

BEFORE THE CONCORD TOWNSHIP, OHIO, ZONING COMMISSION

January 6, 2009

Concord Town Hall
7229 Ravenna Road
Concord, Ohio 44077

7:00 p.m.

TRANSCRIPT OF PROCEEDINGS

Zoning Commission members present:

George Norman, Chairman
Larry Wentz, Vice Chairman
Frank Schindler
Wilbur Shenk, III
Andrew Lingenfelter

Also present:

Michael Lucas, Esq., Legal Counsel

Kathy Mitchell, Zoning Commission Secretary
Zoning Inspector

King & Melton Court Reporters

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

7:00 p.m.

1
2 CHAIRMAN NORMAN: Good evening. I would like to call
3 the Concord Township Zoning Commission meeting to order for
4 Tuesday, January 6th, 2009. We have four items on the agenda.
5 The first item is a continuation of public hearing for Zoning
6 Amendment Application Number 1108-0130, by Mr. Morton Weisberg,
7 to amend Section 22.03, Table of Uses, for the Concord Township
8 Zoning Resolution to include "residential care facility,
9 nursing home and home for the aging" as a conditional
10 dcontinual use in the GB, Gateway Business District, and to
11 further amend Section 13.07, under Section XIII, Conditional
12 Use Permit, to include GB, Gateway Business District, under the
13 list of zoning districts where such uses are permitted when
14 granted as a conditional use.

15 That said, is the applicant here and/or his
16 representative?

17 MR. WILLIAMS: The applicant's representative is
18 present.

19 CHAIRMAN NORMAN: Would you then — and this is for
20 anyone that wants to speak. When you come to the microphone,
21 please give your name, your address, and spell your last name
22 for our secretary.

23 MR. WILLIAMS: My name is Ryan Williams, R-y-a-n,
24 Williams, W-i-l-l-i-a-m-s, 5196 Richmond Road, Bedford Heights,
25 Ohio 44146. I am the legal counsel for Mr. Morton Weisberg.
26 As you know, we are here for a text amendment to the zoning
27 code, specifically, to permit the nursing home use in the
28 Gateway Business District.

29 Just a little bit of background here before, before I
30 get into the presentation, I just want to give you a background

1 on my client. Mr. Weisberg owns and operates approximately 10
2 for-profit nursing homes in northern Ohio, he has for
3 approximately 40 years, a very experienced operator of nursing
4 homes and currently is affiliated with two homes in the
5 Painesville area, two 50-bed nursing facilities in the
6 Painesville area.

7 With that, I'd like for you to — In your packet I
8 handed out, there should be a, around the fourth page, you will
9 see a rendering, which is the, is a conceptual rendering of the
10 specific reason why Mr. Weisberg requests a zoning amendment.
11 There is, we are currently working on a project to relocate a
12 current nursing home in Painesville to a site on Auburn Road at
13 the corner, the southeast corner of Capital Parkway and Auburn
14 Road.

15 As you can see here, the architect has rendered a
16 drawing of a, what a typical 50-bed nursing facility would look
17 like. The goal would be to start out in phases, 50-bed
18 construction, followed by an additional 50-bed construction to
19 bring it up to a 100-bed total operating facility.

20 The construction of the, of the facility, from our
21 standpoint, could begin almost immediately. We have some state
22 regulatory issues that we would have to get by, two- to three-
23 month process, and then we would be on the ground running
24 immediately. The construction would cost approximately 2.8
25 million bucks to put into the local economy and would create,
26 at a minimum, 50 jobs but could possibly run up to 75 to 100
27 jobs for the township.

28 So with that background, I do have a team of
29 professionals with me. I have Ms. Beth Rosenbaum, who is an
30 attorney/health care expert, to answer any type of health care,

1 nursing home, residential care facility questions you may have;
2 Mr. Joe Neelis, which is a construction design consultant for
3 my client, who is very experienced in the construction and
4 design of residential care facilities and nursing homes; and
5 then Mr. Ken Martin, who is the — my client's architect who,
6 again, has significant experience in the nursing home field.

7 So with that, before I get into any more, I just want
8 to, I'd like to encourage questions as we go along. Please
9 interrupt me at any time. I'd like to open dialogue. I think
10 that's how best that I can proceed and probably the best that
11 you guys can understand where my client is coming from with the
12 text amendment.

13 CHAIRMAN NORMAN: Okay.

14 MR. WILLIAMS: With that being said, I did attend a
15 Planning and Zoning Commission in front of the Lake County
16 Planning and Zoning, the board. And as you probably have in
17 front of you, have their recommendation of denying the text
18 amendment. At that presentation, I gleaned four potential
19 issues that the Planning and Zoning Commission raised. I just
20 want to go through those and then I will address all four of
21 those.

22 The first one was that the, the use in the Gateway
23 Business District of a nursing home was not permitted based
24 upon the recommendations that come out of the Auburn-Crile Road
25 feasibility study, if you would, in 2006, which that, I
26 understand, is the, was a benefactor of the 2004 comprehensive
27 plan.

28 The second concern that the Lake County Planning and
29 Zoning Commission had was the fact that there was adequately
30 zoned available property in the township to where we could

1 place a nursing home.

2 Third, the Lake County Planning Commission was under
3 the impression that there already exists a current standing
4 nursing home in the township.

5 And, lastly, they were concerned about inadequate
6 conditional use standards to which you could judge the
7 rendering of the conditional use permit in the Gateway Business
8 District zone.

9 So with that being said, I want to address the first,
10 the first point, which is the notion that the Auburn-Crile Road
11 study was, was not receptive to allowing the nursing home as a
12 conditional permitted use in the Gateway Business District.
13 And from there, I just want to point out, which I'm sure
14 everybody knows, the intended use of the study is a flexible
15 planning tool, not carved in stone, and that future events,
16 current changes in community values and financing would render
17 possible changes to that study.

18 To that regard, we all know the state of the economy
19 right now. A big push in that study was the creation of the
20 Concord Town Center retail development zone. There is, if
21 you — I'm not an economist and I don't stand up here and
22 profess to be an economist. Everything you read, retail
23 spending is completely down. It could be 18 to 36 months
24 before retail spending is back up. We all know that after
25 retail spending goes back is when you're going to see retail
26 development.

27 So with that being said, in the Gateway Business
28 District, you are, in my opinion, you are four to five years
29 out from retail development in that area. We all know that
30 development spurs development. We are, my client is certainly

1 willing and ready to go in there immediately. We are on the
2 corner of the, of what the proposed, the Concord Town Center
3 area would be. My client is going to employ 50 to 100 people,
4 24-hour care. They would provide consumer traffic to any
5 further supported retail area, businesses in that area.

6 Back to the concept of the Town Hall Center, we are
7 more than willing —

8 CHAIRMAN NORMAN: Can I stop you for just a second?

9 MR. WILLIAMS: Sure, absolutely.

10 CHAIRMAN NORMAN: I think you're commingling things
11 and I would like to try to put you on a little bit of a track.
12 The Town Hall Center that you're referring to, the
13 nomenclature, to try to clarify it, the nomenclature applies to
14 the area we are currently in. Okay? It's an area we're
15 currently working on to put zoning together that will fit this
16 particular area.

17 The Auburn Road corridor was specifically set up as a
18 Gateway Business District different from this. Okay? So I
19 really want to try to clarify that in your own mind because, I
20 know, it's sounds like you're confused and I want to try —

21 MR. WILLIAMS: Maybe I am.

22 CHAIRMAN NORMAN: I want to try to set that record
23 straight. When the Planning Commission discussed the language
24 that went into the Gateway Business District planning, they
25 were referring specifically to the Auburn-Crile Road corridor.
26 The Town Center concept specifically relates to Old Route 44,
27 Painesville-Ravenna Road, call it whatever you choose, okay,
28 608 intersection and stretching out from that parameter.
29 Okay? And that zoning has not even — Well, let me call it, it
30 hasn't even come out at first blush yet. Okay?

1 So please be careful how you commingle those terms
2 because I don't want you going astray.

3 MR. WILLIAMS: Okay. I guess, when I — Maybe it's
4 better if I just get the — Do I have that? When I speak of
5 the Town Center, I speak of the architectural vision Town
6 Center at the corner of Capital Parkway, Auburn Road, which was
7 the intent, I believe, the intent of that study to have a
8 connecting road to Route 44.

9 CHAIRMAN NORMAN: That was only part of the study.
10 Now you need to be clear about that. That was, that was a part
11 of the study. I am not minimizing that. Okay? Please
12 understand me. That was a part of the study. The whole study
13 encompassed Auburn Road from — you gentlemen step in if you
14 think I need to be corrected — from 44 and Auburn Road all the
15 way down to Auburn Road and Girdled Road. Okay? And then it
16 washes a little bit beyond Girdled Road because we have a
17 developer that is on the plan, in the planning stage, a medical
18 building, a dental building on that corner, which is the
19 southeast corner of Auburn and Girdled Road. Okay?

20 So you're right in talking about that segment, which
21 is an isolated segment. I don't know as we called it that in
22 the planning, did we?

23 MS. MITCHELL: It was referred to, a Town Center.

24 CHAIRMAN NORMAN: Okay. Town Center?

25 MS. MITCHELL: Yeah, that particular location, that
26 was the terminology used in the corridor study.

27 CHAIRMAN NORMAN: Okay. So we have — We need to
28 clarify what we're talking about.

29 MR. WILLIAMS: No problem. And, I guess, I apologize
30 for making the leap. When you hear me refer to the Concord

1 Town Center, I am referring solely to this area right here
2 where, to me —

3 CHAIRMAN NORMAN: That's fine.

4 MR. WILLIAMS: — from doing some research, it
5 appears that this notion — And I take all this information
6 right from here.

7 CHAIRMAN NORMAN: That's fine.

8 MR. WILLIAMS: You have some notion, at least, some
9 planning notion, which is a great approach and a great view, to
10 create some sort of First and Main, you know, the Crocker Park
11 style outdoor shopping, you know, pedestrian foot traffic
12 retail area.

13 MR. LINGENFELTER: Excuse me. The only I thing you
14 really need to be aware of, I think, the thing that concerns
15 George is that when we were rezoning that particular section in
16 the township to the Gateway Business District, we hadn't
17 started the Town Center — excuse me — rezoning and
18 classification, which is still, like George said, in the, you
19 know, kind of the initial stages. We aren't even ready to take
20 it to public hearing yet.

21 MR. WILLIAMS: Okay.

22 MR. LINGENFELTER: So that didn't exist, so that
23 terminology then was appropriate to the Gateway Business
24 District, which has been formally rezoned now. So that's why I
25 think, probably, there would be some concern that people
26 might — because now there is another project, another rezoning
27 issue that's taking place that uses Town Hall Commons and Town
28 Hall Center terminology and applies it to this area.

29 MR. WILLIAMS: Got you.

30 MR. LINGENFELTER: Okay? So it would be, you

1 might — Residents that might be watching this might get the
2 wrong impression that your location is really, you're planning
3 your project here around the Town Hall area here instead of in
4 the Gateway Business District, which is over off of 44 and
5 Auburn Road.

6 So it's more for the residents to understand that you
7 might, there might be some confusion here and you could
8 unnecessarily attract the wrong kind of, you know, response to
9 what you're trying, what you're planning to do.

10 MR. WILLIAMS: That's great clarity. I guess, let me
11 just throw it to you then. I understand, I mean, you're still
12 in the early phases of it then, but would any future rezoning
13 in that area affect this particular location? I mean —

14 MR. LINGENFELTER: No. The area where your project
15 is being proposed has been rezoned.

16 MR. WILLIAMS: Right.

17 MR. LINGENFELTER: That is done. That, you know,
18 that horse is out of the barn.

19 MR. WILLIAMS: Okay. So, basically, I can throw this
20 away?

21 MR. LINGENFELTER: No, no. What you have there was
22 some of the work that was done when we were looking at rezoning
23 that —

24 MR. WILLIAMS: Got you.

25 MR. LINGENFELTER: — this particular section. We
26 took some zoning away from the, from the RD-2, research and
27 development area, and we wanted to kind of encourage
28 development up closer to Auburn Road there, in conjunction with
29 what was going on with the hospital and the facilities that
30 were coming in. We thought that that all made good sense, so

1 we undertook that project to rezone that whole section there.

2 So if you look at the zoning map, you see that dark
3 brown. That's the front half of what used to be all RD-2
4 zoning. So this has already been rezoned and it's now
5 considered the Gateway Business District.

6 MR. WILLIAMS: Got you.

7 MR. LINGENFELTER: So when you refer to the project,
8 if you say "Gateway Business District," then people we will go,
9 "Okay, now we know what he's talking about."

