it to him
22 that it's been addressed for this maintenance of the second
23 gate.

24 MR. LINGENFELTER: Well, the reason I ask is we've
25 got a couple options as a board. We could, right now, vote on
26 it and give you a conditional approval based on the fact that
27 you will meet those conditions that are highlighted in the
28 notes, which I don't think very many of us are comfortable with
29 that scenario but we could.

30 We could also ask that you comply to the request that

1 Kathy made in terms of getting the verbiage and some of the
2 tweaks and changes done and have that ready for our next
3 meeting.

4 Or we also have the ability to call another meeting
5 before the end of the month where we could reconvene in two
6 weeks and have another — Basically, if you could have that
7 ready for us, we could meet then and make a decision.

8 So we have multiple options here as a board to —
9 That's why I was asking.

10 MR. PALMIERI: I appreciate it.

11 MR. LINGENFELTER: Because we want to — believe me,
12 we understand, time is money. We understand that. We don't
13 like to see delays any more — well, probably not as much as
14 you do but we don't like to see delays any more than anybody
15 else does. We realize that time is money. And if we can
16 accommodate and try to make that process speed up a little bit
17 to help you out, then we would be willing to do that.

18 But if not having another meeting this month is not a
19 big deal and you're okay with coming back that first meeting in
20 January with the adjustments that Kathy is asking for, then I
21 would think that we would be in a position to move forward and,
22 at least, at that point, vote on that, on the request and go
23 from there.

24 MR. PETERSON: Also, it would give you time to get
25 the ODOT approval.

26 MR. PALMIERI: That's the thing because we are not
27 going to spend any more money doing all the documents and find
28 out ODOT does not approve it.

29 CHAIRMAN McINTOSH: Right.

30 MR. PALMIERI: I appreciate your generosity to come

1 back if we need to but I think the 3rd will be fine because —
2 unless they call us tomorrow and say it's okay. Then we will
3 call you and say, "Could you please have a meeting with us and
4 address" —

5 MR. LINGENFELTER: All you need to do is contact
6 Kathy and if there is a need for us to get together —

7 MR. PALMIERI: You guys have been more than fair.

8 MR. LINGENFELTER: You know, if suddenly ODOT decides
9 to give you guys approval or whatever and you want to try to
10 get moving faster, we can do something to help that process.
11 Otherwise, we will just plan on you guys coming back in that
12 first week in January with the information that Kathy has
13 requested and we should be able to get this taken care of.

14 MR. PALMIERI: How long has it been submitted to
15 ODOT?

16 MR. KEENEY: It was submitted October 13th, so
17 hopefully another month will be enough.

18 MR. PALMIERI: So I appreciate everything. It's
19 fair. We will inform Kathy as soon as we find out about ODOT.
20 That's the key.

21 MR. LINGENFELTER: Sounds good.

22 CHAIRMAN McINTOSH: Thank you for coming tonight.

23 MR. LINGENFELTER: Thanks for coming in, appreciate
24 your time.

25 MR. PALMIERI: Thanks.

26 CHAIRMAN McINTOSH: All right. Do I have a motion to
27 table this to continue for January?

28 MR. SCHINDLER: Mr. Chairman, I so move that we table
29 this review until our next meeting of January 3rd.

30 MR. LINGENFELTER: I'll second.

1 CHAIRMAN McINTOSH: All in favor?

2 (Five aye votes.)

3 CHAIRMAN McINTOSH: That takes us to our second order
4 of business this evening, correspondence from the Zoning
5 Commission members. Frank?

6 MR. SCHINDLER: I just got a couple phone calls
7 saying thank goodness Prouty is finished.

8 CHAIRMAN McINTOSH: That's more than I got. Any
9 correspondence?

10 MR. SWEENEY: Nothing.

11 CHAIRMAN McINTOSH: Andy?

12 MR. LINGENFELTER: No.

13 MR. PETERSON: Nothing.

14 CHAIRMAN McINTOSH: I have no correspondence to
15 report.

16 The final item this evening would be the approval of
17 the minutes from the November 1st meeting. A motion to approve
18 the minutes from last month?

19 MR. PETERSON: Mr. Chairman, I make a motion to
20 approve the minutes from the November 1st meeting.

21 CHAIRMAN McINTOSH: Second?

22 MR. SCHINDLER: I second.

23 CHAIRMAN McINTOSH: All in favor?

24 (Four aye votes, one abstention.)

25 CHAIRMAN McINTOSH: Opposed?

26 (No nay votes.)

27 CHAIRMAN McINTOSH: Okay. So our next meeting
28 is then — Actually, it looks like it's the 4th of January,
29 Tuesday, 2012.

30 MS. MITCHELL: Oh, sorry.

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CHAIRMAN McINTOSH: We will meet then. In the
meantime, we will be adjourning our meeting this evening.

(The meeting was adjourned at 7:54 p.m.)

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 14th day of December 2011.
24
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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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