10 MR. WILLIAMS: Get rid of the bad nomenclature of the
11 Town Hall Center.

12 MR. LINGENFELTER: Right.

13 MR. WILLIAMS: I totally apologize.

14 MR. LINGENFELTER: That's okay because you're going,
15 you're going from material that was, in fact, part of this
16 rezoning —

17 CHAIRMAN NORMAN: Study.

18 MR. LINGENFELTER: — project in the Gateway Business
19 District. And, like I said, at that time that that was going
20 on, we weren't undertaking the Town Hall corridor rezoning
21 project and it hadn't even been named yet. So that kind of,
22 you know, it just happened by happenstance more than anything
23 else, not by design.

24 MR. WILLIAMS: Out of curiosity, where do you guys
25 stand with that?

26 CHAIRMAN NORMAN: Well, we're going to get, we're
27 going to get an update from Kathy tonight but we're getting
28 very close, I believe, to preparing for public hearing, within
29 the next month or two, which then will get this whole area, I
30 expect, under a consistent zoning approach, much like they have

1 over on Auburn and Crile Road.

2 MR. WENTZ: Consistent but different from Auburn
3 Crile.

4 MR. LINGENFELTER: If memory serves me correctly,
5 that paperwork and the pictures and the renderings that you're
6 looking at, we engaged — Was it Cleveland State?

7 MS. MITCHELL: Kent State.

8 MR. LINGENFELTER: Kent State. They had some
9 planning and zoning or planning people that, students, that
10 came in and gave us just — when we were looking at this whole
11 area, they were conceptualizing for the, you know, for more
12 public consumption and everybody else to get an idea of what we
13 would envision this rezoning to look like at some point in time
14 down the road. You know, that proposed road still isn't done
15 yet and —

16 CHAIRMAN NORMAN: And it's nowhere like — Let me put
17 it this way: When you're dealing with ODOT, because we would
18 have to couple up with 44, and you're dealing with Lake County
19 and the rest of the folks, you can imagine the hurdles you have
20 to go through —

21 MR. WILLIAMS: Absolutely.

22 CHAIRMAN NORMAN: — to get that going. Okay? So,
23 yeah, your thought process is probably sound. I think you're
24 premature in looking at that because, before that comes to
25 place, the road has to be cut, all kinds of things have to
26 happen. And we've found, here in Concord, because of the
27 increase in traffic, we'll probably end up having to put
28 another light in there eventually. Okay?

29 MR. WILLIAMS: Sure.

30 CHAIRMAN NORMAN: And lights from ODOT are like

1 pulling teeth. So we're sitting here. All this is very
2 preliminary. That's why I want you to be clear and understand
3 where you're coming from. And what we hear versus what you
4 think you're saying is different.

5 MR. WILLIAMS: Yeah. I definitely don't want to be
6 talking Spanish and you hearing Spanish.

7 CHAIRMAN NORMAN: Not Spanish, German.

8 MR. WILLIAMS: Yeah, okay. At least, in that, then I
9 can, at least, tell my client that this isn't totally
10 abandoned, this concept of what I am seeing.

11 CHAIRMAN NORMAN: No.

12 MR. WILLIAMS: Because, I mean, that is something
13 that's appealing to us.

14 CHAIRMAN NORMAN: Sure.

15 MR. WILLIAMS: We don't want to, we don't want to
16 stick a nursing home out in the middle of nowhere. We like the
17 fact that you have a vision, you're working towards that
18 vision. And we think that our use of the area is complementary
19 to the whole vision and that's the ultimate point.

20 CHAIRMAN NORMAN: See, we had, just to give you a
21 little more light on it, we had another person in here asking
22 for zoning change and it particularly affected that very area.
23 Remember, gentlemen?

24 MR. WENTZ: Yeah.

25 CHAIRMAN NORMAN: We were talking about changing the
26 Gateway Business District zoning already right in the area
27 you're talking about.

28 MR. WILLIAMS: Yeah.

29 CHAIRMAN NORMAN: Okay? So that area is a hot
30 button, not just with us but with the community. So you can

1 understand — and not necessarily relating to retail outlets.
2 I mean, my personal philosophy — and I will express it for
3 just about 30 seconds and then get on with it — is that the
4 zoning has not been in place long enough to be tested. And I
5 would sincerely hope that we, on the Zoning board, can go
6 through and test this zoning and make it work or figure out how
7 to make it work better, perhaps, as we're going through this
8 process because it is a new concept, I think, in a wide area.
9 No one has ever done anything like this, to my knowledge. And
10 I could be wrong but I think —

11 MR. WILLIAMS: Oh, I think you're absolutely right.
12 I think what makes it extremely unique is the hospital.

13 CHAIRMAN NORMAN: Yes. We've got two of them over
14 there.

15 MR. WILLIAMS: Right. You've got the hospital and
16 then the UH outpatient clinic, and then which has spurred —
17 What have you guys got now, a medical office complex that's
18 going in as well?

19 CHAIRMAN NORMAN: Right.

20 MR. WILLIAMS: Which, again, ties right into where we
21 want to be.

22 CHAIRMAN NORMAN: Sure.

23 MR. WILLIAMS: A totally ancillary use. This fits
24 us, fits us well. So I appreciate the clarity. And please
25 stop me if I am going down the wrong path again. Give me some
26 more questions.

27 MR. LINGENFELTER: Oh, don't worry. We will.

28 CHAIRMAN NORMAN: You would find we're not shy.

29 MR. WILLIAMS: Okay. Back to the study. One of the
30 goals with the study was to create complementary business uses

1 for both current and future businesses. Obviously, the
2 complementary one for us is the hospital. You've got, I
3 mean — Just so you know, hospitals generally, nowadays,
4 generally do or have a wing, so to speak, to do the same thing
5 as a nursing home would do.

6 When I say "nursing home," I refer to it generically.
7 There is all sorts of nursing homes. The specific ones that
8 Mr. Weisberg operates are very high acute skilled care
9 rehabilitation centers. They're, I mean, they, just to give
10 you an example, let's just say that you had to go in for a knee
11 replacement, into a hospital. Typically, hospitals need those
12 hospital beds. They need them turned over, turned over. They
13 don't have time or they don't have, from a fiscal standpoint,
14 they can't house you for rehabilitation purposes for longer
15 than a couple days.

16 But with a knee replacement, depending on your
17 circumstance, you might not be able to go home right away. You
18 would go to a skilled nursing center with an extensive rehab
19 facility, which is exactly what Mr. Weisberg runs, which is
20 exactly what we would propose to put in the Gateway Business
21 District. So, in that sense, it's extremely complementary with
22 the hospital system.

23 Just so you know, I believe the hospital is
24 relocating from Painesville?

25 CHAIRMAN NORMAN: Yes.

26 MR. WILLIAMS: The current facilities that are in
27 Painesville that Mr. Weisberg owns have a long-standing,
28 40-plus year business relationship with the hospital so,
29 naturally, we would like to follow the hospital.

30 CHAIRMAN NORMAN: Have you said the names of those?

1 MR. WILLIAMS: Pardon?

2 CHAIRMAN NORMAN: Could you give us the names of
3 those?

4 MR. WILLIAMS: Sure. They're called the Homesteads.

5 CHAIRMAN NORMAN: Okay. Right there, right on the
6 corner across the street.

7 MR. WILLIAMS: Yeah, right in Painesville.

8 So, in that sense, I think that the, allowing the
9 nursing home as a conditional use in the Gateway Business
10 District because of the hospital and because of the ancillary
11 health care providers is probably one of the best, if not the
12 best, complementary use in the Gateway Business District.

13 MR. LINGENFELTER: What happens to the Homesteads?

14 MR. WILLIAMS: Well, right now, they would be — I
15 mean, I don't know what the absolute plan would be but we would
16 be relocating the operations, so the buildings would be, just
17 remain there vacant.

18 MR. LINGENFELTER: So you would shut down those
19 operations?

20 MR. WILLIAMS: Sure, sure. I mean, just so you know,
21 in Ohio, nursing homes are governed by a process called
22 Certificate of Need, which basically says that each individual
23 county in Ohio can only have so many operating nursing home
24 beds. So even if we wanted to keep them open, there is not an
25 ability for us to get licensed from the state to keep those
26 buildings open because we have specific bed capacities that we
27 have to manage.

28 Once you take beds into service and move them
29 somewhere else, something else has to go out of service. It's
30 all based on, you know, need and availability with what the

1 county or what the state presumes is what a certain county's
2 need is for elderly population.

3 MR. LINGENFELTER: What happens to the residents you
4 have there now?

5 MR. WILLIAMS: They would just transfer.

6 MR. WENTZ: Are these facilities focused mostly on
7 rehab or also long-term care?

8 MR. WILLIAMS: Well, I mean, that's a great
9 question. We like to run, I mean, from a fiscal operation,
10 rehab is where it goes. I mean, I would have to ask my other
11 professionals here but I would believe the main focus would be
12 on rehabilitation.

13 To give you a mix on if long-term care is a
14 predominant mix, I don't know. I will tell you that with the
15 extreme location near the hospital and with the long-standing
16 business relationship that we have, I mean, in our game, it's
17 all about rehabilitation, not to say that you don't make money
18 or not to say that's not appropriate because you need long-term
19 care. Obviously, that's why nursing homes are there.

20 Unfortunately, that's the biggest growing demographic
21 in our population is the elderly and it's only going to be keep
22 continuing to be that way, so you need the long-term care
23 aspect of it. But from a goal, from a business operational
24 goal, we would absolutely want rehabilitation skilled care.

25 MR. WENTZ: Right, I understand.

26 CHAIRMAN NORMAN: What is the breakdown? You do have
27 the data on the breakdown of the Homesteads.

28 MR. WILLIAMS: Pardon? Do you guys know the
29 breakdown of the Homesteads?

30 CHAIRMAN NORMAN: Nursing home versus rehab, extended

1 care.

2 MS. ROSENBAUM: I don't. That really varies on a
3 daily basis.

4 CHAIRMAN NORMAN: Oh, I'm sure on a daily basis, but
5 there has got to be an average somewhere.

6 MR. MARTIN: In general, it's usually 25 percent.

7 CHAIRMAN NORMAN: Of long-term care?

8 MR. MARTIN: 25 percent rehab and 75 percent long-
9 term, at least, that's what I'm familiar with.

10 MS. ROSENBAUM: Yeah. I think that —

11 MR. MARTIN: I've been involved with several, lots of
12 nursing home for 30 years. So it seems that, yes, there is a
13 variable factor —

14 CHAIRMAN NORMAN: Sure.

15 MR. MARTIN: — in terms of how many beds there are
16 versus how many rehab. But if it's — By the way, I am Ken
17 Martin. In terms of how they operate, it's, they're not
18 labeled whether it's a rehab or whether it's a long-term bed.
19 So, in general, at least, from what I've experienced, it's 25
20 percent rehab and 75 percent long-term, and they do fluctuate.

21 CHAIRMAN NORMAN: Let me interrupt you for just a
22 minute. Would you spell your last name, Mr. Martin, for —

23 MR. MARTIN: My name is Kenneth Martin, M-a-r-t-i-n,
24 31 East Bridge Street, Berea, Ohio 44017.

25 CHAIRMAN NORMAN: Thank you.

26 MR. SCHINDLER: Excuse me. Does assisted living fall
27 into any of these categories or is that —

28 MR. WILLIAMS: As it's proposed — You mean the text
29 amendment? As it's proposed, I believe, assisted living would
30 pick up in the residential care portion of the amendment.

1 MS. MITCHELL: It's an existing category. But you're
2 talking about this particular project?

3 MR. SCHINDLER: Well, I am talking in general because
4 it's in here as residential care. I was just wondering if that
5 is, quote, an assisted living, people who need minimum care but
6 can take care of themselves can live in facilities like this.

7 MS. MITCHELL: They are, they're dictated by Ohio
8 Revised Code and those are the terms. We used to use "assisted
9 living" but now we use "residential care."

10 MR. SHENK: I'm sure it does. But the question, I
11 think, maybe Frank was asking is, does your facility offer, or
12 your proposed facility offer assisted living?

13 MR. WILLIAMS: I don't believe so.

14 MS. ROSENBAUM: The initial facility that's being
15 proposed tonight is a nursing home, which is a different
16 category and licensed differently than an assisted living.

17 CHAIRMAN NORMAN: Counselor, I've got to interrupt
18 you again.

19 MS. ROSENBAUM: Sure. I am sorry.

20 CHAIRMAN NORMAN: If I can get your name and spell
21 your last name, please.

22 MS. ROSENBAUM: Beth Rosenbaum, R-o-s-e-n-b-a-u-m.

23 CHAIRMAN NORMAN: Thank you. Anything else,
24 gentlemen?

25 MR. WENTZ: No.

26 MR. SCHINDLER: Not at this point.

27 MR. WENTZ: Not at this point.

28 CHAIRMAN NORMAN: We will keep going. Okay. Go
29 ahead. I am sorry.

30 MR. WILLIAMS: No problem. Again, back to the goals

1 in the study and the complementary uses. One thing that you
2 could, you could see come out of allowing the nursing home use
3 in there is other ancillary health care provider uses. One
4 that speaks to mind is, you might have an institutional
5 pharmacy, you could have medical equipment suppliers.

6 Again, all of these, all of these ancillary uses
7 would be complementary to both the hospital, the outpatient
8 surgery center, the nursing home, doctors' offices all along
9 the Gateway Business District.

10 We'll skip over the retail part.

11 With respect to the — One thing I do want to note
12 is, on the rendering — and I might be going a little far ahead
13 here and back to this retail-type notion here. I just want to
14 make it known that our proposed use of this particular site
15 would, would allow an immense amount of green space. I think
16 it's only, we're only going to propose a 15 percent footprint
17 of buildable area on the site.

18 So, I guess, I apologize to still revert back to this
19 concept, but I noticed that it seems to be one of the goals
20 would be to create some green space areas within this
21 particularly sensitive zone. Our use of the location, our use
22 with the, as a nursing home would not impede on the green space
23 aspect, nor would we be constrained to any particular
24 architectural review standards or building standards. We could
25 design this nursing home with current architectural review
26 standards that you would want, that you have currently in place
27 or that you would want to implement with respect to this
28 particular area.

29 CHAIRMAN NORMAN: Yeah. It's good for you to
30 remember, along about your client, that, in fact, there is a

1 review process with the Zoning Commission that you will have to
2 follow. Yeah, it's great to say you can go quickly but
3 sometimes things slow down, so just keep that in mind.

4 MR. WILLIAMS: Sure. We totally understand that this
5 is the first of many steps. I hope we continue past this step.

6 So with that respect, I think the, just, I want to
7 close on the area of talking specifically about the Auburn-
8 Crile Road study and how my client believes that the, that the
9 amendment to the code to allow the conditional use permit
10 would, would not fly in the face of that study and be
11 complementary, if you would, to the goals of the study and the
12 current uses that you, that the Township would like to impose.

13 So, from there, any other questions on that?

14 CHAIRMAN NORMAN: No. I'm going to take just a
15 second because you brought it up and we've been discussing it
16 at length. We did receive a letter. And this is for,
17 basically, the people watching this evening. We did receive a
18 letter from Darrell Webster, director of the Lake County
19 Planning Commission. And he goes on to say, "The Lake County
20 Planning Commission took under consideration the zoning text
21 change to add 'residential care facility, nursing home and home
22 for the aging' as a conditional use in the Gateway Business
23 District."

24 They recommended that the text changes not be made
25 because it does not conform to the Auburn-Crile plan of 2006
26 and the Concord Township comprehensive plan of 2004, and da-da-
27 da-da. That's from Darrell Webster. So this is now a matter
28 of record and, also, our residents now know what we've been
29 discussing at length. Okay.

30 MR. WILLIAMS: Thank you.

1 MR. WENTZ: You had mentioned the issue of other
2 areas available. Were you going to comment on that?

3 MR. WILLIAMS: That's the next one up.

4 CHAIRMAN NORMAN: Thank you.

5 MR. WILLIAMS: That would be the, that was, again, my
6 interpretation from Mr. Webster at the county, that was his
7 second, if you would — and I only say this from my
8 interpretation, it's not Mr. Webster's interpretation — the
9 second major issue of available property stock, if you would,
10 in the township that's currently properly zoned to permit
11 nursing homes as uses.

12 From there, everyone knows, I'm sure, everyone knows
13 that no zoning classification in the township allows nursing
14 homes as a principally permitted use.

15 CHAIRMAN NORMAN: That's correct.

16 MR. WILLIAMS: The only, there is only four, the R-1,
17 R-4, B-1, B-2 Districts allow them as conditionally permitted
18 uses. So, from there, we commenced our search process of
19 finding available properties. And just as, I mean, again, I
20 just want to preface that you can only buy and purchase and
21 develop what's available for sale.

22 Our representatives, our professionals, our agents,
23 our brokers looked at multiple real estate databases, you know,
24 shook hands with all the local brokers and agents; actually,
25 did a drive around, you know, if you would pass by of the
26 area. As you can see in your handout, there is a little map
27 here. It's the next-to-the-last page with the highlighted
28 areas. We actually physically drove around the area in search
29 of available properties.

30 And, from that, we identified two potential candidate

1 properties. As you can see, they're on the corner of, it looks
2 like, Ravenna, just near 90, and then I think that's Hermitage
3 Road.

4 MS. MITCHELL: Yes.

5 MR. WILLIAMS: Just north of 90 there. With respect
6 to the one on Ravenna Road, that one is almost 4 1/2 acres,
7 would generally suit the needs. However, the big concern there
8 is I do not believe that there is municipal sewer available at
9 that site. When you're talking about nursing homes, the Ohio
10 EPA will not give you a permit to construct a nursing home, in
11 this day and age, without the availability of public sewer.

12 So once you factor in the — I don't know where the,
13 I am sure I could get it from the township office. I
14 apologize. But I don't know where the tap-in would be, how
15 long, how much it would require to run to the facility or to
16 the location. But when you get into running public municipal
17 sewer on privatized dime, it gets to be pretty expensive.
18 Basically, it takes the cost of the project out of
19 feasibility. So that one, we pretty much eliminated.

20 The site on Hermitage is — I apologize but I've
21 never seen a site that is, that is boundaried with the boundary
22 lines like this. It is a, it is an interesting site, to say
23 the least. Two things, two things that stick out. The first
24 thing would be the, on the same lines of the utility argument.
25 There are public water, public utilities, public sewer at the
26 road, at the tap there on Hermitage. I am pretty sure there
27 are.

28 However, because of how awkwardly it's configured and
29 because of the conditional use standards that would apply to
30 the nursing home setbacks, if you would, we would have to place

1 the nursing home structure in a location that would require,
2 you know, significant outlay of cost and expense to run those
3 public, to run those utilities back to that site.

4 So you almost have the same type of consideration
5 with this available site as you did when there was no available
6 public sewer on Ravenna road.

7 So, that, and then the only other thing that I can,
8 that we commented on, on this site, was that it is, it's almost
9 15 acres, which purchasing 15 acres of property, obviously,
10 when you pay price per acre, when we only need 6 to 7 acres
11 would require us to, at that point, outlay for additional land
12 that is just going to be wasted, in our mind. So, again, that
13 drives the cost of the project up.

14 In essence, then we concluded that there really was
15 no objective criteria or objective evidence out there that
16 states or that shows that the available stock of property in
17 Concord Township is sufficient to allow to us construct a
18 nursing home of this capacity outside the Gateway Business
19 District.

20 Any questions?

21 CHAIRMAN NORMAN: Connie, do you — I don't
22 remember. Where are the sewers that are going over 608? Do
23 you remember?

24 MS. LUHTA: They stop right here at the corner.

25 CHAIRMAN NORMAN: They stop here, don't they, at the
26 corner?

27 MS. LUHTA: At the corner, right. They don't go up
28 608.

29 CHAIRMAN NORMAN: They don't go that far but don't
30 they come south on Ravenna Road?

1 MS. LUHTA: They go south on Ravenna and that's the
2 part that is under construction right now.

3 CHAIRMAN NORMAN: Right. And that's going further
4 south on Ravenna but everything is coming down Ravenna Road,
5 right?

6 MS. LUHTA: It came down 608 — or down Concord—
7 Hambden, that is, not 608, this part.

8 CHAIRMAN NORMAN: Oh, the section past Quail Hollow.

9 MS. LUHTA: Yeah, turn the corner and came down.

10 CHAIRMAN NORMAN: Okay. Thank you. I didn't mean to
11 put you on the spot.

12 MS. LUHTA: That's okay.

13 MR. WILLIAMS: You know her last name?

14 CHAIRMAN NORMAN: Yes, I do. She is one of our
15 trustees.

16 MR. WILLIAMS: I am just trying to lighten the load
17 here.

18 CHAIRMAN NORMAN: The other — I can appreciate your
19 concern about the 14.6 acres but, I guess, I don't share your
20 concern about it being buildable. I recall that over there and
21 that's, you know, that's on the other side of 90 from the golf
22 course where they're talking about siting it.

23 MS. MITCHELL: The Hermitage part?

24 CHAIRMAN NORMAN: Yeah.

25 MR. SHENK: It's on the north side.

26 CHAIRMAN NORMAN: It's on the north side of 90.

27 MS. MITCHELL: There is a private drive over there
28 and there is homes off that private drive.

29 CHAIRMAN NORMAN: There is a home off the private
30 drive. That's why I am asking. I didn't think there was 14

1 acres over there.

2 MS. MITCHELL: It is. We've had a lot of issues
3 about this particular piece of property.

4 MR. WILLIAMS: This might lend a little bit better
5 view of the location.

6 CHAIRMAN NORMAN: Okay, yeah. That's almost a flag
7 lot.

8 MR. WILLIAMS: Yeah. I don't even think you — I
9 think you access the property through another — they don't
10 even access it through this little arm here, for whatever
11 reason. I think you have some type of easement access,
12 ingress-egress easement that you access the property by.

13 MS. MITCHELL: There is a common drive.

14 MR. SHENK: Oh, now I know where it is.

15 CHAIRMAN NORMAN: Do you know where it is?

16 MR. WENTZ: Yeah, I know where it is.

17 MR. WILLIAMS: I think the individual who bought it
18 was going to put up some type of preserve or some, I don't
19 know, some log cabin. I don't know. I just know from —

20 CHAIRMAN NORMAN: You know where it is now?

21 MR. LINGENFELTER: Yeah.

22 CHAIRMAN NORMAN: How about you, do you remember
23 where it is?

24 MR. SCHINDLER: I know where it is.

25 MR. WENTZ: Yeah.

26 CHAIRMAN NORMAN: All right. Anybody else got any
27 questions? Let's go.

28 MR. WILLIAMS: Moving along.

29 MR. LINGENFELTER: I've got a question. Kathy, do
30 you remember when we talked about the rezoning for the Gateway

1 Business District, do you recall why we left that out?

2 MS. MITCHELL: It was discussed by the —

3 MR. LINGENFELTER: Nursing home.

4 MS. MITCHELL: It was discussed by the committee at
5 length and the discussion by the initial committee that was
6 formed, the primary focus was that, in keeping with what the
7 2004 plan stated and making sure that the small percentage of
8 revenue generated in parcels would remain for economic
9 development and consistent uses, and that we also had other
10 areas of the township that allowed for these types of uses, the
11 R-1 and R-4. He's given a couple examples.

12 But that was the conclusion of the committee, that
13 while we want to preserve the area of the corridor for economic
14 development, not necessarily this use because we couldn't
15 guarantee the for-profit and that we already had other areas of
16 the township that could allow for that.

17 MR. LINGENFELTER: Because I remember discussing
18 that. I remember —

19 MR. SHENK: The for-profit and not-for-profit was the
20 key issue.

21 MR. LINGENFELTER: Yeah.

22 MR. SHENK: And we couldn't control that —

23 MR. LINGENFELTER: Right.

24 MR. SHENK: — if we allowed it.

25 MR. LINGENFELTER: Yeah. It had to be zoned that
26 way.

27 MR. SHENK: It had to be zoned that way. And we were
28 concerned that we didn't want to fill it all up with not-for-
29 profit facilities. In this case, it is a for-profit facility.

30 MR. WILLIAMS: It is for-profit, yes, sir.

1 MR. SHENK: Right. So that was the, those were the
2 main issues at the time.

3 MR. LINGENFELTER: Because I remember, I can recall
4 that being involved in discussions but I couldn't recall why we
5 removed that because didn't it — Initially, it wasn't in
6 there, or we talked —

7 MS. MITCHELL: No. The committee, when they —

8 CHAIRMAN NORMAN: Before they brought it to us.

9 MR. LINGENFELTER: Right, here.

10 MS. MITCHELL: Before they brought it to the Zoning
11 Commission, the committee had a round table and talked about it
12 at length and that was the conclusion.

13 MR. SHENK: It was eliminated. I think it was
14 proposed but it was eliminated because —

15 MR. SCHINDLER: Right, that's correct.

16 MR. SHENK: — of the potential for not-for-profit.

17 MR. WENTZ: We were trying to minimize the number of
18 not-for-profits in the area, the chance for.

19 MR. SHENK: Right.

20 MR. LINGENFELTER: Right, yeah, because we were
21 already —

22 MR. WENTZ: There was a lot of criticism on the
23 hospital on that basis.

24 MS. MITCHELL: Recognizing that you had the hospital
25 on one end and Auburn Career Center on the other end, you know,
26 what do we want to fill the rest of the corridor with? That
27 was the concern.

28 MR. LINGENFELTER: Right. Just out of curiosity,
29 what's the proximity of that to the JEDD, this proposed?

30 MS. MITCHELL: It's to the south of that. The JEDD

1 includes the parcels further north than that.

2 MR. SHENK: It's quite a ways, isn't it?

3 MR. LINGENFELTER: Is there a lot of distance
4 between?

5 CHAIRMAN NORMAN: It's quite a ways down.

6 MS. MITCHELL: Well, it includes the hospital parcel
7 and it includes the UH parcel, it includes the community center
8 and the water tower parcel.

9 MR. SHENK: So it probably, the JEDD, probably
10 stops —

11 MS. MITCHELL: It's not that far away.

12 MR. SHENK: Yeah, probably, the JEDD starts here
13 someplace because this must be the community center.

14 MS. MITCHELL: Yeah. It can be, it can be expanded
15 though.

16 MS. LUHTA: And they don't have to be contiguous.

17 MS. MITCHELL: And they don't have to be contiguous.

18 CHAIRMAN NORMAN: Oh.

19 MR. SHENK: We can leap frog all that stuff.

20 MR. LINGENFELTER: No, because my thinking is, what
21 would be the likelihood —

22 MR. SHENK: Impact if we made that a JEDD?

23 MR. LINGENFELTER: — or the viability of including
24 this in the JEDD?

25 MR. SHENK: Changing it?

26 MR. LINGENFELTER: And then would, and then would the
27 applicant be a willing participant of the JEDD if that were the
28 case?

29 CHAIRMAN NORMAN: That's a Joint Economic Development
30 operation, opportunity.

1 MR. WILLIAMS: You are going to have to excuse my
2 ignorance, but if you can just describe to me how that
3 interplays with the Gateway Business.

4 MS. MITCHELL: As a township, we don't receive income
5 tax but the JEDD allows us to generate income tax because we
6 have a joint agreement with the City of Painesville. So we
7 have designated, for the initial JEDD, certain parcels to be
8 included in the JEDD so that we can receive income tax from
9 those parcels.

10 CHAIRMAN NORMAN: No other additional tax, just
11 income tax for employees.

12 MR. WILLIAMS: For employees?

13 MR. LINGENFELTER: Yeah.

14 CHAIRMAN NORMAN: For employees.

15 MR. WILLIAMS: Well, I mean, just me talking without,
16 you know, talking with my client or advising my client, but it
17 would be my impression, from speaking with everybody — and the
18 professionals can stand up and talk as well — but I believe
19 there was, he always assumed that there would be income tax
20 applicable to the operations of the facilities.

21 CHAIRMAN NORMAN: There is not.

22 MR. SCHINDLER: No, that would not be true.

23 CHAIRMAN NORMAN: That would not be true where you,
24 the way it's currently structured.

25 MR. WILLIAMS: Okay.

26 CHAIRMAN NORMAN: Okay? Now, what we're suggesting
27 is a thought, between us, is that if this particular parcel
28 were to be included in the economic development section.

29 MR. WILLIAMS: I could certainly, I mean —

30 CHAIRMAN NORMAN: Now, I am sitting here and I am

1 looking because one of the trustees is sitting behind you, kind
2 of, grimacing back there and there are issues with that, by the
3 way. Okay?

4 MR. WILLIAMS: Okay.

5 CHAIRMAN NORMAN: And I am not sure. Let me ask
6 legal counsel.

7 MR. LUCAS: Well, let me, rather bluntly, state, I
8 don't know why you're even talking about that.

9 CHAIRMAN NORMAN: Well, that's why I am asking you,
10 Mike.

11 MR. LUCAS: Well, I don't think you should, all
12 right, with all due respect.

13 CHAIRMAN NORMAN: That's fine. That's why I asked.

14 MR. SCHINDLER: That's straightforward advice.

15 MR. LINGENFELTER: Move on.

16 CHAIRMAN NORMAN: Yes.

17 MR. WILLIAMS: That's a good attorney.

18 MR. WENTZ: These options, however, do not deal with
19 other parcels that may be around that would also have to be
20 rezoned as this would have to be rezoned.

21 MR. WILLIAMS: When you say "the options."

22 MR. WENTZ: There may be other parcels around that
23 would be potentially appropriate but they would have to be
24 rezoned, just as this piece of property would have to be
25 rezoned.

26 MR. WILLIAMS: Certainly, you're absolutely correct.
27 But let me — One goal, if you would, with zoning would, is
28 obviously to promote the economic interest of the community, of
29 the township. By doing that, you promote the economic interest
30 of the local businesses and residents.

1 It's economically in our best interest to be very
2 conveniently located vis-a-vis the hospital and the other
3 health care developments that are going on in the Gateway
4 Business District. If you take us out of that and if there is
5 any inconvenience, if you would — and I don't know what
6 inconvenience that would be. I mean, you could talk about
7 increased emergency traffic to residents, you could talk about
8 inconvenience as far as thoroughfares, you can talk about all
9 kinds of things and I just don't have that out there.

10 But I am saying, once you go into that and you push
11 out businesses from the zoning district that would otherwise be
12 conveniently located near compatible uses then, in my opinion,
13 you tend to drive away otherwise profitable and worthy
14 businesses for the township.

15 MR. WENTZ: How far away is too far away?

16 MR. WILLIAMS: You know, it all depends. I mean, it
17 would totally depend on traffic patterns, routes, locations. I
18 mean, are we talking about on the corner of a residential
19 development where there is, possibly, a group of R-4 parcels
20 that we could consolidate together? I mean, are we talking
21 back in the industrial, in the development zone? I mean, I
22 don't know. There is a whole host of multitude of factors that
23 would go into that.

24 All I know is that hospital is in Gateway Business
25 District. Right down the road is where we would want to be.
26 It's easily convenient to it. I mean, it continues a long-
27 lasting tradition. I think it supports the overall goals of
28 the township, as stated in the plan.

29 Make no bones about it. I mean, we are an aging
30 society. And according to the Ohio Department of Health's

1 website, I wasn't able to locate a licensed and certified
2 nursing home in Concord Township. I don't know how far it
3 goes. But some people, some friends, some family would maybe
4 love to put their loved ones, elderly, in a skilled care
5 facility in Concord Township. And to my knowledge right now,
6 according to the State of Ohio, there is not one in Concord
7 Township.

8 MR. LINGENFELTER: We have Altercare.

9 MR. WILLIAMS: Which is —

10 MR. LINGENFELTER: — on Johnnycake.

11 CHAIRMAN NORMAN: Altercare, correct me if I am
12 wrong, Andy. I don't think Altercare is in the business that
13 this does.

14 MS. MITCHELL: We actually looked at that. We have a
15 nursing care.

16 CHAIRMAN NORMAN: Isn't it more assisted living?

17 MS. MITCHELL: No.

18 MR. SCHINDLER: No.

19 MR. WILLIAMS: Are they licensed by the State of
20 Ohio?

21 MS. MITCHELL: Yes.

22 MR. WILLIAMS: I mean, I just, I know that on the
23 State of Ohio's website, the Department of Health, we can
24 easily pull a geographic radius of licensed and certified
25 residential care facilities, assisted living facilities,
26 skilled nursing facilities, and not a one pops up. I've got
27 the search here.

28 MS. MITCHELL: Well, it says Altercare of Mentor, so
29 maybe that's where it's being thrown off.

30 MR. WILLIAMS: Is it in the township though?

1 MS. MITCHELL: Yes, it is.

2 MR. SCHINDLER: It's in the township.

3 CHAIRMAN NORMAN: It's under 44060.

4 MR. SCHINDLER: It says Mentor and, because of that,
5 it's a Mentor zip code. They think it's in Mentor, not in
6 Concord.

7 MR. WILLIAMS: Well, I believe we searched all the
8 near zip — I mean, the database in the website on Ohio allows
9 you to do that kind of thing. I apologize. I might have
10 missed it. I certainly could have missed it and I apologize if
11 I did. I am just going —

12 MR. SCHINDLER: A lot of things don't come up because
13 of that. Concord Township is sort of unique in a way. We have
14 four zip codes in the — three zip codes, I am sorry, in the
15 township: Mentor, which I, you know, although I live in
16 Concord, physically live in Concord Township, my zip code for
17 my mail is Mentor. There are people that come from Painesville
18 and, also, Chardon, too.

19 So when you call up things like this, for example, on
20 the internet, they will not appear on there because they go by
21 zip codes.

22 MR. WILLIAMS: Got you. And I thought we did a
23 comprehensive zip code search. Maybe I didn't. Obviously,
24 don't take that —

25 MR. SCHINDLER: Zip code, there is no Concord zip
26 code. We used to have one when we had a post office box at one
27 time many years ago but they allowed us to use Concord Township
28 as our address but it is a Mentor zip code on it.

29 MR. WILLIAMS: Got you.

30 MR. SCHINDLER: And so much stuff, because of that,

1 causes confusion all the time. As a matter of fact, the
2 Altercare just added to their facility, some years ago,
3 additional beds and everything, yeah. If you ride by it, you
4 will see.

5 MR. WILLIAMS: I got lost coming here, so I —

6 MR. SCHINDLER: I just wanted to clarify that.

7 MR. WILLIAMS: I appreciate it. And I totally
8 apologize for the misinformation.

9 MR. SCHINDLER: It's not your fault.

10 MR. WILLIAMS: So that would conclude, I would say,
11 Part 2 and 3 now that the third portion of, I think,
12 Mr. Webster's concern was the existence of the skilled nursing
13 facility.

14 The last portion of it that the town or the county
15 addressed was the lack of identifiable conditional use
16 standards. We would, as the amendment proposes, we would just
17 borrow from the B-1 and B-2. If those aren't appropriate, we
18 would be more than willing, our architect, I, all of the
19 professionals would be more than willing to come up with
20 alternative standards by which you could judge the granting of
21 the conditional use permit in the Gateway Business District.

22 I mean, the bottom line is, I don't think that that
23 should be a significant impediment to the consideration of the
24 amendment.

25 CHAIRMAN NORMAN: We appreciate that.

26 Kathy, I have a question for you. I thought we did,
27 we do have conditional use requirements for nursing homes, if I
28 recall.

29 MS. MITCHELL: We do, and it is broken down by
30 district. There are specific standards for the R-1, R-4 and

1 there are standards for the B-1 and B-2.

2 CHAIRMAN NORMAN: Did they change?

3 MS. MITCHELL: They are different. And we are in the
4 process, with this Town Hall Corridor revision, of upgrading
5 that section because of the two proposed districts here.

6 CHAIRMAN NORMAN: Right.

7 MS. MITCHELL: So we've been tweaking that section to
8 kind of consolidate all of the business districts versus the
9 residential districts, but there are different standards based
10 on the residential versus business zoned.

11 MR. WENTZ: And you may recall that these sorts of
12 facilities would be possible in this Town Hall area.

13 CHAIRMAN NORMAN: Right, I do remember that.

14 MS. MITCHELL: Yes.

15 MR. SHENK: As currently zoned or in —

16 MR. WENTZ: And as in the proposal.

17 CHAIRMAN NORMAN: In the proposal.

18 MR. WENTZ: Some areas that would not fall in that
19 category today as currently zoned.

20 MR. SHENK: Right.

21 CHAIRMAN NORMAN: Anybody else got any questions?
22 any thoughts? anything you want to get out on the table?

23 MR. SHENK: I just have a question about the layout
24 that you show here. It looks like you've maybe extended this
25 property into the area that is zoned research and development.
26 Is that correct or —

27 MR. MARTIN: Ken Martin. That is correct, and we
28 perceive that as simply green land that would remain green. We
29 don't perceive that we can use that land.

30 MR. SHENK: I see.

1 MR. MARTIN: And that's what makes it so desirable in
2 this particular case because that's where disproportionate
3 green space versus building comes into play. I don't know
4 whether you've been to the site but it is simply a beautiful
5 site.

6 MR. SHENK: Sure.

7 MR. MARTIN: It is heavily wooded. It's got some
8 really nice buffering and rolling hills. It's exceptional.
9 And that is, I am sure, the reason why the company, the company
10 was so interested in that particular site. Anyone would look
11 at that site and say, "Isn't that a place where I would want to
12 be." And I look at that and I say to myself, you know, we are
13 proposing a building here for you in your community that will
14 almost be unseen if we do it right because there is so much
15 wonderful pine trees. There is berms with the trees growing
16 out of it.

17 I think it's a marvelous kind of introduction into
18 the Gateway Business District at that, at Capital Road because
19 it allows that sense of entry to expand both Auburn and, also,
20 down Capital. It just seems an appropriate site. You know,
21 I've been doing this for years and years. And I walked that
22 site and I said, "This is really great."

23 And the second thing I thought was, well, you don't
24 often, as communities, get a chance to specifically pick the
25 site that this would, again, a nursing home would occur on. In
26 residential areas, you know, they are now shunned because they
27 are a little bit bigger than they used to be. They create
28 different traffic patterns. Again, this facility is on a major
29 road and has all of the assets — again, Ryan has numbered
30 them — that says this is a clear blend of this medical kind of

1 use happening in the Gateway Business District and just simply
2 enhances it. And I can't say enough about that site. I mean,
3 it's just great. Thank you.

4 CHAIRMAN NORMAN: Thank you.

5 MR. SHENK: Can I ask, or maybe ask this to Kathy,
6 that also proposes a zoning problem in RD-2?

7 MS. MITCHELL: Well, I was going to ask legal counsel
8 to answer that question. I would think that it would need to
9 be included as a listed use under the RD-2 as well.

10 MR. LUCAS: It would.

11 MR. MARTIN: I would think —

12 MR. SHENK: Would that be included? I am sorry.

13 MR. SCHINDLER: It would have to be included.

14 MS. MITCHELL: Yeah.

15 MR. MARTIN: It would seem to me that if there is a
16 zoning limit and we recognize that zoning limit in terms of
17 setbacks and in terms of the area of usage and all that, that
18 it's green space to us and it's perpetual green space to you
19 folks.

20 MR. SHENK: Sure.

21 CHAIRMAN NORMAN: I think the problem, though, is
22 that you're buying, your intention is, is to buy that whole
23 parcel, including into the, into the RD-2 section.

24 MR. WILLIAMS: If the legal issues are parceling —

25 MR. SHENK: It may have to be two parcels.

26 MR. WILLIAMS: Yeah. I mean, I can certainly
27 recommend to my client that we don't lot split this in a way
28 that calls us into zoning issues because the last thing I want
29 to do is to come in front of you and argue the same thing in
30 the, what is that, the RD-1, RD-2 District.

1 MR. SHENK: RD-2, yeah.

2 CHAIRMAN NORMAN: RD-2.

3 MR. SHENK: Right

4 MR. WILLIAMS: If there is a way around it, we will
5 certainly —

6 MS. ROSENBAUM: Right. Beth Rosenbaum. But we have
7 discussed that and I talked to Kathy about that, in fact, and
8 the client would have no, absolutely no problem in just ending
9 the property where the rezoning takes place, if that makes
10 things simpler.

11 MR. WILLIAMS: But then, I mean, we have a, I mean,
12 the whole point of the site would be to keep it green space as
13 well.

14 MS. ROSENBAUM: Right.

15 MR. WILLIAMS: So we are willing —

16 MS. ROSENBAUM: We will do it any way.

17 MR. WILLIAMS: Right. I mean, we'll do it any way.
18 We want the green space. If you are telling me we can't have
19 it then, obviously, we can't have it. We would like, we would
20 love, like Ken said —

21 CHAIRMAN NORMAN: It would require changing as it's
22 currently structured, as your intentions.

23 MR. WILLIAMS: That is, we can, with the stroke of a
24 pen.

25 CHAIRMAN NORMAN: All right. Anything else?

26 MR. MARTIN: That would save a portion of the lake
27 that's down there, that beautiful lake.

28 MR. SHENK: Yeah.

29 CHAIRMAN NORMAN: Wilbur, anything else?

30 MR. SHENK: I like it.

1 CHAIRMAN NORMAN: Okay.

2 MR. SHENK: And I think, I mean, I was part of the
3 committee that developed the Auburn-Crile Road and remember
4 vividly the for-profit and not-for-profit. And, in my mind,
5 that got pushed out because of that risk of not-for-profit.
6 But I think I would be willing to take the risk at this point.
7 You know, we have one other facility in Concord Township now.
8 This would be a second. The likelihood of another one and
9 another one and another one coming, I think, are very low, so
10 I'd take the risk and say I'd support it.

11 CHAIRMAN NORMAN: Counsel, can I ask a question,
12 please?

13 MR. LUCAS: Yes, I think, legally, you can do that.

14 CHAIRMAN NORMAN: Well, I don't want to step on your
15 legal boundaries. My question is, Michael, if the applicant
16 has stated that there is state restrictions on the amount of
17 beds that are allowed in a particular county, and I want to tie
18 that comment into the profit and not-for-profit.

19 If he has to, in order to build this, close down this
20 facility in Painesville to stay within the bed count that the
21 state has imposed and moves out to Concord, unless there is a
22 quick revision in that bed count, doesn't that tend to take
23 away the issue of profit versus not-for-profit? Am I making
24 myself clear? I am not —

25 MR. LUCAS: I am not sure he specifically said that.

26 CHAIRMAN NORMAN: Well, I think he did. If I didn't
27 hear it correctly, I thought you said — and correct me if I'm
28 wrong — that in order to build this facility, you're going to
29 have to move those beds out of Painesville to Concord in order
30 to stay within the bed count.

1 MR. WILLIAMS: I am going to defer that —

2 CHAIRMAN NORMAN: To legal counsel.

3 MR. WILLIAMS: — to health care regulatory counsel.

4 MS. ROSENBAUM: I will tell you that, yes, you have
5 to get the beds from somewhere in the county. The plan was to
6 get the beds from the Homesteads.

7 CHAIRMAN NORMAN: Okay. All 100 of them?

8 MS. ROSENBAUM: All 100.

9 CHAIRMAN NORMAN: Because I know you have two
10 facilities.

11 MS. ROSENBAUM: We have two. Initially, I think, the
12 first phase of the plan was to take just 50 and the second
13 phase then would encompass the other. You are correct. At
14 this point in time —

15 CHAIRMAN NORMAN: Right.

16 MS. ROSENBAUM: — the state has imposed a moratorium
17 on beds, so you can't bring new additional beds, except under
18 very limited circumstances, into the county. So we would have
19 to get the beds from somewhere in the county.

20 CHAIRMAN NORMAN: Okay. So that —

21 MS. ROSENBAUM: That would be for any nursing home.

22 MR. LINGENFELTER: Is that county by county?

23 MS. ROSENBAUM: Yes.

24 MR. LINGENFELTER: So then they couldn't, a facility
25 couldn't be closed in Cuyahoga County and then those beds added
26 to Lake County.

27 MR. WILLIAMS: No.

28 MS. ROSENBAUM: No, not currently.

29 CHAIRMAN NORMAN: Everything is currently.

30 MR. LINGENFELTER: So we have a limit. We have a —

1 There is a ceiling right now on the number of beds in Lake
2 County and that ceiling has been saturated. So, for instance,
3 if another proposal were to come to Concord Township, separate
4 from your proposal, they wouldn't be allowed because the beds
5 aren't available.

6 MS. ROSENBAUM: If the beds — Beds become available
7 for various different reasons.

8 MR. LINGENFELTER: Right.

9 MS. ROSENBAUM: If the beds were available and you
10 were granted the right by the CON — I mean, there is two steps
11 here. You can't just take the beds and move them. You have to
12 apply to the state to be able to move them. You have to do a,
13 what we call a Certificate of Need application and you have to
14 show that these beds are, should be moved and it makes sense,
15 for various different reasons, to move them to this particular
16 location. So you have to get approval from the Ohio Department
17 of Health to move them as well. You just can't pick them up
18 and move them.

19 MR. WILLIAMS: Is one of the criteria proximity to
20 another licensed and certified nursing home?

21 MS. ROSENBAUM: Well, no, I wouldn't say that's one
22 of the criteria. Will they look at that? Sure. They will at
23 utilization within the, within the locale. But is it one of
24 the criteria per se? No, I wouldn't say that, Ryan.

25 MR. WILLIAMS: So, basically, another nursing home
26 would have to close or go out of business, open up those beds
27 in order for them to relocate here.

28 MS. ROSENBAUM: Yes.

29 CHAIRMAN NORMAN: That's the question I was asking.

30 MR. LUCAS: Right now.

1 MR. SHENK: Which brings up a question —

2 MS. ROSENBAUM: Yes, currently. I mean, there is
3 also — excuse me. But there is also legislation, proposed
4 legislation out there to lift that moratorium, to lift it in
5 certain capacities, to make changes, and it's been out there
6 for years and there is currently, you know, proposals out
7 there, so we watch that very, very carefully. But as of right
8 now, beds cannot cross county lines.

9 MR. WILLIAMS: Just to add one more to that, I mean,
10 I've been doing this for four and a half, five years, and
11 proposals to lift the moratorium have never been blanket wide.
12 There have always been restrictions upon the lifting of the
13 moratorium.

14 CHAIRMAN NORMAN: Restrictions, meaning what?

15 MR. WILLIAMS: Well, you couldn't bring them in from
16 Lucas County in Toledo. They'd have to be a neighboring
17 county.

18 MR. LUCAS: Generally contiguous, the proposals I've
19 seen anyway.

20 MS. ROSENBAUM: Right. And they also look at, the
21 proposal I've seen most recently is they'll look at the under-
22 served areas, the over-served areas.

23 MR. LUCAS: Right.

24 MS. ROSENBAUM: They may lift it in one area and
25 allow you to move it from one area to another area but not to
26 another over-served area. So, you know, how it will play out,
27 if anything changes, we just don't know at this point.

28 CHAIRMAN NORMAN: Well, the nursing home industry is
29 very strong in Columbus.

30 MS. ROSENBAUM: Yes.

1 CHAIRMAN NORMAN: So if anybody's got an idea, you
2 guys gotta have it because we certainly don't.

3 MR. SHENK: And I assume —

4 MS. ROSENBAUM: Even Mr. Lucas knows.

5 MR. SHENK: He's not talking tonight.

6 CHAIRMAN NORMAN: No, he's not commenting.

7 MR. SHENK: I suppose you have not made this
8 application yet because you don't know about the zoning.

9 MS. ROSENBAUM: We have to acquire the land before we
10 can make the application, yes. That is one of the
11 requirements, that you actually have the land.

12 CHAIRMAN NORMAN: Okay. Now, Michael, can I go back
13 to my question?

14 MR. LUCAS: All right.

15 CHAIRMAN NORMAN: Again, they're moving the beds from
16 Painesville out to Concord.

17 MR. LUCAS: Right.

18 CHAIRMAN NORMAN: The concern of the board, whether
19 it be major or minor, is not-for-profit or profit. This is an
20 opportunity stating it's for profit.

21 MR. LUCAS: Well, the applicant entity, as I
22 understand it, is a for-profit, correct?

23 CHAIRMAN NORMAN: Right.

24 MR. WILLIAMS: Absolutely. This will be a for-profit
25 operation.

26 CHAIRMAN NORMAN: Okay. So they have covered that.
27 Now, the concern that has been expressed was opening the door
28 for not-for-property.

29 MR. LUCAS: Well, you don't delineate when do you
30 this text change —

1 CHAIRMAN NORMAN: No.

2 MR. LUCAS: — in terms of the three proposed:
3 Residential care facility, nursing home and home for the aged.
4 It opens, as an abstract matter anyway — and I recognize the
5 CON limitations and that — but it opens, as an abstract
6 matter, both for profit and not-for-profit. All right?

7 CHAIRMAN NORMAN: Right.

8 MR. LUCAS: You could have a situation where, I
9 guess, again, as an abstract matter, the for-profit, it's hard
10 to believe that could happen with a niche market on that, but
11 they undergo some dire financial crisis that results in an
12 asset — not an asset sale but, you know, just basically a
13 cessation of the for-profit operation. And then a nonprofit
14 might want to come in and use the facility for that purpose,
15 subject to the CON and everything else in terms of the
16 regulatory provisions and that.

17 So you've got to be — I understand what you're
18 saying. Right now, it seems like an ideal scenario to get a
19 for-profit in there, as opposed to the concerns that were
20 expressed during the committee meetings of the nonprofit versus
21 profit that Wilbur mentioned.

22 CHAIRMAN NORMAN: Right.

23 MR. LUCAS: So it's a for-profit now. Does that mean
24 it's going to be a for-profit on infinitum? There is no
25 guarantee on that. It certainly is that now though, and the
26 applicant is representing that.

27 CHAIRMAN NORMAN: Yes.

28 MR. WILLIAMS: In 40 years, we haven't lost a
29 building.

30 CHAIRMAN NORMAN: Well, no, I am not questioning

1 that.

2 MR. LUCAS: It would be strikingly unusual, I must
3 say.

4 CHAIRMAN NORMAN: I think Mike's point is well taken,
5 the fact that nothing is forever. Okay? And that's a
6 statement of fact. So if we accept that, then the question
7 we've got to ask ourselves, I think, if we're concerned about
8 this, is, are we concerned enough that we want to worry about
9 forever or are we going to try to wrestle with it and maybe see
10 some light at the end of the tunnel sometime later? I don't
11 know.

12 MR. LUCAS: That's a commission decision.

13 CHAIRMAN NORMAN: That's right.

14 MR. LUCAS: It's not a legal counsel decision.
15 That's why you get the big bucks.

16 MR. SHENK: That's why we vote on things.

17 CHAIRMAN NORMAN: That's why we vote, gentlemen,
18 that's exactly right.

19 MR. WENTZ: I think we have to understand that if we
20 would say yes to this, there are some risks involved.

21 CHAIRMAN NORMAN: Absolutely. And that's why I am
22 trying to say, are they considered minimized now but they won't
23 be, they may not be minimized a year from now or two years from
24 now or six months from now?

25 MR. WENTZ: We also may be shutting the door on other
26 potential locations in Concord that we might prefer because
27 they're not currently zoned properly, I mean, those parts of
28 the proposed Town Hall Commons area which has yet to come
29 before us but we include areas zoned for this.

30 CHAIRMAN NORMAN: All right. I'm with you. I

1 understand. Andy?

2 By the way, I appreciate your taking the time to come
3 talk to us, explain your position, bringing all the folks with
4 you. That's very appreciated to get all the input we need.

5 MR. WILLIAMS: We appreciate the time.

6 MR. SHENK: Do you want to open it up to the floor?

7 CHAIRMAN NORMAN: I will certainly do that in a
8 minute as soon as the board is through with their questioning.

9 MR. SCHINDLER: Well, we talked about beds. And if
10 we get this thing cleared up about Altercare, like I said, on
11 84 in Concord Township, how will that affect this? I mean, if
12 they're allowing so many beds and that one there is specified
13 as a nursing home, it would affect this, I would assume.

14 MR. WILLIAMS: It won't affect it, per se, other than
15 there could be, at the review level, at the Ohio Department of
16 Health, as Beth had indicated, they may take that into
17 criteria. As long as it's in, I mean, the key is the county.

18 MS. ROSENBAUM: Yeah. You're not changing the number
19 of beds that are currently in the county. Let's just say, for
20 example, that Altercare has 100 beds and the Homesteads have
21 100 beds. And those, just for the sake of this discussion,
22 let's just say those were the only beds in Lake County. By
23 moving the 100 beds at the Homesteads or the 100 beds at
24 Altercare to another location, you are not changing the number
25 of beds. So the movement of the beds from the Homesteads to
26 another location should, will not affect Altercare as far as
27 the number of beds in the county.

28 Now, is the movement closer to Altercare than they
29 currently are at the Homesteads? I don't know the answer to
30 that, maybe you know. That, you know, that may raise a concern

1 at the Department of Health but it's unlikely, particularly, if
2 all the beds are filled. If all these beds in Lake County are
3 filled at this point, you know, then you have high utilization.

4 MR. SCHINDLER: They usually are, from what I hear
5 from people trying to get into places.

6 MS. ROSENBAUM: Yeah. So does that answer your
7 question?

8 MR. SCHINDLER: Yeah.

9 MS. ROSENBAUM: Okay.

10 CHAIRMAN NORMAN: Does anybody else on the board have
11 any questions? Thank you, again, very much.

12 MR. WILLIAMS: Thank you.

13 CHAIRMAN NORMAN: What I would like to do, since we
14 have a hearing on this, is I'd like to ask, since you folks
15 have already had — Normally, I would ask the audience to
16 participate by inviting comment, first, for and, second,
17 opposed. I guess, I can safely assume, although maybe
18 incorrectly, that the people on the left side are for it.

19 MR. WILLIAMS: I would hope so.

20 CHAIRMAN NORMAN: And we've heard their comments.

21 We have a young lady from Notre Dame Cathedral Latin
22 in attendance today, and thank you very much for coming. We're
23 glad to see you. And I hope you're learning something you can
24 take back to class with you.

25 We also have Ms. Luhta here, a trustee, and I would
26 ask her — Connie normally doesn't comment and that's fine.

27 MS. LUHTA: No.

28 CHAIRMAN NORMAN: So I am not going to go any further
29 with public comment. And before, again, I close the public
30 hearing, I would invite the board to participate one more time.

1 MR. WENTZ: I don't have any other comments.

2 CHAIRMAN NORMAN: Frank?

3 MR. SCHINDLER: No.

4 CHAIRMAN NORMAN: Wilbur?

5 MR. SHENK: I'm all set.

6 CHAIRMAN NORMAN: Andy?

7 MR. LINGENFELTER: If we're going to consider this,
8 would it be better to not close the public hearing until we get
9 the proper zoning terminology definition on this or would we
10 make it consistent with the other conditional uses for these
11 types of facilities within R-1, R-4.

12 MR. LUCAS: Well, he's asking, on the amendment, to
13 amend 13.07, which is the itemization of conditional use
14 permits, which specifically includes the three uses that he's
15 here before you now. That's independent, obviously, of the
16 change in putting it as a use within the Gateway Business
17 District.

18 There is one other important point that, ultimately,
19 we'll have to discuss at some later point in time, and that is
20 that if you look at 13.07, the delineation of land use areas,
21 setbacks and that are all based on R-1, R-2, I assume, B-1 and
22 B-2. And I suspect, ultimately, we'd want to, assuming that
23 this goes forward successfully, we want to address those within
24 this particular Gateway Business District then, ultimately.
25 That seems just to make sense to me.

26 MR. LINGENFELTER: My only concern, Mike, was, if we
27 close the public hearing down then, obviously, the clock starts
28 to tick for —

29 MR. SCHINDLER: Right. We've got 30 days.

30 MR. LINGENFELTER: — for the decision-making

1 process. And would we be painting ourselves into a corner,
2 from a resolution standpoint, that some changes would need to
3 be made or anything else or are we pretty well covered? Would
4 there be, in other words, would there be any reason why we
5 would want to have a continuation of the public hearing until
6 the proper resolutions were put in place? You know what I am
7 saying?

8 MR. LUCAS: Well, if you look at the subparagraphing
9 in 13.07, I mean, it's detailed.

10 CHAIRMAN NORMAN: Yeah, very.

11 MR. LUCAS: You know, you're not going to have that
12 whipped up in a week or two weeks, I don't think. Do you think
13 so, Kathy?

14 MS. MITCHELL: Well, I guess, my reaction is, if you
15 were to add it to the B-1 and B-2 provisions, couldn't the
16 board just recommend that as part of, if that were to be part
17 of their recommendation, that would be added to those specific
18 standards as they relate to the business districts in 13.07.

19 MR. LUCAS: Well, no, you can't do that because the
20 standards are different for each of the four districts.

21 CHAIRMAN NORMAN: Right.

22 MS. MITCHELL: Okay. And I, part of my problem is
23 I'm in the process of consolidating it right now for —

24 MR. LUCAS: Oh, really? Okay.

25 MS. MITCHELL: And that's the problem.

26 MR. LUCAS: Yeah. I mean, right now, they're line
27 item per district. So we would have to think, as we always do,
28 about what would be appropriate for the, you know, this BX
29 District if this goes through.

30 CHAIRMAN NORMAN: Then, I guess, going back to Andy's

1 question, Michael, would it be appropriate to continue this
2 public hearing and push to get the consolidation done so it
3 would be appropriate for this, also, and put it under this
4 particular app? That's a question I don't know the answer to,
5 that's for sure.

6 MR. LUCAS: Well, I mean, that's a, to some extent,
7 you know, that's your decision. All right? It is not like
8 there is a right decision or a wrong decision on that.

9 MR. LINGENFELTER: Right.

10 CHAIRMAN NORMAN: No, no. It's all very gray, I
11 understand that.

12 MR. LUCAS: I'm not sure, because I haven't talked to
13 Kathy about this, what the extent of the consolidation is. Is
14 13.07 part of the consolidation?

15 MS. MITCHELL: Yes. So I have a draft of that
16 particular section —

17 MR. LUCAS: Oh, really?

18 MS. MITCHELL: — done that takes the B-1 and B-2
19 and, you know —

20 MR. LUCAS: Merges them.

21 MS. MITCHELL: — merges them and separates the
22 residential out.

23 MR. LUCAS: Okay.

24 MS. MITCHELL: And that's —

25 MR. LUCAS: And you're thinking that, at least, as a
26 general impression, that the Gateway Business would probably be
27 included within the B-1, B-2 merger?

28 MS. MITCHELL: Yes.

29 MR. SHENK: That's in conjunction — excuse me.
30 That's in conjunction with the Town Hall Commons work.

1 MS. MITCHELL: Yes.

2 MR. SHENK: So then that leads you to the next
3 question. Should you wait and put that all together?

4 CHAIRMAN NORMAN: I guess, I guess, I've always taken
5 the position, this is for —

6 MR. SHENK: Because that may have an impact on this
7 application.

8 CHAIRMAN NORMAN: I understand. I understand it may
9 or it may not. But, at the same time, we are in a meeting,
10 which is a public hearing, with an applicant in front of us who
11 is looking for us, gentlemen, to make some kind of a decision.

12 MR. LINGENFELTER: That's correct.

13 CHAIRMAN NORMAN: And making no decision or deferring
14 decision is an injustice to the applicant and to this board.
15 Now, if I thought there was something to be gained that would
16 give the applicant a clearer understanding of what the
17 expectation was with the consolidation of the B-1, B-2
18 conditional use that Kathy's talking about, then I might
19 consider it.

20 But if we're going to start putting it aside for the
21 Gateway, you know, for the Town Commons, we don't know when
22 that's going to get through public hearing, gentlemen. I mean,
23 I would hate to ask this applicant to come back in six months
24 and say we are not done with it yet.

25 MR. WENTZ: It may not be six months but it may not
26 be six weeks either.

27 CHAIRMAN NORMAN: That's correct.

28 MR. SHENK: It's a couple months anyway.

29 CHAIRMAN NORMAN: It's at least two months away, we
30 know that. So I just guess I'm reluctant to do that.

1 Yes, sir? I am sorry.

2 MR. MARTIN: If I may, again, in looking at the
3 different zoning aspects of different communities, yours seems,
4 in terms of putting the nursing home, rest home, whatever, into
5 Gateway Business District, it seemed relatively easy. You
6 change the "C" in the chart that allows or permits it in the
7 Gateway Business District. And I think that there are, if you
8 are following the B-1, B-2 zoning criteria, there are probably
9 four or five places that may need just for you to include "GB"
10 into the text. So, from that standpoint, that's the easy part.

11 I think, what the hard part is, I perceive, in your
12 minds, would be, This is a good idea, you know, and that's your
13 decision.

14 CHAIRMAN NORMAN: Well, that's our decision. We
15 understand that. And that's what we're trying to do is tie
16 loose ends because there are historical issues with zoning
17 folks and developers when things aren't tied down adequately.

18 MR. MARTIN: I completely agree.

19 CHAIRMAN NORMAN: They go 15 ways from Sunday. And
20 we have tried rigorously to let that not happen here.

21 MR. MARTIN: You've got a good code.

22 CHAIRMAN NORMAN: Well, we'd like to thank you for
23 your comments.

24 MR. MARTIN: And that's clearly recognizable. And I
25 think that, with this code, because it is so well done, that
26 the ease of change, meaning to the text, is, like I said, it's
27 probably the inclusion in the text of simply saying "GB" four
28 times or five times.

29 CHAIRMAN NORMAN: Just going, in the GB, going to C
30 or, you know, conditional use allowance, all that is fine. I

1 guess the question this board is asking, do we need to
2 consolidate the conditional use structure, okay, the things
3 that are expected to be complied with as part of the
4 conditional use so that you understand it when you walk out of
5 here? That's the question we're trying to answer.

6 MR. LUCAS: Well, the point is, look, the point is,
7 for the applicant, that you're asking this to be included as a
8 conditional use within the Gateway Business District. And
9 because it requires an amendment of 13.07, which identifies the
10 conditional uses within the township, to be done in conjunction
11 with that, right now, there is no conditions because there is
12 nothing in the 13.07 provision on that.

13 So it becomes, yes, we're asking this to be included
14 as a conditional use permit. And then you could come in and
15 then state, "Well, what are the conditions?" There are none
16 because there is nothing delineated on that.

17 It would seem to me that, unless it's a really labor
18 intensive matter, that it — and unless there is a time
19 constraint on your part, and there always is.

20 MR. WILLIAMS: There absolutely is here.

21 MR. LUCAS: I guess, the question is, if we were
22 able, by the next meeting, because consolidation has already
23 taken effect to some extent, to just limit it exclusively to
24 13.07, all right, and this particular application and have that
25 brought in — because you're allowed, as part of the Zoning
26 Commission authority, to modify the application —

27 CHAIRMAN NORMAN: Yes.

28 MR. LUCAS: — to include certain additional
29 provisions now within 13.07, that would include this within the
30 BX District if this all passes en masse, if you will, is that

1 one-month delay a killer for you?

2 Because if it is, then — and it would be
3 understandable if it is, and if it is, then we would just move
4 forward without it.

5 MR. WILLIAMS: Well, I mean, I guess —

6 MS. ROSENBAUM: Could you approve it subject to those
7 conditions being brought to the next meeting?

8 MR. LUCAS: No, because it — No. And the reason you
9 can't, Beth, is because once it's approved here, it — This
10 board is only a recommend, this commission, rather, is only a
11 recommending body. It goes up to the trustees then, so it's
12 already out of their bailiwick then. But because it requires
13 another text amendment, you are going to have the trustees at
14 the higher level — only symbolically — to be concerned with
15 something on that particular use amendment, whereas, down in
16 the Zoning Commission, they're going to be dealing with a
17 relatively, you know, conjunctive portion of that but is one
18 leg behind in the race.

19 MS. ROSENBAUM: When is the next meeting? Is it a
20 month from now?

21 CHAIRMAN NORMAN: Yes.

22 MR. LUCAS: It's a month from now. Again, that's a
23 long time when you're in a tight development schedule, and I
24 understand that.

25 MS. MITCHELL: February 3rd.

26 MR. LINGENFELTER: But we do have the ability to have
27 a special meeting.

28 CHAIRMAN NORMAN: We could do that if we can get
29 it —

30 MR. LINGENFELTER: If that would fit within the time

1 constraints that Kathy would need to have that done. I mean,
2 we can call another meeting.

3 MR. LUCAS: You could but, again, it would have to be
4 within the time constraints that Kathy Mitchell can develop.

5 CHAIRMAN NORMAN: That's right. We have —

6 MS. ROSENBAUM: Kathy is always accommodating.

7 MS. LUHTA: Yes, she is.

8 MS. MITCHELL: It wouldn't be a problem because I
9 have the text, pretty much, done. It would just be a matter
10 of, as Mr. Martin said, adding "GB" to the certain sections
11 because I have it in draft form.

12 CHAIRMAN NORMAN: Could you get 13.07 to the point
13 where you would be happy with it by two weeks?

14 MS. MITCHELL: Yes.

15 CHAIRMAN NORMAN: So that the applicant could see it
16 at the same time we do?

17 MS. MITCHELL: Yes.

18 CHAIRMAN NORMAN: Well, maybe the answer is, we
19 continue this, gentleman, for two weeks.

20 MR. LINGENFELTER: I think that's the prudent thing.

21 MR. LUCAS: Is the applicant all right with that?

22 MR. WILLIAMS: Let's talk about ultimate procedure
23 here. Two weeks, we'll know from the board what we're going to
24 do?

25 CHAIRMAN NORMAN: What you will know from the board,
26 just so you clearly understand, two weeks from now, you'll know
27 all things you don't know, and that's all the conditional uses.

28 MR. WILLIAMS: Sure.

29 CHAIRMAN NORMAN: All the conditions of use.

30 MR. LUCAS: Right. Which, right now, there aren't

1 any.

2 CHAIRMAN NORMAN: There aren't any.

3 MR. LUCAS: So when you're saying you are coming in
4 for a conditional use, because nothing is defined under 13.07,
5 it is sort of an illusory proposition.

6 MR. WILLIAMS: I got you. I thought we, I thought we
7 amended the application to deal with that issue.

8 MS. MITCHELL: Well, it was amended with the blanket
9 statement of "to amend Section 13.07." But what we're saying
10 is 13.07 —

11 MR. WILLIAMS: Is not specific enough?

12 MR. LUCAS: Well, there is no substance to 13.07 for
13 the general business.

14 MR. WILLIAMS: Got you.

15 MR. LUCAS: I am sorry. Excuse me. The Gateway
16 Business District.

17 MR. WILLIAMS: I thought that the amendment to 13.07
18 would be implied to just do with the consolidation. I
19 apologize. From there, where are we talking? We're going to
20 the trustees after that?

21 CHAIRMAN NORMAN: Yeah, you would go to the trustees
22 and they would meet — they have, and Mike knows better than I,
23 but I think their limit is 30 days after we do.

24 MR. WILLIAMS: So 30 days after the special meeting
25 is when it would be in front of them?

26 CHAIRMAN NORMAN: Yeah.

27 MS. MITCHELL: So if they would meet two weeks, which
28 would be January 20.

29 MR. LUCAS: They're on Wednesdays meeting. So,
30 theoretically, they would get, you know, two weeks from now, on

1 the 20th, if it — Let's assume it passes. There would be a
2 notice given to the, I believe, to the trustees for the meeting
3 of the 21st to schedule a public hearing.

4 MR. WILLIAMS: Which would occur in February?

5 MR. LUCAS: Right.

6 MS. MITCHELL: The first or the third week.

7 MR. WILLIAMS: We would know after the 21st of
8 February or 20th of February, whenever that meeting is?

9 MS. MITCHELL: Yes.

10 MR. WILLIAMS: We would know then.

11 MS. MITCHELL: The recommendation.

12 CHAIRMAN NORMAN: Well, they have — Now, before you
13 say you're going to know then, they, like we, have 30 days to
14 react. I think it's 30, isn't it, Michael, 30 days to react to
15 the close of a public hearing.

16 MS. ROSENBAUM: I think it's 20.

17 MS. MITCHELL: 30 days, 30 days to schedule a
18 hearing, so they would have to schedule it either on
19 February 4th or the 18th.

20 CHAIRMAN NORMAN: Okay.

21 MS. MITCHELL: Then they have, from that time —

22 MS. LUHTA: 20 days.

23 MS. MITCHELL: — 20 days.

24 CHAIRMAN NORMAN: 20 days, okay.

25 MR. LUCAS: They generally act on it immediately.

26 MS. ROSENBAUM: Ryan, do we then have to come back
27 for an application for a conditional use permit?

28 MS. MITCHELL: That would be a separate process, yes.

29 MR. WILLIAMS: Yes, yes.

30 MR. LUCAS: And, you know, just, once the text —

1 Let's assume you're successful all the way across the board and
2 the trustees approve it. There is a 30-day time period before
3 it becomes —

4 MR. WILLIAMS: Effective.

5 MR. LUCAS: Right.

6 MR. WILLIAMS: Sure.

7 MR. LUCAS: So you have that.

8 MR. WILLIAMS: And then we have, I mean, the
9 conditional use package is an extensive process.

10 MR. LUCAS: Right.

11 MR. WILLIAMS: We need plans and it's — Ken, you —

12 MR. MARTIN: They're already done for that.

13 MR. LINGENFELTER: So sometime 2012, you guys can
14 put, you can stick a shovel in the dirt.

15 CHAIRMAN NORMAN: And if you don't like that, we will
16 make it 2011 or turn you down today.

17 MR. WILLIAMS: You guys drive a hard bargain.
18 I mean, that's a tight time frame. Hopefully, our
19 development —

20 MR. SHENK: I will need a bed.

21 MR. WILLIAMS: — timeline will accommodate that.
22 I mean, we will do whatever is in our power to make this work.

23 MR. LUCAS: I think, what we are really talking
24 about, ultimately, the Zoning Commission would be, you know,
25 they are going do schedule a special meeting for this, which is
26 very accommodating. But, you know, I think, out of deference
27 to you and your application process, you really, the end
28 result, everything gets pushed back. You are really only
29 losing, by this continuation, two weeks and that is absolutely
30 the bottom.

1 MR. WILLIAMS: Sure, I understand.

2 MR. LINGENFELTER: We're trying to be sensitive to
3 the time constraints. You know, we could just push this off
4 until our next regularly-scheduled meeting but we realize that
5 there are some issues here. And I think by having another
6 special meeting in two weeks is going to help expedite the
7 process. Like Mike just said, the worse case scenario, it
8 delays the whole process by two weeks.

9 MR. WILLIAMS: Understood. Yeah, we will work with
10 it, absolutely. We want to make sure it's done right.

11 MR. LUCAS: And I think the other thing is, too,
12 specifically with reference to the, now, the conditions that we
13 are going to try to integrate into 13.07, to get those over to
14 you so you have, at least, some time to look at that. You
15 might not agree with everything that we might be,
16 theoretically, proposing as a modification. It will give you a
17 chance to look at it, come back and say, you know, "We looked
18 at this particular condition. Here is why we think you might
19 want to consider a modification of that, too."

20 MR. WILLIAMS: Yeah, okay. So then we'll get a
21 chance to comment on that?

22 MR. LUCAS: Oh, absolutely.

23 CHAIRMAN NORMAN: Yes, yes.

24 MR. WILLIAMS: Okay. We will certainly —

25 MR. LUCAS: Even the Notre Dame Cathedral Latin
26 student will get a chance.

27 CHAIRMAN NORMAN: Yeah, she can come back again in
28 two weeks. Look at her shake her head no. She's going to
29 sleep back there.

30 MR. LUCAS: It is like a dream come true for her.

1 CHAIRMAN NORMAN: Where else can you get this kind of
2 an opportunity?

3 THE STUDENT: Nowhere.

4 MR. LINGENFELTER: So, Mr. Chairman, I would make a
5 motion that we have a continuation of the public hearing for
6 Zoning Amendment Application Number 1108-0130 until the next
7 special meeting two weeks from today, which would be what date,
8 Kathy?

9 MS. MITCHELL: Tuesday, January 20th.

10 MR. LINGENFELTER: The 20th of January.

11 MR. SCHINDLER: I second.

12 CHAIRMAN NORMAN: Motion made and seconded to
13 continue this public hearing until the 20th of this month.
14 Could I have a roll call, Kathy?

15 MR. SHENK: Can I point out, you will not have a full
16 board at that time.

17 CHAIRMAN NORMAN: You are not going to be here?

18 MR. SHENK: I will not be here.

19 CHAIRMAN NORMAN: Going to the West Coast?

20 MR. SHENK: I will be on the West Coast.

21 MR. LINGENFELTER: We will teleconference you in.

22 MR. LUCAS: Can we do a — It doesn't have to be in
23 two, you know, on a Tuesday. Are you going to be gone that
24 whole week, Wilbur?

25 MR. SHENK: Yeah. I won't be back until, it will be
26 almost a month. It will be the Wednesday before or the
27 Thursday before.

28 MR. LUCAS: The only reason I —

29 MR. SHENK: It will be over three weeks.

30 MR. LUCAS: The only reason I want to explore that,

1 Mr. Chairman, is because that was the original basis for the
2 continuation to begin with.

3 MR. SHENK: Right, to have a full board.

4 MR. LUCAS: Right. I don't think they realized your
5 involved travel schedule.

6 MR. SHENK: I will not be back until the 29th, which
7 is the Thursday before the regularly scheduled meeting.

8 MR. LINGENFELTER: When do you leave?

9 MR. SHENK: Thursday.

10 CHAIRMAN NORMAN: All right. Now the —

11 MR. LUCAS: When are you leaving?

12 MR. LINGENFELTER: Yeah. What day, Wilbur?

13 MR. SHENK: The day after tomorrow.

14 MR. LUCAS: Oh, so the special meeting tomorrow would
15 be, probably, a time crunch.

16 MR. SHENK: Tomorrow would be okay, a special meeting
17 tomorrow.

18 CHAIRMAN NORMAN: Kathy, would that be a push for you
19 to get it done tomorrow?

20 MS. MITCHELL: Well, I know you are being funny but I
21 can.

22 MS. ROSENBAUM: I knew she was going to say that.

23 MS. LUHTA: But you can't have this room because
24 we're having it.

25 MS. MITCHELL: That's right. There is a trustee
26 meeting tomorrow.

27 MR. SCHINDLER: We can meet anywhere.

28 MS. ROSENBAUM: We can all fit in my car.

29 MR. MARTIN: Mr. Chairman, may I?

30 CHAIRMAN NORMAN: Sure.

1 MR. MARTIN: If the condition of the approval is
2 based upon the B-1 and B-2 zoning district as it is written in
3 your zoning code currently, I would have to say we completely
4 agree with it right now.

5 CHAIRMAN NORMAN: Is that what you're talking about?

6 MS. MITCHELL: There are some amendments to it that
7 we're proposing.

8 MR. MARTIN: Are they bad?

9 MS. MITCHELL: Well, I certainly don't think they
10 are.

11 MR. MARTIN: Let's go with it then. It just seems to
12 me that, at least, the plan I put before you followed the B-1,
13 B-2 conditional use zoning criteria already, so we were good to
14 go.

15 MS. MITCHELL: I can go get them and read them.

16 MR. LUCAS: What, the B —

17 MS. MITCHELL: The draft, if you want to hear it, I
18 mean, if that's all it takes.

19 MR. LUCAS: Can you bring a set out for everybody?

20 MS. MITCHELL: I can.

21 CHAIRMAN NORMAN: Can you make a copy? Why don't you
22 do that.

23 MR. LUCAS: Kathy, do you mind?

24 MR. SHENK: Take a recess.

25 MR. LUCAS: Yeah, take a recess.

26 CHAIRMAN NORMAN: Let's take a recess for Kathy to —

27 MR. LINGENFELTER: Let's take a recess.

28 MS. ROSENBAUM: We really appreciate your
29 accommodation tonight.

30 MR. LINGENFELTER: We try.

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(Recess.)

CHAIRMAN NORMAN: Okay. This meeting is coming out of recess and we're now going back into the public hearing. We have just finished the revision, as stated before, to 13.07 where we have tied in Gateway Business District in the part of the conditional use requirements.

MR. LINGENFELTER: Excuse me, Mr. Chairman. There was one thing though. Before we got to this point, I had made a motion to do a continuation of the public hearing and it was seconded and we were calling for —

CHAIRMAN NORMAN: We need to close that.

MR. LINGENFELTER: We were calling for a vote. What would be the procedure? Is there anything we have to worry about there?

MR. LUCAS: Was it seconded?

MR. LINGENFELTER: Yes, it was seconded but we didn't do a vote. We were about to do a roll call vote when we decided that —

MR. LUCAS: And the motion was to continue the —

CHAIRMAN NORMAN: Continue the hearing.

MR. LINGENFELTER: Continue the public hearing. The motion was made and seconded.

MR. LUCAS: You're going to have to act on it.

CHAIRMAN NORMAN: Right. Okay. I can't recommend what we ought to do but I think the answer is obvious. Okay. Kathy, I am going call for a voice vote, get the — just for a vote. We'll do that. We have got to get the audio going.

MS. MITCHELL: Voting on a continuance?

MR. LUCAS: Yeah, on a motion to continue the public hearing.

1 MR. SHENK: Yeah, because there was a motion made and
2 seconded.

3 CHAIRMAN NORMAN: Thank you, Andy, appreciate that.
4 There was a motion made and seconded to continue the public
5 hearing, so we are obligated, as a board, to get closure on
6 that. And I will call for a vote. All in favor of continuing
7 the public hearing, say aye. All opposed, say nay.

8 MR. SHENK: Nay.

9 MR. LINGENFELTER: Nay.

10 MR. SCHINDLER: Nay.

11 MR. WENTZ: Nay.

12 CHAIRMAN NORMAN: Nay. That motion is defeated, so
13 we've got that behind us.

14 Now, we have just finished and we've asked the
15 applicant, as well as the members of the board, to review the
16 Gateway Business District inclusion of the 13.07. I will ask,
17 first of all, the members of the board for any comments.
18 before I — I forgot.

19 Mr. Lucas, you wanted to make a couple of comments
20 before we proceeded.

21 MR. LUCAS: I did. Just to clarify, for the record,
22 the applicant had requested the amendment regarding his
23 application to include 13.07. As we discussed in the initial
24 portion of the public hearing, the Gateway Business District
25 inclusion, in and of itself, within that section doesn't really
26 provide any conditions. And as a result of which, this board
27 or this Commission, rather, under state statute and also under
28 the old — under the current Concord Township Zoning Resolution
29 has the ability to make modifications and supplements to the
30 application.

1 The amendments that we have included now for
2 consideration and vote by the Zoning Commission within 13.07
3 reflect those modifications and supplements to the applicant's
4 request. Specifically, they're bold faced and they reflect
5 exclusively changes to 13.07 limited to the Gateway Business
6 District.

7 As we have previously discussed, there is also
8 provisions within that section for B-1, B-2, R-1 and R-4.
9 Nothing has been changed with reference to that because,
10 obviously, there has been no notice of that. And the applicant
11 has been provided a copy of that documentation for comment or
12 any questions.

13 Having stated that, thank you, Mr. Chairman.

14 CHAIRMAN NORMAN: Thank you, Mr. Lucas.

15 Okay. So I guess that I would direct my question to
16 the applicant, both legal staff. Do you have any comments you
17 would like to make about this document?

18 MR. WILLIAMS: No, sir.

19 MS. ROSENBAUM: No.

20 CHAIRMAN NORMAN: Not at all? Okay. Zoning
21 Commission members?

22 MR. LINGENFELTER: Yeah. I have a question.

23 CHAIRMAN NORMAN: Yes.

24 MR. LINGENFELTER: What are we doing? What was the
25 resolution on that piece of property that was going, that was
26 in R-2?

27 MS. MITCHELL: RD-2?

28 MR. SHENK: Yeah, RD-2.

29 CHAIRMAN NORMAN: RD-2.

30 MR. LINGENFELTER: What was the resolution? What did

1 we —

2 CHAIRMAN NORMAN: The applicant has said he is going
3 to take that out of consideration somehow but he did not
4 disclose that.

5 MR. WILLIAMS: Well, let's discuss how you would want
6 to take it out of consideration. The applicant would like to
7 own it. We would still like to own it but does not, at least,
8 I don't believe we need to change that particular zoning.

9 MR. LUCAS: No, you don't. I mean, there is a lot of
10 parcels that have mixed —

11 MR. WILLIAMS: It's not — I mean, it's still, it's
12 all part of a huge parcel right now.

13 MR. LUCAS: Right.

14 MR. WILLIAMS: When we go to split it, we will split
15 it into two separate parcels.

16 CHAIRMAN NORMAN: That will be fine.

17 MR. LUCAS: Two parcels.

18 MR. WILLIAMS: Is that satisfactory?

19 MR. LINGENFELTER: I just want to make sure that
20 that's covered, that we understand that.

21 MR. LUCAS: Well, I mean, theoretically, you don't
22 have to, or you've got the whole — Let me think about that a
23 minute now. Oh, no, that's fine. You haven't come in for your
24 application yet. Yeah, you don't even have to really discuss
25 that right now. All right? That's part of the application
26 process for the conditional use permit when you come in for
27 that, not for the rezoning.

28 MR. SCHINDLER: Right. They will address the issue.

29 CHAIRMAN NORMAN: That will go to the Zoning Board of
30 Appeals.

1 MR. SCHINDLER: Right, the Zoning Board of Appeals.

2 MR. LINGENFELTER: I just wanted to make sure.

3 CHAIRMAN NORMAN: Is there any other comments from
4 the board, from the Commission? I'm sorry. Okay.

5 All that said, I would like to, first of all,
6 compliment the applicant for his willingness to work with us to
7 try to get somewhere with this and get it done tonight. I know
8 it's a very bad night. Everybody would like to be home. And I
9 also would like to commend you on the work. It's very good,
10 very thorough.

11 I would like to thank Kathy Mitchell and Mike Lucas
12 for their rapid turnaround of changes in the document.

13 And that said, unless there is an objection, I am
14 prepared to close the public hearing. Is there any comments
15 further? All right. This public hearing is closed.

16 Gentlemen, I have no reason, unless someone has a
17 strong need, to delay consideration on the recommendation yea
18 or nay. Does anyone have any objection to doing that this
19 evening?

20 MR. WENTZ: No.

21 MR. SCHINDLER: None.

22 CHAIRMAN NORMAN: Wilbur?

23 MR. SHENK: Let's vote.

24 CHAIRMAN NORMAN: Andy? Okay. I need a motion and I
25 need it to reflect a positive action, and make sure you
26 include —

27 MR. SCHINDLER: Let's see how we word this thing.

28 CHAIRMAN NORMAN: I think wording it as it's done in
29 the, in the notice of hearing and then make certain that we
30 include reference to the amended 13.07.

1 MR. SCHINDLER: Right, it has to reflect that.

2 CHAIRMAN NORMAN: Okay? It has to reflect those
3 changes. Okay. That completes their request. Are you going
4 to do it, Larry? Don't everybody speak at once. Don't get
5 nervous. We're all trying to decide what to say.

6 MR. WENTZ: Mr. Chairman, I move that we amend
7 Section 22.03, Table of Uses, of the Concord Township Zoning
8 Resolution to include "residential care facility, nursing home,
9 and home for the aging" as a conditional use in GB, Gateway
10 Business District, and to further amend Section 13.07, under
11 Section XIII, conditional use permit, to include the GB,
12 Gateway Business District under the list of zoning districts
13 where such uses are permitted when granted as a conditional
14 use, that amendment being the document which has been presented
15 to us tonight.

16 CHAIRMAN NORMAN: Is there a second?

17 MR. SHENK: I second that.

18 CHAIRMAN NORMAN: Motion made and seconded. Kathy —
19 Any comments, gentlemen, before we go on?

20 MR. SCHINDLER: Mr. Chairman, I just want to say, I
21 speak the same as you did about the work that was done tonight
22 as a cohesive group working along with developers, which in the
23 past we've always had a rough time with. Tonight was very
24 pleasant, as far as I can see it. And I think you did an
25 excellent job. I am glad we were able to work together to get
26 this all resolved.

27 I also think that this district now, including this
28 type of development, is going to be an asset to the community,
29 especially, in relationship to the medical facilities that are
30 being put in now and, of course, the need for what we need in

1 our community regarding facilities of this nature to help our
2 aging, which I am, of course, a part of.

3 CHAIRMAN NORMAN: I am glad I am not as old as you
4 are.

5 MR. SCHINDLER: I know. So I just want to commend
6 everybody. I am glad we could work together this evening.

7 CHAIRMAN NORMAN: Okay. Anybody else? Kathy, I'd
8 like to have a roll call vote, please.

9 MS. MITCHELL: Mr. Shenk?

10 MR. SHENK: Yes.

11 MS. MITCHELL: Mr. Lingenfelter?

12 MR. LINGENFELTER: Yes.

13 MS. MITCHELL: Mr. Schindler?

14 MR. SCHINDLER: Yes.

15 MS. MITCHELL: Mr. Norman?

16 CHAIRMAN NORMAN: Yes.

17 MS. MITCHELL: Mr. Wentz?

18 MR. WENTZ: Yes.

19 CHAIRMAN NORMAN: All right. It's been
20 accomplished. Thank you very much for your help and your
21 support.

22 MS. ROSENBAUM: Thank you.

23 CHAIRMAN NORMAN: We appreciate your cooperation.

24 Because of the weather and the conditions as they are
25 outside, I would recommend everybody go home, including us.
26 With that being the case, I am going to defer until the next
27 meeting status report on Town Hall corridor zoning updates, any
28 correspondence report from us, and approval of the minutes.

29 MR. WENTZ: I would like to suggest that the Zoning
30 Commission take upon themselves to review this and get back to

1 Kathy so as not to have to start the next meeting as if we have
2 not seen this.

3 CHAIRMAN NORMAN: Oh, yes, yes, I agree. Well
4 taken. I would entertain a motion to close.

5 MR. LINGENFELTER: Do we have anything else on the
6 agenda —

7 CHAIRMAN NORMAN: Anything else, Kathy?

8 MR. LINGENFELTER: — coming up for this next
9 meeting?

10 MS. MITCHELL: Basically, these amendments.

11 MR. LINGENFELTER: Okay.

12 CHAIRMAN NORMAN: Now, the next meeting, as we said
13 before, is February —

14 MS. MITCHELL: No, that's the wrong — February 3rd.

15 CHAIRMAN NORMAN: February 3rd. Thank you much. You
16 moved the calendar. Okay. February 3rd. Let's go do it.
17 This meeting is hereby adjourned.

18 (The meeting was adjourned at 9:29 p.m.)

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

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 21st day of January 2009.
24
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27

28 _____
29 Melinda A. Melton
30 Registered Professional Reporter

31 Notary Public within and for the
32 State of Ohio

33 My Commission Expires:
34 February 4, 2013
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